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PROCEEDINGS AND DEBATES OF THE 99th CONGRESS, SECOND SESSION

SENATE—*Friday, June 20, 1986*

(Legislative day of Monday, June 16, 1986)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

God of all comfort, we commend to Your care and compassion Stu Balderson, financial officer, and his wife, Marie, in the tragic death of their son yesterday.

And so we remember the family of Len Bias and all who loved him.

The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures: he leadeth me beside the still waters. he restoreth my soul: he leadeth me in the paths of righteousness for his name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies: thou annointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life; and I will dwell in the house of the Lord for ever.—Psalm 23.

Thank You Lord for this beautiful psalm from one of history's great rulers, King David. Thank You for its promise of rest, restoration, and fearlessness, even through the valley of the shadow of death for You are with us. Help us to hear and believe and live. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator DOLE, is recognized.

Mr. DOLE. I thank the distinguished Presiding Officer, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each. I know that the distinguished minority leader will not be available until about noon, so I ask that his time be reserved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Following the leaders' time, there will be special orders in favor of Senators HATCH, PROXMIRE, HATFIELD, GORE, MELCHER, and STEVENS.

There will be routine morning business, not to extend beyond 10:15 a.m., with Senators permitted to speak for not more than 5 minutes each.

At 10:15, the Senate will resume consideration of H.R. 3838, the tax reform bill, under a previous unanimous-consent agreement. I think the record was made rather clear last evening that there will be no more than four rollcall votes. It is hoped that there will not be four. There may not be one, two, or three.

In any event, we agreed that if there will be more than four, they will be put over until next Tuesday.

We will be on the tax bill today. There could be rollcall votes. We hope, according to the managers—Senator PACKWOOD and Senator LONG—to dispose of 15, 20, or 25 of the amendments that are on the list.

Again, I caution my colleagues that I would not plan on waiting until Tuesday, because on Tuesday we will have about 6 hours before final passage. So if you have an amendment that you want to discuss, today would be a good day to do it.

It is also our hope that there will be no record votes after, say, 2 or 2:30 this afternoon. But, again, I am advised by the managers that that does not mean we will stop work at that time. It means that we stop rollcall votes; and we hope that either before or after that time, there will be a number of Senators on the floor to work out their amendments with the managers, because I understand that many amendments can be accepted and some may be withdrawn.

In any event, we really need to make progress today. Otherwise, there will be a number of Members who will be very upset, come Tuesday afternoon, when they have not had an opportunity to call up their amendments. They could still call them up and have a vote, but there would be no debate.

BACK TO THE ROOTS OF TAX REFORM

Mr. DOLE. Mr. President, based on the bipartisan agreement last evening, there is no question that we are on the way to enacting real tax reform legislation in the Senate. It has been debated and discussed, amendments have been offered; and every major amendment has been defeated, in accordance with the plan of the distinguished chairman of the committee, Senator PACKWOOD.

Across the country, there is a feeling of relief on the part of American taxpayers that we are finally discussing real tax reform. We have read editorials in the big city newspapers in support of tax reform. We have heard the commentators. Yes, there have been some disagreements, but the call for true reform is almost universal. In my home State, we have had an encouraging response from our newspapers, and I would like to share these words with my colleagues.

The Hutchinson News perhaps said it best: "Wow! It's Reform." That is what the people want and what they have come to expect of the Senate bill. In my view, because of the cooperation on both sides of the aisle, we have accomplished that goal. It has not been altered to any great extent. It puts the Senate in a very strong position in conference, so we can insist on the Senate rates and to work out some of the other problems that deal with real estate and many of the transition rules Members are sponsoring.

Overall, it is my view that we are on the way to a substantial—but not

unanimous—vote in favor of this revolutionary legislation.

KANSAS TALKS TAX REFORM

Since the historic reform package crafted by the distinguished chairman of the Senate Finance Committee arrived on the Senate floor, we have spent half the time "watching grass grow," and the other half battered by an almost round-the-clock amendment blitz. And there was not exactly a shortage of speeches, either—especially in prime time. Much of the activity has been technical and—in the tradition of this body—confusing. And I am certain our new TV and radio audience is hungry for an interpreter.

But despite all the confusion, the reasons for tax reform remain the same: Fairness and simplicity for the American taxpayer. And amid all the flurry, we should not lose sight of those compelling reasons for this legislation.

Mr. President, if we need to be reminded as to what we have been pursuing these long, long days and nights, I suggest we read some common sense from the heartland of America. I am talking about the opinions of tax reform from Kansas newspaper editors. These opinion makers know a good thing when they see it, and they knew they saw a good thing when the Finance Committee produced the remarkable bill we have been considering these many days.

One editor, from the Hutchinson News, said it best: "Wow! It's Reform."

And there is more Kansas wisdom, such as these words from the Iola Daily Register:

The Packwood bill—just as it is—would make the income tax much fairer and give the U.S. economy an enormous boost. If the 90-percent of the population who would benefit under its provisions would rise to its support, it could be written into law this year.

The Wichita Eagle-Beacon also was quick to underscore the popular theme of our bill:

The measure significantly would reduce personal and corporate tax rates, remove millions of poor people from the tax roles, abolish many of the current system's abuses and make economic productivity, not the Tax Code, the primary rationale for many financial decisions.

Writing for the Johnson County Sun, John Uhlmann recognized that history could be in the making:

All too often, it is claimed that a piece of legislation will be great for the people and the future of this country. Watch closely and enjoy, for this is one of those rare occasions where that claim will come true.

Mr. President, we are on the verge of a major breakthrough for the beleaguered taxpayer. Let us heed some common sense from the Newton Kansan:

The package as the committee wrapped it is a good one. The Senate should not unwrap it.

I ask unanimous consent that the complete text of these tax reform editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Iola Daily Register]

TAX REFORM BILL NEEDS PUBLIC SUPPORT

A radical tax reform bill sailed out of the Senate Finance Committee with a unanimous vote Wednesday and appeared headed for passage by the Senate next month.

Most Iolans would pay less federal income tax if it becomes law. The dollars they saved would be paid by big business—and by a relatively small number who have been sheltering high incomes under the present tax code.

Under the bill there would only be two tax rates, 15 and 27 percent, and many of the deductions now being used by those who itemize would be eliminated.

Perhaps the most controversial change proposed is elimination of the deductibility of money invested in individual retirement accounts by persons enrolled in pension programs at work. The change, it is charged, would discourage saving by millions of middle-class families.

Sen Bob Dole of Kansas disagrees with this assessment, however, Sen. Dole, who is a member of the finance committee, said dropping the tax rate to 15 percent for families with moderate incomes would more than compensate for loss of the IRA deduction.

Dole's point can be made as an answer to all of the other complaints that will be lodged by those who will lose the advantage of deductions they now are taking. The lower tax rates should compensate for the loss.

The only individual taxpayers who would pay more under the new code would be those with high incomes who had been able to take high deductions under the current code. They would be able to afford the increase.

The money saved by families and individuals would be made up primarily by profitable businesses which would lose deductions, such as investment credits on the purchase of new equipment.

The bill is designed to bring in as much money as is now produced by the income tax, so it will have no effect on the federal budget.

The reform measure was written by Sen. Bob Packwood, chairman of the committee, after a far more complicated measure he first proposed was picked to pieces. His second effort offers changes as sweeping as that proposed by the Reagan administration last year.

Like the Reagan proposal, Packwood's bill would exempt about six million more American families from the income tax altogether and, by lowering all other rates and eliminating many deductions, change the way business decisions are made in this country.

Today tax consequences weigh heavily when businesses and individuals consider whether and when to buy equipment, build or improve buildings, expand or contract their operations. If Packwood's reform passes, such decisions would turn far more on business reasoning. The result should be a more efficient, productive ecomony.

The lowered rates would allow millions of lower and middle-income Americans to keep more of the money they earn. The additional spending power created would be a powerful stimulus to business and could prolong expansion of an economy which appears due to slow down next year without a new shot in the arm.

Despite all those pluses, the Packwood bill will be under tremendous pressures. Those who would benefit the most from it—lower and middle income families—belong to the vast majority who only contact members of Congress when they feel threatened.

They'll stay on the sidelines, silent, while all those who have something to lose if the bill becomes law pour into Washington to make their pleas.

It will take all of the resolve the good ladies and gentlemen who write the laws can muster to stay the course.

Their task would be much simpler if that silent majority would bestir itself this time and speak up.

The Packwood bill—just as it is—would make the income tax much fairer and give the U.S. economy an enormous boost. If the 90 percent of the population who would benefit under its provisions would rise to its support it could be written into law this year.

[From the Wichita (KS) Eagle, May 9, 1986]

TAX REFORM: LOBBYISTS VS. PUBLIC

Armies of lobbyists are being recruited to defend the tax shelters and preferences threatened by the tax reform bill drafted by the Senate Finance Committee.

Senate Majority Leader Robert Dole now stands as a tribune for tax fairness, simplicity and economic good sense against the hordes of privilege. If Mr. Dole can steer tax reform through the Senate and eventually into law, he would do much to dispel the popular perception that Congress is beholden to economic special interests—and their political action committees.

The Senate Finance Committee bill is clearly beneficial to most Americans and to the nation's economy. The measure significantly would reduce personal and corporate tax rates, remove millions of poor people from the tax roles, abolish many of the current system's abuses and make economic productivity, not the tax code, the primary rationale for many financial decisions.

Realizing that Congress doesn't always put the national interest above the special interests, the Finance Committee put some "lobby-proofing" in the tax reform bill. The committee measure says a final Senate bill must be "revenue neutral," meaning that any amendments that cost the Treasury must include a way to replace the lost money.

Without that discipline, the Senate undoubtedly would turn tax reform into an auction of special-interest tax breaks. Now, however, a senator wanting to preserve the deduction for Individual Retirement Accounts, for example, must gore someone else's ox to get it.

Some special interests would prefer to kill tax reform entirely rather than lose their loopholes. The current system has allowed numerous individuals and corporations to avoid carrying an equitable tax burden. Many lobbyists have earned large salaries by getting tax breaks out of Congress. Such people are not going to surrender their special favors just to make the tax code fairer and simpler for their fellow citizens.

Mr. Dole, Finance Committee Chairman Robert Packwood and President Reagan have promised to push the Finance Committee measure. Arrayed against them are some of the most clever, determined people in Washington. Whether the people's repre-

sentatives withstand the onslaught of outraged special interests could set the tone of government for years to come. Tax reform is no longer just a good idea. It has become a test of who rules Congress.

[From the Kansas City Star, May 14, 1986]

SIMPLICITY ITSELF

Simplicity. That's what the new tax bill promises, regardless of whether it will raise or lower your taxes. Even for those who would end up paying more under the proposed system, its simplicity offers some consolation.

The proposal would allow people to quit worrying about how they ought to make their money to take maximum advantage of complex tax laws. Spending decisions would also be easier for the same reason. A dollar here would be much more like a dollar there.

Fewer people would itemize. More average citizens could, at least after a year or so, figure their own taxes instead of having someone else do it. You could forget about filing away sales tax receipts. You could evaluate investments on their own merits as they relate to your life, rather than the artificial ones set up at some point in Washington.

You could enjoy weekends in early April a little more.

Simplicity is not the only requirement for a tax system. It is not even the most important one. But in an increasingly complex world, one that presents us with an abundance of information and misinformation to evaluate, simplicity is worth something. Maybe it's worth more than we realize.

[From the Hutchinson News, May 9, 1986]

WOW! IT'S REFORM

No matter what happens to the Senate Finance Committee's startling new tax reform bill, 20 U.S. Senators have given new meaning to the language and new hope to everyone weary of being battered by special interests.

The plan is truly tax reform

That alone will brush away years of cynicism about politicians' actions in Washington, where tax reform in the past has always meant tax increase.

Because it is tax reform, the plan gores most special interest loopholes in the U.S. tax code. That, too, makes the proposal so appealing.

The plan proposes only two tax brackets: 15 percent and 27 percent. Currently there are a bewildering 14, with tax rates ranging from 11 percent to 50 percent, in the midst of a complex array of deductions and loopholes geared obviously for the wealthy.

In the new Senate Finance Committee's proposal, some of the middle class' favorite deduction loopholes would be kept. They are deductions for interest paid on home mortgages and deductions for state and local income and property taxes, and deductions for charity.

But that's about it for deductions. Tax shelters would be zapped. Rich taxpayers would be tapped in other clever ways to prevent them from getting a windfall in the sharp reduction of their tax rates. Corporations would pay a lot more income taxes. And millions of poor people would not have to pay any income taxes.

A few special interest loopholes have survived (and many more, of course, will be sought in the forthcoming hassle as the special interests mobilize).

But the new tax reform bill approved near midnight in Washington Tuesday deserves an astonishing salute from the nation. It's far better than anyone would have dared to hope could ever be generated anywhere in the U.S. Congress.

The task now will be to encourage all our congressmen to fight off the frantic special interests and perfect a tax reform bill that, astonishingly, currently is a tax reform bill.

[From the Newton Kansan, May 19, 1986]

KEEPING IT ROLLING

The Senate Finance Committee has produced a good tax reform bill, supported by all the committee members. Now the bill will have to be defended on the floor of the Senate from lobbyists representing special interests.

The floor debate, which is expected to occur next month, will be the first major debate in the Senate to be televised.

Sen. Robert Byrd, D-W. Va., the Senate minority leader, has endorsed the Senate Finance Committee version of tax reform, as has the Senate majority leader, Sen. Bob Dole, R-Kan.

Byrd called the bill real tax reform and said he doesn't expect great changes to be made in it on the floor of the Senate. He doesn't think it will become a "Christmas tree" tax bill.

If anyone could decorate this bill with tinsel and baubles for the special interests, it would have been done in the Senate Finance Committee, where the special interests have historically achieved their purposes. But it was not done. Miraculously, Sens. Robert Packwood, R-Ore., the committee chairman, and Bill Bradley, D-N.J., a champion of income tax reform, managed to get a relatively clean bill out of the committee and onto the Senate floor.

Real estate interests called the bill "a meltdown" because it destroys real estate tax shelters.

But the Senate Finance Committee bill is good precisely because it eliminates most tax shelters. If it is to be amended, the remaining ones (for the oil and timber industries) should be dropped.

The elimination of Individual Retirement Accounts for employees covered by other retirement plans is causing great commotion. The IRA tax exemption was a good idea, stimulating individual saving and investment. But comprehensive tax reform is a better idea, and it would certainly be preferable to pass the Senate Finance Committee tax reform bill intact rather than to open it up to a process of amendment which would give the lobbyists a field day.

The package as the committee wrapped it is a good one. The Senate should not unwrap it. Pass it on to a Senate-House conference committee without any amendment. That will make it harder for the special interests to tamper with it.

[From the Hutchinson News, May 19, 1986]

SURE, KILL IRA's

The tax reform bill passed recently by the Senate Finance Committee is a collection of magnificent tax reform decisions.

One of the best decisions was to kill the highly popular IRAs as tax loopholes.

The IRAs are loved by practically everyone. They have been embraced by 25 million Americans in only five years. They have been extremely popular with banks, brokers, savings and loan companies and other financial institutions. They could generate extraordinary retirement advantages for the people who have signed up.

Yet the IRAs should go, as the Finance Committee recommends.

The reason is that the IRA is a tax loophole, too. It is for special interests, mainly the more well to do. (How many poor people can afford to live on current income, let alone set aside $2,000 for retirement?)

The IRA is a classic example of subsidization of the middle or upper class by the poor, as part of a complex tax structure that favors the wealthy.

The financial community will scream at the loss of the IRAs. Let it. All the other special interests will scream at the loss of their favorite loopholes in the proposed reform bill. Let them.

Instead of compromising away some of these radical tax changes, the nation should demand more of the same. More of the surviving tax loopholes should be closed. More of the surviving special interests should be gored.

The IRA decision is a magnificent start in admitting who the special interest villains are and what needs to be done.

But we should go all the way.

The nation now should demand also that income tax deductions be ended for home mortgage interest payments, state and local taxes, and all other deductions.

If only Pogo were alive to see all this.

PACKWOOD BILL WILL HAVE A POSITIVE EFFECT

(By John Uhlmann)

Our nation is witnessing an historic event of enormous proportions. The Senate Finance Committee chaired by Senator Bob Packwood (R-Oregon) has proposed a tax bill which will have a profound and immensely positive impact on this country and the welfare of its people.

This is a tax code which almost everyone can understand. The overwhelming majority of individuals and companies will benefit from much lower rates. Lower rates are achieved by eliminating almost all tax preferences, sometimes referred to as "loopholes." Those few deductions which are left will benefit a great number of Americans such as homeowners and charities. Our senators and congressmen will be freed from the clutches of special interest lobbyists attempting to gain benefits for their organization, industry and/or company.

That the total wealth of the country will increase is self-evident, as individuals and corporations invest for the greatest financial return rather than in those activities which Congress, with the aid of special interest lobbyists, determine will return the greatest social good. Businessmen, lawyers and accountants will figure out ways to better serve the public rather than spending their efforts petitioning Washington for tax advantages to serve their own parochial interests.

A reasonable and logical question is: "If this is so wonderful, why has it not been proposed before?" To answer this question and to forecast the future benefits to the nation, we must review the current situation in its historical perspective.

In 1801, President Thomas Jefferson declared he wished to abolish all internal federal taxes and reduce federal expenditures and personnel. Alexander Hamilton was horrified. Thus began an ongoing battle which still rages today between those who would leave the nation's financial affairs in the collective judgment of the people (populists) and those who believe that the nation's important financial decisions should be determined by a small, enlightened group of brilliant people (central planners).

In the last fifty years, the Hamiltonian view has won over the majority of those in the House and the Senate. It has served them well politically by buying votes from their constituency and monetarily by raising funds from special interest lobbyists, and has stroked their egos by giving them the feeling they have the power and intelligence to direct the economy.

It now appears that the people are on the verge of a great victory. Every political faction can claim credit for this victory. Liberal Democrats can point out that this bill strikes at the rich who do not pay their fair share. Moderate Democrats, such as Senator Bradley of New Jersey and Representative Gephardt of St. Louis, can point with pride that this bill closely resembles the one they have been proposing.

Liberal and moderate Republicans, including Senator Jack Danforth, led by Senator Packwood, put together the cohesive package. This gained a unanimous (20-0) vote in committee. Senator Bob Dole played a central role in pushing this measure through the committee. Conservative Republicans, led by President Reagan and including Congressman Jack Kemp, provided the philosophical climate which resulted in the cataclysmic change to a populist approach to raising revenues.

All to often it is claimed that a piece of legislation will be great for the people and the future of this country. Watch closely and enjoy, for this is one of those rare occasions where that claim will come true.

UNITARY TAX PROPOSAL

Mr. DOLE. Mr. President, last evening there was some disagreement on whether or not the unitary tax amendment was to be included in the list of amendments, and there was a lot of misunderstanding. I know that Senator WILSON felt strongly.

I was informed by some that had they known it was on the list, they would have objected. In an effort to reach an agreement, Senator WILSON agreed to withdraw that amendment in consideration that, in turn, he could be promised hearings in the Senate Finance Committee. That agreement was made with the chairman; and there are a number of other Senators, I assume, on both sides, who have an interest in serious hearings on that proposal.

Based on that, I indicated to Senator MELCHER and Senator BYRD that if the unitary tax proposal did come before us today, I would make a motion to table it. I want the record clear that this would not be done to interfere with any negotiations Senator WILSON is carrying on. But, frankly, I was trying to get an agreement, and the amendments were coming in fairly quickly, as I recall about 9:30; and everybody was saying at that time: "Get it quick. It's going to fall apart."

We did the best we could. Senator WILSON may have felt that we were prejudging his amendment, but that was not the case. My effort was to reach an agreement to try to bring this to a conclusion and get the Chair to say, "Without objection, the request is approved."

So I hope I did not offend Senator WILSON or anyone else. I believe I support what he wishes to do in this area.

But my larger responsibility was not to be involved in every discussion and every amendment. It was to get the agreement. That was done.

I thank the distinguished minority leader and others for their cooperation.

□ 0940

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized.

NUCLEAR ARMS CONTROL AT ITS BEST—THE INTERNATIONAL ATOMIC ENERGY AGENCY

Mr. PROXMIRE. Mr. President, when it comes to nuclear weapons, all of us, the Congress, the press, and the public can only seem to see the dangers, the failures, the threat to life. We ignore the successes, even the spectacular successes. This Senator is guilty of speaking day after day of the failure of arms control. I moan in Cassandra style about the threat of nuclear war. Rarely has this Senator or other Senators spoken of one of the most remarkable successes in preventing nuclear war. Today, in this speech, I intend to do exactly that.

I can remember standing on the floor of the Senate in the mid-1960's on one occasion when Senator Robert Kennedy of New York was speaking. Senator Kennedy reminded the Senate that the greatest threat to the survival of civilization in the nuclear age is the proliferation, that is, the spread of nuclear weapons. Senator Kennedy's brother, President John Kennedy, had previously warned the Nation that unless the international community found a way to stop the spread of nuclear weapons, as many as 15 to 25 nations would have nuclear arsenals by the middle of the 1970's. Well here it is 1986 more than 20 years after the Kennedy warning and a full decade after the Kennedy vision of 15 to 25 nuclear nations should have come about. What has happened? There are still only five full fledged members of the nuclear club. Why is that? It is partly because of the economic and technological capacity required for a full pledged nuclear power. David Fischer is a former official of the International Atomic Energy Agency. He has written an article in the June-July issue of the Bulletin of the Atomic Scientists. Fischer writes that even Britain and France will have nuclear arsenals bristling with 2,000 warheads each by the late 1990's or earlier. So the cost of a nuclear arsenal that would mean full fledged in entrance into the nuclear club has gone up. Nevertheless at least 20 or 30 nonnuclear weapons countries have the economic and technological capacity to enter the club as full fledged major members if they wished to do so. And yet only Pakistan, India, South Africa, and Israel have made even a small start. This is good news for nuclear peace. It greatly diminishes the nightmare that nuclear war will break out in the foreseeable future. So far we have been very, very fortunate. Why? Is it blind luck? Or have there been forces deliberately at work to stop nuclear proliferation that have succeeded?

The answer is that it is not just a matter of luck. It is a great story of international cooperation and leadership. The leadership for this cooperation has come from the International Atomic Energy Agency. The IAEA has done a remarkably successful job of stopping the spread of nuclear weapons. What is this International Atomic Energy Agency? It is an organization that came into being in 1957 as an agency of the United Nations. It has 133 member nations. It had its headquarters in Vienna, Austria. Its mission is to accelerate the peaceful use of nuclear energy but to ensure that assistance provided by the IAEA "is not used in such a way as to further any military purpose." What has the Agency done to stop proliferation? It has very nearly stopped completely the prime source of weapons grade fissionable material crucial to nuclear weapons. That source is the byproduct of the production of nuclear energy. It has done this by reacting effectively to attempts to divert processed uranium or plutonium to military purposes.

For example, in May 1981 Israel bombed a reactor in Iraq, because Iraq had imported a sophisticated nuclear plant and material for which it seemed to have no clear peaceful use. The blame for that incident lay not only with Israel and Iraq but with the suppliers. As a result of that development, the IAEA sharply stepped up its safeguards. It doubled its budget and greatly increased the numbers of inspectors and inspections. There has been a steady increase in safeguards coverage in both weapons and nonweapons countries. The IAEA has succeeded in achieving technical progress with new fuel counting equipment. And in 1983 the Agency began unannounced, "surprise" inspections. It has also succeeded in raising the standard of training and professionalism of its inspectors.

Is the IAEA sufficiently comprehensive in its inspections to be effective in stopping nuclear proliferation? Yes. More than 95 percent of nuclear plants in all the nonweapons states are

now under agency safeguards. The United States and Great Britain have opened up all their civilian plants to IAEA inspection. France and the Soviet Union have opened some. China has indicated it will follow suit.

Is the IAEA growing or declining in membership? It is growing. It has grown from 116 nations in 1980 to 133 today. Is there still a problem? Yes. But it is concentrated. There are still nine nonweapons countries operating nuclear plants outside the Non-Proliferation Treaty. Five of these plants can or will soon be able to produce weapons grade—that is unsafeguarded-fissile material. That's a serious problem. But the success of IAEA is far more impressive.

In his article in the Bulletin of the Atomic Scientists, David Fisher writes:

Without IAEA safeguards, an international regime to curb the spread of nuclear weapons would not be credible today. They have helped to create confidence that, at least for the present, proliferation has stopped in the industrial world and in most of the Third World. They have become the conditions for international nuclear trade and cooperation. No responsible nation will export without them and in practice, most now require IAEA safeguards on the entire fuel cycle of the importing country. They have provided the world's first experiment in systematic on-side inspection and they may serve as a breakthrough in arms control.

Mr. President, the IAEA provides a reassuring example of how arms control can and does work to keep this dangerous nuclear weapons world from exploding into the nightmare of a nuclear holocaust. We can and must build on its brilliant success.

RECOGNITION OF SENATOR GORE

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized.

Mr. GORE. Thank you very much, Mr. President.

MX MISSILES

Mr. GORE. Mr. President, on Monday, I rose to discuss a development in the Senate Armed Services Committee which had been reported in the press during the preceding weekend. The development in question was a vote in subcommittee to cut the proposed funding request for the Midgetman missile in half and to divide the remainder in half yet again, by way of other requirements whose effects would be to impair what had already been impeded.

This judgment was also made by the full committee later in the week.

The consequences of these measures, if they are not overturned on the floor of the Senate or in the conference committee which would follow, have now been explained by Under Secretary Hicks in a letter.

According to Mr. Hicks, the Midgetman's schedule will be delayed at least 1 year, and that assumes a decision this coming fall in the Pentagon, to confirm the missiles design and to block further efforts at tampering.

My purpose in the earlier speech was to remind those who regard this delay as a victory of the real facts. Neither the modernization of this country's nuclear forces, nor the pursuit of its objectives in arms control can take place in the absence of a politically effective consensus. The history of our struggle over these questions, during most of the last 15 years, makes this clear.

During all that time, we have seen only one concept which promised to achieve the necessary degree of agreement. That was the Scowcroft Commission report, a document desperately needed by the President to save one weapon—the MX—which did so by proposing another—the Midgetman, a document intended to expedite force modernization—which did so by demanding more intelligent approaches to arms control.

The decision to slash funding for the Midgetman, will—if it is allowed to stand—bring into serious question whether the Midgetman will be deployed at all, and consequently, whether the fabric of the Scowcroft report will be preserved or torn apart.

If we cannot deploy the Midgetman it will inevitably call into question the deployment of the first 50 MX's, let alone any more of them as requested by the President. The Midgetman, because it is both mobile and hardened against nuclear blast, presents an extraordinary challenge to Soviet attack planners. Under even the most adverse circumstances, the price to attack Midgetman, measured either in warheads or throweight, is so great as to destroy any possibility of an effective first strike against our ICBM force as a whole, including the MX missile. Take away the Midgetman, and the MX is exposed, vulnerable, while at the same time highly threatening to the Soviets.

There is, of course, another way to defend MX missiles, and that is by defending them with some early and limited version of SDI, at vast expense, and at the risk of destroying what is left of restraint between the United States and the Soviet Union. But there are those—and they include virtually all Midgetman's critics—who believe that what this country most needs is more and more counterforce warheads, even if it mounts up to a first strike capability against the Soviets comprising a large MX deployment, much larger than now planned, and backed by a limited defensive network. Their purposes have been well served by cutting the Midgetman's budget and obstructing the rest.

All of this seems to be well understood in the other body.

In a development which has not been widely reported, the Research and Development Subcommittee of the House Armed Services Committee has just voted 8 to 2 to freeze deployment of the MX after the first 10 until and unless the Midgetman goes into full-scale development.

Presumably, this same measure will have no serious trouble getting through the full House Armed Services Committee and then the full House of Representatives.

Mr. President, as a democracy we need consensus for force modernization and for arms control. The development of the consensus is always difficult, indeed tortuous. If we are to preserve the prevailing consensus, we must strengthen the logic of the Scowcroft Commission report.

I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HECHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR HECHT

The PRESIDING OFFICER. The Senator from Nevada, Mr. HECHT, is recognized.

IMPEACHMENT OF JUDGE HARRY CLAIBORNE

Mr. HECHT. Mr. President, I wish to speak on the impending impeachment of Federal Judge Harry Claiborne of Nevada.

Mr. President, the Constitution of the United States provides that "no person shall be deprived of life, liberty or property without due process of law." Every American is guaranteed the right to a final day in court.

The Constitution also provides for impeachment of judges to begin in the House with a trial in the Senate. As a U.S. Senator I have taken an oath to uphold the Constitution.

If Judge Harry Claiborne feels that Congress is his court of last resort, he is entitled to that forum under our Constitution.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1010

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. D'AMATO). Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business.

JULIE HEW, ESSAY WINNER

Mr. INOUYE. Mr. President, the 1986 winner of the National Journalism Contest sponsored by the President's Committee on Employment of the Handicapped was Julie Hew, a senior at Kapaa High School on the island of Kauai in the State of Hawaii. I recently had the pleasure of participating in an event at which Miss Hew was awarded a scholarship from the Disabled American Veterans, which she plans to use in attending the University of Oregon.

Mr. President, I share this information about Miss Hew not merely because she is a resident of Hawaii—although that is a great source of pride—but more importantly, because I believe her prize-winning essay is worthy of attention by my colleagues and the citizens of our Nation.

Her essay, "Live, Learn, and Enjoy," is a description of a leprosy victim, Elroy Malo. Victims of leprosy, or Hansen's disease, have since Biblical times suffered the societal stigma of their disease as well as its crippling effects. In Miss Hew's essay, we learn of Elroy Malo's tremendous difficulties with leprosy and blindness, but also his undiminished inner strength that enables him to persevere.

Against great odds. Elroy Malo has become an active leader of the disabled community and an inspirational figure for all. We owe much to Miss Hew for so sensitively and eloquently sharing the story of Elroy Malo's struggle to success. I hope that many others will see that in this story of personal dignity and resilience, there are many lessons for us as well.

Mr. President, I ask unanimous consent that Miss Hew's essay be reprinted in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

1986 NATIONAL JOURNALISM CONTEST
WINNER—FIRST PLACE

LIVE, LEARN, AND ENJOY

(By Julie Hew)

While slowly dialing the numbers on the telephone, I glanced at the clock, 9:04 a.m. My stomach churned. What am I going to say? Should I greet him cheerfully or seriously? I hope I don't say anything insensitive or offensive. All these throughts raced through my head as the phone rang.

"Hello," came the warm voice at the other end.

"Good morning, Mr. Malo, this is Julie Hew."

"Oh! Howzit." Instantly I relaxed—this wasn't going to be so difficult after all!

Elroy Malo, a pure Hawaiian leprosy patient, has come a long way from the isolated little community of Kalaupapa where he was sent in October 1947 at the age of twelve. As a young boy, Elroy enjoyed the vast new playground and the escape from labor in the family taro patch. However, the stigma of being a Hansen's disease patient soon set in. The pain of that experience is still deeply embedded.

Hansen's disease or leprosy has been around for centuries. It attacks the nerves of the extremities leaving the fingers and toes to shrivel. Ulcers and sores develop on the arms and legs that are void of feeling and unable to indicate pain or injury. Blindness also occurs in later stages. It is frequently referred to as "the living death" because the disease itself is not fatal, but the victim lives with the physical and mental distress for the rest of his life. Today, 11 million people throughout the world are afflicted with leprosy. Most cases occur in South China, Southeast Asia, India, Central Africa, South and Central America, the Malay Peninsula, and the South Pacific Islands. In Hawaii, the disease is thought to have originated in China when immigrants brought it over in the 1850's. Hawaiians, having been isolated for so long, had little immunity to foreign disease and caught it readily. Until recently, an effective treatment for leprosy did not exist. Thus the patient was forced into isolation from the rest of society. The falsehoods that provide the stigma of leprosy depict those patients as the dregs of society, those who are being punished by God, or inhuman. But leprosy patients are people with a disease, and they have the same feelings, desires and goals as anyone else.

Elroy Malo is an example of how one can overcome his difficulties and make the most of life. Leprosy claimed his body and his sight, but not his brain or heart.

While living on Molokai, and later in Pearl City, Elroy was restricted to the grounds of a school or hospital. He was never allowed to be completely free. By nature, he was energetic and proud, and he came to resent the brand others put on him or the invisible walls that kept him from being like other people. He became very bitter and angry at the world. Rebelling, he refused assistance from his teacher and doctor, and preferred to be alone, drowning his sorrows in alcohol. His depression and negative attitude continued until 1972 when he finally moved out of the hospital. After 24 years of confinement, Elroy was ready to become an active part of the community.

Until 1971, Elroy practiced self-rehabilitation. He taught himself how to use a cane by trial and error—frequently walking into walls and banging sensitive shins. Then he started rehabilitation at Ho'opono School for the Blind and Visually Impaired. In 1972, he began attending the University of Hawaii with three goals in mind: voice training (singing is a great passion of his), learning to speak Hawaiian, and learning to write. School was a test in itself on Elroy's determination and perserverance. He had to take oral exams and tape record lectures, which meant studying twice as hard as everyone else. In 1978 the hard work paid off and Elroy received his Bachelor's degree in Hawaiian language. Two years later he was awarded his teaching certificate.

Now Elroy sits on numerous boards of non-profit organizations, sharing his views as a representative of the disabled. He has been on boards of directors for the Eye of the Pacific, Ho'opono School for the Blind and Visually Impaired, and the Aloha Council (affiliated with the American Council). He was also the representative of the disabled to the Oahu Tenants Association Council, and the second vice president for the association in his building. The Aloha Council engaged him to make speeches at rallies to various groups on his experiences and the importance of the Council. Elroy is also an active participant in the Very Special Arts group that puts on plays by the disabled for the community.

Although he lives by himself in the Hawaii Housing project, Elroy is not alone. In 1982, he was the first blind person from Hawaii to travel to Australia to get a seeing-eye dog. His trip was sponsored by the Eye of the Pacific, and it changed his life. Kieran, his full-time companion helps with traveling tremendously. Sometimes the pair don't end up in their desired location, but those times are rare and Kieran has improved Elroy's quality of life and feeling of independence.

There are approximately 36 million disabled people in the United States alone. Each year 4 million new cases of eye diseases are discovered and ½ a million are diagnosed as "legally blind." Yet Ho'opono is the only school of its kind in Hawaii and there are only 55 throughout the country.

Elroy Malo lives with two "disabiities." He has leprosy, and as a result of that is blind, but he hasn't let his physical limitations prevent him from broadening his horizons and helping others.

"Disability" is a label I question. It refers to the lack of ability and connotes incompetence, yet Elroy Malo has the ability to do many things that others cannot. He is not disabled, he is physically limited. Elroy is a special person. Some people with physical limitations are in fact disabled because they believe they are disabled, and they let others tell them so. Elroy's attitude is positive about himself and his capabilities. Being able to accept his situation has helped him overcome his anger and bitterness which in turn helps him lead a productive life.

"Don't let other people's hang-ups stop you from doing what you want," he says, "and don't be afraid to try new things, because someday you'll be happy to say, 'I'm glad I did it' instead of 'I wish I did.'"

Elroy has dedicated his life to helping others through non-profit organizations or by sharing his story so that others may benefit and learn from it. Now, he can demonstrate his courage, determination and a positive outlook on life.

Those of us who are not among the 36 million people with physical or mental limitations sometimes take for granted our everyday abilities. We quickly glance at the clock or use healthy fingers to dial the telephone. Someone like Elroy Malo has to remind us of how precious our good health is. The key to life is your attitude. The willingness to try the new, practice the difficult, face reality, and be optimistic makes an enormous difference. Because of his physical limitations, Elroy compensates by doing as much as he possibly can. He doesn't sit around feeling sorry for himself. He goes out, keeps busy, and has a lot of fun. If we all lived like Elroy, whether healthy or "disabled", and stopped thinking only of ourselves, no one could complain of being unproductive, desolate, or destitute. I admire Elroy Malo most for never giving up and making contributions to a society that

at one time looked down on him with scorn. A well-known saying reminds us to "live and learn." Elroy Malo is living, learning, and enjoying it!

FIFTIETH ANNIVERSARY OF RANDOLPH-SHEPPARD ACT

Mr. STAFFORD. Mr. President, during my service in the U.S. Senate, and particularly during the years when Senator Jennings Randolph was a leading Member of this body, I had the privilege of being the ranking member of the Subcommitee on the Handicapped of Labor and Human Resources, of which Senator Randolph was the most able, distinguished, and outstanding chairman.

During that time we had frequent opportunities to be involved in what was known as the Randolph-Sheppard Act. That was a piece of legislation which was signed by then President Franklin Delano Roosevelt 50 years ago today.

So this is the 50th anniversary of the signing of the Randolph-Sheppard Act.

I think it is appropriate for me to say a few words to remind all of us that that act was signed 50 years ago, and to note how important that has been to some of the visually handicapped people of America and to the Nation itself.

What that act did, in essence, was to provide that the blind and visually impaired people of this country who wished to do so could establish small shops—to put it in plain English—in U.S. Federal buildings. Over the 50 years since Franklin Roosevelt, as President, signed that act, some 39,000 visually handicapped people have had an opportunity to be small businessmen and women in Federal buildings here in the United States.

At the present time there are 3,875 people, approximately, who are engaged in retail activities, if I may use that popular term, under the provisions of the Randolph-Sheppard Act in this country. It is interesting to note that those people are earning an average income from these activities of $18,300 a year.

So this act presently is helping 3,800 people, in total over 50 years 39,000 people. It has allowed from 3,500 to 4,000 people a year who are either totally blind or seriously visually impaired to be productive, self-supporting citizens of the United States of America.

I wanted this opportunity to pay my respects to Senator Randolph and to the co-author, Senator Sheppard of Texas, for the conception of this act and for the long, hard work which Senator Randolph devoted to the act to make sure that it nourished in the years following its inception. I can personally testify as to how much time and work he devoted to it in the years when I served with him on the Handicapped Subcommittee of the Committee on Labor and Human Resources in the Senate.

SENATOR HART AND AMERICAN FOREIGN POLICY

Mr. BYRD. Mr. President, the distinguished senior Senator from the State of Colorado, Mr. HART, has been one of the most thoughtful Members of this body over the years. He has consistently displayed a vision which has often broadened my own perspective on some of the central problems of our era. At the same time, he combines his intellectual freshness with a good dose of practicality.

Mr. President, it is this quality of bold and creative thinking, solidly grounded in Rocky Mountain pragmatism, which has again marked his latest effort, a comprehensive three-part series of addresses on American foreign policy delivered on June 11, 12, and 13. His foreign policy series, entitled "Enlightened Engagement: A Foreign Policy for the 21st Century," given at the Georgetown School of Foreign Service, outlines in broad strokes a comprehensive framework—a vision—of the challenges and opportunities for this country into the next century. It is precisely this kind of analysis which is obviously and sorely lacking in the fractured and drifting ad hoc militarism which characterizes the present administration's approach to the world.

In the key regions where America's role and America's character are being tested, particularly in the Middle East and Central America, American policies and strategies are infused by no overall architecture, no broad mixture of incentives and penalities, carrots and sticks. All we seem to do these days is vote on either military assistance or arms sales. In short, this Nation is lacking exactly what Mr. HART provides in great detail and eloquent style in his address. Mr. HART is to be commended for this thoughful exercise, and I highly recommend that my colleagues and other interested individuals read this series of addresses. I ask unamimous consent that the three-part series be reproduced in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENLIGHTENED ENGAGEMENT: A FOREIGN POLICY FRAMEWORK FOR THE 21ST CENTURY

LECTURE ONE

Introduction

Throughout history, the fate of nations has depended on their ability to match changes in the world with changes in their sense of power, potential, and purpose. Sometimes a nation pretends it can play little role in the world when it has so grown in power that even its inaction has major consequences. Our nation made that error in the 1920s and '30s when a return to isolationism permitted the rise of aggressors in Europe and Asia.[1]

More frequently, nations cling to visions of empire that ignore changes within and beyond their borders. Austria-Hungary is this century's best example. Austria was able to play the role of great power for 200 years on the strength of the victories of Prince Eugene of Savoy. But when, in 1914, Austria attempted to act beyond its strength, reality asserted itself. The Austrian empire was wiped from the map.

In this Hobbesian world, the realities of power and change have a way of impressing themselves on even the most stubborn. Sometimes the reckoning can be put off—Byzantium delayed it for centuries. But when it comes late, it also comes hard.

For the past several decades, a reality we have not wanted to acknowledge has been knocking at our door: the reality of changing power relationships.

In 1958, President Eisenhower sent the Marines into Lebanon. The result was what we expected in the post-war world. American forces were committed, we met little opposition, we achieved our goal, and the public supported the action. It was a typical act by a Superpower in an age of superpowers: easy and successful.

In 1961, President Kennedy also expressed the confidence of a superpower when he said we would "pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and the success of liberty." His words were well received by a nation that did not anticipate a situation in which the price could be too high or the burden too heavy.

Reflecting this confidence, in 1965 we sent American combat troops to defend the Republic of Vietnam. The initial commitment a year earlier had not been controversial; the Tonkin Gulf resolution passed the Senate 88 to 2, and the House 414 to 0. Ten years later, Saigon fell to the North Vietnamese army, as helicopters plucked the last remaining Americans from the roof of our Embassy. It is a scene we will never forget.

Vietnam should have led us to reconsider our perceptions of our role and means in the world. Yet in 1982, acting as if little had changed since 1958, we again committed the Marines to Lebanon—this time, without clear purpose or support. And this time, the lesson was not a decade in coming. We suffered an embarrassing defeat, militarily and politically, in less than two years. In just four months, we went from hearing the President of the United States tell our nation that the village of Suk al-Gharb was a vital national interest to watching our troops, minus 285 dead, board their transports and sail away.

There is an important lesson here: global change in the 1960s, '70s, and '80s has outrun a foreign policy largely constructed in and for the 1940s and '50s. Our goals have not changed. As always, we seek to ensure that Americans enjoy security and opportunity; that our fellow human beings around the world live with freedom and dignity—and when they do not, that they look with hope to America's leadership; that, with the cooperation of our allies and the support of our own people, we will take any

[1] The point applies with equal force to international economics. As Charles P. Kindleberger notes, the world-wide depression of the 1930s resulted, in large part, from the unwillingness of the U.S. to assume responsibility for world economic leadership that Britain had surrendered.

actions necessary to protect the security of our nation and the survival of our planet.

Our values and goals are constant, but the world in which we pursue them continues to change—dramatically. Because we have resisted those changes, too many of our actions in the world are irrelevant, ineffective, or even counterproductive. If we continue to ignore the world's changes, we will suffer increased conflict between our power and our commitments, our opportunities and our actions.

America still has unparalleled strengths and responsibilities. Our challenge is to unite the American people behind a vision that better employs our strengths and fulfills our responsibilities.

What are the changes that have outrun our foreign policies? What further changes will confront us in the coming decades? How can we use those changes to bring America's commitments and power into harmony?

No individual should presume to have complete prescriptions for all the foreign policy challenges that confront us. Nor should we attempt to reinvent the world.

These lectures seek to provide a direction for our thinking about the role of America in the world toward the 21st century. Even now, we can create a better framework for advancing our security, ensuring our prosperity, fostering our values, and creating a safer planet. We must sound a challenge—a challenge to seasoned practitioners and young idealists—a challenge to all Americans concerned about our role in the world—a challenge to think freshly, creatively, and constructively. For I believe we can make this time of change an American age of opportunity.

An Era of Change

Many of the major global changes that render traditional foreign policies ineffective are already apparent:

First and most important, military and economic power is distributed more widely, if not more evenly than in the late 1940s, when our current foreign policy framework emerged.

The strictly bi-polar world is gone. In its place is a world where secondary powers can defy superpowers, as we discovered in Vietnam and the Soviet Union is discovering in Afghanistan.

Many powers have arisen independent of either Washington or Moscow. China is one such. Having broken its Soviet alliance, it remains wary of allying with the United States. Brazil and the Asian nations of the Pacific Rim are emerging as regional economic power centers, increasingly less attached to either superpower.

Moreover, an increasing number of events are driven by neither superpower. Neither the Soviets' trouble in Afghanistan nor ours in Central America is *caused* by the rival superpower, though in each case the rival seeks advantages from them. Indeed, in the third world, forces such as religious fanaticism are hostile to both the United States and the Soviet Union.

Our two nations possess two of the world's three largest economies, and, in terms of the survival of human kind, our nuclear stockpiles are symbolic remnants of bi-polarity. But the superpower notion has become insufficient to capture the complexities of modern power relations.

The diffusion of power is the defining reality of our time. Ultimately, it can also be the greatest source of American opportunity.

Second, nationalism—which first appeared in Europe and America in the 1700s—has spread since World War II throughout most of the developing world. Between 1945 and 1980, over 80 countries became independent of their imperial rulers. In this age of nationalism and diffused power, a superpower may have the will to do something, but not the unilateral means.

In military conflict, war with even a minor state now often means war with its people, not just its government and its army. When its government is defeated, the conflict often enters a stage of terrorism and guerilla warfare—forces that are difficult to defeat, and which render a superpower's massive arsenal largely irrelevant.[2]

Third, we have witnessed an economic transformation equal in importance to the Industrial Revolution: the emergence of a global economy. At the close of World War II, less than a tenth of the world's goods and services were traded internationally; by last year, this figure had grown to nearly 25 percent. This change is keenly felt in the United States. Since President Kennedy's time, the share of American jobs dependent on exports has more than doubled, and the growth in trade now directly or indirectly affects nearly every American worker.

This economic revolution has occurred in a global infrastructure that makes trade possible: shipping costs reduced to a fraction of those of 30 years ago; an increasing knowledge of foreign markets; international communication and full telecommunications systems. The last of these has implications well beyond commerce. The communications revolution pushes far-flung tensions and conflicts onto the global stage in minutes and telescopes the time available to respond to crisis.

If these power shifts have outpaced our foreign policy, then the changes of the next few years may outdistance it entirely.

Unless we secure stronger non-proliferation agreements, the number of nations with nuclear weapons could triple, with real or threatened nuclear terrorism a distinct possibility;

In the absence of new arms agreements, a multitude of weapons in space and an additional 10-20,000 Soviet warheads beyond current stockpiles will probably be developed;

The Soviet Union's ethnic, especially Moslem, population will have grown faster than its Russian population; by the 21st century, the Soviet Union's Central Asian Republic may have the nation's highest rates of unemployment and instability;

The population of Africa will likely double. The most populous cities in the world will all be in what is now the developing world;

China will likely have quadrupled its 1980 national income levels; Brazil may be a trading power on a par with current-day Korea.

Our challenge is to adapt our foreign policy to this historic period of revolutionary change.

Unfortunately, most of the foreign policy debate within both political parties addresses only one small piece of this larger and more complicated puzzle: when and how to use American military force, and which Soviet-aligned forces to oppose with our own force. Unquestionably, these are important and difficult questions. But even if we were to divine a "correct" answer to those questions, our foreign policy would still be sorely inadequate on many fronts to steer us into the 21st Century.

A foreign policy framework for the year 2000 should tell us more than where, when, and how to send American arms and troops. It should tell us how to contain Soviet expansionism *and* move beyond an increasingly unproductive, dangerous, and insufficient U.S.-Soviet competition. It should tell us how to adapt NATO and our other alliances to changing times. It should tell us how to battle African famine, defuse the Latin American debt bomb, and nourish the trend toward open societies throughout the developing world. It should tell us how to make America more competitive in the world economy. Above all, it should tell us how to reach the next century safe from nuclear disaster.

I believe such a new framework—which I call a framework of enlightened engagement—has four pillars:

Management of U.S.-Soviet relations in a way that uses rising nationalism in the developing world, America's economic advantages, and nuclear arms control to advance America's interests;

Much greater reliance on international economics—not just to promote American prosperity—but also as an explicit instrument of our security goals;

Strengthening America's alliances by ensuring they are based on equality rather than dependency;

Engagement in the developing world in order to promote open societies and economic opportunity.

Enlightened engagement means translating the global diffusion of economic, political, and military power—the defining reality of our age—into an opportunity for new American leadership.

America's Past Foreign Policy Frameworks

This framework flows from America's history. In our 210 year history as a nation, we have had three frameworks for our foreign policy—three different sets of basic principles and goals that guided our relations with the world.

The first framework is generally known as "isolationism," and it guided us until roughly the end of the 19th century.[3] To be sure, we were not closed to the rest of the world like an earlier Japan. Instead, we believed that our noble experiment in democracy would energize the drive for freedom in other nations. We were also commercially active by the standards of the day. But during the isolationist pericd, we were reluctant to involve ourselves with other nations in formal alliances, in wars outside North America, or in diplomatic commitments that reached beyond supporting commercial enterprise.

It may startle some to say our Founders were isolationists. But by today's standards

[2] A superpower may still have the ability to win in an abstract sense: in theory, we could still be fighting in South Vietnam and holding on to most of that country. But, increasingly, a superpower can no longer do so at a price it can afford to pay, at home or abroad. While its will to make the initial commitment may have been strong, it cannot sustain that will in face of a price wholly disproportionate to the potential gain. One of the easiest pitfalls a major power can fall into is making a long-term commitment based on a short-term calculation of will.

[3] There is no precise date when any of our frameworks change; the rise and fall of their influence on our policymaking are gradual. But by the end of the 19th century, we had embraced Manifest Destiny, entered into war with Spain, and acquired the Philippines. America, by this point, had begun its entrance onto the world diplomatic stage. Within two decades, we would be engaged in a major European war.

they were, and they had good reasons for thinking as they did. We were not a strong nation. Our armed forces were small and weak. We did not have the wherewithal to engage in international power politics.[4]

But another element of our Founders' isolationism was related to our system of government and is fully relevant to us today.

Our Constitution was crafted with the foremost goal of preserving domestic liberty. To that end, the Founders created a government of separated powers that would be constrained by public opinion and have great difficulty acting precipitately or unilaterally. The system of checks and balances they designed remains an inspired guardian of domestic freedom, but it placed inherent constraints on our engagements abroad. Unlike monarchies of the time, our government could not make most decisions quickly and in secrecy, and then insulate those decisions over many years from domestic pressures, press scrutiny, or public opinion.[5]

The Constitution's constraints on our foreign policy were not, in practice, very constraining for our Founders. Most of them subscribed to George Washington's view, expressed in his Farewell Address, that we ought to avoid foreign entanglements.[6] Recognizing the realities of America's geographic safety, they constructed a system of of government that put the burden of proof on our leaders to form consensus for any foreign engagements.

In time, America's power so expanded that we increasingly projected our power abroad. Around the turn of the century, we entered the period of our second framework, which might best be called, "Making the world safe for democracy." The phrase came from Woodrow Wilson, but we began acting on it earlier, in 1898, when we went to war with Spain (in part over Spanish suppression of the insurrection in Cuba). Its high point was our entry into World War I and Wilson's Fourteen Points. We fought a "war to end wars," and we sought a peace based on national self-determination, justice to all nations, and the evolution of Europe into liberal democracies similar to our own.

The failure of the Versailles Treaty to embody Wilson's Fourteen Points, the Senate's rejection of the League of Nations, and the League's subsequent impotence led us back toward isolationism in the 1920s. But the tragic consequences of our political, economic, and military retreat from the world quickly became clear, and we ultimately joined the war in Europe and Asia.

Roosevelt's hopes for the post-war world marked a return to the Wilsonian vision. Unfortunately, the "long twilight struggle" of superpower politics and ideological competition outran this vision in short order. But, like out first framework, "making the world safe for democracy" had elements that are timeless and inherent in our foreign policy. As our Constitution made permanent a bias against over-commitment abroad; Wilsonianism left its own grand and guiding value: human rights.

After Wilsonianism came our third foreign policy framework: containment. It was adopted in the late 1940s, and it continues today—although we are currently in a time of transition to a broader, more current, framework.

Containment was our response to post-war Soviet expansionism. Soviet coercion of eastern European nations into satellites in 1946–'48; sponsorship of communist forces in the Greek civil war; pressure on Turkey; continued occupation of northern Iran—these shattered our expectations of a peaceful, cooperative world order. While the war-devastated Soviet Union was relatively weak compared to the United States, it was strong when contrasted to its European neighbors, who had also suffered in the war.

President Truman recognized that direct American involvement was necessary to block Soviet expansion; local powers were simply too weak to counter it effectively. In 1946, he dispatched the U.S.S. Missouri to the Bosporus as a signal of American support for Turkey, and the era of containment had begun. In the minds of many, that era has never ended.

Permanent Values in America's Foreign Policy

Each of these three past frameworks responded to circumstances that have long disappeared. In the isolationist period, for example, we lacked the power to engage our nation extensively abroad. Today that is no longer true. But each of the past frameworks also reveals fundamental and permanent values which must guide America's future framework as well.

The first framework reveals the value we place on a foreign policy held in check by our constitutional form of government. After World War II, when we first emerged as a superpower, it seemed we could exercise an almost unlimited internationalism and impose our will abroad with ease. But that ease was only possible in a post-war world where we were filling a power vacuum—where the traditional great powers had lost millions of their people and much of their productive facilities.

As global power has been diffused over the 1960s, '70s, and '80s, it has become more difficult to play the role of an omnipotent power, and we have run head-on into the constraints against entanglement our Founders built into the Constitution. On issues as disparate as trade, NATO, and terriorism, our ability to act decisively abroad is shaped (as it must be) by public and press.[7]

Our Constitution's structural bias against foreign entanglements does not mean we must or should return to isolationism. A nation as powerful as ours is inherently a factor in the international balance. Our experience between the World Wars proved the point—at great human cost. We can no longer afford the luxury of isolationism.

Nor is the solution to search for ways to circumvent the constraints our government structure places on our foreign policy. Official dishonesty during Vietnam, excesses of our intelligence community during the 1960s and '70s, unconstrained covert operations—these were inconsistent with American values and, ultimately, were destructive elements of our foreign policy.[8]

Our foreign commitments must not reach beyond what our public will support, or institutions will tolerate, or our military and economic capabilities will sustain. But an internationalist foreign policy can be sustained if the merits of that policy justify an enlightened popular consensus.

Over the past few decades as the task of engagement has become more difficult, consensus has been eroded by unprecedented partisanship and divisiveness the Executive, the Congress, and the public about or proper role in the world. The more polarized the dialogue, the more each new administration tries to disassociate itself from its predecessors.[9]

But ideology does not provide a solid foundation for inspiring fear in our adversaries, confidence in our friends and allies, or agreement among our people. As consensus over foreign policy erodes, we have veered, in the words of James Schlesinger, from "self-criticism bordering on masochism" in the 1960s and '70s to "self-congratulation to the point of narcissism" in the 1980s.

While some of our policy makers subscribe to a policy of unilateral and indiscriminate interventionism, the American people have a far different—and better—vision. They will assert America's power and prestige abroad if a compelling case is made; but they are reluctant to intervene abroad except where Americans or American security is directly challenged, as with terrorism; where success is likely to come quickly and at small cost, as on Grenada; on a humani-

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[4] At the time of the War of 1812—which, it is useful to remember, we essentially lost—Great Britain's Royal Navy had more than 100 ships of the line. We had none. Sweden, Spain, Portugal, Turkey, and even the Kingdom of the Two Sicilies had more powerful navies than we did.

[5] As Alexis de Tocqueville observed in "Democracy in America," "a democracy finds it difficult to coordinate the details of a great [foreign] undertaking and to fix on some plan and carry it through with determination in spite of obstacles. It has little capacity for combining measures in secret and waiting patiently for the result."

[6] "Separated by a wide ocean from the nations of Europe, and from the political interests which entangle them together, with productions and wants which render our commerce and friendship useful to them and theirs to us, it cannot be the interest of any to assail us, nor ours to disturb them. We should be most unwise, indeed, were we to cast away the singular blessings of the position in which nature has placed us, the opportunity she had endowed us with of pursuing, at a distance from foreign contentions, the paths of industry, peace, and happiness; of cultivating general friendship, and of bringing collisions of interest to the umpirage of reason rather than force." Thomas Jefferson, Third Annual Address to Congress, 1803.

[7] The current problem with terrorism provides a good example. As Jefferson often argued, a free press is fundamental to the presevation of domestic liberty. But our free press has now become an instrument in the hands of our enemies, the terrorists. Much of terrorism's effect derives from the horrors delivered into every American living room by television. Our government is reluctant to act swiftly with military force in response to a hostage crisis when the public is bombarded nightly with tearful interviews with the hostages' families.

Here, as elsewhere, the contradiction between our institutions and the demands of the international environment is often acute. We do ourselves no favor if we ascribe the problem to congressional micromanagement or an absence of "rational" foreign policy goals and means. The root is fundamental: our government was constructed to be consistent with limited involvement in foreign matters—not with indiscriminate interventionism.

[8] Sadly, this same official disdain for openness and honesty seems to mark the current Administration's efforts on arms control and Central America. Indeed, there seems to be a facile arrogance along the lines of, "We know best, because we understand the Communist threat better than most Americans."

[9] This has produced some of the more quixotic strains in our foreign policy over the past two decades—from the Carter Administration's promises to "banish nuclear weapons from the face of the earth," to President Reagan's pledge to restore military supremacy.

The battle over the modernization of land-based nuclear missiles exemplifies this issue particularly well. The current Administration, which came to power preoccupied with the so-called "window of vulnerability" has now undercut the strong bipartisan consensus in favor of the only solution to the perceived vulnerability of our land-based nuclear forces—a mobile missile. This is politics, not strategy.

tarian basis, as in fighting famine in Africa; and, generally, where we act in concert with our allies. The public's attitude is not isolationist; but it is selectively internationalist.

To unite our political, military, and economic policies in ways that create and sustain public support for enlightened internationalism is one of the great challenges of the late 20th century. In an era of great change, challenge, and opportunity, it is less important that our foreign policies are "new." It is more important that they work—that they are idealistic in values, realistic in goals and means—and that they command the united support of our people.

The second past framework, Wilsonianism, reveals the value we place on human dignity abroad. Of course, the vision of America as an international apostle of human dignity emerged even before our founding—it was part of the reason the Pilgrims came to Massachusetts Bay, that Roger Williams established Rhode Island, and that the Catholics fled England to Maryland. Our Founders fought the Revolution over their rights as Englishmen, and they were profoundly influenced by the idea of the Rights of Man as propounded by the Philosophes of the French Enlightenment.

At times, the mantle of human rights was thrown over crass commercialism and imperialism. The "Open Door" policy for China, while helpful to the Chinese at a dark time in their history, was motivated less by moral concern than a search for American markets.

But it is easy to overstate such qualifications. The ideal of America as a moral beacon for the rest of mankind is profound and important. It has rarely been absent in our history. Indeed, nothing so defines America's character to the world as our sometimes troublesome but irrepressible conviction that our greatness must be matched with goodness. We can never overlook the tremendous power our idealism exerts around the world.[10] On America's borders, people are clamoring to get in, not out.

Human rights are difficult to export, and our expectations must be realistic. Certainly, the public is unwilling to support the sort of armed crusade for human rights that marked our entry into World War I, or to tolerate a naive view that every Third World nation could one day be a miniature of our own democracy.[11]

But the American public also resents leaders who close one eye to torture, persecution, or repression of basic freedoms—whether in the Gulag, the prisons of Chile, or the townships of South Africa—whether inhumanity is rationalized with the rhetoric of left or right.[12]

Even if we could enlarge human rights nowhere, we would still have the duty to encourage them everywhere. Indeed, America's soul always burns brightest when we speak truth to power on behalf of the powerless, when we stay the hand of those who would suffocate conscience, and when we give new wings abroad to the same human aspirations that won our own independence.

But the third past framework, containment, also reveals a positive value of American foreign policy: our healthy and determined opposition to Soviet domination and hegemony.

While the Sino-Soviet split has dissolved most Americans' fears of a monolithic communist juggernaut, Soviet imperialism remains real. Afghanistan is a brutal and ongoing example, as is Soviet repression of Poland through a standing threat of invasion under the Brezhnev Doctrine. It is right and necessary that we oppose Soviet expansionism vigorously. To be effective, our means may not always be those we used 40 years ago, but the goal is still imperative.

But there is a second notion of containment—an incorrect notion—which is less healthy. It is a tendency to believe that *every* hostile force is, at root, generated and controlled by the Soviet Union.

The Middle East provides an example. While the Soviet Union supports some nations and forces in the Middle East that are hostile to us, problems in that part of the world do not originate in Soviet action, nor would they disappear if the Soviet Union were not involved. Those who trace Libyan, Syrian, or Iranian anti-Americanism primarily to Moscow are in error. Moscow may be pleased by the result, but it is not the original cause. Indeed, the forces unleased by the Iranian revolution are hostile toward both Washington and Moscow.

This "credit Russia first" mentality, which sees the hand of a Soviet puppeteer guiding every movement or government hostile to us, often creates self-fulfilling prophecies. Heavy American pressure can drive such forces into the Soviet harbor as the only available port in the storm. Nicaragua is partly a case in point.[13]

A Framework of Enlightened Engagement

In sum, these are the values that guided our past frameworks. But now we must begin to create a new framework that can apply those values to a new and changing world.

Above all, a foreign policy framework for the 21st century must seize the opportunity presented by the most significant change of the past 40 years—the great diffusion of military, political, and economic power. Our framework must help us reach our foreign policy goals in a world where other nations are maturing politically and economically at a rapid pace; where Soviet expansionism continues to be a threat, but where exclusive concern with the Soviets is both insufficient and dangerous; where we still have tremendous military, economic, political, and moral power, but where, increasingly, we can only exercise that power by engaging other nations—not commanding them.

What, then, is this new framework? As we noted earlier, it might best be called *a framework of enlightened engagement.*

Enlightened engagement requires that we find better ways to exercise our leadership in a world where we can rarely impose our will. Rather than resisting change, we need to *use* it to our advantage. We must use forces such as the diffusion of power, nationalism, and the force of a growing international economy—forces largely beyond our control—to fuel our leadership and help move the world toward our goals. Enlightened engagement means allying with historic tides and channeling them toward our ideals rather than attempting to block those tides by standing in their path.

Our task now is to identify the strongest of these tides and propose how we might better use them to navigate toward our goals. There are four ways in particular.

Enlightened Engagement: Managing United States-Soviet Relations

First, we need to manage our relations with the Soviets in a way that reflects the increasing insufficiency of the notion of superpower domination.

It is natural and necessary to focus much of our attention on the Soviet Union. Since World War II, Soviet power—for the most part, its military power—has increased compared to ours. In part, this development was unavoidable, as the Soviet Union recovered from the damage it suffered in World War II. In part, it has been due to the Soviet Union's rapid technological evolution—for example, in development of nuclear weapons, and during the Vietnam era, when for 10 years we consumed immense defense resources while the Soviets invested theirs.

Yet it is only in the military field that the Soviet Union is a serious competitor. Its economy is a lumbering dinosaur, and even in past bastions of Marxism such as the French Intelligentsia, its ideology is now widely recognized as a fraud. Even when the Soviets supply arms and advice to communist forces attempting to seize power, their inability to follow through with long-term economic assistance often alienates their own allies.

As a result, there are signs of Soviet retreat in much of the third world. Angola and Mozambique have serious economic problems and have begun looking toward the west. The Vietnamese may be facing their own Vietnam in Kampuchea. The recent revolution in South Yemen revealed how difficult it is for the Soviets to exercise stable control.

Soviet military power has grown in the post-war period. But in our fixation with that fact, we have missed a major development—one that, in the long run, is more important. Other nations have grown in power relative to *both* superpowers to the point where the notion of a superpower has di-

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[10] Our idealism exerts such power despite the knowledge of observers abroad that the United States has often engaged in folly or worse. Foreign admiration for America derives, in part, from an appreciation of our capacity for self-correction through an open and participatory political process. The American civil rights movement is an example; as William Schneider has written, it has raised the aspirations of discriminated minorities in many places abroad, most notably, Catholics in Northern Ireland and blacks in South Africa.

[11] Without question, certain rights must be considered universal—including freedom from arbitrary imprisonment, from torture, from genocide; other rights should be considered universal—freedom from want of basic needs such as food and shelter. Our unequivocal support for such rights is best expressed by our support for the Universal Declaration of Human Rights, adopted in 1948, and by our nation's ratification this year of the Genocide Convention.

Yet we do a disservice to the cause of human rights if we insist, as some have, that the minimum standard for human rights abroad should be the full slate of rights we enjoy at home. At the margin, notions of "natural rights" will vary from culture to culture.

[12] As often noted, it matters not to the victim of repression whether his tormentors represent totalitarian or authoritarian regimes.

[13] There is little question that the Sandinistas have ambitions to establish a repressive, one-party state. Nor can we doubt their allegiance to Marxist-Leninist doctrine. There are also reasons to believe they harbor designs of regional hegemony that are contrary to our interests. But their local and regional ambitions and leftist ideologies do not necessarily translate into an equal desire to be a Soviet base or ally.

Our current designs seem to allow the Nicaragua junta to choose only whether it wishes to be ousted peacefully or by force. They are unlikely to choose either course. Since the instrument of our military efforts, the contras, also appears to have little chance of success, we find ourselves at a dead end, applying just enough pressure to guarantee a close relationship between Managua and Moscow.

minishing weight beyond the nuclear context. The rise of nationalism and the diffusion of power now mean that many secondary powers can frustrate the designs of a superpower; many regional powers are independent of both superpowers; and, ominously, several new forces are threatening to both the Soviet Union and the United States.[14]

This is a central weakness in our existing foreign policy framework. Containment focuses exclusively on the U.S.-Soviet contest. That contest is still real. The Soviets continue to be externally imperialistic and internally repressive. As the only two nations who share the capacity to destroy mankind, it will remain in America's interest to manage military and political imbalances and misunderstandings with the Soviets to protect them from leading to deadly miscalculation. Yet many nations and forces now stand outside our competition.

A major theme of a new framework must be the imperative of blocking Soviet misbehavior with one hand, while reaching out to new opportunities for American leadership with the other. President Truman was right to declare that the United States seeks to "strengthen freedom-loving nations against the dangers of aggression." But now his doctrine must be updated—to include better ways of containing Soviet expansionism, partly by rising to the foreign policy challenges outside our competition with the Soviets. For in a world where our military struggle with the Soviets is handcuffed by the arms race, our twilight struggle will increasingly be waged on political, ideological, and economic grounds.[15]

Enlightened Engagement: Economics as Foreign Policy

But enlightened engagement must also focus on the explosive growth of the global economy. The spread of trade and the changes in other economic relationships are now widely recognized, but their full implications for our foreign policy have yet to be explored.

We know how our factories and jobs have been changed by a new world market in which $2 trillion of trade and $50 trillion of capital and currency flows between nations each year. But what do these mean with regard to our competition with the Soviets, our alliances, or our effort to advance the cause of human dignity?

As we approach the 21st Century, we must elevate international economics to a primary instrument of foreign policy. To encourage peaceful economic and political development in Latin America, the debt burden that is crushing potential prosperity and new democracies must be lifted. To strengthen our ties to Canada, Western Europe, and Japan, we must stem the pressures for protectionism that threaten to rend our vital alliances.

Ultimately, our efforts in international economics must be as important to Latin America as the Alliance for Progress promised to be in the 1960s; they can be as important to our relations with Europe as the Marshall Plan was in the post-War period; they can be as important to our relations in Asia as our military forces in South Korea or our protection of the sea-lanes in the Pacific.[16]

Enlightened Engagement: Alliances Based on Equality

Enlightened engagement must also strengthen our alliances and friendships by basing them on equality rather than dependency. Our post-war military and economic alliances, NATO in particular, rank among the great achievements of human history. They helped stabilize a tempestuous European continent, contain the spread of communism, fuel the expansion of global trade, promote the spread of democracy, and protect our security in the Western hemisphere.

When these alliances and institutions of international economics were created in the 1940s and '50s, they reflected, not just local economic and security considerations, but a broad, common outlook shared by all participants. They also reflected a world in which the United States had overwhelming military and economic power, and in which our allies were weak both economically and militarily.

Today, we insist on clinging to the forms of many of our alliances, even when those forms prevent the alliances from reaching their goals. We simply can no longer ignore the dramatic changes within our relationships. Collectively, the NATO allies now have a larger population and economy than we do. Japan is the second largest free economy in the world and may be the largest trading power by the end of this decade. The economies we helped rebuild after the War are now our chief economic competitors. Our approaches to problems outside the geographic areas bounded by the alliances—for example, in the Middle East—are frequently divergent. The Western European view of the Soviet Union, and even more, of Central Europe, is often quite different from that of our current Administration.

Our formal political, military, and economic alliances cannot become like insects frozen in amber. The tension within our alliances signals an opportunity—an opportunity to strengthen our alliances by basing them on equality rather than dependency. To call for such evolution is not a threat to the values, economy, and security interests we will always share.

The threat, in fact, comes from a refusal to evolve—a refusal that generates increasing tension, mutual dissatisfaction, and, if left unresolved, will produce sharp, sudden breaks in the future. The current refusal to consider any change creates only a veneer of stability, a veneer covering growing inter-allied tensions symbolized by stalemate at economic summits, the growth of the European peace movement, and periodic congressional efforts to reduce American troop strength in Europe.

The real threats to our alliances come from old force structures in Europe that fail to reflect current military challenges; from Europe's concern that the current administration is unsympathetic—if not hostile—to the imperative of arms control; from currency regimes that allow wild exchange rate fluctuations and encourage pressures for divisive protectionism; from allocations of responsibility for foreign aid that, in some cases, reflect the strength of our allies in the 1940s, not the 1980s; and from military aid agreements with developing nations that reflect our restablished defense habits more than their emerging defense needs.

Enlightened Engagement: Encouraging More Open Societies

Finally, enlightened engagement must encourage and ally us with the growing movement toward open societies throughout the developing world. One of the assumptions of both the Wilsonian and the containment frameworks is that those nations would be friendly to us—that they would see us as the leader in the fight for freedom, the generous provider of aid, and the cultural model for their own centrist forces.[17]

Unfortunately for us and the developing world, these expectations foundered when, after World War II, the centrist forces proved weaker than expected. Indonesia, Egypt, major African states such as Ghana and Tanzania, and other rejected our democratic, free-enterprise model in favor of planned economics, single-party governments, or foreign policies with a strong tilt toward the Soviet Union. Other parts of the developing world, especially Latin America, adopted rightist, authoritarian approaches, often under military governments.

Now, 30 years later, an interesting thing is happening. Centrist forces and open societies are making a powerful comeback. Both the pro-Soviet socialist and rightist military models have failed. In their places, moderate forces, genuinely non-aligned, sometimes democratic, and increasingly market-oriented, are returning.

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[14] Radical Moslem fundamentalism is the most obvious. If Iran defeats Iraq and spreads its revolution, as seems possible, it will be of serious concern both to us and to the Soviets, who share a border with Iran and who have a growing population whose heritage traces more to the Koran than the writings of Karl Marx. The Middle Eastern pressure-cooker may well explode in a way that scalds Americans and Soviets alike.

[15] Some now seem to claim the Truman Doctrine advocated—above all other instruments of containment—providing U.S. military aid to countries facing Soviet-aligned insurgencies. In fact, Truman and senior figures within his Administration stressed that aid, trade, diplomatic, and military assistance were to play coequal roles in containment. Following the Doctrine's enunciation, the Administration went to great lengths to assert it did not represent an open-ended military commitment. George Kennan, and the Policy Planning Staff of the Department of State, prepared a paper on the Truman Doctrine. It underscored the fact that the Truman Doctrine was not "a blank check to give economic and military aid to any area of the world where the Communists show signs of being successful. It must be made clear that the extension of American aid is essentially a question of political economy in the literal sense of that term and that such aid will be considered only in cases where the prospective results bear a satisfactory relationship to the expenditure of American resources and effort." Similar statements were made by Dean Acheson, General George Marshall, and Truman himself. In a conversation with Undersecretary of State James Webb on March 26, 1950, Truman was asked whether he contemplated intervention in Vietnam to the same degree he had intervened in Greece and Turkey under the Truman Doctrine of 1947. "His reply was 'Absolutely not'." George F. Kennan, "Memoirs: 1925–1950," 1967; and Robert J. Donovan, "Nemesis: Truman and Johnson in the Coils of War in Asia," 1984.

[16] In a sense, we have come full circle from the time of our Founders. They shunned foreign entanglements to avoid alienating any of their trading partners, as trade was essential to the nation's economic health. It is even more essential today. But in the coming years, safeguarding our trading interests will require more entanglement with our allies—not less: we will need to lead them into patterns of cooperation and coordination essential to the expansion of world trade.

[17] By "centrist forces," I mean political factions and forces which moderate against repression or dictatorship on either the left or right, or which push for the use of market incentives in the nation's domestic economy. Our support for centrist forces need not be reserved for Jeffersonian democrats and Adam Smith free marketers. Our relations with China, Mozambique, and many others prove we can advance America's interests through engagement with nations that have mixed economics or less-than-democratic political systems.

In Africa, nation after nation has reduced economic controls to encourage market forces. In Latin America, moderate democratic governments have replaced military rule in Argentina, Brazil, Peru, Uruguay, Bolivia, Ecuador, Dominican Republic, and—to an extent—Guatemala, Honduras, and El Salvador. Other examples of a move to the center include Spain, Portugal, India, Malaysia, and—most recently—the Philippines. Indeed, the long-feared "domino theory" may be working in reverse—with contagious economic and political freedom toppling repressive regimes at both political extremes.

In many places, of course, dictatorships have strengthened their hold—in Ethiopia, Iran, and Nicaragua. Yet recent history reveals that dictatorships do poorly at satisfying domestic needs, and reliance on Soviet weapons may strengthen their grip only by diminishing their popularity. We should never overlook the attraction that political and personal liberty has even—or especially—in such societies.

If we are to seize the opportunity this historic trend represents, we must reshape our patterns of engagement in the developing world—patterns that were too often closer to meddling than genuinely assisting. To some of these nations, America seemed to follow a policy of "rule or ruin"—as we now seem to be doing in Central America. We demanded too much control and opposed for many years the right of nations to be nonaligned. Too often, we dictated who would govern the nation, and what sort of economy it would have. Ultimately, by dictating too closely how developing nations should react to the East-West struggle, we undermined their energy and our own effectiveness in limiting Soviet influence.

What should we do instead? There are cases where we can significantly help developing nations, and especically their elements of political and economic moderation. But usually it is by responding to their requests rather than by imposing our own designs. Examples include: military support to supplement a country's natural, nationalistic resistance to foreign invasion or domination; extending the principles of military reform to friendly developing nations; humanitarian assistance to respond to natural or man-made disaster; and economic support that will enable the people of developing nations to participate and benefit fully from the new international economy and became self-sufficient. Our actions will take the form of economic, political, diplomatic, and—where necessary—military engagement. But they must respond to local realities if we are to succeed in advancing America's interests.

The changing imperative of U.S.-Soviet relations, the growing international economy, the maturing of our alliances, the rise of more open societies—all these energetic forces of change are only threatening to a foreign policy that is brittle with age. In the context of a dynamic, forward-looking framework, they represent a tremendous opportunity. If united correctly, these forces can help us achieve all the goals of our past frameworks—they can contain Soviet expansionism, foster a domestic consensus for appropriate internationalism, and strengthen America's leadership for economic growth, human dignity, and global peace.

In short, our foreign policy goals have not changed. If anything, our goals for the next 30 years should be more ambitious than for the last 30. But if we are to achieve those goals, we must exert America's leadership through new means, using the forces of global change to supplement our already substantial power.

And that is the essence of enlightened engagement.

ENLIGHTENED ENGAGEMENT: A FOREIGN POLICY FRAMEWORK FOR THE 21ST CENTURY

LECTURE TWO

Let us consider a new foreign policy framework that can help us use the opportunities presented by a changing world to advance our long-standing ideals and goals in two areas. One is the most sustained challenge of this century—the need to contain Soviet expansionism; the other is the hitherto unappreciated opportunity for American leadership in foreign policy—international economics.

Managing U.S.-Soviet relations

The clearest point of consensus in American foreign policy is the imperative of continued resistance to Soviet expansionism. Moscow's drive for hegemony is not likely to dissipate in our lifetime. It is deeply rooted in traditional Great Russian chauvinism, the Kremlin's interpretation of communism, empire-building urges of the Soviet military, and xenophobic Soviet desire for "300% security"—for a world in which no one can threaten its security.

The question is not whether retraining Soviet imperialism should be an American goal; clearly, it should and it is. But in a world where U.S.-Soviet military engagement could escalate to nuclear conflict, we have a responsibility to search for better means of limiting Soviet expansionism than direct confrontation. While our goals reflect a constancy of purpose, we need increasing flexibility and imagination in tactics. Military confrontation and bluster have proved no more effective than excessive efforts at conciliation.

Dramatic global changes since the emergence of containment in the 1940s and and '50s suggest important ways we can improve our strategy with regard to the Soviets. Most important in this regard are the diffusion of power and the continuing rise of genuine nationalism. Those who lament these trends and the waning relevance of the concept of a superpower miss something here. If we can move toward the kind of world we want without the U.S. attempting to play the traditional role of omnipotent superpower, that is entirely to the good. We had no responsible choice but to shoulder that burden after World War II. But worldwide diffusion of power creates a markedly different situation for us, one in which we can achieve our objectives with far less direct, unilateral intervention on our part.

Diffusion of power and nationalism have created a world in which an expansionist power is contained more by the resistance of those it is attacking—local powers—than by the actions of another superpower. The Afghans are not fighting the Soviet invasion because we are pressing them to do so. Nor does the effectiveness of their resistance depend primarily on us, as important as our aid is. We were defeated in Southeast Asia by North Vietnam and its supporters in the South, not by the Soviet Union. Vietnam itself is now bogged down in a no-win war in Kampuchea. Again, resistance is rooted in local nationalism, not intervention by another outside power.

All this means that the goal of containment, while still necessary, can depend increasingly on local, rather than American, resistance to Soviet expansionism. We should still involve ourselves in resisting Soviet hegemony in some cases. But, given the mutual interest of the U.S. and the U.S.S.R. in avoiding armed conflict with each other, fostering nationalism and the growing strength of minor powers will help us advance toward goals we share with indigenous populations.

In addition, there is danger in assuming someone else's fight on the grounds we are better able to wage the battle. In such cases, local forces may become apathetic—as happened to some extent in Vietnam. Indeed, they may even turn actively against us.

This indirect approach to containment might best be summarized by a term borrowed from the Chinese: "Resisting hegemony while not seeking hegemony." [1] In essence, we help others contain aggression directed against them, but play a secondary, supportive role so as not to turn local nationalism against us.

U.S.-Soviet relations: Self-interested cooperation

Our foreign policy framework must also enable us to re-define the nature of the U.S.-Soviet relationship in an age of declining superpower dominance. Despite the rise of nationalism, the international diffusion of power, and the development of a global economy, our relationship as hostile nuclear powers is still of the greatest importance to all humanity.

Over the past 15 years, U.S. policy has vacillated unnecessarily and unproductively between the oversold hopes of detente and the simplistic pugnacity of the current Administration. Neither extreme has moderated Soviet duplicity, domestic repression, military built-up or global adventurism. It is unrealistic to hope we can change Soviet behavior either through "better understanding" on the one hand or military bluster on the other. Instead, we must seek to manage our relations with the Soviets, and we must always rely on means that are in our own interests.[2]

Enlightened engagement suggests a threefold approach for better managing policy towards the Soviets. First, we and our allies should fortify our own conventional defenses so they are adequate to assure our security and become the principal—and most stable—bulwark of deterrence. These defense improvements must be largely in the form of military reform—within our own military and throughout NATO. Military reform is the best strategy for the United States and Europe to create a credible conventional deterrent that could reduce our reliance on nuclear weapons to defend Europe.[3]

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[1] This was the title of a speech I gave on December 4, 1978 at the Chicago Council on Foreign Relations.

[2] Former German Chancellor, Helmut Schmidt, calls for such an approach in his recent book, "A Grand Strategy for the West." His approach, which he calls "cooperation on the basis of assured security," has two components. First, the free world must assure its security against Soviet aggression by its own strength, not on the basis of Soviet promises. Second, on the basis of assured security, the West should be willing to cooperate with the Soviet Union in mutually beneficial actions, as long as Soviet behavior is appropriate.

[3] The potential of military reform is a topic we address in the next lecture.

Second, we must engage the Soviets in a greatly expanded search for areas of mutual cooperation that work to our benefit.[4] The most important of these, clearly, is arms control.[5] A few points deserve emphasis.

Our immediate goal must be much more than reductions in our nuclear arsenals—although that is still a crucial step. Our goal must be the prevention of use of nuclear weapons—by anyone, for any reason. In a time of Gadhafis and Chernobyls, the first step toward nuclear Armageddon is as likely to come from terrorists, technical accidents, or superpower miscalculation as from Soviet malice.

The goal of preventing the use of nuclear weapons requires several critical steps. Reductions in destabilizing, first-strike systems; non-proliferation agreements; a freeze on weapons-grade fissionable material; jointly staffed crisis management centers; a major joint initiative to improve verification; and a nuclear test ban, must all be central to our agenda. The most critical objective is to make the notion of nuclear warfighting as unacceptable as possible for all nuclear powers.

As we pursue deep reductions in first-strike nuclear arsenals, we should make far greater use of asymmetrical agreements—asymmetrical, not in the benefit to each nation, but in the nature of the weapons exchanged. For example, to break the current stalemate each side should agree to verifiable limits on the systems the other side sees as most threatening. The Soviets must agree to substantial cuts in offensive forces, particularly their large ICBMs. We should agree to set limits on the testing and deployment of defensive systems.[6]

Arms control and crisis management are not the only areas in which we can engage in self-interested cooperation with the Soviets. We should also accelerate cultural exchanges with the Soviets, joint scientific efforts—say, into improving the safety of nuclear reactors—and joint humanitarian efforts around the world. We should challenge the Soviets to join us in combatting terrorism, stemming nuclear proliferation, and eradicating the worst of global malnutrition by the early part of the next century.[7]

But there is a third part to managing our relations with the Soviets. Enlightened engagement requires that we be flexible in tactics. We must be prepared to alter our policies when warranted by Soviet behavior—such as the invasion of Afghanistan or the Soviet-inspired repression of Solidarity in Poland. No fixed formula can determine our precise response to every Soviet action. There is a difference, however, between applying pressure on the Soviet Union in direct response to its adventurism—such as shoring up Pakistan after Soviet invasion of its border country—and abrogating cooperative efforts that are in our own self-interest.

Those who advocate nullifying the achievements of nuclear arms control because they object to the Soviet regime somehow imagine that restraining Soviet nuclear arsenals should be reward for Soviet good behavior. This is not just nonsense, it is a serious threat to U.S. security interests. Cooperation in areas of clear self interest—such as arms control—should not be used for short-term political objectives. We have more than adequate political and economic means to respond to Soviet misbehavior that do not require us to wound ourselves in the process.

Managing U.S.-Soviet relations: Regional applications

We have seen movements in Eastern Europe rising in protest to Soviet imperialist control and the incompetent management of their societies—most notably the struggle of Solidarity in Poland. Many Americans still hope these nationalist and popular movements will eventually help bring these states to independence from Moscow's subjugation. Yet Moscow's military domination must for now dim these hopes.

This kind of protest will likely increase in the future, particularly as the USSR makes more economic demands on these countries and has less to offer them in comparison to the West. While the Soviet empire in Eastern Europe is not likely to be overturned soon, the unreliable nature of the satellites will continue to keep the Soviet government off-guard.

Throughout the Third World, the exploitation of instabilities is still the cutting edge of Soviet strategy for gaining influence. The greatest danger is the risk of local crises escalating—perhaps by accident—to superpower confrontation. After a steady pattern of such confrontations in the Middle East in the 1970s—all mercifully stopping short of war—both powers learned critical object lessons about the hazards of Third World rivalry. We and the Soviets have had to recognize the dangers of heavily armed independent countries going to war in regional disputes over which we had relatively little control. Although we lack formal agreements, we and the Soviet Union must develop a far better understanding of "codes of conduct" to guide our actions in violatile areas of the world.

Ultimately, our decisive edge over the Soviet Union throughout the world is the strength and allure of our open society and economy. There is little the Soviet Union has to offer developing nations other than arms and raw commodities. For everything from tractors to trade credits to high technology, from books to blue jeans, the developing world is turning West—toward us, and toward our allies. The rigidities of the Soviet bureaucracy, ideology, and economy often hobble their efforts beyond their own borders.

A new dynamic is at work around the globe. Economic and political progress can be generated by tapping into the increasingly interdependent world economy. The "Four Tigers" of the Pacific Rim—Singapore, Hong Kong, Taiwan, and South Korea—did not achieve dazzling growth by depending on the military or economic hand-outs of either superpower. Those who have remained Soviet conscripts are still backwaters. We stand to benefit from this new dynamic. The Soviets do not. The irony of this approach would probably not be lost on Karl Marx. Enlightened engagement suggests that the bastions of capitalism adopt a strategy of letting the economic forces of history work to our advantage; time and the inherent unworkability of the Soviet system are on our side.

International economics as an instrument of foreign policy

The framework of enlightened engagement rests upon recognizing and channeling the forces of change to our benefit. The ability to use the forces of economic change extends beyond our goal of containing the Soviet Union.

International economics has been the poor cousin of foreign policy for the past twenty years.[8] The global economy can no longer be simply viewed as an arena for promoting American commercial interests. The international debt crisis threatens democratic forces abroad as directly as any political or military forces; protectionism strains our alliances as severely as any military deployment decision. Enlightened engagement requires that international economics become a primary foreign policy tool. For the rest of this century and beyond, international economics may well be our most important lever for strengthening our alliances, advancing the cause of human dignity, and supporting centrist forces abroad.[9]

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[4] The importance of finding such areas of "self interested" cooperation cannot be overstated. The U.S.-Soviet competition increasingly resembles Vienna and St. Petersburg in 1914: each mesmerized by the other, seeing little else, while the world was on the edge of fundamental change. The Hapsburgs and the Romanovs could only consider the question, which of them was going to win? But the real winners were an American republic that previously had not been a great power and an exile waiting in a cafe in Zurich, Vladimir Ilych Ulyanov.

[5] My proposals for arms control are detailed in a speech I gave entitled "The Future of Nuclear Arms Control: An Agenda for the 21st Century," in Geneva in January 1984.

[6] While it is important to continue our research into defensive technologies, as explicitly provided for in the ABM treaty, there is little justification for the Administration's dramatic emphasis on the so-called Strategic Defense Initiative.

There is little in the plausible advantages of SDI that justifies its likely costs. Those costs go far beyond the estimated trillion dollar expense. They include the damaging precedent set by the Administration's "redefinition" of the ABM Treaty, which amounts to unilateral abrogation; the undoing of four successive Administrations' work in managing our nuclear rivalry with the Soviets; and the incentive SDI will give the Soviets to accelerate their efforts toward their own defensive and counter-defensive systems.

[7] Such coopertive efforts serve a variety of purposes. People-to-people exchanges help remind the people of both nations that our quarrel with the U.S.S.R. is with their government, not with their people. Cooperative efforts can also help reduce hostility. The usual pattern of each nation seeking to aggravate the predicaments of the other is not necessarily the most advantageous strategy for either. Afghanistan offers an example. It is fully appropriate that we continue and even increase our support of the Afhanan freedom fighters so long as the Soviets insist on attempting to conquer that country. However, at the same time, we should make it clear to Moscow that we will actively support an "Austrian Model" solution to the Afghan problem, in which Afghanistan's neutrality would be guaranteed after a Soviet withdrawal.

[8] As recently as a decade ago, Henry Kissinger could boast that he knew little about economics. The emphasis on economic aid in the recommendations of the commission he chaired on Central America suggest his thinking has changed. Nonetheless, international economics since the era of the Marshall Plan has become a secondary concern for too many of our foreign policymakers. Structural analyses of our foreign policy apparatus are instructive. In the State Department, "political" positions are considered far more prestigious than "economic" positions. Not since the Johnson administration has international economic policymaking been coordinated or dominated by considerations of foreign policy.

[9] We have examples of the successful use of economic policy as a broad tool of foreign policy; too few, however, are recent. In the years following World War II, we created the Marshall Plan, the GATT trade process, and, at Bretton Woods, helped establish the IMF, the World Bank, and a new international monetary system. These stand among our proudest accomplishments; they served to strengthen our alliances and helped bring about an explosion in world trade.

Effective international economic policy is also indispensable to building a consensus for enlightened internationalism at home. As long as American workers and voters see the international arena as the central cause of our economic woes, forces of isolationism will be strong.

International economics: Promoting open societies

We have seen how the strengths of our economy can be used to compete successfully with the Soviets in the third world. Understanding and influencing economic forces is also critical for our attempts to promote open societies. From Costa Rica to India to Colombia to Japan, we see how economic growth and political freedom nourish each other. From the Weimar Republic to Peronist Argentina, we have seen the political costs of economic failure.

Latin America provides a clear example of how we should use international economics to strengthen centrist forces. Today a tide of hope and democracy is sweeping that continent. Brazil, Argentina, Uruguay, and others have all made giant strides toward free government. This is a praiseworthy end in and of itself. But it also benefits hemispheric security immeasurably.

At the same time, a monumental debt crisis threatens these fragile democracies. The success of our foreign policy toward these nations may stand or fall on our ability to address that crisis so our hemispheric partners can resume their economic progress and safeguard their political progress.

In all, Latin American nations owe nearly $400 billion in international debts—over 50 percent of their combined GNP.[10] For many of these nations, ruinous interest payments, IMF austerity agreements, depressed commodity prices, and capital flight have reduced economic growth to a memory and nearly obliterated it as a dream.[11] Argentina, Mexico, Chile, Peru and others have watched their standards of living drop while their debt rises. The crisis has no end in sight. It threatens progressive leaders, like Argentine President Alfonsin, while it gives Castro and others a new platform for demagoguery.

The debt distorts political relations with our neighbors by forcing unbalanced trade. As these countries struggle to meet their debt payments, they cut their imports of American crops, cars, and computers, and lower prices on goods they sell here to raise the dollars needed to make their debt payments. According to a recent study, nearly half of Latin American interest payments were generated by reducing purchases of U.S. products. Our declining trade balance with these countries has cost the jobs of nearly a million American workers—more, since 1981, than have been affected by trade with Japan.[12]

There is a better course. Our government should act more like a leader of global growth and less like a collection agency for the overextended banks. If we help expand Latin American economies rather than squeeze them, we can increase American exports as we strengthen southern democracies and our own security. We must break the chokehold these debts have placed on the development of free economies and progressive, centrist governments. All involved parties will need to help pay for past mistakes.[13]

The debtors themselves will need to ensure that relief is used to promote broad-based development—not to finance capital flight by elites. We must begin a new round of financial reporting negotiations to make sure that new funds are not returned to London, Switzerland, or New York as anonymous deposits or real estate investments of the Marcoses, Duvaliers or Mobutus of the world.

Debtor countries must also ensure their macroeconomic, tax, and regulatory policies encourage investment and growth. We must be flexible in designing such "conditionality" programs. Local political and economic realities must be taken into account.[14] But we must also ensure that aid and debt relief is not undermined by irresponsible, shortsighted, or inefficient economic management in the developing countries.

The banks must also do their share. It is no longer enough to build 90-day solvency bridges that barely span the next crisis.[15] Selected direct debt relief and—in some cases—corresponding writedowns, extended repayment schedules, interest rate relief, and new international lending mechanisms will be needed. The banks should know that full repayment of these loans is no longer tenable as a primary goal of U.S. policy.[16]

The international scope of this crisis mandates an international solution. In particular, Japan's emerging and special role in the new world economy must be recognized. As Japan moves into a position of greater wealth and prominence, it must accept new responsibilities—just as the U.S. accepted new responsibilities for the world's economy after World War II. The debt crisis—not just in Latin America, but in Africa and world-wide—offers a clear opportunity. Japan should make a substantial contribution to a multilateral development solution. It should increase its lending and direct investment in the developing world. Perhaps most important, both Japan and the European Economic Community must open their markets to developing country exports.

The U.S. will need to take the initative in coordinating solutions. We should convene a series of negotiations, undertaken on a country by country basis, that bring together debtors, lenders, and international lending agencies. Ten year capital plans must be developed, based on realistic economic and political assumptions, that offer blueprints for growth. The entire portfolio of private and public debt—not just this quarter's or this country's crisis loans—should be put on the table.

International lending agencies should help alleviate stress on both the countries and banks after these long term agreements are established. Any new funds necessary to provide a combination of interest rate relief, guarantees, purchases, or debt-for-equity swap programs should come from a consortium of international lenders.[17]

Encouraging open societies will require more from economic policy than solving the debt crisis. We must promote broad-based and balanced development throughout the developing world. Our aid policies should promote education, health, and other investments in "human capital." We must show a greater appreciation for the importance of small-scale farmers and appropriate technologies. We must insist that efficiency and equity are both protected by the governments receiving aid. Americans will not stand for funding boondoggle projects under the guise of "development assistance."

International economics: Strengthening our alliances

In addition to providing effective competition to the Soviets in the third world and to promoting centrist forces and open societies, economic policy is a critical tool for strengthening our alliances. Economic relationships should, by rights, promote and strengthen alliances. Yet we face a world in which trade seems to be poisoning our most important friendships—with Japan, with Europe, with Canada, and with the developing world. At a time when the language of conflict dominates discussions of interna-

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[10] Many of these loans were extended during the 1970s when the banking community was awash in petrodollars and growth rates in Latin America were still strong. Now, there is little prospect that the interest, much less the principal, on many of these loans can be repaid. American banks continue to participate because writing off these loans would entail massive losses. Latin American debts are greater than the total capitalization of the nine largest U.S. banks. Interest payments by Latin America to these banks are larger than their total profits.

[11] Capital flight is one of the most serious financial threats to many developing nations. Much of the free-flowing loans of the '70s never even reached the people of Latin America or Africa—they were used to swell the Swiss bank accounts of political and economic elites. More than $100 billion flowed out of the five major Latin American debtors over the past ten years; this represented more than a third of the total amount lent to the countries. Each debtor has its own history, culture, and problems, and our approach to each must respect those differences. But capital fight is an important problem in many, and our policies must take this into account.

[12] The disappearance of American jobs further fans the flames of protectionism. Yet protectionism would only compound the problem. Restricting imports from Latin America would force these countries to cut back on their purchases of our exports even more severely—and reduce U.S. employment even more.

[13] The Administration has, in the form of the so-called "Baker Plan," begun to move its rhetoric in this direction, but has backed it up with precious little in the way of long term solutions.

[14] The IMF has failed to take into account local conditions in designing many of its austerity programs. Both the long term impact of austerity on development and the short term effects on large segments of society have too often received short shrift. A similar inflexibility about means appears to be one impediment to the Baker Plan.

[15] It has become fashionable to assert that the debt crisis is all the result of "wild" lending on the part of imprudent American banks during the 1970s. This is true only to an extent. Most lending was made before international growth collapsed in the wake of the developed countries' attempt to contain inflation by limiting growth. The possibility of disinflationary monetary policies was, however, a risk the banks took.

[16] The banks continuing role in the long term solution is, however, a fundamental goal; continued lending will be necessary. Further, the stability of the international financial system is essential. A wide variety of regulatory and tax "carrots and sticks" will be needed to balance these objectives. Banks should know, however, that their solvency is ensured only to the extent that they continue to participate in long term solutions. The degree and type of debt relief will vary widely from country to country. Mexico's imminent crisis inflicted by the collapse in oil prices requires different approaches than do the long-term needs and growth plans of Brazil.

[17] Beyond the current crisis in Latin America, we must face the challenges of meeting the borrowing needs of poor countries throughout the world. Africa's debt problems involve much smaller sums than those of Latin America.The needs of flexible and dependable sources of funds are even greater. The importance of free trade with these countries is also critical. We should offer the provisions of the Caribbean Basin Initiative to all of the "LDDCs"—the least developed developing countries.

tional trade, all pressures are for less trade—not more.

If our alliances and friendships are to survive the next few decades, we must remember that protectionism is isolationism—no less dangerous to our people or our alliances or our collective security than the isolationism of the 1930s. The economic pain many of our people feel because of trade is real, as are the flaws in the world's trading system. But we must address these flaws directly, not paper them over with political demagoguery or trade restrictions that would suffocate prosperity and alliance.

We need policies that address the two root causes of protectionist sentiment. First, we must repair an obsolete and dangerously unstable system of international finance and macroeconomic cooperation. Second, we must increase and spread the benefits of trade to American workers by easing the costs of adjustment and promoting productivity growth and competitiveness.

Uncoordinated and irresponsible macroeconomic policies have caused the persistent and unprecedented trade imbalances of the eighties. U.S. federal deficits have been larger than the entire economies of all but a handful of countries.[18] Our deficits produced high interest rates and an overvalued dollar that taxes U.S. exports and subsidizes foreign imports.[19] Explosive swings in the dollar have whipsawed international prices by more than 50 percent over a period of mere months. These and other financial and macroeconomic factors rob our firms and workers from the chance to compete on the basis of their relative productivity.

Understanding the financial and macroeconomic grounding of the trade crisis is no new insight. There is near unanimity among economists (a minor miracle in its own right) that unfair trade practices abroad account for less than 20 percent of our trade deficit. Yet year after year, politicians incite resentment against our allies rather than identify and tackle the real causes of our trade woes. This tactic is not populism; it is demagoguery, and it represents one of the greatest isolationist threats to the security of th West in the coming decades. The politics of blame threaten to accomplish what the Soviets never could—the rending of the Western alliance.

The U.S. should take a lead role in overcoming these trade imbalances—first, by reducing our federal deficit. Increased revenues, decreased spending, and military restraint—not Gramm-Rudman or budget projections grounded only in fantasy—represent the clear path.

As we reduce the budget deficits, we must simultaneously encourage fiscal changes by our trading partners. Japan must also reduce its chronic trade imbalances.[20] West Germany and other countries with strong international positions must accept greater responsibility for world growth.

We can only achieve greater coordination on fiscal and monetary policies in the context of evolutions in the flexible exchange rate system. A new Bretton Woods conference—not a continuing series of high-publicity low-content economic summits—is necessary.[21] "Target zones" or some similar form of more explicit management of exchange rates must be developed. The effort of the leading industrialized nations—the so called "G-5"—to bring down the value of the dollar deserves praise. But this intervention came far too late. A target zone system would help force cooperation by leading to a set of long term institutions and mechanisms that prevent realignment from coming too late again. Such an effort will require more from our allies as well as from ourselves. The diffusion of economic power must be matched by a new allocation of responsibility.

Revamping the financial system will significantly limit protectionism threats to alliances, particularly in the short term. But expanding trade, like technical innovation, represents what the economist Schumpeter called "a gale of creative destruction." We engage in trade for the same reason we invent new ways of doing things—to increase our standard of living. As with new inventions, change results in jarring dislocations.[22]

Protectionism purports to prevent the pain of trade. Positive adjustment and productivity policies will allow us instead to reap its benefits.[23]

We need to increase the scope and effectiveness of Trade Adjustment Assistance—not eliminate it as this Administration has consistently proposed. We need new and effective job training programs. Firms that demonstrate a willingness to make the long term investments necessary to modernize should be able to receive financial and technical assistance.[24]

More important, we need to promote flexibility and competitiveness before the winds of change become destructive. Competitiveness will not materialize out of thin air. No invisible hand builds the roads, the schools, and the research laboratories necessary to move our economy into the twenty first century. We need an explicit and ambitious set of investments in our future.[25] We must invest more in specific, targeted programs even in a period of severe budgetary restraint.

Indeed, the longest term threat to our economy is the loss of productivity growth. How can we expect to grow at home or compete abroad when savings and literacy rates are too low and unemployment and dropout rates are too high? I have spelled out elsewhere a comprehensive program to improve American productivity and international competitiveness. A new High Tech Morrill Act, the American Defense Education Act, a National Corporation for Cooperative Laboratory Research, increased export promotion, and a permanent commission on competitiveness all represent effective and necessary ways to increase productivity and competitiveness.[26]

These policies must all be tempered by a clear perception of the interests involved. When we aid an ailing industry, we must ensure that any benefits it reaps from government programs are used to promote improved productivity.[27]

While we resist protectionism domestically, we must insist it not grow abroad. We must strengthen trade laws at home and ensure that they are enforced. We should establish clear definitions of what constitutes unfair practices that include consideration of other countries' trade in services, high technology, agriculture, and failure to combat counterfeiters and pirates of intellectual property. Once we determine that a country is engaging in unfair trade practices sanctions should be automatic. The President should not be able to suspend sanctions except in cases of certifiable national security threats.

We must reaffirm and expand the GATT process. International trade rules must be modernized in a new "Growth Round" of multilateral trade talks. Extending and modernizing GATT must be accompanied by strengthening its procedures for dispute settlement.

Sensible trade policy will strengthen our alliances in endless ways. By developing methods of international coordination and domestic investment, we can promote positive competition—competition that enriches all and encourages economic peace.

Conclusion

We have seen how international economic policy can help us compete with the Soviets, promote the forces of freedom and decency, and strengthen our alliances. International economics must be raised to its rightful place among the primary tools of foreign policy.

Some will think economics too dry or technical a field for such emphasis. But it is not dry or technical to the people of the world we want our foreign policy to reach. The average cab driver in La Paz sees clearly how debt payments constrain progress in his country. The average farmer outside

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[18] Our deficit in 1984 was roughly half the size of the economy of the United Kingdom, about the same size as the entire Australian economy, and larger than the combined economies of South Korea, Hong Kong, Taiwan, and Singapore.

[19] The dollar's recent decline is very welcome and will, in time, temporarily lessen the trade deficit. Yet as long as the fundamentals go unaddressed we have no assurance that the problem will not crop up again.

[20] Even a recent Japanese government commission recognized the importance of overcoming that country's structural dependence on exports. Japan should adopt the recommendations of its own Maekawa report.

[21] Many of the policies discussed in this section are included in The Competitive America Trade Reform Act of 1986, a comprehensive trade bill I have introduced in the Senate. Title One of the act lays out a specific agenda for international monetary reform.

[22] Many of these points become clear when we consider the potential impact of the entry of China into the world economy. For those who see only the threats of trade, the notion of a billion well-equipped Chinese workers, each of whom is glad to work for what Westerners would consider a pittance, is terrifying. Those who see China as a potential giant market understand that economic liberalization in China could be the sharpest spur to global economic growth in the next century. The only way the latter can occur is for the fears of the former to be addressed.

[23] The central current debate on trade is dangerously limited. Much of the discussion makes it appear as if our choices are the current Administration's laissez faire policy and the new wave of protectionism. Policies that improve our competitiveness by increasing our productivity represent the cornerstone of a better approach.

[24] My trade bill lays out a set of reforms for the TAA program, including mandating training programs after a certain grace period and better coordinating benefits with Unemployment Insurance. Title VI of the bill also includes a revamped job training and business adjustment assistance program.

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[26] These proposals are described both in the comprehensive trade bill and in the Growth and Investment Initiative that I, along with Senators Chiles, Byrd, and others, proposed as a part of this year's budget deliberation.

[27] I call for the development of industrial modernization agreements in such industries. These would be compacts brokered by the President among labor, management, and sources of private capital. Under such compacts, labor would condition wage demands on productivity gains; in return workers would receive long term employment guarantees. Management would commit to long term investment and modernization in specific productivity plans.

Kinshasa fully comprehends how skewed development policies have depressed the quality of life for her family and village. And the average machine tool worker in Rockford, Illinois understands well that outdated trade rules are poisoning the way America views our Japanese and European allies. It is time for America's foreign policy to confront these realities as well.

We have no clearer way to engage our fellow men and women in productive cooperation. We have few stronger means to sustain a domestic consensus for enlightened internationalism. We have the chance to speak directly and convincingly to the people of the world about the benefits of a free and open society. And we must seize this opportunity for true enlightened engagement.

ENLIGHTENED ENGAGEMENT: A FOREIGN POLICY FRAMEWORK FOR THE 21ST CENTURY

LECTURE THREE

We have considered ways in which our foreign policy framework might view the challenges of the U.S.-Soviet relationship and the vast opportunities of the global economy within a new foreign policy framework. Now we must devise the tools needed to construct the other two pillars of the framework: alliances based on equality rather than dependency, and the encouragement of open societies around the world.

STRONGER ALLIANCES BASED ON EQUALITY

First, our alliances. Some argue that America's alliances have outlived their usefulness; that we must increasingly act unilaterally, because our alliances stand in the way of decisive, self-interested actions. In fact, in an age of diffuse economic and military power, our alliances will be more vital for our security and prosperity—not less. If our alliances are not working adequately—and in some cases they are not—our challenge is not to abandon them, but to reform, modernize, and improve them.

Even in a changing world, we still retain permanent interests, and chief among these is the prevention of war, especially nuclear war with the Soviet Union. Our strategy of deterrence—extended to our friends and allies—has been the driving determinant of our foreign policy since the dawn of the atomic age.

STRONGER ALLIANCES: NATO

NATO is and must remain key to deterring war in Europe. The establishment of the NATO alliance is a crowning achievement of the post-war era. Alleviating strains within this 16 country partnership must be a central concern of a foreign policy framework.

The importance of NATO must not preclude reforms where needed. As suggested earlier, the absence of such reforms is most to blame for current tensions in that alliance. If we continue to resist change within NATO, it may soon look like the Holy Roman Empire in its last days, with everyone wondering what still holds it together.

Our fundamental goal for NATO is to improve its ability to achieve its most basic objective—preventing war. Many of the strains in the alliance arise from the realization among all NATO partners that nuclear conflict, either initiated at the strategic level or in Europe, is not acceptable. At the same time, the only solution to this threat—sufficient conventional forces to preclude nuclear escalation—is resisted by many countries. The continued failure to field an effective conventional deterrent—conventional forces which provide for the common security and inspire confidence among both NATO governments and publics—in the key vulnerability of the Alliance.

The continued ineffectiveness of our conventional deterrent is not just the operational Achilles heel of our alliance—it is the overarching metaphor for our inability to assure public confidence in our security strategy. The knowledge that our vulnerable conventional forces might lead to early use of nuclear weapons in a crisis is no mere abstraction to the residents of Bonn, Brussels, and the other cities where war would be waged.

To improve NATO's deterrent, we need to alter dramatically its fragile "forward defense" cordon. Today, NATO's forces are deployed in a manner that resembles the French Maginot Line of the 1930s. The cordon defense is a continuing reason for our low nuclear threshold in Europe and our inability to lessen our dependence on nuclear deterrence at the tactical and strategic levels.

The lack of adequate operational reserves represents NATO's key weakness. Today, there are only two divisions in operational reserve: too few to wage an effective counterattack against a major Warsaw Pact breakthrough or to support a successful NATO counter-thrust. Quite simply, NATO does not have enough ground combat units, and no injection of technology or commitments to raise defense budgets by arbitrary percentages can make up for that deficiency.

The only realistic solution is to reform NATO's defenses, just as we need to reform our own military structure.[1] In particular, one key to the creation of a more adequate conventional deterrent is greatly increased European use of its military reserve system. We can also take steps to increase the combat capability of our ground forces in Germany, and we might consider increasing the number of U.S. divisions in Europe within current troop levels.[2]

But the foundations of common security are as much psychological as material. An inherent fallibility of the Alliance is the continued and corrosive notion of the U.S. as dominant partner—even as the other partners have grown to positions of relative equality. The myth of American domination of NATO undermines the sense of self-determination which all countries require to develop public support for their defense. And it encourages unnecessary political frictions by suggesting U.S. *diktat* as the reason for unpopular actions, such as modernization of intermediate range nuclear forces stationed in Europe or increases in defense budgets.

Notably, the one country which has experienced the least controversy in its defense policy is France. In large part, there is less controversy because France has taken primary responsibility for its own defense.

To adapt NATO to changing times we must return to NATO's original goal: A Europe primarily responsible for its own defense. That was quite explicitly NATO's original purpose.[3]

We must evolve from an alliance that reflects European dependency on the United States to one based on equal partnership. To that end, we should begin negotiating with our NATO allies to consider ways we might restructure military burdens in Europe in the coming decades. For example, at some time in the 21st century, the United States might assume more of the air and sea defenses and Europe, more of the burden of land defense—an allocation that would better reflect our relative comparative advantages.[4]

I stress: any move to alter NATO doctrine and forces should be evolutionary, and undertaken in full concert with our allies. But we must also make it clear we are not the Romans. We do not intend to stay in Germany for 300 years, or until we are driven out.

NATO is an enduring achievement of our post-war foreign policy. But for many, even the smallest detail in the traditional structure of our Alliance is considered sacrosanct. Anyone who suggests that it be changed or reformed is labeled irresponsible, isolationist, or a heretic. The domestic political cost which accompanies reform proposals has become so high that the debate over how we can strengthen the Alliance is forever put off to another day.

Recognizing NATO as a real partnership, rather than an aggregation of subservient states, can only result in a stronger, reinvigorated Alliance. But it also imposes some restraint on the United States. We must not attempt to alter NATO policies unilaterally.

The most recent and damaging example of *droit de seigneur* exhibited by American leadership has been the President's Strategic Defense Initiative. With a suddenness and rhetorical enthusiasm born of a purely domestic impulse, the Administration has attempted to recreate NATO doctrine in its own image.

The Strategic Defense Initiative has inspired real fears among NATO governments and publics. Rightly or wrongly, it has fostered the perception among some that the U.S. desires strategic superiority; that we are seeking to sunder our commitment to NATO's defense; that we have little interest in arms control; and that we ultimately intend to prosecute U.S.-Soviet differences on NATO soil.

Fueled by the U.S. failure to achieve progress in arms control, these fears have inflicted incalculable damage on NATO cohesion. The recent U.S. decision to abandon the limits of the SALT II Treaty—in spite of European entreaties—has further poisoned the atmosphere. Even as the quixotic prom-

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[1] For the details of military reform strategy, see *America Can Win* by Gary W. Hart and William S. Lind (Bethesda: Adler and Adler, 1986). More specific proposals for NATO appear in my speech at the University of Edinburgh, January 1985.

[2] Dr. Steven Canby, one of the architects of military reform, has proposed specific ways to accomplish such objectives.

[3] As Stephen E. Ambrose writes, in *Eisenhower*,

"The second objection [to the creation of NATO to which Eisenhower responded] was that the United States was committing itself to an indefinite defense of Europe, at a tremendous cost that would continually go higher. Eisenhower admitted the force of the objection. 'We cannot be a modern Rome guarding the far frontiers with our legions,' he said. He recognized that the economic strength of the United States was the greatest asset the free world had, and he agreed that the expenditure of billions of dollars for defense would, in the long run, bankrupt the United States, thus presenting the Soviets with 'their greatest victory.' But he insisted that a program of support for NATO was a short-run proposition. American aid for NATO was essential now, in 1951, but it could be phased out rather quickly. To Ed Bermingham, he flatly declared, 'If in ten years, all American troops stationed in Europe for national defense purposes have not been returned to the United States, then this whole project will have failed.' "

[4] In a White Paper issued with Senator Robert Taft, Jr., in 1977, I outlined one possible strategy—emphasizing a stronger maritime role for the United States.

ise of the SDI recedes, the political task of rebuilding consensus for Western nuclear policies will be formidable. Unilateral and dramatic shifts in strategy are not the way to treat equal partners or achieve common security.

STRONGER ALLIANCES: THE DEVELOPING WORLD

The idea of independent states acting collectively on the basis of mutual interests should also guide our policies toward the industrializing, centrist countries of the developing world. The notion of the U.S. and the U.S.S.R. carving out spheres of influence, based on compliant client states, has been discredited and should have been discarded years ago. From Egypt's expulsion of the Soviets in the early 1970s, or our "loss" of Iran in the late 1970s, we have seen repeated examples of how the world has evolved far beyond the concept of client states—in military, economic, or political relations.

Acknowledging the true independence of these nations—including some friends and allies—may suggest to some a loss of control by the superpowers. But only by fostering that independence can we build durable alliances in the 1990s and beyond. Independent states may appear to be more of a nuisance in the short run, but they are inherently far more reliable in the long run. A country which sees itself as a client state, in fact, will never be a reliable ally because it does not bear responsibility for its own actions.

The advent of the Nixon Doctrine in 1969 marked a watershed in U.S. relations with the Third World. Its declared objectives—to promote military self-reliance among friendly countries in place of dependence on U.S. interventionary forces—was, in theory, an appropriate response to important historic trends. The doctrine responded to nationalism in the developing world and acknowledged the declining utility of traditional instruments of American power, such as U.S. troop presence, base rights and formal security alliances.

In practice, however, the Nixon Doctrine exported military technologies wholly inappropriate to the security needs of the recipients. In Iran, South Korea, and elsewhere in the Third World, by exporting excessively complex and sophisticated weaponry, we fostered dependence even as we claimed to do the opposite.

No county is more secure as a result of purchasing F-15 fighter aircraft if the threats to its security come from guerrilla insurgencies, if it lacks the infrastructure to deploy the planes, or if its military spending reduces social expenditures necessary to stem instability and crisis. No country's security is served by merely becoming a showcase for American military technology—especially when its own military lacks the training to use this technology in combat.

In the developing world, alliances and friendships based on equality means we must provide these friendly states with realistic and effective means of self-defense. We can start by extending the principles of military reform to Third World recipients—providing affordable, rugged, and effective defense equipment suitable to their regional security requirements.

But relationships based on equality also require that diplomatic and military arrangements strengthen the hands of our friends and allies in their own region. There is no better or more important example than the Middle East.

In the last half decade, American diplomacy has ignored too many of the Middle East's internal realities and, as a result, helped perpetuate a costly stalemate. Our common interests with both Israel and the moderate Arab states—preserving Gulf security and opposing the Islamic fundamentalist revolution, for example—are extremely important.

We should support certain Arab nations in these efforts, Egypt being the foremost. But we must not reward countries that try to block peace or that support intransigence, terrorism and anti-American radicalism. We have the right and duty to use our leverage, including over arms sales, to seek to influence their policies just as we do in other parts of the world.

Here, as elsewhere, if we are to base our relations on equality, we cannot expect to simply rearrange things to our liking. Attempts to do so can backfire in the face of local nationalism. What we can do—and what the Camp David process did so well—is try to construct a framework within which the local powers can take positive, mutually beneficial actions on their own initiative, reflecting their own independence. We should be actively doing this in the Middle East today. We are not, and because we are not, we have helped to perpetuate an unstable and dangerous status quo.

To strengthen our alliance with moderate forces in the region, we should reward leaders who demonstrate flexibility in their positions—leaders, like the late President Sadat, who are willing to accept the prerequisites of regional stability—most notably, recognizing Israel's right to exist. Our commitment to the survival and security of a free and independent Israel must never be in doubt.

ENCOURAGING MORE OPEN SOCIETIES AND CENTRIST FORCES

The fourth and final focus of our framework must be encouraging the centrist forces which are the best resistance to Soviet expansionism, the strongest guarantor of human rights, and the most powerful fuel for world economic growth.

Encouraging centrist forces implies engagement—political, diplomatic, economic, and sometimes military. We take pride in many past engagements—the Marshall Plan; our help to famine-striken Africa; our diplomatic assistance in launching the Camp David peace process; or our actions in assisting the transition of power from Ferdinand Marcos to Corazon Aquino in the Philippines.

Yet the notion of intervention often grates on the American prejudice against meddling in the affairs of other countries. In part, the public perceives intervention as too expensive—as in the case of foreign aid. Such perceptions have been exacerbated by incidents of the government over-stepping public definitions of ethical behavior—the CIA's involvement in sponsoring assassinations and coups, for example.

But the American public will support engagements for which our leaders have made a compelling case. We must think clearly about how and when intervention is justified and effective, and we must actively rebuild public consensus for an enlightened internationalism.

Much as we might like, no precise prescriptions can guide such actions abroad. In each case, the nature of our engagement will be determined by questions of strategic necessity, moral justification, international law, local history and politics, and—most important—the likely efficacy of our involvement.

Such considerations must especially be at the center of our debate over military intervention and the use of force. That heavy-handed military or economic interventions that characterized our early days as a superpower will seldom be effective in a world where power is diffuse.

In some cases, of course, we will have to resort to the direct use of American force—in the event of aggression against our allies in NATO, in ANZUS, or against vital countries such as Japan, Israel, or Korea. In most cases, however, enlightened engagement will help more indirectly—it will help nationalism resist hegemony; provide a basis for seeking negotiated solutions to regional conflicts; apply pressure for human rights; promote development by helping nations participate in world trade, and take the lead in improving the rules for our international economy.

OPEN SOCIETIES; ECONOMIC ENGAGEMENT

The first type of engagement should be economic. The demands of Third World coutries have moved from ideological nationalism to practical agendas for economic emancipation. The bankruptcy of the Soviet model as an example for Third World development can be the West's strongest weapon. But this will require a change in the orientation of our own policy.

For example, our policies toward the nations of Africa have focused too much on external threats to their security and too little on the more immediate internal crises they face.

In many parts of the third world, the slow and often torturous efforts of nations to achieve modernization are confronted by critical threats. Disastrous environmental and climatic conditions, political upheaval, tattered economies and other pressures have combined to place these states on an apparently permanent downward spirial. In Africa, this tragedy imperils not only untold human lives but also the struggle of black Africans for economic enfranchisement and political stability.

Without a resurgence of American and Western commitment on behalf of African development, per capita income in Africa will continue to decline over the next ten years, even under the most optimistic projections. It is anticipated that payments required to cover interest on Africa's external debts will be equal to two-thirds the aid money directed to the continent. Without a renewed commitment to Africa, instability throughout the continent will dominate the coming decades—as we have already seen in the coups an attempted coups in Ghana, Kenya, Nigeria and Uganda in the 1980s.

We must marshal the energies of public and private development efforts. Our goal must be to promote economic and agricultural self-sufficiency: to improve the yields of local farms; to control the most devastating diseases and famine; to create the infrastructure for subsistence; and to speed the development of a healthy, African private sector. The agricultural sectors in Malawi, Zimbabwe and the Ivory Coast have made remarkable strides. Botswana and Cameroon have managed their economies well. Between 1960 and 1980, literacy more than doubled among Africa's adult population. These success stories speak volumes for Africa's spirit of resourcefulness and perseverance—and we must nourish that spirit in the coming decades. Success in the future will also depend on American leadership to achieve increases in targeted, multilateral aid and debt relief.

A very practical step to assist Africa and lesser developed economies elsewhere would involve employing our intelligence satellites

on their behalf: to predict crop development; to monitor agricultural practices; to search for minerals, gas, oil, fish and other resources; and to assist in humanitarian relief efforts.

But our practical efforts to assist African nations in their development, must be accompanied by moral solidarity as well. Unless we take action within our power to end the murderous reign of apartheid in South Africa, many of our positive efforts throughout the African continent may be eclipsed.

Economic sanctions have rarely succeeded in achieving our foreign goals. The practical costs of such sanctions nearly always exceed their idealistic benefits. Recent experiences with grain embargoes demonstrate that withholding food to punish foreign nations is usually futile and ultimately counterproductive.

South Africa is a living and compelling exception. Our purpose in applying sanctions is well-defined: speeding the overdue transition to majority rule and disassociating ourselves from the repressive white minority regime. Ideally, this action should not be unilateral; for greater effectiveness, it should have the full support of our allies.

Failure to pursue an enlightened policy in South Africa will damage regional security and reduce our influence with with other African states. The imposition of such sanctions is not only morally justified; it is essential to advance America's interests in the region.

OPEN SOCIETIES: POLITICAL AND DIPLOMATIC ENGAGEMENT

Much engagement by the United States will be diplomatic and political. The restoration of democracy in the Philippines demonstrates the effectiveness of these means, however late our own efforts may have been. But engagement must mean more than providing safe passage to dictators minutes before the exhausted patience of their people turns to violence. Our policy must be capable of early, sustained and consistent advocacy for human rights and political freedom. It is not enough to respond to the crises of the moment. We must anticipate trouble spots around the world—especially where basic freedoms are denied—and be prepared to act affirmatively.

South Korea provides one of the best examples of how we should use political and diplomatic engagement. In this case, our mutual security interests are clear, recognizable and rooted in the histories of both nations. Broad political and public consensus exists in both countries about the need for a swift and strong response to any external threat to South Korea's survival and security.

Unfortunately, political progress has not kept apace of the industrial progress which has made South Korea one of the economic miracles of the post-war world. Facile parallels between the Philippines and South Korea are not instructive. But, on the other hand, we need not wait until the situation in Korea reaches crisis proportions before taking action.

The opposition New Korea Democratic Party—a democratic political force which fully appreciates the nature of the external threats to South Korea—makes no unreasonable demand by insisting that the next Korean presidential elections fully reflect the will of the Korean electorate. Responsible opposition leaders—and there are many—share our concern that internal instability not provide a pretext for external subversion or aggression. Such leaders also recognize that security and prosperity are reinforced, not weakened, by democracy.

We need not choose between a policy of timid neglect and one of choosing sides—seeing particular leaders or parties as more important than the establishment of the democratic process by which they are chosen. Instead, we have the ability and influence to encourage the moderate and pragmatic elements that exist in both the New Korea Democratic Party and the Democratic Justice Party.

By strengthening and identifying with such elements now rather than when it is too late; by using diplomacy and trade as incentives for internal accord (rather than using heavy-handed pressure which conjures up images of patron-client relationships)—by taking such steps, we exercise true leadership.

OPEN SOCIETIES: MILITARY ENGAGEMENT

Diplomatic, political and economic efforts—these are the means of choice for our intervention on behalf of open societies and centrist forces. But the United States also has awesome military strength, and it is a formidable task to decide where, and under what circumstances we should use that force. In providing for our common security and prosperity, and in defense of certain vital interests of the United States, at times we will be called upon to use American military power.

But direct applications of military power will be increasingly less effective in the face of continued diffusion of power around the world. Today, the resurgence of radical religious fundamentalism has a far more destabilizing effect on the third world than communist-inspired insurgencies. The shock waves from Tehran are reverberating from Cairo to Karachi to Kuala Lumpur. With its cadres of suicide squads, the forces of fundamentalist Islam have demonstrated the growing disutility of conventional military might in constraining those who consider death in the pursuit of their cause not only acceptable but a moral imperative.

There is no military solution—in the traditional sense—to terrorism. Together with our allies, we must use intelligence, our assets to infiltrate terrorist groups, identify their leaders and sources of support, and interdict their plans and operations by covert and para-military means. Terrorist groups must be isolated, denied financial and military resources, and effectively frustrated until they wither and disappear.

In more traditional national and regional conflicts, the use of American military force is not an instrument of choice, but one of last resort: the culmination of failure to resolve crises by other means.

The complexity and diversity of the global environment defies mechanistic prescriptions of when and how to use force. But some specific principles do exist:

First and foremost, American military forces must obviously be used to protect our security interests and those of our allies;

Second, we must clearly define what we are trying to accomplish—what are our political and military objectives. We must insist on tangible, obtainable political goals stated in concrete terms;

Third, the American people must support the use of their army (or other forces) in any sustained military operation and be fully cognizant of proposed levels of military force and potential costs—including of human lives; [5]

Fourth, we should commit our forces only after diplomatic, political, and other means have been exhausted and local forces are insufficient to resolve the conflict;

Fifth, we must be clear on how we intend to achieve our objective and what strategies, tactics, and doctrine we mean to employ; [6]

Sixth, we must have agreement on the command structure of any military engagement and insist that the role of civilians who make policy not overlap the uniformed commanders tasked with carrying it out;

Seventh, the proposed operation and our thinking about it must pass the test of simplicity—the plan of operation must be achievable in its execution.[7]

The twilight world of military engagement in a nationalistic era has been compounded by our temptation to use military force to overcome political and ideological hurdles. Too often we have tried, in our frustration, to make our armed forces a substitute for policy instead of an instrument of policy.

One astute observer has said it best: ". . . military forces . . . are designed, equipped, and trained . . . to fight and win on the battlefield. They are, in effect, a battle-ax." That puts it bluntly—but correctly. And it echoes the earlier direct distinction—lost on most American policymakers—put forward by Von Clausewitz: "Force is the means," he said. "To impose our will on the enemy is our object."

To avoid unnecessary and tragic loss of young American lives, and prevent national embarrassment and lingering Vietnam-like recrimination, it is imperative the difference between our goals—the objective—and the military force—the means—be constantly observed.

In the end, the most important guideline for military engagement must be the support of the people. Except in the necessary cases where security must attend single-stroke, rescue-type operations, secrecy is the enemy of public support. Simply put, we cannot invoke—as the Reagan Administration seeks to do—the national will in secret. Likewise, an administration which seeks overt support from the Congress for "covert" operations—as in Central America—sows the seeds of destruction of its own policies and invites widespread cynicism.

In the final analysis, the soundness of a foreign policy—including proposed instances

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[5] "The American Army really is a people's army in the sense that it belongs to the American people who take jealous and proprietary interest in its involvement. When the Army is committed the American people are committed, when the American people lose their commitment it is futile to try to keep the Army committed. In the final analysis, the American Army is not so much an arm of the Executive Branch as it is an arm of the American people. The Army, therefore, cannot be committed lightly." General Fred G. Weyland, Chief of Staff, U.S. Army, July 1976. Quoted in *On Strategy, A Critical Analysis of The Vietnam War*, Colonel Harry G. Summers, Jr., Dell Publishing, 1984.

[6] Colonel Summers has an excellent discussion, after Clausewitz, of the dilemma between strategic defense (containment) and strategic offense (liberation), as well as between mass (NATO) and economy of force (theater of operations).

[7] Colonel Summers best outlines Clausewitz' four guidelines: objective, offensive, unity of command, and simplicity. He also shows the difficulty we face in applying them in today's world.

Careful students may note some striking parallels between the guidelines for commitment of military forces laid down here and those put forward by Secretary of Defense Caspar Weinberger in a speech to the National Press Club, November 28, 1984. Earlier that year—in July to be exact—I successfully fought to have principles similar to those adopted into the Democratic Party platform at its convention in San Francisco.

of military commitment—must be judged by the degree it can withstand the sunlight of public debate and engage the wisdom and common sense of the American people.

In the continuing debate over Central America, these principles serve to define a course of action. The United States has legitimate national security interests in the region. We cannot allow any country in Central America—including Nicaragua—to subvert its neighbors or become a military base for the Soviet Union. If any nation in the region were to allow itself to become a new Soviet base, we would be compelled to take any action necessary, including military force, to remove those bases.

But military force is not the most effective means for addressing Central America's current realities.

Our experience in El Salvador is instructive. There, an escalation of direct U.S. involvement would have excited and enlarged the forces of anti-American nationalism, particularly if our involvement had meant support for the oppressive, oligarchic forces of the right. Instead, as a result of pressure from Congress and the public, we conditioned aid on progress toward democracy, land reform, and human rights. We used our best advantage over the Soviets—our ability to supply economic assistance and our willingness to promote change.

But we must do more to ensure civilian control of the Salvadoran military—by making it clear to the forces of the right that our aid depends on their obedience to the government's authority, by demanding they improve civil liberties and bring to justice those guilty of past crimes, by proceeding with land reform, and by rebuilding their ravaged economy in a way that benefits the largest number of people. This approach also applies to the new civilian governments in Honduras and Guatemala, beleaguered by oppressive oligarchies and politically ambitious armies on the right and by Marxist-Leninist guerrillas on the left.

In Nicaragua, as in other cases, the direct use of U.S. military force is currently unnecessary and counterproductive; the use of force without any serious effort toward negotiations cannot help us attain our goals. We must use as leverage the three factors that are constraining the Sandinistas most: their respect for U.S. power, their knowledge that the Soviets and Cubans will give only limited help, and their inability to destroy the broad opposition by the Church, press, and citizenry within their country.

Support for the "contras" increases our leverage in none of these three areas. Militarily, even their supporters do not contend the "contras" and defeat the Sandinistas. Internationally, our support for the Contras strengthens the Sandinista's claims on Soviet-Cuban aid. And domestically, the "contras" obvious dependence on U.S. support and direction weakens their patriotic appeal, cedes the powerful weapon of nationalism to the regime, and makes it easier for the government to discredit and harass the internal opposition.

Instead of playing to the Sandinista's strength, we should be using our own. We can provide leadership and focus the pressures of our regional and European allies on Nicaragua by initiating a serious diplomatic effort. We should demand bilateral and regional agreements with Nicaragua to constrain the Sandinistas further, rally our local allies, and remove Managua's patriotic rationale for its internal controls and repression. These actions can block the establishment of foreign militay bases in Central America, and the arms race there, prevent cross-border subversion, and encourage internal negotiations among Nicaraguan political groups.

Without question, we have the means to verify any such agreements. If Nicaragua were to violate them, the United States would still have the power—and much wider domestic and regional support—for decisive action. It is dangerous to imagine the Sandinistas have good intentions; but it is naive to think they will be swept away by the "contras"; and it is ultimately foolish to claim that military force is our best means for controlling Sandinista misbehavior. Our diplomatic, political and economic strength—and that of our friends and allies—is much more effective. Indeed, a policy of military force without diplomatic skill is like the difference between a fire raging out of control and one harnessed to produce energy for a city.

For some, the idea that military force is ineffective in Central America constitutes isolationism. To the contrary, it is isolationist and reckless to ignore regional dynamics and the interests of democratic governments throughout the area who repeatedly insist that they oppose American military escalation. Those who claim we should use Central America as a battleground to resolve East-West differences are misreading reality. To paraphrase one commentator, if we were less insecure about the Soviets and more confident about the benefits of democratic capitalism, we would realize history is on our side—in Central America and throughout the world.

CONCLUSION

More skillfully managing U.S.-Soviet relations; expanding our use of international economics; strengthening our alliances; encouraging open societies—these four areas of enlightened engagement illustrate the tremendous opportunities awaiting America in this era of global change.

In every American era, one dominant feature of world power has most shaped our foreign policy. In the era of isolationism, limited military power and an ocean of distance determined we would stand largely aside from the wrangling of the old world our forebears had left behind. During Wilsonianism, the rise of our economic and military might and Europe's internal division increasingly drew us into that wrangling world. In the era of containment, that economic and military might was called upon to protect a weakened post-war world from the menace of Soviet expansionism.

In this era of dramatic change, the emerging challenge for our foreign policy is the diffusion of global economic, political, and military power. It is already defining the reality of our age. Nuclear proliferation, tensions in our alliances, global trade and communications, terrorism, and the call of the world's peoples for self-determination—we could hardly ask for more compelling evidence.

Some Americans will understand the opportunity. They will understand that America has always sailed best on open seas and on the powerful tides of freedom we share with all humankind. These Americans will welcome the waves of change and steer confidently ahead.

But some will label any movement as retreat, withdrawal, isolationism.

They couldn't be more wrong. The threat of isolationism today does not come from those of us who urge new methods in the application of American power.

The real threat of isolationism comes from those who would elevate their rejection of arms control into an ideology that destroys prospects for a more stable world.

The real threat of isolationism comes from the advocates of SDI who are undercutting the cohesion of our NATO alliance.

The real threat of isolationism comes from protectionists who would build walls around our economy and prosperity.

The real threat of isolationism comes from those who would ignore the debt crisis of Latin America and allow new democracies to perish.

The real threat of isolationism comes from those who would neglect diplomacy and thus frighten our people into believing that internationalism will always entail loss of American life.

The real threat of isolationism comes from those who would close America's heart to flagrant denials of human liberties abroad.

The real threat of isolationism comes from those who would close their eyes to nationalism and the diffusion of power as the world map evolves before our eyes.

Enlightened engagement is a rejection of isolationism; and it is a rejection of traditional, bipolar containment. It is a recognition of a fundamental new truth—that the diffusion of political, military, and economic power is an opportunity for America. Grasping this reality will vastly increase—not decrease—America's influence.

Engaging our economic partners in a search for stronger rules of finance and trade will increase America's prosperity. Engaging developing nations in their march toward self-determination will increase America's security. Engaging the world in a cooperative fight against terrorism will increase America's safety. Engaging our allies in military reform will increase our collective confidence. Engaging the Soviets in serious arms control negotiations will increase the likelihood we will reach the 21st century—and the 22nd.

Let us seize this moment. Let us navigate the currents of change and reach a new world beyond. Let America's age of opportunity begin.

COMMENCEMENT ADDRESS OF VIRGINIA LT. GOV. L. DOUGLAS WILDER AT THE UNIVERSITY OF VIRGINIA

Mr. WARNER. Mr. President, this is the time of year when commencement exercises are held and America welcomes its graduates as they assume their responsibilities in our society. It is also the time of year when families recognize fathers, the past Sunday being observed as "Father's Day."

The coincidence of these two periods prompts me today to speak of two very joyful fathers who attended recent exercises at the University of Virginia when their children were awarded degrees. The two fathers, today, friends through serving in elective offices in Virginia, once aspired to be students themselves at the University of Virginia. One, coming from a family with deep roots in Virginia, was readily accepted, and graduated in law in 1953. The other, with an equally proud family heritage with deep roots in Vir-

ginia, was summarily denied admission, for he was of the black race.

This denial, an accepted policy of the times, did not deter him from going forward to distinguish himself as a soldier fighting for freedom, a distinguished career as a Virginia State senator, and in 1985 becoming the first black in this century to be elected to statewide office in Virginia.

The two fathers returned to the university. Last year, it was my privilege to give the baccalaureate address at the University of Virginia, and for graduation this year, L. Douglas Wilder was privileged to deliver the principal address. A humble, but proud Virginian and father, the Lieutenant Governor said:

The fact that my son finished his undergraduate studies here and that my daughter is in this year's graduating class warms me with a poetic and an ironic justice.

Mr. President, on behalf of the university, the graduates, the parents, the faculty, and all others in attendance, who listened intently with a feeling of warmth and who departed with a feeling of pride, I read Lieutenant Governor Wilder's memorable speech into the RECORD of the U.S. Senate.

The speech follows:

EXCERPTS FROM REMARKS MADE AT COMMENCEMENT, UNIVERSITY OF VIRGINIA

(By Lt. Gov. Lawrence Douglas Wilder)

Dr. O'Neil, distinguished members of the faculty and Board of Trustees, parents, friends, and especially to the graduates of the class of 1986, I am very pleased to be here today.

To say that this is just another commencement address would be false. To say that it has no effect on me would be more false. The persons who have preceded me in speaking on these occasions are of such prestige and renown that this honor, while flattering, is humbling to me.

Much has been written about my not being able to attend this University during my time. The fact that my son finished his undergraduate studies here and that my daughter is in this year's graduating class warms me with a poetic and an ironic justice.

You graduates will bear witness in some future time to the things which changed, not just during your lifetimes, but during the active period of your lives; that time when changes took place either because of or in spite of your involvement.

None of us knows what the future holds in store for us, as life is not all a summer's dream for individuals, states or nations. We are born into this world and tossed upon the sea of fate. We live on faith and we live on hope and we steel ourselves to stand the rebuffs of life; we take it as it is, as individuals with the full understanding that nations are only aggregations of individuals.

We all love this country, but more importantly we love the freedom that has come from new ideas, from a constitution made by rebels and protected by rebels, from a constitution born in strife and tempest and rebellion. We love it because of what it has been, materially and spiritually.

The radical of today is the conservative of tomorrow. Thomas Jefferson, James Madison, George Mason, Patrick Henry, to name a few, brought forth a reform that gave life and meaning to this great country as we know it today. The fruits of their lives are plain for all to see; while time shall last, men and women, sons and daughters of all of America's people, will live by the light of freedom and be inspired by the hope of liberty.

Thoreau expressed it best, "The Universe constantly and obediently answers to our conceptions; whether we travel fast or slow, the track is laid for us. Let us spend our lives in conceiving then. The poet or the artist, never yet had so fair and noble a design but (that) some of his posterity at least could accomplish it."

So today, in this setting that has inspired so many for so long, you should resolve to meet the challenges. It is fitting to turn our focus to the paramount challenge facing your generation.

What with the spiralling health-care costs, the growing threats to our social security system, plus competing forces, your generation will be the first to feel the full brunt of supporting three generations of family.

Indeed, the premier challenge of America's twenty-first century is to define and decide how to accommodate the older generation and the rising generation with striking the proper balance as you yourselves become older—and take the leadership positions.

The challenge of your parent's parents was that they had to adapt to a country that was preoccupied with appealing to youth, and providing them with the most possibilities * * * but they happily did it by sacrificing for their children and their country.

The paradox is that technology, scientific, and medical advancement have made our life cycles and expectancies longer, thank God, so that our parents and relatives, though sometimes enfeebled of mind and of body, will be longer with us, directly or at some places entrusted with their care. Some will have the means but too many will not.

In addition to providing for your children things which you may not have enjoyed and at least that which you did enjoy, you must sustain yourselves and those persons who might not otherwise be able to care for themselves.

Your energies must be directed toward finding ways to collectively address this new dilemma and to solve it. Therefore it is necessary that we not sap our strengths with blind indifference to the plight of our fellows, nor content ourselves with selfish mediocrity.

This country of ours, conceived as it were and struggling to achieve an existence is tested year after year, month after month, day after day, to live out its creed, to meet, rather than to deny its problems, and to say to that talisman of destiny that we will persist until we succeed.

Each period in history presents its own set of challenges and we must be prepared to meet them. Those who have lived have not loved freedom more; in their span they gave to a world which knew freedom not, and it is ours to continue making contributions in new areas and challenging new issues.

We have come to see that this country's insistence on right can make a change. It did so in the archipelagoes of the Philippines, it did so with the ravaged despotism in Haiti, * * * and it will and must do so, in the blood-drenched townships of South Africa.

Not one of you has come into this world with any real advantage over any other, absent impaired health, and not one of you has entered into this world with any real disadvantage, under the same circumstances. Yes, there will be those who would be temporarily advantaged by things of a material nature which would make you believe that you can afford the luxury of not needing to know the precise person that you are and to likewise fail to engage in making the commitment to doing your part in making life meaningful.

And there, likewise, are those of you who would feel this station in life or accident of birth has so conditioned your life as to make it of no meaning, having no purpose and that it renders you unable to make any contributions because you have been disfavored. I'm not suggesting that this is a perfect world as it is not, nor will it ever be; but I've come to know that opportunities do exist, not necessarily those which one sees as opportunities at the time, but those opportunities must be taken advantage of to move ahead, as painstakingly slow on occasions as that might be, but always reaching up and out and looking to climb further up the ladder.

Changes have come; we see women, not only in the work force, but occupying positions of influence at every conceivable level of government and society. That didn't just come about. Some people believed it should and worked to bring it about—and it did.

We've seen blacks rise from what was a real permanent underclass, to compete at every level, if given the opportunity so to do, and to prove wrong those who felt they were humanly unable to perform at those levels. But this did not just come about. Some people had to believe it so and fought for it to be * * * and it did.

We've seen the creation of a middle America, sometimes comfortably forgetting how it came to be and sometimes saying to you and to me that they just came about.

Family ties are what made and make this country great. Any lessening of these bonds must be resisted and rather strengthened.

The trilogy of the generations of which I speak, your parents, yours, and your children, flow inevitably from the progress of life itself. The cynics, lacking vision, will use expediency to play one generation off against the other.

We might now better be able to understand that which was prophetically proclaimed in Ecclesiates: "Generations come and they go, and the Earth abideth forever * * * but the sun also rises."

We know that there is no new thing under the sun, and that regardless of what we as mortals do, the earth will be here.

Nature and history have slowly abided, while mankind's progress enabled the trilogy of generations to co-exist. Of all the previous times, yours is the opportunity to make that contribution that history will record as the time when love and respect for those who have given, and done so abundantly, has been not only remembered and revered, but permanently enshrined in the archives of achievers.

I congratulate you and yours for standing as anchors between the high possibilities of youth and the wisdom of the ages.

THE 1986 CONGRESSIONAL CALL TO CONSCIENCE

Mr. PRESSLER. Mr. President, I am pleased to be a participant in the 1986 Congressional Call to Conscience. This program is designed to focus our at-

tention on human rights violations against Soviet Jews.

In the U.S.S.R., Jews experience many hardships. They are persecuted and looked down upon because of their religion and culture. Soviet Jews are refused the basic privileges given to the dominant Soviet ethnic groups and are subjected to anti-Semitic publications and propaganda.

Jews have been harassed for many years by Soviet authorities; but since 1984, anti-Jewish brutality and persecution have intensified significantly. Jewish cultural activities and Hebrew teaching are considered antistate actions. False arrests of Soviet Jews on concocted charges occur quite frequently.

Filing an application to leave the Soviet Union makes life tougher for Soviet Jews. This simple act usually leads to even greater repression by Soviet authorities. Before one can apply to leave the Soviet Union, one must receive an invitation from a first-degree relative who lives in Israel. After this is completed, one must submit massive supporting documentation. Even if the applicant's family members themselves are not applying, letters are required from family members stating they do not object to the applicant's departure. Permission from military authorities is also required.

Most Soviet Jews who apply to leave their country lose their jobs. Professionals are often demoted and given nonprofessional work. Many of these people are subjected to surveillance by the KGB, conscription into the Soviet Army, arrest and imprisonment, expulsion from schools, and physical abuse.

The Soviet authorities frequently use the excuse of "considerations of state" in order to refuse Jews their right to leave the U.S.S.R. "Considerations of state" can preclude from emigration any healthy male over the age of 18, former military personnel who served at least 1 year, and employees who work for a "secret" industrial business or scientific institution. Many Soviet Jews have been denied emigration because the term "consideration of state" was applied to one of their relatives.

One such example is that of Vsevolod Berger, a physician specializing in hygiene and epidemiology, and his wife, Valeria, a doctor also. Vsevolod applied for a visa in 1977. His visa was refused that same year and again in 1979. The reason for the denial was that Vsevolod's father, a staunch Communist Party member and a former colonel in the Soviet Army, would not give his consent. The Bergers have no relatives in Israel, but Valeria has a brother living in Munster, IN.

Vsevolod lost his professional position after his first visa application. He was no longer able to get any other work as a doctor, so he became a guard at the same hospital where he had formerly worked as a physician.

After the Bergers' emigration denial in 1979, Vsevolod lost his position as a guard. The reason given for refusal was an "incompatible diploma." He was considered too highly qualified to do unskilled work, but whenever he attempted to obtain work in his own profession, he was told there was none in his specialty.

Vsevolod is now working part time in a sports clinic where he gives routine medical examinations to young swimmers. Valeria works in an outpatient department of a hospital.

We must let the Soviet Government know that we will not tolerate these human rights violations. There are thousands of Soviet Jews who remain in the Soviet Union, hoping and praying that their freedom day will come. We must insist that the Soviet Union permit religious freedom to be exercised by its citizens and that emigration be granted to those desiring to move to other countries.

FRANK BELLOTTI AND THE ENDURING VALUES OF THE DEMOCRATIC PARTY

Mr. KENNEDY. Mr. President, I would like to share with my colleagues an inspiring recent address delivered by one of Massachusetts' all-time great public servants, Attorney General Francis X. Bellotti.

Attorney General Bellotti is leaving office at the end of 1986 after 12 years of outstanding public service. Speaking at the Democratic State convention in Springfield last month, he addressed the past and future of the Democratic Party. In bidding farewell to the convention, he sounded an eloquent call for a return to the basic values of the Democratic Party. "What endures," he said, "is the general commitment to all of our people, to their happiness and to their dignity. The purity of this commitment is the very heart of the Democratic Party."

The address is filled with eloquent thoughts from a man who himself has demonstrated unwavering commitment and unparalleled compassion in all his years of public service. Massachusetts has been generously blessed by the vision and the service of Frank Bellotti. We will miss him in the years to come and in the battles that lie ahead.

Mr. President, I ask unanimous consent that the full text of Attorney General Bellotti's address may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

REMARKS OF ATTORNEY GENERAL FRANCIS X. BELLOTTI AT THE MASSACHUSETTS DEMOCRATIC STATE CONVENTION, SPRINGFIELD CIVIC CENTER, FRIDAY, MAY 16, 1986

It has been a long, hard road, with many turns, that has brought me to this time and place—to stand before you tonight with the singular honor of representing the Democratic Party.

I speak to you as someone who has truly grown up with the Democratic Party—not just because I have been in Democratic Party politics for three decades, but much more important, because growing up poor, it was my support, my source of opportunity, my inspiration.

And as we begin this convention, I can feel the same strength and vitality that made the Democratic Party the powerful force for social change that it was in those early, difficult years.

In the 20's and 30's, there were no pensions, no medical benefits, no job benefits, no child care, no elderly programs. We were a generation that grew up in a depression, trying to survive in a world where we always seemed to be on the outside.

We did not turn on the radio at night and hear editorials about the "quality of life". We did not open newspapers in the morning and read feature stories about "lifestyles". In those "good old days", we talked about, thought about and planned for—survival.

My father was gassed in the First World War and stayed in a Veteran's Hospital until I was 16, when he died. My mother supported our family on the unequal pay that women earned—so I know what discrimination is and I know that the ERA is not a feminist issue—it is a survival issue—I also know that I could not have lived—or ever have become educated without what we call social or democratic legislation.

The values we learned then were the values of human dignity and personal sacrifice. We learned that government had to protect the worker, the young, the elderly—the people.

It was during this time that both institutions and individuals had a natural alliance with a strong central government, a government that was perceived as necessary to coordinate the economic and social programs that could put our world back together again.

It was a time when liberal values and liberal assumptions went virtually unchallenged.

And then it all changed. Our party and our programs were so successful, our precepts so unassailable, that we did not see the urgency of new problems on the horizon. We had remembered all of the answers, but we had forgotten the questions.

For a while, we stopped talking to all of the people. We talked to narrow constituencies and we addressed narrow problems. We still cared, but it didn't show.

The warmth and humanity of personal leadership, with all of its frailties, was submerged. We developed a whole class of technocrats, managers and statisticians to give us supporting data for our assumptions, to help us fine tune our solutions. We formed committees and blue ribbon commissions to make our decisions.

And something very important was lost along the way. Many of our political leaders gave away their power to make the decisions and lost their will to fight for the individual.

When political leaders stopped asking the important questions and began hiring man-

agers to give them the right answers, they became farther and farther removed from the human aspects of decision making. Managers are not chosen for their strength of character or the integrity of their personal opinions. They are asked to put aside such human elements and to rely upon "professionalism" and "expertise".

When the manager tells the politician that schools must be closed or factories shut down, the human aspect of those decisions—the price that must be paid by the children, the workers and the families—is just another variable in the equation—another intellectual problem that must be addressed in the managerial scheme and not the overriding consideration. And there is lost the fundamental purpose of all government—to take care of its people.

We, as Democratic leaders, have always seen things differently. To us, Government is not a business with a profit and loss bottom line. To us, fiscal responsibility means doing as economically as possible the things that people need to have done but cannot do themselves.

As far back as 1764, James Otis said: "The end of government being the good of mankind points out its great duties: It is above all things, to provide for the security, the quiet, the happy enjoyment of life, liberty and property * * *."

That hasn't changed and never will.

Yes, we need technical experts in a complex technological world—they play an important role. But clearly, the most important force for change must come—has to come—from the will, the drive, the spirit of our great political leaders.

And that brings us to this precise moment in time. Maybe, without even becoming aware of it, we have begun to understand this, we have begun to awaken.

In our State, particularly, we are in the midst of a renaissance. These have become good times—they will remain good times if we only know what to do with them.

So I am especially proud and honored to be able to address this convention—my birthplace—and my party—at a time when our commonwealth is stronger economically and in almost every other way than any State in the Nation. When, by virtue of the quality of its democratic leaders, it has an unparalleled opportunity to be a driving force as the national Democratic Party boldly challenges the future.

Our State and our party can be justifiably proud of their ability to produce leaders of national stature—throughout history and to this very moment.

And as we go forward from here, it is not individual issues that should consume our thoughts—they must be addressed—but they pass and new issues constantly appear. What endures is the general commitment to all of our people, to their happiness and to their dignity. The purity of this commitment is the very heart of the Democratic Party.

It is here and in strong political leadership that our hope for the future lies.

For only in a leadership vacuum would we be seeing judges and courts asked to make moral and political decisions—decisions they are not equipped to make. A process that makes people lose faith in their government. Because any social change that does not involve the people themselves in the political process is, at best, illusory and at worst, unjust.

Today, for the first time in many years, we in the Democratic Party are asking questions instead of just proposing answers. We are asking where we have been, where we are and where we want to go.

I hope we have learned that political leadership does not derive from a negotiated agenda, nor from impersonal managerial strategies, nor from articulating the perceived public will.

The political leaders we seek to carry on the tradition of the Democratic Party will not be just managers, they will not be just idealogues, they will not be just consensus takers, they will not be just power brokers.

They will be the men and women who will refuse to routinely sacrifice their judgment to public opinion, who will not be afraid to take political risks—including the risk of losing political power. Because it is not power that corrupts, it is the fear of losing power.

Above all, our political leaders of the future must be men and women who care about people, who believe that they each have a special kind of dignity. They must believe in the enduring values of the Democratic Party, values that will outlast time and temporal troubles, the values that have made it the magnificent instrument of social change that it is, the party of my childhood—and of my future.

Leaders who will understand and accept that ours is a party of turbulence and dissent—of excitement and passion—the powerful and driving force that has brought us here tonight, that is our life—and our future—that has given us the opportunity to be anything in the world that we want to be.

As you have taken me from defeat after defeat and given me the opportunity for 12 wonderful years to do what I most wanted in all this world.

In a short while, I will be leaving office—but tonight I want you to know how grateful I am to you and to the people of my state. With all of the hard times, I would not have missed it—or you, for the world.

There will, I am sure, be better attorneys general than I, but there will never be one who cares more about you than I do.

Thank you—for everything.

RECEPTION FOR AFGHAN RESISTANCE ALLIANCE LEADERSHIP

Mr. DOLE. Mr. President, yesterday Senator HUMPHREY and I had the honor of hosting a coffee reception in my office for the top leadership of the Afghan Resistance Alliance, the freedom fighters of Afghanistan, who are visiting Washington and earlier met with the President.

Our guests included Burhanuddin Rabbani, the spokesman for the alliance; Sebqatullah Mojadedi; Ahmad Gailani; and Mohammed Nabi Mohammedi.

MANY SENATORS EXPRESS SUPPORT

I am pleased that a large number of Senators were able to come by to meet these Afghan patriots and to express to them the strong support they have in the Senate and in the country for their efforts to restore the independence of Afghanistan. Among the Senators who did come by were: Senators ABDNOR, ARMSTRONG, BOSCHWITZ, CHAFEE, COCHRAN, COHEN, D'AMATO, DOMENICI, DURENBERGER, EAST, HAWKINS, HECHT, LAXALT, MATTINGLY, PRESSLER, QUAYLE, RUDMAN, SIMPSON, STAFFORD, and WALLOP. If I've missed anyone, and we had such a large number, I may have, my apologies.

But the message of that large turnout was clear—the Senate supports the struggle of the Afghan freedom fighters and is prepared to lend all appropriate assistance to help them defend themselves and their country from Soviet aggression.

TRAGEDY OF AFGHANISTAN CONTINUES

As we are all aware, the bloodshed continues unabated in Afghanistan today. Millions have been killed, wounded, exiled, and uprooted in the Soviet Union's attempt to subjugate an entire nation. The United Nations' latest report on human rights in Afghanistan documents in detail the systematic brutality which characterized the conflict in 1985. More and more, the word "genocide" seems to apply to this appalling tragedy.

Despite the overwhelming odds facing the Afghan people, they have withstood this Soviet onslaught with courage, dedication, and a dignity which is evident in each member of the delegation we hosted yesterday. The Afghans want only to be left alone to live their traditional lives. But they need our help in this effort. Only with the full support of the United States can Afghanistan again rejoin the community of free nations.

MOBILIZING SUPPORT

This support must be mobilized in every area and every forum. The President said this week that "the diversity of the alliance—its roots in the faith and traditions of Afghanistan—shows that the alliance is the true representative of the Afghan people." A resolution drafted by Senator HUMPHREY, which I cosponsored and which was passed 98–0 earlier this week, sends a similar message of support.

The resolution also indicates our approval and encouragement of a process which can only help the Afghan cause, that is, the growing unity between resistance leaders and their forces in the field. Once a disparate group of commanders and political notables whose only common goal was the ouster of Soviet forces from Afghanistan, the resistance is now much more unified in its approach to the war. This stems from a realization that fierce fighting is not the only tool available in the war against the Soviets.

On the contrary, world public opinion can be just as effective in pressuring the Kremlin to end its senseless devastation of Afghanistan. The resolution and the other expressions of support the Afghan leaders received this week are elements in that campaign of pressure.

As the Afghan leaders depart our country, I hope they will take with them some encouragement from the welcome they have received and from

the pledge of President Reagan to them as they departed the White House: "your goal is our goal: the freedom of Afghanistan. We will not let you down."

SENATOR HUMPHREY'S KEY ROLE

In conclusion, Mr. President, let me say one brief word about Senator HUMPHREY. He has been the heart and soul of the Senate effort to support these deserving freedom fighters. Without his leadership, we would not be providing the kind of effective support which the Congress has mandated in recent years. It was obvious that the resistance alliance leadership was aware of and deeply appreciative of Senator HUMPHREY's pivotal role on this issue, and I want to acknowledge it, too. He has my admiration, and the respect of all Americans, for his remarkable leadership on this matter.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will state the unfinished business.

The assistant legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

Mr. ROTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1030

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2139

(Purpose: To retain the credit for alcohol used as a fuel and to advance the effective date of the taxation of certain foreign governments conducting commercial activity)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 2139.

Mr. ROTH. Mr. President, I ask unanimous consent that we dispense with reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1725, beginning with line 4, strike out all through page 1727, line 8.

On page 1903, lines 5 and 6, strike "December 31, 1986" and insert "November 1, 1986".

Mr. ROTH. Mr. President, I will keep my remarks brief as I do not believe the amendment is controversial. The purpose of the amendment I am offering is to continue the current practice of encouraging the use of alcohols or ethanol that are made from farm grains as an additive in the production of fuels. Under current law, producers of fuel with at least 13 percent ethanol can either take a 6-cents-per-gallon exemption from the Federal excise tax on gasoline or an income tax credit of 60 cents per gallon of ethanol. Producers of fuels with less than 10 percent ethanol can only use the income tax credit.

The Senate bill inadvertently, I believe, repealed the tax credit while continuing the excise tax exemption. The Roth amendment would resolve the full alcohol provision to current law, which provides both the excise tax exemption and the tax credit, which would continue until December 31, 1992, at which time both would expire.

Mr. President, this amendment is negligible in cost. It would cost less than $5 million. However, to make the amendment revenue neutral, we propose to move up the effective date of a new provision in the Senate bill to tax the investment income of foreign governments and organizations. Under current law, income from investments is exempt from tax insofar as foreign governments and organizations are concerned. However, private foreign corporations are taxed on their investment income. The foreign government exemption exists even if the government controls a U.S. corporation and receives income from it.

Mr. President, the Senate bill essentially removes the exemption for interest and dividends where the foreign government controls the U.S. corporation. The effective date is January 1, 1987, and my amendment would move the effective date to November 1, 1986.

Mr. President, let me reemphasize that this is an agriculture program providing both essential and major new markets for surplus U.S. feedgrains. It cuts storage costs for surplus grains as it disposes of the growing and unprecedented buildup of surplus stocks that were depressing commodity prices.

The ethanol industry disposed of 250 million bushels of grain last year, and demand could soon exceed exports to Eastern and Western Europe as well as the Soviet Union. In addition, I think it is important to point out it has substantial value as a replacement for lead, benzene, and other gasoline additives that are environmentally threatening. Mr. President, everybody wins with this amendment: the consumer, the farmer, and the administration. I hope that the managers of the bill will accept this amendment.

I yield the floor.

Mr. SYMMS. Mr. President, this amendment retains current law for the blender fuel credit. At a time of severe crisis in the agricultural community, we should be helping to support ideas that find alternative use for agricultural products.

Currently, the credit allows a choice between 6 cents per gallon of a blended gasoline that contains 10 percent ethanol or 60 cents per gallon of ethanol. This choice is important. Under the Senate bill the 60-cent blender credit is eliminated. Elimination of the blender credit leaves no choice except to blend 10-percent ethanol with gasoline. There are other ways to blend ethanol at less than 10 percent but the credit would be denied under the Senate bill.

The Simplot Co., an Idaho agricultural products producer, has built two plants for the production of ethanol relying on the current law which provides the blender credit through 1992. Repeal 6 years early is unfair to companies that made investments in good faith based on current law.

The 1981 tax bill that created the credit produced the desired effect. Operations that were set up to take advantage of the credit supply the Nation with an alternative energy source and are helping alleviate the surplus of grain on the market. The Simplot Co. has established two plants to produce ethanol. The current average capacity is 6 million gallons of ethanol per year per plant.

The Simplot Co. has made substantial investments in research and is currently experimenting with waxy barley. The credit is responsible for this kind of product development—the development is necessary for our agricultural community to compete with foreign producers.

Our amendment addresses this problem and keeps faith with American producers. Again, I urge the adoption of the amendment.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, this was a matter that the Senator from Delaware very generously withheld offering in the committee when we were doing the markup. It is a matter of relatively slight expense and I think with merit, and he has paid for it. The amendment is acceptable.

The PRESIDING OFFICER. Is there any further debate? If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2139) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. I thank the distinguished chairman of the committee for his cooperation.

Mr. PACKWOOD. The Senator is happy to do it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1040

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2140

(Purpose: To allow a deduction for expenses necessary to enable a handicapped individual to work, and for other purposes)

Mr. DOLE. Mr. President, on behalf of myself, the distinguished Senator from Louisiana, Senator LONG, Senator DURENBERGER, Senator METZENBAUM, and Senator CHAFEE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. LONG, Mr. METZENBAUM, Mr. DURENBERGER, and Mr. CHAFEE, proposes an amendment numbered 2140.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 1411, line 14, strike "and".

On page 1411, line 15, strike the period and insert ", and".

On page 1411, between lines 15 and 16, insert:

"(4) any deduction for any impairment-related work expenses.

On page 1412, line 12, strike the end quotation marks.

On page 1412, between lines 10 and 11, insert:

"(c) IMPAIRMENT-RELATED WORK EXPENSES.—For purposes of this section, the term 'impairment-related work expenses' means expenses—

"(1) of a handicapped individual (as defined in section 190(a)(3)) for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work, and

"(2) with respect to which a deduction is allowable under section 162 (determined without regard to this section)."

On page 2610, between lines 17 and 18, add the following new paragraph:

(4) Section 7702(e)(2) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B), and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

"(i) has an initial death benefit of $5,000 or less,

"(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

"(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract."

On page 1923, after line 21, insert:

SEC. 1003. DENIAL OF DEDUCTION FOR INTEREST ON LOANS FROM CERTAIN LIFE INSURANCE CONTRACTS.

(a) IN GENERAL.—Section 264(a) (relating to disallowance of deduction for certain amounts paid in connection with insurance contracts) is amended by adding after paragraph (3) the following new paragraph:

"(4) Any interest paid or accrued on any indebtedness with respect to 1 or more life insurance policies owned by the taxpayer covering the life of any individual who is—

"(A) an officer or employee of, or

"(B) any person financially interested in, any trade or business carried on by the taxpayer to the extent that the aggregate amount of such indebtedness exceeds $50,000."

(b) CONFORMING AMENDMENT.—Section 264(a) is amended by adding at the end thereof the following new sentence: "Paragraph (4) shall apply with respect to contracts purchased after June 20, 1986."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts purchased after June 20, 1986, in taxable years ending after such date.

Mr. DOLE. Mr. President, let me just summarize this amendment, because I think it is one that will not be objected to. It is revenue neutral. There is a $100 million revenue loss over 5 years associated with the first two parts of the amendment, and a $100 million gain from the last part.

My part of the amendment—and Senator LONG can explain his part—restores the employee business expense itemized deduction for additional business expenses incurred at the workplace by severely handicapped individuals.

Let me indicate that this matter came to my attention when I received a letter from a severely handicapped lawyer, a quadraplegic who cannot do anything at work without an attendant, and the deductions for those expenses were going to be disallowed.

So we have been working with the chairman, with Senator LONG, and with others. I do not know of any problem with the amendment. But let me just simply explain it.

It does restore a small part of the itemized deduction for employee business expenses. It will allow a severely handicapped employee to deduct the cost of attendant care services and other expenses which are necessary to enable the employee to work at his or her workplace.

I believe the Finance Committee's repeal of most employee business expense deductions can be justified. The itemized deduction requires substantial recordkeeping for what are often relatively small expenditures. Taxpayers frequently make errors of law in determining what types of expenditures are properly allowable as employee business deductions and these errors result in substantial problems for the IRS.

In most cases, if these small expenditures are really justifiable as business expenses, the employer will recognize that fact and pay for them. The employer, of course, would then take a business deduction.

However, we failed to take into account the major expenses for severely handicapped individuals who are willing and able to work if they can obtain special assistance. Often these expenses are so large, such as the cost of attendant care, for example, that, absent the deduction, a handicapped individual might be unable to afford to take a job that otherwise would be possible.

Of course, an employer might be willing to adjust the employee's compensation and pay for the additional costs himself and then deduct these costs, but many employees may be reluctant to do so since it might be simpler to hire someone else.

This matter, as I have indicated, was called to my attention—it had not occurred to me—when I received a letter from a very outstanding lawyer, Vivian Berzinski, who is a lawyer here in town. I will not read the whole letter, but just an excerpt can describe the situation better than I can.

DEAR SENATOR DOLE: The tax reform plan approved by the Senate Finance Committee would repeal the deduction for miscellaneous itemized deductions, including employee business expenses. This would have a devastating and, I am sure, unintended impact on many handicapped persons, including me, who are presently engaged in gainful careers.

In order to pursue their careers, handicapped persons must often incur extraordinary expenses for human services and/or special equipment. For example, blind people may employ readers to assist them. Deaf people may employ interpreters. People with various types of paralysis or other physical impairment may use computers or other expensive equipment to help them do their jobs. These expenses are integrally related to the taxable salaries earned by a handicapped individual.

Because I am not familiar with specific financial information on anyone else, I will use my situation as an example. I am a quadraplegic tax attorney who cannot function

without incurring extraordinary employment-related expenses—approximately $20,000 annually. Most of this consists of the salary of an assistant who stays with me throughout my work day taking notes, writing papers I dictate, and turning pages in books and documents, etc. (These employment expenses are wholly separate from the extraordinary personal expenses I incur in order to maintain my household which includes my three young children.)

In my opinion, legislation which would tax my salary without allowing deduction of the cost of an assistant would be unnecessarily unfair and harsh. Moreover, the bill would create a great tax difference between people similarly situated, because handicapped people who are self-employed could apparently deduct these types of expenses above the line.

Accordingly, I urge you to retain the itemized deduction for employment-related expenses for physically or mentally handicapped individuals. This is at least as equitable as the deductions for travel, transportation, and outside sales persons' expenses which would be permissible.

I recognize that this is a rather comprehensive tax package in which employee business expenses are but a small part. Nevertheless, I believe this is an important issue because of the potential discouragement of the efforts of handicapped persons to overcome their difficulties.

Mr. President, I think this is a small but very desirable change to the Finance Committee bill. If we are going to allow any itemized deductions, it seems to me that this should be very high on the list.

The amendment also includes a technical change in the Internal Revenue Code's definition of life insurance contracts to allow certain small burial policies to qualify as life insurance contracts for tax purposes. Congress decided to include a definition of life insurance contracts in the Internal Revenue Code to prevent taxpayers from using life insurance contracts as tax shelters rather than as protection against the economic costs associated with the death of the insured. I can assure my colleagues that this change, suggested by the distinguished Senator from Louisiana [Mr. LONG], is entirely consistent with that Congressional intent.

The staff of the Joint Committee on Taxation estimates that this amendment would reduce revenues by $100 million over 5 years. To assure that the provision will be revenue neutral, the amendment also more nearly conforms the treatment of interest paid on loans from life insurance policies purchased by individuals and by businesses.

Under the committee bill, no interest paid on loans on a life insurance contract purchased by an individual will be deductible after a 4-year phaseout period. That is because interest paid on these loans is treated as consumer interest and that itemized deduction is phased out.

However, if an employer purchases a life insurance policy for an employee and then borrows on the cash value, the interest paid on the loan will be deductible.

This amendment modifies the treatment of interest paid on loans related to life insurance contracts purchased by businesses covering the lives of their employees. It would limit the employer's interest deduction to interest on life insurance related to loans aggregating no more than $50,000 per employee.

Unlike the rule for life insurance policy loans taken out by individuals, the interest paid deduction for these loans will not be phased out, only capped at $50,000 of indebtedness. This will allow small businesses to use loans on life insurance policies for their employees as a source of short-term capital when necessary. But it will not allow these loans to be an unlimited tax shelter as under present law. Of course, businesses could borrow more than $50,000 per employee if necessary. This amendment only affects the amount of interest paid that could be deducted.

I might add that, when a loan is taken out on a life insurance policy, it reduces the death benefit by the amount of the borrowing. Therefore, if the entire cash value of a policy is borrowed, much of the death benefit promised to an employee is illusory. The employee is merely depending upon the credit of his employer to the extent of the indebtedness. I might point out that, unlike most commercial loans, there is no set repayment period for these loans. The loan may remain outstanding until the employee's death many years in the future. The employer never has any obligation to repay the loan.

If we really care about encouraging employers to provide death benefits to employees, we should enact this rule on its own merit.

Mr. President, I hope my colleagues will agree that this is a meritorious improvement on the committee bill.

SUMMARY OF AMENDMENT

The following is a summary of the amendment:

Restores employee business expense itemized deduction for additional business expenses incurred at the workplace by severely handicapped individuals.

Allows certain small burial policies to qualify as life insurance contracts for tax purposes.

Limits an employer's interest paid deduction for interest on amounts the employer borrows against life insurance policies the employer has purchased on the lives of his employees. The limit would be interest paid on no more than $50,000 of indebtedness per employee.

The amendment is revenue neutral. There is a $100 million revenue loss over 5 years associated with the first two parts of the amendment and a $100 million gain from last part.

It would seem to me that this is an area that I think is totally justified. The amendment has been cleared.

I thank Vivian Berzinski for calling this to my attention. I know through her efforts not only would she benefit but many other severely handicapped persons would benefit.

I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I appreciate the distinguished majority leader permitting me to piggyback on his amendment to find a way to offset the small revenue loss of the one I have to offer. His had enough excess financing in it to make it possible for mine to be considered as part of his.

Mr. President, this has to do with what we fear would have been an unintended error made in the 1984 act.

In the 1984 Tax Act, Congress went to great lengths to distinguish between life insurance policies and pure investment vehicles. It is possible however, that the 1984 act has the unintended effect of disqualifying small life insurance policies bought to pay burial and funeral expenses.

What we are speaking of here are policies that are generally sold to people age 55 to 60 who are preparing for retirement.

They want to insure that their surviving spouse or their children will not be saddled with the expense of providing them with a funeral and a final resting place.

This provision will basically give purchasers of the policies inflation protection. If you buy a $3,000 policy today, you know that whenever you die you will have the same kind of burial $3,000 would buy today.

To prevent use of these policies as investment vehicles, this amendment is limited to policies which may be used to pay for burial and funeral expenses, which have a face value of $5,000 or less, and where there is a limitation on the amount the policy can grow.

Revenue loss is less than $10 million. However, as packaged in the amendment with Senator DOLE, there is no overall revenue loss from the entire amendment.

The growth limitation on the policy is no more than 10 percent of the face value of the policy or no more than 8 percent of the accumulated value in the previous year.

Mr. President, the Treasury is aware of this amendment. So far, I am not aware of an objection. If Treasury should find some problem with it, we would hope to take care of that problem in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 2140) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I thank the distinguished chairman, Senator PACKWOOD, and staff, and Senator LONG and others, who worked on this amendment.

Mr. LONG. Mr. President, I also thank Senator DOLE and the chairman, Mr. PACKWOOD, for the consideration of this measure, and I also express my admiration for the way they are handling this legislation.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ANDREWS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2141

(Purpose: To exempt income from reindeer held in trust from Federal taxation)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2141.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2454, on line 7, insert the following new section:

SEC. 1709. AMENDMENT TO THE REINDEER INDUSTRY ACT OF 1937.

(a) TAX EXEMPTION FOR REINDEER-RELATED INCOME.—Before the period at the end of the first sentence of section 8 of the Act of September 1, 1937, insert the following: ": *Provided*, That during the period of the trust, income derived directly from the sale of reindeer and reindeer products as provided in this Act shall be exempt from Federal income taxation".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if originally included in the provision of the Act of September 1, 1937, to which such amendment relates.

On page 1903, between lines 6 and 7 add the following:

"(d) Notwithstanding the above provisions the amendments made by this section shall apply to taxable years beginning after July 1, 1986."

Mr. STEVENS. Mr. President, the Reindeer Industry Act of 1937 codified in volume 25 of the United States Code, section 300, was enacted to resolve an economic conflict that existed in our State and certain range disputes that were involved in these conflicts between Alaskan Natives and nonnatives that had arisen due to nonnative involvement in the reindeer industry prior to 1937.

Congress intended to preserve at that time the "native character" of this industry and provided Alaskan Natives a means of self support by restricting reindeer ownership in Alaska to Natives.

The act also provided certain Government aid and authorized appropriations to purchase all reindeer and improvements at that time owned by nonnatives.

The objectives of the act were accomplished by granting the Secretary of Interior authority to transfer beneficial ownership of all reindeer herds to Natives in trust subject to numerous restrictions including regulating reindeer grazing, controlling roundups, handling, marking, and butchering of reindeer. The regulations are now codified by the Code of Federal Regulations found in section 4300.

Under the Reindeer Act, reindeer that remain in trust are legally owned by the Federal Government. It is because of the trust status and the intendant restrictions that the Reindeer Act was interpreted from its inception as exempting from federal taxation reindeer-related income. Both the Department of Interior and the Internal Revenue Service historically so interpreted the act.

Reindeer-related income from reindeer held in trust should be treated no differently from income from Indian-alloted lands acquired under the General Allotment Act of 1887, or those lands that are held pursuant to the Indian Recovery Act of 1934.

We felt that the Supreme Court had implied this tax exemption based upon its interpretation of the General Allotment Act. And there were specific restrictions contained in the Code of Federal Regulations that applied to reindeer herders.

Because of a recent and we believe erroneous interpretation of the policy by the Seattle office of the Internal Revenue Service this Native reindeer-related income held in trust is now considered subject to taxation. That was brought about by a decision of the Court of Appeals for the Ninth Circuit that was decided on December 12, 1984.

I quote from that opinion which is found in volume 749 of the second volume of Federal Reports, on page 567.

No clear expression of intent to exempt appears in the Reindeer Act.

In that case, those representing the Native reindeer herders, had argued that the act as a whole indicated that Congress intended this exemption. The Court found that it could not apply the exemption "absent expressed exemptive language."

The amendment I have offered now provides that exemptive language, and will carry out what we feel to be the original intent of the law. This is, in my judgment, a technical correction to this bill. It is couched as required by the Court's opinion in terms of an amendment to the original 1937 act. As long as these reindeer herds are in trust and literally owned by the Federal Government, we feel that the tax should be exempt.

Let me explain a little about these herds since some people ask questions about this. There are 13 reindeer herds on the Seward Peninsula in Alaska, and there are five in other areas. On Atka Island, Umnak Island, Nunivak Island, Hagemeister Island, and on St. Lawrence Island.

In 1985, the total number of reindeer butchered was 1,850, and the gross sales from all herding operations was $705,000. There is no real record of the expenses involved. The expenses involved the herders. There is usually one head person, a herder, involved in each one of these herds. It is usually an individual or small corporation or as in the case in question a father-son partnership who operate the herd.

I might add parenthetically, Mr. President, there are some herders now who are operating privately with animals that have been purchased. They are Native herders, but they are not handling Eskimo reindeer that are held in trust under the Reindeer Act. They are operating privately, and this amendment would not apply to them. It applies to those that are herding animals owned by the United States that are held in trust for the Alaska Natives. It is intended to apply to those herders who are managing "restricted property" as defined in Indian law.

As I said, there was $705,000 in the annual income in 1985 from 1,850 animals that were taken, and from the meat and products that were sold.

I am informed that two herders had sales of over $150,000. There were three from $65,000 to $100,000, and five from $20,000 to $35,000. The difficulty is that we have been working trying to figure out how to deal with this from the point of view of income; that is, revenue loss. This is the matter I mentioned before, and the indication from the committee was that this was an amendment that would lose $10 million, $5 million retroactively and $5 million prospectively over the period of this bill.

I seriously question that estimate. As I indicated, the gross sales were $705,000 a year for all reindeer herded by these people. We are talking about a very few people. But it is a very meaningful portion of the occupation of the people who live in the great northwest area of my State, primarily Eskimo people and some Aleut people on the islands. I think it is a meaningful amendment.

In order to make it revenue neutral for the purposes of this act, we pro-

pose to amend the same section that Senator ROTH amended previously and move that effective date back to July 1, 1986 which I am informed will provide revenue in excess of $10 million.

I think it is a de minimis kind of revenue loss if it was actually totally examined. It is brought upon us now, frankly, because this is the first tax bill to deal with income taxes that we have had since the 1984 decision. It requires an amendment according to the Court's opinion in order to carry out the original intent of Congress that so long as these reindeer remain in trust, herded, operated, and the herds controlled by the individuals who are acting in behalf of the United States under this concept, their incomes should be exempt from the total amount of revenue dedicated to the maintenance of the herd.

□ 1110

I would be pleased to answer any questions anyone might have concerning the amendment.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I understand that the argument of the distinguished Senator is that the reindeer are held in trust and that the Federal Government forced the native people to incorporate. If they were not incorporated, there would be no case. So this is a case of why there should be a tax. Is that basically the case?

Mr. STEVENS. That is basically the case, yes. The basic reason for their being subject to taxation is that the original act of 1937 did not clearly express the intent of Congress that so long as the reindeer were held in trust, the income from the sale of reindeer that are taken annually is not exempt because of the failure to expressly exempt them. This is an express exemption required by the 1984 circuit court of appeals decision.

The act restricts the ownership of these reindeer either to the Federal Government or the Alaskan Native people. There are a few of these now which are held privately by people who are going into the business of animal husbandry. This will only apply to those which are in trust; the court's opinion, I believe, applied to those which are in trust.

Mr. BRADLEY. I am struck by the diversity of the country. Reindeer are not native to New Jersey, but I can see where this would be a real problem to the Senator from Alaska, relating to the citizens of his State, to the citizens of this country.

Mr. President, I have no objection other than to note that maybe this amendment could have been more favorably received and we could have debated it more fully if it were offered nearer to Christmas.

(Laughter.)

Mr. LONG. Mr. President, speaking for this side of the aisle, I am not aware of any objections on the minority side.

My information is that there is no objection by the chairman of the committee. I believe there will be no objection to adopting the amendment.

Mr. STEVENS. If there be no objection, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2141) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1130

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The pending business is the tax reform bill.

Mr. BYRD. Is the Pastore rule still in effect at this hour?

The PRESIDING OFFICER. The Pastore rule will last until 1:15.

Mr. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent to speak out of order notwithstanding the Pastore rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

BIRTHDAY OF THE 35TH STATE IN THE UNION

Mr. BYRD. Mr. President, today—June 20—marks the 123d anniversary of West Virginia's admission to the Union as the 35th State.

On June 20, 1863, America was in the midst of a great Civil War—a torn, riven, and mourning country. As the nations of the world watched, brother killed brother, and neighbor fought neighbor. The issues that brought on the War Between the States were not simple. Differences of culture; differences of economy; differences of political, moral, and religious philosophy; and differences of constitutional interpretation had split the 11 States of the Confederacy from those of the Federal Union. Even within most States on both sides of the battle lines, sincere men and women differed as to how to end the war, how to settle the question of slavery, and how to draw the demarcation between Federal and State powers.

Perhaps no area was quite as divided over the issues of that long-ago era as were the counties of western Virginia. Many western Virginians were slaveholders. Many were staunch supporters of States' rights. The vast majority were proud to be called Virginians, with all that that name meant in history and tradition. And since the early days of the Republic, all had looked to Richmond as their State capital.

But when Virginia was drawn into seccession from the Union, a majority in the western counties of the Old Dominion found that their attachment to that Union was too compelling. West Virginians had shared too much history together under the Stars and Stripes to allow themselves to be mustered under the stars and bars.

Some historians have written that the only two issues finally settled without further question by the War Between the States were, first, the abolition of slavery, and second, the foundation of the State of West Virginia. Neither of those questions, one might note, was resolved without the tragic spilling of fraternal blood and the decisive intervention of President Abraham Lincoln.

In the case of West Virginia, many especially in the U.S. Senate were opposed to her admission to the Union as a separate State. But President Lincoln, recognizing the great sacrifices made by so many Union loyalists in West Virginia, and heartened that his faith in the Union was shared by such a majority in that battle-weary region, threw his influence behind statehood for West Virginia. That influence carried the day, and West Virginia took her place beside her sister States and added her own star to our National flag.

West Virginia has not disappointed President Lincoln's faith in her. Today, as in decades past, the people of my State enjoy a proud heritage of patriotic service in all of our Nation's wars, and can boast a rich culture, ethos, and tradition all their own.

So, I wish for the people of West Virginia the very happiest 123d birthday, and countless more birthdays in generations to come.

□ 1140

Mr. President, I will be happy to yield the floor if any Senator has an amendment.

Did I have any time remaining under the leader's order this morning?

The PRESIDING OFFICER. The Senator has 10 minutes reserved.

Mr. BYRD. I thank the Chair. If I may then continue on another subject.

PRESIDENT'S SPEECH ON ARMS CONTROL

Mr. BYRD. Mr. President, the President spoke yesterday in Glassboro, NJ, the site of the 1967 summit, about the possible "moment of opportunity" in arms control relationship with Soviets.

He indicated the latest Soviet arms control offer, while deficient in certain ways, might be the long-awaited turning point in arms control negotiations. He urged Soviet leader Gorbachev to join him in "taking action for peace."

If the President's remarks indicate his administration at long last may have ended its internal disagreements about arms control policy, then this is a most welcomed development. Those internal disagreements have not served the President and they have hampered America's ability to negotiate effectively with the Soviets.

The President could take a further step to eliminate unnecessary complications burdening arms talks if he alters the intentions certainly of some who have spoken in the administration for the United States to violate important SALT central numerical sublimits later this year.

There is strong evidence that the majority of the Senate would support continued United States compliance with SALT's central numerical sublimits on strategic launchers, because abandonment of those limits would give the Soviets the excuse likewise to break out of those central numerical sublimits.

Not only did 54 Senators urge the President to continue compliance, but yesterday the Senate Armed Services Committee apparently also voted to send such a recommendation to the White House. The House of Representatives made its feelings abundantly clear yesterday.

Instead of working to overturn or neutralize these actions, the administration should heed the sentiments of elected representatives of the American people, the majority of whom have spoken, and adopt the policy behind which Congress, the citizens, and allies can unite.

That would be the way to establish the strongest position for our negotiations in talks with the Soviets on new arms accords and on resolving United States concerns about Soviet compliance with existing agreements.

Mr. Gorbachev should also heed the President's words and quickly agree to a summit date to permit adequate planning. I hope the new Soviet offer is an indication that the Soviet approach to arms control finally is shifting from a primarily public relations campaign to serious negotiations.

I agree with the President that both sides not just our side, but also the other side, must aggressively seize this moment of opportunity to advance the cause of peace. I will be looking for evidence from both our actions and Soviet actions that this is, in fact, occurring.

Mr. President, I yield the floor.

THE TAX REFORM ACT

The Senate continued with consideration of the bill.

Mr. ABDNOR. Mr. President, I rise today to address a transitional rule in the Tax Code which is of grave consequence to the State of South Dakota. Mr. President, air service is vital to South Dakota. Air service is the link between a remote and sparsely-populated State like South Dakota and the rest of the world.

I am sure I do not have to point out to anyone in this body that South Dakota is not exactly a high volume route for air travel. We do not have the population to justify extensive air service. At the same time, South Dakotans should be afforded to some extent the basic services provided for all citizens. For years, the Federal Government has taken great pains to insure that all States have essential air service.

For South Dakota, essential air service means Mesaba Airlines. Mesaba Airlines is our essential air carrier. As a matter of fact, Mesaba is the only airline serving our State capital of Pierre, not to mention a host of other small cities in South Dakota. Without a transition rule to the investment tax credit in H.R. 3838, it is highly likely that Mesaba will go out of business and the South Dakota cities of Pierre, Huron, Brookings, and Mitchell will lose their essential air service.

Let me explain the specifics of this situation to my colleagues:

In January 1986, Mesaba Airlines made a commitment to lease $20,000,000 of new aircraft. These aircraft were financed through operating leases and all deliveries took place between March and the end of May 1986. This commitment was made to better serve the essential air service cities in the region. These seven, new aircraft offer the cities and passengers served better service, greater capacity, and more comfort.

As you can well understand, the economics of this early 1986 transaction will greatly change if the investment tax credit involved here is repealed retroactive to January 1, 1986. Mesaba's annual lease payments for this $20,000,000 transaction will increase annually by at least $324,000 if Mesaba's lessors are to lose the investment tax credit. This figure is approximately twice the average of Mesaba's previous 2 years net income of $165,000 in fiscal 1985 and $201,000 in fiscal 1986.

It has taken Mesaba 14 years of dedicated airline service to finally be in a position to lease new aircraft. This contract would not have been entered into were the ITC unavailable, and even then, this transaction came with great difficulty.

Mr. President, I believe the tax law changes in this bill were never intended to disrupt critical public services. Certainly, essential air service is critical to the public well-being. And Mesaba has indicated that they will strive to develop their markets so they can continue to be able to serve small and medium-sized communities after the Essential Air Service Progrem terminates in 1988.

Mr. President, the serious nature of this problem for my State is readily apparent. And I believe it is incumbent upon this body to take the steps necessary to preserve air service for the citizens of this country, regardless of their geographic location. I would hope the distinguished chairman of the Finance Committee and the Senate will be willing to assist me in preserving air service in South Dakota.

Not only is South Dakota affected but surrounding States have a stake in this issue as well. Mesaba serves more cities in Minnesota than any other carrier. It serves cities in Iowa, Wisconsin, and North Dakota. I would hope the chairman keeps this in mind when the conference committee addresses this issue.

Mr. President, earlier in the discussion of this bill, Senator DURENBERGER and I prepared an amendment to be offered relating to an airline company which covers a number of States in our territory. The amendment was cosponsored by the Senator in the Chair, Senator ANDREWS, and Senator BOSCHWITZ, and has a great deal of interest for those who are directly involved with this airline. It is a very, very serious situation back in all our States, and particularly in South Dakota. You have to understand that between the borders of South Dakota we have little or no airline service other than that provided by Mesaba Airlines.

They provide airline service to the capital of South Dakota, Pierre, and interestingly enough, if you want to go to Pierre by air, Mesaba is your only alternative. The legislators of South Dakota depend on it entirely to get back and forth on weekends and between sessions.

Unfortunately, a situation has arisen with regard to Mesaba Airlines which could do terrible damage to the company. As a matter of fact, damage enough to cause the airline to no longer exist.

If they are not granted a transition rule allowing investment tax credits on the new airplanes they recently leased, it could very well put them out of business.

I feel sorry for the airline, but I feel even more sorry for the people from my good State who rely on Mesaba. They do a fine job, and they are doing

a wonderful service for South Dakota and the other four States they serve.

I yield to my colleague from Minnesota.

Mr. DURENBERGER. Mr. President, I appreciate the efforts by our colleague from South Dakota, JIM ABDNOR, and by the occupant of the Chair, to bring this matter to the attention of our colleagues.

This is one of those small potential tragedies that comes with writing a very comprehensive kind of a tax bill.

I well recall the evening in the Finance Committee when we had to make the decision about how far we were going to broaden the base in order to bring the rates to 27, 15, and 33 percent. The last decision, as I recall, that we took that evening was to change the effective date on the investment tax credit from a March date which we had presumed I think it was March 1 which had sort of been in the chairman's draft right along and moved it back to January 1.

So, this little—it is not a little, in our State it is a large, potential transportation tragedy occurred that night as we made the decision to move the date from March 1 to January 1.

This third level carrier which is one of the best in the country I think, at least one of the most stable third-level carriers in the country, entered into a $20-million lease agreement on January 20, 1986, for seven Fairchild aircraft to be used to service small communities in Minnesota, South Dakota, Iowa, and North Dakota. The aircraft involved seats 20 passengers. All the aircraft have been received and are now being used to provide service to these areas.

The lease contract price was based on the then available investment tax credit and on ACRS. However, Mr. President, the lease agreement contains a tax indemnity clause which, as a result of the retroactivity of the elimination of the tax credit I spoke of will increase the lease cost by $324,000 per year.

These costs, the $324,000 per year, are double this company's total net income in fiscal year 1985 which was $165,000, and it is $123,000 more than the company's net income in 1986, which was $201,000.

□ 1150

So, Mr. President, by an unfortunate flick of the pen we change the effective date for repeal of investment tax credit and in the process we are in a position of driving a small profitable air carrier out of business and forcing even greater hardship on rural communities in our part of the country.

I know that the chairman of the Finance Committee has been chairman of the Commerce Committee. And in that capacity it is he who has helped to bring us to the marketplace in air transportation in this country. And if there is anyone in America who will be sensitive to the needs of airline transportation, and I think particularly to the inadvertent consequences that this tax bill might have on any third-level carrier who serve the small rural communities of this country, I expect it would be the chairman of the Senate Finance Committee.

So I would be very much interested in hearing his reaction to our particular quandary here for this carrier.

Mr. PACKWOOD, Mr. President, I am very, very aware of the problems of the smaller airlines. When we went through the deregulation, we knew the larger airlines—200, 300, 400 passenger planes—were not going to be serving towns of 20,000, 30,000, or 40,000. In fairness, it was not efficient to have 5 people boarding a plane that holds 200 people. We knew to serve those areas we were going to have to have a whole new type of airline—some call it commuter airlines, third tier airlines—a plane that holds 20 people, 30 people. They can serve those towns efficiently. They can make money carrying 10, 15, 20 people.

And if we do not have those airlines, there are going to be hundreds of towns in this country that have no service at all. Because the 747's and the 707's are not going back to the towns of 15,000, 20,000.

The issue is subject to conference and you can be sure I will do everything I can to help.

Mr. DURENBERGER. We have in the bill some transition rules for 727's and some other airplanes and for other airlines.

Mr. PACKWOOD. We have a variety of transition rules for airlines, in some cases, which placed an option to buy in 1984 but were not going to take delivery of the plane until 1986, 1988, 1990. But those are normally bigger planes. The planes you are talking about here are smaller planes. They are ordered on a shorter notice. For a plane that holds 30 people, you do not order it in 1982 and not take it until 1988. You can get those quickly. So theirs is a different situation.

But, fortunately, because we have the issue of transition of airlines and investment tax credits and depreciation in the bill, it is subject to conference.

(Mr. STEVENS assumed the chair.)

Mr. ANDREWS. Will my colleague yield?

Mr. DURENBERGER. I am glad to yield.

Mr. ANDREWS. I came down from the chair, Mr. President, in order to make one point that perhaps has been overlooked. In the case of the Mesaba Airlines, they are a local carrier that is moving ahead because of deregulation, the very deregulation that was supported by this body. I had some doubts about it. In fact, I voted against it, but it is the law of the land.

Two cities in North Dakota, Jamestown and Devils Lake, were formerly served by major national airlines. They are now served by Mesaba.

We are providing, out of the Transportation Subcommittee, Mr. President, funding to help subsidize these airlines get their beginning. The distinguished chairman of the Finance Committee was then the chairman of the Commerce Committee and helped structure all of these agreements.

Mesaba has a unique pattern of growth made necessary because of the deregulation. There they are caught in a unique problem. They are buying these new aircraft because public attention is being focused on the service they give. The acceptability is coming up and it would be tragic if we gave no recognition to these unique problems of this growing regional carrier that has been brought about because of our own legislation.

This is not the case of an airline that has been going on for years and years and years and has a backlog piled up. They do not have a backlog.

So I appreciate the assurances of the Senator, the chairman of the Finance Committee, that he will seek to find a way in the conference to take care of this unique problem faced by Mesaba.

Mr. PACKWOOD. The problem was unique, because when we passed airline deregulation in 1978, we put in what we called essential air service and we knew there were going to be some towns that would lose the major planes and there would have to be a Government subsidy. And that is what has continued for 10 years, going through the end of 1988, exactly to take care of the Mesabas and the other airlines that came up that were going to fill a void, a gap, that we knew was going to happen.

Mr. ANDREWS. If the Mesabas cannot take advantage of this tax, shall we say, the encouragement that they felt they had, then they are going to have to apply for even more from the Federal Government out of the other pots. So it is a much more important thing than most people realize. It is not a matter of giving some windfall to some airline. It is a very unique case.

I appreciate the recognition the Senator has of it and appreciate his support.

Mr. BOSCHWITZ addressed the Chair.

Mr. ABDNOR. Mr. President, just 1 second. I still have the floor, I believe.

The PRESIDING OFFICER. I believe the Senator from South Dakota does have the floor.

(Mr. ANDREWS assumed the chair.)

Mr. ABDNOR. I would like to add to the remarks of the Senator from North Dakota. I remember when essential airline service came into being. I was in the House at the time and a

member of the Subcommittee on Aviation, which was then a part of Environment and Public Works. As I recall, I was the only one on the committee opposing deregulation at that time. I remember very well then Secretary Coleman saying:

I want the good Congressman to know that we had South Dakota in mind when we did this very thing.

I was not quite that sold on it, but I was at least somewhat assured that South Dakota would be protected.

This company, I can say, because I was riding its airplanes from the outset, has come a long, long ways in growth. And I hope my colleagues will keep in mind what it means to the people of South Dakota, North Dakota, Iowa, Minnesota, and Wisconsin.

If a transitional rule is not permitted, it will put them out of business. The misfortune for Mesaba would be great, but not as great as it would be for the States that rely on it and need it. As a matter of fact, Mesaba's profits, although they have been growing, will not equal the loss they would be taking under this situation if it is not remedied.

Mesaba is working very closely with Northwest Orient bringing people to Northwest's hub so that they can make a decent connection to anywhere in the United States. The planes have been upgraded. They are comfortable now. They are pressurized. It would be a calamity and a disaster to see this company put out of business because of some oversight on their part or on ours. I thank the Chair.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. I just would like to comment briefly on the colloquy. I say to my friend, the chairman of the Finance Committee, that the airline is the very essence of the reform that he was seeking when he was chairman of the Commerce Committee. It is an airline that serves a number of communities—Devil's Lake in North Dakota; Jamestown, ND; Brookings and Huron—I recently used the Mesaba when I went to Brookings—Huron, Mitchell, Pierre; towns in Minnesota, Vermillion, Grand Rapids, Brainard; towns that have no other air service and towns whose development will certainly be held back because they do not have air service.

This is an airline, interestingly, that has put it back together with Northwest. So that you can now go from Thief River Falls in Minnesota, which is up near the Canadian border, to Brookings, S.D., and get a through rate coming to Washington. Normally, it used to cost more to go from Brookings to Minnesota than it did from Minnesota to San Francisco.

□ 1200

Now they have worked out the gates. Their gates are a matter of fact coordinated with Northwest. So that they are on Northwest's ramp. It is just a well-done thing. It is just what you were seeking to do when the chairman brought reform to the airlines of the United States, which I think has worked perhaps even beyond our expectations.

This is a good airline that has been upgraded. That is very meaningful to our area. And it is important that we get this very small transition rule because the development of our entire area is dependent on the infrastructure. This is really one of the key elements of the infrastructure of these towns where no other form of air transportation is found.

Among these towns, I used to, Mr. President, have warehouse stores in Devils Lake, Aberdeen, Huron, Mitchell, Sioux Falls, Grand Rapids, Pierre, Brainard, all of those towns that I have personally had visits in, and have been to just scores, perhaps hundreds, of times. So I can tell the chairman that the importance of this airline in the development of the upper Middle West cannot be exaggerated. His consideration in conference would be much appreciated.

Mr. PACKWOOD. As usual, my friend from Minnesota makes a very telling argument. I say once more it was our intention when we passed airline deregulation almost a decade ago now to assure these commuter airlines, and although they have different names around the country, they are serving a vital need to every town of 5,000, or 25,000 in this country. I will do everything I can to alleviate this problem.

Mr. BOSCHWITZ. I thank the chairman.

I yield the floor.

Mr. ABDNOR. Mr. President, I too want to add my appreciation of the chairman of the committee for the understanding. I am sure he has probably a better understanding of the situation than any of us. Ours is a bit parochial. He knows what it means nationwide. It is self-assuring to know that it will at least be considered for a possible correction when it goes to conference.

With that, I say thanks to the committee, and release our time.

Mr. PRESSLER. Mr. President, I am pleased that the chairman of the Finance Committee has indicated his willingness to assist us in working out a transition rule for Mesaba Airlines in conference committee. I thank him in advance for his consideration. I was prepared to speak as a cosponsor of an amendment here to create such a rule, but agree with my colleagues that this issue would be best handled in conference.

As the essential air carrier serving seven South Dakota communities, this regional carrier provides a vital service to my home State of South Dakota. Mesaba stepped in after deregulation of the airline industry resulted in a loss of service to many of my State's communities. Since that time, Mesaba has grown and improved its service to these communities, including our State capital, Pierre. In fact, it is now the only way an individual can fly into the State capital.

In January 1986, Mesaba made a commitment to lease 20 million dollars' worth of new aircraft. These seven airplanes mark yet another improvement in air service to communities in my State, many of which might not otherwise have any air service. In my discussions with the President of Mesaba it has become clear that this contract was entered into only because the airline trusted in this body's commitment to develop tax reform legislation which did not implement provisions retroactively.

I would remind my colleagues that the Senate did indeed make such a promise to this country's taxpayers when it passed Senate Resolution 281 on December 19, 1985. That resolution expressed the sense of the Senate that the effective dates included in any tax legislation drafted by the Senate Finance Committee be January 1, 1987.

As all of us now know, the reality is that many provisions in this bill are applied retroactively. I oppose the retroactive imposition of changes as proposed by this legislation. I oppose these changes because they violate the trust the American people have placed in their Government. Mesaba Airlines is but one example of the violation of this trust. For the sake of fairness, this amendment should be adopted by the Senate.

The problem with which Mesaba is faced is the retroactive elimination of the investment tax credit. Had the airline known the Senate would violate its own resolution, it would not have committed to lease these aircraft. They could not have afforded the transaction. If the investment tax credit is not available, Mesaba's annual lease payments would essentially double.

This puts the cities, States, and passengers served by Mesaba, as well as its 300 employees, in jeopardy. It would mean that my State, which is only just now beginning to get back on its feet after the blow of deregulation, will once again face the possibility of cutbacks or elimination of air service. This transition rule affects more than one small airline. The outcome of the Senate's decision will have very real implications for air travel in South Dakota. If any of my colleagues have recently flown commercially in South

Dakota, they know I am not exaggerating this point.

Mr. President, this is a straightforward problem the correction of which will cost very little in the context of this legislation. However, if it is not corrected, the costs will be great. I urge our conferees to vigorously support the establishment of a transition rule for Mesaba in conference committee deliberations and I again thank the chairman for his consideration in this matter.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, while the distinguished chairman of the Finance Committee and the chairman of the Subcommittee of Finance on International Trade, Senator DANFORTH, are on the floor I would like to engage in a discussion with them regarding an amendment that I had intended to offer to this tax bill.

Mr. President, I was going to offer an amendment designed to help the potash industry in New Mexico. The amendment would have reactivated the 1969 dumping case under which the Canadians, French, and West Germans were found to be dumping. As a condition of settlement, the Canadians gave "assurances" that they would not sell in the future for less than fair market value. In return the order was revoked as it applied to them.

The amendment would have instructed the Commerce Department to begin a review of all "assurances" given in the previous potash cases. If, in the course of their review, they found that Canadian producers have been selling potash at less than the fair market value, it would instruct the Commerce Department to impose dumping duties.

The problem with the old assurance system is that once these assurances were given, there seldom was any followup. This was partially because Congress changed the dumping law but never addressed the issue of the old assurances. Therefore, there was no requirement to make sure these foreign companies were living up to their agreement.

My amendment would have clarified the status of the assurances given in the 1969 potash case by specifically reinvigorating them and required the Commerce Department to impose duties on dumped potash.

When I discussed the problem with my good friend from Oregon and my dear friend from Missouri, they were responsive to the problem and were very helpful in working out the solution.

It appears that because of our discussions with the Secretary of Commerce, the amendment will not be needed. Secretary Baldrige has agreed to a very decisive action plan which will actually accomplish more than the proposed amendment. He has written a letter to Chairman PACKWOOD stating that he will end appropriate technical advisors to Carlsbad to meet with the community leaders and industry officials and to help them prepare the necessary petition. Additonally the Secretary has decided that this case should treated as a priority and that a preliminary determination should be made within 100 days instead of the usual 160.

This approach will accomplish the objective of the amendment, but without getting into the issue of the assurances and without adding an extraneous matter to the tax reform bill.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. HEINZ). The Senator from Oregon.

Mr. PACKWOOD. Senator DOMENICI has talked to me on numerous occasions about the problems the potash industry is having. It was an issue that the Senator brought to my attention when the Finance Committee was considering whether to grant fast-track treatment for a United States-Canada Free Trade Agreement. I also understand that the Senator has been working with the trade agreement negotiators in an effort to get the issue addressed in the context of the bilateral talks.

I can sympathize with the Senator from New Mexico because he feels about potash the way I feel about timber. Since New Mexico produces most United States potash, and since Canadian market share has grown every year since 1964, I can easily understand the importance of this issue.

I would like to send to the desk, and have included at this point in the RECORD, a copy of the letter I received from Secretary Baldrige outlining his proposed action plan.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF COMMERCE,
Washington, DC, June 19, 1986.

Hon. BOB PACKWOOD,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that an amendment may be offered to H.R. 3838, the Tax Reform Act of 1986, related to the treatment of imports of potash from Canada under the antidumping duty laws administered by the Department of Commerce. I have spoken with Senator Domenici about this matter and believe that an amendment is not necessary.

My staff has met on several occasions with Senator Domenici's staff to attempt to develop a solution to the underlying problem faced by the New Mexico potash industry. As I understand it, there are allegations that potash from Canada is being dumped in this country. I have directed my staff to work with the interested parties in New Mexico to see if the legal prerequisites for a dumping case are met and, if so, to provide them with information and technical assistance in developing a petition.

Because of the urgency of this problem, I have also asked my staff to direct additional resources to this case if it is filed and initiated, in order that we may reach a preliminary dumping determination no later than 100 days after filing.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

Mr. PACKWOOD. I want to thank the Secretary and the Senator from New Mexico for reaching an accommodation that precluded the offering of an amendment to the tax bill.

Mr. DOMENICI. I want to thank my good friend, the chairman of the committee. I clearly prefer this arrangement. I did not want to have a debate on trade on this very, very superb tax bill, but he has hit the nail on the head. He understands the dilemma we are in.

We now have a potash industry that we think is viable and our market share is going down. We now have evidence in the last 6 or 7 months that something very, very strange is going on. They are selling potash in the world market at much higher prices than they are selling in the United States markets without transportation added to it. Also, their U.S. market share is growing dramatically. Canada's share of very, very cheap potash is just growing astronomically. We have already developed that with the assistance of the Bureau of Mines and experts at the Department of Commerce. So all of that will give us a head start in the process that the Secretary has agreed to in the letter which he sent to the chairman that I discussed with him. That letter was just now made a part of the RECORD.

I thank the chairman very much.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, let me say first that I cannot imagine anyone being more aggressive and single-minded in pursuing his constituents' concerns than has been the Senator from New Mexico in the case of potash. I cannot count the number of times that the Senator from New Mexico has discussed this problem with me. If he has been aggressive in discussing the matter with me, and I am sure with Senator PACKWOOD, he has been even more aggressive in bringing this to the attention of the Secretary of Commerce. I know that he has dealt with the Secretary of Commerce at great length about this, and it is through this very energetic approach by Senator DOMENICI that the Secretary of Commerce has written a letter to the chairman of the Finance Committee giving his assurance that he will proceed with this matter as expeditiously as possible once a potash dumping case is filed.

In my view, this is only fair. I mean, this is not something that is taking the Canadians off guard. The Canadians have been on notice at least since 1969 that we were going to be watching them in connection with dumping.

So I believe this expeditious handling that has been gained through the actions of Senator DOMENICI is a very appropriate and fair result.

It also is helpful of course to keep trade amendments off the tax bill. So it seems to me the Senator has exactly accomplished the objectives that he has, that his constituents have had, and he has done so in a way that has not gotten in the way of the forward progress of the tax bill.

Mr. DOMENICI. I thank my friend from Missouri.

Today, in some respects, might I say, Mr. President, is the culmination of several months of intensive interagency cooperation and work. I want to say publicly that we frequently are critical of our agencies of Government when it comes to matters such as trade violations.

□ 1210

In this case, the Bureau of Mines, a U.S. Government agency, has impressive commodity experts who know the markets for almost every mineral on Earth. Their potash experts were always available to answer questions about mineral deposits, transportation costs, and the market in general.

I have found that they have as much information as any group of citizens, would need in this particular area. Many citizens, companies, and communities spend hundreds of thousands of dollars with lawyers and consultants to get the information that is available to them and to us by an agency as expert as the Bureau of Mines.

We have found that they have saved innumerable amounts of money, hours, effort, by giving us this information which led us to the conclusion that we clearly had the beginnings of a dumping case.

The Commerce Department—and I want to thank them also—is frequently alleged to not care or to be too busy. In this case, they provided valuable help in both the legal department of the ITA and through the Office of Investigation, and Agreement Compliance.

As a result of these discussions, there is now a whole group of Government officials committed to investigating and stopping the dumping of potash and restoring fairness to the potash marketplace.

The commitments made today should be encouragement to the people of my State, in particular those in Carlsbad in the county of Eddy.

I would also like to thank Claud Gingrich who has been working with my staff on this problem. I cannot tell you the number of hours he has donated to this case. He has been of invaluable help. He is a professional and did not have to contribute his time, but he did so gladly. Again, I appreciate it.

I would like to reserve the right to offer an amendment on the next Finance Committee vehicle or bill, whether it is a technical corrections bill or a trade bill, in the event further action is necessary on this issue. I would like to share that thought with my chairman and get his reaction.

Mr. PACKWOOD. If it is necessary to revisit this issue, I would be happy to meet with you and talk with you. We are going to have other tax bills regarding trade and commerce.

Mr. DANFORTH. Let me say if it is necessary, Mr. President, I will be pleased to be of assistance to the distinguished Senator from New Mexico.

Mr. DOMENICI. I want to thank both the chairman, the distinguished Senator from Oregon, and Senator DANFORTH, the distinguished chairman of the subcommittee, and, obviously, the Secretary of Commerce. I believe he has done the right thing. I think we have the evidence and clearly we hope to get results.

Mr. BINGAMAN. Mr. President, I thank my colleague from New Mexico, Senator DOMENICI, for his leadership in seeking assistance for the struggling potash industry in New Mexico. I have worked with him over the past 3 years in this effort.

The industry is centered in Carlsbad, NM, an area that has, too often in the past 4 years, experienced the harsh economic realities of a community dependent on a depressed and declining industry. Since 1982, employment in potash has been slashed more than one-third. To those of us from New Mexico and familiar with the plight of the potash industry, it is clear the industry is suffering increasing injury from unfairly priced imports. There have not only been lost sales, but the effect of the unfairly priced imports has been to reduce prices and cause serious financial losses for the industry.

I understand that the Secretary of Commerce has expressed a willingness to assist us in seeking relief for the industry. He has agreed to give special attention to the unique problems facing the potash industry. Specifically, the Secretary will send a team of officials to Carlsbad, NM, to assist the local industry and community officials in preparing an antidumping petition. This petition will then be given expedited consideration and the Secretary has pledged additional resources in order to complete the review as quickly as possible. The Department has already developed the data that will be used to evaluate the antidumping petition.

Senator DOMENICI and myself have made it clear for sometime that we did not feel the procedures used by the Department in evaluating the potash case in the past were effective. I am pleased that the Secretary has heard our concerns and is prepared to take special action to assist the industry.

I am also appreciative of Senator DANFORTH's role in this effort as chairman of the International Trade Subcommittee of the Senate Finance Committee. I thank him for his assistance.

Mr. DOMENICI. I yield the floor.

□ 1220

THE SENATOR FROM VERMONT SERVES NOTICE

Mr. STAFFORD. One other thought, Mr. President. The Senator from Vermont, I suppose, is naive, even after going on 26 years in the Congress—nearly 12 years in the House and going on 15 years in the U.S. Senate. I was naive enough last night to believe that today there would be four rollcall votes in the Senate because it was stated by the leadership that there would be. In consequence, I was sufficiently naive to cancel an important matter—important to me—to be here today so that I would not miss all those rollcall votes.

I understand now they may not occur. I do have to say that it destroys the credibility, in my opinion, of the leadership if the leadership wants people here on Friday, to schedule rollcall votes, announce they will occur, and then not have them.

It appears further to the Senator from Vermont—and I can understand this because it has been a very tiring week for everybody—that there will not be a rush of Senators who have amendments listed in the agreement last night to the floor today, and there may not be a rush on Monday. There may be a big rush on Tuesday.

The Senator from Vermont seldom gets steamed up about anything the way he feels today but the Senator from Vermont very well may find himself objecting to a unanimous-consent request to extend the hour past 4 next Tuesday so that amendments that might have been offered today or Monday could be considered. I want the membership of the Senate to be on notice of that.

I yield the floor.

TAX REFORM BILL CREATES AN INJUSTICE FOR BRITISH FIRMS DOING BUSINESS IN THE UNITED STATES

Mr. DIXON. Mr. President, it has just come to my attention that there is a provision buried in this tax bill which effectively: first, discriminates against British-owned groups of United States companies; second, violates the United States-United Kingdom Income Tax Treaty; third, antagonizes the British Government; fourth, worsens the United States-foreign trade imbalance; and fifth, effectively raises no additional United States tax revenues. The provision I

am referring to is known as the dual resident provision, section 983 of the Finance Committee's tax reform bill.

For purposes of this provision, a dual resident company is a United States corporation which is managed and controlled in the United Kingdom. Because of its dual residency status, the company is taxable both by the United States and the United Kingdom.

The discrimination resulting from this provision is blatant. If enacted, this provision would deny a United States corporation, which happens to be a dual resident, the right to file a United States consolidated tax return with its United States subsidiaries merely because some of its expenses are deductible by its British parent company for British tax purposes. Ordinary United States corporations would be segregated and punished just because they have British companies as shareholders, while their competitors in the business community would remain unaffected since they have United States parent companies.

It was to prevent just this type of blatant discrimination that caused the Senate to adopt an antidiscrimination clause in the United States-United Kingdom Income Tax Treaty ratified in 1980. This nondiscrimination clause prevents the United States from imposing any additional tax requirements on United States companies operating in the United States and owned by United Kingdom persons that are more burdensome than the tax requirements imposed on similar United States companies owned by United States persons.

The uneven treatment of British-owned United States companies by this proposal violates our international tax treaty with one of our nearest and dearest allies. The United States Treasury Department has even told me that in their opinion the provision violated the United States-United Kingdom Tax Treaty.

In the face of the discriminatory treatment and violation of the United States-United Kingdom Income Tax Treaty, the only question would be to what extent would the British retaliate. There is no question that they would retaliate—what choice would they have?

It is widely believed that if this provision where enacted in the United States, Britain would enact a mirror provision directed at United States companies investing in the United Kingdom through dual residents. Then where would we be?

Additionally, with the current state of affairs with respect to the United States-foreign trade imbalance, there is some concern that this proposal would increase the pressure on British-owned United States companies to repatriate some of their profits to the United Kingdom, and thus, deepen the current trade deficit. Forced to make the choice of deducting expenses in the United Kingdom or in the United States, most dual resident companies—whether British or United States owned—would probably deduct such expenss in the United States. This would occur even in light of the bill's proposed corporate tax rate reduction to 33 percent. The reason is that the effective tax rate for these companies is higher in the United States than in the United Kingdom when United States Federal, State, and local taxes are taken into account together with certain available United Kingdom tax benefits.

Deducting the expenses in the United States would translate into higher British taxable income, higher British income taxes in the form of repatriation of profits. The greater the pressure, the lower the amount some U.S. companies will have to reinvest in the United States for capital improvements, market expansion, and human resources development.

Given all of the negative aspects of this proposal, it is disturbing to discover that for all practical purposes, this proposal might not result in any appreciable increase in United States tax revenues if the British retaliate, as I believe they would. If retaliation does occur, the outcome would be higher tax revenues for the British Government, and at best, breakeven for United States tax revenues.

For 50 years the United States has led the fight to eliminate discrimination in international taxation through the tax treaty mechanism. Because this dual resident provision blatantly discriminates against British-owned United States corporations, it undermines a generation of progress by the United States in convincing other countries not to discriminate against other corporations. I urge the committee, therefore, to reconsider this issue at the forthcoming House-Senate conference, and to delete the dual resident provision, section 983, from the conference bill.

Mr. GORE. I want to join with my distinguished colleague, the senior Senator from Illinois and voice my concern that the effect of this provision will be to treat unfairly several Tennessee companies which are dual resident corporations.

These companies have significant investments in my State and provide jobs to thousands of Tennesseans and they should not be subjected to unfair discrimination under this provision. I would hope that the conference committee would carefully examine the operation of this provision and work to eliminate unfair tax treatment of corporations whose investments provide so many jobs to our citizens.

DUAL RESIDENT PROVISION

Mr. MATTINGLY. Mr. President, I would like to comment very briefly on section 983, the so-called dual resident provision of the tax proposal now before the Senate. I have been contacted by a number of Georgia companies which are concerned about the potentially harmful effect section 983 would have on more than 1,600 Georgians employed by these firms.

The potential impact would, however, not be limited to workers in Georgia, but could similarly impact certain employees in almost every State in the Union.

The businesses affected by this provision are called dual resident companies. That term is used to describe firms that are located in the United States and employ our constituents but are managed or controlled through a corporate structure that is headquartered overseas—typically, Great Britain or Australia.

Currently, these companies are taxed on their worldwide income by the United States and by the overseas country. The law allows for certain reciprocal tax benefits. Section 983 in the committee proposal would make the tax treatment of these companies depend in some degree on how the parent company was treated under British law.

Mr. President, the House bill does not contain a similar provision and therefore, the matter will be before the conference committee. I can understand the committee's concern over this matter but I would like to note that the Treasury Department apparently has expressed some reservations about the impact of the proposed change on the existing United States-United Kingdom income tax treaty. In addition, I am advised that there exists the possibility of retaliation by the United Kingdom with all the uncertainty that such potential difficulties can create.

Therefore, Mr. President, I urge all my colleagues who will be members of that conference committee to carefully review the impact of this provision and give full and thorough consideration to its effect on our taxpaying constituents whose jobs could be affected by the decisions made in conference.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 2143

(Purpose: To reward taxpayers who voluntarily pay taxes and to assist the elderly pay their medical bills)

Mr. BUMPERS. I send an amendment to the desk, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself, Mr. METZENBAUM, and Mr. MATTINGLY, proposes an amendment numbered 2143.

Mr. BUMPERS. Mr. President, I ask that the further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1659, beginning with line 21, strike out all through page 1661, line 2, and insert in lieu thereof the following:

SEc. 559. LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (1) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(1) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—for purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

At the appropriate place add: the following:

The Secretary of Treasury is authorized to issue regulations that reduce the floor for itemizing medical deductions to the extent that such regulations will not reduce revenues more than the revenue raised by this amendment as determined by the Joint Committee on Taxation.

Mr. BUMPERS. Mr. President, this amendment deals with a particular provision in the tax bill that we are debating here. It is my belief that, until a day or two ago, there were not 10 Senators who knew this provision was in the bill. I have talked with members of the Finance Committee who did not realize this provision was in the bill. It is what we normally call tax amnesty. That is, this amnesty grants immunity from prosecution to all people who have been evading taxes but who will come in and confess that they have been evading taxes. It does not relieve them of civil penalties; it only relieves them of Federal criminal prosecution.

I want to say first, Mr. President, that it has always been my belief that one of the compelling reasons people pay taxes is that they do not want to be prosecuted.

Second, they do not want the public ridicule and humiliation of being indicted and going through a publicized trial.

While compliance with the tax laws in this country has been steadily declining, if you will look, you will also find that compliance has declined on almost an exact curve with the amount of money we have continued to cut from the IRS budget so that what used to be a 3-percent tax audit rate is now a 1.3-percent audit rate. That is, only 1.3 percent of the tax returns are even looked at in detail by the IRS.

I want you to listen to the specific language in the bill. It seems to me that even if I favored the general concept of tax amnesty, I would have to strenuously object to this language. Here is the language:

In the case of any violation of any tax law for any taxable period, the taxpayer shall not be liable for any Federal criminal penalty relating to tax administration under section 6103(b)(4) of the Internal Revenue Code of 1954 with respect to such violation, if full disclosure of such violation is made to the Secretary of the Treasury or his designee before notice of an inquiry or investigation into the taxpayer's tax affairs is given to the taxpayer by the Internal Revenue Service.

In other words, Mr. President, if you have been cheating on your taxes for the past 10 years or if you have not even filed a tax form in the last 10 years, you can go down to the IRS and go through your mea culpa and say, "I am really sorry about this." The motiviation of your coming forward would not be relevant. Maybe you have a wife you have just divorced and you are scared she is going to go down and tell the IRS about your past misdeeds. Or you may be a gunrunner or a drug smuggler or any other thing. But for some reason or other, you decide to go down there and tell all. It does not make any difference what the motivation is under this provision. This says "any violation of any tax law for any taxable period" shall not be liable for any Federal criminal penalty.

In this tax bill, one of the things that we have made much of is that we have reduced the top tax marginal rate from 50 percent down to 27 percent, and this lowered rate is supposed to improve compliance. In 1981, I said on the floor of the Senate that I would be willing to lower the top rate from 70 percent to 50 percent because nobody was paying at that rate anyway. I think we collected, in 1980, $3 billion in the top marginal rate.

So one of the advantages of this bill is a top rate of 27 percent and lower rate of 15 percent, where 80 percent of the American people will be. With these low rates there just is not much incentive to cheat anymore on your taxes.

In addition there are allocated hundreds of millions of dollars in this bill to the IRS in increased funds so that they can enforce compliance. Maybe the $600 million increase in enforcement funds in this bill is not enough of an increase. I really do not know what the magic figure would be to bring the rate of compliance up. But the IRS is just now getting their computers on-line where they can cross-check with those 1099 forms against what you report in your tax return and I think there is a chance that tax compliance can be increased dramatically with this increase in money.

Think for a moment about the erosion of confidence in our Tax Code that tax amnesty would create. I do not know what the exact figure is, but my guess is that about 70 percent of the people, or maybe 60 percent of the people, pay their taxes every Friday afternoon when they get their paycheck, or every other Friday afternoon, or whatever the pay period is. They do not have any choice. The poor stiff out on the assembly line gets his taxes removed from his check before he gets his check.

You tell me how you can go home and talk to that man and explain to him that a drug smuggler, for example, or just one of the local big dogs who has been cheating, who maybe makes 100 times more money than he does, you tell him how he is supposed to think this Tax Code is fair when the other fellow can avoid criminal prosecution by simply walking in before he receives a notice or before any kind of investigation begins. Is that fair to the honest taxpayer?

Most people pay their taxes. Most people are not very happy about it. Justice Brandeis said one time, "Taxes are what we pay in order to live in a civilized society." Most people understand that, and most people pay their taxes—maybe grudingly, but they pay. The argument is made that Massachusetts and 15 or 16 other States have tried tax amnesty and it is highly successful for various reasons. Most States, however, do not engage in criminal prosecution for tax evasion. I cannot ever remember one in my State. The States, I know, is notified when there is a Federal criminal prosecution, and perhaps even when there is some kind of a Federal civil penalty. I am told that the IRS has an ad hoc policy now that if you honestly come in and confess your sins that you may have to pay a stiff penalty, anywhere from 25 to 100 percent, but unless the case is fairly outrageous they will take your money and put your name on the tax rolls. They don't prosecute.

The argument is made "Yes, but people won't go in because they are afraid they will not escape prosecution." I don't agree.

This provision says to people, "We are going to condone criminal activity." This provision is an entitlement program for criminals.

Mr. President, anybody can come in before a prosecution for any crime. He can rush down and pay any time. But there is no other place in the criminal laws of this country where we give them automatic amnesty.

So, Mr. President, I think that we are making a very serious mistake if we go forward with this amnesty program.

Now, the committee says that if you remove the tax amnesty provision, you will lose $200 million in revenue over

the next 5 years. And as you know, under the rules of the Senate we have to come with a revenue offset. So I plagiarized an idea of the Senator from Missouri [Mr. DANFORTH] on what we call the net operating loss carryback provision. I am a strong supporter of Senator DANFORTH's concept of rural enterprise zones and should this amendment pass, I will help him in the future any way I can to come up with the money for rural enterprise zones. I think he is caught in a little bit of a bind because he does not want to vote for amendments to this bill, and I understand that. Perhaps in my position on the Appropriations Committee I can be helpful to him on rural enterprise zones in the future. But let me tell you what this offset does. To strike this amnesty provision costs $200 million, and I would cover that and then some with the NOL carryback provision.

This carryback provision works this way. Under the law as it is now and in this bill, if you have a loss you can offset that loss against any taxes you paid in the 3 preceding years beginning with the furthest year. And so it would work thusly. Follow this illustration. If in 1988 you make $100,000 and you are a corporation, you will pay $33,000 in taxes at the 33-percent rate. Now, in 1985, if you had made $100,000, you would have paid $46,000 in income taxes, because 46 percent was the corporate rate then.

But if in 1988 after this bill is passed, when the top rate is 33 percent, you lose $100,000, you can carry that loss back for the preceding 3 years and that would take you back first to 1985. So let us assume that you made $100,000 in 1985 and you paid $46,000 in taxes. Under the existing bill, you can go back, even though the rate in the year in which you lost the money, 1988, was 33 percent, and save $46,000 in taxes. This is almost an incentive to lose money. All my amendment does is say that once this bill goes into effect, all losses in the future, when the 33 percent is in effect, are carried back to any of the years where we had a 46 percent rate they are worth as much as if the tax rate then was 33 percent not 46 percent. Companies wouldn't reap that windfall. So in the case I gave where you lost $100,000 in 1988, you go back to 1985 and instead of getting a $46,000 refund you get a $33,000 refund or $13,000 less.

Now, all told this offset picks up $1.6 billion; $200 million of that would be used to offset the striking of the tax amnesty provision. The balance of it would be used to reduce the threshold for itemizing your medical expense deductions. As you know, under existing law you can itemize all your medical expenses in excess of 5 percent of your adjusted gross income. This bill raises the threshold from 5 percent to 10 percent so that in the future you can only deduct your medical expenses in excess of 10 percent of your adjusted gross income.

Now, the amendment of the Senator from Ohio [Mr. METZENBAUM] the other day put some money back in the medical expense so the figure now is down to about 9 percent of adjusted gross. The House retains the 5 percent threshold. And if you put in another $1.4 billion you can lower the threshold to about 7.5 percent so that when you go to conference the difference between the House and Senate will be 5 percent and 7.5 percent.

Now, the American Association of Retired Persons is one of those organizations which agreed to oppose all amendments, but I can tell you they love my proposal. It is absolutely amazing. The statistics are staggering. Senator DURENBERGER used some figures the other day on this floor. How many elderly itemize their medical expenses? How many middle- and lower middle-income people itemize their medical expenses? This provision is important.

And so really you have a choice: Do you want to condone criminal activity or do you want to help people who have excessive medical bills? That should not be a tough choice for anybody.

Mr. MATTINGLY. Will the Senator yield for a question?

Mr. BUMPERS. I will be happy to yield.

Mr. MATTINGLY. As the Senator knows, I am a cosponsor of this amendment. Let me ask a couple of questions. By allowing those who cheat on their taxes to receive this immunity, what are we saying to the people across the United States, to the law-abiding citizens who pay their taxes on a regular basis?

Mr. BUMPERS. I said a moment ago in my earlier remarks that I think this amnesty provision does more to erode people's confidence in the tax system than any provision of this bill. I said I do not want to have to explain this provision to a manufacturing employee who sits on the assembly line all week and gets his taxes taken out of his paycheck.

Mr. MATTINGLY. Does the Senator believe then, if we are developing a tax reform bill that is supposed to be the epitome of fairness in equity and reform, that this provision is out of place?

Mr. BUMPERS. If this provision is left in the bill it certainly makes this a fair bill for people who have been evading their income tax. It is an entitlement program for criminals.

Mr. MATTINGLY. If this bill passes with this provision intact and there was a big publicity campaign all over the United States what will be the inclination then for voluntary compliance with the Tax Code? How successful would enforcement be then?

Mr. BUMPERS. The Senator anticipated me. I was getting ready to cover that. In my opinion, this is further going to erode the problem of tax compliance because you are saying to 80 to 85 percent of the people who are fully paying their taxes, and paying them fairly, "If you decide not to in the future, you can probably come in any time you want to and confess and we will handle it and you will not be criminally prosecuted." It is a disincentive for people who are now paying their taxes.

□ 1240

Mr. MATTINGLY. I say to my distinguished colleague from Arkansas, it appears that this tax amnesty provision is sort of legalizing an illegal act.

Mr. BUMPERS. That is what it does.

I also want to say that there are two Senators here for whom I have the highest respect, men I consider to be my close personal friends, who feel strongly the other way on this. We have discussed it at length, but I have remained unpersuaded, because I think tax amnesty is bad, bad policy.

Mr. MATTINGLY. I agree with my friend from Arkansas.

Mr. President, I rise on behalf of honest taxpayers all across America in support of the amendment offered by the Senator from Arkansas.

Ever since the issue of tax amnesty has been raised, I have vigorously opposed it. By establishing such a program. I believe the U.S. Senate will be sending out the wrong signal to American taxpayers. Mr. President, to sum it up, tax amnesty is dead wrong.

By allowing those who cheat on their taxes to receive immunity, what are we saying to the law-abiding citizens who pay their fair share of taxes, year-in and year-out? What will we be saying to the honest taxpayers who always bend over backward to comply with the laws and pay their taxes?

I join many others who believe by including this tax amnesty provision in the bill, the U.S. Senate will be condoning, and even supporting, a program that will have a long-term negative impact on the fundamental principle upon which our Nation's tax system is based—voluntary compliance. Is it fair to let one taxpayer successfully dodge punishment while others have faithfully paid their taxes? Is that what we in the Senate want to do? I hope not.

This tax reform bill we are considering is based upon fairness and equity. I believe it is a good bill, and achieves that worthy goal. That is why this provision is so out of place in the bill. It just is not fair.

Mr. President, the key problem with this provision is that it is morally

wrong. And I believe that's enough. But this is such a bad idea that it is full of other problems.

Every dollar that is collected through such a provision represents a dollar not discovered by the existing Federal enforcement structure. I am extremely concerned that any publicity about the amount recovered through this concept could reduce the inclination toward voluntary compliance by explicitly showing how unsuccessful enforcement has been.

There has been much talk in the past, as support for tax amnesty, that many States have been successful in their tax amnesty programs. They say "look what's been done, let's make the Federal Government do it." But I think once these State programs are more closely analyzed, a different and less-appealing result is reached. Many of the States that are cited as success stories, in actuality, had less-than-efficient tax enforcement systems prior to the Amnesty Program. The key question then arises—was the money the State raised proof of the success of the amnesty, or was it merely proof of ineffectiveness of its enforcement program?

And when one looks closer at the dozen or so States that have established a tax amnesty program, there are just as many States collecting very little money as there are those who collected a lot, if not more.

Mr. President, the fact is it legalizes an illegal act. The concept of tax amnesty is nothing but a wolf in sheep's clothing. It is bad news. I'm against tax amnesty, I think it is the first step toward destruction of this country's tax system, it would be one of the worst mistakes our Government could make.

Mr. President, this provision, which we are hoping to delete, is nothing less than a direct affront to the millions and millions of hard-working, honest, law-abiding citizens that pay their taxes, year-in and year-out. Those are the people this Senator is proud to represent. I sincerely hope my colleagues will join in this effort to remove this unfair provision.

I hope we can get to a vote on this and see how much support tax amnesty has. I think that if Senators see tax amnesty for what it is, it will be voted down overwhelmingly.

Mr. BUMPERS. There is one point I want to make, which I think we may be confronted with, and I hope we will not.

The chairman of the committee, Senator PACKWOOD, has said he might raise a point of order, based on the unanimous-consent agreement. I invite all my colleagues to turn to page 2 of today's calendar. They will see the unanimous-consent agreement, with a list of all the amendments.

The Senator has said that he is troubled by the fact that the description of the Bumpers amendment says, "Strike amnesty provisions in bill."

The point is made that this only refers to striking the amnesty provision. It does not say where I am going to make up the revenue, No. 1. No. 2, it does not say that the revenue that I am trying to raise here far exceeds the amount necessary to cover my amendment and that the surplus goes to the medical expense deductions.

I want to make this point: No. 1, when I was called last night I said, "Yes, my amendment is a tax amnesty amendment." A copy of the amendment—with the NOL and medical expense parts—was handed to the managers of the bill. When the unanimous-consent request was made by the majority leader and entered into, it was referred to—as often happens around here—just by a general topic. Had I had any idea, or had I been told, that I had to set out in great detail where I was going to get the money and the money would exceed the amount necessary to compensate for this provision, I would have complied.

As a matter of fact, I handed copies of my amendment to the managers and the staff last evening before the unanimous-consent agreement was entered into.

I hope the Senator will not raise that point of order and will allow the Senate to vote up and down on this; because, as I look down the list here, for example, I see an amendment by Mr. MATHIAS, and in parentheses it says "(PACKWOOD to describe.)" It does not even describe what the amendment is, let alone what the offset is.

Here is an amendment by Senator BAUCUS, "2d degree amendments relating to Bumpers amnesty amendments." I have no idea what MAX BAUCUS' amendment is. Are we going to raise a point of order on that?

Senator MOYNIHAN: "Relating to foreign area section 902/312." Relating how? Are we going to make a point of order on that?

Here is an amendment by Senator DECONCINI, and it just says, "Installment sales." That is hardly a classic description of an amendment.

I do not know which installment sales they are talking about. I do not know whether this is a revenue producer or loser, nor do I have the foggiest notion where they are going to find the money, or whether it generates more money.

I intend to stand on the floor and raise a point of order on an awful lot of amendments if that is the way this is going to be played.

I really feel put upon—I do not mind saying that—because I tried my very best to play fair. When they called me, I told them precisely what I wanted to do and how I was going to do it, and that is a lot more than 90 percent of these amendments show.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield for a question to the Senator from Arizona.

Mr. DECONCINI. I am happy that the Senator from Arkansas is raising the amendment I have on that list, because it was my understanding that points of order would not be raised, and that when we came in with the unanimous-consent agreement, it was understood that it was a revenue neutral bill and that amendments could be modified, because we did not want to file every amendment in just the way it was going to be brought to the floor.

If the Senator will yield for a question, not on the point of order but on his amendment, as I understand this amendment, it would literally grant any person who is involved in drug trafficking—and that is over $100 billion a year in the United States on which no tax is paid—that anybody who is involved in drug trafficking and has not paid taxes, and they come to the IRS and say, "I'm delinquent and haven't paid my taxes, and not only delinquent, but I've just failed to pay for a number of years and I'm prepared to pay now," they are granted immunity. Is that a correct interpretation of this amendment?

Mr. BUMPERS. That is absolutely my understanding of it, and I am not sure the IRS can go behind that. They can ask the fellow, and he may say, "I made all these millions selling apples on the corner."

Mr. DECONCINI. There is nothing in this amendment that directs the IRS that they must find out where that money was made?

Mr. BUMPERS. Absolutely none.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator may yield to me for a couple of minutes, without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, it seems to me that the Senator's amendment speaks for itself.

What kind of tax bill do we have here? Quite frankly, I did not realize this provision was in it until 2 days ago, and I cannot believe that this Senate is about to grant amnesty to any criminal element in this country.

I prosecuted narcotics dealers and I prosecuted organized crime figures, and I know a little bit about what we are dealing with here.

The Senator has an amendment that is going to permit us to invite criminals not to pay their delinquent taxes and say, "Go out and do it again."

What kind of message is that for this country? What kind of law-abiding body is this that would have such an amendment in the bill? I have to

believe that even the drafters of this bill had no idea that this was going to be as widely interpreted as I believe it is and as the Senator from Arkansas has pointed out.

I hope the Senator will not raise a point of order, because it would be unfair.

Mr. PACKWOOD. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. DECONCINI. He yielded to me for a couple of minutes, by unanimous consent, without losing his right to the floor.

Mr. PACKWOOD. Was there a unanimous-consent request to that effect?

The PRESIDING OFFICER. The Senator from Arkansas obtained unanimous consent to yield temporarily to the Senator from Arizona. The Senator from Arkansas retains the floor.

Mr. PACKWOOD. I thank the Chair.

Mr. DECONCINI. Mr. President, No. 1, I think we owe a debt of gratitude to the Senator from Arkansas for raising this amendment.

No. 2, I hope that the ranking minority member of the Finance Committee and the chairman of the Finance Committee and the 20 members of the Finance Committee will stand up here today and say, "Hey, we made a mistake." There is nothing wrong in that. I have made plenty of mistakes in this body in the 10 years I have been here.

They should say, "We made a mistake by even suggesting that we are going to grant amnesty to all the criminal element in this country that wants to come forward and pay their taxes."

This is a disgrace, and it may be the Achilles' heel—and I hope it is not—of this tax bill.

The Senator is right, and I hope he pursues it. I hope this body will not raise a point of order, because it would be a disgrace.

□ 1250

Mr. BUMPERS. I thank the Senator very much.

As I looked down the unanimous-consent agreement, I found here what I think is really wonderful.

Stevens—amendment striking various provisions in the bill; Stevens—Endicott project; Stevens—Arco project; Domenici—potash; McConnell—parimutuel betting.

We have parimutuel betting in Arkansas. I would like to know what are the revenue implications of that.

Wilson—child support; Wilson—irrevocable trust elections; Roth—methanol blender.

I would like to raise a point—I think that has already passed—but I would like to raise a point of order on methanol blenders.

So, Mr. President, I hope my good friend from Oregon, the distinguished chairman of this committee and manager of this bill, would not put this body through what could be a wringer by voting on points of order instead of the merits of these amendments.

Mr. PACKWOOD. Mr. President, here is my problem. I talked to the Senator from Arkansas prior to presenting his amendment.

I have no quarrel with his presenting an amendment striking amnesty provisions—it would cost us $200 million if they succeed—and offering a $200 million offset to raise money. I will not raise a point of order on it.

His amendment has two parts: It costs $200 million to take care of his amnesty provision, and $1.4 billion to lower the medical deduction. He pays for the two of them with a $1.6 billion change in the net operating loss carryover rules.

I am not quarreling with him about the merits of his amendment. But if he is in a position to do this when the unanimous-consent order says "Bumpers strike amnesty provisions in the bill," then when we get down to the parimutual amendment that was mentioned by our good friend from Arkansas, the person who offers the parimutual amendment can add a nice big section to it and say, by the way, put back in the sales tax deduction the way it originally existed or put back in the IRA or put back in capital gains.

If the unanimous-consent agreement is going to mean anything, the amendment that you offer must bear some reasonable relation to the agreement. Otherwise, the agreement means nothing.

I suggested to the Senator from Arkansas before he offered it that he take out the provisions relating to the medical deductions and the net operating losses unless he wanted to use a $200 million net operating loss to offset his amnesty provision. He chose not to do that.

So, Mr. President, I wish to pose a parlimentary inquiry if I could.

Mr. BUMPERS. Before the Senator does that, will the Senator yield for a question?

Mr. PACKWOOD. I want to pose the inquiry first. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. Mr. President, the agreement allows Senators to offer amendments and specifies the subject matter of those amendments. Am I correct that this precludes Senators from adding any other significant matter to the amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I am happy to yield for a question.

Mr. BUMPERS. The Senator from Ohio the other evening offered an amendment dealing with foreign real estate sales and he took the savings from his offset and put it exactly where I am putting it here.

Now what relationship is there in medical deductions on a tax return and the money saved from striking foreign investment to real estate sales? Why was a point of order not made here?

Mr. PACKWOOD. My argument is not to the point of where the money is raised. If the Senator from Arkansas wants to have a $200 million offset out of net operating losses to pay for his amnesty provision, that is all right with me. I may argue for or against the provision. All I am saying is this: that amendment is not basically an amnesty amendment. It is basically a net operating loss and medical deduction amendment.

If this can be allowed then none of us are on notice as to anything that may be in any amendment that may be offered under this agreement.

Mr. President, I do raise a point of order that this amendment goes completely beyond the scope of the unanimous-consent agreement because it involves a significant matter unrelated to the agreement.

The PRESIDING OFFICER. The point of order is well taken.

Mr. BUMPERS. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

Mr. PACKWOOD. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PACKWOOD. Is debate in order at this point, Mr. President?

The PRESIDING OFFICER. The appeal is debatable.

The Senator from Missouri is recognized.

Mr. DANFORTH. I thank the Chair.

Mr. President, I would simply like to make one ancillary point to the point of order.

A few days ago a number of Senators offered an amendment to this bill to provide up to 45 rural enterprise zones for America. The point of that amendment was to try to do something to stabilize rural America where there has been this terrible depression where small communities are being boarded up, where people are losing their jobs and they are losing their opportunities for any kind of supplemental income so that they can keep their farms.

We offered an amendment for rural enterprise zones intending at the outset to pull the amendment down but also realizing that any credibility

for any amendment that was presented even for the sake of debate and then to be pulled down had to have a revenue offset.

We found a revenue offset for rural enterprise zones and that was the net operating losses carryback which was then appropriated by the Senator from Arkansas to pay for a $200 million item, namely amnesty.

Now, I have to say that the Senator from Arkansas was kind enough to call me last night and to tell me what he intended to do.

Mr. President, I do not say that I or the other Senators who support rural enterprise zones have a proprietary interest necessarily in a particular revenue source for what we want to do. But it is also true that if we are successful at some future time, and I hope we will be in the very near future, in establishing rural enterprise zones, we are going to have to have some way to pay for them. If there is any amendment, any proposal, any legislative idea that has or should have a good claim on this particular source of revenue, it should be the rural enterprise zone and those who conceived of the idea of paying for this concept by the net operating loss carryback.

So for that reason, I would hope that the Senate would sustain the Chair to try to fix a $200 million problem and I do not dispute it. I am not a great fan of tax amnesty, but to try to fix a $200 million problem by poisoning the water to the tune of $1.6 billion for real changes that offer real hope to rural America I think is wrong.

Mr. PACKWOOD. Mr. President, let me say again I understand the argument that is being made by my good friend from Missouri. Those of us in the West who ever had any practice of water law are familiar with the concept of first appropriation. Whoever got it first gets to use it first.

And that is in essence what the Senator is saying about the money that is here, but that is not exactly my point of order.

My point of order is this: If this kind of an amendment can be offered where we all thought it was going to be a tax amnesty amendment and what it really turns out to be is a tiny bitty part tax amnesty and great big part medical deduction and net operating loss carry forward, then an amendment can be brought in so long as it tangentially talks on the subject of the unanimous-consent agreement and then this whole bill is reopened.

So, Mr. President, I move to lay on the table the appeal of the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. The Chair has sustained the point of order of the Senator from Oregon. Could the Chair state the precedent for that?

The PRESIDING OFFICER. The Chair was interpreting the wording of the unanimous-consent request and agreement——

Mr. BUMPERS. Could the Chair be more enlightening and tell us what the interpretation is?

The PRESIDING OFFICER. If the Senator will permit the Chair to continue—which states that the amendment to be offered by the Senator from Arkansas would strike the amnesty provision from the bill. The amendment goes far beyond that.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1320

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am going to pose a unanimous-consent request to withdraw the motion to table and also to withdraw the appeal of the ruling of the Chair by the Senator from Oregon. I pose that unanimous-consent request now.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. I ask unanimous consent to withdraw the point of order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. Now, Mr. President, we are now back on the amendment of the Senator from Arkansas. I am simply at the moment going to ask unanimous consent that it be set aside without his losing any rights that he may have had under the amendment as it was pending or as offered, to set it aside not just temporarily and come immediately back to it, but to set it aside without his losing any right—there might be other intervening business—and give him the right to modify the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, and I hope I will not have to, I would hope we can dispose of this amendment because we will have a substitute momentarily.

Mr. PACKWOOD. I am sure there will be at least one and perhaps two votes on the amendment, depending on how the first vote goes.

Mr. BUMPERS. A lot of people are here who have planning on leaving at 2:30 or 2:45 this afternoon. My point is I would like to be able to proceed so soon as it is crafted.

Mr. PACKWOOD. I ask unanimous consent that the Senator from Arkansas have the right to offer his amendment, regardless of what other business is pending, at the time his amendment is ready.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object, I understand the Senator from Arkansas wants to leave at what time?

Mr. BUMPERS. I need to leave here by 2:45, but I can always cancel, if I have to.

Mr. KERRY. I do not think anybody wants that.

Mr. BUMPERS. I have made my argument on the issue. The Senator from Montana has not had the chance to make his argument. I would suggest informally that the minute we lay it down the Senator from Montana offer his second-degree amendment and we debate and maybe vote on that and go immediately to a vote on mine, if he does not prevail.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1330

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, while the Senator from Arkansas is redrafting his amendment and the Senator from Montana is working on a substitute to that amendment, as I recall, a unanimous-consent order would be in order now for others who have amendments to proceed to them. Is that correct?

The PRESIDING OFFICER. The unamimous-consent request has not yet been agreed to.

Mr. PACKWOOD. It has not been agreed to?

The PRESIDING OFFICER. That is correct.

Is there objection to the request? Hearing none, it is ordered.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, will the Senator from Oregon yield for a question?

Mr. PACKWOOD. I am happy to yield.

Mr. RUDMAN. Would the Senator from Oregon have any objection to my

proceeding for 1 minute as in morning business?

Mr. PACKWOOD. I would have no objection.

Mr. RUDMAN. Mr. President, I ask unanimous consent that I may be permitted to proceed as if in morning business for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

BARRY WAS HERE

Mr. RUDMAN. Mr. President, last Friday night in New Hampshire, our distinguished and beloved colleague, BARRY GOLDWATER, returned to New Hampshire and received a tumultuous welcome. In the wake of that appearance, the publisher of the Manchester Leader, Nackey Loeb, wrote an editorial in that paper entitled "Barry Was Here." I ask unanimous consent that a copy of that editorial be printed in the RECORD as if read.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BARRY WAS HERE

A familiar figure came back to New Hampshire last week, and was greeted with a standing ovation. On Friday night, Barry Goldwater joined a dozen of his senate colleagues in a fundraiser for U.S. Sen. Warren Rudman.

The cheers that greeted Goldwater were for a man who had served his country over many years, but they were also for much more. Twenty-two years ago, Barry Goldwater told America what it needed to know, but didn't want to hear.

Barry Goldwater looked at the doubters and the who-cares generation and he stood strong. It was a lonely battle. The country wasn't ready then, but he represented the hope ahead. An unashamed flag-waver, always saying what he thought, being proud of the extremism for which he was condemned, he stirred within the young people of this country a spirit that has culminated today in a much stronger and prouder nation.

As this man, now crippled with pain, made his way slowly up to the podium in Manchester's armory last Friday night, we cheered him for what he represents. We may not always agree with him, but we must never forget that he may well have changed the course of our nation.

You are welcome here, Barry. We were glad to see you again.

Mr. RUDMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM ACT OF 1986

The Senate continued with consideration of the bill.

AMENDMENT NO. 2143 AS MODIFIED

Mr. BUMPERS. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Clerk will state the modification.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself, Mr. METZENBAUM, and Mr. MATTINGLY, proposes an amendment number 2134 was modified.

Mr. BUMPERS. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 1659, beginning with line 21, strike out all through page 1661, line 2, and insert in lieu thereof the following:

SEC. 559. LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—For purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose, *Provided, however,* That the number used as such highest rate of tax shall be adjusted, under regulations, so that the revenues generated by this section shall not exceed $200 million during the period of fiscal years 1987–1991.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that?

Mr. BUMPERS. I withhold that.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment offered by the distinguished Senator from Arkansas be temporarily laid aside so my amendment will not be considered as an amendment to his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2144

(Purpose: To exempt the 1950 UMWA pension plan from the survivor annuity requirements of the Retirement Equity Act of 1984)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes amendment No. 2144.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . SPECIAL RULE FOR SECTION 404(c) PLAN.

(a) Section 205 of the ERISA of 1974 is amended by adding thereto a new subsection "(k)" to read as follows:

"(k) The provisions of this section do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(b) Section 401(a)(11) of the Internal Revenue Code of 1954 is amended by adding thereto a new subparagraph "(E)" to read as follows:

"(E) The provisions of this paragraph do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(c) Section 303 of the Retirement Equity Act of 1984 is amended by adding thereto a new subsection "(f)" to read as follows:

"(f) The requirements of this section do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

Mr. BYRD. Mr. President, the United Mine Workers of America 1950 pension plan only covers participants whose last day of credited service for accrual purposes was before January 1, 1976. Thus, the plan was not required to provide a joint and survivor annuity under the Employee Retirement and Income Security Act [ERISA]. Nevertheless, the plan has provided pensions to miners' widows without any reduction to the participant's pension. The Retirement Equity Act of 1984 requires the UMWA 1950 pension plan to provide different benefits to a small group of unidentifiable plan participants. The plan is a flat benefit plan and all participants who qualify for a full pension receive the same benefits. It is not possible to preserve these important features and provide the benefits specified in the Retirement Equity Act to newly retiring participants. Accordingly, the plan should be exempted from the survivor annuity requirements of the Retirement Equity Act, so that UMWA retirees and widows can continue to receive full pensions.

□ 1340

This amendment has been discussed with the able managers of the bill, and

I hope that they are prepared to accept it.

Mr. PACKWOOD. Mr. President, the amendment has been cleared on both sides and we would recommend its approval.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 2144) was agreed to.

Mr. BYRD. Mr. President, I thank both managers. I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be allowed to add the name of my distinguished colleague, Mr. ROCKEFELLER, as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2143, AS MODIFIED

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I am not going to ask unanimous consent but simply make a suggestion to those who are opposed to my amendment by the second-degree amendment, I am finished with my debate on it and I would suggest that those who are opposed to the amendment and who favor the second-degree amendment which is about to be offered but not yet crafted might in the interest of time start debating this whole issue so we can save a little time and perhaps get some Senators out of here.

Mr. PACKWOOD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I thought I would use this time, while the Senator from Montana and the Senator from Arkansas are busy crafting two amendments to at least begin the process of debate on Senator BAUCUS' and my amendment and speak in opposition to the amendment of the Senator from Arkansas.

Now, I have listened very carefully to the Senator from Arkansas, the Senator from New Mexico, and the Senator from Georgia who say that if we have any voluntary disclosure program in this tax bill, we will be sending Americans a message, that it is OK to not pay your taxes, that you can get away with it because at some future point in time you can come forward without the risk of criminal prosecution.

The Senator from Arkansas and I agree on most things and work together on many things. I respect him enormously, and I know that his belief that working people and honest taxpayers will resent this program is absolutely heartfelt and legitimate. He suggested that the worker in a factory whose paycheck is subject to tax withholdings is somehow going to be disadvantaged and feel a sense of unfairness because that person does not have the easy availability of cheating as does another person within our society who might be self-employed or who otherwise has other kinds of opportunities available to him; we will merely be reinforcing that unfairness because that person has paid his taxes while in fact these other people have been able to escape it, then turn around, and come to the Government and have their criminal penalty forgiven. I heard the Senator from New Mexico say it would be a disgrace to send that message.

□ 1350

Mr. President, the message sent to Americans today under the current system is a disgrace. The message we would be sending by approving Senator BUMPER'S amendment would be to endorse the arrest system which is a disgrace, because we do not have a system that is fair today.

Before I talk about that system a minute or two, let me impress upon my colleagues the fact that the Baucus-Kerry proposal is not an amnesty program. I want to say it again: It is not an amnesty program. An amnesty program is a program where you totally forgive all wrongs and eliminate all tax liability completely. This is not what this amendment does.

The amendment will maintain a civil penalty that is stronger than the civil penalty we have today, and it will require payment of interest. It does not eliminate those things. The only thing it does is say that we are not going to impose criminal penalties on taxpayers who voluntarily come into the IRS and say, "I am behind.

People can be tax delinquent for different reasons. People can be behind because of foreclosures, because of problems in their businesses, because of personal setbacks, because of problems of sickness in the family. There are dozens of reasons why we might not want to criminally prosecute somebody who has fallen behind in their tax payments, and there are reasons why we would agree not to penalize them criminally. But they will not walk away scot-free; interest and civil penalties would still apply.

To say that honest taxpayers are going to be betrayed by this process is to ignore what the process does. I think that most people would be far happier knowing that someone who has not paid taxes in years is not only given an incentive to come forward and do so, but also, when he does so, he is paying in spades. They are paying not only the money they have not paid but also are paying a civil penalty on top of that, and they are paying interest.

In the face of a system today where we have so few criminal prosecutions, anyway, and where we have an enormous gap between our ability to collect taxes and the taxes that are owed, how can you turn around to the honest taxpayer and say: "Hey, we're going to let the system stay in place where the guy who is not paying his taxes is going to continue not to pay his taxes, and we're not going to be bothered by the fact that we don't have the resources to find that person"?

Mr. President, this is not an amnesty program. It is a limited voluntary disclosure program. In point of fact, all this program does is codify existing practice. It is precisely what the IRS does today. It is now new.

There is not one instance I know of where the IRS has criminally prosecuted a person who has come forward voluntarily.

All we are doing in this bill is giving visibility the ability to an existing program. We are giving the IRS the ability to go out to the country and advertise the fact that diligent taxpayers can come in to the IRS and make good on past tax bills. Last year, the IRS forgave 4.2 million people and raised $2 billion under their current policy of discretion. Our system has always wanted this way.

Why is this of concern? Why should we take this step in 1986, as we pass a dramatic, new tax bill? I should like to share with my colleagues some figures which are startling and important.

In 1976, the gap in taxes in the United States was about $44 billion—$44 billion that we could not get at, we could not collect. In the last 8 to 10 years, that has risen dramatically to the point where in 1984 it was about $100 billion. This year, IRS figures show that the cost of noncompliance is going to be $106 billion. That means, Mr. President, that more than one-half of the current budget deficit is lost annually because we do such a poor job of collecting taxes from those who try to cheat.

Mr. President, this country has a budget crisis because, each year, even more people chose not to pay what they owe. The IRS is losing ability to enforce the law. In 1964, about 95 percent of taxes owed were actually paid. Over the years, that has declined. Today only 81 percent of Americans are voluntarily paying their taxes. What does that mean? For every loss of 1 percent in voluntary compliance,

we lose $5 billion in revenues to the Federal Government.

Part of the reason for this is that the IRS has been denied the resources it needs to audit, so the audit rate has declined to just 1.6 percent. That reflects a 46-percent decline in corporate audits and a 26-percent decline in individual audits in the past 10 years.

The result of this decline in audits is very simple. It has given rise to a perception among the American people that the tax system is lax and unfair.

The tax system is unfair because people know the other people get away with cheating. It has risen to an epidemic proportion, and the only answer now is to take extraordinary steps to bring people back into the tax payment process.

I respectfully invite the attention of my colleagues to a Daniel Yankovich survey which was conducted for the IRS. That survey showed that one in four Americans believe that less than half of all citizens comply with our tax laws and that a majority of Americans believe that tax cheating is becoming more prevalent. Most disturbing is the finding that 41 percent of the people indicated that they are certain that tax cheaters would not be caught.

In fact, Mr. President, I have to say that I was surprised as I listened to my colleagues say what a terrible message we will send if we assure people who came forward that they will not be prosecuted criminally.

Today, only one out of every 43,000 taxpayers is subject to criminal prosecution. What kind of message is that? What does that fact say about fairness, when the current system tells people that if they decide to cheat on their taxes they stand so little chance of being caught?

I respect the gut feeling of my colleagues that somehow this notion of a voluntary disclosure program is going to hurt the country. I respect that gut feeling. But we have something more to go on than a gut feeling here.

In the last couple of years 18 States have implemented an amnesty program of one kind or another. The experience of those States is what we ought to be talking about as we decide whether or not the Federal Government is going to join them. Amnesty at the State level is a time-tested program, and there are proven results.

Let me point to the State about which I know most—Massachusetts. In 1983, we implemented a one-time amnesty for a period of 3 months.

□ 1400

More than 30,000 amnesty applications were received from delinquent taxpayers from virtually every State in the United States of America and from 12 foreign countries and from people in all walks of life.

In Boston alone over 10,000 people lined up to come in and pay their back taxes. That program was followed immediately with a strong enforcement program which increased penalties, provided new computers to allow us to track taxpayers, and raised the general level of enforcement of our State tax laws.

The result of that experience, Mr. President, was a dramatic increase in our ability to be able to collect taxes.

I keep hearing people say, "To oppose this program because it will hurt our ability to collect taxes," but the experience in the States has been exactly the opposite.

We have seen increased tax collections and an increased respect for the tax system. People see the one-time amnesty, but they also see that a system that was unfair has been made fair. That is what this tax bill is all about, an effort to try to reinstill fairness into the tax structure in this country.

Over a 2-year period in Massachusetts, audit assessments were increased 92 percent. Seizure activity was up 317 percent, and referrals and criminal prosecution, the very thing that we are told an amnesty will defeat, went up 59 percent.

Mr. President, the figures are absolutely at odds with gut feelings. In addition, the overall amnesty and enforcement program in Massachusetts gave us $564 million in new revenues and it has led to a 15-percent increase in revenues after inflation and after economic growth had been taken out.

Opinion polls conducted in Massachusetts to determine if amnesty somehow sends the wrong message totally contradict that notion. Every opinion poll after the amnesty was put in place says that people in the State overwhelmingly supported the program. They understood that we had put back into the system a sense of fairness and a willingness of people to pay. There is an understanding by people that the system is serious about collecting and making people pay.

What we are voting on today does not come close to the Massachusetts program in terms of full amnesty. Again, all it does is codify current practice by which the IRS has the discretion not to prosecute, and it changes that into a mandatory statement they will not prosecute. It does this to entice people into the process and put them on the tax rolls.

Let me share with my colleagues very quickly, before I wind up, a few letters to the Commissioner of Taxation of Massachusetts.

DEAR COMMISSIONER: I read about you today in the Boston Globe and I thought that you might be interested that I have payed all my taxes due for the first time in three years. This has happened as a result of your public relations programs as well as your attitude that the tax enforcement should not project an image similar to the Gestapo which is what the IRS has become. The article also mentioned the Amnesty that you had which I did not avail myself of because, as could be expected, the IRS would use the amnesty list to put people in jail. I have read in the Globe that you are asking President Reagan to have a Federal Amnesty which if you run a concurrent state amnesty I will pay all my unreported back taxes.

Another letter:

DEAR MR. JACKSON: I was recently informed by a friend that you and Governor Dukakis are attempting to get the Federal Government to adopt the tax amnesty project that Massachusetts recently put into operation. Many people, myself included, who wanted to use the amnesty offer did not because their was the strong likelihood of problems with the IRS since they would not grant amnesty like Massachusetts.

If you are successful I will amend my state and federal tax forms for the last three years. And I think that with a combined Federal/State amnesty that many more people will do the same than was true with only the state amnesty.

Another letter:

I am one of those people who owes the Department of Revenue for under reported income but did not make use of the Amnesty Program last year. The reason I did not use it was because I and thousands of others in Massachusetts knew that our names would have to be given to the IRS because of the information swapping agreements between Massachusetts and the Federal Government.

I would very much like to pay what I owe to the Department of Revenue and will if you are successful in getting the IRS to adopt the program that you implemented in Massachusetts and which I understand has been copied in other states. As a self-employed person I know of very few people who own businesses or work for themselves and report all of their income, however, I feel that you and Governor Dukakis are the first to confront this problem headon and I feel that you have only scratched the surface. If the IRS adopts an Amnesty Program I think its safe to say that five times as many people would participate in a Massachusetts Tax Amnesty program if they knew that they could also pay off their back federal taxes without fear of punishment for past indiscretions.

Another letter:

DEAR MR. JACKSON: My lawyer told me that you are trying to get the President to call a tax amnesty just like the one you had in Massachusetts. I hope you can get this done because a lot of people who wanted to be part of the amnesty did not because the Federal tax people would not allow the Massachusetts amnesty to work with Federal taxes.

I would like to pay my taxes for the last few years but I am frightened as to what the Internal Revenue people would do to me. I hope you get them to agree to the amnesty and I think you should go on the radio and in the newspaper to tell people to write to their Senators and Representatives to help you.

Mr. President, again I come back to the most important point here. We keep hearing this somehow sends a message that will defeat current tax collection efforts. Current tax collection efforts are at a miserable level. If they continue to go downward at the

rate they have now, Americans are going to understand that it does not matter what the marginal rate is, it does not matter what we do to close loopholes. Americans will know that no matter what the rate is and no matter what the state of the Tax Code, they will not have to pay because other people are not paying.

Finally, I spent 5 years as a prosecutor. I did not prosecute tax cases. I never have. But I prosecuted murderers, rapists, armed robberies, grand larcenies, organized crimes, and a host of other cases.

I know because I have appeared in front of judges and because I learned it in law school that part of the theory of criminal justice and of the law is that when necessary you use mitigating factors, when necessary leniency is its own tool in the propagation of respect for the law.

This is a classic example where this has happened in State after State. It has happened in New York, Illinois, California, Massachusetts, Wisconsin, Oklahoma, Minnesota, Colorado, Arizona, Alabama, Missouri, Kansas, Idaho, and North Dakota. We have a ream of experience which shows that respect for the law increases.

So I would ask my colleagues to think carefully. This is an important principle. If we vote for what my colleague from Arkansas is asking for we will be offered a choice between doing nothing because we philosophically do not agree with a notion of a partial forgiveness or doing nothing because we are going to leave the current system in place.

(Mrs. KASSEBAUM assumed the Chair.)

Mr. KERRY. I think the worker on any assembly line in this country, any honest taxpaying American who knows others have cheated but now are going to pay would be far happier knowing that a system is finally being put into place to put everybody back on the rolls.

I think the message it sends about fairness and enforcement is far, far stronger than a simple messsage "We don't like it, we are not going to do anything," because doing nothing guarantees a continued decline in enforcement, a continued rise in the revenue gap, and a continued sense of unfairness that people have about the Tax Code.

Thank you, Madam President.

□ 1410

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I appreciate the remarks of the Senator from Massachusetts. Because Senator KERRY is from the State of Massachusetts, he thoroughly understands Massachusetts' experience with a voluntary disclosure program in order to collect back taxes and collect bad debts.

Massachusetts has been a leader in this area. It was one of the first States to enact provisions encouraging citizens who have not paid their back State taxes to come forward and pay. That has happened not only in Massachusetts, but in many States. Many States have enacted voluntary disclosure or amnesty provisions, to encourage their citizens to pay back taxes—the State of California, for example, and the State of Illinois. There are, I think, Madam President, about 18 States in the last several years that have enacted a program of this kind.

Why have they done so? They have done so because back taxes have not been paid by citizens of those States and they have done so because it is a program that works.

Madam President, it works very well. At first there were many naysayers in all these States. The naysayer says, "No, it is a bad idea. It is not fair to the honest taxpayer. It is not fair to have some kind of voluntary disclosure or amnesty provision where you waive prosecution in order to get the deadbeats in. It is not fair to the honest taxpayers who pay their fair taxes."

To the contrary, the fact is, that in all these States public opinion polls show that people like the program. They like it because people have come in and paid up and because, in all these States, the programs have been one-shot programs. They have not gone on forever.

I think we should include the same kind of provision in the Federal Tax Code. I say so because there were $600 billion of uncollected Federal taxes in the last 6 years. At the rate of $100 billion a year, we have accumulated $600 billion of unpaid Federal income taxes and other taxes. These are taxes that are owed to the U.S. Government, but have not been paid—$600 billion. That, Madam President, is many times the annual deficits we have had. We could have a balanced budget if we had collected those back taxes.

The question is: Is there a way to do it, and how? Very essentially, the program is this: First, we have to have sticks—we have carrots, too, and I will outline those—but first we have to have sticks to encourage people to pay their back taxes.

What are those sticks? The sticks are greater penalties. The sticks are more auditors. The present audit rate of Federal tax returns is about 1.3 percent. People are playing the audit lottery. They are hoping they are not going to get audited.

In order to encourage people to come in, we are going to increase the number of auditors, and tell people that there is a greater chance you are going to be audited, so you better come in.

Second, we are telling you that you better pay your taxes because the penalties are substantially increased.

We also have carrots. What is the carrot? The carrot is if you come in and pay all of your back taxes, all of them, and if you pay interest on top of your back taxes—that is the interest that has accumulated because of the amount of the back taxes have not been paid—and if you pay, in addition, civil penalties—which, by the way are very substantial—then the Government agrees to waive criminal prosecution.

Now, Madam President, those civil penalties are very significant, and they have to be paid in order to qualify. For example, the civil penalties included in this bill are 75 percent for tax evasion; that is, 75 percent of your back taxes. Also, the penalty for substantial underreporting is 20 percent. The penalty for not filing a return is 1 percent.

So, what it amounts to is this: If you add up the back taxes that would have to be paid, plus the interest, which compounds, plus the penalties, that taxpayer has to pay twice his back taxes. That is what it all adds up to. And if he does so, and if he has not been notified that he is under investigation, then he is entitled to a waiver.

Madam President, this has been labeled as an amnesty provision. This is not amnesty.

What is amnesty? Amnesty is pardon; forgiveness. The provision in this bill provides that a taxpayer is not excused of this liability to pay back taxes. He has to pay all of his back taxes.

Second, the taxpayer has to pay interest on all the back taxes. That is compounded, and adds up, over a period of time, to be very substantial.

Third, the taxpayer has to pay the civil penalties. That is very significant. It almost has the effect of doubling the amount of back taxes.

There is no amnesty here. It is a voluntary disclosure program where, if you come in voluntarily and disclose, and you pay everything you owe, then Uncle Sam will waive criminal prosecution.

Madam President, this is very important for another reason. Recent polls show that one out of five Americns admit to cheating on their income taxes—one out of five. There are about 100 million taxpayers. So there are 20 million Americans out there who admit they have not paid approximately $100 billion on a yearly basis.

We should bring them back into the system on the condition that they pay their back taxes, pay interest, and pay their civil penalty. If so, they will not be prosecuted.

I think, as a practical matter, this is what is happening: A lot of Americans have not paid their back taxes because of the complexity of the code. The

code has become so complex in the last couple of years that Americans think, by gosh, with all the loopholes in the Tax Code, the other guy is not paying his fair share, so Americans rationalize a little bit and say, "I will pay my fair share, but I will fudge a little."

The fact is a lot of Americans rationalize that fudging, rationalize underreporting, rationalize overdeducting, and have not been paying their share and now they are caught because they know they are felons and have not been living up to the tax laws.

I suggest that with the one-shot voluntary disclosure provision, because of the amendment I am going to offer now, that those Americans will want to come in. They will not be afforded the opportunity again, but at least they have the opportunity now. Because they know, if they do not come in now, with the increased auditors and increased penalties, Uncle Sam has a much better chance of getting them.

Madam President, I would be the first to admit that the voluntary disclosure provisions of the bill, although they are very good, are not perfect. To that end I have an amendment which I will send to the desk. Let me just briefly outline what this amendment is.

This amendment tightens up the voluntary disclosure provisions of the bill, to clarify several points that we originally intended to leave to the drafters of the implementing regulations, but now will add to the statute. Let me explain the changes.

First, the amendment requires that in order for a taxpayer to qualify for the voluntary disclosure provision, the taxpayer has to report the source of the income. The point is to address the potential case where a drug dealer comes in and he pays all the penalties, and so forth, but the criminal prosecution of the tax provision only is waived. Well, in order to make sure that the drug dealer could still be prosecuted under all the drug laws, we require, under this amendment, that the source of the income must be specifically indicated in order to even potentially qualify for voluntary disclosure.

Second, income from illegal activity does not qualify; that is, if a taxpayer has income from illegal activity, he is not entitled to the voluntary disclosure provisions of the bill.

Third, obviously, no fraud is allowed. I think that goes without saying. If a taxpayer comes in and falsely represents a source of income and attempts to get voluntary disclosure, it could then be revoked.

In addition, there is a 2-year sunset provision. That makes sure that this is a temporary program. It sunsets after 2 years in order to get the bulk of American taxpayers who have not paid back taxes. This, I think, fits in very nicely, Madam President, with the tax reform bill, which is a tax simplification bill.

Overall, this tax reform bill will increase Americans' confidence in the code. They will be less likely to rationalize, to fudge, to shave, to cut corners, because they know, if we pass this tax simplification bill, that everybody is more likely paying their fair share of taxes.

So I think it is part and parcel of tax reform.

There are a couple of other tightening provisions. But essentially that is what it is.

AMENDMENT NO. 2145 TO AMENDMENT NO. 2143 AS MODIFIED

Madam President, I now send the amendment to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2145 to amendment numbered 2143.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 559. VOLUNTARY DISCLOSURE POLICY.

(a) IN GENERAL.—Except as provided in subsection (b), in the case of any violation of any tax law for any taxable period, the taxpayer shall not be liable for any Federal criminal penalty relating to tax administration under section 6103(b)(4) of the Internal Revenue Code of 1954 with respect to such violation if full disclosure of such violation, and the source of the income with respect to such violation, is made to the Secretary of the Treasury or his designee before notice of an inquiry or investigation into the taxpayer's tax affairs is given to the taxpayer (or a related party) by the Internal Revenue Service, any other law enforcement agency, or any tax administration agency.

(b) SPECIFIC EXCEPTIONS.—Subsection (a) shall not apply to any violation—

(1) of the National Firearms Act,

(2) related to income resulting from an action that is a violation of Federal, State, or local law (other than tax law), or

(3) with respect to which the taxpayer made any representation pursuant to an application for relief under this section which is false or fraudulent in an material respect.

(c) REGULATIONS TO IMPLEMENT POLICY.—Subsection (a) shall take effect upon the issuance by the Secretary of the Treasury or his delegate of such regulations as may be necessary or appropriate to carry out the purposes of such subsection. Such regulations shall be issued no later than January 1, 1987, and may provide that subsection (a) not apply to certain categories of persons. Subsection (a) shall not apply after the date which is 2 years after the date of the issuance of such regulations. In no event shall subsection (a) apply unless section 9505 of the Internal Revenue Code is in effect.

(d) REGULATIONS TO IMPLEMENT POLICY.—Subsection (a) shall take effect upon the issuance by the Secretary of the Treasury or his delegate of such regulations as may be necessary or appropriate to carry out the purposes of such subsection. Such regulations shall be issued no later than January 1, 1987, and may provide that subsection (a) not apply to certain categories of persons.

(e) PUBLICITY CAMPAIGN FOR VOLUNTARY DISCLOSURE POLICY, ETC.—

(1) IN GENERAL.—The Secretary of the Treasury shall supplement existing taxpayer service programs with a comprehensive publicity campaign concerning the provisions of subsection (a) and a public relations program to restore public confidence in the Federal tax system.

(2) PUBLICITY CAMPAIGN TECHNIQUES.—The publicity campaign shall include public press releases, annual notices to taxpayers, and notices in Internal Revenue Service publications for general public usage.

Mr. BUMPERS. Madam President, I yield to the majority leader.

Mr. DOLE. Madam President, I think we are going to have a vote here momentarily. We are going to try to restrict that vote to a 15-minute vote. If there is a second vote, it will follow immediately, and after these two votes, I think there will be no further rollcall votes today. We would like to do more business today.

Mr. BUMPERS. Madam President, I yield to the Senator from Montana for an additional comment without losing my right to the floor.

Mr. BAUCUS. Madam President, the essential thrust of this amendment is to tighten up the existing voluntary disclosure in the law today, as well as tighten up the voluntary disclosure provisions in the bill. There is a voluntary disclosure policy in effect today. The IRS practices the very same provisions that we are addressing both in the bill and by my amendment. My amendment tightens up present practice, because it sunsets it.

There is an involuntary IRS voluntary disclosure program right now. We tighten it up by sunsetting. We also tighten it up by requiring the taxpayer to report the source of the income. We also tighten it up because we say if a taxpayer engages in fraudulent information and tries to qualify, the waiver no longer applies.

There are other tightening provisions which we do not have time to enumerate here. But the thrust of this amendment is to tighten up the voluntary disclosure provisions that already exist as IRS policy today and tighten up the voluntary disclosure provisions that are in the bill.

Mr. BRADLEY. Mr. President, I will not oppose the amendment offered by the Senator from Montana, Mr. BAUCUS. I am pleased that he has modified his amendment, at my suggestion, to tighten the scope and duration of voluntary disclosure. As modified, the amendment would make implementation of voluntary disclosure and immunity from criminal penalties contingent upon appropriation of an

additional $200 million for IRS enforcement activities. It would also make the provision inapplicable to income from illegal sources and limit immunity from criminal penalties to a 2-year period. These modifications make it more likely that the voluntary disclosure provision will achieve its stated objective of fostering compliance with our tax laws. It is only because the Senator has accepted these tightening modifications that I will not oppose it. The amendment makes a bad amendment less bad.

Notwithstanding these improvements, the concept of immunity from criminal penalties is very troubling to me. I have always opposed Federal tax amnesty proposals because I believe they undermine people's respect for the integrity of our tax laws. Amnesty sends the wrong message to the vast majority of taxpayers who voluntarily comply. Accordingly, it would not distress me if the amendment to strike the voluntary disclosure provisions were to prevail. If it does not, I would hope that the conferees would not include any form of tax amnesty in the conference report.

Mr. BUMPERS. Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas to lay on the table the amendment of the Senator from Montana. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Texas [Mr. GRAMM], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. HECHT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Nevada [Mr. LAXALT], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. SYMMS], the Senator from Wyoming [Mr. WALLOP], and the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Vermont [Mr. LEAHY] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote nay.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 41, as follows:

[Rollcall Vote No. 144 Leg.]

YEAS—41

Abdnor	Exon	Metzenbaum
Armstrong	Ford	Pressler
Bumpers	Glenn	Proxmire
Byrd	Grassley	Pryor
Chiles	Harkin	Quayle
Cochran	Hart	Rockefeller
Cohen	Heinz	Rudman
Danforth	Helms	Sarbanes
DeConcini	Hollings	Sasser
Dodd	Inouye	Simon
Dole	Levin	Specter
Durenberger	Lugar	Wilson
Eagleton	Mattingly	Zorinsky
East	McConnell	

NAYS—41

Andrews	Hatch	Nickles
Baucus	Hatfield	Nunn
Biden	Heflin	Packwood
Bingaman	Johnston	Pell
Boren	Kassebaum	Riegle
Boschwitz	Kasten	Roth
Bradley	Kennedy	Simpson
Burdick	Kerry	Stafford
D'Amato	Long	Stennis
Denton	Mathias	Stevens
Domenici	Matsunaga	Thurmond
Evans	Melcher	Trible
Gore	Mitchell	Warner
Gorton	Moynihan	

NOT VOTING—18

Bentsen	Gramm	Leahy
Chafee	Hawkins	McClure
Cranston	Hecht	Murkowski
Dixon	Humphrey	Symms
Garn	Lautenberg	Wallop
Goldwater	Laxalt	Weicker

So the motion to table amendment No. 2145 was rejected.

□ 1440

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Madam President, I was not in the previous discussion, but let me say the Baucus amendment is basically the committee position. The Baucus proposal merely codifies what we believe, that someone seeking such amnesty as the law provides should not have his case decided on a case-by-case basis. There ought to be some language in the law so he can see what his position is. That is basically what the Baucus amendment does. I think we ought to agree to the Baucus amendment.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Since the motion to table was defeated and the Baucus amendment is an amendment to strike and insert the following language and the intent of the Bumpers amendment is to strike the tax amnesty provision in the bill, now the vote recurs on the Bumpers amendment. Is the effect of that to strike both the tax amnesty provision in the bill and the modification of the Senator from Montana?

□ 1450

The PRESIDING OFFICER. The second-degree amendment of the Senator from Montana has not been agreed to yet. The effect of it would be to reinsert the committee's position.

Mr. BUMPERS. I am sorry, Madam President; I did not understand that.

The PRESIDING OFFICER. The Baucus amendment with its modifications reinserts the committee's position.

Mr. BUMPERS. If the Baucus amendment is agreed to, then would the Bumpers amendment on the next vote simply strike the Baucus amendment as well as the language of the bill?

The PRESIDING OFFICER. The language of the Baucus amendment would replace the language of the Bumpers amendment.

Mr. BUMPERS. So that if his amendment is adopted and the Bumpers amendment is adopted, then we have tax amnesty as modified by the Baucus amendment?

The PRESIDING OFFICER. Yes. The Senator is correct.

Mr. PACKWOOD. Yeas and nays.

The PRESIDING OFFICER. The question is now on agreeing to the amendment of the Senator from Montana, the Baucus amendment.

Mr. DOLE. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Utah [Mr. GARN], the Senator from Texas [Mr. GRAMM], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. HECHT], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Idaho [Mr. MCCLURE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Idaho [Mr. SYMMS], the Senator from Wyoming [Mr. WALLOP], and the Senator from Connecticut [Mr. WEICKER], are necessarily absent.

Mr. BYRD. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Florida [Mr. CHILES], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Vermont [Mr. LEAHY], are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "yea."

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 40, nays 43, as follows:

[Rollcall Vote No. 145 Leg.]

YEAS—40

Andrews	Gorton	Nickles
Baucus	Grassley	Nunn
Biden	Hatfield	Packwood
Bingaman	Heflin	Pell
Boren	Johnston	Roth
Boschwitz	Kassebaum	Simpson
Bradley	Kasten	Stafford
Burdick	Kennedy	Stennis
D'Amato	Kerry	Stevens
Denton	Long	Thurmond
Domenici	Matsunaga	Trible
Evans	Melcher	Warner
Goldwater	Mitchell	
Gore	Moynihan	

NAYS—43

Abdnor	Glenn	Pressler
Armstrong	Harkin	Proxmire
Bumpers	Hart	Pryor
Byrd	Hatch	Quayle
Cochran	Heinz	Riegle
Cohen	Helms	Rockefeller
Danforth	Hollings	Rudman
DeConcini	Inouye	Sarbanes
Dodd	Laxalt	Sasser
Dole	Levin	Simon
Durenberger	Lugar	Specter
Eagleton	Mathias	Wilson
East	Mattingly	Zorinsky
Exon	McConnell	
Ford	Metzenbaum	

NOT VOTING—17

Bentsen	Gramm	McClure
Chafee	Hawkins	Murkowski
Chiles	Hecht	Symms
Cranston	Humphrey	Wallop
Dixon	Lautenberg	Weicker
Garn	Leahy	

So the amendment (No. 2145) was rejected.

□ 1510

AMENDMENT NO. 2143

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Arkansas [Mr. BUMPERS], the Senator from Georgia [Mr. MATTINGLY], and the Senator from Ohio [Mr. METZENBAUM].

The amendment (No. 2143) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2146

(Purpose: To clarify the provisions of the Tax Reform Act of 1984 relating to obligations directly or indirectly guaranteed by the Federal Government)

Mr. GORE. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

Mr. DOLE. Mr. President, will the Senator from Tennessee yield?

Mr. GORE. I am delighted to yield.

Mr. DOLE. Mr. President, let me indicate there will be no more rollcall votes, but the managers would like to dispose of 20 to 30 of the amendments yet this afternoon.

So I urge my colleagues to stick around if you have amendments to be disposed of by voice vote.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Tennessee.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. GORE] proposes an amendment numbered 2146.

Mr. GORE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2710, line 22, strike out "or".

On page 2711, line 11, strike out the period and insert in lieu thereof a comma and "or".

On page 2711, between lines 11 and 12, insert the following new subparagraph:

(D) if—

(i) such facility is a thermal transfer facility,

(ii) is to be built and operated by the Elk Regional Resource Authority, and

(iii) is to be on land leased from the United States Air Force at Arnold Engineering Development Center near Tullahoma, Tennessee.

On page 2712, between lines 2 and 3, insert the following new subparagraph:

(D) In the case of a solid waste disposal facility described in paragraph (2)(D), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $25,000,000.

Mr. GORE. Mr. President, this amendment has been accepted by the manager of the bill and the ranking minority member.

Mr. LONG. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Chair cannot hear and the Members cannot hear.

Mr. GORE. Mr. President, I will not belabor this. It has been accepted by the chairman of the committee and the ranking minority member. If I could explain it just briefly, it is a technical amendment, not a transition amendment. There are five counties in southern middle Tennessee that have been trying for 8 years to put together one of these facilities that burns solid waste to create steam, and one of the customers for the steam is an Air Force facility. It is not a take-or-pay contract. It is a normal contract of the kind that they are entering into in these kinds of facilities all over the country.

But there is a danger, according to their bond counsel, that this formal contract could be construed as a Government guarantee of the kind that would prevent them from getting the favorable tax treatment on their bonds the same as all other such facilities get.

Everybody who has looked at it on the committee agrees that it is technical in nature, it is designed to clarify what the intent of the law really is to begin with, the 1984 law, and as a result I would ask my colleagues to approve it.

Mr. LONG. Mr. President, will the Senator yield?

Mr. GORE. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, I personally favor the amendment and I am sure the chairman of the committee favors the amendment. I think this is one that, when it comes to the vote, he will have the majority of the vote for it.

There is an absent Senator who apparently opposes the amendment and is not here at this point. On his behalf I have to insist that this amendment go over. If he wants a vote on it then we can vote on it Tuesday. At any rate, I would be glad to give the Senator the name of the Senator and what the problem is. But since that Senator is not here and he is absent and would oppose the amendment, I have no choice but to ask the Senator that he hold the amendment over and bring it up at a time when we can have a rollcall vote on it if need be.

I assure him I will vote for his amendment.

Mr. PACKWOOD. Mr. President, let me indicate what is happening to the Senator from Tennessee. We are taking no transitional rules. One of the Senators out here thinks this is a transitional rule. We did not think it is. If he were here, he wants to argue it is a transitional.

Because I indicated any Senator who thought something was a transition rule, I will hold it over.

I did not have a chance to tell the Senator that. I just found out about this in the last 3 or 4 minutes.

Mr. GORE. Mr. President, I ask unanimous consent that the vote on this amendment be deferred until a point prior to the passage of the bill Monday or Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRASSLEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2147

(Purpose: To amend the Internal Revenue Code of 1954 to provide tax-exempt status for organizations which assist in introducing into public use technology developed by qualified organizations)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 2147.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2207, before line 14, insert the following new subsection:

(e) TAX-EXEMPT STATUS FOR ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

(1) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended—

(A) by redesignating subsection (m) as subsection (n), and

(B) by inserting after subsection (1) the following new subsection:

"(m) ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if such organization—

"(A) is organized and operated exclusively—

"(1) to provide for (directly or by arranging for and supervising the performance by independent contractors)—

"(I) reviewing technology disclosures from qualified organizations,

"(II) obtaining protection for such technology through patents, copyrights, or other means, and

"(III) licensing, sale, or other exploitation of such technology,

"(ii) to distribute the income therefrom, after payment of expenses and other amounts agreed upon with originating qualified organizations, to such qualified organizations, and

"(iii) to make research grants to such qualified organizations,

"(B) regularly provides the services and research grants described in subparagraph (A) exclusively to 1 or more qualified organizations, except that research grants may be made to such qualified organizations through an organization which is controlled by 1 or more organizations each of which—

"(i) is an organization described in subsection (c)(3) or the income of which is excluded from taxation under section 115, and

"(ii) may be a recipient of the services or research grants described in subparagraph (A), and

"(C) derives at least 80 percent of its gross revenues from providing services to qualified organizations located in the same state as the state in which such organization has its principal office; and was incorporated on July 20, 1981.

"(2) QUALIFIED ORGANIZATIONS.—For purposes of this subsection, the term 'qualified organization' has the same meaning given to such term by section 30(e)(6)."

On page 2207, line 14, strike out "(e)" and insert in lieu thereof "(f)".

□ 1520

Mr. GORTON. Mr. President, this amendment will clarify the tax status of a nonprofit organization that assists in taking technology out of university laboratories and transferring it to industry and commerce. Clarifying the tax status of this organization will encourage and stimulate the transfer of technology so that the economy and the public will have the benefits to be derived from new products.

The need for practical transfer of research results to the marketplace appears to be greater than ever. The President's Commission on Industrial Competitiveness has warned that the United States is losing its ability to compete in world markets. The Commission's 1985 report notes that the United States had lost world market share in 7 out of 10 high-technology sectors.

Although foreign trade barriers have contributed to this decline, the commission stated that a basic problem is the failure of American high technology companies to translate new technology consistently into competitive products. The Commission also noted that the United States has failed to provide its own technologies to manufacturing. Robotics, automation, and statistical quality control were all first developed in the United States, but in recent years, they have been more effectively applied in other countries.

The Subcommittee on Science, Technology, and Space held hearings on technology transfer last year. During the course of those hearings, we learned of the development of new institutions aimed at bringing technology out of the laboratory. Cooperative service organizations represent one such promising new institution. These privately funded nonprofit organizations form a necesary link in the process of effectively bringing technology out of our Nation's laboratories by identifying and commercializing new technology. They license new technologies, help form startup companies, and assist in establishing research and development partnerships.

A recent Tax Court decision, however, threatens to cut off this innovative mechanism for promoting technology transfer in my home State of Washington. This amendment takes a step toward improving our Nation's ability to transfer technology by clarifying the status of a privately-funded nonprofit organization working with the University of Washington. This clarification will promote the development of this cooperative service organization, and help ensure that our Nation remains on the cutting edge of technological change.

It is as narrow as it is, Mr. President, because of certain concerns on the part of the distinguished Senator from Connecticut, Senator WEICKER. It has been checked with the majority staff and with the minority staff and has been, I believe, approved by both.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the reason I asked for a temporary delay is that I had a mistaken impression of what the revenue impact was. I was wrong. I have no objection to the amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. BRADLEY. Mr. President, as I understand it, this amendment overrules a Tax Court case that said that this entity could be tax exempt.

Mr. GORTON. The Senator is correct.

Mr. BRADLEY. And that this would allow them to be tax exempt and engage in the marketing of patents.

Mr. GORTON. Yes; the Senator is correct.

All of the profits from the foundation will go to the University of Washington which is, of course, a tax-exempt organization itself, or to scholarships and fellowships for that or other universities.

Mr. BRADLEY. Does this apply to any other university, other than the University of Washington?

Mr. GORTON. It does not, I tell my colleague from New Jersey, because of concerns about a generic bill which this Senator introduced, which would have general applicability, concerns expressed by the Senator from Connecticut, who wanted hearings on that bill before it was generally applicable.

Mr. BRADLEY. So, to your knowledge, no other university is able to market their patents as a tax-exempt entity?

Mr. GORTON. That is not quite correct. When this organization or foundation was put together, it had only very slight differences, as I understand it, from a number of similar foundations which are engaged in this kind of efforts which are tax-exempt.

Mr. BRADLEY. So, to your knowledge, no other university uses a 501(c)3 to market patents?

Mr. GORTON. I believe so.

The PRESIDING OFFICER. Is there further discussion on this amendment?

Mr. BRADLEY. One last question. Do you know what the revenue impact of this amendment is?

Mr. GORTON. As far as I know, I would tell my colleague, it is minimal or would almost be nonexistent, but the organization could not exist without it.

The PRESIDING OFFICER. Is there further discussion on the amendment? If not, the discussion is on agreeing to the amendment.

The amendment (No. 2147) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, we are calling Members on this side to encourage them to come to the floor. I hope that the managers can dispose of another 8 or 10, or more, amendments. I have a feeling that, come Tuesday, about 3 o'clock, about 50 Members who did not show up today or will not show up on Monday will be demanding time to debate their amendments and we could extend that final passage from 4 o'clock. It could be midnight on Tuesday.

I know that there are a number of our colleagues who cannot be here beyond 6 p.m. on Tuesday. So I hope that those who are really serious about their amendments will come to the floor this afternoon and cooperate with the manager. If there are yeas and nays ordered, the votes on the amendment will be postponed until early Tuesday morning.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1530

Mr. GORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2146

Mr. GORE. Mr. President, I have an amendment that was previously sent to the desk, and I am informed that the Senator who was absent and had raised a question about it has now signed off on it. I do not think anything else needs to be said about it. But I ask for a vote on it, not a record vote unless somebody else wants one. I ask that we just go ahead and agree to it at this point.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, the Senator is correct. As far as I am concerned, I am ready to have a vote.

Mr. PACKWOOD. I agree. It has been cleared. That is fine with me, Mr. President.

Mr. GORE. This amendment which my colleague, the senior Senator from Tennessee, and I are offering will enable five Tennessee counties to receive tax exempt bonds to build a thermal transfer facility on property leased from the U.S. Air Force near Tullahoma, TN. The purpose of this amendment is to clarify that the contract which this facility will have with the Air Force for steam produced at the facility does not constitute a Federal guarantee under section 103(h) of the Internal Revenue Code of 1984.

Five counties in middle Tennessee, Bedford, Coffee, Lincoln, Franklin, Lincoln, and Moore, have formed the Elk Resource Authority to build and operate this facility. Officials from these counties are to be congratulated for having developed an innovative solution to solid waste disposal with this project, and we are grateful for the opportunity to help make it a reality.

I want to emphasize that this amendment is not a transition rule, and it has been cleared by all interested parties. My colleague from Tennessee and I deeply appreciate the willingness of the chairman, the ranking minority member of the Finance Committee, the Senator from Ohio, and other interested parties to accept this technical amendment.

Mr. SASSER. The amendment that my colleague from Tennessee and I are offering makes technical corrections in the committee bill which affect a significant project in Tennessee. We are not offering a transitional rule amendment. Our amendment has therefore been cleared by all interested parties, including the Senator from Ohio.

Our amendment deals with a thermal transfer facility. Local officials in five Tennessee counties joined together to form the Elk Resource Authority. These officials from Bedford, Coffee, Lincoln, Franklin, and Moore Counties banded together on this important project which will benefit their area.

The purpose of the Elk Resource Authority is to build and operate a thermal transfer facility on property leased from the U.S. Air Force at Arnold Engineering Development Center near Tullahoma, TN. This facility will produce steam for purchase by the Air Force at Arnold.

This project is particularly attractive as it produces steam in an effective and environmentally sound manner. Solid waste is brought to the facility from throughout the region. This waste is then disposed of and in the process, energy is recovered in the form of steam. This steam will then be sold to the Air Force for its energy needs.

This environmentally attractive project is dependent upon tax exempt financing to become a reality. Local government officials have expressed concern to me that this tax reform bill threatens the availability of this needed financing. My colleague and I share their concern and offer our amendment to ensure that this very worthy project can go forward.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2146) was agreed to.

Mr. GORE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1540

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2148

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. DOLE, proposes an amendment numbered 2148.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1515, between lines 21 and 22, insert:

(16) CERTAIN TRUCKS.—The amendments made by section 271 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985.

On page 1509, between lines 21 and 22 insert:

Paragraph (5) of section 202(d) is amended by adding at the end thereof new subparagraph (o) as follows—

(o) A project is described in this paragraph if—

(i) a commitment letter was entered into with a financial institution on January 23, 1986 for the financing of the project,

(ii) the project involves inter-city communication links (including microwave and fiber optics communications systems and related property),

(iii) the project consists of communications links between—

(a) Omaha, Nebraska and Council Bluffs, Iowa,

(b) Waterloo, Iowa and Sioux City, Iowa,

(c) Davenport, Iowa and Springfield, Illinois, and

(iv) the estimated cost of such project is approximately $13,000,000.

Mr. GRASSLEY. Mr. President, this amendment deals with two instances that the committee meant to include in the original bill that were inadvertently left out. If there is any further clarification which needs to be done, I will ask the chairman of the committee to do that. I ask for the consideration of these amendments at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the amendment of the Senator from Iowa has two parts, one relating to a company called Teleconnect.

We thought in the drafting of the bill that Teleconnect was covered in the transition of the bill because we covered a larger company, of which we thought Teleconnect was a part. I think it is a technical drafting error, why Teleconnect was not covered.

The other involved Ruan Trucking. At about 9 o'clcock at night on the night we were drafting the bill, we received final information and intended that Ruan be in the bill. The bill was filed at noon the next day and it was not. Someplace between our committee and the joint committee which was doing the final costing it was dropped out.

Mr. President, I have no other explanation for it but that. It was our intention that it be in.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is——

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I report there is a strong objection on this side to the amendment. Therefore, I object. I have to suggest that the Senator withdraw it until a certain Senator can be consulted in terms of his personally coming to the floor, or until he removes his objection.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1610

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I say to the chairman of the Finance Committee, Senator PACKWOOD, that I believe the Finance Committee made important and commendable reforms in the area of international taxation. But I do want to clarify a few points concerning international banking.

To limit potential abuses, the committee defined "bona fide" banking in the international context. A bona fide bank is defined as one which regularly and continually conducts with unrelated parties at least one of several traditonal banking activities, such as taking deposits from the public, making loans to the public, and so on. It also must do so on a "substantial" basis. Although the "substantial" test is drafted in a complex manner, I assume it is obvious that the committee did not intend it to undercut the definition I just described. Thus, for example, a bank the liabilities of which consist substantially of deposits from the public will not be disqualified if some of its assets are not loans to the public, so long as it does regularly and continually make loans to the public. Similarly, a bank the significant majority of the income of which is derived from loans to the public will not be disqualified because it has substantial shareholder equity, so long as it actively, regularly and continually solicits deposits from the public.

Mr. PACKWOOD. The Senator is correct.

Mr. MOYNIHAN. Am I also correct that the term "public" for this purpose means unrelated individuals, corporations, governments, banks, and other entities?

Mr. PACKWOOD. Yes, the Senator is correct, assuming, of course, that he is talking about broad multiple public dealings, rather than a single or limited number of dealings with unrelated entities.

Mr. MOYNIHAN. I thank the chairman.

I would also like to ask about the committee report on bona fide banking. The report states that loans will not be treated as loans if they are negotiated by another. I understand this was meant to prevent passive buying of receivables and so on. I assume it was not meant to preclude bank-to-bank participations entered into in the normal course of business. Participations are a prevalent form of lending in both domestic and international banking. They occur when a lead bank "lays off" a portion of a large loan to a group of participating banks. The participating banks investigate, independent of the lead bank, the credit of the borrower, and are fully subject to the credit risk presented by the borrower. They typically are not guaranteed in any way by the lead bank. This is one of the few ways large credit facilities can be put together, and it prudently reduces the exposure of any one bank.

Mr. PACKWOOD. The Senator is correct. The committee report language was not intended to preclude bank-to-bank participations where the participating bank is in fact at risk with regard to the borrower and performs other traditional banking activities, such as investigating the credit of the borrowers, in connection with the transactions.

Mr. MOYNIHAN. I thank the chairman.

My final question relates to the third test of bona fide banking, which involves the international capital markets. The proposed statutory language refers to underwriters of initial issues and brokers. I assume that an active dealer in securities in the secondary market, who purchases debt obligations for public resale and distribution in the international capital markets, also meets this test?

Mr. PACKWOOD. The Senator is correct.

Mr. MOYNIHAN. I thank the chairman.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1620

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that I might proceed for 90 seconds as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALAN EMORY'S PHILIPPINES COVERAGE

Mr. MOYNIHAN. Mr. President, in addition to its distinction as one of the Nation's finest regional newspapers, the Watertown Daily Times also employs as its Washington correspondent the respected dean of the New York press corps, Alan Emory. On occasion, Mr. Emory is dispatched to distant places to bring home to his readers, and they are far and wide in New York, not only in northern New York, his own unique perspective on world affairs. Such was the case recently when Mr. Emory visited the Philippines to interview President Corazon Aquino and other members of the new government there. The result was an

insightful series of articles. For the benefit of my colleagues and students across the country who received the CONGRESSIONAL RECORD in libraries and who will not have had access to the original series, I ask unanimous consent that the articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

AQUINO'S IN CHARGE

(By Alan Emory)

MANILA.—The first time she experienced her new-found power, President Corazon C. Aquino says, is when she visited Camp Aguinaldo, the military headquarters here, where her husband, assassinated Sen. Benigno Aquino, had been imprisoned.

It was, she said in a 45-minute interview at the Malacanang Palace Guest House, "a very nervous experience. There was always a moment of fear."

Previously she had pleaded with authorities there, unsuccessfully, to release her husband, but now things had "really changed. It was a 180-degree turn.

"Here I come with my military escort. All the generals are there, just waiting. For the first time I felt I was really president."

"I guess I'm not a traditional politician," she confessed with a smile. "If my husband were here you would be facing a man really enjoying the presidency."

However, there is a growing feeling in Manila that Mrs. Aquino is settling into her new job, politician or no.

The interview took place in a room with white walls, flags and a silk emblem of the Philippine presidency, a carved wooden archway and red patterned oriental rugs.

Mrs. Aquino, wearing a white dress with a diagonal pattern on top, no jewelry except for small earrings and a watch, settled down on a brocaded bench surrounded by large oriental vases on the floor.

She smiled frequently and answered many questions with her arms crossed.

She was, she says, given her new role "for a special reason. I have to refer to myself now as a politician, but not a traditional politician."

She says she is grateful for the opportunity, but that it is not a question of liking it. When she accepted the draft to oppose Ferdinand E. Marcos, she adds, "I made up my mind to do the best to win. When I assumed office I committed myself to doing a good job.

"I am a very private person. I loved my privacy, and I have lost that. I have lost my freedom."

Her older children, she confesses, are "not too happy" about her being president because "they have lost their privacy, too."

When President Reagan telephoned her last week—the first call he had made since the late February take-over—it was 11:30 at night Manila time. Mrs. Aquino had been watching television and, she says, a daughter was around, so being up late was no problem.

About the only time she seemed to bridle a bit was when she was asked if she were really in charge. "Ask the cabinet ministers," she replied stiffly.

She readily concedes there are differences within the cabinet, but she says, "This is what democracy is all about, unless it hampers the presidency. We were all in this together. We will have to answer to the people."

Mrs. Aquino, a Catholic, describes herself as "a deeply religious person," and she says religion has played an important role in her rise to the presidency.

When it comes to the question of the Filipino population, she acknowledges that her husband, as a provincial governor, tried to limit the population, but she says she herself has no policy to deal with "the population explosion."

She wants to encourage urban dwellers to travel to less populated rural areas and to boost small business.

"None of us ever thought the February revolution would happen," she says, reflectively, round tinted glasses shading her eyes.

She made frequent gestures with her hand in describing the Filipinos as "a peaceful people."

She wants to keep her options open on the American bases at Clark Airfield and Subic Bay, a naval installation. The revenue they generate is important, she concedes, but "many things are important, and I will answer when the time comes" to make a decision on the renewal of their lease in 1991.

Mrs. Aquino acknowledges that she has no political party base, but she links her popularity to keeping "in close touch with the people." She will visit the provinces, and, she says, "I am here because of the people. While I still have popularity I plan to continue a dialogue with the Philippine people."

She confesses her government is still not prepared to carry out any major economic program, but she looks at a project of former President Ramon Magsaysay installing artesian wells around the country.

"He was remembered for that," she says, and she is considering a "Cory Aquino Project" to improve the water situation that would not involve a large amount of money and could be done "quite easily," with private sector involvement.

Mrs. Aquino says, with obvious satisfaction, that she has been "able to awake large numbers of private sector enthusiasts, and I don't want to let that go. I want to sustain this new-found commitment."

ENRILE NEARLY HANDED COUNTRY "ON A SILVER PLATTER"

(By Alan Emory)

MANILA.—Butter wouldn't melt in Juan Ponce Enrile's mouth. But it might freeze.

The man who finds "no problem at all" in switching from defense minister under deposed Philippine President Ferdinand E. Marcos to defense minister under President Corazon C. Aquino appears cold, calculating, almost arrogant.

To suggestions that he is biding his time to seize power he replies, matter-of-factly, "If I wanted any more power than in this ministry I would have seized the government. It was being given to me on a silver platter by President Marcos."

He says 85 percent of the "entire military organization's firepower" was available to go either way, and he adds, almost off-handedly, "We had no objection whatsoever to anybody, to give it to any one. But we did give (it) to the civilian government . . . the civilian authority, because that is actually our political ideal, (the ideal) of the younger officers."

In contrast with the other members of the so-called "Harvard Mafia" in the Aquino administration, the 62-year-old law-trained Enrile has a flat, emotionless delivery and manner that can chill an interviewer.

When he is asked about Mrs. Aquino's narrative of her experience going to Camp Aguinaldo, seat of the defense ministry, to plead for the release of her then-imprisoned husband, Benigno, Enrile replies calmly that she did visit him once or twice, but "most of the time she wrote me letters," which he passed on to his superiors.

That, apparently, was all he did. His explanation sounded like an echo of the defendants at the Nuremberg trial.

"I find no difficulty in it because I was acting as an administrator," he said in a recent interview arranged through the Georgetown University Center for Strategic and International Studies. "My personal choices were different from my own official action. . . There was no emotion involved."

The situation, he conceded reluctantly, was "unpleasant," but he added, "I was acting in accordance with policies established by authority higher than mine . . .

"I am guided by my conscience."

His recollection of events immediately preceding Marcos' overthrow differ somewhat from those of Armed Forces Chief of Staff Fidel V. Ramos, who also made the Marcos-to-Aquino shift, but, according to observers, did so as a professional soldier.

General Ramos, in a separate interview, said he and a handful of troops jogged out Aguinaldo's gate and over to Enrile's compound, expecting to be fired on at any moment, and Marcos might have ended the revolution right then. But they got through without incident.

The Enrile version is that the revolution was not an "overnight activity" and "could have happened a year later, six months later without an election" and would have occurred at "some future time."

Enrile's conversion is thought to have been spurred by the information that Marcos was preparing to arrest him because of the impression the defense boss was keeping one foot in each political camp.

Western diplomats are not very enthusiastic about Enrile, who says he has no plans to resign his cabinet post in three years or so and retire.

"Many people in the government view him as a major part of the (internal tension) problem," says one American official in Manila. "It is not surprising there is a certain residue of suspicion.

However, the official adds that Enrile wants the government to succeed and "will make a considerable effort" to that end. "He won't hesitate to express his own views on what he perceives as mistakes in the government, but he did that under Marcos."

Experts note that Enrile has a "regional," rather than a national, political constituency, and that, unlike many other cabinet members, never served in the Philippine Senate.

Enrile himself insists he has "no intention" of becoming a civilian president.

If his almost expressionless reaction to an ambush in his home province of Cagayan staged by Communist-leaning rebels and their murder of two newsmen and a former close Army associate came as a surprise, his biting comments on the controversial wholesale replacement of local officials by the new administration did not.

To him the substitution of "people who were never elected, some said to be of questionable stature," could only invite popular resistance, build tension and "loosen political stability."

He would not lay blame by name, but, when asked if the problem did not come under the local government ministry run by

Aquilino Pimintel, he told the questioner, "You are a good cross-examiner."

He argued, and lost, within the cabinet, against the replacement policy. Rather than try to keep internal differences of opinion under wraps and explain simply that the policy had been approved, he commented coolly, "Whether they agree or not, that's my position."

Of himself he says, "I seldom talk unless I have a reason to talk." When asked for comment on view of others, he replies bluntly, "I cannot read minds."

Western experts rating key members of the new Philippine government give high marks to many and shrug off others. They are cautious about General Ramos.

But when it comes to Enrile they express a subdued negativism as though they recognize a real danger spot.

After talking to the defense minister a reporter can quickly understand why.

SHOES, FEW WINDOWS

(By Alan Emory)

MANILA.—The shoes are all there.

Racks and racks of them, all colors and styles—blue, red, pink, cream, high-heels, low-heels, medium-heels.

A large basket is filled with sunglasses, another with sandals. There is a box crammed with umbrellas.

All of this is on view at Malacanang Palace (last syllable pronounced "yang"), where thousands of ticket-holders file through daily to gawk and shake their heads in dismay and wonderment. No photographs are allowed inside.

The palace itself is an unprepossessing place from the outside, a whitewashed long structure, Spanish-style, with very few windows. Imelda Marcos didn't like them.

There are photographs of deposed President Ferdinand E. Marcos stripped to the waist, in bathing trunks and wearing a baseball-type cap, looking super-virile, and a painting of him bare-chested in a field of sugar cane.

The shoes, of course, are the focus of attention.

The woman in charge of them applied for a job at the palace after the revolution and got the plum concession.

Has she tried on any of the shoes? Certainly not.

Anyway, they are size seven and a half. Too big.

Although the legendary black bras and panties are not on display now, there are innumerable gowns, some designed for the 1986 inaugural, which occurred just prior to Marcos' ouster. They share space with 15 coats of sable, mink and ermine—perfect for Manila's tropical climate—blouses, feather boas and a bulletproof kevlar-lined vest (for her) and raincoat (for him).

Imelda's bedroom holds a huge canopy bed with 20 pillows and gauzy curtains, an oxygen tank nearby (for her husband?), a piano and ceramic figures in lighted cases.

Add to that a painting composed of buildings which spell out "Imelda Marcos," as well as hand-carved chandeliers in the ballroom with recessed vaults above them, wooden carved square entry ways with fleur-de-lis openings, stained-glass doors, inlay tables and a $7,000 toy car that runs on gasoline—for a grandchild—and has two silk red hearts on it, one saying "Imelda," the other "Marcos."

There are heavy pictures with mother-of-pearl figures, and Imelda's dressing room has mirrors framed in large light bulbs bigger than those provided for Broadway and Hollywood stars.

The private Marcos study has floor-to-ceiling bookcases. The library contains a blackboard map showing where Army Chief of Staff Fedel V. Ramos and his defecting troops had holed up.

The former president's bedroom is filled with hospital equipment, exercise machines, an oxygen tank—and a special escape door. That doesn't count a private two-room hospital, fully equipped.

At the end of the palace tour a visitor sees stacks of empty trunks that the Marcoses couldn't fill before they had to flee the country.

More than 30,000 Filipinos crowd through the palace every weekend. The lines form early, and citizens charge that wads of eagerly sought tickets are often pocketed by officials and police to hand out to friends or to "scalp" for up to $2.50 apiece.

The government is now considering charging a fee to visit the palace on certain days. That would certainly help the local economy, which can use all the revenue it can collect, but any significant charge would be beyond the means of the average Filipino.

Tourism Minister Jose Antonio Gonzales, a former employee of General Telephone, Del Monte Foods and Tupperware in California and the Far East, quips that his qualification for his cabinet post was having been an international tourist.

The Philippines, he concedes, has a very poor tourist image, spurred by a "sensationalist" press. The top tourist market is Japan, but there are more American arrivals because of the large number of Filipinos returning from the United States.

Gonzales is launching an ad campaign to popularize his country, using a slogan "Come Celebrate the New Spirit."

He got his job because assassinated Sen. Benigno Aquino, husband of President Corazon C. Aquino, was his best friend, and he applied for it five years ago in hopes of a government turnaround. When it occurred Mrs. Aquino remembered, "as she does most things."

Part of his problem was that Imelda Marcos' friends ran all the duty-free stores and turned over to the government about 20 percent of what they should have. One Marcos crony, Roman Cruz, who still lives at the Manila Hotel, the city's swankest, bought a choice retail location in San Francisco across from Nieman-Marcus and Macy's. The government wants to sell it.

When a reporter asked what Cruz was still doing at the hotel, Gonzales replied, "I guess he's counting his money."

The government is turning some of the 38 Marcos vacation homes in the country into tourist spots, while others will be sold.

Travel agents and writers will be brought to the Philippines, and beach areas will be improved and given road access they lack now.

For about $2 million, says Gonzales, the island of Corregidor can be turned into a prime attraction, with the elimination of "gingerbread boxes" and the requirement that no building be higher than a coconut tree.

Gonzales says he wants "Asian architecture and western plumbing."

His own ministry is loaded with deadwood, but he is reluctant to fire the full 80-percent surplus because of the already staggering unemployment.

Some employes are known as "15-30s" because they "just show up on the 15th and 30th of each month."

As a group of reporters organized by the Georgetown University Center for Strategic and International Studies was finishing its tour of Malacanang Palace the other day, one approached a Filipino in the long line, and the following dialogue ensued:

"I am an American journalist. What do you think of all this?"

"Fantastic," was the reply.

"Have you been here before?"

"No, this is the first time."

"Where are you from?"

"I'm from Chicago."

AQUINO'S STAYING POWER MUCH IN QUESTION

(By Alan Emory)

MANILA.—Gen. Fidel V. Ramos, the chief of staff of the New Armed Forces of the Philippines, puts it bluntly: "I don't see how the Philippines can go it alone against external threats in the future. The (American) bases contribute to external security. We feel they are necessary."

The future of the American bases—Clark Air Field and Subic Bay Naval Base— "will be up to the Philippine people" when presented to them in a plebiscite, says President Carazon C. Aquino.

The United States "will be with us for some time," says Defense Minister Juan Ponce Enrile. "It would be difficult to consider the American presence in this part of the world eliminated."

"So many say they are speaking for the people," says Vice President and Foreign Minister Salvador H. Laurel. If the people wanted to take the bases back the U.S. would "bow" to their will.

The bases do "not have that much depth" as an issue, says a top-ranking Western diplomat. "The bases are not a major political issue. Some people fear that in a referendum the bases will win." But government officials in Washington call the bases the best bargain the U.S. can boast.

Differing views of the bases—the U.S. lease runs out in 1991—reflect some of the political strains that create questions about the staying power of Mrs. Aquino's government.

Laurel wanted to run for president himself and was threatening an independent candidacy that would have doomed the Aquino movement. The Times has learned that, at the urging of Heherson (Sonny) Alvarez, then informal Aquino ambassador in the U.S. and now agrarian reform minister, Sen. Edward M. Kennedy, D-Mass., sent a cable to Laurel, pleading with him to keep unity in the anti-Marcos forces. The message helped prevent a separate Laurel candidacy, and now, one observer says, he is "welded to her (Mrs. Aquino) like a Siamese twin. He has been quite careful not to separate from her personally. He realizes his influence is greater when she has confidence in him. I think she trusts him."

Said Laurel, in an interview in his crowded office, reflecting a government in transition, "I give her advice when I think I should because she needs it."

Resting his chin on his hand, Laurel, a black-haired man with a thoughtful manner, added, "she delegates authority and allows them (aides) to work."

General Ramos, who is short and bespectacled, his dark hair flecked with gray, and firm in attitude, stresses his forces' "profesisonalism, discipline, loyalty (and) integrity." It was the disappearance of this in the military under deposed President Ferdinand E.

Marcos that prompted him to go over to the revolutionaries.

He says that now local commanders are being allowed to follow their own initiatives in dealing with insurgents and other problems.

Although Genera' Ramos is careful to avoid the role of politician, unlike Enrile, he finds "fluidity in the political situation," tied to economic recovery.

Information Minister Teodor L. Locsin Jr. agrees. "If we fail to deliver on the economy," he predicts, the administration will fall.

An American official says, however, that if by early next year the economy has begun to show "solid signs of perceptible improvement," the government has achieved a "minimal constitutional framework," local elections are allowed to consolidate the situation in the provinces and there is support for rebuilding the military, then Mrs. Aquino's future is bright.

That is an "unusually complicating and daunting" task, he says, although "the prospects (for success) are reasonable."

A diplomat says General Ramos "really wants to reprofessionalize the military after long years of frustration."

Enrile, on the other hand, while rejecting suggestions he is eyeing the presidency, is viewed as "a major part of the problem" and with "a certain residue of suspicion."

Some insiders say Enrile would find it difficult to take over because of the depth of Mrs. Aquino's popular support.

Mrs. Aquino herself is widely regarded as unlikely to run for a second six-year term, although few believe she will not complete the one to which she was elected Feb. 7.

The earliest national elections can take place is the end of this year, says Alvarez, and a more likely time is 1987.

Under a "heavyweight-vs.-light-weight" rule Mrs. Aquino has laid down, the cabinet and president must resign 90 days before a new election so incumbency cannot be exploited.

There is a lot of talk about election reform. Says Trade Minister Jose Concepcion Jr., "We didn't fight and die for democracy so scoundrels can get it."

Plans call for new voter registration with photographs, computerized lists and fingerprints.

Some scoundrels, however, appear to be gaining some political posts.

The wholesale replacement of local officials, called officers-in-charge (OICs), by Local Government Minister Aquilino Pimintel has created what all agree is "a hornet's nest," and some say he is being reined in after naming mayors like the driver of a friend's wife and what some Moslems call a recognized "terrorist" when he was acting under Marcos' orders.

Groups that think they have been shortchanged concede the new government has had to focus on the economy at the start.

Says Vice President Laurel, "You can't talk about what you are going to have for lunch when your house is on fire."

CONTINUING POPULARITY AQUINO'S BEST DEFENSE

(By Alan Emory)

MANILA.—Corazon C. Aquino is sitting on top of a political volcano.

Only her immense popularity keeps it from erupting.

The new Philippine president faces an insurgency composed partly of supporters of deposed President Ferdinand E. Marcos, whose allies pay demonstrators up to $7.50 a day to stand outside the United States Embassy in Manila, and Communists and resentful Moslems in the South, the latter two complaining they have been left out of influential positions in the new government.

The Moslems charge Mrs. Aquino listens to a "Jesuit Mafia," and while the Catholic Church has been a significant Aquino supporter, some key observers believe the role and influence of Cardinal Jaime Sin has been overblown.

The cardinal, according to American officials, was a "moral force for change," but never a church spokesman and no force behind the Aquino presidency, although other clergymen had been close advisers.

Stories of Marcos' hidden wealth have robbed his backers of much of their appeal. The Moslems account for only 7 percent of the population, and the government has a picture of their backing for Marcos and the feeling their opposition amounts to settling scores.

WILLING TO DEAL

Mrs. Aquino has already indicated a willingness to deal with leaders of the rebels and to call a cease-fire with the New People's Army, which claims a strength of 16,000 in the countryside in three-fifths of the provinces and has been engaged in ambushing reporters and soldiers alike.

Mrs. Aquino's scrapping of the legislature until a new constitution takes effect has unsettled some Filipinos.

"We don't know what constitution we are following," says Joel J. De Los Santos, a teacher of history and Islamics. He says, "cause-oriented groups" boycotted the Feb. 7 election because they doubted any substantial change would result.

The Communists have formed a shadow government of their own, which, they say, provides better services than the national regime.

"In the barrio," says De Los Santos, "if you lose your carabao (water buffalo) you don't go to the chief of police because he can't do anything about it. You go to the party, which will get it back or provide the money to buy a new carabo. They know which farmer's bitch has given birth to puppies. They help farmers plow the fields and market goods.

"The government has one agricultural technicial to handle several barrios."

The Communist concede President Aquino has aided human rights victims, and De Los Santos says—and Moslem leaders like Atty. Ebraham Rasul, the first member of his faith to serve in the Philippine Senate, agree—Filipinos have "a high tolerance level. So long as the government is not oppressive and does not abuse people we can tighten our belts."

De Los Santos admits Mrs. Aquino "doesn't have the intellectual arrogance of her predecessor."

FOES IN A HURRY

However, he adds, both extremes are in a hurry to put Mrs. Aquino down—the Marcos forces, because they are running out of time, the Communists because they think the transition period is the time to strike.

"When you walk very, very fast and you step on a thorn," he quotes a proverb as saying, "it goes deep into your foot."

Mrs. Aquino gets high marks for not naming any relatives to her administration: "a miracle in the Philippines," says one observer. "If she can do that she can resist almost any pressures."

One key move may be on land reform. There are plans to break down land holdings into small units, creating what Agrarian Reform Minister Heherson (Sonny) Alvarez calls "small-time countryside capitalists."

However, those displaced by reform and populist measures are upset, although they are still around.

At the Universtiy of the Philippines, normally the center of dissent, students recently cheered Mrs. Aquino despite a fairly hard-line speech in which she promised to beef up the military.

Marcos and his relatives are reported to have taken $10 billion out of the country, and Alvarez says, "You can't lose that without great economic dislocation."

ECONOMY A PRIORITY

Trade and Industry Minister Jose Concepcion Jr. says there are 3 million unemployed Filipinos and 800,000 more are joining the labor force every year. He says, "There is poverty all over the place."

The government is trying to take over businesses monopolized by Marcos cronies—"We're going to go after all of them," says Information Minister Teodor L. Locsin Jr., who likens them to "Al Capone"—to sell shares to the workers, lift bans on the export of coral, which Moslem divers collect in Zamboanga, and of copra and to set up regional economic councils and make sure sugar growers get a fair price.

Concepcion told a group of journalists organized by the Georgetown University Center for Strategic and International Studies that the United States should double the Philippines' share of the garment market and restore its sugar quota, even though, he concedes, sugar is "a sunset industry." The world sugar price is lower than that in the Philippines, and the answer, experts say, is diversification, not growing more sugar.

Although there are signs foreign capital is returning—the peso has remained stable at 20.5 to the dollar—and Filipinos with "one leg in Manila and one in Los Angeles" are considering leaving their California condominiums for home—the country, one diplomat says, "is basically broke. Traditional pump priming won't work."

Says Locsin, "We don't want to be ostracized by the international banking community" because of a staggering national debt.

"The country has been turned upside down," says one western expert. "The new government has been stripping the apparatus away. The next elections will be its battlefield."

REAGAN CALL TO MARCOS UPSETS FILIPINO LEADERS

(By Alan Emory)

MANILA.—President Reagan's assurances of support for the Aquino government last week were badly needed here.

Although members of the Philippine cabinet readily conceded, in recent interviews with a group of journalists under the auspices of the Georgetown University Center for Strategic and International Studies, that Mr. Reagan had a perfect right to confer with deposed President Ferdinand E. Marcos as an old friend, both they and Americans in Manila had been upset about the way the president handled his relations with the old and new heads of government here.

First the White House said Mr. Reagan would meet with Marcos in Honolulu, even before he had spoken to President Corazon C. Aquino.

Then the word was that Mr. Reagan would telephone Mrs. Aquino before he left

Washington and that in Honolulu he would phone Marcos, not meet with him personally.

The Reagan call to Mrs. Aquino was placed at 11:30 at night Manila time and lasted only three minutes. The Reagan call to Marcos lasted half a hour.

American officials here insisted that Mrs. Aquino did not feel "unsupported," but they were clearly uncomfortable with events preceding Mr. Reagan's meeting in Bali with Philippine Vice President Salvador H. (Doy) Laurel.

After that meeting, Laurel said he was satisfied Mr. Reagan recognized Mrs. Aquino as the legitimate president and was not encouraging Marcos' return.

In an earlier interview here, he had said that he did not approve of Mr. Reagan's talking to Marcos before he telephoned Mrs. Aquino because that might imply the United States still recognized Marcos.

What upset both Filipinos and Americans in Manila were the Reagan remarks that fraud had been committed by both sides in the presidential election campaign—that "has no basis" so far as their ticket was concerned, Laurel said, "dice were loaded"—and the implication in others that the American military bases in the Philippines were more important than Philippine democracy.

Laurel conveyed that unhappiness both to American Ambassador Stephen W. Bosworth and to Mr. Reagan later.

Information Minister Teodoro L. Locsin Jr. said Mr. Reagan was "within his rights to call an old friend and ally" and that the Aquino government had been more concerned about what Mr. Reagan said to Marcos than the call itself.

Locsin added, "No one can forget the tremendous support Mrs. Aquino got from the American government and the American people."

Laurel said in Bali last week that Mr. Reagan's remarks to him had "swept away the cobwebs of doubt" about Mr. Reagan's commitment to the Aquino regime.

Although Laurel told Mr. Reagan the Philippines needed more than the $150 million in extra aid the president has requested from Congress, Mrs. Aquino declined to answer that same question directly in an interview with reporters on April 25.

She said then that some of the funds dedicated to military aid to help fight the insurgents might be used for such economic purposes as buying bulldozers and extra equipment because the solution could not be "totally military."

Secretary of State George P. Shultz, who will visit Manila, has indicated unhappiness with the Laurel comments on the inadequacy of U.S. aid and with the Aquino government's reluctance to have the Marcoses leave U.S. jurisdiction.

Mrs. Aquino, however, feels that if they do enter another country that will be the end of the Philippines' hopes of recovering any of the $10 billion they are charged with having stolen.

She has offered amnesty to Marcos if some of that is returned.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1630

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Is there any amendment pending at the desk now?

The PRESIDING OFFICER. The Grassley-Dole amendment is the pending question.

Mr. PACKWOOD. Excuse me? I cannot hear the Chair.

The PRESIDING OFFICER. The Grassley-Dole amendment is the pending question.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Grassley-Dole amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 2149

(Purpose: To exclude from the definition of an unrelated trade or business qualified convention and trade show activities carried out by organizations described in section 501(c)(3) or 501(c)(4) of such Code, and to require private foundations subject to an excise tax imposed by section 4940 of the Internal Revenue Code of 1954 to pay such tax in a manner consistent with the corporate estimated tax payment rules)

Mr. MATSUNAGA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. MATSUNAGA] proposes an amendment numbered 2149.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of title XVII, insert the following:

SEC. . SPECIAL RULE FOR EDUCATIONAL ACTIVITIES AT CONVENTION AND TRADE SHOWS.

(a) CERTAIN EDUCATIONAL ACTIVITIES TREATED AS CONVENTION AND TRADE SHOW ACTIVITIES.—Section 513(d)(3)(B) (relating to qualified convention and trade show activity) is amended by inserting after "industry in general" the following: "or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(b) QUALIFYING ORGANIZATIONS.—Section 513(d)(3)(C) (relating to qualifying organization) is amended by striking out "501(c)(5) or (6)" and inserting in lieu thereof "50(c) (3), (4), (5), or (6)" and by inserting before the period at the end thereof the following: "or which educates persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to activities in taxable years beginning after the date of enactment of this Act.

At the appropriate place in title V, insert the following:

SEC. . PRIVATE FOUNDATIONS SUBJECT TO ESTIMATED PAYMENT OF CERTAIN EXCISE TAXES.

(a) IN GENERAL.—Section 6754 (relating to installment payments of estimated income tax by corporations) is amended by inserting at the end thereof the following new subsection:

"(h) CERTAIN PRIVATE FOUNDATIONS.—With respect to any private foundation subject to the excise tax imposed by section 4940, this section and section 6655 shall apply, as provided by regulation, in a manner consistent with the provisions of such sections."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

Mr. MATSUNAGA. Mr. President, my amendment would exclude from the definition of an "unrelated trade or business" trade show activities of organizations qualified under sections 501(c) (3) and (4) of the Tax Code. Section 501(c)(3) organizations include charitable organizations such as churches and schools and 501(c)(4) organizations include civic leagues or organizations operated exclusively for the promotion of social welfare. In short, my amendment would simplify and equalize the tax treatment of trade show income received by organizations qualified under sections 501(c) (3), (4), (5), and (6) of the code.

Mr. President, the Tax Reform Act of 1976 amended the code to provide that income derived from a qualified convention and trade show activity carried on by a 501(c)(5) or 501(c)(6) organization was not taxable. Section 501(c)(5) organizations include labor, agricultural, or horticultural organizations. Section 501(c)(6) organizations include business leagues and chamber of commerce. Sections 501 (c)(3) and (c)(4) organizations were inadvertently overlooked in the rush to complete congressional action on that act. My amendment would equalize the tax treatment for all such groups. The amendment would effectuate the substance of a colloquy on this floor in 1976 between Senator LONG, then chairman of the Finance Committee and Senator Talmadge, a member of that committee, when the underlying code section was adopted.

Because of the uncertainty in current law, many potential exhibitors are discouraged from attending sections 501 (c)(3) and (c)(4) trade shows. The disparity in tax treatment also causes severe problems where a trade show is jointly sponsored by a 501 (c)(6) organization and 501 (c)(3) or (c)(4) organization.

Mr. President, it is a well-known fact that charitable organizations find

great need to educate their members, and this amendment will permit those charitable organizations with limited means to sponsor conventions to achieve this goal. The amendment is supported by a number of 501(c)(3) and 501(c)(4) organizations, including the American College of Cardiology, the Secondary School Principals, the Girl Scouts and the Goodwill Industries. In providing equal tax treatment with regard to trade show income for 501(c) (3), (4), (5), and (6) organizations, a major administrative burden will be lifted from the IRS and the Tax Code will be made more equitable and fair.

Mr. President, as a revenue offset my amendment would require private foundations to make estimated payments on the excise tax that they pay on their net investment income in a manner consistent with the corporate estimated tax payment rules. Under current law private foundations other than certain operating foundations are subject to a 2-percent excise tax on their net investment income. The foundation's excise tax liability for the taxable year is not payable, however, until the foundation's information return for the year is due. Under my amendment the rules requiring estimated payments of corporate income taxes would apply to the private foundation excise tax on net investment income. In effect revenue neutrality would be effected.

I ask my colleagues support for this amendment which will simplify and clarify the tax law for charitable organizations.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, we agree with the amendment. I particularly appreciate the fact that the Senator found a way to finance this. It is a good amendment and ought to pass.

Mr. MATSUNAGA. I thank the distinguished chairman of the committee.

I move adoption of the amendment.

Mr. LONG. Mr. President, as the Senator so well stated, the amendment has been cleared on this side. We have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Hawaii.

The amendment (No. 2149) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1650

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2138

(Purpose: Providing that the period during which an individual is in the United States competing in a charitable sporting event shall not be taken into account in determining whether such individual is a resident alien)

Mr. PACKWOOD. Mr. President, I believe there is an amendment at the desk filed by Senator QUAYLE, amendment No. 2138. If I have the number correct, I would like to call it up for immediate consideration.

The PRESIDING OFFICER. It would take unanimous consent to temporarily set aside the Grassley-Dole amendment.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to temporarily set aside the Grassley-Dole amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. QUAYLE, proposes an amendment numbered 2138.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle H of title IX, insert the following new section:

SEC. . ATHLETES COMPETING IN CHARITABLE SPORTING EVENTS.

(a) IN GENERAL.—Section 7701(b)(4)(A) (defining exempt individual) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or" and by adding after clause (iii) the following new clause:

"(iv) a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section 274(k)(2)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, this is an amendment relating to world professional athletes when they come to this country and play a charity sports tournament. At the moment, if you are in the United States over 180 days, you are taxed on your worldwide income. It is causing a number of athletes to be reluctant to come and play in our charity sports tournaments, where the money is raised for charity, because it counts toward the 180 days.

This amendment simply says when they are playing here in a charity sports tournament, the days they are playing will not be counted toward the 180 days. They are still taxed if they make any money in the tournament, but the days that they play do not count toward the 180 days.

Mr. LONG. Mr. President, I am not aware of any objection on this side of the aisle. I am prepared to support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2138) was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislation clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AN INTERESTING DEAL

Mr. MELCHER. Mr. President, I want to make a short statement on a transaction among the Department of Justice, the Department of Agriculture, and a private entity known as Edwards Investments of Idaho, dealing with some land between Idaho and Montana; portions of the land lie in both States.

Today, the General Counsel's Office in the Department of Agriculture sent to the attorney in charge, region 1, in Missoula, MT, a memorandum dealing with two preliminary title opinions and related materials issued by the Attorney General of the United States relating to the interest in the lands held by Edwards Investments, an Idaho partnership [Edwards], along with two quitclaim deeds which the Justice Department prepared for lands in Idaho and Montana that Edwards had acquired from the now bankrupt Milwaukee Railroad. The Justice De-

partment is directing the Forest Service to process the quitclaim deeds and to set in motion payments of $3,708,900 to Edwards.

Small parcels of the land involved were actually acquired by Edwards in the normal manner of one property owner selling to another person land in which he held title. The General Counsel's Office in the Department of Agriculture had previously reviewed the appraised price that the Forest Service had arrived at, which was less than half a million dollars. The Justice Department, dealing with Edwards, offered something over $600,000 to acquire the land. Edwards refused and Congress approved in Public Law 99-190 (99 Stat. 1185), appropriating $4 million for this purpose. The Justice Department has now caved in to Edwards to settle the matter for the $3.7 million.

I believe the amount is excessive, and I believe the public should know why the final amount is almost 10 times the appraised price and 6 times the Justice Department's offer of settlement.

The land of the Milwaukee Railroad right-of-way across Federal land was used by them as an easement for the purpose of building and operating a railroad. The land was never sold to them, and while the right-of-way was for a public purpose since the land was never sold, once the right-of-way is no longer used for a railroad, the land ordinarily would be returned to the United States to be held, in this case, under the management of the U.S. Forest Service in the public interest. It was on this basis that the Forest Service made their appraisal of what Edwards actually owned. It's my judgment that this is what the law requires, and it is obvious that that is what the Justice Department believed when they made their offer of settlement to Edwards in the neighborhood of $600,000. Now the final settlement, much greater than that, is not only a bad precedent, but probably could not withstand the scrutiny of a Federal court if a case were brought against the Justice Department or the Department of Agriculture, or both, challenging the Justice Department decision.

There are questions that could be raised on behalf of Edwards concerning the value of bridges left intact, since the Forest Service appraisal only appraised the salvage value of the bridges after they were dismantled. In that regard, I asked the Forest Service if they had any plans for leaving any of the bridges intact for future use. That would entail some changes in Forest Service planning, but the Forest Service had been blocked by direction from the Justice Department not to proceed with any further planning until after the Justice Department had completed the transaction for the $3.7 million. It is my opinion that most of the bridges will have to be removed at the expense of the Forest Service, but that there is a possibility that one or more of the bridges will be left intact.

If the transaction goes through to final payment and issuance of the Treasury checks, we shall probably never know what the actual appraised value of the Edwards property should be, since the Forest Service is prevented by the Justice Department from making an appraisal of any of the bridges that might be useful to them. It is apparent that those that are not going to be used will have to be torn down at public expense.

I make this statement now prior to the final issuance of Treasury checks so that any of the public that are interested in this matter will be informed.

I believe the Justice Department is wrong on two counts—that is blocking Forest Service reappraisal of bridges to be left intact and used and, second, agreeing to the higher price of $3.7 million.

I ask unanimous consent that the memorandum and letters connected with this case be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, June 20, 1986.

Memorandum to: Lawrence M. Jakub, Attorney-in-Charge, Missoula, MT.

From: Joseph D. Cummings, Deputy Assistant General Counsel, Natural Resources Division.

Subject: R-1-Acquisition—Edwards Investment—Milwaukee Railroad Right-of-Way.

Attached are two preliminary title opinions, together with related materials, dated June 16, 1986, issued by the Attorney General relating to the interest in lands held by Edwards Investments, formerly owned by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, located in Idaho and Montana. One title opinion covers a portion of a right-of-way between Avery, Idaho, and the Idaho/Montana State line at St. Paul Pass, in Shoshone County, Idaho. The second title opinion covers a portion of a right-of-way between the Idaho/Montana State line at St. Paul Pass and St. Regis, Montana, in Mineral County, Montana. The interest in land in Idaho is being acquired for a consideration of $2,000,000.00, and the interest in land in Montana is being acquired for a consideration of $1,708,900.00.

The lands, which are being acquired pursuant to P.L. 99-190 (99 Stat. 1185), are more particularly described in two attached quitclaim deeds from the grantors to the United States, prepared by the Department of Justice.

The two title insurance policies and endorsements thereto for the interest in the Idaho lands were issued by First American Title Insurance Company and by Safeco Title Insurance Company of Idaho for the interest in the Montana lands.

True copies of the preliminary title opinions are being sent to the Regional Forester for the purpose of requesting the issuance from Treasury of the two checks. Richard Hull, Director of Lands, advises that the funds have been made available to the Region. Please contact Tom Morris, Attorney representing Edwards Investments, to arrange the appropriate closings with the title companies. Mr. Tom Morris's address is 722 Main Ave., St. Maries, Idaho. His telephone number is area code 208-245-2523. Mr. Marlin Lance of this office, 447-2223, is handling this matter.

When the subjections in the Attorney General's preliminary title opinions have been met, the deeds executed and recorded, the title insurance policies updated, and the purchase price paid, the two title assemblies should be returned for final approval of the Attorney General.

U.S. DEPARTMENT OF JUSTICE,
LAND AND NATURAL
RESOURCES DIVISION,
Washington, DC, June 16, 1986.

Hon. RICHARD E. LYNG,
Secretary of Agriculture,
Washington, DC.

MY DEAR MR. SECRETARY: An examination has been made of the title data relating to the land formerly occupied and used by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company as portions of a railroad right-of-way between Avery, Idaho, and the Idaho/Montana state line at St. Paul Pass, in Shoshone County, Idaho. This land is to be acquired for a consideration of $2,000,000.00 by authority of existing legislation. The file number of this Department is 90-1-3-6791.

The land is described in the enclosed draft of quitclaim deed from John O. Edwards, Dorothy Edwards, his wife, and Edwards Investments, an Idaho partnership, to the United States of America.

The title insurance policy No. 26468, dated as of February 28, 1986, and endorsements to the policy, dated as of May 15, 1986, May 21, 1986, and June 4, 1986, were prepared by Safeco Title Insurance Company of Idaho and are satisfactory in form.

The title insurance policy and accompanying data disclose the title to be vested in:

United States of America, as to Parcels 1, 3, 4, 5, 8, 10, 12, 13, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27 and 28; and

John O. Edwards and Dorothy Edwards, husband and wife, Individually and as Nominees for Edwards Investments, an Idaho Partnership, as to Parcels 2, 6, 7, 9, 11, 15 and 20, subject to the following objections:

1. All taxes and assessments.

2. Rights or claims of persons in possession, if any, not shown of record.

3. Mechanics' liens, if any, not shown of record.

4. Easements for roads, highways, railroads, pipelines and public utilities, if any, not shown of record.

5. The exception of all rights or interests arising from a survey map of the Chicago, Milwaukee and St. Paul Railroad Company line of constructed railroad approved June 17, 1918 by the Secretary of Interior pursuant to an Act of Congress March 3, 1899 (30 Stat. 1233) and an Act of Congress March 3, 1875 (18 Stat. 482). Affects Parcels 1, 3, 4, 5, 8, 10, 12, 13, 14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27 and 28.

6. All right, title and interest of John O. Edwards, Dorothy Edwards and Edwards Investments, an Idaho partnership, as successors to the interest of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company in the aforesaid line of railroad right of way. Affects Parcels 1, 3, 4, 5, 8, 10, 12, 13,

14, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27 and 28.

7. Patented or unpatented mining claims, if any, not shown of record in Shoshone County, Idaho.

8. An easement for a road right-of-way, in favor of Shoshone County, and recorded November 20, 1981, as Instrument No. 296757.

Prior to the consummation of this purchase, it should be definitely determined that the descriptions of the land in the deed to the United States and in the title insurance policy cover the same property. Additionally, the affidavit regarding the partnership status of Edwards Investments, dated May 10, 1986, should be updated to date of settlement; however, the 1986, should be updated to date of settlement; however, the updated affidavit need only be executed by one general partner.

When the above requirements and objections 1, 2, 3, 5, 6, and 7 have been satisfied and/or eliminated, and the enclosed draft of quitclaim deed from the above-named owners to the United States of America, duly executed and properly stamped, has been recorded, the purchase price has been paid, and a title insurance policy in approved form (A.L.T.A. U.S. Policy-1963) has been obtained showing the vesting of a valid title in the United States of America, and this Department has been informed in writing that objections 4 and 8 will not interfere with the contemplated use of the land, the title will be approved subject to the rights and easements referred to in objections 4 and 8.

The title insurance policy and related papers are enclosed.

Sincerely,

ATTORNEY GENERAL.
By F. HENRY HABICHT II,
Assistant Attorney General,
Land and Natural Resources Division.

U.S. DEPARTMENT OF JUSTICE,
LAND AND NATURAL
RESOURCES DIVISION,
Washington, DC, June 16, 1986.

Hon. RICHARD E. LYNG,
Secretary of Agriculture, Washington, DC.

MY DEAR MR. SECRETARY: An examination has been made of the title data relating to the land formerly occupied and used by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company as portions of a railroad right-of-way between the Idaho/Montana state line at St. Paul Pass and St. Regis, Montana, in Mineral County, Montana. This land is to be acquired for a consideration of $1,708,900.00 by authority of existing legislation. The file number of this Department is 90-1-3-6791.

The land is described in the enclosed draft of quitclaim deed from John O. Edwards, Dorothy Edwards, his wife, and Edwards Investments, an Idaho partnership, to the United States of America.

The title insurance policy No. F15240, dated as of February 28, 1986, and endorsements to the policy, dated as of May 9, 1986, June 2, 1986, and June 3, 1986, were prepared by First American Title Insurance Company and are satisfactory in form.

The title insurance policy and accompanying data disclose the title to be vested in John O. Edwards and Dorothy Edwards, nominees for Edwards Investments, an Idaho partnership, subject to the following objections:

1. All taxes and assessments.

2. Rights or claims of persons in possession, if any, not shown of record.

3. Mechanics' liens, if any, not shown of record.

4. Easements for roads, highways, railroads, pipelines and public utilities, if any, not shown of record.

5. Any loss or claim arising from ambiguous legal description used in recorded instruments or rights and interest and encumbrances discovered from a correct legal description.

6. Right, title and interest of the United States of America as an abutting owner upon abandonment of railroad right of way.

7. Reversion to the United States of America according to the United States Department of the Interior easement dated August 28, 1908. Also, the United States Department of the Interior easement dated January 5, 1972 for transmission line.

8. Any duly located unpatented Lode or Placer Claims.

9. The effect of the terms and provisions of the Act of Congress dated March 3, 1875.

10. Railroad rights of way under the March 3, 1875 Act may be transferred to a successor Railroad; however, the fee or servient estate remains in the United States. When not used for railroad purposes or when abandoned by the grantee or lawful successors, they are relinquished, cancelled, or forfeited to the United States except as noted below.

a. Act of May 25, 1920 (43 U.S.C. 913): Provides for conveyance by land grant railroads of portions of rights-of-way to states, counties or municipalities to be used as public highways or streets.

b. Act of March 8, 1922 (43 U.S.C. 913): Provides for disposition of abandoned or forfeited railroad grants. This Act was passed to provide for reversion to the owner of the adjacent of underlying fee, and avoid isolated, unmanageable fractions and interests.

11. Right, title and interest of abutting owner Edith Mayo, who may have a right of reversion on abandonment of the railroad right of way.

Affects: The Southwest quarter of the Northeast quarter and the Southeast quarter (Government Lots) of Section 10. Township 18 North, Range 29 West. Right, title and interest of abutting owner State of Montana who may have a right of reversion on abandonment of the railroad right of way.

Affects: The Southeast quarter (Government Lots) of Section 10. Township 18 North, Range 29 West and the East one-half of the Northeast quarter of Section 31, Township 19 North, Range 29 West and the Southwest quarter of the Southwest quarter of Section 21, Township 18 North. Range 28 West.

Right, title and interest of abutting owner Fred R. Moore and subsequent contract buyers who may have a right of reversion on abandonment of the railroad right of way.

Affects: Government Lots 2, 5 and 6 of Section 4, Township 18 North, Range 29 West.

12. Reservations contained in deeds. Executed by: Anaconda Copper Mining Company. Recorded: November 11, 1911 and October 6, 1913. Book/Page: Book E of Deeds, at Page 576, 577 and Book E, Page 397 Parcel F.

Affects: Parcel F.

13. Relinquishment of right of access to state highway and of light, view and air, under terms of deed to the State of Montana. Recorded: November 20, 1973. Book/Page: Drawer 1 of Deeds, Card Nos. 1085, 1086 and 1087.

14. Reservations contained in deed. Executed by: Deer Creek Gold Mining and Milling Company. Recorded: April 22, 1908. Book/Page: Book G of Deeds, at Page 426. As follows: ". . . saves and reserves to itself, its successors and assigns all minerals whatsoever including coal, iron, natural gas, oil, etc. with the right of entry upon said lands above described, beneath the surface to explore, develop, mine and remove such minerals . . ."

Affects: 2.35 acres in the Northwest quarter of the Southeast quarter of Section 25, Township 19 North, Range 30 West.

15. Reservations contained in deed. Executed by: Mary Mitchell and E.M. Mitchell, her husband. Recorded: October 21, 1907. Book/Page: Book G of Deeds, at Page 357. As follows: "reserving from said land hereby conveyed any portions now belonging to the Northern Pacific Railway Company. . . "

Affects: East one-half of the Southeast quarter, of Section 4. Township 18 North, Range 29 West.

16. Reservations contained in deed. Executed by: Anaconda Copper Mining Company. Recorded: November 11, 1911. Book/Page: Book F of Deeds, at Page 574.

Affects: Parcel I.

17. Release of access rights granted by the Chicago, Milwaukee, St. Paul and Pacific Railroad Company to the State of Montana. Dated: May 20, 1976. Recorded: July 2, 1976. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 804-804D.

Affects: Parcel I (Sections 3, 10, 11, 14); Parcel J (Sections 13, 19, 24).

18. Reservations contained in deed. Executed by: Fred T. Sterling and L.W. Sterling, husband and wife and C.H. McLeod and Clara L. McLeod, husband and wife. Recorded: October 7, 1907. Book/Page: Book G of Deeds, at pages 330, 331. As follows: Reservations for mineral rights with the right to enter upon said lands beneath the surface to explore, develop, mine and remove such minerals.

19. Reservations contained in deed. Executed by: William J. Gerrity and Mary A. Gerrity, husband and wife. Recorded: October 21, 1907 and November 9, 1909. Book/Page: Book G of Deeds, at page 351 and Book E of Deeds, at page 281. As follows: "reserving, however, unto said parties of the first part, their heirs and assigns, all minerals whatsoever, including coal, iron, natural gas and oil, with the right of entry upon said lands beneath the surface to explore, develop, mine and remove such minerals, provided, however, that no such entry or work shall be made or carried on, upon or from the surface of any land hereby conveyed, and that such entry and work shall at all times be made and carried on subject to the right of the party of the second part to surface support of the lands hereby conveyed, for railroad purposes and in such manner as shall not injure, endanger or interfere with the construction, maintenance, use or operation of the railroad, or of any structures appurtenances, or appliances constructed, maintained operated upon the lands hereby conveyed. . . ."

20. Right, title and interest of the State of Montana by Instruments as set out below: For: State Highway. In favor of: State of Montana. Recorded: September 24, 1940 and November 17, 1969. Book/Page: Book 9 of Deeds, at Page 284 and Drawer 1 of Deeds, Card No. 306.

Affects: Parcel C (Section 8).

21. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: A Deed and Bill of Sale including a right-of-way to maintain, operate, repair and replace an electric transmission line. In favor of: The Montana Power Company. Recorded: August 1, 1974. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 1203-1203X.

Affects: Parcel B-1.

22. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: A perpetual right and easement to operate, maintain, repair and replace an electric transmission line, together with supporting structures, anchors, guys and associated relays and switches upon, along and across the right of way and tracts of the railroad as located. In favor of: The Montana Power Company. Recorded: December 2, 1981. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 1728-1728K.

Affects: Parcel B-1. Modified by Agreement. Recorded: September 2, 1982. Book/Page: Drawer 1 of Miscellaneous Real Estate Card No. 1858-1858E.

23. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: Pole and wire right of way easement to be 30 feet in width, being 15 feet each side of the electric lines. In favor of: The Montana Power Company. Recorded: March 12, 1982. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 1777-1777H.

Affects: Parcels B, E and F.

24. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: "to construct, operate and maintain its lines of Telephone and Telegraph, including the necessary poles, wires and fixtures . . ." In favor of: The Mountain States Telephone and Telegraph Co. Recorded: February 11, 1923 and February 11, 1925. Book/Page: Book 1 of Miscellaneous Real Estate, at Page 306 and at Page 308.

Affects: Parcels E, H, I, J, K, L.

25. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: " . . . to construct, operate and maintain its lines of telephone and telegraph, including the necessary poles, wires and fixtures . . ." In favor of: Postal Telegraph-Cable Company of America. Recorded: October 4, 1937 and July 1, 1937 and April 8, 1933. Book/Page: Book 2 of Miscellaneous Real Estate, at Page 191, and at Page 165, and Book 1 of Miscellaneous Real Estate, at Page 639.

Affects: Parcels E, H, I, J, K, L. (Exact location of said easement cannot be determined; said document also contains a reversionary clause).

26. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: " . . . to construct, operate and maintain its lines of telephone and telegraph, including the necessary poles, wires and fixtures . . ." In favor of: The Mountain States Telephone and Telegraph Company. Recorded: September 17, 1937. Book/Page: Book 2 of Miscellaneous Real Estate, at Page 189.

Affects: Parcel G. (Exact location of said easement cannot be determined; said document also contains a reversionary clause).

27. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: " . . . to construct, operate and maintain its lines of telephone and telegraph, including the necessary poles, wires and fixtures . . ." In favor of: The Mountain States Telephone and Telegraph Company. Recorded: March 1, 1923, April 16, 1923. Book/Page: Book 1 of Miscellaneous Real Estate, at Page 244 and at Page 252.

Affects: Parcel I. (Exact location of said easement cannot be determined).

28. An easement affecting the portion of said premises and for the purpose stated herein, and incidental purposes. For: State Highway. In favor of: State of Montana. Recorded: July 2, 1976. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 803-803C.

Affects: Parcel I (Sections 3, 14).

29. Agreement executed by and between the parties herein named upon the conditions therein provided. Between: Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the State of Montana. Dated: July 26, 1951. Recorded: October 17, 1971. Book/Page: Book 3 of Miscellaneous Real Estate, at Page 272.

Providing: To the State of Montana the right to use portions of the right-of-way of the Railroad for the purpose of constructing and maintaining channel changes of the St. Regis River in connection with the reconstruction of U.S. Highway No. 10 between Saltese and Haugan, Montana.

30. Agreement executed by and between the parties herein named upon the conditions therein provided. Between: Chicago, Milwaukee, St. Paul and Pacific Railroad Company and the State of Montana. Dated: February 3, 1950. Recorded: March 23, 1950. Book/Page: Book 3 of Miscellaneous Real Estate, at Page 162. Providing: Grants a license to the State for the right-of-way of U.S. Highway No. 10.

Affects: Parcel I (Sections 10, 11, 14).

31. Agreement executed by and between the parties herein named upon the conditions therein provided. Between: Northern Pacific Railway Company and Chicago, Milwaukee, St. Paul and Pacific Railroad Company Dated: December 30, 1938. Recorded: January 19, 1939. Book/Page: Book 2 of Miscellaneous Real Estate, at Page 287. Providing: To change channel of the St. Regis River and to construct, maintain and operate a line of railroad.

Affects: Parcel I (Section 11) and Parcel J (Section 14).

32. Agreement executed by and between the parties herein named upon the conditions therein provided. Between: Chicago, Milwaukee, St. Paul and Pacific Railroad Company to the United States of America. Dated: September 4, 1956. Recorded: October 23, 1969. Book/Page: Drawer 1 of Miscellaneous Real Estate, Card No. 131. Providing: Grants a strip of land 60 feet wide for a crossing.

Affects: The Northeast quarter of the Northwest quarter of Section 24, Township 18 North, Range 29 West.

Prior to the consummation of this purchase, it should be definitely determined that the descriptions of the land in the deed to the United States and in the title insurance policy cover the same property. Additionally, the affidavit regarding the partnership status of Edwards Investments, dated May 10, 1986, should be updated to date of settlement; however, the updated affidavit need only be executed by one general partner.

When the above requirements and objections 1, 2, 3, 9, 10, 12 and 16 have been satisfied and/or eliminated and the enclosed draft of quitclaim deed from the above-named owners to the United States of America, duly executed and properly stamped, has been recorded, the purchase price has been paid, and a title insurance policy in approved form (A.L.T.A. U.S. Policy—1963) has been obtained showing the vesting of a valid title in the United States of America, and this Department has been informed in writing that objections 4, 5, 8, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 will not interfere with the contemplated use of the land, the title will be approved subject to the rights and easements referred to in objections 4, 5, 8, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32.

The title insurance policy and related papers are enclosed.

Sincerely,

F. HENRY HABICHT II,
Assistant Attorney General, Land and Natural Resources Division.

Mr. MELCHER. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. COCHRAN). Does any Senator seek recognition?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX REFORM BILL OF 1986

The Senate continued with consideration of the bill.

AMENDMENT NO. 2148

Mr. DOLE. Mr. President, what is the pending business? Is it the Grassley amendment?

The PRESIDING OFFICER. The pending business is the Grassley amendment.

Mr. DOLE. I ask unanimous consent that it be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2150

Mr. DOLE. Mr. President, I send an amendment to the desk in behalf of Senator GRASSLEY and myself and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself and Mr. GRASSLEY, proposes an amendment numbered 2150.

On page 1509, between lines 21 and 22 insert.

Paragraph (5) of section 202(d) is amended by adding at the end thereof new subparagraph (O) as follows—

(O) A project is described in this subparagraph if—

(i) a commitment letter was entered into with a financial institution on January 23, 1986 for the financing of the project,

(ii) the project involves inter-city communication links (including microwave and fiber optics communications systems and related property),

(iii) the project consists of communications links between

(a) Omaha, Nebraska and Council Bluffs, Iowa,

(b) Waterloo, Iowa and Sioux City, Iowa,

(c) Davenport, Iowa and Springfield, Illinois, and

(iv) the estimated cost of such project is approximately $13,000,000.

Mr. DOLE. Mr. President, the amendment that has just been set aside includes two provisions. One is the rule on truck lines and one is Teleconnect. We have had a discussion, at least I have had a discussion with the Senator from Ohio [Mr. METZENBAUM]. He indicated that he had no objection to the Teleconnect portion but he wanted to come back and take a look at the other portion. What I am suggesting is that we adopt the Teleconnect portion and I shall then modify the other provision, to remove Teleconnect, so that on Monday, the Grassley amendment with reference to the rule on truck lines will be pending.

□ 1710

At that time Senator METZENBAUM and Senator GRASSLEY could get together. I do not believe there is any question on this amendment.

The PRESIDING OFFICER. Is there any further debate?

Mr. PACKWOOD. This was the amendment I referred to earlier. We thought Teleconnect was part of United. It was an error on our part. It turns out we did not have the proper legal relationships between the two entities. We intended to cover both of them.

Mr. LONG. Mr. President, I have no objection to this amendment, and I know of no objection on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2150) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2148

Mr. DOLE. Mr. President, the pending business is then the Grassley amendment. I would ask that that amendment be modified by striking everything after line 5. In other words, everything after "in September 1985." Everything following that would be stricken.

The PRESIDING OFFICER. Is there objection? Without objection, it is so modified.

Mr. DOLE. I ask unanimous consent amendment No. 2148 be temporarily laid aside so the Senator from Alabama may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2151

Mr. HEFLIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I send to the desk an amendment on behalf of myself and Senator DENTON.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. HEFLIN] for himself and Mr. DENTON proposes an amendment numbered 2151.

Mr. HEFLIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Section 1518 of H.R. 3838, as reported by the Committee on Finance of the Senate, is amended by adding a new subsection (m) at the end thereof to read as follows:

(m) Limitation on Investment in Nonpurpose Obligations.—

(A) IN GENERAL.—Section 103(e)(6)(C) of the Internal Revenue Code of 1954 shall not apply to amounts in a fund described in subparagraph (B) [as that fund is in effect on the date of enactment]

(B) CERTAIN MANDATORY ACCUMULATIONS.—A fund is described in this subparagraph if—

(i) amounts must be paid into such fund under a constitutional provision, statute, or ordinance which was initially effective in 1901 and was last modified in 1919,

(ii) under such constitutional provision, statute, or ordinance, amounts paid into such fund (and receipts from investment of such fund) can be used only to pay debt service on general obligations of a governmental unit and for no other purpose, and

(iii) the size of the payments made into such fund is independent of the size of the outstanding issues (including the debt service thereon).

Mr. HEFLIN. Mr. President, beginning before the 1913 adoption of amendment XVI to the U.S. Constitution which authorized the U.S. Government to levy income taxes, the city of Birmingham, AL, established a sinking fund to provide a source of payment for debt service on its bonds. Pursuant to provisions of the Alabama Constitution that initially became effective in 1901 and that were last modified in 1919, the sources of income for the Birmingham Sinking Fund consist of (i) the proceeds of a property tax that has been levied continuously since 1901 and that is required to be applied solely for the payment of debt service on the city's bonds; and (ii) income derived from the investment of moneys accumulated in such sinking fund.

Moneys in the Birmingham Sinking Fund can be used only for the payment of debt service on the city's bonds, and when the annual requirements of such debt service are less than the annual tax receipts and investment income, applicable State law mandates the accumulation of the resulting surplus. No moneys can be withdrawn from the Birmingham Sinking Fund for the payment of any operating expenses of the city or for the payment of the cost of public facilities or other capital expenditures.

Although not legally required to do so, the city of Birmingham has historically managed its bonded debt so that the annual amounts required for debt service do not, for any extended period of time, materially exceed the annual amounts anticipated to be deposited in the Birmingham Sinking Fund. This debt management policy, in conjunction with the aforementioned legal requirement that no moneys may be withdrawn except for the payment of debt service, has resulted in a gradual increase in the balance of the Birmingham Sinking Fund, which now exceeds $35,000,000.

The existence of this sinking fund, its creation and preservation by provisions of the Alabama Constitution, and the historic debt management policy of the city resulting in the gradual increase of the sinking fund balance are all factors which together have been viewed very favorably by national rating services and have enabled the city, despite its share of the usual economic and demographic problems afflicting larger cities, to achieve a rating for its bonds of AA by Standard & Poor's Corp. and A–1 by Moody's Investor's Service. The extent to which these ratings are unusual and reflect the favorable impact of the Birmingham Sinking Fund becomes more striking when it is recognized that property taxes in Alabama are subject to constitutional limitations and cannot, as is the case in most other States, be increased without limit to the extent necessary to pay bonded debt.

The arbitrage rules of section 103(c) of the Internal Revenue Code of 1954, as amended, were enacted in 1969 to prevent State and local governments from making a profit at the expense of the Federal Treasury by issuing tax-exempt obligations and investing the proceeds thereof in higher yielding taxable obligations. Although section 103(c) did not initially interfere with the continued operation of the Birmingham Sinking Fund, that was not the case with regulations promulgated in 1978 to curb the growing use of the invested sinking fund, which was a financing technique that had appeared since 1969 and was proving to be a significant circumvention of the arbitrage rules. As originally proposed, the 1978 regulations would have interfered with the historic operation of the Birmingham Sinking Fund, but the city was able to persuade the Treasury Department that this sinking fund did not constitute the kind of open-ended abuse that the new regulations were intended to combat.

The final version of the new regulations contained a specific exemption for sinking funds that were created and managed under conditions corresponding to the Birmingham Sinking Fund. As was the case with the original 1978 regulations, the tax reform bill contains new provisions which significantly impair the continued operation of the Birmingham Sinking Fund, and the city desires the Treasury Department to approve modifications to the Tax Reform Act that will enable the Birmingham Sinking Fund to be continued under the same conditions that are now recognized in Treasury Regulation, section 1.103-14(d)(5).

Although probably unique in the country, the Birmingham Sinking Fund represents a frugal and prudent approach to municipal finance which has been practiced by the city without change for longer than the Federal income tax has existed. As mentioned above, the Treasury Department was persuaded in 1978 that the Birmingham Sinking Fund constituted a historical practice, which, given its unique and limited use, should not be upset by the then newly proposed regulations applicable to invested sinking funds.

I believe the preservation of Birmingham's historic sinking fund is justified by principles of comity which should exist between Federal tax law and long-established financial practices of State and local governments. The same considerations which persuaded the Treasury Department to leave the Birmingham Sinking Fund undisturbed in 1978 should be reflected in the Tax Reform Act now under consideration by the Senate.

Section 216 of the Alabama Constitution adopted in 1901, and amendment No. 8 to the Alabama Constitution adopted in 1919, authorize the city of Birmingham, among other municipalities to levy and collect a specified property tax which is required to be used exclusively for the payment of debt service on the city's bonds. Pursuant to these constitutional provisions, the city has for more than 85 years levied and collected such a property tax and has deposited the proceeds thereof in the Birmingham Sinking Fund, which is exclusively dedicated to the payment of the city's bonds. Since the tax proceeds deposited in the Birmingham Sinking Fund cannot be expended for any purpose other than debt service, a surplus has accumulated in the fund during years in which the tax revenues have exceeded debt service.

The cumulative surplus in the fund has been historically invested without restriction as to yield, and the relevant Alabama constitutional provisions have been uniformly interpreted by counsel as requiring the investment income from such surplus to be added to the fund and to be held, invested and applied according to the same rules that govern the tax proceeds constituting the primary source of the fund. As mentioned in the introduction to this memorandum, the legal requirements applicable to the Birmingham Sinking Fund, together with the prudent practice of the city in trying to limit annual debt service to amounts that do not exceed estimated annual additions to the fund, have cause the fund to grow over the years to a current balance in excess of $35,000,000.

The regulations originally proposed by the Treasury Department in 1978 concerning invested sinking funds would have included the Birmingham Sinking Fund in the general definition of a sinking fund. Although the full effect of the new regulations was never determined, it was clear that, without an exemption for the city, the issuance of any bonds after the effective date of such regulations would have required the city to limit the investment of a proportionate part of its sinking fund to a yield not exceeding the yield of such bonds. The Treasury Department relieved the city from the application of the new regulations by adding Treasury Regulation section 1.103-14(d)(5), which exempted a sinking fund held by a municipality from investment limitations if the fund met the following three conditions:

First, amounts must be paid into the fund under a constitutional provision, statute, or ordinance adopted before May 3, 1978;

Second, under the constitutional provision, statute, or ordinance, amounts paid into the fund—and receipts from investments of the fund—can be used only to pay debt service on the issuer's bonds and for no other purpose; and

Third, the size of the payment made into the fund is independent of the size of any outstanding bond issue—including the debt service thereon.

A brief consideration of these three conditions may illuminate the reasoning behind the 1978 decision of the Treasury Department regarding the Birmingham Sinking Fund and thereby justify continuation of the same exemption in the Tax Reform Act now under consideration.

The first condition, which requires that amounts must be paid into the fund under a constitutional provision, statute, or ordinance adopted before May 3, 1978, was obviously intended to distinguish between past practices and new financing techniques devised after the effective date of the sinking fund regulations. In 1978 the Treasury Department was concerned not to preclude the use of any legitimate municipal financing arrangements that had been developed and implemented just prior to the effective date of the new regulations. The conditions of a sinking fund complying with Treasury Regulation section 1.103-14(d)(5) have been frozen since May 3, 1978, and the same date should be used for any exemption included in the pending Tax Reform Act. The Birmingham Sinking Fund has been conducted in accordance with the regulations promulgated in 1978, and the city does not believe that the date of any exemption should be advanced to reflect developments in municipal finance occurring since that date.

The second condition, which requires that the fund be used only to pay debt service, reflects a rule governing the Birmingham Sinking Fund that, in relation to the laws of other States, is probably a unique feature of Alabama law. Generally when a State or local governmental unit accumulates a surplus of tax revenues after having discharged all current debt, such unit can expend the surplus for other purposes. By contrast, the city of Birmingham is required to sequester and retain such surplus for the payment of future debt service. Although the relevant Alabama law also applies to other municipalities in the State, no other municipality, to the knowledge of the city, has pursued a conservative debt management policy over the years which has resulted in the accumulation of a significant surplus balance in its sinking fund.

The third condition, which requires that there be no relationship between the amount of the tax revenues going into the sinking fund and the size of the outstanding bond issues, would appear to be aimed at the principal feature of the kind of invested sinking fund that the 1978 regulations were intended to eliminate. Generally, State and local governmental units wanted the advantage of a sinking fund as it applied to a particular bond issue, but if payment of that bond issue had been adequately secured, the laws in effect in other States prior to May 3, 1978, unlike the Alabama law in question, did not require additional funding of the sinking fund in a manner independent of the size of the related bond issue.

The Birmingham Sinking Fund satisfies the three conditions of Treasury Regulation section 1.103-14(d)(5). While these three condidtions do not seem overly restrictive, the city of Birmingham believes that it has the only sinking fund in the country which satisfies the three conditions. This belief is based on the cumulative impression gained from many different comments and inquiries made since 1978 by bond lawyers and underwriters from various parts of the country. If the Birmingham Sinking Fund is unique, it is probably because of the combined effect of the second and third conditions.

The tax reform bill contains a provision that will prevent the city of Bir-

mingham from continuing to operate its sinking fund in the historic manner that such fund has always been operated. The bill proposed by the act will limit the aggregate amount of gross proceeds of a bond issue of the city that can be invested in "nonpurpose investments"—all investments made with moneys in the Birmingham Sinking Fund are expected to constitute "nonpurpose investments" as defined in the act—with a yield higher than the yield of such bond issue to an amount that may not exceed 150 percent of the scheduled debt service on such bond issue for the current bond year.

The sinking fund regulations promulgated in 1978 were not intended to interfere with the historical financial practices of State and local governments. They were directed instead at new and clever techniques which departed from traditional practice in order to deliberately circumvent the arbitrage rules. In 1978 the Treasury Department recognized that the Birmingham Sinking Fund represented historical practice and that it was not appropriate to disrupt the city's reliance on this practice to enhance the credit rating assigned to its bonds. To resolve the difficulty created by the regulations proposed in 1978, the Treasury Department exempted the Birmingham Sinking Fund by adopting Treasury Regulation section 1.103-14(d)(5). Under the circumstances.

I believe that the substance of the 1978 exemption should be incorporated in the Tax Reform Act now under consideration by the U.S. Congress.

Mr. DENTON. Mr. President, I rise as a cosponsor of the amendment offered by my colleague from Alabama.

In 1913 before the adoption of the 16th amendment authorizing the United States Government to collect income taxes, the city of Birmingham, AL, established a sinking fund to provide a constant source of capital to pay the debt service on its bonds. The Alabama constitution provides that sources of income for the Birmingham Sinking Fund consist of the proceeds of a property tax that has been continuously collected since 1901. The Birmingham Sinking Fund money can be used only for debt service on the bonds and when the annual requirements of such debt service are less than the annual tax receipts and investment income, State law mandates the accumulation of the resulting surplus. No moneys can be withdrawn for the payment of any operating expenses of the city or for the payment of the cost of public facilities or other capital expenditures.

The arbitrage rules of section 103(c) of the Internal Revenue Code of 1954, as amended, were enacted in 1969 to prevent State and local governments from making a profit at the expense of the Federal Treasury by issuing tax-exempt obligations and investing the proceeds thereof in higher yielding taxable obligations. Although section 103(c) did not initially interfere with the continued operation of the Birmingham Sinking Fund, that was not the case with regulations promulgated in 1978. As originally proposed, the regulations would have interfered with the historic operation of the Birmingham Sinking Fund, but the city was able to persuade the Treasury Department that this sinking fund did not constitute the kind of open-ended abuse that the new regulations were intended to combat. The final version of the new regulations contained a specific exemption of sinking funds that were created and managed under conditions corresponding to the Birmingham Sinking Fund. As was the case with the original 1978 regulations, the Tax Reform Act of 1985 contains new arbitrage provisions which significantly impair the continued operation of the Birmingham Sinking Fund.

Between 1969 and 1978, in order to take advantage of the arbitrage rules, many State and local governmental units began to abandon the traditional practice of issuing long-term bonds with serial maturities for the specific purpose of circumventing the arbitrage rules. Instead of issuing bonds with serial maturities, part of the principal of which would be paid each year, a widespread practice developed of issuing term bonds, all or a substantial part of the principal of which would come due in a single installment 20 to 30 years later. For this 20- or 30-year period the revenues held in the sinking fund were required to be invested in specified taxable obligations—generally U.S. Treasury bonds—bearing a higher rate of interest than the tax-exempt issue in question and thereby enabling the issuer to earn substantial arbitrage profits.

The Treasury Department then proposed new regulations in 1978 to counteract the change in traditional financial practices of State and local governments represented by the invested sinking fund technique. The new regulations simply treated amounts held in an invested sinking fund for an issue of tax-exempt bonds as if they were proceeds of the bonds and were therefore subject to investment limitations. At the time, the Treasury Department expressly emphasized that the new regulations were not intended to interfere with traditional or customary financial practices and were, instead, aimed at sophisticated devices intended to circumvent the arbitrage rules.

The history of the Birmingham Sinking Fund is completely free of any intention to avoid or circumvent Federal arbitrage law. Although probably unique in the country, the Birmingham Sinking Fund represents a frugal and prudent approach to municipal finance which has been practiced by the city without change for longer than the Federal income tax has existed. The Treasury Department was persuaded in 1978 that the Birmingham Sinking Fund constituted a historical practice, which, given its unique and limited use, should not be upset by the then newly proposed regulations applicable to invested sinking funds. The city of Birmingham believes that the preservation of its historic sinking fund is justified by principles of comity which should exist between Federal tax law and long-established financial practices of State and local government. The same considerations which persuaded the Treasury Department to leave the Birmingham Sinking Fund undisturbed in 1978 should be reflected in the Tax Reform Act now under consideration by the U.S. Congress.

The Tax Reform Act of 1985 contains two distinct arbitrage provisions that will prevent the city of Birmingham from continuing to operate its sinking fund in the historic manner that such fund has always been operated. First, section 174(d) of the new Internal Revenue Code of 1985 proposed by the act will limit the aggregate amount of gross proceeds of a bond issue of the city that can be invested in "nonpurpose investments"—all investments made with moneys in the Birmingham Sinking Fund are expected to constitute "nonpurpose investment" as defined in the act—with a yield higher than the yield of such bond issue to an amount that may not exceed 150 percent of the scheduled debt service on such bond issue for the current bond year. Second, section 147(e) of the new Internal Revenue Code of 1985 will require the city to rebate to the U.S. Government any amount by which, first, the aggregate amount earned on all nonpurpose investments in which gross proceeds of a bond issue are invested exceeds, second, the aggregate amount that would have been earned on such nonpurpose investments if the yield thereon had been equal to the yield on such bond issue.

The sinking fund regulations promulgated in 1978 were not intended to interfere with the historical financial practices of State and local governments. They were directed instead at new and clever techniques which departed from traditional practice in order to deliberately circumvent the arbitrage rules. In 1978 the Treasury Department recognized that the Birmingham Sinking Fund represented historical practice and that it was not appropriate to disrupt the city's reliance on this practice to enhance the credit rating assigned to its bonds.

In circumstances such as this, where the right that the city of Birmingham seeks to preserve is unique and where

any financial loss to the U.S. Treasury is insignificant, the most fundamental notion of fairness argues for this amendment protecting the Birmingham Sinking Fund in the Tax Reform Act of 1985.

Mr. HEFLIN. Mr. President, this amendment has been looked at and has been agreed to, I believe, by the majority and the minority here as well as the Joint Committee on Taxation. It is my understanding that in the final draft the Treasury Department made suggestions and they now agree to the language of my amendment.

I do not believe there is any objection to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. The amendment has been cleared on this side. We find it is in order and hope the Senate will, too.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. There is no objection on this side, Mr. President. I find no fault with the amendment and hope it will be agreed to.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2151) was agreed to.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. I suggest the absence of a quorum Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. I ask there now be a period for the transaction of routine morning business not to extend beyond 5:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished acting minority leader if he is in a position to pass the following calendar items: Calendar Nos. 680, 691, 692, 693, 694, and 695.

Mr. LONG. Mr. President, those items have been cleared.

Mr. DOLE. I thank the distinguished Senator.

I ask unanimous consent that the Senate proceed to the consideration of the measure just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

REQUIREMENT FOR CERTAIN MAIL TO BE CARRIED ON U.S.-FLAG VESSELS

The bill (S. 186) to further the development and maintenance of an adequate and well-balanced American merchant marine by requiring that certain mail of the United States be carried on vessels of United States registry, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title IV of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1141 et seq.), is amended by adding at the end thereof a new section to read as follows:

"SEC. 405. (a) The Postal Service shall contract for the use of vessels of United States registry to originate any international sea transportation of mail of the United States in any case in which the common carrier which operates or controls such vessel is enaged in the provision of regular transportation services to the destination specified by the Postal Service. The Postal Service shall not be required to enter into any such contract if no such vessels are available at the time the Postal Service seeks to arrange for the transportation of such mail, or if no such vessels can provide service sufficient to meet the actual needs of the Postal Service.

"(b) Any rate charged for the international sea transportation of mail of the United States under subsection (a) of this section shall comply with the provisions of the Shipping Act of 1984 (Public Law 98-237). Any such rate shall not be higher than rates charged by such carrier for transporting like goods for private persons.

"(c) Notwithstanding any other provision of law, in any case in which two or more common carriers seek to enter into a contract offered by the Postal Service under subsection (a) of this section, the Postal Service shall award such contract by competitive bidding and the duration of any such contract may not exceed one year.

"(d) The Postal Service shall not give any preference to any common carrier for the carriage of mail by sea based upon the basis of length, height, or width of cargo containers. Unless required by the physical handling limitations of the destination, no invitation for bids or request for proposals for the carriage of mail may specify the use of containers of any particular length, height, or width.

"(e) For purposes of this section, the term 'common carrier' means any common carrier, other than any ferryboat running on regular routes, engaged in the transportation by water of passengers or property between the United States (or any of its districts, territories, or possessions) and any foreign country, whether in the import or export trade, except that a cargo boat commonly referred to as an ocean tramp shall not be considered to be a common carrier.".

SEC. 2. Section 410(b) of title 39, United States Code, is amended by adding at the end thereof the following new paragraph:

"(9) Section 405 of the Merchant Marine Act, 1936, as amended.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NEIGHBORHOOD CRIME WATCH DAY

The joint resolution (S.J. Res. 256) designating August 12, 1986, as "National Neighborhood Crime Watch Day", was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 256

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level; and

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 9 o'clock postmeridian on August 12, 1986, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 12, 1986, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FAMILY REUNION WEEKEND

The joint resolution (S.J. Res. 274) to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 274

Whereas the family is the foundation of a strong America;

Whereas the family nurtures the character and identity of individuals;

Whereas it is important to strengthen and preserve family spirit and unity;

Whereas tracing ancestral roots and creating a family tree can be an important discovery process;

Whereas family reunions of any size provide a strong sense of heritage and pride; and

Whereas family reunions bridge the gap between generations, bringing together the young and old alike to celebrate a family's rich past: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weekend of August 1, 1986, through August 3, 1986, is designated as "National Family Reunion Weekend" and the President is authorized and requested to issue a proclamation calling upon the families of America to observe such weekend with appropriate activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

The joint resolution (S.J. Res. 362) to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk and Drugged Driving Awareness Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 362

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-four thousand in 1985;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas about 54 per centum of drivers killed in single vehicle collisions and 38 per centum of all drivers fatally injured in 1985 had blood alcohol concentrations of 0.10 or above;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;

Whereas most States have appointed task forces to examine existing drunk driving programs and made recommendations for a renewed, comprehensive approach, and in many cases their recommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as ten thousand lives each year.

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness week in each of the last four years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter; and

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of December 14, 1986, through December 20, 1986, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LITERACY DAY

The joint resolution (S.J. Res. 363) to designate July 2, 1986, as "National Literacy Day," was considered, ordered to be engrossed for a third reading, read the third time and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 363

Whereas literacy is a necessary tool for survival in society;

Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;

Whereas there are twenty-five million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas the annual cost of illiteracy to society has been estimated at $6,000,000,000;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare cost and unemployment compensation;

Whereas, although the largest number of adult illiterates is comprised of whites, in proportion to population size in percentages the number is higher for blacks and Hispanics, resulting in more economic and social discrimination problems;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas one million children between the ages of twelve and seventeen cannot read above a third grade level and 15 percent of recent graduates of urban high schools read at less than a sixth grade level;

Whereas 85 percent of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 percent illiteracy rate among black youths is expected to increase to 50 percent by 1990;

Whereas one-half of the heads of households cannot read past the eighth grade level and one-third of mothers on welfare are functionally illiterate;

Whereas the federal, State, municipal, and private literacy programs have only been able to reach 4 percent of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to help others understand the severity of the problem and the detrimental effects on society, and to reach people who are unaware of the free service and help available for illiteracy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1986, is designated as "National Literacy Day" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL NUCLEAR MEDICINE WEEK

The joint resolution (H.J. Res. 297) to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEQUENTIAL REFERRAL OF CALENDAR NO. 561, S. 1655

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar No. 561, S. 1655, as reported by the Committee on the Judiciary, be sequentially referred to the Committee on Finance for its consideration thereof, that any amendments reported by the Committee on Finance relating to the subject matter of S. 1655 shall be in order and that the period for consideration by the Committee on Finance shall not extend beyond the close of business on August 1, 1986, provided that, if S. 1655 is not reported by the Committee on Finance at such time, it shall be immediately discharged from further consideration thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 433) to direct the Senate Legal Counsel to represent Senator ARMSTRONG and his staff, and to authorize the testimony of his State Director, in the case of State of Colorado and the City and County of Denver v. Mary Cunningham, et al.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, this coming Monday morning in a municipal court in Denver, 22 defendants will be tried for trespass, disturbing the peace, loitering, and failure to obey police officers in a case arising out of a sit-in at Senator ARMSTRONG's State office just over 1 year ago. The Senator from Colorado's State director, John W. Jackson, has been subpoenaed by the prosecution to testify at that proceeding as to the events which gave rise to the arrests and charges in question.

This resolution would direct the Senate legal counsel to represent Senator ARMSTRONG and his staff in the matter—as well as authorize Mr. Jackson to appear as a witness. Since it has already been indicated by the defense that an appeal would likely be taken from any conviction, the authority would further carry over to all subsequent actions related to the same, June 12, 1985, incident.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 433) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 433

Whereas, in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.* Crim. No. 5-040856, pending in the Denver County Court, Denver, Colorado, the prosecution has obtained a subpoena for the testimony of John W. Jackson, State Director for Senator William L. Armstrong;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members or employees of the Senate with respect to subpoenas issued to them in their official capacity;

Whereas, by the privileges of the United States Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that testimony of employees of the Senate is or may be needful for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator William L. Armstrong, John W. Jackson, and any other staff assistant of Senator Armstrong who may be asked to testify in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.* or subsequent related proceedings.

SEC. 2. That John W. Jackson and any other staff assistant of Senator Armstrong who may be asked is authorized to testify in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.*, including any appeals thereto, except concerning matters which may be privileged.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LONG. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

H.R. 5036 TO BE HELD AT THE DESK

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate receives from the House, H.R. 5036, dealing with the arts and humanities, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 4841 TO BE HELD AT THE DESK

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate receives from the House, H.R. 4841, a bill to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the act, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so orderded.

REMOVAL OF INJUNCTION OF SECRECY—BERNE CONVENTION FOR PROTECTION OF LITERARY AND ARTISTIC WORKS (TREATY DOCUMENT NO. 99-27)

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Berne Convention for the Protection of Literary and Artistic Works (Treaty Document No. 99-27) transmitted to the Senate on June 18, 1986, by the President of the United States.

I also ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, is is so ordered.

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to accession, I transmit herewith the Berne Convention for the Protection of Literary and Artistic Works. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Convention.

The Convention obligates States party to the Convention to maintain high levels of protection for artistic works. The extent of protected works is broad, ranging from conventional works—such as books, motion pictures, and music—to new technological works including audio and video cassettes, and computer-related works. The Convention contains detailed provisions that specify minimum levels of protection to be provided by member countries.

Adherence to the Convention by the United States will demonstrate our commitment to improving international protection afforded intellectual property. When we are urging other countries to enhance copyright protection, the United States can no longer remain outside the Berne Union. It is, therefore, a matter of some urgency that the United States finally join the Berne Convention.

As indicated in the report of the Department of State, implementation of the Convention will require legislation. Until this legislation is enacted, the United States instrument of accession will not be deposited with the Director General of the World Intellectual Property Organization.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to accession.

RONALD REAGAN.

THE WHITE HOUSE, *June 18, 1986.*

TAX REFORM ACT OF 1986

The Senate continued with the consideration of H.R. 3838.

Mr. DOLE. Mr. President, we are waiting for the distinguished Senator from New York to offer an amendment. It will be the last amendment of the day, as I understand from the managers of the bill.

AMENDMENT NO. 2152

(Purpose: Extend moratorium on the application of section 312(n) (6) to foreign corporations)

Mr. PACKWOOD. Mr. President, on behalf of Senator MOYNIHAN, I have an amendment that will extend the moratorium on the application of section 312(n)(6) to foreign corporations.

I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Grassley amendment is set aside and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] for Mr. MOYNIHAN proposes an amendment numbered 2152.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike subparagraph (E) on page 2503 on lines 8 through 12 and insert in lieu thereof the following:

(E) Paragraph (8) of section 312(n) (as redesignated by subparagraph (C)) is amended by striking out "paragraphs (5), (6), and (7)" and inserting in lieu thereof "paragraphs (4) and (6)," and by inserting the following language after "December 31, 1985": "and paragraph (5) shall apply only in the case of taxable years beginning after December 31, 1987."

At the appropriate place in the bill, insert the following new section:

SECTION . TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

(a) IN GENERAL.—Section 530 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(d) EXCEPTION.—This section shall not apply to services provided pursuant to an arrangement between such person and another organization whereby the individual provided services as an engineer designer drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work for such other organization.

(b) EFFECTIVE DATE.—the amendment made by this section shall apply to services rendered after the date of enactment of this section

Mr. PACKWOOD. Mr. President, as I indicated just before I proposed the amendment, this is a 2-year extension of the moratorium.

(By request of Mr. PACKWOOD, the following statement was ordered to be printed in the RECORD.

● Mr. MOYNIHAN. Mr. President, I offer an amendment to ensure that a provision of our 1984 tax legislation, enacted to remedy a wholly domestic abuse, is not applied to produce unintended and deleterious consequences upon the ability of U.S. companies to compete effectively with their foreign counterparts in foreign markets.

In 1984, Congress amended the tax law to close a loophole that permitted distributions from domestic corporations made in anticipation of the receipt of installment sales payments to be treated by U.S. shareholders as a nontaxable return of capital. However, the 1984 amendment would have a perverse effect upon a domestic corporation's ability to claim the appropriate credit for foreign taxes paid by an overseas subsidiary upon the receipt of a dividend from the foreign company. For growing corporations that regularly make installment sales, the 1984 amendment would result in a permanent and constantly increasing loss of the foreign tax credit.

Congress delayed the application of the 1984 amendment to foreign corporations until January 1, 1986, to give the Treasury Department the opportunity to study the provision's effect in the foreign context. I understand that the Treasury has undertaken the analysis contemplated by the Congress, and has concluded that the 1984 amendment should not apply to the computation of the foreign tax credit.

If Congress fails to modify the 1984 amendment to preclude its application to the computation of the foreign tax credit, U.S. corporations with overseas subsidiary operations will have to take steps to avoid the increased U.S. tax burden. In the short term, U.S. corporations may postpone the repatriation of overseas subsidiary earnings, causing an actual reduction in U.S. tax revenues.

As a long-term solution, U.S. corporations could restructure overseas installment sales to qualify as leases under U.S. tax principles. This would make the U.S. companies less competitive then their foreign counterparts. Alternatively, corporations could accelerate foreign taxes by selling overseas installment contracts for cash, once again providing foreign companies with a competitive edge.

The House tax reform bill would extend the moratorium adopted in 1984 for 6 months beyond that bill's January 1, 1986, effective date. The rate reduction contemplated by the Finance Committee bill would not become fully effective until January 1, 1988. If the moratorium were extended through 1987, the economic impact of the 1984 amendment would be mitigated by the proposed U.S. tax rates, which, in most cases, would be lower than the presently prevailing foreign rates.

My purpose is to propose a noncontroversial and narrow amendment aimed at preventing unintended consequences for our domestic companies.

As a review-raising measure, this amendment further provides a rule governing the employee status of certain technical services personnel.

Under this amendment, the classification as employees for tax purposes of certain types of workers should be clarified. Technical services firms have retained engineers, designers, drafters, computer programmers, systems analysts, and other similarly skilled personnel to render services to clients of the technical services firms. Despite the fact that the Internal Revenue Service regards such personnel as employees of the technical services firms, some of such personnel are taking the position that they should be treated as independent contractors and as such the technical services firms would not be required to withhold income and employment taxes from their earnings. Under this amendment such persons would be employees of the technical services firms and their wages should be subject to withholding FICA and FUTA taxes.[1]

Technical services include services provided by engineers, designers, drafters, computer programmers, systems analysts, and other similarly skilled personnel who are engaged in similar lines of work. Generally, personnel providing such services are retained by the technical services firm for assignments for clients and may work for several clients during the course of their employment by the technical services firm, although they may work only for a single client. The treatment of this class of persons as

[1] Nothing in this amendment applies to persons who, under common law standards, are employees of clients of technical services firms.

employees will provide greater certainty and simplification in employment tax law and will result in greater tax compliance.

The purpose of this amendment—to treat technical service personnel as employees of technical services firms—cannot be avoided by claims that such personnel are independent contractors, sole proprietors, partners, or employees of personal service corporations controlled by such personnel. For example, an engineer retained by a technical services firm to provide services to an aircraft manufacturer cannot avoid treatment as an employee of the technical services firm by organizing a corporation which he controls and then claiming to provide his services as an employee of that corporation.

Nothing in this provision will affect the application of section 414(n), dealing with so-called employee leasing, to technical services personnel. That provision, to the extent applicable under current law, would continue to apply in addition to this provision.

This provision will be effective upon the date of enactment.

The PRESIDING OFFICER. Is there any debate of the amendment?

Mr. LONG. Mr. President, we are familiar with the amendment on this side and pleased that the chairman of the committee has offered this on behalf of the Senator from New York [Mr. MOYNIHAN]. The Senator was required to leave but he said if we wanted to agree to this amendment he would be happy for us to do so.

I am happy to cooperate. I am pleased to vote for the amendment.

The PRESIDING OFFICER. If there will be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2152) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PLANT FACILITY TRANSITIONAL RULE

Mr. STEVENS. Mr. President, it is my understanding that the Finance Committee's bill includes a transitional rule for plant facilities where construction has commenced and more than 50 percent of the cost was incurred or committed prior to January 1, 1986. The committee report states that construction is not considered to have commenced until work has actually begun on the site of the plant facility except in situations whether the plant facility is not to be located on land and, therefore, the initial construction work must be done elsewhere.

I would like to ask the distinguished chairman of the Finance Committee whether the committee also intends that transitional relief may be available in very limited situations where construction of a plant facility to be located on land cannot begin on site because economic and other logistical considerations would make such construction unfeasible.

Mr. PACKWOOD. Mr. President, I would be glad to answer the question of my colleague from Alaska. It is the intention of the committee that transitional relief may be available to particular plant facility projects to be located on land in very limited circumstances where the initial construction work takes place off site because economic and logistical considerations would make such construction unfeasible.

To illustrate this point with an example relevant to Alaska, the construction of plant facilities to be installed on Alaska's North Slope must take place outside Alaska because of the prohibitive costs of onsite construction and other conditions, including weather, which make it entirely impractical to construct on site. These considerations are equivalent to the considerations that led the committee to decide to waive the onsite construction requirement for plant facilities not to be located on land. Therefore, it is the intent of the committee that the North Slope plant facilities, which are being constructed in accordance with the other stipulations of the transitional rule, should be granted transitional relief.

Mr. STEVENS. Mr. President, I thank my colleague from Oregon for his clarification of this point.

REAL ESTATE BROKER REPORTING PROVISION

Mr. MATTINGLY. Mr. President, I am pleased to rise in support of the amendment offered yesterday by the distinguished Senator from New Hampshire. As a cosponsor, I am extremely concerned about the impact the provision in the Senate Finance Committee bill would have on real estate transactions.

Current law does not provide for any type of reporting mechanism by which the Internal Revenue Service must be notified when real property is sold and when a capital gain should be taxed. However, many believe some real estate sellers fail to report their property sales, thereby avoiding payment of the required capital gains tax.

The bill before us places the requirement of reporting on the real estate broker. This burden is unjustly placed. The broker simply locates a buyer for the seller. Closing agents have filing requirements, whereas brokers do not. Why should a party that is not accustomed to reporting and filing procedures be required to carry out such a task? To do so, in my view, would certainly be less efficient and effective. I see no reason why this requirement should exist.

Another concern of mine, Mr. President, is the paperwork burden that will be imposed on real estate brokers by this provision. Many of these brokers are small businessmen and businesswomen. They do not need this additional paperwork. We in Congress should not be making it more difficult for these types of businesses.

Therefore, I believe this revenue-neutral amendment—which has been approved by both sides—will satisfactorily address the problem. With it, we can reject this notion of placing such a burden on real estate brokers, yet still adequately satisfy the need to have a way to report capital sales. I am pleased we have been able to work out this problem.

PUBLIC EMPLOYEE PENSIONS

● Mr. D'AMATO. Mr. President, I rise today to discuss a matter of great concern to the millions of State, local, and Federal employees who are counting on their pension benefits.

Approximately 19 million individuals participate in a pension plan sponsored by a public entity. Under current law, retired public employees are permitted to get back all previously taxed contributions to their pension programs before being subjected once again to Federal taxes. That recovery rule allows the average Federal retiree to draw benefits for 18 months before having their pension benefits taxed.

The House bill would end the 3-year recovery rule after July 1. The Senate Finance Committee plan now being debated would phase out the recovery period over 2 years, beginning in January 1988.

This provision will radically change the years of financial planning by some 19 million Americans. We are about to subject public employees at all levels of government to significant changes in their retirement plans. I feel that this proposed change is absolutely wrong.

This is not an esoteric issue. It has a dramatic impact on postal workers, teachers, and all other public employees. In New York there are over 160,000 active Federal employees counting on 18 months of tax-free retirement benefits. The same holds true for the over 76,000 postal workers in my home State. I feel strongly that these individuals should not have the rules governing their retirement benefits changed in the middle of the game.

Mr. President, any change in the retirement plans of even one person must be carefully considered. Changes cannot be made in a cavalier manner. Planning for retirement begins years before people actually leave the work force. Millions of public employees have planned for their retirement based on current law.

Mr. President, it is my hope that the House-Senate conference committee

on the tax bill will retain current law treatment of public employees' pension benefits. I feel that this is the fairest way to treat the millions of dedicated public employees in our Nation.●

Mr. DENTON. Mr. President, when the United States is described as a world superpower, the statement is typically a reference to military superiority. Actually, the superpower label could just as accurately be applied to U.S.-agricultural activity.

Last year, for example, United States farmers harvested almost twice as much grain as did the Soviet Union, but they did so using half the acreage. In other words, the United States gathered 81 million more tons of grain on 138 million fewer acres. What is most incredible about the comparison, however, is the fact that the Soviet production was achieved with a work force of 27 million, while the superior United States production required a scant 3.7 million workers.

Achievements like that demonstrate the truly remarkable productive efficiency and spirit of the American farmer. It is also testimony to the fact that the U.S. Government does support policies that promote American agriculture.

I believe, therefore, that in considering the Tax Reform Act of 1986, we have a special duty to our farmers to preserve life on the farm—particularly the small family farm—as a legacy that can be passed from generation to generation.

I recently conducted a telephone survey of farmers in my State and found that, while overall they support this tax bill, they are worried about some of the provisions that, although well-intended, would further handicap their livelihood and be unfair to our Nation's most productive sector.

One of the provisions that would hit the farmers in Alabama the hardest is the elimination of income averaging. Over the past 5 years, Alabama farmers have been faced with severe drought, tornadoes, blight, and early freezes. It seems, at times, as if nothing worse can happen to the farmers of our State. The weather is something that a farmer really does not like to talk about because it tears at his soul and he can't do anything about it. So I think it is very unfair not to take the unpredictable obstacles facing farmers into consideration—special consideration.

I know one farmer whose income in 1981 was $60,000. In 1982, when Alabama had heavy flooding, his income dropped to $40,000. In 1983, this same farmer's farm experienced severe drought, and he lost his cotton crop, dropping his income to $30,000; in 1984, there were tornadoes, which wiped out his pecan crop, dropping is income further to $18,000.

In 1985, it cost him more to take his soybeans out of the field than he could make at market. Now, in 1986, the ground is so hard from the effects of the current drought that he cannot get his peanuts into the ground. If he does not get a crop into the ground soon he will be facing bankrupty.

This farmer is not someone who has mismanaged his farm. In 1986, he was honored as one of the best farm managers in our State. It is obvious that this farmer needs income averaging; it will probably be the only thing that saves him from going bankrupt.

Another provision farmers in my State are concerned about is the elimination of the capital gains treatment. Even though I do not like it, I can live with the elimination of the exclusion for short-term investments of 6 months, 9 months or a year, but we should keep capital gains for lifetime investments that take years to nurture, like timber. A farmer is lucky if he can cut two stands of timber in his lifetime, since it takes from 25 to 40 years to grow. Timber growers need capital gains treatment.

Some farmers are in such desperate straits that they are having to sell off portions of third generation farms to pay off the tax collector and the loan officer. To tax someone who is having to sell off part of a family farm at ordinary income rates is unfair, forcing families to sell off even more land.

So we should try to find a way to take care of long-term farm capital like land and timber.

I was very glad to see that the Finance Committee bill liberalizes the depreciation schedule for farmers. I am particularly pleased that up to $10,000 of machinery and equipment may be written off in the year of purchase.

I was also very relieved to see the Finance Committee address the farm debt crisis. No longer will a farmer, just climbing out of debt, be subject to new taxes just when he is getting back on his feet. When a farmer has been in bankruptcy and has had prior debt released, that release would not be counted as income in subsequent years.

It is my hope that the conferees will keep history in mind. History tells us that when America's farms are strong and healthy the rest of America's economy has historically flourished.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES HELD AT THE DESK

The following bills were ordered held at the desk by unanimous consent pending further disposition:

H.R. 4841. An act to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. D'AMATO (for himself and Mr. MATTINGLY):

S. 2580. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to impose increased criminal penalties on cocaine dealers; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 2581. A bill to increase the obligation limitations for Federal-aid highways and highway safety construction programs; to the Committee on Environment and Public Works.

By Mr. PRYOR (for himself, Mr. MELCHER, Mr. GRASSLEY, Mr. HEINZ, Mr. BUMPERS, and Mr. BOREN):

S. 2582. A bill to provide for the deduction of points when refinancing a home; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHILES:

S. Res. 432. A resolution expressing the sense of the Senate that certain prisoners in Cuba be granted asylum; to the Commttee on the Judiciary.

By Mr. DOLE (for himself and Mr. BYRD):

S. Res. 433. A resolution to direct the Senate Legal Counsel to represent Senator Armstrong and his staff, and to authorize the testimony of his Staff Director, in the case of State of Colorado and the City and County of Denver v. Mary Cunningham, et al; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO (for himself and Mr. MATTINGLY):

S. 2580. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to impose increased criminal pen-

alties on cocaine dealers; to the Commttee on the Judiciary.

CRACK AND COCAINE MEANINGFUL PENALTIES ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce the Crack and Cocaine Meaningful Penalties Act. I am pleased to announce that the Department of Justice enthusiastically supports the thrust of the bill.

Mr. President, it is time that we begin to punish cocaine and crack dealers as severely a we punish heroin dealers. Currently, cocaine dealers are not subject to the maximum penalties available under 21 U.S.C. 841(b) and 960(b) unless they are in trafficking in, importing, or exporting at least a kilogram (1,000 grams or 2.2 lbs.) of cocaine. This is 10 times as high as the amount of heroin required to merit a maximum sentence, yet cocaine is no less dangerous a narcotic.

This amount is unreasonably high. It offers those who prey on our children and our communities a safe haven that they simply do not deserve. When 4 or 5 million Americans are regular users of cocaine, when 1 of every 6 high school seniors has tried cocaine at least once, and when an epidemic of crack abuse is causing violent crime to increase dramatically in communities across this country, it is time to stop treating cocaine as anything less than an urgent drug law enforcement priority. It is time to make the punishment fit the crime.

Crack—or rock, as it is also known—is smokeable freebase cocaine. It sells for $5 to $20 a dose. The current issue of Newsweek (June 16, 1986) describes the severity of the crack crisis in its cover story on "Crack and Crime:"

> The crack trade operates like a guerrilla insurgency and makes an infuriatingly elusive target for police. Dealers—"ounce men," as they are known in L.A.—organize small cells of pushers, couriers, and lookouts from the ghetto's legion of unemployed teenagers. . . . Police raids on "crack houses" typically recover too little cocaine to impress prosecutors or the courts . . . Rock and crack represent a quantum leap in the addictive properties of cocaine . . . Sold in tiny chips that give the user a 5- to 20-minute high, crack often is purer than sniffable cocaine . . . Crack addicts are likely to be paranoid and highly active.

The director of the 1-800-COCAINE Hotline is quoted in the Newsweek article as saying:

> 33 percent of all coke users who call are talking about crack addiction. The explosion has taken place in the past six to nine months. It's a true epidemic.

According to information compiled by the hotline, crack and rock are widely available in 17 cities: Atlanta, Boston, Chicago, Denver, Detroit, Houston, Los Angeles, Miami, Newark, New Orleans, New York, Philadelphia, Phoenix, San Francisco, Seattle, St. Louis, and the Washington-Baltimore area. It is widely available in 25 States.

Our laws are seriously out-of-date as applied to cocaine, and absurdly so as applied to crack, or freebase cocaine. An average dose of crack is only 65 miligrams. Under current law, therefore, a crack dealer cannot be subject to the maximum prison term unless he is caught with a kilogram, or more than 15,000 doses, of crack. This simply never happens. As a result, those who traffic in one of the most addictive substances known to man—a substance that is spreading a new crime wave through our cities and towns and our rural and suburban areas—escape the severe punishment they deserve.

The bill I am introducing today recognizes how inadequate these current penalties are. It set 100 grams of cocaine and I gram of crack, instead of 1,000 grams, as the threshhold amounts that will trigger imposition of the maximum penalties under 21 U.S.C. 841 and 960.

The Crack and Cocaine Meaningful Penalties Act subjects the first-time offender, who traffics in 100 grams of cocaine or 1 gram of crack to a maximum prison term of 20 years and a fine of $250,000. It subjects the repeat offender to up to 40 years and a $500,000 fine.

The offenses involved are those covered by 21 U.S.C. 841(a) and 960(a), including, among others: the manufacture, distribution, possession with intent to manufacture and distribute, importation, and exportation of cocaine and freebase cocaine.

This bill creates, for the very first time, a special penalty applicable to crack. Because crack is so potent, drug dealers need to carry much smaller quantities of crack than of cocaine powder. By treating 1,000 grams of feebase cocaine no more seriously than 1,000 grams of cocaine powder, which is far less powerful than freebase, current law provides a loophole that actually encourages drug dealers to sell the more deadly and addictive substance, and lets them sell thousands of doses without facing the maximum penalty possible.

As the explosive spread of cocaine and crack made clear, we are failing to meet one of the essential purposes of our criminal law, the deterrence of crime. With penalties that drug dealers laugh at, this plague can only get worse.

I urge my colleagues to cosponsor the Crack and Cocaine Meaningful Penalties Act to close the loopholes that serve only to protect society's enemies—the drug dealers who operate today with impunity. Let's let the purveyors of these deadly substances know how tough we are willing to be.

Mr. President, I ask unanimous consent that the full text of my legislation be printed in the RECORD at the conclusion of my remarks.

Thank you, Mr. President.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2580

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Crack and Cocaine Meaningful Penalties Act".

SEC. 2. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (i) by striking out beginning with "other than a narcotic drug" through and including subclause (III) and inserting in lieu thereof a semicolon; and

(2) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) 1 gram or more of a base form of cocaine;".

SEC. 3. AMENDMENT TO THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (A) by striking out beginning with "other than a narcotic drug" through and including clause (iii) and inserting in lieu thereof a semicolon; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) 1 gram or more of a base form of cocaine;".●

● Mr. MATTINGLY. Mr. President, I am pleased to join with my distinguished colleague from New York, Senator D'AMATO, in sponsoring the "Crack and Cocaine Meaningful Penalties Act." As my colleague has described, the legislation recognizes the real hazard that cocaine and smokeable freebase cocaine, known on the streets as "crack" and "rock," pose to the citizens of our Nation and provides for appropriate penalties for those who traffic in these dangerous substances.

Crack has been known to law enforcement officials in cities throughout this country for less than a year, yet, according to a report in the June 16, 1986, issue of Newsweek, it "has suddenly become America's fastest-growing drug epidemic and potentially its most serious. It is cheap, plentiful, and intensely addictive, a drug whose potential for social disruption and individual tragedy is comparable only to heroin." That is a sobering statement, Mr. President, and one which demands our attention and action.

Because crack is indeed a new phenomenon, our current Criminal Code does not deal with it effectively. This measure would create a special penalty which would apply to this "special" substance by providing for the maximum prison term of 20 years and a fine of $250,000 for the first-time offender who traffics in 1 gram—the equivalent of more than 15 doses—of crack. The penalty for repeat offenders, of course, would be greater.

Mr. President, those who traffic in crack and cocaine lure their customers, many of whom are children, into what often become a life of imprisonment to the drug, or worse, even death. I believe it is entirely appropriate, and long overdue, that we get tough with the cocaine and crack dealer.

The June 8 edition of the New York Times carried a story entitled "Crack Addiction Spreads Among the Middle Class." Accompanying that story was a photograph which displayed a placard reading "Crack Down on Crack." That, Mr. President, is what this legislation would do.

Today we know crack is available in 17 cities, among them Atlanta and New York, major municipalities in my and my colleague's home States; and crack is available in 25 States. Mr. President, it is too late for some of the citizens who live there. Their lives have already been damaged through addiction or through the distressing wave of crime which accompanies crack. But it is not too late for others, and they deserve protection.

We hope that the penalties which this bill would impose will create an effective deterrent against the spread of crack to other cities and States. Those who are not deterred would be punished in a manner more fitting their crime than is provided for under current law.

The stakes are high, Mr. President. They are the welfare, protection, and very lives of our citizens, particularly our children, and the safety and tranquility of our communities. The American people understand this. In fact, a Wall Street Journal/NBC News poll conducted earlier this month shows that a greater number of those questioned believed that it was more important for the Federal Government to combat drug abuse than to reform the Tax Code. I ask unanimous consent that the article entitled "Fight Against Drug Abuse Illustrates the Limits of Politics as Legislative Solutions Prove Elusive" in which it appeared in today's Wall Street Journal be printed in the RECORD at the conclusion of my remarks.

In closing, I urge my colleagues to respond to the concerns of our citizens and to lend their support and cosponsorship to this important measure.●

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 20, 1986]

FIGHT AGAINST DRUG ABUSE ILLUSTRATES THE LIMITS OF POLITICS AS LEGISLATIVE SOLUTIONS PROVE ELUSIVE

(By David Shribman)

ATHENS, GA.—Sen. Mack Mattingly had just finished a speech in northeast Georgia and now, during the long ride back to Atlanta, he was musing about the sort of issues politicians talk about when they run for reelection.

There's the successful flight against inflation, he was saying, and the progress in bringing down interest rates. And then, as the lights of Atlanta became visible in the distance, the Georgia Republican leaned over in the car and said, "But the biggest cloud out there is the problem of drugs."

Indeed, the most recent Wall Street Journal/NBC News poll indicates that while the public believes the drug problem is less urgent than reducing the federal budget deficit and unemployment and fighting terrorism, it regards curbing drug abuse as an important challenge—a higher priority, in fact, than overhauling the tax system. "It should be the most significant issue that we face," says Mr. Mattingly, who is seeking a second term this November.

But though Rep. William Gray (D., Pa.) calls it "an epidemic on the level of the medieval European plague and the No. 1 problem we face" and Sen. Dan Quayle (R., Ind.) recognizes it is "one of the biggest issues in America's families," the fight against drug abuse illuminates the limits of politics.

USUAL TOOLS OF POLITICS DON'T WORK

Political figures have come to recognize that the usual tools of politics—speeches, bargaining, commissions, legislation—are poorly suited to this challenge. "It's not the kind of problem that we usually deal with," says Sen. Quayle. "If the drug problem could be resolved by spending $1 billion, we'd spend $1 billion. But it's not one of those kinds of problems."

Moreover, politicians, who are at ease discoursing on traditional themes like the economy and foreign affairs are simply uncomfortable talking about drug abuse.

"This kind of issue spooks us," says Senate Republican Whip Alan Simpson of Wyoming. "We're embarrassed about this issue—not embarrassed to talk about it, but embarrassed that we don't know anything about these things."

To be sure, Congress has taken some steps to help win the battle against drug abuse. It has passed legislation allowing the military to help local law-enforcement officials, stiffened penalties for drug-dealing offenses, tied U.S. foreign aid to drug-eradication efforts in nations that have exported narcotics here, and upgraded law-enforcement equipment so that the U.S. isn't, as Sen. Paula Hawkins (R., Fla.) is fond of saying, "outspent, outgunned and outmanned" by the drug underground.

CONGRESS FAILS TO RESPOND

But lawmakers acknowledge that Congress has failed to respond creatively to the drug issue and that traditional politics hasn't been supple enough to find answers to the problem or, just as important, to make it easier for others to address the issue.

In the past, conventional liberals have sought to address this issue by attacking the social problems that lead to drug abuse while conservatives have sought to increase penalties against drug traffickers. But the problem hasn't lent itself to such facile responses, particularly in an age when drugs have won wide acceptance as a recreational activity among people of all classes.

"You can make speeches and denounce drug abuse—nobody will criticize you for that—but to get hold of this issue in a meaningful way is almost impossible for folks like us," says Sen. Paul Simon (D., Ill.). "There are clearly limits to what we can do, and that's frustrating."

Many experts in drug abuse believe that political figures have acquitted themselves especially poorly in this important national issue.

'UTTER IGNORAMUSES' ABOUT DRUGS

"Most of the leading policy makers and legislators are utter ignoramuses when it comes to the drug issue," says Arnold Trebach, a drug-policy expert at the American University in Washington. Mark Kleiman, a research fellow in criminal justice at Harvard's Kennedy School of Government and a former Reagan administraton Justice Department official, adds: "Politicians love to talk about this issue, but they talk about it in a way that is totally remote from any attempt to make sensible drug policy."

Mr. Trebach contends that the political arena is the worst place to debate and fashion a strategy for combatting drug abuse. "You've got people who are embarrassed to talk about anything that creates personal pressure, you've got enormous ignorance on the part of Congress and you have pure political expedience—the willingness to exploit this issue. It's a recipe for social disaster."

In the past year many Republican legislators, eager to ensure that the GOP continues to control the Senate, have deferred on the drug issue to Sen. Hawkins, who is running for reelection from Florida, where the connection between drugs and crime has given the question great urgency. "She knows," says on Republican senator, "what she has to target to get reelected."

At the same time, others believe the issue offers great political opportunity to office-seekers beyond Florida's borders. "This should be a major political issue," says Judith Richards Hope, a member of the President's Commission on Organized Crime and a top domestic adviser in the Ford administration. "It affects productivity in every segment of our society, it is a major cancer that has got to be rooted out. It is the fuel . . . of organized crime. It's as serious a problem as we have in this country."

STRIKING A RESPONSIVE CHORD

Sen. William Armstrong of Colorado, a potential GOP presidential candidate, has suggested that the drug issue might even make a foundation for a national campaign. "A person who raises this as an issue will find that it strikes a responsive chord," he says. "It is a legitimate issue. It cuts clear across other political and demographic barriers. This is a concern in the barrio and in the WASP suburbs."

But many lawmakers believe that the public has lost faith in politicians' ability to address this problem. "We can answer questions about Contra aid, tax reform, South Africa and the farm crisis, but I always wonder why we have such a hard time getting to the nub of this issue." says Sen. Nancy Kassebaum (R., Kan.), who was active in anti-drug work in Wichita before she went to Washington. "People don't think we can help this problem. They don't look to the Senate."

Congress hasn't rushed to address the issue, mainly because the questions involved offer political peril: How widely should drug testing be applied? What level of drug abuse is "acceptable"? Would legalizing certain milder "recreational" drugs such as marijuana ease the problem?

"Politicians like to portray it as a war to the death with drugs," says Mr. Kleiman, the Harvard criminal-justice expert. "So they can't even think about new ways to attack this problem because they're afraid of being seen as an opponent of current policies and thus soft on drugs."

By Mr. SPECTER:

S. 2581. A bill to increase the obligation limitations for Federal-aid highways and highway safety construction programs; to the Committee on Environment and Public Works.

INCREASED FUNDING FOR HIGHWAY IMPROVEMENT

● Mr. SPECTER. Mr. President, I am introducing legislation which will authorize increased funding for much needed highway projects across this country and in my own State of Pennsylvania, without raising taxes. My bill will do this by drawing down the approximately $10 billion unobligated balance that currently exists in the highway trust fund and preventing the even greater buildup of unobligated funds that would occur without this action.

The cause for this buildup of a highway trust fund reserve and a partial cause of the shortfall in Federal highway dollars to the States is that the States are not allowed to obligate at a rate that equals their apportionment. My home State is an example of this. Pennsylvania's federally mandated obligation ceiling versus its apportionment was only 93 cents on the dollar in 1985 and is 84 cents on the dollar in 1986. Pennsylvania now reportedly has a $460 million unobligated balance because of these low mandated obligation ceilings.

To remedy this situation, obligation ceilings would be set at $14.2 billion per year in my bill for fiscal year 1987 through fiscal year 1990. This would reduce the outstanding obligation in the highway trust fund to $2.2 billion by the end of fiscal year 1990 which represents a reasonable reserve against unexpected obligations or revenue variances. The $10 billion reserve is entirely unreasonable.

Comparing the obligation ceiling in my bill to the ceiling proposed in the public highway authorization bill, S. 2405, shows the increased spending allowed by my bill:

[In billions of dollars]

Fiscal year—	Proposed obligation ceiling under my bill	Proposed ceiling under S. 2405	Increased spending allowed by my bill
1987	14.20	12.35	1.85
1988	14.20	12.35	1.85
1989	14.20	12.35	1.85
1990	14.20	12.35	1.85
Total	56.8	49.40	7.4

Pennsylvania's share of increase [1]

Fiscal year:	*Millions*
1987	$81.4
1988	81.4
1989	81.4
1990	81.4
Total	325.6

[1] Approximately 4.4 percent of U.S. total.

The need for these funds is great in this country. The Nation has invested over $100 billion in the Interstate Highway System which is 86 percent complete. It would be unconscionable to let this investment fall into disrepair, but that is what is occurring.

My home State of Pennsylvania is illustrative. Highway funding is simply not keeping pace with requirements in Pennsylvania. The State estimates a requirement of $1.4 billion for interstate restoration between now and 1990. Given present funding projections, Pennsylvania could only mount $500 million against this shortfall. For example, Interstate 80, which is a vital link between the East and the West, requires $50 million per year to finance necessary reconstruction, but receives only $15 million per year through the regular apportionment of Federal funds for interstate restoration. The expenditures that I am proposing will greatly help this situation.

Also very important is the significant stimulative economic effect that the expenditure of these funds will have. A study by the Pennsylvania Economy League found that 104 jobs are supported for every $1 million of highway construction. The increase in the obligation ceiling, and, therefore, spending authorization, under my bill would support approximately 187,200 additional jobs nationwide and 8,500 jobs in Pennsylvania annually.

Increases in obligation ceilings as I have proposed also will utilize tremendous amounts of steel. The U.S. Department of Transportation issued a bulletin which states that for every million dollars of highway dollars spent across the United States, on average, 111 tons of steel are utilized. Based on the increase that I have suggested, steel consumption should increase by approximately 200,000 tons per year.

I am also offering an amendment to S. 2405 pertaining to the "Buy America" clause in that bill. The "Buy America" clause under the 1982 act essentially required that 100 percent of the steel used in projects funded with Federal highway funds be domestically produced. A clause in S. 2405 would exempt contracts under $500,000 from being subject to the "Buy America" clause. I must stand against this attempt to subvert the "Buy America" provision. If this clause had been in effect in fiscal year 1985, approximately 3,000 or 48 percent of the 6,275 contracts awarded would have ben exempt from "Buy America". This suggests an attack on the hard-hit steel industry that is unacceptable to this Senator.

It is apparent based on the facts that I have stated that my bill is crucial for meeting the States' needs for highway funds and will produce many additional benefits in steel production and jobs. My amendment regarding the "Buy America" clause will assure that American dollars go to support American jobs. Both actions are of great importance to the Nation and to my State of Pennsylvania.●

By Mr. PRYOR (for himself, Mr. MELCHER, Mr. GRASSLEY, Mr. HEINZ, Mr. BUMPERS, and Mr. BOREN):

S. 2582. A bill to provide for the deduction of points when refinancing a home; to the Committee on Finance.

DEDUCTION OF POINTS ON HOME REFINANCING

● Mr. PRYOR. Mr. President, today I'm introducing legislation to allow taxpayers to deduct points they pay when they refinance their homes. This bill is necessary in order to overturn a recent announcement by the Internal Revenue Service [IRS] that under section 461(g)(2) of the Tax Code points paid to refinance a home aren't deductible in the year paid.

The bill I'm introducing today, Mr. President, overrules IRS news release IR-86-68, issued on May 13, 1986. The legislation does this by amending section 461(g)(2) of the Internal Revenue Code to insert the word "refinancing" in the statute. The effect of this change, if adopted, would be to allow points paid on refinancing a home to be deducted in the year paid, just like points paid for the initial purchase of a home, or points paid to borrow money to improve a home.

Mr. President, we all know there have been thousands of taxpayers across the country who've taken the opportunity of lower mortgage rates to refinance their homes. The well-established business practice in virtually all parts of the country is that points are paid when homes are bought, and refinanced. Section 461(g)(2) of the Code was put into the law in 1976 in recognition of the fact that points are usually paid.

Mr. President, the ability to deduct mortgage interest is one of the most sacred parts of the Tax Code in this country. There've never been any serious proposals made that would restrict the ability of taxpayers to take this deduction. Points are interest paid on the front-end of the transaction, and are an acceptable deduction by virtue of the action of the Congress in the 1976 legislation. To say that simply because you refinance your home—to take advantage of lower interest rates—points paid on the refinancing of the home aren't deductible, seems to me to be the wrong result for the taxpayers of this country. Men and women aren't refinancing their homes simply to have something to do. They are doing this to take advantage of lower interest rates, which means lower mortgage payments each month. Unless we amend the Tax Code to allow points on refinancing to be deductible, we will have broken a commitment to each homeowner in this country.

I urge my colleagues to join me in this effort, and I hope we can move this bill through the legislative process in a very prompt manner.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2582

Be it enacted by the State and House of Representatives of the United States of America in Congress assembled, That (a) Section 461(g)(2) of the Internal Revenue Code is amended by inserting after the word "purchase" the following additional language—", re-financing,"

(b) EFFECTIVE DATE.—The amendment made by this Act shall be effective for taxable years beginning on or after January 1, 1986.●

ADDITIONAL COSPONSORS

S. 489

At the request of Mr. SASSER, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 489, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime.

S. 961

At the request of Mr. SARBANES, the names of the Senator from Massachusetts [Mr. KENNEDY], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 961, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia.

S. 1121

At the request of Mr. ANDREWS, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1121, a bill to amend the United States Grain Standards Act to encourage foreign agricultural trade by improving the quality of grain shipped from U.S. export elevator facilities.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1793, a bill to amend the Public Health Service Act to establish a grant program to develop improved systems of caring for medical technology dependent children in the home, and for other purposes.

S. 2133

At the request of Mr. KASTEN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2133, a bill to amend the Social Security Act to safeguard the integrity of the Social Security trust funds by ensuring prudent investment practices.

S. 2209

At the request of Mr. KERRY, his name was added as a cosponsor of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such Act to require concurrent notification of eligibility for SSI and medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

S. 2288

At the request of Mr. CHILES, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 2288, a bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants under one year of age.

S. 2343

At the request of Mr. DURENBERGER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2343, a bill to authorize the provision of foreign assistance for agricultural activities in Nicaragua.

S. 2403

At the request of Mr. DURENBERGER, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2403, a bill to amend the Internal Revenue Code of 1954 to assure access to health insurance, and for other purposes.

S. 2476

At the request of Mr. HUMPHREY, the names of the Senator from Mississippi [Mr. STENNIS] and the Senator from Alabama [Mr. DENTON] were added as cosponsors of S. 2476, a bill to amend part E of title IV of the Social Security Act to require States to furnish, and the Secretary of Health and Human Services to publish, statistical data relating to the incidence of adoptions.

S. 2494

At the request of Mr. BRADLEY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 2494, a bill to amend the title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2532

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. STENNIS] was added as a cosponsor of S. 2532, a bill to amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System.

S. 2545

At the request of Mr. MOYNIHAN, his name was added as a cosponsor of S. 2545, a bill to place a moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531, and for other purposes.

S. 2573

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2573, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2574

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 2574, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

SENATE JOINT RESOLUTION 345

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 345, joint resolution to designate the week beginning November 9, 1986, as "National Reye's Syndrome Awareness Week."

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 359, joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE JOINT RESOLUTION 360

At the request of Mr. GARN, the names of the Senator from Alabama [Mr. DENTON], the Senator from California [Mr. CRANSTON], the Senator from California [Mr. WILSON], the Senator from Connecticut [Mr. DODD], the Senator from Georgia [Mr. MATTINGLY], the Senator from Georgia [Mr. NUNN], the Senator from Hawaii [Mr. INOUYE], the Senator from Idaho [Mr. MCCLURE], the Senator from Indiana [Mr. QUAYLE], the Senator from Indiana [Mr. LUGAR], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Maine [Mr. COHEN], the Senator from Michigan [Mr. RIEGLE], the Senator from Mississippi [Mr. STENNIS], the Senator from Missouri [Mr. EAGLETON], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Nevada [Mr. HECHT], the Senator from Nevada [Mr. LAXALT], the Senator

from New Jersey [Mr. LAUTENBERG], the Senator from New York [Mr. MOYNIHAN], the Senator from Oklahoma [Mr. NICKLES], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Rhode Island [Mr. PELL], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Carolina [Mr. THURMOND], the Senator from South Dakota [Mr. ABDNOR], the Senator from Tennessee [Mr. SASSER], the Senator from Texas [Mr. BENTSEN], the Senator from Texas [Mr. GRAMM], the Senator from Utah [Mr. HATCH], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of Senate Joint Resolution 360, joint resolution to designate July 20, 1986, as "Space Exploration Day."

SENATE JOINT RESOLUTION 362

At the request of Mr. HUMPHREY, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Joint Resolution 362, a joint resolution to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk Driving Awareness Week."

SENATE JOINT RESOLUTION 363

At the request of Mr. LAUTENBERG, the names of the Senator from Tennessee [Mr. GORE], and the Senator from Alabama [Mr. DENTON] were added as cosponsors of Senate Joint Resolution 363, a joint resolution to designate July 2, 1986, as "National Literacy Day."

SENATE CONCURRENT RESOLUTION 148

At the request of Mr. SYMMS, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Concurrent Resolution 148, a concurrent resolution expressing the sense of Congress concerning the nuclear disaster at Chernobyl in the Soviet Union.

SENATE CONCURRENT RESOLUTION 151

At the request of Mr. BYRD, the names of the Senator from Montana [Mr. MELCHER], the Senator from Hawaii [Mr. INOUYE], the Senator from Rhode Island [Mr. PELL], the Senator from Delaware [Mr. BIDEN], and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Concurrent Resolution 151, a concurrent resolution expressing the sense of the Congress on United States policy toward Afghanistan.

SENATE RESOLUTION 297

At the request of Mr. DIXON, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of Senate Resolution 297, a resolution to call for an International Congress on Terrorism.

SENATE RESOLUTION 397

At the request of Mr. QUAYLE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Resolution 397, a resolution expressing the sense of the Senate regarding the lending practices of multilateral development banks.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Alabama [Mr. DENTON], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 1823

At the request of Mrs. KASSEBAUM, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of amendment No. 1823 intended to be proposed to S. 100, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

AMENDMENT NO. 2125

At the request of Mr. ABDNOR, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Dakota [Mr. ANDREWS], and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of amendment No. 2125 intended to be proposed to H.R. 3838, a bill to reform the international revenue laws of the United States.

SENATE RESOLUTION 432—RELATING TO CERTAIN CUBAN POLITICAL PRISONERS

Mr. CHILES submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 432

Whereas, 17 Cuban political prisoners have been released from imprisonment;

Whereas, these political prisoners have suffered brutal and inhumane treatment from a government identified as one of the worst human rights violators in the world;

Whereas, these individuals have been denied basic human rights because of their steadfast opposition to a Communist and totalitarian regime;

Whereas, U.S. immigration law has consistently reflected a national policy of providing safe haven to those experiencing political persecution;

Whereas, the President of the United States has pledged to make "any effort" to allow these former Cuban political prisoners to seek refuge in the United States;

Whereas, the Departments of State and Justice have indicated that asylum will be denied these former prisoners pending reinstatement of the December 14, 1985, immigration accord suspended by the Cuban Government;

Whereas, this denial of asylum will serve only to work further hardship on these victims of Cuban injustice;

Be it therefore resolved That it is the sense of the Senate that for humanitarian reasons—Roger F. Reyes Hernandez, Sergio Ruiz Hernandez, Fernando Rodriguez Vega, Francisco Diaz Garrigo, Jose Sanchez Otero, Osvaldo Sanabria Morales, Osvaldo Baro Miranda, Manuel Antolin Marcel, Arcadio Peguero Ceballas, Pastor Macuran Rodriguez, Jesus Martinez Martinez, Felipe Hernandez Garcia, Gilberto Prats Rodriguez, Samuel Tejera Milian, Francisco Garcia Rojas, Fernando Villalan, Juan Sanchez Bruna, be granted asylum in the United States. That innocent political prisoners not be employed as leverage to effect changes in policy by the Cuban Government. And that the Department of State seek other means to accomplish reinstatement of the December 14, 1985, immigration accord.

Mr. CHILES. Mr. President, the recent release of 17 political prisoners by the Cuban Government is welcome news. Cuba ranks as one of the world's worst violators of human rights and this release of political prisoners is a rare bright note.

A few prisoner releases, while welcome, do not erase Cuba's long history of abuse. Nor will it still our desire to see those who remain in Cuba's jails set free. As free men, we must constantly strive to secure freedom for Cuba's political prisoners. Those men and women whose only offense is a belief in democracy and who have sacrificed so much in defying the totalitarian regime of Fidel Castro deserve nothing less.

Mr. President, after years of suffering the injustice of the Cuban penal system, these former prisoners are now facing what can only be called an unjust policy decision by the U.S. Government. Incredibly our State Department, in a misguided attempt to pressure the Cuban Government to reinstate the December 14 immigration accord is denying these men asylum in the United States. I certainly want the immigration accord reinstated but punitive action against men who have suffered at the hands of Castro is hardly the way to go about it.

I believe that by denying these political prisoners asylum we punish the innocent for the actions of the guilty. This does not make sense and to my mind it won't leverage the Cuban Government to do anything.

In this country we maintain a long held tradition of providing haven for the victims of political persecution. In this case the State Department has turned its back on the oppressed and burdens them for a situation over which they had no control. It is wrong to place roadblocks in these political prisoners' path to freedom.

I believe the administration should reconsider this policy. The President just a few days ago pledged to make every effort to permit recently released political prisoners into this country. The State Department, however, has not followed through. It is certainly imperative that the State Department receive a strong message.

Mr. President, I am introducing a Senate Resolution to express the concern of the Senate with this situation and to send a message that those who have fought the good fight for democracy and suffered at hands of a brutal,

Communist regime are welcome in this country.

SENATE RESOLUTION 433—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 433

Whereas in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.* Crim. No. 5-040856, pending in the Denver County Court, Denver, Colorado, the prosecution has obtained a subpoena for the testimony of John W. Jackson, State Director for Senator William L. Armstrong;

Whereas pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2) (1982), the Senate may direct its counsel to represent Members or employees of the Senate with respect to subpoenas issued to them in their official capacity;

Whereas by the privileges of the United States Senate and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that testimony of employees of the Senate is or may be needful for use in any court for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator William L. Armstrong, John W. Jackson, and any other staff assistant of Senator Armstrong who may be asked to testify in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.* or subsequent related proceedings.

SEC. 2. That John W. Jackson and any other staff assistant of Senator Armstrong who may be asked is authorized to testify in the case of *State of Colorado and the City and County of Denver* v. *Mary Cunningham, et al.,* including any appeals thereto, except concerning matters which may be privileged.

AMENDMENTS SUBMITTED

TAX RELIEF ACT OF 1986

ROTH AMENDMENT NO. 2139

Mr. ROTH proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 1725, beginning with line 4, strikeout all through page 1727, line 8.

On page 1903, lines 5 and 6, strike "December 31, 1986" and insert "November 1, 1986".

DOLE (AND OTHERS) AMENDMENT NO. 2140

Mr. DOLE (for himself, Mr. LONG, Mr. METZENBAUM, Mr. DURENBERGER, and Mr. CHAFEE) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1411, line 14, strike "and".

On page 1411, line 15, strike the period and insert ", and".

On page 1411, between lines 15 and 16, insert:

"(4) any deduction for any impairment-related work expenses.

On page 1412, line 10, strike the end quotation marks.

On page 1412, between lines 10 and 11, insert:

"(c) IMPAIRMENT-RELATED WORK EXPENSES.—For purposes of this section, the term 'impairment-related work expenses' means expenses—

"(1) of a handicapped individual (as defined in section 190(a)(3)) for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work, and

"(2) with respect to which a deduction is allowable under section 162 (determined without regard to this section)."

On page 2610, between lines 17 and 18, add the following new paragraph:

(4) Section 7702(e)(2) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B), and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

"(i) has an initial death benefit of $5,000 or less,

"(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

"(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract."

On page 1923, after line 21, insert:

SEC. 1003. DENIAL OF DEDUCTION FOR INTEREST ON LOANS FROM CERTAIN LIFE INSURANCE CONTRACTS.

(a) IN GENERAL.—Section 264(a) (relating to disallowance of deduction for certain amounts paid in connection with insurance contracts) is amended by adding after paragraph (3) the following new paragraph:

"(4) Any interest paid or accrued on any indebtedness with respect to 1 or more life insurance policies owned by the taxpayer covering the life of any individual who is—

"(A) an officer or employee of, or

"(B) any person financially interested in, any trade or business carried on by the taxpayer to the extent that the aggregate amount of such indebtedness exceeds $50,000."

(b) CONFORMING AMENDMENT.—Section 264(a) is amended by adding at the end thereof the following new sentence: "Paragraph (4) shall apply with respect to contracts purchased after June 20, 1986.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts purchased after June 20, 1986, in taxable years ending after such date.

STEVENS AMENDMENT NO. 2141

Mr. STEVENS proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2454, on line 7, insert the following new section:

SEC. 1709. AMENDMENT TO THE REINDEER INDUSTRY ACT OF 1937.

(a) TAX EXEMPTION FOR REINDEER-RELATED INCOME.—Before the period at the end of the first sentence of section 8 of the Act of September 1, 1937, insert the following: ": *Provided,* That during the period of the trust, income derived directly from the sale of reindeer and reindeer products as provided in this Act shall be exempt from Federal income taxation".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if originally included in the provision of the Act of September 1, 1937, to which such amendment relates.

On gage 1903, between lines 6 and 7, add the following:

"(d) Notwithstanding the above provisions the amendments made by this section shall apply to taxable years beginning after July 1, 1986."

HIGHWAY IMPROVEMENTS

SPECTER AMENDMENT NO. 2142

(Ordered referred to the Committee on the Judiciary.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill (S. 2405) to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; as follows:

On page 47, strike out lines 6 through 19.

TAX REFORM ACT OF 1986

BUMPERS (AND OTHERS) AMENDMENT NO. 2143

Mr. BUMPERS (for himself, Mr. MATTINGLY, and Mr. METZENBAUM) proposed an amendment, which was subsequently modified, to the bill (H.R. 3838), supra; as follows:

On page 1659, beginning with line 21, strike out all through page 1661, line 2, and insert in lieu thereof the following:

SEC. 559. LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—For purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose; *provided, however,* That the number used as such highest rate of tax shall be adjusted, under regulations; so that the revenues generated by this section shall not exceed $200 million during the period of fiscal years 1987-1991.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

BYRD (AND ROCKEFELLER) AMENDMENT NO. 2144

Mr. BYRD (for himself and Mr. ROCKEFELLER) proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place insert the following:

SEC. . SPECIAL RULE FOR SECTION 404(c) PLAN

(a) Section 205 of the ERISA of 1974 is amended by adding thereto a new subsection "(k)" to read as follows:

"(k) The provisions of this section do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(b) Section 401(a)(11) of the Internal Revenue Code of 1954 is amended by adding thereto a new subparagraph "(E)" to read as follows:

"(E) The provisions of this paragraph do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(c) Section 303 of the Retirement Equity Act of 1984 is amended by adding thereto a new subsection "(f)" to read as follows:

"(f) The requirements of this section do not apply to a plan that the Secretary has determined is a plan described in Section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

BAUCUS AMENDMENT NO. 2145

Mr. BAUCUS proposed an amendment to amendment No. 2143 proposed by Mr. BUMPERS (and others) to the bill (H.R. 3838), supra; as follows:

In lieu of the matters proposed to be inserted, insert the following:

SEC. 559. VOLUNTARY DISCLOSURE POLICY.

(a) IN GENERAL.—Except as provided in subsection (b) in the case of any violation of any tax law for any taxable period, the taxpayer shall not be liable for any Federal criminal penalty relating to tax administration under section 6103(b)(4) of the Internal Revenue Code of 1954 with respect to such violation, if full disclosure of such violation, and the source of the income with respect to such violation, is made to the Secretary of the Treasury or his designee before notice of an inquiry or investigation into the taxpayer's tax affairs is given to the taxpayer (or a related party) by the Internal Revenue Service, any other law enforcement agency, or any tax administration agency.

(b) SPECIFIC EXCEPTIONS.— Subsection (a) shall not apply to any violation—

(1) of the National Firearms Act,

(2) related to income resulting from an action that is a violation of Federal, State, or local law (other than tax law), or

(3) With respect to which the taxpayer made any representation pursuant to an application for relief under this section which is false or fraudulent in any material respect.

(c) REGULATIONS TO IMPLEMENT POLICY.— Subsection (a) shall take effect upon the issuance by the Secretary of the Treasury or his delegate of such regulations as may be necessary or appropriate to carry out the proposes of such subsection. Such regulations shall be issued no later than January 1, 1987, and may provide that subsection (a) not apply ot certain categories of persons. Subsection (a) shall not apply after the date which is 2 years after the date of the issuance of such regulations. In no event shall subsection (a) apply unless section 9505 of the Internal Revenue Code is in effect.

(d) REGULATIONS TO IMPLEMENT POLICY.— Subsection (a) shall take effect upon the issuance by the Secretary of the Treasury or his delegate of such regulations as may be necessary or appropriate to carry out the purposes of such subsection. Such regulations shall be issued no later than January 1, 1987, and may provide that subsection (a) not apply to certain categories of persons.

(e) PUBLICITY CAMPAIGN FOR VOLUNTARY DISCLOSURE POLICY, ETC.—

(1) IN GENERAL.—The Secretary of the Treasury shall supplement existing taxpayer service programs with a comprehensive publicity campaign concerning the provisions of subsection (a)s and a public relations program to restore public confidence in the Federal tax system.

(2) PUBLICITY CAMPAIGN TECHNIQUES.— The publicity campaign shall include public press releases, annual notices to taxpayers, and notices in Internal Revenue Service publications for general public usage.

GORE (AND SASSER) AMENDMENT NO. 2146

Mr. GORE (for himself and Mr. SASSER) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2710, line 22, strike out "or".

On page 2711, line 11, strike out the period and insert in lieu thereof a comma and "or".

On page 2711, between lines 11 and 12, insert the following new subparagraph:

(D) if—

(i) such facility is a thermal transfer facility.

(ii) is to be built and operated by the Elk Regional Resource Authority, and

(iii) is to be on land leased from the United States Air Force at Arnold Engineering Development Center near Tullahoma, Tennessee.

On page 2712, between lines 2, and 3, insert the following new subparagraph:

(D) In the case of a solid waste disposal facility described in paragraph (2)(D), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $25,000,000.

GORTON AMENDMENT NO. 2147

Mr. GORTON proposed an amendment to the bill (H.R. 3838), supra; as follows:

(e) TAX-EXEMPT STATUS FOR ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

(1) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended—

(A) by redesignating subsection (m) as subsection (n), and

(B) by inserting after subsection (l) the following new subsection:

"(m) ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if such organization—

"(A) is organized and operated exclusively—

"(i) to provide for (directly or by arranging for and supervising the performance by independent contractors)—

"(I) reviewing technology disclosures from qualified organizations,

"(II) obtaining protection for such technology through patents, copyrights, or other means, and

"(III) licensing, sale, or other exploitation of such technology,

"(ii) to distribute the income therefrom, after payment of expenses and other amounts agreed upon with originating qualified organizations, to such qualified organizations, and

"(iii) to make research grants to such qualified organizations,

"(B) regularly provides the services and research grants described in subparagraph (A) exclusively to 1 or more qualified organizations, except that research grants may be made to such qualified organizations through an organization which is controlled by 1 or more organizations each of which—

"(i) is an organization described in subsection (c)(3) or the income of which is excluded from taxation under section 115, and

"(ii) may be a recipient of the services or research grants described in subparagraph (A), and

"(C) derives at least 80 percent of its gross revenues from providing services to qualified organizations located in the same state as the state in which such organization has its principal office; and was incorporated on July 20, 1981.

"(2) QUALIFIED ORGANIZATIONS.—For purposes of this subsection, the term 'qualified organization' has the same meaning given to such term by section 30(e)(6)."

On page 2207, line 14, strike out "(e)" and insert in lieu thereof "(f)".

GRASSLEY (AND DOLE) AMENDMENT NO. 2148

Mr. GRASSLEY (for himself and Mr. DOLE) proposed an amendment, which was subsequently modified, to the bill (H.R. 3838), supra; as follows:

On page 1515, between lines 21 and 22, insert:

(16) CERTAIN TRUCKS.—The amendments made by section 201 shall not apply to trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985.

MATSUNAGA AMENDMENT NO. 2149

Mr. MATSUNAGA proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the end of title XVII, insert the following:

SEC. . SPECIAL RULE FOR EDUCATIONAL ACTIVITIES AT CONVENTION AND TRADE SHOWS.

(a) CERTAIN EDUCATIONAL ACTIVITIES TREATED AS CONVENTION AND TRADE SHOW ACTIVITIES.—Section 513(d)(3)(B) (relating to qualified convention and trade show activity) is amended by inserting after "industry in general" the following: "or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(b) QUALIFYING ORGANIZATIONS.—Section 513(d)(3)(C) (relating to qualifying organization) is amended by striking out "501(c)(5) or (6)" and inserting in lieu thereof "501(c)(3), (4), (5), or (6)" and by inserting before the period at the end thereof the following: "or which educates persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(c) EFFECTIVE DATE.—The amendments made by this Section shall apply to activities in taxable years beginning after the date of enactment of this Act.

At the appropriate place in title V, insert the following:

SEC. . PRIVATE FOUNDATIONS SUBJECT TO ESTIMATED PAYMENT OF CERTAIN EXCISE TAXES.

(a) IN GENERAL.—Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by inserting at the end thereof the following new subsection:

"(h) CERTAIN PRIVATE FOUNDATIONS.—With respect to any private foundation subject to the excise tax imposed by section 4940, this section and section 6655 shall apply, as provided by regulation, in a manner consistent with the provisions of such sections."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

DOLE (AND GRASSLEY) AMENDMENT NO. 2150

Mr. DOLE (for himself and Mr. GRASSLEY) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1509, between lines 21 and 22 insert:

Paragraph (5) of section 202(d) is amended by adding at the end thereof new subparagraph (0) as follows—

(0) A project is described in this subparagraph if—

(i) a commitment letter was entered into with a financial institution on January 23, 1986 for the financing of the project,

(ii) the project involves inter-city communication links (including microwave and fiber optics communications systems and related property),

(iii) the project consists of communications links between

(a) Omaha, Nebraska and Council Bluffs, Iowa,

(b) Waterloo, Iowa and Sioux City, Iowa,

(c) Davenport, Iowa and Springfield, Illinois, and

(iv) the estimated cost of such project is approximately $13,000,000.

HEFLIN (AND DENTON) AMENDMENT NO. 2151

Mr. HEFLIN (for himself and Mr. DENTON) proposed an amendment to the bill (H.R. 3838), supra; as follows:

Section 1518 of H.R. 3838, as reported by the Committee on Finance of the Senate, is amended by adding a new subsection (m) at the end thereof to read as follows:

(m) LIMITATION ON INVESTMENT IN NONPURPOSE OBLIGATIONS.—

(A) IN GENERAL.—Section 103(e)(6)(C) of the Internal Revenue Code of 1954 shall not apply to amounts in a fund described in subparagraph (B) as that fund is in effect on the date of enactment.

(B) CERTAIN MANDATORY ACCUMULATIONS.—A fund is described in this subparagraph if—

(i) amounts must be paid into such fund under a constitutional provision, statute, or ordinance which was initially effective in 1901 and was last modified in 1919,

(ii) under such constitutional provision, statute, or ordinance, amounts paid into such fund (and receipts from investment of such fund) can be used only to pay debt service on general obligations of a governmental unit and for no other purpose, and

(iii) the size of the payments made into such fund is independent of the size of the outstanding issues (including the debt service thereon).

MOYNIHAN AMENDMENT NO. 2152

Mr. PACKWOOD (for Mr. MOYNIHAN) proposed an amendment to the bill (H.R. 3838), supra; as follows:

Strike subparagraph (E) on page 2503 on lines 8 through 12 and insert in lieu thereof the following:

(E) Paragraph (8) of section 312(n) (as redesignated by subparagraph (C)) is amended by striking out "paragraphs (5), (6), and (7)" and inserting in lieu thereof "paragraphs (4) and (6)," and by inserting the following language after "December 31, 1985": "and paragraph (5) shall apply only in the case of taxable years beginning after December 31, 1987."

At the appropriate place in the bill, insert the following new section: Section . Treatment of certain technical personnel

(a) IN GENERAL.—Section 530 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(d) EXCEPTION.—This section shall not apply to services provided pursuant to an arrangement between such person and another organization whereby the individual provides services as an engineer, designer, drafter, computer programmer, systems analyst, or other similarly skilled worker engaged in a similar line of work for such other organization."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services rendered after the date of enactment of this section.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding a hearing on Wednesday, July 16, 1986, in Senate Dirksen 628, commencing at 10 a.m., on S. 1453, to reaffirm the boundaries of the Great Sioux Reservation to convey federally held lands in the Black Hills to the Sioux Nation; to provide for the economic development, resource protection, and self-determination of the Sioux Nation; to remove barriers to the free exercise of the traditional Indian religion in the Black Hills; to preserve the sacred Black Hills from desecration; to establish a wildlife sanctuary; and for other purposes. Those wishing additional information should contact Peter Taylor of the committee at 224-2251.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of public hearings before the Subcommittee on Public Lands, Reserved Water and Resource Conservation on Tuesday, August 19, 1986, in La Grande, OR. The subcommittee will receive testimony on S. 1803, to designate certain lands in and near the Hells Canyon National Recreation Area as additions to the Hells Canyon Wilderness, OR, and for other purposes.

The hearing will be held at the Eastern Oregon State College, 8th and K Avenue, room 142, Zabel Hall, La Grande, OR, at 8 a.m.

Witnesses must sign up to testify in advance at the office of Senator HATFIELD, room 114, Pioneer Courthouse, Portland, OR 97204, by close of business August 15, 1986, phone 503-221-3386.

Because of the number of witnesses expected to testify, witnesses will be placed in panels. Oral testimony will be limited to 3 minutes. Witnesses are requested to bring 15 copies of their testimony to the hearing with them. Do not submit testimony in advance. For further information, please contact Tony Bevinetto of the Public Lands, Reserved Water and Resource Conservation Subcommittee staff at 202-224-5161.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public concerning the field hearing previously scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources on Tuesday, July 1, 1986, in Yakima, WA, some additional information. The hearing will begin at 9 a.m. in the Yakima Valley Community College, the lounge room in the Student Union Building, 16th and Nob Hill.

The purpose of this hearing is to receive testimony on S. 2519, to authorize certain elements of the Yakima River Basin water enhancement project, and for other purposes.

Those wishing to testify or submit written statements for the hearing

record should contact one of the following offices: The office of Senator DANIEL EVANS, 697 Federal Building, West 920, Riverside Avenue, Spokane, WA 99201; staff contact, A.J. Pardini or Linda Faught, 509-456-2507; or the office of Congressman SID MORRISON, 212 East E Street, Yakima, WA 98901; staff contact, Marge Hartwick or Virginia Santillanes, 509-575-5891. For further information regarding this hearing, please contact Mr. Russell Brown of the Water and Power Subcommittee staff in Washington, DC, at 202-224-2366.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public, that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources is postponing the hearing it had previously scheduled for Tuesday, June 24, 1986, beginning at 10 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC. This hearing will be rescheduled in the near future.

The purpose of this hearing was to receive testimony on the general relationship between the Federal Energy Regulatory Commission and related State public utility regulatory commissions and S. 1149, to amend the Federal Power Act to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost.

For further information regarding this hearing, please contact Mr. Russell Brown at 202-224-2366.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a business meeting on Wednesday, June 25 at 10 a.m. in room SD-342. Under consideration will be the following:

S. 2230—Federal Management Reorganization and Cost Control Act of 1986.

S. 2004—Government Management Report Act.

S. 2005—Inspector General Act Amendments.

S. 2426—Contract Disputes Act Amendments.

S. 2433—Simplified Competitive Acquisition Test Act.

S.J. Res. 190—Productivity Improvements Joint Resolution.

S. 1657—Reorganization Act Amendments.

H.R. 3168—Consolidated Federal Funds Report.

Nomination—Evelyn Queen, Associate Judge, D.C. Superior Court.

H.R. 2946—D.C. Jury System Act.

H.R. 3578—D.C. Judicial Efficiency and Improvements Act of 1985.

H.R. 3002—Executive Exchange Program.

For further information, please contact the committee office at 4-4751.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, June 20, in order to receive testimony on S. 2323, a bill to exempt certain activities from provisions of the antitrust laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, June 20, to hold a hearing to consider the following legislation:

S. 1019 and H.R. 2182, to authorize the inclusion of certain additional lands within the Apostle Islands National Lakeshore.

S. 2266, to establish a ski area permit system on national forest lands established from the public domain, and for other purposes.

S. 2287, to amend the Wild and Scenic Rivers Act to designate a certain portion of the Great Egg Harbor River in the State of New Jersey for potential addition to the Wild and Scenic Rivers System.

S. 2320, to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes.

S. 2351, to revise the boundaries of Olympic National Park and Olympic National Forest in the State of Washington, and for other purposes.

S. 2466, to designate a segment of the Saline Bayou in Louisiana as a component of the National Wild and Scenic Rivers System.

S. 2483, to amend the Fire Island National Seashore Act of 1964.

S. 2532, to amend the Wild and Scenic Rivers Act by designating a segment of the Black Creek in Mississippi as a component of the National Wild and Scenic Rivers System.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Friday, June 20, in executive session to mark up the fiscal year 1987 Department of Defense, Military Construction, and Department of Energy National Security programs authorization bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by the foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. Jon M. Austin, a member of the staff of Senator THOMAS F. EAGLETON, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad-Adenauer-Stiftung, from June 21 to June 28, 1986.

The committee has determined that participation by Mr. Austin in the program in the Federal Republic of Germany, at the expense of the Konrad-Adenauer-Stiftung, is in the interest of the Senate and the United States.●

123D BIRTHDAY OF WEST VIRGINIA

● Mr. ROCKEFELLER. Mr. President, June 20 is a special day in the history of West Virginia. It was on this glorious and splendid day 123 years ago that West Virginia became the 35th State of the Union.

The proud people of West Virginia have overcome much strife and turbulence over the past century and a quarter. Born in war, West Virginia has known its share of hardship—and has always summoned the courage to surmount it.

Traveling across the State in his pursuit of the Presidency in 1960, John F. Kennedy recognized the toughness inherent in West Virginia's character. "When patriotism and courage and strength were in demand," he declared, "it was West Virginia who led the way in World Wars I and II and the Korean war to advance the cause of liberty and freedom." Indeed, the bold people of West Virginia have always answered the call of patriotism. This fact makes West Virginia's birthday more than a State celebration—it is a commemoration of the values all of America holds dear.

Beyond her rich tradition of patriotism and dedication to the advancement of our country, West Virginia is one of the most picturesque places in America. Traveling across the splendor of her mountains on a crisp spring day, the fresh scent of pure, clean air is overpowering. So, too, is the vision of natural beauty which surrounds

you. Small wonder that West Virginia has been dubbed "Almost Heaven."

So, Mr. President, today is a joyous celebration which is befitting of recognition among us all. It is the 123d birthday of the great State of West Virginia, a State which I am enormously proud and honored to have the opportunity to serve. With its rich tradition and beauty in mind, I say happy birthday to you, West Virginia!●

SALT: WHAT'S ALL THE NOISE ABOUT?

● Mr. QUAYLE. Mr. President, on its face, it's hard to explain. The President announces that we're no longer bound to an unratified arms agreement that's known to have expired last December and he is immediately attacked as if he's repudiated the entire arms control process.

Yet, our arms negotiators are still at work at Geneva, the Soviets have just made their first new offer since last fall, and the President has announced that the United States will not endeavor to deploy any more ballistic missile warheads or strategic systems than the Soviets have deployed.

What, then, is all the noise about?

Perhaps it's the often repeated concern that without SALT, the Soviets will out-build us. Certainly, the President's critics emphasize this point.

But if facts matter, this could'nt be the explanation. True, the CIA released estimates that without SALT, the Soviets might add between 3,500 and 5,500 ballistic missile warheads by 1990 and more than double their current inventory by 1994. But this differs only 6 to 9 percent from what the CIA estimates the Soviets are most likely to secure without SALT.

In fact, SALT has never been much of a restraint on the Soviets. The Soviets' ballistic missile warhead inventory has grown 500 percent since SALT I and more than doubled since SALT II. They already have more than seven highly accurate ICBM warheads for every U.S. silo.

If the facts don't support this argument or the agitation, perhaps it's diplomatic atmospherics that are at issue. We must adhere to SALT, the President's critics argue, since whatever its value, it would be reckless to drop until we have something better to take its place.

But if the President's critics are serious about this, they don't seem to take it very seriously. Consider: They're not seeking SALT's ratification; they don't have the Senate votes for this. Nor are they demanding strict adherence to SALT. Why? To do this would only highlight what rightly prompted SALT to be dropped in the first place—Soviet cheating.

SALT prohibits flight testing more than one new ICBM. Beyond their one announced new ICBM type, the SS-24, the Soviets have deployed 72 mobile SS-25's and recently flight tested a follow-on to their monster SS-18. To mask these violations, the Soviets have further violated SALT's prohibition against encoding or encrypting missile test data transmissions.

Each of these violations are serious. With a reserve force of mobile missiles, such as the SS-25's, the Soviets can eliminate the deterrent value of our force by making it impossible for us to target what we must to limit further damage and end war on telerable terms. A more accurate, heavy follow-on missile to the SS-18, meanwhile, could threaten even super-hardened silos proposed to protect MX. Finally, so long as Soviet levels of missile telemtry encryption are tolerated, neither SALT nor any other arms agreement will be verifiable.

The whole purpose behind SALT, of course, was to prevent such provocations by limiting missile modernization and demanding minimal levels of openness to assure verification.

The critics, however, no longer see things this way. Instead, they now argue that the true core of SALT consists of the three limits that the Soviets have not yet clearly violated on bombers carrying long-range cruise missiles and on multiple warhead ICBM's and sea-launched missiles. Conveniently, these are the very same limits that our own bomber, missile, and submarine missile boat modernization programs are now bumping up against. This may be an excellent political ploy, but it has very little to do with any serious effort to sustain SALT.

This leaves us with the last possibility, that if strict adherence to SALT isn't possible, it nonetheless is critical to adhere to as much of it as possible to maintain what arms control we can. This sounds plausible, but again, it's hard to believe and, ironically, is challenged by the critics' own suggested means for coping with Soviet SALT violations.

The central problem with SALT, after all, is that our strategic assumptions have changed since 1979. Where before we hoped that the Soviets would not acquire an overwhelming superiority in hard-target first-strike warheads, now we are resigned to such superiority. Where we once assumed the Soviets would freeze their development of missile defenses, now we recognize their near-term ability to deploy a crude nationwide system and the sustained, advanced work on directed energy weapons.

Finally, where we once hoped that the mere threat of possible withdrawal from SALT would prevent significant Soviet violations, now we know that they are willing to violate the agreement even after years of public complaints concerning their noncompliance.

To continue SALT, knowing all this, or worse, to build on it as a foundation isn't arms control, it's posturing. The President knows this, that's why he dropped SALT and is promoting proposals that will bring real reductions and factor in defense. Nor is SALT's obsolescence lost on the Soviets, whose latest arms proposal makes no mention of SALT, but instead is primarily focused on managing the development of missile defenses.

In fact, even the President's critics are willing to ignore SALT so they might deploy a new mobile missile, the Midgetman. This missile, they argue, is the perfect response to the Soviets' SS-25 violation of SALT. It's also a blantant violation of the agreement.

What, then, is all the noice about? If it's simply politics, we shouldn't listen. If it's substantive, it's yet to be demonstrated.●

IN COMMENDATION OF THE PHARMACEUTICAL MANUFACTURERS ASSOCIATION

● Mr. HATCH. Mr. President, for some years, I, along with others, have preached the need for less Federal involvement in our society and more encouragement of what have come to be called private sector initiatives, both here and abroad. Today I would like to focus my colleagues' attention on a prime example of private business voluntarily expending its resources to improve the quality of life among the disadvantaged—in this instance, in the developing world.

Africare, a Washington-based nonprofit organization dedicated to conducting health projects in Africa, has announced that this Sunday, June 22, in its Africare Day ceremonies at Howard University School of Law, it will present its 1986 Africare Distinguished Service Award to the Pharmaceutical Manufactuerers Association "in special recognition of contributions to the development of Africa."

In a letter to PMA President Gerald J. Mossinghoff, Africare Director C. Payne Lucas wrote:

> Africare applauds the significant contribution the pharmaceutical industry has made through PMA toward support of health care delivery in Africa. It is through this commitment on the part of PMA members that Africare has been able to effect a program for improved management and distribution of pharmaceuticals in The Gambia, with plans underway to implement additional programs in other parts of Africa.
>
> PMA member companies have made significant essential drug and vaccine contributions to meet special needs. Many lives have been saved as a result of the many investments over the last three decades of hundreds of millions of dollars in production, distribution, and research facilities in developing countries, including, of course, Africa. The cooperative effort by your industry is unprecedented and truly deserves substantial recognition.

The Pharmaceutical Manufacturers Association represents research based pharmaceutical companies. In the Gambia, 13 of its member companies financed a 21-month Africare demonstration project to improve the management and distribution of basic pharmaceuticals so they became more widely available in remote areas. Under the leadership of PMA President Mossinghoff and PMA Chairman of the Board William R. Miller of Briston-Myers Co., PMA is continuing its involvement in African development. Currently 14 PMA member companies are financing a project in Sierra Leone similar to that undertaken in the Gambia, at a cost of more than $350,000.

PMA Chairman Miller termed the Gambia and Sierra Leone efforts "positive steps in overcoming poor distribution systems that represent the principal obstacle to delivery of lifesaving medicines to rural populations in many Third World countries."

Mr. President, I believe that both Africare and the Pharmaceutical Manufacturers Association deserve our thanks and encouragement. It is truly heartening to see the commitment to public service by private organizations like these. Our country and our world are better places through the voluntary efforts of these and countless other organizations who are responsible for so much of the social and health care progress in all nations.●

HONORING JENNINGS RANDOLPH AND THE BLIND VENDING FACILITY ACT

● Mr. ROCKEFELLER. Mr. President, I rise to recognize a significant contribution of my immediate predecessor in the U.S. Senate, the Honorable Jennings Randolph.

Senator Randolph's legacy is truly monumental. During his 40 years in Congress, he was responsible for legislation in many areas. So many of his accomplishments endure in the form of laws and programs which continue to improve the lives of our citizens every day.

The Randolph-Sheppard Act, which became law 50 years ago today, and the programs created for blind vendors as a result of that law, are tributes to the vision and humanity of Senator Randolph.

While a member of the House of Representatives in 1934, during President Roosevelt's first term, Jennings Randolph proposed legislation to provide jobs which would enable blind persons to operate on their own in Federal buildings. This was during the midst of the Great Depression, a time when so many people were out of work. In an era when the blind were stereotyped as helpless and able to do little more than sell pencils on street corners, Jennings Randolph knew that persons disabled by blindness could and wanted to function independently—if only given the opportunity. With this conviction and determination, then-Representative Randolph succeeded in winning the support of his colleagues and gaining passage of his legislation.

Some 40,000 blind persons have been vendors under the Randolph-Sheppard Act for the Blind since its inception in 1936. Today, there are 3,700 blind vendors operating on Federal and other property across the country. They are doing so, too, in Senator Randolph's home State and mine, West Virginia.

Mr. President, I know that my Senate colleagues share my appreciation for Senator Randolph's distinguished work on behalf of the blind, and ask them to join me in celebrating the 50th anniversary of the Randolph-Sheppard Act for the Blind.●

BALTIC FREEDOM DAY

● Mr. RIEGLE. Mr. President, this past weekend, Baltic Americans throughout the country took time to reflect on the tragic Soviet occupation of their homelands which began 46 years ago, and to pay tribute to their friends and loved ones still suffering under Soviet oppression in Latvia, Lithuania, and Estonia.

I was honored to join Baltic-Americans in marking "Baltic Freedom Day" in my own State of Michigan, where I had the opportunity to witness the passion and commitment which Baltic Americans bring to the cause for justice in their homelands. The time spent in their presence convinced me that, with time and continued perseverance, freedom will eventually be returned to the captive Baltic nations of Latvia, Lithuania, and Estonia.

As the sponsor of this year's Baltic Freedom Day" resolution in the Senate, I am pleased that its unanimous approval by the Congress, for the fifth consecutive year, has finally provoked a response from the leaders in the Kremlin.

A recent article in the official newspaper Pravda strongly criticized President Reagan and the entire Congress for their collective ignorance in emphasizing that the three Baltic States were once free of Soviet domination.

The Pravda editorial of June 7 read in part:

> U.S. President R. Reagan recently signed a congressional resolution about a so-called "Baltic Freedom Day". . . . Maybe . . . R. Reagan has the wrong name? Or perhaps his advisers have not explained to him that Lithuania, Latvia, and Estonia are, of their own free will, an inalienable part of the Soviet Union and not "oppressed people," as it might appear to the U.S. President from his California ranch? Or perhaps he simply signed the document without reading it. . . . Otherwise, it must be stated that the U.S. lawmakers and the U.S. President have political standards so low that they would make any half-way knowledgeable schoolboy blush.
>
> It is never too late to learn. Maybe it would be worthwhile for U.S. Senators and Congressmen headed by their President to sit down and read the elementary textbook "The History of the U.S.S.R." in order to gain at least some basic knowledge about our country's state organization.

The fact is, we know the truth about Latvia, Lithuania, and Estonia, and we will not let the truth be forgotten or history rewritten. We do not need a history lesson from the Kremlin.

The truth is that, for centuries, the Baltic States were free of Soviet domination. It is also true that, just 46 years ago, freedom and independence in Latvia, Lithuania, and Estonia was snuffed by the Soviet Union.

On June 14, 1941, Soviet troops began a reign of terror in the Baltic States which rivaled that of the Nazis. During the night, more than 50,000 innocent men, women, and children were rounded up, forced into railroad cattle cars and deported to slave labor camps in Siberia. During the next 10 years of Soviet perpetrated violence, more than 600,000 Baltic citizens—10 percent of the total population of those nations, were eliminated.

The tragedy of the enslavement of the Baltic people 46 years ago is not only that those who persecuted the Baltic peoples have never been brought to justice, but that the persecution continues today.

After nearly five decades, the organized repopulation of the Baltic States by ethnic Russians and the forced russification of Latvia, Lithuania, and Estonia continues. Young Balts are forced to learn Russian at an early age, and fluency in the Russian language is a prerequisite for university admission and any higher level employment opportunities. The influx of over 1.2 million Russian settlers, combined with massive deportations, has lowered the native population in Latvia to 53 percent, in Estonia to 63 percent and in Lithuania to 80 percent.

Soviet disregard for these captive nations was painfully evident in their treatment of the Chernobyl nuclear disaster. Authorities did not warn the people living in the affected areas of the dangers of radioactive contamination, and they made it difficult for Baltic and Ukrainian Americans to get information about friends and loved ones living there. In addition, Soviet authorities continue to withhold important information about the disaster, despite a call by the international community for greater details.

Recent reports indicate that Latvian Army reservists are being spirited off to Chernobyl in the middle of the night, without adequate protective equipment, to assist in cleanup at the reactor site. This clandestine mobiliza-

tion is frighteningly reminiscent of the events of the night of June 14, 1941.

In light of the Chernobyl accident, it is particularly disturbing to know that an expansion of a huge nuclear plant in Northeast Lithuania, expected to be the largest in the world, is underway. Construction of the plant continues, despite protests from the scientific community in the Soviet Union that it is unsafe and lacks proper facilities to cool and contain contaminated water from the reactor core. In the event of the release of radioactivity, similar to that at Chernobyl, the contamination would be discharged directly into Lithuania's largest lake, Lake Druksial, which feeds into the Daugava River, and winds through many of Lithuania's most densely populated regions on its way to the Baltic Sea.

This is not the only nuclear threat which faces the Baltic people. The Baltic nations play host to one of the largest concentration of nuclear weapons on Earth. Over one-half of the nuclear weapons in the European part of the Soviet Union are stationed in Lithuania, Estonia, and Latvia. This deadly arsenal includes a substantial number of medium range SS-20's aimed at Northern and Central Europe, two squadrons of nuclear capable backfire bombers and six frogger ships equipped with ballistic missiles.

And so, today, continued United States support for the quest for freedom and self-determination in the Baltic States is more critical than ever. With the help of the Baltic-American community, the foreign policy decisions of our Government must be made with particular sensitivity to the plight of the citizens of Latvia, Lithuania, and Estonia.

At the heart of our policy toward the Baltic nations must be our continued commitment to never recognize as legal the Soviet occupation there.

We must continue to press the Soviets to grant basic human rights to all the Baltic people, including Kaisa Randpere, a 2-year-old Estonian, separated from her parents because of Soviet refusal to allow her to emigrate; Janis Barkans, a 27-year-old Latvian who continues to suffer mistreatment in the infamous Mordovian prison camp for demanding respect for his human rights; and Bayls Gajauskas, a 60-year-old Lithuanian dissident who has spent nearly half of his life in prison for promoting nationalism and human rights.

In addition, we must take a leading role in pressing for international safeguards on nuclear facilities within the International Atomic Energy Agency in order to prevent another Chernobyl-like disaster in the future.

Above all, we must reassure the people of the Baltic States that we still support their fundamental right of self-determination. The preservation of the distinct Lithuanian, Latvian, and Estonian identities must not be the task of the enslaved Baltic peoples alone. We must help, and we will help.

Knowing that the road to freedom is a long and difficult one, we recommit ourselves to making the dream of liberty a reality for all the Baltic peoples.

We must give hope to the desire for freedom which continues to burn in the hearts of the Baltic peoples. Where the memory of freedom persists, as it does in the occupied nations of Lithuania, Latvia, and Estonia, totalitarian domination can never succeed.●

CALL TO CONSCIENCE

● Mr. HARKIN. Mr. President, I am honored to join my distinguished colleagues in the Congressional Call to Conscience for Soviet Jews. I particularly commend my colleague from Maine, Senator MITCHELL, for taking the initiative in this area during the second session of the 99th Congress.

Recent events give us some hope for improvements in United States-Soviet relations. The November summit meeting and the prospect of a second summit fuel hopes for a partial thaw in relations between the superpowers. The release of Anatoly Shcharansky and the reuniting of more than a hundred divided spouses are signs of this development.

However, we should not let these events lull us into forgetting the plight of the 350,000 Soviet Jews who are still denied the right to emigrate. Jewish emigration which reached its peak of 51,000 in 1979, dropped to 1,140, and now is even lower than last year's level.

Repression in the Soviet Union is not confined to those Jews who seek to emigrate. The approximately 2.5 Soviet Jews suffer sweeping restrictions on the right to practice their religion. No seminars exist to train religious leaders. Neither Jewish religious texts nor ritual objects are produced in the Soviet Union. Persecution of unofficial Hebrew teachers continue. In addition, anti-Semitism remains a part of the military indoctrination program in the U.S.S.R., and anit-Semitic programs have been shown on prime-time television.

The case of Mikhail Kremen vividly portrays the plight of Soviet Jewry today. He first applied for emigration in late 1973, only to be denied permission on grounds of having been privy to state secrets. At his prior job as an engineer at an electronics plant, he worked only on open, nonsecret projects.

Mikhail's life since 1974 has been marred by a series of hardships and harassment. In October 1976, Mikhail was brutally beaten and imprisoned for 15 days simply for inquiring of the Ministry of Interior why they had denied him permission to emigrate. In July 1978, during the trial of Anatoly Shcharansky, Mikhail was again imprisoned.

The Kremen's problems with Soviet authorities are not confined to Mikhail. By 1980, his wife, Galina, applied to emigrate. She was subsequently informed that she had no chance of receiving her visa before her husband. Sasha Kremen, Mikhail's son, was arrested in November 1982 and sentenced to 4 years imprisonment in a labor camp outside Moscow. He is scheduled to be released in November of this year.

The release of refuseniks, like Anatoly Shcharansky, can be directly attributed to pressure applied by the West on the Soviet regime. The Kremen's and hundreds of thousands like them have not been so fortunate. We owe it to those refuseniks to redouble our efforts to guarantee their right to emigrate and to live in freedom outside the Soviet Union.

In closing, I am reminded of the words of Ida Nudel, a former Soviet Jewish prisoner of conscience and now a refusenik:

> No matter how I am tormented, how weak I am, how lonely or senseless my present life, I do not regret or renounce any of my actions. We believe our suffering is not for nothing, and this belief keeps us from despair. I believe that some day I will walk up the steps of an El-Al aircraft, and my suffering and my tears will remain in my memory only, and my heart will be full of triumph. And God grant that it will happen soon.

Through our efforts and those of millions worldwide, we can help transform the tears of Ida Nudel and Mikhail Kremen into triumph and their suffering into liberation.●

NATIONAL AGRICULTURAL EXPORT WEEK

● Mr. SASSER. Mr. President, I rise today in recognition of National Agricultural Export Week. This week was designed to highlight the importance of America's agricultural exports to our balance of trade and to the revitalization of American agriculture. This week also provides an excellent opportunity to explore the problems we face in our agricultural export market.

The importance of our agricultural exports cannot be overestimated. Earnings from agricultural exports have contributed $333 billion to our Nation's balance of payments in the past decade. American farmers rely on world markets to consume about 40 percent of their output.

Yet we face a precipitous decline in world markets. U.S. exports have fallen from a high of $43.8 billion in 1981 to $31 billion in 1985, and current forecasts for this year project a further reduction to $27.5 billion. We have lost market share in every major

commodity during this period. From 46 to 33 percent in wheat, from 72 to 55 percent in feed grains, and from 71 to 50 percent in soybeans. The projected surplus of $7 billion in farm trade this year will be the lowest since 1972.

Two weeks ago, Mr. President, I spoke about the devastating repercussions in our farm communities from the administration's policy on the international debt crisis. This administration would try to solve the Latin American debt problem with more debt. The so-called Baker plan calls for an increase of private bank debt, in addition to plans for increased lending by the World Bank and the International Monetary Fund.

Recent reports from the banking community indicate they have seen the flaws in this approach. The market value of claims on Latin American debtor countries is already below par value. I think the banks are wise to resist a call to forge ahead with massive new lending at this time.

When I spoke on this issue before, I iterated that American farmers are directly threatened by expanded agricultural lending to Latin American farmers that promotes exports. I referred to a World Bank loan to Argentina which resulted in the lowering of taxes on soybean exports, helping to flood world markets and force down prices.

Today, I want to focus on a loan to Brazil, directed specifically at exports. In 1984, the International Bank for Reconstruction and Development, part of the World Bank, made a $303 million loan to Brazil; the money was used in part to establish a revolving fund to rediscount prefinancing credits for exporters of agricultural and agroindustrial products. In short, the World Bank's plan for Brazil was a direct, specific subsidy of its agricultural exports.

Now, if the banks are going to balk at making further loans, the weight of the Baker plan is going to shift to the World Bank and the International Monetary Fund. Mr. President, the World Bank provides very valuable assistance to developing countries for a variety of purposes, the majority of which do not directly threaten the economic health of the United States. For example, there were loans to Brazil that same year to finance basic education and technical training. If one were inclined to view the situation from a self-serving point of view, economic and social development in these countries is in the long-term interest of the United States, as future markets and as future economic partners, rather than recipients.

But we need to ensure that we are not contributing, in the shortrun, through our tax dollars, to the collapse of American agriculture. That serves no one's best interests.

Yet, that is exactly what we are doing. The feed grain market provides an excellent example. Feed grain exports have declined from 69.3 million metric tons in the 1980–81 marketing year to a projected 48.8 million metric tons in 1985–86, nearly 30 percent. Corn exports from last October through December were only 515 million bushels, 85 percent of a year earlier. Barley exports declined 22 percent in that same period. In Tennessee, corn harvested for grain declined from 1980 to 1983 and has only increased in the past 2 years due to a shift by farmers from a crop even more devastated by the export market, soybeans.

Yet in the last decade, Argentina, Brazil, Canada, and Australia—the main competitors of the United States in the international grain trade—have added about 40 million acres to their grain and oilseed cropland base, and increased their yields by 22 percent. Argentina's corn exports are projected to increase from 7.1 million metric tons in 1984–85 to 8.3 million metric tons in 1985–86, while the United States market share of feed grains has declined nearly 15 percent since 1981.

Why we would recommend making this situation worse is beyond me. We literally cannot afford to subsidize the competition. Our farmers cannot afford to fight the competition and their own Government as well.

It is not my intent simply to complain, however, I think the Baker plan needs more direction, and I would like to offer constructive solutions. Rather than subsidizing farm exports, we should be encouraging the development of sound economic structures within the debtor nations so they can better manage their debt problem from within. Several debtor countries have already begun such programs and others should be encouraged and assisted in doing so.

Mr. President, there are a great many ways to defuse the debt bomb without harming our American farmers. The tremendous financial sophistication available in the major private banks, the World Bank, and the IMF must be brought to bear on these problems in creative ways. I intend to discuss some of these possibilities in the near future. Subsidizing competitors' exports, however, in a global agricultural trade war is not creative. It is destructive.●

FHA EXTENSION

● Mr. GORTON. Mr. President, I rise today to ask my colleagues to join me in calling for an immediate end to our war of wills over the Federal Housing Administration's [FHA] Single Family Housing Mortgage Insurance Program. For the past year Congress has held this program—and the hundreds of thousands of homeowners who depend on it for financing—hostage in a battle over housing policy. Congressional authority for this program has expired six times since the beginning of the current fiscal year on October 1, 1985.

We have heard many reasons and rationales for the congressional delay in action since the last short-term extension of the FHA program expired on June 6. Members of the other body have stated that a series of short term extension bills is the only way to force the Senate to take action on an omnibus housing bill. We have heard that amendments to the FHA extension bill are the only way to protect certain States' pet urban development action grant [UDAG] projects. These explanations provide little comfort, however, to the thousands of people whose mortgages have been delayed because of a lack of FHA authorization.

The current lapse in FHA authorization is creating acute anxieties among these citizens. They appreciate that the recent drops in interest rates have created a great demand for home financing, and that the large number of FHA applications will cause some delays. They understand that a shortage in the number of appraisers will slow the application process. They cannot understand, however, why their elected officials compound this situation by refusing to reauthorize the program.

I share their frustration. The present delay is costing them—individual Americans—thousands of dollars in increased interest and closing fees. It is time for Congress to focus on this group of citizens and put the FHA program back into full operation.●

NOMINATION OF DORCAS HARDY TO BE COMMISSIONER OF SOCIAL SECURITY ADMINISTRATION

● Mr. MOYNIHAN. Mr. President, last night, the Senate approved the nomination of Dorcas Hardy to be the Commissioner of the Social Security Administration, a position of enormous responsibility and one not to be taken lightly.

As my colleagues may know, I had asked that full Senate consideration of the nomination be delayed until I had the opportunity to evaluate her responses to a number of serious questions I had submitted to her about the Social Security Administration's disability benefit policies.

I was particularly interested to know how the Administration would implement the recent Supreme Court decision in Bowen versus City of New York, argued successfully on behalf of the city by Frederick A.O. Schwarz, Jr., the mayor's corporation counsel. In that case, the Supreme Court ruled unanimously that the Social Security Administration must reopen the cases of nearly 15,000 mentally ill New

Yorkers, whose disability benefits had been terminated, or whose applications had been denied, between 1978 and 1983.

I have since received written responses to all of the questions. Ms. Hardy has been responsive and forthcoming. Moreover, in her June 16 letter to me, Ms. Hardy stated:

I intend to do all I can to avoid the confrontational situation that evolved in the disability program prior to 1984 and will work with the Congress and the States to further the fair and uniform delivery of this critical social program.

Although I continue to hold serious concerns about recent events at the Social Security Administration, I believe it is unfair to hold Ms. Hardy accountable for the past policies to which I so strongly object. I expect, and I have indicated this to her, that those policies will not persist or recur under Commissioner Hardy's tenure at the Social Security Administration.

Mr. President, as others in this body are equally interested in the policies undertaken by the Commissioner of Social Security, I ask that a copy of my questions, and the Commissioner's responses, be included in the RECORD.

The material follows:

U.S. SENATE,
Washington, DC, June 10, 1986.

Hon. DORCAS R. HARDY,
Assistant Secretary for Human Development Services, Department of Health and Human Services, Washington, DC.

DEAR SECRETARY HARDY: As you are well aware, the Supreme Court last week delivered a unanimous decision in the case of *Bowen* v. *City of New York*. Under the ruling, the Department of Health and Human Services will be required to reopen the cases of some 10,000 mentally disabled New Yorkers, and reevaluate their claims for disability coverage.

As the Commissioner of the Social Security Administration, you would be actively involved in the implementation of the disability program, and in the enforcement of this recent court decision.

In that light, I would appreciate your responses to the following questions. I would be most interested in receiving preliminary answers to the questions tomorrow morning, before the Senate Finance Committee vote on your confirmation. I understand that additional time may be required to respond fully to these questions, and I would hope to receive your responses at your earliest convenience. If you have any questions, please contact Dorian Friedman on my staff at 224-7567.

Thank you very much.

Sincerely,

DANIEL PATRICK MOYNIHAN.

QUESTIONS SUBMITTED TO DORCAS HARDY, COMMISSIONER-DESIGNATE, SOCIAL SECURITY ADMINISTRATION

PAST ILLEGAL PRACTICES

1. What steps will you take to ensure that any policy that sets forth the basis for determining claims is not kept secret from claimants and their advocates?

2. I note that the State of New York was a plaintiff in this case, apparently because its Office of Disability Determinations could not successfully convince SSA that its policy was illegal other than by going to court. What steps will you take to open up communication with State adjudication agencies to prevent their having to go to court as the only way of ending illegal policies?

3. Will you continue to authorize appeals such as this one in which SSA essentially concedes the ruling on the merits—that you acted illegally—but seeks to bar the granting of any relief to the victims of the illegal policy?

4. By when will the relief ordered by the district court in *City of New York* be implemented? What steps will SSA take to locate class members who may not be at their last known address? Will SSA cooperate with the relevant New York City and New York State agencies, and with attorneys for the class, to help find lost class members and otherwise to implement relief fairly and quickly?

PROCESS FOR EVALUATING A CLAIM

1. There has been litigation in New York, as well as in other areas of the country, challenging the manner in which Step 2 determinations are made. Specifically, in *Dixon v. Bowen*, (589 F.Supp. 1784, *aff'd*, 785 F.2d 1102), Judge Lasker found, and the Second Circuit affirmed, that SSA had construed the determination of "severity" in a way which resulted in the illegal cutoff of thousands of disabled individuals. Instead of applying a minimal, threshold criterion—e.g., that someone with a cut on his finger does not have a severe impairment—SSA has required the claims adjudicators to make broader medical judgments regarding the nature of the impairment, while ignoring vocation factors such as age, education and work experience. Making those judgments at Step 2, instead of at Step 4 or 5, has, in violation of the statute and regulations, precluded the claimants from presenting proof regarding work experience and the demands of available jobs.

What steps has SSA taken to ensure that Step 2 evaluations are made as intended by the regulations—i.e., that the only claims to be denied at this point are those which are based on impairments of clearly minimal severity? What steps will you take to prevent the abuses which Judge Lasker found occurred in New York? What steps are being taken to implement the relief ordered by Judge Lasker?

2. There has been litigation around the country challenging the failure of SSA to make, pursuant to Step 3, "medical equivalence findings" or, in other words, to grant benefits based on a judgment that the impairment is equivalent to one set forth in the listings. There have also been allegations that SSA has failed even to provide any guidance to its evaluators regarding how to make such medical equivalence findings.

What steps has SSA taken to ensure that Step 3 "medical equivalence" findings are made in appropriate cases? What guidance, if any, does SSA provide to its evaluators regarding how to make such findings?

3. What position is SSA taking with respect to *Marcus v. Heckler*, presently pending in Chicago, in which the failure to make such medical equivalence findings is being challenged?

NONACQUIESCENCE

1. The conference agreement to the 1984 Social Security Disability Benefits Reform Act states: "The conferees urge that a policy of non-acquiescence be followed *only* in situations where the Administration has initiated or has the reasonable expectation and intention of initiating the steps necessary to receive a reveiw of the issues in the Supreme Court." H. Conf. Rep. at 37, 1984 U.S. Code, Cong., & Admin. News 3095 (emphasis added). Do you intend to abide by that policy? How do you intend to notify adjudicators, claimants, and claimants' advocates that a particular decision will not be acquiesced in? If SSA were denied a stay pending the appeal of a circuit court decision to the Supreme Court, would you allow SSA to non-acquiesce in the circuit court ruling from which the appeal is pending?

2. SSA has asserted in its appeals to the Second Circuit in *Schisler* and *Stieberger* that it does not non-acquiesce in the Second Circuit's treating physician rule, as set out in *Bluvband v. Heckler*. Will you instruct all disability claims adjudicators in the Second Circuit states to follow the *Bluvband* rule? Will you instruct all disability claims adjudicators in the country to comply with relevant circuit court precedent? Will you inform them of the relevant precedent by providing copies of relevant opinions of ALJs and the Appeals Council, and informing adjudicators at the state agencies, of their contents and implications?

3. The reading the Second Circuit panel deciding *Schisler* gave the *Bluvband* opinion is slightly different from the reading of Judge Sand in the *Stieberger* order. Which will you follow while the *Stieberger* appeal is pending in the Second Circuit?

4. The district court judge in *Stieberger* found that SSA has in the past and continues to ignore binding circuit cases in deciding claims for benefits. Does SSA intend to reopen the claims that were illegally denied under this policy? If not, why not? If not, does SSA intend to assert res judicata defenses against claimants who reapply?

OTHER ISSUES

1. In *Schisler v. Heckler*, a case challenging terminations of benefits without evidence of medical improvement, SSA took the position that a court may not, in advance of the adjudication of claims by SSA, impose substantive requirements on those adjudications. (Slip op. 12-13). In other words, SSA argued that system-wide challenges to SSA's policies resulting in general prospective relief could not be brought in the context of a class action lawsuit. Do you intend to adhere to that position? If so, how do you justify it?

2. The district court judge in *Stieberger* also found that SSA had in place for several years a policy of reviewing internally the decisions of ALJs who had comparatively high rates of benefits allowances, which affected the decisional independence of the ALJs. Does SSA intend to reopen the claims that were illegally denied under this policy? If not, why not? If not, does SSA intend to assert *res judicata* defenses against claimants who reapply?

3. I note that SSA has reinstated the Continuing Disability Investigations, in which SSA re-examines claims to ensure the recipient of benefits is still entitled to them. In the past, this process engendered a series of lawsuits which resulted in findings that SSA terminated large numbers of claimants improperly—for instance, by failing to evaluate impairments in combination. What steps do you intend to take to prevent such abuses from recurring?

DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Washington, DC., June 11, 1986.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: This is in response to your recent questions prompted by *Bowen, et al.* v. *City of New York et al.* regarding practices, policies and procedures for making determinations on disability claims under the Social Security and SSI disability programs. I have given preliminary answers to a number of the questions which your staff indicated were of greatest concern to you and will provide complete responses to the entire list of questions as soon as possible.

I agree with you that these are serious issues and that ensuring an effective, fair and timely disability determination process is a priority for the Social Security Administration.

I look forward to working with you in the future on these issues which are of importance to both of us.

Sincerely,

DORCAS R. HARDY,
Assistant Secretary
for Human Development Services.

Enclosures.

Senator Moynihan.

Question: *Will you continue to authorize appeals such as this one in which SSA essentially concedes the ruling on the merits—that you acted illegally—but seeks to bar the granting of any relief to the victims of the illegal policy?*

Answer: As you know, only the Solicitor General can decide whether or not to appeal a particular case. Any recommendations to the Department of Justice are made on a case-by-case basis, after the interests of both claimants and the government have been carefully assessed.

While I am not in a position to judge the recommendation made by SSA in the *City of New York* case, I understand that the individuals involved in recommending the appeal believed that it was imperative to defend the statutory language requiring claimants to exhaust their administrative remedies prior to commencing an action in the Federal courts. In future deliberations concerning possible appeals, I can assure you that careful consideration will be given to the impact of an appeal upon individual claimants.

Senator MOYNIHAN.

Question: *In Schisler v. Heckler a case challenging terminations of benefits without evidence of medical improvement, SSA took the position that a court may not, in advance of the adjudication of claims by SSA, impose substantive requirements on those adjudications. (Slip op. 12-13). In other words, SSA argued that systemwide challenges to SSA's policies resulting in general prospective relief could not be brought in the context of a class action lawsuit. Do you intend to adhere to that position? If so, how do you justify it?*

Answer: The Social Security Administration did not argue in *Schisler* that systemwide challenges to SSA's policies resulting in general prospective relief could not be brought in the context of a class action lawsuit.

The government's future jurisdictional arguments in Social Security class actions will have to be considered in light of the Supreme Court's recent decision in the *City of New York* case. We will be working closely with the Department of Justice to ensure proper implementation of the Supreme Court's decision in this case and the government's position in future class actions will, of course, be formulated in light of the *City of New York* decision.

Senator MOYNIHAN.

Question: *What steps will you take to insure that any policy that sets the basis for determining claims is not kept secret from claimants and their advocates?*

Answer: SSA's policies and operating procedures are issued to adjudicators through the Program Operations Manual System (POMS), through the Federal regulations process including notice in the *Federal Register,* and through Social Security Rulings. I understand that the policy cited in the court case was issued in 1978 and was not issued in accordance with these prescribed procedures. I also understand that subsequent action has been taken to correct this incorrect policy.

Section 10 of the Social Security Disability Benefits Reform Act of 1984 requires the publication of regulations setting forth uniform standards for disability determinations pursuant to the Administrative Procedure Act. Such regulations are binding at all adjudicative levels. I understand that steps have been taken to comply with these requirements.

As Commissioner, I will ensure that these procedures are fully implemented and that claimants, their representatives, and advocates have access to and are informed of policy issuances at any Social Security office.

Senator MOYNIHAN.

Question: *By when will the relief ordered by the district court in City of New York be implemented? What steps will SSA take to locate class members who may not be at their last known address? Will SSA cooperate with the relevant New York City and New York State agencies, and with attorneys for the class, to help find lost class members and otherwise to implement relief fairly and quickly?*

Answer: Implementation began immediately after the court's decision. SSA identified all potential class members through its systems and began screening case folders to determine class membership. Approximately 14,000 cases have thus far been found to be a part of the class. About 5,000 cases have not yet been screened because the folder cannot be located. Special procedures for processing these cases are being proposed to plaintiff's counsel.

SSA will expedite these cases. SSA has already begun review of the denial cases not under the court's stay. Review of the denial cases under the stay will begin in July. The target for completing these cases is January.

In locating class members who may not be at their last known address, SSA has prepared an implementation plan to work closely with plaintiff's counsel in developing processing instructions. These instructions are expected to be completed in about 30 days. SSA also plans to match its records with the records of New York City and State welfare offices in an effort to obtain better addresses and to otherwise cooperate with the agencies.

Senator MOYNIHAN.

Question: *The conference agreement to the 1984 Social Security Disability Benefits Reform Act states: "The conferees urge that a policy of non-acquiescence be followed only in situations where the Administration has initiated or has the reasonable expectation and intention of initiating the steps necessary to receive a review of the issues in the Supreme Court." H. Conf. Rep. at 37, 1984 U.S. Code, Cong., & Admin. News 3095 (emphasis added). Do you intend to abide by that policy? How do you intend to notify adjudicators, claimants, and claimants' advocates that a particular decision will not be acquiesced in? If SSA were denied a stay pending the appeal of a circuit court decision to the Supreme Court, would you allow SSA to non-acquiesce in the circuit court ruling from which the appeal is pending?*

Answer: In June 1985, the Social Security Administration adopted a policy whereby it would acquiesce in circuit court decisions which conflict with agency policy and that policy was expanded in December 1985. Since the implementation of the agency's acquiescence policy, hundreds of circuit court decisions have been reviewed by a special SSA Task Force and, to date, twenty rulings in which SSA has acquiesced in various courts of appeals decisions have been issued. These twenty rulings are binding on all agency adjudicators at all levels of administrative review. A number of additional circuit court decisions are currently being considered for possible acquiescence rulings.

SSA expects that any future nonacquiescence in circuit court decisions will be rare. However, should such action become necessary in the future the agency will have to examine the specifics of such a case and decide whether the issuance of a ruling or regulation would be the most appropriate way to notify adjudicators and claimants.

A decision to nonacquiesce in future circuit court decision where a stay of judgment has not been granted and appeal is pending in the Supreme Court would only be made after close consultation with this Department's Office of the General Counsel and the Department of Justice and only after a careful evaluation is made of all the legal and administrative aspects of such a case.

Senator MOYNIHAN.

Question: *There has been litigation around the country challenging the failure of SSA to make, pursuant to Step 3, "medical equivalence findings" or, in other words, to grant benefits based on a judgment that the impairment is equivalent to one set forth in the listings. There have also been allegations that SSA has failed even to provide any guidance to its evaluators regarding how to make such medical equivalence findings. What steps has SSA taken to ensure that Step 3 "medical equivalence" findings are made in appropriate cases? What guidance, if any, does SSA provide to its evaluators regarding how to make such findings?*

Answer: I believe it is inaccurate to say that SSA has failed to provide guidance to evaluators regarding "medical equivalence findings." Our policy is clearly stated in regulations and in the POMS (Programs Operations Manual System). As you are aware, the decision as to whether an impairment is of equivalent severity to one found in the Listing of Impairments is a decision reserved for program physicians.

Recognizing the concerns raised by current litigation in this area, SSA has increased efforts to ensure understanding of this policy. As an example, SSA recently conducted training for disability adjudicators, including program psychiatrists, on how equivalency decisions are to be handled in certain mental retardation cases under the new mental impairment regulations. A POMS instruction on this type of case is in final clearance.

Senator MOYNIHAN.

Question: *I note that the State of New York was a plaintiff in this case, apparently because its Office of Disability Determinations could not successfully convince SSA that its policy was illegal other than by going to court. What steps will you take to open up communications with State Adjudicatory agencies to prevent their having to go to court as the only way of ending illegal policies?*

Answer: It is important that SSA have open lines of communication with the State Agencies. During the last several years, and especially in the implementation of the 1984 Amendments, SSA has extensively involved State Agencies in the development of new policies and operating procedures. As Commissioner, I intend to work with State Agencies to resolve and discuss issues in the belief that we can resolve controversies before proceeding to court.

U.S. SENATE,
Washington, DC, June 13, 1986.

Hon. DORCAS R. HARDY,
Assistant Secretary for Human Development Services, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC.

DEAR SECRETARY HARDY: On June 2, 1986, the U.S. Supreme Court unanimously affirmed the ruling of the Second Circuit Court of Appeals in *Bowen* v. *City of New York*. In that case, the plaintiffs argued, and the trial judge found, that from 1978 until 1983 the Social Security Administration had in place an unlawful, unpublished policy under which "countless" deserving claimants were denied benefits. The Social Security Administration did not appeal this finding of fact. It *did*, however, seek to narrow the impact of the court's findings by filing appeals arguing that the courts had no jurisdiction over claimants who had failed to exhaust their administrative remedies or who had failed to appeal an administrative decision within 60 days of receiving it.

The Supreme Court rejected these arguments, holding that claimants would not be held to the 60 day or exhaustion requirements because the Social Security Administration had followed a systemwide, unrevealed policy that was inconsistent in critically important ways with established regulations. The Court rebuked the Social Security Administration and the Department of Health and Human Services, stating that "The Secretary had the capability and the duty to prevent the illegal policy. . . The claimants here were denied the fair and neutral procedure required by the statute and regulations. . ." (slip op. p. 19).

In short, this may represent the first time in history in which the Supreme Court has had to *tell* the Social Security Administration what its responsibilities are to its millions of beneficiaries.

I understand that these events did not arise under your purview, and that you were not responsible for adopting the policies to which I so strongly object. Nevertheless, I hope that these recent events have instilled a sense of remorse within the Social Security Administration and of alarm on your part.

In your testimony before the Senate Finance Committee on May 15, stating one of your main goals at the Social Security Administration if confirmed as Commissioner, you said, "We must provide the best service across the country that we know how. The American people whose lives we touch deserve prompt, courteous, and efficient service, and fair and dignified treatment. I am committed to maintaining high standards in the quality and level of services."

Your stated commitment is admirable. However, I believe it is also at serious odds with the record of performance of the agency itself over the last few years. The Social Security Administration has harassed and hurt thousands of beneficiaries by placing numerous administrative and adjudicative obstacles between them and the benefits to which they are entitled by law. The Social Security Administration has also denied or terminated benefits to countless eligible claimants. In sum, the Social Security Administration's deliberate—if unstated—policies over the last five and a half years have given the agency the public image of being uncooperative and unsympathetic to the constituency it is required to serve.

Unfortunately, your preliminary answers have not resolved my serious doubts that these policies would continue under your administration. I would have hoped for more direct and forthright answers. For instance:

In response to one question, you state that only the Solicitor General can decide whether or not to appeal a particular case. Of course, the Social Security Administration has a role in this process. In what cases will the agency recommend that Justice pursue an appeal?

In response to another question (*Schisler* v. *Heckler*), you state that future jurisdictional arguments in class actions will have to be formulated in light of the City of New York opinion. This is an admirable sentiment, but does not answer the question of whether you will continue to urge that systemwide relief cannot be granted in class action cases.

Finally, in your preliminary response to my question on "non-acquiescence" (i.e., refusal to apply circuit court decisions to any case but that of an individual who brings suit), you state that any future non-acquiescence in circuit court decisions will be "rare." Does this mean that you will continue to refuse to apply circuit court decisions to any case except that of the individual who brought suit, without appealing them or without public notice? How, otherwise than by a ruling or regulation, would the Social Security Administration notify adjudicators and claimants, as well as their advocates, of a decision to refuse to acquiesce?

Madam Secretary, I appreciate the efforts made by you and your staff in responding to several of our questions thus far. I look forward to complete and satisfactory responses to all of my questions in the near future. As you know, on Wednesday I voted to report your nomination, but asked Chairman Packwood to postpone full Senate consideration pending your responses to these very serious concerns. He agreed to my request. Be assured that I am prepared to move forward with final consideration of your nomination if such answers are forthcoming, as I am sure they will be.

Sincerely,

DANIEL PATRICK MOYNIHAN.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES, OFFICE OF HUMAN DEVELOPMENT SERVICES,
Washington, DC, June 16, 1986.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: Your recent questions and letter of June 13, 1986, raise legitimate concerns regarding administration of the disability insurance program. The program must be administered in a fair, humane and effective manner, and should be perceived by the public in the same way. As Social Security Commissioner, I will be committed to ensuring that those who are entitled to disability payments in accordance with Social Security procedures, policies and regulations promulgated openly and legally receive their benefit. Improper denial of benefits, any kind of illegal conduct, or lengthy delays are certainly not hallmarks of a well-administered program and are intolerable to me as a public servant. I believe better management techniques and approaches can be developed to curtail such practices.

Several different factors contributed to the outcome of *Bowen* v. *City of New York*: questionable policies, judgments about court appeals, and a lack of clear guidance. As I stated, I believe strongly that it is vital to ensure that the disability program be administered in a fair, humane, and consistent manner. This obligation extends not only to the relatively small number of high-profile cases that challenge SSA procedures, but also the thousands of more routine cases that SSA must consider each year.

I understand that policies such as the one cited in the City of New York court case have been corrected and steps are being taken to make whole anyone affected. I am committed to thorough enforcement and implementation of the recent decision. Previous questionable policy issues were addressed by the Congress in the debate and passage of the 1984 Disability Amendments; SSA staff has worked closely and diligently with Congressional staff as well as the States in the implementation of guidelines resulting from these amendments. I intend to continue these close working relationships and to fully implement the spirit and intent of the amendments.

With regard to the specific points you raised in your letter of June 13:

I believe that recommendations to the Department of Justice on appeal of court cases must be made on an individual basis after considering the potential effects on the claimants and the government. These recommendations will be made with the utmost concern for beneficiaries and with relevant decisions such as the City of New York in mind. I will not be in the business of appealing decisions for no reason but there will undoubtedly continue to be instances where I believe it to be in the best interest of the government and the Social Security program to pursue our legitimate point of view.

In regard to systemwide relief on class action cases, it will be my policy that systemwide relief will be granted to the class in accordance with any such court orders except in those unusual situations where an appeal or clarification is pursued.

In response to your question about acquiescence, I understand that the Congress did give guidance to SSA during the deliberations surrounding the Amendments. The Social Security Administration has made substantial changes in the decision-making process on appeals of court cases and compliance with circuit court decisions. While I would not want to say that I would never non-acquiesce, I will say that I believe it should be limited to very special circumstances. I can not provide a further clarification of "rare" at this time.

In addition, based on the 1984 amendments, I am optimistic that non-acquiescence will not be an issue as it has been in the past. Since 1985, SSA has issued 20 rul-

ings of acquiesence, and has not non-acquiesced in any Court of Appeals case.

In terms of notification, SSA will continue to issue Acquiescence Rulings in instances where circuit court rulings differ from national Social Security policy. These rulings advise adjudicators in States within the appropriate circuits to apply circuit court law. Relevant administrative law judge and Appeals Council opinions will be published as Social Security Rulings when appropriate. Non-acquiescence decisions, if any, will be communicated in the same manner, that is by ruling or regulation, whichever is more appropriate. Rulings are available to advocates and the public generally at any Social Security office. I believe these procedures for notification are fair and it is my understanding that they have been effective.

I intend to do all I can to avoid confrontational situation that evolved in the disability program prior to 1984 and will work with the Congress and the States to further the fair and uniform delivery of this critical social program.

Sincerely,

DORCAS R. HARDY,
Assistant Secretary
for Human Development Services.

Enclosure.

Senator MOYNIHAN.

Question: *There has been litigation in New York, as well as in other areas of the country, challenging the manner in which Step 2 determinations are made. Specifically, in Dixon v. Bowen, (589 F. Supp. 1784, aff'd, 785 F.2d 1102), Judge Lasker found, and the Second Circuit affirmed, that SSA had construed the determination of "severity" in a way which resulted in the illegal cutoff of thousands of disabled individuals. Instead of applying a minimal, threshold criterion—e.g., that someone with a cut on his finger does not have a severe impairment—SSA has required the claims adjudicators to make broader medical judgments regarding the nature of the impairment, while ignoring vocation factors such as age, education and work experience. Making those judgments at Step 2, instead of at Step 4 or 5, has, in violation of the statute and regulations, precluded the claimants from presenting proof regarding work experience and the demands of available jobs.*

What steps has SSA taken to ensure that Step 2 evaluations are made as intended by the regulations—i.e., that the only claims to be denied at this point are those which are based on impairments of clearly minimum severity? What steps will you take to prevent the abuses which Judge Lasker found occurred in New York? What steps are being taken to implement the relief ordered by Judge Lasker?

Answer: In October 1985, SSA published a ruling clarifying the "not severe" policy to emphasize that an impairment should be found not severe only if it has *no* more than a minimal impact on an individual's ability to perform any work related activities. In addition, this ruling was supplemented with additional guides for adjudicators such as a Program Circular to highlight the policy clarification and a training package for adjudicators. Also, on March 5, 1985, SSA published an interim final regulation to implement section 4 of P.L. 98-460 which requires that the combined effect of all impairments be considered, even if none considered separately would be found to be severe, in determining whether an individual's impairment(s) is severe.

There have been several sets of instructions issued to implement the Dixon orders. Potential class members whose claims had been denied were notified about the Dixon action on October 12, 1984. Potential class members whose benefits had been terminated were notified on a case-by-case basis between July 1984 and July 1985. Specifically, these individuals were notified that the Dixon order required SSA to reopen their claims. Additionally, those terminated were advised that their benefits would be reinstated pending the new review pursuant to the Dixon order. State agency and SSA adjudicators were instructed by teletype instructions on July 30, 1984, to stop using Step 2 as the basis for denial. Adjudicators were further advised to consider vocational factors in those claims where the individual was found unable to perform his or her past work.

Senator MOYNIHAN.

Question: *The district judge in Stieberger found that SSA has in the past and continues to ignore binding circuit cases in deciding claims for benefits. Does SSA intend to reopen the claims that were illegally denied under this policy? If not, why not? If not, does SSA intend to assert res judicata defenses against claimants who reapply?*

Answer: The Stieberger class action case is presently on appeal to the U.S. Court of Appeals for the Second Circuit and we are awaiting a decision. As the case now stands, SSA has not been required to reopen any cases in the class (which has been certified back to 1981 by the district court). In response to your question concerning the res judicata effect of prior administrative decisions, of course all individuals have the right under SSA regulations to file new applications for benefits at any time. SSA's normal policy set out in existing regulations provides that, in some situations, claimants who have filed new claims are barred from relitigating the question of their benefit entitlement if the new application pertains to a previous time period which has already been the subject of a prior decision. I would plan to abide by these longstanding administrative finality regulations absent a court order requiring the contrary.

Senator MOYNIHAN.

Question: *The district court judge in Stieberger also found that SSA had in place for several years a policy of reviewing internally the decisions of ALJs who had comparatively high rates of benefits allowances, which affected the decisional independence of the ALJs. Does SSA intend to reopen the claims that were illegally denied under this policy, If not, why not? If not, does SSA intend to assert res judicata defenses against claimants who reapply?*

Answer: The Social Security Administration does not agree with the assertion in this question that Judge Sand's decision in the Stieberger case "found that SSA('s) . . . policy of reviewing internally the decisions of ALJs who had comparatively high rates of benefit allowances . . . affected the decisional independence of the ALJs." After a lengthy analysis of the Bellmon review program (Slip op. 118-166), Judge Sand concluded that "(w)hether plaintiffs are likely to succeed on the merits of their challenge to Bellmon review as implemented prior to June, 1984, is an issue we need not decide." (Slip op. at 163) Therefore, SSA does not intend to reopen claims which were previously denied under the Bellmon review program since there is, in our view, no reason to do so. In regard to the application of res judicata, it would apply to persons who have received an unfavorable decision after Bellmon review and who reapply to the same extent that res judicata applies in any other circumstance, namely when the subsequent application is based on the same facts and raises the same issue or issues as were previously adjudicated.

Senator MOYNIHAN.

Question: *I note that SSA has reinstated the Continuing Disability Investigations, in which SSA re-examines claims to ensure the recipient of benefits is still entitled to them. In the past, the process engendered a series of lawsuits which resulted in findings that SSA terminated large numbers of claimants improperly—for instance, by failing to evaluate impairments in combination. What steps do you intend to take to prevent such abuses from recurring?*

Answer: I intend to continue implementation and administration of the 1984 Amendments, which clearly expressed the will of Congress as to how these problems should be corrected. For example, in regard to evaluation of impairments in combination, section 4 of the 1984 Amendments required that multiple impairments must be considered in deciding medical severity. Regulations to implement this provision were published on March 5, 1985.

The primary issue in litigation surrounding the continuing disability review (CDR) process was whether an individual's medical condition had to show improvement before benefits could be terminated. The 1984 Amendments mandated that medical improvement is generally the standard for continuing eligibility decisions, and section 2 of the amendments set forth the specific medical improvement review standard to be used in CDR's. Implementing regulations were published in December 1985. The revised criteria for evaluating mental disorders, as required by the same legislation, were published as regulations in August 1985. Finally, extensive training of disability adjudicators has been conducted, special quality review mechanisms have been developed, and detailed operating instructions have been issued to insure consistent and uniform application of the new policies.

Senator MOYNIHAN.

Question: *What position is SSA taking with respect to Marcus v. Heckler, presently pending in Chicago, in which the failure to make such medical equivalence findings is being challenged?*

Answer: SSA has not yet taken a position. The class action complaint in the Marcus case was filed in March 1985. The district court in October 1985 certified a class consisting of residents of Illinois. The government at this time is responding to discovery requests filed by the plaintiffs. Pending completion of discovery, the Federal government is in the process of developing its litigation position in Marcus.

Senator MOYNIHAN.

Question: *SSA has asserted in its appeals to the Second Circuit in Schisler and Stieberger that it does not non-acquiesce in the Second Circuit's treating physician rule, as set out in Bluvband v. Heckler. (1) Will you instruct all disability claims adjudicators in the Second Circuit states to follow the Bluvband rule? (2) Will you instruct all disability claims adjudicators in the country to comply with relevant circuit court precedent? (3) will you inform them of the relevant precedent by providing copies of relevant opinions of ALJs and the Appeals Council, and informing adjudicators at the state agencies, of their contents and implications?*

Answer: (1) Yes, in accordance with the district court's order in Stieberger, SSA has

instructed all adjudicators in New York State to follow the Second Circuit's treating physician rule, as set out in the Bluvband case. However, in regard to Schisler, there is an apparent discrepancy between the Schisler and Stieberger cases in the rules set out by the Second Circuit. Therefore, SSA is requesting the Second Circuit to rehear Schisler and to provide a consistent rule for all adjudicators in the Second Circuit.

(2) SSA is issuing Acquiescence Rulings in instances where circuit court rulings differ from national Social Security policy. These rulings advise adjudicators in States within the appropriate circuits to apply circuit court law.

(3) Relevant administrative law judge and Appeals Council opinions are published as Social Security Rulings when appropriate.

Senator MOYNIHAN.

Question: *The reading the Second Circuit panel deciding Schisler gave the Bluvband opinion is slightly different from the reading of Judge Sand in the Stieberger order. Which will you follow while the Stieberger appeal is pending in the Second Circuit?*

Answer: The district court's order in Stieberger—to apply the Bluvband treating physician rule—applies to all residents of New York State and requires that all claims for disability benefits decided on and after the date of the order be adjudicated under specific instructions provided in the court's order. Operating instructions, consistent with the Stieberger decision and reviewed by attorneys for the plaintiffs in that case, have been issued by SSA to persons adjudicating disability claims filed by residents of New York State. We will continue to comply with the district court's order in Stieberger unless it is set aside or modified as a result of the government's pending appeal. We have not applied the decision of the Second Circuit in Schisler pending final action on the petition for rehearing.●

NAUM & INNA MEIMAN IN PAIN

● Mr. SIMON. Mr. President, Naum and Inna Meiman are suffering. The Meimans are a Soviet couple who have applied to emigrate to Israel numerous times and have always been refused.

Inna is a woman in pain. She is critically ill with cancer. Although her cancer is treatable according to Western medical authorities, the Soviet doctors have told her there is nothing more they can or will do. Time is running out for Inna. She must have the advanced medical treatment being offered to her in the West.

Inna also is in pain because she sees what is happening to her husband. Naum has experienced harassment by Soviet authorities for over 10 years. He lost his job after first applying for a visa. Their apartment has been ransacked, and their telephone has been cut off. They have been isolated from society.

It is time to allow doctors in the West to treat Inna. There is no reason this sick and elderly couple should be denied their basic human rights.

I urge the Soviet authorities to allow the Meimans to go to Israel.●

ORDERS FOR MONDAY, JUNE 23, 1986

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate reconvenes on Monday, June 23, the reading of the Journal be dispensed with; that no resolutions come over under the rule; that the call of the calendar be dispensed with; that following the recognition of the two leaders under the standing order, there be special orders in favor of Senators HATFIELD, PROXMIRE, GORE, and MELCHER for not to exceed 5 minutes each, to be followed by a period for the transaction of routine morning business, not to extend beyond 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each; provided, further, that the morning hour be deemed to have expired.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, the Senate will convene at 12 noon on Monday.

The leaders will have 10 minutes each.

There will be special orders in favor of Senators HATFIELD, PROXMIRE, GORE, and MELCHER for not to exceed 5 minutes each.

There will be routine morning business not to extend beyond 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

The Senate will then resume consideration of H.R. 3838. No rollcall votes will occur during Monday's session.

We have tried to avoid a last-minute rush on Tuesday, and Members should be prepared to indicate that they are not going to offer their amendments or be here to offer their amendments preferably on Monday, because I know that the distinguished chairman of the committee has a rather pressing engagement and will leave town about 6:30 on Tuesday. If we back up everything on Tuesday and start voting on Tuesday, we could be around here 7, 8, or 9 o'clock, waiting to dispose of the bill.

I know that my collegues will cooperate with the managers, and we can dispose of most of the amendments on Monday.

I also wish to indicate what will happen after disposition of the tax bill.

There will be a supplemental appropriations conference report; Calendar No. 666, S. 2507, the housing billl; Calendar No. 636, S. 2045, the Commodity Future Trading Act; Calendar No. 655, H.R. 4151, diplomatic security bill; the House message to accompany House Joint Resolution 652, FHA temporary extension; Executive nomination of Daniel Manion, to be U.S. Circuit Judge.

□ 1730

So I think with those few items, we ought to be able to finish our work hopefully by Thursday; if not, on Friday, June 27.

There will be a number of rollcall votes Tuesday on the tax bill and I would assume rollcall votes Wednesday, Thursday, and Friday, unless we can complete our work on Thursday. Then there would not be a Friday session.

I am reminded also that on Tuesday the first vote will be 15 minutes and all subsequent votes will be 10 minutes each if in fact the votes have been stacked.

ADJOURNMENT UNTIL MONDAY, JUNE 23, 1986

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 noon on Monday, June 23, 1986.

The motion was agreed to, and at 5:29 p.m., the Senate adjourned until Monday, June 23, 1986, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 20, 1986:

THE JUDICIARY

William H. Rehnquist, of Virginia, to be Chief Justice of the United States.

DEPARTMENT OF JUSTICE

Arnold I. Burns, of New York, to be Deputy Attorney General, vice D. Lowell Jensen, resigning.

MERIT SYSTEMS PROTECTION BOARD

Mary F. Wieseman, of Maryland, to be special counsel of the Merit Systems Protection Board for a term of 5 years, vice K. William O'Connor, resigned.

IN THE ARMY

The following officers for appointment as permanent professors at the U.S. Military Academy in accordance with the provisions of title 10, United States Code, section 4333:

Col. Frank R. Giordano, [redacted]
Lt. Col. Raymond J. Winkel, [redacted]

IN THE ARMY

The following-named officer for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, sections 624 and 628:

To be lieutenant colonel

John D. Black, [redacted]

JUDGE ADVOCATE GENERAL'S CORPS

To be lieutenant colonel

Michael J. Dicharry, [redacted]

MEDICAL SERVICES CORPS

To be lieutenant colonel

Edmund L. Davis, [redacted]

IN THE NAVY

The following-named commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of Captain in the staff corps, as indicated, pursuant to the

provisions of title 10, United States Code, section 5912:

MEDICAL CORPS

Andrus, Peter L.
Ang, Elsa Penaranda
Antosek, Louis E.
Bartley, Tony C.
Bayne, Cary Gresham
Bellinger, Creighton G.
Bond, William R., Jr.
Boyer, Michael F.
Brown, Lansing Eugene
Campaigne, Robert J.
Chabala, James V.
Chalkley, Milton Deroha
Cilento, Bartley Gray
Cruz, Anatolio Benedict
Dansak, Daniel A.
Dolan, Michael P.
Duplis, Robert M.
Felix, Walter Robert, Jr.
Felthous, Alan R.
Flynn, Thomas J.
Gaffney, Jon W.
Geraci, Robert P.
Greer, Harry A., Jr.
Hacker, Philip K.
Hall, Arthur Laris
Hannigan, Edward Vincen
Harkness, James Albert
Harman, Richard Lee
Hendricks, Fredericks BA.
Hierlwimmer, Ulf Rainer
Hintz, Brace Leland
Hitt, Curtis Lee
Holden, Richard Theodor
Hooper, Richard Edmund
Horn, John Russell
Howard, Arthur Richard
Johnson, Dennis Lee
Johnston, Charles Edgar
Judman, Allen Herbert
Katz, Arnold Elliott
Kelleher, Kenneth S., Jr.
Kim, Thomas Hongsuh
Konerding, Karsten Fred
Laughlin, James E.
Lee, Wayland Sherrod
Lloyd, Douglas S.
Lux, Glenn A.
Lwin, Tint
Lynch, William James
Mabry, Nicholas Rivero
Malstrom, Robert H.
Martin, John Wesley, III
McQuarrie, Irvine Gray
Miller, Richard Clayton
Minihan, Patrick T.
Moreland, Robert Hamilt
Moser, Ronald Joseph
Nettles, Willard H., Jr.
Newton, Jerry Albrecht
Noble, Robert Gordon
Nolan, Peter Stanley
Noonan, Bruce Douglas
Nyboer, Jan Holland
O'Donnell, James Kevin J.
O'Neil, Bernerd L.
Payton, Gladstone A.
Probst, Theodore G.
Pruet, Charles Wilburn
Reiner, Carl Ernest
Rentz, Turner Wayne, Jr.
Reynolds, Richard James
Richardson, Douglas Sco
Risser, Thomas A.
Robertson, Lawrence
Rodriguez, Alexander Ru
Runnels, John Benton
Russo, Raymond Michael
Ryan, William John
Sargent, John H.
Schultz, Thomas Aaron
Scoles, Peter V.
Seif, Rahmat Mazaheri
Shenefelt, Philip David
Shockley, John R., Jr.
Skuza, John J.
Splinter, Raymond J.
Stark, Randolph Wilkins
Stevenson, Eugene Octav
Stone, Ronald Kaye
Tizard, Gary T.
Umfrid, Richard Paul, II
Vance, Donald Alton
Vanslyke, Gary
Wagner, Timothy Ronald
Ware, Lewis Leonard, Jr.
Wei, Wellington Cheng H.
Weinberg, Thomas Jakle
Whitfield, Richard Wris
Widman, Larry A.
Wilson, George Rice, III
Wolkoff, Aaron S.
Zekos, Nicholas V.
Zimmerman, Richard Carl
Zuromskis, Peter J.

SUPPLY CORPS

Babb, Robert Masters, Jr.
Borst, Richard Earl
Brainerd, Robert Phelps, Jr.
Cookson, John Phillipe
Deangelis, Joseph Thomas, Jr.
Delfs, Hugh Neilson
Dorsey, Lewis George, III
Fox, James Franklin
Foy, Norman Frank
Free, Willard Dean
Free, William Thomas, Jr.
Gondring, John Arnold
Kelley, John Robert, Jr.
Maitland, James Raisbeck
Mangin, Garrett Nicholas, II
McClintock, William R., Jr.
McDonnell, Brian Leo
McTavish, Thomas Harold
Meehan, Clement Thomas, Jr.
Mortsolf, Larry Alonzo
Phillip, John William
Pitman, John Joseph
Rahn, Stanley Arnold
Richardson, Daniel Gene
Running, Richard Barth
Semet, Robert John
Sherrill, Robert Minnis
Shirley, Joseph Garrison
Siegel, Gary
Strack, Beetem Harry, Jr.
Winter, Wilburn Jackson, Jr.

SUPPLY CORPS (TAR)

Bunten, David R.
Grumme, Ronald W.
Kalbfleisch, Larry Leroy
Sutherland, Michael T.

CHAPLAIN CORPS

Altrock, Stanley Charles
Elliott, Charles Keith
Jordan, Charles Frank, Jr.
Londoner, Carrol Alton
McConnell, Larry Adams
Rock, Stanley Arthur
Whiteside, James D.
Will, William Ashley, Jr.

CIVIL ENGINEER CORPS

Bailey, Robert Norman
Branch, Thomas Livingston
Charvat, William Charles
Conti, Hugo
Driscoll, Francis John
Evans, Frank Carpenter
Gaither, Thomas Alvin
Kenny, Louis Allen
Persson, Vernon Hyle
Poling, Russell Leo, Jr.
Riddle, Gerald Donald
Smith, Ewart Brian
Tamaribuchi, Satoru
Tuthill, William Lee
Ward, Roderic Charles
Warner, John Richard

JUDGE ADVOCATE GENERAL'S CORPS

Andrews, Robert Dana, Jr.
Arbuckle, David L.
Barr, William Siau
Bell, Robert Lamar
Bigler, John Edward, Jr.
Burson, John Hosler
Callahan, James Byrne
Coyle, Arlen Benson
Cusick, Robert Irwin, Jr.
Eppinger, Frank Newton
Golub, Howard Victor
Gorham, James Samuel, II
Hannan, William Everett
Harris, James Harold, II
Howell, Thomas Jackson
Kettlewell, Charles Wil
Lang, Howard Max
Ludwick, Steven William
Mallett, Donald Arthur
McCann, David Paul
McMahon, James Brian
Menefee, Curtis Hall Pi
O'Conner, James Joseph
Poch, Thomas Bernhard
Ross, Edward Michael
Rowley, Robert Deane, Jr.
Schmitz, Dennis Ralph
Smith, Lee Moyer
Southern, Samuel Ogburn
Stella, Daniel Francis
Sullivan, Paul Michael
Tomlin, James Milton
Welch, David Dickey
Wysocki, Gerald Stanley

DENTAL CORPS

Chismarich, Stephen Ric
Hensley, Larry Donald
Laubach, William Stanle
Madden, Barry Eugene
Piotrowski, Edmund Loui
Ward, Roger Brooks

MEDICAL SERVICE CORPS

Clark, Emerson Elon
Doty, John M.
Hayes, Carol Edith
Johnson, William Warren
Mast, Harold James
McGlothlen, Gerald Orri
Perry, Larry Joe
Roberts, Michael Dean

NURSE CORPS

Cummins, Joan

IN THE NAVY

The following-named lieutenant commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of commander in the staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

MEDICAL CORPS

Aarstad, Robert Frederic
Achilles, Jackson T.
Almojera, Belle Buccat
Altaffer, Lawrence F., II
Anderson, Charles H., Jr.
Anderson, Eli T.
Arias, Angelito Mercado
Arrowsmith, Daniel Lee
Arroyo, Julio Cesar
Atkinson, Maynard Penelo
Babin, Richard Weyro
Barnhouse, Dean Brooks
Baxley, Robert Sherwood
Bean, Howard C., Jr.
Bearden, James D., III
Beck, Robert James

Bhattacharya, Arjun
Birch, Alexander Anthon
Blake, Bennie Carrol
Bland, Kirby I.
Bolet, Celso Guicoechea
Borum, Stanley E.
Bryant, John Patrick
Buckley, Vernon Carlisl
Callan, Daniel J.
Camiel, Edwin Peter, Jr.
Clark, David Alan
Cobham, Ian Graham
Cochran, Thomas Preston
Cole, Francis H., Jr.
Conley, Gene Raymond
Corbett, Paul Bowman
Constantino, John Michae
Craig, James P.
Davis, Donna Patricia
Davis, Gary R.
Depaulo, Paul S.
Dewalt, John Duffy
Diaz, Carlos Richardo
Doctor, Marcellene Suza
Domino, Terry Gayle
Estlund, Gregory John
Estrera, Luis Gallo, Jr.
Fern, Peter E.
Ferris, John A., III
Ferry, Francis Thomas
Fink, Mitchell Phillip
Fischer, Leonard Stephe
Foster, Robert Stephen
Gonzalez, Luis Roberto
Gordon, Antonio Mario R.
Granger, David Philip
Green, George
Harkness, Charles L.
Harpold, Gary J.
Hershman, Jerald Bruce
Higer, Ralph William
Hubbell, David Bayles
Hueston, Allen L.
James, Lewis P.
Janik, Daniel Scott
Jones, Frederick Dougla
Kim, Daesong
Kinder, Richard Alan
King, John Wesley
Klatt, Richard W.
Kong, Dyoung
Kornberg, Markus
Kram, Barry William
Kuber, Matthew T.
Langston, Robert H.
Lee, Barbara Jean
Leonard, Frank A., II
Lesko, Ronald Michael
Lewis, Donald R.
Lewis, Richard H.
Liebman, William Martin
Limjoco, Uriel Romey
Longanecker, Stanton L.
Longley, Richard Samuel
Loomis, Karl French
Louie, Eric Kuowei
Lowe, Edward Hatfield J.
Lundy, Eugene
Macfee, Michael Scott
Malone, James Charles J.
Margel, Stephen Edward
Marks, Charles Wesley
Martin, James Peter
McAllister, Charles J.
McCormack, Percival D.
McDonald, Michael White
McFadden, Paul Michael
Menon, Venu Gopal
Millbern, Stephen Micha
Morin, Christopher J.
Murphy, Charles Evans J.
Murphy, Patrick J.
Musliner, Thomas Allen
Nader, Daniel A.
Narut, Noel Francis
Neville, Pat Finley
Nevils, Bobby Gene
Novak, Steve
Nuar, Frank Labib
Nyberg, Leroy Milton, Jr.
O'Dell, Michael Lynn
O'Hara, Kathy M.
Olden, Michael Rogers
Olsson, Jay E.
Opfer, Walter D.
Otten, Edward Joseph
Paulk, Wilford E.
Pease, Rodney D.
Pineda, Rodolfo Liongco
Postel, Joachim Michael
Prentice, Georgia Rae
Prough, Donald Sanderson
Read, Edward J., Jr.
Reed, Kenneth Stephen
Rennert, Klaus Dieter
Reynolds, Gary Lynn
Rhule, Ronald Lloyd
Riether, Robert Denny
Riggs, Jack Edward
Riveraalsina, Manuel En
Roberts, Jerry M.
Roper, Ronald Phillip
Ross, William A.J.
Ruggles, Kevin H.
Rutledge, Kenneth Allen
Ryals, Paula A.
Sacha, Robert Frank
Sakakini, George C.
Sanders, Jerald G.
Sansone, Vincent Robert
Sarmiento, Joseph J.
Schueppert, Thomas W.
Segarravidal, Juan Baut
Silverberg, Michael Slo
Simms, Ernest Lee
Smith, Duret Stanford
Solomon, Jonathan Gersh
Stevens, Ward W., Jr.
Stewart, Charles R.
Strock, Sylvia S.
Sutton, Larry D.
Taylor, William Henry J.
Thiringer, Sheridan A.
Treadwell, Kenneth, Jr.
Tucker, Warren G.
Tyler, John Robert
Vezeridis, Michael P.
Vidacovich, Richard Paul
Vorhoff, Gilbert Harold
Wallace, Arnold Doyle
Wallace, William Wilson
Walsh, James A.
Way, Brady Cole
White, Charles Edward
White, Frederick Eugene
Wiberg, John Lawrence
Willenberg, Natalie Ann
Williamson, John Charle
Woods, James DeWitt
Young, Jeffrey Milton

SUPPLY CORPS

Aubrey, Norbert Eugene, III
Benaroya, Alfred R.
Bjerke, Ardine Leslie
Bordenave, Lee Joseph
Brockman, Willie Cal
Butt, Arthur Leroy
Byrd, Harry William
Cackowski, Theodore Robert
Capron, Donald Lee
Carmody, Bert Martin
Chamberlain, William Joseph
Clamurro, Gary David
Dennis, David Arthur
Desgalier, William Marc
Egan, Richard Gookin, Jr.
Ehmcke, Lance David
Epstein, David Shalom
Erickson, Ivan Leroy
Fennell, Walter Francis, Jr.
Fischer, Charles E.
Furst, Barbara Scott
Gillum, Virgil David
Hanson, Thomas Kevin
Heathers, Sherman Garner
Hills, Gary Lee
Holmes, Robert C.
Hunt, Carl Lavern
Johnson, Robert Bruce, II
Jones, Douglas Edward
Keyserling, Michael S.
Klingelberger, Mary Clare
Kroon, George Douglas
Lancaster, Robert Lee
Leather, John E.
Long, Wayne Richard
Lottes, William Russell, II
McLaughlin, Sammy Selden
Mills, William Taft, Jr.
Moffatt, Richard Andrew, Jr.
Montgomery, John Bradley
Nixon, Dennis Wayne
O'Connell, Matthew Peter
Ortega, Pete Ruben
Pecuch, Ramon
Preston, Vernon Leroy
Price, Edward Lowry
Prudhomme, Charles Lloyd
Reimann, William John
Righi, Michael Louis
Ross, Charles Anthony
Sacilotto, Alessandro France
Schaap, Steven Glenn
Schowalter, Mark Wilbert
Silva, William Leonard
Snider, Jack Dean
Stallings, Charlie Louis
Stawitz, William Ernest
Stephan, Richard John
Taber, Alan Thomas
Thompson, Wayne Garfield, Jr.
Tom, Lyle Kim Ung
Turke, Stephen Joseph
Welch, Peter Byerrum
West, William Maurice
Williams, Charles Arthur

SUPPLY CORPS (TAR)

Buck, Thomas Charles
Hebrink, Larry Dean
Johnson, Gary Richard
Monkowski, David B.

CHAPLAIN CORPS

Allen, Gary Richard
Black, Robert A.
Brenner, Peter Rolf Kalk
Grey, James Chester
Kaplan, Allen Stanford
McGettrick, Garvin
Moulketis, James Chris
Robinson, Harold Leonard
Rock, Stephen Brennan
Sortland, Egil Arthur

CIVIL ENGINEER CORPS

Alexander, Al Gary, Jr.
Andvik, Brian Karl
Batdorf, Ronald Neal
Blume, Russel Elmer
Brasfeild, Charles Wesley
Costello, Donald Haryford, Jr.
Davy, Eric H.
Fressilli, Thomas Frank
Gordanier, Charles Bert
Jewell, Charles Douglas. II
Johnson, Frank Ralph, Jr.
Johnson, Richard Curtis
Keller, William Bryan
Mayer, Robert Hall, Jr.
McCabe, William David, Jr.
McKay, Kenneth P.
Miles, Paul Avron

Moir, Gene Willis
Naab, Earl Frederick
Nylen, Sven T.
Reid, Thomas Ray, II
Rickard, Carl Edward
Sheppard, David Eugene
Smith, Loren Woodrow
Spencer, Lon Charles
Uzarski, Donald R.
Vickerman, Melville John, Jr.
Ward, Carter Studdert
Ward, Jack Gerald

JUDGE ADVOCATE GENERAL'S CORPS

Bailey, Walter Marshall
Cooper, David Jackson J.
Eddy, Richard W., Jr.
Fisher, Aimee Frances
Hiller, John Leslie
Leary, Arthur, III
Leatherman, John B., Jr.
Peavey, Michael Pendext
Rude, James W.
Smith, Kerschiel Doniva
Teigen, Henry C.
Vaughn, Anthony Wayne
Wright, Robert Clyde

DENTAL CORPS

Akers, Gregory S.
Alvis, Stephen G.
Bentley, Geoffrey D.
Butler, Milton Forest
Christensen, John B.
Elstner, Earl Thomas, Jr.
Frank, Timothy Michael
Friedland, Gary Jay
Gilio, Douglas A.
Hammond, Frederick W.
Harrison, Glenn Alan
Heilman, Bruce C.
Heineman, Jeffrey Carly
Horton, Edward C., Jr.
Jardin, Ronald E.
King, William A.
Kramer, Kevin Joseph
Krause, Kerry Jack
Larson, Gilbert H., III
Lewis, Thomas MacArthur
Mason, Craig Alan
Mathews, William M.
Mayer, Joseph Paul, Jr.
Meharra, Ernest William
Montgomery, Alan B.
Nickell, Darryl C.
Notario, Perfecto F., Jr.
Pope, Bruce Michael
Roberts, William Louis
Robinson, Milton Alvin
Roberts, William Louis
Robinson, Milton Alvin
Rocklin, Michael F.
Rundbaken, Roger P.
Schultz, Louis David
Smith, Paul Bridges, Jr.
Strunk, William Milton
Tiner, Billy Don
Toney, Charles E.
Topcik, Philip L.
Wanders, Joseph A.
Watkins, James D.
Weaver, Peter M.
Weinberg, Melvin Stuart
Wilcox, Dale E.
Wilsted, Neal K.

MEDICAL SERVICE CORPS

Abrams, James Lloyd
Baesman, Robert K.
Bennett, James Douglas
Dey, Dennis Raymond
Doppelheuer, Sandra Bin
Durflinger, Don Alan
Fisher, Joseph Carroll
Heublein, Robert Martin
Hudson, Henry Alexander
Johnson, Mark F.
Jones, Perry Thompson
Lewis, James Hiller
McDowall, Mark T.
Peksens, Richard Karl
Simon, Jon Stanley
Vartan, Karen Stephanie
Winkel, Bernard Martin

NURSE CORPS

Barker, Elizabeth R.
Bland, Annie R.
Brown, Kathryn Marie
Cioffi, Nancy Louise
Crowley, Diane R.
Donegan, Janet M.
Dunkel, Mary E.
Dyckman, Julia Y.
Gawbill, Barbara Jane
Hager, Jo E.
Harmeyer, Karen A.
Hightower, Arlene Janic
Holz, Jane Ruth
Hubson, Kathleen M.
Johnson, Mary Martha
Ketter, Diane R.
Kingen, Dorlee D.
Knox, Sherryl L.
Krause, Lois E.
Noll, Kathleen A.
Riddiough, Peggy L.
Self, Peggy Ruth
Vrabel, Crucelina Ferna
Ward, Penelope H.
Wettach, Rose A.
Yonts, Linda M.

IN THE NAVY

The following-named lieutenant commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of commander in the line, in the competitive category as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

Abeles, Jon Christian
Abesilla, Jimmie
Admas, George Francis, Jr.
Adams, Parks Glenn, Jr.
Adkisson, John Felton
Aires, James William, II
Alder, Edgar Andrew
Aleks, Richard Thomas
Aleshire, Elroy Wayne
Aljets, Carol Duckworth
Aller, Benard Morris
Alley, Stephen D.
Amundson, Lee D.
Anderson, Larry Edward
Andrus, James Robert
Aninowsky, William Edward
Archibald, Gary T.
Arellanes, Jimmy
Arnold, Don Louis
Ashby, Kenneth Wendell
Aubrey, Charles Alton, Jr.
Austin, Kenneth Burdette, Jr.
Axtell, Stephen P.
Ayers, Peter Osgood
Bailey, William C.
Banks, Wilie B., Jr.
Barber, David Hughes
Barnett, William Patrick
Beard, Robert Adrian
Beason, John Charles
Beatty, Daniel Anthony
Beck, Scott Arthur
Benefield, Robert B.
Benham, Webster Lance, III
Bennett, George Franklin S.
Benoit, James Edward
Bentley, Clyde Franklin, Jr.
Berard, Raymond William
Bergersen, Leonard L.
Bernander, Paul Robert
Bernie, Ronald John
Biller, John Phillip
Bishop, Theodore Andrew
Bizic, Larry Stephen
Blakely, Robert Alan
Blunt, Paul Frederick
Boardman, John Frederick
Boguski, Alan John
Bollin, John Curtiss
Borland, John
Boulden, Walter Raleigh, Jr.
Bowes, David Robert
Boy, David Clarke, III
Boyd, James Alexander
Brady, Edward Matthew
Brandt, Edward Lee
Brannon, Gordon Dale
Branum, James David
Bray, Michael Allen
Breese, Thomas Robert
Brennan, Michael Francis
Bridgeford, Joseph Vincent
Brilla, Richard Charles
Brisbin, Bradford Alan
Brock, Edward Benjamin, Jr.
Brown, Bruce Allan
Brown, Douglas Leo
Brown, Jeffrey Charles
Brown, John M.
Brown, Larry Alan
Brown, Richard Wayne
Brumbaugh, David Lindsay
Bruninghaus, Ronald Paul
Buffington, Donald Keith, Jr.
Buresh, Jon A.
Burlingame, Charles Frank
Burnett, Douglas Randolph
Burnham, Robert Lewis
Buschbach, Thomas Richard
Bushey, William Michael
Butzon, Jonathan Hans
Byczek, John Albert
Byrne, John H., III
Cadwallader, William Louis P.
Calabro, Arthur Donald
Caldwell, Daniel Eugene, Jr.
Caldwell, Kenneth W.
Cannan, Stephen M.
Carolus, Jay Marvin
Cartier, David Alan
Caswell, David Lewis
Cavaliere, Louis Angelo, Jr.
Cawthon, Franklin
Cazares, David Humberto
Chaloupka, Melvin Glenn
Charlton, Dennis John
Chewning, Jeffrey Lynn
Clark, Marfred Charles
Clark, Michael Bernard
Clarkin, Thomas Robert, Jr.
Claussen, David Michael
Clements, Joseph E.
Clemons, James Durant
Coffey, Jeffrey Grant
Cole, Iven Martin
Coleman, Alfred Byrdell, Jr.
Coleman, David Scott
Collis, Harry Herbert
Conaway, George Timlin, Jr.
Cook, James Lee
Cooper, Richard Wayne, II
Cooper, Robert Jac
Cousins, Avery Banks, III
Cramer, Gary Ray
Crawford, Michael Alan
Crompton, David Robert
Crossen, James Robert
Crowell, Michael Alexander
Cumminger, Frederick T., III
Cummingham, Richard McHenry
Curt, Robert Paul
Cusick, Alan Philip, Jr.
Cymerman, Zbigniew Adam
Dalby, Brian Shearer

Dalton, Mary Ann
Dajme, James Walter
Davidson, Edward Martin
Davis, Gerald Owen
Davis, Mark Eugene
Davis, Robert Milehame, Jr.
Dean, John Wayne
Dean, Marvin Earl
Deaugustinis, William Cheste
Degnan, William Joseph, Jr.
Degolian, William Dufour
Delair, Louis, Jr.
Delatorre, Jose Luis
Delong, Howard James
Desjardins, Roland Paul
Detwiler, Richard Morris
Dietrich, Ronald Lee
Dimmette, Joel Powell, Jr.
Disse, Robert Phillip, Jr.
Divine, Robert Balaine
Dodge, John Franklin
Doesburg, James Martin
Donohue, Richard Harney
Donovan, Michael D.
Doty, Eugene Leroy
Doyle, Michael Thomas
Drake, Thomas James
Drawneck, Richard Allen
Drennon, Stephen Saunders
Driscoll, Edmund Francis, II
Duffett, Neale Arthur
Dunham, Earl Charles
Dunlap, Billy Wayne
Durham, Douglas Oneal
Dye, John Dennis
Edson, James Marshall
Ellefson, David Andrew
Elliott, James Charles
Erbele, Douglas James
Erickson, Russell H.
Esposito, Vincent John, III
Eutermoser, Jeffrey Lee
Everett, Terrell Alton
Fadas, Charles Michael
Falgoust, David Edward
Farwell, Bruce Kircher
Ferris, Mead Boykin, Jr.
Fink, George Erwin
Finney, Robert Charles
Fiola, Frederic Joseph, Jr.
Fisher, John Lester, Jr.
Fitch, Michael Frederick
Fleming, John Boyd, Jr.
Flode, John William, Jr.
Forrest, Benjamin Franklin J.
Foster, Michael Sean
Foust, John Terrence
Franklin, Gerald W.
Frantz, Joseph Claude
Fratello, Thomas James
Frederickson, James Michael
Friberg, David Verne
Gabler, Barry Davall
Gaddie, Paul R.
Galenian, Gregory John
Gandy, Russell E.
Garcia, Linda Lou
Garifalos, James Ernest, II
Garland, Gary William
Gemmill, David G.
Gilchrist, David McIntosh, Jr.
Giles, Lawson Sylvester
Gillis, Roderick Cooper
Gillmor, William Sims, Jr.
Ginn, Gary Christopher
Gladwin, William Joseph, Jr.
Glassberg, Arnold Michael
Gloss, Gregory Coford
Gomez, Lawrence Ted
Gorman, Timothy J.
Grabeel, Dennis Craig
Grace, William Joseph
Graham, William Lambert
Grau, David G.
Gray, Gary John
Gray, Richard Henry
Greene, Edith Clyne
Griffin, Dorsey Wycherly, II
Griffith, Robert David
Griswold, Henry Calhoun
Gross, Edmund Samuel
Goebert, David Ralph
Guinther, John Mark
Gurry, Frank Henry, Jr.
Gustafson, John Edward
Haagensen, Brian C.
Hadley, Karl Austin
Hall, Harold Lee, Jr.
Hall, James Edward
Hall, Jeffrey, F.
Hall, William Robert
Halligan, Michael Joseph
Halvis, James
Hambleton, Michael Gilbert
Hamelin, Gregory Raymond
Hamilton, James A.
Hamilton, Robert Lane
Hammerstrom, John Guynes
Hammett, Charles Willdoughby
Hanley, John Thomas, Jr.
Hansen, Ronald Russell
Hanson, Marshall Alan
Hardin, Charles Gerald, Jr.
Harding, Robert William
Hare, Joseph Coleman
Harker, Ward W. III
Harland, Joseph A.
Harrer, Mark Halsey
Harrington, Michael Joseph
Harris, Gordon Frank
Harris, Vascar Godfrey
Harrison, Robert Wayne
Hartsfield, Francis S., III
Hartz, Kenneth Miles
Healy, Edward Robert
Heath, Christopher Eugene
Hebert, William Alexander
Heller, Leighton James, Jr.
Hemphill, William Bruce
Henderson, Breck Wenger
Hendricks, George E.
Henke, Charles Barton
Henry, Richard James
Hernandez, Fernando Antonio
Herzog, Martin Douglas
Hill, Steven
Himler, Marsha Sue
Hines, James Michael
Hinnenkamp, Richard Albert
Hipp, Larkin Dale
Hirsch, Gerald Richard
Hitpas, Henry Richard, II
Hochman, James Alan
Hocking, John Leslie
Hogue, Wayne Dennis
Holley, Paul Edward, Jr.
Holz, Lloyd Nelson
Hooks, John Robert
Hoppus, Michael Leemon
Horney, Nicholas Fletcher
Horton, William Grady
Hoskins, Michael Henry
Hover, Darrell Warren
Howes, Sandra Louise Rustuen
Howlett, James Whitcomb
Hubbard, Charles JA
Hubbard, William Reymann
Hughes, Richard William
Hunter, Ronald Eugene
Huntley, Larry Ted
Hussong, Joseph Bentley, Jr.
Ihrig, Stephen Duff
Jacobs, Jan C.
Jaggers, David Howell
James, John Wells, IV
Jarvis, David Shiras
Jensen, Andrew Alfred
Jessup, David Henry
Jindrich, Charles Anthony
Johnsen, David Willard, IV
Johnson, Arthur Gary
Johnson, Charles Burton, Jr.
Johnson, Gerald Bruce
Johnson, Johnny Wayne
Johnson, Larry Charles
Johnston, Charles Delose
Johnston, Mary Ann
Jones, Franklin Michael
Jones, Lawrence Eugene
Jones, Walter Earl
Jordan, Dwight Stevens
Jordan, Robert York
Josendale, Peter Barclay
Kaplan, Sanford Sandy
Kaskin, Jonathan David
Kaylor, Jefferson Daniel, Jr.
Kearney, John Michael
Keaveny, Patrick John
Kelly, Mark Cephas
Kennedy, William George
Kessler, James Michael
Kierstead, Richard Ashton
Kiker, William Bruce
King, Manton Ambrose
King, Thomas Sydney
Kinnear, Neil Tillman, III
Kirkland, Douglas Ingraham
Klink, Stephen Colby
Knight, John Ross
Knos, Carl Tore
Knudsen, James Russell
Koch, Kenneth W.
Kolstad, Ralph Edward
Kraemer, Thomas Edward
Krakowka, James Leo
Krift, Frederick Anthony, II
Krjeger, Patricia G.
Krygiel, Joseph John
Kucinski, Henry Joseph, Jr.
Kuemper, Albert Joseph
Lake, Charlotte Church
Lakis, Nicholas Peter, Jr.
Landkammer, Kristen Dick
Lang, Isaac Marinus
Langenheim, John Lawson
Langness, Jay Clair
Larose, Raymond John, Jr.
Lecompte, Malcolm Aaron
Lee, Patrick Douglas
Leiniger, Wilfred
Lemon, James Richard
Leonard, John Francis, III
Leonard, William Augustine J.
Leong, Jerrold Kim
Lepper, Robert Jarrett
Leslie, Donald Fredrick
Levine, Robert Bernard
Libera, Daniel Clark
Lindner, Robert William
Lindo, Clark Howard
Lindstrom, Jerry Duane
Link, Joseph William
Lister, Toney Joe
Lohsen, Mark Allan
Lucas, Michael Madison
Luebs, William Arthur
Lund, Myles John
Lundquist, James Roger
Lundstrom, Robert A.
Lyons, Mary Ethel
Macie, Joseph Clayton
Meckey, Jeffrey Alan
Madey, Cynthia Atwell
Macarz, Richard Charles
Marszalek, Kenneth James
Marteney, Donald Lynn
Martin, Lawrence P.
Martin, Paul H.
Martin, Stephen Douglas
Martin, Steve Richard
Martucci, Joseph Anthony, Jr.
Masch, Dennis F.

Mastagni, Daniel Stephen
May, Charles William
May, Stephen Martin
Mazzante, Louis, III
McBarnette, Curtis Wilhelm
McBride, Francis Xavier
McBrien, Stephen Vincent
McCann, Terry Patrick
McCloskey, John Dennis
McCollum, John William
McCormick, Robert C.
McCraken, David Grant
McCullar, Edward Terence
McCudry, Russell Alan
McDaniel, Marvin Neil
McDonald, John Edward
McDonough, William Lester, Jr.
McElroy, Kevin James
McGovern, Peter Joseph
McHenry, William Irvin
McKeever, David Vincent
McLaughlin, Daniel, Bates
McMunn, Mary Kay
Means, Charles Lee
Meehan, Joseph Francis
Meisenbach, Edward Walter
Mele, Vincent Nicholas
Menez, Martin Charles
Michael, Kirk Burton
Mihocik, Robert Andrew
Mikkelson, Jeffrey Allen
Milanette, Jeffrey Charles
Milbrath, Arthur Gordon, Jr.
Miller, Charles Kimble, Jr.
Miller, Charles Raymond
Miller, James Leslie Bellist
Miller Peter, Jr.
Mitchke, Robert Paul
Mitchum, Robert William
Monahan, Timothy Patrick
Monkhouse, Michael W.
Montoya, Samuel
Mooney, Owen Gavin Jr.
Moore, George R.
Moore, George Thomas, III
Moore, Robert Alfred
Moore, Robert Charles
Moore, Robert Lowery
Moore, William Thomas, III
Morgan, Kelly Brian
Morgan, Ralph Hopper, Jr.
Morgenfeld, Robert John
Morris, Thomas Earl
Morrow, Richhard Johnson
Morton, Robert Gary
Muehlen, David George
Mulder, James Clayton
Muldoon, Robert A.
Mussell, Richard William
Murphy, Peter Joseph
Murray, Michael Gilmour
Musselman, Robert Phillip, Jr.
Musselman, Warren Eugene
Myers, Steven Gilbert
Nafziger, George Francis
Nahas, Rafik E.
Nash, John Francis
Nelson, Richard Alexander
Nejpaver, Albert Joseph
Newlan, Ronald Scott
Nielsen, Jack Svend
Nieto, William, Jr.
Noble, Russel Scott
Nocton, Michael Eugene
Normand, Louis Lionel, Jr.
Norris, John William
Nosek, John Teofil
Nosworthy, Robert Arthur
Nugent, Joseph Hannon
Nupp, James Lee
Oberdorfer, Paul Ellsworth I.
O'Connell, Timothy Dennis
O'Connor, Michael Lawrence
Odom, Dennis Franklin
Ogawa, Mitsuo Ken
Oliver, Steven R.
Olson, Dennis Dean
Orfgen, Lynn Charles
Osborne, Kip Reid
Oster, William H.
Oswald, Thomas James
Owens, William Andrew
Pachuta, Mark Theodore
Papin, Gregory Alan
Parke, Thomas
Parker, Charles G.
Parker, Joseph Edward, Jr.
Passmore, Robert
Patterson, James Hugh
Patterson, Terry Lee
Paul, Kenneth Albert, Jr.
Pauling, Thomas Charles
Pearson, Robert John
Pendleton, William Chapman
Penning, Joseph Charles
Peretti, Robert Austin, Jr.
Peterman, Ronald Allen
Peterson, Richard Michael
Petrek, John Stephen, Jr.
Pflug, Keith John
Phillips, Daniel Edward
Phillips, John Lynch
Pickett, Clarence Albert, III
Pipes, Larry Steven
Plavin, Martin Alan
Pope, Richard Paul
Powers, William Hugh
Prichard, Robert Donald
Pryor, Roger William
Ptak, Alan Charles
Putnam, Keith Lee
Rabe, Louis Frederick
Raetz, Greg Christie
Rainey, John Charles
Raymond, Douglas Richard
Redpath, David W.
Reed, Russell Alden
Reese, James Claude
Regan, Joseph Martin, Jr.
Reich, Robert William
Reitinger, Glenn Emerson
Releford, Tom Timothy
Ress, Charles M.
Rice, Daryl Lee
Rich, Robert Thomas
Richmond, Donald Robert
Riley, Michael Ralph
Robertson, Donald Walter
Robertson, Larry Allen
Robinson, Steven Nourse
Roemer, Geoffrey Stephen
Rogers, James Stewart
Rogers, John Marsh
Rogers, Michael D.
Rollins, Christopher Thomas
Rolph, Henry Renton Jr.
Root, Timothy Nicholas
Rothwell, Peter Sutherland
Rowe, Clifton
Roy, Cleve Joseph Jr.
Rusczyk, Richard Stanley
Rylander, William Robert
Salscheider, Kurt Michael
Sammons, Timothy John
Samuels, Charles Lee
Sanders, Wade Rowland
Sanwick, Paul Bainbridge Jr.
Schaad, Frederick Gordon
Schlake, Steven Lynn
Schneider, Roger Louis
Schramm, Mark Stephen
Schroer, William David
Schultz, Charles Wesley
Schultz, Randall Craig
Schulze, William Winfree
Schwinghammer, William Erich
Scott, Thomas Earle
Sedgley, Ronald Michael
Seegmiller, Douglas Lee
Semko, Fred Allen
Sevier, Sammy L.
Sheldon, Robert Gail
Shellhammer, Gary
Sheppard, Christopher Gerar
Sherrard, Frank Coe, Jr.
Shields, Robert Graham
Shumlas, John Anthony
Sciedschlag, Paul Christian
Sigler, Titus Severn
Signor, Philip White, III
Silkroski, David Alan
Sill, John Rigdon
Skelton, James N.
Skrotsky, Robert Walter
Smart, Bruce Allen
Smith, Charles Gibbons, Jr.
Smith, David Arthur
Smith, Richard Franklin
Smith, Robert Dorsey, Jr.
Smith, Robert Spencer Kerr
Smith, Thomas Hugh
Smith, Thomas James
Smith, Urban Eugene
Snell, Peter Sherman
Sneller, Lynn Jay
Snow, John Daum
Soderberg, Eric Jarvis
Sokel, William Dale
Soldano, Daniel Albert
Somadelis, Michael George
Sommer, Larry Maurice
Sosnowski, Kenneth Charles
Sojle, Douglas Jackson
Speed, Claude Oscar, III
Spriggs, David Arthur
Stambaugh, Albert Leroy, III
Stanton, Donald Leon
Stark, Francis Cleveland, III
Stark, Richard Douglass, Jr.
Stas, Nicholas John
Stefaniak, Richard Thomas
Steinert, Charles Samuel
Stengl, Louis Carl
Stephen, Alexander Craig
Stevens, Ronald Walter
Stevenson, Susan Mallick
Stewart, Michael Bennett
Stewart, Robert Edwin
Stinger, William Elwood
Stockton, Herbert Hammond
Stockton, Jackson Allison, Jr.
Stockton, Steven Loren
Stokes, James Milton
Strickland, Walter Leonard
Strobbe, Robert James
Strube, David Carl
Subin, Michael Louis
Sudnick, Daniel R.
Sullivan, Jerry Joseph
Sullivan, Timothy Finbar
Susik, Michael Bruce
Sutter, John Lester
Swailes, John Hamlin
Swanson, Paul Arthur
Taramasso, Daryl
Taylor, Robert Emerson, Jr.
Teller, Robert Warren, Jr.
Tempest, Mark Jacquot
Tennyson, Nicholas Jon
Terhar, Louis Frederick, Jr.
Terry, James
Tetlow, Thomas George
Thomas, Daniel Richard
Thomas, John Rawls
Thompson, Kenneth Earl
Thompson, Ray Charles
Thomson, Richard Charles
Thorstenson, Michael Peter
Thurston, Steven Ronald
Todd, Alan Mitchell
Todd, John Lawrence
Torbenson, David Michael

Torelli, Nicholas Marcus, Jr.
Towers, Joseph F., Jr.
Traver, Stephen Alan
Trickey, Tyler William
Troutman, Stephan Brown
Trouville, Authur Girard
Tucker, Eugene Frank
Tufts, Arthur Woodman
Turner, James Lawrence
Tuttle, Jackson Corpening, II
Uhre, Craig Marvin
Ulrich, Vinton Kenneth, Jr.
Utschig, Thomas J.
Vanamberg, Joel R.
Vanderhoeff, William Johan
Vanderschuur, Paul
Vansittert, Thomas Paul
Vasicek, Patrick Richard
Vickerman, David Clark
Vinink, Edward Joseph
Vogel, George Conrad
Vorhoff, Patricia Ruth Murph
Waddell, John William
Waddell, Ray Kirk
Wagatha, Thomas Vincent
Wagner, Charles Steven
Walborn, Jerry Delbert
Walker, Robert John, Jr.
Wallin, Ralph Douglas, Jr.
Walsh, Gregory Edward
Walsh, John Kevin
Walters, William Terence
Ward, Arthur Jay
Ward, Terry Warren
Wasserman, William Louis
Waters, Cecil Lathan
Waters, Raymond Spencer, Jr.
Waters, William Henry
Watson, Robin Alexander
Weatherly, James Michael
Webb, John Robert
Wechselberger, Jacob Frank
Weems, Billy Wayne
Weidert, Leonard Louis, Jr.
Weise, Stephen Paul
Welch, John Kirtland
Wells, Michael James
Wesolowski, Robert Alan
White, Richard Marshall
Willcox, Thomas Savage
Williams, James Wayne
Williams, Robert Wister
Williams, Scott K.
Williamson, Larry Arthur
Willoughby, Thomas Earl, Jr.
Wilson, Paul William
Wilus, Michael Stephen
Wingert, Neil Steven
Woiwode, Michael John
Wolfe, James Robert
Wolff, Conrad Earle
Womer, Rodney Keith
Wood, John Steven
Wood, Mark Alan
Wood, Will Oscar, Jr.
Woodall, Allen Gene
Wright, Roosevelt Ruben, Jr.
Yonker, Robert Harold
Young, Thomas C.
Zader, Gustave Charles, Jr.
Zatezalo, Warren Matthew
Ziegler, Robert Lee
Zimmer, James Alex
Zwingle, Christopher David

UNRESTRICTED LINE OFFICERS (TAR)

Akers, Carl Wayne
Askey, Charles Benjamin
Beaver, Dennis Thomas
Bell, John Bradley
Bellows, Douglas James
Blanton, Lindsay Chambers, Jr.
Braselman, Herbert P.
Brooker, Susan M.
Bryant, Michael Bradford
Bunn, Bennie Garland, III
Cannon, James Dennis
Champion, William Thomas
Dean, Billy Joe
Duetsch, Robert Alfred
Fisher, Robert Stewart, Jr.
Foursha, Sammy Lee
Gato, David Thomas
Hadden, Carlyle Frederick
Halvorson, John Lyle
Hookanson, James Frederick
Jones, Thomas Levatte
Kirkish, Douglas James
Kohne, John Edward
Korbak, Michael, Jr.
Largent, William Dayton, II
MacGarvey, Ronald Elliot
May, John Donald
McAtee, Thomas Lee
McGuire, John Kingsley, Jr.
McLaughlin, John P.
Meadowcroft, Robert Allen
Mills, Dennis Reginald
Morrell, James M.
Nelms, Danny Charles
Nolen, Ulysses Louis
Page, Jack Wayne
Peterson, Patrick Brian
Petykowski, Jerome Leonard
Piersig, William Michael, Jr.
Probert, Roger Howard
Puzon, Daniel Isaac
Reisig, Rowland Dean
Rizy, David J.
Roeting, William Henry
Round, William H.
Schrade, Donald E.
Schum, Michael E.
Shealy, Wilson Otto
Shelton, Connel Michael
Simpson, Terry Lee
Slider, Victor Lee
Smith, Roy Michael
Strzemienski, Stephan Joseph
Surratt, Randal Lee
Swain, Donald Alan
Thompson, John Thomas
Tomich, David Bennett
Torres, Alexander
Underwood, Jonathan Charles
Walsh, Thomas M.
Zolla George Allen, Jr.

ENGINEERING DUTY OFFICERS

Adams, Andrew Roderick
Allen, Kristin Lloyd
Anderson, James Larry
Armenia, Michael Peter
Briggs, Fred M., III
Bruckner, Charles John, Jr.
Cook, Rodney L.
Detterline, Carl Lynn
Dick, Reay Stewart, Jr.
Donovan, Stephen James
Drumm, Donald Kenneth
Elin, John Oliver
Ellison, Carl Edwin
Florio, John Francis
Freeman, Ivan Elmo, Jr.
Gant, Gregon Lee
Gjovig, Allan Jerome
Jouannett, Peter Richard
Kaucher, James Elmer, Jr.
Kreutzer, Kenneth Lee
Kubo, Lawrence Hiroshi
Martsolf, Steven Wesley
Mayhan, Terence W.
McGrail, John Michael
Merschoff, Ellis Wesley
Mikhalevsky, Peter Nicholas
Moran, Robert Paul
Morgan, James Larry
Penn, Lanning Michael
Shebalin, Paul Valentine
Skolds, John Lawrence
Thoma, John Otto
Wasalaski, Robert George

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

Anderson, Royce
Harrison, Jeffrey A.
Palazzo, Anthony John, Jr.
Sanders, George Huey
Stratton, Raymond Wayne
Zulich, John William

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

Curry, William Mulford
Malone, Laurence James
Rappaport, Gerald Paul
Tyson, Dan M.

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

Allen, John Merrill
Clausen, Richard John
Clements, Albert William, Jr.
Cook, Michael John
Doshier, Alan Jeffrey
Doyle, David Joseph
Heavey, Martin Richard, Jr.
Hill, Lawrence Allen
Jaehnig, James Leonard
Knight, Robert Milton
Koehler, David Arthur
Koelemay, Maurice Martin
Musto, Pasquale Arthur
Siegel, Samuel Lee
Skinner, William E.
Valle, Paul Michael

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

Britt, William Clifford
Conlin, Richard Royce
Field, David Sutton
Foley, William Devereux
Kinder, Cliffor
LaPalme, Albert Francis
McWilliams, John Michael
Miller, Gary N.
Nikaido, Minoru, James
Ohnstad, Peter R., Jr.
Osander, Edward H.
Rancourt, Norman G.
Rood, Larry Norman
Skoropowski, Ernest Paul
Stribling, Edward E.
Williams, Edward Barney, Jr.

SPECIAL DUTY OFFICERS (INTELLIGENCE)

Anderson, John Maynard
Beeler, Judith Crawford
Bishop, Donald Clifford
Bogan, John Charles
Bostwick, Willard David
Boule, Earl Michael
Bradshaw, Kenneth Delos
Broadley, Timothy Shaw
Brown, Lawrence Gregory
Burks, Edward Lee
Campbell, Fred Hammond
Carlson, John Lawrence
Chambers, Michael Perry
Chernoff, Albert Richard
Cox, David Lawrence
Craig, William Earle, III
Daywalt, Theodore Lewis
Deitch, Harry Edward, Jr.
Dierks, Gordon Rollo
Diraimo, Edgar Frank
Doyle, William Edward, III
Dyer, Dwight Dewey
Eissler, William Roberts
Fennell, Charles Keith
Fenstermacher, John William
Frey, George Marshall
Fry, Grant Reed
Fuhr, John Carter
Fyda, James Francis
Garrett, Alexander Reid, III

Gastgeb, David Charles
Gerth, Gary John
Gewerth, Joseph Francis, Jr.
Good, Todd Alan
Goss, Michael William
Griffing, Carolyn Day T
Gugisberg, Mark Robert
Halbig, Michael Carlos
Haney, William Roy
Harman, John David
Herman, Laurence True, Jr.
Hines, Hubert Orville
Honan, Michael Patrick
Hottel, Douglas William
Huddleston, Colin Campbell
Jamison, Earl Joseph
Jennings, Belton Emoulous, II
Jones, Royden Edwin, Jr.
Jordan, David Milton
Kelberlau, William Ralph
King, Stephen Quinton
Kirby, Thomas Michael
Kirwin, Richard James
Klein, Phillip Drake
Kokkinakis, George Nicholas
Lai, Alexander
Lancaster, Joel Ray
Lauzon, Pierre
Liardon, Darrell Lee
Libuse, Janis Leanore
Lussier, Norman Vincent
Macnish, Stephen Michael
McDonald, William Michael
McKinney, William Lynn
McMaster, Marla Jill
McPherson, Victor Holiday
Merrill, Patrick Henry
MIller, Robert Arrington
Miller, Sharon Elaine
Miskill, Diana Shelton
Mitani, Michael Kiyoshi
Moorman, Mickey Carl
Morin, Norman Gerard, Jr.
Naylor, William Mark
Newhard, Allen Sames
Nilsson, Jeffrey Stephen
Norris, James Clindon
Nowak, Thomas John
Olvera, Carlos Nelson
Palmer, Henry Boberg
Pelaez, Wayne Roger
Power, Timothy Henderson
Preovolos, Michael John
Pyle, Gerald Fredric
Reppard, David Bruce
Rhoads, Donald Ray
Robertson, Andrew Coxe
Robertson, Claude Eugene
Sandeno, Robert J.
Schoonover, Eleanor Sloan T.
Shjler, Stanley Charles
Shurly, Burt Russell, III
Sprinkel, Jan Arthur
Taylor, Philip Arnett
Uhrich, John Paul, Jr.
Waite, James Leroy
Whelan, Stephen John
White, Richard Mahaffey
Wilton, Sarah Gay
Wolf, Joseph George

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

Brooks, Stanley Preston
Morton, Barry Vonberg

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

Berryman, Eric J.C.
Brender, Mark Edward
Feldman, Peter Michael
Fox, Richard Alan
Fulbright, Robert William
Gonzales, David Jacob
Heard, William Henry, Jr.
Houghton, Robert Menagh
Martin, Don Richard
McElwreath, Sally Chin
Miller, Larry Dean
Nemeth, Christopher Paul
Pinard, Thomas Clifford
Schneider, Charles Frederick
Snook, Thomas Russell
Snyder, David Michael
Stowe, Charles Robinson Beec
Taylor, Christopher James
Vickers, James Robert
Williams, Wellington Jenning

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

Carron, Michael Joseph
Nall, Stephen Lloyd
Paulus, Richard Alan

IN THE NAVY

The following-named lieutenants in the line of the Navy for promotion to the permanent grade of lieutenant commander, pursuant to title 10, United States Code, section 624, subject to qualifications therefor as provided by law:

UNRESTRICTED LINE OFFICER (11XX/13XX)

Abbott, Bruce Allen
Abel, Joseph Lawrence
Adams, James P.
Ade, Edward Kenneth
Adolphson, Keith Victor
Adrick, Mark K.
Aland, David J.
Albert, Steven Patrick
Algood, Bert R.
Allard, Frederick D., Jr.
Allard, Martin Robert
Allen, David Lee
Allen, Douglas James
Allen, Gregory J.
Aly, Sherrie Susan
Amster, Daryl Lyn
Andersen, James Christian
Andersen, Robert
Aderson, David Owen
Anderson, Mark Allen
Anderson, Mark B.
Anderson, Wilhelm
Anduze, Neal Edwin
Anhalt, Michael Dennis
Ardouin, Lisa Ann
Arellano, Reynaldo Austria
Arguello, William R.
Arminio, Thomas John
Armitage, David M.
Armstrong, Danny Wayne
Armstrong, David Spencer
Arrowood, Jacquelyn Marie Yo
Artho, Alfred E.
Artzer, Steven P.
Ashby, Jeffrey Shears
Atkisson, Mark M.
Austad, Craig Kermit
Bachman, Stephen Dale
Bader John T.
Badini, James Michael
Baer, Dennis Robert
Bagby, Steven Mallard
Bailey, Tony M.
Baker, Duane Martin, Jr.
Baker, Rodney Lee
Baker, Terrance L.
Bales, Robert Franklin, Jr.
Balmert, Mark W.
Bankston, Benjamin Hiram
Barbaree, Robert Donel, Jr.
Barber, Edward M.
Barnes, David Richard
Barnes, Joseph L.
Barns Thomas Davenport
Barron, Claude E.
Barrowman, Mary Ann McCullen
Barton, George F.
Barton, Larry Steve
Bass, Richard Allen
Bass, Roy Clyde
Battle, Joseph Ceasar
Bauder, Dean Harold
Bauer, Thomas E.
Baxter, Roxanne Lea Thomas
Beach, Daniel S.
Beam, David Clyde
Beattie, George Taylor, Jr.
Beaver, James M.
Becker, Deborah Ann
Becker, Gerard Lee
Becker, Lawrence Charles
Beck Michael C.
Belser, Steven Michael
Bennett, Brian Eugene
Bennett, Jerry F.
Bennett, John S.
Bennett, Richard Scott
Bentley, David L.
Berg, Richard Charles
Berg, Scott Alan
Berner, Joseph M.
Bigelow, David Dwight
Bily, Thomas J.
Bindman, Carl David
Bitar, Kenneth Joseph
Blandford, Robley
Blasko, James A.
Blower, Fred William
Blunt, Susan J.
Boatwright, Brooks Owen, Jr.
Bogdanowicz, Robert A.
Bohlmann, Joel E.
Boice, Nancy Konrad
Boland, Donald J.
Bolich, Harry P.
Borchers, Mark M.
Bornemeier, Philip Albert
Bostwick, Steven Ray
Bowles, John L.
Boyd, Austin W., Jr.
Boyd, Michael Edward
Boyle, James Earle
Bracewell, Herbert William J.
Bradley, Stephen Graig
Branch, Ted N.
Branson, John J.
Braun, Arthur Christian
Braun, Carl William
Brethauer, Todd Steven
Brewer, James R.
Bricker, Martin P.
Brinkley, Ronald Waverly
Bristow, William Kreiner
Brittle, Jeffrey Scott
Brooks, Forrest E., III
Brooks, Michele Anne
Brown, Theodore H.
Bruetting, Dale Allen
Brus, Henry H.
Brynestad, Mark A.
Buckingham, Jack Edgar, Jr.
Budweg, Gregory J.
Buehn, Robert A., Jr.
Buesser, Frederick M.
Burdine, David Austin
Burkett, Bruce T.
Burney, Stanley H.
Burton, John C.
Butler, Dempsey, III
Byrd, Gregory L.
Cain, Chris C.
Caldwell, Nathaniel French
Callahan, Kim Francis
Camacho, Joseph D.
Campbell, Jeffrey Reid
Capponi, Michael
Caram, John M.
Card, Kendall L.
Cardosi, James J.
Carey, Michael J.
Carlton, Jo Anne
Carpenter, Larry Irvin
Carter, Bruce W.
Carver, William K.

Case, Duane D.
Casto, Daniel Pineda
Caulfeildjames, Jeffrey Paul
Caulk, Peter M.
Cerne, Victor Lee
Chadbourne, Barbara Jean Nel
Chaimowitz, Joel Warren
Chambers, Heather Ann
Chamblee, Richard E.
Cheeseman, William E.
Cheever, James R.
Cheri, Lionel L., Jr.
Chow, Michael J.
Christensen, Peter Hugh
Christensen, Ryan L.
Christofferson, Edward Alber
Cioni, Gene Robert
Cirmo, William Francis, II
Clardy, George Leighton
Clary, Monecia Renia
Clary, Robert William, Jr.
Claus, Colin D.
Cleaver, Christopher Mark
Clinko, Stephen E., Jr.
Cobery, Janel Dee
Cofield, Guy B.
Cole, James O.
Colman, Paul T.
Comis, David Lionel
Cone, Allen D.
Connery, Robert Edward, Jr.
Connor, Charles E.
Conrad, Donald Charles
Conway, Wallace, J.
Conwell, Candace Lee
Cooke, Barry Thomas
Cooke, John G.
Cooper, David R.
Cooper, Gregory H.
Cooper, Ruth Anne
Coppenbarger, Mark Wayne
Corcoran, Mimi NMN
Corkill, Jean Frances
Cornish, Gregory
Corpus, Jose R.
Costanzo, Ralph R.
Costello, John M.
Coufal, Jerry Wayne
Coulson, James D.
Cox, Miriam Anderson
Coye, Maribeth
Crane, Jeffrey B.
Crawford, Donald Carr
Creech, William Lyman
Crevier, Raymond
Crews, Edward Lee, Jr.
Crisp, Michael D.
Cronin, Judith Louise
Crosbie, Michael Kerbie
Crowell, Ronald Anthony
Crowley, Kenneth Lee
Crow, Michael Lewis
Cruze, Shelley Jo
Cullinan, Robert L.
Current, Richard
Cutri, Anthony Dominick
Dailey, Steven William
Dalton, Dennis F.
Damico, William T.
Daniels William Dwight
Daugherty, Marshall Dean
Davis, George D., III
Davis, Jeffrey J.
Dawson, Brooke Alyn
Dawson, Robert M.
Debella, Linda Guadalupe
Decker, William Leecraft
Deeble, Kenneth M.
Deems, Sharon Ann
Deitch, Nancy Lambert
Demartini, Edward J., Jr.
Denam, James Donald
Denton, Willard Eugene
Depuy, James Stanley
Dewes, William E.
Diefenbach, Andrew Lawrence
Diller, Marlin G.
Dimel, Mary Charlotte
Ditko, Donald R.
Dodsworth, Rodney
Doggett, Amy N.
Doherty, James M.
Dom, George Byers
Dominicci, David Albert
Doten, Glenn Emerson
Doyle, Terrence M.
Dranchak, James J.
Drescher, Richard B.
Driskill, Clifford Dale
Driskill, Don W.
Droppa, Robert E.
Dubard, Dennis D.
Duchak, George D.
Dulke, Michael Francis
Dunan, Sally Elizabeth
Dye, Gary Bryan
Earl, William Jeffrey
Eberhart, Stephen Edward
Edwards, Catherine Elizabeth
Edwards, David Ellis
Edwards, Ronald Lee
Egan, Richard Thoma
Egler, Gerard T.
Elliott, Glenn D.
Emerson, Thomas Harold
Enochs, Edgar R.
Erdt, Dennis D.
Erickson, David E.
Ericson, Glen F.
Evangelist, Angelika Mason
Eves, Robert C.
Fairfax, Donald Jesse
Fann, Theodore Randall L.
Fay, David Edward, Jr.
Featherston, Robert Henry
Feeney, Christopher E.
Feiler, John F.
Felmly, Michael Lloyd
Fenner, Ronald Alton
Ferenczy, William Joseph
Ferguson, Mark Edward, III
Ferguson, Richard Paul
Filkins, Peter C.
Finley, David C.
Fischer, Michael Jeffery
Fleming, Marc A.
Florie, Terry Lynn
Fogg, Glenn Aaron
Fontaine, David J.
Fontaine, Scott A.
Foster, Andre P.
Fox, Samuel M.
Frair, Keith Bernard
Frank, Richard F.
Fraserandrews, Linda Jean
Fraser, John Edward
Frazier, Jack Eugene
Frederick, David Lee
Freeburn, Robert J., Jr.
Freeh, Susanann Mary
Frey, Thomas J.
Frick, Michael S.
Frothingham, Peter J.
Fullerton, George
Fulwiler, Barry A.
Galecki, Leon Victor
Gallagher, Dirk M.
Gallagher, Timothy Richard
Gallardo, Albert J., Jr.
Gardner, John S.
Garica, Stephen A.
Garland, William Paul
Garrison, Clifton Franklin
Gary, Bret Carleton
Gauthier, Maurice Keith
Geanuleas, Louis James
Gear, Daniel E.
Gengo, Joseph Thomas
Geoffrion, David G.
Gerken, Cary Steven
Gerrard, Wade Jay
Giesen, Stephen A.
Gifford, Diane Marie
Giles, Keith Douglas
Gilman, Robert J.
Gilmore, Rober Alan
Girard, Robert R.
Gladman, Lynn Elizabeth
Glass, James T.
Gliebe, Victoria Marie
Goddard, Paul Earnest
Goetsch, Brad Thomas
Gonzales, Henry
Goodall, Thomas David
Goodman, Clarke Elmer, Jr.
Goodwin, William Anthony
Gortney, William Evans
Gould, James William
Govan, Dale R.
Graber, Kenneth A.
Graham, Bruce Alan
Grandfield, Philip W.
Grant, Deborah Lea
Gratas, Arthur Nicholas
Graves, Ronald M.
Gray, Brendan Laurence
Green, Johnny L.
Green Ronald Timothy
Greenwood, Carter Mason
Greunke, James H.
Grice, Gary Lyle
Grimes, Dennis R.
Groves, Gregory Eugene
Gruetzner, James K.
Guillory, Victor
Guisewhite, Dennis Edward
Gurczynski, Robert Allan
Guthrie, Melinda Lee
Hackney, Norma Lee
Haid, Terance E.
Haines, Dennis
Hall, David R.
Hall, Martha Louise
Hallford, Charles W.
Hamblin, Robert N.
Hanley, Timothy R.
Hansen, Daniel L.
Hansen, Robert Carl, Jr.
Harkey, Deon Austin
Harmon, Joyce Lee
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Harris, Craig F.
Harris, Harry B.
Hartigan, James D.
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Heathcote, Richard W.
Hebert, Dirk P.
Hedges, Jeffrey A.
Heiser, Charles Donald
Hejl, Thomas A.
Helweg, Gretchen Ann
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Henry, Leon M.
Henry, Zachary A.
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Hileman Kenneth L.
Hill, Thomas S.
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Hoffman, Randall H.
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Pierce Terry Cliffton
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Read, Oliver M.
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Rehrig, Fred Evan
Reidy, David John
Reitmeyer, Thomas
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Richardson, Earl A.
Richards, William Lee
Rickenbaker, Mannie E.
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Rishel, Robert I.
Rivall, Stewart Warren
Roberts, John Alan
Robertson, Debra Lynne
Roberts, Steven W.
Robertson, Jan A.
Robertson, Lynn Janet
Rodeck, Renee Lefebvre
Rogers, Marvin
Rogers, Richard Wayne
Roncolato, Gerard David
Rosbolt, Paul K.
Rose, Gary Edward
Ross, John William
Ross, Mickey V.
Roth, Laurence J.
Rowley, James L.
Ruggles, Gerald Paul
Russel, Jim Howard
Russell, Philip Irving
Russel, Thomas A.
Rynda, Douglas Charles
Salacka, Thomas F.
Salm, James Martin
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Samsel, Donald George
Sanderson, Vicky Rae
Sanford, Katherine Lovejoy
Sapp, Jeffrey K.
Sapp, Kathy Cambridge
Sassaman, Mark S.
Saul, Gregory D.
Saunders, Stanley L.
Saunders, Thomas E.
Savignac, Mark D.
Sawyer, Gregory R.
Scalet, Joseph P.
Schaal, Helen Jeannette
Schempp, Leonard Francis, III
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Schlientz, Steven
Schmidle, Paul Walter
Schmidt, Richard Anthony
Schmorde, Frederick A.
Schnedar, Christopher P.
Schneider, Joseph M.
Schneider, Leo F.
Schneider, William J.
Schramm, Joan Ellen
Schreiber, Jonathan Kim
Schubert, David M.
Scott, John D.
Scott, John Lee
Scull, Walter Gambier, III
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Seipel, Dennis J.
Selberg, John J.
Self, Richard E.
Self, Richard J.
Selman, Gary J.
Semmler, Karl John
Sewell, David J.
Shaheen, Frederick Fraum
Sharpley, Patricia Ann
Sheedy, Ann Margaret
Shelton, Sharon Jo
Shephard, Scott S.
Sheppard, Jon Josef
Sherman, John William, Jr.
Shinego, Daniel R.
Shipps, Karl O.
Shmorhun, John M.
Shropshire, James Ernest
Shutler, Eric Rud
Sigg, Daniel R.
Sihrer, Dale S.
Sill, John Alan
Silvers, Cary Alan
Simmelink, Lawrence T., Jr.
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Simon, Dennis L.
Singer, Andrew Michael
Sisa, Peter J.
Skinner, Walter M.
Skocik, David J.
Slack, Christoper Dana
Sleeth, Catherine Josephine
Small, James Francis, Jr.
Smith, Bruce E.
Smith, Daniel Joseph
Smith, Daniel Martin
Smith, Douglas M.
Smith, Gregory F.
Smith, Guy Edward
Smith, Michala Mary
Smith, Richard Whitney
Smith, Robert Bruce
Smith, William M.
Snead, Richard L.
Solheim, Randal Jon
Souders, Robert M.
Spada, Christopher John
Spangenberg, Keith Norman
Speck, Mark Edward
Spence, Frank W.
Spencer, Scott Alan
Spence, William Douglas
Spilman, Vicki McCool
Spooner, Daniel John
Sprung, George G.
Stanley, Henry Turner, III
Stathos, Christoper Louis
Station, George V.
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Stedman, William Bruce
Steele, John Gregory
Stenstrom, Thomas
Stevenson, Thomas
Stewart, Ann Catherine
Stewart, Keith James
Stewart, Marc S.
Stites, Ronald Paul
Stiles, William M.
St. John, Guy Files
Stone, Nancy Barbara
Stotz, John W.
Stout, Allen Marvin
Streeter, Matthew
Strobridge, Ronald Lewis
Stromann, Peter W.
Strong, David W., Jr.
Stroud, Geoffrey Anthony
Stuart, John K., Jr.
Stuetzer, Scott Michael
Stulb, William K.
Sturm, Michael R.
Sullivan, Brenda Jean
Sullivan, Joseph Edward
Swain, Neil Allen
Swanson, Dane C.
Sweeney, Mary Josephine
Sweigert, Melody Anne
Swystun, Andrey Petro
Takahashi, Stanley Scott
Tamayo, Andrew Brian
Tansey, Daniel A.
Tartaglione, John J.
Taylor, Richard L.
Taylor, Robert R.
Thayer, Richard L.
Thomas, Brian Christian
Thomas, Marc Joseph
Thomas, Scott Michael
Thomas, Timothy Mark
Thomas, William Franklin
Thompson, Daniel Diemer
Thompson, Robert Lewis
Thorp, Michael L.
Thrailkill, Steven Michael
Tierney, John M.
Tilden, Barry M.
Tillerson, William Eugene, Jr.
Timme, William G.
Timon, Charles NMN, Jr.
Timoney, Gregory Paul
Timreck Nicholas Brian

Tobin, Albert A.
Toop, Robert Russell
Torrance, Geoffrey Charles
Tranchant, Raymond Junior
Trass, Kenneth R.
Tribble, Terrell Lee
Trice, Roderick Edwin
Tripp, Marc F.
Trotter, Thomas W.
Tubbs, Pamela Webb
Tupper, Lawrence D.
Turley, Craig W.
Turner, David E.
Tuttle, Daniel B.
Uchida, Richard Tad
Ule, Robert Louis
Unangst, Kurt Daniel
Underwood, David D.
Upchurch, Robert Burton
Vanderbergh, Pieter, N.A.
Vanderpool, Priscilla Anne
Vanmeter, Lewis Lane
Vannortwick, Eric Davis
Vanvalkenburgh, Matthew Mart
Vasquez, Billy Lee
Vaughan, Jill Alison
Vaughan, William H.
Vaughn, Stephen R., Jr.
Vaught, Rodney D.
Vecchiolla, Thomas Anthony
Verderosa, Christina NMN
Villarreal, Carla Ann
Vitale, Michael Craig
Vogel, Robert R.
Vonhoene, Paul Joseph
Voytek, Richard A.
Vuolo, John F.
Wahlstrom, Mark Gregory
Walborn, Daniel M.
Walker, Joel N.
Walker, Steven C.
Walpole, Dennis A.
Walsh, Patrick M.
Walters, Charles David
Walters, John Edward
Walworth, Lawrence M.
Wanjon, Michael F.
Warren, James L.
Wasek, Joseph NMN, Jr.
Waters, John C.
Waters, Michael K.
Watkins, William Brian
Wayne, John Louis Brown
Weaver, James L.
Webb, Michael Anthony
Weddle, Jeffrey D.
Weeks, David Calvin
Weglicki, Michael S.
Weilbacher, Stephen Nelson
Weimer, Robert K.
Weingart, Stephen Gregory
Weiss, Charles Herman, Jr.
Weissinger, Richard W.
Wellman, Michael N.
Wells, Robert Scott
Wenceslao, Daniel Lathrop
Wertz, Michael Ray
Wetherill, Glenda Jo
Whalen, Douglas Frank
Wheeler, William H.
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White, Carol Ann
White, Gary Ronald
White, Glen Thomas
Whitehurst, Richard Marshall
Whitsell, John Beryl
Wicks, Donald Russell
Widmaier, Linda Ellen
Wiggins, Paul A.
Wilbur, Thomas George
Wilde, Robert L.
Wilkins, Jacob P.
Willcox, Bary C.
Williams, Carl Edward
Williams, David T.
Williams, Kenneth A.
Williams, Kent A.
Williams, Melvin
Willis, David Robinson
Willis, Lola Jean
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Wilson, John R.
Windham, Jimmy Roscoe
Winns, Anthony L.
Wirt, Robert Orville, Jr.
Wisecup, James P.
Withers, James D.
Woodrum, Nancy Jane
Wood, Winston D.
Woolweber, Wayne T.
Worrilow, Mark D.
Wright, Reuben Leon
Wright, Robert Paul
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Yeager, William E.
Yeager, Earle Swisher
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Yoder, Albert W.
Yourstone, Walter
Yurchak, John Marshall
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Zellweger, Joyce Elaine
Ziegler, Paul Michael
Ziegler, Russel Mark
Ziemba, David
Zimmerman, George Williams
Zingarelli, Leonard Allen
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Zwiep, John Daniel

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Buckingham, Thomas Martin
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Butler, James L.
Caille, Gary William
Corbett, Philip J.
Cromar, Patrick Frank
Delaney, Michael Edward
Dicken, William A.
Dreher, Lawrence J.
Ebel, Kevin Clifton
Escue, William D.
Frey, James Gilmore
Garcia, Edward L.
Hall, Donald Roy
Hall, John F.
Hamner, Michael S.
Haney, Keith D.
Hutchens, James W.
Janikowsky, Linda Crockett
Joseph, Stephen Leo
Kamen, John S.
Kasputis, Stephen R.
Kauffold, Richard Paul
Kolodziejczak, Gregory Conra
MacMillan, Peter Norman
Marques, Joseph P.
Martinez, Benjamin nmn, Jr.
McDaniel, Brent Wright
Mickelberry, Kenneth Dalton
Morais, Roger J.
Munz, Paul D.
Murphy, Thomas J.
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Oberhofer, Kurt D.
Ogg, Bradley R.
Peterson, Peter John
Polcari, John J.
Pyron, John T.
Rappeline, Peter Frederick
Rodriguez, William D.
Roger, James Everett
Rowley, Udo H.
Sanders, David W.
Schrum, Jesse B.
Schulze, Kurt Donald
Shaw, Mark Leonard
Shimko, Michael John
Stewart, Donald L.
stiltner, Deborah R.
Sullivan, George Thomas
Taylor, Wesley Patterson
Thomas, Steven Michael
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Wetter, Timothy Scott
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Wilbur, Thomas M.
Wilkins, James R.
Wright, Robert Joseph
Yuen, Nathan Quan Sut

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Urich, Dave Jeffrey
Young, Paul Edward

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Dorgan, Martha Jo
Griger, Steven John
MacDonald, Stephen Joseph
McKenzie, Mark Francis
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Miller, Theodore Aldred
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Morley, David Craig
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Rinaudo, James Joseph
Streeter, Timothy Franklin
Vandenberg, Thomas Michael

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Laflen, Gerald Wayne
Lafont, Duane M
Laforce, Daniel Craig
Larocque, Stephen Anthony
Lauther, John Mallon
Lawton, Gerard Michael
Loescher, Michael Sewell
Lyman, Randall Thomas
Lynn, Michael, Francis, Jr.
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Matthews, William McKinley
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Pricolo, Dennis M.
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Taylor, Reeves Ramsey, Jr.
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Tripp, Taylor T.
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Craig, Peter S.
Darabond, James M.
Degree, James Joseph
Dorsett, David John
Erickson, Michael Lee
Evans, Richard Everet
Fox, John Thomas
Gardella, Paul Richard, Jr.
Gent, Richard Douglas
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Griffin, Arthur C.
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Hays, Dale Edward
Henry, John G.
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Henderson, Sara Kim
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Kirk, James Robert
Knapke, Steven John
Martin, Carrie Elizabeth
McDonald, Gary Wayne
Moore, Paula Louise
Moser, Carl James
Nelowet, Albert Franklin, III
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Oldfield, Henry Jordan
Robinson, Danny Yurby
Shultz, Stanley Peter
Silk, Robert Allen
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Yaap, Stuart Allen
Yopp, William Dewey

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Lutz, John W.
McGee, Timothy
Monitt, James Allerton
Neal, Michael W.
Paul, Linda Sue
Pedneau, David Edward
Rau, Robert Eugene
Rovero, Peter Joshua
Runco, Susan Kay
Shema, Richard Allen
Sheridan, Timothy Frank
Smolinski, Steven Paul
Toll, Raymond F. Jr.
Wilson, William Earle
Wright, Eric J.
Zankofski, Deborah Ann

LIMITED DUTY OFFICER

Banks, Martin Michael Jr.
Barrs, Daniel
Becker, Ernest Charles
Bender, Charles Michael
Bennett, Michael Ray
Benscoter, Richard Hayes
Blakley, Robert William
Block, Lowell Karl
Borgen, Thomas Lynn
Boudah, Mark Fredrick
Boyer, Ralph Joseph Jr.
Branges, Warren Gregory
Briquelet, John Arthur
Bristow, Isaac NMN
Brown, Larry Lee
Callis, Lloyd Baker Jenkins
Campbell, William Richard
Canfield, Bruce T.
Case, Van Allen
Caviness, Edmond Carroll, II
Chesher, James Wilson
Chestnutt, Harold Dean
Choyeski, Frankie Dale
Corbett, John Bertram
Cox, William Louis
Crabtree, Charles Daniel
Cripps, Roy Louis
Crockett, Lawrence David
Crone, Michael John
Darling, Peter Lloyd
Davis, Louis Alfred
Dell, Franklin E.
Dickenson, Michael Lee
Downs, Bernard Raphael
Dustin, Larry James
Dutton, Michael Robert
Erwin, Bert David
Eskridge, William David, Jr.
Estrada, Joseph Earl
Faust, Richard
Ferranti, Jerry Wilber
Fickes, Robert Larry
Fuller, James Byron
Gage, Fredrick Eugene, II
Gilboy, Richard Patrick
Godwin, Marshall Earl
Goldenberg, Jack Phillip
Griffith, Lawrence Dean
Griffith, Roger Nyle
Hamilton, Edwin Philip
Hanneke, Thomas William
Harritt, John Douglas
Hartley, William Jud
Havens, William Edward
Heath, Benjamin Arden
Heery, Joseph William
Hines, Gordon John
Hosking, James Raymond
Hough, James Howard
Howard, Donald Eugene
Hudnell, Audie Lee
Hurst, Larry Carl
Ingraham, Leroy Diller
Jackson, Noah William
Jennings, Lacey
Johnson, Bruce E.
Johnson, Dennis Willard
Johnson, William McKenley, Jr.
Kelley, Steven James
Kennedy, John Michael, Jr.
Kerner, James Charles
King, Leonard
Kluber, Richard Harold
Knight, John C.
Knight, Michael Andrew
Kugler, David Lee
Kurek, John H.
Kuriger, James Lawrence
Lakey, Carroll Lee
Larkin, Stephen Everett
Lee, Richard Edwin Kealoha
Lester, Brian Edward
Lippa, Val Edward
Litzinger, John Timo
Livingston, Jeffrey Alan
Long, Curry Andrew
Lucas, Paul Robert
Lydick, Wayne Allen
Magnusson, Everett Carl
Malson, Robert Charles
Mayock, Patrick Michael
McCarthy, Thomas William
McDonnell, Alfred F.
McElfresh, Thomas Carter
McGaughey, Philip
McKinney, Frank A., III
McQuiston, Jonathan A.
McThompson, Larry Alan
Meadors, Dennis Edgar
Melay, William Denis
Melio, Craig Fenn
Merritt, Gene Riley
Miller, Glenn Earl
Moddesette, Anthony Sherman
Moore, Bruce F.
Munter, Charles Howard
Murphy, Charles Lewis, Jr.
Murtagh, Anthony
Musgrove, Rhudean Carl
Musto, Lawrence Louis, Jr.
Muth, William Ernest
Myers, William David
North, William Henry, III
Odell, James Craig
Odenbrett, Vincent Dominic
Olic, Frank Philip
Overbey, James Randall
Peters, Bryan Q.
Phillips, Charles Leon, Jr.
Porter, James Michael
Prange, Wilmont John
Quijada, Richard H.
Resner, William Edward
Rosenboom, Roger D.
Ruth, Edward Lee
Rutland, William Joseph, Jr.
Scarborough, Leslie David
Scates, Timothy Earl
Scott, Raymond
Sellers, Charles Thomas
Sellers, Kenneth Ray
Sharpe, Kenneth W.
Simmons, John Clark
Sims, Hollis E.
Slone, David Curtis
Smith, George Olan
Smith, Samuel Melvin, Jr.
Smith, Waymon A.
Snock, Maximillion R.
Sonderman, Donald Duane
Spiva, Stephan Dale
Stewart, David Val
Sund, Jim Ervin
Sylvester, Richard Roland
Trumpower, Robert Eugene
Walls, Leon
Watkins, George Augustus
Weber, Raymond Paul, Jr.
Westphal, Robert Lee

Wetherington, Rayford Earl
Wheat, Gary Ray
Whelan, Robert Lawrence
Wilcher, Larry Dwight
Wilke, Lanny Ernest
Williamson, Gary Wayne
Witte, Herman Gerhardt
Worthington, Michael Allen
Young, David A.

EXTENSIONS OF REMARKS

HANDICAP OF LIMITED EDUCATION

HON. JACK FIELDS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. FIELDS. Mr. Speaker, among the many wonderful people who live in the Eighth Congressional District is the great former heavyweight boxing champion of the world, George Foreman, also a 1968 Gold Medalist in the Olympic games in Mexico City. None of us can forget that night when he waved the American flag from the center of the ring in the Arena Mexicana, as he lifted our hearts in a troubled time and made known to the world his love for his country.

I'm delighted to say that that was no whim or flash in the pan with him, as through the U.S. Information Agency and other good efforts he has continued to speak for America all over the world. During the week of June 15, he was a participant in the VII Inter-American Special Symposium for the Handicapped in St. Lucia, in the Caribbean.

Hardly, a man physically handicapped in anyway himself, he knows a great deal about another shortcoming—the handicap of a limited education, as he was a high school dropout and because he gave up the fight with this books he had to make up for it by taking—and giving—great punishment in the ring. He spoke to the young people of St. Lucia about the importance of staying in and with school. George learned to box in a Job Corps Center operated in Pleasanton, CA, by Litton Industries, and it was in that Job Corps recreation hall that he first learned he could negotiate a future with his fists.

Unlike so many other athletes, he always had his eye on what he would do with his life beyond boxing. Now a minister in Humble, TX, his money saved to give him freedom to do as much and as many things as he enjoys and finds helpful to society, I ask permission to insert his remarks in the RECORD:

REMARKS OF GEORGE FOREMAN, FORMER HEAVYWEIGHT BOXING CHAMPION OF THE WORLD AND OLYMPIC GOLD MEDALIST IN THE 1968 GAMES IN MEXICO CITY BEFORE THE SPECIAL SYMPOSIUM FOR THE DISABLED AND HANDICAPPED, ST. LUCIA, JUNE 15–18, 1986

Distinguished guests, ladies, and gentlemen:

You have done more than you think by asking me to be a part of this very special festival for the disabled and the handicapped. You have brought me back to my wife's homeland, and the neighborhood of my mother-in-law. She has told me she doesn't mind how many places you think I might be helpful to what you are trying to do, or how many of your people you ask me to talk with, as long as I set aside a little time for her. She wants me to help fix the roof on her house. I don't really think she has thought this thing through very well, as who in the world would want somebody who weighs as much as I do on her roof?

In the United States we once had an author named Mark Twain. One of his most famous characters was Tom Sawyer. Every year, this Tom Sawyer was told by his Aunt Polly that the time had come for him to whitewash her fence. He hated to do that, but he had to do it, so he did the next best thing. He made his friends think it was a great privilege that was denied them, and he actually talked them into paying something to allow them to help him do it. It was more than that—they did the whitewashing and he supervised it. Right after I finish here today, taking a cue from Tom Sawyer, don't be too surprised if you see me out in front of this place selling hammers, nails, shingles, and a road map to my mother-in-law's place. That's how I'm going to try to get her roof fixed—without me falling throught it.

Seriously though, we are here today to address the very real problem of finding ways to introduce the handicapped to types of instruction which will make them employable. This is close to my heart as I was once involved in such a program—skill training. And as you are trying to enlist the private sector in your effort, it was a representative of the private sector which ran the center where I was enrolled. The center was run by one of America's biggest and most forward-looking companies, Litton Industries. My handicap was not physical—I had more than enough in muscles and good health—my handicap was self-inflicted—a limited education.

I disliked school with a passion, every part of it except recess, lunch, and when school was out. I could smell mathematics and could never see any way it would be useful to me—other than add up all the things I didn't have and wanted and had no hope of getting. If anybody had told me then that the day would come that they would pay me $5,000,000 for a fight that I lost—the one against Muhammad Ali in Africa—and I'd find mathematics useful then, I would have said to lock that guy up as he was out of his mind. Geography to me was Houston and Marshall, TX, and poor neighborhoods in both. I was so sure I was never going to go anywhere else—other than to jail—it was of absolutely no concern to me.

When my friends went off to prison, they were always escorted and the people driving the police wagon knew where they were going—so knowledge of geography was of limited worth. Just last year the U.S. Information Agency asked me to go to the Camaroon and Nigeria in Africa to talk to young people there as a sort of goodwill ambassador for the United States. That was a lesson in geography I will never forget, and I was sorry every step of the way that I hadn't cracked those books about the world and its people in school when I'd had the chance. Grammar and language studies meant little to me—I caused people to get out of my way by doubling up my fists and looking mean. I didn't need spoken words for that, or any proper order for them in saying them out loud.

And then, the day would come when—after losing the championship—that the great television network—ABC sports—hired me as what they call a color commentator to work with none other than Howard Cosell. Among sports commentators he is without exception the most knowledgeable about grammar and language. He really made me think about what grammar and language can mean. Civics—that was another nothing for me as somewhere in it was law and order—which meant there were policemen attached. When I was a mugger in the streets—they came after me, and sometimes with dogs. I felt I could do without civics, too.

School itself was a series of disappointments for me. When I was young I tried to get the attention of my teachers so they would see me as important—as I thought I was. They saw me as a kid big for his age and therefore potentially dangerous, so they told me to get lost. I finally thought if I was to get any attention at all, it was within my capabilities to be the "meanest kid in the neighborhood." I got very good at that—so good, in fact, when I was in the ninth grade I decided to wave bye-bye to formal education. I became a self-declared graduate, but no diploma went with that. I thought "who needs it?" And that I would show them how unnecessary such things were.

This meant I could give full time to becoming a society problem. My mother didn't think much of my decision and told me so. She was a lady barber and there were six other kids in our family, so there wasn't very much she could do about it other than complain and express her disappointment.

In those days, I knew every policeman and they all knew me—in both cases for all the wrong reasons. They were always looking for me and I was looking out for them. More and more they were able to catch up with me and finally they read me the two ways my future might go—one was to jail, first as a juvenile delinquent to a reformatory and that would prepare me for later prison sentences or worse as I grew older. The other was open to me if my mother would sign an application for me—still under age—to enter a program called the Job Corps. I may not have been well educated, but I had always preferred fences I could jump. The Job Corps was the direction I took.

In that Job Corps Center operated by Litton Industries, the staff that was hired to train us looked over what was coming in the door and they—and America, too—were appalled at how little chance at life any of us really had. Until then, it didn't really know how much society was being menaced by kids like myself addicted to cutting and running from educational facilities, first to play in the streets, and then prey on people in the streets.

By making ourselves unemployable except for lifting and carrying we put ourselves in position for every bad thing to happen to us in terms of role models we would choose to follow proably to our own destruction, directions we would take which had no solutions for what ailed us that day and promised us absolutely nothing but disaster for tomor-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

row, and perhaps worst of all—we concluded that people who worked were foolish, as only suckers did that. A person's mind is a fantastic thing as it can justify about anything that suits you, or it can send out signals as to whether you are doing what's best for you. The tricky thing is that what suits you is always easiest to do, and what's best for you is always the hard part.

No matter what kind of a handicap one has—whether it be physical, or one of attitude, or from disability, I believe the first important discovery you will ever make is when you find that there are those who really care about what might happen to you if they didn't help.

Here in Saint Lucia today, we are gathered to make that kind of a statement—that we do care. We have come to your country from all over this hemisphere to say here in Saint Lucia that somebody—several somebodies care about your young people who are the key to Saint Lucia's future, particularly those who have been shortchanged physically or in some retarded way. We hope by focusing on this dilemma, we generate enthusiasm for assisting the handicapped gain stature as an employable resource and to aid in copying constructively with life around them. Life's betterment needs the best from all of us, and as much as we can give, each in our special ways.

I can tell you from personal experience that there is nothing quite so pleasantly surprising as to find you can do something you had never thought you could do. When I look at the size of these hands of mine—and they have always been big—if someone had told me I was ever going to be an electronic assembler when I was young, I would have laughed at such an idea. Yet in the Job Corps, a whole bunch of us were put to work assembling transister radios. They threw in one important thing—they called it an incentive. Our incentive was that if we followed instructions, did what they told us to do, and assembled our radios correctly, they would not only work but each of us could keep the transister radio he'd built.

I did what they told me, all the while thinking of how much easier it would be to shoplift one, and not expecting it to work. But it did. That was the first surprise. Then they gave it to me, and that was the second surprise. It told me there were knowledgeable and believable people in this world, and I hadn't known too many like that before. That transister radio meant so much to me. It was the first constructive thing I had ever done with my hands. There was no diploma attached to this lesson learned as I had the evidence there in my hands.

Here in Saint Lucia today, I would like to say to all parents, no matter their station economically, urge your children to stay in school and make the most of it.

I ask all you young people to listen to the wisdom of your parents and teachers when they ask you to avoid the handicap of a lack of education.

And I ask you who are handicapped in some way to look hard for the ways around the obstacle you've been given as the additional burden you bear.

The George Foreman you see before you today would be telling you a great untruth if with all the strength I have I would shake my fists in the air and declare I'm a self-made man. Nobody is that, He is the combination of all the influences and people who helped him and who cared about him. The Job Corps was a National Government Program. It got me out of the streets and heading straight for prison and more. It was a private sector company, Litton Industries, which cooperated with a national effort to do something to reduce the problem. Litton picked up on me when I had no prospects at all, and its people have been available. Every time I've called on them.

Some might be casual about such help and believe in their minds it is actually owed to them. That is dangerous thinking, and I know because there was a time in my life when I thought the whole world was against me. All the time I was thinking that it was George Foreman who was against me. I had to first lick George Foreman before I could win an Olympic Gold Medal and become world champion by licking Joe Frazier down here in Jamaica.

No handicap is easy to overcome, even more true when it's within yourself. But every time one more person among us deficient in some way makes an upward move, we all win. It's all very well to recognize the limitations a handicap may seem to have inflicted but all kinds of surprises and happiness and fulfillment awaits those who focus on what can be done in spite of one.

A SALUTE TO "CAMP BOARDWALK," ATLANTIC CITY, NJ

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. HUGHES. Mr. Speaker, I would like to call your attention to a very special reunion to be held in Atlantic City November 2–4. "Camp Boardwalk Revisited," as it has been named, will reunite many thousands of World War II veterans who went through basic training in Atlantic City, rested there after a tour overseas, or convalesced at the military hospital that is now Resorts International Casino Hotel.

Shortly after the United States entered the war in December 1941, all the major hotels in Atlantic City and many smaller ones were drafted by the military to be used as soldiers' barracks. Convention Hall became a command center in what was dubbed the U.S. Camp Boardwalk of World War II, one of the largest training facilities in the country and the major one on the east coast. About 200,000 members of the Armed Forces either went through basic training here or received treatment in the military hospital. For thousands of others, Atlantic City was a spot for rest and reunion with family members after an overseas tour of duty.

Atlantic City's role in the war effort was unique in that the entire city was a participant. Local residents volunteered in the hospital and mingled freely with the military. It was common for residents to invite the GI's into their homes. The community adapted itself to the military presence by passing ordinances designed to prevent any disturbances. These included curfews for young people and prohibiting alcoholic beverages to be served after a certain hour. The military made use of the city streets for training purposes. The boardwalk was suddenly filled with new soldiers learning to march in line and with hospital patients, including many amputees and paraplegics rolling in wheelchairs. The large crowds of soldiers were a boon to the area's economy.

Camp Boardwalk Revisited will be held at Convention Hall on the Atlantic City Boardwalk and will reunite veterans from 30 States including California and Hawaii. Special hospitality groups will be held over the weekend to reunite surviving spouses, POW's, Purple Heart recipients and couples who met at Atlantic City during the war.

The residents of Atlantic City and the veterans who passed through there during the war are to be commended for participating in what may have been one of Atlantic City's finest hours. I know that my colleagues will want to join me in wishing Camp Boardwalk a happy and successful reunion. It promises to be a great event.

WILLIAM F. MATSON

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. KOLTER. Mr. Speaker, it is with deep regret that I learned of the passing of William F. Matson, president of the Pennsylvania Rural Electric Association on June 16, 1986.

The members of the Pennsylvania congressional delegation have lost a true friend and the rural people served by the electric co-ops under his leadership have lost a very capable and forceful advocate.

For most of us, it is difficult to comprehend that not too long ago people living in rural areas did not have electricity. Farms and small villages were so scattered that investor owned utilities would not serve them. Through the efforts of Bill Matson and the excellent team he led, thousands of rural Pennsylvanians were given the opportunity to have a reasonably priced and dependable supply of electricity. The way of life in rural Pennsylvania literally changed overnight.

Mr. Speaker, Bill Matson possessed the ability to provide a vision of the future and he had the will to translate that vision into reality. I ask that our colleagues join to express sorrow at Bill's untimely passing and that we extend our deep sympathy to his family, his colleagues, and to all of those whose lives he has touched.

INTERVIEW OF THE PRESIDENT

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LIVINGSTON. Mr. Speaker, the President gave an interview to Radio Marti on June 9, 1986, regarding the situation in Nicaragua and U.S.-Cuban relations. This interview was broadcast to the people of Cuba, portion of which appear below. I commend it to my colleagues who wish to be fully informed on the President's policies in Central America.

INTERVIEW OF THE PRESIDENT BY RADIO MARTI, JUNE 9, 1986

1. Mr. President, the Cuban government syas that the United States is conducting imperialist aggression against the legitimate

government of Nicaragua. What is your reaction to this charge?

Well, if I were not as used to the extravagant claims of Cuban propaganda as I am, I would be outraged by such a charge. First of all, there are *no* U.S. forces in Nicaragua. But there are several thousand Cubans there. So it makes you wonder who might be the real imperialists. That's not even to mention the Soviets or the Bulgarians, or the Czechs, or the East Germans, or the Vietnamese, or the North Koreans, or the PLO, or the Libyans, or the Iranians. Does anyone really believe that these people are in Nicaragua to help them harvest their coffee crop?

What *we* are doing is supporting democracy in Nicaragua and all the people who seek to build it. They're the real revolutionaries. They joined the popular effort to overthrow Somoza, but then they saw their democratic revolution betrayed. What we're witnessing is very much a repetition of the betrayal of the Cuban revolution by the communists. In each case, the reins of power were seized by a well-organized, disciplined minority of communists who liquidated the genuine democrats. They do not rule by the people's consent. They are militarizing and regimenting Nicaraguan society because they fear the power of the real deomocratic revolution, still very much alive. The people are joining a spontaneous uprising against the Sandinistas—an uprising which today has more than twice as many guerrillas as did the Sandinista movement when it was fighting Somoza. The Nicaraguan democrats have organized themselves into an effective movement. All they need is enough material support to compete with the vast quantities of arms supplied to the Sandinistas by Cuba and the Soviet bloc. By the way, they should not be called Sandinistas—they've stolen the name of a true national leader who in fact rejected communism. What they really are, in truth, are "Stalinistas" because their revolution is a Stalinist one.

2. Why do you disagree with some members of Congress who are urging you to delay any further aid to the Nicaraguan resistance and to seek a solution through negotiations?

In the first place, there's no truce in the fighting because the communist regime feels that it can achieve its objectives without peaceful negotiations with the democratic opposition, and by delaying negotiations with its Central American neighbors. It should be clear to everyone that the Sandinista strategy is to delay. The longer they can drag out negotiations, the easier it is for them to destroy the democratic forces while Congress waits to see if a peace treaty is just around the corner. But with each day of delay, the communists are attacking and killing freedom fighters while we deny them the means even to defend themselves.

Since the March 19 vote in Congress, denying aid to the resistance, the Sandinistas have used the delay to move to consolidate their totalitarian control over society. They have increased their militarization of the country, invaded Honduras, and launched an unprovoked attack on a number of Miskito Indian villages. That attack triggered a panic that led to an exodus of 11,800 villagers to Honduras. The regime has forced thousands of small businessmen to shut down. And the persecution of the Church continues every day. Didn't Cardinal Obando y Bravo just say that the communists were suffocating the Church?

Unless we help those who are resisting these crimes against the Nicaraguan people, we will share responsibility for the increasing toll of human suffering. Any further delay by us just plays into the hands of the communists and their stalling tactics.

We have never shied away from negotiations as a solution, but we would want them to result in a real democracy in Nicaragua in which all sectors of the Nicaraguan society are really free to participate. We have always supported a dialogue of reconciliation and believe that this is the answer. President Duarte has taken the courageous step of reopening talks with the armed and unarmed opposition in his country—why can't the Sandinastas? Are they afraid that these talks would lead to the real democratic outcome we all hope to achieve? Are they worried that they would result in real arms reductions and the elimination of their Soviet, Cuban and other Soviet Bloc advisors?

4. Mr. President, before your Geneva Summit with Soviet General Secretary Mikhail Gorbachev, you delivered a major speech aat the United Nations in which you referred to five regional conflicts which were of major concern to the United States. Cuba is militarily involved in three of them: Angola, Ethiopia and Nicaragua. Do you believe that your general policy of supporting the forces of freedom in these conflicts increased the danger of conflict between the United States and Cuba?

No, I don't. The real conflict going on in each of those countries is between the communists dictatorship and free people fighting to regain liberty for their entire country. None of these dictatorships could stand on their own without the massive intervention of Cuban troops and advisors sent as mercenaries for the Soviet Union. This intervention has placed innocent Cuban soldiers in the midst of other people's battles, and their lives are a great risk. The United States would like to see these battles come to an end as quickly as possible—with freedom replacing dictatorship. That's why we support freedom fighters in each of these countries—indeed in all countries. But we have no intention to get involved directly in any of these conflicts ourselves. Today, the freedom movements in Nicaragua and Angola are so strong that, if it weren't for the intervention of Cuban and other foreign forces, they could win all by themselves. Innocent Cuban soldiers are in a trap—and many may have to give their lives if they are forced by their government to stand in the way of these freedom movements. We deeply regret that Cuban families may suffer because their government insists on waging war in faraway lands.

5. Since January 1961, the United States has not maintained diplomatic relations with Cuba. Throughout this period, the Cuban government has pursued a policy of hostility toward the United States and has kept the Cuban populace in a military state of preparedness under the supposed threat of U.S. military intervention. Do the Cuban people have anything to fear from the United States?

To the contrary, I would hope that the Cuban people would look at the United States as their friend and moral supporter. Unfortunately, they have been subjected to all sorts of propaganda about the supposedly aggressive intentions of the United States. In particular, the Cuban government has used propaganda to blame my Administration for the frequent defense mobilizations in Cuba and for the increasing militarization of Cuban society. But these mobilizations began before I was even nominated to be President. And they're nothing but false alarms. The Cuban government is using the so-called "American threat" as an excuse to maintain its de facto martial law. So long as it has such an excuse, it can maintain a military-style system of authority that reaches into every household in Cuba. This, I suspect, is the way that the government keeps control over the force that it fears most of all—the free will of the Cuban people themselves. The government fears a free election. It knows that never in history has the full majority of a free electorate elected a Communist Party to power in any major nation.

6. Mr. President, what conditions do you think are necessary to improve relations between the United States and Cuba?

America's relations with Cuba will improve on the day that Cuba stops exporting violence, stops exporting terror and stops facilitating the trafficking of drugs. These conditions are simple. The Cuban government must begin to respect the rules of international life. It must, in effect, start to live by the Golden Rule—"Do unto others as you would have them do unto you."

At the time of the Cuban missile crisis, President Kennedy stated that there would be peace in the hemisphere if the nuclear missiles were removed and Cuba stopped exporting revolution. The Soviets removed the missiles; but Cuba never did stop its subversive activities in the region. And these activities were not just a problem for the United States. They were a threat to countries throughout Latin America. That's why the Organization of American States expelled Cuba. Cuba still isn't a member and it won't be until it begins to behave like a good neighbor. Likewise, there cannot be good relations between the United States and Cuba, until Cuba remembers the Golden Rule.

Imagine if we did to Cuba what it does to us and its other neighbors. Many Cuban parents would be heartsick over their children destroying their own lives with addictive drugs. Cuban towns would actually live in fear of attack by well-armed guerrillas. We do not want these things for the Cuban people. And so we do not do these things to Cuba. Why does the Cuban government do such things to its neighbors?

7. When Radio Marti broadcasts began one year ago, the Cuban government unilaterally suspended an immigration agreement with the United States and curtailed exile visits to the island. Critics have charged that the decision to establish Radio Marti is keeping Cuban families apart. Do you feel that braodcasting by Radio Marti prevents the reunification of Cuban families?

No, I don't think so. It is the sincere wish of the United States to see Cuban families reunited. This was one of the key points in the U.S.-Cuban immigration agreement. But that agreement was suspended by the Cuban government when Radio Marti went on the air. It was not Radio Marti that suspended reunification, it was the arbitrary decision of the Cuban government made with an eye to getting us to stop braodcasting the truth about Cuba.

In fact, we've learned many times from communist refugees about the problem of whether to keep silent about communist human rights violations in the hope that these regimes will release people and reunite families. We've learned that if we're silent, the communists would have a perpetual lever to enforce this silence—they could always hold people hostage to prevent the truth about the regime from being told. We

can never accept such a situation. The truth as an instrument for the protection of human rights is too precious for us ever to relinquish it.

9. The United States has committed itself to helping the Nicaraguan people realize their dream of democracy. But what can it do to help the Cuban people achieve the same dream?

That's a difficult question. We want very much to see democracy in a free Cuba. A democratic Cuba would be a country at peace with itself and at peace with its neighbors. Democracies do not wage war on their neighbors. Democracies are always more peacefully inclined than totalitarian dictatorships, because the people can restrain the excesses of their leaders. But however strong and deep our affinity for the Cuban people, we cannot solve their problems.

What we can do is offer the Cuban people a beacon of hope—by standing up for ideals we cherish—freedom, unconditional individual human rights, and equal justice under law, and by standing by our friends and allies in the world who share these ideas. We also have an obligation to resist those ideas and forces, such as communism, which enroach on democratic ideals and destroy democratic societies. If we're successful in resisting Soviet and Cuban expansionism, which we have been, we can show the world that communism can be resisted. And if the people living under communism can see this, they will know that there is hope. And if people have hope, then they can avoid becoming demoralized and paralyzed. They can learn that the future can be in their own hands—that it hasn't been completely taken away from them.

10. Would you like to send a personal message to our listeners in Cuba?

Yes, I would. I would like you, the Cuban people, to know of America's deep and abiding respect for you and your contribution to Western civilization. There is a great number of your fellow Cubans in the United States whose hard work is making our country a better place. In fact, the city with the largest Cuban population outside Cuba is here in the United States—the city of Miami. Thousands of you have family members living here. Your relatives are part of the heart and soul of our nation. It is my hope and prayer that the barriers separating you will someday be torn down.

That day will come when our relations with your country can be reestablished on the basis of the historic tradition which has guided both nations. Americans fought for your independence and Cuban battalions fought for our independence. One of George Washington's close friends was Juan de Miralles, a Cuban maritime businessman, who helped guarantee the credit notes for the purchase of arms and supplies for the American rebels. His wife, Dona Marie Josefa, and other Cuban women, even sacrificed their jewelry to raise funds for American independence. It was this kind of devotion to the principles of our cause that won Miralles the highest regard of Washington, the Father of our country.

I believe that the new day *will* come when U.S.-Cuban relations, based on the ideals of democracy, will be restored. The philosophical foundation of these relations already exists in the hearts of the Cuban people. We see them most dramatically expressed in the courage of the "plantados"—the men who will not sell their souls to gain greater creature comforts in the Cuban gulag. It is this principled devotion to the truth—not the so-called truth of the Communist Party but the real truth as revealed to man in his soul—that will be the source of that new day and a new era of peace between our nations. I hope and pray that this day will come soon. God bless you.

GOOD AIRPORT SECURITY BEGINS AT HOME

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. BROOMFIELD. Mr. Speaker, while recent terrorist incidents reveal that international airports and airlines have become new targets for terrorists, our Government must do all that it can to ensure that American international airports are made as safe as possible. It is difficult for the U.S. Government to preach good airport security to our allies around the world, if we ourselves are negligent in this important area.

Over the past few years, the Congress has devoted much time and attention to the need to protect U.S. Embassies overseas. A few months ago, the House passed the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986. That proposed legislation is now pending before the Senate. As our Government strengthens the security of our diplomatic missions around the world, terrorists have begun to shift their targeting from diplomats to tourists. Obviously, terrorists have found international airports and aircraft to be soft targets. The 1985 terrorist attacks on the Rome and Vienna airports, as well as last year's hijacking of TWA flight 847 and the recent bombing of TWA flight 840, are tragic examples of the vulnerability of our air carriers and foreign airports.

Given the threats of Qadhafi and Abu Nidal to bring terrorism to the United States, I encourage the Federal Aviation Administration [FAA] to do all that it can to quickly improve the security of our domestic airports. Under the Foreign Airport Security Act, the FAA is already conducting periodic security assessments of foreign international airports used by U.S. carriers. If an FAA assessment demonstrates that a foreign airport is substandard from a security point of view, the Secretary of Transportation, after advising the Secretary of State, must notify that foreign government and recommend the necessary steps to upgrade the security of that facility. If after 90 days that government has not brought its airport up to the appropriate standards, sanctions can be imposed by our Government.

Last week, the Government Activities and Transportation Subcommittee of the Committee on Government Operations held hearings on the adequacy of security at Dulles Airport. An FAA official rated security at Dulles Airport marginal earlier this year.

Given the rising number of terrorist incidents involving the aviation industry, and the possibility of terrorism here in the United States at some point in the future, I encourage the FAA to do all that it can to obtain additional resources to properly undertake the important task of securing U.S. airports as well as complying with the requirements of the foreign Airport Security Act.

With these concerns in mind, I commend the following editorial from the Washington Post on the status of security at Dulles International Airport to my colleagues in the Congress:

DANGEROUS DULLES

As if any more anxiety needed to grip the increasing numbers of people flying in and out of Dulles International Airport, officials have acknowledged that security there is alarmingly poor. Guards have failed to recognize pistols hidden in carry-on luggage in nearly one out of every four spot-checks conducted by airlines, and as many as 25 percent of the 9,000 identification badges issued to employees at Dulles—for access to restricted areas—cannot be accounted for. These are the findings described by an official of the Federal Aviation Administration, which is responsible for assessing security at Dulles and which earlier this year rated it "marginal." While officials note that the FAA has moved to improve security since this evaluation, clearly they've got much more to do.

As it stands, the people who screen departing passengers and baggage are employees of private security firms, and they are not required to have any formal training for their duties. There aren't any educational requirements, either. The pay is less than dazzling, with screeners starting at $3.75 an hour and working up to $4.20. Not surprisingly, the annual turnover rate is about 30 percent.

Is this any way to run a security system at an airport that has been growing faster than any U.S. airport over the past year? You're talking heavy passenger traffic, up from 3.4 million in 1984 to almost 5.1 million last year. Leaving the screen checks to a pickup crew of itinerants with no training or sense of mission is irresponsible. And even though a new identification system is being set up to replace the old one with all the missing badges, what's to ensure that the new system will be monitored any better than the old one?

As long as Dulles remains under federal control—and that could and should end this year if the House joins the Senate and the administration in support of legislation to lease Dulles and National to a regional authority—Congress should demand that security be upgraded. More training in security techniques, better pay and closer supervision are essential if the security forces are to be effective. All the sophisticated security machinery in the world isn't worth installing if no one is looking at it.

RIGHT TO LIFE COMMITTEE CONVENTION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. SMITH of New Jersey. Mr. Speaker, last week the National Right to Life Committee held its annual convention in Denver, CO. I had the privilege of addressing the 1,300 delegates to the convention on Friday, June 13. Upon concluding my remarks, I had the honor of introducing my good friend and colleague, JACK KEMP.

I found JACK KEMP's remarks to be poignant, timely, and insightful. He touched a very

responsive chord in the audience by delivering a very hopeful and compassionate message. Mr. Speaker, I share JACK KEMP's optimism that the sanctity of human life—born and unborn, healthy, unhealthy and handicapped—will once again be affirmed as a fundamental principle in our country. I recommend Mr. KEMP's remarks for my colleagues' consideration.

REMARKS BY CONGRESSMAN JACK KEMP

I thank you Chris, for that warm introduction. I thank you even more for your magnificant pro-life leadership in the U.S. House of Representatives—I am proud to be your comrade in arms.

And I am proud to be here today at this convention with all of you. You are a very special breed. I know that you have not come here to celebrate great prestige and position and power. You have not come to pay homage to the mighty.

You have come out of conscience and commitment the most simple and pure—a conscience and commitment that say our place is with the least of our brethren; our place is to protect the weak, to put the love of children first, to preserve their future at the expense of politics as usual or any other political consideration—that's why you are here.

And we are here together, you and I. Together, because of all the great questions of our time, of all the great challenges that define who we are and what we stand for, none commands greater moral authority than the preservation of innocent, human life.

It is a daunting challenge—hard, long, uphill all the way. In 1 year, we will celebrate the 200th anniversary of the American Constitution and our forefathers' solemn promise "to secure the blessings of liberty to ourselves and to posterity." But unless the Supreme Court undergoes a change of heart—or of personnel—we will commemorate that occasion of a day when young lives—precious young lives—of some 4,000 children will be destroyed by abortions across this land.

We shudder at this grisly thought. And I am deeply troubled that, in the midst of this tragic betrayal, so many eyes will not see, so many mouths will not speak.

Even as we meet, some will not appear here. Others mock your cause. Still others are trimming long-held principles to winds of higher political ambitions. And the national leadership of one political party has all but turned its back on millions of its members and the decent, noble values they hold dear.

There can be no rejoicing in all this. But nor is there reason for despair. My friends, let our message be the same to one and all. You may stand with us or you may turn away. But you will never change the belief that grips the very core of our soul; we are not going to lose this great, historic battle for human rights, we are going to win.

We are going to win because our ranks continue to grow. And our ranks continue to grow because more and more Americans understand the sanctity of life transcends any political question of right vs. left—it is a profoundly moral question of right vs. wrong.

Who can look around this room and doubt that, with your faith, with your determination, with leadership from giants like Dr. Jack Willke, right shall make might and, yes, we shall overcome.

Already we have overcome in important ways.

Thanks to you, we have a hero in the White House in President Ronald Reagan, who not only champions the right to life but appoints judges who will uphold that right.

Thanks to you, the Department of Defense has been put out of the abortion business, and abortion is no longer permitted in the Indian Health Service.

Thanks to you, we passed the Smith-Denton law prohibiting subsidized abortions under Federal employees health insurance plans. Before Smith-Denton, 17,000 abortions were performed under those insurance plans. Last year there were none.

Thanks to you, the House of Representatives has moved to stop the city government of Washington, D.C. from using any Federal or local tax dollars to pay for abortions on demand.

Thanks to you, Congress adopted the Kemp-Helms amendment prohibiting U.S. international population-planning funds from ever again being used by organizations that participate in programs of coercive abortion or involuntary sterilization.

Thanks to you, the House is with us, the Senate is moving toward us, and most States are firmly pro-life. And this week's Supreme Court decision on the Thornburgh case, while still a defeat, shows we are only 1 vote away from reversing *Roe v. Wade.* People do not change their views on abortion we are told. Well, let me tell you, every person here today deserves praise and credit, because the chief justice of the Supreme Court has changed his view on abortion.

Ultimately, this is what we seek, not just a change of law, but a change of heart. And all across America, we are seeing an important see-change in the values Americans cherish and live by.

You know about these stories; you know about the teenagers in high school; and the women at work; and the abandoned mothers in the ghettoes and barrios across America. You know how each was pushed to the edge by intense pressure and anguish as they wrestled with the most difficult decision of their lives.

Yes, you know. You know because at some moment in that dark night for each, your warm hands of generosity and compassion reached out to touch a human heart, to soothe the sorrow and dry the tears, and to restore hope and save a helpless baby's life.

You are those miracle healers. You are the ones filling the cradles of America with the gift of life for those who yearn to adopt. You are the ones, God bless you, who show that, just as there will be no limit to our vigilance against those who practice and profit from this ugly business, so there will be no limit to our tolerance, to our friendship, indeed, to our love for every woman who cries out for help—for they, too, are victims. You are showing we must not only do the right thing, we must do it the right way.

Oh, yes, ladies and gentlemen, this movement is growing, and pushing on, and winning because we are guided by the shining star of an idea far brighter and more powerful than any party or individual. Strengthened by our numbers, heartened by our courage, emboldened by the rightness of our cause, let the word go forth from this convention; the pro-life movement is no straggling army falling back in retreat; we are a fit and fearless force rising on the wings of victory—and victory shall be ours.

The longer I live—and I became a grandfather this past year—the more I am impressed by the power of ideals and ideas. Bad laws can be changed. And a law as bad as *Roe* v. *Wade* must be changed and will be changed by a superior idea.

It is the American idea, written in our Declaration of Independence, written in our Constitution—a clear and compelling truth if only we could persuade one more Supreme Court Justice to read it there. Thomas Jefferson summed up the American idea best, "The God who gave us life gave us liberty at the same time."

To Jefferson and our other Founding Fathers, human liberty is inseparably linked to human life, the values which anchor our Judeo-Christian civilization. They were filled with wonder at the miracle of man created in the image of God. And they were driven by the conviction that an infinitely loving, perfect God would never give us the blessing of life so that we may be born as slaves. We were born to be free—free to unlock all the treasures of talent that lie within each mind and spirit.

It took Americans a long time to understand the meaning and consequence of this American idea. It took us a long time to understand that, when all enjoy equal worth and dignity in the eyes of God, we cannot diminish the rights of another person—because he is a black—or diminish the rights of another person—because she is a woman—without debasing the value of life and the standard of freedom for all Americans.

And may I say, respectfully, it is taking some on the Supreme Court too long to understand that neither can we treat the unborn as something less than human, neither can we "terminate," to use that cold and clinical word, a tender, young life without debasing the value of life for all Americans.

Life and liberty—they must go hand-in-hand. It's no coincidence that we who place the highest premium on life also believe that, as President Reagan said in his second inaugural, "there are no limits to what men and women can accomplish when they are free to follow their dreams."

We so often hear America's greatness attributed to our natural resources. Yet the world is filled with places rich in resources where people live in squalor.

No, America is great because the American idea is great and the measure of our greatness is our willingness to live up to that idea—to ensure that, here at last, the richest of all resources, the human mind and spirit, will be valued at their worth and freed to achieve their potential.

Nor is it a coincidence that those who reject the American idea, those who so casually deny the right to life and liberty are also deeply pessimistic about human potential. For these modern day malthusians, the world is hopelessly overpopulated. And our future will be hopelessly gloomy as long as we permit unneeded and unwanted people to drain away dwindling resources. Each new life for them becomes a competitor whose liberty can only be purchased at the price of our own.

It was back in the 60's that the United States first veered sharply from the American idea into these blind alleys of pessimism and despair. Some of the most tragic mistakes took root in the notion that our quality of life was threatened by the birth of children. More children meant more wants, more hunger, more social instability.

Childlessness became a virtue. Large families were out. The professional population planners were in—they were the new growth industry. The Congress and the executive branch put the weight of Government

against childbirth, against growth, against the family.

Roe v. Wade was a logical conclusion to this blatantly antipeople mentality. And since 1973, we have seen the tragic results of these ideas descending like a tornado to devastate victim after victim.

Who are the victims? We see them all around us. They are the weak and powerless without a voice—babies never given a chance; the handicapped infants allowed to die—even helped along to die a little sooner; and the elderly reminded by the Governor of this State of their duty to die, like so many falling leaves in the late autumn of their years.

What has happened to America when a group, the Population Reference Bureau, attacks what it calls "the dubious goal of keeping people alive beyond their years of vigor, because of their disastrous . . . impact on society" and the Federal budget?

Other nations have slid even further down the slope of believing one person's liberty can only be purchased with another person's life. In India, during this period, whole communities were seized by the Government and forcibly sterilized—often in the most brutal conditions. In China, the policy of one couple/one child has been enforced by coercive abortion and infanticide.

As ranking minority member of the Appropriations Committee Foreign Operations Subcommittee, I have fought successfully to end U.S. funding of organizations that support programs of coercive abortion and forced sterilization. You have my assurance that I am going to continue that fight.

Tragically, and to a startling degree, the anti-natalists have succeeded. Were it not for immigration, our population would already have fallen below replacement rates. No nation can long remain a world power when its most precious resource is a perishing resource. Most of the Western World today is shrinking. Only recently have serious scholars like Allan Carlson begun asking the haunting question—"Must our children be our enemies?"

To which all of us here reply, "Never!" Our children are not our burdens, they are our hope. Our children are tomorrow's dreams and ideas and imagination. Our children are the pioneers who will unlock the secrets of the universe, harness new technologies for peace, strive to create a world free from want and bring forth long-awaited cures for dread diseases like cancer. They are the artists and poets who will make life more vivid and gentle and kind, and the faithful who will send our prayers up to Heaven in a symphony to God.

We in the pro-life movement must make this case. America has no need to fear babies; we need to love them. America needs children. Indeed, America needs more children. America needs more policies that are forthrightly pro-children, pro-family and pro-people. And so it is high time for the Federal Government to rouse itself and help America's child-full families as they renew our land with another generation of builders and darers and dreamers.

Henry Hyde, Vin Weber and I have been working with the White House on an important initiative to set out the pro-life position plainly and clearly. Together, we plan to introduce the legislation in the near future and it will have three major parts.

First, like the Helms human life statute, it will state that abortion takes the life of an unborn child. It will declare that a right to abortion is not—I repeat, is not—secured by the Constitution. It will further state that in *Roe* v. *Wade*, the Supreme Court erred in not recognizing the humanity of the unborn child.

Second, the legislation would make the Hyde amendment permanent.

Finally, the legislation would limit the use of all Federal revenues, so that abortion providers could no longer receive taxpayers' funding.

Please forgive me if I take advantage of this opportunity to appeal to you—can President Reagan count on you? Can the White House count on you? May I count on you to get this vital legislation passed this year?

And count on your support for the appointment of judges, and above all justices, who respect the sanctity of human life and traditional family values?

And your support for more pro-life members to your legislatures, to the United States House of Representatives and the Senate?

You'll have to bear with me, I'm still not finished with my appeals. I have one more, and it's the biggest yet. My friends, can we resolve, you and I, that victory for the American idea is our goal, that nothing short of victory will do, that from this day forth, we stand together for life, not just to repudiate abortion, but in the broadest possible sense to encourage the birth of more children, to foster stronger family life and to build stronger communities clear across America?

We can begin by ensuring fair treatment for those who have children; fair treatment for those who forgo added income to provide maternal child care; fair treatment for those who sacrifice to provide value-based education for their children, and, yes, fair treatment for those who adopt—that will be a victory for the American idea.

In this land where men and women came to breath free, I think it's about time we stopped allowing people to deduct the cost of abortions and started allowing people to deduct the cost of adoptions—that will be a great victory for the American idea.

Making sure that our Tax Code does not discriminate against one-earner families, does not penalize homemakers, does not transfer income away from those who care for children—that will be a victory for the American idea.

If you'll forgive me for putting my economic hat back on for a moment—some people would tell you I never take it off—I must make a point here about economic justice for families. In spite of the 1981 tax cut, family burdens are immense and growing. Ladies and gentlemen, the most overtaxed institution in America today is the American family.

That's why passage of the Senate tax bill, which would lower personal rates to 15 and 27 percent, lift 6 million low-income families onto the ladder of economic opportunity, and raise the personal exemption to $2,000 would be the beginning of an historic victory for American families.

Only a beginning, however. Because for my part, we won't see the light of true economic justice until we bring down personal rates even lower. We won't see true economic justice until we raise the personal exemption even higher to make up for the value eaten up by inflation over the years. And we won't see true economic justice until we finally summon the courage to make inflation illegal—yes, make inflation illegal with a monetary policy that makes the dollar as good as gold, so every dollar you earn and save will be worth as much in 30 years as it is today. Honest money is not just an economic issue, it is a moral issue.

But ladies and gentlemen, you of all people know the victory we seek will depend on more than a bigger G.N.P. and more dollars in our pockets, Victory will depend, above all, on the America we create from the values and traditions we carry in our hearts and live by each day.

Our children don't just grow up, our children have to be raised. It won't be good enough to develop a new generation of computers if we lose a new generation of Americans to depression, alcohol and cocaine.

It won't be good enough to put a new VCR in every classroom and living room in America, if children learn nothing about the old virtues: about the importance of faith and moral courage and square-dealing, about the importance of patriotism and personal responsibility and truthfulness—because these are the permanent things that will hold them and bind them and guide them long after today's technology has been scraped and rusted away.

And finally, it won't be good enough to coax our children to take risks and become entrepreneurs if violence stalks our streets, and our sea lanes and airways are unsafe, because unless we have courage to defend our Judeo-Christian, democratic values from the terrorists and totalitarians of this world, then peace will never be secure and we will never be truly free.

The American idea won't be easy, but it's worth everything we've got. In Whitney Houston's words, teach our children well and let them lead the way. Show them all the beauty they possess inside. Give them a sense of pride to make it easier. Let the children's laughter remind us how we used to be.

How long will it take? How long must we struggle and pray and picket and march until the American idea is victorious?

Our answer must be, as long as it takes. As long as it takes until there is no more pain and until there are no more tears;

Until red or yellow, black or white, all are precious in His and our sight;

Until those 4,000 children will not perish, but live to see the dawn of birth, and feel the joy of a mother's love;

Until they have their day in the sun, their chance to become our next George Gershwin or Jackie Robinson or Mother Teresa;

Until your commitment to life, to helping mothers and children in need, and to providing homes and care for the handicapped and the elderly is shared by *all* Americans;

Until America finally is one nation, under God, with liberty and justice for all.

Where we're going is beyond the mountain. We can't see it. But we know it's there. And know we're climbing higher and edging closer.

Ladies and gentlemen, we are in a battle for the heart and soul of this nation. And as long as there is a breath in our body and a beat in our heart, we will remember the dream. We will remember that our way must be the way of peace. But we will also remember Winston Churchill's determination in another battle, in another time—the days of peril when the British stood alone and did not flinch against the overwhelming might of their enemy.

By late October, in 1941, when Churchill returned to his old school at Harrow, he could say to those young men, the worst now is behind us; the tide will now turn; so let us learn the lesson of our valor: "Never give in, never give in, never, never, never, never—in nothing great or small, large or

petty—except to convictions of honor and good sense."

My friends, we're not giving in, we're going on, and there's no stopping us now. Thank you for having me today. God bless you for the miracles you do and for the miracle you are.

MINORITY SCIENCE CONSORTIUM HONORS CBC MEMBERS

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LELAND. Mr. Speaker, it is my pleasure to offer for the record a statement made by Jose F. Mendez, president of the Ana G. Mendez Foundation in San Juan, Puerto Rico. On May 20, 1986, President Mendez joined in honoring our colleagues, congressional Black Caucus member LOUIS STOKES and CBC-LSO associate member LINDY BOGGS for their contributions and support for a consortium agreement expanding minority youth participation in the sciences. The Mendez institutions, along with Jackson State University and the Lawrence Berkeley Laboratory are charting new horizons for education in America. We believe this program, and the remarks of President Mendez will inform and inspire the people of this nation.

The statement follows:

DR. JOSE F. MENDEZ, PRESIDENTE, FUNDACION EDUCACION ANA G. MENDEZ

Ladies and Gentlemen, thank you for joining us tonight. In the Fall of 1983 a memorandum of understanding (MOU) was signed between Jackson State University, Lawrence Berkeley Laboratory and the Ana G. Mendez University system in cooperation with the U.S. Department of Energy. At the time we knew we were writing history. A major federal laboratory, a major black university and a hispanic university system had joined together, pooling their resources to deliver educational programs of excellence. Impacting the lives of approximately 24,000 black and hispanic young people.

The consortium collaboration has become a model for the advancement of the sciences at historically black colleges and universities and other minority institutions. Its accomplishments are impressive:

INSTITUTIONAL DEVELOPMENT OF THE FOUNDATION

Bachelor degrees in chemistry and biology have been established at the University of Turabo.

A Bachelors degree in biology is being established at Metropolitan University.

Six AGMEF faculty members have been placed in Ph.D. programs in Physics, Chemistry and Biology at major universities (Notre Dame, University of Chicago, University of Puerto Rico).

Eleven faculty members are receiving Masters Degrees from Jackson State University in the field of Computer Science, in 1986.

Ten AGMF faculty have been appointed as visiting research scientists working with principal investigators at LBI.

A collaborative research program in Atmospheric Science has been established at Metropolitan University involving faculty and students from AAGMEF and LBL Scientific staff.

Curriculum Development projects funded by U.S. Department of Education, Minority Impact Science Improvement Program (MISIP) have been established at all three of our institutions.

We are updating our laboratory equipment and academic research capability through another DOE, MISIP grant of $180,000.

STUDENT PROGRAMS

Twenty-one gifted students from AGMEF have participated in research programs as research assistants at LBL during the past two summers including nine students that will go to LBL this summer.

Undergraduate students are participating in the AGMEF/LBL atmospheric science research program at Metropolitan University.

OUT REACH PROGRAMS

A comprehensive Memorandum of Understanding (MOU) has been signed between AGMEF and the Department of Education/ Puerto Rico Public Schools targeted at upgrading the science offerings for 700,000 students—Kindergarten through 12th grade.

AGMEF and P.R. Department of Education have received $335,000 for a Precollege program from Carnegie Corporation:

600 public school students will take this coming Saturday a special test developed by the College Board as applicants for the Precollege program to start this Summer.

Two high school students and four teachers from Puerto Rico will participate at LBL in its distinguished teachers program and students science awards week.

More than 34 students have been admitted to a recently established honors programs at University of Turabo.

These accomplishments, over an extremely short period of time could not have been made without our consortium relation with JSU and LBL and the dedicated efforts of our colleagues from our three consortium institutions.

I must also give special recognition to friends that have made possible the success of our consortium. I refer to:

Miriam Cruz—Our D.C. Representative.

Bill Albers—Consultant and Colleague.

Director David Shirley from LBL who has been most supportive.

Dr. Harold Wilson, Head of LBL's Office of Cooperative Education and Research.

Walter Hartsough, LBL Associate Director.

President James Hefner, Jackson State University, and his colleagues who have captured the dream and have been my strong support.

Argelia Rodriquez, Minority Impact Science Improvement Program.

Bernard Charles, Carnegie Corporation, who has become our mentor.

Mr. Alvin Trivelpiece, Department of Education.

Richard Stevens, Department of Education, another mentor for us.

Ike Sewell, Elmer Lee, and the staff of the Office of Minority Economic Impact, who have helped us to steer a clear and straight course.

And all our friends in the Congress, Federal agencies and the White House.

It is my very special pleasure to now recognize and present merit awards to several Members of Congress who have contributed greatly to the legislative process which created the consortium funding agreement. Congressman Louis Stokes of Ohio and Congresswoman Lindy Boggs of Louisiana . . . [other Members of Congress were honored].

We have taken on a difficult task and you can see that many of our dear friends have joined us in the task. Soon close to 40% of America's youth will be minority: Hispanic, Black, Asian, American Indians. We have not done a good job of moving them into the Post-Secondary Education World. For the security of our country. We must be reminded of the words of a renowned scholar who said: "The nation cannot prosper without sustained investment in science and engineering research and education in our universities."

OPTIONS FOR THE NORTHEAST/ MIDWEST REGION

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. WOLPE. Mr. Speaker, as cochair of the Northeast-Midwest Congressional Coalition with my esteemed colleague, Mr. FRANK HORTON of New York, it has been my pleasure to meet and work with private sector leaders from throughout our region who share our concern about the economic future of the older industrial States. On Tuesday we received a report from a group of these leaders on some of the major issues facing our region.

The report, entitled "Options for the Region," was prepared by the Northeast-Midwest Leadership Council, and is the result of several months work. The council, which is composed of top business, labor, and education leaders, was formed at the request of the coalition to provide regular advice and assistance to the region's elected officials.

The leadership council adds an important dimension to our efforts to ensure continued economic growth in the Northeast and Midwest. Public policies favoring economic development will be far more effective if they have the strong support of the constituencies represented by the council's members.

Under the very able chairmanship of Mr. William S. Woodside, the chairman of the American Can Co., the council established four task forces to examine issues of importance to our States. "Options for the Region" reports on the activities of the task forces, offering policy recommendations and outlining their future work plan. The four areas are:

Educational investment and its role as a job creation strategy;

New means of assuring adequate supplies of low-cost electricity;

The impact of prospective tax law changes; and

The region's infrastructure and its impact on economic growth.

I encourage members of the Northeast-Midwest Congressional Coalition, and our colleagues from other regions of the country, to read the report carefully. And on behalf of my cochair, FRANK HORTON, and all the members of the coalition, I want to express our gratitude for the hard work done by the members of the leadership council. So that we all can get a sense of the importance of this effort, I insert the letter from Bill Woodside conveying the report in the RECORD:

AMERICAN CAN CO.,
Greenwich, CT, June 16, 1986.

Hon. FRANK HORTON,
Co-chair, Northeast-Midwest Congressional Coalition, Rayburn House Office Building, Washington, DC.

Hon. HOWARD WOLPE,
Co-chair, Northeast-Midwest Congressional Coalition, Longworth House Office Building, Washington, DC.

DEAR REPRESENTATIVES HORTON AND WOLPE: I am very pleased to transmit to you the first formal report of the, Northeast-Midwest Leadership Council. This report, Options for the Region, outlines strategies for economic growth on which the region's public and private-sector leaders can have tremendous influence.

This report includes important recommendations for members of the Northeast-Midwest Congressional Coalition. Equally important, it signals a commitment by corporate, labor, and academic leaders in the older industrial states to be full partners with the Coalition in capitalizing upon the region's enormous assets. I believe this region-wide public/private partnership benefits our states greatly.

I am happy to note that members of the Leadership Council and our four task forces see this process as ongoing. Each of the task forces has defined a number of issues on which we can provide assistance over the next year.

The Leadership Council is pleased with the economic upturn the region is enjoying. Though certain sectors and geographical areas have not recovered fully, the region's future is bright. We have both the will and the means to sustain long-term economic growth, if we use our assets wisely. The attached report contains dozens of ways that we can work together to improve our already bright future prospects.

The Council believes the Northeast-Midwest organizations must redouble efforts to protect the region's educational investment. For decades, these educational institutions have given the region a great competitive advantage. However, problems exist which we cannot afford not to attack. The region's youth dropout rate is a disgrace. The education "infrastructure" of the buildings and equipment is in poor shape. Both our K-12 systems and our colleges and universities are having difficulty gaining proper funding and assuring quality teaching.

We think the educational reform movement has great meaning for the region. As our Education and Economic Development Task Force stresses, each of the above problems demand innovation. We simply cannot go on giving inadequate education to our children. We are eager to work with Coalition leaders to spur new efforts to change educational systems to better prepare the work force of the future.

Another Council task force has identified infrastructure as a continued priority for the region and developed a work plan to assist the Coalition on this issue. The Council is particularly concerned about the lack of certainty on governmental investment in public works. In many cases basic maintenance of public works systems in the region, is deferred even if such expenditures will avoid much larger costs in the future. Budget cuts and tax policy changes have made it impossible for public managers to determine the resources and investment tools they will have available.

To assist your efforts in addressing this problem, the Council plans to sponsor new Northeast-Midwest programs to rationalize infrastructure investment in the region. We need to plan better, preserve the essential federal government role, and find new means of financing necessary projects. In all these endeavors, we must remember that the condition of the region's highways, bridges, mass transit, water supply and pollution control systems are critical to our long-term economic health.

In these two projects and in our work on electricity and tax policy, we welcome our close relationship to the Northeast-Midwest Congressional Coalition. I commend this report to you and look forward to meeting with you and other Coalition leaders to discuss our efforts further.

Best regards,

WILLIAM S. WOODSIDE,
Chairman, Northeast-Midwest Leadership Council.

WHAT ARE THE SOVIETS AFRAID OF?

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. HUNTER. Mr. Speaker, I wanted to share the following article by Charles Z. Wick, the Director of the United States Information Agency, entitled "What are the Soviets Afraid Of?" Mr. Wick presents some interesting and informed opinions on why the Soviet Government strictly limits the information available to its people.

I urge my colleagues to take a moment and read Mr. Wick's statement. It explains the challenges information poses to the entire Soviet system and offers some ideas on increasing the flow of information for the Soviet people. I think it will prove illuminating and I hope they can find the time to consider Mr. Wick's thoughts.

WHAT ARE THE SOVIETS AFRAID OF?

(By Charles Z. Wick)

Why do the Soviets continue to jam the Voice of America (VOA) and other broadcasts—a right supposedly guaranteed by international convention to which the Soviets are signatories? What is Moscow afraid of?

Why not permit our Russian language broadcasts to reach the people of the Soviet Union? After all, jamming violates international law and costs the USSR valuable resources, including money and some 15,000 technicians at 2,000 jamming stations. The Soviets spend more on jamming our broadcasts than we spend to transmit them. Last fall, a senior engineer at the BBC estimated the jamming cost to the Soviet economy each year at no less than $750 million and perhaps as high as $1.2 billion.

Does the Soviet regime fear subversion? We don't use disinformation to tell the American story. We are not trying to subvert the Soviet government, to overthrow it by force or other means. We go to great lengths to avoid the taint of partisan reporting, if for no other reason than this would violate the congressionally-endorsed Charter of the Voice of America and would be unacceptable to Americans as contrary to our principles and values.

Why then do the Soviets spend and spend to block out information available to the rest of the world? Surely not just to break international law! I asked these questions when I met recently with Leonid Zamyatin in Moscow. Mr. Zamyatin was then chief of the International Information Section of the Central Committee of the Soviet Communist Party, as well as a member of the powerful Central Committee.

His response: The Soviet government does not want its citizens wasting valuable time deciding what broadcasts are worthy of their attention. Mr. Zamyatin was saying in essence: Why should our citizens listen to VOA telling the Afghanistan story when they can learn all we want them to know in the Soviet media; why hear bad news about the Soviet ruling class? Apparently, Mr. Zamyatin desires censorship on the theory that what people don't know won't hurt them—or the Soviet government.

Mr. Zamyatin's view is that the Soviet government is not interested in allowing its citizens to sit by their receivers and make their own decisions.

On the other hand, this well-placed and powerful member of the party elite admitted to me that he listened to (unjammed) VOA broadcasts in English. What he did not say—what he could not say—was that VOA is a principal source of honest, objective news to him and most other Soviet officials. It provides some of the same news and information denied by jamming to the majority of the Soviet Union's ordinary citizens who do not understand English.

Anyone who finds this sort of no-information policy and disinformation difficult to believe should look at the historical record.

On November 10, 1917, the Soviets officially limited freedom of the press. It was to be a "temporary" measure, but is still in effect with even more rigid controls almost 70 years later.

At the fourth Communist Party Congress in March, 1918, a man cried out complaining that "our newspapers have been closed." Lenin responded by saying: "of course, but unfortunately, not all of them. Soon they will all be closed . . . (and we) will wipe out the shameful purveying of bourgeois opium." Much more communication control followed.

In 1950 the Soviets jammed the BBC on the grounds it was filled with "lies." At the time, Soviet Ambassador Andrei Vyshinski responded to the criticism of the blackout by saying that it was necessary because the Russian people were becoming "upset" by the broadcasts.

Then came "detente" with some relaxation of jamming which allowed more information to flow.

But with the Soviet invasion and occupation of Afghanistan, Soviet jamming came back with renewed power. Today, their static bars the ordinary Soviet citizen from listening to the news of death and destruction in Afghanistan—on not only VOA, but Radio Liberty and the BBC. And there is only selectively released news of Afghanistan in the Soviet media. It is the electronic Bear which takes a terrible bite from the truth.

Soviet jamming is the most onerous evidence of the larger effort by the USSR to control communication. Television is a powerful medium in American society. And it is not lost on the Soviet party leaders that television has potentially the same kind of impact and influence in the Soviet Union as it does in the United States. But in the Soviet Union, the Communist party is the only sponsor and the only network, and the programs only carry the party line. It is essentially a closed circuit with limited access, by invitation only. What a contrast with the

access the Soviets and others have to the diverse media outlets in the United States!

Since Geneva, some communication exchanges have occurred. The President and the General Secretary talked directly to each other's citizens on television, with resulting radio and print commentary, the first time since 1972. For our part, we continue to offer the Soviet audiences—through USIA's international print, broadcast and television services—people who can discuss and debate issues concerning American policy, our society and institutions, and our fundamental beliefs and values. All that is needed is a positive response from the Soviet leadership to create meaningful dialogue.

Certainly, exchanges in the fields of culture, education, science and technology, as outlined in our agreement signed last November 21 in Geneva, are important. These exchanges, along with our exhibits program and presentations by performing artists, are essential to fulfillment of the agreement. They help to further a dialogue between numerous people in both nations.

Since November, a great deal has been written and commented on what some have termed, the "Spirit of Geneva," implying a lessening of tensions, of more friendly relations between the U.S. and the USSR. Of course, that appeals to millions of Americans who desire arms reductions, a more constructive relationship, and more peaceful world.

But "spirits" are elusive and ephemeral. Ultimately, they drift away and dissipate unless we give them form or create substance from them.

The Soviet government prevents its citizens from having access to divergent opinion and uncensored news because it fears the effect of an informed public opinion on its ability to maintain power.

These Soviet bureaucrats know that information produces knowledge; that knowledge produces ideas; and that ideas often have consequences regimes cannot control. Therefore, they are afraid.

At the summit meeting between President Reagan and General Secretary Gorbachev, it was evident that both countries could advance the cause of the world peace by better understanding of the issues by the people of both countries. If the Soviets will turn off the jammers and allow the people to hear the news and views from elsewhere, it would go a long way towards removing the doubt and mistrust that now exists. In addition, the Soviets will save an estimated $750 million a year, or more.

Until they face up to their fears, and force themselves to allow their citizens a basic right guaranteed by international law, we can only remain hopeful—not optimistic—about meaningful exchange and better understanding.

A CONGRESSIONAL SALUTE TO LEN M. THORELL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Len M. Thorell, a distinguished business and community leader in my district, who will be the recipient of the National Management Associations' Gold Knight Award. Mr. Thorell is the vice president and general manager of Todd Pacific Shipyards Corp.'s Los Angeles Division.

A native of Stratford, CT, Len Thorell received a bachelor's degree in mechanical engineering from the University of Bridgeport in 1951. Following a year at Portsmouth Naval Shipyard as a piping system engineer, he attended Officer's Candidate School at Newport, RI, and was commissioned in March 1953. His tour of duty included planning and estimating officer at the Office of the Supervisor of Shipbuilding, U.S. Navy in Groton, CT, and submarine squadron communications officer on board the U.S.S. *Orion*.

Following his service in the Navy, Len Thorell joined General Dynamics and served in various engineering and management positions at their Electric Boat Division, their Washington, DC, office, and at the Quincy Shipbuilding Division. In July 1978, Len joined the Los Angeles Division of Todd Pacific Shipyards Corp. as manager of engineering. In January 1981 he was appointed assistant general manager-technical and by July 1981 he assumed his present position as vice president and general manager of the Los Angeles Division.

Mr. Thorell maintains a high level of professional awareness regarding innovative technical developments in the maritime industry. His fine work over the years, and his expertise in shipbuilding, have earned him the respect of the Navy, commercial shipbuilders, maritime leaders, many of my colleagues in the House, and numerous Senators. Len Thorell is truly a well respected expert in both management and shipbuilding.

In addition to his fine professional work, Mr. Thorell is active with a large number of professional associations, and devotes time to community activities. Among the professional organizations of which he is a member, are the Society of Naval Architects and Marine Engineers, the American Society of Naval Engineers, the Navy League of the United States, and the Society of Port Engineers, Los Angeles-Long Beach. He is on the Board of Governors of the Propeller Club of the United States-Port of Los Angeles-Long Beach, and a director of the Western Shipbuilding Association. His community activities, which are too numerous to list, include membership in the Chambers of Commerce of San Pedro, Long Beach, and Los Angeles; service as a director of the San Pedro Peninsula Hospital, and the Catholic Social Services of Long Beach, and membership on the Department of Mechanical Engineering Advisory Council of the California State University-Long Beach, and the advisory board for the Southern California Ocean Studies Consortium. Clearly, Len Thorell has been a positive force in improving the quality of life in the South Bay area of Los Angeles.

It is with great pride that my wife, Lee, joins me in congratulating Len M. Thorell on this auspicious occasion, and in wishing Len M. Thorell, his wife, Marilyn, and their children—Susan, Lennie and Caren, continued success and all the best in the years ahead.

ELECTRIC UTILITIES AND POWER COGENERATION

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. BRYANT. Mr. Speaker, during the first session of this 99th Congress, legislation was enacted allowing three registered gas utility holding companies to participate in cogeneration activities. Because different constraints exist for registered electric utility holding companies, relief from the restrictions of the Public Utility Holding Company Act of 1935 was not sought at that time for electric utilities.

Legislation I am introducing today will grant relief to the registered electric utility holding companies to enable them to engage in cogeneration activities outside their normal service area, just as gas utility holding companies are now able to. Under existing law, electric utilities are permitted to invest in qualifying cogeneration facilities within their service area, as this is considered to be functionally related to their utility business. They are, however, currently prevented from investing in cogeneration facilities located outside the geographic boundries of their service areas, as this activity is not deemed to be functionally related to their power generation business.

By eliminating geographic restrictions presently imposed on electric utility holding companies, this legislation will assist energy-intensive basic industries and reduce our national reliance on imported energy, a goal particularly important in view of the current oil and gas crisis. Cogeneration is an extremely efficient means of generating power, and, by allowing electric utility holding companies to join gas utility holding companies in cogeneration endeavors, utilities bring their generating expertise as well as financial interests to ensure the success of the venture.

It is not my intention to release the electric utility holding company from regulation by the Securities and Exchange Commission with respect to the acquisition of securities, assets or other interests. The electric holding companies would also be subject to continued restrictions on intercompany loans and intercompany transactions as well as regular reporting and recordkeeping. No regulatory authority of the SEC is subject to change by my legislation; therefore the SEC retains the ability to prohibit any cogeneration activity it deems not in the public interest or not within the scope of the holding company system.

I commend this legislation to my colleagues' attention and welcome their support. Passage of this proposal will be a significant step toward continued energy independence and self sufficiency.

ASPARTAME CONSUMPTION AND SEIZURES

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. COELHO. Mr. Speaker, in April, the Washington Post published an article reporting allegations of a link between aspartame (marketed and popularly known as Nutra-Sweet) consumption and seizures.

These allegations—the result of a study by one doctor—run contrary to the findings in the scientific community. As one who has epilepsy, I would like to dispel the unnecessary concern about aspartame consumption. In an effort to do this, I would like to share with my colleagues the most recent published statement by the Epilepsy Foundation of America. This statement is as follows: "After study and review of available scientific reports, the Client Services Committee of the Epilepsy Foundation of America's Professional Advisory Board has concluded that at present, there is insufficient evidence to suggest that aspartame, a sugar substitute, should not be used by people with epilepsy."

In addition, I would like to share with my colleagues a letter which was written in response to the Washington Post article by the Epilepsy Institute in New York.

THE EPILEPSY INSTITUTE,
New York, NY, April 30, 1986.

HEALTH SECTION,
Washington Post, Washington, DC.

DEAR EDITOR: The story in the April 23 Health Section of the Post reporting allegations of a link between aspartame consumption and seizures unnecessarily raises deep concern, anxiety and undue fear for over 2½ million Americans with epilepsy. This is especially true of that portion of the epilepsy population (about 50%) that, through the use of medication, is seizure free.

As an organization devoted to people with seizure related problems, we are the Epilepsy Institute have evaluated the current scientific evidence and found espartame to be safe for people with epilepsy. Aspertame contains two amino acids found naturally in all protein-containing foods from meats to vegetables to milk. People consume these ingredients every day.

Allegations made by Dr. Richard Wurtman of Massachusetts Institute of Technology are not based on any scientific studies; they are based on anecdotal reports made by individuals who believe their experience may be linked to aspartame consumption.

Collectively, the members of the Professional Advisory Board of the Epilepsy Institute looked at the seizure activity of our patients, many of whom consume aspartame regularly, and saw no change over the past three years. At the Epilepsy Institute, where there are 5,000 client visits a year, there have been no reports of change in seizure patterns.

The Center for Disease Control Investigated nine anecdotal reports of seizures during its investigation of some 500 consumer complaints relating to aspartame. The CDC concluded that it "could not find convincing evidence that any of the documented seizures had a high probability of being due to aspartame-containing-products." Also, the American Medical Association, The United Kingdom Committee on Toxicology of Chemicals in Foods, the Scientific Committee for Food of the European Economic Communities and the Canadian Health Protection Branch have all affirmed the safety of aspartame for the general population.

At the Epilepsy Institute, we certainly want to evaluate carefully any allegation relating to the health of our patients. However, the only scientific way to do so is through controlled clinical studies, such as those now under way at Yale University and Mt. Sinai Hospital. For scientists to needlessly alarm the public without any scientific evidence would be irresponsible.

Sincerely,

REINA BERNER,
RICHARD REUBEN, MD.

H.R. 5062, DISLOCATED FARMER TRAINING AMENDMENTS OF 1986

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. GUNDERSON. Mr. Speaker, today, I am introducing a bill to amend the Job Training Partnership Act [JTPA] for the purposes of: Encouraging increased participation and delivery of services to dislocated farmers and ranchers under the act; improving existing data collection methods to more accurately account for rural and particularly farming community employment and unemployment statistics; and focusing more emphasis within the act on the problems and special needs of rural communities that can be met through programs authorized under JTPA. I am pleased to be joined in original cosponsorship of these amendments by Mr. LIGHTFOOT of Iowa and 20 other of my distinguished colleagues, who share a strong support for this and other measures aimed at meeting the needs of our Nation's farmers.

Since 1982, JTPA has served as the cornerstone of the Federal Government's efforts to provide employment and training assistance to economically disadvantaged adults and youth, and to workers who have been displaced from their jobs. While programs under JTPA can serve only a portion of those who are eligible for services, these programs are working well throughout the country, due in large part to the partnership that was established under the act between Federal and State governments, local officials and the private sector. However, there are still a number of problems within the act for which fine-tuning changes may be in order to make JTPA more responsive to all populations that it is designed to serve.

One such area of concern which would be addressed, at least in part through enactment of these amendments, is the concern that up until now, much of JTPA's thrust has been geared toward urban, industrial needs rather than focusing on the needs of rural communities. This of course has resulted from efforts to target assistance to those areas in which the highest concentrations of unemployed and economically disadvantaged individuals reside. And, it is understandable that we should make every effort possible to address the needs of those residents of our urban centers. However, at the same time, we must take care not to overlook rural America, its special problems and inherent needs that must also be addressed through Federal employment and training programs.

A situation which has heightened awareness that increased efforts must be made in meeting rural employment and training needs in recent years, has been the movement of growing numbers of farmers out of farming into other areas of employment. When enacted in 1982, the farm crisis had not yet risen to the proportion that it has today. Therefore, the need to address the problems of dislocated farmers was not specifically addressed in the statute. Since that time, last year in fact, the Department of Labor did issue regulations that have allowed distressed farmers to participate in programs under JTPA—and the Department should be highly commended for allowing States the flexibility to serve eligible farmers under both the title II–A and title III programs. Further, under the Secretary's discretionary fund, found in title III of JTPA, the Secretary of Labor has awarded over $5 million to date in grants to nine States, including Wisconsin, for dislocated farmer employment and training programs, which has benefited many in making the transition to alternative employment. However, even with this special consideration by the Department of Labor, many States and service delivery areas, particularly those with high concentrations of distressed farmers, continue to experience difficulties in identifying and serving this population.

While numbers vary, agricultural economists calculate that at least 100,000 farmers—roughly 5 percent of the Nation's 2.2 million—found themselves unable to finance their 1986 crop planting this spring. Other figures estimate that at least 200,000 farmers—or 12 percent of the total number—are close to insolvency. Over the 32-year period from 1950 to 1982, the United States experienced a trend in the agricultural sector that resulted in a decrease of approximately 3,147,461 farms nationally, or a decline of 58.4 percent. During that same period, Wisconsin also saw a decline of nearly 86,362 farms, or 51.2 percent. But, it should be noted that this trend has not been all negative. In fact, this decline in farming in many instances was a natural, positive move for many, who for various reasons saw better opportunities outside of agriculture. However, over this time there have been periods, especially in the past several years, in which this decline in farming has been accelerated by outside economic pressures which have resulted in a number of farm operators being forced to liquidate their holdings who wanted to stay in farming, but had no alternatives. These are the people that we want to help in this and other programs aimed at assisting the dislocated farmer. We cannot pretend that these problems do not exist and we must not turn our backs on those farmers who have decided or have been forced to leave farming in search of alternative occupations and sources of income.

For most who have to make this move into another occupation, it is an extremely difficult transition and one in which the majority will need some form of assistance. It is in the Na-

tion's best interest to fully recognize the needs of these dislocated farmers and to see that our Federal employment and training programs assist them in moving back into the mainstream of the economy. However, providing this assistance can prove to be a very difficult and frustrating task.

PROBLEMS ENCOUNTERED IN SERVING DISLOCATED FARMERS UNDER JTPA

Although their employment and training needs are very similar to those who have lost their jobs through plant closings and layoffs, the overall situation of the dislocated farmer is vastly different from that of the dislocated industrial worker.

First, one of the biggest problems facing farm States and particularly local service delivery areas [SDA's] is that of simply identifying and reaching those eligible farmers who would benefit from the available programs. As opposed to the dislocated industrial worker who has a definite date of termination or at least of notification of that termination, the dislocated farmer has no such point in time at which he or she can be easily determined eligible for services under JTPA. To complicate this problem, many farmers in need of transitional services offered under JTPA are reluctant to seek government assistance or to formally admit to the fact that they must leave farming. Finally, lack of information, particularly due to rural isolation, has resulted in many displaced farmers not knowing about potential assistance. For these reasons, it is of utmost importance that effective outreach networks be established in areas with high concentrations of distressed farmers, not only to get the word out about the availability of transitional assistance, but to encourage them to come in and talk to program counselors and administrators, and if found eligible for services, to encourage their participation in the programs. Further, it is very important that effective linkages be made to improve coordination between employment and training, educational, social service, community health and mental health, and agricultural agencies, such as local extension offices, to provide information on availability of services to eligible farmers and to avoid needless duplication of these services.

A second major problem that continues to face SDA's in addressing the needs of this population is the inability to intervene quickly enough to help farmers making the transition to other occupations less painful. Early intervention is of particular importance to the distressed farmer, especially since he or she is not eligible for unemployment insurance as are most other dislocated workers. As mentioned above, industrial workers under the Dislocated Worker Program are eligible for services upon notification that their job will be terminated, even if this notice comes 6 months or a year in advance. Farmers have no such official notification. There are certainly many signals that warn of impending farm closures; however, these are not formally recognized in the statute. While the Department of Labor has allowed States the flexibility to define "dislocated farmers" for eligibility under the Dislocated Worker Program, title III—and several States such as Wisconsin, Iowa, and Minnesota have provided definitions that do allow for earlier intervention than would otherwise be possible—these definitions vary significantly from State to State, with many States still fearing to be too liberal in their interpretation of the statute without increased Federal guidance.

This brings us to the third, and possibly most difficult, problem confronting SDA's in serving displaced farmers—that of actually determining their eligibility under both the title II–A and title III programs. Income records and expense reports are very complicated for farm operators which make it a very frustrating and time-consuming process to determine eligibility. As noted above, lack of a uniform policy by which to determine eligibility under title III has resulted in some farmers being declared ineligible for services until they have been foreclosed upon or until they have filed for bankruptcy.

Under title II–A programs for disadvantaged adults and youth, program participation is based on the participants' being determined as "economically disadvantaged." While many farmers should be able to qualify for job search, support services and job training assistance under this program, eligibility is determined on program applicants' previous 6 months income prior to applying for participation. For many farmers this 6-month "look-back" does not fairly reflect their true income for the whole year. Further, most farm operators determine their income levels only once a year for income tax purposes; therefore the 6-month provision currently in the act does not realistically reflect the economic status of the distressed farmer, as would a 12-month review. And then comes in the question of whether or not the selling off of farm assets should be counted as income when determining program eligibility.

Finally, not only farming communities, but rural communities in general, nationwide, face certain obstacles in the implementation of programs under JTPA which need to be addressed. First, there is shared concern that rural underrepresentation in employment and unemployment data directly affects formulas by which program moneys are distributed under JTPA as well as other major programs. Second, the special problems and needs inherent to rural communities at times seem to be overlooked by many major Federal programs, including JTPA. We must do more at the Federal level to ensure the effectiveness of our employment and training programs in rural communities, which includes the need to study and encourage employment generating activities within these areas in order that residents of these communities are not forced to leave in search of work.

WHAT EXACTLY DOES THIS BILL DO TO ADDRESS THE PROBLEMS ASSOCIATED WITH SERVING THE DISLOCATED FARMER UNDER JTPA?

PROGRAM ELIGIBILITY

To address the problems encountered by dislocated farmers in determining eligibility for participation in programs under JTPA, our bill would make several changes in current law.

To ease participation criteria for farmers under title II–A, the Basic Grant Program, this bill would amend the current definition of "economically disadvantaged" to allow for consideration of the previous 12 months' rather than the previous 6 months' income for determining eligibility. This should reflect more realistically the true economic circumstances of the financially distressed farmer. Further, these amendments would exclude the counting of any liquidation proceeds from family income when determining income eligibility for programs under JTPA, when such proceeds result from a sale of farm or business assets of that family resulting from voluntary or involuntary foreclosure, forfeiture, or bankruptcy. Finally under II–A programs, currently 10 percent of participants may be individuals who are not determined as being economically disadvantaged, but who experience barriers to employment due to other factors. Our bill amends this section of the act to include those individuals for participation who, due to rural residence, are geographically isolated, thus experiencing barriers to employment.

To address the problems associated with determining eligibility for displaced farmers and self-employed individuals under title III, these amendments clarify that self-employed individuals are eligible for participation under the Dislocated Worker Program if they are or will become unemployed due to general economic conditions in the community or because of natural disasters. Further, in order to encourage early intervention for dislocated farmers, this bill specifies that States may determine farmers eligible for participation under title III if the farmer certifies that the farm operations will terminate because of circumstances which may include one or more of the following events: First, the issuance of notice of foreclosure or intent to foreclose; second, the failure of the farm to return a profit during the preceding 12 months; third, the entry of the farmer into bankruptcy proceedings; fourth, the failure or inability of the farmer to obtain capital necessary to continue operations; fifth, the failure or inability of the farmer to make payments on loans secured by the farm premises; or sixth, the farmer's total debts exceed 70 percent of total farm assets. These criteria on which States may base eligibility determinations are not meant to be all-inclusive, they are simply meant to provide States with the guidance needed to intervene quickly, allowing assistance for farmers who are in the process of leaving farming, similar to that allowed to workers who have received notice of future job loss.

DATA COLLECTION

In order to adequately identify those farmers and ranchers who would qualify for assistance under JTPA, this bill amends title IV of JTPA, the Cooperative Labor Market Information Program, to require the Secretary of Labor to develop a means by which statistical data relating to permanent dislocation of farmers and ranchers can be collected and directs the Department to collect such data. Included in this information is to be the identification of: The number of farm and ranch failures; the number of farmers and ranchers dislocated, including farm spouses dislocated; the location of the affected farms and ranches; the types of farms and ranches involved; and if available, the causes for such failures. The Secretary would then be directed to publish a report based upon this data, including a comparison of these findings with data currently used by the Bureau of Labor Statistics in determining the Nation's annual employment and

unemployment rates and an analysis of whether or not farmers and ranchers are being adequately accounted for in such employment statistics. This amendment is intended to formally identify, for the first time at the Federal level, those farmers and ranchers who are being forced out farming and who will be in need of transitional assistance. Further, it addresses the concern that rural underrepresentation is occurring in current unemployment statistics. A similar provision is also provided in the bill to encourage at the State level that the Governor's coordination and special services activities include, where appropriate, collection and dissemination of information on the number of permanent farmer dislocations, on both a State and local basis, to service delivery areas.

NATIONAL ACTIVITIES AND STUDIES

In order to fully understand and meet the special needs of rural communities in the future under JTPA, the bill calls for a number of studies to be conducted by both the Department of Labor [DOL] and the National Commission on Employment Policy [NCEP]. The bill requests that the DOL and NCEP conduct studies that would evaluate JTPA's current effectiveness in rural America, particularly evaluating rural needs for economic development and employment generating activities. The amendments would further require that the problems associated with serving the displaced farmer and eligible family members under current employment and training programs be identified and assessed, and that recommendations be made to Congress on how best to effectively serve this population in the future. Our measure further requires, that both the Department of Labor and the National Commission on Employment Policy examine current Federal coordination efforts between the Departments of Labor, Education, Health and Human Services, Commerce, and Agriculture in administration of Federal employment and training programs, and make recommendations on how to improve such coordination at the national level.

Because program coordination is so important to overall effectiveness of JTPA and particularly in its service to rural and farming communities, requirements are made throughout the bill that are aimed at increasing coordination efforts between Federal, State, and local employment, training, educational, social service, and agricultural agencies.

While this bill does not address all problems associated with serving displaced farmers—it does provide States with increased Federal guidance in serving the needs of rural and farming communities, without taking away necessary flexibility.

We see these amendments as a first step in addressing the needs of those farmers who have decided or are being forced to make the difficult transition to an alternative workplace. The Dislocated Farmer Training Amendments of 1986 simply amend current statute. The bill requires no new spending. While other measures have been proposed and certainly would be desirable that would provide additional money for employment and training assistance to farmers and workers in such need, in light of our budget deficit problems, it makes much more sense to update current programs at this time, such as we have done here today. Hopefully in the future we will be in a better position to provide additional funding for these types of services. I appreciate the cosponsorship and support of my colleagues for this legislation, and I invite Members on both sides of the aisle to join us in support of this bill.

ACID RAIN—WE HAVE FOUND THE DISEASE, IT IS NOW TIME TO UTILIZE THE CURE

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. McGRATH. Mr. Speaker, it is now time to rid America of one of its most dangerous, man-made, environmental concerns. Over the last 30 years, thousands of lakes, streams and other water ways throughout the Northeast and Canada have been put on the endangered species list. In the Adirondack Mountain region of New York State alone, nearly 200 lakes have lost all aquatic life and over 300 more are slated for the same fate.

Acid rain, the deadly fallout of sulfur and nitrogen compounds from the sky is a tremendous threat to areas as far West and South as California and Florida. Recently, a bilateral study commission of American and Canadian officials called for the United States Government and industry to undertake a 5-year, $5 billion program to test cleaner methods of burning coal in factories and powerplants. While the White House at first questioned these findings, a recent summit involving the President and Canadian Prime Minister Brian Mulroney encouraged the administration to acknowledge this report and concede that acid rain is a manmade problem. This was a critical step in solving the effects of acid rain on our Nation.

However, it was the House of Representatives who has made the largest push for the control, and future elimination, of the acid rain problem. Through H.R. 4567, the House has carefully formulated legislation to control acid rain by sharply reducing air pollutants from coal-fired boilers and motor vehicles.

Under the measure users of coal-fired boilers would have to reduce their sulfur emissions by as much as 10 million tons over the next decade. Sulfur emissions are believed to be the primary cause of acid rain. The bill also calls for reductions in nitrogen oxide emissions from cars and trucks, another potential cause of acid rain, according to a schedule planned by the Environmental Protection Agency. The measure also spells out cuts for industrial emissions, and gives the States discretion in how to achieve these reductions. The proposal also includes a mechanism that would cushion utility customers from sharp electric rate increases.

I believe this is a very comprehensive bill in an attempt to make significant headway to end the ecological nightmare of dead lakes and defoliated forests. The legislation is the result of reasonable compromises between the concerns of industry and protection of the environment.

Although some feel that acid rain is not yet a critical problem, we do know that where acid rain occurs there is environmental damage. With H.R. 4567, steps are now being taken to ensure the well-being of our country, forests and streams. I urge my colleagues on the Energy and Commerce Committee to expedite action on this bill and work for its passage.

MORE SOVIET ARMS FOR SALVADORAN GUERRILLAS?

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. COURTER. Mr. Speaker, the following newsstory deserves the attention of the House and requires no introduction or comment from me. I ask that it be included in today's RECORD.

[From the Philadelphia Inquirer, June 19, 1986]

PANAMA DETAINS SHIP CARRYING SOVIET ARMS

PANAMA CITY, PANAMA.—A Danish ship was being detained for carrying 200 tons of undeclared Soviet-made weapons, ammunition, trucks and other military equipment through the Panama Canal, authorities said yesterday.

The authorities said the 400-ton Pia Vesta was detained Saturday in Balboa, the port at the canal's Pacific entrance, after an inspection showed that the cargo was not what was listed on the ship's manifest.

The Pia Vesta's captain, Johannes Christiansen, 47, and the seven crew members were being held for questioning, the authorities' statement said. It said six of the crewman were Danish, and one Indonesian.

The authorities would not say where the military equipment was being shipped. But La Estrella de Panama, an independent newspaper that often reflects government views, said that it was destined for leftist guerrillas in El Salvador.

Guerrillas of the Farabundo Marti National Liberation Front have been fighting for power in El Salvador for 6½ years. The newspaper did not say where it got the information about the destination of the equipment.

The Register of Ships lists the Pia Vesta as belonging to Jorgen Jensen of Denmark. Danish authorities have accused Jensen of illegally carrying weapons to the government of South Africa in 1981 and 1982. That case is expected to come up in a Danish court later this summer.

Denmark's consul in Panama City, Sven-Olov Ruben Fahlgren, said in an interview with Danish national radio that the ship's representative said the cargo was picked up in Rostock, East Germany.

East Germany is an ally of the Soviet Union, which supplies arms to Nicaragua.

News reports in Panama said the Pia Vesta went through the Panama Canal, went down to Peruvian territorial waters without going to port, then changed course and again made for Balboa, where it was detained.

The reports said Peruvian authorities has tipped Panama that the ship carried suspicious cargo.

The Panamanian government statement said the Pia Vesta's undeclared cargo includ-

ing machine guns, rocket launchers and ammunition.

"It has 200 tons of military equipment," Fahlgren said in the radio interview.

DISLOCATED FARMER TRAINING AMENDMENTS OF 1986

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. PETRI. Mr. Speaker, displaced farmers should receive the same Federal job training assistance as other displaced workers under the Job Training Partnership Act. Under current law, however, farmers are often overlooked because the trigger for assistance is notice of job termination or layoff. But farmers do not receive this type of advance notice when their farm is going under.

Today, I am joining the gentleman from Wisconsin [Mr. GUNDERSON] in introducing legislation extending this trigger to include notice of farm foreclosure and other advance indicators of agricultural job termination. Rural unemployment deserves the same attention as urban unemployment. I urge the Education and Labor Committee to include our proposal in pending revisions of the Job Training Partnership Act.

TRIBUTE TO JOAN CAMPBELL

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. SABO. Mr. Speaker, it is a great honor for me to pay tribute today to Joan M. Campbell of Minneapolis on the occasion of her 50th birthday. Joan has distinguished herself as a political and civic leader both in my own congressional district and throughout Minnesota's Twin Cities metropolitan area.

In 1972 Joan Campbell became the first woman to chair the Democratic-Farmer-Labor Party organization in Minnesota's Fifth Congressional District. She served three terms in that office.

During her years of party service, Joan earned a well-deserved reputation as a good-humored, evenhanded, and judicious leader who got things done. To this day, she is often called on to chair meetings where the anticipation of tensions are especially high.

Joan is currently serving in her 13th year as a member of the metropolitan Council of the Twin Cities. She was appointed to that post in 1973 and subsequently reappointed by three successive Minnesota Governors—not all of whom were affiliated with her political party.

As a professional nurse at the University of Minnesota Hospitals, Joan has combined her professional background and expertise with her political astuteness to become a leading advocate of health and human service programs in the Twin Cities metropolitan area. For many years she has chaired the council committee responsible for these program areas.

To recognize her invaluable service to the people of Minnesota, many of Joan's friends will be honoring her formally tonight at a dinner in Minneapolis. I join them in thanking Joan Campbell for all that she has meant to us and in wishing her the best in the years ahead.

TRIBUTE TO DR. AND MRS. WILBUR WEIR

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. TORRICELLI. Mr. Speaker, I rise today to honor Dr. and Mrs. Wilbur Weir. On June 21, they will be the guests of honor at the American Academy Alumni Association of New York's annual dinner.

Dr. and Mrs. Weir have dedicated countless hours in service to the youth of Cyprus. With his wife Elizabeth, Dr. Weir guided the American Academy through several decades of change and along the way accumulated a string of accomplishments.

Dr. Weir came to Cyprus upon graduation from Geneva College in Beaver Falls, PA, in 1916. He left Cyprus after 3 years, only to return after obtaining a master's degree at Princeton University. Except for intervals in the United States, during which time he earned an Ed.D. degree from Teachers College at Columbia University, Dr. Weir served as headmaster of the American Academy until his retirement in 1961.

Wilbur and Elizabeth Weir have touched hundreds of lives while dedicating themselves to the true spirit of education. They have provided inspiration and encouragement to countless Cypriot youth. Their spirit and dedication deserve to be recorded in history as part of the CONGRESSIONAL RECORD.

It is with great honor and pleasure that I join with so many alumni of the American Academy in paying tribute to Dr. and Mrs. Weir. I wish them continued health and happiness in the many more productive years to come.

CONGRESSIONAL SALUTE TO DAVID K. MURPHY

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. MATSUI. Mr. Speaker, I would like to call to the attention of my colleagues in the U.S. House of Representatives a well deserved honor that will be conferred upon one of my closest personal friends and constituents, Mr. David K. Murphy of Sacramento, CA.

Tonight, Mr. Murphy will receive the prestigious Distinguished Santa Claran Award from the University of California at Santa Clara Alumni Association for his many years of community service and outstanding achievement since graduating from this institution of higher learning in 1965.

Over the years, Dave has emerged as one of Sacramento's most prominent community and business leaders. President since 1979 of one of Sacramento's leading independent insurance companies, Pickett-Rotholz & Murphy, Dave has devoted thousands of hours of volunteer time in a variety of capacities to assist in the activities of numerous Sacramento civic clubs and service organizations.

I can say without hesitation that he has one of the finest records of community service—a fitting tribute to his drive, dedication and caring for the quality of life of the Sacramento metropolitan area. He has served as president of the Active 20–30 Club of Sacramento, Junior Achievement of Sacramento, Camellia Festival Association and as an officer in numerous other local service and civic organizations, including the Sacramento Young Men's Christian Association, the Rotary Club of Sacramento, the Sacramento Metropolitan Chamber of Commerce, and the Independent Insurance Agents Association of Sacramento.

His vivacious spirit, professional composure, and warm friendship have served as an inspiration to all of his family, friends, and colleagues. I can think of no other individual who is more deserving of this demonstration of appreciation and commendation.

Mr. Speaker, on behalf of the people of Sacramento and my colleagues in the House, I would like to extend my best wishes and sincere congratulations to Dave and his wife, Susan, and the rest of his family on the occasion of his selection as recipient of the Distinguished Santa Claran Award.

THE ACID DEPOSITION CONTROL ACT OF 1986

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. GILMAN. Mr. Speaker, I would like to commend the gentleman from New York [Mr. BOEHLERT], the gentleman from Iowa [Mr. TAUKE], and the gentleman from California [Mr. WAXMAN] for the leadership they provided in fashioning H.R. 4567, the Acid Deposition Control Act of 1986. As a member of the 92 Group Task Force on Acid Rain, which Representative BOEHLERT headed, I can state with certainty that this measure was designed to address a pressing environmental problem in a bipartisan manner. I would also like to commend the members of the Subcommittee on Health and the Environment for recognizing this and reporting H.R. 4567 out of their subcommittee so expeditiously.

It is hoped that H.R. 4567 clears the legislative hurdles it still faces just as smoothly, because Federal action is clearly needed to help curb the acid rain problem. According to a report recently released by the Hudson River Keeper and Fisherman's Association, acid rain is a definite and significant contributor to the increased acidic levels of the beautiful ponds and lakes of Harriman State Park, which lies within my congressional district. Countless other studies link acid rain to similar damage to lakes and forests throughout the Northeast. The acid rain problem is spreading quickly to other sectors of our country. Despite contentions from some that we need to further study the acid rain problem, the evidence linking

sulfur dioxide and nitrous oxide emissions to acid rain is too great for Congress to ignore.

H.R. 4567 is reasonable and responsible legislation that will address the acid rain problem in a sensible, cost-effective manner. No one sector of the country will be forced to bear the full cost of reducing sulfur dioxide and nitrous oxide emissions. Members from 32 States representing a wide spectrum of political viewponts have joined in cosponsoring this vital measure. Accordingly, I urge all my colleagues to consider and support this bipartisan legislation. Acid rain will not abate until Congress acts. Let us joint together in enacting significant acid rain legislation this session.

H.R. 4883

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. YOUNG of Alaska. Mr. Speaker, on May 21, 1986, I introduced H.R. 4883 a bill designed, in part, to provide an opportunity to Shee Atika, Inc., to exchange its Settlement Act lands on North Admiralty Island for other lands in southeast Alaska and other considerations. Chairman UDALL and Congressman SEIBERLING cosponsored the legislation. On June 6, 1986, Chairman SEIBERLING's subcommittee held a hearing on H.R. 4883, and the bill is pending markup.

I have received many inquiries concerning the bill, and how it evolved, and since that is a matter of interest I would like to explain the process. Chairman UDALL, Congressman SEIBERLING, and I directed our staffs to work with all interested parties to determine their positions relating to proposed exchange legislation and thereafter to put together a bill which they determined to be the best solution and present it to us for our consideration. This was done and as a result, H.R. 4883 was developed. Our staff people met on numerous occasions with representatives of the Forest Service, to determine lands that might be available for exchange, and have been in close contact with the Office of the Governor of the State of Alaska and with representatives of Shee Atika, Kootznoowoo, Inc., the village of Angoon and numerous environmental groups, including the Southeast Alaska Conservation Council, the Wilderness Society, and the Sierra Club concerning an exchange package. Every conceivable alternative was reviewed and analyzed before the final decisions were made and incorporated into the bill. While it is always possible to conceive of another combination of alternatives for trade with Shee Atika, all of the alternatives have been studied, all are available for consideration by the committee and the decision now is whether to proceed with H.R. 4883 or conclude that there are too many parties with an interest in the exchange who hold such diverse views that consensus can never be reached.

SATELLITE TELEVISION PROGRAMMING ACCESS ACT

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. COATS. Mr. Speaker, over the past several months, I have continued to hear repeatedly from a number of my constituents in Indiana that they have concerns over the issue of scrambling satellite-delivered programming.

During the hearings on this issue before the Subcommittee on Telecommunications, of which I am a member, I stated that I believe the dish owners should have access to scrambled cable programming, and that it should be available at a reasonable price; that there should be competition in the distribution of these signals; and that there should be a sufficient quantity of decoding equipment available at reasonable prices.

The subcommittee held 2 full days of hearings, receiving much-needed input from the various parties involved in this issue. It has been my hope that we could arrive at an equitable solution to address the problems as presented by some of the witnesses.

For this reason, I have been working with a bipartisan group of members in an effort to come up with a balanced proposal that responds to the concerns that have been raised during the debate on this issue. In my home district in Indiana, I have both a cable constituency in Fort Wayne and a rural constituency that uses the backyard dish. I have attempted to find a compromise that addresses the legitimate concerns of both groups and believe the bill I am introducing today strikes that balance.

A summary of the bill is as follows:

The legislation provides the Federal Communications Commission [FCC] with responsibility to ban the satellite scrambling of a cable channel unless home dish owners have access to that programming at cómpetitive prices. Those prices would be subject to a competitive marketplace. The FCC's rule would not involve any rate regulation. Instead they would determine whether the prices are subject to the forces of a free and competitive marketplace.

The legislation establishes an ongoing FCC investigation and evaluation of the newly developing home dish market for satellite cable programming, with annual reports to Congress. In addition, any illegal acts or practices discovered would be referred to Federal and State enforcement agencies.

The legislation removes administrative barriers to broadcasters' efforts to extend their broadcast signal to currently unserved areas of the country by use of translator stations.

The legislation increases penalties for jamming of satellites, such as the "Captain Midnight" incident on April 27. The bill also initiates new procedures to assist the FCC and other agencies in tracking down and prosecuting violators.

The legislation would be of a limited 5 year duration and does not create a permanent regulatory structure.

I believe that ensuring progress in communications technology is an important investment in our future, and this bill attempts to provide some stability and foster growth in this new market. I urge my colleagues to cosponsor the legislation.

TAX COUNSELING FOR THE ELDERLY PROGRAM

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. ROYBAL. Mr. Speaker, yesterday, a valuable and worthy organization which for years has assisted the elderly population of our Nation with free tax counseling and services received the Presidential Citation for Outstanding Service in the Minority Sector. The name of the program is Tax Counseling for the Elderly, sponsored by the American Association of Retired Persons, and I am here today to record the long overdue recognition it so fully deserves. It has provided services for taxpaying groups traditionally underserved by tax counselors, especially minorities, the homebound, and the rural aged. In the spirit of volunteerism, the TCE has discovered that some of the most rewarding experiences can be found in assisting others in the community.

The need for tax counseling and preparation becomes even more compelling due to the changes the Internal Revenue Service has undergone in the past several years. As chairman of the House Appropriations Subcommittee on Treasury-Postal Service-General Government, as well as chairman the Select Committee on Aging, I have had the opportunity to see first hand the effectiveness of this program for the elderly volunteers, the IRS, and the recipients of the TCE Service. During the 1986 tax season, the program enlisted the help of more than 21,000 volunteer counselors who assisted in preparing nearly 1.3 million tax returns for older Americans, including 30,000 shut-ins and 42,000 persons in hospitals, nursing homes, and other sites. Several newspapers across the Nation have lauded the success of the program.

I ask my colleagues on both sides of the aisle to join me in saluting the Tax Counseling for the Elderly Program upon its receipt of the Presidential Citation for Outstanding Service.

RESULTS OF 1986 QUESTIONNAIRE

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. HUBBARD. Mr. Speaker, early each year I distribute a questionnaire to my constituents requesting their opinions about issues of importance to western Kentucky and the Nation.

To date, over 34,000 western Kentuckians have completed and returned their responses to my 1986 questionnaire. The responses were tabulated by my Washington and district staff and by over 100 college students at Murray State University and the University of

Kentucky Community Colleges at Henderson, Hopkinsville, Madisonville, and Paducah.

I want to take this opportunity to share with my colleagues the results of my 1986 questionnaire which follow:

1. What steps do you favor to reduce the federal deficit?

(a) A constitutional amendment to require a balanced budget—12,283

(b) Passing the "line-item veto" to permit the President to trim a portion of an appropriations bill without eliminating the whole program—11,301

(c) Making further cuts in domestic spending, such as jobs programs, aid to the elderly, housing assistance, federal highways and parks, etc.—4,363

(d) Making cuts in defense spending—10,814

(e) Raising taxes which would cause your taxes to increase annually by a small amount—5,968

2. Let's assume domestic spending must be cut in order to reduce the federal deficit. As a start, are you in favor of reducing federal funds for:

(a) Education?—8,494

(b) Crime control?—4,421

(c) Clean air and water?—10,385

(d) Agriculture price supports?—14,427

3. About 43 percent of the federal budget is spend for the entitlement programs, such as Social Security, Medicaid, Medicare, black lung benefits, veterans' benefits, railroad retirement benefits, etc. Would you support a two-year freeze as to future increase in these programs? Yes—19,643; No—13,528

4. In adopting a budget this year, should Congress achieve their deficit reduction target (Gramm-Rudman-Hollings Act of 1985) through spending reductions only, tax increases only, or a combination of both?

(a) Spending reductions only—18,339

(b) Tax increases only—1,296

(c) Combination of both—13,499

5. Do you favor:

(a) A minimum corporate tax of 25 percent of a corporation's adjusted gross income?—10,215

(b) A greatly simplified income tax retaining certain exemptions (such as medical expenses, interest payments on home mortgages and other indebtedness, church and charitable contributions, local taxes, etc.)?—12,276

(c) No income tax, just a national, federal sales tax of about 5 percent, somewhat similar to the Kentucky 5 percent sales tax?—12,130

6. Do you favor providing aid to anti-communist guerrillas in Nicaragua or Angola? Yes—14,595; No—17,879

7. Would you support legislation which would lower air quality standards to permit greater use of western Kentucky high sulfur coal by electric power producing plants? Yes—19,579; No—13,778

8. Do you believe Congress should continue and improve the federal agiculture programs? Yes—19,584; No—12,489

9. Do you favor added import fees on foreign goods to protect American jobs and products even though such action will result in higher consumer prices in the United States and retaliation against our agriculture products sold to other countries? Yes—17,709; No—14,839

10. Because of the tragic explosion of the space shuttle Challenger on January 28, there is an increased interest in Congress regarding the funding level for future space programs. What level of funding do you support?

(a) about the same—18,646

(b) more—3,636

(c) less—11,328

11. Do you favor the proposed comparable worth plan calling for similar pay for jobs classified as comparable in skill? (For example, under the comparable worth plan, truck drivers and secretaries or perhaps nurses and auto mechanics could be rated the same and would be, therefore, paid the same wages.) Yes—11,256; No—21,438

12. Do you favor granting amnesty to illegal aliens in the U.S. who have been here for three years? Yes—5,739; No—26,656

13. Do you favor taxpayer financing of Congressional elections in order to weaken the influence of political action committees? Yes—9,344; No—22,776

14. Do you favor the 1973 U.S. Supreme Court decision which permits legalized abortions? Yes—14,340; No—18,658

15. Should voluntary prayer be permitted in public schools? Yes—30,021; No—3,051

16. Should parents who pay taxes toward the support of public education but send their children to private or parochial schools receive federal tax credits? Yes—13,907; No—19,662

17. Do you favor President Reagan's efforts to press ahead with research on a futuristic, space-based defense system (called "Star Wars") to protect against missile attack by our enemies? Yes—22,139; No—9,544

18. Do you believe the United States should cut back on military and economic aid to strategically located allies, such as Israel, Turkey and the Philippines? Yes—18,021; No—14,717

19. Should able-bodied men and women be required to do public service work in order to receive welfare benefits? Yes—32,562; No—1,465

CRISIS IN HEALTH CARE

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. CLAY. Mr. Speaker, a crisis of grave proportion in health care has surfaced in the city of St. Louis, MO, as a result of myopic, insensitive policies promulgated by Mayor Vincent Schoemehl.

The increase in cases of lead poisoning, as revealed by the following articles from the St. Louis Post Dispatch, is just one example of misguided health policies.

SAVING MINDS FROM WASTE

(By Paul L. Kuehnert)

The Greater St. Louis Lead Poisoning Prevention Council is a consortium of more than 20 public and private agencies in the St. Louis area concerned with the continuing problems of lead poisoning in children. Formed in 1984, the council is committed to the prevention and eradication of childhood lead poisoning.

On July 3, 1985, my immediate predecessor, Anthony Cuneo, addressed this board [Estimate and Apportionment] and stated:

"The recent dramatic changes within the city Department of Health and Hospitals affect both inpatient and outpatient services in St. Louis. The council is very disturbed about the possible negative effect these changes will have on the vital public health issue of lead poisoning, which endangers the health and well-being of numerous children. . . . Because of the recent changes, the (Lead Poison Control) Program has been fragmented; central coordination and management no longer exist. . . ." I must report that the council's deepest fears regarding "negative effects" of the "dramatic changes" have, unfortunately, been realized.

There are currently 3,100 children in the city with known lead poisoning, an increase of more than 50 percent from the 1,900 known cases last July. This increase is largely due to lower federal standards for what is considered to be a toxic level of lead in a child's blood that went into effect here last July.

Yet, while the problem has grown, the city's response has been less than adequate. The city-funded program of detection and treatment of childhood lead poisoning, now administered by St. Louis Regional Health Care Corp., is failing to identify children and, more important, to follow up on and treat children with known lead poisoning. Objective measurements of this failure include:

Follow-up blood testing of children with known lead poisoning has dropped 43 percent since July 1985, with 3,199 tests done from July 1985 through March 1986, compared to 5,604 done from July 1984 through March 1985.

Outpatient treatment with drugs to remove lead from children with very high lead levels is down 43 percent since July 1985, with 154 treatments given from July 1985 through March 1986, compared with 269 such treatments from July 1984 through March 1985.

As indicated by the above statistics, anywhere from 800 to 1,200 children are lacking in medical follow-up needed to prevent serious brain damage as a result of these program failures.

It should be noted that our council has repeatedly and consistently brought our concerns about the lead program to the attention of both Regional and city officials since a clear pattern of problems emerged late last fall. We have argued and we have reasoned. We have made suggestions and recommendations both verbally and in writing. And still, for these children, we have seen no substantive change or improvement.

Thus, it is our council's conclusion, reached by unanimous vote on May 13 with 26 agency representatives present and voting, that we strongly recommend that the lead clinic, program and staff, be returned to the jurisdiction of the health commissioner of the city of St. Louis, along with adequate funds to administer a comprehensive lead poisoning prevention and treatment program.

We recommend this change immediately and for these five reasons:

(1) Lead poisoning is truly of epidemic proportions in St. Louis. As with any epidemic, there should be control mechanisms and accountability mechanisms to deal effectively and appropriately with it. These mechanisms are to be had in the city Health Division.

(2) Expertise is needed to handle lead poisoning. The Health Division contains knowledgeable men and women with experience in this field. Their day-to-day involvement is crucial in adequately attacking this epidemic.

(3) Cost-effectiveness is a necessity in dealing with such a massive problem. Does anyone know how much Regional spent on the lead program this last year? Was it an increase or decrease over previous city subsidies? We must know how many dollars are

going directly into this problem. We cannot have it buried in "outpatient care."

(4) In lead poisoning, medical and environmental measures must be coordinated in order to have the best outcome for the child. This coordination has been undermined by splitting up the program and the contracting out of the medical component. Restoring the program to the Health Division will restore this vital connection with the accountability and control of a common administration.

(5) It is, we believe, the law that this program be administered by the health commissioner. We believe city ordinance No. 56091 and the city Charter are quite specific about this.

Our final reference must be the children—these real, live, growing little people who are the reality behind the statistics. The effects of the sun during the summer months increases the mobilization of lead from the bones, where it is stored, to the bloodstream and, thence, the brain. Unknown numbers of children may be walking time bombs at risk for seizures, serious brain damage and even death due to lead poisoning this very summer because of the lack of screening and follow-up.

These dire forecasts cannot be made with any degree of certainly. However, the chance is there. And more than the chance, the *reality* of children being unmonitored even with low or moderate levels of lead causing gradual brain function loss is now present. By fragmenting and contracting out the lead program, the city has lost control over a disease that literally is damaging its future. We urge that you act immedicately to restore the lead program to the jurisdiction of the Health Division.

(Paul L. Kuehnert is chairman of the Greater St. Louis Lead Poisoning Prevention Council. The above was taken from a presentation before the city's Board of Estimate and Apportionment.)

PREVENTING LEAD POISONING

Remarks on today's Commentary page call attention to the fact that lead poisoning has climbed to an unacceptably high and potentially fatal level for some children in St. Louis. That fact leaves a shameful blemish on the city's public health care system for permitting this preventable illness to get out of control.

The resurgence of the lead poisoning problem started after the Regional Medical Center began running the program last year. The city has experienced a 43 percent drop in outpatient treatment of children with lead poisoning since July of last year. In addition, the number of children found to have the disease rose by more than 50 percent during the same period.

Officials at Regional say the 50 percent increase is attributed to the fact that blood toxicity levels used to establish lead poisoning have been lowered by the Centers for Disease Control in Atlanta. But that doesn't make the city's sorry performance any less excusable; nor should the old response that progresss is being made be tolerated any longer.

One of the biggest disservices in the city's reorganized health care system has been that of disrupting the city's comprehensive program for identifying children who are potential victims of lead poisoning and treating and following up on those afflicted with the illness.

Officials at Regional have placed far less emphasis on prevention and follow-up treatment, although these two components accounted partly for the program's success when it was under the city health commissioner's jurisdiction. By their inaction, hospital officals have allowed defenseless children to fall prey once again to a preventable and potentially fatal illness.

THE DISLOCATED FARMER TRAINING AMENDMENTS OF 1986

HON. JIM ROSS LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LIGHTFOOT. Mr. Speaker, I am pleased to join Congressman GUNDERSON in sponsoring the Dislocated Farmer Training Amendments of 1986. This bill amends the Job Training Partnership Act [JTPA] to encourage the delivery of services to dislocated farmers.

As you may know, the downturn in the agricultural economy has taken a toll on farmers and their families. Unfortunately, some of these farmers have had no choice but to leave farming. However, many of these farmers have found out that this transition from farming to another occupation is not easy.

Many of them are unaware of the Federal employment and training programs that could help them get back on their feet. And, for some farmers, they have found out that they are ineligible for training assistance because they don't meet the eligibility guidelines.

Under JTPA, farmers can qualify for assistance under two programs: The title II–A program for economically disadvantaged workers and the title III program for dislocated workers. Both of these programs have and will continue to serve farmers. But, as brought out in a Government Operation's Subcommittee on Employment and Housing hearing that was held last year in Council Bluffs, IA, the JTPA Program was not designed with farmers and other self-employed people in mind. Therefore, trying to assist these people poses special problems of JTPA officials.

For example, eligibility guidelines under title II–A limit the number of farmers that can qualify for assistance. Under title II–A, a farmer's income during the last 6 months is used to determine his eligibility. Several JTPA administrators at the hearing suggested that this 6-month timeframe did not accurately reflect the income picture of farmers and that a 12-month period would be better.

Another problem mentioned by JTPA officials was that many farmers were unaware of what services were available to them and their families. JTPA officials in rural areas were also having difficulty identifying these farmers and convincing them that they would benefit from the JTPA Programs.

As one JTPA participant testified, when he first enrolled in the program, he was doubtful that it would offer him much assistance, but by the end of the program he was telling other farmers that the program was of value and that others should try it. He emphasized, however, that the program needed to be expanded to serve more of the farmers.

Another concern of JTPA officials was that they were uncertain if they were correctly following the guidelnes. For many States, job retraining is a new program for them. They don't have much experience with providing these services. Also, JTPA was designed by Congress to give the States a great deal of flexibility to establish programs to meet the particular needs of the State's workers. Overall, States have done a good job in providing job training services, including the State of Iowa.

But, there has been some concern that a State might go beyond the intent of JTPA when identifying eligible participants. In April 1985, the Department of Labor issued a policy statement that farmers and other self-employed people could qualify for assistance under title III. This has helped, and many farm states have expanded their definitions to include more farmers and self-employed people. However, there is still a lot more that could be done to bring more farmers into this program.

In an effort to accommodate more farmers under JTPA, Congressman GUNDERSON and I have introduced legislation to modify JTPA to meet the needs unique to farmers. This legislation does a number of things. First, it addresses the problem mentioned in last year's Employment and Housing Subcommittee hearing that using the past 6 months income to determine eligibility under title II–A did not accurately reflect a farmer's income. In this legislation, we change the definition of economically disadvantaged by allowing the farmer's past 12 months income to be used to determine eligibility.

In title III, we include self-employed people, including farmers, as eligible participants. We also include a definition of which farmers may qualify for assistance. This definition will provide the States with some guidance in determining which farmers are eligible for assistance.

One of the most common problems encountered thus far has been that farmers operate under different income conditions than other workers, and it is harder to qualify them for title III. This definition should help States better determine which farmers are eligible for assistance.

Also included in this legislation is a provision allowing the Secretary of Labor to issue regulations excluding liquidation proceeds from family income when such proceeds are due to a sale of a farm or business assets because of voluntary or involuntary foreclosure, forfeiture, or bankruptcy. This should assist farmers whose proceeds from these sales count as income, although they do not have access to this income.

In addition to changing the eligibility guidelines, this legislation encourages greater coordination at the Federal level among programs that would assist farmers and their families. During the last year, it has been determined that greater linkages need to be established among education, training, mental health counseling, and other programs that would assist farmers. Farmers and their families are unfamiliar with these programs and are reluctant to seek assistance. Increased efforts need to be made to ensure that farmers are made aware of and receive the services which would help them through these difficult times.

This legislation also calls for the National Commission for Employment Policy to conduct studies that address the employment prob-

lems of rural Americans. It requires the Commission to address the special employment needs of the displaced farm family and report back to Congress with its findings within 2 years.

Adoption of these changes in JTPA should help ease the transition from farming to another occupation for many farmers and their families. When JTPA was created by Congress in 1982, no consideration was given to how self-employed people, such as farmers, would fit in the program. States have done remarkably well in serving farmers under JTPA, but more needs to be done to make their jobs easier. Congress needs to recognize the special circumstances of farmers by approving this legislation. I urge my colleagues to join me and other Members of Congress by cosponsoring this legislation to encourage the delivery of training services to America's dislocated farmers.

TIPS FOR BECOMING A SUPER-PARENT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. PORTER. Mr. Speaker, the children of America are one of its greatest resources. The youth of today is the backbone of a vibrant and productive country tomorrow. Children are influenced from many quarters as they grow and develop. Teachers, clergy, and playmates are all factors in determining what kind of an adult a child will become. The most important influence on children, however, is their parents.

On June 18, 1986 the Washington Post published an article written by Bliss Temple, 11, and Vicki Vantoch, 12, which intelligently addresses this subject. The article, titled "Treat All Kids Equally," lists 35 rules which the girls believe that every parent should follow in raising their children. I am pleased to share their precocious insights with my colleagues in the House and to commend them for their good advice to all of us.

The article follows:

[From the Washington Post, June 18, 1986]

TREAT ALL KIDS EQUALLY

(By Vicki Vantoch and Bliss Temple)

1. Let kids choose their own clothes.
2. Treat all kids equally.
3. Get everyone's side before you judge.
4. Don't be nicer to those who cry all the time.
5. Teach your kids to know what's in the food they eat.
6. Let kids make their own decisions.
7. Let kids learn by experience.
8. Never push a kid to do something that's supposed to be fun.
9. Teach kids to be sanitary.
10. Teach kids to be independent.
11. Trust your kids.
12. Never spoil a kid.
13. Don't always do what your kid says.
14. Teach kids manners when they are young.
15. Know what's happening at your kid's school.
16. Use constructive criticism and compliments.
17. Make a point of not drinking, smoking or stealing.
18. Make a point of keeping yourself healthy.
19. Never hit your kids anywhere but the behind.
20. Don't embarrass kids in front of their friends.
21. Feed your kids enough, but don't force-feed them.
22. Teach them about growing up so they don't learn it from friends and get the wrong idea.
23. Let them speak openly to you about anything.
24. Never put down what they say (unless they use bad language).
25. Consider kids' privacy.
26. Teach them to be themselves in front of friends.
27. Teach kids not to show off.
28. Teach kids to be tough.
29. Teach kids to share.
30. Teach kids not to pout.
31. Teach kids not to get angry for unimportant reasons.
32. Keep kids from picking up bad habits.
33. Teach kids to be humble.
34. Teach kids to be considerate.
35. Teach kids to apologize and not to hold grudges.

Please read this list and seriously consider it. It will make your relationship with your kids better and make you both happier, too!

Please read it to your kids and see if they agree.

CONGRATULATIONS TO CALIFORNIA ANGELS' PITCHER DON SUTTON ON HIS 300TH MAJOR LEAGUE VICTORY

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. DANNEMEYER. Mr. Speaker, I want to congratulate California Angels' pitcher Don Sutton on the occasion of his 300th major league victory. Yesterday, Mr. Sutton became the 19th pitcher to achieve 300 wins, thus placing him on an exclusive list that includes Cy Young, Warren Spahn, and active pitchers such as Tom Seaver, Steve Carlton, and Phil Niekro. Don Sutton has earned a place in history and will almost surely be named to the Hall of Fame.

Don Sutton's career is an example of outstanding sportsmanship. In his 21 years as a major league pitcher, the 41-year-old right-hander has missed only four scheduled starts and is on this way to second on the all-time list, behind Cy Young, in games started. He is sixth on the all-time career strikeout list with 3,363 and is ninth on the all-time shutout list with 58. Don Sutton's outstanding career proves that dedication and hard work has its rewards.

Mr. Speaker, I am especially pleased to pay tribute to Don Sutton because of his long-standing roots in California. Although he was born in Clio, AL, and was raised in Florida, Don Sutton began his baseball career in the minor leagues in Santa Barbara, CA. After spending a year in the minors, Don went to work for the Los Angeles Dodgers where he spent the bulk of his career. He settled down in Laguna Niguel, CA, during his 14 years with the Dodgers from 1966–80. He returned to southern California at the end of the 1985 season when the Angels acquired him for their pennant push. I know he is pleased to have won his 300th victory in southern California where it all began.

HONDURANS AND COSTA RICANS FAVOR AID TO THE CONTRAS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. McCOLLUM. Mr. Speaker, we often hear that our Latin American friends do not favor United States support to the democratic Nicaraguan resistance. This assessment is wrong, as public opinion polls have repeatedly shown. Here's what the public in the two Central American "frontline states"—Honduras and Costa Rica—have said: Nicaragua is the major threat to their future and democratic society; the Nicaraguan resistance should be supported and that Nicaragua would be better off with a victory by the resistance; and the United States is a positive force in Central America.

These findings were confirmed by a 1985 poll released earlier this year by our colleague, BOB LIVINGSTON. They were re-confirmed in a poll taken during the last 3 weeks of February by Gallup International's Costa Rican affiliate, Consultoria Interdisciplinaria en Desarrollo [CID]. Based on a representative sampling of 1,228 Costa Ricans and 1,300 Hondurans, the poll's major findings are:

Costa Ricans overwhelmingly favor U.S. military and financial aid to the anti-Sandinista (Contra) forces by a 50-percent to 11-percent margin, and Hondurans favor such aid by 57-percent to 10-percent. The rest have no opinion.

Six persons in 10 in the survey countries think Nicaragua will be better off if the Contra forces win the conflict, and less than 2 in 10 favor victory by the Sandinista Government. Over 6 in 10 say their own countries will be better off if the Contra forces win, and less than 1 in 10 disagrees.

Two-thirds of the Costa Rican public and half the Hondurans believe that the majority of the people in Nicaragua favor the Contra cause. Ten percent in Costa Rica and less than a fifth in Honduras think that a majority in Nicaragua favors a Sandinista Government victory.

More Costa Ricans (57-percent) think the Contra forces treat people with consideration in the war zones than do the Sandinista Government troops (5-percent). A quarter denies either side respects the people. In Honduras, while 4 in 10 say the Contra forces treat the people with more respect than the Sandinista forces, an equal number claims both sides demonstrate lack of respect for the populace. One in 10 speaks more highly of the Sandinistas than the Contras, and even fewer speak well of both.

Costa Ricans and Hondurans are far more inclined to believe a Contra victory would

result in free elections and return to democracy than doubt this (51 percent to 9 percent in Costa Rica, 57-percent to 6-percent in Honduras). The rest have no opinion.

Eight in every 10 Costa Ricans and Hondurans see Nicaragua acting as a tool of Cuba and the Soviet Union, not pursuing an independent policy.

GENERIC ANIMAL DRUG AND PATENT TERM RESTORATION ACT

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. WAXMAN. Mr. Speaker, I am pleased to join with my distinguished colleague from the Judiciary Committee, Mr. KASTENMEIER, in introducing today H.R. 5069, the "Generic Animal Drug and Patent Term Restoration Act."

This bill has two main features. First, it would establish an expedited approval system for generic copies of off-patent brand name animal drugs. Second, it would provide for the extension of patents covering animal drugs for up to 5 years. The actual extension would be equal to a portion of the time that the animal drug was under testing by the sponsoring company and under review by the Food and Drug Administration [FDA].

These two features are virtually identical to those in the generic human drug—patent term restoration bill—The Drug Price Competition and Patent Term Restoration Act—that was enacted in the last Congress. That 1984 human drug bill expedited the approval system for generic copies of off-patent brand name drugs, and extended drug patents for up to 5 years.

The 1984 human drug bill has proven to be a major success. Many new generic drugs are available at prices which are significantly lower than their brand name counterparts, and a number of new innovative drugs have received patent extensions. The bill we introduce today can provide the same benefits in the animal field. If lower-priced generic animal drugs are available to farmers, the costs of producing food for consumers will be less. In addition, with patent extension providing new incentives for the development of new drugs, companies will conduct more research on innovative animal drugs that are safer for human consumption.

Mr. Speaker, Members in the House and Senate are familiar with the two basic goals of this bill because of our work on the human drug bill. When the 17-year patents expire on brand name drugs, whether they are human or animal drugs, consumers desire and deserve the aggressive price competition that is fostered by the availability of generic copies. This price competition is entirely consistent with our patent laws and free enterprise system. In addition, we can encourage higher research expenditures for new drugs by assuring longer patent terms during which the sponsoring company will have exclusive marketing rights.

This is an important bill which follows the precedent set by the 1984 human drug bill. We encourage all Members to join us in supporting it.

FREEDOM FOR THE SIKH NATION

HON. GENE CHAPPIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. CHAPPIE. Mr. Speaker, on June 6, the second anniversary of the siege on the Sikh's holiest shrine, thousands gathered in New York, San Francisco, and Washington, DC, to mourn the more than 1,000 Sikhs who died at the hands of the Indian Army, and to plead once again for an end to the violence.

The Golden Temple incident has become a symbol of the strife and suffering that divides India. Unfortunately, the siege was not an isolated event. Indian security forces again desecrated the Golden Temple on April 30, 1986, and we have just learned that Gurdaspur and Amritsar, where the Golden Temple is located, have been put under Indian security force rule.

Such actions fan the flames of resentment and anger that have burned in Punjab since 1947 when India was partitioned into Moslem Pakistan and predominantly Hindu India. Many Sikhs felt cheated because they didn't get their own homeland. Since then, they have pressed unsuccessfully for a measure of religious and political autonomy in Punjab, where they make up a majority of the population.

The Sikhs' struggle isn't that well known in the United States. The Indian Government prohibits foreign journalists from covering Punjab, so the only news available to us comes from the Indian Government or from firsthand accounts that leak out despite the news censorship. While we hear a lot about the Sikh extremists who have taken up arms to make their point, there is another side to the story.

The Sikhs who live in my district and who monitor events in Punjab tell of government brutality and religious persecution against their countrymen. Their claims have been substantiated by noted Indian jurists and human rights advocates in a publication called "Report to the Nation: Oppression in Punjab," which is banned in India.

The Sikhs also charge that the Indian Government has infiltrated their organizations to discredit them. After a 4-month investigation, the Toronto Globe and Mail, which had conducted a 4-month investigation into the charges, reported that it had found evidence of an Indian Government intelligence operation, "designed to divide Canada's Sikh community and neutralize the efforts of a separatist lobby that promotes a Sikh homeland in the Punjab."

These reports are disturbing to me and the 6,000 Sikhs who live in my congressional district in northern California. Today, I join with Sikhs around the world in urging a stop to the bloodshed. The June 6 anniversary of the Golden Temple siege is a haunting reminder of the factionalism and suffering in India. Before yet another year goes by, I implore Mr. Ghandi to make peace by negotiating a permanent and real freedom for the Sikh nation.

THE HIGHWAY TRANSPORTATION BILL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. SHAW. Mr. Speaker, in another week, the Committee on Public Works and Transportation will consider and mark up the 1986 highway transportation bill, H.R. 3129.

At that time, I plan to offer a series of highway beautification amendments with language similar in nature to that contained in the bill I have filed, H.R. 4635.

As many of you know, I have long been an advocate of reforming the existing Federal highway beautification statute which may be more properly deemed billboard protectionism.

Over the next several days, I plan to share with you through the 1 minute my reasons as to why this statute should be reformed as well as the many newspaper articles and editorials and television commentaries which have appeared throughout the country expressing similar support for this reform effort.

During this time, too, I would encourage each of you to consult with your constituents and local officials on this issue, and I think you will be surprised of their overwhelming support for billboard reform as well.

ROMERO RECEIVES NVOY AWARD

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LUJAN. Mr. Speaker, Rose-Tabet Romero of Albuquerque was recently honored as the 1986 National Volunteer of the Year for Joint Action in Community Service, Inc. [JACS]. The ceremony took place at the annual board of directors luncheon at the Ramada Hotel-Old Town, Alexandria, VA, on April 22, 1986. As the receipient of this distinction, Mrs. Romero was named to the board of directors of JACS to serve a 3-year term.

Selected from over 3,000 volunteers in five regions, Mrs. Romero received this honor as the result of 4 years of service and assistance to over 1,000 former Job Corps members. This assistance has included locating employed, providing transportation, locating housing, providing support as they readjust to their community, and assisting them in arrangements to continue their education and training.

Mrs. Romero also earned the title of 1986 Regional Volunteer of the Year for the Southwest Region, representing New Mexico, Texas, Oklahoma, Arkansas, and Louisiana prior to her selection as the National Volunteer of the Year. In 1983 and 1984 she was named an outstanding JACS volunteer and in 1985 nominated for the President's Volunteer Action Award.

Mrs. Romero is married to Joe Leo Romero and they have four daughters and two grandchildren.

Congratulations to Mrs. Romero for this outstanding award. She is most deeserving and her efforts have helped to make New Mexico a better place to live.

CURRENT FARM CRISIS

HON. BEAU BOULTER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. BOULTER. Mr. Speaker, in light of the current depressed state of agriculture, the Secretary of Agriculture should jump at any chance he gets to constructively help the American farmer without busting the Federal budget. I am introducing a resolution today which, by bolstering farm income and reducing burdensome commodity surpluses, has the potential to do just that.

This is a chance to increase farm income, reduce carryover stocks and reduce future budgetary expenditures.

Section 1009(e) of the 1985 farm bill gives the Secretary of Agriculture the authority to accept bids from producers for the conversion of crop acres to diverted acres, in return for payment in kind from CCC surplus stocks.

The key element of this provision is that the payments aren't counted as part of the normal $50,000 per person payment limitation established under section 1001 of the farm bill.

My resolution expresses the sense of the Congress that the Secretary should take full advantage of the authority to implement this program and provide much needed relief. It will provide the opportunity for increased farm income as producers would have the option of submitting bids and receiving payments in addition to deficiency payments and land diversion payments.

The program would also reduce huge carryover stocks that are creating downward price pressure on the commodity markets, and would lower future government storage costs for holding those stocks.

Finally, the in-kind payments do not constitute a direct budgetary outlay.

This is the kind of help hard-pressed farmers need to get through this particularly hard time. My resolution has the strong support of the American Farm Bureau, the National Wheat Growers, the National Cotton Council, and the National Corn Growers. And I urge my colleagues to join me in cosponsoring this important effort to increase farm income without busting the budget.

There aren't any simple solutions to the current farm crisis. However, the Government, through its past policies of high interest rates and embargoes, has had a hand in creating many of agriculture's problems, and Government must take some responsibility for providing assistance to our farm families and rural America.

THE BATTLE OF KOSOVO

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. GEKAS. Mr. Speaker, normally the defeat of an army in battle is a low point in a nation's history but in the case of the people of Serbian descent one lost battle has been the cause for a glorious celebration. Each year Americans of Serbian descent celebrate the defeat of the Serbian army at the Battle of Kosovo in 1389, not because their army was defeated and their nation fell to the Turks, but because the Serbian people endured this defeat and the 400 years of rule by the Turks that followed without losing their religious faith or their Serbian heritage and traditions.

The drive of the Turks to conquer all of Europe began in the 1330's, and by 1371 they had won a decisive battle against the Serbian king, Vakashin Mrnyavchevick, at the banks of the river Maritsa. Although this defeat of King Mrnyavchevick was a disaster to the Serbian people and their army, the people of Serbia continued to struggle against the Turks until the Battle of Kosovo in 1389. The defeat of the Serbians at Kosovo led to the eventual domination of the people by the Turks in 1459 which brought them into the Ottoman Empire. A domination which lasted for 400 years.

Throughout this time the people of Serbia were subjected to cruel and inhuman treatment but they endured these cruelties and remained united under the Serbian Orthodox Church. The Ottoman Empire eventually faded and the Serbs were given the opportunity to regain their autonomy and eventually their independence in 1882. Following World War I the Serbian dynasty helped lead the way to establishing the Kingdom of Serbs, Croatians, and Slovenians, later to be renamed Yugoslavia. In 1945 the monarchy was abolished after the Communist invasion of Yugoslavia.

The Communists banned the celebration of the Battle of Kosovo in an effort to destroy the heritage and unity of the Serbian people. The people of Serbia have demonstrated their strength and pride for their heritage throughout history and the celebration of this defeat and Turkish domination is the embodiment of the endurance of the Serbian people. It is with pride, Mr. Speaker, that I join the Serbian people of my district and the entire Nation in commemorating this great battle and the endurance and pride of the Serbian people.

COAST GUARD AUXILIARY DAY

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. SCHUETTE. Mr. Speaker, on June 21, 1986, the State of Michigan will celebrate Coast Guard Auxiliary Day. The celebration is being sponsored by the Ninth Central Region of the U.S. Coast Guard Auxiliary.

The Coast Guard Auxiliary was founded by an act of Congress on June 23, 1939. Since then, it has performed innummerable public services. The Coast Guard Auxiliary provides boating education, courtesy marine examinations and search and rescue services, as well as providing support and backup services for its parent organization, the U.S. Coast Guard.

What is perhaps the most remarkable feature of the Coast Guard Auxiliary's fine work is that it is done largely on a volunteer basis. The spirit of voluntarism is one of our proudest national virtues; it is what makes the American people, and therefore America, great. Thus, the work of the Coast Guard Auxiliary embodies the spirit that has established this country as the strongest and freest in the world.

Mr. Speaker, it is my honor to commend to my colleagues in Congress and to the American people the work of the Coast Guard Auxiliary, and to congratulate it on Coast Guard Auxiliary Day.

THE 1986 CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. FIELDS. Mr. Speaker, awhile ago I received a letter from a constituent of mine who is concerned about the many "refuseniks" that remain in the Soviet Union. I too am concerned. In the midst of post-Geneva optimism, plans for increased Soviet trade and increased cultural and student exchanges, the Soviets continue to harass and detain individuals who express a discontent with their Government or simply desire to emigrate.

Sometimes the story of a single person can tell more about a system of government than all the statistics in the world. I would like to describe the situation of one such individual who has been grossly mistreated. Vladimir Lifshitz is a Hebrew teacher who has Israeli citizenship. He was arrested on January 8, 1986, on his way to work. Shortly thereafter, searches were conducted in his apartment. He was accused of "disseminating anti-Soviet propaganda" because he privately reacted to his son's rejection from the Lenigrad Institute of Fine Mechanics and Optics. The content of his private correspondence to the West was the basis for his unjust conviction for slander. He was sentenced to a grim 3 years hard labor in a Soviet gulag. Mr. Lifshitz has suffered beatings at the hands of his captors.

Mr. Lifshitz is only one of many who have been so unjustly treated. At this time, it is especially important that we demonstrate our continued concern for human rights in the Soviet Union. In the anticipation of another meeting between President Reagan and General Secretary Gorbachev, I hope our efforts will contribute significantly to the outcome of talks on human rights. For many refuseniks, we are their only hope.

TRIBUTE TO MICHAEL M. ISENBERG

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. LEHMAN of Florida. Mr. Speaker, I am sad to note that Michael M. Isenberg of Miami Springs, FL, passed away. Mike was a good and longtime friend, and he will be sorely missed by everyone who knew him.

Mike studied law at Northwestern University and began a successful career that was to last for over 50 years. But World War II intervened, and he served with distinction in the U.S. Army. Among the many honors he received, nothing gave him more satisfaction than the role he played in liberating the Temples in Neice that had been closed for so long during the Nazi occupation. The pain and suffering he witnessed during the war made a lasting impression on him.

Mike Isenberg moved from Chicago to Miami after the war and quickly developed the reputation as a kind and giving person who never hesitated to lend a helping hand to others. Through the years, he was especially active in Temple Israel, where he volunteered his time and effort with characteristic generosity and commitment.

Mike Isenberg was buried at Arlington National Cemetery, a fitting honor for a man who deeply loved his country and served it so well.

I want to express my deepest condolences to his wife, Louise, his two daughters, Jaclin Isenberg Mills and Linda Isenberg Keenan, and to his entire family.

A CONGRESSIONAL SALUTE TO RANDOLPH B. KOHL OF THE LOS ANGELES AREA COUNCIL BOY SCOUTS OF AMERICA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. ANDERSON. Mr. Speaker, it is indeed an honor for me to pay tribute to Randolph B. Kohl who is leaving his position as director of finance for the Los Angeles Boy Scouts of America to become executive vice president of the Cancer Society for the State of California.

A native of Buffalo, NY, Randy attended Diocesan Seminary and College and later studied to enter the priesthood at the University of St. Bernards Seminary and College.

After a brief period in the U.S. Air Force, Randy began his tenure at the Boy Scouts of America as the director of exploring in New York. Later, he held various positions with the Boy Scouts of America in New Jersey, Washington, and, lastly, California. Most recently, he was awarded a master's degree from Columbia Pacific University of California.

Mr. Speaker, Randy Kohl has been a positive force in our community. The great success over the years of the Los Angeles Area Council Boy Scouts of America can be traced to Randy's efforts. As a matter of fact, it was through his guidance that enabled the Los Angeles Area Council to raise considerable revenue through many successful celebrity fundraising dinners.

My wife, Lee, joins me in commending and congratulating Randy Kohl on this special occasion. We wish him and his wife, Marylan, and their children, Kathleen, Lisa, and Richard, success and happiness in all their future endeavors.

TRIBUTE TO THE REVEREND FATHER FRED B. MILLER

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. TORRICELLI. Mr. Speaker, I rise today to honor the Reverend Father Fred B. Miller, pastor of St. Michael's Church, Lindhurst, NJ. On Sunday, June 22, Father Miller will be honored by his parish on his 40th anniversary of his ordination.

As pastor of St. Michael's Church in Lindhurst, Father Miller has devoted unlimited hours to the spiritual renewal of his people. His untiring efforts have resulted in his parish becoming a vital center for religious and social activity.

Father Miller was ordained on June 15, 1946, and first served the parish of St. Hedwig in Elizabeth and later the parish of the Most Sacred Heart of Jersey City, NJ. He came to St. Michael's Church in 1984 after serving as pastor of St. Benedict's parish for over 20 years.

Father Miller has committed himself to the service of his community and service to his fellow man. Possessed with a natural ability to bring comfort to those in distress, Father Miller has always been available when needed.

I am happy to have this opportunity to congratulate Father Miller on the 40th anniversary of his ordination. It is with great honor and pleasure that I join with so many of Father Miller's parishioners in honoring him on this day.

CONGRESSIONAL SALUTE TO MRS. HISAKO HIBI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. MATSUI. Mr. Speaker, on June 14, 1986, an exhibition displaying the paintings of Mrs. Hisako Hibi opened in San Francisco. The paintings, which depict life within the barbed-wire fences of the Japanese relocation camps of the 1940's, constitute a valuable documentation of the history of Japanese-Americans in the United States.

Mrs. Hibi is a 79-year-old Issei (first generation Japanese). During World War II she was contained at Tanforan Assembly Center in San Bruno and Topaz War Relocation Center in Utah. During this incarceration, she painted 70 oil paintings reflecting the dreary life led by the internees. Her pictures depict both the bare physical surroundings of desert and sagebrush as well as human suffering. However, amidst the suffering, Mrs. Hibi has meticulously imparted the sense of hope and survival felt by the internees.

Mr. Speaker, Mrs. Hisako Hibi's artistic contributions to Japanese-Americans and to our society as a whole are invaluable. It is rare to find an individual with the talent and ability to convey the emotional trauma of the internees as profoundly as she. On behalf of the people of Sacramento, I commend and thank Mrs. Hibi for her realistic portrayal of history.

MEDICARE CLAIMS SHOULD BE PAID ON A TIMELY BASIS

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mrs. JOHNSON. Mr. Speaker, I am proud to join my colleagues Representative BILL GRADISON and Representative PETE STARK, in introducing legislation to force the Health Care Financing Administration to pay Medicare claims on a timely basis. HCFA's goal in dragging its heels is to save the Government money, but the end, additional interest on the Medicare Trust Fund, does not justify the deliberate delay of claims processing and the costs late payments imposes on providers.

This legislation will enforce ethical business practices in Medicare. Delayed payment is an unconscionable burden for home health care providers, physicians, pharmacists, hospitals, and suppliers of durable medical equipment to be asked to assume. Health care providers are being asked to sacrifice the solvency of their businesses for a poor decision on the part of their Government.

HCFA's new policy will force providers to conclude that Medicare patients are no longer worth the business. One physician in my district, an individual whose claims have been delayed as long as 8 months, has informed me that soon he must file bankruptcy proceedings, since he accepts Medicare patients on an assigned basis. I ask you, is the savings achieved by delaying a physician's claims worth the loss of a concerned professional?

This places Medicare patients in jeopardy. Previously, Medicare patients received reimbursement within 2 weeks. They now wait in excess of 45 days before they receive their check from Medicare. HCFA's directive to delay claims processing is, in reality, forcing seniors to make hard choices between health care and other pressing needs.

Finally, cost-shifting is ever more expensive in the long term, for the savings to the program do not begin to meet the costs incurred to providers. Claims must be paid, regardless of whether they are paid when the service is rendered, or within 8 months of the service. Meanwhile the home health agency, the hospital, the physician, must borrow to stay afloat. So the interest drawn off the trust fund actually comes from the pockets of health care providers.

Private business must pay its bills in a timely manner. But there are no timely payment requirements for the Medicare Program. I look forward to swift action on this legisla-

tion. It is what the Medicare Program deserves.

A TRIBUTE TO ALFRED L. SWEENEY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 19, 1986

Mr. STOKES. Mr. Speaker, I take this time to bring to the attention of my colleagues the death of on outstanding American.

Mr. Speaker, Alfred L. Sweeney died on June 14, 1986. He was a personal friend whom I greatly respected and admired. He was one of the top black newspapermen in America and enjoyed a distinguished career. In addition to the long friendship which he and I enjoyed, he and my brother Carl had an even longer friendship and involvement. Al Sweeney was a big, strong, warm, caring, loyal, and enormously talented human being who distinguished himself as an outstanding journalist. I am proud to have enjoyed his friendship. Several newspaper articles have been written capturing the highlights of his career. I offer these articles for the record so that colleagues can read them and join with me in extending our condolences to his daughter, Sheila and his two brothers, James L. of Dayton, OH, and John H. of Cleveland.

ALFRED SWEENEY, FORMER CALL AND POST EDITOR, DIES

Alfred L. Sweeney, a native Clevelander and former City Editor of the Call and Post, died suddenly in his Washington, D.C. home, Saturday. Sweeney joined the Call and Post in 1956 and helped mold it into an award winning newspaper. Under his guidance the paper won the Russwurm Award, the highest honor of a Black newspaper, three times.

Sweeney was also a leader of the movement which succeeded in electing Carl B. Stokes, as mayor of Cleveland. Sweeney was named deputy director of information for the Equal Opportunities Commission on August 23, 1965. He later left that position and became deputy director of public affairs for the U.S. Department of Transportation (DOT) where he received two distinguished service awards.

In March 1974 Sweeney was appointed director of the EEOC's Office of Public Affairs.

Sweeney retired several years ago but continued to write a syndicated column "Just Thinking" which also appeared in the Call and Post.

Prior to joining the Call and Post, Sweeney was an editorial supervisor of the Afro American Newspapers in Baltimore and Washington. These papers served as Sweeney's news base until his death.

With 30 years of journalism experience Sweeney won awards in national journalism, newspaper staff writing, and column writing.

As former president of the Capital Press Club in Washington, he received the organization's Newsman's Award in 1954.

Sweeney was a graduate of Wilberforce University and a member of Alpha Phi Alpha fraternity. He also attended Western Reserve University and graduated from John Adams High School.

Survivors include one daughter, Sheila Sweeney; two brothers, John H. and James L.; two nephews, James and John; and one niece, Renee.

ALFRED L. SWEENEY, 66, DIES; WAS RETIRED EEOC OFFICIAL

Alfred L. Sweeney, 66, a retired public affairs director of the Equal Employment Opportunity Commission who also was a columnist for the Washington Afro American newspaper, died June 14 at his home in Silver Spring. He had a heart ailment.

Mr. Sweeney was born in Cleveland. He graduated from Wilberforce University and then returned to Cleveland, where he was a newspaper reporter. He served briefly in the Navy during World War II.

He moved to Washington in 1942 and for the rest of the war worked for the Office of Price Administration. He also wrote for the old Washington Tribune, which is now part of the Washington Afro American. When the war ended he worked for the General Accounting Office until about 1947, when he turned to newspaper work full time.

From 1951 to 1965, Mr. Sweeney lived in Cleveland and was the city editor and the news editor of the Cleveland Call Post, a black-oriented newspaper.

In 1965 he returned here and joined the EEOC as an information officer. From 1967 to 1974, he was deputy assistant director of public affairs at the Department of Transportation. From 1974 to 1977, he was director of public affairs at the EEOC.

In 1978, Mr. Sweeney went to the Department of Agriculture. He remained there until 1981, when he returned to the EEOC and again became director of public affairs. He retired in 1984.

From 1965 until his death, Mr. Sweeney wrote a weekly column for the Washington Afro American.

He received honors for his work from the Capital Press Club and the National Newspaper Publishers Association.

Mr. Sweeney was a founding member and past president of the Capital Press Club, a life member of the NAACP and a member of the Public Relations Society of America, the National Press Club and the National Urban League.

His wife, Norma J. Sweeney, died in 1978. Survivors include one daughter, Sheila Sweeney of Silver Spring, and two brothers, James L., of Dayton, Ohio, and John H., of Cleveland.

SPECIAL IN A DISTINCT BREED OF JOURNALISTS

(By Ethel L. Payne)

Al Sweeney is gone and his passing reminds those of us who are referred to as "pioneers" and "veterans" in the black press that our numbers are dwindling. He was special in a distinct breed of journalists.

Al had a caustic tongue and he used words that could make the toughest wince because, like Harry Truman, he didn't give them hell. He just told what he believed to be the truth and they thought it was hell!

He used to make me mad as hell with his male chauvinism, but I respected him or I knew that this was a way of venting his anger and frustration at a system that enforced its own brand of apartheid.

Al loved writing and he loved the black press. He was good at his craft, and to the end, he never forfeited his integrity. Like so many others in our class, the lean years brought mean days when putting bread on the table and sending kids to college were blood-draining sacrifices.

Some had to swallow pride and go into government to survive the institution that made the rules for the prescribed code of living according to race, creed and color. For Al and others, the safety valve was the black newspaper where one could say "almost" what one pleased or even do anonymous pieces. The man might suspect, but he couldn't prove who the seditionist was.

Al, we'll miss you, You won't be forgotten, When the last one checks out, you'll be part of the plan for the next generation to follow as a blueprint for courage and initiative.

WAS PROUD OF HIS WORK FOR THE BLACK PRESS

(By Louis Stokes)

Al Sweeney was not only a personal friend, but a political advisor to me. He was an enormously talented and insightful writer with keen political instincts.

Al always looked behind the scene to really analyze a situation. He was proud of his background as a reporter for the Black Press. This was where he established his credentials and distinguished himself in his field.

During his stay in Cleveland as city editor at the Call Post he, my brother Carl and I became close friends. It was a friendship that lasted until his death.

It was Al's strategizing that launched Carl's political career in Cleveland, culminating in Carl's election as mayor of Cleveland in 1969, making him the first black mayor of a major American city.

Al followed our careers closely and wrote about both of us on many occasions. I shall always cherish those articles. Whenever he called to discuss an article he contemplated writing he enjoyed bouncing his thoughts off of you. Intermittently, he would inject some humor and then laugh heartily. He had fun analyzing and discussing the issues he wrote about. He was proud that his columns appeared in black newspapers around the country. As a columnist for the Washington Afro-American, he was hard hitting but he was always fair.

At a retirement party for him about a year ago, Al talked proudly of his career and of the friends he had made over the years. Many of us paid tribute to him on that occasion.

He was loved and admired by many people. The black press has lost one of its most distinguished and prolific newsmen. The rest of us have lost one of our dearest friends.

AL SWEENEY: AN APPRECIATION—HAD AN EVER-ABIDING INTEREST IN CIVIL RIGHTS

(By Betty Lou Dotson)

I will miss Al Sweeney: he was one of the first people I met when I came to Washington from Chicago. He was part of a dwindling group of dedicated journalists serving in the federal section.

Al helped me in my work, often offering valuable advice, some of which I heeded. Al had an ever-abiding interest in civil rights and was very forthright in stating his views.

He was a dedicated journalist and an incisive writer. Even after his retirement, his influence continued to be felt. I always looked forward to reading his weekly column in the Afro. After his retirement, as during the days when he was in the federal government, I often disagreed with him, but I always paid attention.

It was a privilege to have known Al and to have worked with him, I will sorely miss him.

'BIG AL' WAS A REAL PRO

(By Chuck Sharpe)

I had read his by-lines hundreds of times before I ever had the opportunity to meet Al Sweeney, and although I had seen pictures of him, he did not match the image I had conjured up of him.

I met him first at a National Urban League Conference. He was there on a "working vacation" and I saw him quite frequently in the NUL press room. From that chance meeting, I came to know and respect the person as much as I had respected his by-lines in the Cleveland "Call and Post."

Later, he was appointed director of public affairs at the Equal Employment Opportunity Commission (EEOC) and offered me a job in that office.

I still remember his words: "I know that you are a good writer, but I understand that you are a little quiet and shy. The people in my office would run all over you." I did not reply and he turned to look at me. "Well!" he said. "Right!". I said "I suppose that I am a little quiet and a little shy. So, if you are looking for an army sergeant, I am not your man. But if you need someone to run your shop, I know that I can do the job."

Less than three weeks later I was his deputy, sorting my way through the usual office problems and dealing with them the same way I had for some 15 years before. It wasn't long before he said to me: "I don't know what you are saying to these people, but you seem to be getting along with them and getting the work done." Again, I did not reply, and this time he did not demand a response.

"Big Al", as we knew him, grew on me and I grew on him until a strong union based on professionalism and mutual respect cemented us together in a way that few people understood, It was a respect based on his experience and my awe of that experience. Al Sweeney was a "tough boss," but he also was a real pro who taught me many tricks of the trade that can't be found in books.

HOUSE OF REPRESENTATIVES—*Monday, June 23, 1986*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. MOAKLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 19, 1986.

I hereby designate the Honorable JOE MOAKLEY to act as Speaker pro tempore on Monday, June 23, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

PRAYER

The Reverend Dr. Ronald F. Christian, assistant to the bishop, American Lutheran Church, Fairfax, VA, offered the following prayer:

We are assembled, O God, in a place where decisions are commonplace; power is assumed; prestige is anticipated; and honor is conveyed.

It is our prayer, O God, that the decisions we make this day and every day will be tempered by concern; power will be balanced with compassion; prestige will be softened with humility; and honor received with dignity.

Remind us always that lives are affected by what we say and do.

Give us guidance in all our doings so that justice for all might be the result and that glory be given to Thee, our Creator. This we humbly pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 297. Joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week."

THE VIXEN AND THE LIONESS

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, one of Aesop's succinct tales is about the vixen who paraded her litter of six cubs in order to sneer at the lioness. "And how many have you got in your litter?" she inquired. "Only one," was the reply, "but a lion."

Mr. Speaker, I have received many requests from economists and investment bankers for an explanation why people would trade in their dollar securities yielding 14 percent for the Eagle Bonds proposed in my bill, H.R. 4401. "What did you say the yield on Eagle Bonds was?" they demanded to know. "Not more than 2½ percent," I said, "but in gold."

Mr. Galbraith, former Ambassador to France under President Reagan, and now an investment banker in New York City, in April of this year wrote to this Member from California advising that in his opinion the U.S. Government could sell at least $100 billion of 30-year bonds convertible into gold at an interest rate of not more than 2 percent.

I would suggest that this policy option is something that this Nation should pursue. Transferring $100 billion of our national debt from an annual interest expense of close to an average cost of 9 percent to 2 percent is a savings of 7 percent, at least on that $100 billion, and over time it would be appropriate to find out if we could transform the entire burden of the national debt from an interest expense of 9 percent to 2 percent. In so doing, we would reduce the cost of maintaining that national debt of close to $2 trillion by 7 percentage points, a reduction in annual interest cost of $140 billion a year.

That one step alone goes a long way toward reducing the almost $200 billion annual deficit that we taxpayers have to pay. It is time that we pursue an option that makes sense.

THE EAST-WEST DIMENSION TO THE CRISIS IN CENTRAL AMERICA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, during his recent address to the National Assembly, Salvadoran President Duarte said:

The Soviets and Cubans were present during the recent Contadora group meeting in Costa Rica. Why were the Soviets and the Cubans in permanent communication with the Nicaraguans during a Contadora group meeting?

It is a question that we need to ask in this body as well. It is absurd to claim there is no East-West dimension to the crisis in Central America when the Soviets and Cubans are actively involved in guiding Nicaragua's actions in the Contadora peace process.

In addition to questioning Soviet and Cuban presence in Contadora, President Duarte also emphasized the crisis in Central America is marked by the efforts of the Government of Nicaragua to destabilize the rest of Central America. "That is why Nicaragua, as the determining element supporting the Salvadoran guerrillas, contributes to the destabilization of El Salvador," President Duarte said.

Nicaragua, with the active support of the Soviet Union and Cuba, is threatening the growth of democracy in Costa Rica, Guatemala, El Salvador, and Honduras. We must act now to counter the Soviet-Cuban presence in the region.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, June 24, 1986.

JAPANESE TECHNICAL LITERATURE ACT OF 1986

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1073) an act to amend the Stevenson-Wydler Technology Innovation Act of 1980 for the purpose of improving the availability of Japanese science and engineering literature in the United States, and for other purposes, as amended.

The Clerk read as follows:

S. 1073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Japanese Technical Literature Act of 1986".

SEC. 2. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c) the following new subsection:

"(d) JAPANESE TECHNICAL LITERATURE.—(1) In addition to the duties specified in subsection (c), the Secretary shall establish and, through the National Technical Information Service and such other offices within the Department of Commerce as the Secretary considers appropriate, maintain a program (including an office in Japan) which shall, on a continuing basis—

"(A) monitor Japanese technical activities and developments;

"(B) consult with businesses, professional societies, and libraries in the United States regarding their needs for information on Japanese developments in technology and engineering;

"(C) acquire and translate selected Japanese technical reports and documents that may be of value to agencies and departments of the Federal Government, and to businesses and researchers in the United States; and

"(D) coordinate with other agencies and departments of the Federal Government to identify significant gaps and avoid duplication in efforts by the Federal Government to acquire, translate, index, and disseminate Japanese technical information.

Activities undertaken pursuant to subparagraph (C) of this paragraph shall only be performed on a cost-reimbursable basis. Translations referred to in such subparagraph shall be performed only to the extent that they are not otherwise available from sources within the private sector in the United States.

"(2) Beginning in 1986, the Secretary shall prepare annual reports regarding important Japanese scientific discoveries and technical innovations in such areas as computers, semiconductors, biotechnology, and robotics and manufacturing. In preparing such reports, the Secretary shall consult with professional societies and businesses in the United States. The Secretary may, to the extent provided in advance by appropriation Acts, contract with private organizations to acquire and translate Japanese scientific and technical information relevant to the preparation of such reports.

"(3) The Secretary also shall encourage professional societies and private businesses in the United States to increase their efforts to acquire, screen, translate, and disseminate Japanese technical literature.

"(4) In addition, the Secretary shall compile, publish, and disseminate an annual directory which lists—

"(A) all programs and services in the United States that collect, abstract, translate, and distribute Japanese scientific and technical information; and

"(B) all translations of Japanese technical documents performed by agencies and departments of the Federal Government in the preceding 12 months that are available to the public.

"(5) The Secretary shall transmit to the Congress, within 1 year after the date of enactment of the Japanese Technical Literature Act of 1986, a report on the activities of the Federal Government to collect, abstract, translate, and distribute declassified Japanese scientific and technical information.".

SEC. 3. There is authorized to be appropriated for fiscal year 1987 the sum of $1,000,000 to carry out the purpose of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the objective of this bill, S. 1073, is to increase the availability of Japanese technical literature in the United States in an effort to help this country remain internationally competitive. In today's global market, we can no longer ignore what the rest of the world is doing if we expect to compete effectively.

Mr. Speaker, I want first to express my appreciation to the ranking minority member of the full committee, the gentleman from New Mexico [Mr. LUJAN], and particularly the ranking minority member of the subcommittee that I chair and that this bill started in, the gentleman from New York [Mr. BOEHLERT].

This bill is the product of both Republicans and Democrats. Science is not a partisan subject in our society, and this bill represents the very real interest and effective support of Members from both sides of the aisle.

I especially also want to recognize the interest of the gentleman from California [Mr. MINETA] and the gentleman from New York [Mr. LUNDINE] for their cooperation and support for this bill during this process.

In 1985, Japan had a $45.6 billion trade surplus, while the United States had a record $150 billion trade deficit. At least part of Japan's economic success can be attributed to its active national effort to collect, translate, and subsequently apply foreign scientific and technical information to meet its own needs. The United States does not have a similar coordinated effort on a national level. This bill is a modest attempt to provide access to Japanese technical information in order to accommodate the widest possible cross section of American business and research.

In short, the bill directs the Department of Commerce to establish and maintain a program, including an office in Japan, to monitor Japanese technical activities; translate selected Japanese technical documents; consult with United States businesses, professional societies, and libraries regarding their information needs on Japanese developments in technology and engineering; coordinate with other Federal agencies to avoid a duplication of effort in this area; and prepare an annual report describing important Japanese technical developments. The Secretary is also directed to encourage United States professional societies and private industry to acquire, translate, and disseminate Japanese technical literature. This could be done through workshops, technical assistance, and other means. In addition, an annual directory is to be compiled and disseminated by the Secretary which would list all programs and services that collect, abstract, translate, and distribute Japanese technical information in the United States.

The requirement for maintaining an office in Japan could be met by using the existing Department of Commerce International Trade Administration office in Japan and/or strengthening the present limited effort of the National Technical Information Service [NTIS]. NTIS currently has only one employee in Tokyo collecting Japanese technical reports. This could hardly be called a significant effort.

The bill authorizes the sum of $1 million to be appropriated for fiscal year 1987 to carry out the program authorized in this bill. It is the intent of the committee, that insofar as is possible, the money is to be reprogrammed from Department of Commerce funds. This is an extremely modest sum in light of the effort being expended by Japan and other nations in their foreign information-gathering efforts.

With this legislation we do not intend to duplicate the private sector or anyone else but rather we intend to build on existing Federal efforts and encourage the private sector to acquire and make Japanese technical literature available to a broader segment of our industries and research institutions.

Mr. Speaker, S. 1073 has the bipartisan support of our committee members. I urge all Members to support this much-needed legislation.

□ 1210

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us addresses one of the central concerns of this Congress—how to keep our Nation competitive in the international marketplace.

But unlike most bills to improve our balance of trade, this one is simple and inexpensive. The $1 million authorized in this bill is a modest sum to allocate to such an important undertaking, and in the committee report, we explicitly request, to the extent possible, that the funds be reprogrammed from within the Department of Commerce.

This legislation gives us a basic competitive tool we have been neglecting—access to Japanese technical literature.

Anyone who doubts the importance of this tool need only examine the attention lavished on it by the Japanese. They make great efforts to acquire our scientific and technical information—not only information available in journals, but also that which can be gleaned by attending trade fairs, conferences, and other gatherings.

By contrast, we barely have access to published materials. A 1981 survey found that more than 75 percent of Japan's scientific and technical journals were unavailable in Western languages.

Yet there is a demand for this information. Requests were so numerous for one Japanese article on ceramics translated by our National Technical Information Service that the Agency turned a profit on its sales.

But current efforts to acquire Japanese information are inadequate.

We need a specific program dedicated to tracking what technical information is available, indexing it, and, when possible, translating it.

It is essential, though, that we begin to devote the kind of attention to acquiring Japanese information that they devote to acquiring ours.

We have to obtain all we can in the marketplace of ideas if we are to win today in the economic marketplace.

Mr. WALGREN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA], who has pursued this legislation with such interest.

Mr. MINETA. Mr. Speaker, I am personally very gratified that today we are considering the Japanese Technical Literature Act. This bill is the culmination of the efforts of many individuals. I would especially like to thank my colleagues, Mr. WALGREN and Mr. BOEHLERT for their tireless efforts on behalf of this legislation; it is only with their support and their wisdom that this important bill is before us today. Moreover, we owe a great debt to the junior Senators from both West Virginia and Montana for originally conceptualizing many aspects of this legislation and for their success in passing a companion bill in the other body.

The United States no longer commands an unchallenged lead in scientific and technical accomplishments. Other nations have emulated us by devoting resources and energies in prodigious amounts to the development of state-of-the-art products and processes. As a result, competition in the world marketplace is keener, and the United States must accustom itself to greater challengers from our trading partners.

Underlying the commercial success achieved by other nations is a solid body of scientific and technical material that is readily available, provided that it can be translated and disseminated in this country.

Without question, some of the finest scientific and commercial research is presently being done in Japan and, yet, we have failed to train enough translators with proficiency in both the Japanese language and in handling technical information. As a result, we have only scant awareness of the range of research being carried out in Japan, and we are in many instances oblivious to the progress made by first rate researchers and innovators.

The notion that the United States is alone in producing the next generation of commercial products and scientific breakthroughs is an antiquated one. Failure to recognize the strides made by other nations, and, failure to assimilate the technological information they produce will be to our own long-term detriment.

It is time for us to learn from countries such as Japan which set about years ago to engage in systematic collection of scientific and technical data and to put such information to good use. Similarly, we should be screening, abstracting, translating and distributing Japanese technical literature within our own country.

Therefore, it is the purpose of the legislation before us today, to improve awareness by Americans of the technological advances in Japan and to make such information more accessible. It is our intention that we no longer allow the language barrier to impede the flow of information from Japan to the United States. Greater access to this material will help us not only to understand our competition, but also to help us set new directions for our own commercial and academic enterprises.

This legislation builds on existing programs, and is designed to enhance—not duplicate—the ongoing efforts of private industry to make translated material available. The Department of Commerce will be required to conduct a range of activities. Their mandate would be twofold. They would be required to monitor Japanese scientific and technical developments and systematically report on such accomplishments. Moreover, on a cost-reimbursable basis, they would make available translated material that will reach government, academia, libraries, and private researchers.

This is a modest beginning. In fact, we should be seeking additional mechanisms for understanding our counterparts who are also striving for commercial and scientific success. The Japanese, by their own example, have demonstrated the importance of learning from others. To do so, however, requires greater proficiency in the Japanese language, and it requires a willingness to learn from others. We hope this legislation will serve as a catalyst in this regard.

Again, Mr. Speaker, I wish to congratulate my esteemed colleagues who have lent their support for this bill and whose leadership and counsel were essential in crafting this bill. I would also thank my colleague, Mr. LUJAN, the ranking minority member of the Science and Technology Committee, for his abiding interest in legislation which makes that necessary link between science and technology and international competitiveness.

Mr. LUNDINE. Mr. Speaker, I am pleased to join today in expressing my strong support for S. 1073, the Japanese Technical Literature Act of 1986. This proposal is virtually identical to the proposal introduced by Senators BAUCUS and ROCKEFELLER and adopted by the Senate late last year. It is intended to increase the efforts of the U.S. Government to make Japanese technical literature available to U.S. companies and researchers.

The position of the United States as world leader in the areas of technology, innovation, engineering, and manufacturing is being severely tested in the international marketplace. To meet the challenge head on, the United States must not only recognize the full value of our own technology but we must also become aware of the research and technology being developed by our major competitors. While the United States has built the strongest scientific base in the world, many of our competitors have increased their commitment to basic research, at the same time that they continue to translate American research into competitive products.

This is one of many areas in which the Japanese have increasingly excelled. Not only have the Japanese worked diligently and successfully to acquire American technology, they are now spending, per capita, nearly as much as the United States on research and development. In particular, Japan has increased its commitment to advanced research in the areas of robotics, biotechnology, computer technology, and electronics, areas in which the United States has a great stake.

Industry and business in this country are slowly becoming aware that they must stay abreast of new Japanese innovations if they are to compete. Efforts to acquire, translate, and use Japanese scientific and technical information are increasing in the private sector. However, we believe the Federal Government must play a role in complementing these efforts and in helping overcome barriers of access, language, and cost that prevent American companies from acquiring valuable Japanese technical information.

This legislation proposes a specific program within the Department of Commerce to encourage the acquisition and utilization of Japanese technical information. The legislation builds on existing programs, making it clear that it is intended to complement ongoing or future private sector initiatives.

Specifically, the legislation would authorize $1 million to carry out four major tasks. The Department of Commerce would be required to issue an annual report on Japanese technological trends, especially trends in comput-

ers, semiconductors, biotechnology, and robotics. Efforts in Japan to monitor scientific and technical developments would be increased and selected Japanese scientific and technical documents for government, businesses, and academia, would be translated on a cost-reimbursable basis, and only to the extent that those documents are not readily available from private sector sources. The Department would be charged with coordinating existing Federal Government translation programs, including publishing an annual index of existing Federal translations and reporting on overall Federal efforts to translate and disseminate Japanese scientific and technical information.

Japanese businesses and scientists have access to our best scientific and technical information and have utilized this information to the detriment of our industrial competitiveness. It is time for the United States to have the same opportunities to learn from them. The legislation being considered today would help improve the ability of our business and industry to acquire important Japanese technical information and is a step toward improving our competitiveness. This is a worthwhile and modest investment by the Federal Government in our Nation's future and I hope it will be adopted by the House of Representatives today.

□ 1220

Mr. LUJAN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. WALGREN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and pass the Senate bill, S. 1073, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL FIRE PREVENTION AND CONTROL ACT AUTHORIZATION, FISCAL YEAR 1987

Mr. WALGREN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4252) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, as amended.

The Clerk read as follows:

H.R. 4252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17(f) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(f)) is amended—

(1) by striking "is" and inserting in lieu thereof "are"; and

(2) by inserting immediately before the period the following: "and $18,300,000 for the fiscal year ending September 30, 1987".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 20 minutes and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4252, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALGREN, Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, H.R. 4252, authorizes the activities of the U.S. Fire Administration, which is the Federal focal point for fire issues. The Fire Administration monitors trends in fire losses nationwide and sponsors programs to improve prevention and control methods.

The second activity is the National Fire Academy, which provides executive and leadership training at levels above that available from State fire academies, and also offers specialized training such as arson investigation and emergency handling of hazardous materials.

These programs were initiated in response to the 1973 report "America Burning" that highlighted this country's shocking rates of fire death and economic losses, which are among the world's highest. The programs have worked, in that our fire losses are sharply down from what they were in 1974. But we still have a long way to go, because we still have among the world's highest loss rates.

This year the administration has proposed major cuts in this area:

Zero funding for the Fire Administration;

Cutting the firefighters' stipends for travel to the Fire Academy; and

Eliminating the planned Western regional version of the Academy.

Mr. Speaker, our hearings confirmed what we suspected about these proposals: They just don't make any sense. Witness after witness told us that the Federal fire programs are working and they are necessary. They will not be taken over by State and local governments. Even the Director of FEMA, who had to cut the programs to meet his budget goals, was unqualified in his praise of their quality and effectiveness.

In considering the fire authorization, we were struck by the irony that, from a cost-effective view, we should spend more, rather than less on fire. Statistics show that, in real dollars, losses due to fire have declined in each of the last 4 years. During that period, over 1.6 billion dollars' worth of America which would have otherwise burned up, did not burn. One effect of this change was that at least $300 million more in taxes was collected by the Federal Government, while only about $100 million of Federal money was spent on fire programs during those years. Still more important, about 2,000 fewer people died in fires during those 4 years than in the previous 4. If the fire programs were a private sector operation, we would have to rate them an unqualified success—they made money while providing an essential service.

Therefore, I proposed, along with Mr. BOEHLERT, the distinguished ranking minority member of the subcommittee, to restore almost all the cuts in this area proposed by the administration. I want to say here that Mr. BOEHLERT's leadership and cooperation have been extremely helpful in establishing the need for the funding level we included in this bill. It has been a pleasure working with him on the fire programs.

What we propose in this bill will fund the U.S. Fire Administration and National Fire Academy at $18.3 million in fiscal year 1987. It should be clear that this is less than the amount appropriated for the current fiscal year because we agreed with the other body, to support FEMA's proposal to hold in abeyance plans for a Western regional version of the National Emergency Training Center, which saves about $1.3 million. Our proposals received very strong support from our colleagues on the Science Committee.

In truth, the people of the United States, and the firefighters who protect them, deserve much more. We have cut the Federal fire programs as much as we dare. I hope the entire House will also support this authorization bill, to fund programs which are so important to all of us.

Mr. Speaker, I reserve the balance of my time.

Mr. LUJAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us today, H.R. 4252, reauthorizes funds within the Federal Emergency Management Agency [FEMA] for the Federal Fire Prevention and Control Act of 1974.

Since 1973, following the release of "America Burning," a comprehensive study of U.S. fire problems, Congress has been particularly concerned that there be a Federal focus on efforts to reduce and prevent loss due to fire. Congress, therefore, passed the Federal Fire Prevention and Control Act in 1974, which established the U.S. Fire Administration and the National Fire Academy. The legislation also set up a national data center, a function which

has been incorporated into USFA. Finally, the Center for Fire Research at the National Bureau of Standards was authorized funds for this effort are authorized in a separate bill to authorize funds for the National Bureau of Standards.

For fiscal year 1987, the administration requested $9.041 million. This request would eliminate the U.S. Fire Administration, delete funding for NETC-West, charge dormitory fees for the National Fire Academy [NFA] and eliminate the travel stipend given to those attending NFA classes.

The committee reinstated funds for all functions but the NETC-West. I did offer an amendment in committee to support the administration position on requiring those attending classes at the NFA to pay their transportation, but that was defeated. I believe this issue should be pursued further when the fiscal year 1988 authorization bill is acted upon. Nevertheless, the bill does provide adequate funding, for U.S. Fire Administration and National Fire Academy and therefore I support the committee recommendations.

In conclusion, I will point out that H.R. 4252 authorizes a total of $18.3 million, a level of approximately $4 million below the fiscal year 1986 appropriation level. I urge Members to support H.R. 4252.

□ 1230

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WALGREN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and pass the bill, H.R. 4252, as amended.

The question was taken.

Mr. LUJAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986

Mr. KASTENMEIER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4952) to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveilance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Electronic Communications Privacy Act of 1986".

TITLE I—INTERCEPTION OF COMMUNICATIONS AND RELATED MATTERS

SEC. 101. FEDERAL PENALTIES FOR THE INTERCEPTION OF COMMUNICATIONS.

(a) DEFINITIONS.—(1) Section 2510(1) of title 18, United States Code, is amended—

(A) by striking out "any communication" and inserting "any aural transfer" in lieu thereof;

(B) by inserting "(including the use of such connection in a switching station)" after "reception".

(C) by striking out "as a common carrier" and

(D) by inserting before the semicolon at the end the following: "or communications affecting interstate or foreign commerce, but such term does not include the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit".

(2) Section 2510(2) of title 18, United States Code, is amended by inserting before the semicolon at the end the following: ", but such term does not include any electronic communication".

(3) Section 2510(4) of title 18, United States Code, is amended—

(A) by inserting "or other" after "aural"; and

(B) by inserting ", electronic," after "wire".

(4) Section 2510(8) of title 18, United States Code, is amended by striking out "identity of the parties to such communication or the existence,".

(5) Section 2510 of title 18, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (10);

(B) by striking out the period at the end of paragraph (11) and inserting a semicolon in lieu thereof; and

(C) by adding at the end the following:

"(12) 'electronic communication' means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce, but does not include—

"(A) the radio portion of a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit;

"(B) any wire or oral communication;

"(C) any communication made through a tone-only paging device; or

"(D) any communication from a tracking device (as defined in section 3117 of this title);

"(13) 'user' means any person or entity who—

"(A) uses an electronic communication service; and

"(B) is duly authorized by the provider of such service to engage in such use;

"(14) 'electronic communications system' means any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications, and any computer facilities or related electronic equipment for the electronic storage of such communications;

"(15) 'electronic communication service' means any service which provides to users thereof the ability to send or receive wire or electronic communications;

"(16) 'readily accessible to the general public' means, with respect to a radio communication, that such communication is not—

"(A) scrambled or encrypted;

"(B) transmitted using modulation techniques whose essential parameters have been withheld from the public with the intention of preserving the privacy of such communication;

"(C) carried on a subcarrier or other signal subsidiary to a radio transmission;

"(D) transmitted over a communication system provided by a common carrier, unless the communication is a tone only paging system communication; or

"(E) transmitted on frequencies allocated under part 25, subpart D, E, or F of part 74, or part 94 of the Rules of the Federal Communications Commission, unless, in the case of a communication transmitted on a frequency allocated under part 74 that is not exclusively allocated to broadcast auxiliary services, the communication is a two-way voice communication by radio;

"(17) 'electronic storage' means—

"(A) any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and

"(B) any storage of such communication by an electronic communication service for purposes of backup protection of such communication; and

"(18) 'aural transfer' means a transfer containing the human voice at any point between and including the point of origin and the point of reception.".

(b) EXCEPTIONS WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—

(1) Section 2511(2)(d) of title 18, United States Code, is amended by striking out "or for the purpose of committing any other injurious act".

(2) Section 2511(2)(f) of title 18, United States Code, is amended—

(A) by inserting "or chapter 121" after "this chapter"; and

(B) by striking out "by" the second place it appears and inserting in lieu thereof ", or foreign intelligence activities conducted in accordance with otherwise applicable Federal law involving a foreign electronic communications system, utilizing".

(3) Section 2511(2) of title 18, United States Code, is amended by adding at the end the following:

"(g) It shall not be unlawful under this chapter or chapter 121 of this title for any person—

"(i) to intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public;

"(ii) to intercept any radio communication which is transmitted—

"(I) by any station for the use of the general public, or that relates to ships, aircraft, vehicles, or persons in distress;

"(II) by any governmental, law enforcement, civil defense, or public safety communications system, including police and fire, readily accessible to the general public;

"(III) by a station operating on a frequency assigned to the amateur, citizens band, or general mobile radio services; or

"(IV) by any marine or aeronautical communications system;

"(iii) to engage in any conduct which—

"(I) is prohibited by section 633 of the Communications Act of 1934; or

"(II) is excepted from the application of section 705(a) of the Communications Act of 1934 by section 705(b) of that Act;

"(iv) to intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station, to the extent necessary to identify the source of such interference; or

"(v) for other users of the same frequency to intercept any radio communication made through a common carrier system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system, if such communication is not scrambled encrypted.

"(h) It shall not be unlawful under this chapter—

"(i) to use a pen register (as that term is defined for the purposes of chapter 206 (relating to pen registers) of this title);

"(ii) for a provider of electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service, from fraudulent, unlawful or abusive use of such service; or

"(iii) to use a device that captures the incoming electronic or other impulses which identify the numbers of an instrument from which a wire communication was transmitted.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Chapter 119 of title 18, United States Code, is amended—

(A) in each of sections 2510(5), 2510(8), 2510(9)(b), 2510(11), and 2511 through 2519 (except sections 2516(1) and 2518(10)), by striking out "wire or oral" each place it appears (including in any section heading) and inserting "wire, oral, or electronic" in lieu thereof; and

(B) in section 2511(2)(b), by inserting "or electronic" after "wire".

(2) The heading of chapter 119 of title 18, United States Code, is amended by inserting "and electronic communications" after "wire".

(3) The item relating to chapter 119 in the table of chapters at the beginning of part I of title 18 of the United States Code is amended by inserting "and electronic communications" after "Wire".

(4) Section 2510(5)(a) of title 18, United States Code, is amended by striking out "communications common carrier" and inserting "provider of wire or electronic communication service" in lieu thereof.

(5) Section 2511(2)(a)(i) of title 18, United States Code, is amended—

(A) by striking out "any communication common carrier" and inserting "a provider of wire or electronic communication service" in lieu thereof;

(B) by striking out "of the carrier of such communication" and inserting "of the provider of that service" in lieu thereof; and

(C) by striking out ": Provided, That said communication common carriers" and inserting ", except that a provider of wire communication service to the public" in lieu thereof.

(6) Section 2511(2)(a)(ii) of title 18, United States Code, is amended—

(A) by striking out "communication common carriers" and inserting "providers of wire or electronic communication service" in lieu thereof;

(B) by striking out "communication common carrier" each place it appears and inserting "provider of wire or electronic communication service" in lieu thereof; and

(C) by striking out "if the common carrier" and inserting "if such provider" in lieu thereof.

(7) Section 2512(2)(a) of title 18, United States Code, is amended—

(A) by striking out "a communications common carrier" the first place it appears and inserting "a provider of wire or electronic communication service" in lieu thereof; and

(B) by striking out "a communications common carrier" the second place it appears and inserting "such a provider" in lieu thereof; and

(C) by striking out "communications common carrier's business" and inserting "business of providing that wire or electronic communication service" in lieu thereof.

(8) Section 2518(4) of title 18, United States Code, is amended by striking out "communication common carrier" and inserting "provider of electronic communication service" in lieu thereof.

(d) PENALTIES MODIFICATION.—(1) Section 2511(1) of title 18, United States Code, is amended by striking out "shall be" and all that follows through "or both" and inserting in lieu thereof "shall be punished as provided in subsection (4)".

(2) Section 2511 of title 18, United States Code, is amended by adding after the material added by section 102 the following:

"(4)(a) Except as provided in paragraph (b) of this subsection, whoever violates subsection (1) of this section shall be fined under this title or imprisoned not more than five years, or both.

"(b) If the offense is a first offense under paragraph (a) of this subsection and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, and the wire or electronic communication with respect to which the offense under paragraph (a) is a radio communication, then—

"(i) if the communication is not the radio portion of a cellular telephone communication, the offender shall be fined under this title or imprisoned not more than one year, or both; and

"(ii) if the communication is the radio portion of a cellular telephone communication, the offender shall be fined not more than $500 or imprisoned not more than six months, or both.

"(c) Conduct otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted to a broadcasting station for purposes of retransmission to the general public is not an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.".

(e) EXCLUSIVITY OF REMEDIES WITH RESPECT TO ELECTRONIC COMMUNICATIONS.—Section 2518(10) of title 18, United States Code, is amended by adding at the end the following:

"(c) The remedies and sanctions described in this chapter with respect to the interception of electronic communications are the only judicial remedies and sanctions for nonconstitutional violations of this chapter involving such communications.".

SEC. 102. REQUIREMENTS FOR CERTAIN DISCLOSURES.

Section 2511 of title 18, United States Code, is amended by adding at the end the following:

"(3)(A) Except as provided in subparagraph (B) of this paragraph, a person or entity providing an electronic communication service to the public shall not willfully divulge the contents of any communication (other than one to such person or entity, or an agent thereof) while in transmission on that service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

"(B) A person or entity providing electronic communication service to the public may divulge the contents of any such communication—

"(i) as otherwise authorized in section 2511(2)(a) or 2517 of this title;

"(ii) with the lawful consent of the originator or any addressee or intended recipient of such communication;

"(iii) to a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

"(iv) which were inadvertently obtained by the service provider and which appear to pertain to the commission of a crime, if such divulgence is made to a law enforcement agency.".

SEC. 103. RECOVERY OF CIVIL DAMAGES.

Section 2520 of title 18, United States Code, is amended to read as follows:

"§ 2520. Recovery of civil damages authorized

"(a) IN GENERAL.—Any person whose wire, oral, or electronic communication is intercepted, disclosed, or willfully used in violation of this chapter may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In an action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c) and punitive damages in appropriate cases; and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) COMPUTATION OF DAMAGES.—The court may assess as damages in an action under this section whichever is the greater of—

"(1) the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation; or

"(2) statutory damages of whichever is the greater of $100 a day for each day of violation or $10,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense against any civil or criminal action brought under this chapter or any other provision of law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.".

SEC. 104. CERTAIN APPROVALS BY JUSTICE DEPARTMENT OFFICIALS.

Section 2516(1) of title 18 of the United States Code is amended by striking out "or any Assistant Attorney General" and inserting in lieu thereof "any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General in the Criminal Division".

SEC. 105. ADDITION OF OFFENSES TO CRIMES FOR WHICH INTERCEPTION IS AUTHORIZED.

(a) WIRE AND ORAL INTERCEPTIONS.—Section 2516(1) of title 18 of the United States Code is amended—

(1) in paragraph (c)—

(A) by inserting "section 751 (relating to escape)," after "wagering information),";

(B) by striking out "2314" and inserting "2312, 2313, 2314," in lieu thereof;

(C) by inserting "the second section 2320 (relating to trafficking in certain motor vehicles or motor vehicle parts), section 1203 (relating to hostage taking), section 1029 (relating to fraud and related activity in connection with access devices), section 3146 (relating to penalty for failure to appear), section 3521(b)(3) (relating to witness relocation and assistance), section 32 (relating to destruction of aircraft or aircraft facilities)," after "stolen property),";

(D) by inserting "section 1952A (relating to use of interstate commerce facilities in the commission of murder for hire), section 1952B (relating to violent crimes in aid of racketeering activity)," after "1952 (interstate and foreign travel or transportation in aid of racketeering enterprises),"; and

(E) by inserting ", section 115 (relating to threatening or retaliating against a Federal official), the section in chapter 65 relating to destruction of an energy facility, and section 1341 (relating to mail fraud)," after "section 1963 (violations with respect to racketeer influenced and corrupt organizations)";

(2) by striking out "or" at the end of paragraph (g);

(3) by inserting after paragraph (g) the following:

"(h) any felony violation of sections 2511 and 2512 (relating to interception and disclosure of certain communications and to certain intercepting devices) of this title;

"(i) the location of any fugitive from justice from an offense described in this section; or"; and

(4) by redesignating paragraph (h) as paragraph (j).

(b) INTERCEPTION OF ELECTRONIC COMMUNICATIONS.—Section 2516 of title 18 of the United States Code is amended by adding at the end the following:

"(3) Any attorney for the Government (as such term is defined for the purposes of the Federal Rules of Criminal Procedure) may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant, in conformity with section 2518 of this title, an order authorizing or approving the interception of electronic communications by an investigative or law enforcement officer having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of any Federal felony.".

SEC. 106. APPLICATIONS, ORDERS, AND IMPLEMENTATION OF ORDERS.

(a) PLACE OF AUTHORIZED INTERCEPTION.—Section 2518(3) of title 18 of the United States Code is amended by inserting "(and outside that jurisdiction but within the United States in the case of a mobile interception device authorized by a Federal court within such jurisdiction)" after "within the territorial jurisdiction of the court in which the judge is sitting".

(b) REIMBURSEMENT FOR ASSISTANCE.—Section 2518(4) of title 18 of the United States Code is amended by striking out "at the prevailing rates" and inserting in lieu thereof "for reasonable expenses incurred in providing such facilities or assistance".

(c) COMMENCEMENT OF 30-DAY PERIOD AND POSTPONEMENT OF MINIMIZATION.—Section 2518(5) of title 18 of the United States Code is amended—

(1) by inserting after the first sentence the following: "Such thirty-day period begins on the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is entered."; and

(2) by adding at the end the following: "In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception. An interception under this chapter may be conducted in whole or in part by Government personnel, or by an individual operating under a contract with the Government, acting under the supervision of an investigative or law enforcement officer authorized to conduct the interception.".

(d) ALTERNATIVE TO DESIGNATING SPECIFIC FACILITIES FROM WHICH COMMUNICATIONS ARE TO BE INTERCEPTED.—(1) Section 2518(1)(b)(ii) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "a particular description".

(2) Section 2518(3)(d) of title 18 of the United States Code is amended by inserting "except as provided in subsection (11)," before "there is".

(3) Section 2518 of title 18 of the United States Code is amended by adding at the end the following:

"(11) The requirements of subsections (1)(b)(ii) and (3)(d) of this section relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if—

"(i) in the case of an application with respect to the interception of an oral communication—

"(I) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(II) the application contains a full and complete statement as to why such specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and

"(III) the judge finds that such specification is not practical; and

"(ii) in the case of an application with respect to a wire or electronic communication—

"(I) the application is by a Federal investigative or law enforcement officer and is approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, an Assistant Attorney General, or an acting Assistant Attorney General;

"(II) the application identifies the person believed to be committing the offense and whose communications are to be intercepted and the applicant makes a showing of a purpose, on the part of that person, to thwart interception by changing facilities; and

"(III) the judge finds that such purpose has been adequately shown.

"(12) An interception of a communication under an order with respect to which the requirements of subsections (1)(b)(ii) and (3)(d) of this section do not apply by reason of subsection (11) shall not begin until the facilities from which, or the place where, the communication is to be intercepted is ascertained by the person implementing the interception order.".

(4) Section 2519(1)(b) of title 18, United States Code, is amended by inserting "(including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of this title did not apply by reason of section 2518(11) of this title)" after "applied for".

SEC. 107. INTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act constitutes authority for the conduct of any intelligence activity.

(b) CERTAIN ACTIVITIES UNDER PROCEDURES APPROVED BY THE ATTORNEY GENERAL.—Nothing in chapter 119 or chapter 121 of title 18, United States Code, shall affect the conduct, by officers or employees of the United States Government in accordance with other applicable Federal law, under procedures approved by the Attorney General of activities intended to—

(1) intercept encrypted or other official communications of United States executive branch entities or United States Government contractors for communications security purposes;

(2) intercept radio communications transmitted between or among foreign powers or agents of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978; or

(3) access an electronic communication system used exclusively by a foreign power or agent of a foreign power as defined by the Foreign Intelligence Surveillance Act of 1978.

SEC. 108. MOBILE TRACKING DEVICES.

(a) IN GENERAL.—Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Mobile tracking devices

"(a) IN GENERAL.—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

"(b) DEFINITION.—As used in this section, the term 'tracking device' means an electronic or mechanical device which permits the tracking of the movement of a person or object.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Mobile tracking devices.".

SEC. 109. WARNING SUBJECT OF SURVEILLANCE.

Section 2232 of title 18, United States Code, is amended—

(1) by inserting "(a) PHYSICAL INTERFERENCE WITH SEARCH.—" before "Whoever" the first place it appears;

(2) by inserting "(b) NOTICE OF SEARCH.—" before "Whoever" the second place it appears; and

(3) by adding at the end the following:

"(c) NOTICE OF CERTAIN ELECTRONIC SURVEILLANCE.—Whoever, having knowledge that a Federal investigative or law enforcement officer has been authorized or has applied for authorization under chapter 119 to intercept a wire, oral, or electronic communication, in order to obstruct, impede, or prevent such interception, gives notice or attempts to give notice of the possible interception to any person shall be fined under this title or imprisoned not more than five years, or both.

"Whoever, having knowledge that a Federal officer has been authorized or has applied for authorization to conduct electronic surveillance under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801, et seq.), in

order to obstruct, impede, or prevent such activity, gives notice or attempts to give notice of the possible activity to any person shall be fined under this title or imprisoned not more than five years, or both.".

SEC. 110. INJUNCTIVE REMEDY.

(a) IN GENERAL.—Chapter 119 of title 18, United States Code, is amended by adding at the end the following:

"§ 2521. Injunction against illegal interception

"Whenever it shall appear that any person is engaged or is about to engage in any act which constitutes or will constitute a felony violation of this chapter, the Attorney General may initiate a civil action in a district court of the United States to enjoin such violation. The court shall proceed as soon as practicable to the hearing and determination of such an action, and may, at any time before final determination, enter such a restraining order or prohibition, or take such other action, as is warranted to prevent a continuing and substantial injury to the United States or to any person or class of persons for whose protection the action is brought. A proceeding under this section is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by adding at the end thereof the following:

"2521. Injunction against illegal interception.".

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any interception pursuant to section 2516(2) of title 18 of the United States Code which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such interception occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of State law conforming the applicable State statute with chapter 119 of title 18, United States Code, as so amended; or

(2) the date two years after the date of the enactment of this Act.

TITLE II—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

SEC. 201. TITLE 18 AMENDMENT.

Title 18, United States Code, is amended by inserting after chapter 119 the following:

"CHAPTER 121—STORED WIRE AND ELECTRONIC COMMUNICATIONS AND TRANSACTIONAL RECORDS ACCESS

"Sec.
"2701. Unlawful access to stored communications.
"2702. Disclosure of contents.
"2703. Requirements for governmental access.
"2704. Backup preservation.
"2705. Delayed notice.
"2706. Cost reimbursement.
"2707. Civil action.
"2708. Exclusivity of remedies.
"2709. Counterintelligence access to telephone toll and transactional records.
"2710. Definitions.

"§ 2701. Unlawful access to stored communications

"(a) OFFENSE.—Except as provided in subsection (c) of this section whoever—

"(1) intentionally accesses without authorization a facility through which an electronic communication service is provided; or

"(2) intentionally exceeds an authorization to access that facility;

and thereby obtains, alters, or prevents authorized access to a wire or electronic communication while it is in electronic storage in such system shall be punished as provided in subsection (b) of this section.

"(b) PUNISHMENT.—The punishment for an offense under subsection (a) of this section is—

"(1) if the offense is committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain—

"(A) a fine of not more than $250,000 or imprisonment for not more than one year, or both, in the case of a first offense under this subparagraph; and

"(B) a fine under this title or imprisonment for not more than two years, or both, for any subsequent offense under this subparagraph; and

"(2) a fine of not more than $5,000 or imprisonment for not more than six months, or both, in any other case.

"(c) EXCEPTIONS.—Subsection (a) of this section does not apply with respect to conduct authorized—

"(1) by the person or entity providing a wire or electronic communications service;

"(2) by a user of that service with respect to a communication of or intended for that user; or

"(3) in section 2703 or 2704 of this title.

"§ 2702. Disclosure of contents

"(a) PROHIBITIONS.—Except as provided in subsection (b)—

"(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

"(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(b) EXCEPTIONS.—A person or entity may divulge the contents of a communication—

"(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

"(2) as otherwise authorized in section 2516, 2511(2)(a), or 2703 of this title;

"(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

"(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

"(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service; or

"(6) to a law enforcement agency, if such contents—

"(A) were inadvertently obtained by the service provider; and

"(B) appear to pertain to the commission of a crime.

"§ 2703. Requirements for governmental access

"(a) CONTENTS OF ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of a non-voice wire communication or an electronic communication, that is in electronic storage in an electronic communications system for 180 days or less, only pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than 180 days by the means available under subsection (b) of this section.

"(b) CONTENTS OF ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

"(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant; or

"(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—

"(i) uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena; or

"(ii) obtains a court order for such disclosure under subsection (d) of this section;

except that delayed notice may be given pursuant to section 2705 of this title.

"(2) Paragraph (1) is applicable with respect to any electronic communication that is held or maintained on that service—

"(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such remote computing service; and

"(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.

"(c) RECORDS CONCERNING ELECTRONIC COMMUNICATIONS SERVICE OR REMOTE COMPUTING SERVICE.—A governmental entity may require a provider of electronic communications service or remote computing service to disclose a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a) or (b) of this section) without required notice to the subscriber or customer if the governmental entity—

"(1) uses an administrative subpoena authorized by a Federal or State statute, or a Federal or State grand jury subpoena;

"(2) obtains a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant; or

"(3) obtains a court order for such disclosure under subsection (d) of this section.

"(d) REQUIREMENTS FOR COURT ORDER.—A court order for disclosure under subsection (b) or (c) of this section shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry. In the case of a State governmental authority, such a court order shall not issue if prohibited by the law of such State.

"§ 2704. Backup preservation

"(a) BACKUP PRESERVATION.—(1) A governmental entity acting under section 2703(b)(2) may include in its subpoena or court order a requirement that the service provider to whom the request is directed create a backup copy of the contents of the electronic communications sought in order to preserve those communications. Without notifying the subscriber or customer of such subpoena or court order, such service provider shall create such backup copy as soon as practicable consistent with its regular business practices and shall confirm to the governmental entity that such backup copy has been made. Such backup copy shall be created within two business days after receipt by the service provider of the subpoena or court order.

"(2) Notice to the subscriber or customer shall be made by the governmental entity within three days after receipt of such confirmation, unless such notice is delayed pursuant to section 2705(a).

"(3) The service provider shall not destroy such backup copy until the later of—

"(A) the delivery of the information; or

"(B) the resolution of any proceedings (including appeals of any proceeding) concerning the government's subpoena or court order.

"(4) The service provider shall release such backup copy to the requesting governmental entity no sooner than 14 days after the governmental entity's notice to the subscriber or customer if such service provider—

"(A) has not received notice from the subscriber or customer that the subscriber or customer has challenged the governmental entity's request; and

"(B) has not initiated proceedings to challenge the request of the governmental entity.

"(5) A governmental entity may seek to require the creation of a backup copy under subsection (a)(1) of this section if in its sole discretion such entity determines that there is reason to believe that notification under section 2703 of this title of the existence of the subpoena or court order may result in destruction of or tampering with evidence. This determination is not subject to challenge by the subscriber or customer or service provider.

"(b) CUSTOMER CHALLENGES.—(1) Within 14 days after notice by the governmental entity to the subscriber or customer under subsection (a)(2) of this section, such subscriber or customer may file a motion to quash such subpoena or vacate such court order, with copies served upon the governmental entity and with written notice of such challenge to the service provider. A motion to vacate a court order shall be filed in the court which issued such order. A motion to quash a subpoena shall be filed in the appropriate United States district court or State court. Such motion or application shall contain an affidavit or sworn statement—

"(A) stating that the applicant is a customer or subscriber to the service from which the contents of electronic communications maintained for him have been sought; and

"(B) stating the applicant's reasons for believing that the records sought are not relevant to a legitimate law enforcement inquiry or that there has not been substantial compliance with the provisions of this chapter in some other respect.

"(2) Service shall be made under this section upon a governmental entity by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter. For the purposes of this section, the term 'delivery' has the meaning given that term in the Federal Rules of Civil Procedure.

"(3) If the court finds that the customer has complied with paragraphs (1) and (2) of this subsection, the court shall order the governmental entity to file a sworn response, which may be filed in camera if the governmental entity includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided as soon as practicable after the filing of the governmental entity's response.

"(4) If the court finds that the applicant is not the subscriber or customer for whom the communications sought by the governmental entity are maintained, or that there is a reason to believe that the law enforcement inquiry is legitimate and that the communications sought are relevant to that inquiry, it shall deny the motion or application and order such process enforced. If the court finds that the applicant is the subscriber or customer for whom the communications sought by the governmental entity are maintained, and that there is not a reason to believe that the communications sought are relevant to a legitimate law enforcement inquiry, or that there has not been substantial compliance with the provisions of this chapter, it shall order the process quashed.

"(5) A court order denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer.

"§ 2705. Delayed notice

"(a) DELAY OF NOTIFICATION.—(1) A governmental entity acting under section 2703(b) of this title may—

"(A) where a court order is sought, include in the application a request, which the court shall grant, for an order delaying the notification required under section 2703(b) of this title for a period not to exceed 90 days; if the court determines that there is reason to believe that notification of the existence of the court order may have an adverse result described in paragraph (2) of this subsection; or

"(B) where an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury subpoena is obtained, delay the notification required under section 2703(b) of this title for a period not to exceed 90 days upon the execution of a written certification of a supervisory official that there is reason to believe that notification of the existence of the subpoena may have an adverse result described in paragraph (2) of this subsection.

"(2) An adverse result for the purposes of paragraph (1) of this subsection is—

"(A) endangering the life or physical safety of an individual;

"(B) flight from prosecution;

"(C) destruction of or tampering with evidence;

"(D) intimidation of potential witnesses; or

"(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"(3) The governmental entity shall maintain a true copy of certification under paragraph (1)(B).

"(4) Extensions of the delay of notification provided in section 2703 of up to 90 days each may be granted by the court upon application, or by certification by a governmental entity, but only in accordance with subsection (b) or (c) of this section.

"(5) Upon expiration of the period of delay of notification under paragraph (1) or (4) of this subsection, the governmental entity shall serve upon, or deliver by registered or first class mail to, the customer or subscriber a copy of the process or request together with notice that—

"(A) states with reasonable specificity the nature of the law enforcement inquiry; and

"(B) informs such customer or subscriber—

"(i) that information maintained for such customer or subscriber by the service provider named in such process or request was supplied to or requested by that governmental authority and the date on which the supplying or request took place;

"(ii) that notification of such customer or subscriber was delayed;

"(iii) what governmental entity or court made the certification or determination pursuant to which that delay was made; and

"(iv) which provision of this chapter allowed such delay.

"(6) As used in this subsection, the term 'supervisory official' means the investigative agent in charge or assistant investigative agent in charge or an equivalent of an investigating agency's headquarters or regional office, or the chief prosecuting attorney or the first assistant prosecuting attorney or an equivalent of a prosecuting attorney's headquarters or regional office.

"(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—A governmental entity acting under section 2703, when it is not required to notify the subscriber or customer under section 2703(b)(1), or to the extent that it may delay such notice pursuant to subsection (a) of this section, may apply to a court for an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) destruction of or tampering with evidence;

"(4) intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

"§ 2706. Cost reimbursement

"(a) PAYMENT.—Except as otherwise provided in subsection (c), a governmental entity obtaining the contents of communications, records, or other information under section 2702, 2703, or 2704 of this title shall pay to the person or entity assembling or providing such information a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, assembling, reproducing, or otherwise providing such information. Such reimbursable costs shall include any costs due to necessary disruption of normal operations of any electronic communication service or remote computing service in which such information may be stored.

"(b) AMOUNT.—The amount of the fee provided by subsection (a) shall be as mutually agreed by the governmental entity and the person or entity providing the information, or, in the absence of agreement, shall be as determined by the court which issued the order for production of such information (or the court before which a criminal prosecution relating to such information would be brought, if no court order was issued for production of the information).

"(c) The requirement of subsection (a) of this section does not apply with respect to records or other information maintained by a communications common carrier that relate to telephone toll records and telephone listings obtained under section 2703 of this title. The court may, however, order a payment as described in subsection (a) if the court determines the information required is unusually voluminous in nature or otherwise caused an undue burden on the provider.

"§ 2707. Civil action

"(a) CAUSE OF ACTION.—Any provider of electronic communication service, subscriber, or customer aggrieved by any violation of this chapter in which the conduct constituting the violation is engaged in with a knowing or intentional state of mind may, in a civil action, recover from the person or entity which engaged in that violation such relief as may be appropriate.

"(b) RELIEF.—In a civil action under this section, appropriate relief includes—

"(1) such preliminary and other equitable or declaratory relief as may be appropriate;

"(2) damages under subsection (c); and

"(3) a reasonable attorney's fee and other litigation costs reasonably incurred.

"(c) DAMAGES.—The court may assess as damages in a civil action under this section the sum of the actual damages suffered by the plaintiff and any profits made by the violator as a result of the violation, but in no case shall a person entitled to recover receive less than the sum of $1,000.

"(d) DEFENSE.—A good faith reliance on—

"(1) a court warrant or order, a grand jury subpoena, a legislative authorization, or a statutory authorization;

"(2) a request of an investigative or law enforcement officer under section 2518(7) of this title; or

"(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

"(e) LIMITATION.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

"§ 2708. Exclusivity of remedies

"The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for nonconstitutional violations of this chapter.

"§ 2709. Counterintelligence access to telephone toll and transactional records

"(a) DUTY TO PROVIDE.—A Communications common carrier or an electronic communication service provider shall comply with a request made for telephone subscriber information and toll billing records information, or electronic communication transactional records made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the carrier or provider to which the request is made that—

"(1) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PROHIBITION OF CERTAIN DISCLOSURE.—No communications common carrier or service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

"(d) DISSEMINATION BY BUREAU.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

"(e) REQUIREMENT THAT CERTAIN CONGRESSIONAL BODIES BE INFORMED.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsection (b) of this section.

"§ 2710. Definitions for chapter

"As used in this chapter—

"(1) the terms defined in section 2510 of this title have, respectively, the definitions given such terms in that section; and

"(2) the term 'remote computing service' means the provision to the public of computer storage or processing services by means of an electronic communications system.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by adding at the end the following:

"121. Stored Wire and Electronic Communications and Transactional Records Access ..... 2701".

SEC. 202. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

TITLE III—PEN REGISTERS

SEC. 301. TITLE 18 AMENDMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended by inserting after chapter 205 the following new chapter:

"CHAPTER 206—PEN REGISTERS

"Sec.

"3121. General prohibition on pen register use; exception.

"3122. Application for an order for a pen register.

"3123. Issuance of an order for a pen register.

"3124. Assistance in installation and use of a pen register.

"3125. Reports concerning pen registers.

"3126. Definitions for chapter.

"§ 3121. General prohibition on pen register use; exception

"(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register by a provider of electronic or wire communication service—

"(1) relating to the operation, maintenance, and testing of a wire or electronic communication service or to the protection of the rights or property of such provider, or to the protection of users of that service from abuse of service or unlawful use of service; or

"(2) to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire communication, or a user of that service, from fraudulent, unlawful or abusive use of service, or with the consent or the user of that service.

"(c) PENALTY.—Whoever knowingly violates subsection (a) shall be fined under this title or imprisoned not more than one year, or both.

"§ 3122. Application for an order for a pen register

"(a) APPLICATION.—(1) An attorney for the Government may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction.

"(2) Unless prohibited by State law, a State investigative or law enforcement officer may make application for an order or an extension of an order under section 3123 of this title authorizing or approving the installation and use of a pen register under this chapter, in writing under oath or equivalent affirmation, to a court of competent jurisdiction of such State.

"(b) CONTENTS OF APPLICATION.—An application under subsection (a) of this section shall include—

"(1) the identity of the attorney for the Government or the State law enforcement or investigative officer making the application and the identity of the law enforcement agency conducting the investigation; and

"(2) a certification by the applicant that the information likely to be obtained is rele-

vant to an ongoing criminal investigation being conducted by that agency.

"§ 3123. Issuance of an order for a pen register

"(a) IN GENERAL.—Upon an application made under section 3122 of this title, the court shall enter an ex parte order authorizing the installation and use of a pen register within the jurisdiction of the court if the court finds that the attorney for the government or the State law enforcement or investigative officer has certified to the court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation.

"(b) CONTENTS OF ORDER.—An order issued under this section—

"(1) shall specify—

"(A) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register is to be attached;

"(B) the identity, if known, of the person who is the subject of the criminal investigation;

"(C) the number and, if known, physical location of the telephone line to which the pen register is to be attached; and

"(D) a statement of the offense to which the information likely to be obtained by the pen register relates; and

"(2) shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register under section 3124 of this title.

"(c) TIME PERIOD AND EXTENSIONS.—(1) An order issued under this section shall authorize the installation and use of a pen register for a period not to exceed 60 days.

"(2) Extensions of such an order may be granted, but only upon an application for an order under section 3122 of this title and upon the judicial finding required by subsection (a) of this section. The period of extension shall be for a period not to exceed 60 days.

"(d) NONDISCLOSURE OF EXISTENCE OF PEN REGISTER.—An order authorizing or approving the installation and use of a pen register shall direct that—

"(1) the order be sealed until otherwise ordered by the court; and

"(2) the person owning or leasing the line to which the pen register is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

"§ 3124. Assistance in installation and use of a pen register

"(a) IN GENERAL.—Upon the request of an attorney for the government or an officer of a law enforcement agency authorized to install and use a pen register under this chapter, a provider of wire communication service, landlord, custodian, or other person shall furnish such investigative or law enforcement officer forthwith all information, facilities, and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 3123(b)(2) of this title.

"(b) COMPENSATION.—A provider of wire communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

"§ 3125. Reports concerning pen registers

"The Attorney General shall annually report to Congress on the number of pen register orders applied for by law enforcement agencies of the Department of Justice.

"§ 3126. Definitions for chapter

"As used in this chapter—

"(1) the term 'communications common carrier' has the meaning set forth for the term 'common carrier' in section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h));

"(2) the term 'wire communication' has the meaning set forth for such term in section 2510 of this title;

"(3) the term 'court of competent jurisdiction' means—

"(A) a district court of the United States (including a magistrate of such a court) or a United States Court of Appeals; or

"(B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register;

"(4) the term 'pen register' means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted, with respect to wire communications, on the telephone line to which such device is attached, but such term does not include any device used by a provider of wire communication service for billing, or recording as an incident to billing, for communications services provided by such provider; and

"(5) the term 'attorney for the Government' has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

"(6) the term 'State' means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.".

(b) CLERICAL AMENDMENT.—The table of chapters for part II of title 18 of the United States Code is amended by inserting after the item relating to chapter 205 the following new item:

"206. Pen Registers ..... 3121".

SEC. 302. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.

(b) SPECIAL RULE FOR STATE AUTHORIZATIONS OF INTERCEPTIONS.—Any pen register order or installation which would be valid and lawful without regard to the amendments made by this title shall be valid and lawful notwithstanding such amendments if such order or installation occurs during the period beginning on the date such amendments take effect and ending on the earlier of—

(1) the day before the date of the taking effect of changes in State law required in order to make orders or installations under Federal law as amended by this title; or

(2) the date two years after the date of the enactment of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SWINDALL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 20 minutes and the gentleman from Georgia [Mr. SWINDALL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. KASTENMEIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present H.R. 4952, the Electronic Communications Privacy Act of 1986, an essential piece of legislation which enjoys broad bipartisan support both inside and outside the Congress. I am proud that this measure is the product of the House Judiciary Subcommittee which I chair, the Subcommittee on Courts, Civil Liberties and the Administration of Justice, and is cosponsored by the ranking minority member of the subcommittee, my good friend and colleague from California, Congressman CARLOS J. MOORHEAD, and myself. The bill was recently reported by the Committee on the Judiciary by a recorded vote of 34 to 0.

The Electronic Communications Privacy Act updates existing Federal wiretapping law to take into account new forms of electronic communications such as electronic mail, cellular telephones, and data transmission by providing such communications with protection against improper interception. The bill also benefits law enforcement by creating clearer procedures for the use of investigative techniques which involve the interception of communications.

This legislation, which grew out of extensive hearings and an Office of Technology Assessment study, enjoys the strong support of the business community, consumer groups, civil liberties organizations and the administration. In commenting on the bill the Department of Justice has said that "enactment of this bill would represent a major accomplishment for the 99th Congress." Business organizations supporting the bill include the National Association of Manufacturers, the National Association of Broadcasters, numerous telephone companies and trade associations involved in electronic mail, videotex, cellular tele-

phones, paging services, and other telecommunications services.

This measure is relatively uncontroversial in that no amendments were offered in the committee. The Congressional Budget Office has indicated that it expects no significant costs from the bill. Finally, it should be noted that pending in the Senate is an identical measure sponsored by the chairman and ranking minority member of the relevant Senate subcommittee. Therefore, I hope that H.R. 4952 can be acted upon favorably this afternoon so that we can see prompt action in the other body.

Let me take a few moments to highlight what I believe to be the fundamental principles which guide this legislation.

The first principle is that legislation which protects electronic communications from interceptions by either private parties or the Government should be comprehensive, and not limited to particular types or techniques of communicating. For example, it is technically impossible to effectively differentiate between wire line phone calls and those which are carried by wire, microwave, satellite, and radio. Any attempt to write a law which tries to protect only those technologies which exist in the marketplace today; that is, cellular phones and electronic mail is destined to be outmoded within a few years.

The second principle which should be followed in this area is a recognition that what is being protected is the sanctity and privacy of the communication. We should not attempt to discriminate for or against certain methods of communication, unless there is a compelling cast that all parties to the communication want the message accessible to the public.

The third principle we should keep in mind is that the nature of modern recordkeeping requires that some level of privacy protection be extended to records about us which are stored outside the home. When the Founders added the fourth amendment's protection against unreasonable searches and seizures to the Constitution, they did so to protect citizens' papers and effects. In those days an individual's private writings and records were kept within the home. That situation has changed drastically today. Many Americans are now using computer services, which store their bank records, credit card data, electronic mail and other personal data. If we fail to afford protection against governmental snooping in these files, our right of privacy will evaporate. Moreover, if we fail to protect the records of third-party providers, there will be a tremendous disincentive created against using these services. Thus, the adverse business consequences of inadequate protection for third-party records with respect to communications has led several industry groups to support the privacy provisions of the bill.

Today Congress stands at a crossroads with respect to electronic communications privacy. We may provide the forum to balance the privacy rights of citizens with the legitimate law enforcement needs of the Government; or we abdicate that role to ad hoc decisions made by the courts and the executive branch. I believe this bill is a significant step in that direction, and I urge my colleagues in the House to support this landmark legislation.

The unusual nature of the coalition of business, Government and civil liberties groups who support this legislation is worthy of note. As my colleagues know the primary sponsors of this legislation in the House and the other body are the chairman and ranking minority member of the relevant subcommittees: Representative CARLOS MOORHEAD, Senator PATRICK LEAHY, the senior Senator from Maryland, Senator CHARLES MCC. MATHIAS and myself. It has been through the commitment and leadership of this group that this legislation has come as far as it has.

In addition, I would like to pay homage to a number of private individuals and organizations who have been instrumental in developing this legislation: I wish to thank: David Burnham, formerly of the New York Times; John Shattuck, vice president, Harvard University; Pris Regan, Office of Technology Assessment; Ron Plesser, former general counsel, U.S. Privacy Protection Study Commission; Jerry Berman of the American Civil Liberties Union; H.W. Willian Caming, Esq.; Phil Walker of GTE; Michael Cavanaugh of the Electronic Mail Association; Martina Bradford of AT&T; Barbara Phillips of Telocator; Bob Maher of Cellular Telephone Industry Association; Michael Nugent of EDS; David Johnson and Mitchell Lazarus of Wilmer, Cutler & Pickering; Paul Myer of Capital Cities/ABC, Inc.; Terry Mahoney of the National Broadcasting Corp.; Steve Jacobs and Steve Bookshester of the National Association of Broadcasters; Joseph DeFranco and John Sturm of CBS; Steve Klitzman of the Federal Communications Commission; Trish Witacker of Bell Communications; Brent Regan of Southwestern Bell; Jim Golden of Southwestern Bell; Hugh Brady of Bell South; Doug McCollum of C&P Telephone Co.; Iris Schneider of NYNEX: Bruce Eggers of Ameritech; Martin McCue of U.S. Telephone Association; Steve Pomerantz of Pacific Telesis; David Peyton of the Information Industry Association; Larry Fineran of the National Association of Manufacturers; Mary Beth Griswold of GTE; Robert Sweezey of MCI; Ted Heydinger of CBEMA; Jay Kitchen of NABER; Perry Williams of American Radio Relay League; Ed Merliss and Doug Watts of NCTA; Howard Pastor of Timmons & Co.; Phillip Hochberg, Esq; Charles Meehan, Esq.; Magistrate James Carr; Prof. Clifford Fishman; Prof. Michael Goldsmith; Prof. Herman Schwartz; Prof. George Trubow; Rick Weingarten and Fred Wood of OTA; Peggy Miller of Trintex; Richard Fazzone and David Sherman of General Electric; Leslie Seeman of the Source; Mary Jane Saunders and Olga Grkavac of ADAPSO; Kay Riddle of Chase Manhattan Bank; Bill Warner of Control Data; and David Rubashkin of U.S. West.

Special mention should also be made of the personnel of the Department of Justice who assisted us on this bill, especially Cary Copeland, Roger Pauley, Frederick Hess, Richard Cinquegrana, Mark Evans, Dennis Miller, Harry Myers, R. Cubbage, Tom O'Malley, James I.K. Knapp, and Stephen Trott.

Finally, it would be appropriate to thank staff members who worked on this bill: Deborah Leavy, David Beier, Joe Wolfe, Marilyn Pedretti, and Sheila Groves. Staff from other subcommittees and committees such as Bernard Raimo, Michael O'Neill, Ed O'Connell, and Hayden Gregory deserve mention, as do Senate staff, John Podesta and Steve Metalitz. Last but not least credit for intelligent and careful legislative drafting must go to Doug Bellis of the Office of Legislative Counsel.

Mr. SWINDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before we consider H.R. 4952, the Electronic Communications Privacy Act of 1986, I want to first commend the distinguished chairman and ranking minority member of the Subcommittee on Court, Civil Liberties and the Administration of Justice for their tenacious support of this bill. Both the chairman, Mr. KASTENMEIER, and the ranking minority member, Mr. MOORHEAD, worked long and hard to pursue the consensus of support that ultimately emerged in both the subcommittee and the full committee.

In addition, it should be noted that the staffs of both Members, Deborah Leavy and David Beier for Mr. KASTENMEIER, and Mr. Joe Wolfe for Mr. MOORHEAD, did yeoman work in keeping the sometimes fragile coalition together. This bill reflects the kind of bipartisan support both at the Member and the staff levels that too often is given only lipservice.

This bill provides a much-needed updating of the Federal wiretapping law by extending the range of protected communications to include cellular communications, electronic mail and data transmission.

Additionally, it establishes clear and much-needed procedures for law en-

forcement personnel to follow when they are engaged in the interception of otherwise protected communications.

As the chairman stated, this bill passed the full committee 34 to 0 without any amendment and is supported by the business community, consumer groups, civil liberties organizations, and the administration.

The Senate Committee on the Judiciary is presently considering an identical measure which has the same type of bipartisan support which this bill received in the House. In conclusion, I want to reiterate my thanks and congratulations to Mr. KASTENMEIER and Mr. MOORHEAD for their work on this important legislation.

Mr. Speaker, as a member of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, and an original cosponsor of H.R. 4952, I urge my colleagues to support this valuable and much-needed piece of legislation.

Before yielding back the balance of my time, Mr. Speaker, I wish to engage the chairman of the subcommittee in a short colloquy.

Mr. Chairman, what relationship does this legislation have to the speech and debate clause, article I, section 6, especially with respect to access to records?

Mr. KASTENMEIER. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I am happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, I thank the gentleman for yielding.

Under provisions of this act, the House will receive notice of any requested access to records. Resolution of the propriety of any such request will therefore be preserved.

Having stated that, if the gentleman would yield further, I wish to congratulate and thank the gentleman from Georgia [Mr. SWINDALL] for his cogent comments and arguments and discussion in subcommittee on this bill. I do remember that. It was a major contribution.

Mr. SWINDALL. Mr. Speaker, I thank the gentleman.

Mr. MOORHEAD. Mr. Speaker, I would like to indicate my strong support for H.R. 4952, the Electronic Communications Privacy Act of 1986 and commend the chairman of the Courts Subcommittee, Mr. KASTENMEIER, for his efforts on this legislation. We are here in large part today because of the initiative he took in the 98th Congress when he introduced H.R. 6343, a forerunner of H.R. 4952. Needless to say, we have come a long way since then.

When the Subcommittee on Courts, Civil Liberties and the Administration of Justice began its series of hearings on this issue, it did so with the recognition that since 1968, when Congress last addressed the issue of privacy of communications in a comprehensive fashion, the technologies of communications and interception have changed significantly. During the hearings it was well documented by the various witnesses that protection for the new modes of electronic communications such as electronic mail, cellular telephones, and satellite transmissions was either ambiguous or did not exist.

A recent report prepared by the Office of Technology Assessment entitled "Electronic Surveillance and Civil Liberties," examined the new electronic technologies and concluded that:

The contents of phone conversations that are transmitted in digital form or calls made on cellular or cordless phones are not clearly protected by existing statutes.

Data communications between computers and digital transmission to video and graphic images are not protected by existing statutes.

There are several stages at which the contents of electronic mail messages could be intercepted: First, at the terminal or in the electronic files of the sender; second, while being communicated; third, in the electronic mailbox of the receiver; fourth, when printed into hardcopy; and fifth, when retained in the files of the electronic mail company or provider for administrative purposes. Existing law offers little or no protection at most of these stages.

While there was a consensus among the witnesses on the need to update existing law with respect to the new methods of electronic communications, there were questions as to how that could best be accomplished. This past March, when the Department of Justice testified before the Courts Subcommittee, they took the position that while they supported many of the objectives of the legislation, they had severe law enforcement concerns about several of its provisions. After that hearing, the Department undertook a lengthy series of negotiations with representatives of the affected industries, as well as with the Courts Subcommittee. The results of those negotiations is H.R. 4952, a landmark piece of legislation that will provide needed protection for the new electronic communications technologies in a manner that is consistent with the important needs of law enforcement.

In short, H.R. 4952 provides clear rules governing the interception of private communications and thereby maintains the integrity of our communications systems. Likewise, the legislation establishes clear rules for Government access to new forms of electronic communications as well as the transactional records regarding such communications. Finally, the legislation removes cumbersome procedures from current law that will facilitate the interests of Federal law enforcement officials. The legislation is strongly supported by the Department of Justice and the satellite common carriers (AT&T, GTE, RCA, and Western Union; National Association of Broadcasters [NAB]; NCTA; the three TV networks; the cellular telephone industry; and private microwave operators, railroads, General Motors, GE, utilities, et cetera; as well as the National Association of Manufacturers [NAM]; the Chamber of Commerce; the ACLU; and others. Mr. Speaker, H.R. 4952 is important legislation with strong bipartisan support; accordingly I urge my colleagues' support for the legislation.

Mr. SWINDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KASTENMEIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. KASTENMEIER] that the House suspend the rules and pass the bill, H.R. 4952, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. PEPPER] is recognized for 5 minutes.

Mr. PEPPER. Mr. Speaker, I was unavoidably absent June 19, 1986, at the time of rollcall 181. I was testifying at that time before the Senate Special Committee on Aging on the problem of mandatory retirement. Had I been present for the vote approving the Journal of June 19, 1986, I would have voted "aye."

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROBERT F. SMITH) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes, on June 25.

Mr. DANNEMEYER, for 60 minutes, on June 26.

(The following Members (at the request of Mr. KASTENMEIER) to revise and extend their remarks and include extraneous material:)

Mr. PEPPER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, on June 24.

Mr. GAYDOS, for 60 minutes, on June 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROBERT F. SMITH) and to include extraneous matter:)

Mr. GRADISON.

Mr. SCHUETTE.

Mr. COURTER.

Mr. CONTE.

(The following Members (at the request of Mr. KASTENMEIER) and to include extraneous matter:)

Mr. KOSTMAYER.
Mr. GARCIA.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. COYNE.
Mr. MURTHA in two instances.
Mr. STARK.
Mr. DORGAN of North Dakota.
Mr. LEHMAN of Florida in two instances.

ADJOURNMENT

Mr. KASTENMEIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 24, 1986, at 12 o'clock noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Amended report of a House committee concerning the foreign currencies and U.S. dollars utilized by them during the first quarter of calendar year 1986 in connection with foreign travel pursuant to Public Law 95-384 is as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1986

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. John J. LaFalce	1/2	1/3	Peru				[3] 40.75		18.94		59.69
Hon. Carroll Hubbard, Jr	1/2	1/3	Peru				[3] 40.75		18.94		59.69
Hon. Bruce Vento	1/2	1/3	Peru				[3] 40.75		18.94		59.69
Hon. Bart Gordon	1/2	1/3	Peru				[3] 40.75		18.94		59.69
Hon. Thomas Manton	1/2	1/3	Peru				[3] 40.75		18.94		59.69
Hon. Norman Shumway	1/2	1/3	Peru				[3] 40.75		18.94		59.69
Hon. George Wortley	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Hon. Al McCandless	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Hon. Marge Roukema	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Hon. Stan Parris	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Hon. Bill McCollum	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Hon. Rod Chandler	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Dan Crane	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Jeanne Roslanowick	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Lee Price	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Anne Scully	1/2	1/3	Peru				[3] 40.75		18.93		59.68
Gregory Wilson	1/2	1/3	Peru				[3] 40.76		18.93		59.69
Committee total							692.76		321.87		1,014.63

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Indicates ground transportation.

FERNAND J. ST GERMAIN, Chairman, June 4, 1986.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3760. A letter from the Deputy Assistant of Defense—Comptroller (Administration), transmitting notification that the Strategic Defense Initiative Organization intends to exclude the clause concerning examination of records by the Comptroller General from a proposed contract with the Ministry of Defence of the United Kingdom for an European Theater defense architecture study, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

3761. A letter from the Assistant Secretary, Legislative and Intergovernmental Affairs, Department of State, transmitting the contracts and agreements pertinent to the certification of conditions requisite to delivery of AWACS to Saudi Arabia, transmitted by the President under date of June 18, 1986 (Executive Communication No. 3749), pursuant to Public Law 99-83, section 131(b) (99 Stat. 209); to the Committee on Foreign Affairs.

3762. A letter from the Director, Defense Security Assistance Agency, transmitting a listing of the defense articles, services and training provided by the Department of Defense to Honduras as contained in Presidential Determination 86-8, dated March 25, 1986, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

3763. A letter from the Director, Defense Security Assistance Agency, transmitting a report that on June 19, 1986, a guerrilla force attacked the El Salvadoran 3d Brigade headquarters in San Miguel, El Salvador, pursuant to 22 U.S.C. 2761(c)(2); to the Committee on Foreign Affairs.

3764. A letter from the Director, Defense Security Assistance Agency, transmitting the second quarter report on commercial and governmental military exports, together with a list of all security assistance surveys authorized for foreign countries during the preceding quarter, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

3765. A letter from the Director, Defense Security Assistance Agency, transmitting the second quarter report commercial and governmental military exports, together with a list of all security assistance surveys authorized for foreign countries during the preceding quarter, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

3766. A letter from the Assistant Secretary of State for legislative and Intergovernmental Affairs, transmitting a copy of the original report of political contributions of James Malone Theodore Rentshler, of Pennsylvania, a career member of the Senior Foreign Service, class of minister-counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3767. A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting notification of the proposed decision to convert to contractor performance the commissary shelf stocking function at Fort Huachuca, AZ, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); jointly, to the Committees on Armed Services and Appropriations.

3768. A letter from the Secretary of the Interior, transmitting the third report summarizing the progress of negotiations on California offshore oil and gas leasing, pursuant to Public Law 99-190, section 101(d) (99 Stat. 1243), Public Law 99-190, section 149 (99 Stat. 1325); jointly, to the Committees on Appropriations, Interior and Insular Affairs, and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5028. A bill entitled

the "Lower Colorado Water Supply Act"; with an amendment (Rept. 99-650). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROYBAL:

H.R. 5070. A bill to amend title XVIII of the Social Security Act to ensure, through a US Health program, access for all Americans to quality health care while containing the costs of the health care system, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. STARK:

H.R. 5071. A bill to amend the Internal Revenue Code of 1954 with respect to the charitable deduction for providing transportation of donated food; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

412. The SPEAKER presented a memorial of the General Assembly of the State of Tennessee, relative to Federal funding for the cooperative extension service programs; to the Committee on Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1242: Mr. CLINGER.

H.R. 1375: Mr. TAUZIN, Mr. ROEMER, Ms. MIKULSKI, and Mr. MCHUGH.

H.R. 2504: Mr. DUNCAN, Mr. HYDE, Mr. JEFFORDS, and Mr. MILLER of Washington.

H.R. 3006: Mr. DELLUMS.

H.R. 3263: Mr. CARPER and Mr. BRUCE.

H.R. 3431: Mr. LOWRY of Washington and Mr. BROOKS.

H.R. 3806: Mr. PEPPER, Mr. SEIBERLING, Mr. WEISS, Mr. VENTO, Mr. ECKART of Ohio, Mr. MORRISON of Connecticut, Mrs. BURTON of California, and Mr. OWENS.

H.R. 3898: Mr. HERTEL of Michigan, Mr. LOWRY of Washington, Mr. DE LUGO, and Mr. BENNETT.

H.R. 4014: Mr. MITCHELL.

H.R. 4025: Mr. DWYER of New Jersey, Mr. GONZALEZ, Mr. HAMMERSCHMIDT, and Mr. DORNAN of California.

H.R. 4086: Mrs. SCHROEDER, Mr. MRAZEK, Mr. LOWRY of Washington, and Mr. WISE.

H.R. 4391: Mr. KOSTMAYER.

H.R. 4567: Mr. SPRATT.

H.R. 4696: Mrs. VUCANOVICH, Mr. WHEAT, Mr. DANIEL, Mr. DICKS, Mr. HEFNER, Mr. ALEXANDER, and Mr. TAUZIN.

H.J. Res. 90: Mr. GUNDERSON, Mrs. KENNELLY, Mr. STOKES, Mr. DEWINE, and Mr. JACOBS.

H.J. Res. 231: Mr. SHUMWAY, Mr. DOWDY of Mississippi, Mr. WISE, Mr. SHAW, and Mr. ANDERSON.

H.J. Res. 594: Mr. DUNCAN and Mrs. MARTIN of Illinois.

H.J. Res. 619: Mr. BILIRAKIS, Mr. WYLIE, Mr. FISH, Mr. ROWLAND of Georgia, Mr. TRAFICANT, Mr. HYDE, Mr. BATES, Mr. OXLEY, Mr. SABO, Mr. DIOGUARDI, and Mr. MCDADE.

H.J. Res. 642: Mr. MICA, Mr. BRYANT, Mr. ROGERS, Mr. LOWRY of Washington, Mrs. COLLINS, Mr. HAMILTON, Mr. DORNAN of California, Mrs. LLOYD, Mr. CONYERS, Mr. MURPHY, Mr. STAGGERS, and Mr. STUMP.

H. Res. 462: Mr. BUSTAMANTE, Mr. BARNES, and Mr. FROST.

H. Res. 471: Mr. FAUNTROY, Mr. MARTINEZ, Mr. GORDON, Mr. VALENTINE, Mr. JONES of North Carolina, Mr. SMITH of New Hampshire, Mr. MRAZEK, Mr. DARDEN, Mrs. BENTLEY, Mr. TAUZIN, Mr. GIBBONS, and Mr. FRANK.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

401. By the SPEAKER: Petition of Mr. Alfredo Silvera, et al., of Barquisimeto, Venezuela, relative to U.S. aid for the contra forces in Nicaragua; to the Committee on Foreign Affairs.

402. Also, petition of the council of the Boston Bar Association, Boston, MA, relative to the release of South African political prisoners; to the Committee on Foreign Affairs.

SENATE—*Monday, June 23, 1986*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

The prayer this morning is Psalm 67.

God be merciful unto us, and bless us; and cause his face to shine upon us; Selah. That thy way may be known upon earth, thy saving health among all nations. Let the people praise thee. O God; let all the people praise thee. O let the nations be glad and sing for joy: for thou shalt judge the people righteously, and govern the nations upon earth. Selah. Let the people praise thee, O God; let all the people praise thee. Then shall the earth yield her increase; and God, even our own God, shall bless us.—Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator DOLE, is recognized.

Mr. DOLE. I thank the distinguished Presiding Officer, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, let me indicate for my colleagues what we hope to do today. Under the standing order, the two leaders have 10 minutes each; then we have special orders in favor of Senators HATFIELD, PROXMIRE, GORE, and MELCHER, for not to exceed 5 minutes each; then routine morning business until 1 o'clock.

At 1 o'clock, we will go back on H.R. 3838, the tax reform bill. There are no rollcall votes expected to occur today. We are in the process, I believe on both sides, or will be on both sides, of contacting our colleagues and asking, particularly where they can work out the amendments, if they could come to the floor and do that today, because, as the distinguished minority leader pointed out, there is a real possibility that what could occur tomorrow, if everyone waits until Tuesday and 4 p.m. arrives and we have Senators who have four or five amendments that they wish to have disposed of, final passage could be delayed 2 or 3 hours.

I know the chairman, Senator PACKWOOD, indicates that he has a 6:30 airplane that he must catch. So, hopefully, we can work it out so that we will have adequate time for those who asked for time to speak before the final vote to have their time, including some time for the leaders and the managers, and that we can vote right at 4 o'clock tomorrow.

ORDER VITIATING SPECIAL ORDER FOR SENATOR HATFIELD

Mr. DOLE. Mr. President, I am advised that the special order in favor of Senator HATFIELD will not be needed. I ask unanimous consent that that order be vitiated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

NOMINATION OF DANIEL A. MANION, U.S. COURT OF APPEALS

Mr. DOLE. Mr. President, last week President Reagan called to ask my help in scheduling floor action on the nomination of Danile A. Manion to become a judge of the 7th U.S. Circuit Court of Appeals. I assured the President that I would try to bring up the nomination before the start of the 4th of July recess for Congress. We hope to do that by an agreement, working with Members on both sides to see if that can be done.

The President followed up that conversation with a letter on June 20. In that letter, the President stated unequivocally that he would "fight for the nomination of Dan Manion."

The President also said:

This is not an issue of whether or not a President of the United States has the right to choose Federal judges who share his judicial philosophy, so long as they are qualified by reason of character and confidence. Presidents of both parties have asserted that prerogative; and I will not surrender it.

I agree with President Reagan and ask unanimous consent that the complete text of the President's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, June 20, 1986.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR BOB: During the campaigns of 1980 and 1984, I made clear to the American people the kind of men and women I would select to fill vacancies on the Federal bench, including the United States Supreme Court.

I promised they would be men and women of demonstrable character and capacity, of practical experience and proven ability in the law. I would nominate, I said, judges and justices who shared my deeply held conviction that the function of America's courts, including the highest court, is not to make laws for the American people, but to interpret the law. Judges in a democratic society should not use their appointed offices to impose their social or political views upon society—in our system of government this is the province of elected officials. This was a view stated again and again in those campaigns.

I believe I have kept faith with that commitment. And these thoughts were very much in mind when I selected Justice Rehnquist to succeed the retiring Chief Justice, and Judge Antonin Scalia to fill the vacancy thus created. Two nominees who better exemplify the qualities I pledged to seek in judicial appointments would be difficult to find.

Which brings me to the point of this letter. I am writing with a sense of profound concern about what is happening with the confirmation of Daniel A. Manion, whom I recently nominated to the United States Court of Appeals for the Seventh Circuit.

Dan Manion is a capable attorney, with a high reputation for integrity and substantial litigation experience. Colleagues he has faced in court and former Democratic opponents in the Indiana Senate have come forward to attest to his character and competence. Reviewing his record, the American Bar Association declared him fully "qualified" for the appellate judgeship to which he has been nominated.

Nevertheless, in recent weeks, Mr. Manion has become the target of a campaign that has sought to disparage his capabilities and his character, in order to defeat his nomination. Thus, I am writing to make known to you and your Senate colleagues my strongly held views about Dan Manion, and about his qualifications for service on the appellate bench.

First, the rating given to Dan Manion by the ABA, i.e., "qualified"—though disparaged by his critics—is the identical rating given almost half the Federal judges nominated by Presidents Nixon, Ford, and Carter. It is the same rating given two of my previous nominees to the Seventh Circuit, Judges Easterbrook and Posner, both of whom were distinguished professors of law at the time of their nomination. At what point was it that an ABA rating of "qualified" became an impediment to nomination to the Federal bench?

Second, Mr. Manion's legal experience is dismissed because it was gained largely at the State rather than the Federal level. But my own experience, before coming to Washington, was at the State level. It has been, and remains, my belief that our Federal circuit courts should reflect the diversity of the regions they serve. The Seventh Circuit contains Chicago, but it also contains smaller cities and towns, rural areas and farming communities, like Dixon, Illinois. Dan Manion, a country lawyer, would represent that diversity, just as the other judges whom I nominated to the Seventh Circuit bring experience from the academic world and the urban law community.

Moreover, when we recall that Mr. Lincoln himself and the late Senator Sam Ervin were proud to be known as "country lawyers," we ought to be hesitant before considering this kind of law practice a mark of ineligibility for service on the Federal

bench. Nor should Mr. Manion's years of political experience in the State Senate and legal experience in Indiana's District Attorney's office be counted as of no consequence. Among the names any President should consider for the Federal courts, including the Supreme Court, when vacancies occur, are those of the most distinguished and experienced lawyers in the Congress of the United States.

Third, it is alleged that Mr. Manion, while serving as Chairman of the Judiciary Committee in the Indiana Senate, "defied . . . the Constitution," when he proposed a bill authorizing the posting of the Ten Commandments in Indiana's public schools.

But this distortion is rooted either in ignorance or malice. Where the Supreme Court had disallowed the mandatory posting of the Ten Commandments in the Kentucky public schools, Dan Manion sponsored a bill permitting the voluntary posting in Indiana's schools, and added a provision that should the Supreme Court rule voluntary posting unconstitutional, the postings would immediately be removed. His bill passed the Indiana Senate with strong Democratic support.

Dan Manion is also opposed by some because his father, Clarence Manion, former dean of the Notre Dame Law School, was a member of the John Birch Society. Yet, surely, in 1986, the time has passed when guilt by association is acceptable practice, when an act of political discrimination can be committed against a Federal nominee because his late father held deeply controversial views.

Addressing Mr. Manion during his appearance before the Judiciary Committee, one Senator revealed, I believe, the true and undeclared motivation behind the campaign to defeat my nominee. "I think you are a decent and honorable man," the Senator said to Dan Manion, "but I cannot vote for you because of your political views."

Bob, here we come to the heart of the matter.

Dan Manion's "political views" are close to my political views. In particular, Dan Manion's belief that Federal judges should interpret the law, and not impose from the bench their social or philosophical notions upon society, is my belief. That is the real reason this nomination is encountering such hostility.

So, let me state my position directly. I intend to fight for the nomination of Dan Manion; and I do not accept that there should be a hidden restrictive covenant in the confirmation process that reads: No conservative need apply.

What appears to be taking shape is an attempt by some Senators to use their "advise and consent" power to overturn the mandate of the American people—as expressed in 1980 and 1984.

This is not an issue of Republican versus Democrat. It is an issue of whether or not a President of the United States has the right to choose Federal judges who share his judicial philosophy, so long as they are qualified by reason of character and competence. Presidents of both parties have asserted that prerogative; and I will not surrender it.

In his letter of endorsement, Father Theodore Hesburgh, who has known him since Notre Dame days, said of Dan Manion that his life has been one of "service and commitment to justice," that he would bring to the bench "dedication, integrity and a keen knowledge of the law." This represents my view exactly; and there is one final personal reason I want this nominee confirmed. Dan Manion would be the first of the Vietnam veterans to reach the Federal Appellate Court; and I want the record to show I made that appointment.

Please let me know how I can be of help.

Sincerely,

RONALD REAGAN.

Mr. DOLE. Let me reiterate my intention of hopefully bringing this matter to the Senate floor this week. We are working with Members on both sides to see if we can reach an 8-hour time agreement and maybe do that on Wednesday.

SCHEDULE FOR REMAINDER OF THE WEEK

Mr. DOLE. Mr. President, let me also say, for the benefit of Members, that if we can complete our business by, say, Thursday evening, there would not be a Friday session. To do that, we would all have to agree that we might have to be a little late tomorrow evening—we hope not to be in very late this evening—and maybe a little late on Wednesday, but, hopefully, get out at a reasonable hour on Thursday.

What we have in mind is—and I think there would not be any real dispute of things we probably should do this week—first, tax reform. Second, we must do the supplemental. Hopefully we could do that tomorrow. If we finish the tax bill at 4 o'clock, maybe we can follow that up yet on tomorrow. We are shopping for a time agreement. I am not certain whether we can agree.

We have the Commodity Futures Trading Act. I am not certain whether it will be possible to bring that up this week. We have the diplomatic security bill. We understand that should not take a great deal of time.

The House message to accompany the FHA extension, if we could work that out, it would be a matter of minutes.

The nomination of Daniel Manion. Again, if we could reach a time agreement, it would take most of Wednesday, but not all day.

We also hope to proceed to the nomination of Terrence Scanlon. I understand the investigation has been completed that was had asked for earlier. If that is satisfactory to Senator PROXMIRE, I do not see any problem proceeding with that nomination.

Then there is the Smithsonian Institution bill. There will be a rollcall, but I do not believe it is controversial. There is also the so-called risk retention bill, which, again, may not be very controversial, but may require a rollcall.

So I do not believe those measures would take a great deal of time, with the one exception, the Manion nomination. I will be working with the minority leader to try to schedule that.

Mr. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. BYRD. The majority leader has referred to the supplemental appropriation bill conference report. There have been rumors that that President might veto that bill. Does the distinguished majority leader know anything about the intentions of the White House with reference to that bill?

(Mr. HECHT assumed the chair.)

Mr. DOLE. I believe there is only one provision that concerns the White House. Again, I am not certain I am totally accurate, but I think the majority of the problems the White House had with the bill have been resolved. I do not believe there has been any definite statement it would be vetoed.

There is a REA provision that is a concern to OMB and others. It is my understanding Senator HATFIELD will make an effort on the floor to solve that problem. If it is not solved and the conference report is passed, I hope the White House would not veto it.

It is a very important bill. I know that it is very important to the State of West Virginia. It is very important to many farm States, because we have the so-called deficiency payments that are not being made because they are out of money.

Mr. BYRD. Mr. President, the distinguished majority leader is accurate in saying the bill is important to West Virginia in many respects. There are flood moneys in the bill for the Federal Emergency Management Agency and for the Soil Conservation Service which are badly needed, not only in West Virginia, but also in Mississippi and several Western States, including the State of California. In West Virginia, the November floods of last year, the cleanup following those floods has not been as it should have been.

There are moneys in the bill that I put in the bill as a member of the Appropriations Committee. I added $8 million for the Soil Conservation Service in the bill and there are $250 million for FEMA.

So I hope the distinguished majority leader is accurate. Certainly, I join with him in sharing the hope that the administration will not veto that bill.

Mr. President, I would be glad to yield to the distinguished majority leader 2 minutes of my time because I have taken some of his.

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Mr. DOLE. Mr. President, I support the provisions which the Democratic leader has referred to in the supplemental. I hope we can resolve any problem with the White House. I will be working on that today. It is my understanding as of Friday there has been no definite decision on whether or not to veto.

INTEREST RATES—PART II

Mr. DOLE. Mr. President, on June 12 I shared with my colleagues some observations on the course of the American economy and the need for further reductions in interest rates. Since then we have gotten some more data on the state of the economy—and I thought it would be appropriate at this time to expand on my view that interest rates need to be lower.

The economy is not growing as fast as we had hoped. In fact, it did not grow as fast as we had thought in the first quarter of this year. The GNP growth rate for the January through March period has been revised downward, from 3.7 percent to 2.9 percent. Many economists think the economy is growing at an even slower pace in the current quarter. A Wall Street Journal survey of economists indicates growth of only 2.3 percent in this quarter. The real question is what happens in the second half of the year, and there the economists remain sharply divided. Some say the pace will pick up smartly for the rest of 1986, while others see the economy chugging along at a 2- to 3-percent growth rate.

Mr. President, I do not pretend to have the ability to outguess the best economic forecasters in the country. But I think it is fair to say they cannot agree with each other. I do not suggest they should. It is not an exact science. No one can be sure what present economic trends really mean for the rest of this year, or for the rest of the decade, for that matter. And wherever there is a degree of uncertainty, some risks have to be taken in shaping public policy. Let me explain why I think encouraging the move toward lower interest rates is the lesser risk at this time—first, by reference to the recent history of American economic policy.

LOOKING BACK

When President Reagan took office in 1981, he faced the extraordinary challenge of wringing inflation out of the economy, boosting real growth, cutting taxes and regulation, and getting spending under control. He has succeeded admirably on all fronts, with some important assistance from this body—and from the able Chairman of the Federal Reserve, Paul Volcker. But, with the benefit of hindsight, we have to acknowledge that there have been delayed costs for breaking out of the stagflation trap. Costs we are feeling now.

Mr. President, to put it briefly, we are still experiencing what you might call a "disinflation hangover." The first, and widely-felt, price we paid for cutting inflation was the 1982 recession. We recovered strongly from that recession, and managed to keep inflation down: The great economic triumph of this decade, and a stunning reversal of the low-growth, high-inflation experience of the 1970's. What we did not realize so clearly at the time, was the revolution in international financial land trade relations that accompanied our economic success.

BREAKING NEW GROUND

Mr. President, by now clearly everyone understands that America's domestic economic leadership cannot really be isolated from its role in the world economy. When real interest rates rise in the United States, our trading partners must either match the return investors get in America, or increase exports to match capital outflows, or artificially restrain both trade and financial flows. So when our deficits and interest rates went up, and when we recovered from recession much faster than our main trading partners, there was another impact: The balance of trade shifted dramatically, as American consumers found imported goods an attractive option, while American exporters found their efforts hampered by an exceptionally high value for the dollar in foreign exchange markets.

MOVING FORWARD

Economists will be analyzing the trade and finance revolution of the 1980's for many years to come: But we have to move ahead now, and we cannot wait for the final, definitive word on why the revolution took place. But some things are clear enough right now to serve as useful guides to action.

First, U.S. recovery alone can't sustain the world economy. Healthier growth is needed not only in the developed nations, but even more importantly, in the developing world of Asia, Africa, and Latin America.

Second, a breakdown in the system of free and open trade and finance would be fatal to all our hopes for the world economy. Shutting the doors from nation to nation is the recipe for economic catastrophe on a scale we can scarcely imagine.

Third, support for anti-inflationary policies must be rallied by resort to microeconomic changes—domestic adjustments in all the free market economies—geared to improving productivity, maximizing comparative advantage, and harnessing the forces of the free market to make the best use of the natural resources, talents, and skills every nation and every people possess.

Mr. President, in many ways lower interest rates are the key to achieving all of these goals. Lower rates can provide a healthy economic boost to both the developed and developing world. As the dollar moderates and stabilizes, they can also dampen the demand for knee-jerk protectionist backsliding. And a lower interest rate environment gives a boost to productivity-enhancing initiatives like tax cuts and tax reform, deregulation, privatization, restraint on public-sector spending, and rolling back unfair trade barriers and wasteful subsidies.

I know Chairman Volcker shares these goals, and understands the risks. We all know that inflation is never put to rest for good, and that we must be ever-vigilant against a recurrence of the scourge and deception of inflation. But we no longer have the option of not taking any risks—we must be sure the risks we do take are carefully calculated, and grounded in commonsense. To this Senator, at this time, that means taking steps to move to the lower-interest rate environment the world economy seems to demand. In the weeks and months ahead, I will be speaking out concerning the extraordinary opportunity we have to launch an economic revolution—and the risks if we fail.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the Democratic leader is recognized.

THE TAX REFORM ACT OF 1986

Mr. BYRD. Mr. President, I join with the distinguished majority leader in urging that Senators bring their amendments to the floor today because otherwise, in the final moments tomorrow just prior to the vote on final passage of the tax bill, some Senators may find that they have no time for debate. So my staff will be prepared to contact the Senators whose names are on the list who have amendments, and who have not yet offered them. We will be urging Senators on this side, if they possibly can to come forward, get their amendments in today.

REACTION TO REAGAN COMMENTS ON JUDGES

Mr. BYRD. Mr. President, the New York Times, on June 22, has this story:

> Reagan defends his nominations to Federal bench, assails critics in Senate, sees Democrats as motivated by politics rather than concern for quality.

Mr. President, this is not a monarchy. I have heard similar administration comments before on the subject of nominations, as if the executive had unfettered power. The President's speechwriters should read the Constitution about the Senate's role. And the Senate is fulfilling its role, and the Judiciary Committee carefully studies the nominations submitted by the President. The President is entitled to nominate those individuals whom he wishes to nominate. He may nominate them on the basis of his philosophy, or whatever. But the Senate's role is

to judge the qualifications of the nominees.

There may be those of us who will agree with a particular nominee's philosophy on this or that case as such philosophy appears to make itself clear. But in any event, Senators cannot escape the role which the Constitution places upon them. The Senate is not a rubber stamp machine. The Constitution lays out the responsibility of the Senate when it comes to the confirmation of nominations.

Qualifications—that is the key. Lack of quality in some of the appointments has been clear.

The President was quoted in his weekly radio address this past Saturday as saying, "We nominate only those with high qualifications."

But according to the ratings compiled by the American Bar Association, the quality of the administration's nominees for the Federal appeals courts has dropped significantly in Mr. Reagan's second term.

The ABA screening panel studied judicial nominees' education and legal backgrounds and rated them as "exceptionally well qualified," "well qualified," "qualified" and "not qualified."

A compilation released last month showed that half of the 28 lawyers nominated as appeals court judges since January 1985 were found to have the lowest acceptable rating.

In the first term, about 36 percent received a similar ranking.

The comparable figure for appeals court nominees in the Carter administration was 25 percent.

So I emphasize, Mr. President, that one-half of the nominations to the courts of appeals received only a "qualified" rating per the American Bar Association. As I have indicated also, that is the lowest positive rating. Three-fourths of those were found by a minority of the American Bar Association committee to be unqualified.

On the subject of partisanship, if the President means that the Democrats get together and decide to oppose a particular judge, in this instance Mr. Manion, for political purposes, I say the answer is absolutely not. I am the elected leader of the Democrats in the Senate, and there has been no getting together by Democrats, not this Democrat, with a decision out of a meeting to oppose Mr. Manion for political purposes.

I have not met with Democrats with respect to Mr. Manion.

If the President means that many Democrats might oppose Mr. Manion because he is not qualified, then the answer is probably yes. That is the reason why I am opposing Mr. Manion. That is our responsibility under the Constitution. Concerning the accusation that Democrats are being partisan, there have been only two rollcall votes on the last 100 Reagan judgeship nominations—Mr. Fitzwater and Mr. Kozinski. All were confirmed. There has been only one judicial nominee blocked in the Judiciary Committee, and that was Mr. Sessions. Those statistics are out of a list of dozens and dozens of nominees.

So, Mr. President, I hope that the Senate will continue to see clearly through the fog and the mist of the political charges and remember that the Constitution is a clear beacon as to where the Senate should go.

Mr. President, I ask unanimous consent that an article from the Washington Post of June 22, 1986, entitled "President Makes Push for Judges," and a second article from the New York Times of June 22, 1986, entitled "Reagan Defends His Nominations to Federal Bench," be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 22, 1986]

REAGAN DEFENDS HIS NOMINATIONS TO FEDERAL BENCH

ASSAILS CRITICS IN SENATE

(By Bernard Weinraub)

WASHINGTON, June 21.—President Reagan, saying criticisms of his judicial nominations were politically motivated, today denounced "partisan use of the confirmation process" by Democrats in the Senate.

Defending his appointments to the Federal bench, which have come under increasing criticism in his second term, Mr. Reagan said the attacks were aimed at qualified conservatives who simply failed to conform to "liberal ideology." He said his judicial appointments were marked by candidates of "proven abilities and the finest character."

The remarks, in the President's weekly radio address, were his sharpest criticism yet of Democratic senators and some legal scholars who have said that the quality of his judicial appointments, especially those submitted for Federal appeals courts, had declined markedly in his second term.

NO APPROVAL FOR 2 NOMINEES

Two weeks ago the Senate Judiciary Committee for the first time rejected one of Mr. Reagan's judicial nominees, Jefferson B. Sessions 3d, to be a Federal district judge in Mobile, Ala. Democratic critics said Mr. Sessions had made racially insensitive remarks.

Last month the panel voted 9 to 9 on recommending Daniel Manion, a conservative Indiana lawyer whose legal background had been questioned, for a seat on the United States Court of Appeals for the seventh Circuit in Chicago. The nomination was then reported with no recommendation to the full Senate, and the Judiciary Committee's ranking Democrat, Joseph R. Biden Jr. of Delaware, has vowed to defeat the nomination in what is expected to be a close floor vote.

HIGH COURT CHOICES CITED

Mr. Reagan, in his address, linked the Supreme Court nominations this week of William H. Rehnquist and Antonin Scalia to his other judicial appointments.

"Justice Rehnquist and Judge Scalia are representative of the high caliber of our Federal court appointments," he said. "I have considered it a primary duty to appoint men and women such as Sandra Day O'Connor, of proven abilities and the finest character, to the Federal courts, and I think we have a proud record to show for it."

"Let's be honest," Mr. Reagan said. "The real objection to Dan Manion is that he doesn't conform to the liberal ideology of some Senators."

Mr. Reagan discussed his criteria for selecting judges. "On the crime issue and a whole host of other issues, we've sought to appoint judges who look at the law as something to be honored, respected and interpreted according to legislative intent, not whim or ideology." he said. "One other basic principle guides us: we nominate only those with high qualifications."

According to ratings compiled by the American Bar Association, however, the quality of the Administration's nominees for Federal appeals courts has dropped significantly in Mr. Reagan's second term.

A.B.A. screening panels study judicial nominees' education and legal background and rate them as "extremely well qualified," "well qualified," "qualified," or "not qualified." The compilation, released last month, showed that half of the 28 lawyers nominated as appeals court judges since January 1985 were found to have the lowest acceptable rating. In the first term about 36 percent received a similar ranking—"qualified" or "qualified/unqualified," indicating that a minority favored rejecting the nomination. The comparable figure for appeals court nominees in the Carter Administration was 25 percent.

Reached in Manteno, Ill., Senator Paul Simon, who heads the nominations review process for the Democrats on the Judiciary Committee and who is a leader in the opposition to Mr. Manion's confirmation, said: "The Senate has been more than fair to the Administration's judicial nominees. The last 100 have been confirmed with only two rollcall votes. But when the quality is the issue, with these lifetime appointments, we will be firm as well as fair.

"There is a marked decline in the quality of these appointments under Attorney General Meese, and that is the issue in the Manion nomination."

"If the White House has shown the same attention to quality in the nominations that it has to Supreme Court candidates, there would be no showdown next week in the Senate on the Manion case."

Unlike the controversy surrounding Mr. Sessions and Mr. Manion, the initial reaction to Mr. Reagan's intention to nominate Judge Scalia to the Supreme Court and Justice Rehnquist as Chief Justice has been highly favorable. There is no expectation that those nominations will encounter serious resistance, though some senators have voiced ideological objections.

Qualifications and legal experience have emerged as the central factors in the opposition to Mr. Manion. A lawyer in South Bend, he has never served as a lead counsel in a Federal trial, and Democrats on the Judiciary panel have said that he was a conservative ideologue without sufficient experience in Federal courts. He has also been closely associated with the political work of his father, Clarence Manion, a founder of the rightist John Birch Society.

The A.B.A. screening panel assigned Mr. Manion a "qualified/unqualified" ranking, indicating that an unspecified minority found him unacceptable.

Without naming Mr. Manion's critics, the President attacked them as partisan liberals. He said he had sent a letter to the Senate assailing the tactics of Mr. Manion's opponents.

"Partisanship in the Senate has pushed fair play by the boards, which is why I've sent a letter to the Senate expressing my strong opinion about the prerogative of the President to make qualified appointments to the Federal judiciary, and what I feel has been the partisan use of the confirmation process," said Mr. Reagan.

"Some are doing just about everything they can think of to prevent Daniel Manion's confirmation," said Mr. Reagan. He called his nominee "a fine lawyer" and "a person who has the ability and determination to become the kind to judge the American people want in the Federal courts—one who believes in the rule of law, who reveres the Constitution, and whose sense of fairness and justice is above reproach."

[From the Washington Post, June 22, 1986]

PRESIDENT MAKES PUSH FOR JUDGES

MANION GETS SUPPORT; OPPOSITION IN SENATE IS CALLED PARTISAN

(By Spencer Rich)

President Reagan urged the Senate yesterday to confirm embattled conservative Daniel A. Manion as a judge of the 7th U.S. Circuit Court of Appeals, and accused Senate Democrats of engineering the defeat of some of his judicial and legal nominees merely because they were conservatives.

The president also called for Senate confirmation of William H. Rehnquist as chief justice and Antonin Scalia, an appeals court judge, as an associate Supreme Court justice. Both are considered strong conservatives.

In his weekly radio address from Camp David, the president accused the Democrats of "partisan use of the confirmation process." The address was a sharp counterattack to a surprisingly successful Democratic effort to thwart Reagan's efforts to reshape the judiciary in a conservative mold.

"The real objection to Dan Manion is that he doesn't conform to the liberal ideology of senators," declared the president, saying he had "sent a letter to the Senate expressing my strong opinion about the prerogative of the president to make qualified appointments to the federal judiciary."

A copy of that letter was released by Senate Majority Leader Robert J. Dole (R-Kan.), according to United Press International. Reagan is reported to have said, "Dan Manion's political views are close to my political views. In particular, Dan Manion's belief that federal judges should interpret the law and not impose from the bench their social or philosophical notions upon society, is my belief. That is the real reason this nomination is encountering such hostility."

But Sen. Paul Simon (D-Ill.) said in a statement, "There is a marked decline in the quality of these appointments . . . and that is the issue in the Manion nomination."

The stakes in the dispute are larger than Manion's nomination, which is expected to reach a Senate vote this week or next.

In the past year, Senate Democrats and some Republicans such as Charles McC. Mathias Jr. (Md.) and Arlen Specter (Pa.), backed by a coalition of liberal, civil rights and civil liberties organizations, have blocked a number of important nominations. They killed the nomination of administration civil rights chief William Bradford Reynolds to be associate attorney general and of Jeffrey I. Zuckerman to be general counsel of the Equal Employment Opportunity Commission. Also rejected was Jefferson Beauregard Sessions III as a federal judge.

In the Judiciary Committee, the Manion nomination failed to win approval on a 9-to-9 vote, and thus goes to the floor without a favorable committee recommendation.

Opponents coupled allegations of extreme right-wing views or insensitivity on racial matters with charges of lack of judicial temperament or legal distinction. Sens. Joseph R. Biden Jr. (Del.), Edward M. Kennedy (Mass.) and Howard M. Metzenbaum (Ohio) have been among Democrats opposing Manion and some of the other nominations.

Administration officials are said to think that Democrats have found a formula in these charges for their effort to thwart Reagan's attempts to remake the federal judiciary and legal agencies. They are said to believe that a counterattack was needed to prevent further trouble on nominations. A White House spokesman agreed yesterday that the president's remarks on Manion should be interpreted as the start of a counterattack.

At a Senate Judiciary Committee hearing April 30, Democrats questioned whether Manion held such extreme right-wing views that he should not sit on the federal bench.

They cited Manion's sponsorship as an Indiana state senator of a bill to allow the Ten Commandments to be posted in the public schools two months after the Supreme Court ruled that such postings are unconstitutional, and 1971 statements urging that the Supreme Court be stripped of some its jurisdiction and declaring that antiwar demonstrators "should be penned up."

Democrats also questioned whether his legal background in a small South Bend law practice was adequate to qualify him to sit on a federal appeals court. Manion has been strongly defended, however, by Indiana's two senators, Dan Quayle (R) and Richard G. Lugar (R).

Reagan said he is trying to name "tough, responsible judges" because "the scales of justice have become seriously unbalanced" and it is "difficult to convict criminals."

Mr. President, how many minutes have I remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. BYRD. I thank the Chair.

IS ADMINISTRATION REALISTIC ABOUT SOVIET REACTION TO SALT RENUNCIATION?

Mr. BYRD. Mr. President, in today's Washington Post I noted a newspaper article entitled "Soviet Ability To Accelerate Arms Debate. Reagan SALT Stance Shaped by Economics."

So what we have here is today's Washington Post reporting that the administration is basing its SALT noncompliance policy on the expectation that a troubled Soviet economy could not or will not respond with increased spending on strategic weapons.

Considering the constant refrain from the administration about the Soviets outspending the United states on weapons, this is a questionable and major shift in direction, it would seem.

I think it is wishful thinking on the part of the administration in respect to the public debate that has been going on anent the likely Soviet military reaction to a U.S. renunciation of the central numerical sublimits in the SALT II accords.

The article today notes that Soviet experts inside and outside the administration disagree about the wisdom and validity of this expectation.

This reported disagreement, as well as past Soviet behavior of supporting military capabilities at the expense of the domestic economy of the Soviet Union, challenges the wisdom of this expectation and any policy based on it.

This uncertain expectation was also disclosed in the Defense Appropriations Subcommittee hearing last week when the Joint Chiefs of Staff Chairman, Adm. William J. Crowe, Jr., testified. Admiral Crowe gave his personal opinion that Soviet strategic weapons deployment "would not differ appreciably" in the future with or without SALT limits. However, he refused to state that there was no military impact if the Soviets did not live within these central sublimits.

So these two positions that he took seem to me to be contradictory.

I find that the admiral's expectation about the Soviet strategic deployment without SALT to be somewhat puzzling, since he indicated it was an assessment of Soviet intentions and not of Soviet weapons production capabilities.

Mr. President, we have been warned repeatedly by the military, not only under this administration but also in previous adminstrations, to judge the capabilities of the Soviet Union as we go about our budgetary debates and discussions and actions, and in the course of the military planning on the part of our top military people they have said consistently to judge the capabilities of the Soviet Union, not their intentions, when assessing a Soviet threat.

They have said that predicting intentions is much less certain than measuring military capabilities.

Of course, Admiral Crowe turned that advice on its head when he took the position that, in his judgment, suggestions that the Soviet Union would rapidly accelerate their production of launchers and warheads above the central numerical sublimits, would not be a likelihood.

So, in essence, he was saying trust the Soviets not to significantly exceed the SALT-permitted force levels absent treaty limits.

I am uncomfortable, Mr. President, in placing such faith in Soviet intentions since CIA experts on Soviet strategic programs have told Congress that the Soviets "clearly have the capability for significant future expansion" of their strategic warhead arsenal to at least 3,000 nuclear warheads more than they might deploy by 1990 if they continued to comply with SALT.

Mr. President, 3,000 more nuclear warheads targeted on the United States would be against our national security interests. Therefore, it is to our advantage for the President at least for now to live within the central numerical sublimits which restrain the Soviets from exploiting their greater strategic weapons production potential.

The abandonment by the United States of SALT central numerical sublimits gives the Soviets a justification for just such a weapons expansion, needlessly complicates the planning for a productive summit, and throws cold water on prospects for a successful Geneva arms negotiation talks.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

Mr. PROXMIRE. I thank the Chair.

WILL THE SOVIETS ACCEPT A REAGAN ARMS CONTROL AGREEMENT?

Mr. PROXMIRE. Mr. President, on Thursday, June 19, President Reagan spoke on arms control at a high school graduation in Glassboro, NJ. He said, as he has said before, that he favors an arms control agreement with the Soviet Union to reduce nuclear arms on both sides. But this time, the President said something different. He said the Soviets had placed on the table at Geneva new proposals to reduce nuclear weapons. He described the Soviet initiative as a serious effort. He even said that this could be a turning point.

What do we make of this, Mr. President? Are we on the verge of a new arms control agreement? Maybe we are. Here is why: First, the President of the United States—as I have said many times—is the quintessential player in the achievement of an arms control agreement. This is especially true today. Now it appears the President is more firmly aboard the arms control express than ever.

Second, are the Soviets willing to negotiate an agreement? Our top expert on the Soviet Union, Marshall Shulman, has said that in his 40 years of studying the Soviet Union, there has never been a time when they have been more disposed to reach an arms control agreement with the United States than they are today.

Third, can the United States now negotiate from strength? Any objective analysis of the economic, technological and military strength of the United States and its NATO alliance compared to the Soviet Union and its Warsaw pact shows that today, we negotiate from a position of overwhelming strength.

So, are we on the brink of an historic and far-reaching nuclear arms agreement?

Unfortunately, Mr. President, the answer is probably not. And yet there is an interesting outside possibility.

First, what suggests the two superpowers will not reach an arms control agreement? After all, for anyone reading that Glassboro speech President Reagan seems to be reaching and reaching hard for an agreement. No question about it, President Reagan could have an historic arms control agreement if he wanted one. But the evidence is overwhelming that he does not want an arms control treaty. The President has opposed every arms control agreement this country has ever negotiated, whether negotiated by Republican or Democratic Presidents, whether ratified or not ratified by the Senate. He has an absolutely perfect, unblemished record of opposition.

How, then, do we account for the fact that at this very moment, an American negotiating team is in Geneva under express instructions from President Reagan trying to negotiate an arms control agreement? How do we explain that the President has kept his team on the spot patiently negotiating for a year and a half? The answer is that the President recognizes the overwhelming public support in this country for arms control. The President's pollsters tell him that the American people want to stop the arms race. They believe the buildup of nuclear arms by this country, matched by the huge Soviet buildup, is the most dangerous, life-threatening fact in the world. So the President speaks often and warmly in favor of arms control. He sends his team to Geneva to negotiate. At Glassboro he went farther.

In the past, Reagan administration officials have said the negotiations have produced nothing because the Russians "have not been serious." In this latest speech, the President said the Russians have made serious proposals. He made other pleasant and friendly statements about the Soviets. He also said that he hoped Soviet General Secretary Gorbachev would come to Washington this year for a second summit. The implication was that the two most powerful men on Earth would announce a nuclear arms control agreement that would meet the fondest hopes of the American people for an end to the arms race.

Would Ronald Reagan; this steadfast, unremitting foe of all past United States-Soviet nuclear arms control agreements, really expect to achieve this? Very likely not. But the President has a sure political winner here. All Americans will applaud his happy rhetorical support of arms control. The President is positioning himself as a champion of "reasonable" arms control. If no arms control agreement develops, it will be hard for any patriotic American to argue the fault lies with President Reagan. Did he not say he was for arms control? The problem will appear to be with the Soviets.

The President is making a simple and understandable proposition. Both countries should reduce their offensive nuclear weapons by 50 percent, with more reduction promised for later. If the Russians accept, the nightmare nuclear arms race will be over.

Does that not sound good? It sounds great. What is wrong with it?

Here is the problem: The Russians may change their view but so far, they have refused this proposition on very understandable grounds. The Soviets respond that they will promptly agree to the nuclear weapon reduction if the U.S. Government will make a firm commitment to comply with the antiballistic missile arms control treaty, the ABM Treaty, for 15 to 20 years.

Why does Gorbachev want a binding commitment that we will not break out of the ABM Treaty for so long? Because if we do break out of the treaty, it will mean that we begin the testing, the production and the deployment of a defensive system—the SDI or star wars—that could destroy the credibility of the Soviet deterrent. The Russians assume the worst-case scenario, as all nations do when confronted with a foreign military threat. Gorbachev assumes our SDI or star wars defense may actually work—especially if the Soviet offensive nuclear arsenal is reduced and not advanced or improved with more and more new penetrating weapons. If that happens, what becomes of the Soviet Union as a superpower? The answer is easy. It is finished. Gorbachev knows this. But so does President Reagan. President Reagan knows Secretary Gorbachev fully understands this, so President Reagan must feel confident that the Soviets will not, indeed cannot, accept his proposition for a 50-percent reduction of offensive nuclear weapons.

So much for the view that nothing, no arms control treaty, will come of this. How about the outside chance that the famous Reagan luck will hold, and an arms control agreement between the superpowers will develop? How could this happen? Here is how: Secretary Gorbachev may surprise everyone by agreeing to the mutual reduction of offensive nuclear weapons regardless of what we do with star wars. If he does, the reason will be clear. He will have become convinced, as many of America's foremost scientists are, that star wars is an idle, empty dream, that it can never work even if assisted by big reductions in the Soviet offensive nuclear arsenal. He may buy the view so widely shared

in the American scientific community that star wars will waste our technology, impose a massive burden on our economy, and end up a total U.S. loser. If he agrees to the Reagan arms control proposal, it is a cinch that this is the way Mr. Gorbachev sees it.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana [Mr. MELCHER] is recognized for not to exceed 5 minutes.

AMERICA'S BASIC INDUSTRIES

Mr. MELCHER. Mr. President, the bottom line for America's largest basic industries is the losses they have been sustaining. The 40 million people working on the land or living in scores of thousands of rural communities across the country in agriculture, agribusiness, forest products, mining, and energy are all wondering when the turnaround in the downward trend in commodity prices will come. They are looking for the bottoming out of commodity prices in hopes that it will be followed with recovery of the prices of the commodities which they produce. Today, the markets opened with cattle at $54 per 100 pounds, corn and wheat about $2.25 per bushel, lumber at $175 per 1,000 board feet, oil at $13-$14 per barrel, copper at 65 cents per pound, and silver at $5 per ounce.

Those prices make 40 million Americans losers. Their bottom line is near despair and they wish and they hope that national policies, with the attention of the White House and Congress, will be focused on their problems.

Our attention should be focused on these basic industries, and the glib statements of national political spokespersons that the economy is robust means that the country can get along with the basic industries going broke. Those are fighting words where I come from.

It is time that we fight here in Washington to remove the obstacles to rejuvenation of the Nation's basic industries. That means improvement in trade and attention to national policies that foster basic economic growth here in the United States. We can use that which we have the most of—commodities produced from the Earth—to serve both our national interests at home and our national interests abroad. When push comes to shove, it is, after all, the basic industries of the United States that have made and continued to make us the world power, with a great national defense that maintains for the free world the opportunities for mutually beneficial reciprocal trade and peaceful world commerce.

Mr. President, I yield the floor.

□ 1240

ROUTINE MORNING BUSINESS

Under the previous order, there will now be period for the transaction of routine morning business not to extend beyond 1 p.m., with statements therein limited to 5 minutes each.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

TAX REFORM

Mr. LEVIN. Mr. President, I very much wanted to vote for the tax bill, which is before the Senate. It contains many elements which I have long supported: A tough minimum tax on individuals and corporations; closing tax loopholes; and removing people below the poverty line from the income tax rolls. It also makes you think more than the usual "twice" when the consensus in the Senate is so overwhelming and you are not part of it.

But, Mr. President, I cannot allow myself to be swept along by the wave of organizational support for this bill. I specifically say "organizational" support because I have serious doubts whether the support for this bill in America's heartland matches up with its apparent support in this Chamber.

It is not that this bill is imperfect. No bill is perfect. But the problem is that this bill takes unacceptably high casualties in its attempt to win the battle of tax reform. It will increase the taxes on many average income people at the same time that it gives extraordinarily large tax cuts to the some of the wealthiest among us. It not only fails to address the issue of the huge Federal deficit, but it will make it more difficult and painful to deal with the deficit when we soon turn our attention to that problem. Finally, for all its claims of reform and fairness, it is neither consistently fair nor consistently in accord with the general interest. For instance, it will hurt people with high medical bills and it will hurt charities. It also gives relief to a privileged few from new rules while applying those rules retroactively to millions of others.

First, if this were a tax reform bill in which the only people who were paying more in taxes under it were people who were sheltering all or almost all of their income from taxes, then it would be the kind of tax reform to achieve fairness most of the public has in mind. Unfortunately, the best available evidence indicates that this bill is not that kind of tax reform. The best evidence available is from the Joint Committee on Taxation and it shows that millions and millions of middle-income people will pay more in taxes—not less.

One out of four of the taxpayers making between $20,000 and $30,000 a year could receive tax increases under the committee bill. Their average tax increase could be about $340. Also, based on this same information, 1 out of 3 of the taxpayers making between $30,000 and $40,000 a year could get tax increases under this bill. Their average tax increase could be $525. That could come as a shock to perhaps 14 million middle-income taxpayers whose taxes might go up—who have been told that they are going to be better off. The shock may turn to anger when they learn that over half of the taxpayers making over $200,000 may get a tax cut averaging over $50,000 a year. We tried to correct this new injustice with the Mitchell amendment, but the Senate defeated the effort.

Now, as I indicated, the joint committee has said that this data cannot be verified even though it is the best they have. But if it cannot stand behind its own data, if the committee cannot confidently quantify losers, that means it cannot confidently quantify winners either. It means that no one can confidently assert that this bill will cut taxes for virtually everyone who is not a wealthy person sheltering a substantial portion of his or her income.

Second, as I indicated in the beginning of my remarks, I am concerned that this tax reform bill does not deal adequately with the deficit. People have asked me, "Isn't this bill better than nothing?" Well, with respect to deficit, I believe the answer is "no." Let me explain.

A few months ago, this tax reform bill looked like it would be just another tax bill, full of all the usual favors for this industry and special considerations for that group. No one was really excited about the substance of tax reform. As a result, we were able to step back from the specifics and take a macro view of how tax reform fit into our ongoing battle to reduce the deficit and increase our economic well-being. And when we took that long view, we made two decisions:

The first thing we did was that we adopted a sense-of-the-Senate resolution, by a vote of 72 to 24, saying that we should have an agreement on the budget and defense reduction before we considered tax reform. The second action we took was when the Senate passed a budget resolution in which we called for about $40 billion in added revenues over the next 3 years. Those

were hard votes, and they were the right votes.

But now, the Senate is listening to the soothing tunes sung by those who tell us to ignore the deficit as part of the tax reform debate. So, instead of using most of the revenue from loophole closing and the minimum tax for deficit reduction, we are using it for tax cuts, very unevenly applied. Temporarily, at least, we have abandoned our commitment to address first the need to reduce the deficit.

So, when we turn our attention back to the deficit, this bill will make it harder and more painful to reduce it, because, again, this bill soaks up revenues from loophole closing and an effective minimum tax, and uses those revenues for some tax cuts instead of for deficit cuts. The practical effect of that decision is clear: Either we will not reduce the deficit or we will have to raise money through some other methods. Assuming that we do not want to break the Gramm-Rudman law and assuming that income taxes on individuals and businesses will not be raised very soon after this income tax reform/tax reduction effort, what does that leave us?

It leaves the likelihood of increases in Federal excise taxes. The small tax cuts of perhaps $100 which the working poor get from this bill when they are eliminated from the tax rolls could well be eroded by excise tax increases on phone bills, beer, wine, cigarettes, and other items which are likely to be major elements of any deficit reduction revenue package that may come before the Congress this summer. Will we be giving out small tax cuts in June only to take them back in July? I am afraid that this is the course we are on—shifting the burden from a progressive income tax to a regressive excise tax.

The only other alternative we are left with as result of our using loophole-closing revenues for tax cuts instead of for deficit cuts is the possibility that we will not raise the revenues necessary as part of an overall and responsible deficit reduction package. As Senator DOMENICI indicated in his excellent statement during the debate, if we try to reduce the deficit at the same time we put increased revenues off the table, then we are asking for devastating cuts in programs which are essential for maintaining our quality of life. Those devastating cuts will hit hardest at the middle- and low-income people who are supposed to benefit from this bill.

The better alternative to this bill is to obtain tax fairness by closing tax loopholes and imposing a minimum tax on profitable corporations and wealthy individuals, and, then using most of that revenue for deficit reduction. That way, we can have tax reform and tax fairness, without increasing the taxes on many middle-income people.

That is the course of action which the people support overwhelmingly. In a public opinion survey conducted earlier this year, the public, by a vote of 68 to 22 percent, said that revenues from loophole closing and a minimum tax should be used for deficit cuts rather than tax cuts.

We are doing exactly the opposite in this bill. In fact, when all is said and done, we will have lost a great opportunity to reduce the deficit. I echo Senator DOMENICI's words of last week: "What a pity, what a pity." I deeply fear that we are going to make the task of reasonable and responsible deficit reduction extraordinarily difficult when we revisit that priority, which we never should have left, in the near future.

Third, let me turn to some specific aspects of this legislation and ask whether they are consistent with fairness and the promotion of the general interest which are supposed to be the guiding principles of this legislation.

To begin with, this bill has significant and disturbing retroactive features. It has been said that one of the benefits of this bill is that the public will perceive it as fair, and it will, thereby, restore their trust in Government. But I ask, "How is that trust established when many people will look at this bill not as a sign of trust but of a breach of faith?"

It is wrong, it is unfair, for example, to tell people who have taken out consumer loans on the assumption that the interest would be fully deductible that such is no longer the case. It is similarly violative of the spirit of due process to tell people who have already invested in real estate transactions on the assumption that their passive losses would be deductible against ordinary income that the rules have changed governing those investments. It may well be true that some of these investors made their investments in order to shelter their income. But, Mr. President, those investments were not only legal—some were created to encourage investment in certain areas such as low-income housing. We should do away with abuses; but in the process, we want to preserve useful incentives. Unfortunately, in this bill, we have not distinguished between the two.

There is another disturbing aspect to retroactivity. Buried in the 1,212 pages of the bill sent to the Senate by the Finance Committee were almost 200 "transition rules." Now, a transition rule is nothing less than a tax break for a specific company; the rule prevents some specific provisions of the legislation from applying to it. Some of these tax breaks are justified; they soften the blow of the new law on businesses that undertook projects under the current tax law, only to be told the rules would be changed in the middle of the game. However, what concerns me is that many individuals and businesses are in the same sort of position and are subject to the same change in the rules, yet only a few of them were able to get a special exception in the law to take into account their particular case. Keep in mind that this special treatment is in the same bill that would increase the tax burden of millions of middle-income taxpayers. If we really had a commitment to fairness, we would extend the same consideration to everyone who has been similarly affected by this bill that we have extended to those covered by the transition rules.

Another unfair element of this bill concerns the repeal of the deduction for consumer interest. The bill eliminates the interest deduction on education loans, car loans, and other consumer loans. But it allows a person to get around the repeal of this deduction if, one owns a house and has adequate equity in it. If you rent, or have little or no equity in your home, you cannot deduct the interest you pay on your loan to help get your kid through college or to buy a car.

The proponents of this bill argue that one of its primary goals is to have people with equal incomes treated equally. This loophole, however, makes it impossible for us to achieve that goal. It is fundamentally unfair to have three families—perhaps living right next to each other—who have the same income but pay different taxes because one family has enough equity in a house to give a second or third or fourth mortgage to secure a consumer loan, while the others either rent or just do not have enough equity in their home. That is not fair, that is not equal treatment, that is not logical. There is no way to explain why some homeowners will be able to deduct interest on a car loan or an education loan while other homeowners and renters can not.

I also remain unconvinced that the battle for tax fairness requires the elimination, or substantial modification, of a number of important and socially useful provisions in the current tax law.

For example, the deduction for medical expenses has been severely restricted. Millions of people who currently use that deduction will no longer be able to utilize it. This is not a deduction for the few and the privileged, but a deduction for the average and the ill—a deduction for 17 million Americans with incomes between $10,000 and $50,000 a year.

Even today, the Joint Tax Committee is unable to tell us how many taxpayers will pay more in taxes due to the new restrictions on the medical deduction. The same lack of information exists when we look at the sales tax

deduction, the consumer interest deduction and the two-earner marital deduction, among others.

□ 1300

Look at the charitable deduction on the short form. It will not longer be allowed. How is it fair to disallow this deduction for nonitemizers at the same time it is allowed for itemizers? How does it make sense in this age of contracting Government when the private sector must pick up the slack, for us to pass a tax bill which reduces the incentive for 61 million Americans to make charitable contributions? How is that a triumph of the general interest over the special interests?

Or consider individual retirement accounts. Proponents of this bill have suggested that they are bastions of the privileged. But how can that be when, based on material provided by the Joint Committee on Taxation, 70 percent of the taxpayers who use IRA's have incomes between $10,000 and $50,000? For people who are covered by, but have not vested in, a pension plan or for those who have a bare bones pension plan, denial of full deductibility for their IRA based on the assumption that they are already taken care of is neither fair nor reasonable. Does it not promote the general welfare to have a system of pension coverage where people do not so easily fall through the cracks?

Mr. President, just a few more words, and I will be done. I was struck in the debate by the continual cry, designed to create confidence, that we ought not worry about this problem or that flaw. "We'll address it in the conference," we were told. IRA's a problem? Don't worry, we'll take care of it in conference. Retroactivity a flaw? Don't worry, we'll take care of it in conference. Part of the middle class getting the short end of the stick? Ah, don't worry, that will be addressed in the conference. Capital gains taxed too heavily? Don't worry, we'll also take care of that in the conference. The revenue swings from year to year too great? Of course, don't worry, we'll take care of that, too, in conference. The cut in medical expense deductions keeping you awake at night? Just turn over, and leave it to the conference.

I can envision a situation in which these currently existing inequities are resolved in a way that will allow me to vote for the conference report. But there are so many elements which the conferees will be juggling that, despite the best efforts and the best intensions, some will fall. I want to withhold my endorsement for this bill until I see what ends up in people's hands and what ends up on the cutting room floor after the conference is completed.

The danger of sending this bill to conference in its current form is that by the time the conference completes its work, there could be the worst of both worlds—an unsatisfactory product propelled by an unstoppable momentum.

If we can avoid that, I may be able to vote for the conference report, when the smoke has cleared, and we have an unobstructed view of the final tax plan and of the deficit reduction situation. I may vote for it then—I hope I can—but I cannot bring myself to vote for it now.

We have spent years complaining about the obvious problems in the present Tax Code. We ought to spend a few months making sure that a new Tax Code rights those wrongs without creating a lot of new ones.

I believe we can do that. But I do not believe we have yet.

Instead, with this bill we substitute a new mythology for an existing unfair tax system. The new myth is that we are all better off with less progressive tax rates. We ignore the price we are paying for this so-called reform. We needed a broom and got a bulldozer. We wanted to get those who escape paying taxes and we did—but we may also have gotten 25 percent or more of middle-income Americans who already pay more than their fair share. We are hurting people with high medical bills. We are discriminating against many homeowners and renters on the interest deduction. We are handing out waivers of new rules and special privileges to a few hundred taxpayers while enforcing new rules retroactively for millions who are similarly situated. We are making it harder for charities to meet the needs of those in need and we are making it harder for us to meet our own needs by ending full deductability for IRA's. We are socking it to the economy by soaking up new revenues we need for deficit reduction, thereby making deficit reduction more difficult and regressive.

Mr. President, it is all so needless.

We should close loopholes and get a fair share in taxes from folks who have avoided paying their fair share. We should take most of that revenue though, and use it to reduce the deficit.

That is how we can combine deficit reduction and tax reform.

This bill gives us some reformal, but it also gives us some new tax unfairness and it actually makes deficit reduction much more difficult. We should do better. We can do better. And hopefully we will do better.

Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum setting forth good parts, bad parts and unknown parts of the bill.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM

SOME GOOD PARTS

Loophole closing; minimum tax; and 6 million working poor off tax rolls.

SOME UNKNOWN PARTS

How many million taxpayers will actually pay more in taxes than they pay now because of the cut in medical expense deduction? (22 million Americans now use that deduction.)

Elimination of the charitable deduction on the short form? (61 million Americans now use that deduction.)

Elimination, for most, of the sales tax deduction? (44 million Americans now use that deduction.)

Loss, for many, of the IRA deduction? (28 million Americans now use that deduction.)

Loss, for many, of the deduction for interest on education loans, car loans and other consumer loans? (39 million Americans now use that deduction.)

Loss of the deduction for protective clothing at work, professional and union, and other miscellanceous work related expenses now allowed? (No one knows how many million Americans now use that deduction.)

SOME BAD PARTS

Perhaps 25 percent or more of middle income taxpayers will get a tax increase.

Privileged few get waivers of new rules while same rules are retroactively enforced against millions.

Deficit reduction made more difficult.

Important, socially useful deductions eliminated or reduced, including medical expense deduction, charitable contribution deduction, state sales tax deduction, marriage penalty deduction, unreimbursed employee deductions (tools, protective clothing), consumer loan interest deduction for some home owners and renters.

Discriminatory provision on consumer loan interest deduction results in some home owners being able to deduct interest on education loans, car loans, etc., while other home owners cannot and renters cannot.

IRAs reduced.

Mr. LEVIN. I thank the Chair. I yield the floor.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. Does the Senator from Mississippi desire to speak?

Mr. STENNIS. If the Chair will indulge me just a minute, I do want to address the Chair and ask for some time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

INDUSTRIAL REVENUE BONDS

Mr. STENNIS. Mr. President, I shall not detain the Senate very long. I do have some remarks that I want to make here relating to—but not asking at this time for an amendment for the change—what we call the industrial bonds where we have had and will continue to have to a degree some exemption from taxation for the interest that they earn.

I am a great admirer really of the bill here that has been developed by

our valued Finance Committee and by the additional Members of this body who worked with that Finance Committee. I think from the mass of trouble, contradictions, and defects that were found throughout our entire taxing system it is an amazing achievement for our membership of the Committee on Finance to be able to take the present law and make such additions thereto as they saw fit and mold that into what is largely a constructive, a meaningful, and what I think is a fair instrument. By this new bill we will control the finances of what is in many respects the most powerful nation in the world carrying on activity that is hardly equaled, much less excelled, by any other modern nation.

When I say it is truly a great achievement, I point to it with pride in their achievements and their accomplishments. They had a great deal of help. They had the help of the President of the United States and the other officials. They had the help of those in the congressional branch of our great Government, those who were requested and those who volunteered whether requested or not.

These was a spirit of need and serious realization that something must be done. This all led to what I believe is the finest spirit of cooperation, determination, and reason that brought forth this bill.

Here on the floor where every Member rightfully has a chance to offer amendments, criticism, and constructive contributions whenever possible, we have had this high-level discussion. We have had helpful debate. But we have not had a destructive approach so far as I can determine. The press has certainly been silent if there was anyone here who did not want to be constructive. I think it is the finest illustration of the operation of our system, by my close observation and slight participation, in meeting a problem head on and finding what I believe is a solution.

A big part of the surprise was that everyone that I observed who considered offering amendments was very careful in wanting to be constructive at every turn and wanting to strengthen rather than weaken. They were approaching the problem from every angle with pride but with great caution and restraint.

I find that is the great sentiment among the people.

□ 1310

Without trying to be an expert on judging public opinion, to a great degree anyway, I found the finest kind of response and spirit on behalf of most of those among the people that are being heavily taxed—and some of these changes made their taxes even heavier. But I am proud of the constructive response that seems to have been generated. People want things controlled in such a way as to generate this fairness and soundness and preserve and protect our country.

We realize that we are in trouble in a financial way, not in trouble that cannot be solved, of course, but there are pressures on our financial system that puts it under a strain that could lead to much worse consequences. There is a realization of the need for the people to cooperate, to bring about a solution, rather than a further aggravation of this problem.

I rejoice, with that spirit. And I want to emphasize, too, there was a lot of restraint here by the membership with reference to offering amendments. They did not want to undermine or tear down or destroy, but to strengthen our tax laws and solutions to the problem. And I think we have come to a new milestone. It was needed and will bring fruits of a fine kind.

Now, I am interested in seeing something further be done with reference to the way we dispose of the problem here that relates to our industrial revenue bonds. They are really small amounts by comparison. They are designed primarily, or were originally at least, for small issues of bonds by small government units, whereby the people could put a bond security on their own property and pledge the repayment with interest. The money would go to build or increase the size of a small factory or improvement of some kind in that community and afford jobs.

That is what the whole thing is about—affording jobs for the people that lived in that commuity. They already had a home, humble as it might be. They had their purposes. They had a place to live. They had a chance to improve their lot and, through these small bonds, great progress was made.

Now, it is something that I am rather familiar with because this type of bond originated in my home State. In 1935, a gentleman, a retired businessman by the name of Hugh White—and I bow to his memory, his constructive work today and thank him and praise him for the great work that he did—went out there and organized that thought that I briefly outlined—he was elected Governor and went on to serve that term and another term with outstanding success—in these small revenue bonds. They were exempt from Federal taxation. And that made it posssible, through the margin of difference there, for these people to carry on in a way that I briefly outlined.

It proved to be a very popular step forward. It helped many other States. Then it got to where it was abused and put to purposes that were not as constructive, that were not as necessary.

We have had many efforts here on the floor, and in the House, too, to remedy this situation that has fallen into misuse.

Unfortunately, this program is set to expire in 1988. The House, tax reform bill does deal with this problem. Instead of letting the time run out in which those bonds would be valid, the House allows the use of these bonds to continue.

Now I had planned to offer an amendment here along with others that are interested—and there are plenty of others that are interested—but we did not. We did not feel like it would be best to put the whole tax issue in jeopardy in bringing in amendments and thereby, at some point, you could have put the bill, or major parts of the bill, in jeopardy. It is a very delicate situation.

I feel confident that this thing can be worked out with more wisdom and with more effectiveness and with more constructive efforts by our highly competent conferees than it could be by the chance method of forcing on amendments.

Anyway, in keeping with much of the spirit of this debate, we decided to go the route that I have outlined, without asking for nor expecting any kind of promises or concessions from those that may be our conferees on this important measure that I feel confident will pass by a highly respectable vote tomorrow afternoon.

I am not trying to set off something, but merely asking for help from our conferees. As one Member of this body, I am asking them to take note of this problem and apply their experience and their wisdom and their willingness, each conferee of the Senate and of the House, to this problem in an effort to work out something that is sound and fair to the taxpayers; that is workable, constructive, and will bear fruit for the people that I have described. I hope something can be done through this larger bill that will meet the problem and help solve the pending problem. I get tired of using that word "problem," but that is the best word that fits the occasion, because there are problems of this kind in many hundreds of small communities and small areas in our 50 great States.

□ 1320

So I trust, Mr. President, that that spirit will prompt these conferees—and I believe it will—to find a base for a system of permitting these bonds to be issued with protection to every other phase of our economy.

Mr. President, the whole purpose of this program is the creation of jobs. This is a tool by which local communities are able to help finance the construction or expansion of factories. This is a program for the little people, for small towns and small companies. The big corporations are already generally excluded from using this program.

The plain fact is that this is the only major tool that many of our smaller communities have available for stimulating economic growth and creating jobs for their people.

I readily confess that there have been some abuses of this program in the past, and I do not seek to defend those. Indeed, over the past several years I have worked with others to see that some of these abuses are eliminated. We have already prohibited the use of these bonds for things like fast-food restaurants, gambling casinos, and liquor stores. We have also subjected these bonds to a per capita statewide ceiling, thereby effectively preventing any massive expansion of the program.

So, Mr. President, I am not opposed to putting careful limits on the use of the bonds. But the answer is not to just let the program die out.

The House bill recognizes the importance of this program and removes this 1988 termination. I hope that the conferees will examine carefully the merits of the Industrial Bond Program and will consider moving toward the house position.

Once again, Mr. President, I commend the members of the committee for the bill they have brought us, and I hope as they work with the House conferees in preparing a final version they will recognize the vital role that tax-exempt industrial revenue bonds play in helping creat jobs.

Mr. President, I thank the Chair.

I yield the floor.

TRIBUTE TO "SCOTTIE" SMITH

Mr. HEFLIN. Mr. President, I was indeed saddened to learn that my close friend Mrs. Frances "Scottie" Smith, the daughter of F. Scott Fitzgerald and Zelda Sayres, died of cancer in Montgomery, AL, on this past Wednesday.

Mrs. Smith was, herself, a talented writer and contributed regularly to various newspapers and magazines. She also wrote two books, and coauthored a third which was about her parents.

Scottie possessed both an effervescent personality and a great wit which endeared her to everone she met. She was a wonderful, delightful lady. I know that she will be remembered and greatly missed by many both here in Washington, where she lived for many years, and in Montgomery, where her mother was raised and where she has lived for the last 13 years. She is survived by three children, Eleanor Lanahan Hazard of Burlington, VT, Samuel J. Lanahan of Eugene, OR, Cecilia Scott Ross of Avondale, PA, and five grandchildren.

Mr. President, I ask unanimous consent that the accompanying article, which appeared in the Washington Post, be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

F. SCOTT SMITH, WRITER, AUTHOR'S DAUGHTER, DIES

(By J.Y. Smith)

Frances Scott Fitzgerald Lanahan Smith 64, the only child of author F. Scott Fitzgerald and herself a writer for newspapers and magazines, including The Washington Post and The New Yorker, died yesterday at her home in Montgomery, Ala. She had cancer.

Mrs. Smith, whose nickname was Scottie, lived in Washington for several years and was a figure in society here. For the past 13 years she had lived in Montgomery, the hometown of her mother, the former Zelda Sayre. She was born in St. Paul, in her father's home state of Minnesota.

She grew up in Paris when her father was one of the most popular American writers alive and both of her parents symbolized the carefree life style of the Jazz Age. But by the time the family returned to this country, Zelda Fitzgerald already was slipping into the mental instability from which she never recovered. In the mid-1930s, F. Scott Fitzgerald himself had a nervous breakdown.

Mrs. Smith attended the Ethel Walker School in Connecticut and graduated from Vassar College.

Her father, whose novels included "This Side of Paradise," "The Great Gatsby," "Tender is the Night" and "The Last Tycoon," died in Hollywood in 1940. Zelda Fitzgerald, a painter and writer who published a book, "Save Me The Waltz," died in a sanitarium fire in North Carolina in 1948.

In her own career, Mrs. Smith worked on the New Yorker's "Talk of the Town" column from 1944 to 1948. She moved to the Washington area in 1950 and was a writer for the Democratic Digest, a publication of the Democratic Party Central Committee. She was a reporter for the Northern Virginia Sun before joining The Post in the early 1960s.

At this newspaper she covered the Washington social scene and wrote a series of Peace Corps operations in Africa. In the mid-1060's, she did a twice-weekly column for The New York Times on Washington society. She was the author of two books and in 1974 was the co-author of "The Romantic Egoists," a journal of photographs of her parents and clippings about their lives.

Mrs. Smith said in a recent interview that being the daughter of a celebrated author opened many doors for her but that it also had its drawbacks. "I've always said jokingly that it was the best-paid part-time job in the world," she said. "It has been hard work sometimes because it encompassed the whole period when my father got extremely popular."

Despite the stories of her parent's seemingly endless partying, she said, "They were always very circumspect around me. I was very unaware of all this drinking that was going on . . . I was very well taken care of, and I was never neglected. I don't consider I had a very difficult childhood at all. In fact, I consider it a rather wonderful childhood."

Her marriages to Samuel J. Lanahan and C. Grove Smith ended in divorce.

Survivors include three children by her first marriage, Eleanor Lanahan Hazard of Burlington, Vt., Samuel Jackson Lanahan of Eugene Ore., and Cecelia Scott Ross of Avondale, Pa., and five grandchildren

WHERE HAVE ALL THE PATENTS GONE?

Mr. BAUCUS. Mr. President, they say that necessity is the mother of invention.

But if there ever was necessity for invention, it is created by our $148 billion trade deficit.

In this country, we need a rebirth of the ingenuity and invention that made this country the world's foremost economic power.

But in recent years, we seem to have lost the spirit that caused us to be the world's invention leader.

That point was made clear by an article that appeared in last Friday's New York Times entitled "Where Have All the Inventors Gone?"

That article notes that foreigners now own 44 percent of all patents filed with the Patent Office.

Between 1961–85, the share of U.S. patents granted to foreigners skyrocketed from 11 percent to 44 percent.

In other words, foreigners are beating us at our own game.

The article reminds us of famous inventions of the past—Thomas Edison's printing telegraph and Lucy Andrew's improved safety pin.

It even reminds us that Abraham Lincoln built an 1849 model of a device for lifting vessels over shoals.

Lincoln may have been a better statesman than an inventor—the device was never marketed—but it illustrates an important point; the inventive spirit touched all of America in those days.

We need that same spirit again.

We need to encourage research and development, which leads to commercial patents.

We need to ensure greater intellectual property protection abroad, so that American inventors have an incentive to create.

In short, we need to rekindle that American inventiveness that was the spark to America's economic power.

I ask unanimous consent that the article from the New York Times, "Where Have all the Inventors Gone?", be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHERE HAVE ALL THE INVENTORS GONE?

(By Barbara Gamarekian)

WASHINGTON, June 19—Is inventiveness on the wane in this country? Where is that old creative, enterprising American spirit?

Two exhibitions that open to the public Friday at the Smithsonian's Museum of American History could prompt such questions.

One, in celebration of the 150th anniversary of the 1836 Patent Act, is "Patent Pending: Model of Invention," made up of more than 100 miniature working models of 19th-century inventions that were submitted with patent applications. These range from Thomas Edison's printing telegraph and Lucy Andrews's improved safety pin to

Hannah Suplee's sewing machine needle and Abraham Lincoln's 1849 model of a divice for lifting vessels over shoals. The safety pin, telegraph and sewing machine needle are still with us. But Abraham Lincoln, it seems, was a better statesman than inventor.

FOREIGNERS GET 44% OF PATENTS

A second exhibition, "Invention and Enterprise," traces the invention of 10 objects, ranging from a cotton gin to a walking robot, to illustrate, said Deborah Warner, its curator, "that there are many steps between the fire of genius and getting a product on the shelf."

The Patent Act was enacted at the threshold of a sustained period of American economic and industrial growth, but in recent years the United States patents granted to foreigners have quadrupled, from 11 percent in 1961 to 44 percent in 1985.

Commenting on this recently, Senator Charles McC. Mathias Jr. of Maryland said that at a time when solutions are being sought for our growing trade deficit, "we are losing our competitive edge to foreign nationals who are increasingly taking advantage of our patent system and beating us at our own game."

NECESSITY WAS THE MOTHER

In the 19th century, the inventing fever was such that the Patent Office had on hand more than 200,000 patent models, stored in cabinets, stacked on desks.

"In the beginning, people invented out of necessity," said J. Morgan Greene, the vice chairman of the United States Patent Model Foundation here. "They invented a gate latch so that the cows couldn't get out of the pasture, or a hook so that the coat wouldn't fall off the wall. They began with necessity and then they invented for profit, making things for money. We were a nation of tinkerers and our inventions dazzled the world."

The Patent Model Foundation is starting a search for original patent models thought to be scattered in attics, schools, offices and private collections around the country.

Fires at the Patent Office destroyed about 76,000 of the models, and most that survived were later packed in crates and stored, only to be sold at auction by the Government in 1925. Today the Smithsonian's collection numbers about 10,000. It is uncertain how many other models still exist, but the officials' estimate is 100,000.

$20 MILLION TO RECOVER MODELS

The Patent Model Foundation was founded two years ago with the express purpose of raising $20 million to recover these models and return them, along with a $10 million endowment for their care, to the Smithsonian.

In addition, the foundation announced today a "Rekindle the Spirit" fund-raising campaign for * * * interest in technology.

"Hopefully it will cause those juices to start flowing," said Mr. Greene, "We've become too complacent, too fat and sassy."

TRIBUTE TO WILLIAM F. MATSON

Mr. HEINZ. Mr. President, it was with great sadness that I learned last week of the death of William F. Matson of Mechanicsburg, PA. Bill was serving Pennsylvania's rural communities as president of the Pennsylvania Rural Electric Association and also the Allegheny Electric Cooperative before his untimely death.

Bill and I worked closely on a broad range of issues. In all his endeavors, Bill's extensive experience and knowledge made him a valuable adviser to me and many others. He has served as a vice president of the Consumer Federation of America, chairman of the Pennsylvania League for Consumer Protection, and president of the Great Lakes Electric Consumers Association. I was particularly impressed by Bill's deep concern for the well being of the families the Pennsylvania REA serves. Hundreds of thosands of rural Pennsylvania enjoy a higher standard of living because of Bill's work.

Mr. President, I will miss Bill Matson very much. My sympathies are with Bonnie Matson and Bill's five children. I hope that Bill's dedication to public service, and the good he brought to so many families in Pennsylvania, will console them in the coming weeks and inspire those who knew this fine man.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will state the unfinished business.

The legislative clerk read as follows:

A bill (H.R. 3838) to reform the Internal Revenue laws of the United States.

The Senate resumed consideration of the bill.

Pending:

Grassley-Dole modified Amendment No. 2148, to provide an exception for trucks, tractor units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendment is No. 2148, as modified.

Mr. DOLE. Is that the Grassley amendment?

The PRESIDING OFFICER. It is the Grassley amendment. Yes.

Mr. DOLE. As I understand, Senator GRASSLEY is here. Senator PACKWOOD is in the cloakroom. Senator METZENBAUM is here. I think Senator METZENBAUM wanted to be heard on the amendment.

AMENDMENT NO. 2148

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I had asked this amendment be held up in order that we might satisfy ourselves that it was not some new cutout or some special provision that was not warranted.

As the amendment has now been described to me, it involves a company that bought a number of trucks in 1985, and actually will not put those trucks into service until after the tax bill's effective date.

I think it is one of those situations where the transition rule is appropriate. I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2148) was agreed to.

Mr. GRASSLEY. I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. METZENBAUM. I suggest the absence of a quorum.

Mr. GRASSLEY. Mr. President, will the Senator withhold?

Mr. METZENBAUM. Of course.

The PRESIDING OFFICER. The Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have addressed this body on sereral occasions in regard to the aspects of the bill—the tax bill, that is—as it deals with a major industry in the United States and in my State, that of agriculture.

I have received several letters regarding this act and its effect on agriculture. These letters were written to me prior to our consideration to that bill. These letters basically ask that the bill not be changed. These letters were written to me by the Pork Producers' Association and by the National Cattlemen's Association stating the extent to which they liked this bill. They hope—particularly those things that have dealt with the bill closing loopholes by which agriculture has really evolved into one of the major tax sheltering industries in the country by those outside of agriculture—that those aspects will not be changed so that those tax sheltering features of existing law are closed down.

Now, as we have reached a time agreement on this bill, I am happy to say with the amendments that can be offered yet, that it does not look to me like any amendments will be offered that are in any way going to weaken that bill. I think we can tell the farm organizations that are interested in this bill passing that it is going to pass

pretty much as it came out to committee in this respect and to their liking.

But, Mr. President, I would take this opportunity to ask unanimous consent to insert in the RECORD a letter from the Iowa Pork Producers, and also from the National Cattlemen's Association, so that their statement in support of this legislation will be part of the record.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

IOWA PORK PRODUCERS ASSOCIATION,
June 3, 1986.

Hon. CHARLES E. GRASSLEY,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRASSLEY: We are writing in deep appreciation of the role you played on the Senate Finance Committee in closing Farm Tax Shelters. We are most concerned about the efforts on the floor of the Senate to weaken this proposal. Efforts to accelerate depreciation on single purpose agricultural structures as well as watering down or delaying implementations of the limitations on the reduction of passive losses, cause our organization great concern. If the latter is inevitable, we urge that the committee proposal be retained at least for agricultural segments of the proposal.

We also wish to request your help in reaching Senator Dole on these issues. Enclosed is a letter to Senator Dole. We ask you to read the letter and if appropriate, personally deliver it to Senator Dole with your endorsements.

Your efforts are most appreciated.

As always, we appreciate the opportunity to put forth our concerns. If I may be of any service, please feel free to contact me at anytime.

Sincerely,
RICHARD VANDE HAAR,
President.

NATIONAL CATTLEMEN'S ASSOCIATION,
Washington, DC, June 3, 1986.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of the National Cattlemen's Association, I would like to extend our support of the Senate Finance Committee Tax Bill. Tax reform that makes across-the-board changes treating all industries equally, is desirable and achievable.

The cattle industry is a capital intensive business and we commend you, the Committee and your staff for focusing on fundamental changes that will allow us to fairly compete with other industries for capital. Your special interest in the cattle industry is appreciated by our Tax Committee Chairman, Jimmy Powell and all cattlemen. A more level playing field will provide economic investors an opportunity to compete more equitably with tax motivated investors.

A capital gains rate for certain assets such as breeding livestock and land is a concern to the cattle industry. The loss of this preferential rate for livestock is acceptable so long as rates stay at 15% and 27% plus no other type of asset qualifies for capital gains. The issue of land sales, that occur by voluntary or involuntary liquidation, is something we would like to see addressed by the Conference Committee.

We want to work with you to ensure that report language is sufficient to cover the bases but doesn't take a shotgun approach to a rifle target. You have put together a tax reform package that is indeed reform. Keep up the good work, and the National Cattlemen's Association looks forward to a continued positive relationship as the Bill proceeds to final passage later this year. Your support and interest in the cattle industry is appreciated.

Very truly yours,
DON BUTLER,
President.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

15/27/33 COALITION MEMBERS WHO HAVE GIVEN UP ISSUES TO SUPPORT THE TAX BILL WITHOUT AMENDMENT

Mr. PACKWOOD. Mr. President, a broad based coalition of over 700 business organizations and interest groups support this bill without amendment. Perhaps a mistaken impression was left the other day that the reason some of these groups support the bill without amendment is because these groups were not adversely affected by the Senate bill and have won all their wishes in this bill. Quite to the contrary, the overwhelming majority of this coalition is comprised of groups and companies who have dropped requests for amendments to support the bill as a whole. They have done so on the understanding that others would also forgo such efforts to obtain special amendments.

Let me give you some specific examples—and these are just a few:

American Association of Retired Persons: Would have supported amendments increasing tax benefits for senior citizens.

Allied-Signal: Would have supported an amendment changing accounting rules on minimum taxes.

American Electronics Association: Would have supported a capital gains amendment, changes in depreciation, installment sales provision and R&D allocations.

American Farm Bureau, National Cattlemen's Association, The Grange: All would have preferred changes in depreciation, capital gains and indexing and would have worked for such amendments, but are not in the interest of the whole bill.

Association of General Contractors: Would have supported changes in the passive loss provisions.

CEO Tax Group: Would have supported amendments to increase 401(k) contributions, and a dividends paid deduction.

Chamber of Commerce of the United States: Would have supported an amendment on minimum taxes, capital gains, investment tax credits, IRA's, blended rates, and pension provisions.

Johnson and Johnson: Would have supported an amendment on foreign taxation issues.

J.C. Penneys, Chrysler, and hundreds of retailers supporting the bill: Would have supported changes in consumer interest rules.

National Association of Manufacturers [NAM]: Would have supported amendments on ITC's and military taxes.

National Machine Tool Builders' Association: Would have supported an amendment on minimum taxation.

Computer and Business Manufacturers Association: Would have supported amendments on depreciation, installment sales, and section 861 R&D allocations.

Amway: Would have supported amendments on deleting the limitation on inhome offices expense and foreign tax credits.

Edison Electric: Would have supported amendments on depreciation.

Bread for the World, Lutheran Council of America Church Women United, and dozens of our other charitable groups: Would have preferred full deductibility of all charitable deductibility of all charitable deductions for itemizers and nonitemizers alike.

American Bankers Association and the U.S. League of Savings Institutions: Would have supported amendments to restore IRA's, change consumer interest provisions, investment tax credits, corporate minimum taxes, and changes in foreign tax credits.

National American Wholesale Grocers Association: Would have supported an amendment that would have changed the provisions on capitalization of inventory.

National Taxpayers Union: Would have supported IRA restoration.

The Coalition on Women and Taxes, Representing 38 organizations who care about women, children, and families: Would have supported amendments expanding indexing of dependent care credit.

Center for Budget and Policy Priorities, Bread for the World, ACORN, and the League of Women Voters: Would have supported changes in the bill making the tax rates more progressive.

These are just a few examples of what would have happened if agreement among the various interested groups had not been reached in support of no major amendments. If you think this bill has taken too long to pass after 2 long weeks, we would be here far longer if all these groups had been in the Halls working their particular special interests.

If we begin to adopt amendments that insert special interests into this bill, we will be doing a vast disservice

to this great coalition that has made significant sacrifices in support of genuine tax reform. And I can guarantee, if we go too far several of these coalition members will begin to say enough is enough. If the Senate begins to make concessions to one group then others will demand theirs as well—and the bill will start to fall apart.

Mr. President, I ask unanimous consent to include a list of the entire coalition that is supporting this bill in its entirety even without major amendments, even though if they had their wishes in the best of all possible worlds they are all amendments they would like.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMBERS OF 15/27/33 COALITION

MAY 29, 1986

A&A Glass and Mirror [1]
A. Smith Bowman Distillery
A. Zerega's Sons, Inc.[1]
ACORN
Aaron Rents [1]
Aetna Life & Casualty
Air Conditioning & Refrigeration Wholesalers [1]
Air Delivery Service Incorporated [1]
Air Van North American [1]
Alameda Company, The [1]
Albertson's Inc.
Alco Standard Wine and Spirits Group [1]
Alfa-Laval [1]
Alliance of American Insurers [1]
Altier & Sons Shoes Incorporated [1]
American Association of Advertising Agencies [1]
American Association of Retired Persons (AARP)
American Association of University Women
American Bankers Association [1]
American Business Conference [1]
American Council of Life Insurers [1]
American Council on Education [1]
American Dental Trade Association [1]
American Electronics Association [1]
American Federation of Small Business [1]
American Frozen Food Institute
American Furniture Manufacturers Association
American Home Products Corporation [1]
American Hospital Association [1]
American Jewelry Distributors Association [1]
American Meat Institute
American Movers Conference [1]
American Nurses Association [1]
American Traffic Safety Services Association [1]
American Trucking Association
American Veterinary Distributors Association [1]
Ameriserv, Inc.[1]
Amfac Incorporated [1]
Amway Corp.
Annco, Inc.[1]
Annedeen Hosiery Mill, Inc.[1]
Appliance Parts Distributors Association [1]
Aragon & Sons, Inc.[1]
Arkansas Freightways [1]
Armco Inc.[1]
Asplundh Tree Export Company [1]
Assisting the Disabled with Employment, Placement & Training [1]
Associated General Contractors of America [1]
Associated Industries of Florida [1]
Associated Wire Rope Fabricators [1]
Association of Footwear Distributors [1]
Atkinson Transfer Incorporated [1]
Atlantic Coast Structural Forming, Inc.[1]
Aunt Nellie's Food, Inc.[1]
Aviation Distributors & Manufacturers Association [1]
B.F. Fields Moving & Storage [1]
Bacardi Imports, Inc.
Baker Industries [1]
Basic American Foods
Bass Transportation Company Incorporated [1]
Bearing Specialists Association [1]
Beauty & Barber Supply Institute [1]
Bell & Howell Company [1]
Belvedere Construction Co.[1]
Beneficial Corp.
Berry-Barnett Grocery Company, Inc.[1]
Bestway [1]
Bethlehem Steel Corp.
Beverly Enterprises [1]
Bicycle Wholesale Distributors Association [1]
Bil Mar Foods, Inc.[1]
Biscuit & Cracker Distributors Association [1]
Borden, Inc.
Boss Manufacturing Company [1]
Boury Corporation, The [1]
Braman Inc.[1]
Bread for the World
Bristol Myers Company
Brodbeck Enterprises [1]
Brown Group, Inc.[1]
Brown-Forman Corporation
Bud Suarez, Inc.[1]
Byerly's [1]
C. M. Uberman Enterprises [1]
C. W. Transporting [1]
CEO Tax Group
CET Center for Employment Training [1]
CIGNA Corp.[1]
COMSAT
CR Industries [1]
Cadbury Schweppes PLC [1]
Cadillac Fairview U.S., Inc.
Camco Incorporated [1]
Campbell Soup Co.
Caremore, Inc.[1]
Cargo Express Company Incorporated [1]
Carlton Trucking Company Incorporated [1]
Carolina Freight Corporation [1]
Carr Truck Service Incorporated [1]
Carrols Corporation [1]
Center on Budget & Policy Priorities, The
Center on Law & Social Policy [1]
Ceramic Arts Federation International [1]
Ceramic Tile Distributors of America [1]
Chase Manhattan Bank [1]
Chemed, Corp. [1]
Chesebrough-Ponds Inc. [1]
Children's Defense Fund [1]
Chilton Corporation [1]
Chrysler Corp. [1]
Church & Dwight C., Inc. [1]
Church Women United
Church of the Brethren, Washington Office
Circle K Corporation [1]
Citizens for a Sound Economy
Classic Motor Carriages [1]
Clorox Company, The
Coachmen Industries, Inc. [1]
Coalition on Human Needs [1]
Coaliton on Women & Taxes
Coalitions for America
Columbia Motor Express Incorporated [1]
Commercial Bank & Trust Company [1]
Committee for Employment Opportunities [1]
Committee for Fairness to Families
Competitive Enterprise Institute
Computer & Business Equipment Manufactuers Association, The [1]
Consolidated Papers Incorporated [1]
Consumer Federation of America
Consumers Market, Inc [1]
Continental Cogenerational Corporation
Contractual Carriers Incorporated [1]
Control Data Corp.
Cooper's Western Wear, Inc. [1]
Cortez III [1]
Cosco Industries, Inc. [1]
Council for Periodical Distributors Association [1]
Council for Wholesale-Distributors National Kitchen and Bath Association [1]
Craig Transportation Company [1]
Crawford Fitting Company [1]
Creative Hairdressers [1]
Criber Truck Leasing Incorporated [1]
Crouse Cartage Company [1]
Crown Carrier Systems [1]
Cullum Companies [1]
Curtis-Burns, Inc. [1]
Cyclops Corporation [1]
D. L. Merchant Transport Incorporated [1]
Dadeland Dodge [1]
Dart & Kraft Inc.
Dart Trucking Company Incorporated [1]
Davgar Restaurants, Inc.[1]
Dayton Hudson Corporation
De Fazio Express Incorporated[1]
Dean Foods Company[1]
Denny's Inc.[1]
DiGiorgio Corporation[1]
Dierbergs[1]
Dillon Companies[1]
Distilled Spirits Council
Divorce Taxation Education, Inc.[1]
Dobson Mover[1]
Dominion Resources[1]
Dominique Gourmet Foods, Inc.[1]
Door & Hardware Institute[1]
Dorr-Oliver, Inc.[1]
Dover Corporation[1]
Dox Chemical Company[1]
Drug-Sav Company[1]
EASA, Inc.[1]
Economics Laboratory, Inc.[1]
Eddie Bauer Incorporated[1]
Edmac Trucking Company Incorporated[1]
Electrical-Electronics Materials Distributors Association[1]
Elmer Buchta Trucking Incorporated[1]
Emerson Electric Co.
Environmental Action
Equitable Life Assurance Society of the United States[1]
Everest & Jennings International[1]
Ex-Cell-O Corporation[1]
Explosive Distibutors Association[1]
Fair Tax Foundation[1]
Farm Equipment Wholesalers Association[1]
Fast Food Enterprises[1]
Faultless Starch/Bon Ami Company[1]
Fay's Drug Company, Inc.[1]
Federal Express Corporation[1]
Federal Signal Corporation[1]
Federated Department Stores, Inc.[1]
Firestone Tire & Rubber Company[1]
Fisher Foods, Inc.[1]
Flat Glass Marketing Association[1]
Fleetwood Enterprises[1]
Fleming Companies[1]
Florida Fast Food Services, Inc.[1]
Florida Power Corporation[1]
Florida Progress Corporation[1]
Florida Rock Industries[1]
Flowers Industries, Inc.[1]
Fluid Power Distributors Association[1]
Food Industries Suppliers Association[1]
Food Lion, Inc.[1]

[1] Indicates Members that have joined since 5/16/86.

Food Marketing Institute
Forge Restaurant, The[1]
Franklin Electic Company, Inc.[1]
Friedle Fuel & Caratage Incorporated[1]
Fronton Inc.[1]
Gabriel Communication Corporation [1]
General Delivery Incorporated[1]
General Foods Corp.
General Merchandise Distributors Council[1]
General Mills
General Nutrition Incorporated[1]
Genuardi Super Markets[1]
George A. Hormel & Company[1]
George Williamson Cadillac Co.[1]
Glenmore Distilleries Company
Grace Home Centers West[1]
Grain Processing Corporation
Grand Union Company[1]
Graybar Electric Company[1]
Griffin Distributing[1]
Grocery Manufacturers of America
Grumman Corporation[1]
H. J. Heinz Co.
Haggens, Inc.[1]
Hallmark Cards, Inc.
Hannaford Brother's Company[1]
Harold S. Laden & Co.
Hartford Dispatch & Warehouse Company Incorporated[1]
Hartz Mountain Corporation, The[1]
Harwood Companies, The[1]
Health & Tennis Corporation of America, Inc.[1]
Health Industry Distributors Association[1]
Heinicke Jet Aviation[1]
Herman Miller Inc.[1]
Hershey Foods[1]
Hewlett-Packard
Hickory Farms of OH[1]
Hiram Walker & Sons, Inc.
Hobby Industry Association of America[1]
Hon Industries[1]
Hordis Brothers, Inc.[1]
Hospital Corporation of America
House of Raeford Farms, Inc.[1]
Huffy Corporation[1]
Humana Inc.[1]
Humiston-Keeling, Inc.[1]
IBM Corp.
IGA, Inc.[1]
Illinois Tool Works, Inc.[1]
Illva Saranno, Inc.
Independent Bakers Association[1]
Independent Medical Distributors Association[1]
Institutional & Service Textile Distributors Association Incorporated[1]
Institutional Management Services Inc.[1]
Interbake Foods Inc.[1]
International Distillers & Vintners
International Medical Centers [1]
International Mill Service, Inc. [1]
International Porcelain Company
International Sanitary Supply Association [1]
Interpublic Group of Companies, Inc., The [1]
Irish Distillers Group
Irrigation Association [1]
J.C. Penny Co.[1]
J.M. Smucker Company [1]
JSJ Corporation [1]
James B. Beam Distilling Co., Inc.
James Skinner Co., The [1]
Jax Market [1]
Jewelry Industry Distributors Association [1]
Jitney-Jungle, Incorporated [1]
John Hancock Mutual Life Insurance Company
Jostens Inc.[1]
Justin Boot, Inc.[1]
K & G Box Company [1]
K & S Associates, Inc. [1]
K mart Corporation [1]
Kaufman and Broad Inc.[1]
Kay Corporation [1]
Kellogg Company
Kemp Furniture Industries Incorporated [1]
Key Pharmaceuticals, Inc.[1]
King Transfer Incorporated [1]
King Van & Storage Incorporated [1]
King's Super Markets, Inc.[1]
Kobrand Corporation
Krenn Truck Lines Incorporated [1]
Kroger Company, The [1]
L.S. Starrett Company [1]
Lowenware
LTV Corporation
LTW Management Services [1]
Lacy's Express Incorporated [1]
Laird & Company
Lakeland Fast Food Services, Inc.[1]
Lance Incorporated [1]
Land Truck Company Incorporated [1]
Lane Company, Inc., The [1]
Larmore Incorporated [1]
Lea & Perrins, Inc.[1]
Leaf, Inc.[1]
League of Women Voters of the United States
Levi Strauss and Company
Lewis Grocer Company, The [1]
Loctite Corporation [1]
Long Lake Energy Corp
Longs Drug Stores, Inc.[1]
Lowrey's Freshies [1]
Lucky Stores, Inc.[1]
M/A-COM Inc.
MANCON, Inc.[1]
Malone & Hyde, Inc.[1]
Manufacturers Hanover Corp.[1]
Manville Corporation
Marriott Corporation [1]
Materials Research Corporation [1]
Matterson Associates Incorporated [1]
Matthews International Corporation [1]
Maxwell Company, The [1]
Mayor's Jewelers, Inc.[1]
Maytag Company, The
McCourt Cable Systems [1]
McDonnell Douglas Corp.
McFaddin Ventures, Inc.[1]
McGraw-Hill [1]
McKesson Wine & Spirits
McLauren Trucking Company [1]
McRae's Incorporated [1]
Melville Corporation [1]
Mennen Company, The [1]
Merchants Bank of Miami [1]
Merchants Distributors, Inc.[1]
Merck & Co., Inc.
Merit Electric Co.[1]
Merry-Go-Round Enterprises, Inc.[1]
Metal Purchasing [1]
Metropolitan Insurance Companies
Mickelberry Corporation [1]
Mid-West Truckers Association [1]
Midwest Grain Products, Inc.
Miller Enterprises, Inc.[1]
Milprint, Inc.[1]
Minnesota Mining & Manufacturing Co. (3M)
Misner Marine Inc.[1]
Monfort of Colorado [1]
Montanari Clinical School [1]
Monument Buildings of North America-Wholesale Division [1]
Moore & Son Trucking [1]
Morton-Thiokol, Inc.[1]
Music Distributors Association [1]
Musket Corporation [1]
NCR Corporation [1]
National American Wholesale Grocers Association
National Appliance Parts Suppliers Association [1]
National Association Parts Suppliers Association [1]
National Association for Hose & Accessories Distributors [1]
National Association of Container Distributors [1]
National Association of Decorative Fabric Distribution [1]
National Association of Electrical Distributors [1]
National Association of Fire Equipment Distributors [1]
National Association of Floor Covering Distributors [1]
National Association of Marine Services [1]
National Association of Meat Purveyors [1]
National Association of Plastic Distributors [1]
National Association of Plumbing-Heating-Cooling Contractors [1]
National Association of Retail Druggists [1]
National Association of Service Merchandising [1]
National Association of Solar Contractors [1]
National Association of Sporting Goods Wholesalers [1]
National Association of Textile & Apparel Distributors [1]
National Association of Water Companies [1]
National Association of Wholesaler Distributors
National Association of Writing Instrument Distributors [1]
National Automotive Radiator Service Association [1]
National Beer Wholesalers Association [1]
National Black Child Development Institute
National Building Material Distributors Association [1]
National Business Forms Association [1]
National Coalition of American Nuns
National Commercial Refrigeration Sales Association [1]
National Corporation for Housing Partnerships
National Council of LaRaza
National Electronic Distributors Association [1]
National Fastener Distributors Association [1]
National Federation of Independent Business
National Food Brokers Association [1]
National Food Distributors Association [1]
National Food Processors Association [1]
National Frozen Food Association [1]
National Industrial Belting Association [1]
National Industrial Distributors Association [1]
National Industrial Glove Distributors Association [1]
National Lawn & Garden Distributors Association [1]
National Locksmith Suppliers Association [1]
National Marine Distributors Association [1]
National Medical Management [1]
National Moving & Storage [1]
National Paint Distributors [1]
National Paper Trade Association [1]
National Plastercraft Association [1]
National Puerto Rican Coalition
National Sash & Door Jobbers Association [1]
National School Supply & Equipment Association [1]
National Screw Machine Products Association [1]
National Spa & Pool Institute [1]
National Tax Limitation Committee [1]
National Taxpayers Union

National Trading Management [1]
National Transportation Incorporated [1]
National Truck Equipment Association [1]
National Welding Supply Association [1]
National Wheel & Rim Association [1]
National Wholesale Druggists' Association [1]
National Wholesale Furniture Association [1]
National Wholesale Hardware Association [1]
National Women's Conference Committee [1]
National Women's Law Center
National Women's Political Caucus
Navistar International Corporation [1]
New York Life Insurance [1]
Nibco, Inc.[1]
Nordstrom [1]
North American Heating & Airconditioning Wholesalers [1]
Numerical Financial Services [1]
Nuodex, Inc.[1]
Oakland Chinese Community Council, Inc.[1]
Odisco Transportation [1]
Oklahoma Publishing Company [1]
Oliver T. Carr Company
Optical Laboratories Association [1]
Organics/LaGrange, Inc.[1]
Outdoor Power Equipment Distributors Association [1]
P.H. Glatfelter Company [1]
PACCAR Incorporated [1]
PCS Reports, Ltd.,[1]
Pace Maker Express Incorporated [1]
Palm Beach Lincoln-Mercury [1]
Pay Less Drug Stores [1]
Pennsylvania House [1]
PepsiCo [1]
Perry Drug Stores, Inc.[1]
Personnel Services, Ltd.[1]
Pet Industry Distributors Association [1]
Peter Echrich [1]
Peter Piper, Inc.[1]
Philip Morris Inc.
Philips Industries, Incorporated [1]
Piggly Wiggly Southern, Inc.[1]
Pillsbury Company, The
Pitt-Des Moines, Inc.[1]
Pittway Corporation [1]
Polar Transport Incorporated [1]
Posthauer/Pinckert, Inc., The [1]
Power Transmission Distributors Association [1]
Premium Brands, Ltd.
Priority Freight System Incorporated [1]
Provident Life & Accident Insurance Co.
Prudential Insurance Company of America
Publix Super Markets, Inc.[1]
Pueblo International, Inc.[1]
Q. Masters Dove, Inc.[1]
Quaker Oats Company, The [1]
Quality Import Co.
RJR Nabisco, Inc.[1]
Ralph Wilson Plastics Company [1]
Ralston Purina Co.
Ramada Inns, Inc.[1]
Randy's Ribs Inc.[1]
Red Lobster Inns of America [1]
Red Owl Stores, Inc.[1]
Red Star Trucking Lines [1]
Redner's Markets, Inc.[1]
Religious Network for Equality for Women
Renfield Importers, Ltd.
Renfro Corporation [1]
Restaurant Administration Services [1]
Restaurant Management Inc.[1]
Reynolds & Reynolds Information Systems [1]
Rite Aid Corporation [1]
Roadway Services, Inc.[1]
Robertshaw Controls Company [1]
Rogers & Ford Construction Corporation [1]
Rohm & Haas Co.[1]
Rollins, Inc.[1]
S.S. Pierce Company
SER/Jobs for Progress, Inc. (CA, AZ, TX, FL, IL, NM) [1]
SMS, Inc.[1]
Safety Equipment Distributors Association [1]
Safeway Stores Incorporated [1]
Samar Management, Burger King [1]
San Francisco Renaissance, Inc.[1]
Sanaware Corporation [1]
Sara Lee Corporation
Sausman Hotel Group [1]
Savannah Foods & Industries, Inc.[1]
Scaffold Industry Association [1]
Schieffelin & Co.
Schreiber Food, Inc.[1]
Schultz Sav-O Stores [1]
Scotty's Inc.[1]
Shaklee Products Inc.[1]
Shared Medical Systems [1]
Shoe Service Institute of America [1]
Showbiz Pizza Place [1]
Showerings, Inc.
Sidney Frank Importing Co., Inc.
Singer Company [1]
Sisters of the Humility of Mary
Sithe/Energies Group
Smith's Management Corporation [1]
Snack Food Association [1]
Solitron Devices, Inc.[1]
South Hills Movers Incorporated [1]
Southeastern Research, Inc.[1]
Southern Industrial Distributors Association [1]
Sperry Corporation [1]
Spring Service Association [1]
Square D Company [1]
Squibb Corporation
Stanadyne, Inc.[1]
Sterling Drug, Inc.[1]
Stimpson Company, Inc.[1]
Storage Technology Corporation [1]
Streoehmann Bakeries, Inc.[1]
Suddath Van Lines, Inc.[1]
Sunnyland Foods, Inc.[1]
Suntory International Corp.
Super Food Services[1]
Super Valu Stores, Inc.
Superior Pet Products, Inc.[1]
Supermarkets General Corporation,[1]
Sweet Life Foods[1]
Swords to Plowshares, Inc.[1]
Sysco Corporation[1]
Sysco/Gulf-Atlantic Food Services[1]
TIE/Communications[1]
TRW, Inc.
TSC Industries, Inc.[1]
Talbots Company, The[1]
Tambrands Inc.[1]
Tandy Corporation[1]
Target Stores[1]
Targeted Management Consultants, Inc.[1]
Tax Reform Action Coalition
Technical Assistance, Inc.[1]
Tetronix
Tetley Inc.[1]
Textile Care Allied Trades Association[1]
The Black Prince Distillery, Inc.
The Distillers Somerset Group Inc.
The Greif Companies[1]
The Miami Herald[1]
The Principal Financial Group (Bankers Life Group)
The R. T. French Company, Inc.[1]
Thomas J. Lipton, Inc.[1]
Thrall Car Manufacturing Company[1]
Times Mirror Company[1]
Tobacco Institute
Todhunter International, Inc.
Tomahawk Services Incorporated[1]
Toy Wholesalers' Association of America[1]
Trade Well Supermarkets[1]
Tri/Valley Growers[1]
Tropex Batteries Inc.[1]
Tropical Circuits, Inc.[1]
U.R.M. Stores[1]
Unifi Incorporated[1]
Uniroyal, Inc.[1]
Unitarian Universalist Association of Churches
United Biscuits (Holdings) PLC[1]
United Building Centers[1]
United Church of Christ, Office for the Church in Society
United Pesticide Formulators and Distributors Association[1]
Universal Foods Corporation[1]
Universal Foods Corporation[1]
Uno Restaurants Inc.[1]
Upjohn Co.
Value Plus[1]
Van Dorn Company [1]
Villers Advocacy Associates
Vulcan Materials Co.
W. H. Fitzgerald Incorporated [1]
Wade's Foods, Inc. [1]
Wal-Marts Stores, Inc. [1]
Wales Transportation Incorporated [1]
Walgreen Company [1]
Wallack Freight Lines Incorporated [1]
Wallcovering Distributors Association [1]
Walton Management Services, Inc. [1]
Waples-Platter, Inc. [1]
Ward Transport Incorporated [1]
Ward Trucking Incorporated [1]
Warehouse Distributors Association for Leisure & Mobile Products [1]
Warehouse Groceries Management [1]
Warren Trucking Company [1]
Waste Management Inc. [1]
Water & Sewer Distributors Association [1]
Wawa, Inc. [1]
WearEver—Procter Silex [1]
Weekly Asphalt Paving, Inc. [1]
Weis Markets, Inc. [1]
Weisfield's, Inc. [1]
Wells, Lamont [1]
Wheeler Transport Service [1]
White Consolidated Industries [1]
White's City, Inc. [1]
Wholesale Florists & Florist Suppliers of America [1]
Wholesale Stationers' Association [1]
Wilcox Trucking [1]
William Wrigley Jr. Company [1]
Williams Management Enterprises [1]
Willsey Foods, Inc. [1]
Winchester Group, Olin Corporation [1]
Winn-Dixie Stores Inc. [1]
Witters Construction Company [1]
Wolverine World Wide [1]
Women's Association of Allied Beverage Industries
Women's Equity Action League
Wood Heating Alliance [1]
Youngblood Transportation Systems, Inc. [1]
Zayre Corporation [1]
Zenith Electronics [1]
Zurn Industries, Inc. [1]

ADDITIONS TO MAY 29 LIST

American Insurance Association
American Petroleum Institute
BPW/USA, The National Federation of Business & Professional Womens Clubs, Inc.
Consumer Energy Council of America
Digital Equipment Corporation
Electronic Industries Association
Iron Ore Lessors Association, Inc.
Magazine Publishers Association
National Association of Manufacturers
National Cattlemen's Association

National Council of Coal Lessors, Inc.
New England Electric System
Phillips Petroleum Company
Ripon Society
Solar Lobby
United States League of Savings Institutions
Smokeless Tobacco Council
Allied Signal
Edison Electric Institute

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1350

Mr. SPECTER. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, at this time I would like to express certain concerns I have on the pending legislation, as to how it will impact on middle America, on working men and working women in middle-income brackets. I have already discussed this issue with the distinguished chairman of the Finance Committee and had told him of the specific concerns which I have and materials that I am going to refer to because, Mr. President, I believe it is very important that if and when enacted—I concur it would be very likely at this juncture this legislation will be enacted with some modifications in conference—we will have to monitor very closely what the impact will be of new tax legislation on middle America.

□ 1400

Mr. President, I ask unanimous consent that an article published in the Philadelphia Inquirer on Sunday, June 8, 1986, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Philadelphia Inquirer, June 8, 1986]

BOTTOM LINE ON TAX PLAN: MILLIONS WOULD PAY MORE

(By Donald L. Barlett and James B. Steele)

Robley J. Johnston is a 65-year-old retired Presbyterian minister who lives in a Center City apartment and works part time as a sales clerk at Strawbridge & Clothier to supplement his retirement income.

Johnston's adjusted gross income last year amounted to $13,325. He paid $920 in federal income taxes. If the Tax Reform Act of 1986 currently being considered by the Senate becomes law, his tax bill would rise to $1,360—an increase of 48 percent.

Ronald W. Reagan is 75 years old. His adjusted gross income last year amounted to $394,492. He paid $122,703 in federal income taxes. If the Senate tax bill becomes law, his tax payment would fall at least $26,000—a minimum reduction of 21 percent.

Sen. Bob Packwood (R., Ore.), chief architect of the Senate Finance Committee's revolutionary tax proposal, has said the legislation, which provides just two rates—15 and 27 percent—will "reduce everybody's taxes."

And Sen. Bill Bradley (D., N.J.), one of the bill's guiding forces, preached fervently from the Senate floor last week:

"Tax reform is about hope: hope for low-income people striving to give their families the chance of a better life; hope for the elderly struggling to get by on fixed incomes, hope for young couples priced out of the American dream of homeownership, hope for the worker who has lost his job and whose future depends on a growing economy."

An Inquirer analysis of tax data shows that under the legislation the Senate will begin formal debate on tomorrow, taxes would go up rather than down for many Americans.

Millions of taxpayers who file itemized returns—including senior citizens, working-class families and individuals, professional couples and even some low-income wage earners—would see their taxes rise.

Overall, at least one in four, and perhaps as many as one in three, middle-income Americans who now shoulder the brunt of the tax burden would pay higher taxes.

The losers would also include many of the elderly, the blind, the disabled, the ill and the unemployed.

The potential winners include six million poor people who would be dropped from the tax rolls, millions who do not itemize returns, and the unsheltered wealthy, like President Reagan, whose numbers are counted in the tens of thousands.

Apart from tax cuts for the wealthy and tax increases for many in middle America, the tax bill would add inequities to a code already riddled with inequities.

Consider a sampling of losers and winners compiled in The Inquirer survey:

LOSERS

About 9.5 million individuals and families filed returns reporting more than $19 billion in unemployment-compensation income in 1983, the most recent year for which such Internal Revenue Service statistics are available. Of those returns, six million were filed by individuals with incomes below $20,000, and 3.4 million with incomes from $20,000 to $50,000.

Under present law, unemployed married couples do not have their unemployment benefits taxed unless the combination of benefits and income from other sources exceeds $18,000. For a single person the limit is $12,000.

The Senate Finance Committee bill ends this exemption and requires that all unemployment compensation payments be taxed. The committee explained its reasoning this way: "When wage-replacement payments are given more favorable tax treatment than wages, some individuals may be discouraged from returning to work."

The finance committee estimated that the change would produce an additional $3.2 billion in tax revenue over the next five years. Although the committee did not identify who would pay the higher taxes, more than 90 percent of it would come from people earning less than $50,000 a year.

WINNERS

Each year, corporations issue stock options to reward key executives. Under this arrangement, an executive receives an option to buy, say, 4,000 shares of a company's stock at $50 a share. Later, if that stock is selling on the open market for $100 a share, the executive may exercise the option, paying $200,000 for the stock, and immediately selling it for $400,000, earning a $200,000 profit.

Under present law, the executive would pay ordinary income taxes on the $200,000 profit. Since the typical executive is in the 50 percent tax bracket, that means the potential tax liability would be $100,000.

Because the Senate Finance Committee bill lowers the top tax rate from 50 to 27 percent, the tax liability on most corporate stock options would fall 23 percent. Thus, the executive's tax liability on the $200,000 profit would drop from the current level of $100,000 to $54,000.

(Profits from the exercise of some stock options may be treated as a capital gains at present, and thus qualify for a reduced 20 percent tax rate. But these are offered in a minority of stock-option plans. Furthermore, they carry with them other financial costs and risks).

LOSERS

The Economic Recovery Tax Act of 1981 provided a new deduction for a family in which both the husband and wife worked. It was intended to reduce the "marriage penalty" that increased taxes when a couple with relatively equal incomes married and to provide a "marriage bonus" that reduced taxes when individuals with relatively unequal incomes married.

The Joint Committee on Taxation said at that time that "Congress believed that alleviation of the marriage penalty was necessary because large tax penalties on marriage undermined respect for the family by affected individuals and for the tax system itself."

The Senate Finance Committee bill would abolish the deduction, thereby generating an estimated $26.2 billion in additional revenue for the government over the next five years.

Although the committee says proposed changes in the standard deduction would "compensate for the repeal" of the two-earner deduction, IRS statistics suggest that this will not be the case for millions of families, especially when other proposed tax-law changes are factored in.

For 1983, 22.6 million families claimed the two-carner deduction. Of that number, 5.1 million had incomes under $20,000, and 14.7 million between $20,000 and $50,000. These two-income groups accounted for 87 percent of the families who benefited from the provision. The 2.8 million families with incomes over $50,000 who took the deduction accounted for the remaining 13 percent.

The total dollar value of the deduction that year amounted to $19.6 billion. Families with incomes under $20,000 claimed $1.8 billion, families with incomes between $20,000 and $50,000 deducted $13.7 billion, and families over $50,000 deducted $4.1 billion.

WINNERS

Tax-law writers speak a different language from most people, and the Senate Finance Committee staff is typical. For instance.

"Subsection (b) (2) shall be applied by substituting 'Jan. 1, 1992' for 'January 1, 1991' in the following cases . . .

(ii) in the case of approximately $900 million worth of Boeing 747-400s, with respect to which a taxpayer headquartered in St. Paul, Minn., had placed a firm order as of Jan. 1, 1986 . . ."

Translation: The Senate Finance Committee cut a deal for Northwest Airlines by exempting the company from provisions of

the tax-revision act that would apply to other taxpayers.

The nearly 1,500-page Senate tax-overhaul bill is laced with dozens of similar provisions that are designed to help those with sufficient influence to carve out their own individual loopholes.

But lawmakers are reluctant to identify the beneficiaries of special treatment, so the provisions generally read like the following:

"Subsection (b)(2) shall be applied by substituting 'October 1, 1986' for 'January 1, 1989' and by treating special tools placed in service by an automobile manufacturer that was incorporated in Delaware on October 13, 1916, as property having a class life of 7 years.

"The amendments made by section 201 shall not apply to a laundry detergent manufacturing facility, the approximate cost of which is $13,200,000, with respect to which a project agreement was fully executed on March 17, 1986."

"The project is undertaken by a company incorporated on October 17, 1898, and involves modernization of a chemical pulp mill, groundwood pulp mills, and paper machines."

"A project is described in this clause if the estimated project cost is approximately $39,000,000 and at least $2,000,000 of construction cost for such project were incurred before September 26, 1985."

"Such project is part of a flat rolled product modenization plan which was initially presented to the Board of Directors of the taxpayer on July 8, 1983."

LOSERS

Elimination of the current deduction for state and local sales taxes, the Senate Finance Committee estimates, will generate an additional $17.5 billion in revenue over the next five years. This change, Sen. Packwood maintains, will take a greater toll on the wealthy than on low- and middle-income individuals and families.

"It is the sales tax that is claimed as an itemized deduction by far and away the highest income groups," says Packwood. "I don't know why the difference. Maybe upper-income people keep better records or receipts of what they do and lower income people don't. . . . That is the one that is most claimed by the upper-income people."

IRS statistics offer a contrasting perspective. A total of 28.6 million individuals and families with an adjusted gross income under $50,000 accounted for 75 percent of the $12.7 billion in sales tax deductions claimed in 1983.

More significant is the relationship between the sales tax and overall itemized deductions. For taxpayers with incomes of $20,000 to $25,000, for example, the sales tax amounted to 4.7 percent of total deductions. For those with an income of $500,000 to $1 million, the figure was 1.3 percent. And for those in the million-dollar plus class, the sales tax deduction amounted to eight-tenths of 1 percent of itemized deductions.

In other words, the sales tax deduction was, proportionally, more important to taxpayers with smaller incomes.

WINNERS

Of the 56,000 oil- and gas-drilling partnerships in operation during 1983, about 23,000 reported a combined net income of $5.9 billion, while 33,000 reported a combined net loss of $9.5 billion.

Many of these billions of dollars represented paper, rather than actual, losses, thereby enabling investors to reduce their taxable income from other sources, or to push their tax liabilities into the future, thus gaining interest-free loans from the government.

Other tax shelters, like limited partnerships that invest in movies and cattle, operate on similar principles. While the Senate Finance Committee bill curbed some shelters, especially in real estate and agriculture, it left the oil and gas ventures essentially intact.

This is especially good news for the nearly two million mostly upper-income individuals who invest in oil- and gas-drilling projects. And it is equally good news for people like Nelson Bunker Hunt, whose family name is synonomous with oil and wealth.

It was, in part, such oil and gas-related deductions as intangible drilling expenses, drywell costs, depreciation and foreign tax credits that enabled Hunt to reduce his federal income tax bills for 1975–77 to less than $10 for the three-year period. (IRS challenged some of the numbers, maintaining that Hunt should have paid about $129,000 in the same period.)

LOSERS

Elimination of deductions to Individual Retirement Accounts, according to Senate Finance Committee projections, will produce an additional $25.5 billion in revenue over the next five years. Sen. Packwood explained the reasoning for ending the IRA deduction for most people this way:

"Of those with gross incomes of $40,000 or below, 10 percent file for IRAs. Of those with gross incomes of $40,000 or above, 50 percent file for IRAs. And I'm not going to support any effort that taxes everybody so that those who make $40,000 or above can deduct their IRAs. That is not fair and not equitable."

A large proportion of upper-income taxpayers do use IRAs. But in total numbers many more with lower incomes take advantage of the retirement shelter.

Of the 13.6 million returns with IRA deductions filled for 1983, 10.5 million—or 77 percent—came from taxpayers with incomes below $50,000. Furthermore, those returns accounted for $23 billion of the $32.1 billion in contributions.

In other words, of the 13.6 million taxpayers who would lose the IRA deduction, 77 percent have incomes under $50,000—and more than half under $40,000—while 23 percent have incomes above $50,000.

The finance committee further justified its decision by saying that taxpayers not part of a company pension program can continue to deduct $2,000 annually for contributions to their IRA.

WINNERS

Many corporations offer executives and salaried employees a deferred compensation program popularly known as a 401 (k). While similar to an IRA. It is generally far more valuable. Under such plans, employees exclude from their taxable income a percentage of their salaries invested for retirement.

Unlike IRAs, many corporations match part of the employee's 401(k) contribution, so that if a middle level manager puts $6,000 a year into a 401(k), the company might add an additional $1,000. Like IRAs, interest on the combined $1,000 yearly contribution accumulates tax-free until the employee retires and begins withdrawals.

The finance committee retained the 401(k) provision, explaining in part that it believed "such deferred arrangements should be supplementary retirement savings arrangements" and "not be the primary employer-maintained retirement plan."

Ralston Purina Co., whose products range from Purina Dog Chow to Wheat Chex and Twinkies—adopted a 401(k) plan in 1983. The company has annual sales of about $6 billion and its work force numbers nearly 50,000.

But the Ralston Purina 401(k) covers only executives, sales, administrative and clerical employees and other salaried employees. It does not cover production workers.

Salaried personnel may put in up to 16 percent of their salaries with the company chipping in 50 cents on the dollar up to a maximum of 4 percent of the employee's salary. A Ralston Purina executive earning $100,000 a year could put $16,000 a year in, while the corporation would contribute $2,000.

The 401(k) program is in addition to a corporate pension plan, meaning that employees taking part would, upon retirement, be eligible for benefits that had accumulated tax-free under the retirement and savings plans.

Under existing tax law, Ralston Purina production workers also could supplement their pensions with an IRA. But under the Senate tax proposal they would not be eligible to exclude from their taxable income IRA investments to supplement their existing pensions.

Everyone covered by a private pension plan—executives and production workers alike—would be barred from deducting IRA contributions.

But corporate executives, midlevel managers and salaried workers—with some notable exceptions, a 401(k) is seldom offered to union members—would still be permitted to deduct 401(k) contributions, even though covered by a pension program.

The Senate Finance Committee would place a $7,000 limit on an employee's annual contribution. But even so, the 401(k) deduction would remain more than three times greater than the existing IRA writeoff.

Here is an explanation of this seeming inequity from Senate Majority Leader Robert Dole (R., Kan.):

"If you're in a what we call a 401(k) pension plan, which is pretty much the same as an IRA, you can't get another deductible IRA of $2,000. If you're not in a [pension] plan, you get a full deductible IRA. So, all we've said is that, you know, you shouldn't have a double dip."

A major claim of the bill's authors is that it virtually eliminates tax shelters. "Shelters are gone; very minor exceptions, but they're gone," says Sen. Packwook.

But that assertion appears to be contradicted by a single section of the Tax Reform Act of 1986. It is called the "minimum tax provision" which, in theory, requires taxpayers to pay some amount of income tax, regardless of how effectively they take advantage of loopholes to shelter their income.

The finance committee proposed tougher minimum-tax requirements that it estimates will produce an added $6.4 billion in revenue over five years, most of all that from wealthy taxpayers.

Here is how the senators explained the importance of the minimum tax:

"The committee believes that the minimum tax should serve one overriding objective: to ensure that no taxpayer with substantial economic income can avoid significant tax liability by using exclusions, deductions and credits. . . .

"The ability of high-income individuals . . . to pay little or no tax undermines respect for the entire tax system. . . . In addition, even aside from public perceptions, the committee believes that it is inherently unfair for high-income individuals . . . to pay little or no tax due to their ability to utilize various tax preferences."

The very existence of a minimum tax, as well as the need to toughen its provisions, is evidence in itself that loopholes will remain a fixture in the tax code. A tax system free of preferences and, indeed, shelters, would have no need for a minimum tax.

If this version of the minimum tax should prove effective, it would mark a congressional first. For nearly 20 years lawmakers have sought with little success to force sophisticated users of shelters to pay taxes.

In 1969, tax-reform fever gripped Congress much as it does today, touched off in a speech by Treasury Secretary Joseph W. Barr, who then told the Joint Economic Committee:

"We face now the possibility of a taxpayer revolt if we do not soon make major reforms in our income taxes. The revolt will come not from the poor but from the tens of millions of middle-class families and individuals . . . whose tax payments now generally are based on the full ordinary rates . . . .

"People are concerned and indeed angered about the high-income recipients who pay little or no federal income taxes. For example, the extreme cases are 155 tax returns in 1967 with adjusted gross incomes above $200,000 on which no federal income taxes were paid."

That disclosure, perhaps more than any other single event, served as a catalyst that brought about the Tax Reform Act of 1969, hailed—like the 1986 version—as the most massive overhaul in history.

The 1969 act included the minimum-tax provision, carefully crafted to guarantee that not one wealthy taxpayer—let alone 155—would escape IRS collectors through tax-avoidance schemes.

Nevertheless, a growing number of wealthy individuals have continued to avoid any tax.

A study by Treasury's Office of Tax Analysis shows that 321 Americans with incomes above $200,000 reported no tax liability for 1983. The ranks of the non-taxpaying rich have swelled 107 percent since 1969. The study says:

"Actual numbers of non-taxable, high-income returns for 1983 reached the highest levels in recent history. Their proportion continued, at an accelerated pace, the steady upward creep occurring since 1979."

Whatever the future holds for upper-income individuals seeking to avoid payment of all taxes, the Senate Finance Committee sees only tax cuts for everyone who is not playing the shelter game, especially middle-class America.

As Sen. Bradley puts it:

"This bill lowers middle-income families' tax rates. . . . It also cuts their taxes. And it says to these families: You keep more of the money you earn."

The predictions of benefits to the middle class made by Bradley and other members of the Senate Finance Committee are based, in part, on the fact that many millions of Americans do not itemize and thus most will not be hurt by the bill's elimination of selected deductions.

"About 60 to 65 percent of the people do not itemize. They could care less whether you have deductions or not. They don't take deductions. And most deductions are taken by people significantly above the average income level in this country," said Sen. Packwood. In short, anyone who itemizes is presumed to be well off.

While it is true that the affluent are more likely to itemize, middle-income groups account for the largest share of dollars deducted. Those with incomes between $50,000 and $100,000 itemized deductions totaling $60.8 billion. Taxpayers in the $20,000-to-$50,000 range reported deductions nearly three times that amount, or $167 billion.

Even those with incomes under $20,000 listed deductions of $45.5 billion, or more than twice the $20.2 billion taken by persons between $100,000 and $500,000.

Significantly, taxpayers who itemize carry the biggest share of the burden. In 1983, they accounted for 73 percent of individual income tax collected.

The pending tax legislation has targeted itemizers across all income brackets. As a result, millions of middle-income, and even low-income, families and individuals will pay higher taxes, while those upper-income Americans who do not rely extensively on shelters will pay lower taxes.

The reason:

Many low-income Americans already pay taxes at a lower rate—courtesy of the existing multiple-bracket system. For example, a couple with a taxable income of $12,000 currently is taxed at 9 percent. For them, a 15 percent tax rate translates into an immediate tax increase.

This is especially true when the deductions the committee intends to eliminate—such as those for sales taxes, credit-card interest, two-earner couples, IRAs, reduced medical-expense allowances, union dues and other miscellaneous deductions—are taken into account.

This means taxpayers who itemize and already are paying below the two proposed rates automatically will be confronted with a higher tax bill.

Witness Robley Johnston.

For nearly a quarter-century, beginning in 1955 Johnston served as general secretary of the Committee on Christian Education for the Orthodox Presbyterian Church.

Johnston cared for his aging parents in the later years and after their deaths, his father in 1972, his mother in 1977, he sold the family home in King of Prussia and moved to Center City.

About the same time, Johnston resigned from his church post and withdrew the $12,000 he had in the church retirement plan. That money, plus the $40,000 gain from the sale of the house, represented his entire retirement nest egg.

His income from investments based on that nest egg yielded $8,800 in interest, dividends and capital gains in 1985. His part-time job at Strawbridge & Clothier produced an extra $4,500 in income. In addition, he received about $4,800 in Social Security income, which is not taxable.

Johnston is one of the more than 40 million individuals who itemized their deductions. The deductions totaled less than $4,200, below average for someone in his income class.

But under the Senate tax-overhaul plan, Johnston would lose enough of his deductions so that he no longer could itemize. Furthermore, the Senate bill would end the double exemption for those age 65 and over. The result: an instant tax increase.

President Reagan, on the other hand, would enjoy a hefty tax decrease thanks to the lowering of the top tax rate from 50 to 27 percent—a shift that places the very rich in the same tax bracket with millions of middle-income Americans.

Because the President, like most upper-income individuals, has access to a variety of tax-planning options, his tax bill could fall even further than $26,000.

Tax authorities say the President could conceivably shift some of the itemized deductions he would lose under the Senate bill, such as $33,000 in legal fees for his blind trust, to another line on his return.

If the President's return were calculated in a manner most favorable to him, his tax bill could decline as much as 26 percent—from $122,703 to $91,000.

As for Robley Johnston, he is somewhat chagrined about the prospect of a tax increase.

"I'm not asking for a tax reduction," says the soft-spoken Johnston. "I just don't want an increase."

But the worst may be yet to come.

One of the great unspoken advantages of a two-rate tax system is the case with which tax increases may be imposed.

Richard Musgrave, professor emeritus of public finance at Harvard, and now adjunct professor at the University of California, Santa Cruz, describes the possible future:

"By having only two rates, it may well be that you have to end up by getting much more from the lower end than the higher end. You have limited yourself with the two rates."

Mr. SPECTER. Mr. President, the caption on the article summarizes its contents and summarizes the concerns of this Senator. That caption is: "Bottom line on tax plan: Millions would pay more."

The initial conclusion of this article is as follows:

An inquirer analysis of tax data shows that under the legislation the Senate will begin formal debate on tomorrow, taxes would go up rather than down for many Americans.

The article, which is very extensive—and I do not intend to read the entire article—then specifies a number of individuals in the loser category. Under one line of losers, the following is set forth:

Millions of taxpayers who file itemized returns—including senior citizens, working-class families and individuals, professional couples and even some low-income wage earners—would see their taxes rise.

Overall, at least one in four, and perhaps as many as one in three, middle-income Americans who now shoulder the brunt of the tax burden would pay higher taxes.

Another point referred to by the Inquirer article is the losses occasioned from IRA's, individual retirement accounts, a matter that has been the subject of extensive consideration on this floor, a matter which will be costly to many middle-income Americans. It is this Senator's hope that before the bill is through conference, the IRA's will be restored; but in this stage of the record, the IRA's are eliminated, and it is a significant loss to middle America.

Another item specified in this article

relates to the advantages under current law for married couples and points out—again under the column of losers—that the Economic Recovery Act of 1981 provided a new deduction for a family in which both husband and wife work. The article continues thereafter:

The Senate Finance Committee bill would abolish the deduction, thereby generating an estimated $26.2 billion in additional revenue for the government over the next five years.

Mr. President, there are a significant number of items which are eliminated under the current Senate version. For example, in addition to the IRA's, there is the interest on consumer and auto loans. There are medical expenses, which would have to exceed 10 percent of the adjusted gross income to be deducted, whereas the current limit is 5 percent. There is the tax deductibility for two-income families, deductibility on the first $200 of dividend income, the preference of 20 percent tax on long-term capital gains. This list is not meant to be dispositive.

Mr. President, a number of these issues were taken up by the distinguished Senator from Michigan [Mr. LEVIN] in correspondence which he had with the Joint Committee on Taxation. The Joint Committee on Taxation replied to Senator LEVIN's comments with a letter dated June 10, 1986, and at this time I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JOINT COMMITTEE ON TAXATION,
Washington, DC, June 10, 1986.

Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: This is in response to your letter of May 14, 1986 asking for various statistics related to the individual income tax provisions of the Finance Committee bill.

Table 1 shows the figures produced by our computer analysis on the number of taxpayers with tax increases and decreases under the bill, relative to present law. We believe that these figures suffer from flaws, described more fully below, that are sufficiently serious that we are unwilling to stand behind them as a statistically valid projection of the number of taxpayers with tax increases and decreases under the bill.

Table 2 shows the number of returns projected to claim the deductions for consumer interest, two-earner couples, State and local sales taxes, and medical expenses under present law in 1988. Also shown are the average deductions projected to be claimed on each return in the income class that itemizes and claims that particular deduction. It should be emphasized that the figures for the interest deduction are the result of an arbitrary division of nonbusiness, non-mortgage, interest between consumer interest and investment interest and may be misleading if used to judge the impact of the bill on particular taxpayers.

Table 3 contains distributional data on the deductions for IRAs claimed under present law. Because of data limitations, these figures are for 1984 rather than projected to 1988 like the other distributional data we have prepared and use adjusted gross income rather than economic income to classify tax returns.

Table 4 shows the percentage distribution by income class of the estimated tax reduction under the bill.

Although the figures in Table 1 are a by-product of the computer analysis used to produce our distributional data, we believe they contain serious flaws. Estimates of the number of returns with tax increases or decreases are very sensitive to small changes in tax calculations for individual taxpayers, so that items which lead to only small inaccuracies in average tax cuts could have a substantial effect on estimates of "winners and losers." The statistical problems include:

(1) A numbr of income, deduction, and credit items are imputed to the individual returns on our sample of tax returns. These imputations, while accurate on average, do not take account of possible relationships with many other tax items affected by the proposals. Thus, the number of winners and losers could be affected, for example, if those taxpayers who lose the two-earner deduction are more likely than average to use income averaging. Any such relationship is not reflected in the estimate of the two-earner deduction attached to particular returns in the sample, and, thus is not taken into account in producing the figures shown in Table 1.

(2) A number of pertinent items are omitted from our distributional data because we lack reliable sources. For example, omitted are such items as depreciation, and contributions to 401(k) plans and educational assistance plans. While the omission of these data has only a minor effect on the estimated average tax changes by income class, it could have a substantial effect on particular individuals and, thus, on estimates of the number of winners and losers.

(3) The relatively small size of our sample of tax returns for each income class may be a serious limitation on the accuracy of estimates of winners and losers.

In sum, our data base for estimating the income distribution effects of comprehensive tax proposals has certain limitations. While we believe that these have only a small effect on the accuracy of figures showing average effects by income class and other distribution data you have seen, they may seriously distort, in an unknown fashion, analyses of the number and type of taxpayers receiving tax cuts and tax increases.

Sincerely,

DAVID H. BROCKWAY.

TABLE 1.—TAXPAYERS WITH INCREASES AND DECREASES IN TAX LIABILITY UNDER H.R. 3838 [1]

[Tax year 1988]

	Number of taxpayers [2]	Percent of total	Number with tax increase	Percent of total	Average increase	Number with tax decrease	Percent of total	Average decrease
Income class:								
0 to $10,000	41,651,000	31.6	1,797,000	1.4	$186	12,533,000	9.5	−$162
$10,000 to $20,000	27,877,000	21.1	4,788,000	3.6	202	19,660,000	14.9	−315
$20,000 to $30,000	26,121,000	19.8	6,717,000	5.1	339	17,925,000	13.6	−383
$30,000 to $40,000	15,727,000	11.9	5,247,000	4.0	525	10,146,000	7.7	−529
$40,000 to $50,000	8,652,000	6.6	2,510,000	1.9	799	6,056,000	4.6	−820
$50,000 to $75,000	7,686,000	5.8	2,431,000	1.8	1,552	5,198,000	3.9	−1,218
$75,000 to $100,000	1,793,000	1.4	665,000	.5	3,189	1,116,000	.8	−2,724
$100,000 to $200,000	1,758,000	1.3	646,000	.5	7,605	1,086,000	.8	−6,239
$200,000 plus	655,000	.5	219,000	.2	50,030	359,000	.3	−52,535
Total	131,919,000	100.0	25,092,000	19.0	1,343	74,079,000	56.2	−816

[1] See text for substantial shortcomings of these data.
[2] Filers and nonfilers. Includes tax returns with no change in liability.
Source: Joint Committee on Taxation, June 6, 1986.

TABLE 2.—RETURNS AND AVERAGE DEDUCTIONS UNDER PRESENT LAW FOR SEVERAL MAJOR DEDUCTIONS REPEALED BY SENATE FINANCE COMMITTEE BILL

[Tax year 1988; dollars in millions; returns in thousands]

	Returns	Average non-mortgage and noninvestment interest expense	Returns	Average 2-earner deduction	Returns	Average sales tax deduction	Returns	Average medical expense deduction
Income class:								
0 to $10,000	1,174	$1,239	1,109	$305	1,628	$206	1,415	$2,298
$10,000 to $20,000	4,431	1,061	3,142	342	5,261	291	3,674	2,634
$20,000 to $30,000	10,961	1,144	9,190	622	11,919	402	6,667	2,955
$30,000 to $40,000	9,205	1,317	7,610	876	9,968	475	4,729	1,957
$40,000 to $50,000	5,767	1,562	4,337	1,129	6,357	571	2,638	2,088
$50,000 to $75,000	5,414	2,027	3,293	1,352	6,096	687	2,068	1,931
$75,000 to $100,000	1,297	2,318	875	1,651	1,596	868	515	2,951
$100,000 to $200,000	1,050	3,909	645	2,042	1,366	1,039	344	4,350
$200,000 plus	331	11,561	203	2,360	438	1,517	75	7,910
Total	39,631	1,638	30,403	935	44,630	531	22,127	2,224

Note.—Averages take account only of those returns claiming deduction.

Source: Joint Committee on Taxation, June 6, 1986.

TABLE 3.—PAYMENTS TO INDIVIDUAL RETIREMENT ARRANGEMENTS 1984

Adjusted gross income (thousands of dollars)	Number of returns (millions)	Percentage distribution	Amount (billions of dollars)	Percentage distribution
Less than $10	0.7	4.6	1.1	3.2
$10—$20	2.2	14.6	4.0	11.0
$20—$30	3.0	19.3	5.8	16.3
$30—$40	3.2	20.5	7.1	19.8
$40—$50	2.3	15.0	5.9	16.5
$50—$75	2.6	16.7	7.5	20.9
$75—$100	0.7	4.5	2.2	6.1
$100—$200	0.5	3.6	1.7	4.7
$200 and above	0.2	1.0	0.5	1.4
Total	15.4	100	35.8	100

Note.—From the Joint Committee on Taxation.

Source: Advance IRS data.

TABLE 4.—DISTRIBUTION OF TAX REDUCTION UNDER SENATE FINANCE COMMITTEE BILL, 1988

Income class—1986 levels	Percentage distribution of tax reduction
0 to $10,000	6.3
$10,000 to $20,000	19.6
$20,000 to $30,000	17.1
$30,000 to $40,000	9.8
$40,000 to $50,000	11.1
$50,000 to $75,000	9.6
$75,000 to $100,000	3.5
$100,000 to $200,000	6.9
Over $200,000	16.1
Total	100.0

TABLE 1.—TAXPAYERS WITH INCREASES AND DECREASES IN TAX LIABILITY UNDER H.R. 3838 [1]

[Tax year 1988]

Income class (thousands)	Number of taxpayers [2] (thousands)	Percent of total	Percent same	Number with tax increase (thousands)	Percent with increase	Percent of total	Average increase	Number with tax decrease (thousands)	Percent with cut	Percent of total	Average decrease
0 to 10	41,651	31.6	65.7	1,797	4.3	1.4	$186	12,533	30.3	9.5	—$162
10 to 20	27,877	21.1	12.4	4,788	17.1	3.6	202	19,660	70.5	14.9	—315
20 to 30	26,121	19.8	5.7	6,717	25.7	5.1	339	17,925	68.6	13.6	—383
30 to 40	15,727	11.9	2.2	5,247	33.3	4.0	525	10,146	64.5	7.7	—529
40 to 50	8,652	6.6	1.1	2,510	29.0	1.9	799	6,056	69.9	4.6	—820
50 to 75	7,686	5.8	.8	2,431	31.6	1.8	1,552	5,198	67.6	3.9	—1,218
75 to 100	1,793	1.4	.8	665	37.0	.5	3,189	1,116	62.2	.8	—2,724
100 to 200	1,758	1.3	1.6	646	36.7	.5	7,605	1,086	61.7	.8	—6,239
200 plus	655	.5	.8	291	44.4	.2	50,030	359	54.8	.3	—52,535
Total	131,919	100.0	.....	25,092	.....	19.0	1,343	74,079	.....	56.2	—816

[1] Joint Committee on Taxation, June 6, 1986.

[2] Filers and nonfilers. Includes tax returns with no change in liability. See text for substantial shortcomings of these data.

Note.—Preliminary, including Levin computations.

Mr. SPECTER. Mr. President, this response from the Joint Committee on Taxation contains a number of tables which show significant losses for many Americans in the middle-income categories. But the letter says that there are so many imponderables and it is so difficult to make these projections that the joint committee concedes the impossibility of any really firm conclusions on this very important issue.

For example, on page 1, the Joint Committee on Taxation says the following:

We believe that these figures suffer from flaws, described more fully below, that are sufficiently serious that we are unwilling to

stand behind them as a statistically valid projection of the number of taxpayers with tax increases and decreases under the bill.

Then, referring to certain specifics, the committee points out:

These imputations, while accurate on average, do not take account of possible relationships with many other tax items affected by the proposals.

On page 2, the Joint Committee on Taxation reports:

For example, omitted are such items as depreciation, and contributions to 401(k) plans and educational assistnace plans.

The thrust of the information by the joint committee is that it is realistically not possible to know with certainty what will happen to millions of Americans.

There is cause for concern that this bill will unfairly impact on those Americans.

One of the points which I seek to make at this time is the need to monitor very closely any bill passed by Congress and signed by the President, in terms of what the effect will be on middle Americans. There is great concern, and this Senator shares it, about what the rates should be. This body is about to pass a tax bill with a maximum rate of 27 percent. The President's proposal had a maximum tax rate of some 35 percent, and the House bill has a maximum tax rate of some 38 percent.

There is a real concern as to whether a maximum rate of 27 percent, in the context of the President's proposal for 35 percent, it is really fair on an across-the-board analysis.

Mr. President, I do commend the distinguished chairman of the Finance Committee for the outstanding job he has done in shepherding this bill through committee and through the floor of the Senate, to this point, and I commend the members of the Finance Committee for the outstanding work they have done. This Senator does acknowledge the desirability of eliminating the tax loopholes, which we have done here, in order to have income and in order to have resources and capital projected to what is really productive in this country, as opposed to what is a tax saving and what is a tax shelter. There is obviously enormous benefit which would flow to this country from increasing incentives so that productive people will retain more of what they earn.

At the same time, while we acknowledge those laudable objectives in this important legislation, this Senator believes that we will have to keep a very close eye on what will happen to millions of Americans in the middle brackets, as to whether this tax bill will ultimately prove to be fair to those millions of middle-class Americans.

On the basis of the record that this Senator has seen, including extensive conversations with members of the Finance Committee and the distinguished chairman of the Finance Committee, there are many open questions. I am candid to say, Mr. President, that as of this moment, my strong inclination is to vote in favor of this bill.

□ 1410

And the predictions have been that it will have an overwhelming affirmative vote if not a unanimous vote.

The concerns which I express today are ones which I in previous conversations with the chairman of the Finance Committee invited his comments. But more fundamentally, the concerns I think will have to be very carefully analyzed if, as, and when such a tax bill is put into operation in terms of what will happen as we project out and as we see the impact of this tax bill, because there are so many factors that simply cannot be projected and cannot be anticipated.

The assertion that I will make as forcefully as I can is on the necessity to monitor very closely what the impact of any such legislation will be.

Mr. President, at this I yield the floor and in accordance with the previous conversations which I had with the distinguished Senator from Oregon, the chairman of the committee, invite his comments.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I thank the Chair and I thank my good friend from Pennsylvania for advising me ahead of time of the subject that he wanted to discuss. Frankly, it makes it easier for me to respond to questions when I have more than a 30-second notice as to what the questions are going to be.

As I said many times on the floor in discussing this bill, we are talking about averages. When you take roughly $105 billion in taxes that are now levied on individuals and you move them over to business, that is $105 billion you have taken off of individuals.

Second, we have closed loopholes mostly on individuals to the extent of about $50 billion and those are on, with almost unfailing exception, wealthy individuals.

So, roughly, we have taken $150 billion either off of low-income or middle-income taxpayers and put it on business and/or closed loopholes on high-income taxpayers. This $150 billion has been used to lower taxes on individuals.

Again, I emphasize on average, because if you were to ask everyone in a room how many people here are average, very few people will raise their hands. They do not think themselves as average or common.

So all I can say is that on average all middle-income taxpayers will get their taxes reduced. I think you can say almost without exception or very few exceptions that those who do not itemize will get their taxes reduced under current law. About 60 percent of the American taxpayers do not itemize. We estimate under this bill that the number of nonitemizers will increase to 80 percent.

So I say to my good friend, Would it be possible for someone who makes $8,000 or $9,000 a year to pay more in taxes? I think it is almost impossible. For someone $18,000 or $19,000 almost impossible. Is there some conceivable circumstance, absolutely on average atypical unusual? Yes.

Let me give you an example, and it took me a while to figure it out because tax lawyers in the Treasury Department and the Internal Revenue Service talk about taxable income. That is not the way the average person talks. When you talk to the average person, you say how much do you make; $15,000 a year, $20,000 a year. They mean gross income. They do not mean how much do they make after you take all your deductions to reach what tax lawyers call taxable income.

I discovered that 4 percent of the taxpayers had their taxes raised when they had zero to $10,000 of taxable income. I could not figure out how until I pursued it. The way they get their taxes raised is that these people have gross incomes of several hundred thousand dollars but because they have up front double declining balance depreciation in real estate and other paper losses, they are able to reduce their gross income to a very low amount of taxable income. These taxpayers who make several hundred thousand a year are able to have less than $10,000 in taxable income. So these people may have their taxes raised, but they are not people making zero to $10,000 in gross income. They are making several hundred thousand dollars, in gross income.

Could you conceivably have a boy or a girl, 18- or 19 years of age, living at home with their parents paying no rent, paying for no food, having almost no costs, buying a relatively expensive car for a small downpayment and having high interest rates to deduct because they bought an expensive car? Could their taxes go up under that circumstances? Possibly. But how many 18- or 19-year-old girls are in a position of buying a $25,000 to $30,000 car while at the same time living at home and paying no rent, paying for no food, having almost no other expenses?

So, is it possible? Yes. But for the great bulk of Americans, over 80 percent will have their taxes remain the same or go down, and most of those are in the middle or lower income class groups. On average, they are going to receive a tremendous benefit.

Mr. BRADLEY. Mr. President, will the Senator yield on that point?

Mr. PACKWOOD. Yes.

Mr. BRADLEY. Let me say to my distinguished friend from Pennsylvania that even if we assumed the very rare case where someone making $30,000 is paying more tax which would be, say, paying $100 more in tax or $150 more in tax, what that statement tells you is that if you run this bill through the last year in which tax returns are available in the IRS computer in that year that individual would have paid $100 or $150 more in tax. It does not tell you what happens in year 2, 3, 4, and 5.

A quick calculation would show that if those individuals simply earned maybe 10 percent more in the following year or two, they would be much better off under this bill because of the systematic reform than they would under current law, which leads one to conclude that indeed if you earn more you are going to keep more, and I think that the Senator's concern is understood.

I would also point out, though, that we have voted in this body by a vote of about 97 to 1 that the highest priority of the conference would be to increase the tax cuts for middle-income individuals.

So I think that we have a bill that I think is excellent for all income groups and a commitment to work to even make it better. I hope that the Senator would take that into consideration as he ponders what the writers will say about one aspect of the bill or another.

Mr. SPECTER. Mr. President, will the Senator from New Jersey yield for a question?

Mr. BRADLEY. I yield.

Mr. SPECTER. The issue of reduction is only one of the aspects that this Senator addressed himself to. The other issue is fairness on a fair basis.

If you take table 1 from the letter of the Joint Committee to Senator LEVIN, it refers to the deduction for people in the category of $30,000 to $40,000. I again repeat the infirmities acknowledged by the Joint Committee. It projects a tax saving of $529. On those who earn in the category of $100,000 to $200,000, there is some projection of tax savings of $6,239. For those who earn in excess of $200,000, there is an average decrease projected of $52,535.

The distinguished Senator from New Jersey makes the comments that he does. I would be interested in his judgment as to the relative fairness given the tax history of the United States of progressive tax history with all that that implies. I do not have to amplify that background for the distinguished Senator from New Jersey.

Mr. BRADLEY. There are in the tax reform two standards of fairness and equity. One standard is if you earn more money you should pay a higher rate of tax. That standard is maintained in this bill. And the second is that equal incomes should pay about equal taxes. Under this bill equal incomes will pay about equal taxes. It will be so across the income categories.

I think that the Senator's concern will be alleviated if he would compare current law to this reform package where we have much more assimilated the standard of equal income paying equal tax.

□ 1420

When I am out in my constituencies and listening to my constituents, one of their concerns—I would say one of their prime concerns—is that some people get away without paying any tax and that similarly situated taxpayers pay widely disparate taxes. This bill attacks that inequity in a frontal assault and I think it produces a much fairer bill in terms of equal incomes paying equal tax.

Mr. SPECTER. When the Senator from New Jersey refers to equal incomes paying equal taxes, I do not disagree with that assertion at all. But the thrust of my question goes to the issue of progressive taxation, where, as the distinguished Senator from New Jersey comments, those in the higher bracket pay proportionately more taxes.

I quite agree with a statement made by President Reagan when he met with Senators—and the President met with Democrats as well as Republicans. One of his earlier comments referred to his own experience coming back after World War II at a time when the marginal rates were 92 percent. President Reagan made the comment that the entertainment movie industry that people did not want to work for a dime on the dollar, those in higher brackets. As a result of that, not only were the top stars unwilling to work, but their attitude caused that many of the sound crew and the extras and so forth did not get the job.

I think that, obviously, 92 percent was confiscatory. The President said if you get a dime on the dollar many people do not want to work. And I think there has been tremendous improvement. Six years ago, in 1981, 5½ years ago, the marginal tax was at 70 percent. Kemp-Roth brought that down to 50 percent. This bill is going to bring it down to 27 percent.

And when the distinguished Senator from New Jersey makes the comment that there are different rates, they are different, but they are not much different—15 percent for 80 percent of the taxpayers, 27 percent for 20 percent of the taxpayers. And many people will be paying 27 percent. Well, let us bring it right down. My aunt, who lives in Wichita, KS, said to me on the telephone yesterday: "ARLEN, why will I pay the same tax as multimillionaires?"

So that when the distinguished Senator from New Jersey talks about equal income paying equal taxes, that does not really direct itself to the issue of the progressive matter. And I think there are lots of questions in the minds of many Americans as to why people, who will still be in a rather modest bracket but will pay 27 percent, why should they pay the same rate as the multimillionaires?

Mr. BRADLEY. If I could respond to the Senator, the relative statistic is not what will be the nominal tax rate—70 percent, 50 percent, or 27 percent—but what is the effective tax rate; what do people actually pay in taxes? And the effective tax rate in the present system, which has a top rate of 50 percent, is about 22 percent. That is what people with sizable incomes as a class now pay—over $200,000—about 22 percent in taxes.

And this bill, although it drops the rate from 50 to 27, has an effective tax rate for that class of about 21.6—I forget the exact number, but it is just under 22 percent—consistent with the principle that all income classes should have a tax cut, a small tax cut, under this bill.

But the effective rate is the important rate to focus on. And the way you can maintain the similar effective rate in the reform package as under current law is because you have eliminated the bulk of those tax expenditures that have been used by those wealthy people to avoid paying taxes over the years.

And that is the bargain. The bargain is that you give up loopholes in order to get the rate down. The progressivity of this bill is as good as the progressivity of the current income tax system. So I think that the Senator should be assured on that point. There are other issues involved, but on that point of progressivity, it is the same as the current system.

Mr. SPECTER. When the Senator from New Jersey talks about progressivity—your word; I do not know that it is in the dictionary—in the current bill, that is because of the loopholes, but if it would take away the loopholes and the tax preferences, why should we end up without much in the progressive differential?

Mr. BRADLEY. If it is true, let me first say to the Senator, that the will of Congress is simply to eliminate loopholes, you would indeed have a much higher effective tax rate on all income classes, but particularly the wealthy.

Frankly, I have only been here 7 years and the only bill to close loopholes was in 1982. That was a highly contested bill. If you look at the history, since 1954, there has not been a bill to significantly close loopholes pass the Congress.

And the bargain of this bill is you give up loopholes and you get lower rates. And I think that that is the

message and I think it is a message worth giving.

Mr. SPECTER. At what point, if the Senator from New Jersey knows, does the 27-percent rate become effective?

Mr. BRADLEY. The 27-percent rate becomes effective on a joint return at $29,300, I think, or $29,600 of taxable income. But, of course, the term right there is "taxable income." If you are a family of four, that means that you could earn up to about $43,000 before you are pushed into the 27-percent bracket. So it is on taxable income, $29,300, $29,600, and the economic income is $43,000. People out there think in terms not of taxable income but in terms of economic income.

Mr. SPECTER. Well, take the figure $43,000, that is the point at which the 27-percent tax is paid. The question is—and I think this body is about to answer in the affirmative, yes—but the question is, Should the 27-percent figure apply to a couple earning a total of $43,000 and be applied to a couple earning $1 million? I take it the Senator from New Jersey thinks the answer to that ought to be yes. Frankly, I have a question about it.

Mr. BRADLEY. Whether the Senator from New Jersey thinks that or not, he does believe that the lower rate is the proper carrot to give all taxpayers, and this body is willing to take a step that it has never taken before, which is to eliminate the bulk of the loopholes. So, to facilitate that end, it is important to have the carrot out there of 27 percent.

Mr. SPECTER. Could we get the job done with a smaller carrot?

Mr. BRADLEY. If I look at the Senate votes, the answer seems to be, "Not now."

Mr. SPECTER. Does the Senator from New Jersey think that it is correct, though, to have a 27-percent rate apply to a married couple with a $43,000 gross income and a couple with a $1 millon gross income?

Mr. BRADLEY. As I said to the Senator when he asked the question the first time——

Mr. SPECTER. I repeated it because I did not hear an answer.

Mr. BRADLEY. At this time, the Senate is prepared to accept that rate as a carrot to get at what is one of the—I think the major—disparities in the Code, and that is equal incomes do not pay equal taxes. The rate is the carrot to force people to give up loopholes and this body to vote to eliminate those loopholes, and then make the system much fairer from the standpoint of equal incomes paying equal taxes.

The debate has traditionally been framed, when it came to taxes, in the terms the Senator from Pennsylvania is framing it, and in those terms had been framed thusly in other aspects of this debate and on other days in which the bill was debated.

But the important point, I think, is that equal incomes will pay equal taxes. Not only is that the prime concern of people out there, but the circumstance of somebody who is in poverty paying more in dollars in taxes than a millionaire will no longer happen with this bill. Equal incomes will pay equal taxes.

The phenomenon of the same income paying a much lower tax, I think, eats away at the core of the system. It eats away at people's trust in Government. It leads people to say, you know, "Politicians are all catering to the special interests."

I think what this bill will do will be to cleanse the political climate and to allow us to look at a tax system that has been reformed in a way that addresses the prime concern of people out there.

Mr. SPECTER. I totally agree with the distinguished Senator from New Jersey about people who have equal incomes and paying equal taxes. But I have a question in my own mind about the prospect of having the same tax rate apply to a couple which earns $43,000 as opposed to the American couple earning $1 million or $2 million or $10 million. I asked the question twice. I do not think there was an answer. I will not ask it a third time.

But, Mr. President, what I sought to do here is to express concern as to what the impact will be on working men and working women in middle America. All too often the results of what happens does not take their interest into account. I know what this Senator thinks it will do, and I know the Internal Revenue Service and the Finance Committee will take a very close look, and monitor what the impact of this tax bill will be on middle America. Perhaps there will be another day for evaluating how big a carrot we really need.

I thank the Chair. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

□ 1500

Mr. DOLE. Mr. President, I know some of our colleagues on both sides have been to the floor and talked with the chairman about working out a way to dispose of their amendments, either through acceptance, not offer them, or whatever. As we look at the list, there are probably 35 or 40 amendments that have not yet been offered. I am not certain how many of those will be offered, but again I urge my colleagues, the managers of the bill are willing to stay here today to dispose of as many amendments as possible. Again, I would point up, as the distinguished minority leader, Senator BYRD, did the other day, if we do not start disposing of amendments, it is going to be 3 o'clock tomorrow, we will have a lot of amendments piled up, and we will not be able to go to final passage at 4 o'clock. So I urge my colleagues, if at all possible, to come to the floor this afternoon. We are prepared to come in early tomorrow to accommodate our colleagues, but there again there must be some willingness to come to the floor and take up the amendments.

So without naming those who have amendments pending, I think it is safe to say that two or three Senators have more than one amendment, in fact I think three Senators have 20 of the 40 remaining. I know they are working with the chairman, but hopefully we can be in good shape tomorrow and then we do hope, if we pass the tax reform bill, we will go on to the supplemental appropriation sometime tomorrow evening and dispose of that.

Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. Will the majority leader yield just for a question. I was listening in my office. Did I hear the majority leader indicate he expects to work beyond the normal closing hour of Monday night at 6 o'clock? Is that his intention this evening?

Mr. DOLE. If no one shows up, it will not be my purpose, but I indicated there is a willingness on the part of the managers to do that, no votes but at least stay here until beyond 6. It is only 3 now. I would think those who had amendments could dispose of them before 6.

Mr. METZENBAUM. I think that is perfectly reasonable. The Senator from Ohio is prepared to remain on the floor and does have an interest in those that might be offered, but I hope we would not be called upon to stay when others have had a chance all day to call up their amendments.

Mr. DOLE. I agree with the Senator from Ohio. The only point I was making, if they do not do it today, tomorrow may be very short. There are a number of Members who would like to make statements on the bill itself—no amendments, just make statements—and that will take some time. What we are hoping to avoid is a little pile of amendments at 4 o'clock that have to be voted on before we go to final passage. I know there is one rather important Member to this whole proceeding who has to leave here about 6:30.

Mr. METZENBAUM. I thank the leader. Do I understand he expects to get started early in the morning on the bill?

Mr. DOLE. Yes.

Mr. METZENBAUM. Is it anticipated we will be taking up amendments at that time? We have committee hearings scheduled.

Mr. DOLE. It is hoped we will be taking up amendments.

Mr. METZENBAUM. Those of us who have committee hearings tomorrow morning would like to be protected so we can get back when this matter is considered.

The PRESIDING OFFICER. The majority leader having suggested the absence of a quorum, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1600

Mr. RIEGLE. Mr. President, I am going to be speaking briefly on the tax reform bill and why I shall be voting for the tax proposal tomorrow at 4 o'clock when that vote comes.

I think it is clear that the American people need and want meaningful tax reform. The Senate tax bill is not perfect, but I think it is a big step in the right direction. I think the Senate-House conference on the tax bill will make further improvements in it, but the bill I think, as it stands now, brings more fairness to our Tax Code. It closes many tax loopholes and provides tax relief for the American people. I believe that in the conference, we will win the fight to save the IRA's and I plan to vote for the bill when the note on passage comes.

In addition, I have talked with the Governor of my State, Gov. Jim Blanchard, who has informed me that the Senate tax bill, if enacted, would enable the State of Michigan to reduce the State income tax rate from 4.6 to 4.4 percent. The Governor indicated that if the Federal tax reform bill passes in substantially the same form as we see here, in the Senate, he will officially move to lower the State tax rate in Michigan by that amount. That would give us the lowest tax rate in our State since 1975.

The Governor has sent me a letter to that effect, which I received at noon today.

I think there are two areas of the tax bill that really do need improvement in the Senate-House conference, and I have spoken to the Senator from Louisiana and others about this. The first is to restore the IRA tax deduction, the front-end tax deduction. The second is related to that, and that is to put in a greater measure of tax relief for middle-income people.

We have passed two sense-of-the-Senate resolutions in each of these areas that I think are very important to guide the conference for the Senate. Both of those resolutions give top priority—and those are the words used, "top priority"—by Senate conferees to seeking restoration of the IRA deductions on the one hand and on the other, to improving tax relief to the middle class.

I offered the middle-class, sense-of-the-Senate resolution. I shall repeat now the text of that, because it was only one sentence long:

It is the sense of the Senate that the Senate conferees on the Tax Reform Act of 1986 give the highest priority to increasing the tax cut for middle-income Americans.

When that sense-of-the-Senate resolution was put to a vote on the Senate floor, I am proud to say the vote was 94 to 1. I think that binds the Senate, if you will, behind that proposition. I think it binds the conferees to go and fight for that position in the conference.

I might further say that in my discussions with the chairman of the House Ways and Means Committee, Representative DAN ROSTENKOWSKI, I was told that it was very important that a sense-of-the-Senate resolution be put to a vote here. So there was some clear expression of the thinking in the Senate on the whole issue of how middle-income taxpayers are to be treated in the bill that is forthcoming.

I want to repeat one thing about the IRA's, the individual retirement accounts. What past history shows is that 72 percent of all the money contributed to IRA's comes from taxpayers in the country earning less than $50,000 a year. To me that is significant because it shows the lion's share of money coming to the IRA's is contributed by people below that level and the bulk is contributed by people in the broad middle class and, for that matter, people struggling to get into the middle class.

About $175 billion has already been contributed to IRA's since they came into existence. I think that is a remarkable performance by the people of the country, putting money away for their future retirement and creating a large savings pool. This is a stable kind of savings pool from which, in turn, we can make some of the needed investments in the country—product improvement, productivity improvement, innovation, capitalization. All these things are needed if we are going to deal with our trade deficit and our international trade position. They are helped by virtue of the fact that people contribute to IRA's and we have that kind of savings pool for national investment.

□ 1610

I might further say that people need the IRA investment money for their retirement years. We are finding, happily, in this country that people are living longer; that with better medicine and other knowledge that we have about health, the lifespan of people is getting longer and longer. As a result people have more years after retirement in which to live, hopefully enjoyably, and they need more income as a result of the fact that they are living longer. And so this is another great virtue of the IRA. It is a supplement to Social Security income and to private pensions, if people are fortunate enough to have those—many do not.

As we have seen in the past, because so many people do not invest in the IRA until just before tax time when they know they have to, as an incentive to make that IRA saving, the front-end tax credit against their income tax for that year is one of the things which causes so many people to go ahead and make that saving in the form of an IRA investment.

It is not easy for many people to do it because you have to set the money aside, you have to take it out of your current living standard, if you will, and put that money away for a long period of years, but it is important that people do that. It is important they do it for themselves. It is important for the country. That is one of the reasons why I think it is very important we restore the tax credit on the IRA's in the Senate conference.

I want to repeat that 28 million Americans have now taken out IRA's and as knowledge of them broadens throughout the country I think we will see even more people taking them in the future, which is all to the good. It is good for them and it is good for the country as a whole.

I want to make an additional point. Last year, feeling strongly that tax reform was something the country should address and should try to accomplish, after the President had proposed his legislation I went out to the State of Michigan and over a period of several months conducted 19 public tax forums across the State. Those meetings lasted anywhere from 3 to 5 hours and I would say that we had as many as 300 to 800 people at these different sessions. We stayed until everybody who had a comment to make or wanted to raise a question or try to get an answer had a chance to do so. I estimate that in the course of those 19 meetings I probably had the chance to talk face to face with 4,000 to 5,000 citizens of Michigan on tax reform. As a result of those discussions, I have also received an enormous volume of mail since that time because people's interest and awareness of tax reform has been higher.

I can say, based on all of that citizen input, that the things people said they most wanted, were; namely, preservation of the mortgage interest deduction on a personal home, the elimina-

tion or the avoidance of taxation on fringe benefits, and the ability to continue to deduct State and local property taxes. All of those items have been preserved in this tax bill.

In addition, they said they wanted a stiff and meaningful minimum tax on high-income people and high-income corporations that at the present time have been paying no tax and dumping off their tax burden on everybody else, and therefore driving up everybody else's tax rates and tax burden.

What this bill does, by bringing to bear and into creation a significant minimum tax on high-income individuals and companies, is raise enough additional revenue that we can really afford to provide significant, across-the-board tax relief for everybody else.

By getting people to pay their fair share, as it should be, those who have been carrying an extra burden get a chance to put down that double burden because they will have lower marginal tax rates and also certain other improvements in terms of the personal exemption and the personal deductions.

I might say—it has been repeated before; it bears mention here—that some 80 percent of the taxpayers will be at the 15-percent tax rate on the margin.

I will finish at this point by saying I think this tax bill, while it is not perfect, is a big step in the right direction. I think it is going to make the economy work better.

I think we are going to see more growth. I think we are going to see a substantial improvement in fairness in the Tax Code. It may well be that later on down the line, when the conference committee has had a chance to make its changes and improvements—and I have mentioned the ones I think need to be made and I think will be made—as this revolutionary set of tax changes has the chance to work, we will have to come back and make further adjustments to it. I fully expect that will be the case. But we will have broadened the tax base, we will have put people on a much fairer footing with respect to one another, and I think we will have restored for the American people a large measure of confidence in the tax system.

Now, do I like the retroactivity feature? No; I do not. I do not think it ought to be in here. There are other elements of the tax bill which I would rather not see here. But like any enormously complex piece of legislation, it cannot reflect just the views of one Senator or even 100 Senators. It has to reflect, finally, the views of everyone in this branch, the 435 House Members, and those in the administration. And so we are bound to get something that is a composite. The final test has to be, is that composite, on balance, a positive one? Does it take us forward? On balance, is it a major improvement over the existing situation?

I think it is. If we were to vote against it, in effect, we vote for the status quo. If we vote down this bill, it has the effect of saying we want to keep the tax laws as they are today, riddled with loopholes and riddled with unfairness.

I do not think we want to say that. I think we want to say, on the contrary, we want to clean away as much of that as we can. This bill is a major improvement in those respects. As I said, there are one or two other things we hope to accomplish in the conference, and I hope and expect we will.

I conclude with a word to the members of the committee who have worked on this bill. I think enormous credit goes to them and to staff which worked so hard. We have come this far because of a lot of good work.

The journey is not over yet. There is more to be done. But I think we can take a sense of pride in the effort we are making. I believe the country will be better off for this tax reform package, and the people of the country will realize that, as these tax changes are enacted and have a chance to work.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, did I understand the Senator from Michigan to say that he has a letter from the Governor of Michigan encouraging a vote for this bill?

Mr. RIEGLE. If the Senator will yield, I received a letter from Governor Blanchard about noon today which reads as follows. It is very short. I think the chairman of the committee will find it interesting. Governor Blanchard and I, I might say by way of background, had been discussing this issue previously. So he wrote to me and said as follows:

> In light of our previous discussions on the federal tax reform now pending before the U.S. Senate, we appreciate all of your efforts in trying to fashion a bill which provides meaningful and fair tax reform.
>
> And as I mentioned to you over the phone, should Congress pass tax reform in substantially the form that is before the Senate now, I will lower the income tax rate in Michigan from its current 4.6% level to 4.4%. Therefore, let me again lend my support to the federal tax reform since it would provide a cut in Michigan's tax rate to its lowest level since 1975.
>
> Sincerely,
>
> JAMES J. BLANCHARD,
> *Governor.*

Mr. PACKWOOD. Let me say to Governor Blanchard that I appreciate the letter very much. This is exactly what every State that has piggybacked on the Federal system can look forward to. They can either say, "There is going to be a windfall in State revenue, we are going to take the money, collect it and spend it," or they have the opportunity to lower the rates and eliminate some of the loopholes as we have done.

I think the Governor of Michigan has taken a wise position in what he intends to do, and I hope that other States faced with the same situation simply would not sit back and say, "Here comes a windfall if we don't change the laws at all because the Federal Government has closed the loopholes in the tax structure."

Again, I thank the Senator from Michigan and I thank the Governor.

Mr. RIEGLE. I thank the chairman.

□ 1620

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I want to express my support for the tax reform bill that is now being considered by the Senate. I congratulate the distinguished chairman of the Senate Finance Committee, Senator PACKWOOD, and the other members of the committee for producing a bill that will dramatically revise—and substantially improve—our tax system.

For too long, our Federal income tax system has been too complex and filled with esoteric provisions benefiting special interests. Over and over I have heard my constituents say that the tax system is unfair, that the wealthy are not paying taxes, that middle-income persons pay higher effective tax rates than America's largest corporations, and that the tax laws are riddled with loopholes. My constituents, like Americans all over the Nation, are frustrated by the current tax laws.

I believe that the complexity and special interest provisions of our Tax Code have cost us a great price: they have made the American public lose respect for our tax laws. Honest, hard-working taxpayers have been made to feel like fools. While they dutifully pay their fair share of taxes, others use exotic write-offs, creative tax shelters, and investment schemes, the vase majority of which are legal, to reduce their tax liabilities.

Plato once said:

> When there is an income tax, the just man will pay more and the unjust man will pay less on the same amount of income.

Mr. President, by making the average taxpayer feel that everyone else except himself or herself is getting a break, we are tempting the just man to become the unjust man. We are

making them ask "Why should I pay my taxes? Everyone else who is better off than I am is paying less in taxes. The name of the game is to beat the system." The spiraling trend of more and more tax benefits, more and more tax loopholes, has caused the American public to lose faith in the tax system. When taxpayers perceive the system to be unfair, they, too, want to stop paying taxes, even if it means not reporting their income accurately. This widespread perception of our tax system can jeopardize voluntary compliance, which has been essential to our tax system since its inception.

Mr. President, I believe that the bill we are considering today will go far in restoring faith in our tax system.

This bill will make our Tax Code fairer, more efficient, and less complicated. It accomplishes these goals in several ways:

It eliminates many tax shelters, and reduces tax rates, so that decisions in such areas as sales, purchases, and investments will be based more on economic considerations and less on how they will affect one's tax bill;

It adds a tough minimum tax on corporations and wealthy individuals who now pay too little Federal taxes—or even no taxes at all. I was an early supporter of a stronger minimum tax and am pleased that such a proposal is included in this bill, as well as the House of Representatives' tax reform bill;

It shifts approximately $100 billion of the Federal income tax burden from individuals to corporations;

It would create a vastly simplified tax structure, with 80 percent of all taxpayers paying a tax no higher than 15 percent, and the remainder of taxpayers paying rates no higher than 27 percent; and

It would lift 6 million low-income households—many of them below the poverty levels—off the Federal income tax rolls and would provide a more equitable distribution of the tax burden.

The bill before us does all of these things while preserving many tax provisions that are widely used by average taxpayers, such as the mortgage interest deduction, the deduction for State and local income and property taxes, and the charitable contribution deduction for itemizers.

Mr. President, you can't rewrite our tax system without making some hard choices. Like any comprehensive tax reform bill, the one before us today will not please everyone. Some individual and corporations—especially those who have been big winners under the current tax system, may find that some of their tax benefits are no longer available. This, however, may be the inevitable price of revamping our tax system. The long, impressive list of corporations and organizations supporting this bill—many of whom lose tax benefits they enjoy under the current tax laws—illustrates that many are willing to give up something to achieve an overall fairer tax system.

While I enthusiastically support this tax bill, I do not believe it is perfect. I am particularly concerned, for example, that the bill, as reported by the Finance Committee, will be devastating to low-income housing projects upon which thousands of very poor families, both in my State of Maine and nationwide, depend heavily for basic housing needs. Although the bill moves in the right direction by adopting a tax credit for low-income housing investments, the credit in the committee bill is unworkable by denying the credit to projects that receive other forms of Federal subsidies. Making projects that receive funding from the Farmers Home Administration's rental rural housing program, HUD, and other housing programs ineligible for the credits would virtually eliminate all tax incentives for low-income housing. Other changes in the bill would further discourage investment in low-income housing, causing investors to seek more attractive investments. An amendment I will offer with several of my colleagues will correct some of these flaws in the committee's bill and I will hope that several more improvements will be made in conference.

I am also concerned by the bill's effects on existing investments, especially in real estate. While the passive loss provisions of the bill address legitimate concerns, the bill goes too far by applying these rules to people who made investments, in good faith, on the basis of what the law was at the time of the investment. Changing the rules in the middle of the game is unfair to many investors who are now locked into their commitments and will cause taxpayers to wonder whether they can ever rely on existing laws in making investments.

Finally, I believe that comprehensive tax reform legislation should retain more tax incentives for retirement savings. Individual retirement accounts have generated over $250 billion in savings since 1981 and have encouraged taxpayers to plan ahead for retirement. Thus, I am pleased that the Senate has adopted a sense of the Senate resolution urging the Senate conferees on the tax bill to give high priority to the restoration of tax incentives for IRA contributions.

Mr. President, while not a total panacea for all our tax ills, this legislation turns us in the right direction of fundamental, comprenhensive tax reform, and I look forward to its passage.

AMENDMENT NO. 2153

(Purpose: To amend various provisions of the bill with respect to low-income housing while maintaining revenue neutrality)

Mr. MITCHELL. Mr. President, on behalf of myself and Senators KENNEDY, COHEN, CHAFEE, CRANSTON, D'AMATO, DECONCINI, DIXON, DODD, GORE, HOLLINGS, INOUYE, KERRY, LEVIN, MATHIAS, RIEGLE, SARBANES, SIMON, BINGAMAN, and MOYNIHAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. MCCONNELL). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself and others, proposes an amendment numbered 2153.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2252, strike out lines 17 through 22, and insert in lieu thereof the following:

"(B) BASIS REDUCTIONS.—The basis determined under subparagraph (A) shall be reduced by the allocable amount of—

"(i) the rehabilitation credit allowed under section 38, and

"(ii) the amount of any Federal grant or equivalent assistance described in clause (i), (ii), or (iii) of subsection (f)(4)(A).

On page 2254, between lines 23 and 24, insert the following new paragraph:

"(3) EXCEPTION FOR CERTAIN EXISTING FEDERALLY ASSISTED PROJECTS.—

"(A) IN GENERAL.—A qualified low-income housing project shall be considered to comply with paragraph (1) even though such project has previously been placed in service (other than by the taxpayer or a related person to such taxpayer, as defined in section 461(i)(6)) is such project—

"(i) is acquired by the taxpayer from any person other than such a related person,

"(ii) is placed in service by such taxpayer at least 15 years after such project was last placed in service, and

"(iii) is described in subparagraph (B).

"(B) EXISTING FEDERALLY ASSISTED QUALIFIED LOW-INCOME HOUSING PROJECT.—A project is described in this subparagraph if such project is substantially assisted, financed, or operated with respect to the taxpayer only under—

"(i) section 8 of the United States Housing Act of 1937,

"(ii) section 221(d)(3) or 236 of the National Housing Act of 1934, or

"(iii) section 515 of the Housing Act of 1949,

as in effect on the date of the enactment of the Tax Reform Act of 1986.

"(C) APPLICABLE CREDIT RATE ALLOWED.—In the case of any project described in subparagraph (B), the applicable credit rate with respect to any occupied residential rental unit shall be the rate described in subsection (a)(2)(A)(ii).

"(D) WAIVER OF 15-YEAR RULE.—Upon application by the taxpayer to the Secretary (in such manner as the Secretary shall prescribe), the Secretary after consultation with the Secretary of Housing and Urban Development or the Secretary of Agriculture (with respect to any project described in subparagraph (B)(iii)) may waive the 15-year requirement in subparagraph (A) based on his determination that such waiver is necessary to avert—

"(i) an assignment of the mortgage secured by property in the project to the De-

partment of Housing and Urban Development or the Farmers Home Administration and a claim against the mortgage insurance fund with respect to such mortgage, or

"(ii) other circumstances, to the extent established by regulations precribed by the Secretary.

On page 2255, line 6, insert before the period a comma and the following: "or in the case of a project described in subsection (c)(3)(B) the date such project is placed in service".

On page 2258, strike out lines 1 through 9, and insert in lieu thereof the following:

"(1) MINIMUM SET-ASIDE REQUIREMENT.—

"(A) IN GENERAL.—The project meets the requirements of this paragraph if 20 percent or more of the residential rental units in such project (as determined in the manner described in subsection (b)(1)(A)), are occupied by individuals whose income is 50 percent or less of area median gross income. Such requirements must be met within 12 months of the date a building or rehabilitation expenses are placed in service.

"(B) EXISTING FEDERALLY ASSISTED PROJECTS.—In the case of a project described in subsection (c)(3)(B), subparagraph (A) shall apply by substituting '50 percent' for '20 percent'.

On page 2259, line 2, insert before the period the following: ", other than, in the case of a project described in subsection (c)(3)(B), any such obligation issued to a previous owner before the date of the enactment of the Tax Reform Act of 1986 and taken subject to or assumed by the taxpayer".

On page 2259, line 7, strike out the period and insert a comma and "other than—

"(A) in the case of a qualified low-income housing project described in subsection (c)(1)—

"(i) any assistance under the Urban Development Action Grant program under title I of the Housing and Community Development Act of 1974,

"(ii) any assistance under the Community Development Block Grant program under such title,

"(iii) a development or rental rehabilitation program under section 17 of the United States Housing Act of 1937,

"(B) in the case of any residential rental unit in a building within a qualified low-income housing project described in subsection (c)(1) occupied by individuals described in subsection (a)(1)(B)(i)—

"(i) a moderate rehabilitation program under section 8 of the United States Housing Act of 1973, or

"(ii) section 515 of the Housing Act of 1949, and

"(C) in the case of a qualified low-income housing project described in subsection (c)(3), the programs described in subparagraph (B), thereof.

For purposes of the preceding sentence, programs described in subparagraph (A) and (B) shall be included as in effect on the date of the enactment of the Tax Reform Act of 1986.

On page 2261, strike out lines 12 through 23, and insert in lieu thereof the following:

"(5) RESIDENTIAL RENTAL UNITS.—No residential rental unit shall be included in subsection (a)(1)(B) if—

"(A) such unit is not suitable for occupancy, or

"(B) any portion of the qualifying basis of which is reduced for casualty loss, except to the extent replaced by reconstruction.

"(6) LIMITATION ON CREDIT.—No credit shall be allowed with respect to any residential rental unit unless any payment under section 8 of the United States Housing Act of 1937 with respect to such unit or any occupants thereof is limited to an amount no greater than the excess of—

"(A) 30 percent of 50 percent of the area median gross income, over

"(B) 30 percent of the income of the individuals occupying such unit.

On page 2264, line 15, strike the end quotation marks.

On page 2264, between lines 15 and 16, insert:

"(i) APPLICATION OF AT-RISK RULES.—

"(1) IN GENERAL.—In determining the qualifying basis of any property for purposes of this section—

"(A) section 46(c)(8) (other than subparagraph (D)(iv)(I) thereof) and section 47(d)(1) shall apply, and

"(B) for purposes of such section, the credit base with respect to such property shall be the qualifying basis.

"(2) SPECIAL RULES FOR DETERMINING QUALIFIED PERSON.—For purposes of paragraph (1)—

"(A) IN GENERAL.—In computing the amount of qualified nonrecourse financing with respect to property with respect to which a credit is allowable under this section, the determination of whether an organization—

"(i) which is exempt from taxation under section 501(c)(3) or (4), and

"(ii) 1 of the exempt purposes of which includes the fostering of low-income housing,

is a qualified person (within the meaning of section 48(c)(8)(D)(iv)) shall be made without regard to whether such organization is actively and regularly engaged in the business of lending money or is a person described in section 46(c)(8)(D)(iv)(II) if the requirements of subparagraphs (B) through (D) are met.

"(B) FINANCING SECURED BY PROPERTY.—The requirements of this subparagraph are met with respect to any financing if such financing is secured by the property described in subparagraph (A), except that this subparagraph shall not apply in the case of property described in subsection (a)(1)(B)(ii) if—

"(i) a security interest in such property is not permitted by a Govenment agency holding or insuring the mortgage secured by such property, and

"(ii) the proceeds from such financing (if any) are applied to acquire or improve such property.

"(C) PORTION OF PROPERTY ATTRIBUTABLE TO FINANCING.—The requirements of this subparagraph are met with respect to any financing if, in the taxable year in which such financing is taken into account in determining qualifying basis, not more than 60 percent of the basis of such property is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).

"(D) REPAYMENT OF PRINCIPAL AND INTEREST.—The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid before the earliest of—

"(i) the date on which such financing matures,

"(ii) 90 days following the close of the qualified compliance period (within the meaning of subsection (g)(1)) with respect to such property, or

"(iii) the date of the refinancing of such financing or the sale of the property to which such financing relates.

"(3) PRESENT VALUE OF FINANCING.—If the rate of interest on any financing described in paragraph (2)(A) (determined by taking into account government subsidies) is less than the rate which is 1 percent below the applicable Federal rate as of the time such financing is incurred, then the qualifying basis of property to which such financing relates shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate.

"(4) Failure to fully repay.—To the extent that the requirements of paragraph (2)(D) are not met, then the amount of tax of the taxpayer for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such property, increased by an amount of interest for the period—

"(i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the first taxable year for which such credit was allowable, and

"(ii) ending with the due date for the taxable year in which such failure occurs.

determined by using the underpayment rate and method under section 6621."

On page 2230, strike lines 18 through 20, and insert: applicable percentage of the portion of the passive activity loss or credit which is attributable to a pre-1987 interest and which (but for this subsection) would have been disallowed under subsection (a).

On page 2230, in the matter following line 23, strike the end quotation marks.

On page 2230, after the matter following line 23, insert:

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-1987 INTERESTS.—

"(A) IN GENERAL.—The portion of the passive activity loss for any taxable year which is attributable to pre-1987 interests shall be the amount which bears the same ratio to such passive activity loss as—

"(i) the amount by which the aggregate losses for such taxable year from all pre-1987 interests exceeds the aggregate income for such taxable year from all such interests (determined after the application of subsection (c)), bears to

"(ii) such passive activity loss.

A similar rule shall apply in the case of a passive activity credit.

"(B) PRE-1987 INTEREST.—The term 'pre-1987 interest' means any interest in a passive activity held by a taxpayer on the date of the enactment of the Tax Reform Act of 1986, and at all times thereafter."

On page 1557, line 25, insert after the period the following new sentence: "For purposes of this subparagraph, the deferral of income to partners for a period of 3 months or less shall not be treated as a business purpose."

On page 1559, between lines 6 and 7, insert:

(2) BUSINESS PURPOSE.—Section 1378(b) (defining permitted year) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (2), the deferral of income to shareholders for a period of 3 months or less shall not be treated as a business purpose."

On page 1559, line 7, strike "(2)" and insert "(3)".

On page 1559, line 20, insert after the period the following new sentence: "For purposes of this paragraph, the deferral of

income to shareholders for a period of 3 months or less shall not be treated as a business purpose."

The PRESIDING OFFICER. Under the provision order, the amendment of the Senator from Maine will be considered for 1 hour, to be equally divided.

Who yields time?

Mr. MITCHELL. I yield myself such time as is necessary.

Mr. President, this is an amendment to the portion of the committee bill which provides a new tax credit for investment in the development and preservation of affordable housing for low-income American families.

I thank the chairman of the Finance Committee for his help in developing this amendment. I am pleased that we were able to reach agreement on the amendment's provisions and that I can offer the amendment today with Senator PACKWOOD's support.

The housing crisis facing low-income Americans has reached a level unmatched since the Great Depression. Over half of the 8.4-million renter households with incomes below $7,000 per year are paying more than one-half their income for rent. Homelessness, overcrowding, and high-rent burdens are all manifestations of the same crisis—too little affordable housing for the very families most in need of it.

The Tax Code has for many years contained incentives to assist in the development and preservations of housing. Tax incentives for homeowners are traditional and massive, favoring upper- and middle-income taxpayers. Tax deductions for mortgage interest, property tax deductions and other provisions favoring homeownership produce revenue losses of $40 billion to $50 billion annually. Tax incentives for low-income rental housing produce revenue losses of between $1 billion and $2 billion annually.

Congress and successive administrations have long recognized the necessity of using tax incentives to attract private capital to low-income housing development and rehabilitation. These provisions recognize that absent some incentives, investment in low-income housing is a fundamentally uneconomic activity.

The committee bill recognized the need for such investment. It would replace current law tax incentives with a new and innovative tax credit for investment in affordable low-income housing.

The tax credit is highly targeted. The full credit is available only for units which actually serve very low-income families—those with incomes below 50 percent of the area median, adjusted for family size. A lesser credit is available for a limited number of units in any one project which serve families with incomes between 50 and 70 percent of area median income, also adjusted for family size.

The tax credit ensures that rents for low-income renters will be affordable, a protection lacking in current law.

The tax credit insures that units produced or rehabilitated will be available over time for poor renters. Owners are subject to recapture of the credit with penalties if the units are converted to some other use within the first 15 years of the investment. This is a substantial improvement over current law recapture provisions.

Finally, the credit arrangement encourages sponsors to provide the maximum number of units possible for very low-income families. The greater number of very low-income families served, the greater the tax credit available to investors.

I am encouraged by the low-income housing tax credit in the committee bill. I congratulate the chairman for developing and proposing it.

However, the credit needs to be refined to make it workable. My amendment involves three technical changes which will go a long way to ensuring that the credit is actually usable by sponsors of low-income housing.

The first part of my amendment would permit the low-income housing tax credit to be taken with respect to units which are also benefiting from a limited number of other Federal housing and community development programs. These are Community Development Block Grants [CDBG], Urban Development Action Grants [UDAG], Rental Rehabilitation Grants, Housing Development Grants [HoDAG's], and, under limited circumstances, section 8 certificates. All of these programs are administered by HUD. With the exception of section 8 certificates, all of these programs provide funds which are administered by State and local governments to encourage and assist in low-income housing and community development activities.

My amendment would also permit a limited use of the credits in conjuction with direct low interest loans under the section 515 rural rental housing loan program of the Farmers Home Administration [FmHA]. This program is the principal means by which new rental housing is constructed in rural areas. It is an extremely successful and important program in many States, including my own, where rural incomes are low and construction costs are high. Under my amendment, the low-income housing tax credit could only be used in conjunction with units in such projects which serve those below 50 percent of the area median income. No units in these projects could benefit from the lesser credit.

I emphasize that my amendment does not require that these subsidies be made available together with the credit. It merely allows such subsidies to be used to reduce as much as necessary the cost of producing affordable housing for very low-income families. The committee bill does not offer this flexibility.

The combination of these subsidies with the credits may not always be necessary. But I know in my own State and in many others these other subsidies will be absolutely essential to make realistic real estate investments work as affordable housing for very low-income Americans.

The second part of my amendment is designed to help preserve many hundreds of thousands of housing units which have already received Federal assistance in the past, and which now provide some of the limited affordable housing for poor families in the country. This housing was subsidized by HUD under the sections 236 and 221(d)(3) BMIR programs, and by Farmers Home under the section 515 program. In the next 5 years, many of these units will reach their 20th anniversaries. They need new infusions of capital to carry out routine repairs and maintenance.

Without a continuing tax-based incentive for new investors to put up capital, many of these units will be sold for conversion to some other use—for higher income rentals, or for conversion to nonrental housing. Many other units will simply be allowed to deteriorate, and eventually they will have to be taken over by HUD or FmHA, resulting in tremendous losses to Federal insurance and loan funds.

This will result because the limited rents which can be charged under the HUD and Farmers Home programs will not support additional debt or provide a sufficient return to new investors. Therefore, such investments will not be made, and the properties will be lost as low-income housing.

HUD Secretary Samuel R. Pierce, Jr., has characterized these units as "an important Government investment," in a May 22, 1984, letter to the distinguished ranking minority member of the Subcommittee on Housing and Urban Affairs. His letter states that:

> The tax benefits available from resyndication * * * have provided a means of obtaining cash contributions from new owners necessary to cure delinquencies, fund reserves and deferred maintenance, and even fund repairs and replacements * * * boilers, roofs, etc. * * * It is clear to me that the interests of the Department have benefited from many of the resyndications of subsidized limited dividend projects * * *

The committee bill as presently drafted would eliminate these resyndications which Secretary Pierce has praised. My amendment would rectify this problem by permitting the use of the credit in conjunction with the sale or transfer of these properties under very limited circumstances. At least half the units in these properties would have to actually be serving families below 50 percent of the area

median income, very demanding test, and one which greatly exceeds that applied to new construction or substantial rehabilitation. Moreover, these properties would only qualify for the less generous of the two credits offered under the bill. In order to qualify at all, the properties would have to continue serving the same low-income tenancy for the full compliance period of the credit, creating an important new lease on life for these valuable low-income housing resources. They would also have to have been held by their current owners at least 12 years before they could qualify for the credit—an important safeguard against unnecessary turnovers.

Finally, my amendment would provide a very narrow exemption to the at-risk rules governing real estate investment to enable bona fide nonprofit organizations to use seller and related party financing to preserve or develop low-income housing. This exception requires that any such debt be repaid in full, with interest, and includes other stringent requirements.

This exemption is absolutely essential if the committee amendment is to provide the necessary tools with which national nonprofit organizations such as the Enterprise Foundation begun by James W. Rouse, or the Local Initiatives Support Corporation [LISC] sponsored by the Ford Foundation, can continue their important work. Both of these organizations provide financial and technical assistance to community based nonprofit development groups which are working directly with residents of low-income communities to create and preserve affordable housing opportunities. We should be doing everything we can to foster the kinds of public-private partnerships which these and similar organizations make possible. My amendment will do this.

Mr. President, I point out that my amendment does not address a number of other important issues which I hope can be resolved in conference. There are unresolved questions concerning the amount of tax credit a taxpayer may claim; who may take the credit; and how the use of the credit affects the ability of taxpayers to take full advantage of other provisions regarding passive losses. These are important matters which directly bear on the feasibility of the credit and I hope that I will have an opportunity to work with the distinguished chairman to make further progress on these issues during conference deliberations.

□ 1630

I also want to point out that we have another major outstanding issue, not having to do with the tax credit, which has not been resolved with respect to low-income housing.

We have not yet provided any transition rule for the treatment of passive losses from existing investments in low-income housing. I am concerned about this matter.

As I believe Senator PACKWOOD is aware, low-income housing is different from other real estate. Low-income housing does not provide cash-flow from rents, or the promise of appreciation on sale. Investors are attracted instead by the return they can receive by offsetting their tax liabilities from other income. This was the understanding they had when they undertook, the investment. Many thousands of investors throughout the country are now in the position of having entered into commitments to provide equity payments in limited partnerships for low income housing on which they will not be able to take their anticipated losses under the committee amendment.

These payments are typically due over a 5 or 6 year period and the investors involved in such partnerships expect to receive tax loss benefits during these years when pay-ins are due in order to offset the contributions they make.

Mr. PACKWOOD. Mr. President, will the Senator from Maine yield?

Mr. MITCHELL. Yes; I am happy to yield to the distinguished chairman of the committee.

Mr. PACKWOOD. I want to make sure that I understand the point which the Senator from Maine is making. The committee amendment would restrict all investors' abilities to take passive losses against earned income from existing investments. We have established this as a principal tenet of the committee bill in its entirety in all areas of investment. I know that the Senator from Maine has supported this overall thrust throughout our considerations, both in committee and here on the floor. Is that correct?

Mr. MITCHELL. That is correct. However, Congress has for years followed a conscious policy of providing special tax benefits for investors in low-income housing activities. It has done so with a very clear recognition of the fact that without such incentives, low-income housing does not offer a realistic economic return to investors.

In fact, the Internal Revenue Service has ruled that investments in low-income housing, which are demonstrably uneconomic, are exempt from the normal test of economic intent under the tax laws. Thus, the IRS has recognized congressional intent to encourage investment in low-income housing through the generation of tax losses. These are the investments for which the strongest and best defense can be made to provide some adequate transition treatment from the passive loss restrictions contained in the committee amendment.

Mr. PACKWOOD. Mr. President, will the Senator yield further?

Mr. MITCHELL. I am pleased to yield further.

Mr. METZENBAUM. Mr. President, would the manager of the bill be good enough to give us who are not familiar with some of the terminology——

Mr. MITCHELL. Will the Senator yield so we can complete this colloquy and then I will be glad to entertain any questions?

Mr. METZENBAUM. Yes.

Mr. MITCHELL. I thank the Senator. I am pleased to yield to the chairman.

Mr. PACKWOOD. Mr. President, I appreciate the point that the Senator from Maine has made today with regard to the need for special transition treatment for existing investment in low-income housing. I must say that I agree with the distinguished Senator that low-income housing investments are indeed different than other investments affected by our committee amendment and that they deserve special treatment. I want to assure both Senators that when we take up this matter of transition rules in the Conference Committee I will do my utmost to ensure that these investments receive special consideration. Although I continue to believe that the changes in the committee amendments which lower rates and broaden our tax base more than offset the passive losses which our amendment would restrict in the future, I agree that investments in low-income housing are different from other investments in real estate and they deserve the most favorable treatment which can be provided.

Mr. MITCHELL. I thank the distinguished chairman for his assurances and the cooperation he and his staff have extended on this important issue.

I also want to express appreciation to the fine work Senator KENNEDY and his staff have provided on this amendment. Their assistance throughout this process has been invaluable.

Mr. President, my amendment also includes further provisions that would raise the necessary offsetting revenue.

The first offsetting revenue amendment would amend the passive loss transition rules to provide that relief from the passive loss limitation is available only to transactions entered into prior to date of enactment of the tax reform bill.

The bill as approved by the Finance Committee would provide transition relief to all investments including those entered into after date of enactment. Such a broad inclusion makes no policy sense and is inconsistent with the intent of the legislation. If relief from the new restrictions on passive losses are provided, such relief should only go to projects which have had no notice of the change in law.

This provision would raise approximately $500 million over the budget period.

The second revenue provision has to do with an accounting provision relating to partnerships and simply modifies a change to present law already proposed by the committee bill. Under present law, as is pointed out in the committee report, partners in a partnership can defer income when the taxable years of the partner and the partnership differ. Under the bill, the taxable year of the partnership must conform to the taxable year of the partners owning a majority interest in the partnership profits and capital, unless a business purpose for a different taxable year can be demonstrated to the Secretary of the Treasury. Where different taxable years exist among the partners, the bill establishes the calendar year as the taxable year for the partnership. The bill also establishes a safe harbor test which would result in up to 3 months of deferral of income, meaning a taxable year ending on September 30 could be utilized.

My amendment simply deletes the 3-month deferral of income provision of the bill and requires that the taxable year of the partnership must be the calendar year, thus assuring that there can be no deferral of income. As under present law, however, a partnership could establish a different taxable year if it can demonstrate a business purpose therefor to the satisfaction of the Secretary. This portion of the amendment raises the necessary additional revenue.

Mr. President, I ask unanimous consent to have printed in the RECORD material with regard to the housing rehabilitation programs and a letter, dated June 11, 1986, from the Banking Committee to the Finance Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHY OTHER FORMS OF ASSISTANCE MAY BE NEEDED IN CONJUNCTION WITH THE CREDIT USING THE CREDIT IN LOW COST/VERY LOW INCOME COMMUNITIES

The Enterprise Foundation is working closely with the Cleveland Housing Network ("CHN") on lowest cost housing rehabilitation using a lease-purchase self-help program with tenants. CHN is a coalition of nine non-profit neighborhood groups working in the poorest neighborhoods of Cleveland. Their programs reach out to the working poor, individuals making under $10,000 per year (full-time at minimum wage is under $8,000 per year). CHN has a Board of Directors drawn from and representative of the neighborhoods it serves, uses extensive volunteer and *pro bono* services from the community, and raises operating funds from charitable private sector sources.

Until recently, its housing rehabilitation programs have been entirely funded by CDBG funds from the city, but these funds are being cut back and the need of the neighborhoods have grown. Enterprise has worked to keep housing rehabilitation costs low and to use private sector resources in conjunction with CDBG funds to expand production from 30 houses a year to 100 houses a year.

This example is indicative of the lowest cost rehabilitation scenario Enterprise finds in its 26 city, 63 group network across the country.

Income Level Served: $8,000-10,000 per year; 30 percent of Income in rent: $200-$250 per month.

Operating Costs including utilities (Maintenance, heat, light, water & sewer, taxes, insurance, management): $175-$200 per month.

Available for Principal & Interest: $25-$50 per month

Average Rehabilitation Cost: $24,300 per unit. Net Syndication Proceeds (30% of total cost, assures full use of tax credit net of legal, accounting, marketing expenses): $7,290 per unit.

Net Amount to be Financed: $17,010 per unit

Maximum monthly P&I Payment: $50/month per unit. Mortgage Supported (20 years, 11 percent): $4,844 per unit. Gap Financing Needed: $12,166 per unit.

In Cleveland, to meet the needs of the poorest neighborhoods, $12,166 per unit on average is needed from CDBG funds from the city and private charitable sources, to allow one of the lowest cost rehabilitation programs in the country to proceed. Using the Credit in Higher Cost/Higher Income Communities

Our experience in numerous substantial rehabilitation projects in these types of cities shows an average unit cost including acquisition and rehab exceed $40,000 per unit, a more typical example for moderate cost larger cities. New construction is substantially higher. For example, we have designed with a national modular homebuilder, a lowest cost 3 bedroom townhouse at a cost of $48,000 per unit for 170 infill townhouse units proposed in Baltimore. Even though The Enterprise Foundation serves families in the $10,000 income level, let use look at the maximum rent levels permitted under the tax credit proposal.

Income Level Served: $15,000 (Maximum level permitted in Baltimore, Denver or Philadelphia) Maximum Rent: $375 per month.

Lowest Operating Costs: $225 per month.

Available for Principle and Interest: $150 per month.

Average Rehabilitation Cost: $40,000 per unit.

Net Syndication proceeds: $12,000 per unit.

Net Amount to be financed: $28,000 per unit.

Maximum available for P&I: $150 per month. Mortgage Supported (20 years, 11 percent) $14,532. Gap Financing Needed: $13,468.

At the maximum income level and rent, $13,468 per unit must be found from CDBG and private charitable funds to make the projects viable under the tax credit proposals. For new construction and higher cost cities, the gap financing needed merely gets progressively higher. Furthermore, to reach the income levels of minimum wage earners, substantially more gap financing is needed.

Quite simply, wtithout CDBG or other federal funds, few if any new houses will be produced under the tax credit proposal for low-income families.

U.S. SENATE, COMMITEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

June 11, 1986.

Hon. BOB PACKWOOD,
Chairman, Senate Committee on Finance, U.S. Senate, Washington, DC.

DEAR BOB: We are writing to express our concern about a provision of the Finance Committee tax bill designed to provide a low-income housing tax credit. As members of the Housing Subcommittee, we have analyzed this provision and found as currently written, it could have disastrous results in the current and future supply of low-income units by not providing adequate incentives for investors to remain in the low-income housing market.

Low-income housing incentives serve prudent public policy by providing a return on investment which is competitive with conventional investment opportunities. Due to the limitations on rents as provided in certain housing laws, the credit currently provided in the Finance Committee bill is insufficient for the development and maintenance of low-income housing stock in America. Without modifications to this section of the bill, over 900,000 existing units would be jeopardized and future development would be difficult at best. This provision could significantly raise the financial exposure of the federal government through increased insurance claims and greater direct subsidies.

The Finance Committee has acknowledged the need for a low-income housing credit as evidenced by the inclusion of this provision in the Committee reported bill. As members of the Housing and Urban Affairs Subcommittee, we would like to work with you and your staff in developing an alternative solution. We feel that it is necessary to establish a more effective credit mechanism with an equitable transitional period, provide a more appropriate application of the passive loss provisions, and remedy concerns we have about the treatment of existing projects which serve low-income tenants.

We appreciate your taking the time to consider our concerns and look forward to working with you towards an equitable resolution.

Sincerely,

Chic Hecht, Chairman, Subcommittee on Housing and Urban Affairs; Jake Garn, Chairman, Committee on Banking, Housing and Urban Affairs; Alfonse M. D'Amato, Donald W. Riegle, Jr., Alan J. Dixon, Paul S. Sarbanes, James R. Sasser, Alan Cranston, Christopher J. Dodd, Slade Gorton, Mack Mattingly, John Heinz.

Mr. MITCHELL. I now yield 3 minutes to the chairman of the committee.

Mr. PACKWOOD. Mr. President, I support the amendment of the Senator from Maine and the other cosponsors.

We have stood firm against passive losses, and by that we simply mean people investing in real estate or oil and gas or other areas and offsetting losses, sometimes artificial losses, against other income. This is how millionaires escape taxation, and it results in many, many buildings being built that we do not need, many investments being made that do not need to be made. In the instance of low-income housing, it indeed does not appreciate in value and indeed the rents are fixed. And if we are going to

have low-income housing in this Nation for the very poor or those close to very poor, we might as well realize the marketplace itself cannot afford to provide it.

Therefore, if we do not have some incentive, whether it is a Government appropriation program or a Government tax incentive, there will be no low-income housing, and that is why I am delighted to support the amendment of the Senator from Maine.

Mr. HEINZ. Mr. President, will the Senator from Oregon yield?

Mr. PACKWOOD. I yield.

Mr. HEINZ. I associate myself with his comments. I am a cosponsor of the amendment of the Senator from Maine. I think it is a very important amendment as the Senator from Maine and I expressed to the chairman many times in committee.

I want to express my appreciation, Mr. President, to the Senator from Oregon for his in-depth understanding of the problem that faces the production of low-income housing. I think he has stated the special problems and the special needs of low-income housing production and of low-income people.

So I commend him and thank him for this statement. I look forward with him and other members of the conference to having an appropriate further step forward in this area.

Mr. PACKWOOD. I thank my good friend, and I hope in conference we can work out a satisfactory solution where we can guarantee there will be low-income housing for the poor and still there is a way to do it to make sure that somehow millionaires did not escape taxation.

Mr. MITCHELL. Mr. President, I now yield 4 minutes to my distinguished colleague from Maine.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I will try to be brief and not be duplicative of the statements made by the chairman of the Finance Committee Senator PACKWOOD, and my friend and colleague, the junior Senator from Maine, Senator MITCHELL.

I had the opportunity last year to travel with Senator DOLE to the Far East and as part of that trip we visited with Prime Minister Nakasoni of Japan. I tried to do in Rome what the Romans do. During the course of my stay in Japan, I opened one of the drawers in the hotel room and found the teachings of Buddha, much as we might find the Gideon Bible in any hotel in this country. Fortunately it was bilingual in its translation. I was leafing through it and I came across the quote that said that, "The strength of a nation is derived from the integrity of its homes." I used that particular quote, again in English, the following day with the Prime Minister, suggesting to him that as a result of Japanese trading practices we are losing the integrity of our homes: farmers are losing their farms, men and women are losing their jobs, and people throughout this country are losing their homes. We in this country place a very high priority on owning a home not only for the wealthy and the middle class, but for the poor as well.

I believe it was the author Brett Harte Gary that said that "No one shoulders a rifle in defense of a boarding house because we place a very high priority on home ownership and what that represents."

Mr. President, I think this value should carryover to our tax policies. as well.

My friend Senator MITCHELL, from Maine, indicated that we have tried to abolish tax shelters in this particular bill. But we have preserved some tax shelters. We have preserved some tax shelters for the rich. We have preserved the tax shelter for middle-income people by retaining the deduction for mortgage interest payments. The only people we have not preserved a shelter for are the poor people, the people in the country.

Unless we maintain some sort of balance in our programs, then we are going to find poor people of this country without any hope of any opportunity of ever engaging in the joy and pride of owning their own homes.

A lot of the Members of the Senate have taken to making up charts. If we look to the rear of the room, we will see a chart for an amendment that is undoubtedly going to follow. I suspect my colleague from Pennsylvania who sits in front of me, is about to erect a music stand, not to play the fiddle as housing burns, but to make a point later in the debate. In the interest of Gramm-Rudman, I am not going to offer any charts, but if I did, I could use this chart back here and point to the high mark with that red arrow going down to show what is happening to housing programs in this country. They are going straight downhill.

They are going straight downhill, not only as a result of tax policies but as budgetary cuts as well.

Last year the rural housing program took a 40-percent reduction in budget cuts, more than any other program. As a result of those budgetary cuts and, indeed, the tax proposals currently before the Senate, we can expect the housing in this country to plummet just like that chart shows.

Mr. President, while the tax reform bill before us today is one that I strongly support and one that contains many necessary reforms to make our tax laws fairer and simpler, the bill would have disastrous consequences for existing and future low-income housing projects, on which thousands of very poor families depend for decent housing. The amendment I am cosponsoring with the junior Senator from Maine will go far in ensuring that reasonable incentives to invest in these important low-income housing projects will continue to exist in our tax laws.

The Senate Finance Committee bill repeals the existing tax provisions that encourage the construction of low-income housing such as accelerated depreciation and the ability to deduct interest and taxes during the construction period. The bill would replace these provisions with a tax credit that is highly targeted to low-income housing projects.

As now written in the bill, the tax credit would be available for investors in newly constructed or substantially rehabilitated properties in which at least 20 percent of the units are occupied by households with incomes below 50 percent of the area medium income, adjusted for family size. All units which meet this income qualification would be eligible for an annual tax credit of 8 percent against the depreciable basis of the qualifying units for 10 years. In addition, up to 30 percent of the units that are occupied by families with higher income levels would qualify for a 4-percent tax credit. The committee bill specifies that rent that is charged for any unit qualifying for the tax credit cannot exceed 30 percent of the household's income.

By adopting a tax credit approach for low-income housing, I believe that the Finance Committee is moving in the right direction. Tax credits can be a more efficient and progressive way to attract equity investment to low-income housing than current tax incentives because tax credits can be better targeted and more finely turned to ensure that only truly low-income housing projects reap the tax benefits.

While the intent of the committee is laudable, there is an essential flaw in the bill: the tax credits are unworkable because low-income housing projects receiving assistance from any Federal subsidy program are ineligible for the credit. The bill would deny the credit to any low-income housing project that receives section 515 loans from the Farmers Home Administration for rural housing development, section 8 subsidies, or funds from Federal mortgage insurance programs, or even tax-exempt multifamily housing bonds. It would also mean that if a city decides to use some of its Federal CDBG funds or UDAG grants to fund a low-income housing project, that project would not qualify for the new tax credits.

In addition, the bill severely limits the amount of credit that an investor can take, and denies the credit to investors above certain income limitations. Finally, the bill would phaseout the ability of all real estate investors to deduct passive losses against other

types of income over the next 4 years. Although this rule causes many problems for real estate investors in general, the consequences are devastating for existing and future investment in low-income housing.

While the prohibition against "double-dipping" and these other restrictions may sound attractive, they ignore the reality of investing in low-income housing. In practice, there is virtually no production of low-income housing without the use of one, or several, of these Federal programs. I do not believe that this is simply because investors are greedy and want to take advantage of the Government. Rather, it is because there are few market incentives to make investment in low-income housing attractive.

Consider, for a moment, trying to convince someone to invest in a low-income housing project without offering Federal subsidies or tax incentives: you first tell him or her that there may not be enough cash flow to cover actual costs of debt and operations, let alone to provide a return on investment. Add to that the fact that rents are often limited by Government regulation. Third, you must remember to tell the investor that the property is unlikely to appreciate, so that he or she can just about forget about making a profit when selling the development. Given this picture, I think many investors would say that, "Thank you very much, but I think I will invest my money elsewhere."

It is precisely because the economics of low-income housing are so unattractive that the Congress has, since 1949, encouraged the goal of low-income housing for poor people through direct spending programs and tax incentives.

Recently, however, low-income housing, and rural housing in particular, has suffered greatly on the spending side of the budget. Last year, the Farmers Home section 515 rural housing program suffered the deepest cuts of any domestic spending program. If the amendment we are now offering is not accepted, we will have effectively killed the incentives for these projects from a tax side as well.

I am particularly concerned about the effects of these provisions of the tax bill on the Farmers Home rental rural housing program, which is widely depended upon by families in my State of Maine and other States with large rural populations. The demand for rural housing is demonstrated time and time again across the Nation. The 1980 census data shows that there are more than 2.1 million rural families still living in substandard housing. Almost half of these families are below the poverty level. Over 2.6 million rural households with incomes under $10,000 annually pay more than 35 percent of their incomes for shelter. These are the families—the ones who live in areas with no other affordable housing available—who will be hurt by these tax changes.

Ironically, the low-income housing provisions of the bill will hurt the very people we are trying to help, with tax reform; namely, poor Americans. A major objective of the Finance Committee's tax bill is to give tax relief to the very poor. By removing approximately 6 million low-income persons from the tax rolls and by ensuring that people below the poverty line do not have to pay Federal income taxes, this bill goes far in bringing tax relief to the very poor. In our zeal to go after abusive tax shelters, however, we are hurting these very same poor Americans who depend on low-income housing for their basic housing needs.

Mr. President, tax incentives for low-income housing investments do more than just give tax shelters to the rich. they provide necessary, physical shelters for our Nation's poor. If these incentives are removed, investors may find other methods of shielding their income from taxes, but the poor beneficiaries of these projects have nowhere else to go.

If the tax bill is not amended, there will be no incentive for investors to put their money in future, low-income housing projects. This comes at a time when there are more families in poverty, less housing available for them to occupy, and less support from the Federal Government to assist them.

If unchanged, the tax bill will endanger even existing low-income housing projects. Investors may default on the existing capital contributions that are still owed. Some developers of section 515 rural housing units, for example, have told me that they expect a 40-percent default rate on outstanding commitments. Such defaults could trigger foreclosures and claims against the Federal Housing Administration and the Farmers Home Administration insurance funds. Thus, not only would the tenants of these housing projects suffer, but the Federal Government would also by having to pick up the tab for these defaults.

The amendment I am cosponsoring with my fellow Senator from Maine, Mr. MITCHELL, would make the tax credit more workable by allowing new construction and substantially rehabilitated housing projects to be eligible for the new tax credit regardless of whether they receive Federal assistance. The amendment would also allow a credit to be available for transfers of existing properties which are partially or wholly financed or operated by the section 515 Farmers Home Administration rural housing program, and other Federal low-income housing programs. The amendment continues to target the benefits of these credits to only low-income housing projects.

While this amendment will fix some of the most egregious problems facing low-income housing in the bill, much more needs to be done to assure housing for our poorest citizens. The bill's unrealistic limits on the amount of tax credits that can be claimed and the income limitations on investors who can claim the credit in the bill continue to discourage low-income housing investments. Further, the passive loss changes in the bill will continue to jeopardize existing projects and be unfair to investors who responded to the low-income housing incentives provided by the Congress.

I do, however, recognize the limits of what can be changed in this bill on the Senate floor. Over the past few weeks, Senator MITCHELL, Senator KENNEDY, and I—and other strong supporters of low-income housing—have advocated changes to the low-income housing provisions of the bill, but no agreement could be reached on many of these issues. I shall continue to press for these changes during the conference on the bill and urge the Senator conferees to seek further modifications of the low-income housing provisions in their negotiations with the House on this bill.

Mr. President, the Government and the private sector must work together to achieve the goal of decent, affordable housing for families with very low incomes. Adoption of these changes is crucial to ensure that the private sector will participate in this partnership and that we do not unfairly change the rules in the middle of the game for those persons who have already responded to the incentives that the Congress has provided in the past for investments in low-income housing.

Mr. MITCHELL. Mr. President, I thank my colleague for his kind words and for the tremendous effort he has made in connection with this amendment.

I now yield 2 minutes to the distinguished Senator from Maryland.

Mr. SARBANES. Mr. President, I commend the able Senator from Maine for his very skillful work with respect to this amendment involving low-income housing. I am hopeful that certain aspects of it that have not been fully resolved can be addressed in conference. I know of no other issue that is more important.

When we contrast how our economic system works with how the economic systems of other countries work, particularly behind the iron curtain, we always want to point to how successful we have been in housing our people. The context of these programs is perhaps the only way we can successfully address the low-income housing situation and provide decent and affordable housing for the poorest in our society.

I think the Senator from Maine has been aware of that. The chairman of the committee has reflected his sensitivity to it. I am hopeful that this amendment will be adopted and that the conference will be able to address other aspects of this problem in such a way as to ensure that, in a reasonable way, consistent with the tax revision that is before us, we will be able to provide low-income housing for our people and meet a very pressing need.

The other Senator from Maine was abolutely right in saying that the strength of our society rests upon our homes and that this effort to provide low-income housing is a reflection of that.

I commend the Senator from Maine for his work in framing and offering this amendment. I very strongly support it.

I yield back what remaining time I may have to the Senator from Maine.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL. Mr. President, I wish to thank the distinguished Senator from Maryland for the effort he has made in behalf of this amendment and in providing affordable low-income housing for all Americans.

I now suggest the absence of a quorum.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the quorum call being requested by the Senator from Maine not be charged against either side in order that there may be sufficient time left to debate this issue, because I am afraid the quorum call is going to run out the time.

Mr. HEINZ. Mr. President, reserving the right to object, the Senator from Pennsylvania wonders if, rather than putting in a quorum call, we might transact some other business. Therefore, the Senator from Pennsylvania would ask unanimous consent that the amendment of the Senator from Maine be temporarily laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, and I do not know that I will, but I might ask my friend from Pennsylvania, did he have an amendment he wanted to now offer?

Mr. HEINZ. Yes.

Mr. DOMENICI. The Senator from New Mexico is in the same position, and I have been waiting for about an hour. If we are going to do that, I would have asked that we proceed with an amendment that I was going to offer.

Is there some way, perhaps, that you and I could work that out?

Mr. HEINZ. I am certain we can find a way to work that out.

Does the Senator anticipate his amendment will take a considerable amount of time?

Mr. DOMENICI. I do not think that it should. It may. I have been working on it with many Senators. It is the amendment that would equalize, not as a matter of substantive law, but as a matter of budget considerations, some of the revenue fluctuations that may evolve when this bill finally comes out of conference. That is basically what the amendment would be that this Senator would be offering on behalf of himself and Senator GRAMM.

I have discussed my amendment with the majority leader, with the chairman of the committee, and with various Members who are interested in the issue.

Mr. HEINZ. Mr. President, maybe we could have an informal understanding that, since obviously we all have a lot of things that we want to do and we would like to achieve some order to it, if we could reach the informal understanding that the Senator from New Mexico would proceed and then I would have the opportunity, although nothing is guaranteed on the floor, to proceed after him.

Mr. MITCHELL. Mr. President, reserving the right to object, is all this discussion occurring on my time?

The PRESIDING OFFICER. No, it is not.

Mr. MITCHELL. Thank you.

I believe that it may take just a few moments to resolve the issue that is holding us up dealing finally with the amendment which I have offered. I do not want to impede the business of the Senate, but I would be reluctant to agree to have this amendment set aside indefinitely without any understanding as to when it may come back.

Mr. METZENBAUM. Might I suggest to the Senator from Maine, in the absence of setting it aside indefinitely, that it be set aside until such time as the amendment is disposed of?

Mr. MITCHELL. Is there any way of estimating or knowing how long that would be?

Mr. DOLE. Mr. President, maybe I could be helpful here.

I ask unanimous consent that the time on the Domenici amendment be 30 minutes, equally divided.

Mr. DOMENICI. I have no objection. I really do not know anybody that is opposing it, but I assume we ought to assign that to someone.

Mr. MELCHER. Mr. President, will the majority leader yield?

Mr. DOLE. I am happy to yield.

Mr. MELCHER. Would it be possible to get in on this lineup, too?

Mr. DOLE. I was just trying to get some time agreement.

Mr. MELCHER. I already have a time agreement of 30 minutes, equally divided, on my amendment.

Mr. LONG. Mr. President, I would like to notify the minority leader, Mr. BYRD, that we are considering a unanimous-consent agreement. I believe he might want to be here and participate in discussion about the time limitations. I suggest that he be notified.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I say to the distinguished majority leader, frankly, it is satisfactory to the Senator from New Mexico if you just arrange that the Domenici amendment go next. You do not have to set the other amendment aside. Perhaps you would want to accommodate the other two Senators. We do not need a time agreement, unless you do, Mr. Leader.

Mr. DOLE. Mr. President, I am wondering, while we are still on the Mitchell amendment, if I might get 5 or 3 minutes from the Senator from Oregon, the chairman.

Mr. PACKWOOD. I would be happy to do that. The time limit we have at the moment is the time limit of the Senator from Maine. We need, without charging the time, a little bit of time to just confer and I think we could solve it.

So, I ask unanimous consent to temporarily lay the amendment aside so that the majority leader could have 5 minutes, without the time being charged against the Senator from Maine, and when he is finished we could go back to his amendment.

Mr. DOLE. Fine.

Mr. PACKWOOD. I ask that unanimous consent.

The PRESIDING OFFICER. Is there objections? Without objection, it is so ordered.

The majority leader.

Mr. DOLE. Mr. President, first let me indicate that I am going to support the Mitchell amendment, but I do believe it raises the emphasis in the wrong place. It spends additional revenue to make a new tax credit not yet even in the Tax Code more generous, rather than being concerned about the passive loss transition rules which may put developers out of business before they have a chance to use these new credits.

I have talked with a number of developers of low-income housing. I have received a number of letters from developers. They are uniformly more concerned about transition rules being insufficient than they are about whether or not the new housing credit is generous enough.

That stands to reason. If investors decide not to make additional promised payments over the next few years, these developers may go bankrupt. If they lose their ability to survive in the short run, it will not matter how generous a credit we may have enacted.

It is no answer to say that the investors are obligated to make the additional payments and this obligation can be enforced in court. We all know that the legal process takes time. We may find that the developers, especially in low-income housing just don't have that much time under our transition rules.

I also have some problems with the substance of the amendment. For example, the committee bill provides that section 8 housing does not qualify for the new credit. The amendment will allow the credit to be used in certain circumstances along with the HUD subsidy.

This may result in HUD reducing its subsidy for each project, the difference being made up by the tax credit. All this means is that a portion of low-income financing subsidies effectively is placed "off budget".

The amendment also allows the tax credit to be used in conjunction with certain programs which subsidize interest rates. With an artificially low interest rate, investors may pay more for projects than they otherwise would. However, the amendment would not reduce the credit to reflect this increase in value due to direct Federal subsidies.

Mr. President, I support low income housing and I recognize that Federal participation in this type of housing is appropriate, as well as inevitable. However, although the Mitchell amendment may be well-intentioned I believe that he may have suggested too generous a tax benefit for people who will no longer be in business to use it. We should, in my view, pay more attention to transition and allow more time to examine the specific benefit of the credit to determine whether it needs to be made more generous.

As I indicated at the outset, I think this is a view shared by a number of Senators who were concerned about some new tax credit coming up in the code not even in there now, and we are trying to cut back in every other area.

I must say, after having met with—I do not know how many—developers in this particular field, they are going to be out of business if we do not do something on transition rules. They are much more concerned about transition rules than some new kind of a credit and how generous the credit is going to be. But I would guess if there will be an effort to do anything in the conference, we need to make this step.

So I am certainly supporting the amendment of the Senators from Maine, Senators MITCHELL and COHEN. I hope in conference we can refocus on this problem and put our attention to where I believe it belongs, on the transition rules, transition periods, and less on some new generous tax credit that we do not have in the code now.

I suggest the absence of a quorum, and ask unanimous consent that it not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MITCHELL AMENDMENT ON LOW-INCOME HOUSING

● Mr. MATHIAS. Mr. President, I am in favor of the amendment introduced by the distinguished Senator from Maine, Mr. MITCHELL. The low-income housing tax credit proposed by the Senate Finance Committee is an important improvement change in the Tax Code's treatment of low-income housing investment. I support this credit, and congratulate the chairman and members for constructing such a progressive device to stimulate private investment in housing for low- and very low-income people.

However, Mr. President, the proposal as presented to the Senate is an unworkable one. It will not result in more housing stock for low-income Americans. It will increase the cost of producing low-income housing to the point where the rents needed to retire the development costs will exceed the means of low-income families and individuals to pay those rents. The proposal will jeopardize the work of nonprofit, community based development groups in hundreds of cities throughout the country which are currently producing low-income housing.

In the last 5 years, the Federal Government has withdrawn from providing direct funding for the rehabilitation and new construction development of housing affordable to low- and very low-income persons. HUD and Farmers Home Programs which once produced thousands of units per year through the efforts of large, private sector developers have not been funded in more than 2 years. The safety net for these Americans has been abandoned. Yet the housing crisis for low-income people has not abated. Indeed, it has become worse.

Faced with this shutdown of housing programs, local and State governments have been forced to take up the burden. They have entered into exciting and unique partnerships with nonprofit, community-based organizations to rehabilitate existing housing in neighborhoods; to construct in-fill housing on vacant lots; and to create new housing resources for low- and very low-income tenants in joint ventures with private, for-profit organizations.

These projects use a wide variety of subsidy programs, drawing from local and State funds, private philanthropic contributions, and corporate social investment funds. But underlying nearly every one of these projects has been one source of funding: Community development block grants [CDBG].

These grants, provided to the State or local government by HUD under the Housing and Community Development Act of 1974, are put to good use in a wide variety of ways. Sometimes they are used to acquire a site which is then donated to a nonprofit organization to develop as housing. Sometimes they are used to install water, sewer, or electricity lines, curbs, gutters, and streets to make a site suitable for housing use. Sometimes they are used as low-interest, long-term loans to finance rehabilitation work which permit rents to be set at levels that very low-income tenants can afford.

Our current Tax Code encourages the development of these projects by offering tax incentives to attract private investment into such ventures. In addition, Congress has recognized in the past the need to match such tax incentives with other Federal programs, like CDBG, which help lower the ultimate cost of the housing to the tenant.

But the Finance Committee bill would sever this important link. It prohibits the use of tax credits for properties which also receive any other form of Federal assistance, including CDBG or other direct subsidy programs.

Mr. President, this prohibition will make the continued production of low-income housing by nonprofit developers financially infeasible. Without a link between an equity investment incentive and development subsidies, rental housing for very low-income households cannot be developed or rehabilitated.

The changes proposed by Senator MITCHELL would remedy this flaw in the committee's otherwise admirable tax credit proposal. The removal of this prohibition against the use of tax incentives in conjunction with development subsidies is an important step in making the credit workable. I urge my colleagues to support these changes, and to support the low-income housing tax credit contained in the Finance Committee bill.●

● Mr. KERRY. Mr. President, I am pleased to support the amendment offered by my distinguished colleague from Maine, Senator MITCHELL. This amendment revises and expands upon an important provision of the tax reform proposal before us today, the low-income housing tax credit.

It should come as no surprise to anyone here that we are in the midst of a national housing crisis. The lack of decent, affordable housing is being felt not only by low-income families, who are increasingly shut out of Federal programs each year, but by the

handicapped, the elderly, and middle-income families as well.

The crisis we feel today has been brought about in part as a result of the Reagan administration's rejection of the Federal Government's historic role in stimulating the production of multifamily housing directly through Federal spending programs. Since 1981, budget authority for housing has declined by 60 percent.

Mr. President, few areas of Federal policy touch the lives of the less privileged among us as directly as does housing. A decent home at an affordable price is central to the American dream and to our family values. Most of us are lucky enough to take such conditions for granted. But there are millions throughout this country, I am afraid, for whom such hopes are dim indeed.

Ironically, the crisis in housing availability strikes prosperous regions of our country just as surely as areas that are economically depressed. In my home State of Massachusetts, for example, the median price for a new home is $149,000.

At these prices, growing numbers of middle-class families cannot afford to buy. These families displace lower-income families from the available rental housing stock, and push rents up beyond what the working poor can afford to pay. Statistics on number of families who rent, average incomes, average rents, compared to 40 years ago. Also States on the demand versus supply of housing.

Our Tax Code has long recognized the central role that quality housing for all Americans occupies in our social value system. The most obvious testimony to the special place for housing in the Tax Code is that the anchor of American housing policy—the home mortgage deduction—has emerged unscathed from the tax reform debates of the past year.

The incentives available to low- and moderate-income housing contained in the current code are more complex, but the goal of these provisions—increased construction and rehabilitation of affordable rental housing—is as basic as that of the home mortgage deduction.

The tax reform measure reported approved by the House last December, and the Finance Committee substitute now before the Senate both contained provisions which took account of the special role and special needs of low- and moderate-income rental housing. In this regard, Mr. President, I commend the efforts of the chairman of the Finance Committee.

The Committee's proposal replaces existing tax benefits like accelerated depreciation and tax exempt financing with a new tax credit to stimulate the production of low-income housing.

In analyzing the proposal, however, we have found that as is presently designed provisions do not go far enough to ensure the continued production of low-income housing, particularly in areas of the country with high real estate and construction costs.

At the same time, the sudden elimination of passive costs available to individuals who invested in low-income housing projects before the committee's reform were announced poses grave threats to existing housing developments. In Massachusetts, thousands of low-income families could find themselves evicted from developments foreclosed and sold at market-rates if these changes are applied retroactively. Thousands of additional units "in the pipeline" will never even be built.

Indeed, a report prepared for Secretary Pierce of the Department of Housing and Urban Development concluded that—

> Present housing proposals for tax reform can be expected to make housing less available and less affordable especially in tighter housing markets. Investment and new construction in rental housing would fall, and the supply would decline over time because of reduced maintenance of the existing stock and the conversion of some rental housing to ownership status.

One of the most important benefits of the Mitchell amendment will be the preservation of existing multifamily housing stock, and in particular, those multifamily properties financed under the HUD 221(d)(3) below market interest rate [BMIR] program. The 221(d)(3) program provides for insured mortgages to help finance the construction or substantial rehabilitation of low- and moderate-income multifamily rental units. As the initial 20-year mortgages on these properties are retired, absent any incentives to maintain these properties as low- and moderate-income rentals, the properties will more than likely be sold for the best price and converted into market rate rentals, condominiums or luxury rentals. The effect of this action will be the displacement of thousands of current tenants who will no longer be able to afford to live in these properties.

This problem is significant. Massachusetts, for example, has approximately 30,000 units of 221(d)(3) housing stock. As a result of the Mitchell amendment, however, investors will at least have some incentive, in the form of a tax credit, to maintain these properties as low-income rental housing. Through the tax benefits provided by the Mitchell amendment, investors will have some motivation for continued investment in the 221(d)(3) properties.

I support this amendment enthusiastically, and hope that in addition, the conference committee will be able to soften the impact of the passive loss rules imposed retroactively on affordable rental housing projects.●

● Mr. RIEGLE. Mr. President, I support Senator MITCHELL's amendment. It significantly improves this bill by providing incentives we need to maintain and preserve the privately owned housing that has been built with assistance from HUD and Farmers Home.

In 1949 Congress established the national goal of a decent home and suitable living environment for every American family. Since then, the basic approach of Congress has been to meet that goal as much as possible with privately developed, privately owned and privately managed rental housing.

Since the 1960's, the private sector has produced about 1.8 million units of housing for people whose incomes were too high for public housing but too low to afford market rents. Private investors built that housing as a direct result of Federal incentives, many of them provided in the Tax Code.

There should be no dispute over the need to preserve this country's enormous investment in affordable housing that we have already built.

This is no small issue. It involves hundreds of thousands of apartments located in communities across the country. It affects the housing of about 4 million Americans.

At the current average development costs of roughly $40,000 per rental housing unit, it would cost over $66 billion to replace the existing stock of privately owned, government assisted rental housing. That housing will never be replaced if it is lost. Its loss would be a tragic mistake. It would be fiscal folly that we would regret for decades to come.

This amendment puts incentives in the tax bill for investors to preserve and maintain the existing stock of assisted rental housing.

It improves on the current Tax Code by targeting benefits even more directly on units actually occupied by low-income people. It provides an annual credit of 4 percent, taken over 10 years, on the depreciable basis of low-income housing that is assisted by HUD or Farmers Home.

To qualify, a project has to meet two criteria. It must have over half of its units leased to very low-income tenants—that's a very tight income eligibility threshold. And it must have been last placed in service 15 years before the tax credit is taken—that concentrates the benefits on projects that are in need of renovation.

Without these incentives, one of two unfortunate results will occur. The first, would affect low-income housing that is located in strong markets. Owners will get out of their contracts with HUD or Farmers Home at their first opportunity and convert their projects to market rate rentals or condominiums. If they do, thousands of

low- and moderate-income people will be displaced.

The second would affect housing that is physically or financially unstable or is located in economically depressed areas. Owners of such housing are likely to default on their mortgages, causing the mortgages to be assigned to HUD and foreclosed at a tremendous cost to the Federal Government.

Great harm will be done to residents as owners stop repairs, cut back on maintenance, eliminate other services, discontinue paying their utility bills and otherwise disinvest in housing.

This amendment, instead, retains incentives for new investors to buy troubled projects and bring in fresh equity capital for rehabilitation and modernization to keep that housing in service.

Mr. President, other Senators have expressed the view that pre-existing investments in low-income housing should not be penalized by the so-called passive loss and alternative minimum tax provisions of the committee bill. I agree.

Those who have invested in this housing did so largely because of the tax incentives that Congress purposely included in the Tax Code. Those tax incentives were provided because low-income housing simply cannot provide a fair return on investment through the usual sources, such as cash flow or capital appreciation, that are available to other forms of investment.

This bill, as it stands, deprives these investors of that fair return after the fact—after they have made the investments we encouraged them to make.

If investors in low-income housing are treated unfairly now, future investors can be expected to demand a very high risk premium. That will drive up costs and make any future incentive much less effective.

Therefore, I urge the Senate conferees to find a way to provide fair transitional treatment of past investment.

Mr. President, I commend Senator MITCHELL for offering this amendment. Coupled with fair transitional relief, it will do much to provide and preserve the low-income housing that the country needs.●

● Mr. ROCKEFELLER. Mr. President, I rise in support of the amendment by my distinguished colleague from Maine, [Mr. MITCHELL], and command his efforts to address the problem of low-income housing.

The amendment, by removing certain restrictions, should make it feasible for the future low-income housing projects to use a new tax credit intended to cover 80 percent of their costs. The bill reported by the Finance Committee would have denied this credit to projects which also benefit from other Federal assistance.

Far from representing an excessive subsidy, the Federal aid is an absolutely essential component of these projects. Particularly in rural areas—where the need for additional low-income housing is desperate, assistance from HUD, or the ARC, or the Farmers Home Administration is used to clear land, build roads, put in water or sewer lines. Because hard-pressed local areas are unable to cover these costs, the bill's prohibition on the use of Federal aid would have greatly undercut the value of the new credit for potential developers of low-income housing.

The amendment also includes some modifications which will benefit existing low-income housing projects—without undoing the bill's major reforms on real estate tax shelters. Unfortunately, because the Reagan administration managed to decimate the Federal Government's subsidized housing programs, tax shelters are now the chief source of financing for low-income housing. Investors get involved in low-income housing investiments because of the tax writeoffs—not because they expect the projects to produce income. The consequences would obviously be grim if financing comes to a halt and pushes a large number of low-income housing projects into bankruptcy.

The dilemma, however, is that granting exceptions to the bill's tax shelter provisions sets a bad precedent. In my judgment, the Finance Committee wisely chose to restrict tax breaks which now encourage investors to go into deals solely to take advantage of tax losses. Real estate tax shelters have mushroomed in recent years, encouraged by the 1981 tax law which made real estate depreciation much more generous. Losses claimed for tax purposes under these deals have grown so enormously that phasing out their special treatment would bring in close to $50 billion over 5 years.

Real estate tax shelters have become one of the principal means wealthy people have of reducing their taxes—or escaping taxes altogether. Moderate-income people simply don't have the money to put into—and tie up—in these deals. But high-income taxpayers can use the large tax losses generated in the early years of an investment, and then turn around and sell their shares of a limited partnership once it starts to produce income. The buyers of these shares will be other high-income taxpayers, who can start claiming the tax losses all over again.

So awhile I'm sympathetic to the problems which the tax bill poses for low-income housing projects, I don't want to see the tax shelter provisions weakened. The existing tax breaks, besides their obvious unfariness, have encouraged substantial overinvestment in commercial real estate in many parts of the country. In some cities, vacancy rates in office buildings are 20 percent or more. The tax law encourages developers to keep putting up office buildings or shopping malls regardless of whether they're needed, because the tax breaks will turn these deals into economic investments.

At a time when we're terribly concerned about the competitiveness of our industries, we should want to see investment going into the most productive activities—going where it can generate the highest returns and add the most to our national wealth. I hope the conference committee will follow the approach of this amendment, and make every effort to meet our needs for low-income housing without undermining the fundamental reforms provided by the bill.●

● Mr. DODD. Mr. President, I rise to support the amendment before the Senate.

The low-income housing tax credit proposed as part of the committee bill is a sound and important innovation. It would, for the first time, target tax incentives for production and rehabilitation of housing to units which actually serve low and very low income families. It would impose restrictions on the rents in such units, assuring that the benefits of the tax incentive will translate to affordable housing for very low income families. These are important changes to current law, changes which I fully support. I congratulate the chairman and his committee for crafting such an innovative incentive.

However, I am concerned that the bill as drafted contains certain flaws which will prevent the credit from being fully utilized in conjunction with other programs and incentives which the Congress has enacted in recent years to encourage the development and preservation of low income rental housing.

In 1983, I proposed and the Congress adopted another innovative housing program, housing development grants, known as Hodag's. This program was designed to overcome the flaws which led to our rejection of the section 8 new construction program in 1981. Instead of offering developers carte blanche to construct luxurious apartments that the Federal Government would fully subsidize for very poor people, I proposed that we offer an incentive for private investors to produce mixed-income housing that would offer some units affordable to low income families, and others for the moderate income rental market. The Hodag program which is patterned after the successful urban development action grant [UDAG] program, may only be used to close the "financing gap" between the actual costs of development and the income which could be generated given a required minimum number of units set aside for low income families.

Since 1983, the Hodag program has stimulated the construction or reha-

bilitation of rental housing with more than 30 percent of the units serving low income families. The Hodag program embodies many of the virtues which President Reagan has extrolled since coming to office: Public-private partnerships, a high degree of leverage using a few public dollars to stimulate a higher level of private investment, and reliance on State and local governments to administer these funds in projects which they, not the Federal Government, felt were priority projects.

Investors in projects using Hodag's have always been able to take advantage of whatever tax incentives applied to the work they were doing. If the Hodag was financing a substantial rehabilitation, owners were able to take advantage of the section 167(k) 5-year write off of rehabilitation expenses for units which actually served low income households. Overall, the Hodag property was eligible for the favorable tax treatment all residential rental real estate now enjoys—19-year, 175 percent depreciation. Moreover, these projects could be financed using State or local tax exempt multifamily housing bonds. In many cases, the Hodag's embodied a broad mix of all these incentives, and many times included substantial contributions from State or local governments from CDBG or other funds to further reduce development costs.

But under the proposed bill, Hodag properties could not qualify for the low income housing tax credit. This is a senseless prohibition. Applicants for Hodag's must compete to receive funds. A principal criterion for award is the degree to which the amount of Federal Hodag grant is reduced as far as possible in relation to total costs. This emphasis on leverage and competition is critical to understanding why the Finance Committee's exclusion is a mistake. Unlike current code benefits, which are spread throughout an entire property, tax credits are available only for qualifying units. The value of a credit is easily computed, unlike depreciation or other deductible expenses. In reviewing applications, local, State, and Federal program administrators will be able to compute how many units will receive credits, and how much these credits will be worth to investors. This will facilitate the process of ensuring that the Hodag is the absolute minimal amount necessary to make a project work and still serve the targeted population. I fully expect that HUD will find it can drive even harder bargains than it has to date with the enactment of the tax credit, because it will be able to more finely tune the mix of incentives necessary. Tax credits for units which are truly serving low and very low income families will help increase the targeting and leveraging ratios of Hodag awards.

I congratulate the chairman for his good sense in proposing these tax credits as a sensible alternative to the current system. I applaud his willingness to accept the changes offered which would make it more workable. There are provisions remaining in the Senate bill which would impede the use of tax credits for low-income housing investment, but I am confident that the chairman will work with the other body during the conference committee to solve these problems in a satisfactory way. Mr. MITCHELL and the other members who worked to create this compromise deserve the Senate's thanks for coming up with an alternative which will enhance the credit's appeal. It will make the tax credits proposed by the Senate Finance Committee truly workable. It will enable us to integrate the incentives provided through the Tax Code with those provided through direct spending to ensure that the Federal Govenment is getting all the value possible from its limited resources.●

● Mr. D'AMATO. Mr. President, I am pleased to support this amendment offered by the distinguished Senator from Maine. Along with many of my colleagues on the Committee on Banking, Housing, and Urban Affairs, I am concerned that the low-income housing credit contained in the original Finance Committee bill has flaws which made it unworkable. I want to commend Senator PACKWOOD for working with those of us who have been concerned about these flaws to eliminate the most serious ones.

The credit, as it would be altered by this amendment, will provide needed tax incentives for construction and preservation of low-income housing. I remain concerned that certain limitations on an investor's ability to use the credit, however, are not addressed by this amendment. I hope they will be addressed in the conference.

In particular, the limitation of the credit to no more than $6,750 per year will make the credit much less attractive to investors. Moreover, investors with incomes over $150,000 a year will be unable to use the credit at all because of the "passive loss" limitations contained in the Finance Committee bill. This is a serious problem because it is precisely these investors who are most likely to invest in low-income housing, which offers none of the cash-flow or appreciation of other investments. I urge the conferees to revise these limitations on the credit in order to ensure that the credit will be effective in achieving its purposes.

I also share Senator PACKWOOD's view and the view of the other Senators who have spoken that the conferees should allow some transition relief to previous investors in low-income housing. These investors supplied urgently needed capital for low-income housing as a result of the specific encouragement of our tax policy. The tax benefits that were given to them by prior law were meant to substitute for the lack of cash-flow and lack of immediate appreciation inherent in low-income housing.

Both the House and the Senate have continued the tax preferences given to low-income housing, very wisely, in my judgment. It would thus be extremely unfair to penalize these investors by disallowing their expected tax benefits for investments that they made several years ago. I support Senator PACKWOOD's view that the conferees should allow some substantial transition relief for these investors.●

● Mr. KENNEDY. Mr. President, I rise in support of the amendment offered by Senator MITCHELL.

Mr. Chairman, we have labored long and hard over this tax reform bill. I have opposed many other amendments offered here. I have done so because I believe that the bill presented by the committee is a strong one.

The present amendment, however, deserves the support of every Member of this body. The changes proposed by Senator MITCHELL to the low-income housing tax credit in the committee bill are absolutely essential if we want this credit to work.

I applaud the chairman's initiative in creating the credit. It provides a very limited incentive which will benefit low and very low-income families. It restricts benefits to those most in need of housing assistance. It provides greater benefits to those who produce a greater number of affordable units for very low income renters. It ensures that the benefits to the investor are passed along to the tenant in the form of affordable rents. All these features mark a vast and long-overdue improvement over the provisions of current law.

Although this amendment makes critical improvements, I want to note that I share Senator MITCHELL's belief that further work is necessary. When this measure is considered in a conference committee, additional changes must be made to overcome concerns about how the credit is calculated, who may use it, and to what extent it will really attract private investment to low-income housing.

The Senate has taken an important step toward ensuring that the Nation continues to build and maintain low income housing. The tax amendment authored by Senator MITCHELL and myself strengthens the innovative approach adopted in the Finance Committee bill by making it clear that the new tax credit for low-income housing can be used in conjunction with other Federal, State, or local housing assistance programs. Without this amendment, new low-income housing would not be built.

Unfortunately, the bill still retains other provisions that deny future tax deductions for existing low-income housing projects. If this legislation is enacted in its present form, it will almost certainly result in crippling defaults on many worthwhile current projects. Senator MITCHELL and I intend to work with the Senate-House conferees to provide the protection these projects deserve.

These issues have been discussed in detail by the chairman and the sponsors of this amendment. We look forward to making even more progress in the future.

I support the amendment, and urge all my colleagues to do so as well. I do plan to work with the chairman and the other members of the committee as this bill moves to the conference committee to make sure that we have produced an incentive for private investment which will achieve our goal: Private sector participation in the preservation and development of housing which is affordable to low and very low-income families.

In closing I want to take 1 minute to express my admiration for the Senator from Maine. Without Senator MITCHELL's dedication and hard work we would not be here today. I also want to thank Senator PACKWOOD for his help.●

Mr. PACKWOOD. Mr. President, I think we have answered to everyone's satisfaction the questions that were raised during the quorum call. As far as I am concerned, this does not need a rollcall vote. I am ready to vote on it now.

The PRESIDING OFFICER. Is there further debate on the amendment? Is all time yielded back?

Mr. MITCHELL. I am prepared to yield back my time and proceed to a vote now.

Mr. PACKWOOD. I yield back whatever time we have.

Mr. METZENBAUM. Before we yield back the time, Mr. President, we have been discussing this amendment. To the best of my calculation I think there were 18 staff members and Senators who gave me the privilege of trying to explain to me what the amendment is about. It has to do with my concern as to whether or not there are new tax shelters that will be created by reason of this amendment. I think everybody in this body agrees that there is a concern for low-income housing. So the issue has never been a question of whether or not there should or should not be low-income housing. The question arose as to whether or not those who invest in this low-income housing and are obtaining their funds from nonprofit organizations will be able to shelter their other income.

I have been assured that passive investors will not be able to shelter their other income. I have been assured that there will not be a new tax loophole created by reason of this amendment. The chairman of the committee, as well as Senator MITCHELL who is one of the very active members on the committee, Senator BRADLEY, who has been very active in the entire discussion, assures me that there is not a way of opening a new loophole so that investors may begin to earn dollars, substantial dollars, and be kept from being obligated to pay their fair share of the taxes.

I think on the basis of those assurances, I have no reason to stand in the way of this amendment being adopted. But having said that, I must confess that I still have some bit of concern, and I am not totally satisfied that those new shelters will not come into being. But I do not wish to stand in the way of the passage of the amendment on the basis of the assurances I have heretofore received. I will not vote against it.

□ 1700

Mr. PACKWOOD. Mr. President, I assure my friend from Ohio it is not my intention to open up any new passive tax shelter. We have tried to craft this in such a way that it is proper. I think I can guarantee it does not.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 2153) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2154

[Purpose: To provide for the budgetary treatment of any revenue fluctuations produced by the Tax Reform Act of 1986]

Mr. DOMENICI. Mr. President, I send an amendment to the desk in behalf of myself, Senator GRAMM, Senator HOLLINGS, and Senator RUDMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], (for himself, Mr. GRAMM, Mr. HOLLINGS, and Mr. RUDMAN, proposes an Amendment No. 2154.)

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . EQUALIZING THE REVENUE EFFECTS OF TAX REFORM

(a) FISCAL YEARS 1986 AND 1987.—Notwithstanding any other provision of law, no tax reform revenue windfall for fiscal year 1986 or 1987 shall be taken into account in determining the total revenues for such fiscal year for purposes of—

(1) setting forth appropriate levels of total Federal revenues for such fiscal year in a concurrent resolution on the budget under section 301 or 304 of the Congressional Budget Act of 1974.

(2) calculating the deficit for such fiscal year under sections 301(i), 304(b), and 311(a) of the Congressional Budget Act of 1974 in order to determine whether the maximum deficit amount for such fiscal year has been exceeded,

(3) calculating the excess deficit for such fiscal year under sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, or

(4) formulating the budget submitted by the President under section 1105 of title 31, United States Code, for such fiscal year and any supplemental estimates and changes submitted under section 1106 of such title for such fiscal year.

(b) FISCAL YEARS 1988 AND 1989.—Notwithstanding any other provision of law, a tax reform revenue shortfall for fiscal year 1988 or 1989 shall be taken into account in determining the total revenues for such fiscal year for the purposes described in paragraphs (1) through (4) of subsection (a) only to the extent that such shortfall is not offset by tax reform revenue windfalls for fiscal years 1986 and 1987. Tax reform revenue windfalls for fiscal years 1986 and 1987 shall offset a tax reform revenue shortfall for fiscal year 1989 only to the extent that the total amount of such windfalls exceeds (and is not used to offset) any tax reform revenue shortfall for fiscal year 1988.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "tax reform revenue windfall" means, with respect to a fiscal year, any revenues (as estimated in accordance with subsection (d)) accruing to the Treasury of the United States during the fiscal year under the revenue laws of the United States, as amended by the Tax Reform Act of 1986, that are in excess of the revenues (as so estimated) that would have accrued to the Treasury of the United States during the fiscal year under the revenue laws of the United States as in effect on the day before the date of the enactment of such Act; and

(2) the term "tax reform revenue shortfall" means, with respect to a fiscal year, the amount by which the revenues (as estimated in accordance with subsection (d)) accruing to the Treasury of the United States during the fiscal year under the revenue laws of the United States, as amended by the Tax Reform Act of 1986, are less than the revenues (as so estimated) that would have accrued to the Treasury of the United States during the fiscal year under the revenue laws of the United States as in effect on the day before the date of the enactment of such Act.

(d) DETERMINATION OF AMOUNTS.—The amount of any tax reform revenue windfall or tax reform revenue shortfall for a fiscal year shall be determined as of the date of the enactment of the Tax Reform Act of 1986—

(1) by the Congressional Budget Office (using revenue estimates made by the Joint Committee on Taxation in accordance with

section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985), for the purposes specified in paragraphs (1) and (2) of subsection (a), and for purposes of carrying out the duties of the legislative branch under the provisions specified in paragraph (3) of such subsection, and

(2) by the Secretary of the Treasury, for the purposes specified in paragraph (4) of subsection (a), and for purposes of carrying out the duties of the executive branch under the provisions specified in paragraph (3) of such subsection.

Mr. DOMENICI. Mr. President, at the beginning of the debate on this bill, I indicated that Members I had spoken to and members of the Budget Committee were concerned about the impact of this bill on the deficit targets that we were mandated to achieve under the 5-year Emergency Deficit Reduction Act.

First, I want to make it clear that this amendment does not in any way change the substance of this tax bill that is before us, nor does it attempt to change the way the revenues come into the U.S. Treasury. But what concerns me and many other Members of the Senate and of the Budget Committee is that the bill may indeed run counter to the maximum deficit amounts in the Gramm-Rudman-Hollings Emergency Deficit Reduction Act.

As I indicated earlier, when this bill came to the floor, it lowered the budget deficit by $7.4 billion in fiscal year 1986 and by $22.6 billion in fiscal year 1987. But it raised the budget deficit in fiscal year 1988 by $21 billion and in fiscal year 1989 by $21.4 billion.

The Senate has adopted some amendments, but none of them change very much the uneven impact of this bill on the budget.

Obviously, the intention of the writers of this bill, they have told the Senate over and over, is that over a number of years the revenues are expected to be neutral as compared with current law. But we do not have the luxury under the Gramm-Rudman-Holiings Emergency Deficit Reduction Act of looking at revenues over a number of years. We have to look at the budget each year, 1 year at a time in terms of the revenues and the expenditures.

What I have just told the Senate is in fiscal year 1987, if the bill comes out of conference this way, it will yield additional revenues as compared to current law; in fiscal year 1988, however, it will yield less revenues. We would therefore get a windfall in the first year, that is, the targets under Gramm-Rudman-Hollings would be very easily achieved because the extra revenue would be counted unless this amendment passes.

This means that if this bill is enacted and nothing else were to change, Congress would have to come back here and cut another $21 billion out of the fiscal year 1988 budget, even if we succeeded in implementing the 1987 budget and even if all of the economic projections and all the implementation of the budget for 1987 was carried out.

More to the point, there would be substantial pressure to raise the low tax rates that we will have just enacted in this bill for 1 of the particular years or maybe 2 of the years, even though over a number of years it would come out neutral.

Therefore, as I told the Senate when we took up the Budget Act waiver, the Budget Committee members unanimously asked and instructed Senator CHILES and myself to attempt to resolve this problem in a way that was acceptable to the managers of the bill.

I intend to join Senator CHILES in a sense-of-the-Senate resolution which would, in essence, ask the conferees to even out the swings in revenue that now exist in this bill. But, obviously, that is a substantive matter clearly within their jurisdiction.

In my judgment, we also have to insulate the maximum deficit amounts from the revenue swings that may result from this bill. This amendment would effectively neutralize the revenue swings over the next 3 years solely for the four following purposes:

First, in developing future congressional budget resolutions;

Second, scoring Budget Act points of order;

Third, calculating the revenue baseline for sequestration purposes; that is, determining if more cuts are needed to meet the minimum deficit amounts;

And, fourth, for the formulation of the President's budget.

Specifically, the amendment provides that any windfall revenue gain will be excluded from the calculation of the total revenue levels in 1987 for the purpose of the congressional budget resolution and for calculating the revenue base in August to determine whether a sequester order and an across-the-board cut is required.

This means that under the current revenue estimates for the bill, the $7.4 billion revenue pickup in fiscal year 1986 would not be counted, nor would the $23.3 billion increase in fiscal year 1987.

In addition, any revenue shortfalls in fiscal years 1988 and 1989 would be excluded from the revenue baseline in the budget resolution and in the calculation of the sequester base deficit to the extent they are offset by windfall gains in fiscal year 1986 and fiscal year 1987.

This amendment designates the revenue estimates of the bill upon enactment as the estimates to be used in determining these gains and losses.

When we come along again and CBO and OMB do their estimates of the fiscal year 1987 deficit, they will estimate what revenues will be on the basis of new economics, but they will specifically exclude any revenue increase that may come from this bill if it is enacted by that time.

If revenues are down for economic reasons, they will be down. The lower revenues due to a weaker economy will not be offset by higher revenues expected from this bill. However, next year, when we begin the process, if there is a loss in the 1988 revenues, the budget year we will be working on, due to this bill, we will exclude this loss from the revenue baseline in the budget resolution—I want to emphasize the following—to the extent that it is offset by revenues we pick up in fiscal year 1986 and fiscal year 1987 under this bill.

This will also be the case when CBO and OMB calculate the 1988 deficit for the purpose of determining whether a sequester is needed.

Let me emphasize, we are only insulating the process with respect to revenue losses to the extent we pick up revenue in the early years. It is my wish that the revenue impact of this bill would be exactly zero in each year, but I realize that this is probably impossible, not because the writers of the bill would not want to; it is just that the job of reforming the Tax Code is so dramatic, so major, that it is almost impossible for them to go out and have the kind of reform that we all want and yet come back with the same revenue levels expected under current law in each of the years.

This bill has been determined to be revenue neutral if it neither raises or lowers revenues on balance over 5 years. However, all the discussion of what is revenue neutral arises quite apart from the budget. I see powerful incentives in conference to reduce the revenue increase in 1987 by accelerating the tax cuts and making other compromises without reducing the revenue losses we face in 1988 and 1989 and to make up the difference in fiscal year 1990 and 1991.

This would be disastrous for the ability of the Senate and the Congress to meet the Gramm-Rudman targets or even to develop a plan for achieving those goals. The conferees should be aware that to the extent that the conference result reduces the overall flow of revenue to the Federal Treasury over the next 5 years they will undercut the credibility of the low tax rates contained in the new tax bill. I honestly believe they understand that.

The amendment that I offer today, with my cosponsors as I have indicated, as I have explained it, attempts to go a long way toward insulating our processes and the President's budget from this rather historic and sweeping tax reform measure which is before us.

□ 1710

It was not in the minds of the U.S. Congress or those who supported or

sponsored Gramm-Rudman-Hollings that a bill such as this would come along so soon and have such a potentially dramatic effect on revenue levels.

This amendment does not go all the way. If in conference the agreement spends the potential revenue gain in the first year and continues to have large losses in 1988 and 1989, we shall be back here next year facing all of the same deficit problems that we had even before the U.S. Senate passed the budget resolution which, if implemented, would have dramatically changed them.

I hope the Senate will adopt this amendment, but I also hope the conferees will take the matter therein seriously. Frankly, we all want this tax reform measure. We all would like the bill to be literally revenue neutral, not over 5 years but consistent with today's revenue expectations.

We cannot insist on that but we clearly hope that the conferees understand to the extent they are unable to do that and if they push the gains out into the fourth and fifth years, they will leave the Congress of the United States in a very, very difficult position for the fiscal years 1988 and 1989.

Mr. President, I thank the distinguished chairman [Mr. PACKWOOD] for his consideration and thank his staff for the work they have done, the joint committee staff for all the work they have done, and the others who have helped with it, and I hope the Senate will adopt this measure soon after we have presented it here this evening.

I yield the floor.

(Mr. GORTON assumed the chair.)

Mr. PACKWOOD. Mr. President, very briefly, I support this amendment. I support it because, from the very outset when we introduced this bill and when we brought it to the floor, I indicated that we do not want to attempt some phony deficit reduction with phony figures. The fact that this bill raises some money in the early years, drops in the middle years, and comes back in the end years may encourage Congress to use it in an attempt to meet our deficit projections of last year and in essence say we shall worry about 1988 in 1988; we shall worry about 1989 in 1989; let us take the money now and worry about the devil next year.

I very much support this amendment. This is a tax reform bill. Whether or not in 1, 2 or 3 months the Senate or Congress wants to consider whether they are going to raise revenues or not raise revenues is a decision for the Senate or for Congress to make. Congress has not made the decision yet and this bill should not be used as an artificial vehicle to attempt to get us over a hurdle next year.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. DOMENICI. Mr. President, will the Senator yield to me?

Mr. GRAMM. I yield.

Mr. DOMENICI. Let me say to the chairman, the Senator from Oregon [Mr. PACKWOOD], he has put his finger right on it. This bill, if we were to pass it overwhelmingly tomorrow and it came back from conference with exactly these estimates, in the fiscal year 1987, not only would you not have to cut anything, you could fund an increase in almost every domestic program, defense, and everything else, and you probably would not have a sequester. Because indeed, in addition to the normal growth in revenue under current law, this adds $23.3 billion in fiscal year 1987.

What the chairman is saying is in fiscal year 1987, that would really be a phony, because what would we do the next year? There is no question that they do not want that to happen. We think we have provided a realistic way to prevent it. We do not think it has any negative economic impact, but we do think it is realistic.

We added one thing to the bill in the course of the discussion. We said the President should send his budget to us using the same basic implementing tools and assumptions. He will have to tell us what his budget looks like based upon the fiscal year 1987 windfall being moved into the next year as we described it. We think that provides some continuity and we hope the conferees will retain this amendment to the substantive budget law of the land as they move through the conference on taxes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, the distinguished chairman of the Budget Committee [Mr. DOMENICI] and the distinguished chairman of the Finance Committee [Mr. PACKWOOD] have explained this so well that I do not think an indepth explanation from me is going to be needed. I thank them for working on this problem. I have enjoyed working with them, with the Treasury Department, and with all those who have been involved in trying to assure that in this tax reform bill, we reform taxes, that we are not producing windfall revenues that give us an incentive to escape our responsibilities today only to be clobbered in 1988 and 1989 with deficits that we cannot deal with through fiscal responsibility alone.

Let me just refer to the chart I have with me.

Our problem is that on the front end, under the current bill, we have in the first year 7.13 billion dollars' worth of windfall revenues. In fiscal 1987, that goes up to $23.3 billion. Then we fall substantially in fiscal year 1988 and fiscal year 1989 to roughly a $20 billion shortfall each of those 2 years before we come back on the line.

My concern, Mr. President, is that it is a lot easier to spend money today than it is to make hard decisions. My fear has been that if we had a $30 billion front-end windfall in an election year, Congress would rush out and spend that money, not make hard decisions this year, not set us on a path that meets the requirements of Gramm-Rudman-Hollings and then, when the fiscal years 1988 and 1989 came, we would have an insurmountable problem. I think with this amendment, we deal with the problem. By taking the windfall revenue at the front end, not counting it toward budget points of order in the Gramm-Rudman-Hollings bill but instead bringing it onbudget to count as those points of order in fiscal years 1988 and 1989, we keep Congress trying to do the job it needs to do this year so it can do the job in fiscal years 1988 and 1989, as well.

I commend this amendment to the Members of the Senate and I commend my colleagues for bringing this issue to the floor.

Mr. HEINZ. Mr. President, will my friend from New Mexico yield me 3 minutes?

Mr. DOMENICI. I do not think we are on controlled time.

The PRESIDING OFFICER. Does the Senator from Pennsylvania wish to speak to this amendment?

Mr. HEINZ. Yes, Mr. President.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. HEINZ. Mr. President, between the Senator from New Mexico and the Senator from Texas, I think we have all seen a very erudite and excellent explanation of what will happen if we do not pass the Domenici amendment. I rise to strongly support it.

The important fact of this revenue-neutral tax bill is that it is also revenue erratic. The Domenici amendment would smooth out the bill so that we do not tempt Congress with some large tax surpluses in the first 2 fiscal years, to the tune of as much, in the latter year, as $22 billion or $23 billion.

I think we all know full well the danger of applying those kinds of large surpluses to spending or, although it is a very important subject and we should do more of it, to deficit reduction.

The problem is this: we are going to dig ourselves a much deeper hole in 1989 and 1990 as the Senator from New Mexico and the Senator from Texas have pointed out. The result of digging deep holes for ourselves in those 2 years would almost certainly bring about the ordering of a truly massive sequester under the Gramm-Rudman-Hollings Act.

□ 1720

Now we have our work cut out for us as it is. We need to get down to $144 billion in deficit spending for the coming fiscal year, and that is a tough task by itself. We need to get down to $108 billion in fiscal 1988, and that will again be a tough job. We have to get down to $72 billion in deficit in fiscal year 1989. If we do not address this issue as the Senator from New Mexico has proposed, it will be all but impossible for Congress to achieve those goals without some kind of new massive tax increase or some kind of spending reductions that would do real violence to any semblance of managing our affairs in a sensible, reasonable, predictable way; a way which we should strive for as a goal in governing. We do not want to see massive tax increases and we do not want to see education or housing or research or the national defense suddenly devastated. So I commend Senator DOMENICI and Senator GRAMM. I strongly support what they are doing and I hope all our colleagues do, too. I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. I have nothing further to say. I hope the Senate adopts the amendment at this point.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2154) was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2155

(Purpose: To allow a 30-percent capital gains exclusion for the sale of property by an individual actively engaged in the trade or business of farming or woodlot operations; and to limit net operating loss carrybacks)

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I wonder if I could have the attention of the distinguished chairman of the Finance Committee.

Mr. President, we have a 30-minute time limit on this amendment. There are two of us, Senator HEFLIN and myself, who would like to speak to the amendment. I ask the distinguished chairman if he could yield us 5 minutes so we could each have 10 minutes.

Mr. PACKWOOD. Could the Senator make that request again? I could not quite hear the Senator.

Mr. MELCHER. We have a 30-minute time agreement on this amendment.

Mr. PACKWOOD. Right.

Mr. MELCHER. There are two of us who would like to speak to the amendment, Senator HEFLIN and myself. I would like to request if the distinguished chairman could yield us 5 minutes of his time so we could each have 10 minutes.

Mr. PACKWOOD. I am a little confused. In other words, we have 30 minutes total, 15 minutes equally divided?

Mr. MELCHER. That is right, 15 minutes on a side.

Mr. PACKWOOD. I am a little reluctant to yield my time because I am going to be in opposition to the amendment. So I think for the moment, I would have to object.

Mr. MELCHER. Mr. President, we are on such a big roll I thought maybe we could continue with agreeable amendments.

Mr. President, on behalf of myself and Senator HEFLIN and Senator ZORINSKY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER], for himself and others, proposes an amendment numbered 2155.

Mr. MELCHER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1582, beginning with line 3, strike out all through page 1585, line 3, and insert:

SEC. 401. REPEAL OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS OTHER THAN CERTAIN GAINS OF FARMERS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS FROM SALE OF CERTAIN FARM PROPERTY.

"(a) IN GENERAL.—If for any taxable year a qualified farmer has any qualified farm net capital gain, 30 percent of such gain shall be a deduction from gross income."

"(b) DEFINITION.—For purposes of this section—

"(1) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means an individual—

"(i) who is actively engaged in the trade or business of farming, and

"(ii) the taxable income of whom for the taxable year (after application of this section) is $100,000 or less.

"(B) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis.

"(2) QUALIFIED FARM NET CAPITAL GAIN.—The term 'qualified farm net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taken into account only gain or loss from the sale or exchange of property used in the taxpayer's trade or business of farming.

"(3) FARMING.—The term 'farming' has the meaning given such term by section 2032A(e) (4) and (5), including the carrying on of the trade or business of aquaculture on a farm; and including the sawing and milling of timber.

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" and inserting in lieu thereof "100 percent (28/33 in the case of a corporation)", and

(B) by adding at the end thereof the following new sentence: "In the case of any qualified farmer with respect to whom a deduction is allowable under section 1202, this paragraph shall be applied by substituting '70 percent' for '100 percent' with respect to any qualified farm net capital gain."

(2) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(3) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B), or (C)" both places it appears and inserting in lieu thereof "section 1211(b)".

(4) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1202 and inserting in lieu thereof the following new item:

"Sec. 1202. Deduction for capital gains from sale of certain farm property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1978, after line 24, insert the following:

"(6) CAPITAL GAINS.—

"(A) QUALIFIED FARMERS.—In the case of a qualified farmer (within the meaning of section 1202(b)(1)), an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5))."

On page 2271, line 19, insert "(reduced by the amount of any deduction under section 1202(a) allocable to such gain)" after "income".

SEC. 559 in the bill as previously amended is further amended by striking out "$200 million" and inserting in lieu thereof "$800 million".

Mr. MELCHER. Mr. President, first of all, the revenue offset in this amendment is not a new subject to the Senate floor; the amendment does not in any way change the rates or get into the proposition of a so-called tax loophole dealing with passive versus active income earners. But in effect what the amendment does is close a part of a loophole, corrects part of a glitch or slip or windfall that now exists in the Senate Finance Committee bill as reported to the floor.

Senator BUMPERS, in presenting the offset to his amnesty amendment last Friday, discussed this glitch—or slip—in some detail, identifying the amount of the windfall at $1.6 billion, as determined by the Joint Tax Committee. His amendment, which was adopted last Friday, utilized one-eighth that amount, or $200 million, to offset the revenue loss when the Senate adopted his amendment.

The adoption of my amendment requires an offset of $600 million, and so we have drafted the amendment to utilize $600 million of the $1.4 billion remaining windfall amount.

This unintended windfall for corporations occurs on the 3-year carryback provision of tax losses in a bad year to be used going back the 3 preceding years, which may have been profitable years. The windfall occurs as under the bill the corporate tax rate will be 39 percent in 1987, and 33 percent in 1988 and the years beyond, as compared to 46 percent, which is the present corporate tax rate. Simply put, in 1988 a corporate loss for that year could be applied against 1985, when the tax rates were 46 percent rather than 33 percent—an advantage of 13 percent.

Losses incurred in years with a 33 percent corporate tax rate can, therefore, be used to offset income taxes paid in a year when the maximum corporate rate was 46 percent. I believe that this potential windfall was unintended by the Senate Finance Committee and is not supported by the Senate.

Under current law, a corporation with a loss can offset any taxes paid in the 3 preceding years. That means that Corporation ABC, with a loss in 1988 of $1 million, could apply that against taxes paid in 1985, 1986, and 1987, and receive from the Treasury a check for up to $460,000.

That's right—the bill before us would allow that to continue, and I do not believe that the Senate wants to make the transition from the 46 percent corporate tax rate to the lower rate of 33 percent and still have the $1 million loss applied against taxes that were paid at 46 percent.

My amendment directs the Secretary of the Treasury to adjust how much of the offset could be obtained in this carryback provision.

To the extent that this would close this glitch, the Senate can adopt my amendment to make the capital gains tax for agricultural producers and wood lot operators with incomes of $100,000 or less per year still subject to the current capital gains provisions.

Example: If in 1988 a corporation makes $100,000 profit, the corporation will pay $33,000 in taxes at the 33 percent rate. Now, in 1985, if the corporation makes $100,000, it would have paid $46,000 in income taxes.

But if in 1988, after this bill is in force, when the top rate is 33 percent, the corporation loses $100,000, it can carry that loss back for the preceding 3 years and that would take it back first to 1985. If it had $100,000 in income in 1985, it paid $46,000. This means that the $100,000 loss in 1988 could offset $46,000 in 1985 rather than $33,000 giving the corporation $13,000 more in a tax refund that will be available in 1991.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator HOLLINGS be shown as an original cosponsor of the Domenici amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. If the Senator from Montana will withhold, the Senator is informed that the amendment which he has sent to the desk amends the bill at a place which has already been amended and it is therefore not in order.

Mr. MELCHER. Mr. President, parliamentary inquiry. That deals with the revenue gain—the revenue offset.

The PRESIDING OFFICER. It deals with amending the Bumpers amendment which has already been adopted. The Senator could ask unanimous consent that his amendment be considered to be in order.

Mr. MELCHER. Mr. President, I do ask such unanimous consent. I might point out that the assistance in drafting the amendment showed it to be the proper way to go at it.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. For the moment, reserving the right to object, I just want to find out for the moment why it is not in order. I may not object to his changing it but if I could just have a few moments to check on it I would suggest the absence of a quorum.

Mr. MELCHER. Mr. President, I ask unanimous consent that this time for a quorum call not be charged against me.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment proposed by the Senator from Montana amends the Bumpers amendment on tax amnesty which was adopted by this body on Friday. It is out of order for that reason.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1730

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MELCHER. Mr. President, I object, temporarily, I say to the Senator from Georgia.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk continued to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2156

(Purpose: To allow a 30-percent capital gains exclusion for the sale of property by an individual actively engaged in the trade or business of farming or woodlot operations; and to limit net operating loss carrybacks)

Mr. MELCHER. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The Senator is informed that the pending business is his unanimous-consent request with respect to his amendment.

Mr. MATTINGLY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MELCHER. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana [Mr. MELCHER], for himself, Mr. HEFLIN, and Mr. ZORINSKY, proposes an amendment numbered 2156.

Mr. MELCHER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1582, beginning with line 3, strike out all through page 1585, line 3, and insert:

SEC. 421. REPEAL OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS OTHER THAN CERTAIN GAINS OF FARMERS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS FROM SALE OF CERTAIN FARM PROPERTY.

"(a) IN GENERAL.—If for any taxable year a qualified farmer has any qualified farm net capital gain, 30 percent of such gain shall be a deduction from gross income."

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means an individual—

"(i) who is actively engaged in the trade or business of farming, and

"(ii) the taxable income of whom for the taxable year (after application of this section) is $100,000 or less.

"(B) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis.

"(2) QUALIFIED FARM NET CAPITAL GAIN.—The term 'qualified farm net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taken into account only gain or loss from the sale or exchange of property used in the taxpayer's trade or business of farming.

"(3) FARMING.—The term 'farming' has the meaning given such term by section 2032A(e) (4) and (5), including the carrying on of the trade or business of aquaculture on a farm; and including the sawing and milling of timber.

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" and inserting in lieu thereof "100 percent (28/33 in the case of a corporation)", and

(B) by adding at the end thereof the following new sentence: "In the case of any qualified farmer with respect to whom a deduction is allowable under section 1202, this paragraph shall be applied by substituting '70 percent' for '100 percent' with respect to any qualified farm net capital gain.

(2) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(3) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B), or (C)" both places it appears and inserting in lieu thereof "section 1211(b)".

(4) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1202 and inserting in lieu thereof the following new item:

"Sec. 1202. Deduction for capital gains from sale of certain farm property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1978, after line 24, insert the following:

"(6) CAPITAL GAINS.—

"(A) QUALIFIED FARMERS.—In the case of a qualified farmer (within the meaning of section 1202(b)(1)), an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(II) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade of business of farming (within the meaning of section 2032A(3)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5))".

On page 2271, line 19, insert "(reduced by the amount of and deduction under section 1202(a) allocable to such gain)" after "income".

Notwithstanding any other provision of this act, the figure in Sec. 559 in the bill as previously amended as "$200 million" is deemed to be "$800 million".

Mr. MELCHER. Mr. President, not only is there a glitch in the bill as it is before the Senate now, but there is also a glitch in the amendment I sent to the desk.

The correction has to deal with the fact that notwithstanding the action taken by the Senate last Friday, we utilize a portion of the $1.6 billion of unintended windfall on the carryback provision of the corporations that have losses. If losses occur presently, they are offset by a check coming from the Treasury and carrying back 3 years prior on profits that were made previously.

I do not believe that the Senate intends that the carryback provision for corporations, to get these checks from the Treasury, will be offset with 46 percent tax, as is the corporate rate right now, versus a 33-percent corporate rate, which is in the bill before the Senate.

So the amendment uses that for revenue offset. The cost of the amendment is $600 million, and the amendment does this: The amendment does not refer to anybody in the passive versus active question, because it refers only to active farmers, ranchers, and woodlot operators on the capital gains provision, for those people who make up to $100,000 in income in any year, letting them have the current law as it applies to capital gains.

The committee bill, the bill now before the Senate, uses a broadax approach on capital gains. It knocks it out completely for everybody. It is completely dead—completely "daid."

I believe in capital gains. I think it is a good tax policy. But regardless of what anybody else thinks about it in the Senate or throughout the country, I think we can all agree that the broadax approach is much too broad. It was too broad an ax that was used by the Senate Finance Committee in drafting the bill.

Therefore, this amendment would retain capital gains for farmers and ranchers whose income does not exceed $100,000 in any year, retain it for them. It would retain it for woodlot operators whose income does not exceed $100,000 in any year. I think that is only just. Farmers and ranchers are losing money. They should be protected by this tax policy, which is several decades old in our Tax Code. Woodlot operators who sell their trees believe they should have this protection, and I agree.

The American Society of Foresters agree, and they have sent all of us a letter explaining why this is the No. 1 priority of woodlot operators throughout the country, to retain the capital gains as it affects them—retain it as in current law. I think it is only fair and justifiable and equitable that they be allowed to retain this capital gains feature of the present law.

Mr. President, I yield such time as he may consume to the Senator from Alabama [Mr. HEFLIN].

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I support this amendment.

Some have asked why we are interested in the farmer and why we are trying, amendment by amendment, to preserve certain aspects of present law pertaining to the farmer. I think the Nation as a whole knows that the farmer is in a dreadful crisis, and I think we should not put the farmer in a worse condition than he already is in today.

We have made efforts to pass bills to relieve the farm credit crisis. This was vetoed. We passed a farm bill. Many of us felt that the farm bill was nothing more than a continuation of the status quo, with less benefits to the farmer.

We have been able to retain some benefits to the farmer with amendments to this bill but, to me, capital gains is one of the key amendments for the farmer. Capital gains deductions are certainly needed in risky industries and businesses that involve the natural biological cycles and reproductive processes. Farmers that raise cattle, for instance, cannot expect immediate income from the purchase of brood cows. Income that results from the sale of such livestock is the product of several years. This situation applies to those involved in the production of other animals, such as hogs and poultry or, a new industry that shows great promise in the South, the production of catfish, which is now referred to as aquaculture.

□ 1740

Sometimes we realize all the elements that the farmers fight.

A few years ago we knew of the Okies who had a terrible time and had to leave their home because of the dust bowl. We have heard of the grasshopper hordes, the hurricanes, and the droughts. We are currently experiencing a terrible drought in my home State.

We have had fire ants and the problems they bring about.

There are all sorts of various things.

One of the worst things is an east wind in August.

I have mentioned some of the natural calamities and disasters that farmers face. But there are calamities that farmers will tell you about that are unexplainable. These calamities they say are usually preceded by a sign that appears to give the farmer a warning of the approaching calamities.

One of these is blackbirds in December. Many farmers believe that when blackbirds are seen in the fields in the South in December it means the beginning of a bad winter which is going to be terribly rough on the winter wheat. Farmers will tell you that this has historically been true.

The cotton farmer will warn you of the moon dogs. People probably do not know much about moon dogs. But Webster even defines "moon dogs." A farmer who looks at the Moon in late August and in the early part of September can spot moon dogs by the appearance of the Moon. The Moon will have a circle around it. That circle around the Moon then has bright spots in it. Those bright spots are called moon dogs. Moon dogs are cursed and dreadful sights to the cotton farmer.

Now, a farmer that looks up there and sees it knows that moon dogs are the beginning of calamity. It means that the bolls that may be on the cotton will turn brown. They say that sometimes as a result of moon dogs farmers will see the cotton bolls turn as brown as the eyes of a long-haired bird dog.

You can hear the oldtimers tell you about the various calamities. They say do not confuse this with the sun dogs. The sun dogs are a welcomed sight during the hot dusty afternoons in the season of "dog days." Any old codger can quote you a rhyme about sun dogs that says, "Watch the sky when the weather is dry; if the sun dogs appear the rains are near."

There are all sorts of weather problems that are confronting the farmers. These calamities we cannot help. But we in Congress can help prevent some calamities such as repealing capital gains deductions. I think this amendment will be a step in the right direction. We ought to retain capital gains deduction for our farmers.

I wish that capital gains was the "end-all" for the cotton farmer, but it is not. Cotton farmers are at the mercy of the infamous "boll weevil." Many people think that boll weevils are Southern conservative Congressmen, but really the boll weevil is a long-snooted bug that worked its way from old Mexico through the cotton fields of Texas up into the Cotton Belt of the South. The boll weevil is such an efficient, destructive machine that in some areas it has resulted in complete devastation to the farmer.

There is one town in my State—Enterprise, AL—that erected a monument to the boll weevil. That monument was erected because it brought to the attention of the farmer that he could not make a living growing cotton because of the boll weevil so he had to turn to other crops and, basically, in that area he turned to peanuts.

The people erected this monument and that monument is there today which reminds people of the devastation that pests can play upon the cotton fields and the devastation that can take place to the farmer as a result of weather and of various types of calamities such as pests.

So with this in mind I think that this is an effort to try to protect the farmer, and to me it is needed and we ought to do what we can to preserve capital gains for the farmer and for the timber land owner as well.

A major industry in Alabama is timber. Timber is a long-term capital asset—it takes 20 to 50 years to grow to maturity. In my State there are more than 386,000 owners of private forestlands—more than 19.7 million acres. The majority of these owners are small landowners, less than 100 acres. Removing the tax differential capital gains as provided would be a real hardship for these timber growers. It could mean the difference between replanting after harvest and not replanting trees—which was the case in our country before capital gains treatment of timber was enacted in 1944.

Over the past four decades forestry in the United States has come a long way, largely as a result of the incentive provided timber owners by the capital gains tax differential. I am fearful that we could return to an era of harvesting without replanting that was so prevalent before 1944.

Timber growing is a classic example of a risky, long-term, illiquid investment. Timber growers face the threat of fire, wind damage, insects and disease—and in the South the pine bark beetle is now taking a heavy toll. The investment is both long-term and illiquid since trees cannot be harvested and sold until they are mature 20 to 50 years. What incentive is there to plant trees, care for them for decades, and then face dramatically higher taxes on the income received, which may be forthcoming once in a lifetime?

Alabama's timber resource is the basis for a flourishing forest products industry. The manufacture of wood products and pulp and paper provides employment for 50,000 people and payrolls of more than $1 billion annually. Shipments of Alabama forest products are in excess of $3 billion annually. In our rural communities timber is the economic backbone. So there is reason for concern about the impact of eliminating the capital gains differential for individuals as it affects timber growing and other long-term investments.

Timber growers are questioning the fairness of changing the rules in the middle of the game. Without capital gains, they say, they will not be able to afford to replant trees when they are cut. Many say it will cripple forestry on private nonindustrial ownerships.

The top capital gains tax rate under present law is 20 percent. Eliminating the capital gains differential would raise the rate to 27 percent, the same as the top rate on ordinary income. But with surcharges the rate can go as high as 32 percent. Let me give you an example of how a couple filing a joint return would be affected who have a precapital taxable income of $20,000.

In that tax bracket their present capital gains tax rate would be 7.2 percent. Under the proposal we are considering their new rate on long-term investment income would be 15 percent—that's an increase of 108 percent in taxes. If their tax bracket is lower, their percentage increase in taxes would be even higher—up to 168 percent. Timber owners can honestly say they cannot afford to grow trees.

Capital gains have been part of the Tax Code since 1921. It has a proven track record in stimulating new enterprises and in encouraging people to take risks in the interest of moving our economy forward.

Mr. President, I urge my colleagues to join with me in support of this amendment. This provision will insure that the more than 7.5 million owners of timberland in this Nation will be given consideration that growing long-term forest crops is the kind of risk investment that is in the public interest. Let's make sure we don't destroy private forestry and other long-term enterprises that contribute so heavily to our economy and to our quality of life.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, what is the time limit remaining?

The PRESIDING OFFICER. The Senator from Oregon has 15 minutes remaining; the Senator from Montana has 4 minutes and 47 seconds.

Mr. PACKWOOD. Mr. President, I rise in opposition to this amendment, not out of any lack of sympathy for those in agriculture. Every one of us in the States, whether Montana, New Jersey, Ohio, or Oregon, is familiar with the plight of the farmers. But I rise in opposition because of the method of financing this.

We have already in this bill given investment tax credit carrybacks to farmers that we have not given elsewhere. We have also given income averaging and now it is the intention of the Senator from Montana to change what we call the net operating loss provisions, which were very carefully crafted, calculated, balanced, and limited in the Finance Committee bill, in order to make this further benefit that will apply only to farmers and woodlot owners up to $100,000 a year.

Mr. President, I do not know about your State, but in my State $100,000 is still a lot of money. That is hardly a middle-income taxpayer. That is not even an upper-middle income taxpayer. Someone who has $100,000 is someone of reasonable wealth. A $100,000 limit will benefit someone in the upper 5 percent of the income group in this country.

I just have misgivings of having this kind of an amendment financed out of someone else's hide after the committee has attempted to evenly and fairly craft how the net operating losses will work.

So tomorrow when we vote on this I will move to table and it will be my hope that the Senate will not agree to this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I yield myself 2 minutes.

Mr. President, the distinguished chairman of the Finance Committee has said we have done a lot for farmers. Mr. President, we are doing a lot to farmers. That is what hurts.

What this bill does for farmers is to take away their opportunity to have recovery—and, boy, do they ever need a recovery period. They need to make some money, but what this bill will do is if they start to make some money, it is going to tax them more. Why do they need to make money? It is because they have huge debts. That is for farmers and for ranchers. They need to have some profits to pay off the principal of those debts.

Capital gains is a long-standing feature in our Tax Code and it should not be abolished completely. This amendment would retain partially some protection for them and for the woodlot operators.

I must repeat what the American Society of Foresters, the professional foresters, has said. This is a No. 1 priority for them to be able to have some capital gains protection so that woodlot operators in utilizing and harvesting their trees have the protection of capital gains. That is the way it has been. It should not be hampered by the new tax policy laid down in this bill.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 25 seconds remaining.

Mr. MELCHER. Mr. President, I yield to the Senator from Alabama 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I wish to reply to say we are dealing with highly capital intensive types of products such as timber. Timber can easily amount to a gross sales of $100,000. But this does not mean much profit to the farmer. It takes 20 to 50 years to grow trees. You can deal with cattle, and cattle gross sales can add up to $100,000. But it does not mean that that is anywhere close to being the profit for a farmer. It takes years of investment in time and money before any sales are made. Capital gains is one provision that is truly needed by those involved in risky business of depending on mother nature, and the biological and reproductive process.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

□ 1750

Mr. MELCHER. Mr. President, might I inquire of the distinguished chairman if he intends to utilize more of his time?

Mr. PACKWOOD. Inquire as to what?

Mr. MELCHER. If the distinguished chairman intends to utilize more of his time.

Mr. PACKWOOD. Yes, I may use a little more time. I am waiting for some answers to inquiries of the Chair.

Mr. MELCHER. Mr. President, I believe I only have 1 minute and 30 seconds.

The PRESIDING OFFICER. Two minutes and eighteen seconds.

Mr. MELCHER. I ask unanimous consent that I be able to reserve that 2 minutes and 18 seconds and that any time that transpires until the time the chairman begins to utilize his time not be charged against my 2 minutes and 18 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, could I ask what that unanimous consent was?

The PRESIDING OFFICER. The Senator from Montana asked that he be able to reserve his remaining 2 minutes and 18 seconds until the Senator from Oregon, the chairman, uses his time.

Mr. PACKWOOD. Mr. President, I suggest the absense of a quorum—will that be charged equally against both sides?

The PRESIDING OFFICER. It would be charged against the Senator from Oregon.

Mr. PACKWOOD. I withdraw the request.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. There is no quorum call in progress at the present time.

Mr. HEFLIN. There is no quorum call?

The PRESIDING OFFICER. At the present time, the Senate is in open session, with the time being charged to the Senator from Oregon.

Mr. HEFLIN. Mr. President, I ask unanimous consent that I be allowed 30 seconds to speak as if in morning business while we are waiting.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. HEFLIN will appear later in the RECORD.)

The PRESIDING OFFICER. Does the Senator from Alabama suggest the absence of a quorum?

Mr. HEFLIN. Yes.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1800

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PACKWOOD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Reserving the right to object.

Mr. BYRD. Mr. President, I ask for regular order.

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. I ask unanimous consent that the call of the quorum be rescinded, and I further ask unanimous consent that the current practice involving the quorum call that has been in effect wherein charged time is not being charged against the time of the Senator from Oregon, Mr. PACKWOOD, be respected if another quorum call subsequent to my successful rescinding of this quorum call be agreed to.

The PRESIDING OFFICER. The Chair advises that during a quorum call normal requests are entertained to rescind the quorum call.

Mr. HEINZ. I believe there was an objection.

The PRESIDING OFFICER. Objection is heard.

Mr. HEINZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, I ask unanimous consent to proceed for not to exceed 10 mintues as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, I do not intend to object. But if the Senator from Pennsylvania intends to address himself to his amendment in morning business, if that is the case, I think the floor ought to be open for free debate.

Mr. HEINZ. If the Senator will permit, it is my intention at the earliest possible moment to get the floor to do that. But I do not want to prejudice the right of the Senator from Montana, whose amendment is now the pending business of the Senate. So in order to proceed with greatest expeditiousness I have asked for this time to discuss my amendment. It is not my intention to preclude discussion. Indeed I welcome and want full discussion of the amendment.

Mr. METZENBAUM. Under those circumstances I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I will not object. Will the Senator yield?

Mr. HEINZ. I am pleased to yield to the Democratic leader.

Mr. BYRD. Mr. President, in the event the distinguished Senator completes his statement as in morning business and then suggests the absence of a quorum, against whom would the time on the quorum call be charged?

The PRESIDING OFFICER. The time would not be charged to either side.

Mr. BYRD. Why is that?

The PRESIDING OFFICER. While the Senate is conducting business as in morning business, the Senate is not on the amendment.

Mr. BYRD. Then the only way to prevent such a quorum call from running without its being charged is to object to the Senator's asking that he be allowed to proceed as in morning business. Let me say for the RECORD I disagree with the Chair's response, the Chair having been so advised by the Parliamentarian. The Senate is not in morning business. The distinguished Senator from Pennsylvania is proceeding with a statement "as in morning business." He did not ask consent that, upon the completion of his statement, he might be permitted to suggest the absence of a quorum "as in morning business."

I just want the RECORD to show that I disagree with the response to my parliamentary inquiry.

I ask unanimous consent that the time I have taken not be charged against the distinguished Senator's 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 1810

Mr. HEINZ. Mr. President, I suppose after everybody has observed this discussion, they will understand just how hard it is for a Member to seek the floor under certain circumstances. But I thank all my colleagues for accommodating this Senator. It is my hope to further the debate of the Senate while some of the conflicts and details can be worked out on the amendment of the Senator from Montana [Mr. MELCHER].

Obviously, I plan at the appropriate point to send an amendment to the desk and ask for its immediate consideration. I am not going to do that at this time. Indeed, even if we were debating in ordinary session the amendment, I would not send it to the desk at this time because I would want to control the floor and debate on the amendment. I could lose my right to the floor if I send the amendment to the desk at this time. I do not want to do that.

I do want to state very clearly what my amendment is about, and I want the text of the amendment to be printed at the conclusion of my remarks.

Let me explain the situation.

Mr. President, the Finance Committee tax reform bill includes a very significant, large, and new tax preference for depreciation to be counted in the calculation of the minimum tax.

For the purposes of the minimum tax, taxpayers would determine their depreciation, and this applies principally to corporations but not exclusively, using the straight-line method over a period of time known as the midpoint of the asset depreciation range.

That period is unduly long in most cases, the Congress has recognized that on many occasions by compressing by legislation the so-called ADR life to what we have regarded as a more reasonable depreciation life, taking into account all the other factors such as competitive pressures, and the like.

The problem we have is that the depreciation calculation for the purpose of the minimum tax is so powerful and is so strong that in this Senator's judgment, at any rate, it will wrongfully force many capital-intensive companies and businessmen, particularly those who are marginally profitable, those who are having the toughest time surviving, into the minimum tax unless they are able to achieve and maintain frankly very high levels of profitability in proportion to their annual investments in machinery and equipment.

I ask unanimous consent that a table be printed in the RECORD at this point. This table clearly shows that marginally profitable companies will suffer the most from the proposed minimum tax. I ask my colleagues to study it closely.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPANY HAS ANNUAL SALES OF $15,000, MAKES ANNUAL EQUIPMENT INVESTMENT OF $1,000 TAX CONSEQ. FOR 1989

Book income	Current law (includes 8 percent ITC) [1]	Committee bill ($462 deprec. pref)	Heinz/Boren ($157 deprec. pref)
$300 (2 percent of sales):			
Taxable income	300	168	223
Regular tax	[2]	55	74
AMTI		630	380
Minimum tax		[2]	[2]
$600 (4 percent of sales):			
Taxable income	600	468	523
Regular tax	[2]	154	[2]
AMTI		930	680
Minimum tax		[2]	136

COMPANY HAS ANNUAL SALES OF $15,000, MAKES ANNUAL EQUIPMENT INVESTMENT OF $1,000 TAX CONSEQ. FOR 1989—Continued

Book income	Current law (includes 8 percent ITC) [1]	Committee bill ($462 deprec. pref)	Heinz/Boren ($157 deprec. pref)
$900 (6 percent of sales):			
Taxable income	900	768	823
Regular tax	[2]	[2]	[2]
AMTI		1230	980
Minimum tax		246	196
$1,200 (8 percent of sales):			
Taxable income	1200	1068	1123
Regular tax	[2]	[2]	[2]
AMTI		1530	1280
Minimum tax		306	256
$1,500 (10 percent of sales):			
Taxable income	1500	1368	1423
Regular tax	[2]	[2]	[2]
AMTI		1830	1580
Minimum tax		366	316
$150 (1 percent of sales):			
Taxable income	150	18	73
Regular tax	[2]	6	24
AMTI		480	230
Minimum tax		[2]	[2]
$225 (1½ percent of sales):			
Taxable income	225	93	148
Regular tax	[2]	31	49
AMTI		555	305
Minimum tax		[2]	[2]
$450 (3 percent of sales):			
Taxable income	450	318	373
Regular tax	[2]	105	[2]
AMTI		780	530
Minimum tax		[2]	106

[1] Reflects 8 percent ITC in line of basis adjustment.
[2] Indicate amount of tax actually payable under current law, the committee bill or the Heinz/Boren amendment.

Mr. HEINZ. I know this is a somewhat technical subject and I will endeavor to try and give it as full an explanation as is required.

Let me just say to simplify it, that, as this bill is written right now, the result is that the more companies spend on capital investment, doing what we say they ought to do, which is to modernize and do a good job, putting in the latest kind of equipment, to improve quality, to speed manufacture, to use every bit of the most sophisticated technology so they can be competitive—the more they do that, the more minimum tax they pay. To me, that just does not make the right kind of sense. It makes nonsense.

Companies that are thrown into the minimum tax to this great extent are going to be denied, as a practical matter, one of the keystones of the bill; namely, the 200 percent declining balance of the accelerated cost recovery system [ACRS] depreciation.

What would happen is that any kind of an economic setback—it might be a mild depression, it could be just increased foreign competition, or something else—would greatly accentuate the effect I have just described unless companies engage in what I consider a self-defeating process; namely, that of cutting back on their productive capital investments.

Mr. President, surely this is not what the committee really intended. What is happening is that on the minimum tax—and we have a strong minimum tax and we will have a strong minimum tax with the adoption of the amendment I will be proposing, however, what we have in the bill takes away with one hand what we have given with the other.

Capital intensive companies to which depreciation is most important will have a less favorable depreciation system than noncapital intensive kinds of industries to which depreciation is less important. In fact, some companies, may be paying minimum taxes that exceed their income minus their equipment costs, and in a real sense, taxes in excess of economic income.

Clearly, some amelioration of this harsh effect is necessary unless we are going to shoot ourselves in the foot, and shoot ourselves we will, because we will impact employment in the manufacturing sector. It has already been hard hit. It is already declining, as shown by the most recent data.

While many people will regard this question as a financial issue, it is really a jobs issue, it is a people issue, because we will lose more of our manufacturing base; we will lose more of the jobs in that manufacturing sector, and it will affect those Americans who work in steel mills or aluminum plants, or the farms or in the mines, in chemical plants or in automobile plants, in paper mills or in shipyards, and at the railroads or in the airlines.

I do not think it is going to be visible, but I have brought a chart that provides an example of the industries that will be adversely affected by the depreciation preference in the minimum tax.

I will read the list with the Presiding Officer's indulgence: Agriculture, mining, petroleum exploration, petroleum refining, textile manufacturing, sawmills, paper and pulp manufacturing, chemical manufacturing, manufacture of rubber or glass products, manufacture of wood products, manufacture of nonferrous metals, steel manufacturing, manufacture of stone and clay products, fabricated metal product manufacture, ship and boat building, electrical machinery and other mechanical products, automotive manufacture, railroad car and locomotive manufacture, rail transportation, water transportation, air transportation, pipeline transportation, telephone communications, satellite communications, electric, gas and water utilities, waste reduction and resource recovery, to name a few.

Mr. President, that is a long list but it is significant list. I want to point out that what our amendment would do would be to revise the measure of the depreciation preference that would be retained in the minimum tax.

Under the amendment which I will be offering on behalf of a number of our colleagues, first among them Senator BOREN of Oklahoma, with whom I originally raised this issue in committee, but also for Senators SYMMS and GRASSLEY, also members of the Finance Committee, the accelerated portion of depreciation deductions would be treated as a preference.

The baseline depreciation system for the minimum tax would be straight-line depreciation over the regular tax life, that is to say, straight line over 5 years for 5-year property, and straight line over 10 years for 10-year property.

The Joint Committee on Taxation estimates that the change in the depreciation preference will cost $4.6 billion over 5 years.

In spite of the fact that the amendment costs $4.6 billion, it is, nonetheless, a revenue-neutral amendment because we have a way of paying for that revenue loss.

□ 1820

It would be paid for by other changes related to depreciation. So I point out that the amendment is revenue neutral and it would not change, above all, the tax rates or the treatment of any other deduction in this bill.

How do we pay for the amendment? The amendment would be paid for by a slight adjustment in the way the 200-percent declining balance depreciation system for 5-year and 10-year property is treated. Under the bill as we have it before us, depreciation switches from the declining balance method to the straight-line method for the first taxable year for which the straight-line method will yield an allowance at least as great as the accelerated method. Under the amendment, the switch would occur 1 year earlier; for example, in the 3d year rather than the 4th year for 5-year property.

I would like to illustrate by this table how that works. Under the committee bill, the amount of recovery permitted in the 1st year works out to 20 percent, 32 percent in the 2d year, 19 percent in the 3d year—by the time you get to the 4th year, it switches over to straight-line, an additional 11.5 percent. So that within 4 years under the bill, roughly 82.5 percent of all the depreciation that can be taken has been taken.

Under the Heinz-Boren amendment, the percentage of recovery occurs at exactly the same rate in the first 2 years, slightly less in the 3d year, and it is slightly more in the 4th year, with the result that over 4 years, roughly 80 percent of the assets, value, the cost of investment, is recovered for 5-year property.

That is basically how we are able to pay for this amendment according to the Joint Tax Committee and all who have analyzed the amendment. It is revenue-neutral. In fact, it probably picks up about $100 million.

The issue that I think some people will be raising is whether or not, by making this change in the minimum tax, profitable corporations are going

to avoid paying their fair share of taxes. The answer to that is absolutely not. Capital-intensive companies—that is, the basic manufacturing, production, and other companies that I mentioned a minute ago—are paying a stiff price already in this tax bill. The committee bill raises $135 billion through the repeal of the investment tax credit. It seems patently unfair to virtually nullify by the proposed minimum tax one of the few beneficial provisions in the bill for capital intensive companies; namely, the retention of the 200-percent declining balance, ACRS, accelerated cost recovery system, depreciation.

The issue is, how much are we going to overtax our basic industries? How much damage are we going to inadvertently do to economic growth and international competitiveness? If you ask me, doing either of those is clearly contrary to the committee's stated intention.

I add that the acquisition of depreciable property for use in an active trade or business is not the type of activity that should give rise to an inordinately large minimum tax obligation. Investments in depreciable plant and equipment are a cost of doing business and their recovery is an essential component of staying in business.

Mr. President, I hope my colleagues will not let anyone convince them that this is an issue that we need not worry about because taxpayers eventually escape the minimum tax and receive a credit for prior minimum taxes paid. The fact is that so long as the depreciation preference under the minimum tax, as is true in the committee bill, remains excessive, many companies will be perpetually subject to the penalty of the minimum tax unless they go out and acquire a highly profitable noncapital-intensive company. The last thing we want to do is encourage more tax-motivated, tax-inspired mergers.

I want to be on a record that I am strongly in favor of this tax reform bill. I am also in favor of a strong minimum tax. I believe corporations that are profitable should pay taxes. But some of the strongest minimum tax proposals introduced in this body, including the one offered by my colleague from Texas [Mr. BENTSEN], do not include depreciation as a preference at all. In principle, I would agree with that. My amendment would still leave depreciation as a preference. In addition, the excess of tax depreciation over book depreciation would also still be a preference under the minimum tax. My amendment does not undermine the intended purpose of the committee's minimum tax, which is to assure that all profitable corporations pay a reasonable amount of tax. Rather, my amendment merely blunts the unintended destructive effects of this tax.

In the final days before approval of the committee bill, the Committee on Finance considered an amendment similar to this. That amendment was defeated by a tie vote because it would have been financed by a slight increase in the tax rate. The amendment we offer today is financed not by changes in tax rates, but instead by changes in the regular tax depreciation system. Depreciation pays for depreciation.

I am convinced that a majority of the committee believes that the depreciation preference in the committee bill is to restrictive. Treasury officials, including Deputy Secretary Darman, have identified this as one critical aspect of the committee bill that needs to be fixed. Mr. President, I, too, would like to see this defect fixed.

This is a simple amendment, it is revenue-neutral. It makes minor changes that if not made, would have serious adverse effects on business, productivity, jobs, and international competitiveness.

I remind my colleagues that this is a matter which is very important to the jobs and livelihoods of their constituents.

Mr. President, I ask unanimous consent that several tables that I have had prepared be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

FIVE-YEAR PROPERTY

[$100 investment]

Year	Committee bill (percent recovery)	Heinz-Boren (percent recovery)
1	20	20
2	32	32
3 [1]	19	[1] 14
4	11½	14
5	11½	14
6	6	6

[1] Year of switch to straight line.

TAXES PAID AS A PERCENTAGE OF BOOK INCOME (1989)

Annual investment	Committee bill		Heinz/Boren	
	Regular tax	Minimum tax	Regular tax	Minimum tax
$500	29.37	25.50	30.88	21.33
$1,000	25.74	31.00	28.76	22.67
$1,500	22.11	36.50	26.64	24.00
$2,000	18.48	42.00	24.52	25.33
$3,000	11.22	53.00	20.28	28.00
$6,000	0	86.00	7.56	36.00

Assumptions:
Book Income: $600.
Book Depreciation: Straight-line over 8 years.
Minimum tax depreciation: (Committee bill): Straight-line over 10 years (ADR midpoint of property—10 years); (Heinz-Boren): Straight-line over regular tax life of property (5 years).
Tax Depreciation: ACRS (5-year property).
In general: The only differences between book and taxable income are those attributable to depreciation.

EXAMPLES OF INDUSTRIES ADVERSELY AFFECTED BY THE DEPRECIATION PREFERENCE IN THE MINIMUM TAX

	Depreciation life of machinery and equipment under regular tax [1] (years)	Depreciation life of machinery and equipment under committee minimum tax (years)
Agriculture	5	10
Mining	5	10
Petroleum exploration	5	14
Petroleum refining	10	16
Textile manufacturing	5	8 to 11
Sawmills	5	10
Paper and pulp manufacturing	5	13
Chemical manufacturing	5	9.5
Manufacture of rubber or glass products	5	14
Manufacture of wood products	5	10
Manufacture of nonferrous metals	5	14
Steel manufacturing	5	15
Manufacture of stone and clay products	5	15
Fabricated metal product manufacturing	5	12
Ship and boat building	5	12
Manufacture of electrical machinery and other mechanical products	5	10
Automobile manufacturing	5	12
Railroad car and locomotive manufacturing	5	1.5 to 12
Railroad transportation	5	12, 14
Water transportation	10	20
Air transportation	5	12
Pipeline transportation	10	22
Telehpone communications	([2])	([2])
Satellite communications	5 or 10	8 to 26.5
Electric, gas and water utilities	([2])	Up to 35
Waste reduction and resource recovery	5 or 13	10, 28

[1] This is also the minimum tax depreciation life under the Heniz amendment.
[2] Varies.

Mr. HEINZ. Mr. President, I may have more to say about this in a few minutes, but I want to recognize my colleague from Oklahoma, DAVE BOREN, who is my principal cosponsor on this amendment. He has been a very effective voice in the Finance Committee. I wish to yield to Senator BOREN without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my colleague from Pennsylvania. I compliment him on the work he has done on this amendment. All of us, I think, favor a strong minimum tax proposal. We have examples that I have presented on this floor, myself, of 50 corporations that made over $53 billion in profits and paid no taxes at all. In fact, a few months ago, I offered on this floor a sense-of-the-Senate resolution urging the Finance Committee to include in any tax reform proposal a very, very strong minimum tax. Those that are profiting from our system should certainly pay their fair share of the upkeep of this system of Government. I believe that very strongly.

At the same time, we have to be careful that we keep legislation tax incentives in the code. We have to think about the impact of any changes that we make in the tax law on our ability to compete overseas. One of the factors that is very important in determining whether or not we can compete with other Nations in world trade—and all of us recognize that we now have a trade imbalance of billions of

dollars that is sapping the economic strength of this country, transferring hundreds of thousands of American jobs overseas. We must do something about it. In order to compete with producers in other countries, we know we have to keep our wages fairly well in line, we have to have our transportation costs and our raw material costs fairly much in line.

There is another item, the cost of capital in this country, the cost of actually borrowing the money that we need to invest to modernize our plant and equipment to keep on the cutting edge of new technology. That cost in this country must be held fairly well in line with the costs of other nations or we will not have the chance to compete with our major trading competitors.

Mr. President, I ask unanimous consent that I may be allowed 4 additional minutes to complete my remarks, again without the Senator from Pennsylvania losing his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, how much time did the Senator ask for?

The PRESIDING OFFICER. Four minutes.

Mr. PACKWOOD. I do not mind giving 4 more minutes, Mr. President, but when we finish that 4 minutes, I would like to go back and finish up on the Melcher amendment, finish the amendment I know the Senator from California is waiting for. I know there will be some debate on the amendment of the Senators from Pennsylvania and Oklahoma but I hope that we can dispose of the other amendments at the end of the 4 minutes, before we debate the Heinz-Boren amendment, because I know we cannot dispose of that one tonight.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BOREN. Mr. President, as I was saying, I think it is highly important that we keep our cost of capital within reason so we can compete with other countries. We must be encouraging American companies to reinvest, to buy new plant and equipment, to stay on the cutting edge of research and development.

□ 1830

The amendment that I am joining the Senator from Pennsylvania in offering will do just that. At the same time it will not unduly weaken the minimum tax which we so strongly support. Under our proposal, there will still be a $28 billion increase in the minimum tax over current law. It will not be possible for companies to use this provision and to make large profits and pay no taxes. But we must assure that there is some balance in the minimum tax that we are writing. What do we want to encourage Americans to do? If we are to be able to compete, hold our share of world markets, keep jobs for Americans here at home and particularly jobs for the next generation, we want to encourage companies to invest in new plant and equipment.

Now, inadvertently, in the way that the current bill figures preference items for the minimum tax, we have greatly increased the burden on those companies that do the most reinvestment, that do the most modernizing, that do the most to keep themselves competitive, those capital-intensive industries that are reinvesting.

I have a chart behind me, drawn from the formulas that are now in the bill, which indicates that under the committee bill as now written, assuming you are a company with $600 of book income—that is the income shown to stockholders in the annual report, which indicates the way the company is performing—if you have a company that has $600 in book income and only is investing $500, the effective minimum tax rate on that company is 25 percent. But if you have a company that has only $600 in book income and it is heavily reinvesting in that company, in new plan and equipment—in this example, $6,000 of reinvestment in plant and equipment and modernization out of their gross income—the effective minimum tax rate on the book income of that company goes all the way up to 86 percent. What do we want companies to do? We want them to invest more. We want them to modernize. And yet, as you notice, as this company moves from $500 to $1,000 to $2,000 to $6,000 in additional investment in plant and equipment and modernization, their effective minimum tax rate shoots up from 25 percent, to 36 percent, to 53 percent, all the way up to 86 percent. Under the proposal that the Senator from Pennsylvania and I are making, there is still a slight increase but there is much less penalty on that company which is doing the things that it needs to do to remain competitive, to keep the jobs in this country. We had discussions on this floor of the problems of the steel industry and other basic industries of this country. This is an important and a vital provision to bring fairness and balance back into it, to do what we in the Finance Committee wanted done, and this is a bill to promote international competitiveness and save American jobs.

So I stress again I strongly support—in fact, I offered a resolution on this floor for the broadest feasible definition of income under a minimum tax—the implementation of a minimum tax, but even if this proposal is adopted, we will still have a $28 billion increase in the minimum tax and a very broad definition of all forms of economic income. I think it makes a good bill a better bill. It will promote our competitiveness while at the same time it will assure that those companies which are making vast profits will still pay their fair share under a minimum tax proposal. I commend my colleague from Pennsylvania for offering this amendment. It is sound tax policy. It is good economic and good trade policy for the future of this country, and I am very pleased to support it.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I may take just 2 minutes to briefly respond to the Senator from Pennsylvania and the Senator from Oklahoma on this subject.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I will speak at greater length tomorrow, but this evening I think we ought to bring on the violins because here we go again; here is that same old music we have heard before. Suddenly this is going to help the economy, this is going to help the job market, just do not put an effective minimum tax on certain corporations.

If you pass the Heinz-Boren amendment, it opens the door for any number of additional amendments to avoid the minimum tax. We have been trying to get a minimum corporate tax for a long, long time and now this bill provides such a minimum corporate tax, but before the bill is even enacted into law there is a proposal to exempt certain corporations from that minimum tax. I will discuss this subject at much greater length tomorrow, but I want this body to understand that there are many of us who believe that a minimum tax ought to be just that, a minimum tax for all the corporations of America and not just for some of the corporations of America. The proposal is even more audacious because what it would do is recover the funds that would be lost, $4.5 billion, from other corporations that are presently paying their taxes and having a difficult enough time doing just that.

This is a bad amendment and one that I hope the managers of the bill will join in helping me to defeat.

Mr. HEINZ. Mr. President, I ask to proceed for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I do not want to get into a debate with the Senator from Ohio right now. However, I direct my colleagues' attention to the table I put into the RECORD a moment ago which will show I think conclusively that what the amendment does is to lighten the minimum

tax burden on those companies which really are not making any economic income and it will slightly increase the tax burden on those which have a very large income including a lot of depreciation. We are going to be taxing corporations in part in relation to their ability to pay, and if anybody doubts that there is still an effective minimum tax in this bill let me remind my colleagues of this. We are not touching the so-called book income tax provision, which taxes pre-1986 depreciation. We still leave in the bill, even if this is amended as we propose, about a $29 billion corporate minimum tax.

The PRESIDING OFFICER. The Senator's time has expired.

AMENDMENT NO. 2156

Mr. PACKWOOD. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 2156.

Mr. PACKWOOD. Is that the amendment of the Senator from Montana?

The PRESIDING OFFICER. It is.

Mr. PACKWOOD. How much time do I have left and how much time does he have left?

The PRESIDING OFFICER. Eleven minutes, 46 seconds; 2 minutes, 18 seconds.

Mr. PACKWOOD. I have been prepared, unless someone else wants to talk, to yield back the remainder of my time, if the Senator from Montana wants to yield it back or use his 2 minutes, but I do want to ask the Senator from New Jersey, does he want to say anything on the amendment of the Senator?

Mr. President, I am prepared to yield back the remainder of my time if the Senator from Montana is prepared to use up the rest of his time, either speak or yield it back, so that we can be done with his amendment tonight in terms of debate and move on to some other business.

Mr. MELCHER. Mr. President, will the distinguished chairman yield?

Mr. PACKWOOD. Yes.

Mr. MELCHER. Yes; I am prepared to use my 2 minutes and that is it.

Mr. PACKWOOD. I will yield back the remainder of my time.

Mr. MELCHER. Mr. President, earlier it was said by the distinguished chairman of the Finance Committee that farmers had gotten quite a bit in this bill by the amendment process. But precious little has been obtained so far. Farmers will be granted a one shot, for just next year, $750 on the investment tax credit. Now, that is $750 per farmer who has some investment tax credit coming as the law now stands. That is not very much. Also, farmers are guaranteed that income averaging could stay. I am very grateful for that because they do need income averaging since they have low points for the losses and hopefully in the future some higher points for income because they do have huge debts and they need to pay off those debts.

What this amendment does for farmers, ranchers, and woodlot operators is to give them a little help on capital gains. They cannot have gross incomes of more than $100,000 per year. But if they do, under the terms of the amendment, they would still be eligible for capital gains as it is under present law.

Now, to pay for that—and the cost is $600 million—we would tap what is a slush fund, an inadvertent—I do not think anybody meant for it to be there, but it is—slush fund still remaining in the bill, $1.4 billion on the net operating loss carryback for corporations, a differential of 46 percent versus 33 percent which would be in effect in 1988.

□ 1840

It seems to me that it is too much of a windfall for them to get a check from Uncle Sam for a loss based on the 46 percent rather than the 33 percent. That is the slush fund I am referring to.

I hope the amendment is adopted, and I hope we can adopt it tomorrow.

Mr. President, I ask unanimous consent that the name of the Senator from Georgia [Mr. NUNN] be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I want to review the bidding here.

I was just going over with the distinguished chairman, Senator PACKWOOD, the fact that we have the first vote tomorrow at 10 o'clock. There may be as many as eight rollcall votes tomorrow, at 15 minutes each. So we will have shot a couple hours, probably 2½ hours, the way we do it.

Mr. PACKWOOD. Did we not have a unanimous-consent agreement for 10-minutes votes after the first one tomorrow?

Mr. DOLE. That is true.

Mr. PACKWOOD. Even if they are not back to back.

Mr. DOLE. The point is that we have only 6 hours between 10 a.m. and 4 p.m., when we are supposed to vote on final passage.

So I encourage any of my colleagues who are still around that they should be prepared to do business for another hour or two tonight.

Senator WILSON has a couple of amendments, and Senator STEVENS may have one.

Mr. MELCHER. Mr. President, will the majority leader yield?

Mr. DOLE. I yield.

Mr. MELCHER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I assume there will be more debate on the Heinz-Boren amendment. I do not know whether it is possible to get a time agreement. Maybe that can be done tomorrow. If that takes 1 hour or 2, we will be down to 3 hours or less for about 15 amendments.

Mr. HEINZ. I would be happy to enter into a time agreement on the amendment of Senator BOREN and myself.

Mr. METZENBAUM. Mr. President, I do not have any objection to entering into a time agreement tomorrow.

Mr. HEINZ. Then I ask unanimous consent that there be 1 hour, equally divided.

Mr. DOLE. That is a long time.

Mr. METZENBAUM. Mr. President, I have to object, until the minority leader is here.

Mr. DOLE. That would be an hour of the two or three remaining.

The point is that I am still fearful that although we have made good progress today, we may get to 3 o'clock, and find there are a lot of reservations. I think the Senator from Montana wants 30 minutes on the bill, but maybe he will reduce that.

Mr. MELCHER. Fifteen minutes.

Mr. DOLE. Good. Make that quick. But the Senator wants to speak on the bill itself?

Mr. MELCHER. That is correct.

Mr. DOLE. So, instead of the 30 minutes approved on Friday, it will be 15 minutes for Senator MELCHER.

The PRESIDING OFFICER. The order provides that.

Mr. DOLE. It does provide 15 minutes? He did not give me any break, then. [Laughter.]

Maybe by tomorrow he will feel better.

The point is that we are going to have a lot of requests for a lot of things and no time in which to do it. So if anybody can come to the floor this evening and we can continue debate on the Heinz-Boren amendment tonight, that will be helpful.

Mr. METZENBAUM. Mr. President, I am not in a position to debate it this evening. I thought we would be out of here at 6 o'clock, and I made arrangements.

I have a parliamentary inquiry: Let us assume that we come to the hour of 4 o'clock tomorrow and there are a number of amendments that have not been called up at that time. Under the unanimous-consent agreement, may they be called up at that time, with no debate allowed?

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. I thank the Chair.

I say to the majority leader that I think that is a pretty dangerous situation, where amendments will be called up without any debate whatsoever, although I cannot address myself to any specific one. I think he may have as many concerns as the Senator from Ohio, and maybe a lot more.

Mr. DOLE. That is a point I think the minority leader made on Friday, that notwithstanding the great cooperation we have had on both sides, we would be in the position of having four, five, or six amendments pending, with no time to debate, and have rollcall votes. I am not certain who benefits from that. Maybe no debate is a better strategy.

In any event, I thank my colleague.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. HEINZ. Mr. President, a parliamentary inquiry. What is the pending business?

The PRESIDING OFFICER. Does the Senator from California yield for that purpose?

Mr. WILSON. For the purpose of a parliamentary inquiry; yes.

The PRESIDING OFFICER. The pending business is the committee substitute.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California has the floor.

AMENDMENT NO. 2157

(Purpose: To allow for deduction of certain expenses related to an individual's trade or business)

Mr. WILSON. Mr. President, as the votes on the Senate floor have made clear, there is broad support for the tax reform bill as it was reported by the Finance Committee. It is a bill that I enthusiastically support, and it is a bill that I hope to see enacted—enacted in a form very close to that of the bill now before us.

But one issue that I believe is dealt with better in the House bill is the treatment of miscellaneous business expenses.

Mr. President, while there are many commendable reforms to be undertaken as part of tax reform, we must remember that we are levying a tax on income, not on gross receipts.

This concept is well recognized by the tax treatment of businesses, be they in corporate form or not, by allowing deductions for ordinary and necessary expenses that help generate income. A broad array of deductions are allowed, from advertising expenses, association dues, and costs of equipment to hand tools and typewriter ribbons.

Yet, deductions for these same expenses would be denied by the Senate's tax bill. No longer would carpenters be able to deduct the cost of tools or a police officer deduct the cost of uniforms. Furthermore, if an individual loses his or her job and incurs significant expenses to find a new one, none of these expenses would be deductible. I find this last change particularly objectionable when considering all of the money we spend through direct Federal payment for unemployment coverage or trade adjustment assistance in order to help the unemployed.

It should also be noted that if an employer covered such expenses, they would be deductible by the employer for income tax purposes—and they would not be imputed as income to the employees.

Mr. President, denial of deductions for expenses that truly serve to generate income is not simply bad tax policy, it is not fair.

In this regard, I believe that the House took the proper route by allowing for the continued deductibility of these employee expenses, while imposing a 1-percent floor. The 1-percent floor is a reasonable threshold that allows us to lower rates while imposing a relatively small burden on individual taxpayers. Furthermore, it removes a significant auditing problem for minor expenses that may be only tangentially related to the taxpayer's employment, thereby reducing compliance costs. Unfortunately, the Senate bill, while also imposing a 1-percent floor, eliminates the deductibility of most types of employee expenses.

Mr. President, elimination of the employee expense deduction is not supportable as a means of lowering tax rates, for the deduction is not a loophole, nor is it an incentive that furthers some governmental policy that we can no longer afford if we are to have lower tax rates. Rather, deductibility of legitimate employee expenses ensures that our Federal income tax does not become a gross receipts tax.

Mr. President, in order to show the impact that the Senate bill's treatment of employee expenses would have, I want to highlight one type of deduction that will no longer be allowed and its effect on one group of employees—performing artists.

The one aspect of the bill that I am referring to is the repeal of the deduction for expenses incurred to search for new employment. This change will place an additional burden on someone looking to change jobs, and will be particularly severe for anyone who is unemployed.

Within the group of unemployed, the change envisioned by the Senate tax bill could have a devastating impact on people in the motion picture, music, and television industries, as well as those who ply their trade on the stage or as models, for by the very nature of their profession, their costs for finding new employment recur over and over again in a continual fashion.

That is why I have prepared an amendment to the tax bill in order to restore the deductibility of agency fees and related expenses that are incurred for the purpose of finding new employment of limited duration.

□ 1850

Mr. President, what makes the impact disproportionately severe on actors, producers, directors, musicians, and others in the entertainment industry is that such individuals are constantly looking for new work, with the assistance of agents and others, no matter how talented they may be. Employment is always temporary, for regardless of how successful a movie or television show you appear on, regardless of how good a musician you are, and regardless of how successful a show you may be acting in, it is highly unusual that the length of employment will extend as long as 1 year. Indeed, the employment more often than not lasts only a few months, a few weeks, or even 1 day.

Now, the bill does not affect all similarly situated people in the same fashion. It hurts only those in the entertainment industry who are at the bottom of the ladder. Those at the top are unaffected by this one particular change.

The reason for the disparate treatment is that the big-name actors, musicians, and others, have most often formed personal service corporations. And, like other corporations, the cost of finding new business is an ordinary and necessary business expense deductible by them. Or such people may perform their work as independent contractors. And like other independent contractors, the cost of acquiring new work is deductible to them as independent contractors.

The lesser known, struggling actors and musicians will, when they can find work, be hired as employees—and their agent and other representational fees, which run 10 percent or more, will not be deductible. Also nondeductible will be the costs of their résumés, which, because they often include video or audio tapes as well as photographic portfolios, can cost hundreds of dollars.

Unfortunately, this group of lesser knowns constitutes the vast majority in the entertainment business. According to the New York Times, of the 50 percent of the members of Actors Equity that work during the year, half earn less than $4,500. And at the Screen Actors Guild, 70 percent earn less than $2,000 per year at their craft. At the American Federation of Television and Radio Artists, the picture is somewhat brighter, but even there the median pay is $11,000.

I do not know what the revenue impact would be of a remedial change to the tax bill that would fix this prob-

lem. But I do know that leaving the bill in its present state would unfairly penalize those struggling for success as entertainers, for, by denying them deductions for legitimate job-search costs, the kind that they continually must incur, it would make it even more difficult for them to find employment.

I ask unanimous consent that a copy of this amendment No. 2157 be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 1413 of the amendment, strike out line 24 and insert in lieu thereof the following:

employer, and

"(4) EXPENSES FOR OBTAINING EMPLOYMENT OF LIMITED DURATION.—The deductions allowed by part VI (sec. 161 and following) which consist of agency fees and other related expenses directly related to the seeking of employment of limited duration in the taxpayer's present trade or business, under regulations to be prescribed by the Secretary."

Mr. WILSON. Mr. President, I have a concern as I have stated and I know that that concern is deeply shared by my colleague, the senior Senator from New Jersey, and I would be pleased to inquire of him at this time his thoughts on this issue.

Mr. BRADLEY. Mr. President, let me commend the distinguished Senator from California for raising what I consider to be a shortcoming in the Finance Committee bill. Existing law allows employees to deduct ordinary and necessary expenses incurred in performing their jobs.

The Finance Committee bill, recognizing this provision has been abused and has also imposed burdensome recordkeeping requirements, made some changes I believe that went too far. I believe the bill went too far in making draconian changes in this area.

I say to the distinguished Senator from California who I know is extremely sensitive to the area that the amendment relates to, which is the performing arts, that the issue is even broader than he has defined it. It is true that performing artists will be particularly hard hit by disallowances of deductions of employee business expenses but it is not just agency fees, and I think the Senator's statement laid that out.

It is not just agency fees that we are talking about here but legitimate out-of-pocket expenses for things like photographs, musical instruments, costumes, publicists, and so on, that are legitimate expenses incurred in producing income and therefore ought to be deducted.

I would say to the Senator that although performing artists are an important example of this, a very important example of this, as he also correctly pointed out, there are many other professions that would be affected by a draconian provision in the final bill.

Take, for example, tradespeople like carpenters or bricklayers, or whatever. They have to furnish their own tools and those should be deductible. Expenses of those employees who have to buy their own uniforms in order to get a job ought to be deductible. All these expenditures are legitimate business costs. If they exceed 1 percent of the floor they should be deductible.

Let me say to the distinguished Senator from California that I share his concern and I support what he is trying to do, and I hope that the conference will restore the deduction for all employees.

Mr. WILSON. Mr. President, I thank the Senator from New Jersey for his comment. I know that he has been very much concerned with the same problem, and I know that it is his purpose to work for the elimination of this problem in a way that is fair and equitable and that will allow those employees, who have the myriad of expenses of the wide range that he has described and that I have touched on in my own statement, to find some relief.

I wonder if I might inquire of the chairman of the Finance Committee, whom I know has been eager to keep the bill in its present form and as free of amendments as possible, whether or not his views are compatible with those expressed by the Senator from New Jersey and the Senator from California. I know that he, too, is aware of the problem.

Mr. PACKWOOD. I am. I talked to the Senator from New Jersey, and the Senator from California was good enough to talk to me before he started his comments tonight.

I am sympathetic to the problem. I think it is one that should be addressed on a broader scale than one or two occupations or professions. That is obviously an issue in conference that we will consider.

Mr. WILSON. I thank the distinguished chairman of the Finance Committee.

Mr. President, based on the colloquy that we have had, it is not my purpose to pursue the amendment at this time. I am reassured by the expressions here on the floor of a recognition that this problem is one that needs to be dealt with. I will look forward to the action of the conferees to bring equity to it.

AMENDMENT NO. 2158

(Purpose: To clarify the application of the alternative minimum income tax to corporations established pursuant to the Alaska Native Claims Settlement Act of 1971)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2158.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1972, between lines 21 and 22, insert the following:

"(E) RULES FOR ALASKA NATIVE CORPORATIONS.—The amount determined under subparagraph (A) shall be appropriately adjusted to allow:

"(i) cost recovery and depletion attributable to property the basis of which is determined under section 21(c) of the Alaska Native Claims Settlement Act [43 U.S.C. sec. 1620(c)], and

"(ii) deductions for amounts payable made pursuant to section 7(i) or section 7(j) of such Act [43 U.S.C. secs. 1606(i) and 1606(j)] only at such time as the deductions are allowed for tax purposes.

On page 1972, on line 22, strike "(E)" and insert in lieu thereof "(F)".

On page 1907, on line 23, strike "December 31, 1986" and insert "September 30, 1986".

Mr. STEVENS. Mr. President, this is the first of two amendments that deal with the subject of the Alaska Native Land Claims Settlement Act.

In 1971 Congress settled a series of claims that had been presented by the Alaska Natives against the Federal Government as a result of the claims that they had for well over 100 years against our Federal Government based on the Treaty of Purchase of Alaska from Russia in 1867.

The first amendment deals with the Finance Committee alternative minimum corporate tax proposal and includes a new preference item comprising 50 percent of the difference between the corporate adjusted net book income and its prebook alternative taxable income.

I understand full well the committee's desire to eliminate discrepancies between a corporation's reporting of profits to its shareholders and its reporting of profits to the Internal Revenue Service. But because I am concerned about the new preference provision's unintended impact on two unique items to corporations established under the Alaska Native Lands Claim Settlement Act of 1971 I have presented this amendment.

As indicated, in 1971 Congress settled these claims. It was the first time that any Indian claims had been settled by legislation rather than litigation. We found a situation at that time that there were a series of tribes in Alaska and it was difficult to conceive from a management concept of a way for the assets to be transferred by the Federal Government to the Alaska Natives through the tribal entity.

So the Federal Government, through Congress, mandated the establishment of 12 Native regional corporations and 150 village corporations to manage the settlement that was conveyed to the Alaskan Natives, who

are Alaskan Indians, Eskimos, and Aleuts.

In that act of 1971, Congress created a unique revenue sharing concept. Section 7(i) of that act requires a corporation, 1 of the 12 corporations, any 1 of the 12 that are organized under the act, to divide all revenues received from subsurface or timber income among all of the other regional corporations. What is required is that the receiving corporation is entitled only to 30 percent of the income from the subsurface or timber operations and the other corporations are entitled to 70 percent. And that must be distributed on a per capita basis.

Under section 7(j), those regional corporations that receive this income, in turn, must distribute 50 percent of what they receive to the village corporations.

Now, sections 7(i) and 7(j) have played a crucial role in maintaining the economic viability of the Native corporations during this period of the implementation of the Alaska Native Claims Settlement Act over the past 15 years. I think it is important to note that the regional corporations are legally obligated to transfer 70 percent of the income it receives from this source under 7(i) to the other corporations and the receiving corporations of the 70 percent must, in turn, distribute 50 percent of what they get to the village corporations. But in reality, they are merely acting as agents for the other Native corporations so far as these revenues are concerned.

As a result of book and tax accounting differences, a regional corporation could be exposed under this bill to minimum tax liability on 7(i) and 7(j) income that it is legally required to distribute to other corporations.

We believe this is inconsistent with the Land Claims Settlement Act and is not intended by the authors of the bill that there be this inconsistency.

The second item concerns section 21(c) of ANCSA. Section 21(c) of ANCSA provided that the receipt of land and other assets received by Alaska Native corporations pursuant to the land settlement was not taxable. In addition, this section provided that the basis in the assets received would be the fair market value at the time of receipt, except in the case of certain interests in land and timber where the basis would not be less than the fair market value at the time of first commercial development.

Under generally accepted accounting principles, Mr. President, the Native corporations cannot carry many of the assets received pursuant to ANCSA on their books. This is because it is virtually impossible to make a solid estimate of the value of these assets within the provisions of Accounting Principals Board Opinion No. 29. Since there is no basis on the books for these specific assets for financial purposes, the proceeds, that is the net of costs of extraction from disposing of these assets are accounted for as profits, without any reduction for a related expense for depletion of the resource itself. However, the Native corporations are entitled to recognize a cost basis for tax purposes on section 21(c) properties that in turn gives rise to a depletion deduction.

This difference between the Native corporations' book incomes and their taxable incomes from section 21(c) timber and mineral resources is not the result of a mere timing difference, for example, because deductions or losses are accelerated for tax purposes or income is deferred—understated—for financial purposes. In this instance, taxable income more nearly resembles economic income, while book income—by ignoring the economic cost of the asset that is sold—generally overstates the profit derived from the transaction and therefore exposes them to tax liability under the new minimum tax preference. Again, this result is unfair and inconsistent with ANCSA.

Mr. President, the amendment I have offered would not exempt Alaska Native corporations from the new minimum tax preference. It would eliminate the differences between "adjusted net book income" and "prebook alternative taxable income" with respect only to sections 7(i), 7(j) and 21(c) transactions, thus ensuring that the tax reform bill does not contravene the purposes of the Alaska Native Claims Settlement Act of 1971.

The Joint Committee on Taxation estimates that the amendment will have only a minimal effect, $4 million, on revenues over the next 5 years. The amendment I offer would raise $4 million by rolling back the effective date of a section within the foreign tax provisions of the bill. Section 984 of the bill contains new rules limiting the deductibility of interest paid to a related tax-exempt entity. My amendment would change the effective date of that provision to interest paid or accrued in years beginning after September 30, 1986. The rule as currently drafted would apply to years beginning after December 31, 1986. I am told by both the majority and minority finance staffs that this is an acceptable change.

I hope that the distinguished chairman and the distinguished ranking minority member of the Finance Committee will be able to accept this clarifying amendment.

Mr. PACKWOOD. Mr. President, I agree with the Senator from Alaska. The tribal corporations in Alaska are simply different from any corporations that exist. They were forced on the tribes by law. It is almost taking with one hand and giving with the other. I think the merits of this amendment are well taken and we are prepared to accept it.

Mr. STEVENS. I thank the Senator for his comments.

Mr. METZENBAUM. Will the Senator from Alaska yield?

Mr. STEVENS. I am happy to yield.

Mr. METZENBAUM. As I understand it, we are talking about $4 million in connection with the Alaska Native claim corporations and you are picking up that $4 million by changing the date in connection with some other matter; is that correct?

Mr. STEVENS. Yes, that is right. That is really a balancing provision in order to be revenue neutral. Second provision in my amendment has no effect on the Native corporation. It brings in the $4 million, if necessary, to offset the theoretical loss. I personally do not feel there is a loss, because the income was not taxable to these corporations in the first place. Congress mandated that the 70 percent be distributed to the other corporations. They should not be taxed on that 70 percent the Congress mandated be shared with the other 11 corporations.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2158) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the managers of the bill for agreeing to that amendment. I want to state that I have one other amendment.

I would ask that we delete from the list of the unanimous-consent items two items, one pertaining to the Alaska Natural Gas Transportation System; and the other, Endicott. I understand those are in the technical corrections and an amendment is not necessary.

I would also ask that, under the agreement that is in the unanimous-consent that I be able to offer an amendment to delete items from the bill similarly be deleted. I had that in there in case I had to delete some item in order to pick up revenue in order to justify the revenue-neutral concept of my amendment. So I am not in need of either of those. I understand the last amendment I will offer, after the other Senators have offered their amendment, which deals with the Alaska Native Land Claims Settlement Act, will also be revenue neutral because of a provision we have borrowed from the committee itself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I will be sending an amendment to the desk that I am proposing and will continue to discuss it tomorrow, inasmuch as, in all likelihood, as the majority leader and the chairman indicated, there will be a mad rush tomorrow to seek time and to seek recognition.

□ 1910

So I would just briefly like to give an introduction to this amendment but not call it up this evening because Senator Boren also has an interest in this amendment and would like to speak on it. So we will try to seek the floor tomorrow to conclude the discussion of this amendment.

Initially, Mr. President, the amendment that I was considering offering would provide equitable tax treatment for a Nebraska constituent that suffered substantial foreign expropriation loss late last year. I know there will be many in this body that say, well, here we go again, a special amendment for a special interest for a special constituent specifically in my State of Nebraska.

But I did want to bring to the attention of the body some of the unique problems that this company, a corporate entity, is having due to no fault of its own and having been a good taxpayer to this country. It is not one of those taxpaying corporate entities that I or anyone else would ever have to make apologies for as to the extent that they comply with the tax laws, to the extent that they were good taxpaying citizens of this Nation.

Again, you might say, well, why are they not taking their chances with everybody else? When you invest in a foreign nation, if something bad happens, that is just too bad. That is part of the precondition of playing the corporate game in a foreign country.

Well, unfortunately, unlike textiles, unlike manufacturing of many other types, in this business, the Enron Corporation of which I specifically speak has to go where energy resources are. Obviously, we are concerned about the Middle East because the energy resources are in the Middle East, and likewise there are energy resources in the nation of Peru which directed the attention of Enron formerly called Internorth, in a combination with the former Houston Natural Gas Co., which has a concern. They could not move the energy from Peru to the United States so that they could continue to explore in our country, or to have offshore wells in our country. They had to go to Peru where God put the energy. Unfortunately, that is something that they had no control over, and I do not think this body has any control over with regard to where the energy exists in this country.

Certainly if it did, I think we would have a better foreign policy than we currently have with regard to the rest of the world. But that being the case, and the Enron Corp., sought its future through the purchase of another corporate entity that went to Peru, and unfortunately had their holdings expropriated and nationalized by that country at gunpoint, I might say.

The tax considerations here are critical. But they are not the only issue. Trading issues, Federal policy toward business, and foreign relations are also at stake. Each aspect is important, and reservations in one area must be balanced against the consequences in other areas.

In 1983, the Enron Corp.—formerly as I described was known as Internorth Corp.—acquired an oil and gas company in Peru. The Peruvian operations had been ongoing since 1959. Last year, at gunpoint, Peru exporpiated Enron's assets, and the negotiations between the Nation of Peru and Enron have led nowhere very fast.

Currently the tax law affects Enron in the following way: Enron lost $400 million it had invested in its Peruvian operation. Under present tax law, however, Enron is limited to a deduction of $175 million. Enron loses over $200 million that the Tax Code will not recognize. (Enron purchased the Peruvian operations in such a way that Enron was forced to assume the old tax basis (=$175 million) which was in accordance with the original owners.)

THE AMENDMENT

Under my amendment, the company would be permitted to deduct the amount of its net cash invested in the Peruvian subsidiary reduced, of course, by any potential recovery. This would be a net deduction of $218 million.

Note that my amendment does not allow Enron to claim 27 million dollars worth of foreign tax credits it earned. The original version of this bill would have allowed this. The Finance Committee expressed strong concerns about the Foreign Tax Credits, so I removed them from the bill. That was a $27 million concession on behalf of Enron.

NEGOTIATIONS

Let me tell those who have questions about the negotiations, about the crowd we are dealing with. I have spoken with members of the Peruvian Parliament. I believe once you hear the facts, you will conclude that the Peruvian Government does not make a good negotiating partner.

Some argue that negotiations are ongoing, and it is therefore premature to enact this amendment. Nonsense. The amendment is set up so that the allowed deduction is reduced by whatever amounts Enron recovers from Peru or insurance.

Enron executives met with the Peruvian negotiators several times (on Janurary 7, February 10, April 23, and again since May). Several different proposals were put forward by Enron; all were rejected by Peru.

In fact, the General Manager of Petroperu told Enron officials that the Government has no money and cannot afford to pay for the assets it stole.

To stall negotiations, Peru is now taking an inventory of every little nut and bolt in the entire operation. (For example, instead of counting 1 rig, 1 platform, et cetera, they are breaking each component down to its minutest component.) This is a monumental job that will take at least another 6 months. Until the inventory is completed, the Peruvians will not even begin to discuss issues of compensation.

THE POLITICAL SITUATION IN PERU DOES NOT OFFER MUCH HOPE

When I talked with a member of the Peruvian Government about the Enron negotiations, he brushed right past that issue and asked me to help them get money from the IMF. They have no intention of paying for the property they stole. In fact, they want us to give them more money through the IMF World Bank facilities.

The Peruvian Government is under tremendous pressure to stand up against American companies. Enron happens to be a small one that Peruvian officials believe they can hurt and get away with it.

A civil war is being waged against the Government.

In April, terrorists blew up a bomb at the American Ambassador's residence.

Two weeks ago, the Government forced down and held an American airliner because it entered Peruvian airspace.

And just last week, prison uprisings resulted in hundreds of deaths when soldiers apparently gunned down prisoners even after they surrendered. CBS reported this morning that the soldiers are disobeying Government orders and burying the dead without an investigation.

In short, I would not hold my breath waiting for Peru to get serious at the negotiating table. Yet, that is exactly what we are telling Enron to do.

I have had some of my colleagues on the Finance Committee say it is too soon, to let them negotiate a while.

Well, I wish my colleagues would get in an airplane and try to negotiate with Peru in this instance. I think they are broke. They are behind in some of their payments currently. I think economically they are going to be in more severe shape.

If a settlement were made, I cannot conceive of Enron accepting buttons

and bows in payment of what they financially lost in that particular area of the world.

That is exactly what we are telling Enron to do, to go down and negotiate with someone who is not going to pay, who is broke.

Enron is forced to sit still, not knowing what the outcome will be except that the United States tax laws are not standing behind them.

Let me reiterate, this is a corporate entity. If you go and look at their income tax that they pay to this Government, it is not one where I have had to make an excuse to a resident of Omaha why they pay more taxes than this corporate entity. They have always been a good taxpayer, an honest taxpayer, a big taxpayer, and a good part of the American Government.

So where is the United States of America?

The State Department has helped, but seems willing to sacrifice an American company to "preserve the peace" with Peru in a climate of accommodation. This Government of Peru stole property owned by an American company. What will it take for us to stand up to such behavior?

Our own tax laws that Enron has complied with and paid into, and has helped support our Government, had explored energy wherever it occurred in the world—our tax laws give Enron no quarter.

Why are we turning our backs on a company that has been a good citizen abroad and at home?

I say this to my colleagues, this does not open up an area of this tax reform package that establishes something deep, dark, and sinister specifically for a single American corporate entity. This is a corporate entity that obeys the law, that pays taxes and is proud to do that. But, unfortunately, it got taken by a foreign government only because they were in business there, because the source of their business exists under the ground and under the waters of that specific country.

My amendment costs less than $90 million over the next 5 years and obviously it is a one-shot deal. We pay for the amendment by slightly increasing the bill's civil fraud penalty from 75 to 85 percent, and by increasing the interest surcharge applicable in fraud cases from 50 to 60 percent.

We can put a sunset provision on that so that it equals out when they have attained the economic relief for the $90 million over a 5-year period through their deductibility, the taxes they pay, letting it phase out to its original amount as prescribed in this tax reform package.

Mr. President, I know it is a unique request, and I understand that. I, like many others, support this tax reform package. I think it is probably one of the better propositions that the people of this country will be able to have in the foreseeable future. I think it is a step in the right direction. Again, it does not contain all the items that I would like to see in it. Unfortunately, none of my colleagues have advised me how you can vote 60 percent yes and 40 percent no to reflect the proportion of good and bad in each vote.

But this is a worthy company and it is a worthwhile cause. It is a foreign nation that took property at gun point. I ask that my colleagues consider this and hopefully tomorrow when we debate this with Senator BOREN involved in the process of the debate with me, they will consider this type of amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. As I understand the amendment of the Senator from Nebraska, he is saying that there is a company once called Internorth that went down into Peru and had some business relationships there. I do not believe, as I understand it, that their property was expropriated, but I think they were not able to work out their differences with the country of Peru. They lost $90 million and they are now coming to the taxpayers of this country and asking them in this tax bill to cover that $90 million loss.

I do not know the details of their situation in Peru. We do have a Government agency that takes care of expropriations, the Oversees Private Investment Corporation, providing insurance for expropriations.

I do not wish to debate the matter at length tonight, but I want to say to my colleague from Nebraska that if the matter is going to remain on the agenda and go to a vote, then I would expect to address the issue more thoroughly and more fully tomorrow. I thought I ought to place him on notice that the Senator from Ohio does have strong objections to the amendment.

Mr. ZORINSKY. Mr. President, I respect the views of the Senator from Ohio. Before tomorrow I will get him the document from the State Department that uses the word "expropriate." In their definition and their analysis of the situation the property was expropriated, although, again, it is one of those items that if we do not want to offend, I suppose, the nationalistic views of the Government of Peru, they say they could not reach a business arrangement.

They have told me personally they are broke, they do not have money, they took it away.

But, second, the insurance part that the Senator is talking about, this amendment specifically says any recovery from insurance goes back to the Federal Government because obviously they cannot have it both ways. They cannot deduct and then collect.

Mr. METZENBAUM. In essence, is the argument that the company went to Peru, had some business difficulties, whether it is expropriation or not, and now the Senator is saying that the taxpayers of the country ought to circumvent that loss?

Mr. ZORINSKY. I am saying that the taxpayers of this country can share the future profits of Enron if they allow them some deductibility to allow them to prosper and make contributions to this country such as the $75,000.

Mr. METZENBAUM. What $75,000 is the Senator talking about?

Mr. ZORINSKY. Senatorial salaries.

Mr. METZENBAUM. They are paying our salaries?

Mr. ZORINSKY. Certainly, they are taxpayers. The last time I heard we did not get paid from the growth of money on trees.

Mr. METZENBAUM. I understand that. But there are taxpayers in Ohio contributing, businesses, individuals, and I have not yet heard that anybody has suggested that we provide a $90 million gift to any special group of taxpayers. I certainly think that it goes a long way to expect us to cover this loss. I do not think the Senator from Nebraska is in any way suggesting that they are going out of business, and even under those circumstances we do not provide that help.

Mr. ZORINSKY. The Senator is correct. But I suggest this, that if energy companies ever get to the point where they know their own Government will not support them in risk taking in an area where energy exists throughout this world, and they pull back and let foreign powers and foreign governments do the exploration and have the inside track on energy, then Ohio, Nebraska, and every other manufacturing site will deplete our internal supplies of energy and we will wish we had the American companies out there involved in that exploration.

Mr. METZENBAUM. Would the Senator from Nebraska share with us what the earning were for Internorth last year?

Mr. ZORINSKY. I do not know, Mr. President, but I can get it for the Senator tomorrow.

Mr. METZENBAUM. We can get it, I think. I thank the Senator.

Mr. ZORINSKY. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2133

(Purpose: To provide that it is the sense of the Congress that tax reform legislation remain unchanged for a period of at least 5 years from the date of enactment.)

Mr. MATTINGLY. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia [Mr. MATTINGLY] proposes an amendment numbered 2133.

Mr. MATTINGLY. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so orderd.

The amendment is as follows:

Insert at the appropiate place in title XVII, the following new section:

SEC.—. MORATORIUM ON TAX LEGISLATION.

(a) FINDINGS.—The Congress finds that—

(1) constant and conflicting policy changes in the Internal Revenue Code of 1954 (hereinafter referred to as the "Tax Code") make it difficult for individuals to properly plan for the future,

(2) constant and conflicting policy changes by the Congress retard capital formation by increasing the risk of a project,

(3) constant and conflicting policy changes by the Congress place undue burdens on individuals and businesses by requiring utilization of financial resources to anticipate such changes and modifications in the Tax Code,

(4) the Internal Revenue Service is drained of limited resources in trying to adapt to changes in the Tax Code,

(5) one of the greatest burdens placed upon small businesses is the completion of paperwork to comply with the Tax Code, and constant changes by Congress unnecessarily compound this paperwork burden,

(6) any tax reform legislation passed by the Congress should stimulate economic growth, encourage investment, promote capital formation, expand job opportunities, and encourage savings, and

(7) the American taxpayer deserves certainty in the tax treatment of economic decisions.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the provisions of the Internal Revenue Code of 1954 which are added or amended by this Act remain unchanged for at least 5 years in order to provide stability for the American taxpayer and the private sector.

Mr. MATTINGLY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1940

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2159

(Purpose: To clarify the Alaska Native consolidated return exemption in the Tax Reform Act of 1984)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 2159.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. The Chair informs the Senator from Alaska that an amendment is pending at this time.

Mr. STEVENS. I also ask unanimous consent that the Mattingly amendment be temporarily set-aside for the consideration of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2497, beginning with "adding" on line 9, strike through line 10 and insert in lieu thereof the following: "striking out paragraph (5) and inserting in lieu thereof the following new paragraphs:

"(5) NATIVE CORPORATIONS.—In determining whether a Native Corporation established under the Alaska Native Claims Settlement Act [43 U.S.C. sec. 1601 *et seq.*] is a member of an affiliated group with another corporation during any taxable year beginning before 1992 or any part thereof in which the Native Corporation is subject to the provisions of section 7(h)(1) of such Act [43 U.S.C. sec. 1606(h)(1)]—

"(A) the amendment made by subsection (a) shall not apply, and

"(B) the requirements for affiliation under section 1504(a) of the Internal Revenue Code of 1954 before the amendment made by subsection (a) shall be limited to the provisions expressly contained therein.

This paragraph is limited to stock owned directly by the Native Corporation or another corporation of which the Native Corporation owns all of the stock and shall be applied without regard to escrow arrangements, redemption rights, or similar provisions. Losses incurred and credits earned by a corporation (other than a Native Corporation or another corporation which is affiliated with the Native Corporation without the application of this paragraph while it is a member of an affiliated group of which a Native Corporation is the common parent) shall be treated as having been incurred or earned in a separate return limitation year of such corporation as defined in section 1.1502-1(f)(1) of the Treasury Regulations.

At the appropriate place in the bill, insert the following new section:

SEC. . TREATMENT OF DISTRIBUTIONS IN REDEMPTION OF STOCK HELD BY CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 302 (relating to redemptions treated as exchanges) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) REDEMPTION FROM CERTAIN CORPORATE SHAREHOLDERS.—Subsection (a) shall apply to a distribution if—

"(A) such distribution is in redemption of stock held by a corporation, and

"(B) such corporation would be entitled to a deduction under sections 243, 244, 245 with respect to such distribution if such distribution were treated as a dividend,

Provided, however, That no loss shall be recognized solely by reason of the application of this paragraph (5).

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 302 is amended by striking out "or (4)" and inserting in lieu thereof "(4), or (5)".

(2) Paragraph (6) of section 302(b) (as redesignated by subsection (1)) is amended by striking out "or (4)" each place it appears and inserting in lieu thereof "(4), or (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after date of floor action, unless pursuant to a binding written contract in effect on that date and at all times thereafter.

Mr. STEVENS. Mr. President, the Alaska Native Claims Settlement Act of 1971 [ANCSA] established 12 Native regional corporations and more than 150 Native village corporations to manage the land and cash granted to Alaska Natives—Eskimos, Indians, and Aleuts—in satisfaction of their aboriginal land claims. Largely as a result of the Federal Government's delay in implementing the settlement, many of the Native corporations are in poor financial shape today and have incurred large net operating losses, which they will not be able to utilize internally in the foreseeable future.

In an effort to respond to this crisis, Congress—through the good offices of Senator DOLE—in the 1984 Tax Reform Act exempted Native corporations until 1991 from changes in the Internal Revenue Code's consolidated return provisions, which established an 80-percent equity ownership requirement for consolidation. 1991 is significant because that is the date that stock in the Native corporations becomes alienable and the corporations may lose their Native character.

Congress intended that the exemption would allow a Native corporation to offset the income of a non-Native corporation's profitable subsidiary with its net operating losses [NOL's] and share the resulting tax benefits with the non-Native corporation. The idea was that this infusion of capital would allow many Native corporations to put their financial houses in order. We also hoped that the NOL transactions would enable many Native corporations to acquire new business expertise by establishing long-term substantive relationships with non-Native corporations.

Implementation of the Native exemption was disrupted last year when the IRS declined to rule on a low-equity Native NOL transaction. The IRS did not oppose such transactions per se but feared that ruling favorable on the Native transaction might undermine its argument in lawsuits involving non-Native corporations that a substantial equity requirement was part of the pre-1984 consolidation return provisions. Very few Native corporations would be able to do NOL transactions if they had to meet a high equity ownership requirement.

The refusal of the IRS to rule has not stopped low-equity Native NOL transactions from going forward. It has, however, eroded the bargaining position of Native corporations in negotiating these transactions, substantially reducing their share of the tax benefits produced by the transactions.

In summary, the evidence received so far indicates that Native NOL transactions are going ahead now. The legal uncertainties are being dealt with by escrow arrangements, and so forth, that cut down on the Native corporations' share of the net tax benefits.

Our clarifying amendment, which was drafted with the assistance of the Internal Revenue Service, would increase the Native share of the net tax benefits, thus furthering the policy decision made by Congress in 1984. It might encourage some small Native corporations, which would otherwise not take advantage of the 1984 provision, to enter into the NOL transactions but the revenue impact of that would be moderate, for example, $50 million maximum over the fiscal years 1986-91 period. We think it would be substantially less.

The clarifying amendment would offset the projected $50 million revenue loss by amending section 302 of the Internal Revenue Code to provide that certain distributions in redemption of stock held by corporate shareholders be treated as true redemptions. This change would prohibit the corporate shareholder from excluding all or a portion of the distribution under the dividends-received deduction provisions. Joint Tax Committee has estimated that this corporate tax change will raise approximately $50 million over fiscal years 1986-91.

EXPLANATIONS OF ALASKA NATIVE CONSOLIDATED RETURN EXEMPTIONS CLARIFYING AMENDMENT

The 1984 Tax Reform Act substantially revised the definition of "affiliated group." Members of an affiliated group of corporations may file, or be required to file, consolidated returns. The provision was generally effective for taxable years beginning after December 31, 1984. However, section 60(b)(5) of the Act provides that the amendments made to the definition of an affiliated group do not apply before 1992 to any Alaska Native Corporation established under the Alaska Native Claims Settlement Act of 1971 (ANCSA). This exemption was granted to Alaska Native Corporations in recognition of the special restrictions which apply to these corporations (section 7(h)(1) of ANCSA). In addition, it was recognized that, primarily as a result of difficulties encountered in implementing ANCSA, most Alaska Native Corporations have experienced serious financial problems. The purpose of the exemption for Alaska Native Corporations was to further implement ANCSA by assisting these corporations to improve their financial health.

The clarifying amendment provides that under the exemption for Alaska Native Corporations, affiliation is based solely on ownership of stock which meets the 80 percent voting power and non-voting stock tests. Therefore, no minimum equity requirement applies. In addition, the 80 percent voting power and non-voting stock tests shall be applied without regard to escrow arrangements, voting trusts, redemption or conversion rights, stock warrants or options, convertible debt, liens, or similar arrangements. Likewise, affiliated group status is to be determined without regard to an Alaska Native Corporation's purpose for acquiring the voting stock of another corporation.

Mr. President, this amendment which I have submitted will carry out the original intent of the 1984 exemption. I am informed that there is a loss as a result of this amendment. As I mentioned earlier, we have offered as part of the amendment a provision to offset that loss by providing that certain distributions in redemption of stock held by corporate shareholders be treated as true redemptions. This change would prohibit the corporate shareholder from excluding all or a portion of the distribution under the dividends-received deduction provisions.

The Joint Tax Committee has informed me that this provision will raise approximately the same amount as the clarifying amendment will cost. Again, it is one of those situations, Mr. President, where actually if the 1984 act had been appropriately implemented, there would be no amendment necessary to this act and, therefore, there would be no need to discuss the issue of revenue loss.

I am hopeful that my good friends will understand once again this is one of the provisions I have been talking about to try and make the Alaska Native Land Claims Settlement Act work.

The impact of changes in the Internal Revenue Code at times has been such that we have had to seek these exemptions to make sure that the original intent of Congress in the 1971 act is achieved.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. As usual, my good friend from Alaska is exactly correct, and on this side I find the amendment in perfect order and am prepared to accept it.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. There is no objection to the amendment on this side.

Mr. STEVENS. I thank the chairman of the Finance Committee and the distinguished Senator from New Jersey. I want to emphasize that I have discussed this amendment with the Secretary of the Treasury. The amendment is not intended to set any type of precedent for net operating losses.

In 1984 and again today we are offering an amendment in order to further the purposes of the Alaska Native Claims Settlement Act. The amendment before us is necessary in order to offset some of the net operating losses that were caused by the delay of Congress in eliminating impediments to the distribution of land to the regional and village corporations pursuant to ANCSA.

This amendment allows a portion of the loss that was incurred as a result of the failure of the Federal Government to live up to its commitment to the Natives to be absorbed in a tax transaction. The amendment is grounded in social policy, the policies of ANCSA, and not in tax policy considerations.

The Native corporations were organized pursuant to the mandate of the 1971 act. Alaska Natives operate these corporations pursuant to a mandate of the Congress.

I appreciate the action of my colleagues in understanding the problems the Natives face. I ask for the consideration of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2159) was agreed to.

Mr. PACKWOOD. I move to reconsider the vote by which the amendment was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2133

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Georgia.

Mr. MATTINGLY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1950

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. While we are waiting for someone to come to the floor, I have some unanimous-consent requests which have been agreed to by the distinguished minority leader.

71-059 O-87-7 (Pt. 11)

CONVENTION ON WETLANDS OF INTERNATIONAL IMPORTANCE (TREATY DOCUMENT NO. 99-28)—REMOVAL OF INJUNCTION OF SECRECY

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from a Convention on Wetlands of International Importance (treaty document No. 99-28) transmitted to the Senate today by the President of the United States.

I also ask that the treaty be considered as having been read the first time; that it be referred with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Convention on Wetlands of International Importance especially as Waterfowl Habitat, concluded at Ramsar, Iran, February 2, 1971, and a Protocol to the Convention, concluded at Paris on December 3, 1982. The report of the Department of State is also enclosed for the information of the Senate.

The Convention is the result of a broad international recognition of the economic, cultural, scientific, ecological, and recreational value of wetlands, coupled with rising concern over the progressive worldwide loss and degradation of these habitats and their dependent resources. The Convention provides a framework for promoting the conservation of wetlands through international cooperative and coordinated actions, consultations, and information exchange.

A primary obligation under the Convention is the designation by Contracting Parties of wetlands within their territory for inclusion in a "List of Wetlands of International Importance." If advice and consent to ratification is forthcoming, I intend to designate the four wetlands named in the Department of State report.

The Protocol to the Convention establishes the four language texts of the original Convention as equally authentic and provides a mechanism for amending the Convention.

International efforts directed toward wetlands conservation are vital to the preservation of United States migratory bird populations, which are affected by the loss of wetlands habitats to the south. United States participation would complement domestic wetlands protection efforts and legislation; help stimulate Latin American countries, in particular, to cooperate in protecting the wintering habitat of birds that migrate to North America; and provide a framework for sharing U.S. wetlands technology and expertise.

I recommend that the Senate consider this matter at an early date, and give its advice and consent to ratification of the Convention and Protocol.

RONALD REAGAN.

THE WHITE HOUSE, *June 23, 1986.*

Mr. DOLE. Mr. President, I understand that the Senator from Minnesota [Mr. DURENBERGER] will be coming to the floor, as well as perhaps one other Senator, to take care of their amendments this evening.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 2000

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 652.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the resolution (H.J. Res. 652) entitled "Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes", with the following amendment to Senate amendment:

In lieu of the matter inserted by the said amendment insert:

SECTION 1. EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS.

(a) TITLE I INSURANCE.—Section 2(a) of the National House Act is amended by striking "June 6, 1986" in the first sentence and inserting "September 30, 1986".

(b) GENERAL INSURANCE.—Section 217 of the National Housing Act is amended by striking "June 6, 1986" and inserting "September 30, 1986".

(c) LOW AND MODERATE INCOME HOUSING INSURANCE.—Section 221(f) of the National Housing Act is amended by striking "June 6, 1986" in the fifth sentence and inserting "September 30, 1986".

(d) SECTION 235 HOMEOWNERSHIP.—

(1) ASSISTANCE PAYMENTS AUTHORITY.—Section 235(h)(1) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

(2) INSURANCE AUTHORITY.—Section 235(m) of the National Housing Act is amended by striking "June 6, 1986" and inserting "September 30, 1986".

(3) HOUSING STIMULUS AUTHORITY.—Section 25(q)(1) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

(1) GENERAL AUTHORITY.—Section 244(d) of the National Housing Act is amended by striking "June 6, 1986" and inserting "September 30, 1986".

(2) RENTAL REHABILITATION AND DEVELOPMENT PROJECTS.—Section 244(h) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

(f) GRADUATED PAYMENT AND INDEXED MORTGAGE INSURANCE.—Section 245(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

(g) REINSURANCE CONTRACTS.—Section 249(a) of the National Housing Act is amended by striking "June 6, 1986" in the second sentence and inserting "September 30, 1986".

(h) ARMED SERVICES HOUSING INSURANCE.—

(1) CIVILIAN EMPLOYEES OF ARMED FORCES.—Section 809(f) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

(2) DEFENSE HOUSING FOR IMPACTED AREAS.—Section 801(k) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

(i) LAND DEVELOPMENT INSURANCE.—Section 1002(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

(j) GROUP PRACTICE FACILITIES INSURANCE.—Section 110(a) of the National Housing Act is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

SEC. 2. LIMITATIONS ON COMMITMENTS TO INSURE LOANS AND GUARANTEE MORTGAGE-BACKED SECURITIES

(a) FEDERAL HOUSING ADMINISTRATION FUND.—

(1) FISCAL YEAR 1986.—Notwithstanding section 531 of the National Housing Act, the applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $57,580,000,000 of mortgage and loan principal.

(2) FISCAL YEAR 1986.—Section 531 of the National Housing Act is amended—

(A) by inserting "(a)" after the subsection designation; and

(B) by adding at the end the following new subsection:

"(b) The Secretary may enter into commitments during fiscal year 1986 to insure mortgages and loans under this Act in an aggregate principal amount that does not exceed $100,000,000,000.".

(b) GOVERNMENT NATIONAL MORTGAGE ASSOCIATION.—Section 306(g)(2) of the National Housing Act is amended to read as follows:

"(2) The Association may enter into commitments during fiscal year 1986 to issue guarantees under this subsection in an aggregate principal amount that does not exceed $152,000,000,000.".

SEC. 3. EXTENSION OF REHABILITATION LOAN AUTHORITY.

Section 312(h) of the Housing Act of 1964 is amended by striking "June 6, 1986" and inserting "September 30, 1986".

SEC. 4. EXTENSION OF RURAL HOUSING AUTHORITIES.

(a) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "June 6, 1986" and inserting "September 30, 1986".

(b) RURAL AREA CLASSIFICATION.—Section 520 of the Housing Act of 1949 is amended by striking "June 6, 1986" in the last sentence and inserting "September 30, 1986".

(c) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 is amended by striking "June 6, 1986" and inserting "September 30, 1986".

SEC. 4. EXTENSION OF FLOOD AND CRIME INSURANCE PROGRAMS.

(a) FLOOD INSURANCE.—

(1) GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1986".

(2) EMERGENCY IMPLEMENTATION.—Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1986".

(3) ESTABLISHMENT OF FLOOR-RISK ZONES.—Section 1360(a)(2) of the National Flood Insurance Act of 1968 is amended by striking "June 6, 1986" and inserting "September 30, 1986".

(b) CRIME INSURANCE.—

(1) GENERAL AUTHORITY.—Section 1201(b)(1) of the National Housing Act is amended by striking "June 6, 1986" in the matter preceding subparagraph (A) and inserting "September 30, 1986".

(2) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1)(A) of the National Housing Act is amended by striking "September 30, 1986" and inserting "September 30, 1986".

SEC. 6. MISCELLANEOUS EXTENSIONS

(a) COMMUNITY DEVELOPMENT BLOCK GRANT CLASSIFICATION.—

(1) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by striking "June 6, 1986" in the second sentence and inserting "September 30, 1986".

(2) URBAN COUNTY.—Section 102(a)(6) of the Housing and Community Development Act of 1974 is amended by striking "June 6, 1986" in the second sentence and inserting "September 30, 1986".

(b) SECTION 202 INTEREST RATE LIMITATION.—Section 223(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking "June 6, 1986" and inserting "September 30, 1986".

(c) HOME MORTGAGE DISCLOSURE ACT OF 1975.—Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking "June 6, 1986" and inserting "September 30, 1986".

AMENDMENT NO. 2160

(Purpose: To provide for a short-term extension of the authorization of the Federal Housing Administration, and other programs until September 30, 1986, and to increase the limitation on FHA home mortgage guarantees)

Mr. DOLE. Mr. President, I move that the Senate concur in the House amendment with a further Senate amendment which I send to the desk on behalf of Senator GARN.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. GARN, proposes an amendment numbered 2160.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter inserted by the said amendment, insert:

SECTION 1. Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "September 30, 1986".

SEC. 2. The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $9,500,000,000 of mortgage and loan principal.

● Mr. GARN. Mr. President, the amendment proposed, does two things. First it extends the FHA authorization, and the authorization of a number of other programs, to September 30, 1986.

The second purpose of the amendment is to raise the current FHA loan guarantee limitation by $9.5 billion.

The amendment differs from the House passed amendment by correcting a technical error which raises questions over the extent that the FHA loan limitation is increased.

The intent of the House amendment was to raise the fiscal year 1986 limitation to $132 billion, the same level that will be yielded by the conference action on the Urgent Supplemental Appropriations bill.

The amendment would increase the existing loan guarantee limitation on FHA by $9.5 billion—enough authority to resume normal FHA activities through July 18.

The budget impact of the amendment would reduce fiscal year 1986 outlays by $198 million. Since the CBO scoring of the Urgent Supplemental Conference agreement is a total of $199.6 million under current level, passage of the FHA extender (H.J. Res. 652) with the $9.5 billion credit cap increase will not jeopardize the "deficit neutrality" of the supplemental.●

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I thank the distinguished minority leader for his resounding vote.

TAX REFORM ACT OF 1986

Mr. DOMENICI. Mr. President, if it is accommodating to the leadership, I wish to give my impressions of this tax bill as it pertains to New Mexico with a short speech.

Mr. President, I will ask the distinguished manager of the bill. I have about a 10-minute speech which is my summary of the impact of this bill on a State like mine. I want to do that when it is most accommodating to the Senate.

Does the Senator who is the manager of this bill think this would be an appropriate time or does he have something else that is significant?

Mr. PACKWOOD. I ask Senator DURENBERGER, who has I think an amendment he may be offering, is he going to offer an amendment and want us to dispose of it?

Mr. DURENBERGER. Mr. President, I want to offer the amendment and dispose of it tonight. I would like to be able to. But I am not sure whether that can be accomplished or not.

It is a matter on the chairman's list, called the Great Northern Trust, for the benefit of my colleagues.

Mr. METZENBAUM. Mr. President, will the Senator from Minnesota yield for a question?

Mr. DURENBERGER. I am happy to yield to the Senator from Ohio for a question.

Mr. METZENBAUM. I do not know exactly what this amendment is.

Is this the amendment that overturns two court decisions that have heretofore been made?

Mr. DURENBERGER. This is an amendment relating to the taxation of the Great Northern Trust, which at one point by a court was determined to be an association rather than a trust, and as a consequence of that, as I understand it, a private-letter ruling from the Internal Revenue Service has indicated that it must be taxed as an association rather than as a trust.

□ 2010

But, as far as overturning two court decisions, it is not my purpose to propose this amendment to do that.

Mr. METZENBAUM. I just want to advise my colleague that I think we have an objection to this amendment. We certainly have no objection to his bringing it up at this point. As I understand it, I think there is another amendment pending on the floor, the Mattingly amendment. But we can certainly work out the parliamentary arrangement so that the Senator from Minnesota can have an opportunity to debate this issue.

Mr. DOMENICI. Mr. President, does the Senator from New Mexico have the floor?

The PRESIDING OFFICER. The Senator from New Mexico does have the floor.

Mr. DOMENICI. I would once again ask my friend, the chairman of the Finance Committee, what his desire is. I would like to give my explanation of this bill at some time before you pass it and I do not want to infringe on the closing moments of tomorrow, which are yours and those who have worked so hard. I need about 10 minutes and I will do it when it is most accommodating.

Mr. PACKWOOD. My first desire is—it is 10 after 8—that I would like to go home and have dinner with my family. That is my first desire. I see a few other hands being raised in the Chamber.

Obviously, I am going to stay here as long as anybody wants to go. I understand the amendment of the Senator from Minnesota certainly is not going to pass tonight and, apparently, I have forgotten we had the amendment of the Senator from Georgia pending. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. So it will not be disposed of tonight, in any event, other than by unanimous consent.

Mr. DOMENICI. What time are you coming in in the morning?

Mr. PACKWOOD. May I address the Chair: It is 9:30?

The PRESIDING OFFICER. The Senate will convene at 9 o'clock and routine morning business will be completed by 9:30.

Mr. PACKWOOD. And we are on the bill at 9:30. We have a vote at 10 o'clock.

Mr. DOMENICI. Does the chairman need the time?

Mr. PACKWOOD. I think probably the Senator from New Mexico would be better off to go tonight, if he wants to stay, because tomorrow we are going to have five or six or seven amendments that may require votes and some debate. I think you would be better off to say what you want to say tonight if you want to say the entire thing rather than wait until tomorrow and take your chances.

Mr. DOMENICI. I would prefer to do that. I do not at all want to infringe on your time, I say to my good friend, the chairman. If you cannot accomplish the Durenberger amendment, I see no reason why you have to manage the bill in my behalf while I am summarizing the beneficial effects of this bill to my State. I think I have done a different job in analyzing this than anyone else. I think I know precisely how much New Mexicans are helped in almost every category—50,000 leave the tax rolls in one of the smallest States in the Union. We are helped 8½ percent, on average, across the board in our taxes, and that is because we have some very peculiar situations. But I truthfully want to tell the Senate about it and tell my people about it.

So if you want me to do that now, I clearly do not want you to stay here and be burdened by that. Would you prefer I do it the first thing in the morning?

Mr. PACKWOOD. No; I would rather you do it now.

Mr. DOMENICI. I will.

Mr. President, I wish to say a few words about H.R. 3838, as amended by the Senate Finance Committee and presently pending before the U.S. Senate.

What I want to do is describe the importance of this bill to the people of my State. The Committee on Finance, as we have all said here on the floor, is to be commended for its hard work in developing this bill—the most significant tax legislation in more than a generation.

This is "reform." It is a reform bill that provides tax reform—not a cliche or not just in name as has been so much a part of the rhetoric of tax legislation in the past.

H.R. 3838 reverses the trend of the past several decades where Congress simply created a jerry-built structure of taxes with loopholes and shelters piled on top of more loopholes and more shelters piled on top of more of the same.

For decades, tax policy was used as a way to make certain that particular types of investments were attractive. Said more bluntly, tax policy was used to distort investment decisions.

H.R. 3838 replaces that house of shelters with a new structure, one with windows open to the breeze of fairness and neutrality in terms of the investment of the money that belongs to our people. This means that families earning approximately the same income will pay approximately the same level of taxes, regardless of where or how the money is earned.

I applaud that decision. The people of New Mexico—as well as the Nation—applaud that decision, or I can predict with certainty, if the conference returns with something close to this, they will applaud it.

Why is this important? Unless a person happens to be a big investor, why should he or she care if the tax policy encourages investments in beef feed-lots or high-rise apartment buildings, even if they are not necessarily needed, instead of high technology and microchips?

The answer comes from how we as humans—and investors—react. Investors look for the maximum net return—cash in the wallet.

This means that relatively poor investments can, when freed of tax consequences, produce a very attractive net return. That return may be more attractive, under present law, than a similar sized investment in a more dynamic growth company, but one that must pay a full tax bill.

When tax policy encourages investment in a shelter, that tax policy also makes it less attractive to invest in companies or businesses not so favored.

Since that second investment is less attractive, it will almost surely have to pay more to borrow. It may not be able to expand as rapidly as it would be able to grow in a tax-neutral world.

The result: higher interest costs on investments that are sound, yet lack the lure of the tax shelter.

In fact, I am positive that the tax laws of the United States have done more to allocate interest costs than almost any other single factor.

This can become critical when the capital-hungry industry turns out to be something like a young-tech company struggling to compete in world markets with the Japanese or Koreans.

Today's tax policy often makes it more attractive to invest in construction of structures or businesses, where world competition is meaningless, to the detriment of new technological companies working at the cutting edge of industrial knowledge.

Tomorrow's tax policy—the policy of this bill—frees American industry from tax prejudice. It is a bill that silences the siren lure of the shelter.

I do not want to underestimate the risks of this bill. By eliminating incentives such as the special treatment for capital gains and the investment tax credit—replacing both with a broad lowering of rates—America will be taking a chance. We will risk the fact that heavy capital investments in general may become less attractive. We will risk that investment dollars may gravitate toward the less risky company, the company that stresses income rather than growth.

Yet, I believe the opportunities that grow from the tax fairness and tax neutrality are worth the risk.

Frankly, I believe that a tax code that is fair insulates itself from the risk that taxpayers will stop paying their taxes and will seek every day to avoid payment.

This bill culminates the dramatic shift toward lower tax rates and fewer shelters begun by President Reagan. The top personal rate in this bill is 27 percent. The rate for most American families will be 15 percent.

When Ronald Reagan became President of the United States—and, incidentally, when we became the majority party, the Republican Party, in the U.S. Senate—the top personal tax rate was 70 percent.

As President Nixon did the unexpected in opening relations with China, President Reagan has moved aggressively in tax policy. He has acted in a way other Presidents might have found politically impossible. If this reform effort should fail, we may

have to wait several decades to see true tax reform and fairness.

With that general background, let me now describe for the benefit of my colleagues a few of the items that hold particular significance for the citizens and the economy of New Mexico.

□ 2020

On a national basis H.R. 3838 will bring the advantage to the average American family a tax cut of about 6.4 percent. A family of 4 with a gross income of $23,000 will see its taxes cut 62 percent. A family of 4 with a gross income of $13,000 will pay no Federal taxes at all under this bill. That is as it should be.

They are the working poor of America. And what sense does it make for us to have socioeconomic policies which attempt to help those people, the working poor, with grants, aids, and various Federal programs that give them things while we are encouraging them to work and at the same time they have to pay taxes? It is a truly ridiculous situation for a growing society.

That leads me to be very proud of what I hear about our people in this country because I understand that one of the things that is most attractive to most American rich, conservative, business people, the whole gamut—is that we are removing people who earn $13,000 and less from the tax rolls. I was not so sure that I would have believed that as I look out there at the country. However, I have now seen three major polls that say Americans are most proud of about this bill is that those who work hard and attempt to get ahead, but are not making enough to be much more than the working poor will no longer pay taxes.

The typical New Mexican will see their 1987 taxes cut by 8.5 percent as a result of this bill. If the sales tax deduction is restored fully, as I believe it should be—and I urge our distinguished chairman who wonders from time to time whether it is a significant issue and important to States like mine. Let me give the number. If we get the fairness of a full sales tax deduction, New Mexico residents could receive a tax cut that could go as high as 10 percent. And I think that is good news. It is good news for our families and our State, and for our economy.

I think that bodes well for America's future. Because this tax bill provides greater tax relief for lower-income families, reducing the income disparity between the rich and the poor, the typical New Mexico family will do even better than average.

Next, there is the number of persons affected. This bill removes about 6 million Americans from the tax rolls. Americans, rich and poor, favor that removal. They see it as fair to families with lesser incomes. So do I.

Last year New Mexicans filed 499,800 returns on which taxes were paid. Because of the increase in the minimum income on which taxes must be paid, 50,000 New Mexicans—1 of every 10 of those paying Federal taxes in New Mexico—will be relieved of the burden of paying any Federal taxes on their 1988 incomes.

I repeat, 50,000 New Mexicans will be relieved of any Federal income tax to our National Government—1 out of every 10—as a result of this bill.

I believe that is fairness, and that shows that this system invites them to succeed to work, and does not punish them at the very fringe of subsistence by taxing poverty—especially from those who are trying to get out of it by working.

To assure greater fairness, H.R. 3838 imposes a new minimum tax on both individuals and corporations tightening down on shelters, and by imposing the minimum tax H.R. 3838 will insist that taxes be paid by those who have legally used shelters in current law to reduce or eliminate their tax bill.

There is nothing that is more misunderstood, nothing that is more infuriating than to have the average taxpayer address the issue of those who make much more than they do, and pay nothing. There is nothing that infuriates people more, whether they understand it or not, than to read of corporations that make large amounts of profit and pay no taxes.

We understand that is the result of our tax system, and there is nothing illegal about it. But this bill will say "that just will not work." And indeed, the American people insist that it be changed because it does not sound, look or smell like fairness. That is what tax reform is all about, treating all taxpayers in as close to the same manner as you can. I applaud that decision, and I applaud the effort to build credibility into this tax bill. Americans expect it, and Americans are expected to pay their taxes voluntarily.

If you are interested in a system that is departed from it, you can go to France. They have so departed from it that for anybody that owes a substantial amount of tax they negotiate it one on one with the tax collector because it makes no sense for them to pay voluntarily. It is so complex, so unfair, and filled with loopholes that they negotiate their tax bill one on one.

Our country will go bankrupt if we let that happen. And we are in the nick of time because many, many people are thinking about not being good citizens when it comes to paying their taxes.

What about our New Mexico economy? How will H.R. 3838 affect us?

Let us look at oil and gas, one of our largest industries. Unlike the House bill, the Senate tax bill leaves in place current law regarding the percentage depletion allowance and intangible drilling costs. That is as it should be. This is one area where we are saying we need to attract investment, and increase our independence. America must continue to encourage oil and gas exploration.

The House bill cuts back on intangible drilling costs and phases out the depletion allowance. While the minimum tax will affect some oil and gas investors and thus affect exploration, the Senate language is far preferable to the House provisions. I urge that the Senate conferees do all they can to hold firm on the Senate provision.

I am also very pleased that the Senate bill extends for 2 years the targeted job tax credits, allowing employers to receive special benefits for hiring the unemployed or underemployed. This has been an important program encouraging business to expand and hire new workers. I have long believed that targeted job credits provide an excellent source of new jobs. H.R. 3838 endorses that philosophy.

The Senate bill extends the research and development tax credits at their current level of 25 percent for the next 4 years. This, too, is a wise and praiseworthy decision, one that is particularly beneficial to a science-oriented State like New Mexico.

Similarly, the continuation of solar energy credits for business will push this important industry into new areas of expansion.

The Senate bill imposes no rules altering the way hard mineral taxes are imposed; the House version, by contrast, reduces depletion to 5 percent across the board. The conferees need to hold to the Senate position.

H.R. 3838 helps farmers. It lowers tax rates, and it will reduce sharply the use of agriculture as a tax shelter for big city investors. What does that mean? It means that there will be less overproduction, and, thus, less drain on prices and farm income. The bill retains income averaging for farmers and cash accounting, which are both important to farm families.

The bill reduces from 10 years to 5 years the minimum period that an employer can require an employee to work before the employee gains the right to a pension. This is important for women. It is important for teachers. It is important for professionals in the high-technology fields so vital to New Mexico.

The high-technology field is particularly competitive and very mobile. The new vesting rules should help the very people on whom we depend to strengthen New Mexico's economy.

H.R. 3838 provides additional important benefits directed toward women. Besides the pension reforms, the earned income credit is increased to

target more effectively tax relief for working, low-income taxpayers with children.

Another important feature of this bill is the provision setting the personal exemption at $2,000. My colleagues may be aware that New Mexico led the Nation this year in raising the personal exemption to $2,000. H.R. 3838 takes the wise course of placing the United States in line with New Mexico.

Mr. President, H.R. 3838 is a good bill. It is a bill I support with enthusiasm. While there are a variety of items that need to be corrected in conference—full sales tax deductibility and the individual retirement account [IRA] are the most obvious—the basic thrust of H.R. 3838 is sound. It is legislation that does great honor to this body.

In closing, Mr. President, I would like to pay a particular tribute to Chairman PACKWOOD, to Senator LONG, and to their colleagues on the Committee on Finance.

They are to be commended personally for their leadership, their vision, and, most of all, their courage. They dared to think creatively. They dared to pass up the easy approach that would have left smiling nearly every sponsor of a shelter in this town.

Rather, they have produced legislation that is bold and daring, legislation that is fair and neutral, legislation that seems certain to benefit more Americans than any other bill enacted during this decade.

Chairman PACKWOOD, Senator LONG, committee members, we applaud you. The people of New Mexico thank you.

Mr. President, I ask unanimous consent to insert in the RECORD a table prepared from figures provided by the New Mexico State Department of Taxation and Revenue. This table, using State taxation categories, provides a guide to the impact of H.R. 3838 on various taxpayer groups in New Mexico.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFECTS OF THE SENATE TAX BILL ON NEW MEXICO TAXPAYERS

Income class (thousands)	Percent change in tax liability under Senate bill [1]	Percent of taxpayers		Number of New Mexico taxpayers [2]
		United States [2]	New Mexico [2]	
0 to $10	−63.0	31.6	31.4	157,000
$10 to $20	−20.1	21.1	26.9	134,500
$20 to $30	−8.1	19.8	17.8	88,900
$30 to $40	−5.0	11.9	11.1	55,400
$40 to $50	−6.6	6.6	5.9	29,400
$50 to $75	−3.9	5.8	4.5	22,300
$75 to $100	−3.3	1.4	1.0	5,000
$100 to $200	−3.8	1.3	.9	4,400
$200 plus	−4.7	.5	.6	2,800

[1] These figures have been taken from a study by the Joint Committee on Taxation, released June 6, 1986. Percentages of U.S. taxpayers in each income tax group are projected figures for 1988.

[2] These figures are derived from data from the New Mexico State Department of Taxation and Revenue. Income class in these cases represents adjusted gross income after deductions in 1984. Taxpayers filing negative taxable income (since the State offered a tax rebate) have not been included.

Mr. DOMENICI. Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I understand that the only other matter that might have been disposed of is the Durenberger amendment on which there are now negotiations going on. That may be resolved by tomorrow morning.

COSPONSORS OF THE HOLLINGS BUDGET FREEZE

Mr. HOLLINGS. Mr. President, I rise today to clarify a technical error that was made in the CONGRESSIONAL RECORD more than 2 years ago.

On May 1, 1984, I brought my budget freeze plan to the floor of the Senate during consideration of the fiscal year 1985 budget resolution. At the time, as is the usual procedure, I asked unanimous consent that several of my colleagues be added as cosponsors of the budget freeze.

Unfortunately, through a clerical error, several Senators were never recorded in the CONGRESSIONAL RECORD as cosponsoring the budget freeze. Among them were the Senator from Vermont, Mr. LEAHY, and the Senator from Oklahoma, Mr. BOREN.

Mr. President, Senators LEAHY and BOREN were among the original 16 Senators who had the courage to vote for the across-the-board freeze on Federal spending that I first introduced in 1982. Had my budget freeze been enacted on that vote in 1983, there would be no budget deficit at all by 1990.

In 1984, their continued support and cosponsorship of the budget freeze helped to more than double the number of votes for the plan in the Senate. We could not have mustered that kind of support without the active help of all of the cosponsors.

Mr. President, as the sponsor of the Hollings budget freeze, I wish to clarify that these Senators were, indeed, cosponsors of that budget plan. And, as one of the co-authors of the Gramm-Rudman-Hollings balanced budget law, I should also say that these Senators truly understand the urgency of eliminating the Federal deficit.

These clerical errors occur, and they are unfortunate. However, let the RECORD show that I appreciate the efforts of these Senators in cosponsoring the Hollings freeze. It is through their efforts that the discipline of fiscal responsibility is finally setting in. Mr. President, those like Senators LEAHY and BOREN who were part of this fight from the start have my strong admiration.

ROGERS COMMISSION REPORT ON THE SPACE SHUTTLE CHALLENGER

Mr. HEFLIN. Mr. President, the report of the Presidential Commission on the Space Shuttle *Challenger* has now been released and is currently undergoing study within Congress and the administration. In its report the Commission recommends that "the joint" be completely redesigned, all critical items on the shuttle be reviewed before the shuttle flies again and safety procedures be improved. I wholeheartedly endorse these recommendations and urge my colleagues to give the support NASA will need in order to implement these changes.

In the aftermath of the *Challenger* tragedy and the completion of the Commission's work we must look to the future with new resolve that our efforts in space go forward. With the support of Congress, NASA should take the necessary steps to get the shuttle program moving again. And while we must not sacrifice safety for expediency, getting the shuttle program back on schedule must be a national priority. It is also imperative, in my judgment, that Congress move with haste to approve legislation authorizing NASA to go forward with the development and construction of a fourth orbiter. Because the space shuttle is the Nation's premiere launch vehicle, long launch delays will mean that important commercial, Government, and scientific payloads will be postponed. We have come to depend on the routine access to space that the shuttle provides us and on the important duties only it can perform. In order to achieve the goals established for the shuttle and get our space program moving again, we must begin as soon as possible on the construction of a fourth orbiter to replace the *Challenger*. I was greatly pleased that President Reagan expressed his support for building a new orbitor earlier this month.

Since its initial launch on April 12, 1981, the space shuttle has been the cornerstone of the U.S. manned space program. During its 5 years of operation the shuttle has proven to be capable of a variety of space operations that cannot be achieved with today's expendable launch vehicles. For example, it has the ability to retrieve payloads from orbit for reuse; to repair and service satellites in space; to transport to orbit, operate and return space laboratories; to transport materials and equipment to orbit; and to perform rescue missions. The space shuttle will also play a vital role in constructing and operating the permanent manned space station.

Mr. President, I have been concerned with remarks made by administration officials in recent weeks indicating that NASA should be required

to pay for a new orbiter by taking funds from other programs. This is an unrealistic approach and could prove devastating to many ongoing and important NASA programs. Production of the fourth orbiter should not come at the expense of other programs within NASA. In particular, NASA must continue with the schedule established for development of a permanent manned space station so that it will get a new start in 1987 and be operational by the mid-1990's. Both the shuttle and space station programs deserve the strong support of Congress and should continue simultaneously. Without a vigorous space program the United States is threatened with permanently losing leadership in this area to the Soviet Union. The Soviets are moving ahead in both manned and unmanned missions and have put a permanent space station in orbit around the Earth. This is not the time for the United States to slacken in its commitment to a strong national space program.

Mr. President, I would like to make a few general comments on the report of the Presidential commission. The Commission pointed to a wide array of management problems in the space agency as being fundamentally responsible for bringing about the failures which led to the *Challenger* disaster. There is no doubt but that over the years there have been numerous managerial mistakes and misjudgments within NASA. It is also evident that there have been serious and repeated communications breakdowns between engineers and managers, between the separate NASA centers, and between the contractors and NASA. I believe NASA will learn much from its past mistakes and should move expeditiously to correct them. I also believe NASA will emerge from this dark period a wiser, stronger, and more efficient agency.

As NASA struggles to resume its space operations I think we should keep in mind the Agency's spectacular successes during the past 25 years and the fact that it had a 100 percent flight safety record during that time. NASA is responsible for establishing America as the world leader in space exploration and scientific research. It has increased the quality of life of all Americans and has advanced our understanding of our planet, our solar system, and the universe. The Agency has been so successful many had come to expect it to be near perfect in all its endeavors. NASA now needs the support of all Americans, and especially the Congress, as it works to implement the changes recommended by the Commission and begins to move our space program forward.

Mr. President, there will no doubt be many more spectacular and important feats performed by NASA in the years to come. The Nation's space program, much like the firebird, must and will go forever onward to reach new plateaus and new horizons in the eternal quest for understanding our cosmos and our place in it.

THE RETIREMENT OF DR. WILLIAM R. LUCAS

Mr. HEFLIN. Mr. President, today I would like to share with my colleagues an account of the career of an outstanding Alabamian and a very good friend, Dr. William R. Lucas. Dr. Lucas is retiring from his position as the director of the Marshall Space Flight Center in Huntsville, AL after spending nearly his whole life serving his country—both in the military and at NASA. A true space pioneer, he has been with the center and its predecessor organizations for more than 30 years, directing a major portion of the Nation's space endeavors.

In addition to the 1,800-acre Huntsville facility, Dr. Lucas also oversaw additional facilities in Mississippi and Louisiana. The Marshall Space Flight Center is well known for its role in developing NASA's powerful launch vehicles and propulsion systems, and as a developer of important research and technology payloads for space flight.

Born and educated in Tennessee, Dr. Lucas holds a BS degree in chemistry from Memphis State College—now Memphis State University—and MS and PhD degrees in metallurgy from Vanderbilt University. Prior to beginning his association with the space program, he served as a naval officer during World War II.

Dr. Lucas moved to Huntsville, AL in 1952 to join the Redstone Arsenal team of rocket pioneers headed by Dr. Wernher Von Braun. A specialist in materials, he pioneered the work that resulted in the concept of ablation cooling, which allowed our space vehicles to reenter the Earth's atmosphere from space without burning up. He also established overall criteria for the selection of materials for use with liquid oxygen. That criteria became the standard for industry, and still in use today.

He was also responsible for designing the passive thermal control system for the free world's first satellite, *Explorer I*, which was launched by a Huntsville team and Jupiter rocket in 1958. And he selected the materials used in the Redstone that would carry the Nation's first astronaut, Alan Shepard, into space in 1961.

In 1960, Dr. Lucas joined the newly formed Marshall Space Flight Center when the Army's rocket team was annexed by the fledgling National Aeronautics and Space Administration. For most of the decade of the 1960s, while working on the giant Saturn family of rockets, he served in progressively responsible management positions with the center's Propulsion and Vehicle Engineering Laboratory, becoming laboratory director in 1966. In these positions he directed the critical selection of major materials and welding techniques for future launch vehicles. He pioneered work with spray-on foams for cryogenic insulation and high-temperature materials. And he led the development of the world's largest propulsion system used in the giant Saturn 5 launch vehicle. This Saturn was the 36-story, multistage rocket that successfully launched the series of *Apollo* spacecraft which carried 27 Americans to the Moon. Twelve of them landed on the Lunar surface, and several of those were transported by lunar roving vehicles, Moon cars, developed by the Marshall Center.

Dr. Lucas was involved in another major project during this time, the design and development of the world's first space station, Skylab. Under his direction, one of the upper states of the Saturn 5 was transformed into a laboratory and living area where three astronaut crews would eventually spend a total of 6 months probing the unknowns of long-duration space flight and conducting numerous other scientific experiments.

In 1969, 4 years prior to the actual launch of Skylab, Dr. Lucas was named by Wernher Von Braun to direct a new organization designed to look to the future and bring new business to Alabama and the center. His superb leadership and managerial abilities in this position, then as deputy director of the center, and finally in 1974, as center director, were instrumental in bringing to the Huntsville space organization a lion's share of the Nation's major space program.

In first of these major projects was managing the conceptual design for a new, reusable space vehicle. The vehicle would be called space shuttle, and the Marshall Center was to be given responsibility for three of the four main shuttle elements:

The main engines on the orbiter, which are the most complex rocket engines ever designed.

The twin solid rocket boosters, which provide about 75 percent of the shuttle's thrust at liftoff.

And the huge external tank, which holds the more than half-a-million gallons of liquid oxygen and liquid hydrogen fuel for the three engines.

Spacelab, an international laboratory carried in the shuttle, is among the numerous payloads managed by Marshall. It enables career scientists to travel into space to acquire a new knowledge about the Sun, the stars, the Earth, and life itself. The Marshall Center controlled the first three spacelab missions from a special facility adjacent to Mission Control in Houston.

Other Marshall shuttle payloads include everything from erectable large

space structures; to deployable solar arrays; to the first commercially marketed space product, tiny beads used as reference material to make microscopic measurements.

There are several projects that Dr. Lucas helped to start which will carry on his contribution to the space program. These contributions include the Hubble Space Telescope which will enable astronomers to see seven times further into space. Under his leadership the Marshall Center was assigned nearly 40 percent of work on the space station the most exciting and promising new NASA program. This includes the development of propulsion systems and modules where men and women will work and live. When launched in the 1990's, the space station will provide a permanent platform from which we can explore our solar system, use space for commercial enterprises, and continue our fundamental studies of the universe.

Other future Marshall projects for which Dr. Lucas is largely responsible include an advanced x-ray telescope, vehicles to move objects about in low-Earth orbit, and propulsion systems to transport satellites to and form higher orbits.

Much of the technology developed by the space program under Dr. Lucas' leadership is being applied to improve the quality of life here on Earth. One example is a highly reliable mass-screening system to detect eye problems in children which was developed with the help of the Marshall Center. A Miami fireboat also uses Marshall's high pressure pump technology from the Saturn rockets in a portable, low-cost firefighting module.

Needless to say, the successes of the Marshall Center have had a major impact on Alabama's economy. Dr. Lucas has established programs at Marshall that have an annual budget of about $2 billion. His organization pumps $450 million a year into the State of Alabama for salaries, goods, and services.

Throughout his career, Dr. Lucas has demonstrated a great concern not only for the welfare of Marshall employees but also for his community and State. Dr. Lucas is a member of the board of directors of the Huntsville Chamber of Commerce; trustee of Mobile College; a long-time deacon and finance committee chairman of his church. He has led his area's Combined Federal Campaign, a major element of the United Way; was appointed by the Governor to the Alabama Space Science Exhibit Commission; he serves on the Executive Advisory Council for Constitution Hall Park; and is a member of the Huntsville Council of International Visitors.

Dr. Lucas is nationally recognized in his position as director of the Marshall Center and is highly respected for his technical expertise as well. He is a fellow of the American Society of Metals, a fellow of the American Astronautical Society, a fellow of the American Institute of Astronautics and Aeronautics, and member of the American Chemical Society, and the National Academy of Engineering.

It is with sadness, that I mark the retirement of this dedicated and brilliant man. Over the years Dr. Lucas and I have worked closely on many programs and projects. I have always found him to be completely dedicated to the best interests of Marshall Space Flight Center, NASA, the space program, and the country. He has always put his work above personal conveniences. As his colleagues will readily attest, he was usually at work before others, and would leave long after everyone else had gone home. Dr. Lucas set the standards of excellence for everything that he has been associated with. He is a man of great personal integrity and very active in church, a fine Christian gentleman. It is with sadness that I watch his departure, but also I bid him farewell with deep gratitude for his service to Alabama, NASA, and our Nation.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty which was referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3342. A communication from the Chairman of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, a report on NACOA findings and recommendations on the classification and dissemination of Multibeam Bathymetric Data; to the Committee on Commerce, Science, and Transportation.

EC-3343. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report "Financial Audit—Examination of GSA's Fiscal Year 1985 Financial Statements"; to the Committee on Governmental Affairs.

EC-3344. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on certain deferrals of budget authority; jointly, pursuant to the order of January 30, 1975, to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources.

EC-3345. A communication from the Director of the Minerals Management Service transmitting, pursuant to law, a report on delinquent royalty accounts under lease for development of oil and gas on Federal lands; to the Committee on Energy and Natural Resources.

EC-3346. A communication from the Administrator of the General Services Administration transmitting, pursuant to law, an amended construction prospectus for Charleston, SC; to the Committee on Environment and Public Works.

EC-3347. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on the provision of foreign military assistance to Chad; to the Committee on Foreign Relations.

EC-3348. A communication from the Chairman of the D.C. Council transmitting, pursuant to law, a copy of D.C. ACT 6-171; to the Committee on Governmental Affairs.

EC-3349. A communication from the Administrator of AID transmitting, pursuant to law, the semiannual report of the Inspector General; to the Committee on Governmental Affairs.

EC-3350. A communication from the Chairman of the D.C. Council transmitting, pursuant to law, a copy of D.C. ACT 6-170; to the Committee on Governmental Affairs.

EC-3351. A communication from the Secretary of Health and Human Services transmitting a draft of proposed legislation entitled "Family Crisis and Protective Services Act"; to the Committee on Labor and Human Resources.

EC-3352. A communication from the Executive Secretary of the Office of the Secretary of Defense transmitting, pursuant to law, the report on DOD procurement from small and other business firms October 1985-March 1986; to the Committee on Small Business.

EC-3353. A communication from the Administrator of the Veterans' Administration transmitting, pursuant to law, the 1985 Annual Report of the Administrator of Veterans Affairs; to the Committee on Veterans' Affairs.

EC-3354. A communication from the Principal Deputy Assistant Secretary of the Navy transmitting, pursuant to law, a report on the decision to convert the laundry and dry cleaning function at the Marine Corps Development and Education Command, Quantico, VA, to performance under contract; to the Committee on Armed Services.

EC-3355. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on the decision to exclude the Comptroller General from examination of certain Strategic Defense Initiative records; to the Committee on Armed Services.

EC-3356. A communication from the Chairman of the D.C. Council transmitting, pursuant to law, a copy of D.C. ACT 6-173; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER (for himself, Mr. HOLLINGS, Mr. GORTON, and Mr. RUDMAN):

S. 2583. A bill to provide for an Under Secretary of Commerce for Oceans and Atmosphere; an Assistant Secretary of Commerce for Oceans and Atmosphere; a Chief Scientist of the National Oceanic and Atmospheric Administration; and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HUMPHREY:

S. 2584. A bill to extend authorizations of appropriations for the Disaster Relief Act of 1974, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HECHT (for himself, Mr. LAXALT, and Mr. STAFFORD):

S. 2585. A bill to authorize the President of the United States to award a congressional gold medal to Red Skelton in recognition of his lifetime commitment in service of Americans and to authorize the Secretary of the Treasury to sell bronze duplicates of such medal; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BRADLEY:

S. 2586. A bill to require the Secretary of Health and Human Services to establish a respite care demonstration project; to the Committee on Finance.

By Mr. BAUCUS:

S. 2587. A bill to facilitate public access to public lands for recreational purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 2588. A bill to provide permanent authorization for White House Conferences on Small Business; to the Committee on Small Business.

By Mr. HEINZ (for himself and Mr. DURENBERGER):

S.J. Res. 367. A joint resolution to designate July 31, 1986, as "National Kidney Program Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER (for himself, Mr. HOLLINGS, Mr. GORTON, and Mr. RUDMAN):

S. 2583. A bill to provide for an Under Secretary of Commerce for Oceans and Atmosphere; an Assistant Secretary of Commerce for Oceans and Atmosphere; a Chief Scientist of the National Oceanic and Atmospheric Administration; and for other purposes; to the Committee on Commerce, Science, and Transportation.

PROVIDING FOR CERTAIN POSITIONS IN THE DEPARTMENT OF COMMERCE

Mr. WEICKER. Mr. President, I rise today to introduce legislation for myself and my colleagues to designate the Administrator of the National Oceanic and Atmospheric Administration as an Under Secretary of Commerce, the Deputy Administrator as Assistant Secretary, and the Associate Administrator as Chief Scientist.

This legislation requires an organizational change in the Department of Commerce that is appropriate and timely. NOAA has more than half of Commerce's budget and personnel and, as the lead civilian oceanic and atmospheric agency, it is fitting that the Administrator join the other three Under Secretaries of Commerce. His Deputy would join the other Assistant Secretaries in the Department.

An equally important provision in this legislation is the appointment of a Chief Scientist in the Associate Administrator's position. NOAA must have the assurance of someone in upper management who has direct scientific experience relevant to the agency's activities. The Chief Scientist would act as the principal scientific adviser to the Under Secretary, and must have experience in oceanic, atmospheric, or other scientific disciplines important to NOAA's missions. While NOAA's past and present leadership has done a fine job with the agency, it only makes sense that creating a Chief Scientist position will strengthen the agency's scientific direction.

Mr. President, this legislation would give this important agency the recognition and standing within Commerce and the administration it has long deserved. NOAA was created in 1970 following the recommendations of the Commission on Marine Science, Engineering, and Resources—Stratton Commission. In its report, the Commission stated that NOAA should be the "principal instrumentality within the Federal Government for administration of the Nation's civil marine and atmospheric programs."

The Commission went on to recommend that NOAA be established as an independent agency reporting directly to the President to allow its wide range of technical and operational activities to strengthen and grow. As Under Secretary, the Administrator would keep both titles, giving NOAA the recognition within Commerce that it deserves while maintaining the option to be reorganized as an independent body.

Mr. President, this bill has the support of the administration and, with the establishment of the Chief Scientist position, saves approximately $4,000 per fiscal year. The salaries of the Administrator and Deputy Administrator are unchanged.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2583

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) there shall be in the Department of Commerce an Under Secretary of Commerce for Oceans and Atmosphere. The Under Secretary shall serve as the Administrator of the National Oceanic and Atmospheric Administration and perform such duties as the Secretary of Commerce shall prescribe. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the person serving in the position of Administrator on the date of enactment of this Act shall also serve as the Under Secretary until such time as a successor is appointed.

(b)(1) There shall be in the Department of Commerce, in addition to the Assistant Secretaries provided by law as of the date of enactment of this Act, one additional Assistant Secretary of Commerce who shall be the Assistant Secretary of Commerce for Oceans and Atmosphere. The Assistant Secretary shall serve as the Deputy Administrator of the National Oceanic and Atmospheric Administration and perform such duties and functions as the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe. The Assistant Secretary shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the person serving in the position of Deputy Administrator of the National Oceanic and Atmospheric Administration on the date of enactment of this Act shall also serve as the Assistant Secretary of Commerce for Oceans and Atmosphere until such time as a successor is appointed.

SEC. 2. (a) There shall be in the National Oceanic and Atmospheric Administration a Chief Scientist who shall be appointed by the President by and with the advice and consent of the Senate. The Chief Scientist shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule. The Chief Scientist shall be the principal scientific adviser to the Administrator of the National Oceanic and Atmospheric Administration, and shall perform such other duties as the Administrator may direct.

(b) The Chief Scientist shall be a person who, by reason of scientific education and experience, is knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the National Oceanic and Atmospheric Administration.

SEC. 3. (a) Section 5314 of title 5, United States Code, is amended—

(1) by striking "Administrator, National Oceanic and Atmospheric Administration."; and

(2) by striking "Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, and Under Secretary of Commerce for Travel and Tourism." and inserting in lieu thereof "Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Travel and Tourism, and Under Secretary of Commerce for Oceans and Atmosphere (who also serves as Administrator of the National Oceanic and Atmospheric Administration).".

(b) Section 5315 of title 5, United States Code, is amended—

(1) by striking the item "Deputy Administrator, National Oceanic and Atmospheric Administration." and inserting in lieu thereof "Assistant Secretary of Commerce for Oceans and Atmosphere (who also serves as Deputy Administrator of the National Oceanic and Atmospheric Administration."; and

(2) by striking "Associate Administrator, National Oceanic and Atmospheric Administration.".

(c) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Chief Scientist, National Oceanic and Atmospheric Administration.".

By Mr. HUMPHREY:

S. 2584. A bill to extend authorizations of appropriations for the Disaster Relief Act of 1974, and for other purposes; to the Committee on Environment and Public Works.

DISASTER RELIEF ACT AUTHORIZATION

● Mr. HUMPHREY. Mr. President, I am introducing today a bill to provide monetary authorizations in fiscal 1987 for the programs carried out under the Disaster Relief Act and for related administration expenses.

The bill—which would authorize the same amount of appropriations as requested in the 1987 budget—provides $100 million for the President's Disaster Relief Fund to carry out the programs authorized by the Disaster Relief Act of 1974 and $6.6 million to the Federal Emergency Management Agency for salaries and expenses.●

By Mr. HECHT (for himself, Mr. LAXALT, and Mr. STAFFORD):

S. 2585. A bill to authorize the President of the United States to award a special gold medal to Red Skelton in recognition of his lifetime commitment in service of Americans and to authorize the Secretary of the Treasury to sell bronze duplications of such medal; to the Committee on Banking, Housing, and Urban Affairs.

AWARDING OF SPECIAL GOLD MEDAL TO RED SKELTON

Mr. HECHT. Mr. President, I am pleased to introduce legislation, for myself and Senator LAXALT, to authorize the President of the United States to award a congressional gold medal to Red Skelton in recognition of lifetime dedication to his country and its principles.

Red has spent his lifetime making America laugh, and has done so with dignity and honor. In every performance, he portrays his love and respect for America.

Mr. President, I would like to bring to the attention of my colleagues here in the Senate a memorable performance during the Red Skelton hour on January 14, 1969. It is Red's recollection of a grade school teacher trying to instill in his students the true meaning of the Pledge of Allegiance. With the celebration of Flag Day recently, it is only appropriate for Red's timeless rendition to be presented. It goes as follows:

I've been listening to you boys and girls recite the Pledge of Allegiance all semester and it seems as though it is becoming monotonous to you. If I may, may I recite it to you and try to explain each word:

I—me, an individual, a committee of one.

Pledge—dedicate all of my worldly goods to give without self-pity.

Allegiance—my love and devotion.

To the Flag—our standard, old glory, a symbol of freedom. Wherever she waves, there is respect because your loyalty has given her a dignity that shouts freedom is everybody's job.

Of the United—that means we have all come together.

States—individual communities that have united into 48 great States. 48 individual communities with pride and dignity and purpose, all divided with imaginary boundaries, yet united to a common purpose, and that's love for country.

Of America.

And to the Republic—a State in which sovereign power is invested in representatives chosen by the people to govern. And a government is the people and it's from the people to the leaders, not from the leaders to the people.

For which it stands.

One Nation—meaning so blessed by God.

Indivisible—incapable of being divided.

With liberty—which is freedom and the right of power to live one's life without threats or fear or some sort of retaliation.

And justice—the principle of quality of dealing fairly with others.

For all—which means it's as much your country as it is mine.

Red went on to explain that since he heard this as a small boy, two States have been added to our country and two words have been added to the pledge—"Under God." He hopes that someone will not designate this a prayer and eliminate it from the schools.

Many of my colleagues might also remember Red's heartrending pantomime of the old, stooped-over soldier filling with pride and standing at crisp attention to salute the passing flag during a parade.

Mr. President, Red's contributions to America and its people go much further. While most of us think of Red Skelton, we think of Clem Kadidlehopper, Freddy the Freeloader, Sheriff Deadeye, Junior the mean little kid, Cauliflower McPug, and the little old man in Red's more famous pantomimes, he also served his country during World War II and broke all records selling war bonds, entertained American troops during the Korean War, and raised our consciousness of freedom and responsibilities with the above mentioned Pledge of Allegiance. These are examples of Red Skelton, the patriotic American whose commitment to America warrants this special recognition.

Red Skelton was born on July 18, 1913, 2 months after the death of his father. Red began entertaining at age 10, starting with medicine shows and graduating through the circuit of tent shows, minstrels, circuses, burlesque, riverboats, motion pictures, early radio, and vaudeville. Further, Red holds a record 20 consecutive years on television and even now is on the verge of launching a new career in videos, and syndicating reruns from his past performances.

Though Red is praised as a great pantomimist, he himself insists he is one of America's clowns. The fact is, he is one of the best loved paradoxes in show business today. A writer of his radio, television, and personal appearance programs, he has also written over 22 motion picture screenplays, with plans to produce two of them in the near future.

Red has also starred in 48 motion pictures and has written nearly 5,000 musical selections—many of which have been played and recorded by the likes of Arthur Fiedler, Van Cliburn, David Rose, and the London Philharmonic Orchestra. In addition, he has written 64 symphonies which have been performed by the Las Vegas Symphony and others.

Mr. President, as if this were not enough, Red has accomplished much more. In his spare time, Red paints in oil, does pastel pencil drawings, and bookbinds. An avid gardener, Red's special interest are his bonsai trees which take so much time and attention. Red has even had a rose named in his honor.

A prolific writer, Red has authored more than 4,000 short stories, published full-length books and story coloring books. He plans soon to publish his "Twenty Christmas Stories" which will include his own illustrations.

Red is one of the few entertainers alive today who has had the honor of being a guest and entertainer of eight U.S. Presidents—Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and Reagan. He has also received private audiences with three popes—Pope Pius XII, Pope John XXIII, and Pope Paul VI.

His Pledge of Allegiance has won him 42 awards and has now been read into the CONGRESSIONAL RECORD three times including today. Other honors bestowed upon Red include awards from the American Legion, the American Freedom Foundation, and the United Conference of Christians and Jews. He holds honorary doctorate degrees from Boston's Emerson College, Indiana's Vincennes University, and Indiana State University.

Among his most recent honors is the Cecil B. Demille Award for outstanding contributions to the entertainment industry presented to him by the Hollywood Foreign Press Association at its annual Golden Globe Awards Program. Additionally, a command performance, Royal Albert Hall, London, England in 1984, the 1984 Mark of Achievement Award by the National Association of Campus Activities and the Western Heritage Award gold medal by the National Cowboy Hall of Fame in 1985.

Mr. President, though Red's life has been filled with personal tragedy. He has remained dedicated to comedy as

the most monastic of monks are to religion. For laughter is Red's religion and, as he himself puts it, "God's children and their happiness are my reasons for being." It is in recognition of his great deeds that I offer this bill today and ask my colleagues to join me in cosponsorship of this measure which will bestow on Red Skelton an honor for which he is so richly deserving.

Mr. STAFFORD. Mr. President, a few minutes ago, I happened to be watching the Senate on television and heard the able Senator from Nevada [Mr. HECHT] mention that he was introducing a bill to make a congressional award to Red Skelton in his behalf and that of Senator LAXALT. It may not be that well known, but during World War II, when the Senator from Vermont was serving on the U.S.S. *West Point*, Red Skelton was assigned as personnel to the U.S.S. *West Point*. So, for about 6 or 8 months, we were shipmates on that vessel.

Its assigned task, since it was a large ship—in fact, was our largest troop transport—was to uplift the morale of the some 8,000 soldiers, sailors, and others that we were carrying overseas every time we left the United States for a port in the Solomon Islands or in the New Guinea campaign or in that part of the world. I can still remember Mr. Skelton going about the ship. There was always a constant group around him. They were always laughing. Finally, he was persuaded to put on one of his more famous skits on the foredeck of the U.S.S. *West Point*, where the commanding officer on the bridge watched, as well as any other officers who could get there and have a chance to see him.

I got to know him slightly during that period. He worked so hard that finally, after about 8 months, it was necessary to give him a little respite ashore.

I thought that little footnote to history might be worth recounting. After it, I can do no less than ask unanimous consent that I may be a cosponsor of the Laxalt-Hecht legislation in behalf of Mr. Skelton.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. BRADLEY:

S. 2586. A bill to require the Secretary of Health and Human Services to establish a respite care demonstration project; to the Committee on Finance.

RESPITE CARE ACT

● Mr. BRADLEY. Mr. President, I rise today to introduce the Respite Care Act of 1986. This bill is designed to establish a statewide respite care demonstration program in order to aid families trying to care for their ailing, elderly family members living at home.

Mr. President, most elderly persons want to live as independently as possible. Most chronically ill elderly in need of help would rather be cared for in their homes by their own family members whom they trust and love. These individuals in need are frequently dependent on a spouse or child not only for companionship but also for assistance with daily chores—from dressing, feeding, and bathing, to difficult health care procedures, such as constant monitoring, injections, and testing.

Families frequently want to take care of their ailing kin at home, but the burden of providing care to an elderly dependent family member can be great. Often the caretakers themselves are elderly and frail. According to one study, over 50 percent of the caregivers are over 60 years old and 18 percent are over age 70. Their dependent relatives can rarely be left alone for more than a few hours, and in many cases only for a few minutes. Since few people can expect much help from the community, most can expect no more than a few free moments for themselves each day. The task of being a caretaker is therefore an emotionally and physically difficult one.

Mr. President, I have long been involved in efforts to help elderly persons receive the home care services they need to avoid institutionalization. But in many cases, the elderly person is not the only one in need of help. Family members need a break from the day-to-day burdens of caring for their loved ones.

Without some intermittent assistance, families may reach the breaking point. Today, when families can no longer shoulder the burden, the sick or elderly are sent from their families to institutions, often creating both a tragedy for the family and a burden for the taxpayer. There is a compelling need to help keep these families intact. This bill addresses this need by providing respite services to families trying to cope with the difficulties of home care.

Mr. President, what is respite care? Respite care is the provision of temporary care for ailing, elderly individuals. This allows their health to be periodically monitored, but more importantly it gives the family upon whom the elderly are dependent momentary relief from the daily stresses and demands that caring for a functionally disabled adult brings. Respite care is designed to keep the elderly individual with his or her own family. It is designed to keep the elderly out of institutions. It is designed to keep families together.

Respite care can be provided in a variety of forms. For many families, a few hours of relief each week is all that is needed. The provision of a minimally trained and modestly paid companion once a week would meet those needs. For others more intensive services are needed. For example, 1 day a week of medical care would allow both the caregiver and the elderly person to get out of the house. Many others families need respite care for 1 week or a few weekends each year so they can get away for a truly needed break from the intense care needs and constant attention required by their charge. None of these services has to be expensive, for respite care is not an ongoing service but a service strategy using a variety of options to help families take care of their own.

We need to promote respite care at the Federal level. My bill establishes a Federal respite care demonstration project to be run by a State health department. By respite care, I mean short-term sitter services, adult day care, in-patient care, emergency respite and ongoing peer support and training for family caregivers. All families will be eligible for the program but priority will be given to Medicaid recipients, with others paying on a sliding scale for services. Highest priority will go to elderly beneficiaries who will become Medicaid eligible if they become institutionalized. Half of the funding for the respite care program will come from the State and half from Medicaid. In no case will Federal outlays exceed $2,500,000. The project will last for no more than 4 years with an additional 6 months for a final evaluation.

Mr. President, my home State of New Jersey had developed a small respite care pilot project. The program is very popular and very successful. There are long waiting lists to get into the program. Over 80 percent of the participants are very satisfied with the program, and an even greater percentage feel that the task of caring for their impaired relatives has been made easier. The limited respite care pilot program founded in New Jersey works and should be tested nationally to determine the costs and benefits of this approach.

Mr. President, families trying to care for their elderly and sick dependents need our support so they will be able to keep their ailing dependents in the family and out of nursing homes. What is the bill all about? That's simple. It is about helping the elderly remain in their own homes and about keeping families together.

I ask unanimous consent that a copy of the bill appear in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2586

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESPITE CARE DEMONSTRATION PROJECT.

(a) Establishment.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with a State for the pur-

pose of conducting a demonstration project (in this section referred to as the project) under title XIX of the Social Security Act for providing respite care services for—

(1) elderly and disabled individuals eligible for benefits under such title, and

(2) other elderly and disabled individuals, for whom such services are not otherwise reasonably and actually available or provided, and who would be reasonably anticipated to require institutional care without the availability of such services.

(b) CONDITIONS.—A State entering into an agreement with the Secretary under this section shall—

(1) provide that the demonstration project shall be administered by a State health services agency designated for such purpose by the Governor (which may be the State agency administering or responsible for the administration of the State plan for medical assistance under title XIX of the Social Security Act);

(2) provide that the agency designated shall, to the maximum extent feasible, arrange for coordinating its activities under the agreement with activities of other State agencies having related responsibilities;

(3) provide that respite care services provided under the project to individuals specified in subsection (a) (2) shall be available without regard to the income of the individual requiring such services, but that a reasonable fee will be charged (on a sliding-scale basis related to income) for services provided to individuals who have income (as determined in accordance with a methodology designated by the State) in excess of the income standard established by the State pursuant to section 1902(a)(10)(C)(i)(III) of the Social Security Act;

(4) provide that, in making respite care services available to individuals specified in subsection (a)(2), special priority will be given to individuals who would be eligible for benefits under title XIX of the Social Security Act upon institutionalization;

(5) provide for a system of continuing independent professional review by an appropriate panel, which is not affiliated with the entity providing the services involved, to assure that respite care services provided only to individuals reasonably determined to be in need of such services;

(6) provide for evaluation of the project and review of all agencies providing services under the project;

(7) submit periodic reports to the Secretary as he may require; and

(8) meet such other requirements as the Secretary may establish for the proper and efficient implementation of the project.

(c) DEFINITION.—For purposes of this section, the term "respite care services" shall include—

(1) short-term and intermittent—

(A) companion or sitter services (paid as well as volunteer),

(B) homemaker and personal-care services,

(C) adult day care,

(D) inpatient care, and

(E) emergency respite; and

(2) peer support and training for family caregivers.

(d) PAYMENTS.—An agreement shall be entered into under this section between the Secretary and the State agency designated by the Governor. Under such agreement the Secretary shall pay to the State, as an additional payment under section 1903 of the Social Security Act for each quarter, an amount equal to 50 percent of the reasonable costs incurred (less the Federal share of any related fees collected) by such State during such quarter in carrying out a demonstration project under this section. Such amount shall not exceed $2,500,000 for a fiscal year.

(e) DURATION.—The demonstration project under this section shall be of a maximum duration of four years, plus an additional time period of up to six months for final evaluation and reporting.

(f) REPORTS.—The Secretary shall submit annual reports to the Congress evaluating the demonstration project carried out under this section, and shall submit a final report to the Congress not more than six months after receiving the final report from the State participating in such project.

(g) WAIVERS.—The Secretary shall and is hereby authorized to, waive such requirements, including formal solicitation and approval requirements, as will further the expeditions and effective implementation of this section.●

By Mr. BAUCUS:

S. 2587. A bill to facilitate public access to public lands for recreational purposes, to the Committee on Engery and Natural Resources.

ACCESS TO PUBLIC LANDS FOR RECREATIONAL PURPOSES

Mr. BAUCUS. Mr. President, there is a growing problem throughout the Nation with the public being unable to gain access to millions of acres of Federal land.

The Bureau of Land Management has estimated that 25 million acres under its jurisdiction are inaccessible to the public.

According to the Forest Service, 20 percent of the land in national forests in the northern region, which includes Montana, northern Idaho, North Dakota, and northwestern South Dakota, is inaccessible to the public.

In Montana alone 3 million out of 9 million acres in six national forests are inaccessible.

One major reason for the lack of access is a lack of funds. Counties have had to cutback spending for maintaining county roads and for acquiring right-of-way accesses.

The bill I am offering today amends the Sikes Act to help State and Federal land management agencies increase public access to public lands.

Currently, the Sikes Act permits States to charge people who hunt, fish, and trap on Federal public lands a nominal fee. These fees can then be used for conservation and land rehabilitation programs.

This bill would expand the act to permit State governments to use the funds to acquire right-of-ways or easements across private lands for hunting, fishing and trapping on public lands.

Recreational access to public lands is a major concern among sportsmen in Montana and many other States. I urge my colleagues to give this bill close consideration.

Mr. President, today I am introducing a bill that addresses the problem of public access to public lands.

The issue of public access to public lands is a "double-edged sword." That is, on the one hand, there are cases of too much access to public lands. Roads are provided that degrade the esthetic quality of land which would be better left inaccessible. On the other hand, there is an increasing problem throughout the Nation with the public being unable to gain access to millions of acres, to which they, the people of the United States, hold title.

This bill, which I offer today, provides one tool for sportsmen and State and Federal land management agencies to deal with this latter problem. The bill amends the Sikes Act to allow funds generated under authority of the act to be used for acquisition of right-of-ways or easements across private lands for hunting, fishing, or trapping on public lands.

Recreational access to public lands is a major concern among Montana sportsmen. At their recent annual meeting, the Montana Wildlife Federation called lack of public access to public lands the highest priority issue that needs to be addressed.

Last December, Gov. Ted Schwinden convened the Governor's Forum on Montanans Outdoors in response to the President's Commission on Americans Outdoors. Forum participants expressed concern over problems of public access to public lands. There was also widespread agreement that recreationists should be expected to contribute more toward costs involved in providing outdoor recreation.

Statistics compiled by the Forest Service point to the huge dimensions of the access problem. Of some 9 million acres within six Montana national forests on the east side of the Rockies, public access is needed to 3 million, or one-third, of the total acreage. In the Forest Service's northern region, which includes Montana, northern Idaho, North Dakota, and northwestern South Dakota, nearly 5 million acres, or 20 percent of the region, lacks adequate access to the public.

Nationwide, the Bureau of Land Management has estimated that 25 million acres of land under its jurisdiction are inaccessible to the public.

The problem is growing significantly. One Montana National Forest supervisor, for example, has ventured that across the northern region, the agency is losing 10 accesses for every 1 that it acquires.

Reasons for loss of access to public lands are many. However, one important reason is the widespread abandonment of county roads by county governments who can no longer afford to maintain them. Cutbacks in Federal funding have begun to affect adversely relationships between the Federal Government and local counties. Relationships between the two levels of government are strained. This change

has contributed to right-of-way abandonment by counties.

In addition, lands are being purchased by nonresident interests. These new landowners do not maintain the "good neighbor" tradition of public access across private lands allowed by the previous resident owner. There is a legitimate need and right for ranchers and farmers to be able to protect their property. However, curtailing recreational access to public lands in order to be the sole user and beneficiary of the public lands adjacent to their property, cannot be condoned.

The amendment to the Sikes Act that I offer today, is one step toward the solution to the problem. More important, it provides a mechanism for acquiring access without any cost to the Federal treasury.

The Sikes Act established a mechanism for Federal-State cooperation in conservation of wildlife and fish resources. A provision of the law authorizes the State, through appropriate memorandums of agreement with Federal land management agencies, to issue for a nominal fee, a "public land management area stamp." Purchasers of the stamp are entitled to hunt, fish, and trap on Federal public lands which have been designated for special management by the memorandums of agreement.

The Sikes Act restricts the use of funds generated from the sale of public land management area stamps to conservation and rehabilitation programs on the land. The amendment that I offer to the act, also authorizes use of these funds to acquire right-of-way accesses to public lands for hunting, fishing, and trapping.

Mr. President, the need to solve the problem of inadequate public access to public lands is unquestionable. This amendment to the Sikes Act recognizes the responsibility of Federal and State governments and private citizens in solving the problem. It also recognizes that opportunities for hunting and fishing can be provided by opening up public land now closed to sportsmen. This bill would help accomplish that goal.

I ask unanimous consent that a copy of the bill be printed in the CONGRESSIONAL RECORD.

S. 2587

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 203(b)(3) of the Act entitled "An Act to promote effective planning, development, maintenance, and coordination of wildlife, fish and game conservation and rehabilitation in military reservations", approved September 15, 1960 (Public Law 86-797; 16 U.S.C. 670i(b)(3)) is amended to read as follows:

"(3) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized (A) in carrying out conservation and rehabilitation programs implemented under this title in the State concerned, and (B) for the purchase of lands or interests in lands to gain public access over nonpublic lands to public lands for the purpose of hunting, fishing, or trapping (and for no other purposes other than those described in clauses (A) and (B)).

By Mr. DOMENICI:

S. 2588. A bill to provide permanent authorization for White House Conferences on Small Business; to the Committee on Small Business.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS AUTHORIZATION ACT

Mr. DOMENICI. Mr. President, I think most of us are aware of the success of White House conferences on small business.

As a result of this year's White House conference on small business, the recommendation of the New Mexico contingency—they will be meeting in the region with members of this White House conference from various States out in our part of the United States—but my New Mexico contingency recommended that we make the White House conference on small business a permanent institution of Government to take place at least once each Presidential term. This would mean that instead of just expecting it to occur, or making it an ad hoc event we would pass legislation saying during each 4-year terms of Presidents there will be one White House conference on small business.

I need not tell the Senate the successes that have come out of the White House conferences, and I need not tell the Senate the issues have been dramatically different, even though only 2 or 3 years passed in between them. For the first conference, the issues were high interest rates, and inflation—issues that are not the issues today. This year, for instance, the new issue was liability insurance for small business.

We know the tremendous impact of small business on the U.S. economy. We know the numbers, and while they are not the biggest businesses around, they contribute 45 percent of the jobs. Whenever we have a recovery cycle, they are at the forefront because they are risk takers. They are out there trying to get their share out of this magnificent entrepreneural society.

So today at the request of the New Mexican contingency to the small business White House conference, I am introducing a bill that would regularize the so-called White House conferences on small business.

I am confident that when my fellow Senators see this legislation and when they hear from their members of the White House conference, they will support it.

Mr. President, I rise today to introduce legislation to make permanent an authorization for a White House Conference on Small Business, once every Presidential term. As my colleagues are aware, the administration will host a Small Business Conference in August of this year. The first White House Conference on Small Business was in 1980, and it is uncertain when the next conference would be held. My bill would eliminate this uncertainty.

At New Mexico's Small Business Conference, one of the recommendations was to authorize a national conference every 4 years. The need is evident by the fact that many of the key issues at the 1980 conference, such as high energy costs and a dismal national economy, are no longer primary concerns. These issues have been replaced in 1986 by budget deficits, taxes, and the liability insurance crisis.

My bill is a simple, yet far-reaching effort for America's small business owners. These are men and women who provide so many vital services to our Nation, and who perform a very significant role in our Nation's economy. These conferences provide an opportunity for issues to be raised, and for solutions to be proposed. Two-thirds of the recommendations reported by the 1980 conference have been enacted. Clearly, this is an excellent source of direction for us as legislators.

America boasts almost 15 million small businesses, and 45 percent of these have been created just within the past 4 years. America's small businesses employ 48 percent of our private work force, and account for 38 percent of our gross national product.

Small businesses provide more than jobs and services. They also provide on-the-job training for our nation's young people, training which gives them an opportunity to utilize first-hand their education.

Perhaps what is most special about these businessmen and women is their unique entrepreneurial spirit. They have accepted the challenge of running their own business, and bring to it an impressive optimism and ingenuity. Not only do they often discover new markets and develop new products, small business owners improve America's economic efficiency through their keen competitive nature and their penchant for hard work.

Mr. President, this bill will be of great benefit to America's small business owners, by providing them the opportunity to have a greater voice in many of their Government's policy decisions. I urge my colleagues to support this legislation.

So today, Mr. President, I ask unanimous consent that the bill be made a part of the RECORD and that the bill be referred to the appropriate committee of the U.S. Senate for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is as follows:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2588

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "White House Conference or Small Business Authorization Act".

AUTHORIZATION OF CONFERENCE

SEC. 2. (a) The President shall call and conduct a National White House Conference on Small Business (hereinafter referred to as the "Conference") once during each 4-year period following a Presidential election, to carry out the purposes described in section 3 of this Act. The Conference shall be preceded by State and regional conferences with at least one such conference being held in each State.

(b) Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the Administrator of the Small Business Administration, and shall direct such conferences and activities toward the consideration of the purposes of the conference described in section 3 of this Act in order to prepare for the National Conference.

PURPOSE OF CONFERENCE

SEC. 3. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business; to examine the status of minorities and women as small business owners; to assist small business in carrying out its role as the Nation's job creator; to assemble small businesses to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation; and to review the status of recommendations adopted at the next preceding White House Conference on Small Business.

CONFERENCE PARTICIPANTS

SEC. 4. (a) In order to carry out the purposes specified in section 3 of this Act, the Conference shall bring together individuals concerned with issues relating to small business. No small business concern representative may be denied admission to any state or regional conference, nor may any fee or charge be imposed on any small business concern representative except an amount to cover the cost of any meal provided to such representative plus a registration fee of not to exceed $10.

(b) Delegates, including alternates, to the National Conference shall be elected by participants at the State and regional conferences. In addition—

(1) each Governor and each chief executive official of the political subdivisions enumerated in section 4(a) of the Small Business Act may appoint one delegate and one alternate;

(2) each Member of the United States House of Representatives, including each Delegate, and each Member of the United States Senate may appoint one delegate and one alternate; and

(3) the President may appoint one hundred delegates and alternates.

only individuals from small businesses shall be eligible for appointment pursuant to this subsection.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 5. (a) All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) In carrying out the provisions of this Act, the Administrator of the Small Business Administration—

(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels as authorized under section 2(b) of this Act; and

(2) is authorized to enter into contracts with public agencies, private organizations, and academic institutions to carry out the provisions of this Act.

(c) The Chief Counsel for Advocacy shall assist in carrying out the provisions of this Act by preparing and providing background materials for use by participants in the Conference, as well as by participants in State and regional conferences.

(d) Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed either from funds appropriated pursuant to this Act or the Small Business Act.

(e)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

REPORTS REQUIRED

SEC. 6. Not more than six months from the date on which the National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

FOLLOWUP ACTIONS

SEC. 7. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

AVAILABILITY OF FUNDS

SEC. 8. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, and they shall remain available until expended. New spending authority or authority to enter contracts as provided in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this Act other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference, including submission of the report pursuant to section 6, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

By Mr. HEINZ (for himself and Mr. DURENBERGER):

S.J. Res. 367. Joint resolution to designate July 31, 1986, as "National Kidney Program Day"; to the Committee on the Judiciary.

NATIONAL KIDNEY PROGRAM DAY

● Mr. HEINZ. Mr. President, I rise to introduce a joint resolution designating July 30, 1986, as "National Kidney Program Day." Joining me in support of this joint resolution is my colleague from Minnesota, Senator DURENBERGER.

Today, more than 80,000 Americans suffer from irreversible kidney disease. Medicare's End Stage Renal Disease [ESRD] Program provides the means through which these citizens can receive treatment, while remaining economically independent and able to make contributions to family, community, and country.

Fourteen years ago, Congress established Medicare funding of dialysis and transplantation for patients of all ages. Prior to the Medicare End Stage Renal Disease [ESRD] Program, lifesaving care from dialysis treatments remained beyond the financial grasp of nearly all Americans. In each year leading up to this expansion of Medicare coverage over 8,000 Americans died needlessly because they could not afford an artificial kidney machine or a kidney transplant. In 1972, the Congress responded to these needless deaths by expanding Medicare coverage of the disabled to include all patients suffering from chronic kidney failure.

As a member of the House-Senate Conference Committee on the final ESRD legislation, I have a long-standing interest in and commitment to the continued success of the ESRD Medicare Program. Since its creation, the ESRD Program has assured access to lifesaving dialysis or transplantation therapy for every American suffering from otherwise fatal kidney failure.

Three times a week, 52 weeks a year, patients hook up to kidney machines for lifesaving dialysis treatment. During each 4-hour session, blood flows through filters that trap toxins, salt and water; the machine then returns purified blood to the patient. The extraordinarily successful ESRD program has special significance as an example of the power of partnerships between Government and the health care industry to address the burdens of catastrophic illness.

Mr. President, an investigation conducted by the Special Committee on Aging, which I chair, revealed that the

increasing tendency of dialysis clinics to reuse certain dialysis devices poses a serious health threat. The committee identified several problems associated with multiple uses of dialysis devices manufactured for "single use only." Today we have inadequate information to conclusively determine the health effects of reusing disposable devices and no standards to ensure that procedures for reuse are safe or effective. A critical issue that was raised by the Aging Committee investigation is that dialysis patients are not informed of the dangers and potential risks associated with the practice of reuse.

On June 12, 1986, I introduced S. 2547, the End Stage Renal Disease Patient Rights Act of 1986, which addresses some of the problems raised by the Aging Committee's investigation. I will continue to work to see that all of the dangers identified by the committee are addressed through legislative initiatives or regulatory actions in cooperation with the administration.

Medicare coverage for dialysis opened a major door of access to care for victims of catastrophic illness. Dialysis is literally the difference between life and death for patients with severe, irreversible kidney damage. While there will be a continued need to monitor health protection to assure quality of care, there can be no doubt that the ESRD Program has provided a tremendous benefit to the many thousands who would not have had access to this life-sustaining treatment without the assistance of the Medicare Program.

Mr. President, I urge all of my colleagues to support this important resolution. I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 367

Whereas the tens of thousands of Americans suffering from irreversible kidney disease are treated by Medicare's End Stage Renal Disease [ESRD] Program;

Whereas this program has assured that every American suffering from otherwise fatal kidney failure has access to lifesaving dialysis or transplantation therapy;

Whereas ESRD beneficiaries may remain economically productive and are able to continue to make irreplaceable contributions to family, community and country;

Whereas this extraordinary successful program has a special significance as an example of the power of partnership between government and the healthcare industry in dealing with catastrophic illness; and

Whereas this partnership has achieved economy in health services without compromising quality of care or social responsibility: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate the day of July 30, 1986, as "National Kidney Program Day" and call upon the Federal, State, and local Government agencies and the people of the United States to observe such day with the appropriate programs, ceremonies and activities.●

● Mr. DURENBERGER. Mr. President, today I am pleased to join my distinguished colleague from Pennsylvania, Senator HEINZ, in introducing a joint resolution to designate July 30, 1986, as National Kidney Program Day.

The purpose of this measure is to focus national attention on Medicare's End Stage Renal Disease [ESRD] Program. The ESRD Program is an example of what can be accomplished through the Medicare program for individuals suffering from such a catastrophic illness as end stage renal failure.

The ESRD Program was created in 1972 to guarantee life-saving treatment for every American suffering from kidney failure. Without treatment in the form of dialysis or transplantation, Mr. President, patients with end stage renal failure cannot survive. Properly treated, those same patients can enjoy full and productive lives.

Over 80,000 Americans are currently receiving treatment under Medicare's ESRD Program. And, as opposed to so many other health care programs in this country, the cost per dialysis treatment is actually less than it was in 1973. In 1978, the program was called "probably the only example of cost containment in Government-financed health care" by then private citizen Ronald Reagan.

The ESRD Program has literally become a lifeline for the thousands of individuals who receive their requisite 3 to 4 dialysis treatments per week. In these times of cost restraint and budget retrenchment, Mr. President, we need to recall the far-sightedness of those who knew the critical importance of such a program, and celebrate the success of this public-private sector relationship.

Mr. President, I urge my colleagues to join us in supporting this joint resolution. The ESRD Program is a Federal health program worthy of this type of recognition. It has promoted successful cooperation between the public and private sectors in providing and improving services for people with extremely serious kidney failure so that they can continue to be productive members of society and family.●

ADDITIONAL COSPONSORS

S. 670

At the request of Mr. PELL, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 670, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, and to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1473

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1473, a bill to amend title II of the Social Security Act to remove the restriction that only earnings before the year of attainment of age 62 may be used in the transitional provision—commonly referred to as the notch provision—relating to individuals born between 1917 and 1921.

S. 2168

At the request of Mr. THURMOND, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2168, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war.

S. 2209

At the request of Mr. DOLE, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from South Carolina [Mr. THURMOND] were added as a cosponsors of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such act to require concurrent notification of eligibility for SSI and medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

S. 2273

At the request of Mr. KASTEN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2273, a bill to amend the Internal Revenue Code of 1954 to deny the tax exemption for interest on industrial development bonds used to finance acquisition of farm property by foreign persons.

S. 2274

At the request of Mr. KASTEN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2274, a bill to provide that certain individuals who are not citizens of the United States and certain persons who are not individuals shall be ineligible to receive financial assistance under the price support and related programs administered by the Secretary of Agriculture.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to

assure the quality of inpatient hospital services and posthospital services furnished under the Medicare Program, and for other purposes.

S. 2359

At the request of Mr. PRESSLER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 2359, a bill to amend title 38, United States Code, to establish a Veterans' Administration Readjustment Counseling Professional Fellowship Program.

S. 2417

At the request of Mr. BYRD, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2417, a bill to establish the Aviation Safety Commission, and for other purposes.

S. 2455

At the request of Mr. MITCHELL, the names of the Senator from Georgia [Mr. NUNN] and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 2455, a bill entitled the National Organ and Tissue Donor Act.

S. 2479

At the request of Mr. TRIBLE, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2542

At the request of Mr. MOYNIHAN, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2542, a bill to amend the Social Security Act to provide for proper treatment of the Federal Old-Age and Survivors Insurance Trust and the Federal Disability Insurance Trust Fund in future cases in which the public debt limit has been reached, and for other purposes.

SENATE JOINT RESOLUTION 314

At the request of Mr. QUAYLE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 314, a joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week."

SENATE JOINT RESOLUTION 343

At the request of Mr. D'AMATO, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of Senate Joint Resolution 343, a joint resolution to designate the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 345

At the request of Mr. DOLE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 345, a joint resolution to designate the week Beginning November 9, 1986, as "National Reye's Syndrome Awareness Week."

SENATE JOINT RESOLUTION 354

At the request of Mr. CHILES, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 354, a joint resolution to designate the week of October 5, 1986, through October 11, 1986, as "National Drug Abuse Education and Prevention Week."

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 359, a joint resolution to designate the week of March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE CONCURRENT RESOLUTION 143

At the request of Mr. DECONCINI, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Concurrent Resolution 143, a concurrent resolution expressing the sense of the Congress on the resumption of the United Nations High Commissioner for Refugees Orderly Departure Program for Vietnam.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

MITCHELL (AND OTHERS) AMENDMENT NO. 2153

Mr. MITCHELL (for himself, Mr. COHEN, Mr. CHAFEE, Mr. CRANSTON, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. GORE, Mr. HOLLINGS, Mr. INOUYE, Mr. KENNEDY, Mr. KERRY, Mr. LEVIN, Mr. MATHIAS, Mr. RIEGLE, Mr. SARBANES, Mr. SIMON, and Mr. BINGAMAN) proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 2252, strike out lines 17 through 22, and insert in lieu thereof the following:

"(B) BASIS REDUCTIONS.—The basis determined under subparagraph (A) shall be reduced by the allocable amount of—

"(i) the rehabilitation credit allowed under section 38, and

"(ii) the amount of any Federal grant or equivalent assistance described in clause (i), (ii), or (iii) of subsection (f)(4)(A).

On page 2254, between lines 23 and 24, insert the following new paragraph:

"(3) EXCEPTION FOR CERTAIN EXISTING FEDERALLY ASSISTED PROJECTS.—

"(A) IN GENERAL.—A qualified low-income housing project shall be considered to comply with paragraph (1) even though such project has previously been placed in service (other than by the taxpayer or a related person to such taxpayer, as defined in section 461(i)(6)) is such project—

"(i) is acquired by the taxpayer from any person other than such a related person,

"(ii) is placed in service by such taxpayer at least 15 years after such project was last placed in service, and

"(iii) is described in subparagraph (B).

"(B) EXISTING FEDERALLY ASSISTED QUALIFIED LOW-INCOME HOUSING PROJECT.—A project is described in this subparagraph if such project is substantially assisted, financed, or operated with respect to the taxpayer only under—

"(i) section 8 of the United States Housing Act of 1937,

"(ii) section 221(d)(3) or 236 of the National Housing Act of 1934, or

"(iii) section 515 of the Housing Act of 1949, as in effect on the date of the enactment of the Tax Reform Act of 1986.

"(C) APPLICABLE CREDIT RATE ALLOWED.—In the case of any project described in subparagraph (B), the applicable credit rate with respect to any occupied residential rental unit shall be the rate described in subsection (a)(2)(A)(ii).

"(D) WAIVER OF 15-YEAR RULE.—Upon application by the taxpayer to the Secretary (in such manner as the Secretary shall prescribe), the Secretary after consultation with the Secretary of Housing and Urban Development or the Secretary of Agriculture (with respect to any project described in subparagraph (B)(iii)) may waive the 15-year requirement in subparagraph (A) based on his determination that such waiver is necessary to avert—

"(i) an assignment of the mortgage secured by property in the project to the Department of Housing and Urban Development or the Farmers Home Administration and a claim against the mortgage insurance fund with respect to such mortgage, or

"(ii) other circumstances, to the extent established by regulations prescribed by the Secretary.

On page 2255, line 6, insert before the period a comma and the following: "or in the case of a project described in subsection (c)(3)(B) the date such project is placed in service".

On page 2258, strike out lines 1 through 9, and insert in lieu thereof the following:

"(1) MINIMUM SET-ASIDE REQUIREMENT.—

"(A) IN GENERAL.—The project meets the requirements of this paragraph if 20 percent or more of the residential rental units in such project (as determined in the manner described in subsection (b)(1)(A)), are occupied by individuals whose income is 50 percent or less of area median gross income. Such requirements must be met within 12 months of the date a building or rehabilitation expenses are placed in service.

"(B) EXISTING FEDERALLY ASSISTED PROJECTS.—In the case of a project described in subsection (c)(3)(B), subparagraph (A) shall apply by substituting '50 percent' for '20 percent'.

On page 2259, line 2, insert before the period the following: ", other than, in the case of a project described in subsection (c)(3)(B), any such obligation issued to a previous owner before the date of the enactment of the Tax Reform Act of 1986 and taken subject to or assumed by the taxpayer".

On page 2259, line 7, strike out the period and insert a comma and "other than—

"(A) in the case of a qualified low-income housing project described in subsection (c)(1)—

"(i) any assistance under the Urban Development Action Grant program under title I of the Housing and Community Development Act of 1974,

"(ii) any assistance under the Community Development Block Grant program under such title,

"(iii) a development or rental rehabilitation program under section 17 of the United States Housing Act of 1937,

"(B) in the case of any residential rental unit in a building within a qualified low-income housing project described in subsection (c)(1) occupied by individuals described in subsection (a)(1)(B)(i)—

"(i) a moderate rehabilitation program under section 8 of the United States Housing Act of 1937, or

"(ii) section 515 of the Housing Act of 1949, and

"(C) in the case of a qualified low-income housing project described in subsection (c)(3), the programs described in subparagraph (B) thereof.

For purposes of the preceding sentence, programs described in subparagraph (A) and (B) shall be included as in effect on the date of the enactment of the Tax Reform Act of 1986.

On page 2261, strike out lines 12 through 23, and insert in lieu thereof the following:

"(5) RESIDENTIAL RENTAL UNITS.—No residential rental unit shall be included in subsection (a)(1)(B) if—

"(A) such unit is not suitable for occupancy, or

"(B) any portion of the qualifying basis of which is reduced for casualty loss, except to the extent replaced by reconstruction.

"(6) LIMITATION ON CREDIT.—No credit shall be allowed with respect to any residential rental unit unless any payment under section 8 of the United States Housing Act of 1937 with respect to such unit or any occupants thereof is limited to an amount no greater than the excess of—

"(A) 30 percent of 50 percent of the area median gross income, over

"(B) 30 percent of the income of the individuals occupying such unit.

On page 2264, line 15, strike the end quotation marks.

On page 2264, between lines 15 and 16, insert:

"(i) APPLICATION OF AT-RISK RULES.—

"(1) IN GENERAL.—In determining the qualifying basis of any property for purposes of this section—

"(A) section 46(c)(8) (other than subparagraph (D)(iv)(I) thereof) and section 47(d)(1) shall apply, and

"(B) for purposes of such section, the credit base with respect to such property shall be the qualifying basis.

"(2) SPECIAL RULES FOR DETERMINING QUALIFIED PERSON.—For purposes of paragraph (1)—

"(A) IN GENERAL.—In computing the amount of qualified nonrecourse financing with respect to property with respect to which a credit is allowable under this section, the determination of whether an organization—

"(i) which is exempt from taxation under section 501(c) (3) or (4), and

"(ii) 1 of the exempt purposes of which includes the fostering of low-income housing,

is a qualified person (within the meaning of section 48(c)(8)(D)(iv)) shall be made without regard to whether such organization is actively and regularly engaged in the business of lending money or is a person described in section 46(c)(8)(D)(iv)(II) if the requirements of subparagraphs (B) through (D) are met.

"(B) FINANCING SECURED BY PROPERTY.—The requirements of this subparagraph are met with respect to any financing if such financing is secured by the property described in subparagraph (A), except that this subparagraph shall not apply in the case of property described in subsection (a)(1)(B)(ii) if—

"(i) a security interest in such property is not permitted by a Government agency holding or insuring the mortgage secured by such property, and

"(ii) the proceeds from such financing (if any) are applied to acquire or improve such property.

"(C) PORTION OF PROPERTY ATTRIBUTABLE TO FINANCING.—The requirements of this subparagraph are met with respect to any financing if, in the taxable year in which such financing is taken into account in determining qualifying basis, not more than 60 percent of the basis of such property is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).

"(D) REPAYMENT OF PRINCIPAL AND INTEREST.—The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid before the earliest of—

"(i) the date on which such financing matures,

"(ii) 90 days following the close of the qualified compliance period (within the meaning of subsection (g)(1)) with respect to such property, or

"(iii) the date of the refinancing of such financing or the sale of the property to which such financing relates.

"(3) PRESENT VALUE OF FINANCING.—If the rate of interest on any financing described in paragraph (2)(A) (determined by taking into account government subsidies) is less than the rate which is 1 percent below the applicable Federal rate as of the time such financing is incurred, then the qualifying basis of property to which such financing relates shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate.

"(4) FAILURE TO FULLY REPAY.—To the extent that the requirements of paragraph (2)(D) are not met, then the amount of tax of the taxpayer for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such property, increased by an amount of interest for the period—

"(i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the first taxable year for which such credit was allowable, and

"(ii) ending with the due date for the taxable year in which such failure occurs,

determined by using the underpayment rate and method under section 6621."

On page 2230, strike lines 18 through 20, and insert: applicable percentage of the portion of the passive activity loss or credit which is attributable to a pre-1987 interest and which (but for this subsection) would have been disallowed under subsection (a).

On page 2230, in the matter following line 23, strike the end quotation marks.

On page 2230, after the matter following line 23, insert:

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-1987 INTERESTS.—

"(A) IN GENERAL.—The portion of the passive activity loss for any taxable year which is attributable to pre-1987 interests shall be the amount which bears the same ratio to such passive activity loss as—

"(i) the amount by which the aggregate losses for such taxable year from all pre-1987 interests exceeds the aggregate income for such taxable year from all such interests (determined after the application of subsection (c)), bears to

"(ii) such passive activity loss.

A similar rule shall apply in the case of a passive activity credit.

"(B) PRE-1987 INTEREST.—The term 'pre-1987 interest' means any interest in a passive activity held by a taxpayer on the date of the enactment of the Tax Reform Act of 1986, and at all times thereafter."

On page 1557, line 25, insert after the period the following new sentence: "For purposes of this subparagraph, the deferral of income to partners for a period of 3 months or less shall not be treated as a business purpose."

On page 1559, between lines 6 and 7, insert:

(2) BUSINESS PURPOSE.—Section 1378(b) (defining permitted year) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (2), the deferral of income to shareholders for a period of 3 months or less shall not be treated as a business purpose."

On page 1559, line 7, strike "(2)" and insert "(3)".

On page 1559, line 20, insert after the period the following new sentence: "For purposes of this paragraph, the deferral of income to shareholders for a period of 3 months or less shall not be treated as a business purpose."

DOMENICI (AND OTHERS) AMENDMENT NO. 2154

Mr. DOMENICI (for himself, Mr. GRAMM, Mr. RUDMAN, and Mr. HOLLINGS) proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . EQUALIZING THE REVENUE EFFECTS OF TAX REFORM.

(a) FISCAL YEARS 1986 AND 1987.—Notwithstanding any other provision of law, no tax reform revenue windfall for fiscal year 1986 or 1987 shall be taken into account in determining the total revenues for such fiscal year for purposes of—

(1) setting forth appropriate levels of total Federal revenues for such fiscal year in a concurrent resolution on the budget under section 301 or 304 of the Congressional Budget Act of 1974,

(2) calculating the deficit for such fiscal year under sections 301(i), 304(b), and 311(a) of the Congressional Budget Act of 1974 in order to determine whether the maximum deficit amount for such fiscal year has been exceeded,

(3) calculating the excess deficit for such fiscal year under sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, or

(4) formulating the budget submitted by the President under section 1105 of title 31, United States Code, for such fiscal year and any supplemental estimates and changes submitted under section 1106 of such title for such fiscal year.

(b) FISCAL YEARS 1988 AND 1989.—Notwithstanding any other provision of law, a tax reform revenue shortfall for fiscal year 1988 or 1989 shall be taken into account in determining the total revenues for such fiscal year for the purposes described in paragraphs (1) through (4) of subsection (a) only to the extent that such shortfall is not offset by tax reform revenue windfalls for

fiscal years 1986 and 1987. Tax reform revenue windfalls for fiscal years 1986 and 1987 shall offset a tax reform revenue shortfall for fiscal year 1989 only to the extent that the total amount of such windfalls exceeds (and is not used to offset) any tax reform revnue shortfall for fiscal year 1988.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "tax reform revenue windfall" means, with respect to a fiscal year, any revenues (as estimated in accordance with subsection (d)) accruing to the Treasury of the United States during the fiscal year under the revenue laws of the United States, as amended by the Tax Reform Act of 1986, that are in excess of the revenues (as so estimated) that would have accrued to the Treasury of the United States during the fiscal year under the revenue laws of the United States as in effect on the day before the date of the enactment of such Act; and

(2) the term "tax reform revenue shortfall" means, with respect to a fiscal year, the amount by which the revenues (as estimated in accordance with subsection (d)) accruing to the Treasury of the United States during the fiscal year under the revenue laws of the United States, as amended by the Tax Reform Act of 1986, are less than the revenues (as so estimated) that would have accrued to the Treasury of the United States during the fiscal year under the revenue laws of the United States as in effect on the day before the date of the enactment of such Act.

(d) DETERMINATION OF AMOUNTS.—The amount of any tax reform revenue windfall or tax reform revenue shortfall for a fiscal year shall be determined as of the date of the enactment of the Tax Reform Act of 1986—

(1) by the Congressional Budget Office (using revenue estimates made by the Joint Committee on Taxation in accordance with section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985), for the purposes specified in paragraphs (1) and (2) of subsection (a), and for purposes of carrying out the duties of the legislative branch under the provisions specified in paragraph (3) of such subsection, and

(2) by the Secretary of the Treasury, for the purposes specified in paragraph (4) of subsection (a), and for purposes of carrying out the duties of the executive branch under the provisions specified in paragraph (3) of such subsection.

MELCHER (AND OTHERS) AMENDMENT NOS. 2155 AND 2156

Mr. MELCHER (for himself, Mr. HEFLIN, Mr. ZORINSKY and Mr. NUNN) proposed two amendments to the bill (H.R. 3838), supra; as follows:

AMENDMENT No. 2155

On page 1582, beginning with line 3, strike out all through page 1585, line 3, and insert:

SEC. 421. REPEAL OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS OTHER THAN CERTAIN GAINS OF FARMERS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS FROM SALE OF CERTAIN FARM PROPERTY.

"(a) IN GENERAL.—If for any taxable year a qualified farmer has any qualified farm net capital gain, 30 percent of such gain shall be a deduction from gross income.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means an individual—

"(i) who is actively engaged in the trade or business of farming, and

"(ii) the taxable income of whom for the taxable year (after application of this section) is $100,000 or less.

"(B) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continous, and substantial basis.

"(2) QUALIFIED FARM NET CAPITAL GAIN.—The term 'qualified farm net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taken into account only gain or loss from the sale or exchange of property used in the taxpayer's trade or business of farming.

"(3) FARMING.—The term 'farming' has the meaning given such term by section 2032A(e)(4) and (5), including the carrying on of the trade or business of aquaculture on a farm; and including the sawing and milling of timber."

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" and inserting in lieu thereof "100 percent (28/33 in the case of a corporation)", and

(B) by adding at the end thereof the following new sentence: "In the case of any qualified farmer with respect to whom a deduction is allowable under section 1202, this paragraph shall be applied by substituting '70 percent' for '100 percent' with respect to any qualified farm net capital gain.

(2) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(3) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B), or (C)" both places it appears and inserting in lieu thereof "section 1211(b)".

(4) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1202 and inserting in lieu thereof the following new item:

"Sec. 1202. Deduction for capital gains from sale of certain farm property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1978, after line 24, insert the following:

"(6) CAPITAL GAINS.—

"(A) QUALIFIED FARMERS.—In the case of a qualified farmer (within the meaning of section 1202(b)(1)), an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5)).

On page 2271, line 19, insert "(reduced by the amount of any deduction under section 1202(a) allocable to such gain)" after "income".

Sec. 559 in the bill as previously amended is further amended by striking out "$200 million" and inserting in lieu thereof "$800 million".

AMENDMENT No. 2156

On page 1582, beginning with line 3, strike out all through page 1585, line 3, and insert:

SEC. 421. REPEAL OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS OTHER THAN CERTAIN GAINS OF FARMERS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS FROM SALE OF CERTAIN FARM PROPERTY.

"(a) IN GENERAL.—If for any taxable year a qualified farmer has any qualified farm net capital gain, 30 percent of such gain shall be a deduction from gross income."

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED FARMER.—

"(A) IN GENERAL.—The term 'qualified farmer' means an individual—

"(i) who is actively engaged in the trade or business of farming, and

"(ii) the taxable income of whom for the taxable year (after application of this section) is $100,000 or less.

"(B) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis.

"(2) QUALIFIED FARM NET CAPITAL GAIN.—The term 'qualified farm net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taken into account only gain or loss from the sale or exchange of property used in the taxpayer's trade or business of farming.

"(3) FARMING.—The term 'farming' has the meaning given such term by section 2032A(e) (4) and (5), including the carrying on of the trade or business of aquaculture on a farm; and including the sawing and milling of timber.

(b) CONFORMING AMENDMENTS.—

(1) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended—

(A) by striking out "40 percent (28/46 in the case of a corporation)" and inserting in lieu thereof "100 percent (28/33 in the case of a corporation)", and

(B) by adding at the end thereof the following new sentence: "In the case of any qualified farmer with respect to whom a deduction is allowable under section 1202, this paragraph shall be applied by substituting '70 percent' for '100 percent' with respect to any qualified farm net capital gain.

(2) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(3) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B), or (C)" both places it appears and inserting in lieu thereof "section 1211(b)".

(4) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1202 and inserting in lieu thereof the following new item:

"Sec. 1202. Deduction for capital gains from sale of certain farm property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

On page 1978, after line 24, insert the following:

"(6) CAPITAL GAINS.—

"(A) QUALIFIED FARMERS.—In the case of a qualified farmer (within the meaning of section 1200(b)(1)), an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5)).

On page 2271, line 19, insert "(reduced by the amount of any deduction under section 1202(a) allocable to such gain)" after "income".

SEC. 559 in the bill as previously amended as not withstanding any other provision of this act the figure in "$200 million" is deemed to be "$800 million".

WILSON AMENDMENT NO. 2157

(Ordered to lie on the table.)

Mr. WILSON proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1413 of the amendment, strike out line 24 and insert in lieu thereof the following:

employer, and

"(4) EXPENSES FOR OBTAINING EMPLOYMENT OF LIMITED DURATION.—The deductions allowed by part VI (sec. 161 and following) which consist of agency fees and other related expenses directly related to the seeking of employment of limited duration in the taxpayer's present trade or business, under regulations to be prescribed by the Secretary."

STEVENS AMENDMENT NO. 2158

Mr. STEVENS proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1972, between lines 21 and 22, insert the following:

"(E) RULES FOR ALASKA NATIVE CORPORATIONS.—The amount determined under subparagraph (A) shall be appropriately adjusted to allow:

"(i) cost recovery and depletion attributable to property the basis of which is determined under section 21(c) of the Alaska Native Claims Settlement Act [43 U.S.C. sec. 1620(c)], and

"(ii) deductions for amounts payable made pursuant to section 7(i) or section 7(j) of such Act [43 U.S.C. secs. 1606(i) and 1606(j)] only at such time as the deductions are allowed for tax purposes.

On page 1972, on line 22, strike "(E)" and insert in lieu thereof "(F)".

On page 1907, on line 23, strike "December 31, 1986" and insert "September 30, 1986".

STEVENS AMENDMENT NO. 2159

Mr. STEVENS proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2497, beginning with "adding" on line 9, strike through line 10 and insert in lieu thereof the following; "striking out paragraph (5) and inserting in lieu thereof the following new paragraphs:

"(5) NATIVE CORPORATIONS.—In determining whether a Native Corporation established under the Alaska Native Claims Settlement Act [43 U.S.C. sec. 1601 *et seq.*] is a member of an affiliated group with another corporation during any taxable year beginning before 1992 or any part thereof in which the Native Corporation is subject to the provisions of section 7(h)(1) of such Act [43 U.S.C. sec. 1606(h)(1)]—

"(A) the amendment made by subsection (A) shall not apply, and

"(B) the requirements for affiliation under section 1504(A) of the Internal Revenue Code of 1954 before the amendment made by subsection (A) shall be limited to the provisions expressly contained therein.

This paragraph is limited to stock owned directly by the Native Corporation or another corporation of which the Native Corporation owns all of the stock and shall be applied without regard to escrow arrangements, redemption rights, or similar provisions. Losses incurred and credits earned by a corporation (other than a Native Corporation or another corporation which is affiliated with the Native Corporation without the application of this paragraph while it is a member of an affiliated group of which a Native Corporation is the common parent) shall be treated as having been incurred or earned in a separate return limitation year of such corporation as defined in section 1.1502-1(f)(1) of the Treasury Regulations.

At the appropriate place in the bill, insert the following new section:

SEC. . TREATMENT OF DISTRIBUTIONS IN REDEMPTION OF STOCK HELD BY CORPORATIONS.

"(a) IN GENERAL.—Subsection (b) of section 302 (relating to redemptions treated as exchanges) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) REDEMPTION FROM CERTAIN CORPORATE SHAREHOLDERS.—Subsection (a) shall apply to a distribution if—

"(A) such distribution is in redemption of stock held by a corporation, and

"(B) such corporation would be entitled to a deduction under sections 243, 244, 245 with respect to such distribution if such distribution were treated as a dividend,

Provided, however, That no loss shall be recognized solely by reason of the application of this paragraph (5).

"(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 302 is amended by striking out "or (4)" and inserting in lieu thereof "(4), or (5)".

(2) Paragraph (6) of section 302(b) (as redesignated by subsection (1)) is amended by striking out "or (4)" each place it appears and inserting in lieu thereof "(4), or (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after date of floor action, unless pursuant to a binding written contract in effect on that date and at all times thereafter.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

GARN AMENDMENT NO. 2160

Mr. DOLE (for Mr. GARN) proposed an amendment to the amendment of the House to the amendment of the Senate to the joint resolution (H.J. Res. 652) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes; as follows:

In lieu of the matter inserted by the said amendment, insert:

SECTION 1. Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "September 30, 1986".

SEC. 2. The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $9,500,000,000 of mortgage and loan principal.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee will hold a full committee markup on an original resolution to urge the President to submit to the Senate a nominee for the position of Administrator of the Small Business Administration. The markup will commence at 11:30 a.m. and will be held in room 428A of the Russell Senate Office Building. For further information, please call Bob Dotchin, staff director of the committee at 224-5175.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Thursday, July 10, in Bethel, AK.

The subcommittee will receive testimony on S. 2065, to amend the Alaska Native Claims Settlement Act to provide Alaska Natives with certain options for the continued ownership of lands and corporate shares received pursuant to the act and for other purposes.

The July 10, hearing will be held at the VFW Hall in Bethel, AK from 9 a.m. to 5 p.m. Those wishing to testify in Bethel should contact the office of Senator MURKOWSKI, 701 C Street, Box 1, Anchorage, AK 99513, telephone (907) 271-3738. Those wishing to testify must sign up in advance of the hearing no later than Tuesday, July 8, 1986.

Because of the number of witnesses expected to testify in Bethel, oral testimony will be limited to 3 minutes per witness. Written statements may be longer. Witnesses will be placed in panels. Witnesses are requested to bring 15 copies of their testimony with them to the hearing. Do not submit testimony in advance of the hearing. For further information, please contact Senator MURKOWSKI's office or Tony Bevinetto of the subcommittee staff at (202) 224-5161.

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, June 23, to hold an oversight hearing on the Department of Energy's budget authority—Office of Energy Research and Office of Environment, Health and Safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONGRESSIONAL CALL TO CONSCIENCE

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. INOUYE. Mr. President, for a decade, the Congressional Call to Conscience Program has actively sought to focus national attention on Soviet citizens who are neither free to practice their own religion nor free to emigrate. These fundamental rights are taken for granted by many Americans, but we must not lose sight of the fact that these basic rights are not yet universal rights. As a result, I am both pleased and proud to join the fight to end religious persecution and suffering in the Soviet Union by participating in the 1986 congressional call to conscience.

Since 1979 when Soviet emigrants numbered over 50,000, there has been a sharp decline in the number of individuals allowed to leave the U.S.S.R. Barely 1,000 received permission in 1985. Instead of freedom, applicants for emigration are awarded jail sentences, physically beaten, or publicly denounced. Moreover, refuseniks have lost their jobs, been expelled from schools, and been forcibly isolated from society. In short, declaring one's desire to emigrate from the Soviet Union jeopardizes one's rights as a citizen and a human being.

The plight of the Finermans, a Soviet Jewish family, is a case in point. Miron and Iosef Finerman first applied for visas 7 years ago and have been refused ever since. The Government's explanation is that their invitation to live abroad "did not come from a sufficiently close relative." The fact that the Finermans already have an aunt and grandmother in Israel seems somehow irrelevant to the Soviets. Meanwhile, the Finermans must remain religious captives, unable to pursue their beliefs or their cultural heritage.

The 1986 congressional call to conscience seeks to increase public awareness about the Finermans and numerous other Soviet families in similar situations. Ultimately, we hope to assist these families in attaining their common goal—freedom. I commend my colleagues for their efforts in this regard and trust that our voices, along with those of the Finermans and other refuseniks in the Soviet Union, will eventually be heard.●

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act, as amended.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 23, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through June 20, 1986. The report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

No changes have occurred since my last report.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99th CONG. 2D SESS. AS OF JUNE 20, 1986

[In billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
FISCAL YEAR 1986				
Current level [1]	1,057.1	980.3	778.5	2,026.5
Budget resolution, S. Con. Res. 32	1,069.7	967.6	795.7	[2] 2,078.7
Current level is:				
Over Resolution by		12.7		
Under resolution by	12.6		17.2	52.2

[1] The Current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate committee or passed by the Senate. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONG, 2D SESS., AS OF JUNE 20, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds.	723,461	629,772	
Other appropriations	525,778	544,947	
Offsetting receipts	−188,561	−188,561	
Total, enacted in previous sessions.	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation urgent supplemental appropriation, 1986 Public Law 99–243).			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99–251).		4	
VA home loan guarantee amendments (Public Law 99–255).		−51	
Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272).	−4,259	−6,001	765
Department of Agriculture urgent supplemental, 1986 (Public Law 99–263).			
Advance to hazardous substance response trust fund (Public Law 99–270).			
FHA and GNMA Credit Commitment Assistance Act (Public Law 99–289).		−380	
Federal Employees Retirement Act of 1986 (Public Law 99–335).			−90
Total	−4,259	−6,428	675
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses.			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Veterans compensation	272	185	
Veterans readjustment benefits.	91	91	
Compact of free association	205	205	
Special benefits (Federal employees).	14	14	
Family social services	100	75	
Guaranteed student loans	6		
Payment to civil service retirement [1].	(37)	(37)	
Total, entitlements	688	570	

FISCAL YEAR 1986 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONG, 2D SESS., AS OF JUNE 20, 1986—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total current level as of June 20, 1986.	1,057,108	980,302	778,469
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution.		12,702	
Under budget resolution.	12,592		17,231

[1] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.●

THE SOFTWARE CRISIS

● Mr. BINGAMAN. Mr. President, today this Nation faces many challenges as we seek to maintain our national security and to reestablish our economic competitiveness in the world marketplace. Probably no industry is more important to those twin goals than our computer industry.

We tend to take our advantage in that industry as a given, but we should not; for the computer industry is part of the same society as our other less competitive industries. And that is a society in which we do not have an adequate number of qualified math and science teachers in our junior high schools and high schools. It is a society in which too few students in our colleges and universities are being educated in mathematics and the sciences. It is a society in which foreign students constitute a growing proportion of the graduate students in these critical fields. And it is a society which is underinvesting in education and in technology-base research. As a result, our productivity has not been rising at the same rate as in other countries. And if we let this productivity lag continue for too long, we will see our standard of living fall further and further behind that of our economic rivals.

The May 1986 issue of Air Force magazine carries an article by James W. Canan entitled "The Software Crisis," in which he discusses the growing problems facing the United States in this critical industry. The United States is spending more and more each year for software. For example, General Motors is spending billions of dollars on plant automation software. The Defense Department is already spending $10 billion a year and may be spending $30 billion a year by 1990.

Computer software is a field in which the United States enjoys a growing lead over the Soviet Union, but not over other nations. Indeed, the article points out that in Japan the software productivity norm is 3,500 lines of code per person per month, whereas in the United States the same norm is 183 lines of code. Now it may be that this is not a totally fair comparison. The United States software industry may concentrate more on new innovative programs and the Japanese industry may spend a lot of time adapting software produced elsewhere. But that is an extremely worrisome statistic in what it may portend in the near future for our position in this industry.

The article outlines what the Defense Department is doing to try to tackle this productivity problem in its own defense programs. It describes DOD initiatives, such as the Ada programing language, the DOD STARS project, and the Software Engineering Institute. I have followed these projects for the past several years and I am convinced that they are among the most important being funded by the Federal Government. If they are successful, they will hopefully generate important spin-offs to the commercial sector.

I only wish that we had an equally aggressive technology base program in computer software being pursued by the National Science Foundation and other domestic agencies in our civilian sector. Our national industrial policy in such a critical field should not be overwhelmingly dependent on spin-offs from defense research programs. For if our educational system will not allow us in the short term to produce the number of software professionals which our economy needs, our only recourse is to try to increase the productivity of those working in both the defense and civilian sectors.

Mr. President, we are going to hear more about this problem in the future. I hope that the Air Force magazine article will spur greater attention to it here in the Senate sooner than otherwise would have been the case. I ask that the Air Force magazine article be placed in the RECORD.

The article follows:

THE SOFTWARE CRISIS

(By James W. Canan)

Computer software is the brainpower of modern US military systems. The systems have come to live by it. There is increasing concern, however, that they may go into decline for the future lack of it.

Virtually all major military systems—aircraft, missiles, satellites, ships, tanks, torpedoes, and command control communications and intelligence (C^3I) networks—now embody programmable digital electronics.

More and more, the performance of such systems is dictated by the computer programs in their signal processors and data processors that tell them what to do and how to do it.

Modifying the computer software is now the main means of upgrading the systems to keep them on top of the threats.

"Software has become a highly important force multiplier, even though this is difficult to express in terms of bombs on targets," says Col. Kenneth Nidifer, director of

mission-critical computer programs for Air Force Systems Command's Deputy Chief of Staff for Product Assurance and Acquisition Logistics.

"The very security of our nation depends on software," Colonel Nidifer declares.

SOFTWARE AND NATIONAL SECURITY

That security is now being threatened by a full-blown software crisis.

Software costs have skyrocketed so high that they dominate the costs of military electronics and are headed for runaway proportions.

The Department of Defense spends $10 billion a year on software and anticipates the need to triple such spending by 1990. At $3 billion a year, software spending accounts for five percent of the total Air Force budget, and it is expected to eat up ten percent of the budget by 1990.

The demand for software and for software professionals, which is to say engineers, managers, and programmers, far outstrips supplies and is becoming more intense and more worrisome by the minute. The military is currently developing as much new software as the 100,000,000 lines of code that it now has in use. The national shortfall of some 80,000 civilian and military software professionals is expected to swell to 1,000,000 by 1990, and only a few US universities offer advanced degrees in software engineering.

Military systems software is becoming ever more complex. For example, the B-1A bomber of ten years ago embodied 500,000 lines of software code, fewer than half of the 1,200,000 lines of code in today's B-1B.

It has often taken the military services as long as nineteen years to get software into systems from the time of its conception. The heightening demand for increasingly complex software threatens to protract this excruciating process even more.

Software quality is spotty. "Debugging" error-ridden software is a major headache and highly expensive software for SDI battle management and C^3 systems will make those systems "the paramount strategic defense problem."

Any "closed-loop" system in which the human element is lacking or is rarely present, such as SDI, demands an awful lot of its computer software. The more a system is automated, the more reliable its software must be.

SCRAMBLE FOR PROGRAMMERS

The software crisis is by no means peculiar to the military. It also grips the civilian sector, where efforts to solve it are in some ways making matters worse for the defense establishment.

This is especially true when it comes to recruiting software talent.

Because of their dire need for software engineers and managers, banks and industries, for example, are paying top dollar for them and are luring military officers and DoD civilians from the already thin ranks of those with solid software managerial experience.

As a result, the Air Force now depends almost exclusively on captains and lieutenants to work its worsening software problems.

By and large, these junior officers are quite good at what they do. They lack clout when it comes to competing for resources, however, and—as part of that—convincing their seniors of just how bad the military software situation has become.

Project Bold Stroke, with its emphasis on making senior commanders aware of the situation, should be a big help in this regard.

The commercial sector's voracity for software and for software professionals is starkly illustrated by the fact that General Motors Corp. alone uses as much software and spends almost as much money on it as does the entire US defense establishment. GM reportedly spent $7 billion to $9 billion last year on automating its plants. Ninety percent of its expenditure went for software and for software people.

Dr. John H. Manley, a former Air Force officer who is the director of DoD's Software Engineering Institute (SEI) at Carnegie-Mellon University, says that "the commercial sector is offering double or triple the salaries of our [military] software professionals to hire them away.

"We can't compete with that," Dr. Manley asserts, "so we're going to have to rely on the commercial world to build the software for us. This raises the questions of how DoD manages that and of who minds the store for DoD. And this is why DoD set up the STARS [Software Technology for Adaptable, Reliable Systems] program and why it created SEI—to get control of the software crisis."

That crisis has been building for years. Jointly and separately, the military services and the Office of the Secretary of Defense have studied software problems off and on ever since programmable digital electronics began entering combat systems in the 1970s.

One OSD report in 1982 concluded that "the military power of the United States is inextricably tied to the programmable digital computer." It drew the corollary conclusion that software problems "can make our future military systems fail in ways that could be disastrous for our national security."

THE SOFTWARE INITIATIVE PROGRAM

That report spawned DoD's three-proned Software Initiative Program to develop reliable, cost-effective software for mission-critical computers. It consists of SEI, the STARS project, and DoD's adoption of a standard military programming language called Ada.

SEI is set up to investigate the entire software engineering scene in the US, to foster new software engineering talent and new software technologies, and, perhaps most importantly to expedite the transition of software technologies into practice.

The office of the Deputy Under Secretary of Defense for Research and Advanced Technology oversees the DoD Software Initiative Program. For it, the Air Force administers SEI out of AFSC's Electronic Systems Division at Hanscom AFB, Mass.

AFSC headquarters at Andrews AFB, Md., also plays a major, eclectic role in the Software Initiative Program through its Mission Critical Computer Resources Division. The division, which reports to AFSC's DCS for Science and Technology, is headed by Maj. Duane Johnson. Capt. Greg Juday and Capt. Gregg Swietek are its computer system staff officers most intimately involved with software and advanced-computing projects on a workaday basis.

Both captains make persuasive cases that USAF must give much more financial and managerial attention to solving the software crisis and that it must stop doing "business as usual" in designing, developing, and acquiring software.

The facts are on their side. The Air Force is in hock to software.

For example, the core avionics of today's fighter aircraft embody about 200,000 machine instructions. The next generation of such aircraft—defined generically, not as any particular aircraft—will need 1,000,000 such instructions in their core avionics. Those future aircraft will also require about 250,000 machine instructions just for the signal processors that will be mated with their sensors.

It costs $85 million to develop the software for an F-16D. It costs another $250 million to maintain that software—rectifying its errors, keeping it in shape, updating it—over its anticipated operational lifetime.

THE PACING TECHNOLOGY

Software has become the pacing technology in advanced fighters, just as it has in most other weapon systems and information systems.

AFSC's Colonel Nidifer, in his Bold Stroke briefings of USAF commanders and other personnel, makes a point of this as follows:

Through most of the Vietnam War, Air Force F-4s contained no digital computers and no software.

Each F-16A that went operational in 1981 had seven computer systems with fifty digital processors and 135,000 lines of code.

This year's F-16D has fifteen computer systems with 300 digital processors and 236,000 lines of code.

Moreover, the magnitude of the software inside an aircraft may represent only a fraction of that aircraft's total software requirement. The "on-the-ground" software of the automated systems used to develop the aircraft's on-board operational software contains many more lines of instructions than does the software that it develops.

All this is hard for AFSC's software missionaries to get across, especially to those who did not grow up with digital electronics and computer programs and who still size up combat aircraft in terms of their sizes, shapes, speeds, and other obvious characteristics.

As AFSC's Captain Juday puts it, "When you see an F-16 fly by, you don't say, 'Look at that software.' And yet, to a great extent, that's what you're seeing."

If software costs and requirements for USAF's newest fighters are already chilling, they may be downright bloodcurdling for future fighters and other sophisticated combat aircraft.

AFSC estimates that the software of each future fighter, as envisioned in generic terms, will cost $450 million to develop and a whopping $1.3 billion in life-cycle maintenance, defined as "ownership cost."

Such costs look to be prohibitive. USAF will have no choice but to pay them, however, if it wants its aircraft to do what it now believes they will need to be able to do—unless, of course, it can cut those costs.

Increasing software productivity will be the key to such cutting. As an Air Force report sums up the situation:

"The single most important factor in fully utilizing the advanced electronic capability in aircraft systems is going to be the production of the software required to implement the desired capability.

"In order to reduce the cost of the software, major productivity improvements are required. . . .

"It is also obvious that this requirement is not unique to airborne systems."

THE ESSENTIALITY OF SOFTWARE

USAF simply cannot turn away from software. Dr. Thomas E. Cooper, Assistant Secretary of the Air Force for Research, Development, and Logistics, made this clear in calling, last year, for a "bold stroke" at the software crisis. So did USAF Chief of Staff Gen. Charles A. Gabriel and former Secre-

tary of the Air Force Verne Orr in a subsequent joint memorandum for all USAF major commands and separate operating agencies.

They wrote: "Our newest weapons and information systems—the B-1B, Peacekeeper, SACDIN [Strategic Air Command Digital Network], and the Phase IV Standard Base Supply System—depend upon sophisticated software. In a very real sense, our ability to deliver and support this software in a timely and cost-effective manner provides the Air Force its most significant technological edge over our potential adversaries."

Among other new systems that provide USAF's technological edge are the Advanced Medium-Range Air-to-Air Missile (AMRAAM) and the Low-Altitude Navigation and Targeting Infrared for Night (LANTIRN) system. Both rely on sophisticated computer programs for guidance and targeting. LANTIRN's development required 6,000 lines of software code.

SOFTWARE IS THE KEY

All "smart" weapons derive their IQs from their software. It is crucial to precision-guided munitions (PGMs), to the increasing automation of combat aircraft with fully integrated avionics, and to the emergence of battle-management systems and others featuring artificial intelligence (AI).

USAF's new F-15E dual-role fighter is nearly as "software-intensive" as the B-1B bomber. When Air Force officials remark on the F-15E's capacity for "growth," they mean its capacity for software embellishments that will make it more capable to meet changing threats.

It is easier and less costly to modify software than it is to modify hardware. USAF's experience in its F-111 program is an example.

The Air Force upgraded the avionics of its F-111A/E aircraft by altering their analog (hard-wired) computers. It also upgraded the avionics of its F-111D/F aircraft, introducing the same new capabilities, by altering the software in their digital computers.

The hardware changes cost fifty times as much as the software changes and took three times as long to make.

According to a DoD report, software changes that improved the accuracy of USAF's 550 deployed Minuteman III ICBMs cost "only $4 million, a fraction of what the corresponding physical modification might have cost."

The report continued: "The cost and time required to *design* a software change is comparable to the cost and time to design a hardware change, since both are human-intensive, intellectual tasks of comparable complexity.

"But the cost and time needed to *implement* these changes favor software by orders of magnitude, particularly when the change is replicated in many systems.

Before systems software can lend itself to such modification, however, it must be designed to system specifications in the first place, its errors must be discovered and eradicated, and it must be introduced into the systems on schedule and up to speed.

THE PEOPLE PROBLEM

Getting all this done is largely a people problem. It has to do not only with the shortage of software personnel but also with the individualism and the lack of discipline that are rampant—necessarily so, given the freehand nature of the software workplace—in the programming world.

Creating sophisticated software is still much more an art than a science, and the all-too-few premier programmers reflect this in the way they do their jobs.

For example, three such programmers may take three different, innovative approaches to writing a program to satisfy a military requirement. Only the programmer whose program is adopted really knows exactly what is in it and, thus, how to debug it without a lot of expensive—and maybe fatal—trial and error.

Such dependence on individual creativity, which could have dire results if, for example, the top programmer for a vital piece of software becomes incapacitated, is not the fault of the programmers themselves.

They lack the automated tools and automated "support" environment—meaning good software and computers for writing good "applications" software—that they need for greater efficiency and discipline of their "methodology."

As defined by AFSC's Captain Swietek, a software environment is a "collection of tools organized to support a specific function, such as the development of software for an avionics or a C^3 application." Among such tools are program-language compilers and debuggers.

"Methodology" is nothing more than the way the programmers use thier tools and their environment to get their software written and into use and the way the software managers use them to keep the programming on track and to predict its costs.

AFSC's programs in software technology and in advanced computer technology are aimed, in large measure, at just such automated improvements in the software production process.

DoD's STARS program is also concentrating on this.

Citing USAF's B-1B and E-3A systems and the Navy's Aegis shipboard fire-control system as prime cases in point, the 1982 DoD report on the military software situation described the development and support of software for major military systems as "one of the most complex human endeavors, often requiring hundreds of people for five or more years at costs exceeding $100 million."

This makes a salient point that USAF is addressing.

"Software is extremely labor-intensive," says Captain Swietek, "so if we could cut by a factor of four the time it takes to produce software, we could cut its cost by about the same proportion. We could make a big dent in the problem."

One-tenth of the money that USAF expects to spend on software in the current fiscal year would buy twenty-six more F-16Ds.

SUFFICIENT RESOURCES?

Air Force officials point out that the US, which prides itself on its computer technology, slights the software arena in its per capita allocation of resources in terms of percentages of the Gross National Product.

By USAF's calculations, workers in agriculture are supported at the level of $75,000 per person, those in industry at $45,000, and those in the software field at only $10,000.

A rough analogy can be drawn with respect to military software's slice of total military resources.

Software productivity is hard to measure, because software, unlike hardware, is not visibly a production item. This also deters software contractors from investing their own funds up front to improve the productivity of software for military systems.

In hardware production, contractors are usually willing to make such investments, because they stand to recoup much or all of them from DoD in contracts pegged to productivity incentives and because they can write off some of such investments as well.

In software, however, there is no "production" phase as such and, thus, no possibility of returns on investment. This means no incentive for the contractors to invest in modern software-producing tools or, if they have them, to use them for defense software work.

Contractors' proprietary claims on the software that they produce for DoD or that DoD would like to acquire from them also get in the way. Under current law, DoD has not only the rights to the software that contractors produce for it but also the rights to the tools that they use in producing the software.

"What we find," Joseph Batz, deputy director of USDR&E's Computer Software and Systems Directorate, explains "is that contractors are not willing to use the most advanced tools in their possession because they don't want DoD to come after those tools. In order to foster the use of the most advanced existing tools and the further development of such tools, we're going to have to overcome that problem."

One move being considered is to permit contractors to keep some rights to their tools as an incentive to improving them and maybe even to marketing the use of them, under licensing arrangements, to their competitors. To encourage them, DoD may even let the contractors charge it royalties for its use of such tools.

Such considerations are emerging in the STARS program, which is only now picking up steam. That program is also working the major problem of software reusability.

The services have been in the habit of starting from scratch in developing software for each new system. Through experience, however, they now know that portions of software in one missile, for example, can be transferred to another, newer one, thus cutting its costs and expediting its development.

COMPUTER BABEL

A big difficulty with doing this lies in the wide divergences of program languages used across, and even within, the military services. Many systems use "maching assembly languages" that are especially and laboriously devised just for the particular computers of each.

This is a major reason why DoD's adoption of the Ada standard programming language is so important.

Having studied ten different missile systems in all three services, DoD has begun building a library of what it calls "Ada packages" or CAMP (for Common Ada Missile Parts) of software to perform functions that it found to be common to the software of all the systems.

AFSC's Armament Division at Eglin AFB, Fla., is now taking this software-commonality process much farther. It is building a prototype missile digital avionics software package in Ada and with some artificial intelligence characteristics.

Ada is earmarked for incorporation in more than 100 military systems. The changeover will take time, however, because the services' systems already have millions of lines of code written in other languages.

Even so, Ada's implications for increasing the productivity of military software development through standardization—and for the cutrate reusability of such software—are profound.

"Each individual piece of software that gets reused becomes better and more reliable," explains DoD's Mr. Batz. "If we could reuse thirty percent of our software, just think of the savings we could make."

Much of the STARS program, in which software reusability ranks high as a goal, also deals with getting software technology into practice. Such software technology transition is mainly the responsibility of DoD's Software Engineering Institute, however and is expected to take up about two-thirds of all SEI activity.

First off, SEI is identifying emerging software technologies, assessing those currently available for military use, and promoting the development and the eventual use of those that promise big advances in software reliability and integrity.

In a joint report last January, USAF's Dr. Cooper and Lt. Gen. Bernard P. Randolph, Deputy Chief of Staff for Research, Development, and Acquisition, called attention to SEI's pivotal role.

"It will be increasingly important," they wrote, "to develop advanced software technologies that are user-friendly and are robust enough for all applications. Use of the Ada language and efforts of the Software Engineering Institute will provide the software technology for future weapon systems."

"Robust" has become a byword in USAF software circles.

"We must make computers tougher components of battlefield systems," declares AFSC's Captain Swietek. "They must be fault-tolerant; they can't just quit. We can't afford to have computer programs that crash if you type in a wrong number. We need programs that degrade gracefully."

There are too few such programs now. Military software reliability and integrity are too often constrained by the outdated technologies that SEI has set out to cull.

FOSTERING HOME-GROWN TALENT

SEI is also on the hunt for software talent for the military and for the means of nurturing such talent in the nation's colleges and universities.

Operating in a state-of-the-art software environment at Carnegie-Mellon, SEI is now affiliated with several other academic institutions as well and is beckoning to prospective industrial affiliates.

Captain Juday, who is AFSC's program element monitor for SEI, says that SEI aspires to "bringing the ablest minds and the most effective technology to bear" on improving the quality of operational software.

Through SEI, Captain Juday declares, "We want to establish software engineering as a profession, form a national center for software engineering technology information, and lead the development of a progressive software engineering technology base."

SEI's Dr. Manley emphasizes that SEI itself "does not give software engineering courses."

"We're concentrating at the leverage point by creating software professors and graduate students," he asserts. "We are in business to educate the educators and to train the trainers."

The whole idea is to increase the US military software technology lead. First, however, it must be kept from narrowing.

A major problem in this regard is that US graduate schools in engineering and scientific disciplines in, or related to, the computer field are heavily populated by students from foreign nations. In many cases, such students make up more than half of the classroom complements.

They also tend to have an advantage over their usually monolingual American counterparts in that they can speak and read several languages and thus can glean more extensively from international writings in their field.

Compounding this problem of foreign competition is the increasing excellence and drive of several nations, notably Japan, England, and France, in the computer technology arena.

In Japan, for example, the software productivity norm is 3,500 lines of code per man/month. In the US, it is 183 lines of code.

The same thing could happen to the US software industry that happened to the US steel industry and to others. Unless its productivity goes up and its costs come down, it could slip badly or even be lost, with grave consequences for future US military capability.●

BALTIC STATES

● Mr. PELL. Mr. President, this month, for the fifth consecutive year, the Congress passed legislation designating June 14 as "Baltic Freedom Day." Although the independence of the Baltic States was tragically and illegally ended by the Soviet Union during the Second World War, time has not diminished their desire for political autonomy or the commitment of the United States to their noble cause. On the 64th anniversary of our de jure recognition of the sovereign nations of Lithuania, Latvia, and Estonia, I want to reaffirm this commitment and honor the Baltic peoples' struggle for freedom.

In 1918, after more than a century of Russian rule and czarist oppression, the Baltic Republics triumphantly declared their independence. Fortified by their rich and diverse cultural heritage, these young democratic nations withstood Bolshevik challenges to their sovereignty, negotiated nonaggression pacts with their neighbor to the east, and enjoyed full membership in the League of Nations. Their bright future was an inspiration to all emerging nations after the ravages of the First World War.

In the regional power struggle of the late 1930's, the Baltic States tried to maintain absolute neutrality. They became victims, however, of a secret protocol to the German-Soviet pact of 1939 under which they were relegated to the Soviet "sphere of influence." Once Moscow demanded that the three strategic countries sign mutual assistance treaties with the Soviet Union, their fate had been sealed. In rapid succession, Red Army troops were stationed on Baltic soil, the national governments were replaced with pro-Soviet regimes, and the new "parliaments," in flagrant violation of the Baltic constitutions and against the will of the Baltic peoples, voted for incorporation into the Soviet Union by a mere show of hands. Because of the Soviet Union's disrespect for the principle of national self-determination, Lithuania, Latvia, and Estonia became the only members of the League of Nations unable to join the United Nations. To this day, the United States has consistently refused to recognize the Soviet Union's unlawful annexation of the Baltic States.

Since 1940, the Soviet Union has pursued a policy of russification designed to eliminate independent religious, political, and cultural activities in the Baltic States. While the Stalinist practice of mass deportations and arbitrary murder has ended, the repression continues. In Lithuania, where Catholicism is deeply rooted, worshippers have been intimidated and harassed, and Catholic priests have been detained, brought to trial and convicted on charges of "anti-Soviet agitation and propaganda." The Lithuanian Helsinki Monitoring Group, another target of the government's campaign, has been severely shattered by the imprisonment and involuntary exile of some of its members. In Latvia and Estonia, in addition to individual cases of human rights violations, evidence of cultural repression is starkly provided by demographic statistics; in both states, the proportion of native citizens continues to decline.

In spite of such formidable obstacles, the people of the Baltic states continue to strive to protect their national identities. As a member of the Commission on Security and Cooperation in Europe, I am heartened by their courage and vitality, but I am also deeply concerned about recurring violations of their human rights. The Soviet Union has pledged respect for these rights and as a party to the United Nations Charter and a signatory of the Helsinki accords, it has accepted political and legal obligations in these areas. We must take every opportunity to remind the Soviet Union of these obligations and, as we do today, continue to pledge our support for the Baltic peoples' historic struggle for freedom.●

WHAT HAPPENED TO DIPLOMACY?

● Mr. HATFIELD. Mr. President, we all share the problem of too much paper and too little time. But every once in a while, something filters to the top that demands attention. So it is with a recent column by Harrison Brown, editor in chief of the Bulletin of the Atomic Scientists. Entitled, "What Happened to Diplomacy?" Mr. Brown's column thoughtfully details frustration with current U.S. foreign policy similar to my own. The column speaks for itself, Mr. President, and I ask that it be inserted into the RECORD at this point. As Mr. Brown said of the current turning point in arms control and foreign policy, we ignore this

column and its warnings "at our peril."

The column follows:

WHAT HAPPENED TO DIPLOMACY?

(By Harrison Brown)

This spring the United States was responsible for several major setbacks to world peace in Libya, Central America, and Moscow. The developments in Libya appeared to be by far the most dangerous. First the Reagan Administration conducted massive naval maneuvers off the Libyan coast in an attempt to contest Colonel Qaddafi's declaration that the Bay of Sidra beyond the 12-mile limit belongs to Libya rather than to the world community. Following predictable attacks from Libyan missile installations, U.S. planes penetrated the Gulf, destroying two of the ground-to-air missile bases and two small Libyan naval vessels, killing several Libyan seamen.

A few days after the Gulf of Sidra episode, with the avowed objective of discouraging terrorist activity, the United States launched air attacks on specific military and terrorist centers in Benghazi and Tripoli. Unfortunately, some of the bombs did not reach their targets but instead seriously damaged residential areas and embassies, killing a number of civilians.

Whether or not these military actions should be called "war," they were certainly warlike. One wonders whether the United States could not have taken diplomatic actions to greater effect. To be sure, President Reagan has become increasingly distressed by Libyan support of terrorism, and many Americans undoubtedly approved when the U.S. giant finally struck the Libyan pygmy. But the United States and the world would be better off in the long run had peaceful measures been tried first.

The United States could have put much more effort—including economic clout—into persuading its allies to bring the Gulf of Sidra matter before the International Court of Justice, or boycotting passenger and freight flights in and out of Libya or, for that matter, any nation which harbors and encourages terrorists. Washington could have offered military as well as expanded economic aid to those African countries which have good reason to suspect Libya's intentions. These are but a few of the less warlike actions that could have been taken. Even a naval blockade of Libyan ports would have been preferable to the bombing of Libyan cities.

Not long after the Gulf of Sidra incident, it was revealed that in July of last year Robert C. McFarlane, the president's former national security adviser, told a group of the Administration's top foreign policy advisers that since diplomatic and economic pressures had failed to curtail Qaddafi's terrorist activities, much stronger measures would be needed. But McFarlane did not specify how strong those pressures had been. What did become clear was that the United States had engaged in serious discussion and study of the possibility of taking preemptive military action against Libya, possibly with the full cooperation of Egypt. However, Egypt apparently decided against going along with the plan.

In Central America, President Reagan's concern is that Daniel Ortega will provide a major base of operations for Cuban and Soviet activity in all of Latin America, but particularly in Mexico. His primary approach to this problem is military. Once again, the United States is not making adequate use of the diplomatic and other resources of its many friends in Latin America who share these concerns but appear to be less alarmed. Moreover, the United States has long avoided taking positive actions to help alleviate many of Latin America's serious economic, social, and political problems. Lack of progress in these areas will only hasten the day when U.S. fears of Nicaragua will seem trivial.

While the Nicaraguan and Libyan political winds were blowing hotter, Soviet leader Mikhail S. Gorbachev again proposed a ban on nuclear testing and invited Reagan to join him in a summit meeting in Europe to reach such an agreement. The Administration, backed up by an army of pro-nuclear-weapons advisers, immediately rejected the proposal and then conducted tests.

If you don't want to do something, one excuse is as good as another. Richard Perle's latest concern is whether untested nuclear explosives would be "safe" to use. Groups with fat SDI contracts claim testing is essential to develop space defenses and to determine the effectiveness of possible patterns of SDI deployment.

Representative Les Aspin, chairman of the House Armed Services Committee, said that the Administration is "rejecting something that's worth pursuing." Four former U.S. officials and negotiators—Paul Warnke, Spurgeon Keeny, Gerard Smith, and John B. Rhinelander—agreed, and Warnke added: "Since 1981, the Reagan Administration has made it clear they have no interest in a comprehensive test ban."

The prospects for arms control and disarmament are more dismal than they have been in a long time. If testing is not stopped until SDI is pronounced successful, the final great catastrophe may come first. The only development which could change this course would be truly effective protests from the American public and both parties in Congress. People must realize that we are approaching a turning point which is probably irreversible and which can lead to an accelerated arms race, and eventually catastrophe. We ignore this at our peril.●

ANNIVERSARY OF THE RESTORATION OF UKRAINIAN INDEPENDENCE

● Mr. RIEGLE. Mr. President, June 30, 1986, marks the 45th anniversary of the restoration of Ukrainian independence. For Ukrainians throughout the world, this anniversary is a very important one. Although only free for a brief time, the emergence of Ukraine as a free state symbolizes the spirit of freedom which continues to live in the hearts of the 35 million Ukrainians who, today, live under Soviet oppression.

For those in the homeland and the 3 million Ukrainians scattered throughout the world, the story of the precious few months of Ukrainian independence in 1941 is well known. After suffering so much at the hands of the Russian Bolsheviks, particularly during the collectivization and the ensuing famine of 1932–33, the Ukrainian people enthusiastically supported the declaration of a provisional government by Prime Minister Yaroslav Stetsko. The Nazis ferociously suppressed this independence movement in Western Ukraine and initiated 4 years of persecution against the Ukrainian freedom fighters.

Despite the brutality they suffered at the hands of the Nazis, the Ukrainian people kept the spirit of the provisional government alive. Their fierce resistance to the German occupation in the Nazi-Ukrainian war hastened the defeat of fascism, but came at a cost of nearly 8 million Ukrainian lives.

Any hopes for Ukrainian sovereignty in the wake of World War II were shattered as Soviet Russian domination replaced Nazi suppression. Although it is the largest non-Russian nation in Eastern Europe, Ukraine remains, as it has for centuries, denied the freedom to determine its own fate.

In 1986, we continue to witness persecution of the Ukrainian people. The most recent manifestation of their suffering came with the Chernobyl nuclear powerplant disaster, the detrimental effects of which may never be fully known. Thousands of Ukrainians have lost their livelihood and homes as a result, and hundreds of thousands may suffer from long-term effects of radiation poisoning.

Despite the series of travesties, including genocide and violent russification, visited upon the courageous Ukrainian people, they have persisted in their struggle for autonomy and freedom.

To the Ukrainian-American community in my State of Michigan as they honor this important anniversary with special celebrations, we reaffirm our support for the struggle which continues in the homeland. In so doing, we demonstrate not only American disdain for the injustice of Ukrainian subjugation, but also our belief in the right of self-determination for all the peoples of the world.●

ORDERS FOR TUESDAY

RECESS UNTIL 9 A.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Tuesday, June 24.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, there be a period for the transaction of routine morning business, not to extend beyond 9:30 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I ask unanimous consent that the following Senators be recognized for special

orders, for not to exceed 5 minutes each, at some point during the day on Tuesday: Senators HAWKINS, PROXMIRE, HUMPHREY, EXON, MELCHER, and GORE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I indicate that we want to be on the bill by 9:30, and we will try to intersperse special orders if there is a little lag time between amendments or if there is a quorum call. We can fill that in with special orders.

SENATE SCHEDULE

Mr. DOLE. Mr. President, we will resume consideration of H.R. 3858 tomorrow. I was visiting with the chairman, Senator PACKWOOD, and there may be six votes.

Mr. PACKWOOD. We are doing pretty well. Twelve amendments have been taken down in the last hour and a half or hour and three-quarters. We have a vote set on Senator MELCHER's amendment at 10 o'clock, with the yeas and nays. Senator MATTINGLY will bring his amendment afterward.

I think we have five or six amendments on which there may be rollcall votes.

Mr. DOLE. That sounds good to all of us, because that means we can keep our deadline for a 4 o'clock vote on final passage, which I believe would not only be in keeping with our agreement but also would accommodate the chairman and others who have a number of commitments following final passage.

If the House should give us the supplemental appropriation conference report tomorrow, we will act on that tomorrow evening, because it is causing a great deal of inconvenience.

My phones in Kansas are ringing off the walls. People who would like to close up their home deals cannot do it because there is no money. I hope we might be able to complete action on that tomorrow night.

I still hope that on Wednesday we can consider the Manion nomination, although I get little rumblings that that may not be possible. I hope we can bring it up for a time agreement and a vote and see what happens. Otherwise, we have no choice but to extend the week and try to complete action on it on Friday.

RECESS UNTIL 9 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in recess until the hour of 9 a.m., Tuesday, June 24, 1986.

The motion was agreed to: and, at 8:27 p.m., the Senate recessed until tomorrow, Tuesday, June 24, 1986, at 9 a.m.

EXTENSIONS OF REMARKS

USHEALTH ACT OF 1986

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. ROYBAL. Mr. Speaker, I rise today to introduce the USHealth Act of 1986.

Over 50 years ago, Franklin D. Roosevelt articulated the need for protection against the costs of health care when he said: "We must bring home more and more to the average citizen the fact that health has become a part of Government, that it is no longer a question of charity."

Over 25 years later John F. Kennedy expressed his concern regarding the threat of catastrophic health care costs when he said: "* * * I am concerned about the futility of imposing on any person or family an unwarranted, unpredictable, and often unmanageable (health cost) burden that could easily be borne by an insurance arrangement—insurance that is spread over the working lifetime of each individual."

Earlier this year President Reagan, in his State of the Union Address, sounded the call for a major initiative on: "* * * how the private sector and Government can work together to address the problems of affordable insurance for those whose life savings would otherwise be threatened when catastrophic illness strikes."

Illness of a catastophic nature can strike any of us. And with few exceptions, the catastrophic illness creates a second catastrophe—a financial catastrophe. Tragically, there is little in the way of financial protection against the devastating costs of severe and chronic illnesses—costs that can rapidly deplete a family's lifetime savings.

I have seen middle-aged and older families struck by a chronic illness such as Alzheimers disease be faced with the catastrophic cost burden of long-term care. I have seen families of all ages denied access to needed primary and acute care due to lack of adequate insurance. According to a recent report, over 33 million Americans lacked health insurance in 1984. Part of this is because the Nation's program to provide coverage for health care for the poor—Medicaid—actually provides care to less than half of the poor population. Part is because some people are precluded from privately purchasing health insurance coverage due to a preexisting medical condition.

The personal catastrophe of having a productive and loving spouse, parent, or child be in a state of ill health already is as much as any family should have to bear. With the accompanying financial catastrophe—totaling tens of thousands of dollars in some cases—the burden becomes unbearable.

However, this Nation can prevent the financial catastrophe if it can find the political will to do so. Options do exist if America has the will to take on this "catastrophic health" crisis.

Today I am introducing one such option—a bill entitled the "USHealth Act." If enacted, this "American health plan" establishes the USHealth Program which provides catastrophic and basic health protection for all Americans, regardless of age or income.

USHealth would provide coverage for primary, acute, and long-term care and include special safeguards for catastrophic illnesses. It gives assurances that health care quality would be maintained. Most importantly, it would bring about these critically needed improvements without disrupting the essential professional relationship between individual patients and their health care providers.

USHealth is fiscally responsible in that it would constrain total health care costs to about 12 percent of gross national product [GNP]. USHealth offers an affordable American alternative to the current health care system through its constraint on health care cost increases—just as Canada has done successfully for the last 10 years. In the absence of such an approach, the Nation's health expenditures are projected to exceed this 12 percent of GNP by the year 2000, but without resolving the crisis facing people with catastrophic illness and people without adequate health insurance protection.

USHealth is a workable solution to address the broad concerns expressed recently by President Reagan and his Health and Human Services Secretary Otis Bowen. USHealth provides a major legislative benchmark against which other approaches—including the President's—can be compared.

Much to the credit of the President and Secretary Bowen, a consensus may finally have emerged on the need to protect all Americans from the financial risk of catastrophic illness. As evidenced by my introduction of the USHealth legislation, I totally agree with the administration that a broad problem exists which affects Americans of all ages and includes both acute and long-term care. I also agree that only a broad solution will provide the full health protection which Americans so desperately need.

The American people understand that need. Americans find it unacceptable that 30 to 40 million people have no health insurance protection whatsoever. Americans find it unacceptable that health care costs rise much faster than the incomes of most wage earners and the elderly. And Americans find it unacceptable that the tragedy of a severe or long-term illness is followed by a second tragedy—a financial disaster striking young and old alike.

Finally, we may once again be moving forward on a "health care crusade" that began with broad bipartisan support for the Medicare and Medicaid Programs 20 years ago and that has been advanced by the successes of these programs ever since. Let us hope that we can again follow this proud American tradition and find a truly workable American solution to today's health care challenge.

Mr. Speaker, I ask that my full statement and the bill summary be included in the RECORD.

THE "USHEALTH" PROGRAM ACT: AN AMERICAN HEALTHPLAN

(A bill to contain health care costs, maintain quality and ensure access for all Americans)

PURPOSE

This bill is designed to control health care costs for all Americans whether they be individuals, employers, or the government; to maintain health care quality for all providers and patients, and to ensure financial access to health care and prevent financial disaster resulting from catastrophic illness.

BACKGROUND

Between 1978 and 1984, health care costs rose at an average rate of 12.6 percent, or 3.4 percent faster than the Gross National Product. Health care costs continue to rise and are likely to reach a level of 11.2 percent of GNP by 1992 and over 12 percent by the year 2000. At the same time, the elderly are paying more and more of their limited incomes for health care even with the help of Medicare and Medicaid. Out-of-pockets costs are estimated to be 18.5 percent of the elderly's income by 1991—substantially more than when the Medicare and Medicaid programs began. On top of the elderly's growing financial burden and in spite of the enactment of Medicare and Medicaid, many poor and near poor (over 30 million) still face major access problems due to lack of insurance. Many more Americans are underinsured against catastrophic illness.

BILL OVERVIEW

The provisions of this bill establish the USHealth program in 1992 which is designed to contain costs while maintaining quality and ensuring access. Health care cost increases will more closely match the increase in per capita Gross National Product—a level which closely approximates the Nation's ability to pay. The provisions to ensure financial access for all Americans, including the poor, the unemployed, the uninsured, and the elderly are financed through the savings generated by the cost containment provisions, extension of the Medicare payroll tax to all incomes, beneficiary cost-sharing, an employer tax, an expanded cigarette tax, State revenues, a premium paid by the elderly approximating the "Medicare Part B premium", and a surcharge on corporate and individual income taxes. The provisions to maintain quality include the active involvement of providers and consumers, Peer Review Organizations or qualified state quality assurance programs, a national Council on Quality Assurance, and the qualification of Health Maintenance Organizations.

THE "USHEALTH" PROGRAM ACT—BILL DESCRIPTION

In attempt to deal with the problems facing the American health care system, a

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

series of changes are proposed. The provisions of this bill, if enacted, establish the USHealth program which contains health care costs for the federal government, States, employers, and consumers; improves financial access to needed services; helps maintain quality; and increases equity among health care providers and payers.

SECTION I: COST CONTAINMENT

This bill incorporates a series of cost containment measures. Greater incentives are provided for Health Maintenance Organizations States are encouraged to implement statewide cost containments programs as long as they perform as well as the federal program.

Health maintenance organizations

Medical care costs are contained through greater incentives for Health Maintenance Organization (HMO) development in general. The payment for HMOs is raised from the 95 percent of the Average Area Per Capita rate (AAPC) to 100 percent of AAPC as of 1992. The federal government initiates a national campaign to encourage beneficiaries to enroll in qualified HMOs. Employers are encouraged to encourage their employees to enroll in HMOs.

Federal and State cost containment programs

The federal health care cost containment program includes all services and patients. The cost containment provisions take effect in 1992 and include the following:

Inpatient hospital care is paid on the basis of Medicare's prospective payment system using the Diagnostic Related Groupings and adjusted for population differences (for example, based on a severity index). Future payment increases are limited to increases in per capita Gross National Product.[1]

Physician, nurising home, home health, hospice, and ancillary services (including prescription drugs) are paid on the basis of a prospectively set, fixes fee developed in consultation with health care providers and adjusted for differences in patient population, service type, and input prices. Future payment increases are limited to increases in per capita Gross National Product.

Exceptions to this payment system include payments to qualified Health Maintenance Organizations and payments in States with an approved state-sponsored cost containment program. Future payment increases for Health Maintenance Organizations and state-sponsored cost containment programs are also limited in effect to increases in per capita Gross National Product.

Payments to all providers are to be adjusted as necessary to ensure reasonable availability of health care services in rural areas, central city areas and for other "special need" areas or populations.

Utilization review of all health and long term care services is conducted by the Peer Review Organizations.

States have the option to be exempt from the federal system and to implement their own alternative payment programs. In order to qualify for the exemption, the state program must meet or exceed the cost containment targets entailed in this bill and maintain access and quality equal to or exceeding the levels resulting from this bill. The alternative payment system must be mandatory for and equitably treat all types of providers covered under the State system.

[1] Index is based on a 3-year moving average of increases in per capita Gross National Product.

For each State wishing to develop acceptable alternative payment programs, the federal government provides a three year development grant totaling between $1 million and $3 million. Those States with acceptable programs are eligible to have up to 50 percent of the savings (as compared to what would have paid under this amended law) added to reduce the state payment for the poor beginning in 1992. No additional state funds are needed to match this latter allocation.

Catastrophic protection and beneficiary cost sharing

Beneficiaries are protected from the cost of catastrophic illness but are required to pay coinsurance as follows:

a. 20 percent of health care and skilled nursing home and home health costs up to a maximum of $500 per person per year (indexed to per capita GNP), and

b. 25 percent of non-skilled long term costs up to a maximum of $1,000 per person per year (indexed to per capita GNP).

Coinsurance payments are made directly to the Trust Fund. The above coinsurance provision is waived for individuals in families with incomes under the poverty level and for individuals whose health care costs require the family to spend down below the poverty level. However, a small copayment may be charged to the poor as long as it does not prevent access to needed health care.

SECTION II: INSURANCE SYSTEM

A. USHealth Program

The following reforms take effect in 1992.

Administration

Overall administration is by the federal government's USHealth Administration (currently, the Health Care Financing Administration) which is both an off-budget and operates as an independent agency.

USHealth is overseen by the USHealth Board. The Health Board has responsibility for and control over the program subject to the law, or subsequent changes in the law, establishing the USHealth program. The Administrator of the USHealth Administration reports to the USHealth Board. Within the USHealth Administration, an Ombudsman office is established to represent beneficiary interests and help resolve beneficiary problems. The Administrator and the Health Board members are appointed by the President with the consent of the Senate.

Eligibility

All U.S. citizens and residents are eligible for the USHealth program.

Financing

Financing comes from several sources as outlined in Section V, "Financing of USHealth."

Benefits

Beginning in 1992, the basic health benefits package, for all enrollees, are similar to Medicaid "categorically needy" package and include the following: inpatient hospital services, outpatient hospital services, physician services, rural health clinic services, laboratory, x-ray services, EPSDT (for those under age 21), family planning (individuals of child-bearing age), preventive care, prescription drugs, physical therapy, occupational therapy, prosthetic devices, orthopedic shoes, nursing home services, home health services, respite care, inpatient psychiatric hospital services, and other medical or remedial care recognized under State law and specified by the USHealth program. Dental (including dentures) and eyeglasses are added before the year 2000 unless total USHealth expenditures would exceed 12 percent of GNP.

More specifically, long term care benefits are covered. Full coverage is provided with the co-payments made to the Trust Fund. The co-payment is waived for low income and for spend-down individuals. As part of the long term care benefit package, incentives are to be developed to encourage families to keep a LTC family member in their home.

Beneficiaries are protected from the cost of catastrophic illness but are required to pay coinsurance as follows:

a. up to a maximum of $500 per person per year (indexed to per capita GNP) for health care and skilled nursing home and home health costs, and

b. up to a maximum of $1,000 per person per year (indexed to per capita GNP) for non-skilled long term care costs.

Payment

Beginning in 1992, inpatient hospital care is paid on the basis of Medicare's prospective payment system using the Diagnostic Related Groupings and adjusted for population differences (for example, based on a severity index). Future hospital prospective payment rate increases are limited to increases in per capita Gross National Product as described in the cost containment section above. Capital is no longer allowed as a pass through and is added to the DRG payment. The adjustment to a particular DRG payment reflects the amount of capital required for that DRG. The mean ratio of total capital outlays to total non-capital DRG payments is not to exceed the mean ratio for the most recent three years.

Beginning in 1992, a fixed, prospective fee schedule is used to pay all providers in full for all non-hospital services (including physician, nursing home, home health, drugs, laboratory). The fee schedule is developed by the USHealth Administration in consultation with the respective provider organizations and consumer groups. In designing the fee schedule, adjustments should be made for differences in resource inputs and input prices. For example, physician payments should address current inequities among geographic areas, physician specialties, and types of services. To the extent possible and appropriate, the fee schedule should reward higher quality providers. For comparison purposes, the mean weighted fee cannot exceed the mean fee for a similar service paid under the current Medicare system as amended by this Act. Except for adjustments to reflect service delivery changes, future fee increases are limited to no more than increases in per capita Gross National Product.

Beginning in 1992, the payment for HMOs is raised from 95 percent of the Average Area Per Capita rate (AAPC) to 100 percent of AAPC. The AAPC is adjusted by age, sex, enrollee type, and appropriate health status factors. (The federal government initiates a national campaign to encourage beneficiaries to enroll in qualified HMOs.)

Beginning in 1992, the approved health care provider fee is full payment.

Medical education is paid on the same basis as under current Medicare law.

This provision does not apply in States with federally qualified alternative payment programs.

Delivery System

HMOs are the preferred providers of health care for beneficiaries. The USHealth

Administration shall require participating HMOs (including HMOs, CMPs, and IPAs) to be qualified as specified under Title XIII of the Public Health Service Act beginning in 1992. HMOs must continue to be qualified on an annual basis. HMOs shall be penalized or removed from the program when they no longer meet the HMO qualification standards. The Office of Health Maintenance Organization's cost for carrying out the ongoing qualification process is covered by the Trust Fund.

Beneficiary Information

Publications are provided which give side-by-side comparisons of HMOs in each area of the country. The use of HMOs is promoted, including the provision of a comparison of HMOs with the non-HMO providers in terms of quality assurance, covered services, and out-of-pocket costs to the elderly and disabled. (Information on the quality assurance system and the availability of a consumer hot-line are described in the quality assurance section.)

B. Medicare and Medicaid

USHealth replaces the current Medicare and Medicaid programs and is built upon those two programs. All Medicare and Medicaid beneficiaries are entitled to enroll in USHealth.

C. Private insurance

The only private insurance which remains would be for benefits beyond those provided in USHealth. Any costs would not qualify for a tax deduction either for employers or for individuals.

Insurance companies are permitted and encouraged to perform intermediary and carrier functions under contract to the USHealth Trust Fund.

SECTION III: DELIVERY SYSTEM

As described above, Health Maintenance Organziations (HMOs) and similar delivery systems are to become the primary vehicle for delivering health and continuing care services in the long term. This is not to limit future delivery systems to the current definition of HMOs as long as alternative delivery systems are initially and continuously qualified by the USHealth Administration, provide the full range of benefits, and perform as effectively in terms of quality, access, cost to the consumer, cost to the respective third party payer, and covered services.

Campaign to promote HMO's

The federal government is to conduct a national media campaign to encourage the development of an enrollment in HMOs.

Financial incentives for HMO's

This bill improves the HMO's financial position relative to other delivery approaches by raising the payment rate to 100 percent of the Average Area Per Capita rate by 1992.

SECTION IV: QUALITY ASSURANCE SYSTEM

The current Medicare quality assurance (QA) system of Peer Review Organizations is upgraded to cover all medical services (inpatient and outpatient) for all patients and all providers and to place as much emphasis on quality assurance as on cost containment. Most provisions are to be phased in as of January 1, 1991. A State has the option to obtain a waiver from this requirement if it establishes its own plan of quality assurance and as long as it provides at least the same level of protection as the amended federal plan.

Increased emphasis on quality assurance

This bill requires DHHS and, subsequently, the USHealth Administration to award, administer, and evaluate its PRO contracts under the stipulation that at least one-half of the PROs' level of effort is for the purpose of quality assurance as of January 1, 1991.

Extension to all patients and payers

This bill requires DHHS and, subsequently, the USHealth Administration and its contract PROs to conduct quality assurance for all patients.

Extension to all medical services

This bill requires the DHHS and, subsequently, the USHealth Administration and its contract PROs to conduct quality assurance activities on all medical providers including hospitals, physician offices, nursing homes, home health agencies, and hospices. The level of PRO effort expended on each type of provider is in proportion to the national health care expenditure for this type of provider. Similarly, membership on PRO boards reflects the range of health care providers reviewed by the PRO.

Hospital discharge planning

This bill sets guidelines for discharge planning to protect against inappropriate discharges and to ensure a smooth and timely transition to post-hospital care. It also requires that hospitals have in place a discharge planning process that begins as close to the time of hospital admission as appropriate and that alerts nursing home and home health providers of a patient's anticipated need for post-hospital care at the earliest possible time.

Quality assurance "hot-line"

This bill requires PROs to have a 7-day-a-week hot-line for receiving questions and complaints from health care providers, consumers, and interested parties concerning health care quality problems. PROs are required to assist in the resolution of any legitimate quality related problems. The USHealth Administration, in coordination with each PRO, shall provide beneficiaries with the hot-line number for their PRO in a way that can be easily attached to their USHealth cards.

Local consumer advisory board

This bill requires each PRO to have a Consumer Advisory Board (CAB) by October 1, 1986 which conducts ongoing oversight of the PROs, provides input into the award and evaluation of PRO contracts, and can receive input from Medicare beneficiaries and other interested parties. The CAB and the PRO are responsible for educating consumers on quality assurance and on the availability of assistance from the PRO and other agencies. The PRO makes available to the CAB such information and staff as are necessary to carry out the CAB function, but not review information on either individual health care providers or consumers.

The CAB is required to prepare an annual report on the PRO's performance and submit that report to the respective Governor(s), to the National Council on Quality Assurance, and to DHHS and, subsequently, the USHealth Administration. CAB input is to be utilized in decisions to award PRO contracts.

The CAB consists of 5-7 volunteer members appointed by the respective Governor of the State covered by the PRO and representing organizations of the elderly, the disabled, the poor and other consumers.

National Council on Quality Assurance

This bill requires the establishment of a national Council on Quality Assurance (CQA). The Council's function is to provide oversight on the operations of the quality assurance system and make recommendations to DHHS and, subsequently, the USHealth Administration, and to the Congress for its improvement. Its oversight function includes the review of the administration of quality assurance, the overall performance of the PROs and waivered state plans, reports of the Consumer Advisory Boards, quality assurance studies and methodologies developed by DHHS, the USHealth Administration and others, the data needs of the PROs and input from interested parties.

DHHS and, subsequently, the USHealth Administration are required to provide such information as is needed by CQA to carry out its responsibilities. Based upon these reviews, the Council is to make recommendations annually for improving quality assurance to DHHS and, subsequently, the USHealth Administration, and to the Congress. DHHS and, subsequently, the USHealth Administration are required to take into account CQA input in its administration of the PRO program.

The Congressional Office of Technology Assessment (OTA) will provide for the appointment of the fifteen member Council consisting of equal numbers of health care providers, health care consumers, and experts in quality assurance. Subject to the review by OTA, the Council may employ staff as necessary to carry out these functions.

Studies and reports

The USHealth Administration shall prepare an annual report which assesses the performance of the quality assurance system and addresses the recommendations of the CQA and the concerns and recommendations of the CABs. DHHS and, subsequently, the USHealth Administration shall analyze the impact which the federal cost containment system, limitations on health care provider payments, and Health Maintenance Organizations have had on health care quality, access and beneficiary cost and submit an annual report to Congress. The USHealth Administration shall conduct studies on and develop improved methodologies for quality assessment and assurance for health care services including hospital, physician, nursing home, home health services, and hospice services. The USHealth Administration shall submit an annual report to Congress on the progress toward developing such methodologies.

Financing

As compared to current law and adjusted for inflation, the funding level for the PRO program is increased by 50 percent in FY 1992 (first year of implementation), by 65 percent in FY 1993, and by 75 percent in FY 1994 and in subsequent years. The funding for the CQA and the PROs program will be made from the Trust Fund. For those States with their own federally qualified quality assurance plans, the USHealth Administration is authorized to make available funds up to the amount that would have gone to the respective PRO as authorized above.

SECTION V: FINANCING OF THE USHEALTH PROGRAM

Much of the long term cost of expanding access and reducing costs for all beneficiaries comes from reducing health care cost

inflation for all payers and all health care providers.

Health care cost savings are expanded by holding cost increases down to per capita growth in GNP.

Beneficiary cost-sharing applies to all services (but is limited by the catastrophic provisions).

In order to finance the USHealth program and to provide an orderly transition from the current system of financing health care, USHealth is financed through the following revenue sources:

A premium approximating the cost of the "Medicare Part B premium payment" is charged to people over the age of 65. This premium may be waived for elderly with incomes under the poverty level.

Employers pay a tax based on a percentage of employee compensation. The basis for setting that percentage is the aggregate amount which employers are paying under the current system for employee and retiree health benefits in 1990.

The cigarette excise tax is raised by 16¢ and indexed to per capita GNP. The "Medicare payroll tax" is expanded to cover all income levels. States provide revenues equal on average to ½ cost of the poor (i.e., everyone under poverty level). Payment formula is as follows: (total cost of poor) X ½ X (State population/US population) X (State per capita income/National per capita income).

An earmarked surcharge on all corporate and personal income taxes is made which equals the amount necessary to maintain the solvency of the USHealth Trust Fund. (Financing formula: Total USHealth expenditures minus cost sharing minus cost savings minus State share minus cigarette add-on minus the "Medicare payroll tax" minus the employer tax minus other revenue additions = Net revenue required from an X% surcharge on federal corporate and individual income tax.)

Revenues are placed in the USHealth Trust Fund which is off-budget.

Within 6 years, the Trust Fund should have an appropriate reserve for contingencies.

SCRAPPING SALT II RAISES RISK OF ACCIDENTAL NUCLEAR WAR

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. STARK. Mr. Speaker, the decision by President Reagan no longer to abide by the SALT II Treaty increases the likelihood not only that we will stockpile an immeasurably large number of nuclear weapons, but also that we may in fact use them.

Much of the debate surrounding the administration's new SALT-free diet has centered on the nuclear buildup we will probably be forced to undertake if we free the Soviets from the numerical constraints of the treaty. That is the obvious concern. What has received less attention, though its implications are no less frightening, is that neither side would be required any longer to notify the other before simultaneously test-firing more than one ICBM. This relatively obscure provision is a very important safeguard against an accidental nuclear war. Without it, the razor-thin protection we have from nuclear holocaust would be shaved much closer.

Mr. Speaker, the area of confidence-building measures [CBM's]—provisions designed to reduce superpower tensions and to protect against an accidental war—is extremely important. Most defense experts believe that if one of the superpowers ever fires a nuclear weapon in anger, it will be because of a miscalculation or misinterpretation. CBM's would reduce that possibility by improving communications, codifying standard operating procedures in a crisis, limiting provocative actions, and so on.

The nice thing about CBM's is that they provide great benefits with very liitle cost for either side. For example, notifying the Soviet Union before simultaneously test-firing several ICBM's would clearly be in our interest. Whom would the joke be on if the Soviets were fooled into thinking such a test was a United States first strike and retaliated? The cost to us of the Soviets knowing of the test beforehand would be negligible. Unfortunately, the Reagan administration seems determined to play a high-stakes gambling game with the Soviet Union and is treating the CBM issue with the same casual disregard it has had for all attempts to reduce tensions between our two countries.

Last summer, I drafted an amendment to the foreign aid bill ordering a study of 10 ideas for CBM's by the Secretary of State and the Director of the Arms Control and Disarmament Agency. The response I got was disappointing, to say the least. Of the 10 proposals, the administration felt 5 were unnecessary, 3 were counterproductive and 2 were not verifiable—and therefore not worthy of consideration. The report was the sorriest excuse for analysis that I remember seeing from that level of government. The 10 proposed CBM's were not just ideas of mine; they have been discussed by prominent academics for years.

The proposals to be studied included some very commonsense approaches that could literally save the world someday. Yet the administration spurned them all—and offered no ideas of its own. The list to be studied included the following; an administration interested in arms control could have found at least one that it liked:

1. Increased redundancy for the Hot Line,
2. Create Hot Lines among all nuclear armed states;
3. Agree not to target each other's Hot Lines;
4. Agree on Standard operating procedures for communication and cooperation in a third party nuclear attack;
5. Prohibit "locking on" of fire control radars on ships and planes, agree on separation of naval forces during a crisis, and other measures to reduced provocations;
6. Place unmanned launch sensors in the missile fields of the U.S. and the U.S.S.R.;
7. Create zones free from anti-submarine warfare;
8. Mechanisms on submarine launched missiles to prevent accidental or unauthorized firing;
9. Training program for national command authorities; and
10. Announce contingent relocation of national command authorities.

Mr. Speaker, it is difficult to single out from the myriad choices the biggest mistake that the Reagan administration has made in dealing with the Soviets. Scrapping SALT II, though, certainly ranks high on the list. I think by now it is abundantly clear that these people have no interest in arms contol or in making the world safer from accidental nuclear war. That being the case, it is up to the Congress to take the necessary steps to keep the United States in compliance with the SALT II Treaty. I urge my colleagues to support Chairman FASCELL's resolution calling on the President not to exceed the numerical sublimits in SALT II and Congressman DICKS' bill to delete funding for weapons which would violate the SALT II agreements.

HONORING MASTER DANIEL PICCIANO

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. MURTHA. Mr. Speaker, it is a distinct pleasure for me to add these remarks to a special occasion on June 29 honoring Master Daniel Picciano, head of the Second District of the Pennsylvania Knights of Columbus.

Under Master Picciano's leadership there has been an outstanding growth in membership and the many achievements of the second district.

Master Picciano has received numerous recognitions for his outstanding work with the Knights of Columbus. He is past grand knight of Jeannette Council 1222, is vice president of the Jeannette Columbus Home Association, he is a former district deputy, State council, past faithful navigator of St. Vincent Assembly Fourth Degree and is certified in every ceremonial of the order. He was also appointed to the newly created rank of master with star, the only master in the Calvert Province to receive this highest honor. Master Picciano was honored by Pope John Paul II with the apostolic blessing on the 10th anniversary of the Newman Associate Program that he instituted as president and served as chairman for the first 6 years.

When I see an individual record of accomplishment like that of Master Picciano, I cannot help but think of the thousands of lives his good work has touched, or the thousands of hours of better lives that have been lived because of this dedication, of the countless hours he has devoted to helping his fellow citizens.

I often remark that when the history of our great Nation is written, it will be marked less by the headlines of Government officials, than by the numerous individual acts of caring and concern by individual citizens. That is the example that Master Picciano has exemplified in his work on behalf of our citizens and communities.

We sometimes take such dedication for granted, but it does not happen in many other countries in the world, and it should never be overlooked when it happens in our own land. We reserve very carefully the title of "Great American" for a very few people, but it is my pleasure to make these remarks on behalf of

a truly great American, Master Daniel J. Picciano.

FARMING THE GOVERNMENT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. DORGAN of North Dakota. Mr. Speaker, over the past months, I have continually addressed the various problems with the current farm program. I have always said that the current farm program is fundamentally unsound. It takes the wrong approach. The right policy is to develop a farm program which maintains a network of family farms—not large corporate farms. If we did so as a matter of policy, we would spend our money in a much different manner than it is now spent under the present farm plan.

In support of my disbelief in the current farm program, I'd like to share with my colleagues an article published on Tuesday, June 17, 1986, in the prestigious Wall Street Journal. It accurately describes the shortfall of the present program.

[From the Wall Street Journal, June 17, 1986]

NEW FARM LAW RAISES FEDERAL COSTS AND FAILS TO SOLVE BIG PROBLEMS

(By Wendy L. Wall and Charles F. McCoy)

Jimmie White, a debt-swamped Iowa farmer cut adrift by his lenders, is using government payments to plant hundreds of acres of corn and soybeans this spring. Come harvest, he expects to unload his crop on Uncle Sam.

The government will have paid Mr. White to plant unneeded crops that it may well end up buying; those crops will add to already-mountainous grain surpluses, depressing prices and driving up government costs. And Mr. White? In bankruptcy court for the second time in three years and hounded by creditors trying to sell off his land, he sees a good chance that he will be out of farming within two years anyway. Much of his more than $400,000 in federally backed debt would probably go unpaid.

This wasn't what policy makers had in mind when they patched together a new five-year farm bill last December. The program slashes the levels at which the government props up prices of most major crops, a nervy gamble that falling prices will spur farm exports and shrink surpluses. In theory, crop prices will rebound once the gluts dwindle. Meanwhile, the law reaches deep into taxpayers' pockets to blunt the battering that further price drops will inflict on farmers.

SCARS OF ITS BIRTH

But the bill emerged only after months of deal-cutting between Reagan-administration free-marketeers and farm-state congressmen. Critics say the program bears the scars of its birth. Some provisions of the program are contradictory, and it is at odds with other government policies, spending billions of dollars to do things for farmers that other programs spend billion to undo. It will give more federal money than ever to well-off farmers who don't need it to survive. And it won't make much of a dent in the root causes of farm distress: too much crop, too many cows, too much debt.

Admittedly, the new program will do some good. It probably will increase U.S. farm exports moderately, and a new conservation reserve could take some 45 million acres of poor land out of production for years. The law also forestalls a collapse in farm-land prices that would further ravage troubled farm lenders. And the federal payments will allow some farmers to survive long enough to benefit from falling fuel and fertilizer prices.

"Legislation is the art of the possible, and that's what was possible on that day," says Rep. Kika de la Garza, a Texas Democrat and the chairman of the House Agriculture Committee, who adds that it's too early to write off the measure. Sen Rudolph E. Boschwitz, a Minnesota Republican and a member of the Senate Agriculture Committee, says other farm-program alternatives "aren't as good as the policy we adopted."

MAJOR EMBARRASSMENT

But even so, critics say, the new law is an ill-conceived patchwork that will waste billions of taxpayers dollars. "When we look back in a year or two, it will be a major embarrassment," says John Schnittker, a Washington consultant and former undersecretary of agriculture.

Mushrooming costs could prompt legislators to scrap much of the program earlier than originally intended. The Agriculture Department estimates farm-program outlays for the full five years at $80 billion, before any cuts required by the Gramm-Rudman deficit-reduction act. But cost overruns are almost inevitable. The department puts the cost for the first three years alone at $54 billion, but the Congressional Budget Office estimates $64 billion and many economists guess perhaps $70 billion or more. The previous farm bill, budgeted at $11 billion, eventually cost nearly six times that over four years.

"These numbers can swing around $10 billion or so very easily," concedes Scott Steele, an Agriculture Department budget official.

Where does all this money go? Huge chunks go to people who farm for fun or tax breaks, to foreign investors and to big-time farmers with the financial muscle to survive on their own. In 1984, 15% of all federal handouts went to farmers with net worth exceeding $1 million, according to the department; under the new farm program, they will get even more.

VARIED BENEFICIARIES

Frederick Joseph, the chief executive of Drexel Burnham Lambert Inc., retreats every weekend from the big Wall Street firm to his 160-acre dairy farm in upstate New York. He says he is "troubled" by the economic impact of dairy price supports. But they will make the million pounds or so of milk that his farm will produce this year a lot more valuable.

Mohammed Aslam Khan grows rice in Butte City, Calif. He is a U.S. citizen, but four relatives, passive investors in the farm, aren't. They live in Faisalabad, Pakistan. Uncle Sam paid the four $152,010 for Mr. Khan's 1984 crop. Like other big rice, cotton, wheat and corn growers, the Khans will probably get even more this year. The new farm law exempts large portions of crop payments from limits on how much an individual can receive.

In Vincennes, Ind., Dennis Carnahan's family has pushed corn-production costs so low that they could probably turn a profit if the farm program were abolished. But the 33-year-old farmer figures that the program is "the best ball game in town." The Carnahans expect to collect $81,180 from the government for the corn grown on their 3,800-acre farm this year.

"Farmers are farming the government as well as the land," says John Baize, a soybean lobbyist.

Ironically, the new program is actually driving some big operators into the government fold. The policy sharply raises the stakes by slashing price supports—and thus market prices—for major crops, while increasing direct federal handouts to farmers who agree to idle some land.

Salyer American, a Corcoran, Calif., corporation that runs one of the nation's largest cotton farms, hasn't participated in a farm program since the early 1970s. But this year, the company, anticipating steep declines in cotton prices, is signing on. It expects to glean more than $1 million from Uncle Sam, while diverting much of its "idled" land to other crops.

TWO TIME BOMBS

Nevertheless, the two biggest time bombs now menacing agriculture, debt and overproduction, won't be defused.

The nation's farmers owe about $199 billion. About 75% of that is concentrated in the books of half of them, mostly operating the medium-sized family farms that policy makers aim to help.

But under the new farm law, only about 17 cents out of every federal dollar being spent does to full-time farmers in desperate straits, says Frank Naylor, the newly appointed head of the Farm Credit Administration and a former undersecretary of agriculture. That is largely because federal payments are based on how much a farmer grows.

Many debt-soaked farmers will get just enough to put in one more crop but not enough to survive. Paul Harbaugh, a Kiowa, Kan., wheat grower, will use his record federal payments to pay for planting this year's crop. But he doesn't expect to be able to trim his $600,000 debt enough to stay in farming. All the farm law is going to do is "prolong the agony," the 36-year-old farmer says.

Failure to deal with the debt problem is likely to cause huge federal losses on top of the farm-bill expenditures themselves. Uncle Sam holds or backs nearly half of all farm debt, including the shakiest part of it. That puts taxpayers in triple jeopardy.

Timothy Hartsock, an insolvent Ohio grain farmer, says the Farmers Home Administration recently wrote off a $200,000 loan that it backed for him in 1984. But, cut off by his lenders, he used fat federal payments to sow thousands of acres of corn and soybeans this spring. When the crop is reaped, he expects to get more money for shoveling it into storage bins.

Those bins are already bursting. Last fall, mountains of excess corn literally buried Main Street in some midwestern towns. Surplus cotton stuffs Southern warehouses. And as the winter wheat harvest began last month, the U.S. already had enough wheat to make 27 loaves of bread for each of the world's 4.9 billion inhabitants.

EXPORT PROBLEMS

The mammoth gluts guarantee that prices will stay low while government costs soar. And exports won't rise enough to substantially shrink the stockpiles anytime soon, economists say. Athough lower price supports should make the U.S. more competitive abroad, rivals such as Argentina and the European Community are expected to

cut their prices to hang onto markets. Even one-time importing nations have begun to export food.

Meamwhile, the program encourages U.S. farmers to plant. Government subsidies are based on the amount farmers produce. With federal payments guaranteed, many farmers plant every permissible patch, regardless of economics.

In Indiana, Mr. Carnahan says his leased river-bottom land probably "would have grown weeds this summer" were it not for the program; otherwise, the land, costly to farm, wouldn't be profitable.

DAIRY POLICY

Dairy policy similarly chases its tail. The Agriculture Department is spending $1.8 billion to get some dairymen to kill their cows and quit the business; that program is supposed to slash milk-product surpluses that the government is forced to buy. But other farm-bill provisions will make milk production more profitable and encourge the remaining farmers to expand their herds. Meanwhile, pressured by cattlemen, Uncle Sam is buying up meat to ease a glut caused by slaughtering dairy cows.

The farm law is at odds with other government policies, too. The program will dish out $1 billion in subsidies to help spur U.S. farm exports. But the Reagan administration has barred one of farmers' biggest potential customers, the Soviet Union, from the export-subsidy program; irritated by this move, the Soviets have steered clear of U.S. wheat markets.

The bill seeks to recapture markets lost to cheap farm exports from Third World debtors such as Argentina and Brazil; but the Treasury Department opposes anything that might cut into those exports and crimp debt payments to the banks. Federal water programs pour out billions of dollars so that farmers can produce heaps of cotton and other surplus crops where only cactus would otherwise grow.

OLD MEDICINE

The new farm legislation treats some problems with heavier doses of old medicines that have never proved a cure. For instance, farmers have to idle more land than in the past to get subsidies. But Don Sutter, a heavily indebted Iowa farmer, says that won't stop him from reaping a near-record corn crop. "I'll idle the wet spots, the patches, the rocky ground that don't grow anything anyway," he says. "You just do whatever you can to outsmart them. It's not hard."

Some economists worry that the new farm program will sink beneath the weight of its own cost. Gramm-Rudmann pressures could gut it. Or Washington may just decide "that it isn't worth paying that much for those votes," says D. Gale Johnson, a University of Chicago economists.

Already, some members of Congress are warning that poor results on some fronts, notably exports, may prompt congressional consideration of drastic farm-program changes as early as next winter. Some experts favor expanding export credit and subsidy programs or paying farmers to idle as much as 50% of all land devoted to certain crops. Others have pushed for an undisguised welfare program that would pay farmers whether they plant or not; such a program, advocates say, would bolster farm income without encouraging production and could be cheaper than current programs, particularly if payments are gradually, particularly if payments are gradually scaled back.

However, most such approaches would probably drown in the same political riptides that engulfed the current law. And most experts say U.S. agriculture's fate will turn on factors such as inflation and the weather that no farm bill can influence.

Even some farmers question the current program's thrust. "The government can't sit there and pay us to grow corn," says Scott Scheetz of Ferris, Ill. "How would the American public like to pay Chrysler to produce cars it couldn't sell?

THE URGENT NEED FOR PARENTAL LEAVE

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mrs. SCHROEDER. Mr. Speaker, If you were to ask most people whether women in the United States received adequate time off during and after pregnancy you would be likely to find that people think there is. This is the United States after all. But perception and reality couldn't be further apart.

The United States has no national policy establishing maternity or paternity leaves for new parents. In fact, it is the only industrialized nation that does not; 127 countries around the world have established national maternity related benefits, the United States is only one of a handful of countries that does not.

You might ask why this is important. Lis Bensley, in an article for Medica, a newsletter for psychiatrists, does an excellent job explaining the health and emotional costs of ignoring the needs of working mothers. It is time that we stop putting our families at risk.

The article follows:

DOES PREGNANCY HAVE TO HURT YOUR CAREER?

(By Lis Bensley)

When Ruth Schwartz, MD, had her first child over thirty years ago, she did so with virtually no maternity leave. She worked up until she went into labor, then returned to work a few weeks later. "Stopping work to have a child was not accepted then," She says. Three years ago, Evelyn Witkin, MD, gave birth to her second child hours after performing surgery. Ten days later she was back on the job. Maternity leave was no longer taboo, but running a private practice allowed little time to stay home with an infant.

Despite the influx of women into medicine—by 1990 it is estimated that there will be 90,000 women physicians and 30,000 women in medical school—maternity leave remains a sore subject for most physicians. Women who have just started a practice are reluctant to take time off and medical students are hesitant to interrupt their studies. Financial demands and concerns about having to take a back seat professionally to peers who play by the books are further deterrents to getting pregnant.

"The current economic situation really hurts women's future as mothers," says APA president, Carol Nadelson, MD. "We're in a competitive model, pitting men against women. If a woman takes time off, who will hold her job? Who will pay her? It hasn't changed and I don't think it's going to until we have a critical mass of women in policy-making positions."

Typically, a woman who wants to work partime so she can be with her small children finds herself shuffled off to a less prestigious job. "We had one woman who had a professional appointment," explains Alexandra Symonds, MD, president of the Association of Women in Psychiatry. "She became pregnant and wanted to take a short time off, then come back partime. And, that's where she lost the appointment. Women simply can't maintain their status if they cut down their hours."

To help protect women's jobs, the Association has set up a task force to gather data on women who've lost their positions or been forced into lesser jobs because of a pregnancy. The group hopes to use that data to pressure hospitals and medical school to change their policies. "It's like civil rights," adds Dr. Symonds. "The attitudes won't change. We've got to get into the political networks and intimidate them."

The medical community is not the only culprit concerning maternity leave. The US in general lags behind all other Western industrialized nations in its maternity allowances. Sweden, for example, allows nine months' leave with 90 percent of the woman's pay and all her benefits as well as job protection. England gives a woman the option to take a paid prenatal leave and six weeks maternity leave with 90 percent pay and the option of taking a further 23 weeks leave. Americans, however, have no such impressive benefits—women have no job protection, no reasonable maternity leave and no health benefits if they take time off.

To remedy that situation, Senator Patricia Schroeder introduced a bill last April that is currently in committee. Entitled the "Parental and Disability Leave Act of 1985", the bill, if passed, would require employers to provide a minimum of 18 weeks maternity leave with job protection.

This bill could help countless women in the workforce directly, and perhaps create a better atmosphere for women physicians trying to alleviate the pressures of a medical career where grueling working hours, competition and stress are making motherhood increasingly difficult. One of the most insidious problems facing women physicians, particularly in the residency years, may be the strenuous labor they perform during pregnancy. Working during pregnancy, in and of itself, does not apper to be a risk to mother or child. A recent study tracking 12,515 deliveries over a 3-year period, in Rehovot, Israel, for example, found indentical rates of prematurity, prepartum and intrapartum pathology and vaginal delivery among housewives and employed women.

But a comparison of strenuous and nonstrenuous employment in pregnant women turned up less comforting results. M.J. Saurel-Cubizolles, MD, and associates, of the National Institute of Health and Medical Research, followed 621 pregnant hospital workers. Those women whose work included lengthy periods of standing, heavy cleaning and carrying heavy loads had a preterm delivery rate of 30 percent. In comparison, the premature delivery occurred in only 6 percent of the births to women whose work included no strenuous duties, and 18 percent of those whose work involved two out of three of the heavy work tasks. These results held even when statistics were adjusted for age and the socio-professional category of the woman's husband.

For women doctors, strenuous working conditions are often coupled with the age factor. Many women wait until they finish their training to conceive. This typically puts them in their mid to late 30's, a time of heightened risk for such problems as spontaneous abortion, ectopic pregnancy and infertility.

The pregnancies of 27 women physicians and medical students over a period of three years were studied by Dr. Schwartz, a clinical professor of Obstetrics and Gynecology at the University of Rochester School of Medicine and Dentistry, and published in November's "Obstetrics & Gynecology" Dr. Schwartz found "an increased incidence of threatened premature labor and a much higher incidence of abruptio and placentae and associated serious bleeding among women doctors when compared with the general population." A mother of 3 children, Dr. Schwartz had mild abruptia with the first child, and premature labor with all three. Her last child was born five weeks early. Still she was not comfortable taking any substantial time off. Several years later, after amassing a sizeable group of women physicians as patients, she decided it was time to do a formal study.

"It's a very difficult situation," Dr. Schwartz acknowledged in a recent interview. "And one that's not easily going to change. Doctors tend to ignore fatigue—when we're tired we don't submit to it. Our workday is much longer than normal and most of that time is spent on our feet. I hope we can get to a point where we can take a few weeks off before delivery and three months afterwards."

However, until there is a noticeable change in the attitudes of the medical establishment towards pregnancy and motherhood—even fatherhood—the question of having children will remain a very difficult one for women.

"When I was young, women MDs who had children simply had to muddle through," says NY forensic psychiatrist, Naomi Goldstein, MD. She acknowledges that times have changed. Women today have more options in their careers. But, because of increased competition and social changes, medicine is throwing up more barriers towards pregnancy. "My daughter is just finishing her training at Harvard Medical School and is getting married," Dr. Goldstein explains. "I know the issue of having children is very agonizing for them. They may ultimately choose not to."

Hopefully, women leaders in congress and professional associations will help create a system of adequate pre- and postnatal leave in this country. Without it, our supposed "freedom" to combine career and motherhood remains something of an illusion.

HEAVY TECH

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. FEIGHAN. Mr. Speaker, trade barriers and international financial conditions, foreign subsidies and outdated attitudes on shopfloors and in corporate suites here at home—all these contribute to the flagging competitiveness of many American industries in world markets. But more important than any of these influences on the fate of America's most important industries is dwindling productivity. If our society can solve the problem of declining productivity, we can regain our position as the world's unrivaled economic superpower.

David Hoag, the president and chief executive officer of LTV Steel Co., has pointed out one important way of addressing the productivity problem: Bring high technology and heavy industry together. Too often, Mr. Hoag insightfully argues, journalists, politicians, and even businessmen and economists, treat high-technology enterprises and smokestack industries as incompatible rivals rather than potentially complementary partners. In a recent article in Industry Week, Mr. Hoag has laid out the case for applying the successes of high technology to the modernization needs of heavy industry. The result, "heavy tech," may hold the key to our country's economic future. I commend Mr. Hoag's article to the attention of my colleagues:

HEAVY TECH: NEW HOPE FOR BASIC INDUSTRIES

(By David H. Hoag)

There's an all-too-popular notion afoot that the American economy is trading in its smokestacks for potato chips and silicon chips. Even reputable business publications are hailing the emergence of service and high-tech industries as the wave of the future for the U.S. Heavy manufacturing, mining, and metal processing have been relegated to the rust bucket, floundering relics of another era.

It's certainly true that high-tech stocks have often been the darlings of the investment community. And it's interesting that the nation's leading fast-food chain now has more employees than General Motors. But the annual number of highflying, high-tech enterprise failures is growing rapidly. And few, if any, families are subsisting on fast-food wages. The basic reality remains that with only 20 percent of the non-agricultural workforce, manufacturing still manages to churn out nearly 50 percent of the gross national product.

High-tech marvels must be applied in order to be successful. Approximately 70 percent of high tech's products are consumed by basic industries. Services, whether financial or fanciful, cannot survive by serving each other. For the long haul, the U.S. needs a balanced economy. We cannot choose to ignore steel, mining, and manufacturing industries any more than we can choose to pursue a national course dependent on emerging industries. Either course is the equivalent of returning to the old King Cotton economy of the South.

The reality is that high technology and heavy industry are not competitors for the future. They are necessary components of the future—economic life without either is impossible. And when properly wed, they become the engine that will power American industry back to world leadership, not only in terms of profits, but also in quality, value, and image.

RAY OF HOPE

The solution to many—if not all—of our current economic riddles can be found by enhancing the productivity and quality of basic industries through high technology. I call that solution heavy tech, the blending of high technology and heavy industry—which, by the way, will strengthen, not limit, the growth of the service sector.

Heavy tech carries no glamor with it, but it does offer one vital ingredient—hope. Hope that Americans can regain its global preeminence in basic industries.

The transition from labor-intensive to heavy tech has been a slow, painful, and costly exercise both in terms of money and human energy. Through heavy tech the steel industry, for example, has applied computers, electronic controls, management-information systems, advanced production processes, and statistical process control to the herculean task of becoming globally competitive. In relation to the size of the task we have only just started.

Yet, today, this effort is in danger of stalling out. The basic industries are struggling to stay afloat, their pockets being emptied of money needed to invest in advanced technology. We need imaginative efforts now, before the clock runs out, to put heavy tech into high gear.

SUGGESTIONS

The first step may sound simple, but it will require courage. Many events of the last decade testify to the fact that Americans have abandoned some of their growth mentality. We must recapture that mentality. A quick sketch of the way basic industry has responded—defend, contract, erect fortifications, wait until the dollar declines—supports this view.

Moreover, we must stop doing things that work against the process of investment and growth. For example, the current program of investment tax credits is the kind of program that encourages and fosters growth—as long as your company is profitable and paying taxes. At a time when we should be encouraging growth in our heavy-tech industries, our leaders are proposing, under the umbrella of tax reform, to eliminate investment tax credits.

To make this matter worse, capital-intensive industries like steel, which have made enormous investments in plants and equipment and posses hundreds of millions of dollars of credits, have not benefited from the existing program because they have had little or no taxable income. These industries that need capital to implement high-technology equipment could lose that opportunity to be world competitors.

Senate Finance Chairman Robert Packwood—while out to repeal the investment tax credit as part of the overall tax reform—has proposed a sensible tax credits at the rate of 70¢ on the dollar. If tax reform requires that we sacrifice our special incentives to invest, at least we should assure that the credits already earned can be put to effective use.

Both high-tech and heavy-tech companies should lobby for the implementation of Sen. Packwood's unused tax-credit proposal. With an infusion of this capital, basic industries could solve many of their most dire programs by becoming heavy-tech industries. The producers of the high-tech products would benefit greatly by having their primary customers strengthened. And service companies would flourish from the downstream demand created by vital, expanding manufacturing base.

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FANNIE ROYSTON: AN OUTSTANDING CITIZEN

HON. WILLAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. COYNE. Mr. Speaker, on June 24, 1986, in the East Conference Room at the U.S. Supreme Court, Mrs. Fannie Royston will receive an award for outstanding public service benefiting local communities. Mrs. Royston is from Pittsburgh, PA, and a resident of the 14th Congressional District which I represent.

This award is given by the American Institute for Public Service. This award, according to the institute—

. . . is designed to recognize the countless private individuals across the country who are performing extraordinary public service in their local communities.

An article in the Pittsburgh Post Gazette describes Mrs. Royston—

. . . as a one-woman relief agency . . . [who] has had a profound effect on her neighborhood.

The article describes in detail why the institute is bestowing this award upon Mrs. Royston and I want to include it in the RECORD.

Mrs. Royston is a credit to the city of Pittsburgh. Her actions to improve the quality of life for her neighbors is a clear indication that one person can make a difference. I congratulate the institute on its choice and I congratulate Mrs. Royston upon her receipt of this Public Service Award.

FANNIE ROYSTON

Somewhere on her journey from a sharecropper's cabin in Georgia to a brick house in Pittsburgh, Fannie Royston became a one-woman relief agency without red tape. At 66, she has had a profound effect on her neighborhood.

Whether she was leading a group of children in cleaning up a vacant lot, turning her house into a tutoring center, starting a lunch program, getting teenagers out of jail and finding them work, or paying a neighbor's rent, Mrs. Royston's purpose has always been the same: to fight poverty, ignorance, hunger and prejudice with the only weapons at her disposal—self respect, a paycheck laden with overtime, a sense of humor and a lot of unconditional love.

Mrs. Royston works at the U.S. Post Office operating a sorting machine, and puts in all the overtime she can get—weekends, nights and holidays. The extra money goes to other people in one way or another. She may spend it on someone's gas bill or a family's groceries or clothes for children whose parents can't afford them. By far the lion's share goes for gardens. Gardens, full of vegetables, placed around the black community on lots that were strewn with debris until Mrs. Royston decided they could be put to better use.

When her husband died in 1963, she moved to her current neighborhood in South Oakland. She couldn't believe the mess. She marched out and began to clean up the streets. A group of kids followed her for a while, then started to help. That was the beginning. Soon she was going door to door meeting her neighbors. She found each house had a problem worse than the last.

Ever since then, Mrs. Royston's life has been one long list of problems discovered, solutions delivered. The list of her projects over the years has grown too long to remember. Some were institutional, like founding the South Oakland Citizens Council. Some were more personal, like the time she kept a neighbor from being evicted by buying her house.

She is quick to credit the many people who have helped her projects over the years with time, money and moral support. And she makes no claims to self-sacrifice.

"When folks tell me I can't do something, I just go and do it anyway."

TRANSPORTING SALVAGED FOOD

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. STARK. Mr. Speaker, I would like to call your attention to a bill which I am introducing today that would amend the Internal Revenue Code of 1954 with respect to the charitable deduction for providing transportation of donated food.

Needy and hungry people in our country are relying more and more on donations of food from food banks and soup kitchens. These private voluntary organizations in turn rely on donations of money and food from concerned individuals.

One concerned individual, John van Hengel, saw his project of gathering food for a local soup kitchen grow into a national network of food banks, appropriately named Second Harvest. Second Harvest, a nonprofit corporation, received 100 million pounds of food and grocery products during 1985. National food companies, such as Beatrice, Del Monte, Kellogg, Proctor & Gamble, and Nabisco have donated food and management expertise to aid this national network of food banks.

The over 250 national and regional companies that donate food to Second Harvest have been encouraged by section 170(e)(3) of the Internal Revenue Code, which provides a special rule for the deduction by corporations of qualified contributions of certain property. This rule gives food companies a deduction which is equal to the costs incurred in processing the food for sale plus one-half of the profit the company would make if the food were sold.

At the request of Second Harvest, many in the transportation industry have offered reduced rates or sometimes transported food at no cost. Conrail, Burlington Northern, Preston Trucking Line, Leaseway Transportation Corp., and Giant Food, Inc., are among many companies that deserve special recognition and thanks for their role in transporting food during Second Harvest's initial development period. However, there is a need for more help from the transportation industry. Presently, this industry has carriers who pay high taxes and carriers who are barely making ends meet. A deduction similar to the one available to food companies for their donations could be a very helpful incentive in recruiting more carriers to help transport food to feed the needy.

This deduction would increase the amount of food Second Harvest and other organizations who collect donated food could gather and distribute. In 1985, for each dollar spent by Second Harvest, $153 worth of food was distributed to needy Americans. You have to admit that is an extraordinary return on the dollar.

But, the need for donated food is not diminishing. Various studies show that our country's need for emergency food assistance has grown nearly 20 percent over last year.

The role of the transportation industry must grow in order to continue moving donated food to nonprofit organizations that feed the ill, the needy, or infants. I believe that my bill will provide a real impetus to the transportation industry to participate more heavily in these efforts.

A partnership of concerned individuals, nonprofit organizations and private industry are making a difference in the lives of poor and needy Americans. Our Government, through the type of encouragement provided by this bill, also has role and contribution to make. I urge my colleagues to join me and support this bill.

REMEMBERING BILL MATSON

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. MURTHA. Mr. Speaker, this past Sunday I joined with 500 other friends of Bill Matson at a Memorial Service in Camp Hill, PA, to honor this great American and good friend, who died on Monday, June 16.

Mr. William F. Matson was a friend of mine for nearly two decades. As president of the Pennsylvania Rural Electric Association and the Allegheny Electric Cooperative we worked together over the years on numerous projects and plans for the people of Pennsylvania.

Bill Matson was a consumerist and a leader who left his mark across the State of Pennsylvania in helping people and improving their lives. As I sat and listened and remembered at the memorial service many words occurred to me that need to be mentioned in connection with Bill Matson's life and career: integrity, dedication, devotion, courage, understanding, concern, caring.

Bill had an invisible magnetism, some refer to it as leadership, but however you describe it, Bill was a man who made a difference. His life is evidence to the impact that one individual can have.

It was somehow typical of Bill that though he was sick for several months prior to his death, his friends and associates were unaware of it. He carried on and continued his work and kept his spirit strong. Through his actions in life and in death he has made all of us who knew him a little stronger, and a little better, and he will continue to as we remember him.

SANCTIONS ON SOUTH AFRICA

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. DORGAN of North Dakota. Mr. Speaker, the recent passage of the Anti-Apartheid Act of 1986 puts the House of Representatives clearly on record in favor of tough sanctions against the Government of South Africa. The behavior and policy of South African leaders leave the United States little choice. As long as they persist in denying political and economic freedom to the majority of South Africans, President Botha and his colleagues need to know that the United States stands with those denied freedom and not with a handful of reactionary Afrikaners.

This is not to say we should punish South Africa and then forget the human rights abuses of the Soviet Union, North and South Korea, and dozens of other nations. But we have imposed sanctions on 20 other nations with flagrant human rights records. And since South Africa enshrines discrimination in its very laws and constitution, which explicitly denies seats to blacks in the South African Parliament, the United States should stand up for freedom.

I include for the RECORD an editorial from the Grand Forks Herald of North Dakota, which makes a cogent plea for sanctions against South Africa:

U.S. SHOULD TIGHTEN SCREWS ON SOUTH AFRICA

Declaring another state of emergency in South Africa, President Botha told his country to get ready for more economic sanctions from abroad.

And that's how the United States should respond—more sanctions.

President Reagan has to let white South Africans know that their country will lose more American dollars for every day that South Africa shows a preference to bloody police action over the political freedom of the majority of its population.

Sanctions might not work, but they have to be tried at least for a while, to see if economic loss will help the moderates in South African's political scene gain some influence, all the better to avoid a civil war.

If the United States is to stand for freedom abroad, it cannot stand for business as usual with the government of a country that dispenses liberty on the basis of skin color and ancestry.

South Africa's government should be fully aware that its attempt to placate the extreme right-wing Afrikaner influences in its government will lead to more severe reprisals from its industrial trading partners. Canada was among the first to announce a series of political and trade restrictions this week, and the United States should not be far behind.

The Reagan administration ought to follow Canada's example—not cutting relations entirely, not cutting trade entirely, but making it clear, nevertheless, that South Africa's government has worn out a welcome for more of its envoys and business promoters. Canada also set a good example by offering a new education fund for blacks.

We may buy a lot of South African chromium, platinum, uranium and gold in the United States—and South Africans like to keep reminding themselves and us of that mineral dependency. But the protection of the trade in these resources could mean getting on the side of freedom in South Africa, and not the side of extremists who would sacrifice their country's future by clinging to the mishapen ideals of its past.

Let the United States be one of the nations that helps, not hinders, the quest of freedom and civil rights for the majority of South Africa's population.—Steve Schmidt for the editorial board.

ALL AYES ON TAX REFORM

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. COURTER. Mr. Speaker, Central New Jersey's well-respected daily newspaper, The Home News, came out in support of the Senate Finance Committee's tax package on the day that the full Senate began debating the measure. The editorial predicted, we now know correctly, that the Senate would reject substantive amendments in order to preserve the 27 percent top tax rate which is the bill's main attraction. I commend The Home News' insightful editorial to my colleagues attention.

[From the Central New Jersey Home News, June 9, 1986]

ALL AYES ON TAX REFORM?

As the Senate resumes debate today on the most radical tax-revision proposal in 50 years, some of its most influential members are saying they expect the bill to be passed unanimously—"by a vote of 100-0," predicts minority leader Robert Byrd.

That's a breathtaking possibility—it would have been inconceivable only a few weeks ago. But plainly, the train has left the station on tax reform and it will surprising if more than a handful of senators aren't on it when the tickets are punched next week.

Still, the final shape of the tax bill that the Senate is certain to pass is not yet clear. Finance Committee Chairman Robert Packwood, whose carefully structured 27 percent top tax-rate plan is the engine of tax reform, is urging his colleagues not to open up the bill to amendments, which could cause the whole process to collapse. It will be amazing if his plea is heeded and the bill sails through unchanged. A number of senators already have vowed they'll seek amendments to retain deductions for Individual Retirement Accounts and for sales taxes, for example.

But the Senate is remarkably reluctant to tamper with the Finance Committee's bill—at least for now—because members know the danger that once the amending begins, there's no end to it. And that would be the end of tax reform for this year and probably for several years. Moreover, the bill as it emerged from committee really is a good bill. New Jersey's Sen. Bill Bradley calls it "the best thing middle-income Americans have seen in a generation . . . infinitely better than current law." That's right—and Bradley, of course, deserves much of the credit for it.

Whatever bill the Senate passes, however, won't be the last word. The Senate and House versions of tax reform will be reconciled in what promises to be one of the most important conference committees ever. That's where the real changes will be made, where the deals will be cut and the horses traded—and where the lobbyists for hundreds of special interests will concentrate their efforts to protect and preserve tax preferences.

So if the Senate passes the Finance Committee's tax bill intact and overwhelmingly—maybe even unanimously—count on the opening of a whole new tax era. But don't count the costs and benefits until the conference committee writes the final bill.

A TRIBUTE TO DR. PAOLO FUSAROLI

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. CONTE. Mr. Speaker, my distinguished colleague JOHN MURTHA and I were recently invited by Dr. Paolo Fusaroli, rector of the University of Trieste, to visit the university and participate in a symposium. We were greatly honored by his request but will be unable to accept this most kind invitation because of the urgency of congressional business.

However, I did want to acknowledge officially his invitation and the esteemed Dr. Fusaroli for his many contributions to the friendship between Italy and the United States. Through his vision and his leadership, he has established collaborative agreements with leading American universities, as exemplified by Polytechnic University and New York University on the east coast, and Stanford University on the west coast.

The pivotal location of the University of Trieste, which is at one of the significant crossroads of Europe, makes the vision and dynamic leadership of Professor Fusaroli particularly significant to the prosperity and stability of that region. It is an admirable example of the impact that the initiative of a committed individual can have on cutting across the boundaries of geography, language, and culture through scientific and academic collaboration, Mr. Speaker, I am certain that my colleagues will want to join me in recognizing the distinguished president of the University of Trieste for his many fine contributions to the friendship of our two countries.

SAVING AND THE SENATE IRA PROPOSAL

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday June 23, 1986

Mr. GRADISON. Mr. Speaker, the proposed changes in the treatment of Individual Retirement Accounts [IRA's] contained in the Senate tax reform bill have caused a storm of protest. Under the bill, individuals who are active participants in employer-maintained retirement plans would not be allowed to make tax-deferred IRA contributions (though IRA's would remain available to all). All other taxpayers would be unaffected by the change, and all taxpayers would continue to defer taxes on IRA earnings.

At my request, the Congressional Research Service prepared a study (CRS Report #86–733 E) comparing the Senate's IRA proposals with current law. The findings show that any differences would likely be minor, and some individuals would actually be able to increase the value of their IRA under the Senate plan.

The IRA debate has concentrated on the loss of the deductibility of contributions, even though that is not the major benefit from an IRA. The principal benefit—deferral of taxes on the IRA earnings—would remain intact. In addition, two other aspects of the Senate bill would work to offset the loss of deductibility of contributions.

The first, and most obvious, is the dramatically lower marginal tax rates. This means that individuals would be able to keep more of the proceeds of their IRA than under the current, higher schedule of tax rates. This does not mean—as is often implied—that the lower rates depend on giving up the ability to defer taxes on IRA contributions (the revenue gain associated with the IRA change finances only a fraction of the revenue loss associated with the drop in rates). Nevertheless, the lower rates are a significant factor that must be taken into consideration.

The other offset is more subtle, and could be far more important. Under the Senate proposal, individuals would be able to increase the amount of their own funds in their IRA's which earn tax-deferred interest. Under current law, part of any IRA contribution is deferred tax liability (equivalent to a government loan) and part is the taxpayer's own funds (equivalent to an after-tax contribution). For example, a person in the 30-percent marginal tax bracket who invests $2,000 in an IRA actually has an investment of only $1,400 and a loan from the government of $600. At retirement, he or she pays taxes on everything that is withdrawn, but it turns out that this is equivalent to keeping the investment portion (the after-tax amount, $1,400 in this case) and its interest, and repaying the government $600 plus its interest. Put another way, the deductibility "benefit" under current IRA law prevents taxpayers from investing fully $2,000 of their own funds.

Under the Senate proposal, no part of an IRA contribution would be deferred tax liability, and therefore, contributions would be made with after-tax dollars. As a result, individuals would be able to increase, or "scale up", the amount of their own funds earning tax-deferred interest (to $2,000) instead of using these extra funds for current consumption or otherwise saving it in a taxable account.

This has important implications for our Nation's deplorable savings rate. There is no evidence that IRA's, as currently contrived, have increased saving in this country; in fact, our savings rate has actually dropped since IRA's were established. One reason may be that people save as if their IRA contributions were being made with money that was all theirs. If so, the "scaling" aspect of the Senate proposal could result in increased personal savings in the country. While perhaps unintended by its authors in the other body, an increase in personal savings would nevertheless be one of the most important and beneficial public policy provisions of tax reform.

In my opinion, the IRA debate has seen too much emphasis placed on the loss of the deductibility of IRA contributions and not enough attention to the offsets and the potentially significant public policy implications. This new CRS study indicates that many people would do better under the Senate proposal because of the combination of a lower marginal tax rate and the "scaling" effect. And the country could be better off by the increased saving induced by the IRA policy change.

HOUSE CONCURRENT RESOLUTION 350

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. GARCIA. Mr. Speaker, I would like to outline my reasons for supporting House Concurrent Resolution 350, calling on the President to adhere to SALT II, which passed the House Thursday.

First of all, without SALT, verification would be much more difficult. This, of course, would also serve to undermine our confidence in our ability to measure Soviet nuclear capabilities, leading to a possible escalation of the arms race. In addition, the abandonment of SALT would enable the Soviets to double the number of warheads they already have in place. Where as if SALT were adhered to, it would force the Soviets to retire considerably more nuclear systems than the United States.

This resolution enjoyed considerable support because it is a sensible, measured statement as to how we should view the treaty. It plainly states that the United States will only continue to comply if the Soviets do the same. Further, there are three concrete steps outlined in House Concurrent Resolution 350 that enable us to deal with issues of Soviet noncompliance. They are: First, taking issue with Soviet violations through the auspices of the Standing Consultative Committee [SCC], a body which has already resovled a number of disputes relating to verification; second, to raise the issue of Soviet compliance at the Geneva arms talks; and third to raise the issue of Soviet noncompliance at the upcoming Shultz-Shevardnadze talks, the summit, or by having the United States respond to violations by way of our own unilateral defense programs, such as speeding up the development of the Midgetman.

Certainly, the intention of this resolution is not to undercut our arms negotiators in Geneva, but it is intended to let the President know that we are concerned about his abandonment of SALT. On a much simpler note, we have nothing to replace SALT. If we are ever going to get a grip on the insanity of the arms race, we cannot do it by abandoning arms control agreements already in place.

One final point as chairman of the North Atlantic Assembly's Civilian Affairs Committee, I have come to appreciate the importance of working with our allies on defense and arms control issues. It is my understanding that most NATO governments, including Great Britain and West Germany, are not in favor of the President's proposal to abandon SALT, and they by no means can be considered anti-nuclear or "knee-jerk" liberals. If the President's staunchest, conservative allies oppose this move, isn't it reasonable that he should take a step back and reconsider this position on SALT? The alliance has been bruised enough lately by its constant critics. It's time we payed more attention to our NATO partners on issues of substance. The Atlantic Alliance has served us well for 37 years, maybe we should heed their advice on SALT.

A vote for this resolution was a vote for alliance unity. It was also a vote for sanity. Arms control is our only hope for the future. I congratulate my colleagues on the passage of House Concurrent Resolution 350.

LEATHER WORKER IS HONORED

HON. GENE CHAPPIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. CHAPPIE. Mr. Speaker, I would like to call attention to a citizen whose artistic contributions have been honored by the National Endowment for the Arts. Luis Ortega, a Hispanic-American rawhide worker from Paradise, CA, is one of only 13 artists from the entire country to receive a National Heritage Fellowship this year. The Endowment's Folk Arts Program recognizes the achievements of the country's outstanding traditional artists who enhance America's cultural heritage.

Western leather workers agree that Luis Ortega is the best rawhide braider in the world today and probably ever. His work is displayed in museums across several Western States, including Oklahoma City where 24 of his pieces are on display at the Cowboy Hall of Fame.

Ortega and the 12 other recipients will be honored in official ceremonies to be held in early September in Washington, DC. The main objective in honoring these outstanding people is to help preserve and enhance this Nation's multicultural artistic heritage.

All of us who live in California's Second Congressional District are very proud of Luis Ortega and congratulate him on his many artistic achievements. I know that he will continue to bring a sense of fascination to many, and inspire others to pursue an interest in the arts.

HONORING OUR NATION'S FIREFIGHTERS

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 23, 1986

Mr. SCHUETTE. Mr. Speaker, I take this opportunity to praise the work of our Nation's volunteer firefighters.

We have seen in recent years an enormous increase in volunteer work across our country, as the American people have risen to President Reagan's call for a renewed spirit of volunteerism. It is this spirit that makes the American people, and in turn, America, great.

The volunteer firefighters, since the earliest days of our Nation, have never lost this spirit. Each day these brave men and women risk their lives to save the lives of others. This is the noblest work any one can do.

The firefighters have a prayer, calling on God to give them the strength and courage to carry on their noble work. I wish to share this prayer with my colleagues in Congress and with the American people.

The text of the prayer follows:

THE FIREMAN'S PRAYER

When I am called to duty, God, Wherever flames may rage;
Give me strength to save a life Whatever be its age.
Help me embrace a little child Before it is too late,
Or save an older person from The horror of that fate.
Enable me to be alert and hear the weakest shout
And quickly and efficiently To put the fire out.
I want to fill my calling, Lord, And give the best in me;
To guard my ev'ry neighbor, and Protect his property.
And if, according to your will, I have to lose my life,
God bless with your protecting hand My children and my wife.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, June 24, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 25

9:00 a.m.
Veterans' Affairs
To resume hearings on the reported sightings of live military personnel missing in action in Southeast Asia.
SD-562

9:30 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold oversight hearings on the International Lending Supervision Act (P.L. 98-181).
SD-538

Commerce, Science, and Transportation
Business meeting, to continue consideration of proposed legislation to provide for a uniform product liability law to conform with an alternative claim system for expedited recovery of damages by those injured by defective products.
SR-253

Foreign Relations
To hold closed hearings on Central America; to be followed by a business meeting, in open session, to consider pending calendar business.
S-116, Capitol

Rules and Administration
Business meeting, to mark up S. 1787, to amend the Federal Election Campaign Act of 1971 to provide for the public financing of Senate general election campaigns, and related proposals, an original bill authorizing funds for fiscal year 1987 for the Federal Election Commission, H. Con. Res. 288, to authorize the printing of additional copies of a certain committee print, H. Con. Res. 301, to authorize the printing of additional copies of a certain Presidential Message, to resume mark up of S. 2255, to prohibit the expenditure of Federal funding for Congressional newsletters, and other pending legislative and administrative business.
SR-301

10:00 a.m.
Energy and Natural Resources
Business meeting, to resume consideration of S. 2427, to improve the administration of the Federal coal leasing program.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
Business meeting, to consider S. 1225, to revise certain provisions of the Atomic Energy Act of 1954 regarding liability of nuclear accidents.
SD-406

Governmental Affairs
Business meeting, to consider pending calendar business.
SD-342

Judiciary
Security and Terrorism Subcommittee
To hold oversight hearings on the activities of the U.S. Marshal Service, Department of Justice.
SD-226

Labor and Human Resources
Business meeting, to resume consideration of S. 1815, Polygraph Protection Act of 1985, and to begin consideration of S. 2324, Domestic Volunteer Service Act Amendments of 1986, S. 2536, to authorize funds for fiscal years 1987, 1988, and 1989 for immunosuppressive drugs in the expansion of the organ transplant program, S. 2345, Acquired Immune Deficiency Syndrome Counseling, Education and Services Act of 1986, proposed Department of Labor Executive Level Conforming Amendments of 1986, and pending nominations.
SD-430

Select on Indian Affairs
To hold hearings on H.R. 1344, to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas.
SR-385

2:00 p.m.
Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2214, to make a civil penalty the exclusive penalty for violations of the financial disclosure provisions of the Ethics in Government Act of 1978.
SD-342

Judiciary
To hold hearings on pending nominations.
SD-226

Labor and Human Resources
Handicapped Subcommittee
Business meeting, to mark up S. 2515, authorizing funds for fiscal years 1987, 1988, 1989, and 1990 for programs of the Rehabilitation Act of 1973.
SD-430

2:30 p.m.
Armed Services
Closed briefing to discuss certain security issues.
SR-232A

JUNE 26

9:30 a.m.
Commerce, Science, and Transportation
Business meeting, to continue consideration of proposed legislation to provide for a uniform product liability law to conform with an alternative claim system for expedited recovery of damages by those injured by defective products.
SR-253

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on certain provisions of S. 2403, to improve access to health insurance coverage for Americans.
SD-342

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Edward V. Hickey, Jr., of Virginia, to be a Federal Maritime Commissioner.
SR-232A

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

Environment and Public Works
To hold hearings to review acid rain and related air pollution issues.
SD-406

Foreign Relations
To resume hearings on proposals relating to nuclear testing issues, including S.J. Res. 252, S. 2220, H.J. Res. 3, S. Con. Res. 7, and S. Con. Res. 135.
SD-419

Judiciary
Business meeting, to resume consideration of S. 2334, to restrict all Federal employees from lobbying the Federal Government and from working for a foreign entity after they leave government service, and other pending calendar business.
SD-226

Veterans' Affairs
Business meeting, to consider S. 2445, proposed Veterans' Health Care Program Improvements Act of 1986, proposed legislation approving Veterans' Administration construction of major medical facilities, and proposed legislation to exempt certain Veterans' Administration programs from any sequester order.
SR-418

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on S. 1292, to revise certain provisions of the Tariff Act of 1930 in order to apply countervailing duties with respect to resource input subsidies, and section 502 (Natural Resource Subsidies) of S. 1356, Trade Law Modernization Act of 1985.
SD-215

Foreign Relations
Western Hemisphere Affairs Subcommittee
To resume hearings to review the current situation in Mexico.
SD-419

Labor and Human Resources
Aging Subcommittee
To hold hearings on the provisions of S. 2489, to improve the training of physicians in geriatrics.
SD-628

4:00 p.m.
Select on Intelligence
Closed business meeting, to consider pending calendar business; to be followed by a closed briefing on intelligence matters.
SH-219

JUNE 27

10:00 a.m.
Judiciary
To hold hearings on S. 2454, to repeal certain provisions of the Department of Defense Authorization Act of 1985 relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and H.R. 1338, to allow suits against the United States for acts or omissions of contractors in carrying out the atomic weapons testing program, and to substitute the United States as the party defendant in suits brought against such contractors.
SD-226

JULY 15

9:30 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold hearings on S. 2498, to prohibit loans to, other investments in, and certain other activities with respect to, South Africa.
SD-538

Commerce, Science, and Transportation
To hold hearings on S. 1903, to establish a national commercial driver's license, and to strengthen federal and state efforts to detect unsafe vehicles and drivers through random roadside inspections.
SR-253

10:00 a.m.
Energy and Natural Resources
To hold hearings on the nominations of A. David Rossin, of California, to be an Assistant Secretary of Energy for Nuclear Energy, Marshall A. Staunton, of California, to be Administrator, Economic Regulatory Administration, Theodore J. Garrish, of Virginia, to be Federal Inspector, Alaska Natural Gas Transportation System, and Richard H. Francis, of Virginia, to be President, Solar Energy and Energy Conservation Bank.
SD-366

JULY 16

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
To hold oversight hearings on barriers to children's health care.
SD-430

Select on Indian Affairs
To hold hearings on S. 1453, Sioux Nation Black Hills Act.
SD-628

JULY 17

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 2417, to provide for the establishment of an independent commission to study and make recommendations regarding the management of aviation safety.
SR-253

Finance
Social Security and Income Maintenance Programs Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2412, to withdraw and reserve certain public lands.
SD-366

JULY 18

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2506, to establish a Great Basin National Park in the State of Nevada.
SD-366

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2407, the Animal Drug Amendments and Patent Term Restoration Act of 1986.
SD-430

JULY 22

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on barriers to agricultural trade.
SR-332

Finance
Social Security and Income Maintenance Programs Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 230, to relieve the city of Dickinson, North Dakota of all obligations incurred in a contract entered into with the Secretary of the Interior concerning construction of certain facilities under the Reclamation Authorization Act of 1975, S. 252, to provide for the construction, operation, and maintenance of the Lake Andes-Wagner Unit, South Dakota Pumping Division, Pick-Sloan Missouri River Basin Program, South Dakota, and S. 1704, to increase the authorization of appropriations for the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska.
SD-366

Environment and Public Works
Business meeting, to consider S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway program.
SD-406

2:00 p.m.
Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to States for enacting medical malpractice liability reforms.
SD-430

JULY 23

9:30 a.m.
Rules and Administration
To hold hearings on S. Res. 330, to establish within the U.S. Senate a Special Committee on Families, Youth, and Children.
SR-301

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to continue consideration of S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway program.
SD-406

JULY 24

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on operating differential subsidy programs reform.
SR-253

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 1026, to implement the policies of the proposed Continental Scientific Drilling Program of the United States relating to earth science research and technological development.
SD-366

JULY 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JULY 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-332

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review the response for home health care services.
SD-430

JULY 30

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SR-253

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2159, to designate the Big Sur National Forest Scenic Area in California.
SD-366

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

AUGUST 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 13

10:00 a.m.
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

CANCELLATIONS

JUNE 24

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1149, to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost, and related matters.
SD-366

Judiciary
Constitution Subcommittee
To hold hearings on the issue of eminent domain.
SD-430

JUNE 25

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

JUNE 26

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the establishment of new short-line and regional railroads.
SR-253

SENATE—*Tuesday, June 24, 1986*

Legislative day of Monday, June 23, 1986

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, we invoke Your presence and wisdom as the Senate enters the final hours on the tax reform bill. Very few Americans will be unaffected by this bill, whatever shape it takes in its final form. We thank You for the leadership by the chairman and ranking member of the committee, the hard work of committee staff, and the legislative aides of each Senator in preparing amendments and processing voluminous details of this monumental task. Mighty God, work Your will and way through the minds and hearts of the Senators in completing this definitive legislation and through the conference to an equitable and just conclusion. In His name Who said "render unto Caesar the things that are Caesar's and unto God the things that are God's."—Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator ROBERT DOLE, is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, this is sort of a recap for Members.

The leaders have 10 minutes each. That will be followed by routine morning business, not to extend beyond 9:30. At 9:30, we hope to be on the bill. There will be special orders. Hopefully, they can be interspersed throughout the day, maybe some before 9:30 and maybe some between 9:30 and 10, depending upon what happens.

There will be a vote, as I understand, at 10 o'clock. Special orders have been entered for Senators HAWKINS, PROXMIRE, HUMPHREY, EXON, MELCHER, and GORE.

At 9:30 a.m., we will resume consideration of the bill H.R. 3838. As I said, there will be a vote at 10 o'clock.

Mr. President, this is the last day of the tax reform bill. The big vote should come at 4 o'clock. We would appreciate help in that effort. I would guess we may be able to have just that final passage vote. There is about a half-hour reserved before that for the leaders and the managers to make statements on the bill itself.

Mr. President, I think we are in pretty good shape, according to the chairman, Senator PACKWOOD. I would hope that Members would come to the floor as early as they can this morning, say at 9:30. At least on this side, we will not have our normal luncheon because there will be votes throughout the noon hour.

Mr. President, I just urge my colleagues not to wait until 3 o'clock and rush over and say, "I want 30 minutes on the bill," or "I want to offer my amendment." That would cause problems later in the day.

Mr. President, at this point I wish to present a statement for the RECORD on the tax bill. I want to point out one or two things.

SENATOR RUSSELL LONG'S CONTRIBUTION TO TAX REFORM

Mr. DOLE. Mr. President, first about the bill itself, I think it is an outstanding piece of legislation. Obviously, it is not perfect. It could be improved and I think there will be improvements in the conference, maybe even improvements before we vote today. I know that many Members on both sides have reservations about the bill, about certain provisions in the bill. We are hearing from constituents on a daily basis about, "It is a good bill, but—."

I think on both sides of the aisle, we are aware of those problems and hope they can be resolved if not before the vote, then later.

Having been the chairman of the Finance Committee, I want to certainly extend my congratulations to the chairman. I think BOB PACKWOOD has performed a near miracle because this bill was about as dead as a dodo bird 6 or 7 weeks ago. In a period of 2 or 3 days, it was revived. It is now right on track.

Mr. President, this bill has broad support on both sides. It is a bipartisan effort. There has been a lot of effort by Democrats and Republicans in the committee, and we have seen it on the floor time after time after time.

And finally Mr. President, this morning I want to pay special tribute to my old Finance Committee copilot and good friend, RUSSELL LONG. This will be the last big tax bill for Senator LONG, the capstone of what can only be characterized as an illustrious career in the field of tax legislation.

Mr. President, Senator LONG was first elected in 1948 and was chairman of the Finance Committee for 15 years. Politics in America describes his leadership this way: "He had an almost uncanny ability to spot a nascent consensus in the Senate's maelstrom of conflicting views on any given issue, locate a center that would hold, and occupy it at precisely the right moment."

That is how I think most of us would describe Senator LONG and his efforts.

I do not know what else you can say about the legislator. I do know that during the 4 years that I chaired the Finance Committee and for all the years I have served on the committee, I often turned to Senator LONG to reap the benefits of his collected wisdom in tax law as well as political strategy.

There is no one in the Senate today, nor probably has there ever been, who has a wider, more thorough knowledge of the Tax Code than Senator LONG.

I can recall a number of times in the committee when we would raise some amendment and he would say, "I do not think I know very much about that," but if you go back and check you would find maybe 10 years before he started the entire thing.

So he has a vast knowledge of the Tax Code.

I just want to thank him early today because this will be a very busy day.

Mr. President, I was chairman of that committee for 4 years and he had been chairman of that committee for 15 years. When I became chairman, obviously there was a change. People were wondering what would happen, will the committee function?

The committee functioned because Senator LONG never looked back, he never tried to undercut the new chairman. He cooperated every step of the way. Obviously, we had differences, maybe political differences or policy differences. But as far as moving ahead and making my job not only bearable, but very enjoyable most of the time, it was his cooperation that made it possible, and I believe that Senator PACKWOOD will say the same thing.

This may be the last tax bill that passes here, unless there is another one this year, which I doubt, that will

have RUSSELL LONG's fingerprints all over it, and his fingerprints are all over this piece of legislation.

The legacy that Senator LONG will leave behind in the field of tax reform when he retires at the end of the year will benefit generations of Americans.

I just happen to believe that if you go back to the Tax Code and look at all the provisions that are there and find out who they came from, who they benefited, you will find that a great number were initiated by this distinguished Senator from Louisiana, the former chairman, Senator LONG.

The beneficiaries by and large are not the rich, not those with power, not those with influence, but they are Americans who experienced the benefit of the earned income tax credit, for example, and many, many other provisions.

In other words, low-income Americans, middle-income Americans, Americans who were trying to make it work. They may never know it, but they owe a great deal to this distinguished Senator, RUSSELL LONG.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. WILSON). Under the previous order, the Democratic leader is recognized.

SENATOR RUSSELL B. LONG

Mr. BYRD. Mr. President, I, too, want to express my fondness for RUSSELL LONG. I shall miss him. I shall miss his friendship and I shall miss his guidance on tax matters as well as many other matters that come before the Senate from time to time which involve the Senate Committee on Finance, a committee which Senator LONG chaired for so many years and more recently on which he has served as the ranking member.

□ 0910

Mr. LONG will be especially remembered with fondness in West Virginia because of his having fathered the ESOP legislation, the employee stock ownership plan. That legislation enabled the workers and management at Weirton Steel in Weirton, WV, to save the plant from being closed down in 1982. It has preserved the jobs of 8,500 employees, and that plant has resulted in 9 consecutive quarters of profits for the company and its employees.

We shall miss RUSSELL LONG. He is a brilliant Senator. He is liked by all Senators. I especially will miss him. I join with the majority leader in saying we will miss RUSSELL and Carolyn when they no longer are with us.

A TAX REFORM BILL THAT RESTORES CONFIDENCE

Mr. BYRD. Mr. President, I join with the majority leader in expressing the hope that the overwhelming majority of the Senate will support the monumental tax bill that will pass the Senate today. It closes down tax shelters for the rich, it eliminates the corporate loophole goodies, and it strengthens the minimum tax so that profitable corporations and the very-high-income people will pay their share.

Beyond these monumental accomplishments in this bill for Americans in every income category, we have achieved something else which may not be so readily apparent as we celebrate real tax reform today. We have addressed the skepticism which has been on the increase in recent years about the ability of the Government to hear the people's voice, to address the people's concerns, and to enact the fundamental changes in the Tax Code that we will witness on the passage of this bill. Our action today, in full view of the country, on a matter that is so near and so dear to the heart and pocketbook and family of every American, will not only reverse the cynicism about the fairness of the tax system but should also go a long way toward helping to restore some of the lost confidence in, and support for, our system of government in general.

I shall cast my vote today in belief that this amazing response to the needs and the wishes of the people promotes the kind of confidence that is so essential to a representative democarcy in a challenging and changing world.

Mr. President, I yield to the distinguished Senator from Wisconsin the remainder of my time should he have need for it.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 9:30 a.m., with statements therein limited to 5 minutes each.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized.

Mr. PROXMIRE. Mr. President, I thank my good friend, the minority leader, for so graciously yielding me part of his time. I deeply appreciate it.

WHAT IF GORBACHEV IGNORED STAR WARS AND NEGOTIATED AN OFFENSIVE NUCLEAR REDUCTION?

Mr. PROXMIRE. Mr. President, yesterday, I spoke on the prospect that the Secretary General of the Communist Party of the Soviet Union may surprise us and agree to an arms control treaty.

What happens if the Soviet Union surprises everyone? Suppose it agrees to a mutual reduction of 50 percent in offensive nuclear arsenals without any precondition on compliance with the ABM Treaty. As of this time, Secretary Gorbachev has agreed to negotiate the reduction provided the U.S. Government will promise full compliance with the ABM Treaty for 15 years. Why the condition? Because Gorbachev is concerned that star wars might destroy the credibility of its nuclear deterrent. After all, the United States has made star wars or SDI its top military priority. Obviously, production and deployment of antimissile—that is star wars—hardware would constitute a direct frontal repudiation of the antimissile treaty.

Consider what was the purpose of the ABM Treaty? Its purpose was to stop a race between the two superpowers to develop an antimissile system. Why was it so important to end a purely defensive missile system? Because such a system could—if it worked—destroy the deterrent effect of the adversary's nuclear arsenal.

When President Johnson and President Nixon directed the negotiation on the ABM Treaty, they were concerned that the Soviets would deploy their own star wars or antimissile capability that might destroy this country's nuclear offensive capability and would therefore mandate and all-out effort by the United States to build the offensive nuclear penetration capability that would overcome the Soviet's defense.

If our President thought the Soviet system would work, he would have had no choice. It would have been either build or give up. Arms control would be dead. And what would follow? The arms race—offensive and defensive—would be a certain fact of life. The cost for both countries would be enormous. Nuclear instability would greatly increase. The risk of a cataclysmic nuclear war would be much greater. So the antiballistic missile treaty was drafted for the express purpose of stopping the Russian star wars. This body, the United States Senate, was so convinced of the threat of the Soviet star wars that it ratified the ABM Treaty by an overwhelming bipartisan majority of 89 to 2 in 1972.

Now, Mr. President, we have one of the most ironic reversals in political history. Here is a treaty the United States vigorously pressed on a very reluctant Soviet Union. It was an American arms control treaty in the best sense. It would stop an arms race in space. It would preserve the credibility of the United States and the Soviet nuclear deterrent that had kept the peace. And it would make it practical

and possible for the superpowers to negotiate a reduction in their offensive nuclear arms in the confident knowledge that they could do so and still retain a sufficient deterrent to prevent any preemptive nuclear attack by the other side.

What would have been the United States strategy if the Soviet Union had refused to agree to the ABM Treaty? Defense Secretary McNamara and his successors made this crystal clear: This country would have gone all-out, sled-length in a buildup of our offensive nuclear force.

Now, Mr. President, the irony is that the shoe is on the other foot. It is the United States that is disregarding all its own arguments. It is the United States that is making its top military priority an antimissile program that would destroy the treaty negotiated so painstakingly by Republican as well as Democratic administrations and ratified overwhelmingly by Republican as well as Democratic Senators. What has changed in the past 14 years to make the smashing bipartisan majority that ratified the ABM Treaty wrong? Is it not still just as likely that the building and deployment of the antimissile star wars system by the United States today will provoke a Soviet offensive nuclear buildup as it was sure and obvious to all in 1972 that a Soviet antimissile star wars might provoke a United States offensive buildup? It certainly seems that way.

But just a minute, Mr. President. Nothing is sure in international negotiations. Secretary Gorbachev just might surprise all of us. He might suddenly ignore our star wars project. He might agree to a substantial cut in offensive nuclear arms in both sides. Frankly, if this Senator were in Gorbachev's shoes, I would do precisely that.

It would be a wise move from the Soviet standpoint. It would permit the Soviet Union to concentrate its far more limited resources on building up the basic foundation of its long-term military strength—its economy. It could focus its more limited technological resources on a more conventional military strengthening.

The Soviets could do this with confidence that the star wars defense would almost certainly not work. That is the overwhelming consensus of America's top scientists and physicists. And most important, even if through a series of technological miracles it could work, no President and no Congress could ever have genuine confidence that it would.

Why is that? Because the only way star wars could be effectively tested would be through an actual nuclear strike. And then this most complex technological system in human history would have to work perfectly that very first time. Why perfectly? Because our most prestigious scientific organization, the National Academy of Sciences, has told us that if only 1 percent of the Soviet arsenal strikes American cities, between 35 million and 55 million Americans would die instantly. This country would cease to exist as an organized society.

Mr. President, would any President ever have confidence that any weapon system, and especially one as infinitely complex and widely challenged by competent experts as star wars, would work with better than 99 percent efficiency the one and only time it was ever challenged or tested? The answer, Mr. President, is, of course, not.

But would not star wars add to our deterrence? Would it not increase the uncertainty of the Soviets that they could destroy our retaliatory force? The answer to that one, Mr. President, is simple and emphatic: Star wars adds nothing to our deterrent. Here's why: One-half of our enormous nuclear deterrent is deployed in submarines at sea or able to be at sea in minutes. Another 25 percent is deployed in bombers—in the air or able to take off in a very few minutes. We do not need star wars to protect our deterrent. The U.S. nuclear deterrent is largely invulnerable right now. It will continue to be without star wars and the Soviets know it.

So Secretary Gorbachev just may suddenly change his tune. He may agree with star wars or no star wars; he will negotiate a mutual reduction of the offensive nuclear arsenal of both sides with confidence that in star wars, the United States is wasting much of its economic, technological, and military resources on a gigantic turkey.

MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, my myth of the day is that real wages in the United States have been increasing in the past 2 years and are now higher than they were in 1979.

The facts are that from 1983 until now, real average hourly earnings for nonsupervisory workers fell by 1.7 percent. Real wages and salaries per household as well as average adult income are below their peak levels achieved in 1979.

What accounts for this shocking result?

First of all, in the early 1980's, the twin blows of double-digit inflation and deep recession combined to devastate labor markets and real wages growth. In 1980, our economy registered a pitiful decline in real average hourly earnings of 4 percent. While some recovery was made in 1982 and 1983, the trend has been negative ever since.

The recent downward trend is a consequence of our losing many high-paying jobs in the goods-producing sector to foreign competition and replacing them with relatively low-paying jobs in the service sector.

Finally, real wages have suffered from the lack of growth in productivity. Output per hour in the first quarter of 1986 was no higher than it was in 1984. As anyone who has studied basic economics can tell you, in the long run, real wages can only rise in tandem with higher productivity.

Mr. President, the consequences of the continued slump in real wages are ominous for our economy and society. If we are to provide a healthy economy, more and better jobs, and a higher standard of living to this and future generations of Americans, we must see a return to the enviable record of 2 to 3 percent annual growth in real wages which marked the accomplishments of our economy during the quarter century between 1950 and 1975.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR EXON

The PRESIDING OFFICER (Mr. HATFIELD). Under the previous order, the Senator from Nebraska [Mr. EXON] is recognized for not to exceed 5 minutes.

□ 0920

TAX REFORM

Mr. EXON. Mr. President, the Senate today will approve the most sweeping overhaul of the Tax Code in decades. I commend the chairman of the Finance Committee, Senator PACKWOOD, and the ranking Democratic member, Senator LONG, for their efforts over the last 6 months to keep the tax reform movement alive. They have done that. I also commend Senator BILL BRADLEY, the Senator who, more than any other, originated this historic tax reform bill which we will pass today.

On balance, this bill is a vast improvement over the current Tax Code and the tax bill passed by the House of Representatives. It lowers the basic tax rates for both individuals and corporations. It closes a number of tax shelters, so that business decisions for a change will be made for economic reasons, rather than tax reasons. It also strengthens the minimum corporate tax, so that profitable corporations will start paying their fair share of the tax burden.

Particularly pleasing is the positive impact that this tax bill will have on agriculture. It will permit farmers and other self-employed workers to deduct up to one-half of their health insurance costs. It attacks the tax shelters which have encouraged nonfarmers to farm the Tax Code. For example, the depreciation period for single purpose agricultural structures would be dou-

bled to 10 years. The bill greatly restricts the tax losses that can be written-off by those not earning their living primarily from agriculture.

One major disappointment with the Senate tax reform bill is the essential elimination of most individual retirement accounts. I think that is a mistake. Congress made the right decision in 1981 when we made IRA's available to all working Americans. The Senate bill would turn the clock back and penalize the 20 million Americans who took Congress at its word in 1981 and opened IRA's. With the strains on the Social Security System, the Congress should be looking for ways to encourage retirement savings and capital formation, rather than discouraging it. I am convinced that the conferees on this bill will protect at least a partial IRA benefit for all taxpayers, which has always been my goal. If this happens, it will not be because of Senate leadership. This body has, by its shortsighted vote against a reasonable compromise by a three-vote margin, turned IRA continuance over to the House of Representatives.

I am pleased that the Senate has approved our amendment to restore income averaging for those engaged in agriculture. Due to the uncertainties of weather, market prices and other factors beyond their control, the income of farmers and ranchers can vary greatly from year to year. As a result, income averaging is important to many in the agricultural sector and I am pleased that the Senate has restored that provision.

Finally, for the farmer or rancher fortunate enough to work out an arrangement with his lender to reduce his debt, the Senate incorporated our suggestion of protection from taxation on the amount of debt forgiven.

In closing, Mr. President, as a member of the Senate Budget Committee, I am concerned about the drastic yearly revenue swings that result from this bill. While the bill is revenue neutral over 5 years, the great swings each year could pose significant problems for the budget process and the economy. I look forward to working with my colleagues on the Budget Committee and others to address this problem.

This is not a perfect bill. Seldom does one pass here. Changes are necessary, and I am supporting this measure on hopes that the Senate-House conference can work out any shortcomings and necessary changes and report back a bill that will have universal support.

Mr. President, this bill will begin the process which will simplify the Tax Code and make it fairer and more efficient.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR MELCHER

The PRESIDING OFFICER. Under the previous order, the Senator from Montana [Mr. MELCHER] is recognized for not to exceed 5 minutes.

COMMENTS ON THE TAX BILL

Mr. MELCHER. Mr. President, in a few minutes, at 10 o'clock, we will be voting on an amendment that I and Senator HEFLIN, Senator ZORINSKY, and Senator NUNN have sponsored to do a little justice, to render partially to farmers and ranchers and agriculture throughout the country, and to woodlot owners, that is, small, private owners of woodlots, a little justice in this tax bill by giving them a part of the capital gains provisions that we have in the present law. Instead of repealing all capital gains provisions for them, we would retain a portion of it for those who make $100,000 or less in net income. It would cost $600 million, and we would get it by closing the big loophole of carryback provisions for corporations which, under present law and under this bill, can get a check out of the U.S. Treasury if they had a year's loss but have had a previous good year.

□ 0930

If that is adopted, it will help this bill, but this bill needs a lot of help. It is a well-intentioned bill. It eliminates taxes for people who are very poor. Six million of the poorest Americans will not have to file an income tax return if this bill becomes law as it is written now, and that is good. It closes the biggest loophole on corporations that are profitable, by some provisions for a minimum tax on those corporations that have been escaping paying any Federal income tax or very small amounts of Federal income tax.

So much for those points. The bill, while well-intentioned, fails on many points.

First of all, all taxpayers get an increase in 1987, next year, and then the middle-income taxpayers, close to half of them—somewhere between 35 and 40 percent—will get a tax increase forever, until it is changed—in 1987, 1988, 1989, and on.

Then there is double taxation for retirees who have contributed to their retirement funds—State, local, municipal, county, and Federal workers. Why? It does not make any sense. They will be shocked to find out, when they retire, that they can be double taxed on contributions already taxed when they set up their retirement funds.

Then, of course, if we pass this bill, we discourage savings by canceling IRA's.

I do not believe these points are wise at all. But the most telling point against this bill, in my judgment, is how it affects us in Montana and States like Montana, where we depend on the basic industries of agriculture and forest products. And mining, too—do not forget them. We depend on those industries in my State of Montana, and they are the backbone of this country. The economy is built on those basic industries, and their taxes are going to be increased.

In effect, although they are not making much money now, if they start to make money and have some recovery, then agriculture, mining, and forest products will be clobbered with increased taxes. I do not think that is wise. I do not think it is fair. I do not think it is equity. If we are thinking about how we can get this economy built on a strong basis, we will reject those provisions in this bill and not resign ourselves to letting it escape from the Senate until it is corrected.

Mr. President, on balance, I will vote against the bill, for all these reasons and others which I will outline later today. But, on balance, this is a bad bill for rural America, because it clobbers basic industries of agriculture, forest products, and mining.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TAX REFORM ACT OF 1986

The PRESIDING OFFICER. The clerk will state the unfinished business.

The legislative clerk read as follows:

A bill (H.R. 3838) to reform the internal revenue laws of the United States.

The Senate resumed consideration of the bill.

Pending:

(1) Melcher-Zorinsky Amendment No. 2156, to allow a 30-percent capital gains exclusion for the sale of property by an individual actively engaged in the trade or business of farming or woodlot operations, and to limit net operating loss carrybacks.

(2) Mattingly Amendment No. 2133, to express the sense of the Congress that tax reform legislation remain unchanged for a period of at least 5 years from date of enactment.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 0940

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2156

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. MELCHER. Mr. President, in a few moments we will start the procedure of voting this morning on the amendment that I offered on behalf of myself, Senator HEFLIN, Senator ZORINSKY, and Senator NUNN.

We seek to save for those engaged in agriculture whose incomes are $100,000 or less the current law on capital gains.

□ 0950

Now, in my book, capital gains is a good part of our Tax Code, but this bill repeals it. In my judgment, capital gains has been part of our tax policy for several decades because it is wise tax policy, but this bill repeals it.

If it is going to repeal it, it should not be repealed for those in agriculture, at least up to the amounts of income that I have mentioned and that is in the amendment; and if it is going to be repealed, it should not be repealed for woodlot owners. Now, woodlot owners are private individuals. They are active. They are not passive. Farmers are active; they are not passive. We do not have any big loopholes here. We have a situation where the capital gains retention is wise. And that is what our amendment seeks to do.

Over 70 percent of the forests in the United States is owned privately and a majority of that, a big majority of that 70 percent that is privately owned, is owned by small woodlot operators. And capital gains is very significant. Indeed, the Society of American Foresters wrote to all of us, every one of us, and said that this was the most critical point of woodlot owners—retention of capital gains for them. For farmers who are losing money—and, believe me, almost all of them are losing money now—retention of capital gains is only fair and equitable. And so we seek to do that.

Now, it is offset by closing a loophole or a glitch or an unintended big gaping hole in this bill for carryback provisions of corporations. Under current law, present law, the corporations can offset, and that means getting a checkout of the U.S. Treasury, if they have a losing year, offset the losing year against going back 3 years if they were profitable and get the money back out of the Treasury, a Treasury check. And the loophole is that the corporate rate up until now was 46 percent, including this year, and when the bill is fully effective would only be 33 percent. So instead of giving them 46 percent back in the check from the U.S. Treasury, it would be limited to 33 percent. And that I believe is what the Senate intends on that particular provision.

What is needed in offset for the capital gains provision for agriculture and woodlot operators? Six hundred million dollars. And like everybody else on this floor, when we look to see what were the accurate figures, we go to the Joint Tax Committee and ask them what are the costs of this type of an amendment. They wrote back to us and said $600 million. And, in a few minutes, we are going to be told by the chairman of the Finance Committee that the Joint Taxation Committee was wrong, was $10 million off, was 1½ percent wrong. And who is the source of this information? The Budget Committee.

So the people that figure the revenue on the Joint Taxation Committee are going to find out that they are not as accurate as the Budget Committee. And based on that, the chairman of the Finance Committee is going to make a point of order against the amendment of myself and Senator HEFLIN and Senator ZORINSKY, and Senator NUNN. On that technicality of the Budget Committee supposedly being accurate and the Joint Taxation Committee being inaccurate, he is going to do what has not been done on this Senate floor during all of the debate on this bill. He is going to make a point of order and say it is off by $10 million, off 1½ percent.

When he does that, of course, the amendment is supposed to fall. And then I will move that we waive section 303 and we will vote on that, supposedly. Only the chairman of the Finance Committee has been kind enough to inform me that he will move to table that, too. But at least we will have a vote. At least we will have a vote and let everyone know that the Joint Taxation Committee may be wrong and the Budget Committee may be right. And they may be more accurate, but, so what? The question, really, is what are the merits of the amendment.

So I ask you, I ask you to stand with the amendment if you believe it is meritorious. I do not know who could doubt that it is a meritorious amendment and that it would improve this bill if it were adopted. I ask all of you, in fairness, to consider the merits. Do not go on this very strange expedition of saying, "Well, it is a technicality, but so what? The Joint Taxation Committee's figures are not the revenue figures. The Budget Committee's figures are the revenue figures."

No matter how you slice it, the fact of the matter is that capital gains for agriculture and woodlot operators, to the extent we would allow it under this amendment, is absolutely sound. It is good tax policy. It is just, right, and equitable. I hope you can vote with us.

Mr. President, I yield the floor.

AMENDMENT TO RESTORE A 30-PERCENT CAPITAL GAINS EXCLUSION FOR FARMERS

Mr. ZORINSKY. Mr. President, I rise in support of this amendment to restore a 30-percent capital gains exclusion for farmers, ranchers, and woodlot owners. This is a much-needed change in the tax bill for the agricultural community, and I am proud to associate myself with it.

The amendment will permit a 30-percent exclusion for the capital gains of noncorporate, active farmers and woodlot owners who have net incomes of no more than $100,000 a year. The amendment does not restore the full 60-percent exclusion as under current law. However, I believe that the lower overall rates contained in the Senate bill will ameliorate that difference.

Mr. President, farmers from all across the United States have called me on this issue. Under the bill as it now stands, many will suffer dramatic increases in their taxes without the capital gains exclusion. This is unnecessary and unwarranted. There are too many loopholes remaining in the bill for us to deny the farmers the capital gains exclusion that they so desperately need. Our offset is just one example of these remaining loopholes.

The amendment is targeted so that the benefits accrue to those who can least afford to do without the exclusion. Such targeting should be the hallmark of Federal agricultural policies.

I urge the Senate to join me in restoring this element of fairness to the bill.

FAIRNESS FOR TIMBER PRODUCERS

● Mr. BUMPERS. Mr. President, I strongly support retaining a capital gains differential for all timber producers. this tax reform retains a capital gains differential for incorporated timber producers and it is unfair not to do so for noncorporate timber producers as well. All timber producers deserve the same tax treatment on capital gains.

Capital gains is justified for timber producers because they take real long-term risks, unlike the investor who simply buys stock in IBM and holds that stock for 6 months. Timber producers must maintain their investments for several decades before they see a return. This is precisely the type of risktaking that the capital gains exclusion should reward.

Timber producers, both corporate and noncorporate, will receive the benefits of lower tax rates, but they lose the benefits of the investment tax credit. For some timber producers, the reductions in tax rates will not offset

the value of the ITC if there is no capital gains exclusion.

The U.S. timber industry is suffering already from unfair, subsidized foreign competitors. I am hopeful that the administration will reverse its position on Canadian Government timber subsidies and that this issue can be resolved long before the current negotiations on a United States-Canadian free trade zone are concluded. But we can at least ensure that this tax reform bill does not aggravate the plight of the U.S. timber industry.

I am distressed that the Senate will not have an opportunity to vote directly on the capital gains issue. The parliamentary rules of the Senate have been manipulated to prevent a direct vote on timber capital gains. This doubles the unfairness for those of us who support the efforts of timber producers to be competitive and prosperous.●

TAX BILL AND AGRICULTURE FAIRNESS TO FARMERS

Mr. GRASSLEY. Mr. President, this Tax Reform Act helps restore some fairness to the tax system for our farmers and their families. Too often farmers have been the victims of tax policies and treated as second class citizens. The Tax Reform Act, as it was passed out of the Finance Committee, goes a long way toward dealing with these inequities.

One of the most significant provisions of this bill, and one which I sponsored, allows self-employed farmers and small business persons to deduct 50 percent of their health insurance premiums as a business expense. In the past farmers were not allowed to do this.

As a result they were at a disadvantage in relation to people whose premiums where paid by their place of employment. There is no legitimate reason why farmers and small businessmen should be treated any differently than their cousins and neighbors who are working for someone else. After all they both have the same goal of trying to protect themselves and their family from the high costs of health care.

Mr. President, we are currently experiencing a "brain drain" in agriculture. Many of our young progressive farmers are not able to start farming because credit is tight or they cannot afford the high interest rates being charged today. Many others have started farming only to be caught by the worst agricultural depression in 40 years and we are struggling to survive. I believe this trend is dangerous. We need aggressive young people in agriculture pursuing higher levels of efficiency and for competing on a world market. In order to help young people get started in farming we have extended the availability of Aggie bonds from 1986 to 1988. In addition, we have expanded the use of proceeds for the purchasing of used equipment. I believe these steps are important. Without taking steps to get and keep these young people in farming we could wake up in a few years and find that we have lost the fight for world markets simply because we don't have the troops to man our farms.

Earlier this year Congress passed a change in the tax laws that freed farmers from tax liabilities resulting from a forced sale. This was extremely important in not permanently tying farmers down with overwhelming tax debts because their lender forced them to sell. Although this bill was important it was one step too late. Our objective should be to encourage lenders to work with farmers before a forced sale.

In order to reach this goal I am happy to report that this tax bill eliminates tax consequences of a "write-down" of a farmer's principal. Under existing laws, even if a farmer and lender can agree to write-down a debt, Uncle Sam comes by and discourages that action by taxing the forgiven debt. Fortunately, this tax bill helps solve this problem and encourages negotiation rather than foreclosure or bankruptcy.

Mr. President, I believe this bill is going a long way toward helping our farmers and restoring fairness to our tax system. We must be very careful to not weaken this bill through too many amendments that change the direction this bill is taking.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, if I could have the attention of the chairman of the Finance Committee. At 10 o'clock, we are scheduled to have a vote and begin a series of actions. I am wondering if the chairman and others would be disposed to grant unanimous consent to let me offer my little subchapter M amendment, which I believe we can dispose of prior to 10 o'clock.

Mr. PACKWOOD. Yes, I am perfectly receptive. I know it is acceptable. We have got about 120 seconds.

AMENDMENT NO. 2161

Purpose: To modernize certain provisions of subchapter M of the Internal Revenue Code of 1954

Mr. ARMSTRONG. Mr. President, I am not one of those that thinks important matters have to take a long time, and so I do ask unanimous consent that I be permitted to offer this amendment at this time and I send it to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Colorado [Mr. ARMSTRONG] proposes an amendment numbered 2161.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 2316, between lines 17 and 18, insert the following new subtitle:

Subtitle E—Regulated Investment Companies

SEC. 1451. AMENDMENTS TO THE REGULATED INVESTMENT COMPANY QUALIFICATION RULES.

(a) IN GENERAL.—Paragraph (2) of subsection 851(b) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof: "(as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options or futures contracts) derived with respect to its business of investing in such stock, securities, or currencies;".

(b) FOREIGN CURRENCY GAINS.—Subsection 851(b) is amended—

(1) by striking out the period at the end of the next to last sentence therein and inserting in lieu thereof a semicolon;

(2) by striking out the phrase "For purposes of paragraphs (2) and (3)," at the beginning of the final sentence therein; and

(3) by striking out the period at the end of such final sentence and inserting in lieu thereof: "; and the Secretary may by regulation exclude from qualifying income foreign currency gains that are not ancillary to the company's principal business of investing in stock or securities (or options and futures thereon)".

SEC. 1452. TREATMENT OF SERIES FUNDS AS SEPARATE CORPORATIONS.

(a) IN GENERAL.—Section 851 is amended by adding at the end thereof the following new subsection:

"(q) SPECIAL RULE FOR SERIES FUNDS.—

"(1) In the case of a regulated investment company (within the meaning of subsection (a)) having more than one fund, each fund of such regulated investment company shall be treated as a separate corporation for purposes of this title (except with respect to the definitional requirement of subsection (a)).

"(2) For purposes of paragraph (1) the term 'fund' means a segregated portfolio of assets, the beneficial interest in which is owned by the holders of a class or series of stock of the regulated investment company that is preferred over all other classes or series in respect of such portfolio of assets."

(b) TREATMENT OF CERTAIN EXISTING SERIES FUNDS.—In the case of a regulated investment company that has more than one fund on the date on which this section becomes effective, and has before such effective date been treated for Federal income tax purposes as a single corporation—

(1) the amendment made by this section, and the resulting treatment of each fund as a separate corporation, shall not give rise to the realization or recognition of income or loss by such regulated investment company, its funds, or its shareholders, and

(2) the tax attributes of such regulated investment company shall be appropriately allocated among it funds.

SEC. 1453. EXTENSION OF PERIOD FOR MAILING NOTICES TO SHAREHOLDERS.

The following provisions are each amended by striking out "45 days" each place it appears and inserting in lieu thereof "60 days":

(1) Paragraph (3) of subsection 852(b).

(2) Subparagraph (A) of paragraph 852(b)(5).

(3) Subsection (c) of section 853.

(4) Paragraph (2) of subsection 854(b).

(5) Subsection (c) of section 855.

SEC. 1454. PROTECTION OF MUTUAL FUNDS RECEIVING THIRD-PARTY SUMMONSES.

Paragraph (3) of subsection 7609(a) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding the following new subparagraph:

"(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof."

SEC. 1455. EFFECTIVE DATES.

(a) The amendments made by sections 1451, 1452, and 1453 shall apply to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

(b) The amendments made by section 1454 shall apply to summonses served after the date of the enactment of this Act.

Mr. ARMSTRONG. Mr. President, this amendment makes four modest but, nonetheless, worthy changes in the law relating to subchapter M of the Internal Revenue Code that regulates mutual funds.

The desire of the industry, which is supported, I think, without controversy or objection and enjoys the support of the Treasury Department, is to permit the mutual fund industry to make better use of income from stock options, futures contracts and options on stock industries, options and futures of foreign currencies, and foreign currency transactions.

□ 1000

At the present time, these mutual funds are required to have at least 90 percent of their income from dividend and interest. So this amendment would include in the 90-percent requirement the items I have just mentioned: stock options, futures contracts, options on stock indices, and foreign currency transactions.

Second, this provides that where there are a series of funds which are subject to the 90-percent rule, and also the existing so-called short test, that each of the funds in the series has to qualify individually.

Finally, current law requires mutal funds to mail certain dividend income and capital gains information to shareholders within 45 days after the close of the funds' taxable year.

This amendment extends that period to 60 days.

Mr. President, with that word of explanation I believe the amendment is acceptable on both sides. I ask for its adoption.

Mr. DOLE. I ask unanimous consent that we may proceed for 1 more minute on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Colorado.

The amendment (No. 2161) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2156

The PRESIDING OFFICER. The hour of 10 o'clock having arrived, under the previous order, the question is on agreeing to the amendment of the Senator from Montana.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I make a point of order that the pending amendment affects revenues for fiscal year 1987, the budget resolution for fiscal 1987 is not yet in place, and that the amendment therefore violates section 303 of the Budget Act.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I move to waive section 303, and I suggest the absence of a quorum.

Mr. PACKWOOD addressed the Chair.

Mr. MELCHER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMPSON). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I understand there is a little time problem right now, and I would like to take just a few minutes prior to this vote to express my views of this tax bill that is before us.

The PRESIDING OFFICER. It will take unanimous consent for any debate at this point.

Mr. DOLE. I ask unanimous consent that the vote which was to occur at 10 o'clock occur at 10:20.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank the Chair. I thank the majority leader.

Mr. President, we are about to vote on probably one of the most far-reaching tax proposals in the 10 years that I have been in the U.S. Senate. Like many of my colleagues, I have some serious doubts about this bill and particular concerns about what might happen to this bill in conference.

As I have said several times on the floor, my compliments go out to the distinguished chairman, Mr. PACKWOOD, of the Finance Committee, and the ranking member, Mr. LONG, and every one of the members on that committee for putting together such comprehensive tax reform legislation.

Whether or not this bill is real reform is going to depend a lot on what happens in the conference. For 10 years I have advocated a simple tax system. That system is not my innovation but belongs to Professors Hall and Rabushka, of the Hoover Institute at Stanford University. They have worked for years compiling a flat, simple tax system that eliminates all deductions and would have one basic rate. Recently they adjusted it, so that it has two rates, 24 and 17 percent with virtual elimination of almost every deduction, with a very generous $12,600 exemption for each family of four, and for a single taxpayer of roughly $9,000.

So I applaud the dramatic effort made in this bill to get two rates. It is a quite significant improvement we are making. I hope that the conference committee will keep these rates, and it is very, very important that we do not let these rates slip up. If anything, they should come down.

I offered an amendment that would reduce the 27-percent rate to 26 percent, and that would raise the break points for the top rate by 20 percent. Under the Finance Committee rule, $17,600 would be in the 15-percent bracket. Under the DeConcini amendment it would have been $21,120. A joint filer under the Finance Committee bill would file at 15 percent if they made $29,300 or less, under the amendment that I offered that figure would have been $35,160. For heads of households, it would have been $23,500 under the Finance bill for 15 percent, and under my amendment it would have been $28,200. For married filing separately, it would have been $14,650, under the Finance bill, and under the DeConcini amendment it would have been $17,580.

To me the important part of this bill, or any major tax reform is to give relief to the middle and lower income. This bill attempts to do that. It does

not go quite far enough in my judgment but it attempts to do that.

Second, any real reform has to lower rates substantially. This bill does that. A top rate of 27 percent is a substantial improvement over what we have had. And in fact, it will be an incentive for investment.

So I applaud these elements of the bill. Everyone can put their little twist on it and maybe make it a little bit better or perhaps a little worse.

I believe this effort is good basic tax reform. The third part of this bill is so important—that is, a tough minimum tax of 20 percent on individuals and corporations—with literally no loophole except if your income happens to be totally from tax-exempt bonds. Otherwise everyone is going to pay tax. We have heard the gory stories about General Dynamics and other industries here that pay no tax. We have heard the stories about thousands of Americans who legitimately make over $1 million a year and pay no tax. That time is coming to an end. This bill will do that.

Despite some of these positive points, this bill is by no means perfect. On the individual side, the denial of the deductibility of State and local sales tax is certainly not fair when you consider that this bill permits the deduction of income tax and property taxes paid in the State.

I worked to amend this, and there was a slight improvement in the bill but it does not go near as far as equity demands.

It goes against the American tradition of fair play to unduly penalize individuals with retroactive implementation of new tax provisions. This is a horrendous problem with this bill. Unless it is corrected in conference, I will not be able to support the conference report. These new rates are not going to take effect until mid-1987, but you are going to do away with the deductions at the begining of 1987.

□ 1010

This is not fair. To me, it is going to cause a horrendous problem and will cause this Senator to look at this bill closely when it comes from the conference.

I also am concerned about the potential giveaways in the bill. We have had a number of debates here with the Senator from Ohio, Senator METZENBAUM, who has gone out of his way to explain some of the special privileges that are in this bill. Some effort was made to eradicate those and extract them from the bill with only minor success.

I am again concerned what will happen in the conference. I understand the conference and the processes, of course, and the give and take that has to go on. But Members of the House will have their special interests and areas of legitimate concern to them. We all try to take care of our special interests. But today, as we vote on this bill and in the next few weeks during conference, the time is right to take care of the interests of the American taxpayer. That means low rates and a minimum amount of special interests and deductions in the bill.

The transition rules in this bill really trouble me a great deal. There are 174 so-called transition rules. Many of them are really old-fashioned boondoggles. I cannot say that I would not like to have some more in there for the State of Arizona. But that is not the way to make good tax laws. I would gladly give them all up if everybody would join me.

Some of them are outrageous. I cannot help but remind this body about the one that provides for a half billion dollar tax writeoff for the steel industry. It does not belong there and it is not fair.

Certainly, it is not fair when copper in the State of Arizona has suffered as much as steel over the last 4 or 5 years, and yet there is little or no provision in the bill to assist that industry.

Also, I think it is important to say that this bill indeed takes on the real estate development business. Congress for a long time encouraged people to invest in real estate, particularly housing. It gave them special incentives, special writeoffs, special carryover for losses. This bill eliminates almost all of that.

And so be it, if that is what we have to do. Yet the bill preserves the same type of tax breaks for the oil and gas industry that were denied other industries. Is that fair? I think it is clear that it is not fair.

Will it be corrected in the House conference committee? I do not know. But I hope that someone is listening who is on that conference committee. Maybe one vote is not going to make any difference in final passage when it comes back from conference, but this Senator is going to look carefully at the equalizing areas of fairness and equity.

In recent days, the newspapers have been full of articles detailing the efforts of special interests lobbying and undermining this bill, even before the Senate has completed it. We have an opportunity today, and this Senator will vote for this bill, with the objections and qualifications I have stated.

Mr. President, this is important legislation. There are those who will decide to vote against it. That is certainly their privilege and I have great respect for them.

I do agree with the Senator from Montana, Senator MELCHER, there are many additional things we should be spending our time on, such as balancing the budget or some of our defense concerns. But that is not what we are doing today or the last couple of weeks. We are on tax reform. Indeed, this Senate bill is a tax reform bill. As I said to begin with, it can be improved. The burden will fall heavily on those in the conference committee to insist on low rates, a tough minimum tax on individuals and corporations, and to insist on no additional boondoggles and special interests. I hope they will have the courage to take some of these give-aways out.

With that, Mr. President, I again thank the committee chairman, ranking member, and the committee staff. I wish to thank Laurie Sedlmayr of my staff for the great assistance she has given me in preparation so that I can reach a judgment on this bill that I think is best for the people of Arizona and the people of this country.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I wonder if I might inquire of the minority leader, will we be able to vote at 10:20.

Mr. BYRD. I will have to ask some of my staff to determine that information, if the distinguished Senator will forebear.

Mr. PACKWOOD. The time has been set for 4 days and I hate to see it drag on.

Mr. BYRD. The Senator has been very patient and forebearing. There is a tieup on the Rock Creek Parkway, as I understand it. We are doing our best to learn of the situation there. Senators who are in that tieup have no telephones in their cars and we cannot establish information on that problem.

May I say to the distinguished Senator, I will try to get back to him very quickly.

Mr. PACKWOOD. I would appreciate that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1020

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, is the pending business the amendment of the Senator from Montana [Mr. MELCHER], on which I have raised a point of order and he has appealed the ruling of the Chair? Is that where we are? I cannot remember.

The PRESIDING OFFICER. There is a pending motion to waive the point of order.

Mr. PACKWOOD. I have checked with the minority leader and he said at 10:20, it would be all right for the

vote to proceed. I warn people that—well, we are at 10:20 now.

I move to lay that motion on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, what is the distinguished Senator moving to lay on the table?

The PRESIDING OFFICER. The motion to waive is what the Senator is moving to lay on the table.

Mr. BYRD. I thank the chairman. I thank the Senator. I also thank the Senator from Oregon for his patience in delaying the motion.

Mr. MELCHER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MELCHER. Is what we are voting on the discrepancy between the Joint Taxation Committee saying that the amendment is revenue-neutral but the Budget Committee saying it is $10 million off? So we are merely voting on which committee's figures to accept?

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to waive. The yeas and nays have been asked for.

Mr. MELCHER. A further parliamentary inquiry: What I said is the situation, that we are going to vote on the $10 million.

The PRESIDING OFFICER. The Chair did not interpret that in that fashion.

Mr. MELCHER. What is the point of order on, Mr. President?

The PRESIDING OFFICER. Simply the motion to table the motion to waive.

Mr. MELCHER. A parliamentary inquiry: What is the original point of order?

The PRESIDING OFFICER. That the amendment violated section 303 of the Budget Act. The yeas and nays have been ordered.

Mr. PACKWOOD. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to waive. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Idaho [Mr. McCLURE], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Connecticut [Mr. WEICKER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Georgia [Mr. NUNN], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia [Mr. NUNN] would vote "nay."

I further announce that, if present and voting the Senator from Rhode Island [Mr. PELL] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 39—as follows:

[Rollcall Vote No. 146 Leg.]

YEAS—54

Armstrong	Gorton	Moynihan
Biden	Gramm	Murkowski
Bingaman	Grassley	Packwood
Boren	Hart	Proxmire
Boschwitz	Hatch	Quayle
Bradley	Hatfield	Rockefeller
Chafee	Hawkins	Roth
Cochran	Hecht	Rudman
D'Amato	Heinz	Simpson
Danforth	Helms	Specter
Dole	Humphrey	Stafford
Domenici	Kassebaum	Stevens
Durenberger	Kasten	Symms
Eagleton	Kennedy	Thurmond
East	Lautenberg	Trible
Garn	Laxalt	Wallop
Glenn	McConnell	Warner
Goldwater	Metzenbaum	Wilson

NAYS—39

Abdnor	Dodd	Mathias
Andrews	Evans	Matsunaga
Baucus	Exon	Mattingly
Bentsen	Ford	Melcher
Bumpers	Gore	Mitchell
Burdick	Harkin	Nickles
Byrd	Heflin	Pryor
Chiles	Hollings	Riegle
Cohen	Johnston	Sarbanes
Cranston	Leahy	Sasser
DeConcini	Levin	Simon
Denton	Long	Stennis
Dixon	Lugar	Zorinsky

NOT VOTING—7

Inouye	Nunn	Weicker
Kerry	Pell	
McClure	Pressler	

So the motion to lay on the table was agreed to.

□ 1040

The PRESIDING OFFICER. The point of order is well-taken, and the amendment falls.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2133

The PRESIDING OFFICER. The question recurs on the Mattingly amendment.

Mr. MATTINGLY. Mr. President, the pending business is amendment No. 2133. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the names of Senators WILSON, QUAYLE, NICKLES, ZORINSKY, LAXALT, PELL, BOSCHWITZ, STEVENS, and GRAMM be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. Mr. President, we have had a long and intensive debate on the tax reform bill. There have been a few minor changes, but basically the legislation is unchanged from what passed out of the Finance Committee.

Mr. METZENBAUM. Mr. President, may we have order in the Senate? We cannot hear the Senator from Georgia.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. MATTINGLY. Mr. President, the amendment that is pending is a sense of the Congress resolution stating that there be no changes in the Tax Code for the next 5 years, once it is signed into law.

As I said, there have been very few changes in this tax reform bill, and basically the legislation is unchanged from what was passed by the Senate Finance Committee. This is a tribute to the leadership of both the chairman of the Finance Committee, Senator PACKWOOD, and the ranking Democratic member, Senator LONG.

Over the past few weeks, I believe the Senator from Oregon has performed a miracle—a major political miracle.

Mr. BOSCHWITZ. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MATTINGLY. I thank the Chair.

Mr. President, referring to the tax bill that has been voted out of the Senate Finance Committee by a 20-to-0 vote, I think that vote demonstrates the bipartisan aspect of tax reform.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. MATTINGLY. I yield.

Mr. DOLE. I wonder whether it might be possible to get a 30-minute time agreement on this amendment, equally divided.

Mr. MATTINGLY. I object to that at this time.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. How much time does the Senator need?

Mr. MATTINGLY. I am not certain how many other Members wish to speak on the amendment. I hope to complete it as soon as possible.

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. MATTINGLY. I yield.

Mr. BUMPERS. Is it anticipated that the amendment will require a rollcall vote?

Mr. MATTINGLY. Yes.

Mr. President, I think the 20-to-0 vote demonstrated a bipartisan aspect

of the tax reform movement. There were heroes aplenty on both sides of this tax reform movement.

It was not very long ago when the only person in this country who seemed very interested in tax reform was the President of the United States. I think many members of the press and Congress laughed at the President's attempt to stir up public interest on tax reform. I think he now deserves great credit for continuing to press for tax reform.

There are Members of the Senate and people in the private sector who have spent years working on tax reform. I might add that of the many speeches on tax reform during this debate, none was more eloquent and persuasive than the speech given by Senator BRADLEY on June 4.

This will be one of the most significant pieces of legislation we will ever vote on during our years in the Senate, and to say that it is historic is an understatement. We have had Federal Tax Code changes all along, almost as long as anbody can remember, it has kept the printers, the CPA's, the accountants, and the tax lawyers happy and prosperous. Finally, at long last, we have a tax bill that is doing more than just shuffling the loopholes.

The PRESIDING OFFICER. The Senate will be in order. The Chair asks the staff who are active to please retire from the Chamber.

Mr. MATTINGLY. Mr. President, I do not see order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MATTINGLY. I thank the Chair.

Mr. President, there are those who criticize the top rate of 27 percent. Some would like to have it at 38 percent, or 35 percent. Personally, I would like to have a flat rate tax of 10 percent, but that is not going happen.

Some people just yearn for the old days when the top rate was 90 percent.

The truth is that most of the rich people in this country, as well as the rich corporations, will pay more in actual dollars under this bill than they ever paid when the rate was 50 percent or 70 percent. Rates do not matter when you have thousands of pages of loopholes. It is better for us to have a 27-percent rate and collect it than to have a 50-percent rate and collect only 10 percent of the dollars.

So there is for the first time a minimum tax so everyone will be paying a fair share of the tax burden. No longer will we read about multibillion-dollar corporations avoiding any tax payment. Six million of the working poor will be taken off the tax rolls and this is only right. In some cases, the tax burden they currently face is enough to force them to use food stamps in order to make ends meet. Let those people keep their entire paychecks. The rates are simplified. This bill has just two rates, 15 and 27 percent, and one for the corporations of 33 percent. The low rate is the driving force behind this tax reform and the right stuff, so to speak, that makes it a great bill.

Certainly there are going to be changes in this bill when it goes to conference. Many Senators want to see the bill restore the full IRA. I for one hope that it will be restored, but this is a very fragile compromise. If we tinker with the rates, tax reform will lose support. It will edge back to the very complexity that we are trying to end. Everyone in the country understands 15-27-33, cutting away the brackets and making the Tax Code simpler and fairer. Everyone understands having 80 percent of the taxpayers at the 15-percent rate. Everyone understands the unfair loopholes. Everyone understands having a minimum tax. It is not complicated.

People understand and support this legislation. But after we finish with tax reform, we need tax stability. After the conference committee finishes its work, Congress votes on the final legislation, and it goes down to the White House where they will have a great signing ceremony, the drum rolls, giving all the accolades to the heroes in Congress, then Congress needs to stay out of the tax reform or tax change business for at least 5 years.

Once we make these reforms we, the Congress, should step aside and let the private sector get to work and stop worrying about what the tax laws are going to be next year. If Congress just gets off their back and out of their way, the private sector will produce. It will create jobs. It will lead us into a new, stronger period of economic growth.

The amendment I am offering is a sense of the Congress resolution that calls for no major changes in the Tax Code for a minimum of 5 years after the tax reform bill is signed into law.

Mr. BOSCHWITZ. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate is not in order. The Senator from Minnesota is correct. The Senate will be in order.

The Senate is now in order.

Mr. MATTINGLY. Thank you, Mr. President.

Mr. SYMMS. Mr. President, would the Senator add the Senator from Idaho as a cosponsor to his amendment? I compliment him for offering it.

Mr. MATTINGLY. Mr. President, I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. Mr. President, Americans cannot have long-term uninterrupted economic growth with constantly changing and unreliable tax laws. The tinkering and the meddling of Congress must stop. Constant changing of the rules in the tax laws creates unstability for decision making in industry, in business, and in individuals. A nonchanging Tax Code offers stability for the decisionmakers of America.

We need to frustrate the tax increasers. We need to frustrate the Tax Code changers and encourage stability.

We are creating in this bill the opportunity for greater savings, rewards, incentives, investments, fairness, equity, capital formation, entrepreneurship, job creation, and trade. But how long is it going to last? Is it going to last 6 months, 1 year, 2 years? We need to give this new law a chance, secure it from the spur-of-the-moment knee-jerk congressional changes.

We have all listened to the questions and the concerns registered here in Congress, back in our States and across the United States. But I would wager to say that the last question or statement made by any individual or group was, "All right, Senator, I can and I will live with the law and the new tax rates, but please, please don't change the rules later on."

Stability, permanency and, reliability, is now needed as a final touch to this tax reform bill.

Who can run America best? Not the Government. But instead the American people can provided they are left alone.

Senator PACKWOOD and Senator LONG have asked us throughout this debate to keep the bill intact. I agree. After 4 p.m. today, when we vote on final passage, after the conference committees meet and come up with the final bill, after it is ratified by both the House and Senate, and after the signing ceremony at the White House, then it is America's turn. Let us give it to America and then back off for at least 5 years.

If the bill is good, and it is, let us take it one step further. Let us guarantee certainty. Let us crown this bill with a resolution of fairness and stability, Mr. President.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. MATTINGLY. I yield to the Senator from Texas.

Mr. BENTSEN. Mr. President, I appreciate what the Senator is trying to do and what his objective is, but let me tell you, any time you pass a piece of tax legislation of this magnitude you are going to find an incredible number of things that are going to have to be fixed, have to be modified and have to be changed.

I will vote with the Senator in the spirit of what he is trying to achieve. But with 2,000 pages of legislation, we are going to see quite a number of

things that have to be corrected next year.

Mr. MATTINGLY. Let me respond to the Senator from Texas. I certainly appreciate his concern. I think we are all aware of how massive and sweeping this tax reform legislation is and how it reaches every aspect of the tax system.

I understand there are going to be some areas that need further work. I call it, as the Senator would, fine tuning, to assure that those areas conform to the bill's real goals of fairness and equity in the Tax Code.

I think that is a reality that can be expected, and this amendment does not obstruct those types of efforts.

However, the amendment does express the concern of the taxpayers in the Senator's State, in my State, and across the United States, that Congress changes the laws too often and taxpayers have said time and time again, "Please quit changing the rules of the game on us."

So the intent of the sense of the Congress is to get Congress on record to say that this is a good bill, so let us not tamper with it.

Mr. BENTSEN. I say to my good friend, I applaud the objective and I think it is great objective, and certainly the American people and the American businesses want some continuity and stability in the tax laws they have ahead. Here we are seeing a dramatic change in direction in this bill. I hope it achieves the goals we are seeking. But there is some risk in this kind of a change, where we have taken away some of the tax incentives that we would normally think are absolutely necessary for the competitiveness of our economy as we try to meet competition from abroad. We are going to have to measure that and see how it works. On balance, I decided to vote for the bill, and support it, but there are some unknowns.

I do hope that we do not have further major changes, but I do not rule them out, frankly. If we get ourselves in a recession and we find the balance of trade worsening, we may rethink the question of having some additional tax incentives for buying new machinery and equipment in this country.

Mr. MATTINGLY. I have been in the Senate 5½ years, so I recall what it was like in the private sector.

What I recall is very clearly pointed out in the letter from the National Federation of Independent Business, a letter that I will enter into the RECORD, which states there were 2,600 separate changes to the Tax Code between 1978 and 1984.

I was back there in the private sector. I remember all those changes. They were very difficult to live with. If you do not know the rules of the game it is hard to play the game.

In addition, respected economist Paul Craig Roberts has commented, in an article that appeared in the June 19, 1986 edition of Business Week, on the need for stability.

The National Federation of Independent Business has endorsed my amendment in a letter sent to all Senators.

Finally, Mr. President, in yesterday's Wall Street Journal, there was a story by Kenneth Bacon in which he noted the boost that would be given to the U.S. competitive position by adoption of such an amendment as I propose.

I ask unanimous consent that these materials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
June 17, 1986.

Hon. MACK MATTINGLY,
U.S. Senate, Washington, DC.

DEAR MACK: The National Federation of Independent Business (NFIB), representing more than 500,000 small firms, commends the efforts of the Senate to shape true tax reform legislation. At the heart of these efforts has been the precept that simplicity is a virtue where the tax code is concerned. However, the Senate will soon have an opportunity to strike a stronger blow for simplicity when Senator Mattingly offers his amendment pledging the Senate to no new substantive changes in the tax code for five years. NFIB strongly supports this amendment and urges you to vote for it.

In the period between 1978 and 1984 over 2,600 separate changes were made to the tax laws, not counting all the additional IRS regulations that were necessary to interrupt and implement these changes. This virtually constant change of tax rules has placed a tremendous burden on all taxpayers, especially small firms.

Government estimates indicate that 68% of the small business paperwork burden is generated by IRS. In simple terms, the frequency and complexity of tax law changes has placed a huge burden on American economic productivity. Managing tax changes reduces the productive time of entrepreneurs, inhibits plans to hire new employees, and makes investment planning a nightmare.

Small firms across the nation want a respite from change after the tax reform bill has passed. This sentiment is clearly expressed by the 23 states that have passed resolutions in preparation for the upcoming White House Conference on Small Business calling for a 3 to 5 years moratorium on tax law changes.

NFIB urges you to crown the tax reform bill with a final act of fairness: put yourself on record as supporting a five year moratorium on substantive tax law changes once tax reform has become law. Senator Mattingly will be offering an amendment framing a sense of the Senate resolution that such a moratorium should be honored. On behalf of NFIB's membership, I urge your support on this Key Small Business vote.

Sincerely,

JOHN J. MOTLEY III,
Director of Federal Legislation.

A TAX BILL THAT'S UNASHAMEDLY CAPITALIST

(By Paul Craig Roberts)

When the tax cut passed in August, 1981, reporters called my office at the Treasury Dept. to inquire what would occupy us for the remaining three-and-a-half years of the President's term. I told them that the next item on the supply-side agenda was a fundamental reform of the tax system that would substitute a low, flat-rate tax for what was still, despite the tax cut, a high-rate, progressive system.

When my remarks were reported, they caused grumbling from White House aides. After only six months, they were already tired of the supply-side dominance of economic policy. The rivalry played into David A. Stockman's hands, and he skillfully used deficit hysteria to crowd out other economic policy issues. It wasn't until late 1984 that Treasury's tax reform plan was drafted.

MIXED BAGS

The tax bill that emerged was the kind of political compromise that tries to meld incompatible ideas into a single package. It was supply-side in calling for lower tax rates. But the bill also contained provisions traceable to an older generation of tax reformers whose main goal was to close loopholes for distributional reasons—regardless of their economic effects. These reformers wanted to make the rich pay with a vengeance, and they showed little concern for the adverse effects on economic opportunity caused by the multiple taxation of investment income. In their minds, the poor would be provided for by the government once the rich could be made to pay their fair share. The idea that the private economy could create opportunities for the poor, if the tax system didn't price labor and capital out of the market, wasn't part of their calculus.

The 1978 Carter tax reform plan was the last hurrah of the older generation of reformers. As a loophole-closing measure that left tax rates high, it was already an outdated approach, and Congress largely rejected it. Two years earlier, Treasury Secretary William E. Simon had proposed in *Blueprints for Basic Tax Reform* a choice of two fundamental reforms. One integrated the corporate and personal income taxes, thereby eliminating the double taxation of dividend income and reducing the tax bias against saving. It broadened the tax base by closing loopholes and dropped the top rate from 70% to 38%.

The second proposal was a cash-flow tax, or a consumption-based income tax, that excluded savings from the tax base and dropped the top rate to 40%. This reform would have eliminated the bias against saving that suppresses investment and productivity in the U.S.

Simon's proposals represented a fundamental change in thinking about taxation. Concern with incentives and economic performance clearly took precedence over income redistribution indicating that opportunity was beginning to shove aside envy as the focus of politics. Had either been enacted, U.S. industry today would be more competitive in world markets.

The tax-reform proposals that came out of the Reagan Administration were a far cry from the Simon *Blueprints*. Stockman's claim in *The Atlantic* magazine that the 1981 tax cut was a "Trojan horse"—a trick to cut taxes for the rich—made the Administration uneasy about any reform that further reduced tax rates on business and "the rich." The distributional issue was resurrected, and to deal with it, the Administration's proposal shifted the tax burden from individuals to business in a way that raised

taxes on new investments and worsened the outlook for the economy.

House Democrats took their cue from the Administration and cut tax rates with one hand while raising the cost of capital with the other, which would further erode the competitiveness of U.S. industry. The Senate Finance Committee, sensitive to the trade issue, was in a quandry and floundered around until it found the courage to cut the tax rate to 27%. This was enough to compensate for the loss of investment incentives, putting tax reform back on track.

NO MORE HYPOCRISY

The Finance bill, though not as well crafted as the Simon proposals or that of Representative Jack F. Kemp (R-N.Y.) and Senator Robert W. Kasten, Jr. (R-Wis.), is a positive achievement and worthy of support. It signals that American politics is moving away from the crippling hypocrisy that has saddled capitalism with high tax rates and destructive disincentives for most of this century. During a period when the U.S. was determinedly anti-communist, our high tax rates made it clear that we didn't really believe in our own system, either. At long last we have gained the political maturity and confidence to stop feeling guilty about capitalism.

The 27% rate may yet elude us. A pitfall in the bill is an unevenness of the revenue flows that adds $22 billion the first year and loses $20 billion the second, for a negative swing of $42 billion. If Congress uses the initial revenue gain to reduce the deficit without reducing spending, it may close the gap the following year by taking back some of the rate reductions. This possibility has prompted Senator Mack Mattingly (R-Ga.) to sponsor a resolution that mandates no changes in the tax laws for five years after the bill's passage. The battle, it seems, will continue.

[From the Wall Street Journal, June 23, 1986]

THE OUTLOOK—U.S. COMPETITIVENESS AND TAX REVISION

(By Kenneth H. Bacon)

WASHINGTON.—Over the last few years Congress has searched for ways to make U.S. industry more competitive in world markets. In 1981 it accelerated business depreciation write-offs to encourage investment and modernization. Then the Democrats tried to craft an industrial policy to support growth companies while cushioning the decline of ailing industries. When that effort failed Congress began to worry about trade policy. Last month the House passed a trade bill that would attack barriers to U.S. exports and establish an "industrial competitiveness council" designed to strengthen U.S. business.

But the House and Senate tax bills turn away from the quest for new policies or incentives to help American business compete. Both measures, and particularly the Senate bill, reject the notion that the tax system should favor certain types of investment or industries. By lowering tax rates they attempt to reduce the role of taxes in business planning, leaving resource allocation more to market forces.

The bills reflect a decision "not to use the tax system as a tool of industrial policy," says John Makin of the American Enterprise Institute. "That's a major change."

Compared to the 1981 tax law, which combined rapid depreciation with the investment tax credit to encourage new investment in equipment, the current bills almost look like deindustrialization measures. Because the plans would scrap the investment tax credit, they have "negative consequences for basic industry and capital goods companies," according to an analysis by Merrill Lynch & Co., which adds that "tax law changes are likely to hasten the demise of marginal competitors in heavy industries" by raising the cost of investment in new equipment.

Even if the dollar continues to fall. U.S. manufacturers—particularly in heavy industries—face challenges from highly productive, low-wage foreign producers that the tax advantages can't cure. The capacity of American steel producers has fallen to about 105 million tons today from 140 million in the late 1970s and will continue to decline to some 60 million or 70 million tons by the late 1990s, says Robert Crandall of the Brookings Institution. Steel industry employment, which dropped to 304,900 last year from 570,500 in 1979, will likely tumble further, aggravating pain in the Rust Belt.

The best way to reduce the stress of economic restructuring and the impact of foreign competition is to maintain a growing economy at home. The House and the Senate bills assume that lower tax rates are the key to economic growth, innovation and flexibility. "Lower rates are going to free up capital and they are going to help route it to the areas where it will be more productive," contends Sen. Lloyd Bentsen, a Texas Democrat.

The top personal tax rate would fall to 27% from the current 50% under the Senate plan and to 38% under the House plan. To help compensate for the proposed repeal of the investment tax credit, the top corporate rate would fall to 33% from 46% in the Senate version and to 36% in the House. Corporations strongly support the less onerous Senate bill over the House plan. "Business would become more efficient because tax considerations would play a smaller role in decisions," the Merrill Lynch analysis explains. Both plans increase the corporate tax burden to help pay for reductions in personal taxes and trim tax deductions to help finance lower rates.

The Senate bill is so radical that "I don't think anybody knows the effect it will have on near-term economic growth prospects," says Jerry Jasinowski, chief economist at the National Association of Manufacturers. "It's a major gamble . . . a major shift toward consumption" because of the lower rates, he says. "Over the long term it's got to be somewhat harmful to our international competitiveness because of the shift to consumption, which will decrease investment and suck in imports."

But Mr. Makin at AEI sees lasting advantages from the Senate bill: It would hold down interest rates and thus help control inflation, boost economic efficiency and encourage a reduction in debt, all of which will contribute to U.S. economic strength.

Lower tax rates increase the after-tax return from saving and boost the after-tax cost of borrowing. The Senate plan, which disallows individual deductions for most nonmortgage interest costs, would also reduce personal borrowing and restrain interest rates.

"With the advantage of lower rates and lower inflation rates, investment in unproductive capital will no longer be encouraged," an AEI report says. "Under current law, it was often profitable to invest in assets which returned to the economy less in value of output than their actual cost."

For corporations, "tax reform should encourage equity financing and may help to dampen the unsustainable tendency for debt to rise relative to national income." AEI states, adding that "equity financing helps spread risks, where debt financing often multiplies risk."

But if Congress really wants to help U.S. industry meet foreign competition, Mr. Makin says, it should pass the Senate bill and then stop tinkering with the tax laws, giving corporations the first chance in years to adjust and lay long-range plans. The U.S. would benefit from studying the Japanese tax system; "its major feature is its stability," Mr. Makin says.●

□ 1100

Mr. MATTINGLY. Mr. President, at this time, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. CHAFEE). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I would like to say that I totally agree with the objectives set forth in the proposal by the Senator from Georgia. I agree wholeheartedly with all the whereas clauses. Plainly, the uncertainty about the tax laws, the constant changes that are occurring, are a great inhibition on investment. They hold back the economy. They hold down the economy. They prevent entrepreneurial and profit opportunities and they prevent businesses from developing.

Therefore, I think I probably will vote for the proposal by the Senator from Georgia. My only concern reflects the same concerns of the Senator from Texas just now expressed. Plainly, we may find it necessary to make some changes. First, because there may be some unknown bugs in this bill that develop after it becomes law or after the conference that will require some changes. Some adjustments in fairness, some adjustments to deal with unforeseen problems may prove necessary. It may also prove necessary for some reason to increase revenues or to decrease revenues before 5 years are over, and we plainly need to have the opportunity to do that if it becomes necessary.

Furthermore, we are dealing with a bill that has been virtually unamendable in the Senate due to a rather unprecedented situation. Some changes, I believe, are in order in this bill—I hope that they will occur in the conference—such as keeping the capital gains differential, such as keeping IRA's available to all people who wish them, such as a greater tax break for people in the middle-income brackets and a lesser tax break for people in the highest-income brackets. Those changes may come and, therefore, those reasons for seeking change may

not be necessary by the time the bill becomes law.

Since what the Senator has offered is obviously a sense-of-the-Senate or sense-of-the-Congress resolution, it is not binding. It, therefore, does not put us into a totally inflexible situation. I think with the general principle that there should not be fundamental and sweeping overhauls of the tax laws again for at least 5 years, but changes only made if absolutely necessary for very obvious reasons, that it is wise to try to give assurances to the investing world and to the economic world in our country and to all concerned about their taxes that we are generally expressing the view that we do not intend to make any significant changes unless we have to.

For this reason, I am very inclined to support the Senator's proposal. I do want to hear what other Senators have to say before the vote comes.

Mr. MATTINGLY. Mr. President, I wish to thank the Senator from California. I would say that the reason I asked for the yeas and nays was so the Senate can be on record. Let us not create for ourselves too big a barn door through which we can escape the real intent of the resolution for those who may want to raise taxes.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I say to my friend from California that a reading of the resolution points out that it is the sense of the Congress that provisions that are changed in this act shall remain unchanged for at least 5 years, not other parts of the Internal Revenue Code. So we are not tying our hands. And, as the Senator knows, if we get 50 votes or 51 votes, we can make changes hereafter.

This really expresses the sense of the Senate that the policy changes that are made by this bill should remain untouched for 5 years. And there is no question in my mind that this is a good amendment. My taxpayers, and I am sure yours are as well, and I know the Senator from Georgia's taxpayers, are really reeling.

I asked the Congressional Research Service to look at how many bills we have passed that have affected the Internal Revenue Code since 1976. I know that the Senator from Georgia has referred to the fact that the NFIB, (the National Federation of Independent Businesses) has said that we have impacted 2,600 sections of provisions of the Internal Revenue Code in that period of time.

Well, the Congressional Research Service points out that in 1976, there were 21 bills that affected the Internal Revenue Code; from 1977 to 1979, 34 bills were enacted affecting the Internal Revenue Code; from 1980–81, 33 bills; in 1982, 15 bills; and from 1983–84, 21 bills. So there has been constant change.

It is an effort on the part of the Senator from Georgia—and I join him in that effort, as I know other Senators do—to give taxpayers the ability to plan, give taxpayers who really are reeling from all these changes the ability to have some sense of security that the major provisions and that the major philosophical approaches of this tax bill are going to remain unchanged.

I quite understand that we might have to raise revenues. I quite understand that there may be some technical corrections that the Senator from Texas spoke about, and that they will have to be made. But it would be my hope that this amendment sets in the minds of the Members of the Senate that the major provisions, the major thrusts of this bill, this historic bill that makes taxpayers out of all Americans, will remain unchanged for a 5-year period. The taxpayers and my constituents tell me. "Change the rules, that is fine, but leave them alone for a while." Or, "Just tell us what the rules are and we will work within them but leave them alone for a while." So I am very enthusiastic in my support of the Senator from Georgia.

It even occurs that, if real major changes are attempted in the provisions of this bill in the future, I and others may decide that we will require a 60-percent vote to make those changes. Of course, that is within the rules of the Senate to make such a requirement through the idea of extended debate.

It is important that we pass a bill, that the taxpayers have a sense that we are going to continue with the philosophy of this bill for a period of years so that they can plan and that the American economy can go forward. Clearly, the American economy cannot go forward in the same forceful way as it can if it feels that is has a tax law that it can rely upon.

So I am very much in favor of the amendment of the Senator from Georgia and I thank him for bringing it to the attention of the Senate.

Mr. CRANSTON. Will the Senator yield?

Mr. BOSCHWITZ. I yield to the Senator.

Mr. CRANSTON. Mr. President, I would just like to say that I think the Senator has made a fine further statement of the reasons for not tampering with the Tax Code for some time, but plainly pointing out that we have the flexibility that we need, if it becomes mandatory to do so for technical or for other reasons. I think the summary the Senator laid out of all the changes proposed and effectuated in tax laws in recent years bolsters the case for taking this position.

I neglected to mention one more change I hope will occur in conference, among several others, and that is the fairest possible transition rules and the fairest possible situation in regard to retroactivity. I do not think we have dealt with all of that yet as well as we should, and I hope that will be accomplished in conference.

Mr. BOSCHWITZ. I thank the Senator from California.

I would say to my friend from Texas, who spoke about the necessity of making the changes now and again, that, very frankly, I believe that we make changes in tax law before we give the preceding law a chance to work or to feel its effect and that we respond too rapidly to demands of the constituency. So the idea of leaving the tax law and the vital provisions and the basic provisions of the tax law in place for a period of years is very appealing to me.

And, as the Senator from California pointed out, I did indeed point out that one of the remedies that Members of this body have is to prevent such changes from occurring without having a 60-percent vote. And some of us will feel very strongly about doing just that if basic changes are attempted in this tax bill after it is passed. I thank the Chair.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, whenever I talk to my accountant or a whole bunch of taxpayers from Montana, one of the things that comes up on tax matters is: "Is Congress going to change the rules and the law every year affecting the Tax Code?"

□ 1110

And so in answer to my accountant, and to my constituents' accountants, and to my constituents who ask this question, I am going to say that what the Senator from Georgia has offered as a sense-of-the-Congress resolution is a sense of a whole lot of taxpayers out across the country. They would like to see what they knew was in the Tax Code remain there. Having said that, I am going to vote for it because it is a sense of the Congress, a sense that it is common sense not to always be changing the rules on taxes. But I full well know that Congress will be looking at where the flaws are in the Tax Code, flaws in this particular bill, and it will probably be necessary, indeed prudent, to change some of the provisions in this bill itself.

But nevertheless, the sense of people out across the country is to keep it uniform as much as you can year after year so we know where we are and know what we should be planning on. On that basis, it is a proper amendment. It is a proper amendment in

terms of the sense-of-the-Congress resolution. I shall vote for it.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this is a very interesting sense-of-the-Senate resolution to be added to this bill on no changes. I am going to vote for it. But I want to predict without any question that the very people who will vote for it today and those who are the cosponsors of it will themselves be back here within 5 years asking for special changes in the tax laws. And as further evidence of that, I will guess that some who are cosponsors will come to the floor yet today asking for changes in this tax bill.

My own view is that the tax bill ought to be passed without any further amendments. My own view is that maybe there ought not to be any changes in 5 years, but the reality is that you will be back, others will be back, and they will say "But this is a special situation that we need to make a change." Go forward with your sense-of-the-Senate resolution, but I am certain my prediction will be a very accurate one.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that Senator LEAHY be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. In answer to the statement of my friend from Ohio, I want him to know that if I were an advocate of one of the Tax Code changes, I do not think I would vote for this resolution. I was talking about making technical changes as one thing. But if someone wants to make major policy changes, they should not support this sense-of-the-Congress resolution because they are going to be on record.

If I were a constituent and you voted in support of it, and turned around and tried to make some change in the rules of game, I would be looking at you. This would be playing football. You have four downs. You are out on the field. All of a sudden they change the rules in the middle of the game, and are only going to give you three downs. So the spectators might look down onto the field and want to know what is going on.

With that, I say the sense of the Congress does something. It puts this Congress on record. If there are any technical changes in the bill, which I am certain there will be, that is one thing. If there are major policy changes in this bill, then the Congress is going to have to answer to the private sector—the sector that makes America grow.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. MATTINGLY. I yield to the Senator from Alaska.

Mr. STEVENS. I congratulate the Senator from Georgia for his initiative. But would he not agree if there are 60 votes now on this resolution that it is a tremendous symbol insofar as the enforcement of the sense of the Senate in this amendment?

Mr. MATTINGLY. Yes; I do. I know my distinguished colleague from Alaska has been an advocate, as have I, of a statute change requiring a supermajority of 60 votes to change the Tax Code. I think this is the direction we need to be headed in this Congress, so that it would take a major move by Congress to really alter anything in this Tax Code.

I hope that we can join together in passing it some time in the future.

Mr. STEVENS. I thank the Senator.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Could I ask my good friend from Georgia this question: Can I expect—I realize it is a sense of the Congress, it is not a law—that those who vote for this over the next 5 years will not be coming to the Ways and Means or Finance Committee asking for transition rules or changes in the law or things that might have some effect in their State if they vote for this resolution?

Mr. MATTINGLY. I guess you would have to get each one of them, line them up in the well, and get a pledge from each of them. I cannot speak for the others. But I know that the private sector, whether you are talking about agriculture, industry, small business, or whatever, is fed up with the changes that Congress makes in the Tax Code. I think they want some stability.

Mr. PACKWOOD. I am absolutely delighted. I will vote for this. I am delighted. But I have way down deep in my sense a feeling when we get to reconciliation this year many of the Members who vote for this resolution are going to be coming to us asking for changes that affect their State, whether it be cooperatives, or whether it be a private venture. They may say, gentlemen, I thought you wanted this sense-of-the-Congress resolution.

Mr. MATTINGLY. I say to my colleague, there may be a real flaw in this bill, for there is no bill that passes through this Chamber that does not have a flaw in it. That is the reason we have committees, the reason why Members come to them and say that this was not exactly right, and we think we would like to have a correction. I think the chairman of the Finance Committee, and Senator BENTSEN, need to do everything they can to make sure that the private sector in this country works and works efficiently.

Mr. BENTSEN. Mr. President, may I respond to that?

Mr. MATTINGLY. Yes.

Mr. BENTSEN. I well understand. I understand how tired people and businesses are of changes in the tax law, and of not being able to plan and make the kind of capital investment they have to. I think this is a fine objective that the Senator from Georgia is talking about. But I also understand the realities of the situation. When you have hundreds and hundreds of pages in a new tax bill, and then we have to go to the conference and try to resolve differences with the House, then come back and vote on it, there are going to be many things that happen in this tax bill that will have unanticipated consequences.

The other problem that we could well run into is a situation where we have a recession in the country. We could well be in the situation where we are not able to turn around what is happening. We may want to avoid the tax laws for good and legitimate reasons. And the realities are that we will.

I am going to vote for your legislation, but only because I think it is an overall objective that we want to work toward.

Mr. MATTINGLY. First, let me say, this is not a sense of the Senate. This is a sense of the Congress. I am not talking about changes you take to the House-Senate conference. We all know there are going to be changes there. But this amendment works because, if there were no resolutions on the sense of the Congress, there would probably not be any conscience, either. It is the conscience of the Congress to say that we have a resolution stating that we do not want any major policy changes in the Tax Code. We want to make certain that the free enterprise system is able to work, and individuals will have some stability in their lives. I think this would be a welcome change. Therefore, when the Congress comes to look at changes, it will remember that it passed a resolution which was a sense of the Congress that said think about it before we take any precipitous action.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I say to the distinguished Senator from Georgia that he has been persistent in his pursuit of this amendment. I respect that. I respect what he is attempting to do. I think the people want stability out there. I think if we pass this bill this year there could be some changes next year. He has said his amendment would not prevent it from making those changes.

Frankly, I will probably have to be one of the few in the Chamber to vote against the amendment because I would like to preserve the opportunity in the next 5 years to give additional tax cuts to the American people. I

view this amendment as being the amendment to argue not to change the law.

Mr. MATTINGLY. I say to my colleague from New Jersey, if he wants to cut tax rates, I will be standing right beside him.

Finally, we have gotten the attention of Congress; that the lower the rates, the less exemptions that are needed. And we should keep moving in that direction.

□ 1120

I would be happy to abrogate this sense-of-the-Congress resolution for that. I am certain the private sector would join us.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, before we have a vote on this sense-of-the-Congress amendment, I want to review a couple of points that we have to measure every amendment against.

This amendment will not cost any money. But every amendment that is proposed here that will touch the substance of the bill and change it has to become revenue neutral. That is, if we are going to have an amendment that changes some feature of the bill and there is not the same amount of revenue, then somewhere else in the bill we have to pick up that revenue.

Before this becomes ancient history, I want to describe exactly what occurred on the last amendment so that everybody can understand it.

The amendment was offered on the basis that it was revenue neutral. That is, we were going to reduce the tax revenue that would have been otherwise collected from people in agriculture, pertaining to the capital gains, and that was offset by revenue of a different nature, under the carryback procedures, where the corporations that have a loss can go back 3 years and pick up a check from Uncle Sam, from the Treasury, to reimburse them.

Who said it was revenue neutral?

The Joint Tax Committee said it was revenue neutral. They said what it would cost. It was agreed upon that it would be a wash.

The point of order that was raised by the chairman of the Finance Committee was a point of order that was not going to be raised, has not been raised during the consideration of this bill, and was not going to be raised, because the Joint Tax Committee, to be honest about it, said "If you are going to hold us to the absolute dollar of 1987 in revenue loss or revenue gain, we do not know whether we can do that in less than 60 days on every amendment that might be proposed."

Who disagreed? On what basis did the chairman of the Senate Finance Committee make the motion there was $10 million difference from what the Joint Tax Committee said it would be?

It was on the basis of the Budget Committee. They have estimators, too.

All during the consideration of this bill, as late as last Friday, he stated that he would not raise a point of order on differing figures that the Budget Committee found for 1987 as compared to the Joint Committee on Taxation, what they found for 1987 and for the life of the bill.

On that technicality the point of order was made. It was not improper, but what it means is if we would consistently follow that, every amendment would have to be cleared by the Budget Committee and by the Joint Tax Committee, to see that they were in agreement.

It is very confusing, I suppose, to the people of this country, our constituents, but, nevertheless, that is the situation.

I regret that it was raised on my amendment. I regret that it was raised only on my amendment. I do not think it should have been raised on any amendment because, after all, we are here trying to operate in the public interest, and whether something over 5 years in $10 million one way or the other, whose computer is accurate? I do not know. But I dare say that if you ask time after time the Joint Tax Committee and the Budget Committee to come up with figures, unless they doublecheck with each other, they are going to get different figures.

On the basis, the point of order prevailed. I wish we had voted on the merit of the amendment. The amendment certainly has merit. I just regret that we lost on the point of order. I would have liked to have won on the point of order. I would have liked to have voted on the merit; I would have liked to have won on that.

Mr. President, I yield the floor.

● Mr. LEVIN. Mr. President, I can understand the need for stability in the Tax Code. That is one reason why I am deeply concerned by the many retroactive features in the tax bill which is before us now. We should avoid changing the rules in the middle of the game.

But this amendment goes beyond that. By expressing the sense of the Congress that the parts of the Tax Code which are changed in this bill should not be changed for the next 5 years, this resolution would prohibit even totally prospective changes in the Tax Code. Therefore, changes which would apply to activities not yet even undertaken would be prohibited.

This amendment is troubling for two other reasons. First, it is misleading the very people we are striving to assist. There will be changes in the Tax Code over the next 5 years. The debate on this bill and on this amendment makes that clear. We should not pretend otherwise or ask people to put trust in our pretense.

Second, if we rule the income Tax Code off limits as a way to raise revenues, then we will only be left with excise taxes as a means to help achieve our deficit reduction goals. This would make a shift in the tax burden from income taxes to regressive excise taxes inevitable. The working poor, one of the groups which the authors of this tax reform bill most seek to assist, will bear the heaviest burden.●

THE PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Connecticut [Mr. WEICKER] is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Florida [Mr. CHILES] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—50

Andrews	Gorton	Nickles
Bentsen	Gramm	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Pressler
Chafee	Heinz	Quayle
Cochran	Helms	Rudman
Cranston	Humphrey	Sasser
DeConcini	Kasten	Simpson
Denton	Laxalt	Stafford
Dole	Leahy	Stevens
Domenici	Mathias	Symms
East	Mattingly	Thurmond
Evans	McClure	Trible
Exon	McConnell	Wallop
Ford	Melcher	Wilson
Garn	Metzenbaum	Zorinsky
Goldwater	Murkowski	

NAYS—47

Abdnor	Glenn	Long
Armstrong	Gore	Lugar
Baucus	Grassley	Matsunaga
Biden	Harkin	Mitchell
Bingaman	Hart	Moynihan
Bradley	Hawkins	Proxmire
Bumpers	Hecht	Pryor
Burdick	Heflin	Riegle
Byrd	Hollings	Rockefeller
Cohen	Inouye	Roth
D'Amato	Johnston	Sarbanes
Danforth	Kassebaum	Simon
Dixon	Kennedy	Specter
Dodd	Kerry	Stennis
Durenberger	Lautenberg	Warner
Eagleton	Levin	

NOT VOTING—3

Chiles	Nunn	Weicker

So the amendment (No. 2133) was agreed to.

□ 1150

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PACKWOOD. Mr. President, I have been asked about further votes, at least for the next hour or so.

Senator DURENBERGER has an amendment which has been cleared on both sides, and we are prepared to accept it.

Senator CHILES has a sense-of-the-Senate resolution which I think he will offer but not ask for a vote on it. I do not know whether he will pursue it.

Those are two amendments we can get out of the way. Two more amendments have been withdrawn. So I think we have a good chance of finishing the amendments, with luck, perhaps by 3 o'clock, with no more than three or four votes.

Mr. DOLE. Mr. President, we have a matter we need to pass very quickly to get to the House. It will take about 1 minute. I ask unanimous consent that we may proceed out of order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AUTHORIZING CHANGES IN ENROLLMENT OF S. 2414

Mr. DOLE. Mr. President, I send to the desk a concurrent resolution on behalf of the distinguished Senator from South Carolina [Mr. THURMOND], and I ask for its consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 152) authorizing changes in the enrollment of S. 2414.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

Mr. BYRD. Mr. President, there is no objection to the immediate consideration of the resolution on this side.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. THURMOND. Mr. President, this is a concurrent resolution to authorize a change in the enrollment of S. 2414, amendments to S. 49, the Firearms Owners' Protection Act. As Senators will recall, both S. 49 and S. 2414 passed the Senate by unanimous voice vote on May 6, 1986.

This resolution will do nothing more than add language to S. 2414 that signifies the clear understanding reached by all relevant parties prior to its passage. I offer this concurrent resolution to express our agreement that the provisions of S. 2414 were offered to amend three sections of S. 49, the Firearm Owners' Protection Act.

By offering this concurrent resolution, any perceived confusion as to the effect of S. 2414 should be resolved.

Mr. McCLURE. Mr. President, I have a concern regarding the use of the word "carry" in the amendments to section 926A in S. 2414. The phrase reads "any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm." As the sponsor of S. 2414, what is the intent of the Senator from South Carolina in using the word "carry" in the provision?

Mr. THURMOND. I say to the Senator that I am pleased to clarify the proper interpretation of the word "carry." The first part of the provision, "any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose" means that only persons able to lawfully possess firearms under Federal law can rely upon the safe harbor provisions in 926A to transport firearms in interstate commerce for lawful purposes. The phrase that follows, "possess and carry," also requires that persons must be allowed to transport such firearms under relevant State law. It is clear that the term "carry" in this instance is intended to mean the ability to put the firearm in a vehicle and transport it to the place of destination.

The use of the word "carry" is not intended to mean and does not mean that a State license to carry a concealed weapon is a predicate to valid use of the safe harbor provision in section 926A. Of course, wherever a permit to carry a concealed firearm is a prerequisite of State or local law, to legal transportation of an unloaded, inaccessible firearm, the safe harbor provisions does not modify such laws. However, once again, the use of the term "carry" in my bill does not in any way incorporate such a prerequisite into section 926A. I hope this addresses the concern of the Senator.

Mr. McCLURE. I thank the Senator. His intent and interpretation are consistent with my understanding that the word "carry," as it is used, means "transport."

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 152) was agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 2414), to amend title 18 of the United States Code, shall make the following chance:

At the end of the bill add the following:

This Act and the amendments made by this Act, intended to amend the Firearms Owners' Protection Act, shall become effective on the date on which the section they are intended to amend in such Firearms Owners' Protection Act becomes effective and shall apply to the amendments to title 18, United States Code, made by such Act.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. I thank my colleagues.

This has been referred to as a sort of "son-of-a-gun" amendment. That explains it for many people who have an interest in it. That is how it came out of the committee.

TAX REFORM ACT OF 1986

The Senate continued with the consideration of H.R. 3838.

AMENDMENT NO. 2162

(Purpose: To treat certain entities as trusts for tax purposes)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follow:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 2162.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle P, of title XVI, insert the following new section:

SEC. . TREATMENT OF CERTAIN ENTITIES AS TRUSTS FOR TAX PURPOSES.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1954, if the entity described in subsection (b) makes an election under subsection (c), such entity shall be treated as a trust to which subpart E of part 1 of subchapter J of chapter 1 of such Code applies.

(b) ENTITY.—An entity is described in this subsection if—

(1) such entity was created in 1906 as a common law trust and is governed by the trust laws of the State of Minnesota.

(2) such entity receives royalties from iron ore leases, and

(3) income interests in such entity are publicly traded on a national stock exchange.

(c) ELECTION.—

(1) IN GENERAL.—An election under this subsection to have the provisions of this section apply—

(A) shall be made by the board of trustees of the entity, and

(B) shall not be valid unless accompanied by an agreement described in paragraph (2).

(2) AGREEMENT.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not—

(A) sell any trust property,

(B) purchase any additional trust properties, or

(C) receive any income other than—

(i) income from long-term mineral leases, or

(ii) interest or other income attributable to ordinary and necessary reserves of the entity.

(3) PERIOD FOR WHICH ELECTION IS IN EFFECT.—An election under this subsection shall be in effect during the period—

(A) beginning on the first day of the first taxable year following the taxable year in which the election is made, and

(B) ending as of the close of the taxable year preceding the taxable year in which the entity ceases to be described in subsection (b) or violates any term of the agreement under paragraph (2).

(4) MANNER OF ELECTION.—Any election under this subsection shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe.

(d) SPECIAL RULES FOR TAXATION OF TRUST.—

(1) ELECTION TREATED AS A LIQUIDATION.—If an election is made under subsection (c) with respect to any entity—

(A) such entity shall be treated as having been liquidated into a trust immediately before the period described in subsection (c)(3) in a liquidation to which section 333 of the Internal Revenue Code of 1954 applies, and

(B) any person holding an interest in the property held by such entity as of such time shall be treated as a qualified electing shareholder for purposes of section 333 of such Code.

(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), then the tax imposed on such entity for the taxable year in which such cessation or violation occurs shall be increased by the sum of—

(A) the amount of taxes which would have been imposed on such entity during any taxable year with respect to which an election under subsection (c) was in effect if such election had not been in effect, plus

(B) interest determined for the period—

(i) beginning on the due date for any such taxable year, and

(ii) ending on the due date for the taxable year in which such cessation or violation occurs, by using the rates and method applicable under section 6621 for underpayments of tax for such period.

(3) TRUST CEASING TO EXIST.—Paragraph (2) shall not apply if the trust ceases to be described in subsection (b) or violates the agreement in subsection (c)(2) because the trust ceases to exist.

(e) The election described in Subsection (c) shall be effective for taxable years beginning after the date of enactment of this legislation. The election shall terminate five years from the date of enactment of this legislation unless the Trust petitions a court of competent jurisdiction and the court acts to remove from the trust instrument any powers deemed by the court to be inconsistent with the operation of the entity as a trust for tax purposes as described in the Internal Revenue Ruling dated November 1, 1983.

At the end of title VI, insert:

SEC. 637. MODIFICATION OF DEFINITION OF RELATED PARTY.

(a) PARTNERSHIPS.— Paragraph (2) of section 707(b) (relating to gains treated as ordinary income) is amended by striking out "80 percent" each place it appears and inserting in lieu thereof "50 percent".

(b) SALE OF DEPRECIATED PROPERTY BETWEEN CERTAIN RELATED TAXPAYERS.—

(1) IN GENERAL.—Paragraph (1) of section 1239(b) (defining related persons) is amended by striking out "80-percent owned entities" and inserting in lieu thereof "controlled entities".

(2) CONTROLLED ENTITY DEFINED.—

(A) IN GENERAL.—Section 1239(c)(1) (defining 80-percent owned entity) is amended—

(i) by striking out "80 percent or more in value" in subparagraph (A) and inserting in lieu thereof "more than 50 percent of the value",

(ii) by striking out "80 percent or more" in subparagraph (B) and inserting in lieu thereof "more than 50 percent", and

(iii) by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subsection:

"(C) any entity which is a related person to such person under paragraph (3), (10), (11), or (12) of section 267(b)."

(B) CONFORMING AMENDMENT.—Section 1239(c)(1) is amended by striking out "88-percent owned entity" in the heading thereof and in paragraph (1) and inserting in lieu thereof "controlled entity",

(3) CONSTRUCTIVE OWNERSHIP.—Section 1239(c) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) CONSTRUCTIVE OWNERSHIP.—For purposes of this section, ownership shall be determined in accordance with rules similar to the rules under section 267(c) (other than paragraph (3) thereof)."

(4) CONFORMING AMENDMENT.—Section 453(g) is amended by striking out "80-percent Owned" in the heading thereof and inserting in lieu thereof "Controlled".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to sales after June 28, 1986, in taxable years ending after such date.

(2) TRANSITION RULE FOR BINDING CONTRACTS.—The amendments made by this section shall not apply to sales after June 20, 1986, which are made pursuant to a binding contract in effect on June 20, 1986, and all times thereafter.

Mr. DURENBERGER. Mr. President, the amendment before the Senate is a very narrowly drafted amendment which would rectify the unjust tax treatment of an iron ore trust in the State of Minnesota.

I intended to offer this amendment last evening, but concern was expressed that the amendment as drafted would have penalized the trust because of inadvertent actions in the future by the trustees of the trust. I believe we have addressed this problem by requiring the trust to go into court and seek the removal of any of its business power.

I thank in particular the Senator from Ohio for suggesting that change to us. As I understand it, the change would require the trustees to petition a court in the next 5 years to have the business powers contained in the trust instrument removed. According to the terms of the amendment, the trustees are not to exercise the business powers. If they do, they lose the tax status that is proffered them in this amendment.

So I appreciate the addition to this amendment by the Senator from Ohio. It helps us to accomplish the ends which we sought to accomplish by the amendment as originally drafted.

I have discussed this with the chairman of the committee and with the ranking minority member of the committee, and I believe there is no objection.

THE GREAT NORTHERN IRON ORE TRUST

Mr. President, the amendment I have offered today would rectify the unjust tax treatment of an iron ore trust that operates on the Mesabi Range in my State.

The Great Northern Iron Ore Trust was created in 1906, several years before the U.S. Constitution was amended to provide for an income tax. Great Northern's sole activity is receiving royalties from the long-term leasing of Minnesota Mesabi Range taconite lands and distributing the royalties to trust beneficiaries.

Although Great Northern is a trust created under Minnesota trust law and is subject to control and supervision by Minnesota courts in the same manner as other trusts, Great Northern has been ruled an "Association" taxable as a corporation by the IRS and in two Federal court decisions.

Because Great Northern was created before the Federal income tax was even in existence, it was created as an irrevocable trust with a separately owned reversionary interest. It therefore does not have the opportunity to model its trust agreement to fit the requirements of Treasury regulations.

Let me give you some of the history of Great Northern. Following passage of the first Tax Act, the IRS ruled that Great Northern was not an "Association" and should be taxed as a trust. However, in 1942, IRS revoked its prior ruling and ruled GNI taxable as an association. A court of appeals upheld the IRS ruling, finding that the trust instrument gives the trustees business powers and also because the trustees managed and directed the controlled corporations whose stock the trust owned.

In the 1950's and 1960's, many mineral corporations were liquidated, including the controlled corporations owned by the Great Northern trustees. For most corporate stockholders, this meant that there would no longer be corporate tax on the royalty income. However, since GNI was itself an "Association," it was unable to remove double taxation through liquidation of the controlled corporations.

In 1978, the Minnesota Supreme Court held that the Great Northern trustees are subject to the normal common law trust rules in regard to their management of the trust assets. The court ruled that the trustees do not actively conduct a mining operation but, "similar to any family trust, simply holds lands which they let under long-term royalty leases and col-

lect the income for distribution to the certificate holders."

Because Great Northern is a common law trust created under a 1906 irrevocable trust instrument, it does not have the flexibility enjoyed by business corporations of reorganizing to fit either the requirements for fixed investment trusts, Treasury Regulation 301.7701-4(c) or the limited partnerships, Treasury Regulation 301.7701-3.

Great Northern has requested an advance ruling from the IRS that if the trust instrument were amended by order of a local court to remove its business powers, Great Northern would no longer be taxable as an association. The IRS turned down Great Northern's request because the Service found the trust instrument still appears to grant it business powers that would classify it as an association. This, despite the fact that the trust does not utilize these powers and has been classified under State law as a trust. Therefore, the trustees decided that it would be futile to ask a court to remove its business powers since the IRS, for reasons that appear completely arbitrary, refuses to reclassify Great Northern as a trust.

As a result, Great Northern appears to be the only mineral trust operating in America that is subject to double taxation. Because it is a flow through trust, double taxation occurs when the income is taxed at the trust level, and again when the income is distributed to income beneficiaries. Other mineral trusts, including Mesabi Trust, Apache Petroleum, Houston Oil Royalty Trust, Mesa Royalty Trust, all are taxed as trusts and, thus, not subject to double taxation.

Mr. President, the arbitary and unfair treatment of Great Northern is exacerbated by the fact that the Mesabi Trust, whose sole activity like Great Northern is to collect royalties from the long-term leasing of Minnesota taconite lands, was granted an IRS ruling that it is not an association. Mesabi operates in a fashion identical to Great Northern. But by a quirk of an IRS bureaucrat's decision, Mesabi is taxed at much lower rates than Great Northern.

As a result of arbitrary IRS decisionmaking, some Great Northern Trust beneficiaries receive only 30 cents of every dollar of trust income. That's because the income is taxed to the trust at a combined Federal and Minnesota corporate rate of 40 percent. Second, the after-tax balance available for distribution to the trust beneficiaries is taxed to them as dividend income at rates up to 50 percent. Thus, the total tax burden to Great Northern beneficiaries can be as high as 70 percent.

The amendment I am offering would remedy this unfair situation by allowing Great Northern to file an election with the IRS to be taken out of "Association" status and be taxed as a trust. By making the election, the trustees would surrender the right to exercise any business powers included in the trust instrument. And to ensure that Great Northern never exercises these business powers, Great Northern would agree that, if it violates the conditions of the election, it would be subject to an assessment for all back taxes at corporate rates, plus interest.

Under the election, Great Northern could not sell any trust property, purchase any additional trust properties, or receive any income other than income from long-term mineral leases, or interest or other income attributable to ordinary and necessary reserves of the trust.

Mr. President, this amendment will serve to promote fairness and tax equity for the beneficiaries of the Great Northern Trust. It would be wrong to further prolong the confiscatory tax burden that this one single trust must endure. It has shown a total and complete willingness to give up any conceivable residue of business powers that would classify it as an association. It doesn't use those powers, has not used those powers and does not intend to use those powers in the future. Arbitrary IRS decisionmaking should not stand in the way of promoting equity and fairness.

To offset the $8 million revenue cost associated with this amendment, the definition of "related party" for purposes of the installment sale rules would be modified to include a person and all entities more than 50 percent owned, directly or indirectly, with respect to that person. Related persons would also include entities more than 50 percent owned, directly or indirectly, by the same person. Under current rules, a related person includes a person and all entities that are 80 percent owned, directly or indirectly, with respect to that person.

As a result, installment sale treatment would not be available for transactions between related parties unless it is established to the satisfaction of the Internal Revenue Service that tax avoidance was not a principal purpose of the sale.

The PRESIDING OFFICER. Is there further debate?

Mr. LONG. Mr. President, I have looked at the amendment. I am not certain of any objection on this side of the aisle, and I urge that the amendment be agreed to.

Mr. METZENBAUM. Mr. President, the Senator from Minnesota states the matter right on target. There were some concerns we had that the trust would be able to go back and forth and take advantage of the tax laws. The amendment has been changed in such a way to keep that from happening or making that possible.

The Senator from Minnesota has been very cooperative. I think the amendment is very fair in the manner in which it is presently drafted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2162) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mrs. KASSEBAUM assumed the chair.)

Mr. PACKWOOD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1210

Mr. CHILES. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Madam President, last year Congress approved the Gramm/Rudman/Hollings deficit reduction law. It says—year-by-year—through 1991, we will reduce the deficit by specified amounts until we eliminate the deficit altogether.

The tax bill is called revenue neutral. The tax burden is rearranged, but the net effect is to neither add to or subtract from the deficit. And over the long-range path of the tax bill, that's just about the way it works.

The Finance Committee did its job very well. They did their work on income distribution and tax equity. The bottom line over 5 years is revenue neutrality. But when it comes to the job the Budget Committee has to do, the Finance Committee overlooked the fact that we have a deficit to fight on an annual basis.

In 1986 and in 1987, the tax bill actually produces an increase in revenues of nearly $31 billion. While it is true the tax bill gives a revenue windfall in 1986 and 1987, the picture for 1988 and 1989 changes drastically. In those 2 years, we actually lose a total of at least $42 billion.

If we use the tax windfall this year and next year, and rely on it for deficit reduction, it would give us what amounts to deficit reduction written in disappearing ink. And it will disappear in 1988 and 1989. We would have to wake up in 1988 and 1989 to what we gave away in 1986 and 1987.

The point I want to make is this. Let us not trick ourselves into thinking we can put deficit-reduction and tax reform together in a way where one drains the other dry. It cannot be done.

How can we avoid the problem? Actually, there are two ways, and we have to make sure we do both.

First, implement the fairshare, deficit-reduction revenues in the budget resolution. They are crucial to winning the fight against the deficit.

The second step which is also critical is to even out the fluctuations in the tax bill, so that we will not have windfalls 1 year, and dry wells the next.

The resolution that Senator DOMENICI and I are introducing today calls on the conferees to reduce the year-to-year revenue fluctuations that now exist in the tax reform bill.

The good work of the Finance Committee can be made even better if the revenue fluctuations are reduced. We would be able to proceed with the task of deficit reduction—free of the false windfall in 1987 and facing less of a challenge in 1988.

Let us be clear about what this resolution says. It calls on the conferees to achieve actual revenue smoothing by altering some of the provisions of the Finance Committee's bill.

We must focus on the actual cashflows to and from the Treasury. It is the actual revenue path that influences credit demands, interest rates and the economy.

The Domenici-Gramm scorekeeping amendment does not eliminate the need for the conferees to reduce the actual revenue fluctuations.

But their scorekeeping amendment and this one are complementary. We are saying that the fluctuations should be reduced. The Domenici-Gramm amendment tells us how to score the fluctuations that remain.

There is ample leeway to achieve a more stable revenue path. The Joint Committee on Taxation has provided us with estimates of the revenue smoothing that could be achieved by altering some of the effective dates and phasing in certain tax provisions. In addition, there are significant differences in the House and Senate base-broadening provisions—over $25 billion worth over 5 years—that provide plenty of room to iron out these large revenue swings.

We continue to believe that we can have both tax reform and deficit reduction. But having both will be far easier if our revenue path is more stable. I urge my colleagues to join in support of this resolution.

I ask unanimous consent to place in the RECORD estimates of some of the major options for reducing the revenue fluctuations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVENUE SMOOTHING OPTIONS

	1987	1988	1989	1990	1991
Accounting provisions (100 percent recovery in 1988)	−3.6	+6.0	+4.0	−3.0	−3.0
Timing Shifts (1987 to 1988):					
Tax rule changes	−1.4	+1.4			
Tax deferral for trusts	−1.1	+1.1			
Payment of income tax on estates and trusts	−0.4	+0.1	+0.3		
Change effective date of individual rate reduction to Jan. 1987	−13.5	−11.0			
Phase-in individual rate reduction (30, 30, 27, 27, 27)	+10	+18	+8	0	0
Change effective date of corporate tax rate reduction to Jan. 1987 and phase-in rate reduction	−3.7	+2.7	+9.0	+3.7	0
House base broadeners not in Senate plan	+3.5	+4.5	+5.6	+6.3	+6.5
Straightline 30 percent individual rate for third bracket	+.5	+.5	+.5	+.5	+.5
Straightline 32 percent rate in third bracket	+1	+2	+2	+2	+2
Raise individual rate 1 percent	+3	+6	+6	+6	+6

AMENDMENT NO. 2163

(Purpose: To express the sense of the Senate that the year-to-year revenue fluctuations produced by the Committee on Finance amendment to H.R. 3838 should be reduced in conference)

Mr. CHILES. Madam President, at this time I send to the desk my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr CHILES], proposes an amendment numbered 2163.

Mr. CHILES. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . SENSE OF THE SENATE ON REVENUE FLUCTUATIONS.

(a) FINDINGS.—The Senate finds that—

(1) the Committee on Finance amendment to H.R. 3838 (an Act to reform the internal revenue laws of the United States) produces revenues that—

(A) exceed current-law revenues (the Congressional Budget Office (CBO) revenue baseline) by—

(i) $7,000,000,000, in fiscal year 1986,

(ii) $23,000,000,000, in fiscal year 1987, and

(iii) $11,000,000, in fiscal year 1991, and

(B) fall below current-law revenues by—

(i) $21,000,000,000 in fiscal year 1988,

(ii) $21,000,000,000 in fiscal year 1989, and

(iii) $400,000,000 in fiscal year 1990;

(2) the Committee amendment satisfies revenue neutrality over a six-year period, but the revenue shortfalls in fiscal years 1988 and 1989 will make the attainment of the Gramm-Rudman deficit goals more difficult;

(3) numerous options for restraining yearly revenue fluctuations without affecting the fundamental fabric of the Committee amendment are available to the committee of conference on H.R. 3838, in the form of altering effective dates, phasing-in certain provisions, and resolving the major differences in the provisions for broadening the tax base contained in H.R. 3838 and the Committee Amendment;

(4) in some instances, leveling the revenue fluctuations could result in a further reduction in tax burdens on individuals and corporations in 1987; and

(5) altering the provisions of the Committee amendment to achieve a more stable revenue outlook would eliminate the need to resort to artificial accounting conventions, such as the use of a trust fund that would deviate from the actual cash flows to and from the Treasury.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the committee of conference on H.R. 3838 should report Federal tax reform legislation that produces a revenue path with minimal revenue fluctuations.

Mr. CHILES. I pretty well discussed what I think the amendment does. I hope it will be acceptable.

Mr. LONG. Madam President, I have no objection.

Mr. PACKWOOD. We have no objection on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 2163) was agreed to.

Mr. CHILES. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

□ 1220

Mr. DIXON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINAL PASSAGE OF H.R. 3838, THE TAX REFORM BILL

Mr. DIXON. Madam President, the upcoming vote on final passage represents a real landmark for the Senate. The Senate does not get very many opportunities to make real history—the vote we will cast on H.R. 3838, however, is truly historic.

The Senate bill is a fundamental overhaul and reform of the Internal Revenue Code. It meets the fundamental objectives of tax reform. It is simple, and it is fair. It ensures that wealthy taxpayers and profitable corporations will not be able to avoid paying taxes. It ensures that investments will be made for economic reasons, rather than tax reasons. It ensures that those making the same income are paying roughly the same tax, instead of the wildly varying levels that are possible today.

The Senate bill is not perfect, though. There are real problems. The bill does not adequately handle the

issue of deductibility of State sales taxes. Ending the deductibility of individual retirement accounts for many taxpayers is also, in my view, a real mistake. Further, the bill does not provide as much tax relief for middle-income taxpayers as the House bill does. In fact, under the Senate bill, a significant number of middle-income taxpayers could end up paying higher taxes.

I have spoken on many of these subjects earlier in this debate, so I will not take the time of my colleagues to reiterate my concerns now. I continue to believe these issues must be addressed before we send any final legislation to the President for his signature.

There will therefore be a very heavy burden on the upcoming House-Senate conference on the tax bill, Mr. President. I believe we should have resolved many of these issues on the Senate floor, rather than passing resolutions urging the conferees to do so. Because of the Senate's failure to do so, the conference will be the body that determines whether the tax reform effort will produce final legislation that lives up to its early promise.

I am voting for final passage today because I support tax reform, because this bill has considerable merit, and because there is still an opportunity to address the serious issues that were not handled here on the Senate floor. I am confident that the conference committee can resolve the remaining issues in a way that will put to rest the lingering doubts that I and many others have about this bill. I look forward to seeing and voting for the improved conference bill.

I yield back my time, Madam President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Madam President, the Senate has come to the end of a historic debate on a truly extraordinary tax reform bill. We have had so-called "Tax Reform Acts" before—1969, 1976, 1981, and—just 2 years ago—the Tax Reform Act of 1984.

As the amendment that was on the floor a few minutes ago by the Senator from Georgia indicated, maybe this place is getting tired of tax reform.

But I believe this bill is unlike any of its predecessors. It marks a fundamental shift in the philosophy of the Government of the United States and the role it plays in directing the resources and priorities of the Nation's and, inevitably, the world's economy.

Historians will judge this legislation a revolutionary step in the evolutionary process of reshaping how the Government taxes the earnings of its citizens.

The first phase of the tax reform process has focused almost exclusively on the question of what is the maximum percentage of income the Federal Government can demand from its citizens. The rate of income taxation has been the central question ever since the 1960's, when the top rate was reduced from 91 percent to 70 percent. It was in the 1960's when we used inflation and indexed income increases to drive the growth in Federal tax revenues.

But the tax reform rate revolution really got underway in 1978 when our late distinguished colleague in the House, Bill Stieger, of Wisconsin, fought almost singlehandedly to cut the captial gains rate to 28 percent.

It was since 1978 when the majority of the people, Madam President, in this body came to this Senate: BILL BRADLEY, who is also referred to as one of the fathers of this particular philosophy of tax rate; DICK GEPHARDT in the House; the occupant of the chair [Mrs. KASSEBAUM], myself, and others, having arrived here since 1978, and the Bill Steiger rate reduction tax reform.

The Economic Recovery Tax Act (ERTA) initiated by President Reagan in 1981 brought all income tax rates down not just capital gains. By enacting ERTA, we can all claim credit for reducing the top tax rate from 70 percent to 50 percent.

But, more importantly, we ended the tax policy that began in the 1960's of automatically increasing tax revenue to the Federal Government by increasing inflation.

ERTA reduced all individual rates by 25 percent over 3 years and ended the insidious "bracket creep" which forced every taxpayer in the country to pay higher taxes simply because of inflation.

Madam President, today we are at the end of the beginning of the second phase of the income tax resolution. In the span of a mere 5 years, we will have brought the top tax rate down from 70 to 27 percent. But this phase of the tax revolution is different because this bill recognizes that low rates can only be achieved with a broad base of income subject to tax. And the ultimate broad-based tax is a fair tax because it ensures that all Americans, except the poorest members of our society, pay some portion of their earnings in taxes.

The base broadening achieved in this bill, however, does not go far enough. There remain many "off limits" parts of the tax base that this bill does not address. This bill still favors certain types of consumption over others. It does nothing to address tax subsidies provided for health and welfare expenditures which benefit only certain groups of citizens.

I am certain that we will again seek to broaden the tax base and ultimately bring rates down even further, making the income tax system fairer and more equitable for all citizens.

It was for that reason that I opposed the amendment that was on this floor a short while ago. We can broaden the base further. We can reduce the rates further. This, Madam President, is but a start.

But even after we accomplish that goal, the tax revolution will not be complete until we restructure the payroll tax system which represents the most inequitable and unfair tax imposed by Federal and State Governments.

I am reminded at this time of the words of Thomas Jefferson who said that if our ideals are to survive, this society must undergo a succession of revolutions. Passage of this bill today is such a revolutionary event. However, the revolution has yet to be consummated; for, in the future, we must take a hard look at those portions of the tax base which in 1986 remain off limits.

□ 1230

This bill removes nearly 6 million of the working poor from the tax rolls—a staggering accomplishment. And that means 1 in 4 adults in America—44 million people will pay not a single dime in Federal income taxes. Although I applaud this accomplishment, I note with sadness that millions of these working poor are still required to pay more than 7 percent of their earnings in Social Security taxes.

That leaves only 33 million Americans out of 100-some million taxpayers who will find it necessary to file more than a simple one-page 1040A tax return.

Economic equity is an important element of this bill. This legislation adopts many of the concepts embodied in the Economic Equity Act which I have authored each year since 1981. Although the bill does not address all of the inequities that women still endure, it is a milestone in the annual battles we are winning in the war to eliminate legislated economic discrimination against women in America.

We broadened retirement plan coverage rules and cut in half the retirement plan vesting rules so that more younger workers and working women will have greater economic security in their retirement years. We have also preserved child care credits which are essential for today's women to remain in the job force.

All families in America will surely benefit from the higher standard de-

duction and an almost doubled personal and dependent exemption. I have assured that we maintain special tax benefits for those families who adopt special-needs children—those who grow up with certain disabilities. And this bill takes special notice of the farming families of rural America who are enduring a prolonged economic and psychological depression.

We have made several important tax changes that will help preserve the tradition of the family farm. Under this bill, financially troubled farmers will be able to renegotiate their bank loans and not pay taxes on the loan writedown. And for those troubled farmers who lost their land through foreclosure, we have extended tax-exempt bond financing so they can buy a new farm and some equipment and start their lives over again. When they turn the financial corner, they will get a break on their taxes because we have retained income averaging for farmers.

Farmers and other self-employed people will also be able to share in some of the tax-free fringe benefits that up until now have only been available to corporate employees.

For the first time, self-employed workers will be able to take a tax deduction for a portion of their health insurance costs. This is a badly needed reform that has been too long in coming.

This legislation injects a much needed element of fairness into our Tax Code. By drastically cutting rates, closing loopholes and limiting the ability to deduct paper losses, we have closed the door on the tax shelter merchants who have distorted economic decisionmaking, especially in agriculture and real estate. Small Minnesota farmers trying to eke out a living will no longer have to compete with tax shelter farmers whose only interest in farming is to generate tax losses.

This bill will make certain that hard-working Americans will no longer read stories in the press about how companies earning billions of dollars pay no taxes, and how millionaires wind up paying less in taxes then a middle-class family earning $25,000. Thanks to the alternative minimum tax provisions in this bill, every corporation and every wealthy individual will have to pay some tax.

The American tradition of charitable giving is strongly encouraged through this bill.

Although many of us would have preferred that we could continue the full nonitemizer charitable deduction, I believe this legislation will encourage even greater charitable giving by Americans because they will have more disposable income and because we have preserved full deductibility of charitable contributions for people who itemize. It is this latter group that accounts for more than 70 percent of charitable contributions. In addition, we ended a threat to hospitals, universities, and other nonprofit institutions that gifts of appreciated property would be included in the minimum tax.

In the area of fiscal federalism, we have taken some important steps forward in redefining what public policy goals we should strive to encourage through State and local government financing. Although I strongly oppose restricting the deductibility of sales taxes—the leading source of revenue to all State governments—I am encouraged that this inequity will be overturned in the conference committee.

We have made some tough public policy choices that will affect how State and local governments will deliver services to their citizens.

While a greater share of the cost of downtown redevelopment projects will be borne by private developers instead of taxpayers, cities and States will not be handcuffed in financing the rebuilding of their infrastructure that will provide lasting benefits for today's and future generations.

This legislation encourages greater reliance on public-private partnerships in delivering essential public services. In so doing, we have redefined public policy goals so that public financing will no longer be available for building more sports stadiums, trade show facilities, and parking lots.

We removed multifamily rental housing from State volume cap limits and gave such housing a shorter depreciation life than commercial real estate. And, for the first time, we will allow State and local governments to issue tax-exempt bonds for the construction of hazardous waste treatment facilities.

This bill represents a giant step in what I would call "industrial equity." For too long, the retail, high-tech, and service sector has been subsidizing tax breaks for traditional basic industries. We can no longer justify such cross-industry subsidies in an economy inevitably moving further and further toward less dependence on manufacturing. I believe that whatever future subsidies we provide our basic industries—and we must—must be financed more explicitly and more directly; therefore, more efficiently.

The current disparities between effective tax rates paid by different industries just is not fair. Is there any reason that utilities pay an effective U.S. tax rate of less than 11 percent while the pharmaceutical industry pays nearly 33 percent? The effective tax rate of the chemical industry, according to the Joint Tax Committee, is less than 4 percent. By contrast, the trucking industry pays more than a 38-percent rate. These disparities will significantly narrow as a result of this legislation.

Madam President, I represent the State of Minnesota—a State which is half basic industries and half high-tech, high-service business. It is half high tax rate and half low tax rate. Half love this revolution and half are hurt by it. The prolonged debate on the floor of the Senate these closing days has been over this conflict and over the transition into this new approach to taxation.

I do not mind saying to my colleagues that I have used my position on the Finance Committee to the advantage of the people of Minnesota, as I have done in the tax bills of 1981, 1982, and 1984. I have used my position to get special rules for my people that have saved and built hundreds and thousands of jobs in my State.

In so doing, I have helped to expand the availability of public facilities from stadiums, convention centers, and race tracks to district heating and cooling, alcohol fuel plants, and airlines. I have used these tax bills to provide low- and moderate-income housing at rates that would not otherwise have been affordable. And I am glad I did.

As with any revolutionary change, this legislation carries with it a certain degree of risk. It may serve to hasten the decline of our basic manufacturing and raw material industries. It may put additional stresses on rental housing.

The rules in this bill restricting deductions for contributions to individual retirement accounts may further discourage Americans from building up savings. And the elimination of the capital gains differential may discourage investors from taking risks in emerging sectors of the economy that would otherwise provide jobs and growth for the future.

I hope none of this happens. I hope the supply-siders are right. Only by following a compass that points somewhere can we get anywhere. This tax bill—unlike any of its predecessors—points in the direction of a new national policy on the taxation of income. It removes some incentives for debt-financed consumption. And that is an important first step toward the goal of evolving a system that taxes consumption not the savings and investment income that is vitally needed for continued economic prosperity.

Madam President, the revolutionary changes we have fashioned through this tax bill are but steps in an evolutionary process that began in 1776 and will be continuing into the 21st century. Our Tax Code reflects our changing values as a people in relation to their Government. And this legislation reflects a renewed confidence in our individual citizens, and a diminished reliance on a government and the membership of a tax-writing commit-

tee which substitutes its priorities for those of the governed.

Yet I believe the revolution that this bill represents is but a beginning, not the end, of our search to make the tax laws fairer and more equitable. For, as I mentioned earlier, this legislation addresses only a small part of the problems that we as a society must soon come to grips with.

The central question that will dominate the remainder of this century is inextricably tied to taxation: "What do we want from Government and how much are we willing to pay for it, and from what form of tax?" Despite the promises of economic growth by supply-side economists, this legislation does not really address that question. Until we do, our economy will continue to teeter on the edge of uncertainty.

□ 1240

We are kidding ourselves if we do not recognize the economic and social disaster we are courting with huge and hemorrhaging deficits. We will have to reexamine our tax laws, along with our spending priorities, and decide how much debt we are willing to pile on our children and grandchildren.

This bill does make the tax laws fairer for today's taxpayers. But how can we call a tax system "fair" which ensures that tomorrow's taxpayers will be forced to pay the ever-mounting interest on the debt we are accumulating at unheard of levels?

Before we can tell our constituents that we in Washington made the tax system fairer, we will have to take a long and hard look at the most onerous, regressive, discriminatory, and unfair tax that the Federal Government levies—the payroll tax.

Workers and businesses now must contribute more than $6,000 per worker per year to fund a Social Security system that will provide little, if any, retirement security for today's generation of young workers.

Under the current laws, payroll taxes are going in only one direction—up; while the chances that young workers today will see any Social Security benefits are going down, down, down.

The payroll tax system stands the concepts of fairness and equity on their head. There is nothing fair about a tax system where a young two-earner couple earning $45,000 a year pays $214 more in just Social Security payroll taxes than an executive earning $100,000. Add in their unemployment and workers compensation taxes and the inequity further widens. How can we justify a payroll tax system which requires of a worker earning $20,000 that he contribute 7.15 percent of his pay to Social Security, while an executive earning $300,000 contributes barely 1 percent?

The payroll taxes we levy on employees and employers are designed to afford income security to all Americans. Through payroll taxes we seek to provide retirement security through Social Security; health insurance for the elderly through Medicare; and unemployment compensation for workers in transition. At the State level, we add further tax burdens to pay for unemployment and workers compensation and for disability insurance.

If we can look into the future, I suspect we will integrate the payroll taxes for these social insurance programs and replace payroll taxes with a tax on consumption. A consumption tax will not only replace the payroll tax but can also be used to diminish the burden of income taxes and ultimately end the taxation of savings.

If we truly want to reform the tax on income, we must overcome our reluctance to look at the hidden tax subsidies of employee fringe benefits. Where is the equity, the fairness, and the justification for allowing million dollar executives of large corporations to receive tax free health benefits while a Minnesota farmer, who can barely survive, has to pay for health insurance out of his hard-earned after-tax income?

Now that we are headed for a two-bracket income tax, it will become more obvious to the small businessmen and the self-employed person that they are subsidizing too much of the excessive consumption of health and welfare benefits by the highest income Americans and the employees of the Fortune 500 companies.

Until we place a limit on the tax-free nature of employer-provided health insurance, and allow all citizens to get a tax deduction for their health insurance, it will be difficult to claim true fairness in the taxation of income.

Madam President, I have appreciated the opportunity to be part of this revolutionary process.

Madam President, we can pause for a time now and congratulate ourselves on what we have accomplished in this bill. But there is much more work we have to do if we are to achieve our goal of making the tax system of America the most equitable and fair in the world. President Reagan called tax reform "the second American revolution." I believe the second American revolution has just begun.

AMENDMENT NO. 2164

(Purpose: To extend the common paymaster rule for FICA taxes to partnerships, estates, and trusts)

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 2164.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title XVII, insert:

SEC. —. EXTENSION OF FICA AND FUTA COMMON PAYMASTER RULES.

(a) FICA.—Section 3121(s) (relating to concurrent employment by 2 or more employers) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall be treated as if it were a corporation."

(b) FUTA.—Section 3306(p) (relating to concurrent employment by 2 or more employers) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall be treated as if it were a corporation."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wages paid or incurred after December 31, 1986

Mr. MOYNIHAN. Madam President, the amendment I have sent to the desk would correct an inequity in our existing Tax Code relating to the collection of employment taxes in the situation where an employee works concurrently for two related employers. It would also make a technical change to the general transition rule provided in the bill for hydroelectric energy generating facilities. Both portions of the amendment are very simple and straightforward.

Where an employee works concurrently for two related corporations, the so-called common paymaster provisions of current law provide relief from double taxation at the employer level. However, if that same employee were to work for a corporation and its related partnership, no such relief currently is available. In both cases, present law corrects for any double taxation of the employee by an offset against that employee's income tax. Thus, it is only the double taxation of the employer with which my amendment is concerned, double taxation that under current law has been only partially corrected.

This amendment corrects a very simple technical problem with existing law by making the common paymaster provisions available now only to related corporations equally applicable in the case of a corporation and a related partnership where the same persons own, directly or indirectly, more than 50 percent in value of the corporation's outstanding stock and more than 50 percent of the capital or profits interest in the partnership. This tracks the control test now in effect for related corporations.

I am advised that the Finance staff has reviewed this amendment and think it is an appropriate change to the law.

Current law already recognizes that double taxation of an affiliated group is inappropriate and undesirable. This amendment is designed to remove the unfair discrimination visited by current law upon corporations and affiliated partnerships.

In summary, Madam President, this proposes a change in the Social Security tax rules that have to do with the situation of a common payment. This situation arises when an individual works simultaneously for two corporations. It is not a common arrangement but it does exist, and in that situation the law enables one of the corporations to pay the employer contribution to the FICA tax, thereby avoiding double taxation. However, it has been for some time recognized that the exact wording of the statute does not permit this common paymaster arrangement to be made where an individual works simultaneously for a corporation and a partnership. These situations do exist.

They appear with somewhat greater frequency and a somewhat higher incidence in the economy at this time, and the change we propose simply says that in this particular arrangement the common paymaster provision will apply as well and there will not be the double taxation and there will not be the request for refunds and such matters; the Social Security Administration has better work to do.

This amendment, Madam President, has been cleared on both sides of the aisle. It has the full support of the Administration, in the sense the Social Security Administration is desirous that a change should be made.

I do not see at this point either of the managers of the bill on the floor.

Mr. McCONNELL. Madam President, it is my understanding this has been cleared on this side of the aisle. There is no objection.

Mr. MOYNIHAN. That is very kind of the Senator from Kentucky, and I can speak to my understanding that it had been cleared on this side of the aisle. In that circumstance, Madam President, hearing no objection, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? Hearing no further debate and no objection, the question is on agreeing to the amendment.

The amendment (No. 2164) was agreed to.

Mr. MOYNIHAN. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Madam President, seeing no Senator on his or her feet, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Madam President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Madam President, at the end of this year I will have served for 38 years in the Senate and for 34 years as a member of the Committee on Finance. During that time I have proudly supported many revenue measures which did much to advance the national interest.

The measure before us may well prove to be the best of them all. None of us can predict with certainty whether a measure will meet our high expectations, but I know of 10 reasons why I should support this bill.

This bill makes dramatic improvements in the individual income tax.

First, at the lower end of the income scale, 6 million low-income individuals will be dropped from the rolls. This implements the policy that families below the official poverty line should not be paying income taxes. This increases the reward for work, and makes it easier for low-income families to work their way out of poverty.

Second, in the middle range of the income scale, there are a number of benefits, aside from the tax cut contained in the bill.

Third, the bill increases the standard deduction, so that many families will not have to itemize their deductions. This represents substantial tax simplification in and of itself.

Fourth, the staff of the Joint Tax Committee estimates that, if the bill were enacted, only about 31 percent of tax returns would have itemized deductions. That is down from 44 percent, if current law were in effect in 1988. In a country where people file slightly over 100 million tax returns a year, we will be dropping about 13 million taxpayers from the long form onto the short form, which is far simplier and easier to comply with.

□ 1250

Fifth, the bill also increases the reward for work and saving to the middle class. It provides that 80 percent of the taxpayers will pay no higher than a 15-percent tax rate. It also provides that no matter how much an individual increases his income through success in a career or in savings, the Federal income tax will never take more than 27 percent.

Sixth, the bill also provides average taxpayers with the assurance that everyone will pay their fair share. The bill contains tough minimum tax and anti-shelter rules to require profitable corporations and wealthy individuals to pay a reasonable amount of taxes. With these rules in place, the average taxpayer can pay taxes on all of his income without feeling as if more prosperous taxpayers are getting away with less.

Seventh, for higher-income individuals, the bill sweeps away the confusion of a tax system that encourages people to divert time and money into tax shelter investments that they may not understand.

Eighth, this bill sends a message to the workers and investors of the country. The message is that people should spend their time working at what they do best, and investing where they think they have the best chance to make money and preserve their savings.

Ninth, when rates are this low, tax considerations will not interfere as much with economic decisions. When tax shelters cannot offset salary, interest and dividends, most people will not bother with them. Instead, they will go about their business. They will know any success they might achieve will bring them mostly money in their own pocket, instead of bringing them mostly tax problems.

Tenth, this bill should be popular in part, because it provides an overall tax cut of about 6.4 percent. Preliminary estimates indicate that about 81 percent of taxpayers would either receive a cut or have no change in their taxes, with a cut for about 56 percent and no change for about 25 percent.

In the long run, the bill will be popular for other reasons. It will be popular because it is fair and because low rates are the right way to go in our income tax system.

I am pleased that the Finance Committee reported the bill by a unanimous vote of 20 to 0. I am pleased that the full Senate has supported the work of the committee during the amendment process. I am also pleased that President Reagan strongly supports the committee bill.

I urge that the Senate give a strong bipartisan vote of confidence on final passage of the bill. The bill may not be perfect in everyone's eyes, and I am sure it is not. On the whole, however, it is a long stride toward a tax system that is fair to all taxpayers and good for our Nation.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KENNEDY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2165

(Purpose: To provide a transition rule for a certain public housing project, while maintaining revenue neutrality)

Mr. KENNEDY. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. KERRY, proposes an amendment numbered 2165.

Mr. KENNEDY. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2265, after line 25, insert the following:

(3) TRANSITION RULE.—

(A) IN GENERAL.—With respect to a project described in subparagraph (B)—

(i) the amendments made by this section (other than subsections (f)(3), (f)(4), and (g)(5)(A) of section 43 of the Internal Revenue Code of 1954) shall apply,

(ii) the amendments made by section 201 shall not apply, and

(iii) the amendments made by section 302 shall not apply.

(E) PROJECT DESCRIBED.—A project is described in this subparagraph if—

(i) an urban development action grant application with respect to such project was submitted on September 13, 1984,

(ii) a zoning commission map amendment was granted on July 17, 1985, and

(iii) the number assigned to such project by the Federal Housing Administration is 023-36602.

(C) ADDITIONAL UNITS ELIGIBLE FOR CREDIT.—In the case of a project described in subparagraph (P), for each residential rental unit occupied by individuals whose income is 32 percent or less of area median gross income (as determined under section 43(g)(2) of such Code), 1 additional unit with respect to which a credit under section 43 of such Code is not otherwise claimed shall be eligible for a credit determined under subsection (a)(2)(A)(i) of section 43 of such Code, if such unit is within a project which also meets the following criteria:

(i) Rents charged for units in such project are restricted by State regulations.

(ii) The annual cash flow of such project is restricted by State law.

(iii) The project is located on land owned by or ground leased from a public housing authority.

(iv) Construction of such project begins on or before December 31, 1986, and units within such project are placed in service on or before June 1, 1990.

(v) For a 20-year period, 20 percent or more of the residential rental units in such project are occupied by individuals whose income is 50 percent or less of area median gross income.

The total credits allowed under this subparagraph shall not exceed 25 percent of the total basis of such project.

(D) SECTION 43.—For purposes of this paragraph any reference to section 43 of the Internal Revenue Code of 1954 is a reference to such section as added by this section.

At the appropriate place in title V, insert the following new section:

SEC. . TAX-EXEMPT ORGANIZATIONS WITH UNRELATED BUSINESS INCOME SUBJECT TO CORPORATE ESTIMATED TAX PAYMENTS RULES.

(a) IN GENERAL.—Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by inserting at the end thereof the following new subsection:

"(h) CERTAIN TAX-EXEMPT ORGANIZATIONS.—This section and section 6655 shall apply to any organization subject to the tax imposed by section 511, and for purposes of this section and section 6655, such tax shall be treated as a tax imposed by section 11."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

Mr. KENNEDY. Madam President, this amendment concerns the rehabilitation of the Columbia Point housing project in Boston.

The failure of our early crude efforts at urban renewal is nowhere more evident than in the massive, forbidding and empty megastructure built at Columbia Point in Boston in the early 1950's. The Columbia Point housing project was constructed on an isolated spit of land previously used as a municipal dump. It was built without access to public transportation, shopping, or recreation—in fact without access to the rest of the city at all.

Almost from the date of its construction, it began to deteriorate. Inadequate budgets and rising maintenance costs took their inevitable toll and by the early 1970's the project was over half-empty. Today less than 400 families continue to live at Columbia Point.

In Boston, Columbia Point has become more than a symbol of the failure of one phase of urban renewal. It is also a symbol of our continued failure to address the real issue of inner city development and social integration. Year after year, the residents of Columbia Point have been promised that rehabilitation would occur, that development would take place, that a new plan was just around the corner.

Sadly, these promises were broken as often as they were made. Despite additional development in the area, including a new campus for the University of Massachusetts, the Columbia Point housing project remained isolated and continued to deteriorate.

At last, however, after three decades of decay, a ray of hope emerged. When Mayor Ray Flynn was elected in 1983, he made development at Columbia Point a major priority. Working with the university, the State housing finance agency, the Department of Housing and Urban Development, and Columbia Point's tenant association, the city redevelopment authority put together a proposal that can work.

The depth of the deterioration and the decline of Federal support for rehabilitation required the developers to use every source of State and local assistance available. The State was forthcoming, providing mortgage assistance and rental subsidy assistance. The city was forthcoming, providing UDAG and urban initiatives assistance. The private developers were forthcoming, agreeing to restrictions which prohibit subsequent sale and allow all the remaining tenants to live in the new project, and also agreeing to unprecedented restrictions on cash flow and rents. The restrictions on rents extend to all of the units at Columbia Point, not just the 400—a full one-fifth of the project—which are set aside for very low-income families.

The developers relied in good faith on the current Tax Code, and proposed to complete their financing package by syndicating the losses. As is true in any project of this kind, especially one so constrained by public policy, there is no underlying economic value. Syndication could only succeed if the tax losses were available. The bill before us eliminates the use of such syndications and I applaud that step. But the change threw the carefully crafted and delicately balanced Columbia Point plans out the window.

The amendment I am offering would not reopen the passive loss issue in the bill. Rather, it provides a one-time targeted additional tax credit to permit the developers to replace the equity which they hoped to raise in their syndication. The credit will be subject to all of the other constraints the committee has proposed. It will confer no special treatment on investors and it will not go beyond the levels of assistance promised by current law. This is precisely what a transition rule should accomplish.

This unique project ought to go forward. The legacy of a failed urban renewal policy ought to be put behind us. The city, State, and community organizations have done their part. They acted in good faith and overcame the long odds which had frustrated every previous attempt to stop the blight. Now we should do our part, and I hope this amendment will be accepted.

I have had an opportunity to talk this matter over with the managers of the bill for some period of time, working out some of the particular challenges affecting Columbia Point. I think it has been worked out in a satisfactory way with the chairman of the committee.

Mr. KERRY. Madam President, I am pleased that the Finance Committee has resolved the issue of the Tax Reform Act's potential impact on the Columbia Point housing project, and that this vital rental housing project can be developed with the benefit of the low-income housing tax credit contained in the bill.

Built in 1953, Columbia Point has become synonymous with urban blight and public housing failure. Although the project is located on 50 acres of prime Boston harborfront property, it has an extremely negative image as an unsafe area. At present, only 350 families live in the 1,150-unit complex.

Numerous efforts to revitalize the Columbia Point project have been attempted over the past decade, and unfortunately, each has failed, dashing the hopes and aspirations not only of the Columbia Point project, but of all of us in Massachusetts who care about the quality of life available to the less fortunate in our society.

The redevelopment project currently underway seeks to transform an extremely deteriorated and blighted community to a thriving community of mixed-income residents.

Columbia Point is a complex public/private redevelopment project that draws its funding from a combination of State, Federal, and local agencies as well as from the private sector. Upon its completion Columbia Point will be renamed Harbor Point as a symbol of its revitalization and will consist of 400 low-income and 882 market-rate housing units. Every family currently living in Columbia Point is guaranteed residency in the redeveloped complex.

Madam President, the Columbia Point project represents a unique opportunity to fulfill the policy of neighborhood preservation and to address the very serious housing problem we face in Boston in a positive and cooperative way. It is very much a public project and the time, energy and commitment displayed among the tenants, developers and public agencies involved should be applauded. For more than 10 years the residents of Columbia Point have endeavored to make their community one of which they could be proud.

It would have been tragic if we had allowed the changes in the tax bill to threaten the future of this project because of changes which could not possibly have been foreseen at the time the project's financing was planned and construction agreements negotiated.

The Columbia Point project will provide affordable and decent housing; not only for current residents, but for low-income families as well, creating an economically and racially integrated community. In addition to helping the neighborhood grow, the redevelopment project will provide the residents of Columbia Point with a sense of pride, a better future and a place to call home. I applaud the efforts of those who have put the time, energy and resources into making the Columbia Point dream a reality.

Mr. PACKWOOD. Madam President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2165) was agreed to.

Mr. KENNEDY. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON. Madam President, I have given much thought to how I will vote on this tax bill and, frankly, it has not been an easy decision. It is a close call. There is much that is good about this bill, and I compliment the chairman of the Finance Committee, the ranking minority member, and all the members for their hard work here.

I am going to be one of a small minority, however, who is going to vote against the bill, and I will vote against it for these reasons:

No. 1, I really do not think it makes sense to massively overhaul the Tax Code and not deal with the fundamental economic problem this country faces, and that is the deficit.

No. 2, I still really believe in a progressive tax structure, and we are moving away from that. As Senator MITCHELL pointed out when his amendment was brought up, one-half of 1 percent of the population gets 16 percent in benefits. The top 5 percent get 27 percent of the benefits.

No. 3, people who have to borrow money to put their children through college and buy a car are truly at a disadvantage. They are not going to be able to deduct that anymore. We have gone too far in even deducting on meals or clothing and all kinds of things, but I am concerned about where we are going here.

No. 4, I have been one who for some time has said that corporations ought to bear their fair share of the tax burden, and part of this bill is a minimum tax on corporations. That is much needed. I am not sure, however, when we go from where we are now and the pendulum swings over so that corporations are going to pick up an additional $100 billion in taxes, that the pendulum may not be swinging too far, discouraging particularly the manufacturing sector in our economy.

No. 5, I am concerned about what is going to happen in housing. I think that inevitably we are going to see rental increases, fairly substantially, within the next 3 years.

No. 6, the retroactive feature of the bill concerns me. Tax breaks were given that should not have been given. When you offer someone a $1,000 bond and you come back later and say, "Sorry, this is only worth $700," that would not be fair. So, when Government says to people who are going to invest, "If you make this investment, we'll give you these tax breaks," I do not think we should be going back on our word on that.

No. 7, while two-thirds of middle-income Americans will receive tax breaks, it is also true that one-third are going to get tax increases.

Finally, I have an uneasy fear—and I hope I am wrong—that the net effect of this will be negative on our economy.

□ 1300

We are going to be discouraging the kind of investment that we ought to make.

Again, I have to tell you this has been a close call for me. I could have reached the conclusion that I was going to vote for it, because there is so much that is good in the bill, but, on balance, I believe it is not wise policy to proceed in this way. I hope the conference will make some improvements, but I will be casting one of the votes against the bill.

Mr. President, if no one wishes the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, we love our friends in spite of their faults and not because they are faultless. The same attitude apparently must govern our approach to tax reform.

In adopting tax reform we must not be blind to some of the defects in the current bill. During the tax reform debate, I have talked about some of these problems in the hope that the Senate might address and correct them. This will probably not occur before final passage by the Senate, but the committee of conference will have wide latitude to consider a wide range of options between the Senate version of tax reform and that approved in the other body.

One of the problems not likely to be solved at this time is the impact of the American tax system on the competitive position of American business in international markets. This is a complex issue and will require broad education and serious effort.

The other major issue that may be more likely to command the attention of the committee on conference is the tax treatment of capital gains. In fact, the conference will not be able to avoid it. Personally, I hope the conference will look long and hard at the question of whether capital gains should be given the same tax treatment as ordinary income. I think it should not.

It may be a reflection of my old-fashioned upbringing, but I was taught that it was somewhat immoral to spend principal as if it were income. That distortion is destroyed by the Senate bill, and the destruction may be reflected in investment practices and in reduced formation of capital.

The future is impossible to predict, and human response to tax laws is especially unpredictable. But by treating capital gains as ordinary income we shall probably encourage business in general and risk takers in particular to rely on borrowed funds for growth. The fact that interest will be deductible while capital gains will be fully taxed can be expected to promote such a trend, rather than to promote the long-term formation of capital as the product of successful ventures. I urge the committee of conference to consider that probability very carefully.

The bill's elimination of the long-term capital gains exclusion is coupled with retention of existing law's restrictions of the deductibility of long-term capital losses. Thus, short-term capital losses will be fully deductible, while long-term capital losses will be deductible only against capital gains. These provisions, taken together with the elimination of the long-term capital gains exclusion, may well encourage investors in the capital markets to take a very short-range view. This treatment may favor the speculator, as contrasted with the investor. If so, the result will not be helpful to the economy.

There are, of course, arguments on the other side to the effect that there is no adequate economic justification for distinct tax treatment of capital gains. These arguments can be countered by careful and realistic definitions of capital gains. It is hard to defend the market operator who is in and out of the market in 30 or 60 days as a true venturer in the classic sense. The genuine risk taker is in for the long haul in the challenge to create a new and successful venture. Such a commitment is long term and the definition should contemplate that fact. Capital gains should be defined as being the result of holding for a period of years, perhaps as long as 5 years. That would create a genuine economic justification for separate tax treatment of capital gains.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1310

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I will vote for this bill. I like this bill. I support this bill. But it gives me some concern, too.

What you are seeing is a very dramatic turning point in American tax law. It tells the American people that tax rates are going to be as low as they can possibly be. It tells them they can make their daily decisions on spending, savings, and investment without the interference of a high tax rate, without the distortion of numerous special tax exemptions. It tells them they ought to use their capital in the most productive way, where it will produce goods, services, jobs, and income, not just tax benefits.

This bill tells the American people they no longer have to worry about success. The American entrepreneur, if he is successful, will understand that taxes are only going to take a quarter of his profits away from him—not half. Instead of being boosted into higher and higher brackets, the entrepreneur will face a maximum tax rate of only 27 percent. That is a prescription for innovation, for creativity, for hard work, and for risk taking.

Furthermore, we ought to have an improved allocation of capital under this bill. Instead of having a surplus of office buildings, perhaps we can have more new, modern businesses. Instead of having a growing tax shelter industry, perhaps we can have a growing economy.

Also I think this bill is going to lower interest rates across the country. People are going to think twice before they go out and buy consumer goods on personal credit if they cannot deduct that interest. They will have to take the full cost of interest into consideration instead of just the after-tax cost. If demand for consumer credit is dampened, business borrowers will be the beneficiaries because that ought to bring some lower interest rates.

By now we know all the other main features of this bill: That 80 percent of American families are going to have a maximum of a 15-percent tax rate, that we are going to have a stiff alternative minimum that will ensure that wealthy individuals and profitable corporations are going to have to pay a tax, that corporations are not going to be able to make hundreds of millions of dollars without paying a tax. The higher personal exemption and standard deduction are going to provide relief for our country's middle-income families. And thanks to provisions like that, the American people in general have embraced this tax reform. This tax reform is not cosmetic. It is not superficial. It is substantive, and the American people have come to recognize that.

But let me say, too, Mr. President, this bill is no direct ticket to prosperity. It is actually something of a gamble, and we ought to understand that. It is something of a gamble because we repeal the investment tax credit, and thereby to a degree that cuts back on the tax incentives in manufacturing and other heavy industry.

The unanswered question is how are corporations going to use the lower tax rate? Will they use that differential to buy machinery and equipment, and will that in turn overcome what they have lost in the investment tax credit? What will be the motivation in the boardroom? What will be the motivation for the individual, for the small businesses that make that decision?

In plain terms, for some of these businesses this bill is going to raise the after-tax cost of investments in plant and machinery. That gives me some concern when we have a $150 billion trade deficit. That figure is probably going to be higher this year.

If we are going to make headway against that kind of a trade deficit, it is terribly important that we increase the productivity of this country and that we continue to modernize its productive capacity. Yet, we know that capital investment in this last six months has actually decreased.

The tax bill poses a risk of hindering the process of modernization unless corporate directors take the lower overall corporate tax rate and use that to buy new equipment and plants. So I am hopeful they will.

I am also concerned that in part this bill will spur consumption despite the restrictions that we have put on consumer credit, and on the interest on that credit. The people of this country have a great propensity for consumption. This bill certainly does not seriously discourage that. The plain facts are that we have cut taxes for individuals by slightly in excess of $100 billion over five years. My concern is that Americans will not use sufficient amount of that additional income to put away in savings, that they will buy goods, and that they will buy imports. That is one thing that seems sure. They are going to buy some imports.

Economists say we all have a certain marginal propensity to import; that when we have more money to spend, we buy more imports. Given the great trade deficit we have, that gives me a concern.

I also have some concern about the repeal of the capital gains preference. One of the things that is unique about this country is the creation of new businesses, and the facts that startup companies create so many jobs, and that we have capital for that purpose. No one has fought more than I to bring the capital gains tax down. Many in the Senate have fought for that objective. There is much evidence that lower rates on capital gains were responsible for much of the increase

in venture capital in the late 1970's and early 1980's. Venture capital finds its place in high-risk startup companies that often bring about the technological advances that keep this country growing.

So there are some problems with this bill, as you find with any major legislation. And we have to evaluate that. But once again, when it came to the tradeoffs, I felt it was worth the risk involved, and that the lower interest rates likely to come about by this would be enough to make up the difference. That is the bottom line.

No one should discount to what extent low tax rates can be a powerful fuel for our economy. We have not tried that for half a century. I think it is worth a try.

I am one who believes still that you can put certain incentives in the tax system to achieve economic and social objectives for the country, but the problem that we run into is we keep adding and adding and adding them. At the time they were put on they served the purpose and were worthwhile. But as conditions and times have changed, many of them have outlived their usefulness. But there are still vested interests some place fighting for them and the Congress does not show the political courage to remove them.

□ 1320

This time the Senate has done it in spades. We have really purged the system of special interests, tax loopholes, and tax shelters.

We have tried to produce a tax system that the American people will perceive as fair; where people with equal incomes pay equal amounts of taxes; where profitable corporations will not escape paying their fair share.

To achieve all of this, the vast majority of this Senate is willing to take the risk.

Mr. President, I wish this bill would be finished after we vote today, but, unfortunately, that is not going to be the case. The next step is the conference with the House, and there are some substantial differences. It will be a long and difficult bargaining session. We have many, many special issues to deal with, including the deductions for sales tax, IRA's, capital gains, depreciation, the tax rates, the treatment of real estate, the effective date of the rate cuts.

I think most of us concur that we have to find a way to move that rate cut up to January 1, 1987. We see a situation today where the last report show unemployment increasing slightly and show capital investment down. Those kinds of things could be the harbingers of a downturn in the economy. If you couple that with the fact that this bill picks up another $25 billion in extra tax in 1987, that can add substantially to the problem and help accelerate a recession. We must not let that happen. I, for one, am going to do my best to see that that tax cut is moved up to January 1.

Lastly, Mr. President, I want to commend the distinguished chairman of the Finance Committee, Senator PACKWOOD, for his tenacity, his creativity in putting this bill together, and for moving it through the committee and on the floor.

I also want to commend Senator LONG, who brought his decades of experience to bear in moving this bill forward. I look forward to working with these gentlemen and others in putting the final touches on this bill in conference.

Mr. President, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I join with the distinguished Senator from Texas in praising Senator PACKWOOD and Senator LONG, but also in praising the distinguished Senator from Texas and all the members of the Finance Committee. I think they deserve our thanks, both Republican and Democrat our thanks, for producing this remarkable legislation.

During the 12 years that I have been here it is the first piece of tax legislation that I see really going toward true tax reform. I think it is because of the dedication, and I know the around-the-clock dedication in a number of instances, by members of the Finance Committee that we have a chance to even have this legislation on the floor.

Mr. President, this bill cuts taxes for the average Vermont family by 27 percent, $729. In our State, that is no small matter.

But at the same time, it increases tax fairness. It removes 6 million working poor families from the tax rolls. It provides an incentive for low-income workers to continue working rather than to accept public assistance.

It also says enough, to those people who have been corporate freeloaders. Last year, one corporation received a tax refund of $104 million, notwithstanding the fact they had $1.6 billion in profits.

Put that in perspective for my State and that refund they got was nearly a quarter of all the Federal taxes paid in my State. That is what they got for a refund, having made $1.6 billion in profit. This means now they have to pay taxes on their fair share.

The committee tax reform bill also slams the door on $50 billion in tax shelters while promoting real investment. The bill encourages home ownership, one investment within the reach of most middle-income Americans, by preserving the deduction for mortgage interest payments on first and second homes.

It is good for business. For instance, important research and development tax credits are extended. The tax reform bill also stimulates investment in our communities by preserving the deduction for State and local property and income taxes.

The State and local deduction was first introduced more than 12 years ago by Congressman Justin Morrill, of Vermont. To this date, the deduction prevents double taxation. It also gives Vermont communities the flexibility to raise revenues and provide essential services without increasing the total tax burden of Vermonters.

Mr. President, I was elected to the Senate to represent the people of Vermont, not to rubberstamp the work of any committee, whether the Finance Committee or any other. That is why I refused to join the group of Senators opposing any and all amendments to the Finance Committee tax reform bill because even as good as this bill is, and as remarkable as it is, it is still not perfect. So I voted for some changes in IRA's. I feel they should be in there. I hope that the conferees will retain the deduction for contributions to IRA's. I voted for Senator MITCHELL's amendment to cut taxes for the average Vermont family by an additional $120. I voted against every single amendment that would raise taxes for the average Vermont family.

Vermont, unfortunately, is the only State in the Union with a budget deficit, one inherited about a year ago. As a result, Vermonters have been forced to pay a higher total tax burden to pay off that debt. I do not want tax reform to add to that heavy burden.

I also voted to eliminate several sweetheart deals in the bill for big corporations and foreign real estate syndicators. A tax reform bill that limits the deduction for health care costs and State and local sales taxes—tax breaks for average Vermonters—should not provide any special treatment for those who can most afford to sacrifice.

I also voted to retain the deduction for charitable contributions by the 60 percent of all taxpayers who do not itemize their deductions. Last year, I cosponsored legislation to make the so-called above the line deduction for charitable contributions permanent, because this provision of the Tax Code will generate some $12 billion in giving next year to churches, colleges and universities and countless other institutions in the nonprofit, independent sector.

Some of the changes I supported were adopted. Others were not. But all in all, Mr. President, the Finance Committee tax reform bill remains a monumental accomplishment, and an accomplishment for middle income Vermonters, middle-income Americans

everywhere. I urge the Senate to strongly support this legislation.

Even those of us who may have had differences with one part or another must cast a very strong and unanimous a vote as possible for it, to send the chairman and the ranking member to the committee of conference with strong bipartisan support from this body because the bill does make our tax system more fair, it creates investments and creation of jobs, and by creating the need for literally dozens of tax reforms it makes our complicated tax system much more simple. In short, we did something right, let us not mess it up.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I thank the Senator from Vermont [Mr. LEAHY] and the Senator from Texas [Mr. BENTSEN] for their kind words.

I must say that the Senator from Texas most certainly contributed to the committee's work with his fine knowledge of tax matters. He made a great contribution.

AMENDMENT NO. 2166

(Purpose: Making technical corrections)

Mr. PACKWOOD. I now send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD] proposes an amendment numbered 2166.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under Amendments Submitted.)

Mr. LONG. Mr. President, this is a technical amendment.

Mr. President, I want to compliment the chairman on offering this amendment. I also want to compliment him on resisting pressure to put something in here that, in my judgment, does not belong in technical amendments. A number of Senators have been under pressure to put something into the technical amendments which goes beyond our tradition and practice of merely cleaning up the language to make it mean what it was explained to mean in the committee, or merely correcting unintended errors, misspellings of words, improper punctuation, and technical matters. My view, which has always been the Senate's view, is that these technical amendments should involve no matter of substance. Insofar as any change of language, it should only be to do what the committee agreed to do, and what the committee report says the language does.

May I say to the Senator that in years gone by, the Senator from Louisiana has managed very controversial bills. On occasion, this Senator has sent up technical amendments and has been challenged, only to have the challenger find that the amendments did exactly the same thing the Senator is doing here, which is to make corrections of technical errors that do not change at all the intent or substance of the measure.

I would hope that the Senate would maintain that tradition, because I think that once we send up technical amendments they ought to be respected in the conference. I compliment the chairman on this, knowing that he, likely, has been subject to pressures to go beyond this. I have assured Senators that insofar as what they sought to achieve, it can be accomplished in conference in any event, whether the language quite said that or whether it did not.

It is not necessary for us to use technical amendments to change the substance of some amendment.

I thank the Senator.

□ 1330

Mr. PACKWOOD. Mr. President, I thank the distinguished ranking member of the Finance Committee [Mr LONG] and appreciate the fact that he was willing to stick with me shoulder to shoulder with this one. We both had to turn down requests from Members who would come to us and say, "Oh, this is just a little technical amendment." But it was not just a little technical amendment, it was not even a transitional amendment. It was a substantive amendment.

If we are going to deal in good faith on the floor, when we send forward a technical amendment, it must be a technical amendment. When drafting a bill of this size, when you ar moving as fast as we have been moving, you have to be sure—computers will make a mistake and drop a line or two out of the bill. But I can assure the Senate that both Senator LONG and I have been firm with each other and with our staffs that nothing was to go in this bill that would by any reasonable man's or woman's definition fit any other definition but technical.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. METZENBAUM. Mr. President, the technical amendment, I think, is 89 pages long. The manager of the bill has been very cooperative in this respect, as he has been throughout the entire handling of this measure, in making available to the Senator from Ohio and others interested information concerning the amendment. We have had an opportunity to examine the technical changes and agreed that they are indeed technical changes.

After we had an opportunity to examine those 89 pages, we were told that additional changes were made that were stylistic, that were really not substantive at all. I think I know the answer to this question, but I want to ask the manager of the bill. Am I correct in my undestanding that the stylistic changes that have been made to the technical amendment package which was originally submitted to us are indeed that and nothing more?

Mr. PACKWOOD. The Senator from Ohio is correct. The changes were made to conform to the style recommended by the Parliamentarian and others, but there has been no change at all in what was in that amendment except those stylistic changes.

Mr. METZENBAUM. I thank the managers of the bill on both the majority and minority side. I have been on this floor long enough that on previous occasions, that which was considered to be a technical amendment was not technical at all, but had real substance to it. We are satisfied that these were technical amendments that had to be made, and I thank the Senator.

Mr. LONG. Mr. President, let me read a few of the technical amendments.

On page 1757, line 17, strike "(b)" and insert "(c)".

On page 1758, line 16, insert "only" after "apply".

On page 1763, line 9, insert "(d)" before "Every".

On Page 1763, line 19, insert "the" before "Philippines".

Those, Mr. President, are technical amendments, insert the word "the" or strike the word "a", and they do not cost the Treasury any money.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2166) was agreed to.

Mr. PACKWOOD. I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEFLIN. Mr. President, I, as a number of other Senators, have wrestled with the tax bill. I intend now to vote for it. I think there have been some improvements that have been made in the tax bill. I think the Finance Committee has done a good job. I do not think any committee can come up with a perfect tax reform bill. There are some things that I hope occur in conference that strengthen it, improve it. I feel that there has been floor action here that has improved the bill and taken care of some sub-

stantial policy needs, such as the efforts to help the farmer. But I am still bothered by what I might call misplaced priorities.

In my judgment, we have gotten our priorities misplaced. With our ever increasing deficit approaching astronomical figures, Congress and the President should be concerned with reducing deficit spending instead of allocating potential resources toward nonproductive efforts.

This administration has cut nonmilitary Government spending substantially during the past 5½ years. Some of these cuts have been wise, but some have been very harmful to certain segments in our economy and society.

We are faced with the ultimate fact that if we are going to maintain strong military strength to deter military aggression from our enemies and reduce deficit spending, there is no question that additional revenues and further nonmilitary program cutting are going to be necessary.

When we look at potential areas of additional revenues, we dig our heels firmly in the Earth and state we are opposed to increased taxation on the individual or taxation which would prevent business growth and expansion. In my opinion, this is a correct position.

There are clearly areas where revenues can be found without harm to overall business growth and without causing problems to the average taxpayer. But unfortunately, this tax bill will eliminate the potential use of most of these areas for deficit reduction.

Yes, we need to close loopholes. But when loopholes are closed, the revenues acquired should be directed toward deficit reduction. Tax shelters need to be eliminated but when they are eliminated, the gained revenues should be used to reduce the deficit.

Large corporations and some small corporations which have been paying no taxes year after year need to pay taxes, but when such taxes are paid, they should be directed toward the deficit.

I have heard administration officials brag to business groups that the maximum income tax rate on individuals has been reduced from 70 percent to 27 percent under this administration. Newton's third law of motion states that for every action, there is an equal and opposite reaction.

What is the reaction for reducing the tax rate from 70 percent to 27 percent? The answer comes through loud and clear—triple the national debt. To me there was justification for the label placed on some Members of Congress as being the "tax and spend crowd," but I think that there are many that now must bear the title of "the borrow and spend crowd." We must face up to the facts that after the tax bill passes, there will be few loopholes to close, fewer shelters to dismantle, the minimum corporate tax will have been misdirected. In other words, many palatable sources of revenue that could have been used to fight the battle of deficit reduction are no longer available.

□ 1340

The malady that I fear is a disease known as "rate creep." Since the tax base now will be much broader, we will not be confronted with the difficult task of facing a 10- or 15-percent tax increase vote, but in the future I am afraid I will hear rhetoric ringing forth in this Chamber and in the House of Representatives that the people will understand and accept a 2- or 3-percent tax increase this year. Then the next year I fear we will hear the same arguments again.

Perhaps a good analogy for rate creep is "weight creep." If you are not careful, you can gain 3 pounds a year and it is not too noticeable. Whether it be "rate creep" or "weight creep," 3 pounds or 3 percent a year amounts to 30 pounds or 30 percent over a 10-year period. Hopefully, 10 years from now we will not see tax rates back where they are today with no deductions. "Rate creep" is a disease for which we must find a preventive cure.

It is my sincere hope that today we are not like Dr. Frankenstein, we gave life to a noble idea only to find our good intentions created an uncontrollable monster. I call on my present and future colleagues to preserve the low rates in this bill. We must direct our attention to deficit spending. Obviously, there has to be cuts in deficit spending. I feel that this bill is needed. We need tax reform, but I believe we have misdirected our priorities and that our No. 1 priority should have been the reduction of deficits and a movement toward a balanced budget. But nevertheless, there is great movement for this tax reforn bill, a bill which I think will go down in history as perhaps the outstanding tax reform of this century.

The bill reduces the number of tax brackets from 15 to 2. It cuts the top marginal tax rate almost in half, from 50 percent to 27 percent. According to the Finance Committee over 80 percent of taxpayers will have a tax rate of 15 percent or less while more than 6 million Americans will be taken off the tax rolls. Furthermore, the personal exemption would be raised to $2,000 for lower- and middle-income taxpayers. But, as good as the committee bill is, I believe we have made some important improvements to the bill during the 3 weeks of Senate debate. However, I remain concerned with several provisions in the bill and these should be addressed by the conference committee and future Congresses.

I am also concerned with a provision in the bill which would establish a tax administration trust fund. In my judgment, this could potentially turn IRS agents into "bounty hunters." This proposed provision ties IRS pay raises and promotions to the amount of interest and penalties which IRS agents assess. This creates a definite conflict of interest between the fair administration of the Tax Code and the financial well-being of IRS personnel. Not only may this system be struck down as unconstitutional under the U.S. Supreme Court's decisions regarding justices of the peace, but may also violate a constitutional provision prohibiting the expenditure of money without congressional appropriation.

Next, I would like to address the elimination of the deduction for capital gains. Historically, a taxpayer has been able to deduct 60 percent of his net long-term capital gain in determining his taxable income. This deduction was inserted into the Tax Code to encourage investment, promote capital formation and assist in the development of new enterprise. The committee bill unwisely removes the deduction for long-term capital gains. This poses an unnecessary impediment to capital formation in our economy. Without this deduction there will be reduced incentive for taxpayers to invest in start-up companies and other high-risk ventures. These high-risk companies often grow into the leading and innovative firms which drive our economy. I urge the conferees to restore the capital gains deduction so as to promote the formation of new capital and prevent stagnation in our economy.

As I noted before, Mr. President, we have made great improvements in this bill on the the floor of the Senate. We have particularly aided rural America, a sector of our economy which has not shared in the economic recovery the rest of our Nation has enjoyed. First, we have restored income average for farmers. This provision will be used by farmers to even out their highly volatile income. Income averaging guarantees that a farmer with large swings in income will not have to pay a tax many times greater than that of a taxpayer with an equal, but constant, income. The retention of income averaging for farmers restores equity to the Tax Code and provides needed and necessary help to the backbone of our Nation—the family farmer.

Another important change made on the floor of the Senate is the restoration of investment tax credits for farmers. Farming, with its tractors, combines, plows and other equipment costing tens or hundreds of thousands of dollars, is a heavily capitalized business. This will allow farmers to utilize the investment tax credits to which they are entitled but are unable to use because of the recent unprofitable years in farming.

I was also greatly pleased that the Senate overwhelming approved a sense-of-the-Senate resolution urging the conferees to the tax bill to reinstate the deduction for contributions to individual retirement accounts. Eliminating this deduction would abolish the only safety net millions of people have in the private retirement savings system. IRA's allow all Americans to secure a small measure of confidence in their retirement security. To eliminate the IRA deduction and thus the incentive to save for retirement would be a grave error.

Mr. President, I feel that the changes we have made on the floor of the Senate have been improvements to the committee bill and will go far to assure the continued recovery of the American farmer and economy. But, Mr. President, I urge my colleagues on the conference committee to eliminate the tax administration trust fund and to restore the capital gains deduction for individuals. I must also warn Senators in the future to resist the propensity for "rate creep" and to hold marginal tax rates at the levels we set today.

I congratulate the chairman of the committee for his diligent work, for his intelligent craftiness in bringing this about, along with the other members of the Finance Committee. I congratulate Senator BRADLEY, who first came forth with an idea many years ago in the Bradley-Gephardt bill. I congratulate the many, many people who have had a lot to do with the craftsmanship of this bill. I think it needs further improvement, it needs to be fine tuned, but it is a good bill.

I do consider that we have misplaced our priorities, and that as we look to the future, hopefully we have not created a monster. With this in mind, I feel reforms are needed in the tax laws. I will vote for the bill, I do have reservatioans about the priorities that have been given to this measure at this time.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from Rhode Island.

Mr. PELL. Mr. President, I am very glad to join the chorus of my colleagues in supporting this bipartisan tax reform bill, congratulating its original cosponsors, the very original pioneer, the Senator from Louisiana [Mr. LONG] and the Senator from New Jersey [Mr. BRADLEY].

This is not a perfect piece of legislation; indeed, there are a number of areas in the bill I believe could be improved and I hope and expect that improvements will be made before this legislation is sent to the President for his signature.

But we should make no mistake about it, this bill represents a major revolution in our outdated tax laws and is a watershed in terms of making our tax laws simpler, more favorable, and fairer. The bill provides a modest but real tax cut for most individual taxpayers and shifts a portion of the tax burden from individuals to business, thus correcting the excessive tax reduction provided to corporations by the 1981 Tax Act. By reducing the number of tax brackets, deductions, and tax shelters, the bill would make real progress toward the long-sought goal of simplifying our tax system for the vast majority of our individual taxpayers. Moreover, the bill would remove from the tax rolls millions of low-income workers and families, whose income is barely sufficient to meet essential needs and who should not be required to pay Federal income taxes.

One area of the bill I strongly believe should be improved in conference—the Senate bill limits deductions for individual retirement accounts to people who are not already covered by some form of retirement plan. This is a mistake, in my view, and I urge the conferees from both the House and the Senate to restore deductions for IRA accounts. The IRA's have become a part of the retirement dreams of millions of Americans, and we should encourage private savings by providing a tax deduction—or, at the very least, a tax credit—for individual retirement accounts. During the Senate's consideration of the tax reform bill, I joined those supporting the Dodd amendment that provided a $300 tax credit for an IRA contribution of $2,000. This amendment was narrowly tabled by a vote of 51 to 48 and I strongly hope that the conferees will note the close division of the Senate on this issue and continue to provide a tax deduction or credit for IRA contributions.

In addition, I remain concerned that the bill before us, while allowing for deduction of State and local income taxes and property taxes, denies a deduction for State and local sales taxes. The State of Rhode Island, in combination with its towns and cities, has all three forms of taxes—income taxes, property taxes, and sales taxes—but in my view the Federal Government should not use the Federal Tax Code to tell our State and local governments the kinds of taxes they should use to finance their operations. So I hope the deductibility of sales taxes will be restored before the tax reform bill is sent to the White House.

In addition, I regret that while the bill before us eliminates many tax credits and deductions that have served as tax shelters, there continues some exceptions for oil, gas and other resource industries that I believe are unjustified, and I hope those will be eliminated by the conference committee of House and Senate Members.

Overall, however, I am convinced that the tax reform bill marks a major improvement in our tax system.

Will Rogers once said that the income tax had made more liars among the American people than anything he knew, with the possible exception of golf. By reducing the tax rates and eliminating tax shelters as well as deductions, we are removing the incentive for tax avoidance, as well as tax evasion, and encouraging a more rational economic world in which decisions on purchase and investments will be based, as they should, more on marketplace forces and less on how those decisions will affect one's taxes. In these past years, we have seen so many business decisions based, not on the marketplace but on what the incentive will be to reduce taxes. That is not the way to encourage the healthy growth of our Nation.

This is landmark legislation, certainly the most far-reaching and important domestic bill we will adopt during President Reagan's second term. I intend to vote for it with enthusiasm and pride in the bipartisan coalition which has, at last, given us meaningful tax reform.

□ 1350

Mr. EXON. Mr. President, I have sent a letter, after discussions, to the chairman of the Finance Committee and the ranking minority member of the committee with regard to transition rules that I feel are absolutely essential with regard to four historic preservation projects underway in Nebraska.

I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 23, 1986.

Hon. BOB PACKWOOD,
Chairman, Senate Committee on Finance, U.S. Senate, Washington, DC.

DEAR BOB: As we discussed last week, I need your assistance on transition rules for four historic preservation projects currently under way in Nebraska.

The projects are well on the way to completion and I believe they should be completed under the provisions of current law, as a matter of equity. The four projects are: (1) Waterpark, in Lincoln, Nebraska; (2) Stacy Fruit Building, in Lincoln, Nebraska; (3) H.P. Lau Building and Annex, in Lincoln, Nebraska; and (4) The McKesson Robbins Project, in Omaha, Nebraska. I have attached a copy of an amendment drafted by the Legislative Counsel on these projects as well as revenue estimates from the Joint Committee on Taxation. As you can see, that Committee estimates that the revenue loss for each of these projects would be less than $5 million over five years.

Bob, it is essential that these projects be exempted from two changes in the Senate bill: (1) exempted from the reductions in the historic preservation tax credit, and (2)

exempted from the March 4 binding contract requirement dealing with the changes in depreciation.

I would greatly appreciate any assistance you could provide on behalf of these projects.

With best wishes.

Sincerely,

J. JAMES EXON,
U.S. Senator.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, there are now only four or five amendments remaining, and another two or three have been withdrawn since I last made an announcement.

It is 2 o'clock, and I do not know if any of those amendments that remain are going to be offered. But if Members want to offer them and debate them and have any chance of having them adopted, I think they would be wise to come now and debate them; because my hunch is that any amendment that is called up at a quarter to 4, 10 to 4, or 5 to 4, and is not discussed, will have less chance of adoption than if it were offered now and discussed.

So I urge Senators to come forward if they are going to offer amendments.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2167

(Purpose: to make certain changes relating to irrevocable estate elections)

Mr. PACKWOOD. Mr. President, on behalf of the Senator from California [Mr. WILSON], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. WILSON, proposes an amendment numbered 2167.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The amendment is as follows:

At the appropriate place in the amendment, add the following new section:

"Sec. . IRREVOCABLE ESTATE ELECTIONS

"(a) Section 2056(b)(5) is amended by adding the following at the end of such paragraph:

'Should the Commissioner determine that property does not qualify under this paragraph as claimed by an executor, with a reasonable basis therefore and in good faith, on a return filed under section 2001, upon receipt of written notice of such a determination by the Commissioner, the executor shall have 90 days to make an irrevocable election under section 2056(b)(7)(v) as to any such property which qualifies under such section.'.

"(b) The provisions of this section shall not apply to the estate of any decedent if the statute of limitations with respect to the return of tax imposed by section 2001 of the Internal Revenue Code of 1954 has expired before the date of enactment of this Act.".

(By request of Mr. PACKWOOD, the following statement was ordered to be printed in the RECORD:)

● Mr. WILSON. Mr. President, this amendment is very simple, and is intended to solve a catch-22 situation that currently exists with regard to the taxation of estates.

The catch/22 relates to the fact that certain elections for estate purposes are irrevocable. Yet, if a decision is made to not make a certain election, based on an understanding of our tax laws, which understanding ultimately proves to be incorrect, the earlier election cannot be made.

Specifically, my amendment would affect elections made under section 2056(b)(5) of the Internal Revenue Code. It states that if a decision to take a deduction under that section is disallowed by the IRS, an earlier election under section 2056(b)(7) may be changed by the executor of the estate.

Mr. President, I do not believe that this present situation if fair, and it needs some redress. That is why I offer the amendment, and I hope that it can be quickly agreed to.●

Mr. PACKWOOD. Mr. President, basically this amendment simply corrects a catch-22 situation in the code relating to elections for estate tax purposes for certain persons who find themselves in an either/or situation and cannot win in either event. This corrects it. It has been cleared on all sides, and I know of no objection.

Mr. LONG. Mr. President, I am pleased to support the amendment.

The PRESIDING OFFICER. The question is to agreeing to the amendment.

The amendment (No. 2167) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE ENRON EXPROPRIATION AMENDMENT

Mr. ZORINSKY. Mr. President, I rise today to continue my discussion of amendment No. 2115 concerning Enron's Peruvian expropriation. There are several specific concerns I would like to address.

The first is the assertion that no expropriation has in fact occurred. I find this position difficult to believe. The assets were taken at gunpoint. I have with me a picture of the Peruvian soldiers at the factory gate as Enron officials are being forced to leave.

There is simply no question that Peru has expropriated Enron's assets, its oil operations and its bank accounts, and the State Department has said as much. I would like to enter into the RECORD a letter I received from the State Department. The opening sentence of the third paragraph expressly refers to this whole episode as an "expropriation."

I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF STATE,
Washington, DC, April 29, 1986.

Hon. EDWARD ZORINSKY,
U.S. Senate.

DEAR SENATOR ZORINSKY: Thank you for your inquiry regarding Belco Petroleum of Peru.

President Alan Garcia of Peru was inaugurated on July 28, 1985. On August 28 he unexpectedly rescinded the contracts of Belco Petroleum, Occidental Petroleum, and the U.S./Argentine consortium Oxy-Bridas to produce petroleum for Peru's state-owned oil company, claiming that the firms improperly benefited from investment tax credits under Peruvian law and that insufficient exploration had been carried out. The companies were given 90 days, later extended by 30 days to December 26, to renegotiate their contracts. On December 27 the Peruvian government and Occidental, as well as Oxy-Bridas, signed an agreement in principle governing continued operations in Peru. These agreements were later concluded on March 22, 1986. When agreement was not reached with Belco Petroleum after the December 26 deadline expired, Garcia announced that the government was taking over the company. At the same time, he announced the appointment of a commission, to be made up of representatives of the government and Belco Petroleum, which would evaluate the assets of Belco for the purpose of providing the company with compensation. That commission is now taking an inventory of Belco's assets. Belco's parent company, HNG/InterNorth, now called Enron, has met on several occasions with officials of the Peruvian government in an attempt to get the Peruvian Government's agreement for Belco to return to its former areas and/or to develop a compensation package and consider Peru's proposals for other investment opportunities.

The Department of State has followed the Belco expropriation closely. We have carefully monitored developments to ensure that the government of Peru is negotiating in good faith. This past week both the Minister of Foreign Affairs and the Minister of Energy reiterated to Enron executives their government's intention to compensate Belco fully as soon as possible. The Peruvians also agreed to a proposal by Enron for an accel-

erated compensation procedure. We are obviously concerned about assuring that Peru provide Belco with prompt, adequate and effective compensation in accordance with international law. The Department of State will continue to do whatever is possible to assure a favorable outcome.

Sincerely,

ROBERT S. GELBARD,
Deputy Assistant Secretary for Inter-American Affairs.

Mr. ZORINSKY. Mr. President, I believe that the State Department has the final word on whether an expropriation has actually taken place, and it is clear that they believe one has in fact taken place.

The second concern I would like to address is the nature of the deduction I am seeking to allow. The Securities and Exchange Commission requires Enron to declare a loss of $218 million due to the expropriation. The assets seized were valued at $393 million; $175 million of that will be recovered from insurance companies or the Peruvian Government. That leaves $218 million unrecovered. This company is absorbing a $218 million loss. Even the SEC says so. My amendment simply allows Enron to recognize this $218 million loss for tax purposes.

Some have said that Enron gambled when it acquired the Peruvian assets and assumed the old $175 million basis when the actual cost was around $400 million. Mr. President, I contend that, in fact, Enron made a wise and prudent decision given the facts at the time. If the possibility of expropriation was given the weight that opponents of my amendment seem to believe appropriate, no company would make any investments. I do not think it is overly risky to assume that an overseas operation—an operation which has paid substantial taxes to the foreign government and provided jobs for many of the citizens—is safe from expropriation. To assume otherwise under the circumstances would be overly cautious and result in poor investments.

Finally, Mr. President, I refer to Enron's annual report to demonstrate that the company has paid its fair share of taxes in the past. This is not a company that shirks its obligations to the Federal Government. Enron's effective Federal tax rate for 1985, 1984, and 1983 was 45.9 percent, 45.4 percent, and 46.9 percent, respectively. The company paid Federal taxes of $38 million in 1985, $153 million in 1984, and $133 million in 1983. Clearly, Enron has supported this country, and I do not believe it is asking too much that this country support Enron.

Mr. President, I believe the Senate would not support the amendment were I to offer it at this time. I regret this position for the cause is a worthy one. However, given the present sentiments. I believe Enron's interests are best served if the amendment is not offered. Instead, I ask that the chairman of the Senate Finance Committee included this amendment on his "transition list" for consideration in the conference.

Mr. BOREN. Mr. President, at the request of Senator EXON and Senator ZORINSKY, neither of whom serve on the Senate Finance Committee, I raised for consideration during the committee markup an issue of great concern to the Senators from Nebraska. At their request I discussed the recent expropriation of HNG-Internorth's facility in Peru. I believe that their request deserves our serious consideration.

Under the current Internal Revenue Code, the recovery for a foreign expropriation loss is generally limited to a taxpayer's basis in the property. When the U.S. parent company acquired the Peruvian operation in 1983, the transaction was structured in such a way that the buyer carried over the old tax basis. Therefore, when the amount of any potential recovery for insurance or otherwise is netted out, under current tax rules the U.S. company will not get the needed deduction for tax purposes. It seems only fair that the company be permitted to deduct in the year of expropriation the amount of its net cash invested in the Peruvian subsidiary reduced, of course, by any potential recovery. Again, I believe this deserves careful consideration.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INFRASTRUCTURE STATEMENT

Mr. DOMENICI. Mr. President, I wish to discuss the tax legislation in relation to this Nation's public works investment—what some refer to as our infrastructure.

The problem is that variations on H.R. 3838 are likely to have a severe and limiting effect on future public works investment.

Such a depressing impact on investment must be minimized in conference. I urge my friend from Oregon [Mr. PACKWOOD] and others who will serve on the conference to work hard to encourage public capital investment.

Mr. President, Federal spending on public works has been in steady decline over the past 20 years. In real dollars, and as a proportion of Federal spending, we have shifted away from public works investments. As one example, Federal spending on water resources projects has dropped by about 75 percent in real terms.

As a nation, we spend a lower percentage of our gross national product on infrastructure than any other major industrialized nation. The Japanese, by comparison, spend a percentage three times the American share.

The Congress has basically taken the approach that these investments are essentially local in nature, and should be the responsibility of State or local governments.

I do not quarrel with that shift. In many cases, it has resulted in greater attention to local priority needs, greater attention to cost-effective investments.

In fact, I have sought to foster this shift. Through various legislative proposals in water resources, infrastructure banks, and other techniques, I have tried to encourage a greater Federal-local-user partnership. I shall continue to do so.

Under my direction, the Senate Budget Committee has established a Private Sector Advisory Panel on Infrastructure Financing, seeking to develop a broader understanding of how local governments can and do pay for public works.

The panel has concluded its hearings and will file its report with the committee later this year.

What does all of this have to do with H.R. 3838? How is H.R. 3838 related to the erosion of our national public investment?

The answer is quite simple. Both bills make it more difficult and more costly for non-Federal governments to fix up our streets, to expand our sewer systems, and to improve our drinking water systems.

In my judgment, the House bill does far more damage to the ability of local government to finance their infrastructure than does the Senate bill. Therefore, I urge the floor managers, and those who will become conferees on this bill, to hold firm on the Senate's provisions. The Senate provisions, regretably, are not as good as current law. But the Senate provisions are far better than the House provisions.

Let me explain. Infrastructure projects are usually financed, built, and operated with financing from a variety of sources—Federal grants, State and local taxes, tax-exempt bond issues, user fees, and, increasingly, private capital. Federal grants will, at best, hold steady under the current budget constraints. State and local taxes and user fees are unlikely to be affected. But the House version of H.R. 3838 threatens directly tax-exempt bonds and investment by the private capital.

The House's tax-exempt bond provisions could constrain severely State and local governments in using this traditional investment tool. The house bill increases enormously the complexity, the cost, and the overall burden confronted by local governments in ad-

ministration and compliance with the law.

The House bill imposes restrictions and requirements for the issuance of tax-exempt bonds that will be difficult and, in some cases, literally impossible for local governments to comply with. In the name of reform, the House bill prevents local governments from using legitimate cash management techniques to obtain the greatest value for the bonds issued.

Thus, the House bill will make it difficult to obtain tax-exempt financing for sewage, solid waste, and water supply facilities, placing them under a low volume cap in competition with many other types of bonds. The House bill seems certain to discourage important classes of investors from purchasing tax-exempt bonds.

Because I believe it is short-sighted to hamper public financing in this manner, I joined Senator DURENBERGER in introducing S. 2166. That bill addressed many of these concerns. Many of the provisions of S. 2166 have been incorporated into the Finance Committee version of the bill.

In addition, the House bill will significantly decrease the private capital that is available for infrastructure. As I mentioned earlier, State and local governments have turned to an increasing degree to private sources to fill the gap between the financing that is available from public sources and the annual need—a gap that the Congressional Budget office estimates at $18 billion a year.

Local governments have been able to attract private investment into sewage treatment, solid waste disposal, and water supply facilities because the tax treatment compensated them for returns on investment that were otherwise low and protracted. Under the current accelerated cost recovery system, most of the property in sewage, solid waste, and water supply facilities are given a 5-year depreciation. Under the depreciation system of H.R. 3838, such facilities would be scattered among several classes, with recovery lives ranging from 10 years for solid waste facilities to 30 years for water supply systems.

Worse still, if the property is financed with tax-exempt bonds, the depreciation period is stretched even farther. For water supply work financed with tax-exempt bonds, the depreciation period is 50 years under the House bill.

Such changes will make it far more difficult and costly to lure private investment into water facilities.

Is that what we want to do? I doubt it.

This Nation cannot afford to eliminate private investment in water supply and in environmental enhancement facilities that dispose of wastes. We already face a shortage of funds in this area. The House version of H.R. 3838 could turn a problem into a crisis.

The Finance Committee bill, on the other hand, retains many aspects of current law with regard to the tax-exempt financing of sewage, solid waste, and water supply facilities. In fact, it improves on current law by removing these facilities from the volume cap if they are owned by government yet privately managed.

Further, the Senate bill does not stretch out the depreciation schedules on these facilities so drastically as the House bill.

And neither the depreciation changes nor the tax-exempt bond changes would take effect until the bill had actually been enacted and signed into law.

Senator PACKWOOD and the committee are to be commended for their decision to amend the House proposals to address the concerns of State and local groups. It is my hope that the Senate conferees will fight vigorously for this more farsighted approach in conference.

In choosing between the House and Senate approaches, it comes down to the local people who will try to finance these facilities and the local people who will benefit from the services provided. They will be the ones who will suffer from higher State and local taxes required to cover higher debt costs; they will be the ones who will pay higher user fees; they will be the people who will be forced to rely on old and outmoded facilities, or on no facilities at all, because the capital is simply not available to modernize.

As is so often the case, those jurisdictions with lots of money will be less affected than those with little cash.

The House version of H.R. 3838 may be intended to make the Tax Code fairer and more progressive, but at the State and local level it will have a regressive effect.

Congress must not approve any provisions that will undermine the ability of State and local governments to finance infrastucture needs.

Changes that are adopted must not be retroactive, but should take effect on January 1, 1987.

It certainly is not "reform" to enact provisions that jeopardize the efforts of State and local governments to protect our health and safety and to provide the basic support systems on which economic activity depends.

The Senate conferees should also stand firm on rejecting the House's 10-percent "nongovernmental" test, retaining the current law classifications of tax-exempt bonds; allowing tax-exempt financing for privately owned and managed water supply facilities; removing governmentally owned and privately managed sewage, solid waste, and water supply facilities from the volume cap; excluding tax-exempt interest from minimum tax; and favoring depreciation for sewage, solid waste, and water facilities.

The Senate conferees must insist on the elimination of such onerous House provisions as the rule requiring 5 percent of the proceeds of a bond to be spent within 30 days after it is issued.

We Americans usually take for granted the clean water we receive from our taps, and the sanitary disposal we obtain for our sewage. If we take away the tools that State and local government needs to finance these basic facilities, we will find these services far more expensive. We will find local government returning to Washington for assistance.

This is why I am calling on the members of the Finance Committee who will be conferees on tax reform to stand firm, and not to recede to the House.

I urge the Finance Committee conferees to listen to the public officials in our Nation, the men and women who must provide public services.

I urge our conferees to develop a final tax reform bill that does not shrink the capital available to finance our Nation's infrastructure.

No doubt must be left in the minds of those on the House side of the table that the Senate will not accept a tax reform bill that undermines State and local governments in their efforts to provide the public facilities and services that are essential to our health, safety, and economic well-being.

Mr. MATSUNAGA. Mr. President, I wish to take this opportunity to commend the chairman and the ranking minority member of the Finance Committee and a relatively junior member of the committee, the Senator from New Jersey [Mr. BRADLEY] for their work on this tax reform measure.

During the last markup session, every member of the committee was taking 5 to 10 minutes in praising the work that the chairman had done. Just when I was to be called, the bells rang for a rollcall vote on the floor.

□ 1400

When I was called, I asked the chairman, "How much time do I have?" Chairman PACKWOOD said, "90 seconds." So I responded, "Good heavens, Mr. Chairman, I had intended to take 5 minutes just to speak in praise of the chairman." Chairman PACKWOOD then stated, "You have 6½ minutes."

Well, I think Members of this body ought to be aware of amount of time that the chairman of the Finance Committee devoted to this effort. He met with every single member of the committee for a full hour on a one-to-one basis, not on one occasion but on two occasions, in his effort to craft his first tax package.

When that effort failed, he again set out to come forth with a package which gained the support of every

member of the committee. In fact, as the record will show, the vote in the committee to report this bill out was 20 to 0.

During the entire period, of course, the ranking member on the minority side was in full support of the chairman. This may be the last major tax bill upon which the senior Senator from Louisiana may be voting. Senator LONG leaves a great impression in this body and has served at least as my inspiration, in the U.S. Senate. Not only has he been my model in the Finance Committee, but he has been my hero, because had it not been for Senator RUSSELL LONG of Louisiana, I would not be serving as a U.S. Senator today. I say that because Senator LONG, who initially opposed Hawaiian statehood, took the time to visit Hawaii and found that Hawaii was fully prepared for statehood. RUSSELL LONG came back to the Senate, took the floor, and announced that he was now for Hawaiian statehood. It was his leadership that broke the Southern bloc opposition and the Senate passed the Hawaiian statehood admission bill before the House did.

So I take this opportunity to thank the senior Senator from Louisiana. I do hope he will be around not as a Member of the Senate, perhaps, but maybe as an adviser to the members of the Finance Committee as they consider the next major tax measure.

So I congratulate all concerned, especially the chairman, the ranking minority member, and Senator BRADLEY of New Jersey, for having provided so much of the intellectual effort in devising the bill.

I yield the floor.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I thank the Senator from Hawaii for his very kind words and for the fact that he has been one of the most cooperative members on the Finance Committee, not just on this tax bill, but in the years he and I have served on the committee. He is a pleasure to work with and he always makes a positive contribution.

Mr. President, as soon as the minority leader is here, it is my intention to propose a unanimous-consent request for the order of speaking, as the bill is closed, that has been agreed upon by both the majority and minority side. But I know the minority leader wants to be here at the time it is proposed. I think I can indicate what it will be when he does arrive.

That is, regardless of any other unanimous-consent agreement with respect to the passage of this bill, that 30 minutes before the final passage there would be 5 minutes allotted to the minority leader, or his designee; 5 minutes for the majority leader, or his designee; 10 minutes for the Senator from Louisiana, Mr. LONG, or his designee; and 10 minutes for the Senator from Oregon, myself, or my designee. I do not propose that right yet, because I am waiting for the Senator from West Virginia to arrive.

I see the Senator from New Jersey is asking for 10 minutes. I wonder if I might suggest now—if he is ready to go, or ready to go soon—we are down now to only four amendments. And I think, unless I miss my guess, two of them are not going to be called up. So we are going to have a little bit of time between now and 3:15. If the Senator from New Jersey is ready to go, I think we would be ready.

Mr. BRADLEY. Mr. President, let me say to my friend, the chairman, I am not ready right now. There are two or three other things I must do that relate to the other amendments. I will be ready in just a few minutes.

Mr. PACKWOOD. Mr. President, I will withhold posing the unanimous-consent request.

If I might do this, I will yield so the Senator from Idaho may speak but ask if the Senator from Idaho would yield to me to pose that unanimous-consent request when the minority leader arrives.

Mr. SYMMS. Yes, I would be happy to do that.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, as this historic time on the floor of the Senate winds down and we come closer to passing the bill that truly could be called tax reform—many bills around here have been called tax reform, but this one I think fits what people would consider real tax reform by reducing tax benefits, loopholes, if you will, or preferences in the Code, and reducing the tax rates. I think that is something that the American people are asking for.

I compliment the chairman, the Senator from Oregon, for his distinguished leadership in accomplishing this. I compliment my good friend from Louisiana, Senator LONG. I thank him for his tireless work and service in this body.

I hope that I can have the attention of the chairman of the committee and the ranking Democrat, Senator LONG. I see Senator LONG is about to leave.

What I am fishing for is a little help here. There is still a problem. I hope the distinguished Senator from Ohio is here, because there is one problem in this bill that I would still like to offer an amendment on that we have been unable to get to.

Due to the parliamentary situation the other day when the Chafee amendment was taken down, this amendment that relates to athletic programs on the collegiate campuses in the United States has not yet been dealt with. It may be that it can be dealt with in the reconciliation package or another revenue bill or some technical matter that might come up. But I wish to speak about this amendment here for a couple of minutes.

Mr. President, if any of my colleagues can come up with a reasonable way to pay for this, I hope that it could still be accepted by the Senate.

What this amendment does is clarify the treatment of contributions to tax-exempt organizations who accept contributions for college and university athletics. The amendment is necessary because of the problems caused by overzealous revenue agents and specifically revenue ruling 86-63, issued on April 28, 1986.

Many tax-exempt organizations, Mr. President, are set up for the sole purpose of soliciting contributions to further athletics at universities and colleges. These organizations collect the contributions from donors annually, and periodically they turn the funds over to the college or the university athletic department with no strings attached.

Those funds are what motivate some of the fine football and basketball programs that we have in the United States. Those programs pay for the minor sports, a lot of women's sports, and make athletics something that all of the students in all of the country can participate in, in addition to those that are participating at the extreme levels of NCAA competition in the major colleges in football and basketball and even some of the smaller colleges.

□ 1410

The IRS has attempted to disallow these contributions if the institution gives the contributors special treatment as to seat location when they purchase tickets. You understand they are still purchasing the ticket, still paying for the ticket, but if they donate so much money to the Boosters Club or whatever institution it is they are allowed in some cases to buy tickets at a preferential place in the stadium.

The amendment provides that as long as the ticket is purchased at a regular ticket price, any contributions to the nonprofit organization will be allowed as a charitable contribution. This would end any uncertainty about the future nature of the payments.

The amendment also sets forth a formula to be used in situations where seats in the facility are provided for an extended period of time and a contribution is made at the same time.

We recently, had a situation at Boise State University where a nonprofit organization undertook the responsibility to raise half of the cost of the facility, or over $7 million. The remaining half is being paid for by increased student fees. The people who made large

contributions were given the use of the seats in the facility for life. But the overzealous IRS agents came in and denied any portion of these payments as a contribution.

This amendment provides a formula to determine the value of the tickets as the present value of future benefits to be received. So if the amount paid is greater than the present value of future benefits, the difference is allowed as a charitable contribution.

The amendment further provides a safeguard for both the Government and the taxpayer by requiring that the value used in the formula is used in valuing any tickets contributed back to the school.

I am trying to clarify this situation so there will be an incentive and encouragement for people to make contributions to tax-free foundations who donate money for athletic departments at our institutions. Contributions of this nature are used by the institutions primarily for football and basketball scholarships.

At most schools the football and basketball programs provide for most of the funding for all other sports, including women's sports. For years these programs have been financed in this manner.

This amendment merely sets forth in statutory form what has been done for years and is only necessary because of recent action last April by the IRS to try to change the tax treatment. This amendment is important to most colleges and universities in the United States.

I know in the State of Idaho it is very important to the University of Idaho, to Idaho State University, to Boise State University. It is also important to other small institutions like Northwest Nazarene College in Nampa, and the College of Idaho in Caldwell, which have about a thousand students. They have very extensive basketball programs which are an attraction to these schools and provide financing for the minor sports.

At a time when athletics is under increasing financial attack, with television revenues down and the likelihood of a deep cut in the deductibility of the tickets as a business expense, college athletic programs are hard hit. They are being asked to do considerably more, especially in the area of women's athletics and nonrevenue minor sports with considerably less income. Denying the schools access to private funds will simply cause the institutions to seek public funds or run the risk of further cutting back athletic programs.

When the bill goes to conference and the question of ticket deductibility is brought up, I ask the chairman: Would that in any way open up this area in conference so this can be looked at by the conferees?

Mr. PACKWOOD. There is no question about the 80-percent deductibility. As you are well aware, the National Colleagiate Athletic Association directors testified before the committee on that subject. What they were afraid of most of these major universities, public universities, and the Oregon States, the Idaho States, are not located in the biggest towns in their State. They are normally in a smaller town, heavily supported by the local business community and the business communities have been deducting the tickets for business expense. There is no question but what football and basketball end up supporting all of the minor sports and almost all of the women's sports. They are concerned.

It is hardly a leading desire to want to be able to support golf, tennis, women's track, and things like that.

I think it is subject for conference.

As I indicated to the Senator from Idaho before, I think, considering what we have already opened up in this bill between the House and Senate, this is clearly subject to conference, and I will look very favorably upon trying to achieve the end that you desire.

Mr. SYMMS. I thank the distinguished chairman for that statement. That gives me hope that this may be resolved.

Mr. President, before the Senate concludes consideration of the tax reform bill, I want to make a few remarks on the event of this most historic occasion.

First, Mr. President, I would like to commend the foresight of my committee chairman, Senator PACKWOOD, for his herculean efforts in shepherding this bill through the Finance Committee and now through the floor of the Senate. I am hopeful that my colleague's efforts in putting together this package will be recognized by our counterparts in the House when the conference committee begins to meet in July.

Second, I would like to commend the support and guidance that was given to the Senate Finance Committee and more recently the Senate as a whole by Senator LONG, the ranking minority member on the Senate Finance Committee, who as we all know served as the leader of that committee for a good number of years prior to 1981. Senator LONG who has given me much appreciated guidance during my brief tenure on the committee is leaving the Senate at the end of this Congress to retire after a long and distinguished career in this body. Or, so Senator LONG says. Personally, I cannot help but believe that it will not be long before my colleague from Louisiana again feels the "tug" of public service and, in some way, again joins the fold of those devoting their time to trying to make life in this country a little better. Nevertheless, I cannot think of a better tribute to Senator LONG than the passage of this bill. It is a fitting finale to a man who has had a distinguished career as a member of the Senate Finance Committee.

Third, I believe that the Senate should give a round of applause to our leader, Senator BOB DOLE, the former chairman of the Senate Finance Committee. Without his leadership and guidance during this process, I am not sure that the Senate could have concluded consideration of this major piece of legislation in such a timely and organized fashion.

Fourth, I want to commend the minority leader, Senator ROBERT BYRD, for his support in aiding the timely passage of this historic bill.

Fifth, the House of Representatives certainly deserves a note of praise in this speech for being the first to take the "plunge" and for keeping the process going on tax reform. Without the continued commitment of the chairman of the House Ways and Means Committee, Congressman DAN ROSTENKOWSKI, it is unlikely that the tax reform process would have had more than "one life," and the "life" would have been very short. While I believe that the package being reported by the Senate is in many ways a better bill than the one received by the House, the Senate should keep in mind that the House had the very difficult task of being the "first" to consider this major piece of legislation. As the House and Senate prepare for the conference committee, it is my hope that we can both approach the process with the thought that our overriding goal should be to improve on both the House and Senate packages, so that the final bill will be the best effort of both Houses.

Finally, I would like to commend the individual most responsible for this legislation. I want to praise the President of the United States, Ronald Reagan, for his courage and foresight in first proposing the idea and the outline of tax reform, and then actually having the fortitude and the political stamina to continue to support the effort when it did not seem either politically popular or feasible.

In November 1980, when the American people elected Ronald Reagan, they elected a candidate who was committed to fundamental change; committed, no matter what, to constructing a long-term program that would set right 40 years of economic debauchery born out of the vision in Washington that extended to the next ballot box. With the election of President Reagan, we reached a true watershed in American politics and economic thinking. I believe that we have and will continue to experience a phenomenon that is much larger than current political and economic debate

would indicate. In 1980, we reached a point where it was necessary to change the way we thought about our economy, ourselves, and the management of our political and economic lives. This President established long-term objectives and has remained committed to policies which achieve our objective of a sound, growing and prosperous economy. This tax bill is a culmination of a major part of the President's long-term economic plan.

The overriding philosophy of the President, and the philosophy which was the driver on developing this tax bill, is the firm belief in our economic system—democratic capitalism. This President and I believe in the power of capitalism to deliver more freedom, more opportunity, more social mobility and more abundance than any other system devised by man. Capitalism rewards the risktaker, and it is a system that believes in profit as an incentive and in the widest possible distribution of justice, as well as wealth.

Franklin Roosevelt used to say that the inherent vice of capitalism was the unequal sharing of blessings—while the inherent virtue of socialism was the equal sharing of misery. In the past, too many Americans have believed that capitalism was not very noble, that somehow our economic system was something to apologize for. In the land of John Kenneth Galbraith and John Maynard Keynes, profit was not always regarded as a positive thing, and capitalism was often regarded as the handmaiden of greed.

But those worn out beliefs have been changed because of the leadership of our President. The kind of capitalism that he believes in, and that I believe in, demands more than creature comfort. It demands a fair distribution of profit—and a widespread assumption responsibility. For there can be no real prosperity in a land where millions are denied a chance at success. Profit itself has little justification unless it becomes the fuel for social progress and capitalism must have an underlying morality if it is not to degenerate into mere acquisition on a grand scale.

It is that vision of responsible capitalism that I hold, and that has been held by President Reagan. As the last half century has seen a constant narrowing of the old gulf between business and the humanities, so government has come to assume an ever greater role in economic affairs. For 50 years, we have turned to Washington to feed the hungry, house the homeless, provide work for the unemployed. As Government swelled to meet these demands, it came to confuse responsibility with dictation. It promised to realize our dreams—but instead spent much of its time sleepwalking. It vowed to raise the floor beneath the poor—but lowered the ceiling on everyone else. It sought to divide existing wealth more evenly—rather that foster the creation of new wealth for millions of Americans.

Government set out with the best of intentions—and somewhere along the way it became little more than a costly burden. An assembly line of do's and don'ts, seeking to be compassionate, forgetting to be competent. And nowhere did its mismanagement have more disastrous or ironic effects than in the economic realm. Compassion is a word used extensively by the media today. And, like all words, it is vulnerable to distortion. Real compassion does not tolerate double digit inflation. It does not accept welfare lines in lieu of lasting jobs. It is not comfortable with a spider's web of redtape that cripples the small businessman or woman without adding materially to the protection of anything—except the size of the bureauracy.

Real compassion is contained in a weekly paycheck with a reduced tax bite—a grocery or gas bill that doesn't force a choice between eating or heating. Real compassion offers a handup instead of a handout. Real compassion defines the ultimate social justice as the right of individual self support.

Real compassion and capitalism of the American brand have always been comfortable partners. For it was capitalists who cursed the darkness and replaced it with light; who replaced cold with heat; scarcity with plenty; and squalor with comfort. Capitalists put Americans on the road—and sent other Americans to space. Capitalists have brought better hygiene to the underdeveloped world—more food to feed hungry mouths—and more hope in lands where that most precious commodity would now be extinct.

Capitalism succeeds best when allied with "moral obligation." It reaches its zenith in an atmosphere of democracy, equity, fairness, and real compassion. It is based on the genius of individual men and women, and thrives where those individual rights are protected and wherever their diversity is maintained.

The philosophy of capitalism was not only born in 1776 with the Declaration voted in Philadelphia, but also with a book published in Edinburgh, Scotland. That was the year Adam Smith published his classic work, "An Inquiry into the Nature and Causes of the Wealth of Nations." Smith, for the first time in history, asked the right question. Even today most of the social science studies ask about the causes of poverty, which is the wrong question. The more important question is what is the cause of wealth. Adam Smith was the first to imagine that wealth could be systematically increased in a sustained way. He saw for the first time that economic development could occur, that the world was not trapped in an eternal cycle where you must forever have 7 fat years followed by 7 lean years.

In looking at the New World from Scotland, Smith observed two experiments taking place. He observed that South America had far richer resources than North America: fabulous gold, silver, and lead, in comparison to the humble crops of corn and tobacco, the mainstays of a good but hard living being eked out by the people strung out along the Atlantic Coast. The rank and quality of people, too, favored South America: aristocrats, generals, colonels, brave soldiers rewarded for their services; while in North America there were many more commoners, dissidents, the poor, criminals, refugees.

But Smith predicted, in spite of all this, that South America would end in poverty and oppression because it was reproducing a bankrupt idea—the idea of the Holy Roman Empire, dominated by great landed estates with nobility and peasants, a close union of church and state, a political economy run essentially by large landholders and the military. That system, he argued, could not thrive economically; it had never thrived in 1,000 years of European history prior to 1776.

By contrast, Adam Smith argued that despite the relative poverty of North America, there would emerge on this continent unprecedented liberty and unparalled prosperity. He attributed this, again, not to natural resources or population, but to its systemic idea. The founders knew they were launching a new experiment in political economy, and so did Adam Smith, watching it from abroad, even before it was formalized in the Constitution.

Smith noted and admired two overriding characteristics of this new idea that was emerging in North America. One was the separation of church from the state, and the separation of the press from the state, and the separation of the universities from the state. This grew out of the principles that you cannot trust political leaders to make decisions of conscience or ideas or information, because the life of the spirit is too important to leave to politicians. It was an important idea, and a fairly new one, though it had already been established in Geneva and some free republics of Europe, and it was to a certain extent observed in Great Britain itself.

The second principle was even more striking; namely, that you can't trust political leaders to make economic decisions either. Therefore you must separate economic institutions as much as possible from the state. This was far more original. It was in place hardly anywhere in Europe, although some free cities had been built around this principle.

In the United States, a whole continent was to be built around these two separations, these three quite independent systems.

There was to be a demographic political system, with human rights, electoral suffrage, constitutional procedures, checks and balances.

Then there was to be a capitalist economic system based on private property, market, and incentives, meaning systemic inequalities.

And finally there was a third, separate moral-cultural system, with freestanding churches, universities, newspapers, later radio and television, associations of poets and philosophers—quite rich sets of institutions in the moral-cultural sphere, institutions not entirely beholden to either the political system or the economic system.

The genius of the system is that by dividing the powers you allow no one to control all of it. The founders' vision was not socialist or libertarian because the democratic capitalist system imagines itself as "empowering" people, not managing them. It puts in place those institutions which permit free people to build a better life for themselves through individual action and voluntary association.

The tax bill being considered today gets away from the idea of the Government managing our economy through the Tax Code. The bill attempts to reinstate some of the prerequisites of development in a democratic capitalist economic system. Our system is a thoroughly American idea, and has proven to be very effective throughout our history.

The key to the success of our system is pluralism. A society is more likely to be creative and more likely to build community if it allows for a vast variety of human beings, attitudes, viewpoints, and values, providing ways for all of them to argue out their differences in public. Fire will be struck from these arguments, and a much larger range of possibilities will be conceived than if we were all homogeneous. This vision of the possibilities of pluralism depends very much on an antiutopian recognition that you can't trust human beings too much, although it is the applied intelligence of man—human resourcefulness—that continually rejuvenates the system.

Our system recognizes that there are important roles for government, for the polity. We allow for a great range of invention and possibility in the economic system. And we allow for an enormous range of moral and cultural values. Within this wide frame of reference we find it quite easy to learn lessons from almost anywhere and apply them, remake them, do them our way, and absorb them into our system.

The vitality, the ability to make a better life for our people, and for all peoples, the vision to respond positively to the future, are overwhelmingly present in America because of our unique system of democratic capitalism.

It is our responsibility, in the Congress, to defend that system. The basic defense of our unique system is to insure that the Government does not interfere with the continuing life of that system.

By lowering rates and taking away the Government mandated tax incentives to invest in specific ventures, we are significantly contributing to the defense and maintenance of our system of democratic capitalism. The low rates will allow taxpayers to reach their highest potential without feeling that they are in partnership with the Internal Revenue Service or having their every economic decision determined by the Internal Revenue Code.

Instead of "mining the Tax Code" for profits, taxpayers will hopefully explore new horizons in generating profits and growth in this economy.

Some have questioned the wisdom of paring back some of the incentives that were enacted in the Economic Recovery Tax Act of 1981 and using that revenue to lower rates. When we passed ERTA, the economy was operating in an environment of high interest rates and high rates of inflation. The incentives that were enacted at that point were implemented in an effort to counter the economic effects of high inflation and interest rates. Since that time, interest rates and inflation rates have fallen significantly, and yet, the tax incentives were never adjusted to reflect the changed economic circumstances.

As a result, huge surpluses have been built up in just about everything for which the Tax Code provides an incentive. Capital investment has declined over the past year in large part because of that surplus. Consequently, the tax benefits that currently exist are not being fully utilized. Paring back or eliminating those overly generous tax benefits and using those revenues to finance rate reductions will spur tremendous growth in this economy, and the future growth will be more evenly distributed throughout the economy.

While I am fully convinced that the Senate bill remains a blueprint for economic growth, I do want to mention some specific concerns that I have with regard to this bill. In some circumstances, we have gone "overboard." I feel confident that the conferees will address some of these concerns, but given the nature of Congress, I am sure that we will be addressing some of these issues in future tax bills. That is not meant as a criticism of this body, but meant simply as a statement of recognition of the workings of Congress.

First, the bill continues on a trend that was established in the 1984 tax bill to tax the time value of money. I was opposed to implementing this concept in 1984, and I remain opposed to this principle because it is inconsistent to tax the time value of money, but not reimburse for the time value of money. This concept is embodied in the accounting changes incorporated in the bill, and I expect that the Congress will be faced with major technical problems in this area in future years.

Second, this bill establishes a trust fund which will finance the operations of the Internal Revenue Service. As I understand it, the IRS will be taken "off-budget" and will no longer be subject to the annual appropriations process. In my opinion, Congress will regret the day that it does not subject the IRS to the annual appropriations process. A significant number of regulations will have to be written implementing this tax bill as well as all of the other tax bills we have passed in the last few years. Controlling the IRS' "purse strings" is one significant way by which Congress can keep control of the regulations projects, and maintain control over the intent of the laws it passes. Relinquishing the authority we presently have is a mistake.

Third, this bill implements an entirely new concept in our tax system by "deconsolidating" the individual tax return. This concept is embodied in the "passive loss" provisions in this bill. Besides retroactively taxing taxpayers who made good faith investments under the current tax law, the bill establishes a concept which, in my opinion, will slow economic growth in the future. If Congress believes that the depreciation losses associated with a particular investment are too generous, then the Congress should correct the depreciation system so that they more accurately reflect "economic" losses and not "tax" losses. At the very least, the conference will hopefully reduce or eliminate the retroactive penalty imposed on taxpayers who made a good faith investment under the current set of tax rules.

Fourth, this bill limits the amount of investment interest that can be written off to the amount of investment income earned. This is an attempt to eliminate "leverage" in our economy, which is somehow perceived by some staff and Treasury bureaucrats as an economic ill. Leverage has been and will continue to be a major part of the way business does business not only here in this country, but worldwide. Leverage, contrary to the myopic views of some, increases the ability to create wealth and stimulate growth in our economy. It is good for the economy as long as individuals and companies are leveraging to make investments and not to consume.

Fifth, the Senate bill and the House bill both establish a 'dual" tax system, under the guise of a minimum tax. The utility of a second, alternate tax system in an environment where the regular tax has been reformed and rates have been lowered should be questioned. The reforms made in the regular tax will ensure that taxpayers will pay substantial taxes annually, except for taxpayers that are carrying forward or carrying back net operating losses. If there is a belief that the few remaining incentves are too generous, then they should either be scaled back or eliminated in the regular tax.

This bill retains many of the capital formation incentives, but for regular tax purposes only. And, the improvements in the capital formation area in the regular tax actually broaden the base for the alternative minimum tax, thereby driving even more taxpayers into the alternative tax structure—a structure that does not retain any capital formation incentives.

The taxpayers most impacted by this newly revised alternative minimum tax will be marginally, and possibly, moderately profitable taxpayers who make significant investments in the U.S. economy—thereby increasing the cost of capital for any investment that less profitable, start-up companies or companies that are in a declining industry. It creates a competitive advantage for highly profitable companies who either do not make significant investments in assets that are labeled as "preference" items, or who are diversified enough to be able to fully utilize tax attributes of the capital investments they may make.

Furthermore, the "book" preference item adds an entirely new dimension to our current tax system. In some circles, it is being referred to as "code within a code." The basic premise for accounting for book purposes and accounting for tax purposes is at odds. Public accountants generally require their clients to delay recognition of income for book purposes until the income has actually been realized, while at the same time requiring their clients to recognize losses as soon as possible. The principles for tax accounting are in direct contrast to those general guidelines. The timing differences between the two systems will present numerous problems for taxpayers and tax collectors because taxpayers could easily be taxed on the same income two or three times. In addition, the "book" preference will impose a rather harsh "retroactive" tax on taxpayers because "book income" includes depreciation, tax-exempt income, investments in preferred stock, net operating losses, and so forth, from previously made investments.

Before enacting this dual tax structure, I am hopeful that the conferees will critically examine the impact of implementing two separate tax systems that are integrated.

Sixth, and perhaps most important, are my concerns over the fact that the rate reductions for individuals and corporations are delayed until July 1, 1987, while deductions are eliminated January 1, 1987. The timing difference actually imposes a tax increase on taxpayers in 1987, and will thereby delay for at least 1 year the economic benefits of reducing the rates. Furthermore, the 1987 tax hike could stymie growth in 1987. Since there is a revenue pick-up in the first 2 years of this tax bill, I am hopeful that the conferees will use that revenue to finance the cost of rate reductions on January 1, 1987. In my opinion, the out-year revenue loss associated with January 1, 1987 rate cuts do not reflect the revenue that will flow from the growth that this bill will foster.

In closing, I would again like to commend all of those who worked long and hard on developing this bill, and I encourage my colleagues to support its passage.

Mr. PACKWOOD. Mr. President, I believe this unanimous consent has now been cleared on both sides.

I ask unanimous consent that notwithstanding the unanimous-consent agreement entered into on June 19, with respect to H.R. 3838, that 45 minutes prior to the final passage vote on H.R. 3838, there be time allotted in the following fashion, in the following order, for debate only: 10 minutes for Senator BRADLEY; 5 minutes for Senator METZENBAUM; 5 minutes for the minority leader, or his designee; 5 minutes for the majority leader, or his designee; 10 minutes for the Senator from Louisiana [Mr. LONG], or his designee; and 10 minutes for the Senator from Oregon [Mr. PACKWOOD], or his designee.

Mr. MATSUNAGA. Mr. President, that request has been cleared on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I have a statement I would like to make. I believe I will require somewhat less than the 15 minutes I have reserved.

Mr. President, perhaps all this talk about taxes really started some years ago with Fritz Mondale. Fritz Mondale said in San Francisco, "I am going to raise your taxes."

Where are you now, Fritz? Where are you when these taxes are going to be raised for a lot of people?

President Reagan, as a candidate, said he would not raise taxes. As President, he continues saying he is not going to raise taxes, but he submitted a tax bill and asks Congress to pass it that will raise taxes in 1987.

The House Ways and Means Committee worked out their tax bill—lo and behold, they also have additional taxes in it for 1987.

Then the Senate Finance Committee gets its package together, and there are some big tax increases in it for 1987—$22 billion, we are advised, of tax increases for 1987.

How did that come about?

Well, you all remember Rube Goldberg, the fellow who created contraptions. The Senate Finance Committee found him, they hired him, and they built this contraption, pulleys, gears, bells, whistles, a typically Rube Goldberg-crafted contraption.

They brought it to the floor and said, "This bill cannot be changed. This bill cannot have an amendment because that would make it collapse, and we can't have that because there are going to be 6 million of the very poor Americans taken off the tax rolls by this bill.

Well, that sounds good.

"Then we have a minimum tax," they said, "for corporations. And we are going to close loopholes for individuals who escape paying taxes."

Well, that sounds good.

Also, there are only two tax rates of 15 percent and 27 percent for individuals."

That sounds good, just two rates.

Then they say, "Those people who wear the black hats—you have seen them, the ones with passive tax shelters; we are going to close down those loopholes. We are going to eliminate those tax shelters."

Sounds good.

They also talk of simplicity and fairness.

Sounds good, again.

Well, before you tell your CPA you do not want him anymore, you better read this bill.

Before you determine it is fair, you better look at it, have your CPA look at it, or H&R Block. But have somebody look at it.

The committee said, "We have this bill constructed in such a way that if you remove this gear or this whistle or that bell or that pulley, like in any Rube Goldberg contraption, it all falls down, it comes apart. It all comes apart."

They said "unravels."

But they don't talk about raising taxes in 1987. It has never been explained by President Reagan, the House Ways and Means Committee, or the Senate Finance Committee, just why almost everybody's tax will have to go up in 1987.

The IRS will be making out the W-2 forms and schedules late in December, and everybody will see an extra cash bite in 1987.

Would it make this tax bill come apart if we corrected this? Would it come apart and unravel, if most young

people on their own, just starting out with their first, second, or third job, did not have to pay more taxes? And that is what will happen. If this bill is not changed, most young people on their own, earning $10,000, will pay a little more taxes, not just in 1987 but 1988 and afterward.

Or the young married couple—must we take a bigger bite out of them because we remove the marriage deduction in the case where both young married people are working in one household?

Really, will this thing all unravel for the retirees who have contributed and had taxes taken out of their contributions during their working years, if we corrected this bill so that they don't have another income tax bite on them when they start drawing those pension funds out? That is double taxation. Will correcting this make the bill all unravel?

What about retroactive taxes?

□ 1430

You know, these are taxes that are in the bill that change the tax rules for years past. These are changes made in the middle of the game. Is that right?

Will this bill really come apart? After all, what was all this talk about lowering taxes on the middle-income taxpayers because they are paying more than their share. Let us see. These middle-income people are going to pay more in 1987—everybody is. That is locked in there, unless it is changed somewhere along the line. It is not going to be changed here, in the Senate, as it should have been. But they are also going to pay more taxes in 1988 and afterward—that is, if you make more than $20,000 to $30,000, one out of four—that is 25 percent—are going to pay more. For those with $30,000 to $40,000 in income, 33 percent are going to pay more in taxes.

Well, so much for promises.

And what about IRA's? When you are already on a pension fund, forget about buying an IRA. Forget about that great incentive for saving. That is one of the most forward-looking, progressive additions to the Tax Code of recent decades, encouraging Americans to save. Would this bill all unravel if we kept the IRA?

Well, there may be a euphoria in this Chamber, and maybe all around this town inside the Beltway, generated because of this Rube Goldberg contraption—but it is hard to fool the American public.

Let me talk about Roper's Public Opinion Poll, taken early this month, a national poll. What Roper found out is this: He described, early this month, the Senate committee bill in as glowing terms as we have heard from the Finance Committee. Then he asked the question: Do you want that or do you want to stay with present law? Yes or no.

Fifty percent of the people polled said, they wanted to stay with present law. They said they did not want the Senate Finance Committee bill.

Thirty-three percent of the people said they did not want to stay with present law, they wanted to have the Senate Finance Committee bill. Seventeen percent said they did not know or they guessed it would be the same. They really had no opinion one way or the other.

What is unusual about it is that Roper described this bill very well, with a lot of enthusiasm, letting them know the fine points. But 50 percent of the people said, no, they did not want it, they did not trust it. Only 33 percent of the people polled said, yes, they wanted it.

Mr. President, there are a lot of people who, perhaps, worry as I do. They have looked at this bill and they have analyzed it to a certain extent. They have talked to CPA's, they have looked at studies of it. They wonder what it is doing to be basic industries of the United States.

Mr. President, these basic industries of agriculture, forest products, and mining are down. They are not making any money. So, in one sense, they are not paying much in taxes because they are not making any money. But built into our Tax Code is what can probably be described as tax incentives. Those tax incentives are important in capital formation. They are important in what the basic industries have to face if they are going to survive and recover.

The big problem with the basic industries is that there is no money for their commodities, because prices are so low. If they are going to recover, they are going to have to have capital formation. We wipe the incentive for capital formation out in this bill.

They lose the opportunity for investment tax credit. Then there is the question of capital gains. That is significant. That is an incentive. That too is repealed.

So we have tax policy changes that are very far reaching.

I mentioned H&R Block earlier. What is H&R Block's analysis of the bill? They say, on balance, it goes too far.

Data Research, Wharton's, Manhattan Financial Institute and the University of St. Louis have all analyzed the bill now, this month. They agree on four points:

They agree that the result of the bill will be lower gross national product, less productivity, perhaps more unemployment and, fourth, a higher deficit.

Could we do what needs to be done to the Tax Code without going so far? Could we adjust the Code so that the very poor will not pay any taxes? Yes. Could we get the minimum tax on corporations and individuals that are escaping paying tax? Yes.

Yes, we can do these things and not clobber the basic industries or these other groups. We do not need double taxation on retirees—we can still have the IRA's. We can do all of these things without really causing the hurts and damages this bill will do to many working Americans.

But there is one loophole in this bill that was not even touched—a big loophole. What about profits made overseas by corporations that operate over there and admittedly have a good deal on their profits made there? Those loopholes stay just exactly the way they are.

How about this capital formation? Where is it going to go as we make the changes in this bill? A lot of it will go in overseas investment. That results in lost jobs here, in the United States, and lost opportunities here, in the United States, and almost always results in more imports. Is that the direction we really want to go in for the country? I think not.

Finally, I think there is a large segment of Americans that are entirely forgotten and ignored in this tax bill. I am talking about rural America. That area stretches from coast to coast, whether it is a fishing village or whether it is the small communities—the scores of thousands of small communities of rural America that serve the basic industries of this country, whether it is agriculture, those farming communities and ranching communities; whether it is mining towns serving the miners; or whether it is those small towns and some not so small that serve the loggers and the sawmill workers out across this country.

They are going to be hurt because the basic industries are hurt. When you hurt those basic industries, you lose jobs; you cause liquidation; you cause businesses to go broke, farms to disappear, because the farmers have to move off and the ranchers have to leave after liquidation. And the communities shrink, and their schools. How many teachers do you need after your community has shrunk? And the hospitals; you have to let go some nurses. And how many doctors leave town?

How many barbershops are closed? Does the feed mill stay open? How about implement dealers?

That is what is being hurt when you clobber the basic industries of this country. It is not just the loggers, the miners, the farmers, and the ranchers who are hurt. It is all of rural America.

At the outset of the debate on this bill a couple of weeks ago, I said that I would measure this bill against how high and wide and deep the bill is and how fairly it treats Americans. This bill does not fairly and equitably treat

rural America, because it hurts the basic industries of this country. I shall not vote for it. I shall vote against it.

And I shall vote against it based on those measurements. It is higher taxes for almost everybody in 1987, and certainly higher taxes for the basic industries of farming, ranching, forest products, and mining if they come out of their tailspin, their downward tailspin, and start to recover. It will clobber them with higher taxes, the very people we should help.

How wide is it? It does not do anything about closing the widest loophole that we have in the Tax Code. That is on foreign investment. So it is a backward step in that regard.

And how deep is it? It is just as deep as any Rube Goldberg contraption—one that will reach deeper in the taxpayers' pockets, and those very taxpayers who least can afford it, those very taxpayers who, we hope, will have the chance at economic recovery so that the entire economy of the United States could be in better shape.

□ 1440

I vote against this bill. I vote "No" for all of these reasons.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, our debate, which has in one sense extended now over the better part of 18 months, is drawing to a close. There is 1 hour and 20 minutes before we will vote on the Tax Reform Act of 1986, and I think the passing of this legislation will be recorded as a seminal event in the history of taxation, not just in our country, but in a subject that has bedeviled organized societies for many years.

A number of fellow Senators have spoken to aspects of this legislation which are new and important, some of which are not so much new as important. In that respect the reduction of tax rates, and in the number of rates, are changes in the tradition of the Tax Code—others like it have both found and lost favor over time. But there is one other measure, one particular feature of this legislation contained in title XIV of the bill which has never appeared in our Tax Code and is altogether new—even among the myriad proposals that have arisen from the administration's Treasury I, Treasury II, and the bill that has been passed by the House. I refer to the deductibility of passive losses against positive income. This is the arrangement which, sooner or later, all tax shelters provide, and it has been a source of concern on the Finance Committee, in the Senate, I think in the Nation at large. Though there has been this concern about using tax shelter losses to reduce other income, still the decision to eliminate the deductibility of passive losses has come with a measure of swiftness that I think none of us anticipated.

The central fact is that tax shelters were a pervasive but somewhat stable aspect of our Tax Code and our tax arrangements for several generations. It was only in the 1970's accelerated by what events I do not think any of us can say with certainty. It may be that a measure of sophistication about the Tax Code came into being when persons learned of an opportunity they did not know about. Then, indeed, in 1981 even as we closed a set of tax shelters that were known as commodity tax straddles we set in place a depreciation system that made possible, in combination with tax credits of other kinds, limited partnerships which could produce very large nominal paper losses in very short periods of time. The 1981 legislation made it much easier to shelter income, and to a degree that had not been previously known. The practice spread to an extent that had not previously been known.

Time and again in our Finance Committee deliberations, not just privately but in public, one or another of our members would speak of having a conversation with a constituent who would say, "You know, I pay taxes but I'm the only person I know who does."

And we have one witness to the problem in a real position to know—the previous Commissioner of Internal Revenue, Mr. Roscoe Egger, who has just retired and taken the great regard, I think, of the Finance Committee with him. In an interview in the New York Times in March 1984, Commissioner Egger was asked what was the one thing he would most like to change in the tax system.

This was his response, and I quote:

> I would go back and look at the whole question of the ability to offset losses from one type of business activity against income that is totally unrelated.

Commissioner Egger, a man of considerable experience and reputation, had seen the Internal Revenue Service's audit workload of tax shelter cases nearly double in 4 years.

□ 1450

Indeed, one of the aspects of this legislation—one of the byproducts, we hope—will be to free up a huge portion of the ranks of auditors of the Internal Revenue Service who now do nothing but chase the newest tax shelters around and around and around, some of which are caught, most of which are not. Most tax shelters are perfectly legal, in any event. The fact that so much of the Service's resources must deal with the marginally questionable ones only suggests how pervasive this pattern has been.

In this bill, we introduce the distinction which Commissioner Egger posed and which we have been dealing with on the committee in one form or another for the last 4 years.

The proposal originates with the New York State Bar Association tax section. I introduced it in 1983 as a feature that would affect the calculation of the minimum tax. That is to say, persons who had managed to zero out—or nearly so—their tax liability under present arrangements would eventually have to pay a minimum tax—some tax, no matter how large their income, you might say. In order to obtain that result, the measure sought to forbid the use of passive loss deductions the purposes of the minimum tax computation.

That feature was reintroduced in this 99th Congress by myself and the Senator from Rhode Island [Mr. CHAFEE]. In the deliberations in the Finance Committee this year, it was decided that rather than provide this as a provision in the calculation of the minimum tax, we would raise it to the level of a principle of taxation in the entire Tax Code, that henceforth passive losses could not be deducted from active income.

The principle puts a passive investor in a limited partnership in a position that is essentially no different from that of a person who invests in stock in a corporation. If the stock goes down during the year, or the corporation has losses, he cannot take those losses off his income tax. This new proposal says you do not take off your nominal losses from feedlots, railroad cars, barges, apartment buildings, almond groves—the list goes on and on—until you have actually realized them—made the money or lost the money, by disposing of your investment.

Mr. President, a very limited form of this provision exists in the House bill, but only as part of the minimum tax. It does not appear in any of the tax return proposals sent to us by the President. Therefore, one of the great challenges of our conferees will be to hold on to this feature in title 14 of our bill. It is absolutely the heart of tax fairness in this country, requiring persons to pay tax on their real income, not to avoid it by artificial passive losses.

I see that the majority leader has risen, and I certainly do not wish to keep him from speaking in these final moments, but I did wish to call attention to this singular provision which was adopted by the core group in its early debates and for which we are very much indebted to the staff of the Joint Committee on Taxation, which saw the potential in revenue of such a measure. We phase it in so that the actual gains are not so great in this legislation. But were we to put this principle in operation in its fullest form immediately, as it will be in 4

years' time, we would gain $50 billion over the period of the tax bill. That is a measure of the tax avoidance now taking place and a measure of importance of the bill.

This will be the last occasion on which I speak on this subject on this part of the cycle, so I would not want to sit down without expressing, for my part, what I think would be the judgment of any member of the Finance Committee, our great gratitude to the members of the Joint Committee on Taxation, and in particular its chief of staff, Mr. David Brockway. The joint committee staff has been known to refer to themselves as the "anonymous drones of tax reform," and I shall not here invade that status. Yet they have been the indispensible helpmates of the enterprise.

On the Finance Committee staff, we have the extraordinary, able leadership of Bill Diefenderfer, with the girth and the stamina of the first mate of an old "Yankee Clipper." I have seen him "stand on deck" in the committee sessions some 18 hours, and it never occurred to him to sit down.

Our chief tax counsel, John Colvin has been an example of support and courage, as has been Bill Wilkins, who is the chief of staff for the minority. They have brought together a bill of such compelling quality that it was reported by the committee unanimously.

It remains only for me to express my admiration and affection for our chairman, Senator PACKWOOD, for whom we have extraordinary regard, and our always formidable, always willing and, in the end, daringly adventurous and innovative ranking minority member, the Senator from Louisiana [Mr. LONG].

Mr. President, I yield the floor.

Mr. NUNN. Mr. President, I would like to address a question to the distinguished chairman of the Senate Finance Committee. Oglethorpe Power Corp., an electric membership cooperative operating in Georgia, has planned and hopes to enter into a sale leaseback transaction on a generating plant. This plant is under construction pursuant to a binding contract in effect prior to March 1, 1986. The purpose of the question is to clarify the interpretation of transitional rules relating to the required timing of such a sale leaseback transaction. The language of the bill provides that a sale leaseback must take place within 90 days after the in-service date of the qualified property. Is it correct to interpret the transitional rules to mean that a sale leaseback transaction is allowed to occur on any date prior to and including the in-service date, as well as on any of the first 90 days immediately following the in-service date?

Mr. PACKWOOD. The Senator from Georgia is correct in his interpretation. The binding contract transitional rule provides that if a taxpayer such as Oglethorpe sells, prior to its in-service date, qualified property that is being constructed pursuant to a binding contract in effect as of March 1, 1986, the provisions of the bill do not apply to the property in the hands of the transferee. The special sale leaseback transitional rule extends the allowable sale date with respect to such a transaction to any date within 90 days after the in-service date. Thus, Oglethorpe's proposed sale leaseback transaction will not be subject to the provisions of the bill if it takes place on any date prior to and including the in-service date or on any of the first 90 days immediately following the in-service date.

Mr. MATTINGLY. I wish to join my colleague, the distinguished Senator NUNN, in thanking the distinguished chairman of the Senate Finance Committee for making this clarification. As a rapidly growing State, Georgia is heavily dependent on increased power supply. The project to which my colleague refers is of tremendous economic importance to our State. We join together in expressing our appreciation.

Mr. TRIBLE. As you know, the House Ways and Means Committee report accompanying H.R. 3838 contains some commentary on section 264(a)(2) of the code concerning limitations on the deductibility of interest on life insurance loans. One observation in that report states that that section's limitation "applies to all contracts other than those where the nonpayment of premiums would cause the policy to lapse." It is my understanding that this observation is an incorrect recitation of current law, and would improperly deny the deduction for interest on loans under universal life insurance policies. Neither the Finance Committee's version of H.R. 3838, nor the Finance Committee's report accompanying the bill, addresses this issue. I want to make certain that our silence does not evidence approval of the import of this language.

Mr. PACKWOOD. The Senator is correct. The language referred to in the House report is an overbroad statement to the extent that it suggests that universal life insurance policies are always treated as single premium contracts. Of course, this is essentially a transition issue for individual taxpayers under the Senate bill because the bill would eliminate the deduction for interest on consumer loans.

Mr. COCHRAN. Reserving the right to offer an amendment, I would like to ask one question concerning section 1216(e)(6) of the bill, as it relates to qualified offset arrangements. The bill permits an employer to maintain a qualified offset arrangement if the employer maintains such arrangement on April 16, 1986. I wish to clarify that if the employer maintains such an arrangement on April 16, 1986, all employees who become eligible to participate after such date, for example, due to an extension of the arrangement to union employees, or the extention to subsidiaries, divisions or similar business units which become a member of the employer's controlled group after such date, may be covered under the offset arrangement.

Mr. PACKWOOD. An amendment is unnecessary because the committee intends that the offset arrangement may be extended in such cases. However, the arrangement could not be extended to the members of a controlled group of corporations that acquired control of the controlled group maintaining an arrangement on April 16, 1986. Thus, the acquiring group could not adopt the offset arrangement, but the acquired group could continue such arrangement. Is that acceptable?

Mr. COCHRAN. It is.

Reserving the right to offer an amendment, I would like to ask one question concerning section 1216(e)(6) of the bill as it relates to qualified offset arrangements. The provision in the bill permits an employer to consider benefit accruals under the defined benefit plan as matching contributions under such rules as the Secretary of Treasury may prescribe. Is it correct that an employer may in its discretion aggregate accurals under a defined benefit plan, pursuant to such rules as the Secretary of Treasury may prescribe, in testing matching contributions?

Mr. PACKWOOD. The committee intends that an employer may in its discretion count such accruals in testing for discrimination, but such employer is not required to do so.

Mr. MATHIAS. The National Cancer Institute maintains a Government-owned, contractor-operated facility in Frederick, MD, the Frederick Cancer Research Facility. The employees employed in this facility are currently covered by a qualified offset arrangement consisting of a cash or deferred compensation arrangement and a defined benefit plan. This plan is identical to that described in section 1216(e)(6) of the committee bill. Section 1216(e)(6) would permit these plans to meet the requirements of section 401(k)(4) of the Internal Revenue Code as amended by this bill provided that the plan meets several tests. The plan maintained at the Frederick Cancer Research Facility meets all of these requirements. However, there is an ambiguity in the committee passed bill which I would like the chairman of the Finance Committee to address. Under the bill the qualified offset arrangement must satisfy these conditions "with respect to the employer maintaining the arrangement on April 16, 1986, and at all times thereafter."

As I noted earlier, the Frederick Cancer Research Facility is a Government-owned, contractor-operated facility under the National Cancer Institute. The current contractor is Program Resources, Inc. This contractor has operated the facility since 1982, under a contract that expires in 1987. Normally, the National Cancer Institute holds a new competition for the contract to operate this facility every 5 years.

In 1982 when the current contractor won the contract competition to operate this facility the Government determined that in order to facility contract recompetitions, and to minimize costs to the Government, a pension plan should be designed to address the particular needs of the employees of the Frederick Cancer Research Facility. The intention was to create a pension program that would remain in effect regardless of changes in contractor organizations which may occur over time as a result of the competitive contracting process. I would also point out that the facility is operated on a cost-plus basis. The pension plan currently in effect was developed under this cost-plus contract so any changes would involve direct costs to the Government. In addition, any changes would adversely impact the employees of the facility since, because of their special skills, they tend to remain at the facility regardless of which company is acting as the contractor administering the facility.

I am concerned that if there is a change in the contractor, the plan would no longer be within the scope of section 1216(e)(6) of the bill because the new contractor would not be considered the employer maintaining the arrangement on April 16, 1986. Could the Senator from Oregon provide any guidance on the impact of this provision of the bill in these circumstances?

Mr. PACKWOOD. In response to the statement of the Senator from Maryland [Mr. MATHIAS], it was the committee's intention that an employer who currently maintains a qualified offset arrangement should be allowed to continue to maintain such an arrangement for its employees. I believe that in the situation you have described, the committee intended that individuals employed at the facility, without regard to the contracting organization, should be eligible to participate in the qualified offset arrangement since it was those individuals we wished to protect. Thus, the "employer" maintaining the arrangement on April 16, 1986, in the case of individuals working at the National Cancer Institute Frederick Cancer Research Facility, would be the facility itself, without regard to the particular contractor in charge of the facility operations.

Mr. MATHIAS. I thank the Senator from Oregon for his clarification of the committee's intent.

Mr. MATTINGLY. I would like to address some comments to the distinguished chairman of the Finance Committee. As the Senator from Oregon is aware, on May 9, 1985, the board of directors of Fort Howard Paper Co. passed a resolution committing the company to the construction of one of the largest North American industrial projects in 1985, a $1 billion paper mill in Effingham County, GA. The mill, which will recycle wastepaper and manufacture tissue, towel, and napkin products, is a long-term construction project which will not be completed until 1992. Fort Howard's commitment to this project far predates H.R. 3838, yet due to the pending tax reform legislation the project will be unable to receive investment tax credits. Fort Howard's commitment to build the Savannah River mill cannot be retracted to offset the investment tax credits. Building a paper mill is an unstoppable project.

The House of Representatives and Senate Finance Committee have recognized the fundamental fairness and equity of providing transition rules to grant relief from the harsh consequences of changes in the tax law. Such relief is granted in those cases which taxpayers have relied upon existing law in making financial commitments and have acted and commited their resources before changes in the tax law became imminent. Such is the case of Fort Howard.

I would like to ask the chairman for his assistance during conference in working to ensure that this worthwhile project is treated fairly and included as a transition rule.

Mr. PACKWOOD. I appreciate the Senator from Georgia bringing this important matter to my attention. I might add that he has been working long and hard with me on this project, as well as other matters in this tax reform bill of interest to his State of Georgia. I can assure the Senator that I will consider the problems that are facing Fort Howard as we go into conference with the House of Representatives, and will do all I can to ensure that Fort Howard is treated fairly and equitably.

SUBSCRIPTION SERVICES

Mr. GRASSLEY. I rise to clarify the committee's intent as it pertains to the application of the installment sales rules of sections 311 and 312 of the bill. Specifically it was the committee's intention to restrict the application of the change in the installment sales rules to the sale of tangible personal or certain real property and not the sale of a service.

Wouldn't it be correct to say that it was not the intention of the committee to apply the installment sales rules in sections 311 and 312 of the bill to the sale of a service, such as a magazine subscription service, but only to the sale of tangible personal property and certain real property?

Mr. PACKWOOD. That would be a correct interpretation of the committee's intent.

TECHNOLOGY TRANSFER

Mr. DECONCINI. Mr. President, I send to the Chair an amendment. Title XIII of the Finance Committee's amendment to H.R. 3838, includes a number of changes to the Tax Code relating to research and development. I strongly support the committee's decision to include, in particular, those amendments designed to increase research activities at universities and facilitate the interrelationship between universities and private companies. However, in order to completely carry out the intent of the committee in approving this provision, a technical correction amendment is needed to facilitate further the transfer of the technology developed through university research to the marketplace.

In my State, a nonprofit, tax-exempt organization was formed in 1913, prior to the enactment of the 1969 private foundation rules, to provide grants and technology transfer services to universities and other tax-exempt research centers at no cost to those centers. In order to allow the technology transfer program to be operated in a more efficient manner outside the private foundation rules, the foundation will transfer the program to a taxable but still nonprofit organization. My amendment will facilitate the transfer of these assets by clarifying that the chapter 42 penalty taxes will not be assessed on this transaction. The private foundation has also submitted a ruling to the IRS on the issue of whether this transfer would subject it to the chapter 42 penalty taxes.

Mr. President, because my amendment is intended to clarify the intent of the Congress in this area, I would like to ask the distinguished chairman of the Finance Committee what his understanding is of the committee's intent with the respect to technology transfers in this bill, and also, the Congress' intent with respect to technology transfers in this bill, and also, the Congress' intent with respect to the private foundation rules as they impact organizations that provide technology transfers services in furtherance of their tax-exempt purposes.

Mr. PACKWOOD. I thank the Senator from Arizona. During the Finance Committee's deliberations on the tax bill, we clearly intended to foster expanded transfers of technology between universities and the marketplace when we specifically approved the new university basic research credit under section 1301(d) of the bill.

The amendment proposed by the Senator from Arizona is intended to clarify that chapter 42 penalty taxes would not apply to a transfer of assets from a private foundation providing technology transfer services to another nonprofit, but taxable entity formed to provide these services in furtherance of the foundation's exempt purposes. The amendment would also further the committee's goal to facilitate technology transfers already incorporated in the bill.

This amendment, however, is unnecessary, since current law is not intended to impose the chapter 42 penalty taxes under these circumstances.

Mr. DECONCINI. I thank the chairman. Based upon this clarification, I withdraw my amendment.

Mr. DURENBERGER. The bill contains a rule to address the inequity suffered by a certain mutual life insurance company by permitting it to separate certain of its nonparticipating business in a stock life insurance company. As one of the conditions to such treatment, the bill provides that the stock life insurance company cannot take a deduction for any policyholder dividends. It is my understanding that reasonable administrative and marketing fees paid to a group policyholder would not be treated as policyholder dividends.

Mr. PACKWOOD. The Senator's understanding is correct.

SUPPLY OR SERVICE CONTRACTS TRANSITION RULE FOR THE INVESTMENT TAX CREDIT

Mr. MATSUNAGA. I would like to ask the distinguished managers of the bill, the Senator from Oregon and the Senator from Louisiana, to clarify the supply or service contract transition rule. Section 202(d)(3) of the bill establishes a transition rule for purposes of depreciation and the investment tax credit. It is my understanding that the proposed depreciation and investment tax credit changes do not apply to property readily identifiable with and necessary to carry out a written supply or service contract which the parties have made legally binding by the qualification date.

The committee report explains that this transition rule covers situations where the written binding contract requires the construction or acquisition of property, but the contract is not between the person who will own the property and the person who will construct or supply the property. Is this Senator's understanding correct, that the transition rule would cover a taxpayer who entered into a written binding power sales contract by the qualification date and is required to construct or have constructed facilities that will produce the power necessary to fulfill this contractual obligation?

Mr. PACKWOOD. The Senator is correct.

Mr. LONG. The Senator is correct in his understanding.

Mr. MATSUNAGA. I would like to ask the bill managers to clarify another point. The supply or service contract transition rule requires that the property be readily indentifiable with and necessary to carry out the contract. The committee report explains that the specifications and the amount of the property must be readily ascertainable from the terms of the contract or from related documents.

Is this Senator's understanding correct that the requirement is met when a binding power purchase contract specifies the type of generating equipment in terms of primary energy source and specifies the amount of generating equipment in terms of total generating capacity of the turbines necessary to produce the contracted power? In other words, the rule does not require the technical details of the generating property to be spelled out.

Mr. PACKWOOD. The Senator from Hawaii is correct.

Mr. LONG. The Senator's understanding is correct.

Mr. MATSUNAGA. I thank the distinguished managers of the bill for their clarifications.

Mr. BENTSEN. Mr. President, there are many areas in the pending tax bill that must be refined in the upcoming conference with the House on this legislation. One area that I believe we should give more attention to in conference is the taxation of the land title insurance industry.

The provisions in both the Senate and House bills relating to property and casualty insurance company taxation also swept in title insurers. I am concerned that certain of these proposed changes would impose a substantial burden on the title industry.

I would like to ask the distinguished Finance Committee chairman if I can receive some assurance that the Senate conferees will give this issue additional consideration and seek to make any refinements necessary to ensure that title insurers are treated fairly in the final version of this legislation.

Mr. PACKWOOD. I am pleased to assure my good friend from Texas that we will carefully reexamine the land title issue in conference and seek to make any appropriate refinements.

401(k) & RURAL ELECTRICS

Mr. BOREN. Mr. President, I wish to engage my colleague from Oregon in a colloquy to clarify an important provision in the bill.

Mr. President, the bill provides that certain pension plans of rural electric cooperatives may incorporate 401(k) arrangements. Most rural electric cooperatives have adopted pension plans through participation in a master pension plan sponsored and maintained by their national association. This bill permits the incorporation of a 401(k) arrangement into that existing master pension plan.

I understand that a master plan with a 401(k) arrangement would not presently be accepted for an opinion letter ruling by the Internal Revenue Service. Because of the structure of master pension plans, such a ruling is necessary before a 401(k) arrangement is made available to rural electric cooperatives on a national basis through a master pension plan.

My question of the gentleman is, What is the appropriate action the Internal Revenue Service should take concerning this matter, once this legislation is enacted?

Mr. PACKWOOD. It is expected that a master pension plan sponsored or maintained by a rural electric organization will be accepted by the Internal Revenue Service for opinion letters after the enactment of this bill.

Mr. BOREN. I thank the Senator for clarifying this matter.

Mr. GORTON. I rise on behalf of myself and Senator CRANSTON to express my concern regarding the tax treatment of high technology scientific and computer-linked instruments. These state-of-the-art instruments include analytical instruments and other instruments designed to function together with computers in their normal application. Their emerging use throughout a broad range of industries for research and product design, quality control, and regulatory compliance constitutes a major technological development. They help American companies to develop and manufacture better and newer products and therefore to compete more effectively in world markets.

Because these instruments incorporate computer technology in their design and use and because of the rapid pace of technological change that affects computers and a broad range of high technology products, high technology instruments rapidly become technologically obsolete. Every 3 or 4 years new generations of instruments are developed which do more sophisticated tasks at a faster rate and a lower cost.

Under the Finance Committee bill I understand these instruments are treated as general industry assets and are depreciated over a single life for all equipment used in a particular industry rather than a separate life for the instruments themselves—which studies show is approximately 5 years. Thus, for example, instruments used in specific industries such as petroleum refining and food processing are depreciated over 10 years under the regular income tax. Similarly, under the minimum tax, high technology instruments are generally depreciated over periods as long as 15 or 18 years—even though their economic life is about 5 years. This treatment of instruments is in contrast to the treatment of computers and certain tele-

communications equipment which have a separate 5-year class under the bill.

Because obtaining treatment more comparable to computers is of major importance to U.S. companies that manufacture high-technology instruments for the U.S. market, I have seriously considered an amendment which would provide a separate depreciation class for high-technology scientific and computer-linked instruments. However, my real concern is that the issue ultimately be resolved in the conference between the House and the Senate on the tax bill. Thus, if Chairman PACKWOOD, on behalf of the Senate conferees, can indicate that he will exercise his best efforts to resolve this issue favorably in conference, I will forgo offering any amendment.

Mr. PACKWOOD. I fully understand and appreciate the issue which the Senator from Washington addresses. Like computers, semiconductor manufacturing equipment and many types of telecommunications equipment, high-technology instruments are affected by the rapid pace of technological change, and in fact have very short, useful lives. They should be permitted depreciation which reflects their short lives. Accordingly, it is my hope that in conference the House conferees can be persuaded to permit the establishment of a separate depreciation class for these instruments that provides tax treatment comparable to that provided for computers and other high-technology equipment under both the regular income tax and the minimum tax. There is plenty of room within the rules relating to the scope of conference to achieve this result, and I can assure the Senator that I and the other conferees will do our best to achieve it.

Mr. GORTON. The Senator from California and I am most grateful to the chairman for his interest and commitment to this important issue. Given his statement, I believe that an amendment is not necessary, and I look forward to seeing the issue resolved favorably in conference.

ELIGIBILITY OF CERTAIN SOFTWARE DEVELOPMENT COSTS FOR THE R&D CREDIT

Mr. DANFORTH. Mr. President, I would like to address two questions to the distinguished chairman of the Committee on Finance [Mr. PACKWOOD] concerning the definition of qualified research expenditures for purposes of the incremental research tax credit, which is extended for 4 years under the committee amendment.

The amendment generally does not provide rules for determining the credit-eligibility of costs of developing new or improved software that differ from the rule for determining the credit-eligibility of costs of developing new or improved hardware. In either case, for example, the requirement relating to a process of experimentation must be satisfied, and the exclusions from credit-eligible research apply to both hardware and software activities. However, under a specific rule in the committee amendment, research with respect to computer software that is developed by or for the benefit of the taxpayer primarily for the taxpayer's own internal use is ineligible for the credit except to the extent provided in Treasury regulations, or except where the software is used in qualified research undertaken by the taxpayer or in a production process involving a component that qualifies for the credit. Thus, the costs of developing software are not eligible for the credit, for example, when the software is developed primarily for internal use in general and administrative functions—such as payroll, bookkeeping, personnel management, or inventory control—except to the extent permitted by Treasury regulations.

My first question involves the situation where the taxpayer is not developing computer software primarily for the taxpayer's own internal use, but where for business reasons the taxpayer tests the software in its own business prior to any field testing and prior to subsequent commercial production for sale or licensing. It is my understanding that if the taxpayer can establish that it is not developing the software product primarily for its own internal use, but is developing the product for sale, lease, or licensing to customers, then testing of the software by the taxpayer in its own operations prior to production or licensing does not subject the software to the specific rule in the committee amendment that applies to internal-use computer software. Is my understanding correct?

Mr. PACKWOOD. The Senator from Missouri [Mr. DANFORTH] is correct. It is the committee's intent that where for business reasons a taxpayer that is developing software tests the software in its own business prior to the beginning of commerical production, the taxpayer's internal testing activities conducted for a period needed for testing and evaluating the product would not trigger the specific rule applicable to internal-use computer software if the taxpayer can establish that it is not developing the software product primarily for its own internal use, but is developing the product for sale, lease, or licensing to customers.

For example, assume that a computer company develops a new inventory control software package that is not designed for purposes of the company's own use, but for purposes of sale, lease, or licensing to manufacturers. The new software is intended to reduce inventory costs of manufacturing businesses through more efficient tracking and control of raw materials and components used in manufacturing and more efficient storage of inventory items.

After initial development of the package, but prior to sale, lease, or licensing to customers, the company decides to install the package in its own manufacturing processes, in order to evaluate its effectiveness in actual operation. After evaluating the effectiveness of the new software package and incurring additional development costs to improve the package further, the company sells, leases, or licenses the software to unrelated customers. Because the software is not designed for the company's own use and because the software after development and testing was sold, leased, or licensed to unrelated customers, the special rule in the committee amendment applicable to internal-use computer software development costs would not apply with respect to the inventory control software package in this example.

Mr. DANFORTH. My second question involves the situation where the taxpayer develops a package of software and hardware together as a single product, of which the software is an integral part, where the product is used directly by the taxpayer in its trade or business in providing to customers technological services—as contrasted with consulting, accounting, banking, or other personal services. I would like the chairman to clarify how the specific rule concerning internal-use computer software relates to the development costs of such a software-hardware package.

Mr. PACKWOOD. The specific rule in the committee amendment under which internal-use computer software generally is ineligible for the incremental research tax credit—except to the extent permitted by Treasury regulations—does not apply to the development costs of a new or improved package of software and hardware developed together by the taxpayer as a single product, of which the software is an integral part, that is used directly by the taxpayer in providing technological services in its trade or business to customers. For example, the specific rule would not apply where a taxpayer develops together a new or improved high technology medical or industrial instrument containing software that processes and displays data received by the instrument, or where a telecommunications company develops a package of new or improved switching equipment plus software to operate the switches. In these cases, eligibility for the incremental research tax credit is to be determined by examining the combined hardware-software product as a single product, and thus the specific rule applicable to internal-use computer software would not apply to the combined hardware-software product.

Mr. DANFORTH. I thank the distinguished chairman for his clarification of these two matters.

Mr. ARMSTRONG. In addition to reducing the deductibility of business meal expenses and entertainment expenses, from 100 percent to 80 percent, the Finance Committee also tightened the compliance requirements for deductibility of the business meal. Under the Finance Committee proposals, in order to be deductible, the business meal must have "a clear business purpose currently related to the active conduct of a trade or business."

My question, is whether the deductibility of entertainment expenses will continue to be governed by current law. That is, to be deductible, expenses, such as food or beverages provided for hospitality rooms, receptions, dinners, or theater and sporting events will still be deductible if they are directly related to, or associated with a substantial and bona fide business discussion.

Mr. PACKWOOD. That is correct. In addition to reducing the deductibility in these areas from 100 percent to 80 percent, the legislation provides a stricter standard for the business meal. The legislation does not change the standards for deductibility established for entertainment expenses including food or beverage expenses which fall into that category. Such items, of course, will be only 80 percent deductible.

Mr. ARMSTRONG. I thank the chairman for his clarification and wish to assure him that I support the compliance changes which provide for a more strict standard than current law for deductibility of business meals.

Mr. Chairman, in reading the committee report, I am concerned that the committee's intent is not fully developed. For example, an overzealous regulator might decide that restaurateurs providing meals to their own employees, a standard industry practice, might not fall within the provision for employer provided meals excludable under section 132, relating to de minimis fringes.

Mr. PACKWOOD. Of course the committee does not intend to limit the deductibility of such meals. Meals provided restaurant employees by their employers would be considered de minimis fringe exceptions and this is what the committee intended.

Mr. ARMSTRONG. I thank the chairman for his help in this matter.

Mr. CHILES. Mr. President, I would like to engage the distinguished chairman of the Finance Committee in a colloquy regarding material participation under the loss limitation rules for "passive activities" as it relates to citrus groves.

In the Senate report accompanying the tax bill, the deduction of losses is to be disallowed under title XIV, subtitle A for any activity in which the taxpayer does not materially participate on a regular, continuous and substantial basis. The committee report goes on to state that a taxpayer working full time elsewhere as an employee or in a professional service business is less likely to materially participate in a general partnership or S corporation which is engaged in a business involving orange groves than a taxpayer whose primary business is the growing of oranges.

I believe it should be clear that the material participation criterion can be met by the taxpayer who works elsewhere as an employee or in a professional service business if he or she participates actively in the management decisions concerning the citrus grove. This would include planting, grove care, maintenance, harvesting, and the negotiation of contracts for sale of the fruit decisions.

The nature of the citrus business is such that the assistance of experienced, grove care professionals in the daily operation of the grove is essential, even when the owning participants are involved in most of the important operational decisions. Furthermore, many active citrus grove owners are also owners and operators of other agricultural enterprises. When a taxpayer is also engaged in a business other than growing citrus fruit, he or she should not be foreclosed from meeting the material participation standard solely because of his or her noninvolvement in the day-to-day physical labor connected with citrus grove management.

Would the distinguished chairman of the Finance Committee agree that as long as these citrus grove owners are making regular decisions about the management and upkeep of their groves and are participating in the sale of their fruit, they should be allowed to utilize the deductions from citrus ownership even though they may be employed elsewhere?

Mr. PACKWOOD. The Senator is correct. Whether or not a taxpayer is materially participating in an activity will depend upon the amount of time and extent of the taxpayer's involvement in the activity. The taxpayer is not necessarily required to be involved in the day-to-day physical labor. However, the taxpayer must be involved substantially in management decisions, giving independent input and exercising independent judgment with regard to the operations of the activity.

Mr. PRYOR. My question relates to section 1702 of the bill which excludes from unrelated trade or business income revenues from the use of a tax-exempt organization's mailing list by another such organization. Am I correct that section 1702 which specifically exempts certain such revenues from the tax on unrelated business income in the future carries no inference whatever that mailing list revenues beyond its scope or prior to its effectiveness should be considered taxable to an exempt organization?

Mr. PACKWOOD. The Senator from Arkansas is correct.

Mr. KASTEN. I understand that a unique procedure applies to mortgage guaranty insurance companies under the Tax Code whereby the tax relating to amounts added to a special reserve required under State law for extraordinary losses is deposited with the Federal Government by purchasing noninterest bearing tax and loss bonds from the U.S. Treasury. These tax and loss bonds serve a dual function: They provided funds to the Treasury and they satisfy State regulatory reserve requirements. The purchase of tax and loss bonds is not treated as a payment of tax, but is equivalent to the payment of tax. However, the Finance Committee bill could be interpreted as subjecting the amounts added to this special reserve to the alternative minimum tax if such reserve is not reflected in the company's financial reports. The effect could be to subject such amounts to tax twice. Am I correct in understanding that the distinguished chairman of the Finance Committee will seek in conference to amend the alternative minimum tax to prevent the special reserves of mortgage guaranty insurance companies from being subject to tax twice?

Mr. PACKWOOD. The Senator from Wisconsin is correct.

Mr. CRANSTON. Mr. President, I would like to address a question to the attention of the floor manager of the bill. Would he clarify for me the application of the binding contract transition rules under sections 202(b) and 211(d) of the bill?

I have in mind five 30-megawatt solar electric generating plants that Luz Engineering Corp. is developing on land it acquired in the Mohave Desert near Kramer Junction, CA. On April 17, 1985, Luz signed five contracts with the Southern California Edison Co. pursuant to which Edison agreed to purchase all of the electricity produced from such plants provided that they were completed prior to April 1990 and were qualified small power production facilities for purposes of the Public Utility Regulatory Policies Act of 1978.

In September 1985, five limited partnerships, which have Luz Engineering Corp. as the general partner, signed construction contracts with Blount Construction Division of Blount International, Ltd., pursuant to which these five projects are to be constructed during the years 1986 through 1988 at an aggregate cost of approximately $500 million. Construction on two of these projects called SEGS-III and SEGS-IV commenced in January and

construction of SEGS-V will commence later this year.

Although all of these projects are covered by the binding written contract exception contained in the committee's bill for projects eligible for the investment tax credit and current law ACRS, I want to be sure that amendments to the specifications and design of the plants not result in an interpretation that construction takes place under a new contract. These projects have been acclaimed as being on the cutting edge of citing new technology. Improved engineering efficiencies have been significant during the course of construction of previous projects—which are in operation at Daggett, CA. It is most likely that experience in operation of the first two projects, and the SEGS-III and IV projects—which are under construction—will point to various ways of improving the efficiency of these plants by changing the design of the later projects. These design changes may affect the scope of work of the contractor and its subcontractors. Such changes are not likely to increase overall capital costs of the projects at all, would only be made if they resulted in cost saving efficiencies considering both capital and operating costs, and in no event would they exceed 10 percent of the original price. In my opinion it would be most unwise to inhibit implementation of such valuable changes in projects solely to avoid loss of tax benefits. Am I correct in assuming that in these circumstances such changes will not constitute substantial modifications of these contracts and therefore, will not affect the status of these five projects as being grandfathered by section 202(b)(1) of the bill and new section 49(d)(1) of the code as added by section 211 of the bill?

Mr. PACKWOOD. Yes.

Mr. CRANSTON. Section 202(d)(3) of the Senate committee bill provides a transitional rule for "property which is readily identifiable with and necessary to carry out a written supply or service contract, or agreement to lease, which was binding on March 1, 1986." The Senate Finance Committee compilation of transition rules cites five specific projects which qualify under this provision. We understand that some, and possibly all, of these projects have power sales contracts with electric utilities which were entered into on or before March 1, 1986, under the encouragement of the congressional policies embodied in the Public Utility Regulatory Policies Act of 1978. It is my understanding that other projects which have executed similar power sales contracts by the effective date would also qualify for transitional treatment. Does the chairman concur in this understanding of the Senate committee bill?

Mr. PACKWOOD. Yes. This transition rule is intended to provide equitable treatment for any project which has entered into power sales contracts with electric utilities on or before March 1, 1986. The committee felt that the efforts and expense of project development should be recognized in our transition rules. The execution of power sales contracts is the appropriate event in this context to allow transitional treatment.

Many small power producers and cogenerators have negotiated power sales contracts with electric utilities pursuant to the Public Utility Regulatory Policies Act of 1978. These include solar, geothermal and hydroelectric projects which have, in addition to negotiating such contracts which indicate a substantial commitment similar to a binding contract for construction, made substantial expenditures to keep them in place pending actual sales of power. Section 202(d)(3) of the Senate committee bill provides a transitional rule for "property which is readily identifiable with and necessary to carry out a written supply or service contract, or agreement to lease, which was binding on March 1, 1986." The House-passed Tax Reform Act of 1985 contains an identical provision. Although this provision appears to be intended to cover the type of power sales contracts described above, Senate committee report language casts some uncertainty as to the transitional status of projects covered by power sales contracts.

On the other hand, the recently released Senate Finance Committee compilation of transition rules cites five specific projects which qualify under this general transition provision. The basis of such qualification in some, if not all, of these cases is the same type of power sales contract executed by other small power producers. It would be inequitable to permit some projects to qualify under a general transition rule while others, holding the same type of qualifying agreement, do not. Accordingly, it is necessary to clarify that projects holding similar types of power sales contracts, executed before March 2, 1986, qualify under this general supplier service transition rule.

Mr. HATFIELD. I rise to commend the Senator for the excellent leadership, and the Members have given to the critical task of reforming the Tax Code and closing tax shelter loopholes. Mandating that a taxpayer must materially participate in the operation of a trade or business in order to be able to deduct losses from that trade or business from his personal income is a sound concept. As defined in the committee report, a taxpayer's material participation requires regular, continuous, and substantial involvement in the operation of the trade or business. Because of the understandable time constraints under which committee staff has been operating, the committee report does not explain the material participation standard in such a manner that it provides the precision needed by many businessmen to determine if their activities meet that standard. Therefore, it is my purpose in rising today to obtain a clarification of whether a specific fact pattern raised by one of our constituents satisfies the material participation standard of the Tax Reform Act currently before the Senate.

Mr. PACKWOOD. I appreciate the Senator's remarks and will attempt to answer his questions.

Mr. HATFIELD. Page 732 of the committee report states "Outside of the limited partnership context, the presence or absence of material participation generally is to be determined with reference to all of the relevant facts and circumstances. In order to be treated as materially participating for purposes of the provision, the taxpayer must be involved in the operations of the activity on a regular, continuous, and substantial basis." The committee report further states that, "In order to satisfy the material participation standard, the individual's involvement must relate to operations."

The committee report outlines several areas which provide guidance in determining whether a taxpayer's activities can be considered as involvement in operations in a regular, continuous, and substantial basis. With the chairman's indulgence, I would like to discuss the activity of a taxpayer who is an owner of a room or rooms in a condominium hotel involved in the business of renting said hotel room or rooms for guest lodging on a transient basis. As you are aware, on this very day over 1,380 Oregonians are employed in the daily functioning of condominium hotels in our State.

Mr. PACKWOOD. I will be happy to discuss each of the areas mentioned in the committee report with respect to the activity of concern to the Senator.

Mr. HATFIELD. The committee report makes quite clear that the operation of a hotel is not a rental activity and thus the taxpayer's participation must be the higher standard of material participation rather than merely active participation. Is that correct?

Mr. PACKWOOD. Yes, the higher standard of material participation would be required of a hotel operation, including a condominium hotel, to qualify such business as not a passive activity.

Mr. HATFIELD. Then, first, am I correct in concluding that notwithstanding that a business activity, such as the hotel room rental business, is not an individual's principal business, a taxpayer can still be considered as materially participating in that hotel room rental business?

Mr. PACKWOOD. Yes. The fact that an activity is or is not an individ-

ual's principal business is not conclusive in determining material participation. Therefore, if the taxpayer to whom you are referring is actually involved in the operations of the hotel room rental business on a regular, continuous, and substantial basis, he will meet the material participation standard even if this activity is not his principal trade or business.

Mr. HATFIELD. Second, the committee report states that a relevant factor in determining material participation "is whether and how regularly the taxpayer is present at the place or places where the principal operations of the activity are conducted." Although the committee report states that, "if a taxpayer lives hundreds of miles from the site of the activity and does not often visit the site, such taxpayer is unlikely to have materially participated in the activity," the report points out, "this factor is not conclusive."

With regard to a taxpayer involved in the hotel room rental business, if the taxpayer is substantially involved in performing functions integral to the activity, the fact that the taxpayer resides hundreds of miles from the hotel would not preclude material participation if, for example, the taxpayer visits the business on a frequent basis to conduct onsite inspections and meet with onsite management relative to operations and otherwise participates in integral functions of the business. Is that a correct conclusion?

Mr. PACKWOOD. Yes. The committee report clearly states that a taxpayer "may materially participate in an activity without being present at the activity's principal place of business." Therefore, in your example, if the taxpayer is performing functions integral to the hotel room rental business sufficient to be considered substantial involvement, this taxpayer's regular and continuous onsite inspections and meetings together with participation in other integral functions of the business away from the place of the activity would be sufficient to establish material participation.

Mr. HATFIELD. Third, the committee report states that a genuine exercise of independent discretion and judgment in management of the activity is necessary to constitute material participation. Based upon this assertion in the committee report, am I correct in concluding that the material participation standard is satisfied if a taxpayer personally reserves and exercises those powers and actions commonly reserved and exercised by owners in that trade or business?

Mr. PACKWOOD. Yes. If the taxpayer exercises such powers and actions on a regular, continuous, and substantial basis, his involvement in the operations would be considered material participation.

Mr. HATFIELD. Such a taxpayer's involvement in the hotel room rental business includes making the following management decisions which an owner of such business commonly or customarily makes in conducting such business: First, the taxpayer actively and regularly establishes the rental rate of the hotel room; second, the taxpayer participates in establishing and reviewing hiring and other personnel policies, including review of management personnel; third, the taxpayer reviews and approves periodic and annually audited financial reports; fourth, the taxpayer participates in budgeting operating costs and establishing capital expenditures; fifth, the taxpayer establishes the need for and level of financial reserves; sixth, the taxpayer selects the banking depository for rental proceeds and reserve funds; seventh, the taxpayer has frequent meetings at the hotel with his agent and onsite contract management to review operations and the business plan, and to conduct onsite inspections; eighth, the taxpayer assists in offsite business promotion activities; ninth, the taxpayer is personally assessed his owner association charges and personally pays them; tenth, the taxpayer is assessed separately and personally the property taxes against his room or rooms, must personally appeal his assessment if he thinks it incorrect and personally pays them when due; and eleventh, personally pays any debt service on his unit when due.

In your judgment, are these management activities sufficiently integral to the operation of the business, and would a taxpayer that personally reserves and actually exercises these management responsibilities and duties in the hotel room rental business meet the material participation standard of this legislation?

Mr. PACKWOOD. In my opinion, yes, they are, and yes, he would be. I would note, however, that the taxpayer's involvement in each of these functions must be more than a pro forma ratification of decisions made by management agents. If the taxpayer is not involved in a substantial way, or if the taxpayer is merely asked to approve decisions made by others, that will not constitute material participation.

Mr. HATFIELD. Fourth, the committee report states that a taxpayer having little or no knowledge of the activity is significant in determining whether such taxpayer's participation in management is likely to amount to material participation. In the situation we are discussing, if a taxpayer's involvement in the business of renting hotel rooms includes the management decisions above; that is, management decisions which an owner of such business commonly or customarily makes in conducting such business, the taxpayer's relative inexperience would not preclude a determination of material participation?

Mr. PACKWOOD. No, it would not. In such a case the taxpayer would be performing management operations to the same extent as an owner having significant experience.

Mr. HATFIELD. Fifth, in the example we are discussing, how is the determination of the taxpayer's material participation affected if he utilizes employees, an agent, and contract management services to perform daily functions in conducting the business of renting hotel rooms or similar space used for guest lodging?

Mr. PACKWOOD. The fact that a taxpayer, for periods customary in the hotel business, contracts with employees, an agent, and/or contract services to perform daily functions in conducting such a business would not prevent this taxpayer from qualifying as materially participating. The activities of employees, an agent, and contract management services cannot be attributed to the taxpayer, however; the taxpayer must still participate in management activities on a regular, continuous, and substantial basis.

Mr. HATFIELD. Thus, in the case of a taxpayer who is involved in the hotel room rental business primarily for guest lodging, the fact that such business is not the taxpayer's principal business, the fact that although the taxpayer conducts frequent onsite inspections and business reviews at the hotel site his residence is located hundreds of miles from the hotel site, and the fact that the taxpayer uses an agent, employees, and contract management services to perform daily functions in running the hotel room rental business does not preclude a determination of material participation by the taxpayer in conducting that business.

Mr. PACKWOOD. If the taxpayer can demonstrate that he had performed and is performing all those functions which you have just described which are integral to the operations of hotel room rental business and is performing them in such a way and to such an extent that it demonstrates that the taxpayer's involvement in the operation of the activity is substantial, continuous and ongoing, you are correct, such activity would be material participation in the operation of the hotel room rental business.

Mr. HATFIELD. I thank the chairman for his clarification on this matter.

Mr. DURENBERGER. I would like to insert for the RECORD my views on the application of the limitations on the use of foreign tax credits against the alternative minimum tax. These provisions are contained in section 1101 of the bill. While in principle I fully endorse the purpose of these provisions, which is to be sure that the

U.S. Treasury collects its fair share of tax from the corporations engaged in business both within and without the United States, I cannot support the proposal to limit the foreign tax credit by allowing only 90 percent of a taxpayer's minimum tax liability to be offset by foreign tax credits.

Any limitation of the foreign tax credit effectively results in double taxation, because the U.S. taxpayer is required to include in its minimum tax base the same income upon which it has already paid foreign taxes. The purpose of the minimum tax is to insure that all income is taxed—if a foreign tax credit is involved, it is axiomatic that the income has already been taxed in the foreign jurisdiction. Such double taxation will place U.S. companies, which are already struggling to compete in international markets, at an even greater competitive disadvantage against foreign companies which do not pay a double tax. This provision therefore not only violates the thrust toward fairness and equal treatment that underlies the tax reform effort; it also contradicts the rest of our foreign trade policy to encourage U.S. companies competing in international markets, which is absolutely necessary if we are to improve the disastrous balance of payments situation.

A perfect example of the inequity of the foreign tax credit limitation has come to my attention. The situation involves a business consisting of the sale and transportation of property located exclusively in Canada. Because of the relatively high Canadian tax rates, the income is generally taxed in Canada at an effective rate of greater than the United States regular tax, which is more than twice the United States alternative minimum tax. Moreover, since nearly 25 percent of the stock of the corporation is owned by Canadians and no one United States shareholder owns more than 27 percent, although each United States shareholder engages in substantial United States operations and accounts for thousands of jobs many of which are held by people in my State, there is no possibility of the tax results of the Canadian operations being consolidated with those of the United States shareholders; nor would there be any possibility to shift the income from such operations to some low taxing jurisdiction and away from the United States. Instead, the taxpayer has been paying tax in Canada on 100 percent of its income at a rate in excess of the prevailing United States rate.

Thus, unlike the reported misuse by others of the foreign tax credit provisions who often paid an effective tax rate on its worldwide income well below the prevailing United States rate, the corporation of which I speak actually paid an effective rate in Canada greater than it would paid in the United States. Such a practice, of paying full tax to the only country in which it operates at a rate greater than what it would have paid had it been able to conduct its operations instead in the United States, can hardly be regarded as motivated by U.S. tax avoidance considerations.

I believe it would be inequitable and unjust to impose a penalty upon such a taxpayer for an act that it has not and could not commit—that is shifting the stream of income from its business operations away from the United States and to some other foreign country. I believe the members of the conference committee should adopt the House provision which allows the foreign tax credit to offset the mininum tax.

Mr. CHAFEE. Mr. President the tax bill contains a set of provisions designed to govern the taxation of so-called multiple-class mortgage-backed securities. The purpose of the provisions was to facilitate the secondary mortgage market. The provisions were originally introduced by me, and cosponsored by Senator BENTSEN, in S. 1959. However, due to revenue considerations, the provisions as reported by the Finance Committee are identical to those in S. 1959. Rather, the provisions as reported by committee have been sharply criticized in the industry.

One of the main things that has alarmed the industry, I believe, is that the provisions in the bill prohibit the use of vehicles utilized under current law for issuing multiple-class mortgage-backed securities. I would hope that in the conference this could be changed to allow a phaseout of these vehicles over perhaps 5 years. It is my understanding that the Treasury Department indicated its support for some type of phaseout in testimony before the House Ways and Means Committee on June 10, 1986. It is also my understanding that the Treasury Department in the same testimony suggested other changes in these provisions that would make them more workable, and I would like to pursue those suggestions as well in the conference.

Mr. BENTSEN. Mr. President, I agree with Senator CHAFEE's assessment of the situation and his proposed solution. I have been informed that the effect of the provisions in the bill as now drafted would be to sharply curtail the secondary mortgage market. I share the Senator's concern about this matter and want to work with him in the conference to straighten it out.

Mr. CHAFEE. It is apparent that our provisions, which were intended to facilitate the secondary mortgage market, may not have that effect, and thus Senator BENTSEN and I want to clarify that it is our intention to correct any problems with this legislation in the conference. It will be our goal in the conference both to provide a phasein of the prohibitions on vehicles utilized under current law to issue multiple-class, mortgage-backed securities and to improve the rules governing the new vehicles. We want to provide guidelines that both the industry and the tax staffs agree are workable. If workable rules cannot be provided in the time available, the entire subject matter should be deleted from the bill and held over for further study and future action.

Mr. BENTSEN. I agree with the Senator from Rhode Island. If provisions cannot be worked out that facilitate the secondary mortgage market instead of hindering it, the provisions should be deleted from the bill in the conference.

Mr. PACKWOOD. I agree with the Senator from Rhode Island and the Senator from Texas. Inasmuch as the provisions were intended to facilitate the secondary mortgage market, I share their conclusion that if workable provisions cannot be drafted in the conference, the matter should be deleted from the bill for further study.

TOBACCO ROW, RICHMOND, VA

Mr. WARNER. Mr. President, the city of Richmond has made great progress in inner city redevelopment in recent years. In order to sustain that progress, one project remains.

The "Tobacco Row" project consists of 12 contiguous city blocks in downtown Richmond, upon which some 1,500,000 square feet of space in 15 currently unused or underutilized architecturally distinguished historic structures are located. This project has historic as well as economic consequences, not only for our capital city of Richmond, but for the entire Commonwealth of Virginia. Indeed, support for the project is statewide.

H.R. 3838 would deal a serious blow to the success of revitalization efforts in Richmond. The "Tobacco Row" project would mean jobs for more than 2,500 people of diverse occupations and skill levels upon completion, as well as hundreds of construction jobs over the next 6 to 8 years. In addition, this project would result in some $2 million additional tax revenue annually.

Nearly 6 years ago, shortly after the enactment of the three-tiered rehabilitation tax credit, "Tobacco Row Associates" was formed and the first parcel of property to be rehabilitated was acquired. During the succeeding several years, additional property was acquired, and a development and feasibility report was completed. The Richmond City Council approved the rezoning of approximately 50 percent of the acquired property in June 1984. Additional actions by the Richmond City Council occurred in April-July 1985 when it approved: a site adjacent to the project as a national memorial

to the Virginia statute for religious freedom; a capital budget that included expenditures relating to the rehabilitation; and, rezoning of the remaining property.

In September 1985, Tobacco Row Associates filed parts 1 and 2 of the application for certified rehabilitation of historic structures with the Virginia Historic Landmarks Commission, which application has already been approved by the commission for parts of the project. In October 1985, a construction contract for the first phase of the project was signed. Thus, the project qualifies for the general transition relief provided for rehabilitation projects under section 1412(d)(2) of the committee bill. It does not, however, receive the full transition relief provided certain "later-in-time" projects under section 1412(d)(4)(B).

Mr. President, due to this lengthy and costly effort to date, it would be inequitable to subject "Tobacco Row" to the bill's restrictions for rehabilitations for rehabilitation projects such as the reduced credit provided for transition property.

As the above chronology demonstrates, "Tobacco Row" is not a late-starting entry. It is now in its fifth year of development as a significant urban revitalization project doing exactly what the 1981 rehabilitation credits were intended to do.

Mr. President, I cannot overstate the tremendous economic, historic and symbolic value of the "Tobacco Row" project. The length of time that this project has been planned demonstrates that this is exactly the type of project that traditionally has been protected from anticipated changes to the Tax Code.

I am aware that several transition rules already in the bill have specific transition rules that would continue the current-law rehabilitation tax credit and basis recovery provisions. I ask only for the same treatment for "Tobacco Row."

Mr. PACKWOOD. I thank the Senator from Virginia and I will take note of his interest during the conference on the Tax Reform Act of 1986

KENOSHA HARBOR

Mr. KASTEN. The city of Kenosha is prevented from undertaking a redevelopment project by the failure of the Corps of Engineers to complete a confined dredge disposal facility.

The delay by the Corps of Engineers work will result in the loss of tax incentives to develop the Kenosha gateway harbor project. We should not penalize this municipality by terminating incentives that would have been available had the Federal Government lived up to its legal obligations.

Instead, I believe we should adopt a transition rule which provides that those same tax advantages would be available to this municipality as if the Corps of Engineers had fulfilled its contract.

Mr. PACKWOOD. I understand this confined dredge facility was to be completed by April 4, 1984. This means that had the corps fufilled its contract, the city would have several tax incentives available before January 1, 1987, the effective date of the Senate bill.

Mr. KASTEN. That is correct.

Mr. PACKWOOD. I am aware of the Senator from Wisconsin's concern, and am prepared to make his case for this transition rule in conference with the House of Representatives. For this reason, I will pursue inclusion of a transition rule for the Kenosha downtown redevelopment project.

This transition rule does not upset the basic principles of this legislation. Furthermore, I understand the Senator from Wisconsin is prepared to offset this transition rule by deleting a rule in existing law for another Wisconsin project.

Mr. KASTEN. The Senator from Oregon is correct. I appreciate his assistance in correcting this situation.

Mr. PACKWOOD. I thank the Senator.

TRANSITION RULE FOR KENOSHA

Mr. KASTEN. The city of Kenosha will be wrongly robbed of important incentives for downtown redevelopment if this bill passes without amendment.

I have a transition rule which I am prepared to send to the desk and ask for its immediate consideration. However, after a conversation with the manager of this bill, Senator PACKWOOD, I will withhold.

After discussion with the Senator from Oregon, I believe we can make the necessary changes to the bill. Furthermore, these changes will protect the integrity of this legislation while correcting a truly unique situation.

The city of Kenosha has been unable to initiate a downtown redevelopment project because of delay by the Federal Government in completing a contract.

This transition rule simply allows the continuation of the tax incentives that are in current law to be available for the Kenosha urban redevelopment project. Completion of this project has been delayed by the failure of the Federal Government to live up to a contract.

Specifically, the Corps of Engineers and the city of Kenosha entered into a contract for a confined dredge facility on April 4, 1974. That contract provided that the Corps of Engineers would build and operate such a facility for a period not to exceed 10 years.

That means that the corps was to have completed this facility by April 4, 1984. At that time the facility was to be returned to the city of Kenosha.

The city is prepared to undertake a major urban redevelopment project on this site. However, the city is prevented from taking this action until the Corps of Engineers completes and closes the confined dredge disposal facility.

I would like to enter into the record at this point a copy of the contract between the Corps of Engineers and the city of Kenosha. This contract, dated April 4, 1974, specifies that work is to be completed in 10 years.

In addition, I would like to add at this point in the record a description of the legislative history which describes the Kenosha dredge disposal facility and the termination date.

By failing to fulfill its contract obligations, the Federal Government has denied the City of Kenosha the tax advantages to develop this facility. I believe we should be willing to give the city what the Federal Government's failure would take away from them.

This amendment specifies that no more than $105 million of this project may take advantage of these tax incentives—investment tax credits, 19-year depreciation, and IDB's.

In all likely hood this project will be completed at a far lower cost. If the city could begin today I expect they could complete this project for less than $60 million.

In order to keep this amendment revenue neutral I am prepared to give up a transition rule which benefits a project in my State in existing law.

The material follows.

On page 1523, between lines 11 and 12, add the following new paragraph:

(29) CERTAIN URBAN REDEVELOPMENT PROJECT.—The amendments made by section 201 and subsection (b) of this section, shall not apply to an urban redevelopment project located on lands submerged under waters of a Great Lake or on adjacent lands which formerly were submerged under the waters of such Great Lake, the total cost of which is approximately $105,000,000, and which was delayed due to the failure of the Army Corps of Engineers to complete and close a confined dredge disposal facility by April 4, 1984.

On page 2234, between lines 7 and 8, insert the following new paragraph:

(3) SPECIAL RULE FOR AN URBAN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any losses in connection with an urban redevelopment project described in section 202(d)(29).

On page 2420, between lines 13 and 14, add the following new subsection:

(m) TRANSITION RULE FOR CERTAIN URBAN REDEVELOPMENT PROJECT.—The amendments made by this title shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used for an urban redevelopment project which is described in section 202(d)(29), if such obligations are issued within 3 years after the date on which the Army Corps of Engineers completes and closes the confined dredge and disposal facility located on such project lands.

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND CITY OF KENOSHA, WI, FOR LOCAL COOPERATION AT KENOSHA HARBOR, WI

This agreement entered into this 4th day of April, 1974, by and between the United States of America (hereinafter called the "Government") represented by the Contracting Officer executing this Agreement and the City of Kenosha, Wisconsin (hereinafter called the "City"),

Witnesseth that:

Whereas, the River and Harbor Acts of 1899, 1907, 1935, 1950 and 1962 authorized the improvement and maintenance of Kenosha Harbor, Wisconsin; and

Whereas, the River and Harbors Acts of 1907, 1910, 1937 and 1945 authorized the improvement and maintenance of Racine Harbor, Wisconsin; and

Whereas, Section 123 of the River and Harbor Act of 1970 (Public Law 91-611, approved 31 December 1970) authorized the construction, operation and maintenance of contained spoil disposal facilities of sufficient capacity to contain the deposits of dredged materials for a period not to exceed 10 years; and

Whereas, Kenosha Harbor and Racine Harbor, its appurtenant Root River navigable areas, are within the scope of the authorization contained in the aforementioned Public Law; and

Whereas, the said River and Harbor Act provides that the Secretary of the Army shall obtain the concurrence of appropriate local governments and shall consider the views and recommendations of the Administration of the Environmental Protection Agency and shall comply with the requirements of Section 21 of the Federal Water Pollution Control Act, and of the National Environmental Policy Act of 1969; and

Whereas, said Public Law 91-611 provides that non-Federal, interests must agree in writing to furnish certain items of local cooperation, including a possible cash contribution toward construction of Contained Spoil Disposal Facilities, prior to commencement of construction of such facilities; and

Whereas, the requirements for a cash contribution by non-Federal interests of 25 per centrum of construction costs has been waived pursuant to a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State, municipality, and all other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated; and

Whereas, Section 221 of said Public Law 91-611 also provides that any agreement covering the items which non-Federal interests will provide must have the approval of the Secretary of the Army; and that every such agreement shall be enforcible in the appropriate district court of the Government; and

Whereas, Congress enacted Public Law 91-646 approved 2 January 1971, entitled the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," and

Whereas, the approved letter report of October 1972, entitled Kenosha Harbor, Wisconsin, Diked Disposal Area on the Great Lakes, Letter Report on an Alternative Disposal Method for Polluted Dredge Material, stipulates that the dredging spoil from the Kenosha and Racine Harbors together with permit dredging will be deposited in a combined contained spoil site area of approximately 32 acres, inclusive of dikes, located within the limits of the City of Kenosha; and

Whereas, the Common Council of the City of Kenosha adopted a resolution duly executed by the Mayor on 17 January 1972, in support of a local cooperation agreement with the Government to provide for an approval disposal area for dredging materials in an area within the City of Kenosha, the source of said dredging materials being the Kenosha and Racine Harbors and any appurtenant channels; and

Whereas, the City of Racine, Wisconsin, by action of its common council concurs in the plan for depositing the dredged materials to be removed from Racine Harbor and any appurtenant channels in the Contained Spoil Disposal Facility proposed at Kenosha Harbor; and

Whereas, the City hereby represents that it is the owner of the lands required for the proposed Contained Spoil Disposal Facility; that it has the authority and capability to furnish the non-Federal cooperation required by the Federal legislation authorizing the Project and by other applicable law.

Now, therefore, the parties agree as follows:

1. The City agrees that, in consideration of the Government, at the earliest permissible date, commencing construction of a Contained Spoil Disposal Facility at Kenosha Harbor, Wisconsin, substantially in accordance with the Letter Report mentioned above and Public Law 91-611, approved 31 December 1970, it will fulfill the requirements of non-Federal cooperation specified in the aforesaid legislation, to wit:

a. Furnish, prior to construction of any Contained Spoil Disposal Facility as contemplated herein and by the legislation referred to, all lands, easements, and rights-of-way necessary for construction, operation, and maintenance of the facility.

b. Hold and save the Government free from damages due to construction, operation, and maintenance of the facility;

c. Maintain the facility after completion of its use for disposal purposes in a manner satisfactory to the Secretary of the Army.

2. The City is vested with fee simple title to the lands comprising the area required for the Contained Spoil Disposal Facility, having acquired such title from the State of Wisconsin by means of an act of the State Legislature adopted in 1959. No additional lands, easements and rights-of-way are required for the project. No persons, businesses, or farms are to be dislocated on account of the project. Therefore, Public Law 91-646, approved 2 January 1971, entitled the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," is not applicable.

3. The City shall retain title to all lands, easements, and right-of-way furnished by it pursuant to paragraph 1 above. A Spoil Disposal Facility owned by a non-Federal interest or interests may be conveyed to another party only after completion of the facility's use for disposal purposes and after the transferee agrees in writing to use or maintain the facility in a manner which the Secretary of the Army determines to be satisfactory.

4. Any Spoil Disposal Facilities constructed as proposed herein for Kenosha Harbor shall be made available to Federal licensees or permittees, at both Kenosha and Racine Harbors upon payment of an appropriate charge for such use.

5. The City hereby grants and conveys to the Government, its officers, employees, agents, contractors and assigns the unqualified right to enter upon the lands, easements, and rights-of-way which the City owns or controls, for the purpose of constructing, using, operating and maintaining the Project, as contemplated by Section 123 of Public Law 91-611, and also, upon completion of the Contained Spoil Disposal Facility, and its use, as contemplated by said Section 123 of said Public Law, the City hereby grants and conveys to the Government the right to enter upon, at reasonable times and in a reasonable manner, the lands, easements and rights-of-way for the purpose of inspection. In event such inspection shows that the City for any reason is failing to complete, operate, repair, or maintain the Project in accordance with the Assurances hereunder and has persisted in such failure after a reasonable notice in writing by the Government delivered to the City or its designated representative, then, and in that event, operation, repair, or maintenance by the Government shall not operate to relieve the City of responsibility to meet its obligation as set forth in this Agreement, or to preclude the Government from pursuing any other remedy at law or equity.

6. It is understood that the City of Racine, by action of its Common Council, concurs in construction of the proposed Contained Spoil Disposal Facility at Kenosha Harbor and the proposed use of such facility for the containment of dredged materials to be removed from Racine Harbor and any appurtenant channels thereto.

In witness thereof, the parties hereto have executed this Agreement as of the day and year first above written.

RESOLUTION NO. 90-74

Whereas, Resolution No. 9-72 was adopted by the Common Council of the City of Kenosha, Wisconsin, on January 17, 1972 supporting and agreeing to a local cooperation agreement with the Army Corps of Engineers to provide local participation and the provision of an approved disposal area for dredging materials from Kenosha and Racine in a watertight bulkhead extending 1150 feet, more or less, easterly from the existing shoreline and thence 1260 feet, more or less, northerly to the existing south pier of the Kenosha Harbor; and,

Whereas, the twenty-five (25%) per cent cost sharing has been waived for the establishment of the containment area.

Now, therefore, be it Resolved by the Common Council of the City of Kenosha, Wisconsin, that pursuant to Resolution No. 9-72, the Mayor and City Clerk be, and the same hereby are, authorized to enter into and sign the formal written contract on behalf of the City of Kenosha as described in the paragraphs above for a disposal area for dredgings from Kenosha and Racine.

ATTORNEY'S CERTIFICATE

I, Michael S. Fisher, Attorney for the City of Kenosha, Wisconsin, and being its Chief Legal Officer, hereby certify as follows:

a. That I have reviewed the foregoing Agreement entitled "Agreement Between The United States of America and City of Kenosha, Wisconsin For Local Cooperation at Kenosha Harbor, Wisconsin".

b. That the City of Kenosha is a legally constituted public body, organized in accordance with the statutes of the State of Wisconsin.

c. That the Common Council of the City authorized and directed that the said Agreement be executed on behalf of the City as attested by a certified copy of a Resolution thereto attached.

d. That in my review of the said Agreement I have carefully examined Public Law 91-611, giving particular attention to Section 221 of said Public Law, and am of the opinion that the City has the required authority and the capability to meet the requirements of the said Agreement.

e. That the City is vested with fee simple title to the lands comprising the area required for the Contained Spoil Disposal Facility, having acquired such title from the State of Wisconsin as a result of legislation enacted in 1959.

f. That the Contained Spoil Disposal Facility is being designed and will be constructed such that its capacity will provide for the use and containment of materials to be excavated and removed from Racine Harbor, Wisconsin, and any appurtenant channels thereto; however, the commitments of the City of Kenosha contained in the said Agreement are the sole responsibility of the City of Kenosha.

g. That it is my opinion that the said Agreement, when fully executed by the parties thereto and concurred in or ratified by the Common Council of the City of Racine, will become a binding contract subject to the laws of the United States and the State of Wisconsin.

MICHAEL S. FISHER,
Chief Legal Officer for the City of Kenosha, Wisconsin.

DEPARTMENT OF THE ARMY, NORTH CENTRAL DIVISION, CORPS OF ENGINEERS,
Chicago, IL, June 11, 1973.

NCDED-T
Subject: Diked Disposal Program—Great Lakes; Section 123, Public Law 91-611, Dated 31 December 1970.
HQDA (DAEN-CWO-M)
Washington, DC.

1. Section 123(a) of Public Law 91-611 states "The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct, operate and maintain, subject to the provisions of subsection (c), contained spoil disposal facilities of sufficient capacity for a period not to exceed ten years, to meet the requirements of this section."

2. Some question has arisen concerning the intent of the "ten year period" limitation. Planning is proceeding on the assumption that each facility will contain a quantity of material based on the average ten year maintenance requirements at a particular project.

3. Request guidance as to whether this interpretation is correct.

ERNEST GRAVES,
Division Engineer.

DAEN-GCZ-C (11 Jun 73) 1st Ind.
Subject: Diked Disposal Program—Great Lakes; Section 123, Public Law 91-611, Dated 31 December 1970.
DA, Office of the Chief of Engineers, Washington, DC.
To: Division Engineer, North Central, Attn: NCDED-T.

1. This is in reply to your request for the views of this office on the meaning of the 10-year limitation provision in section 123 of the 1970 River and Harbor Act (P.L. 91-611).

2. Section 123 establishes a program for the control and regulation of the disposal of dredge spoil in the Great Lakes. It authorizes the Secretary of the Army, acting through the Chief of Engineers, to construct, operate, and maintain, subject to certain requirements of local cooperation, contained spoil disposal facilities of sufficient capacity for a period not to exceed 10 years.

LEGISLATIVE HISTORY

3. Legislation for the construction and utilization of contained spoil disposal facilities on the Great Lakes arose out of the Corps of Engineers 1969 study of Dredging and Water Quality Problems in the Great Lakes. That study recommended that the Federal Government provide diked containment disposal areas near the Great Lakes Harbors for a 10-year period of operation. These contained disposal areas would provide an interim solution to the water quality problems of the Great Lakes associated with the open water disposal of contaminanted dredge spoil. During this 10-year operation period, it is assumed that local interests will be constructing adequate waste treatment facilities which will, when in operation, obviate any further need for the containment of dredge spoil.

4. Legislation was transmitted to the Congress by the Secretary of the Army pursuant to the President's message, dated 15 April 1970, on the disposal of wastes in the Great Lakes and the oceans (H. Doc. 91-308). In the letter of transmittal accompanying the proposed legislation, the Secretary of the Army reinforced the policy that contained disposal areas are only interim measures to combat the water quality problems of the Great Lakes:

"No facilities will be constructed to meet more than ten years of estimated disposal requirements. This ten-year period is specified in recognition of the development within that period of facilities necessary to treat at their sources the industrial and municipal wastes which are presently deposited in channels and harbors in the Great Lakes."

5. The legislation also proposed to utilize these contained disposal areas for non-Federal disposal of spoil as well as spoil disposal resulting from Corps of Engineers maintenance activities at Federal navigation project sites:

"Under the proposal, dredged spoil from non-Federal project sources could be disposed of in the facilities authorized in this legislation, upon payment of fees to the United States and the cooperating local interests. The fees, designed to recover a fair share of the costs of installing and maintaining the facilities, would not be charged the cooperating interests should they deposit spoil from their own projects."

6. The 10-year operation period contemplated by this legislation for these disposal areas thus included both Federal and non-Federal disposal activities for the purpose of providing a viable alternative to the open water disposal of contaminated dredged spoil.

7. The Corps of Engineers, through BG Richard Groves, testified on the proposed legislation—introduced as H.R. 17099, 91st Congress—on October 13, 1970 before the House Public Works Committee. In his statement, General Groves outlined the costs of the program and indicated when such disposal areas would be ready for operation:

"The report of the Chief of Engineers, completed in September 1969, proposed that during a ten-year period, as a means of augmenting the intensive efforts otherwise being made to reduce the inflow of pollutants from their sources to the harbor areas, a diking program be carried out at the 41 harbors considered to be polluted, at an estimated cost of $70,000,000. The current estimated cost of this program as of June 30, 1970 is $80,000,000. It would take four construction seasons to complete the necessary dikes, under normal procedures. The estimated cost of an expedited program, which would provide the diked areas needed initially to confine polluted dredged material at all 41 polluted harbors within two construction seasons (or by April 1973) is $112 million."

8. General Groves also reinforced the policies of the other provisions of the bill which would authorize the Corps to permit its licensees or permittees to use the containment areas for their contaminated dredged spoil.

9. The proposed legislation was subsequently incorporated into the House version of the 1970 River and Harbor Act—H.R. 19877, 91st Congress. Section 111 of that bill, which ultimately became section 123 of the Act, stressed the temporary nature of the program in connection with the local responsibilities for the construction of local sewage treatment plants:

"[The House bill] varies from the Administration proposal mainly in the area of cost sharing, by providing for waiver of the required local cooperation where the Administrator of the Environmental Protection Agency finds that the local interests are participating in an approved plan for the construction, modification, expansion, or rehabilitation of waste treatment facilities and are making satisfactory progress to the Administrator. The Committee feels that this provision is appropriate in view of the fact that the section contemplates the construction of disposal facilities only for a ten-year period, at which time the sources of the polluted materials are expected to be eliminated and local interests who are expending money to eliminate the source of pollutants should not be penalized by requiring them to participate in the costs of interim measures authorized by this section."

House Report 91-1665 to accompany H.R. 19877, 91st Cong. (Dec. 3, 1970), at 29. These provisions were not changed as the bill was reported out of conference and enacted into law.

ANALYSIS

10. As the history of section 123 indicates, the Congress intended to establish a temporary Federal program for the construction of contained dredged spoil disposal areas in the Great Lakes pursuant to the recommendations in the 1969 Corps study. These contained areas are only interim solutions to the problem of proper disposal of contaminated lake bottom material, and were accordingly intended to have a limited operational life span—in this case 10 years—while local governments undertook to construct waste treatment facilities under the grant program established by the Federal Water Pollution Control Act, as amended (P.L. 92-500), to eliminate the pollution at the source. Therefore, the need for such disposal areas throughout the Great Lakes will depend upon the nature and degree of the contaminated lake bottom material and the successful ability of the local interests to

secure a Federal grant for waste treatment facilities and to begin construction of such facilities. In each instance, however, where a contained disposal area is planned along the Great Lakes, the operational life of such an area is limited to 10 years.

11. This office concurs with your proposal to base the planning for contained disposal areas on the assumption that each facility will contain a quantity of material based on the average 10-year maintenance requirements at a particular project. In addition, however, such planning must also accomodate any accumulated backlogs of dredged spoil associated with each particular navigation maintenance activity. Moreover, such planning must also consider the needs of non-Federal spoil disposal as well as the spoil disposal needs associated with Federal navigation maintenance activities for each area within the Great Lakes served by a contained dredged spoil facility constructed under the authority of this section. The goal to be achieved by this program is to prevent open water disposal of contaminated dredged spoil material until adequate waste treatment facilities can be constructed to take care of pollutants at their source.

For the Chief of Engineers:

E. MANNING SEITZER,
General Counsel.

MEDICAL EXPENSE DEDUCTION

Mr. BUMPERS. Mr. President, last Friday I attempted to reduce the 10-percent floor on the medical expense deduction, but was unable to do so due to the point of order raised against my amendment to strike the tax amnesty provision in the tax reform bill. What I had proposed was that a windfall on net operating loss carrybacks be eliminated, a proposal which generated $1.6 billion in revenue. Since I only needed to pick up $200 million to offset the revenue lost from deleting the tax amnesty provision, I had proposed that the remaining $1.4 billion be applied to retaining a floor on medical expense deductions as close as possible to the current floor of 5 percent of adjusted gross income.

I rise today to say that I feel strongly on the medical expense deduction issue and regret that I was unable to apply the surplus funds from the NOL carryback issue to retaining the current law on this deduction. Even with the dramatic reduction in tax rates in the tax reform bill, the doubling of the floor on the medical expense deduction from 5 to 10 percent will much more than offset the tax cut for many individuals with high medical expenses, particularly the elderly. I oppose the committee proposal on the medical expense deduction and that is why—of all the possible uses to which I could have applied the $1.4 billion surplus from the NOL carryback restriction—I chose to apply the surplus to retaining the current 5-percent floor on the medical expense deduction. I feel just as strongly about this issue as I do about the tax amnesty provision and regret that I was only able to address the amnesty issue with my amendment.

The medical expense deduction is vital to those unfortunate families which have medical expenses which substantially exceed their insurance coverage. Under the current tax law a family cannot deduct medical expenses until they exceed 5 percent of that family's adjusted gross income. With the committee bill this floor is raised to 10 percent, which reduces the value of the medical expense deduction by $2,000 for a family with $40,000 in adjusted gross income. Under the committee bill a family with $40,000 in adjusted gross income will only receive a tax cut of $129, only 6 percent as much as it would lose in its medical expense deduction.

Of course, this deduction is only valuable to taxpayers who itemize their deductions, but it is clear from the statistics that many low-income elderly taxpayers itemize their deductions precisely because they have high medical expenses. These elderly taxpayers would normally not find it advantageous to itemize their deductions but it is advantageous for them to do so precisely because they have incurred medical expenses which substantially exceed 5 percent of their adjusted gross income. Fully 17.5 percent of all those taxpayers aged 65 and over who earn less than $20,000 claim the medical expense deduction and 28.4 percent of all those taxpayers who earn between $20,000 and $40,000 claim this deduction. More significantly, however, 81 percent of those elderly taxpayers who both earn less than $20,000 and itemize their deductions claim the medical expense deduction while only 53 percent of those taxpayers who both earn between $20,000 and $40,000 and itemize their deductions claim this deduction. This shows that low-income taxpayers itemize their deductions because they can claim a large medical expense deduction and those middle-income taxpayers who itemize their deductions do so more for other reasons.

In absolute figures, 1,402,916 elderly taxpayers who earn less than $20,000 claim the medical expense deduction—out of 8,017,635 taxpayers in this income class—and 629,828 taxpayers who earn between $20,000 and $40,000 claim the deduction—out of 2,211,023 in this income class. Similarly, 57 percent of the medical expense dollars deducted are from households with under $20,000 in adjusted gross income, 25 percent from households with between $20,000 and $40,000 in adjusted gross income and only 18 percent from households with over $40,000 in adjusted gross income. In short, this deduction is important to many low- and middle-income elderly taxpayers than it is to taxpayers with more income.

We also have statistics on how much of their current deduction these elderly taxpayers would lose if the committee's 10-percent floor is adopted. Taxpayers who earn less than $20,000 would lose 17.3 percent of the value of their deduction and those with income between $20,000 and $40,000 would lose 42.4 percent of their deduction. On average elderly taxpayers would lose 28.5 percent of the value of their medical expense deductions.

I know that for many elderly individuals and for many other families the threat of catastrophic medical expenses is one of their greatest fears. The deduction for medical expenses provides partial relief to these families, even with the current 5-percent floor. Raising this floor to 10 percent lacks compassion. If a family has medical expenses that exceed 5 percent of its adjusted gross income, why should we deny them any deduction until their expenses exceed 10 percent of their adjusted gross income? The current 5-percent level is one that most taxpayers do not exceed. Indeed, until 1982, the floor was 3 percent. With this tax reform bill we will have more than tripled the floor for this deduction for medical expenses.

While I was unable to apply the surplus revenue to reducing the floor set in the committee bill, the Senate earlier had adopted an amendment of Senator METZENBAUM reinstating the capital gains tax on foreign investment in U.S. real property, an amendment which applied the revenue raised in part to reducing the floor on the medical expense deduction. (See section 141(c) of Senate amendment 2087, CONGRESSIONAL RECORD of June 17, 1986, at 14127.) I spoke in favor of the Metzenbaum amendment, emphasizing my support for the current 5-percent floor on the medical expense deduction. (See CONGRESSIONAL RECORD of June 17, 1986, at 14135.) I said then that the vote on the amendment of Senator METZENBAUM was the "last chance you are going to get to vote on the medical—expense—part of this amendment." Unfortunately, this prediction proved to be true when the medical expense provision in my own amendment was deleted on the point of order on Friday.

The House tax reform bill does not raise the current floor on medical expense deduction and I urge the conference committee to retain the current 5 percent floor. This would enhance the fairness of this tax reform bill.

TAX FAIRNESS FOR SMALL BUSINESSES

Mr. President, last August I held a series of hearings in Arkansas on the potential impact of the tax reform legislation and I said then that I would not support any tax reform bill which is not fair to small business. I am happy to say that this tax reform bill is fair to small business and as the ranking Democratic member of the Senate Small Business Committee I commend the Senate Finance Commit-

tee for taking the interests of small business into account in crafting this legislation.

Most of the Nation's small businesses are unincorporated and this bill would dramatically lower their tax rates. There are nearly 13 million unincorporated small businesses in this country and most of them would find themselves in the 15-percent tax bracket. There is no more important issue for these small businesses than low tax rates. They rely on retained earnings to expand their businesses and they will not be able to generate the capital necessary for expansion with high tax rates. Of course, tax rates also are reduced dramatically for the Nation's nearly 2 million incorporated small businesses and, contrary to earlier proposals, the graduated tax rate structure is retained.

In addition, the tax reform bill would permit small businesses to expense up to $10,000 in equipment purchases each year, double the current limit, and would give all businesses more favorable depreciation schedules for such investments above this limit. The loss of the investment tax credit will be felt by many small businesses, but the reduction in tax rates and these provisions on expensing and depreciation should more than offset the tax advantages afforded by the investment credit for most small businesses.

All self-employed small business men and women also would be permitted to deduct up to one-half of the cost of their health insurance for themselves and their spouse and dependents, a provision which partially offsets the advantages of fringe benefits provided by corporations.

The Senate Finance Committee bill can be improved. I regret that it does not include the simplified inventory accounting system proposed in the House tax reform and will work to see that this provision is adopted in the conference on the tax bill. I oppose its requirement that certain inventory costs be capitalized for retailing firms with gross income of more than $5 million, a provision which will create endless paperwork for many small businesses. Finally, I regret that even more tax relief was not afforded to incorporated small businesses in the tax rate structure adopted in the bill, an issue which I have raised in a Senate resolution. Specifically, the bill provides no reduction in tax rates for the smallest businesses and would recapture the benefits of the graduated tax rate structure at a much lower threshold, only $100,000 instead of $1 million under current law. This lower threshold will cut in half the benefits of the reduction in tax rates in the bill for small businesses with income between $100,000 and $1 million, precisely those companies which are on the verge of growing into much larger enterprises.

These issues do not, however, overshadow the fundamentally sound provisions in the tax reform bill for small business. Low and graduated tax rates are crucial and this bill delivers the lowest top tax rates we have had in 50 years. In a business climate with low tax rates, small businesses can prosper and grow into the large businesses which will restore American's competitiveness and generate economic growth for all to benefit from in our country.

TAX FAIRNESS FOR LOW-INCOME HOUSING

Mr. President, adequate and affordable housing is of utmost importance to the State of Arkansas and to our entire Nation. For a nation of such prosperity, we continue to have increasing numbers of homeless Americans and I believe it would be the height of irresponsibility to turn our backs on those who depend on the important low-income housing programs as their only means of obtaining adequate shelter. For their sake it is imperative to maintain adequate tax incentives to ensure the continued availability of decent housing to low-income tenants.

I support the amendment of Senator MITCHELL to maintain adequate tax incentives for low-income housing and am delighted that it has been adopted by the Senate.

For almost 20 years, the Congress has enacted a series of provisions in the Internal Revenue Code designed to encourage private investment in low-income housing. Congress has recognized that such housing both needs and deserves special benefits since the economics of low-income housing transactions require tax advantages. Tax benefits have become particularly important over the past several years as direct Federal assistance has diminished greatly.

The Finance Committee tax reform bill would make some important improvements in the Tax Code treatment of low-income housing. Tax benefits would be much more highly targeted to very low-income persons, rents in projects receiving benefits would be affordable, and sponsors would be given incentives to provide more than a minimum number of low-income units in assisted developments.

Nonetheless, I believe further progress can and should be made. I am concerned that the new tax credit for low-income housing will not be sufficient if such projects do not continue to qualify for other Federal interest subsidies, loan guarantees, rental assistance or grants, as the tax reform bill would provide.

I cannot overstate the importance of these programs to my State. All of the Federal housing programs which would be directly affected by the housing tax credit provision in this tax reform bill have been tremendously important to our citizens and our economy. Under section 515 of the Housing Act of 1949, the Farmers Home Administration makes direct loans available for developers of multifamily rental housing in rural areas for low-income families and elderly citizens. This valuable program has allowed the construction of 841 units in 1985 alone in Arkansas at an average cost of $30,537.31 per unit. The average income of tenants classified as "very low-income" occupants of these units is $6,542 per year. The "low-income" tenants have an average annual income of $12,984. You can certainly understand why the availability of decent housing is of critical importance to these citizens, almost all of whom are close to or below the poverty level. The construction of these 841 housing units in 1985 has had a very positive effect on our economy as well by allowing the creation of many new jobs and a strengthening of our tax base.

Other vital HUD-administered housing programs which would be affected by this provision, including section 8, section 236, section 221(d)3 BMIR, and others, have allowed the construction of almost 10,000 low-income units which house approximately 25,000 citizens in Arkansas.

I firmly believe we have a real obligation to those less fortunate Americans to act responsibly and within budgetary restraints to ensure that our communities will continue to have affordable housing. By permitting developers to utilize both the new tax credit and other non-tax benefits already available, I am confident that this issue will be addressed in the conference committee on this bill and that we will continue to give a high priority to both tax and non-tax low-income housing programs.

Mr. KASTEN. Mr. President, shortly I will vote for the adoption of this legislation to reshape our Tax Code. Like the Phoenix rising from the ashes, we have resurrected tax reform from the certain death of the special interest, and given birth to a bill that will serve America well.

Just a few short weeks ago it seemed certain that tax reform was dead. The special interest had beaten it. Amendments were being offered every day in the Finance Committee to preserve this or that special loophole.

The result was a bill that failed to be revenue neutral and created an even more bewildering maze of tax provisions.

That bill did not stick to the principles of simplicity and fairness. It did not encourage investment and saving. It did not leave more in the pockets of the working men and women of the Nation.

But that proposal was dropped. Instead, the Finance Committee unani-

mously reported out a bill that was true tax reform.

Like many of my colleagues, I strongly supported the bill reported out of the committee. Like many of my colleagues, I also believed that there was room for improvement in the reported bill.

For the past several days, the Senate has had the opportunity to make improvements in the tax bill. Some improvements have been made, and some reforms have been defeated.

But the time has come to take the final vote. I hope that we can adopt it by an overwhelming vote.

I also want to urge my colleagues who will go into a difficult conference with the House to stick to the mandate we gave them. That is what the American people want, and what will be good for the country.

By adopting this legislation, we are taking a major step to complete a revolution in our Tax Code. When I came to this body, the top personal tax rate was over 70 percent. If this bill is signed into law, as passed by the Senate, the top tax rate will be 27 percent for all individuals.

That is a revolution our country needs.

This legislation has endured the test by fire. It has been tempered and made stronger by our heat of recent days. I hope this Phoenix can now fly quickly to the President's desk for signature and be released to serve the American people.

UNIFORM CAPITALIZATION RULES

Mr. FORD. Mr. President, Senator MCCONNELL and I had intended to offer an amendment to the tax bill dealing with a problem unique to Kentucky under the uniform capitalization rules in the Finance Committee bill. We have decided that this issue is better left to be worked out in conference, and so will not offer the amendment to this bill.

The bill provides that all indirect costs—including interest—incurred in the production of real or tangible personal property must be capitalized. While I support this concept generally, it has come to my attention that this provision could have a significant negative impact on utility rates in Kentucky.

The Kentucky Public Service Commission allows regulated public utilities under its jurisdiction to include in the rate base property under construction. This allows utilities to earn revenues currently on this property and to currently expense the production costs of that project. Kentucky is the only State which includes 100 percent of these production costs in the rate base. Over time, this procedure has resulted in significantly lower rates for Kentucky utility customers.

The Finance Committee bill would require this expense to be capitalized. This could result in a mismatch of expenses and related income for the utilities in my State. I am deeply concerned that the practical effect of this provision may lead to higher rates for utility customers in Kentucky. Our amendment would have avoided this result by permitting the deduction in those cases in which the Kentucky PSC has included property under construction in the rate base.

I have discussed this issue with the distinguished ranking minority member of the Finance Committee, Senator LONG, and he has agreed to raise it in conference. It is my understanding that the chairman, Senator PACKWOOD, has also indicated that he will explore this issue in conference. I hope this will help expedite the consideration of this bill and I thank my colleagues for their kind support and assistance in this regard.

Mr. MCCONNELL. Mr. President, I want to join my colleague from Kentucky, Senator FORD, in expressing my concern about the effect the capitalization rules in the Finance Committee bill could have on utility rates in Kentucky.

H.R. 3838, as amended by the Senate Finance Committee, attempts to address accounting situations in which a mismatching of expenses and related income results in an unwarranted deferral of taxes. As the committee report points out, this mismatching may "create distortions in the allocation of economic resources and the manner in which certain economic activity is organized." (Senate Report 99-313, p. 140.)

While I agree, Mr. President, that this is an area that needs attention, I am concerned that the changes proposed in the bill now before us actually create a mismatching of funds for the utilities in my State. As my colleague, Senator FORD, has pointed out, the Kentucky Public Service Commission is the only commission in the United States that allows 100 percent of property under construction within its jurisdictions to be included in the rate base. In other words, this can result in revenue for Kentucky utilities. Most importantly, over the long run, this policy results in lower utility rates for many Kentucky consumers.

Mr. President, unfortunately, in an attempt to assure that indirect costs incurred in the production of real or tangible personal property are capitalized, a mismatching may occur for utilities such as those in my State.

Now Mr. President, while Senator FORD and I had hoped to be able to resolve this issue with a technical amendment, I am pleased to defer to the judgment of the chairman of the Finance Committee, Senator PACKWOOD, and the distinguished ranking minority member, Senator LONG, on how best to address this problem.

Mr. PACKWOOD. I thank the Senators from Kentucky for their assistance in expediting the consideration of this bill. I recognize that the possible effect of the new uniform capitalization rules on utility rates is an important issue to your State. It is my hope that this issue could be explored at conference.

Mr. LONG. I appreciate the Senators not offering their amendment to this bill. I understand they have some concerns about how the uniform capitalization rules will affect public utilities in Kentucky and ultimately the rates customers will pay. Kentucky is somewhat unique in this situation and I have agreed to raise this issue in conference.

Mr. FORD. I thank my colleagues for their assistance.

CABLE TELEVISION FRANCHISE TRANSITION RULES

Mr. FORD. Mr. President, I wanted to engage the distinguished chairman of the committee [Mr. PACKWOOD] in a colloquy to tie down a loose end regarding the transition treatment of cable television franchise construction and rebuilds across the country. I simply want to make sure that those agreements to build and rebuild cable systems under cable franchise are treated as transition property under the supply or service contract rule.

Section 202(d)(3) of the bill creates a transition rule for service and supply contracts which are binding as of January 1, 1986 (for purposes of the investment tax credit) for equipment placed in service before the end of 1988. I want to ask the distinguished manager of the bill a question regarding the application of this rule to cable television franchises. In substance, cable television franchise agreements are service contracts. But, in form, they may be embodied in whole or in part in municipal ordinances. Was it the intention of the Finance Committee to include cable television franchise agreements within the service and supply contract rule?

Mr. PACKWOOD. The Senator is correct. The committee intends that cable television franchises generally do qualify as "supply or service contracts" for purposes of section 202(d)(3) relating to transition rules. A cable television franchise generally represents an agreement between a cable television system operator and a franchising authority governing the provision of cable television services. The committee intends that such cable television franchise agreements be treated as service contracts for purposes of section 202(d)(3) (provided of course that such agreements meet the grandfather date of January 1, 1986), even though the franchise terms may be embodied in whole or in part in a municipal ordinance or similar enactment. No contrary inference should be drawn from the specific transition rules set forth in section 202(d)(12), al-

though property qualifying under section 202(d)(12) also would qualify under section 202(d)(3).

QUALIFIED REDEVELOPMENT BONDS

Mr. GLENN. I understand that there is a problem with the definition of "qualified redevelopment bonds" set forth in section 1501(c) on page 2319 of the tax bill. Under the bill, only States which permit the pledging of incremental tax receipts are eligible to use "qualified redevelopment bonds" to finance urban renewal projects. This distinction seems unfair since many States either prohibit the use of tax increment financing or severely restrict its use. My own State of Ohio will be particularly hurt by this omission in the bill—cities of Cleveland, Akron, and many others depend on the use of general obligation bonds to finance urban redevelopment. I am sure the chairman agrees that urban blight is an important problem, one which affects every State, and not just those which authorize tax increment financing.

Mr. PACKWOOD. When the committee focused on qualified redevelopment bonds, we looked at tax increment bonds. Those were the only types of redevelopment bonds which were brought to our attention. To the extent other types of bond financing are used for the same purposes, I assure you we will include them in conference as qualified redevelopment bonds, where appropriate.

IN FAVOR OF RETENTION OF SECTION 401(k) BENEFITS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES

Mr. CHAFEE. Mr. President, I want to bring to the attention of my distinguished colleagues a provision in the current bill which I believe is unfair. The bill eliminates cash or deferred arrangements for State and local government employees. These arrangements, also known as 401(k) plans, allow employees to defer receipt of cash compensation and have this amount contributed to a qualified plan. Under a 401(k) plan an employee is not taxed on the contribution until it is actually distributed from the plan.

The current bill would eliminate 401(k) benefits for State and local government employees but retain them for the private sector and nonprofit organizations. The recently enacted Federal Employee Retirement System Act of 1986 provides Federal employees with benefits similar to those of 401(k). Therefore, if this bill is enacted, every employee in this country will be able to benefit from section 401(k) except for those employed by State and local governments. There is no logical explanation for the exclusion of State and local government employees from 401(k) benefits. It is unjust to discriminate against this one group.

If we decide that it is a desirable policy to provide tax favored savings to employees, then I believe all employees should be able to share in the benefit equally. It is inconsistent with the goal of fairness and tax reform to provide a tax subsidy to one group of employees and to deny it to another without justification. Moreover, denying public employees 401(k) benefits it makes it far more difficult for a State or local government to attract and retain quality employees.

We must not subsidize the private sector at the expense of public employers and their employees. State and local governments should be able to continue to offer 401(k) benefits to their employees. It is wrong to single them out for discrimination. I hope all my colleagues will join with me in urging the conference committee to reinstitute 401(k) benefits for public employees.

PRESERVING 401(k) PLANS FOR STATE AND LOCAL EMPLOYEES

Mr. MITCHELL. Mr. President, I rise to speak in favor of retaining 401(k) plans for State and local employees. A 401(k) retirement plan is a cash or deferred arrangement ["CODA"] under which an employee may elect to defer the receipt of cash compensation and have the deferred amount contributed to a qualified profit sharing or stock bonus plan. If the 401(k) plan meets certain qualification requirements, the employee is not currently taxed on his or her elective contributions. In many plans, employers also contribute to the 401(k) plan.

If this bill passes, State and local employees will be the only group of employees ineligible to participate in a thrift savings plan. It is illogical that we allow private sector employees to have 401(k) plans, Federal employees to have a plan very similar to 401(k) plans, but deny these plans to State and local employees. In recent years, 18 State and local governments have adopted 401(k) plans. They have proven to be extremely beneficial to both the employee and employer. Many public employees now enjoy incentives to save for their retirement in the same manner as Federal and private sector employees. The continued availability of 401(k) plans for State and local employees is essential to maintaining fairness in the Tax Code as it relates to deferred income retirement plans.

Some have argued that 401(k) plans are beneficial only to higher income taxpayers. The record does not bear this out. Since their enactment in the Revenue Act of 1978, lower and middle income employees, in particular, have found 401(k) plans to be an effective way to contribute to their retirement security. In fact, at an income level of $10,000 to $25,000, twice as many people participate in 401(k) plans than make use of IRA's. In jurisdictions where 401(k) plans are available to public employees, the response has been extremely favorable at all levels of employee compensation.

Some have argued that other tax-favored elective contribution plans, such as eligible State deferred compensation plans under Internal Revenue Code section 457, are available to the public sector and that section 401(k) arrangements are therefore "unnecessarily duplicative." Section 457 arrangements are inferior to section 401(k) arrangements as a vehicle for promoting retirement savings. Section 457 plans, unlike 401(k) plans, are not funded by a trust whose assets are dedicated to the benefit of employees who have deferred compensation under the plan. Rather, deferred amounts are subject to the general creditors of the employer and need not be funded at all. In addition, employee access to funds deferred under section 457 plans is more restricted. Loans are not permitted and distributions may not be made available to the employee except upon separation from service or in unusual circumstances.

Given the generally lower levels of pay to public employees there seems little risk that these employees will "double-up" payments to 457 and 401(k) plans. Any such concern can be remedied by offsetting contributions to other plans against the $7,000 limit for 401(k) plans under the bill.

In short, Mr. President, 401(k) plans are a popular means to save for retirement. In the private sector, 63 percent of eligible employees participate in 401(k) plans. I see no reason why the State and local employees should be denied the same opportunity. I understand that revenue constraints prevent us from acting on this issue at this time. My hope is that the Finance Committee will revisit this issue at an early date and extend 401(k) plan benefits to all taxpayers on an equal basis.

RETIREMENT CONTRIBUTIONS

Mr. HEINZ. Mr. President, many employers, large and small, currently maintain retirement arrangements which provide for after tax employee contributions that are matched by company contributions. These arrangements have been well-received by employees and are successful in covering a broad range of employees at all compensation levels. The success of these arrangements is explained in part by the company matching feature. However, employees in all compensation ranges are usually willing to participate, in part, because under present law they have access to their own contributions.

The Senate and House tax reform bills would restrict access to employee savings under retirement plans. Under the proposed bills, some or all of the amounts withdrawn from a qualified retirement plan may be treated as taxable and subject to an additional

income tax of up to 15 percent of the amount withdrawn if such withdrawal occurs before the earlier of age 59½, disability, or death. These changes are necessary to ensure adequate retirement income, but may have a chilling effect on employee savings.

Anecdotal evidence makes clear that limiting access to an employee's contribution can discourage participation. One company that testified in the Finance Committee RIPA hearings, which I chaired, noted that participation in its conventional thrift plan prior to 1973 was 75 percent; however, when the plan was amended in 1975 to preclude withdrawals, participation dropped to 55 percent. Another company testified that when it added a pre-tax contribution feature to its savings plan in 1984, after-tax contributions to the plan continued at twice the rate of pre-tax contributions, largely because of the difference in the withdrawal provisions.

Although I am not offering an amendment to the tax bill at this time, I hope that in reviewing the basis recovery rules and the additional tax on early withdrawals in the pension area, the conferees will recognize and appreciate the need to encourage the participation of younger and lower paid employees in qualified plans. To increase participation among these groups, I hope the conferees will allow for after tax contributions, with their earnings taxed currently, to be withdrawn from a qualified plan without adverse tax consequences.

Mr. STEVENS. Mr. President, I rise today to speak on the inequities of eliminating 401(k) plans for State and local government employees. Section 401(k) plans, created by the Revenue Act of 1978, allow participants to defer receipt of a portion of their salary in exchange for which an equal amount is contributed to a tax qualified plan. Amounts deferred and contributed to a section 401(k) plan and any earnings thereon, are not subject to tax until actually distributed to participants.

As chairman of the Civil Service, Post Office, and General Services Subcommittee of the Senate Governmental Affairs Committee, I am very familiar with the pension policies of this Nation. The recently enacted Federal Employee Retirement System Act of 1986 provides all Federal employees with a thrift plan modeled on 401(k) plans. We acted to extend this particular benefit to Federal employees because 401(k) plans have proven effective and popular in the private and nonprofit sectors and where they have been offered in recent years to State and local employees.

Under this bill, State and local government employees whose employer does not have a plan already in place, will be the only category of employees denied access to 401(k) plans. These savings plans are available for the public and nonprofit sectors and similar plans are available for Federal employees, but State and local government employees are unjustly discriminated against. I think eliminating 401(k) plans for State and local government employees contradicts the theme of fairness so evident throughout this bill.

Equally important, eliminating 401(k) plans for State and local government employees denies them an effective tool for savings. These plans do not benefit only the highly paid. In fact, they are used widely by lower income groups. One study indicates that over 70 percent of 401(k) participants earn under $30,000 per year. In addition, participation rates for workers earning between $10,000 and $25,000 more than double the IRA participation rates for those groups. It makes no sense to deny a plan with such widespread use among lower and middle income workers for State and local government employees, the very employees who could benefit from these plans.

Thus far, over 18 State and local governments have adopted 401(k) plans, and where implemented, they have proven highly successful. I am advised that a bill to allow 401(k) plans for State and local government employees is currently pending in the Alaska Legislature. It is my hope that the public servants in Alaska will also benefit from these effective and popular plans. Is it fair that workers in proprietary nonprofit or Veterans' Administration hospitals have a 401(k) plan, but a worker doing the same job in a public hospital cannot.

It is my hope that this important retirement savings tool will not be eliminated in this legislation. While I understand the realities of amending this bill on the floor, I hope this matter can be resolved in conference or in other legislation.

ESOP PROVISIONS

Mr. TRIBLE. Mr. President, this tax bill, and its ESOP provisions, are a tribute to Senator RUSSELL LONG, the man who fought singlehandedly for ESOP's in the early 1970's.

Senator LONG came to the Senate with the legacy of Huey Long, who wanted to make "every man a king." Senator LONG, I know you have often been quoted as saying that your father had revolutionary ideas, and that you were more in favor of evolutionary ideas.

Before you leave the Senate, I want you to know that the ESOP evolution is alive and well in my State of Virginia. There are 100 ESOP companies in Virginia, with over 10,000 employees. In fact, the former owner of a leading Virginia ESOP company, Comsonics of Harrisonburg, is president of the national trade group representing ESOP companies.

ESOP's embody the basic ideas of free enterprise. The Government cannot make "every man a king." But free enterprise does bring the greatest wealth to the largest number of people.

Senator LONG was the first to put these simple truths into action with his ESOP initiatives. He stated by himself, but his work has created a nationwide ESOP movement.

Let's pass this resolution and urge our House colleagues to accept the Senate's ESOP provisions, and then let's allow the ESOP evolution to continue, unabated.

Continued ESOP growth, not words, would be the best possible tribute to our good and esteemed friend, RUSSELL LONG.

TAX TREATMENT OF COMPUTER SOFTWARE ROYALTY INCOME

Mr. CRANSTON. Mr. Chairman, I would like to further clarify a point of some concern to many computer software firms in my State of California. I understand that section 1302 of H.R. 3838 as reported out by the Senate on May 29, 1986, provides specific treatment for certain royalties received by firms producing and marketing computer software. The provision insures that these firms have a bright line test for the tax treatment of computer software royalty income.

I believe the policy underlying this provision applies equally to all corporations engaged in the production and marketing of computer software. I am prepared to offer an amendment at this time to extend the same treatment to subchapter S corporations. However, I understand that there is a revenue loss associated with this proposed conforming change. Therefore, with the assurance from the chairman of the Committee on Finance that an effort will be made in conference to rectify this unintended difference in tax treatment for different business entities receiving identical sources of income, I will at this time request unanimous consent to withdraw my proposed amendment.

At this time I would also like to clarify a second related issue. I would like to confirm my understanding that under the passive loss rule of H.R. 3838 as reported by the Senate Finance Committee, this type of royalty income received through a pass-through entity is not portfolio income, and will not be considered derived from a passive activity if the taxpayer has materially participated in that activity.

Mr. PACKWOOD. The committee has no objection to the substance of the Senator's amendment and we will certainly make every effort to include this conforming change in the final bill agreed to by the House and Senate conferees.

Also, you are correct in your reading of the passive loss rule. Where a subchapter S corporation is actively engaged in the computer software business and receives this type of royalty income from users of its software products, that income—or loss—will be treated as income—or loss—from the active conduct of a trade or business rather than portfolio income, so long as the respective shareholders materially participate in the business activity.

Mr. CRANSTON. I thank the distinguished chairman for his assurance and commitment to attempt to obtain consistent treatment in this area and for clarifying the matter further.

GREEN BAY PACKAGING

Mr. KASTEN. I wonder if I might ask the chairman a question regarding a situation that exists with a Wisconsin company. This company is a substantial corporation which is in the process of converting from a subchapter C corporation to a subchapter S corporation. As the chairman knows, to qualify as a subchapter S corporation the corporation can have no more than 35 shareholders. This corporation currently has over 150 shareholders, but nearly 100 of those current shareholders are employees or former employees of the corporation.

As a matter of corporate policy, the corporation considers it a very high priority that employees be able to own stock, and stock is available to any employee who wants to purchase stock, as stock in the corporation becomes available. However, in order for the corporation to effect the change to subchapter S, the only option it has, under the current law, is to purchase outstanding stock from those current and past employees who own stock. The purchase of the stock from the employees will result in approximately $2 million in capital gains tax to the employees.

I know that the senior Senator from Louisiana has worked for many years on employee stock ownership plans, and that he has proposed in the past the ESOP's be made available to subchapter S corporations. However, as yet they are not. We are informed that to make ESOP's available to subchapter S corporations would be very expensive. The other option which has been explored is to create a means by which the employee stock could be put in a voting trust, with the voting trust treated as one shareholder for purposes of subchapter S. That also is an option not available under current law.

It is my opinion that there should be some mechanism by which a company in this situation can effect the change in corporate form without the necessity of imposing a significant capital gains tax on its employee stockholders, and allow them to continue to own their stock. However, at this time I am not in the position to offer an amendment which would accomplish that end. I wonder, however, if the chairman and the senior Senator from Louisiana could indicate to me whether they felt that if a reasonable solution could be found before the conference committee completes its work, that they will work to include such a solution in the bill reported from the conference committee.

Mr. PACKWOOD. Let me say to the Senator that I am very sympathetic with the problem which he has outlined, and I would very much like to find a solution. I strongly believe that stock ownership by employees is a very desirable result, and that the operation of the tax law should not work to prevent that stock ownership from happening. So let me assure the Senator that I will work toward a solution if one can be found within the scope of conference.

Mr. LONG. I welcome the comments of the Senator from Wisconsin, and indeed I have tried in the past to extend ESOP's to subchapter S corporations but have yet to succeed in getting that accomplished. However, let me tell the Senator that I too am sympathetic to the situation he describes, and if a proper solution can be found in the conference on this bill then it should be included.

REAL ESTATE TAX

Mr. BENTSEN. Mr. President, I would like to engage the distinguished chairman of the Finance Committee in a colloquy concerning a real estate tax issue. The committee report on the bill states that, "An activity as a dealer in real estate is also not generally treated as a rental activity." It is my understanding, therefore, that where a taxpayer materially participates in a nonrental real estate business, consisting of such activities as the sale, development, management, and brokerage of real estate, the taxpayer is not treated as being engaged in a passive activity and that, accordingly, the income, gain, or loss realized by the taxpayer on these activities is not passive income or loss.

Furthermore, it is my understanding that interest income generated from installment notes received from the sale of nonrental real estate that was held for sale by a dealer, who remains a dealer during the period of receipt of the interest, is not considered portfolio interest income.

Am I correct in my understanding of how these provisions should be interpreted?

Mr. PACKWOOD. The Senator from Texas is correct.

CERTAIN GRADED PREMIUM POLICIES

Mr. DOLE. A question has arisen regarding some language in the committee report to the Tax Equity and Fiscal Responsibility Act of 1982. In 1982, the Senate Finance Committee was concerned that the reserve revaluation of certain graded premium policies under section 818(c)(2) was abusive. These abuses involved some graded premium policies with premiums that are level only after the insured reaches older ages, such as age 80. However, in the report we also recognized that other "graded premium policies should be treated as whole life policies."

I understand that some have been concerned that this language might not apply to treat a graded premium policy providing permanent insurance without the exercise of any conversion privilege and which has no increase in premium after the insured reaches age 30 as "other than term" insurance. That certainly is not my understanding of the intent of the committee and for that reason I did not request that a clarification of the issue be included in the technical corrections title of this bill. Is your understanding that a clarification is unnecessary?

Mr. PACKWOOD. The majority leader is correct. It is my view as well that a graded premium policy providing permanent insurance without the exercise of any conversion privilege and which has no increase in premium after the insured reaches age 30 is "other than term" insurance. No technical correction is necessary.

RENTAL ACTIVITY

Mr. TRIBLE. The passive loss rule contained in section 1401 of the Senate amendment to H.R. 3838 defines the term "passive activity" to include any rental activity. The term "rental activity" is explained on page 741 and the following pages of the report of the Senate Finance Committee, Report 99-313, as excluding certain activities which include the provision of substantial services. It is the intention of the Senate in enacting this legislation to exclude from the definition of "rental activity" for purposes of section 1401 of this Senate amendment any facility which provides housekeeping, maid service, linen, maintenance, social and recreational activities, meals, and nursing consultation in addition to shelter for the elderly.

Mr. PACKWOOD. That is correct. It is the intention of the Senate in enacting section 1401, with respect to the passive loss rule, to exclude from the definition of "rental activity" the operation of a facility which provides housekeeping, maid service, linen, maintenance, social and recreational activities, meals, and nursing consultation in addition to shelter for the elderly. Thus, if an owner is regularly, continuously, and substantially involved in the operation of such a facility, then his ownership interest in the facility, will not be treated as a passive activity.

Mr. PRYOR. Mr. President, today the Senate will approve a comprehen-

sive tax reform bill. This bill is the result of almost 18 months of work by the President, the House of Representatives, and the Senate.

I will vote for this bill, Mr. President, and send this measure to conference with the House of Representatives. This legislation is the most comprehensive piece of tax legislation since the last overhaul of the Tax Code in 1954. I believe the American people deserve a streamlined tax system.

There are a few problems with this bill, which I will explain in a minute. They need to be corrected in conference in order to make this a much better bill. This can, and should, be done. I believe, however, that the tax reform process needs to move ahead.

Mr. President, the best feature of the pending bill is the rate structure. For the first time in many, many years we are seeing a significant lowering of tax rates for both individuals and corporations. This bill is an attempt to move away from a tax system loaded with exemptions, deductions, and credits to one with fewer tax preferences. If this occurs, we can also move away from a system of high tax rates, while maintaining a progressive Tax Code, since the tax base will be broader. The rates in the pending measure, 15 and 27 percent for individuals, and 33 percent for corporations, represent tax reduction for most people. In fact, Mr. President, 80 percent of all taxpayers will be in the 15-percent tax bracket, and over 6 million taxpayers at or below the poverty line will be taken off the income tax system. Additionally, for millions of Americans our income tax system after tax reform is enacted will mean it is simpler. This has always been a major objective of tax reform.

Mr. President, there are large increases in this bill for the personal exemption and the standard deduction. This will ease the tax burden on families. Finally, and very importantly, Mr. President, this bill allows self-employed individuals to deduct one-half of the cost of their health insurance premiums. This is an issue I've been interested in for several years, and in my opinion, this one change restores some much-needed equity to our tax system. It makes little sense for those who are covered by group health insurance to receive this coverage tax-free, but require self-employed individuals to pay for coverage for themselves and their families on an after-tax basis. I'm very pleased this provision is in the Senate bill.

Mr. President, under a tax system with lower tax rates, and fewer tax preferences, economic factors will once again become the primary factor influencing investment decisions. Certainly, as long as we have taxes in this country, they will have to be taken into account when any investment is made. The issue, however, is what should be the primary motivation for investment making. Under the present tax system, I'm afraid that frequently tax considerations play the major role.

Mr. President, as I stated earlier there are problems with the pending bill. I remain confident, however, that the Senate conferees are very much aware of them and will work to resolve them in conference with the House.

First, I believe we should restore the deductibility of contributions to individual retirement accounts. In the 1981 Tax Act, we allowed everybody to establish an IRA. This has been very successful, and millions of Americans are putting money aside each year for their retirement. This is in addition to the amounts they will be eligible to receive under an employer sponsored plan. The pending bill does retain the tax-free buildup of the account, which is the major tax benefit as the fund grows, and doesn't change the law for those not covered by employer-sponsored pension plans. I believe, however, we should retain present law in this area. That's why I voted for one of the amendments that would have kept the full deductibility of IRA contributions.

Second, I'm very concerned over the retroactive feature of the so-called passive loss rules. In the committee, I argued against any retroactive treatment on any item of the bill, including the repeal of the investment tax credit. Disallowing losses against the other income, after investment decisions were made based on the present tax structure, is wrong. In my opinion, this should be corrected in the conference. Men and women relied on the state of the tax law when they invested the money, and while it's one thing for Congress to change the tax system on a prospective basis, it's quite another thing to change it after money has already been spent.

Closely related to the previous concern, Mr. President, is one I also have in the area of low-income housing. While there is tax credit in the bill, it needs to be improved in order to provide an added incentive for investment in low-income housing. The Senator from Maine [Mr. MITCHELL] has worked very hard on this issue and his efforts have improved the credit, but more needs to be done. Without significant tax benefits, investments in low-income housing, particularly FmHA and HUD projects, simply would not be made.

The conference should also examine whether or not to reinstate a capital gains deduction. With a top rate of no more than 27 percent arguments can be made that you don't need a favorable rate for capital gains. If the rate moves above 27 percent, however, I believe the conference should seriously examine reinserting the deduction. Even with a 27-percent rate, I believe we should have the capital gains deduction for small farmers and timber owners. Because of this, I supported amendments to restore the capital gains deduction for these individuals.

Finally, Mr. President, I believe the tax reductions in the bill should be improved for middle-income Americans. The best way this can be done is by changing the breakpoints now in the bill. This is the level of income where you move into the higher bracket. Moving these breakpoints up will provide greater tax relief for middle-income taxpayers.

Mr. President, I believe these concerns will be dealt with in the conference.

The most basic question, Mr. President, is whether or not the pending bill is better overall than the existing Tax Code? While this bill might not be perfect, neither is the present Tax Code. Every Member of this body has made speech after speech for years about the present Tax Code and the inequities it contains. Here's an opportunity to vote for change. How can we justify a tax system, which in 1983 allowed 30,000 taxpayers in this country that made over $250,000 to pay no taxes, or 3,000 people with incomes in excess of $1 million to pay little or no taxes? Is that system fair? Is it equitable?

In short, Mr. President, this bill deserves a chance. It deserves to be approved by the Senate and sent to conference. As I've stated, it's not perfect. Neither is our present Tax Code. Our failure to adopt this tax reform bill will probably mean that any chance of overhauling our Tax Code will be doomed for years to come. Let's not forget that the last major overhaul occurred over 30 years ago. Here's an opportunity to vote for a change.

More changes will be made in conference that will address the concerns many Members have stated. And, in my opinion, the result will be a far better tax system than we have today.

DEDUCTIBILITY OF BANQUET MEAL EXPENSES

Mr. DOLE. Mr. President, I would like to ask the distinguished chairman of the Committee on Finance, Mr. PACKWOOD, to clarify rules in the committee amendment relating to the deductibility of business meals, and specifically, the deductibility of meals that are provided as an integral part of a banquet meeting.

During committee consideration of the tax reform bill, I supported what I think is good policy to limit the deduction for business meals to 80 percent of the otherwise allowable amount. However, the concerns existing under present law with respect to business meal deductions, which led me to support the 80-percent limitation, do not arise with respect to meals that are an integral part of a convention, seminar, annual meeting, or similar business program. For that reason, I proposed a

rule permitting full deductibility in 1987 and 1988 of qualified banquet meeting meals. The Finance Committee unanimously adopted that rule in recognition, I believe, of the unique nature of such business banquet or convention meals.

Mr. PACKWOOD. Because I agree with the distinguished majority leader concerning the unique nature of banquet meeting meals, I support the rule he proposed. I appreciated your bringing this matter to the committee's attention, and I applaud your developing a rule with minimal revenue impact.

Mr. DOLE. I thank the distinguished chairman for his comments, and would like to ask for clarification of three aspects of the rule relating to banquet meeting meals.

The first point relates to a requirement in the rule under which full deductibility—rather than 80-percent deductibility—applies only for meals that are an integral part of a business program with respect to which an expense for food or beverages is not separately stated. I understand that this requirement means that the full-deductibility rule does not apply if a change is made to persons consuming the meal for an amount for the meal separate from the charge for the program of which the meal is an integral part, or if program attendees who do not have the meal are refunded a separate amount for not having the meal.

Of course, the hotel, caterer, or other business providing the food or beverages may state to the program sponsor a separate amount that represents the food and beverage charges to the sponsor, which amount the sponsor then may factor into the total fee for the program that includes the meal. Am I correct that such a separate statement does not subject part of the program costs to the general 80-percent deductibility rule where the other requirements of the full-deductibility rule are satisfied?

Mr. PACKWOOD. The distinguished majority leader is correct. As long as the persons attending the meal are not charged a separate amount for the meal apart from the total cost of the program, the full-deductibility rule applies where the other requirements of the rule are satisfied—for example, that more than 50 percent of the participants at the business program are away from home. The fact that the business furnishing the food and beverages separately states the cost of such items to the program sponsor does not disqualify the meal from the full-deductibility rule in the committee amendment.

Mr. DOLE. My second point relates to a special rule in the committee amendment that applies to deductions for business meal expenses. The committee amendment conditions deductibility of food or beverage expenses on a showing that the furnishing of the food or beverages has a "clear business purpose" currently related to the active conduct of a taxpayer's trade or business. This clear business purpose requirement is not satisfied in the case of a meal at which the business discussion does not concern a specific business transaction or arrangement.

I understand that this clear business purpose requirement applies, for example, to a business meal between a taxpayer and a customer that takes place in a restaurant, hotel dining room, country club, or other facility. However, the requirement does not seem appropriate in the case of meals that are an integral part of a banquet program. In such a case, it is unlikely that the banquet participants would be able to discuss specific business transactions because of the lack of privacy.

Am I correct that the clear business purpose requirement would not apply, on top of the requirements generally applicable for deducting entertainment expenses, with respect to banquet meeting meals?

Mr. PACKWOOD. The intent of the committee has been correctly stated by the distinguished majority leader.

Mr. DOLE. My final question relates to applicability of the full-deductibility rule to food and beverages furnished by an employer to its employees at a facility used for employee training. These facilities are used for seminars and similar programs because they are the most cost-effective means of providing continuing education and training to large numbers of employees. Am I correct in understanding that meals at such facilities are eligible for full deductibility under the banquet meeting rule?

Mr. PACKWOOD. That is correct. Under the committee amendment, the 80-percent limitation does not apply prior to 1989 to a food or beverage expense that is an integral part of a qualified banquet meeting. The amendment defines this term to mean any convention, seminar, annual meeting, or similar business program—where meal expenses are not separately charged—if: First, more than 50 percent of the participants are away from home; second, at least 40 individuals attend; and third, the food or beverages are part of a program that includes a speaker. Thus, meals served at an employee training facility would be fully deductible if these requirements are met.

Mr. DOLE. I thank the distinguished chairman for his clarification of these matters.

Mr. MATTINGLY. Mr. President, I would like to ask the chairman BOB PACKWOOD of the Finance Committee for clarification concerning the personal holding company tax provisions of this bill.

The bill excepts certain active businesses from the personal holding company tax because that tax was never intended to apply to active businesses. My concern is that there are certain other active manufacturing businesses of taxpayers, not indicated specifically in the bill, that should be covered by the bill. The business operations of these taxpayers are being unduly restricted by the personal holding company tax—a punitive tax which was not meant to burden the operation and expansion of active manufacturing businesses.

Mr. PACKWOOD. I appreciate the Senator from Georgia raising this issue. I am aware of the problem of which he speaks, and I agree that the personal holding company tax was never intended to restrict the operations of active manufacturing businesses. The bill mentions certain active businesses in this regard, and I plan to work to persuade the conferees to clarify that other active businesses are similarly not subject to the personal holding company tax.

Mr. MATTINGLY. I thank the distinguished chairman, and look forward to seeing this matter resolved by the conference.

PERIPHERALS OF TELEPHONE CENTRAL OFFICE SWITCHING EQUIPMENT

Mr. GRASSLEY. Mr. President, I would like to congratulate the chairman on this tax reform bill. He has shown time and again his vast knowledge of the complicated issues involved with this historic and massive tax reform. I would like to ask the chairman what was intended by the committee on a few technical issues.

Was it the committee's intention to treat peripherals of telephone central office switching equipment the same as peripherals of computers?

Mr. PACKWOOD. Yes, the Finance Committee determined that the technology of computers and computer-based telephone central office switching equipment is similar, and the committee intended to include both in the 5-year class. We want to ensure that computer-based central office switching equipment and its related peripheral equipment, are included within the 5-year class. This would be consistent with the treatment of computer and related computer peripheral equipment owned by a taxpayer.

Mr. GRASSLEY. Does this 5-year treatment for COE and peripherals apply to telephone companies as well as other taxpayers?

Mr. PACKWOOD. Yes, it does. This equipment is treated the same whether it is owned by a telephone company or any other taxpayer.

Mr. GRASSLEY. Do the normalization rules provided in the repeal of the ITC ensure that credits will be recaptured?

Mr. PACKWOOD. The normalization rules provided in the repeal of the ITC provision on page 1530 are impor-

tant technical changes to the current law provision. Subparagraph (1) of the normalization rules have been clarified to ensure that credits will be "recaptured" rather than "disallowed." This change is consistent with the committee report and the committee's intent in that it will prevent the possibility that a recaptured credit be treated as a prior period adjustment for ratemaking purposes.

Mr. GRASSLEY. Mr. Chairman, under your leadership, the committee has eliminated a number of inconsistencies in the law. In order to clarify one such instance in which fairness has been mandated by the committee, let me ask you, for purposes of depreciation, did the committee distinguish between regulated and unregulated communications companies?

Mr. PACKWOOD. The committee intended to ensure that there would be no discrimination between regulated and unregulated companies.

Mr. GRASSLEY. How did the committee intend to treat property that does not have a specified ADR midpoint life?

Mr. PACKWOOD. The committee bill places all property that does not have a specified ADR midpoint life in the 5 year, 200 percent declining balance depreciation classification.

Mr. GRASSLEY. Does fiber optic cable fall within the 5-year class under the Senate bill?

Mr. PACKWOOD. I am not aware whether fiber optic cable has a specified midpoint under the present ADR system. If fiber optic cable has no specified ADR midpoint or has a midpoint of less than 16 years, it would fall into the 5-year depreciation class, regardless of whether it is owned by a regulated or unregulated company.

Mr. GRASSLEY. In view of your answer that you are unaware of whether fiber optic cable has a specified ADR midpoint life or what that midpoint life might be, and in view of the committee's intention to assure fairness in depreciation policy between regulated and unregulated companies, will you address these issues in conference?

Mr. PACKWOOD. I can assure you that the Senate conferees will address the issues of the proper depreciation treatment of fiber optic cable, depreciation treatment of the equipment utilized by bypassers and other issues related to the comparable treatment of communications equipment, whether owned by regulated or unregulated companies.

KENNECOTT

Mr. GARN. Mr. President, I rise, once again, to discuss an issue which I have discussed, at considerable length, on this floor before. This issue, Mr. President, concerns the domestic copper industry, which for all intents and purposes, is dying.

Let me share with my colleagues the grim statistics associated with the copper industry:

Approximately 50 percent of the domestic copper mines are closed, and it is doubtful that many will ever reopen;

The workforce in the copper mining, smelting and refining sector has dropped more than 50 percent to a present level of less than 20,000, down from 44,000 in 1979;

The U.S. share of free world copper mine output dropped to 16 percent in 1984 from 23.5 percent in 1979;

Domestic primary copper producers have lost over $3 billion between 1981 and the present; and

A strong U.S. dollar and overproduction from partially subsidized and government-owned Third World producers have kept copper prices close to depression era levels in real terms in spite of the current strong economic recovery.

These are grim statistics, Mr. President. They are statistics that have been constant for several years, and I believe it is about time we change them and change them for the better. I have succeeded in the past to limit loans by multilateral lending institutions including the World Bank to countries using these funds for copper production. I have also strongly encouraged the administration to take an active role in revitalizing the domestic copper industry through reform of current trade practices. These measures will help, but they alone will not resolve the problem.

In my own State, operations at the Bingham Open-Pit Mine, owned by Kennecott, once the Nation's largest copper producer, have been suspended for over 1 year due to high production costs and low copper prices due to overproduction in the Third World. Since 1981, Kennecott alone has lost over $700 million. As the second-largest employer in the State of Utah and a major taxpayer when it was at full operation, Kennecott has had to literally close its doors because of these unfortunate circumstances. The apparent lack of concern with reality by this administration and the Congress doesn't make sense to me or the over 7,000 former-Kennecott employees in Utah.

There is a way, Mr. President, to significantly begin assisting this troubled industry through the tax reform bill now before the Congress. I am prepared to offer an amendment, for myself and Senator HATCH, to this historic bill which will provide the relief this industry desperately needs.

Mr. HATCH. Will my colleague from Utah yield?

Mr. GARN. I yield to my colleague from Utah for his comments on this matter.

Mr. HATCH. Mr. President, I appreciate the comments from my fellow colleague from Utah. After 4 years of extensive study and expenditures of over $20 million for engineering evaluation, Kennecott announced last December its decision to invest $400 million to modernize the Bingham mine. I won't trouble my colleagues with the specifics of this modernization plan, except to note that Kennecott's president, G. Frank Joklik, has indicated that modernization of the mine, coupled with reduced production and labor costs, would enable its Utah division to be "one of the lowest cost copper operations in the Free World." As Mr. Joklik indicates, this modernization will allow Kennecott to effectively compete with foreign producers, and to ensure a stable supply of copper in the United States.

Mr. President, the domestic copper industry, like the steel industry which the Senate already voted to sustain in this bill, is a basic and strategic industry of the United States. Its survival, like steel, is critical to the national security of this country. I hope my colleagues will recognize this fact.

The economics of this modernization plan were based on current tax law. This is not in any way a Government handout or better treatment than present law. Kennecott's estimates are based on the current depreciation schedule and the investment tax credit, two items that are drastically reformed under the Finance Committee bill. Senator GARN and I have sought to retain current tax law treatment for this project. Without current law treatment, the economics of the project change and the plug may be pulled on this modernization project. If this were to occur, the domestic copper industry will continue to struggle in world copper markets. Jobs will be lost that would otherwise be maintained.

Mr. PACKWOOD. Will the Senator yield?

Mr. HATCH. I yield to the distinguished chairman of the Finance Committee.

Mr. PACKWOOD. Mr. President, I am very aware of the adverse plight of the domestic copper industry at a time when the U.S. economy is on the rebound and growing stronger. The Senators from Utah are absolutely right: The copper industry is suffering from overproduction and government-subsidization by foreign producers, high production costs, and outdated mining facilities.

The two Senators from Utah have contacted the committee about the Kennecott modernization plan and emphasized how vital the project is to revitalizing the domestic copper industry. The basic concepts of the Kennecott modernization plan are within the parameters of other projects in the committee bill, and I assure my two colleagues from Utah that I will do everything within my power to incorpo-

rate this plan in the final tax bill during the upcoming conference with the House.

Mr. GARN. Will the Senator yield?

Mr. PACKWOOD. I yield to the senior Senator from Utah.

Mr. GARN. Mr. President, I appreciate the comments of the distinguished manager of the bill and those of my fellow colleague from Utah. Senator HATCH and I are encouraged by his remarks and his willingness to provide relief for the domestic copper industry in this historic tax bill. We know that he will do all he can during conference, and I am sure he will succeed in incorporating the Kennecott modernization plan into the conference report. Relief is necessary and timely. We commend our friend from Oregon and the assurance of his intent on this issue. Based on these assurances, I ask that my amendment be withdrawn.

INSTALLMENT SALES

Mr. PRYOR. Mr. President, I've had a couple of discussions with the chairman of the Finance Committee with regard to the limit of 6 weeks on timeshares contained in the installment sales changes in the bill.

As the chairman knows, I offered a special accounting rule when timeshares and residential lots are sold on the installment basis. This special rule will provide that these people will pay interest on the deferred taxes, even if they borrow against the installment receivables.

I do have some concern, however, over the 6-week limit contained in the bill, and I would like to ask the chairman whether he would be willing to work to lengthen this period—possibly to 13 weeks—contained in the bill? I believe something in the range of 13 weeks would be far better, and reflect the normal usage in the industry.

Mr. PACKWOOD. The Senator from Arkansas has raised an issue I know is of concern to him. I will work with him on this issue as we debate this in conference, and I believe we can accommodate many of his concerns in this area.

FARM INDEBTEDNESS

Mr. BOREN. Mr. President, the Finance Committee included a provision in the tax bill that can ease the tax burden for farmers in certain cases when a portion of the farmer's debt is forgiven by a lending institution. Under that provision, qualified farm indebtedness that is discharged by the lender would not be included in the farmer's gross income so long as the farmer is willing to write down the basis of his taxable assets. Last week, we further improved that provision in an amendment offered on the floor by Senator KASSEBAUM and myself, by providing an earlier effective date and eliminating a debt-to-asset test for farmers to qualify.

I wholeheartedly supported those changes, as a way to enable the voluntary restructuring of farm debt, including the discharge of some of the debt owed, to make their debtload manageable for more farmers.

But we need to bear in mind that rural banks have only a limited capacity to absorb the losses when loans are renegotiated and partially discharged. This may be particularly true for smaller banks whose assets are heavily concentrated in agriculture, oil and gas, or other areas that are currently depressed.

Loan loss reserves are not an adequate answer to this problem in situations where major unanticipated losses can literally wipe out the earnings and deplete the capital of such banks. For instance in Oklahoma last year, 130—or 24 percent—of the State's 533 banks lost money. Of those 130 banks that lost money, 96, or 74 percent, were banks with less than $50 million of total assets. The problems are not fundamentally different nationwide. Last Thursday's Wall Street Journal published a major front-page story on the unique financial stresses being experienced by smaller banking institutions at this time.

I do not propose that we try to do anything further on this issue before bringing the tax bill to a final vote. However, I would hope that, in conference, some limited adjustments can be considered in the bill that are sensitive to the needs of those smaller banks.

I think that adjustments could be considered in at least two parts of the bill. One would be to extend the time period during which certain banks could carry forward net operating losses, perhaps from 5 to 8 years. If that was done, in more instances banks that are heavily involved in agriculture and oil and gas lending should be able to renegotiate loans to troubled borrowers, with the prospect of recovering their earnings position before the carryforward period expires. Such an extension of the net operating loss carryforward could track alongside the bank regulatory agencies' capital forbearance policies for banks that are heavily involved in agricultural and oil and gas lending.

The other area is cash accounting. We might take another look at allowing cash accounting to be used for tax purposes by smaller banking institutions, where cash accounting accurately reflects the income and expenses of those institutions. At a time when so many of the smaller banks are facing major problems with their loan investments due largely to deflationary forces in the sectors of the economy that they serve, perhaps we can avoid imposing accrual accounting on them if the cash method can continue to suffice.

Mr. President, I believe that adjustments in the tax bill along those two lines could be carefully tailored to come within the scope of the conference, and so that little budget cost would be entailed. I hope that they can be addressed in conference. We need to deal fairly and equitably with the local banks as we try to ease the burden of unmanageable debt on farmers and others to which those lenders are heavily committed.

CAPITAL GAINS

Mr. WEICKER. Mr. President, I rise to commend to my colleagues a most instructive and timely article appearing on the op-ed page of yesterday's Washington Post, dated June 23, 1986. The article is entitled "Fix Capital Gains," and was authored by Martin Feldstein, a professor of economics at Harvard University and the former Chairman of the President's Council on Economic Advisers, and his wife, Kathleen Feldstein. The authors examined the proposal in the Senate Finance Committee bill to eliminate the capital gains differential, which has been a mainstay of the Federal Tax Code virtually since its inception. They conclude, as I have, that if the provision was inserted in the bill to raise revenues, "It is bound to fail," and that it will have damaging effects on the flow of capital. As we approach the moment of truth on this long-debated tax reform bill, the Feldsteins' piece provides persuasive reading for our colleagues to ponder when they begin their deliberations at conference.

Mr. President, the Finance Committee bill is a remarkable blueprint for the Nation's economic future. Its mark will be felt for a generation or more, and it is significant to note that the last major overhaul of the code was in 1954. The bill that we will be voting on today replaces tax-avoidance schemes with economic initiatives as the driving force behind many of our business decisions. And that is all well and good. But we seem to be closing our eyes to the potentially disasterous effects of eliminating a capital gains differential, and we are surely ignoring important empirical evidence that the Feldsteins remind us of:

> Experience has repeatedly shown that increasing the tax rate on capital gains reduces realization, or the selling of assets, by so much that tax revenues actually decline.

Mr. President, I recently chaired a Small Business Committee hearing on the potential impact of eliminating any differential in the tax rate for personal income and that of capital gains. And I was impressed by the near unanimity of opinion that this provision will wreck havoc with the venture capital industry, and will cripple the ability of small and emerging businesses to raise capital. And I was determined to support an amendment to restore a differential to the bill, because I felt it would make a good bill even better. Unfortunately, the efforts of several of my colleagues to retain current law

grounded to a halt in the face of an estimate by the Joint Committee on Taxation that the elimination of the differential will raise over $19 billion. Well, Mr. President, I am skeptical of that figure, and I commend my colleagues to revisit the economic data which show that, as the Feldsteins conclude, the elimination of a differential actually costs the Treasury money.

The Feldsteins' article suggests under the optimal revision for the conference committee we should halve the current long-term capital gains exclusion from 60 to 30 percent, which combined with the sharply lower personal rates, will keep the tax on capital gains at roughly the same level as under current law. I agree with their conclusion, and ask that the Post article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 23, 1986]

FIX CAPITAL GAINS

(By Martin Feldstein and Kathleen Feldstein)

When the House-Senate conference committee meets to reconcile the two versions of the tax reform proposal, the taxation of capital gains will be among the most important issues to be settled. It should be an easy decision. The House and Senate versions differ significantly, and there is little doubt that the House plan is superior. It would generate more revenue, would be better for the economy and would be preferred by everyone who pays a tax on capital gains.

The existing tax system recognizes that gains received from the sale of stock or other investment assets differ from ordinary income. Under current law, individuals exclude from taxable income 60 percent of the increase in the value of the asset if they have held the asset for six months or longer. Since the maximum tax rate is now 50 percent, the maximum tax rate on capital gains after the 60 percent exclusion is now 20 percent.

The tax bill passed by the House would reduce the capital gains exclusion from 60 percent to 42 percent, but it would not alter the underlying principle of capital gains treatment. And since the top individual tax rate would be lowered to 38 percent, the maximum tax on capital gains would be 22 percent, essentially unchanged from the current 20 percent maximum.

The Senate plan is radically different. It would eliminate the capital gains exclusion completely and would tax capital gains like ordinary income. The maximum federal tax rate on capital gains would generally rise from the current 20 percent to 27 percent, almost a third higher than current law. For taxpayers in the income range from $75,000 to $185,000, the phase-out of the first bracket rate and of the personal exemption would push the capital gains tax rate to 32 percent.

If this radical proposal was made to raise revenue, it is bound to fail. Experience has repeatedly shown that increasing the tax rate on capital gains reduces realization, or the selling of assets, by so much that tax revenues actually decline. And symmetrically, when the tax rate on capital gains is reduced, individuals increase the total amount of their sales by so much that tax revenue actually increases. Equally important, the response is not a one-shot burst of additional revenue, but is sustained year after year.

In 1978 a major cut in capital gains tax rates reduced the maximum rate from more than 40 percent to 28 percent. The result was a sustained increase in the amount of taxable capital gains and, therefore, in tax revenue. The increase in realization was relatively greatest among those high-income taxpayers for whom the rate cut had been most significant. And when capital gains rates were cut again in 1981—lowering the maximum rate from 28 percent to 20 percent—there was a new sustained boost in capital gains tax revenue.

There is nothing surprising about the powerful incentive effect of the capital gains rate. Since most of the proceeds from the sale of stocks are reinvested in different stocks and other financial assets, the bite that the tax would take out of the available funds can be a significant deterrent to such switching of assets. Rather than reduce the amount that he has invested, the shareholder keeps his original investment, and the government receives no revenue. In any year, the actual value of capital gains realized is typically only a very small fraction of the capital gains that investors have accumulated during the year. Raising the capital gains tax rate would make that fraction even smaller.

The lesson is that the House-Senate conference committee can scale back the exclusion of capital gains from taxation without losing revenue, but should reject the Senate's plan for abolishing the exclusion. The top tax rate on ordinary income that is likely to emerge from the conference committee will be about 28 or 29 percent. If the current distinction between income and capital gains is maintained but the exclusion scaled back to 30 percent, the top tax rate on capital gains will remain at about 20 percent.

The disadvantage of the Senate's plan to eliminate the capital gains exclusion involves more than the loss of tax revenue. The Senate's higher capital gains tax rate would, by deterring asset sales, impede the flow of capital from existing investments to the stock of new companies and growing businesses, where the funds would make a greater contribution to growth and productivity.

In a world where taxable gains often reflect only inflation, the Senate plan is grossly unfair. An investor who put $10,000 in 1970 into the mix of stocks represented by the Dow Jones average would find his investment valued at $24,000 today. But because of inflation in consumer prices over these years, it would now take $28,000 to buy what $10,000 could buy in 1970. The Dow Jones investor would have lost $4,000 of purchasing power, but he would be liable for a tax on a $14,000 gain if he were to sell those stocks now.

The president's original plan would have allowed individuals to pay tax on only the inflation-adjusted rise in the value of their investments. We still like that idea. But if that isn't going to be done, it's especially important to keep the capital gains exclusion and to limit the maximum capital gains tax rate to 20 percent.

TRIBUTE TO SENATOR RUSSELL LONG

Mr. BENTSEN. Mr. President, since the first Congress convened almost 200 years ago in March 1789, there have been a total of 1,767 men and women who have served as Members of this body. Only three of them served longer than RUSSELL LONG, and I do not know of any who have served this Senate with greater distinction.

If you plan to make a long career in the Senate, it certainly helps to have been elected at an early age and that is exactly what RUSSELL LONG did. He was, in fact, elected at the age of 29 and had to wait until he had his 30th birthday to be sworn in. He has been here ever since providing the Senate and the Nation with the benefit of his wit and wisdom, particularly in matters of finance and taxation.

RUSSELL LONG has been a member of the Finance Committee since 1953 and served as its chairman from 1965 to 1981. We had four Presidents during these 14 years, but only one Finance chairman. Chief Executives would come and go, but RUSSELL LONG was always there, earning the respect of his fellow Senators, and leaving his mark on the tax system of this country.

Somehow, the accomplishments of RUSSELL LONG do not seem surprising, considering the heritage that he brought with him to the Senate. I asked the Senate historian to check for me, and I can say with certainty that he is the only Member of the Senate ever to have been preceded by both his father and his mother. And I have to believe that it was his father, particularly, who formed in RUSSELL LONG many of the principles that have guided him throughout the years.

I am referring specifically to Senator LONG'S sponsorship—championing is not too strong a word—of employee stock ownership plans as a means of sharing the wealth of this country and giving a greater number of people a financial stake in the economic life of the corporation they work for. RUSSELL LONG has been quoted as saying that his father, the legendary Huey Long, was a revolutionary, while he is more of an "evolutionary." The ends to be attained by both father and son were the same—greater wealth for a greater number of people—but the approach was slightly different.

ESOP's give even the worker on the assembly line or the stock clerk in the warehouse a chance to become an owner of the business in which they work, and create wealth and stability and a sense of responsibility that is often lacking. It is testimony to the farsightedness of Senator LONG that he advocated these plans long before a lack of competitiveness had been identified as one of the problems of American business and industry. These plans are a fitting tribute to the great Senator from Louisiana, but they are only one among many such that we could name and discuss.

I have to end by saying that I have a difficult time imagining the U.S. Senate without the presence of the distinguished senior Senator from Louisiana. No one was more surprised than I when he announced last year that he would not run for reelection for a seventh consecutive term. This trend could be dangerous, I thought, though we could take the sting out of it by insisting that you had to serve 38 years to be able to take such a youthful retirement. That would certainly limit its application, for I do not know when, if ever, the U.S. Senate will be graced with the presence of another Member like RUSSELL LONG.

TAX REFORM FOR AMERICANS

Mr. LAUTENBERG. Mr. President, today we move one giant step closer to true, broad reform of our tax laws. I applaud my colleague from New Jersey [Mr. BRADLEY], and the chairman and ranking member of the Finance Committee. Their contribution has been critical.

Today, we offer Americans not a perfect law, but one better than today's law.

Today, the Senate stands up for fairness. It stands up for efficiency.

What is fair?

What's fair is that every income earner and every profitable corporation pay a fair share of tax. And they would, with the stiffest, most far-reaching minimum tax ever enacted.

What's fair is that as a person's income rises, so should the tax rate they pay. This shouldn't only be a rate on a tax table, but the rate one pays. Once we close the tax shelters and loopholes, the rate in the table and the rate one pays will be closer to one and the same.

What's fair is that two people—living in similar houses, earning similar salaries, supporting families of similar size—will pay about the same amount of tax. And they will, with this bill.

What's fair is that the working poor, and middle-income Americans get some tax relief. And they would, under this bill.

But, Mr. President, we strive today not just for fairness. We strive for efficiency. We strive for a system where investment decisions are made by looking not to the Tax Code, but to the marketplace. We strive for a system where inventors and innovators can get the backing they need, based not on the tax losses they may produce, but based on the products, inventions and innovations they create.

Mr. President, no bill is perfect. This bill is no exception. I supported amendments to make this bill better, by restoring the universal IRA; by providing greater tax relief to the middle class. The conference must still deal with these issues. It must also provide for a fair transition from the old system to the new. The reform will yield great benefits. But, we must prevent great hardship on those who made investments reasonably relying on the law as it was.

One last point, Mr. President. Over the years, the Tax Code has been a tool of social and economic policy. We do not reject that role. But we find that we've chased too many nonrevenue goals at once; and, we've achieved too few.

Today, we do not reject the Tax Code as a tool of social and economic policy. We rejuvenate it. By getting back to basic policy.

The code we pass today promotes initiative. It promotes home ownership. It promotes investment. It promotes equality, fairness and efficiency. Those, Mr. President, are basic goals. Those are goals we should seek.

This is an historic occasion. I urge adoption of the bill.

Mr. BENTSEN. Mr. President, I would like to engage the distinguished chairman of the Finance Committee in a colloquy regarding so-called 10-or-more employer funded welfare benefit plans. I am concerned about a provision in the technical corrections section of the tax bill relating to 10-or-more employer funded plans. The provision specifically states that these plans would be subject to taxation on the income from their surplus reserves.

The 10-or-more plans provide a necessary avenue for many smaller businesses to obtain medical and other benefit coverage for their employees through their trade association. The businesses that participate in these plans would otherwise be unable to obtain coverage at group rates for their employees. In order to facilitate coverage for these businesses, the present Tax Code excludes these plans from the limitation rules on employer deductions for plan contributions.

These plans are unique in several ways. First, the participating employers do not control the operation of the plan. Because the member employers can come and go, the plans have a built-in incentive to keep their reserves and premiums lower to remain competitive. Most of these plans prohibit reversions of surplus assets to the contributing employers. These plans, then, would not be candidates for abuse if the exemption from taxation of the surplus reserves is maintained.

In summation, I am concerned that, by subjecting these plans to taxation on the income from their excess reserves, we would raise the cost to businesses of maintaining important insurance coverage for their employees. Therefore, I request the chairman's assurance that this important issue will be revisited in conference.

Mr. PACKWOOD. I agree with the Senator of Texas that we should carefully consider the tax treatment of welfare benefit funds maintained by 10 or more employers. The law exempts employers from limits on deductions for contributions to such plans, but does not exempt the plans from taxation if total assets exceed these limits. This is a very important issue relating to the ability of employers to provide benefits to their employees, and it is an issue that should be revisited in conference.

U.S. BUSINESS VENTURES IN SPACE

Mr. GORTON. Mr. President, I would like to ask the chairman of the Finance Committee and manager of H.R. 3838, the tax reform legislation, a question clarifying provisions in the bill regarding tax consequences of U.S. business ventures conducted in space. As the distinguished Senator from Oregon is aware, about a year ago, I introduced with several cosponsors S. 1126, the Space Tax Investment Equity Act of 1985. The purpose of the bill was to "provide that certain activities performed in space, the use of certain property in space and certain articles produced in space shall be treated as activities performed, property used and articles produced within the United States for purposes of any tax laws of the United States."

Simply stated, S. 1126 would treat U.S. space-based business investments the same as U.S. land-based investments for tax purposes. Present tax laws include provisions based on geographical location of the investment. These laws were written before commercial uses of space were ever envisioned. Under this past scheme, U.S. ventures in space would be considered outside U.S. boundries and hence not eligible for investment tax credits, accelerated depreciation [ACRS], R&D tax credits, and income derived from these projects could be treated as foreign source income. S. 1126 would correct this. It is an equity issue, not special treatment.

As I read the tax reform bill pending on the Senate floor, I believe that the Finance Committee has agreed with the intent of S. 1126 and included language and technical changes that in fact would treat future U.S. investments in space the same as if on Earth. I would like to ask the Senator from Oregon whether that in fact is what the Finance Committee has done.

Mr. PACKWOOD. The Senator from Washington is correct. It is the intent of the tax reform legislation to provide equitable treatment for U.S. space ventures. The depreciation and income source provisions provide equitable treatment. As Senator GORTON knows under this tax reform legislation, investment tax credits are eliminated so they would not be available for either land- or space-based ventures.

I would like to thank the chairman of the Science, Technology and Space Subcommittee, Senator GORTON, for originally bringing this issue to the attention of the Finance Committee. The issue is important both because it is within the spirit of tax reform legislation and because it removes some disincentives which our emerging space industry was facing. If we are to maintain our technological and industrial leadership in growth sectors such as space, we must remove these unintended inequities.

Mr. GORTON. I wish to thank Chairman PACKWOOD for his clarification and his incorporation of the equitable space tax provisions in his bill. It has been a pleasure to work with him and his able staff on this matter.

SOLAR TAX CREDIT

Mrs. HAWKINS. Mr. President, Senator DECONCINI and I have submitted an amendment to the tax reform bill expressing the sense of the Senate to extend residential solar tax credits for 3 years at declining rates. This phaseout was included in the original Senate Finance Committee proposal and incorporated in the House-passed tax bill.

Mr. President, earlier I introduced my own bill, S. 1201, to extend the solar energy residential and business credits for 5 years at declining rates. This bill enjoyed bipartisan cosponsorship. Both the House and Senate tax bills retain many tax benefits for conventional energy industries. The cost of extending solar residential credits over 3 years amounts to less then $300 million, far less than any other energy tax credits.

Everyone is aware that the Senate Finance Committee had to make some tough choices particularly in the portion of the bill relating to personal deductions. However, it is my hope that when the House and Senate reconcile the language, the solar industry will be treated equitably. The majority of this body has indicated support for solar residential tax credits.

However, these credits expired on December 31, 1985. The ensuing lapse has resulted in over 25,000 lost jobs nationwide. Equally disconcerting is the threat of foreign competition replacing the U.S. lead in solar manufacturing in the world market. Sales in our domestic solar industry have already been slashed by 75 percent. Solar energy technology provides a vital component to our domestic energy independence. We cannot afford to allow it to be dismantled.

While we do not intend to bring this resolution to a vote, we want to point out that a significant percent of this body has expressed its strong support for a phaseout of solar residential tax credits by cosponsoring this resolution. I yield now to my colleague from Arizona.

Mr. DECONCINI. Mr. President, the solar industry was one of the first industries to embrace tax reform by proposing a phaseout of its tax credits. This was an important and responsible step and served as an example for other industries to follow.

Although the committee included a 3-year extension of the solar commercial credits which matches the House provisions, it did not include the House-passed language providing for residential credits. Residential solar market accounted for over 80 percent of sales. Since the Senate Finance Committee Chairman introduced the original solar residential and commercial credits in 1978 and reiterated his intention to extend them on the floor of the U.S. Senate prior to their expiration in December 1985, it is my hope that when the Senate enters into conference with the House on the tax bill, you will find an opportunity to correct this inequity in tax treatment.

Mr. PACKWOOD. As the distinguished Senators from Florida and Arizona recognized, I have always supported solar energy.

I will give all possible consideration in conference to the issues raised by my distinguished colleagues.

TAX INCREMENT FINANCING BONDS

Mr. WILSON. Mr. President, I want to take this opportunity to congratulate the chairman and the committee for moving responsible tax reform legislation. Their efforts and commitment have resulted in tax reform legislation which is infinitely better than that passed by our colleagues in the House.

Mr. President, I would like to call the attention of the Senate to tax increment financing bonds. These tax-exempt bonds are used in 37 States to stimulate redevelopment of blighted areas and urban decay. Tax increment bonds are treated as governmental bonds under current law because they are backed by local taxes and serve important governmental purposes.

Although the committee's bill does not treat tax increment bonds as governmental bonds, it does create a new category of bonds called qualified redevelopment bonds. Unlike the House bill, the committee bill defines these bonds in a way that will not be unduly disruptive of essential redevelopment activities.

At the technical level, the committee bill sets reasonable standards for designation of blighted areas eligible to benefit from tax increment financing. However, I would like to address a potential problem with regard to the redevelopment of small and rural communities. The assessed value criterion—redevelopment areas in a city not exceed 25 percent of the city's assessed value—appears to inadvertently discriminate against small and rural communities.

If the assessed value provision had been in effect in California in 1985, 43 percent of redevelopment projects in cities with populations below 10,000 and 48 percent of the projects in cities with populations between 10,000 and 20,000 would have been ineligible to issue redevelopment bonds. I do not believe that the intent of the committee bill is to single out and drastically reduce redevelopment activities in small and rural committees. It is my hope that the committee will address this potential problem in conference.

Mr. President, I believe that tax increment bonds should be outside of any volume cap because they are limited by the tax base of a city and serve a governmental purpose. However, I am encouraged by my conversations with the committee staff that the intent is to permit tax increment bonds to be issued predictably and in substantial volume.

I applaud the efforts of the chairman and the committee to define as "governmental" tax increment bonds which are used for infrastructure. I also appreciate the committee's understanding of the needs of cities by structuring the volume cap in a way that will allow ample use of tax-exempt bonds for redevelopment. These considerations are extremely important to cities throughout the country as tax increment bonds represent a critical program our Nation's cities can use to eliminate blight and foster redevelopment.

For these reasons, Mr. President, it is my hope that the distinguished chairman will preserve the integrity of the Senate provisions for tax increment bonds in conference. Should additional categories of tax-exempt bonds be placed under the volume cap, it is my hope that the conferees will make accommodations to assure that tax increment bonds will be viable and not "crowded out" by other bonds.

Mr. PACKWOOD. Mr. President, I am well aware of the Senator's concerns regarding tax increment bonds. In many communities in my State and throughout the country, tax increment bonds play a critical role in breathing new life into decayed areas of our cities.

I appreciate the Senator's concerns and will work with the conferees to uphold the utility of tax increment bonds in conference. I am mindful that changes in the cap would potentially crowd out redevelopment activities. I also want to assure the Senator that our aim is not to discriminate against small and rural cities.

Mr. WILSON. Mr. President, I thank the distinguished chairman and his staff for their continued interest in tax increment bonds. Their efforts to help the Nation's cities meet their overwhelming infrastructure and rede-

velopment needs are very much appreciated.

MILITARY IN-KIND BENEFITS

Mr. WARNER. Mr. President, I rise to request the conference on the Tax Reform Act of 1986 to examine and clarify the tax treatment of military benefits under the "fringe benefits" provisions of the Tax Reform Act of 1984.

For well over half a century, military benefits have been excluded from taxation by the principle, first recognized by the Court of Claims in *Jones v. United States*, 60 Ct. Cl. 552 (1925), that they are not compensation for services. Accordingly, it has become commonly accepted that these benefits are tax-exempt. Although legislative history of the 1984 act indicates no change was intended for military benefits, no specific exclusion was included in the act itself. This has caused a problem in interpretation of the intent of the Congress that requires correction.

Specifically, the Treasury Department's reading of the 1984 act is that unless particular military fringe benefits are explicitly exempt by statute or regulation from taxation, they are taxable. While certain benefits, such as housing, subsistence, moving allowances, and uniforms, fall in this category, there are many others that do not. These include space available travel, education provided to children of service members overseas, commissary and exchange discounts, morale and recreation activities, and services provided aboard ships, such as movies and laundry. These benefits have never been taxed and I believe there was no specified intent of the Congress to tax benefits such as these in the 1984 Act. The problem lies in equating military benefits with fringe benefits. Military benefits are not the same as fringe benefits and never have been. While fringe benefits are a contractual term of many employment contracts, military benefits are a matter of legislative prerogative.

To correct this, I seek clarification of the intent of the Congress contained in the legislative history of the 1984 act. I think it is important we specifically examine the treatment of military benefits as intended by the Congress following the 1984 act.

Mr. President, if this question is left unresolved, it could have serious and unintended consequences on our military personnel. I urge my colleagues to look into this matter.

Mr. PACKWOOD. I thank the Senator from Virginia for his comments and the important points he has raised concerning military in-kind benefits.

INSTALLMENT OBLIGATIONS

Mr. WARNER. I want to direct the attention of the chairman of the committee on Finance to the provisions in section 311 of H.R. 3838 dealing with installment obligations. My purpose is to seek the chairman's advice with respect to a serious problem which has only recently been brought to my attention.

I want to emphasize my support for the direction that these provisions take. There apparently have been abuses in this area and I commend you and the committee for addressing them. However, these reforms may very well adversely affect the instance now concerning me.

Near the campuses of Virginia Polytechnic Institute and State University in Blacksburg, VA, and James Madison University in Harrisonburg, VA, a private developer is completing the sales of condominiums wholly marketed to parents of students attending these two schools. Construction of these projects was begun in March 1985 and they will all be completed and sold by September 1986.

The developer is building these units without any financial assistance from either these schools or the taxpayers. He is doing this with financing he is offering to the parents of these students, who make only a 5-percent down payment, and doing so without any mortgage insurance or guarantees from private companies or the Government. The housing situation on these campuses is critically short and his involvement is helping the students and the college administrators.

This type of transaction involves a loan from a financial institution to the developer covering costs of construction and development only with no profit. This developer receives a deferred purchase money mortgage from the buyer and pledges that mortgage to secure a loan covering construction and development only. The down payment covers only the real estate commission and includes no profit for the developer. The developer-seller remains at risk throughout the term of the loan with no mortgage insurance protecting such a developer. I simply can find no abuse in this case. Indeed, I believe it is an outstanding example of the private sector accepting the risk while helping my State's colleges.

I am not proposing any amendments to clear this problem from the scope of the intended reforms. Rather, I would ask that the Senate conferees thoroughly examine this particular case.

I would like to suggest two ways to deal with this issue equitably. First, there is a provision of H.R. 3838 which excludes time-sharing arrangements and sales of residential lots where the developer is not avoiding income tax. This provision could be expanded to include within its scope college housing projects such as the ones I have described. Second, there is the specific protection of a transition rule which would cover this situation directly, since everything in this situation will be completed in 1986. There are equities in this situation, Mr. Chairman, and I simply want to alert you to my concern and hope that you and your fellow conferees will attend to it in conference.

Mr. PACKWOOD. Thank you. I understand your concern and will keep it in mind when we review this issue in conference.

Mr. NICKLES. Mr. President, I would like to address the chairman of the Senate Finance Committee to get an assurance of consideration of a matter during the conference on the Tax Reform Act.

It was my intention to offer an amendment to the bill which would provide for the matching of income and expense arising from a sale-leaseback transaction involving rural electric cooperatives. Realizing the importance of moving the bill forward, I am willing to forgo floor consideration of my amendment with the hope that the conferees will resolve the matter. Can the chairman give me assurances to that effect?

Mr. PACKWOOD. Let me say that the Senator from Oklahoma, along with Senators BOREN, BUMPERS, and PRYOR, have indicated their support for this technical amendment. Under title XVIII of the bill we have addressed technical corrections for tax-exempt leasing. I will give the matter every consideration when the conference takes place.

PROPORTIONATE DISALLOWANCE RULE

Mr. GRASSLEY. I wish to clarify with the chairman that the proportionate disallowance rule for reporting gains on the installment method of accounting does not apply to gains from the sale of property that is not required to be inventoried by a farmer under his normal method of accounting. Also, deferred payment sales by a farmer to a cooperative are not subject to the proportionate disallowance rule.

Mr. PACKWOOD. The Senator from Iowa is correct.

TRUE TAX REFORM

Mr. McCLURE. Mr. President, the Senate has been debating the merits of the tax reform bill for 2 weeks now. There have been numerous amendments offered but few adopted. The reason there has been little objection to this bill, I believe, is because it is true tax reform. For many years we have been operating under a Tax Code with high marginal tax rates with many loopholes and deductions to reduce the effective rate. This system is misleading because many individuals whose salaries are in the top bracket can easily avoid taxation if they plan in advance and invest in the right type of shelter. Others in lower tax brackets do not have the time or resources to do such planning and are left to pay the highest effective rate. This has created a sense of injustice in the American people who believe that ev-

eryone is getting away without paying their fair share of taxes.

The bill before us goes a long way to restore confidence and fairness in the tax laws of the United States. By repealing many of the loopholes and deductions and lowering marginal tax rates, it will be more difficult for individuals to avoid paying their fair share. In addition, it removes the incentive for individuals to work at sheltering their income to avoid any tax liability. Therefore, future investments will be based on sound economic judgment.

Mr. President, I strongly believe that allmost all Americans recognize the many benefits offered by our society and are willing to pay for these services. However, many Americans are concerned that they are paying their fair share while others avoid paying anything at all. That is why the tax reform measure before us is true tax reform. It establishes two tax rates for individuals of 15 percent and 27 percent. It sets the corporate rate at 33 percent. In order to reduce the rates to these levels, Congress had to repeal many of the current tax shelters and loopholes which are used to avoid tax liability. Mr. President, I believe this will create a sense of fairness among all taxpayers.

Mr. President, this bill represents one of the most fundamental reforms of the Federal income tax system since its introduction in 1913. This bill simplifies the code and will make it more efficient and fair. It increases the standard deduction and personal exemption. It will remove 6 million of the working poor from the tax rolls. It retains those deductions which are essential to home ownership, charitable giving, and balance between the Federal, State, and local governments.

There are areas of concern that have been debated. Concern has been expressed over the changes in the deductibility of IRA contributions for those who have a qualified pension plan. The issue of capital gains was raised and many questioned what effect it would have on farming and other critical industries. However, the driving force of lower rates persuaded this body from adopting changes that could alter the reduced rates.

Mr. President, I have long been a supporter of the individual retirement accounts and have introduced measures to increase the allowable contributions of nonworking spouses and first time homeowners. I believe that Americans must not rely only on Social Security and should save for their retirement. However, I believe the Senate Finance Committee has reached a balance in its treatment of IRA contributions. If deductibility could be extended to those covered by qualified pension plans without raising the rates, I would support changes in the conference committee to accomplish this.

Mr. President, the bill before us is a major step in the right direction. I believe it is true tax reform. I give a lot of credit to my colleague from Idaho who sits on the Senate Finance Committee for continually reminding his colleagues that shuffling the tax burden is not the answer. That real tax reform would be significant rate reductions, broadening of the tax base, and repeal of many loopholes and deductions.

Mr. President, I congratulate my colleagues on the Finance Committee for their work on this measure and would encourage them not to compromise the reduced rates when they meet to work out the differences with the House.

TAX REFORM

Mr. HEINZ. Mr. President, before we vote on this landmark legislation, I want to congratulate the chairman of the Finance Committee for what he has accomplished in this tax reform bill. Not since 1913, when the Congress passed our first income tax of the 20th century, has there been a bill of such sweep and significance. He has developed and created a bill that everyone thought was impossible. Let me also salute Senator LONG, without whose guidance and counsel this bill would not be possible. It is only fitting that this reform bill be accomplished during his last term in the Senate. He will be greatly missed in the future. It has been an honor to serve with him.

This is a significant bill for the future of our country. It is a commitment to prosperity and compassion, to equity and efficiency. The House tax reform bill, on the other hand, is largely tax revision—a modification of the current Tax Code. The Senate bill, however, is not just cosmetic changes, but contains major substantive changes. Whether this country wants the new direction in our tax system provided by the Senate bill, or is content with the tinkering done by the House, is an issue for the conferees.

Mr. President, our goal at the national level should be to create a broad climate of opportunity and to encourage sustained, real economic growth. That is part of the impetus of the Senate bill.

Also, the Tax Code needs reform. The tax burden is too high on working people and on the poorest taxpayers. Too many people are not paying their fair share because of special interest tax breaks. Most Americans look at the thousands of pages of the Tax Code and know that the vast majority of those provisions are written to help somebody else.

The American people are skeptical of tax reform. They are right to be skeptical. I've served in the House or Senate for seven Congresses and have been through numerous tax reform bills. Each bill promised fairness; however, the Tax Code only provided more special interest breaks. Each promised simplicity, and the Tax Code became even more complicated. Each promised tax cuts, and, with the exception of the 1981 tax bill, the American people actually received a tax increase because of the bracket creep.

The Senate tax reform bill does a lot. It raises in a big way the threshold at which people will begin paying taxes by increasing the personal exemption to $2,000 and raising the standard deduction. It proposes just two tax rates: 15 percent and 27 percent. A family of four filing jointly will earn their first $13,000 free of any income tax. Only above that level will they be subject to the 15-percent tax rate. Fully 80 percent of all American taxpayers will never have a single dollar they earn taxed at a rate above 15 percent. Some 6 million low-income workers will be taken off the tax rolls altogether.

Mr. President, we have millions in poverty and a growing number of millionaires. The gap between the two is widening, and that is offensive in a democracy. This bill seeks to reverse that trend. By taking 6 million working lower income people off the tax rolls, it lends a helping hand to those who seek to help themselves. This is totally consistent with a policy President Kennedy espoused during the 1960 Presidential campaign and which I believe is as relevant today. He said: "If a free society cannot help the many who are poor, it cannot hope to save the few who are rich."

Our bill not only helps the many who are poor, it ensures that all taxpayers, individuals and corporations, pay their fair share. The alternative minimum tax on corporations, although not perfect in my view, nonetheless ensures that all will pay an equitable share. Our bill would clean out the special interest group breaks and reject once and for all the notion of heaping the tax burden on the many to preserve the tax havens of the few.

Above all, our bill creates opportunity. It rewards people and businesses, not because they can line up the best lawyers and accountants to get around the tax laws, but because they do a good job. Likewise, the passive loss rules and other changes on the individual side will halt most tax avoidance mechanisms. Just lowering the tax rate to a maximum of 27 percent for individual and 33 percent for corporation will help end the search for tax avoidance schemes. It will no longer make economic sense for a taxpayer to buy into tax shelters. Now the investments that will make sense will be those which are economically sound.

By lowering tax rates for individuals, we will reward hard work and sound

investment decisions based not on tax consequences but on economic realities. This kind of incentive will produce millions of permanent new jobs for Americans, not millions in writeoffs and layoffs. The bill, while repealing investment tax credits, improves the current depreciation system for plants and equipment, thus ensuring that our country continues to develop and rebuild its manufacturing sector.

The combination of the lower rates, and retention of capital investment incentives is critical not only to our future economic growth but to the continuance of our standard of living. With one caveat, which I will discuss later, this legislation makes a real commitment to the basic industries of America, to the jobs which gave us the standard of living we have come to expect, and to the standard of living we want for our children.

As the distinguished minority leader pointed out last evening during the debate, we need more than service jobs in fast food chains if we are to remain a strong society. My own State, the symbol of America's industrial strength, has been devastated by a decline in basic industries—steel, glass, textile, mining—and my constituents are hurting, as a result.

While promising no quick fixes, this legislation can be the beginning of a trend toward revitalizing basic industries in Pennsylvania and other industrial States.

This legislation will help our industries become more competitive in world markets, thus providing more American—rather than foreign—jobs. Currently, the cost of capital for our businesses is twice that of Japan and one-third higher than that in Europe. This and other factors involved in our cost of production have greatly disadvantaged domestic manufacturing and encouraged our own companies to purchase foreign parts or manufacture their products in foreign countries. The results speak for themselves—foreign workers replacing domestic workers and a trade deficit which is a national disgrace.

Traditionally, old tax hands have told us that equity and efficiency in the tax law were mutually exclusive, that efficiency was the enemy of equity. That ideal was grounded in the notion that a simple Tax Code could not be fair, and that a simple tax law would be inefficient since it would not recognize the complexities of a diverse society.

The bill we have forged rebuffs that myth. It does so by lowering rates and ending deductions which have not provided efficiency but only more complexity. We do not seek special taxes on wealth; but we reject the idea that wealth should be a tool to avoid paying taxes.

Finally, this legislation will restore taxpayers' faith in the integrity of the Tax Code. We all know that voluntary compliance is down. Too many taxpayers feel that the Tax Code is not fair, that they have an excuse for cheating. I believe this legislation, with the elimination of many preferences and with the stiff minimum tax for individuals and corporations, will restore confidence in our Tax Code. Taxpayers with similar incomes will pay similar amounts of tax.

For years, we have all talked about taking these steps, but until now, the words were hollow. We knew the people wanted equity, yet somehow, we couldn't g]t there. The result was a cynical public which the polls showed didn't believe we would ever reduce tax rates and simplify the tax system. We've done that in this bill and I am convinced the public will change its attitude about the tax system.

While I support this bill and believe that the Finance Committee and the Senate have produced a bill that is true tax reform, I am not vain enough to believe that it cannot be improved upon. These issues have been discussed extensively over the last few weeks. However, I want to mention the areas that I believe that the conferees should correct.

The Individual Retirement Account [IRA] has been a tremendous incentive for individuals to save for their retirement. We have millions of people who do not have adequate pension coverage, and the conferees should try and extend the IRA deduction to these people.

The minimum tax in its current form, while ensuring that profitable corporations and individuals will pay their fair share of taxes, also has a heavy impact on capital-intensive industries. The depreciation preference needs to be modified at conference to ensure that capital-intensive industries are not adversely affected, as I discussed on the floor last night, and again with the chairperson have on the floor earlier this afternoon. Otherwise, as I said earlier in these remarks, the revitalization of industrial America will be sorely jeopardized and were hopelessly undercut.

This bill retains the historic rehabilitation tax credit; however, the passive loss rules will make the credit virtually ineffective. Again the conferees need to determine what impact this will have on the revitalization of our communities and the preservation of an important part of our national heritage, and make appropriate changes.

The passive loss rules contained in this package will bring a halt to many abusive tax shelters. While the bill provides a 4-year phaseout for these investments, I do not believe that it is adequate or fair enough. Investments were made in reliance on the current Tax Code. My fear is that the proposed changes will have a negative impact on real estate and, in particular, on low-income housing. I urge the conferees to find a more equitable and fair transitional rule.

The major remaining problem of this bill, and it is a big one, is the mismatching of deductions and lower rates. Unless we change the bill in conference, millions of taxpayers, who file their tax returns for 1987 are going to realize that they have been cheated. They will lose numerous deductions, yet the full rate reduction will not go into effect until 1988. This clearly needs to be corrected at conference.

These problems are now being turned over to the conferees. There are major differences between the House and Senate tax bills. I urge the conferees to correct these problems. To take the best from both bills, and to entirely fulfill promise of a better, fairer tax system.

A TAX BILL GOOD FOR THE NATION

Mr. ZORINSKY. Mr. President, we have come to the end of a long road. The tax reform bill before us has both good and bad features. I intend to vote for it because, on balance, I feel it is good for the Nation and good for the American taxpayer.

Our current tax system is complex and inequitable. It causes economic distortions and it impedes economic growth. This bill holds the promise, at least, of a tax system that is at once simpler and fairer than what we have now. Under it, many Americans would experience a tax decrease. They also would save time and money in preparing annual tax returns.

I am especially pleased the Senate adopted several floor amendments that specifically would benefit American agriculture. The continuation of income averaging for farmers would ease the problems caused by the natural and unavoidable ebb and flow of farm income. Likewise, allowing farmers to apply investment tax credits against taxes paid in previous years will cushion the loss of ITC's for this hard-pressed economic group.

There are some things, of course, that disappointed me in the consideration of this bill. I would have preferred, for example, some moderation of the changes affecting individual retirement accounts. Likewise, I remain very concerned about provisions that would be applied retroactively to business decisions. These changes threaten bankruptcy and foreclosure for real estate firms while they severely damage Government credibility. They set a terrible precedent and would inhibit risk taking and investment. I remain hopeful that something can be done to change these provisions in conference.

Just as I have my own misgivings, however, I do not know of anyone who

gets everything they wanted from this bill. As I see it, that is the bill's great strength. It asks everyone to sacrifice something—a deduction here, a credit there, a loophole somewhere else—for the benefit of the system as a whole. On balance, I feel the effect of this bill in lowering tax rates and eliminating special treatment for individual groups would be overwhelmingly beneficial.

I said at the outset I would look to this aspect in deciding whether to support the final product of Senate debate on tax reform. No one knows with certainty what all the ramifications of passage of this legislation will be. There are still lots of hidden aspects to the bill. But based on what is known, I am able to support this legislation. I urge my colleagues to do the same.

TAX REFORM

Mr. DODD. Mr. President, I will vote in favor of H.R. 3838, the Tax Reform Act of 1986. This is an historic piece of legislation and I wish to commend the distinguished chairman of the Senate Committee on Finance [Mr. PACKWOOD] and my good friend and colleague the ranking member of the committee [Mr. LONG] for their efforts in steering this matter through the Senate. I do not quite know what to say as we conclude floor action on the last tax bill which RUSSELL LONG will have had a hand in managing except that this Senator will be a little less certain as to where to look in the future for guidance and wisdon.

I also want to single out the efforts of the Senator from New Jersey [Mr. BRADLEY] in advancing the cause of true tax reform over a number of years.

And finally, Mr. President, as with any legislation, but especially as regards tax matters, the staffs of the Finance Committee and the Joint Committee on Taxation have exhibited the highest level of expertise and professionalism in connection with our deliberation here over the last several weeks.

Mr. President, when this bill was reported from the Finance Committee, I stated my intention to support it, even though I felt it should be improved in several respects once under consideration by the full Senate. I never supported or would support the notion that a good bill could not be improved by facilitating amendments and letting the entire membership of this body work its will.

Mr. President, there is much in this legislation to support its passage. This bill will make our tax laws more equitable and simpler. This will be accomplished primarily through the imposition of strong minimum taxes on individuals and corporations so that in the future, we can state with greater assurance than today, that all segments of our society our contributing their fair share. The bill before us provides great benefit to our lower income citizens in that some 6½ million taxpayers will be removed from the rolls altogether and 80 percent will have a tax rate of 15 percent. The base of income subject to taxation will be broadened through the elimination of many misguided or obsolete tax preferences. And most importantly, in the future, investment decisions are more likely to be based on real economic, rather than tax considerations.

During the course of Senate debate, many of my original concerns with this legislation have been addressed in a manner which I believe bodes well for favorable resolution by the conference committee. While the amendment which I offered with the distinguished Senator from New York [Mr. D'AMATO] to restore universal availability of individual retirement accounts was defeated by a narrow margin, I am hopeful that the final bill will retain this feature and will look closely and favorably at the tax credit option which we offered as a more equitable and less costly alternative. The partial restoration of deductibility of State and local sales taxes while still unsatisfactory, will, I believe make it easier to complete the task of maintaining full deductibility of all such levies. This is a matter of strong principle and I will not be satisfied in the final bill with anything less than present law treatment. The new tax credit for lower income housing has been improved significantly by virtue of the amendment by the Senator from Maine [Mr. MITCHELL] which I cosponsored. It is important that in our rush to sweep away tax preferences, that we retain incentives for important societal goals such as lower income housing.

Mr. President, there remain aspects of this legislation which continue to trouble me. It is my hope that further study and attention will allow the conference committee to correct these deficiencies and that further independent study will allay certain concerns which remain. The bill before us applies too many of its provisions in a manner which penalizes taxpayers for prior decisions made in good faith under the tax laws and regulations which existed at the time. Retroactive changes in our laws run counter to our legal framework and should not be tolerated. This bill also makes assumptions that certain behavior previously encouraged through our tax laws will continue to be favored by virtue of lower marginal rates. This is something we are going to have to monitor very closely, especially in this era of high budget deficits and unavailability of direct appropriations to pick up the slack.

Finally, while this bill may simplify our tax returns, there is a real question as to what effect this will all have on our economy. The real benefits of tax reform must be to ensure growth in investment and productivity and a distribution of tax reductions which guarantees that working middle-class families will be able to secure a better standard of living for themselves and their children.

Mr. President, despite these reservations, my vote this afternoon is not a close call. I will vote affirmatively for this bill this afternoon because I feel it accomplishes the overriding purpose of restoring much needed public confidence in our tax system. If the American people can be convinced that everyone is contributing fairly, we will have made a most important stride forward in restoring the faith of our people in their Government and, of equal importance, in the ability of the Government to respond to the cries of its people for fairness under its laws.

LOW-INCOME HOUSING CREDIT

Mr. CRANSTON. Mr. President, I commend the Senate Finance Committee for its proposal on low-income housing tax credits which is an important and progressive change in the Tax Code's treatment of low-income housing investments. The low-income housing tax credit is highly targeted, on a unit-by-unit basis, to meet the needs of the neediest renters in the country. It is designed to attract private investment. When coupled with the amendment proposed by the distinguished Senator from Maine, along with myself and other Senators, will encourage new production and preservation of affordable homes for low- and very low-income people through public-private partnerships. It is the beginning of a new answer to a critical low-income housing need made more difficult by the wholesale withdrawal of the Federal Government from a direct role in providing subsidies for the development and preservation of low-income housing.

Despite its many attractive features, the credit is still not fully workable. I would urge that further changes needed to make this credit function as designed be made in the conference committee.

It is essential that suitable individual investors be encouraged to use the tax credit to invest in housing for low-income people. In most new housing programs undertaken in public-private partnerships, both for rehabilitation of abandoned buildings and new construction, there are no ongoing operating Federal subsidies. The committee proposal also restricts the amounts which can be charged to tenants in units for which credits are being claimed. Therefore, there is a substantial operating risk to the owner of the property. The nature of low-income housing is such that little or no cash flow is expected and appreciation is minimal due to the location of build-

ings in the most difficult neighborhoods and the income restrictions applied to tenants in credit eligible units.

Furthermore, most projects now being carried out by community based nonprofit organizations to provide affordable housing for low- and very low-income families are small in size and limited in total resources. The investor receives his or her only return for investing in such properties through the tax credit proposed in the committee amendment. Due to the risk involved, suitability requirements for the investors, and the costs of a public offering, use of the credits will necessarily be restricted to private placements to individuals. To make the credit useful and efficient, it will be necessary to attract suitable investors.

The committee amendment would severely curtail or prohibit the use of the credit by the very investor group we should be encouraging. Individuals with high income should be encouraged to put part of their assets back into socially responsible programs such as low-income housing. As currently written, potential investors can only use a minimal amount of the credit—up to $6,750—against their income tax liability each year. Moreover, this amount is phased down to zero for investors whose incomes exceed $150,000.

These restrictions preclude the very investor class necessary to make the credit work instead of encouraging it. These restrictions are not necessary to ensure that high income taxpayers pay their fair share of taxes, since the tough new alternative minimum tax would already do so. The restrictions limit the efficiency and use of the credit. This can be corrected in the conference committee, and I urge the chairman to work with the other conferees to make sure that the final credit adopted in this legislation is a truly workable incentive to produce and preserve low-income housing.

Once again, I congratulate the distinguished chairman for his initiative in proposing the low-income housing tax credit, and I congratulate the distinguished Senator from Maine on his sensible amendment to increase the credit's usefulness.

TAX BILL CONFERENCE

Mr. HARKIN. Mr. President, the tax bill is an improvement over our present law. But, it could use a lot of improvement. I hope that will happen in conference.

I believe that the bill should provide for greater tax relief for the average American and less benefit for the very wealthy. Under this bill, there could be 16 million people with incomes in the $10,000 to $40,000 that will see their taxes increased by about $360 per taxpayer. At the same time, those taxpayers making more than $200,000 a year who will see their taxes cut will win more than $50,000 under this bill. That must be remedied. I believe that there should be progressivity in the Tax Code. Those with highest incomes are better able to bear the tax burden. This bill does fall short in this regard.

I believe deductibility for IRA's should be allowed for every taxpayer. It is a great incentive to save. Our Nation needs the savings and individuals, upon retirement, will need the income. We should not narrow a program that really works.

I also believe that we could do more to promote long-term investment, expecially for smaller businesses. A well structured reduction in capital gains taxes would be a good thing.

There are many good things in the bill. It does reduce special tax shelters which distort the economy. These shelters have done great damage to real farmers. If anything, the bill should be strengthened in this area.

The bill generally reduces the distortion in our economy caused by the tax laws. It does a better job of getting corporations and the wealthy to pay some taxes. It should be passed. I will vote for it. But, I hope to see an improvement in conference.

TAX-AIDE BENEFITS OUR NATION, OLDER TAXPAYERS, AND ELDERLY VOLUNTEERS

Mr. DECONCINI. Mr. President, the Internal Revenue Service has repeatedly stressed that no taxpayer should pay more taxes than are legally due. Court decisions have also emphasized that taxpayers are entitled to claim all proper deductions, exemptions, and credits.

Yet, many older Americans needlessly overpay their taxes each year. Some are confused by the complexity of the tax forms. Others are unaware of available benefits for older Americans, such as the current additional exemption because of age, the $125,000 capital gains exclusion for persons 55 or older who sell their principal personal residences, and others.

The Tax Counseling for the Elderly [TCE] Program has helped older Americans to claim all legitimate deductions, exemptions, and credits. TCE has also been beneficial for the Internal Revenue Service by improving taxpayer compliance.

The American Association of Retired Persons' Tax-Aide Program is the largest of the TCE projects. Accuracy and competent service have been the hallmarks of the Tax-Aide Program. Tax-Aide not only performs many valuable services for our Nation and elderly taxpayers, but it is also a rewarding experience for the volunteers who give so generously of their knowledge and time.

The proposed revamping of the Internal Revenue Code once again underscores the importance of AARP's Tax-Aide Program and other TCE project.

The Tax-Aide Program received a Presidential citation for exceptional service at a While House ceremony on June 18. This is the highest honor for the Private Sector Initiatives Program. I wish to extend my heartfelt congratulations to the Tax-Aide Program and all its volunteers. It is a real tribute to the program and to all those who have made it so successful.

Mr. President, a recent article in the Yuma Daily Sun describes how the Tax-Aide Program is beneficial for both elderly taxpayers and the older volunteers. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Yuma (AZ) Daily Sun]

VISITOR ENJOYS COUNSELING OTHERS

(By Kathleen Hayes)

Helping others is a way of life for some people and, even if they are winter visitors, they often get involved in helping people here.

While Bernard Celek vacations in Yuma, he volunteers his time to aid other senior citizens with their tax returns.

In 1981, Celek, a former Whirpool Corp. employee, joined the American Association of Retired Persons. He was named assistant state director for north central Ohio, his home-state, and trained in tax aid counseling.

"I was organizing chapters and conducting training for offices of AARP. Tax aid was one of the programs I worked for in our town," Celek said.

He enjoyed his new work so much that he volunteered to help while on vacation in Yuma.

"I looked for it here. It was enjoyable, and I liked meeting people," Celek said.

For five winters, Celek has counseled people in Yuma who are more than 60 years old or have low-incomes. From February to April, he works as often as he is needed, usually one or two afternoons a week.

His work, however, starts before February. Each January, he takes a refresher course with the Internal Revenue Services.

"I need to update. There are always changes," Celek said.

"The majority of people I see are older winter visitors," Celek said. "Most are after their tax rebate."

Because so many of his clients are winter visitors, Celek has had to familiarize himself with various tax laws of different states. He does this by studying the previous year's forms.

"I've learned to do the tax forms for several states. That alone is wonderful," Celek said.

"In our mobile home park, permanent residents can get about 5 percent of their rent money back. We don't have that type of rebate in Ohio or any other state I've worked in. I don't know what they'll be getting until I catch up on what Arizona tax laws are like this year," he said.

Nationally the AARP helped prepare 1.5 million tax returns last year. Members made more than 25,000 visits to the homebound.

Locally, the Tax Counseling for the Elderly Program, a joint effort of the AARP and the IRS, helped more than 900 people last

year, Virgil Eisenmann, coordinator of the Yuma program, estimated.

In September of this year, Celek received tenure with the AARP. He is now a national trainer of volunteers. In January, he will go to Atlanta to teach other AARP members. One of the topics he will speak on is how to select and keep good volunteers, a subject he knows much about.

Volunteer work has been a way of life for Celek. He has been invovled with the Boy Scouts for more than 37 years, and achieved the Silver Beaver award, the highest council trustee award a scouter can earn. The Scouts also bestowed him with the St. George award, the highest district honor the group gives.

Celek plans to remain civically active.

"I've always volunteered," Celek said.

PRESERVING 401(k) PLANS FOR STATE AND LOCAL GOVERNMENT EMPLOYEES

Mr. CRANSTON. Mr. President, the bill that is before us has made great strides toward tax reform, but there still is one area in which certain taxpayers are subject to unjustified discrimination. As you know, the bill eliminates section 401(k) benefits for State and local government employees while preserving such benefits for employees of the private sector and nonprofit organizations. It is truly unfortunate that State and local government employees have been singled out to not receive the same benefits that are provided to all other employees.

The language of code section 401(k) requires a cash or deferred arrangement to consist of a profit sharing or stock bonus plan. It was initially thought that only corporations operating in the private sector could maintain such plans because nonprofit organizations and State and local governments do not have profits and, thus, could not operate profit-sharing plans.

In 1980, however, the Internal Revenue Service issued a general counsel memorandum which concluded essentially that nonprofit organizations and State and local governments could maintain profit-sharing plans even in the absence of what are traditionally considered profits. This ruling allowed nonprofit organizations and State and local governments to provide 401(k) benefits to their employees. Since the 1980 ruling, numerous nonprofit organizations and State and local governments have adopted 401(k) plans and have received official IRS approval of their plans.

Under the current bill, 401(k) benefits will be preserved for the private sector and for nonprofit organizations. However, the bill eliminates 401(k) benefits for State and local government employees. Recently, the new Federal retirement system was enacted, providing Federal employees 401(k)-type benefits. Therefore, if this bill becomes law, every segment of the work force will be able to enjoy 401(k) benefits except for State and local government employees. There is no policy reason for this distinction.

This discrimination is exacerbated because the bill eliminates a benefit which is currently being provided to many public employees. The bill grandfathers all plans that were adopted before May 6, 1986, thus public employers who did not adopt a plan by that date will be denied 401(k) benefits but those with existing plans may continue to offer these benefits. My State of California already has a 401(k) plan as so several of its counties and at least one of its cities. However, many more cities and counties in California want to provide these benefits but simply did not act fast enough in adopting their plans. The bill will prevent any new plans from being adopted, resulting in a situation where one county could offer 401(k) benefits but is neighboring county could not. Therefore, one local government is pitted against another when trying to attract and retain employees.

Moreover, by preventing public employers from providing 401(k) benefits, we are making it more difficult for them compete with the private sector for quality employees. The current bill, in effect, provides a tax subsidy to the private sector and nonprofit organizations that in many cases may increase the cost of State and local governments. Obviously, if State and local governments cannot provide their employees with the benefits of section 401(k), they may be forced to provide comparable benefits in some other form, and likely one that is not subsidized by the tax system. What can be more anomolous than a tax system that subsidizes private interests while penalizing public interests?

It has been incorrectly argued that other tax favored elective contribution plans, such as deferred annuities under section 403(b) and State deferred compensation plans under section 457, are available to the public sector and that section 401(k) arrangements are therefore unnecessarily duplicative. Section 403(b) annuities are of relatively little value to public sector employees as a whole because they are available only to teachers. Section 457 plans are inferior to section 401(k) arrangements as a vehicle for promoting retirement savings for several reasons. First, amounts deferred under section 457 remain subject to the claims of the general creditors of the employer, whereas section 401(k) contributions are held in trust solely for the benefit of participants. Second, section 401(k) plans are subject to discrimination tests, resulting in benefits being available to both higher and lower paid employees. Section 457 plans are generally only available to higher paid employees. Finally, section 401(k) plans allow loans and hardship withdrawals, whereas section 457 plans inhibit access to funds even in an emergency, thereby serving as a significant deterrant to participation.

As indicated, section 457 plans are generally only available to highly paid employees whose counterparts in the private sector have available to them nonqualified deferred compensation arrangements. Thus, permitting both section 401(k) arrangements and section 457 plans for public employees does not, as a practical matter, create any greater duplication than already exists in the private sector. Moreover, the appropriate way to deal with any perceived duplication is to offset the maximum contributions permitted under sections 403(b) and 457 by amounts contributed to section 401(k) plans.

I hope my fellow Senators will join with me in urging the conference committee to consider this most important issue and to adopt a provision which continues section 401(k) plans for public employees. For the American people to believe in the tax system it must be fair and it must not discriminate against groups of taxpayers for no policy reason. We must not single out one group of employees and discriminate against them. All employees must be allowed to share in the benefits of section 401(k).

Mr. DENTON. Mr. President, I rise to express my support for H.R. 3838, the Tax Reform Act of 1986. I want to commend the chairman of the Senate Finance Committee, Mr. PACKWOOD, the ranking minority member, Mr. LONG, and the other members of the committee for their work on this bill.

I must admit that I would have preferred that the Congress not consider a tax reform bill until the Congress had addressed the Federal budget deficit. As my colleagues know, the Congress has not taken final action on the budget resolution for fiscal year 1987. I joined a number of my colleagues in a letter to President Reagan urging that the Congress address the Federal budget deficit prior to acting on tax reform. Nevertheless, the Senate is ready to vote on the final passage of H.R. 3838.

The bill includes many positive changes in the Federal Tax Code. The Senate bill reduces the number of tax brackets from 15 to 2 brackets. The two brackets will be 15 percent and 27 percent. Over 80 percent of all taxpayers will be in the 15 percent bracket. I believe that this is a major improvement over the complex Tax Code that currently exists. However, because some deductions are eliminated on January 1, 1987, I believe that the lower rates should be effective on the same date rather than July 1, 1987.

The bill also provides for a standard deduction of $5,000 for a married couple filing jointly and $3,000 for singles. In addition, the personal exemption will be increased from $1,080 to $2,000. I have strongly supported increasing the standard deduction and

the personal exemption. These provisions are important for all families in this Nation.

The bill will also continue several important personal deductions that middle class Americans rely on to preserve and maintain a strong family life. The bill allows the continued deduction for first and second mortgages. This provision is important to all homeowners and those young people who hope to own a home in the near future.

The bill also continues to a great degree the deduction for State and local taxes. Unfortunately, the bill does not provide for a full deduction of State and local sales tax. Alabama depends heavily on State and local sales tax and the limited deduction of the sales tax will hurt Alabamians.

I believe that the private sector, corporations, business and individuals should use their wealth compassionately. They should help to meet the needs of the less fortunate, to relieve their suffering and to help restore their dignity. Charitable organizations have been meeting needs throughout the history of this country—the Red Cross, United Way, and small country churches have all helped. They meet these needs through generous gifts and tithes of common men and women. The Senate bill continues to allow these people to deduct charitable contributions if they itemize. However, nonitemizers are not allowed to deduct their charitable contributions. I wish we would continue this write-off. I think it helps to encourage giving.

The Senate tax plan continues to protect the retirement plans of charitable and religious organizations. These plans help teachers, preachers, and social workers to plan for their senior years. The House bill, however, places restrictions on these plans. The restrictions may force many organizations to drop their plans. I therefore urge the conferees to remember these people and the work they do. Let's reward them for their efforts and not penalize them by taking away their 403(b) plans.

While a portion of the tax burden is being shifted from individuals to business under this bill, there are some provisions in this bill that are beneficial to some businesses. One of the most important is the provision that allows taxpayers to expense up to $10,000 of the cost of tangible personal property used in a business. This will lower the tax bill of small businessmen and farmers, helping the businessman to grow—to create more jobs and goods—helping the farmer to get back on his feet.

This tax bill operates as a two-edged sword on tax shelters. It corrects the abuses of the past which allowed wealthy individuals to pay no tax at all in some cases. I think it may, however, go too far. People who have relied in good faith on the existing provisions of law that have encouraged people to invest in real estate and other legitimate investments should not be unfairly singled out.

The retroactive revocation of these incentives may force some honest taxpayers into bankruptcy. These people have signed notes obligating them to make annual payments for as many as 20 years with respect to projects that can show no profit without the benefit of tax credits and deductions. This action on our part may cause rent payments to rise to such a point that the benefits of the tax bill for many will be wiped out.

While I am discussing what I believe to be the disadvantages of the tax bill, let me mention capital gains. I am in favor of special tax treatment for capital assets held for long periods of time such as timber, which takes several decades to come to maturity, the old family farm, and the small businesses which have passed from generation to generation. But in times like these, some are having to sell the fruits of a lifetime all at once to pay off debts. To tax them at ordinary income rates is simply unfair.

I voted for several amendments to the bill to restore capital gains for farmers and private owners of timber land. I also strongly supported and voted for the provision to restore income averaging for farmers. Both of these items are needed to aid the family farm. I am pleased that the Senate restored income averaging and I hope that the conferees will restore some capital gains treatment in this area.

Historically we have allowed people to deduct their ordinary business expenses. Under this bill employees will not be allowed to deduct unreimbursed business expenses.

The mechanic cannot write off the cost of his tools, the carpenter his hammer, the teamster his steel-toed boots; the teacher cannot deduct dues to the Alabama Education Association or the costs of professional journals. These are all necessary expenses to the practice of each of these callings. I hope this deduction will be restored in conference.

The IRA is one of the most important tax innovations that we have. It provides America with capital, it makes the average citizen feel like he or she has control over his destiny, that he or she can provide a small measure of financial security for the retirement years. Citizens do not want to rely on the Government alone to take care of them in their later years. The IRA gives all of us hope. It helps us to take care of ourselves, not burdening someone else with our problems. To eliminate the deduction for the IRA is one of the worst things we can do to the middle class. I support restoring the deduction for IRA's.

I want to also briefly mention the resolution offered by the junior Senator from Georgia [Mr. MATTINGLY] that we not change the tax laws for 5 years after enactment. I voted for the resolution with reservations. Many Alabamians have told me that the annual changes in the tax laws cause them to spend an unreasonable amount of time keeping the tax books instead of running their businesses. I believe that stability in the tax laws is of primary importance to a sound, functioning economy. We must stop our constant tampering with the tax laws. As my colleagues know, however, no bill is perfect. The Congress has had to correct flaws in the last several tax bills enacted into law. I do not want the Congress to be in a straitjacket if corrective measures are needed.

There are many issues that will have to be resolved in conference. If the bill coming out of conference does not maintain the IRA, encourage investment, provide low rates, and fairness for all, I may have to vote against it.

SECTION 12

Mr. HEINZ. Mr. President, last Tuesday night and into Wednesday morning for about 2 hours we debated and eventually tabled by a vote of 65–29 an amendment by the distinguished Senator from Arkansas which would have repealed section 212 of the bill. Section 212 is the much publicized transition rule which I introduced permitt'..g certain steel companies to elect to carry back 50 percent of their earned but unused investment tax credits and allowing them to file a claim for a refund of taxes paid in prior years. What we voted on had been so widely reported and was so thoroughly debated that I didn't believe there was any question as to the essential elements of the provision—it was in total a $500-million refund of prior tax payments which was to be made to qualified steel companies relatively shortly after they filed the appropriate refund claim. The money would then have to be reinvested in steel facilities.

There may still be some lingering doubts as to what precisely was intended so I would like to ask the chairman of the Finance Committee, the distinguished Senator from Oregon, if his understanding of the essential elements is the same as mine.

It was my intention when I offered the provision that the credits which would be subject to the election would include all of the credits of a consolidated group which includes a major steel producer, and that the tax liability limitation on the credits would include all of the tax liability of the members of the group including the liability of predecessor corporations and

corporations acquired subsequent to the time credits were earned. The revenue estimates were based largely on published annual reports of major steel companies, and these reports included included all of the unused credits and the reported tax liabilities of the consolidated group. Is it the chairman's understanding that this was the basis for calculating the amount of credits subject to refund?

Mr. PACKWOOD. It was and remains my understanding.

Mr. HEINZ. I thank the chairman. It was further my intent that the refunds available to those companies which amounts to $500 million be made available to these companies in a timely fashion, not later than 1988. Therefore, a provision to insure that the companies do not have to await normal audit procedures was necessary. Was that also the chairman's understanding?

Mr. PACKWOOD. Yes. In fact, the thrust of the Senator's provision, as well as the 70 percent cash-out provision I included in my original package, was to get the money to these distressed companies as soon as possible because they need it now. Many need it for survival—especially steel.

If a delay were to occur, if the IRS were to hold up the release of these funds, it might get to the companies too late to be of use. Therefore, I believe we contemplated a provision to insure immediate release of the funds made available under this provision. I assume the Senator from Arkansas had the same understanding because he referred to a refund procedure several times during the floor debate.

Mr. HEINZ. I thank the chairman for his statements of clarification. Unfortunately, the draft language of this provision and the accompanying committee report do not in several respects, reflect the understanding and intent of this Senator and, based on his answers, the Senator from Oregon.

I also understand that the distinguished Senator from Louisiana, who supported the provision on the floor, will help achieve the objectives of my provision in the conference with the House. Is my understanding correct?

Mr. LONG. Yes. I supported the steel provision and believe it should be clarified to insure that it operates in an effective way.

Mr. PACKWOOD. If the Senator will yield, I will also work to ensure that the provision is amended in conference to achieve the results reflected in the comments made by the Senator from Pennsylvania and the Senator from Oregon earlier in this colloquy. As I said, this provision was intended to benefit the companies involved in a timely fashion. That is what I shall make every effort to achieve.

GENERAL CONCERN WITH TAX BILL

Mr. HATFIELD. Mr. President, I want to join the growing number of my colleagues in congratulating my friend, the distinguished Senator from my State of Oregon, Senator PACKWOOD, for developing a bill that embodies the most significant reform of our Tax Code in decades. I long have been a supporter of tax reform and have submitted versions of my Simpliform Tax Act in every Congress since 1972. I am gratified that the Finance Committee bill contains some of the reforms which I historically have advocated.

Although I have concerns with a number of provisions of the bill; namely, the retroactive effect of certain provisions, the elimination of the exclusion for individual capital gains and the elimination of the deduction for contributions to an IRA by a taxpayer participating in an employer-provided retirement plan, it is my hope that these items will be adequately addressed at conference. Consequently, I intend to suport this legislation.

Senator PACKWOOD's initiative and leadership in crafting a tax bill which embodies real reform and bringing it to the floor deserve high praise and commendation. His efforts are all the more remarkable because of the ill-advised constraint placed on him and the entire Finance Committee by the White House: that the tax reform bill must be revenue neutral.

As we complete our consideration of this bill and scrutinize its impact on individual and corporate taxpayers, we must not lose sight of the broader picture, of how this tax bill will affect our Nation's budgetary process and economy.

I have been openly critical of this administration for seeking to advance a set of budgetary priorities that ignore reality, and have been equally critical of this body for mindlessly accepting that agenda.

With the anticipated adoption of the Finance Committee bill by the full Senate, two legislative initiatives which I have opposed, Gramm-Rudman and a revenue neutral tax bill, will join together to wreak more havoc on the budget process, and on our economy, than either could manage independently. Let me explain why.

This tax bill is revenue neutral only after 5 years. That is, by 1991, any revenues lost during this 5-year period will be offset by expected revenue gains. But the magnitude of the revenue swings from year to year is staggering: a $7.4 billion increase in revenues this fiscal year, followed by a huge $22.8 billion windfall in fiscal year 1987.

In fiscal years 1988 and 1989, however, tax revenues would drop an average of $43.7 billion from the fiscal year 1987 revenue level. In other words, the Finance Committee estimates the bill will produce revenue losses of $20.8 billion in fiscal year 1988 and $21.0 billion in fiscal year 1989. Fiscal year 1990 would see an additional loss of $4.0 billion and, finally, the bill would pick up $11.0 billion in fiscal year 1991.

Mr. President, these wide revenue fluctuations will put us on a collision course with the Gramm-Rudman deficit reduction targets and I want to sound the alarm now.

In a little over 1 fiscal year, the deficit reduction legislation the Senate so cavalierly adopted will prescribe a deficit ceiling of $108.0 billion in fiscal year 1988, during which time the tax bill will lose $20.8 billion, and a deficit ceiling of $72.0 billion in fiscal year 1989, during which time the tax bill will lose $21.0 billion. In fact, the year in which this legislation finally becomes revenue neutral, 1991, is the same year that Gramm-Rudman requires the deficit be reduced to zero.

Mr. President, enactment of this tax bill—with all to commend it—will inject a greater level of instability and uncertainty into the budget process. Even under the most stable of circumstances, formulating a budget has become an almost impossible task. The current stalemate experienced by the conferees on the fiscal year 1987 budget proves the difficulty in adopting a budget that both meets the applicable deficit ceiling target and embodies a proper set of budgetary priorities.

Much of the responsibility for the deterioration of the budget process must be borne by this administration. They have used the mandates of Gramm-Rudman to legitimize a trillion-dollar budget proposal which seeks to reduce the deficit by focusing on discretionary spending, without any increase in revenues or cuts in defense spending or meaningful reform of entitlement programs. I am adamantly opposed to this agenda.

The wide swings in revenues under this tax bill during the first 5 years, as much as $43.6 billion in 1 year, will serve only to exacerbate this tension between differing, and polarized, budgetary philosophies, and to make an already difficult process that much more so.

As Gramm-Rudman blindly forces us down the stair steps of deficit reduction, this tax bill will now impair the ability of the Federal Government to pass safely on those steps. Mr. President, we can ill-afford to stumble into the whirling blade of the Gramm-Rudman sequester order. I fear passage of the bill will increase that likelihood.

Mrs. HAWKINS. Mr. President, today will stand as a historic moment in tax reform. While the Senate tax reform bill has a number of issues which have yet to be addressed in conference committee, the bill as a whole

is a step in the right direction toward tax simplicity and fairness. The bill makes sweeping changes by reducing the number of tax brackets which total about 14 today and reduces them down to 2 major tax brackets of 15 and 27 percent.

The Senate bill will ensure that all corporations will pay taxes. Multimillion dollar organizations will no longer be able to shelter their massive profits and avoid paying their fair share of tax.

I still believe that this bill hits the real estate industry especially hard, but I have been assured that a number of these provisions will be addressed in conference committee. The elimination of State sales deductions is also unfair, especially to the residents of Florida. The elimination of the IRA's was also a difficult defeat, yet we in the Senate were able to pass overwhelmingly a resolution that the IRA issue be favorably resolved in conference. But on the whole the bill before us will realistically reduce tax rates for a majority of Americans, it promotes tax simplicity and hopefully, once this bill emerges from conference it will have the support of the American public.

Mr. President, I am fully confident that Chairman PACKWOOD will defend to the utmost the promises made to us in the Senate once this bill reaches conference committee. While this is not a perfect tax bill I believe it is a postive step in the right direction.

TRANSITION ISSUES

Mr. CRANSTON. Mr. President, one of the basic and most difficult obstacles to tax reform is the question of how to accomplish the transition from current tax law to the reformed tax law.

True transition, not simply grandfathering of tax breaks for specially-favored constituents, is a matter of equity and it turns out to be costly as well.

And—the transitions provided in the Finance Committee's bill for real estate—that sector of the economy whose former benefits under current law are ended in the new bill without offsetting compensations, as in the case of capital intensive industries who lose the investment tax credit which is offset by lower corporate rates—come up short-handed.

If there is not a solution, then the marketplace adjustments which will take place under the bill's rule against passive losses will result in increased rents to tenants, abandonment of unprofitable buildings, and widespread disruption in the rental real estate market.

Retroactive changes in the tax rules for these investments are unfair and places unjustified burdens on taxpayers who made legitimate investments.

Many of my constituents have expressed concern about the retroactive effect of the bill's restrictions on investments in real estate. In particular, the disallowance of loss deductions from existing limited partnership investments has been the focus of their complaints.

These investments were made in reliance on the provisions of tax law then in effect. Congress passed very generous inducements in the 1981 Tax Act which encouraged these investors to put their money into real estate partnership.

Let me explain why the proposed changes are unfair.

In 1981 the tax laws were changed to require the use of 15-year depreciation schedules for real estate. Investors responded to that incentive and bought land, erected buildings, and provided housing and jobs. They created low-income apartments, small shopping centers, office buildings and factories.

In calculating the return on their investments, they counted on receiving the allowance of depreciation contained in the law at the time. The Senate Finance Committee bill will eliminate a substantial part of those depreciation benefits—wiping out deductions that were pivotal to the economic benefit of the investment.

In other businesses, active investors and owners can deduct their losses against all other sources of income. This is not so in the Senate bill. It is difficult for the committee to determine how to define an active real estate owner. Is the owner-manager of an apartment building considered an active owner? I think so. But under the bill the owner-manager of an apartment building could not deduct losses incurred against other income sources.

Can we get meaningful tax reform without breaking promises made by Congress earlier?

Of course we can. Simply apply the new rules to investments made after the new rules are enacted. Or provide a phaseout period which enables investors to recover their original investment and a modest return. In fact, meaningful tax reform is impossible in the absence of fair play. Unless potential investors have reason to trust the Government's tax reform promised, these promises will do little to promote productive investments. Retroactive tax reforms enacted simply to find extra revenues will destroy credibility of the law and undo that which we are attempting to accomplish through tax reform—restore confidence in our tax system.

The Senate and House conferees have an opportunity to solve these transition issues correctly and fairly. I urge them to do so and to recognize that broad-based transition must be paid for by all taxpayers as a reasonable and just cost of tax reform, just as giving up deductions pays for lower rates for everybody.

Mr. BIDEN. Mr. President, this tax reform bill, if passed, can shape the economic, social, and political fabric of America for the remainder of this century.

Millions of Americans today are disillusioned by the inequities of the Tax Code, which too often favors relatively few taxpayers. Many economic analysts also believe that the current tax law, with its shelters and loopholes, discourages sound investment and alters economic decisionmaking.

I agree with them, and that is why I am going to vote for final passage of this tax reform legislation. On balance, the bill is a good one. It will allay many of our concerns about today's tax laws, and will also provide a firm base on which the economy can prosper.

Americans want a Tax Code that broadens the base and lowers the rates, leaving more discretion in decisionmaking to the individual. They want a more equitable Tax Code that prevents tax avoidance schemes. They want assurances that every American is paying a fair share of the cost of government. They want to reduce government efforts to manage the economy through the Tax Code.

H.R. 3838 meets most tests of good tax reform.

It broadens the base on which the income tax is levied. It does that by eliminating many provisions in current law that skew investment decisions and provide tax shelter opportunities.

It removes 6 million low-income Americans from the tax roles.

It reduces the basic tax rates to encourage savings and investment.

It includes minimum tax provisions to assure that individuals and corporations can no longer avoid paying taxes.

The bill, of course, is not perfect. In particular, I am concerned that the rule structure may not be sufficiently progressive. That is why I supported the Mitchell amendment to reduce tax liabilities of middle- and low-income taxpayers. I hope that changes along these lines can be made in conference with the House of Representatives.

Yet, on the whole, the bill is a major tax reform accomplishment.

I have been a strong advocate of tax reform since I came to the Senate in 1973. Since that time, I have participated in many such efforts. Unfortunately, none of them achieved the high degree of reform in this bill.

Our tax system has now reached the point where many Americans have given up on it as a fair and effective means of financing government. More and more Americans, turned off by the unfairness of the law, have failed to report their full income. Unreported income has ballooned. As a result, we may be losing $100 billion in tax revenues today.

As it exists today, the income tax denies reasonable tax rates to low- and middle-income taxpayers, in order to preserve tax breaks and low tax liabilities for the few. In 1983, 29,800 individuals or couples, earning $250,000 or more, paid less than 5 percent of that amount in taxes. More than 3,000 of these have incomes of over $1 million.

Of equal concern is the fact that our tax system does not even result in equal tax liabilities for taxpayers with comparable income. Adding insult to injury is the fact that the tax law is deliberately written to achieve such a result. Some taxpayers can shelter income and reduce their taxes in perfectly legal ways, creating gross inequities in taxation.

The condition of our Tax Code also affects the ability of our economy to function efficiently. As it is written today, the Tax Code encourages individuals and businesses to be more concerned about tax advantage than market advantage. This has dulled the American competitive edge, at home and abroad. Hidden tax benefits received by some enterprises, but not others, have skewed economic decisionmaking. These tax benefits constitute an unrecognized industrial policy which has not worked very well.

That is not surprising when we have a Tax Code that encourages investments to be made largely on tax considerations, rather than on the economics of investing in enterprises that create jobs and make the economy grow.

These facts are important at a time when we have just had a $150 billion trade deficit. They are important when unemployment has been stuck at around 7 percent for well over a year. They are important at a time when there is much speculation about the validity of forecasts showing continued economic growth.

We are on the way to adoption of good tax reform legislation. The concepts in this bill can restore Americans' faith in the fairness of the tax system. It can free our economy from the burden of tax planning and avoidance. It is the kind of legislation I had hoped we could pass when I first came to the Senate. Over the years, I came to wonder whether tax reform was really possible. I now believe that it is within our grasp.

One final note, Mr. President. Many Senators have played significant roles in bringing this bill to the floor and in securing its passage by the Senate, especially the chairman of the Finance Committee, BOB PACKWOOD, and the ranking Democrat, RUSSELL LONG. I would like to offer my special congratulations to my friend and colleague, Senator BILL BRADLEY, on his tremendous role in bringing tax reform to the Senate. He, as much as any other person, is responsible for making the public and other policymakers aware of the need for tax reform, and in pushing it to legislative action. We and the country owe him a great debt.

Mr. EAGLETON. Mr. President, this Senate tax bill is a historic achievement. Against all odds and every prediction, we have produced a measure which is truly worthy of the name, tax reform. It reduces tax rates across the board; it eliminates from the tax rolls about 6 million of our poorest citizens; it closes off the loopholes by which wealthy individuals and corporations have avoided paying any taxes at all, and, in eliminating most tax shelters, it will encourage more productive investments.

It is a bill I am proud to support.

Mr. THURMOND. Mr. President, I rise today to support the Tax Reform Act of 1986. This legislation represents a sweeping effort to restructure the tax laws of this Nation. It is based upon the sound principle that Americans of equal income should pay equal taxes; thus creating a more equitable Tax Code for all Americans.

As recently as 1972, the local property tax was considered to be the most unfair tax by 45 percent of Americans. The Federal income tax ranked a distant second at 19 percent. However, by 1985, the Federal income tax was considered to be the most unfair tax imposed on Americans, far surpassing negative views on property taxes. I wish to commend President Reagan for recognizing this sentiment, and making tax reform his chief domestic policy initiative. I also wish to commend Chairman PACKWOOD and the rest of the Finance Committee members for their commitment to tax reform which benefits the American people, and not the special interest lobbyists.

In any legislation of this magnitude, there will be provisions with which I do not totally agree. However, I am convinced that this is good legislation when viewed in its entirety.

For individuals, this bill presents two income tax rates of 15 percent and 27 percent. This represents the lowest income tax rate in over half a century. Eighty percent of individuals will pay a rate of 15 percent or less, with an overall average tax cut for taxpayers of 6.2 percent. Approximately $100 billion of the tax burden will be shifted from individuals to the corporate sector. Furthermore, 6 million lower income taxpayers would be removed from the Federal income tax rolls. Thus, lower income workers would take home more money by being on the job, rather than on the public dole.

This legislation also impacts another area of particular concern to me—the international competitiveness of this Nation. The tax structure of our Nation is an important factor in this area. Our national tax burden is low by international standards. I am pleased that this legislation strives to maintain this tax status. The 33-percent top corporate income tax rate is the lowest of our five major trading partners. For Canada, France, Germany, Japan, and the United Kingdom, rates range from a low of 35 percent—for the United Kingdom—to a high of 50 percent—for Germany. The proposed depreciation allowances for equipment are more generous than all of our five major trading partners except Canada. By keeping rates low, U.S. firms are in a better position to compete internationally.

This legislation should also increase our domestic economic growth. The President's Council of Economic Advisers estimates that added incentives and efficiencies could increase America's growth rate by nearly 10 percent over the next decade. That could mean increased income of $600 to $900 per household each year. Employment could increase by more than 4 million over that period.

Mr. President, I would like to make one additional point. Since 1969, Congress has passed at least seven major income tax laws. There has hardly been a time when a major tax bill was not being considered in Congress. The constant rearrangement of the Tax Code concentrates more and more power in the hands of tax lobbyists, accountants, economists, and Members of Congress. The average American cannot afford the time to grasp the increasing complexities of the Tax Code. This has been unfortunate. Furthermore, it has a negative impact on business planning. Much of the impetus for this constant rearrangement has resulted from using the Tax Code to attain social goals. However, by reducing overall rates, tax incentives to achieve social goals will not be as effective. The incentive of use tax breaks relates directly to high rates. The lower the rate, the lower the value of a deduction. Therefore, with low tax rates, as provided in this bill, the decision to engage in a deductible activity will be based more on the merits and not on the tax consequences. Decreased use of the tax laws as instruments of social policy will result in a more simple Tax Code. To the extent the tax laws are written so that the average American can understand them, the decisionmaking process will be returned to the people, where it ultimately belongs.

Mr. President, in conclusion, we stand at the threshold of an historic opportunity to inject fairness into our tax system, and foster business decisions based on merit, not tax consequences. Accordingly, I support this measure and urge my colleagues to do likewise.

SEMASS

Mr. KENNEDY. Mr. President, SEMASS is a solid waste disposal facility in Rochester, MA. A construction contract was executed on July 20, 1985. At the present time, 32 communities and 2 private haulers have contracted to deliver solid waste under long-term contracts. SEMASS will be entering into future contracts with private haulers.

The following colloquy is needed in order to ensure that the current contacts with private haulers and future contracts with private businesses will not preclude the project from being grandfathered into the transition rule regarding solid waste disposal facilities.

Section 202(d)(9) of H.R. 3838 as reported by the Senate Finance Committee provides that the changes made by section 201 of the bill—concerning ACRS—will not apply to certain qualified solid waste disposal facilities. The Finance Committee report requires that, in order to be such a qualified facility, substantially all of the solid waste processed at the facility must be collected from the general public. Would you elaborate on the meaning of the phrase "collected from the general public?"

Mr. PACKWOOD. Waste collected from the general public includes all household and commercial solid waste of a type normally produced by residences, stores and other commercial buildings, schools, and offices, excluding waste which is not processable by normal waste facilities serving the public.

HAVERHILL POWER, INC.

Mr. KENNEDY. Mr. President, Haverhill Power, Inc. [HPI] was formed to develop a solid waste-to-energy plant in Haverhill, MA, on a site adjacent to an existing resource waste processing plant operated by Refuse Fuels Associates.

HPI has complied with the terms of the Senate Finance Committee transition rule, having signed a service contract with Refuse Fuels on December 31, 1985.

The shareholders who own 92 percent of the Refuse Fuels project also own 100 percent of the new project. A colloquy is needed to ensure that the December 31, 1985 agreement between HPI and Refuse Fuels is satisfactory for purposes of the transition rule since the two companies have common owners.

Does the agreement entered into between Haverhill Power, Inc. and Refuse Fuels Associates on December 31, 1985 comply with the transition rule regarding municipal waste-to-energy projects?

Mr. PACKWOOD. For the purpose of the binding contract and financial commitment criteria in the solid waste disposal transition rule for investment tax credit and accelerated depreciation in section 202(d)(9) of the bill, a service contract between related parties shall not fail to be considered a binding contract if it otherwise complies with the requirements of the transition rule and the intended service recipient was actively engaged in solid waste disposal and has long-term contracts for disposal of solid waste prior to December 31, 1985, in excess of the amounts committed under the subject service contract.

FERC LICENSE RULE

Mr. BAUCUS. Mr. President, I wish to ask the distinguished chairman of the Finance Committee a question about the so-called FERC license rule in the bill.

The bill would repeal the investment credit and modify ACRS depreciation allowances. However, section 202(d)(2) of the bill would grandfather from this change in law any project that the Federal Energy Regulatory Commission licensed or certified before March 2, 1986.

The Big Horn project in Montana was certified by FERC on May 16, 1983. There have been several changes in the project since 1983 and the developer had to return to FERC recently to have the original certificate for the project amended. The committee report indicates that returning to FERC to amend the original certificate will not cause loss of grandfather protection as long as the change in the certificate is insubstantial.

My question for the chairman is whether the change in this particular case is insubstantial. Briefly, the facts are as follows.

The original concept for the Big Horn project involved conversion of an abandoned sugar beet refinery in Hardin, MT, into a cogeneration facility that will generate electricity for sale to the Montana Power Co., and steam for manufacturing ethanol. The developer has worked diligently since 1983—when the project was first certified—to complete the transaction, but, as is typical when a small company tries to finance a power facility, unexpected obstacles have been thrown in its path.

Negotiations with the Montana Power Co. stalled in 1984. The negotiations were completed early this year after the Montana Public Service Commission was asked to intervene. In the meantime, the market for ethanol disappeared because of falling oil prices and a decision by the European Economic Community to collect a tariff on imports of a feed grain supplement that is a byproduct of ethanol production. The plan is now to install piping and steam extraction ports in the turbines for development of ethanol at a later date. Finally, when the company interviewed construction and engineering firms for the project, it was advised uniformly against using the old boilers in the abandoned refinery—which it had planned to do—because that equipment had been partly eaten away by rust and could not be counted on to generate the steam required by the facility for turning the turbines.

The basic plan to convert the abandoned refinery into a cogeneration facility has not changed. However, the following amendments will have to be made in the certificate that FERC issued for the project in 1983:

First, the original certificate said that construction would start by July 1983. The current plan is for construction to begin later this year.

Second, the developer plans to burn petroleum coke and a lower grade of coal than planned originally.

Third, the original certificate said that the project would use three existing boilers. As noted, the developer discovered that the existing boilers were unusable and will have to buy new ones.

Fourth, the original certificate said that the facility would generate 12 megawatts of electricity, while the current estimate is that it will generate 17.5 megawatts. This is due partly to the fact that more steam is available for making electricity since the developer has decided to set aside plans for using steam to produce ethanol.

The cost of the project has decreased because of the decision not to install the ethanol equipment.

Change is inevitable as a project moves from the drawing board to construction. The changes in the Big Horn project do not seem the kind that should cause loss of grandfather protection. Does the chairman agree?

Mr. PACKWOOD. The amendments to the FERC order that the Senator describes are not so extensive that they should cause loss of grandfather protection.

SOLID WASTE DISPOSAL FACILITIES

Mr. KENNEDY. Mr. President, I am interested in the application of the special rule governing depreciation of qualified solid waste disposal facilities found in section 202(d)(9) on page 1511 of the bill to a facility being developed in Holyoke, MA.

It is my understanding that the dates in the service contract by which certain conditions must be satisfied have been extended and may be further extended.

I have been informed that the original extension made no substantial modification to the contract. It also made no change in tipping fees. The Senate Finance Committee report states that adjustment in tipping fees or method or amount of compensation will not be considered a substantial modification.

Assuming that any further extensions of the contract may make changes in the tipping fees, but will

make no substantial modifications, and assuming that the original extension made no substantial modifications, am I correct in assuming that the extension and any further extensions will not cause the contract to fail to comply with section 202(d)(9).

Mr. PACKWOOD. The Senator is correct. Assuming that the circumstances described by the Senator are correct, the contract will continue to be treated as a contract described in section 202(d)(9).

INSTALLMENT SALES

Mr. PRYOR. Mr. President, I wish to discuss an issue with the chairman of the committee in the area of installment sales. As the chairman will recall, I offered an amendment in the committee, which was adopted, dealing with sales of residential lots and timeshares—including campgrounds.

This amendment begins on page 1567 of the committee reported amendment. The exception will be new section 453C(e)(4) of the Internal Revenue Code.

Section 453C(e)(4)(A)(i)(II) of the Tax Code—as added by the bill—provides that the elective method of reporting gain is unavailable if the taxpayer—or any related person—is to make any significant improvements on the lot. I understand that the committee report provides that this rule against selling improved lots doesn't include common infrastructure items such as roads, sewers, drainage, and similar items that render the lots in buildable condition. However, houses and other structures would clearly constitute "improvements."

I also understand that, if at the time the lot is sold, there is no contractual commitment to make an improvement—as defined under the committee report—then it is my understanding that the elective method of reporting the gain from the lot sale is available. Is my understanding of these provisions correct?

Mr. PACKWOOD. The Senator from Arkansas is correct.

Mr. PRYOR. Mr. President, I thank the chairman. I have one additional question.

If, at a date subsequent to the lot sale—and on the date of the lot sale no contractual commitment to make an improvement existed—the seller makes improvements—such as building a residence—and the buyer pays a fair market price for the improvement it is my understanding that the elective method under this bill could still apply to the original lot sale.

Mr. PACKWOOD. The Senator from Arkansas is correct.

Mr. PRYOR. Mr. President, I thank the chairman of the committee.

THE FACILITATION RULE PERTAINING TO THE ALLOCATION OF INTEREST EXPENSE

Mr. BAUCUS. Under section 914 of the bill pertaining to the allocation of interest expense, a so-called "look-down" rule is provided for qualified indebtedness, which is defined as debt that is not guaranteed or in any other way facilitated by a related corporation. Is my understanding correct that the reference to any other facilitation is intended to refer to arrangements where the related corporation lends its credit?

Mr. PACKWOOD. Yes, the Senator's understanding is correct.

UNIVERSITY RESEARCH FACILITIES

Mr. BAUCUS. Mr. President, I wish to clarify the Finance Committee report which clarifies that certain university research facilities may be eligible for tax-exempt bond financing where the facilities are used in university research sponsored by corporations or other nonexempt parties. The Finance Committee report is intended to state that a university facility may be used for corporate-sponsored research as long as any license or other use of resulting technology by the sponsoring party is permitted only on the same terms as the university would permit such use by any nonsponsoring unrelated party; that is, the sponsor must pay a competitive price for its use of the technology. It is my understanding that this Finance Committee provision is not intended to require that a university actually grant use of the technology to any other party. Rather, the intent is simply that any payment for use made by the sponsoring party must not be less than the payment which a nonsponsoring party would be required to pay were it granted a right to use the technology. I ask the chairman of the Finance Committee if my understanding of the provision is correct.

Mr. PACKWOOD. Yes, the Senator's understanding is correct. Universities are permitted to grant exclusive licenses or other use to any resulting technology to sponsoring parties under the Senate provision as long as the payment required for such use is set at a competitive price to that which a nonsponsoring party would be charged for comparable use.

Mr. BAUCUS. I thank the chairman for his assistance in clarifying this matter.

Mr. BRADLEY. Mr. President, I wish to clarify a statement in the Finance Committee report that sets out the circumstances under which certain cooperative university research facilities may be eligible for tax-exempt financing as applied to certain National Science Foundation sponsored research arrangements and similar such arrangements. These industry-university cooperative research arrangements involve multiple industry sponsors and provide the sponsors with a right of first refusal for royalty-free nonexclusive licenses for patients that may be incidentally obtained in connection with basic research conducted in bond-financed university facilities. Is it the Senator from Oregon's understanding that these arrangements will not be treated as a private trade or business use of the bond-financed research facilities.

Mr. PACKWOOD. Yes, the committee intends that National Science Foundation sponsored industry-university research arrangements and similar such arrangements be treated as satisfying the requirements set forth in the Finance Committee report for not treating such arrangements as private trade or business use when the university enters into a cooperative research agreement where:

First, multiple, unrelated industry sponsors agree to fund university performed basic research; second, the research to be performed and the manner in which it is to be performed is determined by the university; third, title to any patent or other product incidentally resulting from the basic research lies exclusively with the university; and fourth, sponsors are entitled to no more than a nonexclusive, royalty-free license to use the product of any such research.

Mr. BRADLEY. I thank the chairman for his assistance in clarifying this matter.

INSTALLMENT SALES

Mr. DECONCINI. Mr. President, I am very concerned about the installment sales provisions of this bill. They are complicated, confusing and an administrative nightmare. As is usual in the Senate, a consensus on a solution is not easy to arrive at. One possible answer that the Senator from Oklahoma, Mr. BOREN, and I have been considering would be to treat all dealers in installment sales in the same manner. Such a proposal would include in current income, 35 to 40 percent of installment sales which would otherwise be deferred. Additionally, such a proposal would apply retroactively to January 1, 1986, and all existing installment sales arrangements would also take a hit. The idea seems to me to have merit. The Treasury Department informs me that they support this approach in concept. I will not ask the Senate to take this up so late, in this, the 11th hour. But I would encourage the chairman to give this new simple solution a close review in conference.

Mr. PACKWOOD. We will give every consideration to your suggestions in conference. We recognize your concerns, and I thank you for your comments.

TAX FAIRNESS FOR THE AMISH OLD ORDER AND OTHER RELIGIOUS GROUPS

Mr. SPECTER. Mr. President, as a result of an amendment proposed by the distinguished Senator from Washington [Mr. EVANS], individuals who claim deductions for dependents on their tax returns will be required to provide a TIN [taxpayer identification

number] for children ages 5 and older or otherwise be subject to a penalty.

It has come to my attention that this amendment might impose an unfair burden on the Amish Old Order and other religious sects. One of the underpinnings of the Bill of Rights is separation of church and state and tolerance of religious principles. Since 1930, our Nation's Tax Code has allowed those who adhere to tenets which preclude participation in public or private insurance plans to file for an exemption to the Social Security self-employment tax under section 1402 (g) of the code.

Mr. President, generally the identifying number used for tax purposes is a person's Social Security number. Since members of the Amish Old Order and other sects do not apply for Social Security numbers as a result of their religious beliefs, I wish to make it clear that this provision would not require such individuals who are opposed to applying for a Social Security number to do so for their children or other dependents by permitting the IRS to issue regulations providing an exception to this provision or continue to handle this issue on an administrative level.

Mr. PACKWOOD. Mr. President, I thank the Senator from Pennsylvania for raising this point. As the Senator states, the Tax Code has long exempted members of recognized religious sects from participation or registration in Social Security if this would violate their religious beliefs. This amendment woud not require such individuals to apply for a Social Security number for their dependents. Instead, it is my intent that the Internal Revenue Service will prescribe regulations which will provide an exception to this provision or otherwise rem 'y this problem on an administrative level.

THE POSSIBLE REVISION OF THE DEPRECIATION PREFERENCE UNDER THE ALTERNATIVE MINIMUM TAX

Mr. HEINZ. Mr. President, I am concerned about the required depreciation recalculation under the minimum tax provisions of the committee bill.

The issue here is not whether profitable corporations will pay tax. The committee bill has a strong backstop to assure that all companies that report income pay a reasonable amount of tax. The issue here is how much we may overtax our basic industries, how much damage we may do to economic growth and international competitiveness. This is a jobs issue, a people issue. It affects Americans who work in the steel mills and aluminum plants, on the farms and in the mines, in the chemical plants and the automobile plants, in the papermills and the shipyards, and for the railroads and the airlines. Capital-intensive companies to which depreciation is most important will have a dramatically less favorable depreciation system than noncapital intensive companies to which depreciation is less important. Clearly, some amelioration of this harsh effect is necessary if we are to avoid contributing to additional job losses in the manufacturing sector, where unemployment is already increasing at an alarming rate.

Under the committee bill, for the purposes of the minimum tax, taxpayers would be required to recalculate their depreciation using the straightline method over what is known as the ADR midpoint of the property. There are at least two major problems with this depreciation recalculation. First, the committee's definition of baseline depreciation—straightline over the ADR midpoint of an asset—stretches out depreciation over too long a period of time in proportion to the decline in productive output value of the machinery and equipment. Second, it causes a severe pyramiding, or bunching of tax, in the first 3 to 5 years after 1986 because taxpayers are not permitted properly to "net" their depreciation recalculation by assuming that in prior years they had also been using baseline depreciation.

This depreciation recalculation is so powerful that it will wrongfully drive many, if not most, capital-intensive companies into the minimum tax unless they are able to achieve and maintain very high levels of profits in proportion to their annual investments in machinery and equipment. Otherwise, the more a company spends on capital equipment, the greater the percentage of income the company will pay as a minimum tax. Companies that are thus thrown into the minimum tax will progressively be denied use of one of the keystones of the committee bill—200 percent declining balance ACRS depreciation. A mild recession would greatly accentuate this effect, unless companies engage in the self-defeating process of cutting back on their productive capital investments at the wrong time. Even in a strong economy, companies which are precluded from very high rates of return because of international competition or for other structural reasons will be affected.

In the final days before approval of the committee bill, the Finance Committee considered an amendment to change the calculation of the depreciation preference. The amendment was limited to redefining baseline depreciation: it retained use of the straightline method but substituted the asset's regular tax recovery period for the ADR midpoint. That amendment was defeated by a tie vote largely because it would have been financed by a slight increase in the corporate tax rate. But an amendment to improve the depreciation preference can be financed without any change in tax rates.

I believe that a majority of the committee believed then, and continues to believe, that the depreciation preference in the committee bill is too restrictive. Treasury officials, including Deputy Secretary Darman, have identified this as one critical aspect of the committee bill that needs to be fixed.

But before we leave to the conference committee something that, in principle, should be addressed here on the Senate floor, I would like some assurance that the depreciation preference, which is defined and computed almost identically in both the Senate and House bills, is an issue that can and will be addressed in conference. Could the chairman clarify that for us?

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. HEINZ. I yield to the distinguished chairman of the committee.

Mr. PACKWOOD. I have already indicated that the alternative minimum tax is something that we will take up in conference. Even though the computation of the depreciation preference is basically the same in both bills, the fact that the rates are different and that the Senate bill contains preference items for example, the book income preference, that are not in the House bill, automatically assures that the minimum tax will come up in conference. I can assure the Senator that there is no technical bar to the amendment of the depreciation preference in conference.

I would also like to emphasize that the sole purpose of the minimum tax is to ensure that all profitable corporations and wealthy individuals pay an equitable amount of tax. Its purpose is not to penalize capital-intensive corporations or to undermine the committee bill's depreciation system. Its purpose is not to penalize a corporation's items that arise in the ordinary course of carrying on its business. To the extent that it does so, perhaps inadvertently, it is my view that it should be changed. I am particularly concerned that the minimum tax not penalize companies merely because they have a high rate of capital investments to profits.

Mr. HEINZ. I thank the distinguished chairman for that clarification.

PLACED IN SERVICE DATES

Mr. HEINZ. Mr. President, I wish to clarify that the amendment offered by the Senator from Ohio to section 202 of the bill was not intended to modify the placed in service dates of January 1, 1992, in section 202(d)(24)(A) and April 1, 1992, in section 202(d)(24)(C).

Mr. PACKWOOD. The Senator from Pennsylvania is correct.

Mr. FORD. Mr. President, I intend to vote for the Tax Reform Act of 1986. This is a good bill. It is not a perfect bill, but it is a step in the right di-

rection to ensure that all taxpayers contribute their fair share to the financial base of this great Nation.

Kentucky taxpayers, and taxpayers across this country, are getting tired of paying taxes every April 15 while large corporations and wealthy individuals pay no taxes or even get refunds from the Treasury. This bill tells those taxpayers, there are no more free rides. It tells those taxpayers who have managed to escape paying taxes that if you benefit from the wealth of this Nation, you will contribute your fair share to its resources.

There are many good provisions in this bill. We remove close to 6 million low-income taxpayers from the tax rolls. That includes the 15 percent of families in Kentucky who are below the poverty level.

Eighty percent of all taxpayers will fall into the 15-percent tax bracket. Since 90 percent of all Kentucky taxpayers have incomes of $30,000 or less, a majority of taxpayers in our State will fall into this category. More than 316,000 Kentucky families will have their tax load lessened by 20 percent.

I believe the citizens of the Commonwealth of Kentucky, on the whole, will benefit from this bill. It will lower taxes for the majority of Americans, and does so without eliminating the interest deduction for home mortgages, or the deduction for State and local income taxes and real and personal property taxes.

Most importantly, the bill does not use excise taxes to pay for the lowering of rates. I was deeply concerned about earlier versions of the Finance Committee proposal which would have depended heavily upon various excise taxes to finance the rate reductions. This proposal would have hit Kentucky industries particularly hard and I am most pleased that it was dropped from the final version of the bill.

The Senate legislation is true reform and will increase the number of taxpayers who will not have to itemize to an estimated 80 percent. The bill increases the standard deduction for all taxpayers and also increases the personal exemption.

Kentucky industries are not unfairly disadvantaged by this bill. The Senate bill retains current law for the percentage depletion allowance, so important to our coal industry. The legislation also retains current law for the hobby loss rules for the horse industry. It protects the family farm and eliminates abusive agricultural tax shelters.

While this is a good bill, it is not a perfect bill. We have left many important issues to be settled by the conference committee.

It can stand some improvement, particularly as it relates to the deduction for the individual retirement accounts of 277,000 Kentuckians. I urge conferees to restore all or a portion of the IRA deduction for all taxpayers. I believe that the IRA continues to provide the best vehicle for retirement savings for middle-income families and the deduction should be available for all taxpayers. We created the IRA to provide an incentive for savings. That incentive was not intended to just improve the capital base of this Nation, but to encourage individual families to start taking an active role in providing for their retirement. We were trying to provide a little relief to the Social Security system by encouraging families to establish their own retirement system. And what have we found? We found we succeeded.

Tax reform is a laudable goal, and one I support. But tax reform does not just mean lowering individual rates and closing loopholes. Tax reform also means protecting and expanding those provisions which have been successful in promoting certain goals. I do not believe that the Senate is ready to say that all Americans have now provided for their retirement security and we not longer need to encourage such savings. Instead, I would argue that the IRA has worked. For whatever reason, it has encouraged individuals to set aside for tomorrow, and we should not tamper with this provision until all Americans have had an opportunity to provide for their retirement.

I am also concerned about the impact of this bill on the real estate industry. We moved in the right direction in limiting the use of tax shelters by the wealthy. Unfortunately, in the same fell swoop, we would unfairly penalized those taxpayers who are actively involved in the real estate business. The passive loss rules for the real estate industry must be revised so that legitimate business losses can be taken. I urge the conferees to this bill to consider this inequity.

I am also concerned that this bill has the effect of being retroactive with respect to current investments, particularly as it relates to the real estate industry. Individuals made business decisions based on the law at the time of the investment. This bill would subject losses and credits on those investments to the passive loss provisions of the bill. I am concerned that the conferees address this issue.

There is some question about the actual relief given to middle-income families under this bill. While it is unclear exactly how many middle-income families may benefit under this legislation, I believe that the conferees will address the problem of marginal rates and move closer to a package which will give genuine relief to this income group. The Senate is on record in support of giving middle-income groups the maximum possible tax relief.

While I am pleased that the Senate adopted an amendment which would allow a 60-percent deduction for State and local sales taxes, I also encourage the conferees to further address this issue.

Finally, I am also concerned about the impact this bill will have on deficit reduction. We have the assurance of the chairman and ranking minority member of the Senate Budget Committee that this issue can be worked out satisfactorily so to avoid negatively impacting deficit reduction efforts. I lend my support to their endeavors and urge the conferees to seriously address this issue.

On the whole, this is a good-faith effort to bring equity and simplicity to our tax system. I am convinced that the majority of Kentucky taxpayers will fare well under this bill. I sincerely hope that the concerns I have mentioned will be addressed by the conferees. Before supporting the conference bill, I will closely review it to ensure that these concerns have been addressed and that the final impact of tax reform on taxpayers and industries, both in Kentucky and across the entire Nation, will be a positive one.

Mr. CRANSTON. Mr. President, I am pleased to vote for the Finance Committee tax reform bill.

The committee bill is a good overall tax reform bill which meets the test of simplification for most taxpayers in the same income group, and the elimination of wasteful loopholes.

That 6 million low-income taxpayers will no longer pay taxes.

Many millions of middle-class families will enjoy lower taxes, especially working families with children.

The present bill assures that all taxpayers—except those who have large amounts of tax-exempt bond interest—will pay taxes on virtually all of their income. Very little tax-shelter is possible.

Popular deductions are retained for, mortgage interest; charitable contributions; State and local real property and income taxes, and a partial deduction for sales taxes; medical expenses above a 10-percent threshold; casualty losses.

For business, the bill lowers the corporate rate to 33 percent. It keeps the R&D tax credit at 25 percent; provides 3-year rapid depreciation for the semiconductor industry—a vital necessity for the hardpressed semiconductor companies.

It provides more generous depreciation treatment generally than the House-passed bill except for real estate.

It keeps favorable treatment of the loan-loss reserve for banks and regulated financial institutions.

For State and local government, the bill removes tax exempt interest from the minimum tax.

To pay for the low rates of 15 and 27 percent the bill eliminates tax favored

treatment for such popular and constructive features as:

IRA's, capital gains differential, miscellaneous deductions for tools, union dues, subscriptions, equipment for use on the job, and so forth.

It denies a deduction for personal interest expense, prevents apartment building owners and commercial building owners from deducting real estate losses against other income.

The bill also raises revenues through these actions.

A stiff alternative minimum tax on individuals and corporations which covers virtually all income except tax-exempt interest and certain other items.

Phasing in effective dates in 1987 so that deductions end on January 1, but low rates are delayed until July 1.

In January 1985 I began a series of community meetings in California which eventually took me to over 35 cities. A major topic I discussed in more than 50 meetings with Californians of all walks of life was tax reform.

In my opening statement at community forums on tax reform I raised the basic issues of tax reform.

I would like to quote from my remarks of July 25, 1985 on tax reform to a community forum held in California.

In my statement I said the following:

TAX REFORM STATEMENT FOR COMMUNITY FORUMS

Two top priority economic issues have confronted Congress since early in this session—and they will continue to occupy much of our attention over the coming weeks and months.

One is whether we should reform our complicated and inequitable tax structure—to make it simpler, to make it fairer, and to lower the rates.

The other is whether we can clamp down on federal spending in order to reduce the huge deficit that is undermining our economy.

We will discuss both in this forum.

I'm eager to learn your thoughts on these issues that affect all of us.

I want to add your thoughts and ideas to what I learned in a series of similar forms I've already conducted in California.

It has been a great educational experience for me.

Our first topic today is how to restore public confidence in our tax system.

So far, four tax reform proposals have been put forward.

They are fairly simple in broad concept—but the details are complicated.

Our current tax laws allow a huge number of often complex deductions against income to reduce a person's income tax.

Some taxpayers can and do take maximum advantage of these deductions; most taxpayers do not.

The average American taxpayer who works for a salary and has only small savings winds up benefiting little if at all from these potential deductions—at least insofar as his or her tax bill is concerned.

In fact, 62 percent of American taxpayers don't even itemize their deducations.

Of the 38 percent who do itemize, a two-thirds majority itemize only deductions for interest on their home mortgage or for payment of state and local income and property taxes.

On the other hand, wealthier taxpayers with large incomes from investments have much greater opportunities under our tax code to reduce their income taxes.

Thus the amount of the income tax that's paid—as a percentage of income—varies enormously from taxpayer to taxpayer.

Billions of dollars go each year into nonproductive tax shelters and other tax-avoidance schemes that contribute little or nothing to the strength and productivity of our national economy.

Billions more go into tax-evasion scams.

Last year the tax system collected $460 billion, but $370 billion was lost through loopholes, deductions and credits.

Another $250 billion of income is not being reported each year and so escapes all taxes whatsoever.

This causes a revenue loss of between $60 and $80 billion yearly. If we could collect that money it would make a big difference in the deficit.

The high rates, complexity and the unfairness of the present system encourage such cheating.

The complexity is also costly. Collectively, taxpayers will spend about $3 billion just to figure out what they owe the Treasury come next April 15.

Even worse, under the present tax system many individuals and business people devote an immense amount of time figuring out how to avoid paying taxes rather than how to be more productive.

Many of their investment decisions are made on the basis of what will reduce their taxes rather than what will increase productivity and jobs.

Advocates of tax reform are saying that if we eliminated most deductions and got them down to a minimum of five or six which everyone could agree on (like charitable deductions and interest on a home mortgage), we could reduce the tax rates without reducing federal revenues—and 70-75 percent of American taxpayers would end up paying less income tax than they do now.

If these figures are correct, it means that under our present tax laws, 3 out of 4 Americans pay more income taxes—and 1 out of 4 Americans pay less—than they would under a reformed tax system.

If that were all there were to the argument, adoption of some version of a modified flat tax would be inevitable.

But we don't use our tax system just for revenues.

We use it for other social or economic purposes.

We also use it to stimulate industries which need some sort of government help or indirect subsidy.

We use it to encourage private investments and savings which might otherwise not be made.

And we use it to help local and state governments by letting them sell tax exempt bonds.

Why do we do this?

Well, some business men and women argue that without tax laws which permit items like accelerated depreciation, investment tax credits, depletion allowances, or intangible expenses for drilling, some needed segments of our economy could not survive.

Investors argue that permitting lower tax rates on their return is mandatory if they are to risk their capital, especially in high-risk ventures.

State and local governments argue that they'll have to raise taxes or cut needed services and facilities if they can't issue tax exempt bonds.

The problem is that tax concessions can be used to create unproductive tax shelters, tax deferral plans, and so on which permit certain individual taxpayers to drastically reduce—or even totally eliminate—the need to pay taxes.

Tax reform means we must decide which few tax exclusions, exemptions and deductions we want to retain—and which we are prepared to give up.

And in making such choices, we must bear in mind that if we fail to give up enough of those exclusions, exemptions and deductions, we won't be able to achieve the lower tax rates most of us want.

For business people, tax reform may mean lower rates—but it probably will mean higher taxes.

Flat-tax advocates assert, however, that business men and women will benefit more by investing their money in ways that will increase the efficiency and productivity of their companies rather than in ways that merely lower their taxes.

The immediate effects will differ from industry to industry.

High tech companies seeking capital probably would benefit under some of the reforms being discussed.

But construction and home-building industries would lose if rehabilitation tax credits, rapid depreciation and liberal deductibility of interest expenses were taken away.

Who will be the winners and who will be the losers if we adopt a modified flat tax?

Will our economy be better or worse off over-all?

Essentially, the question I would like to discuss is two-fold:

1. Is the tax system the best way to subsidize—in an effort to stimulate—the American economy? We could after all, provide the same help through direct expenditures, subsidy payments, loan guarantees and other means which do not involve the tax system. But they would involve direct outlays from the treasury. And it's hardly likely that any new spending will be approved at a time when there's a major effort underway to cut spending. Even though—substituting a limited spending subsidy could be cheaper than a tax subsidy which can't be limited.

So are these alternatives good ideas?

More to the point, are they—right now at least—politically practical?

2. Do the benefits our economy and our society derive from the current tax system outweigh the fact that it places an unfair tax burden on the majority of Americans?

In the long run, is it worth it to 3 out of 4 American taxpayers to pay more taxes than they would under a modified flat tax plan, so that the economy can be stimulated by permitting wealthy investors to pay proportionately lower taxes?

And if we decide to adopt a tax reform proposal, what are the few deductions we should retain?

These are not easy questions.

The Finance Committee and in turn the Senate have answered the questions of what deductions to give up in exchange for low rates.

All in all the Committee and the Senate have done a good job.

The bill has some very, very good provisions and some that are not so good.

It is now up to the conference Committee to produce a final product that is better than the bill passed by either the House or the Senate.

We who want true and fair tax reform are hopeful they can do it.

Mr. QUAYLE. Mr. President, in a very short time we will cast an historic vote on a measure designed to reform our Tax Code. Rarely has such a radical departure from current law seen what is virtually unanimous support. Senators on both sides of the aisle are in chorus for their praise of this measure. A coalition ranging from retailers to consumer protection groups, from distillers to religious organizations, from manufacturing to agriculture, and public opinon groups across the political spectrum all favor the Finance Committee's bill.

The distinguished chairman of the Finance Committee, Senator PACKWOOD, deserves the lion's share of credit for crafting this proposal which drew together a strong, wide-reaching coalition just as many had pronounced tax reform dead. Last December, I said that, given the fundamental flaws of the House-passed tax bill, the Senate would have to undertake a massive salvage operation in 1986 if Congress was to produce the reform of the Federal income Tax Code that the American people demand and deserve. Skeptics doubted that it could be done, but the fact is, we fixed it in the Senate. The bill the Senate Finance Committee produced, which I expect will pass by an overwhelming margin this afternoon, is a vast improvement over the measure approved by the House of Representatives.

It is significant that during consideration of this bill on the Senate floor, no major amendments to alter the bill's basic structure were adopted. Many provisions when considered alone, such as IRA's, the deductibility of charitable contributions for nonitemizers, and others, may merit inclusion in a tax plan, but were voted down when offered as amendments to the Senate measure. I believe, however, that on balance, this bill is a fair package, and all its provisions must be viewed as a part of the larger package designed to lower the rates, to simplify the structure, and to make a more equitable tax system. Certain deductions and exclusions which may produce very legitimate results are no longer necessary given the overall effect of a low-rate, broad-based tax plan such as the Finance Committee measure.

The Senate bill represents true tax reform. Throughout the course of debate over tax reform during the past 4 years, politicians found it difficult to undo the grip of special interests and enact a fairer tax system. The House-passed tax bill is a product of this game of special interest politics and thus does little to eliminate the scores of loopholes, special exclusions, credits, exemptions, deductions, and forms that we now have.

Corporations, like individuals, should pay their fair share of taxes. Without a doubt the current Tax Code allows too many firms to escape their obligation, but the House bill, if enacted, would shift a punitive new tax burden onto corporations, and increase the cost of doing business. These costs would inevitably be paid through slowed economic growth and lost jobs. The Senate plan, however, provides for more efficient allocation of investment, capital formation, and a more sensible and better tailored alternative minimum tax than that proposed by the House, to prevent profitable corporations from avoiding taxation.

The Senate Finance Committee package proved to be just the ticket for Congress to put the brakes on more tax breaks for special interests. After one false start, the Finance Committee was able to turn the House's tax reform piece of coal into a diamond, through a near halving of the top personal tax rate, elimination of over 6 million low-income taxpayers from the tax rolls, and placing nearly 80 percent of all remaining taxpayers in the 15-percent rate bracket.

I am proud to note the several similarities between the bill we are about to vote on, and the tax reform proposal which I first introduced over 4 years ago. Both plans embrace what I perceive to be the essential principles of tax reform—simplicity, efficiency, low rates, and fairness—through a substantial reduction in the top marginal tax rate, an elimination of the bias against savings inherent in our current Tax Code, a substantial increase in the amount of income the American taxpayer may earn—and keep, and through retaining the deductions which are necessary to maintain the values and social institutions which we all treasure in this country. On the corporate side, both the Senate bill and my plan provide for a lower, broad-based tax rate and eliminate the provisions of the current corporate tax code that foster shortsighted investment strategies, favor one industry over another and permit large corporations to pay no taxes.

Mr. President, I further support this tax bill as it will benefit my home State of Indiana. An economically efficient, equitable Tax Code is essential to the continued survival of Indiana's agricultural and manufacturing industries. Indiana's 81,000 farmers will no longer have to compete with those who invest in agriculture only to enjoy tax benefits. Simply put, tax-loss farming leads to chronic overproduction which results in lower crop prices and net farm income. Correcting this flaw in our Tax Code will serve Indiana agriculture well. Furthermore, the Senate tax bill will allow farmers and other self-employed taxpayers to deduct 50 percent of the costs associated with health insurance. This new deduction addresses the inequity faced by farmers and small businesmen who must pay for health insurance with after-tax dollars under the current Tax Code, while employees of larger corporations receive such benefits tax free.

Indiana's large industrial sector also stands to gain from the passage of this bill. A recent study by the Center for Tax Policy Studies at Purdue University in West Lafayette, IN, indicates that the after-tax return on investment for selected industries ranging from high technology to smokestack is higher in every case than the return under either current law or the House bill. A Tax Code which fosters capital formation and that allows firms to make their decisions on marketplace factors rather than the bias of the tax system is essential to allow domestic industry to compete with foreign producers. This will be of great benefit to the steel industry which has suffered through the years from unfair foreign competition.

Mr. President, I urge the passage of this bill. The American people deserve and expect true and meaningful tax reform. I also urge my colleagues who may be appointed conferees to stand firm. The Senate bill is a vast improvement over the House-passed measure. For all the reasons I have mentioned, I firmly believe that in the upcoming House-Senate conference, negotiators should agree on a final tax overhaul package that closely resembles the Senate bill, which is tax reform truly worthy of the name. To do otherwise, in light of the mandate this measure has received from the American taxpayers would be irresponsible on the part of Congress.

EXEMPTION OF ISRAEL BONDS FROM IMPUTED INTEREST RULES

Mr. WILSON. Mr. President, I rise to commend the Finance Committee for including in its tax reform bill a provision that is designed to remedy an unintended impact of the imputed interest rules that we passed as part of the 1984 tax bill. The provision I am referring to is contained in section 1812(b)(5), and it is identical to S. 1619 which I introduced on September 10, 1985.

The reason that this change to the 1984 tax bill is needed is that under the imputed interest rules contained in that bill, Israel bonds have become so disadvantaged that, without a change, no one would be able to afford the tax consequences of buying them.

Mr. President, Israel bonds serve a vital role in the fight against Israel's staggering financial responsibilities. At present, Israel devotes approximately two-thirds of its budget to defense and debt service. Many of the bonds that

are issued do yield market rates, but as a means of lowering the costs of debt service, some bonds yield as low as 4 percent. This savings of more than 50 percent on what Israel would otherwise have to pay is of enormous importance.

Furthermore, it must be evident that the people who buy Israel bonds do so not as a matter of tax planning, but with entirely philanthropic motives. Indeed, according to the Wall Street Journal, Israel sold more than $102 million of its bonds in the United States in 1984, and an additional 44 million dollars' worth in the first 7 months of 1985.

For our tax laws to penalize such efforts—by taxing the holders of Israel bonds for income of more than twice what they actually receive—would not only be unfair, but truly counter to our national interests. It is quite apparent that we should do all that we can to encourage voluntary efforts to solve Israel's almost overwhelming financial problems.

I am pleased that the Finance Committee recognized the unfairness of applying the imputed interest rules to Israel bonds, and appreciate their incorporating my proposal, S. 1619, that rectifies this problem.

Mr. President, I thank the distinguished chairman of the Finance Committee, Senator PACKWOOD, for his help in moving this matter along.

SMALL IDB ISSUES

Mr. SPECTER. Mr. President, I congratulate Mr. PACKWOOD and the members of the Finance Committee for their success in bringing before this body a measure that will constitute a major step forward in creating a more equitable and comprehensive tax system. Our tax system, however, has been not merely a means for collecting revenues, but a tool to achieve the public purpose of encouraging economic growth and development, and in some respects the Tax Code has been successful in this venture.

One method of promoting economic development that has been quite successful is the use of Small Issue Industrial Development Bonds. The intent of Congress in establishing the tax incentives for use of IDB's was to encourage capital investment and stimulate economic development and this is precisely what has occurred.

Small issues have stabilized marginal neighborhoods, diversified the economic base and helped small and family-owned businesses to expand by providing lower costs of capital for businesses. This provides inducements to businesses to take risks and enter blighted areas. Small issues have been critical to my State's efforts to create and retain jobs especially when the State has been so hard hit by the loss of manufacturing jobs. For example, during the 1970's Philadelphia lost approximately one-half of their manufacturing jobs. Small issues are critical to our efforts to revive our economy and diversify our economic base.

In 1983 and 1984, Pennsylvania was the Nation's largest issuer of IDB's. Since 1967, when IDB's were first issued, the number of new jobs created in the State total well over 600,000, while the number of jobs retained exceeds $1.5 million. Between one-half and two-thirds of these IDB projects in the State have been for nonmanufacturing. If the sunset is not repealed, Pennsylvania probably will not be able to assist at least 50 percent of the industrial companies now encouraged to grow and to employ State residents.

Nonmanufacturing projects in Pennsylvania that would not have been accomplished without IDB financing range from transforming a vacant plant into a meat processing plant; expanding a cottage industry into a full-time small business, and creating a country market; to converting abandoned space into business centers.

In Philadelphia, between 1981 and 1984, the average annual use of IDB's was about $215 million which stimulated $1 billion in investments. Since 1981, almost 34,000 new jobs have been created through IDB assisted projects, and the same number of older jobs retained. The two taken together comprise close to 10 percent of the city's 1980 work force. Roughly two-thirds of Philadelphia IDB financing was for nonmanufacturing projects.

These IDB's are not a tax bonus for large wealthy companies who do not need tax-exempts. Although small issues are used on occasion to attract larger, more stable companies to blighted or risky areas, this not the rule since the $40 million limit imposed in DEFRA has kept most of them out of the market. Over two-thirds of the State's IDB projects were for less than $1 million.

Ninety-five percent of the State's IDB projects were with companies with fewer than 100 employees. In Philadelphia, two-thirds of IDB financing was for projects of $500,000 or less, and three-fourths was $1 million or less, helping small businesses who need longer term, lower interest financing in order to implement their capital expansion projects.

The condition of the Federal Treasury has also been aided by IDB's. The city of Philadelphia estimates that $30.3 million in Federal income taxes has been generated by the new jobs created.

As you can see, Mr. President, this program is working in Pennsylvania. But we need it beyond December 31, and we need to give our local officials some continuity. Therefore, I am deeply concerned with the Finance Committee's failure to repeal both sunsets—as the House did—or, at a minimum, extend the sunset contained in current law for nonmanufacturing use of IDB's, due to expire at the end of this year. The elimination of small issue IDB's for nonmanufacturing functions will result in the loss of many vital public purpose projects and must not be allowed to occur.

I would urge the Chairman and all my colleagues to adopt the House position on this issue and eliminate the sunsets on small issue IDB's.

Continuation of local development in Pennsylvania requires the continuation of tax incentives for small issues. The termination of this incentive, coupled with the imposition of a new lower volume cap of $100 per capita after 1986 and the depreciation penalty, would deal a very harsh blow to the economy of Pennsylvania. In Pennsylvania, we need between $100 and $120 per capita for small issues alone. Other regions of the country will continue to receive other tax benefits to help stimulate their local economies; we need the integrity of the small issue program maintained.

However, simply extending the sunsets would not be sufficient to ensure continued investment, considering the effects of a reduced volume cap as well as the depreciation penalty imposed on small issues. Under the Finance Committee proposal, equipment financed with small issue IDB's loses the cost savings that Congress intended to be offered for this type of financing, because depreciation penalties for this equipment would make it as expensive or even more expensive than conventionally financed projects.

Again, I urge that during the conference on the tax bill: First, the sunsets for small issues be repealed; second, the volume cap be raised to permit Pennsylvania to dedicate between $100 and $120 per capita to small issues without denying other types of tax-exempt financing that are critical to the Commonwealth adequate volume allocations; and third, the depreciation penalty be eliminated. Attention to these provisions will enable State and local governments to maintain the vital public purpose they serve and continue to provide incentives to businesses to grow and help renew struggling areas that might otherwise decline.

TAX TREATMENT OF COMMUNICATIONS SATELLITES

Mr. LEAHY. Mr. President, the chairman knows that as ranking member of the Appropriations Subcommittee that oversees NASA, I strongly support efforts to ensure the viability of the U.S. space program.

Mr. PACKWOOD. I share the Senator's commitment to a strong space program.

Mr. LEAHY. As a result of the space shuttle disaster and the subsequent explosions of the Delta, Atlas-Centaur, and Ariane rockets, it is now impossi-

ble for U.S. firms to launch commercial satellites. In addition, the shuttle is not expected to resume launches for at least 2 years, further preempting our ability to launch commercial communications satellites.

Mr. PACKWOOD. The committee was aware of this problem and attempted to address it in the committee's original legislation.

Mr. LEAHY. Specifically, due to the delay in launch dates, communications satellites will not be able to meet the placed in serve dates to qualify for Investment Tax Credits. It is simply physically impossible to launch these satellites in time to meet the deadline.

Mr. PACKWOOD. We attempted to address this problem, but are now aware that the remedial language we originally adopted in committee was dropped inadvertently. That language, however, has been included in our technical corrections package. Specifically, we have tried to assist the firms which would be most directly affected by the launch date problem, namely those involved in the international satellites communications.

Mr. LEAHY. I thank the chairman for clarifying this matter. And, I would urge him and the other Senate conferees to protect this provision, which is most important to the U.S. space program, during the Committee of Conference on the Tax Reform Act of 1986.

TRANSITION RULE FOR REGIONAL RAILROADS

Mr. GRASSLEY. I would like to ask a question of Senator PACKWOOD. It had been my intent to offer an amendment to the tax reform bill, H.R. 3838, to provide a transition rule for regional railroads which have acquired and presently operate segments of formerly bankrupt carriers. The amendment and justification are contained in my letter to the chairman of June 17.

The chairman has clearly expressed his intent that H.R. 3838 as reported by the Finance Committee should be kept as free of amendments as possible. It is my desire to cooperate with the chairman. However, it is my opinion that this amendment has great merit. I wish to assist the chairman in his efforts to secure passage of as clean a bill as possible. Therefore, I asked the chairman for his assurance that this amendment is already within the scope of the conference and will be considered by the conferees.

Mr. ABDNOR. Will the Senator from Iowa yield the floor?

Mr. GRASSLEY. Mr. President, I would be more than happy to yield the floor to the distinguished Senator from South Dakota.

Mr. ABDNOR. Mr. President, I rise to support the transition rule proposed by the distinguished gentleman from Iowa. This rule will allow redemption of unused investment tax credits by regional railroads which acquire and operate segments of the bankrupt agricultural carriers, the Rock Island and the Milwaukee.

I support redemption of investment tax credits and I am sorry that Chairman PACKWOOD's original across-the-board 70 percent redemption proposal was not retained in the bill before us today. This would have been a large help to farmers and basic industries. The Finance Committee chose to single out the steel industry because of its depressed State and subsequently the Senate voted a limited version of ITC redemption to farmers. It is appropriate to extend this kind of provision to other entities who are equally deserving. Fairness demands no less.

The Grassley transition rule is limited in scope. ITC redemption would only be available to those regional railroads which were the centerpiece of private sector restructuring of the Rock Island and Milwaukee. These railroads suffered depressed earnings at the very time they were acquiring and rehabilitating thousands of miles from liquidating and bankrupt carriers. In all cases their only option was to take on Federal debt as the private markets were not available. Had these carriers, such as the Soo/Milwaukee, the Chicago North Western, and the Missouri-Kansas-Texas not stepped forward to buy and rebuild failing railroads, thousands of shippers in a large area of middle America would have completely lost rail service.

I am pleased that Chairman PACKWOOD and ranking member LONG of the Finance Committee have agreed to take this transition rule to the conference. The public benefits are many. First, while the total redemption is estimated at $110 million, all $110 million will be immediately returned to the Treasury to retire Federal debt. This is an absolute requirement, and a return to the Treasury which reaches beyond anything I am aware of in a transition rule in this legislation. These ITC's will then not be available to the railroad to offset future profitable operations. Further, Federal debt, much of which will not berepaid for three decades with subsidized interest rates, will be cleaned from the books. This will contribute to Federal efforts to further privatize railroads by lessening their dependence on Federal agencies.

Mr. Chairman, I am confident that once you have had an opportunity to study this transition rule, you will vigorously support it in conference and allow the hard-pressed regional railroad to realize the incentives that Congress intended when the investment tax credit was first established.

Thank you Mr. President. I yield the floor.

Mr. PACKWOOD. The subject of carry forward investment tax credit is contained in H.R. 3838. The proposed amendment of the Senator from Iowa is therefore within the scope of the conference. I have reviewed the amendment and will be glad to work with the Senator on this during the Senate-House conference.

ACRS AND ITC

Mr. RIEGLE. Mr. President, I wish to enter into a colloquy with the distinguished floor manager of the bill regarding the transition rules contained in the committee's tax reform bill as those rules apply to accelerated cost recovery and the investment tax credit. I would like to clarify the situation of an auto assembly plant that is under construction in Flat Rock, MI.

Mr. PACKWOOD. I would be happy to join in this exchange with the Senator. He and I have previously discussed the circumstances of that assembly plant, including its financing.

Mr. RIEGLE. Section 202(b)(1)(C) of the bill now before the Senate contains transition rules that retain the benefits of the accelerated cost recovery system and the investment tax credit for equipped buildings if certain requirements are satisfied. Section 202(b)(3) of the bill provides further that property will be treated as satisfying the requirements of section 202(b) if: First such property is placed in service by a taxpayer who acquired the property from a person in whose hands the property would otherwise qualify for transition rule relief under section 202(b); second the property is leased back by the taxpayer to such person, and third, the leaseback occurs within 90 days after such property was originally placed in service provided that this inservice date is no later than the dates specified in section 202(b)(2).

The committee report states that the committee "intends that the special rule for sale-leasebacks apply to any property that qualifies for transitional relief under the bill. * * *" According to my understanding of this rule, if an automobile plant that is under construction qualifies for transition rule relief as an equipped building, a portion of this equipped building may be sold and leased back by the automobile manufacturer in accordance with the requirements of section 202(b)(3) without in any way vitiating the tax benefits associated with either the leased or retained portion of the equipped building. I would ask the chairman if my understanding is correct.

Mr. PACKWOOD. Yes; the Senator's understanding is correct.

Mr. RIEGLE. In addition, the committee report states generally that machinery and equipment will qualify for transition relief under the act if it is included in an equipped building that qualifies even if that machinery and equipment does not qualify individually under the capital cost recovery or investment tax credit transition rules contained in sections 202 and 211 of

the committee bill. Section 202(b)(2) of the act provides, for instance, that property with an ADR midpoint of less than 7 years must be placed in service prior to January 1, 1987 in order to receive current law treatment for ACRS and ITC. In addition, section 211(a) of the act, in proposed section 49(d)(2)(B) of the Internal Revenue Code, provides more restrictive in-service date rules for certain property with class lives less than 7 years than it does for property with class lives greater than 7 years.

It is my understanding that, if property with a class life of less than 7 years is incorporated into an equipped building, then such property would not independently need to satisfy the special transition rules. Instead, such property would qualify for transition relief as part of the equipped building—as long as the equipped building otherwise qualifies. Is my understanding correct?

Mr. PACKWOOD. The Senator's understanding is correct.

Mr. RIEGLE. Now, an automobile assembly plant is currently under construction in Flat Rock, MI, and it is being financed in part through a sale-leaseback transaction. Ground was broken in May 1985, and the plant is expected to be placed in service in the middle of 1987. As I understand it, based on the Finance Committee chairman's explanation, that plant in its entirety will qualify for tax benefits computed under transition rules for ACRS, and the entire equipped building would qualify for 85 percent of the ITC.

Mr. PACKWOOD. Yes; the Senator from Michigan is correct. The entire plant would be grandfathered under the bill as it is now before us, assumming that it met the requirements of section 202(6)(3)l and, under the transition rules, it would be accorded the tax benefits of current law depreciation and 85 percent of the investment tax credit.

Mr. RIEGLE. Mr. President, I thank the Finance Committee chairman for clarifying this matter.

Mr. WARNER. Mr. President, earlier this year we all witnessed the horrible tragedy of the explosion of the space shuttle *Challenger.*

As we have read over the past week, with the excellent report of the Rogers Commission, NASA will not be launching any shuttles for quite some time to come.

Combined with other setbacks in launch capability in this country and abroad, the chances of being able to place any satellites in orbit for the next few years are slim indeed.

How is this relevant to the tax reform legislation we are now considering?

The tax bill, as reported by the Senate Finance Committee, eliminates the investment tax credit as of January 1, 1986.

However, the bill contains a phase-in for equipment already contracted to be built and which will be placed in service by January 1, 1989.

Normally, that would not be a problem for the communications satellite industry, since once satellites are built they need, for technical reasons, to be put into orbit as quickly as possible.

However, with the explosion of the *Challenger* and the resulting delay in the American space program, as well as the destruction of the European rocket Ariane last month, these American companies will not be able to take advantage of the investment tax credit they originally planned on having.

A generic rule for the industry will seek to put back into the bill what was intended to be there in the first place.

My generic rule attempts to assist only those companies affected by the unexpected loss of launch capability and, therefore, grants a 2-year extension to those satellites previously scheduled to be launched, and hence be placed in service, before July 1, 1988.

I view this generic rule as being revenue-neutral because it merely attempts to assist satellites already scheduled to receive the investment tax credit prior to the drastic cutback in launch capability this year.

In addition, I have excluded any launch scheduled to occur after July 1, 1988, and not January 1, 1989, since many of the satellites in the latter half of 1988 could have slipped several months into 1989 through expected launch delays.

Mr. President, this generic rule seeks to rectify a situation that was totally unexpected and for which this industry, as well as the rest of the country, was totally unprepared.

This is an excellent example of one of the purposes for which the transition rules of the bill were designed.

These rules are meant to assist specific industries and companies in taking into account changes in the Tax Code that were unforeseen and unexpected.

The language that makes the most sense for the situations as follows:

GENERIC RULE

(To be added to page 1523)

Amendment to Section 202(d) of Senate Bill

(29) COMMUNICATIONS SATELLITES.—Solely for purposes of Section 202(b)(2), any communications satellite shall be treated as being property with a class life of 20 years, provided that it meets the requirements in section 202(b)(1), has a written agreement prior to May 1, 1986 which requires the initiation of payments and provides a launch date originally scheduled to occur on or before July 1, 1988.

Mr. PACKWOOD. I thank the Senator from Virginia and I will take note of his interest during the conference on the Tax Reform Act of 1986.

FOREIGN ISSUES

Mr. DODD. Mr. President, I have two questions concerning the foreign area.

I first would like to clarify for the record the treatment under the committee bill of controlled foreign corporations actively engaged in the commodities business. The committee bill excludes from foreign personal holding company income active business gains from the sale of commodities if substantially all of the controlled foreign corporation's business is as an active producer, processor, merchant, or handler of commodities. Am I correct in my understanding that the active business of a producer, processor, merchant, or handler of commodities includes not only its trading in physical commodities, but also financial transactions which constitute bona fide hedging transactions integrally related to its principal business of trading in physical commodities?

Mr. PACKWOOD. The Senator is correct.

Mr. DODD. My second question concerns the treatment of active dealers in foreign currency. The committee bill excludes from foreign personal holding company income any foreign currency gains that are "directly related to the business needs of the controlled foreign corporation." Transactions in foreign currency are a necessary part of the business of an active foreign currency dealer. Am I therefore correct in my understanding that the foreign currency gains derived by a controlled foreign corporation from its business as an active foreign currency dealer are excluded from foreign personal holding company income?

Mr. PACKWOOD. The Senator is correct. This clarification recognizes the similarity of gains of foreign currency dealers to gains of active dealers in securities and commodities. The bill excludes these gains from the definition of foreign personal holding income because such gains are not derived from passive or speculative investments.

DEFINITION OF RESEARCH COSTS QUALIFYING FOR THE R&D CREDIT

Mr. HATCH. Mr. President, I would like to address three questions to the distinguished chairman of the Committee on Finance, Mr. PACKWOOD, concerning the definition of qualified research expenditures for purposes of the incremental research tax credit, which is extended for 4 years under the committee amendment.

First, the committee report states that the amendment sets forth an express statutory definition of qualified research for purposes of the credit because "the committee believes that the definition has been applied too broadly in practice, and some taxpayers have claimed the credit for virtually any expenses relating to product de-

velopment." The committee report also notes that "according to early data on the credit, the Treasury has reported, many of these taxpayers do not engage in high technology activities."

I ask the chairman to confirm that the research credit is not limited to businesses in industries that are often referred to as "high technology" industries, such as the computer or semiconductor industries. Am I correct that companies in smokestack industries also are eligible to claim the credit if they increase their qualified research expenditures?

Mr. PACKWOOD. The Senator from Utah is correct. The statutory definition of credit-eligible research in the committee amendment focuses on the nature of the particular research activity, not on the industry classification of the business conducting the research. Thus, the committee amendment targets the credit to research undertaken for the purpose of discovering information that is technological in nature and the application of which is intended to be useful in developing a new or improved business component for sale or use in the taxpayer's trade or business.

Mr. HATCH. My second question related to the availability of the research credit for expenses of improving an existing product, as compared with the costs of developing an entirely new product. Am I correct that the exclusion from credit-eligibility for activities with respect to a business component after the beginning of commercial production of the component does not preclude the costs of improvements in an existing product from eligibility for the credit?

Mr. PACKWOOD. The Senator from Utah correctly describes the operation of the committee amendment. Under the amendment, qualified research means research—meeting certain other requirements—that is undertaken for the purpose of discovering information: first, that is technological in nature; and second, the application of which is intended to be useful in the development of a new or improved business component of the taxpayer. Thus, for example, the expenses of an automobile manufacturer in developing, through a process of experimentation, a more efficient and reliable diesel fuel injector are eligible for the incremental research tax credit even though the research expenses are incurred during or after production by the manufacturer of automobile engines containing the existing—unimproved—diesel fuel injector.

As the Senator from Utah pointed out, the committee amendment provides that activities with respect to a business component after the beginning of commercial production of the component cannot qualify as qualified research. That is, no expenditures relating to a business component are eligible for the credit after the component has been developed to the point where it either meets the basic functional and economic requirements of the taxpayer for such component or is ready for commercial sale or use. Thus in the example I mentioned, the costs of any activities of the automobile manufacturer with respect to the improved diesel fuel injector after the beginning of commercial production of the improved diesel fuel injector would not be eligible for the research credit.

Mr. HATCH. My final question relates to the effective date for the modifications made in committee amendment to the definition of qualified research eligible for the incremental tax credit. Am I correct that the modified definition of qualified research in the committee amendment applies to taxable years beginning after 1985, and that no inference is intended for prior taxable years as to what activities qualified or did not qualify for the incremental research tax credit?

Mr. PACKWOOD. That is correct. The amendments made by section 1301 of the committee amendment are effective for taxable years beginning after December 31, 1985. No inference is intended by the committee as to the definition of qualified research for purposes of the credit for prior taxable years.

Mr. HATCH. I thank the distinguished chairman for his clarification of these three matters.

Mr. McCONNELL. Mr. President, many of my colleagues have spoke eloquently on the passage of the tax bill now before us and I will not spend a great deal of time adding to the words already spoken on the floor. I suppose, in the final analysis, when historians write the chapter which describes the great tax bill of 1986 many of the details which we have labored over for so many hours during the past few days will be relegated to a footnote.

What will be remembered about the bill which we approve today, however, is that the average taxpaying American now has a greater reason to believe that the U.S. Senate can and will put partisan interests aside to approve legislation that returns a substantial measure of fairness and equity to our Tax Code. None of us can hope that the statements made in this Chamber will do anything more than gather dust on the back shelves of America's libraries. But in the years ahead millions of Americans as they fill out tax form 1040 will feel the affect of what we have said and what we have done.

Mr. President, this, of course, is not a perfect bill. I join those other Senators who believe that additional work needs to be done with regard to individual retirement accounts and the real estate provisions of the tax bill. I have opposed amendments making changes in these areas, however, because I agree with the chairman of the Finance Committee, Senator PACKWOOD, that change and compromise on these issues is best initiated in conference.

Some have suggested, Mr. President, that the tax bill voted on today is historic. Perhaps this is true—it has been over 50 years since the top individual tax rate has been as low as 27 percent. Furthermore, 6 million of the working poor in the United States will be removed from the tax rolls by this legislation. And 80 percent of the American public will pay a top rate of no higher than 15 percent.

Yes, this is an historic tax bill, but our place in the history books should be the least of our concerns. What we do today is return equity and fairness to the tax laws of this country. And in the end we have no greater responsibility to our constituents than assuring fairness in the laws of this great Nation.

VETERANS' EXEMPTIONS FROM A TAX LEVY

Mr. MURKOWSKI. Mr. President, before the Senate votes on passage of H.R. 3838, it is important to note a concern I have regarding a matter which will affect our Nation's veterans.

I have generally agreed with Senator PACKWOOD that, although not perfect, the proposed Tax Reform Act goes a long way toward achieving needed tax reform. It is imperative not to begin to whittle away this package to address every Member's concerns. Senator PACKWOOD has done an absolutely meritorious job in guiding this package through the Senate. I commend him for his tireless and skilled efforts, as well as those of the ranking minority member, Senator LONG, and their very talented staffs.

Mr. President, we have been told repeatedly by Senator PACKWOOD throughout consideration of this measure, that additional changes can—and will—be made in conference with the House.

In response to Senator PACKWOOD's request, I now raise an issue which needs some flushing out, further explanation, and perhaps modification during the House/Senate conference process.

In both the House and Senate versions of H.R. 3838, new exemptions from a tax levy are proposed for certain veterans' benefits. Current law does not provide such exemptions. The Secretary of the Treasury is authorized to collect taxes by levy upon property and rights to property when an individual fails to pay taxes owned to the Government. No property or rights to property are exempt from such levy unless specifically exempted by section 6334(A) of the Internal Revenue Code. Section 554 of the bill

as reported by the Finance Committee would establish an exemption for certain VA benefits.

The report which accompanies this bill states:

[U]nder present law, various payments such as unemployment benefits, workmens' compensation, a minimum amount or ordinary wages, as well as certain pensions and annuities, are exempt from levy. * * * The committee believes that various military service-connected disability payments should be exempt from levy, just as other similar payments are exempt from levy.

I have concerns relating to the seemingly arbitrary selection of the benefits which are proposed to be exempted. The VA oversees a massive system of entitlement and benefit programs for our Nation's veterans, many of which would be exempted by the bill. The bill would exempt any amount payable to an individual as a service-connected disability benefit under title 38, United States Code. These programs would include: disability compensation, life insurance, specially-adapted housing, vocational rehabilitation, educational assistance for veterans, educational assistance for survivors and dependents of certain veterans, housing and small business loans for veterans, and automobiles and automobile adaptive equipment for disabled veterans.

However, without explanation, the bill would not exempt certain other important VA programs which also provide benefits due to service-connected disabilities of veterans. These would include: death compensation, dependency and indemnity compensation [DIC] for survivors of veterans who die on active duty or as a result of service-connected disabilities, burial benefits payable for the benefit of a veteran who dies as a result of a service-connected disability, and certain VA benefit payments on behalf of an incompetent veteran.

For example, how was it determined that education benefits for dependents and survivors of certain Vietnam-era veterans would be exempt, but DIC paid to survivors of those who died in Vietnam and otherwise on active duty or of their service-connected disabilities would not be? Why would business loans be exempt, but not payments made on behalf of incompetent veterans?

There may be some very logical reasons behind these choices of categories, but they are not clear to me. I request that in the interest of equity, the distinguished chairman and ranking member of the Finance Committee give careful consideration to the concerns I have raised. I would be happy to discuss the matter further with my colleagues prior to conference. My staff is available to work with the Finance Committee staff in order to ensure that our Nation's veterans and the survivors of those who died on active duty are treated fairly by the changes proposed in the Tax Reform Act of 1986.

Mr. DOLE. Mr. President, I want to make a parliamentary inquiry at this time.

As I understand it, earlier there was a unanimous-consent agreement that at 3:15 there would be a series of speakers recognized: Senator BRADLEY, 10 minutes; Senator METZENBAUM, 5 minutes; Senator BYRD, 5 minutes; Senator DOLE, 5 minutes; Senator LONG, 10 minutes; Senator PACKWOOD, 10 minutes.

By that time it would be 4 p.m. There are still four amendments pending, all of which I understand will be opposed—amendments by Senator BYRD, Senator MCCONNELL, Senator MOYNIHAN, and Senator LAUTENBERG.

It is now 3 minutes to 3, and there are Members ready to speak on the bill.

A parliamentary inquiry: What happens at 3:15?

Mr. MOYNIHAN. Silence.

The PRESIDING OFFICER. The period from 3:15 to 4 o'clock is for debate only. No amendment can be offered during that period.

Mr. DOLE. And if the amendments are still not disposed of, we would be back on the amendments at 4 o'clock?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Without debate.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I do this to alert my colleagues of the pickle we can be in about 3:15.

I know that speakers are waiting to be heard on the bill itself. The time is growing nigh, and it seems to me that we should have comments the last thing before the vote. There will be six speakers, and five outstanding statements will be made. I hope that will be the way we wind up, and not have votes on amendments after we have had a closing speech by the distinguished chairman.

Mr. TRIBLE. Mr. President, the Senate today is poised to enact one of the most far-reaching and significant revisions of the Tax Code in this century. It will contribute to substantial economic growth, it will make the Tax Code more equitable and it will provide significant tax relief to taxpayers at every income level.

The legislation will fuel continued growth, first, because by lowering individual and corporate rates it contains powerful incentives, for inventment and risk-taking. The maximum tax rates of 27 percent for individuals and 33 percent for corporations will allow every working person to keep more of what they earn. These new rates mean, that for all Americans, the rewards of work go to the worker, not the Internal Revenue Service.

In addition, the combination of lower tax rates, liberalized depreciation for most assets and eliminating tax loopholes the bill will vastly improve the allocation of resources. Individual and corporate decisions will be made in the basis of return for work and investment, rather than on the basis of tax preferences.

The litmus test for economic decisions will be real return, not reduction of tax liability. The criteria of market place, economic efficiency, will govern choices and this can only have a positive impact on innovation and job creation.

These incentives are created by making the Tax Code fairer. This bill closes dozens of loopholes and imposes a stiff minimum tax on corporations and individuals. This bill will ensure that everyone pays their fair share.

This bill will dramatically reduce the ability of corporations and individuals to avoid taxes by exploiting loopholes in the law.

For most American taxpayers this bill means tax relief. Those for whom shelter means a roof over their head will benefit greatly from this legislation. Put simply, income taxes for typical taxpayers are reduced at every level of income. The bill takes approximately 6 million of the poorest taxpayers off the tax roles and the vast majority of Americans—more than 80 percent—will pay no more than 15 percent.

Yet while reducing the tax burden of working men and women this bill retains the most important deductions. Mortgage interest, property taxes, charitable contributions, medical expenses, and casualty losses remain deductible. Moreover, the legislation preserves the vital principle of tax indexation. The tax burden will not be increased and Government coffers will not be enriched by inflation.

Finally Mr. President this bill contributes to tax simplification. Under its provisions as many as 10 million taxpayers will no longer need to itemize. They will be able to use the short form. Millions of Americans can give up the part-time job of keeping records for the IRS.

The prospects for our Nation and our economy are exciting. Rather than being a vehicle for social or economic experimentation, our Tax Code will be a far simpler system designed to collect necessary revenues. The Government's influence over economic decisions will decline and that of individuals will rise.

This bill represents the overcollective judgment that a smaller role for Congress in allocating resources means a more vibrant and productive economy. The creative energies of Americans will be channeled toward producing goods and providing services and away from seeking favors in Washington.

This is not to suggest that the bill is perfect. In particular, the abolition of IRA's for all Americans who participate in a pension plan is a source of concern. IRA's have become a popular and convenient means of providing for retirement while at the same time encouraging material savings. They are worth preserving.

The other disturbing feature is the retroactive nature of some of the bill's provisions. Investment decisions have been made on the basis of current law and these should not be nullified by retroactive changes.

This legislation is a major step in the direction of fairness and efficiency. The chairman of the Finance Committee, Mr. PACKWOOD, and its ranking member Mr. LONG are to be congratulated, and I am pleased to support their effort.

(Mr. ARMSTRONG assumed the chair.)

Mr. GORTON. Mr. President, Mark Twain once counseled, in words that could certainly have been directed to his Congressman, "Always do right. This will gratify some people and astonish the rest."

Today, the Senate is about to do right. Indeed, the Senate is about to do something truly historic; something that justifies our standing as inheritors of the tradition of Clay, Webster, Calhoun, La Follette, and Taft—the examples whom we face in the reception room every day. The Senate is about to defy all those critics who have long said that it was impossible for this body to rise above the shrill demands of special interest groups. This bill—the most far-reaching reforms our Income Tax Code has seen in decades—truly represents the triumph of the general interest over the special interests.

□ 1500

When the Senate first turned to this issue, the setting did not seem auspicious for reform. This debate—which the President inaugurated with his State of the Union call for tax reform in 1984—had, unfortunately gone downhill from that initial point. The Treasury Department had, early on, submitted an ambitious and attractive tax reform package for the President's consideration. Although one could quarrel with this or that element of the so-called Treasury I proposal, there was no arguing that it represented real tax reform.

When the President submitted his own recommendations to Congress a few months later however, he had taken the first steps toward shaping it to gratify powerful political interests. And where the President took a few tentative steps, the House of Representatives rushed headlong, restoring tax break after tax break. Although the final House bill did trim some special breaks, and did contain some elements which would have improved current law, it could no longer plausibly be called tax reform. Instead, it was simply one more sorry chapter in that too-long running saga of tax revision after tax revision each of which added both complexities and preferences. It seemed that we were destined once again to do what we have done too often in recent years—shuffle tax benefits among interest groups, but shy away from real tax reform.

The Senate Finance Committee's early deliberations seemed to confirm that fear. Week after week the committee met in the crowded Dirksen hearing room. The corridor outside was jammed with lobbyists for uncountable special interests. Their collective din drowned out a much more important voice—the voice of the people crying out for real reform; for an end to the blatantly unfair loopholes through which wealthy individuals and major corporations have avoided paying their fair share of taxes, while forcing the wage earner, the working man and woman, to shoulder a disproportionate share of the burden.

Let me make clear that I do not believe that these lobbyists are either evil or nefarious. Newspaper cartoonists are especially fond of portraying special interest lobbyists as cigar-smoking fat cats, buying this or that favor for their client. The truth, as we in the Capitol know, but sometimes fail to communicate, is much different. Lobbyists include representatives of groups like the Boy Scouts and the AARP. The trouble with lobbies is not that the causes they represent are evil, but simply that they are special. In listening to the well-organized special interests, we lose sight of the fact that there are millions of Americans out there who want simply to be treated fairly, and who, individually, are much too complex to identify themselves simply as a subscriber to the association of this or the council of that.

As the Finance Committee met, it seemed that the special interests were in the ascendant. Time after time, the committee backed away from the vision of tax reform that the President had called upon in 1984, and restored special preference after special preference to the Tax Code. Certainly I, as did many of my colleagues, found it a most discouraging time, feeling that the Congress was about to throw away its best opportunity in a generation to achieve real tax reform.

And then the Senate Finance Committee accomplished the wholly unexpected. It did the right thing, gratifying some and astonishing the others. The committee reversed course completely, swept the bitter fruits of its early deliberations into the ash can, and produced the most sweeping tax reform measure since the advent of the income tax.

Let us review the important good points of the Senate bill:

First, it lowers rates. It is almost impossible to overstate the significance of these lower rates, because it is high rates that make each distortion in the Tax Code valuable to those who claim it. By lowering rates we not only reduce the tax burden on millions and millions of taxpayers, but we also ameliorate greatly the significance of the preferences that remain. Lower rates truly are the key to an efficient Tax Code, because they constitute an effective "back-door attack" on every single preference in the code.

Second, the committee bill takes 6 million lower income people off the tax rolls entirely. The inflation of the 1970's was especially insidious in imposing a Federal tax burden on millions of such people, most of whom work and contribute to our society, for whom no such burden ever was intended. The Senate bill takes these people off the tax rolls once and for all.

Third, the Senate committee bill broadens greatly the minimum income tax. I believe this to be especially important because it is perhaps the single largest step that this bill takes toward restoring confidence that our Tax Code is fundamentally fair, and that we will not allow wealthy individuals or profitable corporations to shirk their fair share of the tax burden. It is also an important provision for the same reason that lower rates are significant—it is another back-door attack on special preferences. No matter how many special credits or breaks wiggle their way into the code, if we can keep a stiff minimum tax in place, it can greatly negate the ability of these preferences to distort our economy in a harmful fashion.

Along these lines, the tax bill also repeals a number of tax shelters. Again, I think this is especially important, both from an economic and from a symbolic point of view.

When the chairman of the Finance Committee revealed his proposal, it was gratifying to all. When the Finance Committee adopted it, by a vote of 20 to 0, it was truly astonishing. By a remarkable confluence of events, what once seemed impossible now seemed inevitable.

To their great credit, an immense host of those special interests also saw the significance of the bill, and ended up endorsing it. Over 700 organizations, from the League of Women Voters to the American Electronics Association have endorsed this bill.

I still have some concerns with this bill, items that I want to see improved in conference. I have made no secret of that goal. This is not the time, however, to harp on those concerns. For now, I simply want to congratulate the chairman of the Finance Committee, Senator PACKWOOD, as well as Senator

LONG, who has been this body's leading expert on the Tax Code for so many years. In this bill, they did the right thing.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 2168

(Purpose: To delete the dealers exception from the hedging rules while retaining revenue neutrality)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for himself and Mr. DOLE, proposed an amendment numbered 2168.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 1589, before line 9, insert:

SEC. 424. REPEAL OF DEALERS EXCEPTION.

Notwithstanding any other provision of this Act—

(1) section 423 of this Act is null and void, and

(2) section 1256(e) is amended by striking out paragraph (6) thereof.

On page 1665, line 13, strike "80 percent" and insert "78 percent".

Mr. MOYNIHAN. Mr. President, this is an amendment I submit for myself and the majority leader, the distinguished Senator from Kansas [Mr. DOLE].

It addresses the fact that, in changing the rules regarding the deduction of State sales taxes and local sales taxes in the bill, we perhaps inadvertently changed the transactions qualifying for the hedging exception, which were part of the mark-to-market agreement we reached in 1981 when passing comprehensive legislation dealing with commodity tax straddles.

Mr. DOLE. Mr. President, to raise revenue for the modification of the rules concerning the deductibility of State and local sales taxes, we limited the hedging exception to the "market-to-market" rules we enacted in 1981 to stop the commodity tax straddle loophole.

The hedging exception was enacted in 1981 to allow taxpayers who enter into risk-limiting transactions in the normal course of their business to continue this practice without having to realize gain or loss at the end of the year even though they had not otherwise realized gain or loss.

The reason for this exception was that we understood that taxpayers entered into these transactions in order to reduce the risk of fluctuations in the price of property used in their business, not as a tax shelter.

The amendment we adopted last week limits the use of hedging transactions to hedging in agricultural commodities. I am concerned that we did not adequately understand the content of the sales tax amendment or the impact of this change in the hedging rules.

Let me give an example of one situation which we did not discuss or take into account. A company which manufactures photographic film uses large amounts of silver. They would have a completely reasonable business purpose in using hedging transactions to assure reasonable amounts of this necessary commodity without wide swings in its cost. Unfortunately, they will now be denied use of the hedging exception.

This was just one example. The problem is we don't know all the other examples which also should cause concern.

It would seem better policy to substitute another more general revenue raiser than keep one which may have a very severe impact on a number of taxpayers.

I join the distinguished Senator from New York [Mr. MOYNIHAN] in an amendment to substitute another, more general business provision for the hedging limitation. However, due to time constraints, we have decided that the issue would be better addressed in conference. I am hopeful that we will be able to resolve this issue at that time so that we will not unknowingly disrupt the normal business practices of companies across America.

Mr. MOYNIHAN. Mr. President, the amendment I offer today responds to an inequity we may have created by a floor amendment to the tax reform bill adopted by this body late last week.

Purely as a revenue measure to fund a partial restoration of the sales tax deduction, we adopted an amendment eliminating the hedging exception to the mark-to-market system for dealers in commodities—at least some commodities. Therein lies part of the problem. The amendment's elimination of the hedging exception—a proposition which itself surely requires further study—applies to all commodities except agricultural and horticultural commodities—except, the amendment further states, trees which do not bear fruit or nuts. Perhaps there are reasons for this distinction, though I must say we have yet to review them.

The amendment that I offer today would reverse last week's provision, and pay for it with an adjustment to the deduction for dividends received by one corporation from another. The House bill does not contain a measure eliminating part of the hedging exception. Thus, should my amendment fail to carry, we will have the opportunity to examine more fully this issue in conference.

Mr. MOYNIHAN. Mr. President, in the circumstances of the time constraints, I ask that the amendment be withdrawn in order that the measure might be raised, as we hope it will be raised, during the conference.

The PRESIDING OFFICER. The Senator's amendment is withdrawn.

Several Senators addressed the Chair.

Mr. KENNEDY. Mr. President, we have about 6 minutes remaining. A number of Senators wish to speak. I know the Senator from Michigan and Senator D'AMATO wish to speak. I would be glad to divide the 6 minutes to 2 minutes apiece, so my colleagues may have some time.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to do that?

Mr. KENNEDY. Well, I will just take 2 minutes.

Mr. LEVIN. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

Mr. KENNEDY. Yes.

Mr. LEVIN. Mr. President, I would make that unanimous-consent request.

The PRESIDING OFFICER. Is the unanimous-consent request of the Senator from Michigan that the Senator from Michigan, the Senator from Massachusetts, and the Senator from New York each be recognized for 2 minutes?

Mr. LEVIN. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, might I have 30 seconds to offer an amendment that I think the managers will accept?

The PRESIDING OFFICER. The Chair is unable to hear the minority leader.

Mr. BYRD. I ask that I may—who has the floor now?

Mr. LEVIN. I have a unanimous-consent request which I would amend to include 30 seconds for the minority leader's amendment.

The PRESIDING OFFICER. I am sorry. The Chair did not hear the amendment to the request.

Mr. LEVIN. The request would provide for the 30 additional seconds requested by the Democratic leader for his amendment to be offered.

The PRESIDEING OFFICER. I thank the Senator.

The pending unanimous consent request is for the Senator from Massachusetts, the Senator from Michigan, and the Senator from New York to be recognized for 2 minutes each, and then that the minority leader be recognized for 30 seconds. Is there objection? Hearing none, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I intend to vote for this tax reform bill, and I urge the Senate to send it to conference with an overwhelming bipartisan mandate befitting the best tax reform bill ever to come before the Senate.

None of us underestimates the difficulty that the conferees will face in reconciling the House and Senate versions. But today's vote by the Senate will bring the impossible dream of tax reform another giant step closer to reality.

In emerging unscathed from the gauntlet of Senate floor amendments, the idea of tax reform has acquired even more force than it had when the Senate bill took shape so dramatically in the final days of the Finance Committee deliberations.

The Senate and the House have each produced excellent bills worthy of enactment. Both bills have genuine strengths—but they also have weaknesses. The test for the conferees is whether they will succeed in writing a final bill that includes the best—not the worst—of the differing versions before them.

The conference is where the opponents of tax reform will make their last stand. The lesson of the House and Senate action so far is that this Congress, when tested, has the courage to say no to tax loopholes and special interests.

If the conferees are faithful to this standard, tax reform will not stumble in the homestretch—and the bill that goes to President Reagan will be the best tax reform bill ever, the finest achievement of this Congress and one of the great achievements of any Congress.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, while I applaud many of the elements of this bill and share many of its goals, I cannot help but think we are squandering a moment of opportunity here. We face deficits which we all believe are threatening our economic security but we are passing a tax bill which makes reasonable and responsible deficit reduction more difficult.

By using the loophole-closing revenue we are raising uneven tax cuts and instead of using it for deficit cuts, we face a desire to reform the Tax Code, to achieve equity and fairness, but we are passing a bill which creates special favors to a privileged few. We create loopholes that some homeowners can use to deduct interest on consumer loans but which other homeowners and renters cannot use. And we restrict desirable and socially useful deductions for medical expenses, charitable contributions, and retirement savings.

Yes, we do a good deal which is desirable. We taint it with exceptions. We tarnish it with exclusions, and we diminish it with the inequities we both create and perpetuate.

We face a middle class which is squeezed, and which has carried the greatest tax burden for years. What do we do? We tell them this bill will cut their tax rates but we fail to tell them that many of their tax bills will go up.

Perhaps one in three people making between $30,000 and $40,000 a year, and perhaps one in four people making between $20,000 and $30,000 a year face tax increases under this bill. All of us will pay more as we have to turn as early as next month to consider regressive excise taxes to fill the revenue gap which this bill ignores.

When it becomes clear we are increasing the burdens that many middle-income Americans are bearing, and when it becomes clear that the need for deficit reduction has been ignored and made more difficult, when it becomes clear that some new tax injustices have been created, when all of that becomes clear people are going to ask us why we did it.

I am hoping a better bill will come out of conferences, that the one before us despite a number of good features is on balance just not good enough.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to inquire of the chairman of the Finance Committee concerning a matter of deep importance to the people of New York, and that is the matter of the Pennsylvania Station reconstruction project.

Mr. President, I have a letter of support for this project from Mr. Tese, Director, Economic Development, and in addition the project ultimately will be the largest taxpayer of the city of New York. The project will reconstruct Pennsylvania Station which is the busiest rail transportation hub in the Nation serving 120 million persons a year. No Federal, State, or local money is to be used to rehabilitate the station.

Mr. President, I do not intend to offer an amendment on it. But I would like to get the chairman's opinion of the project and the possible treatment of it as it relates to the various transition treatments.

Mr. PACKWOOD. I am familiar with the project. Having gone to New York University Law School years ago, I am familiar with the old Madison Square Garden. I think in fairness I can say the Senator from New Jersey [Senator BRADLEY], is opposed to the transition, unless I misspeak for him. But, in any event, I am familiar with the problem. We will have it in conference.

Mr. D'AMATO. Mr. President, I ask unanimous consent to submit Chairman Tese's letter of support, and an outline of the benefits of that project, and hope that the chairman of the Finance Committee would be able to bring this about in the conference as I think there are tremendous public benefits that inure to the public particularly in the area of transportation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
Albany, June 11, 1986.

Re New Madison Square Garden—Pennsylvania Station reconstruction project.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: As we discussed briefly the other day, I believe that the new proposed Madison Square Garden—Pennsylvania Station reconstruction project will provide substantial public benefits to the city and State of New York as well as the entire northeast region of the Nation. The project's benefits are not simply limited to New York or its metropolitan area. Indeed, because this public-private initiative involves two "national assets"—the reconstruction of Pennsylvania Station and the construction of a new Madison Square Garden—the project's benefits will touch and enrich the lives of residents throughout the Northeast region, Amtrak passengers from across the Nation and Canada who will daily arrive at the new Penn Station, as well as Garden visitors and Jacob Javits Convention Center attendees from throughout the Nation.

The scope of the project includes a new Madison Square Garden, the reconstruction of Pennsylvania Station as part of a major mixed-use commercial center, and the provision of a new transit link from Penn Station to the new Garden and the adjoining Javits Convention Center. For your convenience, I list below some of the project's most important benefits:

1. Economic Development. The Madison Square Garden Project will be one of the largest economic development projects to occur in the Northeast Region of the Nation. It is estimated that the aggregate private investment for this initiative will exceed $1 billion. The project will create an estimated 6,000 construction jobs (person years) during its 6 year construction period. It is projected that, upon completion, the new Garden will service over 5 million visitors, the commercial development will provide over 18,000 jobs, and the new Pennsylvania Station will serve yearly over 120 million visitors, commuters and residents.

2. Economic Impact on Convention Center. The presence of the new Madison Square Garden adjoining the Jacob Javits Convention Center will have significant positive economic impact on the Convention Center. The two facilities, together, will be able to operate more efficiently and provide enhanced attractions for the Convention attendees from throughout the Nation.

3. Tax Revenues to City and State. It is estimated that the new tax revenues to be generated by the project during its construction period and its first 10 years of operation will be in excess of $1 billion. These public revenues will be generated from the land where the present Garden now sits that is currently generating zero tax revenues.

4. Rebuilding of Pennsylvania Station—Private Funding in Lieu of Federal Moneys. As part of the project, the sponsors, utiliz-

ing private funds, have promised to reconstruct Pennsylvania Station so that it will, once again, be a gracious place of arrival for residents, commuters and visitors to New York City. Penn Station is used by over 120 million individuals a year—making it the busiest rail transportation hub in the Nation. This "privatization" initiative will serve as an important example of utilizing private funds to reconstruct a major public resource.

5. Mass Transit for West Side of Manhattan. The relocation of Madison Square Garden may well provide the critical population mass needed to enable a new and viable mass transit system to be established and funded connecting the West Side of midtown Manhattan to Pennsylvania Station, and, in so doing, open an entirely new area of the city for future, orderly development.

The multiplicity of public benefits derived from this undertaking are clear and substantial. Moreover, during the 5-year revenue calculation period (1986-1991), the application of the current real estate and sports arena tax exempt financing rules is estimated to produce a net revenue gain to the Federal Government. The structures will not be put into service until after 1991 and incremental tax revenues from the 6,000 construction jobs generated by the project are expected to exceed greatly any revenue loss from the tax exempt sports arena bond issue. It is for the above reasons that we believe it important for the project to proceed under the same tax rules regarding tax exempt financing and depreciation for sports arenas and real estate projects as had existed throughout the project's planning phase.

Very truly yours,

VINCENT TESE.

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized for 30 seconds.

AMENDMENT NO. 2169

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2169.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title XVII, insert;

SEC. — SPECIAL RELIEF FOR FLOOD DISASTER VICTIMS.

(a) IN GENERAL.—In the case of a disaster described in subsection (b)—

(1) section 165(h)(2) of the Internal Revenue Code of 1954 shall be applied with respect to any loss of an individual arising from such disaster by substituting "1 percent" for "10 percent", and

(2) at the election of the taxpayer, the amendments made by section 201 of this Act (i) shall not apply to any property placed in service during 1987 or 1988 or (ii) shall apply to any property placed in Service during 1985 or 1986, which is property to replace property lost, damaged, or destroyed in such disaster.

(b) DISASTER TO WHICH SECTION APPLIES.—This section shall apply to a flood which occurred on November 3 through 7, 1985, and which was declared a natural disaster area by the President of the United States.

At the appropriate place insert the following:

(C)(1) Section 171 (relating to amortizable bond premium) is amended by redesignating subsection "(e)" as "(f)" and inserting after subsection (d) the following:

"(e) TREATMENT AS INTEREST.—"Except as otherwise provided by regulations, the deduction allowed under subsection (a)(1) shall be treated as interest for purposes of this title."

(a) EFFECTIVE DATE.—The amendment made by (A) shall apply to obligations acquired after date of enactment.

Mr. BYRD. Mr. President, I ask unanimous consent that I may modify the amendment, if necessary, to comport with the intent of the managers in their acceptance of the amendment.

Mr. PACKWOOD. Mr. President, there is no objection. We are familiar with the amendment. It is acceptable.

The PRESIDING OFFICER. Was the question of the minority leader that the amendment be modified?

Mr. BYRD. No. The request is that I have the right to modify if necessary so it will comport with the intent of the managers in their acceptance of the amendment.

Let me take 30 seconds of my own time.

The amendment I offer today is designed to provide help to those businesses that suffered losses as a result of the flood which occurred in November 1985.

In November of last year, 29 of West Virginia's 55 counties were hit by floods and declared disaster areas. Lives were lost, towns were devastated, and businesses were destroyed. West Virginians in one fell swoop lost their homes, their belongings, and their jobs. The economic base of many communities was decimated.

My amendment will permit businesses that suffered damage in the flood to elect between the current depreciation system in our Tax Code or the accelerated cost recovery system contained in the Senate Finance Committee bill. This will allow these businesses a fair choice in determining a depreciation system for costs incurrred by them in rebuilding after the flood.

The revenue raising aspect of this amendment deals with the tax treatment of the amortizable bond premium. An amortizable bond premium exists where a taxpayer buys a bond for more than its face value. That excess is allowed as a deduction over the remaining term of the bond—offsetting the interest income from the bond. This amendment clarifies the treatment of this bond premium—allowing its deduction as interest in the proper tax years. This part of my amendment was suggested by the staff of the joint staff committee as an appropriate offset as it corrects current law to provide for the uniform treatment of the interest income and its related premium offset.

The degree of emotional and financial stress experienced by the business community in times of disaster cannot be calculated. This amendment—while not a panacea—will provide some relief to those who are trying to rebuild and start again.

The PRESIDING OFFICER. The pending unanimous-consent request is the request of the minority leader that he be permitted to modify the amendment after its adoption.

Mr. BYRD. If necessary, and it may not be necessary.

The PRESIDING OFFICER. To be consistent with the intent of the managers on both sides.

Is there objection to the request? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted to revise and extend my remarks explaining my amendment No. 2169 to the tax bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 2169) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the managers on both sides.

The PRESIDING OFFICER. The hour of 3:15 having arrived, in accordance with the previous order, the Senator from New Jersey [Mr. BRADLEY] is recognized for 10 minutes.

Mr. BRADLEY. Mr. President, first let me compliment Chairman PACKWOOD for his tenacity and leadership against all odds in making this bill happen. It is a remarkable legislative achievement. And I salute him.

Let me also compliment Senator LONG who knows more about the tax policy in the Senate than most of us will ever learn. And he has been a tough but helpful mentor on this bill as well as so many others.

Also, I express appreciation to Senator DOLE, Senator MOYNIHAN, and all members of the Finance Committee, and the 21st member of the commission, Senator METZENBAUM, for his vigilance.

Mr. President, when I go home to New Jersey people frequently ask me, when are the Democrats or Republi-

cans going to stop partisan bickering and do something together for America. Mr. President, that kind of bipartisan cooperation is about to produce the most sweeping tax reform legislation since 1913 when the present Income Tax Code and the first income tax in the 20th century was passed. It increases the standard deduction, doubles the exemption, lowers tax rates dramatically; four out of five taxpayers will pay no more than 15 percent in tax. It preserves most of the deductions used by middle-income people like mortgage interest, property taxes, it preserves the tax exempt status of fringe benefits, health benefits, and others.

It eliminates tax shelters by disallowing the passive losses. It imposes a strong minimum tax and raises about $100 billion more from the corporate sector. It eliminates countless other loopholes.

Mr. President, that is what the bill does. But the question is what does the bill mean in human terms? There are more people who paid income taxes in this country in 1984 than voted for the President of the United States of either party. The tax system touches 100 million Americans directly and countless more indirectly.

The standard deduction and exemption, what does that mean? It means tax relief for young people, poor people, and the elderly. In fact, it takes 6 million of them from the tax rolls. They pay no tax. It ends the perverse system that tells people to work and just as they begin to get a little bit, they have to pay tax. For these taxpayers the bill means work instead of welfare, dignity instead of despair. A family of four will have to earn $13,000 before they get their first dollar of taxable income. What do the lower rates mean?

Well, what they say to countless middle-income people across this country is if you take a new job, get a raise or promotion, benefit from a spouse working a second job or expect you will be making more money next year than you were this year, if you do any of those things, you will be able to keep more of the money you earn, to spend the way you want, and not the way the Tax Code dictates.

□ 1520

Mr. President, that will bolster people's sense of security, self-reliance, and of being in control of their own lives.

Tax shelters are eliminated. Minimum tax, important.

What does that mean? It means everybody is going to have to pay their fair share. It means no more billion dollar companies paying no more than middle-income taxpayers. It means no more will people in poverty pay more tax than some millionaires.

Finally, what does eliminating loopholes mean, Mr. President? It means the economy will be unfettered. Dollars will flow to those areas of the economy that have real value in the marketplace. No longer will people make investments to lose money for tax purposes.

It means our Nation will be free to accept the challenge of the next decade in ways that stimulate innovation, facilitate change and promote economic growth.

Mr. President, that is what the specifics of this legislation mean. Six million low-income people off the rolls; opportunity to keep more money for middle-income people; everybody paying their fair share, and an economy unfettered to grow.

But what does the whole of this bill mean? What does it do?

I would argue that it restores some trust in Government.

A few years ago a national poll was taken and people were asked, "Do you believe if you abide by the rules in America you will get ahead?"

Over 80 percent of the people said, "No." If they abide by the rules, they do not believe they will get ahead.

Mr. President, the set of rules they were referring to, I am sure, were the tax rules that were covered by a web of suspicion and inequity.

What we do today with this bill will help to change that feeling, help to remove the web of inequity and suspicion because after this bill, equal incomes will be taxed equally.

Mr. President, sometime in the last 4 years, actually it was 2 years ago, I was on the dais at a dinner in New Jersey and a business executive turned to me during the salad and said, "You know, I have a real problem with my son."

As any politician knows, that is the threshold question. Do you pursue it?

I was up for reelection, so I said, "Well, what is the problem?"

He said, "All my son can think about is how to avoid paying taxes. He is 26 years old. He has worked for a corporation for 3 or 4 years. But that is all he can think about. I keep telling him, "Do your job, learn your profession, move up, and pay your taxes."

Then he said, "Senator, I am worried if there is a whole generation of young Americans out there who believe they have no obligation whatsoever to support the legitimate functions of Government."

Mr. President, that must be why the underground economy in this country is the seventh largest economy in the world and why voluntary compliance is dropping.

Mr. President, it is a tragedy and this tax reform bill will begin to change that and will begin to restore trust in Government.

Finally, Mr. President, the issues of tax reform are as old as this Nation. If you read the Federalist Papers, the issues we have been debating on this floor in philosophical terms are right there in the Federalist Papers. It comes down to a question of whether you believe a legislator's role is to represent the narrow interest or the general interest.

What the Senate is saying today is that a legislator's role is to represent the general interest. Our country is a diverse one and each Member of the Senate represents sometimes widely different interests. But each Member was willing to come together, to sacrifice something of importance to one group or another in his or her State in order to do what was best for the country.

Today's vote will make me very proud to serve in the Senate. I have great confidence that Chairman ROSTENKOWSKI and the conferees he will appoint in the House will also recognize the importance and momentum of tax reform.

Although we still have one more hurdle to go over before we can claim total victory, I believe when the two Houses get together the American people will win again.

So, Mr. President, ultimately, tax reform is not just about money. It is about personal dignity and individual security. It is about being in control of our lives while having a Government that is sensitive to our needs. Most important, it is about hope, and it is that feeling of hope and optimism that we ratify today in passage of this bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Ohio is recognized for 5 minutes.

Mr. METZENBAUM. Mr. President, I believe this is a good bill. It takes 6 million working poor off the rolls. It wipes out many of the loopholes that have allowed corporations to legally avoid $100 billion in taxes. It closes many loopholes for the wealthy. It lowers rates for the average taxpayer. It has a number of other excellent provisions.

But it is not perfect.

When the debate started, my goal was to point out that as good as the bill is, it still contains too many loopholes and carveouts for the rich and powerful. I think the Senate has been sensitized on this point. It has adopted some of the amendments that I proposed. We have been able to help the family farmers by adoption of those amendments. We have been able to help the chronically ill. We have modified a number of other provisions.

I am pleased that we adopted an amendment to require the conference report to identify the cost and beneficiary of any provision providing special treatment to a single taxpayer or group of taxpayers.

The fight to treat all taxpayers fairly does not end with passage of this bill. Truly, tax reform will be

achieved only if the final product that comes out of the conference committee provides greater relief to the middle class and is not encumbered with a new array of loopholes that permit continued tax avoidance by the wealthy.

If the final bill does not do more to treat all taxpayers fairly, then all the low rates in the world will not convince people that the system works for them, not just for those with money and access.

I would like to take a moment to say something about the author of the legislation, about Senator PACKWOOD.

It has been a difficult 2 weeks for you, Mr. Chairman. You have been bombarded by Senators on both sides of the aisle. Many have commended you for the masterful job that you have done in putting this bill together, and I join in commending you as well. I join in that praise.

But I think that you deserve commendation for more than that. You have been helpful, you have been understanding, you have been cooperative. I do not mind saying that I have been on the floor many, many hours during the passage of this bill trying to make a good bill better. In each instance when I have come to you, I have not been rebuffed. You have made the information available. You have tried to be cooperative in every sense of the word.

I am frank to say that personally at times it may have been very frustrating to you, and I may have been a part of that frustration. But the wonderful part about this body in which we serve is that although the bill comes from the Finance Committee, when we come out here on the floor we are all equals among equals. There is no one Member who is more important than any other Member. It was Senator Mansfield who addressed himself to that subject some years ago.

You certainly have worked with each of us whether we were on the committee or not on the committee. It has been a real privilege for me to have had an opportunity to do just that.

Through it all, you have executed your role as manager with extraordinary grace and, yes, humor and wisdom as well. You have been unfailingly helpful to me and I thank you for that. I know that on more than one occasion you have had to take some heat from your colleagues on both sides of the aisle.

I want to say a word about Senator BRADLEY. He had the vision 3 years ago to see that the present system was flawed and he had an idea how to fix it.

□ 1530

This bill reflects his vision as well as his imprint.

Finally, before closing, I thank the Finance Committee staff and the Joint Taxation staff for their help and cooperation to someone who is not on the committee. They conduct themselves as professionals, with knowledge and skill. They have been helpful to those of us not on the committee as well as those on the committee. Theirs has been a very arduous and difficult task. I think all of us in this body owe them a great debt of gratitude.

The PRESIDING OFFICER. Under the previous agreement, the minority leader is recognized for 5 minutes.

Mr. BYRD. Mr. President, I thank and commend all Members of the Senate on both sides of the aisle on the excellent debate that has been conducted on this very far-reaching and important bill. I especially congratulate the chairman of the committee [Mr. PACKWOOD] and the ranking member of the committee [Mr. LONG] for having, with such great skill, brought this bill out of the committee by a solid vote of 20 to 0. I congratulate them also for the skill and the endurance, patience, and forbearance which they have shown on this floor during the debate.

I also commend Senator BRADLEY because it was 4 years ago that he and Mr. GEPHARDT, I believe, first laid out the parameters of tax reform. They have gone all over this country since then—Senator BRADLEY has—and expounded the legislation, the theory behind it, the principles that support it, and the reasons for it. I commend him.

I also thank the staff on both sides of the aisle. The committee staff have been most considerate of the interests and wishes of Members who have sought help on amendments during this debate.

I commend the distinguished majority leader for his perseverance, his tenacity, his sense of purpose, and his faith that, in the final analysis, this bill is going to become law.

Mr. President, I am going to vote for this legislation for a number of reasons. I state, briefly, only tnree:

First, I believe that although the amendment by Mr. MITCHELL, which I strongly supported, was not adopted by the Senate—an amendment which I think would have improved the bill's provisions to help middle-income taxpayers—we had our shot at it and we did not win. We tried. We lost. The same was true regarding IRA's. The bill may yet be improved in conference.

I think, Mr. President, we now have to consider this bill as it is. Others have made the case. The time, has come to vote. Is it better than the present Tax Code? I think it is far better. So, for that reason as one of my reasons, I shall vote to support this bill.

Second, I shall vote to support this bill because I think the Senate conferees ought to go to the conference with a solid show of support by Members of the Senate on both sides of the aisle. It is a bipartisan product. I hope that we will give our Senate conferees the kind of show of strength that will help them in conference with the House. Perhaps there will be some further improvements there.

In any event, I think the Senate bill is, overall, a better product than is the House bill. So I shall vote to send our Senate conferees to the conference armed in strength so that they will be in a better position to carry and uphold the positions of the Senate.

Finally, let me say that our action today, in full view of the country on a matter that is so important to the heart and the pocketbook and the family of every American, should go a long way, not only toward reversing the cynicism about the fairness of our tax system but also toward restoring some of the lost confidence in, and support for, our system of Government in general.

So I shall cast my vote, Mr. President, in the hope and in the belief that this bill will help to restore to the American people a strong confidence and belief in our form of Government because, unless they have that strong faith that is so vibrantly needed in a representative democracy, then, Mr. President, our Government will not have the vibrancy that it needs to face the problems of the future. I see in this bill a measure which will help to restore that confidence in our system of government.

I close by urging all Senators to support this bill. This is a victory not only for middle America today, but also for all Americans.

The PRESIDING OFFICER. Under the previous order, the majority leader is recognized for 5 minutes.

Mr. DOLE. Mr. President, first, let me indicate that after passage of this bill, we still have other business to do today. I assume there will be a rollcall vote asked for this tax reform bill. In the event there is, after that record vote, we will take up bank bribery, H.R. 3511, and also the Smithsonian Institute bill, which requires a rollcall, and possibly the diplomatic security bill. Somebody tells me that bill is giving death rattles. There are a lot of amendments lurking around that may try to find a home there. So that may or may not come up today. So we will be in session, I would say, for 2 or 3 hours following passage of the bill before us.

Mr. President, the Senate is about to complete 6 years of effort to reform the income tax laws of this Nation. The answers have not come easily, but the policy has been consistent over the years. We have attempted to make a

more honest effort to define what is income and, as a result, have been able to reduce tax rates substantially.

THE SENATE'S COMMITMENT TO TAX REFORM

The effort actually started in 1980, when candidate Ronald Reagan called for a major reduction in individual income tax rates and a restructuring and simplification of the depreciation rules applicable to business plant and equipment. That year, the Finance Committee, under the leadership of the distinguished Senator from Louisiana [Mr. LONG], reported out legislation that would have provided a tax rate cut for individuals and some real simplification of the depreciation rules for business. We had a good bill in 1980, but the election got in the way and we did not get it passed.

Unfortunately, the Senate did not have the opportunity to act on the Finance Committee bill in 1980 and, realistically, it is very unlikely the House would have addressed the legislation even if the Senate had acted.

However, after President Reagan assumed office in 1981, the effort to reform our tax laws began in earnest. In record time, the Finance Committee reported, the Senate acted, and Congress sent to the President the Economic Recovery Tax Act, the historic, 3-year individual tax cut he had requested along with substantial enhancement and simplication of the corporate tax provisions. The rate reduction substantially offset the hidden tax increases caused by several years of unprecedented inflation. In addition, the indexing provision included in the legislation for the first time assured that Congress would have to act affirmatively if it wanted to raise taxes in the future. Inflation could not be used to increase taxes without further congressional action.

Maybe we went too far in 1981, but in 1982 we started closing loopholes, not raising taxes but closing loopholes. Some never understood the difference. But we really closed loopholes, about 100 billion dollars' worth. I think it is fair to say that this effort, the Tax Equity and Fiscal Responsibility Act of 1982, is the most comprehensive tax reform legislation enacted to date. Part of the impetus for the legislation was to increase revenues, but the most important thing to remember is that this was done, not by raising tax rates or enacting new taxes, but by curbing abuses in the Tax Code, by reducing or eliminating tax breaks for limited numbers of taxpayers and by improving compliance so that we could preserve lower rates for everyone.

We followed "tefra" with the Deficit Reduction Act of 1984 using pretty much the same approach. Once again we scoured the Internal Revenue Code to make tax shelters more difficult to find and to help assure that taxpayers paid at least some tax on their income. If all we wanted to do was raise revenues, we could have found simpler ways to do it. It is obvious to me that the Senate continued to be committed to tax reform, and I am proud to have had the honor of chairing the Finance Committee during those exciting years.

THE PRESIDENT'S PROPOSAL

Although the Finance Committee showed its continuing interest in the concept of tax reform by holding a series of hearings on tax reform—what we then called "flat tax" and "modified flat tax" proposals—in September 1982, it is fair to say that continued reform of the tax laws would not have been possible without the leadership of President Reagan. In January 1984, the President announced that he wanted tax reform to continue as a principal domestic policy objective in his administration. He instructed the Treasury Department to prepare a report on how the tax laws should be changed by the end of the year. Treasury responded and the President used Treasury's suggestions as the basis for the proposals he sent to Congress just over a year ago.

The major concepts of the President's proposals were to reduce the number of tax rates for individuals to three with a maximum rate of 35 percent down from 50 percent. The maximum rate for corporations was reduced from 46 to 33 percent. At the same time, I was also struck by how many provisions of the President's plan continued reforms that originated in the finance committee over the last few years.

Let me give just a few examples. In 1982, we significantly broadened the scope of the alternative minimum tax for individuals and enacted a 15-percent reduction in preference items for corporations to minimize the chance that overuse of tax incentives will cause individuals or corporations to avoid income taxes altogether. We reduced the basis of equipment for half the value of the investment credit and modified the capital cost recovery system.

We also addressed the problem of overly generous cost recovery for assets financed with tax-exempt industrial development bonds and we imposed a "sunset" small issue bonds. We reduced the mismatching of income and deductions caused by the completed contract method of accounting. We substantially tightened the tax rules governing mergers and acquisitions and attempted to target the credit for corporations doing business in Puerto Rico more adequately.

Then again, in 1984, we expanded the corporate tax preference cutback from 15 to 20 percent and adopted a series of additional corporate tax reforms to help assure that taxes at the corporate level cannot be avoided. We further modified the capital cost recovery rules for real estate to reflect lower inflation. We enacted additional restrictions on private purpose tax-exempt bonds. We revised the tax accounting rules to conform more closely with the economic substance of transactions and began a review of the taxation of financial intermediaries by revising the life insurance company tax rules.

Many of these issues were again addressed in the President's proposal. Some have argued that, since we have reviewed these issues recently, we should not do so again. However, we cannot be blind to the fact that the President addressed these same issues because they still represented among the most significant deviations from a neutral tax system. There is much to be said for a tradeoff of reduced tax rates in return for a tax base that we can defend on some ground other than "it could be worse".

THE HOUSE BILL

The House bill in major respects followed the President's proposals. However, in some significant respects the House bill was deficient. The maximum rate for individuals was reduced only to 38 percent and the maximum rate for corporations was reduced only to 36 percent. The personal exemption, so important to reflect the cost of caring for dependents, was increased only for individuals who did not itemize deductions and the capital cost recovery provisions were reduced to a level that caused many to worry that captial intensive industries might be severely disadvantaged compared with foreign competition.

The President rightly was concerned about these portions of the House bill and asked the Senate to improve upon them. Many commentators scoffed at the possibility that the Senate could accommodate the requests of the President given the supposed power of the special interests who had descended upon Capitol Hill.

THE FINANCE COMMITTEE BILL

Mr. President, I am pleased to be able to say that the Finance Committee, under the able leadership of the distinguished Senator from Oregon [Mr. PACKWOOD], not only proved the pundits wrong, but was even able to accomplish greater individual rate reduction that the President asked for, and, perhaps equally important, accomplished this in a way that can honestly be called reform. Let me give a couple of examples.

First, the committee bill reforms the income tax rate structure by reducing the maximum tax rate for individuals from 50 to 27 percent. At first blush this would seem to mean wealthy individuals would have a disproportionately large tax cut, but the data from the staff of the Joint Tax Committee show that this is not so. The average tax cut for all individuals under the bill is 6.3 percent. The average tax cut

for individuals with incomes under $10,000 is 62.3 percent and the average cut for individuals with incomes between $10,000 and $20,000 is 18.1 percent. However, the average tax cut for individuals with incomes over $200,000 is 4.7 percent.

This distribution of the tax cut is made possible primarily by the limitation on the use of tax shelter losses, the elimination of the special tax treatment for long-term capital gains and limitation on the itemized deduction for interest paid. Also contributing to the distribution of the tax cut, is that 80 percent of all families will be taxed at the 15-percent rate.

What is so important about these changes? The simple answer is that these special tax benefits used primarily by the wealthy will no longer be available. Everybody will pay on their income under the same rules. As a result, we can reduce rates substantially without discarding the progressive rate system, which the great majority of Americans believe is fair.

A second example of why this bill is true reform is the treatment of corporate income. The proposed modifications of the corporate tax base will assure that all corporations, whether they are in a capital intensive industry or not, will have their income taxed on a more equal basis. This allows the reduction of the maximum corporate rate from 46 to 33 percent.

Much of the rate reduction on the corporate side is made possible by the repeal of the investment tax credit. There is much support for this change—the President proposed repeal and the House bill included repeal, as well.

However, there was a very real and justified concern in the private sector and in the Senate that the House had gone too far in reducing incentives for investment in income-producing equipment. The ITC had been repealed in the past and soon after reinstated. The Finance Committee did not want to make the mistake of going so far in the name of tax neutrality that we caused major economic trauma for capital intensive industry.

Therefore, we redesigned the depreciation rules to provide somewhat faster recovery of costs for the types of equipment for which the investment credit was most important. Thus, we have reform for the long term while minimizing short run economic disruption.

A WELL-DESIGNED PACKAGE

Mr. President, the Finance Committee bill is a very carefully designed package. However, we made at least one major policy improvement on the Senate floor—we substantially improved the provisions concerning the deductibility of State and local sales taxes. Under the Senate bill, there will be much less discrimination among the States on the basis of how they raise their revenues.

However, it is remarkable that so few major amendments have been adopted. It is a tribute to Chairman PACKWOOD, the distinguished ranking member [Mr. LONG], and the rest of the committee that the Senate has found the committee effort so acceptable as reported.

ISSUES FOR CONFERENCE

This does not mean that the bill is now perfect.

For example, I would like to see the individual rate cuts to be effective January 1, 1987, rather than in July of next year. I would also like to see fully deductible IRA's for more Americans, at least for those employees who do not have a 401(k) plan available and who are not vested in a pension plan. I would also like to see the recapture of the benefit of the 15-percent bracket to occur over a higher level of income or to find a way to avoid having to impose the recapture without having to increase rates.

Finally, I would very much like to see a more generous phasein of the so-called passive loss limitations. I understand that it is difficult to feel too sorry for people who have heavily invested in tax shelters, but they were acting under the law and many businesses are relying on continuing contributions from tax shelter investers over the next 4 or 5 years to provide the capital necessary to complete projects already begun.

I am hopeful that these areas can be worked out in conference. Of course, we also have a number of additional transition issues which will have to be worked out in conference. The Members have been very restrained in offering transitional amendments on the Senate floor. The distinguished managers have eloquently described the differences in the substantive provisions, effective dates, and transition rules between our bill and the House bill. The differences are great enough that the conferees should have sufficient flexibility to accommodate many of the concerns expressed by my colleagues.

However, we should not let these issues obscure the most important one. We have an opportunity to enact historic tax reform this year. Mr. President, I hope that the Senate will give this bill the resounding favorable vote it deserves.

Mr. President, I don't want to repeat what every other Member has said—we have had a number of outstanding statements throughout the course of this debate. We have had a very lucid explanation of specifics by the distinguished chairman, by the Senator from New Jersey [Mr. BRADLEY] and others. I believe there is enough credit to go around.

It is not a perfect bill; we do not want to oversell it. We could be back here next month, next year, or 2 years from now, maybe, making some changes.

There are still some loopholes. They are not all closed. Some were never touched.

But, this year we have this sort of master plan, the home run, the clean the bases, the Packwood plan. There are a number of Members of Congress on each side who deserve a great deal of credit. Obviously, Senator BRADLEY; Represenatative GEPHARDT; Representative JACK KEMP; Senator BOB KASTEN, Senator DENNIS DECONCINI had a real flat tax. We had a lot of hearings. Some Members on both sides in both Houses have talked about and yearned for tax reform for years. Now we are going to have an opportunity in 23 minutes to see it all unfold.

I guess the vote will be substantially in favor of tax reform. I am not certain of the exact number, but there are probably not more than two or three negative votes. That is testimony to the great work of the chairman [Mr. PACKWOOD] and the ranking member [Mr. LONG]—whom I commented on earlier this morning for his outstanding work over the years.

The Senators on this floor—yes, Senator METZENBAUM, whom I have nicknamed the commissioner, with his consent,—who is our sort of watchdog. Sometimes he does good work. [Laughter.]

And there are characters—I mean, a number of players—all over the place here. They have all had an input. I guess, as Senator BRADLEY said so well, this is the first hurdle, the first hurdle on the Senate side. The next step is the conference. Then the final stop will be the conference report. The real final stop will be when we are all at the White House, unless the President decides to come up here and sign the bill. He is welcome in the Senate. [Laughter.]

It would not be a bad spot for a little ceremony right out here. We would get it all fixed up.

In any event, there are obviously some things that some Members would like to see changed in the conference.

My statement outlines where we have been, where we are going, and where some of us think we might finally end up. I would like to see the individual rate cuts be effective January 1, 1987. It is pretty hard to explain why you start some things in January—that was the Bentsen amendment which was not brought to a vote—and have something else starting in July.

There is the so-called phantom rate which we have to deal with in conference, hopefully without raising the rates. I would like to see a more generous phaseout of passive losses—not that I am in bed with those who shelter their income, but it seems to me if you have made an honest investment,

we ought to be fairly sensitive to that, even though we are closing out tax shelters by the dozens from now on.

So it seems to me we have some work to do. But I believe overall, this is certainly a product that we can be proud of.

Somebody asked me earlier, "How do you feel about this?" I said, "Well, I am excited about it but there are other things coming along after."

I think the one person who must be exhilarated is Senator PACKWOOD. This bill was dead as a dodo bird 2 months ago. He brought it back to life. He made a bold move. He got the attention not only of the Finance Committee but of the American people. That is what makes things happen around here, when we get the attention of the American people. Reduce their rates, increase the personal exemption; then you are on the road to something real.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1981 ERTA

Measure: H.J. Res. 266 and H.R. 4242.
Dates considered: (1981) July 15-16-17-18-20-21-22-23-24-27-28-29-31.
Total days considered: 13.
Time consumed: 102 hr. 43 min.
Roll call votes: 50.
Amendments and motions considered: 119.
Disposition of amdts. and motions:
Agreed to: 81.
Rejected: 17.
Tabled: 8.
Withdrawn: 11.
Out of order:
Not Acted on: 2.
Temp. laid aside:
Pending:

1982

Measure: H.R. 4961 (TEFRA).
Dates considered: (1982): July 19-20-21-22.
Total days considered: 4.
Time consumed: 34 hr. 44 min.
Roll call votes: 29.
Amendments and motions considered: 69.
Disposition of amdts. and motions:
Agreed to: 49.
Rejected: 15.
Tabled:
Withdrawn: 3.
Out of order: 2.
Not Acted on:
Temp. laid aside:
Pending:

1984 DEFRA

Measure: H.R. 2163 (and H.R. 4170).
Date: Thursday, May 17, 1984.
Days considered: 20.
Time consumed (as of 6:41 p.m.) 111 hr. 13 min.
Roll call votes: 43.
Amendments and motions considered: 129.
(Disposition):
Agreed to: 86.
Rejected: 15.
Tabled: 14.
Withdrawn: 11.
Not disposed of: 1.
Not in order: 2.
Temp. laid aside:
Pending:
Tax 40-15.
App. 70-45.
Measure: H.R. 3838.
Dates considered: June 4-9-10-11-12-13-16-17-18-19-20-23-24.
Total days considered: 13.
Time consumed (as of 4:18 p.m. 106 hr.[1]
Roll call votes: 24.
Amendments and motions considered: 87.
Disposition of amdts. and motions:
Agreed to: 60.
Rejected: 3.
Tabled: 14.
Withdrawn: 8.
Out of order: 2.
Not Acted on:
Temp. laid aside:
Pending:

□ 1540

So I certainly thank all of our colleagues in the Senate on both sides, and the staff. Obviously, the staff is responsible for a lot of the good work; Secretary Baker, his staff, Dave Brockway, Randy Weiss and the rest of the joint committee staff, and all those who worked with us on a daily basis. And I want to thank Rich Belas, my chief counsel, who has helped me on this bill and who helped me with his tax expertise on the Finance Committee staff while I was chairman.

For the Record I would like to include floor action statistics in the 1981, 1982, 1984 legislation, as well as H.R. 3638.

Mr. DOLE. Finally, I would like to take a moment to discuss an issue which has just been brought to my attention.

Some concern has been expressed about the effective date of the limitation on corporate-owned life insurance which the Senate adopted last week to pay for the employee expense deduction for severely handicapped individuals. The concern is what we intended when we said that the provision was effective for contracts purchased after June 20, 1986.

As I understand the business, often insurance companies will offer competing bids to sell life insurance to a particular company on the life of an employee. The company then selects one bid and evidences this by sending the insurance company an application. The life insurance company treats this as an acceptance of its bid either unconditionally or in, some cases, conditioned further upon a determination that the person to be insured is an insurable risk.

There is some question as to whether, under the law in some States, the parties are legally bound to the contract at this point and if not, whether a contract has been purchased for purposes of this effective date.

It would seem to me that, when this type of process has gone to the point where the client company—or its employee—has, in fact, sent an application to indicate acceptance to the insurance company, after the company has selected from competing bids, the company has, in fact, purchased an insurance contract for purposes of this effective date and should not be affected by the rule we adopted last week. There may be additional circumstances not yet brought to our attention which also deserve to be grandfathered, but, in the meantime, I want to give as much assurance as I can so that business will not be disrupted.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Mr. LONG. Mr. President, it has been my privilege to serve on the Finance Committee for 34 years, and it has been my privilege to serve under some great chairmen—Walter George, Gene Millikin, BOB PACKWOOD. It was also my privilege to send to the members as they became members of the committee a résumé of the Senate Finance Committee, its background and history, and some of the names of members who served on that committee down through the years. Five of them have their portraits in the Senate reception room. A committee, headed by the late Senator John F. Kennedy, was appointed to recommend five outstanding Senators to have their portraits made, and it just so happens that all five of them were members of the Senate Finance Committee. Several members of our committee have gone on to be President of the United States.

Mr. President, if the chairman of the committee, Mr. PACKWOOD, continues serving the national interest the way he has, and providing the kind of leadership the way he did on this bill, he will eclipse all of us who have attempted to provide leadership on this committee, certainly including me, anyone under whom I have served, and anyone with whose record I am familiar as Members of this Senate at any time in history. I congratulate him on the tremendous achievement that this bill represents, and I hope for him that as long as he serves here—and I believe he will serve as long as he wants to serve—that he will continue to serve in just this tradition and have the same enormous success that he has achieved with this bill.

I also want to congratulate, on our side of the aisle, the Senator from New Jersey [Mr. BRADLEY], who first among us advocated the bill, its direction, and projected the philosophy that this bill expresses. He worked long and hard for it at a time when many of us thought that it just was not the way to go or that it did not make all that much sense.

I do feel that when one works so hard for something and is as dedicated to it, as he is, it deserves a try. I believe it certainly will get a try, and I wish him all success in advancing tax reform as he views it.

[1] Average of a little over 8 hrs. each day on the bill.

We may have to make some changes in the future. Only time will tell just how good this bill is. I believe, however, as I indicated earlier today, that this may very well be the best revenue bill that has been passed during the 38 years I have been privileged to serve in the Senate.

On our side of the aisle I want to congratulate and thank William J. Wilkins, minority chief counsel, for the tremendous contribution he has made in helping the minority and cooperating with the majority on this bill; Barbara Groves, our minority counsel; Mr. Randy Hardock, minority counsel; Mr. Jeff Gates, minority counsel, who specializes in work dealing with employee stock ownership; and I also want to thank Miss Karen Stall, my administrative assistant, for her contribution.

A measure as sweeping as this, which does as much good as this measure does, provides opportunity for a great number of people to share in the credit for its enactment, and I am proud to have participated in it. I thank all of those who have joined with me.

I hope the Senate will pass this measure by a very large majority. I also hope that those of us who serve on the conference will give our chairman the kind of support we gave him in the committee when we voted to report this bill by a margin of 20 to 0.

Finally, Mr. President, let me say it is a pleasure to have worked on this bill with the majority leader, Mr. DOLE. He has been a great chairman of the committee. Like me, his achievements are in prospect of being eclipsed by the new chairman, but he has provided fantastic leadership to this Senate during his service as minority leader, and I wish him continued success in the future.

Mr. DOLE. Majority.

Mr. LONG. I did not want to wish that on him. Majority leader. I certainly wish him all success in the future, in this and in any higher office.

Mr. DOLE. I thank the Senator very much.

Mr. LONG. And the same goes for his wife Elizabeth. If the people in this Nation should see fit to elect a Republican President and place a First Lady in the White House on the other side of the aisle, I do not think they could do much better—in fact, I doubt that they could do better—than our majority leader and his outstanding wife.

Mr. PRYOR. Mr. President, will the distinguished Senator from Louisiana yield? Does he have time remaining on his 10 minutes?

Mr. LONG. I yield to the Senator from Arkansas.

Mr. PRYOR. Mr. President, I thank the distinguished Senator for yielding.

Mr. President, I am the newest member of the Finance Committee and this has been, I must say, quite an experience for me. I compliment Senator LONG and Senator PACKWOOD. Both of these Senators have spent many, many hours on this bill.

I, too, thought like the majority leader a moment ago when he stated that this bill was dead a few months ago. I felt that way until May 5, around 5:15 a.m., when my telephone started ringing. I thought "Evidently someone has the wrong number." I said, "I'm not going to answer that phone." And after about the 40th ring, Mr. President, I finally stumbled down in the den and picked up the phone, and I said, "Hello." And it was Senator LONG. Senator LONG says, "Hey man, you weren't asleep, were you?" I said, "No, I was standing here waiting for you to call me." [Laughter.] He said, "Well, I just wanted to tell you, DAVID, Senator PACKWOOD has a bill that is a good bill, it is a fair bill, and we ought to work with him to get it passed."

I knew then that something was about to happen, and it did happen. I have never seen a greater bipartisan effort, Mr. President, than I have seen exemplified in the Senate Finance Committee. Today that bipartisanship working with Democrats and Republicans, liberals and conservatives, has made this moment possible. It is an exciting moment. I want to thank the staff and all of the members of the committee. And, once again my appreciation to Senator PACKWOOD and Senator LONG for their untiring efforts.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes remaining.

Mr. BENTSEN. Will the Senator from Louisiana yield 1 minute to me?

Mr. LONG. I yield 1 minute to the Senator from Texas.

Mr. BENTSEN. Mr. President, there are few men who have served in the Senate for as long as my friend from Louisiana. I think in the annals of the Senate he is No. 3, and for 14 of those years the Finance Committee was chaired by the distinguished Senator from Louisiana. In many ways he exemplifies some of the things his legendary father did. He always spoke of his father as being a revolutionary and he was an evolutionary. But he is exemplified in the ESOP provisions, in what he has tried to do in providing greater opportunity for more people and in trying to raise the standard of living of all of our people. I would say, "Governor LONG," I do not know what it is that is in store for you, but whatever it is—Governor LONG, I mean Senator LONG—I wish you well. [Laughter.]

Mr. LONG. I yield to the Senator from Montana.

The PRESIDING OFFICER. The Senator has 1 minute remaining and yields to the Senator from Montana.

Mr. BAUCUS. Mr. President, the Senator from Arkansas [Mr. PRYOR] explained, as the most junior member on the Democratic side of the committee, what an exhilarating experience the drafting of this bill has been. He just recounted the call to his house at 5:15 in the morn.ng, when the phone rang and he was waiting in the den for the call from the Senator from Louisiana.

I am not the most junior Democrat on the Committee. I am about midlevel in seniority, so at about 5:30 in the morning I also received a telephone call from the Senator from Louisiana giving me the very same message he gave to the Senator from Arkansas.

That was just one more example of Senator LONG's diligence. I can say that without exception in the years I have served with the Senator from Louisiana, I have not met a Senator whom I respect more and whom I will miss more after this year passes.

□ 1550

The Senator from Louisiana has shown us not only the complexity of tax policy decisions but also the lighter side of life. He does not take himself too seriously. Too many of us in this body do take ourselves too seriously. The Senator from Louisiana also has a vision. He sees the value of finding new ways to make America more competitive. He sees the future much more clearly than most of us.

I see that my time is expiring, so I'll wind up by saying, "RUSSELL, we will miss you very much."

The PRESIDING OFFICER. The Senator from Oregon is recognized for 10 minutes.

Mr. PACKWOOD. Mr. President, I think it is obvious to everyone now that in 10 minutes we are going to have a vote, and that vote is going to be a victory for America and a moment of pride for the Senate—satisfaction for the Finance Committee, which worked hard on this for so long, but mostly a victory for America. For any victory, there are many parents. It is only defeat that is an orphan.

I do not know where to start to hand out medals to the heroes of this bill.

DANNY ROSTENKOWSKI: The chairman of the Ways and Means had tough sledding. He had to do it first. He had to produce something, and he produced a bill that some people liked and some people did not like. Nevertheless, it was a start. I do not necessarily envy the role of one who has to go first, plow the territory and make some tough decisions that we do not have to make.

President REAGAN: The bill would never have passed the House at all without the President's letter to the

House Members saying, in essence: "Folks, I don't like the bill very much. If it comes to me this way, I will veto it. But please send it on to the Senate to see what can be done."

RUSSELL LONG: To me, he will always be the ultimate "Mr. Chairman," a man who has every right to look over BOB DOLE's shoulder, to look over my shoulder, but in the end did not. When I became chairman, he took me aside for about 45 minutes, gave me some advice, and said, "BOB, from now on you're chairman." And he has stuck with me every moment of the way.

BILL BRADLEY: The Godfather.

[Laughter.]

BOB DOLE: In a tough vote he is always there. When the vote comes out 20 to 0, you think it is a piece of cake. But when we had the bill ready for markup, we had the first tough vote to restore a deduction—IRA's or sales tax or something similar. As you vote in the Finance Committee, you go to the right of the chairman, where BOB sits and votes first. On that first tough vote, he voted "no." He made a comment first: "No." The vote was 9 to 9. On a tie vote, the motion to restore this loophole failed. But for BOB DOLE, it would have passed.

HOWARD METZENBAUM: We all kid him a lot. But were it not for HOWARD on this floor saying "No" on occasion, things could be worse. (Laughter.) Indeed, he was most helpful to me on this floor as we would look over the list of potential amendments, 65 to 70 of them, and decide between us how to divide up the objections.

Nobody likes to be the hair shirt forever. It is difficult to object to the amendments of close friends who want some small provision for the folks back home that "never costs any money." Sometimes they do cost, however, and you just have to say "No."

Bill Diefenderfer: My chief of staff, who is sitting at my left, who, at the bleakest moment, said, "We can do it." That bleakest moment was on the first bill that I drafted at the request of the Members, after meeting with them for 70 hours, after 36 days of hearings. I tried to put into the bill something that would satisfy everybody and ended up satisfying nobody.

In vote after vote after vote, we put back in $5 billion, $10 billion, $15 billion of loopholes, until finally it got so absolutely outrageous that Members no longer had any reason to restrain themselves. What difference did it make if the bill is $300 or $400 billion off revenue neutrality?

At that stage, I exercised the prerogative of the chairman to pull the bill down. I went to lunch with Bill Diefenderfer. We looked at each other and said, "Why not? Let's give real reform a try."

On a Thursday, I started with a bill that had a 27-percent rate. Immediately, six Senators came up to me—Senators DANFORTH, CHAFEE, WALLOP, MOYNIHAN, BRADLEY, and MITCHELL—and said they wanted to be a part of the effort. They wanted to work on it. I thought to myself, if we have 7, counting me, out of 20, we have a shot at it.

From that day onward, on occasion joined by Senator BENTSEN, we would meet every morning at 8:30 in my office, and plan our strategy for the committee meeting at 10 o'clock.

We met Friday, then Monday, Tuesday, Wednesday, Thursday, and Friday of the next week. Then, on the weekend, on a wonderful, warm day, when we should have been golfing or gardening, the seven of us met all day with our staffs, and hammered out the final arrangements, which the following Tuesday led to a 20 to 0 vote.

I am not here going to recap what is in the bill. You all know what is there. All I can say is "Thanks" to every one of you, because this country is in your debt.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. DOLE. Mr. President, I hope we might observe the regular order during this vote and vote from our desks, and I hope the Chair will enforce it.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

The committee substitute was agreed to.

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, "Shall it pass?" On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. EVANS). The majority leader has requested that on this vote all Senators vote from their seats.

The clerk will continue.

The assistant legislative clerk resumed the call of the roll.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. Will Senators please take their seats so the reading clerk may identify those wishing to vote?

The majority leader has requested that on this vote all Members vote from their seats.

The assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. Will Senators please take their seats so the clerk can identify the Senators? The majority leader has requested that all Senators vote from their seats on this vote.

Will the Senate please be in order so that Members will have an opportunity to vote? The majority leader has requested that on this vote all Members vote from their seats.

The assistant legislative clerk resumed and completed the call of the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 3, as follows:

[Rollcall Vote No. 148 Leg.]

YEAS—97

Abdnor	Glenn	Metzenbaum
Andrews	Goldwater	Mitchell
Armstrong	Gore	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Gramm	Nickles
Biden	Grassley	Nunn
Bingaman	Harkin	Packwood
Boren	Hart	Pell
Boschwitz	Hatch	Pressler
Bradley	Hatfield	Proxmire
Bumpers	Hawkins	Pryor
Burdick	Hecht	Quayle
Byrd	Heflin	Riegle
Chafee	Heinz	Rockefeller
Chiles	Helms	Roth
Cochran	Hollings	Rudman
Cohen	Humphrey	Sarbanes
Cranston	Inouye	Sasser
D'Amato	Johnston	Simpson
Danforth	Kassebaum	Specter
DeConcini	Kasten	Stafford
Denton	Kennedy	Stennis
Dixon	Kerry	Stevens
Dodd	Lautenberg	Symms
Dole	Laxalt	Thurmond
Domenici	Leahy	Trible
Durenberger	Long	Wallop
Eagleton	Lugar	Warner
East	Mathias	Weicker
Evans	Matsunaga	Wilson
Exon	Mattingly	Zorinsky
Ford	McClure	
Garn	McConnell	

NAYS—3

Levin	Melcher	Simon

So the bill, H.R. 3838, as amended, was passed.

□ 1610

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, before we get away from the tax bill we just passed, I would like to say thank you and recognize a few people.

Mr. STENNIS. Mr. President, may we have order so we can hear?

The PRESIDING OFFICER. The Senator from Mississippi is correct. Will the Senators please clear the aisle, retire to your seats, or go to the cloakrooms? Will members of the staffs please cease conversations as long as they are in the Chamber?

We will not proceed until the Senate is in order.

The Senator from New Jersey.

Mr. BRADLEY. Mr. President, let me say a special thanks to Senator PACKWOOD who demonstrated in this bill not only leadership but I think he demonstrated real generosity, patience, and strength. It is easy for us to talk about being generous to each other. It is not so easy to be generous to each other.

Senator PACKWOOD, throughout this, was incredibly generous to me and for that I am deeply in his debt. I express appreciation.

I would also like to thank Senator LONG, whose wisdom and counsel was indispensible.

I think there are non-Senators, however, who also deserve a word of praise and commendation.

The joint committee staff, Dave Brockway, Randy Weiss, Ben Hartley, and the others, were professionals throughout this. In very difficult moments they maintained their professional integrity and kept us on the right substantive course.

I also want to thank Bill Wilkins and the entire minority staff of the Finance Committee; Bill Diefenderfer and the entire majority staff on the Finance Committee.

I would like to thank Olivia Fondieu of the Fair Tax Foundation for her creativity and tireless efforts on behalf of tax reform.

I would like to thank Joe Menrick of the Urban Institute who has played a central role in efforts for tax reform since 1981, who shared his ideas, his expertise and his time with unstinting generosity.

I would also like to thank two members of my own personal staff.

I would like to thank Marcia Aronoff, my chief of staff, who shaped much of what brought us to this vote, who has done so with enormous work effort and real personal modesty.

□ 1630

Finally, I thank Gina Despres, my legislative counsel, whose intelligence guided the development of this bill as well as the original Bradley-Gephardt, and who has lived with this project for 5 years and done so with intensity and commitment.

It is only because of all of them, as well as the Senators who voted, that today, we passed this historic piece of legislation.

Mr. METZENBAUM. Two members of my staff have spent so much of their time and given so much of themselves in connection with this tax bill that I would be remiss if I did not publicly acknowledge that any effort I made with regard to the tax bill is really to their credit.

David Starr has been working morning, noon, night, weekends, whenever. He has probably studied the tax bill as much as any Member of this body, including those who are active on the Tax Committee and the Finance Committee staff. I know of no individual who has devoted himself more assiduously, more energetically, more enthusiastically to finding what every amendment meant, what every provision in the bill meant, even though it required some very dull reading of a very heavy and lengthy piece of legislation.

Doug Lowenstein, who is my legislative counsel, has equally given of himself to see to it that we put all of the parts together, working to make it a coordinated whole, to see to it that what David discovered and worked out and determined was a problem in the tax bill became a joint effort on our part, on the part of my entire staff.

I am very grateful to the two of them. Without them, I could not have made any effort whatsoever in connection with this legislative effort.

Dave has been with me a long time. So has Doug. Dave has been involved with the tax aspects of legislation over a period of many years, and I do not think there is anybody, any single individual around this body who is staff, who can exceed him in his diligence or concern.

I am very grateful to the two of them.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, would it be in order for me to ask unanimous consent with regard to any statement that might be given by a Senator, that the record be held open until the close of business today so it may be incorporated with or preceding the passage of H.R. 3838?

The PRESIDING OFFICER. Does the Senator make that as a unanimous-consent request?

Mr. FORD. I make that as a unanimous-consent request, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, we have just passed a bill that achieves goals this Senator has shared and worked for throughout his political career. It comes as close as we are ever likely to come to starting fresh on our national financing philosophy. It has been overdue for most of our adult lives.

Twelve years ago, as I traveled my State asking Coloradans for their votes for the first time, I talked about tax reform. I said we needed to rely less on high rates and rely more on a broad tax base. My platform included the elimination of tax shelters and writeoffs. It included the equal treatment of equal incomes. It called for an end to preferential treatment for capital gains, with a corresponding cut in the top tax rate.

It called for an end to shelters for those who invest not to produce, but to harvest a bumper crop at tax time. And it included a minimum tax on corporations and wealthy individuals.

Tax reform was part of my platform when I sought reelection in 1980, and in the Presidential primaries of 1984. When the Bradley-Gephardt tax proposal was introduced in 1982, this Senator was pleased to be among its cosponsors.

But through these dozen years, the tax system did not improve. It got worse. Public confidence in the income tax declined. Once the tax that people found fairest, it became the tax people found least fair. The tax shelter phenomenon grew more swollen and malignant.

So it is a special opportunity for this Senator, as he completes his final session in Congress, to particiate in this historic vote. Because it is the best opportunity any of us has ever had—or will ever have—to fulfill a commitment to tax reform.

For the past 3 weeks, much of the floor debate has been devoted to the bill's details, to its effects on specific sectors of the economy, specific industries, and specific groups of taxpayers. And that is as it should be.

This Senator has criticisms of the bill as anyone else would have. No undertaking of such magnitude and difficulty is susceptible of perfection. No such plan could be enacted without transitional dislocations. But now that we have studied the trees at length, let us step back for a moment and admire the forest.

This is not only the most significant tax bill but the most effective tax reform in more than a generation. It blends reform philosophy and practical politics better than virtually anyone thought possible. The committee found a way to match substance with a quality the Pentagon calls survivability.

The bill has survived on a foundation built of highly disparate political interests. And the mortar in this construction is the simple philosophy of lower rates on a broader base.

This bill demonstrates that we have learned a lesson in the past 50 years. We have learned that a progressive tax structure on paper does not guarantee a progressive tax system in fact. The reality is that as tax rates rise, so does the pressure for exclusions, exemptions and deductions.

The rich wind up paying effective rates far below the nominal rates and, in many cases, below the rates paid by

middle-income Americans. The reason for this inequity is both simple and perverse. As the base that must support the rate structure shrinks, it forces high rates still higher—not just at the top, but all the way down the scale.

For two generations, this dynamic has overwhelmed our best intentions. Tax expenditures are now larger than any category of spending in the Federal budget. Worse yet, the drive for tax avoidance distorts the workings of our national economy.

Worst of all, it forces the low-and middle-income taxpayer to pay ever higher rates of tax while at the same time denying them most of the tax break benefits. The big rewards remain reserved for the rich. So whenever we reach for higher rates, we risk beginning a new game of "narrow-the-base." And the low-and middle-income taxpayer winds up with the double whammy.

At a critical stage of the debate on this bill, we confronted this dynamic once again.

A well-crafted amendment was offered to raise the top rate and give the rest of America a better tax cut. But when the sponsors raised that top rate, they found it necessary to restore the differential for capital gains. And by so doing, they sacrificed one of the prime achievements of the bill. They sacrificed the principle of equal treatment for equal income. They started us back down the old path.

In rejecting this amendment, the Senate did not vote to deny middle-income taxpayers a few hundred dollars in their tax cuts. Rather, it voted to preserve every taxpayer's right to low rates and a broad base.

But in a larger sense, this amendment was no different from any other offered in the weeks of floor debate. Because votes against these amendments have generally not represented judgments on the merits of each amendment. Rather, they have affirmed the bill's fundamental value and recognized its vulnerability.

The Senate's resolve has been carefully tested. We have seen amendments cast in the most tempting of forms.

The amendment on individual retirement accounts, for example, was cast as a vote for or against retirement savings. The Finance Committee proposal actually involved the timing of taxation on payments made to IRA's. It did not threaten the tax deferral on interest accumulating in these accounts, which is their greatest value.

Similarly, the committee's effort to preserve the great preponderance of value in the state-and-local tax deduction was cast as an assault on State prerogatives. Though the Finance Committee bill left the glass nearly full, it was portrayed as nearly empty.

Again and again, we were tempted to add a benefit or delete a discomfort. To resist was to pay a political price. And yet the countervailing consideration in every case was the delicate compromise that brought this bill out of committee and onto the Senate floor. And so the strategy of survival was to defend the package as a package. This Senator subscribed to this strategy wholeheartedly, Mr. President, and voted against every effort to alter the bill—regardless of each one's individual allure.

Moreover, this Senator opposed the resolutions that told conferees to work sweet miracles in conference—but neglected to provide a fiscal wand.

This Senator followed this strategy believing that this historic bill could still die the death of a thousand cuts. And had we let that happen, we would have lost the best opportunity for fundamental tax reform in this era.

We would have let the trend toward corporate tax relief continue, while payroll taxes continued to rise. We would have allowed the skillful few to continue to escape their fair share.

We would have sentenced more than 6 million working poor to the prison of work without opportunity. We would have locked in place the loopholes this legislation promises to eliminate. We would have preserved the myth of paper progressivity—the tax lawyers' pasture of plenty.

We would have settled for a future in which investments are misguided by taxes and the outstretched palm of the Government is the unseen hand of economics.

But the Senate has passed this test, Mr. President, and for that we should all be grateful. Our immediate thanks are owed to the distinguished chairman and ranking member of the Finance Committee.

Our enduring thanks are due as well to the Senator from New Jersey [Mr. BRADLEY] whose long campaign for true tax reform has proved that the holy grail need not always be a hopeless quest.

And our thanks are owed to all those Americans who have spoken out for a better Tax Code, Americans who refused the cynical advice that Congress would listen only to the well-placed few.

This is a fine day for all of us, Mr. President. It is a great pleasure and satisfaction to fulfill this commitment and to join in this vote for America's future.

I join in commending the distinguished chairman of the committee [Mr. PACKWOOD], the distinguished minority member [Mr. LONG] and most of all, our good colleague, the Senator from New Jersey [Mr. BRADLEY], who has worked on this issue for so long and so diligently and been so responsible for bringing this vote to us today.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I shall be very brief. I must say that in the 14 years I have been on the floor of the U.S. Senate, there have been few things that have surprised me greatly. One has been that Senator PACKWOOD, apparently out of his kit bag, overnight, pulled the bill that others had been working on in the form that Senator BRADLEY and others had been proposing for some time—out of, it seemed, thin air. I compliment him for that. He is a great legislator.

I also would like to compliment and, quite frankly, reserve the bulk of my praise for my colleague from New Jersey. I think all who have followed him and watched him play basketball now understand why he was as great a basketball player and a hall of famer and the basketball legend that he is. He plays politics just as he played basketball—diligently, relentlessly, tirelessly.

If you look at the pure stats, you say BRADLEY should not have been a hall of famer. If you look at it purely based upon size and speed and other qualifications, you say BRADLEY is a good athlete, but he is not a hall of famer. But every time BRADLEY walked out on the court, he was a hall of famer.

He walked into this Chamber and he did exactly what he did when he played basketball. He put that piece of tape down on the floor, stayed there after the gym was closed, with the janitor angry because he wanted to turn the lights out and go home, and he took an extra hundred shots from that spot. He took that extra hundred shots from that spot looking at the basket and he took the extra hundred shots looking at the piece of tape and not looking at the basket.

He came out here on the floor of the U.S. Senate and kept doing it until he got it right.

I say to my colleagues on both sides of the aisle, we have all benefited greatly from BILL BRADLEY'S deciding to take those great intellectual skills of his, which are hall of fame material, and bring about this most significant piece of legislation that has occurred since we passed a constitutional amendment saying there could be a Federal income tax.

I compliment my colleague from the State of New Jersey and I hope he keeps playing politics.

Mr. President, this tax reform bill, if passed, can shape the economic, social and political fabric of America for the remainder of this century.

Millions of Americans today are disillusioned by the inequities of the Tax Code, which too often favors relatively few taxpayers. Many economic analysts also believes that the current tax law, with its shelters and loopholes,

discourages sound investment and alters economic decisionmaking.

I agree with them, and that is why I am going to vote for final passage of this tax reform legislation. On balance, the bill is a good one. It will allay many of our concerns about today's tax laws, and will also provide a firm base on which the economy can prosper.

Americans want a Tax Code that broadens the base and lowers the rates, leaving more discretion in decisonmaking to the individual. They want a more equitable Tax Code that prevents tax avoidance schemes. They want assurances that every American is paying a fair share of the cost of government. They want to reduce government efforts to manage the economy through the Tax Code.

H.R. 3838 meets most tests of good tax reform.

It broadens the base on which the income tax is levied. It does that by eliminating many provisions in current law that skew investment decisions and provide tax shelter opportunities.

It removes 6 million low-income Americans from the tax roles.

It reduces the basic tax rates to encourage savings and investment.

It includes minimum tax provisions to assure that individuals and corporations can no longer avoid paying taxes.

The bill, of course, is not perfect. In particular, I am concerned that the rate structure may not be sufficiently progressive. That is why I supported the Mitchell amendment to reduce tax liabilities of middle- and low-income taxpayers. I hope that changes along these lines can be made in conference with the House of Representatives.

Yet, on the whole, the bill is a major tax reform accomplishment.

I have been a strong advocate of tax reform since I came to the Senate in 1973. Since that time, I have participated in many such efforts. Unfortunately, none of them achieved the high degree of reform in this bill.

Our tax system has now reached the point where many Americans have given up on it as a fair and effective means of financing government. More and more Americans, turned off by the unfairness of the law, have failed to report their full income. Unreported income has ballooned. As a result, we may be losing $100 billion in tax revenues today.

As it exists today, the income tax denies reasonable tax rates to low- and middle-income taxpayers, in order to preserve tax breaks and low tax liabilities for the few. In 1983, 29,800 individuals or couples, earning $250,000 or more, paid less than 5 percent of that amount in taxes. More than 3,000 of these have incomes of over $1 million.

Of equal concern is the fact that our tax system does not even result in equal tax liabilities for taxpayers with comparable income. Adding insult to injury is the fact that the tax law is deliberately written to achieve such a result. Some taxpayers can shelter income and reduce their taxes in perfectly legal ways, creating gross inequities in taxation.

The condition of our Tax Code also affects the ability of our economy to function efficiently. As it is written today, the Tax Code encourages individuals and businesses to be more concerned about tax advantage than market advantage. This has dulled the American competitive edge, at home and abroad. Hidden tax benefits received by some enterprises, but not others, have skewed economic decision making. These tax benefits constitute an unrecognized industrial policy which has not worked very well.

That is not surprising when we have a Tax Code that encourages investments to be made largely on tax considerations, rather than on the economics of investing in enterprises that create jobs and make the economy grow.

These facts are important at a time when we have just had a $150 billion trade deficit. They are important when unemployment has been stuck at around 7 percent for well over 1 year. They are important at a time when there is much speculation about the validity of forecasts showing continued economic growth.

We are on the way to adoption of good tax reform legislation. The concepts in this bill can restore Americans' faith in the fairness of the tax system. It can free our economy from the burden of tax planning and avoidance. It is the kind of legislation I had hoped we could pass when I first came to the Senate. Over the years, I came to wonder whether tax reform was really possible. I now believe that it is within our grasp.

PRESIDENT'S SPEECH ON CONTRA AID

Mr. DOLE. Mr. President, this afternoon President Reagan spoke to the Nation, urging support for effective aid to the freedom fighters in Nicaragua, the so-called Contras.

As we all know, the President originally had asked to speak directly to the House, because he believes this issue is so important to our national security. Regrettably, it was impossible to make that arrangement. Nonetheless, I hope that the Members of the House, who will vote on Contra aid within the next 24 hours, and all of us here in the Senate, who will be back on this matter after recess, will ponder seriously the President's words.

The President laid it on the line. Nicaragua is going straight down the same path that Cuba did. It is being turned into a Soviet military base, the first one on the mainland of the Americas. It is becoming—it will become—a direct and serious threat to our national security. Maybe not today, maybe not next week or month. But someday.

Unless we do something about it.

We've been debating this issue for months, while the noose tightened on the democratic forces inside Nicaragua; while new Russian and Cuban arms and advisers arrived; and while the Sandinistas stepped up their attacks on Honduras and the other democratic nations of Central America. And I guess we'll keep on debating it some more.

But we're getting close to the bottom line. And that bottom line is the question the President posed to those who doubt the threat from Nicaragua is real, those who think the President is just crying "wolf:" "What are the consequences for our country," the President asked, "if you are wrong?"

I hope the Members of the House will think about that as they vote. I hope all of us here will, too.

Mr. President, I ask that the full text of the President's speech be included in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

TEXT OF REMARKS BY THE PRESIDENT IN AN ADDRESS TO THE NATION

My fellow citizens. The matter that brings me before you today is a grave one and concerns my most solemn duty as President. It is the cause of freedom in Central America and the national security of the United States. Tomorrow the House of Representatives will debate and vote on this issue. I had hoped to speak directly and at this very hour to Members of the House of Representatives on this subject, but was unable to do so. Because I feel so strongly about what I have to say, I have asked for this time to share with you—and Members of the House—the message I would have otherwise given.

Nearly forty years ago a Democratic President, Harry Truman, went before the Congress to warn of another danger to democracy, a civil war in a faraway country in which many Americans could perceive no national security interest. Some of you can remember the world then: Europe lay devastated.

One by one, the nations of Eastern Europe had fallen into Stalin's grip. The democratic government of Czechoslovakia would soon be overthrown. Turkey was threatened, and in Greece, the home of democracy, communist guerrillas, backed by the Soviet Union, battled democratic forces to decide the Nation's fate.

Most Americans did not perceive this distant danger. So the opinion polls reflected little of the concern that brought Harry Truman to the well of the House that day. But go he did. And it is worth a moment to reflect on what he said.

In a hushed chamber, Mr. Truman said that we had come to a time in history when every nation would have to choose between two opposing ways of life. One way was based on the will of the majority—on free institutions and human rights.

"The second way of life," he said, "is based upon the will of a minority forcibly

imposed upon the majority. It relies upon terror and oppression, a controlled press and radio, fixed elections and the suppression of personal freedoms."

"I believe," President Truman said, "that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."

When Harry Truman spoke, Congress was controlled by the Republican Party. But that Congress put America's interest first, and supported Truman's request for military aid to Greece and Turkey—just as 4 years ago Congress put America's interest first by supporting my request for military aid to defend democracy in El Salvador.

I speak today in that same spirit of bipartisanship. My fellow Americans—and Members of the House—I need your help.

I ask first for your help in remembering—remembering our history in Central America so we can learn from the mistakes of the past.

Too often in the past, the United States failed to identify with the aspirations of the people of Central America for freedom and a better life. Too often our government appeared indifferent when democratic values were at risk. So, we took the path of least resistance—and did nothing.

Today, however, with American support, the tide is turning in Central America. In El Salvador, Honduras, Costa Rica—and now in Guatemala—freely-elected governments offer their people the chance for a better future—a future the United States must support.

But there is one tragic, glaring exception to that democratic tide—the Communist Sandinista government in Nicaragua. It is tragic because the United States extended a generous hand of friendship to the new revolutionary government when it came to power in 1979.

Congress voted $75 million in economic aid. The United States helped re-negotiate Nicaragua's foreign debt. America offered teachers, doctors, and Peace Corps volunteers to help rebuild the country. But the Sandinistas had a different agenda.

From the very first day, a small clique of Communists worked steadily to consolidate power and squeeze out their democratic allies.

The democratic trade unionists—who had fought Somoza's National Guard in the streets—were now told by the Sandinistas that the right to strike was illegal and that their "revolutionary" duty was to produce more for the state.

The newspaper—La Prensa—whose courage and determination had inspired so much of the Nicaraguan revolution—found its pages censored and suppressed. Violeta Chamorro—widow of the assassinated editor—soon quit the revolutionary government to take up the struggle for democracy again—in the pages of her newspaper.

The leader of the Catholic Church in Nicaragua, Archbishop—now Cardinal—Obando y Bravo, who had negotiated the release of the Sandinista leaders from prison during the revolution, was now vilified as a traitor by the very men he helped to free.

Soviet arms and bloc personnel began arriving in Nicaragua. With Cuban, East German, and Bulgarian advisers at their side, the Sandinistas began to build the largest standing army in Central American history and to erect all the odious apparatus of the modern police state.

Under the Somoza dictatorship, a single facility held all political prisoners. Today there are eleven. Eleven prisons in place of one.

The Sandinistas claim to defend Nicaraguan independence. But you and I know the truth. The proud people of Nicaragua did not rise up against Somoza—and struggle, fight, and die—to have Cubans, Russians, Bulgarians, East Germans, and North Koreans running their prisons, organizing their army, censoring their newspapers, and suppressing their religious faith. One Nicaraguan nationalist, who fought in the revolution, says: "We are an occupied country today."

I could go on, but I know that even the Administration's harshest critics in Congress hold no brief for Sandinista repression. Indeed, the final verdict has already been written by Cardinal Obando himself in the Washington Post. Listen carefully to the Cardinal's words.

He says: The idea that the Sandinista regime "is a democratic government, legitimately constituted, which . . . seeks the welfare and peace of the people and enjoys the support of the overwhelming majority is not true."

To accept this as true, the Cardinal says, "is to ignore the mass exodus of the Miskito Indians . . . the departure of tens of thousands of Nicaraguan men and women of every age, profession, economic status and political persuasion . . . it is to ignore . . . the most terrible violation of freedom of the press and of speech in the history of our country . . . the expulsion of priests and the mass exodus of young people eligible for military service." As for the Catholic Church in Nicaragua, we have been "gagged and bound," the Cardinal says.

Many brave Nicaraguans have stayed in their country despite mounting repression—defying the security police, defying the Sandinista mobs that attack and deface their homes. Thousands—peasants, Indians, devout Christians, draftees from the Sandinista army—have concluded that they must take up arms again to fight for the freedom they thought they had won in 1979.

The young men and women of the democratic resistance fight inside Nicaragua today in grueling mountain and jungle warfare. They confront a Soviet-equipped army, trained and led by Cuban officers. They face murderous helicopter gunships without any means of defense. And still they volunteer. And still their numbers grow.

Who among us would tell these brave young men and women—your dream is dead; your democratic revolution is over; you will never live in the free Nicaragua you fought so hard to build?

The Sandinistas call these freedom fighters contras—for counter-revolutionaries. But the real counter-revolutionaries are the Sandinista commandantes, who betrayed the hopes of the Nicaraguan Revolution, and sold out their country to the Soviet Empire.

The commandantes even betrayed the memory of the Nicaraguan rebel leader Sandino, whose legacy they falsely claim. For the real Sandino—because he was a genuine nationalist—was opposed to communism. In fact, Sandino broke with the Salvadoran communist leader, Farbundo Marti, over this very issue.

The true Nicaraguan nationalists are the leaders of the United Nicaraguan Opposition: Arturo Cruz—jailed by Somoza, a former member of the Sandinista government; Adolfo Calero—who helped organize a strike of businessmen to bring Somoza down; and Alfonso Robelo—a social democrat, and once a leader of the revolutionary government.

These good men refused to make any accommodation with the Somoza dictatorship. Who among us can doubt their commitment to bring democracy to Nicaragua?

So, the Nicaraguan people have chosen to fight for their freedom. Now we Americans must also choose.

For you and I and every American has a stake in this struggle. Central America is vital to our own national security—and the Soviet Union knows it. The Soviets take the long view but their strategy is clear—to dominate the strategic sea lanes and vital chokepoints around the world.

Half of America's imports and exports, including oil, travels through the area today. In a crisis, over half of NATO's supplies would pass through this region. And Nicaragua, just 277 miles from the Panama Canal, offers the Soviet Union ports in both the Atlantic and Pacific Oceans.

The Soviet Union already uses Cuba as an air and submarine base in the Caribbean. It hopes to turn Nicaragua into the first Soviet base on the mainland of North America.

If you doubt it, ask yourself: Why have the last four Soviet leaders—with a mounting economic crisis at home—already invested over a billion dollars and dispatched thousands of Soviet bloc advisers into a tiny country in Central America?

I know that no one in Congress wants to see Nicaragua become a Soviet military base. My friends, I must tell you in all seriousness: Nicaragua is becoming a Soviet base every day that we debate and debate and debate—and do nothing.

In the 3 months since I last asked the House to aid the democratic resistance, four military cargo ships have arrived at Nicaraguan ports, this time directly from the Soviet Union. Recently we have learned that Russian pilots are flying a Soviet A.N.-thirty reconnaissance plane for the Sandinistas.

The Sandinistas claim this is just for making civilian maps. Our intelligence services believe this could be the first time Soviet personnel have taken a direct role in support of military operations on the mainland of North America.

Think again how Cuba became a Soviet air and naval base. You will see what Nicaragua will look like if we continue to do nothing. Cuba became a Soviet base gradually over many years. There was no single dramatic event—once the missile crisis passed—that captured the nation's attention. And so it will be with Nicaragua.

The Sandinistas will widen and deepen another port while we debate: is it for commercial vessels or Soviet submarines? The Sandinistas will complete another air strip while we argue: is it for 707's or Backfire Bombers? A Soviet training brigade will come to Nicaragua. Half will leave and half will stay. And we will debate: are they soldiers or engineers?

Eventually, we Americans will have to stop arguing among ourselves. We will have to confront the reality of a Soviet military beachhead inside our defense perimeters—about 500 miles from Mexico. A future President and Congress will then face nothing but bad choices, followed by worse choices.

My friends in the House, for over 200 years the security of the United States has depended on the safety of unthreatened borders, north and south. Do we want to be

the first elected leaders in U.S. history to put our borders at risk?

Some of you may say: this is fear-mongering. Such a danger to our security will never come to pass. Perhaps it won't. But in making your decision on my request for aid tomorrow, consider this: what are the consequences for our country if you are wrong?

I know some Members of Congress who share my concern about Nicaragua have honest questions about my request for aid to the democratic resistance. Let me try to address them. Do the freedom fighters have the support of the Nicaraguan people? I urge Members of the House to ask their colleague, the Chairman of the House Armed Services Committee, who recently visited a town in Nicaragua that was a Sandinista stronghold during the revolution. He heard peasants, trade unionists, farmers, workers, students, and shop keepers all call on the United States to aid the armed resistance.

Or listen to the report from Time Magazine of Central American scholar, Robert Leiken, who once had hopes for the Sandinista revolution. He says: "I have gone to a number of towns in Nicaragua where I have found that the youth are simply not there. I ask their parents where they've gone, and they say, they've gone off to join the contras." In Managua, Leiken reports, 250 Nicaraguans stood on a breadline for 3 hours. "Who is responsible?" he asked. "The Sandinistas are responsible," the people said. "The Sandinistas," Leiken concluded, "have not only lost support, I think they are detested by the population."

Can the democratic forces win? Consider: There are 20 times as many Nicaraguans fighting the Sandinista dictatorship today as there were Sandinista fighters a year before Somoza fell. This is the largest peasant army raised in Latin America in more than 50 years. And thousands more are waiting to volunteer, if American support comes through.

Some Members of Congress—and I know some of you—fear that military aid to the democratic resistance will be only the first step down the slippery slope toward another Vietnam. I know those fears are honest. But think where we heard them before.

Just a few years ago, some argued in Congress that U.S. military aid to El Salvador would lead inevitably to the involvement of U.S. combat troops. But the opposite turned out to be true.

Had the United States failed to provide aid then, we might well be facing the final Communist takeover of El Salvador, and mounting pressures to intervene. Instead—with our aid—the government of El Salvador is winning the war—and there is no prospect whatever of American military involvement.

El Salvador still faces serious problems that require our attention. But democracy there is stronger. And both the communist guerrillas and the right-wing death squads are weaker. And Congress shares credit for that accomplishment.

American aid and training is helping the Salvadoran army become a professional fighting force, more respectful of human rights. With our aid, we can help the Nicaraguan resistance accomplish the same goal.

I stress this point because I know many Members of Congress and many Americans are deeply troubled by allegations of abuses by elements of the armed resistance. I share your concerns. Even though some of those charges are Sandinista propaganda, I believe such abuses have occurred in the past. And they are intolerable.

As President, I repeat to you the commitments I made to Senator Sam Nunn. As a condition of our aid, I will insist on civilian control over all military forces; that no human rights abuses be tolerated; that any financial corruption be rooted out; that American aid go only to those committed to democratic principles. The United States will not permit this democratic revolution to be betrayed nor allow a return to the hated repression of the Somoza dictatorship.

The leadership of the United Nicaraguan opposition shares these commitments and I welcome the appointment of a bipartisan congressional commission to help us see that they are carried out.

Some ask: what are the goals of our policy toward Nicaragua? They are the goals the Nicaraguan people set for themselves in 1979: democracy, a free economy, and national self-determination.

Clearly the best way to achieve these goals is through a negotiated settlement. No humane person wants to see suffering and war.

The leaders of the internal opposition and the Catholic Church have asked for dialogue with the Sandinistas. The leaders of the armed resistance have called for a cease-fire and negotiations at any time, in any place. We urge the Sandinistas to heed the pleas of the Nicaraguan people—for a peaceful settlement.

The United States will support any negotiated settlement or Contadora Treaty that will bring real democracy to Nicaragua. What we will not support is a paper agreement that sells out the Nicaraguan people's right to be free.

That kind of agreement would be unworthy of us as a people. And it would be a false bargain. For internal freedom in Nicaragua and the security of Central America are indivisible. A free and democratic Nicaragua will pose no threat to its neighbors, or to the United States. A communist Nicaragua, allied with the Soviet Union, is a permanent threat to us all.

President Azcona of Honduras emphasized this point in a recent nationwide address. "As long as there is a totalitarian regime [in Central America] that has expansionist ambitions and is supported by an enormous military apparatus . . . the neighboring countries sharing common borders with the country that is the source of the problem, will be under constant threat." If you doubt his warning, consider this. The Sandinistas have already sent two groups of communist guerrillas into Honduras. Costa Rican revolutionaries are already fighting alongside Sandinista troops.

My friends in the Congress: With democracy still a fragile root in Central America—with Mexico undergoing an economic crisis—can we responsibly ignore the long-term danger to American interests posed by a communist Nicaragua, backed by the Soviet Union, and dedicated—in the words of its own leaders—to a "revolution without borders"?

My friends, the only way to bring true peace and security to Central America is to bring democracy to Nicaragua. And the only way to get the Sandinistas to negotiate seriously about democracy is to give them no other alternative. Seven years of broken pledges, betrayals, and lies have taught us that.

That is why the measure the House will consider tomorrow—offered I know in good faith—which prohibits military aid for at least another 3 months—and perhaps forever—would be a tragic mistake. It would not bring the Sandinistas to the bargaining table. Just the opposite.

The bill, unless amended, would give the Sandinistas and the Soviet Union what they seek most—time. Time to crush the democratic resistance. Time to consolidate power. And it would send a demoralizing message to the democratic resistance: that the United States is too divided and paralyzed to come to their aid in time.

Recently, I read the words of a leader of the internal democratic opposition. What he said made me feel ashamed.

This man has been jailed, his property confiscated, and his life threatened by the security police. Still he continues to fight. He said: "You Americans have the strength, the opportunity, but not the will. We want to struggle, but it is dangerous to have friends like you . . . to be left stranded on the landing beaches of the Bay of Pigs. Either help us or leave us alone."

My friends in the House of Representatives: I urge you to send a message tomorrow to this brave Nicaraguan—and thousands like him. Tell them it is not dangerous to have friends like us. Tell them: America stands with those who stand in defense of freedom.

When the Senate voted earlier this year for military aid, Republicans were joined by many Democratic leaders: Bill Bradley of New Jersey, Sam Nunn of Georgia, David Boren of Oklahoma, Howell Heflin of Alabama, Lloyd Bentsen of Texas, Bennett Johnston and Russell Long of Louisiana, Fritz Hollings of South Carolina, John Stennis of Mississippi, and Alan Dixon of Illinois. Tonight I ask the House for that kind of bipartisan support for the amendment to be offered tomorrow by Democrats Ike Skelton of Missouri and Richard Ray of Georgia, and Republicans Mickey Edwards of Oklahoma and Rod Chandler of Washington. This bipartisan amendment will provide the freedom fighters with what they need—now.

With that amendment, you also send another message to Central America. For democracy there faces many enemies: poverty, illiteracy, hunger, and despair. And the United States must also stand with the people of Central America against these enemies of democracy.

That is why—just as Harry Truman followed his request for military aid to Greece and Turkey with the Marshall Plan—I urge Congress to support $300 million in new economic aid to the Central American democracies.

The question before the House is not only about the freedom of Nicaragua and the security of the United States, but who we are as a people.

President Kennedy wrote on the day of his death that history had called this generation of Americans to be "watchmen on the walls of world freedom." A Republican President, Abraham Lincoln, said much the same thing on the way to his Inauguration in 1861.

Stopping in Philadelphia, Lincoln spoke in Independence Hall, where our Declaration of Independence was signed. He said far more had been achieved in that hall than just American independence from Britain. Something permanent . . . something unalterable . . . had happened. He called it: "hope to the world for all future time."

Hope to the world for all future time. In some way, every man, woman, and child in our world is tied to those events in Independence Hall, to the universal claim to dignity, to the belief that all human beings are

created equal, that all people have a right to be free.

We Americans have not forgotten our revolutionary heritage. But sometimes it takes others to remind us of what we ourselves believe.

Recently, I read the words of a Nicaraguan Bishop, Pablo Vega, who visited Washington a few weeks ago. Somoza called Pablo Vega the "communist bishop." Now the Sandinistas revile him as the "contra bishop." But Pablo Vega is really a humble man of God.

"I am saddened," the good Bishop said, "that so many North Americans have a vision of democracy that . . . has only to do with materialism . . ." The Sandinistas "speak of human rights as if they were talking of the rights of a child—the right to receive from the bountifulness of the state . . . but even the humblest campesino knows what it means to have the right to act." "We are defending," Pablo Vega said, "the right of man to be."

Well Reverend Father, we hear you. For we Americans believe with you that even the humblest campesino has the right to be free. My fellow citizens, Members of the House: let us not take the path of least resistance in Central America again. Let us keep faith with these brave people struggling for their freedom. Give them, give me, your support; and together, let us send this message to the world: that America is still a beacon of hope, still a light unto the nations. A light that casts its glow across the land and our continent and even back across the centuries—keeping faith with a dream of long ago.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

AGENDA

Mr. BYRD. Mr. President, I take the floor at this time, with the permission of the Chair, to inquire of the distinguished majority leader as to what the program is for the rest of the day, tomorrow, Thursday, and Friday if he can tell us at this point.

Mr. LEAHY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order to hear the majority leader.

Will staff members please retire or take their places in the rear of the Chamber? Will other Senators take their seats? Will those leaving the galleries please do so as quietly as possible?

The Democratic leader.

Mr. DOLE. Will the Senator yield?

Mr. BYRD. Mr. President, I yield. I ask that the Senate be in order.

The PRESIDING OFFICER. If the Senator will suspend, the Senate is not in order.

We cannot continue until the Senate is in order. Will those leaving the galleries please do so as quickly and quietly as possible?

The Democratic leader has the floor.

Mr. BYRD. Mr. President, I thank the Chair for trying to secure order.

It is important that the majority leader be heard because he will have an announcement that will be of importance to all Senators.

Mr. DOLE. Mr. President, will the distinguished minority leader yield?

Mr. BYRD. Yes. I yielded to the majority leader.

Mr. DOLE. Mr. President, let me also thank the Chair. I know it is a difficult time to obtain order.

Mr. President, we will take up H.R. 3511, the bank bribery bill to concur with an amendment. That will not take very long. It will take 2 minutes. Then we will take up Calendar No. 419, H.R. 1483, the Smithsonian bill.

I understand on that measure the distinguished Senator from Nebraska [Mr. EXON] would like a rollcall vote. That will be coming along momentarily. Prior to that vote, I hope I am in a position to advise whether or not we will take up diplomatic security this evening.

I am advised that we cannot take up the supplemental appropriations bill until tomorrow. That will be up tomorrow.

□ 1620

It may also be that before the night is over we will take up the nomination of Daniel Manion, to be a circuit judge. If we cannot reach some time agreement, I will file cloture on that nomination.

Mr. BYRD. Mr. President, I thank the distinguished majority leader. If I understand what he has said, there will be a rollcall vote yet to occur today.

Mr. DOLE. There will be at least one. There could be more than one. I would hope we would not be in session much after 6:30 or 7 o'clock in any event. I think with everyone's cooperation, we are still trying to figure out a way to complete our work by Thursday evening.

Mr. BYRD. I thank the distinguished majority leader.

What time would the distinguished majority leader contemplate the Senate would come in tomorrow and what rollcall votes and in what order and how late would tomorrow's session continue?

Mr. DOLE. I would have to make an announcement on that a little later.

Mr. LEAHY. Will the Senator yield?

Mr. BYRD. I yield.

Mr. LEAHY. Did the distinguished majority leader understand I am not asking for a rollcall on the Smithsonian bill, and what did the distinguished majority leader say about the diplomatic security bill?

Mr. DOLE. We will make a determination in the next 30 minutes whether we are going to take that up. I understand there may be a number of Members who have a lot of ideas on what to do with that bill. We want to take another look at it to make certain it is in good condition.

Mr. LEAHY. It might even be in a better condition by the time we get done with it.

Mr. BYRD. For the understanding of all Senators who did not hear clearly, and I will say that I have had difficulty in hearing even being this close to the majority leader, on what measure does the distinguished majority leader anticipate a rollcall vote yet today?

Mr. DOLE. On the Smithsonian bill.

Mr. BYRD. I am a little confused because I understood the distinguished majority leader to say just now, or to indicate, that the Senate might not take up that measure today.

Mr. DOLE. No. I was referring to the diplomatic security bill we may not take up. This one would be the Smithsonian Institution to plan and construct facilities for certain science activities at the Institution, and for other purposes.

Mr. BYRD. So that measure will be up and Senator EXON wanted the rollcall vote in relation thereto.

Mr. EXON. That is correct. Will the majority leader yield for a question?

The PRESIDING OFFICER. The distinguished majority leader is recognized.

Mr. DOLE. I yield for a question.

Mr. EXON. A statement first.

Yes, I have requested a rollcall vote on the Smithsonian Institution to plan and construct a project. There are people who have asked if we can have that vote as soon as possible. I believe we have agreed to 20 minutes, 10 minutes to a side, and then go to a vote. Would it upset the plans of the majority leader if we can take that up next and get it out of the way, since we know we are going to have a rollcall vote, and move that on through? First, can we do that?

Second, the majority leader indicated that we will have a vote tomorrow, supposedly, on the supplemental appropriations bill. Has the House of Representatives passed the supplemental appropriations bill yet, to the leader's knowledge?

Mr. DOLE. No. We hoped to take it up this evening but the House will not finish it until late this evening. It will not be here until tomorrow.

Mr. EXON. I thank the majority leader. That follows the plan that the majority leader gave me last week when I asked about taking it up as soon as possible. But as of now, if it passed the House sometime tonight, it will have priority consideration for tomorrow.

Mr. DOLE. That is correct.

I have no problem in taking up the Smithsonian Institution bill first.

Mr. BYRD. If I may, I think I am in a position to indicate to the majority leader that we on this side have cleared an agreement to put such before the Senate, that there be no amendments on the bill but there be 20 minutes on the bill to be equally divided. That is the Smithsonian bill.

UNANIMOUS CONSENT AGREEMENT—H.R. 1483

Mr. DOLE. Mr. President, I ask that we proceed to Calendar 419, the Smithsonian Institution bill; that no amendments be in order; that there be a period of 20 minutes of debate equally divided on that bill.

The PRESIDING OFFICER. Is there objection? There is a committee amendment.

Mr. DOLE. Except the one reported committee amendment.

The PRESIDING OFFICER. The Senate will be in order. Will those Senators conversing please take their seats?

A unanimous-consent request has been made. Is there objection?

Mr. METZENBAUM. What is the unanimous-consent request?

Mr. DOLE. To take up the Smithsonian Institution bill with 20 minutes to be equally divided with no amendments other than the committee amendment to be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Did the leader say he was going to call up a bill related to bank bribery?

Mr. DOLE. We were going to, yes.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, H.R. 1483 is a construction authorization for the Smithsonian Institution. I ask that the bill be stated.

AUTHORIZATION TO PLAN AND CONSTRUCT FACILITIES FOR SCIENCE ACTIVITIES OF THE SMITHSONIAN INSTITUTION

The PRESIDING OFFICER. The clerk will state the bill by title.

The bill clerk read as follows:

A bill (H.R. 1483) to authorize the Smithsonian Institution to plan and construct facilities for certain science activities of the Institution, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Rules and Administration, with an amendment:

On page 2, line 6, strike "$11,200,000", and insert in lieu thereof "$11,100,000".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Board of Regents of the Smithsonian Institution is authorized to plan and construct facilities for the Smithsonian Astrophysical Observatory and the Smithsonian Tropical Research Institute.

SEC. 2. Effective October 1, 1986, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution:

(a) $4,500,000 for the Smithsonian Astrophysical Observatory; and

(b) $11,100,000 for the Smithsonian Tropical Research Institute.

SEC. 3. Any portion of the sums appropriated to carry out the purposes of this Act may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

The amendment was agreed to.

The amendment was ordered to be engrossed, the bill was read the third time, and passed.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, there is not a lot that needs to be said, not a lot that can be said in the 10 minutes. I am going to try to summarize very quickly the committee report.

Members who have been devoting their minds to taxes for the last couple of weeks may not have the committee report precisely in the forefront of their minds, but what we are dealing with are two important institutions. They are ongoing programs. They are in need of some construction and some additional facilities.

Mr. President, H.R. 1483 is a simple construction authorization for the Smithsonian Institution. There is not a lot that needs to be said about this bill except to point out that the construction is not for new programs, but for two important ongoing operations. If this bill were for new programs, I might think that we might dismiss it out of hand as an appropriate response to Public Law 99-177, otherwise known as Gramm-Rudman-Hollings. But it is not a new program authorization. It is to replace existing facilities that are unsuitable for the scientific research work conducted in them and that are unsafe and unsanitary for the people who work in them.

All of this is documented in the November 19, 1985, report from the Committee on Rules and Administration, report No. 99-189, but for the benefit of Senators who might not have read that report recently, I will summarize a few points.

One of the two facilities covered by this bill is the Fred Lawrence Whipple Observatory in Arizona. The Whipple Observatory is located on top of Mount Hopkins, 35 miles south of Tucson. At that location the Smithsonian operates several astronomical telescopes, including the multiple mirror telescope, the third largest telescope in the world and the first of its kind. The Whipple Observatory is a major astronomical research facility and is used by approximately 90 astronomers from all over the world for a wide variety of research projects each year. The construction authorized by this bill is not to build any additional telescopes or to start any new programs or to increase any existing programs. The construction is to replace the base camp, which is where all the administrative and logistical support for the observatory takes place. The base camp is the base of Mount Hopkins because there is not enough room at the summit where the telescopes are.

The current base camp is in an abandoned, 50-year-old school building. The school district that owns the building wants the Smithsonian to move out so they can sell it. The building is too small; its layout hinders people in their work; and it is in need of repairs and adequate heating, air conditioning, and sanitatation facilities. The worst problem is that it is separated from the mountain by a river which is dry much of the year but which floods during the rainy season and which usually washes out the bridge. For the summit to be cut off from the the base camp for several weeks at a time because of these washouts is not unusual. This not only adversely affects the work at the summit but it also places personnel who may be at the summit at such a time in a dangerous situation. In the case of injury or illness, providing medical care would be extremely difficult, if not impossible. The new base camp will be on the same side of the river as the summit.

I ask unanimous consent to have printed in the RECORD a report from an onsite visit to the Whipple Observatory.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

OBSERVATIONS FROM SITE VISIT TO SMITHSONIAN SCIENCE FACILTY IN ARIZONA

BACKGROUND

The Fred Lawrence Whipple Observatory (FLWO) is a major astronomical facility that is used by approximately 90 scientists a year for a wide variety of research projects, especially for studies of the large-scale structure and evolution of the Universe, the physics of quasars and active galaxies, the structure and history of our own galaxy, and the formation and evolution of stars and stellar systems. The Observatory is located atop. Mt. Hopkins, Arizona, and is the site of the Multiple Mirror Telescope (MMT), built and operated by the Smithsonian Institution and the University of Arizona. The Smithsonian Astrophysical Observatory (SAO) also operates two smaller telescopes at Mt. Hopkins, for large scale surveys and for observations in support of the research using the MMT. In addition, there is a 10-meter diameter light collector which is the most sensitive in the world for ground-based searches for high-energy gamma rays from celestial sources.

The MMT together with its instrumentation and computers represents an investment in excess of $10 million, with a corresponding value of perhaps $2 million for the other telescopes. The support facilities, such as the dorms, maintenance, buildings, and access roads, cost approximately $5 million to construct. These figures are estimates of the real dollars spent in the actual construction years spanning more than a decade; the replacement costs in 1984 dollars would probably be two or three times higher. The annual budget for the operation of the FLWO and the MMT is ap-

proximately $1.5 million, with roughly two-thirds of this total being for the MMT.

Operations in support of the FLWO and MMT are administered from a base camp, presently located in Amado, Arizona. The administrative offices are located in an old abandoned school building, which is rented from the local school district. Maintenance of the FLWO fleet of 76 vehicles, mostly obtained from government surplus, is carried out in open sheds. Storage is mostly out in the open. Tour groups are assembled and visitors are accommodated in a room of the school building.

LEGISLATIVE REQUEST

As part of the Smithsonian's Science Facilities funding request, which will be reintroduced early in the 99th Congress, the Institution will seek major funds for the construction of a new base camp at a new location, to provide the services required to support the scientific operations and accommodation of visitors and tours as well as for access (roads) improvements.

P.L. 98-73, approved August 11, 1983, provides authority for the purchase of property on which to construct a permanent base camp. This base camp will serve as the administrative nexus and logistical support area for all activities conducted on the mountain. Funding for the purchase, $150,000, is included in the budget request of the Smithsonian for FY 1985. If this and construction authority is approved, the Smithsonian would seek an estimated $4.5 million in construction funds.

CURRENT BASE CAMP LOCATION

The FLWO base camp is now located in Amado, where for the past 13 years the Smithsonian has leased four acres of land; two acres owned by the Tubac School District and two acres owned by private citizens. On the property is an approximately half-century old, one story, adobe school house and a former teacher's residence, both of which have been converted to office use. Also on the property are various motor-pool facilities, including repair and maintenance bays, storage, trailers, and temporary sheds, linked by gravel-surface parking lots and driveways. What was originally planned as a temporary staging area has gradually grown into the administrative and technical headquarters for FLWO, as well as the "visitor's center" for the general public.

BASE CAMP FUNCTIONS

The current base camp houses a 15-person support staff with responsibility for:

1. Maintenance, grading, and snow plowing of the 18 mile long, single-lane access road to the summit of Mt. Hopkins, and the connecting roads and parking areas.

2. Maintenance of approximately 75 vehicles used for transportation of scientists, visitors, and supplies between the base camp and the mountain.

3. Maintenance and technical operation of three telescopes, their computerized control systems, and the astronomical instruments used on these telescopes.

4. Support services for the facilities on the mountain and at the base camp, including water collection and distribution; telephone communications and data network; electrical power distribution with emergency backup generators; heating and cooling of buildings with a total of 74,000 sq. ft. of area; and general maintenance of these buildings including cleaning services.

5. Responsibility for all administrative functions required for the above activities, such as purchasing, fiscal control, secretarial services, shipping and receiving, and personnal actions.

6. A small, informal "visitor's center" is maintained. A full-time Public Affairs Specialist is assigned to FLWO, and residents of nearby communities serve as volunteer staff members greeting visitors, answering telephone queries, and responding to mail requests for information. Regularly scheduled guided bus tours, originating from the base camp, are provided to the public nine months of the year.

The current lease that SAO holds for occupancy of the present base camp in Amado expires in June, 1987. Any extension to this lease would have to be approved by the Amado school board.

The Smithsonian hired a private contractor to develop a master plan for the selection of a new base camp site. Five locations were found that could meet FLWO's requirements: two are privately owned and "for sale"; two are owned by the State and are available for lease; and one is on National Forest Service property and although there would be no cost for the land, higher development costs would be incurred.

The Smithsonian expects the operating expenses for the new base camp to be about the same ($1.5 million/year) as at the present base camp. However, a detailed analysis of the expected operating expenses has not been carried out as yet. Although there will be more enclosed space in the new buildings, they expect that the total maintenance costs will be approximately the same because the buildings will be new. Costs for utilities are expected to be somewhat higher. If the access road from Amado to the base camp is paved, the cost for the maintenance of this section of the road will be reduced.

ON-SITE OBSERVATIONS

Despite may modifications and improvements over the years, the current base camp at Amado appears to lack adequate facilities to support FLWO efficiently, and some of the deficiencies constitute safety hazards. Moreover, the visual impression of the facility is extremely poor, reflecting badly on both the Smithsonian's national reputation and the quality of the scientific research being carried out on the mountain.

The architectural layout of the old schoolhouse makes it an awkward office building. For example, the lack of an obvious reception area means that business and casual visitors seldom know where to turn upon entering the building. As a result, public visitors frequently interrupt staff members at their desks, salesmen wander into staff meetings, and tour participants enter restricted areas of the motor pool.

The largest single space (which is about the size of our Committee's hearing room) in the building now serves as a "common room" of multiple purposes; a staff ready room, a visitor's center, a theater, a museum gift shop, a lunchroom, a classroom, and a conference room. This common room is also used as a staging area for the bus tours and as a display area for the astronomy exhibit and public visitors often end up in the middle of office traffic flow and meetings.

The restrooms, which serve the entire base camp complex, are inadequate for use by large groups, such as tour visitors or general staff meetings. Neither the restrooms nor the building itself are accessible to the handicapped.

High ceilings and poor insulation make the schoolhouse difficult and costly to heat and cool. In winter, staff often wear jackets all day to stay warm and it's overheated during the summer months. The inside lighting is inadequate despite recent improvements.

The roof leaks and the concrete roof caps over the adobe walls are cracking. Apparently, the school district does not want to invest in major improvements on this property.

Also, the lack of a fire alarm or sprinkler system is a serious deficiency. The water from the base camp well is potable but it is not safe to drink in the schoolhouse building due to leaks in the old underground plumbing, and bottled water is used.

At the present base camp the motor pool has two open-air service bays with remada-type roofs, and one small enclosed garage. Nothing larger than a passenger-cargo van can be serviced in that garage. Larger vehicles are thus serviced in the open bays, exposed to dirt and the extremes of weather. All vehicles are washed by hand on an open pad. Tires are stored in open sheds, secured with a lock and chain. Batteries are stored in the open. The motor pool office and most of the storage for spare parts are located in old trailers.

RECOMMENDATIONS

The increased public interest in astronomy nationwide, combined with interest in the pioneering MMT, has created a growing demand for access to Mt. Hopkins and a corresponding need for expanding facilities to serve the public. There are several reasons that could be argued in favor of meeting this need at FLWO.

The Smithsonian Institution has an explicit responsibility for the diffusion of knowledge. Since FLWO is one of the few major Smithsonian installations outside of Washington, and the only one in the Western United States, it is an obvious focal point for the general public and other groups who perceive it as representative of the Smithsonian and a public facility. Also, as the MMT has emerged as the principle astronomical instrument at Mt. Hopkins, the Smithsonian should maintain the visibility of its role in this collaboration with the University of Arizona. Furthermore, because Mt. Hopkins is located in the Coronoado National Forest, the Smithsonian has a responsibility to respect the multiple-use policies of the U.S. Forest Service, which encourages public access to these lands.

The present base camp is unable to meet the increasing demands placed upon it by both the existing staff, visiting scientists, and the public.

A major reason to build a new base camp facility is that there are natural and legal limitations to the improvements that can be made at the present leased site. Federal statutes restrict the amount that can be invested in permanent improvements to leased property, to an amount not to exceed 25 percent of the first year's lease value, spread over the entire lifetime of the lease. Since the annual cost of the present lease is approximately $12,000, this could be a very restrictive limitation.

In light of the on-site observations previously addressed, the reality surrounding the current base camp facility is that it is too small, in need of major (and costly) renovation, and in some respects it is just unsafe.

Mr. MATHIAS. The other facility is the facility which is operated by the Smithsonian Institution as a tropical research institute in Panama.

The Smithsonian Tropical Research Institute in Panama is the principal

U.S. center for the study of tropical biology. Its buildings date from the 1920's and 1930's. Many are buildings that were built for the military and later turned over to the Smithsonian. Construction materials used at that time have proven very vulnerable to the ravages of high humidity and insect infestation in that area. Except for a new library, the buildings are inadequate, unsafe and unsanitary, and require extensive maintenance.

I ask unanimous consent to have printed in the RECORD at this point a report from an onsite visit to the Smithsonian Tropical Research Institute.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

DECEMBER 15, 1984.

Memorandum to: The Honorable Frank Annunzio, Chairman, House Committee on House Administration, and Chairman, Joint Committee on the Library. David C. Sharman, Staff Director, House Committee on House Administration.

From: Hilary Lieber, Chief Clerk, Joint Committee on the Library.

Subject: Observations from site visit to the Smithsonian Institution's Tropical Research Institute in Panama.

BACKGROUND

The Smithsonian Tropical Research Institute (STRI) is a center for tropical studies carried out by the United States and the international scientific community. It also supports in-house research of a fundamental and outstanding quality and is custodian of the largest protected area of tropical forest under direct U.S. care.

Beginning in the 1960's and continuing at an ever increasing pace, insights derived from experience in the tropics have revolutionized the biological sciences. STRI has played a decisive role in that development as a result of staff research and the productivity of visiting scientists. In addition to direct advancement of science, STRI, through it's educational programs, has played a major role in producing another generation of scientists. Students from both developed and developing countries have benefited from STRI programs.

Continuing advances in tropical biology are essential to the economic and environmental health of both the developing and developed worlds. Population growth and more complex industrial and agricultural technologies challenge the capabilities of biological scientists to minimize the onslaught of human societies on our environment.

STRI's current and projected scientific and educational programs include the research of over two dozen professional staff. This core staff is essential to maintain long-term studies that can only be conducted by resident scientists. In addition, they are instrumental in attracting and selecting visiting scientists who contribute to the scholarly community and the depth of STRI's research activities.

STRI's educational and conservation programs derive from an obligation to train young scientists and undertake programs of relevance to local needs. Many projects underway demonstrate the STRI commitment to these obligations: agriculture and public health implications of recent invasions of Africanized bees; cooperation in the establishment and inplementation of the Joint Commission on the Environment of the Panama Canal Commission; programs of training for third-world students in tropical biology; research and educational activities designed to examine alternatives to forest destruction; and participation in a Trinational Commission for the Study of Canal Alternatives. Many of these programs depend on a fusion of support from the Smithsonian Institution with support from private foundations.

STRI's headquarters are located on what is called the Tivoli site. There are three apparently separate research programs at STRI—(1) Naos, Pacific Ocean marine biology and environmental study, (2) Galeta, Atlantic Ocean marine biology and environmental study, and (3) Barro Colorado Island, a moist tropical forest island that has been a biological reserve since 1923.

LEGISLATIVE REQUEST

As part of the Smithsonian's Science Facilities funding request, which will be reintroduced early in the 99th Congress, the Institution will seek major funds for facilities development and construction at it's Tropical Research Institute. It is expected that the request will be about $11 million over four fiscal years (1986-1989).

STRI'S FACILITIES NEEDS/REQUESTS

A viable scientific establishment is essential to the maintenance of environmental integrity. The Smithsonian espouses, that for any institution, the foundations upon which scientific advancement depend are the quality of staff and the quality of the physical facilities to support that staff. While STRI has been able to improve its scientific staff in recent years (both numbers and quality), efforts to provide commensurate growth in physical facilities has been thwarted. The Smithsonian claims that physical facilities have expanded primarily as a result of inheritance of buildings from the Panama Canal Commission or the Department of Defense. Thus, STRI is largely housed in facilities designed for purposes other than carrying out scientific research.

The Smithsonian intends to focus on the solution of two problems in their plan to improve SIRI's facilities. First, the need for facilities to do science (laboratories, offices, and conference facilities) and, second, to provide the necessary support to insure efficient operation and use of scientists' time and energy.

There are four areas within current and projected SIRI programs that the Smithsonian will seek federal funds to design and construct new facilities:

1. Tivoli Site—design and construction of a new complex which will consolidate SIRI's mainland research facilities at one site in an integrated complex with the existing administrative headquarters and a modern library facility: construction of outdoor research facilities such as an aviary, insectary, and small animal enclosures adjacent to the new laboratory: replace the present Ancon Laboratory: provide for facilities to support modern research such as adequate darkrooms, chemistry labs, hazardous material storage and disposal, and controlled environment chambers: as well as make a significant political statement of U.S. interest in pursuing research on the Isthmus for an indefinite term.

The Smithsonian envisions the construction of a central conference facility at the Tivoli Site capable of accommodating up to 150 persons, including staff from all of SIRI's research facilities as well as visiting scientists and other interested groups.

Funds will also be requested for a workshop and maintenance building at Tivoli to replace the existing shop facility.

2. Galeta Point—proposed is construction of a new laboratory to replace an existing building, acquired from the Navy in 1965 as surplus. Also, funds will be requested to construct a dormitory facility capable of housing up to 15 persons on a self catering basis and providing adequate sewage treatment and disposal.

3. Barro Colorado Island (BCI)—funds will be sought for construction of a new two-story facility which will provide for a kitchen, dining room, and multi-purpose room to replace the wooden frame buildings more than 30 years old. A second story would allow space for lectures, symposia, and conferences which are significant parts of the intellectual life at BCI.

Additional funding will be requested for new construction of a central field laboratory at BCI. This facility would be a fire-proof building which will include individual offices and laboratory rooms, computer and analytical lab space, provisions for work with caged animals, and environmental chambers for studies under controlled conditions.

Current estimates for a request of federal funds, for SIRI are as follows:

Project	Cost estimate (millions)	Fiscal year appropriation
Tivoli Lab/Conference	$7.00	FY '87
Tivoli Maintenance Facility	.80	FY '89
Galeta Lab/Dorm	3.50	FY '88
BCI Central Lab	2.90	FY '88
BCI Kitchen/Dining/Conference Room	.67	FY '86
Total	[1] 14.87	

[1] The Smithsonian expects to receive a $4 million grant from the Tupper Foundation for the new Tivoli complex. Thus, subtracting this grant from the total, it is anticipated that the Smithsonian will seek approximately $11 million for their Tropical Research Institute in Panama.

ON-SITE OBSERVATIONS

1. Tivoli Site—the existing Ancon Laboratory, built in 1907 as a hospital laboratory, is in poor state of repair, lacks modern improvements and may be uneconomical to remodel to meet STRI's needs. The plumbing and wiring appears obsolete and inadequate. Also, its hillside location precludes construction of the extensive outdoor animal cage and plant-growing facilities required by the scientists. Further, parking facilities appear inadequate to meet the growing demands placed upon the Institute.

Currently, all seminars, workshops, and conferences are conducted in the Ancon building where the seating capacity is extremely limited (can accommodate a maximum of 50).

The maintenance building and machine workshop is housed in a surplus Navy building constructed in 1914. Working conditions appeared to be substandard and, to a certain extent, may fail to meet reasonable safety standards for lighting, noise, and dust control.

2. Galeta Point—current research operations at Galeta are housed in a small building constructed as a temporary structure by the U.S. Navy during WW II. The building is quite small and appears inappropriate for its present use. The sanitary facilities, at this facility, are inadequate and lacking a sufficient or ecologically-sound sewage disposal system. The building is of wood construction and poorly insulated. Frequent lightening and wind storms cause power

outages which often disrupt research and computer work. The building is termite infested and in need of a new generator. Also, there exists only one small room for storage.

The isolation of the Galeta laboratory indicates a need for a dormitory facility capable of housing up to 15 persons with adequate sewage treatment and disposal. The present dorm, built as temporary housing, is an old trailer that can sleep four. It is literally falling apart and invested with insects and termites.

3. Barro Colorado Island (BCI)—this facility serves as the support and administrative base for the principal area of tropical lowland humid forests under custodianship of the U.S. It's physical plant contains many apparently out-dated wooden buildings which are flammable and subject to deterioration by fungi and termites.

At present, meals are served for as many as 45 people three times a day. Should current trends continue, it may be necessary to feed as many as 80 people a day. The existing kitchen is more than thirty years old, the dining room structure more than fifty, and neither seemed to be designed to meet modern sanitary standards.

Since BCI is essentially a field research center laboratory needs are not as great or as sophisticated as those at STRI's marine stations or as planned at the Tivoli site. However, with a scientist population of up to 35 (resident staff and visiting scientists including graduate students), only about 18 space assignments are possible and many of these appear marginal. Some scientists, in residence 24 hours per day for months on end, do not have desks to work on.

Many of the existing plant-growing and animal houses, on BCI, are in open spaces that allow pests and other creatures to enter affecting the research being conducted. Ambient environmental conditions are difficult to maintain in such areas. Also, growing houses for plants should have potential for irrigation which are limited in the space currently used.

RECOMMENDATIONS

Based on first-hand observance of some of the valuable research being conducted and the inefficient, dilapidated, and unsafe conditions under which many of these scientists must work (and live) it is difficult not to recommend in favor of the Smithsonian's authorization request at STRI.

Furthermore, in most, if not all, instances the cost effectiveness of repairing or renovating existing buildings, as opposed to constructing new and improved facilities, would appear uneconomical.

Mr. MATHIAS. The total cost for both projects is $15.6 million. Of that total, $4.5 million is for the base camp at the Whipple Observatory, and $11.1 million is for the Tropical Research Institute.

Mr. President, the condition of the facilities at Mount Hopkins and at the Tropical Research Institute are a hazard to the people who work there and an embarrassment to the Smithsonian Institution and to the U.S. Government. They should be replaced with adequate structures. I urge Senators to vote for this bill.

Mr. President, we have one committee amendment which is really only to correct a clerical error.

I reserve the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Who yields time?

Mr. EXON. Mr. President, I yield myself such time as I may need within the 10 minutes allotted to this side on this measure.

The PRESIDING OFFICER. Without objection, the Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I have insisted that the Senate at least briefly consider the pending legislation to authorize $15.6 million for the Smithsonian Institution. I will also insist on a rollcall vote on this measure, rather than allowing it to pass by unanimous consent in a routine fashion.

I have no particular bone to pick with the Smithsonian Institution or with the Rules Committee which reported this legislation to the Senate floor without dissent. Indeed, my Nebraska constituents and I have enjoyed taking advantage of Smithsonian facilities many times.

I have voted time and time again on this floor for the necessary funds to continue what they are already doing. They are indeed a national treasure. I support the Smithsonian endeavors in general and in principle.

This legislation would authorize $11.1 million for the Smithsonian Tropical Research Institute in Panama and $4.5 million for the Fred Lawrence Whipple Observatory in Arizona in fiscal year 1987. I believe that important work goes on at both of these facilities. I do not necessarily object to the Arizona project but do, under today's circumstances, object to the nonpriority Panama construction.

However, Mr. President, these are not normal times. Important work is also being performed on America's farms and ranches, in our cities and all over this country. Yet, under the Gramm-Rudman law which we are just beginning to understand and deal with, Government functions are being cut indiscriminately. While I did not endorse Gramm-Rudman, largely because of the devastating impact it will have on American agriculture, it is the law now. The deficit must be reduced. I certainly agree with that.

How can the majority, who bought the Gramm-Rudman proposal, buy this new and additional authorization for what I consider nontop-priority items?

□ 1640

How can the deficit be reduced, how can we make progress in reducing Federal spending if we pile on additional new obligations in future years which are not absolutely essential, obligations in future years which are not necessary under the basic dictates, as I understand them, of Gramm-Rudman?

I cannot vote for this authorization while American farmers, ranchers, and main street businessmen and most of rural America are having their basic social fabric torn apart by a deep depression—not a recession, Mr. President, a depression. I do not understand why we continue to cut these kinds of programs while we are adding expenditures in the nature of the bill we are now considering.

I only can say that unless we get spending under control and make some sacrifices, which I think we can make on this particular bill, we are going to see continued suffering and I suspect that the depression which is very deep out there in the heartland of America right now will continue to spread into our cities clear across this land.

In my view, this measure does not conform to the priorities we must enforce; that we work diligently to reduce the deficit. Given all that is happening around us, this legislation is not high enough priority in the opinion of this Senator. I believe each Senator ought to make a similar decision in his or her own mind and cast their votes accordingly.

With that, Mr. President, I reserve the remainder of my time.

To expedite matters, I am ready to go to a rollcall vote and at this time I ask for a rollcall vote on the measure that we are currently considering.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, how much time do I have?

The PRESIDING OFFICER. Eight minutes and twenty-four seconds.

Mr. MATHIAS. I yield 2 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise in support of H.R. 1483 which embodies a proposal by the board of regents of the Smithsonian Institution, on which I serve, to take care of several high priority needs in the area of upgrading and improving its science facilities. Certainly other needs remain, such as that of the National Air and Space Museum which I hope we can deal with later in this session.

H.R. 1483 authorizes construction of a new base camp near Amado, AZ, for the Smithsonian Astrophysical Observatory. Because of light pollution in the east, its main observing activities are done in the clearer skies of Arizona atop Mount Hopkins which you can see from the airport in Tucson.

The Fred Lawrence Whipple Observatory, which the Smithsonian operates, and the state-of-the-art multiple mirror telescope observatory that it built and operates jointly with the University of Arizona are on the

mountain. Their logistical base is a dusty, ramshackle set of buildings about 20 miles away as the crow flies, but about 50 actually because the Santa Cruz River keeps flooding out its crossings.

The observatories on the top of Mount Hopkins meet the high standards of professionalism and effectiveness that we have come to expect of the Smithsonian. Construction of a new base camp a little closer to the mountain would bring that facility up to the same standards, provide better service to the scientists, and help visitors understand more about astronomy and its promise for the future.

Smithsonian astronomers have recently published findings that already are viewed as the most important in astronomy in this decade; namely, that the universe has a frothy structure, with galaxies congregated on the surfaces of bubbles surrounding large empty voids in space. This discovery is the key to understanding how our universe has evolved. The facilities on Mount Hopkins are being used to extend research on the bubble structure, and SAO scientist are world leaders in this work.

Also authorized in H.R. 1483 are laboratories and other support structures for the Smithsonian's Tropical Research Institute in Panama. The Smithsonian has been working there as long as there has been a canal there, and the institute is the primary place for U.S. scientists to study tropical biology.

It is estimated that there are 2.5 million species of plants and animals in the tropics that are unknown to science. Given the many benefits—including food, fiber, oils, rubber, and pharmaceuticals such an antiinflammatory drugs and treatment for several kinds of cancers—that have come from species that we do know, it is important to learn all that we can about the tropics. Basic identification of species and analysis of them and the processes that effect them is at the heart of the work of the Smithsonian Tropical Research Institute.

Unfortunately, its central laboratory is in what used to be the morgue of the Gorgas Memorial Hospital, and it is simply unsuitable for contemporary research. One of the projects authorized by H.R. 1483, is a new central laboratory, for which the Institution is seeking $3.5 million in its fiscal year 1987 budget request. The total cost will be $7.5 million, but aware of the constraints on the Federal budget, the Smithsonian has sought and received its largest single gift for science construction, $4 million from the Earl S. Tupper Foundation for which we all are grateful.

Mr. President, the total of the funds authorized by H.R. 1483 is $15.6 million, of which only $3.5 million is now before the appropriations committee. The other funding will be sought in future fiscal years; of course, I hope that the base camp will be next. These are very small sums of money in the context of our overall budget, but they will support work in basic science that holds the prospect of long-term benefit for large numbers of people.

In summary, Mr. President, there are some things that my friend from Nebraska does not understand. The astrophysical observatory, being built in the southern part of my State, is being built not with public funds but with private funds. But we do need money to prepare a road to get to the site, which is almost 9,000 feet above sea level. We have to cross the Santa Cruz River, which is one of those unusual rivers we have out in Arizona that normally has no water in it but when it has water in it, it is a pretty big, roaring spring and difficult to get across.

The camp down in Panama is the only facility we have to study tropical birds, insects, and animals. I have been down there myself. I had a feeling about it like my friend from Nebraska has until I visited it, and I think it is a great asset for our country and for the Smithsonian Institute.

We sometimes ignore just what the Smithsonian means to Washington. We have more visitors to the Air and Space Museum every year than any museum in the world. In fact, it is not going to be long until we have to have reservations to go through that facility.

Although not in this legislation, we will probably have to deal with Virginia, if the National Airport-Dulles Airport move is successful, for space there to move from Silver Hill the facilities at which we make all of our used aircraft, even from World War I—one of the most interesting facilities which the Smithsonian has which is sorely in need of additional space, and we are going to try to finance that out of the private sector.

So, Mr. President, I can certainly understand the feeling of my friend from Nebraska. I know he is very determined that we not spend money we do not need to spend, and I am right with him on that. But this is a facility that I think requires our help.

Mr. EXON. Mr. President, I yield what remaining time I have to myself.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes remaining.

Mr. EXON. I agree completely with my friend from Arizona. As I said in my remarks, I do not necessarily object to the project in Arizona. I wish it were a separate project so I could vote for it. If the leaders of the measure would care to divide the issue, I would vote for the Arizona portion of the project and against the further investment in Panama.

I remind my colleagues that, under a treaty arrangement which was passed by this body, the United States of America in the foreseeable future is going to give up its rights in Panama.

My research into this activity indicates that in this particular case this proposal will remain somewhat similar to the arrangement that we have in other countries, with U.S. ownership of our mission there and the diplomatic housing and the Embassy itself. But still I think it remains that in the very near future the money we are spending in Panama will be an island in and of itself, and, while I agree that important work is going on down there, it is my interpretation the work is not of sufficient priority that we should get ourselves further in a hole with new spending.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield 2 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, the pending legislation, H.R. 1483, authorizes construction of a small but significant facility which, although located in Arizona, has its administrative and operational center in Cambridge, MA. The measure also provides authority for construction of a tropical biology research and education center in Panama to focus more intensively on the crucial international problem of deforestation in the tropics.

The first of these projects is designed to support the field activities of the long and unusually fruitful relationship between the Smithsonian Institution's Astrophysical Observatory [SAO] and the Harvard College Observatory which began in 1955 when SAO moved its headquarters to Cambridge. It became an active partner with Harvard in an expanded and innovative program of research that would tap the potential of Earth satellites and space age technology. The two observatories shared staff and resources to pioneer studies of solar and stellar phenomena, the design of orbiting observatories, the tracking of satellites, and the application of computers to problems of astrophysics. In addition, the presence of SAO at Cambridge bolstered both the teaching and research opportunities available to Harvard's students.

The informal arrangement between the two organizations was formalized and strengthened in 1973 with the creation of the joint Harvard-Smithsonian Center for Astrophysics under a single director. Today, the CFA's combined staff of 140 scientists makes it one of the world's largest organizations devoted to astronomy. Its investi-

gations touch almost every major topic in modern astronomy: atomic and molecular physics, high-energy physics, optical infrared astronomy, planetary sciences, radio and geoastronomy, solar and stellar physics, and theoretical physics. In many of these fields, the Center of Astrophysics is the recognized world leader. The possibilities for pursuing joint projects, for sharing expertise, and for encouraging interdisciplinary cross-fertilization is unique in American physical science.

In describing the Harvard/Smithsonian center the 1976 edition of *U.S. Observatories: A Directory and Travel Guide* said that the:

> Two names belong together . . . they have meant flexibility, enterprise, international connections, an appreciation for the public interest in astronomy, a certain amount of crankiness, an indulgence toward amateurs, initiative in undertaking projects of doubtful outcome, appreciation of the personal history of scientists and the peculiar histories of scientific institutions, sophisticated naivete, hospitality toward women scientists, and a genius for organization. In reading book-length histories of both institutions and in studying their current undertakings, one becomes aware that they display simultaneously the virtues of youth and old age, without the vices of either.

The Smithsonian Astrophysical Observatory is the oldest of the Institution's research undertakings, and is rooted in the "programme" adopted for the Institution by its first Secretary, the physicist Joseph Henry, and continued by successors. It was formally established in 1890 under Samuel P. Langley, the third Secretary.

However, an observatory had been perceived long before that as a possible application for the funds derived from the Smithson bequest. John Quincy Adams, having returned to the House of Representatives in the late 1830's after serving as the Nation's sixth President, shepherded the legislation that created the Smithsonian through the Congress. Aware of the accomplishments of the Greenwich Observatory, Adams thought that such a "lighthouse of the skies" would best fulfill Mr. Smithson's testamentary mandate for "the increase and diffusion of knowledge among men.

Thus, the small base camp, authorized by H.R. 1483 for construction in the Arizona desert, has a long and elegant history that originated in 18th century British science and in the minds of the men who created this Nation.

The other facilities authorized—for the Tropical Research Institute in Panama—are creatures of the 20th century with a history that begins in the miracle and the marvel of the canal itself. When Gatun Lake was created for the canal, Barro Colorado Island was created as well. Declared a reserve by the Canal Zone governor in 1923, the island was administered by a board of directors that included the Smithsonian until 1940 when it became an independent agency of the U.S. Government. In 1946 it was transferred to the Institution, and in 1966, by action of the Smithsonian's Board of Regents, Barro Colorado became the nucleus of the Smithsonian Tropical Research Institute [STRI] the primary Western Hemisphere center for research on the tropics. In addition to the terrestrial and freshwater laboratories at Barro Colorado, STRI has marine laboratories on both the Atlantic and Pacific coasts of the isthmus; H.R. 1483 would authorize the construction of a new central laboratory adjacent to its administrative headquarters in Panama City.

Funding of $3.5 million has been requested by the Smithsonian for fiscal year 1987 to construct and equip the new laboratory, but this represents less than half of the total cost. The remaining $4 million has been made available by the family of Earl Tupper, many members of which reside in Massachusetts. Their generosity, which embodies the largest single gift for science research facility construction at the Smithsonian, is a significant standard for public/private partnership; they do all of us honor by their spirit and by their leadership.

In conclusion, Mr. President I must address the issue that is on many minds, the concern for the political climate in Panama. Obviously, we are all deeply concerned about recent reports; no one of us can know where they may lead. That concern, however, should not be used as a reason to vote against this measure or to otherwise short circuit the construction of a modest but necessary laboratory whose sole purpose is the acquisition of knowledge and understanding about fundamental biological processes in the tropics.

Rather, we should find hope and confidence in the history of the Smithsonian Institution in Panama across more than six decades operating with a variety of people, parties, and institutions. The international language of science and the knowledge that reaches beyond geography and ethnicity to benefit all of mankind are surely more stable and enduring than merely temporal politics and personalities.

Mr. President, in conclusion, I rise to support this legislation. The Smithsonian Institution's Astrophysical Observatory has long had a very important relationship with Harvard University and Harvard College Observatory working jointly. It is our belief that they provided extremely important research and breakthroughs in the area of solar and stellar phenomena as well as in the design of orbiting observatories, tracking of satellites, the application of computers, and the problems of astrophysics.

□ 1650

We believe it has also enhanced teaching as well as learning opportunities in a significant manner.

In addition, for those who are concerned about the issue of Panama, it is our conviction that the biological research and education for which funds are provided under this bill would permit us to much more extensively and importantly focus on the international problem of deforestation in the tropics, which will benefit greatly not only those countries there but us, as well.

I think this legislation is a very important continuation of an important process on scientific research which cannot, under Gramm-Rudman or any other excuse, be cut back.

So I strongly urge my colleagues to support this measure.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I yield 1 minute to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I support this measure. This research center has carried out extraordinary work in the canal for what is now, I believe, some six decades, in a combination of biological concern with individuals, with the flora and fauna of the area.

The Senator from Massachusetts mentioned deforestation. There are few ornaments of our overseas research activities as important as those the Smithsonian has carried out. It is in its third generation of scholars, and it should continue.

Mr. MATHIAS. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator has 2 minutes and 30 seconds remaining.

Mr. MATHIAS. Mr. President, it might be more to the point of the objection of the Senator from Nebraska if this were a new program. In fact, it is an ongoing program of great importance. This is an ongoing program of research into tropical diseases, and the conditions under which the work is being carried on today are unsafe, unsanitary, and unsatisfactory. We are trying to put this on a businesslike basis.

The Senator from Nebraska will be comforted by the fact that $4 million will be contributed by the Tupper Foundation to supplement this $11 million. So there is, as in the case of Arizona, a substantial contribution from the private sector.

If you really want to economize in the field of health, you keep people out of the hospital. You do not put them in the hospital and try to run the hospital cheaper. You keep them out of the hospital. That is what we are trying to do in the Tropical Dis-

ease Research Center. We are trying to reduce the overall cost of health care by providing the kind of research which will keep the people out of the hospital, keep them healthy, keep them working, keep them on the job. That is the real economy in health care, and that is the object of this facility.

Mr. President, I hope that the Senate will support this legislation for these very important scientific facilities.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I am prepared to go to a vote on this, and at the conclusion of these remarks, I will be glad to yield back the remainder of my time, if any remains.

The basic theme here is that I think I understand the need for this work. It comes down simply to a matter of priority.

If this were an appropriation bill rather than an authorization bill, meaning that if this is passed and if it goes to the Appropriations Committee and that appropriation bill comes back to us, then, if and when we get a budget bill passed, there would have to be an offset, as I understand it, from some other program to remain within the guidelines of Gramm-Rudman.

So, as necessary as this might be, I firmly believe that the dictates of Gramm-Rudman make these kinds of things untenable. I cannot understand how, in good conscience, most of the Members who voted for Gramm-Rudman could support this measure, which, under any normal circumstances is an add on.

Mr. President, as soon as the other side yields back their time, I would appreciate the Chair considering my time being yielded back, and we can go to a rollcall vote, so far as I am concerned.

● Mr. DECONCINI. Mr. President, I rise in support of H.R. 1483, a bill to authorize the construction of scientific research facilities for the Smithsonian Institution. One of the two facilities authorized by this bill is the Fred Lawrence Whipple Observatory southwest of Tucson, AZ. The University of Arizona and the Smithsonian have joined together in this endeavor, and it is impressive.

Among the instruments on Mount Hopkins is the multimirror telescope [MMT]. To call the MMT pioneering would not even begin to describe the new vision that the MMT has offered us of our universe. The scientists at the Whipple Observatory deserve our commendation.

This bill provides for no new programs, but rather allows for the construction of a new base camp at the base of Mount Hopkins. For those of us who have visited the site, the need is unquestionable.

I urge my colleagues to support this bill. The work of the Smithsonian, and especially that done at the Whipple Observatory, is important and expands our understanding of ourselves and the worlds around us.●

Mr. MATHIAS. Mr. President, unless the Senator from Kentucky wishes to speak, I yield back the remainder of the time on this side.

The PRESIDING OFFICER. Time has been yielded back on both sides.

The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 87, nays 13, as follows:

[Rollcall Vote No. 149 Leg.]

YEAS—87

Abdnor	Garn	McConnell
Andrews	Glenn	Melcher
Armstrong	Goldwater	Metzenbaum
Baucus	Gore	Mitchell
Bentsen	Gorton	Moynihan
Biden	Gramm	Murkowski
Bingaman	Harkin	Nunn
Boren	Hart	Packwood
Boschwitz	Hatch	Pell
Bradley	Hatfield	Pressler
Bumpers	Hecht	Pryor
Burdick	Heinz	Quayle
Chafee	Hollings	Riegle
Chiles	Humphrey	Rockefeller
Cochran	Inouye	Roth
Cohen	Johnston	Rudman
Cranston	Kassebaum	Sarbanes
D'Amato	Kasten	Simon
Danforth	Kennedy	Simpson
DeConcini	Kerry	Specter
Denton	Lautenberg	Stafford
Dodd	Laxalt	Stennis
Dole	Leahy	Stevens
Domenici	Levin	Symms
Durenberger	Long	Thurmond
Eagleton	Lugar	Trible
East	Mathias	Warner
Evans	Matsunaga	Weicker
Ford	McClure	Wilson

NAYS—13

Byrd	Heflin	Sasser
Dixon	Helms	Wallop
Exon	Mattingly	Zorinsky
Grassley	Nickles	
Hawkins	Proxmire	

So the bill (H.R. 1483), as amended, was passed.

□ 1720

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BRIBERY AND RELATED OFFENSES

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3511.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1 and 2 to the bill (H.R. 3511) entitled "An Act to amend title 18, United States Code, with respect to certain bribery and related offenses.".

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill with the following amendment:

In lieu of the matter inserted by said amendment, insert:

"(d) The Department of Justice, after consulting with each Federal agency that regulates a financial institution, shall issue a uniform set of guidelines that describe conduct that the Department of Justice will prosecute under this section, and shall make such guidelines available to the public.".

Mr. DOLE. Mr. President, I move the Senate concur in the House amendments with a further amendment, which Senator METZENBAUM will send to the desk.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2171

(Purpose: To amend provisions concerning guidelines for Bank Bribery Amendments Act of 1985)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Mr. THURMOND, and Mr. DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself, Mr. THURMOND, and Mr. DECONCINI proposes an amendment numbered 2171.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

"(d) Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public.".

Mr. METZENBAUM. Mr. President, this amendment revises the language concerning guidelines for violations of this act which was added by the House of Representatives. I have every expectation that the language added by our amendment will resolve this issue and that it is acceptable to the House.

This amendment provides that guidelines be issued to assist the banking industry in complying with the prohibition on bank bribery. Bank bribery is a serious offense. Congress has chosen to provide stiff penalties for bank bribery because of the concern that people who unfairly influence bank officials will get preferred treatment. They may receive preferential interest rates, breaks on deferred payment schedules, easier collateral requirements, the list goes on and on. This kind of conduct not only is unfair to other banking customers, it undermines the financial stability and integrity of the banking system.

The bill makes certain revisions in the definition of bank bribery as passed by Congress in 1984. I support the basic purpose of the bill. However, during discussions with members of the industry and others it became clear to me that it would be useful for guidance to be given to the thousands of persons who must comply with this section. Many questions have been raised as to what conduct would violate this section. For example, concerns have been raised as to whether a small gratuity, a meal, or something else of limited value given by a bank customer to a bank official would violate this section. The members of the banking industry deserve to know what is expected of them. Those who deal with banks deserve to know what kind of conduct crosses the line from acceptable business behavior to criminal bank bribery. The purpose of the amendment is to insure that the lines are as clear as possible.

This amendment provides that the guidelines are to be issued by the banking regulatory agencies. These agencies are in a position to provide guidance as to what conduct would raise serious questions under this section. The banking agencies, after consultation with the industry and others, should use their expertise to develop guidelines for use by persons within the banking industry and persons outside the industry who deal with financial institutions.

In any criminal case under this section, the Government would have to prove all the elements of the offense, including the required showing of intent. The guidelines contemplated by this amendment do not modify these requirements. Instead, they will help the banking industry identify situations where a corrupt motive or intent to influence or reward may be inferred. A number of factors, such as the value of something transferred, the covert nature of the transfer, the relationship between the transferor and the transferee, the relationship of the transfer to a particular transaction, and any effect of the transfer on terms of a transaction are all factors that may be appropriately included in the guidelines.

The language of the bill that originally passed the Senate included an express statement regarding the admissibility of evidence regarding compliance with the guidelines. The language of this amendment contains no express statement regarding admissibility because the relevance of the guidelines may differ in particular situations. However, the absence of an express statement regarding admissibility should not be taken to mean that the guidelines themselves as well as compliance with the guidelines, with or without knowledge of them, are not relevant facts to be considered in particular cases. Rather, the standard rules of evidence will apply to the use of these facts as evidence in any criminal proceeding.

Mr. President, I am confident that this amendment will promote a fairer and more equitable banking system. It will give the banking industry some guidance as to the rules it must live by.

Mr. THURMOND. Mr. President, I am pleased to have joined Senator METZENBAUM in drafting and now in offering this amendment.

The issue of promulgation of guidelines to accompany the Bank Bribery Amendments Act of 1985; whether such guidelines are needed; who might promulgate them; and what, if any, impact they should have, has been a subject of concern to Members of Congress, the administration, financial institutions and others. A letter from the Department of Justice dated May 15, 1986, expresses some of the concerns involved with any such guidelines. I ask unanimous consent that the letter be inserted into the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND
INTERGOVERNMENTAL AFFAIRS,
Washington, DC, May 15, 1986.

Re: Bank Bribery, H.R. 3511

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Washington, DC

DEAR SENATOR METZENBAUM: This letter is in response to a request from a member of your staff regarding amendments to the bank bribery statute, 18 U.S.C. 215. Your inquiry concerns an amendment which requires the Department of Justice to issue guidelines describing the kinds of activity the Department will prosecute under the statute.

Current law, passed as part of the Comprehensive Crime Control Act of 1984, makes it a felony for anyone "in connection with bank business" to offer or give to a bank official (or for the bank official to solicit or receive) "anything of value" other than what is given or offered to the bank itself. On October 29, 1985, the House of Representatives passed H.R. 3511 which would amend current law by requiring that the thing of value must be either "corruptly" offered or received with the intent to "influence or reward" a bank employee or officer in his "official action."

On February 4, 1986, the Senate passed H.R. 3511 with three amendments. The first two amendments, which the Department of Justice endorsed, addressed a technical flaw in H.R. 3511. The third amendment, however, provides an entirely new feature to a criminal statute and reads as follows:

The Justice Department shall consult with the Federal regulatory agencies with responsibility for regulating financial institutions as defined in this Act in order to establish a unified set of guidelines for identifying conduct which is prohibited by this section. The Department and such regulatory agencies shall make such guidelines available to the public. Compliance or noncompliance with the standards contained in such Act shall be relevant but not dispositive in determining whether a violation of this section has occurred.

On April 22, 1986, the House adopted the Senate version of H.R. 3511 except that, in place of the Senate's third amendment, the House substituted the following:

The Department of Justice, after consulting with each Federal agency that regulates a financial institution, shall issue a uniform set of guidelines that describe conduct that the Department of Justice will prosecute under this section and shall make such guidelines available to the public.

Your staff has now asked the Department of Justice which of the two amendments the Department prefers. The Department objects strongly to both versions. Guidelines, if appropriate, should be promulgated by the bank supervisory agencies, not by the Department of Justice. Additionally, we oppose guidelines which would preclude or mandate prosecution. At a meeting earlier this year with Senate staff, Department of Justice representatives indicated that the Department would have no objection to guidelines, provided that such guidelines addressed standards of conduct only and were promulgated by the bank supervisory agencies.

While the Department of Justice has furnished general guidance to United States Attorneys through the United States Attorneys' Manual regarding various applications of the statute, it would be exeedingly difficult and unwise to issue specific and binding guidelines to cover corrupt banking transactions just as it would be unwise to issue comparable guidelines to clarify the term "fraud" as used in bank fraud and mail fraud statutes. Indeed, it would set an alarming precedent if the Department of Justice were required to issue specific and binding guidelines for white collar crime, an area as old as falsehood and as versatile as human ingenuity. For example, the Department cannot place simple dollar limits on bribes or gratuities and then apply these limits "uniformly" as required by both versions of the amendment. Reasonable business practices differ significantly between small credit unions and large commercial banks. Moreover, as a matter of policy, the Department cannot publicly ignore a small but otherwise corrupt transaction any more than it can place dollar limits on bank teller embezzlements prosecutable under 18 U.S.C. 656.

The Department believes it appropriate to discuss through the United States Attorneys' Manual a statute's legislative history, to delineate elements of the offense, and over time to furnish examples of violations which underlie evolving case law. If a bank needs more guidance, it must consult with private counsel just as any other business must do.

If the conferees, on the other hand, are convinced that the banking industry needs more guidance than what is stated in the statute and the United States Attorneys' Manual, that guidance should come from the supervisory agencies. As pointed out in the testimony of Ms. Victoria Toensing, Deputy Assistant Attorney General, to Chairman Conyers' Subcommittee on Criminal Justice on July 11, 1985, the bank regulatory agencies may issue regulations authorizing financial institutions to regulate receipt of nominal gratuities by a code of ethics. Such regulations may help clarify situations in which, in the agency's view, officers and employees of financial institutions could, without running counter to the purpose of the statute, receive gratuities of nominal value or be modestly entertained by bank customers to facilitate the discussion of bank business. If such regulations are promulgated, the Department of Justice will take into account the supervisory agency's expertise and judgment in defining those activities or practices which the agency believes do not undermine an employee's or officer's fiduciary duty to the financial institution.

Moreover, the Senate version provides that "[c]ompliance or noncompliance with the standards . . . shall be relevant but not dispositive in determining whether a violation . . . has occurred." If the Department of Justice, as opposed to the regulatory agencies, promulgates guidelines, due process requires that these guidelines be "dispositive" of any position the Department later takes in any criminal case. On the other hand, a bank regulatory guideline can be "relevant" to without being "dispositive" of the Department's position in a subsequent criminal case. Accordingly, it is only regulatory guidance that properly conforms to the Senate version of the amendment.

In summary, the Department does not object to guidelines written by the bank regulatory agencies and which address standards of conduct only. But the Department vigorously opposes the guidelines as passed by the Senate and the House.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

Mr. THURMOND. We have engaged in extended discussions within the Senate Judiciary Committee and between the Members of the Senate and House Judiciary Committees. The amendment being offered represents the results of those discussions. The parties to these discussions feel it is appropriate, perhaps even essential, to leave the issues surrounding the potential need for guidelines and their content to those with expertise in this area: The Federal agencies with responsibility for regulating financial institutions. It is for that reason, that we have drafted this amendment in broad terms. The intricacies of such guidelines must be left to the agencies. Likewise, the question of what, if any, relevance these guidelines might bear in cases interpreting the act is to be left to the courts in the normal course of events. I am pleased that we are able to finalize this point in a manner acceptable to all of the participants.

Mr. DECONCINI. Mr. President, I am pleased to join with Chairman THURMOND and Senator METZENBAUM in perfecting the bank bribery amendments. As Senate sponsor of S. 1214, the original amendments to the Bank Bribery Act, I am grateful to my colleagues in the Senate and House for the patience and interest they have shown in this important legislation. Today, I join with Senators THURMOND and METZENBAUM in adding an amendment to H.R. 3511 which should facilitate the early enactment of this clarifying legislation.

The amendment that we are offering today clarifies the scope and use of guidelines to be issued by the financial institution regulatory agencies. It also clarifies the circumstances under which the guidelines are to be developed and promulgated. The amendment was drafted after much discussion and negotiation between and among Senate and House staff. I am hopeful that this final amendment will satisfy all concerned and that the bill will pass the House again very quickly. I urge my colleagues in the Senate to approve this much-needed bill today.

The amendment that I and my colleagues introduce today is intended to provide assistance to officers and employees of financial institutions as well as to their customers. The appropriate agencies should jointly develop general guidelines to assist parties to financial transactions. These general guidelines will be made available to the officers and customers of financial institutions as well as to the public at large.

Another issue which has taken up a great deal of time in our negotiations has been the question of the relevance of the guidelines in prosecutions brought under the act. Earlier versions of this amendment had suggested that the guidelines were intended to be used by the parties to prosecutions to prove or disprove the allegations. These versions of the amendment assumed that the guidelines would be statutorily relevant in the prosecutions. Today's amendment is intended to provide that the appropriate rules of evidence will govern the relevance and probity of the guidelines. It is appropriate that Congress not attempt to decide prospectively the relevance of the guidelines. Such a determination is best left for the factfinder to make in each case based on the Federal rules of evidence.

Mr. President, I wish to thank Chairman THURMOND and his counsel Diana Waterman; Senator METZENBAUM and his counsel, Eddie Correia; Chairman CONYERS and his counsel, Tom Hutchinson; Representative GEKAS and his counsel, Ray Smietanka; and my counsel, Ed Baxter for their cooperation and hard work on this legislation. For such a minor, although important, matter it proved to be surprisingly difficult to work out an acceptable agreement. It is only through the diligence of those listed above that we have been able to provide clarification to financial institutions and to their customers as to when the bank bribery amendments will and should apply.

Mr. President, in passing the Bank Bribery Act in 1984, the Congress overreached. We passed a criminal statute without including an intent element, thereby exposing financial institutions and their customers to prosecutions for inadvertent and unintentional acts. By today's actions we remedy that defect and in doing so restore credibility to our Federal Criminal Code as well as protect innocent citizens from prosecution.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote which the motion was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 4868 HELD AT DESK

Mr. BYRD. Mr. President, there is a message from the House at the desk on H.R. 4868. I ask that the bill be read the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4868) to prohibit loans to, other investments in, and certain other activities with respect to South Africa, and for other purposes.

Mr. BYRD. Mr. President, under rule XIV, I now request that the bill be read the second time.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be held at the desk until the next legislative day.

H.R. 4952 PLACED ON CALENDAR

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate receives from the House H.R. 4952, a bill to amend the United States Code with respect to interception of certain communications and other forms of surveillance, it be placed on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I would like to inquire of the minority leader if he is in a position to confirm the following nominations on the Executive Calendar: Calendar No. 899, D. Lowell Jensen; Calendar No. 900, Leon B. Kellner; Calendar No. 901, Jerome G. Arnold; Calendar No. 902, Andrew J. Maloney; Calendar No. 903, Paul R. Nolan; Calendar No. 904, Donald W. Wyatt; and Calendar No. 905, under the Coast Guard.

Mr. BYRD. Mr. President, the nominees identified by the distinguished majority leader have been cleared for action by all Members on this side and we are ready to proceed.

Mr. DOLE. I thank the distinguished minority leader.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now go into executive session in order to consider the nominations just identified; that they be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

D. Lowell Jensen, of Virginia, to be U.S. District Judge for the northern district of California.

DEPARTMENT OF JUSTICE

Leon B. Kellner, of Florida, to be U.S. Attorney for the southern district of Florida.

Jerome G. Arnold, of Minnesota, to be U.S. Attorney for the district of Minnesota.

Andrew J. Maloney, of New York, to be U.S. Attorney for the eastern district of New York.

Paul R. Nolan, of Washington, to be U.S. Marshal for the eastern district of Washington.

Donald W. Wyatt, of Rhode Island, to be U.S. marshal for the district of Rhode Island.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Alan D. Breed.

John W. Kime.

Robert L. Johanson.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion to reconsider on the table.

The motion to reconsider was laid on the table.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1750

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST—MANION NOMINATION

Mr. DOLE. Mr. President, it had been my hope that we could work out some time limit agreement on the nomination of Daniel Manion. I am going to propound a unanimous-consent request. I assume it will be objected to because we are not able to get together on it but first let me make that reguest.

As in executive session, I ask unanimous consent that at 10 a.m. on Wednesday, June 25, the Senate go into executive session to consider the nomination of Daniel Manion to be a U.S. circuit judge and be considered under the following time agreement: 8 hours on the nomination to be equally divided between the chairman of the Judiciary Committee and the ranking minority member or their designees; that following the conclusion or yielding back the time the Senate proceed to vote on the nomination of Daniel Manion, and that no motions to commit or recommit be in order.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, there will be no objection on this side to proceeding to the nomination. The distinguished majority leader could proceed on motion in any event. But there is no desire on this side to put that motion to a roll-call vote if the distinguished majority leader wishes to proceed by motion. This side is content to proceed by voice vote.

As to the time agreement, Mr. President, I am constrained to object because there are a number of Senators who want to speak and I am not sure that the time limit contained in the rquest would be sufficient. Perhaps at a later date we would be happy to discuss that again with the majority leader. So I do object to the request.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I thank the distinguished minority leader.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I then ask unanimous consent the Senate go into executive session in order to consider the nomination of Daniel Manion, to be a U.S. circuit judge.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

THE JUDICIARY

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

The legislative clerk read the nomination of Daniel A. Manion, of Indiana, to be U.S. circuit judge for the seventh circuit.

Mr. DOLE. Mr. President, I understand the distinguished chairman of the Judiciary Committee will be here momentarily to make a statement, and I believe also the distinguished Senator from Delaware [Mr. BIDEN] would like to be heard. I am not certain we would be able to conclude this this evening.

Mr. BIDEN. It is possible but not likely.

Mr. DOLE. In any event, if it appears there may be extended debate, we are prepared to file a cloture motion so the vote would occur on Thursday.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Daniel A. Manion of Indiana to be a U.S. circuit judge for the Seventh Circuit Court of Appeals.

The committee received the President's nomination of Daniel A. Manion for the position of U.S. circuit judge on February 21, 1986. As you know, Mr. President, the Judiciary Committee has filed a detailed report on this nomination. However, I would like to review the reasons why Mr. Manion should be confirmed.

Mr. Manion graduated from the University of Notre Dame in 1964 with an A.B. degree in political science. In his senior year he received the John J. Cavanaugh Award which is given annually to the senior army cadet ROTC officer demonstrating excellence in leadership and academic attainment. He is a Vietnam veteran having served for 2 years in the U.S. Army in 1965 and 1966. He is the first Vietnam veteran to be nominated to the court of appeals.

Mr. Manion worked full-time as director of the industrial development division of the Indiana Department of Commerce while attending law school. Following graduation from Indiana University Law School in 1973, he worked as a law clerk and as a deputy attorney general for the State of Indiana. As a member of the criminal ap-

pellate section, he drafted approximately 20 briefs on a wide variety of issues relating to criminal appeals. He was assigned to argue cases before the Indiana Court of Appeals and the Indiana Supreme Court, despite the fact that oral argument in criminal appeals is rare in Indiana. In the highway condemnation section, Mr. Manion worked on property condemnation cases for the State. He tried approximately six such cases and settled a number of others.

In 1974 Mr. Manion returned to South Bend and joined a small law firm. His current practice is about 75 percent litigation. He has experience in many areas of the law, which include: banking, insurance, civil rights, and tax law. He has handled personal injury cases representing plaintiffs and defendants. He has personally tried about 35 cases before a jury. Mr. Manion has participated to date in varying degrees in approximately 20 cases in Federal court and has served as lead counsel in a number of cases although they were settled prior to trial. Currently, he is lead counsel in three cases, two of which involve securities and the Racketeer Influenced and Corrupt Organizations Act, and a diversity case. Mr. Manion has also served as a cocounsel on several large complex cases including matters involving patent infringement and breach of contract.

In 1978 Mr. Manion was elected to the Indiana State Senate. After only 2 years in the State Senate, he was designated as chairman of the committee on energy and environmental affairs, a notable elevation for a junior senator. He also served on the judiciary for 4 years and for 2 years was the chairman of the civil law subcommittee. Additionally, in 1982 he was the ranking member of the committee on education, labor, commerce, and insurance and financial institutions.

Mr. Manion's legal background is diversified, including civil and criminal law, State and Federal practice, and trial and appellate experience. He possesses an excellent background of broad litigation experience, as well as experience in the executive branch of the State government, and experience as a State legislator who has served on committees dealing with a broad spectrum of issues which continually come before the court of appeals.

As chairman of the Judiciary Committee I have received numerous letters endorsing Mr. Manion. Notable among these letters is one from Father Theodore M. Hesburgh, president of the University of Notre Dame and former chairman of the U.S. Commission on Civil Rights. Father Hesburgh said of Mr. Manion: "His life has been one of service and commitment to justice." The Honorable Richard M. Given, chief justice of Indiana, supports the nomination. Eugene I. Goldman of the law firm of Steptoe & Johnson and a member of the Washington Council of Lawyers speaks highly of Mr. Manion on the basis of shared responsibilities in an ongoing case. David T. Ready, a former U.S. attorney appointed by President Carter, vouches for Mr. Manion's abilities. These are but a few of the many strong endorsements received from individuals who personally know and have worked with him.

Mr. President, on June 20, I received a letter from President Reagan reaffirming his strong support for Daniel Manion.

I would like to quote a small portion of his letter and I ask unanimous consent that the letter be printed in its entirety at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. THURMOND. This is what the President wrote:

> Dan Manion's "political views" are close to my political views. In particular, Dan Manion's belief that Federal judges should interpret the law, and not impose from the bench their social or philosophical notions upon society, is my belief. That is the real reason this nomination is encountering such hostility.
>
> So, let me state my position directly. I intend to fight for the nomination of Dan Manion; and I do not accept that there should be a hidden restrictive convenant in the confirmation process that reads: no conservative need apply.
>
> What appears to be taking shape is an attempt by some Senators to use their "advise and consent" power to overturn the mandate of the American people—as expressed in 1980 and 1984.
>
> This is not an issue of Republican versus Democrat. It is an issue of whether or not a President of the United States has the right to choose Federal judges who share his judicial philosophy, so long as they are qualified by reason of character and competence. Presidents of both parties have asserted that prerogative; and I will not surrender it.

Mr. President, I think that President Reagan has focused on the heart of the matter—political ideology.

Mr. President, Mr. Manion is an able lawyer of high integrity who will provide balance to the seventh circuit.

Mr. President, I shall make further remarks during this debate and I shall answer the points that have been made against Mr. Manion. I believe I can answer them satisfactorily to the Senators who may listen to that debate.

It is my conviction that Mr. Manion is well-qualified for the seventh circuit and it is my sincere belief that he should be confirmed.

EXHIBIT 1

THE WHITE HOUSE,
Washington, DC, June 20, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR STROM: During the campaigns of 1980 and 1984, I made clear to the American people the kind of men and women I would select to fill vacancies on the Federal bench, including the United States Supreme Court.

I promised they would be men and women of demonstrable character and capacity, of practical experience and proven ability in the law. I would nominate, I said, judges and justices who shared my deeply held conviction that the function of America's courts, including the highest court, is not to make laws for the American people, but to interpret the law. Judges in a democratic society should not use their appointed offices to impose their social or political views upon society—in our system of government this is the province of elected officials. This was a view stated again and again in those campaigns.

I believe I have kept faith with that commitment. And these thoughts were very much in mind when I selected Justice Rehnquist to succeed the retiring Chief Justice, and Judge Antonin Scalia to fill the vacancy thus created. Two nominees who better exemplify the qualities I pledged to seek in judicial appointments would be difficult to find.

Which brings me to the point of this letter. I am writing with a sense of profound concern about what is happening with the confirmation of Daniel A. Manion, whom I recently nominated to the United States Court of Appeals for the Seventh Circuit.

Dan Manion is a capable attorney, with a high reputation for integrity and substantial litigation experience. Colleagues he has faced in court and former Democratic opponents in the Indiana Senate have come forward to attest to his character and competence. Reviewing his record, the American Bar Association declared him fully "qualified" for the appellate judgeship to which he has been nominated.

Nevertheless, in recent weeks, Mr. Manion has become the target of a campaign that has sought to disparage his capabilities and his character, in order to defeat his nomination. Thus, I am writing to make known to you and your Senate colleagues my strongly held views about Dan Manion, and about his qualifications for service on the appellate bench.

First, the rating given to Dan Manion by the ABA, i.e., "qualified"—though disparaged by his critics—is the identical rating given almost half the Federal judges nominated by Presidents Nixon, Ford, and Carter. It is the same rating given two of my previous nominees to the Seventh Circuit, Judges Easterbrook and Posner, both of whom were distinguished professors of law at the time of their nomination. At what point was it that an ABA rating of "qualified" became an impediment to nomination to the Federal bench?

Second, Mr. Manion's legal experience is dismissed because it was gained largely at the State rather than the Federal level. But my own experience, before coming to Washington, was at the State level. It has been, and remains, my belief that our Federal circuit courts should reflect the diversity of the regions they serve. The Seventh Circuit contains Chicago, but it also contains smaller cities and towns, rural areas and farming

communities, like Dixon, Illinois. Dan Manion, a country lawyer, would represent that diversity, just as the other judges whom I nominated to the Seventh Circuit bring experience from the academic world and the urban law community.

Moreover, when we recall that Mr. Lincoln himself and the late Senator Sam Ervin were proud to be known as "country lawyers," we ought to be hesitant before considering this kind of law practice a mark of ineligibility for service on the Federal bench. Nor should Mr. Manion's years of political experience in the State Senate and legal experience in Indiana's District Attorney's office be counted as of no consequence. Among the names any President should consider for the Federal courts, including the Supreme Court, when vacancies occur, are those of the most distinguished and experienced lawyers in the Congress of the United States.

Third, it is alleged that Mr. Manion, while serving as Chairman of the Judiciary Committee in the Indiana Senate, "defied . . . the Constitution," when he proposed a bill authorizing the posting of the Ten Commandments in Indiana's public schools.

But this distortion is rooted either in ignorance or malice. Where the Supreme Court had disallowed the *mandatory* posting of the Ten Commandments in the Kentucky public schools, Dan Manion sponsored a bill permitting the *voluntary* posting in Indiana's schools, and added a provision that should the Supreme Court rule voluntary posting unconstitutional, the postings would immediately be removed. His bill passed the Indiana Senate with strong Democratic support.

Dan Manion is also opposed by some because his father, Clarence Manion, former dean of the Notre Dame Law School, was a member of the John Birch Society. Yet, surely, in 1986, the time has passed when guilt by association is acceptable practice, when an act of political discrimination can be committed against a Federal nominee because his late father held deeply controversial views.

Addressing Mr. Manion during his appearance before the Judiciary Committee, one Senator revealed, I believe, the true and undeclared motivation behind the campaign to defeat my nominee. "I think you are a decent and honorable man," the Senator said to Dan Manion, "but I cannot vote for you because of your political views."

Strom, here we come to the heart of the matter.

Dan Manion's "political views" are close to my political views. In particular, Dan Manion's belief that Federal judges should interpret the law, and not impose from the bench their social or philosophical notions upon society, is my belief. That is the real reason this nomination is encountering such hostility.

So, let me state my position directly. I intend to fight for the nomination of Dan Manion; and I do not accept that there should be a hidden restrictive covenant in the confirmation process that reads: No conservative need apply.

What appears to be taking shape is an attempt by some Senators to use their "advise and consent" power to overturn the mandate of the American people—as expressed in 1980 and 1984.

This is not an issue of Republican versus Democrat. It is an issue of whether or not a President of the United States has the right to choose Federal judges who share his judicial philosophy, so long as they are qualified by reason of character and competence. Presidents of both parties have asserted that prerogative; and I will not surrender it.

In his letter of endorsement, Father Theodore Hesburgh, who has known him since Notre Dame days, said of Dan Manion that his life has been one of "service and commitment to justice," that he would bring to the bench "dedication, integrity and a keen knowledge of the law." This represents my view exactly; and there is one final personal reason I want this nominee confirmed. Dan Manion would be the first of the Vietnam veterans to reach the Federal Appellate Court; and I want the record to show I made that appointment.

Please let me know how I can be of help.

Sincerely,

RONALD REAGAN.

Mr. LONG. Mr. President, if the Senator would be so kind, I would appreciate it if he would leave his statement here for a few minutes. I want to make a statement, but I want to read his statement in full because I came in during the middle. I would like to see what the Senator said and I want to read all of it before I leave the Chamber.

Mr. THURMOND. I thank the Senator.

Mr. LONG subsequently said: I thank the Senator, Mr. President. I enjoyed reading the Senator's statement. I think he made a very fine statement for the nomination of Mr. Manion to be appointed to the U.S. court of appeals.

The PRESIDING OFFICER. Does the Senator from South Carolina seek further recognition?

Mr. THURMOND. Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, the Senate has just taken up the nomination of Daniel Manion to the United States Circuit Court of Appeals, Seventh Circuit. His nomination places the constitutional role of the U.S. Senate in rendering its "advice and consent" in very clear perspective. Our decision whether to consent to Mr. Manion's nomination, I believe, must be viewed in light of three primary concerns.

The first of these concerns is that the Senate review of a judicial nomination is a constitutional duty of paramount importance. The Federal judiciary is an independent and coequal branch of Government. The public ultimately must rely upon the U.S. Senate to ensure that nominees have the professional and personal qualifications to be a Federal judge.

The second point, Mr. President, I should like to make this evening is that the court of appeals is a court of last resort for the overwhelming majority of litigants. Consequently, the circuit court of appeals is too vital to our structure of constitutional Government to be burdened by the appointment of persons whose qualifications are subject to serious doubt.

Finally, if Mr. Manion, who is now 44 years old—and far be it for me to criticize him for his young age, having arrived in the U.S. Senate at the age of 29 and being only 43 myself—is confirmed, his tenure on the bench will outlast the vast majority of us in this body, if not all of us, and the fact is that he will be a sitting judge well into the next century and will be asked to consider issues that he cannot, nor can I, even imagine now, issues dealing with technology, privacy, medical advances, civil rights and civil liberties. Consequently, given the importance of the post and the life tenure that is attached to the post, the burden ought to be borne by Mr. Manion to demonstrate the intellect, achievement, and excellence in the law that is the prerequisite for this position.

We have been in the bad habit around here lately of assuming that the burden is on the U.S. Senate to prove that a nominee is not qualified to be a Federal judge at any level, when, in fact, the constitutional burden is clearly upon those proposing the nominee and the nominee himself to demonstrate that he or she has the qualifications to sit.

Let us keep in mind, once we in fact put a Federal judge on the bench, that is for all practical purposes the absolute last time the citizens of this country, the President of the United States of America, and the U.S. Congress will have an opportunity ever to reconsider whether or not that decision was correct. It is not like a President who stands for election every 4 years. It is not like a U.S. Senator who stands for election every 6 years, or a Member of the House of Representatives who stands for election every 2 years. This is for life. No one will again have the opportunity to consider whether or not the judgment made in the first instance was a correct one.

That is why the Constitution implicitly places the burden upon the person seeking the post to demonstrate that they should have it. Quite frankly, just like the burden is upon U.S. Senators to go to our constituency and say, "We think we should be U.S. Senators, and we are prepared to make our case why we should be there," our constituencies know the burden is on us to demonstrate to them that in fact we are worthy of sitting in the Senate. It is no different for a Federal judicial nominee. The burden is on the nominee to prove that, in fact, they are qualified.

Quite frankly, as pointed out by Profs. Phillip Kurland and Laurence Tribe of the University of Chicago and Harvard University, respectfully, two widely respected constitutional experts of varying and different philosophical perspectives, both in a recent letter signed jointly by them, a letter to the Judiciary Committee and also a op-ed piece to the American press noted, and I quote:

A nominee's entire record of professional achievement, public service, academic credentials, appellate briefs, or other legal briefs, scholarly or other publications, should be reviewed carefully to screen out

I emphasize "to screen out"—

the merely competent and certainly the simply mediocre.

Mr. President, the Senate Judiciary Committee after an extensive study of Mr. Manion's record voted to disapprove—I emphasize "voted to disapprove"—Mr. Manion's nomination to the circuit court of appeals.

His nomination failed because he failed to demonstate the high degree of achievement that must be demanded of persons chosen to serve on the Nation's second highest court.

Let me note parenthetically that the circuit court of appeals, to which this man is going to be elevated, if he, in fact, is confirmed by the Senate, is a court which has a phenomenal record of distinction. It has a former Supreme Court Justice, two former Solicitors General, and four former Federal district court judges. These are men and women of high competence, qualification, and caliber. They are not mediocre. They are clearly qualified, as they should be, to sit upon one of the most important courts in the United States of America—for that matter, in the entire world.

Mr. President, Mr. Manion, seeking membership on that court in that circuit, failed to demonstrate the high degree of achievement that must be demanded of a person chosen to serve on the Nation's second highest court. Mr. Manion has little, if any, experience in dealing with Federal constitutional or public law issues.

□ 1740

In fact, he has never argued a case before the seventh circuit, the circuit within which he practices, or any other Federal appeals court, for that matter. He has never been, as we attorneys say, the "first chair" in any Federal trial that we are aware of. If there have been any, they have been very few.

We examined Mr. Manion's legal briefs. Our concern is not with, as advertised by some who support Mr. Manion, "typographical errors." Mr. Manion's legal briefs are average at best and demonstrate a pervasive lack of craftsmanship, excellence, and most importantly, an ability to communicate with clarity and logic.

Mr. President, some, and most specifically, the President of the United States, have recently charged that "partisan politics" motivates me and my colleagues to oppose Mr. Manion's nomination. They further charge "our real objection to Mr. Manion is that he doesn't conform to the liberal ideology of some Senators."

Mr. President, casting this debate in ideological or partisan terms, quite frankly, misses the point of the objections raised. Although there are circumstances under which ideology is a legitimate basis of consideration for acceptance or rejection of a judge, we do not even have to get to that issue with regard to this nominee, and the accusation of politics misses the point of the objections raised and ignores the record of the past 5 years. Let me set the record straight, if I may.

Since my distinguished colleague from Massachusetts chose to take over another committee and left me the dubious distinction of ranking member on the Judiciary Committee, we have had the opportunity to consider a number of judges appointed by the President—President Reagan.

To be specific, we have confirmed 59—59 nominees to the courts of appeals and 211 appointments to the Federal district court. That is exactly 270 Federal judges that I have, as a member of the Judiciary Committee and as a Member of the Senate since this President has been President, voted on one way or another.

Let us talk about how partisan we have been and how this is cast in cold, ideological terms. Only 4 nominations during this entire period—4 out of 270 nominees—on only 4 did we even ask for a rollcall vote on the floor of the U.S. Senate. Where is the partisan slant to our objection? Four times out of 270 are all that those of us who are concerned—as we all are, I am sure—with the caliber and makeup of the Federal bench, only four times did we, who are accused of being partisan, even ask for a rollcall vote.

While most of these 270 nominees, I think it is fair to say, share a clearly conservative judicial philosophy, closely in tune with that held by President Reagan, they have been approved by the U.S. Senate, Democrats and Republicans alike, by virtue of their personal and their professional qualifications.

I disagree, quite frankly, with the judicial philosophy of this President. Were I asked to advise the next President of the United States, I would not be telling him or her that he or she should send up nominees like the ones that have come before us in the last 5 years. But notwithstanding the fact, we Democrats, who are accused of being partisan, voted to bring these judges up and to confirm them.

I disagree with the philosophy of Frank Easterbrook and Richard Posner, but I voted to confirm both of these men to the seventh circuit—the same circuit, by the way, we are talking about putting Mr. Manion on. But I voted to confirm both of them.

I hold different views from Judge Bork and Judge Scalia, who was recently nominated to be on the Supreme Court. I would not, had I the option, pick either of those gentlemen to be on the Supreme Court or on the courts on which they serve. But I voted to confirm each of them to the District of Columbia Circuit Court.

Two months ago, I voted to confirm J. Daniel Mahoney, the former chairman of the New York State Conservative Party, to the second circuit. I did so because he and many other acknowledged conservatives—many other acknowledged conservative appointees of this President—have possessed the earmarks of excellence, intellectual capability, high achievement, and demonstrated excellence in the law and the requisite judicial temperament.

I might suggest to my colleagues that we, in fact, in addition to this, have gone out and passed without serious debate through the Judiciary Committee and on to the floor of the Senate a man to serve on the Federal court who was the chief attorney for the right to life community. Those who suggest that somehow, we are against Mr. Manion because of his right to life positions—the most outspoken legal scholar in support of the right to life position is a man I voted for and we voted for here, to pass.

This is not about right to life, it is not about conservative or liberal, it is not about Democrat or Republican. It is about intellectual and professional competence to serve as a member of the third coequal branch of the Government.

In fact, I have not agreed with the ideology of probably most of President Reagan's 270 judicial appointments, but I voted to confirm all but 3 of them and shall continue to do so provided they have the requisite professional and personal qualifications.

The suggestion that our opposition to Mr. Manion's nomination is based on partisan politics or ideological differences is itself a smokescreen calculated to hide Mr. Manion's patent lack of qualifications for the high position of public trust to which he has been nominated.

Mr. KENNEDY. Would the distinguished Senator be good enough to yield?

Mr. BIDEN. I have just 1 more minute, Mr. President; then I shall be delighted to yield to the Senator.

It is an affront for those who have worked so hard for excellence on the court to suggest that this is merely partisan. It is an effort to deter the Senate from exercising its constitu-

tional responsibility by insisting that nominees possess adequate intellect, achievement and an understanding of the role of the Constitution. But, we shall not be deterred from this important duty.

Mr. President, Mr. Manion's personal character is not at stake here. He is an honorable man. What is at stake is the excellence of the Federal judiciary and the constitutional role of the Senate in rendering advice and consent.' Our oath as Senators is to ensure quality and to protect the judiciary as an independent and coequal branch of Government.

As a distinguished colleague recently reminded members of the Judiciary Committee, our duty to the justice system is greater than our duty to any individual. And when in fact it is a question as to whether or not the Constitution is to be served or an individual right is to be served as it relates to appointment to the bench, we must err on the side of protecting the Constitution.

I thank my colleagues and I yield to my colleague from Massachusetts.

□ 1750

Mr. KENNEDY. Mr. President, will my colleague be good enough to yield for a few questions?

Mr. BIDEN. I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. First of all, I want to commend my friend, the Senator from Delaware, the ranking minority member of the Judiciary Committee, for summarizing in a very cogent way the principal areas of concern of those who have expressed reservations about this nomination in the Senate Judiciary Committee. I think he has also provided an excellent outline of the history of the Senate Judiciary Committee's actions during the past several years in the consideration of nominations. I think it is very worthwhile at the opening of the debate on Mr. Manion to place the nomination in its historical context. The Senate must determine whether this nominee should be entrusted with the great honor and significant responsibility of serving as a Federal judge on the seventh circuit court of appeals.

I believe we will have an opportunity to debate these issues at some length during tomorrow and prior to the time we will be required, under what we can anticipate as a cloture motion, to vote on this measure.

I inquire of the Senator from Delaware whether he agrees with me that the burden for this nominee ought to be placed on those who are supporting the nominee for this extremely important position. We have heard, both in the Judiciary Committee on a number of occasions and in talking with our colleagues on other occasions, a basic truism, and that is that just because people are born and become lawyers does not necessarily mean they deserve to be appointed to a court—the second most important court of this land, the circuit court.

I hope that during the opening statements of those who support the nominee, they will be able to make the compelling and overriding case in favor of this nominee and will be able to address those points which have been eloquently stated by the distinguished Senator from Delaware this evening and which have been outlined in a thoughtful and judicious way in the committee report by those of us who do not support the nomination. I believe very deeply that those who support this nominee have to carry the burden.

I am interested in whether the Senator from Delaware agrees.

Mr. BIDEN. I say to my colleague, quite frankly, that I think this debate is about to illuminate not so much what Mr. Manion is or is not but what each of us Senators thinks about the court.

I think that those who make the argument for Mr. Manion will tell us more about the view they have of the role of the circuit court of appeals and what is required on that court than they will ever tell us about Mr. Manion.

So I think this will be an illuminating and very positive public debate for the American public to begin to focus on the role of the court.

If I were to suggest that someone be elevated to the court who everyone in this Chamber would assume was not qualified, the judgment would be made of me, at a minimum, that I had a relatively low regard for that body.

What is at stake here is a debate on the significance and importance of the court and what standards each of us has for membership on the court, separate and apart from Mr. Manion.

As the Senator from Massachusetts clearly stated, the burden is on those who propose to put an individual on that court.

Mr. KENNEDY. I thank the Senator.

I look forward to participating in the debate on Mr. Manion. I think it is imperative, as the Senate focuses on this particular nominee, that those who are recommending to the Senate that we act favorably on Mr. Manion must bear the burden of demonstrating his suitability to be a Federal appellate judge. I do not believe that Mr. Manion meets the criteria which the American people expect for the second highest court in the land, and I will speak at greater length on this nomination when debate resumes tomorrow.

Mr. QUAYLE. Mr. President, I want to speak very briefly this evening on the Manion nomination that is presently before the Senate.

I think it is important that we point out what the Senate's role and responsibility is in confirming or rejecting the nominees that have been submitted by the President.

It is my firm understanding, and I believe I would have strong bipartisan support on this, that the traditional role of the Senate in judging nominees submitted by the President is to view their competence and to view their character when deciding whether to vote yea or nay on the nomination.

I believe that these are the criteria that Senators ought to focus on as we look at this debate over Dan Manion.

I believe the debate is on competence. I believe the debate is on character.

But I hasten to add, Mr. President, that the reason that we are now in a filibuster of Mr. Manion is not because of the character or the competence; it really comes down to the strictly ideological concerns that many Senators have.

There has been a great disclaimer by many saying, "No, this is not ideology." But I think it is important for the Senate to understand the history of this nomination and to put it into its proper perspective.

When the Manion nomination was first sent to the Senate, many of the critics said "Well, it looks like we really have one here. Dan Manion, of South Bend, IN, a small town lawyer, son of Dean Clarence Manion, one of the founders of the John Birch Society. Boy, we really have ourselves a case here."

They did not know Clarence Manion. I knew him. He is a tremendously respected individual. Many people disagreed with his views, but he was a respected individual.

Now his son has come along and has been placed in nomination. All of a sudden the first time the nomination comes up there is a tremendous amount of intensity on the character, the ideology. Can we find something that this person has done wrong? What are we going to hang our hat on? How are we going to bring this conservative Republican down?

Well, what happened after weeks and weeks of discussion and debate, calls to my State of Indiana, calls around the country, as it quickly became known that there was no question about Mr. Manion's character; there was no question that this individual was elected to the State senate of Indiana from a Democratic district. His political philosophy could not be too extreme to get elected to the State senate from that particular State senate district.

Upon further inquiry, they also found out that Mr. Manion had impeccable character references, almost impeccable credentials as a person of honesty, a person of decency, a person

of fairness, a person who would have judicial capacity in rendering decisions that he would be called upon to make in being judge of this Federal court of appeals.

Therefore, their initial focus is on the character issue, which I think the Senate ought to look at. But the reason that the character issue came up was because of ideology, and they could not find anything. They could not find anything to hang their hat on to bring down the Manion nomination, which they did not like from the very beginning.

So ideology was still the driving force, but they found out very quickly that the character of this person was beyond challenge. Even the ranking member of the Judiciary Committee said quite eloquently, "Mr. Manion, you are an honorable and decent person, but I just disagree with your political views." That is about what the Senator said. It was a very direct and straightforward statement.

Therefore, since the character issue was not to be debated but ideology still the driving force, they switched to the issue of competence. They switched to the issue of whether this person was qualified to be the judge of the Seventh Circuit Court of Appeals.

Let me just say, Mr. President, very briefly, that those who know Dan Manion, including myself and the distinguished senior Senator from the State of Indiana, support him very strongly. The people who know him, Mr. President, like Father Hesburgh, of Notre Dame University, strongly recommend Mr. Manion for this important position. The people who know Dan Manion, whether they are Republicans or Democrats, liberals or conservatives, who have practiced with him, who know him as an individual, support him very strongly.

The Bar Association of St. Joseph County, where he practices law, strongly supports him. Republican and Democrat lawyers from all over the State and the country have written letters in support. The Democratic county chairman of St. Joseph County supports Dan Manion. The Democratic circuit court judge of St. Joseph County, where Dan Manion does much of his practice, supports him. The former Democratic district attorney from the Northern District of Indiana, appointed by President Carter, supports Dan Manion.

The people who know him on both sides of the political aisle support Dan Manion.

I think it is most unfortunate that we have gotten ourselves into this situation of where we are going to have a very polarized, partisan debate, because as the votes are counted almost all, with a few exceptions on this side, will vote for Mr. Manion, and many on that side will be in opposition.

I think it is unfortunate that we have come to that situation. I do not think it is the fault of the people who are the critics now. This started a long time ago. It started before this nomination, to politicize nominations, to politicize the confirmation process.

But I believe that at some time we are going to have to shake hands and have an understanding about what the process is all about, the process of advising and consenting on Presidential nominations.

I do believe that it comes down time and time again to be one of competence and one of character. It is not just this time that we are politicizing this particular situation. It has been done before. But I say to all in good faith that sometime we have to stop it. We have to stop it for the good of the institution.

What we have right now is a filibuster. It is not that the majority of the Senators have to support Mr. Manion. We have to now get 60 votes before we can even consider the Manion nomination.

Finally, Mr. President, let me just focus very briefly on this competence issue and the qualifications.

Once they figured that character was not going to get them very far, and that was a nonstarter to begin with, the whole issue focused upon qualifications. One of the things that they decided to say was he was not qualified because of some briefs that had been analyzed that had typographical errors. Typographical errors should therefore somehow deny one's confirmation, and is indicative of whether they are qualified or not qualified.

It was interesting to note that even the "Dear Colleague" letter which talked about these typographical errors had a lot of typographical errors.

We all make clerical mistakes. That is hardly an issue that is going to doom a candidate.

Another reason is the briefs of Mr. Manion that were analyzed. Of the four briefs that his opponents focused on, three of the four he won in court.

Mr. Manion graduated in the top third of his class at Indiana Law School in Indianapolis. The ABA has given him a qualified endorsement. The ABA has given Mr. Manion the qualified endorsement, the same endorsement that it gave Judge Posner and Judge Esterbrook who presently serve on the seventh circuit court of appeals, the same endorsement on qualifications, Mr. President, the same exact endorsement that those two judges had who were confirmed by this Senate.

Furthermore, if we are going to look at the issue of qualifications for judicial nominees I think the record ought to note that under the previous administration there were three that were sent up here that had from the ABA an unqualified recommendation, yet they were confirmed by the Senate.

All of a sudden we now have this huge focus upon qualifications. I think competence is, in fact, an issue. If the person is not competent, then that is something that the Senate ought to examine.

Finally, Mr. President, the idea that Mr. Manion has not practiced in Federal court is simply not the case. He has been the lead counsel in at least five cases in Federal court and presently in his law firm he is the counsel in five others that are before Federal courts.

Therefore, Mr. President, very briefly this evening, we will rest our case on the Manion nomination. But this Senate ought to look at this, and I think the record will show that it is ideology that is unfortunately driving the opposition to this nomination. I am hopeful after we have a vote on cloture and we eventually reach the 60 votes, there will be a bipartisan vote on the Manion nomination.

□ 1830

Then, once we get beyond this, I do hope that, at some time, Senators begin to think of what we are doing to ourselves and how we are politicizing this process.

I am not saying that those who are bringing this forward today are responsible for it because we all are. When I say "we all," I mean the entire Senate. It has been going on for a number of years. I do not think it is healthy. I really do not think it is healthy.

I never shy away from a good debate, discussion of the issues, and looking at what we ought to look at as Senators. Unfortunately, this has, in my opinion, become politicized. It is out of character for the Senate.

I hope once we get beyond this nomination, which has gained a lot of national notoriety—a lot of money has been poured into the opposition to Dan Manion. There have been full-page newspaper ads, there have been television commercials, there have been radio commercials. There has been a lot of money invested in defeating this nomination.

In due course, Mr. President, I am convinced that the Senate will confirm him and we will be confirming a good, decent citizen, who, in my opinion, will be a good judge and has the capability of becoming a great judge.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I shall not take further time now to debate the merits of this nomination. I would like to say this: I hope cloture will be obtained for two reasons: the first is, I think the Senate really ought to have the right to vote on this nomination. The President has made the

nomination and the Senate now has the responsibility to vote on and act on the nomination.

The next thing is even though a Senator might be opposed to this nomination, I think we ought to vote for cloture to bring this matter to an end. There is no need for it to go on for days and days. Every Republican and every Democrat ought to vote for cloture to bring this matter to an end and wind it up and save time. I think that the nominee is entitled to a vote by the Senate on this nomination.

Mr. President, I am not going to make a further statement with regard to the nomination at this time.

CLOTURE MOTION

Mr. THURMOND. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Daniel A. Manion, of Indiana, to be U.S. circuit judge for the seventh circuit.

Senators Bob Dole, Pete Wilson, Strom Thurmond, Barry Goldwater, Jake Garn, Al Simpson, Chuck Grassley, Steve Symms, Mitch McConnell, John P. East, Jeremiah A. Denton, Paul Laxalt, Chic Hecht, Richard G. Lugar, Orrin Hatch, Malcolm Wallop, Thad Cochran, Phil Gramm, Ted Stevens, Dan Quayle, and Don Nickles.

A U.S. SENATE SALUTE TO PETE ROSE

Mr. SPECTER. Mr. President, in the arena of human endeavor, there are those determined few who are willing to expend every effort and to make any sacrifice to achieve success. We call these individuals winners.

Such a one is baseball's Pete Rose.

Winners possess talent, but they recognize that talent is never enough. They know that unless talent is combined with perspiration and total dedication, it will never carry them to the pinnacle of success.

God gave Pete Rose talent. There is no denying that. But Pete Rose took this gift and made the very most of it through dint of hard work and, in the sports' vernacular, hustle.

Hustle has many synonyms—enthusiasm, ardor, zeal, passion, fervor. But it all boils down to the same thing: a willingness to work harder, longer and with greater intensity than the competition, to do whatever it takes to get the job done, to win. This is what separates Pete Rose, whose sobriquet is "Charlie Hustle," from the hundreds of other ballplayers in the major leagues.

Today Pete Rose stands atop baseball's pinnacle, recognized as one of the greatest players, if not the greatest, of his time. He possesses baseball's most cherished record, most hits in a lifetime. When Pete Rose broke Ty Cobb's record in 1985, he had climbed the game's highest mountain and become its foremost player.

It is altogther fitting that the U.S. Senate should take formal and official note of Pete Rose's accomplishments in the great game of baseball, which has most fittingly been described as "America's pastime."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had approved and signed the following enrolled bills and joint resolutions:

On June 19, 1986:

S. 124 an act to amend the Safe Drinking Water Act.

S. 1027 an act for the relief of Kenneth David Franklin.

S.J. Res. 220, joint resolution to provide for the designation of September 19, 1986, as "National P.O.W/M.I.A. Recognition Day."

S.J. Res. 310, joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week."

S.J. Res. 347, joint resolution to designate the week beginning June 22, 1986, as "National Homelessness Awareness Week."

On June 23, 1986:

S.J. Res. 321, joint resolution to designate October 1986 as "National Down Syndrome Month."

DEFERRAL OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 156

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Energy and Natural Resources, and the Committee on Finance:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferrals of budget authority totaling $46,424,273.

The details of these deferrals are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *June 24, 1986.*

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT—PM 157

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I am pleased to send you the annual report of the National Science Foundation for fiscal year 1985. This report describes research supported by the Foundation in the mathematical, physical, biological, social, behavioral, and information sciences; engineering; and education in those fields.

Achievements such as those described in this report are the basis for much of our Nation's strength—its economic growth, military security, and the overall well-being of our people.

We face challenges in science, engineering, and technology, but I am confident about our ability to meet those challenges. The National Science Foundation has been, and will remain, a key part of the national effort to expand our research achievements and productivity and to remain competitive in world markets through innovation and new discoveries.

I commend the Foundation's work to you.

RONALD REAGAN.

THE WHITE HOUSE, *June 24, 1986.*

MESSAGES FROM THE HOUSE

At 3:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 426) to amend the Federal Power Act to provide for more protection to electric consumers, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. MARKEY, Mr. SWIFT, Mr. BRYANT, Mr. SHELBY, Mr. WYDEN, Mr. BROYHILL, Mr. MOORHEAD, Mr. OXLEY, and Mr. NIELSON of Utah as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate to the joint resolution (H.J. Res. 652) to provide for the temporary extension of certain programs relating to housing and community development.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1965. An act to reauthorize and revise the Higher Education Act of 1965, and for other purposes.

The message also announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 188. Joint resolution to designate July 6, 1986, "National Air Traffic Control Day";

S.J. Res. 290. Joint resolution to designate July 4, 1986, as "National Immigrants Day";

S.J. Res. 346. Joint resolution to designate June 21, 1986, as "National Save American Industry and Jobs Day";

S.J. Res. 350. Joint resolution to designate 1987 as the "National Year of the Americas"; and

S.J. Res. 365. Joint resolution welcoming the Afghan Alliance.

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4868. An act to prohibit loans and other investments in, and certain other activities with respect to, South Africa, and for other purposes;

H.R. 4952. An act to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes; and

H.J. Res. 429. Joint resolution to designate July 2, 1986, as "National Literacy Day".

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 350. A concurrent resolution providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise.

ENROLLED JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 188. Joint resolution to designate July 6, 1986, "National Air Traffic Control Day";

S.J. Res. 290. Joint resolution to designate July 4, 1986, as "National Immigrants Day";

S.J. Res. 346. Joint resolution to designate June 21, 1986, as "National Save American Industry and Jobs Day";

S.J. Res. 350. Joint resolution to designate 1987 as the "National Year of the Americas"; and

H.J. Res. 297. Joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week".

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED JOINT RESOLUTION SIGNED

At 4:12 p.m., a message from the House of Representatives, delivered by Mr. Berry, one if its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 350. A concurrent resolution providing that the President shall continue to adhere to the numerical sublimits of the SALT agreements as long as the Soviet Union does likewise, to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill and joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4952. An act to amend title 18, United States Code, with respect to the interception of certain communications, other forms of surveillance, and for other purposes;

H.R. Res. 429. Joint resolution to designate July 2, 1986, as "National Literacy Day".

MEASURE READ THE FIRST TIME

The following bill read the first time:

H.R. 4868. An act to prohibit loans and other investments in, and certain other activities with respect to, South Africa, and for other purposes;

ENROLLED JOINT RESOLUTIONS SIGNED

The Secretary of the Senate reported that on today, June 24, 1986, she had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 188. Joint resolution to designate July 6, 1986, "National Air Traffic Control Day";

S.J. Res. 290. Joint resolution to designate July 4, 1986, as "National Immigrants Day";

S.J. Res. 346. Joint resolution to designate June 21, 1986, as "National Save American Industry and Jobs Day"; and

S.J. Res. 350. Joint resolution to designate 1987 as the "National Year of the Americas";

REPORTS OF COMMITTEE

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, without amendment, and without recommendation:

S. Res. 425. A resolution to waive section 303(a) of the Congressional Budget Act, with respect to the consideration of S. 2216, designating September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day".

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. 2444. A bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, the dependent care State grant program, and for other purposes (Rept. No. 99-327).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance:

Robert B. Helms, of Maryland, to be an Assistant Secretary of Health and Human Services;

Ronald F. Docksai, of Virginia, to be an Assistant Secretary of Health and Human Services;

Michael R. Darby, of Texas, to be an Assistant Secretary of the Treasury; and

Lawrence B. Gibbs, of Texas, to be Commissioner of Internal Revenue.

(The above nominations were reported from the Committee on Finance with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ABDNOR:

S. 2589. A bill to create a secondary market for sound mortgages secured by farm real estate and guaranteed by the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GLENN (for himself, Mr. KENNEDY, and Mr. SASSER):

S. 2590. A bill to amend the Appendix to the Tariff Schedules of the United States to extend the suspension of duty on bicycle parts; to the Committee on Finance.

By Mr. GLENN:

S. 2591. A bill to amend the Tariff Schedules of the United States to correct the classification of certain pigments; to the Committee on Finance.

By Mr. GARN:

S. 2592. A bill to strengthen Federal deposit insurance programs, to enhance competition in the financial services sector, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUMPERS (for himself, Mr. BIDEN, Mr. SARBANES, Mr. HECHT, Mr. KERRY, Mr. METZENBAUM, Mr. SIMON, Mr. KENNEDY, and Mr. BAUCUS):

S. 2593. A bill to establish the National Nuclear Safety Study Commission; to the Committee on Environment and Public Works.

By Mr. GORE (for himself and Mr. GORTON):

S. 2594. A bill to require the Office of Science and Technology Policy to report to the Congress on fiber optic networks and other options to improve communications among supercomputer centers and users in the United States; to the Committee on Commerce, Science, and Transportation.

By Mrs. HAWKINS (for herself, Mr. THURMOND, Mr. KENNEDY, Mr. HATCH, and Mr. DODD):

S. 2595. A bill to amend the Public Health Service Act to revise the authorities of, and redesignate, the Alcohol, Drug Abuse, and Mental Health Administration; to the Committee on Labor and Human Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for Mr. THURMOND):

S. Con. Res. 152. A concurrent resolution authorizing changes in the enrollment of S. 2414; considered and agreed to.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GLENN (for himself, Mr. KENNEDY, and Mr. SASSER):

S. 2590. A bill to amend the Appendix to the Tariff Schedule of the United States to extend the suspension of duty on bicycle parts; to the Committee on Finance.

SUSPENSION OF DUTY ON BICYCLE PARTS

● Mr. GLENN. Mr. President, today I am offering legislation which will provide relief for the U.S. bicycle industry. The regular customs duties on certain bicycle parts not manufactured in the United States have been suspended since 1971. This suspension of duties is critical to the competitive health of U.S. bicycle manufacturers who are being subjected to increasingly intense competition from imported bicycles.

The current 3-year period of duty suspension expires on June 30, 1986. The House has passed legislation to renew this duty suspension with some slight modifications until December 31, 1990. The bill I am introducing today is identical to the provision passed by the House last month.

Congress has renewed duty suspension legislation four times: in 1974, 1977, 1980, and 1983. During the five sessions that it considered such legislation, Congress recognized that absent passage of a duty suspension bill, the tariff schedules of the United States contained an unfair bias against domestic manufacturers of bicycles. Most imported bicycles were, and continue to be, dutiable at a lower rate than most bicycle parts. Imported bicycles face a duty rate of 5.5 percent or 11 percent, depending on the type of model; imported bicycle parts face a duty rate of 7.1 percent to 10.8 percent. This anomaly, if uncorrected by duty suspension legislation, enables foreign bicycle manufacturers to assembly bicycles abroad with foreign bicycle parts and import the complete product, including the component parts, into the United States, subject to the lower rate imposed on bicycles. In contrast, the domestic manufacturers of bicycles must first import certain components necessary to complete the manufacture of a bicycle at the higher duty rate imposed on bicycle parts. Without duty suspension, the tariff schedules in effect impose a penalty on the manufacture of bicycles in the United States, where the cost of doing business is already significantly higher. Even the high productivity and the efficiency of the U.S. bicycle industry cannot offset the extremely low wage rates available to bicycle manufacturers in the principal exporting nation, Taiwan, Huffy Corp. which is located in Ohio and employs 2,000 people, manufactures bicycles in a modern and efficient plant. Nonetheless, the expiration of duty suspension will penalize the workers at Huffy Corp. and other bicycle plants in the United States without cause.

When Congress first enacted duty suspension legislation in 1970, the Senate Committee on Finance highlighted the need to suspend duties on bicycle parts, and I quote:

> This bill is intended to improve the competitive ability of domestic producers of bicycles by temporarily suspending the duties on imports of certain bicycle parts and accessories, thereby reducing their costs . . . . The temporary suspension of duty on the bicycle parts and accessories provided for in the bill would be beneficial to domestic manufacturers of bicycles, particularly in competing with imported bicycles.

The reasons presented in past sessions of the Congress for suspending the duty on bicycle parts are valid today. Indeed, the need for continued suspension of the duties on parts in order to maintain the competitive position of the domestic bicycle manufacturers has never been more urgent. The domestic bicycle industry remains under severe pressure from the flood of imported bicycles. It is clear that foreign producers have targeted the United States as their principal export market. In fact, imports have claimed an increasing share of the U.S. market in recent years, ranging from 16.9 percent in 1979 to almost 50 percent in 1985. First quarter figures for 1986 indicate that the trend continues.

Duty suspension on bicycle parts reflects the continuation of congressional concern that U.S. manufacturers—when necessary—be able to obtain, free of duty, foreign-made components that are domestically unavailable. I urge my colleagues to continue their support for the U.S. bicycle industry, and vote for this legislation, which will enable the U.S. bicycle industry to continue to compete in the world market.●

By Mr. GLENN:

S. 2591. A bill to amend the Tariff Schedules of the United States to correct the classification of certain pigments; to the Committee on Finance.

TARIFF CLASSIFICATION OF CERTAIN PIGMENTS

● Mr. GLENN. Mr. President, today I am introducing legislation to change the duty classification of two commercial pigments, pigments red 214 and pigment yellow 155.

Under current duty classification, these pigments are classified in a category for imported products that complete with domestic products. However, pigment red 214 and pigment yellow 155 are not, and have never been, made in the United States and should not be in this category.

American manufacturers with good business sense determined that a need existed for these pigments in our marketplace, but this need did not justify the investment of funds to manufacture these pigments in the United States. American manufacturers worked with foreign manufacturers to distribute these pigments in the United States. The pigments, currently classified at a higher duty rate with competitive pigments, must complete with other imported pigments classified at a lower noncompetitive rate. The erroneous duty classification puts these American companies at a competitive disadvantage and this disadvantage increases in future years.

This legislation will simply correct this error and change the duty classification for pigments red 214 and yellow 155 to the noncompetitive category. This change reduces the duty from 15 percent to 9.8 percent. I urge my colleagues to support this legislation.●

By Mr. GARN:

S. 2592. A bill to strengthen Federal deposit insurance programs, to enhance competition in the financial services sector, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

DEPOSIT INSURANCE REFORM AND COMPETITION ENHANCEMENT ACT

● Mr. GARN. Mr. President, today I am introducing legislation to strengthen the Federal deposit insurance funds and reinforce public confidence in our Nation's depository institutions. These objectives would be accomplished through a number of steps, including a plan to recapitalize the Federal Savings and Loan Insurance Corporation [FSLIC]. Steps also would be taken to increase the marketability of troubled depository institutions, but it is important to note that the legislation would not liberalize current law regarding the types of entities that can purchase troubled banks and thrifts.

The legislation I am introducing also would enhance competition in the provision of financial services by updating the regulatory framework for financial

institutions and increasing their ability to adapt to changes in financial markets. Again, a number of steps would be needed to achieve these objectives, including the creation of depository institution securities affiliates [DISA's] to underwrite revenue bonds, mortgage-backed securities, commercial paper, and mutual funds.

At the same time, the nonbank bank loophole would be closed. Previous legislative proposals have included a grandfather date for nonbank banks in 1983 or 1984. Arguments also have been advanced for not grandfathering any nonbank banks. The bill I am introducing does not propose a specific grandfather date. However, it does propose that any grandfathered owners of nonbank banks would be required either to convert their nonbank banks to thrift charters or to acquire a troubled thrift for each nonbank bank grandfathered. Clearly this would aid the resolution of problem-thrift cases, and the more liberal the grandfather, the more help would be given to the FSLIC.

Consumers of financial services will be the ultimate beneficiaries of a strengthened financial system, of enhanced competition in the financial services marketplace and of specific consumer protections included in the bill.

This legislation I am introducing also incorporates proposals from numerous sources, including the administration, my colleagues in the Senate, the financial institution regulatory agencies, and various industry groups.

TITLE I

Title I of this bill would strengthen the Federal deposit insurance funds and reinforce confidence by extending titles I and II of the Garn-St Germain Act. The amended provisions would strengthen the funds and build confidence by reducing the cost to the Federal insurance funds of handling failing depository institutions.

Whereas current law permits the interstate sale of a failed bank with more than $500 million in assets, the amended title I would lower this threshold to $250 million. Moreover, this threshold limitation would be applied to a series of banks in a bank holding company instead of to individual bank components, and the entire series of banks could be sold across State lines, not just those components with assets above the threshold. Finally, the FDIC would be authorized to sell a bank or bank holding company in danger of closing across State lines without waiting until the institution actually fails.

TITLE II

Title II of the bill includes 12 provisions that would significantly strengthen the deposit insurance system. Among the more important provisions would be authority for the FDIC to vary the level of assessments on insured banks according to the riskiness of each bank's activities. This is designed to provide a significant financial incentive for banks to avoid excessive risk taking, thereby bolstering the stability of the deposit insurance fund.

Title II would also provide the FDIC with the authority to establish so-called bridge banks. These new entities would enable the FDIC to keep a failed bank open until a purchase-and-assumption or similar transaction could be accomplished. This would enable the FDIC to resolve bank failures less expensively or in a manner that would better promote the interests of the community, the depositors, or the public.

Another provision of title II would establish a uniform depositor preference system for paying the claims of all federally insured banks that fail, whether State or federally chartered. This would provide greater priority to depositor claims than does current law and provide greater certainty to depositors and creditors regarding the value of their claims. It would also eliminate the current disparity of treatment between creditors of national banks and of State banks, and between creditors of banks chartered in different States. Finally, it would facilitate the FDIC's ability to use the less costly method of purchase-and-assumption transactions to resolve bank failures.

Other provisions of title II would strengthen the FDIC's enforcement powers against bank directors and others; expedite the process for removing insurance protection from certain banks; and authorize the relevant bank regulator to issue temporary orders limiting the activities of banks or bank personnel.

TITLE III

Title III would strengthen the FSLIC fund and reinforce confidence with a recapitalization program using contributions both from the regional Federal home loan banks and from the savings and loan industry. FSLIC's present financial reserves of about $6 billion would be supplemented with up to $25–$30 billion over the next 5 to 6 years, with approximately $15 billion available in the first 3 years. These supplemental case resolution funds would enable the FSLIC to proceed with a more timely resolution of problem-institution cases. Moreover, the program should make possible a gradual phasedown over 5 years of the special assessment now being paid by FSLIC-insured institutions.

TITLE IV

Title IV would update our regulatory structure to recognize the growing competition between commercial banks and savings and loan associations. Restrictions on interaffiliate transactions within a savings and loan holding company would be equalized with the restrictions applied to affiliates of a bank holding company. Not only would this recognize competitive realities, but it would help attract capital to the thrift industry as well and thereby contribute to the strengthening of the FSLIC fund.

Title IV also would increase the attractiveness of S&L charters and expand the number of potential buyers for failing institutions:

First, by making clear that certain joint sales and marketing arrangements and cross-advertising between a thrift subsidiary of a bank holding company, on the one hand, and the parent holding company and its other bank or nonbank subsidiary on the other, are not prohibited under the public benefits test prescribed by the Bank Holding Company Act.

Second, by providing that a bank holding company that acquires a failing thrift can, in a service corporation of the thrift, exercise service corporation powers allowed by Federal thrift service corporation law.

Third, by making clear that an S&L-issued credit card may be used to make purchases at an affiliate of the S&L.

Fourth, by prohibiting States from imposing restrictions on S&L affiliations that are more stringent than those imposed by Federal law.

Fifth, by allowing securities subsidiaries of S&L holding companies to engage in a limited amount of trading and secondary market transactions in shares of nonsubsidiary S&L's and S&L holding companies.

Sixth, by increasing the amount of debt—as a percentage of consolidated net worth—that certain well-capitalized nondiversified S&L holding companies may issue without requesting specific written approval of the FSLIC.

Seventh, by creating a presumption that management arrangements otherwise prohibited by the Depository Institution Management Interlocks Act would be permissible with respect to companies that become S&L holding companies by acquiring failing thrifts.

TITLE V

Title V would enhance and strengthen the authorities of the Federal Savings and Loan Insurance Corporation in response to FSLIC's concern, over the past few years, that existing supervisory and enforcement tools need to be updated. This title also would authorize the FSLIC to assess risk-based premiums on its member institutions, raise the service corporation investment authority of Federal savings and loan associations to 5 percent of assets as such institutions increase their own net worth as required by the FHLBB, and repeals the rebidding requirements originally enacted as part of the emergency acquisition authorities of the Garn-St Germain Act.

TITLE VI

Title VI would create new product and service flexibility for both bank holding companies and thrift holding companies while at the same time applying new regulation safeguards to both existing activities and new activities. For example, the Financial Institutions Competitive Enhancement Act of 1986 would establish depository institution securities affiliates for both bank holding companies and thrift holding companies, yet it would make the Securities and Exchange Commission the appropriate Federal regulator of these subsidiaries.

Title VI also would permit the Federal Reserve Board to grant additional nonbank activities to bank holding companies if such activities were of a financial nature and permit banks to either adjust to technological innovations or new competitive products. The title would make clear, however, that only a limited range of insurance activities are closely related to banking and that such restrictions apply to the subsidiaries of bank holding companies. The nonbank activities of State chartered banks which have not been approved by the Federal Reserve would be limited geographically by the boundaries of the State's authority. In addition, the activities of a savings and loan would be limited to those authorized for multiple savings and loan holding companies unless its insured institution subsidiary meets the qualified thrift lender test.

The title also would define a bank for purposes of the bank holding company as an institution with FDIC Insurance. Thus it closes the so-called nonbank bank loophole. It provides, however, for certain grandfather rights which can only be preserved by acquiring a failing savings and loan or converting to an FSLIC insured institution within 3 years. The bill does not yet establish a grandfather date, but rather seeks to have such determination made during the legislative process.

TITLE VII

Title VII makes technical changes to the bankers' bank statutory provisions, including a clarification that bankers' banks may invest in export trading companies and provide services to bank holding companies.

TITLE VIII

Title VIII of the bill would set forth a group of amendments affecting credit unions. Many of these are designed to increase the flexibility and enforcement authority of the National Credit Union Administration [NCUA] in order to prevent losses to the National Credit Union Share insurance fund. For example, one amendment would make permanent the conservatorship and emergency merger authorities of the Garn-St Germain Act, which during the last 3½ years have helped NCUA avoid more than $20 million in potential losses to the insurance fund. Another would strengthen the insurance fund by providing two new grounds for imposing conservatorship: for willful violations of final cease and desist orders, and for concealment or refusal to submit documents or records to the NCUA. Other enforcement provisions would reduce the period for State regulators to respond to a conservatorship proposed by NCUA, enabling quicker and more decisive action to prevent losses to the insurance fund; expressly define NCUA's conservatorship authority; extend NCUA's prohibition authority to employees and agents of federally-insured credit unions; and clarify the alternative authority of Federal credit unions to expel members.

Title VIII would also allow credit unions to make second mortgage and home improvement loans for longer than 15 years; clarify existing authority to offer individual retirement accounts and Keogh accounts; provide greater flexibility to the NCUA to obtain office space and equipment; and provide greater flexibility to accept the deposit of public funds.

TITLE IX

Title IX would create a new title X to the Consumer Credit Protection Act that would apply to both long term leases and to short term leases or rental agreements containing an option to purchase. This new title would amend current law applicable to longer term leases by simplifying and reducing the number of disclosures now required by law. Because of the growing concern that more and more consumers are entering into shorter lease terms with purchase options without adequate cost disclosures, title X also would require disclosure of cost and other information in lease-purchase agreements. The changes in this title are intended to ensure that consumers of long term leases and lease-purchase agreements would be provided with basic, important cost information concerning these transactions.

TITLE X

Title X would require all depository institutions to disclose their check hold policies to consumers and would instruct the Federal Reserve Board to issue regulations designed to speed up the now cumbersome and timeconsuming process of returning a bounced check. The Federal Reserve Board has already experimented with methods to accelerate the process of returning checks, and passage of this title would authorize the Board to use one, or a combination of several, approaches to speed up the return process. A faster return system, and the ability to identify checks that pose a "serious risk of loss" to a financial institution, would remove the justification for placing excessively long holds on all deposited checks.

TITLE XI

Title XI would benefit consumers by requiring that all mailed credit card solicitations disclose the annual percentage rate, annual fees and other charges, and the existence of any grace period that will apply to the card. This title also would require third party credit cards to use an "average daily balance" method, or a method more favorable to the borrower than average daily balance, as a balance calculating method. These provisions would lower credit card costs to consumers by requiring disclosures that would enable consumers to more effectively price shop, and by prohibiting usage of the most expensive balance calculation methods for some credit cards.

TITLE XII

Title XII contains miscellaneous provisions. The first of these provisions would exempt the funds of the depository institution regulators from Gramm-Rudman-Hollings sequestration and the Office of Management and Budget apportionment. The exemptions are critical to provide these regulators with the flexibility and staff necessary for effective examination and supervision. Moreover, because these financial regulators are completely financed by the entities they regulate, any savings from the Gramm-Rudman-Hollings budget cuts could not be used to finance other government activities. The second miscellaneous provision would allow organizations operated primarily for political purposes to own negotiable order of withdrawal [NOW] accounts. The third provision would permit members and staff of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to accept reimbursement for travel and other expenses incurred in attending meetings pertaining to Board activities from Federal and non-Federal sponsors, including industry groups. Finally, the last provision would prohibit the Student Loan Marketing Association [Sallie Mae] from owning or controlling an insured bank, mutual savings bank, savings bank or savings and loan association.

I ask unanimous consent that the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and section-by-section analysis was ordered to be printed in the RECORD, as follows:

S. 2592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Deposit Insurance Reform and Competitive Enhancement Act".

TITLE I—EMERGENCY ACQUISITIONS

Sec. 101. Short title.

Sec. 102. Extension of Garn-St Germain Act.
Sec. 103. Assisted extraordinary acquisitions.
Sec. 104. Unassisted extraordinary acquisitions.
TITLE II—FEDERAL DEPOSIT INSURANCE
Sec. 201. Short title.
Sec. 202. Risk-related assessments.
Sec. 203. Assessment of collateralized deposits.
Sec. 204. Procedure for removal of insurance.
Sec. 205. Enforcement procedures.
Sec. 206. Power to define terms.
Sec. 207. Examinations.
Sec. 208. Priorities in claims.
Sec. 209. Subrogation.
Sec. 210. Bridge banks.
Sec. 211. Branching.
Sec. 212. Technical and conforming amendments.
TITLE III—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION
Sec. 301. Short title.
Sec. 302. Financing corporation.
Sec. 303. Conforming amendment.
Sec. 304. Investment in Federal Savings and Loan Insurance Corporation.
Sec. 305. Dividends.
Sec. 306. Exemption from retirement requirement.
Sec. 307. Federal Home Loan Bank membership.
TITLE IV—THRIFT INSTITUTIONS INVESTMENTS
Sec. 401. Short title.
Sec. 402. Equality of thrift and bank holding company affiliate transactions.
Sec. 403. Conformity of affiliation restrictions.
Sec. 404. Limited contributions in savings and loan stock.
Sec. 405. Relating debt limits to capital.
Sec. 406. Waiver option for interlocking directorates in emergency acquisitions.
Sec. 407. Thrift-subsidiary arrangements.
Sec. 408. Thrift acquisitions.
TITLE V—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION
Sec. 501. Short title.
Sec. 502. Cease-and-desist proceedings.
Sec. 503. Temporary cease-and-desist orders.
Sec. 504. Suspension, removal, or prohibition of institution-related parties.
Sec. 505. Penalties.
Sec. 506. Definitions.
Sec. 507. Powers of the Federal Savings and Loan Insurance Corporation.
Sec. 508. Risk assessment premiums.
Sec. 509. Service corporations.
Sec. 510. Repeal of rebidding requirement.
TITLE VI—FINANCIAL INSTITUTIONS COMPETITIVE ENHANCEMENT
Sec. 601. Amendments to the Banking Act of 1933.
Sec. 602. Amendments to the Securities Act of 1933.
Sec. 603. Amendments to the Securities Exchange Act of 1934.
Sec. 604. Amendments to the Bank Holding Company Act of 1956.
Sec. 605. Amendments to the Federal Reserve Act.
Sec. 606. Securities affiliations of nonmember insured banks.
Sec. 607. Amendments to the National Housing Act.
Sec. 608. Amendment to the Home Owners' Loan Act of 1933.
Sec. 609. Amendments to the Federal Home Loan Bank Act.
Sec. 610. Leasing authority of national banks.
Sec. 611. Mutual holding company amendment.
Sec. 612. Mortgage securities corporations.
TITLE VII—BANKERS BANKS
Sec. 701. Amendment to section 5136 of the Revised Statutes.
Sec. 702. Amendment to section 5169 of the Revised Statutes.
Sec. 703. Amendments to the Depository Institution Management Interlocks Act.
Sec. 704. Amendments to the Bank Holding Company Act of 1956.
TITLE VIII—CREDIT UNION AMENDMENTS
Sec. 801. Permanent merger and conservatorship authority.
Sec. 802. Reduction in State comment waiting period.
Sec. 803. Imposition of conservatorship.
Sec. 804. Authority as conservator.
Sec. 805. Technical and clarifying amendments; removal and prohibition authority.
Sec. 806. Faithful performance.
Sec. 807. Membership officers.
Sec. 808. Nonparticipation.
Sec. 809. Second mortgage and home improvement loans.
Sec. 810. Property acquisition flexibility.
Sec. 811. Clarification of IRA authority.
Sec. 812. Technical amendment.
Sec. 813. Public funds.
Sec. 814. Ownership interest.
TITLE IX—CONSUMER LEASES
Sec. 901. Short title.
Sec. 902. Amendment to the Consumer Credit Protection Act.
Sec. 903. Conforming amendments.
TITLE X—FAIR DEPOSIT AVAILABILITY
Sec. 1001. Short title.
Sec. 1002. Definitions.
Sec. 1003. Disclosure of fund availability policies.
Sec. 1004. Interest on deposits.
Sec. 1005. Improved clearing procedures.
Sec. 1006. Availability of certain funds.
Sec. 1007. Administrative enforcement.
Sec. 1008. Civil liability.
Sec. 1009. Effect on check acceptance policies and other laws.
Sec. 1010. Improving payment mechanisms.
Sec. 1011. Effective date.
TITLE XI—CREDIT CARDS
Sec. 1101. Short title.
Sec. 1102. Credit card solicitations and balance computation.
TITLE XII—MISCELLANEOUS
Sec. 1201. Treatment of funds of depository institution regulators.
Sec. 1202. NOW account amendment.
Sec. 1203. Reimbursement for travel.
Sec. 1204. Student Loan Marketing Association.

TITLE I—EMERGENCY ACQUISITIONS

SHORT TITLE

SEC. 101. This title may be cited as the "Financial Institutions Emergency Acquisitions Amendments of 1986".

EXTENSION OF GARN-ST GERMAIN ACT

SEC. 102. (a) The Garn-St Germain Depository Institutions Act of 1982 (Public Law 97-320) is amended as follows:

(1) In section 141(a), by striking out "July 15, 1986" and inserting in lieu thereof "Upon the expiration of 6 years after the date of enactment of this Act".

(2) In section 206(a), by striking out "July 15, 1986" and inserting in lieu thereof "upon the expiration of 6 years after the date of enactment of this Act".

(b) Effective April 15, 1991—

(1) section 4(c)(8)(D) of the Bank Holding Company Act of 1956 is repealed; and

(2) the amendments made by sections 103 and 104 of this title are repealed.

(c) The repeal or termination by this section of any provision of law shall have no effect on any action taken or authorized while such provision was in effect.

ASSISTED EXTRAORDINARY ACQUISITIONS

SEC. 103. Section 13(f) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) Whenever the appropriate Federal banking agency is informed that an out-of-State bank or holding company is considering acquiring, directly or indirectly, an insured bank with total assets of $250,000,000 or more that is in danger of closing, such agency shall (i) notify the Corporation of such, (ii) consult with the Corporation before taking any action with respect to any such acquisition, and (iii) provide the Corporation with notice of any final action taken.

"(B) Except as provided in paragraph (9), the provisions of this subsection shall be used exclusively in connection with any acquisition by or merger with an out-of-State bank or holding company with respect to which the Corporation provides assistance under its powers in subsection (c) and shall not be applicable if the Corporation does not provide such assistance. Nothing contained in this subsection shall be construed to limit the Corporation's powers under subsection (c) to assist a transaction.";

(2) by striking out "$500,000,000" in paragraph (2)(A) and inserting in lieu thereof "$250,000,000";

(3) by amending paragraph (3) to read as follows:

"(3)(A)(i) Whenever the appropriate Federal or State chartering authority has certified in writing that an insured bank with total assets of $250,000,000 or more (as determined from its most recent report of condition) is in danger of closing, the insured bank may merge with or its assets may be purchased by and its liabilities assumed by another depository institution, including an insured depository institution located in the State where the insured bank is chartered but established by an out-of-State bank or holding company, or its shares may be acquired by an out-of-State bank or holding company.

"(ii) Whenever the appropriate Federal or State chartering authority has certified in writing that one or more insured bank subsidiaries of a holding company are in danger of closing and such bank or banks hold aggregate assets equal to $250,000,000 or more (as determined from their most recent reports of condition) and such bank or banks represent 33 per centum or more of the total assets of all insured bank subsidiaries (as determined from their most recent reports of condition) of such holding company, an out-of-State bank or holding company may (I) purchase the shares of or otherwise acquire the holding company that controls such bank or banks and all of such holding company's subsidiary banks, or (II)

purchase the shares or otherwise acquire any such bank or banks in danger of closing or establish one or more newly chartered banks located in the State where such banks in danger of closing are chartered for the purpose of merging with or purchasing the assets and assuming the liabilities of such banks, if the aggregate total assets of such banks that are acquired equal $250,000,000 or more. Any out-of-State bank or holding company which, pursuant to clause (II), purchases shares of, or establishes a newly chartered bank for the purpose of merging with or acquiring the assets and assuming the liabilities of, such bank or banks in danger of closing may purchase the shares of or otherwise acquire any bank which is affiliated with such bank or banks.

"(iii) The Corporation may assist a merger or acquisition permitted under this subparagraph (A) only where the board of directors or trustees of the insured bank has requested in writing that the Corporation assist a merger or a purchase.

"(B) Whenever the Corporation provides assistance, directly or indirectly, under the authority of subsection (c), to an insured bank and such bank was eligible at the time such assistance was given to be acquired by an out-of-State bank or holding company pursuant to subparagraph (A), the bank shall remain eligible to be acquired, to the same extent that it was eligible when assistance was granted, by an out-of-State bank or holding company so long as the Corporation's assistance remains outstanding. If, at the time such assistance was granted to an insured bank or to affiliated insured banks, such bank's or banks' parent holding company or other affiliated banks were eligible also to be acquired by an out-of-State bank or holding company, pursuant to subparagraph (A)(ii), they shall remain eligible for such acquisition, to the same extent as they were when the assistance was granted, so long as such assistance remains outstanding.

"(C) Where otherwise lawfully required, a transaction under this paragraph (3) must be approved by the primary Federal or State supervisor of all parties thereto.

"(D)(i) Before assisting a merger or acquisition permitted under subparagraph (A) or taking final action under subparagraph (B), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered.

"(ii) The State bank supervisor shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of this paragraph.

"(iii) If the State bank supervisor objects during such period, the Corporation may use the authority of this paragraph only by a unanimous vote of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.";

(4) by redesignating subparagraphs (i) through (iii) of paragraph (4) as subparagraphs (A) through (C), respectively;

(5) by amending redesignated paragraph (4)(A) to read as follows:

"(4)(A) Nothing in section 3(d) of the Bank Holding Company Act of 1956, section 408(e)(3) of the National Housing Act, any provision of State law, or the constitution of any State, shall bar approval, consummation, or retention of an acquisition authorized under paragraph (2) or (3), except that an out-of-State bank may make such an acquisition only if such ownership is otherwise specifically authorized.";

(6) by adding at the end of paragraph (4) the following:

"(D) An out-of-State bank holding company that acquires, directly or indirectly, a bank under paragraph (2) or (3) shall thereafter be entitled to acquire additional banks located in the three largest metropolitan or consolidated metropolitan statistical areas or cities in any State in which the acquired bank is located to the same extent as a bank holding company that is principally located (as such term is defined in section 3(d) of the Bank Holding Company Act of 1956) in such State.

"(E) A holding company which, directly, or indirectly, acquires control of one or more banks or a holding company under paragraph (2) or (3) shall not, by reason of such acquisition or expansion, be required as the result of the law of any State to divest any other bank or banks or be prevented from acquiring, directly or indirectly, any other banks or holding company.";

(7) by striking out "to permit" in paragraph (5);

(8) by striking out "closed" the second time it appears and "bank" the sixth time it appears in paragraph (6)(A);

(9) by redesignating subparagraphs (C) and (D) in paragraph (6) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following:

"(C) In the case of a minority-controlled bank, the Corporation shall seek an offer from other minority-controlled institutions before proceeding with the sequence set forth in the preceding subparagraph.";

(10) by redesignating subparagraphs (B) and (C) of paragraph (8) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (A) the following:

"(B) a bank is 'in danger of closing' if—

"(i) the bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course and there is no reasonable prospect for it to do so without Federal assistance;

"(ii) the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital and there is no reasonable prospect for replenishment of the bank's capital without Federal assistance; or

"(iii) other grounds exist or are likely to exist under applicable State law for closing the bank;

"(C) banks are 'affiliated' if each is a subsidiary (as defined in section 2(d) of the Bank Holding Company Act of 1956) of the same holding company;"; and

(11) by adding at the end thereof the following:

"(9) Nothing in this subsection shall prevent the Corporation, in its sole discretion, from assisting, directly or indirectly, the acquisition of an open or closed insured bank by an out-of-State bank or holding company where such an acquisition is otherwise authorized under applicable State law.

"(10) In any transaction authorized under this subsection, no assistance by the Corporation shall be provided to a subsidiary of a holding company that is not an insured bank.".

UNASSISTED EXTRAORDINARY ACQUISITIONS

SEC. 104. Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1) of this subsection or any provision of State law or the constitution of any State—

"(A) a bank holding company may acquire and retain the shares or assets of—

"(i) a bank located in another State if such bank has total assets of $250,000,000 or more and is in danger of closing; or

"(ii) two or more affiliated banks in danger of closing that together hold assets that total $250,000,000 or more and that represent 33 per centum of the total assets of all affiliated banks;

"(B) a bank holding company that acquires a bank or banks in danger of closing under subparagraph (A) may acquire a bank holding company that controls such bank or banks or may acquire the assets or shares of any bank affiliated with such bank or banks, if in either case the total assets of such bank or banks in danger of closing represent at least 33 per centum of the total assets of all affiliated banks;

"(C) a bank holding company that acquires the assets or shares of a bank in danger of closing under subparagraph (A) or (B) may acquire additional banks located in the three largest metropolitan or consolidated metropolitan statistical areas or cities in any State in which a bank acquired pursuant to this paragraph is located to the same extent as a bank holding company that is principally located (as defined in paragraph (1) hereof) in such State; and

"(D) a bank holding company that acquires and retains control of one or more banks pursuant to this paragraph shall not, by reason of such acquisition or retention, be required to divest any other bank or banks or be prevented from acquiring any other banks.

"(3) A bank holding company may not acquire the shares or assets of a bank or bank holding company under paragraph (2)(A) or (B) unless the acquisition has been approved by the board of directors of such bank or of a bank holding company that controls such bank.

"(4)(A) A bank is in danger of closing if the appropriate Federal or State chartering authority certifies in writing that—

"(i) the bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course and there is no reasonable prospect for it to do so without Federal assistance;

"(ii) the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital and there is no reasonable prospect for replenishment of the bank's capital without Federal assistance; or

"(iii) other grounds exist or are likely to exist under applicable State law for closing the bank.

"(B) A bank is affiliated with another bank if each is a subsidiary of the same bank holding company.

"(C) The assets of a bank shall be determined on the basis of its most recent report of condition.

"(5)(A) No bank in danger of closing or bank holding company that controls such bank shall enter into any discussions relating to the acquisition of such bank under paragraph (2) unless—

"(i) the State bank supervisor for each State in which such bank or its affiliated banks is located has been notified of such proposed discussions; and

"(ii) such bank or bank holding company has attempted to arrange an acquisition that does not require assistance under section 13(c) of the Federal Deposit Insurance Act or use of the interstate provisions of paragraph (2).

"(B) An application submitted under paragraph (2)(A) or (B) must describe efforts made by such bank or bank holding company to satisfy this requirement and the rea-

sons for the rejection of any proposals submitted.

"(C) Before approving an application pursuant to paragraph (2) involving a bank in danger of closing or its affiliated banks, the Board shall consult the State bank supervisor of the State or States in which the bank or banks are located.

"(D) The State bank supervisor or supervisors shall be given a reasonable opportunity, and in no event less than 48 hours, to object to approval of the application.

"(E) Except as provided in subparagraph (F), the Board shall not approve the application if, during the notice period provided in subparagraph (D), such State bank supervisor certifies to the Board that—

"(i) a person or persons have, prior to the notice period in subparagraph (D), offered or attempted to offer to acquire each of the banks in danger of closing in a transaction that does not require assistance under section 13(c) of the Federal Deposit Insurance Act or use of the interstate provisions of paragraph (2); and

"(ii) such person or persons, in the judgment of such State bank supervisor, are likely to be able to secure all regulatory approvals necessary to consummate such acquisition promptly, and to comply with all applicable financial and managerial and other regulatory requirements, including recapitalizing all such banks in danger of closing without impairing the financial resources of the acquiring person or persons.

"(F) The Board may approve the application if the Board determines that the person or persons certified by the State bank supervisor under subparagraph (E) do not have the financial resources necessary to obtain regulatory approval to acquire such bank, including the resources to recapitalize all such banks in danger of closing without impairing the financial resources of the acquiring person or persons, or that such person or persons do not meet other applicable regulatory requirements.

"(6) If the Board has received a certification from the appropriate Federal or State chartering authority pursuant to paragraph (2) or section 13(f) of the Federal Deposit Insurance Act that a bank is in danger of closing, the Board may dispense with the notice and hearing requirements of subsection (b) of this section with respect to any application received to acquire such bank or its affilitated banks and may reduce the postapproval waiting period of section 11 of this Act to 5 days or, if the Board finds that immediate action is necessary to prevent the probable failure of any such banks, eliminate such period.".

TITLE II—FEDERAL DEPOSIT INSURANCE

SHORT TITLE

SEC. 201. This title may be cited as the "Federal Deposit Insurance Improvements Act of 1986".

RISK-RELATED ASSESSMENTS

SEC. 202. Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by striking out paragraph (1) of subsection (b) and inserting in lieu thereof the following:

"(1)(A) The annual assessment rate shall be one-twelfth of 1 per centum, except that—

"(i) the Corporation may, by regulation, set the annual assessment rate for each insured bank on the basis of the risks that the bank may present to the Permanent Insurance Fund; and

"(ii) no annual assessment rate set by the Corporation shall be less than one-twelfth of 1 per centum or greater than one-sixth of 1 per centum.

"(B) Except as provided in subsection (c)(2) of this section, the semiannual assessment due from any insured bank for any semiannual period shall be equal to one-half the annual assessment rate multiplied by such bank's average assessment base for the immediately preceding semiannual period.".

ASSESSMENT OF COLLATERALIZED DEPOSITS

SEC. 203. Section 7(b)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(5)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end a new subparagraph (C) as follows:

"(C) such secured loans and other secured extensions of credit as the Corporation may by regulation specify.".

PROCEDURE FOR REMOVAL OF INSURANCE

SEC. 204. Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by striking out the second, third, and fourth sentences of subsection (a) and inserting in lieu thereof the following: "Whenever the Board of Directors finds that an insured bank or its directors of trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or is in an unsafe or unsound condition to continue operations as an insured bank, or violated an applicable law, rule, regulation, or order, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the bank, or any written agreement entered into with the Corporation, the Board of Directors shall first give to the Comptroller of the Currency in the case of a national bank or a district bank, to the Federal Home Loan Bank Board in the case of an insured Federal savings bank, to the authority having supervision of the bank in the case of a State bank, and to the Board of Governors of the Federal Reserve System in the case of a State member bank, notice of the Corporation's intention to initiate proceedings pursuant to this subsection. The Board of Directors, if it shall determine to proceed further, shall give to the bank not less than 30 days written notice of intention to terminate the status of the bank as an insured bank, and shall fix a time and place for a hearing before the Board of Directors or before a person designated by it to conduct such hearing, at which evidence may be produced, and upon such evidence the Board of Directors shall make written findings which shall be conclusive. If the Board of Directors finds that any unsafe or unsound practice or condition or violation specified in such statement has been established, the Board of Directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention.".

ENFORCEMENT PROCEDURES

SEC. 205. Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) by adding the following sentence at the end of paragraph (1) of subsection (b): "Such order may censure or place limitations on the activities or functions of the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank, or may suspend or bar for a period not exceed twenty-four months any such person from participating, without the prior written approval of the appropriate Federal banking agency, in the conduct of the affairs of the bank or of any other insured bank.";

(2) by inserting the following sentence after the first sentence of paragraph (1) of subsection (c): "Such order may place limitations on the activities or functions of the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank, or may bar any such person from participating, without the prior written approval of the appropriate Federal banking agency, in the conduct of the affairs of the bank or of any other insured bank pending completion of such proceedings.";

(3) by inserting before the period ending paragraph (1) of subsection (e) the following: "and to prohibit his further participation in any manner in the conduct of the affairs of any insured bank without the prior written approval of the appropriate Federal banking agency";

(4) by striking out "remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank" and inserting in lieu thereof "remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of any insured bank without the prior written approval of the appropriate Federal banking agency" in paragraph (2) of subsection (e) thereof;

(5) by striking out "if an order of removal or prohibition is issued" and inserting in lieu thereof "if an order of removal and/or prohibition from participation in the affairs of any insured bank is issued" in the second sentence of paragraph (4) of subsection (e);

(6) by striking out "or" the second time it appears in the first sentence of paragraph (5) of subsection (e) and inserting in lieu thereof "and/or";

(7) by striking out "an insured bank" in the first sentence of paragraph (5) of subsection (e) and inserting in lieu thereof "any insured bank";

(8) by striking out "or" and inserting in lieu thereof "and/or" the last place it appears in the third sentence of paragraph (5) of subsection (e) thereof;

(9) by striking out "or" and inserting in lieu thereof "and/or" the last place it appears in the fourth sentence of paragraph (5) of subsection (e) thereof;

(10) by redesignating paragraph (6) of subsection (e) as paragraph (7); and

(11) by inserting after paragraph (5) the following:

"(6) The appropriate Federal banking agency shall have jurisdiction and authority to proceed under this subsection against any person who is acting as an officer or director of an insured bank, or who is participating in the affairs of an insured bank, on the date the agency initiates a proceeding pursuant to this subsection regarding the person or bank, and shall also have jurisdiction and authority to proceed under this subsection against any person who has acted as an officer or director of the insured bank, or who has participated in the affairs of the insured bank, within one year prior to the data on which the agency has instituted proceedings against such person or bank pursuant to this subsection.".

POWER TO DEFINE TERMS

SEC. 206. Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended by adding at the end thereof the following:

"Eleventh. To define any terms used in this Act which are not specifically defined by this Act and to interpret the definitions of any terms that are so specifically defined, in a manner consistent with the purposes of this Act.".

EXAMINATIONS

SEC. 207. Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by adding at the end thereof the following: "The Corporation may issue such further regulations and orders, including definitions, as may be necessary to administer and carry out the purposes and intent of this section.".

PRIORITIES IN CLAIMS

SEC. 208. Section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) is amended—

(1) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(2) by inserting "(1)" after "(f)"; and

(3) by adding at the end thereof the following:

"(2) Notwithstanding any other provision of State or Federal law, or of the constitution of any State, whenever an insured bank or insured branch of a foreign bank shall have been closed on account of inability to meet the demands of its depositors, unsecured claims against the estate of the closed bank or branch proved to the satisfaction of the receiver or adjudicated in a court of competent jurisdiction shall be paid in the following order:

"PRIORITY 1.—Administrative expenses of the receivership, including without limitation such advances as the receiver deems necessary to preserve, protect, or enhance any receivership asset; administrative expenses of the bank or branch incurred within 30 days immediately preceding the date the bank or branch closed that, in the sole discretion of the receiver, are deemed reasonable; and claims of the United States Government.

"PRIORITY 2.—Claims for deposits and claims of the Corporation as subrogee to depositors.

"PRIORITY 3.—All other claims that have accrued and become unconditionally fixed on or before the date the bank or branch is closed and that are due and owing on the date the bank or branch is closed, except claims identified in Priority 5 or Priority 6 or Priority 7.

"PRIORITY 4.—All other claims except claims identified in Priority 5 or Priority 6 or Priority 7. Any claim based on an agreement for accelerated, stipulated, or liquidated damages which claim accrues upon the closing of the bank or branch shall be deemed to be a claim within this Priority 4 unless the agreement pertains to subordinated debt issued to the Corporation, or to other subordinated debt, or to stock.

"PRIORITY 5.—Claims for subordinated debt issued to the Corporation. If such a claim is perfected, claims for subordinated debt issued and outstanding on the effective date of the Federal Deposit Insurance Improvements Act of 1986 shall also qualify for this Priority 5. Any claim based on an agreement for accelerated, stipulated or liquidated damages which claim accrues upon the closing of the bank or branch shall, if the agreement pertains to subordinated debt issued to the Corporation, be deemed to be a claim within this Priority 5.

"PRIORITY 6.—All other claims for subordinated debt. Any claim based on an agreement for accelerated, stipulated or liquidated damages which claim accrues upon the closing of the bank or branch shall, if the agreement pertains to subordinated debt other than subordinated debt issued to the Corporation, be deemed to be a claim within this Priority 6.

"PRIORITY 7.—Claims by shareholders based on stock ownership. Any claim based on an agreement for accelerated, stipulated or liquidated damages which claim accrues upon the closing of the bank or branch shall, if the agreement pertains to stock, be deemed to be a claim within this Priority 7.

"(3)(A) The receiver may, at any time, and from time to time, without prior court approval, make distributions of the assets of the estate of the bank or branch to the claimants within each priority category described in paragraph (2) on a pro rata basis after having made provision to pay in full all claims of any higher priority, except that—

"(i) if a foreign government has established procedures for claims against the estate of a closed bank or branch, the receiver may make distributions to claimants as provided in paragraph (2) without having made provision to pay in full claims of a higher priority that are subject to the procedure established by the foreign government; and

"(ii) payment of claims falling within Priority 5, Priority 6, and Priority 7 shall be made in accordance with the contractual provisions establishing an order of priority for claims within each such priority category.

"(B) Claims specified in paragraph (2) shall accrue interest after the date the bank or branch closed. The interest shall accrue at a rate equal to the average equivalent coupon-issue yield on the United States Treasury Department 52-week Bills sold at the last auction held by the United States Treasury Department immediately prior to the date the bank or branch closed. The interest shall have the same priority as the claim on which it is based, but no such interest shall be paid prior to payment in full of the principal of all claims within the same priority category, other than claims for which a foreign government has established procedures.".

SUBROGATION

SEC. 209. Section 11(g) of the Federal Deposit Insurance Act (12 U.S.C. 1821(g)) is amended to read as follows:

"(g)(1) Upon the payment to any depositor as provided in subsection (f) of this section, the Corporation, shall be subrogated to all rights of the depositor against the closed bank to the extent of such payment. Such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such closed bank and recoveries on account on stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain his claim for any uninsured portion of his deposit. The Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon his stock in such bank; but any such waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated.

"(2) Except as provided in this Act, the rights of depositors and other creditors of any State bank shall be determined in accordance with the applicable provisions of State law.".

BRIDGE BANKS

SEC. 210. (a) Section 3(i) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)) is amended to read as follows:

"(i)(1) The term 'new bank' means a new national banking association, other than a bridge bank, organized by the Corporation to assume the insured deposits of an insured bank closed on account of inability to meet the demands of its depositors and otherwise to perform temporarily the functions prescribed in subsection (h) of section 11.

"(2) The term 'bridge bank' means a new national banking association organized by the Corporation pursuant to subsection (i) of section 11.".

(b) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by redesignating subsection (i), (j), (k), and (l) as paragraph (2), (3), (4), and (5), respectively, of subsection (h).

(c) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end thereof the following:

"(i)(1) As soon as possible after the closing of one or more insured banks, if the Corporation finds—

"(A) that the amount which the Corporation determines to be reasonably necessary to organize and operate a bridge bank will not exceed the amount which the Corporation determines to be reasonably necessary to liquidate the estate of the insured bank, including paying the insured accounts of such insured bank;

"(B) that the continued operation of such insured bank is essential to provide adequate banking services in its community; or

"(C) that the continued operation of such insured bank is in the interest of the depositors of the closed bank or the public,

the Corporation may organize a bridge bank to assume the deposits of the closed bank, and to assume such other liabilities of the closed bank as the Corporation in its discretion may deem advisable, and to purchase such assets of the closed bank as the Corporation in its discretion may deem advisable, and to perform temporarily the functions hereinafter provided for. Upon the organization of a bridge bank, the receiver of the closed insured bank or banks shall, subject to approval of a court of competent jurisdiction, transfer assets and liabilities of the closed insured bank or banks to the bridge bank.

"(2) The articles of association and the organization certificate of the bridge bank shall be executed by representatives designated by the Corporation. The bridge bank shall be a national bank and shall be insured from the time of its organization. No capital stock need be paid in by the Corporation. The bridge bank shall have a five-member board of directors who shall be selected by the Board of Directors.

"(3) The bridge bank shall have all corporate powers of a national bank, except that—

"(A) the Corporation shall have sole authority to appoint and remove the directors of the bridge bank, to fix their compensation, and to waive any requirements pertaining to their qualifications as provided in sec-

tions 5145 through 5149 of the Revised Statutes (12 U.S.C. 71 through 75) and section 31 of the Act of June 16, 1933 (12 U.S.C. 71a);

"(B) the Corporation shall have authority to indemnify the directors of the bridge bank on such terms as the Corporation deems proper;

"(C) any requirements for capital in the bridge bank as provided in section 5138 of the Revised Statutes (12 U.S.C. 51) or any other provision of law are waived;

"(D) the Comptroller of the Currency shall have authority to determine the maximum limit of indebtedness of any person to the bridge bank without regard for the amount of the bank's capital or surplus;

"(E) the Board of directors of the bridge bank shall elect a chairman who shall also serve in the position of Chief Executive Officer;

"(F) the bridge bank shall be a national member bank, but shall not be required to purchase stock of any Federal Reserve bank;

"(G) the board of directors of the bridge bank shall have authority to waive any requirement for a fidelity bond; and

"(H) upon the merger of a bridge bank with another bank that is not a bridge bank, or upon the sale of all or substantially all of the stock of a bridge bank (other than a sale to the Corporation or to another bridge bank), or upon the assumption of all or substantially all of the deposits of a bridge bank by another bank that is not a bridge bank, the surviving bank shall cease to have the status of a bridge bank.

"(4) Upon the organization of a bridge bank, and thereafter as the Board of Directors may in its discretion deem necessary or advisable, the Corporation shall promptly make available to the bridge bank, upon such terms and conditions and in such form and amounts as the Board of Directors may prescribe, sufficient funds for the bridge bank to operate. The bridge bank shall not be deemed to be an agency or establishment or instrumentality of the United States Government, nor shall the directors or officers or employees or agents of the bridge bank be deemed to be employees or agents of the United States Government, for any purpose whatever.

"(5)(A) Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of the bridge bank to be issued and offered for sale on such terms and conditions as the Corporation deems advisable in an amount sufficient, in the sole discretion of the Corporation, to make possible the conduct of the business of the bridge bank on a sound basis. If the bridge bank has assumed the insured deposits of a closed bank with total assets of $250,000,000 or more (as determined from the closed bank's most recent report of condition), the bridge bank shall be eligible to be acquired by or to merge with an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company, or to be acquired by an out-of-State bank or holding company, in accordance with the procedures established by subsection (f) of section 12.

"(B) Unless the capital stock of the bridge bank is sold or its assets are taken over and its deposits assumed by another insured bank within two years from the date of its organization, the Corporation shall wind upon the affairs of such bank by voluntary dissolution or by the appointment of a receiver, except that if the Board of Directors finds, after consultation with the Comptroller of the Currency as the appropriate Federal banking agency for the bridge bank, that an extension of time for winding up the affairs of the bank is in the public interest, the Corporation may extend such time for a period not exceeding one year.

"(6) In order to facilitate the sale or merger of the bridge bank with another insured depository institution the Corporation is authorized, in its sole discretion, and upon such terms and conditions as the Board of Directors may prescribe—

"(A) to make loans or contributions to, or deposits in, or purchase assets or securities of, such bridge bank or the company which will acquire control of such bank;

"(B) to guarantee the bridge bank or the company which will acquire control of the bridge bank against loss by reason of such sale or merger; or

"(C) to take any combination of the actions referred to in subparagraphs (A) and (B).

"(7) Nothing in this subsection shall be construed to limit the powers of the Corporation under section 13 to assist a transaction under this subsection.".

BRANCHING

SEC. 211. Section 18 of the Federal Insurance Act (12 U.S.C. 1828) is amended by striking out paragraph (1) of subsection (d) and inserting in lieu thereof the following:

"(1) Whenever a State nonmember bank (except a District bank) establishes and operates any new domestic branch, or moves its main office or any domestic branch, the bank shall file a notice thereof with the Corporation within 30 days of the date on which the bank establishes and begins to operate the office or branch at the new location. The notice shall be in such form as the Corporation may prescribe.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 212. (a) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by striking out "ther" and inserting in lieu thereof "term" in paragraph (2) of subsection (m).

(b) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by striking out paragraphs (3) and (4) and the last sentence of subsection (q) and inserting in lieu thereof the following:

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank (except a District bank) or of a foreign bank having an insured branch; and

"(4) the Federal Home Loan Bank Board in the case of an insured Federal savings bank.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution. For the purposes of subsections (b) through (n) of section 8 of this Act, the term 'insured bank' shall be deemed to include any uninsured branch or agency of a foreign bank or any commercial lending company owned or controlled by a foreign bank.".

(c) Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by striking out the first colon and all that follows in the last sentence of subsection (g) and inserting in lieu thereof a period.

(d) Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by striking out "monoplize" and inserting in lieu thereof "monopolize" in subparagraph (A) of paragraph (7) of subsection (J).

(e) Section 8 of the Federal Deposit Insurance Act (12 U.S.C.1818) is amended—

(1) by striking out "injuction" and inserting in lieu thereof "injunction" in paragraph (2) of subsection (c);

(2) by striking out "office" the first time it appears in paragraph (1) of subsection (e) and inserting in lieu thereof "officer";

(3) by redesignating subparagraphs (i), (ii), (iii), (iv), (v), (vi), and (vii) of paragraph (2) of subsection (i) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively, and by striking out "subparagraph (iv)" and inserting in lieu thereof "subparagraph (D)" in redesignated subparagraph (C) of paragraph (2) of subsection (i);

(4) by capitalizing the word "board" and the word "directors" wherever they appear in the second sentence of subsection (o);

(5) by inserting "and" after the semicolon at the end of subsection (q); and

(6) by striking out "therof" and inserting in lieu thereof "thereof" in paragraph (2) of subsection (r).

(f) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) by striking out the first three sentences of paragraph (1) of subsection (a) and inserting in lieu thereof the following: "The assets of the Permanent Insurance Fund shall be held by the Corporation for the uses and purposes of the Corporation. The Corporation shall insure the deposits of all insured banks as provided in this Act. Except as provided in paragraph (2), the maximum amount of the insured deposit of any depositor shall be $100,000.";

(2) by redesignating the first subsection (b) as subparagraph (B) of paragraph (2) of subsection; and

(3) by inserting a comma after "subsection (g) of this section" in redesignated paragraph (1) of subsection (f).

(g) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) by striking out the third sentence of subsection (d); and

(2) by striking out subsection (g).

(h) Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by striking out the penultimate sentence of subsection (a).

(i) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) by striking out paragraph (10) of subsection (c);

(2) by striking out the sixth, seventh, eighth, and ninth sentences of paragraph (1) of subsection (g);

(3) by striking out "member bank shall" and inserting in lieu thereof "member bank, shall" in paragraph (1) of subsection (j); and

(4) by striking out "member bank" and inserting in lieu thereof "nonmember insured bank" in subparagraph (B) of paragraph (3) of subsection (j).

TITLE III—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION

SHORT TITLE

SEC. 301. This Act may be cited as the "Federal Savings and Loan Insurance Corporation Recapitalization Act of 1986".

FINANCING CORPORATION

SEC. 302. The Federal Home Loan Bank Act is amended by inserting after section 20 the following:

"FINANCING CORPORATION

"SEC. 21. (a)(1) Notwithstanding any other provision of law—

"(A) the Board shall charter the Financing Corporation, which shall be under the direction of the Financing Corporation Directorate (hereinafter referred to as the 'Di-

rectorate'), and operated by it subject to such rules, regulations, orders, and directions as the Board may prescribe, and the Board shall have the power to define terms as shall be necessary to carry out the provisions of this section;

"(B) each Federal Home Loan Bank shall invest its funds at such times and in such amounts as prescribed by the Board under this subsection in nonvoting capital stock of the Financing Corporation, which stock shall have par value and shall be transferable only among the Federal Home Loan Banks in such manner as the Board prescribes;

"(C) the Directorate shall consist of three members, one of whom shall be the Director of the Office of Finance of the Federal Home Loan Banks or his successor, and two of whom shall be selected by the Chairman of the Federal Home Loan Bank Board from among the presidents of the Federal Home Loan Banks or their successors. Each of the two Federal Home Loan Bank president members of the Directorate shall serve for a term of one year. No president of a Federal Home Loan Bank may be selected to serve an additional term on the Directorate until such time as each of the other Federal Home Loan Bank presidents has served at least as many terms as such president. The Chairman of the Federal Home Loan Bank Board shall select the chairman of the Directorate from among its three members.

"(2) The aggregate amount of funds invested by all Federal Home Loan Banks in nonvoting capital stock of the Financing Corporation shall not exceed $3,000,000,000, except that the cumulative amount of funds so invested by each Federal Home Loan Bank shall not exceed the sum of the reserves that have been and are required to be carried by such Bank pursuant to the first two sentences of section 16(a) of this Act, plus the undivided profits of such Bank. For purposes of this Act 'undivided profits' shall include retained earnings other than (A) that portion required to be carried pursuant to the first two sentences of section 16 of this Act, and (B) the following dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves as of December 31, 1985:

"Federal Home Loan Bank of Boston	3.2 million
Federal Home Loan Bank of New York	7.7 million
Federal Home Loan Bank of Pittsburgh	5.2 million
Federal Home Loan Bank of Atlanta	12.3 million
Federal Home Loan Bank of Cincinnati	5.9 million
Federal Home Loan Bank of Indianapolis	37.4 million
Federal Home Loan Bank of Chicago	6.0 million
Federal Home Loan Bank of Des Moines	32.7 million
Federal Home Loan Bank of Dallas	45.0 million
Federal Home Loan Bank of Topeka	13.7 million
Federal Home Loan Bank of San Francisco	21.9 million
Federal Home Loan Bank of Seattle	33.6 million

"(3) The board shall require that the amount of funds to be invested in nonvoting capital stock of the Financing Corporation be prorated to each Federal Home Loan Bank or its successor according to the following:

"(A) For each Federal Home Loan Bank or its successor, the portion of the first $1,000,000,000 of payments for such stock shall be based on the following percentages:

	Percent
"Federal Home Loan Bank of Boston	1.8629
Federal Home Loan Bank of New York	9.1006
Federal Home Loan Bank of Pittsburgh	4.2702
Federal Home Loan Bank of Atlanta	14.4007
Federal Home Loan Bank of Cincinnati	8.2653
Federal Home Loan Bank of Indianapolis	5.2863
Federal Home Loan Bank of Chicago	9.6886
Federal Home Loan Bank of Des Moines	6.9301
Federal Home Loan Bank of Dallas	8.8181
Federal Home Loan Bank of Topeka	5.2706
Federal Home Loan Bank of San Francisco	19.9644
Federal Home Loan Bank of Seattle	6.1422

"(B) For each Federal Home Loan Bank or its successor, the portion of payments for such stock purchased by all such Banks in excess of $1,000,000,000 shall be a fraction (expressed as a percentage) of which the numerator is the total of all assets held by insured institutions, as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)), which are members of such Bank, and the denominator is the aggregate total of all assets held by all insured institutions which are members of all Federal Home Loan Banks, calculated as of December 31 of the immediately preceding year.

"(4) In the event that the cumulative amount of funds required to be invested by any Federal Home Loan Bank pursuant to subparagraph (3)(B) of this subsection for purchase of stock in the Financing Corporation exceeds the sum of all the reserves that have been and are required to be carried by such Bank pursuant to the first two sentences of section 16(a) of this Act, plus its undivided profits, such excess amount shall not be invested by any such Bank at that time but shall be prorated for investment among the remaining Federal Home Loan Banks based upon their holdings of stock in the Financing Corporation at that time, except that the cumulative amount of funds required to be invested by any of the remaining Banks shall not exceed the sum of the reserves that have been and are required to be carried by any such Bank pursuant to the first two sentences of section 16(a) of this Act plus its undivided profits, and any excess amount shall be prorated for investment among the remaining Federal Home Loan Banks to the extent such investment would not be limited pursuant to this paragraph. Each Federal Home Loan Bank, which pursuant to the provisos of this paragraph, has not made the full investment of funds in the Financing Corporation as required under subparagraph (3)(B) of this subsection shall purchase annually from the remaining Federal Home Loan Banks on a pro rata basis at the issuance price stock in the Financing Corporation, and shall continue to make such purchases until the cumulative amount invested by such Bank shall be equal to the amount required to have been invested by such Bank pursuant to said subparagraph (3)(B). Until any such Bank shall have purchased a cumulative amount of stock as prescribed in the preceding sentence, no dividends shall be paid by such Bank in excess of one-half of its net earnings, and such funds as are necessary to make such stock purchases shall be placed in a reserve required by the board and not available for dividends.

"(b) The Financing Corporation shall have the following powers, subject to rules, regulations, orders, and directions prescribed by the Board:

"(1) To issue nonvoting capital stock to the Federal Home Loan Banks.

"(2) To invest in any securities issued by the Federal Savings and Loan Insurance Corporation.

"(3) To borrow and give security therefor and pay interest thereon, to issue debentures, bonds, or other obligations the maturity of which shall not exceed 30 years and the net proceeds of which shall be invested in the Federal Savings and Loan Insurance Corporation under section 402(b) of the National Housing Act or shall be used to refund obligations the net proceeds of which were so invested, upon such terms and conditions as the board may approve.

"(4) To adopt, alter and use a corporate seal.

"(5) To have succession until dissolved as provided herein.

"(6) To make contracts; to sue and be sued, complain, and defend, in any court of competent jurisdiction, State or Federal.

"(7) To exercise such incidental powers not inconsistent with the provisions of this Act as are necessary or appropriate to carry out the provisions of this section and are customary and usual in corporations generally.

"(c) The Financing Corporation shall have no paid employees, and the Directorate may, with the approval of the board, authorize the officers, employees, or agents of the Federal Home Loan Banks or the board to act on behalf of the Financing Corporation in such manner as necessary to enable the Financing Corporation to fulfill its functions.

"(d)(1) Obligations of the Financing Corporation issued with the approval of the board under this Act shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. The Federal Reserve banks are authorized to act as depositaries, custodians, or fiscal agents for the Financing Corporation in the general performance of its powers under this Act.

"(2) All persons having the power to invest in, sell, underwrite, purchase for their own account, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have power to do so in obligations of the Financing Corporation.

"(3) Obligations of the Financing Corporation and interest thereon shall not be obligations of nor guaranteed by the Federal Home Loan Banks, the United States, or the Federal Savings and Loan Insurance Corporation, and shall so plainly state, but shall be treated as Federal Home Loan Bank obligations for purposes of section 13 of this Act. The Financing Corporation shall be treated as a Federal Home Loan Bank for purposes of sections 13 and 23 of this Act, and shall be treated as an 'agency' for purposes of subsection (b) of section 3124 of title 31, United States Code.

"(4) All instruments issued under this section shall, to the same extent as securities

which are direct obligations of or are guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission.

"(5) No net new borrowings shall be made by the Financing Corporation after December 31, 1996.

"(6) Notwithstanding the provisions of section 9105(a)(1)(B) of title 31, United States Code, audits by the General Accounting Office of the financial transactions of the Financing Corporation shall not be limited to periods during which Government capital has been invested therein. The provisions of sections 9107(c)(2) and 9108(d)(1) of title 31, United States Code, shall not apply to the Financing Corporation.

"(e) Assets of the Financing Corporation not invested in the Federal Savings and Loan Insurance Corporation pursuant to subsection (d) of this section shall be invested, subject to such regulations, restrictions, and limitations as may be prescribed by the board, in direct obligations of the United States, in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association, in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454 or 1455) and in such securities as fiduciary and trust funds may be invested in under the laws of any State.

"(f) Obligations issued by the Financing Corporation and outstanding shall be issued at such times and in such amounts as are determined by the board but shall not at any time exceed the greater of—

"(1) five times the amount of the then outstanding nonvoting capital stock of the Financing Corporation; or

"(2) the face amount, as determined by the board, of obligations invested in by the Financing Corporation pursuant to subsection (e) of this section

as determined by the board.

"(g)(1) The Financing Corporation shall be dissolved forthwith upon retirement of all stock purchased by it in the Federal Savings and Loan Insurance Corporation, which shall be no later than December 31, 2026.

"(2) Effective as of the date of the dissolution of the Financing Corporation, any powers thereof deemed necessary by the board to be preserved will be transferred to the board on behalf of the Federal Home Loan Banks.".

CONFORMING AMENDMENT

SEC. 303. Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof the following:

"(K) The Financing Corporation.".

INVESTMENT IN FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 304. Section 402(b) of the National Housing Act (12 U.S.C. 1725(b)) is amended to read as follows:

"(b)(1) Notwithstanding any other provisions of law, the Corporation is authorized to issue (A) nonredeemable capital certificates; and (B) redeemable nonvoting capital stock, the investment in which shall be in an amount equal to the aggregate investment by the Federal Home Loan Banks in capital stock of the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act. Such capital certificates and stock issued by the Corporation shall be invested in by the Financing Corporation, shall be included as part of the primary reserve of the Corporation, and shall pay dividends equal to the Financing Corporation's interest payments on its obligations and issuance and reasonable direct administrative costs, on or before the dates on which such amounts are due and payable, minus any net interest payments to the Financing Corporation on short term investments of the proceeds of its obligations prior to the purchase of capital certificates and capital stock in the Corporation, as determined by the Federal Home Loan Bank Board.

"(2) Upon maturity of all obligations issued by the Financing Corporation, the Corporation is authorized to and shall promptly pay off and retire its capital stock, paying for this retirement solely with its accumulated contributions to its equity return account.

"(3) The Corporation is authorized to establish and maintain until payoff to the Financing Corporation, the equity return account, which shall include annual contributions made by the Corporation, according to the following formulae, at the end of each year beginning in 1997 and ending in the year during which the last of the obligations of the Financing Corporation matures. Such annual contributions shall be made as follows:

"(A) In any year when the reserves of the Corporation are less than .50 per centum of the aggregate amount of all accounts of all of its insured members (as of December 31 of the preceding year), there shall be no contribution.

"(B) In any year when the reserves of the Corporation are equal to .50 per centum of the aggregate amount of all accounts of all of its insured members or greater (as of December 31 of the previous year), the contribution shall be the amount invested by the Financing Corporation in Corporation capital stock, divided by the number of years from the first year after 1996 that such reserves to accounts ratio reached .50 per centum to the year in which the last maturing obligation of the Financing Corporation matures (which year of maturity shall not be after 2026).

"(C) In any year when the reserves of the Corporation are equal to 1 per centum of the aggregate amount of all accounts of all of its insured members or greater but do not equal or exceed 1.25 per centum of all accounts of all of its insured members (as of December 31 of the preceding year), there may be an additional contribution, as determined by the Federal Home Loan Bank Board, of up to but no greater than 6 per centum per annum compounded on the amount invested by the Financing Corporation in Corporation capital stock, from the year the investment was made to the year in which the last maturing obligation of the Financing Corporation matures (which year of maturity shall not be after 2026), divided by the number of years from the first year after 1996 that such reserves to accounts ratio reached 1 per centum to the year in which the last maturing obligation of the Financing Corporation matures.

"(D) In any year when the reserves of the Corporation are equal to 1.25 per centum of the aggregate amount of all accounts of all of its insured members or greater but do not equal or exceed 1.75 per centum of all accounts of all its insured members (as of December 31 of the preceding year), there may be an additional contribution as determined by the Federal Home Loan Bank Board of up to but no greater than 8 per centum per annum compounded on the amount invested by the Financing Corporation capital stock, from the year the investment was made to the year in which the last maturing obligation of the Financing Corporation matures (which maturity shall not be after 2026), less the amounts contributed under subparagraph (C) of this paragraph, divided by the number of years from the first year after 1996 that such reserves to accounts ratio reached 1.25 per centum to the year in which the last maturing obligation of the Financing Corporation matures.

"(E) In any year when the reserves of the Corporation are 1.75 per centum of the aggregate amount of all accounts of all of its insured members or greater (as of December 31 of the preceding year), there may be an additional contribution as determined by the Federal Home Loan Bank Board of up to but no greater than 10 per centum per annum compounded on the amount invested by the Financing Corporation capital stock, from the year the investment was made to the year in which the last maturing obligation of the Financing Corporation matures (which maturity shall not be after 2026), less amounts contributed under subparagraphs (C) and (D) of this paragraph, divided by the number of years from the first year after 1996 that such reserves to accounts ratio reached 1.75 per centum to the year in which the last maturing obligation of the Financing Corporation matures.

The contribution amounts made to the equity return account, which shall not be included as reserves of the Corporation, are the sole amounts to be included in that account, and any earnings accruing from the investment of funds held in such account shall be added to the reserves of the Corporation.

"(4) For purposes of this paragraph, the 'Financing Corporation' is the corporation chartered under section 21 of the Federal Home Loan Bank Act.

"(5) Notwithstanding any other provision of law, as long as shares of the capital stock of the Corporation are outstanding, the following provisions of section 404 of the National Housing Act shall not apply:

"(A) Paragraph (2) of subsection (b).

"(B) Subparagraph (B) of paragraph (1) of subsection (d).

"(C) Subsection (g).".

DIVIDENDS

SEC. 305. Section 16 of the Federal Home Loan Bank Act (12 U.S.C. 1436) is amended by adding the following new subsection (c) at the end thereof:

"(c) Notwithstanding subsection (a) of this section, if (1) a Federal Home Loan Bank incurs a charge-off or expense related to such Bank's investment in the stock of the Financing Corporation chartered under section 21 of the Federal Home Loan Bank Act, and (2) the Board determines there is an extraordinary need for such Bank's member institutions to receive dividends, then the Board may authorize such Bank to declare and pay dividends out of undivided profits or the reserves required to be carried by such Bank pursuant to the first two sentences of subsection (a) of this section, but only after such Bank has reduced all other reserves it has established to zero. Notwithstanding such authorization by the Board to a Federal Home Loan Bank to declare and pay dividends out of undivided profits or reserves, the requirements and limitations on such Federal Home Loan Bank's investments in the Financing Corporation pursu-

ant to section 21(a) of this Act shall remain the same as if the Bank did not pay any such dividends.".

EXEMPTION FROM RETIREMENT REQUIREMENT

SEC. 306. Section 402(h) of the National Housing Act (12 U.S.C. 1725(h)) is amended by adding at the end thereof the following: "Notwithstanding the foregoing, the first three sentences of this subsection shall not apply to stock issued by the Corporation to the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act.".

FEDERAL HOME LOAN BANK MEMBERSHIP

SEC. 307. The first sentence of section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) by striking out "and" before "(3)"; and

(2) by inserting before the period at the end thereof the following: "; and (4) is an 'insured institution' as defined by section 401 of the National Housing Act, except that an insurance company is not required to be an insured institution for purposes of this section".

TITLE IV—THRIFT INSTITUTIONS INVESTMENTS

SHORT TITLE

SEC. 401. This title may be cited as the "Thrift Institutions Investment Act of 1986".

EQUALITY OF THRIFT AND BANK HOLDING COMPANY AFFILIATE TRANSACTIONS

SEC. 402. Section 408(d) of the National Housing Act (12 U.S.C. 1730a(d)) is amended to read as follows:

"(d)(1) The provisions of sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 371d) relating to transactions between member banks and their affiliates, shall apply to each insured institution in the same manner and to the same extent as if such insured institution were a member bank. For the purpose of this section—

"(A) the Corporation may prescribe rules or regulations for purposes of defining and clarifying the applicability of such section 23A and 23B to insured institutions; and

"(B) the term 'Board' in such sections 23A and 23B means the Corporation.

"(2) Any extension of credit by an insured institution to the holder of a credit card issued by an insured institution to finance the purchase of any good or service from an affiliate of such insured institution shall not be deemed to be a covered transaction with an affiliate for purposes of paragraph (1) of this subsection or section 23A or 23B of the Federal Reserve Act if (A) the proceeds of such extension of credit are applied solely to satisfy, in whole or in part, charges incurred through the use of such credit card, and (B) such credit card can be used by the holder to finance purchases of goods or services from other persons that are not affiliates of the insured institution.".

CONFORMITY OF AFFILIATION RESTRICTIONS

SEC. 403. Section 402 of the National Housing Act (12 U.S.C. 1725) is amended by adding at the end thereof the following:

"(k) A State, District, territory, or possession may not, directly or indirectly—

"(1) prohibit or restrict any affiliation with an insured institution that is not prohibited or restricted under Federal law; or

"(2) impose requirements, restrictions, or conditions on any company affiliated with an insured institution, or on the agents, officers, or employees of such company, that are not imposed on a company engaged in the same line of business but not affiliated with an insured institution, or on the agents, officers, or employees of such company.".

LIMITED TRANSACTIONS IN SAVINGS AND LOAN STOCK

SEC. 404. Clause (iii) of section 408(e)(1)(A) of the National Housing Act (12 U.S.C. 1730a(e)(1)(A)) is amended by inserting after the semicolon therein the following: "except that, the foregoing shall not prohibit an investment banking firm or a broker-dealer in securities that is a lawful subsidiary of a savings and loan holding company, from engaging in trading, secondary market transactions, or other securities activities incidental thereto, with respect to not more than five per centum of the voting shares of any insured institution or savings and loan holding company, that is not a subsidiary of such a savings and loan holding company;".

RELATING DEBT LIMITS TO CAPITAL

SEC. 405. Subparagraph (B) of section 408(g)(2) of the National Housing Act (12 U.S.C. 1730a(g)(2)) is amended by adding at the end thereof the following: "The 15 per centum of the consolidated net worth limitation in this subparagraph shall be 30 per centum, or such greater amount as shall be approved in writing by the Corporation, with respect to any savings and loan holding company or any subsidiary thereof if, at the close of two of the three preceding fiscal quarters and at the close of each fiscal quarter during which such 30 per centum or higher limitation is effective, each of the insured institution subsidiaries of the holding company has been in compliance with the reserve requirements of section 403(b) of this Act (12 U.S.C. 1726(b)).".

WAIVER OPTION FOR INTERLOCKING DIRECTORATES IN EMERGENCY ACQUISITIONS

SEC. 406. Section 205 of the Depository Institutions Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following:

"(7) A company that becomes a depository holding company by acquiring an insured institution pursuant to section 408(m) of the National Housing Act (12 U.S.C. 1730a(m)) or section 5(p) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(p)); except that the Federal Home Loan Bank Board may determine within 60 days after notice of any service by a management official, which would otherwise be prohibited by section 3 of this Act, that the exception in this subsection would not be in the public interest. Such notice shall be given by the depository holding company (A) at such time as a company becomes a depository holding company with respect to any management official otherwise subject at that time to the prohibitions of section 2, who may remain in such position until a reasonable time, as determined by the Federal Home Loan Bank Board, after a determination by such Board that the exception in this subsection does not apply, or (B) 60 days prior to the date on which any management official would begin service that would otherwise violate sections 3202 or 3203 of this title. The exception in this paragraph is not in the public interest if, in the opinion of the Federal Home Loan Bank Board, the service of the management official would result in a monopoly or substantial lessening of competition, and the services provided by the management official could not be structured or limited so as to preclude such anticompetitive results.".

THRIFT-SUBSIDIARY ARRANGEMENTS

SEC. 407. Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended by adding the following:

"(E) Nothing in this section shall be interpreted to restrict the following arrangements between thrift subsidiaries of a bank holding company and such thrift's affiliates: (i) participating in joint sales or marketing arrangements; (ii) cross-advertising, providing referral services, or making available information on any product or service provided, directly or indirectly, by the bank holding company; or (iii) obtaining access to and using for marketing purposes, the customer lists of any subsidiary of the bank holding company.".

THRIFT ACQUISITIONS

SEC. 408. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by adding at the end thereof the following:

"(16) investments, through the ownership of an insured institution that is acquired under section 408(m) of the National Housing Act after the date of enactment of the Deposit Insurance Reform and Competitive Enhancement Act, in one or more service corporations engaged in activities under section 5(c)(4)(B) of the Home Owners' Loan Act of 1933, notwithstanding any other provision of law;".

TITLE V—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SHORT TITLE

SEC. 501. This title may be cited as the "Savings Institutions Supervisory Amendments of 1986".

CEASE-AND-DESIST PROCEEDINGS

SEC. 502. (a) Subsections (e), (f), (g), and (h) of section 407 of the National Housing Act (12 U.S.C. 1730) are each amended by striking out "director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution" and "director or officer" each place they appear and inserting in lieu thereof "institution-related party".

(b) Paragraphs (2), (3), (4), and (5) of section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)) are each amended by striking out "director, officer, employee, agent, or other person participating in the conduct of the affairs of such association" and "director or officer" each place they appear and inserting in lieu thereof "association-related party".

(c) Section 407(e)(1) of the National Housing Act (12 U.S.C. 1730(e)(1)) is amended by adding at the end thereof the following: "As used in this subsection and subsection (e), the term 'affirmative action' includes restitution, rescission, the disposal of loans or assets, guarantees against loss, and/or such other actions as the Corporation deems to be appropriate in the circumstances.".

(d) Section 5(d)(2)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(A)) is amended by adding at the end thereof the following: "As used in this paragraph and paragraph (3), the term 'affirmative action' includes restitution, rescission, the disposal of loans or assets, guarantees against loss, and/or such other actions as the Board deems to be appropriate in the circumstances.".

(e) Section 407(e)(3) of the National Housing Act (12 U.S.C. 1730(e)(3)) and section 5(d)(2)(C) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(2)(C)) both are amended by striking out "affiliate service corporation" and inserting in lieu thereof "service corporation or any subsidiary of a

service corporation, whether wholly or partly owned,".

TEMPORARY CEASE-AND-DESIST ORDERS

SEC. 503. (a) Section 407(f) of the National Housing Act (12 U.S.C. 1730(f)) is amended—

(1) by amending paragraphs (1) and (2) to read as follows:

"(1) Whenever the Corporation determines that a violation or threatened violation or unsafe or unsound practice or practices or threatened unsafe or unsound practice or practices specified in a notice of charges served upon an insured institution or institution-related party under paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the insured institution concerned or to seriously weaken the condition of the concerned institution or otherwise seriously prejudice the interests of its account holders or stockholders prior to completion of proceedings conducted under paragraph (1) of subsection (e) of this section, the Corporation may issue a temporary order requiring the insured institution or institution-related party to cease and desist from any such violation or practice and take such affirmative action as the Corporation deems appropriate to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the concerned insured institution or institution-related party, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (4) of this subsection, shall remain effective and enforceable pending completion of the administrative proceedings initiated under such notice or until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the insured institution or institution-related party, until the effective date of any such order.

"(2)(A) Whenever the Corporation determines that violation or threatened violation or unsafe or unsound practice or practices or threatened unsafe or unsound practice or practices specified in a notice of charges served upon an insured institution or institution-related party under paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause dissipation of assets or earnings of the insured institution concerned or to weaken the condition of the insured institution concerned or otherwise seriously prejudice the interests of its account holders or stockholders prior to completion of proceedings conducted under paragraph (1) of subsection (e) of this section, the Corporation may issue a temporary order requiring the insured institution or institution-related party to cease and desist from any such violation or practice and take such affirmative action as the Corporation deems appropriate to prevent such dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the concerned insured institution or institution-related party, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (4) of this subsection, shall remain effective and enforceable (i) pending completion of the administrative proceedings initiated under such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or (ii) if a cease-and-desist order is issued against the insured institution or institution-related party, until the effective date of any such order, or (iii) until the expiration of 90 days from the date of service of the temporary cease-and-desist order, whichever occurs first.

"(B) At the end of said 90 days, the Corporation may reissue the temporary cease-and-desist order with respect to the violation or threatened violation or unsafe or unsound practices specified in the notice of charges if it determines that the continuation thereof is likely to cause insolvency or substantial dissipation of assets or earnings of the insured institution concerned or likely to seriously weaken the condition of the insured institution concerned or otherwise seriously prejudice the interests of its account holders or stockholders prior to completion of proceedings conducted under paragraph (1) of subsection (e) of this section. Such order shall become effective on service upon the concerned insured institution or institution-related party, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (4) of this subsection, shall remain effective and enforceable pending completion of the administrative proceeding initiated pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the insured institution or institution-related party, until the effective date of any such order.

"(3) Whenever a notice of charges specifies that an insured institution's books and records are so incomplete or inaccurate that the Corporation is unable with reasonable effort to determine the financial condition of that institution, the Corporation may issue a temporary order requiring cessation of any institution activities the Corporation deems appropriate until completion of proceedings conducted under paragraph (1) of subsection (e) of this section. Such order shall become effective upon service, and unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (4) of this subsection, remain effective and enforceable impending completion of the administrative proceeding initiated under such notice or until the Corporation determines by examination or otherwise that the institution's books and records are accurate and capable of reflecting the financial condition of the institution."; and

(2) by redesignating paragraph (3) as paragraph (4).

(b) Section 5(d)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(3)) is amended—

(1) by amending subparagraphs (A) and (B) to read as follows:

"(A) Whenever the Board determines that a violation or threatened violation or unsafe or unsound practice or practices or threatened unsafe or unsound practice or practices specified in a notice of charges served upon an association or any association-related party under paragraph (2)(A) of this subsection or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the association concerned or to seriously weaken the condition of the association or otherwise seriously prejudice the interests of its account holders or stockholders prior to completion of proceedings conducted under paragraph (2)(A) of this subsection, the Board may issue a temporary order requiring the association or association-related party to cease and desist from any such violation or practice and take such affirmative action as the Board deems appropriate to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association or association-related party, and unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (D) of this paragraph, remain effective and enforceable pending completion of the administrative proceedings initiated under such notice and until such time as the Board shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the association or association-related party, until the effective date of any such order.

"(B)(i) Whenever the Board determines that a violation or threatened violation or unsafe or unsound practice or practices or threatened unsafe or unsound practice or practices specified in a notice of charges served upon an association or any association-related party under paragraph (2)(A) of this subsection, or the continuation thereof, is likely to cause dissipation of assets or earnings of the association concerned or to weaken the condition of the association or otherwise seriously prejudice the interests of its account holders or stockholders prior to completion of proceedings conducted under paragraph (2)(A) of this subsection, the Board may issue a temporary order requiring the association or association related party to cease and desist from any such violation or practice and take such affirmative action as the Board deems appropriate to prevent such dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association or association-related party, and unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (D) of this paragraph, remain effective and enforceable (I) pending completion of the administrative proceedings initiated under such notice and until such time as the Board shall dismiss the charges specified in such notice, (II) if a cease-and-desist order is issued against the association or association-related party, until the effective date of any such order, or (III) until the expiration of 90 days from the date of service of the temporary cease-and-desist order, whichever occurs first.

"(ii) At the end of said 90 days, the Board may reissue the temporary cease-and-desist order with respect to the violation or threatened violation or unsafe or unsound practices specified in the notice of charges if it determines that the continuation thereof is likely to cause insolvency or substantial dissipation of assets or earnings of the association concerned or likely to seriously weaken the condition of the association concerned or otherwise seriously prejudice the interests of its account holders or stockholders prior to the completion of proceedings conducted pursuant to paragraph (2)(A) of this subsection. Such order shall become effective on service upon the concerned association or association-related party, and unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (D) of this paragraph, shall remain effective and enforceable pending completion of the administrative proceeding initiated pursuant to such notice or until such time as the Board shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the association or association-related party, until the effective date of any such order.

"(C) Whenever a notice of charges specifies that an association's books and records are so incomplete or inaccurate that the

Board is unable with reasonable effort to determine the financial condition of that association, the Board may issue a temporary order requiring cessation of any association activities the Board deems appropriate until completion of proceedings conducted under paragraph (2)(A) of this subsection. Such order shall become effective upon service and unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (D) of this paragraph, remain effective and enforceable pending completion of the administrative proceeding initiated under such notice or until the Board determines by examination or otherwise that the association's books and records are accurate and capable of reflecting the financial condition of the association."; and

(2) by redesignating subparagraph (C) as subparagraph (D).

SUSPENSION, REMOVAL, OR PROHIBITION OF INSTITUTION-RELATED PARTIES

SEC. 504. (a) Paragraphs (1) and (2) of section 407(g) of the National Housing Act (12 U.S.C. 1730(g)) are amended to read as follows:

"(1) Whenever the Corporation determines that—

"(A) any institution-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or engaged or participated in any unsafe or unsound practice in connection with an insured institution, or committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty;

"(B) an insured institution has suffered or will probably suffer financial loss or other damage, including damage which may threaten to impair public confidence in the institution, or the interests of its insured account holders or stockholders have been or could be prejudiced by reason of such violation or practice or breach, or the institution-related party has received financial gain by reason of such violation or practice or breach; and

"(C) such violation or practice or breach involves personal dishonesty on the part of such institution-related party or demonstrates willful or continuing disregard for the safety or soundness of the insured institution,

the Corporation may serve upon such institution-related party a written notice of its intention to remove such party from his office or his position and/or to prohibit his further participation in any manner in the conduct of the affairs of such insured institution. For institution-related parties not holding an official office or no longer participating in the affairs of such insured institution at the time of service of the notice, the notice shall state the Corporation's intention to prohibit such person's further participation in any manner in the conduct of the affairs of the insured institution.

"(2) Whenever the Corporation determines that any institution-related party has evidenced personal dishonesty or a willful or continuing disregard for the safety or soundness of another insured institution or other business enterprise by conduct or practice with respect thereto that evidences such party's unfitness to continue as an institution-related party, the Corporation may serve upon such institution-related party a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the affairs of his institution.".

(b) Subparagraphs (A) and (B) of section 5(d)(4) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(4)) are amended to read as follows:

"(A) Whenever the Board determines that—

"(i) any association-related party, directly or indirectly, has violated any law, rule, regulation, or cease-and-desist order which has become final, or engaged or participated in any unsafe or unsound practice in connection with an association, or committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty;

"(ii) an association has suffered or will probably suffer financial loss or other damage, including damage which may threaten to impair public confidence in the association, or the interests of its insured account holders or stockholders have been or could be prejudiced by reason of such violation or practice or breach, or the association-related party has received financial gain by reason of such violation or practice or breach; and

"(iii) such violation, practice, or breach involves personal dishonesty on the part of such association-related party or demonstrates willful or continuing disregard for the safety and soundness of the association,

the Board may serve upon such association-related party a written notice of intention to remove such party from his office or his position and/or to prohibit his further participation in any manner in the conduct of the affairs of such association. For association-related parties not holding an official office or no longer participating in the affairs of such association at the time of service of the notice, the notice shall state the Board's intention to prohibit such person's further participation in any manner in the conduct of the affairs of the association.

"(B) Whenever the Board determines that any association-related party has evidenced personal dishonesty or a willful or continuing disregard for the safety and soundness of another association or other business enterprise by conduct or practice with respect thereto that evidences such party's unfitness to continue as an association-related party, the Board may serve upon such association-related party written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the affairs of his association.".

PENALTIES

SEC. 505. (a) Paragraphs (1) and (2) of section 407(p) of the National Housing Act (12 U.S.C. 1730(p)) are amended to read as follows:

"(1) Any person against whom there is outstanding and effective any notice or order (which is an order that has become final) served upon such person under subsection (g) or (h) of this section or under section (d) (4) or (5) of the Home Owners' Loan Act of 1933, or under section 8 of the Federal Deposit Insurance Act, and who—

"(A) participates in any manner in the conduct of the affairs of the institution from which he has been suspended, removed and/or prohibited, or directly or indirectly, solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such institution, or

"(B) without the prior written approval of the Corporation, votes for a director, or serves or acts as a director, officer, employee, or agent or otherwise becomes an institution-related party or participates in any manner in the affairs of any insured institution or without the prior written approval of the appropriate Federal regulatory authority, engages in said conduct with respect to any other depository institution whose accounts are insured by the Federal Deposit Insurance Corporation or any other agency of the Federal Government,

shall be guilty of a misdemeanor, and upon conviction, be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(2) Except with the prior written consent of the Corporation, no person shall serve as an institution-related party who has been convicted of a criminal offense involving dishonesty or breach of trust. For each knowing violation of this prohibition, the institution involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.".

(b) Paragraphs (A) and (B) of section 5(d)(12) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(12)) are amended to read as follows:

"(A) Any person against whom there is outstanding and effective any notice or order (which has become final) served upon such person under paragraphs (4) or (5) of this subsection or under section 407 of the National Housing Act or under section 8 of the Federal Deposit Insurance Act and who—

"(i) participates in any manner in the conduct of the affairs of the association from which he has been suspended, removed and/or prohibited, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such association, or

"(ii) without the prior written approval of the Board votes for a director, or serves or acts as a director, officer, employee, or agent or otherwise becomes an association-related party or participates in any manner in the affairs of any insured institution or without the prior written approval of the appropriate Federal regulatory authority, engages in such conduct with respect to any other depository institution whose accounts are insured by the Federal Deposit Insurance Corporation or any other agency of the Federal Government,

shall be guilty of a misdemeanor, and upon conviction, be fined not more than $5,000 or imprisoned for not more than one year, or both.

"(B) Except with prior written consent of the Board, no person shall serve as an association-related party who has been convicted of a criminal offense involving dishonesty or breach of trust. For each knowing violation of this prohibition, the institution involved shall be subject to penalty of not more than $100 for each day this prohibition is violated, which the Board may recover by suit or otherwise for its own use.".

DEFINITIONS

SEC. 506. (a) Section 407(r) of the National Housing Act (12 U.S.C. 1730(r)) is amended—

(1) by adding at the end of paragraph (1) thereof the following:

"(E) The term 'institution-related party' means any director, officer, controlling person, employee, agent, or other person participating in the conduct of the affairs of an insured institution, or of any service corporation or any subsidiary of a service corporation of an insured institution, whether wholly or partly owned, or of any savings

and loan holding company or any subsidiary of a savings and loan holding company as those terms are defined in section 1730a of this title, and any person who, with respect to a particular insured institution has filed or is required to file a change in control notice with the Corporation under subsection (q) of this section, and real estate appraisers whose opinions of value are offered to, requested by, or relied upon by insured institutions. The status of any person as an 'institution-related party' shall not be affected by the resignation, termination of employment, or other separation of such person from an insured institution for a period of two years after such person's resignation, termination of employment, or other separation from an insured institution."; and

(2) by adding at the end thereof the following:

"(5) As used in subsections (e), (f), (g), (h), (p), and (s) of this section, the term 'insured institution' means any institution the deposits of which are insured by the Corporation, any institution that retains deposits insured by the Corporation notwithstanding termination of its status as an insured institution, and a Federal savings bank the deposits of which are insured by the Federal Deposit Insurance Corporation.".

(b) Section 5(d)(13) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(13)) is amended—

(1) by adding at the end of subparagraph (A) thereof the following:

"(5) The term 'association-related party' means any director, officer, controlling person, employee, agent or other person participating in the conduct of the affairs of an association, or of any service corporation or any subsidiary of a service corporation of an association, or of any savings and loan holding company as those terms are defined in section 407 of the National Housing Act, and any person who, with respect to a particular association, has filed or who is required to file a change in control notice with the Federal Savings and Loan Insurance Corporation under subsection (q) of section 408 of such Act, and real estate appraisers whose opinions of value are offered to, requested by, or relied upon by associations. The status of any person as an 'associated-related party' shall not be affected by redesignation, termination of employment, or other separation of such person from an association for a period of two years after such person's resignation, termination of employment, or other separation from an insured institution."; and

(2) by adding at the end thereof the following:

"(C) As used in paragraphs (2), (3), (4), (12), and (15) of this subsection, the term 'association' includes any former association that retains deposits insured by the Federal Savings and Loan Insurance Corporation notwithstanding termination of its status as an institution insured by such Corporation, any Federal savings bank whose deposits are insured by the Federal Deposit Insurance Corporation, and any former Federal savings bank that retains deposits insured by the Federal Deposit Insurance Corporation notwithstanding termination of its status as an insured bank.".

POWERS OF THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SEC. 507. Section 402(c) of the National Housing Act (12 U.S.C. 1725(c)) is amended by adding at the end thereof the following:

"(6) To issue such rules, regulations, and orders as it deems necessary or appropriate to define any terms used in any section of this Act and administer and carry out its purposes, including without limitation regulation of risk-taking and prevention of unsafe or unsound practices by insured institutions; and to require compliance therewith and prevent evasions thereof.".

RISK ASSESSMENT PREMIUMS

SEC. 508. Section 404 of the National Housing Act (12 U.S.C. 1727) is amended—

(1) by redesignating subsections (d), (e), (f), (g), (h), and (i) as (e), (f), (g), (h), (i), and (j), respectively; and

(2) by inserting after subsection (c) the following:

"(d) Notwithstanding any other provision of this section, the Corporation may, by regulation, set the annual assessment rate for each insured institution on the basis of the risks that the institution may present to the insurance fund, except that no annual assessment rate set by the Corporation shall be less than one-twelfth of 1 per centum or greater than one-sixth of 1 per centum.".

SERVICE CORPORATIONS

SEC. 509. Section 5(c)(4)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(4)(B)) is amended by striking out all that follows "except that" and inserting in lieu thereof the following: "the limitation contained herein shall be 5 per centum of the assets of an association which meets the regulatory capital requirements established by the Corporation pursuant to section 403(b) of the National Housing Act. The Board shall by regulations provide for a phase-in of the increase provided by the exception to the preceding sentence for associations coming into compliance with the regulatory capital requirements established by the Corporation".

REPEAL OF REBIDDING REQUIREMENT

SEC. 510. Section 408(m) of the National Housing Act (12 U.S.C. 1730a(m)) is amended—

(1) by striking out paragraph (3)(A); and

(2) by redesignating subparagraphs (B), (C), (D), and (E), as subparagraph (A), (B), (C), and (D) respectively.

TITLE VI—FINANCIAL INSTITUTIONS COMPETITIVE ENHANCEMENT

AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 601. (a) Section 20 of the Banking Act of 1933 (12 U.S.C. 377) is amended by inserting the following new paragraph after the first paragraph of such section:

"Notwithstanding any other provision of this section, a member bank may be affiliated in any manner described in section 2(b) of this Act with a depository institution securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)).".

(b) Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is amended by inserting the following at the end of the first paragraph of such section: "Notwithstanding any other provision of this section, an officer, director, or employee of any member bank may serve at the same time as an officer, director, or employee of any of its depository institution securities affiliates. The term 'depository institution securities affiliate' shall have the meaning ascribed to it in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)). For purposes of this section, the term 'depository institution securities affiliate' also means any securities broker or dealer, within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), that (1) enters into a contractual arrangement with a member bank pursuant to which such broker or dealer makes its securities services available on the premises of such member bank, and (2) limits its activities to those in which a depository institution securities affiliate may lawfully engage pursuant to section 4(c)(15) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(15)).

AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 602. Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or in connection with the acquisition of an insured institution by a company under section 408 of the National Housing Act (12 U.S.C. 1730a), if such acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank or insured institution for shares of a newly formed bank holding company or savings and loan holding company and receive, after such reorganization, substantially the same proportional share interests in the holding company as they held in the bank or insured institution, except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law.".

AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 603. (a) Subparagraphs (i), (ii), and (iii) of paragraph (34)(A) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) are each amended by inserting immediately before the semicolons at the end thereof the following: "other than a depository institution securities affiliate as defined in section 2(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)) or as defined in section 408(a)(1)(K) of the National Housing Act (12 U.S.C. 1730a(a)(1)(K))".

(b) Section 15B(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)(1)) is amended by striking out "subsidiaries" in subparagraphs (B) and (C) and inserting in lieu thereof "affiliates".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 604. (a) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) by amending subsection (c) to read as follows:

"(c)(1) Except as provided in paragraph (2), 'bank' means (A) an 'insured bank' as defined in section 3(h) of the Federal Deposit Insurance Act; or (B) any institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, that accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties and is engaged in the business of making commercial loans.

"(2) The term 'bank' does not include (A) a foreign bank having an insured or uninsured branch in the United States; (B) an insured institution; (C) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; (D) an organiza-

tion that does not do business in the United States except as an incident to its activities outside the United States; (E) any institution that functions solely as a trust company, such as the type described in subsection (a) of the first section of the Act of September 28, 1962 (12 U.S.C. 92a(a)), all or substantially all of the deposits of which are received solely in a fiduciary capacity, and which is owned by one or more banks (as defined by this paragraph) or bank holding companies; (F) a trust company owned by a securities exchange registered under section 6 of the Securities Exchange Act of 1934; (G) any credit union described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; (H) an industrial loan company chartered by the State of Hawaii which was required to obtain insurance under the Federal Deposit Insurance Act by the laws of the State of Hawaii as a requisite to accepting thrift accounts from the public, except that any such industrial loan company that accepts deposits after the date of enactment of the Deposit Insurance Reform and Competitive Enhancement Act that are withdrawable by check or similar means for payment to third parties shall be a 'bank' for the purposes of this Act; or (I) any institution which is acquired by a bank holding company pursuant to approval granted by the Board under section 4 of this Act prior to the enactment of the Deposit Insurance Reform and Competitive Enhancement Act and which engages solely in credit card operations and that does not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or make commercial loans.";

(2) by striking out subsection (a)(5)(E) and inserting in lieu thereof the following:

"(E) No company is a bank holding company by virtue of its ownership or control of any State chartered bank or trust company which is wholly owned by thrift institutions or savings bank and which restricts itself to the acceptance of deposits from thrift institutions of savings banks, deposits arising out of the corporate business of its owners, and deposits of public moneys.";

(3) by inserting "or section 4(c)(15)" after "section 4(c)(8)" in subsection (h)(2); and

(4) by striking out subsection (i) and inserting in lieu thereof the following:

"(i) The term 'thrift institution' means (1) a domestic building and loan or savings and loan association, (2) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, (3) a Federal savings bank, and (4) any State-chartered savings bank the holding company of which is registered pursuant to section 408 of the National Housing Act.

"(j) The term 'depository institution securities affiliate' means any corporation that (1) is engaged in the United States in one or more of the activities authorized pursuant to section 4(c)(15)(iii) of this Act, and (2) is a broker or dealer within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or an investment adviser within the meaning of section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11)).

"(k) The term 'commercial loans' does not include (1) loans to natural persons primarily for personal, family, or household purposes, whether directly, indirectly or through the use of leases; (2) loans to charitable persons; (3) loans to finance the acquisition, improvement, development, and construction of residential or commercial properties; (4) loans to natural persons through use of credit cards or similar means of access; (5) the purchase of or investment in retail installment loans and accounts receivable; or (6) investments such as commercial paper, certificates of deposit, bankers acceptances and similar money market instruments, the extension of broker call loans, the sale of Federal funds, the deposit of interest-bearing funds, mortgage-backed securities, obligations of the United States and local and State governments, or agencies and instrumentalities thereof, and such other similar types of investments as may be permitted by the institution's primary regulator. An institution shall not be deemed to be 'engaged in the business of making commercial loans' if the aggregate principal amount of its outstanding commercial loans does not exceed 10 percent of the institution's total assets in three out of every four quarters and two out of every three years.

"(l) For purposes of this Act—

"(1) the term 'depository institution holding company' means a bank holding company;

"(2) the term 'depository institution' means bank; and

"(3) the terms 'savings and loan holding company' and 'insured institution' have the meanings ascribed to them in section 408(a)(1) of the National Housing Act.".

(b) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) by inserting before the period at the end of the second sentence of subsection (a) the following: "; or (C) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law if, immediately following such acquisition, the bank holding company meets the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization that is required for a similarly sized bank that is not a subsidiary of a bank holding company"; and

(2) by adding at the end of subsection (d) the following:

"(7) Any company that controls a company which was established or acquired on or after the _____ day of _____, 19___, which became a bank as a result of the enactment of the Deposit Insurance Reform and Competitive Enhancement Act, and the establishment or acquisition of which would have been prohibited by this subsection had the definition of a bank in such Act been in effect at the time of establishment or acquisition shall divest such bank within 180 days after the effective date of such Act.".

(c) Section 4(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)(2)) is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following: "(B) those permitted under paragraphs (8), (15), and (16) of subsection (c) of this section subject to all the conditions and requirements specified in each respective paragraph or in any order or regulation issued by the Board under such paragraphs"; and

(2) by adding at the end thereof the following: "The two-year period referred to in this paragraph shall not apply to a company that becomes a bank holding company as a result of the enactment of the Deposit Insurance Reform and Competitive Enhancement Act and that acquired an institution between the _____ day of _____, 19___, and the effective date of such Act which became a bank by virtue of the amendment to section 2(c) of this Act contained in the Deposit Insurance Reform and Competitive Enhancement Act. A company that controlled an institution on the _____ day of _____, 19___, which became a bank by virtue of the amendment to section 2(c) of this Act contained in the Deposit Insurance Reform and Competitive Enhancement Act may continue to own and control such institution and engage in any activity that it would have been permitted to engage in on the ___ day of _____, 19__, under this Act, if not later than 3 years after the date of enactment of the Deposit Insurance Reform and Competitive Enhancement Act, (i) the controlling company acquires one insured institution under the provisions of section 408(m) of the National Housing Act for each company controlled by it that became a bank, or (ii) converts each such company to an insured institution, and continues to operate the acquired or converted institution as an insured institution. For the purpose of the preceding sentence (I) the term 'insured institution' has the same meaning as in section 408 of the National Housing Act, and (II) the Board after written notification from the Federal Home Loan Bank Board of a failure to comply with such sentence may issue orders requiring divestiture in cases of noncompliance.".

(d) Paragraph (8) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)), excluding subparagraph (E) as added by section 407, is amended to read as follows:

"(8)(A) in accordance with the limitations and requirements contained in subparagraphs (B) and (C) of this paragraph or shares of any company the activities of which consist of activities that the Board has determined (by order or regulation) to be (i) closely related to banking or managing or controlling banks; (ii) of a financial nature and designed to enable bank holding companies to adjust to technological innovations in the provision of banking or banking-related services; or (iii) of a financial nature and substantially identical to products or services offered by nonbanking concerns which are competitive with products or services provided by banks.

"(B)(i) No bank holding company shall engage in any activity authorized under this paragraph either de novo or by an acquisition in whole or in part of a going concern, unless the Board has been given 60 days prior written notice of such proposal and, within such period, the Board has not issued an order (I) disapproving the proposal, or (II) suspending the time period in accordance with clause (iii) below.

"(ii) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written notice of its intent not to disapprove the action. The Board may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities. No notice under this paragraph is required in

the event a bank holding company establishes de novo an office to engage in any activity previously authorized for such a bank holding company under this paragraph or changes the location of an office engaged in such activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice. The Board may only require such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the criteria provided for in clause (iv). In the event the Board requires additional relevant information beyond that provided in the notice submitted pursuant to this paragraph, the Board may by order suspend the time period provided in clause (i) until it has received such additional relevant information, and the activity that is the subject of the notice may be commenced within 30 days of the date of such receipt unless the Board issues a disapproval order as provided in clause (i). Such a suspension order is reviewable under section 9 of this Act.

"(iv) In determining whether to disapprove a notice under this paragraph, the Board shall consider whether the performance of the activity described in such notice by a bank holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. The Board shall also consider the managerial resources of the companies involved; and the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others engaged in similar activities. In orders and regulations under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of the going concern.

"(v) The Board shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(vi) The Board shall, within 180 days of enactment of the Deposit Insurance Reform and Competitive Enhancement Act and from time to time thereafter, promulgate regulations under this paragraph designating particular activities that are closely related to banking. A bank holding company may petition the Board to determine by regulation that a particular activity is closely related to banking. The Board may by regulation prescribe limitations on the conduct of any activity or activities authorized under paragraphs (8) and (15) of this subsection consistent with the criteria in clause (iv) hereof and with safe and sound financial practices. In administering this paragraph, the Board shall promote competition between bank holding companies and all other companies engaged in activities closely related to banking.

"(vii) The regulation required under clause (vi) of this paragraph shall include any activity determined by the Board by regulation prior to the date of enactment of the Deposit Insurance Reform and Competitive Enhancement Act to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. The Board shall not authorize any activity, other than an activity authorized by the preceding sentence, expressly prohibited or limited by any other provision of this paragraph.

"(C) For purposes of this paragraph, it is not closely related to banking or managing or controlling banks for a bank holding company or any subsidiary or affiliate thereof to provide insurance as a principal, agent, or broker except (i) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor; (ii) in the case of a finance company which is a subsidiary of a bank holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made; (iii) any insurance agency activity in a place that (I) has a population not exceeding five thousand (as shown by the last preceding decennial census), or (II) the bank holding company, after notice and opportunity for a hearing, demonstrates has inadequate insurance agency facilities; (iv) any insurance agency activity which was engaged in by the bank holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including (I) sales of insurance at new locations of the same bank holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the bank holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the bank holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the bank holding company or any of its subsidiaries on or before May 1, 1982, and (II) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition); (v) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell (I) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the bank holding company or any of its subsidiaries, and (II) group insurance that protects the employees of the bank holding company or any of its subsidiaries; (vi) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries, which bank holding company has total assets of $50,000,000 or less: *Provided, however,* That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in clause (i), (ii), or (iii); or (vii) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a bank holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.

"(D) In the event an application is filed under this paragraph in connection with an application by a bank holding company to acquire control of a bank in danger of closing or its affiliated banks pursuant to section 3(d)(2) of this Act or section 13(f) of the Federal Deposit Insurance Act, the Board may dispense with the notice and hearing requirement of this paragraph and the Board may approve or deny the application under this paragraph without notice or hearing. Notwithstanding any other provision of this Act, if the Board finds that an emergency exists which requires the Board to act immediately on any application under this subsection involving a thrift institution, and the primary Federal regulator of such institution concurs in such finding, the Board may dispense with the notice and hearing requirement of this subsection and the Board may approve or deny any such application without notice or hearing.".

(e) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) by striking out the penultimate sentence thereof;

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (14) the following:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any depository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligations of any State of the United States or any political subdivision thereof and other obligations listed in paragraph Seventh of such section 5136 and purchasing and selling securities as agent. For purposes of this paragraph, the

Board may, by regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidental to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(I) deal in and underwrite all obligations issued or guaranteed by or on behalf of a State or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended: *Provided, however,* That depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, if (i) a State, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the State or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(II) organize, sponsor, operate, and control an investment company, as such term is defined in section 3 of the Investment Company Act of 1940; underwrite, deal in, sell, and distribute, as principal or agent or both, the securities of such an investment company; and render investment advice to an investment company other than a closed-end investment company;

"(III) deal in and underwrite promissory notes secured by real estate mortgages or credit obligations secured by real or personal property manufactured housing and participation interests in such notes and credit obligations or mortgage related payment bonds secured by such notes or participation interests. For purposes of this subparagraph, a mortgage related payment bond means an obligation (which may be with or without recourse to the issuer thereof) which, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, on notes meeting the above requirements or participation interests therein which are pledged as security for such obligation and which are rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; and

"(IV) underwrite, deal in, sell, and distribute, as principal or agent or both, commercial paper issued by any entity.

"(iv) A bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of paragraph (8)(B) of this subsection.".

(f) Section 2 of the Bank Service Corporation Act (12 U.S.C. 1862) is amended—

(1) by inserting "(a)" after "Sec. 2."; and

(2) by adding at the end thereof the following:

"(b) An insured bank with total assets not to exceed $250,000,000 or, in the case of a bank subsidiary of a bank holding company, a bank holding company with total assets not to exceed $250,000,000 is authorized, notwithstanding any other provision of law, to invest, to the same extent that an insured institution, as defined in section 408 of the National Housing Act, is authorized to make such an investment, in a service corporation which engages in the activities permitted for service corporations under section 5(c)(4)(B) of the Home Owners' Loan Act of 1933.".

(g) Section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)) is amended to read as follows:

"(c)(1) The Board from time to time may require reports under oath, in such scope and detail as it may determine, of a bank holding company and each subsidiary thereof to keep the Board informed as to whether such companies are complying with the provisions of this Act and regulations and orders issued thereunder.

"(2) Except where the Board determines that a lesser reporting requirement is appropriate, the Board shall accept in fulfillment of the reporting requirements established by this subsection for nonbank subsidiaries separate reports consisting of (A) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (B) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) (and the rules and regulations thereunder) by companies subject to the reporting requirements of such Act, that are engaged in the same or similar lines of business, not more frequently than quarterly. In particular circumstances, the Board may require additional information in order to fulfill its responsibilities under this Act.

"(3) The Board may make examinations of each bank holding company and each subsidiary thereof, the cost of which may be assessed against, and paid by, such holding company. The Board shall, however, insofar as possible, minimize the scope and frequency of examinations of nonbank subsidiaries of a bank holding company by utilizing, where feasible, reports of applicable regulatory agencies or other bodies public or private, and by directing, to the extent feasible, the focus of such examinations to the activities or financial condition of such nonbank subsidiaries that may have a materially adverse effect on the safety and soundness or financial condition of a subsidiary bank of the bank holding company.".

(h) Section 7 of the Bank Holding Company Act of 1956 is amended by inserting before the period at the end thereof the following: ", except that (1) no State may prohibit the affiliation of a national banking association with a company engaged only in one or more of the activities described in paragraphs (8), (15), and (16) of section 4(c) of this Act, and (2) a State chartered bank subsidiary of a bank holding company may not engage in activities or make investments outside the State where it is chartered unless those activities are permitted under section 4(c) of this Act".

(i) Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. 1848) is amended to read as follows:

"JUDICIAL REVIEW

"SEC. 9. (a) Except as provided in subsection (b) of this section, any party aggrieved by an order of the Board under this Act may obtain a review of such order in the United States Court of Appeals within any circuit where such party has its principal place of business, or in the Court of Appeals in the District of Columbia, by filing in the court, within 30 days after the entry of the Board's order, a petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28, United States Code.

"(b) A Board order under section 4(c)(8) or section 4(c)(15) of this Act shall be subject to judicial review solely with respect to the Board's finding on whether the proposed activity is permissible for a bank holding company under those sections and with respect to any Board finding regarding unfair competition.

"(c) Upon the filing of a petition for judicial review, the court shall have jurisdiction to modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper, except that in any petition for review of a Board order not to disapprove a notice under section 4(c)(8) or section 4(c)(15) of this Act, the court shall not be authorized to stay the effectiveness of the Board's order, or to prevent consummation of the proposal, pending judicial review.

"(d) The court may assess against any person that petitions for judicial review under this section of a Board order under section 4(c)(8) or section 4(c)(15) of this Act reasonable attorney's fees or other costs of litigation incurred in connection with such petition for judicial review by any other party to the action, if the court finds such petition for judicial review to be nonmeritorious.

"(e) The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive, except that the Board's findings (by order or regulation) under section 4(c)(8) or section 4(c)(15) of this Act regarding the permissibility of an activity or regarding unfair competition shall not be overturned unless demonstrated to be plainly in error and at variance with the facts.".

(j) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) Notwithstanding any other provision of this Act, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, which is chartered under State law as a savings bank on or before October 15, 1982, and which is or becomes a subsidiary of a bank holding company may engage, directly

or through an affiliate, in any activity which it is permitted to conduct as a State-chartered savings bank, pursuant to express, incidental, or implied powers under State statute or regulation or under judicial interpretation of State law. The activities conducted pursuant to the preceding sentence shall be terminated within two years unless extended by the Board, by order or regulation, or if the savings bank merges or consolidates with or acquires the assets and assumes the liabilities of any insured bank, other than another savings bank or an insured bank with total assets of less than 30 percent of the savings bank's total assets.".

(k) Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by inserting before the period at the end thereof the following: "or to any depository institution the deposits, accounts, or obligations of which are insured or guaranteed under State law".

AMENDMENTS TO THE FEDERAL RESERVE ACT

SEC. 605. (a) The Federal Reserve Act is amended by inserting after section 23A the following:

"SEC. 23B. RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—(a) A member bank and its subsidiaries may engage in any of the following transactions, only on terms and under circumstances, including credit standards, that are substantially the same as, or at least as favorable to such bank or its subsidiary as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies or, in the absence of comparable transactions, those terms and circumstances that in good faith would be offered to, or would apply to nonaffiliated companies—

"(1) any covered transaction, as defined in section 23A, with an affiliate;

"(2) the sale of securities or other assets, including assets subject to an agreement to repurchase, to an affiliate;

"(3) the payment of money or the furnishing of services to an affiliate, under contract, a lease, or otherwise;

"(4) any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or any other person; or

"(5) any transaction or series of transactions with a third party (A) if an affiliate has a financial interest in the third party, or (B) if an affiliate is a participant in such transaction or series of transactions.

For the purposes of this subsection, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate of such bank to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

"(b) A member bank and the affiliates of such bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates. A member bank and its affiliates may use similar names, except that a member and its depository institution securities affiliate may not use similar names.

"(c) A member bank and any subsidiary of such bank—

"(1) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchases are permitted under the instrument creating the fiduciary relationship, by court order, or by law of the jurisdiction under which the trust is administered; and

"(2) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an affiliate of such bank; except that this prohibition shall not apply where the purchase of such securities has been approved, prior to the time at which such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.

For the purpose of this paragraph, the term 'security' means a 'security' as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)); and the term 'principal underwriter' means any underwriter who, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer; (B) acting alone or in concert with one or more persons, initiates or directs the formation of an underwriting syndicate; or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

"(d) For the purpose of this section—

"(1) the term 'affiliate' means an 'affiliate' as defined in section 23A of this Act (12 U.S.C. 371c) excluding a bank; and

"(2) the terms 'bank', 'subsidiary', 'person', and 'security' (other than security as used in subsection (c)) have the same meaning given to them in section 23A of this Act (12 U.S.C. 371c).

"(e) The Board may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to (1) further define terms used in this section; (2) exempt transactions or relationships from the requirements of this section; or (3) exclude from the definition of 'affiliate' in this section any subsidiary of a bank holding company, if the Board finds such exemptions or exclusions to be in the public interest and consistent with purposes of this section.".

(b) Section 23A(b)(7) of the Federal Reserve Act (12 U.S.C. 371c(b)(7)) is amended—

(1) by striking out "or" at the end of subparagraph (D);

(2) by inserting "or" at the end of subparagraph (E); and

(3) by adding at the end thereof the following:

"(F) a debit in favor of an affiliate against an account in excess of finally collected funds credited to such account, unless—

"(i) such debit is the result of computer or other systemic error or inadvertence, mistake, or unanticipated delivery of book-entry government securities, beyond the control of the affiliate and the depository institution;

"(ii) the bank is a depository institution, as defined in section 19(b) and an affiliate of a company defined as a bank holding company within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841); or

"(iii) the depository institution, other than a bank, is a depository institution, as defined in section 19(b), and a subsidiary of a company defined as a savings and loan holding company within the meaning of section 408(a)(1)(D) of the National Housing Act (12 U.S.C. 1730(a)(1)(D)), other than a company engaged in activities not permissible for a multiple savings and loan holding company under section 408(c) of the National Housing Act (12 U.S.C. 1730a(c));".

(c) Section 18(j)) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is hereby amended—

(1) by inserting "and section 23B" after "section 23A" at each place it appears in paragraph (1); and

(2) by inserting ", 23B," after "23A" in paragraph (3)(A).

SECURITIES AFFILIATIONS OF NONMEMBER INSURED BANKS

SEC. 606. Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3)(A) The provisions of section 20 of the Banking Act of 1933 (12 U.S.C. 377), relating to affiliations between member banks and organizations engaged principally in certain securities activities, and the provisions of section 32 of the Banking Act of 1933 (12 U.S.C. 78), relating to certain officer, director or employee relationships involving a member bank and a person or organization primarily engaged in certain securities activities, shall be applicable to every insured nonmember bank in the same manner and to the same extent as if such insured nonmember bank were a member bank.

"(B) This paragraph does not prohibit the continuation of such an affiliation or relationship which commenced prior to the ___ day of _____, 19__, or the establishment of such an officer, director, or employee relationship in connection with any affiliation established before the ___ day of _____, 19__.

"(C) An affiliation or officer, director or employee relationship that becomes unlawful as a result of the enactment of this paragraph may continue for a period of two years after the date of enactment of this paragraph.

"(D) The provisions of this paragraph shall not apply to any foreign bank, as defined in section 1(b)(7) of the International Banking Act of 1978, solely because it has an insured branch in the United States, except that the provisions of section 32 of the Banking Act of 1933 shall apply to an insured branch as if it were an insured bank.

"(E) This paragraph shall not prohibit (i) the continuation of any affiliation or relationship with a nonmember bank that is controlled by a company that is not a bank holding company under the Bank Holding Company Act of 1956 but that controlled an institution on the ___ day of _____, 19__, that became a bank by virtue of the amendment to section 2(c) of the Bank Holding Company Act of 1956 but that controlled an institution on the ——— day of ———, 19——, that became a bank by virtue of the amendment to section 2(c) of the Bank Holding Company Act of 1956 contained in the Deposit Insurance Reform and Competitive Enhancement Act, or (ii) the establishment of such an officer, director, or employee relationship in connection with any such affiliation."; and

(2) by inserting after the words in the first sentence of paragraph (4)(A), as so redesignated under paragraph (1) of this section, "or any lawful regulation issued pursuant thereto," the following words: "or any provision of section 20 of the Banking Act of 1933, as amended,".

AMENDMENTS TO THE NATIONAL HOUSING ACT

SEC. 607. (a) Section 408(a)(1) of the National Housing Act (12 U.S.C. 1730a(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(K) 'depository institution securities affiliate' means any corporation that (i) is engaged in the United States in one or more of the activities set forth in section 4(c)(15)(iii) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(15)(iii)), and (ii) is a broker or dealer within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), or an investment adviser within the meaning of section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(11)). For purposes of this title, a corporation engaged in any such activities shall be deemed to be a depository institution securities affiliate only so long as it is owned or controlled by a savings and loan holding company.".

(b) Section 408(c) of the National Housing Act (12 U.S.C. 1730a(c)) is amended to read as follows:

"(c)(1) Except as otherwise provided in this subsection, no savings and loan holding company (except a unitary savings and loan holding company that acquires an insured institution pursuant to subsection (m) of this section) or subsidiary thereof which is not an insured institution shall—

"(A) for or on behalf of such subsidiary insured institution, engage in any activity or render any service for the purposes or with the effect of evading law or regulation applicable to such insured institution; or

"(B) commence or continue, after two years from the date as of which it becomes a savings and loan holding company, any business activity other than those specified in paragraph (2) of this subsection, except that such two-year period shall not apply to any company that acquires an insured institution between the ____ day of _____, 19___, and the effective date of the Deposit Insurance Reform and Competitive Enhancement Act. Any company that controlled an insured institution prior to the ____ day of _____, 19___, may engage in any activity in which it was lawfully engaged, directly or through a subsidiary, on the ____ day of _____, 19___. The authority conferred by the preceding sentence shall terminate at such time, after the date of enactment of the Deposit Insurance Reform and Competitive Enhancement Act, as (i) a covered savings and loan holding company acquires control of a bank, (ii) the subsidiary insured institution of a covered savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, or (iii) a covered savings and loan holding company engages in any activity of a financial nature not authorized pursuant to paragraph (2) for savings and loan holding companies (except for the acquisition of a bank), in which it was not engaged on the ____ day of _____, 19___. Any such activity may be terminated by the Corporation, after opportunity for hearing, if it determines, having due regard for the purposes of this title, that such action is necessary to prevent conflicts of interests, unsound practices, or in the public interest.

"(2) The prohibitions of subparagraph (1)(B) of this subsection shall not apply to the following business activities—

"(A) furnishing or performing management services for a subsidiary insured institution;

"(B) conducting an insurance agency or escrow business;

"(C) holding or managing or liquidating assets owned or acquired from a subsidiary insured institution;

"(D) holding or managing properties used or occupied by a subsidiary insured institution;

"(E) acting as trustee under deed of trust;

"(F) acquiring shares of any bank or engaging in one or more of the following activities subject to the limitations, conditions, and requirements specified in paragraph (3) of this subsection: (i) activities determined by the Board of Governors of the Federal Reserve System (by regulation) to be closely related to banking or managing or controlling banks under section 4(c)(8) of the Bank Holding Company Act of 1956, except that the Corporation may (by regulation) prohibit or limit any such activity for savings and loan holding companies; (ii) activities which multiple savings and loan holding companies are authorized (by regulation) to engage in directly; and (iii) engaging in the activities of a depository institution securities affiliate in accordance with the terms under which such activity may be conducted pursuant to the provisions of paragraph (15) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)), except that notwithstanding any other provision of this subparagraph, an acquisition involving the direct or indirect control of a bank by a savings and loan holding company (except an acquisition resulting from a transaction authorized under section 13(f) of the Federal Deposit Insurance Act) shall be subject to the restrictions of section 3(d) of the Bank Holding Company Act of 1956, as if any insured institution subsidiary of the savings and loan holding company were a bank and as if the savings and loan holding company were a bank holding company; and

"(G) acquiring shares of any company which is an export trading company, as that term is defined in paragraph (14) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)), and subject to all the requirements, conditions, and limitations of such paragraph (14) as if the acquiring or establishing savings and loan holding company were a bank holding company within the meaning of that paragraph, except that any notice required to be given pursuant to that paragraph shall be given to the Corporation, which shall have the same authority with respect to such notice procedure for savings and loan holding companies as the Board of Governors of the Federal Reserve System has pursuant to such paragraph (14).

"(3)(A) No savings and loan holding company shall engage, either de novo or by an acquisition, in whole or in part, of a going concern, in any activity authorized under paragraph (2)(F) of this subsection unless the Corporation has been given 60 days' prior written notice of such proposal and, within such period, the Corporation has not issued an order disapproving the proposal or extending for up to an additional 30 days the period within which such a disapproval may be issued.

"(B) An acquisition may be made prior to the expiration of the disapproval period if the Corporation issues a written notice of its intent not to disapprove the action. The Corporation may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities. No notice under this paragraph is required in the event a savings and loan holding company establishes de novo an office to engage in any activity previously authorized for such savings and loan holding company under this paragraph or changes the location of an office engaged in such activity.

"(C) The notice submitted to the Corporation shall contain such information as the Corporation shall prescribe by regulation for the notice or by specific request in connection with a particular notice. The Corporation may only require such information as may be relevant to the nature and scope of the proposed activity and to the Corporation's evaluation of the criteria provided for in subparagraph (D) hereof. In the event the Corporation requires additional relevant information beyond that provided in the notice submitted pursuant to this paragraph, the Corporation may by order suspend the time period provided in subparagraph (A) of this paragraph until it has received such additional relevant information, and the activity that is the subject of the notice may be commenced within 30 days of the date of such receipt unless the Corporation issues a disapproval order as provided in such subparagraph (A). Such suspension order is reviewable under subsection (k) of this section.

"(D) In determining whether to disapprove a notice under this paragraph, the Corporation shall consider whether the performance of the activity described in such notice by a savings and loan holding company or subsidiary thereof can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound financial practices. The Corporation shall also consider the managerial resources of the companies involved; and the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others engaged in similar activities. In orders and regulations under this paragraph, the Corporation may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part of the going concern.

"(E) The Corporation shall by order set forth the reasons for any disapproval or determination not to disapprove a notice under this paragraph.

"(F) The Corporation may by regulation prescribe limitations on the conduct of any activity or activities authorized under paragraph (2)(F) of this subsection other than limitations on activities conducted pursuant to clause (iii) thereof, consistent with the criteria in subparagraph (D) hereof and with safe and sound financial practices.

"(4)(A) Notwithstanding any other provision of this subsection, any savings and loan holding company (including any subsidiary thereof which is not an insured institution) the sole insured institution subsidiary of which is a qualified thrift lender shall not be subject to the limitations and prohibitions of this subsection. Nothing in this paragraph shall exempt a bank holding company or its subsidiaries or affiliates from the provisions of the Bank Holding Company Act.

"(B) Except as provided in subparagraph (C) of this paragraph, a qualified thrift lender is an institution that, as determined

by the Corporation, has an aggregate of not less than 60 per centum of its assets (including investments made by any subsidiary of such an institution) invested in—

"(i) cash,

"(ii) obligations of the United States or of a State or political subdivision thereof, and stock or obligations of a corporation which is an instrumentality of the United States or of a State or political subdivision thereof,

"(iii) liquid assets of the type required to be maintained pursuant to regulations issued by the Federal Home Loan Bank Board under section 5A of the Federal Home Loan Bank Act,

"(iv) certificates of deposit in, or obligations of, a corporation organized under a State law which specifically authorizes such corporation to insure the deposits or share accounts of member associations,

"(v) loans secured by a deposit or share of a member,

"(vi) loans, equity positions, or securities related to domestic residential real property, manufactured housing, or real property used primarily for church purposes, including loans to facilitate the construction, improvement or equipping of domestic residential real property, manufactured housing, multifamily dwellings, property used primarily for church purposes, and shelter-providing facilities as set forth in subdivision (viii) hereof,

"(vii) loans secured by an interest in real property located within an urban renewal area to be developed for predominantly residential use under an urban renewal plan approved by the Secretary of Housing and Urban Development under part A or part B of title I of the Housing Act of 1949 or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966 and loans made for the improvement of any such real property,

"(viii) loans secured by an interest in educational, health, or welfare institutions or facilities, including shelter-providing facilities for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

"(ix) loans made for the payment of expenses of college or university education or vocational training,

"(x) property acquired through the liquidation of defaulted loans described in clauses (vi), (vii) or (viii), and

"(xi) property used by an institution in the conduct of its business, and

does not thereafter fail to maintain such percentage of investment on an average basis in three out of every four quarters in two out of every three years. Investments in loans or extensions of credit to natural persons primarily for personal, family, or household purposes, whether directly, indirectly, or through the use of leases, and the dollar amount of the residential mortgage loans originated and sold within 90 days of origination shall be included for the purpose of determining compliance with this subparagraph, except that the total amount of assets which may be included pursuant to this sentence may not exceed 10 per centum of the institution's assets.

"(C) For the 10-year period following the date of enactment of the Deposit Insurance Reform and Competitive Enhancement Act, a qualified thrift lender shall also include any insured institution which was chartered prior to October 15, 1982, as a savings bank under State law if the Corporation determines that the institution does not decrease the percentage of its assets invested in investments described in clause (ii) below the percentage it held on such effective date, and increases such percentage of its assets by an amount at least equal to the following percentages of the difference between 60 per centum and the percentage of its assets so invested on the date of enactment of this paragraph within the following time periods from the date of enactment of this paragraph:

"(i) within 2½ years, 25 percent;

"(ii) within 5 years, 50 percent; and

"(iii) within 7½ years, 75 percent.

"(D) The Corporation may grant such temporary and limited exceptions from the 60 percent of assets requirement set forth in subparagraph (B) as the Corporation deems necessary when the Corporation determines that extraordinary circumstances exist, such as when the effects of high interest rates or economic conditions reduce mortgage demand to such a degree that an insufficient opportunity exists for an insured institution to meet such investment requirements.

"(E) Any insured institution that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of 5 years. For good cause shown, the Corporation may allow any company that controls such an institution, up to three years to comply with the investment and activities restrictions contained in this subsection.

"(F) Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not an insured institution), which owns a single insured institution shall not be subject to the limitations and prohibitions of this subsection with respect to the activities of such holding company conducted exclusively in a foreign country.

"(G) The Corporation may issue such rules or regulations, and conduct such examinations, as it determines to be necessary to carry out the provisions of this paragraph, and may enforce them with respect to any qualified thrift lender. With respect to a stock savings bank insured by the Federal Deposit Insurance Corporation, the Corporation shall rely to the maximum extent possible on examinations conducted by that agency.".

(c) Section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)) is amended by striking out clause (ii) of subparagraph (1)(B) and inserting in lieu thereof the following:

"(ii) acquired in connection with a reorganization in which a person or group of persons exchange their shares of an insured institution for shares of a newly formed holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the insured institution, except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under State or Federal law.".

(d) Section 408(k) of the National Housing Act (12 U.S.C. 1730a(k)) is amended to read as follows:

"(k) JUDICIAL REVIEW.—(1) Except as provided in paragraph (2) of this section, any party aggrieved by an order of the Corporation under this section may obtain a review of such order in the United States Court of Appeals within any circuit where such party has its principal place of business, or in the Court of Appeals in the District of Columbia, by filing in the court, within 30 days after the entry of the Corporation's order, a petition praying that the order of the Corporation be set aside. A copy of such petition shall be forthwith transmitted to the Corporation by the clerk of the court, and thereupon the Corporation shall file in the court the record made before the Corporation, as provided in section 2112 of title 28, United States Code.

"(2) An order under subsection (c)(2) shall be subject to judicial review solely with respect to the Corporation's finding on whether the proposed activity is permissible for a savings and loan holding company and with respect to any Corporation finding regarding unfair competition.

"(3) Upon the filing of a petition for judicial review, the court shall have jurisdiction to modify the order of the Corporation and to require the Corporation to take such action with regard to the matter under review as the court deems proper, except that in any petition for review of an order not to disapprove a notice under subsection (c)(2), the court shall not be authorized to stay the effectiveness of the Corporation's order, or to prevent consummation of the proposal, pending judicial review.

"(4) The court may assess against any person that petitions for judicial review under this section of a Corporation order under subsection (c)(2), reasonable attorney's fees or other costs of litigation incurred in connection with such petition for judicial review by any other party to the action, if the court finds such petition for judicial review to be nonmeritorious.

"(5) The findings of the Corporation as to the facts, if supported by substantial evidence, shall be conclusive, except that the Corporation's findings (by order or regulation) regarding the permissibility of an activity under subsection (c)(2) or regarding unfair competition shall not be overturned unless demonstrated to be plainly in error and at variance with the facts.".

(e) Section 408(a)(1)(A) of the National Housing Act is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, a savings bank, as defined in section 3(g) of the Federal Deposit Insurance Act, upon application shall be deemed to be an 'insured institution' for purposes of this section and section 408(o)(1), if the Corporation determines that it is in compliance with section 408(c)(4)(B). Any institution so notifying the Corporation that fails to maintain its status as a qualified thrift lender, as determined by the Corporation, may not thereafter be a qualified thrift lender for a period of five years.".

AMENDMENT TO THE HOME OWNERS' LOAN ACT OF 1933

SEC. 608. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) An association may raise capital in the form of such deposits, shares, or other accounts (all of which are referred to in this section as accounts) as are authorized by its charter or by regulations of the Board, and may issue such passbooks, certificates, or other evidence of accounts as are so authorized."; and

(2) by striking out the first sentence of subparagraph (B).

AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT

SEC. 609. (a) Section 5A(b)(1)(D) of the Federal Home Loan Bank Act (12 U.S.C.

1425a(b)(1)(D)) is amended by striking out "solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C)" and inserting in lieu thereof "solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C), (F), and (G)".

(b) Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by adding at the end thereof the following:

"(e) Except as the Board may prescribe, no member shall be eligible for advances unless such member meets the qualified thrift lender asset test contained in section 408(c)(4)(B) of the National Housing Act.".

LEASING AUTHORITY OF NATIONAL BANKS

SEC. 610. Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end thereof the following:

"Tenth. To invest in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association.".

MUTUAL HOLDING COMPANY AMENDMENT

SEC. 611. (a) Section 408 of the National Housing Act (12 U.S.C. 1730a) is amended by adding at the end thereof the following:

"(p)(1) Notwithstanding any other provision of law, an insured institution operating in mutual form may reorganize so as to become a holding company by—

"(A)(i) chartering an interim savings institution, the stock of which is to be wholly owned by the mutual institution; and

"(ii) transferring substantially all of its assets and liabilities, including all its insured liabilities, to the interim savings institution. Persons having ownership rights in the mutual institution pursuant to section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 or State law shall have the same ownership rights with respect to the holding company; or

"(B)(i) incorporating a mutual savings institution holding company;

"(ii) chartering an interim savings institution, the stock of which is wholly owned by the corporation referred to in clause (i); and

"(iii) merging the existing mutual institution with the interim savings institution whereby substantially all of the assets and liabilities and all of the insured liabilities of the mutual institution are exchanged for the stock of the interim institution.

"(2) A reorganization plan authorized under this paragraph must be approved by a majority of the board of directors of the mutual savings institution. In the case of an institution in which holders of accounts and obligors exercise voting rights, the plan of reorganization shall also be submitted for approval by a majority of such individuals at a meeting to be held at the call of the directors in accordance with the procedures prescribed by the institution's charter and bylaws.

"(3)(A) An insured institution seeking to establish a holding company pursuant to this subsection shall provide the Federal Home Loan Bank Board with 60 days prior written notice. The notice shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

"(B) Unless the Board within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may issue, the insured institution providing such notice may proceed with the transaction.

"(C) The Board may disapprove any proposed holding company formation only if—

"(i) such disapproval is necessary to prevent unsafe or unsound practices;

"(ii) the financial or management resources of the insured institution involved warrant disapproval; or

"(iii) the insured institution fails to furnish the information required under subparagraph (A).

"(D) In connection with the transaction described in paragraph (1), an insured institution may, subject to the approval of the Board, retain capital assets at the holding company level to the extent that such capital exceeds adequate reserves as prescribed pursuant to section 403(b) or the comparable provisions of State or Federal law.

"(4) A corporation organized as a holding company under this subsection may only—

"(A) invest in the stock of an insured institution;

"(B) acquire a mutual institution through merger into an insured institution subsidiary or an interim savings institution subsidiary;

"(C) merge with or acquire another holding company one of whose subsidiaries is an insured institution, except that the resulting holding company may only invest in assets and engage in activities authorized under this paragraph;

"(D) invest in a corporation the capital stock of which is available for purchase by an insured institution by Federal law or by the law of such State where the subsidiary insured institution or institutions have their home office; and

"(E) engage in the activities described in subsection (c)(2).

Not later than two years following a merger or acquisition subject to subparagraph (C) of the preceding sentence, a holding company established pursuant to this subsection shall dispose of any assets or cease any activities the exercise of which is prohibited by such subparagraph.

"(5) Unless the context otherwise requires, a holding company established pursuant to this subsection shall be subject to the other requirements of this section regarding regulation of holding companies.".

(b) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(g) Notwithstanding any other provision of law, a savings bank operating in mutual form may reorganize so as to form a holding company pursuant to the procedures specified in paragraphs (1) through (3) of section 408(p) of the National Housing Act. A corporation organized as a holding company under this subsection shall be regulated on the same terms and be subject to the same limitations as a stock savings bank holding company.".

MORTGAGE SECURITIES CORPORATIONS

SEC. 612. Section 5(c)(4) of the Homeowners' Loan Act of 1933 (12 U.S.C. 1464(c)(4)) is amended by adding at the end thereof the following:

"(E) MORTGAGE SECURITIES CORPORATIONS.—Investments in the capital, stock, obligations, or other securities of a trust or corporation, the entire capital stock of which is available for purchase only by Federal associations and which engages solely in the business of issuing or servicing mortgage related securities as described in section 4(c)(15)(iii)(III) of the Bank Holding Company Act of 1956.".

TITLE VII—BANKERS BANKS

AMENDMENT TO SECTION 5136 OF THE REVISED STATUTES

SEC. 701. The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by striking out "*Provided further,* That" and all that follows through the end thereof and inserting in lieu thereof the following: "*Provided further,* That notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank or a holding company which owns or controls such a bank if (1) the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions, and (2) such bank or company and all subsidiaries thereof are engaged exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each. In no event shall the total amount of stock held by the association in any bank or holding company described in the immediately preceding proviso exceed at any time 10 per centum of the association's capital stock and paid-in and unimpaired surplus and in no event shall the purchase of such stock result in an association's acquiring more than 5 per centum of any class of voting securities of such bank or company.".

AMENDMENT TO SECTION 5169 OF THE REVISED STATUTES

SEC. 702. Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended to read as follows:

"(b)(1) The Comptroller of the Currency may also issue a certificate of authority to commence the business of banking pursuant to this section to a national banking association if (A) such association or its parent holding company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions, and (B) the association, its parent holding company, and all subsidiaries thereof are organized to engage exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each.".

AMENDMENTS TO THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT

SEC. 703. (a) Section 202(3) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)) is amended—

(1) by striking out "; or" after paragraph (C) and inserting in lieu thereof a period; and

(2) by striking out paragraphs (D) and (E).

(b) Section 205(6) of the Depository Institution Management Interlocks Act (12 U.S.C. 3204(6)) is amended to read as follows:

"(6) A Federal Home Loan Bank or any bank or the parent holding company thereof organized specifically to serve depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each.".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT OF 1956

SEC. 704. (a) Section 2(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(1)) is amended by inserting at the end of paragraph (1) the following: "The term 'bank' also includes a State chartered bank or a national banking association if (i) such bank or its parent holding company is owned exclusively (except to the extent di-

rectors' qualifying shares are required by law) by depository institutions, and (ii) such bank, its parent holding company, and all subsidiaries thereof are organized to engage exclusively in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each.".

(b) Section 4(c)(14)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(F)) is amended—

(1) by striking the period after clause (i) and inserting in lieu thereof a semicolon;

(2) by inserting "and" after clause (ii);

(3) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) notwithstanding any other provision of law, the term 'bank holding company' shall include a bank if (1) such bank or its parent holding company is owned primarily by depository institutions, and (2) such bank, its parent holding company, and all subsidiaries thereof are organized to engage exclusively (except as provided in this paragraph) in providing services for depository institutions, their parent holding companies, subsidiaries thereof, and the officers, directors, and employees of each. No depository institution, owning stock in a bank or a holding company described in this clause which invests in an export trading company, shall extend credit to an export trading company in an amount exceeding at any one time 10 per centum of such depository institution's capital and surplus."; and (4) by striking out clause (iv).

TITLE VIII—CREDIT UNION AMENDMENTS

PERMANENT MERGER AND CONSERVATORSHIP AUTHORITY

SEC. 801. Section 141(a) of the Garn-St Germain Depository Institutions Act of 1982 (12 U.S.C. 1464 note) is amended—

(1) by inserting "and" at the end of paragraph (6);

(2) by striking out "; and" at the end of paragraph (7) and inserting in lieu thereof a period; and

(3) by striking out paragraph (8).

REDUCTION IN STATE COMMENT WAITING PERIOD

SEC. 802. Section 206(h)(2)(B) of the Federal Credit Union Act (12 U.S.C. 1786(h)(2)(B)) is amended by striking out "ninety" and inserting in lieu thereof "30".

IMPOSITION OF CONSERVATORSHIP

SEC. 803. Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(C) there is a willful violation of a cease-and-desist order which has become final; or

"(D) there is concealment of books, papers, records, or assets of the credit union or refusal to submit books, papers, records, or affairs of the credit union for inspection to any examiner or to any lawful agent of the Board.".

AUTHORITY AS CONSERVATOR

SEC. 804. Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

"(8) The conservator shall have all the powers of the members, the directors, the officers, and the committees of the credit union and shall be authorized to operate the credit union in its own name or to conserve its assets in the manner and to the extent authorized by the Board.".

TECHNICAL AND CLARIFYING AMENDMENTS; REMOVAL AND PROHIBITION AUTHORITY

SEC. 805. Section 206(g) of the Federal Credit Union Act (12 U.S.C. 1786(g)) is amended—

(1) in paragraph (1), by striking out "director, officer, or committee member" each time it appears and inserting in lieu thereof "director, officer, committee member, or employee";

(2) in paragraph (2), by striking out "director, officer, or committee member" the first two times it appears and inserting in lieu thereof "director, officer, committee member, or employee";

(3) in paragraph (2), by striking out "any other person" the first time it appears and inserting in lieu thereof "any agent or other person"; and

(4) in paragraph (2), by inserting "employee, agent," before "or other person" the last time it appears.

FAITHFUL PERFORMANCE

SEC. 806. (a) Section 112 of the Federal Credit Union Act (12 U.S.C. 1761a) is amended by striking out the third sentence and inserting in lieu thereof the following: "The board shall elect from their number a financial officer who shall give adequate fidelity coverage in accordance with section 113(2) of this Act.".

(b) Section 113 of the Federal Credit Union Act (12 U.S.C. 17861b) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) provide adequate fidelity coverage for officers and employees having custody of or handling funds according to regulations issued by the Board;".

MEMBERSHIP OFFICERS

SEC. 807. Section 113(1) of the Federal Credit Union Act (12 U.S.C. 1761b(1)) is amended by striking out "of the board of directors" and inserting in lieu thereof "of the credit union".

NONPARTICIPATION

SEC. 808. Section 118 of the Federal Credit Union Act (12 U.S.C. 1764) is amended—

(1) by striking out "Subject to" in subsection (a) and inserting in lieu thereof "Except as provided in"; and

(2) by inserting "and enforce" after "adopt" in subsection (b).

SECOND MORTGAGE AND HOME IMPROVEMENT LOANS

SEC. 809. Section 107(5)(A)(ii) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(ii)) is amended by striking out "fifteen years" and all that follows and inserting in lieu thereof "15 years or any longer term which the Board may allow;".

PROPERTY ACQUISITION FLEXIBILITY

SEC. 810. Section 120(i)(2) of the Federal Credit Union Act (12 U.S.C. 1766(i)(2)) is amended—

(1) by inserting after "reimbursement," the following: "acquire and dispose of, by lease or purchase, real or personal property, without regard to the provisions of any other law applicable to executive or independent agencies of the United States,"; and

(2) by inserting after "this Act" the following: ", in accordance with the rules and regulations or policies established by the Board not inconsistent with this Act".

CLARIFICATION OF IRA AUTHORITY

SEC. 811. Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended—

(1) by redesignating paragraph (16) as paragraph (17); and

(2) by inserting after paragraph (15) the following:

"(16) to serve as a trustee or custodian of any trust or custodial arrangement created or organized in the United States or its territories or possessions forming part of a stock bonus, pension, or profit-sharing plan qualifying for specific tax treatment under section 401(d) or 401(k) of the Internal Revenue Code of 1954 or similar provision pursuant to the laws of a United States territory or possession, or to serve as a trustee or custodian of an individual retirement account within the meaning of section 408(a) of such Code or similar provision pursuant to the laws of a United States territory or possession, subject to the rules and regulations of the Board; and".

TECHNICAL AMENDMENT

SEC. 812. Section 107(7)(E) of the Federal Credit Union Act (12 U.S.C. 1757(7)(E)) is amended by striking out "section 101 of the Government Corporation Control Act" and inserting in lieu thereof "section 9101(3) of title 31, United States Code,".

PUBLIC FUNDS

SEC. 813. Section 121 of the Federal Credit Union Act (12 U.S.C. 1767) is amended—

(1) by inserting "(a)" after "SEC. 121."; and

(2) by adding at the end thereof the following:

"(b) Any Federal credit union, upon the deposit with it of any funds by the Federal Government, an Indian tribe, or any State or local government or political subdivision thereof as otherwise authorized by this Act, is authorized to pledge any of its assets securing the payment of the funds so deposited.".

OWNERSHIP INTEREST

SEC. 814. Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by inserting ", representing equity," after "payments".

TITLE IX—CONSUMER LEASES

SHORT TITLE

SEC. 901. This title may be cited as the "Consumer Lease and Lease-Purchase Agreement Act".

AMENDMENT TO THE CONSUMER CREDIT PROTECTION ACT

SEC. 902. The Consumer Credit Protection Act is amended by adding at the end thereof the following new title:

"TITLE X—CONSUMER LEASE AND LEASE-PURCHASE ACT

"Chap.	Sec.
"1. General Provisions	101
"2. Consumer Leases and Lease-Purchase Agreements	111
"3. Enforcement and Liability	121
"4. Miscellaneous	131

"CHAPTER 1—GENERAL PROVISIONS

"Sec.
"101. Short title.
"102. Findings and declaration of purpose.
"103. Definitions and rules of construction.
"104. Exempted transactions.
"105. Regulations.

"CHAPTER 2—CONSUMERLEASES AND LEASE-PURCHASE AGREEMENTS

"Sec.
"111. General requirements of disclosure.
"112. Consumer lease disclosures.

"113. Consumer's liability at early termination or at the end of the lease term.
"114. Lease-purchase disclosures.
"115. Renegotiations and extensions.
"116. Consumer lease advertising.
"117. Lease-purchase advertising.

"CHAPTER 3—ENFORCEMENT AND LIABILITY

"Sec.
"121. Administrative enforcement.
"122. Civil liability.
"123. Defenses.
"124. Liability of assignees.
"125. Criminal liability.

"CHAPTER 4—MISCELLANEOUS

"Sec.
"131. Relation to State laws.
"132. Effect on governmental agencies.
"133. Reports by Board and Attorney General.
"134. Effective date.

"TITLE X—CONSUMER LEASE AND LEASE-PURCHASE ACT

"CHAPTER 1—GENERAL PROVISIONS

"§ 101. Short title

"This title may be cited as the 'Consumer Lease and Lease-Purchase Act'.

"§ 102. Findings and declaration of purpose

"(a) The Congress finds that the leasing of consumer goods continues to be a popular alternative to installment credit purchases. It is the purpose of this title to assure a more meaningful disclosure of the terms of leases of personal property for personal, family or household purposes, permitting the consumer to compare more readily the various lease terms available; to limit the potential balloon payment in consumer leases to a reasonable amount; and to assure accurate disclosures of lease terms in advertising.

"(b) The Congress also finds that a significant number of consumers have begun to acquire ownership of personal property through lease-purchase agreements. These lease-purchase agreements have been offered without adequate cost disclosures. It is the purpose of this statute to assure meaningful disclosure of the terms of lease-purchase agreements; to make the consumer aware of the total cost of the agreement; to inform the consumer when ownership will transfer; and to assure accurate disclosures of lease-purchase terms in advertising.

"§ 103. Definitions and rules of construction

"(a) The following definitions apply to this title:

"(1) 'Advertisement' means a commercial message in any medium that aids, promotes, or assists directly or indirectly a consumer lease or a lease-purchase agreement.

"(2) 'Agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, and manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmlands, real property with a farm residence, and personal property and services used primarily in farming.

"(3) 'Board' refers to the Board of Governors of the Federal Reserve System.

"(4) 'Consumer' means a natural person who leases personal property under a consumer lease or rents personal property under a lease-purchase agreement.

"(5) 'Consumer lease' means a contract in the form of a lease or bailment for the use of personal property, and the purchase of services incidental thereto, by a natural person primarily for personal, family, or household purposes, for a period exceeding four months, in which the total lease cost is not more than $25,000, whether or not the consumer has the option to purchase or otherwise become the owner of the property at the expiration of the lease. The term does not include any 'credit sale' as defined in title I.

"(6) 'Consummation' means the time a consumer becomes contractually obligated on a consumer lease or lease-purchase agreement.

"(7) 'Lessor' means a person who regularly provides the use of property through consumer leases or lease-purchase agreements and to whom the obligation is initially payable on the face of the lease or lease-purchase agreement.

"(8) 'Personal property' means any property that is not real property under the laws of the State where it is located when it is made available for a consumer lease or a lease-purchase agreement.

"(9) 'Lease-purchase agreement' means an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four months or less (whether or not there is any obligation beyond the initial period) that is automatically renewable with each payment and that permits the consumer to become the owner of the property. The term does not include any 'credit sale' as defined in title I.

"(10) 'Residual value' means the wholesale or retail fair market value of the leased property at early termination or the end of the lease term in a consumer lease.

"(11) 'State' refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

"(b) Unless the context indicates otherwise, the term 'lease' means consumer lease, and the term 'agreement' means lease-purchase agreement.

"(c) Any reference to any provisions of this title includes reference to the regulations of the Board under this title.

"§ 104. Exempted transactions

"This title does not apply to the following:

"(1) Consumer leases and lease-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with government agencies or instrumentalities or with organizations.

"(2) A lease of a safe deposit box.

"(3) A lease or bailment of personal property which is incidental to the lease of real property, and which provides that the consumer has no liability for the value of the property at scheduled expiration except for abnormal wear and tear and that the consumer has no option to purchase the leased property.

"§ 105. Regulations

"(a) The Board shall write regulations to carry out the purposes of this title, to prevent its circumvention, and to facilitate compliance with its requirements. The regulations may contain classifications and differentiations and may provide for adjustments and exceptions for any class of transaction.

"(b) The Board shall publish model disclosure forms and clauses to facilitate compliance with the disclosure requirements and to aid the consumer in understanding the transaction. In designing forms, the Board shall consider the use by lessors of data processing or similar automated equipment. Use of the models shall be optional. A lessor who properly uses the models shall be deemed to be in compliance with the disclosure requirements.

"(c) Any regulation of the Board, or any amendment or interpretation thereof, that requires a disclosure different from the disclosures previously required shall have an effective date of October 1 that follows the date of promulgation by at least six months. The Board may at its discretion lengthen that period of time to permit lessors to adjust their forms to accommodate new requirements. The Board may also shorten that period of time if it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive practices. In any case, lessors may comply with any newly promulgated disclosure requirement prior to its effective date.

"CHAPTER 2—CONSUMER LEASES AND LEASE-PURCHASE AGREEMENTS

"§ 111. General requirements of disclosure

"(a) The lessor shall disclose to the consumer the information required by this title. In a transaction involving more than one consumer, a lessor need disclose to only one of the consumers who are primarily obligated. In a transaction involving more than one lessor, only one lessor need make the disclosures.

"(b) The disclosures shall be made at or before consummation of the consumer lease or lease-purchase agreement.

"(c) The disclosures shall be made clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required under sections 112 and 114 shall be segregated from all other terms, data, or information provided.

"(d) Information required to be disclosed may be given in the form of estimates and identified as such when the lessor does not know the exact information.

"(e) If a disclosure becomes inaccurate as the result of any act, occurrence, or agreement after delivery of the required disclosures, the resulting inaccuracy is not a violation of this title.

"§ 112. Consumer lease disclosures

"For each consumer lease, the lessor shall disclose the following items, as applicable:

"(1) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

"(2) The number, amounts, and timing of scheduled payments.

"(3) The total of scheduled payments.

"(4) The total of amounts payable at the expiration of the lease (not including any difference between the anticipated residual value and the actual residual value).

"(5) The total lease cost, which is the sum of items (1), (3), and (4).

"(6) The amount of any required security deposit.

"(7) When the consumer buys required insurance from or through the lessor, the total cost. When the consumer does not buy required insurance from or through the lessor, a statement that the consumer must buy insurance and that the cost is not included in the numerical disclosures.

"(8) When any official fees and taxes are paid to or through the lessor, the total cost. When any official fees or taxes are not paid to or through the lessor, a statement that the consumer must pay official fees or taxes and that the amounts are not included in the numerical disclosures.

"(9) Any dollar charge or percentage amount that may be imposed for a late pay-

ment, other than a deferral or extension charge.

"(10) A statement that the consumer may be liable for additional amounts if the lease is terminated early.

"(11) When the consumer's liability is based on the residual value of the property, a statement that the consumer may have the property appraised at the consumer's expense by an independent third party agreed to by the consumer and lessor, and that the parties will be bound by the appraisal.

"(12) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the property:

"(A) The anticipated residual value of the property, marked as wholesale or retail;

"(B) A brief statement of the consumer's potential liability at the end of the lease term;

"(C) The product of three times the average payment allocable to a month; and

"(D) A statement that the consumer's liability will generally be limited to item (12)(C) unless the excess is a result of excessive use or unreasonable wear and use, or the lessor brings a successful court action proving that the estimate of the anticipated residual value was reasonable.

"(13) A statement that the consumer may have other costs and that the consumer should refer to the appropriate lease document for information about nonpayment and default, wear and use standards, and maintenance responsibility.

"§ 113. Consumer's liability at early termination or at the end of the lease term

"(a) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the leased property, the anticipated residual value shall be a reasonable estimate of the actual residual value of the property at the end of the lease term. There shall be a rebuttable presumption that the anticipated residual value is unreasonable to the extent that it exceeds the actual residual value at the end of the lease term by more than three times the average payment allocable to a month. The lessor shall not collect any amount in excess of three times the average payment allocable to a month unless the lessor brings a successful action in court providing that the estimate was reasonable. If the lessor fails to rebut the presumption, the lessor must pay the costs of the action and the consumer's reasonable attorney's fees.

"(b) The presumption in subsection (a) shall not apply to the extent that the excess of the anticipated residual value over the actual residual value is due to damage to the property beyond reasonable wear and use or to excessive use. The lessor may set reasonable standards for wear and use in the lease.

"(c) Subsection (a) does not preclude the right of a willing consumer and lessor to make a mutually agreeable final adjustment with respect to the excess of three times the average payment allocable to a month, provided the agreement is made after the end of the lease term.

"(d) In the lease the lessor may specify penalties or other charges for delinquency, default, or early termination, if the amounts are reasonable in light of the anticipated or actual harm caused by the delinquency, default, or early termination, the difficulties of proof of loss, and the inconvenience or nonfeasibility of otherwise obtaining an adequate remedy.

"(e) When the consumer's liability is based on the residual value of the leased property, the consumer may obtain at the consumer's expense a professional appraisal of the property by an independent third party agreed to by both parties. This appraisal shall be binding on the parties.

"§ 114. Lease-purchase disclosures

"For each lease-purchase agreement, the lessor shall disclose the following items, as applicable:

"(1) The number, amounts and timing of all payments necessary to acquire ownership of the property.

"(2) The total of payments necessary to acquire ownership of the property.

"(3) A statement that the consumer will not own the property until the consumer has made the number of payments and the total of payments necessary to acquire ownership.

"(4) A statement that the total of payments does not include other charges, such as late payment, default, pickup, and reinstatement fees, and that the consumer should see the contract for an explanation of these charges.

"(5) A statement that the consumer is responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed.

"(6) A statement indicating whether the property is new or used, but a statement that indicates new property is used is not a violation of this title.

"§ 115. Renegotiations and extensions

"(a) A renegotiation occurs when an existing consumer lease or lease-purchase agreement is satisfied and replaced by a new lease or agreement undertaken by the same lessor and consumer. A renegotiation is a new lease or agreement requiring new disclosures. However, events such as the following shall not be treated as renegotiations:

"(1) The addition or return of property in a multiple-item lease or agreement or the substitution of the leased property, if in either case the average payment allocable to a payment period is not changed by more than 25 per centum.

"(2) A deferral or extension of one or more periodic payments, or portions of a periodic payment.

"(3) A reduction in charges in the lease or agreement.

"(4) A lease or agreement involving a court proceeding.

"(5) Any other event described in regulations prescribed by the Board.

"(b) No disclosures are required for any extension of a consumer lease or a lease-purchase agreement. However, a lessor that extends or permits a consumer to extend a consumer lease for more than one month beyond the end of the lease term shall (for purposes of section 113) recalculate the anticipated residual value of the leased property to reflect the depreciation resulting from the extended term.

"§ 116. Consumer lease advertising

"(a) If an advertisement for a consumer lease states the amount of any payment or states that any or no initial payment is required, the advertisement must also clearly and conspicuously state the following items, as applicable:

"(1) That the transaction advertised is a lease.

"(2) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

"(3) That a security deposit is required.

"(4) The number, amounts, and timing of scheduled payments.

"(5) For a lease in which the consumer's liability at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

"(b) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

"§ 117. Lease-purchase advertising

"(a) If an advertisement for a lease-purchase agreement refers to or states the amount of any payment or the right to acquire ownership, the advertisement must also clearly and conspicuously state the following items, as applicable:

"(1) That the transaction advertised is a lease-purchase agreement.

"(2) The total of payments necessary to acquire ownership.

"(3) That the consumer acquires no ownership rights if the total amount necessary to acquire ownership is not paid.

"(b) Any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

"(c) Subsection (a) does not apply to an advertisement which does not refer to or state the amount of any payment, and which is published in the yellow pages of a telephone directory or in any similar directory of businesses.

"CHAPTER 3—ENFORCEMENT AND LIABILITY

"§ 121. Administrative enforcement

"(a) Compliance with the requirements imposed by this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation; and

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the National Credit Union Administration with respect to any Federal credit union; and

"(4) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to, a violation of a requirement imposed by this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each agency may exercise any other authority conferred on it by law in enforcing any requirement imposed under this title.

"(c) Except to the extent that enforcement of the requirements imposed by this title is specifically committed to some other agency under subsection (a), the Federal

Trade Commission shall enforce the requirements. For the purpose of exercising its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed by this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed by this title, whether or not that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"(d) The authority of the Board to issue regulations under this title does not impair the authority of any other agency designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed by this title.

"§ 122. Civil liability

"(a) Except as otherwise provided in this title, a lessor who fails to comply with a requirement of sections 111, 112, 113, 114, or 115 with respect to a consumer is liable to the consumer in an amount equal to the sum of—

"(1) actual damages sustained by the consumer as a result of the violation;

"(2) in the case of an individual action relating to a consumer lease, 25 per centum of the total of scheduled payments under the lease, but not less than $100 nor greater than $1,000;

"(3) in the case of an individual action relating to a lease-purchase agreement, 25 per centum of the total of payments necessary to acquire ownership, but not less than $100 nor greater than $1,000;

"(4) In the case of a class action, the amount the court determines to be appropriate with no minimum recovery as to each member. The total recovery in any class action or series of class actions arising out of the same violation may not be more than the lesser of $500,000 or 1 per centum of the net worth of the lessor. In determining the amount of the award in any class action, the court shall consider, among other relevant factors, the amount of actual damages awarded, the frequency and persistence of the violation, the lessor's resources, and the extent to which the lessor's violation was intentional; and

"(5) the costs of the action and reasonable attorney's fees as determined by the court.

"(b) In the case of an advertisement, any lessor who fails to comply with the requirements of sections 116 and 117 with regard to any person is liable to that person for actual damages suffered from the violation, the costs of the action, and reasonable attorney's fees.

"(c) When there are multiple lessors, liability shall be imposed only on the lessor who made the disclosures. When no disclosures have been given, liability shall be imposed on all lessors.

"(d) When there are multiple consumers in a consumer lease or a lease-purchase agreement, there shall be only one recovery of damages under subsection (a) for a violation of this title.

"(e) Multiple violations in connection with a single consumer lease or lease-purchase agreement entitle the consumer to a single recovery under this section.

"(f) An action under this section may be brought in any United States district court or in any other court of competent jurisdiction within one year of the date of the occurrence of the violation, except that in the case of a violation under section 113 an action may be brought within one year of the end of the lease term. This subsection does not bar a consumer from asserting a violation of this title in an action to collect the debt brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or setoff, except as otherwise provided by State law.

"(g) A consumer may not take any action to offset any amount for which a lessor is potentially liable under subsection (a) against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action brought by the lessor to collect amounts owed by the consumer.

"§ 123. Defenses

"(a) A lessor is not liable under sections 121, 122, or 125 for a violation of the requirements of sections 111, 112, and 114 if within 60 days after discovering the error, and before an action under section 122 is filed or written notice of the error is received from the consumer, the lessor notifies the consumer of the error and makes whatever adjustments in the account are necessary to assure that the consumer will not be required to pay an amount in excess of the amounts actually disclosed. This provision applies whether the discovery of the error was made through a final written examination report or the lessor's own procedures.

"(b) A lessor is not liable under section 122 for a violation of this title if the lessor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error even though the lessor maintained procedures reasonably adapted to avoid such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programing, and printing errors. An error of legal judgment with respect to the requirements of this title is not a bona fide error.

"(c) A lessor is not liable under this title for any act done or omitted in good faith in conformity with any rule, regulation, interpretation, or approval promulgated by the Board or by an official duly authorized by the Board. This rule applies even if, after the act or omission has occurred, the rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"§ 124. Liability of assignees

"(a) For purposes of sections 122 and 123, the term 'lessor' as used in those sections shall include an assignee of the lessor. However, a civil action for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the disclosure statement. A violation apparent on the face of the disclosure statement includes, but is not limited to, a disclosure that can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned. An assignee has no liability where the assignment is involuntary.

"(b) In an action by or against an assignee, the consumer's written acknowledgement of receipt shall be conclusive proof that the disclosures were made, provided the assignee had no knowledge that disclosures had not been made when the assignee acquired the obligation.

"§ 125. Criminal liability

"A fine of $5,000 or a prison term of not more than one year, or both, may be imposed on anyone who willfully and knowingly fails to comply with any requirement imposed under this title.

"CHAPTER 4—MISCELLANEOUS

"§ 131. Relation to State laws

"(a) This title does not annul, alter, or affect the laws of any State regarding the disclosure of consumer leases or lease-purchase agreements, nor does this title exempt any person subject to the provisions of this title from complying with the laws of any State with respect to consumer leases or lease-purchase agreements, except to the extent those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The laws of a State are inconsistent if a person is unable to comply with them without violating a provision of this title. The Board is authorized to determine whether such inconsistencies exist.

"(b) The Board shall by regulation exempt from the requirements of this title any class of lease transactions and lease-purchase agreements within any State if it determines that the State law contains requirements substantially similar to those imposed by this title or gives greater protection and benefit to the consumer, and that there is adequate provision for enforcement.

"(c) Except as specified in sections 122 and 123, this title does not affect the validity or enforceability of any contract or obligation under State or Federal law.

"(d) Determinations under this section may be requested by any State.

"§ 132. Effect on governmental agencies

"No civil or criminal penalty provided by this title for violations may be imposed on the United States or any of its departments or agencies, any State or political subdivision, or any agency of any State or political subdivision.

"§ 133. Reports by Board and Attorney General

"Each year the Board and the Attorney General shall report to the Congress concerning the administration of their functions under this title, including any recommendations necessary or appropriate. In addition, the Board's report shall include its assessment of the extent to which compliance with the requirements imposed by this title is being achieved.

"§ 134. Effective date

"(a) This title shall take effect on the October 1 that is at least two years after the date of its enactment.

"(b) All regulations, forms, and clauses required to be prescribed shall be promulgated one year prior to such effective date.

"(c) Notwithstanding subsections (a) and (b), any lessor may comply with the requirements of this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.".

CONFORMING AMENDMENTS

SEC. 903. (a) Section 102 of the Truth in Lending Act is amended by striking out "(a)" before "The Congress" and by striking out subsection (b).

(b) Section 105(b) of such Act is amended by striking out "or lessee", by striking out "or lessors", and by striking out "or lessor" each place it appears.

(c) Section 105(d) of such Act is amended by striking out ", or chapter 5", by striking out "or lessors" each place it appears, and by striking out "or lessor".

(d) Section 121(a) of such Act is amended by striking out "a consumer lease or", and by striking out "or lessor".

(e) Section 121(b) of such Act is amended by striking out "or one lessor as defined in section 181(3)," and by striking out "or lessor" each place it appears.

(f) Section 122(b) of such Act is amended by striking out "or lessor" and by striking out "chapters 4 and 5" and inserting in lieu thereof "chapter 4".

(g) Section 130(a) of such Act is amended by striking out "or 5", by striking out "(i)", by striking out "or (ii) in the case of an individual action relating to a consumer lease under chapter 5 of this title, 25 per centum of the total amount of monthly payments under the lease,", and by striking out "or 5".

(h) Section 130(b) of such Act is amended by striking out "or chapter 5".

(i) Section 130(d) of such Act is amended by striking out "or consumer lease".

(j) Section 130(g) of such Act is amended by striking out "or 5" and by striking out "consumer lease,".

(k) Chapter 5 of title I of the Consumer Credit Protection Act is repealed.

(l) The amendments made by this section take effect on the effective date of title X of the Consumer Credit Protection Act.

TITLE X—FAIR DEPOSIT AVAILABILITY

SHORT TITLE

SEC. 1001. This title may be cited as the "Fair Deposit Availability Act of 1986".

DEFINITIONS

SEC. 1002. As used in this title—

(1) the term "depository institution" means—

(A) any insured bank or domestic branch as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act, other than a foreign bank having an insured or uninsured branch;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(D) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

(E) any member as defined in section 2 of the Federal Home Loan Bank Act; and

(F) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act;

(2) the term "deposit account" means an account in a depository institution on which the account holder is permitted to make withdrawals by negotiable or transferable instruments, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposit accounts, negotiable order of withdrawal accounts, share draft accounts, savings deposits, and share accounts. Such term does not include time deposits;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "check or similar instrument" means a check, negotiable order of withdrawal, share draft, money order, or similar instrument, but does not include noncash items.

DISCLOSURE OF FUND AVAILABILITY POLICIES

SEC. 1003. (a) Before opening a deposit account, a depository institution shall provide a written disclosure to the potential customer of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account. In the case of a deposit account which was opened prior to the effective date of this section, the depository institution shall include such disclosure with the first regularly scheduled mailing pertaining to the account which occurs after such effective date (but not later than 90 days after such effective date) unless the depository institution has provided a disclosure which meets the requirements of this section prior to such effective date.

(b) Each depository institution shall—

(1) post at each location where its employees receive deposits, a clear and conspicuous notice setting forth its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument; and

(2) mail at least annually a brief reminder with respect to an account that deposits by check or similar instrument may not be available for immediate withdrawal.

(c) Each owner of an automatic or electronic terminal shall provide at each terminal location where deposits may be made a brief reminder that deposits by check or similar instrument may not be available for immediate withdrawal.

(d) Any change to a depository institution's general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account, other than a change which expedites the availability of such funds, may take effect only after the depository institution has provided notice of such changes to the customer.

(e) Each depository institution shall provide disclosure, consistent with the disclosures required under subsection (a), by telephone of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into a customer's account upon the telephone request of any person.

(f) The Board shall prescribe regulations to carry out this section. These regulations may contain such definitions, classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as the Board determines are necessary to effectuate the purposes of this section, to prevent circumvention or evasion of this section, or to facilitate compliance with this section. The regulations of the Board shall require all disclosures, statements, and notices provided to be clear and conspicuous and in language that can be readily understood.

(g) A depository institution that does not begin to compute interest or dividends on funds deposited by check or similar instrument to an interest bearing deposit account or a time deposit on or before the date on which that depository institution receives provisional credit for the deposit (or if provisional credit is given on a nonbusiness day, the next business day) shall provide a written disclosure, within the time periods required under subsection (a), with respect to when the institution begins to compute interest on such funds.

(h) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this section and to aid customers by utilizing readily understandable language. Nothing in this Act requires the use of any such model form or clause prescribed by the Board under this section. A depository institution shall be deemed to be in compliance with the provisions of this section if it (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this Act, or (B) rearranging the format.

(i) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

INTEREST ON DEPOSITS

SEC. 1004. For the purpose of computing the amount of interest or dividends payable with respect to an interest bearing deposit account or a time deposit, a depository institution may not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument (or if provisional credit is given on a nonbusiness day, on the next business day) unless the computation of interest begins at a later date for all deposits, including cash deposits, made to the account or deposit. Nothing in this section requires the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid.

IMPROVED CLEARING PROCEDURES

SEC. 1005. (a) Not later than 18 months after the date of enactment of this Act, the Board shall publish for comment a regulation for the purpose of improving the check clearing system used by depository institutions by expediting the process for returning checks or other means in order to achieve the goal of—

(1) making deposits of funds by check or similar instrument drawn on local depository institutions available for withdrawal upon the expiration of one business day after deposit, and

(2) making deposits of funds by check or similar instrument drawn on other depository institutions available for withdrawal upon the expiration of three business days after deposit.

This subsection does not apply to any check or similar instrument which poses a serious risk of loss to a depository institution.

(b) In prescribing the regulation under subsection (a), the Board shall consider—

(1) adopting a uniform endorsement standard;

(2) providing for direct notification of returning checks and similar instruments to the depository institution of first deposit;

(3) providing for direct return of checks and similar instruments to the depository institution of first deposit;

(4) providing for return of all checks and similar instruments through the Federal Reserve System's clearinghouse;

(5) extending limits for returns;

(6) establishing schedules for the availability of funds deposited by checks and similar instruments;

(7) prescribing the availability of funds deposited by checks and similar instruments based on the nature of the account to which the deposit was made or the nature of the account holder;

(8) the use of electronic means of collecting and returning checks;

(9) providing for check truncation;

(10) the establishment of an automated return system;

(11) charging a depository institution based upon notification that a check or similar instrument will be presented for payment;

(12) creating incentives for depository institutions to return unpaid items promptly to the depository institution of first deposit; and

(13) keeping the costs of any improvements to be implemented to a minimum.

(c) The regulation prescribed under subsection (a) shall become effective not later than 36 months after the date of enactment of this section. Each depository institution shall comply with the provisions of such regulation.

(d) The Board shall establish an Expedited Funds Availability Council (hereinafter referred to as the "Council") to advise and consult with the Board in the exercise of its functions under this section. The Council shall consist of—

(1) the Comptroller of the Currency or his delegate;

(2) the Chairman of the Federal Deposit Insurance Corporation or his delegate;

(3) the Chairman of the Federal Home Loan Bank Board or his delegate;

(4) the Chairman of the National Credit Union Administration Board or his delegate;

(5) two members of the Consumer Advisory Council designated by the Board;

(6) one representative from the users of payment systems services; and

(7) one representative from the providers of payment systems services in competition with the services offered by the Federal Reserve System.

The Council shall meet from time to time at the call of the Board.

AVAILABILITY OF CERTAIN FUNDS

SEC. 1006. The Secretary of the Treasury shall by regulation require that funds deposited by a check drawn on the Treasury of the United States, which is first endorsed for deposit by a customer who has an established relationship, as defined by the Board, with the depository institution shall be available for withdrawal by that customer not later than the date when the depository institution is given provisional credit for that check or, if provisional credit is given on a nonbusiness day, on the next business day.

ADMINISTRATIVE ENFORCEMENT

SEC. 1007. (a) Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and Federal savings banks), by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owner's Loan Act of 1933, section 407 of the National Housing Act, and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union or insured credit union.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a) of this section, the appropriate State regulatory authority shall enforce such requirements.

(d) The authority of the Board to issue regulations under this title does not impair the authority of any other authority designated in this section to make rules respecting its own procedures in enforcing compliance with requirements imposed under this title.

CIVIL LIABILITY

SEC. 1008. (a) Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under section 1003 (other than subsection (e)), 1004, or 1006 with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $50 nor greater than $500; or

(B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the depository institution; and

(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance, the resources of the depository institution, the number of persons adversely affected, and the extent to which the failure of compliance was intentional.

(b) A depository institution may not be held liable in any action brought under this section for a violation of section 1003, 1004, or 1006 if the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this Act is not a bona fide error.

(c) Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(d) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

EFFECT ON CHECK ACCEPTANCE POLICIES AND OTHER LAWS

SEC. 1009. (a) Nothing in this title—

(1) prevents a depository institution, in accordance with the policy of such depository institution, from making funds available for withdrawal in a shorter period of time than is provided in this title or in regulations adopted by the Board; or

(2) affects a depository institution's right—

(A) to accept or reject a check for deposit; or

(B) if a check is accepted for deposit and the depository institution has made provisional settlement with the depositor, pursuant to law to—

(i) revoke the provisional settlement given by the depository institution;

(ii) charge back the depositor's account; or

(iii) claim a refund of such provisional credit.

(b) Except as provided in subsection (a), the provisions of this title or the regulations of the Board prescribed under this Act shall supersede the provisions of any State law which the Board determines to be inconsistent with the provisions of this title or such regulation, but only to the extent of the inconsistency.

IMPROVING PAYMENT MECHANISMS

SEC. 1010. Not later than one year after the implementation of any regulations under section 1005 of this title, the Board shall prepare a study and submit its findings to the Congress on the effect of improvements and changes in the payments system, including—

(1) the effect of the changes made by section 805 of this title, and the advisability and feasibility of further changes;

(2) an assessment of improvements that can be made in the check collection system, including improved procedures for the return of unpaid items, reduction of costs, reduction in the number of returned checks, greater speed and efficiency in the check collection and return system, utilization of more efficient technology, and parity of treatment of depository institutions; and

(3) an assessment of the use of electronics in payments and of the need for improvements in the way the payments system pro-

vides services so as to insure efficient and affordable services, including the possible development of additional electronic services.

EFFECTIVE DATE

SEC. 1011. Except as provided in section 1005, this title takes effect upon the expiration of 12 months following its enactment.

TITLE XI—CREDIT CARDS

SHORT TITLE

SEC. 1101. This Act may be referred to as the "Fair Credit Card Act of 1986".

CREDIT CARD SOLICITATIONS AND BALANCE COMPUTATION

SEC. 1102. Section 127 of the Truth in Lending Act is amended by adding at the end thereof the following:

"(c) The Board shall issue regulations that require credit card solicitations or advertisements mailed to the consumer to disclose clearly and conspicuously—

"(1) the annual percentage rate applicable to extensions of credit obtained by use of the credit card;

"(2) the conditions under which a finance charge may be imposed, including the time period (if any) within which any credit extended may be repaid without incurring a finance charge, or, if no such time period is provided, the creditor shall disclose such fact; and

"(3) the annual fees and other charges, if any, applicable to the issuance or use of the credit card.

"(d)(1) The Board shall issue regulations that require charge card solicitations or advertisements mailed to the consumer to disclose clearly and conspicuously—

"(A) the annual fees and other charges, if any, applicable to the issuance or use of the charge card; and

"(B) that charges incurred by use of the card are due and payable upon receipt of a periodic statement of charges.

"(2) For the purpose of this subsection—

"(A) the term 'charge card' means a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge; and

"(B) an issuer of charge cards shall make the disclosures required by this subsection in lieu of those required by subsection (c) where open end credit obtained in connection with the charge card is not automatically accessed through use of the card.

"(e)(1) For any open end credit plan involving a credit card under which credit may be extended by a party other than the provider of goods or services, the balance upon which finance charges may be imposed shall be computed using an average daily balance method or any alternative method which results in lower finance charges than the average daily balance method.

"(2) The Board shall by regulation prescribe criteria under which a balance calculation method may be deemed to be an average daily balance method or an alternative method which results in a lower finance charge for the purpose of paragraph (1). Such regulations shall—

"(A) permit issuers of credit cards to adopt grace periods during which credit is extended without incurring a finance charge, but shall not require the adoption of such a grace period; and

"(B) permit issuers of credit cards with cash advance features to adopt different grace periods for cash advances than for credit advances, if any such different period is clearly disclosed.".

TITLE XII—MISCELLANEOUS

TREATMENT OF FUNDS OF DEPOSITORY INSTITUTION REGULATORS

SEC. 1201. (a) Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by adding at the end thereof the following:

"(9) Notwithstanding any other provision of law, the expenditure of amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or to sequestration or reduction of obligation limitations for the purpose of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) The second paragraph of section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by inserting after the fifth sentence the following: "The expenditure of such funds, inclusive of all administrative expenses, shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or sequestration or reduction of obligation limitations for the purpose of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(c) Section 404 of the National Housing Act (12 U.S.C. 1727) is amended by adding at the end thereof the following:

"(j) Notwithstanding any other provision of law, the expenditure of amounts received by the Corporation pursuant to any assessment under this Act, deposits required under this section, and any other monies received or held by the Corporation shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or to sequestration or reduction of obligation limitations for the purpose of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(d) The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 19 (12 U.S.C. 1439) the following:

"EXPENDITURE AUTHORITY

"SEC. 19A. Notwithstanding any other provision of law, the expenditure of amounts received pursuant to any assessment under this Act and any other monies received or held by the Board shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or to sequestration or reduction of obligation limitations for the purpose of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(e) Title I of the Federal Credit Union Act is amended by adding at the end thereof the following:

"EXPENDITURE AUTHORITY

"SEC. 131. (a) Notwithstanding any other provision of law, the expenditure of funds received by the Board pursuant to any method provided by this title, and interest, dividend, or other income thereon, shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or to sequestration or reduction of obligation limitations for the purpose of the Balanced Budget and Emergency Deficit Control Act of 1985.".

NOW ACCOUNT AMENDMENT

SEC. 1202. Section 2(a)(2) of Public Law 93-100 (12 U.S.C. 1832 (a)(2)) is amended by inserting "political," after "educational,".

REIMBURSEMENT FOR TRAVEL

SEC. 1203. Section 17 of the Federal Home Loan Bank Act (12 U.S.C. 1437) is amended by adding at the end thereof the following:

"(c) Notwithstanding any other provision of law, in accordance with Board regulations to prevent conflicts of interest, the Board may accept payment and reimbursement, in cash or in kind, from Federal or non-Federal agencies, organizations (including industry trade groups), and individuals for travel, subsistence, and other necessary expenses incurred by Board members and employees in attending meetings and conferences concerning the functions or activities of the Board. Any payment or reimbursement accepted shall be deposited in the Treasury of the United States, and from time to time may be withdrawn therefrom to defray such expenses. The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Board may limit such amounts. For purpose of this subsection, 'Board' includes the Federal Savings and Loan Insurance Corporation. Payments or reimbursements received by such Corporation shall be deposited pursuant to chapter 91 of title 31, United States Code.".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 1204. (a) Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end thereof the following:

"(f) It shall be unlawful for the Student Loan Marketing Association created under section 439 of the Higher Education Act of 1965, or any subsidiary thereof or any affiliated entity owned or controlled thereby, to acquire, own or control either directly or indirectly the shares or assets of any 'insured bank', 'mutual savings bank', or 'savings bank' as those terms are defined in section 3 of the Federal Deposit Insurance Act or any bank that is eligible to make application to become an insured bank under section 5 of that Act. Any assets or shares of any such bank that are owned or controlled by the Student Loan Marketing Association on the date of enactment of this subsection shall be divested not later than 180 days after that date.".

(b) Section 408(e) of the National Housing Act (12 U.S.C. 1730a(e)) is amended by adding at the end thereof the following:

"(5) It shall be unlawful for the Student Loan Marketing Association created under section 439 of the Higher Education Act of 1965, or any subsidiary thereof or any affiliated entity owned or controlled thereby, to acquire, own or control either directly or indirectly the shares or assets of any 'insured institution' as that term is defined in section 401 of the National Housing Act, any institution that is eligible to make application to become an insured institution under section 403 of that Act, or any institution that is a Federal Home Loan Bank 'member' as that term is defined in section 2 of the Federal Home Loan Bank Act. Any assets or shares of any such institution that are owned or controlled by the Student Loan Marketing Association on the date of enactment of this subsection shall be divested not later than 180 days after that date.".

TITLE I—EMERGENCY ACQUISITIONS

SECTION-BY-SECTION ANALYSIS

Section 101: Short title

Section 101 defines the Act as the "Financial Institutions Emergency Acquisition Amendments of 1986".

Section 102: Extension of Garn-St Germain Act

Section 102 extends for six years the sunset of the emergency provisions of Title I of the Garn-St Germain Act (Title VIII of the bill ends the sunset altogether for the conservatorship and emergency merger authorities for the National Credit Union Administration). In addition, this section sunsets on April 15, 1991 the provision added by section 103 and 104 of this title.

Section 103: Assisted extraordinary acquisition

Subsection 13(f) of the Federal Deposit Insurance Act, which was enacted as part of Title I of the Garn-St Germain Act, currently permits Interstate acquisitions for banks with assets of $500 million or more—but only under limited conditions. Stock institutions, including all eligible commercial banks, may be acquired prior to closing—but only if its board of trustees and chartering authority specify in writing that it is in danger of closing and request the FDIC to assist an acquisition or merger. If a bank is acquired by an out-of-State bank holding company the bank may branch throughout the State to the same extent as an in-State national bank. Absent specific State authorizing legislation, however, bank holding companies may not be acquired by out-of-State holding companies and an out-of State holding company that acquires a bank under subsection 13(f) may not expand in the State other than by branching of the newly acquired bank. This means in unit banking States, the out-of-State bank holding company's entry is limited to the existing office site of the bank it acquires.

The amendments to subsection 13(f) will change existing legislation in four crucial areas. First, the amendments will permit qualified stock institutions, as well as mutual savings banks, to be acquired by out-of-State holding companies before they fail. Second, they lower the threshold measurement for eligibility for both closed and filing banks from $500,000,000 to $250,000,000. Third, the amendments permit a holding company to be sold, in whole or in part, to an out-of-State holding company if the in-State holding company has a bank subsidiary or subsidaries with aggregate banking assets of $250,000,000 or more in danger of closing and such bank or banks represent 33% or more of the holding company's banking assets. Finally, they allow an acquiring out-of-State bank holding company limited expansion rights in the State of acquisition through the bank holding company structure.

Paragraph (1). New subparagraph (A) provides for notice and consultation between the appropriate Federal banking agency (if not the FDIC) and the FDIC when such banking agency is informed that an out-of-State bank or holding company is considering acquiring an insured bank with total assets of $250 million or more that is in danger of closing. This is intended to provide the FDIC with early notice of any possible transactions involving large banks in danger of closing, even if it appears that FDIC assistance will not be required, in the event that FDIC assistance becomes necessary and the FDIC must utilize the procedures of subsection 13(f).

Subparagraph (B) provides that if the FDIC grants assistance pursuant to its powers under subsection 13(c) of the Federal Deposit Insurance Act, the procedures contained in subsection 13(f) shall be followed in any eligible merger or acquisition transaction involving an out-of-State bank or holding company. The FDIC, however, may, in its sole discretion, choose to follow applicable State law rather than the procedures of subsection 13(f) (see paragraph 9). These procedures, including notice to and an opportunity for objection by the state bank supervisor and re-bidding procedures under certain circumstances, are contained in the current law. If the FDIC does not provide assistance under subsection 13(c), subsection 13(f) is not applicable and any eligible transaction will be subject only to the normal approval requirements under State or Federal law.

Paragraph (2). This paragraph is amended to reduce the $500 million asset minimum for interstate acquisitions of closed banks to $250 million. This change is in response to the significant increase in the number of bank failures and the FDIC's increased difficulty in finding in-State purchasers for banks, especially banks whose assets are $250 million or more. It thereby reduces the demand upon the FDIC's resources and affords banks with assets of $250 million or more equal treatment with larger banks.

The remainder of paragraph 2 is unchanged. It provides, among other things, that in any interstate transaction involving a closed bank meeting the size requirement: (i) all other applicable approvals must be obtained; (ii) there shall be notice to and an opportunity for objection by the State bank supervisor (whether the closed bank has a State or Federal charter); and (iii) if the State bank supervisor objects, the FDIC's Board of Directors may exercise its authority only by unanimous vote.

Paragraph (3). Subparagraph (A)(i) extends the emergency interstate acquisition provisions to banks with assets of $250 million or more that, although not closed, have been determined by their Federal or State chartering authority to be in danger of closing. The subsection parallels subparagraph (2)(A), by allowing out-of-State banks and holding companies to establish a new bank to acquire the bank in danger of closing. It also allows an acquisition to be done directly.

The current law contains a comparable provision for mutual savings banks, but not for other FDIC-insured banks. Experience has demonstrated that by the time a bank has actually been closed, the value of its franchise may have been dissipated if not eliminated. In addition, the process of decline into insolvency can create an adverse effect in the financial community. By permitting an interstate acquisition of a commercial bank in danger of closing, but before it is actually closed, the potential for finding a private solution with a lesser commitment of FDIC funds is substantially improved. Such a process also would help maintain the stability of and confidence in the banking system as a whole.

Subparagraph 3(A)(ii) extends the emergency interstate acquisition provisions to holding companies that have a subsidiary bank or banks with aggregate assets of $250 million or more in danger of closing and such bank or banks represent 33% or more of the total assets of the holding company's banking subsidiaries. If the Federal or State chartering authority has determined that such a bank or banks are in danger of closing, an out-of-State bank or holding company may (a) purchase the stock of or otherwise acquire the holding company that controls such bank(s) as well as all of such holding company's other subsidiary banks or (b) acquire the bank or banks in danger of closing. Before the FDIC can assist a merger or acquisition, the board of directors of the bank in danger of closing must request in writing that FDIC assist a merger or purchase.

An out-of-State bank or holding company that purchases from another holding company a bank or banks in danger of failing with aggregate assets of $250 million or more under clause (b) would be permitted to acquire other bank subsidiaries of the holding company. Under this subparagraph, more than one out-of-State holding company may acquire portions of a single holding company, provided that each of the out-of-State holding companies purchases a bank or set of banks, each of which is in danger of closing, that has total assets of $250 million or more, and provided that all subsidiary banks that are in danger of closing account for at least 33% of the assets of all bank subsidiaries of the holding company.

There is no comparable provision in the present law. This provision is, however, essential if the Garn-St Germain extraordinary acquisition provisions are to be effective in States which permit multi-bank holding companies, but do not permit statewide banking. A number of States presently have such a banking structure.

The current Garn-St Germain provisions do not work effectively in such States, particularly where it is the lead bank in the holding company system that is in danger of closing. Potential bidders are deterred because they are limited to a single location and the most troubled part of the banking organization. Even if a bidder can be found for the lead bank, the continued viability of the other banks in the holding company system may be threatened by the loss of the lead bank. This is particularly the case where there are substantial financial relationships between the lead bank and the other banks in the holding company system. Thus, the adoption of this provision could substnatially reduce the financial demands on the FDIC, as well as the adverse effects on the communities served.

Subparagraph (B) provides that if a bank or holding company is eligible to be acquired by an out-of-State bank or holding company under subparagraph (A), but the FDIC provides financial assistance to prevent the closing, so long as FDIC assistance remains outstanding the bank, its holding company, and its bank affiliates can be sold to an out-of-State bank or holding company to the same extent it could have been when assistance was given. This subparagraph applies only when assistance was granted after April 15, 1986.

Subparagraphs (C) and (D) are essentially unchanged from current law.

Paragraph (4). Subparagraph (A) has been changed to confirm that a multiple savings and loan holding company can acquire an FDIC-insured Federal savings bank across state lines. Subparagraph (B) and (C) are unchanged.

New subparagraph (D) provides that an out-of-State holding company that acquires a bank or holding company under subsection 13(f) may, at any time, acquire additional banks located in the three largest metropolitan or consolidated metropolitan statistical areas or cities in each state in which a bank acquired under subsection 13(f) is located to the same extent that a holding company located in each of those states may expand. This amendment complements the flexibility provided under subparagraph 3(A) and is supported by the same policy considerations. It is particularly essential in unit banking States where bid-

ders for troubled institutions are deterred by the lack of further expansion possibilities.

Subparagraph (E) provides that an out-of-State bank or holding company that acquires and retains control, directly or indirectly, of a bank under this subsection shall not be required under State law, as a result of such acquisition, to divest any other bank or be prevented from acquiring any other bank in a different State. This paragraph does not prevent the requirement of divestiture to comply with competitive, antitrust and similar standards imposed under Federal law.

This provision, which is not contained in the current law, is in response to State law developments after passage of Garn-St Germain, and is necessary to enable a number of banks to make acquisitions under Garn-St Germain. The regional interstate banking bills of several States require that all of a bank holding company's subsidiary banks be located within a defined region. Accordingly, an out-of-State holding company which has acquired a bank in such a State would be required to divest that bank if it made an acquisition under Garn-St Germain outside the region. This provision would pre-empt such State laws only with respect to Garn-St Germain acquisitions.

Paragraphs (5), (6), and (7). These paragraphs contain provisions relating to the solicitation of offers by the FDIC, resolicitation of bids under certain circumstances, and applicable antitrust standards. They are essentially unchanged from current law.

Paragraph (8). New subparagraph (B) prescribes when a bank is "in danger of closing" and new subparagraph (C) defines when banks are affiliated for purposes of holding company acquisition under subparagraph (3).

Paragraph (9). This paragraph permits the FDIC, in its sole discretion, to assist an interstate transaction under the authority of state law rather than under this subsection. This provision affords the FDIC additional flexibility where a state has enacted its own interstate acquisition authority, but does not in any way limit the FDIC's authority under subsection 13(f).

Paragraph (10). This paragraph confirms that FDIC assistance in a transaction authorized under subsection 13(f) shall not be provided to any subsidiary of a holding company which is not an insured bank. This paragraph, however, is not intended to prevent an intermediate holding company from being a conduit for FDIC assistance ultimately intended for an insured bank.

Section 104: Unassisted extraordinary acquisitions

The Douglas Amendment to the Bank Holding Company Act provides that a bank holding company may not acquire a bank in another State unless that State has specifically authorized the acquisition by statute. This section would amend the Douglas Amendment to permit bank holding companies, under certain circumstances, to acquire banks located in another state where the banks are in danger of closing. This provision would only permit acquisitions of troubled banks that do not involve financial assistance from the FDIC. Acquisitions of troubled banks that involve financial assistance from the FDIC are governed by the preceding sections of this bill. Permitting the Federal Reserve Board to approve acquisitions of banks in danger of closing where the proposed acquisition does not require financial assistance from the FDIC will permit resolution of problems involving banks in serious and identifiable financial difficulties before those problems reach the stage when they require federal financial assistance, thus reducing potential demand on the FDIC's resources.

Subparagraph (2)(A). This subparagraph would amend the Douglas Amendment to allow a bank holding company to acquire a bank in another State when the bank is in danger of closing and has total assets of at least $250 million. This paragraph would also permit an out-of-State bank holding company to acquire a group of smaller banks that are subsidiaries of the same bank holding company if (1) each of the banks is in danger of closing, (2) the combined assets of the group of banks to be acquired is at least $250 million, and (3) the banks in danger of closing are owned by a bank holding company and represent at least 33 percent of the total assets of all bank subsidiaries of that holding company.

Subparagraph (2)(B). This subparagraph provides that a bank holding company that acquires a failing bank under this section may, as part of the transaction in which it acquires the failing bank, also acquire the parent holding company of the failing bank as well as any of the holding company's other subsidiary banks, wherever located, provided that the banks in danger of closing represent at least 33 percent of the total assets of all of the parent holding company's subsidiary banks. In this regard, the legislation would allow more than one out-of-State bank holding company to acquire portions of a single bank holding company, including healthy bank subsidiaries of the holding company, provided that each of the out-of-State bank holding companies purchases a bank or set of banks, each of which is in danger of closing, that has total assets of $250 million or more and provided that all subsidiary banks that are in danger of closing together account for at least 33 percent of the assets of all bank subsidiaries of the bank holding company. An out-of-State bank holding company may not acquire a healthy bank or a bank holding company under this provision unless the out-of-State bank holding company simultaneously acquires an affiliated bank or group of banks in danger of closing.

Subparagraph (2)(C). This subparagraph provides that an out-of-State bank holding company that acquires a failing bank under this legislation may, at any time, acquire additional banks located in the three largest metropolitan or consolidated metropolitan statistical areas or cities in each state in which a bank acquired under this section is located to the same extent that a bank holding company located in each of those states may expand. This places the out-of-State bank holding company on an equal footing with in-State bank holding companies in the three largest metropolitan areas in that state.

Subparagraph (2)(D). This subparagraph provides that an out-of-State bank holding-company that acquires a failing bank under this legislation could not be required under State law to divest other banks that it owns, as may be required under certain of the regional interstate banking compacts in existence today. This subparagraph does not prevent any divestiture that may be required to comply with competitive, antitrust, and similar standards imposed under federal law.

Paragraph (3). This paragraph provides that out-of-State bank holding companies may make an acquisition under this provision only if the acquisition is approved by the board of directors of each bank to be acquired or by the board of directors of the parent bank holding company of such banks.

Subparagraph (4)(A). This subparagraph provides that, before the Federal Reserve Board may approve an acquisition under this section, the Comptroller of the Currency in the case of national banks and the State bank supervisor in the case of State banks must certify to the Board that the bank to be acquired is in danger of closing. The bill defines a bank in danger of closing in the same manner as defined above in connection with acquisitions that involve federal financial assistance.

Subparagraph (4)(B). This subparagraph defines affiliated banks as banks that are subsidiaries of the same bank holding company, as those terms are defined in the Bank Holding Company Act.

Subparagraph (5)(A). This subparagraph requires that, before a bank in danger of closing or the parent bank holding company of such a bank enters into any discussions with an out-of-State bank holding company relating to the possible interstate acquisition of the bank without federal assistance under the provisions of this bill, the bank or its parent bank holding company must notify the State bank supervisor in each State in which the bank or any of its affiliated banks are located. This provision would permit the State bank supervisor an opportunity to ascertain whether an acceptable in-State or in-region solution exists for the troubled bank that does not require FDIC assistance. The bank in danger of closing or parent bank holding company must also attempt to arrange for an acquisition of the bank in danger of closing by an in-State or in-region bank holding company, an individual, or any other party that does not require use of the provisions of this section in a transaction that does not require federal assistance. Subparagraph (5)(A)(ii) provides that any application submitted by an out-of-State bank holding company to acquire a bank or bank holding company under this provision must describe efforts by the bank in danger of closing or its parent bank holding company to arrange an in-State or in-region acquisition and the reasons for rejection of any proposals submitted.

Subparagraphs (5) (B) and (C). These subparagraphs require, in addition, that the Federal Reserve Board consult with the State supervisor of the State or States in which each of the banks to be acquired under this section is located, and provides the appropriate State supervisors at least 48 hours to comment on the acquisition. As noted, the State supervisor will have been notified under the preceding subparagraph before the bank or holding company opened discussions with an out-of-State or out-of-region banking holding company.

Subparagraph (5)(D). This subparagraph prohibits the Federal Reserve Board from approving an interstate acquisition under this paragraph over the objection of the appropriate State supervisor, if the State supervisor certifies that a person or group of persons (1) stands ready to acquire each of the banks in danger of closing without use of the interstate acquisition provisions of this bill and without federal assistance; (2) offered, or attempted to offer, to purchase the banks in danger of closing prior to the time that the out-of-State bank holding company submitted its application under this provision to the Board; and (3) has the financial and managerial resources necessary to receive all required regulatory ap-

provals promptly and to recapitalize all of the banks in danger of closing without impairing the financial resources of the acquiring parties and without federal assistance. This provision permits the relevant state supervisor to exercise a preference for individuals or for bank holding companies located within the state in which the bank in danger of closing is located or in a State from which an interstate acquisition is permitted under state law enacted pursuant to the Douglas Amendment (for example, a bank holding company located in a state that has entered into a regional compact or other interstate arrangement with the State in which the failing bank is located).

Subparagraph (5)(E). This subparagraph permits the Federal Reserve Board to approve an acquisition by an out-of-State bank holding company in the event that a person or group of persons certified by the State supervisor does not receive all necessary regulatory approvals, or the Federal Reserve Board determines that the person or group of persons does not have the financial or managerial resources necessary to recapitalize the failing banks and, thereafter, to continue to meet all applicable regulatory requirements. Under this provision, the in-State or in-region offer certified by the supervisor does not have to match or exceed the offer by an out-of-State bank holding company. The only limitation on the in-State or in-region offer is that it must result in acquisition of all of the banks in danger of closing without any financial assistance from the Federal Deposit Insurance Corporation.

Paragraph (6). This paragraph authorizes the Federal Reserve Board to waive the requirements of notice to the appropriate chartering authority and opportunity for hearing ordinarily applicable to the acquisition by a bank holding company of a bank under section 3 of the Bank Holding Company Act for any acquisition authorized under this section or under the emergency provisions of section 13(f) of the Federal Deposit Insurance Act. This would enable the Board to waive the notice and hearing requirements of the Act in the event an out-of-State bank holding company was acquiring not only the failing bank but also the parent holding company and its other subsidiary banks. As described above, this section provides that the chartering authority be given notice of a proposed acquisition under this section and provides a mechanism for the State supervisor to object to the proposed acquisition.

This paragraph also authorizes the Board to shorten the post-approval waiting period required under section 11 of the Bank Holding Company Act for an acquisition approved under this paragraph, and to waive this period entirely to permit immediate acquisition of any or all of the banks to be acquired where the Board finds that immediate action is necessary to prevent probable failure of any of the banks acquired under this section.

TITLE II—FEDERAL DEPOSIT INSURANCE

SECTION-BY-SECTION ANALYSIS

Section 201: Short title

Section 201 provides that this title may be called the "Federal Deposit Insurance Improvements Act of 1986".

Section 202: Risk-related assessments

Section 202 of the Improvements Act allows the FDIC to vary the assessment rate that each bank must pay for FDIC insurance according to the risks that the bank presents to the FDIC's insurance fund. The assessment rate for any particular bank shall not exceed one-sixth of one per centum nor fall below one-twelfth of one per centum.

Any technique for measuring risks must be flexible enough to respond to changes in the banking environment. Accordingly, the Improvements Act specifies that the FDIC must act by regulation, but does not prescribe particular types of risks the FDIC must consider.

Section 203: Assessment of collateralized deposits

Section 203 of the Improvements Act enables the FDIC by regulation to include secured borrowings in the assessment base of insured banks. The purpose of this amendment is that, in light of the preference that the Improvements Act gives to deposits, creditors may seek to place themselves ahead of depositors by obtaining collateral from a bank as security for the funds provided by the creditor. Collateralized borrowings could remove substantial assets of a bank from the pool of assets available for the payment of general creditors. In effect, these collaterized borrowings would be the equivalent of insured deposits, but would never have been assessed.

Section 204: Procedure for removal of insurance

Under current law, before the FDIC brings an action for removal of insurance from a bank, the FDIC must give the chartering authority and the insured bank up to 120 days to correct violations of law or end unsafe or unsound practices. The Improvements Act eliminates this waiting period. The change will expedite the process for the removal of insurance and will reduce the period required for reaching a final determination in such cases by approximately six months.

Section 205: Enforcement procedures

Section 205 of the Improvements Act enables the appropriate Federal banking agency for a bank to issue cease-and-desist orders specifically directed at the activities of any director, officer, employee, or agent of an insured bank; or at the activities of any other person participating in the conduct of the affairs of such bank. The agency may censure or place limitations on the activities or functions of any such person, or suspend or bar him or her from participating in the affairs of that bank, or of any other insured bank, for up to twenty-four months. This change provides a less onerous means of temporarily removing people whose activities do not rise to the level contemplated for total removal pursuant to Section 8(e) of the FDI Act. See 12 U.S.C. § 1818(b)(1).

Section 205 of the Improvements Act authorizes the banking agencies to issue temporary orders that place limitations on the activities or functions of a bank, its directors, officers, employees, or agents, and on the activities or functions of any other person participating in the conduct of the affairs of the bank, or that suspend or bar any such person from participating in the affairs of that bank, or of any other insured bank, pending the completion of the proceedings. See 12 U.S.C. § 1818(c)(1).

Section 205 of the Improvements Act clarifies the banking agencies' existing authority by amending Section 8(e) of the FDI Act to provide that, when a Federal banking agency has removed a person from office at one insured bank, the agency may prohibit that person from participating in the affairs of any insured bank without the agency's prior written approval. See 12 U.S.V. § 1818(e)(1), (2) & (4). The Improvements Act further clarifies existing authority in confirming that agencies have jurisdiction and authority to proceed under Section 8(e) of the FDI Act against bank officials who have left office within one year prior to the date on which the agency has instituted the proceedings against them or the bank. See 12 U.S.C. § 1818(e)(6).

Section 206: Power to define terms

Section 206 of the Improvements Act makes it clear that the FDIC has the power to define any terms used in the FDI Act that are not specifically defined by the FDI Act, and to interpret definitions that are provided in the FDI Act.

Section 207: Examinations

Section 207 of the Improvements Act makes it clear that the FDIC has authority to interpret the definition of the term "affiliate" as that term is used in section 10 of the FDI Act. Section 10 or the FDI Act empowers the FDIC to make regular examinations of the banks it regulates and their affiliates, and to make special examinations of other insured banks and their affiliates. The Improvements Act enables the FDIC to define "affiliate" broadly enough to prevent evasions of the purpose and intent of Section 10 of the FDI Act.

Section 208: Priorities in claims

Section 208 of the Improvements Act establishes, as a matter of Federal law, a uniform set of priorities for paying claims against failed banks estates. Currently national banks are liquidated in accordance with Federal law, while State banks are liquidated in accordance with State law. Federal law treats all claimants alike. Accordingly, bank customers in the same State may be treated differently depending on whether their bank is a State-chartered bank or a national bank. The Improvements Act eliminates this disparity. It follows the lead of the fourteen States that have modernized their laws to give priority to depositors.

In establishing Federal priorities for claims, the Improvements Act also provides a nationwide standard for paying claims against the estates of failed banks. This result is beneficial in at least two ways. First, it provides greater certainly to depositors and other creditors regarding the character of their claims. Second, it facilitates the use of purchase-and-assumption transactions for banks wherever they are located.

The priorities are as follows:

Priority 1. This category includes three kinds of claim: administrative expenses of the receivership; reasonable administrative expenses of the bank or branch incurred within thirty days of the closing; and all claims of the United States Government.

The receivership's administrative expenses include any and all advances that the receiver may make to preserve, protect, or enhance any receivership asset, and all costs that the receiver may incur in operating the receivership.

The administrative expenses of the bank include expenses such as employees' wages, services provided by accountants, attorneys, appraisers, or examiners, and other operating expenses normally incurred in the course of the business and operations of banking. A priority for such claims assures that a bank can operate normally until closing. Accordingly, all claims of this kind fall within Priority 1, but only if they are reasonable in amount and in kind, as deter-

mined by the receiver in its sole discretion. If the receiver does not recognize a claim as qualifying for Priority 1, the claim is in whatever lower category is appropriate, according to the nature of the claim.

In affording claims of the United State Government a priority over all other claims (except those also included in Priority 1), the Improvements Act retains the policy expressed in 31 U.S.C. 3713. That statute generally gives claims of the United States Government a priority over all other claims. The priority only applies to claims against State banks, however, because the National Bank Act provides for ratable distribution of claims against the estate of a failed national bank. 12 U.S.C. § 194; *See Jennings* v. *United States Fidelity Guaranty Co.*, 294 U.S. 216 (1935). The Improvements Act extends this policy to national banks as well. It thereby establishes a uniform treatment of claims filed by the United States Government, without regard for whether the claims are filed against State banks or national banks.

The question whether a claim of a particular agency is entitled to priority is to be decided in the same manner under the Improvements Act as under 10 U.S.C. § 3713. In this connection, it should be noted that 10 U.S.C. § 3713 does not confer priority on claims of the Corporation against a failed bank, and the Improvements Act retains this treatment of such claims. The Corporation's claims only fall within Priority 1 if they are claims for "administrative expenses of the receivership."

Priority 2. This category includes all claims for deposits, and all claims of the Corporation as subrogee to depositors. The term "deposit" does not include foreign deposits or deposits held by international banking facilities. Claims based on such obligations have a lower priority (generally Priority 3).

Priority 3. This category includes all other claims that have accrued and become unconditionally fixed by the time of closing and that are then due and owing. Ordinarily, claims of this kind are shown as liabilities on the books of the bank at the time of closing. But Priority 3 excludes such claims when they are related to subordinated debt or stock.

The Improvements Act provides that the receiver shall pay all claims in Priority 3 before paying those of lower priorities. Accordingly, the receiver has much greater flexibility in dealing with the estate of a failed bank. In addition, the receiver can more accurately compare the costs of liquidating the failed bank's assets, of arranging a purchase-and-assumption transaction with a solvent bank, and of organizing a bridge bank to carry on the failed bank's business for a temporary period.

Priority 4. This category includes all other claims except claims related to subordinated debt or stock. The vast majority of claims in Priority 4 are contingent claims—*e.g.*, lawsuits that have not yet reached final judgment, standby letters of credit, and other such claims.

Priority 4 also includes claims for accelerated stipulated or liquidated damages that accrue upon the closing of the bank or branch, except such claims that pertain to subordinated debt or stock. Accordingly, the Improvements Act prevents a claimant from elevating a claim to Priority 3 merely by having an agreement providing for such damages.

Priority 5. This category includes claims for subordinated debt that the bank has issued to the Corporation, and any other subordinated debt that is issued and outstanding on the effective date of the Federal Deposit Insurance Improvements Act of 1986. If Corporation does not hold subordinated debt of the bank at the time the bank closes, all subordinated debt falls within Priority 6. Claims based on agreements for accelerated, stipulated or liquidated damages that pertain to agreements to subordinated debt identified in Priority 5 likewise fall within Priority 5.

Priority 6. This category includes all other claims for subordinated debt. Claims based on agreements for accelerated, stipulated or liquidated damages that pertain to subordinated debt identified in Priority 6 likewise fall within Priority 6.

Priority 7. This category includes claims by shareholders based on stock ownership, together with claims for accelerated, stipulated or liquidated damages based on such stock ownership.

The Improvements Act permits a receiver to make distributions of the assets of the estate of the bank or branch to the claimants within any priority category on a *pro rate* basis at any time, so long as the receiver has made provision for paying all claims of any higher priority in full. The receiver is not obligated to delay distributions to domestic claimants as a result of impediments, whether procedural or substantive, in obtaining payment of claims that are subject to procedures established by foreign governments, however.

The Improvements Act provides for the accrual of interest on claims after the closing of a bank, and prescribes the rate at which interest shall accrue on such claims. The rate is determined at the start of the receivership, and remains the same throughout the receivership's life.

Section 209: Subrogation

Section 209 of the Improvements Act provides that, as a matter of Federal law, the Corporation shall be subrogated to all rights of a depositor when the Corporation makes payment of insurance to him or her for the insured portion of his or her deposit. The Corporation is only subrogated to the extent of such payment; the depositor retains his or her claim against the failed bank's estate for any amounts exceeding the insurance payment.

The subrogation includes the right to receive the same dividends from the proceeds of the assets of such closed bank as would have been payable to the depositor on a claim for the insured deposit.

Currently, the FDIC may make insurance payments only if State law recognizes the FDIC's rights as subrogee. Where State law does not explicitly provide for such subrogation, the FDIC must assure itself of such subrogation by another means—typically, by requiring the depositor to transfer such rights to the FDIC as a condition of receiving insurance. Techniques like these are needlessly costly, however. The Improvements Act eliminates the need for them.

Section 210: Bridge banks

Section 210 of the Improvements Act creates a new vehicle, called a "bridge bank," for dealing with bank failures. This vehicle enables the FDIC to "bridge" the gap between the failed bank and a satisfactory purchase-and-assumption or other transaction that cannot be accomplished at the time of failure.

A "bridge bank" is a new national bank established by the FDIC to take over the assets and liabilities of a failed bank and to carry on its business for a limited period of time. The FDIC may only establish a bridge bank if it finds that:

The cost of organizing and operating a bridge bank will not exceed the cost of liquidating the failed bank, including paying its insured accounts; or

The continued operation of the failed bank is essential to provide adequate banking services in its community; or

The continued operation of the failed bank is in the best interest of the depositors of the closed bank or the public.

The FDIC must dispose of the stock of a bridge bank within two years. The FDIC may, after consulting with the Comptroller of the Currency, extend this deadline for a maximum of one year.

Bridge banks have all the powers of other national banks. Bridge banks do not always have capital, however. Accordingly, the Improvements Act frees them from various statutory limits based on bank capital, and instead empowers the Comptroller of the Currency to specify appropriate limits.

When a bridge bank has taken over a failed bank, and the failed bank could have been acquired by a bank owned by an out-of-state holding company under Section 13(f) of the FDI Act, 12 U.S.C. § 1823(f), the bridge bank may likewise be acquired by a bank owned by an out-of-state holding company, or directly by an out-of-state bank or holding company.

Section 211: Branching

The FDI Act now provides that, if a bank wishes to establish a new domestic branch, or to move an existing domestic branches (including its main office), the FDIC must approve the action in advance. The Improvements Act relaxes this restriction. It provides that an insured nonmember bank need only notify the FDIC within thirty days of the date on which the bank establishes and begins to operate a domestic branch (including its main office) at a new location. The rules regarding foreign branches remain unchanged. See 12 U.S.C. § 1828(d)(1).

Section 212: Technical and conforming amendments

Section 212 of the Improvements Act strikes out various obsolete provisions, and corrects typographical errors in the present text of the FDI Act. These changes are nonsubstantive in nature.

TITLE III—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION

SECTION-BY-SECTION ANALYSIS

Section 301

Section 301 provides that this title may be called "Federal Savings and Loan Insurance Corporation Recapitalization Act of 1986."

Section 302

Section 302 amends the Federal Home Loan Bank Act to add a new section 21 that would require the Federal Home Loan Banks ("FHLBanks" or "Banks") to invest in the newly created "Financing Corporation", which, in turn, would be required to invest in the Federal Savings and Loan Insurance Corporation ("FSLIC"). Under paragraph (1) of subsection (a) of new section 21 of the Federal Home Loan Bank Act, the Federal Home Loan Bank Board ("board") would be required to charter the Financing Corporation, which would be under the direction of the Financing Corporation Directorate ("Directorate"), and operated by the Directorate subject to the

board's rules, regulations, orders, and directions. Subsequent provisions of this Act describe the Financing Corporation, which would be owned by the FHLBanks and would be used as a means of financing an equity transfer to FSLIC. Paragraph (1) also would require each FHLBank to purchase non-voting capital stock in the Financing Corporation at such time and in such amounts as prescribed by the board. The stock would have par value and would be transferable only among the Banks, in the manner prescribed by the board. The Banks' investment would be lawful, notwithstanding limitations found elsewhere in the Federal Home Loan Bank Act.

The Directorate would consist of three members, one of whom would be the Director of the Office of Finance of the FHLBanks or his successor, and two of whom would be selected by the Chairman of the Federal Home Loan Bank Board from among the presidents of the FHLBanks. Each of the two FHLBank presidents would serve for a term of one year. No president of a FHLBank could be selected to serve an additional term on the Directorate unless each of the FHLBank presidents had already served at least as many terms as the president being selected to serve the additional term. The legislation provides that the Chairman of the Federal Home Loan Bank Board will select a chairman of the Directorate from among its three members.

Paragraph (2) of subsection (a) of new section 21 would limit the aggregate amount of the Banks' investment in the Financing Corporation to $3 billion, and the cumulative investment by each Bank to the aggregate of its legal reserves plus "undivided profits." For purposes of the Banks' investment in the Financing Corporation, the language referring to legal reserves and "undivided profits" is intended to include all retained earnings of the FHLBanks except for those amounts held in the "dividend stabilization reserve" as of December 31, 1985. The "dividend stabilization reserve" is excluded from investment in the Financing Corporation because it includes funds, above the legal reserves, that had been determined not to be dividended in the year earned, so as to create a possible supplement to future years' dividends. This special dividend reserve, would, however, have to be used completely before a FHLBank, subject to board approval, could ever draw on its legal reserves under the circumstances outlined under section 305 of this Act. To ensure that only the amount held in the "dividend stabilization reserve" as of December 31, 1985, is excluded from the amounts that may be invested in the Financing Corporation, the legislation specifically lists the amounts held by each FHLBank in its "dividend stabilization reserve" as of December 31, 1985. For purposes of this Act, "undivided profits" includes retained earnings other than legal reserves and amounts held in the "dividend stabilization reserve" as of December 31, 1985. "Legal reserves" refers to the amount each FHLBank has and is required to carry to a reserve account pursuant to the first two sentences of Section 16(a) of the Federal Home Loan Bank Act.

Under paragraph (3) of subsection (a) of new section 21, each FHLBank would be required to purchase a specified percentage of the first $1 billion of stock in the Financing Corporation. The percentage of the first $1 billion that each Bank is required to invest in non-voting capital stock of the Financing Corporation is derived from a formula taking into account each Bank's individual share of total FHLBank System retained earnings (minus their "dividend stabilization reserves") and the share of FSLIC-insured deposits held by each Bank's member institutions. By taking into account the shares of FSLIC-insured deposits held by Banks' member institutions, the formula accommodates Banks' member institutions that are insured by the Federal Deposit Insurance Corporation.

Allocation of the remaining stock purchases is based on the percentage of total assets of FSLIC-insured members represented at each Bank; however, the amount of stock that any FHLBank would be required to purchase is limited to the total of its legal reserves plus undivided profits, which are described above. The aggregate amount of Financing Corporation stock that must be purchased by all of the FHLBanks is not reduced because of the above limitation, which may affect particular Banks. Therefore, paragraph (4) of this subsection provides for a reallocation of stock purchases among Banks that have not reached their limits.

Paragraph (4) of subsection (a) of new section 21 provides that if a Bank could not purchase the full amount of stock in the Financing Corporation because that amount exceeded its legal reserves plus undivided profits, the amount that that Bank could not purchase would be prorated for investment among the remaining FHLBanks based on their stock holdings in the Financing Corporation, as long as the cumulative amount of funds required to be invested in by the remaining Banks did not exceed their legal reserves and undivided profits. Any such FHLBank that did not purchase the full amount of Financing Corporation stock as required under the formula in the preceding paragraph would be obligated to purchase at some future time from those Banks to which such stock was reallocated, the stock that would have originally been allocated to it. Until the restricted Bank had fulfilled this repurchase obligation, it would be prohibited from paying dividends in excess of one-half of its net earnings. Such funds not paid out in dividends would be placed in a reserve required by the board and would not be available for dividends.

Under subsection (b) of new section 21, the Financing Corporation, subject to rules, regulations, orders, and directions prescribed by the board, would be provided with corporate powers necessary and appropriate for its operation as a specialized entity. Such corporate powers would include the power to issue obligations in the form of non-voting capital stock to the FHLBanks; to invest in any securities issued by FSLIC; to borrow from the capital markets by issuing debt, the maturity of which (including any refinancings) could not exceed thirty years, and the net proceeds of which would be required to be invested in FSLIC, or used to refund obligations whose net proceeds were so invested, under terms and conditions approved by the board; and other powers which are customary and usual for corporations generally. Under the terms of this subsection, the Financing Corporation would have no paid employees and the Directorate could, with the approval of the board, authorize the officers, employees, or agents of the FHLBanks or board to act on behalf of the Financing Corporation to perform the Financing Corporation's functions.

Under paragraph (1) of subsection (b) of new section 21, obligations of the Financing Corporation (which would be issued only with the approval of the board), like FHLBank obligations, would be lawful investments, and could be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which would be under the authority or control of the United States or any officer or officers thereof. This subsection would also authorize the Federal Reserve banks to act as depositaries, custodians, and/or fiscal agents for the Financing Corporation in the general performance of its powers under this Act.

Pursuant to paragraph (2) of subsection (b) of new section 21, obligations of the Financing Corporation would be treated in the same manner as FHLBank obligations for purposes of investment, sale, underwriting, purchase, use as collateral, and dealing by financial institutions such as banks, thrifts, and credit unions.

Under paragraph (3) of subsection (b) of new section 21, the Financing Corporation would bear exclusive liability for its obligations and interest thereon. The Financing Corporation's obligations and interest thereon would no be obligations of or guaranteed by the FHLBanks, the United States, or FSLIC. Obligations of the Financing Corporation would have the same tax status as obligations of the FHLBanks and the Financing Corporation would have the same tax status as the FHLBanks. The Secretary of Treasury would be authorized to prepare the necessary forms of stock, debentures, and bonds, as approved by the board, pursuant to Section 23 of the Federal Home Loan Bank Act, for obligations of the Financing Corporation, as the Secretary of Treasury is also so authorized for obligations of the FHLBanks.

Under paragraph (4) of subsection (b) of new section 21, all instruments issued by the Financing Corporation would be exempt securities under the provisions of the Federal securities law administered by the Securities and Exchange Commission. This exemption is the same as that enjoyed by obligations of the FHLBanks.

Under paragraph (5) of subsection (b) of new section 21, the Financing Corporation would be prohibited from making any net new borrowings after December 31, 1996, although the Financing Corporation would be permitted to refinance previously issued debt after December 31, 1996. Refinancings of previously issued debt could not mature later than December 31, 2026.

Paragraph (6) of subsection (b) of new section 21 would accord the Financing Corporation the same coverage under the Government Corporations Control Act as the FHLBanks are accorded under that Act pursuant to Section 11(j) of the Federal Home Loan Bank Act (12 U.S.C. 1431(j)). Thus, audits of the Financing Corporation by the General Accounting Office could be conducted although the Financing Corporation would have no Government capital invested in it. In addition, the Secretary of the Treasury, a Federal Reserve Bank, or a bank designated as a depositary or fiscal agent of the United States Government would have the authority to keep the Financing Corporation's accounts (although the Secretary of Treasury could waive this provision regarding accounts and there is separate authority for Federal Reserve banks to act as depositaries, custodians, and/or fiscal agents for the Financing Corporation pursuant to new paragraph 21(b)(2)). Before the Financing Corporation could issue obligations and offer them to the public, the Secertary of the Treasury would prescribe the various conditions to which the obligations would be subject (in-

cluding the form, denomination, maturity, and interest rate), the way and time the obligations would be issued, and the price for which the obligations would be sold. This procedure is currently in place for the issuers who are subject to Section 9108(a) of title 31, United States Code (part of the Government Corporations Control Act) and in practice the Treasury generally approves terms and conditions on obligations as proposed by these issuers. Finally, before the Financing Corporation could buy or sell a direct obligation of the United States Government, or an obligation on which the principal, interest, or both, is guaranteed, of more than $100,000, the Secretary of Treasury would have to approve the purchase or sale, although the Secretary could waive this requirement. All of these authorities also pertain to the FHLBanks' issuance of debt.

Under new subsection 21(c) the Financing Corporation would invest those assets that it does not invest in FSLIC, in the same set of obligations and under the same conditions as FHLBanks are permitted to invest their reserves under the current Section 16 of the Federal Home Loan Bank Act. These investments include: (1) investments in zero-coupon securities, which investments would be used to defease at maturity the principal of debt issued by the Financing Corporation; and (2) short-term investments of the net proceeds of debt issued by the Financing Corporation prior to the purchase of FSLIC capital stock and certificates.

Under new subsection 21(d), obligations issued by the Financing Corporation and outstanding would be issued at such times and in such amounts as the board determines, but would not be permitted to exceed the greater of (1) five times the Financing Corporation's paid-in capital, as determined by the board, or (2) the face amount (which for zero-coupon securities would be the principal amount due at maturity) of obligations invested in by the Financing Corporation pursuant to subsection 21(c). The second restriction would permit the Financing Corporation to exceed a five-to-one leverage only if it could purchase securities whose amount due at maturity would at least equal the principal amount due on all the Financing Corporation's debt, thereby ensuring that the debt principal would be repaid.

New subsection 21(e) would require both retirement of all Financing Corporation obligations and liquidation of the Financing Corporation no later than December 31, 2026. This date relates to the date in new subsection 21(b) which provides both that the Financing Corporation cannot issue obligations whose maturities exceed thirty years, and that the Financing Corporation can make no net new borrowings after December 31, 1996. The board, on behalf of the FHLBanks, would be the successor to the powers of the Financing Corporation deemed necessary by the board to be preserved.

Section 303

Section 303 would establish the status of the Financing Corporation as a "mixed ownership" government corporation, which is the same status accorded to FHLBanks, under the Government Corporations Control Act. Although there would be no government capital invested in the Financing Corporation, this category of "mixed ownership" has been accorded to the Financing Corporation to provide it with parallel legal status to that of the FHLBanks.

Section 304

Section 304 would empower FSLIC to issue equity in the forms of redeemable nonvoting capital stock and non-redeemable capital certificates. The non-voting capital stock would be issued in an amount equal to the aggregate investment by the FHLBanks in the Financing Corporation. The Financing Corporation would be the sole purchaser of both the capital certificates and the capital stock issued by FSLIC, and proceeds paid to FSLIC from that purchase would be included as part of the primary reserve of FSLIC. The capital certificates and stock would pay dividends equal to the Financing Corporation's interest payments on its obligations and issuance and reasonable direct administrative costs, on or before the dates on which such amounts would be due and payable, minus any net interest payments to the Financing Corporation on short term investments of the proceeds of its obligations prior to the purchase of capital certificates and capital stock in FSLIC, as determined by the board. Thus, dividends paid by FSLIC will cease at such time that all Financing Corporation obligations mature since the Financing Corporation will be dissolved at that time.

This section also would authorize FSLIC to pay off and retire its capital stock upon maturity of all the obligations issued by the Financing Corporation. Since FSLIC's capital certificates would be non-redeemable, FSLIC would extinguish them with no payoff at the time FSLIC retired the capital stock. FSLIC would be authorized to make such payoff on the retired capital stock solely with its contributions accumulated in its "equity return account," an account created under this Act that could include annual contributions made by FSLIC according to statutorily prescribed formulae. Any such contributions would be made at the end of each year beginning in 1997 and ending in the year during which the last obligation of the Financing Corporation matures. Contribution amounts made to the equity return account would not be included as FSLIC reserves. Such contribution amounts would be the only monies included in the equity return account. Any interest earned on the funds in the equity return account would be for the account of FSLIC and would not be included as part of the equity return account, but would be added to the reserves of FSLIC. While the contributions to the equity return account would be made annually as prescribed above, no payoff and retirement of FSLIC stock would be authorized to be made until the maturity of all Financing Corporation obligations.

The formulae for the annual contributions are described below. No annual contributions can be required to be made if the FSLIC reserves are less than .50 percent of all accounts of all insured members (as of December 31 of the preceding year). In any year in which FSLIC's reserves are equal to .50 percent of all accounts of all insured members or greater (as of December 31 of the previous year), the contribution would be the amount invested by the Financing Corporation in FSLIC capital stock, divided by the number of years from the first year after 1996 that the reserves to accounts ratio reached .50 percent to the year in which the last maturing obligation of the Financing Corporation matures (which could be no later than 2026).

The legislation also provides for additional contributions as determined by the board, under certain circumstances. In any year in which the FSLIC's reserves are equal to 1.0 percent of all accounts of all insured members or greater up to and including 1.25 percent of all such accounts (as of December 31 of the preceding year), the additional contribution as determined by the board could be a maximum of 6 percent per year compounded on the amount invested by the Financing Corporation in FSLIC capital stock computed from the year the investment was made to the year in which the last maturing obligation of the Financing Corporation matures (not later than 2026), divided by the number of years from the first year after 1996 that the reserves to accounts ratio reached 1.0 percent to the year in which the last maturing obligation of the Financing Corporation matures. The legislation sets forth two other formulae for possible additional contributions if the reserves to accounts ratio of FSLIC were to increase, raising the percentage compounded and subtracting from these in the numerator of the fraction, the amounts already paid out in additional contributions. All these additional contributions, which would be above the repayment of the amount invested by the Financing Corporation in FSLIC capital stock, would be the subject to the discretion of the board.

This legislation is structured carefully to create, in a fair and appropriate manner, budgetary collections from the equity investments in FSLIC that would offset budgetary outlays resulting from FSLIC's case resolution costs. The equity investments in FSLIC should be counted as offsetting collections for three primary reasons. First, FSLIC would never repay, under any circumstances, the bulk of the funds invested in it by the Financing Corporation (the non-redeemable capital certificates). Second, any possible repayment of the capital investment in FSLIC stock at time of retirement would be dependent on FSLIC's financial performance. Indeed, the FHLBank's capital contribution to the Financing Corporation may never be paid back, as would be clearly reflected in the FHLBank's independently audited financial statements. Finally, FSLIC would have no responsibility to pay off the principal of the Financing Corporation's debt; the Financing Corporation's debt would be solely its own responsibility.

Section 304 also makes clear that the term "Financing Corporation" refers to the corporation chartered pursuant to section 302 of this legislation, new section 21 of the Federal Home Loan Bank Act.

Finally, section 304 makes clear that certain statutorily prescribed actions regarding the FSLIC's primary and secondary reserves could not be triggered as long as shares of the capital stock of the FSLIC are outstanding.

Section 305

Section 305 would amend Section 16 of the Federal Home Loan Bank Act to allow the board, under certain circumstances, to authorize a FHLBank to declare and pay dividends out of its undivided profits or legal reserves, but only after such Bank has reduced all other reserves (e.g., the "dividend stabilization reserve") to zero. Such an extraordinary dividend may be permitted where (1) a FHLBank incurs a charge-off related to its investment in the Financing Corporation and (2) the board determines there is an extraordinary need for payment of such dividends. Any such use of undivided profits or legal reserves would not affect the requirements for FHLBanks' investments in Financing Corporation stock.

Section 306

Section 306 is meant to clarify that the sentences referring to the retirement of capital stock in subsection 402(h) of the National Housing Act do not cover either FSLIC stock or FSLIC certificates issued pursuant to this Act.

TITLE IV—THRIFT INSTITUTIONS INVESTMENT ACT OF 1986

SECTION-BY-SECTION ANALYSIS

Section 401: Short title

Section 401 provides that the title of this Act is the "Thrift Institutions Investment Act of 1986".

Section 402: Equality of thrift and bank holding company affiliate transactions

Section 402 amends subsection (d) of section 408 of the National Housing Act to equalize the restrictions on inter-affiliate transactions within a savings and loan holding company ("S&L holding company") and a bank holding company ("BHC"). The new subsection (d)(1) would limit interaffiliate transactions within an S&L holding company to those transactions banks are permitted under section 23A and the new section 23B of the Federal Reserve Act.

The purposes of this amendment are: (1) to promote parity of regulation of bank holding companies and S&L holding companies; and (2) to maintain stringent safety and soundness rules for S&L holding companies. By equalizing S&L holding company treatment with that of BHCs, it would increase incentives to purchase troubled savings and loans, help savings and loans attract more capital, and promote competitive offerings by S&L holding companies comparable to those available through BHCs.

Section 408(d) of the National Housing Act, 12 U.S.C., section 1730a(d), imposes restrictions on transactions between an S&L and its affiliates that are markedly more onerous than apply to transactions between banks and their affiliates under section 23A of the Federal Reserve Act, 12 U.S.C., section 371c. Section 408 totally prohibits a number of transactions between S&Ls and their affiliates, and those that are not prohibited are authorized only with advance approval by the Federal Savings and Loan Insurance Corporation ("FSLIC")—a requirement that imposes impractical inconvenience, inefficiency and delay.

Section 23A, on the other hand, relies on strict restrictions on affiliate transactions to prevent abuses. Section 23A limits a bank's transactions (i.e., extensions of credit and transactions having the effect of funding the affiliate) with any single affiliate to 10 percent of the bank's capital and surplus, and with all affiliates to 20 percent. Furthermore, all such transactions must be fully secured. Section 23A has been applied to bank holding companies successfully for many years.

The new section 23B would require arms' length dealing between a bank or thrift and its affiliates with respect to various types of transactions, including transactions covered by section 23A, the sale of assets or furnishing of services, transactions in which the affiliate acts as agent, and third-party transactions in which the affiliate has an interest. Section 23B also would prohibit the bank or thrift from agreeing to be responsible for its affiliates' debts or so advertising, and from using a name similar to that of its securities affiliate. In addition, it would restrict certain securities transactions between a bank or thrift and its securities affiliate in order to prevent conflict of interest abuses.

The new subsection (d)(2) would clarify that sections 23A and 23B do not apply to credit card transactions by any person with an affiliate of an S&L to purchase goods or services from such affiliate of an S&L that extends credit on an S&L-issued credit card, as long as the proceeds are used solely to satisfy charges incurred with the credit card and the card can be used to finance purchases at unaffiliated firms. The purpose of subsection (d)(2) is to avoid a possible interpretation of section 23A prohibiting firms from accepting credit card purchases where the credit was extended by an affiliated S&L. Section 23A has not been so interpreted in the past. The requirement that the card can be used at unaffiliated firms is intended to prevent the S&L from unfairly benefiting its affiliates with subsidized credit.

Section 403: Conformity of affiliation restrictions

Section 403 would prohibit States from imposing restrictions on affiliations of S&Ls to a greater extent than they are restricted by Federal law. It also would prohibit States from imposing licensing or other requirements on S&L affiliates or their employees, officers or agents that are more restrictive than those applicable to similar firms that are not affiliated with an S&L.

These laws pose a major barrier to purchasers of troubled S&Ls. Many of these prospective purchasers would be barred because they own one or more "disfavored" businesses even though Federal law would permit the combination. As a result they limit FSLIC's options for attracting purchasers of ailing savings and loans.

Section 404: Limited transactions in savings and loan stock

Section 404 would allow securities subsidiaries of S&L holding companies to trade and engage in secondary market transactions in shares of any nonsubsidiary S&L or S&L holding company in an amount not exceeding five percent of the S&L's or S&L holding company's outstanding voting securities. This limited exception is intended to allow diversified S&L holding companies to maintain limited trading positions in S&L stocks.

Section 408(e)(i)(A)(iii) of the National Housing Act, 12 U.S.C., section 1730a(e)(i)(A)(iii), currently prohibits both unitary and multiple S&L holding companies directly or indirectly from acquiring any voting shares of a nonsubsidiary (i.e., not controlled) FSLIC-insured S&L or S&L holding company. It also prohibits multiple S&L holding companies from acquiring more than five percent of a company not a subsidiary which is engaged in activities impermissible for multiple S&L holding companies. The FHLBB interprets these provisions as prohibiting S&L holding companies from underwriting, trading or marking markets in any S&L securities.

Amending this section to permit limited trading in S&L shares would attract new purchasers of ailing S&Ls and channel capital into the S&L industry. Diversified financial firms with substantial capital often have securities affiliates. The proposed amendment accommodates their securities activities in a safe way by allowing them only to trade in S&L stock so they can continue to serve their customers.

Section 405: Relating debt limits to capital

Section 405 would increase the amount of debt (as a percentage of consolidated net worth) that certain well-capitalized nondiversified S&L holding companies may issue without requesting specific written approval of FSLIC. Currently a nondiversified S&L holding company cannot issue debt exceeding 15 percent of its consolidated net worth without specific FSLIC approval. This section would increase the threshold from 15 percent to 30 percent (or greater with the written approval of FSLIC) for S&L holding companies that meet certain capital standards.

To be eligible for this exception, each of the holding company's insured institutions must have been in compliance with minimum capital standards for two of the preceding three fiscal quarters and be in compliance with such standards for all fiscal quarters that its debt exceeds 15 percent of consolidated net worth.

Section 408(g) of the National Housing Act, 12 U.S.C., Section 1730a(g), currently restricts the issuance of debt securities by "nondiversified" S&L holding companies—those whose S&L and "related activities" constitute 50 percent or more of either their consolidated net worth or their consolidated net earnings. As the "related activities" (i.e., activities permissible for multiple S&L holding companies) expand, more parent companies find themselves to be "nondiversified" under this definition. A "nondiversified" S&L holding company may not incur debt in excess of 15 percent of consolidated net worth without advance approval by FSLIC. (The term "debt" is very broadly defined and may even include checking accounts.) The process of receiving the prior approval of FSLIC to incur or roll over debt is time consuming and can impede a diversified S&L holding company from effectively utilizing the capital markets. There is no comparable restriction on BHCs.

These restrictions discourage acquisitions of problem thrifts and infusions of capital into the thrift industry. S&L holding companies need to be able to adjust their financial structure quickly in order to be able to take advantage of business and financial opportunities as they arise. Flexibility is especially important to acquirers of problem S&Ls because they will need to change past business practices in order to return these S&Ls to profitability and competitiveness.

Section 405 is intended to eliminate the prior approval requirement for a substantial number of debt transactions that do not involve a potential for undue risk—both because leverage of 30 percent or less does not present undue risk to properly capitalized institutions and because the existence of minimum regulatory capital ensures that there is an adequate cushion to protect depositors, owners, and FSLIC.

Section 406: Waiver options for interlocking directorates in emergency acquisitions

Section 406 creates a presumption that management arrangements otherwise prohibited by the Depository Institution Management Interlocks Act as permissible with respect to companies that become S&L holding companies by acquiring failing thrifts. However, the FHLBB may rebut that presumption with a determination, within 60 days after notice of an arrangement that otherwise would be prohibited, that (1) it would be an interlock that would result in a monopoly or substantial lessening of competition, and (2) the services provided by the management official could not be structured or limited so as to preclude such anticompetitive results.

The Depository Institutions Management Interlocks Act, 12 U.S.C., sections 3201-3208, currently prohibits a management official of a depository institution from serving as a management official of another nonaffiliated depository institution or depository institution holding company if an office of an affiliate is located in the same standard metropolitan statistical area. The Act also prohibits managerial officials of a depository institution or depository holding company with assets exceeding $1 billion from serving as a management official of any nonaffiliate having total assets exceeding $500 million. There are a number of statutory exceptions, and the FHLBB is authorized to adopt rules and regulations allowing interlocks which otherwise would be proscribed by the Act.

Any effort to attract more capital to the S&L industry to lower FSLIC's costs and strengthen the industry in the future depends in part on the interest of large, diversified corporations. Many of these firms have bankers on their boards, who could not continue in that capacity under current law unless the FHLBB grants a waiver. This amendment simply signals a willingness to presume that these executives may remain as directors, unless the FHLBB decides that their presence is harmful to competition. In that event, the FHLBB could still prohibit the director's service.

Section 407: Thrift subsidiary arrangements

Section 407 makes clear that certain joint sales and marketing arrangements and cross-advertising between a thrift subsidiary of a bank holding company on one hand, and the parent holding company and its other bank or nonbank subsidiaries on the other, are not prohibited under the public benefits balancing test (i.e., the "proper incident" test) prescribed by the Bank Holding Company Act ("BHC Act"). While this provision authorizes specified operations under the BHC Act public benefits test, it is not meant to override any other provision of law. For example, all operations would remain subject to antitrust laws, tie-in restrictions, charter limitations, interstate prohibitions, and other applicable provisions of law.

Section 408: Thrift acquisitions

Section 408 amends section 4(c) of the BHC Act by adding a new section 4(c)(16). Under this new section, a BHC which acquires a failing institution under 408(m) of the National Housing Act would be permitted to invest, notwithstanding any other provision of law, in such service corporations permitted to insured institutions under section 5(c)(4)(B) of the Home Owners' Loan Act of 1933.

TITLE V—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

SECTION-BY-SECTION ANALYSIS

Section 501: Short title

Section 501 states that this title may be cited as the "Savings Institutions Supervisory Amendments of 1986."

Section 502: Cease and desist proceedings

Section 502(a) amends all references in the FSLIC's cease-and-desist and removal authority that presently relate to "officers, director, employees and agents," to replace them with the new phrase, "institution-related party." This new term is defined in Section 506.

Section 502(b) makes the parallel amendments to those in section 502(a) regarding the Bank Board's authority in the Home Owners' Loan Act and substitutes the new term, "association-related party."

Section 502(c) and (d) clarifies the meaning of the phrase "affirmative action to correct the conditions resulting from" a violation or unsafe or unsound practice as used in Section 407(e) of the National Housing Act and Section 5(d)(2) of the Home Owners' Loan Act, to include restitution, rescission, the required disposal of loans or assets, required guarantees against losses, and such other actions as the agency may deem appropriate.

Section 502(e) clarifies that the agency's cease-and-desist authority reaches all service corporations, including second-tier and partly owned service corporations of federal associations and insured institutions.

Section 503: Temporary cease-and desist orders

Section 503(a) restates the Corporation's existing authority to issue temporary cease-and-desist orders in cases of statutory or regulatory violations or unsafe or unsound practices. In the alternative, the second paragraph also permits the Corporation to utilize a different standard. Under this alternative, the existing requirement that the Corporation determine that a violation or unsound practice is likely to cause insolvency, substantial dissipation of assets or earnings or a serious weakening of the condition of an institution has been changed to remove the modifiers "substantial" and "serious" in such emergency cases where temporary orders are required. Such orders may remain in effect for only 90 days, however, after which the Corporation must proceed under existing standards to renew the temporary order. The third paragraph contains new authority to issue a temporary order to halt an institution's business activities whenever the Corporation is unable to determine the financial condition of such institution because of the disarray or lack of books and records. In all three types of cases, the institution or institution-related party served with a temporary order has ten days to challenge the temporary order in U.S. district court.

Section 503(b) makes the same amendments to the Board's authority to issue temporary cease-and-desist orders against federal associations and association-related parties as does section 503(a) for insured institutions.

Section 504: Suspension, removal, or prohibition of institution-related parties

Section 504. Under Section 407(g) of the National Housing Act FSLIC is authorized to begin a preceding to remove or suspend a director or an officer of an insured institution only when it is of the opinion that all three of the following conditions exist: (1) the director or officer has willfully violated a law, rule, or regulation or final cease and desist order, or engaged or participated in an unsafe or unsound practice in connection with the institution or committed a breach of fiduciary duty to the institution, (2) the institution has suffered or probably will suffer substantial financial loss or other damage or the interests of its insured members could be seriously prejudiced by such violation or breach of duty or the director or officer received financial gain by reason of the violation or breach of duty, and (3) the violation or breach of duty involves personal dishonesty on the part of the director or officer or demonstrates willful or continuing disregard for the safety or soundness of the institution.

The amendment clarifies the second requirement of actual or probable harm to the institution by stating that the damage to the institution includes damage which may threaten to impair public confidence in the institution. This change permits removal of officers whose actions may not necessarily result in actual or probable financial harm, but whose actions would clearly injure the reputation of the institution and hence affect the community's confidence in it. For example, officers involved in money laundering schemes, or those who lie and/or falsify records but whose actions may not yet have resulted in probable financial harm to the institution, are now removable because their actions would clearly threaten to impair public confidence in the institution. Under the new definition of institution-related party, more individuals are now subject to the Corporation's authority under this subsection. Finally, the requirement to show "substantial" and "serious" harm and prejudice has been amended to remove these modifiers.

Current law also contains the grounds necessary to initiate removal or prohibition action against persons at one institution for their misconduct while serving at another institution or business enterprise, has been simplified and the grounds made uniform with those set forth in subsection (g)(1). Clarifying language also has been added to recognize the fact that current officers and directors are "removed and prohibited," while persons not holding an office—either because they participate in the institution's affairs in some other manner or because they have left their former positions—are only "prohibited." This language, along with the new definition of institution-related party clarifies the Corporation's jurisdiction over officers and directors who resign, for a period of two years after such resignation.

Section 504(b) makes the same amendments to the Home Owner's Loan Act.

Section 505: Penalties

Section 505(a) expands the penalty provisions of Section 407(p) of the National Housing Act to clarify that individuals who have been removed from office and/or prohibited from further participation in any federally insured savings and loan association or bank may not participate in any manner in the conduct of the affairs of any other financial institution insured by either the FSLIC or the FDIC, without the prior written approval of the appropriate federal supervisory authority. Previously, individuals removed or prohibited from their positions at a FSLIC-insured institution were free to move to FDIC-insured banks, and individuals removed by one of the federal banking agencies could move to a FSLIC-insured institution without restriction or prior approval by the primary regulator.

Section 505(b) makes the same changes described in the previous paragraph, to the penalty provisions contained in Section 5(d)(12) of the Home Owner's Loan Act.

Section 506: Definitions

Section 506(a) amends and clarifies definitions for the phrases, "institution-related party," and "insured-institution" as they are used in Section 407 of the National Housing Act.

Section 506(b) amends and clarifies definitions for the phrases, "association-related party" and "association" as they are used in Section 5(d) of the Home Owners' Loan Act.

Section 507: Powers of the Federal Savings and Loan Insurance Corporation

Section 507 clarifies the Corporation's general rulemaking authority with respect

to implementation of the National Housing Act, including the authority to define terms used in that Act and to regulate risk-taking activities by insured institutions. This authority applies to the savings and loan holding company and the mutual to stock conversion provisions of the National Housing Act.

Section 508: Risk assessment premiums

Section 508 allows the FSLIC to vary the assessment rate that each insured institution must pay for FDIC insurance according to the risks that the insured institution presents to the FDIC insurance fund. The assessment rate for any particular insured institution shall not exceed one-sixth of one per centum nor fall below one-twelfth of one per centum.

Any technique for measuring must be flexible enough to respond to changes in the banking environment. Accordingly, the amendment specifies that the FSLIC must act by regulation, but does not prescribe particular types of risks the FSLIC must consider.

Section 509: Service corporations

Section 509 increases the service corporation investment authority of federal associations by increasing the authorized level of investment therein from three to five percent of assets for federal associations which meet the regulatory capital requirements as determined by the Bank Board. The Board shall issue regulations providing for a phase-in of the increase for associations which are coming into compliance with regulatory capital requirements. This section also deletes the current provision requiring that associations devote to community development purposes half of the investment under this authority which exceeds one percent for community development purposes.

Section 510: Repeal of rebidding requirements

Section 510 amends the emergency acquisition authority provided in section 123 of the Garn-St Germain Depository Institutions Act of 1982 by removing the rebidding provisions.

TITLE VI—FINANCIAL INSTITUTIONS COMPETITIVE ENHANCEMENT

Section 601: Amendments to the Banking Act of 1933

Subsection 601(a)—amends Section 20 of the Banking Act of 1933 (12 U.S.C. 377) to allow a member bank to be affiliated with a depository institution securities affiliate (defined in Subsection 604(a) of the bill). Although this provision permits such affiliation, it does not permit the member bank to own shares of such an affiliate, or otherwise to engage in securities activities. Thus, the activities authorized for a depository institution securities affiliate must be conducted either by the bank's parent holding company or by a separate subsidiary of the holding company.

Subsection 601(b)—amends Section 32 of the Banking Act of 1933 (12 U.S.C. 78) to permit an officer, director, or employee of its depository institution securities affiliate to remain as an officer, director or employee of an affiliated bank. Existing restrictions continue to apply to prevent such an interlocking relationship with a nonaffiliated depository institution securities affiliate or any other firm engaged in securities activities.

Section 602: Amendments to the Securities Act of 1933

Subsection 602—amends the Securities Act of 1933 to exempt from the registration requirements of that Act the issuance of a holding company's shares in connection with a reorganization in which a holding company becomes the parent of a bank or thrift institution and proportionate ownership of the thrift remains the same (except for changes resulting in exercise of dissenting shareholder rights).

Section 603: Amendments to the Securities Act of 1933

Subsection 603(a)—amends the definition of "appropriate regulatory agency" in the Securities Exchange Act of 1934 so that the Securities and Exchange Commission is the appropriate regulatory agency for enforcing a depository institution securities affiliate's compliance with the statutory and regulatory requirements governing transactions in securities.

Subsection 603(b)—amends Section 15B of the Securities Exchange Act, which establishes the composition of the Municipal Securities Rulemaking Board to provide depository institution securities affiliates with representation on the MSRB equivalent to that of other municipal securities dealers and bankers engaged in the municipal securities business.

Section 604: Amendments to the Bank Holding Company Act of 1956

Section 604 defines (a) "Bank," (b) "Thrift Institution," (c) "Depository Institution Securities Affiliate," (d) "Commercial loans," (e) "Depository Institution Holding Co.," "Depository Institution," "Savings and Loan Holding Co."

a. "Bank" is defined to mean: (1) an insured bank as that term is defined in Section 3(h) of the Federal Deposit Insurance Act or (2) any institution which is organized under the laws of the U.S. (including any state or territory), that both accepts deposits that are withdrawable by check or similar means for third party payment and is engaged in the business of making commercial loans. Certain institutions are specifically exempt from such definition such as thrift institutions, trust companies affiliated with banks or bank holding companies owned by registered securities exchanges, credit unions, Edge Act Corporations, and foreign banks with insured branches.

b. "thrift institutions" is defined as a domestic Building and Loan, a Savings and Loan, a Cooperative Bank organized in Mutual form, a Federal Savings Bank, and a state chartered Savings Bank whose parent is registered as a holding company under section 408 of the National Housing Act.

c. "Depository institution securities affiliate" means any corporation that (1) engages in the United States in one or more of the activities authorized pursuant to section 4(c)(15)(iii) of the Bank Holding Company Act, and (2) is either a broker or dealer within the meaning of the Securities Exchange Act or an investment adviser within the meaning of the Investment Advisers Act of 1940.

d. "Commercial loans" is defined not to include personal loans, real estate loans, credit card loans, and investments in commercial paper, certificates of deposit, retail installment loans, accounts receivables, mortgage-backed or government securities and similar money market instruments. An institution is not deemed to be engaged in the business of making commercial loans if it has no more than 10 percent of its assets in commercial loans.

e. For purposes of the Bank Holding Co. Act, "Depository Institution Holding Co." is defined as a bank holding company, "Depository Institution" as a bank, and "Savings and Loan Company" as it is defined in Section 408(a)(1) of the National Housing Act.

Subsection 604(b)(1) simplifies Bank Holding Company Formations for banks which are reorganizing as a holding company by establishing a 30 day prior notification requirement rather than the current prior approval process. This subsection only applies if the proportionate ownership remains the same except for changes resulting from the exercise of dissenting shareholder rights.

Subsection 604(b)(2) requires divestiture within 180 days of any banks that were established or acquired after the grandfather date which would have been prohibited by the Douglas Amendment.

Subsection 604(c)(1) amends paragraph 4(a)(2) of the Bank Holding Company Act by specifying that a Bank Holding Company may engage directly in activities permitted by 4(c)(8), which is revised in Subsection 604(d) of this bill, 4(c)(15) which is contained in Subsection 604(e) of this bill and 4(c)(16 which is added by Section 4089 of this bill.

Subsection 604(c)(2) sets forth certain grandfather rights for companies which controlled an institution on or before the grandfather date and who within 3 years, either acquire a failing insured institution under the provisions of 408(m) of the National Housing Act or convert such grandfather institution to a FSLIC insured Institution. The grandfather date has yet to be determined.

Subsection 604(d) replaces the current paragraph 8 of Subsection 4(c) of the Bank Holding Company Act with a new paragraph 8 which establishes both limitations and requirements for banks engaging in activities which are either closely related to banking; or a financial nature and designed to enable bank holding companies to adjust to technological innovations in provision of banking or banking related services; or of a financial nature and substantially identical to those products and services by nonbank competitiors but competitive with banks' products.

Generally a bank holding company must submit a notice to the Federal Reserve Board in advance of engaging in any activities and the Federal Reserve has 60 days to disapprove. If the Federal Reserve determines that additional relevant information is necessary it may suspend the time period until 30 days after the information is received.

The Board is still required to weigh public benefits versus adverse effects but must also consider the managerial and financial resources of the companies involved.

In Section 604(d)(v) the Board is directed to issue orders setting forth the reasons for any disapproval or determination not to disapprove. Section 604(i) establishes the standards of such judicial review.

The Federal Reserve is required to promulgate regulations listing activities deemed to be closely related to banking within 180 days. The bill specifies that activities permitted as of the date of enactment of the bill are to be included in such a list.

Subsection 604(e)—establishes a bank holding company's right to organize a depository institution securities affiliate (DISA). Within one year after commencing the new securities activities in a DISA, the

securities activities performed by a subsidiary bank which are not incidental to the financing of such bank or investment of its funds must be transferred to the DISA. The Federal Reserve Board is authorized to prescribe rules and regulations concerning activities which must be transferred to the DISA. In the event that a bank holding company terminates the new activities permitted to a DISA, its subsidiary banks or other subsidiaries may conduct any securities activity which a bank is permitted by law to conduct.

Under subparagraph (ii) a DISA may conduct any securities activities which a national bank is not prohibited from conducting and in subparagraph (iii) is given the authority: (I) to deal in and underwrite all obligations issued or guaranteed by or on behalf of a state of any political subdivision (except industrial development bonds whose interest is exempt from federal tax are permissable only if the political entity pledges its full faith and credit or is considered the sole owner of the facility to be financed by federal tax law); (II) to organize, sponsor and operate an investment company as defined in section 3 of the Investment Company Act of 1940; (III) to deal in and underwrite mortgage backed securities and (IV) to underwrite and sell commercial paper.

Subsection 604(f)—amends the Bank Service Corporation Act to grant banks under 250 million in total assets in vestment parity with savings and loan service corporations.

Subsection 604(g)—amends section 5(c) of the Bank Holding Company Act to minimize the regulatory overlap between the Federal Reserve Board and the SEC with regard to bank holding companies engaged in the securities business. For example, such companies may satisfy the Board's reporting requirements with respect to nonbank subsidiaries by submitting to the Board the same information submitted to the Securities and Exchange Commission under Section 17 of the Securities and Exchange Act.

Subsection 604(h)—amends Section 7 of the Bank Holding Company Act to provide that no state may prohibit affiliations between a national banking association and a company engaged in activities permitted by this bill. The section also limits the activities of state chartered bank subsidiaries to the state of its charter unless permitted by Section 4(c) of the Bank Holding Company Act.

Subsection 604(i)—amends section 9 of the Bank Holding Company Act to provide for standards of judicial review. Reserve Board orders under section 4(c)(8) and the securities affiliate section are subject to judicial review solely on questions related to the Board's findings regarding the issue of unfair competition and that the proposed activity is permissible for a bank holding company under section 4(c)(8) or section 4(c)(15) of the Bank Holding Company Act.

Subsection 604(j)—preserves the authorities of traditional state chartered savings banks as long as the savings bank continues to operate as a separate subsidiary.

Subsection 604(k) amends Section 3(e) of the Bank Holding Company Act to permit a bank holding company to control a bank the deposits of which are insured or guaranteed under state law.

Section 605: Amendments to the Federal Reserve Act

Section 605(a) amends the Federal Reserve Act (12 U.S.C. 371(c)) by adding new Section 23B, restricting transactions between a member bank and its affiliates. Although section 23B applies to transactions between a member bank and all of its affiliates, the Federal Reserve Board is authorized to exempt affiliates from the provisions of Section 23B. As with section 23A, new section 23B is applicable to Federally insured nonmember banks through section 18(j) of the Federal Deposit Insurance Act.

New Section 23B provides that a member bank and its subsidiaries may engage in certain transactions with any affiliate only if the terms and conditions of the transaction, including credit standards, are substantially the same as, or at least as favorable to the bank as, those prevailing at the time for comparable transactions with nonaffiliated companies. If there are no comparable transactions, the terms and conditions of the transaction must be the same as those that, in good faith, would be offered to or would apply to nonaffiliated companies.

It should be noted that although this section generally permits a member bank and its affiliates to use similar names, it prohibits a member bank and its depository institutions securities affiliate from using similar names.

Section 605(b) would apply the credit limitations of the Federal Reserve Act's Section 23A to certain daylight overdrafts extended to affiliates by banks that are subsidiaries of holding companies but not regulated under the Bank Holding Company Act or by thrifts that are subsidiaries of holding companies but not regulated as multiple S&L holding companies.

Section 606: Securities affiliations of nonmember insured banks

Section 606 amends 18(j) of the Federal Deposit Insurance Act to appy sections 20 and 32 of the Banking Act of 1933 (12 U.S.C. 377 and 12 U.S.C. 78) to all FDIC insured banks. Divestiture within two years is mandated for institutions which are not grandfathered. Such grandfather date is yet to be determined.

Section 607: Amendments to the National Housing Act

Subsection 607(a) amends section 408(a)(1) of the National Housing Act (12 U.S.C. 1730(a)(1)) to define a depository institution securities affiliate as any corporation engaged in one or more of the activities described in section 4(c)(15) of the Bank Holding Company Act of 1956 and is a broker or dealer within the meaning of paragraph (4) or (5) of section 3(a) of the Securities Exchange Act, or an investment adviser within the meaning of section 202(11) of the Investment Advisers Act of 1940 (15 U.S.C. 8062(11)).

Subsection 607(b) amends section 408(c) to the National Housing Act to restrict the activities of savings and loans holding companies other than unitary holding companies whose insured institution meets the qualified thrift lender test established in section 408(c)(4)B or the National Housing Act or acquires an insured institution pursuant to 408(m) of the National Housing Act. Activities conducted as of the grandfather date may be continued under certain conditions. The specific grandfather date has not yet been determined.

The prescribed authorities for holding companies subject to the limitations are essentially those activities currently permissable to mutliple savings and loan holding companies as well as the ownership of a bank (which would be made subject to the Douglas Amendment) or activities approved for Bank Holding Companies by the Federal Reserve Board subject to any limitation imposed by the Federal Home Loan Bank Board. Prior to engaging in any bank approved activities a holding company must provide 60 days prior notice to the Corporation during which time it may disapprove. The notice period can be lengthened depending on the need for additional information or shortened depending on rules and procedures established by the Corporation for specific activities. In determining whether to disapprove, the Corporation is required to consider both a comparison of public benefits versus possible adverse effects as well as managerial and financial resources of the companies involved.

Any Unitary Savings and Loan Holding Company whose insured institution meets a qualified thrift lender test is exempt from the activities restrictions of this subsection. In order for an insured institution to be a qualified thrift lender, it must have at least 60 per cent of its assets invested in such items as loans, equity positions or securities related to domestic residential property and liquid assets as specified by the Federal Home Loan Bank Board. Residential mortgage loans originated and sold within 90 days of origination, as well as certain consumer loans, can be used in calculating compliance with the qualified thrift lender test up to an aggregate of 10 percent of the institution's assets. As to state chartered Savings Banks chartered prior to October 15, 1982, the qualified thrift lender test is phased in over a ten year period.

The corporation is given the authority to grant temporary exceptions to the qualified thrift lender test when economic conditions reduce mortgage demand to such a degree that insufficient opportunity exists for an insured institution to meet such investment requirements.

Subsection 607(d)—simplifies Savings and Loan Holding Company Formations by exempting from prior approval requirements any reorganization in which a person or group of persons owning a FSLIC-insured thrift transfers shares to a newly formed holding company and receives substantially the same proportional share interest in the holding company (except for changes due to the exercise of dissenting shareholder appraisal rights).

Under current law, the acquisition of a FSLIC-insured thrift institution is exempt from the FSLIC prior approval requirement if the institution is "acquired in connection with a reorganization in which a person or group of persons, having had control of an insured institution for more than three years, vests control of that institution in a newly formed holding company subject to the control of the same person or group of persons." This language is subject to several interpretations and is complicated because of the ambiguity surrounding the issue of when "control" is present. Therefore, the bill clarifies the meaning of a "reorganization" that is not subject to the prior approval requirement and provides a more objective criterion for determining whether a reorganization qualifies for the exemption. The requirement that the control group have had such control for three years prior to the holding company formation is deleted, since any change in control involving individuals owning a FSLIC-insured thrift is subject to the Change in Savings and Loan Control Act of 1978 (12 U.S.C. 1703(1)(6)).

Subsection 607(e)—Judicial Review—Federal Home Loan Bank Board orders under section 408(c)(2) of the National Housing Act are subject to judicial review solely on questions related to Board's findings regarding the issue of unfair competition and that

the proposed activity is permissible for a savings and loan holding company.

Subsection 607(f)—amends section 408(a)(1)(A) of the National Housing Act to provide that upon application to the Corporation, an FDIC insured savings bank which meets the qualified thrift lender test shall be deemed to be an insured institution.

Section 608: Amendment to the Home Owner's Loan Act of 1933

Section 608—amends the Home Owners Loan Act to authorize Federal savings and loan associations are authorized to offer demand deposits (checking accounts) to all their customers. Presently, they may only offer such accounts to businesses with whom they have a credit relationship. The existing prohibition against the payment of interest on such accounts would be retained.

Section 609: Amendments to the Federal Home Loan Bank Act

Section 609 amends section 5(A)(b)(1)(D) of the Federal Home Loan Bank to require members of the Federal Home Loan Bank system to meet the qualified thrift lender test under section 607(b) in order to obtain advances from a Federal Home Loan Bank. The Bank Board would be authorized to waive such requirement in appropriate circumstances.

Section 610: Leasing authority of national banks

Section 610 amends the National Bank Act (12 U.S.C. 24) to provide that national banks may lease tangible personal property in amounts up to 10 percent of the assets of the bank.

Section 611: Mutual holding company amendment

Section 611 amends section 408 of the National Housing Act to permit all FSLIC and FDIC insured mutual thrifts an opportunity to offer new products and services through a holding company yet retain their mutual character. The product and service authorities of such a holding company include those of a bank holding company and a multiple savings and loan holding company.

Section 612: Mortgage securities corporations

Section 612 amends section 5(c)(4) of the Home Owners' Loan Act to permit federal thrifts themselves to establish or invest in separate subsidiaries of such thrifts solely to issue and service mortgage-backed securities. Through this direct investment authority, a thrift would be better able to issue its own securities and finance its operations.

TITLE VII—BANKERS' BANKS

This title is included to clarify the statutory provisions regarding bankers' banks. The statute authorizing export trading companies and the statute authorizing bankers' banks were both passed into law at approximately the same time, in October 1982, but authority for bankers' banks to invest in export trading companies was not included in the statute creating bankers' banks. In order to correct this oversight, this title grants explicit authority for bankers' banks to invest in export trading companies. It also clarifies that bankers' banks be able to offer service to other bank holding companies and their subsidiaries and affiliates, and makes other minor technical amendments.

TITLE VII—CREDIT UNION AMENDMENTS

Section 801: Permanent merger and conservatorship authority

This section eliminates the sunset provisions from the National Credit Union Administration's (NCUA's) conservatorship and emergency merger authorities. During its three and a half year "trial period," conservatorship has proven to be an effective supervisory tool for NCUA. Through the prudent exercise of its conservatorship authority, more than $20 million in potential losses to the National Credit Union Share Insurance Fund (NCUSIF) have been avoided. This section removes the sunset provision, rendering the conservatorship authority permanent.

Section 802: Reduction in State comment waiting period

This section reduces from ninety days to thirty days the period NCUA must allow state regulators to respond to NCUA's proposed imposition of conservatorship in the case of a state-chartered NCUA insured credit union. Events today often compel quicker and more decisive action by regulators such as NCUA than the ninety day consultation period allows.

Section 803: Imposition of conservatorship

This section provides NCUA with two additional grounds for imposing conservatorship: when there is a willful violation of a cease and desist order which has become final; and when there is a concealment of or refusal to submit documents and/or other records of the credit union to an NCUA examiner or other lawful agent of the NCUA Board.

Section 804: Authority as conservator

This section expressly states that NCUA has all the powers of the credit union members, directors, officers, and committees when exercising its conservatorship authority.

Section 805: Technical and clarifying amendments; removal and prohibition authority

This section clarifies that NCUA's prohibition authority extends to both employees and agents of federally insured credit unions, and conforms, NCUA's jurisdiction in prohibition actions with its jurisdiction in cease-and-desist actions.

Section 806: Faithful performance

This section would eliminate the requirement found in present law that Federal credit unions obtain 'faithful performance" coverage for financial officers. Basic fidelity coverages (e.g., fraud, dishonesty, embezzlement) would continue to be required for all officials and employees.

Section 807: Membership officers

This section provides that membership officers may be selected from the credit union's membership, rather than having only members of the board of directors eligible to be membership officers.

Section 808: Nonparticipation

This section is a technical amendment to clarify that paragraphs (a) and (b) of section 118 of the Federal Credit Union Act are alternative methods of expelling a member of a credit union. There had been confusion as to whether (a) and (b) were alternatives or linked. A credit union may either adopt its own policy for expulsion, as set forth in paragraph (b), or it may simply expel a member under the terms of paragraph (a) if the credit union has not adopted its own policy under paragraph (b).

Section 809: Second mortgage and home improvement loans

This section authorizes NCUA to allow credit unions to make second mortgage and home improvement loans for periods exceeding 15 years.

Section 810: Property acquisition flexibility

This section is designed to provide the NCUA Board with needed flexibility to obtain office space and equipment in such a manner as to respond more precisely to the nature and location of the agency's needs at substantial cost savings.

Section 811: Clarification of IRA authority

This section clarifies the authority of Federal credit unions to offer IRA and Keogh accounts, subject to rules and regulations promulgateed by NCUA. This section also authorizes Federal credit unions to serve as trustees or custodians for a defferred compensation plan. Finally, it authorizes Federal credit unions based in territories or possessions of the United States to serve as trustees or custodians for similar type retirement accounts established under the laws of those jurisdictions. This amendment is specifically designed to permit Federal credit unions located in Puerto Rico to offer IRA and Keogh type services authorized under Puerto Rico law similar to those offered by their counterparts in the United States under ERISA.

Section 812: Technical amendment

This section is merely a technical change made ncessary due to the recodification of Title 31 of the United States Code.

Section 813: Public funds

This section would allow Federal credit unions to more readily accept public funds by authorizing such credit unions to pledge securities to secure public unit type funds.

Section 814: Ownership interest

This section clarifies that funds in shares, share certificates, and share draft accounts constitute a member's ownership interest in the credit union.

TITLE IX—CONSUMER LEASES AND LEASE-PURCHASE AGREEMENTS

SECTION-BY-SECTION ANALYSIS

Section 901 is entitled the "Consumer Lease and Lease-Purchase Agreement Act".

Section 902 amends the Consumer Credit Protection Act to create a new Title X as follows:

Section 101 entitles Title X of the Consumer Credit Protection Act the "Consumer Lease and Lease-Purchase Agreement Act."

Section 102 sets forth the Findings and Declaration of Purpose of the Act.

Section 102(a) states that the purposes of the *consumer leasing* provisions are to assure more meaningful disclosure of the terms of leases for personal property leases; to provide the consumer with a basis for better comparison shopping; to limit balloon payments; and to assure accurate advertisement of lease terms.

Section 102(b) states that the purposes of the *lease-purchase* provisions are to provide meaningful disclosure of the terms of lease—purchase agreements; to assure that consumers know the total cost of an item covered by a lease-purchase agreement; to tell the consumer when the item can be owned; and to assure accurate advertisement of lease-purchase agreement terms.

Section 103 sets forth the Definitions and Rules of Construction.

Section 103(a)(1) defines "advertisement" as a commercial message in any medium which promotes a lease or lease-purchase agreement.

Section 103(a)(2) defines "agricultural purposes" to include the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures agricultural products, including but not limited to the acquisition of farmlands, real property with a farm residence, and personal property and services used primarily in farming.

Section 103(a)(3) defines "Board" as the Board of Governors of the Federal Reserve System.

Section 103(a)(4) defines "consumer" as a natural person who leases personal property under a consumer lease or rents personal property under a lease-purchase agreement.

Section 103(a)(5) defines "consumer lease" as a contract in the form of a lease or bailment for the use of personal property by a natural person primarily for personal, family, or household purposes, for a period exceeding four months, in which the total lease cost is not more than $25,000, whether or not the consumer has the option to purchase or otherwise become the owner of the property at the expiration of the lease. The term does not include any "credit sale" as defined in Title I.

Section 103(a)(6) defines "consummation" as the time a consumer becomes contractually obligated on a consumer lease or lease-purchase agreement.

Section 103(a)(7) defines "lessor" as a person who regularly provides the use of property through consumer leases or lease-purchase agreements and to whom the obligation is initially payable on the face of the lease or lease-purchase agreement.

Section 103(a)(8) defines "personal property" as any property that is not real property under the laws of the state where it is located when it is made available for a consumer lease or lease-purchase agreement.

Section 103(a)(9) defines "lease-purchase agreement" as an agreement for the use of personal property by a natural person primarily for personal, family, or household purposes, for an initial period of four months or less (whether or not there is any obligation beyond the initial period) that is automatically renewable with each payment and that permits the consumer to become the owner of the property. Ownership might occur, for example, after a specified number of payments have been made, or upon exercise of a purchase option. The definition, for purposes of Federal law, does not include any "credit sale" as defined in Title I.

Section 103(a)(10) defines "residual value" as the wholesale or retail fair market value of the leased property at early termination or the end of the lease term in a consumer lease.

Section 103(a)(11) defines "state" as any state, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

Section 103(b) states that unless the context indicates otherwise, lease means consumer lease and agreement means lease-purchase agreement.

Section 103(c) provides that references to any provision of this title include references to the regulations of the Board under this title.

Section 104 sets forth transactions which are exempt from this title.

Section 104(1) exempts consumer leases and lease-purchase agreements primarily for business, commercial, or agricultural purposes, or those made with government agencies or instrumentalities or with organizations, from this title.

Section 104(2) exempts leases of a safe deposit box.

Section 104(3) exempts leases or bailments of personal property incidental to a lease of real property where the consumer has no liability for the property at the scheduled expiration of the lease (except for normal wear and tear) and the consumer can not purchase the leased property.

Section 105 covers Regulations of this title.

Section 105(a) requires the Board to write regulations to carry out the purposes to this title. The regulations may contain classifications and differentiations and may provide for adjustments and exceptions for any class of transactions.

Section 105(b) requires the Board to publish model disclosure forms and clauses. In designing model forms, the Board shall consider the use by lessors of data processing or similar automated equipment. Use of the models shall be optional. A lessor who properly uses the models shall be deemed to be in compliance with the disclosure requirements.

Section 105(c) states that any regulation of the Board, or any amendment or interpretation of those regulations, that requires a disclosure different from the disclosures previously required under federal law shall have an effective date of the October 1 that follows the date of promulgation by at least six months. The Board may, at its discretion, lengthen or shorten that period of time. In any case, lessors may comply with any newly promulgated disclosure requirement prior to its effective date.

Section 111 sets forth the general disclosure requirements.

Section 111(a) requires a lessor to disclosure to the consumer the information required by this title. If a transaction involves more than one consumer, disclosures may be given to the consumer who is primarily obligated. If a transaction involves more than one lessor, only one lessor need make the disclosures.

Section 111(b) requires that the disclosures be made at or before consummation of the consumer lease or lease-purchase agreement.

Section 111(c) states that the disclosures shall be made clearly and conspicuously in writing, in a form that the consumer may keep. The disclosures required under sections 112 and 114 shall be segregated in a "federal box" from all other terms, data, or information provided.

Section 111(d) states that information required to be disclosed may be given in the form of estimates and identified as estimates when the lessor does not know the exact information.

Section 111(e) requires that if a disclosure becomes inaccurate after the delivery of the required disclosures, the resulting inaccuracy does not violate this title.

Section 112 requires that the following information must be disclosed for consumer leases:

(1) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

(2) The number, amounts, and timing of scheduled payments.

(3) The total of scheduled payments.

(4) The total of amounts payable at the expiration of the lease (not including any difference between the anitipated residual value and the actual residual value).

(5) The total lease cost, which is the sum of items (1), (3), and (4).

(6) The amount of any required security deposit.

(7) When the consumer buys required insurance from or through the lessor, the total cost. When the consumer does not buy required insurance from or through the lessor, a statement that the consumer must buy insurance and that the cost is not included in the numerical disclosures.

(8) When any official fees and taxes are paid to or through the lessor, the total cost. When any official fees or taxes are not paid to or through the lessor, a statement that the consumer must pay official fees or taxes and that the amounts are not included in the numerical disclosures.

(9) Any dollar charge or percentage amount that may be imposed for a late payment, other than a deferral or extension charge.

(10) A statement that the consumer may be liable for additional amounts if the lease is terminated early.

(11) When the consumer's liability is based on the residual value of the property, a statement that the consumer may have the property appraised at the consumer's expense by an independent third party agreed to by the consumer and lessor, and that the parties will be bound by the appraisal.

(12) When the consumer's liability at the end of the lease term is based on the anticipated residual value of the property:

(A) The anticipated residual value of the property, marked as wholesale or retail;

(B) A brief statement of the consumer's potential liability at the end of the lease term;

(C) The product of three times the average payment allocable to a month; and

(D) A statement that the consumer's liability will generally be limited to item (12)(c) unless the excess is a result of excessive use or unreasonable wear and use, or the lessor brings a successful court action proving that the estimate of the anticipated residual value was reasonable.

(13) A statement that the consumer may have other costs and that the consumer should refer to the appropriate lease document for information about non-payment and default, wear and use standards, and maintenance responsibility.

Section 113 limits the consumer's liability at early termination or at the end of the lease term.

Section 113(a) requires that when the consumer's liability at the end of the lease term is based on the anticipated residual value of the leased property, the anticipated residual value shall be a reasonable estimate of the actual residual value of the property at the end of the lease term. This subsection creates a rebuttable presumption that the anticipated residual value is unreasonable to the extent that it exceeds the actual residual value at the end of the lease term by more than three times the average monthly payment. The lessor shall not collect any amount exceeding three times the average monthly payment unless the lessor a successful action in court proving that the estimate was reasonable. If the lessor fails to rebut the presumption, the lessor must pay the cost of the action and the consumer's reasonable attorney's fees.

Section 113(b) requires that the rebuttable presumption created in subsection (a) shall not apply to the extent that the excess of the anticipated residual value over the actual residual value is due to damage to the

property beyond reasonable wear and use or to excessive use. The lessor may set reasonable standards for wear and use in the lease.

Section 113(c) states that a willing consumer and lessor may make a mutually agreeable final adjustment with respect to the excess of three times the average payment allocable to a month, provided the agreement is made after the end of the lease term.

Section 113(d) permits the lessor to specify penalties or other charges for delinquency, default, or early termination, if the amounts are reasonable in light of the anticipated or actual harm caused by the delinquency, default, or early termination, the difficulties of proof of loss, and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy.

Section 113(e) gives the consumer the right to obtain at the consumer's expense a professional appraisal of the property by an independent third party agreed to by both parties when the consumer's liability is based on the residual value of the leased property.

Section 114 requires that the following information must be disclosed in lease-purchase agreements:

(1) The number, amounts and timing of all payments necessary to acquire ownership of the property.

(2) The total of payments necessary to acquire ownership of the property.

(3) A statement that the consumer will not own the property until the consumer has made the number of payments and the total of payments necessary to acquire ownership.

(4) A statement that the total of payments does not include other charges, such as late payment, default, pick-up, and reinstatement fees, and that the consumer should see the contract for an explanation of these charges.

(5) A statement that the consumer is responsible for the fair market value of the property if it is lost, stolen, damaged, or destroyed.

(6) A statement that the property is new or used. Lessors may describe as "used" property which is in fact new.

Section 115 covers renegotiations and extensions.

Section 115(a) defines a renegotiation as an existing consumer lease or lease-purchase agreement which is satisfied and replaced by a new lease or agreement undertaken by the same lessor and consumer. A renegotiation is a new lease or agreement requiring new disclosures. However, the following events shall not be treated as renegotiations:

(1) The addition or return of property in a multiple-item lease agreement, provided the average payment allocable to a payment period is not changed by more than 25 percent.

(2) A deferral or extension of one or more periodic payments, or portions of a periodic payment.

(3) A reduction in charges in the lease or agreement.

(4) A lease or agreement involving a court proceeding.

(5) Any other event described in Board regulations.

Section 115(b) states that no disclosures are required for any extension of a consumer lease or a lease-purchase agreement. However, a lessor that extends or permits a consumer to extend a consumer lease for more than one month beyond the end of the lease term shall recalculate and anticipated residual value of the leased property to reflect the depreciation resulting from the extended term.

Section 116(a) covers consumer lease advertising and requires that—where an advertisement for a consumer lease states the amount of any payment or states that any or no initial payment is required, the advertisement must also clearly and conspicuously state the following items:

(1) That the transaction advertised is a lease.

(2) The total of initial payments required at or before consummation of the lease or delivery of the property, whichever is later.

(3) That a security deposit is required.

(4) The number, amounts and timing of scheduled payments.

(5) For a lease in which the consumer's liability at the end of the lease term is based on the anticipated residual value of the property, that an extra charge may be imposed at the end of the lease term.

Section 116(b) states that any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

Section 117(a) covers lease-purchase advertising and requires that when an advertisement for a lease-purchase agreement refers to or states the amount of any payment or the right to acquire ownership, the advertisement must also clearly and conspicuously state the following items:

(1) That the transaction advertised is a lease-purchase agreement.

(2) The total of payments necessary to acquire ownership.

(3) That the consumer acquires no ownership rights if the total amount necessary to acquire ownership is not paid.

Section 117(b) states that any owner or personnel of any medium in which an advertisement appears or through which it is disseminated shall not be liable under this section.

Section 117(c) states that a "yellow pages" advertisement in a telephone directory which does not refer to payment amounts need not make the disclosures required by subsection (a).

Section 121 identifies which agencies will enforce this Act.

Section 121(a) states that this Act will be enforced by the Comptroller of the Currency for national banks; by the Board for member banks of the Federal Reserve System; and by the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation.

Section 121(a)(2) states that the Federal Home Loan Bank Board will enforce the Act for institutions subject to section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act.

Section 121(a)(3) states that the National Credit Union Administration will enforce the Act with respect to any Federal credit union.

Section 121(a)(4) states that the Farm Credit Administration will enforce the Act with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

Section 121(b) states that for the purpose of the exercise by any agency referred to in subsection (a) of its power under any Act referred to, a violation of a requirement imposed by this title shall be deemed to be a violation of a requirement imposed under that Act. Each agency may also exercise any other authority conferred on it by law in enforcing any requirement imposed under this title.

Section 121(c) authorizes that Federal Trade Commission to enforce this Act, unless enforcement of the requirements imposed by this title is specifically committed to some other agency under subsection (a). For the purpose of exercising its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed by this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed by this title, whether or not that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

Section 121(d) states that notwithstanding the authority of the Board to issue regulations under this title, any other agency designated in this section may make rules respecting its own procedures in enforcing compliance with requirements imposed by this title.

Section 122 covers civil liability.

Section 122(a) states the civil liability of a lessor who fails to comply with a requirement contained in the sections outlining general requirements of disclosure, consumer lease and lease-purchase disclosures, liability limitations at early termination or the end of the lease term, and lease renegotiations and extensions. These penalties are:

(1) actual damages sustained by the consumer as a result of the violation;

(2) in the case of an individual consumer lease action, 25 percent of the total of scheduled payments under the lease, but not less than $100 nor greater than $1000;

(3) in the case of an individual lease-purchase action, 25 percent of the total of payments necessary to acquire ownership, but not less than $100 nor greater than $1000;

(4) in the case of a class action, the amount the court determines to be appropriate with no minimum recovery as to each member, but not more than the lessor of $500,000 or 1 percent of the net worth of the lessor; and

(5) the costs of the action and reasonable attorney's fees as determined by the court.

Section 122(b) states that any lessor who fails to comply with the advertising requirements of this Act is liable for actual damages suffered from the violation, the costs of the action, and reasonable attorney's fees.

Section 122(c) provides that when there are multiple lessors, liability shall be imposed only on the lessor who made the disclosures. When no disclosures have been given, liability shall be imposed on all lessors.

Section 122(d) provides that when there are multiple consumers in a consumer lease or rental-purchase agreement, there shall be only one recovery of damages under subsection (a) for a violation of this title.

Section 122(e) provides that multiple violations occurring in connection with a single consumer lease or rental-purchase agreement entitle the consumer to a single recovery under this section.

Section 122(f) states that action under this section may be brought in any United States district court or in any other court of competent jurisdiction within one year of the date of the occurrence of the violation,

except that in the case of a violation of the early termination or end of lease term requirements of this Act, an action may be brought within one year of the end of the lease term. Consumers are not prevented from asserting a violation of this title in an action to collect the debt brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off, except as otherwise provided by state law.

Section 122(g) prevents consumers from taking any action to offset any amount for which a lessor is potentially liable under subsection (a) against any amount owed by the consumer, unless the amount of the lessor's liability has been determined by judgment of a court of competent jurisdiction in an action in which the lessor was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action brought by the lessor to collect amounts owed by the consumer.

Section 123 sets forth the defenses available under this Act.

Section 123(a) limits a lessor's liability under sections 121, 122, or 125 for a violation of the requirements of sections 111, 112 and 114 if within 60 days after discovering the error, and before an action under section 122 if filed or written notice of the error is received from the consumer, the lessor notifies the consumer of the error and makes whatever adjustments in the account are necessary to assure that the consumer will not be required to pay an amount in excess of the amounts actually disclosed. This provision applies whether the discovery of the error was made through a final written examination report or the lessor's own procedures.

Section 123(b) limits the lessor's liability under section 121 for a violation of this title if the lessor shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error even though the lessor maintained procedures reasonably adapted to avoid such error.

Section 123(c) states that a lessor is not liable under this title for any act done or omitted in good faith in conformity with any rule, regulation interpretation, or approval promulgated by the Board or by any official duly authorized by the Board. This rule applies even if, after the act or omission has occurred, the rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any other reason.

Section 124 identifies the liability of assignees.

Section 124(a) states that for purposes of sections 122 and 123, the term "lessor" as used in those sections shall include an assignee of the lessor. However, a civil action for a violation of this title may be brought against an assignee only if the violation is apparent on the face of the disclosure statement. An assisgnee has no liability where the assignment is involuntary.

Section 124(b) provides that in an action by or against an assignee, the consumer's written acknowledgement of receipt shall be conclusive proof that the disclosures were made, provided the assignee had no knowledge that disclosures had not been made when the assignee acquired the obligation.

Section 125 sets forth the criminal liability for anyone who willfully and knowingly fails to comply with any requirement imposed under this title, which is $5,000 or a prison term of not more than one year, or both.

Section 131 covers this Act's relation to state laws.

Section 131(a) provides that this title does not affect the laws of any state regarding the disclosure of consumer leases or lease-purchase agreements, and does not exempt any person subject to the provisions of this title from complying with the laws of any state with respect to consumer leases or lease-purchase agreements, unless those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The laws of a state are inconsistent if a person is unable to comply with them without violating a provision of this title. The Board is authorized to determine whether such inconsistencies exist.

Section 131(b) requires the Board, by regulation, to exempt any class of lease transactions and lease-purchase agreements within any state if it determines that the state law contains requirements substantially similar to those imposed by this title or gives greater protection and benefit to the consumer, and that there is adequate provision for enforcement.

Section 131(c) states that this title does not affect the validity or enforceability of any contract or obligation under state or Federal law, except as provided in sections 122 and 123.

Section 131(d) provides that determinations under this section may be requested by any state.

Section 132 states the effect of this Act on governmental agencies and provides that no civil or criminal penalty contained in this title may be imposed on the United States or any of its departments or agencies, any state or political subdivision, or any agency or any state or political subdivision.

Section 133 requires reports by the Board and Attorney General to the Congress concerning the administration of their functions under this title. The Board's report shall include its assessment of the extent to which compliance with the requirements imposed by this title is being achieved.

Section 134 contains the effective dates.

Section 134(a) requires that this title shall take effect on the October 1 that is at least two years after the date of its enactment.

Section 134(b) states that all regulations, forms and clauses required to be prescribed shall be promulgated one year prior to such effective date.

Section 134(c) permits lessors to comply with the requirements of this title, in accordance with the regulations, forms and clauses prescribed by the Board, prior to such effective date.

Section 903 sets forth technical amendments to the Truth-in-Lending Act which are required because the leasing provisions have been placed in a separate title.

TITLE X—FAIR DEPOSIT AVAILABILITY

SECTION-BY-SECTION ANALYSIS

Section 1001 entitles this Act the "Fair Deposit Availability Act of 1984."

Section 1002 contains definitions.

Section 1002(1) defines the depository institutions which are covered by the Act to include (a) an insured bank; (b) a mutual savings bank; (c) a savings bank; (d) an insured credit union; (e) a savings and loan association as defined in the Federal Home Loan Bank Act; and (f) any insured institution as defined in the National Housing Act. It also includes institutions that are eligible to make application to become a federally insured institution.

Section 1002(2) defines the term "deposit account" as an account in a depository institution where the account holder is allowed to make withdrawals by various types of instruments or telephone transfer for the purpose of making transfers to third parties. The definition excludes time deposits and savings accounts that are not used for transactions purposes.

Section 1002(3) defines the term "Board" as the Board of Governors of the Federal Reserve System.

Section 1002(4) defines the term "check or similar instrument" as a check, negotiable order of withdrawal, share draft, money order or similar instruments. The definition excludes noncash items.

Section 1003 contains requirements for disclosure of availability policies.

Section 1003(a) requires depository institutions to provide written disclosures to customers opening an account of its general policy with respect to when a customer may withdraw deposited funds. For existing accounts, a depository institution must disclose its policy to account holders in the first regularly scheduled mailing after the effective date of this Act, unless such information has already been so disclosed.

Section 1003(b) requires depository institutions to post a clear and conspicuous notice disclosing its general policy with respect to when a customer may withdraw deposited funds, and to mail an annual reminder to account holders that some deposits may be subject to a check hold.

Section 1003(c) requires the owner of an automatic teller machine to provide a "brief reminder" at each terminal where deposits are accepted that holds may be placed on deposits by check or similar instrument.

Section 1003(d) requires depository institutions to notify their account holders of changes in their delayed availability policies. Such notification is not required if the change expedites the availability of funds.

Section 1003(e) requires depository institutions to disclose their general policy to consumers requesting this information by telephone.

Section 1003(f) authorizes the Board to issue regulations designed to implement their disclosure requirements.

Section 1003(g) requires depository institutions to notify account holders in writing of when interest is computed on funds deposited in an interest bearing account or time deposit, unless the computation begins on or before the institution receives provisional credit for the deposit.

Section 1003(h) authorizes the Board to publish model disclosure forms and clauses for common transactions to facilitate compliance with these disclosure requirements. Use of the models is not required. However, a depository institution will be considered to be in compliance with the disclosure requirements if it either uses a model published by the Board, or uses the model but changes it by deleting information not required by this title or rearranging the format.

Section 1003(i) requires the Board to provide an opportunity for notice and comment before adopting model forms and clauses.

Section 1004 requires depository institutions to pay interest on interest bearing deposit accounts no later than the time the institution receives provisional credit on the deposit. If that date falls on a nonbusiness day, availability must be provided on the next business day. This requirement does not apply where the computation of interest begins at a later date for all deposits.

Section 1005 contains provisions designed to provide customers with access to their funds in a more timely fashion.

Section 1005(a) instructs the Federal Reserve Board to publish for comment not later than 18 months after the date of enactment, a regulation designed to improve the check clearing system by expediting the process for returning checks or by other means to achieve the goal of (1) providing one-day availability for funds from deposits made by checks drawn on local depository institutions; and (2) providing three-day availability for funds from deposits made by checks drawn on other institutions. This section does not apply to those checks which pose a serious risk of loss to a depository institution.

Section 1005(b) lists thirteen considerations for the Board in promulgating its regulations. These thirteen factors are:

(1) adopting a uniform endorsement standard;

(2) providing for direct notification of returning checks and similar instruments to the depository institution of first deposit:

(3) providing for direct return of checks and similar instruments to the depository institution of first deposit;

(4) providing for return of all checks and similar instruments through the Federal Reserve System's clearing house;

(5) extending limits for returns;

(6) establishing schedules for the availability of funds deposited by checks and similar instruments;

(7) prescribing the availability of funds deposited by checks and similar instruments based on the nature of the account to which the deposit was made;

(8) the use of electronic means of collecting and returning checks;

(9) providing for check truncation;

(10) the establishment of an automated return system;

(11) charging a depository institution based upon notification that a check or similar instrument will be presented for payment;

(12) creating incentives for depository institutions to return unpaid items promptly to the depository institution of first deposit; and

(13) keeping the costs of any improvements to be implemented to a minimum.

This list is not exhaustive and the Board is empowered to consider and implement any other approach or combination of approaches, that would help meet the statutory goals.

Section 1005(c) requires that the Board's regulations shall become effective three years after the date of enactment.

Section 1005(d) requires the Board to establish an Expedited Funds Availability Council to assist it in its exercise of the functions required by this Act. The members of the Council include representatives of the four other financial regulatory agencies, two representatives of the Consumer Advisory Council, one representative from users of payment systems services, and one from the providers of payment systems services in competition with the Federal Reserve System.

Section 1006 requires the Secretary of the Treasury, by regulation, to require that funds deposited by a check drawn on the Treasury of the United States, which is first endorsed for deposit by a customer with an established relationship with a depository institution, be available for withdrawal by the date the institution received provisional credit for that check. If that date falls on a nonbusiness day, availability must be provided on the next business day.

Section 1007 deals with administrative enforcement.

Section 1007(a) identifies the federal financial regulatory agencies which are responsible for the administrative enforcement of these requirements. For national banks, the Comptroller of the Currency shall enforce these requirements. For State member banks of the Federal Reserve System, the Federal Reserve Board shall enforce these requirements. For other banks insured by the Federal Deposit Insurance Corporation, that agency shall enforce these requirements for savings and loan institutions, and the National Credit Union Administration is responsible for enforcement for federally-chartered or insured credit unions.

Section 1007(b) provides that a violation of a requirement imposed by this Act shall be considered to be a violation of the statutory provisions authorizing enforcement by the above federal financial regulatory agencies with respect to the institutions they regulate. These agencies, of course, may also exercise any other authorities conferred by law in addition to the authorities specified in this Act.

Section 1007(c) authorizes state regulatory agencies to enforce the requirements of this Act for institutions not covered in subsection (a).

Section 1007(d) clarifies the authority of agencies other than the Federal Reserve Board to make rules respecting their own procedures to enforce compliance with the requirements of this title.

Section 1008 contains provisions concerning civil liability.

Section 1008(a) exempts violations of the telephone disclosure requirements from civil liability. For violations of the disclosure, payment of interest on deposits, and availability of Treasury checks requirements of this title, the civil liability shall be (1) actual damages; (2) statutory damages of not less than $50 nor greater than $500 for an individual action, or in the case of a class action, an amount the court will allow, with no minimum recovery applicable for each member of the class, not to exceed the lesser of $500,000 or 1 percent of the net worth of the depository institution; and (3) court costs and reasonable attorney's fees in the case of a successful action. When awarding damages in class action, the court shall consider several factors, including the amount of actual damages awarded, the frequency and persistence of failures, the resources of the depository institution, the number of persons adversely affected, and the extent to which the violations were intentional

Section 1008(b) states that depository institutions will not be liable under this section if the violation resulted from a bona fide error which occurred in spite of procedures established and maintained to avoid any such error. Examples of bona fide errors include clerical, calculation, computer malfunction, and programming and printing errors. Errors in legal judgment are not bona fide errors for purposes of this section.

Section 1008(c) states that actions brought under this section may be initiated in any United States district court, or other court of competent jurisdiction, within one year from the date of the violation.

Section 1008(d) states that liability imposed under this section will not apply to acts done or omitted in good faith in conformity with any rule, regulation or interpretation by the Board, or to acts which conform with any interpretation of approval by an official of the Federal Reserve System who is authorized by the Board to issue such interpretations of approvals; even though after the act of omission the rule, regulation, interpretation or approval is amended, rescinded or determined by judicial or other authorities to be invalid.

Section 1009(a) makes it clear that nothing in the title prevents a depository institution from making funds available for withdrawal at an earlier time than required by this title or by regulations of the Board. Nothing in this title affects a depository institution's existing right (a) to accept or reject a check for deposit; or (b) if a check is accepted for deposit and provisional settlement has been made, revoke the provisional credit, charge back the depositor's account, or claim a refund for such provisional credit.

Section 1009(b) provides this title's preemption standard and states that the regulations prescribed by the Board shall supersede state law where the Board determines the state law to be inconsistent with the provisions of this title or its regulations. For example, a few states prohibit the direct return of checks to the institution of first deposit. Should the Board, by regulation, require direct return of checks, those state laws would be superseded.

Section 1010 requires the Board to study and submit to the Congress, one year after implementing its regulations, its findings concerning the effect of changes made by the regulations, and assessment of improvements that could be made in the check collection system, and an assessment of the use of electronics in payments.

TITLE XI—CREDIT CARDS

Section 1101 states that this Act shall be called the "Fair Credit Card Act of 1986."

Section 1102 amends Section 127 of the Truth-in-Lending Act to add three new subsections requiring disclosures for credit card solicitations, and the use of certain balance calculation methods for third party bank cards, as follows:

Subsection (c) requires that credit card solicitations or advertisements mailed to the consumer disclose the annual percentage rate, the existence or nonexistence of a "grace" period, and the annual fee or other charges applicable to the card.

Subsection (d) requires that charge card solicitations or advertisements mailed to the consumer disclose the annual fees or other charges applicable to the card, and that charges incurred are payable upon receipt of the monthly payment.

Subsection (e) requires the Federal Reserve Board to issue a regulation requiring use of the average daily balance method, or a method resulting in a lower finance charge than average daily balance, for third party credit cards.

TITLE XII—MISCELLANEOUS

Section 1201: Treatment of funds of depository institution regulators

This section expressly exempts the funds of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration from sequestration or reduction of obligation limitations under the Balance Budget and Emergency Deficit Control Act of 1985. Each of these agencies is complete-

ly financed by the institutions they regulate, any savings from budget cuts could not be used to fund any other government activities. In addition, the section would clarify and extend existing law to establish a uniform exemption for the funds of each of these agencies from the apportionment authority of the Office of Management and Budget. This will confirm the flexibility and independence these self-financing agencies need to respond quickly to failing and failed depository institutions, and to supervise all depository institutions effectively.

Section 1202: NOW account amendment

This section would clarify that organizations operated primarily for political purposes and not for profit are eligible to own negotiable order of withdrawal (NOW) accounts. Under this language, political committees which are organized to support candidates for local, state and/or federal office would now have the option to use interest-bearing NOW accounts at financial institutions. The coverage would also include political party committees and the separate segregated funds commonly known as political action committees of corporations, labor organizations, trade associations, membership organizations, cooperatives and similar organizations.

Section 1203: Reimbursement for travel

This section parallels a similar provision applicable to the Securities and Exchange Commission. It permits Board members and staff of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to accept payment from federal and non-federal sponsors for reimbursement for travel, subsistence, and other expenses incurred in attending meetings and conferences pertaining to the activities of the Board. This authority is subject to Board rules governing conflicts of interest.

Section 1204: Loan marketing association

This section amends the Bank Holding Company Act and the National Housing Act to prohibit the Student Loan Marketing Association (Sallie Mae) from owning or controlling an insured bank, mutual savings bank, savings bank or savings and loan association.●

By Mr. BUMPERS (for himself, Mr. BIDEN, Mr. SARBANES, Mr. HECHT, Mr. KERRY, Mr. METZENBAUM, Mr. SIMON, Mr. KENNEDY, and Mr. BAUCUS):

S. 2593. A bill to establish the National Nuclear Safety Study Commission; to the Committee on Environment and Public Works.

NATIONAL NUCLEAR SAFETY STUDY COMMISSION

● Mr. BUMPERS. Mr. President, I am introducing legislation today to establish an independent 12-member commission of distinguished experts to study the Chernobyl nuclear accident and a broad range of nuclear safety issues. This bill is identical to S. 2571 which I introduced on June 19. I had been informed by the Senate parliamentarian several days prior to its introduction that my bill would be referred to the Committee on Environment and Public Works. However, the bill was erroneously referred to the Committee on Government Affairs. Therefore, I am reintroducing the legislation in order to achieve the proper referral.●

By Mr. GORE (for himself and Mr. GORTON):

S. 2594. A bill to require the Office of Science and Technology Policy to report to the Congress on fiber optic networks and other options to improve communications among supercomputer centers and users in the United States; to the Committee on Commerce, Science, and Transportation.

SUPERCOMPUTER NETWORK STUDY ACT

Mr. GORE. Mr. President, it gives me great pleasure to introduce legislation today in behalf of myself and the Senator from Washington, Senator GORTON, that will expand the potential of fiber optic networks to link the Nation's supercomputers into one system.

The pace and complexity of modern scientific research has dramatically increased the Nation's communications needs. Today, scientists depend on computers the way they once relied on the slide rule.

To meet the needs of science and engineering, the Government established supercomputer facilities at a number of universities and Federal research facilities. Several networks have been designed to link these supercomputers with each other and with individual scientists. Data can be transmitted via satellite transmission and high speed phone lines. The National Science Foundation plans to link its five supercomputer centers in a nationwide system called NSF-net that will transmit data equal to 1.5 million bits per second.

The Nation can be proud of NSF-net—but we need to do more. In order to cope with the explosion of supercomputer activity in this country, we must look to new ways to advance the state-of-the-art in telecommunications—new ways to increase the speed and quality of the data transmission. Without these improvements, the supercomputer networks face data bottlenecks like those we face every day on our crowded highways.

The private sector is already aware of the need to evaluate and adopt new technologies. One promising technology is the development of fiber optic systems for voice and data transmission. Eventually we will see a system of fiber optic highways being installed nationwide. By 1988, U.S. Telecom hopes to complete a 23,000-mile network costing $2 billion or more. By 1990, AT&T will also install a 21,000-mile highway of fiber optic cables stretching across the Nation. In fact, this bill is being introduced today on the 30th anniversary of the Interstate Highway Network.

These fiber optic networks will eventually transmit data at 1.7 billion bits per second—a thousand times faster than NSF-net and nearly 2 million times faster than existing supercomputer networks such as ARPA-net, managed by the Defense Communications Agency. In addition, optical fibers tolerate radiation well and are not affected by lightning, static discharge, or large motors.

Mr. President, today I am introducing the Supercomputer Network Study Act of 1986, to require the Office of Science and Technology Policy to study ways to upgrade our telecommunications networks for supercomputers and promote the use of fiber optics.

This study is designed to answer critical questions on the needs of supercomputer telecommunications systems. For example, what are the future requirements for our supercomputers in terms of the quantity and quality of data transmission, data security, and softwear compatibility? What equipment must be developed to take advantage of the high transmission rates offered by fiber optics networks?

The emphasis is on supercomputers, but networks linking smaller computers will also benefit from this study by looking at ways to improve electronic mail and the transfer of business and private records via computer. Today, we can bank by computer, shop by computer, and send letters by computer. Only a few companies and individuals use these services, but the number is growing and existing capabilities are limited.

Already, a number of States are planning statewide networks. New York hopes to someday lay fiber optic cable along the New York Thruway to establish a fiber optic backbone for its telecommunications system. We must look at these future networks now to insure their compatibility.

America's highways transport people and materials across the country. Federal freeways connect with State highways which connect in turn with country roads and city streets. To transport data and ideas, we will need a telecommunications highway connecting users coast to coast, State to State, city to city. The study required in this legislation will identify the problems and opportunities the Nation will face in establishing that highway.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Supercomputer Network Study Act of 1986".

FINDINGS

SEC. 2. The Congress finds that—

(1) the Federal Government has established supercomputer facilities at United States universities and within Federal research facilities in order to make supercom-

puter services widely available to the academic and research communities;

(2) these supercomputer services play a central role in the advancement of scientific and engineering knowledge in the United States, and will become even more important to research in the years to come;

(3) new research projects and new efforts to improve communications among government, universities, and industry in order to promote the Nation's future competitiveness will require greater transmissions of data among institutions;

(4) universities around the Nation are connected to these academic and Federal supercomputer facilities through a network of telecommunications links that soon may be unable to handle the rapidly increasing demand from researchers;

(5) given the explosive growth in supercomputer activities in the United States, the proliferation of data handling protocols, and the potential inability of current networking arrangements to handle this growing amount of communications, the Federal Government must ensure the development of a supercomputer networking policy to meet the Nation's current and future needs;

(6) as compared with traditional telecommunications technologies, new systems such as fiber optic technologies appear to offer remarkable advantages, including much higher data transmission capacities, lower operating expense, greater reliability, and greater security;

(7) a fiber optic networking system for academic and Federal supercomputers might greatly benefit both the research community and the development of new United States communications technologies;

(8) a high speed network is likely to provide most institutions of higher learning with more equal access to the currently limited number of United States supercomputer centers; and

(9) the Congress and the academic community would benefit from a study of options for the future networking of such supercomputers in the United States.

STUDY BY THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY

SEC. 3. (a) The Office of Science and Technology Policy (hereinafter referred to as the "Office") shall undertake a study of critical problems and current and future options regarding communications networks for supercomputers at universities and Federal research facilities in the United States. The study shall include an analysis of—

(1) the networking needs of the Nation's academic and Federal research supercomputer programs over the period which is fifteen years after the date of enactment of this Act, including requirements in terms of volume of data, reliability of transmission, software compatibility, graphics capability, and transmission security;

(2) the benefits and opportunities that an improved computer network would offer for electronic mail, file transfer, and remote access and communications for universities and Federal research facilities in the United States; and

(3) the networking options available for linking academic and other Federally supported supercomputers, with a particular emphasis on the advantages and disadvantages, if any, of fiber optic systems.

(b) The Office shall, within one year after the date of enactment of this Act, report to the Congress on the findings from the study undertaken in accordance with subsection (a) of this section.

ADMINISTRATIVE PROVISIONS

SEC. 4. (a) The Office may, in order to carry out the provisions of this Act, hold such hearings and consult with such representatives in academic institutions, the business community, Federal, State, and local governments, and other organizations, associations, and individuals as the Director of the Office considers advisable.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government, including independent agencies, shall furnish to the Office, upon request made by the Director of the Office, any information or assistance the Director considers necessary to carry out the study undertaken in accordance with this Act.

By Mrs. HAWKINS (for herself, Mr. THURMOND, Mr. KENNEDY, Mr. HATCH, and Mr. DODD):

S. 2595. A bill to amend the Public Health Service Act to revise the authorities of, and redesignate, the Alcohol, Drug Abuse, and Mental Health Administration; to the Committee on Labor and Human Resources.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH AMENDMENTS OF 1986

● Mrs. HAWKINS. Mr. President, I rise today to introduce legislation reauthorizing the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism. I am joined in my sponsorship of this legislation by Senators HATCH, THURMOND, KENNEDY, and DODD.

Mr. President, this legislation will supersede S. 2443 for it includes technical compromises reflecting the concerns of the Senate Labor and Human Resources Committee with respect to the alcohol labeling provision. Briefly stated, the alcohol labeling provision which was adopted in committee would be revised to require that all alcoholic beverages display one of four warning labels on a rotating basis. It would also request that the National Institute on Alcohol and Alcoholism, through the Surgeon General, recommend changes in labeling requirements on an annual basis.

Except for the alcohol labeling revision, the content of this language is consistent with that contained in S. 2443 as was unanimously supported by all my colleagues on the Senate Committee on Labor and Human Resources and was favorably reported by the committee on May 20, 1986.

I ask that the entire contents of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol, Drug Abuse, and Mental Health Amendments of 1986".

REVISION AND REDESIGNATION OF ADAMHA

SEC. 2. (a) Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended to read as follows:

"NATIONAL INSTITUTES ON ALCOHOL, DRUGS, AND MENTAL HEALTH

"SEC. 501. (a) The National Institutes on Alcohol, Drugs, and Mental Health (hereafter referred to in this title as the 'National Institutes') is an agency of the Service.

"(b)(1) The following national research institutes are agencies of the National Institutes:

"(A) The National Institute on Alcohol Abuse and Alcoholism.

"(B) The National Institute on Drug Abuse.

"(C) The National Institute of Mental Health.

"(2) For purposes of this title, the term 'national research institute' means a national research institute listed in paragraph (1). A reference to the National Institutes includes the national research institutes.

"(c)(1) The National Institutes shall be headed by an Administrator (hereafter in this title referred to as the 'Administrator') who shall be appointed by the President by and with the advice and consent of the Senate.

"(2) The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the National Institutes.

"(d) The Secretary, acting through the Administrator—

"(1) shall supervise the functions of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse in order to assure that the programs carried out through each such Institute receive appropriate and equitable support and that there is cooperation among the national research institutes in the implementation of such programs; and

"(2) shall assure that research at or supported by the National Institutes and each of the national research institutes is subject to review in accordance with section 507 and is in compliance with section 509.

"(e)(1) There shall be in the National Institutes an Associate Administrator for Prevention to whom the Administrator shall delegate the function of promoting the prevention research programs of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse and coordinating such programs between the national research institutes and between the national research Institutes and other public and private entities.

"(2) By January 1, 1988, and every 3 years thereafter, the Administrator, acting through the Associate Administrator for Prevention, shall submit to the Congress a report describing the prevention activities (including preventive medicine and health promotion) undertaken by the National Institutes, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. The report shall include a detailed statement of the expenditures made for the activities reported on and the personnel used in connection with such activities.

"(f) The Administrator shall establish a process for the prompt and appropriate response to information provided the Administrator respecting (1) scientific fraud in connection with projects for which funds have been made available under this Act,

and (2) incidences of violations of the rights of human subjects of research for which funds have been made available under this Act. The process shall include procedures for the receiving of reports of such information from recipients of funds under this Act and taking appropriate action with respect to such fraud and violations.

"(g) The Secretary, acting through the Administrator, shall make grants to schools of the health professions and schools of social work to support the training of students in such schools in the identification and treatment of alcohol and drug abuse. Grants under this subsection shall be made from funds available under this title and section 303.

"(h) To educate the public with respect to the health hazards of alcoholism, alcohol abuse, and drug abuse, the Administrator shall take such actions as may be necessary to ensure the widespread dissemination of current publications of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse relating to the most recent research findings with respect to such health hazards.

"(i)(1) The Administrator may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the period of service) the services of not more than 20 experts or consultants who have scientific or professional qualifications. Such experts and consultants shall be obtained for the National Institutes and for each of the national research institutes.

"(2)(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"(j) In carrying out this Act, the Administrator may accept voluntary and uncompensated services for the National Institutes and for each of the national research institutes.

"(k)(1) The Alcohol, Drug Abuse, and Mental Health Advisory Board (hereafter in this subsection referred to as the 'Board') shall—

"(A) periodically assess the national needs for alcoholism, alcohol abuse, drug abuse, and mental health services and the extent to which those needs are being met by State, local, and private programs and programs receiving funds under this title and part B of title XIX; and

"(B) provide advice to the Secretary and the Administrator respecting activities carried out under this title and part B of title XIX.

"(2)(A) The Board shall consist of 15 members appointed by the Secretary and such ex officio members from the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health as the Secretary may designate. Of the members appointed to the Board, at least 6 members shall represent State and private, nonprofit providers of prevention and treatment services for alcoholism, alcohol abuse, drug abuse, and mental illness, at least 6 members shall be individuals with expertise in public education and prevention services for alcoholism, alcohol abuse, drug abuse, and mental illness, and at least 3 members shall be appointed from members of the general public who are knowledgeable about alcoholism, alcohol abuse, drug abuse, and mental illness.

"(B) The term of office of a member appointed to the Board is 4 years, except that of the members first appointed to the Board—

"(i) 5 shall serve for terms of 1 year;

"(ii) 5 shall serve for terms of 2 years; and

"(iii) 5 shall serve for terms of 3 years,

as designated by the Secretary at the time of appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the successor of the member has taken office.

"(3)(A) Except as provided in subparagraph (B), members of the Board shall (i) be paid not more than the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board, and (ii) while away from their homes or regular places of business and while serving in the business of the Board, be entitled to receive transportation expenses as prescribed by section 5703 of title 5, United States Code.

"(B) Members of the Board who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Board.

"(4) The Board may appoint such staff personnel as the Board considers appropriate.

"(5) The Secretary shall designate the chairman of the Board.

"(6) The Board shall meet at least 3 times each calendar year.

"(7) The Board shall report annually to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on its activities during the prior year and shall include in such report such recommendations for legislation and administrative action as it deems appropriate.".

(b)(1) The title heading for title V of the Public Health Service Act is amended to read as follows:

"TITLE V—NATIONAL INSTITUTES ON ALCOHOL, DRUGS, AND MENTAL HEALTH"

(2) The heading for part A of such title is amended to read as follows:

"PART A—ORGANIZATION".

(3) Section 506(d) of such Act (42 U.S.C. 290aa-5(d)) is amended by striking out "of the administration" in the first sentence.

(c)(1) The Alcohol, Drug Abuse, and Mental Health Administration is redesignated as the National Institutes on Alcohol, Drugs, and Mental Health, and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration or any other official of such Administration is redesignated the Administrator or official, as appropriate, of the National Institutes on Alcohol, Drugs, and Mental Health.

(2) Any reference to the Alcohol, Drug Abuse, and Mental Health Administration, the Administrator of Alcohol, Drug Abuse, and Mental Health Administration, or any other official of the Alcohol, Drug Abuse, and Mental Health Administration in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the date of enactment of this Act shall be deemed to refer and apply to the National Institutes on Alcohol, Drugs, and Mental Health or the Administrator or official, as appropriate, of the National Institutes on Alcohol, Drugs, and Mental Health, respectively.

ADVISORY COUNCILS

SEC. 3. (a) Part A of title V of the Public Health Service Act is amended by redesignating sections 505 and 506 as sections 506 and 507, respectively, and by inserting after section 504 the following new section:

"ADVISORY COUNCILS

"SEC. 505. (a)(1) The Secretary shall appoint an advisory council for the National Institute on Alcohol Abuse and Alcoholism, for the National Institute on Drug Abuse, and for the National Institute of Mental Health. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Director of the national research institute for which it was appointed on—

"(A) matters relating to the activities carried out by and through the Institute and the policies respecting such activities; and

"(B) matters relating to activities carried out by the Secretary and the National Institutes respecting the disease, disorder, or other aspect of human health with which the advisory council is concerned.

"(2) Each advisory council for a national research institute may recommend to the Secretary acceptance, in accordance with section 2101, of conditional gifts for—

"(A) study, investigation, or research respecting the diseases, disorders, or other aspect of human health with respect to which the institute was established;

"(B) the acquisition of grounds for the institute; or

"(C) the construction, equipping, or maintenance of facilities for the institute.

"(3) Each advisory council for a national research institute—

"(A)(i) may on the basis of the materials provided under section 507(d)(2) respecting research conducted at the institute, make recommendations to the Director of the institute respecting such research;

"(ii) shall review applications for grants and cooperative agreements for research or training and for which advisory council approval is required under section 507(e)(2), and recommend for approval applications for projects which show promise of making valuable contributions to human knowledge; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the institute;

"(B) may collect, by correspondence or by personal investigation, information as to studies which are being carried on in the United States or any other country as to the diseases, disorders, or other aspect of human health with respect to which the national research institute was established and

with the approval of the Director of the institute make available such information through appropriate publications for the benefit of public and private health entities and health professions personnel and scientists and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b)(1) Each advisory council shall consist of ex officio members and not more than 12 members appointed by the Secretary.

"(2) The ex officio members of an advisory council shall consist of—

"(A) the Secretary, the Administrator, the Director of the national research institute for which the advisory council is established, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers), and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health and scientific disciplines (including public health and the behavioral or social sciences) relevant to the activities of the national research institute for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) The term of office of an appointed member of an advisory council is 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office. A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office. If a vacancy occurs in the advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) The chairman of an advisory council shall be selected by the Secretary from among the appointed members, except that the Secretary may select the Director of the national research institute for which the advisory council is established to be the chairman of the advisory council. The term of office of chairman shall be 2 years.

"(e) The advisory council shall meet at the call of the chairman or upon the request of the Director of the national research institute for which it was established, but at least 3 times each fiscal year. The location of the meetings of each advisory council is subject to the approval of the Director of the national research institute for which the advisory council was established.

"(f) The Director of the national research institute for which an advisory council is established shall designate a member of the staff of the institute to serve as the executive secretary of the advisory council. The Director of such institute shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Director of such institute shall provide orientation and training for new members of the advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of the advisory council.".

(b) Section 217 of the Public Health Service Act (42 U.S.C. 218) is amended—

(1) by striking out subsections (a), (b), (c), and (d);

(2) by striking out "(e)(1)" and inserting in lieu thereof "(a)";

(3) by striking out "(2)" and inserting in lieu thereof "(b)";

(4) by striking out "(3)" and inserting in lieu thereof "(c)";

(5) by striking out "(4)" and inserting in lieu thereof "(d)"; and

(6) by redesignating clauses (A) and (B) of subsection (c) (as redesignated by the amendment made by paragraph (4) of this subsection) as clauses (1) and (2), respectively.

PUBLIC HEALTH EMERGENCIES

SEC. 4. Part A of title V of the Public Health Service Act (as amended by section 3 of this Act) is further amended by adding at the end thereof the following:

"RESEARCH ON PUBLIC HEALTH EMERGENCIES

"SEC. 508. (a) If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of a national research institute constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for research on such disease or disorder or proposals for contracts for such research;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such research;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new research relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed in research assisted under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year.".

RESEARCH AUTHORIZATION

SEC. 5. (a) Section 513 of the Public Health Service Act (42 U.S.C. 290bb-2) is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 513. There are authorized to be appropriated to carry out this subpart $69,000,000 for fiscal year 1987 and such sums as may be necessary for fiscal years 1988, 1989, 1990, and 1991.".

(b) Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended to read as follows:

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 517. There are authorized to be appropriated to carry out this subpart $83,000,000 for fiscal year 1987 and such sums as may be necessary for fiscal years 1988, 1989, 1990, and 1991.".

CHILD ABUSE REPORTING

SEC. 6. (a) Section 523(e) of the Public Health Service Act (42 U.S.C. 290dd-3(e)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" before "The"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State authorities.".

(b) Section 527(e) of such Act (42 U.S.C. 290ee-3(e)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" before "The"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State authorities.".

SUICIDE

SEC. 7. Section 501 of the Public Health Service Act (42 U.S.C. 290aa) (as amended by section 2 of this Act) is further amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following new subsection:

"(k)(1) The Secretary shall—

"(A) develop and publish information respecting the causes of suicide among individuals under the age of 21 and the means of preventing suicide among such individuals, and

"(B) make such information generally available to the public and health professionals.

"(2) By January 1, 1988, and every 3 years thereafter, the Secretary shall report to the Congress on the activities undertaken under paragraph (1) during the period reported on and shall include in each such report an assessment of the effectiveness of such activities.".

ANIMALS IN RESEARCH

SEC. 8. Part A of title V of the Public Health Service Act (as amended by section 4 of this Act), is further amended by adding at the end thereof the following new section:

"ANIMALS IN RESEARCH

"SEC. 509. (a) The Secretary, acting through the Administrator, shall establish guidelines for the following:

"(1) The proper care of animals to be used in research conducted by and through agencies of the National Institutes.

"(2) The proper treatment of animals while being used in such research. Guidelines under this paragraph shall require—

"(A) the appropriate use of tranquilizers, analgesics, anesthetics, paralytics, and euthanasia for animals in such research; and

"(B) appropriate pre-surgical and post-surgical veterinary medical and nursing care for animals in such research.

Such guidelines shall not be construed to prescribe methods of research.

"(3) The organization and operation of animal care committees in accordance with subsection (b).

"(b)(1) Guidelines of the Secretary under subsection (a)(3) shall require animal care committees at each entity which conducts research with funds provided under this title to assure compliance with the guidelines established under subsection (a).

"(2) Each animal care committee shall be appointed by the chief executive officer of the entity for which the committee is established, shall be composed of not fewer than 3 members, and shall include at least 1 individual who has no association with such entity and at least 1 doctor of veterinary medicine.

"(3) Each animal care committee of a research entity shall—

"(A) review the care and treatment of animals in all animal study areas and facilities of the research entity at least semiannually to evaluate compliance with applicable guidelines established under subsection (a) for appropriate animal care and treatment;

"(B) keep appropriate records of reviews conducted under subparagraph (A); and

"(C) for each review conducted under subparagraph (A), file with the Administrator at least annually (i) a certification that the review has been conducted, and (ii) reports of any violations of guidelines established under subsection (a) or assurances required under paragraph (1) which were observed in such review and which have continued after notice by the committee to the research entity involved of the violations.

Reports filed under subparagraph (C) shall include any minority views filed by members of the committee.

"(c) The Administrator shall require each applicant for a grant, contract, or cooperative agreement involving research on animals which is administered by the Administrator or any agency of the National Institutes to include in its application or contract proposal, submitted after the expiration of the 12-month period beginning on the date of enactment of this section—

"(1) assurances satisfactory to the Administrator that—

"(A) the applicant meets the requirements of the guidelines established under paragraphs (1) and (2) of subsection (a) and has an animal care committee which meets the requirements of subsection (b); and

"(B) scientists, animal technicians, and other personnel involved with animal care, treatment, and use by the applicant have available to them instruction or training in the humane practice of animal maintenance and experimentation, and the concept, availability, and use of research or testing methods that limit the use of animals or limit animal distress; and

"(2) a statement of the reasons for the use of animals in the research to be conducted with funds provided under such grant or contract.

Notwithstanding subsection (a)(2) of section 553 of title 5, United States Code, regulations under this subsection shall be promulgated in accordance with the notice and comment requirements of such section.

"(d) If the Administrator determines that—

"(1) the conditions of animal care, treatment, or use in an entity which is receiving a grant, contract, or cooperative agreement involving research on animals under this title do not meet applicable guidelines established under subsection (a);

"(2) the entity has been notified by the Administrator of such determination and has been given a reasonable opportunity to take corrective action; and

"(3) no action has been taken by the entity to correct such conditions;

the Administrator shall suspend or revoke such grant or contract under such conditions as the Administrator determines appropriate.

"(e) No guideline or regulation promulgated under subsection (a) or (c) may require a research entity to disclose publicly trade secrets or commercial or financial information which is privileged or confidential.".

PREPARATION OF PUBLIC SERVICE ANNOUNCEMENTS

SEC. 9. (a) Section 503 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary, acting through the Institute and in consultation with the Director of the Office on Smoking and Health, shall prepare for distribution announcements for television to educate the public, particularly women, concerning the dangers resulting from cigarette smoking by women. In the preparation of such announcements, the Secretary shall, to the extent feasible, use appropriate private organizations and business concerns.

"(2) Of the amount appropriated under section 517 for each of the fiscal years 1987, 1988, and 1989, $250,000 shall be available to carry out paragraph (1) for such fiscal year.".

(b) Section 517 of such Act (as amended by section 5(b) of this Act) is further amended by inserting "section 503(e) and" before "this subpart".

ALCOHOLIC CONTENT DISCLOSURE

SEC. 10. (a)(1) Section 5(e)(2) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)(2)) is amended by striking out beginning with "except that" the first place it appears through "State law and".

(2) Section 5(f)(2) of such Act (27 U.S.C. 205(f)(2)) is amended by striking out "malt beverages and" and inserting in lieu thereof "malt beverages are permitted, but are not required, and such statements with respect to".

(3) Section 17(a) of such Act (27 U.S.C. 211(a)) is amended by adding at the end thereof the following new paragraph:

"(9) The term 'alcoholic content' means, with respect to malt beverages, the percentage by volume of the beverage which is comprised of alcohol.".

(4)(A) On and after the date of enactment of this Act, the regulations contained in sections 7.22(b)(3), 7.26, 7.29(g), and 7.54(c) of title 27, Code of Federal Regulations, shall cease to be in effect.

(B) Within one year after the date of enactment of this Act, the Secretary of the Treasury shall revise the regulations promulgated under the Federal Alcohol Administration Act to carry out the amendments made by this subsection.

(b)(1) The amendments made by this subsection shall take effect one year after the date of enactment of this Act.

(2) Section 5(e) of the Federal Alcohol Administration Act (as amended by subsection (a)(1) of this section) is further amended—

(A) by inserting "and except that subsection (g) of this section shall apply in lieu of this clause to statements of, or statements likely to be considered as statements of, alcoholic content of malt beverages" before the end parenthesis in clause (2); and

(B) by inserting after subsection (f) the following:

"(g) ALCOHOLIC CONTENT OF MALT BEVERAGES: To sell or ship or deliver for sale or shipment, or otherwise introduce in interstate commerce, or receive therein, or to remove from customs custody for consumption, any malt beverages in bottles, unless the label on the bottle of any such beverage bears an accurate statement of the alcoholic content of such beverage.".

ALCOHOL WARNING LABELS

SEC. 11. (a) Title V of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART D—PUBLIC AWARENESS CONCERNING THE HEALTH EFFECTS OF ALCOHOLIC BEVERAGE CONSUMPTION

"PUBLIC AWARENESS

"SEC. 531. (a) It shall be unlawful for any person to manufacture, import, distribute, sell, ship, package or deliver for sale, distribution, or shipment, or otherwise introduce in commerce, in the United States, any alcoholic beverage during a calendar year unless the container of such beverage has a label bearing one of the following statements:

"(1) 'WARNING: THE SURGEON GENERAL HAS DETERMINED THAT THE CONSUMPTION OF THIS PRODUCT, WHICH CONTAINS ALCOHOL, DURING PREGNANCY CAN CAUSE BIRTH DEFECTS.

"(2) 'WARNING: DRINKING THIS PRODUCT, WHICH CONTAINS ALCOHOL, CAN IMPAIR YOUR ABILITY TO DRIVE A CAR OR OPERATE MACHINERY.

"(3) 'WARNING: THIS PRODUCT CONTAINS ALCOHOL AND IS PARTICULARLY HAZARDOUS IN COMBINATION WITH SOME DRUGS.

"(4) 'WARNING: THE CONSUMPTION OF THIS PRODUCT, WHICH CONTAINS ALCOHOL, CAN INCREASE THE RISK OF DEVELOPING HYPERTENSION, LIVER DISEASE, AND CANCER.'.

"(5) The statement, if any, prescribed by the Surgeon General under subsection (b)(2) for such calendar year.

"(b)(1)(A) The Director of the National Institute on Alcohol Abuse and Alcoholism shall provide for the conduct of research concerning the chronic and acute effects on health resulting from the consumption of alcoholic beverages. By September 1 of each year, the Director shall, based on the results of the research conducted under the preceding sentence, make recommendations to the Surgeon General for two statements concerning the health effects of the consumption of alcoholic beverages which the Director proposes be prescribed by the Surgeon General for purposes of subsection (a)(5) for the calendar year beginning on January 1 of the succeeding year.

"(B) One of the statements submitted by the Director of the National Institute on Al-

cohol Abuse and Alcoholism under subparagraph (A) for the first calendar year beginning after the effective date of this section shall be a statement with respect to the dangers (including death) resulting from the rapid consumption of excessive amounts of alcoholic beverages.

"(2) By October 1 of each year, the Surgeon General may select one of the statements recommended during such year by the Director of the National Institute on Alcohol Abuse and Alcoholism pursuant to paragraph (1). If the Surgeon General selects one such statement, the Surgeon General shall prescribe regulations requiring that, for purposes of subsection (a)(5), such statement shall, for the calendar year beginning on January 1 of the succeeding year, be one of the statements required under subsection (a) to be specified on a label on the container of an alcoholic beverage.

"(c) The label required by subsection (a) shall be located in a conspicuous and prominent place on the container of an alcoholic beverage. The statement required by such subsection shall appear in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on such container.

"(d) Each statement required by subsection (a) shall—

"(1) be randomly displayed by a manufacturer, packager, or importer of an alcoholic beverage in each calendar year in as equal a number of times as is possible on each brand of the beverage; and

"(2) be randomly distributed in all parts of the United States in which such brand is marketed.

"(e) No statement relating to the consumption of alcoholic beverages and health, other than the statements required by subsection (a), shall be required on any container of an alcoholic beverage.

"(f) Any person who violates the provisions of this section shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not more than $10,000.

"(g) The several district courts of the United States are invested with jurisdiction, for cause shown, to prevent and restrain violations of this section upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

"(h) Alcoholic beverages manufactured, imported, distributed, sold, shipped, packaged, or delivered (1) for export from the United States or (2) for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States shall be exempt from the requirements of this section, but such exemptions shall not apply to alcoholic beverages manufactured, imported, distributed, sold, shipped, or packaged or delivered for sale, distribution, or shipment to members or units of the Armed Forces of the United States located outside of the United States.

"(i) Nothing in this section shall be construed to relieve any person from any liability under Federal or State law to any other person.

"(j) For purposes of this section—

"(1) the term 'alcoholic beverage' includes distilled spirits, wine, and malt beverages;

"(2) the term 'commerce' has the same meaning as in section 3(2) of the Federal Cigarette Labeling and Advertising Act;

"(3) the term 'container' means any container, irrespective of the material from which made, for use for the sale of any alcoholic beverage;

"(4) the term 'distilled spirits' means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use;

"(5) the term 'malt beverage' means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption;

"(6) the term 'person' has the same meaning as in section 3(5) of such Act;

"(7) the terms 'sale' and 'distribution' include sampling or any other distribution not for sale;

"(8) the term 'United States' has the same meaning as in section 3(3) of such Act; and

"(9) the term 'wine' has the same meaning as in section 17(a)(6) of the Federal Alcohol Administration Act.".

(b) The amendment made by this section shall take effect 6 months after the date of enactment of this Act.

TECHNICAL AMENDMENT

SEC. 12. Section 504(e)(2)(A) of the Public Health Service Act (42 U.S.C. 290aa-3(e)(2)(A)) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon.●

ADDITIONAL COSPONSORS

S. 477

At the request of Mr. ANDREWS, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 477, a bill to enhance rail competition and to ensure reasonable rail rates where there is an absence of effective competition.

S. 1060

At the request of Mr. D'AMATO, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 1060, a bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity (resulting from changes made in 1977 in the benefit computation formula) between those levels and the benefit levels of persons who became eligible for benefits before 1979.

S. 2057

At the request of Mr. HATCH, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2057, a bill to establish the President's Council on Health Promotion and Disease Prevention.

S. 2064

At the request of Mr. WARNER, the names of the Senator from Alabama [Mr. DENTON], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 2064, a bill to require the President to make an annual report on the national strategy of the U.S. Government to certain committees of Congress and to require joint committee meetings to be held on such report.

S. 2115

At the request of Mr. THURMOND, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2115, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 2186

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2186, a bill to exempt any amounts available to provide certain benefits to veterans with service-connected disabilities from any requirement for sequestration of funds under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

S. 2187

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2187, a bill to amend title 38, United States Code, to exempt from sequestration certain benefits for veterans and dependents and survivors of certain veterans which are paid based on the service-connected disability or death of veterans.

S. 2220

At the request of Mr. CRANSTON, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2220, a bill to provide for a mutual, verifiable moratorium on the testing of nuclear warheads, and for other purposes.

S. 2224

At the request of Mr. HUMPHREY, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 2224, a bill to limit the uses of funds under the Legal Services Corporation Act to provide legal assistance with respect to any proceeding or litigation which relates to abortion.

S. 2382

At the request of Mr. HUMPHREY, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 2382, a bill to amend the Internal Revenue Code of 1954 to deny status as a tax-exempt organization, and as a charitable contribution recipient, for organizations which directly or indirectly perform, finance, or provide facilities for abortions, except to prevent the death of the mother.

S. 2447

At the request of Mrs. KASSEBAUM, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2447, a bill to provide for improved disclosure of certain rail transportation contracts.

S. 2455

At the request of Mr. MITCHELL, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2455, a bill entitled the National Organ and Tissue Donor Act.

S. 2494

At the request of Mr. BRADLEY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2494, a bill to amend title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2495

At the request of Mr. KENNEDY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2495, a bill to amend the Food Stamp Act of 1977, the Child Nutrition Act of 1966, and the National School Lunch Act to improve the availability of benefits under such acts, to provide for a program for nutrition monitoring and research, and for other purposes.

S. 2537

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2537, a bill to protect and preserve the Federal interest and the historic and natural features of the National Capital.

SENATE JOINT RESOLUTION 354

At the request of Mr. CHILES, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 354, a joint resolution to designate the week of October 5, 1986, through October 11, 1986, as "National Drug Abuse Education and Prevention Week."

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 359, a joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE RESOLUTION 275

At the request of Mr. HUMPHREY, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of Senate Resolution 275, a resolution to express the opposition of the United States to the "one-child" family planning policies of the Government of the People's Republic of China and to encourage the People's Republic of China to abandon such policies.

SENATE RESOLUTION 414

At the request of Mr. MURKOWSKI, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Resolution 414, a resolution expressing the sense of the Senate regarding the resumption of technical meetings with the Government of the Socialist Republic of Vietnam on the issues of the repatriation of remains of American servicemen, joint excavations of crash sites, and investigation of so-called live sighting reports.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from New Hampshire [Mr. HUMPHREY] were added as cosponsors of Senate Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

AMENDMENT NO. 2133

At the request of Mr. MATTINGLY, the names of the Senator from Vermont [Mr. LEAHY], the Senator from California [Mr. WILSON], the Senator from Indiana [Mr. QUAYLE], the Senator from Oklahoma [Mr. NICKLES], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Nevada [Mr. LAXALT], the Senator from Rhode Island [Mr. PELL], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Alaska [Mr. STEVENS], the Senator from Texas [Mr. GRAMM], and the Senator from Idaho [Mr. SYMMS], were added as cosponsors of amendment No. 2133 proposed to H.R. 3838, a bill to reform the internal revenue laws of the United States.

SENATE CONCURRENT RESOLUTION 152—CHANGES IN THE ENROLLMENT OF S. 2414

Mr. DOLE (for Mr. THURMOND) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 152

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 2414), to amend title 18 of the United States Code, shall make the following change:

At the end of the bill add the following:

This Act and the amendments made by this Act intended to amend the Firearms Owners' Protection Act, shall become effective on the date on which the section they are intended to amend in such Firearms Owners' Protection Act becomes effective and shall apply to the amendments to title 18, United States Code, made by such Act.

AMENDMENTS SUBMITTED

TAX REFORM ACT OF 1986

ARMSTRONG AMENDMENT NO. 2161

Mr. ARMSTRONG proposed an amendment to the bill (H.R. 3838) to reform the internal revenue laws of the United States; as follows:

On page 2316, between lines 17 and 18, insert the following new subtitle:

SUBTITLE E—REGULATED INVESTMENT COMPANIES

SEC. 1451. AMENDMENTS TO THE REGULATED INVESTMENT COMPANY QUALIFICATION RULES.

(a) IN GENERAL.—Paragraph (2) of subsection 851(b) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof: "(as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options or futures contracts) derived with respect to its business of investing in such stock, securities, or currencies;".

(b) FOREIGN CURRENCY GAINS.—Subsection 851(b) is amended—

(1) by striking out the period at the end of the next to last sentence therein and inserting in lieu thereof a semicolon;

(2) by striking out the phrase "For purposes of paragraphs (2) and (3)," at the beginning of the final sentence therein; and

(3) by striking out the period at the end of such final sentence and inserting in lieu thereof: "; and the Secretary may by regulation exclude from qualifying income foreign currency gains that are not ancillary to the company's principal business of investing in stock or securities (or options and futures thereon)".

SEC. 1452. TREATMENT OF SERIES FUNDS AS SEPARATE CORPORATIONS.

(a) IN GENERAL.—Section 851 is amended by adding at the end thereof the following new subsection.

"(q) SPECIAL RULE FOR SERIES FUNDS.—

"(1) In the case of a regulated investment company (within the meaning of subsection (a)) having more than one fund, each fund of such regulated investment company shall be treated as a separate corporation for purposes of this title (except with respect to the definitional requirement of subsection (a)).

"(2) For purposes of paragraph (1) the term 'fund' means a segregated portfolio of assets, the beneficial interest in which is owned by the holders of a class or series of stock of the regulated investment company that is preferred over all other classes or series in respect of such portfolio of assets."

(b) TREATMENT OF CERTAIN EXISTING SERIES FUNDS.—In the case of a regulated investment company that has more than one fund on the date on which this section becomes effective, and has before such effective date been treated for Federal income tax purposes as a single corporation—

(1) the amendment made by this section, and the resulting treatment of each fund as a separate corporation, shall not give rise to the realization or recognition of income or loss by such regulated investment company, its funds, or its shareholders, and

(2) the tax attributes of such regulated investment company shall be appropriately allocated among its funds.

SEC. 1453. EXTENSION OF PERIOD FOR MAILING NOTICES TO SHAREHOLDERS.

The following provisions are each amended by striking out "45 days" each place it appears and inserting in lieu thereof "60 days":

(1) Paragraph (3) of subsection 852(b).

(2) Subparagraph (A) of paragraph 852(b)(5).

(3) Subsection (c) of section 853.

(4) Paragraph (2) of subsection 854(b).

(5) Subsection (c) of section 855.

SEC. 1454. PROTECTION OF MUTUAL FUNDS RECEIVING THIRD-PARTY SUMMONSES.

Paragraph (3) of subsection 7609(a) is amended—

(1) by striking out "and" at the end of subparagraph (F):

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding the following new subparagraph:

"(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof."

SEC. 1455. EFFECTIVE DATES.

(a) The amendments made by sections 1451, 1452, and 1453 shall apply to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

(b) The amendments made by section 1454 shall apply to summonses served after the date of the enactment of this Act.

DURENBERGER AMENDMENT NO. 2162

Mr. DURENBERGER proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the end of subtitle P of title XVI, insert the following new section:

SEC. —. TREATMENT OF CERTAIN ENTITIES AS TRUSTS FOR TAX PURPOSES.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1954, if the entity described in subsection (b) makes an election under subsection (c), such entity shall be treated as a trust to which subpart E of part 1 of subchapter J of chapter 1 of such Code applies.

(b) ENTITY.—An entity is described in this subsection if—

(1) such entity was created in 1906 as a common law trust and is governed by the trust laws of the State of Minnesota.

(2) such entity receives royalties from iron ore leases, and

(3) income interests in such entity are publicly traded on a national stock exchange.

(c) ELECTION.—

(1) IN GENERAL.—An election under this subsection to have the provisions of this section apply—

(A) shall be made by the board of trustees of the entity, and

(B) shall not be valid unless accompanied by an agreement described in paragraph (2).

(2) AGREEMENT.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not—

(A) sell any trust property,

(B) purchase any additional trust properties, or

(C) receive any income other than—

(i) income from long-term mineral leases, or

(ii) interest or other income attributable to ordinary and necessary reserves of the entity.

(3) PERIOD FOR WHICH ELECTION IS IN EFFECT.—An election under this subsection shall be in effect during the period—

(A) beginning on the first day of the first taxable year following the taxable year in which the election is made, and

(B) ending as of the close of the taxable year preceding the taxable year in which the entity ceases to be described in subsection (b) or violates any term of the agreement under paragraph (2).

(4) MANNER OF ELECTION.—Any election under this subsection shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe.

(d) SPECIAL RULES FOR TAXATION OF TRUST.—

(1) ELECTION TREATED AS A LIQUIDATION.—If an election is made under subsection (c) with respect to any entity—

(A) such entity shall be treated as having been liquidated into a trust immediately before the period described in subsection (c)(3) in a liquidation to which section 333 of the Internal Revenue Code of 1954 applies, and

(B) any person holding an interest in the property held by such entity as of such time shall be treated as a qualified electing shareholder for purposes of section 333 of such Code.

(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), then the tax imposed on such entity for the taxable year in which such cessation or violation occurs shall be increased by the sum of—

(A) the amount of taxes which would have been imposed on such entity during any taxable year with respect to which an election under subsection (c) was in effect if such election had not been in effect, plus

(B) interest determined for the period—

(i) beginning on the due date for any such taxable year, and

(ii) ending on the due date for the taxable year in which such cessation or violation occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

(3) TRUST CEASING TO EXIST.—Paragraph (2) shall not apply if the trust ceases to be described in subsection (b) or violates the agreement in subsection (c)(2) because the trust ceases to exist.

(e) The election described in Subsection (c) shall be effective for taxable years beginning after the date of enactment of this legislation. The election shall terminate five years from the date of enactment of this legislation unless the Trust petitions a court of competent jurisdiction and the court acts to remove from the trust instrument any powers deemed by the court to be inconsistent with the operation of the entity as a trust for tax purposes as described in the Internal Revenue Ruling dated November 1, 1983.

At the end of title VI, insert:

SEC. 637. MODIFICATION OF DEFINITION OF RELATED PARTY.

(a) PARTNERSHIPS.—Paragraph (2) of section 707(b) (relating to gains treated as ordinary income) is amended by striking out "80 percent" each place it appears and insert in lieu thereof "50 percent".

(b) SALE OF DEPRECIATED PROPERTY BETWEEN CERTAIN RELATED TAXPAYERS.—

(1) IN GENERAL.—Paragraph (1) of section 1239(b) (defining related persons) is amended by striking out "80-percent owned entities" and inserting in lieu thereof "controlled entities".

(2) CONTROLLED ENTITY DEFINED.—

(A) IN GENERAL.—Section 1239(c)(1) (defining 80-percent owned entity) is amended—

(i) by striking out "80 percent or more in value" in subparagraph (A) and inserting in lieu thereof "more than 50 percent of the value",

(ii) by striking out "80 percent or more" in subparagraph (B) and inserting in lieu thereof "more than 50 percent", and

(iii) by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(C) any entity which is a related person to such person under paragraph (3), (10), (11), or (12) of section 267(b)."

(B) CONFORMING AMENDMENT.—Section 1239(c)(1) is amended by striking out "80-percent owned entity" in the heading thereof and in paragraph (1) and inserting in lieu thereof "controlled entity".

(3) CONSTRUCTIVE OWNERSHIP.—Section 1239(c) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) CONSTRUCTIVE OWNERSHIP.—For purposes of this section, ownership shall be determined in accordance with rules similar to the rules under section 267(c) (other than paragraph (3) thereof)."

(4) CONFORMING AMENDMENT.—Section 453(g) is amended by striking out "80-Percent Owned" in the heading thereof and inserting in lieu thereof "Controlled".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to sales after June 20, 1986, in taxable years ending after such date.

(2) TRANSITION RULE FOR BINDING CONTRACTS.—The amendments made by this section shall not apply to sales after June 20, 1986, which are made pursuant to a binding contract in effect on June 20, 1986, and at all times thereafter.

CHILES AMENDMENT NO. 2163

Mr. CHILES proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place in the amendment, insert the following new section:

SEC. . SENSE OF THE SENATE ON REVENUE FLUCTUATIONS.

(a) FINDINGS.—The Senate finds that—

(1) the Committee on Finance amendment to H.R. 3838 (an Act to reform the internal revenue laws of the United States) produces revenues that—

(A) exceed current-law revenues (the Congressional Budget Office (CBO) revenue baseline) by—

(i) $7,000,000,000 in fiscal year 1986,

(ii) $23,000,000,000 in fiscal year 1987, and

(iii) $11,000,000 in fiscal year 1991, and

(B) fall below current-law revenues by—

(i) $21,000,000,000 in fiscal year 1988,

(ii) $21,000,000,000 in fiscal year 1989, and

(iii) $400,000,000 in fiscal year 1990;

(2) the Committee amendment satisfies revenue neutrality over a six-year period, but the revenue shortfalls in fiscal years 1988 and 1989 will make the attainment of the Gramm-Rudman deficit goals more difficult;

(3) numerous options for restraining yearly revenue fluctuations without affecting the fundamental fabric of the Committee amendment are available to the committee of conference on H.R. 3838, in the form of altering effective dates, phasing-in certain provisions, and resolving the major differences in the provisions for broadening the tax base contained in H.R. 3838 and the Committee Amendment;

(4) in some instances, leveling the revenue fluctuations could result in a further reduction in tax burdens on individuals and corporations in 1987; and

(5) altering the provisions of the Committee amendment to achieve a more stable revenue outlook would eliminate the need to resort to artificial accounting conventions, such as the use of a trust fund that would deviate from the actual cash flows to and from the Treasury.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the committee of conference on H.R. 3838 should report Federal tax reform legislation that produces a revenue path with minimal revenue fluctuations.

MOYNIHAN AMENDMENT NO. 2164

Mr. MOYNIHAN proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the end of title XVII, insert:

SEC. . EXTENSION OF FICA AND FUTA COMMON PAYMASTER RULES.

(a) FICA.—Section 3121(s) (relating to concurrent employment by 2 or more employers) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall be treated as if it were a corporation."

(b) FUTA.—Section 3306(p) (relating to concurrent employment by 2 or more employers) is amended by adding at the end thereof the following new sentence: "For purposes of the precedng sentence, a partnership shall be treated as if it were a corporation."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wages paid or incurred after December 31, 1986.

KENNEDY (AND KERRY) AMENDMENT NO. 2165

Mr. KENNEDY (for himself and Mr. KERRY) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 2265, after line 25, insert the following:

(3) TRANSITION RULE.—

(a) IN GENERAL.—with respect to a project described in subparagraph (B)—

(i) the amendments made by this section (other than subsections (f)(3), (f)(4), and (g)(5)(A) of section 43 of the Internal Revenue Code of 1954) shall apply,

(ii) the amendments made by section 201 shall not apply, and

(iii) the amendments made by section 302 shall not apply.

(B) PROJECT DESCRIBED.—A project is described in this subparagraph if—

(i) an urban development action grant application with respect to such project was submitted on September 13, 1984,

(ii) a zoning commission map amendment was granted on July 17, 1985, and

(iii) the number assigned to such project by the Federal Housing Administration is 023-36602.

(C) ADDITIONAL UNITS ELIGIBLE FOR CREDIT.—In the case of a project described in subparagraph (B), for each residential rental unit occupied by individuals whose income is 30 percent or less of area median gross income (as determined under section 43(g)(2) of such Code), 1 additional unit with respect to which a credit under section 43 of such Code is not otherwise claimed shall be eligible for a credit determined under subsection (a)(2)(A)(i) of section 43 of such Code, if such unit is within a project which also meets the following criteria:

(i) Rents charged for units in such project are restricted by State regulations.

(ii) The annual cash flow of such project is restricted by State law.

(iii) The project is located on land owned by or ground leased from a public housing authority.

(iv) Construction of such project begins on or before December 31, 1986, and units within such project are placed in service on or before June 1, 1990.

(v) For a 20-year period, 20 percent or more of the residential rental units in such project are occupied by individuals whose income is 50 percent or less of area median gross income.

The total credits allowed under this subparagraph shall not exceed 25 percent of the total basis of such project.

(D) SECTION 43.—For purposes of this paragraph any reference to section 43 of the Internal Revenue Code of 1954 is a reference to such section as added by this section.

At the appropriate place in title V, insert the following new section:

SEC. . TAX-EXEMPT ORGANIZATIONS WITH UNRELATED BUSINESS INCOME SUBJECT TO CORPORATE ESTIMATED TAX PAYMENT RULES.

(a) IN GENERAL.—Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by inserting at the end thereof the following new subsection:

"(h) CERTAIN TAX-EXEMPT ORGANIZATIONS.—This section and section 6655 shall apply to any organization subject to the tax imposed by section 511, and for purposes of this section and section 6655, such tax shall be treated as a tax imposed by section 11."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

PACKWOOD (AND LONG) AMENDMENT NO. 2166

Mr. PACKWOD (for himself and Mr. LONG) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1381, line 14, strike "deductions" and insert "deduction".

On page 1386, lines 18 and 19, strike "section 151" and insert "this section".

On page 1387, strike lines 10 through 18 and insert the following:

"(4) PHASE-OUT OF EXEMPTION AMOUNT.—The dollar amounts contained in paragraph (1) shall be reduced by an amount equal to 5 percent of the excess of—

"(A) adjusted gross income, over

"(B) the lowest amount of adjusted gross income for the taxable year which results in the maximum rate adjustment under section 1(g).

On page 1393, line 17, strike the single quotation mark after "section 1(e)" and insert double quotation marks.

On page 1405, line 6, insert "to the employer (after application of section 274(j))" after "deduction".

On page 1411, line 9, strike "allowed" and insert "allowable".

On page 1411, line 11, insert "adjusted" before "gross".

On page 1412, line 8, strike "and".

On page 1412, line 10, strike out the period and the end quotation marks and insert a comma.

On page 1412, between lines 10 and 11, insert:

"(10) section 72(b)(3) (relating to deduction where annuity payments cease before investment recovered),

"(11) section 171 (relating to deduction for amortizable bond premium), and

"(12) section 216 (relating to deductions in connection with cooperative housing corporations).

"(c) DISALLOWANCE OF INDIRECT DEDUCTION THROUGH PASS-THRU ENTITY.—The Secretary shall prescribe regulations which prohibit the indirect deduction through pass-thru entities of amounts which are not allowable as a deduction if paid or incurred directly by an individual."

On page 1414, line 14, strike "section" and insert "subtitle".

On page 1414, line 19, strike "section 62" and insert "section 62(a)".

On page 1414, line 20, insert ", as redesignated by paragraph (1)," before "is".

On page 1416, beginning with line 5, strike out all through page 1418, line 12, and insert:

Subtitle E—MISCELLANEOUS PROVISIONS

SEC. 141. REPEAL OF INCOME AVERAGING FOR TAXPAYERS OTHER THAN FARMERS.

(a) IN GENERAL.—Subsection (a) of section 1303 (defining eligible individual) is amended by inserting "and who is a qualified farmer" after "United States".

(b) QUALIFIED FARMER.—Section 1303 (defining eligible individuals) is amended by adding at the end thereof the following new subsection:

"(e) QUALIFIED FARMER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified farmer' means a person—

"(A) who is actively engaged in the trade or business of farming (within the meaning of section 2032A(e)(4) and (5)), including the trade or business of aquaculture on a farm, and

"(B) 50 percent or more of the average annual gross income of whom for the 3 preceding taxable years is attributable to such trade or business.

"(2) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis."

(c) CONFORMING AMENDMENTS.—

(1) The heading of part I of subchapter Q of chapter 1 is amended by inserting "FOR FARMERS" after "AVERAGING".

(2) The table of parts for subchapter Q of chapter 1 is amended by inserting "for farmers" after "averaging" in the item relating to part I.

SEC. 142. LIMITATIONS ON DEDUCTIONS FOR TRAVEL, MEALS, AND ENTERTAINMENT.

On page 1423, line 12, strike "(3)" and insert "(7)".

On page 1423, lines 16 and 17, strike "Paragraphs (1) and (2)" and insert "Paragraphs (1), (2), (4), and (5)".

On page 1436, strike lines 8 through 13, and insert:

"(E) NONRESIDENTIAL REAL PROPERTY.—The term 'nonresidential real property' means section 1250 class property (other than 10-year property) which is not residential rental property.

On page 1437, strike lines 7 through 10, and insert:

"(B) 5-YEAR PROPERTY.—The term '5-year property' includes—

"(i) any computer-based telephone central office switching equipment,

"(ii) any over-the-road tractor unit, or

"(iii) any property described in paragraph (3)(A)(viii), (3)(A)(ix), (4), or (15) of section 48(l).

On page 1439, between lines 18 and 19, insert:

Subparagraph (B) shall not apply to any property if the amount allowable under this section (as in effect before the date of the enactment of this paragraph) with respect to such property is greater than the amount allowable under this section (as in effect on or after such date).

On page 1441, strike "(i) IN GENERAL.—" and run the matter on lines 1 through 5 up to subparagraph (A).

On page 1441, line 6, strike "(ii)" and insert "(B)".

On page 1441, lines 8 and 9, strike "which is tax-exempt use property, clause (i) shall not apply and".

On page 1441, line 12, strike "(B)" and insert "(C)".

On page 1441, line 14, insert "which is not property described in any other subparagraph of paragraph (1)" after "property".

On page 1441, line 15, strike "paragraph (2)" and insert "applying paragraph (2) solely for purposes of this section".

On page 1442, line 5, strike "(C)" and insert "(D)".

On page 1442, line 6, strike "over-road" and insert "over-the-road".

On page 1442, line 25, strike "if".

On page 1443, line 1, strike "part or all of" and insert "to the extent".

On page 1443, line 9, strike "was acquired" and insert "is placed in service".

On page 1461, line 13, insert "For purposes of subclause (II), there shall only be taken into account dividends which are properly allocable to income of the tax-exempt controlled entity which was not subject to tax under this chapter." after "entity."

On page 1463, line 25, insert "and in applying subsection (g)" after "property".

On page 1464, line 3, insert a closing parenthesis after "truck".

On page 1471, line 22, strike "(f)(3)" and insert "(f)(2)".

On page 1482, line 19, insert "167," before "169".

On page 1483, line 16, strike "section 280F(b)" and insert "section 280F(a)".

On page 1483, strike lines 18 through 22.

On page 1483, line 23, strike "(ii)" and insert "(i)".

On page 1484, line 1, strike "(iii)" and insert "(ii)".

On page 1486, between lines 3 and 4, insert:

(J) Paragraph (2) of section 280F(b) is amended by striking out "the straight line method over the earnings and profits life for such property" and inserting in lieu thereof "section 168(g) (relating to alternative depreciation system)".

(K) Subsections (a) and (b) of section 280F are amended by striking out "recovery deduction" each place it appears and inserting in lieu thereof "depreciation deduction".

On page 1486, strike lines 4 through 6, and insert:

(5) SECTION 291.—

(A) Subparagraph (A) of section 291(a)(1) is amended by striking out "or section 1245 recovery property".

(B) Subparagraph (B) of section 291(b)(2) is amended to read as follows:

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—In the case of any amount not allowable as a deduction under section 616(a) or 617 for any taxable year by reason of paragraph (1), the taxpayer shall be treated as having placed in service on the first day of such taxable year 5-year property (within the meaning of section 168(e)) with an adjusted basis equal to such amount."

(C) Section 291(b) is amended by striking out paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(D) Section 291(b)(3) (as redesignated by subparagraph (C)) is amended by striking out subparagraph (C) thereof.

(E) Paragraph (1) of section 291(c) is amended to read as follows:

"(1) ACCELERATED COST RECOVERY DEDUCTION.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(5)."

On page 1488, line 19, insert "during a taxable year" after the quotation marks.

On page 1489, line 22, strike "depreciation" and insert "amortization".

On page 1490, line 23, insert "or in section 1412(d)" after "this section".

On page 1491, beginning with line 21, strike out all through page 1492, line 2, and insert:

(2) REQUIREMENT THAT CERTAIN PROPERTY BE PLACED IN SERVICE BEFORE A CERTAIN DATE.—Paragraph (1) and subsection (d) (other than paragraph (8) or (12) thereof) shall not apply to any property unless such property has a class life of at least 7 years or is residential rental or nonresidential real property and is placed in service before the applicable date determined under the following table:

On page 1492, line 6, insert "(as added by this Act)" after "1954".

On page 1492, line 7, strike "and".

On page 1492, line 9, insert ", and property with no class life is treated for purposes of this paragraph as being property with a class life of 12 years" after "20 years".

On page 1493, line 15, strike "section" and insert "Act".

On page 1497, line 3, insert "described in subparagraph (C) or (D)," before "which".

On page 1504, strike lines 3 through 6 and insert:

"(i) the project includes a production line which applies a thin coating to glass in the manufacture of energy efficient residential products, if approved by the management committee of the corporation on January 29, 1986,

On page 1504, strike lines 18 through 24 and insert:

"(iv) the project, which involves the expansion of an existing service facility and the addition of new lab facilities needed to accommodate topcoat and undercoat production needs of a nearby automotive assembly plant, was approved by the corporation's management committee on March 5, 1986, or

On page 1506, line 15, insert "not more than" after "involves".

On page 1506, line 18, strike "supply contract for" and insert "sales contract for approximately".

On page 1506, lines 20 and 21, strike ", and natural gas for the plant is supplied from Canada".

On page 1509, line 6, strike "$390,000,000" and insert "$390,000".

On page 1509, line 8, strike "$170,000,000" and insert "$170,000".

On page 1509, line 17, insert "up to" before "300".

On page 1509, line 19, strike "$95,000,000" and insert "$95,000".

On page 1509, line 21, insert "up to" before "850".

On page 1509, between lines 21 and 22, insert:

(O) A project is described in this subparagraph if—

(i) the project involves the production and transportation of oil or gas from a well located north of the Arctic Circle, and

(ii) more than $200,000,000 of cost had been incurred or committed before September 26, 1985.

On page 1509, line 22, strike "(7)" and insert "(6)".

On page 1510, line 8, strike "(8)" and insert "(7)".

On page 1511, line 3, strike "(9)" and insert "(8)".

On page 1511, line 20, strike "(10)" and insert "(9)".

On page 1512, line 1, strike "(11)" and insert "(10)".

On page 1512, line 10, strike "(12)" and insert "(11)".

On page 1512, line 22, strike "(13)" and insert "(12)".

On page 1512, line 24, strike "either".

On page 1513, line 5, strike "or".

On page 1513, line 10, strike the period and insert ", or".

On page 1513, line 11, strike "(14)" and insert "(13)".

On page 1513, between lines 10 and 11, insert:

(C) the International Telecommunications Satellite Organization or the International Maritime Satellite Organization entered into written binding contracts before May 1, 1985.

On page 1513, line 13, strike "airliner" and insert "aircraft".

On page 1514, line 18, strike "(15)" and insert "(14)".

On page 1515, line 1, strike "(16)" and insert "(15)".

On page 1515, line 3, strike "a project" and insert "projects".

On page 1515, line 4, insert "or other forms of thermal energy" after "steam".

On page 1515, line 6, strike "$250,000" and insert "$100,000".

On page 1515, lines 6 and 11, strike "expended" and insert "paid or incurred".

On page 1515, line 7, strike "December 31, 1985" and insert "March 1, 1986"

On page 1515, line 8, strike "construction commenced in December 1985" and insert "a memorandum of understanding was executed on September 13, 1985".

On page 1515, line 10, strike "1988" and insert "1989".

On page 1515, lines 12 and 13, strike "project" and insert "projects".

On page 1515, line 13, strike "involves" and insert "involve".

On page 1515, line 15, strike "an application" and insert "applications".

On page 1515, line 16, strike "was" and insert "were".

On page 1516, line 20, strike "either of".

On page 1516, line 21, insert "(and required transmission facilities)" after "powerplants".

On page 1516, line 24, strike "nuclear power stations" and insert "coal-fired plants".

On page 1517, line 1, strike "31" and insert "one of three".

On page 1518, line 16, strike "two-unit" and insert "2-unit".

On page 1519, line 17, strike "approximately $50,000,000 worth of".

On page 1520, line 20, strike "amendment" and insert "amendments".

On page 1522, line 13, insert "(including 525,000 square feet of office space)" after "facility".

On page 1522, line 17, strike "by" and insert "on".

On page 1522, line 21, strike "$35,000,000" and insert "$32,000,000".

On page 1522, beginning with line 24, strike all through page 1523, line 4.

On page 1523, line 5, strike "(E)" and insert "(D)".

On page 1523, line 6, strike "608,000" and insert "490,000".

On page 1523, lines 6 and 7, strike "154 West 57th Street" and insert "57th Street and 7th Avenue".

On page 1523, line 8, strike "$112,000,000" and insert "$100,000,000".

On page 1523, strike lines 10 and 11 and insert "filed in May 1986."

On page 1526, line 3, strike "subparagraph (A)" and insert "paragraph (1)".

On page 1526, line 4, strike "subparagraph (A)" and insert "paragraph (1)".

On page 1526, line 10, strike "paragraph" and insert "subsection".

On page 1527, lines 4 and 5, strike "any credit allowable under section 38 for any" and insert "any current year business credit allowable under section 38 which reduces tax liability for a current".

On page 1527, line 19, strike ", but for this subsection,".

On page 1528, line 21, strike "do not apply, except that" and insert "would not apply if".

On page 1528, between lines 21 and 22, insert:

"(A) section 202(a) of such Act were applied by substituting '1985' for '1986',

On page 1528, line 22, strike "(A)" and insert "(B)".

On page 1528, line 22, strike "shall be" and insert "were".

On page 1528, line 24, strike "and".

On page 1529, line 1, strike "(B)" and insert "(C)".

On page 1529, line 10, strike the period and insert ", and".

On page 1529, between lines 10 and 11, insert:

"(D) section 202(b)(3) were applied by substituting '1986' for '1987'.

On page 1530, line 7, strike "disallowed" and insert "recaptured".

On page 1531, line 10, strike "203(b)(1)" and insert "202(b)(1)".

On page 1535, lines 5 and 10, strike "section 804" and insert "section 806(b)".

On page 1544, line 5, insert "does not" after "taxable year".

On page 1544, lines 11, 16, 20, and 24, strike "Subsection (a)" and insert "This section".

On page 1544, lines 21 and 22, strike "263(c) or 616(a)" and insert "263(c), 616(a), or 617(a)".

On page 1545, strike lines 3 and 4, and insert:

"(d) PROPERTY PRODUCED IN FARMING BUSINESS.—This section shall not apply to any plant or

On page 1545, line 6, insert "section" before "2032A(e)(4)".

On page 1548, line 24, strike "269A(e)(4)(B)" and insert "263A(e)(4)(B)".

On page 1549, between lines 8 and 9, insert:

(4) Section 267(e)(5)(D) is amended—

(A) by striking out "low-income housing (as defined in paragraph (5) of section 179(e))" and inserting "property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B)", and

(B) by striking out "low-income housing (as so defined)" and inserting "such property".

On page 1551, line 5, insert "or" before "by".

On page 1551, line 20, insert "or to property described in the matter following subparagraph (B) of section 207(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982" after "202(d)(5)(A)".

On page 1553, line 11, insert "(other than subparagraph (D) thereof)" after "section 542(c)(6)".

On page 1554, line 6, strike "or".

On page 1554, strike lines 7 and 8, and insert:

"(ii) which is a loan which is not an eligible loan (within the meaning of section 585(b)(4)), or

"(iii) of any affiliate or of any shareholder of the taxpayer who at any time during the taxable year held directly or indirectly 10 percent or more (by value) of the outstanding stock of such taxpayer.

On page 1556, line 15, insert "in the case of a taxpayer maintaining a reserve under section 166(f)," before "be".

On page 1560, line 18, insert "which is required to include the items from more than 1 taxable year of the partnership or S corporation in any 1 taxable year," after "corporation".

On page 1563, line 17, strike "(5)" and insert "(5))".

On page 1567, strike lines 21 through 25, and insert in lieu thereof:

"(I) a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks, or a right to use specified campgrounds for recreational purposes, or

On page 1568, strike lines 8 through 17, and insert in lieu thereof: "subparagraph (A) applies to any installment obligation, interest shall be paid on the portion of any tax for any taxable year (determined without regard to any deduction allowable for such interest) which is attributable to the receipt of payments on such obligation in such year (other than payments received in the taxable year of the sale). Such interest shall be computed for the period from the date of the sale to the date on which the payment is received using the Federal short-term rate under section 1274 (compounded semiannually) in effect at the time of the sale and adjusted annually to the Federal short-term rate in effect on each anniversary of the sale.

On page 1568, line 18, strike "(D)" and insert "(C)".

On page 1568, line 19, insert "payable" before "under" and insert "with respect to a payment" after "paragraph".

On page 1568, lines 20 and 21, strike "described in subparagraph (C)(ii)," and insert "in which the payment is received".

On page 1573, strike lines 17 through 21, and insert "regulations.

The Secretary may disallow the use of the installment method in whole or in part for transactions in which the rules of this subsection otherwise would be avoided through the use of related parties or other intermediaries."

On page 1574, strike lines 4 and 5 and insert the following:

"For disallowance of use of installment method for certain obligations, see section 453(j)."

On page 1576, line 10, strike "methods of account" and insert "method of accounting".

On page 1577, line 1, insert beginning quotation marks before "(1)".

On page 1579, line 16, insert "in the heading thereof and" before "in".

On page 1579, line 18, strike "and" the second place it appears.

On page 1579, line 20, strike the period and insert ", and".

On page 1579, between lines 20 and 21, insert:

(D) by striking out "under paragraph (4) of this subsection or" in paragraph (9) thereof.

On page 1585, line 24, insert "under section 1 of the Internal Revenue Code of 1954" after "tax".

On page 1586, line 5, strike "amendments" and insert "amendment".

On page 1589, strike out lines 6 through 10, and insert:

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to positions established on or after January 1, 1987.

SEC. 423. EXCEPTION OF CERTAIN DEALERS FROM THE HEDGING TRANSACTION EXCEPTION.

(a) IN GENERAL.—Section 1256(e) (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR DEALERS.—Paragraph (1) shall not apply to any transaction entered into by a dealer, other than a dealer in agricultural or horticultural commodities (except trees which bear fruit or nuts)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to positions established after December 31, 1986.

TITLE V—COMPLIANCE AND TAX ADMINISTRATION

On page 1627, beginning with line 24, strike all through page 1628, line 22, and insert the following:

(1) Paragraph (3) of section 3406(b) (defining reportable payment, etc. with respect to backup withholding) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) section 6050N (relating to payments of royalties)."

On page 1670, line 3, insert "IN GEN.—" before "Section".

On page 1670, strike lines 4 through 7, and insert the following:

, as amended by section 142(a), is amended by redesignating subsection (l) as subsection (m) and inserting after subsection (k) the following new subsection:

"(l) STOCK REDEMPTION EXPENSES.—

On page 1679, between lines 3 and 4, insert:

"(6) CHANGES TAKEN INTO ACCOUNT.—In determining whether changes in ownership result in a more than 50-percent owner shift or a more than 50-percent equity structure change, there shall be taken into account only owner shifts and equity structure changes.

On page 1679, line 4, strike "(6)" and insert "(7)".

On page 1696, line 13, strike "30(g)(2) or".

On page 1698, line 11, strike "ownership" and insert "owner shift after December 31, 1986".

On page 1698, line 24, strike "1987" and insert "1986".

On page 1701, line 9, insert "asset" after "applicable".

On page 1725, lines 1 and 2, strike "amendments made by this section" and insert "amendment made by subsection (a)(2)".

On page 1736, line 23, strike out "has" and insert in lieu thereof "have".

On page 1738, strike out lines 6 through 14 and insert in lieu thereof the following:

(iii) which—

(I) has on the date of enactment of this Act, or

(II) will have at the time such facility is placed in service (based on estimates made before the date of enactment of this Act),

a stated capacity to produce not more than 42,000,000 gallons of such product per year.

On page 1744, between lines 2 and 3, insert the following new subsection:

(c) CONFORMING AMENDMENT.—Subparagraph (F)(ii) of section 2106(a)(2) is amended by striking out "section 2055(f)" and inserting in lieu thereof "section 2055(g)".

On page 1744, line 3, strike "(c)" and insert "(d)".

On page 1750, line 3, insert "by" before "a".

On page 1750, line 17, insert "in the United States" after "manufactured".

On page 1755, line 16, strike "section 861(a)(2)" and insert "section 861(a)(2)(A)".

On page 1757, line 3, strike "respect" and insert "respect to".

On page 1757, line 17, strike "(b)" and insert "(c)".

On page 1758, line 16, insert "only" after "apply".

On page 1763, line 9, insert "the" before "Ivory".

On page 1763, line 19, insert "the" before "Philippines".

On page 1784, line 22, strike "1503(b)" and insert "1504(b)".

On page 1790, line 21, strike "section 861(a)(1)(F)" and insert "section 861(a)(1)(D), as redesignated by subparagraph (A),".

On page 1792, in the matter between lines 13 and 14, strike "886" and insert "887".

On page 1792, line 14, strike "886" and insert "887".

On page 1795, in the matter between lines 12 and 13, strike "provision" and insert "provisions".

On page 1796, line 6, insert end quotation marks after the period.

On page 1796, between lines 6 and 7, insert:

(2) Section 872(b) is amended by adding at the end thereof the following new paragraphs:

On page 1796, line 7, strike "(3)" and insert "(5)".

On page 1796, line 12, strike "(4)" and insert "(6)".

On page 1796, line 16, strike "(2)" and insert "(3)".

On page 1796, line 24, strike "in" and insert "of".

On page 1797, line 6, insert end quotation marks after the period.

On page 1797, between lines 6 and 7, insert:

(4) Section 883(a) is amended by adding at the end thereof the following new paragraph:

On page 1797, line 7, strike "(3)" and insert "(4)".

On page 1797, line 8, strike "(3) and (4)" and insert "(5) and (6)".

On page 1797, line 10, strike "(3)" and insert "(5)".

On page 1799, line 10, insert "(2)(B)" after "section 863(c)".

On page 1803, line 8, strike "All" and insert: "If an election under subparagraph (A) is made by any member of an affiliated group, all".

On page 1803, line 9, strike "the" and insert "such".

On page 1803, line 19, insert "expanded" after "same".

On page 1803, line 22, after the period insert: "If a borrowing is not treated as qualified indebtedness solely because it is guaranteed (or otherwise facilitated) by another corporation, then—

"(i) such borrowing shall be treated as the borrowing of such other corporation if such other corporation is at a higher level in the chain of includible corporations than the borrowing corporation, or

"(ii) if such other corporation is in a different chain of includible corporations, such borrowing shall be treated as the borrowing of the first common parent of the borrowing corporation and the guaranteeing corporation."

On page 1812, line 16, strike "$1,000,000" and insert "$100,000,000".

On page 1812, line 20, insert "yen" before "notes".

On page 1821, lines 5 and 6, strike "Except as provided in paragraph (2), the" and insert "The".

On page 1823, line 8, insert "which was established on December 7, 1979, under the laws of a foreign jurisdiction" after "trust".

On page 1823, lines 12 and 13, strike ", by reason of the amendments made by this section,".

On page 1828, line 24, insert "In the case of a distribution, the deferral period shall be that portion of such holding period preceding such distribution." after "taxpayer.".

On page 1830, line 3, strike "held for more than 6 months".

On page 1830, lines 7 and 8, strike "held for more than 6 months".

On page 1834, lines 6 and 9, strike the hyphen after "2".

On page 1835, line 15, strike "subsection (e)" and insert "subsection (g)".

On page 1836, line 8, strike "for purposes of this section".

On page 1838, line 8, strike "March 16" and insert "March 1".

On page 1838, line 21, insert "and" before "by".

On page 1841, line 11, strike "agrees" and insert "and the recipient of the investment funds agree".

On page 1841, line 13, strike "its" and insert "their".

On page 1845, line 25, strike "or" and insert "and".

On page 1853, line 4, insert "or is a recipient of United States source interest or dividends (as defined in sections 861(a)(1)(D) and 861(a)(2)(B), respectively)," after the comma.

On page 1853, strike lines 8 through 10, and insert "foreign country.".

On page 1855, line 21, insert ", as amended by section 501(d)(1)(A)," before "is".

On page 1855, line 22, strike "(g)" and insert "(f)".

On page 1855, line 23, insert "(g)," before "(h)".

On page 1855, line 24, insert "(f)," before "(g)".

On page 1857, line 7, strike "on such" and insert "on the".

On page 1863, line 1, strike "several".

On page 1878, line 9, strike "noncompliances" and insert "noncompliance".

On page 1884, line 8, strike "(d)" and insert "(c)".

On page 1884, line 10, insert ", as amended by section 924," before "is".

On page 1897, line 23, insert "and" after "income".

On page 1899, line 15, strike "either" and insert "any".

On page 1904, line 11, strike "(b)" and insert "(c)".

On page 1904, line 11, strike "amendment" and insert "amendments".

On page 1912, line 17, strike "DOMESTIC" and insert "FOREIGN".

On page 1914, lines 3 and 6, strike "gross income" and insert "earnings and profits".

On page 1914, line 4, strike "is" and insert "are either".

On page 1914, line 5, strike "bears" and insert "or are attributable to dividends received from an applicable controlled corporation, bear" after "United States".

On page 1915, line 18, strike "(9)" and insert "(10)".

On page 1915, line 18, strike "(10)" and insert "(11)".

On page 1915, line 19, strike "(8)" and insert "(9)".

On page 1915, line 20, strike "(9)" and insert "(10)".

On page 1926, strike line 19 and insert "(c) EFFECTIVE DATE.—".

On page 1926, line 20, strike "(c) EFFECTIVE DATE.—" and insert "(1) IN GENERAL.—".

On page 1932, line 13, insert "unpaid losses on life insurance contracts plus all" after "all".

On page 1932, line 16, insert "unpaid losses on life insurance contracts plus all" after "deduct".

On page 1945, lines 20 and 21, strike "section 807(c)(2)" and insert "sections 807(c)(2) and 805(a)(1)".

On page 1945, lines 21 through 23, strike "as of the beginning of the 1st taxable year beginning after December 31, 1986" and insert "at the end of the preceding taxable year".

On page 1946, line 10, strike "1986" and insert "1986,".

On page 1947, line 20, strike "account)" and insert "account),".

On page 1956, line 13, strike "preferences" and insert "preference".

On page 1958, line 1, insert "taxable" after "minimum".

On page 1958, line 4, insert "or (2)" after "paragraph (1)(A)".

On page 1971, line 7, insert "minimum" before "taxable".

On page 1972, line 16, strike "member" and insert "other corporation".

On page 1975, line 8, insert "minimum" before "taxable".

On page 1975, line 9, insert "minimum" before "taxable".

On page 1981, line 7, strike "section 469(h)" and insert "section 469(i)".

On page 1992, line 11, insert ", as amended by section 631(a)," before "is".

On page 1994, strike lines 8 through 13, and insert:

"(1) the sum of—

"(A) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(B) the tax imposed by section 55, over".

On page 1996, line 23, strike "1016(a)(25)" and insert "1016(a)(24) (as redesignated by section 634(b)(2))".

On page 2009, line 23, insert ", as amended by section 144," before "is".

On page 2010, line 1, strike "(6)" and insert "(7)".

On page 2011, lines 8 and 9, strike "subsection (a)(8)" and insert "subsections (a)(8) and (h)(1)(B)".

On page 2013, line 17, strike "section 402(h)(1)(B)" and insert "subsection (h)(1)(B)".

On page 2013, lines 20 and 21, strike "$7,000 amount" and insert "limitation".

On page 2014, line 6, strike "and deferred" and insert "or deferred".

On page 2014, lines 6 and 7, strike "all participants" and insert "each participant".

On page 2014, line 7, strike "at least $2,500 of elective deferrals" and insert "the lesser of $2,500 of elective deferrals or the amount of elective deferrals actually contributed".

On page 2014, line 18, strike "$7,000" and insert "the limitation under paragraph (1)".

On page 2014, beginning with line 23, strike all through page 2015, line 2, and insert: allocated—

"(i) during the 3-taxable year period beginning with the taxable year in which the securities are so allocated, or

"(ii) if earlier, until the date on which—

"(I) the employee separates from service, or

"(II) the securities are sold in connection with the sale of the employer (or a member of the same controlled group).

On page 2021, line 24, insert "and without regard to the amendment made by section 1206(b)(1)(A)(ii) of the Tax Reform Act of 1986" before the period.

On page 2025, line 6, strike ", or" and insert a period.

On page 2026, between lines 4 and 5, insert the following:

(3) APPLICATION OF VESTING RULES TO QUALIFIED COST-OF-LIVING ARRANGEMENTS.—Section 411(a)(3) (relating to certain permitted forfeitures, suspensions, etc.) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULE RELATING TO QUALIFIED COST-OF-LIVING ARRANGEMENTS.—A right to an accrued benefit derived from employer contributions under a plan which contains a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)(B)) shall not be treated as forfeitable solely because the plan provides that a participant shall not be entitled to receive that portion of the cost-of-living adjustment derived from employer contributions if the participant either—

"(i) fails to contribute the amount required to be paid by the participant under the plan for the cost-of-living adjustment; or

"(ii) receives a distribution of the present value of the participant's accrued benefit derived from employer contributions in the form of a lump sum."

(4) APPLICATION OF BENEFIT ACCRUAL REQUIREMENTS TO QUALIFIED COST-OF-LIVING ARRANGEMENTS.—Section 411(d) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE CONCERNING QUALIFIED COST-OF-LIVING ARRANGEMENTS.—A plan which contains a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)(B)) shall not be treated as failing to satisfy the requirements of subsection (b) merely because the plan provides that a participant shall not be entitled to receive that portion of the cost-of-living adjustment derived from employer contributions if the participant either—

"(A) fails to contribute the amount required by the participant under the plan for the cost-of-living adjustment; or

"(B) receives a distribution of the present value of the participant's accrued benefit derived from employer contributions in the form of a lump sum."

On page 2030, line 19, strike "(e)" and insert "(f)".

On page 2031, between lines 22 and 23, insert the following:

(4) EFFECTIVE DATE FOR SUBSECTION (d).—Except as provided in paragraph (2), the amendment made by subsection (d) shall apply to years beginning after December 31, 1988, with respect to benefits accrued after such date.

On page 2031, line 23, strike "(4)" and insert "(5)".

On page 2032, line 4, strike "(5)" and insert "(6)".

On page 2034, line 2, strike the colon and insert a period.

On page 2047, line 1, insert ", as amended by subsection (e)," before "is".

On page 2047, line 3, strike "(8)" and insert "(9)".

On page 2055, line 7, strike out the end quotation marks.

On page 2055, between lines 7 and 8, insert:

"(5) SPECIAL RULE FOR PLAN MAINTAINED BY RAILROADS.—In determining whether a plan which includes employees of a railroad employer who are entitled to benefits under the Railroad Retirement Act of 1974 meets the requirements of this subsection, the benefit percentages of such employees shall be computed by taking into account the employees' benefits under the plan, the employees' tier 2 railroad retirement benefits and any supplemental annuity under the Railroad Retirement Act of 1974."

On page 2085, between lines 20 and 21, insert:

"(III) the date of the sale by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in its trade or business if the employee continues employment with the corporation acquiring such assets,

On page 2085, line 21, strike out "(III)" and insert "(IV)".

On page 2086, line 3, strike out "(IV)" and insert "(V)".

On page 2086, line 6, strike "(V)" and insert "(VI)".

On page 2086, line 10, strike "subparagraph (C)(ii)" and insert "paragraph (3)(C)(ii)".

On page 2094, after line 21, insert:

(7) WITHDRAWALS UPON SALE OF ASSETS.—Section 401(k)(2)(B)(i)(III) of the Internal Revenue Code of 1954 (as added by subsection (a)(1)) shall apply to distributions after December 31, 1984.

On page 2096, line 13, strike the comma.

On page 2097, line 16, strike "participant" and insert "employee".

On page 2103, line 3, insert "a" after "(3)" and strike "pensions" and insert "pension".

On page 2103, line 4, strike "satisfy" and insert "satisfies".

On page 2108, strike lines 21 through 23, and insert:

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1986.

(2) TRANSITION RULE.—The amendments made by this section shall not apply with respect to any benefits with respect to which a designation is in effect under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982.

On page 2115, between lines 23 and 24, insert:

(2) The second sentence of section 403(b)(1) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended to read as follows: "The amount actually distributed to any distributee under such contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities)."

On page 2115, line 24, strike out "(2)" and insert "(3)".

On page 2118, line 17, strike "1986" and insert "1986,".

On page 2122, line 2, insert "which" before "do".

On page 2122, line 23, strike "retirement".

On page 2123, strike line 6, and insert a period on line 5 after "years".

On page 2124, line 15, strike "employee" and insert "taxpayer".

On page 2125, between lines 11 and 12, insert:

(c) TRANSFERS FROM QUALIFIED PLAN TO INDIVIDUAL RETIREMENT PLANS OR OTHER QUALIFIED PLANS.—

(1) EMPLOYER MUST PROVIDE EMPLOYEE WITH TRANSFER OPTION.—Section 402 is amended by adding at the end thereof the following new subsection:

"(g) TRANSFER FROM PLANS.—

"(1) GENERAL RULE.—In the case of an individual who separates from service, the employer of such individual shall provide such individual with an option to elect to have the present value of the individual's nonforfeitable accrued benefit transferred to an eligible retirement plan (as defined in paragraph (5)(E)(iv)).

"(2) OPTION NOT AVAILABLE WHERE EMPLOYEE'S BENEFIT NOT DISTRIBUTABLE.—Paragraph (1) shall not apply to the extent that the employee's benefits may not be distributed under the terms of the plan.

"(3) EMPLOYEE MUST PROVIDE INFORMATION TO EMPLOYER.—Paragraph (1) shall not apply unless an employee provides any information necessary to enable the employer to make the transfer elected by the employee under such paragraph."

(2) NOTICE OF PENALTY.—Section 402(f)(1) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking out "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) the tax under section 72(s) if the recipient fails to make a qualifying rollover distribution."

On page 2125, line 12, strike "(c)" and insert "(d)".

On page 2126, line 3, strike "(d)" and insert "(e)".

On page 2126, between lines 20 and 21, insert:

(3) TRANSITION RULE.—The amendments made by this section shall not apply with respect to any benefits with respect to which a designation is in effect under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982.

On page 2132, line 11, strike "401(a)." and insert "401(a), other than a plan maintained by an employer if such employer has, at all times, been exempt from tax under section 501(a)."

On page 2133, strike lines 4 through 6, and insert "requirements of section 409,".

On page 2133, line 7, insert "within 90 days after such transfer (or such longer period as the Secretary may prescribe)," before "such amount".

On page 2133, line 9, strike "and".

On page 2133, between lines 9 and 10, insert:

"(C) that portion of such amount as is not allocated under the plan to accounts of participants in the plan year in which such transfer occurs is—

"(i) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over a period not to exceed 7 years, and

"(ii) when allocated to accounts of participants under the plan, is treated as an employer contribution for purposes of section 415(c), except that—

"(I) the value of the employer securities attributable to each such allocation shall not exceed the value of such securities as of the time such securities were credited to such suspense account, and

"(II) no additional employer contributions shall be permitted to an employee stock ownership plan described in subparagraph (A) of the employer before the allocation of such amount, and

On page 2133, line 10, strike "(C)" and insert "(D)".

On page 2133, strike lines 15 and 16 and insert:

such amount shall not be includible in the gross income of the employer if, under the plan,

On page 2136, line 3, insert ", as amended by section 1223," before "is".

On page 2137, line 23, strike "403(a)" and insert "403(a), under a program described in section 403(b),".

On page 2138, line 6, insert ", as amended by section 1212(b)," before "is".

On page 2138, line 7, strike "(25)" and insert "(26)".

On page 2138, line 9, strike "(26)" and insert "(27)".

On page 2141, line 21, insert ", and shall not later than such date begin issuing opinion letters with respect to master and prototype plans for such arrangements" before the period.

On page 2147, line 10, insert "the requirements of paragraph (3) and" after "meets".

On page 2147, line 11, insert "if the plan meets" after "(A)".

On page 2147, line 13, insert "if the plan meets" after "(B)".

On page 2158, between lines 2 and 3, insert:

"(6) SPECIAL RULES FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—

"(A) IN GENERAL.—If a person becomes, or ceases to be, a member of a group described in subsection (b), (c), (m), or (o) of section 414, then the requirements of this section shall be treated as having been met during the transition period with respect to any plan covering employees of such person or any other member of such group if—

"(i) such requirements were met immediately before such change, and

"(ii) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members of a group).

"(B) TRANSITION PERIOD.—For purposes of subparagraph (A), the term 'transition period' means the period—

"(i) beginning on the date of the change in members of a group, and

"(ii) ending on the last day of the first plan year beginning after the date of such change.

On page 2163, line 5, strike "group-life" and insert "group-term life".

On page 2164, line 21, strike "This subsection" and insert "Subparagraph (B)".

On page 2166, beginning with line 24, strike all through page 2167, line 2, and insert:

(3) SPECIAL RULE FOR CHURCH PLANS.—In the case of a church plan (within the meaning of section 414(e)(3)) maintaining an insured accident and health plan, the amendments made by this section shall apply to years beginning after December 31, 1988.

On page 2174, strike lines 23 through 25, and insert:

Subparagraph (B) of section 41(a)(2) (defining applicable percentage) is amended—

(1) by striking out "1986, or 1987" and inserting in lieu thereof "or 1986", and

(2) by striking out "1988" and inserting in lieu thereof "1987".

On page 2176, line 7, strike "issued by a domestic corporation".

On page 2181, line 14, strike "of" and insert "if".

On page 2181, lines 15 and 16, strike ", and before such date".

On page 2181, between lines 16 and 17, insert:

(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1954, as added by subsection (b)(2), shall apply to loan refinancings after the date of the enactment of this Act.

On page 2181, line 17, strike "(B) The amendments made by" and insert "(C) Section 133(b)(1)(B) of the Internal Revenue Code of 1954, as amended by".

On page 2184, line 10, strike "(n)" and insert "(o)".

On page 2185, line 23, insert "December 31, 1986, except that a plan may elect to have such amendment apply to all distributions after" before "the".

On page 2186, line 7, strike "(n)" and insert "(o)".

On page 2194, line 24, insert "in cash" after "paid".

On page 2203, between lines 22 and 23, insert:

(iv) Subparagraph (D) of section 28(b)(1) is amended by striking out "1985" and inserting in lieu thereof "1989".

On page 2209, strike lines 20 through 24.

On page 2210, line 1, strike "(4)" and insert "(3)".

On page 2211, line 18, strike "(5)" and insert "(4)".

On page 2213, lines 3 and 18, strike "(2), (3), and (4)" and insert "(2) and (3)".

On page 2213, line 8, strike "(6)" and insert "(5)".

On page 2215, line 2, insert "which is part of an affiliated group which files a consolidated Federal income tax return, the common parent of which was" before "incorporated".

On page 2215, line 6, strike "on" and insert "with respect to".

On page 2215, line 8, strike "or".

On page 2215, line 9, strike the period and insert ", or".

On page 2215, between lines 9 and 10, insert:

"(C) any financing for a customer secured by securities or money market instruments."

On page 2215, lines 12 and 13, strike "the 5 largest shareholders of which are doctors of medicine" and insert "more than 50 percent of the stock of which is owned by medical doctors".

On page 2245, line 1, strike "Pontalba" and insert "Pontabla".

On page 2246, strike lines 22 through 24.

On page 2247, strike lines 1 and 2, and insert:

"(N) the rehabilitation of the Federal Building and Post Office, 120 Hanover Street, Manchester, New Hampshire, and

"(O) the rehabilitation of the Charleston Waterfront project in South Carolina."

On page 2248, line 1, strike "and (L)" and insert "(L), and (O)".

On page 2253, line 3, insert "only" before "if".

On page 2253, line 11, insert "(other than by the taxpayer or a related person to such taxpayer, as defined in section 461(i)(6))" after "service".

On page 2253, line 11, insert "such project" immediately after "if".

On page 2253, line 12, strike "such project".

On page 2253, line 13, insert "such" after "than".

On page 2253, lines 14 and 15, strike "to such taxpayer, as defined in section 461(i)(6)".

On page 2259, line 6, strike the comma.

On page 2261, line 15, strike "low-income housing" and insert "residential rental".

On page 2264, line 15, strike the end quotation marks.

On page 2264, line 22, strike "(3)" and insert "(2)".

On page 2264, line 24, strike "(4)" and insert "(3)".

On page 2265, line 3, strike "(5)" and insert "(4)".

On page 2277, line 1, strike "(b)" and insert "(c)".

On page 2277, line 5, strike "163(d)" and insert "163".

On page 2277, line 9, strike "section 163(d)" and insert "subsections (d) and (h) of section 163".

On page 2277, line 11, strike "(c)" and insert "(d)".

On page 2277, line 14, strike "(d)" and insert "(e)".

On page 2292, line 8, strike "section 857(b)(6)" and insert "section 857(b)(6)(B)".

On page 2311, line 8, insert ", as amended by section 983(a)," before "is".

On page 2311, line 10, strike "(8)" and insert "(9)".

On page 2314, strike lines 12 through 15 and insert:

Section 7701 (relating to definitions), as amended by sections 201(d) and 558(b), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) TREATMENT OF OWNERS' DEBT POOLS.—

On page 2317, line 1, strike "subsection (a)" and insert "subparagraph (A)".

On page 2320, strike lines 7 through 9 and insert:

"(i) the acquisition (by a governmental unit having the power to exercise eminent domain) of real property located in such area, if such property meets the standards under local law for property acquired through the exercise of the power of eminent domain,

On page 2323, line 21, strike "(E)" and insert "(F)".

On page 2328, line 1, insert beginning quotation marks before "(ii)".

On page 2331, line 10, strike "title XIII of this Act" and insert "sections 501(d)(1)(A) and 952(c)(2)(B)".

On page 2331, line 11, strike "(j)" and insert "(i)".

On page 2331, line 12, strike "(k)" and insert "(j)".

On page 2331, line 12, strike "(i)" and insert "(h)".

On page 2331, line 14, strike "(j)" and insert "(i)".

On page 2331, line 19, strike "neglect" and insert "disregard".

On page 2333, line 23, strike "subparagraph (B)(i)" and insert "subparagraph (B)(ii)".

On page 2336, lines 23 and 24, strike "to which section 108 applied" and insert ", to the extent section 108 applied,".

On page 2339, line 16, insert a closing parenthetical after "(b)(3)".

On page 2341, line 12, insert ", as in effect on the date of the enactment of the Tax Reform Act of 1986," before "which".

On page 2341, line 24, strike "(a) IN GENERAL.—".

On page 2344, line 22, strike the beginning quotation marks before "(1)".

On page 2345, line 21, strike "the obligation" and insert "obligations".

On page 2346, line 7, insert "the interest on which is" before "exempt".

On page 2347, line 1, insert "of such proceeds" after "5 percent".

On page 2351, line 7, strike "subparagraphs" and insert subparagraph".

On page 2352, beginning with line 20, strike all matter through page 2353, line 3, and insert the following:

"(D) the initial temporary period under subsection (e)(4)(A) ends with respect to the refunding obligation not later than 30 days after the date of issue of such obligation,

"(E) all temporary periods under subsection (e)(4)(A) end with respect to the refunded obligation on the date of issue of the refunding obligation, and

On page 2353, line 4, strike "(E)" and insert "(F)".

On page 2353, line 4, strike "sets" and insert "issues".

On page 2358, line 10, insert "mortgage" after "veterans' ".

On page 2358, line 18, strike "underwriters' commissions" and insert "any direct or indirect fees for underwriters".

On page 2360, line 1, strike out "The" and insert "For purposes of this subsection, the".

On page 2360, lines 4 and 5, strike "the facility" and insert "all the property".

On page 2360, line 17, insert "(including a management contract or similar type of operating agreement)" after "lease".

On page 2360, line 24, insert "for all facilities described in clause (i), other than solid waste disposal facilities described in subparagraph (C)," after "(II)".

On page 2360, line 25, strike "useful" and insert "reasonably expected economic".

On page 2361, line 1, insert "(as determined under subsection (b)(14))" after "facility".

On page 2361, line 16, strike "clause (i) of paragraph (10)(C) is amended".

On page 2361, line 19, strike ", and" and insert "in clause (i) of paragraph (10)(C),".

On page 2361, line 21, strike the period and insert ", and".

On page 2361, between lines 21 and 22, insert:

(5) by striking out "subparagraph (E), (G), or (H)" in paragraph (13)(B) and insert in lieu thereof "subparagraph (C), (D), or (F)".

On page 2363, line 12, strike "626" and insert "626(b)".

On page 2364, strike lines 13 through 15, and insert:

(b) TREATMENT OF LIMITED EQUITY COOPERATIVES.—Section 103A(l) (relating to

On page 2364, line 19, strike "CORPORATIONS".

On page 2372, at the end of line 2, insert "and".

On page 2372, line 11, insert "otherwise described in such subsections" after "obligation".

On page 2373, line 12, insert before the period the following: "and section 103(n)(13)(B) of such Code shall apply to such obligation".

On page 2373, strike lines 16 through 20 and insert:

shall not exceed $750,000,000, not more than $350,000,000 of which may be issued before January 1, 1992.

On page 2375, line 3, strike "and".

On page 2375, between lines 3 and 4, insert:

(B) by inserting "or multiple of acres" after "(or lesser amount)" in subparagraph (B) thereof, and

On page 2375, line 4, strike "(B)" and insert "(C)".

On page 2378, strike lines 4 through 9 and insert the following:

(f) EXPANSION OF EXCEPTION FOR RIVER PLACE PROJECT.—Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980, as added by the Tax Reform Act of 1984, is amended—

(1) by striking out "December 31, 1984," in subsection (p) and inserting in lieu thereof "December 31, 1984 (other than obligations described in subsection (r)(1)),", and

(2) by striking out "$55,000,000," in subsection (r)(1)(B) and inserting in lieu thereof "$110,000,000, of which $55,000,000 must be redeemed no later than November 1, 1987,"

On page 2378, line 24, strike "(22)" and insert "(21), as redesignated by section 634(b)(2),".

On page 2378, line 24, strike "(23)" and insert "(22)".

On page 2379, line 1, strike "(27)", "(22)", and "(26)" and insert "(26)", "(21)", and "(25)", respectively.

On page 2380, line 6, strike "section 626(b) of".

On page 2380, line 14, strike "if".

On page 2380, line 18, strike "1986" and insert "1986,".

On page 2380, line 18, strike "on or".

On page 2381, line 19, strike "and".

On page 2381, line 20, insert "and section 103A(l)(11) (relating to treatment of limited equity cooperative housing)," before "as".

On page 2382, line 2, strike "or amendments".

On page 2382, line 9, strike "in subparagraph (D) thereof" and insert "therein".

On page 2382, strike lines 14 through 20 and insert:

(3) The volume limitation requirement of section 103(n) of such Code (without regard to the amendments to the definition of governmental ownership contained in paragraph (7)(C)(ii) thereof in the case of obligations with respect to facilities described in section 103(b)(4)(B) of such Code).

On page 2383, between lines 4 and 5, insert the following:

(8) The requirements of section 103A(c)(3)(C) of such Code.

On page 2383, line 5, insert "of paragraphs (2) through (8)" after "purposes".

On page 2384, line 5, strike "(B)" and insert "(C)".

On page 2385, line 5, strike "(f)(1)(A)" and insert "(f)(1)".

On page 2385, line 15, strike "(E)" and insert "(F)".

On page 2385, line 24, strike "sections 1706 and 1711(c)" and insert "sections 1506 and 1512(c)".

On page 2390, beginning with "and" on line 24, strike all through "Act" on page 2391, line 1.

On page 2391, line 3, insert "as an obligation" before "described".

On page 2391, line 5, insert an end parenthesis after "section".

On page 2392, line 13, strike the period and insert ", and superseded by a resolution adopted by such governing body on May 27, 1986."

On page 2406, line 13, strike "1984" and insert "1974".

On page 2406, line 18, insert after the period the following: For purposes of this subparagraph, a pollution control facility includes a sewage or solid waste disposal facility (within the meaning of section 103(b)(4)(E)).

On page 2414, beginning with "Arrowhead" in line 13, strike through the period in line 16, and insert "Arrowhead Springs, within the county of San Bernardino, California, and a portion of the site of which currently is owned by the Campus Crusade for Christ."

On page 2417, line 23, strike "13" and insert "14".

On page 2418, line 3, strike "4" and insert "5".

On page 2418, line 14, strike "1869(c)(5)" and insert "1869(c)(3)".

On page 2418, line 19, strike "103" and insert "103(b)".

On page 2419, line 5, strike "1869(c)(5)" and insert "1869(c)(3)".

On page 2420, line 2, insert "(relating to bonds for a convention center and resource recovery project)" after "1984".

On page 2420, lines 4 and 5, strike "(relating to bonds for a convention center and resource recovery project)".

On page 2420, line 8, strike "paragraphs (1)," and insert "section 631(d)(5), paragraphs".

On page 2420, line 9, strike "section 632(a)" and insert "section 632(a),".

On page 2420, between lines 13 and 14, insert the following new paragraph:

(5) The amendments made by this title shall not apply to any obligation issued to finance property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

On page 2430, line 12, strike "1986" and insert "1986,".

On page 2432, line 1, insert ", or for which the period during which a claim for credit or refund may be timely filed has expired, whichever is later" after "expired".

On page 2462, line 20, insert "For purposes of subclause (II), there shall only be taken into account dividends which are properly allocable to income of the tax-exempt controlled entity which was not subject to tax under this chapter." after "entity."

On page 2502, strike lines 19 and 20, and insert: adjusted basis thereof—

"(1) the earnings and profits of the corporation shall be increased by the amount of such excess, and

"(2) subsection (a)(3) shall be applied by substituting 'fair market value' for 'adjusted basis'.

On page 2503, line 9, strike "(C)" and insert "(D)".

On page 2528, lines 12 and 13, strike "If the taxpayer elects the application of this section" and insert "For purposes of section 461(h)".

On page 2528, line 19, insert "designated settlement" before "fund".

On page 2528, line 20, strike "a" and insert "the".

On page 2529, lines 1 and 9, insert "designated settlement" before "fund".

On page 2529, strike lines 2 and 3, and insert:

accounting, and actuarial expenses)—

"(A) which are incurred in connection with the operation of the fund, and

"(B) which would be deductible under this chapter for purposes of determining the taxable income of the corporation,

no other deduction shall be allowed to the fund.

On page 2529, strike lines 4 through 6 and insert:

"(3) TRANSFERS TO THE FUND.—In the

On page 2529, line 8, strike "(i)" and insert "(A)".

On page 2529, line 10, strike "(ii)" and insert "(B)".

On page 2529, line 14, strike "(iii)" and insert "(C)".

On page 2529, strike lines 17 through 19 and insert:

"(4) TAX IN LIEU OF OTHER TAXATION.—The tax imposed by paragraph (1) shall be in lieu of any other taxation under this subtitle of income from assets in the designated settlement fund.

"(5) COORDINATION WITH SUBTITLE F.—For purposes of subtitle F—

"(A) a designated settlement fund shall be treated as a corporation, and

"(B) any tax imposed by this subsection shall be treated as a tax imposed by section 11.

On page 2529, line 24, strike "excludible" and insert "excluded".

On page 2530, line 4, insert "designated settlement" before "fund".

On page 2530, lines 18 and 19, strike "not related or subordinate parties to" and insert "independent".

On page 2530, line 24, strike "and".

On page 2531, line 3, strike the period and insert ", and".

On page 2531, between lines 3 and 4, insert:

"(F) with respect to which an election is made under this section by the taxpayer.

An election under this section shall be made at such time and in such manner as the Secretary shall by regulation prescribe. Such an election, once made, may be revoked only with the consent of the Secretary.

On page 2531, strike lines 4 and 5.

On page 2531, line 6, strike "(4)" and insert "(3)".

On page 2531, line 15, insert "in respect of a liability described in subsection (d)(2)(D) (and not described in subsection (e))" before "to".

On page 2531, lines 16 and 17, strike "deemed to constitute" and insert "treated as constituting".

On page 2532, line 7, insert "subparagraphs (A), (C), (D), and (F) of" before "section".

On page 2532, line 12, insert "(or any successor thereof)" after "corporation".

On page 2532, line 14, insert "(and the fund shall not be liable for such tax)" after "fund".

On page 2532, lines 19 and 21, strike "sale or distribution" and insert "transaction".

On page 2534, line 1, insert "TRANSITION RULE.—" after "(c)".

On page 2579, line 10, strike "Certain".

On page 2579, line 20, strike "1985" and insert "1984".

On page 2607, line 20, strike "Paragraph (1)" and insert "Paragraphs (1) and (2)(B)".

On page 2614, line 1, strike "(F)" and insert "(E)".

On page 2615, lines 12 and 13, strike "by an organization described in section 170(b)(1)(A)(i) to an employee of such organization." and insert "under a church plan defined in section 414(e)."

On page 2621, line 18, insert "or decrease" before "under".

On page 2623, between lines 14 and 15, insert:

SEC. 1833. AMENDMENT RELATED TO SECTION 305 OF THE ACT.

Section 6214(c) is amended by striking out "section 4962(b)" and inserting in lieu thereof "section 4963(b)".

On page 2623, line 15, strike "1833" and insert "1834".

On page 2640, strike lines 14 through 16, and insert:

"(II) the only amounts to which the employer or employees are entitled (directly or indirectly) at the time the premiums are paid as experience rated re-".

On page 2641, line 25, strike "of paragraph (3)".

On page 2664, line 11, strike "section 415(1)" and insert "section 416(l)".

On page 2671, strike lines 18 through 20, and insert:

(A) such plan would have met the requirements of such section (as amended by this section but without regard to the lack of evidence that benefits under such plan were the subject of good faith bargaining) on the day on which eligibility to participate in the plan was closed,

On page 2672, line 2, insert "June 30, 1974," after "June 30, 1972,".

On page 2672, lines 4 and 5, strike "tuition reductions" and insert "tuition reduction plans".

On page 2672, line 7, strike "not" the second place it appears.

On page 2672, line 11, insert ", other than plans described in paragraph (1)," after "if".

On page 2673, line 12, insert "(other than stock described in section 1504(a)(4))" after "corporation".

On page 2673, strike lines 17 and 18.

On page 2673, line 22, insert "or cooperative" after "plan".

On page 2677, line 18, strike "CONFORMING AMENDMENT.—".

On page 2677, line 21, strike "EFFECTIVE DATE.—".

On page 2678, line 24, strike "section 409(l)(4)" and insert "section 1563(a)(1)".

On page 2682, line 2, insert "preliminary" before "commitment".

On page 2682, line 3, strike "April 12, 1985," and insert "April 10, 1985, and with respect to which a commitment letter was issued by a bank on June 28, 1985,".

On page 2685, line 12, strike "EFFECTIVE DATE.—".

On page 2686, line 12, insert "or beneficiary" after "participant".

On page 2688, strike lines 1 through 11 and insert:

"(iv) SPECIAL RULES FOR OBLIGATIONS TO WHICH SECTION 133 APPLIES.—In the case of an obligation to which section 133 applies, interest on such obligation shall not be treated as exempt from taxes for purposes of this subparagraph.".

On page 2689, lines 4 and 5, strike "or which meets the requirements of section 409".

On page 2689, lines 21 and 22, strike "adding at the end thereof" and insert "redesignating paragraph (3) as paragraph (4) and by adding after paragraph (2)".

On page 2690, lines 9 and 10, strike "which are so similar, except that" and insert "providing for".

On page 2690, line 11, strike "is permitted".

On page 2696, line 24, insert ", section 409(o)," before "and".

On page 2697, between lines 2 and 3, insert:

(C) Section 409(h)(2) is amended by striking out "in cash" and inserting in lieu thereof "in cash, except that such plan may distribute employer securities subject to a requirement that such securities be resold to the employer."

On page 2708, line 7, strike "103(1)" and insert "103(l)".

On page 2720, line 4, insert "the original use of which commences with the taxpayer and" after "(ii)".

On page 2762, line 23, strike "2523(f)" and insert "2523(f)(4)".

On page 2763, line 20, strike "recovered" and insert "removed".

On page 2773, line 7, strike "(A)" and insert "(A))".

On page 2775, line 23, strike "nongovermental" and insert "nongovernmental".

On page 2798, line 10, strike "OADSI" and insert "OASDI".

On page 2798, line 14, strike "to" and insert "to the".

On page 2801, line 7, strike "(b)" and insert "(c)".

On page 2840, line 23, strike "401(k)" and insert "404(k)".

WILSON AMENDMENT NO. 2167

Mr. PACKWOOD (for Mr. WILSON) proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the appropriate place in the amendment, add the following new section:

"SEC. IRREVOCABLE ESTATE ELECTIONS.

"(a) Section 2056(b)(5) is amended by adding the following at the end of such paragraph:

'Should the Commissioner determine that property does not qualify under this paragraph as claimed by an executor, with a reasonable basis therefore and in good faith, on a return filed under section 2001, upon receipt of written notice of such a determination by the Commissioner, the executor shall have 90 days to make an irrevocable election under section 2056(b)(7)(v) as to any such property which qualifies under such section.'.

"(b) The provisions of this section shall not apply to the estate of any decedent if the statute of limitations with respect to the return of tax imposed by section 2001 of the Internal Revenue Code of 1954 has expired before the date of enactment of this Act.".

MOYNIHAN (AND DOLE) AMENDMENT NO. 2168

Mr. MOYNIHAN (for himself and Mr. DOLE) proposed an amendment to the bill (H.R. 3838), supra; as follows:

On page 1589, before line 9, insert:

SEC. 424. REPEAL OF DEALERS EXCEPTION.

Notwithstanding any other provision of this Act—

(1) section 423 of this Act is null and void, and

(2) section 1256(e) is amended by striking out paragraph (6) thereof.

On page 1665, line 13, strike "80 percent" and insert "78 percent".

BYRD AMENDMENT NO. 2169

Mr. BYRD proposed an amendment to the bill (H.R. 3838), supra; as follows:

At the end of title XVII, insert:

SEC. . SPECIAL RELIEF FOR FLOOD DISASTER VICTIMS.

(a) IN GENERAL.—In the case of a disaster described in subsection (b)—

(1) section 165(h)(2) of the Internal Revenue Code of 1954 shall be applied with respect to any loss of an individual arising from such disaster by substituting "1 percent" for "10 percent", and

(2) at the election of the taxpayer, the amendments made by section 201 of this Act (i) shall not apply to any property placed in service during 1987 or 1988 or (ii) shall apply to any property placed in service during 1985 or 1986, which is property to replace property lost, damaged, or destroyed in such disaster.

(b) DISASTER TO WHICH SECTION APPLIES.—This section shall apply to a flood which occurred on November 3 through 7, 1985, and which was declared a natural disaster area by the President of the United States.

At the appropriate place insert the following:

(C)(1) Section 171 (relating to amortizable bond premium) is amended by redesignating subsection "(e)" as "(f)" and inserting after subsection (d) the following:

"(e) Treatment as interest.

"Except as otherwise provided by regulations, the deduction allowed under subsection (a)(1) shall be treated as interest for purposes of this title."

(2) EFFECTIVE DATE.—The amendment made by (A) shall apply to obligations acquired after date of enactment.

DeCONCINI AMENDMENT NO. 2170

(Ordered to lie on the table.)

Mr. DeCONCINI submitted an amendment intended to be proposed by him to the bill (H.R. 3838), supra; as follows:

On page 1561, line 8, strike "section" and insert "sections".

On page 1566, strike lines 4 through 13.

On page 1566, line 14, strike "(iii)" and insert "(A) which arises from the disposition after February 28, 1986, of".

On page 1567, beginning with line 13, strike all through page 1568, line 25.

On page 1569, line 1, strike "(5)" and insert "(4)".

On page 1569, line 7, strike "(6)" and insert "(5)".

On page 1569, line 13, strike the end quotation marks.

On page 1569, between lines 13 and 14, insert:

"SEC. 453D. INSTALLMENT OBLIGATIONS OF DEALERS OR UNDER REVOLVING CREDIT PLANS.

"(a) IN GENERAL.—For purposes of sections 453 and 453A, in the case of an installment obligation in connection with a disposition of property to which this section applies, 30 percent of the gross profit (realized or to be realized when payment is completed) shall be includible in gross income in the taxable year in which such property is disposed of.

"(b) DISPOSITIONS TO WHICH SECTION APPLIES.—This section shall apply to any disposition under the installment method of—

"(1) personal property by a person who regularly sells or otherwise disposes of personal property on the installment plan (including under a revolving credit plan), and

"(2) real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

"(c) TREATMENT OF ACTUAL PAYMENTS.—In applying sections 453 and 453A to any installment obligation described in subsection (a), the gross profit ratio with respect to any payments received in connection with such obligation shall be computed without regard to the portion of the gross profit to which subsection (a) applies.

"(d) EXCEPTION FOR SALES OF TIMESHARES AND RESIDENTIAL LOTS.—

"(1) IN GENERAL.—If a taxpayer elects the application of this subsection, this section shall not apply to any installment obligation which—

"(A) arises from a sale in the ordinary course of the taxpayer's trade or business to an individual of—

"(i) a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks, or a right to use specified campgrounds for recreational purposes, or

"(ii) any residential lot but only if the taxpayer (for any related person) is not to make any improvements with respect to such lot, and

"(B) which is not guaranteed by any person other than an individual.

"(2) INTEREST ON DEFERRED TAX.—If paragraph (1) applies to any installment obligation, interest shall be paid on the portion of any tax for any taxable year (determined without regard to any deduction allowable for such interest) which is attributable to the receipt of payments on such obligation in such year (other than payments received in the taxable year of the sale). Such interest shall be computed for the period from the date of the sale to the date on which the payment is received using the Federal short-term rate under section 1274 (compounded semiannually) in effect at the time of the sale and adjusted annually to the Federal short-term rate in effect on each anniversary of the sale.

"(3) TIME FOR PAYMENT.—Any interest under this paragraph shall be treated as an addition to tax for the taxable year described in paragraph (2), except that the amount of such interest shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year."

On page 1569, line 17, strike "item" and insert "items".

On page 1569, in the matter between lines 17 and 18, strike the end quotation marks and insert at the end:

"Sec. 453D. Installment obligations of dealers or under revolving credit plans."

On page 1572, after line 23, insert:

(4) SPECIAL RULE FOR SECTION 453D.—

(A) IN GENERAL.—Section 453D of the Internal Revenue Code of 1954 (as added by this section) shall apply to—

(i) taxable years beginning after December 31, 1985, with respect to dispositions after December 31, 1985, and

(ii) taxable years beginning after December 31, 1989, with respect to dispositions before January 1, 1986, to the extent of the gross profit not included in gross income in taxable years of the taxpayer beginning before January 1, 1990.

(B) RATABLE INCLUSION.—Any amount required to be included in gross income under section 453D of such Code (as so added) for the taxpayer's first taxable year beginning in 1986 shall be taken into account ratably over a period not to exceed 5 years.

On page 1573, strike line 6 through 11, and insert:

"(j) SECTION NOT TO APPLY.—This section shall not apply to any installment obligation arising out of a sale of—

On page 1573, line 12, strike "(A)" and insert "(1)".

On page 1573, line 14, strike "(B)" and insert "(2)".

On page 1573, beginning with line 22, strike out all through page 1574, line 24, and insert:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dispositions after December 31, 1986.

On page 1960, strike lines 3 through 10.

On page 1960, line 11, strike "(6)" and insert "(5)".

On page 1999, strike lines 9 through 14.

On page 1999, line 15, strike "(4)" and insert "(3)".

BANK BRIBERY ACT AMENDMENT

METZENBAUM (AND OTHERS) AMENDMENT NO. 2171

Mr. METZENBAUM (for himself, Mr. THURMOND, and Mr. DeCONCINI) proposed an amendment to the amendment of the House to the amendment of the Senate to the bill (H.R. 3511) to amend title 18, United States Code, with respect to certain bribery and related offenses; as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

"(d) Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public.".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Committee's markup on an original resolution to urge the President to submit to the Senate a nominee for the position of Administrator of the Small Business Administration has been rescheduled from Tuesday, June 24, 1986 to Wednesday, June 25, 1986. The markup will commence at 9:30 a.m. and will be held in room 428A of the Russell Senate Office Building. For further information, please call Bob Dotchin, staff director of the committee at 224-5175.

SUBCOMMITTEE ON NATURAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public, the postponement of the public hearing previously scheduled before the Natural Resources Development and Production Subcommittee of the Senate Energy and Natural Resources Committee on Thursday, June 26, 1986. This hearing will be rescheduled on Tuesday, August 5, 1986 at 10 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC. Testimony is invited regarding the prospects for exporting American coal.

For further information regarding this hearing, you may wish to contact Ms. Ellen Rowan on the subcommittee staff at (202) 224-5205. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Natural Resources Development and Production Subcommittee, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC 20510.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, Reserved Water and Resource Conservation, of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, June 24, to conduct a hearing on S. 2522, to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs; and H.R. 4378, to provide standards for placement of commemorative works on lands administered by the National Park Service in the District of Columbia, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Subcommittee on Governmental Efficiency and the District of Columbia, of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, June 24, to hold a hearing on the Chesapeake Bay cleanup program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Tuesday, June 24 until noon to conduct an executive session on pending legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

KELSEY ORESTIS: CHAMPION OF RIGHTS FOR THE MENTALLY ILL

● Mr. COHEN. Mr. President, a recent State-by-State evaluation of our Nation's mental health system has concluded that, with a few exceptions, the care provided by States to our Nation's seriously mentally ill is at best, mediocre, and sorely in need of improvement. The evaluation, which was done by the Public Citizen Health Research Group, concluded that the problem is not so much lack of money, as a lack of commitment and a lack of caring.

The State of Maine scored very well in the "Public Citizen" survey, ranking fourth in the Nation in terms of the quality of care available for the mentally ill. If it is true that commitment and caring are the keys to such success, Kelly Orestis of Lewiston, ME, should certainly serve as an inspiration to the rest of the Nation.

An active member of several mental health organizations and founder of the region IV Mental Health Services Coalition, Kelly Orestis has proven an extremely effective advocate for the mentally ill. She has fought, and won, battles for increased State funding for community-based programs in the Lewiston-Auburn and tri-county areas. She also continues to work to put an end to discrimination against the mentally ill, and to improve public awareness about mental illness and its effects on patients and their families. In recognition of her efforts, she was recognized earlier this year as one of three recipients of the Commissioner's Award from the Maine Department of Mental Health and Retardation.

Mr. President, I would like to take this opportunity to commend the attention of my colleagues to an article from the Lewiston Daily Sun which further describes the accomplishments of this remarkable woman.

The article follows:

[From the Lewiston (ME) Daily Sun, June 11, 1986]

KELSEY ORESTIS: CHAMPION OF RIGHTS FOR THE MENTALLY ILL

(By Joe O'Connor)

If anyone doubts that mentally ill people are the victims of discrimination, says Kelsey Orestis, they should consider the terms used to describe them.

"These are terms that are used for criminals rather than ill people," she says. For example, we speak of mental "institutions" rather than hospitals, that are occupied by "inmates" rather than patients; who are committed," rather than hospitalized.

"For centuries, I think since the beginning of mankind, those people who were different were shoved into a closet and had the door closed behind them," Mrs. Orestis says.

Changing that situation has been Mrs. Orestis's goal for the past several years. As a member of several mental-health organizations, and the founder of the Region IV Mental Health Services Coalition, she has fought for increased funding for additional community-based programs in this area, as well as for greater public awareness about mental illness and its effects on patients and their families.

In the short time that she has been involved in advocating for mental health programs in the Lewiston-Auburn and Tri-County Areas, Mrs. Orestis has scored some remarkable victories, including winning major funding for community services from the Legislature.

Those efforts were recognized this month, when she was one of three recipients of the Commissioner's Award from the Department of Mental Health and Retardation.

In presenting her with the award, Commissioner Kevin Concannon said Mrs. Orestis "has been a strong advocate for her community and its needs and has shown what we all are taught: that one person, for sure, can make a difference."

The wife of attorney and former Lewiston mayor John C. Orestis and the mother of three children, ages 13, 17, and 20, and an accomplished photographer and pilot, Mrs. Orestis was involved in several community organizations before 1984, when she was appointed to the Governor's Advisory Committee on Mental Health.

It was at a meeting of that committee in late 1984 that a member from Waterville mentioned that the newly-formed crisis intervention program there was doing very well.

"Right away, I said, 'What program is that?'" Mrs. Orestis recalls.

What the Waterville woman was referring to was a three-part community program approved that year for Augusta-Waterville, Portland, and York County. The programs included social clubs, long- and short-term housing, and a crisis outreach program that sends mental health workers to visit people who are having a crisis, rather than waiting until the crisis is so severe that hospitalization is required.

When Mrs. Orestis heard about that program, her immediate reaction was: "Why can't we have something like that here?"

In early 1985, she held a meeting at her home, which resulted in the formation of the Region IV Mental Health Services Coalition.

The coalition is composed of representatives of the Governor's Advisory Council for Mental Health, St. Mary's Hospital, Tri-County Mental Health Services, Androscoggin Home Health Services, Relatives and Friends Together for Support, and the Lewiston Housing Authority.

Contending that the need for such services is equally great in Region IV (which basically consists of Franklin, Oxford, and Androscoggin counties) as in those other areas, the coalition approached the Legislature with a request for about $275,000 to establish similar programs.

The bill "came within two votes in the Appropriations Committee," Ms. Orestis said, but failed to win a majority. However, Bureau of Mental Health Director Michael DeSisto, who had supported the coalition's request, managed to locate funds elsewhere in his budget to fund the social club and residential program.

In February, the coalition opened the social club at 100 Pine St., Lewiston, where short-term housing for as many as four people can also be provided. With the same BMH grant, the coalition also rented a supervised long-term apartment for one person, also in Lewiston.

This year, the coalition won legislative approval of $200,000 for a crisis intervention team will provide around-the-clock, on-the-scene services to mentally-ill people who are experiencing increased symptoms that, without treatment, could result in their being hospitalized.

Throughout the struggle to improve community services in Lewiston-Auburn and the surrounding area, Mrs. Orestis has been active in other mental-health organizations. She is a board member of the Advocates for the Developmentally Disabled and represented the Maine State Alliance for the Mentally Ill at a legislative seminar in Washington, D.C., in March, during which she met with the state's four-member congressional delegation.

This summer, Mrs. Orestis is running for a seat on the national board of the Alliance for the Mentally Ill.

Mrs. Orestis has high praise for the professionals in the Bureau of Mental Health and in community organizations such as Tri-County Mental Health Services.

"They are very dedicated people, I'd say that 95 percent of them work beyond what they're supposed to do, and put in extra hours, because they want to do a good job," she said. "What is available is very, very good; there just isn't enough of it."

Following the success in getting improved community services, Mrs. Orestis said the Region IV Coalition is now turning its sights on education.

That type of situation is typical, she says. Quoting a mother whose son is mentally ill, she says, "When someone in a family has a broken leg, flowers come, cards come, casseroles come. When you have mental illness in the family, nothing comes. People are embarrassed by it—they don't know how to talk about it, to the family or to the mentally-ill person."

The worst part about this, she says, is that the thing most needed by the mentally ill and their immediate families is support from other family members and friends—"and when you need it the most, you get it the least."

"You really become isolated, and this has to change," she says.●

MAINE'S MAN IN WASHINGTON—DON LARRABEE

● Mr. COHEN. Mr. President, I would like to share an article with my colleagues about a goodwill ambassador for my State and good friend of mine, Don Larrabee.

As many of my colleagues know, Don was a reporter covering Maine for nearly 30 years. During that time, he developed a richly deserved reputation for fairness and thorough reporting exceeded by few.

Since he left daily journalism in 1978, Don has served as the representative for two Maine Governors in Washington. Don has approached this important post with the same diligence, professionalism, and good humor which characterized his years in journalism.

Recently, the magazine Maine Today published a profile of Don Larrabee, and I ask that the article be entered in the RECORD.

The article follows:

[From Maine Today, June 1986]

MAINE'S MAN IN WASHINGTON

(By Betty Mills)

A few years ago, a small businessman from Scarborough wanted to get a Navy contract. He didn't know where to start, so he called Don Larrabee, who heads the state of Maine office in Washington, D.C.

It so happened that the secretary of the Navy was an old friend of Larrabee. The 40-year veteran of Washington journalism and politics fired off a letter, and the Maine businessman received some Navy work.

Larrabee, 62, is the eyes and ears of the state of Maine in Washington. His principal job is to monitor the federal government and send frequent reports to the governor and various state agencies.

But he also is an advocate for Maine business interests when they need help and is an enthusiastic booster of the state.

"The big companies—Bath Iron Works and Pratt Whitney—don't need to come to me. They have their own lobbyists. But the individual businessman who comes to me and needs advice or guidance . . . I try to steer him around," Larrabee says.

Larrabee cites the case of the head of the Penobscot Marine Museum in Searsport who was angling for federal funds from the National Endowment for the Humanities.

"I advised him to see Rep. Olympia Snowe, his representative." The congresswoman made inquiries with the Endowment on behalf of the Maine museum.

Larrabee is a native of Portland who served 29 years as a Washington correspondent for daily newspapers, radio and television stations in Maine. In 1978, he sold the Griffin-Larrabee News Bureau, and signed a contract with then Governor James B. Longley to represent the state's interest in Washington.

The contract has been renewed through the administration of Gov. Joseph E. Brennan and has been funded by the legislature annually. The budget for the office is now $80,000, which covers the salaries of Larrabee and his wife, Mary Beth, who assists him, and all expenses.

"I am an arm of the governor. This office is here to serve the state government. But when anyone calls from private business and has questions, I am happy to help. I get quite a few people who pop in on me or write," Larrabee said.

He also serves as a salesman and a goodwill ambassador for Maine, a part of the job that is easy.

"It is an environment that appeals to a lot of people. You don't have to sell Maine too hard," Larrabee said.

His office receives a steady stream of calls from people who want information on the best camping area or lake site for their vacation.

"It is a billion dollar business in Maine—tourism," Larrabee said. "It means a lot to the economy of our state. Mary Beth and I give sympathetic attention to everyone who calls. We send out maps and brochures."

Larrabee is active with the Maine State Society, a group of former state residents who live in Washington. He has organized several Maine lobster dinners at the National Press Club. At the affairs, Larrabee usually cajoles a Maine politician to perform tricks with a crustacean to amuse the crowd.

This spring Larrabee is arranging the annual presentation of the first salmon caught in Maine to the White House. One year, President Reagan accepted the fish, while Vice President Bush did the honors another year.

Larrabee easily made the transition from the independent, business-oriented Longley to the Democratic regime of Brennan by adopting a non-partisan approach to the job.

"I don't play politics. Neither Brennan or Longley has ever asked me to do anything that would embarrass me. It's better if I am not here trying to grind an axe for Brennan," he said.

Larrabee is less of a lobbyist than many state representatives and as a result, he has a good working relationship with the four-member delegation.

"Some state representatives get more active in lobbying and duplicate the work of the delegation," he said. "I don't bother the delegation unless I have to. I would have a hard time operating if I was seen as a political animal. This is a more pleasant way to work and I get a lot more done."

Sen. William S. Cohen, R-Maine, a longtime friend, said, "Don Larrabee handles the vital and difficult role of representing the interests of the governor of Maine in Washington, D.C., with good humor and professionalism. His efforts in behalf of Maine people and Maine projects reflect his love of Maine and what it stands for.

"Those of us fighting for Maine in Congress welcome Don's able and steady counsel and assistance." Cohen added. "He brings to his job an abundance of intelligence, candor and good will, along with a deep love for our state."

The newest member of the delegation, Rep. John R. McKernan, R-Maine, is equally laudatory.

"Don is an able representative of the state who has the advantage of having a long association with both the state of Maine and the workings of Congress," McKernan said. "The contacts he has made in Washington over the years have reaped important benefits for the state. His counsel has been invaluable to both me and my staff in dealing with a myriad of legislative issues over the past three and one-half years."

McKernan, a gubernatorial candidate, may have a role in Larrabee's future if he succeeds Brennan in the Blaine House.

Larrabee's current contract expires in June 1987, six months after the new governor takes over.

"If the newly elected governor came and asked me to do it, "I'm sure I would consider it," said Larrabee.

Larrabee also expressed a desire to teach.

With his vast list of contacts and his wealth of experience, Larrabee is not worried about finding something to do. His future certainly includes a continuing interest in Maine.●

RICARDO BOFILL PAGES: CONFINEMENT WITHOUT WALLS

● Mr. CRANSTON. Mr. President, I'd like to talk about Ricardo Bofill Pages, whose well-being has concerned me for some time. When I first learned of Mr. Bofill's plight, he was in prison in Cuba.

Ricardo Bofill Pages has been sentenced three times over the last 19 years for ideological deviationism. He

is a professor of philosophy and former vice rector of the University of Havana.

Mr. Bofill was sentenced to 12 years in 1967 for his alleged involvement in a dissident group. He was released in 1972 and jailed again in 1980 because of his efforts to emigrate. Released after serving 2 years, he was denied work, ostracized and placed under greater surveillance because of his expressed intention of leaving the country.

This situation led Mr. Bofill to seek refuge in the French Embassy in 1983. The Cuban police surrounded the embassy. Mr. Bofill left after Cuban Vice-President Carlos Rafael Rodriguez assured the French Ambassador that he would not be harassed and would be allowed to leave Cuba without delay. Mr. Bofill was not permitted to leave Cuba. Five months later, he was arrested for having spoken to two French journalists in Havana.

This last time, he served 2 years in Combinado del Este prison. He reportedly spent 63 days in solitary confinement and staged a hunger strike after prison authorities confiscated two letters in which he described the plight of other prisoners.

Cuban prisons are harsh. Former prisoners have told stories of beatings and solitary confinement in dark, windowless rooms. The prisons are filthy, food and plumbing are inadequate.

Ricardo Bofill is out of prison now. He would like very much to leave Cuba and join his wife and son who are living in the United States. According to his wife, Maria Elena Bofill, two countries have expressed a willingness to grant him visas. As a U.S. citizen, Mrs. Bofill is seeking an immigrant visa for her husband. And as the spouse of a U.S. citizen, Mr. Bofill is entitled to pursue an immigrant visa. But, according to his wife, Mr. Bofill does not dare approach an embassy. He is said to be under close serveillance and has been forbidden to approach any foreign embassy in Havana.

Ricardo Bofill is in his early forties and he suffers from cardiovascular difficulties. The stress of his situation can only aggravate this condition.

In essence, Ricardo Bofill Pages remains a prisoner. True, he is no longer behind bars. But he cannot work. If he expresses himself he runs the risk of being thrown into prison again. And, he cannot leave his country—a country which has rejected and ostracized him and which has refused to allow him to rejoin his family.

I urge the Cuban Government to allow Mr. Bofill to leave Cuba in order that he may rejoin his family and pursue a productive life.●

NAUM AND INNA MEIMAN: SUFFERING IN MOSCOW

● Mr. SIMON. Mr. President, Naum and Inna Meiman are Jews who want desperately to leave the Soviet Union. They are a lovely, warm couple and good friends of mine whose only wish is to emigrate to their homeland, Israel.

Naum, 74, is a physicist who last worked on classified material for the Soviet Government in 1955. Since he applied to emigrate over 10 years ago, he has been harassed. He has been isolated from the scientific community. In additon, his phone has been cut off and much of his mail is confiscated.

Inna also suffers. She is seriously ill with cancer and quite frankly does not have much time left. Soviet doctors have told Inna that there is nothing more they can do for her. American, Israeli, and Swiss doctors have offered the necessary medical treatment, but the Soviets will not allow her to go abroad. She is at home in pain without even a phone to call an ambulance in case of emergency.

By refusing to allow Inna and Naum to leave, the Soviets are slowly and painfully torturing a kind, good woman and her husband whose only "crime" is their desire to live in Israel.

I strongly urge the Soviets to allow the Meimans to emigrate to Israel.●

RASPBERRY AND DE TOCQUEVILLE ON THE WELFARE STATE

● Mr. HELMS. Mr. President, on June 11 and June 13, the Washington Post published columns by William Raspberry, both of which were remarkable in their breadth of understanding of the existing welfare system in the United States.

Mr. Raspberry had run across an obscure essay by the brilliant 19th-century philosopher, economist, and statesman, Alexis de Tocqueville, which argued convincingly against the European welfare state. Mr. de Tocqueville's thesis rested on an intriguing premise: that the more industrialized and civilized the society, the greater the prevalence of pauperism.

England, the most advanced country in Europe at the time [1835], particularly fascinated de Tocqueville because it also had a disproportionately high poverty rate: one in six Britons lived on the public dole. Spain and Portugal, significantly less advanced than England, had much lower percentages of indigents. This seemed an obvious paradox.

Mr. President, de Tocqueville's explanation was simple: charity, previously the domain of the monasteries, had given way to state supervision. "Overseers" in each parish had been endowed with the power to tax citizens for the good of society. Predictably, this was a horrendous failure; de Tocqueville understood why. He put it this way:

> Man, like all socially organized beings, has a natural passion for idleness. There are, however, two incentives to work: the need to live and the desire to improve the conditions of life. Experience has proven that the majority of men can be sufficiently motivated to work only by the first of these incentives. The second is only effective with a small minority. Well, a charitable institution indiscriminately open to all those in need, or a law which gives all the poor a right to public aid, whatever the origin of their poverty, weakens or destroys the first stimulant and leaves only the second intact. The English peasant, like the Spanish peasant, if he does not feel the deep desire to better the position into which he has been born, and to raise himself out of his misery (a feeble desire which is easily crushed in the majority of men)—the peasant of both countries, I maintain, has no interest in working, or, if he works, has no interest in saving. He therefore remains idle or thoughtlessly squanders the fruits of his labors . . .
>
> Any measure that establishes legal charity on a permanent basis and gives it an administrative form thereby creates an idle and lazy class, living at the expense of the industrial and working class.

Mr. President, de Tocqueville recognized that government welfare would inherently fail—not because it was too little or too poorly administered, but because it was notoriously bad policy. His observation remains valid of U.S. welfare policy today.

The failure of Great Society-style welfarism was and is inevitable. It is inevitable because such largesse serves to perpetuate laziness and sap incentive. After all, goes the reasoning, why work and pay taxes when being on the Federal dole is just as profitable?

Mr. President, the question also occurs: how much is enough? By 1970 welfare spending by Federal, State, and local governments was $145.8 billion. The total for 1983, the latest figure available, was $641.7 billion—a 440-percent increase. If all the money spent on modern welfarism was disbursed per capita to recipients, each would be vaulted instantly above the official poverty line. This would be terrible policy, of course, but then it is never going to happen anyway because the multiplicity of Federal welfare "professionals" would be left without a constituency. The self-interested bureaucracy siphons off a large chunk of the cash intended for the poor in inflated salaries and administrative expenses. The welfare establishment will not support meaningful reform because it has a vested political interest in preserving the status quo.

Alexis de Tocqueville did not favor an absolute end to all government welfare; nor was he satisfied with merely decentralizing government. He was a great believer in private charity, voluntarism of the sort associated with families, neighborhoods, and churches.

Such privatism is not only cheaper to the taxpayers than public welfare,

but radically different in practice. As de Tocqueville pointed out, pre-welfare state English charity "established valuable ties between the rich and poor." Class differences could be overcome, he argued, by the demonstrable sharing of conflict and adversity.

Mr. President, there is a clear similarity between de Tocqueville's privatism and much of President Reagan's "New Federalism." Experience teaches us that private charity is always preferable to public welfare—in theory and practice—and this has not been lost on the great intellects and leaders of our time. I certainly hope that the administration officials who are studying the reform of our welfare system will also bear in mind these remarkable insights.

Mr. President, I ask consent to have printed in the RECORD William Raspberry's columns along with the essay, "Memoir on Pauperism," by Alexis de Tocqueville. It will be well worth the time of Senators to read this material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOCQUEVILLE AND TODAY'S "UNDERCLASS"

(By William Raspberry)

State welfare exacerbates the very poverty it attempts to relieve—not because it is inadequate or badly administered, but because its failure is built in. "The inevitable result of public charity [is] to perpetuate idleness among the majority of the poor and to provide for their leisure at the expense of those who work."

That's the French author-statesman Alexis de Tocqueville, in a fascinating and frustrating paper, "Memoir on Pauperism." The obscure document is fascinating because it provides a dispassionate look at a problem we tend to view as unique to America, and does so in a time and place—the England of 150 years ago—that avoids the complications of race and ethnicity.

It is frustrating because Tocqueville ends his devastating critique of welfare (not included in the collected works of Tocqueville published after his death) with the promise of a second paper in which he will tell us how to prevent pauperism. According to Seymour Drescher, the University of Pittsburgh professor who translated "Memoir" for his out-of-print book, "Tocqueville and Beaumont on Social Reform," Tocqueville shortly afterward ran for the French chamber of deputies and never wrote the second paper.

"He did leave some notes hinting at the direction of his thinking," Drescher said in a telephone interview. The notes, he said, underscore Tocqueville's "almost pathological fear of bureaucracy" and suggest that his preference was for worker organizations, self-help groups and voluntary associations.

It may be stretching a point, but the things Tocqueville seems to have had in mind sound very much like what Peter Berger and others have described as "mediating structures," defined as those institutions standing between the individual in his private life and the large institutions of public life."

Clearly Tocqueville shared, their preference for private charity and joint undertakings involving families, neighborhoods, churches, and voluntary associations—not because they are cheaper but because they work as public welfare cannot.

Private charity of the sort that preceded England's turn to state welfare "established valuable ties between the rich and the poor," Tocqueville said. "The deed itself involves the giver in the fate of the one whose poverty he has undertaken to alleviate. . . a moral tie is established between those two classes whose interests and passions so often conspire to separate them from each other, and although divided by circumstance, they are willingly reconciled."

The present-day theorists who speak of "mediating structures" do not prescribe an end of public aid; neither did Tocqueville. Nor do they merely urge the decentralization of government. As Berger and Richard John Neuhaus put it in their paper "To Empower People":

"Decentralization is limited to what can be done within governmental structure; we are concerned with the structures that stand between government and the individual. Nor again, are we calling for a devolution of governmental responsibilities that would be tantamount to dismantling the welfare state. We aim rather at rethinking the institutional means by which government exercises its responsibilities. The idea is not to revoke the New Deal but to pursue its vision in ways more compatible with democratic governance."

If the new emphasis on private effort sounds a lot like President Reagan's push for voluntarism (for budgetary reasons), it also sounds very much like what the black leadership is saying more and more these days.

Both the civil right traditionalists and the new black conservatives have begun to stress that the salvation of the inner-city underclass is up to the black middle class: not because government won't do it, or hasn't the means to do it, but because government can't do it.

Tocqueville, that perceptive observer of 19th century social democracy, might wonder what took us so long.

THE "UNDERCLASS"—IN 1835

(By William Raspberry)

Perhaps the toughest social problem facing America today is the persistence and growth of the so-called "underclass" in our affluent society. We don't know how to solve it, and we still debate its causes: alienation, racism, official meanness, isolation, joblessness, loss of moral compass.

I have just seen, in an old issue of the Public Interest, an obscure paper of Alexis de Tocqueville, suggesting that the debate is a good deal older and more universal than I had thought.

Tocqueville, looking at the Europe of 150 years ago, found himself intrigued by a curious phenomenon. The more industrially advanced, the more progressive, the more "civilized" the society, the greater the incidence of pauperism.

The Frenchman was particularly fascinated by England, which in 1835, when he delivered his "Memoir on Pauperism," was the most advanced country on the continent.

For all the wealth and graciousness of living that caught the Frenchman's eye, he was struck by something else: one-sixth of the population lived on the public dole. In Spain and Portugal, poorer and less cultivated by far than England, only between 1 and 4 percent of the inhabitants were indigent.

What lay behind this striking paradox? Two things, Tocqueville told the Royal Academic Society of Cherbourg. First, the more highly developed a society, the more things there are to want and, subsequently, to "need." Indoor plumbing and central heat, once beyond the dreams of kings, are modern-day necessities whose absence constitutes serious misfortune. In primitive societies, "poverty consists only in not finding enough to eat."

But according to historian Seymour Drescher of the University of Pittsburgh, who discovered the "Memoir," Tocqueville had another explanation for the paradoxical association of progress and pauperism: public welfare.

By the time of his observations, charity, which earlier had been the province of the monasteries, had been taken over by the state, with overseers in each parish given the right to tax inhabitants in order to feed the disabled and find work for the able-bodied.

It sounds like an eminently reasonable plan—as reasonable as our own welfare system must have seemed to those who devised it—and it worked out about as poorly as our own. Tocqueville thought he understood why.

"Man, like all socially organized beings, has a natural passion for idleness. There are, however, two incentives to work: the need to live and the desire to improve the conditions of life. Experience has proven that the majority of men can be sufficiently motivated to work only by the first of these incentives. The second is only effective with a small minority. Well, a charitable institution indiscriminately open to all those in need, or a law which gives all the poor a right to public aid, whatever the origin of their poverty, weakens or destroys the first stimulant and leaves only the second intact. The English peasant, like the Spanish peasant, if he does not feel the deep desire to better the position into which he has been born, and to raise himself out of his misery (a feeble desire which is easily crushed in the majority of men)—the peasant of both countries, I maintain, has no interest in working, or, if he works, has no interest in saving. He therefore remains idle or thoughtlessly squanders the fruits of his labors. . . .

"Any measure that establishes legal charity on a permanent basis and gives it an administrative form thereby creates an idle and lazy class, living at the expense of the industrial and working class."

Charles Murray couldn't have said it more harshly: our efforts to alleviate poverty only makes it worse.

But since a decent society cannot simply ignore poverty, what is to be done? Tocqueville thought he knew, but he never got around to saying.

The measures by which pauperism may be combatted preventively will be the object of a second work which I hope respectfully to submit next year to the Academic Society of Cherbourg," he said at the end of his "Memoir."

Is it possible to guess what he had in mind? Its's worth a subsequent column to try.

[From the Public Interest, Winter, 1983]

MEMOIR ON PAUPERISM

(By Alexis de Tocqueville)

The "Memoir on Pauperism," delivered to the Royal Academic Society of Cherbourg in 1835 and printed in the proceedings of the Academy, was not included in the collected edition of Tocqueville's works published soon after his death. Reprinted in a

French academic journal in 1911, it was little known until its translation into English by the American scholar Seymour Drescher.[1]

The "Memoir" is a critique of the system of poor relief which earned England the distinction of being, as Tocqueville said, "the only country in Europe which has systematized and applied the theories of public charity on a grand scale." That system had its origins in the sixteenth century when rising prices and land enclosures (the conversion of arable land to pasturage) created much distress and unemployment, a situation aggravated by the dissolution of the monasteries which had traditionally played a large part in the distribution of charity. After several attempts to control vagrancy and provide some measure of relief, an act passed in 1601 consolidated earlier legislation and became the basis of the system of relief that prevailed (with much modification and variation) until it was superseded by the welfare state in 1945. These Elizabethan poor laws provided for relief for the aged and infirm, apprenticeship for the children of the poor, employment of the "able-bodied" poor, and punishment or confinement in "houses of correction" for the "sturdy beggars" who persisted in seeking alms. Although the parish was the unit of administration, the system was national and compulsory; each parish was required by law to levy taxes on property (the "poor rates," as they were known) to be used for the sole purpose of discharging its obligations to the poor who had a "settlement" (a legal residence) within its boundaries.

In the course of the following two centuries, the poor laws were repeatedly modified, sometimes made more harsh and restrictive (an act of 1662, for example, permitting the parish to evict any newcomer who might become a charge on the parish), sometimes more generous and expansive, but always within the framework of the original laws. The most dramatic expansion of relief came with the "Speenhamland policy" in 1795, which pegged relief to the price of bread and the size of the family, thus supporting those who were employed but whose earnings of below a minimum standard. This policy, coming in the wake of a series of bad harvests, the French Revolutionary wars, the rapid increase of population, and the dislocations caused by the agricultural and industrial "revolutions," had the effect of vastly increasing the number of people dependent, entirely or partially, on relief (not, it is now thought, the one-sixth of the population cited by Tocqueville, although at times, it almost reached that point). By the same token it also considerably increased the poor rates, which at one point amounted to one-fifth of the total national expenditure. Mathus's "Essay on Population," published in 1799, was not the first but it was the most influential critique of the poor laws. In subsequent decades criticism mounted as relief was held responsible for a vicious cycle of evils: the decrease of wages (because wages could be supplemented out of the poor rates), the decline of productivity (pauper labor being less efficient than independent labor), and the increased dependency and demoralization of the poor (the "pauperization of the poor," as it was called).

In 1832 a Royal Commission was set up to inquire into the problem, and two years later the Poor Law Amendment Act was passed. The "New Poor Law," as it was commonly called, made no essential change in relief for the aged and sick who would continue to receive relief in money or kind while living in their own homes ("outdoor relief"). The red change came in the relief for the able-bodied, who were to be assisted only in the workhouse and only under the principle of "less-eligibility"—under conditions that were less "eligible," less desirable, than those of the laboring poor. By these means the reformers hoped to prevent the laborer from being tempted to join the ranks of the pauper. And by these means they thought it possible to reform the poor laws rather than, as Malthus would have liked, to abolish them, thus retaining relief for the needy while making it so onerous for those capable of working as to discourage them from applying for relief.

I was against this background that Tocqueville wrote his "Memoir." What is interesting is his resistence to the prevailing sentiment in England, where both the critics and the defenders of the New Poor Law—with the notable exception of Malthus—thought that it had brought about a radical change in the system of relief. Tocqueville, focussing on the principal rather than the mechanism, saw the new law as prone to all the evils of the old because it was still committed to the idea of a legal right to public relief. That principle, like the principle of democracy (Tocqueville had just completed his "Democracy in America", had its own imperatives and its internal logic, which no such "reform" could alter.—Gertrude Himmelfarb.

PART I—THE PROGRESSIVE DEVELOPMENT OF PAUPERISM AMONG CONTEMPORARIES AND THE METHODS USED TO COMBAT IT

When one crosses the various countries of Europe, one is struck by a very extraordinary and apparently inexplicable sight. The countries appearing to be most impoverished are those which in reality account for the fewest indigents, and among the peoples most admired for their opulence, one part of the population is obliged to rely on the gifts of the other in order to live.

Cross the English countryside and you will think yourself transported into the Eden of modern civilization—magnificently maintained roads, clean new houses, well-fed cattle roaming rich meadows, strong and healthy farmers, more dazzling wealth than in any country of the world, the most refined and gracious standard of the basis amenities of life to be found anywhere. There is a pervasive concern for well-being and leisure, and impression of universal propserity which seems part of the very air you breathe. At every step in England there is something to make the tourist's heart leap.

Now look more closely at the villages; examine the parish registers, and you will discover with indescribable astonishment that one-sixth of the inhabitants of this flourishing kingdom live at the expense of public charity. Now, if you turn to Spain or even more to Portugal, you will be struck by a very different sight. You will see at every step an ignorant and coarse population; ill-fed, ill-clothed, living in the midst of a half-uncultivated countryside and in miserable dwellings. In Portugal, however, the number of indigents is insignificant. M. de Villeneuve estimates that this kingdom contains one pauper for every 25 inhabitants. Previously, the celebrated geographer Balbi gave the figure as one indigent to every ninety-eight inhabitants.

Instead of comparing foreign countries among themselves, contrast the different parts of the same realm with each other, and you will arrive at an analogous result; you will see on the one hand the number of those living in comfort, and, on the other, the number of those who need public funds in order to live, growing proportionately. . . .

I think that it is not impossible to give a reasonable explanation for this phenomenon. The effect that I have just pointed out is due to several general causes which it would take too long to examine thoroughly, but they can at least be indicated. . . .

At this point, I want to examine only a corner of that immense tableau of the feudal centuries. In the twelfth century, what has since been called the "third estate" did not yet exist. The population was divided into only two categories. On the one hand were those who cultivated the soil without possessing it; on the other, those who possessed the soil without cultivating it.

As for the first group of the population, I imagine that in certain regards its fate was less deserving of pity than that of the common people of our era. These men were in a situation like that of our colonial slaves, although they played their role with more liberty, dignity, and morality. Their means of subsistence was almost always assured; the interest of the master coincided with their own on this point. Limited in their desires as well as in their power, without anxiety about a present or a future which was not theirs to choose, they enjoyed a kind of vegetative happiness. It is as difficult for the very civilized man to understand its charm as it is to deny its existence.

The other class presented the opposite picture. Among these men heredity leisure was combined with continuous and assured abundance. I am far from believing, however, that even within this privileged class the pursuit of pleasure was as preponderant as is generally supposed. Luxury without comfort can easily exist in a still half-barbarous nation. Comfort presupposes a numerous class all of whose members work together to render life milder and easier. But, in the period under dicussion, the number of those not totally absorbed in self-preservation was extremely small. Their life was brilliant, ostentatious, but not comfortable. One ate with one's fingers on silver or engraved steel plates, clothes were lined with ermine and gold, and linen was unknown; the walls of their dwellings dripped with moisture, and they sat in richly sculptured wooden chairs before immense hearths where entire trees were consumed without diffusing sufficient heat around them. I am convinced that there is not a provincial town today whose more fortunate inhabitants do not have more true comforts of life in their homes and do not find it easier to satisfy the thousands needs created by civilization than the proudest medieval baron. If we look carefully at the feudal centuries, we will discover in fact that the great majority of the population lived almost without needs and that the remainder felt only a small number of them. The land was enough for all needs. Subsistence was universal; comfort unheard of.

It was necessary to establish this point of departure in order to make clear what follows.

As time passes, the population which cultivates the soil acquires new tastes. The satifaction of the basic necessities is no longer

[1] Reprinted here with Mr. Drescher's permission from "Tocqueville and Beaumont on Social Reform," Seymour Drescher, ed. and trans., (New York: Harper & Row, Harper Torchbooks, 1968), pp. 1-27.

sufficient. The peasant, without leaving his fields, wants to be better housed and clothed. He has seen life's comforts and he wants them. On the other hand, the class which lived off the land without cultivating the soil extends the range of its pleasures; these become less ostentatious, but more complex, more varied. Thousands of needs unknown to the medieval nobles stimuate their descendants. A great number of men who lived on the land and from the land leave their fields and find their livelihood by working to satisfy these newly discovered needs. Agriculture which was everyone's occupation is now only that of the majority. Alongside those who live in leisure from the productivity of the soil arises a numerous class who live by working at a trade but without cultivating the soil.

Each century, as it emerges from the hand of the Creator, extends the range of thought, increases the desires and the power of man. The poor and the rich, each in his sphere, conceive of new enjoyments which were unknown to their ancestors. In order to satisfy these new needs, which the cultivation of the soil cannot meet, a portion of the population leaves agricultural labor each year for industry.

If one carefully considers what has happened in Europe over several centuries, it is certain that proportionately as civilization progressed, a large population displacement occurred. Men left the plow for the shuttle and the hammer; they moved from the thatched cottage to the factory. In doing so, they were obeying the immutable laws which govern the growth of organized societies. One can no more assign an end to this movement than impose limits on human perfectibility. The limits of both are known only by God.

What has been, what is the consequence of this gradual and irresistible movement that we have just described? An immense number of new commodities have been introduced into the world; the class which had remained in agriculture found at its disposal a multitude of luxuries previously unknown. The life of the farmer became more pleasant and comfortable; the life of the great proprietor more varied and more ornate; comfort was available to the majority. But these happy results have not been obtained without a necessary cost.

I have stated that in the Middle Ages comfort could be found nowhere, but life everywhere. This sentence sums up what follows. When almost the entire population lived off the soil great poverty and rude manners could exist, but man's most pressing needs were satisfied. It is only rarely that the earth cannot provide enough to appease the pangs of hunger for anyone who will sweat for it. The population was therefore impoverished but it lived. Today the majority is happier but it would always be on the verge of dying of hunger if public support were lacking.

Such a result is easy to understand. The farmer produces basic necessities. The market may be better or worse, but it is almost guaranteed; and if an accidental cause prevents the disposal of agricultural produce, this produce at least gives its harvester something to live on and permits him to wait for better times.

The worker, on the contrary, speculates on secondary needs which a thousand causes can restrict and important events completely eliminate. However bad the times or the market, each man must have a certain minimum of nourishment or he languishes and dies, and he is always ready to make extraordinary sacrifices in order to obtain this. But unfortunate circumstances can lead the population to deny itself certain pleasures to which it would ordinarily be attracted. It is the taste and demand for these pleasures which the worker counts on for a living. If they are lacking, no other resource remains to him. His own harvest is consumed, his fields are barren; should such a condition continue his prospect is only misery and death.

I have spoken only of the case where the population restricts its needs. Many other causes can lead to the same effect: domestic overproduction, foreign competition, etc.

The industrial class which gives so much impetus to the well-being of others is thus much more exposed to sudden and irremediable evils. In the total fabric of human societies, I consider the industrial class as having received from God the special and dangerous mission of securing the material well-being of all others by its risks and dangers. The natural and irresistible movement of civilization continuously tends to increase the comparative size of this class. Each year needs multiply and diversify, and with them grows the numbers of individuals who hope to achieve greater comfort by working to satisfy those new needs rather than by remaining occupied in agriculture. Contemporary statesmen would do well to consider this fact.

To this must be attributed what is happening within wealthy societies where comfort and indigence are more closely connected than elsewhere. The industrial class, which provides for the pleasures of the greatest number, is itself exposed to miseries that would be almost unknown if this class did not exist.

However, still other causes contribute to the gradual development of pauperism. Man is born with needs, and he creates needs for himself. The first class belongs to his physical constitution, the second to habit and education. I have shown that at the outset men had scarcely anything but natural needs, seeking only to live; but in proportion as life's pleasures have become more numerous, they have become habits. These in turn have finally become almost as necessary as life itself. . . . The more prosperous a society is, the more diversified and more durable become the enjoyments of the greatest number, the more they simulate true necessity through habit and imitation. Civilized man is therefore infinitely more exposed to the vicissitudes of destiny than savage man. What happens to the second only from time to time and in particular circumstances, occurs regularly to the first. Along with the range of his pleasures he has expanded the range of his needs and leaves himself more open to the hazard of fortune. Thus the English poor appear almost rich to the French poor; and the latter are so regarded by the Spanish poor. What the Englishman lacks has never been possessed by the Frenchman. And so it goes as one descends the social scale. Among very civilized peoples, the lack of a multitude of things causes poverty; in the savage state, poverty consists only in not finding something to eat.

The progress of civilization not only exposes men to many new misfortunes; it even brings society to alleviate miseries which are not even thought about in less civilized societies. In a country where the majority is ill-clothed, ill-housed, ill-fed, who thinks of giving clean clothes, healthy food, comfortable quarters to the poor? The majority of the English, having all these things, regard their absence as a frightful misfortune; society believes itself bound to come to the aid of those who lack them, and cures evils which are not even recognized elsewhere. In England, the average standard of living a man can hope for in the course of this life is higher than in any other country of the world. This greatly facilitates the extension of pauperism in that kingdom.

If all these reflections are correct it is easy to see that the richer a nation is, the more the number of those who appeal to public charity must multiply, since two very powerful causes tend to that result. On the one hand, among these nations, the most insecure class continuously grows. On the other hand, needs infinitely expand and diversify, and the chance of being exposed to some of them becomes more frequent each day.

We should not delude ourselves. Let us look calmly and quietly on the future of modern societies. We must not be intoxicated by the spectacle of its greatness; let us not be discouraged by the sight of its miseries. As long as the present movement of civilization continues, the standard of living of the greatest number will rise; society will become more perfected, better informed; existence will be easier, milder, more embellished, and longer. But at the same time we must look forward to an increase of those who will need to resort to the support of all their fellow men to obtain a small part of these benefits. It will be possible to moderate this double movement; special national circumstances will precipitate or suspend its course; but no one can stop it. We must discover the means of attenuating those inevitable evils which are already apparent.

PART II

There are two kinds of welfare. One leads each individual, according to his means, to alleviate the evils he sees around him. This type is as old as the world; it began with human misfortune, Christianity made a divine virtue of it, and called it charity. The other, less instinctive, more reasoned, less emotional, and often more powerful, leads society to concern itself with the misfortunes of its members and is ready systematically to alleviate their sufferings. This type is born of Protestantism and has developed only in modern societies. The first type is a private virtue; it escapes social action; the second on the contrary is produced and regulated by society. It is therefore with the second that we must be especially concerned.

At first glance there is no idea which seems more beautiful and grander than that of public charity. Society is continually examining itself, probing its wounds, and undertaking to cure them. At the same time that it assures the rich the enjoyment of their wealth, society guarantees the poor against excessive misery. It asks some to give of their surplus in order to allow others the basic necessities. This is certainly a moving and elevating sight.

How does it happen that experience destroys some of these beautiful illusions? The only country in Europe which has systematized and applied the theories of public charity on a grand scale is England. At the time of the religious revolution under Henry VIII, which changed the face of England, almost all the charitable foundations of the kingdom were suppressed; and since their wealth became the possession of the nobles and was not at all distributed among the common people, the poor remained as numerous as before while the means of pro-

viding for them were partly destroyed. The numbers of the poor therefore grew beyond measure, and Elizabeth, Henry's daughter, struck by the appalling miseries of the people, wished to substitute an annual levy furnished by the local governments for the sharply reduced alms-giving caused by the suppression of the convents.

A law promulgated in the forty-third year of that ruler's reign declared that in each parish, overseers of the poor would be chosen, and that these overseers would have the right to tax the inhabitants in order to feed disabled indigents, and to furnish work for the others.

As time passed, England was increasingly led to adopt the principle of legal charity. Pauperism grew more rapidly in Great Britain than anywhere else. Some general and some special causes produced this unfortunate result. The English have surpassed the other nations of Europe in civilized living. All the observations that I made before are applicable to them; but there are others which relate to that country alone.

The English industrial class not only provides for the necessities and pleasures of the English people, but of a large part of humanity. Its prosperity or its miseries therefore depend not only on what happens in Great Britain but in a way on every event under the sun. When an inhabitant of the Indies reduces his expenditure or cuts back on his consumption, it is an English manufacturer who suffers. England is therefore the country in the world where the agricultural laborer is most forcefully attracted towards industrial labor and finds himself most exposed to the vicissitudes of fortune. In the past century an event has occurred which, looking at the rest of the world's development, can be viewed as phenomenal. For a hundred years landed property has been breaking up throughout the known world; in England it continues to concentrate. Medium-sized holdings disappear into vast domains. Large-scale agriculture succeeds small-scale cultivation. One could offer some interesting observations on this subject, but it would divert me from my chosen topic: the fact must suffice—it is a constant. The result is that while the agricultural worker is moved by his interest to abandon the plow and to move into industry, he is in a way thrust in the same direction in spite of himself by the agglomeration of landed property. Comparatively speaking, infinitely fewer workers are required to work a large estate than a small field. The land fails him and industry beckons in this double movement. Of the 25 million people of Great Britain, no more than 9 million are involved in agriculture. Fourteen million, or close to two-thirds, make their perilous way in commerce and industry. Thus pauperism was bound to grow more quickly in England than in countries whose civilization might have been equal to that of the English. Once having admitted the principle of legal charity, England has not been able to dispense with it. For two hundered years English legislation for the poor has revealed itself as nothing more than an extended development of the Elizabethan laws. Almost two and a half centuries have passed since the principle of legal charity was fully embraced by our neighbors and one may now judge the fatal consequences which flowed from the adoption of this principle. Let us examine them successively.

Since the poor have an absolute right to the help of society, and have a public administration organized to provide it everywhere, one can observe in a Protestant country the immediate rebirth and generalization of all the abuses with which its reformers rightly reproached some Catholic countries. Man, like all socially organized beings, has a natural passion of idleness. There are, however, two incentives to work: the need to live and the desire to improve the conditions of life. Experience has proven that the majority of men can be sufficiently motivated to work only by the first of these incentives. The second is only effective with a small minority. Well, a charitable institution indiscriminately open to all those in need, or a law which gives all the poor a right to public aid, whatever the origin of the poverty, weakens or destroys the first stimulant and leaves only the second intact. The English peasant, like the Spanish peasant, if he does not feel the deep desire to better the position into which he has been born, and to raise himself out of his misery (a feeble desire which is easily crushed in the majority of men)—the peasant of both countries, I maintain has no interest in working, or, if he works, has no interest in saving. He therefore remains idle or thoughtlessly squanders the fruits of his labors. Both these countries, by different causal patterns, arrive at the same result: the most generous, the most active, the most industrious part of the nation, which devotes its resources to furnishing the means of existence for those who do nothing or who make bad use of their labor.

We are certainly far from that beautiful and seductive theory that I expounded above. Is it possible to escape the fatal consequences of a good principle? For myself I consider them inevitable. Here I might be interrupted by a rejoinder: You assume that whatever its cause misery will be alleviated; you add that public assistance will relieve the poor of the obligation to work. This states as a fact something questionable. What is to prevent society from inquiring into the causes of the need before giving assistance? Why could work not be imposed as a condition on the able-bodied indigent who asks for public pity? I reply that some English laws have used the idea of these palliatives; but they have failed, and understandably so.

Nothing is so difficult to distinguish as the nuances which separate unmerited misfortune from an adversity produced by vice. How many miseries are simultaneously the result of both these causes! What profound knowledge must be presumed about the character of each man and of the circumstances in which he has lived, what knowledge, what sharp discernment, what cold and inexorable reason! Where will you find the magistrate who will have the concience, the time, the talent, the means of devoting himself to such an examination? Who would dare to let a poor man die of hunger because it's his own fault that he is dying? Who will hear his cries and reason about his vices? Even personal interest is restrained when confronted by the sight of other men's misery. Would the interest of the public treasury really prove to be more successful? And if the overseer's heart were unconcerned with such emotions, which are appealing even when misguided, would he remain indifferent to fear? Who, being judge of the joy or suffering, life or death, of a large segment of his fellow men, of its most dissolute, its most turbulent, its crudest segment, who would not shrink before the exercise of such terrible power? And if any of these intrepid beings can be found, how many will there be? In any event such functions can only be exercised with a restricted territory. A large number must be delegated to do so. The English have been obliged to put overseers in every parish. What inevitably follows from all this? Poverty is verified, the causes of poverty remain uncertain: the first is a patent fact, the second is proved by an always debatable process of reasoning. Since public aid is only indirectly harmful to society, while the refusal of aid is only indirectly harmful to society, while the refusal of aid instantly hurts the poor and the overseer himself, the overseer's choice cannot be in doubt. The laws may declare that only innocent poverty will be relieved; practice will alleviate all poverty. I will present plausible arguments for the second point, equally based on experience.

We would like work to be the price of relief. But, first, is there always public work to be done? Is it equally spread over the whole country in such a way that you never see a good deal of work to be done with few people to do it in one district and in another many indigents to be helped but little work to be undertaken? If this difficulty is present at all times, doesn't it become insurmountable when, as a consequence of the progressive development of civilization, of population growth, of the effect of the Poor Law itself, the proportion of indigents, as in England, reaches a sixth, some say a quarter, of the total population?

But even supposing that there would always be work to do, who will take responsibility for determining its urgency, supervising its execution, setting the price? That man, the overseer, aside from the qualities of a great magistrate, will therefore also possess the talents, the energy, the special knowledge of a good industrial entrepreneur. He will find in the feeling of duty alone what self-interest itself would be powerless to create—the courage to force the most inactive and vicious part of the population in sustained and productive effort. Would it be wise to delude ourselves? Pressured by the needs of the poor, the overseer will impose make-work, or even—as is almost always the case in England—pay wages without demanding labor. Laws must be made for men and not in terms of a perfect world which cannot be sustained by human nature, nor of models which it offers only very occasionally.

Any measure which establishes legal charity on a permanent basis and gives it an administrative form thereby creates an idle and lazy class, living at the expense of the industrial and working class. This, at least, is its inevitable consequence, if not the immediate result. It reproduces all the vices of the monastic system, minus the high ideals of morality and religion which often went along with it. Such a law is a bad seed planted in the legal structure. Circumstances, as in America, can prevent the seed from developing rapidly, but they cannot destroy it, and if the present generation escapes its influence, it will devour the well-being of generations to come.

If you closely observe the condition of populations among whom such legislation has long been in force you will easily discover that the effects are not less unfortunate for morality than for public prosperity, and that it depraves men even more than it impoverishes them.

There is nothing which, generally speaking, elevates and sustains the human spirit more than the idea of rights. There is something great and virile in the idea of right which removes from any request its suppliant character, and places the one who

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claims it on the same level as the one who grants it. But the right of the poor to obtain society's help is unique in that instead of elevating the heart of the man who exercises it, it lowers him. In countries where legislation does not allow for such an opportunity, the poor man, while turning to individual charity, recognizes, it is true, his condition of inferiority in relation to the rest of his fellow men; but he recognizes it secretly and temporarily. From the moment that an indigent is inscribed on the poor list of his parish, he can certainly demand relief, but what is the achievement of this right if not a notarized manifestation of misery, of weakness, of misconduct on the part of its recipient? Ordinary rights are conferred on men by reason of some personal advantage acquired by them over their fellow men. This other kind is accorded by reason of a recognized inferiority. The first is a clear statement of superiority; the second publicizes inferiority and legalizes it. The more extensive and the more secure ordinary rights are, the more honor they confer; the more permanent and extended the right to relief is, the more it degrades.

The poor man who demands alms in the name of the law is, therefore, in a still more humiliating position than the indigent who asks pity of his fellow men in the name of He who regards all men from the same point of view and who subjects rich and poor to equal laws.

But this is still not all: individual almsgiving established valuable ties between the rich and the poor. The deed itself involves the giver in the fate of the one whose poverty he has undertaken to alleviate. The latter, supported by aid which he had no right to demand and which he may have had no hope of getting, feels inspired by gratitude. A moral tie is established between those two classes whose interests and passions so often conspire to separate them from each other, and although divided by circumstance they are willingly reconciled. This is not the case with legal charity. The latter allows the alms to persist, but removes its morality. The law strips the man of wealth of a part of his surplus without consulting him and he sees the poor man only as a greedy stranger invited by the legislator to share his wealth. The poor man, on the other hand, feels no gratitude for a benefit which no one can refuse him and which could not satisfy him in any case. Public alms guarantee life, but do not make it happier or more comfortable than individual alms-giving; legal charity does not thereby eliminate wealth or poverty on society. One class still views the world with fear and loathing while the other regards its misfortune with despair and envy. Far from uniting these two rival nations, who have existed since the beginning of the world and who are called the rich and the poor, into a single people, it breaks the only link which could be established between them. It ranges each one under a banner, tallies them, and, bringing them face to face, prepares them for combat.

I have said that the inevitable result of public charity was to perpetuate idleness among the majority of the poor and to provide for their leisure at the expense of those who work.

If the idleness of the rich, an hereditary idleness, merited by work or by services, an idleness immersed in public consideration, supported by psychological complacency, inspired by intellectual pleasures, moralized by mental exercise—if this idleness, I say, has produced so many vices, what will come of a degraded idleness obtained by baseness, merited by misconduct, enjoyed in ignominy? It becomes tolerable only in proportion to the extent that the soul subjects itself to all this corrupting and degrading.

What can be expected from a man whose position cannot improve, since he has lost the respect of his fellow men which is the precondition of all progress, whose lot could not become worse, since, being reduced to the satisfaction of his most pressing needs, he is assured that they will always be satisfied? What course of action is left to the conscience or to human activity in a being so limited, who lives without hope and without fear? He looks at the future as an animal does. Absorbed in the present and the ignoble and transient pleasures it affords, his brutalized nature is unaware of the determinants of its destiny.

Read all the books on pauperism written in England, study the inquiries ordered by the British Parliament, look at the discussions which have taken place in the Lords and Commons on this difficult question. Then boil down to a single deafening cry—the degraded condition into which the lower classes have fallen! The number of illegitimate children and criminals grows rapidly and continuously, the indigent population is limitless, the spirit of foresight and of saving becomes more and more alien to the poor. While throughout the rest of nation education spreads, morals improve, tastes become more refined, manners more polished—the indigent remains motionless, or rather he goes backwards. He could be described as reverting to barbarism. Amidst the marvels of civilization, he seems to emulate savage man in his ideas and his inclinations.

Legal charity affects the pauper's freedom as much as his morality. This is easily proved. When local governments are rigorously obligated to aid the indigent, they necessarily owe relief only to the poor who reside in their jurisdiction. This is the only fair way of equalizing the public burden which results from the law, and of proportioning it to the means of those who must bear it. Since individual charity is almost unknown in a country of organized public charity, anyone whose misfortunes or vices have made him incapable of earning a living is condemned, under pain of death, to remain in the place of his birth. If he leaves, he moves through enemy country. The private interest within the parish, infinitely more active and powerful than the best organized nation police could be, notes his arrival, dogs his every step, and, if he wants to establish a new residence, informs the public authority who takes him to the boundary line. Through their Poor Laws, the English have immobilized a sixth of their population. They have bound it to the earth like the medieval peasantry. Then, man was forced against his will to stay on the land where he was born. Legal charity keeps him from even wishing to move. That is the only difference between the systems. The English have gone further. They have reaped even more disastrous consequences from the principle of public welfare. The English parishes are so dominated by the fear that an indigent person might be placed on their rolls and acquire residency, that when a stranger whose clothes do not clearly indicate weath temporarily settles among them, or when an unexpected misfortune suddenly strikes him, the municipal authorities immediately ask him to post bond against possible indigence, and if the stranger cannot furnish this security, he must leave.

This legal charity has not only taken freedom of movement from the English poor, but also from those who are threatened by poverty.

I know of no better way to complete this sad picture than by reproducing the following fragment from my notes on England. I traveled through Great Britain in 1833. Others were struck by the imposing prosperity of the country. I myself pondered the secret unrest which was visibly at work among all its inhabitants. I thought that great misery must be hidden beneath that brilliant mask of prosperity which Europe admires. The idea led me to pay particular attention to pauperism, that hideous and enoromous sore which is attached to a healthy and vigorous body.

I was staying at the house of a great proprietor in the south of England at the time when the justices of the peace assemble to pass judgment on the suits brought to court by the poor against the parish, or by the parishes against the poor. My host was a justice of the peace, and I regularly accompanied him to court. I find in my travel notes this portrait of the first sitting that I attended. It gives a short concise summary and clarifies everything said before. I am reproducing it with scrupulous exactness in order to render a true picture.

"The first individual who comes before the justices of the peace is an old man. His face is honest and ruddy, he wears a wig and is dressed in excellent black clothes. He seems like a man of property. However, he approaches the bar and passionately protests against the parish administration's injustice. This man is a pauper, and his share of public charity has just been unjustly diminished. The case is adjourned in order to hear the parish administrators.

"After this hale and petulant old man comes a pregnant young woman whose clothes bear witness to recent poverty and who bears the marks of suffering on her withered features. She explains that some time ago her husband set out on a sea voyage, that since then she has received neither assistance nor news from him. She claims public charity but the overseer of the poor hesitates to give it to her. This woman's father-in-law is a well-to-do merchant. He lives in the very city where the court is sitting, and it is hoped too, that in the absence of his son, he will certainly want to take responsibility for the maintenance of his daughter-in-law. The justices of the peace summon this man; but he refuses to fulfill the duties imposed on him by nature and not by law. The judges insist. They try to create remorse or compassion in this man's egoistic soul. Their efforts fail, and the parish is sentenced to pay the requested relief.

"After this poor abandoned woman come five or six big and vigorous men. They are in the bloom of youth, their bearing is resolute and almost insulting. They lodge a complaint against their village administrators who refuse to give them work, or, for lack of work, relief.

"The administrators reply that at the moment the parish is not carrying out any public work; and gratuitous relief is not required, they say, because the plaintiffs could easily find jobs with private individuals if they wanted to.

"Lord X [Radnor], with whom I had come, tells me, "you have just seen in microcosm part of the numerous abuses which the Poor Law produces. That old man who came first quite probably has the means to

live, but he thinks that he has the right to demand that he be supported in comfort, and he does not blush to claim public charity, which has lost all of its afflicting and humiliating character in the people's eyes. That young woman, who seems honest and unfortunate, would certainly be helped by her father-in-law if the Poor Law did not exist; but interest silences the cry of shame within him and he unloads a debt on the public that he alone ought to discharge. As for those young people who appeared last, I know them, they live in my village. They are very dangerous citizens and indeed bad subjects. They quickly squander the money they earn in taverns because they know they will be given relief. As you see, they appeal to us at the first difficulty caused by their own shortcomings."

"The sitting continues. A young woman comes before the bar, followed by the overseer of the poor of her parish. She approaches without showing the slightest sign of hesitation, her gaze not at all lowered by a sense of shame. The overseer accuses her of having had the baby she is carrying through unlawful intercourse.

"She freely admits this. As she is indigent and if the father remained unknown the illegitimate child would become a public charge along with its mother, the overseer calls on her to name the father; the court puts her under oath. She names a neighborhood peasant. The latter, who is present among the audience, very obligingly admits the accuracy of the fact, and the justices of the peace sentence him to support the child. The father and the mother retire and the incident does not excite the least emotion in an audience accustomed to such scenes.

"After this young woman comes another. She comes willingly. She approaches the judges with the same shameless indifference shown by the first. She declares herself pregnant and names the father of the unborn child. This man is absent. The court adjourns the case in order to have him summoned.

"Lord X tells me: 'Here again are the harmful effects produced by the same laws. The most direct consequence of the Poor Laws is to make the public responsible for the support of the deserted children who are the neediest of all indigents. Out of this comes the parish's desire to free themselves of the duty to support illegitimate children whose parents would be in a position to nurture them. Out of this also comes the paterntiy suits instigated by the parishes, proof of which is left to the woman. For what other kind of proof can one delude oneself into expecting in such a case? By obliging the parishes to become responsible for illegitimate children and permitting the paternity suits in order to ease this crushing weight, we have facilitated the misconduct of lower-class women as much as we could. Illegitimate pregnancy must almost always improve their material condition. If the father of the child is rich, they can unload the responsibility of raising the fruit of their common blunder on him; if he is poor, they entrust this responsibility to society. The relief granted to them in either way exceeds the expenses caused by the infant. So they thrive from their very vices, and it often happens that a woman who has become a mother several times over concludes a more advantageous marriage than the young virgin who has only her virtues to offer. They have a dowry of infamy.' "

I repeat that I wanted to change nothing from this passage in my diary. I have reproduced it exactly, because it seemed to me that it rendered the impressions that I would have the reader share with truth and simplicity.

Since the time of my English journey the Poor Law has been modified. Many Englishmen flatter themselves that these changes will exercise great influence on the indigents' future, on their morality, and on their number. I would like to be able to share these hopes, but I cannot do so. In the new law the present-day English have again reaffirmed the principle introduced two hundred years ago by Elizabeth. Like that ruler, they have imposed on society the obligation of feeding the poor. That is quite enough. All the abuses that I have tried to describe are contained in it, just as the biggest oak is contained in the acorn that a child can hide in its hand. It needs only time to develop and grow. To want to create a law which regularly, permanently, and uniformly relieves indigency without also incresing the indigent population, without increasing their laziness along with their needs, and their idleness with their vices, is to plant an acorn and to be stunned when a stem appears, followed by leaves, flowers, and fruits, which in turn will one day produce a whole forest from the bowels of the earth.

I am certainly far from wanting to put the most natural, the most beautiful, and the most holy of virtues on trial. But I think that there is no principle, however good, whose every consequence can be regarded as good. I think that beneficence must be a manly and reasoned virtue, not a weak and unreflecting inclination. It is necessary to do what is most useful to the receiver, not what pleases the giver, to do what best serves the welfare of the majority, not what rescues the few. I can conceive of beneficence only in this way. Any other way it is still a sublime instinct, but it no longer seems to me worthy of the name of virtue.

I recognize that individual charity almost always produces useful results. It devotes itself to the greatest miseries, it seeks out misfortune without publicity, and it silently and spontaneously repairs the damage. It can be observed wherever there are unfortunates to be helped. It grows with suffering. And yet, it cannot be unthinkingly relied on, because a thousand accidents can delay or halt its operation. One cannot be sure of finding it, and it is not aroused by every cry of pain.

I admit that by regulating relief, charitable persons in association could infuse individual philanthropy with more activity and power. I recognize not only the utility but the necessity of public charity applied to inevitable evils such as the helplessness of infancy, the decrepitude of old age, sickness, insanity. I even admit its temporary usefulness in times of public calamities which God sometimes allows to slip from his hand, proclaiming his anger to the nations. State alms are then as spontaneous as unforeseen, as temporary as the evil itself.

I even understand that public charity which opens free schools for the children of the poor and gives intelligence the means of acquiring the basic physical necessities through labor.

But I am deeply convinced that any permanent, regular, administrative system whose aim will be to provide for the needs of the poor, will breed more miseries than it can cure, will deprave the population that it wants to help and comfort, will in time reduce the rich to being no more than the tenant-farmers of the poor, will dry up the sources of savings, will stop the accumulation of capital, will retard the development of trade, will benumb human industry an activity, and will culminate by bringing about a violent revolution in the state when the number of those who receive alms will have become as large as those who give it, and the indigent, no longer being able to take from the impoverished rich the means of providing for his needs, will find it easier to plunder them of all their property at one stroke than to ask for their help.

Let us summarize in a few words. The progressive movement of modern civilization will gradually and in a roughly increasing proportion raise the number of those who are forced to turn to charity. What remedy can be applied to such evils? Legal alms comes to mind first—legal alms in all forms—sometimes unconditional, sometimes hidden in the disguise of a wage. Sometimes it is accidental and temporary, at other times regular and permanent. But intensive investigation quickly demonstrates that this remedy, which seems both so natural and so effective is a very dangerous expedient. It affords only a false and momentary stop to individual suffering, and however used it inflames society's sores. We are left with individual charity. It can produce only useful results. Its very weakness is a guarantee against dangerous consequence. It alleviates many miseries and breeds none. But individual charity seems quite weak when faced with the progressive development of the industiral classes and all the evils which civilization joins to the inestimable good it produces. It was sufficient for the Middle Ages, when religious enthusiasm gave it enormous energy and when its task was less difficult; could it be sufficient today when the burden is heavy and when it forces are so weakened? Individual charity is a powerful agency that must not be despised, but it would be imprudent to rely on it. It is but a single means and cannot be the only one. Then what is to be done? In what direction can we look? How can we mitigate what we can forsee, but not cure?

Up to this point I have examined the financial approach to poverty. But is this the only approach? After having considered alleviating evils, wouldn't it be useful to try to forestall them? Is there a way to prevent the rapid displacement of population, so that men do not leave the land and move into industry before the latter can easily respond to their needs? Can the total national wealth continue to increase without a part of those who produce this wealth having to curse the prosperity that they produce? Is it impossible to establish a more constant and exact relation between the production and consumption of manufactured goods? Can the working classes be helped to accumulate savings which would allow them to await a reversal of fortune in times of industrial calamity, without dying?

At this point my horizon widens on all sides. My subject grows. I see a path opening up, which I cannot follow at this moment. The present *Memoir*, too short for my subject, already exceeds the limits that I had thought it necessary to set for myself. The measures by which pauperism may be combatted preventively will be the object of a second work which I hope respectfully to submit next year to the Academic Society of Cherbourg.●[2]

[2] The promised sequel to the *Memoir* never appeared and was apparently never written. It seems to have suffered the same fate as the continuation of his essay on the "Political and Social Condition

A NEW ERA FOR THE CENTRAL STATES PENSION FUND

● Mr. KENNEDY. Mr. President, I want to call the attention of my colleagues to an important recent article in Forbes magazine on the remarkable turnaround of the Teamsters Union's Central States Pension Fund. A decade ago, the fund was wracked with scandal, mismanagement, conflicts of interest, and ties to organized crime.

Today, according to the article, the fund has "cleaned up its tarnished reputation" and its assets are being well managed by distinguished outside fiduciaries and auditors.

Although prodding by the Department of Labor and the Internal Revenue Service produced the original impetus for reform, much of the credit for the revitalization of the fund goes to George Lehr, its executive director since 1981, and to the trustees who have supported his efforts to restore the integrity of the fund for the benefit of all its members.

Mr. President, I ask unanimous consent that the article from Forbes on Mr. Lehr's accomplishments be printed in the RECORD.

The article follows:

[From Forbes, May 19, 1986]

GOING STRAIGHT

(By James Cook)

Five years ago the Teamsters Union's Central States Pension Fund ranked as the most abused, misused pension fund in the U.S. (Forbes, Nov. 10, 1980). But all that has changed. Today its executive director, former Kansas City banker George Lehr, claims that Central States is the best-managed multiemployer fund in America. And he may well be right.

Last year CSPF earned a neat 26.3 percent return on its pension fund assets, roughly what IBM did, vs. the 10 percent it once averaged. Those assets—$7.2 billion currently, up $700 million since Jan. 1—are now divided between equities (56 percent) and bonds (42 percent), with only 2 percent in real estate (vs. 75 percent or so a decade ago).

With 250,000 active members and 130,000 retirees, CSPF pays out $60 million a month in pensions and $40 million to $50 million in health and welfare benefits, and takes in almost the same amount. "The trustees," Lehr says, "are committed to the 100 percent profession management of every dollar, period. They don't want any dollar managed in-house"—an oblique reference to the way Teamster officers and trustees like James R. Hoffa used to manage the fund for their personal advantage.

If CSPF has become a model fund, it had done so almost literally over the dead bodies of its trustees and the Labor Department's doubts. As recently as three years ago the union was controlled by Teamsters President Roy Williams, who in turn, it is not abundantly clear, was controlled by Kansas City mobster Nick Civella, who backed Williams' 1981 bid for the Teamsters presidency, supposedly in the hope of regaining control of the fund. How dominant was Civella's control? In 1979, when Williams got into a dispute over investment policy with the fund's de facto investment adviser, Allen M. Dorfman, it was Civella who tipped the balance in Williams' favor.

Civella and Dorfman are dead, and Williams has gone to jail. Williams' banker and longtime personal friend, George Lehr, now 49, came to the fund in 1981 and since then has cleaned up its tarnished reputation.

Yet if you drop in at the fund's 11-story International Towers headquarters in Des Plaines, ILL., CSPF officials, with a sort of bedazzled pride, will show you Dorfman's old second-floor office with its walnut paneling and rooftop putting green. Celebrity, even when earned in wicked ways, is much prized by Americans.

The tranformation of the pension fund began a decade ago when the IRS forced the trustees to appoint outside fiduciaries for the first time. That's now a permanent situation. Under a 1982 consent decree with the Labor Department, the fund is required to choose its fiduciary from among the U.S.' 25 largest banks, insurance companies and investment advisers.

The original fiduciaries—Equitable Life and Victor Palmieri—have since been supplanted by Morgan Stanley. And it has been joined by other top-ranking outfits—Milliman & Robertson (actuaries), Coopers & Lybrand (auditors) and Bear, Stearns (welfare fund fiduciaries)—and by an independent special counsel, former U.S. Attorney General William Saxbe, who monitors the fund's activities and its compliance with the consent decree at a $20,000-a-month fee.

The trustees, completely reconstituted a few years ago, still retain a great deal of power. They can fire the fiduciary without cause and help set the fund's broad investment strategy to advance the Teamsters' interests, which means no foreign investment, no venture capital and avoiding investment in nonunion companies.

They also control the Benefits & Administration Account, through which all employer contributions are funneled. A few years ago, in a move Lehr labels mistaken, they tried to pay some $6.5 million in legal and other expenses piled up by Roy Williams and other former trustees who had been charged with attempting to bribe Senator Howard Cannon (D-Nev.). The government forced the trustees' insurance company to pay back the legal fees to the fund, and these days the B&A Account is kept as low as possible—by agreement with the Labor Department, at no more than 2.5 times monthly expenses, or $150 million currently.

Lehr has been working hard to get costs down. As against perhaps 9 percent to 10 percent a few years ago, administrative costs as a percentage of contributions now run less than 6 percent for the pension fund, 6.5 percent for the health and welfare fund. Overall performance looks so good that Teamsters locals that once shunned Central States are trying to climb aboard.

In an effort to cut costs even further, the CSPF is changing its health programs in a way Lehr expects will save $25 million to $40 million a year once they get rolling. Instead of using their own doctors and hospitals, Teamster members are given incentives to use CSPF's Preferred Provider Organization—the 547 hosptials and 70,000 physicians associated with Dallas' Voluntary Hospitals of America. As an incentive for cost control, CSPF withholds 10 percent of its payment, releasing it only in proportion t whether certain cost objectives are met.

The links with the Kansas City and Chica go mobs appear to have been broken wit the death of Dorfman and the deposition o Wiliams. But Lehr himself concedes the ne cessity for vigilance. Says he: "Nobod should ever take their eyes off a $7 billio block of money, whether it be here, in bank, an insurance company or anywher else."●

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of France," written for the *London and Westminster Review* in 1836. Both projects were pushed aside in deference to the task of writing the second part of *Democracy in America*, which took years longer than originally anticipated.

THE AMERICARES FOUNDATION

● Mr. DODD. Mr. President, I would like to call the attention of my colleagues to the splendid work of the AMERICARES Foundation located in New Canaan, CT.

AMERICARES is a private relief agency founded by Robert Macauley who serves as its president. Among its officers and advisors are such distinguished Americans as Dr. Zbigniew Brzezinski, Sol Linowitz, Prescott Bush, Jr., and William E. Simon.

The hallmark of AMERICARES' work is swiftness and effectiveness. To date it has distributed well over $70 million worth of relief supplies in 19 countries around the globe. The destinations of these shipments could form a map of the major natural and industrial disasters as well as armed conflicts of the past decade. The declaration of martial law in Poland resulted in a major medical airlift by AMERICARES. Beirut, Lebanon, has also received medical supplies as did the people of Afghanistan. Several countries in Latin America and Africa benefited from nutritional programs run by AMERICARES.

The foundation responds to major natural disasters virtually within hours. Many of its airlifts were sent to ease the disastrous famine in Africa. Medicine, blankets, and food supplies were dispatched to Mexico City after last year's earthquake, Similar cargo was sent to Colombia to help to cope with the giant mudslide. AMERICARES' latest action sent powdered milk, vitamins, and medical supplies to Poland in the wake of the Chernobyl nuclear accident. These goods were distributed in Poland by the Catholic Church.

AMERICARES epitomizes the benevolence of the American people, our acknowledged obligation to help those who are less fortunate, who are victimized by unforeseen disasters. It helps not only people in other countries but has run several effective programs in our own country. President Reagan has recognized the excellent work of AMERICARES by awarding its president, Robert C. Macauley the 1984 President's Voluntary Action Award.

Mr. President, I am proud to have AMERICARES as constituent in the State I represent in the U.S. Senate. I hope my colleagues will continue to follow its missions with interest. It deserves our gratitude as well as our sup-

port and best wishes for its future undertakings.●

BRISTOL COLLEGE BULLDOGS, 1986 NLCAA CHAMPIONS

● Mr. GORE. Mr. President, I am very pleased to bring to the attention of my colleagues the NLCAA champions, the Bristol College Bulldogs from Bristol College, Bristol, TN. I submit for the RECORD at this time a certificate of recognition signed by the mayor of Bristol, TN, citing this achievement.

The certificate of recognition follows:

CERTIFICATE OF RECOGNITION, BRISTOL COLLEGE BULLDOGS, 1986 NLCAA CHAMPIONS

Whereas, Bristol College established a basketball program for the 1985-86 season, the first such program to be implemented at the College since 1978; and

Whereas, the City of Bristol, Tennessee is extremely pleased to have been selected as the site of the National Little College Athletic Association Tournament, which was held at Viking Hall on March 8-13, 1986; and

Whereas, Bristol College was host team in this Tournament and exemplified a fine spirit of good sportsmanship and inspired team play; and

Whereas, the hard work and dedication of Coach Brien Crowder, Assistant Coach Bill Arnold, Trainer/Manager Marvin Sewell, Honorary Coach Curtis Burnett, Cheerleaders and Ball Boys, and all team members; Wayne Andrews, Granville Arnold, Kenny Baxter, Steve Crowder, Tim Hale, Dean Heywood, George Howard, Jaymie Jenkins, Jake Keys, Roger Lowrence, Derrick McGlothlin, Baron Minor, David Statzer, Michael Thomas, and John Weiner, have earned the respect and support of the entire community;

Now therefore, I, by the authority vested in me as Mayor of Bristol, Tennessee and on behalf of City Council and all of the citizens of Bristol, do hereby extend this Certificate of Recognition to the Bristol College Bulldogs for their first place finish in the NLCAA Tournament, and also express our pride in their accomplishment of winning a national title and our appreciation of the fine publicity they have brought to our community.

This 18th day of March, 1986.

EWELL L. EASLEY, *Mayor*.●

EXEMPTING CERTAIN VETERANS' BENEFITS FROM SEQUESTRATION

● Mr. D'AMATO. Mr. President, I rise today to cosponsor broad legislation affecting veterans and their families. I am pleased that my good friend and colleague, Mr. DECONCINI, has introduced a bill to recognize those who have fought so bravely for liberty around the world.

S. 2187 expands upon Senator MURKOWSKI's legislation, S. 2186, which I have also cosponsored. This legislation exempts certain benefits affecting disabled veterans from future Gramm-Rudman-Hollings automatic across-the-board spending cuts. Senator DECONCINI's bill exempts additional categories of veterans' funding from potential cuts. In addition to excluding vocational rehabilitation, housing, and automobile grants, and incentive work therapy programs from future cuts, S. 2187 adds the Veterans Home Loan Program and survivors education benefits to the exempt category. These additional exemptions would ensure that loans would remain accessible for veterans who desperately need to purchase or renovate a home. In addition, the legislation would insure that the families of those individuals who have fought for this country would be able to fully take advantage of the educational opportunities Congress has provided them.

S. 2187 also would retroactively restore funds that were unfairly taken away from Veterans insurance programs as a result of the 1986 Gramm-Rudman-Hollings cuts. I fully support this restoration, and I am pleased that Senator DECONCINI has targeted key areas of assistance for veterans to ensure that these benefits are not again used to reduce the Federal deficit. S. 2187 would protect at least $17 million of veterans' benefits.

I am pleased that my colleague from Arizona has introduced legislation to maintain the commitment that this Nation has to its veterans, and I am proud to be its cosponsor.●

EXEMPTING DISABLED VETERANS' BENEFITS FROM SEQUESTRATION

● Mr. D'AMATO. Mr. President, I rise today to cosponsor legislation introduced by my distinguished colleague from Alaska, the chairman of the Senate Veterans' Affairs Committee. S. 2186 will relieve disabled veterans from the unjust burden of any future sequestration. Under the Gramm-Rudman-Hollings Deficit-Reduction Act, I am pleased to support funding for those individuals who have given of themselves so selfless in service to this Nation.

Veterans were seriously affected by the Gramm-Rudman-Hollings deficit-reduction legislation. Although COLA's for veterans' benefits remained exempt from the 1986 mandatory across-the-board cuts, other parts of the VA budget suffered significant reductions.

Although I believe that the Federal deficit must be reduced, I do not believe that this reduction should be at the expense of the veterans of this country. This Nation owes a great deal to our veterans. They have borne the burden of maintaining freedom for Americans and for citizens of other nations around the world. These devoted men and women must not be asked to bear an unfair share of the burden of reducing this Nation's Federal deficit.

S. 2186 ensures that veterans are not again forced to shoulder Gramm-Rudman-Hollings cuts. This legislation exempts from any future Gramm-Rudman-Hollings cuts those benefits which are based upon the service-connected disability or death of a veteran. Specifically, S. 2186 provides that services including vocational rehabilitation, housing and automobile grants, and incentive work therapy programs would be exempt from cuts.

I am pleased that the chairman has addressed this serious issue in this way, and I fully support his efforts to assist the service-connected disabled veterans.●

PRESIDENTIAL CITATION OF AARP TAX-AIDE PROGRAM

● Mr. ABDNOR. Mr. President, the American Association of Retired Persons' Tax-Aide Program received the Nation's highest honor for private sector initiatives from President Reagan at a White House ceremony on June 18.

Tax-Aide was one of 30 top award winners selected from among 1,500 organizations registered in the 1986 President's Citation Program for private sector initiatives.

The President's Citation Program was established in 1984 to recognize and encourage public service by businesses, trade associations, and professional societies to enrich the lives of people in their communities.

AARP's Tax-Aide Program provides free tax preparation and counseling services to older persons throughout the Nation. During the past tax season, more than 21,000 Tax-Aide counselors either prepared or helped to prepare 1.3 million tax returns for older Americans, including 30,000 shut-ins and 42,000 persons at hospitals, nursing homes, and other special sites.

As chairman of the Treasury, Postal Service, and General Government Appropriations Subcommittee, I have been keenly impressed by the Tax-Aide Program. I have personally seen the effectiveness of this successful program in my home State of South Dakota. An article in the Sioux Falls, SD, Argus-Leader describes the valuable services provided by the Tax-Aide Program.

Mr. President, I ask that this article—entitled "Tax help is at hand for seniors"—be printed in the RECORD.

The article follows:

[From the Sioux Falls (SD) Argus-Leader, Feb. 9, 1986]

TAX HELP IS AT HAND FOR SENIORS

(By Jack Smith)

Seniors need not suffer nervous tremors from tax filing. Relief is close at hand in more than 9,000 centers around the United States.

These centers are staffed with Internal Revenue Service-trained volunteers of the American Association of Retired Persons. The service is known as AARP Tax-Aide. It is in its 18th year. It is free.

A moderate- or low-income senior who needs tax filing help bundles up his receipts, accounts and other papers and makes a date with a counselor at an AARP Tax Aide center. The most convenient center is available through the local AARP Tax Aide Coordinator, whose name and number may be on file at the newspaper, the chamber of commerce, the AARP chapters (clubs) in the locality, and/or through the IRS office.

If a senior is shut in, arrangements usually can be made to have a Tax Aide counselor visit the residence. In 1985, the AARP program performed 11,000 such home service consultations.

Older adults experience special problems in regard to tax reporting. When does a pension become taxable and how should payments be reported in the meantime? What determines whether a portion of Social Security income is taxable and how does one figure it? What deductions of health care expenses are allowable? What's the requirement if I sold the family home and moved into a condo? Or rented an apartment? Is there any advantage in taking tax credit for the elderly and how do I compute it? Do I have to file an estimated tax return for next year?

AARP Tax-Aide counselors are prepared to help older people understand the provisions of the tax code that affect them. They also are trained to make sure seniors do not overpay, which surveys have shown that many do. AARP volunteers have spotted costly errors in tax returns. A retired government employee received a $1,500 refund because he had forgotten to set aside his own contributions to his pension fund. A woman on a small income had donated more than $300 to political campaigns, mistakenly thinking that appeals for such funds were bills that needed to be paid.

The Tax-Aide program has won great respect from civic and government leaders. In Broward County, Fla., the volunteers were inducted into the senior Hall of Fame.

In 1984, about 18,000 volunteers helped prepare 1.3 million returns. This includes state and local returns in areas where such requirements apply. In New York State, 124,000 senior returns were prepared; in Texas, 36,000; in Florida, 95,000; in California, 155,000; in Minnesota, 76,000; in Wisconsin, 31,000; in Michigan, 63,000; in Ohio, 61,000; in Nevada, 3,000.

The Tax-Aide volunteers must like the work. About 90 percent of them have served for two or more years in a row. They have to go through a new training school each year to brush up on all the new wrinkles in the tax laws and regulations. But the joy of truly helping others is tonic, apparently. I have never met a Tax Aide volunteer who wasn't enthused about this period of the year.●

TRIBUTE TO HAROLD LEVANDER

● Mr. DURENBERGER. Mr. President, one of the great traditions of politics in Minnesota is the willingness of outstanding community leaders to devote a period of time to public service in elective office.

Too often, in today's world of high powered political consultants, 30-second television commercials, and professional politicians, we lose sight of the essential role which true citizen politicians must play in public life.

I am fortunate to have served my political apprenticeship in the company of one such citizen politician—former Minnesota Gov. Harold LeVander.

Twenty years ago, Harold LeVander combined a broad understanding of public issues, great wit and a commanding knowledge of the people and concerns of Minnesota to rise from a successful South St. Paul law practice to statewide office.

In his 4 years as Governor, Harold LeVander used his varied experience and common sense to iniate a number of legislative proposals which helped give Minnesota the reputation it has today as a State which offers high quality services and humane and innovative government.

Recently, I had the pleasure of joining a large group of LeVander administration officials and supporters in a 20th anniversary reunion. The spirit of that reunion—and the legacy of Harold LeVander—were captured in the following article written by former Minnesota Independent-Republican Party Chairman Chuck Slocum. Because of the important contributions made by this outstanding citizen politician, I ask that the article be printed in the RECORD.

The article follows:

THE CANDIDATE FOR GOVERNOR WHO WORKED A MIRACLE

(By Chuck Slocum)

Twenty years, ago, at the end of a political era in Minnesota, the unexpected happened. A 56-year-old South St. Paul attorney who had never before sought public office put together a grass-roots campaign that took advantage of divisions in the opposition party and swept to office on the theme, "Be proud of Minnesota again." His name was Harold LeVander.

The Swedish son of a Lutheran minister, LeVander won by 72,650 votes over incumbent Gov. Karl Rolvaag, who had to survive a primary challenge by endorsed DFLer A.M. (Sandy) Keith.

By today's standards. LeVander pulled off a miracle. A 1932 Gustavus Adolphus graduate and young lay preacher who once coached the debate team at Macalester College, LeVander had successfully built a coalition of backers new to politics and undeterred by long odds. For the Republican nomination, LeVander challenged the likes of former Gov. Elmer L. Andersen, businessman John Pillsbury and William Randall, the popular Ramsey County attorney. To most political experts, LeVander was the least electable of the four.

LeVander reflected on this experience at a 20-year reunion this month attended by 400 former workers and friends. To many in attendance, the 1966 campaign was the first and last time they had actually had fun in politics.

The campaign message was amplified by his son, Harold (Hap) LeVander Jr., debater-daughter Jean, and his wife of 28 years, Iantha. Thirteen-year-old daughter Diane also helped. So did lawyer-partners Fallon Kelly, Dave Durenberger, Paul Magnuson and Art Gillen. His brother, former Republican State Chairman Bernard LeVander, an unsuccessful candidate for attorney general in 1954, was the "real politician" of the group. Mary Kelly of South St. Paul and Fred Hughes of St. Cloud headed the original volunteer committee. The candidate drew rural support from his years representing the Rural Electrical Administration.

Durenberger, now a U.S. senator, recalled the black-rimmed "campaign glasses" LeVander reluctantly wore. Advisers told the candidate to quit wearing his ice-cream white shoes, seersucker suits and straw hats, LeVander's cigar-stained teeth had to be capped after he won party endorsement on the 16th ballot. But efforts to change the appearance of the candidate did not change the character of the man, Durenberger recalled.

LeVander said he hired youthful state Rep. Paul Overgaard of Albert Lea to manage his pre-endorsement contest effort "because it didn't cost us much money." General election manager Jerry Olson remembered his candidate's insistence that a small "e" be used when spelling his name. "Otherwise, they'll think you are trying to elect a Frenchman. I'm a Swede, you know."

It was a time when political teamwork meant something. The more moderate Hennepin County party activists worked hard for LeVander's election. Their own stalking horse, Douglas Head, also successfully won the attorney general's office that year. Jim Goetz, a young Winona radio-station owner who exuded confidence and charisma, became LeVander's running mate. Veterans Val Bjornson and Stafford King each had long records of public service as state treasurer and auditor and were easily reelected that year.

Bob Forsythe's 10-week campaign for U.S. senator against the 38-year-old appointed incumbent, Walter Mondale, demonstrated the highest order of party service and political sacifice "I knew who the real head of the ticket was when I went to Rolvaag on a Saturday and could only count about 60 people in the rain and round out LeVander went there on Sunday and spoke to 20,000," Forsythe remembered.

LeVander put his campaign together without expensive advertising, survey research, big-name consultants or a long record of inside political fence-building.

As governor, LeVander demonstrated he could get things done. He increased the state's investment in education and added millions for highways. The Metropolitan Council, Pollution Control Agency and State Department of Human Rights were established. Through the passage of Minnesota's controversial sales tax, the property-tax system was dramatically altered, providing tax relief for homeowners, renters, the elderly and business owners and operators. The political newcomer adopted his party's 1966 platform as his own. When his term ended, LeVander could claim that the vast majority of ideas contained in that thoughtfully drafted party document had become Minnesota law.

LeVander had something special from which candidates and party activists of today could learn. He and his family had confidence that they could win. They started early, worked hard, played it straight and earned a big victory for themselves, their party and the state. In 1971, Harold LeVander returned to his law office, where he maintains his practice today.●

CONGRESSIONAL CALL TO CONSCIENCE

● Mr. WILSON. Mr. President, I would like to take the opportunity offered by the call to conscience sponsored by my colleague from Maine,

Senator MITCHELL, to express my concern. I believe I share with a large number of my colleagues the plight of today's Soviet Jews. The Helsinki accords, signed by the Soviet Union in 1975, were intended to guarantee certain basic rights, including the freedom for all to practice their religion, to maintain contacts with foreigners, and to travel uninhibited.

Sadly, however, the Soviet Union has failed to respect the agreement to which it is explicitly committed. Jewish emigration from the U.S.S.R. has declined to an average of fewer than 1,000 per year, compared with 51,300 in 1979. A total of 400,000 Soviet Jews have taken the risky step of applying for permission to leave the U.S.S.R. 50,000 have been refused permission to leave the Soviet Union for up to 20 years, earning the name "refuseniks," and consequently living as pariahs in Soviet society.

But not only do the Soviet authorities restrict individuals' ability to be reunited with their family members in Israel or other Western countries, they also take active steps to discourage Jews from applying for exit visas.

With heavy-handed methods including beatings, show trials of religious Jews and Hebrew teachers, and long labor camp sentences on charges ranging from "anti-Soviet propaganda" to "illegal possession of narcotics," the KGB is orchestrating a campaign to intimidate those families who still hope to be reunited with their parents, siblings, or even spouses abroad.

The example of Mikhail Elman, a Leningrad refusenik whose brother and sister-in-law live in California, provides a gruesome illustration of these basic human rights violations. Elman, an Orthodox Jew, has been repeatedly harassed by the KGB in connection with his Jewish activities.

Elman first applied for an exit visa in 1980. He immediately lost his job as a computer engineer and had to begin working as a bathhouse attendant to support his family. In 1981, he and a friend were arrested and detained for 10 days for attempting to lay a wreath at Babi Yar, site of the World War II massacre of thousands of Jews. In April 1982, Elman was brought before a court and charged with disobeying police orders.

In November 1984, while his wife was giving birth to their baby son, he was detained and made to sign a document saying he would cooperate with the KGB. Two days later, he was interrogated, badly beaten, and threatened by KGB agents. Soviet authorities, he was told, would put an end to all Jewish religious activity in Leningrad.

Elman sent a complaint to the Leningrad district attorney about the KGB's violations of his rights. Instead of investigating the officers involved, however, the district attorney warned Elman that his complaint could be used against him with charges of "defaming the State."

These abuses have increased in recent months, betraying a deliberate campaign by the Soviet Government to eradicate hopes for free Jewish cultural and religious expression and for open emigration. When refuseniks appeal through appropriate legal channels to protest their visa refusal or harsh treatment by the KGB, they often receive new threats. This practice contradicts not only the international agreements signed at Helsinki, but also the Soviet Constitution itself, which guarantees citizens' right to appeal mistreatment by officials.

For these reasons, I ask my colleagues to join me in demanding the safe release of Mikhail Elman and his entire family, so they may repatriate to Israel or reunite with their relatives in California. In October 1985, I addressed the Senate in anticipation of the Geneva summit, to recommend that we insist upon the historic linkage between arms control and Helsinki violations.

Now, once again, I will emphasize that there can be no genuine peace, no real trust between the superpowers until the human rights violations I have described come to an end. I encourage the Soviet Government to demonstrate its respect for international agreements by opening up the gates for Mikhail Elman and thousands like him, by ceasing persecution of political dissidents and Jewish activists, and by complying with all the provisions of the Helsinki accords.●

SENATOR BYRD FIGHTS FOR CLEAN COAL AND CLEAN AIR

● Mr. GORE. Mr. President, I should like to call attention to a provocative address the minority leader gave last Friday before the annual convention of the National Coal Association.

The distinguished Senator from West Virginia is an expert on coal and energy policy. He has been a strong advocate of efforts to develop "clean coal technology" that would improve efficiency and reduce pollution at coal-fired plants.

I share the minority leader's support for the Clean Air Act and his conviction that coal's future must be a clean one. I urge my colleagues to read his address.

I ask that the minority leader's remarks be printed in the RECORD.

The material follows:

REMARKS OF SENATOR ROBERT C. BYRD, NATIONAL COAL ASSOCIATION 69TH ANNIVERSARY CONVENTION, JUNE 20, 1986

Coal has been an energy source for mankind for millenia. The ancient Babylonians knew about coal. The ancient Greeks are said to have used coal. And Solomon and others in the Old Testament spoke of coal.

But coal did not come into its own until the modern era—as the primary energy source for the industrial revolution. And some here may remember when coal-burning stoves and fireplaces were as common in private residences as gas and oil furnaces are today.

After World War II, however, the development of other fuels—natural gas and oil in particular—sent coal into a temporary decline.

But the oil embargoes of the 1970's spurred renewed interest in coal. With this new demand created by the energy crisis, coal seemed on the verge of a second boom, for a while.

More recently, however, ecological and environmental concerns have panicked some people, and have led to sometimes irresponsible attacks against the use of coal. Portentious clouds have gathered on the horizon—clouds that signal rough days ahead for the coal and electric utility industries, especially if those of us who believe in coal's potential do not respond with intelligence and wisdom.

Principal among the ill omens is the recent progress of acid rain legislation in the House of Representatives. On May 20, the House Subcommittee on Health and Environment reported H.R. 4567 by a vote of 16 to 9. The bill has about 160 cosponsors, 21 of whom are members of the 42-member full Committee on Energy and Commerce.

My opposition to the enactment of acid rain legislation remains undiminished. Legislation such as H.R. 4567 would have a devastating impact on the economy of West Virginia and other coal-producing and coal-consuming States.

For example, the United Mine Workers has estimated that H.R. 4567 could cost over 38,000 jobs in the coal mining industry, of which 7,200 jobs would be lost in the West Virginia coal mining industry. Total annual economic losses are estimated to be over $4 billion, about $1.3 billion of which would be lost in West Virginia.

Such estimates have been disputed by supporters of acid rain legislation, and others. They suggest that West Virginia would experience "net employment gains" as new demand materializes for low sulfur coal in the southern part of the State.

Yet that argument fails to take into consideration two important factors. First, if coal production increases in southern West Virginia, the jobs will go to miners in that region who had previously been laid off. Second, such a shift in production would create ghost towns and devastated communities in northern West Virginia.

Others have suggested that the employment impacts of acid rain legislation will be much smaller than the estimates of the United Mine Workers. However, the jobs of those who work in the coal industry, and the livelihood of the communities which depend upon coal mining, are not chips to be gambled away in the acid rain debate.

The disagreements within the coal industry itself about the economic implications of acid rain legislation provide adequate testimony to the divisiveness of the issue. Coal producers and others have to realize that if acid rain legislation is enacted, whether it be H.R. 4567 or S. 2203, there would be very serious implications for the use of all coal. Indeed, the acid rain debate involves a debate over a fundamental energy policy issue—what policy is this Nation going to pursue regarding the use of coal?

Without a doubt, coal can play an increasingly prominent role in meeting this Nation's energy needs for the foreseeable future. For example, in 1985, the domestic

electric utility industry consumed about 693 million tons of coal in generating 56 percent of all electricity in the United States. According to the Energy Information Administration, about 40 percent of all the new generating capacity added between 1985 and 1995—almost 46 gigawatts—I.E., 46 billion watts—will be coal-fired. By the year 2010, the EIA estimates, coal-fired plants could account for about 60 percent of all electricity generated, and coal consumption by utilities could be nearly double what it is today.

Increased utility coal use does not necessarily mean that powerplant emissions will increase dramatically between now and the turn of the century. The Clean Air Act is working! For example, according to EPA, between 1973 and 1983, emissions of sulfur dioxide decreased 28 percent while the use of coal increased 68 percent over the same period.

However, within the last 10 or 15 years, a number of economic, regulatory, and other developments created significant disincentives for electric utilities to commit financial resources to the construction of new generating capacity. Indeed, according to the Electric Power Research Institute [EPRI], a new, large, conventional coal-fired powerplant will cost as much as $1.5 billion. Environmental controls account for about 30 percent of that cost.

Uncertainties regarding such issues as future economic growth, changes in the structure of the economy, levels of electric power demand, future emissions reduction and other environmental requirements have encouraged electric utilities to consider the economic merits of extending the service life of existing generating facilities beyond their original design lifetimes, which are usually 30 to 40 years.

According to the Energy Information Administration, by 1995 over 60 percent of all coal-fired powerplants—accounting for about one-quarter of total coal-fired generating capacity—will be more than 30 years old. By comparison, in 1985, approximately 10 percent of such facilities were more than 30 years old.

Clearly, there is a significant opportunity for the adoption of new, advanced coal technologies for retrofit applications. In 1983, I introduced the first legislation to promote the development of "clean coal technologies." In 1984, the Congress enacted the Clean Coal Technology Program as Public Law 98-473, authorizing $750 million for the program. In December 1985, the Congress appropriated $400 million for the Clean Coal Technology Program, $100 million of which is available for fiscal year 1986, and $150 million each for fiscal years 1987 and 1988.

The Department of Energy issued a Clean Coal Technology Program opportunity notice in February 1986. A total of 51 project proposals were submitted to the Department by the April deadline. The department's screening process has narrowed the number of clean coal project proposals to 39, and those projects are currently being evaluated by DOE. By August 1, the Department is to announce which projects have been selected to enter into contract negotiations.

The Clean Coal Technology Program represents a unique chance to promote the adoption of new technologies, which are more efficient and less expensive than conventional pulverized coal boilers and flue gas desulfurization. Indeed, the commercial adoption of such technologies for new and retrofit applications to meet the Nation's future energy needs together provide the key to promoting the more efficient use of the Nation's most abundant fossil energy resource. They also will ensure continuation of the progress achieved to date under the Clean Air Act. The implementation of the clean coal program is the first step in the effort to expand the use of coal in an environmentally acceptable manner.

Unfortunately, if acid rain legislation, such as H.R. 4567, is enacted, I do not believe that the promise of the Clean Coal Technology Program would be realized. The mid-1990's deadline imposed in the House bill for achieving the stringent emissions standards would force utilities to decide between installing scrubber technology, fuel switching, and retiring generating capacity. Many clean coal technologies will not be an option, because their abilities may only have been demonstrated in the early 1990's. Thus, the unique opportunities for retrofit applications could be lost because utilities would be very reluctant to gamble on technologies that have not been adequately demonstrated.

In the final analysis, the Clean Coal Technology Program promotes freedom of choice for the electric utility industry and other industrial coal users by supporting the development of an array of technologies that are more efficient and less expensive than those that are available right now.

The coal industry and the electric utility industry face a future full of question marks—a future with both dilemmas and possibilities. Even so, I believe that the Clean Coal Technology Program represents a first bright glimmer of a new day for coal. But there is much to do if we are to ensure that coal becomes the jewel in the crown of the Nation's energy future.●

THE DEATH OF ROBERT HUNTER

Mr. LONG. Mr. President, I am deeply saddened today by the sudden death of my old and very dear friend, Robert Hunter, a great American who loved his country and served its citizens well for almost 20 years as my administrative assistant.

Robert Hunter came to Washington as my No. 2 assistant, serving second only to the administrative assistant. When a vacancy occurred in the position of the administrative assistant, Bob filled that post. During those years, I learned to trust him implicitly.

He worked tirelessly and energetically to provide an outstanding degree of service for Louisiana. He made my office rather famous as one that cared for the needs of our constituents. On occasion, he even demonstrated to me how it was possible to accomplish things that I thought impossible. I recall, for example, how he found a way in which we could offer substantial and meaningful assistance to those who were severely injured by Hurricane Betsy.

More than 20 years ago, I had some rather ambitious ideas how we could improve on our annual Louisiana Mardi Gras Ball. The burden of it fell mostly on Bob Hunter. He performed far beyond the call of duty, so much so that it may have shortened his life. But he did it as he tended to do everything he deemed worthy of doing, with diligence and dedication.

The Louisiana Mardi Gras ball and the Krewe of Louisianians became well known, both in Washington and in Louisiana. His passing leaves us with several hundred colorful costumes which he so carefully maintained in his home.

Bob was universally known in Washington, especially on Capitol Hill. Those who knew him will remember him as one who loved his State of Louisiana and his city of New Orleans and worked tirelessly for the good of its people for many years. Bob loved life and lived it to its fullest. He loved people and was always ready with a kind word and willing to help those in need.

He served his Nation as a member of the Armed Services in wartime, as a civilian employee of the U.S. Army Corps of Engineers, as an employee of the Senate and Finally, as a retired Government employee who worked in the most ethical manner to support private citizens who had problems dealing with Government.

He will be missed by thousands of us who benefited by his friendship. My sympathy goes to his wife of many years, Marie, and his son, Pat.

Mr. THURMOND. Mr. President, I was saddened to hear of the death of Col. Bob Hunter, who was formerly an administrative assistant to the able and distinguished Senator from Louisiana, Senator LONG.

I heard about it earlier today. I reached his secretary and extended my sympathy and I am also trying to get the address of his widow to write her.

I want to say that I have known Bob Hunter for many years. He was here with Senator LONG when I first came to the Senate. Senator LONG and Senator STENNIS are the only two Members of the Senate now who were here when I first came in December 1954.

Bob Hunter ably served Senator LONG. I had the pleasure of dealing with him in matters pertaining to the Senate. I found him to be a man of integrity, a man of competence, and a man of dedication.

I also knew him as a Reserve officer. I was the commanding general of a Reserve unit here on Capitol Hill which rendered great service, I think, to our country in many ways until Secretary McNamara closed these units down when he became Secretary of Defense. I understood he closed them down because he felt they exerted too much influence on the Congress.

At any rate, Bob Hunter was a member of that unit. I have traveled with him several times on training overseas. I found him to be an able officer, a true patriot and a great American. I enjoyed working with him. I ap-

preciate his friendship. I appreciated his dedication to his country and I appreciated all that he did to help us to maintain a strong defense.

□ 1810

I commend my able friend, the Senator from Louisiana, Senator LONG, for employing such a fine person, and having been connected with him for such a long period of time. Robert Hunter had charge, for Senator LONG as I understood, of the Mardi Gras and other matters, and did a magnificent job.

I want to say I deeply regret to hear of his passing. I think our Nation has lost an outstanding citizen, and I have lost a personal friend.

Mr. JOHNSTON. Mr. President, it was with deep regret that I learned today of the death of Robert E. Hunter, a fellow Louisianian who had served his State and his country in many different roles over many years.

After a long and outstanding career with the U.S. Corps of Engineers, he joined the staff of Senator RUSSELL B. LONG where he served as administrative assistant for 20 years. Even after his retirement from Capitol Hill, he devoted himself almost exclusively to activities involving the State of Louisiana and its congressional delegation.

Those of us who had the pleasure and honor of knowing this distinguished gentleman will always remember him for his ready smile, his unfailing good humor, and his unflagging energy. But most of all, we will recall his unbounding love for the people of Louisiana and his devoted work for the Louisiana delegation.

The Washington Mardi Gras, which has become an institution for the tens of thousands of Louisianians who attend each year, was shaped and molded and directed more by Robert Hunter than by any other person, with the possible exception of my colleague, RUSSELL LONG.

And I see the stunning success of the Mardi Gras as a rich tribute to Robert Hunter. For like him, it has always been a source of joy and happiness and, indeed, a celebration of life.

Though we will miss Robert Hunter deeply, we find some solace in the fact that he died with his boots on, working to the end for the Louisiana delegation, to which he was so loyal, and the State which he loved so much.

TAX REFORM ACT OF 1986

ALTERNATIVE MINIMUM TAX AND FARMER COOPERATIVES

Mr. DOLE. Under existing law, amounts allocated and paid as patronage distributions by a farmer cooperative represent income to its patrons subject to individual income taxes and not to the cooperative itself.

Consistent with the "single tax" treatment of farmer cooperatives, such allocated earnings are properly excludable from the cooperative's determination of taxable income as provided under section 1382 of the code. Except for this single tax rule, cooperatives compute their taxable income, or loss, and any resulting taxes, in the same way as any other entity taxed as a corporation under the Internal Revenue Code.

However, under the Senate bill, as proposed, 50 percent of the excess of pre-tax book income over alternative minimum taxable income would be considered a preference item and subject to the minimum tax. This provision could be construed to make half of a cooperative's patronage distributions potentially subject to the minimum tax, thereby taxing such earnings twice.

It is my understanding that the book income provision of the minimum tax was not intended to apply to deductible patronage distributions of a farmer cooperative. Is that also the Chairman's understanding?

Mr. PACKWOOD. I share the interpretation of the majority leader on this issue and can assure the majority leader that the Senate conferees will insist that the conference report be drafted to make clear that the changes made to the corporate alternative minimum tax will not subject farmer cooperatives to double taxation on patronage dividends that are intended to be singly taxed.

AT-RISK RULES

Mr. BENTSEN. Mr. President, I would like to engage in a colloquy with the chairman over an issue concerning the at-risk rules. The administration, in its tax reform plan, proposed to apply the at-risk rules to all real estate investments. The effect of that proposal would have been to allow an investor no tax basis in a building purchased with nonrecourse debt, to the extent of such debt. Therefore, any deductions claimed by the investor on account of losses would be limited to the amount of cash invested in the building.

The House tax reform bill adopted the administration's proposal, but included an exception. Under the House bill, if the investor purchases a building with nonrecourse debt, he will obtain tax basis in the building on account of the nonrecourse debt so long as the lender is a qualified financial institution. The House believed that where a financial institution is involved, there is no opportunity to artificially overstate the tax basis in the building.

When the tax reform bill came before the Finance Committee, the exception contained in the House bill was included in the chairman's proposal. During the committee's deliberations, I offered an amendment, together with Senator GRASSLEY, to further modify the at-risk proposal. My amendment provided that where the investor purchases a building with a nonrecourse loan from a qualified financial institution, he will be considered at-risk with regard to the loan even though the financial institution holds an equity interest in the building. His tax basis would therefore include the amount of the nonrecourse debt.

My concern is this. I am told that Treasury is considering promulgating regulations that could affect the allocation of tax basis among joint venturers in cases in which one joint venturer lends the money for the project to the venture and in return takes back an equity position in the project. Treasury is promulgating these regulations pursuant to a directive in the Deficit Reduction Act of 1984, which overruled the *Raphan* court case.

I would like to clarify that the regulations to be issued by Treasury pursuant to the 1984 act should also be made consistent with the intent, purpose, and scope of my amendment on the at-risk rules, so that the nonlending joint venturer in my example would be permitted to obtain his tax basis with respect to the nonrecourse debt.

Mr. PACKWOOD. I agree with the Senator from Texas that the Treasury's regulations on the *Raphan* issue should be made consistent with, and should reflect, the Senator's amendment to the at-risk provision.

ORDERS FOR WEDNESDAY

RECESS UNTIL 10 A.M.

Mr. THURMOND. Mr. President, I ask unanimous consent that once the Senate completes its business today it stand in recess until the hour of 10 a.m., on Wednesday, June 25, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. THURMOND. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the standing order there be special orders in favor of the following Senators for not to exceed 5 minutes each: HAWKINS, PROXMIRE, CHAFEE, LEAHY, STEVENS, BOREN, MELCHER, and HART.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. THURMOND. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. THURMOND. Mr. President, at 11 a.m., it is the intention of the majority leader to begin consideration of the conference report to accompany H.R. 4515, the supplemental appropriations. Therefore, votes can be expected throughout the day on Wednesday, June 25.

Mr. President, also the Senate could turn to any of the following items: first, H.R. 4151, the embassy security bill; second, nomination of Terrence Scanlon to be chairman of the Consumer Product Safety Commission; third, any other legislative or executive calendar items.

Mr. President, I want to state that these matters have been cleared with the minority leader. I would like the RECORD to show that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

RECESS UNTIL 10 A.M. TOMORROW

Mr. THURMOND. Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in recess in accordance with the previous order.

The motion was agreed to, and, at 6:31 p.m., the Senate, in executive session, recessed until tomorrow, Wednesday, June 25, 1986, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 24, 1986:

THE JUDICIARY

Antonin Scalia, of Virginia, to be an Associate Justice of the Supreme Court of the United States, vice William H. Rehnquist.

DEPARTMENT OF EDUCATION

Mary McNally Rose, of Maryland, to be Deputy Under Secretary for Management, Department of Education, vice Linda M. Combs, resigned.

Justin W. Dart, Jr., of Texas, to be commissioner of the Rehabilitation Services Administration, vice George A. Conn, resigned.

LEGAL SERVICES CORPORATION

Leaanne Bernstein, of Maryland, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1989, reappointment.

Claude Galbreath Swafford, of Tennessee, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1989, reappointment.

Robert A. Valois of North Carolina, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1989, reappointment.

NUCLEAR REGULATORY COMMISSION

Kenneth M. Carr, of California, to be a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1991, vice Nunzio J. Palladino, term expiring.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 24, 1986:

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Alan D. Breed
John W. Kime
Robert L. Johanson

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF JUSTICE

Paul R. Nolan, of Washington, to be U.S. Marshal for the eastern district of Washington for the term of 4 years.

Leon B. Kellner, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years.

Jerome G. Arnold, of Minnesota, to be U.S. attorney for the district of Minnesota for the term of 4 years.

Andrew J. Maloney, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years.

Donald W. Wyatt, of Rhode Island, to be U.S. Marshal for the District of Rhode Island for the term of 4 years.

THE JUDICIARY

D. Lowell Jensen, of Virginia, to be U.S. district judge for the northern district of California.

HOUSE OF REPRESENTATIVES—*Tuesday, June 24, 1986*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We thank You, gracious God, that in a world where there is strife and division, Your Word gives hope for peace. We praise You that in a world where enemies threaten, Your Word is the word of reconciliation.

Give us, we pray, the vision of Your kingdom, where peace and reconciliation reign and give each of us the spiritual strength to be good stewards of that heavenly vision. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. McCANDLESS. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McCANDLESS. Mr. Speaker, I object to the vote on ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 120, answered "present" 2, not voting 50, as follows:

[Roll No. 187]

YEAS—261

Ackerman	Bonior (MI)	Coyne
Akaka	Bonker	Crockett
Alexander	Borski	Darden
Anderson	Bosco	Daschle
Andrews	Boucher	Davis
Annunzio	Boxer	de la Garza
Anthony	Brooks	Dellums
Applegate	Broomfield	Derrick
Archer	Brown (CA)	Dicks
Aspin	Broyhill	Dixon
AuCoin	Bruce	Donnelly
Barnard	Burton (CA)	Dorgan (ND)
Barnes	Bustamante	Downey
Bateman	Byron	Duncan
Bates	Carper	Durbin
Bedell	Carr	Dwyer
Beilenson	Clinger	Dymally
Bennett	Coats	Dyson
Berman	Coelho	Early
Bevill	Coleman (TX)	Eckart (OH)
Boggs	Combest	Edwards (CA)
Boland	Conyers	English
Boner (TN)	Cooper	Erdreich
Evans (IL)	Markey	Russo
Fascell	Martin (NY)	Sabo
Fazio	Martinez	Savage
Feighan	Matsui	Schaefer
Fish	Mazzoli	Scheuer
Flippo	McCloskey	Schneider
Florio	McCurdy	Schulze
Foglietta	McDade	Seiberling
Foley	McEwen	Sharp
Ford (MI)	McHugh	Shelby
Frank	McKinney	Siljander
Frost	McMillan	Sisisky
Fuqua	Mica	Skelton
Gaydos	Mikulski	Slattery
Gephardt	Miller (CA)	Smith (FL)
Gibbons	Mineta	Smith (IA)
Gilman	Moakley	Smith (NE)
Glickman	Mollohan	Smith (NJ)
Gonzalez	Montgomery	Snyder
Gordon	Moody	Solarz
Gradison	Moore	Spence
Gray (IL)	Morrison (CT)	Spratt
Gray (PA)	Morrison (WA)	St Germain
Green	Mrazek	Staggers
Guarini	Murphy	Stallings
Hall (OH)	Murtha	Stark
Hall, Ralph	Myers	Stenholm
Hamilton	Natcher	Stokes
Hatcher	Neal	Stratton
Hayes	Nelson	Studds
Hefner	Nielson	Sweeney
Hertel	Nowak	Swift
Hillis	Oakar	Synar
Howard	Oberstar	Tauzin
Hoyer	Obey	Taylor
Hubbard	Olin	Thomas (GA)
Hughes	Ortiz	Torres
Hutto	Packard	Torricelli
Jeffords	Panetta	Traficant
Jenkins	Pease	Traxler
Jones (NC)	Pepper	Udall
Jones (OK)	Perkins	Valentine
Kanjorski	Petri	Vento
Kaptur	Pickle	Visclosky
Kasich	Porter	Volkmer
Kastenmeier	Price	Walgren
Kemp	Pursell	Watkins
Kenneily	Quillen	Waxman
Kildee	Rahall	Weiss
Kindness	Rangel	ge dm
Kleczka	Ray	Whitley
Kolter	Regula	Whitten
Kostmayer	Reid	Williams
LaFalce	Richardson	Wilson
Lantos	Rinaldo	Wirth
Lehman (FL)	Ritter	Wise
Levin (MI)	Robinson	Wolpe
Levine (CA)	Roe	Wortley
Lipinski	Roemer	Wright
Long	Rose	Wyden
Lujan	Rostenkowski	Wylie
Lundine	Rowland (GA)	Yates
MacKay	Roybal	Yatron
Manton	Rudd	Young (MO)

NAYS—120

Armey	Coleman (MO)	Gallo
Badham	Conte	Gekas
Bartlett	Coughlin	Gingrich
Barton	Courter	Goodling
Bereuter	Crane	Gunderson
Bilirakis	Dannemeyer	Hammerschmidt
Bliley	Daub	Hansen
Boehlert	DeLay	Hartnett
Boulter	DeWine	Hawkins
Brown (CO)	Dickinson	Hendon
Burton (IN)	DioGuardi	Henry
Callahan	Dreier	Hiler
Carney	Edwards (OK)	Holt
Chandler	Emerson	Hopkins
Chappie	Evans (IA)	Huckaby
Cheney	Fawell	Hunter
Clay	Fiedler	Ireland
Cobey	Fields	Jacobs
Coble	Frenzel	Kolbe
Kramer	Meyers	Smith, Robert (NH)
Lagomarsino	Miller (OH)	Smith, Robert (OR)
Latta	Molinari	Snowe
Leach (IA)	Monson	Solomon
Lent	Moorhead	Strang
Lewis (CA)	Oxley	Stump
Lewis (FL)	Parris	Sundquist
Lightfoot	Pashayan	Swindall
Lloyd	Penny	Tauke
Loeffler	Roberts	Thomas (CA)
Lott	Rogers	Vander Jagt
Lowery (CA)	Roukema	Vucanovich
Lowry (WA)	Rowland (CT)	Walker
Lungren	Saxton	Weber
Madigan	Schroeder	Whitehurst
Marlenee	Schuette	Whittaker
Martin (IL)	Sensenbrenner	Wolf
McCain	Shaw	Young (AK)
McCandless	Shuster	Zschau
McCollum	Skeen	
McGrath	Slaughter	
McKernan	Smith, Denny (OR)	

ANSWERED "PRESENT"—2

Bryant	Tallon

NOT VOTING—50

Atkins	Franklin	Michel
Bentley	Garcia	Miller (WA)
Biaggi	Gejdenson	Mitchell
Breaux	Gregg	Nichols
Campbell	Grotberg	O'Brien
Chapman	Heftel	Owens
Chappell	Horton	Ridge
Collins	Hyde	Rodino
Craig	Johnson	Roth
Daniel	Jones (TN)	Schumer
Dingell	Leath (TX)	Shumway
Dornan (CA)	Lehman (CA)	Sikorski
Dowdy	Leland	Stangeland
Eckert (NY)	Livingston	Towns
Edgar	Luken	Weaver
Ford (TN)	Mack	Young (FL)
Fowler	Mavroules	

□ 1220

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate, with an amendment to the joint resolution (H.J. Res. 652) "Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes."

The message also announced that the Senate has passed a bill, joint resolutions, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 186. An act to further the development and maintenance of an adequate and well-balanced American merchant marine by requiring that certain mail of the United States be carried on vessels of United States registry;

S.J. Res. 256. Joint resolution designating August 12, 1986, as "National Neighborhood Crime Watch Day";

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend";

S.J. Res. 362. Joint resolution to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk and Drugged Driving Awareness Week";

S.J. Res. 363. Joint resolution to designate July 2, 1986, as "National Literacy Day"; and

S. Con. Res. 152. Concurrent resolution authorizing changes in the enrollment of S. 2414.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO SIT ON TODAY DURING 5-MINUTE RULE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be permitted to meet during proceedings under the 5-minute rule on today, June 24, 1986.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON EDUCATION AND LABOR TO SIT ON TOMORROW, JUNE 25, 1986, DURING 5-MINUTE RULE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be permitted to meet to consider markup of H.R. 1309 (the High Risk Occupational Disease Notification and Prevention Act) during proceedings under the 5-minute rule tomorrow, June 25, 1986.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO SIT ON TODAY, JUNE 24, 1986, AND TOMORROW, JUNE 25, 1986, DURING 5-MINUTE RULE

Mr. MONTGOMERY. Mr. Speaker, I ask leave of the House that the Committee on Armed Services be permitted to sit during the 5-minute rule on Tuesday, June 24, 1986, and Wednesday, June 25, 1986.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 4420, MILITARY RETIREMENT REFORM ACT OF 1986

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the managers on the part of the House may have until midnight tonight to file a conference report on the bill, H.R. 4420, Military Retirement Reform Act of 1986.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MAKING IN ORDER ON WEDNESDAY, JUNE 25, 1986, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT ON H.R. 4420, MILITARY RETIREMENT REFORM ACT OF 1986

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that it be in order to consider the conference report on the bill, H.R. 4420, on Wednesday, June 25, 1986, or any day thereafter, that all points of order against the conference report and against its consideration be waived, and that said conference report be considered as read when called up.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT ON TOMORROW, JUNE 25, 1986, DURING 5-MINUTE RULE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule in the House on Wednesday, June 25, 1986.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 652) to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment thereto, and concur in the Senate amendment to the House amendment to the Senate amendment.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendment to the House amendment to the Senate amendment as follows:

Resolved, That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the joint resolution (H.J. Res. 652) entitled "Joint Resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes", with the following Senate amendment to House amendment to Senate amendment: In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment, insert:

SECTION 1. Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "September 30, 1986".

SEC. 2. The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $9,500,000,000 of mortgage and loan principal.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WYLIE. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I yield to the gentleman from Texas [Mr. GONZALEZ] to explain what we are doing here.

Mr. GONZALEZ. Mr. Speaker, hopefully this will be our last effort on an FHA continuing resolution. House Joint Resolution 652 has bounced back and forth between the House and Senate for too long a period and I regret that the other body has attempted to attach provisions to the extended resolution that should not be so attached.

The UDAG selection criteria has been added and insisted upon by the other body notwithstanding the fact that the House, in its recently concluded action on the housing authorization bill, H.R. 1, adopted the UDAG selection criteria by an overwhelming vote. The UDAG selection criteria provision belongs in the housing bill, not an FHA extender resolution, nor for that matter, in the conference report on the supplemental appropriations bill.

Mr. Speaker, the Senate amendment to House Joint Resolution 652, which I am asking the House to agree to, extends all of the expiring HUD/FHA authorities to September 30, 1986, and provides an additional $9.5 billion in credit authority for the FHA mortgage insurance programs. By September 30, I am confident that the housing bill will have passed and awaiting Presidential approval. Let us quickly pass this amended resolution so that homebuilders can conclude their settlements and others buy homes.

Mr. Speaker, I want the RECORD to show that the gentleman from Ohio [Mr. WYLIE] has been most responsive and cooperative in bringing about this extension.

Mr. Speaker, I think the RECORD ought to show the House acted expeditiously, not once but twice, and the matter has been delayed in the other body for its purposes.

Mr. WYLIE. Mr. Speaker, further reserving the right to object, I would return the compliment to the gentleman from Texas [Mr. GONZALEZ]. He has been very forthcoming and very upfront on this issue. He has helped and cooperated in every way possible so that we could get a longer term extension of FHA, which we really need.

At this point I support this legislation extending the Secretary's authority to September 30, 1986, and increasing the credit limit by $9.5 billion.

As I said, the situation with FHA is very critical. When we had this bill up last week, the most important thing that we can do is to get FHA back in business while we work on legislation to increase the credit limit so as to provide for a long-term extension, to September 30, 1987; and I do have a bill in to do that, but today I suggest we go ahead with this proposal. We really do need to do it and I thank the gentleman from Texas very much for his very cooperative support on this.

Mr. Speaker, I yield to the gentleman from Connecticut [Mr. MCKINNEY].

Mr. MCKINNEY. Mr. Speaker, I would like to thank the gentleman from Ohio [Mr. WYLIE] and say that nobody is very happy with this compromise; but in fact 10,000 Americans a day are being denied their mortgages, and it is putting a great many Americans into an extremely difficult position because they have deadline closing dates to make, and I am glad to see that we are finally doing something.

There are problems; it is not a long enough extension; it is not a high enough credit limit, but at least we have a time limitation.

I congratulate the chairman and I congratulate everybody for finally getting together on this one, but I certainly do not congratulate us on the time it has taken.

Mr. WYLIE. Mr. Speaker, under my reservation, the gentleman makes a valid point; that FHA has been out of business for 49 days now because the extensions have not always overlapped, and this has been very unfair to the home building industry, to lenders, to thousands of first-time home buyers who rely on FHA.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

□ 1230

THIS IS NOT A PLATFORM FOR CHARADES

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, I am sure that the American people are no doubt fascinated with the latest in the Nicaraguan follies. We learned the President of the United States had requested the Speaker of the House to address the House of Representatives, and not the Senate—they are too busy—on the question of aid to the Contras. No doubt the President would find it interesting and challenging, we certainly would, to explain why the Contras need another $100 million for designer boots and to fatten their bank accounts in the Cayman Islands.

The Speaker wisely turned down that request and said that it would be all right if the President would come and answer questions. That would be very difficult, since there is not a seating chart in the House of Representatives for the President to call on us by name, but it would be a wonderful opportunity for us to be able to put questions to the President directly.

The latest twist was Chief of Staff Regan saying, on the "Today Show," that the Speaker was unhappy because his "call" disturbed the Speaker's golf game.

Now I can assure the American people nothing can disturb the Speaker's golf game because the numbers are so high it is beyond being disturbed.

I agree with the Speaker's conclusion: the House is not a platform for charades, this is serious business.

If the President wants to come before the House of Representatives, he should be prepared to answer our questions.

LET'S TREAT PRIMATE MONKEYS IN A HUMANE MANNER

(Mr. ROSE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSE. Mr. Speaker, the Director of the National Institutes of Health, Dr. James B. Wyngaarden, needs to take a course in mathematics because he does not know how to count very well. Two hundred fifty-three Members of this House have signed a letter to him asking for the humane settlement of the issue of the 15 primate monkeys that are now being held at NIH pending the outcome of certain legal disputes with one of their grant recipients, the Institute for Behavioral Research.

One hundred Members of this House—and more are signing every day—have signed a sense of Congress resolution that these animals, who were willfully abused by an NIH grant recipient, be given the rest of their lives in a very humane environment in the State of Texas.

Not knowing how to count, Dr. Wyngaarden, is a serious mistake. We do not believe that these monkeys should be sent to the Delta Research Facility in Louisiana.

Dr. Wyngaarden and his staff need to seriously reconsider both the 253 signatures and the sense of Congress resolution and leave these primates where they are until this matter is resolved.

CARDINAL OBANDO Y BRAVO DESCRIBES LIFE IN NICARAGUA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extand his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, in a recent newspaper interview published in Panama, Nicaraguan Cardinal Obando y Bravo described life in Nicaragua and the ongoing war between the Sandinista Communists and the Contras. Cardinal Obando y Bravo said:

> If we are going to examine the situation from an economic viewpoint, we must admit that the situation is very bad because we make our purchases with cards. In Nicaragua, no one can buy what he wants, only what the state wants to sell. In the war aspect, there is a struggle against the groups that have turned against the government. The Sandinistas say that all the insurgents are former Somoza guards, which is not true. Among them are peasants and former members of the Sandinista front. We have the cases of Engineer Robelo and Arturo Cruz, former members of the government, and there is also the case of Zero, Eden Pastora, former deputy Minister of the Interior.

I am submitting for the RECORD the entire transcript of Cardinal Obando y Bravo's comments in today's extension of remarks. I urge my colleagues to consider the cardinal's assessment of conditions in Nicaragua.

THOSE WHO REALLY PROFIT FROM AID TO THE CONTRAS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, tomorrow's vote on Contra aid will be followed closely around the world, but the audience paying the closest attention will not be found in the White House, not in the office of the president in Managua nor in the steamy jungles of Nicaragua. The most attentive audience will be huddled around a radio in a neighborhood grocery store in the capital city of Honduras. Because, you see, the last time Congress followed the President's request and appropriated $27 million in so-called humanitarian aid for the freedom fighters in Nicaragua, a corner convenience store in Tegucigalpa in Honduras ended up with $3.8 million of

United States taxpayers' money. This store was set up by the Honduran military in mid-1985 specifically to supply the Contras and to make huge profits in the process.

All the stock boys and delivery boys in Supermercado Herman Pedro in Tegucigalpa will be listening closely to the radio tomorrow to see if the House of Representatives will allow Uncle Sam to be played for a sucker again.

THE DOLLAR FELL, AND GREAT WAS THE FALL OF IT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, the Gospel says:

> A man had the sense to build his house on rock. The rain came down, the floods rose, the wind blew, an beat upon that house; but it did not fall, because its foundations were on rock * * *. Another man was foolish enough to build his house on sand. The rain came down, the floods rose, the wind blew, and beat upon that house. The house fell, and great was the fall of it. (Matthew 7:24:29.)

The Founding Fathers of this Nation had the sense to build their monetary system on the rock of a metallic dollar. Hot and cold wars came, trade wars erupted and beat upon the dollar; but it did not fall, because its foundations were on rock. Two hundred years later we were foolish enough to build our monetary system on the sand of a floating dollar. Hot and cold wars came and we were the losers. From the world's greatest creditor, ours became the world's greatest debtor nation. Embargo and trade war beat upon the dollar. The dollar fell, and great was the fall of it.

WE NEED STRONG TRADE LAWS

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDREICH. Mr. Speaker, I took part in a community meeting in Birmingham, AL, in my district Saturday, also held in Mobile and Gadsden in Alabama and across this country, highlighting the crisis in the steel industry. Really there was a simple message that the community leaders, steelworkers, and others gave at these meetings: It is high past time that we had an effective new trade law for this Nation, that we put America's economic interests first and that certainly there is nothing wrong with standing up for America's economic interests.

Mr. Speaker, we have passed an effective bill out of this House. It is past time for the other body to consider legislation, pass it to the President; we need tough trade laws for America.

CONGRESS SHOULD NOT LEAVE VETERANS' BENEFITS TO THE MERCY OF LAWYERS AND COURTS

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, Members of the Congress should oppose H.R. 585 which intends to shift the determination of veterans' benefits from the Congress to the lawyers and the Federal courts.

Presently, the Congress authorizes all veterans' benefits. Representing the people of our Nation, veterans, and taxpayers, the Congress has provided a just system for compensating veterans with disabilities. This compensation is paid for by a grateful Nation for the sacrifices of our veterans and their survivors. The taxpayers want the compensation to benefit the veteran as fairly and efficiently as possible. Taxpayers want the benefits paid fully and promptly to the deserving veteran. Taxpayers do not want their hard-earned money diverted or diluted by payments to others, particularly to lawyers on contingent fee bases. Further, taxpayers do not want their taxes wasted by protracted litigation, court costs, attorneys' fees, and judicial expense. That's exactly what would happen if H.R. 585 was approved.

Members of the Congress should not leave veterans' benefits to the mercy of lawyers and the courts. The whole system of benefits, the relationships between the Congress and the veterans, and the cost effectiveness and timeliness of benefit payments will change dramatically if H.R. 585 is enacted.

Under that bill, a whole new and different, costly and prolonged, uneven and unpredictable system will develop. Only lawyers will prosper. Veterans and taxpayers will suffer.

IF POLITICS ARE INVOLVED, THE WHITE HOUSE, NOT THE SPEAKER, IS AT FAULT

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, I am pleased that we are beginning to put together a bipartisan policy for Central America, one that supports democracies in the region with economic aid and continues the pressure on the Sandinista dictators by providing limited military aid to the Contras. The policy makes sense.

What does not make sense is the political debate in the past 2 days over the President addressing Congress on the subject. At a White House meeting I attended this Friday past, the President was not there, several Members of Congress, Republicans and Democrats, met with the White House staff to look over the bipartisan bill and to plan strategy.

At that meeting, I was asked if the President should address the Nation immediately prior to Wednesday's vote. Yes, I answered, we need his leadership if he endorses our policy.

I was then asked how that address should be presented? My first choice was a joint session Tuesday night. Second choice, poor second choice but a second choice, was from the Oval Office Monday night. And the third choice was a Tuesday session at noon with the House of Representatives. Because of lack of precedent and attention, the least attractive choice was Tuesday noon.

Our clear choice was the Tuesday night joint session. The White House response was that Tuesday night was out because the President had a previously scheduled fund raiser somewhere on the west coast, at which point I and other members of the meeting answered, "Nonsense; get your priorities straight."

We were told that the President would be consulted and that our strong desires would be relayed.

Now I find that Mr. Regan—not President Reagan—called the Speaker, that a joint session was offered by the Speaker but turned down by Mr. Regan and that the least effective, noon Tuesday, speech was then turned down by the Speaker.

Given the importance of the subject and the foreign policy implications, I think the Speaker should have granted Tuesday noon, but if there is any politics here, it is the White House, not the Speaker, that is at fault. The Speaker offered a joint session Tuesday or Wednesday night. The White House chose to say "no." That was wrong, and I wanted to set the record straight. The bipartisan package is a good one, but it is not helped by political demagoguery on the part of an often-incompetent White House.

THE NATIONAL EMERGENCY TRAINING CENTER-WEST SHOULD BE REAUTHORIZED

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANVOVICH. Mr. Speaker, I rise today in support of the intent of H.R. 4252. However, I have grave concern about the proposal made by the administration and the committee to eliminate funding for the National Emergency Training Center-West. This western training center is to be built in Carson City, NV and the funds were appropriated last year. This center is very important to my constituents and to the economy of the

great State of Nevada. I am distressed that the committee did not recognize the importance of a western center and authorize the appropriate funds. I will work with the Appropriations Committee to get this funding reinstated.

The western center was designed to be a "sister" facility with the Emittsburg, MD, facility. These facilities were to be used by FEMA to implement all of their emergency training programs. The National Fire Academy operates out of the National Emergency Training Center in Emittsburg. The administration has requested that travel stipends be eliminated for attendees at the academy, as well as making attendees pay for their own lodging.

Although the committee does not agree with the administration, the recommendation for such a budget cut has been requested and will probably be requested in the future. If this type of cut is implemented, whether this year or next, the impact on the Western United States would be detrimental. For this reason, it is very important that the Western United States have a training facility close enough so the departments can afford this vital training.

The National Fire Academy has played a significant role in the fire safety training programs for firefighters. Career and volunteer fire departments cannot afford to pay the travel expenses associated with this most necessary training especially if forced to travel across the country. The direct result will be that only departments close to the training center will benefit from the expertise of the academy. The long term and most devastating effect will be a decline in the skills of our firefighters. This is reason enough to fund again the western center.

I believe the Federal Government should continue to take the lead in helping State and local governments develop the most effective measures in dealing with fire prevention and control. The U.S. Fire Administration has been extremely effective in this role and should not be terminated as requested by the administration.

We have given the firefighters of our country, whether they be career or volunteer, westerners or easterners, a most difficult charter. That charter is fire prevention and, in the event of fire, immediate control to save lives and the lands of this great country. We owe it to these men and women who lay their lives on the line for us daily to give them the leadership and training facilities that will enable them to carry out this charter in the finest manner available. I believe the funding of the National Emergency Training Center-West should be reauthorized and the construction started.

□ 1245

WE NEED A STRONG IMMIGRATION BILL THIS YEAR

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, if ever there was any doubt that we cannot count on Mexico's cooperation to solve the explosion of illegal immigration at a rate of about 2 million across our borders this year, these doubts were dispelled when President de la Madrid was interviewed Sunday on John McLaughlin's television show, "One on One."

President de la Madrid, in effect, washed his hands of the whole problem of the entire illegal immigration mess.

Mr. Speaker, we can and must bring our borders under control, but in order to do so, we are going to have to pass a solid, strong immigration bill this year that includes employer sanctions and a significant effort to increase the security and the integrity of our borders.

Mr. McLaughlin asked the President if his Government was doing anything to control the estimated 2 million Mexicans who will be apprehended after having crossed the border illegally this year. President Madrid responded, "The problem is structural. In the United States, there is the demand for Mexican workers, and, in Mexico, we are not creating jobs that pay enough for these Mexican workers. Thus, the key to solving the problem is the economic recovery of Mexico. There are no police, no coercive measures that could be effective in controlling this phenomenon. If there were no demand in the United States for Mexican workers, Mexican workers would not go to the United States."

Mr. Speaker, if we have to wait until no Mexican worker can get a job in the United States, it certainly will not be in our time. We have got to pass the immigration bill this year.

Each year, Mexico adds 800,000 new entrants to its job market while producing virtually no new jobs.

Looking from Mexico to all of Latin America, we find that between now and the end of the century, this region must create 4 million new jobs every year just to keep even with the current high levels of unemployment and underemployment.

Consider that during the halcyon days of prosperity for the United States in the 1970's, our Nation, with a GNP five times that of all Latin America, created only 2 million new jobs.

Where will all these unemployed go?

Mr. Speaker, there is only one answer: North.

HIGHWAY BEAUTIFICATION

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker. As I remarked last week, I would like to take time during these 1-minutes to share with the Members, headlines which have appeared in newspapers around the country regarding highway beautification.

Our Nation's highway beautification law has been in effect for more than 20 years but this law, which was originally enacted with the finest of intentions, has become, as the Burlington, Free Press captioned in August 1985, a * * * Victim of Bizarre Backfire."

"The Great Bill Board Double-Cross," quipped Reader's Digest in June 1985, which is the feeling many have about this law intended to control and eliminate signs along the interstate and primary system.

This "program to rid highways of billboards is [a] complete flop * * *", stated the Wall Street Journal in January 1985, and it may, in fact, be more properly classified as a program for billboard proliferation.

What's at issue is "billboards and America's visual pollution," as headlined in the Miami Herald, and that taxpayer's have to give money to polluters not to pollute.

More and more communities have taken up the fight against this visual pollution and, as the Houston Post reported in December 1984, "Regulation of billboards [is a] first priority."

"The quest to regulate billboards" as editorialized by the New Orleans Times-Picayune, is not an easy one, because, as the Wall Street Journal said in March 1986, the "Ruckus in Greenville, SC, underscores [the] power of billboard industry as [a] potent business lobby."

"Billboard industry eye local officials," commented Jack Anderson and Joseph Spear in May 1986, with campaign contributions and free billboard space as a way to reduce the regulating and curry favors.

But campaign contributions and the like are not reserved for local officials alone but have been used at the Federal level to undermine the national highway beautification statute.

FEDERAL RETIREE COLA

(Mr. BONER of Tennessee asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONER of Tennessee. Mr. Speaker, I rise in support of H.R. 4060, which is intended to ensure a cost of living allowance for Federal retirees. I especially wish to thank Ms. OAKAR and the other supporters for their ef-

forts in bringing this measure to the floor of the House.

Since Social Security beneficiaries received a COLA this year and are likely to receive one in 1987, it is not fair that Federal retirees be singled out and denied the same protection against inflation. These retirees have devoted a good part of their lives to civil service, and now when they should be enjoying the fruits of their labor, they are instead faced with uncertainty as to their remaining years of retirement.

Again, I thank my colleagues for their efforts in getting this legislation passed.

LET US HAVE Q&A SESSION WITH SPEAKER AND MAJORITY LEADER

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, we convened today at noon for the express purpose of dealing with a number of bills on the Suspension Calendar, and then one, as I understand it, that will be handled that is not on the Suspension Calendar. We are going to deal with a sense of Congress regarding human rights in North Korea and reduction of tensions on the Korean Peninsula; a sense of Congress regarding democracy in the Republic of Korea; Senate Joint Resolution 361, to disinvite Chilean tall ship *Esmerelda* from the July 4 ceremonies; the Lower Colorado River water supply bill; civil service retirement COLA; retirement credit to National Guard technicians; and so forth.

All these are important bills, I would suggest, but I cannot see that these were so important if they were put on the Suspension Calendar and that we, therefore, could not take time to meet here in the House of Representatives to hear an address from the President on the question of Contra aid.

Yes, it is a little different than what we normally do here, but it is important. It seems to me that simple courtesy ought to be extended to the President. To say, "Well, you can come, Mr. President, as long as you answer questions instead of addressing us," means we are creating a new standard here.

The next time the Speaker takes the floor, I assume the Speaker is going to allow himself to be interrupted for questioning. The next time the majority leader speaks to us for those long minutes I assume the majority leader is going to stop and respond when any Member asks the gentleman a question.

Evidently, we have a new rule here now. You can speak to the House if you are the Speaker of the House or the majority leader or the President of the United States, but only if you agree to be interrupted and answer questions.

Come on Mr. Speaker, we understand it makes good politics, but it does not make good Government.

A DISAPPOINTING DECISION ON PRESIDENT'S ADDRESS TO CONGRESS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, as a result of your decision and then the business of the House, most Members of the House today were not able to hear the President of the United States as he spoke on the subject of our future in Central America. I think that is disappointing. I think that we should have had the opportunity to have the President before this body and speak to us.

The Constitution of the United States in article II makes it very clear, in section 3, the President shall recommend to our consideration such measures as he shall find necessary and expedient.

That is what the President was trying to do. His constitutional duty was to bring something before us. Sure, maybe it was unprecedented. But maybe it was important enough for him to take an unprecedented action. He was turned down by the Speaker of the House. That is disappointing; I am disappointed.

□ 1255

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES CONCERNING THE QUESTION OF PROVIDING ASSISTANCE TO FREEDOM FIGHTERS IN NICARAGUA (H. DOC. NO. 99-237)

The SPEAKER pro tempore (Mr. MILLER of California) laid before the House the following communication from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations, the Committee on Foreign Affairs, the Committee on Armed Services, and the Permanent Select Committee on Intelligence and ordered to be printed:

THE WHITE HOUSE,
Washington, June 24, 1986.

The Honorable THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives, Washington, DC 20515

DEAR MR. SPEAKER: I am transmitting in writing my remarks that I had hoped to deliver to Members of the House of Representatives today. It was my desire to speak directly to the Members of the House of Representatives to emphasize the importance of achieving a bipartisan approach to address the urgent question of providing assistance to the freedom fighters in Nicaragua.

Earlier this year the Senate passed a bipartisan program of assistance to keep the hope of democracy alive in Nicaragua. In the House of Representatives many Members of both political parties have worked together in support of a program that would promote democracy in Central America and to resolve the internal conflict in Nicaragua.

This program is embodied in the Skelton - Edwards - Ray - Chandler amendment to the Military Construction Appropriations bill and provides a balanced package of immediate humanitarian and military aid essential to the freedom fighters in Nicaragua. The amendment also provides much needed additional economic assistance to the neighboring democracies of El Salvador, Honduras, Guatemala, and Costa Rica.

It is imperative to our own national security and in the interest of long-term stability in our hemisphere that we support the forces of democracy in Central America.

It is my hope that this message will be received by Members of the House in the bipartisan spirit in which it is sent.

Sincerely,

RONALD REAGAN.

TEXT OF REMARKS BY THE PRESIDENT IN AN ADDRESS TO THE NATION

THE OVAL OFFICE,
June 24, 1986.

My fellow citizens. The matter that brings me before you today is a grave one and concerns my most solemn duty as President. It is the cause of freedom in Central America and the national security of the United States. Tomorrow the House of Representatives will debate and vote on this issue. I had hoped to speak directly and at this very hour to Members of the House of Representatives on this subject, but was unable to do so. Because I feel so strongly about what I have to say, I have asked for this time to share with you—and Members of the House—the message I would have otherwise given.

Nearly forty years ago a Democratic President, Harry Truman, went before the Congress to warn of another danger to democracy, a civil war in a faraway country in which many Americans could perceive no national security interest. Some of you can remember the world then: Europe lay devastated.

One by one, the nations of Eastern Europe had fallen into Stalin's grip. The democratic government of Czechoslovakia would soon be overthrown. Turkey was threatened, and in Greece, the home of democracy, Communist guerrillas, backed by the

Soviet Union, battled democratic forces to decide the nation's fate.

Most Americans did not perceive this distant danger. So the opinion polls reflected little of the concern that brought Harry Truman to the well of the House that day. But go he did. And it is worth a moment to reflect on what he said.

In a hushed chamber, Mr. Truman said that we had come to a time in history when every nation would have to choose between two opposing ways of life. One way was based on the will of the majority—on free institutions and human rights.

"The second way of life," he said, "is based upon the will of a minority forcibly imposed upon the majority. It relies upon terror and oppression, a controlled press and radio, fixed elections and the suppression of personal freedoms."

"I believe," President Truman said, "that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."

When Harry Truman spoke, Congress was controlled by the Republican Party. But that Congress put America's interest first, and supported Truman's request for military aid to Greece and Turkey—just as 4 years ago Congress put America's interest first by supporting my request for military aid to defend democracy in El Salvador.

I speak today in that same spirit of bipartisanship. My fellow Americans—and Members of the House—I need your help.

I ask first for your help in remembering—remembering our history in Central America so we can learn from the mistakes of the past.

Too often in the past, the United States failed to identify with the aspirations of the people of Central America for freedom and better life. Too often our government appeared indifferent when democratic values were at risk. So, we took the path of least resistance—and did nothing.

Today, however, with American support, the tide is turning in Central America. In El Salvador, Honduras, Costa Rica—and now in Guatemala—freely-elected governments offer their people the chance for a better future—a future the United States must support.

But there is one tragic, glaring exception to that democratic tide—the Communist Sandinista government in Nicaragua. It is tragic because the United States extended a generous hand of friendship to the new revolutionary government when it came to power in 1979.

Congress voted $75 million in economic aid. The United States helped renegotiate Nicaragua's foreign debt. America offered teachers, doctors, and Peace Corps volunteers to help rebuild the country. But the Sandinistas had a different agenda.

From the very first day, a small clique of Communists worked steadily to consolidate power and squeeze out their democratic allies.

The democratic trade unionists—who had fought Somoza's National Guard in the streets—were now told by the Sandinistas that the right to strike was illegal and that their "revolutionary" duty was to produce more for the state.

The newspaper—La Prensa—whose courage and determination had inspired so much of the Nicaraguan revolution—found its pages censored and suppressed. Violeta Chamorro—widow of the assassinated editor—soon quit the revolutionary government to take up the struggle for democracy again—in the pages of her newspaper.

The leader of the Catholic Church in Nicaragua, Archbishop—now Cardinal—Obando y Bravo, who had negotiated the release of the Sandinista leaders from prison during the revolution, was now vilified as a traitor by the very men he helped to free.

Soviet arms and Bloc personnel began arriving in Nicaragua. With Cuban, East German, and Bulgarian advisers at their side, the Sandinistas began to build the largest standing army in Central American history and to erect all the odious apparatus of the modern police state.

Under the Somoza dictatorship, a single facility held all political prisoners. Today there are eleven. Eleven prisons in place of one.

The Sandinistas claim to defend Nicaraguan independence. But you and I know the truth. The proud people of Nicaragua did not rise up against Somoza—and struggle, fight, and die—to have Cubans, Russians, Bulgarians, East Germans, and North Koreans running their prisons, organizing their army, censoring their newspapers, and suppressing their religious faith. One Nicaraguan nationalist, who fought in the revolution, says: "We are an occupied country today."

I could go on, but I know that even the administration's harshest critics in Congress hold no brief for Sandinista repression. Indeed, the final verdict has already been written by Cardinal Obando himself in the Washington Post. Listen carefully to the Cardinal's words.

He says: The idea that the Sandinista regime "is a democratic government, legitimately constituted, which . . . seeks the welfare and peace of the people and enjoys the support of the overwhelming majority is not true."

To accept this as true, the Cardinal says, "is to ignore the mass exodus of the Miskito Indians . . . the departure of tens of thousands of Nicaraguan men and women of every age, profession, economic status and political persuasian . . . it is to ignore . . . the most terrible violation of freedom of the press and of speech in the history of our country . . . the expulsion of priests and the mass exodus of young people eligible for military service." As for the Catholic Church in Nicaragua, we have been "gagged and bound," the Cardinal says.

Many brave Nicaraguans have stayed in their country despite mounting repression—defying the security police, defying the Sandinista mobs that attack and deface their homes. Thousands—peasants, Indians, devout Christians, draftees from the Sandinista army—have concluded that they must take up arms again to fight for the freedom they thought they had won in 1979.

The young men and women of the democratic resistance fight inside Nicaragua today in grueling mountain and jungle warfare. They confront a Soviet-equipped army, trained and led by Cuban officers. They face murderous helicopter gunships without any means of defense. And still they volunteer. And still their numbers grow.

Who among us would tell these brave young men and women—your dream is dead; your democratic revolution is over; you will never live in the free Nicaragua you fought so hard to build?

The Sandinistas call these freedom fighters Contras—for counter-revolutionaries. But the real counter-revolutionaries are the Sandinista commandantes, who betrayed the hopes of the Nicaraguan Revolution, and sold out their country to the Soviet Empire.

The commandantes even betrayed the memory of the Nicaraguan rebel leader Sandino, whose legacy they falsely claim. For the real Sandino—because he was a genuine nationalist—was opposed to communism. In fact, Sandino broke with the Salvadoran Communist leader, Farbundo Marti, over this very issue.

The true Nicaraguan nationalists are the leaders of the United Nicaraguan Opposition: Arturo Cruz—jailed by Somoza, a former member of the Sandinista government; Adolfo Calero—who helped organize a strike of businessmen to bring Somoza down; and Alfonso Robelo—a social democrat, and once a leader of the revolutionary government.

These good men refused to make any accommodation with the Somoza dictatorship. Who among us can doubt their commitment to bring democracy to Nicaragua?

So, the Nicaraguan people have chosen to fight for their freedom. Now we Americans must also choose.

For you and I and every American has a stake in this struggle. Central America is vital to our own national security—and the Soviet Union knows it. The Soviets take the long view but

their strategy is clear—to dominate the strategic sea lanes and vital chokepoints around the world.

Half of America's imports and exports, including oil, travels through the area today. In a crisis, over half of NATO's supplies would pass through this region. And Nicaragua, just 277 miles from the Panama Canal, offers the Soviet Union ports in both the Atlantic and Pacific Oceans.

The Soviet Union already uses Cuba as an air and submarine base in the Caribbean. It hopes to turn Nicaragua into the first Soviet base on the mainland of North America.

If you doubt it, ask yourself: Why have the last four Soviet leaders—with a mounting economic crisis at home—already invested over a billion dollars and dispatched thousands of Soviet bloc advisers into a tiny country in Central America?

I know that no one in Congress wants to see Nicaragua become a Soviet military base. My friends, I must tell you in all seriousness: Nicaragua is becoming a Soviet base every day that we debate and debate and debate—and do nothing.

In the 3 months since I last asked the House to aid the democratic resistance, four military cargo ships have arrived at Nicaraguan ports, this time directly from the Soviet Union. Recently we have learned that Russian pilots are flying a Soviet A.N.-thirty reconnaissance plane for the Sandinistas.

The Sandinistas claim this is just for making civilian maps. Our intelligence services believe this could be the first time Soviet personnel have taken a direct role in support of military operations on the mainland of North America.

Think again how Cuba became a Soviet air and naval base. You will see what Nicaragua will look like if we continue to do nothing. Cuba became a Soviet base gradually over many years. There was no single dramatic event—once the missile crisis passed—that captured the Nation's attention. And so it will be with Nicaragua.

The Sandinistas will widen and deepen another port while we debate: is it for commercial vessels or Soviet submarines? The Sandinistas will complete another air strip while we argue: is it for 707's or Backfire Bombers? A Soviet training brigade will come to Nicaragua. Half will leave and half will stay. And we will debate: are they soldiers or engineers?

Eventually, we Americans will have to stop arguing among ourselves. We will have to confront the reality of a Soviet military beachhead inside our defense perimeters—about 500 miles from Mexico. A future President and Congress will then face nothing but bad choices, followed by worse choices.

My friends in the House, for over 200 years the security of the United States has depended on the safety of unthreatened borders, north and south. Do we want to be the first elected leaders in U.S. history to put our borders at risk?

Some of you may say: this is fearmongering. Such a danger to our security will never come to pass. Perhaps it won't. But in making your decision on my request for aid tomorrow, consider this: What are the consequences for our country if you are wrong?

I know some Members of Congress who share my concern about Nicaragua have honest questions about my request for aid to the democratic resistance. Let me try to address them. Do the freedom fighters have the support of the Nicaraguan people? I urge Members of the House to ask their colleague, the Chairman of the House Armed Services Committee, who recently visited a town in Nicaragua that was a Sandinista stronghold during the revolution. He heard peasants, trade unionists, farmers, workers, students, and shop keepers all call on the United States to aid the armed resistance.

Or listen to the report from Time Magazine of Central American scholar, Robert Leiken, who once had hopes for the Sandinista revolution. He says: "I have gone to a number of towns in Nicaragua where I have found that the youth are simply not there. I ask their parents where they've gone, and they say, they've gone off to join the Contras." In Managua, Leiken reports, 250 Nicaraguans stood on a breadline for 3 hours. "Who is responsible?" he asked. "The Sandinistas are responsible," the people said. "The Sandinistas," Leiken concluded, "have not only lost support, I think they are detested by the population."

Can the democratic forces win? Consider: There are 20 times as many Nicaraguans fighting the Sandinista dictatorship today as there were Sandinista fighters a year before Somoza fell. This is the largest peasant army raised in Latin America in more than 50 years. And thousands more are waiting to volunteer, if American support comes through.

Some Members of Congress—and I know some of you—fear that military aid to the democractic resistance will be only the first step down the slippery slope toward another Vietnam. I know those fears are honest. But think where we heard them before.

Just a few years ago, some argued in Congress that U.S. military aid to El Salvador would lead inevitably to the involvement of U.S. combat troops. But the opposite turned out to be true.

Had the United States failed to provide aid then, we might well be facing the final Communist takeover of El Salvador, and mounting pressures to intervene. Instead—with our aid—the government of El Salvador is winning the war—and there is no prospect whatever of American military involvement.

El Salvador still faces serious problems that require our attention. But democracy there is stronger. And both the Communist guerrillas and the right-wing death squads are weaker. And Congress shares credit for that accomplishment.

American aid and training is helping the Salvadoran army become a professional fighting force, more respectful of human rights. With our aid, we can help the Nicaraguan resistance accomplish the same goal.

I stress this point because I know many Members of Congress and many Americans are deeply troubled by allegations of abuses by elements of the armed resistance. I share your concerns. Even though some of those charges are Sandinista propaganda, I believe such abuses have occurred in the past. And they are intolerable.

As President, I repeat to you the commitments I made to Senator SAM NUNN. As a condition of our aid, I will insist on civilian control over all military forces; that no human rights abuses be tolerated; that any financial corruption be rooted out; that American aid go only to those committed to democratic principles. The United States will not permit this democratic revolution to be betrayed nor allow a return to the hated repression of the Somoza dictatorship.

The leadership of the United Nicaraguan opposition shares these commitments and I welcome the appointment of a bipartisan congressional commission to help us see that they are carried out.

Some ask: what are the goals of our policy toward Nicaragua? They are the goals the Nicaraguan people set for themselves in 1979: democracy, a free economy, and national self-determination.

Clearly the best way to achieve these goals is through a negotiated settlement. No humane person wants to see suffering and war.

The leaders of the internal opposition and the Catholic Church have asked for dialog with the Sandinistas. The leaders of the armed resistance have called for a cease-fire and negotiations at any time, in any place. We urge the Sandinistas to heed the pleas of the Nicaraguan people—for a peaceful settlement.

The United States will support any negotiated settlement or Contadora Treaty that will bring real democracy to Nicaragua. What we will not support is a paper agreement that sells out the Nicaraguan people's right to be free.

That kind of agreement would be unworthy of us as a people. And it would be a false bargain. For internal freedom in Nicaragua and the security of Central America are indivisible. A

free and democractic Nicaragua will pose no threat to its neighbors, or to the United States. A Communist Nicaragua, allied with the Soviet Union, is a permanent threat to us all.

President Azcona of Honduras emphasized this point in a recent nationwide address. "As long as there is a totalitarian regime [in Central America] that has expansionist ambitions and is supported by an enormous military apparatus . . . the neighboring countries sharing common borders with the country that is the source of the problem, will be under constant threat." If you doubt his warning, consider this. The Sandinistas have already sent two groups of Communist guerrillas into Honduras. Costa Rican revolutionaries are already fighting alongside Sandinista troops.

My friends in the Congress: With democracy still a fragile root in Central America—with Mexico undergoing an economic crisis—can we responsibly ignore the long-term danger to American interests posed by a Communist Nicaragua, backed by the Soviet Union, and dedicated—in the words of its own leaders—to a "revolution without borders"?

My friends, the only way to bring true peace and security to Central America is to bring democracy to Nicaragua. And the only way to get the Sandinistas to negotiate seriously about democracy is to give them no other alternative. Seven years of broken pledges, betrayals, and lies have taught us that.

That is why the measure the House will consider tomorrow—offered I know in good faith—which prohibits military aid for at least another 3 months—and perhaps forever—would be a tragic mistake. It would not bring the Sandinistas to the bargaining table. Just the opposite.

The bill, unless amended, would give the Sandinistas and the Soviet Union what they seek most—time. Time to crush the democratic resistance. Time to consolidate power. And it would send a demoralizing message to the democratic resistance: that the United States is too divided and paralyzed to come to their aid in time.

Recently, I read the words of a leader of the internal democratic opposition. What he said made me feel ashamed.

This man has been jailed, his property confiscated, and his life threatened by the security police. Still he continues to fight. He said: "You Americans have the strength, the opportunity, but not the will. We want to struggle, but it is dangerous to have friends like you . . . to be left stranded on the landing beaches of the Bay of Pigs. Either help us or leave us alone."

My friends in the House of Representatives: I urge you to send a message tomorrow to this brave Nicaraguan—and thousands like him. Tell them it is not dangerous to have friends like us. Tell them: America stands with those who stand in defense of freedom.

When the Senate voted earlier this year for military aid, Republicans were joined by many Democratic leaders: Bill Bradley of New Jersey, Sam Nunn of Georgia, David Boren of Oklahoma, Howell Heflin of Alabama, Lloyd Bentsen of Texas, Bennett Johnston and Russell Long of Louisiana, Fritz Hollings of South Carolina, John Stennis of Mississippi, and Alan Dixon of Illinois. Tonight I ask the House for that kind of bipartisan support for the amendment to be offered tomorrow by Democrats Ike Skelton of Missouri and Richard Ray of Georgia, and Republicans Mickey Edwards of Oklahoma and Rod Chandler of Washington. This bipartisan amendment will provide the freedom fighters with what they need—now.

With that amendment, you also send another message to Central America. For democracy there faces many enemies: poverty, illiteracy, hunger, and despair. And the United States must also stand with the people of Central America against these enemies of democracy.

That is why—just as Harry Truman followed his request for military aid to Greece and Turkey with the Marshall Plan—I urge Congress to support $300 million in new economic aid to the Central American democracies.

The question before the House is not only about freedom of Nicaragua and the security of the United States, but who we are as a people.

President Kennedy wrote on the day of his death that history had called this generation of Americans to be "watchmen on the walls of world freedom." A Republican President, Abraham Lincoln, said much the same thing on the way to his Inauguration in 1861.

Stopping in Philadelphia, Lincoln spoke in Independence Hall, where our Declaration of Independence was signed. He said far more had been achieved in that hall than just American independence from Britain. Something permanent . . . something unalterable . . . had happened. He called it: "hope to the world for all future time."

Hope to the world for all future time. In some way, every man, woman, and child in our world is tied to those events in Independence Hall, to the universal claim to dignity, to the belief that all human beings are created equal, that all people have a right to be free.

We Americans have not forgotten our revolutionary heritage. But sometimes it takes others to remind us of what we ourselves believe.

Recently, I read the words of a Nicaraguan Bishop, Pablo Vega, who visited Washington a few weeks ago. Somoza called Pablo Vega the "communist bishop." Now the Sandinistas revile him as the "contra bishop." But Pablo Vega is really a humble man of God.

"I am saddened," the good Bishop said, "that so many North Americans have a vision of democracy that . . . has only to do with materialism . . ." The Sandinistas "speak of human rights as if they were talking of the rights of a child—the right to receive from the bountifulness of the state . . . but even the humblest campesino knows what it means to have the right to act." "We are defending," Pablo Vega said, "the right of man to be."

Well Reverend Father, we hear you. For we Americans believe with you that even the humblest campesino has the right to be free. My fellow citizens, Members of the House: let us not take the path of least resistance in Central America again. Let us keep faith with these brave people struggling for their freedom. Give them, give me, your support; and together, let us send this message to the world: that America is still a beacon of hope, still a light unto the nations. A light that casts its glow across the land and our continent and even back across the centuries—keeping faith with a dream of long ago.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4, rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all of the motions to suspend the rules.

EXPRESSING SENSE OF CONGRESS CONCERNING DEMOCRACY IN REPUBLIC OF KOREA

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 345) expressing the sense of the Congress concerning democracy in the Republic of Korea.

The Clerk read as follows:

H. CON. RES. 345

Whereas over three decades ago United States troops fought shoulder to shoulder with the armed forces of the Republic of Korea in defense of Korea's freedom, and over 50,000 Americans gave their lives for that cause;

Whereas the United States continues to have a vital interest in the security of the Republic of Korea, as demonstrated by provision of more than $12,000,000,000 in economic and military assistance since 1953, the current stationing of over 40,000 American troops on the Korean peninsula, and

the existence of a bilateral treaty of military security;

Whereas the Republic of Korea, a friendly country allied with the United States, has made remarkable strides in promoting widespread economic prosperity and educational progress;

Whereas the security of the Republic of Korea is best ensured by deterring an attack by the forces of the Democratic People's Republic of Korea;

Whereas one element of deterrence is the internal stability of the Republic of Korea, which is best promoted by rapid progress toward full democracy;

Whereas the Korean people are clearly desirous and capable of participating in a genuinely democratic system without endangering the security of their country;

Whereas the February 1985 National Assembly elections constituted a significant step in the establishment of democracy in the Republic of Korea;

Whereas President Chun Du Hwan has repeatedly declared his intention to honor the constitutional restriction limiting him to only one 7-year term, which would lay the foundation for a peaceful transition of power;

Whereas free and fair presidential elections in late 1987 or early 1988 will provide an opportunity to realize the democratic aspirations of the Korean people;

Whereas a petition campaign calling for direct presidential elections has been permitted to go forward, and the Government of the Republic of Korea has indicated a willingness to consider constitutional revisions before the presidential elections; and

Whereas in spite of Korea's remarkable educational and economic progress, the Government of the Republic of Korea continues to restrict fundamental rights of freedom of speech and freedom of the press, as well as restricting the right of individuals to engage in political activity, and has resorted to the incarceration and in some cases, according to credible reports, torture of some of its political opponents: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring) That it is the sense of the Congress that the interest of the United States is political stability and human rights in the Republic of Korea would best be served by rapid progress toward a full democracy, specifically by—

(1) a dialogue between the government and the opposition, in a spirt of reconciliation, designed to resolve their differences and to facilitate the establishment of genuine democrocy in the Republic of Korea;

(2) the peaceful and democratic transfer of the Presidency of the Republic of Korea through elections which are designed, by agreement among the political parties, to give the Korean people confidence that the outcome of those elections reflects their will and wishes;

(3) guarantees for all citizens of the Republic of Korea of freedom of speech, freedom of assembly, freedom of the press, and due process of law; and

(4) release of all political prisoners and the restoration of political rights for all those for whom such rights have not yet been restored.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes and the gentleman from Iowa [Mr. LEACH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution both reaffirms the commitment of the United States to the security of the Republic of Korea and simultaneously expresses the sense of the Congress that further progress needs to be made toward the establishment of genuine democracy in that country.

I want to pay particular tribute to the gentleman from Ohio [Mr. FEIGHAN], who originally introduced this legislation, and who has been deeply concerned about and committed to the cause of human rights and democracy in South Korea as any other Member of Congress.

We will be hearing from the gentleman from Ohio shortly in the debate on this legislation, but I did want to take particular note of his very creative contribution to the formulation of this legislation.

Mr. Speaker, there are few countries in the world with which the United States has had a closer or more intimate relationship over the course of the last three decades than the Republic of Korea. Over 50,000 Americans gave their lives during the Korean war in order to help preserve the territorial integrity and political independence of South Korea.

Since the end of that conflict, we have provided over $12 billion in military and economic assistance to South Korea. At this very moment, about 40,000 American troops are stationed in South Korea, some of them just south of the demilitarized zone. Because we have a mutual security treaty with the Republic of Korea, if another war were to break out on the Korean Peninsula our forces would immediately and instantaneously be involved. As a consequence, we have a very real interest in preventing the outbreak of another conflict on the Korean Peninsula and in helping South Korea to deter another act of aggression by North Korea against it.

Mr. Speaker, I think it is probably fair to say that in the last three decades South Korea has made enormous economic progress. During that period of time a rather substantial middle class has been established in South Korea. Virtually, the entire population is literate. As a result of this growing economic prosperity and educational achievement, the people of South Korea clearly would like to now enjoy the benefits of democracy as well.

There has been, to be sure, some progress toward the establishment of democracy in South Korea in the last few years. Parliamentary elections took place in 1985 in which the opposition was permitted to participate. President Chun Doo Hwan has pledged over and over again to respect the constitutional limitation of only one term for the Korean President, which would make him the first President in South Korea to voluntarily relinquish power when his term ends in 1988.

The Government is also giving the opposition permission to conduct a petition campaign calling for the direct election of the Korean President in the 1988 election. And yet, for all the progress which has been made toward the establishment of democracy in South Korea, there is a lot that remains to be done. There are restrictions on freedom of the press. There are hundreds of political prisoners, and there are credible reports that many of those prisoners have been tortured by the Korean authorities. In the absence of further progress toward democracy in South Korea, there is a very real possibility that there could be widespread instability in the south. And if there should be widespread instability, it could conceivably tempt Kim Il-song, the leader of North Korea, to conclude that the time had come to fulfill his historic ambition to reunify the Korean Peninsula under Communist control.

Given, therefore, our interest in preventing another conflict on the Korean Peninsula, we also clearly have an interest in maintaining political stability in South Korea. At this point in the history of that country, poltical stability is best assured not by a continuation of repression but by real progress toward democracy. That is why this resolution calls upon the Government and the opposition, in a spirit of reconciliation, to enter into a dialog designed to facilitate the establishment of genuine democracy in South Korea. I am pleased to take note of the fact that such a dialog has recently gotten underway.

Second, this resolution calls for a peaceful transfer of power after the Presidential elections have been conducted, on the basis of an election which gives the Korean people some real confidence that their will and their wishes will be respected. We do not express a preference in this resolution for direct elections versus indirect elections, since we recognize that there can be fraudulent direct elections and fair indirect elections, or vice versa. We do, however, express a very strong preference that however the forthcoming election is conducted, it should be done in a way which gives the Korean people some real confidence that their will and their wishes will be respected.

Third, the resolution calls for guarantees for all of the people of South Korea with respect to freedom of speech, freedom of assembly, freedom of the press, and due process of law.

Finally, it calls for the release of all political prisoners and the restoration of the political rights for those with whom such rights have not yet been restored, such as Kim Dae Jung and a number of other Korean leaders who have been active in the democratic opposition in that country.

I am pleased to say that this resolution enjoys very strong bipartisan support. The administration has indicated it has no objection to the resolution, and I believe that with a strong vote here in the House and with the at least tacit approval of the administration, this resolution will send a strong signal both to the Government and to the people of South Korea that their good friends, the United States, is on the side of democracy in that country.

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 345, expressing the sense of the Congress regarding democracy in the Republic of Korea and calling for a dialog between the government and the democratic opposition to resolve their political differences and facilitate the establishment of a genuine democracy in South Korea. The resolution also calls for the peaceful and democratic transfer of the presidency through elections which the people of that country confidently believe reflects their will. Finally, the resolution calls for the release of political prisoners, the restoration of political rights for all those whose rights remain restricted, and guarantees of free speech, press, assembly, and due process.

The people of the United States value their special relationship with the people of South Korea. Our shared sacrifices during the Korean war plus the continued presence of some 40,000 United States troops demonstrate our commitment to the security of the south against the Communist tyranny of the north. And, as House Concurrent Resolution 347 which concerns North Korea's human rights record points out, the human rights picture in the north is far bleaker than in the south. Unlike the south, where lively debate is focused on how genuine democracy can be achieved, the north makes no pretext of engaging in such debate. The remarkable economic and educational accomplishments of South Korea also stand in stark contrast to the north.

While the Government's response to internal pressures for democratic reform has been somewhat uneven, there have been significant steps in the right direction. As the resolution notes, the February 1985 elections for the national assembly represented a significant step toward democracy and the government has, this year, also reversed its opposition to pre-Presidential election constitutional election revisions which the national assembly has already begun addressing. President Chun's declared commitment to honor the constitutional restriction against a second 7-year term also lays the basis for a peaceful transition of Presidential power.

On the other hand, we cannot ignore the serious problems which remain in South Korea, such as the practice of torture, the continuing restrictions on the political rights of certain individuals such as Kim Dae Jung, the incarceration of other individuals for the peaceful expression of their political views, and restriction of fundamental political and civil rights of free speech, press and assembly. The manner in which the government responds to these particular problems as well as the larger debate over the next presidential elections are not only a test of the degree to which the government is committed to democracy but ultimately has to do with the very security of the south inasmuch as failure to respond to the democratic aspirations of the Korean people could undermine internal stability in the south.

In recent testimony before the Subcommittee on Asian and Pacific Affairs, the Assistant Secretary of State for East Asia Gaston Sigur outlined what he believes to be the appropriate U.S. role in the context of these political developments. He called for a dialog between the government and opposition and emphasized the need for moderation and compromise. In addition, he said the United States should condemn violations of human rights and restrictions on political participation. The resolution before us today, House Concurrent Resolution 345, is therefore consistent with United States policy toward South Korea as articulated by the executive branch.

In closing, I want to commend the gentleman from Ohio [Mr. FEIGHAN] for his leadership on this legislation of which I am pleased to be a cosponsor. I also want to commend the gentleman from New York, the chairman of the Subcommittee on Asian and Pacific Affairs, for his leadership as well in bringing this measure to the floor in expeditious fashion.

I urge the Members of this body to give House Concurrent Resolution 345 their unanimous support.

Mr. Speaker, I yield to the gentleman from Michigan [Mr. BROOMFIELD], the distinguished ranking minority member on the Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Speaker, I support this resolution expressing the sense of Congress concerning the need for full democracy in the Republic of Korea.

South Korea and the United States have a special relationship. Over 50,000 brave Americans gave their lives in defense of South Korea's freedom. During the past 30 years, our country has given more than $12 billion in economic and military assistance to that country. Today, thousands of United States military personnel are stationed in South Korea as part of America's commitment to defend that country.

Much progress toward democracy has been made by the Government of South Korea. It is clear that South Koreans are fully capable of participating in a true democracy.

We all realize that the 1985 national assembly elections were a significant step toward democracy. President Chun is committed to step down at the end of his term.

The Government there has permitted the petition campaign on presidential elections to proceed. These are positive steps which our Government must encourage.

We must never forget that the threat from North Korea is still very real, which is why we must continue to maintain United States troops in South Korea. In recent years, the North Koreans have undertaken aggression, subversion, and terrorism as part of a campaign to bring down the Government of our ally in the south.

I again express my support of this resolution.

Mr. LEACH of Iowa. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I cannot escape making the observation that we consider this resolution today under circumstances that are much different from what is usually the case when human rights resolutions of this kind are being debated. As a general rule, it would seem that these debates most often take place against the backdrop of political chaos and socioeconomic disarray in the country under discussion. But such is not the case with South Korea.

As the resolution makes note, South Korea has made remarkable economic and social progress during recent years. And while there have been some encouraging developments in South Korea's political evolution, there is some distance yet to go. This resolution seeks to encourage our South Korean friends to go that final distance toward the realization of a democratic political system that is commensurate with the tremendous progress that they have made in other fields.

I am very hopeful about the eventual outcome of the political dialog now emerging in South Korea. Even as this resolution was being marked up, President Chun was meeting with Lee Min Woo, the leader of the New Korea Democratic Party, to begin setting up the process by which constitutional revisions can be negotiated. This is a

very important and encouraging development.

I am personally persuaded that President Chun is sincere in his announced intentions to relinquish political power at the end of his term of office in 1988—and that he desires very much to bequeath to his country a peaceful, orderly, and legitimate transfer of power. Such would be a great legacy to leave behind. And the issue of political succession is made all the more important because the attention of the entire world will be focused on South Korea in 1988, as the host country of the summer Olympics.

The honor and responsibility associated with hosting the Olympic games have made the South Koreans ever more cognizant of the need to reform their political system in such a way that their country can assume its rightful place as an important member of the world community.

Let me just say in conclusion, Mr. Speaker, that I trust the adoption of this resolution will be received by the South Koreans in a spirit of good will—that this resolution represents a sympathetic attempt on our part to encourage the continued development of democracy in South Korea. We value South Korea very greatly as a friend and ally, and we want what is best for all freedom-loving South Koreans.

Let us not be misunderstood, Mr. Speaker. Thousands and thousands of South Koreans stood shoulder to shoulder with Americans fighting in the Korean war. They died side by side. They are a front-line country against the unconscionable and despicable spread of atheistic communism. We applaud the South Koreans. They are wonderful people. Let us make sure we will always stand side by side with them in that effort.

Mr. SOLARZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. FASCELL], the very distinguished, beloved and highly respected chairman of the Committee on Foreign Affairs.

Mr. FASCELL. I thank the gentleman from New York for yielding time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 345. This resolution, which was approved by the Committee on Foreign Affairs unanimously on June 5, draws appropriate and timely attention to the situation in the Republic of Korea and provides clear encouragement for political progress there.

House Concurrent Resolution 345 expresses the sense of Congress regarding political change in South Korea. It emphasizes the need for dialog between the government and the opposition, the need for a peaceful transition to full democracy, and the need for guarantees of fundamental freedoms and for the release of all political prisoners.

Recently, the government of President Chun has shown a willingness to undertake measures endorsed by this recognition. Dialog is now ongoing between the ruling Democratic Justice Party and the opposition New Korea Democratic Party. For the moment, there is the prospect that legislative revision may open the way for direct presidential elections.

These developments deserve our praise. We encourage President Chun and his Government to undertake further steps—indeed strides—toward genuine democracy in the coming weeks and months. For events in the past year have clearly shown how much the people of Korea want a say in their affairs and want an absolute and immediate end to human rights abuses.

In this regard, the recent report of Amnesty International on violations of human rights in South Korea should prod greater resolve on the part of the Government. It is time for the political and civil rights of all Koreans to be restored and respected. It is time to end the arbitrary and unfair imprisonment of citizens wishing to express rights we in the United States take for granted. It is time for the revolving door of arrest and releases of Koreans on political grounds to stop.

Likewise, the practice of torture must end. Sadly, the Amnesty International report confirms what the State Department and other human rights groups have already documented: numerous incidents of torture and police mistreatment in South Korea. Many of us in the Congress have deplored such practices on other occasions. They remain unjustifiable for any nation but especially unbecoming of a country that is assuming such international prominence as the Republic of Korea. I urge the Korean Government to take immediate action to end this and other human rights violations.

Mr. Speaker, I urge the unanimous adoption of this resolution.

□ 1310

Mr. SOLARZ. Mr. Speaker, I yield such time as he may consume to one of the great champions of human rights in the House of Representatives, the very distinguished chairman of the Subcommittee on Human Rights and International Organizations, the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. I thank the gentleman for yielding me this time.

Mr. Speaker, I strongly support House Concurrent Resolution 345, expressing the sense of the Congress concerning democracy in the Republic of Korea. Acknowledging the serious human rights situation in this Asian country, and determining what measures our Government should take are actions which are timely and warranted.

Congress plays an important role in promoting U.S. concern for human rights by evaluating the human rights record of recipient countries when considering allocations for economic and military assistance. But monitoring human rights and encouraging democratic political structures throughout the world is an ongoing process which always factors into Congress' view of U.S. foreign policy. Resolutions such as this one indicate that we are serious about free and fair elections, that we respect freedom of speech and freedom of press, and that we will not ignore abridgements of these rights no matter where or when they occur.

The Republic of Korea has made some improvements in its democratization process. However, despite guarantees of rights in the constitution and President Chun's proclamations about defending and strengthening freedom, South Korea is neither fully democratic nor free from repression. The opposition, once comprised of students and laborers, now includes many mainstream Koreans, as well as several leaders of the Catholic and Protestant churches.

While the South Korean Government has legitimate concerns for the internal security and protection of its people against North Korean aggression, these concerns should not override its responsibility to uphold domestic and international human rights law. The United States Government has definite security interests in South Korea. It is this bond that has linked our two countries in the past, and will continue to do so in the future. But we have an even stronger tie with the South Korean people. Together we have fought against communism and oppression, and now together we must realize the fruits of our efforts—liberty and freedom.

I would like to commend the gentleman from Ohio [Mr. FEIGHAN] for his leadership and perseverance on this issue. He has done a great service for not only the South Korean people, but the American people as well, I would also like to commend the gentlemen from New York [Mr. SOLARZ and Mr. SOLOMON] for their efforts regarding House Concurrent Resolution 345.

Mr. SOLARZ. Mr. Speaker, I yield such time as he may consume to the author of this resolution, the gentleman who first introduced it into the House, a great friend of the cause of democracy in South Korea and elsewhere in the world, the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I am very pleased and grateful for the interest and involvement of my colleague, Mr. SOLARZ, the

chairman of the Subcommittee on Asian and Pacific Affairs in working on this resolution, and for his genuine concern, determination, and leadership on this issue of democracy in the Republic of Korea.

I would also like to thank the chairman of the Subcommittee on Human Rights, Mr. YATRON, for his willingness to allow expedited consideration of this resolution which not only conveys the United States concern for the future of democracy in South Korea, but clearly establishes a bipartisan commitment to encouraging swifter progress in a number of crucial areas.

Mr. Speaker, the Republic of Korea has come to a critical crossroad in its short history. While the Korean economy continues to astonish the world with its growth and productivity, the political situation in that country makes headlines for its repression and stubborn adherence to authoritarian tactics. This is not only a sad paradox for the people of South Korea who have paid so dearly for their freedom, it is a dilemma for the United States because it pits our pride in Korea's economic progress against our dissatisfaction with the pace of democratization in that country.

This resolution attempts to encourage both the Government and the opposition in South Korea to work with speed to avert what could be a catastrophic confrontation over the election of the next President of the Republic of Korea.

The coming presidential elections in South Korea will be a litmus test for the future of Korean democracy. In light of the dramatic successes of the political opposition in the last year and a half, the manner in which that election is conducted and the success of its outcome will be critical to Korea's future.

Open to question are many aspects of the political process: How will candidates be chosen, and by whom? How much latitude will the press be given to report to the Korean people on the progress of any campaign? How free will candidates be to hold rallies, give speeches, criticize the current Government?

In the past, elections in South Korea have been conducted with severe restrictions on those rights. Only in the National Assembly elections of a year and a half ago did a significant shift occur, giving rise to the present debate.

It is certainly not our intent to dictate the manner in which this election should take place, nor is it our prerogative. But it is clearly our responsibility as a strong friend and close ally to express what should be the intent of any democratic election: That it be free. That it be fair. And that it give the people of Korea the opportunity to choose their next leader in a way which leaves no doubt that he or she has the support of the Korean people.

There is no doubt that the current system in Korea is inadequate to give the Korean people that assurance. Democracy cannot exist in an environment that restricts certain members of the political community from participation in the process. It cannot exist when the people of a country cast votes that may not be counted in favor of the candidate they support. And it cannot exist when the views of those critical of the Government are banned from the airwaves and restricted in the printed press.

South Korea has much to be proud of: A strong educational system and a dedication to excellence; an extraordinary economy that has set new standards for growth in the developing world; and a historical commitment to freedom from the bonds of foreign occupation and Communist aggression. These are the building blocks of a strong democracy and the foundation of our longstanding freindship with the people of South Korea.

I sincerely hope that this resolution will contribute to that friendship by sending a message of support and encouragement to the people in the Republic of Korea for their efforts to bring peaceful change and full, participatory democracy to their country.

I urge the resolution's adoption.

□ 1320

Mr. LEACH of Iowa. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS], who is a veteran of the Korean war.

Mr. GEKAS. I thank the gentleman for yielding time to me.

Mr. Speaker, I am very much enthralled by the tenor of the debate this morning on this important resolution.

Mr. Speaker, last August I witnessed the Little League World Series that took place in Williamsport, PA. Now what in God's name, you will ask, does that have to do with the tenets of this resolution? The final game happened to take place between a team that had won the Far East championship, which represented South Korea, the Republic of South Korea, against the United States finalist, in that important final game at the World Series in Williamsport, PA.

If the Members of the House could have been there to see both teams saluting both flags, singing both anthems, joining in the festivities before and after the game, engaging in battle, as it were, on the baseball field, but symbolically emblazoning the cause of freedom by their very presence in an American free game known throughout the world as baseball, and symbolizing the best that is in America, that moment should be inculcated in the sense of this resolution.

The pride with which the South Korean youngsters played baseball on American soil and saluted the American flag, and then watched their American counterparts do the same for the South Korean symbol of freedom, that spoke volumes on what we are about here today.

We, and the South Korean people go back now in the cause of freedom a whole generation, and these youngsters who never even learned of that conflict except through their schoolbooks now have full exposure to the United States of America and know what we are about. We owe it to them to continue that framework of cowork and relationship that has existed these many years.

I intend to support the resolution and, Mr. Speaker, I invite the Members to come back to Williamsport when South Korea next comes for a championship game.

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New York.

Mr. SOLARZ. Who won the game?

Mr. GEKAS. The South Koreans won the championship, the world championship.

I thank the gentleman, and I support the resolution.

Mr. LEACH of Iowa. Mr. Speaker, I thank the gentleman for his very thoughtful appraisal.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 345, expressing the sense of Congress concerning democracy in the Republic of Korea and I commend both gentlemen from New York [Mr. SOLARZ and Mr. SOLOMON] along with the bills' sponsor, the gentleman from Ohio [Mr. FEIGHAN], in bringing this measure to the floor.

Mr. Speaker, Korea remains a divided country decades after the close of the Korean conflict. As much as this division of a nation must pain its people, the people of South Korea must thank their stars for the freedoms they enjoy and which the Koreans in the north can only dream of. Whatever the faults of the South Korean system, they pale before the barbarity of the government in the north.

I note Mr. Speaker that the House is scheduled, later today to consider H.R. 347, with regard to Human Rights in North Korea.

The people of North Korea lack even the most elementary human rights. They are subjected to a personality cult glorifying their leader, Kim Il Sung, in terms that would have made Stalin or Mao blush. Their lead-

ers live in luxury while the vast majority of the people live in unremitting poverty.

With respect to democracy in the Republic of Korea—South Korea, it is clear that the democratic process in South Korea is far from perfect. Many people have felt it necessary to take to the streets to express their views, feeling that they cannot have the desired impact through the ordinary electoral process. However, the South Korean Government is moving forward in its efforts to broaden the base of democracy in their country. They need encouragement, constructive criticism, and support from their friends in this country in that effort. Accordingly, I urge the House to adopt both resolutions.

Mr. TORRICELLI. Mr. Speaker, the resolution we are considering today, House Concurrent Resolution 345, makes an important statement about where the United States stands in the struggle for democracy and freedom in South Korea.

This resolution is a balanced measure and as such has received wide, bipartisan support. Congress is taking note both of the tremendous economic progress achieved by the people of South Korea and the slow pace of political progress. What is at stake here is consistency and the upholding of a single standard. This is not a question of unwarranted U.S. interference in the affairs of another country; we are already involved. We fought together with South Koreans to keep their country free. We continue to station troops in South Korea to guarantee its security. South Korea's prosperity is significantly advanced by its access to United States markets. Many of its young people study in this country, and the large Korean-American community provides a human bridge between our nations.

There are those who have said we must be silent in the face of human rights abuses and monopolization of power by the South Korean Government. Let it be clear that our silence is deemed to be acquiescence. We cannot proclaim our support for democracy around the world and then ignore the yearnings of the people of South Korea.

Congress is not dictating to South Koreans how they should formulate their political system. That is for them to decide. All we are saying is: give democracy a chance. Let those who would engage in political dialog express themselves freely. Our failure to take a stand will be interpreted by millions of South Koreans as a betrayal of the best hopes we share. Let us be true to our own traditions and the wishes of a vibrant and courageous people as we consider this legislation today.

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I also have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 345.

The question was taken.

Mr. FEIGHAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EXPRESSING THE SENSE OF CONGRESS CONCERNING HUMAN RIGHTS IN NORTH KOREA AND REDUCTION OF TENSIONS ON THE KOREAN PENINSULA

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 347) expressing the sense of the Congress concerning the human rights situation in North Korea and the reduction of tensions on the Korean Peninsula.

The Clerk read as follows:

H. CON. RES. 347

Whereas the Democratic People's Republic of Korea (hereafter in this resolution referred to as "North Korea") is a one-party Communist dictatorship, in which there is a comprehensive denial of fundamental human rights—freedom of speech, freedom of assembly, freedom of the press, freedom of religion, and freedom of the people to select their political leaders;

Whereas North Korea is a garrison state, allocating approximately 25 percent of its gross national product to military purposes;

Whereas the North Korean regime seeks to control every aspect of its people's life and thought;

Whereas the Government of North Korea is a Communist dictatorship based on a pervasive personality cult surrounding Kim Il Sung and his family;

Whereas opponents of the North Korean regime are deprived of due process of law and subjected to harsh punishment, reported to include torture and confinement in labor camps;

Whereas North Korea has demonstrated unrelenting hostility towards its neighboring country, the Republic of Korea, including the forward deployment of large numbers of troops in offensive formations near the demilitarized zone separating the two countries;

Whereas North Korea has tried repeatedly to penetrate the demilitarized zone, including the secret construction of tunnels and the deployment of commandos in the Republic of Korea;

Whereas North Korean security personnel attempted to assassinate the President of the Republic of Korea on October 9, 1983, killing 17 other persons in the process, including four members of the President's cabinet;

Whereas the United States has a vital interest in preserving peace on the Korean peninsula and in preventing an invasion of the Republic of Korea by North Korea; and

Whereas the United States is committed, under the terms of the Mutual Defense Treaty with the Republic of Korea signed on October 1, 1953, to take all appropriate measures in defending the Republic of Korea against aggression: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Government of North Korea should cease its clandestine and reckless attempts to subvert the Republic of Korea;

(2) the North Korean regime should agree to measures that will reduce tensions on the Korean peninsula, including a more cooperative approach to the dialogue between the North and South, the genuine demilitarization of the Demilitarized Zone, the mutual and equitable reduction of military forces, family visitation and family reunification, and trade;

(3) the North Korea regime should take steps to reduce its international isolation by favorably considering the cross recognition of the two Korean governments by other countries and dual membership in the United Nations; and

(4) the North Korean regime should take steps to cease its abuse of human and political rights and deprivation of individual freedom.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I rise in support of House Concurrent Resolution 347, expressing the sense of Congress concerning the human rights situation in North Korea and the reduction of tensions on the Korean peninsula. The Foreign Affairs Committee unanimously approved House Concurrent Resolution 347 on June 5, 1986. This resolution directs appropriate attention toward North Korea. Although we do not maintain diplomatic relations with North Korea and otherwise have very little leverage over the regime in that country, North Korean leaders should have no illusions about the position of the U.S. Congress. Our policy should be particularly clear at this time, as certain North-South contacts occur and North Korea seems to be reaching out for respectability and foreign contacts.

The international community was overwhelmingly appalled when North Korean

agents assassinated South Korean leaders in Rangoon in 1983. This incident only added to a sorry history of internal and international practices of that regime.

Yet notwithstanding ample reasons for caution, leadership on both sides of the demilitarized zone have approached each other. Despite the fundamental gaps between North and South Korea, we should add our encouragement to efforts to ease tensions on the Korean Peninsula.

This resolution makes clear our opposition to North Korean subversion and our view that North Korea should work genuinely to ease tensions and reduce its international isolation as it also must cease its abuses of human rights and deprivation of freedom for its own citizens.

Mr. Speaker, I urge the unanimous adoption of this resolution.

Mr. SOLARZ. Mr. Speaker, I yield such time as he may consume to my very good friend, the distinguished ranking minority member of the Committee on Foreign Affairs, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I offer my strong support for this resolution concerning the tragic human rights situation in North Korea and the reduction of tensions on the Korean Peninsula.

The human rights record of North Korea is clear to all of us. That garrison state routinely denies the human rights of its citizens and seeks to control every aspect of life in that closed society. That Communist dictatorship crushes opponents and undertakes hostile actions against South Korea. The Government of North Korea even resorted to an act of terrorism in an attempt to assassinate the President of South Korea.

This sense-of-Congress resolution calls upon the Government of North Korea to cease its efforts to subvert South Korea. North Korea should undertake efforts to reduce tensions on the Korean Peninsula. It should take steps to reduce its international isolation as well as ceasing the human rights abuses of the North Korean people. Only than can real peace come to the Korean Peninsula.

I call upon my colleagues to join me in supporting this resolution.

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to pay particular tribute at this point to my very good friend, the gentleman from New York [Mr. SOLOMON] who introducted this resolution. When we first began to seriously consider in our subcommittee adopting a resolution on the human rights situation in South Korea in order to express our view that further progress needed to be made there toward the establishment of democracy, the gentleman from New York quite rightly pointed out that whatever problems there may be with human rights in South Korea, they are dwarfted by the human rights problems which continue to exist in North Korea. He very strongly suggested that if we were going to move forward with the resolution on South Korea, it would only be appropriate to move forward with a resolution on North Korea as well.

I thought that that was a point which was very well taken, and I am pleased that he not only introduced House Concurrent Resolution 347, but that the subcommittee and then the full Committee on Foreign Affairs voted overwhelmingly to report it out.

I think that, in conjunction with the previous resolution that we have just adopted, it puts this House in a posture which enables us to take a balanced view toward the political situation on the Korean Peninsula.

This resolution clearly takes note of some of the egregious human rights violations which continue to exist in North Korea, and it also takes note of the destabilizing activities on the part of North Korea, ranging from their construction of tunnels under the DMZ to their efforts to assassinate virtually the entirety of the South Korean Cabinet in Rangoon a few years ago.

□ 1330

Like a number of the other Members of the House, some of my friends were killed in that incident, including South Korean Ministers whom I had come to know and respect over the years. I thought that was really one of the most dreadful acts to have taken place in international relations in a long time.

The resolving clause of this resolution specifically calls on North Korea to cease its efforts to subvert South Korea. It calls on North Korea to agree to measures which would facilitate a reduction of tensions on the Korean Peninsula, such as the actual demilitarization of the demilitarized zone.

It also calls on North Korea to take steps to reduce its international isolation by favorably considering the cross-recognition of the two Koreas by the United States and the Soviet Union and the People's Republic of China and Japan, as well as dual membership of both North Korea and South Korea in the United Nations.

Let me say here, Mr. Speaker, that this would in no way mitigate against the eventual reunification of the Korean Peninsula, which is an aspiration shared by all the people of that country, North as well as South. But clearly, if that objective is ever going to be achieved, it can only be achieved in the context of a substantial reduction in tensions on the Korean Peninsula.

Finally, the resolution calls upon North Korea to take steps to cease its abuse of human and political rights and its deprivation of individual freedom.

So I strongly support this resolution. I think it is a well-balanced resolution. I think, particularly in comparison to the resolution we have adopted on South Korea, which is a friend and ally of the United States, the rhetoric in this resolution makes it very clear that we do have a balanced perspective on the Korean Peninsula as a whole.

I think it will enhance the credibility of this institution as a parliamentary body, which is committed to the extension of human rights and democracy in tyrannies on the left as well as in governments which are inclined toward repression on the right.

When it comes to democracy and human rights, there can be but one standard, and that is the standard which we have upheld today through the adoption of both these resolutions.

Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Human Rights and International Organizations, the gentleman from Pennsylvania [Mr. YATRON] who helped to steer this resolution through his subcommittee and the full Committee on Foreign Affairs and who has come today to lend his considerable support to it.

Mr. YATRON. Mr. Speaker, I rise in strong support of House Concurrent Resolution 347. Human rights in North Korea are practically nonexistent, and yet, the flagrant violations of this Asian government continue to be ignored. Why is it that this Communist dictatorship can deny freedom of speech, freedom of assembly, freedom of the press, freedom of religion, and free elections without incurring constant pressure and scorn from the international community?

As chairman of the Subcommittee on Human Rights and International Organizations, I believe it is, once again, time to hold this North Korean regime accountable for its oppressive policies. It is up to the United States Congress to say to the Democratic People's Republic of Korea that we know what you are doing—to your own people, to your neighboring country, South Korea, and to the prospect of preserving peace on the Korean Peninsula. The mere fact that this is a Communist country where grievous offenses are systematic and inbred does not lessen our responsibility to speak out against them.

Just as the United States must acknowledge and address the human rights violations of those countries with which we are aligned or have some shared interests, we, too, must not ignore the threat of aggression from those countries which perpetrate the downfall of democracy and the denial of individual liberty. House Concurrent Resolution 347 gives us an opportunity to make a significant statement to both the Government of North Korea and the outside world.

I would like to commend the gentleman from New York [Mr. SOLOMON] for his interest in the human rights

situation in North Korea. As ranking minority member of the Subcommittee on Human Rights and International Organizations, Mr. SOLOMON has continually demonstrated his dedication to the preservation of human rights throughout the world.

Once again, Mr. Speaker, I would like to commend the gentleman from New York [Mr. SOLARZ] for his even-handed approach on human rights.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my resolution addresses the human rights situation on the other half of the Korean Peninsula. I offered it as a companion piece to the resolution concerning South Korea because of my concern that we take into consideration the complete context in which the human rights situation on the Korean Peninsula must be viewed. In particular, no discussion of the contemporary situation in South Korea is really complete without considering the very serious threat that South Korea faces from its neighbor to the north.

Mr. Speaker, Communist North Korea has one of the most thoroughly repressive and militaristic regimes that has ever existed in the modern world. To a degree that is unprecedented even in Communist countries, the North Korean political and social systems revolve around one man—one all-pervading personality cult surrounding the person of Kim Il-Sung.

The denial of essential human rights in North Korea is so complete—so comprehensive—as to practically give new meaning to the word "totalitarian." Aside from the grim realities of everyday life with which the people of North Korea must cope, there are estimated to be at least 100,000 political prisoners languishing in Kim Il-Sung's jails and labor camps and any notion of due process of law is dismissed out of hand.

It should come as no surprise then that any such regime would be a destabilizing force in whatever region of the world it is located. And true to form, North Korea operates in a condition of total military mobilization with as much as one-fourth of the country's gross national product devoted to the military.

The so-called demilitarized zone separating the two Koreas is in truth the most heavily fortified national frontier in the world. North Korea, a country of 19 million people, maintains three-fourths as many artillery pieces along the DMZ as the United States does in the entire world.

North Korea's unrelenting hostility toward South Korea has been demonstrated time and again, from massive troop deployments in offensive formations along the border to the repeated attempts by North Korean commandos and other paramilitary forces to infiltrate South Korea and to dig tunnels under the DMZ.

Perhaps the most graphic and frightening evidence of North Korea's hostile designs was the terrorist attack by North Korean security personnel against President Chun and his entourage during his state visit to Burma in 1983. Not only were 17 people killed in the process, including four members of the South Korean Cabinet, but Burma's most important national shrine was blown up and President Chun himself narrowly escaped death.

Mr. Speaker, all of this is of vital importance to the United States because, as this resolution makes note, our country is committed, under the terms of a mutual defense treaty, to take all appropriate measures in defending South Korea against North Korean aggression.

I believe this resolution is an important and necessary complement for the resolution on South Korea. By taking into consideration the serious threat that South Korea faces from the north, we can better understand the situation on the Korean Peninsula as a whole.

I want to thank Chairman SOLARZ and Chairman YATRON and ranking member, Mr. LEACH of Iowa, for their help and cooperation in expediting this resolution and for considering it in tandem with the resolution on South Korea.

Mr. SOLARZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, I thank the gentleman for yielding.

I would like just momentarily, if I can, to compliment the gentleman from New York [Mr. SOLOMON] for bringing this resolution to the floor this afternoon. As the gentleman indicated in his comments, it does bring an important balance to our discussion about human rights and the Korean Peninsula. That is a discussion that cannot be fairly reviewed, cannot be evenly considered, unless it does include the elements that are in this resolution.

The gentleman from New York has been an extremely valuable contributor in our committee's consideration of human rights problems throughout the world, but particularly in this area of the world, and his resolution brought to the floor this afternoon I think is testimony to that contribution and serves a tremendous goal for both the Korean people, and most importantly as well, for the fashioning of an American foreign policy that can be most helpful in their struggle for freedom.

Mr. SOLOMON. Mr. Speaker, I yield whatever time he may consume to the distinguished ranking Republican on the Asian and Pacific Affairs Subcommittee, a Member who has no peer in his leadership in human rights in this body, the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Speaker, I rise in support of House Concurrent Resolution 347, which expresses the sense of the Congress concerning the human rights situation in North Korea and the reduction of tensions on the Korean Peninsula. I want to commend the gentleman from New York [Mr. SOLOMON] for introducing this resolution and the other gentleman from New York, the chairman of the Subcommittee on Asian and Pacific Affairs, for his leadership in bringing this measure to the floor.

It is all too often that our legitimate concern over human rights in South Korea causes us to overlook the egregious human rights record of the Kim Il-Sung regime in North Korea. Although access to the north is far more restricted than access to the south and comprehensive information on human rights in the north far less available than the south, we do know, according to the annual human rights reports prepared by the State Department, that it is a rigid Communist system, to which all individual human rights have been subordinated. Not only is there no tolerance in the north for democratic political dissent, which is permitted in the south, but severe punishment is meted out for so-called political crimes against the State. Information in the north is tightly controlled as well and freedom of the press is virtually unknown. There are reliable reports of torture and mistreatment of prisoners as well as the use of labor camps. Over the years, the regime has engaged in systematic religious persecution and today continues to restrict the right of religious practice.

Assistant Secretary of State for East Asian Affairs Gaston Sigur, in recent testimony before the Subcommittee on Asian and Pacific Affairs, noted that military expenditures by the north may consume 25 percent of its GNP. There is no question that the aggressive military posture of the north represents a significant threat to the security of the south. The resolution before us today, House Concurrent Resolution 347, calls for an end to North Korean efforts to subvert the south and for North Korean support for measures to reduce tensions on the Korean Peninsula, including a more cooperative approach to the dialog between the north and south, the genuine demilitarization of the demilitarized zone, the mutual and equitable reduction of military forces, family visits and family reunification, and trade. Finally, it calls for an end to human rights abuses.

Fundamentally, however, the key point in these two resolutions on Korea which are being considered in tandem, is that there is no spot on the

globe, excluding perhaps the division between East and West Germany, where the contrast between communism and democratic capitalism is more evident.

Thirty-five years ago North Korea had a GNP and natural resource potential far greater than the south. Today, South Korea has an overwhelmingly stronger economy and, despite imperfections, a budding democracy.

Mr. Speaker, I am informed that this resolution is consistent with U.S. policy and would urge my colleagues to give this measure their fullest support. Few distinctions in the world give greater cause for reaffirming our values and foreign policy than the contrast between North and South Korea.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 347.

The question was taken.

Mr. SOLOMON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

WELCOMING THE AFGHAN ALLIANCE

Mr. SOLARZ. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the Senate joint resolution (S.J. Res. 365) welcoming the Afghan alliance, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. LAGOMARSINO. Reserving the right to object, Mr. Speaker, and I shall not object, I am thankful for this opportunity allowing me to speak on the situation in Afghanistan and the visit of the delegation of the Islamic Unity of Afghan Mujahideen led by spokesman Burhanuddin Rabbani. In my capacity as cochairman of the Congressional Task Force on Afghanistan, I have been closely monitoring the tragic events of the past 6 years in that sorely troubled land.

Mr. Speaker, as you know, the Soviet Army invaded Afghanistan in December 1979 following a series of unpopular Communist coups. Their apparent goal was to support their puppet regime of Babrak Karmal and formally transform Afghanistan into another Soviet satellite. The result of this invasion, though, was mass resistance to this illegal Soviet occupation.

This struggle by the Afghan people against some 120,000 Soviet troops has been very costly. Millions of Afghanis have been forced to flee their homes and have become refugees in Pakistan and Iran. Hundreds of thousands of others have been indiscriminately killed and maimed. The Soviets have followed a scorched earth policy in Afghanistan resulting in the destruction of entire villages, crops, herds of livestock, and even irrigation systems. Because of this inhuman policy, many Afghanis are facing starvation. In addition, the Soviets and their unpopular Afghani puppets use torture, indiscriminate arrests, and hostage taking to subjugate the Afghan people, all well documented in the Ermacora report to the United Nations.

Last January, I visited Pakistan and my view was reinforced that despite these hardships, the Afghani people are determined to liberate their country at any cost. Leading the struggle are the freedom fighters called the Mujahideen. The seven main groups of the Mujahideen operate under a unified command and have the loyal support of most Afghanis. The Mujahideen are welcomed and provided for by the Afghan populace in all parts of the land. In fact, even in the cities like Kabul and Herat that the Soviets claim to control, the Mujahideen are active and popular. It is, therefore, not surprising that one journalist who traveled with the freedom fighters in Kabul equated them to the freedom fighters of the French resistance in World War II. The Mujahideen even have support within the Afghani armed forces. This is evident by the extremely high desertion rate. Because of the questionable loyalty of the Afghani Army, the Soviets often do not entrust it with sensitive tasks.

Despite this heroic resistance, we must not forget the size or power of the Soviet force the Mujahideen opposes. The Soviet Red Army is one of the world's largest and best equipped and while reports indicated that there are 120,000 Soviets in Afghanistan, there are thousands more, probably at least 30,000, readily available across the border. Against the lightly armed Mujahideen, the Sovets deploy tanks, guided missiles, rockets, and artillery. In the skies, the Soviets use the MI-24 Hind helicopter gunship and attack jets against the Mujahideen and innocent Afghani villages. There have also been credible reports of chemical warfare being used against these defenseless tribesmen.

Afghanistan has become the proving ground for Soviet tactics and weapons. According to the Department of Defense, the new Soviet SU-25 Frogfoot close support aircraft and later models of the Hind gunships have been combat tested on the Afghani people. The Soviets have also tested and now use butterfly bombs against young Afghani children. Thousands of children have been killed or maimed as a result of playing with these inhuman Soviet toys.

During my recent visit with Mujahideen leaders in Pakistan, I was struck by the determination of the people to regain their nation. Whether they receive external assistance or not, they will fight. If they run out of arms, they will fight with rocks until there are no more Afghanis left to resist. Fortunately, they have more than rocks to fight with. However, they are still underequipped and underpowered. They need weapons that will enable them to fight back against Soviet tanks and, more importantly, Soviet airpower. They need to be able to protect their farms and families from indiscriminate aerial bombing. They need the weapons necessary to present a strong, credible resistance against the well-armed Soviets.

While arms and military supplies are necessary to continue the struggle against the Red Army, we must not forget the plight of the Afghani people. An amendment to the fiscal year 1986 foreign assistance bill by Senator GORDON HUMPHREY and I authorized $15 million in overt humanitarian aid directly to the Afghan people. I recently learned from an aid that this money will be used to continue ongoing activities and fund projects in education, health, livestock, and commodity support.

Last week, many of my colleagues and I had the opportunity to discuss the current situation in Afghanistan and the needs of the Mujahideen with the delegation of the Islamic unity of Afghan Mujahideen led by spokeman Rabbani. My faith in and support for the Afghans' valiant struggle was reinforced by the frank, open comments of spokeman Rabbani. His courage and determination to eradicate his nation of its Soviet oppressors was clearly recognized by President Reagan, Secretary of State Shultz, and my fellow Members of Congress. To commemoorate his first official visit to the United States and reaffirm our solid support for the Afghan people, I have

worked with Senator GORDON HUMPHREY, the cochairman of the Congressional Task Force on Afghanistan in the Senate, in formulating Senate Joint Resolution 365.

Passing this resolution quickly will further signal America's determination to champion the Mujahideen's cause and provide spokesman Rabbani with the warm, official welcoming that he and his brave colleagues deserve.

Again, Mr. Speaker, thank you for this opportunity allowing me to share my views on Afghanistan and express my support for Senate Joint Resolution 365.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. LEACH of Iowa. Reserving the right to object, Mr. Speaker, and I shall not object, I rise in support of Senate Joint Resolution 365, a resolution reaffirming U.S. support for the valiant struggle of the Afghan people and welcoming the delegation of the Islamic Unity of Afghan Mujahideen, led by Burhanuddin Rabbani, on their visit to the United States.

Although Mr. Rabbani has left Washington, I was honored to have had the opportunity to meet him last week and to join today in paying this tribute to him and his courageous people.

On May 1, 1986, the Subcommittee on Asian and Pacific Affairs held a hearing on the situation in Afghanistan, during which the subcommittee heard afresh reports of continuing Soviet brutality and atrocities in that country. Yet despite these enormous adversities, the presence of some 120,000 Soviet troops and the more advanced technology of the Soviet and Communist Afghan forces, the administration told the subcommittee that there is "every prospect that the Afghan resistance will continue to become more potent militarily and better able to wage political war against the Soviets, both inside Afghanistan and in the international arena."

Against the backdrop of continuing military engagements inside Afghanistan, the United States continues to back strongly the U.N. negotiating process and to support a negotiated settlement based on the withdrawal of Soviet forces, self-determination for the people of Afghanistan, the safe return of Afghan refugees to their homeland, and nonaligned status for Afghanistan.

International opposition to, and protest against, the continuing Soviet occupation of Afghanistan reached record levels last fall when the U.N. General Assembly voted by the largest margin ever—122 to 19—to demand the withdrawal of Soviet troops from that country.

History is rife with stories of conflict and courage, but Afghanistan today represents ultimate proof of the unquenchable desire of mankind to live, work, and worship in freedom. Occupation forces may capture capitals and control for a time the machinery of government, but guns alone cannot capture the human spirit.

Mr. Speaker, the resolution before us today, Senate Joint Resolution 365, was passed by the Senate on June 18, 1986, by a vote of 98 to 0, and I would urge my colleagues to join in this unanimous expression of support for the freedom-loving people of Afghanistan.

Mr. Speaker, I would ask the gentleman from New York if he could briefly explain the resolution.

Mr. SOLARZ. Mr. Speaker, I would be pleased to explain it.

This resolution simply reaffirms the support of the Congress for the valiant struggle of the Afghan people and it expresses the welcome of the Congress to the delegation representing the Afghan people, led by Mr. Burhanuddin Rabbani, who was here last week.

□ 1345

The resolution has already passed the Senate. We had hoped to bring it to the floor last week, but due to the exigencies of the calendar, we were unable to. Nevertheless, we thought it appropriate that it be taken up now.

Members are all aware of the fate which has befallen the Afghan people. We know of their valiant struggle to expel the Soviet army of occupation from their territory. This is a struggle which has engaged not only the sympathy, but the support of men and women of good will throughout the world.

I do think it is important for us, over and over again, to make it clear that the Afghan people, who have heroically undertaken to resist the Soviet occupation of their occupation at a great loss of life and incalculable devastation to their country, and with over 3 million refugees, that their cause continues to enlist the sympathy and support of the Congress and of the people of our country.

I can think of few causes which have commanded more widespread support here in the House over the last few years, and I am pleased to bring it to the floor now, at the particular urging of my very good friend, the gentleman from California [Mr. LAGOMARSINO], who is the "ambassador of the Mujahideen" to Washington until such time as they get control of their own government and appoint one of their own to represent their interests over here.

Mr. BROOMFIELD. Mr. Speaker, I support this resolution welcoming the Afghan Alliance to the United States. The visit of Mr. Rabbani is truly an historic occasion.

As we all know, the crisis in Afghanistan i one of the great tragedies of this century. I 1979, Soviet troops invaded that poor country Now, over 120,000 of them remain and illegal ly occupy that once-free land. The Sovie action has created millions of refugees an many war-related casualties. The U.N. Gener al Assembly has called for the withdrawal o foreign troops from that country.

Against tremendous odds, the Afghan free dom fighters have battled against the Soviet invaders. Last year, the Afghan resistance formed the Islamic Unity of Afghan Mujahideen. This action marks a real turning point in the struggle for freedom. This month, the current spokesman of this new alliance traveled ot the United States. He met with the President and senior Government officials.

This resolution reaffirms our support for the struggle of the Afghan people and welcomes the delegation led by Mr. Rabbani. I wish him and his people well in their unified struggle against Communist oppression.

We must do everything that we can to ensure that Afghanistan never becomes a captive nation.

I urge my colleagues to support this resolution.

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Joint Resolution 365 and urge my colleagues to join me in approving this resolution.

We are all well aware of the historic struggle of the Afghan people to preserve their freedom and independence in the 6 years since the invasion of their country by Soviet troops. Last week, representatives of the Islamic Unity of Afghan Mujahideen made an official visit to this country to present to us firsthand an assessment of the situation in their country.

It is fitting that we in the House join today with our Senate colleagues to recognize this visit. We were encouraged at the organization of the Islamic Unity Alliance in 1985, a coalition of the major Afghan organizations dedicated to the overthrow of the Soviet occupation. The visit last week presented the American public with a visible indication of the courage and determination of these representatives of the Afghan resistance. In passing this resolution today we honor these brave individuals and indicate our continuing support for their struggle.

I urge support for House approval of this resolution.

Mr. LEACH of Iowa. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 365

Whereas more than one hundred and twenty thousand Soviet troops currently remain in Afghanistan as a result of their illegal invasion in December of 1979;

Whereas these forces have decimated the nation of Afghanistan directly causing: the largest refugee population in the world, with three million Afghans living in exile in Pakistan; over one million war-related casualties; the internal displacement of hun-

dreds of thousands of Afghans; and deprivation and suffering for the majority of Afghanistan's population;

Whereas the most recent United Nations Human Rights Commission report concludes that the continuation of a military solution in Afghanistan will "lead inevitably to a situation approaching genocide";

Whereas the international community has repeatedly condemned the continued Soviet occupation of Afghanistan and has in seven resolutions approved by the United Nations General Assembly called for "the immediate withdrawal of foreign troops from Afghanistan";

Whereas the Afghan Mujahideen have valiantly resisted the Soviet forces for more than six years, and have inspired freedom loving people throughout the world with their courage and determination;

Whereas on May 16, 1985, the Afghan resistance took an historic step by forming the Islamic Unity of Afghan Mujahideen, representing a unified coalition of the major Afgahn organizations dedicated to ending the Soviet occupation;

Whereas during the week of June 15, 1986, the current spokesman of this alliance will travel to the United States on behalf of the Afghan people to meet with the President and senior American officials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) reaffirms its support for the valiant struggle of the Afghan people; and

(2) welcomes the delegation of the Islamic Unity of Afghan Mujahideen led by Spokesman Burhanuddin Rabbani on the occasion of his first official visit to the United States of America.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TO DISINVITE CHILEAN TALL SHIP "ESMERALDA" FROM JULY 4TH CEREMONIES

Mr. BARNES. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 361) opposing the participation of the Chilean vessel *Esmeralda* in the July 4th Liberty weekend celebration.

The Clerk read as follows:

S.J. RES. 361

Whereas, Operation Sail has invited the Chilean naval vessel Esmeralda to participate in the July 4th Liberty Weekend celebration in New York Harbor;

Whereas, the Esmeralda is the notorious vessel used for the torture of one hundred and twelve political prisoners at the time General Augusto Pinochet seized power in a military coup in Chile in 1973;

Whereas, serious violations of basic human rights and civil rights continue in Chile under the Pinochet regime, of which the Esmeralda is an unfortunate reminder.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress deeply regrets the invitation extended to the Chilean vessel Esmeralda to participate in the July 4th Liberty Weekend celebration in New York City, and urges Operation Sail to withdraw that invitation.

SEC. 2. A copy of this resolution shall be transmitted forthwith to the Chairman of Operation Sail.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Maryland [Mr. BARNES] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Maryland [Mr. BARNES].

Mr. BARNES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this should be a noncontroversial resolution.

Senate Joint Resolution 361 expresses the opposition of the Congress to the participation of the Chilean vessel *Esmeralda* in the July 4th Liberty weekend celebration. It follows a letter, cosigned by a bipartisan group of 59 Members of the House, to Lee Iacocca, chairman of the Statue of Liberty-Ellis Island Centennial Foundation, and Ambassador Amil Mosbacher, chairman of the board of directors of Operation Sail.

The resolution was introduced in both the House and the Senate on June 12. It is cosponsored by a bipartisan group including Majority Leader DOLE, Senate Foreign Relations Committee Chairman LUGAR, and Senator KENNEDY. It passed the Senate without controversy by voice vote on June 13.

The SPEAKER pro tempore. The Chair will advise the gentleman not to refer to votes in the other body or any action taken by the other body.

Mr. BARNES. I thank the Chair for that admonition.

Mr. Speaker, the *Esmeralda* was once the patriotic pride of the Chilean people and a symbol of the tradition of seamanship of the Chilean Navy. However, following the coup in 1973, the Chilean military, led by General Augusto Pinochet, ordered the *Esmeralda* used for the torture and imprisonment of more than 100 Chileans. On its decks and in its holds, scores of naked men and women were subjected to electric shock and mock execution, and were beaten and sexually abused.

Although the *Esmeralda*'s use as a prison was short-lived, General Pinochet's practice of torture and repression has not been. Almost every day, the newspapers tell of mass arrests, detentions, and torture in Chile. Even the Reagan administration, which had previously practiced a policy of "quiet diplomacy," was moved to sponsor a resolution in March of this year before the United Nations Human Rights Commission condemning violations of human rights in Chile. The participation of the *Esmeralda* in the Liberty Weekend festivities is not only morally objectionable; it flies in the face of the Reagan administration's own policy of distancing itself from the abuses perpetrated by the Chilean Government.

A recent New York Times editorial, entitled "The Interloper at Liberty's Party," put it correctly: "Tall ships are beautiful to behold and a splendid tribute to Liberty's birthday. But a torture ship has no place among them. It is unwelcome on these shores." I couldn't agree more with the New York Times.

The directors of Operation Sail have said that Liberty Weekend should not be "political." I agree. But I have to ask Ambassador Mosbacher, if he did not want politics involved, then why was the very same ship that brought protests to our Bicentennial celebration included in Liberty Weekend? The reasons behind the protests in 1976 have not changed, and neither has the repressive government that this ship represents. I think it is likely we will see protests again this year, as we just saw this past weekend when the *Esmeralda* docked in Norfolk, VA.

I urge my colleagues to join the Senate in its bipartisan message to those in charge of the Liberty Weekend festivities, urging them to withdraw the invitation to the *Esmeralda.*

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I oppose this resolution not because I am opposed to condemning torture and not because I approve of present Chilean Government policy, but because I believe that actions like this should have some reasonable chance for success. Passing this resolution will do nothing to advance the cause of democracy in Chile or to resolve the longstanding human rights questions left unanswered by the Pinochet regime.

Withdrawing the invitation for the *Esmeralda* to participate in "Operation Sail" will not increase United States ability to influence an acceleration in the transition toward democracy in Chile. As a matter of fact, it could well be counterproductive. A critical element of moving toward democracy is getting the Chilean military to play a responsible role in facilitating that forward movement.

Does anyone believe that what has happened in the Philippines, the way that situation has evolved, would have been the case had the military and important elements of it not taken the action they did?

The Chilean Navy, as a positive influence on that process, can play a very constructive role; the United States should be doing all we can to reinforce the Chilean Navy's position so that it might take an even greater responsibility in helping the process of transition.

The exposure of the Chilean Navy to the celebration of liberty and democ-

racy will be multiplied by the impact on the Chilean people as the message of liberty is carried to them by the media coverage of this historic occasion. The stark comparison between the reality of democracy in the United States and dictatorship in Chile is bound to have an impact on the Chilean people and the Chilean military.

I understand the message that the sponsor of this resolution is trying to send, but I do not believe it is the message that will necessarily be received. It seems to me to be hypocritical to have welcomed the participation of the *Esmeralda* for our bicentennial celebration in 1976 but now to seek to exclude it 10 years later. Moreover, to seek withdrawal of the *Esmeralda* at the same time that ships from the Soviet Union, Poland, and Romania have been invited to participate is unquestionable applying a double standard to human rights protection. Although the Soviet Union has chosen to stay out of Operation Sail this year. They also participated in the 1976 bicentennial celebration. As great as the signs of the Pinochet regime may be, they pale in comparison with those of the Soviet Union.

Just as we would not help the cause of disarmament, freedom of emigration by Soviet Jewry and human rights in the Soviet Union if we had refused to invite the Soviets, we would have no greater success in promoting human rights and democracy in chile by blocking the participation of the *Esmeralda.*

The president of the National Maritime Historical Society, Mr. Peter Stanford, wrote in the New York Times, June 18, 1986, criticizing efforts to block participation of the *Esmeralda* in Operation Sail. He refers to our own U.S. Coast Guard ship, the *Eagle,* which was launched by Adolf Hitler and was named for a street thug Horst Wessel. Mr. Stanford writes, "we neither deny nor condone that background; we rejoice that the ship sails in freedom, to good purpose today." He concludes, "it would be infinitely more regrettable, truly, to start shutting out ships at our own initiative. That would be to betray the principle of openness that gives hope to the cause of liberty."

Our objective on both sides of this issue is to give hope to the people of Chile that their desire for liberty and democracy may soon be achieved. Excluding the *Esmeralda* will not help that goal, it will only hurt it.

I urge my colleagues to oppose this resolution, and by so doing, increase the impact of the celebration of democracy on the Chilean military and the Chilean people.

□ 1355

Mr. BARNES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to briefly respond to my friend, the gentleman from California [Mr. LAGOMARSINO] just so the gentleman understands that the Soviet Union is not participating in this particular celebration of the Liberty Weekend. No ship from the Soviet Union will be taking part in this.

Let me also note that with respect to the ship, the *Eagle,* the gentleman is correct that that ship at one time sailed under the flag of the Nazis and has a history with which we would not want to be associated. But that ship now flies under the flag of the United States.

I am sure the gentleman is not suggesting that that is a comparable situation to the *Esmeralda.* The *Esmeralda* was used as a location for torture by the same government that is in power today in Chile, the same government that continues the same practices, torture and repression of its citizens, that were taking place on board this ship when this ship was a prison.

One of those who was tortured on this ship, one of those who was a prisoner on this ship is now living in Tel Aviv, Israel, and said, in an interview that was broadcast just last night on television, on "ABC News" here in the United States, that having this ship participate in our celebration of liberty and freedom would be like "having a floating concentration camp" participate in our celebration of freedom and liberty in the United States.

The gentleman says it will not advance the cause of democracy and freedom in Chile for us to make this statement, as our colleagues across the building did unanimously so recently. I would differ with the gentleman, and I would urge him to talk with Chilean exiles here in the United States and those who are prepared to put their lives on the line for freedom in Chile and ask them their judgment. Ask them how they would vote if they had the opportunity to cast a vote on this issue this afternoon.

I am confident the gentleman would get a unanimous response from them as to how they would view this issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. YATRON], the very distinguished chairman of the Subcommittee on Human Rights of the Committee on Foreign Affairs.)

Mr. YATRON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of Senate Joint Resolution 361.

Mr. Speaker, as was the reaction of many people throughout the country, I was appalled to learn that the Chilean ship *Esmeralda* was invited to participate in the Liberty weekend festivities. Not only is this ship owned by one of the most brutal regimes in the world, but to make matters worse, the *Esmeralda* has been used to torture innocent men and women. Amnesty international has documented evidence to that effect which is universally accepted as factual. The critical question is why was this invitation extended. Clearly, steps must now be taken to have it withdrawn.

According to our Interior Department, Operation Sail, a private organization made the formal invitation, but reports have circulated that the Department of the Navy and the Department of State may have been involved in this embarrassing affair. I would like to think that the invitation to the *Esmeralda* was a glaring oversight which will be quickly rectified.

The American public has every right to demand that the *Esmeralda* not participate in our celebration of freedom and democracy. To that end, on June 4, I wrote President Reagan to ask that he take the appropriate steps to have the invitation to the *Esmeralda* withdrawn. At this point I insert the letter in the RECORD:

JUNE 4, 1986.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: It has come to my attention that the Chilean Government's ship *Esmeralda* has been extended an invitation by Operation Sail to participate in the Liberty Weekend festivities in July. The sordid history of the *Esmeralda* and the fact that the ship is owned by a brutally repressive regime make its participation in our nation's celebration of freedom and democracy inappropriate and unacceptable.

The Pinochet regime converted this vessel into a prison in the early 70s. Amnesty International has documented information detailing brutal acts of torture committed against innocent men and women incarcerated on this ship. Whether or not the *Esmeralda* is no longer used for this heinous purpose is irrelevant. The Chilean government's deplorable human rights record is well known. Last March the U.N. Human Rights Commission adopted a resolution sponsored by the U.S. representative citing Chile for serious violations of human rights including disappearances, torture, and abuse by security forces.

To allow the *Esmeralda* to participate in the Liberty Weekend festivities conflicts with the ideals and values which the Statue of Liberty represents. In view of the U.S. Department of Interior's involvement with Liberty Weekend, I respectfully request that you take the appropriate steps to have the invitation to the *Esmeralda* withdrawn. This action would be consistent with U.S. policy with respect to Chile. Commemorating the 100th anniversary of the Statue of Liberty calls for no less.

Your consideration of this request is greatly appreciated.

Mr. Speaker, I have not as of yet received a reply from the White House and it my understanding that no decision has been made by Operation Sail. Thus, I think this resolution is a much needed expression of the American public's opposition to having this ship participate in one of the most patriotic celebrations in our country's history. I would conclude that the spirit of this

resolution is consistent with administration policy. Last March, the U.N. Human Rights Commission adopted a resolution sponsored by the President's representative condemning Chile for serious violations of human rights, including torture and disappearances.

I urge my colleagues to support the resolution.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out that there are ships from Poland, Romania, Indonesia, and Panama that I do not hear anybody complaining about.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, about a year ago, I had a chance to visit the ship, *Esmeralda*. I had heard of things that were supposed to have taken place on this ship, and I wanted to see what the ship was like and what kind of people we had on this ship.

Do you know who we have on the *Esmeralda* today? We have 18-, 20-year-old kids like the ones we have over at Annapolis. If you want to promote democracy in Chile, we cannot shoot ourselves in the foot. These are precisely the young people that we want to come to the United States, to see the Statue of Liberty, to see what our Fourth of July is all about, to see what our democracy is all about.

If we are going to promote democracy in Chile, we need people like that, not opposed to us, but on our side. I know of no better way of turning these young people against us, than to say, "You cannot come when we are celebrating our day of freedom."

I had a chance to talk to some of these young people on this ship. Has the gentleman from Pennsylvania [Mr. YATRON] been on that ship?

I have talked to the commander. He is a third-generation Chilean who has been on that ship, who has served on that ship. It is true; this is the pride of the Chilean people. No one has said it is the pride of the Chilean Government.

We are trying to work with the people of Chile. We are trying to get them on our side. We are trying to promote democracy. I thought that was our purpose, to promote democracy in Chile.

Let us bring these young people up here and show them what democracy is all about. Let us see what kind of influence we can bring to bear on these young people. But to say we are going to take a swipe at you because we do not like your government, that is not very smart.

□ 1405

It is not very smart at all; it is like shooting ourselves in the foot.

I say, let us promote democracy in Chile, and all over the world, and let us get these young kids here and show them what democracy is all about. Let us not exclude them; let us include them.

Mr. YATRON. Will the gentleman yield.

Mr. ROTH. I yield to the gentleman.

Mr. YATRON. I would like to ask the gentleman, has he talked to any of the people that have been tortured on that ship?

Mr. ROTH. No, I have not talked to any people, but I know the people that are serving on the ship now that were a year ago; and I am sure the gentleman has talked to some people that were tortured on that ship.

Mr. YATRON. I have not talked to them, but I have read reports from Amnesty International, and I feel that they are well documented.

Mr. ROTH. If my good friend will allow me, I have read a lot of things, too, and these things may all be true. I am not saying that they are not true; but I am saying we should be promoting democracy in Chile.

The way to promote democracy in a country is not by taking the people who are going to have influence; not by people who are going to bring about democracy in a country and excluding them: That is the way you turn them off.

The way you turn people on democracy is bringing them up here, showing them what democracy is all about. If we want to promote democracy in Chile, let us get these young kids up here. Let us show them what it is all about, and let us have some influence in this country and not deny those people the right to see what democracy is all about, the very people that are going to promote democracy in that country.

Mr. KOSTMAYER. Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I cannot help but comment on some of the remarks of the last speaker. I doubt that those young people will ever get off the ship.

Mr. Speaker, I rise in support of Senate Joint Resolution 361 which expresses congressional opposition to the participation of the Chilean vessel *Esmeralda* in the July 4 Liberty Weekend celebration. This resolution is identical to House Concurrent Resolution 353 which was introduced by our distinguished colleague Representative BARNES. It passed the Senate unanimously on June 13.

The tall ship *Esmeralda* is a symbol of the brutal repression of human rights which characterizes the Pinochet regime. We in the Congress have on many occasions over the last 13 years deplored these abuses and urged the Chilean Government to respect the human rights of its citizens. Quite recently, the Reagan administration lent its voice to the international chorus condemning human rights violations in Chile. I welcome this development and urge the administration to continue its efforts to achieve an end to the practice of torture, the establishment of genuine democracy, and the full restoration of civil and political rights in Chile.

Mr. Speaker, we in the Congress have before us another opportunity to express our opposition to the use of torture and the denial of basic human rights. The rededication of our Nation's symbol of freedom, the Statue of Liberty, is no place for another nation's symbol of repression. The celebration surrounding the Statue of Liberty should not be marred by the inclusion of a torture ship. I urge the organizers of Liberty Weekend to withdraw the invitation to the *Esmeralda* and I urge adoption of the resolution.

Mr. KOSTMAYER. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I wish to extend my appreciation to the gentleman from Pennsylvania [Mr. KOSTMAYER] for yielding this time to me.

Mr. Speaker, I rise today in support of Senate Joint Resolution 361. It is singularly inappropriate that the *Esmeralda*, a vivid symbol of torture and oppression, should be permitted to be part of our national celebration of the preeminent symbol of liberty in the United States.

There is a great deal of confusion in this body, especially on the part of those Members on the other side who have spoken. The respect and promotion of democracy does not involve having people look at a statue which says Liberty. What I think promotes respect and promotes an understanding of liberty and freedom is a demonstration by this country and this Congress that in fact we abhor the kind of things which occurred on the very ship we are talking about; not by the young people who are on it now, but by the government of General Pinochet, who was the President at the time that he committed that ship to being a torture vessel; a dungeon.

He still undertakes the same policies today. In 1985, there were 5,314 political detentions in Chile. In April of this year, 1986, the Chilean military and police carried out dragnet operations on at least 38 shantytowns. There were over 500,000 people between the ages of 15 and 60 who were detained.

The Archbishop of Santiago, Cardinal Juan Francisco Fresno, vigorously protested those raids.

The United Nations voted on March 14, 1986, to condemn widespread human rights violations in Chile, and the Government of the United States, at the behest of the Reagan administration and the President himself, joined in supporting that resolution.

The way you demonstrate what the celebration, this 100th anniversary celebration of the Statue of Liberty is about, is to have us stand up for freedom and democracy and humanity; not to pretend that all it is is a great big show. It is not fireworks; it is human rights.

To have the *Esmeralda*, that torture ship, participate in that celebration, is in fact denied the very purpose, the very basis for the celebration of human rights.

I would think that the gentleman from Wisconsin, the gentleman from California on the other side, would be the leaders in saying "The *Esmeralda*, that torture dungeon ship does not belong in the celebration," and I hope before this debate is over, they will in fact come to that conclusion.

Mr. Speaker, the *Esmeralda* was the location of beatings, torture, mock executions, and sexual abuse of more than 100 Chilean men and women by the order of Gen. Augusto Pinochet following his military coup in 1973. In its notoriety, the *Esmeralda* has become a symbol to the people of Chile of widespread and systematic violations of fundamental human rights that continue to this day.

This is no time to ease pressure on the Chilean Government:

On April 4, 1986, the existing state of emergency was expanded to prohibit almost all public meetings by political parties and other opposition coalitions—Americas watch.

In 1985, there were 5,314 political detentions in Chile. This is actually an increase from 5,291 in 1984 and 4,537 in 1983—Ibid.

In April 1986 alone, the Chilean military and police carried out dragnet operations on at least 38 shantytowns, using heavily armed government forces with their faces painted black. In these operations, security forces cordoned off and occupied entire communities, rounding up and interrogating all men between the ages of 15 and 60. In the course of these raids, some 500,000 were detained. The Archbishop of Santiago, Cardinal Juan Francisco Fresno, had vigorously protested these raids—WOLA.

The United Nations voted on March 14, 1986, to condemn widespread human rights violations in Chile, the United States itself supported the resolution.

The Chilean Government has shown no signs of moving away from the military-backed 1980 constitution and toward genuine democracy. Under the 1980 constitution, the military would retain effective control of the government, and Pinochet himself would be in a position to retain the presidency through 1997. A broad coalition of opposition parities, the signers of the national accord, have called for a transition to genuine democracy before the end of the 1980's.

To the democratic opposition in Chile, the inclusion of this emotionally laden symbol of repression and inhumanity is an insult. To Lady Liberty, to our own cherished heritage of freedom, it is an affront.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of the pending resolution.

Mr. Speaker, while the invitation to tall ships to come to New York Harbor to help celebrate the 100th anniversary of the Statue of Liberty is a commendable idea, the problem is that one of those ships, the *Esmeralda*, demeans the image of liberty, rather than enhances it.

It has come to the attention of the Committee on Foreign Affairs, from which our resolution was reported, that the *Esmeralda* was used as a prison by the Chilean military in 1973. On board that ship, men and women were detained and tortured, according to such authorities as Amnesty International.

Since the *Esmeralda* presents an image so totally at odds with the image of the Statue of Liberty being celebrated this July 4, the relevant authorities, such as "Operation Sail," should certainly withdraw their invitation. I have joined with many of my colleagues in signing letters expressing our point of view. Accordingly, I urge my colleagues to underline our condemnation of the participation of the *Esmeralda* in this Liberty event.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I rise in objection to this particular proposal on several grounds. First, are we taking it out on a wooden sailing ship because of excesses perpetrated by some people on that sailing ship? Or is there some broader significance attached to the resolution; and I think there is, based upon the Senate action.

According to Amnesty International, we have heard the reports of torture that occurred on that vessel back in 1973 at the time of the coup d'etat, but the Senate resolution describes the *Esmeralda* as an unfortunate reminder of serious violations of basic human and civil rights.

To be sure, it may be an offensive reminder. On the other hand, there have to be many other offensive reminders around the world. I am sure that no one would argue otherwise with regard to the Polish representation that will participate, and yet I would argue that when they honor that Statue of Liberty by participating in this great memorial service, that they are making a concession to values that we cherish and we would hope that the entire world would cherish.

I think that it is a mistaken effort on the part of the sponsors of the legislation to register a protest and maybe a very legitimate protest against excesses practice by any government on the face of this Earth that does not faithfully and completely observe human rights and self-determination of people.

At least we know that there is progress in Chile in moving toward reestablishing democratic government. But we know equally that in Poland there is no such movement, and so long as the Communists continue to maintain Poland as a satellite, there never will be. I would urge my colleagues to reject this proposal, however well-intentioned it may be by those who are disturbed over the human rights violations in Chile, and focus instead on the positive impact the rededication of the Statue of Liberty can have on freedom-loving people throughout the world.

Mr. KOSTMAYER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, Members of the House, I would hope that we would support this resolution and commend the committee for bringing it before the House. It is inconceivable that we can celebrate the Statue of Liberty, the beacon of liberty that we cast throughout the world at the same time when in the shadow of the beacon of liberty will be the *Esmeralda*.

We cannot have this ship participate in this ceremony; not just because of the history of this sailing ship, but because of the history of the government that it represents; a government that today, as they have been for the last decade, have been engaged in the torture, the killing, the disappearance of their very own citizens.

For those who have sought to have liberty in Chile; for those that have asked for a democracy in Chile, they have been killed, they have been tortured, because they raised their voices. Now to allow this ship to come and participate in a salute to liberty and a salute to the beacon of the Statue of Liberty, is a farce.

It should not be allowed, and if this was to be amended to include the Panamanian ship and the Polish ship, you would find no objection from me, because this is our celebration, about our tenets, about our principles, for what this country stands for, and what we try to spread throughout the world and the hope that we hope out.

To allow the Chilean ship to come is a terrible, terrible mistake, especially when we understand also that this ship represents the very government that sent agents to this city to kill people, and in fact killed a Chilean citizen, an American citizen, in a bombing in Tenley Circle.

To understand that this was a terrorist action on the streets of Washington, DC, that was put forth by the Pinochet government that has judgments outstanding against it for those terrorist actions, in the year when

people are not traveling abroad to our allies, in a year when we are concerned about terrorism, here is a ship that will sail into New York Harbor, representing the government that has taken an action of terrorism in the Nation's Capital.

Mr. LAGOMARSINO. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. RUDD].

Mr. RUDD. Mr. Speaker, I rise in opposition to the resolution. It makes about as much sense to me as it would be to levy legislation or a resolution against the city of San Diego or the State of California for the maintenance of a beautiful sailing ship, used in the slave traffic, the *Star of India*, which is docked in San Diego; but we would not do that because that would be interfering with the governments on the local level, and we depend on them to help us come back here, I suppose.

In any case, this is a direct intervention into the affairs of a sovereign nation; it is a damning thing to the national pride of another sovereign nation. What we are attempting to do, it seems to me, is to inspire revolution against the government there, knowing full well that the choice would be not for a democratic government, but for another Communist takeover.

We have never leveled resolutions or prohibitions against the Soviet Union for the interference that it promotes in the way of torture, death, et cetera, against the countries of Finland, Estonia, Latvia, Lithuania, Czechoslovakia, Hungary, Romania, Vietnam, and Korea and some of the countries of Africa, and now in Afghanistan.

□ 1415

So we do not raise our voices where we see brutality elsewhere in the world in the Communist countries or the Iron Curtain countries; we raise our voices against potential friends in our own hemisphere.

Chile's coastline is the longest coastline on the Pacific Coast of South America. We depend on Chile for the protection of that coastline for our future, not only economically but in case of war, should the Panama Canal be removed as a pathway between the two oceans. So it seems to me that this is an amendment that does not help our country at all. It tells a very proud people that we are in a position to keep them from viewing what democracy is all about, from even having a view of the Statue of Liberty, which represents freedom and liberty throughout the world as a hallmark of that. I would just say that I oppose this because the young people who train on this vessel are much like the young people who train on the *La Libertad*, and I have been aboard that ship. It is sort of a sister ship, but it belongs to Argentina, and it will be coming to visit New York. It has a lot of records for its fast sailing ability, it has trained a lot of seaman, a lot of officers. It acts as a training ship just as the *Esmeralda* does, and I would hope that especially on a suspension order that we reject this, if we had nothing else to show that we do respect the people of Chile and we do respect what they would like to do.

I talked to some of the opposition leaders in Chile, and they have no plan by which they could govern if they were allowed to govern. And the people who are running the government now, many of them in the military, have told me they would like to get back to the barracks. But these people have told me they have no way of assuming power. They have no responsibility of doing that, and until they find someone or a group or a plan that would be able to govern reasonably in that country, the military will retain its power there.

Mr. Speaker, I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I rise in support of the resolution. It seems to me clear that a ship on which unspeakable violations of human rights have occurred should not be allowed to participate in the celebration of liberty. The argument made by some who oppose this resolution is that ships representing other governments that do not honor human rights are being permitted to participate in this celebration, and that is certainly correct. They argue from that that the Chilean Government is being singled out. But that, I think, is wrong because the fact of the matter is that there has been no showing that any other ship that has been invited to participate has, itself, been used as a prison to torture people. That is what we are talking about here. We are talking about the fact that the *Esmeralda* was used as a prison by the Chilean military in 1973. We are talking about the fact that some 110 men and women were detained and tortured on board the *Esmeralda*. We are talking about the fact that respected international human rights organizations such as Amnesty International and the OAS Inter-American Commission on Human Rights have collected testimony from victims of torture aboard the *Esmeralda*. We are talking about the fact that those tortures included electric shock, sexual abuse, and mock executions. That is what this ship stands for. Is that what we want in New York Harbor on the day that we celebrate the centennial of the Statue of Liberty?

As the Member of Congress in whose congressional district the Statue of Liberty lies, that is not what I want to see at that festival.

Mr. LAGOMARSINO. Mr. Speaker, I reserve the balance of my time.

Mr. KOSTMAYER. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, if you will permit me, 70 years ago my own grandmother and grandfather arrived in the Port of New York and sailed past Lady Liberty. I will never know, indeed most of you will never know, the feelings of our ancestors on those special days that marked the beginning of our experience with America; never know their hopes, their dreams or what America meant for them.

But I ask you this, for my family and for yours, let us try. On July 4th, let us try to relive what it is they felt because, you see, on that day we will be celebrating the triumph not only of our own people or of our own ancestors but indeed of all mankind.

This is not the 100th anniversary of a government, of a country, it is the celebration of something much larger, an idea, liberty.

This is the celebration we open to the world, not just our people but all people. The price of admission is simple: if you come, you need not agree with America on all things, you need to share but one concept, you believe in liberty.

Help us make this celebration all that it might be. For all of us for whom that day has special meaning, let it be a day of liberty.

Let those who come share in it. That is what this resolution is all about.

Please, my colleagues, make this day all that it might be for all those who came from so far believing in that special idea, liberty.

I congratulate my colleague for offering the amendment.

Mr. BROOMFIELD. Mr. Speaker, I oppose this resolution which requests that the invitation for the Chilean ship *Esmeralda* to participate in July 4 celebrations be withdrawn.

The *Esmeralda* was allegedly used to imprison and torture political prisoners in Chile after General Pinochet took power. Although all of us can condemn violations of human rights, there is no definite proof that the vessel was in fact used for those purposes. General Pinochet has also denied that the *Esmeralda* was ever used for such activities. The Chilean Government insists that the ship has always been used as a training ship.

Our Government is working very closely with the Government of the Chile to resolve the human rights issues in that country. Withdrawing an invitation to a sailing ship contributes nothing to the important work that is being done to improve basic human rights in that country.

The *Esmeralda* is one of the world's great sailing ships and one of the largest in the Western Hemisphere. The ship has been invited to participate in Operation Sail not as a representative of the Government of Chile, but as a unique sailing vessel.

The ship has already arrived in Norfolk Harbor. It is clearly too late to disinvite the *Esmeralda* from participating in the event. Why snub the captain and the young crew of a training vessel for sins allegedly committed in the past?

I call upon my colleagues to join me in opposing this ill-timed resolution.

Mr. MINETA. Mr. Speaker, it is with a heavy heart that I rise today to protest the inclusion of the Chilean ship, the *Esmeralda,* in the July 4 Liberty Weekend celebration in New York City. By all accounts, the *Esmeralda* is a glorious ship; her beauty and her majesty are stunning even when compared to her sister ships. But, the *Esmeralda* has a sinister past that pristine sails and elegant bearing cannot conceal. In the aftermath of the bloody coup of General Pinochet in Chile, this ship was used to imprison and to torture Chilean citizens.

How then, Mr. Speaker, can we permit a ship that for so many is a reminder of pain and suffering to join in a celebration of freedom and good will? How can we compromise a testimonial to democracy by playing host to so egregious a symbol of repression as the *Esmeralda?* And, finally, Mr. Speaker, how can we purport to honor the Statue of Liberty and still ask her to welcome to our own shores so dreadful a reminder of loss of liberty and honor?

The beauty of the *Esmeralda* is besmirched by her own past and by a government that uses terror, repression and brutality to sustain, illegally, its control of a brave and proud nation.

I do not believe, Mr. Speaker, that we should fully withdraw the invitation to the *Esmeralda* to visit New York Harbor. Indeed, we must ask her to wait; she must sail away now so that one day, when Chile is again a free and democratic society, we can welcome the *Esmeralda* to our shores with dignity and with admiration. Some day, she will be a symbol of redressed wrongs and she will be a reminder of the courage and the forbearance of Chilean heroes. Until that day, Mr. Speaker, I join my colleagues in the House and in the other body who also believe that the *Esmeralda* has no place in our July 4, 1986, Liberty Weekend festivities.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. BARNES] that the House suspend the rules and pass the Senate joint resolution (S.J. Res. 361).

The question was taken.

Mr. LAGOMARSINO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LOWER COLORADO WATER SUPPLY ACT

Mr. MILLER of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5028) entitled the "Lower Colorado Water Supply Act," as amended.

The Clerk read as follows:

H.R. 5028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION.

SECTION 1. (a) The Secretary of the Interior is authorized to construct, operate and maintain the Lower Colorado Water Supply Project, California in order to supply water for domestic, municipal, industrial and recreational purposes only. Such project shall be constructed substantially in accordance with the plans set forth in the document entitled "Lower Colorado Water Supply Study, California" (December, 1985): *Provided,* That the Secretary is prohibited from constructing facilities with a total capacity in excess of 10,000 acre feet per annum under authority of this Act.

(b)(1) The Secretary is further authorized to enter into exchange contracts and take such actions as the Secretary deems appropriate to facilitate a water exchange agreement between non-Federal interests and those interests designated in Section 2(b) of this Act in which such non-Federal interests agree to exchange a portion of their rights to divert water from the Colorado River for an equivalent quantity and quality of groundwater to be withdrawn from a wellfield located in the Sand Hills area, Imperial County, California.

(2) The Secretary is prohibited from executing any contracts under the authority of subsection b(1) of this section until such contracts have been submitted to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate and 90 calendar days have elapsed.

SEC. 2. REPAYMENT OF COSTS.

SEC. 2. (a) The Secretary is prohibited from obligating or expending any of the funds authorized to be appropriated by section 3 of this Act until—

(1) a study has been completed, and submitted to the appropriate committees of the Congress, allocating among the Federal and non-Federal beneficiaries the capital costs and the costs of operating, maintaining and replacing the project authorized by section 1 of this Act;

(2) the Secretary has entered into a contract or contracts with non-Federal interests for repayment of the capital costs, plus interest, allocated to non-Federal interests for municipal and industrial purposes as identified in the cost allocation study prepared under subsection a(1): *Provided,* That the terms and provisions of such contracts and repayment shall be governed by the provisions of the Water Supply Act of 1958 which were in effect on January 1, 1986; and,

(3) the Secretary has entered into a contract or contracts with non-Federal interest for payment of 100 per centum of the costs allocated to such non-Federal interests for the operation, maintenance and replacement of the project.

(b) Any contracts executed by the Secretary to fulfill the requirements of subsections a(2) and a(3) of this section must be with persons, or Federal or non-Federal governmental entities whose lands or interests in lands are located adjacent to the Colorado River in the State of California who do not hold rights to Colorado River water or whose rights are insufficient to meet their present or anticipated future needs, as determined by the Secretary. Such persons, or Federal or non-Federal governmental entities shall include the City of Needles, the town of Winterhaven, and other domestic, municipal, industrial and recreational water users along the Colorado River in the State of California.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

SEC. 3. There are authorized to be appropriated for the construction of the Lower Colorado Water Supply Project through September 30, 1991 the sum of $1,800,000, such sums to remain available until expended. There is further authorized to be appropriated for each of the fiscal years through September 30, 1991, the sum of $100,000 for the operation, maintenance and replacement of that portion of the Project used to supply municipal, industrial or recreational water supplies for lands managed by the Federal government. No funds are authorized to be appropriated for payment of the operation, maintenance or replacement costs allocated to non-Federal beneficiaries as determined by the study undertaken under authority of section 2(a)(1).

The SPEAKER pro tempore. Is a second demanded?

Mr. STRANG. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 20 minutes and the gentleman from Colorado [Mr. STRANG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5028 is a noncontroversial but important bill which will assure an adequate supply of domestic and municipal water for thousands of persons living along the lower Colorado River in California.

Despite years of negotiations and lawsuits, and hundreds of millions of dollars of water storage projects, there are still Federal recreation lands, towns, and individuals along the California side of the lower Colorado River who do not have a firm and legal water supply.

These water users, including those who withdraw river water by underground pumping, will soon be required to terminate their use of the Colorado River unless another supply can be provided for them. There simply won't be enough water to go around once the Central Arizona Project becomes fully operational.

Under the terms of Arizona versus California and Federal criteria governing river operations, California has been allowed all the river water it could beneficially use until the CAP began operation. After the CAP began making deliveries last year, California has been and will be limited to its annual 4.4 million acre-feet of basic apportionment except in years of surplus flow.

Affected users who would have to give up their current water supply include: the Bureau of Land Management, which leases valuable recreational lands along the river; the city of Needles and the town of Winterhaven, both rapidly growing retirement communities; and other independent water users.

In 1980, Congress authorized the Secretary of the Interior to conduct a feasibility study evaluating alternative ways to supply up to a maximum of 10,000 acre-feet of water per year to these water users. H.R. 5028 would authorize construction of the project recommended in that study.

The project is simple and inexpensive. A small well field would be constructed along the All American Canal, which carries Colorado River water to the Imperial and Coachella Irrigation Districts. The wells would pump seepage water from the canal which has accumulated underground, and this water would be discharged back into the canal. In return, a like amount of Colorado River water would be available for use by the noncontract users along the river in California. Exchange agreements among the various water users would be executed to allow this swapping of water supplies.

The ground water basin under the All American Canal is the key to this project. It contains several million acre-feet of water and could provide a firm water supply for the noncontract water users for many years.

The capital, operation, and maintenance costs of this project allocated to non-Federal entities will be repaid in full, with interest under the terms of the Water Supply Act of 1958. There will be no irrigation water supplied by this project—just domestic and municipal and industrial water.

The appropriations authorized by H.R. 5028 total $1,800,000 through 1991. In addition, $100,000 per year through 1991 are authorized for O&M expenses allocated to the Federal lands which would be supplied by this project.

Mr. Speaker, H.R. 5028 will close another chapter in the long and complicated process of allocating the limited water from the Colorado River. This project enjoys wide support, and I am not aware of any opposition. I urge my colleagues to support H.R. 5028.

Mr. Speaker, I reserve the balance of my time.

Mr. STRANG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would provide a long-term solution to the water supply needs of the small, relatively isolated communities along the California side of the lower Colorado River, and to the Federal agencies which manage lands in these areas, who have no alternative source of water supply. In this way, we can solve a significant water resources management problem, and also resolve one of the troubling remaining issues which resulted from the decades long litigation in Arizona versus California. This is a noncontroversial measure and deserves your support.

Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from California [Mr. LEWIS].

□ 1430

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me begin my remarks by indicating to the House that both the chairman, the gentleman from California [Mr. MILLER], and my colleague, the gentleman from Colorado, and their very fine staffs have been more than helpful in solving what is a very important problem to relatively few people in the West.

In the grand scheme of worldly matters, this bill is such a small speck on the globe that it hardly exists. But in terms of problems that might very well face the people involved here, it is a life-or-death circumstance. We have small landholders, many of whom have used the water they currently are using for some 20 years, who suddenly will find themselves with the tap proverbially cut off.

I say to the gentleman from California [Mr. MILLER] I particularly want to express my appreciation for the gentleman's cooperation in this matter. It is unusual in this House for us to really express clearly that we do care about folks, and you have cared today, George, and I appreciate it. My friend from Colorado always cares, but the gentleman from California and I have to talk to each other now and then.

Mr. Speaker, the chairman has clearly outlined that which this bill is about and in detail has explained what we are attempting to accomplish. Those people who are involved in noncontract water use need some help. In the final analysis, the bill will not cost the taxpayers any money.

What it will do is respond particularly to the needs of the citizens of Needles, CA, a small community in my district which is in California some 3 or 4 hours away from the nearest sizable town. It is an effort to make sure that those people who have been legitimately using water, and clearly understood they will have a supply available, will continue to have that supply.

Mr. Speaker, I would appreciate the House responding in the same positive fashion the committee has by passing this bill.

Mr. MILLER of California. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I would like to commend my colleague, the gentleman from California [Mr. LEWIS] for his help in bringing this bill to the floor. The gentleman is quite right, this is not something we woke up every morning thinking about. But without the gentleman's persistence and without the gentleman's cooperation, it simply would not have arrived here on the House floor under the rules of suspension. Mr. Speaker, I want to thank the gentleman for all of that cooperation, and hope that others recognize the role the gentleman played.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STRANG. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] that the House suspend the rules and pass the bill, H.R. 5028, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5028, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

RETIREMENT CREDIT TO NATIONAL GUARD TECHNICIANS

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 3006, to correct certain inequities by providing Federal civil service credit for retirement purposes and for the purpose of computing length of

service to determine entitlement to leave, compensation, life insurance, health benefits, severance pay, tenure, and status in the case of certain individuals who performed service as National Guard technicans before January 1, 1969, as amended.

The Clerk read as follows:

H.R. 3006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) a period of service performed under section 709 of title 32, United States Code, or under a prior corresponding provision of law, before January 1, 1969, which would not otherwise be creditable under subchapter III of chapter 83 of title 5, United States Code, because of the next to last sentence of section 8332(b) of such title 5, shall be considered creditable service under such subchapter, notwithstanding such next to last sentence, in the case of any individual under subsection (b).

(b) Subsection (a) applies in the case of any individual who—

(1) before the end of the 14-month period beginning on the date of the enactment of this Act, files appropriate written application with the Office of Personnel Management in accordance with regulations under subsection (c);

(2) at the time of filing application under paragraph (1), is employed by the Government and is subject to subchapter III of chapter 83 of title 5, United States Code (other than under section 8344 of such title); and

(3) before the date of the separation on which entitlement to an annuity under subchapter III of chapter 83 of title 5, United States Code, is based, makes an appropriate deposit under section 8334(c) of such title with respect to the period of service involved, based on the percentage of basic pay for such service which would be required under such section if such service had been performed as an employee under such subchapter.

(c) The Office of Personnel Management shall, not later than 2 months after the date of the enactment of this Act, prescribe regulations to carry out this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. TAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentleman from Missouri [Mr. TAYLOR] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to ask my colleagues to give favorable consideration to H.R. 3006, legislation introduced by Congressman G.V. (SONNY) MONTGOMERY, to provide civil service retirement credit for technicians who left the National Guard prior to January 1, 1969.

This amended legislation was unanimously reported by the Committee on Post Office and Civil Service on June 11, by a vote of 20 to 0. Earlier, the Subcommittee on Compensation and Employee Benefits, which I chair, approved my amendment in the nature of a substitute to H.R. 3006 by a unanimous voice vote.

I would like to commend my colleagues on the committee and the subcommittee, especially Chairman FORD and Congressmen JOHN MYERS and DON YOUNG, the minority members of the Subcommittee on Compensation and Employee Benefits, for their assistance and support in moving H.R. 3006. I also want to express my appreciation to Chairman MONTGOMERY for his leadership and commitment to equitable treatment for former National Guard technicians.

In 1968, Congress adopted the National Guard Technician Act which allowed technicians who served at least 1 day on or after January 1, 1969, to receive credit under the civil service retirement system. Former technicians who left the National Guard prior to this date did not receive any civil service retirement credit for their years of service. In effect, under current law, former technicians could receive full retirement credit if, in fact, they were reemployed by the National Guard as a technician for only 1 day.

Under these circumstances, it seems reasonable and appropriate that we permit such former technicians to receive credit under the civil service retirement system. The amended bill insures that former technicians who left the National Guard before January 1, 1969, would receive credit under the civil service retirement system for their years of service under the following circumstances:

First, before the end of a 14-month period beginning on the date of enactment, the former technician files a written application with the Office of Personnal Management;

Second, at the time of filing such an application, the individual is employed by the Government and is eligible for civil service retirement; and

Third, before the date of separation, the individual makes a desposit to the civil service retirement fund for the period of service which will be credited. The deposit will be based on the percentage of basic pay which the former technician would have been required to contribute into the civil service retirement system.

Mr. Speaker, the former National Guard technicians who would be affected by H.R. 3006 have been arbitrarily denied retirement credit for their pre-1969 service. National Guard technicians have contributed greatly to this Nation's security. The performance of such work before or after a given date does not diminish its value. In fairness, all such service should be treated equally for purposes of granting civil service retirement credit. H.R. 3006, as amended, offers an equitable solution to the disparate treatment of National Guard technicians under the retirement program.

In conclusion, Mr. Speaker, I believe that H.R. 3006, as amended, will provide these former technicians with the retirement credit they deserve and, at the same time, will facilitate the administration of this program by the Office of Personnel Management. I am very pleased that the bill has been endorsed by the American Legion and other veterans organizations. In addition, according to the Congressional Budget Office, this legislation will have minimal costs. I urge my colleagues' support for H.R. 3006.

EXPLANATION OF H.R. 3006, as Reported by the Committee on Post Office and Civil Service

PURPOSE

The purpose of H.R. 3006, as ordered reported by the Committee on Post Office and Civil Service, is to authorize civil service retirement credit for certain individuals who performed service as National Guard technicians before January 1, 1969.

COMMITTEE ACTION

On July 16, 1985, Mr. G.V. (SONNY) MONTGOMERY introduced H.R. 3006, a bill to provide Federal civil service credit for retirement purposes in the case of certain individuals who performed service as National Guard technicians before January 1, 1969, and for other purposes. The bill referred to the Committee on Post Office and Civil Service.

On March 12, 1986, the Subcommittee on Compensation and Employee Benefits held a hearing on H.R. 3006. Testimony was received from Members of Congress, representatives of the Administration, and other public witnesses.

On May 8, 1986, the Subcommittee on Compensation and Employee Benefits unanimously approved H.R. 3006 with an amendment striking all after the enacting clause and inserting a substitute text, offered by Ms. OAKAR. On June 11, 1986, the Committee on Post Office and Civil Service, by a record vote of 20 to 0 and with a quorum present, ordered H.R. 3006 favorably reported with the substitute text and an amendment to the title of the bill.

STATEMENT

Twenty years ago, service as a National Guard technican was not considered creditable for civil service retirement purposes. In 1968, however, Congress passed the National Guard Technicians Act, enabling thousands of technicians serving across the nation to be covered by civil service retirement. Individuals employed as National Guard technicians on or after January 1, 1969, received retirement credit for all of their service as technicians. However, individuals who left the Guard before that date and who were employed in other Federal agencies were denied retirement credit for their pre-1969 technician service. If these individuals were reemployed by the National Guard as technicians for only one day after January 1, 1969 and before their retirement, they could receive credit for their pre-1969 technician service.

National Guard technicians have contributed greatly to this nation's security. The performance of such work, whether before or after January 1, 1969, is of equal value to this country. Consequently, the committee believes that all such service should be treated equally for purposes of civil service retirement credit.

SECTION ANALYSIS

Subsection (a) provides that service performed as a National Guard technician before January 1, 1969, which would not otherwise be creditable for civil service retirement purposes because the individual performing such service had left the Guard prior to 1969, shall be considered creditable service under the civil service retirement system if the individual satisfies the criteria specified in subsection (b).

Subsection (b)(1) provides that such an individual must file appropriate written application with the Office of Personnel Management before the end of the 14-month period beginning on the date of enactment of the Act.

Subsection (b)(2) provides that the individual must be employed by the Government and must be subject to the civil service retirement system other than as a reemployed annuitant.

On March 12, 1986, the Subcommittee on Compensation and Employee Benefits held a hearing on H.R. 3006. Witnesses at this hearing testified that the 1968 National Guard Technicians Act arbitrarily denied CSRS credit for pre-1969 service by former National Guard technicians. At the same time, the Act granted CSRS credit for pre-1969 service by individuals who were employed as technicians on or after January 1, 1969.

During the hearing, concerns were expressed that extending civil service retirement credit for past, non-covered service might impose a financial burden on the CSRS. Consequently, the committee inquired into the possible costs of extending CSRS credit to former National Guard technicians. Witnesses at the hearing estimated that today there are fewer than 500 Federal employees who served as National Guard technicians and left the guard before 1969. According to these witnesses, these individuals would be willing to deposit into the civil service retirement fund an amount equal to what their retirement contributions would have been at the time of their employment as technicians had they then been covered under the CSRS. The committee, therefore, is convinced that the cost of correcting the inequity in treatment of former National Guard technicians would be minimal.

The committee believes that the former National Guard technicians who would be affected by this legislation have been arbitrarily denied retirement credit for their pre-1969 service.

Subsection (b)(3) provides that the individual must, before the date of separation from Federal service covered by CSRS, make an appropriate deposit to the civil service retirement fund with respect to the service as a National Guard technician. The deposit must be equal to the percentage of basic pay for such service which would have been required had such service been performed as an employee under the CSRS.

Subsection (c) requires the Office of Personnel Management, not later than 2 months after the date of enactment, to prescribe regulations to carry out the Act.

CBO COST ESTIMATE

The cost estimate prepared by the Congressional Budget Office is set forth below:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 20, 1986.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3006 as ordered reported by the Committee on Post Office and Civil Service on June 11, 1986. If enacted, this bill would allow certain federal employees to count their service prior to January, 1969 as National Guard technicians toward Civil Service Retirement (CSR) benefits. Under current law, this service is not creditable unless the individual was employed as a National Guard technician on January 1, 1969 or thereafter.

Based on information provided during the Subcommittee on Compensation and Employee Benefits hearing, it appears that some 300 current federal employees would be eligible to receive service credit for approximately 7.5 years of pre-1969 service. In order to qualify for these benefits, the individuals must apply for credit within a specified time frame, and must deposit in the CSR fund an amount equal to what would have been withheld from salary if the service had originally been creditable plus interest equal to three percent per year. The cost estimate assumes that approximately three-fourths of those individuals affected by this bill would retire during 1986 through 1991. It also assumes deposits would be made immediately before retirement.

Over the six-year period 1986–1991, H.R. 3006 would increase the federal deficit by an estimated $1.9 million, beginning in 1986 with a $0.1 million reduction and ending in 1991 with a $0.9 million increase. The following estimates show the increase in CSR outlays due to higher benefit payments and the increase in revenues from lump-sum deposits that would occur if H.R. 3006 were enacted.

[In millions of dollars]

	Estimated outlays	Estimated revenues	Net budgetary impact
Fiscal year:			
1986	([1])	0.1	−0.1
1987	.2	.3	−.1
1988	.4	.2	+.2
1989	.6	.2	+.4
1990	.9	.2	+.6
1991	1.1	.2	+.9

[1] Estimated at less then $0.05 million.

Note.—Details may not add to totals because of rounding.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

With best wishes,
Sincerely,

RUDOLPH G. PENNER,
Director.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3006, reported by the Post Office and Civil Service Committee on a 20-to-0 vote, would allow certain Federal employees to count their service prior to January, 1969, as National Guard technicians toward their civil service retirement benefits. Congress, in 1968, enacted legislation granting Federal Civil Service credit to thousands of technicians working for National Guard units around the country, but arbitrarily limited coverage to those technicians who serviced in that capacity for at least 1 day on or after January 1, 1969.

Based on information received by the Subcommittee on Compensation and Employee Benefits only about 300 current Federal employees would be eligible to receive service credit for approximately 7.5 years of pre-1969 service. To qualify, the individual would have to apply for credit within a specified time frame, and at the time of filing be employed by the Government and subject to the Civil Service Retirement System. Additionally, the individual would have to make a deposit to the Civil Service Retirement and Disability Fund for the period of service to be credited.

The National Guard Technicians Act of 1968, not only penalized certain former National Guard technicians but ignored their important contributions as behind-the-scenes support personnel who keep the National Guard ready for State and Federal assignments.

Passage of this bill will remove an arbitrary exclusion that 18 years ago denied well deserved credit under the Civil Service Retirement System for a small group of technicians.

□ 1440

Ms. OAKAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs and the author of this bill, a real champion for people in the National Guard and indeed all people who are associated with the military.

Mr. MONTGOMERY. I thank the gentlewoman for yielding time to me.

Mr. Speaker, I want to commend the gentlewoman from Ohio Ms. MARY ROSE OAKAR, and the ranking minority member, the gentleman from Indiana [Mr. MYERS], as well as the chairman of the full committee, the gentleman from Michigan [Mr. FORD], and the ranking minority member of this committee, the gentleman from Missouri [Mr. TAYLOR], who is handling the bill today, for their total support. The vote, I am told, was 20 to 0. I want to express my thanks to the entire committee. I appreciate the cooperation and courtesy they showed me in helping bring this bill to the House for consideration.

Mr. Speaker, last year, I introduced the bill we are debating today in order to correct an inequity for certain individuals who served as National Guard technicians prior to January 1, 1969.

Before 1969, there was confusion and disagreement concerning the employment status of technicians. In 1969, Congress attempted to clear up

the situation by passing legislation to bring the technicians into the Federal Civil Service System. Under the law, however, only those who served as technicians on or after January 1, 1969, are allowed Federal Civil Service credit for service performed prior to that date.

My bill will correct this obvious inequity by allowing credit for all prior technician service.

I, like my colleagues, am concerned about the Federal deficit. I do believe, however, that the cost of the proposal will be insignificant since there are less than 400 potential claimants.

For these reasons, I ask my colleagues for their support in approving H.R. 3006.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I rise in support of the bill, H.R. 3006, legislation broadening the National Guard technician retirement credit.

Under the National Guard Technicians Act of 1968, National Guard technicians who served after January 1, 1969, were given Civil Service retirement credit for the time they served as National Guard technicians. The legislation before us today would allow former National Guard technicians to receive Civil Service retirement credit for their service prior to 1969.

In order to qualify the bill outlines several criteria that former technicians must meet. These include filing a written application within 14 months of enactment, being currently employed by the Federal Government and covered under the Civil Service Retirement System and, before retiring, deposit into the Civil Service Retirement System the amount they would have contributed for the credited service. According to the committee, fewer than 500 former technicians who left the National Guard prior to 1969 now work in Federal agencies and receive no Civil Service credit for their earlier service. While the number of people affected by this legislation is small, for these individuals this is no small matter.

There are some very significant, inequities remedied by this bill, and I deeply appreciate the efforts of the committee in taking care of these individuals. I urge my colleagues to vote "yea" on the passage of H.R. 3006.

Mr. GILMAN. Mr. Speaker, I rise in support of H.R. 3006, legislation to amend title V, United States Code, to correct certain inequities by providing Federal Civil Service retirement credit to certain individuals who performed service as National Guard technicians before January 1, 1986.

Before 1969 there was confusion and disagreement as to the employment status of technicians. Their salary was actually paid by the Federal Government, most of the conditions of employment were set out in rules of the Federal National Guard Bureau, and the courts had held that they were Federal employees for certain purposes. However, the Federal Government continued to maintain that technicians were State employees, and some of the States insisted that they were Federal employees.

In 1968 Congress acted to clear up the situation by passing legislation to bring the technicians into the Federal Civil Service Retirement System. However, the legislation which Congress enacted only gave credit for past technicians service to those who were employed as technicians on or after the effective date of the legislation—January 1, 1969.

Those technicians who had moved to other Federal jobs, or who had left their technician jobs before that date and who were later employed by other Federal agencies, were given no credit for their past technician service.

Accordingly, we must rectify this inequity and pass H.R. 3006 and I urge my colleagues to support this bill.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 3006, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read:

A bill to correct certain inequities by providing Federal civil service credit for retirement purposes in the case of certain individuals who performed service as National Guard technicians before January 1, 1969.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on H.R. 3006, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

CIVIL SERVICE RETIREMENT COST-OF-LIVING ADJUSTMENT FOR 1987

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4060) to amend title 5, United States Code, to provide that the full cost-of-living adjustment in annuities payable from the Civil Service Retirement and Disability Fund shall be made for 1987, as amended.

The Clerk read as follows:

H.R. 4060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CIVIL SERVICE RETIREMENT BENEFITS.

(a) IN GENERAL.—Subchapter III of chapter 83 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 8352. Benefits during calendar year 1987

"(a) Any benefits payable from the fund during calendar year 1987, including any increase in those benefits which is scheduled to become payable during such calendar year as the result of an adjustment under section 8340 of this title, shall not be subject to reduction or suspension, either pursuant to statute (other than applicable provisions of this chapter) or Presidential order, during such calendar year.

"(b) For the purpose of this section, 'benefits payable from the Fund' shall be determined solely in accordance with applicable provisions of this chapter.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 83 of title 5, United States Code, is amended by adding after the item relating to section 8351 the following:

"8352. Benefits during calendar year 1987.".

SEC. 2. MILITARY RETIREMENT AND SURVIVOR BENEFIT PROGRAMS.

(a) IN GENERAL.—Any percentage adjustment provided by law to be made in amounts payable under military retirement and survivor benefit programs to take effect during fiscal year 1987 shall take effect in accordance with the law providing for such adjustment.

(b) CONSTRUCTION.—During fiscal year 1987, an adjustment described in subsection (a) shall not be subject to reduction or suspension under any provision of law (other than applicable provisions of title 10, United States Code) or any Presidential order.

(c) MILITARY RETIREMENT AND SURVIVOR BENEFIT PROGRAMS DEFINED.—For purposes of this section:

(1) The term "military retirement and survivor benefit programs" means—

(A) the provisions of law creating entitlement to, or determining the amount of, retired or retainer pay for members of the uniformed services; and

(B) the programs providing annuities for survivors of members and former members of the uniformed services, including chapter 73 of title 10, United States Code, section 4 of Public Law 92-425, and section 5 of Public Law 96-402.

(2) The term "uniformed services" has the meaning given that term in section 101 of title 37, United States Code.

SEC. 3. FOREIGN SERVICE RETIREMENT BENEFITS DURING CALENDAR YEAR 1987.

Section 826 of the Foreign Service Act of 1980 (22 U.S.C. 4066) is amended by adding at the end thereof the following:

"(h)(1) Any benefits payable from the Fund during calendar year 1987, including any increase in those benefits which is scheduled to become payable during such calendar year pursuant to subsection (a), shall not be subject to reduction or suspension, either pursuant to statute (other than applicable provisions of this subchapter) or Presidential order, during such calendar year.

"(2) For the purpose of this subsection, 'benefits payable from the Fund' shall be determined solely in accordance with applicable provisions of this subchapter.".

SEC. 4. BENEFITS UNDER THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM.

The President shall, pursuant to the authority granted in section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note), extend the prohibition contained in section 8352 of title 5, United States Code, on reduction or suspension of certain benefits payable from the Civil Service Retirement and Disability Fund, to apply with respect to benefits payable from the Central Intelligence Agency Retirement and Disability Fund.

SEC. 5. RAILROAD RETIREMENT TIER II COLAS.

Section 3(g)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(g)(1)) is amended by inserting ", shall not otherwise be prevented from taking effect, with respect to benefits paid during calendar year 1987, by any provision of law other than this Act," after "shall not be deferred".

SEC. 6. FEDERAL EMPLOYEE DISABILITY COMPENSATION DURING CALENDAR YEAR 1987.

Section 8147 of title 5, United States Code, is amended by adding at the end thereof the following:

"(d)(1) Any compensation payable from the Fund during calendar year 1987, including any increase in those benefits which is scheduled to become payable during such calendar year pursuant to section 8146a, shall not be subject to reduction or suspension, either pursuant to statute (other than applicable provisions of this subchapter) or Presidential order, during such calendar year.

"(2) For the purpose of this subsection, 'compensation payable from the Fund' shall be determined solely in accordance with applicable provisions of this subchapter.".

The SPEAKER pro tempore. Is a second demanded?

Mr. TAYLOR. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. TAYLOR] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise to ask my colleagues to give favorable consideration to H.R. 4060, legislation I introduced earlier this year to guarantee a cost-of-living adjustment [COLA] to civil service annuitants in January 1987.

This bill was reported by the Committee on Post Office and Civil Service on June 11, by unanimous voice vote. It was also approved by unanimous voice vote by my Subcommittee on Compensation and Employee Benefits on May 8.

The bill, as it has been brought to the House floor today, includes an amendment to ensure that military, tier II Railroad Retirement, CIA, Foreign Service, and certain FECA beneficiaries are guaranteed their 1987 COLA as well. I am sponsoring this amendment because the recipients of these retirement benefits were denied a 1986 cost-of-living adjustment in their annuities in the same manner as civil service retirees.

I believe the amendment is a necessary addition to the legislation to ensure equal treatment among our Nation's retirees. It has been approved by the chairman of each of the committees which has jurisdiction over these programs. As I am certain many of you know, Federal annuitants, along with military, Foreign Service, CIA, railroad, and some Federal disability retirees, were denied their January 1986 COLA's as a result of the enactment of the Gramm-Rudman legislation. If Gramm-Rudman were to continue for the next 5 years, these annuitants may not receive another COLA increase until 1991.

Federal budget cuts during the last 6 years have already fallen heavily on Federal workers and annuitants. Annuitants have lost approximately 30 percent of their cost-of-living adjustments. Such reductions fall especially hard on Federal retirees whose average pensions are less than $12,000 a year and survivors of Federal workers whose average benefit is less than $6,000.

We cannot undo the events of the past. However, we can prevent the perpetuation of inequitable treatment of those senior citizens who performed the jobs so essential to making our Government work. We can achieve this goal by adopting H.R. 4060.

We should not forget that these are the people who defended our country through three wars, built the railroads that span our Nation, served in our Embassies across the world and protected our country from foreign aggression, sent Americans into space, and administered the myriad of social programs that assist the men and women of this great Nation.

I am gratified and pleased that more than 280 of our colleagues in the House have cosponsored this legislation. Their support has been essential in moving this bill. It is also important to note that more than two-thirds of this body has endorsed this bill, reaffirming their desire to keep faith with our Nation's retirees and to treat them fairly.

Finally, I want to point out that the Congressional Budget Office has determined that H.R. 4060 will not impact on the fiscal year 1987 budget in any way. I also would like to mention that the budget resolution, recently approved by the House, reflects the basic principle of H.R. 4060.

H.R. 4060 is the vehicle to ensure fairness and equity in the retirement community. I encourage all my colleagues to vote favorably for this bill.

I am including for the RECORD a letter from Albert H. Linden, Jr., National Commander of the Disabled American Veterans:

DISABLED AMERICAN VETERANS,
Washington, DC, June 24, 1986.

Hon. MARY ROSE OAKAR,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE OAKAR: This letter is in reference to H.R. 4060, a bill that you introduced in the House of Representatives which, among other things, purposes that the cost of living adjustments (COLAs) of all military retirees—including those who are retired by reason of service-connected disability—shall be received in Fiscal Year 1987, notwithstanding any sequestration order that may be issued under Public Law 99-177, the Balanced Budget and Emergency Deficit Control Act of 1985.

Representative Oakar, on behalf of the over one million members of the Disabled American Veterans and its Ladies' Auxiliary, I wish to express to you our organization's deepest appreciation for your sponsorship of this most important legislation.

As you are well aware, as a result of the ongoing Fiscal Year 1986 sequestration order issued relative to P.L. 99-177, thousands of military retirees—including the above cited category of those who have incurred a service-related disability—were forced to forego the cost of living adjustment in their benefits that was to have gone into effect on January 1, 1986.

In view of the "Gramm/Rudman/Hollings" exemptions that have already been provided to certain categories of federal beneficiaries, the DAV does not believe that Congress envisioned or intended the reasonable adjustment of military retirement pay to be sacrificed in a "blind" pursuit of a balanced budget.

Quite obviously, you are of this same opinion.

In closing, Representative Oakar, I again want to thank you very much for your advocacy on behalf of our nation's service-connected disabled veterans. We in the DAV urge your colleagues in the House to give you their full and unqualified support for passage of H.R. 4060.

Sincerely,

ALBERT H. LINDEN, Jr.,
National Commander.

Mr. Speaker, I reserve the balance of my time.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think I can say without fear of contradiction that this is fair play legislation. Basically, H.R. 4060 provides equal treatment for various categories of Federal annuities with respect to cost-of-living adjustments.

Specifically, the bill, in its original form prohibits the reduction or suspension by Presidential order or statute of any cost-of-living adjustment payable to civil service retirees during calendar year 1987. Under the amendment similar treatment will be extended to recipients of military, Foreign Service, Central Intelligence Agency, disability and tier II Railroad Retirement benefits.

Under Gramm-Rudman, if deficit targets are not met, certain COLA's are suspended. As a result, civil service, military, railroad and disability annuitants received no COLA in 1986.

The fact that the original bill had nearly 290 cosponsors is evidence of the widespread belief in this body that Federal annuitants already have been asked to shoulder a disproportionate share of the load resulting from the deficit crisis.

We are not breaking any new ground here today. What we are doing is making good on a promise to our retirees and our current workers, by standing by our commitments we are telling the current work force that their golden years will be protected against inflation.

The average pension is about $12,000 a year while survivor benefits average about $6,000. You can see how important a small, but anticipated COLA is in family budgeting.

It is worth pointing out that the Senate and House budget resolutions provide for cost-of-living increases. Additionally the Congressional Budget Office baseline civil service retirement trust fund already includes a 3.4-percent estimated COLA increase to be paid to civilian retirees during calendar year 1987.

As I see it, COLA probably is the single most important concern of retirees. In supporting this bill, we are telling all of our workers, current and retired, that we do, indeed, have a quality retirement system.

Mr. Speaker, I would like to express my appreciation to the ranking majority member of the subcommittee, the gentlewoman from Ohio [Ms. OAKAR], who authored this bill and who has worked hard for its passage and who has contacted practically every Member of this body and has received the support and cosponsorship of nearly 300 Members. I think the gentlewoman is due a great deal of credit for her untiring efforts on behalf of our retired Federal employees and present Federal employees. I would like to express my appreciation for her efforts.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in support of H.R. 4060 which would guarantee Federal retirees a full cost-of-living adjustment in January 1987. As a cosponsor, I fully support this legislation. I am pleased this bill has been amended to grant the full fiscal year 1987 COLA to railroad, Foreign Service, military, and other Government retirees as well.

Balancing the Federal budget and reducing the national debt are the most important matters facing this Congress. Deficit reduction efforts must be fair, however, and I do not believe that the Gramm-Rudman-Hollings legislation, which eliminated the January 1986 COLA, passed the fairness test.

My congressional district has one of the largest concentration of Federal retirees of any district in the country. Earlier this year, I heard from hundreds of concerned retirees who have said that they had counted on receiving their COLA and would have difficulty making ends meet without an inflation adjustment. Most of these retirees live on fixed budgets and denying the COLA for this group of Americans seriously hampers their ability to maintain or sustain current protection against inflation.

It is important to recognize that these retired Americans are individuals who dedicated their lives to public service—to making our Nation a better place for all its citizens. It is unfair to single them out to accept cuts that others are not asked to accept.

Mr. Speaker, this legislation has bipartisan support and is supported by the National Association of Retired Federal Employees. It is, I believe, a good piece of legislation which will correct a very inequitable situation and I fully support its speedy passage.

□ 1455

Mr. Speaker, I want to reiterate the comments that my colleague made about the gentlewoman from Ohio [Ms. OAKAR]. Had she not persisted and pushed and pulled and done everything that she possibly could, this legislation would not be on the floor. I think all of us owe her a debt of gratitude, as well as all of the retirees in this Nation, for her persistence in passing this legislation today.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. I thank the gentleman for yielding time to me.

Mr. Speaker, as a cosponsor of H.R. 4060, I rise in strong support of this legislation, which will ensure that the cost-of-living adjustment scheduled during 1987 will be paid to Federal retirees. This is just one step in ending the inequitable treatment of COLA's for Federal retirees under current law. As the committee report states, "The decision to differentiate between annuitants with respect to COLA's was contrary to a policy decision made by the Congress in the first session of the 99th Congress during budget deliberations." This is true and both parties, Democrat and Republican, demonstrated in their budget alternatives that it was possible to have Gramm-Rudman and still pay COLA's on an equitable basis.

This legislation is not a panacea. Discrimination still exists under law. This week I will introduce legislation designed to end that discrimination permanently. My legislation will guarantee that all Federal retirees and Social Security recipients receive the same COLA each and every year. This legislation will not change the Social Security law, but will simply grant all Federal retirees the same COLA. This will include a permanent exemption from the provisions of Gramm-Rudman.

Mr. Speaker, I have consistently stood for equitable treatment of all our Nation's retirees. I urge my colleagues to join me in making permanent a policy of equity toward all retirees by joining as cosponsors of my legislation.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 4060, legislation to amend title V, United States Code, to provide that the full cost-of-living annuities payable from the civil service retirement and disability fund shall be made for 1987 and I commend the gentlelady from Ohio for her leadership on this issue.

Since 1981, Federal retirees have not received a full COLA even though rising inflation continues to erode their retirement income. Unlike active employees, these retirees depend upon a fixed income which they are hard-pressed to supplement so late in life. By freezing or limiting the only inflation adjustment available to these older men and women, the Congress would be reducing their pensions by reducing their buying power.

During the past 5 years, we have seen Congress eliminate the biannual COLA and delay the payment date by linking it to Social Security. This linkage, Congress stated, would protect civil service COLA's from future attack. However, Congress last year singled out Federal retiree COLA's from Gramm-Rudman-Hollings cuts while protecting the Social Security COLA. Civilian retirees understand the need for deficit reduction, nevertheless they cannot understand why they continue to be singled out; especially when their Social Security counterparts are protected. Accordingly, I feel that Federal retirees should receive the full civil service retirement COLA each year. And I urge my collagues to fully support H.R. 4060.

Mr. TAYLOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the bill H.R. 4060 and commend the author and the chairman and the ranking member of the committee for their work in this area.

I am also pleased by the inclusion of the provisions of H.R. 4671, a bill providing COLA's for military retirees, and H.R. 4338, a bill to provide COLA's for tier II Federal retirees. I cosponsored all three of these important bills which guarantee equality and fairness in the treatment of retirees.

Mr. Speaker, this is an issue of fairness, plain and simple. The question before us is whether or not we believe

that the Federal Government should discriminate against certain Federal retirees, namely military, railroad, and civil service. I hope that the answer will be a resounding no.

Back in 1983, we asked Social Security retirees to forgo a COLA in order to help place the system on a sound financial footing. We have asked civil service and military retirees to make similar sacrifices in 1985 and 1986. I believe civil service, military, and railroad retirees have contributed more than enough to efforts to reduce the national deficit. This bill will insure that these retirees will not be asked once again to forgo their much-deserved COLA's in 1987.

Again, I commend the committee for bringing this bill to the floor and urge all Members to support it.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I wish to yield to my colleague from California [Mr. FAZIO], who has been very instrumental in seeking to protect the COLA for military retirees and I am very proud to have been a cosponsor of this legislation which would have guaranteed the January 1987 COLA for men and women in our Armed Forces.

I believe, even though our committee did not have jurisdiction, that they were discriminated against as well. I know the Speaker is a retiree himself and I know he looks with pride on the work that we are trying to do here today.

I also want to include for the RECORD at this point a letter from Chairman LES ASPIN, the chairman of the Armed Services Committee in support of the expansion of H.R. 4060 to include the same COLA protection for military retirees. I want to thank him personally for that.

The letter follows:

COMMITTEE ON ARMED SERVICES,
Washington, DC, January 12, 1986.

Hon. MARY ROSE OAKAR,
U.S. House of Representatives,
Washington, DC.

DEAR MARY ROSE: I understand that H.R. 4060, your bill to fortify the civil service retirement COLA against the effects of a sequester under Gramm-Rudman in 1987, has been approved both by your Subcommittee on Compensation and Employee Benefits and by the full Committee on Post Office and Civil Service.

I am sure you have considered whether military retirees ought to receive the same treatment as civil service retirees on this issue. As you know, the bill in its current form would not appear to protect military COLAs. It would only protect payments from the civil service retirement fund. Even though military retirement COLAs are based on the timing and amount of civil service retirement COLAs, military retirees are not paid from the civil service retirement fund.

I recognize that the scope of the bill has been confined to the legislative jurisdiction of the Committee on Post Office and Civil Service. I would hope, however, that you might be willing to broaden the scope of the bill to achieve equity between military and civil service retirees. Extending the benefit of the bill to military retirees would certainly have my support. Obviously, the Committee on Armed Services would do nothing to cause a sequential referral of such a broadened bill. Indeed, I would hope that such a change could be accommodated in your plan to bring the bill to the floor under suspension of the rules.

I would be very interested to know your thinking on this matter, so that the Committee on Armed Services might consider how to proceed. I am sending a similar letter to Chairman Ford.

Sincerely,

LES ASPIN,
Chairman.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentlewoman for yielding time to me.

Mr. Speaker, as an original cosponsor of H.R. 4060, I rise in strong support of the gentlewoman from Ohio's bill, and I urge my colleagues to join with me in passing this measure.

Over the past 3 years, inflation has risen 10.1 percent. Social Security recipients have received a full COLA for each of these 3 years—1984, 3.5 percent; 1985, 3.5 percent; 1986, 3.1 percent. Military and Federal retirees however, have only received one COLA increase during that same period—1984, 3.1 percent.

To add insult to injury, the 3.1 percent COLA that was due in January 1986 fell victim to the Gramm-Rudman sequestration. And, as you know, under the terms of that legislation, COLA's for Federal and military retirees could be denied for 5 full years. Those who voted for Gramm-Rudman, in effect, sacrificed our retirees.

The enormous deficits that we are grappling with require sacrifices. But the program reductions that are necessary should not be imposed by taking aim at one group and inflicting inequitable and continuous harm.

Congresswoman OAKAR's legislation is a way to limit the damage imposed by Gramm-Rudman. If sequestration is required, all COLA's, except those received by Social Security recipients, will be the first to be eliminated. H.R. 4060 will prevent that for the coming fiscal year.

Representative OAKAR is one of Congress' most ardent supporters of the rights of Federal employees and retirees. She has championed numerous programs and policies throughout her years in Congress in order to ensure a top notch Federal workforce and a consistent and reliable benefit and retirement program for our Government employees. H.R. 4060 is in keeping with her efforts over the past years.

Also in keeping with Ms. OAKAR's philosophy of equitable treatment for all, she has agreed to incorporate the provisions of H.R. 4671, a measure I introduced as a companion to H.R. 4060. My bill provides a COLA in fiscal year 1987 for military, Coast Guard, NOAA, and Public Health Service retirees. Further, when Ms. OAKAR moves to suspend the rules and pass H.R. 4060, she will provide coverage for tier II railroad retirees, CIA, and Foreign Service retirees.

I hope that you vote in favor of this bill that helps to address the existing inequity. Military and Federal retirees should not be charged with a disproportionate share of deficit reduction. These citizens who devoted their careers to serving this Nation must not be singled out for particularly harsh treatment.

Again, I want to thank my colleague from Ohio for her leadership on this issue and her long term and continuous work on behalf of our Federal workers and retirees and now the many others who depend on us to keep our commitment to a decent retirement.

Ms. OAKAR. Mr. Speaker, at this time I would like to publicly thank the chairman of the Committee on energy and Commerce, the gentleman from Michigan [Mr. DINGELL] for allowing us to offer this amendment to incorporate railroad retirees, and I am very pleased to have as one of the supporters and someone who would like to share his thoughts with us, the chairman of the Subcommittee on Transportation, a real champion for railroad workers and railroad retirees, the distinguished gentleman from New Jersey [Mr. FLORIO].

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in support of this important legislation. This bill will ensure that normal cost-of-living adjustments will be paid in 1987 under several important retirement systems, including Civil Service Retirement, Military Retirement, and Railroad Retirement.

I am particularly pleased that the pending legislation, in section 5, guarantees the tier II cost-of-living adjustment for railroad retirees that is payable in 1987. This section is based on section 2 of H.R. 4338, the Railroad Retirement and Unemployment Benefits Protection Act of 1986, which I introduced. That legislation, H.R. 4338, provides comprehensive protection to railroad retirement and unemployment insurance benefits from the effects of Gramm-Rudman and has already been approved by the subcommittee I chair.

Railroad retirees have sacrificed greatly in recent years to keep their retirement system solvent. These sacrifices, painful as they have been, have worked. The system is now healthy

and capable of paying full benefits. Yet, in the name of Gramm-Rudman, railroad retirees have been asked to sacrifice yet again and give up additional earned benefits.

In particular, the Gramm-Rudman law eliminated the January 1986 cost-of-living adjustments for tier II benefits. This COLA elimination does not make any sense, since these railroad retirement benefits are paid from a self-contained trust fund which is currently financially healthy. The money "saved" by eliminating COLA under Gramm-Rudman remains in the trust fund and thus does not reduce the deficit in any real sense.

Fortunately, this bill will ensure that railroad retirees will receive their normal tier II cost-of-living adjustment payable beginning in January 1987. (The tier I cost-of-living adjustment, along with the basic tier II benefits, are currently protected from any cutback under Gramm-Rudman.)

I want to acknowledge the assistance of the gentlewoman from Ohio [Ms. OAKAR], the chairwoman of the Compensation and Employee Benefits Subcommittee, the gentleman from Michigan [Mr. FORD], the chairman of the Post Office and Civil Service Committee, and the gentleman from Michigan [Mr. DINGELL], the chairman of the Energy and Commerce Committee, for their cooperation in including this protection for railroad retirees in H.R. 4060.

I urge support of the bill.

□ 1505

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in order to allow people who are covered under FECA to get a COLA as well, we had to have the cooperation of the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS], whom I would like to acknowledge, and also the chairman of the Subcommittee on Labor Standards, the gentleman from Pennsylvania [Mr. AUSTIN MURPHY] for their fine cooperation.

I would also like to acknowledge the chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL], and the chairman of the Subcommittee on International Operations, Mr. DAN MICA, for their cooperation so that Foreign Service retirees could get their cost-of-living adjustment.

Mr. Speaker, I yield such time as he may consume to my friend and colleague, a great champion of Federal workers and retirees and others, the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Speaker, I rise in very strong suport of H.R. 4060, introduced by the gentlewoman from Ohio [Ms. OAKAR], the subcommittee chairman, and I also rise to commend her, the ranking member, and the committee members for bringing in this bill.

Mr. Speaker, I wish to express my strong support of H.R. 4060, introduced by my colleague from Ohio, which will guarantee the January 1987 cost-of-living adjustment to civil service annuitants.

The President's requests for Federal personnel and annuitants, in his budget proposals for fiscal year 1987, fall under the heading, "Make Federal government services more efficient, effective and accountable." Among those requests, we find a 3-percent pay increase almost completely effaced by a 2-percent increase in employee contribution to the civil service retirement system, a COLA freeze for fiscal year 1987, and a restriction on future COLA's to 2 percent under inflation. We are to assume, then, that our Government will better function with a disenchanted and diminishing work force, for such will be the result if the administration has its way.

During the last 5 fiscal years, Federal employees have seen their pay capped, frozen, deferred, threatened and actually reduced in real terms. For the period 1981 through 1985, Federal white-collar pay increased 16.3 percent, while the Consumer Price Index increased 27.6 percent, and private sector pay increased 27.5 percent. In 1985 the President's "Pay Agent" (that is, the directors of OPM, OMB, and the Secretary of Labor) found that Federal white-collar pay, on average, lagged 19.15 percent behind the private sector.

Furthermore, since 1976 the value of Federal pensions has been cut by 10 percent. Contrary to the widespread myth that the Federal retirement system is the Nation's most generous retirement program, recent studies reviewing retirement benefits paid in the private sector have demonstrated that many private pension programs replace a greater portion of an employee's preretirement income than Federal plans do. In addition, Federal employees contribute 7 percent of their salaries to their retirement. The Bureau of Labor Statistics has reported that in 1982, 93 percent of the pension programs included in their survey of medium and large firms do not require any employee contribution.

The Gramm-Rudman-Hollings Act mandated COLA freezes across the board, with the exception of social security, for 1986. Despite the grim statistics, and on top of Gramm-Rudman-Hollings, the Reagan administration is intent upon more cuts. The administration's proposal for a 3 percent pay increase for fiscal year 1987 will be almost completely offset by the proposed increase, from 7 percent to 9 percent, in the employee contribution to the Federal retirement system. The administration also proposes to cap Federal pay increases at 3 percent for fiscal year 1988 and fiscal year 1989.

Coupled with these inequitable provisions for Federal civil workers is the President's recommendation for the elimination of the January 1987 COLA. When COLA's resume in 1988, he proposes to pay them at a rate of 2 percent under inflation.

These proposals—the 2-percent increase in employee contribution, the COLA freeze, restricting future COLA's to 2 percent under inflation—must be defeated. These proposals threaten to create serious morale, recruitment, and retention problems within the Federal workforce. The professionalism of the Federal workforce is an ever-growing phenomenon. It has become one of the finest educated and highly trained corps of individuals ever assembled. During the last 20 years, the number of scientists, engineers, and physicians employed by the Government has increased 50 percent, while the number of lawyers has doubled. We run a risk in destroying the morale of this competent, dedicated, and professional workforce. We run the risk of losing the best and the brightest.

This bill sends a strong signal to our civil service retirees of our commitment to preserve a reliable and fair retirement benefit. H.R. 4060, of which I am a cosponsor, promises to grant Federal retirees their 1987 COLA. In addition, it pleases me that military retirees will also have their 1987 COLA's protected under this bill. I firmly believe that passage of this bill will endure a reasonable level of benefit for retirees who have contributed inestimably to public and military service.

I hope I can count on the support of my colleagues in the passage of H.R. 4060. The administration has lashed out most unfairly at our Federal workforce; it is imperative that Congress stand firm in their behalf.

Ms. OAKAR. Mr. Speaker, I yield such time as he may consume to a champion of retirees who did a good job in trying to help them with respect to housing several days ago so that they would not have their housing rents increased, the gentleman from Illinois [Mr. GRAY].

Mr. GRAY of Illinois. I thank my friend, the distinguished gentlewoman from Ohio [Ms. OAKAR] for yielding time to me.

Mr. Speaker, I rise in support of H.R. 4060, and take this opportunity to commend Ms. OAKAR and the distinguished ranking member, the gentleman from Missouri [Mr. TAYLOR]. Mr. Speaker, as usual, Ms. OAKAR is leading the parade when it comes to helping our Federal workers and our retirees, and I want to have my voice added to the more than two-thirds of the Members of this body who cospon-

sored this important legislation allowing cost of living increases starting next January 1 for our retired Federal workers and railroad retirees.

If I could just take a few seconds to capsulize the need for this, I ran into a retired worker out in Illinois after just having received a 10-percent increase in his utility bills who said, "When are you going to pass that COLA bill, Mr. GRAY?" He said, "I don't need the money, it's the people I owe that need it."

I think you can see that by Congress giving increases to those on Social Security and other people who are living on fixed incomes and to deny the Federal worker, we are placing them in a very tough spot economically. This bill will correct that, and I want to rise to congratulate Ms. OAKAR, Mr. TAYLOR, and the other members of the committee and to say I am proud to be a cosponsor of this important legislation. I urge all my colleagues to vote in favor of this important bill. Thank you.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this moment to thank my colleagues for their kind words about our efforts, and I want to congratulate my full committee chairman, the gentleman from Michigan [Mr. FORD] for permitting me to expeditiously get the bill through the committee. I want to thank the distinguished minority member, the gentleman from Missouri [Mr. TAYLOR], the minority member on my subcommittee, the gentleman from Indiana [Mr. MYERS], who was so cooperative, and indeed, all members of the full committee, for their mutual cooperation on this bill, and all the other committees interrelated with this legislation.

Mr. Speaker, we are not in any way, shape, or form trying to pit Social Security recipients against other recipients. As a matter of fact, I personally believe that Social Security recipients should get a cost-of-living adjustment, and have always supported that. But I also think that Federal annuitants, military retirees, Foreign Service retirees, CIA retirees, railroad retirees, and other Federal disability retirees who were denied a COLA should get a COLA in 1987. It really is not fair to them, especially people who have given so much of their youth to make our country the greatest country in the world.

I hope that no Member votes against this legislation, and I hope that we can in the future not discriminate against older Americans who really deserves this cost-of-living adjustment and who have given so much to our country.

Mr. AuCOIN. Mr. Speaker, as a cosponsor of H.R. 4060 I rise in strong support of this legislation. I especially want to thank Congresswoman OAKAR for her hard work to insure that our Federal and military retirees receive a cost-of-living allowance [COLA] in 1987.

I have received numerous letters and calls in recent months from Federal and military retirees in my district. Their message to me has been this: "We are as willing as any group in the country to make the sacrifices necessary to cut our Federal deficit, but only if others are willing to make equal sacrifices." They know, as I do, that our economy will never experience a full recovery until we shrink the Federal sea of red ink. But Federal retirees, along with military retirees and others, have been asked to sacrifice over and over again in recent years, while other parts of the Federal budget have been spared.

Many of the retirees who contacted me expressed support for an across-the-board freeze in Federal spending. They realize this would be a good way to reduce our deficits and insure that the necessary sacrifices are shared. I agree with them. However, what we've seen is a tendency to freeze the COLA's of our Federal and military retirees, without requiring others to share in this sacrifice.

This bill, H.R. 4060, lets our Federal and military retirees know that regardless of what else happens, they will receive a cost of living allowance in 1987. By passing this bill today, the House of Representatives will actually be doing two things: First we'll guarantee a COLA for our Federal and military retirees, but second we'll be letting these groups know that we have appreciated their past sacrifices in the name of national economic recovery.

Mr. HEFTEL of Hawaii. Mr. Speaker, I rise to express my strong support for H.R. 4060, and amendments clarifying this measure's applicability to recipients of military, foreign service, and other Federal employee retirement benefits. What we discuss here today is a simple matter of equity. Since 1981, 1.5 million civil service retirement annuitants have been denied almost one-third of the COLA benefits guaranteed under Federal law. During the same period, millions of Social Security pensioners have received full COLA's. Last fiscal year, scheduled Federal retirement COLA's were eliminated as a result of the Gramm-Rudman-Hollings deficit reduction legislation.

Federal and military retirees have borne the brunt of the deficit reduction effort long enough. COLA reductions and freezes represent an unacceptable erosion of basic retirement benefits, and hit Federal and military retirees living on fixed incomes just as hard as Social Security annuitants. In all fairness, the Federal Government should not renege on its responsibility to ensure that pensions keep pace with inflation, and we should apply this principle to all individuals who receive pensions from the Federal Government, not just those receiving Social Security benefits.

It is unconscionable that the Reagan administration so consistently seeks to cancel COLA's for retired Federal workers. To ensure a competent and well-motivated Federal work force, we must take care of our own. This legislation guarantees a full COLA for all Federal and military retirees in fiscal year 1987, and will prevent any 11th-hour attempts by the administration to eliminate COLA's during the coming fiscal year, and will insulate Federal retiree COLA's from any adverse effects under Gramm-Rudman-Hollings, which exempted Social Security and veterans' compensation and pensions from COLA cuts.

Too many promises to Federal retirees have been broken. I urge my colleagues to strike a blow for fairness and pass this important legislation. I commend my colleague and friend Representative MARY ROSE OAKAR for her tireless efforts on behalf of Federal workers and retirees, and her excellent work in bringing this legislation to the floor today. Thank you.

Mr. BIAGGI. Mr. Speaker, as a cosponsor, I rise in strong support of H.R. 4060, a bill guaranteeing that our Nation's civil service and military retirees receive their cost-of-living increase on January 1, 1987. Passage of this legislation is vital if we are in fact going to begin to correct the injustice that has been directed at these Americans over the past several years, but most notably, since the adoption of the Gramm-Rudman law.

Under current law, civil service retirees and their survivors receive a cost-of-living adjustment [COLA] based on the Consumer Price Index. The COLA is to be paid on January 1 of each year. That is the law. It contains automatic spending reductions necessary to achieve specified deficit reductions. When the first round of these cuts was put into effect, with it came the elimination of the 1986 COLA for Federal retirees.

This legislation directs that all civil service retirees shall receive a full cost-of-living adjustment for 1987 to be paid in January. It would in effect bar a second round of sequestration which may be ordered under Gramm-Rudman from again depriving these individuals of their COLA's.

The Gramm-Rudman law itself did exempt Social Security as well as veterans pensions from automatic cuts but left Federal retiree COLA's susceptible to reductions. In fact so vulnerable, they were wiped out entirely for this year.

Federal retirees, like all other retirees have to cope with greatly reduced incomes, sometimes as much as 50 percent less than they received during their peak earning years. Therefore, adjustments for inflation are critical in order to stretch their dollars farther. The fact of it is that the elderly consume a greater amount of their income on necessities than do other groups. It is for this reason that we must provide steps to allow them at least keep pace with inflation.

I opposed the Gramm-Rudman law and would prefer to see it repealed. However, it is the law of the land and at least as it relates to last year, it superseded other laws to the direct detriment of groups such as civil service and military retirees. It is an unjust law, and it is flawed from a legal and economic standpoint. Expectations are the Supreme Court will rule sequestration to be unconstitutional. Yet until they do, Congress must take steps to protect its Federal retirees. H.R. 4060 does just that.

Before I close, let me pay tribute to the outstanding work done on this legislation by my friend and colleague from Ohio [MARY ROSE OAKAR]. She has been a true champion of the Federal retirees. Let me also salute the out-

standing work of the National Association of Retired Federal Employees for their constancy of commitment and advocacy for their membership. Theirs is a valid and just cause.

Mr. BARNES. I strongly support H.R. 4060, which requires a full COLA in fiscal year 1987. This legislation reaffirms our commitment to fairness, a commitment that provisions of the Gramm-Rudman law trampled last March in the stampede toward sequestered budget savings. Over 1 million Federal retirees and their survivors, many counting upon the 3.1 percent increase for fiscal year 1986, watched Congress literally snatch it away with one hand while protecting the Social Security COLA with the other hand.

Because the Federal COLA serves a constituency far smaller than Social Security's, both the administration and Congress have preyed upon its vulnerability. We will have paid Federal retirees one 3.5 percent COLA in the 42-month period since the 1983 COLA. This year's freeze comes on top of four other major delays in COLA payments and the elimination of the semiannual COLA.

Clearly, the majority in the House who have cosponsored this important legislation recognize that inflation protection very often spells the margin of difference between dignified retirement and daily struggle for older Americans retired from public service careers.

I congratulate the distinguished Chair of the Subcommittee on Compensation and Employee Benefits, the gentlewoman from Ohio [Ms. OAKAR] for her leadership in bringing this issue to the floor.

I also want to salute my good friend, the gentleman from California [Mr. FAZIO], for his efforts on behalf of military retirees who have served this Nation faithfully. It has been my privilege to serve with the gentleman on the House Budget Committee and to work with him for a full COLA in fiscal year 1987. Hopefully, we will find a way to break the current impasse in the budget conference and pass a budget that meets the $144 billion deficit target responsibly.

Mr. DINGELL Mr. Speaker, I rise in strong support of H.R. 4060, legislation that will protect the 1987 cost-of-living adjustments for civil service, military, and railroad retirees.

In particular, I want to thank the distinguished chairwoman of the Subcommittee on Compensation and Employee Benefits Ms. [OAKAR], and the distinguished chairman of the Committee on Post Office and Civil Service, Mr. FORD, for agreeing to include railroad retirees under the rubric of this legislation.

As you know, Mr. Speaker, railroad retirement tier II COLA's are subject under Gramm-Rudman to the same reduction or suspension as civil service and military retirement COLA's. Thus, it is entirely fitting and appropriate that railroad retirees be given the same protections as these other retired workers.

I would observe, as well, that the military retirement provisions of this bill, as amended, will also ensure the payment of COLA's in 1987 to commissioned officers of the Public Health Service, whose retirement system also falls within the jurisdiction of the Energy and Commerce Committee. And so Chairman FORD and Chairwoman OAKAR, as well as the distinguished chairman of the Armed Services Committee, Mr. ASPIN, have my thanks on this score, too.

The grossly inequitable treatment given by Gramm-Rudman to the millions of retired Americans who spent their working lives in the civil service, the military, and the railroad industry was just one of the many reasons I opposed that legislation and voted against it at every turn. H.R. 4060 is an important step in rectifying one of Gramm-Rudman's worst provisions, and I urge my colleagues to support it.

Mr. DICKS. Mr. Speaker, I want to add my voice in strong support of H.R. 4060. This bill calls for the same treatment in protection against the effects of inflation for civil service and military retirees as we have provided for Social Security recipients.

I want to compliment the gentlelady from Ohio [Ms. OAKAR], for her leadership on this basic issue of fairness. The existence of this legislation, and the fact that a majority of the House have joined as cosponsors, was a strong influence on the Budget Committee in recommending cost-of-living adjustments for Federal retirees in fiscal year 1987.

In the past 3 years, inflation has risen by 10.1 percent. Social Security recipients have received a full COLA for each of these years. But Federal retirees have not. They have received but one COLA, 3.1 percent in fiscal year 1984. In fairness, we should consider restoring the lost earning power Federal retirees have already absorbed. Despite what some might contend, they are not as a group affluent. Their average retirement benefit is only $11,064, compared to $13,004 for private companies in a recent survey. Both private and Federal workers retire, on average, at age 61. At a minimum, we have a responsibility, even in these times of budget constraint to protect these individuals from the ravages of inflation.

I am also pleased that the provisions of H.R. 4671, which I cosponsored with the gentleman from California [Mr. FAZIO], have been included in this legislation. This insures that military and other Federal retirees receive the same treatment in order to protect against the ravages of inflation.

This legislation will help accomplish this important task.

Mr. DYSON. Mr. Speaker, I rise in support of H.R. 4060, which will ensure a cost-of-living adjustment for Federal retirees. Last year, one group of our Nation's citizens was unfairly singled out by the passage of Gramm-Rudman. Although this law preserved the COLA for Social Security recipients, it seized that same benefit from Federal retirees by eliminating the scheduled January 1986 COLA from their annuity checks.

While I continue to be very concerned about our budget deficit, I feel strongly that the burden of balancing the budget should not fall disproportionately upon Federal retirees. It is simply unfair to single out some retirees for reductions while others remain exempt. We entered a contract with our Nation's civil servants. They have kept their end of the bargain. We in the Congress must fulfill our end of the bargain, too.

We cannot change the past. H.R. 4060 is an expression of the Congress that this should not happen again. Our Nation's Federal retirees deserve fair and equal treatment under the law. I wish to commend Representative MARY ROSE OAKAR of Ohio for the fine work she has done in bringing this legislation to the floor today and urge my colleagues to support it.

Mr. HOYER. Mr. Speaker, I rise today in support of H.R. 4060, which would restore the cost-of-living increase to Federal retirees in 1987. I want to commend Chairwoman OAKAR for her undying commitment to the Federal employees and retirees.

As Chairwoman OAKAR is well aware, the Federal Government in the past few years has imposed several restrictions which resulted in benefit reductions for present and future civil service, military, and social security retirees. Last year's elimination of retirees' COLA was unfair and wrong in that Federal employees were singled out to bare the brunt of efforts to reduce the Federal deficit.

This trend toward singling out the civil servant to cut Federal spending is unjust. Inflation has risen 10.1 percent over the past 3 years. Social Security recipients have received a full COLA for each of these years. Federal and military retirees have not been as fortunate. In fact, military and Federal retirees have received only one COLA increase during the past 3 years. This is grossly unfair.

Federal retirees were one of the first casualties of the 1986 Gramm-Rudman cuts. Social Security recipients, however, were exempted from similar reductions, along with veterans compensation and pensions, and unemployment compensation. Not only did Gramm-Rudman result in the elimination of Federal retirees' 1986 COLA's, but Federal retiree COLA's were cancelled 3 months earlier than other budget cuts required by Gramm-Rudman.

Mr. Speaker, I submit that this is unfair, unjust, and highly discriminatory. Last year Congress adequately addressed the 1986 COLA issue by recommending a full COLA in the budget resolution. This sudden reversal of the 1986 COLA for Federal retirees is a perfect example of Gramm-Rudman's unbalanced approach to correcting the deficit problem. This unbalanced approach is my primary reason for voting against Gramm-Rudman. Although I would like to correct the damage done by Gramm-Rudman and restore the full 1986 COLA, the matter before us today is the 1987 COLA.

H.R. 4060 would grant civil service retirees a full COLA in 1987 and protect that COLA from any cuts if automatic spending is triggered under Gramm-Rudman. Both the House and Senate have assumed a 2-percent COLA increase in their budget resolutions.

This is only fair. Private sector retirees do not face annual threats of losing their COLA. In fact, the President has requested a 3.7-percent COLA for Social Security recipients in his budget. Federal retirees should have the same assurance that they can continue to have their annuities adjusted according to the Consumer Price Index. Denying COLA's to Federal retirees only presents undue hardships to these seniors, many of whom are already living on a very limited income. Federal retirees should receive the same consideration as Social Security beneficiaries.

The same holds true for all Federal, railroad, and military retirees. All deserve to receive their 1987 COLA. They too could be denied their COLA for the duration of Gramm-Rudman. I commend Congressman FAZIO for introducing H.R. 4671, which I was happy to cosponsor. I also commend Chairwoman OAKAR's acceptance of Representative FAZIO's bill and the inclusion of railroad and military retirees in her well-crafted legislation.

Mr. Speaker, on another note, let me say that recent actions by Congress are making Federal employment quite unappealing. Threats of holiday furloughs, double jeopardy pension and Social Security deductions, and pay freezes, all are sending powerful statements to employees and prospective employees that the Federal Government does not live up to its word and is not committed to adequately compensating Federal employees and retirees.

The proposed elimination of the "3-year recovery" rule in the tax reform bill would further turn prospective employees away from devoting their careers to the Federal Government. Under the tax proposal, Federal retirees would be required to begin paying taxes on their annuities immediately upon retirement. Current law gives retirees 3 years to draw their already taxed contribution before they have to begin paying taxes on their annuity. People are literally rushing, in rates already double usual retirement rates, to retire by June 30, next week, in order to avoid falling prey to the House provision which would eliminate the rule on July 1. It is unfair to force people to retire under the uncertainty of retroactive legislation which may or may not become law and by eliminating one of the very benefits which the Federal Government has advertised as part of its retirement plan.

H.R. 4060 is one small, but important step to reverse this trend. Congress must act to ensure inflation protection to the very people who have worked so hard to make our Government function effectively. Civil servants deserve the same protection and fairness as private sector retirees. Federal retirees have continually witnessed delays, cuts, and total elimination of COLA's. Unless we act now, civil service, railroad, and military retirees stand to have their COLA's eliminated every year for the next 5 years. Let us learn from our mistakes. Let us guarantee fairness and equity for all retirees.

Again, I would like to commend chairwoman OAKAR for her relentless efforts to protect the COLA's of all Federal, railroad, and military retirees.

Mr. ANDERSON. Mr. Speaker, I rise today to congratulate my colleague, MARY ROSE OAKAR, for introducing H.R. 4060, and successfully shepherding it through the Post Office and Civil Service Committee, and onto the House floor. I strongly support this legislation.

H.R. 4060 would, as you know, mandate that a full cost-of-living adjustment [COLA] reflecting the full increase in the Consumer Price Index be paid to Federal retirees for 1987 from the Civil Service Retirement and Disability Fund. I understand that when Ms. OAKAR moves to suspend the rules and pass H.R. 4060, her motion will include a provision to incorporate all Federal, railroad and military retirees under the terms of H.R. 4060.

You will recall that the scheduled 3.1 percent January 1986 COLA due to Federal, railroad and military retirees was rescinded in accord with the so-called Gramm-Rudman budget bill. I voted against Gramm-Rudman because I believed then, and continue to believe, that Federal, railroad and military retirees were treated unfairly. Essentially the Congress endorsed the idea that it was acceptable, by electing not to pay COLA's, to permit the erosion, by inflation, of the value of civil service and other annuities.

I've received scores of letters in support of H.R. 4060 from my constituents. Their concerns are basically the same as mine. Federal, railroad and military retirees counted on receiving full COLA's when planning for their retirement, and now feel that Congress has changed the rules in the middle of the game.

The Congressional Budget Office has stated that, even with the constraints of Gramm-Rudman, restoration of the COLA for Federal, railroad, and military retirees would not impact on the deficit, but would merely necessitate small reductions in other programs. Given these circumstances, H.R. 4060 will let our Nation's Federal retirees know that we appreciate their years of public service. I urge all my colleagues to support this legislation.

Mr. KLECZKA. Mr. Speaker, as a cosponsor of H.R. 4060, I urge the Congress to pass this legislation, in the interest of fairness to Federal civil service, and postal retirees across the Nation.

Nearly everyone agrees that reducing the Federal deficit is this country's most urgent domestic priority. With the passage of the deficit reduction amendments of 1985—the Gramm-Rudman law—this Congress has demonstrated its resolve to tackle this issue.

Necessary as it was, however, the deficit reduction law imposes a continuing unfair burden on postal and civil service retirees by suspending their cost-of-living adjustments [COLA's].

A review of the recent history of these COLA's suggests that this provision of the law requires these retirees to give more than their fair share. In 1984 even before this law was enacted, the COLA for Federal and postal retirees was suspended for 6 months, and again this year these retirees had to completely forfeit their COLA's. Without H.R. 4060, they face this unpleasant prospect for yet another year. No other group of retirees or senior citizens has been asked—or required—to give as much.

H.R. 4060 resolves this inequity by ensuring that these retirees receive their COLA's irrespective of the Gramm-Rudman law. It's the fair, equitable, and responsible thing to do. I urge my colleagues to join me in support of this bill.

Mr. ACKERMAN. Mr. Speaker, today I rise in strong support of H.R. 4060, a bill that ensures Federal annuitants a cost-of-living adjustment in their annuities in January 1987. The bill further protects those annuities by ensuring that the COLA scheduled for 1987 will not be reduced or suspended by law or Executive order during the calendar year.

Mr. Speaker, Federal retirees have been hit especially hard during the recent era of budget austerity. Approximately 1.5 million Federal retirees were denied a COLA last January by Gramm-Rudman while other automatic cuts required by the law did not occur until March. Over the past 5 years, Federal retirees have received only 70 percent of the COLA's to which they are entitled by law.

Federal retirees have borne a disproportionate burden in balancing the Federal budget. It is time we began to treat Federal retirees with the respect they deserve for a lifetime of faithful service to their country. H.R. 4060 sends a clear message to Federal retirees that we remember and appreciate their contributions to Government service.

I commend the chair of the Compensation and Employee Benefits Subcommittee of the Post Office and Civil Service Committee, Ms. OAKAR, for offering this legislation. I am proud to be a cosponsor and urge my colleagues to support H.R. 4060.

Mr. ROTH. Mr. Speaker, I rise in support of this legislation to guarantee future cost-of-living adjustments for Federal civilian and military retirees. These COLA's were victims of the automatic across-the-board cuts effective March 1 due to the Emergency Deficit Control Act of 1986.

Everyone agrees that the reduction of our country's $200 billion deficit should remain a priority for Congress. It is rightly argued that bequeathing such a debt to our children is wrong and unconscionable.

It is, however, grossly unfair to single out the civil service—both Federal civilian and military retirees—in the process of reducing the deficit. Deficit reduction must occur, but it must occur in a fair and equitable manner. Military and civilian retirees should not be made scapegoats for the high budget deficit.

We arrived in this deficit situation through many years of irresponsible spending. No particular group caused this deficit, and it is unfair to single out the Federal retirees in rectifying the situation in which we currently find ourselves.

As a cosponsor of H.R. 4060, I urge others to join me in restoring the COLA's for our retirees. Federal civilian and military retirees have worked hard and contributed throughout their lives to a retirement system that was promised to them. It is callous to single out such a group and deny such benefits in the name of "deficit reduction."

Let us continue to strive toward the goal of reducing the deficit. Deficit reduction must not be placed solely upon the shoulders of a group of individuals who need and deserve the benefits they have earned. Let us rectify this injustice by passing H.R. 4060.

Mr. PARRIS. Mr. Speaker, I am pleased to voice my support for H.R. 4060, Congresswoman OAKAR'S bill to provide a guaranteed cost-of-living adjustment for Federal retirees in 1987.

Let me first thank Congresswoman OAKAR and her staff for their efforts on behalf of Federal employees, and in particular, for her leadership on the issue of providing COLA equity to Federal retirees.

Mr. Speaker, the thrust of my argument in favor of this legislation can be summarized in one word—and that word is "fairness." It is not that Federal retirees are unwilling to do

their fair share in fighting the deficit, but when the Congress approved deficit reduction legislation, it proceeded to exempt nearly three-fourths of the Government's programs, thereby leaving Federal retirees and others to bear the brunt of the budget cuts.

I did not object when this Congress put the Social Security program COLA off limits from deficit reduction, but not to do the same for Federal retirees simply tells me that they were unfairly discriminated against because they had worked in the Federal Government. By what logic can we ever expect to attract the best and the brightest to Washington to serve in the Federal Government if the Congress treats Federal retirees in such a callous manner.

Mr. Speaker, so often, debates of this kind are couched in terms of budget numbers, but I would like to relay to my colleagues a story that might give us a more personal perspective on this issue. Recently, an 85-year-old widow retiree visited my office and told me that many of us as a result of the COLA elimination, many of her friends, whom are also widowed, are now living below the poverty level. Notwithstanding, she told me that the majority of those women are too proud to come to my office and "complain" about their situations.

My only regret is that I cannot now tell her that the Congress is completely removing the Federal retiree from the Gramm-Rudman process altogether, by treating our Federal retirees the same as their counterparts on Social Security, and thus relieving her of the fear that next year or the year after she may have her COLA reduced or canceled outright.

Nevertheless, she, her friends, and all Federal retirees will be pleased to know that the Congress is about to begin the first step to ensuring a COLA for this year. Mr. Speaker, and my colleagues, I ask you to support fairness, COLA equity, and H.R. 4060.

Mr. WEISS. Mr. Speaker, I rise in strong support of H.R. 4060, which will ensure a cost-of-living adjustment [COLA] for Federal, railroad, and military retirees in fiscal year 1987. I am pleased that this measure, of which I am a cosponsor, has received such widespread support in the House of Representatives.

In the past 3 years, inflation has risen by 10.1 percent. However, military and Federal retirees have received only one COLA increase during this period, a 3.1-percent increase in 1984.

The Gramm-Rudman Balanced Budget Act made this bad situation much worse. Under Gramm-Rudman, $12 billion in mandatory budget cuts were made in a wide variety of Federal programs, including education, mass transit, health care, pollution control, and programs for the elderly.

However, as has so often been the case, Federal retirees were the first to suffer from attempts to reduce the Federal deficit. In January, when Social Security recipients received a 3.1-percent increase, the Federal retiree COLA was withheld under the Gramm-Rudman law. And barring any legislative change, Gramm-Rudman could result in a loss of the Federal retiree COLA for the next 5 years.

I strongly oppose the Gramm-Rudman Balanced Budget Act. I voted against this act when it was considered in the House of Representatives. After it was passed, I introduced a bill, H.R. 4020, calling for its repeal.

A U.S. district court has ruled that a key provision of the Gramm-Rudman balanced budget law is unconstitutional. This ruling has been appealed to the Supreme Court, which will likely rule on the case shortly. In the interim, the $12 billion in mandatory cuts that have already been made remain in effect. If the Gramm-Rudman process is upheld in court, we will be forced to make $50 to $60 billion in additional cuts by October. Cuts of this size will severely harm all low- and middle-income Americans.

H.R. 4060 will respond to this situation by ensuring that Federal retirees are not continually called on to bear a disproportionate share of deficit reduction efforts in the coming year. I strongly urge all of my colleagues to support this important legislation.

I also call upon my colleagues to go one step further and throw their support behind H.R. 4020, which calls for an outright repeal of the Gramm-Rudman law. Passage of this legislation will not only protect Federal workers and retirees, but it will protect all Americans who are threatened by massive budget reductions under this misguided response to the deficit crisis.

We cannot tolerate a response to the deficit crisis that attacks human needs indiscriminately and ignores the twin illnesses of extravagant military spending and an unfair Tax Code. Rather, we must repeal Gramm-Rudman and get on with the task of reducing the deficit in an equitable fashion. This task will require strong efforts to cut unnecessary defense expenditures and to gain additional revenues by closing unfair loopholes in the Tax Code.

If we hope to maintain a Federal work force that is hardworking and devoted to the best interests of our Nation, we must ensure that Federal workers and retirees are treated fairly. And if we hope to preserve a Government that serves the needs of its citizens, we must ensure that the Federal budget is fair and equitable.

But so long as Gramm-Rudman remains the law of the land, neither of these goals will be achieved. I strongly urge my colleagues to join in the effort to repeal Gramm-Rudman.

Mr. COLEMAN of Texas. Mr. Speaker, I rise in support of the bill H.R. 4060, as amended by the gentlewoman from Ohio.

As many of my colleagues know, I introduced a bill, H.R. 4025, this past January which would correct the injustice contained in the Gramm-Rudman-Hollings Balanced Budget and Emergency Deficit Control Act of 1985. Unlike the bill we are discussing today, my bill would exempt Federal, military, and tier II railroad retirees' cost-of-living adjustments from automatic sequestration for the life of the act, fiscal years 1986 through 1991. However, I support the passage of H.R. 4060 because it begins to address the issue of equity and justice for our retirees.

The budget resolutions of both Houses provide for a fiscal year 1987 COLA for civil service, military, and tier II railroad retirees. This bill would reaffirm that earlier decision by both Houses. Therefore, the House is not contradicting its earlier support for the Balanced Budget Act, but rather acting in concert with its duties to provide the proper mix of fiscal spending within the mandated budgetary limitations.

Our military and Federal retirees have suffered a great injustice, not only as result of the new budget law, but prior to that as well. They have been caught in the vice of deficit reduction since the explosion of red ink in fiscal year 1982 and beyond. The Congress has sought to protect the aged, the handicapped, and the poor from both budget cuts and inflation, yet has let our retirees slip through the cracks. During the last 3 years, inflation has risen by 10.1 percent, while retirees have received only one COLA of 3.1 percent. That loss of purchasing power not only lowers their standard of living, but also violates a good-faith contract between the Government and its employees for a fair and equitable retirement. Our civilian and military employees receive a lower rate of compensation than they would in the private sector. The equitable retirement system has helped compensate for that discrepancy and allowed the Government to retain the qualified personnel we have today.

I wish that we had been able to address this injustice on a broader scale. While H.R. 4060 as amended would provide for the fiscal year 1987 COLA, my bill would restore the 1986 COLA and exempt Federal, military, and tier II railroad retirees from future sequestration. By not restoring the 1986 COLA, we will still be allowing our retirees' standard of living to decline, because their base pay has slipped due to the rescission of the 1986 COLA. Furthermore, Congress should remove retirees' COLA's from the future threat of automatic sequestration, as my bill would do. It is unfair to those men and women who have given a lifetime of service to their fellow citizens in our Government, our military, and our railroads that their livelihoods should be held hostage on a ledger sheet. Let us pass this bill and move forward to address the problem in total, and restore equity and justice to our Federal retirement programs.

Mr. LOWERY of California. Mr. Speaker, I rise to support H.R. 4060. I would like to commend the gentlelady from Ohio for introducing this legislation, and once again demonstrating her concern for and commitment to our Federal employees.

Mr. Speaker, I support this bill because it attempts to correct a gross inequity in the recently passed Gramm-Rudman Deficit Reduction Act of 1985. As we all know, Gramm-Rudman is not fair in its treatment of Federal and military retirees. There is no equity in granting full COLA's to Social Security and other fixed income recipients while denying the same to others. Accordingly, I am voting for H.R. 4060 as an effort to inject a degree of fairness in the implementation of Gramm-Rudman.

At the same time, I believe the solution to our mounting deficit problem is not exempting more programs from Gramm-Rudman's sequestration. I support making all programs subject to budget review, thus spreading the burden of inevitable reductions. Nevertheless,

until Congress is ready to act in this equitable manner, I cannot advocate the singling out of one set of COLA recipients for cuts while other recipients remain exempted.

In closing, Mr. Speaker, I would like to take this opportunity to thank the many Federal and military retirees in my district who have contacted me on this issue. I received hundreds of calls and letters urging my support of this legislation and can honestly say that it made a difference.

Mr. KOSTMAYER. Mr. Speaker, I rise today in support of H.R. 4060, a bill to guarantee the 1987 cost-of-living-adjustment to Federal civil service, military, tier II railroad, CIA, Federal Employee Compensation Act, and Foreign Service retirees. This measure is designed to ensure that all Federal Government retirement benefits, like those of Social Security, are exempted from the automatic spending cuts imposed by the Gramm-Rudman deficit reduction process.

Last January, Representative MARY ROSE OAKAR and I, along with 12 other Members of the House, introduced H.R. 4060 to reverse what we considered to be an injustice contained in Gramm-Rudman. By not exempting the cost-of-living-adjustments [COLA's] for civil service, military and railroad retirees, the President and the Congress broke a promise to Government employees to provide them with fair and equitable retirement benefits. Also, by not exempting the Federal retiree COLA's from Gramm-Rudman, we undermined the ability of the Federal Government to attract and retain qualified men and women to carry out the duties of Government.

The Gramm-Rudman measure, signed by President Reagan on December 12, 1985, has set in place the mechanism by which we have been forced to make the serious budget choices in order to gain control over the phenomenal growth of Federal budget deficits since 1981. These massive deficits are economically dangerous and must be reduced.

In reducing the Federal budget deficit, however, the President and the Congress should act fairly. The Gramm-Rudman legislation has been unfair to millions of Americans who have served the people of this Nation as Government employees and members of the military. It is they who lost their 1986 COLA's. Let us today support H.R. 4060, and begin to treat Federal Government retirees with the fairness they deserve as Americans.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of H.R. 4060, legislation to ensure the payment of cost-of-living adjustments to civil service and military retirees as scheduled on January 1, 1987.

As a cosponsor of this legislation, I am pleased that the House has acted in such an expedient manner to correct the serious inequity Gramm-Rudman-Hollings caused for these retirees. I opposed Gramm-Rudman-Hollings because it allows indiscriminate budget reductions to be made by a computer rather than Congress. The effect of this legislation on retirees is just one example of the adverse impact caused by budget reductions without the direct approval of Congress.

The more than 3.5 million Americans who chose to pursue careers in the military or with the Federal Government did so with certain expectations about the benefits that would be available to them upon their retirement. Among those benefits is a financially sound retirement program that provides annual cost-of-living adjustments.

With more than 250,000 military and civilian retirees living in Florida, 25,000 of whom live in Pinellas County which I represent, I know how difficult many retirees find it to make ends meet on a fixed income. They depend upon their annual cost-of-living adjustments to meet increases in the cost of medical care, housing, and food.

These Americans made Government and military service their careers and in so doing dedicated themselves to providing for the needs of our Nation. In return, with the passage and enactment of this legislation, we can fulfill our obligation to these retirees in their time of need.

Mr. SHELBY. Mr. Speaker, I rise in support of H.R. 4060 and I would commend the gentlelady from Ohio for her diligence and sensitivity in bringing this legislation to the floor today.

Mr. Speaker, this legislation is sorely needed to help correct an inequity included in the 1985 Balanced Budget and Deficit Control Act—this inequity placed thousands of Federal retirees at the mercy of an anonymous and arbitrary budget cutter. Consequently, Federal retirees were deprived of their earned COLA due in January.

Mr. Speaker, Federal employees have for too long been given the short end of the stick: They have been asked to forego reasonable pay increases, they have been forced to accept RIF's, and they have been deprived a COLA year after year. Today, we want to reverse this trend. We want to restore what is rightfully due Federal retirees.

Mr. Speaker, Federal employees have made major sacrifices in recent years. They have had to accept a standard of living that is steadily eroding when considered relative to comparable private sector employment.

For their years of public service, Federal employees and retirees deserve better. Restoring the COLA is a step in the right direction and I urge my colleagues' support of this important effort.

Mr. VENTO. Mr. Speaker, I rise in strong support of H.R. 4060, a bill to restore cost-of-living adjustment [COLA's] for civil service retirees in 1987. This important measure provides that payments from the civil service retirement and disability fund during 1987 will not be subject to any reduction or suspension pursuant to the Gramm-Rudman Act.

Last January, millions of Federal retirees opened their civil service retirement checks to find that they would not receive a cost-of-living increase. These retirees, who receive an average annuity of only $12,000 a year, were expecting a $31 increase last January when they were given less than 2 weeks' notice that they would not be receiving any COLA at all. Federal retirees have only received approximately 70 percent of the COLA's for which they have been eligible over the past 5 years, while millions of others, including some 37 million Social Security recipients, have received their full COLA's. During the past 3 years, inflation has risen a total of 10.1 percent. Social Security recipients properly received the full payable COLA for each of these years—3.5 percent in 1984; 3.5 percent in 1985; and 3.1 percent in 1986. Federal and military retirees, however, received one COLA increase during this same 3-year period; a 3.1 percent COLA paid in 1984.

Mr. Speaker, it is fundamentally unfair to single out Federal retirees to carry a disproportionate share of the burden for helping to reduce the Federal deficit. That is why I was pleased to join my colleague, Congresswoman MARY ROSE OAKAR of Ohio, and others, in sponsoring H.R. 4060.

This legislation is a first step in restoring fairness for our Federal retirees. Last December, Congress passed and the President signed the Gramm-Rudman deficit reduction bill—Public Law 99-177. That measure included a provision effectively canceling the payment of the 1986 COLA to our Federal and military retirees. I voted against Gramm-Rudman for this reason and others as well.

H.R. 4060 insures that the COLA which was denied to Federal retirees this year will be paid in 1987 despite the effects of Gramm-Rudman or any other statute. Inflation does not make a distinction in its impact between Federal retirees and their fellow citizens who once worked in the private sector. Congress should not, therefore, make a distinction in the payment of COLA's to Federal retirees.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 4060, as amended.

The question was taken.

Mr. FAZIO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on the motion will be postponed.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on H.R. 4060, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

U.S. BICENTENNIAL COMMISSION

Mr. GARCIA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3559) to amend the act establishing a Commission on the Bicentennial of the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits on private contributions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFICIAL SEAL.

The first section of the Act entitled "An Act to provide for the establishment of a Commission on the Bicentennial of the Constitution", enacted September 29, 1983 (Public Law 98-101; 97 Stat. 719), hereinafter in this Act referred to as "Public Law 98-101", is amended by adding at the end thereof the following: "The Commission shall have an official seal, which shall be judicially noticed.".

SEC. 2. COMMEMORATIONS BY STATE AND LOCAL GOVERNMENTS.

Section 3 of Public Law 98-101 is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b) It is not the purpose of this Act to preempt any unit of State or local government from celebrating the bicentennial of the Constitution, and nothing in this Act shall prevent any such unit from establishing its own logo, symbol, or mark in connection therewith.".

SEC. 3. AMENDMENTS RELATING TO CERTAIN ADMINISTRATIVE PROVISIONS AND POWERS.

Section 5 of Public Law 98-101 is amended—

(1) in subsection (h)(2)(A), by striking out "$25,000" and inserting in lieu thereof "$250,000";

(2) in subsection (h)(2)(B) by striking out "$100,000" and inserting in lieu thereof "$1,000,000"; and

(3) by adding at the end thereof the following:

"(k) The Commission may transfer funds received by it to another Federal department or agency if the Commission determines that the use of such funds by such department or agency would promote the commemoration of the bicentennial of the Constitution. This subsection is effective only to the extent and in such amounts as are provided in advance in appropriation Acts.

"(l) The Commission may issue rules and regulations to carry out the purposes of this Act.".

SEC. 4. BICENTENNIAL LOGO.

(a) IN GENERAL.—Section 5(j) of Public Law 98-101 is amended to read as follows:

"(j)(1) For the purpose of this Act, the term 'Bicentennial logo' means the symbol or mark designated by the Commission for use in connection with the commemoration of the bicentennial of the Constitution.

"(2) The Commission may, in accordance with rules and regulations which the Commission shall prescribe, authorize the manufacture, reproduction, use, sale, or distribution of the Bicentennial logo.

"(3) Rules and regulations referred to in paragraph (2) shall include provisions under which—

"(A) fees may be charged for any authorization under this subsection (including circumstances under which any such fee may be waived);

"(B) any authorization granted under this subsection shall not be subjected to reassignment or transfer without approval by the Commission; and

"(C) any authorization granted under this subsection may be revoked or otherwise terminated.

"(4)(A) Whoever, except as authorized under this subsection, manufactures, reproduces, uses, sells, or distributes the Bicentennial logo—

"(i) shall be fined not more than $250 or imprisoned not more than 6 months, or both; and

"(ii) shall be subject to a civil penalty in an amount equal to the amount of the fee which would have been payable by that person under paragraph (3)(A).

"(B) Section 701 of title 18, United States Code, shall not apply with respect to the Bicentennial logo.

"(5) Amounts charged under paragraph (3)(A) shall be available to the Commission.

"(6) Notice of designation under paragraph (1) shall be published in the Federal Register.".

(b) SAVINGS PROVISIONS.—(1) All rules and regulations issued by the Commission on the Bicentennial of the United States Constitution in connection with section 5(j) of Public Law 98-101 (as in effect before the enactment of this Act) shall continue in effect, according to their terms, until modified, terminated, superseded, or repealed by such Commission.

(2) No suit, action, or other proceeding lawfully commenced before the amendment made by subsection (a) becomes effective shall abate by reason of the enactment of this Act. Determinations with respect to any such suit, action, or other proceeding shall be made as if this Act had not been enacted.

SEC. 5. AMENDMENTS RELATING TO PERSONNEL.

Section 5 of Public Law 98-101 is amended—

(1) in subsection (b)—

(A) by striking out "(b) The" and inserting in lieu thereof "(b)(1) The";

(B) by striking out "compensation, without" and all that follows thereafter through "rates," and inserting in lieu thereof "compensation"; and

(C) by adding at the end thereof the following: "The Chairman or the staff director or both may, if so authorized by the Commission, take any action which the Commission is authorized to take under the preceding provisions of this paragraph.";

(2) in subsection (c)—

(A) by striking out "(c) Subject to the provisions of this subsection, the" and inserting in lieu thereof "(2) The"; and

(B) by striking out the last sentence and inserting in lieu thereof the following: "The Chairman or the staff director or both may, if so authorized by the Commission, take any action which the Commission is authorized to take under the preceding provisions of this paragraph.";

(3) by inserting before subsection (d) the following:

"(c) Appointments and compensation under subsection (b) (1) or (2) of this section may be made without regard to the provisions of title 5, United States Code, government appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates."; and

(4) in subsection (e)—

(A) by striking out paragraph (2); and

(B) by redesignating subsection (e)(1) as subsection (e).

SEC. 6. AGENCY COOPERATION

Section 6(c) of Public Law 98-101 is amended by adding at the end of the following: "All such governmental agencies and organizations shall cooperate with the Commission, to the extent allowed by law, in providing advice and assistance requested by the Commission.".

SEC. 7. TWO-YEAR EXTENSION

Section 7 of Public Law 98-101 is amended by striking out "1989" and inserting in lieu thereof "1991".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS FOR TWO ADDITIONAL YEARS.

Section 8 of Public Law 98-101 is amended by striking out "1989" and inserting in lieu thereof "1991".

SEC. 9. TECHNICAL AMENDMENTS.

(a) AMENDMENTS.—(1) Subsections (a)(4)(B), (a)(5)(iii), and (f) of section 4 of Public Law 98-615 (98 Stat. 3204), as amended by section 201 of Public Law 99-251 (100 Stat. 20), are each amended by striking out "Federal Employees Benefits Improvement Act of 1985" and inserting in lieu thereof "Federal Employees Benefits Improvement Act of 1986".

(2) Section 4(a)(5)(A) of Public Law 98-615, as so amended, is amended—

(A) by striking out "Paragraphs (2)," and inserting in lieu thereof "Paragraphs"; and

(B) by adding at the end thereof the following: "The paragraphs referred to in the preceding sentence shall so apply only insofar as they relate to an election to provide a survivor annuity for a former spouse.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of May 7, 1985.

The SPEAKER pro tempore. Is a second demanded?

Mr. HANSEN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. GARCIA] will be recognized for 20 minutes and the gentleman from Utah [Mr. HANSEN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we consider under suspension of the rules H.R. 3559, a bill to amend the act establishing the Commission on the Bicentennial of the Constitution of the United States. H.R. 3559 raises the limit on private contributions, authorizes the Commission to adopt a seal and a logo, makes technical changes regarding personnel practices, and extends the life of the Commission from 1989 to 1991. In this way, this bill will assist the Commission in carrying out its mandate as the primary coordinator of the activities surrounding the commemoration of the 200th anniversary of our Constitution.

Last Tuesday the Chief Justice of the U.S. Supreme Court, Warren E. Burger, submitted his resignation. As we are all aware, his resignation was prompted by his desire to fulfill his responsibilities as Chairman of the Commission on the Bicentennial of the

U.S. Constitution. The reasons behind this departure exemplify Chief Justice Burger's devotion to the Constitution and his eagerness to educate our citizens on the history and significance of this important document.

The Commission has always stressed the importance of engaging the entire Nation in the events to commemorate the bicentennial of our Constitution. I believe that this view reflects Chief Justice Burger's desire to reach the millions of people who benefit from the Constitution and to acquaint them not only with their constitutional heritage, but also with the rights which they have as citizens of this Nation. To exemplify this point, I must make note of the lecture on the history of the Constitution which Chief Justice Burger gave to 45 junior high students from the South Bronx. His effort to take time out of his busy schedule to meet with the students of my district was greatly apreciated by all.

Chief Justice Burger's resignation represents a loss to the Supreme Court. During his 17 years of service at the Supreme Court, he has focused his attention on improvements for the administration of the judicial system. He has also taken great pains not only to discuss, but also to advocate for alternatives to incarceration.

What the Supreme Court has lost, the bicentennial Commission has gained, and the latter will most certainly benefit from Chief Justice Burger's talent, expertise, and commitment. I can only wish the best to Chief Justice Burger on his future endeavors.

□ 1515

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3559. A bill to amend Public Law 99-101 which established a Commission on the Bicentennial of the Constitution of the United States.

The Commission on the Bicentennial of the Constitution will reacquaint the American people with the history and circumstances surrounding the Constitution—from its drafting to final ratification—and to better familiarize ourselves with the substantive provisions of this centerpiece of our democracy.

The Constitution of the United States represents the greatest leap forward in human history in setting the framework for our Government as we have known it for the last 200 years. It is a document that guarantees all men and women equality. In addition, it secures rights and freedoms unmatched anywhere in the world.

Our country is only as good and strong as the people who live within its borders. Our Nation's strength stems from a commonly held belief that ours is a "government of the people, by the people, and for the people."

The constitutional bicentennial presents an unparalleled opportunity to use modern technology and telecommunications to instill in our citizenry a greater sense and understanding of the rights, privileges, and opportunities the Constitution affords all American citizens.

Mr. Speaker, there is an urgent need to allow the Commission the necessary tools in the planning for the historic anniversary. H.R. 3559 would amend the act which established the Commission on the Bicentennial of the Constitution by clarifying the status of employees of the Commission, by raising the annual cap on individual and corporate limits on donations and sets standards for the use of the bicentennial's seal and logo.

Mr. Speaker, I urge my colleagues to support this legislation which seeks to blend Federal and private initiatives and support into a truly national celebration of such an important event in our American heritage.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I urge my colleagues to support this resolution, H.R. 3559, honoring a very significant event in our Nation's history, the 200th anniversary of the signing of our U.S. Constitution. At a time when only one-third of all the nations in the world are free and open societies, I think it is extremely important that we extend the time period for this commission to pass on a very important message, not only to our own Nation, but throughout the world.

This measure extends the Commission on the Bicentennial of the Constitution for 2 additional years, through 1991. I am pleased to be able to speak in favor of this legislation, which was unanimously reported from the House Committee on Post Office and Civil Service of which I am a member. I am hopeful that the full House will support this measure so that the Commission may continue its good works.

The Commission on the Bicentennial of the Constitution was established in 1983 to plan the celebration to be held on September 17, 1987, honoring the 200th anniversary of the Constitutional Convention. In their September 1985 report outlining the progress of their efforts, the Commission enumerated plans for the celebration. These plans included the publication of a calendar of commemorative dates and events; a handbook of planned projects; a bicentennial newsletter; establishment of a national speakers' bureau; development of a variety of educational materials; and sponsorship of scholarships and bicentennial tree plantings. The Commission also recommended a one-time national holiday on September 17, 1987, to mark the 200th anniversary of the adoption of the Constitution. Also noted in the Commission's report was their concern over the lack of time to adequately prepare for this important day in American history.

The legislation we are considering today, H.R. 3559, is a direct response to the Commission's concerns. This measure: First, extends the life of the Commission by 2 years from 1989 to 1991 and extends the authorizations for appropriations until the Commission expires in 1991; second, specifies that the Commission and its activities are not intended to preempt any State or local government from celebrating the bicentennial of the Constitution, nor to prevent them from establishing their own logo in connection with the event; third, raises the limit on annual contributions from $25,000 to $250,000 for individuals and from $100,000 to $1 million for corporate donors. Additionally, this bill grants the Commission power to transfer funds that it receives to other Federal departments or agencies when such a transfer promotes the commemoration of the bicentennial.

The recognition of the bicentennial of the signing of our Constitution is an important date that deserves appropriate commemoration. I applaud all 23 members of the Commission for their efforts to date, and for their dedication and concern that this important anniversary in our American history will not be forgotten.

Accordingly, I urge my colleagues to adopt H.R. 3559, extending the life of the Commission on the Bicentennial of the Constitution.

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I would like to commend the distinguished chairman and ranking minority member as well as the appropriate subcommittee members of the Post Office and Civil Service Committee for their efforts in getting H.R. 3559, legislation to amend the act establishing the Commission on the Bicentennial of the U.S. Constitution, onto the floor of the House of Representatives for consideration. Representative BOGGS and I jointly introduced this legislation on behalf of the Commission, on which we have both been appointed to serve.

In 1983, I introduced the original House legislation to create a Commission on the Bicentennial of the U.S. Constitution. The purpose of the Commission, as described in section 3 of Public Law 98-101, is to "promote and coordinate activities to commemorate the bicentennial of the Constitution." The Commission hopes that it will be

able to stimulate thousands of organizations at the grassroots level to educate the public on the Constitution and the unique aspects of this document which ensures freedom under law. In light of the fact that it has taken 2 years for the President to appoint the Commission, it is imperative that the amending legislation receive prompt attention so that the Commission can fully undertake the enormous task before it.

The challenge facing this Commission perhaps is best illustrated by comparing it to the American Revolutionary Bicentennial Administration [ARBA], after which our Commission is modeled. ARBA was formed in 1966 to plan the celebration of the 200th anniversary of the Declaration of Independence. It has 10 years to organize and raise private funds, and enjoyed more than $118 million in appropriated funds. In contrast, with the bicentennial of the U.S. Constitution slightly over a year away, fiscal year 1985 appropriations only amounted to $331,000. As a result of the efforts made in the Senate, the fiscal 1986 appropriation was raised from an original $775,000 to $12.5 million. Although this was a dramatic and necessary increase, it still pales in comparison to the $118 million ARBA had in 1976.

Due to the shortage of time, the Commission has respectfully asked that the original Act that established the Commission on the Bicentennial of the Constitution be amended to clarify the status of employees of the Commission, to remove the limitation on the number of Commission staff who may be compensated through appropriated funds, and to raise the limits on private contributions.

The bill also contains a provision that would extend the life of the Commission from 1989 to 1991. The purpose is not just to extend the life of the Commission, but to commemorate the entire ratifying process of the original document. Although by 1789, the Constitution was ratified by all the original States except Rhode Island, it was done so with the caveat that a bill of rights would be added shortly thereafter. The Bill of Rights to the U.S. Constitution was not ratified by the requisite number of States until 1791. For this reason, I believe that it is fitting to extend the life of the Commission to correspond with the entire bicentennial celebration of our original Constitution. The Bill of Rights was an integral part of the concept of the U.S. Constitution and deserves recognition by this Commission and the people of the United States.

In closing, it should be remembered that while our Nation may be one of the younger nations in the world, it has the oldest, relatively unchanged, form of Government in the entire world. The U.S. Constitution is considered such an act of genius that it is the most frequently used constitutional model for developing and restructuring countries. Almost 200 years ago the framers of our Constitution fashioned a nearly perfect instrument of Government, one that has demonstrated the remarkable capacity to adapt to a changing world. The Commission on the Bicentennial of the Constitution of the United States desperately needs the support of the 99th Congress to ensure that proper recognition and tribute is paid to this truly great achievement.

Mr. HANSEN. Mr. Speaker, I appreciate the excellent remarks of the gentleman from Illinois.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GARCIA. Mr. Speaker, I yield as much time as she may consume to our colleague, the gentlewoman from Louisiana [Mrs. BOGGS]; but before doing so, I would just like to say as far as the committee is concerned, the gentlewoman has been the spearhead and the Member who has really given us the leadership in terms of what the Bicentennial Commission is all about. I think it is due to her work and the work of the gentleman from Illinois [Mr. CRANE] as well, but we are especially and deeply appreciative of the role of the gentlewoman from Louisiana [Mrs. BOGGS] in this Bicentennial Commission.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman from New York. I thank him especially for those very nice remarks.

Of course, Mr. Speaker, I rise in support of H.R. 3559, a bill that would amend Public Law 98-101, the act which established the Commission on the Bicentennial of the Constitution of the United States.

The purpose of this legislation, as we have heard from the other speakers, is to clarify the status of certain employees of the Commission, to permit the licensing of the Commission's logo, and to raise the limits of private contributions, among others.

As the gentleman from Illinois has stated, there are several Members of Congress on the Commission on the Bicentennial. There are 20 Members appointed by the President and there are three ex-officio Members.

I serve on the Commission as the Speaker's designee and our colleague, the gentleman from Illinois [Mr. CRANE] serves on the Commission, as does the President pro tempore of the Senate, Mr. THURMOND; the Senator from Massachusetts, Mr. KENNEDY; the Senator from Alaska, Mr. STEVENS; the Senator from Arizona, Mr. DECONCINI. We have heard the chairman of the Commission, Chief Justice Warren Burger, extolled in a very eloquent support by the gentleman from New York [Mr. GARCIA].

The Commission, of course, is charged with coordinating the commemoration of the Constitution's 200th anniversary. Its Members are eager to meet the challenge of our chairman, the Chief Justice, which is to provide a meaningful series of programs that will promote a better understanding of what 200 years of history under the U.S. Constitution has meant to the American people.

There will be nationwide essay contests, bicentennial class competitions, films, calendars, books, posters and exhibits, television specials, and special ceremonies in many cities and States around the country.

The 30 States that thus far have formed Bicentennial Commissions are being joined each day by others and by city commissions as well.

The National Commission will support and encourage the develoment of area programs at all levels of Government and throughout the private sector.

The bill has been amply described by all the previous speakers. In summary, it would provide authority for the Commission to control the use of the official emblem of the Bicentennial and to license its use to the public. It would authorize the Commission to adopt an official seal. It would exempt some Civil Service regulations relating to classification and pay of commission staff members paid with privately donated funds.

It would raise the ceiling on amounts that individuals can contribute to help carry out the Commission's program and it would extend the life of the Commission, as we have heard, from 1989, the anniversary of the ratification and the establishment of the Government under the Constitution, to 1991 when the Bill of Rights, the first 10 amendments to the Constitution were adopted.

The gentleman from New York [Mr. GARCIA] and the gentlewoman from Ohio [Ms. OAKAR], the gentleman from Utah [Mr. HANSEN] and the gentleman from Indiana [Mr. MYERS] should be especially commended and congratulated for bringing this legislation before the House.

I must say also that we should commend the gentleman from Michigan [Mr. FORD], who is the chairman of the full committee, and the gentleman from Missouri [Mr. TAYLOR], who is the ranking member of the full committee, for their expeditious handling of this legislation.

We cannot fail to give the highest amount of appreciation to and commendation for their work to the staff members of the two subcommittees who unselfishly and in a very concerted bipartisan effort during all the hearings were able to bring this bill to a conclusion and bring it before us today on the floor.

Mr. Speaker, I urge my colleagues to support the passage of H.R. 3559. It will add tremendously to the ability of the Commission to coordinate the coming observance of the 200th anniversary of our Constitution.

Ms. OAKAR. Mr. Speaker, I rise in full support of H.R. 3559. As you know, H.R. 3559 was introduced by Congresswoman LINDY BOGGS, a member of the Bicentennial Commission of the U.S. Constitution, and was jointly referred to my Subcommittee on Compensation and Employee Benefits and the Subcommittee on Census and Population, which is chaired by my colleague, Congressman ROBERT GARCIA. The bill makes technical changes to the public law establishing a Commission on the Bicentennial of the U.S. Constitution.

H.R. 3559 was approved by the subcommittees on February 20, 1986, and by the full Post Office and Civil Service Committee on March 12, 1986. An amendment was approved by the subcommittees and full committee which would give the Commission more flexibility in hiring support staff.

In September 1983, the President signed into law Public Law 98–101, designating the Commission on the Bicentennial of the U.S. Constitution. The 1983 law provides for 23 Commissioners to plan celebration activities to honor the 200th anniversary of the constitutional convention on September 17, 1987. Unfortunately, while the law was enacted in September 1983, Commissioners were not appointed until July 16, 1985. The 2-year delay has caused both logistical and fiscal problems for the Commission, placing constraints on their ultimate purpose of planning a celebration to commemorate the Constitution.

The bill under suspension today clarifies the policy for hiring staff, raises the limit on private contributions, and extends the duration of the Commission to 1991, the 200th anniversary of the Bill of Rights.

Last session, the Commission was fortunate enough to receive several appropriations for salaries and expenses. First, the continuing resolution appropriated $12 million for the Commission. Second, $775,000 was appropriated through State, Commerce, Justice, and Judiciary appropriations legislation. Finally, amendments to the Arts and Humantities Foundations appropriated $25 million for the Commission's salaries and expenses over a 5-year duration.

In addition to appropriating money to the Bicentennial Commission on the U.S. Constitution, Public Law 99–190, further continuing appropriations for 1986 lifted the maximum hiring limit of 5 publicly paid employees and 20 employees detailed from Federal agencies. As a consequence of the passage of Public Law 99–190, it was necessary for my subcommittee to consider an amendment of H.R. 3559 which conforms to the changes I mentioned.

The amendment adopted by the Compensation Subcommittee on February 20 removes the sections from H.R. 3559 regarding personnel practices which were duplicated in the continuing resolution. The amendment also authorizes the Commission to hire personnel without regard to the Federal classification systems and the General Schedule pay rates. The Commission has requested this authority because of its short duration and its uncertain funding levels. The Commission has assured me that their hiring procedures will be based on fair and equitable standards.

This legislation is particularly significant in light of last week's events at the Supreme Court. As all of you know, Chief Justice Warren Burger, in stepping down from his position on the Supreme Court, stated that he will devote all his energies to organizing the commemoration of the Bicentennial of the U.S. Constitution. Chief Justice Burger noted in his formal remarks about his resignation that time is running out and much work needs to be done prior to the Nation's celebration. Certainly, the passage of H.R. 3559 will assist the Chief Justice and the other Commission members greatly. I urge all Members of this body to vote favorably for it.

Mr. CONTE. Mr. Speaker, as one of the authors of the legislation which established the Commission on the Bicentennial of the Constitution, I rise in strong support of H.R. 3559.

This bill extends the life of the Commission for 2 years so they can adequately complete their work, clarifies the status of Commission employees, and raises the limit on contributions that individuals and corporations can donate to the Commission. If this momentous event is to be commemorated properly, the Commission needs the time, the staff, and the money to do it.

Mr. Speaker, as a history buff, I have long been interested in commemorating the bicentennial properly. One of the key events leading to the drafting of our Constitution—Shays' Rebellion—occurred in my district. A small group of rebels, led by the farmer Daniel Shays, stormed courthouses in western Massachusetts to call attention to the problems with the Articles of Confederation. The small rebellion, it is said, frightened George Washington out of retirement and led to the drafting of the Constitution. I have introduced a bill to commemorate the bicentennial of Shays' Rebellion. I hope my colleagues will join me in cosponsoring that bill.

I would also add, Mr. Speaker, that doing this bill today is especially appropriate in light of the announcement last week by the distinguished Chief Justice, Warren Burger, that he was leaving the Supreme Court to devote his full energies to the Bicentennial Commission.

Mr. Speaker, that is admirable. Warren Burger is one of the most distinguished jurists in our Nation's history, and there is no finer man in this country that could possibly serve as Chairman of the Commission. He cares that the celebration be done properly, and is doing a great job at it now.

Mr. Speaker, when Benjamin Franklin was walking through Philadelphia after the Constitution had been drafted, he was asked by a woman what type of government had been created by the Founding Fathers. Franklin responded, "A republic, Madam, if you can keep it."

Well, we have kept it—for nearly 200 years—and the Bicentennial Commission is the best way to celebrate all that our Nation means to us, to "We the People," and to the world. I urge support for the legislation.

Mr. GARCIA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GARCIA] that the House suspend the rules and pass the bill, H.R. 3559, as amended.

The question was taken.

Mr. CRANE. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1530

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore: (Mr. MURTHA). Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which the motion was entertained, and then on a motion to suspend the rules on which further proceedings were postponed on Monday, June 23, 1986.

Votes will be taken in the following order:

House Concurrent Resolution 345, by the yeas and nays;

House Concurrent Resolution 347, by the yeas and nays;

Senate Joint Resolution 361, by the yeas and nays;

H.R. 4060, by the yeas and nays;

H.R. 3559, by the yeas and nays; and

H.R. 4252, by the yeas and nays;

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

EXPRESSING SENSE OF CONGRESS CONCERNING DEMOCRACY IN REPUBLIC OF KOREA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution House Concurrent Resolution 345.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the

rules and agree to the concurrent resolution, House Concurrent Resolution 345, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 0, not voting 19, as follows:

[Roll No. 188]

YEAS—414

Ackerman	de la Garza	Hillis
Akaka	DeLay	Holt
Alexander	Dellums	Hopkins
Anderson	Derrick	Horton
Andrews	DeWine	Howard
Annunzio	Dickinson	Hoyer
Anthony	Dicks	Hubbard
Applegate	Dingell	Huckaby
Archer	DioGuardi	Hughes
Armey	Dixon	Hunter
Aspin	Donnelly	Hutto
Atkins	Dorgan (ND)	Hyde
AuCoin	Dornan (CA)	Ireland
Badham	Downey	Jacobs
Barnard	Dreier	Jeffords
Barnes	Duncan	Jenkins
Bartlett	Durbin	Jones (NC)
Barton	Dwyer	Jones (OK)
Bateman	Dymally	Jones (TN)
Bates	Dyson	Kanjorski
Bedell	Early	Kaptur
Beilenson	Eckart (OH)	Kasich
Bennett	Edgar	Kastenmeier
Bereuter	Edwards (CA)	Kemp
Berman	Edwards (OK)	Kennelly
Bevill	Emerson	Kildee
Biaggi	English	Kindness
Bilirakis	Erdreich	Kleczka
Bliley	Evans (IA)	Kolbe
Boehlert	Evans (IL)	Kolter
Boggs	Fascell	Kostmayer
Boland	Fawell	Kramer
Boner (TN)	Fazio	LaFalce
Bonior (MI)	Feighan	Lagomarsino
Bonker	Fiedler	Lantos
Borski	Fields	Latta
Bosco	Fish	Leach (IA)
Boucher	Flippo	Leath (TX)
Boulter	Florio	Lehman (CA)
Boxer	Foglietta	Lehman (FL)
Brooks	Foley	Leland
Broomfield	Ford (MI)	Lent
Brown (CA)	Ford (TN)	Levin (MI)
Brown (CO)	Frank	Levine (CA)
Broyhill	Franklin	Lewis (CA)
Bruce	Frenzel	Lewis (FL)
Bryant	Frost	Lightfoot
Burton (CA)	Fuqua	Lipinski
Burton (IN)	Gallo	Livingston
Bustamante	Garcia	Lloyd
Byron	Gaydos	Loeffler
Callahan	Gejdenson	Long
Carney	Gekas	Lott
Carper	Gephardt	Lowery (CA)
Carr	Gibbons	Lowry (WA)
Chandler	Gilman	Lujan
Chapman	Gingrich	Lundine
Chappell	Glickman	Lungren
Chappie	Gonzalez	Mack
Cheney	Goodling	MacKay
Clay	Gordon	Madigan
Clinger	Gradison	Manton
Coats	Gray (IL)	Markey
Cobey	Gray (PA)	Marlenee
Coble	Green	Martin (IL)
Coelho	Gregg	Martin (NY)
Coleman (MO)	Guarini	Martinez
Coleman (TX)	Gunderson	Matsui
Combest	Hall (OH)	Mavroules
Conte	Hall, Ralph	Mazzoli
Conyers	Hamilton	McCain
Cooper	Hammerschmidt	McCandless
Coughlin	Hansen	McCloskey
Courter	Hartnett	McCollum
Coyne	Hatcher	McCurdy
Crane	Hawkins	McDade
Crockett	Hayes	McEwen
Daniel	Hefner	McGrath
Dannemeyer	Heftel	McHugh
Darden	Hendon	McKernan
Daschle	Henry	McKinney
Daub	Hertel	McMillan
Davis	Hiler	Meyers
Mica	Roberts	Stenholm
Michel	Robinson	Stokes
Mikulski	Roe	Strang
Miller (CA)	Roemer	Stratton
Miller (OH)	Rogers	Studds
Miller (WA)	Rose	Stump
Mineta	Rostenkowski	Sundquist
Mitchell	Roth	Sweeney
Moakley	Rowland (CT)	Swift
Molinari	Rowland (GA)	Swindall
Mollohan	Roybal	Synar
Monson	Rudd	Tallon
Montgomery	Russo	Tauke
Moody	Sabo	Tauzin
Moore	Savage	Taylor
Moorhead	Saxton	Thomas (CA)
Morrison (CT)	Schaefer	Thomas (GA)
Morrison (WA)	Scheuer	Torres
Mrazek	Schneider	Torricelli
Murphy	Schroeder	Towns
Murtha	Schuette	Traficant
Myers	Schulze	Traxler
Natcher	Schumer	Udall
Neal	Seiberling	Valentine
Nelson	Sensenbrenner	Vander Jagt
Nielson	Sharp	Vento
Nowak	Shaw	Visclosky
Oakar	Shelby	Volkmer
Oberstar	Shuster	Vucanovich
Obey	Siljander	Walgren
Olin	Sisisky	Walker
Ortiz	Skeen	Watkins
Owens	Skelton	Waxman
Oxley	Slattery	Weber
Packard	Slaughter	Weiss
Panetta	Smith (FL)	Wheat
Pashayan	Smith (IA)	Whitehurst
Pease	Smith (NE)	Whitley
Penny	Smith (NJ)	Whittaker
Pepper	Smith, Denny (OR)	Whitten
Perkins	Smith, Robert (NH)	Williams
Petri	Smith, Robert (OR)	Wilson
Pickle	Snowe	Wirth
Porter	Snyder	Wise
Price	Solarz	Wolf
Pursell	Solomon	Wolpe
Quillen	Spence	Wortley
Rahall	Spratt	Wright
Rangel	St Germain	Wyden
Ray	Staggers	Wylie
Regula	Stallings	Yates
Reid	Stangeland	Yatron
Richardson	Stark	Young (AK)
Ridge		Young (FL)
Rinaldo		Young (MO)
Ritter		Zschau

NOT VOTING—19

Bentley	Fowler	Rodino
Breaux	Grotberg	Roukema
Campbell	Johnson	Shumway
Collins	Luken	Sikorski
Craig	Nichols	Weaver
Dowdy	O'Brien	
Eckert (NY)	Parris	

□ 1540

Mr. ROTH and Mr. DELAY changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

□ 1550

EXPRESSING SENSE OF CONGRESS CONCERNING HUMAN RIGHTS IN NORTH KOREA AND REDUCTION OF TENSIONS ON THE KOREAN PENINSULA

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 347.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 347, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 403, nays 0, not voting 30, as follows:

[Roll No. 189]

YEAS—403

Ackerman	Chapman	Fawell
Akaka	Chappell	Fazio
Alexander	Chappie	Feighan
Anderson	Cheney	Fiedler
Andrews	Clay	Fields
Annunzio	Clinger	Fish
Anthony	Coats	Flippo
Applegate	Cobey	Florio
Archer	Coble	Foglietta
Armey	Coelho	Foley
Aspin	Coleman (MO)	Ford (MI)
Atkins	Coleman (TX)	Ford (TN)
AuCoin	Combest	Frank
Badham	Conte	Franklin
Barnard	Conyers	Frenzel
Barnes	Cooper	Frost
Bartlett	Coughlin	Fuqua
Barton	Courter	Gallo
Bateman	Coyne	Garcia
Bates	Crane	Gaydos
Bedell	Crockett	Gejdenson
Beilenson	Daniel	Gekas
Bennett	Dannemeyer	Gephardt
Bereuter	Darden	Gibbons
Berman	Daschle	Gilman
Bevill	Daub	Gingrich
Biaggi	de la Garza	Glickman
Bilirakis	DeLay	Gonzalez
Bliley	Dellums	Goodling
Boehlert	Derrick	Gordon
Boggs	DeWine	Gradison
Boland	Dickinson	Gray (IL)
Boner (TN)	Dicks	Gray (PA)
Bonior (MI)	Dingell	Green
Bonker	DioGuardi	Gregg
Borski	Donnelly	Guarini
Bosco	Dorgan (ND)	Gunderson
Boucher	Dornan (CA)	Hall (OH)
Boulter	Downey	Hall, Ralph
Boxer	Dreier	Hamilton
Brooks	Duncan	Hammerschmidt
Broomfield	Durbin	Hansen
Brown (CA)	Dwyer	Hartnett
Brown (CO)	Dymally	Hatcher
Broyhill	Dyson	Hawkins
Bruce	Early	Hayes
Bryant	Eckart (OH)	Heftel
Burton (CA)	Edgar	Hendon
Burton (IN)	Edwards (CA)	Henry
Bustamante	Edwards (OK)	Hertel
Byron	Emerson	Hiler
Callahan	English	Hillis
Carney	Erdreich	Hopkins
Carper	Evans (IA)	Horton
Carr	Evans (IL)	Howard
Chandler	Fascell	Hoyer

Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McEwen
McGrath
McHugh
McKernan
McKinney
Meyers
Mica
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Mcore
Moorhead
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—0

NOT VOTING—30

Bentley
Breaux
Campbell
Collins
Craig
Davis
Dixon
Dowdy
Eckert (NY)
Fowler
Grotberg
Hefner
Holt
Luken
McDade
McMillan
Michel
Mrazek
Nichols
O'Brien
Pickle
Robinson
Rodino
Savage
Saxton
Shumway
Sikorski
Stratton
Weaver
Wilson

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TO DISINVEST CHILEAN TALL SHIP "ESMERALDA" FROM FOURTH OF JULY CEREMONIES

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate joint resolution, Senate Joint Resolution 361.

The clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland [Mr. BARNES] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 361, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 194, nays 223, not voting 16, as follows:

[Roll No. 190]

YEAS—194

Ackerman
Alexander
Anderson
Applegate
Aspin
Atkins
AuCoin
Barnes
Bartlett
Bates
Bedell
Beilenson
Berman
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Boucher
Boxer
Brown (CA)
Bruce
Bryant
Burton (CA)
Carper
Chandler
Chapman
Clay
Coelho
Coleman (TX)
Conte
Cooper
Coughlin
Coyne
Crockett
Daschle
Dellums
Derrick
Dicks
Dixon
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Early
Eckart (OH)
Edgar
Edwards (CA)
English
Evans (IL)
Fascell
Fazio
Feighan
Fish
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Hall (OH)
Hamilton
Hawkins
Hayes
Heftel
Henry
Hertel
Howard
Hoyer
Hughes
Jacobs
Jeffords
Jones (NC)
Jones (OK)
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Kramer
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Long
Lowry (WA)
Lundine
MacKay
Manton
Markey
Martinez
Matsui
McCloskey
McCurdy
McDade
McGrath
McHugh
McKernan
McKinney
Meyers
Mikulski
Miller (CA)
Mineta
Mitchell
Moakley
Mollohan
Moody
Morrison (CT)
Morrison (WA)
Mrazek
Neal
Nowak
Oakar
Oberstar
Obey
Owens
Panetta
Pease
Penny
Pepper
Perkins
Pickle
Porter
Rahall
Rangel
Reid
Richardson
Rinaldo
Roe
Roukema
Russo
Sabo
Savage
Saxton
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sharp
Sisisky
Skelton
Slattery
Smith (FL)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren
Watkins
Waxman
Weiss
Wheat
Williams
Wirth
Wise
Wolpe
Wyden
Yates
Yatron
Zschau

NAYS—223

Akaka
Andrews
Annunzio
Anthony
Archer
Armey
Badham
Barnard
Barton
Bateman
Bennett
Bereuter
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Bosco
Boulter
Brooks
Broomfield
Brown (CO)
Broyhill
Burton (IN)
Bustamante
Byron
Callahan
Carney
Carr
Chappell
Chappie
Cheney
Clinger
Coats
Cobey
Coble
Coleman (MO)
Combest
Conyers
Courter
Crane
Daniel
Dannemeyer
Darden
Daub
Davis
de la Garza
DeLay
DeWine
Dickinson
Dingell
DioGuardi
Donnelly
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
Erdreich
Evans (IA)
Fawell
Fiedler
Fields
Flippo
Ford (MI)
Franklin
Fuqua
Gallo
Gaydos
Gekas
Gingrich
Glickman
Goodling
Gradison
Gregg
Guarini
Gunderson
Hall, Ralph
Hammerschmidt
Hansen
Hartnett
Hatcher
Hefner
Hendon
Hiler
Hillis
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson
Jones (TN)
Kanjorski
Kasich
Kemp
Kindness
Kolbe
LaFalce
Lagomarsino
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Lott
Lowery (CA)
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mavroules
Mazzoli
McCain
McCandless
McCollum
McEwen
McMillan
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Monson
Montgomery
Moore
Moorhead
Murphy
Murtha
Myers
Natcher
Nelson
Nielson
Olin
Ortiz
Oxley
Packard
Parris
Pashayan
Petri
Price
Pursell
Quillen
Ray
Regula
Ridge
Ritter
Roberts
Robinson
Roemer
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shelby
Shuster
Siljander
Skeen
Slaughter
Smith (IA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snyder
Solomon
Spence
Stallings
Stangeland
Stenholm
Strang
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Weber
Whitehurst
Whitley
Whittaker
Whitten
Wilson
Wolf
Wortley
Wright
Wylie
Young (AK)
Young (FL)
Young (MO)

NOT VOTING—16

Bentley
Breaux
Campbell
Collins
Craig
Dowdy
Eckert (NY)
Fowler
Grotberg
Luken
Nichols
O'Brien
Rodino
Shumway
Sikorski
Weaver

□ 1600

Mr. MAVROULES changed his vote from "yea" to "nay."

Mr. PICKLE changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

CIVIL SERVICE RETIREMENT COST-OF-LIVING ADJUSTMENT FOR 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4060, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the bill, H.R. 4060, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 19, not voting 18, as follows:

[Roll No. 191]

YEAS—396

Ackerman	Chappie	Feighan
Akaka	Cheney	Fiedler
Alexander	Clay	Fields
Anderson	Clinger	Fish
Andrews	Coats	Flippo
Annunzio	Cobey	Florio
Anthony	Coble	Foglietta
Applegate	Coelho	Foley
Archer	Coleman (MO)	Ford (MI)
Aspin	Coleman (TX)	Ford (TN)
Atkins	Combest	Frank
AuCoin	Conte	Franklin
Badham	Conyers	Frost
Barnard	Coughlin	Fuqua
Barnes	Courter	Gallo
Bateman	Coyne	Garcia
Bates	Crockett	Gaydos
Bedell	Daniel	Gejdenson
Beilenson	Darden	Gekas
Bennett	Daschle	Gephardt
Bereuter	Daub	Gibbons
Berman	Davis	Gilman
Bevill	de la Garza	Gingrich
Biaggi	Dellums	Glickman
Bilirakis	Derrick	Gonzalez
Bliley	DeWine	Goodling
Boehlert	Dickinson	Gordon
Boggs	Dicks	Gray (IL)
Boland	Dingell	Gray (PA)
Boner (TN)	DioGuardi	Green
Bonior (MI)	Dixon	Guarini
Bonker	Donnelly	Gunderson
Borski	Dorgan (ND)	Hall (OH)
Bosco	Dornan (CA)	Hall, Ralph
Boucher	Downey	Hamilton
Boulter	Dreier	Hammerschmidt
Boxer	Duncan	Hansen
Brooks	Durbin	Hartnett
Broomfield	Dwyer	Hatcher
Brown (CA)	Dymally	Hawkins
Broyhill	Dyson	Hayes
Bruce	Early	Hefner
Bryant	Eckart (OH)	Heftel
Burton (IN)	Edgar	Hendon
Bustamante	Edwards (CA)	Henry
Byron	Edwards (OK)	Hertel
Callahan	Emerson	Hiler
Carney	English	Hillis
Carper	Erdreich	Holt
Carr	Evans (IA)	Hopkins
Chandler	Evans (IL)	Horton
Chapman	Fascell	Howard
Chappell	Fazio	Hoyer
Hubbard	Mikulski	Shuster
Huckaby	Miller (CA)	Siljander
Hughes	Miller (OH)	Sisisky
Hunter	Miller (WA)	Skeen
Hutto	Mineta	Skelton
Hyde	Mitchell	Slattery
Ireland	Moakley	Slaughter
Jacobs	Molinari	Smith (FL)
Jeffords	Mollohan	Smith (IA)
Jenkins	Montgomery	Smith (NE)
Johnson	Moody	Smith (NJ)
Jones (NC)	Moore	Smith, Robert (NH)
Jones (OK)	Moorhead	
Jones (TN)	Morrison (CT)	Smith, Robert (OR)
Kanjorski	Morrison (WA)	
Kaptur	Mrazek	Snowe
Kasich	Murphy	Snyder
Kastenmeier	Murtha	Solarz
Kemp	Myers	Solomon
Kennelly	Natcher	Spence
Kildee	Neal	Spratt
Kindness	Nelson	St Germain
Kleczka	Nielson	Staggers
Kolbe	Nowak	Stallings
Kolter	Oakar	Stangeland
Kostmayer	Oberstar	Stark
Kramer	Obey	Stokes
LaFalce	Olin	Strang
Lagomarsino	Ortiz	Stratton
Lantos	Owens	Studds
Latta	Oxley	Stump
Leach (IA)	Packard	Sundquist
Leath (TX)	Panetta	Sweeney
Lehman (CA)	Parris	Swift
Lehman (FL)	Pashayan	Swindall
Leland	Pease	Synar
Lent	Penny	Tallon
Levin (MI)	Pepper	Tauke
Levine (CA)	Perkins	Tauzin
Lewis (CA)	Petri	Taylor
Lewis (FL)	Pickle	Thomas (CA)
Lightfoot	Price	Thomas (GA)
Lipinski	Pursell	Torres
Livingston	Quillen	Torricelli
Lloyd	Rahall	Towns
Loeffler	Rangel	Traficant
Long	Regula	Traxler
Lott	Reid	Udall
Lowery (CA)	Richardson	Valentine
Lowry (WA)	Ridge	Vander Jagt
Lujan	Rinaldo	Vento
Lundine	Ritter	Visclosky
Lungren	Roberts	Volkmer
Mack	Robinson	Vucanovich
MacKay	Roe	Walgren
Madigan	Roemer	Watkins
Manton	Rogers	Waxman
Markey	Rose	Weber
Marlenee	Rostenkowski	Weiss
Martin (IL)	Roth	Wheat
Martin (NY)	Roukema	Whitehurst
Martinez	Rowland (CT)	Whitley
Matsui	Rowland (GA)	Whittaker
Mavroules	Roybal	Williams
Mazzoli	Rudd	Wilson
McCain	Russo	Wirth
McCandless	Sabo	Wise
McCloskey	Savage	Wolf
McCollum	Saxton	Wolpe
McCurdy	Schaefer	Wortley
McDade	Scheuer	Wright
McEwen	Schneider	Wyden
McGrath	Schroeder	Wylie
McHugh	Schuette	Yates
McKernan	Schulze	Yatron
McKinney	Schumer	Young (AK)
McMillan	Seiberling	Young (FL)
Meyers	Sharp	Young (MO)
Mica	Shaw	Zschau
Michel	Shelby	

NAYS—19

Armey	DeLay	Ray
Bartlett	Fawell	Sensenbrenner
Barton	Frenzel	Smith, Denny (OR)
Brown (CO)	Gradison	
Cooper	Gregg	Stenholm
Crane	Monson	Walker
Dannemeyer	Porter	

NOT VOTING—18

Bentley	Dowdy	O'Brien
Breaux	Eckert (NY)	Rodino
Burton (CA)	Fowler	Shumway
Campbell	Grotberg	Sikorski
Collins	Luken	Weaver
Craig	Nichols	Whitten

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend title 5, United States Code, to provide that the full cost-of-living adjustment in annuities payable from the civil service retirement and disability fund shall be made for 1987, and for other purposes."

A motion to reconsider was laid on the table.

U.S. BICENTENNIAL COMMISSION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3559, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GARCIA] that the House suspend the rules and pass the bill, H.R. 3559, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 7, not voting 17, as follows:

[Roll No. 192]

YEAS—409

Ackerman	Carney	Eckart (OH)
Akaka	Carper	Edgar
Alexander	Carr	Edwards (CA)
Anderson	Chandler	Edwards (OK)
Andrews	Chapman	Emerson
Annunzio	Chappell	English
Anthony	Chappie	Erdreich
Applegate	Cheney	Evans (IA)
Archer	Clay	Evans (IL)
Armey	Clinger	Fascell
Aspin	Coats	Fawell
Atkins	Coelho	Fazio
AuCoin	Coleman (MO)	Feighan
Badham	Coleman (TX)	Fiedler
Barnard	Combest	Fields
Barnes	Conte	Flippo
Bartlett	Conyers	Florio
Bateman	Cooper	Foglietta
Bates	Coughlin	Foley
Bedell	Courter	Ford (MI)
Beilenson	Coyne	Ford (TN)
Bennett	Crane	Frank
Bereuter	Crockett	Franklin
Berman	Daniel	Frenzel
Bevill	Dannemeyer	Frost
Biaggi	Darden	Fuqua
Bilirakis	Daschle	Gallo
Bliley	Daub	Garcia
Boehlert	Davis	Gaydos
Boggs	de la Garza	Gejdenson
Boland	DeLay	Gekas
Boner (TN)	Dellums	Gephardt
Bonior (MI)	Derrick	Gibbons
Bonker	DeWine	Gilman
Borski	Dickinson	Gingrich
Bosco	Dicks	Glickman
Boucher	Dingell	Gonzalez
Boulter	DioGuardi	Goodling
Boxer	Dixon	Gordon
Brooks	Donnelly	Gradison
Broomfield	Dorgan (ND)	Gray (IL)
Brown (CA)	Dornan (CA)	Gray (PA)
Broyhill	Downey	Green
Bruce	Dreier	Gregg
Bryant	Duncan	Guarini
Burton (CA)	Durbin	Gunderson
Burton (IN)	Dwyer	Hall (OH)
Bustamante	Dymally	Hall, Ralph
Byron	Dyson	Hamilton
Callahan	Early	Hammerschmidt

Hansen
Hartnett
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lundine
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—7

Barton
Brown (CO)
Cobey
Coble
Mack
Monson
Walker

NOT VOTING—17

Bentley
Breaux
Campbell
Collins
Craig
Dowdy
Eckert (NY)
Fish
Fowler
Grotberg
Luken
Nichols
O'Brien
Rodino
Shumway
Sikorski
Weaver

□ 1615

Messrs. STRANG, BARTON of Texas, and COBEY changed their votes from "yea" to "nay."

Messrs. ROEMER, WILSON, STRANG, and SAVAGE changed their votes from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL FIRE PREVENTION AND CONTROL ACT AUTHORIZATION, FISCAL YEAR 1987

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4252, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALGREN] that the House suspend the rules and pass the bill, H.R. 4252, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 386, nays 28, not voting 19, as follows:

[Roll No. 193]

YEAS—386

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Barnard
Barnes
Bateman
Bates
Bedell
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brooks
Broomfield
Brown (CA)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Carney
Carper
Carr
Chandler
Chapman
Chappell
Chappie
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
Daschle
Davis
de la Garza
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Edgar
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hatcher
Hawkins
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Hillis
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
LaFalce
Lagomarsino
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lungren
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McKinney
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Montgomery
Moody
Moore
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Rudd
Russo
Sabo
Savage
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Seiberling
Sensenbrenner
Sharp
Shaw
Shelby
Shuster
Siljander
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Snyder
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Strang
Stratton
Studds
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whitehurst
Whitley
Whittaker
Whitten
Williams
Wilson
Wirth
Wise
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zschau

NAYS—28

Armey
Badham
Bartlett
Barton
Brown (CO)
Cheney
Dannemeyer
Daub
DeLay

Gekas	Marlenee	Smith (NE)
Gregg	McCandless	Smith, Denny (OR)
Hansen	Miller (OH)	Stump
Hartnett	Monson	Tauke
Latta	Nielson	Walker
Lujan	Oxley	
Mack	Packard	

NOT VOTING—19

Bentley	Eckert (NY)	Porter
Breaux	Fowler	Rodino
Campbell	Grotberg	Shumway
Collins	Luken	Sikorski
Craig	Lundine	Weaver
Crane	Nichols	
Dowdy	O'Brien	

□ 1625

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2180) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. MARKEY. Reserving the right to object, Mr. Speaker, I will not object, but I do so for the purpose of clarifying the gentleman's unanimous-consent request.

I yield to the gentleman for that purpose.

Mr. FUQUA. I appreciate the gentleman's yielding.

Mr. Speaker, S. 2180, as it came from the other body, contains the identical language to amend the Fire Prevention and Control Act. That was the bill just passed by the House as H.R. 4252.

In addition, it contains language which would amend the daylight savings provision, with which the gentleman is familiar.

Since the language adopted by the House for the fire prevention is identical to that contained in the Senate bill before us, it would facilitate the final action on the bill to be approved as it was sent over from the other body.

Mr. MARKEY. Mr. Speaker, further reserving the right to object, as I understand it, the Senate bill contains a daylight savings amendment that is nearly identical to the bill passed by the House last October. The only difference is that the Senate bill does not extend daylight savings time the extra week in the fall. This is an acceptable compromise. The gentleman's request is entirely consistent with the previously expressed will of the House, and it will avoid having to go through a lengthy procedural step to arrive at the same results. I support the gentleman's actions.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, the change that has been made insofar as daylight savings time is acceptable to us. We give up the week in November which was the most controversial and keep the 3 weeks in April. I think the bill is a big change over present law, and I accept the compromise.

Mr. MARKEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2180

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17(f) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(f)) is amended—

(1) by striking "is" and inserting in lieu thereof "are"; and

(2) by inserting immediately before the period the following: "and $18,300,000 for the fiscal year ending September 30, 1987".

SEC. 2. (a) The Congress finds—

(1) that various studies of governmental and non-governmental agencies indicate that daylight saving time over an expanded period would produce a significant energy savings in electrical power consumption;

(2) that daylight saving time may yield energy savings in other areas besides electrical power consumption;

(3) that daylight saving time over an expanded period could serve as an incentive for further energy conservation by individuals, companies, and the various governmental entities at all levels of government, and that such energy conservation efforts could lead to greatly expanded energy savings; and

(4) that the use of daylight saving time over an expanded period could have other beneficial effects on the public interest, including the reduction of crime, improved traffic safety, more daylight outdoor playtime for the children and youth of our Nation, greater utilization of parks and recreation areas, expanded economic opportunity through extension of daylight hours to peak shopping hours and through extension of domestic office hours to periods of greater overlap with the European Economic Community.

(b) Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260(a)) is amended by striking "last Sunday of April" and inserting in lieu thereof "first Sunday of April".

(c) Any law in effect on the date of the enactment of this Act—

(1) adopted pursuant to section 3(a)(2) of the Uniform Time Act of 1966 by a State with parts thereof in more than one time zone, or

(2) adopted pursuant to section 3(a)(1) of such Act by a State that lies entirely within one time zone, shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by such Act unless that state, by law, provides that such exemption shall not apply.

(d)(1) Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service.

(2) Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics.

(3) Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

(e) This section shall take effect 60 days after the date of enactment of this Act, except that if such effective date occurs in any calendar year after March 1, this section shall take effect on the first day of the following calendar year.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 4252) was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries, who also informed the House that on the following dates, the President approved and signed bills and joint resolutions of the House of the following titles:

On May 19, 1986:

H.R. 739. An act to make miscellaneous changes in laws affecting the U.S. Coast Guard, and for other purposes.

On May 20, 1986:

H.J. Res. 427. Joint resolution designating the week beginning on May 11, 1986, as "National Asthma and Allergy Awareness Week".

H.R. 737. An act for the relief of Ms. Chang Ai Bae; and

H.R. 1207. An act to award a special gold medal to the family of Harry Chapin.

On May 21, 1986:

H.R. 4767. An act to deauthorize the project for improvements at Racine Harbor, Wisconsin.

On May 23, 1986:

H.J. Res. 234. Joint resolution designating the week of May 18, 1986, through May 24, 1986, as "National Food Bank Week."

On May 27, 1986:

H.R. 1349. An act to reduce the costs of operating Presidential libraries, and for other purposes.

On May 28, 1986:

H.J. Res. 492. Joint resolution to designate the week of June 1, 1986, as "National Neighborhood Housing Services Week";

H.J. Res. 526. Joint resolution to designate the week of May 25, 1986, through May 31, 1986, as "Critical Care Week";

H.J. Res. 613. Joint resolution allowing qualified persons representing all the States to be naturalized on Ellis Island on July 3 or 4, 1986; and

H.R. 4382. An act to require the Architect of the Capitol to place a plaque at the original site of Providence Hospital.

On June 5, 1986:

H.J. Res. 636. Joint resolution designating June 26, 1986, as "National Interstate Highway Day."

On June 6, 1986:

H.R. 2672. An act to amend title 5, United States Code, to establish a new retirement and disability plan for Federal employees, postal employees, and Members of Congress, and for other purposes.

On June 19, 1986:

H.J. Res. 131. Joint resolution to designate the week beginning June 15, 1986, as "National Safety in the Workplace Week";

H.J. Res. 382. Joint resolution to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project; and

H.R. 3570. An act to amend title 28, United States Code, to reform and improve the Federal justices and judges survivors' annuities program, and for other purposes.

On June 23, 1986:

H.J. Res. 479. Joint resolution to designate October 8, 1986, as "National Fire Fighters Day."

AUTHORIZING CHANGES IN THE ENROLLMENT OF S. 2414 RELATING TO INTERSTATE TRANSPORTATION OF FIREARMS

Mr. HUGHES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 152) authorizing changes in the enrollment of S. 2414, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. McCOLLUM. Mr. Speaker, I reserve the right to object, but at this time I would not want to entertain an objection. This is a concurrent resolution which removes some doubt, as I understand it, regarding congressional intent of S. 2414 with regard to the effective date. Is that correct?

Mr. HUGHES. If the gentleman will yield, my request is that we consider this resolution and then immediately after its adoption consider S. 2414. This action will complete action on the Firearms Owners Protection Act.

On May 6 of this year, at the time the other body agreed to the House amendments to S. 49, it passed S. 2414 unanimously to accommodate a few of the most urgent concerns of the law enforcement community. However, the effective date of S. 2414 was not drafted to reflect the delayed effective date of S. 49. To correct the effective date, the other body this morning passed Senate Concurrent Resolution 152.

I am proposing that we first consider the technical correction to the effective date, Senate Congressional Resolution 512, and then consider the substantive measure, S. 2414.

Mr. McCOLLUM. Mr. Speaker, I have no problem with this resolution, in that case.

Mr. Speaker, this concurrent resolution removes any doubt regarding congressional intent on the effective date of S. 2414. The concurrent resolution clarifies that the effective date for S. 2414 is the same as the law which it amends. S. 2414 amends current law, Public Law 99-308 which President Reagan signed on May 19, 1986, and which becomes effective 180 days later.

I believe that this result is essential because without the adoption of this concurrent resolution, S. 2414 has no scope in which to operate without the same effective date as Public Law 99-308. I am grateful to all persons who have worked earnestly to clarify this important issue.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 152

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 2414), to amend title 18 of the United States Code, shall make the following change:

At the end of the bill add the following:

This Act and the amendments made by this Act, intended to amend the Firearms Owners' Protection Act, shall become effective on the date on which the section they are intended to amend in such Firearms Owners' Protection Act becomes effective and shall apply to the amendments to title 18, United States Code, made by such Act.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON WEDNESDAY, JUNE 25, 1986, AND THURSDAY, JUNE 26, 1986, DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask that the Committee on the Judiciary be permitted to sit tomorrow, June 25, 1986 and Thursday, June 26, 1986 during proceedings of the House under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RELATING TO INTERSTATE TRANSPORTATION OF FIREARMS

Mr. HUGHES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2414) to amend title 18, United States Code, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. McCOLLUM. Mr. Speaker, reserving the right to object, I yield to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, I have a series of questions regarding the interpretation of various provisions in this bill. Would a member of the Subcommittee on Crime, which has jurisdiction over the firearms issue, be willing to engage in a colloquy regarding the meaning of certain terms in S. 2414?

Mr. McCOLLUM. Mr. Speaker, I would be delighted to join with the gentleman in a colloquy in this important issue. As the gentleman from Montana knows, this measure was processed swiftly in the other body, and there is presently a dearth of information regarding congressional intent. So what are the gentleman's concerns? I will be glad to try to respond.

Mr. MARLENEE. Well, first, I have an issue that is relevant to the new law, Public Law 99-308 (S. 49), which the President just signed, as well as S. 2414, which is before us today. Both S. 2414 and Public Law 99-308 provide for persons wishing to travel with firearms in interstate commerce. The new law, which would be further amended by S. 2414, provides that if the firearm is unloaded and inaccessible, a person can travel through State and local jurisdictions with more restrictive laws than his State of residence, without violating those laws. Is the correct?

Mr. McCOLLUM. That is correct. S. 2414 would modify the new law to require that the firearm be kept in a locked compartment, such as a trunk, outside of the passenger area. If there is no trunk, then the firearm must be in a locked compartment or in a locked case within the passenger area, but the glove compartment or a console will not suffice.

This section, however, is only available to persons who can legally own and transport firearms under the law of their home jurisdictions. People must comply with the laws of their own State and can avail themselves of this interest tranportation provision, which is section 926A of title 18 of the United States Code, only after they leave the boundaries of their State or local jurisdiction.

Mr. MARLENEE. If the gentleman will yield further, are interstate travelers required to follow the procedures in section 926A whenever they travel in interstate commerce with firearms?

Mr. McCOLLUM. This provision is designed to be a "safe harbor" for interstate travelers. No one is required to follow the procedures set forth in

section 926A, but any traveler who does cannot be convicted of violating a more restrictive State or local law in any jurisdiction through which he travels. Thus, section 926A will be valuable to the person who either knows he will be traveling through a jurisdiction with restrictive laws or is unfamiliar with the various laws of the jurisdiction he will be traversing. Many times people traveling in interstate commerce can unwittingly find themselves in violation of all kinds of technical requirements for possession of firearms. These laws and ordinances vary considerably.

Mr. MARLENEE. If the gentleman will yield further on his reservation of objection, many of my constituents farm or ranch on land in two or three different States. They travel with firearms because of their need to protect both themselves and their livestock from predators. Do these farmers and ranchers have to comply with the requirements of section 926A as set forth in either S. 2414 or the new Public Law 99-308 if they can legally travel now in and out of several States with loaded firearms on their racks in the passenger compartments of their pickup trucks?

Mr. McCOLLUM. Absolutely not. If these farmers are transporting in this manner legally now, they are not affected by the new section 926A.

Mr. MARLENEE. If the gentleman will yield further, I have an additional concern regarding the use of the word "carry" in the amendments of section 926A in S. 2414. What does the phrase "any person who is not otherwise prohibited by this chapter from transporting, shipping or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm"?

Mr. McCOLLUM. The first phrase means that only persons able to lawfully possess firearms under Federal law can utilize the safe harbor provisions in 926A to transport firearms in interstate commerce for lawful purposes. The phrase you highlight also requires that persons must be allowed to "possess and carry" such firearms under his own State law too. The term "carry" is defined in my 1976 version of Webster's New Collegiate Dictionary, as "1: to move while supporting (as a package)." The term carry in this instance is intended to mean the ability to put the firearm in a vehicle and transport it to the place of destination.

Whatever State and local laws exist regarding transportation at the place of origin of the interstate travel must be satisfied by the person utilizing the safe harbor in section 926A. Further, the use of the word "carry" is not intended to mean and does not mean that a State license to carry a concealed weapon is a predicate to valid use of the safe harbor provision in section 926A, unless a permit to carry a concealed firearm is a prerequisite to legal transportation of an unloaded, inaccessible firearm in a given jurisdiction. The safe harbor provision itself does not modify the State or local laws at the place of origin or the jurisdiction where the trip ends in any way. Any traveler utilizing the safe harbor provisions must comply with the laws of his State of origin as well as the laws of the jurisdiction at his trip's end.

I thank the gentleman for making these clarifications.

Mr. MARLENEE. I thank both the chairman of the subcommittee and the ranking minority Member for the opportunity to clarify this under a colloquy under the gentleman's reservation.

Mr. McCOLLUM. Mr. Speaker, I do not intend to pursue my reservation of objection.

Mr. Speaker, the measure before us today is an important law enforcement initiative. S. 2414, which we affectionately refer to as "son of gun," is an outgrowth of the tremendously complex Firearm Owner's Protection Act, which the President signed into law on May 19, 1986. The Senate, after adopting S. 49, but as part of its negotiations on that bill, also adopted S. 2414 to address three concerns raised by the law enforcement community.

First, son of gun clarifies the "safe harbor" provision for interstate travel with firearms. S. 2414 clarifies that the firearm must be in a locked compartment other than the passenger area, such as the trunk. If there is no trunk, then the firearm and ammunition must be in a locked compartment within the passenger area that is not the glove compartment or the console.

Second, son of gun amends the new law to delete a proof of profit motive in the definition of the term "engaged in the business" of dealing firearms for persons providing weapons for criminal purposes or terrorism.

Finally, son of gun requires dealers to maintain records of sales of firearms from their personal collections that are similar to the bound volume records they now keep for their business inventories. This provision will be of invaluable assistance to law enforcement in the effort to trace firearms used in crime.

S. 2414 is responsive to important law enforcement concerns. The distinguished chairman of the Committee on the Judiciary in the other body is to be commended for his fine and brave effort in forging this bill. The National Rifle Association has no ojection to S. 2414, and I am very pleased to see the spark of cooperation between the law enforcement community and the NRA, which son of gun represents. There is a long history of friendship and cooperation between these groups. Perhaps son of gun signals the end of a damp and dingy period in this relationship.

I urge the adoption of S. 2414.

With this statement, I insert a letter from the Bureau of Alcohol, Tobacco and Firearms:

DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS,
Washington, DC.

Hon. BILL MCCOLLUM,
House of Representatives,
Washington, DC.

DEAR MR. MCCOLLUM: This is to comment on the proposed amendment to 18 U.S.C. § 926A which appears in S. 2414 pending in the House. Specifically, we would address the concern relative to the term "carry" as used in the bill.

In substance, this amendment would provide that, notwithstanding State or local law, a person may transport a firearm from one place to another if the person's possession and carrying of the firearm is lawful at the place of origin and destination. The bill also requires that the firearm be unloaded and inaccessible.

As we interpret the proposed amendment to section 926A, the use of the term "carry" means that the person's transportation of a firearm pursuant to the statute complies with State and local law concerning the carrying of firearms at the place of origin and destination. Thus, a State permit requirement for carrying a concealed weapon on or about the person, *e.g.*, where the weapon is accessible to the person, would not be applicable to the person lawfully transporting a firearm under the proposed amendment.

Furthermore, the term "carry" does not mean that a State or local license or permit to carry a firearm is a prerequisite to a person's right to transport firearms under the bill. In other words, the proposed amendment would create no Federal requirement relative to obtaining any State or local license or permit. On the other hand, it would not preclude a State or locality's right to regulate the carrying of firearms by its residents.

Please advise if we can be of further assistance.

Sincerely yours,
PHILLIP C. MCGUIRE,
Acting Director.

□ 1640

Mr. Speaker, before I yield to the distinguished chairman of this committee, I would like to compliment the gentleman on the hard work that has gone into all of this. We have struggled here mightily for legislation before and this is finally bringing to fruition the efforts the gentleman has made.

Mr. Speaker, under my reservation I yield to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. I thank the gentleman for yielding to me and for those very kind remarks. I have enjoyed working with the gentleman on this very tough and controversial issue.

Mr. Speaker, I would like to, if I could, under the reservation, take some time to explain what it does do.

Mr. Speaker, the bill we are now considering completes congressional

action on S. 49, the Firearms Owners Protection Act of 1986. That bill passed the House on April 10. The other body passed the bill on May 6 with the House amendments. At that time, a second bill, S. 2414, passed the other body unanimously which would correct a couple of major concerns of the law enforcement community concerning S. 49, now Public Law 99-308.

As Members recall, S. 49 created a provision allowing for the interstate transportation of firearms in interstate commerce notwithstanding State or local laws. While the purpose which everyone supported was to allow travelers who lawfully possessed weapons to travel to hunting grounds in other States as drafted, it effectively preempted State and local law as it applied to residents of that State or local jurisdiction if the person was traveling "in interstate commerce" even if their possession of the firearm was in violation of the law or State in which they lived.

S. 2414 amends the interstate transportation provision to eliminate that particular result. It makes clear that one is only entitled to take advantage of this Federal preemption if the possession is lawful where the traveler starts and is lawful in the destination State.

It is also designed to protect law enforcement officers who may be making traffic stops by requiring that the weapon be unloaded and clarifying that it not be readily accessible.

The second provision of S. 2414 addresses a problem in the definition of "engaged in business" as it applies to firearms dealers. One who is in the business of dealing in firearms must have a license and record the firearms transactions. One is engaged in the business if, among other things, a person's transactions in firearms are with the principal objective of livelihood and profit.

It has been recognized that a person could have the objective of aiding a terrorist or criminal gang, for example, and not have an objective of profit and escape from the licensing and recordkeeping requirements of the law under this provision, even if one were engaged in an enormous volume of transactions. The second provision, therefore, eliminates this oversight.

The third provision of S. 2414 addresses one of the major potential threats to the integrity of law enforcement's Firearms Tracing Program. The program that saw us trace the Hinckley handgun in some 16 minutes.

S. 49 allows licensed dealers to sell firearms from their personal collections without completing the forms and maintaining the records required by sales from their inventories. That exception would result in sales for which no record at all would be maintained. In order for the law enforcement Firearm Tracing Program to operate, some minimal level of recordkeeping is required. Otherwise, we will not have tracing capability. This provision simply requires that a bound volume be maintained by the dealer of the sales of firearms which would include a complete description of the firearm, including its manufacturer, model number, and its serial number and the verified name, address, and date of birth of the purchaser. This is only a minimal inconvenience for the dealer, yet obtaining and recording this information is critical to avoid serious damage to the Firearm Tracing Program.

As the gentleman from Florida knows, we solve literally thousands and thousands of crimes every year because of our ability to trace a handgun used in the commission of a crime. For instance, somebody is stopped on the beltway and a police officer, seeing under the seat a weapon, it is traced to a burglary in Virginia, and we have a prime suspect for the burglary. We can only do that, however, through handgun tracing capability. These provisions passed the other body unanimously having been developed by Senators THURMOND, MCCLURE, HATCH, and METZENBAUM. They are important provisions and they are noncontroversial. I urge my colleagues to support this.

Mr. MCCOLLUM. Mr. Speaker, further reserving my right to object——

The SPEAKER pro tempore. With the indulgence of the Members, the Chair is constrained to intervene. The understanding was that this item would be disposed of quickly, and the Appropriations Committee has been waiting patiently.

If there is going to be an objection, the Chair would appreciate knowing it so we could expedite the business which has to be taken care of.

Mr. MCCOLLUM. I would inform the Chair that this gentleman is not likely and does not plan to object but one of the other members of the committee and subcommittee has asked to inquire on something and I would certainly appreciate just a moment to yield.

I do not know what the gentleman wishes to inquire about.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. I thank the gentleman for yielding to me under his reservation of objection.

Mr. Speaker, I just want to address the Chair and say that I support this "Son of Gun" bill that is before us. It moves us slightly in the direction of the law enforcement considerations that some of us voiced on the floor when the original bill was before us. Even though it does not solve all of those considerations that some of us had, it is a good faith step in that direction.

I, for one, who supported the amendments that were presented on the floor do support this as a reasonable amelioration of the concerns that were expressed by law enforcement and others at that time. I support it very strongly.

Mr. MCCOLLUM. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Strike out section 926A of title 18, United States Code, and insert in lieu thereof the following new section:

"§ 926A. Interstate transportation of firearms

"Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or directly accessible from the passenger compartment of such transporting vehicle: *provided* that in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

(b) Section 921(a)(22) of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ": *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term 'terrorism' means activity, directed against United States persons, which—

"(A) is committed by an individual who is not a national or permanent resident alien of the United States;

"(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

"(C) is intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping".

(c) Section 923(c) of title 18, United States Code, is amended by adding before the period at the end thereof the following: ", except that any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and who sells or otherwise disposes of such firearm shall record the description of the firearm in a bound volume, containing the name and place of residence and date of birth of the transferee if the transferee is an individual, or the identity and principal and local places of business of the transfer-

ee if the transferee is a corporation or other business entity; *Provided*, That no other recordkeeping shall be required.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. STRATTON. Mr. Speaker, it has recently come to my attention that on rollcall No. 458, on December 12, 1985, as printed in the RECORD on page 11946, I am recorded as voting "no" on the amendment of the gentleman from Michigan [Mr. FORD] in support of the Armenian genocide resolution.

Mr. Speaker, my negative vote was cast under a misapprehension. I came on the floor just as the voting began, and I was not entirely clear which particular amendment was being voted on. In the confusion I got the impression that a "no" vote would support the Ford amendment, which was in error.

At the end of the voting, the committee rose; so there was no time for me to put a statement in the RECORD to correct my mistaken vote. In fact, no further discussion of the Armenian genocide issue was held in the House during the remainder of 1985.

However, my strong support of the Ford position was reflected earlier in my "yea" vote on rollcall No. 457 which made it possible for the House to consider the "Man's Inhumanity to Man" resolution.

I regret the failure to make this clarification of the issue earlier.

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 4515, as well as Senate amendments reported in disagreement, and that I may be allowed to include extraneous and tabular matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 4515, URGENT SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1986

Mr. WHITTEN. Mr. Speaker, I call up the conference report on the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of June 19, 1986.)

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I bring before the House the conference report on the urgent supplemental appropriations bill for 1986, H.R. 4515. Your conferees worked long and hard to bring before you a good compromise, one that we believe deserves your support.

President's request	$7,721,965,000
House passed	1,679,485,000
Senate passed	3,874,472,000
Conference agreement	1,698,120,000

BACKGROUND

This urgent supplemental appropriations bill started in the House on March 12 as H.R. 4380, a bill which I introduced to meet the urgently needed items which we face. That bill provided $449 million for emergency disaster relief and several other urgently needed items.

This bill (H.R. 4380) was considered by the full committee on March 20. When it became apparent that additional funding was needed for the Internal Revenue Service, the Customs Service, and Embassy security, and that these and other items would probably be added by the Senate, various amendments were offered which were considered essential. As a result of these actions, both the size and scope of the original bill which I introduced was increased from $449 million to $1,705 million. The bill as amended was reported to the House as original legislation—H.R. 4515.

The House of Representatives passed this measure on May 8 and the Senate passed the bill on June 6. The conferees were faced with a long and difficult situation, the other body added some 224 amendments to the House passed measure. The effect of the Senate action was to add $2,194,987,000 to the House passed bill, more than doubling the cost of the House provisions. The conference met for 6 days and involved 11 of the 13 subcommittees of appropriations. Finally, late last week we were able to reach agreement and file a conference report which I bring before this body today.

AGREEMENT WITH THE ADMINISTRATION

In discussions with the Office of Management and Budget and with the Secretary of the Treasury, there were three matters in conference that were of serious concern and that were said would likely lead to a veto.

On the first item regarding deferrals, the point was made that while the House deferral language was intended to be temporary, it would take a change in the law to repeal the suspension. In view of the strong objections of the administration the conferees agreed to withdraw that provision in the House bill based on the assurance by the Director of the Office of Management and Budget that policy deferrals would not be used for the remainder of the calendar year prior to January 1, 1987.

The second item dealt with the Senate amendment on Trade Adjustment Assistance. The administration raised a strong objection to the Senate language, and after lengthy consideration the Senate conferees agreed to recede from their insistence on the provision.

The final provision was the REA refinancing language. Here the executive branch insisted that the following new language be added: "unless in such individual case, in the opinion of the Secretary of the Treasury, to prepay would adversely affect the operation of the Federal Financing Bank."

We are prepared to agree with their language in an effort to prevent a veto which would be disastrous with regard to the many programs which are involved in this bill.

NEED FOR URGENT ACTION

I would like to call attention to the fact that we must act on this legislation today so that the Senate may pass it and we can send it on to the White House before the Fourth of July recess. This bill includes much needed funding for the Commodity Credit Corporation, the Internal Revenue Service, the Air Traffic Control System, disaster assistance, forest fire fighting funds, veterans' compensation and pensions, student financial assistance, economic, and military assistance to the Philippines.

RELATIONSHIP TO THE BUDGET RESOLUTION

The conference agreement on the urgent supplemental appropriations bill provides new budget authority—net—of $1,698,120,000 which is $6,023,845,000 below the amount requested by the administration. The conference agreement provides new discretionary budget authority of $1,122,930,000 which is $225,810,000 below the applicable section 302 allocation for fiscal year 1986 contained in the budget resolution.

I want to stress that both the bill which the House considered and passed and the conference agreement which I bring before you today are under the budget allocation given to this committee pursuant to the conference agreement on the fiscal year 1986 budget resolution. It has been pointed out to me that in the scorekeeping report to the Speaker submitted by

the House Budget Committee, that our Committee on Appropriations is under its allocation for fiscal year 1986.

Mr. Speaker, we are proud of the historical record of the Appropriations Committee. Even after you account for the effect of this conference agreement, we are still under our budget allocation. This must be clearly understood in this era of fiscal restraint.

FARM SITUATION

May I tell my colleagues that the farm picture is terrible as viewed from the Appropriations Committee. It was our belief, as you know, that the American farmer should get a fair price from the purchaser of his products. On two occasions the House supported our view that we should use every law in the books which permit the selling of commodities surplus to domestic need for what they will bring in world trade at competitive prices as does every other country.

We did this in the Continuing Resolution, H.J. Res. 465, which passed the House on December 4, 1985, by a vote of 212 to 208. The provision died in conference with the Senate.

On February 28, 1985, we passed H.R. 1189 which would have aided the farmer by providing additional operating loans and the refinancing of existing debt. That bill is still pending in the Senate.

It appears now that there seems to be no limit to the expenses and the costs in order to have the farmer sell below the cost of production so we will have a low domestic price. There is hardly any limit on the drain on the Treasury. This year the Congress has appropriated $25 billion—all to keep the farmers from getting a fair price from the user of his production.

At the same time, agriculture is our biggest industry and the biggest employer in our country. If agriculture goes under in all likelihood, it will pull the whole economy down.

We are greatly disturbed about this failure to allow the farmer a fair price at the marketplace and the failure to be competitive in world trade. It is a continuation of the PIK Program idea which cost an estimated $12 billion and resulted in 11 percent of our agricultural markets being transferred to our competitors because they expanded their production and expanded their exports by 11 percent.

AGRICULTURE APPROPRIATIONS

Mr. Speaker, in the agriculture chapter we have provided for a number of items that are urgently required.

We have provided the funds to keep the Commodity Credit Corporation operating for the rest of the year. I would point out that we have provided the full amount of the request we received from the Secretary of Agriculture.

Also included in our agreement are funds to meet needs resulting from a number of flood and other natural disasters that have occurred this year in a number of the Western States and in Mississippi and West Virginia.

The agreement includes funds for the WIC Program since a number of States are short of money and having to drop participants from the program.

We provided for both the Dairy Indemnity Program and the Avian Influenza Program.

We have also included language to allow the Rural Electrification Administration borrowers to prepay their loans with the Federal Financing Bank, if certain conditions are met.

The Senate added a provision which allows farmers to keep their advance deficiency payments if they are prevented from planting their crop because of floods, heavy rain, or excessive moisture. We expanded the amendment to cover droughts and we also provided that such sums received shall be deducted from crop insurance indemnity payments due as as result of such disasters.

We also provided additional funds for the Elderly Feeding Program which is running short of funds to pay claims.

COMPLIANCE WITH SECTION 308 OF THE BUDGET ACT

The Congressional Budget Act, as amended by the Gramm-Rudman law, requires that each committee that files a conference report make certain material available to the membership "as soon as practicable prior to the consideration of such conference report." In compliance with this requirement, I will insert in the RECORD at this time the material required by section 308 of the Budget Act:

CONFERENCE AGREEMENT ON H.R. 4515, URGENT SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1986, COMPARISON WITH BUDGET RESOLUTION

Section 308(a)(2) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344), as amended, requires that the conference report accompanying a bill providing new budget authority contain a statement detailing how the authority compares with the reports submitted under section 302 of the act for the most recently agreed to concurrent resolution on the budget for the fiscal year. This information follows:

COMPARISON WITH BUDGET RESOLUTION

[In millions of dollars]

	Budget authority		Outlays	
	Sec. 302(b)	To date [1]	Sec. 302(b)	To date [1]
Agriculture, rural development and related agencies:				
Discretionary	48,254	48,254	20,800	18,798
Mandatory	4,506	4,506	6,220	6,221
Total	52,760	52,760	27,020	25,019
Commerce-Justice-State-Judiciary:				
Discretionary	12,467	12,467	9,280	9,257
Mandatory	289	289	3,050	3,147
Total	12,756	12,756	12,330	12,404
Defense:				
Discretionary	280,719	280,719	153,076	158,000
Mandatory	823	823	94,100	93,877
Total	281,543	281,543	247,176	251,877
District of Columbia:				
Discretionary	547	547	540	547
Mandatory				
Total	547	547	540	547
Energy and water development:				
Discretionary	15,339	15,339	8,320	8,258
Mandatory	1	1	7,400	7,408
Total	15,340	15,340	15,720	15,666
Foreign assistance:				
Discretionary	14,714	14,714	5,800	6,053
Mandatory	43	43	8,760	8,837
Total	14,757	14,757	14,560	14,890
HUD-independent agencies:				
Discretionary	34,499	34,499	19,630	17,453
Mandatory	19,658	19,658	42,108	44,335
Total	54,157	54,157	61,738	61,788
Interior:				
Discretionary	1,392	1,392	5,600	5,544
Mandatory	131	131	3,500	4,008
Total	1,523	1,523	9,100	9,552
Labor, Health and Human Services, Education:				
Discretionary	33,703	33,703	21,380	21,316
Mandatory	74,691	74,691	95,810	94,346
Total	108,393	108,393	117,190	115,662
Legislative:				
Discretionary	682	682	570	572
Mandatory	990	990	1,180	1,138
Total	1,672	1,672	1,750	1,710
Military construction:				
Discretionary	8,498	8,498	2,090	2,151
Mandatory			5,540	5,388
Total	8,498	8,498	7,630	7,539
Transportation:				
Discretionary	10,216	10,216	8,750	8,799
Mandatory	406	406	18,370	18,352
Total	10,622	10,622	27,120	27,151
Treasury-Postal Service-general government:				
Discretionary	7,411	7,411	6,500	6,595
Mandatory	6,014	6,014	6,960	6,467
Total	13,425	13,425	13,460	13,062
Undistributed contingency and supplemental reserve:				
Discretionary	226	226	−1,534	
Mandatory	287	287	960	
Total	513	513	−547	
Grand:				
Discretionary	468,667	468,667	260,802	263,344
Mandatory	107,838	107,838	293,958	293,524
Total	576,505	576,505	554,760	556,868

[1] Including conference agreement on H.R. 4515.

Note.—Detail may not add to totals due to rounding.

FIVE-YEAR PROJECTIONS

In compliance with section 308(a)(1)(C) of the Congressional Budget Act of 1974 (Public Law 93-344), as amended, the following table contains 5-year projections associated with the budget authority provided in the accompanying bill:

[In thousands of dollars]

	Budget authority	Outlays
Fiscal year:		
1986	1,698,120	277,440
1987	−5,942,000	−6,496,739
1988		1,514,560
1989		1,024,597
1990 and future years		836,766

In accordance with section 308(a)(1)(C) of the Congressional Budget Act of 1974 (Public Law 93-344), as amended, the following information was provided to the committee by the Congressional Budget Office:

The conference agreement provides:

No new spending authority as described in section 401(c)(2) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344) as amended.

No revenues or tax expenditures.

Direct loan obligations of $46,700,000 and primary loan guarantee commitments of $35,814,800,000.

FINANCIAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS

In accordance with section 308(a)(1)(D) of the Congressional Budget Act of 1974 (Public Law 93-344), as amended, the financial assistance to State and local government is as follows:

	Thousands
New budget authority	−$6,416,415
Fiscal year 1986 outlays resulting therefrom	96,028

DEFERRAL AUTHORITY

The bill which passed the House included a provision which suspended the authority of the President to defer appropriated funds. Section 201 of the House bill was an emergency measure to deal with the problems caused by the CHADA decision of the Supreme Court and recent actions by the administration. The House Appropriations Committee included this language which removed the administration's authority to defer future spending under title X of the Budget Act. When this bill went over to the other body, the House provision was stricken and this became a major conference issue between the conferees and the administration. I am happy to say that I believe we have reached an accommodation that the Congress can live with and that the administration will abide by. Basically, the Director of the Office of Management and Budget has pledged to the conferees, and therefore to the Congress, that he will not submit policy deferrals for the remainder of the calendar year. This will allow the courts the time to deal with the case that is pending before them on this issue. Also, I have spoken to our good friends Chairman PEPPER of the Rules Committee and Chairman BROOKS of the Government Operations Committee who are both looking into this matter. The CHADA decision affects House procedures, the withholding of appropriated funds affects the management and operations of the Government. I am hopeful that the time that we have in effect bought with this compromise will allow these committees to work out a permanent solution so that we can restore balance between the legislative and executive branch. I have told this House on numerous occasions, that we must all pull together like the three-horsed chariot if we are to move forward together.

CONCLUSIONS

Mr. Speaker, I would like to take this opportunity to thank all my House conferees who worked so hard on this difficult conference: Mr. BOLAND, Mr. NATCHER, Mr. SMITH, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. CHAPPELL, Mr. LEHMAN, Mr. FAZIO, Mr. CONTE, Mr. MCDADE, Mr. MYERS, Mr. COUGHLIN, Mr. KEMP, and Mr. REGULA.

To my colleagues in the House, I urge your support for this conference report. I ask for you to vote not only for this legislation, but I ask you to vote for the victims of disasters, the homeless, the farmers who have been devastated, our veterans, and most of all—our country.

Thank you.

Mr. Speaker, for the benefit of the membership, I will insert at this time in the RECORD, a table which lists the various items that were in each bill and their disposition by the conferees:

CONFERENCE AGREEMENT

SUPPLEMENTAL - H.R. 4515

	Supplemental Request	House	Senate	Conference	--- Conference compared with --- House	Senate
CHAPTER I						
DEPARTMENT OF AGRICULTURE						
Soil Conservation Service						
Watershed and Flood Prevention Operations	---	25,000,000	36,700,000	36,700,000	+11,700,000	---
Agricultural Stabilization and Conservation Service						
Emergency Conservation Program	---	10,000,000	---	5,000,000	-5,000,000	+5,000,000
Agricultural Research Service						
Buildings and facilities	---	---	11,100,000	---	---	-11,100,000
Food Safety and Inspection Service	---	3,700,000	4,500,000	3,700,000	---	-800,000
Packers and stockyards administration	---	---	80,000	80,000	+80,000	---
Farmers Home Administration						
Rural Housing Insurance Fund:						
(Direct loans)	(-7,000,000)	---	(-4,480,000)	(-3,000,000)	(-3,000,000)	(+1,480,000)
(Deferral disapproval - D86-60)	---	(7,000,000)	(7,000,000)	(7,000,000)	---	---
(Insured loans)	(-699,000,000)	---	(1,500,000)	(1,000,000)	(+1,000,000)	(-500,000)
(Deferral disapproval - D86-60)	---	(693,000,000)	(693,000,000)	(693,000,000)	---	---
Very low income housing repair grants	---	---	3,000,000	2,000,000	+2,000,000	-1,000,000
Agricultural Stabilization and Conservation Service						
Salaries and expenses (transfer from Commodity Credit Corporation)	(71,598,000)	(71,598,000)	(71,598,000)	(71,598,000)	---	---
Dairy indemnity program	6,000,000	10,000,000	9,000,000	9,000,000	-1,000,000	---
DOMESTIC FOOD PROGRAMS						
Food and Nutrition Service						
Feeding program for Women, Infants and Children (WIC)	---	20,000,000	---	20,000,000	---	+20,000,000
Commodity Supplemental Food Program						
(Transfer from Commodity Credit Corporation)	---	(3,950,000)	(3,950,000)	(3,950,000)	---	---
Food Donations Program						
Elderly feeding programs (by transfer)	---	---	(8,500,000)	---	---	(-8,500,000)
Elderly feeding programs (direct appropriatons)	---	---	---	8,500,000	+8,500,000	+8,500,000
Temporary emergency food assistance progam (by transfer)	---	---	(2,440,000)	---	---	(-2,440,000)
Temporary emergency food assistance progam (direct appropriations)	---	---	---	2,437,000	+2,437,000	+2,437,000
Commodity Credit Corporation						
Animal and Plant Health Inspection Service:						
Citrus Canker (by transfer)	---	(14,000,000)	---	(11,100,000)	(-2,900,000)	(+11,100,000)
Cooperative State Research Service (by transfer)	---	(5,000,000)	---	(5,000,000)	---	(+5,000,000)
Avian Influenza (by transfer)	---	(10,000,000)	---	(5,000,000)	(-5,000,000)	(+5,000,000)
Reimbursement for net realized losses 1/	5,300,000,000	---	5,300,000,000	5,300,000,000	+5,300,000,000	---
External combustion engines	---	---	(4,000,000)	---	---	(-4,000,000)
Total, Chapter I:						
New budget (obligational) authority	5,306,000,000	68,700,000	5,364,380,000	5,387,417,000	+5,318,717,000	+23,037,000
(By transfer)	(71,598,000)	(104,548,000)	(86,488,000)	(96,648,000)	(-7,900,000)	(+10,160,000)
(Loan authorization)	(-706,000,000)	---	(-2,980,000)	(-2,000,000)	(-2,000,000)	(+980,000)
(Deferral disapproval)	---	(700,000,000)	(700,000,000)	(700,000,000)	---	---

1/ Requested as a permanent indefinite appropriation

SUPPLEMENTAL

	Supplemental Request	House	Senate	Conference	Conference compared with House	Conference compared with Senate
CHAPTER II						
DEPARTMENT OF COMMERCE						
Economic Development Administration						
Economic development assistance programs (deferral disapproval - D86-36)	---	(40,000,000)	(40,000,000)	(40,000,000)	---	---
National Oceanic and Atmospheric Administration						
Operations, research and facilities	---	---	10,822,000	10,822,000	+10,822,000	---
DEPARTMENT OF JUSTICE						
Legal Activities						
United States Marshals Service	---	---	2,600,000	2,600,000	+2,600,000	---
(By transfer)	(2,600,000)	---	---	---	---	---
Support of United States prisoners	---	---	3,000,000	3,000,000	+3,000,000	---
Federal Bureau of Investigation						
Salaries and expenses	---	---	10,000,000	10,000,000	+10,000,000	---
(Rescission)	---	---	-10,000,000	-10,000,000	-10,000,000	---
Immigration and Naturalization Service						
Salaries and expenses	---	---	3,000,000	3,000,000	+3,000,000	---
(By transfer)	(3,000,000)	---	---	---	---	---
Federal Prison System						
Salaries and expenses	10,620,000	15,500,000	18,000,000	18,000,000	+2,500,000	---
(By transfer)	(2,500,000)	---	---	---	---	---
National Institute of Corrections (rescission)	---	---	-3,315,000	---	---	+3,315,000
DEPARTMENT OF STATE						
Administration of Foreign Affairs						
Salaries and expenses	228,494,000	---	288,047,000	283,104,000	+283,104,000	-4,943,000
(By transfer)	---	(237,494,000)	---	---	(-237,494,000)	---
Acquisition and maintenance of buildings abroad	454,532,000	---	372,125,000	409,000,000	+409,000,000	+36,875,000
(By transfer)	---	(454,532,000)	---	---	(-454,532,000)	---
Counterterrorism research and development	10,000,000	---	---	10,000,000	+10,000,000	+10,000,000
(By transfer)	---	(10,000,000)	---	---	(-10,000,000)	---
Total, Administration of foreign affairs	693,026,000	---	660,172,000	702,104,000	+702,104,000	+41,932,000
Other						
The Asia Foundation	---	2,000,000	2,000,000	2,000,000	---	---
Total, Department of State	693,026,000	2,000,000	662,172,000	704,104,000	+702,104,000	+41,932,000
THE JUDICIARY						
Supreme Court of the United States						
Care of the building and grounds	46,000	46,000	46,000	46,000	---	---
Courts of Appeals, District Courts, and Other Judicial Services						
Salaries of supporting personnel	1,200,000	1,200,000	1,200,000	1,200,000	---	---
Salaries of supporting personnel (by transfer)	(12,000,000)	(12,000,000)	---	---	(-12,000,000)	---
Fees of jurors and commissioners	3,800,000	3,800,000	3,800,000	3,800,000	---	---
Study of construction of office building	2,000,000	2,000,000	1,300,000	1,300,000	-700,000	---
Space and facilities	---	---	---	---	---	---
Total, Courts of Appeals, District Courts, and Other Judicial Services	7,000,000	7,000,000	6,300,000	6,300,000	-700,000	---
Total, The Judiciary	7,046,000	7,046,000	6,346,000	6,346,000	-700,000	---

SUPPLEMENTAL

	Supplemental Request	House	Senate	Conference	--- Conference compared with --- House	Senate
RELATED AGENCIES						
Department of Transportation						
Maritime Administration						
Operations and training (deferral disapproval-D86-53).	---	(9,350,000)	(1,738,000)	(1,738,000)	(-7,612,000)	---
Board for International Broadcasting						
Grants and expenses	22,000,000	14,500,000	18,800,000	18,800,000	+4,300,000	---
Small Business Administration						
Salaries and expenses (by transfer)	---	(2,000,000)	(2,000,000)	(2,000,000)	---	---
United States Information Agency						
Salaries and expenses	17,326,000	---	---	---	---	---
(By transfer)	---	---	(3,900,000)	(3,900,000)	(+3,900,000)	---
Total, Chapter II:						
New budget (obligational) authority	750,018,000	39,046,000	721,425,000	766,672,000	+727,626,000	+45,247,000
Appropriations 1986	(750,018,000)	(39,046,000)	(734,740,000)	(776,672,000)	(+737,626,000)	(+41,932,000)
Rescissions	---	---	(-13,315,000)	(-10,000,000)	(-10,000,000)	(+3,315,000)
(By transfer)	(20,100,000)	(716,026,000)	(5,900,000)	(5,900,000)	(-710,126,000)	---
(Deferral disapproval)	---	(49,350,000)	(41,738,000)	(41,738,000)	(-7,612,000)	---
CHAPTER III						
DEPARTMENT OF DEFENSE - MILITARY						
OPERATION AND MAINTENANCE						
Tenth International Pan American Games	---	---	8,000,000	8,000,000	+8,000,000	---
(Rescission)	---	---	-8,000,000	-8,000,000	-8,000,000	---
PROCUREMENT						
Procurement of Weapons and Tracked Combat Vehicles, Army (rescission)	(-34,400,000)	---	-34,400,000	-34,400,000	-34,400,000	---
Shipbuilding and Conversion, Navy (rescission)	(-40,100,000)	---	-40,100,000	-40,100,000	-40,100,000	---
Missile Procurement, Air Force (by transfer)	---	---	(345,400,000)	(345,400,000)	(+345,400,000)	---
Other Procurement, Air Force (rescission)	(-40,000,000)	---	-40,000,000	-40,000,000	-40,000,000	---
RESEARCH, DEVELOPMENT, TEST AND EVALUATION						
Research, Development, Test and Evaluation, Air Force (by transfer)	---	---	(316,886,000)	(316,886,000)	(+316,886,000)	---
(Rescission)	---	---	-13,500,000	---	---	+13,500,000
Research, Development, Test and Evaluation, Defense Agencies (rescission)	---	---	-11,100,000	---	---	+11,100,000
REVOLVING AND MANAGEMENT FUNDS						
ADP Equipment Management Fund	---	---	100,000,000	100,000,000	+100,000,000	---
(Rescission)	---	---	-100,000,000	-100,000,000	-100,000,000	---
Total, Chapter III:						
New budget (obligational) authority	---	---	-139,100,000	-114,500,000	-114,500,000	+24,600,000
Appropriations 1986	---	---	(108,000,000)	(108,000,000)	(+108,000,000)	---
Rescissions	(-114,500,000)	---	(-247,100,000)	(-222,500,000)	(-222,500,000)	(+24,600,000)
(By transfer)	---	---	(662,286,000)	(662,286,000)	(+662,286,000)	---
CHAPTER IV						
DEPARTMENT OF DEFENSE - CIVIL						
Department of the Army						
Corps of Engineers - Civil						
Flood control and coastal emergencies	---	25,000,000	---	25,000,000	---	+25,000,000
General expenses (by transfer)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	---	---
Total, Department of Defense - Civil	---	25,000,000	---	25,000,000	---	+25,000,000
DEPARTMENT OF ENERGY						
Energy Supply, Research and Development Activities						
(Deferral disapproval - D86-38)	---	(23,156,000)	(23,156,000)	(23,156,000)	---	---

SUPPLEMENTAL

	Supplemental Request	House	Senate	Conference	--- Conference compared with --- House	Senate
Atomic Energy Defense Activities						
(Transfer from Research, Development, Test, and Evaluation, Defense Agencies)	(62,000,000)	(62,000,000)	---	(62,000,000)	---	(+62,000,000)
Total, Chapter IV:						
New budget (obligational) authority	---	25,000,000	---	25,000,000	---	+25,000,000
(By transfer)	(65,000,000)	(65,000,000)	(3,000,000)	(65,000,000)	---	(+62,000,000)
(Deferral disapproval)	---	(23,156,000)	(23,156,000)	(23,156,000)	---	---
CHAPTER V						
FOREIGN ASSISTANCE AND RELATED PROGRAMS						
Bilateral Economic Assistance						
Agency for International Development						
Economic support fund	100,000,000	---	100,000,000	100,000,000	+100,000,000	---
(By transfer)	---	(50,000,000)	---	---	(-50,000,000)	---
International Fund for Northern Ireland and Ireland	20,000,000	---	---	---	---	---
(By transfer)	---	---	(20,000,000)	(50,000,000)	(+50,000,000)	(+30,000,000)
Foreign Assistance Contingencies						
General contingencies	50,000,000	---	---	---	---	---
Department of State						
Anti-terrorism assistance	4,840,000	---	---	---	---	---
(By transfer)	---	---	(2,739,000)	(2,739,000)	(+2,739,000)	---
Military Assistance						
Military assistance	50,000,000	---	50,000,000	50,000,000	+50,000,000	---
Reappropriation	15,000,000	---	15,000,000	---	---	-15,000,000
(By transfer)	(14,355,000)	---	(14,355,000)	---	---	(-14,355,000)
Total, Chapter V:						
New budget (obligational) authority	239,840,000	---	165,000,000	150,000,000	+150,000,000	-15,000,000
Appropriations 1986	(224,840,000)	---	(150,000,000)	(150,000,000)	(+150,000,000)	---
Reappropriation	(15,000,000)	---	(15,000,000)	---	---	(-15,000,000)
(By transfer)	(14,355,000)	(50,000,000)	(37,094,000)	(52,739,000)	(+2,739,000)	(+15,645,000)
CHAPTER VI						
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
HOUSING PROGRAMS						
Annual contributions for assisted housing (deferral disapproval - D86-41)	---	(2,300,805,000)	(2,300,805,000)	(2,300,805,000)	---	---
Rescission in FY 1986	---	---	-3,000,000,000	-5,250,000,000	-5,250,000,000	-2,250,000,000
Rescission in FY 1987	---	---	---	-6,042,000,000	-6,042,000,000	-6,042,000,000
Rent supplement (rescission of contract authority, indefinite)	(-1,158,920,000)	---	-1,158,920,000	-1,158,920,000	-1,158,920,000	---
(Limitation on annual contract authority, indefinite)	(-41,390,000)	---	(-41,390,000)	(-41,390,000)	(-41,390,000)	---
Rental housing assistance (rescission of contract authority, indefinite)	(-283,584,000)	---	-283,584,000	-283,584,000	-283,584,000	---
(Limitation on annual contract authority, indefinite)	(-10,128,000)	---	(-10,128,000)	(-10,128,000)	(-10,128,000)	---
Housing for the elderly or handicapped fund (deferral disapproval - D86-45)	---	(530,220,000)	(530,220,000)	(530,220,000)	---	---
Nonprofit sponsor assistance (deferral disapproval D86-46)	---	(457,000)	(457,000)	(457,000)	---	---
Federal Housing Administration Fund						
Federal Housing Administration Fund (limitation on guaranteed loans)	(6,500,000,000)	---	(57,580,000,000)	(57,580,000,000)	(+57,580,000,000)	---
Government National Mortgage Association						
Guarantees of mortgage-backed securities (limitation on guaranteed loans)	---	---	(49,000,000,000)	(49,000,000,000)	(+49,000,000,000)	---

SUPPLEMENTAL

	Supplemental Request	House	Senate	Conference	--- Conference compared with --- House	Senate
COMMUNITY PLANNING AND DEVELOPMENT						
Community development grants (deferral disapproval D86-48)	---	(500,000,000)	(500,000,000)	(500,000,000)	---	---
Rehabilitation loan fund (deferral disapproval D86-50)	---	(131,133,000)	(131,133,000)	(131,133,000)	---	---
MANAGEMENT AND ADMINISTRATION						
Salaries and expenses (by transfer)	(10,100,000)	(23,701,000)	(30,000,000)	(30,000,000)	(+6,299,000)	---
INDEPENDENT AGENCIES						
AMERICAN BATTLE MONUMENTS COMMISSION						
Salaries and expenses	1,553,000	1,553,000	---	1,553,000	---	+1,553,000
ENVIRONMENTAL PROTECTION AGENCY						
Salaries and expenses (by transfer)	---	(3,000,000)	(3,000,000)	(3,000,000)	---	---
Construction Grants (release of appropriated funds)	---	---	(600,000,000)	(1,200,000,000)	(+1,200,000,000)	(+600,000,000)
FEDERAL EMERGENCY MANAGEMENT AGENCY						
Disaster relief	250,000,000	250,000,000	250,000,000	250,000,000	---	---
Salaries and expenses (by transfer)	---	(2,920,000)	(2,920,000)	(2,920,000)	---	---
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION						
Research and development (by transfer)	---	---	---	(5,000,000)	(+5,000,000)	(+5,000,000)
Space flight, control and data communications	---	---	526,000,000	431,000,000	+431,000,000	-95,000,000
Advance appropriation in FY 1987	---	---	---	100,000,000	+100,000,000	+100,000,000
Research and program management (by transfer)	---	(38,100,000)	(38,100,000)	(38,100,000)	---	---
VETERANS ADMINISTRATION						
Compensation and pensions	272,000,000	272,000,000	272,000,000	272,000,000	---	---
Readjustment benefits	91,000,000	91,000,000	91,000,000	91,000,000	---	---
Medical care (by transfer)	---	(30,000,000)	(30,000,000)	(30,000,000)	---	---
General operating expenses (by transfer)	---	(6,000,000)	(6,000,000)	(6,000,000)	---	---
Veterans job training (by transfer)	---	(35,000,000)	(35,000,000)	(35,000,000)	---	---
Total, Veterans Administration	363,000,000	363,000,000	363,000,000	363,000,000	---	---
CORPORATIONS						
Federal Home Loan Bank Board: (Limitation on administrative expenses, corporate funds)	(3,429,000)	(3,429,000)	(3,429,000)	(3,429,000)	---	---
Total, Chapter VI:						
New budget (obligational) authority, FY 1986	614,553,000	614,553,000	-3,303,504,000	-5,646,951,000	-6,261,504,000	-2,343,447,000
Appropriations 1986	(614,553,000)	(614,553,000)	(1,139,000,000)	(1,045,553,000)	(+431,000,000)	(-93,447,000)
Rescissions	(-1,442,504,000)	---	(-4,442,504,000)	(-6,692,504,000)	(-6,692,504,000)	(-2,250,000,000)
New budget (obligational) authority, FY 1987	---	---	---	-5,942,000,000	-5,942,000,000	-5,942,000,000
Appropriations 1987	---	---	---	(100,000,000)	(+100,000,000)	(+100,000,000)
Rescission 1987	---	---	---	(-6,042,000,000)	(-6,042,000,000)	(-6,042,000,000)
(By transfer)	(10,100,000)	(138,721,000)	(145,020,000)	(150,020,000)	(+11,299,000)	(+5,000,000)
(Limitation on administrative expenses, corporate funds)	(3,429,000)	(3,429,000)	(3,429,000)	(3,429,000)	---	---
(Limitation on guaranteed loans)	(6,500,000,000)	---	(106,580,000,000)	(106,580,000,000)	+106,580,000,000	---
(Limitation on annual contract authority, indfinite)	(-51,518,000)	---	(-51,518,000)	(-51,518,000)	(-51,518,000)	---
(Deferral disapproval)	---	(3,462,615,000)	(3,462,615,000)	(3,462,615,000)	---	---
CHAPTER VII						
DEPARTMENT OF THE INTERIOR						
Bureau of Land Management						
Land acquisition (Rescission)	---	---	-3,000,000	---	---	+3,000,000
(Effect of new deferral) 1/	---	(-3,000,000)	---	(-3,000,000)	---	(-3,000,000)
United States Fish and Wildlife Service						
Resource management	---	90,000	---	---	-90,000	---
Land acquisition	---	---	2,373,000	2,373,000	+2,373,000	---
(Effect of new deferral) 1/	---	(-4,432,000)	---	---	(+4,432,000)	---

SUPPLEMENTAL

	Supplemental Request	House	Senate	Conference	--- Conference compared with --- House	Senate
National Park Service						
Operation of the national park system	13,470,000	13,900,000	13,470,000	13,470,000	-430,000	---
Construction	---	---	3,420,000	3,850,000	+3,850,000	+430,000
Land and water conservation fund (rescission of contract authority)	(-28,710,000)	-28,710,000	-28,710,000	-28,710,000	---	---
(Effect of new deferral)	(-1,893,000)	---	(-1,893,000)	---	---	(+1,893,000)
Geological Survey						
Surveys, investigations and research	---	---	1,400,000	1,400,000	+1,400,000	---
Minerals Management Service						
Leasing and royalty management	---	800,000	---	200,000	-600,000	+200,000
Payments to States from receipts under Mineral Leasing	800,000	---	---	---	---	---
Office of Surface Mining Reclamation and Enforcement						
Regulation and technology (rescission)	---	-710,000	---	-210,000	+500,000	-210,000
Bureau of Indian Affairs						
Operation of Indian programs	26,500,000	31,368,000	26,500,000	29,204,000	-2,164,000	+2,704,000
Construction	---	---	4,900,000	2,500,000	+2,500,000	-2,400,000
(Effect of new deferral)	---	---	(-4,900,000)	(-2,500,000)	(-2,500,000)	(+2,400,000)
1/ Originally proposed as rescission.						
Territorial and International Affairs						
Compact of Free Association	178,750,000	178,750,000	210,890,000	210,840,000	+32,090,000	-50,000
Total, Department of the Interior (net)	219,520,000	195,488,000	231,243,000	234,917,000	+39,429,000	+3,674,000
RELATED AGENCIES						
DEPARTMENT OF AGRICULTURE						
Forest Service						
State and private forestry	---	161,000	161,000	161,000	---	---
National forest system	165,700,000	165,700,000	165,700,000	165,700,000	---	---
Construction	---	---	1,700,000	1,700,000	+1,700,000	---
Land acquisition	---	4,436,000	4,436,000	4,436,000	---	---
Timber salvage sales (deferral disapproval-D86-3)	---	(3,153,000)	(3,153,000)	(3,153,000)	---	---
Total, Forest Service	165,700,000	170,297,000	171,997,000	171,997,000	+1,700,000	---
DEPARTMENT OF ENERGY						
Fossil energy research and development (deferral disapproval - D86-6A)	---	(62,205,000)	(22,541,000)	(25,871,000)	(-36,334,000)	(+3,330,000)
(Effect of new deferral)	---	---	(-2,607,000)	(-2,607,000)	(-2,607,000)	---
Naval Petroleum Reserve (deferral approval-D86-8A)	---	---	(-36,461,000)	---	---	(+36,461,000)
Energy conservation (deferral disapproval-D86-9A)	---	(36,782,000)	(14,906,000)	(14,826,000)	(-21,956,000)	(-80,000)
Strategic petroleum reserve (deferral disapproval D86-37)	---	(197,940,825)	(41,182,000)	(41,182,000)	(-156,758,825)	---
SPR petroleum account (deferral disapproval-D86-10A)	---	(315,000,000)	(577,534,000)	(577,534,000)	(+262,534,000)	---
Alternative Fuels Production	1,020,360,322	---	1,020,360,322	1,020,360,322	+1,020,360,322	---
Appropriation applied to debt reduction	-1,020,360,322	---	-1,020,360,322	-1,020,360,322	-1,020,360,322	---
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Health Resources and Services Administration						
Indian health services	---	20,000,000	1,800,000	13,500,000	-6,500,000	+11,700,000
Indian health facilities (effect of new deferral)	---	---	(-13,745,000)	(-11,665,000)	(-11,665,000)	(+2,080,000)
SMITHSONIAN INSTITUTION						
National Gallery of Art						
Salaries and expenses (by transfer)	---	(136,000)	---	(36,000)	(-100,000)	(+36,000)
Total, Chapter VII:						
New budget (obligational) authority (net)	385,220,000	385,785,000	405,040,000	420,414,000	+34,629,000	+15,374,000
Appropriations 1986	(1,405,580,322)	(415,205,000)	(1,457,110,322)	(1,469,694,322)	(+1,054,489,322)	(+12,584,000)
Appropriation applied to debt reduction	(-1,020,360,322)	---	(-1,020,360,322)	(-1,020,360,322)	(-1,020,360,322)	---
Rescissions	(-28,710,000)	(-29,420,000)	(-31,710,000)	(-28,920,000)	(+500,000)	(+2,790,000)
(By transfer)	---	(136,000)	---	(36,000)	(-100,000)	(+36,000)
(Deferral approval)	---	---	(-36,461,000)	---	---	(+36,461,000)
(Deferral disapproval)	---	(615,080,825)	(659,316,000)	(662,566,000)	(+47,485,175)	(+3,250,000)
(Effect of new deferral)	(-1,893,000)	(-7,432,000)	(-23,145,000)	(-19,772,000)	(-12,340,000)	(+3,373,000)

SUPPLEMENTAL

	Supplemental Request	House	Senate	Conference	--- Conference compared with --- House	Senate
CHAPTER VIII						
DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Health Resources and Services Administration						
Health resources and services	---	---	2,000,000	2,000,000	+2,000,000	---
National Institutes of Health						
National Cancer Institute	---	6,000,000	---	6,000,000	---	+6,000,000
Office of Community Service						
Community Services Block Grant	---	---	5,000,000	1,500,000	+1,500,000	-3,500,000
DEPARTMENT OF EDUCATION						
Impact Aid	---	20,000,000	---	20,000,000	---	+20,000,000
Student Financial assistance	---	---	146,000,000	146,000,000	+146,000,000	---
RELATED AGENCIES						
Soldier's and Airmen's Home						
Operation and maintenance (by transfer)	---	---	(1,241,000)	(1,241,000)	(+1,241,000)	---
Total, Chapter VIII:						
New budget (obligational) authority	---	26,000,000	153,000,000	175,500,000	+149,500,000	+22,500,000
(By transfer)	---	---	(1,241,000)	(1,241,000)	(+1,241,000)	---
CHAPTER IX						
LEGISLATIVE BRANCH						
SENATE						
Salaries, Officers and Employees						
Administrative, clerical, and legislative assistance to Senators	243,000	---	---	---	---	---
Offices of the secretaries for the Majority and Minority	80,000	---	---	---	---	---
Office of the Sergeant at Arms and Doorkeeper	---	---	500,000	500,000	+500,000	---
Agency contributions	32,000	---	---	---	---	---
Total, salaries, officers and employees	355,000	---	500,000	500,000	+500,000	---
Contingent Expenses of the Senate						
Sergeant at Arms and Doorkeeper of the Senate	9,100,000	---	---	---	---	---
Miscellaneous items	650,000	---	---	---	---	---
Total, contingent expenses of the Senate	9,750,000	---	---	---	---	---
Total, Senate	10,105,000	---	500,000	500,000	+500,000	---
HOUSE OF REPRESENTATIVES						
Salaries, Officers and Employees						
Office of the Sergeant at Arms	---	---	500,000	500,000	+500,000	---
Contingent Expenses of the House						
Standing Committees, Special and Select						
Salaries and expenses	350,000	350,000	---	350,000	---	+350,000
JOINT ITEMS						
Contingent Expenses of the House						
Joint Committee on Taxation	950,000	912,000	912,000	912,000	---	---
Capitol Police						
Capitol Police Board	---	---	13,000,000	13,000,000	+13,000,000	---

SUPPLEMENTAL

	Supplemental Request	House	Senate	Conference	--- Conference compared with --- House	Senate
Official Mail Costs						
Expenses	50,499,000	---	---	---	---	---
Total, Joint items	51,449,000	912,000	13,912,000	13,912,000	+13,000,000	---
ARCHITECT OF THE CAPITOL						
Office of the Architect of the Capitol						
Salaries	---	---	250,000	250,000	+250,000	---
Capitol Buildings and Grounds						
Capitol buildings	8,000,000	8,000,000	8,000,000	8,000,000	---	---
Capitol grounds	7,675,000	---	---	---	---	---
Restoration of West Front (rescission)	---	---	-3,683,000	---	---	+3,683,000
Capitol Power Plant	2,000,000	1,583,000	1,583,000	1,583,000	---	---
Total, Capitol buildings and grounds	17,675,000	9,583,000	5,900,000	9,583,000	---	+3,683,000
Library of Congress						
Salaries and expenses	---	---	1,000,000	867,000	+867,000	-133,000
Total, Chapter IX:						
New budget (obligational) authority	79,579,000	10,845,000	22,062,000	25,962,000	+15,117,000	+3,900,000
Appropriations 1986	(79,579,000)	(10,845,000)	(25,745,000)	(25,962,000)	(+15,117,000)	(+217,000)
Rescissions	---	---	(-3,683,000)	---	---	(+3,683,000)
CHAPTER X						
DEPARTMENT OF TRANSPORTATION						
Coast Guard						
Operating expenses	---	35,500,000	35,500,000	35,500,000	---	---
(By transfer)	(35,500,000)	---	---	---	---	---
Acquisition, construction and improvements (By transfer)	---	---	(21,250,000)	(21,250,000)	(+21,250,000)	---
Federal Aviation Administration						
Operations	6,755,000	80,000,000	80,000,000	80,000,000	---	---
(By transfer)	(73,245,000)	(5,000,000)	---	(4,250,000)	(-750,000)	(+4,250,000)
Research, engineering and development (by transfer)	(72,220,000)	---	(72,220,000)	(72,220,000)	(+72,220,000)	---
RELATED AGENCY						
Panama Canal Commission						
Operating expenses	---	20,000,000	---	18,300,000	-1,700,000	+18,300,000
Total, Chapter X:						
New budget (obligational) authority	6,755,000	135,500,000	115,500,000	133,800,000	-1,700,000	+18,300,000
(By transfer)	(180,965,000)	(5,000,000)	(93,470,000)	(97,720,000)	(+92,720,000)	(+4,250,000)
CHAPTER XI						
DEPARTMENT OF THE TREASURY						
Departmental offices (rescission)	---	---	-912,000	---	---	+912,000
Internal Revenue Service:						
Processing tax returns	194,564,000	194,564,000	194,564,000	194,564,000	---	---
Examinations and appeals	68,706,000	68,706,000	68,706,000	68,706,000	---	---
Investigations, collections and taxpayer service	76,730,000	76,730,000	76,730,000	76,730,000	---	---
Total, Internal Revenue Service	340,000,000	340,000,000	340,000,000	340,000,000	---	---
United States Customs Service						
Salaries and expenses	---	30,831,000	30,831,000	30,831,000	---	---
Operations and maintenance, air interdiction program	---	3,225,000	---	3,225,000	---	+3,225,000
Total, United States Customs Service	---	34,056,000	30,831,000	34,056,000	---	+3,225,000
Bureau of Alcohol Tobacco and Firearms	---	---	500,000	500,000	+500,000	---
Office of Personnel Management (by transfer)	---	---	(100,000)	(100,000)	(+100,000)	---

SUPPLEMENTAL

	Supplemental Request	House	Senate	Conference	--- Conference compared with --- House	Senate
GENERAL SERVICES ADMINISTRATION						
Federal Buildings Fund (limitation)	---	---	(3,500,000)	(3,500,000)	(+3,500,000)	---
Federal Retirement thrift investment fund						
Salaries and expenses	---	---	250,000	250,000	+250,000	---
Total, Chapter XI:						
New budget (obligational) authority	340,000,000	374,056,000	370,669,000	374,806,000	+750,000	+4,137,000
Appropriations 1986	(340,000,000)	(374,056,000)	(371,581,000)	(374,806,000)	(+750,000)	(+3,225,000)
Rescissions	---	---	(-912,000)	---	---	(+912,000)
(By transfer)	---	---	(100,000)	(100,000)	(+100,000)	---
TOTAL - New budget (obligational) authority, FY 1986	7,721,965,000	1,679,485,000	3,874,472,000	1,698,120,000	+18,635,000	-2,176,352,000
Appropriations 1986	(8,727,325,322)	(1,708,905,000)	(9,619,056,322)	(9,672,404,322)	(+7,963,499,322)	(+53,348,000)
Reappropriation	(15,000,000)	---	(15,000,000)	---	---	(-15,000,000)
Rescissions	(-1,585,714,000)	(-29,420,000)	(-4,739,224,000)	(-6,953,924,000)	(-6,924,504,000)	(-2,214,700,000)
Appropriation applied to debt reduction	(-1,020,360,322)	---	(-1,020,360,322)	(-1,020,360,322)	(-1,020,360,322)	---
(Deferral approval)	---	---	(-36,461,000)	---	---	(+36,461,000)
(Deferral disapproval)	---	(4,850,201,825)	(4,886,825,000)	(4,890,075,000)	(+39,873,175)	(+3,250,000)
(Effect of new deferral)	(-1,893,000)	(-7,432,000)	(-23,145,000)	(-19,772,000)	(-12,340,000)	(+3,373,000)
(By transfer)	(362,118,000)	(1,079,431,000)	(1,034,599,000)	(1,131,690,000)	(+52,259,000)	(+97,091,000)
(Limitation on administrative expenses, corporate funds)	(3,429,000)	(3,429,000)	(3,429,000)	(3,429,000)	---	---
(Limitation on guaranteed loans)	(6,500,000,000)	---	(106,580,000,000)	(106,580,000,000)	+106,580,000,000)	---
(Limitation on annual contract authority, indefinite)	(-51,518,000)	---	(-51,518,000)	(-51,518,000)	(-51,518,000)	---
(Loan authorization)	(-706,000,000)	---	(-2,980,000)	(-2,000,000)	(-2,000,000)	(+980,000)
TOTAL - New budget (obligational) authority, FY 1987	---	---	---	-5,942,000,000	-5,942,000,000	-5,942,000,000
Appropriations 1987	---	---	---	(100,000,000)	(+100,000,000)	(+100,000,000)
Rescission 1987	---	---	---	(-6,042,000,000)	(-6,042,000,000)	(-6,042,000,000)

□ 1650

Mr. KOLBE. Mr. Speaker, will the gentleman yield for the purpose of one question?

Mr. WHITTEN. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, I appreciate the chairman's yielding. I have one very simple question that I would like to ask.

Mr. Speaker, it is my understanding that one of the provisions of this bill of course provides $5.3 million in capital restoration for the Commodity Credit Corporation at the same time that it transfers back to the Commodity Supplemental Food Program $3.95 million that was lost earlier.

My question, Mr. Speaker, is this: It is my understanding that the Secretary of Agriculture may approve new Commodity Supplemental Food Program applications which are submitted by individual States, provided there are sufficient appropriations available and there is no reduction in the participation levels at existing sites. I would like to ask the chairman if that is his understanding of the Secretary's authority under this legislation.

Mr. WHITTEN. Mr. Speaker, may I say that we provide the full amount, $5.3 million, as I gave my assurance when we had the appointment of conferees before the House.

I will say that from accounts in the press and from the Department, the demand for money from the Treasury to make up the difference so farmers can sell below cost is just going through the ceiling. I anticipated that, and apparently it is true. But here we have every dollar that was requested by the Office of Management and Budget to meet immediate needs.

The gentleman is correct that the $3.95 million would let the Secretary approve new applications for CSFP distribution projects as long as levels at existing sites are not reduced.

Mr. KOLBE. Mr. Speaker, I appreciate the gentleman's response. That is exactly the information that I was looking for.

Mr. WHITTEN. May I say that the situation facing farmers is desperate, because we do not let the farmer get his price from the user of his product. The outlook is bleak.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I would like to engage in a colloquy with the chairman.

Mr. Speaker, contained in this conference report is some important language dealing with that portion of the Older Americans Act Nutrition Program administered by the Department of Agriculture. Specifically, the conference report provides an appropriation of $8.5 million for the elderly feeding program. The express and stated purpose of this aid is to allow the reimbursement rate provided to States to be set at 56.76 cents made retroactive to fiscal year 1985 and throughout fiscal year 1986.

The questions are, does this additional $8.5 million guarantee that USDA will honor all past dues claims for fiscal year 1985, and how much of the funds will be required for this? What would the balance be used for?

Can the chairman give any indication as to when the Department will release these funds once the President signs this bill into law?

Mr. WHITTEN. Mr. Speaker, may I say that our provision makes it possible to carry that out. One of the things that I have learned since I have been here for a short time is that regulations come out of the administration, out of the executive branch, so we cannot assure you that claims will be paid, but we can assure you that the provisions of the bill allow those claims be paid.

Mr. BIAGGI. The money is there?

Mr. WHITTEN. That is right.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when this bill was before the House in early May, I de-

scribed it as a mixture of good news and bad news. Thanks to a last-minute agreement with the administration, the news today is good.

We have provided urgent funding for IRS enforcement and proceeding activities, FEMA disaster relief, FAA air traffic control, the Federal Housing Administration, veterans' benefits, Pell grants, the elderly feeding program, and embassy security.

Although we are still writing agriculture legislation in appropriation bills, the most objectionable provisions were stricken by points of order in the House, or were compromised in conference. As a result, we have a conference agreement that is acceptable to the administration.

We went into conference with 224 Senate amendments, and 8 provisions that were strongly objectionable to the administration. We came out of conference with one amendment in disagreement between the House and the Senate, and with one provision in disagreement between the conferees and the administration.

We are still in disagreement with the Senate over their amendment which prohibits the IRS from implementing temporary regulations on vehicle records. There will be a separate vote on that motion.

Until about an hour ago, we were in disagreement with the administration over the Senate amendment that allows loans from the Federal Financing Bank to rural electric cooperatives to be prepaid without penalty. The conferees limited the prepayments to cases where cooperatives would realize substantial savings for their customers or avoid bankruptcy.

That language was not acceptable to the administration. Their position on REA was stated clearly before we went to conference, and I think they were right on target, the loans in question are made to cooperatives with funds borrowed from the public by the Federal Financing Bank. If the loans are prepaid without penalty by the cooperative, then the taxpayer is stuck with the interest on the FFB's original loans, which has an estimated current value between $2.4 and $3 billion.

I now understand that the Chairman will offer compromise language, acceptable to the administration, that would permit the Secretary of the Treasury to waive any particular prepayment that would adversely effect the operation of the Federal Financing Bank.

That was the only issue standing in the way of a Presidential signature. We settled all of the other seven major disagreements.

While the conference agreement disapproves over $4 billion in housing and community development deferrals, the conferees agreed to strike the House limitation on the President's deferral authority in return for an assurance from the administration that they would not submit any policy deferrals for the remainder of the calendar year.

We deleted the Senate amendment that provided trade adjustment assistance for workers in the oil and gas industry.

We restored the House limitation on changes in OMB Circular A-21, which deals with indirect research costs, but we made that limitation effective for only 60 days.

We agreed to extend the Federal Housing Administration authorization through July 25 of this year, and at the insistence of the Senate conferees, we agreed to a UDAG selection formula which is virtually identical to the formula in the housing authorization act that passed the House earlier this month.

We restored the House provision that places a 1-year moratorium on changes in the Medicare capital payment system.

We provided the embassy security funds by direct appropriation instead of by transfer.

We accepted the Senate limitation on the sale of the power marketing administrations.

These agreements required intense negotiations which extended over many days. They were reached because the conferees and the administration made sincere efforts to get this bill signed into law.

This is a reasonable conference agreement and is now acceptable to the administration. I will vote for the conference report, and I can recommend that my colleagues do likewise.

□ 1700

Let me just state the urgency of getting this supplemental to the President and getting it signed by the President. Only yesterday I received this letter from the district court judge in the Federal court of Boston, Walter J. Skinner. It says:

DEAR CONGRESSMAN CONTE: Yesterday the Director of Administration Office of the United States Courts informed all district judges that we were to start no new civil jury trials as of June 16th. I understand this is to be because of budgetary restrictions.

He did not know about the supplemental.

You should know that for the first time in the history of this country federal courts will not afford to our citizens, your constituents, the jury trial guaranteed to them by the 7th amendment to the Constitution.

This is extremely shocking and disturbing to me, not only because of the projected hiatus in jury trials until the next fiscal year, but because of its implications concerning the relationship between the Congress and the courts. Certainly Congress exercises proper budgetary control over the courts in terms of salaries, facilities and staffing. When, however, it appears that one of the core constitutional obligations of the judicial system can be casually eviscerated in the budgetary process, the implications for the independence of the courts, the maintenance of our trinitarian balance of power are dire.

I hope you will do all in your power to correct the present situation and to prevent its recurrence.

The bizarre nature of our financing was highlighted by a memo received by the judges in Boston on June 11, the day before the jury announcement. GSA is going to remove our telephone system and furnish us with new units for every judge, secretary, law clerk, deputy clerk, docket clerk, jury clerk, and miscellaneous supernumerary in the entire system. These units will cost the court system $522 apiece. GSA has informed us that this will save a lot of money. Wonderful. We shall have computerized telephones with high-tech capacity of no particular use to us, but no civil jury trials.

Well, Mr. Skinner, I hope you are watching the television, because we have $3.8 million in this supplemental, and you can have your jury system if this is passed and signed by the President.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

The agriculture chapter of the urgent supplemental as passed the House on May 8, 1986, contained $68.7 million in new budget authority; $104.548 million in program transfers; and deferral disapprovals totaling $700 million. Legislative language directed a report on milk contamination, the restoration of funds transferred from the Iowa Soil Tilth Center and a restoration of funds transferred from the Commodity Supplemental Food Program to the Commodity Credit Corporation.

The version of H.R. 4515 passed by the other body on June 6, 1986, contained 25 amendments and provided $5,364,380,000 in new budget authority; $86,488,000 in program transfers; $2.98 million in loan authorization reduction and the $700 million deferral disapproval. Legislative language and specific directives were included for the Temporary Emergency Feeding Program, the CCC, advanced deficiency payments, the Rural Electrification Administration, Swampbuster and Elderly Feeding Programs.

The administration had requested or identified estimated needs totaling $5.306 billion in new budget authority; $71.598 million in program transfers; and $706 million in loan authorization reductions. Legislative language for permanent, indefinite CCC borrowing authority was also submitted.

The conference agreement on the fiscal year 1986 Urgent Supplemental Appropriations Act contains $5,387,417,000 in new budget authority. This totals $5,318,717,000 over the House-passed level, $23,037,000 over the Senate-passed level, and $81.417 million over the administration's requests and estimates for accounts in this chapter.

For program transfers, the conference agreement includes $96,648,000, a level that is $7.9 million below the House allowance, $10.16 million above the Senate allowance and $25.05 million more than the administration's request.

The conferees accepted a $2 million decrease in FmHA loan authorizations. The House had no provision for such reductions; the Senate included $2.98 million in reduc-

tions. The administration had requested reductions totaling $706 million.

Our conference agreement includes the $700 million deferral disapproval concerning FmHA rural housing programs. The administration had notified the Congress of these deferrals on March 12, 1986. The managers intend that this new borrowing authority be immediately made available to the rural housing insurance fund to insure or guarantee rural housing loans for single family homes, rental and cooperative housing, farm labor housing, rural housing sites and to make rental assistance payments as authorized by law.

Among the items contained in the act but not subject to the conference were the $71.598 million transfer from CCC for salaries and expenses at ASCS, as requested by the administration; and the language restoring $3.95 million in funds previously transferred from the CSF Program to the CCC.

Among the increases over the House-passed levels contained in the conference agreement is $5.3 billion in reimbursements to the CCC for net realized losses. This amount represents USDA's most recent estimates of remaining need for fiscal year 1986. To date, the Congress has made $19.609 billion available for fiscal year 1986 reimbursements. With the funds included in this act, $24.909 billion will have been provided to meet CCC obligations, including over $92.7 million in activities authorized in H.R. 4515 and in about $3.4 billion for activities authorized in the 1985 farm bill, Public Law 99-198. The conference agreement does not include the earmark of $4 million in the Senate bill for external combustion engine research and development.

The conferees have also agreed to accept the $11.7 million increase included by the Senate for Soil Conservation Service watershed and flood prevention activities. In total, $36.7 million in supplemental funds are recommended, with $14.7 million in earmarks for projects in West Virginia and Mississippi. The administration had requested a rescission of $60.401 million in this SCS account; the Congress has made $220.772 million available to date. For related Federal disaster relief activities, H.R. 4515 also contains $250 million, the request, for the Federal Emergency Management Agency, and $5 million in unrequested Agricultural Conservation and Stabilization Service emergency conservation program supplemental funds.

We have also agreed to include $2.437 million for the Temporary Emergency Food Assistance Program [TEFAP], to assist States in the distribution and transport of surplus commodities. These funds would bring the fiscal year 1986 enacted total to the $50 million level authorized in the 1985 farm bill. We are recommending an additional $8.5 million for fiscal year 1985 and fiscal year 1986 meal cost reimbursements in the Elderly Feeding Program, which would provide for a fiscal year 1986 program level of $139.583 million; and $80,000 for the Packers and Stockyards Administration, to meet responsibilities required under section 1324 of Public Law 99-198.

Among the reductions from House-passed levels contained in the agreement are $5 million from the Emergency Conservation Program, that had been funded in the House bill at $10 million; $3.9 million from the CCC transfer to APHIS for citrus canker control and eradication, a reduction from the $14 million transfer contained in the House bill; $1 million from the Dairy Indemnity Program, providing $9 million through the CCC to dairy farmers with herds contaminated by the pesticide heptachlor, an increase of $3 million over the administration's request; and a $5 million reduction in funds to be transferred from the CCC for control of avian influenza, leaving $5 million for the remainder of fiscal year 1986.

The managers on the part of the Senate have accepted the House provisions of $3.7 million for Food Safety and Inspection Service activities; $20 million for the $1.56 billion WIC program to allocate under the current formula; and $5 million in CCC transfers to match State funds for a new international trade center.

The managers on the part of the House have accepted Senate provisions reprioritizing $3 million in FmHA rural housing loan and grant program funds and a legislative provision enabling certain agricultural producers to keep advance deficiency payments received in fiscal year 1986 if natural disasters prevented the planting of their crops. We have receded from our provision requiring a report on contaminated milk, and we have accepted two legislative amendments pertaining to the REA and the swampbuster provision in the 1985 farm bill.

With regard to the exemption from the swampbuster provision of the 1985 farm bill that has been included for the permafrost soils in Alaska, I would like to point out that the House conferees have agreed to this Senate amendment. As a conferee on this urgent supplemental, I have accepted this amendment with the understanding that this exemption will have no significant impact on the precious wetlands, wildlife, and water quality of about 6 million acres in Alaska's Tanana River Valley. However, I am very concerned about the dangerous precedent that this exception may set. And, I would like to say to my colleagues that I intend to carefully examine and vigorously oppose further, proposed exemptions from the swampbuster provision of Public Law 99-198 for other types of wetlands. Let us bear in mind our commitment to halt the destruction of threatened wetlands and waterfowl, further overproduction of crops already in oversupply and the assault on the Federal taxpayer by those who despoil our irreplaceable natural resources.

On the issue of waiving prepayment penalties on REA loans, I do not concur with the conference agreement that has been reached, and have indicated my exception to this amendment in signing the report. As I have stated earlier, this is the issue on which the President has indicated strong opposition; according to the Director of OMB, Jim Miller, the President will not sign this bill into law if the current conference report language is adopted.

We will have an opportunity to discuss the Senate amendment in technical agreement later on in more detail. I would just like to point out this is the only issue standing in the way of a Presidential signature; unless we further amend the language, or strike the provision entirely, we will be subjecting Federal agencies and program participants to further, needless delays in receiving critically needed supplemental funding.

COMMERCE, JUSTICE, STATE AND JUDICIARY

The Commerce, Justice, State and Judiciary chapter of the conference report provides $766,672,000 in new budget authority. This is $727,626,000 over the House bill and $45,247,000 over the Senate bill.

The reason for the large increase over the House bill is the decision of the conferees to agree to the administration's strong position to provide the entire diplomatic security supplemental, $702,104,000, in new budget authority rather than as a transfer from Defense and Foreign Aid funds.

Included in the Diplomatic Security package is $283 million in salaries and expenses, $409 million for the acquisition and maintenance of buildings, and $10 million for counterterrorism research and development. Language is included in the bill requiring the State Department to seek specific approval of the House and Senate Appropriations Committees prior to the obligation of building project funds. Bill language is also included providing that the diplomatic security funds shall not be used for any purpose inconsistent with or contrary to authorizing legislation as enacted into law.

Among other Senate amendments in this chapter, the conferrees agreed to provide $10.8 million to the National Oceanic and Atmospheric Administration to maintain public weather warning and forecast services and to insure adequate aircraft hurricane services.

The conferees also agreed to provide $18.8 million to the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty to sustain their operations during this period of currency exchange shortfalls.

The conference report provides a transfer of $3.9 million for the U.S. Information Agency to initiate a cultural exchange program with the Soviet Union as agreed by President Reagan and Soviet leader Gorbachev at the Geneva summit.

The report also provides additional funding for various Department of Justice activities, including $2.6 million for the U.S. Marshals Service, $3 million for the support of Federal prisoners in State and local institutions, $3 million for the Immigration and Naturalization Service to deal with Mariel Cubans in INS custody, and $18 million for the Federal prison system due to increased average daily inmate population.

And finally, this chapter provides $3.8 million for fees of jurors and commissioners to enable civil courts cases to proceed. These funds were not subject to conference action, but the delay in these cases has triggered some concern on the part of a number of Members.

DEFENSE

The most difficult issue to resolve in the Defense section was the question of what was and was not authorized in fiscal 1986. Funds had been appropriated in 1986 for programs which were at issue. The House Armed Services Committee maintained $6.3 billion was not authorized. The Senate Armed Services Committee set the figure at 1.3 billion.

Resolving an authorization issue of this magnitude in an appropriations bill required

delicate and prolonged negotiations, and the utmost of cooperation between the House Committees.

An agreement was reached, but it provides for no new funds. The money already was there. The only issue was their release.

The conferees also provided, from available funds, $1.5 billion for the Military Spare Program and an expendable launch vehicle project.

Funds for the pay raise which went into effect last January and for the retirement pay were made available, also without new funding levels.

Also provided are unobligated moneys to be used for Coast Guard operations.

The defense portion of the supplemental conference, in short, allows for the continuation of programs already approved by Congress and the start of some new critical programs, and all without new funds.

FOREIGN OPERATIONS

The foreign operations chapter of the conference report provides $150,000,000 in new budget authority. This is $150,000,000 over the House bill and $15,000,000 under the Senate bill. The report also provides $52,739,000 by transfer.

In summary, this chapter provides $50 million for Northern Ireland and Ireland by transfer, $21.7 million for Haiti by earmark, $2.7 million for anti-terrorism assistance by transfer, and $150 million for the Philippines in new budget authority. Language is also included extending the availability of direct lending authority for the Export-Import Bank through fiscal 1987.

With regard to Ireland, the funds are transferred proportionately from each of the four titles of the fiscal year 1986 Foreign Assistance Appropriations Act.

For Haiti, the funds are transferred from fiscal year 1986 Bilateral Economic Assistance Funds subject to the notification process of the House and Senate Appropriations Committees. Language is included allowing the use of $750,000 in previously appropriated Military Assistance Funds in Haiti for specified non-lethal vehicles and equipment, subject to the notification process.

The Philippines would receive $100 million in Economic Support Funds and $50 million in military assistance, all subject to the notification process. The funds are made available until March 31, 1987. The military assistance is limited to an itemized list included in the statement of the managers on the bill unless notification is presented proposing any changes.

HUD-INDEPENDENT AGENCIES

The HUD-independent agencies chapter of the urgent supplemental as passed the House on May 8, 1986 contained $614,553,000 in new budget authority; $138,721,000 in program transfers; a $3.429 limitation increase for the Federal Home Loan Bank Board; and $3,462,615,000 in individual housing and community development program deferral disapprovals.

The version of H.R. 4515 as passed the Senate on June 6, 1986 contained −$3,303,504,000 in budget authority; $1,139,000,000 in fiscal year 1986 supplemental appropriations; $4,442,504,000 in fiscal year 1986 rescissions; $145.02 million in program transfers; the $3.429 million limitation increase; $3,462,615,000 in deferral disapprovals; $51.518 million in contract authority reductions; legislative language pertaining to the UDAG Program; and $108.58 billion in new guaranteed loan limitations for FHA and GNMA.

The administration had requested $164.553 million in new budget authority; rescissions totalling $1,442,504,000; $10.1 million in program transfers; the $3.429 million limitation increase; $6.5 billion in additional FHA guaranteed loan authority; estimates of $51.518 million in contract authority reductions; and fiscal year 1986 deferrals totalling $3,462,615,000.

The conference agreement includes new budget authority and rescissions affecting program levels in both fiscal year 1986 and fiscal year 1987. We have included −$5,646,951,000 in budget authority, an amount that is $6,261,504,000 below the House-passed level, $2,343,447,000 below the Senate-passed level, and $5,032,398,000 below the administration's request. For fiscal year 1987, the impact on new budget authority is $5.942 billion; the House and Senate bills contained no provision for fiscal year 1987, and the administration made no request for fiscal year 1987 funds in this supplemental for fiscal year 1986.

The $1,045,553,000 in new fiscal year 1986 appropriations recommended in this agreement represent a $431 million increase over the House-passed level, a $93.447 million decrease from Senate-passed levels; and a $431 million increase over the administration's request. Our agreement also includes a $100 million appropriation for NASA to be made available in fiscal year 1987 contingent upon certification from the administrator that the recommendations of the Rogers Commission are being implemented. No similar provision was contained in the House or Senate bills; no request for these funds has been made by the administration.

Fiscal year 1986 rescissions in this chapter of the conference agreement total $6,692,504,000 for fiscal year 1986, a level which is $2.25 billion above that contained in the Senate version, and $5.25 billion above the administration's request. For fiscal year 1987, we have agreed to rescind $6.042 billion. No such provision for fiscal year 1987 was contained in the Senate version or the administration's request. The House bill contained no provisions for fiscal year 1986 or fiscal year 1987 rescissions.

$5.25 billion of the fiscal year 1986 funds rescinded, and the entire $6.042 billion in fiscal year 1987 rescissions are funds which both Houses and the President have already agreed to rescind at the end of these fiscal years. Language providing for these automatic rescissions was contained in the fiscal year 1986 HUD-Independent Agencies Appropriations Act of 1985 (Public Law 99–160) and the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272). The remainder of the $1.4 billion fiscal year 1986 rescissions are standard, annual rescissions in the Rent Supplement Program and the Rental Housing Assistance Program.

The conference agreement contains $150.02 million in fiscal year 1986 program transfers, $11.299 more than in the House-passed bill, $5 million more than in the Senate-passed bill, and $139.92 million above the administration's request.

For limitations on guaranteed loans, we have included $108.58 billion, the same as contained in the Senate-passed version and $100.08 billion more than the administration requested. The House had no similar provision.

Our agreement includes the $3,462,615,000 Housing and Community Development Program deferral disapprovals as contained in the House and Senate-passed bills. We have also included the $3.429 million limitation increase for the FHLBB, as requested by the administration, and contained in both versions of the bill. We have also included the $51.518 million reduction in contract authority limitations requested by the administration and contained in the Senate bill.

Among the seven items not subject to conference, but contained in the act, are: $272 million for Veterans' Compensation and Pensions, as requested; $91 million in Veterans Readjustment Benefits, as requested; $250 million in Federal Emergency Management Agency disaster relief, as requested; a $3 million transfer in the Environmental Protection Agency for salaries and expenses; $2.92 million transfer in FEMA for salaries and expenses; a $38.1 million transfer in NASA for research and program management; and the $3.429 million FHLBB administrative expense limitation increase, as requested.

Of the major increases recommended over House-passed levels, the managers have agreed to include an increase in Federal Housing Administration Fund mortgage insurance and loan commitment authority. The $57.58 billion increase will increase fiscal year 1986 levels to $132 billion.

We have also increased the guarantee authority of the Government National Mortgage Association by $49 billion to bring fiscal year 1986 limitation levels to $175 billion. The administration had requested a $6.5-billion increase for FHA only.

For the EPA construction grants program, the conferees have agreed to make an additional $1.2 billion available out of the $2,374,200,000 appropriated in Public Law 99–160. These funds have not previously been released due to the lack of authorization. However, in light of the fact that, after 7 months, the Clean Water Act has not yet been reauthorized, and more than 20 States have depleted their allocations of the $600 million previously made available, we have agreed to release these additional funds. This action will enable eligible projects to proceed to construction, to meet the critical needs of localities at a timely point in the construction season. Funds are to be expended under the fiscal year 1985 formulae.

The conference agreement includes $531 million for NASA, a $5 million increase over the Senate provision. The House had included no similar provision; the administration has not submitted a budget request for any amount. Five million dollars is included for research and development on the flight telerobotic services for the space station. Five hundred and twenty-six million dollars is provided for costs associated with restoring the space

shuttle transportation system to flight status, and to maintain the production capability for a replacement orbiter. One hundred million dollars of the total provided remains unavailable until fiscal year 1987 when the NASA Administrator certifies that the recommendations of the Rogers Commission have been implemented, are being implemented, or that an alternative approach satisfies the objective of the recommendation. Finally, we have included report language directing a study on alternative rocket booster designs to be completed by December 31, and directing that an RFP for a "second source" be issued if the agency determines that such action is feasible within available resources.

The conference agreement contains a number of supplementals and program transfers for the Veterans' Administration, including a transfer of an additional $25 to $30 million to the medical care account to maintain the 193,941 staffing level authorized in Pub. L. 99-160 last November.

Finally, the managers have agreed to accept the Senate language extending the FHA mortgage insurance authority to July 25. This marks the seventh short-term extension passed by the House since the beginning of the fiscal year. During these past 8 months, the HUD Secretary's authority to issue FHA loan commitments has lapsed for almost 50 days. Most recently, the authority expired on June 6.

While I am pleased that the conferees have addressed this situation which has imposed such hardship on thousands of families seeking to buy homes with FHA financing, I regret that we have once again intruded on the jurisdiction of the authorizing committees. This time, however, our action comes as a result of the insistence on the part of the conferees in the other body that we accept not only an extension of an authorization, but an unrelated amendment pertaining to the UDAG program that was made a part of amendment 114.

The 11-page amendment to the Housing and Community Development Act of 1974 establishes new selection criteria for UDAG's to become effective in the current large cities round. The only modification agreed to by the Senate conferees included the deletion of one provision that would have doubled the project merit points for certain projects in cities that have not received a UDAG since October 1984. Despite the fact that the language is very similar to that passed by the House on June 12 during consideration of H.R. 4746, as a Member who has worked since mid-March to delete legislative provisions from this bill making urgent supplemental appropriations, I regret that we have acted against the expressed interests of our authorizing committee members.

INTERIOR AND RELATED AGENCIES

Although not urgent, chapter 7 contains many of the program supplementals requested by the administration. Of the $420 million in new budget authority provided in this chapter, $65 million was added above the administration's request. This amount is approximately $35 million more than total provided in the House passed bill.

The conferees agreed to overturn approximately $662.6 million of the $876 million proposed fo deferral by the administration. This amount includes oil acquisition funds for the strategic petroleum reserve, construction funds for SPR storage facilities and Department of Energy funding for R&D programs in Fossil Energy and Conservation.

The conference agreement contains only $28.9 million in rescissions out of $189 million proposed by the administration, and almost all of this amount is rescinded contract authority for Park Service land acquisition.

The conferees also accepted a Senate amendment requested by the administration whcih appropriates $1,020,360,322 for alternate fuels production. This appropriation would repay notes issued by the Secretary of Energy to the Secretary of the Treasury to repay the Federal Financing Bank for the default debt on the Great Plains coal gasification plant. The amendment is largely a bookkeeping transaction, and no outlay of funds is involved.

The conference agreement also includes several legislative provisions. A House amendment to reestablish the Cape Cod National Seashore Commission was accepted and a modified version of a Senate amendment to transfer Forest Service land in Georgia to Brantley County. As revised, the amendment authorizes the transfer of 55 acres to the county for the current fair market value in cash or exchange of lands or some other interest. The conference agreement also includes language and appropriations for the implementation of the Compact of Free Association recently enacted by the Congress for several Basin U.S. territories in the Pacific.

LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION

Chapter VIII of this supplemental includes $175.5 million in new budget authority for the Departments of Health and Human Services and the Department of Education, together with several critical provisions effecting all three Departments under the jurisdiction of the Labor-HHS Subcommittee. This amount is $149.5 million more than the original House-passed bill.

By far the largest part of this increase is due to the approval of $146 million for the Pell Grant Program. I am very pleased that we were able to come out of conference with these funds. With them we will be able to restore grants to over 100,000 needy students who would have been cut from the program, as well as lessen the reductions on nearly 800,000 more.

Due in part to reestimates that occurred after the fiscal year 1986 Labor-HHS bill had been passed by this body, a large shortfall developed in the Pell Grant Program. And then, adding insult to injury, along came this mindless Gramm-Rudman sequester. As many of you know, I voted against that bill and I have continued to battle it in the courts. Now that it appears that a Supreme Court decision on that case is imminent, I want to assure my colleagues that I will be following the course of those funds sequestered in the Pell Grant Program very carefully. In addition, I will continue to pursue ways to make up any remaining shortfall as the year goes on.

I am also pleased to report that the Senate has agreed to the House provision providing $6 million in funds to prevent the closing of our national cancer research centers. I was proud to offer that amendment when this bill first came to the House, and I say now, as I said then, we have come too far, and invested too much, to let these centers go. By approving this money we will ensure that the centers' phenomenal work will continue, and the ambitious course we have set to prevent and cure cancer in our people will be maintained.

In addition to the supplemental funds provided for Pell grants, this bill also includes $2 million to support pediatric emergency medical services demonstration programs not in the original House-passed bill. These funds will ensure that continued attention is given to the medical needs of the children and youth of this country.

The House also agreed to provide an additional $1.5 million for the renovation of the homeless shelter here in the District of Columbia. The Department of Health and Human Services has already made available from existing funds $5 million for this purpose. These additional funds are provided to make sure that the renovation of that facility will occur before the winter months arrive.

The conference agreement retains the $20 million in disaster relief payments for the Impact Aid Program originally approved by the House. I am also pleased to report that we retained a provision that would correct the Department of Education's recent action to collect small overpayments made to school districts over 8 years ago. Several months ago I received a letter from the Granby Public Schools in my congressional district outlining this action by the Department.

Though the total amount involved is relatively small, the sudden repayment of this amount represented an immediate and pressing problem for that school district. Accordingly, I am pleased that this conference report includes my amendment that directs that those overpayments made in 1978 shall only be collected through offsets in future year impact aid payments to those districts.

The conference report also includes two important general provisions relating to the Labor/HHS Subcommittee. The first, in a modification of the original House language, would provide for a moratorium of 60 days, after enactment of this bill, on changes in the current reimbursement policy on indirect research costs. I am hopeful that this time period will allow our universities and colleges to work together with the OMB to come up with a fair policy on these costs.

Our subcommittee has been following this issue closely for several years, and has rejected earlier proposals because they focused soley on research conducted through the Department of Health and Human Services. As I have said all along, this new policy, whenever it is enacted, should apply across the board and not focus on one particular department.

The other provision I want to mention provides an additional year for us to come up with a solution to the hospital capital policy under the Medicare Program. As I understand it, the current proposal put on the table by HHS would result by 1991 in hospitals being reimbursed for less than half of their expected capital costs. This proposal would have caused serious harm to one hospital I am particularly familiar with: the Bay State Medical

Center in Springfield, MA. I am pleased that the Senate has receded to the original House position on this, and I am hopeful that a better policy can be developed by all interested parties in the near future.

LEGISLATIVE BRANCH

The legislative branch chapter of the conference report provides $25,962,000 in the new budget authority. This is $15,117,000 over the House bill and $3,900,000 over the Senate bill.

The major item in this chapter is the total of $14,250,000 provided for anticipated costs related to improved security for the U.S. Capitol and the House and Senate office buildings. Of this amount, $1 million is for additional Capitol Police to fill existing vacancies and to avoid furloughs, $13 million is for the implementation of an improved security plan after such a plan runs a veritable gauntlet of approvals by the appropriate congressional committees, and $250,000 is for detailed design and costs estimates for the plan.

While the conferees are including these funds in the bill, we are in no way prescribing what this security plan will entail. Questions about the details, such as will there be a fence around the Capitol or not, are not resolved in this bill. Those questions will be dealt with by the appropriate authorizing committees, and then, and only then, the Appropriations Committees will review the scope and cost estimates for approval, revision or disapproval.

The conference report also provides $867,000 for the Library of Congress to alleviate certain funding constraints which have affected the Library's services to the public and to school and public libraries around the country. Specifically, the bill includes $500,000 for the acquisition of books and other Library materials, $120,000 for cataloging, and $247,000 to reopen the reading rooms during evening and weekend hours. In regard to this last item, the conferees have stated in the report that if these funds are insufficient to provide adequate reading room hours, the librarian is directed to use other available funds.

And finally, in connection with this chapter the conferees have included language in the statement of the managers addressing the problem of increasing official mail cost. The language notes the partial success each body is having in reducing the volume of outgoing mail, and it recommends that the House and Senate leadership appoint a temporary Joint Committee to design a proposal for appropriate changes in mailing policies for the House and Senate in time for the upcoming 100th Congress.

TRANSPORTATION AND RELATED AGENCIES

In the transportation chapter of the supplemental, additional funds are provided for Coast Guard operating expenses, amounting to $35.5 million in new funds and $10.4 million from other Coast Guard accounts. In addition, $750,000 will be made available from available funds for the preservation of lighthouses in Massachusetts.

For the Federal Aviation Administration, the conferees have agreed to supplemental funding of $84.25 million, including $4.25 million by transfer. The conferees expect that air traffic control onboard employment shall be at least 14,480 by the end of the fiscal year.

The conferees have agreed to an additional $5 million from the emergency highway relief fund to address the flooding of I–80 by the Great Salt Lake in Utah.

For redeemable preference shares, the conferees have agreed to language confirming the reauthorization of this program through fiscal year 1988.

Finally, for the Panama Canal, we have included $18.3 million, to be used for a combination of operating expenses, vessel accident claims, and payments to the Republic of Panama. The operating expense funds will be used to offset the Gramm-Rudman-Hollings reductions if legislation is not passed by the end of the year exempting the Canal Commission from that measure. There is no budgetary impact, since the money will either be used for operations or will have to be paid as a windfall payment to Panama under our treaty obligations.

ENERGY AND WATER DEVELOPMENT

Under the Energy and Water Development chapter of the supplemental, the conferees have provided additional funds for the Corps of Engineers flood control and coastal emergencies program, in the amount of $25 million. In addition, the conferees have agreed to language directing the corps to develop emergency contingency plans to prevent or control flooding along the Great Lakes. I know that this was of concern to my colleagues from the Great Lakes region, and I believe that this direction will be helpful to that area.

The conferees have agreed to language disapproving a number of proposed deferrals of energy research and development funding. As a result of this language, important and much-needed funding for wind energy, ocean energy, and photovoltaics research, among others, will be made available for obligation.

Finally, the conferees have agreed to language proposed by the Senate that prohibits further consideration without prior authorization of proposals to defederalize the power marketing administrations and the Tennessee Valley Authority. Of course there never have been any proposals relating to the TVA, so that issue is moot. I think it is a mistake to cut off studies of the power marketing administrations at this time. There are a lot of unanswered questions, the answers to which could well result in a structure that would be more effective, efficient, and ultimately to the benefit of ratepayers and taxpayers alike. I opposed this language in conference, but obviously mine was a minority position. I hope that appropriate authority to continue consideration of this issue will soon be enacted.

TREASURY-POSTAL SERVICE-GENERAL GOVERNMENT

Chapter 11 provides $374.8 million in new budget authority for departments and agencies within the jurisdiction of the Treasury-Postal Service-General Government Subcommittee. No rescissions or deferrals are included in this chapter.

Most of the new spending provided in this chapter was requested by the administration. $340 million was included in the House and Senate versions of H.R. 4515 for staffing and hardware requirements of the Internal Revenue Service. This truly urgent supplemental will provide computer services and 6950 FTE to revitalize tax return processing, to improve taxpayer service and to strengthen enforcement. The IRS estimates that these additional resources will protect an extra $1 billion in revenue.

In addition to the urgent IRS supplemental, this conference agreement includes $30.8 million for salaries and expenses of the U.S. Customs Service and $3.2 million for the Customs Air Interdiction Program. Both of these amendments restore Gramm-Rudman cuts triggered earlier this year.

The agreement also includes $500,000 for the Bureau of Alcohol, Tobacco, and Firearms to initiate a special occupation tax compliance program. Estimates by the Grace Commission indicate that nearly 60 percent of the Nation's liquor retailers fail to pay the Federal special occupation tax, with a loss of revenue to the Treasury of up to $25 million annually. These funds should provide the necessary resources for BATF to start a compliance program and bridge the nonpayment gap.

A Senate amendment was accepted that raised the funding limit on the cost of the Charleston, SC, Post Office and Courthouse annex project by $3.5 million, and another Senate amendment accepted by the conferees increased the ceiling for GSA transportation audit contract administration from $5.2 million to $7.6 million during fiscal year 1986.

This chapter also includes several language provisions. Amendment 208 transfers a parcel of Federal land in New Mexico to the city of Sante Fe, and the House language establishing a personnel floor for the Customs Service was included in the agreement.

The Senate included two tax provisions that were not accepted by the House conferees. Amendment 200 would have extended the statute of limitations for certain insolvent farmers to file amended 1982 income tax returns. The amendment was necessary to give farmers the opportunity to take advantage of a provision in the Budget Reconciliation Act of 1985 which exempted them from minimum tax liability in certain areas. The conferees deleted this amendment because there is a similar provision in the Senate tax reform bill.

Amendment 199 was reported in true disagreement. This provision would prohibit the Internal Revenue Service from issuing regulations dealing with recordkeeping on business use of personal automobiles. The chairman of the Committee on Ways and Means claims that this amendment is in violation of House rule XXI, clause 5B.

Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Pennsylvania [Mr. McDADE], who has done such a masterful job on the defense part of this bill.

Mr. McDADE. Mr. Speaker, I thank my friend, the gentleman from Massachusetts, for yielding. I want initially to express my appreciation and I am sure that of our colleagues in the House on both sides of the aisle for the tremendous job that has been done in bringing this bill to the floor in a method that will see it enacted into law. The gentleman did yeoman work, and I want to offer him my congratulations.

Mr. Speaker, I rise in strong support of the conference report on H.R. 4515 and urge its adoption by the House.

The defense portion of this supplemental is not controversial in my view, but is extremely important, because we fund some of the most worthwhile and important items in the defense establishment.

For example, this bill funds the military pay raise which the Congress authorized last year. We provide $2.1 billion to accommodate the existing shortfall in the military retirement accounts, money needed to fully fund the benefits due our veterans. And there is $260 million to keep the health program which provides care for military dependents—the CHAMPUS Program—in operation.

In all, this is $4 billion in "quality of life" programs for our men and women in uniform.

In addition, this bill contains $1.5 billion for the Defense Department Space Recovery Program—the production of expendable, unmanned rocket boosters. These are vitally needed now, after the *Challenger* tragedy, in order to make up lost ground in the area of national security space payloads.

Equally important in these times of tight budgets, we have done all this without appropriating one new dollar in budget authority. Rather, we have used prior year appropriations—inflation dividends, contract savings, fuel price reductions—that we identified last year and specifically fenced in the continuing resolution for such contingencies.

When we did this last year, some Members claimed we were creating a slush fund, a Gramm-Rudman cushion for the Pentagon. I think the contents of this bill—providing over $6 billion for these important activities, without having to use one new dollar in spending authority—shows that these critics were dead wrong.

The defense chapter deals with many other issues of great importance to Members of this House. A full list would consume all of the time for debate, but let me cite a few: Emergency aid to the Philippines, drug interdiction, the T-46 trainer, the air defense aircraft competition for the Air Force.

All of these were conference issues in defense. I can report that all were resolved in a manner consistent with the stated positions of this body.

To sum up, Mr. Speaker, the defense portion of H.R. 4515 provides for a great number of essential activities by the Department of Defense, all of which are funded with prior year funds—no new money. I would add that this chapter was agreed to by all four of the defense oversight committees of Congress—the first time in my memory this has ever happened, surely a testament to the contents of this bill.

This conference report merits our strong support, and I call for an overwhelming vote in its favor.

Mr. CONTE. Mr. Speaker, I want to thank the gentleman.

I think it is noteworthy to let the House know that my good friend, the gentleman from Pennsylvania, scored an eagle the other day from 160 yards. Congratulations.

Mr. McDADE. Mr. Speaker, I thank the gentleman.

Mr. CONTE. Mr. Speaker, I yield such time as she may consume to my colleague, the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman for yielding and I thank our distinguished chairman for his great leadership.

Mr. Speaker, I rise in support of H.R. 4515, the urgent supplemental appropriations bill. This bill provides $5.3 billion in additional funding for the Commodity Credit Corporation [CCC], the main funding agency for Government farm programs.

Although it contains many other supplementals, I urge my colleagues to vote for this bill in expediting the flow of Commodity Credit Corporation funds to those farmers who have not yet received their payments. As for the REA Coops refinancing provision, I am glad the White House accepted a language change to avoid a veto.

American farmers are desperately needing their funds. These funds have been more than just promised: They are obligated. We owe this money to our beleagured and financially strapped farmers facing a difficult transition from easy credit, inflation, and booming exports to lower commodity prices amid worldwide surpluses of many kinds.

These funds are being used by many farmers to pay for operating expenses and in many situations may be the only money available to them. Many farmers had asked their creditors to hold off until payments were received. However, these creditors' patience is running out, and they are putting pressure on their farmer clients to pay up.

These same creditors are continuing to charge interest—far higher than in other sectors of the economy. This only adds to the financial troubles of farmers. The added expense begins to cut deeply into whatever small profit might remain for many producers. It may well cut into living and other areas of economic necessity.

The CCC has been without funds since June 3, thus denying farmers payments and loans due them under Federal farm programs. Three weeks have passed since the money ran out. These are among the busiest weeks of the year for farmer participation in Government funding. Congress must get the CCC back into the business of making payments to the financially distressed farmers before irreparable financial damage occurs to more farmers.

Congress in passing the 1985 farm bill dedicated itself to helping the farmers and ranchers of this country to survive this difficult transition period. Any further delay of this appropriations bill could destroy any lingering belief in our commitment to our farmers and ranchers.

These payments not only affect the farmers and ranchers but also all those main street businesses that depend on the farmer for their livelihood. Rural communities are hurting along with the farmers and ranchers and desperately need our assistance. The economic viability of these communities must not erode further.

These payments not only provide for the physical needs of our farmers but also provide for the psychological well-being of the farmer and his family. Families desperate for relief from the burden of economic trouble do not have the time or ability to wait.

In conclusion, I urge the Congress to vote for H.R. 4515 to replenish the Commodity Credit Corporation. We must act swiftly and decisively to help keep many family farmers and ranchers on their farms and working their land.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to commend the chairman and the members of the Appropriations Committee for the excellent work they have done in this endeavor. I know how difficult it is to work in a conference and in an area that has so many problems as the supplemental appropriation bill.

We still have objections basically, contrary to the language of the rules, that infringes on the Appropriations Committee, but this is not the time nor the place, nor the vehicle, to raise those objections, and we will not.

There are some technical amendments in disagreement that would not relate to aiding the farmer that we will object to at the proper time or discuss, at least, at the proper time; but the need of the American agricultural sector of rural America is such that we must do everything that we can to help, even if it requires compromise, as we are willing to do today, to compromise those very important areas, very technical areas for us in the Agriculture Committee, and we can appreciate the delicate position in which the Appropriations Committee found itself. I am certain that they did the best that they could under the circumstances.

Having some of the areas that were objectionable to the White House resolved in a way that this House, as I am informed by my distinguished colleague, the ranking member, the gentleman from Massachusetts, that it is now agreeable to the White House in this form, we would not want in any way to detract from that agreement.

Therefore, we support and I personally support the conference report and I am appreciative of the work that has been done.

We will impose our jurisdictional items at other times when the time is proper and when we do not interfere with something as positive as this is and it is helpful and needed for rural America.

I thank the gentleman for allowing me the time.

Mr. WHITTEN. Mr. Speaker, I thank my colleague, the gentleman from Texas.

I yield myself 2 minutes.

Mr. Speaker, there were 224 amendments on the other side of the Capitol. I appreciate the kind of statements that have been made here.

I think we have made some real progress, because instead of going through this, that and the other, I went to the place where the problem was and I talked directly to the Director of the Office of Management and Budget and I talked directly to the Secretary of the Treasury. We had a little trouble getting together, but up until that time nobody had given us any information as to what the problem was. We were just told that so and so was against it, so and so was going to recommend a veto.

I think we have worked this out much better.

Certainly I have the highest regard, personal and otherwise, for my colleagues, the gentleman from Texas, chairman of the Agriculture Committee. I fully appreciate the problem they have with regard to dealing with this subject. But let me say to the chairman of the Committee on Agriculture, in every bill that we have there are lots of minor things that the legislative committees have not found fit to correct. They are minor. They are technical. But as long as they do not correct those things so that we can go ahead, we are faced with having to go ahead in spite of them.

I want to urge here in the RECORD to all our friends on the legislative committees, particularly the chairmen, talk to our committee or our staff, talk to them, so these little things that tie us in knots here will not continue to do that.

Let me repeat again, I am proud of what we did here and I am proud of having gone directly to where the problem was, because they added 224 amendments, adding over $2 billion to the figure we had. It makes sense from their viewpoint, and we in turn have to work with it.

So I say again, I appreciate everybody's problems here. We do our best to work with them.

I think it is quite an accomplishment for us to come here with 224 amendments worked out satisfactorily, as far as I know, with our colleagues on both sides of the aisle.

I do want to urge our friends on the legislative committee to give some thought to these little things that are really insignificant, except they tie a knot in the procedures here.

I hope you will support the committee on this.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. SPEAKER, the supplemental appropriations bill contains a number of extremely important programs that make swift action on it crucial. Let me turn first to the farm issues.

Last December, Congress passed the 1985 farm bill, which set out conditions and terms of farm programs. Farmers have abided by the conditions of participation but they have been left in a lurch by the inability of the CCC to make expected payments.

Dairy farmers, acutely aware of need to eliminate the glut of milk, agreed to go out of business by selling for slaughter or export their cows. By entering into the so-called whole-herd buyout program, these farmers will be saving taxpayers more than $6 billion in the next few years. Many of these farmers, however, are now in an incredible bind. Cows are what generated their income but they have sold their cows in order to comply with the conditions of the USDA contract. Now they have no income at all until we enact this legislation.

The supplemental must be passed—quickly—so that these farmers may receive the payments due them. To defeat or delay this supplemental bill would be to perpetrate the unfairness that congressional inaction has already created.

The conference agreement also includes a provision which would permit rural utilities to refinance loans through the Rural Electrification Administration without a prepayment penalty.

Mr. Speaker, many rural utilities in all regions of the country are struggling to get out from under the debt incurred when interest rates approached 20 percent. Some of that debt reflects huge investments made by rural utilities at the urging of REA into nuclear projects that have since fallen through, leaving the utilities holding the bag. These large debts must be spread among a small number of users, resulting in substantial rate increases and the threat of bankruptcy in some cases. The burden of these rate increase falls most heavily on our farmers, our small businesses, and our residential consumers.

Rural utilities already face considerably higher costs in the distribution and maintenance of their systems than investor-owned utilities. This provision will simply allow rural utilities to do what thousands of other businesses and individuals throughout the country are doing: Take advantage of lower interest rates by restructuring and refinancing their debt.

Another critical area of this bill concerns the Pell Grant Program. The estimated Pell grant shortfall this year is $370 million, $154 million of which is due to the Gramm-Rudman-Hollings reductions. This supplemental appropriations contains $146 million, which does not meet the total need, but is a step in the right direction. In fact, this figure will restore Pell grants to approximately 100,000 students who would otherwise have their grants eliminated through the linear reduction formula.

The Department of Education is given little leeway with respect to how to address this issue. One avenue allowed is linear reduction. Under linear reduction, students whose expected family contributions are $200 or less would not have their awards reduced. The amount to be saved under linear reduction is supposed to be taken from student awards inversely to need. That is, students with the least need would face the largest reductions. If such supplemental is approved, the Department of Education estimates that 290,000 Pell-eligible students will lose their grants, and 768,000 recipients will have their awards reduced.

The effect of this shortfall is significant in Vermont. For example, this shortfall means a loss of approximately 18.4 percent ($1,376,000) in Pell Grant awards to Vermont students. Additionally, the shortfall would result in an average reduction, including grant terminations, of $450 for 2,500 students, or 61 percent of Vermonters currently receiving Pell grants.

On the other hand, with the supplemental contained in this bill, 200 Vermont student who otherwise would not receive awards, will be receiving awards this fall. Further, this supplemental will assure that the awards for about 1,800 Vermont students will be positively affected, and some of the loss due to the shortfall restored.

It is critical that this shortfall be addressed, in whole or in part. There is no way that either our colleges and universities or the States can make up such a loss of funds. Not only will the impact of the shortfall, if not addressed, have severe effects on Vermont, the results nationwide will be devastating. I urge your support of

this provision in the name of educational access and opportunity for our most needy postsecondary students.

So again I commend the chairman and the ranking member and all the members of the committee for bringing this back in a very important document to help these people.

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Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GREEN] for a colloquy.

Mr. GREEN. I thank the gentleman for yielding time to me.

Mr. Speaker, I should like to engage the distinguished chairman of the Appropriations Subcommittee on Transportation in a short colloquy.

Mr. LEHMAN of Florida. If the gentleman will yield, I would be pleased to engage in a colloquy with the gentleman from New York.

Mr. GREEN. Mr. Speaker, is it the gentleman's understanding that the purpose of Amendment 222, which was added by the other body and reported in technical disagreement, is to assure that New York City will receive all Federal funds it would otherwise be entitled to for this fiscal year?

Mr. LEHMAN of Florida. Although I was not a conferee on this particular amendment, my understanding is that you are correct.

Mr. GREEN. The statement of the managers, however, could leave the impression that the interstate transfer funds could be held up notwithstanding the conference action. Is it your understanding that the conferees intended interstate transfer funds to be treated in the same manner as other Federal funds, that they will be obligated if, by September 30, 1986, the Secretary of Transportation approves the plans, specifications, and estimates and issues a letter of authority to proceed with a project utilizing such funds as is the case under current law and practice?

Mr. LEHMAN of Florida. Yes, the gentleman from New York is correct; that is my understanding.

Mr. GREEN. I thank the gentleman.

Mr. WHITTEN. I yield such time as he may consume to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding time to me.

Mr. Speaker, the conference agreement on the Interior and related agencies chapter of the supplemental includes rejections of deferrals totaling $662,566,000, two rescissions totaling $28,920,000, and appropriations totaling $420,414,000.

The most critical element in the chapter is the rejection of four deferrals proposed by the administration for Department of Energy programs. Although labeled deferrals by the administration, they bear the characteristics of rescissions. Specifically, the deferrals being overturned are in fossil energy research and development, energy conservation, and the strategic petroleum reserve. Overturning the fossil energy and energy conservation deferrals permits the Department of Energy to continue crucial research and development programs. In the strategic petroleum reserve the conference agreement provides for continued construction of storage capacity, and releases $577 million to purchase additional oil. I believe just as the statement of the managers indicates that the Department of Energy should move immediately to purchase oil at current low prices, since our import vulnerability will grow significantly in the near future.

Of the $420,414,000 in supplemental appropriations included in the agreement, $200,200,000 is to pay for the costs of fires on public lands already incurred; and $201,500,000 is for implementation of the compact of free association in the Pacific islands. Other minor amounts are included for the U.S. Fish and Wildlife Service, the National Park Service, the Geological Survey, the Minerals Management Service, the Forest Service, and various Indian programs. With regard to contract support funds in the Bureau of Indian Affairs, the managers on the part of the House have no objection to the use of fiscal year 1986 funds to fund these costs for contracts entered into by Indian tribes prior to fiscal year 1986.

Finally, the agreement includes an appropriation to repay the Treasury for loans to the Secretary of Energy made to cover the default on a FFB loan for construction of the Great Plains gasification plant. This is a bookkeeping transaction, which reduces the debt and has no outlay effect.

It has come to our attention that the Bureau of Indian Affairs is planning to shut down the northern California agency in Hoopa, CA, and to open a new agency in Redding, CA, and two new subagencies in Klamath and Willow Creek, CA. This proposal, which is estimated to cost over $600,000, falls under the Interior Subcommittee's reprogramming guidelines, since it involves the use of funds appropriated for one purpose or another never presented nor justified to the Congress. Although the Bureau and Department of the Interior have been informed of this fact, no reprogramming proposal has been submitted. Therefore, the Bureau is directed not to proceed with this proposal until a reprogramming request has been submitted to and approved by the Appropriations Committees.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to my colleague on the committee, the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding time to me.

Mr. Speaker, as a Member representing one of the farm-oriented districts in this country, I rise in strong support of the supplemental appropriations conference report before the House today.

Mr. Speaker, since I came to Washington I have learned that many who administer farm programs for the Government are very often themselves unaware of the practical realities of running a farm. I grew up on a farm and I can assure you that life on the farm is never easy. However, I can also tell you that a critical element in the effective management of a farm is the assurance to the farmer that he can rely on the Federal Government to live up to its commitments and to properly manage its programs.

This year has been a disaster in Government management. The Government has not lived up to its commitments, nor has it managed its programs efficiently or effectively. The effect of poor management has been to create turmoil, and compound the economic depression that currently besets the farm community.

This year—one of the most devastating for America's farmers—the Government's primary lending agencies have shut down repeatedly because of a lack of funding. In February, the Commodity Credit Corporation [CCC] was without money for 5 days—and again, in March, for 19 days. On June 4, both the CCC and ASCS, the Agricultural Stabilization and Conservation Service, ran out of money. Today marks the 21st day the Government has been unable to meet its obligations to farmers.

Mr. Speaker, the significance of this is that without funding local ASCS offices cannot issue checks to farmers for advance deficiency payments, commodity loans, rice marketing loans, whole-herd dairy buy out bids, or conservation reserve bids.

These erratic interruptions in the Government's funding agencies has put an extraordinary strain on farmers who are trying to manage in an industry totally dependent on a reliable source of financing for its annual operation.

These recurring shortages in Federal farm crop support programs could be averted if USDA officials did not repeatedly underestimate program costs.

In the President's budget request for fiscal 1986, the administration estimated that the CCC would need $10.5 billion to meet its obligations. The administration has returned to Congress twice for additional appropriations. It now estimates that the CCC will need at least $22.3 billion this year for the farm programs it administers.

This new estimate is more than double the original contained in President Reagan's budget.

Clearly, the USDA did not take into account the severity of the farm crisis when it estimated the needs of CCC. It has missed the mark three times—by billions of dollars.

However, Mr. Speaker, while the administration continues to trip over its own shoestrings, 20 percent of the farmers in my district are forced to sit on their hands waiting for their advance deficiency payments, and winter wheat farmers who are harvesting are still waiting for their commodity loans to finance future production. Farmers once again find themselves waiting on the administration to solve its own problems before it can even begin to help farmers with theirs.

Congress must step in and assist farmers by approving the supplemental appropriations and restoring CCC and ASCS funding so that these agencies can carry out their duties to the American farmer.

Mr. WHITTEN. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma [Mr. ENGLISH]

Mr. ENGLISH. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this conference report, and would call my colleagues' attention to the language which, for the first time, establishes a capability within DOD and the civilian law enforcement agencies to participate in a true war on drugs. The drug problem has been featured in the media in recent days, but this has illuminated only the tip of the iceberg. We have seen photographs of loads of drugs that have been seized. We have discovered that our borders are open to any smuggler or terrorist who wants to cross. We hear criticism of the complicity and corruption of foreign governments that appear indifferent to the flow of narcotics from their soil.

But, the real war on drugs is a long-term effort, and these are just the shocking symptoms of a terribly persistent problem.

In the past 4 years, the Government Operations Subcommittee, which I chair, has held 36 hearings on the drug problem. We have found that there are glaring weaknesses in America's response to drug abuse. We know that the war on drugs cannot be waged with photo opportunities and press releases. It's a real problem and requires a real solution.

The war on drugs consists of four vital areas: crop eradication in foreign countries, drug interdiction at our borders, investigation and prosecution of drug traffickers, and education of our citizens.

We quickly found that, while there are deficiencies in all of these areas, the most glaring failures were in drug interdiction. We found that, as recently as last year, there were only two aircraft in the entire Customs Service which were properly equipped to intercept drug smugglers. We found that there were almost no radars anywhere in the country which would detect low-flying aircraft as they approached our borders. Even today, there are vast areas along the United States-Mexico border where a B-52 could fly across at altitudes in excess of 14,000 feet without being seen on any radar screen—not even NORAD. Some figures indicate that we don't see even 1 out of 300 smugglers, let alone catch them. Yet DEA tells us that 62 percent of the cocaine which is used in this country arrives by private aircraft.

We have not had a war on drugs. We have not given our law enforcement agencies the tools with which to wage a war. There are fewer people in Customs today than there were in 1980. Budget cuts have crippled the Coast Guard, our primary maritime interdiction agency. Tactical intelligence, which these agencies need desperately, is almost nonexistent.

But, there is hope.

My subcommittee, assisted by a decidedly bipartisan group of Members and Senators, by the Defense Department, and recently by the Drug Enforcement Policy Board, devised a plan to provide for the basic needs of our interdiction agencies. This plan, which is championed in the Senate by Senator DENNIS DECONCINI, will make available a mix of ground radars, airborne surveillance aircraft, interceptors, helicopters, intelligence, communications equipment, and command-and-control capability so that we have a fighting chance.

This bold package could never have been constructed without the personal dedication of many people.

I deeply appreciate and commend the chairman, Mr. WHITTEN, and the ranking minority member, Mr. CONTE, for their support.

Armed Services Chairman LES ASPIN, with the support of his Readiness Subcommittee Chairman DAN DANIEL and Special Operations Forces Panel Chairman EARL HUTTO, brought their tremendous expertise and commitment to the problem.

BILL CHAPPELL, who chairs the Appropriations Subcommittee on Defense took the offensive in the recent conference to keep the plan intact.

Our friend CHARLEY BENNETT, chairman of the Armed Services Subcommittee on Seapower, has been a leader in this struggle for more years than any of us. Rules Committee Chairman CLAUDE PEPPER, who feels the needs of the people as deeply as any Member who has ever served in this Congress, has been our staunch ally.

CHARLEY RANGEL has directed the Select Committee on Narcotics into many of these issues, and has been personally involved for years.

The Vice President, the Secretary of Defense, and the Attorney General have all recently written to the chairmen of the Appropriations and Armed Services Committees of both Houses to confirm that most of the elements of the plan are now administration policy. In fact, they broadened it to include initiatives in education and prosecution which were not included in the original scheme, but which are also badly needed.

I anxiously await the administration's presentation of this urgent funding package at the earliest opportunity. Last January the President called drug trafficking and terrorism the two greatest evils in this hemisphere today.

He is right, and we must act.

This bill contains another element urgently needed by farmers in Oklahoma and the Nation. The farm programs adopted last year at the urging of the administration push grain market prices below the cost of production and make up the difference with Government payments. The programs are very expensive to taxpayers, and they force the Commodity Credit Corporation to use up all the funds available to it. This occurred 3 weeks ago, and farmers who depend on CCC for crop loans and payments are left high and dry. Some are being forced to sell their grain at harvest time when prices are always the lowest.

The bill contains an appropriation to allow CCC to resume its operations on behalf of American family farmers.

Mr. BIAGGI. Mr. Speaker, I rise in strong support of the pending conference report to accompany H.R. 4515, the supplemental appropriations bill for fiscal year 1986. This is an important and comprehensive bill with a number of important provisions, three of which I wish to focus on today.

The first relates to the $702 million appropriated in the bill for improved embassy security abroad. The obvious and express purpose of this provision is to develop improved security at our embassy facilities, and thus decrease the danger factor for Americans in diplomatic service. This represents a sound and urgently needed investment of funds. It embodies much of what was contained in the authorization bill which I was proud to cosponsor.

A second important provision in this legislation relates to the $50 million provided for the so-called Anglo-Irish fund. In reality, this is the first installment of what we hope will be a full $250 million commitment of first time United States economic aid for Northern Ireland and the Republic of Ireland over 5 years.

I am proud to have been the author of the first piece of legislation ever introduced to provide economic aid to

the six beleaguered counties of northeast Ireland. I sponsored my first bill in 1983. I am delighted we have reached this juncture today. It is obvious to many of my colleagues that this issue took on new light and energy due to the signing of the so-called Anglo-Irish Agreement between Great Britain and the Republic of Ireland. While I continue to have serious reservations about this agreement as a vehicle to achieve a lasting solution in Northern Ireland, it is a step forward, albeit a fragile one.

I have long contended that economic aid is in fact the real catalyst to bring about a lasting solution in Northern Ireland. My reasons for this are simple: Northern Ireland has the highest unemployment rate of any nation in western Europe at 21.3 percent. This burden has fallen the hardest on the Catholic minority in the north. For example in the city of Newry, unemployment among Catholics is in excess of 60 percent. In Strabane, it is over 50 percent. Some families are entering a second and third generation of unemployment, poverty and despair.

If I have any reservations about this aid, it involves the lack of explicit assurances that this aid will be governed by the conditions made a part of the authorization bill, H.R. 4329. I am proud to have worked closely in the development of these conditions, which I consider to be absolutely vital if this aid is to be used in a fashion to contribute to improvements, as compared to maintaining the status quo. At this point in my statement, I am inserting these conditions.

SEC. 4. CONDITIONS AND UNDERSTANDINGS RELATING TO THE UNITED STATES CONTRIBUTIONS.

(a) PROMOTING ECONOMIC AND SOCIAL RECONSTRUCTION AND DEVELOPMENT.—The United States contributions provided for in this Act may be used only to support and promote economic and social reconstruction and redevelopment in Ireland and Northern Ireland. The restrictions contained in sections 531(e) and 660(a) of the Foreign Assistance Act of 1961 apply with respect to any such contributions.

(b) UNITED STATES REPRESENTATION ON THE BOARD OF THE FUND.—The President shall make every effort, in consultation with the Government of the United Kingdom and the Government of Ireland, to ensure that there is United States representation on the Board of the International Fund.

(c) PRIOR CERTIFICATIONS.—Each fiscal year, the United States may make contributions to the International Fund only if the President certifies to the Congress that he is satisfied that—

(1) the Board of the Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and

(2) disbursements from the Fund—

(A) will be distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

(B) will address the needs of both communities in Northern Ireland.

Each such certification shall include a detailed explanation of the basis for the President's decision.

SEC. 5. ANNUAL REPORTS.

At the end of each fiscal year in which the United States Government makes contributions to the International Fund, the President shall report to the Congress on the degree to which—

(1) the Fund has contributed to reconciliation between the communities in Northern Ireland;

(2) the United States contribution to the Fund is meeting its objectives of encouraging new investment, job creation, and economic reconstruction on the basis of strict equality of opportunity; and

(3) the Fund has increased respect for the human rights and fundamental freedoms of all people in Ireland and Northern Ireland.

My concern is, since the Senate has yet to complete action on their authorization bill, the appropriations we adopt as part of this conference report may not be subject to these conditions. I therefore call on the Senate to complete action at once on the authorizing bill. It is my understanding that they are prepared to accept most if not all of the House conditions, but time is of the essence.

The fact is, with the passage of this bill, we are taking a major step forward on an issue which few felt would ever reach this point. I have been serving as chairman of the ad hoc congressional committee since it was founded in 1977. Today it has 114 members of a bipartisan basis. One of our longstanding concerns was the future of Northern Ireland and what steps would be needed to help bring peace and justice to that land. Often the steps led to economic aid. We are one step closer to making this a reality. Adoption of this conference report is important.

The final area of support I wish to address that is part of this bill is the language providing an additional appropriation of $8.5 million for the Elderly Feeding Program under the Department of Agriculture. This is a key component of the Older Americans Act Nutrition Program. Under this program, nutrition programs are given the choice between commodities and cash in lieu of commodities to expand their meal services. States are in turn reimbursed based on the total number of meals they serve under title III.

A serious problem developed last year when the Department of Agriculture suddenly reduced the rate by 3 cents a meal. This action came after States and nutrition programs had planned their budgets based on the 56.76-cent reimbursement rate. The choices they face are not good ones. They could reduce their meals outright, or borrow against their fiscal year 1986 allocation to maintain services. Either way the loser is the elderly participant. In terms of numbers it is estimated that for every 1 cent that the reimbursement rate is lowered, it leads to a loss of 700,000 meals nationally. Therefore a 3-cent-a-meal reduction means over 2 million meals.

Legislation was passed by the House and Senate that I was proud to author lifting the authorization "cap" that had been imposed on this program to allow the funds necessary to settle past due claims from last fiscal year to be honored. However, the Department of Agriculture, on the advice of the Office of Management and Budget, has elected not to release the $7 million in funds for that purpose but rather to maintain the reimbursement rate at 56.76 cents for this entire fiscal year.

This conference report once again addresses this issue and provides for a new appropriation of $8.5 million. According to its sponsor in the other body, roughly $7 million of this would settle the past due claims and the remaining $1.5 million would go to preserve the rate at 56.76 cents for this year.

It is vital these funds are released before further chaos envelopes this all-important program. I commend the House conferees for accepting this amendment and wish to commend my colleague Mr. HAMMERSCHMIDT for authoring a letter to the conferees which I was proud to cosign. I also wish to salute the outstanding advocacy efforts of two national organizations, the National Association of Nutrition and Aging Service Programs and the National Association of Meal Programs. They have kept the pressure on the Congress to address this very real problem, and I hope with the adopting of this conference report we have done just that.

Mr. FRENZEL. Mr. Speaker, despite the fact that the White House has signed off on today's conference report, I intend to oppose its adoption.

To be sure, there are many deserving programs that need prompt release of money contained in this bill. However, this report contains too much fat along with some necessary funding.

I generally dislike supplementals, because they typically hold necessary funding for vital programs hostage to force adoption of unwise spending practices. This conference report, while an improvement over the original House bill, nonetheless remains burdened with unnecessary expenditures that could be further reduced from conference level.

I am particularly disappointed with the bill's failure to exert some control over runaway expenses for the congressional franking privilege. As usual, our election year mailing costs are running extremely high due to mass mailings designed to keep Members' names in the minds of their constituents. In this bill, we could have established new rules to limit the political abuse of the frank. We did not.

Mr. Speaker, the bill still contains too much money for not enough good reasons. I urge my colleagues to join me in opposing it.

Mr. BOLAND.Mr. Speaker, I strongly support the conference report on the Urgent Sup-

plemental Appropriations bill for fiscal year 1986 and urge its adoption by the House.

I want to draw the attention of my colleagues to a provision in the conference report that I believe is especially important. One of the best investments this country makes is in the education of its children. And among the best programs Congress has ever created are those that expand the availability of a college education. The bill presently under consideration by the House provides $146 million for the Pell Grant Program, a program that I have enthusiastically supported since its inception. These additional funds will make it possible for 100,000 students, who could not otherwise make use of the program, to receive Pell grants. The potential benefit to our country's future from making the opportunity of higher education available on the basis of merit, rather than means, is incalculable. I believe it is therefore imperative that we continue to provide the maximum possible assistance to programs like the Pell grants, and I am pleased that is the course charted by the legislation now before us.

Mr. Speaker, I want to provide a summary of the HUD-Independent Agencies provisions in this bill. Chapter VI includes a number of urgent items for the Department of Housing and Urban Development and Independent Agencies. First, there are three rescissions of housing funds totalling $6.9 billion. These rescissions do not, however, reduce the number of housing units provided. They simply reflect the conversions from the old rent supplement and rental housing assistance programs to the section 8 program—and also the accounting change in public housing development to direct financing.

In addition, chapter VI overturns the five deferrals proposed for the Department of Housing and Urban Development. This includes the $500 million deferred for the Community Development Block Grant Program and $2.3 billion for annual contributions for assisted housing.

I think everyone is well aware of the problems the Federal Housing Administration fund has been having. Since June 6 no FHA loan commitments have been made. This chapter addresses two problems within the FHA Program. First, it increases the limitation on loans by $57,580 million. This should provide sufficient ceiling to continue the program through September 30, 1986. In addition, the Secretary's authority to make FHA loan commitments is extended until July 25.

With respect to EPA's sewage treatment construction grants program, the conference agreement would provide for the release of an additional $1.2 billion. Even though the Clean Water Act has not yet been reauthorized, about 25 States have run out of money and the conferees felt it was essential that we make these funds available. However, the final $600 million appropriated will not be made available until after the program has been reauthorized.

For the FEMA disaster relief program, we provide an additional $250 million. The disaster relief fund has virtually run out of money so these funds are urgently needed and should address all current problems as well as anticipated disasters over the remainder of the fiscal year.

This chapter also provides supplemental funds for NASA to correct the problems with the shuttle solid rocket boosters. Four hundred and thirty-one million dollars is provided as a 1986 supplemental and an additional $100 million is appropriated for 1987, but the 1987 funds will be available only after NASA has certified that they are implementing the recommendations of the Rogers Commission.

This chapter also has a number of provisions dealing with the Veterans' Administration. A transfer is permitted up to $30 million to medical care to maintain the current staffing level of 193,941 FTE. And, $35 million is provided for veterans job training, to be available until September 1988. A number of transfers are also provided for HUD, EPA, NASA, and the Veterans' Administration to take care of shortfalls in operating accounts.

Mr. WHITTEN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 52, not voting 26, as follows:

[Roll No. 194]

YEAS—355

Ackerman	Bryant	Dorgan (ND)
Akaka	Burton (CA)	Downey
Alexander	Bustamante	Duncan
Anderson	Byron	Durbin
Andrews	Callahan	Dwyer
Annunzio	Carney	Dymally
Anthony	Carper	Dyson
Applegate	Carr	Early
Aspin	Chandler	Eckart (OH)
Atkins	Chapman	Edgar
AuCoin	Chappell	Edwards (CA)
Badham	Chappie	Edwards (OK)
Barnard	Clay	Emerson
Barnes	Clinger	English
Barton	Coats	Erdreich
Bateman	Cobey	Evans (IA)
Bates	Coble	Evans (IL)
Bedell	Coelho	Fascell
Bellenson	Coleman (MO)	Fawell
Bennett	Coleman (TX)	Fazio
Bereuter	Combest	Feighan
Berman	Conte	Fiedler
Bevill	Conyers	Fish
Biaggi	Cooper	Flippo
Bliley	Coughlin	Florio
Boehlert	Courter	Foglietta
Boggs	Coyne	Foley
Boland	Crockett	Ford (MI)
Boner (TN)	Daniel	Ford (TN)
Bonior (MI)	Darden	Frank
Bonker	Daschle	Frost
Borski	Daub	Fuqua
Bosco	Davis	Gallo
Boucher	de la Garza	Garcia
Boulter	Dellums	Gaydos
Boxer	Derrick	Gejdenson
Brooks	Dickinson	Gekas
Broomfield	Dicks	Gibbons
Brown (CA)	Dingell	Gilman
Broyhill	DioGuardi	Gingrich
Bruce	Dixon	Glickman
Gonzalez	Mavroules	Schuette
Gordon	Mazzoli	Schulze
Gradison	McCain	Schumer
Gray (IL)	McCloskey	Seiberling
Gray (PA)	McCurdy	Sharp
Green	McDade	Shaw
Guarini	McEwen	Shelby
Gunderson	McGrath	Siljander
Hamilton	McHugh	Sisisky
Hammerschmidt	McKernan	Skeen
Hansen	McMillan	Skelton
Hartnett	Meyers	Slattery
Hatcher	Mica	Slaughter
Hawkins	Michel	Smith (FL)
Hayes	Mikulski	Smith (IA)
Hefner	Miller (OH)	Smith (NE)
Heftel	Miller (WA)	Smith (NJ)
Hendon	Mineta	Smith, Robert (OR)
Henry	Mitchell	Snowe
Hiler	Moakley	Snyder
Hillis	Molinari	Solarz
Holt	Mollohan	Spence
Hopkins	Montgomery	Spratt
Horton	Moody	St Germain
Howard	Moore	Staggers
Hoyer	Morrison (CT)	Stallings
Hubbard	Morrison (WA)	Stangeland
Hunter	Mrazek	Stark
Hutto	Murphy	Stokes
Hyde	Murtha	Strang
Ireland	Myers	Stratton
Jacobs	Natcher	Studds
Jeffords	Neal	Sundquist
Jenkins	Nelson	Sweeney
Johnson	Nowak	Swift
Jones (NC)	Oakar	Synar
Jones (OK)	Oberstar	Tallon
Jones (TN)	Obey	Tauke
Kanjorski	Olin	Tauzin
Kaptur	Ortiz	Taylor
Kasich	Oxley	Thomas (CA)
Kastenmeier	Panetta	Thomas (GA)
Kennelly	Parris	Torres
Kildee	Pashayan	Torricelli
Kindness	Pease	Towns
Kleczka	Pepper	Traficant
Kolbe	Perkins	Traxler
Kolter	Petri	Udall
Kostmayer	Pickle	Valentine
Kramer	Porter	Vander Jagt
Lagomarsino	Price	Vento
Lantos	Pursell	Visclosky
Latta	Quillen	Volkmer
Leach (IA)	Rahall	Walgren
Lehman (CA)	Rangel	Watkins
Lehman (FL)	Regula	Waxman
Leland	Reid	Weber
Lent	Richardson	Weiss
Levin (MI)	Ridge	Wheat
Levine (CA)	Rinaldo	Whitehurst
Lewis (CA)	Ritter	Whitley
Lightfoot	Roberts	Whittaker
Lipinski	Robinson	Whitten
Livingston	Roe	Williams
Lloyd	Rogers	Wise
Long	Rose	Wolf
Lowery (CA)	Rostenkowski	Wortley
Lowry (WA)	Roth	Wright
Lundine	Roukema	Wyden
MacKay	Rowland (CT)	Wylie
Madigan	Rowland (GA)	Yates
Manton	Roybal	Yatron
Markey	Rudd	Young (AK)
Marlenee	Sabo	Young (FL)
Martin (IL)	Savage	Young (MO)
Martin (NY)	Saxton	Zschau
Martinez	Scheuer	
Matsui	Schneider	

NAYS—52

Archer	Fields	McCollum
Armey	Frenzel	Monson
Bartlett	Goodling	Moorhead
Bilirakis	Gregg	Nielson
Brown (CO)	Hall (OH)	Packard
Burton (IN)	Hall, Ralph	Penny
Cheney	Hertel	Ray
Craig	Hughes	Roemer
Crane	Leath (TX)	Russo
Dannemeyer	Lewis (FL)	Schaefer
DeLay	Loeffler	Schroeder
DeWine	Lott	Sensenbrenner
Donnelly	Lungren	Shuster
Dornan (CA)	Mack	Smith, Denny (OR)
Dreier	McCandless	

Smith, Robert (NH)	Stenholm	Vucanovich
Solomon	Stump	Walker
	Swindall	Wirth

NOT VOTING—26

Bentley	Grotberg	O'Brien
Breaux	Huckaby	Owens
Campbell	Kemp	Rodino
Collins	LaFalce	Shumway
Dowdy	Lujan	Sikorski
Eckert (NY)	Luken	Weaver
Fowler	McKinney	Wilson
Franklin	Miller (CA)	Wolpe
Gephardt	Nichols	

□ 1735

The Clerk announced the following pair:

On this vote:

Mr. Sikorski for, with Mr. Nichols against.

Messrs. MOORHEAD, LOEFFLER, BILIRAKIS, SHUSTER, HERTEL of Michigan, CRAIG, and LEWIS of Florida changed their votes from "yea" to "nay."

Mr. IRELAND and Mr. COBEY changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. DONNELLY). The Clerk will designate the first amendment in disagreement.

□ 1745

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that Senate amendments numbered 9, 24, 29, 30, 31, 32, 33, 34, 35, 36, 39, 48, 55, 58, 60, 63, 64, 66, 67, 68, 69, 70, 71, 73, 74, 86, 88, 94, 99, 103, 113, 125, 133, 138, 140, 153, 158, 159, 160, 165, 166, 167, 170, 171, 173, 174, 183, 188, 189, 190, 191, 194, 198, 206, 207, 208, 211, 214, 221, 222 be considered en bloc and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The texts of the various Senate amendments referred to in the foregoing request are as follows:

Senate amendment No. 9: Page 3, lines 14 and 15, strike out "$10,000,000 to remain available until expended" and insert "$9,000,000, to remain available until expended: *Provided*, That not to exceed a total of $1,000,000 of this amount may be transferred to the Animal and Plant Health Inspection Service and the Food Safety and Inspection Service for contamination testing: *Provided further*, That the remaining $8,000,000 shall be transferred to the Commodity Credit Corporation: *Provided further*, That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

Senate amendment No. 24: Page 6, after line 6, insert:

EXCLUSION OF PERMAFROST SOILS FROM DEFINITION OF "WETLAND"

Section 1201(a)(16) of Public Law 99-198 (99 Stat. 1505) is amended by inserting at the end thereof the following: "For purposes of this Act, and any other Act, this term shall not include lands in Alaska identified as having high potential for agricultural development which have a predominance of permafrost soils.".

Senate amendment No. 29: Page 6, after line 26, insert:

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities" to maintain public warning and forecast services and aircraft services, $10,822,000, to remain available until expended.

Senate amendment No. 30: Page 7, after line 1, insert:

LEGAL ACTIVITIES

Senate amendment No. 31: Page 7, after line 1, insert:

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $2,600,000.

Senate amendment No. 32: Page 7, after line 1, insert:

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for support of United States prisoners in non-Federal institutions, $3,000,000.

Senate amendment No. 33: Page 7, after line 1, insert:

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

Senate amendment No. 34: Page 7, after line 1, insert:

(INCLUDING RESCISSION)

For an additional amount for "Salaries and expenses" for the relocation within the District of Columbia of the Washington field office, $10,000,000, to remain available until expended.

Of available funds provided under this head in Public Law 98-166 and Public Law 99-88 for the relocation within the District of Columbia of the Washington field office, $10,000,000 are rescinded.

Senate amendment No. 35: Page 7, after line 1, insert:

The limitation in Public Law 99-180 on the receipts credited to this appropriation from fees collected to process fingerprint identification records for noncriminal employment and licensing purposes is increased by $1,000,000.

Senate amendment No. 36: Page 7, after line 1, insert:

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $3,000,000.

Senate amendment No. 39: Page 7, after line 5, insert:

ADMINISTRATIVE PROVISIONS

Senate amendment No. 48: Page 8, line 3, strike out all after "expended:" down to and including "Sales" in line 9, and insert *Provided*, That such funds shall become available for obligation on September 30, 1986".

Senate amendment No. 55: Page 10, after line 15, insert:

Notwithstanding the provisions of section 106(b)(1) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, a bankruptcy judge serving on a part-time basis on the date of enactment of this Act may continue to serve as a part-time judge for such district until December 31, 1986, or until such time as a full-time bankruptcy judge for such district is appointed, whichever is earlier: *Provided*, That these provisions shall apply only to part-time bankruptcy judges serving in the district of Oregon, the western district of Michigan, and the eastern district of Oklahoma.

Senate amendment No. 58: Page 11, line 6, after "expended" insert ": *Provided*, That notwithstanding the proviso under this head in Public Law 99-88, and notwithstanding section 8(b) of the Board for International Broadcasting Act of 1973, as amended, the amounts placed in reserve, or which would have been placed in reserve, in fiscal year 1985 pursuant to that section shall be available to the Board for grants to Radio Free Europe/Radio Liberty".

Senate amendment No. 60: Page 11, after line 14, insert:

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses", $3,900,000 to be derived by transfer from "Acquisition and Construction of Radio Facilities", to remain available until expended.

The limitation in Public Law 99-180 on the receipts credited to this appropriation from fees or other payments received from or in connection with English-teaching programs is increased by $175,000.

Senate amendment No. 63: Page 11, after line 14, insert:

OPERATION AND MAINTENANCE, MARINE CORPS

The limitation for real property maintenance contained under the head "Operation and Maintenance, Marine Corps" in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1189, is amended by striking "$238,000,000" and inserting in lieu thereof "$223,200,000".

Senate amendment No. 64: Page 11, after line 14, insert:

TENTH INTERNATIONAL PAN AMERICAN GAMES

(INCLUDING RESCISSION)

For an additional amount for "Tenth International Pan American Games", $8,000,000, to remain available for obligation until September 30, 1987.

Of available funds provided under this head in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1192, $8,000,000 are rescinded.

Senate amendment No. 66: Page 11, after line 14, insert:

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(RESCISSION)

Of the funds made available under this head in Public Law 98-212, $34,400,000 are rescinded.

Senate amendment No. 67: Page 11, after line 14, insert:

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Of the funds made available under this head in Public Law 98-212, $40,100,000 are rescinded.

Senate amendment No. 68: Page 11, after line 14, insert:

COASTAL DEFENSE AUGMENTATION

(TRANSFER OF FUNDS)

Of the amounts available to the Department of Defense for "Coastal Defense Augmentation", $21,250,000 shall be transferred to Coast Guard "Acquisition, construction and improvements".

Senate amendment No. 69: Page 11, after line 14, insert:

AIRCRAFT PROCUREMENT, AIR FORCE

The last proviso under the head "Aircraft Procurement, Air Force", in the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended by striking "July 1, 1986" and inserting in lieu thereof "November 1, 1986".

Senate amendment No. 70: Page 11, after line 14, insert:

MISSILE PROCUREMENT, AIR FORCE

(TRANSFER OF FUNDS)

For an additional amount for "Missile Procurement, Air Force", $16,000,000, to be derived by transfer from "Aircraft Procurement, Navy, 1986/1988", to remain available for obligation until September 30, 1988, and in addition $329,400,000 shall be derived by transfer as provided for by Section 8103 of Public Law 99-190 as amended in this act.

Senate amendment No. 71: Page 11, after line 14, insert:

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this head in Public Law 98-473, $40,000,000 are rescinded.

Senate amendment No. 73: Page 11, after line 14, insert:

(TRANSFER OF FUNDS)

For an additional amount for "Research, Development, Test and Evaluation, Air Force", $84,386,000, to be derived by transfer from "Aircraft Procurement, Navy, 1986/1988", to remain available for obligation until September 30, 1987, and in addition $232,500,000 shall be derived by transfer as provided for by section 8103 of Public Law 99-190 as amended in this Act.

Senate amendment No. 74: Page 11, after line 14, insert:

REVOLVING AND MANAGEMENT FUNDS

ADP EQUIPMENT MANAGEMENT FUNDS

(INCLUDING RESCISSION)

For an additional amount for "ADP Equipment Management Fund", $100,000,000, to remain available for obligation until expended.

Of available funds provided under this head in the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1202, $100,000,000 are rescinded.

Senate amendment No. 86: Page 12, line 2, after "Washington" insert ": *Provided further,* That using available funds, the Secretary of the Army is directed to use $8,200,000 to initiate construction of the Cooper River seismic modification project in South Carolina".

Senate amendment No. 88: Page 12, after line 12, insert:

ADMINISTRATIVE PROVISION

The authority to acquire new buildings and facilities, including necessary real estate, for the United States Army Engineer District, Walla Walla, Washington, as provided for in Public Law 99-88, 99 Stat. 293, 316, may be implemented by lease purchase contract or by any other appropriate means.

Senate amendment No. 94: Page 14, after line 13, insert:

DEPARTMENT OF STATE

ANTI-TERRORISM ASSISTANCE

(TRANSFERS OF FUNDS)

For an additional amount to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $2,739,000, to be derived by transfer from any of the funds appropriated or otherwise made available in titles I, II, III, and IV of the Foreign Assistance and Related Programs Appropriations Act 1986 (as enacted in Public Law 99-190).

Senate amendment No. 99: Page 15, after line 7, insert:

EXPORT-IMPORT BANK OF THE UNITED STATES

Direct loan authority made available in title IV of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190) for the Export-Import Bank of the United States is available through September 30, 1987.

Senate amendment No. 103: Page 16, after line 3, insert:

FEDERAL HOUSING ADMINISTRATION FUND

The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act during fiscal year 1986 is increased by an additional $57,580,000,000 of mortgage and loan principal.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

The applicable limitation on new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act during fiscal year 1986 is increased by an additional $49,000,000,000 of principal.

Senate amendment No. 113: Page 18, after line 18, insert:

Notwithstanding section 409 of Public Law 99-160, of the funds provided by that Act for the Neighborhood Reinvestment Corporation, an additional $250,000 may be used for object classification expenses other than personnel compensation and benefits.

Senate amendment No. 125: Page 20, line 8, after "1996" insert ": *Provided,* That none of the funds made available by this or any other Act may be used to drain lakes in Delaware Water Gap National Recreation Area prior to approval by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942".

Senate amendment No. 133: Page 21, after line 13, insert:

REVOLVING FUND FOR LOANS

Public Law 99-190 (99 Stat. 1237) is amended under this heading by deleting the word "may" in the proviso and inserting in lieu thereof the word "shall" and by adding the following new proviso before the period: ": *Provided further,* That the United States secure a lien in the amount of the principal and interest of the loan upon trust or other funds of the tribe including any net recovery the tribe may receive from any final award of judgment against the United States which may be rendered in favor of the Zuni Indian Tribe in Docket Numbers 161-79L and 327-81L presently pending before the United States Claims Court".

Senate amendment No. 138: Page 22, line 6, after "239" insert ", and as may be authorized upon the enactment of S.J. Res. 325 or similar legislation".

Senate amendment No. 140: Page 22, after line 14, insert:

Funds appropriated in this Act, under the terms of Public Law 99-239, the Compact of Free Association, for Kwajalein impact payments to the Republic of the Marshall Islands may be used to reimburse the Department of the Army for interim use payments made by the Department of the Army since October 1, 1985.

Senate amendment No. 153: Page 25, after line 2, insert:

ALTERNATIVE FUELS PRODUCTION

For the repayment of principal and interest on notes issued to the Secretary of the Treasury by the Secretary of Energy pursuant to the provisions of section 19(n)(4) of the Federal Non-nuclear Energy Research and Development Act, Public Law 93-577, as amended by Public Law 95-238, $1,020,360,322, together with such additional sums as may be necessary, for the payment of interest which shall have accrued to the date final principal payment is made.

Senate amendment No. 158: Page 25, after line 18, insert:

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

Senate amendment No. 159: Page 25, after line 18, insert:

For an additional amount for the Health Resources and Services Administration to carry out the provisions of section 1910 of the Public Health Service Act (pertaining to Emergency Medical Services for Children), $2,000,000 to remain available until September 30, 1987.

Senate amendment No. 160: Page 25, after line 18, insert:

Notwithstanding any other provision of this Act, the Secretary of Health and Human Services shall immediately renew all designated agreements and contracts in accordance with title 15 of the Public Health Service Act for such periods after September 30, 1986 as each Agency's budget, including unobligated Federal funds available for carryover, permits.

Senate amendment No. 165: Page 26, after line 18, insert:

None of the funds appropriated in this Act, or in any other Appropriations Act for fiscal year 1986, may be used to implement any regulations promulgated by the Secretary of Education after March 31, 1986, to carry out the provisions of the Act of September 30, 1950, relating to impact aid, if such regulations are to take effect during the fiscal year 1986.

Senate amendment No. 166: Page 26, after line 18, insert:

The first sentence of section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "increase the amount" and inserting in lieu thereof the following: "increase the actual payment to be made pursuant to the amount".

Section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new sentences: "In carrying out the provisions of this subparagraph, the Secretary shall count the actual number of children with respect to such agency for each fiscal year under subsection (b) without regard to the provisions of subparagraph (E) of this paragraph.".

Senate amendment No. 167: Page 21, after line 18, insert:

The Secretary shall, in making any audit of payments made under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) accept the manner of counting children attending kindergarten for the pur-

pose of that Act if the manner of counting such children is in accordance with State law.

Senate amendment No. 170: Page 26, after line 18, insert:

Notwithstanding the notice relating to applications for pinpoint disaster assistance (43 Federal Register 57194 (1978)) or any other provision of Federal law or regulation, the Secretary of Education shall accept an application from Preston County Board of Education, West Virginia, under section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) filed after the date of enactment of this Act.

Senate amendment No. 171: Page 26, after line 18, insert:

Notwithstanding any other provision of law, the Hays-Lodge Pole School District Number 50 of Hays, Montana, is relieved of all liability to repay to the United States the sum of $181,557.13, together with any interest on such sum, representing interest earned on investments which were made from payments made under the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) for a construction project initiated in 1975, and which were made after consulting with Federal officials. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this section.

Senate amendment No. 173: Page 26, after line 18, insert:

STUDENT FINANCIAL ASSISTANCE

For an additional amount for subpart 1 of part A of title IV of the Higher Education Act, as amended, $146,000,000, to remain available until September 30, 1987.

Senate amendment No. 174: Page 26, after line 18, insert:

RELATED AGENCIES

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

Provided prior approval is obtained from the Committees on Appropriations, an additional amount not to exceed $1,241,000 for "Operation and Maintenance", may be transferred from the Soldiers' and Airmen's "Capital Outlay" fund.

Senate amendment No. 183: Page 28, line 9, after "$35,500,000." insert "In addition, $10,400,000 shall be transferred from "Coast Guard, Acquisition, construction and improvements" pursuant to section 5(a) of Public Law 98-557.".

Senate amendment No. 188: Page 28, after line 26, insert:

RESEARCH, ENGINEERING AND DEVELOPMENT (AIRPORT AND AIRWAY TRUST FUND)

(TRANSFER OF FUNDS)

For an additional amount for "Research, engineering and development (Airport and Airway Trust Fund)", $72,220,000, of which $17,000,000 shall be derived by transfer from the unobligated balance of "Facilities and equipment (Airport and Airway Trust Fund)" and to remain available until September 30, 1989, and of which $55,220,000 shall be derived by transfer from "Facilities and equipment (Airport and Airway Trust Fund)" and to remain available until September 30, 1990.

Senate amendment No. 189: Page 28, after line 26, insert:

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

The Department of Transportation is authorized to expend $5,000,000 from the emergency relief fund established by section 125 of title 23, United States Code, for the purposes of preventing the continuing flooding of Interstate 80 by the rising waters of the Great Salt Lake.

Senate amendment No. 190: Page 28, after line 26, insert:

FEDERAL RAILROAD ADMINISTRATION

REDEEMABLE PREFERENCE SHARES

Notwithstanding any other provision of law, the Secretary of Transportation shall, until September 30, 1988, issue and sell, and the Secretary of the Treasury until such date shall purchase, Fund anticipation notes, and the Secretary of Transportation is hereby authorized to expend for uses authorized for the Railroad Rehabilitation and Improvement Fund proceeds from the sale of such Fund anticipation notes and any other moneys deposited in the Fund after September 30, 1985, pursuant to sections 502, 505-507, and 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, and section 803 of Public Law 95-620, in amounts not to exceed $33,500,000.

Senate amendment No. 191: Page 28, after line 26, insert:

URBAN MASS TRANSPORTATION ADMINISTRATION

FORMULA GRANTS

Notwithstanding any other provision of law, urbanized areas which became urbanized areas for the first time under the 1980 census shall be entitled to utilize, from funds apportioned to them under section 9 of the Urban Mass Transportation Assistance Act, as amended, the same amount of funds for operating assistance in fiscal year 1986 as was available to them in fiscal year 1985.

Senate amendment No. 194: Page 29, after line 8, insert:

FEDERAL LAW ENFORCEMENT TRAINING CENTER

Of the total amount previously appropriated and made available under this head in Public Law 99-190, $6,000,000 shall be obligated and remain available until expended for dormitory construction.

Senate amendment No. 198: Page 30, after line 4, insert:

SEC. 3. The Internal Revenue Service shall provide on a non-reimbursable basis, all necessary data processing support to the Bureau of Alcohol, Tobacco and Firearms to assist in the implementation of a new Special Occupational Tax Compliance system at the Bureau.

Senate amendment No. 206: Page 30, after line 20, insert:

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(LIMITATION ON AVAILABILITY OF REVENUE)

In addition to the aggregate amount heretofore made available for real property management and related activities in fiscal year 1986, $3,500,000 shall be made available until expended for the construction and acquisition of facilities as follows:

New Construction:

South Carolina: Charleston, Post Office and Courthouse Annex, $3,500,000:

Provided, That for additional expenses necessary to carry out the purposes of the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $3,500,000 to be deposited into said fund: *Provided further*, That any revenues, collections, and any other sums accruing to this fund in excess of $2,415,501,000, excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

Senate amendment No. 207: Page 30, after line 20 insert:

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

The annual limitation of $5,200,000 through September 30, 1989 under this heading in the Supplemental Appropriations Act, 1985, Public Law 99-88, for expenses of transportation audit contracts and contract administration is increased to $7,600,000 for fiscal year 1986.

Senate amendment No. 208: Page 30, after line 20, insert:

ADMINISTRATIVE PROVISION

The Administrator of General Service is authorized and directed to convey, for the sum of one dollar, to the City of Santa Fe, New Mexcio, all right, title, and interest of the United States in the parcel of surplus property known as the Burns Hospital Site more specifically being the property designated with GSA Control Number for Disposal Purposes 7-G-NM-403, parcels F and H, consisting of approximately 4.37 acres, such property being a portion of the same property which the City of Santa Fe conveyed to the Department of the Army in 1944 for the amount of one dollar.

Senate amendment No. 211: Page 30, after line 20, insert:

TRANSFER OF FUNDS

For necessary expenses of the Office of Personnel Management in implementing the provisions of the Federal Employees' Retirement Systems Act of 1986, as authorized by section 207(j) of such Act, not to exceed $2,000,000, to be derived by transfer from the Civil Service Retirement and Disability Fund, to be in addition to funds previously made available to the Office of Personnel Management from such Fund.

Senate amendment No. 214: Page 31, after line 5, insert:

SEC. 202. For purposes of implementing the President's February 1, 1986 order under Public Law 99-177, the percentage reduction required for payments made pursuant to 7 U.S.C. 1012; 43 U.S.C. 1181f-1; 42 U.S.C. 6508; and Public Law 96-586, 94 Stat. 3381, 2(d) (2) and (3) shall be the same percentage reduction as required for all nondefense accounts.

Senate amendment No. 221: Page 33, after line 2, insert:

SEC. 209. None of the funds appropriated by this or any other act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this section shall not prohibit (1) activities designed to increase food security in developing countries where such activities will not have a significant

impact on the export of agricultural commodities of the United States; or (2) research activities intended primarily to benefit American producers.

Senate amendment No. 222: Page 33, after line 2, insert:

SEC. 210. Notwithstanding any other provision of law—

(1) no reduction in the amount of funds for which the City of New York, New York, is eligible under any Federal law, or to which the City of New York, New York, is entitled under any Federal law, may be made, and

(2) no other penalty may be imposed by the Federal Government.

by reason of the application of New York City Local Law 19 of 1985 to any contract entered into by the City of New York before October 1, 1986, which is funded in whole, or in part, with funds provided by the Federal Government.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. WHITTEN: Mr. WHITTEN moves that the House recede from its disagreement to the amendments of the Senate numbered 9, 24, 29, 30, 31, 32, 33, 34, 35, 36, 39, 48, 55, 58, 60, 63, 64, 66, 67, 68, 69, 70, 71, 73, 74, 86, 88, 94, 99, 103, 113, 125, 133, 138, 140, 153, 158, 159, 160, 165, 166, 167, 170, 171, 173, 174, 183, 188, 189, 190, 191, 194, 198, 206, 207, 208, 211, 214, 221 and 222 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 10: Page 3, after line 17, insert:

During fiscal year 1986, and within the resources and authority available, obligations for direct loans and related advances pursuant to section 504 of the Housing Act of 1949, as amended, shall not exceed $9,855,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 10 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

During fiscal year 1986, and within the resources and authority available, obligations for direct loans and related advances pursuant to section 504 of the Housing Act of 1949, as amended, shall not exceed $11,335,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 11: Page 3, after line 17, insert:

For loans for acquisition and development of building sites for mutual and self-help housing, $1,500,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For loans for acquisition and development of building sites for mutual and self-help housing, $1,000,000.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 15: Page 4, strike out lines 11 to 15.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offered a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

FEEDING PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For an additional amount, for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $20,000,000, to be distributed to the States under the existing fiscal year 1986 growth formula.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 18: Page 4, after line 22, insert:

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For the operations of the Commodity Credit Corporation, not to exceed $5,300,000,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation: *Provided*, That, during fiscal year 1986, the Corporation shall use not less than $4,000,000 worth of surplus agricultural commodities owned by the Corporation in establishing and carrying out a research and development program on external combustion engines under section 4(m) of the Commodity Credit Corporation Charter Act, as amended by the Food Security Improvements Act of 1986 (Public Law 99-260, approved March 20, 1986).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For the operations of the Commodity Credit Corporation, not to exceed $5,300,000,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so only to ask a question: in considering this amount for the Commodity Credit Corporation, are we now confident that that amount will get us through the rest of the year? Is that a fair assumption at this point?

Mr. CONTE. I would have to tell the gentleman "No."

Mr. WALKER. Do we have any idea at this point how much additional money we might have to come back for?

Mr. WHITTEN. Mr. Speaker, does the gentleman address his question to this gentleman?

Mr. WALKER. The gentleman from Massachusetts or the gentleman from Mississippi.

Mr. CONTE. Let me say this: the $5.3 billion will make a total of $24.988 billion. Moreover, with the new farm

bill, the dairy buyout and everything else, they could be up here again before it is all over with.

Mr. WALKER. Before September 30.

Mr. CONTE. Before September 30.

Mr. WALKER. Do we have any idea how much more they could be in for?

Mr. WHITTEN. May I say that the Commodity Credit Corporation has various obligations that we cannot anticipate what will be required. This is the full amount requested. Two billion dollars of this is to pay the interest to the Treasury on loans made to the CCC. There are certain provisions in the agriculture law that we passed this year that are such that we cannot tell you what may occur later, but this is all they see at this time that they need. We gave them every dollar they asked for.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 20: Page 5, strike out lines 17 to 24.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 20 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

COOPERATIVE STATE RESEARCH SERVICE

(TRANSFER OF FUNDS)

The Secretary of Agriculture shall transfer $5,000,000 from the Commodity Credit Corporation to the Cooperative State Research Service to meet the matching funds requirement for development of an international trade center at Oklahoma State University.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 22: Page 6, after line 6, insert:

DEFICIENCY PAYMENTS

(a) Effective only for the 1986 crop of wheat, feed grains, upland cotton, and rice, notwithstanding any other provision of law, the Secretary of Agriculture shall make deficiency payments to producers on a farm under section 107D(c)(1), 105C(c)(1), 103A(c)(1), or 101A(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1), 1444e(c)(1), 1444-1(c)(1), or 1441-1(c)(1)), as the case may be, if the Secretary determines that—

(1) the producers on a farm are prevented from planting any portion of the acreage intended for a commodity to the commodity or other nonconserving crops because of flood, heavy rains, or excessive moisture; and

(2) the farm is located in an area that the Secretary determines has been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(b) The amount of deficiency payments under subsection (a) shall be computed by multiplying—

(1) 40 percent of the projected payment rate; by

(2) the number of acres so affected but not to exceed the acreage planted to the commodity for harvest (including any acreage that the producers were prevented from planting to the commodity or other nonconserving crops in lieu of the commodity because of flood, heavy rains, or excessive moisture) in the immediately preceding year; by

(3) the farm program payment yield established for the crop for the farm.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

DEFICIENCY PAYMENTS

(a) Effective only for the 1986 crop of wheat, feed grains, upland cotton, and rice, notwithstanding any other provision of law, the Secretary of Agriculture shall make deficiency payments to producers on a farm under section 107D(c)(1), 105C(c)(1), 103A(c)(1), or 101A(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1), 1444e(c)(1), 1444-1(c)(1), or 1441-1(c)(1)), as the case may be, if the Secretary determines that—

(1) the producers on a farm are prevented from planting any portion of the acreage intended for a commodity to the commodity or other nonconserving crops because of flood, heavy rains, excessive moisture, or drought; and

(2) the farm is located in an area that the Secretary determines has been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(b) The amount of deficiency payments under subsection (a) shall be computed by multiplying—

(1) 40 percent of the projected payment rate; by

(2) the number of acres so affected but not to exceed the acreage planted to the commodity for harvest (including any acreage that the producers were prevented from planting to the commodity or other nonconserving crops in lieu of the commodity because of flood, heavy rains, excessive moisture, or drought) in the immediately preceding year; by

(3) the farm program payment yield established for the crop for the farm.

(c) Such sums shall be deducted from crop insurance indemnity payments due as a result of such disaster.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 23: Page 6, after line 6, insert:

PREPAYMENT OF LOANS BY RURAL ELECTRIFICATION AND TELEPHONE SYSTEMS

In the case of a borrower of a loan made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) that is outstanding on the date of enactment of this Act, the borrower may prepay the loan by payment of the outstanding principal balance due on the loan using private capital with the existing loan guarantee. No sums in addition to payment of such balance shall be charged as the result of such prepayment against the borrower, the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931), or the Rural Electrification Administration.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

PREPAYMENT OF LOANS BY RURAL ELECTRIFICATION AND TELEPHONE SYSTEMS

In the case of a borrower of a loan made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) that is outstanding on the date of enactment of this Act, the borrower may prepay the loan by payment of the outstanding principal balance due on the loan using private capital with the existing loan guarantee. No sums in addition to payment of such balance shall be charged as the result of such prepayment against the borrower, the Rural Electrification and Telephone Revolving Fund established

under section 301 of such Act (7 U.S.C. 931), or the Rural Electrification Administration. To qualify for prepayment, a borrower shall certify that such prepayment will result in substantial savings to its customers or lessen the threat of bankruptcy of the borrower unless in such individual case, in the opinion of the Secretary of the Treasury, to prepay would adversely affect the operation of the Federal Financing Bank: *Provided*, That any regulations under this provision shall be issued and become effective within 30 days of enactment of this Act.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 25: Page 6, after line 6, insert:

ELDERLY FEEDING PROGRAM

For an additional amount for reimbursement at a level of 56.76 cents per meal during fiscal years 1985 and 1986, determined under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal years, $8,500,000, to remain available until expended; *Provided*, That such funds shall be derived by transfer from funds previously appropriated or made available to the Secretary of Agriculture; subject to the prior approval of the Appropriation Committees: *Provided further*, That such transfer of funds shall be sufficient to reduce by $8,000,000 fiscal year 1986 outlays which would otherwise occur in the account or accounts from which such funds are transferred.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 25 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ELDERLY FEEDING PROGRAM

For an additional amount for reimbursement at a level of 56.76 cents per meal during fiscal years 1985 and 1986, determined under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal years, $8,500,000, to remain available until expended.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 28: Page 6, after line 26, insert:

Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01, and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer documents provide for the continued use of the Fairley Group Building as a public market during the expected useful life of the building.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 28 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01, and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer documents provide for the continued use of the Fairley Group Building as a public market during the expected useful life of the building: *Provided*, That the provisions of 13 CFR 314.4 and OMB Circular A-102 Attachment N are hereby waived so long as the Fairley Group Building remains in the control of the public authority and is used as a public market during the expected useful life of the building.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 40: Page 7, after line 5, insert:

Of the funds appropriated to the Department of Justice in title II of Public Law 99-180, not to exceed $500,000 may be transferred to "Salaries and expenses, general legal activities" to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq. upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Of the funds appropriated to the Department of Justice in Public Law 99-180, not to exceed $150,000 from "Fees and Expenses of Witnesses," not to exceed $150,000 from "Salaries and Expenses, Antitrust Division," not to exceed $100,000 from Emergency Assistance in "Office of Justice Programs, Justice Assistance," and not to exceed $100,000 from the Public Safety Officers' Benefits Program in "Office of Justice Programs, Justice Assistance," may be transferred to "Salaries and Expenses, General Legal Activities" to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 42: Page 7, after line 5, insert:

MODEL STATE STATUTE

SECTION 1. ATTORNEY GENERAL TO DEVELOP MODEL STATUTE.

The Attorney General as Chairman of the National Drug Enforcement Policy Board, in consultation with State and local law enforcement agencies, shall develop a model statute for States to prohibit the establishment and use of freebase houses.

SEC. 2. GOALS AND CONTENT OF MODEL STATUTE.

(a) GOALS OF MODEL STATUTE.—The model statute developed pursuant to section 1 shall—

(1) address the need to prohibit the use of houses, buildings, rooms, or apartments as places where manufacturing, processing, distributing, purchasing, and using illegal drugs takes place; and

(2) encourage coordination with the Controlled Substances Act, statutes on drug paraphernalia, and other relevant drug law enforcement statutes.

(b) CONTENT.—(1) The model statute shall clearly—

(A) define a freebase house and activities which take place in such dwellings;

(B) define the offenses which take place in such freebase houses;

(C) define penalties for such offenses; and

(D) allow for civil seizure and forfeiture of property confiscated in such offenses.

(2) The model statute shall include prohibitions—

(A) making it illegal for a person to own or operate a freebase house;

(B) making it illegal for a person to work in a freebase house which includes managing, selling drugs, collecting fees and admission, processing or preparing drugs, distributing drugs, or contributing to the overall drug enterprises in the dwelling with a knowledge of or having reason to believe that illegal drugs are present on the premises;

(C) making it illegal for a person to frequent a freebase house with knowledge or reason to believe that illegal drugs are present on the premises; and

(D) making it illegal for employers, employees, and customers to be present in freebase houses when they have knowledge or have reason to believe that drugs are on the premises.

(c) RECOMMENDATIONS.—The Attorney General shall include with the model statute recommendations for procedures to allow law enforcement officials to notify owners and managers of dwellings where freebasing and drug distribution is taking place.

SEC. 3. REPORT TO CONGRESS AND STATE AND LOCAL LAW ENFORCEMENT AUTHORITIES.

The Attorney General shall—

(1) develop the model statute and recommendations required by this Act within six months after the date of enactment of this Act; and

(2) make the report and recommendations available to the appropriate committees of Congress and to State and local law enforcement authorities in his capacity as Chairman of the National Drug Enforcement Policy Board.

SEC. 4. DEFINITION OF FREEBASING.

For purposes of this Act, the term "freebasing" is the conversion of cocaine crystals into a smokable base form of the drug.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

NATIONAL ASSISTANCE PLAN TO HALT ROCK AND CRACK COCAINE TRAFFICKING

The Attorney General as Chairman of the National Drug Enforcement Policy Board is directed to convene the Board to address on an emergency basis the crisis phenomenon that cocaine freebase, "rock" and "crack" cocaine, have caused in communities throughout the nation.

Within 60 days of enactment, the Board is directed to report to the Congress and to develop and implement a national plan of assistance to state and local governments to halt trafficking in rock and crack cocaine; to promote effective law enforcement efforts to identify, investigate, prosecute and incarcerate perpetrators engaged in enterprises involving rock and crack cocaine; and, to foster public understanding of the dangerous effects of this substance on public health and safety.

This plan of assistance shall concentrate on methods of using existing laws in such areas as conspiracy, aiding and abetting, forfeiture, possession and trafficking to address this drug with its special potency and distribution characteristics, including the use of rock or freebase houses where the cocaine freebase is processed, distributed, and smoked. The Board's plan should also address those areas where existing law should be amended to strengthen enforcement and prosecution against rock and crack cocaine.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 44: Page 7, lines 12 and 13, strike out [$237,494,000, to remain available until September 30, 1987] and insert "$288,047,000, to remain available until expended".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$283,104,000, to remain available until expended".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 45: Page 7, line 13, strike out all after "1987:" down to and including "Sales" in line 19, and insert "*Provided*, That such funds shall become available for obligation on September 30, 1986".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

Provided, That $222,104,000 of this amount shall become available for obligation on September 30, 1986".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 50: Page 9, strike out lines 3 to 15.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 50 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

GENERAL PROVISION—DIPLOMATIC SECURITY PROGRAM

The funds made available by this chapter to the Department of State under the headings "Salaries and Expenses", "'Acquisition and Maintenance of Buildings Abroad", and "Counterterrorism Research and Development" shall not be used for any purpose inconsistent with or contrary to authorizing legislation for the Diplomatic Security Program as enacted into law.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 54: Page 10, after line 15, insert:

ADMINISTRATIVE PROVISION

Not to exceed 10 per centum of any appropriation made available in title IV of Public Law 99-180 may be transferred to any other appropriation in title IV of Public Law 99-180.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 54 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATIVE PROVISION

Of the funds made available in title IV of Public Law 99-180, not to exceed $8,000,000 from "Expenses of Operation and Maintenance of the Courts" may be transferred to "Salaries of Supporting Personnel" and not to exceed $500,000 from "Expenses of Operation and Maintenance of the Courts" and not to exceed $2,500,000 from "Salaries of Judges" may be transferred to "Space and Facilities".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 59: Page 11, after line 14, insert:

ADMINISTRATIVE PROVISIONS

Section 18006(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out all that follows "on account of disasters" and inserting in lieu thereof "which occurred prior to October 1, 1985, and with respect to which a disaster declaration application was submitted prior to October 1, 1985.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker. I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATION PROVISION

Section 18006(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "declared before October 1, 1985" and inserting in lieu thereof "which occurred prior to October 1, 1985, and with respect to which a disaster declaration application was submitted prior to October 1, 1985".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 77: Page 11, after line 14, insert:

SEC. 2. Section 8051 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1211, is amended 1) by striking out "Army, Navy, and Air Force" and 2) by striking out the proviso and in lieu thereof inserting: *"Provided*, That such transfers shall not exceed $678,700,000 for Operation and Maintenance, Army; $1,301,600,000 for Operation and Maintenance, Navy; $30,100,000 for Operation and Maintenance, Marine Corps; $608,700,000 for Operation and Maintenance, Air Force; $82,000,000 for Operation and Maintenance, Defense Agencies; $19,300,000 for Operation and Maintenance, Army Reserve; $47,600,000 for Operation and Maintenance, Navy Reserve; $4,200,000 for Operation and Maintenance, Marine Corps Reserve; $14,400,000 for Operation and Maintenance, Air Force Reserve; $42,100,000 for Operation and Maintenance, Army National Guard; and $35,400,000 for Operation and Maintenance, Air National Guard".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 77 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SECTION 1. Section 8051 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1211, is amended by striking out "Army, Navy, and Air Force" and by striking out the proviso and inserting in lieu thereof: *"Provided*, That such transfers shall not exceed $678,700,000 for Operation and Maintenance, Army; $1,301,600,000 for Operation and Maintenance, Navy; $30,100,000 for Operation and Maintenance, Marine Corps; $608,700,000 for Operation and Maintenance, Air Force; $24,300,000 for Operation and Maintenance, Defense Agencies; $19,300,000 for Operation and Maintenance, Army Reserve; $47,600,000 for Operation and Maintenance, Navy Reserve; $4,200,000 for Operation and Maintenance, Marine Corps Reserve; $14,400,000 for Operation and Maintenance, Air Force Reserve; $42,100,000 for Operation and Maintenance, Army National Guard; and $35,400,000 for Operation and Maintenance, Air National Guard".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 78: Page 11, after line 14, insert:

SEC. 3. Section 8037 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, is amended by adding "Titan 34D7 Complementary Expendable Launch Vehicles" at the end thereof.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 78 and concur therein with an amendment, as follows: In lieu of "SEC. 3." named in said amendment, insert the following: "SEC. 2".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 79: Page 11, after line 14, insert:

SEC. 4. Sec. 8103 of the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended as follows: in subsection (b) inserting "the Complementary Expendable Launch Vehicle Program," directly following "and the Coastal Defense Augmentation Account,"; and inserting a new provision at the end of subsection (b) as follows: ": *Provided further*, That $561,900,000 for the Complementary Expendable Launch Vehicle Program shall be so available without notification procedures otherwise required by this subsection".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 79 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 3. Section 8103 of the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended as follows: in subsection (b) insert "the Department of Defense Space Recovery Program, the Civilian Health and Medical Program of the Uniformed Services," directly following "and the Coastal Defense Augmentation account,"; and insert a new provision at the end of subsection (b) before the period, as follows, ":*Provided further*, That $260,000,000 for the Civilian Health and Medical Program of the Uniformed Services shall be available without notification procedures otherwise required by this subsection".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent

that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 80: Page 11, after line 14, insert:

SEC. 5. Of the amounts available to the Department of Defense, $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma, on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 80 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 4. Of the amounts available to the Department of Defense, $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma, on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 81: Page 11, after line 14, insert:

SEC. 6. Of the appropriations available to the Department of the Army during the current fiscal year, $3,000,000, in addition to the appropriation "National Board for the Promotion of Rifle Practice, Army", may be used to conduct the 1986 National Matches at Camp Perry, Ohio, and such ammunition as may be necessary shall be made available for the matches.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein with an amendment, as follows: In lieu of the "SEC. 6" named in said amendment, insert the following: "SEC. 5".

Mr. CONTE. (during the reading). Mr. Speaker I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 84: Page 11, after line 14, insert:

CHAPTER III A

AUTHORIZATION OF CERTAIN UNAUTHORIZED APPROPRIATIONS

SECTION 1. AUTHORIZATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 APPROPRIATIONS.

Except as otherwise provided in this chapter, funds appropriated or otherwise made available to or for the use of the Department of Defense by the Department of Defense Appropriation Act, 1986, (as contained in section 101(b) of Public Law 99-190), and which were not otherwise authorized by law, are authorized to be obligated and expended as provided in such Act.

SEC. 2. PROHIBITION AND LIMITATION ON OBLIGATION OF FUNDS FOR CERTAIN PURPOSES.

MARINER FUND.—Of the funds appropriated or made available by the Department of Defense Appropriation Act, 1986, none shall be available for construction of commercial type vessels, with or without military specifications, for lease to private shipping concerns under the Mariner Fund or any other program.

SEC. 3. AUTHORIZATION FOR OBLIGATION OF CERTAIN UNOBLIGATED FUNDS.

Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190, but which may not be obligated or expended for the purposes for which appropriated by virtue of section 2 of this chapter, and of the funds made available for obligation and expenditure form prior year unobligated balances by section 8103 of the Department of Defense Appropriation Act, 1986, the following amounts are authorized to be obligated and expended for the stated purposes:

(1) for military pay, $1,599,400,000;

(2) for military retirement accrual payments, $2,156,000,000;

(3) for Coastal Defense Augmentation, $140,000,000;

(4) for the Expendable Launch Vehicle Program, $1,498,686,000; and

(5) Any amounts remaining available from such funds shall be available for readiness and for other purposes, including funds authorized for obligation and expenditure for purposes listed in clauses (1), (2), (3), and (4) not otherwise required for such purposes.

SEC. 4. REVISION OR REPEAL OF CERTAIN PROVISIONS OF PUBLIC LAW 99-190.

(a) AIR DEFENSE AIRCRAFT COMPETITION.—The paragraph under the heading "Aircraft Procurement, Air Force" in title III of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), is amended by striking out "of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law" in the matter preceding the first proviso; and

REVISION OF CONTRACTING OUT PROVISION.—Section 8089 of such Act is amended by striking out "ten" and inserting in lieu thereof "40".

SEC. 5. REMOVAL OF CERTAIN LIMITATION ON THE P-3 AIRCRAFT.

Funds made available for the procurement of P-3 aircraft for the Navy for fiscal year 1986 may be used for procurement of such aircraft for the active or reserve forces of the Navy, as determined by the Secretary of the Navy.

SEC. 6. TEMPORARY WAIVER ON POLYGRAPH EXAMINATION LIMITATIONS.

In computing the number of counterintelligence polygraph examinations that may be conducted during fiscal year 1986 under section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 726), there may be excluded from such computation any polygraph examination conducted during the period beginning on the date of the enactment of this Act and ending on September 30, 1986, if such examination—

(1) is conducted by the Air Force under an authorization granted by the Secretary of Defense on November 24, 1981; or

(2) is conducted under an authorization granted by the Secretary of Defense on August 31, 1982, and is conducted on a person who is participating in a national program—

(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

(B) which is under the purview of the Director of Central Intelligence; and

(C) for which a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

CHAPTER III A

AUTHORIZATION OF CERTAIN UNAUTHORIZED APPROPRIATIONS

SECTION 1. AUTHORIZATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 APPROPRIATIONS.

Notwithstanding section 8109 of the Department of Defense Appropriations Act, 1986 (Public Law 99-190) and except as otherwise provided in this chapter, funds appropriated or otherwise made available to or for the use of the Department of Defense by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), and which were not otherwise authorized by law, are authorized to be obligated and expended as provided in such Act.

SEC. 2. UNAUTHORIZED APPROPRIATIONS.

The following programs and amounts provided in the Department of Defense Appropriations Act, 1986 (Public Law 99-190) are not authorized to be obligated or expended:

Research and Development: Air Force Space Defense System, $15,066,000.

AIR Force MEECN communications upgrade, $15,000,000.

Operation and Maintenance: Audit/inventory report reductions not taken in the appropriations act, $29,000,000.

SEC. 3. PROHIBITION AND LIMITATION ON OBLIGATION OF FUNDS FOR CERTAIN PURPOSES.

MARINER FUND.—Of the funds appropriated or made available by the Department of Defense Appropriations Act, 1986, none shall be available for construction of commercial type vessels, with or without military specifications, for lease to private shipping concerns under the Mariner Fund or any other program.

SEC. 4. AUTHORIZATION FOR OBLIGATION OF CERTAIN UNOBLIGATED FUNDS.

Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), but which may not be obligated or expended for the purposes for which appropriated by virtue of section 3 of this chapter, and of the funds made available for obligation and expenditure from prior year unobligated balances by section 8103 of the Department of Defense Appropriations Act, 1986, the following amounts are authorized to be obligated and expended for the stated purposes and are subject to the same notification procedures set forth in section 8103 of the Department of Defense Appropriations Act, 1986, except for the Civilian Health and Medical Program of the Uniformed Services:

(1) for military pay, $1,599,400,000;

(2) for military retirement accrual payments, $2,156,000,000;

(3) for Coastal Defense Augmentation, $140,000,000;

(4) for Department of Defense Space Recovery Program, $1,498,686,000;

(5) for the Civilian Health and Medical Program of the Uniformed Services, $260,000,000; and

(6) Any amounts remaining available from such funds are authorized to be obligated and expended and are available for readiness and for other purposes, including funds authorized for obligation and expenditure for purposes listed in clauses (1), (2), (3), (4), and (5) not otherwise required for such purposes.

SEC. 5. REVISION OF CERTAIN PROVISIONS OF PUBLIC LAW 99-190.

(a) AIR DEFENSE AIRCRAFT COMPETITION.—The paragraph under the heading "Aircraft Procurement, Air Force" in title III of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), is amended by striking out ", of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law" in the matter preceding the first proviso;

(b) REVISION OF DRUG INTERDICTION FUNDS.—Of funds made available in the Department of Defense Appropriations Act, 1986, Public Law 99-190, $35,000,000 made available for purchase of one AC-130H aircraft and $3,000,000 made available for P-3 aircraft modifications shall be available only for the following purposes:

(1) for HC-130 tanker, $18,500,000;

(2) for Aerostat radar, $12,000,000; and

(3) for APS-138 radar system, $7,500,000;

(c) 120MM MORTAR.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986, for procurement of the 120mm mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in House Report 99-235 and Section 8095 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190); and

(d) M72E4 LIGHTWEIGHT MULTIPURPOSE WEAPON.—From the funds appropriated in the Department of Defense Appropriations Act, 1986, the Army shall complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package.

SEC. 6. TEMPORARY WAIVER ON POLYGRAPH EXAMINATION LIMITATIONS.

In computing the number of counterintelligence polygraph examinations that may be conducted during fiscal year 1986 under section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 726), there may be excluded from such computation any polygraph examination conducted during the period beginning on the date of the enactment of this Act and ending on September 30, 1986, if such examination—

(1) is conducted by the Air Force under an authorization granted by the Secretary of Defense on November 24, 1981; or

(2) is conducted under an authorization granted by the Secretary of Defense on August 31, 1982, and is conducted on a person who is participating in a national program—

(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

(B) which is under the purview of the Director of Central Intelligence; and

(C) for which a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

Mr. DONNELLY. Mr. Speaker, I rise in opposition to the motion to recede and concur in amendment No. 84 which has been reported in technical disagreement.

Mr. Speaker, for close to a year now, Members concerned with the unchecked decline in American shipyards and the mounting loss of shipyard jobs have been working hard to put in place a program to arrest that decline and save those jobs.

I am proud to have played a role in urging timely, positive consideration of legislation in the House this year to authorize the Mariner Build and Charter Program. The Mariner Program, like its predecessor in the 1950's, would add militarily useful ships to the U.S.-Flag merchant fleet, and provide lifesaving work for a number of troubled domestic shipyards that are on the verge of closing their gates. A sum of $852 million had been set aside in late December's fiscal year 1986 continuing resolution for the Mariner Program, but made contingent on the subsequent enactment of authorizing legislation. Authorizing legislation has been making steady progress in the House. Both the Seapower Subcommittee of the House Armed Services and the full Merchant Marine and Fisheries Committees have approved versions of Mariner authorizing legislation in the last 2 months.

Unfortunately, in the early hours of Friday, June 6, the other body agreed without objection to an amendment prohibiting fiscal year 1986 continuing resolution funds from being spent on the Mariner Program. The other body took the additional action of reobligating the previously earmarked Mariner funds into several nonshipbuilding related Defense Department accounts. That amendment, has been generally incorporated into the conference report before the House today.

Mr. Speaker, I do not rise to debate whether one defense program, such as the expendable Launch Vehicle Program, represents a more urgent and higher priority for defense dollars than a program like the Mariner Build and Charter Program. However, I do want to make the point that the $852 million that had been set aside in the fiscal year 1986 continuing resolution for the Mariner fund had come about as a result of prior year Navy shipbuilding program savings. In the next year or two, or three, our national decisionmakers will finally realize that too many U.S. shipyards have closed, and the U.S.-flag merchant fleet has all but disappeared, and our national security has been placed in jeopardy because of the decline in those critical, related industries. When that moment comes, a program like Mariner Build and Charter will be seen as an effective means of adding militarily useful ships to the U.S.-flag merchant fleet, and maintaining a level of work in the remaining domestic shipyard base. It is unlikely that a funding source like this year's pool of prior year Navy shipbuilding program savings will be found next year, or the year after, especially in the face of Gramm-Rudman. America's shipyards are now facing a crisis situation. This is not a national problem looming down the road. It is upon us now. In the last 3 years, four major shipyards, deemed by the Navy to be key components of the U.S. defense mobilization base, have gone out of business and locked their gates. A century-old tradition of shipbuilding at the Fore River Shipyard in Quincy, MA, is at risk. There is not more work in the yard, and the owner is seeking to dispose of the facility. Several other major U.S. yards are rapidly running out of work. The Mariner program makes sense this year. It must proceed ahead.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 87: Page 12, strike out lines 4 to 7, and insert:

Using available funds authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, the Secretary of the Army shall, in consultation with State officials of the Great Lakes region, develop emergency contingency plans to prevent or control near term flooding along the

Great Lakes. The Secretary shall report to Congress within sixty days after the date of enactment of this Act on the contingency plans. The Secretary is authorized to spend up to $1,000,000 for the purposes of this provision.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 87 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For an additional amount, for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $25,000,000, to remain available until expended.

Using available funds authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, the Secretary of the Army shall, in consultation with State officials of the Great Lakes region, develop emergency contingency plans to prevent or control near term flooding along the Great Lakes. The Secretary shall report to Congress within sixty days after the date of enactment of this Act on the contingency plans. The Secretary is authorized to spend up to $1,000,000 for the purposes of this provision.

Mr. CONTE (during the reading). Mr. Speaker. I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 91: Page 13, strike out all after line 13 over to and including line 2 on page 14.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 91 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

DEPARTMENT OF DEFENSE

ADMINISTRATIVE PROVISION

Of the funds previously appropriated or made available for research, development, test and evaluation for the Department of Defense for fiscal year 1986 pursuant to Public Law 99-190, $55,600,000 shall be available only for grants or contributions to educational institutions for research activities, construction of research related facilities and for other related purposes as provided in House Report 99-450 accompanying House Joint Resolution 465, Public Law 99-190, and the Secretary of Defense shall provide these grants or contributions expeditiously: *Provided*, That such grants or contributions are a one time obligation and expenditure and shall not interfere with or change the existing system of other competitive research grants or contracts.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

Mr. LUJAN. Mr. Speaker, I would like to join my distinguished colleagues in supporting the conference committee's amendment to the supplemental appropriations bill for fiscal year 1986. The Senate version of this bill, which delegated funding for a number of university research facilities, was obviously flawed. I am pleased to see that the conference committee saw fit to add these projects back into the bill.

I have many problems with the argument that proposals for university research facilities should be subject to a merit review process. The foremost among them is the geographic discrimination that is likely to result if merit review is applied to facilities funding in the same way that it is applied to research grants. In the distribution of Federal research support, there is a distinct pattern of historical preference for schools in the East, and to a lesser extent, the far West. The geographic distribution of Department of Defense funds to colleges and universities in fiscal year 1984 is painfully illustrative of this fact. Just seven schools in the eastern United States received 54 percent of the year's research money. The West was a distant second, with 7 schools awarded 11 percent of the funds. Perhaps even more startling is the fact that 2 schools in the East accounted for 49 percent—nearly half—of the total DOD funds for university research that year.

The National Science Foundation's peer review system also helps perpetuate this inequitable distribution of research funds. Not only did the top twenty recipients receive 42 percent of all funds in fiscal year 1984, but not a single one of those 20 schools is located in the South and Southwest. Institutions in only 11 States were privileged enough to rank among the top 20.

The trend toward concentration of our Nation's research funds in the hands of just a few institutions must stop. The bill before us, in the long run, will help to redress the current imbalance by providing these universities with the means to compete effectively for research funds and to contribute more greatly to our Nation's scientific progress. I urge my colleagues to support this conference committee's amendment.

Mr. HORTON. Mr. Speaker, I rise in strong support of the university project funding included in the Supplemental Appropriations Conference Report, and urge my colleagues to join me in opposing efforts to remove them.

There has been discussion about the peer review process and the appropriateness of congressional involvement in the funding of university projects. I would like to clarify the issues and lay to rest the misinformation clouding this debate.

The peer review process was established to ensure that Federal funding was directed toward scientifically responsible projects. It was designed to provide the scientific community a role in determining where research funds were applied, but it was never intended to substitute for or reduce Congress ultimate responsibility for defining and assigning fiscal priorities.

Several weeks ago, arguing that Congress had established peer review as the sole means of allocating university research funds, a member of the other body cited provision of the Competition in Contracting Act as a justification for eliminating this research facility funding. As one of the principle authors of CICA, I too believe that the philosophy of competition is relevant to the debate. I disagree entirely, however, with the conclusions which were drawn from the debate.

The Competition in Contracting Act was written to ensure the Federal Government gets a fair value for its dollar. The provisions regarding peer review were not written to establish peer review as the sole means of distributing research dollars. In fact, the peer review provisions were added, in consultation with the university community, to ensure that CICA did not eliminate peer review as a legitimate procurement tool. This misconception aside, there is a broader policy question for consideration.

The money we are discussing today is not for research. It is for the construction of research facilities. It is an investment in the research infrastructure of this Nation which is both necessary and desirable. It is an investment which will raise the research and development capabilities of the Nation and establish new opportunities for scientific achievement.

As some of my colleagues in the other body have indicated, competition is at the very heart of the question we are considering today. The Federal Government funds about $8.5 billion in university research. According to the National Science Foundation, over 55 percent of this money goes to only 20 universities. The other 45 percent is distributed among the remaining 570 colleges and universities. The investment we make today will enable these universities to enter this elite arena and aggressively compete for research dollars. This is the competition which lies at the very heart of the Competition in Contracting Act.

A few Members of the other body have questioned the scientific merit of these projects. Although I cannot speak for all 10 of the projects, I can speak directly to the merits of the Microelectronic Engineering Center at the Rochester Institute of Technology.

In 1980, RIT, assisted by Texas Instruments, conducted an analysis of the nationwide demand for microelectronic engineers. This study demonstrated a current shortfall of over 2,000 engineers, and projected that this shortfall would increase by more than 400 per year. Studies conducted by the Office of Technology Assessment and the Business-

Higher Education forum caution that this shortfall poses a major threat to America's competitive position in worldwide trade.

In 1982, RIT initiated the Nation's first program to meet the growing need for microelectronic engineers. Working closely with Texas Instruments, IBM, Motorola, National Semiconductor, and Eastman Kodak, RIT designed a program specially suited to meet the needs of the American microelectronic industry. It is anticipated that this program will meet a full 20 percent of the forecasted need for microelectronic engineers.

I would like to lay to rest what is perhaps the greatest misconception. the money we discuss today is not new money. These projects were funded by Congress in the 1986 continuing resolution. In fact, the language we discuss today is the language which the Department of Defense argued was necessary to allow the release of the funds. This is not money being drawn from other research accounts. This is not money that would have otherwise been committed to research and training. This is funding that this Congress already appropriated for the construction of research facilities.

Mr. Speaker, the Rochester Institute of Technology Center for Microelectronic Engineering will not by itself solve the competitive problems we face with the Japanese in the field of microelectronic engineering. But it will provide the support necessary to allow American businesses to compete on a level playing field. I urge my colleagues to support the supplemental conference report and oppose efforts to delete these university projects.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 93: Page 14, strike out lines 7 to 13, and insert:

INTERNATIONAL FUND FOR NORTHERN IRELAND AND IRELAND

(TRANSFERS OF FUNDS)

Of the funds appropriated or otherwise made available in titles I, II, III, and IV in the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), not more than $20,000,000 of any of such funds may be made available for the United States contribution to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland: *Provided*, That none of the funds contained in such Act may be contributed to the International Fund until the enactment of legislation specifically authorizing assistance for such purpose.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 93, and concur therein. In lieu of the matter stricken and inserted by said amendment, insert the following:

INTERNATIONAL FUND FOR NORTHERN IRELAND AND IRELAND

(TRANSFERS OF FUNDS)

For an additional amount for the "Economic Support Fund", not less than $50,000,000, which shall be available only for the United States contribution to the International Fund established pursuant to the November 15, 1985, agreement between the United Kingdom and Ireland, to be derived from funds appropriated or otherwise made available by the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), as follows: $4,900,000 by transfer from title I of such Act, $12,350,000 of funds made available by such Act for the "Economic Support Fund", $9,100,000 by transfer from title II of such Act, excluding funds made available for the "Economic Support Fund", $20,000,000 by transfer from title III of such Act, and $3,650,000 by transfer from title IV of such Act.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WALKER. Mr. Speaker, reserving the right to object, this is the money of aid for Ireland where the administration had originally requested $20 million. It is my understanding that under this particular provision we are going with a $50 million figure, and could the gentleman tell me what the figure was that the other body brought into the conference?

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

I believe the figure was $20 million. The compromise provided that the $50 million be taken from several accounts in the foreign aid bill.

Mr. WALKER. Well, I am a little confused as to how we got a compromise here.

We came in at $50 million, the other body came in at $20 million, and we compromised at $50 million.

Mr. CONTE. I think the big compromise came where we agreed that the money would come proportionally from different accounts in the foreign aid bill.

Mr. WALKER. Well, we are taking this $50 million, as I understand it, out of multilateral assistance, we are taking it out of bilateral assistance, we are taking it out of military assistance and out of the Eximbank.

So we literally now are in a position where we are cutting the biggest amount, as I see it, from the military assistance in order to send the money to Ireland. Is that my understanding of it?

Mr. CONTE. These amounts are based on the proportion of the total 1986 act represented by each of those accounts, and we felt that this was a very fair compromise and worked it out with our Senate counterparts, Senator KASTEN and others.

Mr. WALKER. The biggest single amount that goes into this $50 million that was the compromise figure, the high figure comes out of the military assistance program. Is that correct?

Mr. CONTE. I think $20 million, yes.

Mr. WALKER. So the gentleman does in fact deplete other military assistance programs in order to provide this money for the Irish aid which was a figure above the administration's request and above the Senate-passed figure. Is that correct?

Mr. CONTE. Well, as I recall correctly, the authorization amount is $50 million, and the administration in the letter sent to me does not raise an objection to this $50 million.

Mr. WALKER. But it is a figure which exceeds their original request by $30 million?

Mr. CONTE. At this time I would have to say "yes," but we felt that the situation there was so grave that we had to move forward expeditiously, and the administration at this point would not object to this figure providing we took it from these accounts proportionately, which we did.

Mr. Speaker, I strongly support our chairman's motion to recede and concur in the Senate amendment with an amendment in regard to aid to Ireland and Northern Ireland.

All that this motion does is to bring the Ireland aid provision back to the original House position of furnishing $50 million in assistance in fiscal year 1986 rather than only $20 million as provided by the Senate. The amendment to the Senate amendment which is included in the chairman's motion merely specifies in a more detailed way the previously appropriated accounts from which this aid will be taken.

The House bill required a transfer of the entire $50 million from the economic support fund. That fund advances U.S. economic, political and security interests by offering flexible grant or loan economic assistance to friendly countries of strategic concern to the United States. The administration strongly opposed taking the entire $50 million from that account.

The Senate bill allowed the funds to be transferred from any or all of the four titles in the fiscal year 1986 Foreign Aid Appropriations Act. Our subcommittee chairman objected to that because of his concern that the administration might take it all from one or two accounts which he supports.

A compromise was reached, just as it is supposed to be in a House-Senate conference, whereby we set out in bill language exactly how much is to come from each foreign aid account. Those amounts are based on the proportion of the total 1986 act represented by each of those accounts. That is a fair compromise.

Mr. Speaker, I certainly do not have to tell you how important this aid to Ireland is at this time of promise of change and development in Northern

reland. It is not always pretty, but eople are beginning to talk to each ther over there. We earnestly hope nd pray that this is an opportune me to offer material and political upport through this appropriation.

All of us are blessed with varying umbers of Irish-American constituents. They don't give a hoot about the etails of which accounts are tapped or this money, but they strongly support this aid. They don't want this nessed up at this late date.

Let's adopt the chairman's motion nd get on with this timely aid to Ireand.

□ 1800

Mr. WALKER. Does anyone have some idea as we take the money, $20 million out of military assistance, $12 million out of economic support, where this money is coming out of? Is this money coming out of, for instance, food to Ethiopia in the Economic Support Fund? Is it money that comes out of providing military assistance to help, for instance, the Afghan freedom fighters? I mean, where is the money coming from?

Mr. CONTE. That money for Afghanistan is earmarked money and, therefore, it will not come out of that. As for the balance of the $20 million out of military assistance is unallocated at this point.

Mr. WALKER. Will it come out of, for instance, Israel?

Mr. CONTE. No.

Mr. WALKER. Much of the military assistance goes to Israel. Would the money come out of the Israeli fund?

Mr. CONTE. No, it will not come out of the Israeli fund, because that is earmarked money.

Mr. WALKER. I see. Who is not going to get money as a result of the $20 million we are allocating under this program?

Mr. CONTE. We do not know at this point. It is the entire MAP program.

Mr. WALKER. In other words, there will be places. It could be the Philippines?

Mr. CONTE. I doubt that, because that is earmarked money.

Mr. WALKER. Korea?

Mr. CONTE. Any place where the money is earmarked, you cannot use it for this purpose.

Mr. WALKER. Korea?

Mr. CONTE. I do not think Korea gets MAP money. I am quite sure Korea does not.

Mr. WALKER. My point is simply that we took the highest possible figure here and we ended up taking it out of somebody. Now, as I go down through all of this, it is coming out of no one, evidently, and yet it has to come out of somewhere. Someone else is going to suffer in order for us to come out with the highest possible figure. Is that a reasonable assumption?

Mr. CONTE. It is a reasonable assumption. We are giving the President the discretionary authority to determine which funds will be used for this purpose as long as the funds are not earmarked.

Mr. WALKER. But we have taken away his discretion by raising the funding $30 million above what was originally requested.

Mr. CONTE. We have given him the discretion to take a little more money out.

Mr. WALKER. I thank the gentleman. I am not really very happy with a compromise that ends up compromising at the highest possible figure. I mean, that is essentially what we did. We came out with a compromise that was the highest possible figure, which is one of my objections to what we often find in supplemental appropriation bills.

Mr. CONTE. Mr. Speaker, I want to thank the gentleman from Pennsylvania for his understanding.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 95: Page 14, lines 15 and 16, strike out "for the "Economic Support Fund" in Public Law 99-190" and insert "in title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190)".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 95 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "in title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), subject to the notification process of the Committees on Appropriations".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 96: Page 14, line 18, strike out "shall" and insert "may".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the house recede from its disagreement to the amendment of the Senate numbered 96 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: ", or the equivalent amount in local currencies, may".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 97: Page 15, after line 7, insert:

Notwithstanding any limitations on assistance to Haiti contained in Public Law 98-473 or Public Law 99-83, funds previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: *Provided*, That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 97 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

Notwithstanding any limitations on assistance to Haiti contained in Public Law 98-473 or Public Law 99-83, funds in the amount of $750,000 previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: *Provided*, That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided further*, That the funds provided under this paragraph shall be made available only to provide nonlethal military assistance for Haiti.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 98: Page 15, after line 7, insert:

SPECIAL ASSISTANCE TO THE PHILIPPINES

ECONOMIC SUPPORT FUND

For an additional amount for the "Economic Support Fund", $100,000,000: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

MILITARY ASSISTANCE

For an additional amount of "Military Assistance", $50,000,000: *Provided*, That in addition, $29,355,000 previously obligated for direct loans to the Philippines under the heading "Foreign Military Credit Sales" in Public Law 98-473 and Public Law 99-190, shall be deobligated and transferred to this appropriation, to be made available for obligation until September 30, 1986: *Provided further*, That these funds shall be made available only for the Philippines: *Provided further*, That none of these funds may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SPECIAL ASSISTANCE TO THE PHILIPPINES

ECONOMIC SUPPORT FUND

For an additional amount for the "Economic Support Fund", $100,000,000, to remain available until March 31, 1987: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

MILITARY ASSISTANCE

For an additional amount for "Military Assistance", $50,000,000 to remain available until March 31, 1987: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 101: Page 15, after line 10, insert:

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the amounts of budget authority that become available during fiscal year 1986 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, not less than $3,000,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) is rescinded.

SUBSIDIZED HOUSING PROGRAMS

RENT SUPPLEMENT PROGRAM

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is further reduced in fiscal year 1986 by not more than $41,390,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1), is further reduced in fiscal year 1986 by not more than $10,128,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 101 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSIONS)

Of the amounts of budget authority that become available during fiscal year 1986 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, not less than $5,250,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded.

Of the amounts of budget authority that become available during fiscal year 1987 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act $6,042,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded on or after October 1, 1986 and before September 30, 1987.

RENT SUPPLEMENT PROGRAM

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1986 by not more than $41,390,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1), is further reduced in fiscal year 1986 by not more than $10,128,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 107: Page 16, after line 23, insert:

CONSTRUCTION GRANTS

Of the funds appropriated in section 119 of Public Law 99-190 for necessary expenses to carry out title II of the Federal Water Pollution Control Act, an additional $600,000,000 is hereby made available: *Provided*, That the allocation of the $600,000,000 made available by this paragraph shall be in accordance with the formula in effect on October 1, 1984.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 107 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

CONSTRUCTION GRANTS

Of the funds appropriated in section 119 of Public Law 99-190 for necessary expenses to carry out title II of the Federal Water Pollution Control Act, an additional

$1,200,000,000 is hereby made available: *Provided,* That the allocation of the $1,200,000,000 made available by this paragraph shall be in accordance with the formula in effect on October 1, 1984.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 108: Page 17, after line 11, insert:

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For an additional amount for "Space flight, control and data communications", $526,000,000, to remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 108 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Space flight, control and data communications", $431,000,000, to remain available until September 30, 1987: *Provided,* That, upon enactment into law of this Act, $5,000,000 shall be transferred to "Research and development": *Provided further,* That $100,000,000, to remain available until September 30, 1988, is appropriated for fiscal year 1987 for "Space flight, control and data communications", and shall not become available for obligation until October 1, 1986: *Provided further,* That funds appropriated for fiscal year 1987 in the previous proviso may not be obligated until the Administrator of NASA has certified that the recommendations of the Rogers Commission have been implemented or are being implemented, or that an alternative approach satisfies the direction of the recommendation.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WALKER. Mr. Speaker, reserving the right to object, do I understand the language on amendment number 108 basically requires a second sourcing of the solid rocket booster program?

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I understand that we included report language.

Mr. WALKER. Well, the conferees direct NASA to make available sufficient funds to study an alternative solid rocket booster program.

Mr. CONTE. That is the report language, yes.

Mr. WALKER. That is not a requirement that has been placed upon NASA at this point to go to a second sourcing?

Mr. CONTE. That is strong advice, I would say.

Mr. WALKER. The reason why I raise the question is the authorization is in the process of going through full-fledged hearings at the present time looking at a whole variety of things. I am wondering why the Appropriations Committee felt a need to wade in and make this rather substantive determination before the authorization committee has completed its hearings.

We just had a problem here a few minutes ago talking about the agriculture program. Here is another place where the Appropriations Committee has evidently just usurped the ability of the authorization committee to complete its work. I am wondering if we cannot at least wait until the authorization committee can do some of its work.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I can understand the gentleman's concern. The gentleman is one of the important members on the Committee on Science and Technology, and I know of the gentleman's interest in the space program.

What we were doing here is trying to support one of the recommendations of the Presidential Commission that was investigating the accident of the *Challenger.* One of the recommendations there, of course, was to look closely at the solid rocket booster and, because there has been a sole source on the solid rocket booster in the past, there was an indication clearly on the part of the Commission and also on the part of those who have been funding NASA, that there ought to be a closer look at another source.

So the language does direct NASA to study an alternative solid rocket booster design such as, and I think the gentleman quoted it, "a unitary case, single-cast propellant," et cetera. That does not bar any other particular designs from being considered beyond the unitary case or the single-cast propellant.

So that is the reason why this was inserted in amendment 108. We think it is a good amendment, and it is one I believe that is in keeping with the recommendations of the Presidential Commission.

Mr. WALKER. Further reserving the right to object, I certainly agree with the gentleman that it is one of the recommendations of the Rogers Commission and one that should be looked at very, very closely, because we all know at this point that the solid rocket boosters were a major contributing factor in the accident.

My question is why we picked out this one area, decided to move ahead with that in the appropriations bill before the authorization committee has completed its work. It seems to me that what we want to do in order to recover from the accident and make certain that we have a responsible program is make certain that all the Rogers Commission recommendations get implemented, that they get implemented in a way which makes sense, which has a policy framework that is agreed upon by both authorization and appropriating committees, and that we do a disservice to that process by beginning to pick and choose among these things and including them in an appropriations bill.

Mr. BOLAND. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Speaker, as the gentleman knows, and perhaps better than most people in the committee or on the floor now, this, of course, was one of the major recommendations by the Presidential Commission. There were some nine recommendations that were made, and I am sure that most of them will be implemented before we return to using the shuttle to lift satellites into orbit. That is the only reason for our putting the language into the bill.

Mr. WALKER. The gentleman is correct.

I simply further make the point that those are also questions that have authorization implications as well as appropriations implications, and that by making policy decisions of that type in the appropriations bill, I think that we do a disservice to the process that will ultimately produce a broadly based policy.

Mr. BOLAND. Mr. Speaker, if the gentleman will continue to yield, I believe this language gives this particular problem greater urgency. Probably every expert that has looked at this problem over the past few months would suggest that the real problem, the most serious problem, was with the solid rocket booster. So that is one of the reasons why we inserted this language.

Mr. WALKER. Let me say to the gentleman that it is my view, after listening to some of the hearings, that

technical failure might have been in the solid rocket booster program, but we are also finding the more serious failure may have been in the quality assurance program and some of those things within NASA.

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That kind of coordinated policy that assures an upgrade of the quality assurance programs, that assures an upgrade of the safety programs, that assures better management, and so on, is as important as the technical fix that may be involved in the Solid Rocket Booster Program or in a second sourcing of the solid rocket boosters.

That is my concern, that this is being done out of phase, with some of the rest of the things that may very well be a very, very important part of a recovery program.

That is my concern, as I read that language. It seems to me to in some way put the cart before the horse.

I would be glad to yield to the gentleman from California.

Mr. FAZIO. I appreciate the gentleman's yielding so that I could further question the gentleman from Massachusetts.

I know the Space Shuttle *Challenger* Accident Commission recommended that no options be prematurely precluded in this area, and I am assuming that the gentleman's intent that the list of alternatives to be studied be longer than the two specific options cited in the statement of the managers' report.

Mr. WALKER. I would be glad to yield to the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. The gentleman is correct. We are directing NASA to get a look at more than just the two specific areas that we targeted in the supplemental. We use the word "et cetera," which, of course, would include more than the unitary case or the single cast propellant.

In further response to the gentleman, I am sure the gentleman has read the report rather thoroughly, but on page 45, in the second paragraph from the end of that page, it says:

The conferees have also agreed to provide $100 million of the $531 million recommended as an appropriation for fiscal year 1987. These funds may not be used until the administrator of NASA has certified that the recommendations of the Rogers Commission have been implemented or are being implemented, or that an alternative approach satisfies the objective of the recommendation.

I would think the gentleman would agree with that particular language.

Mr. WALKER. I certainly do agree with that. My problem is not with that particular language. Obviously, the President's Executive order would allow the administrator of NASA to certify that the recommendations are being implemented. The Executive order says that much.

My concern is that by highlighting certain things in this report, we may in fact get some of the things that need to be done out of sync, and the worst possible thing at the present time is to have the kind of recovery where all kinds of people are issuing orders and no one knows precisely what it is that is getting done and how it is getting done.

Mr. BOLAND. If the gentleman will yield further, I am sure that after the administrator of NASA gets a look at this record and gets a clear indication of the other areas with respect to the Commission that have been highlighted by the gentleman from Pennsylvania—attention will be paid to it.

I appreciate the gentleman's comments.

Mr. WALKER. I thank the gentleman for his remarks, and I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 109: Page 18, line 3, after "care"," insert "up to".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 109 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "not less than $25,000,000 nor more than".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 111: Page 18, strike out lines 13 to 18, and insert:

For payments to defray the costs of training and provision of incentives to employers to hire and train certain veterans, as authorized to be appropriated by section 16 of the Veterans' Job Training Act (appearing at 29 U.S.C. 1721 and as amended by section 201(d) of Public Law 99-238), $35,000,000, to be derived by transfer from "Construction, minor projects".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 111 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For payments to defray the costs of training and provision of incentives to employers to hire and train certain veterans as authorized by the Veterans' Job Training Act, as amended (29 U.S.C. 1721), $35,000,000, to remain available until September 30, 1988, and to be derived by transfer from "Construction, minor projects".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 112. Page 18, after line 18, insert:

ADMINISTRATIVE PROVISIONS

Retroactive to October 1, 1985, all payments for services performed on a contractual basis in conjunction with loan guaranty operations shall be charged to the VA loan guaranty revolving fund.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 112 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ADMINISTRATIVE PROVISIONS

Retroactive to October 1, 1985, all payments for appraisals performed on a contractual basis in connection with the liquidation of housing loans guaranteed, insured, or made in conjunction with loan guarantee operations shall be charged to the VA loan guaranty revolving fund.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 114: Page 18, after line 18, insert:

Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "July 25, 1986".

URBAN DEVELOPMENT ACTION GRANTS IMPROVEMENTS

(a) PROJECT QUALITY CRITERIA.—Section 119(d)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting a dash before "(A)";

(2) by indenting subparagraphs (A) and (B) in the same manner as subparagraphs (C) and (D), as inserted by this subsection;

(3) in subparagraph (A), by striking out "as the primary criterion,";

(4) by striking out "and" and the end of subparagraph (B); and

(5) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) the following other criteria:

"(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

"(ii) the number of permanent jobs to be created and their relation to the amount of grant funds requested;

"(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

"(iv) the extent to which the project will retain jobs that will be lost without the provision of a grant under this section;

"(v) the extent to which the project will relieve the most pressing employment or residential needs of the applicant by—

"(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally:

"(II) retraining recently unemployed residents in new skills;

"(III) providing training to increase the local pool of skilled labor; or

"(IV) producing decent housing for low- and moderate-income persons in cases where such housing is in severe shortage in the area of the applicant, except that an application shall be considered to produce housing for low- and moderate-income persons under this clause only if such application proposes that (a) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and (b) not less than 30 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available to occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

"(vi) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

"(vii) the extent to which State or local Government funding or special economic incentives have been committed; and

"(viii) the extent to which the project will have a substantial impact on physical and economic development of the city or urban county, the proposed activities are likely to be accomplished in a timely fashion with the grant amount available, and the city or urban county has demonstrated performance in housing and community development programs; and

"(D) additional consideration for projects with the following characteristics:

"(i) projects to be located within a city or urban county which did not receive a preliminary grant approval under this section during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved; and

"(ii) twice the amount of the additional consideration provided under clause (i) for projects to be located in cities or urban counties which did not receive a preliminary grant approval during the 24-month period preceding the date on which applications under this section are required to be submitted for the grant competition involved.

If a city or urban county has submitted and has pending more than one application, the additional consideration provided by subparagraph (D) of the preceding sentence shall be available only to the project in such city or urban county which received the highest number of points under subparagraph (C) of such sentence.".

(d) SELECTION LIMITATIONS AND CRITERIA WEIGHT.—Section 119(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall award points to each application as follows:

"(A) not more than 35 points on the basis of the criteria referred to in paragraph (1)(A);

"(B) not more than 35 points on the basis of the criteria referred to in paragraph (1)(B);

"(C) not more than 33 points on the basis of the criteria referred to in paragraph (1)(C); and

"(D)(i) 1 additional point on the basis of the criterion referred to in paragraph (1)(D)(i); or

"(ii) 2 additional points on the basis of the criterion referred to in paragraph (1)(D)(ii).

"(4) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

"(A) 65 percent of the funds is first made available utilizing all of the criteria set forth in paragraph (1); and

"(B) 35 percent of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C) and (D) of paragraph (1).

"(5)(A) For each fiscal year, the Secretary shall hold—

"(i) 3 competitions for grants under paragraph (1) for cities not described in the first sentence of subsection (i) (relating to small cities) and urban counties; and

"(ii) 3 competitions for cities described in the first sentence of subsection (i) (relating to small cities).

"(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

"(i) approximately ⅓ of the funds available for such grants for the fiscal year;

"(ii) any funds available for such grants in any previous competition that are not awarded; and

"(iii) any funds available for such grants in any previous competition that are recaptured.".

(c) ADDITIONAL CONSIDERATION.—Notwithstanding any provision of section 119 of the Housing and Community Development Act of 1974, for purposes of funding decisions made before October 15, 1986, the Secretary of Housing and Urban Development shall give additional consideration, equal to the points otherwise awarded under section 119(d)(1)(C) of the Housing and Community Development Act of 1974, as amended by this section, in the case of a project to be located in a city or urban county to which no grant under section 119 of such Act was made and not terminated since October 15, 1984, if such project has met the criteria for preliminary approval in 3 consecutive funding cycles including the current cycle. If a city or urban county has submitted and has pending more than one application, the additional consideration provided by the preceding sentence shall be available only to the project in such city or urban county which received the largest number of points under section 119(d)(1)(C) of the Housing and Community Development Act of 1974.

(d) USE OF REPAID GRANT FUNDS.—Section 119(f) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 104. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary of the use of such funds during the most recent proceeding full fiscal year of the applicant.".

(e) NONDISCRIMINATION.—Section 119(r) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(r) In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary may not discriminate against applications on the basis of (1) the type of activity involved, whether such activity is primarily housing, industrial, or commercial; or (2) the type of applicant, whether such applicant is a city or urban county.".

(f) REPORTS OF COMPTROLLER GENERAL.—

(1)(A) Not later than the expiration of the 6-month period following the date of enactment of this Act and every 3 years thereafter, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under section 119 of the Housing and Community Development Act of 1974.

(B) Such report shall evaluate in detail the standards and criteria specified in such section that measure the level or comparative degree of economic distress of cities and urban counties and the effect of the grants awarded on the basis of such standards and criteria on stimulating the maximum economic development activity.

(C) Such report shall also evaluate in detail the extent to which the economic and social data utilized by the Secretary in awarding grants under such section is current and accurate, and shall compare the data used by the Secretary with other available data. The Comptroller General shall make recommendations to the Congress on whether or not other data should be collected by the Federal Government in order to fairly and accurately distribute grants under such section based on the level or comparative degree of economic distress. The Comptroller General shall also make recommendations on whether or not exist-

ing data should be collected more frequently in order to ensure that timely data is used to evaluate grant applications under such section.

(2) Not later than the expiration of the 3-month period following the date of the final competition for grants for fiscal year 1986 under section 119 of the Housing and Community Development Act of 1974, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report describing the effect of the amendments made by this section on—

(A) the targeting of grant funds to cities and urban counties having the highest level or degree of economic distress;

(B) the distribution of grants funds among regions of the United States;

(C) the number and types of projects receiving grants;

(d) the per capita funding levels for each city, urban county, or identifiable community described in subsection (p) of such section 119, receiving assistance under such section 119; and

(E) the stimulation of the maximum economic development activity

(g) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section. Such regulations shall be published for comment in the Federal Register not later than 60 days after the date of enactment of this Act. The provisions of subsection (d), and of section 119(d)(1)(D), section 119(d)(3), and section 119(d)(4) of the Housing and Community Development Act of 1974, shall take effect on the date of enactment of this Act.

(h) APPLICABILITY.—The amendments made by this section shall be applicable to the making of urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date on which final regulations issued by the Secretary under subsection (h) become effective. For the fiscal year in which the amendments made by this section become applicable, such amendments shall only apply with respect to the aggregate amount awarded for such grants on or after such effective date.

(i) FISCAL YEAR 1986 COMPETITIONS.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall hold—

(1) 2 competitions for grants under section 119(d)(1) for cities not described in the first sentence of subsection (i) of such section and urban counties; and

(2) 1 competition for such grants for cities described in the first sentence of subsection (i) of such section,

between April 15, 1986, and October 1, 1986.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 114 and concur there in with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: Each provision of law amended by Public Law 99-289, is amended by striking out "June 6, 1986" wherever it appears and inserting in lieu thereof "July 25, 1986".

URBAN DEVELOPMENT ACTION GRANTS IMPROVEMENTS

(a) PROJECT QUALITY CRITERIA.—Section 119(d)(1) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting a dash before "(A)";

(2) by indenting subparagraphs (A) and (B) in the same manner as subparagraphs (C) and (D), as inserted by this subsection;

(3) in subparagraph (A), by striking out "as the primary criterion,";

(4) by striking out "and" at the end of subparagraph (B); and

(5) by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) the following other criteria:

"(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

"(ii) the number of permanent jobs to be created and their relation to the amount of grant funds requested;

"(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

"(iv) the extent to which the project will retain jobs that will be lost without the provision of a grant under this section;

"(v) the extent to which the project will relieve the most pressing employment or residential needs of the applicant by—

"(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally;

"(II) retraining recently unemployed residents in new skills;

"(III) providing training to increase the local pool of skilled labor; or

"(IV) producing decent housing for low- and moderate-income persons in cases where such housing is in severe shortage in the area of the applicant, except that an application shall be considered to produce housing for low- and moderate-income persons under this clause only if such application proposes that (a) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and (b) not less than 30 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income, or not less than 20 percent of all dwelling units made available to occupancy using such funds shall be occupied by persons of low and moderate income, whichever results in the occupancy of more dwelling units by persons of low and moderate income;

"(vi) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

"(vii) the extent to which State or local Government funding or special economic incentives have been committed; and

"(viii) the extent to which the project will have a substantial impact on physical and economic development of the city or urban county, the proposed activities are likely to be accomplished in a timely fashion with the grant amount available, and the city or urban county has demonstrated performance in housing and community development programs; and

"(D) additional consideration for projects with the following characteristics:

"(i) projects to be located within a city or urban county which did not receive a preliminary grant approval under this section during the 12-month period preceding the date on which applications are required to be submitted for the grant competition involved; and

"(ii) twice the amount of the additional consideration provided under clause (i) for projects to be located in cities or urban counties which did not receive a preliminary grant approval during the 24-month period preceding the date on which applications under this section are required to be submitted for the grant competition involved.

If a city or urban county has submitted and has pending more than one application, the additional consideration provided by subparagraph (D) of the preceding sentence shall be available only to the project in such city or urban county which received the highest number of points under subparagraph (C) of such sentence.".

"(b) SELECTION LIMITATIONS AND CRITERIA WEIGHT.—Section 119(d) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary shall award points to each application as follows:

"(A) not more than 35 points on the basis of the criteria referred to in paragraph (1)(A);

"(B) not more than 35 points on the basis of the criteria referred to in paragraph (1)(B);

"(C) not more than 33 points on the basis of the criteria referred to in paragraph (1)(C); and

"(D)(i) 1 additional point on the basis of the criterion referred to in paragraph (1)(D)(i); or

"(ii) 2 additional points on the basis of the criterion referred to in paragraph (1)(D)(ii).

"(4) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

"(A) 65 percent of the funds is first made available utilizing all of the criteria set forth in paragraph (1); and

"(B) 35 percent of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C) and (D) of paragraph (1).

"(5)(A) For each fiscal year, the Secretary shall hold—

"(i) 3 competitions for grants under paragraph (1) for cities not described in the first sentence of subsection (1) (relating to small cities) and urban counties; and

"(ii) 3 competitions for cities described in the first sentence of subsection (i) (relating to small cities).

"(B) Each competition for grants described in any clause of subparagraph (A) shall for an amount equal to the sum of—

"(i) approximately ⅓ of the funds available for such grants for the fiscal year;

"(ii) any funds available for such grants in any previous competition that are not awarded; and

"(iii) any funds available for such grants in any previous competition that are recaptured.".

(c) USE OF REPAID GRANT FUNDS.—Section 119(f) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "In any case in which the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities that are eligible activities under this section or section 104. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year to-

gether with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.".

(d) NONDISCRIMINATION.—Section 119(r) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(r) In utilizing the discretion of the Secretary when providing assistance and applying selection criteria under this section, the Secretary may not discriminate against applications on the basis of (1) the type of activity involved, whether such activity is primarily housing, industrial, or commercial; or (2) the type of applicant, whether such applicant is a city or urban county.".

(e) REPORTS OF COMPTROLLER GENERAL.—

(1)(A) Not later than the expiration of the 6-month period following the date of enactment of this Act and every 3 years thereafter, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under section 119 of the Housing and Community Development Act of 1974.

(B) Such report shall evaluate in detail the standards and criteria specified in such section that measure the level or comparative degree of economic distress of cities and urban counties and the effect of the grants awarded on the basis of such standards and criteria on stimulating the maximum economic development activity.

(C) Such report shall also evaluate in detail the extent to which the economic and social data utilized by the Secretary in awarding grants under such section is current and accurate, and shall compare the data used by the Secretary with other available data. The Comptroller General shall make recommendations to the Congress on whether or not other data should be collected by the Federal Government in order to fairly and accurately distribute grants under such section based on the level or comparative degree of economic distress. The Comptroller General shall also make recommendations on whether or not existing data should be collected more frequently in order to ensure that timely data is used to evaluate grant applications under such section.

(2) Not later than the expiration of the 3-month period following the date of the final competition for grants for fiscal year 1986 under section 119 of the Housing and Community Development Act of 1974, the Comptroller General of the United States shall prepare and submit to the Congress a comprehensive report describing the effect of the amendments made by this section on—

(A) the targeting of grant funds to cities and urban counties having the highest level or degree of economic distress;

(B) the distribution of grant funds among regions of the United States;

(C) the number and types of projects receiving grants;

(D) the per capita funding levels for each city, urban county, or identifiable community described in subsection (p) of such section 119, receiving assistance under such section 119; and

(E) the stimulation of the maximum economic development activity.

(f) REGULATIONS.—The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section. Such regulations shall be published for comment in the Federal Register not later than 60 days after the date of enactment of this Act. The provisions of section 119(d)(1)(D), section 119(d)(3), and section 119(d)(4) of the Housing and Community Development Act of 1974, shall take effect on the date of enactment of this Act.

(g) APPLICABILITY.—The amendments made by this section shall be applicable to the making of urban development action grants that have not received the preliminary approval of the Secretary of Housing and Urban Development before the date on which final regulations issued by the Secretary under subsection (f) become effective. For the fiscal year in which the amendments made by this section become applicable, such amendments shall only apply with respect to the aggregate amount awarded for such grants on or after such effective date.

(h) FISCAL YEAR 1986 COMPETITIONS.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall hold—

(1) 2 competitions for grants under section 119(d)(1) for cities not described in the first sentence of subsection (i) of such section and urban counties; and

(2) 1 competition for such grants for cities described in the first sentence of subsection (i) of such section.

between April 15, 1986, and October 1, 1986.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, I ask for recognition on this motion under rule XXVIII.

The SPEAKER pro tempore. Is the gentleman from Massachusetts opposed?

Mr. CONTE. To amendment 114, yes, I am opposed to that.

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 20 minutes, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 20 minutes, and the gentleman from Texas [Mr. GONZALEZ] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I reserve my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I rise in opposition to this motion for two very basic reasons. One is that the Senate amendment contains an extension of the FHA insuring authority to July 25, 1986, and a revision in the criteria for UDAG.

Now, the House approved House Joint Resolution 652 to extend FHA insuring authority until September 30, 1986, today. The House by action in passing H.R. 1, the housing authorization bill, on June 12, adopted the UDAG selection criteria that is contained in this amendment.

I rise in opposition to this motion on behalf of my colleagues on the Banking Committee on both sides of the aisle who have been engaged in lengthy processes of getting a housing bill passed. We have been involved in this process now for almost 2 years, and after extensive hearings, extensive markup, even more extensive negotiations with our Republican colleagues and 5 days of consideration on the floor of the House, we were able to pass the first freestanding housing bill since 1980.

The action taken by the conferees on H.R. 4515 would shortcircuit this bipartisan effort at putting together a housing authorization bill.

If the House defeats this motion to recede and concur, I will offer a motion that the House insist on its disagreement to amendment 114, and I certainly urge my colleagues to defeat the pending motion.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the distinguished gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

Mr. Speaker, I, too, would like to make a point, very briefly.

I can see where, on occasion, there is a necessity to legislate on an appropriations bill, when the authorizing committees have not acted. In this instance the authorizing committee did indeed act in a very timely fashion.

The vote has been held. The bill is over in the Senate. I have been assured of the fact that the Senate will be entertaining a housing bill in the very immediate future. They just have to get rid of the tax bill.

So the reason we usually have for legislating in this manner on appropriations bills does not exist in this instance.

For that reason, I do hope we can vote against the acceptance of this amendment in disagreement.

Mr. GONZALEZ. I thank the gentleman for his remarks.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, may I say that this represents one of the problems that we have. I would like to make some explanation to my colleagues. The Senate does not have a requirement on germaneness. When we go to conference, we end up dealing with all sorts of legislation added on that side. Out of 224 amendments added by the Senate, probably one-third of them contain legislation. It leaves us with a tough situation. In explanation of this provision here, I understand it was sought through this means to cause the Senate to come up with a housing bill. I am telling you that since it does not show on the sur-

face. I can understand how our colleagues on the Housing Committee want them to bring up the housing bill in the other body.

In view of the statements that they have gotten an agreement now and it will come up in the Senate, I have no desire to press the motion.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I, too, oppose the motion and support the gentleman from Texas, and the gentleman from Rhode Island. We should not include UDAG legislation in this supplemental appropriations bill.

Mr. Speaker, the Banking Committee is very familiar with the subject of UDAG selection criteria changes. It was hotly debated in both the subcommittee and full committee when we considered H.R. 1. Just 2 weeks ago the House debated the subject at length when the gentleman from Nebraska [Mr. BEREUTER] offered an amendment to the housing bill that would have changed the allocation formula for UDAG grants. I was on the losing side of that vote and indeed I voted to discontinue UDAG's all together. My point is, however, that the House has worked its will in the appropriate way through authorizing legislation from the Banking Committee. The House has approved a housing bill and I am hopeful the other body will do so in the very near future. What is the rationale for allowing this one portion of our housing bill to be handled in an appropriation bill?

As I said, Mr. Speaker, I don't like UDAG's but that is beside the point. We fought that battle in the House and lost. We should continue to fight this out in the authorizing arena. If it looked like we were not going to get a housing bill, then the UDAG program could be considered in a separate bill. But let us keep authorizing provisions in the legislating committees.

Mr. Speaker, it seems that the outcome is not in doubt any more, but I, too, wanted to oppose the motion and support the gentleman from Texas and the gentleman from Rhode Island. We should not include UDAG legislation in this supplemental appropriations bill.

Mr. Speaker, the Banking Committee is very familiar with the subject of UDAG selection. As has been pointed out, the House did work its will here a couple of weeks ago in H.R. 1. Whereas I was on the losing side of that vote, I do think that we should preserve the prerogative of the authorizing committee, especially in areas like this where there is considerable amount of technical discussion that needs to be had.

So I oppose the motion and support the gentleman from Texas and congratulate him for offering it.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may require to the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. The amendment apparently is giving considerable problems to Members on this side of the aisle and also on the other side of the aisle. I am willing to permit the House to work its own will.

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was rejected.

MOTION OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. GONZALEZ moves that the House insist upon its disagreement with the amendment of the Senate numbered 114.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ].

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Amendment No. 120: Page 19, after line 17, insert: For an additional amount for "Land acquisition", $2,373,000, to remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate, numbered 120 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"For an additional amount for "Land acquisition, $2,373,000, to be derived from the Land and Water Conservation Fund, to remain available until expended."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Amendment No. 122: Page 19, after line 21, insert:

CONSTRUCTION

For an additional amount for "Construction", $3,420,000, to remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 122 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$3,850,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 128: Page 20, after line 12, insert:

Notwithstanding any other provision of law, payment for processing costs of data and information acquired by the Secretary on or after October 1, 1985, shall be made to permittees with permits issued on or before September 30, 1985.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 128 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"Notwithstanding any other provision of law, for data and information acquired in fiscal year 1986 or thereafter, by the Secretary, pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, payment shall be made for processing costs to permittees with permits issued on or before September 30, 1985."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Amendment No. 131: Page 21, line 13, after "government" insert: : Provided further, That general assistance payments are subject to the availability of appropriated funds and hereafter such general assistance payments shall be reduced if the Secretary determines that reductions are necessary so as not to exceed the amounts available.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 131 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That the levels established for general assistance by Public Law 99-88 (99 Stat. 388), are the maximum allowable payments".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 132: Page 21, after line 13, insert:

CONSTRUCTION

For an additional amount for "Construction", $4,900,000, to remain available until expended.

(DEFERRAL)

Of the funds previously appropriated under the heading "Bureau of Indian Affairs' Construction" in Public Law 98-8 (90 Stat. 20), $4,900,000 shall not become available for obligation until October 1, 1986.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

"CONSTRUCTION

For an additional amount for "Construction", $2,500,000, to remain available until expended.

(DEFERRAL)

Of the funds previously appropriated under the heading "Bureau of Indian Affairs' construction" in Public Law 98-8 (90 Stat. 20), $2,500,000 shall not become available for obligation until October 1, 1986.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 134: Page 21, line 18, strike out "Sections 177, 122, 221, and 223 of".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 134 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: "Sections 177, 122, 221, 223, 103(k), 105(c)(2), and 105(m) of".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 136: Page 21, line 20, after "99-239" insert ", and $9,340,000, to remain available until expended, for grants and necessary expenses to the Republic of Palau, to become available for obligation upon the enactment of S.J. Res. 325 or similar legislation".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 136 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ", including $8,000,000 for initial capitalization of a trust fund to fund the Prior Service Benefits portion of the Trust Territory Social Security System in accordance with Section 105(m) of Public Law 99-239, and $2,750,000 for the Enjebi Community Trust Fund, as authorized in Section 103(k) of Public Law 99-239, and $9,340,000, to remain available until expended, for grants and necessary expenses to the Republic of Palau, to become available for obligation upon the enactment of S.J. Res. 325 or similar legislation".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 143: Page 23, after line 10, insert:

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

SECTION 1. Provisions of 7 U.S.C. 147(b) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 143 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

SEC. 1. Provisions of 7 U.S.C. 147(b) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 144: Page 23, after line 10, insert:

SEC. 2. (a) Notwithstanding any other provision of law the Secretary of Agriculture shall, within funds made available by this Act or any other appropriations Act, release on behalf of the United States the condition described in subsection (b) of this section with respect to the tract of land described in subsection (c) of this section: Provided, That—

(1) the State of Georgia, acting by and through the Georgia State Properties Commission, enters into an agreement with the Secretary of Agriculture stating that the State of Georgia will convey the described tract of land to Brantley County, Georgia, for consideration determined adequate by

the Commission, and which consideration shall, if withdrawn from the account, be used exclusively for public purposes; and

(2) the State of Georgia shall pay into the Treasury of the United States as miscellaneous receipts a sum of money which the Secretary of Agriculture deems sufficient to reimburse the administrative costs of releasing the condition pursuant to this subsection.

(b) The conditions to be released pursuant to subsection (a) of this section is the condition found in that certain deed dated March 30, 1955, which conveys from the United States to the State of Georgia, Georgia Forestry Commission, certain real property in Ware and Brantley Counties, Georgia, and which deed was recorded on May 17, 1955, in the Office of the Secretary of State, State of Georgia, providing that the land conveyed be used for public purposes and that title to said land revert to the United States if it is not used for public purposes.

(c) The parcel of land to which the release provided for in subsection (a) of this section is described as follows:

All that tract or parcel of land, situated, located and being in Land Lot. No. 128 in the 9th Land District of Brantley County, Georgia, being 55.04 acres, more or less, and being more particularly described as follows: Beginning at the point where the centerline of the SCL Railroad tracks from Waycross to Brunswick intersects the centerline of that certain Brantley County paved road known as County Road No. 15, and thence N 08 degrees 54'00" W a distance of 97.72 feet to a point; thence, N. 79 degrees 40'50" E a distance of 40.02 feet to a point; thence, N 79 degrees 40'50" E a distance of 260.03 feet to a point; thence, N 68 degrees 30'00" E a distance of 390.0 feet to a point, this point being the point or place of beginning of the tract to be released from the described condition; thence, N 13 degrees 15'00" W a distance of 701.15 feet to a point; thence, S 73 degrees 10'00" W a distance of 647.09 feet to a point; thence, N 17 degrees 13'50" W a distance of 304.91 feet to a point; thence, N 61 degrees 23'03" E a distance of 2452.76 feet to a point; thence, S 06 degrees 09'26" E a distance of 275.29 feet to a point; thence, S 07 degrees 17'36" E a distance of 442.26 feet to a point; thence, S 00 degree 30'41" E a distance of 183.67 feet to a point; thence, S 12 degrees 11'06" E a distance of 160.31 feet to a point; thence, S 05 degrees 13'46" E a distance of 390.62 feet to a point; thence, S 34 degrees 53'42" W a distance of 201.01 feet to a point; thence, S 75 degrees 01'09" W a distance of 1371.18 feet to a point; this point being the point or place of beginning of the tract.

For a more complete description of the tract, reference is hereby made to that certain plat prepared on August 4, 1985, by Harry Strickland, Brantley County Surveyor, entitled "Survey for Brantley County" which plat is on file with the Georgia State Properties Commission.

(d) Section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937, as amended (7 U.S.C. 1011), shall not apply to the release provided for in subsection (a) of this section.

(e) The conveyance made pursuant to subsection (a) of this section shall reserve to the United States all gas, oil, coal and other mineral deposits as may be found in the lands conveyed by this section.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 144 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, within funds made available by this Act or any other appropriations Act, release on behalf of the United States the condition described in subsection (b) of this section with respect to the tract of land described in subsection (c) of this section: *Provided*, That—

(1) the State of Georgia, acting by and through the Georgia State Properties Commission, enters into an agreement with the Secretary of Agriculture stating that the State of Georgia will convey the described tract of land to Brantley County, Georgia, for consideration determined adequate by the Commission, and which consideration shall, if withdrawn from the account, be used exclusively for public purposes;

(2) the State of Georgia shall pay into the Treasury of the United States as miscellaneous receipts a sum of money which the Secretary of Agriculture deems is sufficient to reimburse the administrative costs of releasing the condition pursuant to this subsection; and

(3) the State of Georgia shall provide to the United States the fair market value of the described tract of land, as determined by the Secretary, either in cash or by exchange of lands, waters, or interest therein.

(b) The condition to be released pursuant to subsection (a) of this section is the condition found in that certain deed dated March 30, 1955, which conveys from the United States to the State of Georgia, Georgia Forestry Commission, certain real property in Ware and Brantley Counties, Georgia, and which deed was recorded on May 17, 1955, in the Office of the Secretary of State, State of Georgia, providing that the land conveyed be used for public purposes and that title to said land revert to the United States if it is not used for public purposes.

(c) The parcel of land to which the release provided for in subsection (a) of this section is described as follows:

All that tract or parcel of land, situated, located and being in Land Lot No. 128 in the 9th Land District of Brantley County, Georgia, being 55.04 acres, more or less, and being more particularly described as follows: Beginning at the point where the centerline of the SCL Railroad tracks from Waycross to Brunswick intersects the centerline of that certain Brantley County paved road known as County Road No. 15, and thence N 08 degrees 54'00" W a distance of 97.72 feet to a point; thence, N 79 degrees 40'50" E a distance of 40.02 feet to a point; thence, N 79 degrees 40'50" E a distance of 260.03 feet to a point; thence, N 68 degrees 30'00" E a distance of 390.0 feet to a point, this point being the point or place of beginning of the tract to be released from the described condition; thence, N 13 degrees 15'00" W a distance of 701.15 feet to a point; thence, S 73 degrees 10'00" W a distance of 647.09 feet to a point; thence, N 17 degrees 13'50" W a distance of 304.91 feet to a point; thence, N 61 degrees 23'03" E a distance of 2452.76 feet to a point; thence, S 06 degrees 09'26" E a distance of 275.29 feet to a point; thence, S 07 degrees 17'36" E a distance of 442.26 feet to a point; thence, S 00 degree 30'41" E a distance of 183.67 feet to a point; thence, S 12 degrees 11'06" E a distance of 160.31 feet to a point; thence, S 05 degrees 13'46" E a distance of 390.62 feet to a point; thence, S 34 degrees 53'42" W a distance of 201.01 feet to a point; thence, S 75 degrees 01'09" W a distance of 1371.18 feet to a point; this point being the point or place of beginning of the tract.

For a more complete description of the tract, reference is hereby made to that certain plat prepared on August 4, 1985, by Harry Strickland, Brantley County Surveyor, entitled "Survey for Brantley County" which plat is on file with the Georgia State Properties Commission.

(d) Section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937, as amended (7 U.S.C. 1011), shall not apply to the release provided for in subsection (a) of this section.

(e) The conveyance made pursuant to subsection (a) of this section shall reserve to the United States all gas, oil, coal and other mineral deposits as may be found in the lands conveyed by this section.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 154: Page 25, line 8 strike out "$20,000,000" and insert "$1,800,000: *Provided*, That $1,530,000 shall not become available for obligation until September 30, 1986".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 154 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$13,500,000: *Provided*, That $1,530,000 shall not become available for obligation until September 30, 1986: *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Educational Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1987".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 155: Page 25, after line 8, insert:

INDIAN HEALTH FACILITIES

(DEFERRAL)

Of the funds previously appropriated under this head, $13,745,000 shall not become available for obligation until October 1, 1986.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 155 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"INDIAN HEALTH FACILITIES

"(DEFERRAL)

"Of the funds previously appropriated under this head, $11,665,000 shall not become available for obligation until October 1, 1986."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 162: Page 25, after line 24, insert:

NATIONAL INSTITUTES OF HEALTH

ADMINISTRATIVE PROVISION

Funds made available for fiscal year 1986 and hereafter to the Warren G. Magnuson Clinical Center of the National Institutes of Health shall be available for payment of nurses at the rates of pay and with the schedule options and benefits afforded nurses by the Veterans Administration pursuant to 38 U.S.C. 4107.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 162 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

ADMINISTRATIVE PROVISION

Funds made available for fiscal year 1986 and hereafter to the Warren G. Magnuson clinical Center of the National Institutes of Health shall be available for payment of nurses at the rates of pay and with schedule options and benefits authorized for the Veterans Administration pursuant to 38 U.S.C. 4107.

Mr. CONTE. (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 163: Page 25, after line 24, insert:

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

The Administrator of General Services is authorized and directed to convey to the District of Columbia, without cost, all rights, title, and interest in the property located at 425 Second Street, Northwest, in the District of Columbia.

For making a grant to the District of Columbia upon the completion of the conveyance to the District of Columbia of the property located at 425 Second Street, Northwest, in the District of Columbia, and upon the submission of a request to the Office of Community Services, Department of Health and Human Services, by the District of Columbia, $5,000,000 for the repair and renovation of such property for use as a shelter for the homeless.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 163 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

SECTION 1. (a) The Administrator of General Services shall assign the property described in subsection (e) to the Secretary of Health and Human Services for transfer of such property in accordance with this section to the District of Columbia for use as a shelter for homeless individuals in the District of Columbia.

(b) Immediately after the assignment of such property pursuant to subsection (a), the Secretary of Health and Human Services shall transfer the title to such property without cost to District of Columbia for use as a shelter for homeless individuals.

(c) The deed of conveyance for the property described in subsection (e) shall provide that, if the District of Columbia sells, leases, or otherwise transfers such property to any other person or agency, a fraction of the proceeds of such sale, lease, or transfer (as determined under subsection (d)) may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia and the remainder of such proceeds shall be paid to the Secretary of the Treasury and deposited as miscellaneous receipts of the United States.

Any sale, lease, or other transfer pursuant to this subsection shall be made after public advertising for bids or by other means designed to secure full and open competition.

(d) The fraction of such proceeds which may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia shall be determined by dividing—

(1) the number of months that such property is used as a shelter for homeless individuals in the District of Columbia pursuant to this section prior to such sale, lease, or transfer; by

(2) 120,

except that such fraction shall not be greater than one.

(e) The property to which this section applies is the property located at 425 Second Street, Northwest, in the District of Columbia, more fully described as follows:

All that parcel situated in the Northwest quadrant of the City of Washington, District of Columbia, and being a portion of District of Columbia Square Number 571, containing in their entirety former lots numbered 9 through 18, inclusive, and 22 through 26, inclusive, as recorded in Liber B, Folio 160 of the Records of the Office of the Surveyor for the District of Columbia, and lots 45 through 51 inclusive, as recorded in Liber 19, Folio 118 of the Records of the Office of the Surveyor for the District of Columbia; such land now known for purposes of assessment as Lot 820, and containing 1.16 acres of land, more or less; and more particularly described in a deed between the Reconstruction Finance Corporation and the United States of America, dated July 30, 1947, and recorded in Liber 8761, Folio 79 of the Land Records of the District of Columbia.

SEC. 2. For making a grant to the District of Columbia upon the completion of the conveyance to the District of Columbia of the property located at 425 Second Street, Northwest, in the District of Columbia, in accordance with section 1 and upon the submission of a request to the Office of Community Services, Department of Health and Human Services, by the District of Columbia, $1,500,000 for the repair and renovation of such property for use as a shelter for the homeless.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

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The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 168: Page 26, after line 18, insert:

Effective on October 1, 1980, section 3(d)(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is

amended by redesignating subparagraph (C) as subparagraph (D), and by adding after subparagraph (B) the following new subparagraph:

"(C)(i) To the extent described in division (ii), the local contribution rate for a local educational agency shall include locally generated revenue in a State, without regard to the characterization of the locally generated revenue by the State, if the local educational agency receives amounts from such revenues for use by that agency and the remainder of such amounts are transferred to the State.

"(ii) For the purpose of clause (i) of subparagraph (A), the amount of revenues which are actually retained by a local educational agency described in division (i) may be counted in the determination of expenditures derived from local sources.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 168 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

Effective on October 1, 1980, section 3(d)(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating subparagraph (C) as subparagraph (D), and by adding after subparagraph (B) the following new subparagraph:

"(C) The local contribution rate for a local educational agency shall include current expenditures from that portion of a real property tax required to be levied, collected, and distributed to local educational agencies by county governments pursuant to state law where the remainder of such real property tax is transferred to the State."

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 172: Page 26, after line 18, insert:

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

From the amounts appropriated to carry out the Rehabilitation Act of 1973, $29,300,000 shall be made available for special demonstration projects for the severely disabled under section 311: *Provided*, That $9,000,000 shall be used for supported employment demonstrations.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 172 and concur therein with an amendment, as follows: In lieu of matter proposed by said amendment insert the following:

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

From the amounts appropriated to carry out the Rehabilitation Act of 1973, $27,945,000 shall be made available for special demonstration projects for the severely disabled under section 311: *Provided*, That $8,613,000 shall be used for supported employment demonstrations.

Mr. CONTE (during the reading). Mr. Speaker. I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 175: Page 26, strike out all after line 19 over to and including line 4 on page 27.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 175 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

DEPARTMENT OF LABOR

ADMINISTRATIVE PROVISION

No Job Corps Center operating under part B of title IV of the Job Training Partnership Act shall be closed prior to July 1, 1987.

Mr. CONTE (during the reading). Mr. Speaker. I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 176: Page 27, after line 6, insert:

SENATE

SALARIES, OFFICERS AND EMPLOYEES

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For an additional amount for "Office of the Sergeant at Arms and Doorkeeper", $500,000.

ADMINISTRATIVE PROVISIONS

SECTION 1. (a) Effective October 1, 1985, the allowance for administrative and clerical assistance of each Senator from the State of Alabama is increased to that allowed Senators from States having a population of four million but less than five million, the population of said State having exceeded four million inhabitants.

(b) Effective October 1, 1985, the allowance for administrative and clerical assistance of each Senator from the State of Florida is increased to that allowed Senators from States having a population of eleven million but less than twelve million, the population of said State having exceeded eleven million inhabitants.

SEC. 2. (a) Subsection (a) of section 110 of Public Law 97-12 (2 U.S.C. 58(a)) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) striking out the last three sentences of such subsection and inserting in lieu thereof the following:

"(2)(A) Each Senator, at his election, may, during any fiscal year (but not earlier than July 1, thereof) transfer from such Senator's clerk hire allowance to his Official Office Expense Account such amounts as the Senator shall determine, but not in excess of the balance as of the end of the month which precedes the month in which the transfer is made. Any amount so transferred to a Senator's Official Office Expense Account shall be available for expenses incurred during the calendar year in which occurred the close of the fiscal year in which the transfer is made. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office in writing, not later than January 15 of the calendar year immediately following the calendar year in which occurs the close of the fiscal year in which the transfer is to be made, and such transfer shall be made on such date (but not earlier than July 1, nor later than December 31, of the calendar year in which the close of such fiscal year occurs) as may be specified by the Senator.

"(B) Each Senator, at his election, may, during any calendar year (but not earlier than July 1 thereof) transfer from such Senator's Official Office Expense Account to his clerk hire allowance such amounts as the Senator shall determine, but not in excess of the balance as of the end of the month which precedes the month in which the transfer is made. Any amount so transferred to a Senator's clerk hire allowance during any calendar year shall be available for expenses incurred during the fiscal year which ends during the calendar year in which the transfer is made. Each Senator electing to make such a transfer shall advise the Senate Disbursing Office in writing, not later than September 30 of the calendar year in which the transfer is to be made, and such transfer shall be made on such date (but not earlier than July 1 of such calendar year) as may be specified by the Senator.".

(b) Subsection (b) of section 110 of Public Law 97-12 is amended to read as follows:

"(b) Transfer of funds by a Senator under subsection (a) of this section shall be made between (1) the allowance of such Senator in the account (which is within the appropriation account under the headings 'SENATE' and 'Salaries, Officers and Employees') for 'Administrative, Clerical, and Legislative Assistance to Senators', and (2) such Senator's Senatorial Office Expense Account within the appropriation account

for 'Miscellaneous Items' under the heading 'SENATE'.".

(c) The amendments made by subsection (a) shall be effective in the case of elections made with respect to transfers of funds to be available for expenses incurred after December 31, 1984.

SEC. 3. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1986, at his election, transfer not more than $30,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 176 and concur therein with an amendment, as follows: Delete the second full sentence on page 66 of the Senate engrossed amendments.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WALKER. Mr. Speaker, reserving the right to object, I would ask if someone could explain to me the nature of this amendment; it is not clear in the report what the amendment is.

Can someone explain to me what that is?

I yield to the gentleman from Massachusetts [Mr. CONTE] for an explanation.

Mr. CONTE. I thank the gentleman for yielding.

Mr. Speaker, this is simply some small housekeeping items over on the Senate side.

Mr. WALKER. Such as?

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, under my reservation, I yield to the gentleman.

Mr. WHITTEN. I thank the gentleman.

Mr. Speaker, my notes say that this deletes duplicated language in the Senate housekeeping provisions.

Mr. CONTE. It authorizes some transfers between their accounts; it is strictly technical.

Mr. WALKER. OK. It is strictly technical; there is no substantive involvement?

Mr. CONTE. No; it is just housekeeping.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 179: Page 27, after line 16, insert:

CAPITOL POLICE

CAPITOL POLICE BOARD

For an additional amount for the "Capitol Police Board", $13,000,000, to remain available until expended, to implement an improved security plan for the United States Capitol, after such plan shall have been approved by the Senate Committee on Rules and Administration, the Senate Committee on Appropriations, the House Committee on Appropriations, the House Committee on Public Works, and the House Committee on Administration: *Provided*, That such Board is authorized to transfer to the Architect of the Capitol so much of such funds as may be necessary to enable the Architect of the Capitol to carry out appropriate projects to implement such plan, and the Architect of the Capitol is authorized to obligate and expend the funds so transferred to him to carry out contracts entered into without regard to section 3709 of the Revised Statutes, as amended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 179 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

CAPITOL POLICE

CAPITOL POLICE BOARD

For an additional amount for the "Capitol Police Board", $13,000,000, to remain available until expended, to implement an improved security plan for the United States Capitol, after such plan shall have been approved by the Senate Committee on Rules and Administration, the Senate Committee on Appropriations, the House Committee on Appropriations, the House Committee on Public Works and Transportation, and the Committee on House Administration: *Provided*, That upon approval of the House and Senate Committees on Appropriations, such Board is authorized to transfer to the Architect of the Capitol so much of such funds as may be necessary to enable the Architect of the Capitol to carry out appropriate projects to implement such plan, and the Architect of the Capitol is authorized to obligate and expend the funds so transferred to him to carry out contracts entered into without regard to section 3709 of the Revised Statutes, as amended: *Provided further*, That before any such transfer of funds to the Architect of the Capitol takes place, the House and Senate Committees on Appropriations shall review and approve detailed documentation describing the scope, cost and construction schedule of the work to be accomplished by the transfer of funds.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to inquire on this amendment whether or not the funding that we have put in here is in fact the funding to build the fence around the Capitol Building?

I yield to the gentleman from Massachusetts [Mr. CONTE] for his response.

Mr. CONTE. I thank the gentleman for yielding to me.

Mr. Speaker, there is $13 million in the conference report but it was made very, very clear, while the conferees are including these funds in the bill, we are not mandating which security plan will be implemented. Questions about the details such as, "Will there be a fence around the Capitol or not?", are not resolved at all in this bill. Those questions will be dealt with by the appropriate authorizing committees and then, and only then, the Appropriations Committee will review the scope and cost estimates for approval, revision, or disapproval.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I thank the gentleman but my problem comes from this: It is my understanding that the leadership has already agreed upon the very security plan that we are discussing here. That the amount of money for that security plan included $13 million to build a fence around the Capitol Building.

All of a sudden, the Appropriations Committee comes forward with a request for $13 million. Now there is an awfully suspicious hookup that takes place in one's mind when we know that there has been approval of a plan and this funding exactly matches what is said is needed to implement that plan.

Mr. CONTE. If the gentleman will yield further, if the gentleman will look at page 68 of the conference report, it says:

* * * to remain available until expended, to implement an improved security plan for the U.S. Capitol, after such plan shall have been approved by the Senate Committee on Rules and Administration, the Senate Committee on Appropriations, the House Committee on Appropriations, the House Committee on Public Works and Transportation, and the Committee on House Administration.

So it has to be approved by all of those panels, and as one, as the chairman of that legislative committee

knows, as one who is very, very skeptical about going along with a fence around this Capitol, I would not agree with that unless I was sure that it was going to go through the proper process.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I appreciate that but the fact is, it seems to me that with this $13 million we lose control over the money in the process because once those people have approved it, it says nothing about having to come to the House of Representatives again or to the Senate for approval. Once all of those people have signed off, there is enough money here to implement the plan that we have all heard about and it appears to me as though we are determining the amount of money to be spent here with no further approval needed by either the House or the other body in order to bring about that plan after these committees have signed off.

So you are putting the signoff authority in the hands of a committee rather than in the Houses of the Congress. That gives this gentleman some concern.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Mr. Speaker, under my reservation of objection I yield to the gentleman from California.

Mr. FAZIO. I thank the gentleman for yielding to me.

Mr. Speaker, I want to reiterate the comments made by the gentleman from Massachusetts. We clearly do not make the final decision here today. In fact, I am a skeptic about the fencing of the Capitol grounds as well. We are in fact informed that the total security package being discussed would require a $22 million expenditure. So this is certainly not all that would be required if we went with most, if not all, of the suggestions that have been made by one or another entity as to how we would improve security here in the Capitol.

I want to call the Members' attention to the fact that there is no mention in this amendment of the accompanying joint statement of a fence or kiosks or any other component of the plan that has been discussed by the whips. We really do retain the authority of the Congress in the normal authorizing and appropriating committees by the language that was agreed to in conference.

I would reassure the gentleman that this is not the last stop. The committees of jurisdiction will retain their authority.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I thank the gentleman but is this gentleman not correct that if you are not one of the Members privileged to sit on the Senate Committee on Appropriations, the House Committee on Appropriations, the House Committee on Public Works and Transportation or the Committee on House Administration, once we have approved this language, you have lost effectively your vote in whether or not we implement a security plan. That those people are going to make the decision and from now on in no one in the House is going to have any say in the process.

We are effectively taking the jurisdiction away from Congress and putting it in the hands of a few committees of Congress to make this determination. Is that not a correct interpretation of this?

Mr. FAZIO. If the gentleman will yield, I think only you could correctly interpret this is to say that the Congress is supportive of additional security improvements in the Capitol area. We have not agreed yet within the normal process as to what those security improvements should be and we, therefore, give endorsement to the whips in terms of making improvements, but this does not sign off on any specific approach. That will be done, as I indicate, by the authorizing committees of jurisdiction and, as Mr. CONTE has said, a very skeptical Appropriations Committee.

Mr. WALKER. But we are giving a signoff to these committees to make that determination rather than allowing the House to make the determination.

Mr. FAZIO. Clearly these committees of jurisdiction have the most to say about the subject area, and have spent the most time studying it thus far. I think they can represent the views of the body very well.

Mr. WALKER. I agree with the gentleman on that, the problem being that we are turning over the final decision now to these committees with this determination. We are not going to allow the House Members to make that final determination. So that if you are not on one of these committees and there is a decision made to build a fence, and these committees sign off on that by a majority vote in each of these committees, the House will have lost its ability to have any say in this if we approve this amendment. Is that correct?

Mr. FAZIO. If the gentleman will yield further, I am not prepared to agree with the gentleman because, as I indicated earlier, it may well be that the cost of the security improvements in the Capitol will be far beyond this $13 million figure. The House retains its authority in the context of any additional funds that would be required. Certainly those would come before the body for approval I do not think we know for certain what recommendations will come before these authorizing and appropriating committees or what they will produce in terms of an outcome.

Mr. WALKER. Why was the $13 million figure picked? That just happens to be the figure that I have seen speculated about that would be the cost to build the fence. Why was $13 million used when that just happens to be that projected cost?

Mr. FAZIO. I would indicate that the fence is not expected to cost $13 million. As I understand it, that would cost well below that. In fact, that is why the next amendment which goes to the study done by the Architect of the Capitol is so important because that study may give us cost information on these items. That will help guide us in the future.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 180: Page 27, after line 17, insert:

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For an additional amount for "Office of the Architect of the Capitol, Salaries", $250,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 180 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For an additional amount for "Office of the Architect of the Capitol, Salaries", $250,000, to remain available until expended: *Provided*, That these funds shall be transferred to the appropriation "Capitol Grounds", and the Architect of the Capitol is authorized to obligate and expend funds so transferred only for the detailed design and cost estimates associated with the construction aspects of the congressional joint leadership proposal to improve security of the Capitol and the House and Senate office buildings.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 182: Page 28, after line 3, insert:

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For an additional amount for salaries and expenses under the headings "OTHER AGENCIES" and "LIBRARY OF CONGRESS", $1,000,000: Provided, That of such amount, $500,000 shall remain available until expended for the acquisition of books, periodicals, newspapers, and all other materials (including subscriptions for bibliographic services for the Library).

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 182 and concur therein with an amendment, as follows: In lieu of the first sum named in said amendment, insert the following: "$867,000".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

□ 1835

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 184: Page 28, after line 9, insert:

Of the approximately $750,000 in savings available from the Great Point Light, Nantucket, Massachusetts project, such sums as necessary shall be applied to the maintenance, sealing and preservation of other lighthouses in the Commonwealth of Massachusetts owned by the Coast Guard.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 184 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Out of available funds, the Coast Guard shall make available not more than $750,000 for maintenance, sealing and preservation of lighthouses in the Commonwealth of Massachusetts.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts?

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN] .

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 186: Page 28, strike out all after line 13 down to and including "contracts" in line 26 and insert "$80,000,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 186 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "$84,250,000 of which $2,000,000 shall be derived by transfer from "Coast Guard, Retired pay", and $2,250,000 shall be derived by transfer from "Coast Guard, Research, development, test, and evaluation": *Provided*, That, if by July 15, 1986, the Secretary of Transportation and the appropriate governmental authorities of Dade County, Florida, have not reached agreement on the execution of a full funding contract for the project identified in Section 320 of the Department of Transportation and Related Agencies Appropriations Act, 1986, the memorandum of understanding submitted by the Metro-Dade Transportation Administration to the Urban Mass Transportation Administration on June 6, 1986, shall be deemed approved by the Secretary and shall be binding on the Department of Transportation and Metropolitan Dade County upon acceptance by the appropriate Dade County governmental authorities: *Provided further*, That such memorandum of understanding shall be deemed approved by the Secretary notwithstanding 42 U.S.C. Sections 4321 through 4335 inclusive, and applicable regulations".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follow:

Senate amendment No. 187: Page 28, line 26, after "contracts" insert ": *Provided*, That, at a minimum, the air traffic control on-board employment level shall be 14,480 by September 30, 1986".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 187 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided further*, That, at a minimum, the air traffic control on-board employment level shall be 14,480 by September 30, 1986".

Mr. CONTE (during the reading). Mr. Speaker. I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN.]

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 192: Page 29, strike out lines 1 to 6.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 192 and concur therein with an amendment, as follows:

Restore the matter stricken, amended to read as follows:

RELATED AGENCY

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For an additional amount for "Panama Canal Commission, Operating expenses", $18,300,000, of which $17,181,000 may be available either for operating expenses or for vessel accident claims as authorized by Public Law 99-209, and $1,119,000 shall be available for payment to the Republic of Panama, pursuant to article XIII, paragraph 4(c) of the Panama Canal Treaty of 1977.

Mr. CONTE (during the reading). Mr. Speaker. I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts.

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 199: Page 30, after line 4, insert:

SEC. 4. None of the funds appropriated by this Act or any other Act shall be used to

implement temporary Internal Revenue Service Regulation section 1.274-5T or section 1.274-6T or any other regulation issued reaching the same result as, or a result to, such temporary regulations.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 199.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Ms. FIEDLER. Mr. Speaker, reserving the right to object——

The SPEAKER pro tempore. Does the Chair understand that the gentlewoman is reserving the right to object?

Ms. FIEDLER. Yes, Mr. Speaker. I would like to have the motion read.

The SPEAKER pro tempore. The Clerk will read.

The Clerk completed the reading of the motion.

Ms. FIEDLER. Mr. Speaker, reserving the right to object, I would like to ask the chairman of the committee to please make a full explanation to the House on the details of this particular issue.

The SPEAKER pro tempore. The Clerk has completed the reading of the motion.

The gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

I have moved that the House insist on its disagreement to the amendment of the Senate No. 199. As I pointed out earlier, we have to face many legislative provisions on the Senate side, and occasionally the only way to get them out is to bring them back in true disagreement.

We are opposed to this amendment, the Ways and Means Committee is opposed to it, but under the Senate rules they could add it. So we brought it back here so the Members could help us defeat it.

Ms. FIEDLER. Mr. Speaker, continuing to reserve the right to object, would the chairman make an explanation of the specific details of the disagreement with the Senate?

Mr. WHITTEN. What we do with the Senate amendment, which is legislation, is agree to disagree with them on it, and we brought it back so the Members could help us vote it down, take it out.

Ms. FIEDLER. This deals with the issue of comtemporaneous recordkeeping on the part of the IRS; is that not correct?

Mr. WHITTEN. That is correct.

Ms. FIEDLER. And if the House were to insist upon its position, is it not true then that that contemporaneous recordkeeping which the House voted overwhelmingly in opposition to would be permitted to be enacted into law in the event that it were insisted upon?

Mr. WHITTEN. I did not understand the gentlewoman, if I may ask.

Ms. FIEDLER. I am sorry; we are having a mutual problem here. Is it not true that in the event the House supported the chairman's motion, the contemporaneous recordkeeping which is required by this amendment would be put into effect as opposed to receding to the Senate's position, which would mean that that no longer would be required by the IRS?

Mr. WHITTEN. Let me say that I am not too familiar with the legislation, but the amendment is legislation, and we strike the amendment, so whatever the law is now would continue, since we strike this amendment, which would change it, so we ask that the Members help us defeat it.

Under our rules, this is against the rules; under the Senate rules, it is not. The only way we can get it out is to bring it back and vote it down. So my motion was to strike it, which leaves the existing law as it is.

Ms. FIEDLER. Mr. Speaker, continuing to reserve the right to object——

The SPEAKER pro tempore. The gentlewoman will be aware that the time is controlled by the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentlewoman from California [Ms. FIEDLER].

Ms. FIEDLER. I thank the gentleman for yielding time to me.

Mr. Speaker, I am quite concerned about this particular provision, this amendment, because I am concerned about the fact that we will require extensive recordkeeping on the part of the American citizens by the IRS even though the House voted overwhelmingly against this particular provision when it came to the House, and therefore, I am concerned about it being permitted to move into law when there has been an overwhelming statement against it, plus the overwhelming response from the public regarding this contemporaneous recordkeeping requirement. Therefore, I would like to have the opportunity to prevent this from becoming permanent law, since there appears to be not only strong opposition on the part of the House Members, but also strong opposition on the part of the citizenry of the country.

Mr. WHITTEN. If the gentlewoman will yield, I can appreciate her feelings in the matter, but that is another thing. What we have here is the Senate provision, and under the rules of the House, "* * * no bill or joint resolution carrying a tax or tariff measure shall be reported by any committee not having jurisdiction * * *." That clearly hits this.

The Senate provision will be stricken if my motion is approved. I would not attempt to interpret what the present law is. I agree with the gentlewoman, and I do not want any changes made in the direction which she is opposed to.

Mr. YATES. Mr. Speaker, will the gentlewoman yield,

Ms. FIEDLER. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentlewoman correctly pointed out that when this matter was before the House, at the time that the tax bill was considered, the House did overwhelmingly take the position that the gentlewoman says that it took.

As it happens, that matter is before the Senate now in the tax bill, and it is my understanding that the Committee on Ways and Means has demanded—not asked, but demanded—that the conferees strike this out so that they can consider it as a part of the conference on the tax bill.

As of just a few moments ago, in response to the housing question, where the legislative committee said that it was considering that matter, the Appropriations Committee withdrew its intervention; so is the Appropriations Committee attempting to withdraw its intervention in this instance as well to permit the legislative committee to attack this problem. And that is the reason that the chairman is attempting to carry out that action.

Ms. FIEDLER. Is it the gentleman's understanding then that there will be an opportunity for the House to work its will, which is overwhelmingly in opposition to this particular provision of the law, sometime in the near future?

Mr. YATES. The gentlewoman knows as well as I that Members have nothing to say about individual matters. The Ways and Means Committee can make that a matter for our consideration by singling it out, but ordinarily neither the gentlewoman nor I nor any Member of the House can do anything but accept what the Ways and Means Committee gives us as a package in the whole tax bill.

Ms. FIEDLER. I would simply like to say that were it not for the fact that this would hold up the entire bill, I would object, but I will not object, because of the implications on the balance of this particular bill. I would simply urge those Members who are

making decisions on this issue not to violate the intent of the House on this issue when the opportunity comes up for a real vote on it.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to compliment the gentlewoman from California (Ms. FIEDLER) for her graciousness in not asking for a record vote. If the motion was rejected, it would have really held up the whole supplement. As you heard earlier, they have curtailed civil jury duties in the Federal courts. I guess that is good for some defendants, but not the plaintiffs. Many other agencies and programs require immediate attention.

Let me just suggest to the gentlewoman from California that if the Committee on Ways and Means fails to act on this issue, she has the opportunity to offer a similar amendment to the Treasury-Postal Service appropriations bill soon after the Fourth of July recess. The House can work its will at that time. I agree with the gentlewoman from California on this issue.

Mr. WHITTEN. Mr. Speaker, my colleague, the gentleman from Illinois [Mr. ROSTENKOWSKI], on the Committee on Ways and Means, would have objected to this had we tried to take it. We assured him that we were going to move to strike it, which we have done.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 216: Page 31, strike out lines 6 to 9.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 216 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment insert the following:

SEC. 203. None of the funds in this Act, or any other Appropriations Act for fiscal year 1986, may be used to implement changes to OMB Circular A-21 made subsequent to February 11, 1986: *Provided*, That this provision shall expire 60 days after the date of enactment of this Act.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 218: Page 31, after line 25, insert:

SEC. 206. Notwithstanding section 514 of Public Law 99-178, amounts appropriated by that Act for Federal financial assistance to the Trust Territory of the Pacific Islands shall be available, as would have been available had the Compact of Free Association Act (Public Law 99-239) not been enacted, until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239). Thereafter, except insofar as the Compact of Free Association Act otherwise provides, such amounts shall be available only for the Republic of Palau, but only in amounts that such Republic would have received had the Compact of Free Association Act of 1985 not been enacted.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 218 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

SEC. 207. Notwithstanding section 514 of Public Law 99-178, amounts appropriated by that Act for Federal financial assistance to the Trust Territory of the Pacific Islands shall be available, as would have been available had the Compact of Free Association Act (Public Law 99-239) not been enacted, until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239). Thereafter, except insofar as the Compact of Free Association Act otherwise provides, such amounts shall be available only for the Republic of Palau, but only in amounts that such Republic would have received had the Compact of Free Association Act of 1985 not been enacted.

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

FOUR NEW DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-238)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations, and ordered to be printed:

(For message, see proceedings of the Senate of today, Tuesday, June 24, 1986.)

□ 1845

ANNUAL REPORT OF NATIONAL SCIENCE FOUNDATION, 1985—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Science and Technology:

(For message, see proceedings of the Senate of today, Tuesday, June 24, 1986.)

GENERAL LEAVE

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that all Members be permitted 5 legislative days in which to extend their remarks and to include therein extraneous material on, Senate Joint Resolution 365, which passed the House today.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CARDINAL OBANDO Y BRAVO IS THE REAL LEADER IN NICARAGUA

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARLENEE. Mr. Speaker, I'd like a recent editorial from the Washington Post written by Cardinal Obando Bravo to appear at this point in the RECORD.

Most Americans do not know who Obando Bravo is. He is Catholic. He is a cardinal. He is head of the Catholic Church in Nicaragua. He is the real leader of the majority of people in Nicaragua. The Marxist Sandinistas call him a Somocista, a rightwing. Somoza called him a Communist. The people call him leader.

Cardinal Obando Bravo opposes the Sandinistas allowing the Soviet Union and Cuba to use his country as base from which to terrorize, destabilize and export, and I quote, "a revolution without borders." He knows what the Sandinistas want to do to his country and he wants everyone else to know too.

It shouldn't surprise anyone, then, that the Sandinistas have confiscated the cardinal's Catholic newspaper, banned him from television, and clamped down on his travels and talks. Mr. Speaker, the Catholic Church has taken a lead in opposing the Marxist totalitarianism in Nicaragua. That opposition is lead by Cardinal Obando Bravo.

Mr. Speaker, you should recognize that. The Maryknoll nuns should recognize that. U.S. church groups should recognize that. Liberation theology is a fraud exploited by the Marxists for their totalitarian propaganda purposes.

Ortega may be the official leader of the Marxist Communists, but Cardinal Obando Bravo speaks for Nicaraguan people.

NICARAGUA: THE SANDINISTAS HAVE "GAGGED AND BOUND" US

(By Miguel Obando y Bravo)

Your message asking me for an article arrived on Sunday, April 13, just as I finished celebrating Mass, and my first decision was not to grant your request. I must not confuse my pastoral mission with others, however worthy, such as politics or journalism, which are different from the mission that our Lord has entrusted to me. But, I am not obligated to keep silent either. As a man, as a citizen, as a Christian and even as a bishop, I have certain duties that I must fulfill and these duties compel me to grant your request.

In the Mass I just celebrated, I had to announce, with great sorrow, that some of the offices of the Curia, occupied by the State Security Police since October 1985, had been confiscated by government order, despite the fact that they were built on land occupied by the Apostolic Nunciature.

In these offices there was a small printing press donated by the German Bishops' Conference, which was used to print our bulletin "Iglesia," a strictly intra-ecclesiastical publication. Both the press and the bulletin were seized by the State Security Police, along with all the files, including baptismal records and my own personal seal.

During the Mass, I read the pastoral letter which we, the bishops of Nicaragua, had written for Holy Week. The pulpit was now our only means of disseminating information, because the letter was totally censored and pulled from the pages of the newspaper La Prensa, the only private newspaper in the country, which attempted to publish it, but in vain. We believe that the reason for the censorship was that for the second time we called all Nicaraguans to reconciliation and dialogue as the only way to peace.

It was also announced that the Sunday bulletin with the prayers and texts for the day would not be available because it was confiscated and that my Sunday address would not appear in La Prensa, which, under the heading "The Voice of Our Pastor," had been published for many years in that newspaper, because it too had been censored, despite the special care taken to exclude from it anything that could serve as the remotest excuse for censorship.

"Radio Catolico," the only Catholic radio station had been closed by the State several months earlier. It was at this point, when the Church was gagged and bound, that your request arrived.

The reading for the day, taken from the Acts of the Apostles, was about an incident that pricked my conscience. The Sanhedrin sent for Peter and John, intending to force them into silence. "But Peter and John said to them in reply: 'Is it right in God's eyes for us to obey you rather than God? Judge for yourselves. We cannot possibly give up speaking of things we have seen and heard' " (Acts 4:18-20).

I felt then that I ought to tell the truth and speak as a prophet speaks, even at the risk of being a "voice that crieth in the wilderness." I would explain to those that have ears to hear the sensitive situation of our Church and the serious danger we place ourselves in simply by speaking out.

I am reminded of the incident related in the 22nd chapter of Matthew: "Then the Pharisees went away and agreed on a plan to trap him in his own words." The method they chose was to appeal hypocritically to His spiritual authority, saying: "Master, you are an honest man, we know; you teach in all honesty the way of life that God requires. . . . Give us your ruling on this: are we or are we not permitted to pay taxes to the Roman emperor?" Jesus was aware of their malicious intention and said to them: "You hypocrites! Why are you trying to catch me out?"

History repeats itself, and this is the situation of the Nicaraguan Bishops, a situation that we denounced in our recent pastoral letter. An appeal is made to our moral authority and to our position as spiritual leaders of the people. We are asked to make a statement on an extremely sensitive political matter, but the real objective is not to seek moral guidance, but rather to use our statement to manipulate opinion.

If Jesus had answered that taxes should be paid to Caesar, He would have become a collaborator of the occupying Roman imperialists. If He had answered no, he would have become a criminal and an agitator who violated the laws of the land. If He had not answered at all, He would have lost His authority in the eyes of the people.

We are asked to issue a statement against U.S. aid to the insurgents. The state-controlled communications media, the organizations of the masses in the service of the system and their allies in the so-called People's Church and the minister of Foreign Affairs, Father Miguel d'Escoto, are all clamoring for our statement. But, as I mentioned, it is not moral guidance that is sought, since on several occasions our Conference of Bishops has already stated that it was against any outside interference, whether by the United States or the Soviet Union. (Pastoral letter of April 22, 1984). The intention is to use the statement to manipulate.

While no effort was spared in suppressing our earlier statements, this statement would be given international publicity. Not for the faithful—but for the U.S. Congress. But we are not pastors to the Congress of the United States.

If we were to support military aid to the insurgents, we would be persecuted as traitors. If we opposed aid, we would be accused of taking sides, which would automatically disqualify us as pastors to all of the people. If we remain silent, our silence would be considered guilty, the silence of complicity.

It can be argued that the U.S. Conference of Bishops has more than once issued statements on political matters. But there is one big difference: the U.S. bishops' statements are made freely, they are addressed to their own people and their purpose is to provide moral guidance. They can make such statements in complete freedom, and they can give their reasons, with full access to the communications media. Their words are not censored, twisted or distorted. But above all, their statements do not make them criminals and traitors to their country.

In Nicaragua any dissident from the Sandinista cause can be placed outside the law through an ingenious distortion of the truth:

The government, with all the media under its control, has taken great pains to convince the outside world that what is happening is essentially a direct attack by the United States on our country. That there is a war, open or covert, between the two countries, and, consequently, any form of assistance to the enemy, whether material or moral, is punishable by law.

Along the same lines, and with equal insistence, it rejects both the idea that an East-West conflict has made of our country a disposable card, a pawn in the game between the superpowers, and the reality of a civil war: an enormous number of Nicaraguans oppose with all their might the turn taken by a revolution that has betrayed the hopes of the Nicaraguan people and even its own promises.

To accept the reality of an East-West conflict would be to admit that the Sandinistas are just as much the tools of Soviet interests as the insurgent forces are of the United States. If this is accepted, aid from the one is equally as deplorable as aid from the other. It would necessitate the withdrawal of the Soviet and Cuban advisors, as well as the withdrawal of all U.S. military aid.

If the reality of an internal conflict between Nicaraguans is admitted, the conclusion could not be avoided that the insurgent dissidents are now in the same position that the Sandinistas themselves once occupied, and, consequently, that they have the same right that the Sandinistas had to seek aid from other nations, which they in fact did request and obtain in order to fight a terrible dictatorship.

To accept this would mean giving the insurgents the title of "rebels," a title that the Sandinistas proudly gave to themselves in former days.

The only possible argument against this is that unlike the Somozan dictatorship, which the Nicaraguan people fought almost unanimously, this is a democratic government, legitimately constituted, which places the interests of the Nicaraguan people above any ideological struggle or international cause, seeks the welfare and peace of the people and enjoys the support of an overwhelming majority.

Unfortunately, this is not true either. To accept this as the indisputable truth is to ignore the mass exodus of the Miskito Indians, who, on numerous occasions, fled in the thousands, accompanied by their bishop, Salvador Schlaeffer. It is also to ignore the departure of tens of thousands of Nicaraguan men and women of every age, profession, economic status and political persuasion. It is to ignore that many of those who are leaders or participants in the counter-revolution were once leaders or members of the Sandinista front or were ministers in the Sandinista government. It is to ignore the lack of any justification for the most terrible violation of freedom of the press and of speech in the history of our country. It is to ignore the progressive and suffocating restriction of public liberties, under the cover of an interminable national emergen-

cy law and the continual violation of human rights. It is to ignore the expulsion of priests and the mass exodus of young people eligible for military service . . . None of this is true of a government that has the sympathy and general support of the people.

And this is what the Nicaraguan bishops wish to state:

"It is urgent and essential that the Nicaraguan people, free of foreign interference or ideologies, find a way out of the situation of conflict that our country is experiencing.

"We reaffirm today, with renewed emphasis, what we said in our pastoral letter on Easter Sunday, April 22, 1984:

"Foreign powers are taking advantage of our situation to promote economic and ideological exploitation. They view us as adjuncts to their own power, without respect for our persons, our history, our culture and our right to determine our own destiny.

"Consequently, most of the Nicaraguan people live in fear and are uncertain about the future. They feel deeply frustrated. They cry out for peace and freedom, but their voices go unheard, drowned out by militaristic propaganda on every side.

"We feel that any form of assistance, regardless of the source, which causes the destruction, suffering and death of our families, or which sows hatred and discord among the Nicaraguan people is reprehensible. To choose annihilation of the enemy as the only possible way to peace is inevitably to choose war."

The Church proposes reconciliation through dialogue as the only real solution, the only way to peace, and maintains, in the words of His Holiness John Paul II, in his visit to El Salvador in March 1983, that this dialogue ". . . is not a delaying tactic to strengthen positions prior to continuing a fight, but rather a sincere effort to respond, by seeking appropriate solutions to the anxiety, the pain, the weariness and the fatigue of the many who yearn for peace. The many who wish to live, to rise again from the ashes, to seek warmth in the smiles of children, free from terror and in a climate of democratic cooperation."

This is the text that was censored by the Sandinista government.

We are asked to issue a statement against aid, the Church and the position of our Conference of Bishops, which is trying to guide the Church through turbulent waters, more by the spirit than by the natural sciences and politics of man, which do not seem to hold any solution for such difficult problems. We are in a difficult situation, but we place our faith and trust in the Lord Jesus, the Prince of Peace and the Lord of History.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. LUKEN] is recognized for 5 minutes.

Mr. LUKEN. Mr. Speaker, I was called away on congressional business on Tuesday, June 24, but had I been here, I would have voted "aye" to H.R. 4060, the bill that requires COLA payments to Federal retirees to be made irrespective of any other legislation.

I was a cosponsor of this bill because I felt it was unreasonable that Social Security COLA's were maintained under Gramm-Rudman-Hollings Act, while Federal and postal employees were not given the same protection. Such disparate treatment of private sector versus civil service retirees defies any rational explanation and is patently unfair. H.R. 4060 has my full support.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. TORRES] is recognized for 5 minutes.

Mr. TORRES. Mr. Speaker, I was not present for rollcall vote 160 on Thursday, June 12, 1986. Had I been present on the House floor, I would have cast a "yea" vote for approval of the House Journal of Wednesday, June 11.

THE UNITED STATES AND MEXICO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 10 minutes.

Mr. DE LA GARZA. Mr. Speaker, I take this time to advise my colleagues that I have asked for a special order tomorrow to discuss our recent meeting with Mexican parliamentarians.

We have by law, by the way, only two of these between the United States and another country, with Canada and with Mexico.

We meet once a year, once in Mexico and once in the United States. We try to meet away from the capital cities so that we may be away from the pressures and the responsibilities that we have here.

This last meeting was the 26th consecutive meeting and we held it in Colorado Springs, CO. It was a very successful meeting with representatives from all the parties in the Mexican Government and, of course, here from our two parties, there was representation from the Senate and from the House.

We have done in the years that I have served as a member of this parliamentary or interparliamentary group, we have done yeoman work, if I might say so myself.

Some of the problems that have existed between Mexico and the United States that were very serious problems were first mentioned at one of these meetings, the Colorado salinity problem that was eventually resolved, the Chamizal question that eventually became a treaty between our two countries, the salinity of the Lower Rio Grande in my adjacent area was resolved, or the initiation of the resolution was made at this meeting.

I would like to mention this one specifically because it shows how two nations working together with good will and with frankness and in a direct and forceful manner can solve problems that at other times could not be solved in any other nation or adjoining nations.

There was a stream coming from the Mexican side of the river into the Rio Grande with millions of cubic feet of salt. It was ruining the water below that entry point to everyone down river on the Rio Grande. The solution that was arrived at by the engineers was that there be a dam placed before the water reached the Rio Grande River and that there be a channel built some 70 miles to the Gulf of Mexico on Mexican soil. It was paid for one-half by the Government of Mexico, one-fourth by the IBWC, the International Boundary and Water Commission, which would have been, of course, U.S. taxpayers' money, and the other fourth was paid by the water users on the United States side of the river below the dam.

This is what you can do. The solution was solely on the territory of one country. The benefit would be divided, one-half to the two countries and it was paid for one-half by one country and one-fourth by our country and one-fourth by the users.

We had at this meeting in Colorado discussions, of course, on various and sundry matters affecting our two countries.

One of the things that I personally derived from the discussions, both public and private, with our Mexican colleagues, and this I say so only as myself, speaking for no one but myself, they have tremendous problems in Mexico at this time, fiscal problems, budgetary problems. They have a tremendous external debt.

I would commend President de la Madrid for some of the steps which he has taken, austerity measures, in spite of potential harm to the very poor in Mexico, but steps that he was forced to take by imposition from the IMF or other areas to whom they owe their external debt; but the clear message that I perceived from our Mexican colleagues is that at this point in time they need friends. They need friends who can understand their plight, can understand their political situation and can understand their fiscal situation and that it is well and good for friends to be frank with each other, but that it is not a time to criticize or to say, "If you don't do this, or you don't do that, then your system is going to fail or any assistance we could give you won't be triggered."

I sort of sympathize with them that if we would look back to our country and to our time of need, let us say to a time when I can vaguely, but nontheless remember, the Great Depression, and if our friends from across the seas in other countries would have started criticizing President Roosevelt and saying, "No, that is the wrong approach," or, "No, you have to cut here or you have to cut there or you have possibly corruption in your Government," that is not the time that you appreciate that coming from a good friend.

So they looked annoyed with some of the actions taken in our country and they sort of—not questioned, because they know of our friendship, they never questioned our friendship, but they asked, "Why now, bringing out things perhaps if you had done earlier, it would have made us work better toward achieving this goal."

So that is one of the areas that we have to be very cautious in, because the problems of Mexico where I live become our problems and a failure of any system or a failure in any area of the economic sectors of Mexico right away impacts on our side of the border.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for letting me interrupt him.

The only thing that motivates me is that I want to thank the gentleman for his remarks. I have gotten up on two previous occasions on the House floor and have deplored the counterproductive statements that have been made by highly placed administrative officials, in which the reputation and the integrity of the head of state of the Mexican Government, President de la Madrid, has been questioned.

I deplored it very much because it is a slander. It is a libel.

President de la Madrid, as we know from the beginning, has earned a reputation of being one of the most soberminded and honest of administrators.

I just think that what the gentleman is saying is so important that I want to go on record as reinforcing and reaffirming and backing the gentleman up in the statements he is making. They are very valuable and I hope that many of our Members if they are not listening to us on the closed circuit, will read the RECORD tomorrow because what has happened here by these administrative badly advised spokesmen has been very, very detrimental to our relationships, not only with Mexico, but most of Latin America.

I want to thank the gentleman for his very, very perceptive report and the remarks he is making in connection with this situation.

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Mr. DE LA GARZA. I thank the gentleman, and I might mention to my colleagues that the gentleman has made valuable contributions in the Inter-Parliamentary Group and also here. I appreciate the fact that he has mentioned it because when a friend is in trouble, it is not right to tell them, "Well, your President is a crook," or "This fellow is a crook." They need help and they need constructive help.

I have seen many areas of cooperation. I mentioned one, that salinity problem, and we are cooperating in many other endeavors.

But what will the Central American nations that we are trying to win to our side, if we call it that, who want our friendship, what will the South American nations that need our help and admire our leadership, admire our system—one of them once called it "this intricate, mysterious thing called democracy that seems to work so well in the United States." That is what we are trying to instill in some of these people beyond our borders.

But to be calling every official, or to be challenging their veracity, or their morals, or their ability to function in government is no way to treat a friend and is no way to treat an ally.

I would hope that our colleagues would take heed of what we are trying to do here in that here we have a friend, here we have an ally. Yes; we have had problems. Yes; we have had very serious problems. We went to war. We invaded Mexico and we took two-thirds of their territory, and now when they are down on their knees, possibly going lower, we should not be leveling accusations at them. We should help in a fair and constructive way.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5052, MILITARY CONSTRUCTION APPROPRIATIONS, 1987

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-653) on the resolution (H. Res. 481) providing for the consideration of the bill (H.R. 5052) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4184, NATIONAL SCIENCE FOUNDATION AUTHORIZATIONS FOR FISCAL YEARS 1987 AND 1988

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-654) on the resolution (H. Res. 482) providing for the consideration of the bill (H.R. 4184) to authorize appropriations to the National Science Foundation for the fiscal years 1987 and 1988, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4259, GETTYSBURG NATIONAL MILITARY PARK ADDITION

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-655) on the resolution (H. Res. 483) providing for consideration of the bill (H.R. 4259) to amend the act of February 11, 1895 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2436, NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1985

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 99-656) on the resolution (H. Res. 484) providing for the consideration of the bill (H.R. 2436) to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan, which was referred to the House Calendar and ordered to be printed.

FREE TRADE MUST BE FAIR TRADE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, free trade must be fair trade. Last month's unemployment figures again reveal the startling evidence that America desperately needs a comprehensive, effective jobs and international trade policy. In May, our Nation lost a record 40,000 manufacturing jobs. Fifteen thousand of last month's job loss came in the automotive sector alone. That means that since 1984, America has seen 300,000 more good jobs disappear from our shores. Is someone at the White House tuned in?

Since the House passed the most far-reaching and balanced trade bill in decades last month, the administration has responded with cheap rhetoric and superficial analysis. Do they not see the dramatic erosion in our manufacturing base? Why are they so wedded to their do-nothing policy? Why is appeasement the game plan of the White House?

Mr. President, give America an opportunity to implement a real game plan to deal with our trade deficit. Give the House bill an honest review and work with us, not so we can say, "we told you so," but so America's auto, steel, textile, lumber, high tech, energy, and machine tool workers can say to their families—"I am going back to work." Let this be their Independence Day celebration.

LEAVE OF ABSENCE

By unanimous consent, leave of absense was granted to:

Mr. ECKERT of New York (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. DE LA GARZA, for 10 minutes, today.

(The following Members (at the request of Mr. DONNELLY) to revise and extend their remarks and include extraneous material:)

Mr. LUKEN, for 5 minutes, today.

Mr. TORRES, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DE LA GARZA, for 60 minutes, on June 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LUJAN, on amendment No. 91 to the conference report to H.R. 4515, in the House, today.

Mr. CONTE, on Senate amendment 93 to the conference report on H.R. 4515, in the House, today.

Mr. DONNELLY, after amendment No. 84, to the conference report to H.R. 4515, in the House, today.

(The following Members (at the request of Mrs. MEYERS of Kansas) and to include extraneous matter:)

Mr. CONTE in two instances.
Mr. LENT in two instances.
Mr. LAGOMARSINO.
Mr. CLINGER.
Mr. WORTLEY.
Mr. PARRIS.
Mr. BROOMFIELD in two instances.
Mr. BROYHILL.
Mr. BLILEY.
Mr. GRADISON.
Mr. MCKINNEY.
Mr. GILMAN in two instances.
Mr. COBEY.
Mr. COURTER in two instances.
Mr. BEREUTER.
Mr. DUNCAN.
Mr. SOLOMON.

(The following Members (at the request of Mr. DONNELLY) and to include extraneous matter:)

Mr. HAWKINS.
Mr. EVANS of Illinois.
Mr. COELHO.
Mr. GARCIA in two instances.
Mr. DELLUMS.
Mr. GORDON.
Mrs. SCHROEDER.
Mr. STARK.
Mr. SUNIA.
Mr. GAYDOS.
Mr. SMITH of Florida.
Mr. FLORIO.
Mr. LEVINE of California.
Mrs. BURTON of California.
Mr. MATSUI.
Mr. HAMILTON.
Mr. HEFTEL of Hawaii.
Mr. STUDDS.
Mr. HERTEL of Michigan.
Mr. KLECZKA.
Mr. DONNELLY.
Mr. GUARINI.
Mr. LIPINSKI.
Mr. SKELTON.
Mr. PEASE.
Mr. LELAND.
Mr. SCHUMER.
Mr. MICA.
Mr. DYSON.

SENATE BILL AND JOINT RESOLUTIONS REFERRED

A bill and joint resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 186. An act to further the development and maintenance of an adequate and well-balanced American merchant marine by requiring that certain mail of the United States be carried on vessels of U.S. registry; to the Committees on Merchant Marine and Fisheries and Post Office and Civil Service.

S.J. Res. 256. Joint resolution designating August 12, 1986 as "National Neighborhood Crime Watch Day"; to the Committee on Post Office and Civil Service.

S.J. Res. 274. Joint resolution to designate the weekend of August 1, 1986, through August 3, 1986, as "National Family Reunion Weekend"; to the Committee on Post Office and Civil Service.

S.J. Res. 362. Joint resolution to designate the week of December 14, 1986, through December 20, 1986, as "National Drunk and Drugged Driving Week"; to the Committee on Post Office and Civil Service.

S.J. Res. 363. Joint resolution to designate July 2, 1986, as "National Literacy Day"; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 297. Joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week," and

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following title:

S.J. Res. 188. Joint resolution to designate July 6, 1986, "National Air Traffic Control Day";

S.J. Res. 290. Joint resolution to designate July 4, 1986, as "National Immigrants Day";

S.J. Res. 346. Joint resolution to designate June 21, 1986, as "National Save American Industry and Jobs Day"; and

S.J. Res. 350. Joint resolution to designate 1987 as the "National Year of the Americas."

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 25, 1986, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3769. A communication from the President of the United States, transmitting information on the proposed amendment on Central America to the military construction appropriations bill; to the Committee on Appropriations.

3770. A letter from the Acting Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a copy of Presidential Determination No. 86-11, finding that the furnishing, sale and/or lease of defense articles and services to the Governments of Cape Verde, Mauritania, and Guinea-Bissau will strengthen the security of the United States and promote world peace, and a copy of the accompanying Memoranda of Justification; to the Committee on Foreign Affairs.

3771. A letter from the Deputy Assistant Secretary of Defense—Comptroller (Administration), transmitting notification of a new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3772. A letter from the Librarian of Congress, transmitting the fiscal year 1985 report of the activities of the Library of Congress, including the Copyright Office and the American Folklife Center, and accompanied by a copy of the Library of Congress Trust Fund Board annual report, pursuant to 2 U.S.C. 139, 20 U.S.C. 2106(b), and 2 U.S.C. 163; to the Committee on House Administration.

3773. A letter from the Director, Federal Bureau of Prisons, Department of Justice, transmitting the fiscal year 1985 annual report of the Board of Directors of Federal Prison Industries, Inc., pursuant to 18 U.S.C. 4127; to the Committee on the Judiciary.

3774. A letter from the Secretary of Commerce, transmitting the program development plan for antarctic living marine resources, pursuant to 16 U.S.C. 2441; to the Committee on Merchant Marine and Fisheries.

3775. A letter from the Secretary of Transportation, transmitting the seventh annual report on the progress made in administering the Highway Bridge Replacement and Rehabilitation Program through December 31, 1985, pursuant to 23 U.S.C. 144(i); to the Committee on Public Works and Transportation.

3776. A letter from the Administrator, General Services Administration, transmitting a revised fiscal year 1987 design prospectus, pursuant to Public Law 86-249, section 7(a) (86 Stat. 217); to the Committee on Public Works and Transportation..

3777. A letter from the Secretary of Health and Human Services, transmitting revised projections for the Federal Hospital Insurance and Federal Supplementary Medical Insurance Programs, pursuant to 42 U.S.C. 401(c)(2) 1395i(b)(2), 1395t(b)(2); to the Committee on Ways and Means.

3778. A letter from the Chairman, U.S. International Trade Commission, transmitting the 1985 annual report on the Commission's operation of the U.S. Trade Agreements Program, pursuant to Public Law 93-618, section 163(b); to the Committee on Ways and Means.

3779. A communication from the President of the United States, transmitting a copy of his remarks, which he had hoped to deliver to Members of the House of Representatives, concerning the importance of achieving a bipartisan approach with respect to providing assistance to the freedom fighters in Nicaragua (H. Doc. No. 99-237); Jointly, to the Committees on Appropriations, Foreign Affairs, the Permanent Select Committee on Intelligence, and Armed Services and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. Report on revised allocations of subdivision of budget totals for fiscal year 1986 (Rept. 99-651). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Army 9 mm. handgun contract with Beretta Corp. should be terminated (Rept. 99-652). Referred to the Committee of the Whole House on the State of the Union.

Mr. BONIOR: Committee on Rules. H. Res. 481. Resolution providing for the consideration of H.R. 5052, a bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes (Rept 99-653). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. H. Res. 482. Resolution providing for the consideration of H.R. 4184, a bill to authorize appropriations to the National Science Foundation for the fiscal years 1987 and 1988, and for other purposes (Rept. 99-654). Referred to the House Calendar.

Mrs. BURTON of California: Committee on Rules. H. Res. 483. Resolution providing for the consideration of H.R. 4259, a bill to amend the Act of February 11, 1895 (28 Stat. 651), to authorize the donation of certain non-Federal lands within the boundaries of the Gettysburg National Military Park (Rept. 99-655). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. H. Res. 484. Resolution providing for the consideration of H.R. 2436, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan (Rept. 99-656). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BOXER (for herself, Mr. EDWARDS of California, Ms. OAKAR, Mr. SAVAGE, Mr. DE LUGO, Mr. FRANK, Mr. FOGLIETTA, Mr. MARTINEZ, Mr. HEFTEL of Hawaii, Mr. FUSTER, Mr. LELAND, Mr. DYMALLY, Mr. NEAL, Mr. AKAKA, Mr. SCHEUER, Mr. TOWNS, and Mr. OWENS):

H.R. 5072. A bill to establish a Federal Council on Women; to the Committee on Government Operations.

By Mr. FLORIO (for himself), Mr. LENT, Mr. DINGELL, Mr. BROYHILL, Ms. MIKULSKI, Mr. RICHARDSON, Mr. SIKORSKI, Mr. TAUZIN, Mr. ECKART of Ohio, Mr. MARKEY, Mr. SCHEUER, Mr. BATES, Mr. WIRTH, Mr. WALGREN, Mr. RITTER, Mr. SCHAEFER, Mr. GEJDENSON, Mr. MARTINEZ, Mr. NELSON of Florida, Mr. MINETA, Mr. FOGLIETTA, Mr. MACKAY, Mr. ERDREICH, Mr. MILLER of California, Mr. BONER of Tennessee, Mr. TORRES, Mr. ATKINS, Mr. WHEAT, Mrs. ROUKEMA, Mr. MOLINARI, Mr. WEAVER, Mr. SAVAGE, Mr. RAHALL, Mr. VENTO, Mr. STUDDS, Mr. VISCLOSKY, Mr. COURTER, Mr. TORRICELLI, Mr. MCCLOSKEY, Mr. RANGEL, Mr. RUSSO, Mr. KASTENMEIER, Mr. MATSUI, Mr. LAFALCE, Mr. BUSTAMANTE, Mr. OWENS, Mr. SABO, Ms. KAPTUR, Mr. HAYES, Mr. BIAGGI, Mr. KLECZKA, Mr. GALLO, Mr. WHITEHURST, Mr. HORTON, Mr. REID, Mr. GILMAN, and Mr. ST GERMAIN):

H.R. 5073. A bill to amend the Toxic Substances Control Act to require the Environmental Protection Agency to promulgate regulations requiring inspection for asbestos-containing material in the Nation's schools, development of asbestos management plans for such schools, response actions with respect to friable asbestos-containing material in such schools, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GUARINI:

H.R. 5074. A bill to extend the effective period of the International Coffee Agreement Act of 1980 until October 1, 1989; to the Committee on Ways and Means.

By Mr. HARTNETT:

H.R. 5075. A bill to authorize the acquisition of certain real property located in Charleston, SC, for a tour boat facility for Fort Sumter National Monument, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. HUGHES (for himself, Mr. MCCOLLUM, Mr. MAZZOLI, Mr. MORRISON of Connecticut, Mr. FEIGHAN, Mr. SMITH of Florida, Mr. STAGGERS, Mr. LUNGREN, Mr. SHAW, Mr. GEKAS, and Mr. TRAFICANT):

H.R. 5076. A bill to renew authority to contract for the detection and treatment of drug-dependent offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. HUGHES (for himself and Mr. MCCOLLUM):

H.R. 5077. A bill to amend title 18 of the United States Code to prohibit certain methods of concealing the proceeds of crime, and for other purposes; jointly, to the Committees on the Judiciary, and Banking, Finance and Urban Affairs.

By Mr. LENT (for himself and Mr. DOWDY of Mississippi):

H.R. 5078. A bill to establish an asbestos information clearinghouse in the Environmental Protection Agency; to the Committee on Energy and Commerce.

By Mr. MARLENEE (for himself and Mr. WILLIAMS):

H.R. 5079. A bill to authorize the Secretary of the Interior to convey to the State of Montana by quitclaim deed certain lands in the Coal Creek State Forest, Flathead County, MT; to the Committee on Interior and Insular Affairs.

By Mr. SCHUMER:

H.R. 5080. A bill to amend part A of title IV of the Social Security Act to reduce the need for emergency assistance payments to provide temporary housing for destitute and homeless AFDC families, and the expense of such payments, by authorizing grants to States for the construction or rehabilitation of permanent housing that such families can afford with their regular AFDC payments; to the Committee on Ways and Means.

By Mr. SOLARZ (for himself and Mr. KEMP):

H.R. 5081. A bill to authorize additional economic and military assistance for the Philippines; to the Committee on Foreign Affairs.

By Mr. PEPPER (for himself, Mr. SMITH of Florida, Mr. RICHARDSON, and Mr. FASCELL):

H. Con. Res. 361. Concurrent resolution expressing the sense of the Congress respecting the admission of certain Cuban expolitical prisoners into the United States; to the Committee on the Judiciary.

By Mr. COLEMAN of Texas:

H. Res. 485. Resolution directing the President to provide to the House of Representatives certain information concerning activities of Lt. Col. Oliver North or any other member of the staff of the National Security Council in support of the Nicaraguan resitance; jointly, to the Committees on Foreign Affairs, Armed Services, and the Permanent Select Committee on Intelligence.

By Mr. SCHUMER:

H. Res. 486. Resolution calling for the elimination of funding of former Secretary General Kurt Waldheim's retirement allowance from the United Nations budget; to the Committee on Foreign Affairs.

By Mr. SENSENBRENNER (for himself, Mr. DREIER of California, Mr. KLECZKA, Mr. LIVINGSTON, Mr. PETRI, Mr. LELAND, Mr. LAGOMARSINO, Mr. WORTLEY, Mr. COBLE, Mr. HARTNETT, Mr. RUDD, Mr. NICHOLS, Mr. DANNEMEYER, Mr. BARTON of Texas, Mr. SILJANDER, Mr. STARK, Mr. LUJAN, Mr. JONES of North Carolina, Mr. SCHUMER, Mr. SOLOMON, Mr. DIOGUARDI, Mr. MACKAY, Mr. TAUKE, Mr. FRENZEL, Mr. WEBER, Mr. COELHO, Mr. GARCIA, Mr. COBEY, Mr. WALKER, Mr. GEKAS, Mr. MARTINEZ, Mr. MONSON, Mr. FEIGHAN, Mrs. VUCANOVICH, Mr. MCCAIN, Mr. KASICH, Mr. NIELSON of Utah, Mrs. JOHNSON, Mr. KINDNESS, Mr. FIELDS, Mr. SCHULZE, Mr. PASHAYAN, Mr. RINALDO, Mr. WHITTAKER, Mr. ROTH, Mr. DORGAN of North Dakota, Mr. GUNDERSON, Mr. DERRICK, Mr. PACKARD, Mr. MRAZEK, Mr. ARMEY, Mr. ROBERTS, Mr. TALLON, Mr. STENHOLM, Mr. RALPH M. HALL, Mr. HYDE, Mr. BLILEY, Mr. EVANS of Iowa, Mr. MCKINNEY, Mr. BONKER, and Mrs. SMITH of Nebraska):

H. Res. 487. Resolution impeaching Harry E. Claiborne, Chief Judge of the United States District Court for the District of Nevada, of high crimes and misdemeanors; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLILEY:

H.R. 5082. A bill for the relief of Valerie S. Ford; to the Committee on the Judiciary.

By Mr. BOUCHER:

H.R. 5083. A bill for the relief of Travis D. Jackson; to the Committee on the Judiciary.

By Mrs. SMITH of Nebraska:

H.R. 5084. A bill providing for the transfer of certain real property in Lincoln County, NE; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 479: Mr. STRANG.

H.R. 585: Mr. RALPH M. HALL, Mr. KLECZKA, Mr. BADHAM, and Mrs. LLOYD.

H.R. 891: Mr. WISE.

H.R. 893: Mr. DE LUGO and Ms. MIKULSKI.

H.R. 979: Mr. BOUCHER.

H.R. 1213: Mr. ANNUNZIO, Mr. DORNAN of California, Mr. HORTON, Mr. LOWERY of California, Mr. MARTINEZ, Mr. OBERSTAR, Mr. STENHOLM, Mr. WILLIAMS, and Mr. WOLPE.

H.R. 1402: Mr. RANGEL and Mr. NEAL.

H.R. 1474: Mr. OWENS.

H.R. 2700: Mr. DREIER of California.

H.R. 2741: Mr. WYDEN and Mr. SPRATT.

H.R. 2867: Mr. BARNES, Mr. DE LUGO, Mr. CROCKETT, Mr. LOWRY of Washington, and Mr. MANTON.

H.R. 2902: Mr. GARCIA.

H.R. 2952: Mr. DARDEN, Mr. GREEN, Mr. GOODLING, Mr. UDALL, Mr. VENTO, and Mr. ATKINS.

H.R. 3006: Mr. MINETA.

H.R. 3564: Mr. DORGAN of North Dakota.

H.R. 3646: Mr. HENDON.

H.R. 3647: Mr. HENDON.

H.R. 3648: Mr. HENDON.

H.R. 3649: Mr. HENDON.

H.R. 3894: Mr. DURBIN, Mr. MCKINNEY, Mrs. BENTLEY, Mr. CONYERS, Mr. SHARP, Mr. FROST, Mr. CARR, Mr. WISE, Mr. DINGELL, Mr. COATS, and Mr. STRANG.

H.R. 4041: Mr. LAGOMARSINO and Ms. KAPTUR.

H.R. 4142: Mr. MCCURDY, Mrs. BYRON, Mr. TOWNS, Mr. COBLE, Mr. SWINDALL, Mr. EMERSON, Mr. SWEENEY, Mr. RITTER, Mr. COURTER, Mr. SABO, Mr. SKEEN, Mr. DICKS, Mr. ROTH, Mr. DE LUGO, Mr. RAHALL, Mrs. SCHNEIDER, Mr. LIPINSKI, Mr. TALLON, Mr. ROWLAND of Georgia, Mr. MOORHEAD, Mrs. VUCANOVICH, Mr. DERRICK, and Mr. PORTER.

H.R. 4153: Mr. WISE, Mr. SEIBERLING, Mr. RODINO, Mr. KASTENMEIER, Mr. JONES of Oklahoma, Mr. MINETA, Mr. COELHO, Mr. MICA, Mr. MILLER of California, Mr. HUGHES, Mr. BONIOR of Michigan, Mr. WRIGHT, Mr. PRICE, Mr. RUSSO, Mr. GONZALEZ, Mr. LEVINE of California, Mr. GUARINI, Ms. KAPTUR, Mrs. BOGGS, Mr. GIBBONS, Mr. BENNETT, Mr. HOWARD, Mr. MONTGOMERY, Mr. CHAPMAN, Mr. LEVIN of Michigan, Mr. MITCHELL, Mr. GEJDENSON, Mr. RICHARDSON, Mrs. KENNELLY, Mr. DURBIN, Mr. ASPIN, Mr. FRANK, Mr. HAMILTON, Mr. DARDEN, Mr. JONES of North Carolina, Mrs. SCHROEDER, and Mr. BARNES.

H.R. 4194: Mr. ATKINS.

H.R. 4280: Mr. MARTINEZ.

H.R. 4299: Mr. CAMPBELL and Mr. SWINDALL.

H.R. 4300: Mr. ATKINS, Mr. AUCOIN, and Mr. CROCKETT.

H.R. 4311: Mr. TORRES, Mr. GARCIA, Mr. HAYES, Mr. SWIFT, and Mr. HAWKINS.

H.R. 4338: Mr. TRAXLER, Mr. FISH, Mr. BATES, Mr. COYNE, and Mr. KLECZKA.

H.R. 4344: Mr. SWINDALL and Mr. FAWELL.

H.R. 4424: Mr. ACKERMAN.

H.R. 4425: Mr. WHITEHURST and Mr. LIVINGSTON.

H.R. 4430: Mrs. BURTON of California and Mr. KILDEE.

H.R. 4433: Mr. MOORE.

H.R. 4439: Mr. LEWIS of Florida, Mr. SPENCE, Mr. LUNGREN, Mr. SMITH of New Jersey, and Mr. STRANG.

H.R. 4469: Mr. KOLTER, Ms. OAKAR, Mr. OWENS, Mr. FRANK, and Mr. NEAL.

H.R. 4482: Mr. DERRICK, Mr. SLAUGHTER, Mr. HOPKINS, Mr. HYDE, Mr. ROWLAND of Georgia, Mr. WILSON, and Mr. CARR.

H.R. 4512: Mr. HENDON and Mr. SCHUETTE.

H.R. 4559: Mr. MONTGOMERY.

H.R. 4625: Mr. JENKINS.

H.R. 4638: Mr. HAMMERSCHMIDT, Mr. GINGRICH, Mr. TRAFICANT, and Ms. SNOWE.

H.R. 4650: Mr. FLORIO.

H.R. 4655: Mr. BOUCHER and Mr. FASCELL.

H.R. 4660: Mr. MACKAY.

H.R. 4671: Mr. HOWARD, Mr. CARR, Mr. RANGEL, Mr. VOLKMER, Mrs. ROUKEMA, Mr. MATSUI, and Mr. HOPKINS.

H.R. 4681: Mr. WEAVER.

H.R. 4714: Mr. SKELTON.

H.R. 4715: Mr. HARTNETT, Mr. TALLON, Mr. DUNCAN, Mr. ROBINSON, Mr. GREGG, Mr. BROWN of Colorado, Mr. ANTHONY, Mr. MONTGOMERY, Mr. SWEENEY, Mrs. SMITH of Nebraska, Mr. FOLEY, Mr. WIRTH, Mr. VANDER JAGT, Mr. BEREUTER, Mr. MATSUI, Mr. TAUKE, and Mr. WOLPE.

H.R. 4734: Mr. EDWARDS of California and Mr. HUGHES.

H.R. 4766: Mr. STRANG and Mr. RITTER.

H.R. 4812: Mr. HYDE and Mrs. BYRON.

H.R. 4818: Mrs. BENTLEY, Mr. BEVILL, Mr. BOLAND, Mr. BONIOR of Michigan, Mr. CARR, Mr. CHAPPIE, Mr. DANIEL, Mr. DE LA GARZA, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. ECKART of Ohio, Mr. FLORIO, Mr. FOGLIETTA, Mr. HAWKINS, Mr. HAYES, Mr. JACOBS, Mr. JONES of Tennessee, Ms. KAPTUR, Mr. LUKEN, Mr. MARTINEZ, Ms. MIKULSKI, Mr. MITCHELL, Mr. MOAKLEY, Mr. NATCHER, Mr. RAHALL, Mr. REID, Mr. ROE, Mr. ROSE, Mr. SMITH of Florida, Mr. TOWNS, Mr. TRAFICANT, Mr. WHITEHURST, and Mr. YATRON.

H.R. 4825: Mr. EDGAR, Mr. MATSUI, and Mr. MORRISON of Connecticut.

H.R. 4827: Mr. RODINO and Mr. HUGHES.

H.R. 4838: Mr. LANTOS.

H.R. 4853: Mr. SMITH of Iowa.

H.R. 4871: Mrs. SCHROEDER, Mr. WILSON, Mr. MINETA, Mr. HORTON, and Mr. NEAL.

H.R. 4872: Mr. MINETA.

H.R. 4876: Mr. CAMPBELL, Mr. VOLKMER, Mr. COBEY, Mr. JONES of North Carolina, and Mr. LEWIS of Florida.

H.R. 4877: Mr. SMITH of Florida, and Mr. DE LUGO.

H.R. 4882: Mr. PERKINS, Mr. HAYES, Ms. SNOWE, Mr. GRAY of Illinois, Mr. LEVINE of California, Mr. WOLPE, and Mr. ACKERMAN.

H.R. 4933: Mr. MURPHY, Mr. KOLTER, Mr. MCDADE, Mr. Gaydos, Mr. TRAFICANT, Mrs. VUCANOVICH, and Mr. ECKART of Ohio.

H.R. 4934: Mr. MURPHY, Mr. KOLTER, Mr. KANJORSKI, Mr. STOKES, Mr. FRANK, Mr. FUSTER, Mr. WALGREN, Mr. FAZIO, Mr. MCDADE, Mr. WISE, Mr. GEJDENSON, Mr. MRAZEK, Mr. LAGOMARSINO, Mr. SHUSTER, Mr. OLIN, Mr. GAYDOS, Mrs. BENTLEY, Mr. GEKAS, Mr. KASTENMEIER, Mr. TRAFICANT, Mr. MATSUI, Mrs. VUCANOVICH, Mr. MOODY, and Mr. ECKART of Ohio.

H.R. 4935: Mr. SEIBERLING, Mr. LAFALCE, Mr. CROCKETT, Mr. STUDDS, Mr. BROWN of California, Ms. KAPTUR, Mr. LELAND,, Mr. OWENS, Mr. GARCIA, Mr. EDWARDS of California, Mr. FOGLIETTA, Mr. HAWKINS, Mr. MORRISON of Connecticut, and Mr. MARTINEZ.

H.R. 4953: Mr. MCKINNEY.

H.R. 4984: Mr. SMITH of Iowa.

H.R. 5035: Mr. DINGELL, Mr. MCGRATH, Mr. HORTON, Mr. LANTOS, Mr. WEISS, Mr. DORNAN of California, Mr. KLECZKA, Mrs. BENTLEY, Mr. SKELTON, Mr. HUGHES, Mr. MATSUI, Mr. BIAGGI, Mr. SAVAGE, Mr. MARTINEZ, and Mr. BERMAN.

H.R. 5050: Mr. WYDEN, Mr. AKAKA, Mr. STUDDS, Mr. COELHO, Mr. CARR, Ms. SNOWE, Mr. DYSON, Mr. DIXON, and Mr. HUGHES.

H.J. Res. 7: Mr. BARTLETT.

H.J. Res. 127: Mr. BEVILL Mr. DANNEMEYER, Mr. YOUNG of Missouri, Mr. ANTHONY, Mr. SAVAGE, Mr. FEIGHAN, Mr. BROOKS, and Mr. STENHOLM.

H.J. Res. 231: Mr. CONTE.

H.J. Res. 524: Mr. DE LUGO, Mr. MRAZEK, Mr. BEVILL, Mr. DE LA GARZA, Mr. SHUMWAY, Mr. BUSTAMANTE, Mr. WILSON, Mr. MCCAIN, Mr. LANTOS, Mr. YOUNG of Florida, Mrs. BENTLEY, Mr. LEHMAN of Florida, Mr. DARDEN, Mr. LIPINSKI, Mr. HORTON, Mr. ROE, Mr. MARTINEZ, and Mr. TORRICELLI.

H.J. Res. 547: Mr. SHUMWAY, Mr. FEIGHAN, Mr. COUGHLIN, Mr. SCHUMER, Mr. WOLF, Mr. CONYERS, Mr. HARTNETT, Mr. HAWKINS, Mr. LAGOMARSINO, Mr. NEAL, Mr. ORTIZ, Mr. SKELTON, Mr. STOKES, Mr. DOWDY of Mississippi, Mr. BRYANT, Mr. EDGAR, Mr. MURTHA, Mr. MACKAY, Mr. TALLON, Mr. WISE, Mr. FUQUA, Mr. HALL of Ohio, Mr. MOLINARI, and Mr. VALENTINE.

H.J. Res. 558: Mr. DIOGUARDI.

H.J. Res. 577: Mr. MANTON, Mr. STUMP, Mr. NATCHER, Mr. FLIPPO, Mr. FUSTER, Mr. MONTGOMERY, Mr. HARTNETT, Mr. TRAXLER, Mr. WAXMAN, Mr. HEFNER, Mr. REGULA, Mr. HOWARD, Mr. AKAKA, and Mr. BATES.

H.J. Res. 617: Mr. SABO, Mr. DE LUGO, Mr. HEFTEL of Hawaii, Mr. RINALDO, Mr. GRAY of

Illinois, Mr. TRAXLER, Mr. TAUKE, Mr. SUNIA, Mr. EVANS of Illinois, Mr. DYMALLY, Mr. BARNES, Mr. FEIGHAN, Mr. SAVAGE, Mr. FUQUA, Mr. CONTE, and Mr. MORRISON of Connecticut.

H.J. Res. 623: Mr. VOLKMER, Mr. WATKINS, Mr. CLAY, and Mr. BATES.

H.J. Res. 631: Mr. HOWARD, Mr. BILIRAKIS, Mr. DOWNEY of New York, Mr. TRAFICANT, Mr. OXLEY, Mr. LAGOMARSINO, Mr. GREEN, Mr. KLECZKA, Mr. FUSTER, Mr. HORTON, Mr. FEIGHAN, Mr. COATS, Mr. SCHEUER, Mr. BERMAN, Mr. GEJDENSON, Mr. BENNETT, Mr. ROE, Mr. DE LUGO, Mr. MATSUI, Mr. OWENS, Mr. MARTINEZ, Mr. AKAKA, Mr. SAVAGE, Mr. MCGRATH, Mr. BIAGGI, Mr. BRYANT, Mr. SMITH of New Hampshire, Ms. KAPTUR, Mr. LEVINE of California, Mr. DORNAN of California, Mr. LEVIN of Michigan, Mr. YOUNG of Florida, Mr. MONSON, and Mr. RUSSO.

H.J. Res. 642: Mr. SPRATT, Mr. UDALL, Mr. ROE, Mr. CAMPBELL, Mr. OWENS, Mr. MORRISON of Connecticut, Mr. QUILLEN, and Mr. NICHOLS.

H.J. Res. 647: Mrs. HOLT.

H.J. Res. 664: Mr. BEDELL, Mrs. BENTLEY, Mr. BONER of Tennessee, Mr. BRYANT, Mr. CONTE, Mr. CONYERS, Mr. DANIEL, Mr. DANNEMEYER, Mr. DE LUGO, Mr. DIOGUARDI, Mr. DORNAN of California, Mr. DOWDY of Mississippi, Mr. DYMALLY, Mr. FASCELL, Mr. FAZIO, Mr. FOGLIETTA, Mr. FROST, Mr. GRAY of Illinois, Mr. GUARINI, Mr. HEFNER, Mr. HENRY, Mrs. HOLT, Mr. HORTON, Mr. HUNTER, Mr. JENKINS, Mrs. JOHNSON, Mr. MACK, Mr. MICHEL, Mr. ORTIZ, Mr. O'BRIEN, Mr. PRICE, Mr. SILJANDER, Mr. RODINO, Mr. ROE, Mr. ROBERTS, Mr. REGULA, Mr. SKEEN, Mr. SAVAGE, Mr. SUNIA, Mr. TALLON, Mr. TAUKE, Mr. BEVILL, Mr. TOWNS, Mr. HOWARD, Mr. MCCOLLUM, Mr. SPENCE, Mr. STRATTON, Mr. GILMAN, Mr. LEACH of Iowa, Mr. EMERSON, Mr. SUNDQUIST, Mr. DUNCAN, Mr. STRANG, Mr. CHANDLER, Mr. DENNY SMITH, Mr. BARTLETT, Mr. DEWINE, Mrs. VUCANOVICH, Mr. SCHUETTE, Mr. STUMP, Mr. BEREUTER, Mr. FRENZEL, Mr. COBLE, Mr. COATS, Mrs. MEYERS of Kansas, Mr. MCCAIN, Mr. MCMILLAN, Mr. EDWARDS of Oklahoma, Mr. CHENEY, Mr. CALLAHAN, Mr. SHELBY, Mr. WYLIE, Mr. WHITTAKER, Mr. ROTH, Mr. GREEN, Mr. LEWIS of California, Mr. LUNGREN, Mr. QUILLEN, Mr. LUJAN, Mr. OBEY, Mr. DWYER of New Jersey, Mr. HILLIS, Mr. MYERS of Indiana, Mr. MCGRATH, Mr. BOEHLERT, Mr. GINGRICH, Mr. KINDNESS, Mr. GREGG, Mr. GUNDERSON, Mrs. SMITH of Nebraska, Mr. GOODLING, Mrs. ROUKEMA, Mr. BADHAM, Mr. YOUNG of Florida, Mr. BILIRAKIS, Mr. DICKS, Mr. SHUSTER, Mr. LOEFFLER, Mrs. SCHNEIDER, Mr. COBEY, Mr. WOLF, Mr. TAYLOR, Mr. SNYDER, Mr. LENT, Mr. LOWERY of California, Mr. KOLBE, Mr. ZSCHAU, Mr. MCKERNAN, Mr. WORTLEY, Mr. KASICH, Mr. KRAMER, Mr. DAVIS, Mr. OXLEY, Mr. MCCANDLESS, Mr. YOUNG of Alaska, Mr. SCHULZE, Mr. ARCHER, Mr. HARTNETT, Mr. LIVINGSTON, Mr. CARPER, Mr. RIDGE, Mr. WEBER, Mr. MCEWEN, Mr. KOLTER, Mr. COYNE, Mr. GALLO, Mr. BOULTER, Mr. LUNDINE, Mr. RICHARDSON, Mr. BOUCHER, Mr. LELAND, Mr. MOORE, Mr. STENHOLM, Mr. COELHO, Mr. SKELTON, Mr. STALLINGS, Mr. SMITH of Florida, Mr. REID, Mr. THOMAS of California, Mr. HILER, Mr. SCHAEFER, Mr. ROBERT F. SMITH, Mr. DELAY, Ms. FIEDLER, Ms. SNOWE, Mr. ROGERS, Mr. DAUB, Mr. SWINDALL, Mr. BROOMFIELD, Mr. NIELSON of Utah, Mr. DREIER of California, Mr. SMITH of Iowa, Mr. ROYBAL, Mr. TAUZIN, Mr. WIRTH, Mr. LEVINE of California, Mr. DE LA GARZA, Mr. BARNARD, Mr. MATSUI, Mr. THOMAS of Georgia, Mr. DURBIN, Mrs. KENNELLY, Mr. GEJDENSON, Mr. MRAZEK, Mr. COLEMAN of Texas, Mr. CHAPMAN, Ms. MIKULSKI, Mr. HOYER, Mr. ST GERMAIN, Mr. ROSE, Mr. PANETTA, Mrs. [BOGGS, Mr. WEISS, Mr. AKAKA, Ms. OAKAR, Mr. SOLARZ, Mr. RUDD, Mr. VANDER JAGT, Mr. LOTT, Mr. BUSTAMANTE, Mr. BATEMAN, Mr. SWEENEY, Mr. HERTEL of Michigan, Mrs. LLOYD, Mr. DYSON, Mr. SISISKY, Mr. RAY, Mr. SPRATT, Mr. DARDEN, Mrs. BYRON, Mr. MAVROULES, Mr. CARNEY, Mrs. SCHROEDER, Mr. HUTTO, Mr. BURTON of Indiana, Mr. WALKER, Mr. AUCOIN, Mr. MANTON, Mr. ANNUNZIO, Mr. FRANK, Mr. SMITH of New Jersey, Mr. SAXTON, Mr. DICKINSON, Mr. MOORHEAD, Mr. LIPINSKI, Mr. HYDE, Mr. COMBEST, Mr. PACKARD, Mr. YATES, Mr. GIBBONS, Mr. GONZALEZ, Mr. NATCHER, Mr. PERKINS, Mr. LAGOMARSINO, Mr. BROWN of Colorado, Mr. RUSSO, Mr. BRUCE, Mr. HAYES, Mr. SHARP, Mr. LOWRY of Washington, Mr. SHUMER, Mr. GRAY of Pennsylvania, Mr. ALEXANDER, Mr. RALPH M. HALL, Mr. JACOBS, and Mr. MACKAY.

H. Con. Res. 233: Mr. TORRICELLI.

H. Con. Res. 244: Mr. AUCOIN, Mr. BARNES, Mr. BOUCHER, Mr. BROWN of California, Mr. DASCHLE, Mr. GLICKMAN, Mrs. KENNELLY, Mr. MCKINNEY, Mr. MARKEY, Mr. MINETA, Mr. RANGEL, and Mr. TORRES.

H. Con. Res. 330: Mrs. ROUKEMA.

H. Con. Res. 331: Mr. PENNY, and Mr. ARMEY.

H. Con. Res. 353: Mr. FAUNTROY, Mr. MARTINEZ, Mr. SOLARZ, Mr. DYMALLY, Mr. KOSTMAYER, Mr. WEISS, Mr. FROST, Mr. GEJDENSON, Mr. LANTOS, Mr. LEVINE of California, Mr. BERMAN, Mr. ACKERMAN, Mr. UDALL, Mr. FEIGHAN, Mr. WOLPE, Mr. MACKAY, Mr. LEACH of Iowa, Mr. GARCIA, Mr. SMITH of Florida, Mr. BONKER, Mr. TORRICELLI, and Mr. LUNDINE.

H. Res. 373: Mr. STUDDS, Ms. SNOWE, Mr. GILMAN, and Mr. BIAGGI.

H. Res. 404: Mr. STRANG.

H. Res. 461: Mr. PEPPER, Mr. MARTINEZ, Mr. FIELDS and Mr. PICKLE.

H. Res. 468: Mr. TAUZIN, Mr. KILDEE, Mr. FRANK, Mr. LEVIN of Michigan, Mr. REID, Mr. IRELAND, Mr. HENDON, Mrs. SMITH of Nebraska, Mr. CROCKETT, Mr. COELHO, Mr. SAVAGE, and Mr. BERMAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

403. By the SPEAKER: Petition of Mr. Grover A. Perrigue, III, of Pasadena, CA, relative to the national insurance crisis; to the Committee on the Judiciary.

404. Also, petition of the Council of the Village of Glenwillow, OH, relative to recognition of "Save American Industry/Jobs Day;" to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4613

By Mr. ENGLISH:

—On page 12 following line 22, insert a new subparagraph (e) as follows:

"(e) Notwithstanding any other provisions of this Act or any rule, regulation or order of the Commission, any state may adopt any statute, rule, regulation or order to prohibit, in that state, the offer, sale, or confirmation of any transaction described in subsection (a) and permitted under subsection (b). Notwithstanding any other provision of this Act, any state may enforce any state statute, rule, regulation or order adopted in accordance with this subsection against any person in a state court or administrative proceeding."

H.R. 5052

By Mr. HAMILTON:

—Strike out title II (as added to the bill pursuant to the rule) and insert in lieu thereof the following:

TITLE II

UNITED STATES POLICY IN CENTRAL AMERICA

SEC. 201. (a) The primary objectives of United States policy in Central America should be—

(1) to preserve the security of the United States;

(2) to prevent the Soviet Union and its allies from seeking to destabilize the region or to develop or deploy an offensive military capability which directly threatens the United States;

(3) to achieve peace and reconciliation;

(4) to promote stability and economic development;

(5) to promote the observance of human rights and the strengthening of democratic processes; and

(6) to live at peace with Nicaragua so long as Nicaragua lives at peace with its neighbors.

(b) United States strategy for achieving the objectives stated in subsection (a) should include—

(1) an emphasis on seeking a negotiated, regional settlement;

(2) respect for the independence and territorial integrity of all nations;

(3) a clear commitment, through appropriate types and levels of military and economic assistance, to assist the nations of Central America in building and sustaining viable, democratic societies capable of withstanding aggression and subversion and of providing their people with an opportunity for better lives; and

(4) consistent diplomatic support on behalf of the observance of human rights by groups and governments, and support for democratic institutions throughout the region, in recognition of the fact that subversion feeds on repression.

(c) In furtherance of the objectives stated in subsection (a), United States policy with respect to Nicaragua should include the following:

(1) A commitment to preserve the security of the United States by preventing the Soviet Union and its allies from developing or deploying an offensive military capability in Central America that directly threatens the United States.

(2) A commitment to protect the security and territorial integrity of any nation of Central America in conformance with the Charter of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance, which provide for collective action.

(3) Pursuit of a regional settlement through all diplomatic avenues, including—

(A) effective support for the Contadora process, which is addressing the questions of peace and security (including mechanisms for verification and enforcement) and internal reconciliation and political pluralism;

(B) giving priority to obtaining a ceasefire in Nicaragua;

(C) renewing bilateral talks with Nicaragua; and

(D) encouraging direct talks among the parties to the conflict in Nicaragua.

(4) The provision of incentives to Nicaragua if the Government of Nicaragua agrees to a ceasefire with its opponents, removes foreign military advisors, agrees not to provide material support for insurgencies and agrees to appropriate monitoring procedures under Contadora auspices to verify such agreement, respects human rights and the independence of the media, and makes progress toward national reconciliation and a pluralistic democratic system. Incentives should be structured to enable the United States to respond to positive steps by Nicaragua. These incentives could include—

(A) the suspension of United States military exercises in the region;

(B) the termination of the national emergency with respect to Nicaragua which the President declared in Executive order 12513 on May 1, 1985, and termination of the United States embargo against Nicaragua instituted pursuant to that Executive order;

(C) the resumption of normal trade, including the resumption of nondiscriminatory trade treatment (MFN status), the restoration of benefits under the Generalized System of Preferences, and the restoration of Nicaragua's sugar quota;

(D) the provision of bilateral and multilateral assistance for Nicaragua and the provision of technical assistance, help in agriculture and health, and volunteer services; and

(E) the creation of a Central American Development Organization (in accordance with section 464 of the Foreign Assistance Act of 1961) in which Nicaragua could participate.

(5) The imposition of further sanctions against Nicaragua should it intensify or expand activities hostile to United States interests and to peace and security within Central America. Such sanction could include obtaining the cooperation of our allies in Western Europe and Japan, now Nicaragua's largest trading partners, in—

(A) cutting trade with Nicaragua;

(B) stopping bilateral assistance and blocking multilateral assistance to Nicaragua;

(C) imposing comprehensive economic sanctions against Nicaragua;

(D) breaking diplomatic relations with Nicaragua; and

(E) working with our Latin American allies, especially those in Central America, to isolate Nicaragua in regional affairs.

Such sanctions can only be effective if taken together with our allies. Unilateral sanctions have not and will not be effective.

SUPPORT FOR THE CONTADORA PROCESS

SEC. 202. (a) The Congress reaffirms its support for the Contadora initiatives and processes, particularly the principles for peace outlined in the Document of Objectives of September 9, 1983, and the Carabalieda Declaration of January 12, 1986. These include termination of support for irregular forces in the region, termination of support for insurrectionist movements in the region, negotiated limits on arms acquisitions, negotiated limits on international military maneuvers, progressive reduction toward elimination of foreign military advisers, effective steps toward national reconciliation and observance of human rights, commitment by the Central American nations to avoid aggression, and promotion of regional integration and cooperation.

(b) In accordance with the Carabelleda Declaration of January 12, 1986 (which was signed by the foreign ministers of all four Contadora nations and all four Contadora Support Group nations), and the Guatemala Declaration of January 16, 1986 (which was signed by all five Central American nations), the Congress urges the President to resume without preconditions direct bilateral talks with Nicaragua, which were suspended by the United States in January 1985.

(c) The Congress calls upon the President, in order to show support for the Contadora process, to announce that when all five Central American nations have signed an agreement based on the Contadora Document of Objectives, the United States will respond by taking positive steps, which could include—

(1) supporting and observing that agreement;

(2) limiting the scope, duration, and locale of United States military exercises in Central America to those allowed by that agreement; and

(3) terminating the national emergency with respect to Nicaragua which the President declared in Executive order 12513 on May 1, 1985.

ASSISTANCE IN SUPPORT OF THE REGIONAL PEACE PROCESS

SEC. 203. (a) The Congress urges the President to support the regional peace process in Central America with diplomatic and financial assistance.

(b)(1) The President is authorized and encouraged to use up to $5,000,000—

(A) to provide assistance to the Contadora nations of Mexico, Panama, Venezuela, and Colombia, and the Contadora Support Group nations of Argentina, Peru, Uruguay, and Brazil, to assist those nations in reaching agreement among the nations of Central America based on the Contadora Document of Objectives, including assistance for peacekeeping, verification, and monitoring systems; and

(B) to help implement any joint border commission agreement between Nicaragua and Costa Rica, or between Nicaragua and Honduras, which those nations enter into in furtherance of the purposes of the Contadora Document of Objectives.

(2) In addition to funds transferred pursuant to section 205, the $2,000,000 appropriated under the heading "ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT" by the Supplemental Appropriations Act, 1985, may be used to carry out paragraph (1) of this subsection.

(c) In addition, the Congress urges the President, at such time as an agreement based on the Contadora Document of Objectives is signed by all five Central American nations, to request such funds as may be necessary to assist in the implementation of that agreement.

ASSISTANCE FOR HUMANITARIAN NEEDS AND RESETTLEMENT

SEC. 204. Up to $27,000,000 of the funds authorized to be transferred by section 205 may be made available for use as follows:

(1) Except for amounts used pursuant to paragraph (2), these funds shall be used to provide food, medicine, or other assistance for the humanitarian needs of those who have been displaced by conflict in Nicaragua, regardless of whether they have been associated with the Nicaraguan opposition forces. Assistance under this paragraph may be provided only through the International Committee of the Red Cross or the United Nations High Commissioner for Refugees, and only upon that organization's determination that such assistance is necessary to meet humanitarian needs.

(2) Up to $15,000,000 of these funds may be used for the resettlement of members of the Nicaraguan opposition forces (and their families) who have terminated their military activities.

TRANSFER OF DOD FUNDS

SEC. 205. The President may transfer up to $30,000,000 of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-1900), for use in carrying out section 203(b)(1) and section 204 of this Act. The funds transferred under this section may include funds that have been made available for obligation beyond September 30, 1986, as provided by law.

REPORTS ON USE OF FUNDS

SEC. 206. No less frequently than once every 3 months, the President shall submit to the Congress a written report containing an accounting of any funds used pursuant to section 203 or 204.

NATIONAL COMMISSION ON CONTADORA

SEC. 207. (a) There is hereby established the National Commission on Contadora (hereafter in this section referred to as the "Commission"). The Commission shall—

(1) monitor and review the efforts of the Contadora nations to achieve a political resolution to the conflicts in Central America; and

(2) make recommendations with a view to building a consensus on United States policy toward Nicaragua.

(b) The Commission shall consist of an even number of members, such number to be determined jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate, who shall each appoint half of the members of the Commission. A vacancy in the membership of the Commission shall be filled in the same manner as the original appointment.

(c) Not later than January 31, 1987, the Commission shall submit a report to the President and to the Congress with respect to its findings and recommendations. This report shall include—

(1) a detailed review of the status of the Contadora negotiations and United States support for those negotiations;

(2) a determination by the Commission of whether the Government of Nicaragua and the Nicaraguan opposition are facilitating the Contadora process;

(3) a recommendation on policies toward Nicaragua which the Commission believes represent a consensus that is sustainable and is supportable by the American people; and

(4) a recommendation on policies which the Commission believes will enhance peace and security throughout Central America.

(d) Members of the Commission shall receive no compensation on account of their service on the Commission, but while away from their homes or regular places of business in the performance of their duties on the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(e)(1) The Commission may employ experts and consultants in accordance with section 3109 of title 5, United States Code.

(2) Upon a request by the Commission, the head of any Federal agency may temporarily assign employees of that agency to the Commission to assist the Commission in carrying out this section.

(f) The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(g) Funds for the expenses incurred by the Commission in carrying out this section, including travel expenses, shall be provided by Secretary of State.

PRESIDENTIAL REQUEST FOR ADDITIONAL AUTHORITY WITH RESPECT TO NICARAGUA

SEC. 208. (a) After considering the recomendations of the National Commission on Contadora contained in the report submitted pursuant to section 207(c), the President may submit to the Congress on or after January 31, 1987, a request for authority to take specified actions with respect to Nicaragua. The request must be accompanied by—

(1) the President's assurance that he has consulted with the Contadora nations and the Contadora Support Group nations concerning the proposed actions; and

(2) a description of the response of the Contadora nations and the Contadora Support Group nations to the proposed actions.

(b)(1) The provisions of this subsection apply, during the first session of the 100th Congress, to the Consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (a).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (a)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby authorizes the President, notwithstanding any other provision of law, to take those actions with respect to Nicaragua which are specified in the request submitted to the Congress pursuant to title II of the Military Construction Appropriations Act, 1987.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Nicaragua pursuant to title II of the Military Construction Appropriations Act, 1987.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(7) This subsection is enacted—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such it is deemed a part of the Rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House, and of the right of the Committee on Rules to report a resolution for the consideration of any measure.

H.R. 5052

By Mr. HERTEL of Michigan:

—Page 3, line 1, strike out "$1,364,090,000" and insert in lieu thereof "$1,224,290,000."

EXTENSIONS OF REMARKS

NICARAGUA

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. HAMILTON. Mr. Speaker, as we approach debate yet again on the issue of aid to the Contras, I feel it would be helpful to establish some factual and analytical predicates which Members can use in determining how to cast their votes. Many Members have made up their minds, but for those who have not, I offer the following. It is an update of a similar statement I inserted in the RECORD 1 year ago.

This statement represents—as did its predecessor—an attempt to answer some of the questions most commonly asked about Nicaragua—either those which have been raised by administration statements on particular issues or others which follow from an examination of the conflict in Nicaragua. The conclusions I state are my own, but they are derived from a review of a wide, and I believe, representative, sampling of available information. They cover not only the conduct of the Sandinista Government of Nicaragua but the Contra forces seeking to overthrow that government.

NICARAGUA MILITARY BUILDUP

Military equipment deliveries to Nicaragua from the Soviet bloc are estimated at $100 million during 1985. In 1980, this amount was $10 million; in 1981, $50 million; in 1982, $100 million; in 1983, $135 million; and $250 million in 1984.

One way to look at these figures is to see a substantial sustained reliance on the Soviet Union and Cuba for military supplies and to posit that deliveries made in 1 year must have been contracted for months before actual receipt. Another way to look at the influx of equipment is to note that the large amount of this assistance (for example, helicopters) did not begin in earnest until 1982, the year when the Contras began to operate with U.S. assistance. In any event, it is clear that the great majority of military deliveries occurs after 1982 and that in significant part, consists of systems related to the Sandinistas' counterinsurgency efforts.

Traditionally, Soviet bloc donors have provided military assistance to many of their clients but have been not so generous with economic aid. Yet, in 1985 the Soviet bloc provided some $450 million in economic assistance to Nicaragua. This was a significant jump from $155 million in economic assistance in 1982.

NICARAGUA—SOVIET AND EE BLOC ASSISTANCE

	Military	Economic
1980	6	37
1981	39.5	78
1982	88	155
1983	115.5	237
1984	248.1	281
1985	97	450

NICARAGUA—SOVIET AND EE BLOC ASSISTANCE—Continued

What type of military equipment has Nicaragua received from the Soviet Bloc? The chart that follows reflects approximate numbers of major weapons systems possessed by Nicaragua and compares them to those of Honduras, El Salvador, and Guatemala. (Costa Rica has no armed forces.)

	El Salvador	Guatemala	Honduras	Nicaragua
Tanks	0	15	0	140
APC's	50	50	100	200
Rocket launchers	140	0	0	25
Artillery pieces	60	70	25	90
Antiaircraft guns	50	10	30	170
Antitank weapons	40	250	40	125
Fighter aircraft	26	10	20	0
Trainer/attack aircraft	23	12	10	3
Transport/attack aircraft	2	0	0	0
Helicopter gunships	0	0	0	6
Transport/other helicopters	50	30	35	30
Patrol boats	15	20	20	20
Minesweepers	0	0	0	6

Are these weapons systems offensive or defensive in nature? Most of the equipment that the Nicaraguans have acquired have a counterinsurgency or defensive capability. In this category fall some major elements of Nicaragua's new (since 1979) military capabilities: air defense (radars and antiaircraft weapons), signals intelligence and communications, and antiarmor weapons. Some such as tanks, artillery, and attack helicopters, can be used both offensively and defensively but are generally considered offensive weapons. It should be noted that while the Nicaraguan tank inventory is both unusual and overwhelming vis-a-vis the inventories of its neighbors, tanks can be employed in the Central American context in only a limited fashion. Attacking north toward Honduras, for instance, there is only one rather narrow avenue which would accommodate tanks. This area, on the Pacific coast and called the Choluteca Gap, was the scene of the Big Pine III joint United States/Honduran military antiarmor exercise. Further, the Nicaraguan ability to use tanks in any invasion of its neighbors must be viewed in the context of its ability to supply these tanks with fuel. Nicaragua is chronically short of fuel to keep its economy running and totally dependent on tanker shipments for oil. It would need significant improvements in fuel supply, storage and transportation plus the ability to withstand a possible naval embargo to sustain and support an invasion force using its armor.

Much has been made of the Sandinistas' helicopter gunship—the MI-25 HIND—as a fearsome weapon against the Contras. The inventory of the MI-8/17 HIP transport helicopters has increased and has provided new mobility to Sandinista forces. It is also evident, however, that these new weapons have not yet provided the Sandinistas with a knock-out punch. What they have done, however, is helped limit Contras tactics to classic guerrilla warfare on the small unit level.

What is the size of the Nicaraguan armed forces? The Nicaraguans have 65,000 men on active duty and another 55,000 reserve and militia—for a total of 120,000. By contrast, El Salvador has an army of 52,000 and is building a civil defense force. (Currently, it stands at 7,000.) Honduras has an army of 22,000. Guatemala has an army of only 35,000 but a large civil defense establishment.

	Active duty military	Reserve/militia or civil defense
Nicaragua	65,000	55,000
El Salvador	52,000	+7,000
Honduras	22,000	.....
Guatemala	35,000	300,000

ESTABLISHMENT OF A MILITARY BASE

The President, in his address to the Nation on March 16, 1986, said: "Today, Warsaw Pact engineers are building a deepwater port on Nicaragua's Caribbean coast similar to the naval base in Cuba for Soviet-built submarines. They are also constructing, outside Managua, the largest military airfield in Central America similar to those in Cuba from which Russian BEAR bombers patrol the U.S. East coast from Maine to Florida."

PORT AT EL BLUFF

Construction at the Nicaraguan port of El Bluff is not being done by military engineers of the Warsaw Pact but funding and technical assistance for the project has been provided by a Bulgarian consulting firm. While the expansion of the port will facilitate both commercial and military purposes, at this point, it doesn't appear that the principal purpose is to develop the facility for military. Currently, ships which unload on the Atlantic coast must offload their cargoes to lighter vessels for transport to El Bluff. The port is now half complete and, when finished, will save the Nicaraguans as average of $27 per ton of cargo, as well as Panama Canal transit fees. The country's main port at Corinto, on the Pacific coast, is reportedly working at over 30 percent of its stated capacity. The Nicaraguans still require considerable funds to complete the project and they have been looking to East European nations for help. There is no evidence to suggest El Bluff is being built as a submarine base.

PUNTA HUETE AIRFIELD

The airfield the Sandinistas are still building at Punta Huete will have the capability to land any type of aircraft and eventually the airfield will be the headquarters for the Sandinista Air

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Force. Currently, the Nicaraguans only use the airfield for daylight operations. The transfer to make this an operational airfield does not appear likely in the near term due to the fact that there are no ground support facilities. It is estimated that this airfield could be fully operational by the end of the year.

While Russian BEAR bombers do land occasionally in Cuba on patrols that take them along the east coast of the United States, there is no evidence that the Sandinistas and/or the Soviets intend to undertake similar activities from Nicaragua.

NICARAGUAN INTENTIONS

What are the intentions of Nicaragua toward its neighbors? Are the military forces referred to above likely to be used to attack other Central American countries?

There is no evidence that Nicaragua has such an intention. It is clear that Nicaraguan forces have, from time to time, crossed its borders with Honduras and Costa Rica to attack Contras retreating to or concentrated in those countries. An attack of significant force took place in Honduras in March of this year. The intent in these attacks has been either retaliatory or hot pursuit—and not to take and hold territory or to invade a neighboring country. Some appear to have been intended to indicate Nicaraguan displeasure with the sanctuary afforded the Contras across Nicaraguan borders.

SUPPORT FOR INSURGENTS IN EL SALVADOR

On the other hand, the Nicaraguan Government appears to have committed itself to a policy of support for insurgencies in other Central American countries. The most important example of this policy is the assistance provided by Nicaragua to the Salvadoran guerrillas. It seems clear that the Nicaraguan commitment to the Salvadoran guerrillas stems from FMLM support to the Sandinistas during their efforts to overthrow Somoza and is a matter of revolutionary pride and solidarity.

The flow of arms from Nicaragua to the Salvadoran guerrillas continues, but at a greatly reduced rate. The network used for this purpose is run by Salvadorans with Nicaraguan support. The supplies provided by the network are thought to be mostly ammunition but also medicine and other supplies. It is also thought that until recently the Salvadoran guerrillas have enough arms but still rely, to some significant degree, on other types of assistance from Nicaragua. The flow of assistance from Nicaragua is sometimes erratic.

There have been no appreciable interdiction of arms shipments by the Salvadoran Armed Forces and none at the point of entry into El Salvador. The capture of supplies of arms in the past have been in Honduras while in transit or in safehouses.

The flow of assistance and supplies comes by water along the southeast coast of El Salvador, by land through Guatemala and Honduras, and possibly by air from Nicaragua. The inability of the Salvadoran or Honduran forces to interdict shipments by water routes alone is a factor of low priority for interdiction efforts, a lack of proficiency among the security forces, corruption, and of what is probably both an extremely effective guerrilla network handling a small volume of shipments.

Nicaragua also provides communications facilities, safe haven, training, and logistical support to the Salvadoran guerrillas. The system employed to provide all of these types of assistance is flexibile and, apparently, very well run.

The judgments made above concerning assistance to the Salvadoran guerrillas are in part inferential but are based on a growing body of information.

SUPPORT FOR INSURGENTS IN HONDURAS

Nicaragua on two occasions—1981 and 1983)—has trained and dispatched teams of Hondurans bent on initiating insurgent activity in Honduras. Nicaragua also provides Honduran leftists with training, funds, and equipment. The Nicaraguans did not provide this kind of assistance to Honduran groups prior to 1982 when U.S. assistance to the Contras began.

SUPPORT FOR INSURGENTS IN COSTA RICA

In Costa Rica, there is no insurgency. There have been clashes along the border between Nicaraguan forces and Costa Rican border officials. These have usually been in connection with the use by Contra forces of sanctuaries across the border. In addition, there is evidence that Nicaragua has provided funds and assistance to Costa Rican Communists and that some Costa Rican Communists have operated in units in Nicaragua against Contra forces along the Costa Rican/Nicaraguan border. Again, these events postdate the 1982 U.S. assistance to the Contras. There is no evidence that Costa Rican Communists have utilized Nicaragua as a base to conduct or export terrorism.

It is clear in both the case of Honduras and Costa Rica that each of these governments has not only tolerated but, particularly in the case of Honduras, provided safe harbor to Contra forces. It is also clear that the Nicaraguan Government has usually limited its cross border operations so as not to give either country good cause for requesting assistance from U.S. military forces.

SUPPORT FOR INSURGENTS IN GUATEMALA

Nicaraguan assistance to Guatemalan insurgents permits them to both propagandize and coordinate their operations in Guatemala. In addition, these groups have headquarters in Managua.

SUPPORT FOR INSURGENTS IN COLOMBIA

There is evidence that Nicaragua has provided weapons and training to the MI–19 insurgents in Colombia. This information surfaced as a result of the recapture of the Palace of Justice in Bogota by Colombian authorities after its seizure by the MI–19 in November 1985. There is also evidence that General Manuel Noriega, chief of the Panamanian Defense Forces, has aided the MI–19.

In addition to assistance to the insurgencies referred to above, some of these groups, in particular Salvadoran guerrilla groups, may assist Nicaraguan forces in combat against Contra forces. One way to view this phenomenon is to look at Nicaragua as a focal point for subversion in the Western Hemisphere. Another is to view the presence of these so-called internationalists as spontaneous support for the Sandinista revolution. The overthrow of Somoza, for instance, was achieved by the Sandinistas with the assistance of internationalists from other countries—as well as from governments such as those of Costa Rica, Panama, Venezuela and Cuba.

PLO

In addition to the presence of Central American insurgents, a number of other groups are reported to be present in Nicaragua. The PLO, which has had a relationship to the Sandinistas since before 1979, has a very small military and security presence in Nicaragua—less than 20—and is thought to provide assistance in the maintenance and piloting of some Nicaraguan aircraft. The PLO has also provided some antiaircraft guns and an airplane to Nicaragua. There is no evidence that the PLO has utilized Nicaragua as a base to conduct or export terrorism.

LIBYA

Libya also has had a relationship with Nicaragua since the overthrow of Somoza. The Libyans have a small military and security presence—approximately 25—in Nicaragua and their personnel appear to serve as pilots, mechanics, and air defense advisers. Libya has provided a few Polish MI–2 helicopters, light ground attack airplanes, antiaircraft missiles, multiple rocket launchers and small arms to Nicaragua. It has attempted to transfer additional light ground attack aircraft but these attempts have been frustrated to date. In addition to military assistance, Libya has provided economic assistance, both through cash and credits and in oil barter arrangements. There is no evidence that Libya has utilized Nicaragua as a base to conduct or export terrorism.

IRAN

There is no Iranian military or security presence in Nicaragua. While there have been rumors of Iranian agreements to provide arms to Nicaragua, none have been delivered.

What information there is concerning PLO, Libyan, or Iranian relationships to Nicaragua does not indicate joint terrorist operations or Nicaraguan complicity in terrorism by the PLO, Libya, or Iran. There is no evidence that Iran has utilized Nicaragua as a base to conduct or export terrorism.

RED BRIGADES

While there have been reports that the Italian Red Brigades have a presence in Nicaragua, there is little firm evidence to confirm these reports.

CUBA

The single largest foreign presence in Nicaragua is that provided by Cuba. The intelligence community believes there are approximately 3,000 military and security personnel assisting the Nicaraguans. Cuba military advisers are thought to be placed in all elements of the military and security forces at every level. It is believed that some Soviet-supplied helicopters are likely piloted by Cubans since the Nicaraguans do not have the capability of piloting all these aircraft.

There have been as many as an additional 2,000 Cuban construction workers in Nicaragua. This work force appears to have changed in character in the aftermath of the Grenada operation. Older men and women have been replaced by younger workers with military experience; 1,500 teachers who returned to Cuba in a previous regular annual rotation are not expected to return.

SOVIET UNION

There is a Soviet military and security presence in Nicaragua estimated to range from 40 to 50 personnel. They are most likely assigned as advisers in the military and intelligence services or assist in the assembly and maintenance of the Soviet military equipment provided to Nicaragua. Recently, a Soviet reconnaissance aircraft has been overflying northern Nicaragua. Soviet military and security advisers maintain a low profile. Yet, they represent the willingness of the Soviet Government to invest in supporting a Nicaraguan Government friendly to the Soviet Union.

The Soviets have made no commitment to the defense of Nicaragua in terms of troops or military deployments. It appears that they need not exert pressure on the Nicaraguan Government, which has consistently asked for more assistance and become more dependent on the Soviet Union both militarily and economically. Common Soviet-Nicaraguan views on many issues result in parallel policies more conducive to Soviet interests than total Nicaraguan dependence and subservience to the Soviet Union.

NORTH KOREA

There is a small North Korean military presence in Nicaragua training the Nicaraguans in the use of four North Korean-provided patrol boats.

EAST EUROPEANS

There are several hundred East European advisers in Nicaragua. Most are Bulgarians associated with the construction of a deepwater port in El Bluff. There are also over 60 East German military and security advisers placed in the intelligence, security and telecommunications agencies of the Nicaraguan Government.

OTHER GROUPS

There have also been allegations that other terrorist groups such as the Irish Republican Army and the Bader Meinhof Red Army faction have personnel in Nicaragua. There is no evidence of such presences.

HUMAN RIGHTS ABUSES OF MISKITO INDIANS

The Nicaraguan Government has been accused of genocide of the Miskito Indians on the Atlantic coast of Nicaragua. This appears not to be true.

The treatment of the Miskito Indians by previous Nicaraguan governments under the Somoza family could best be characterized as benign neglect. After the revolution of 1979, the Sandinistas attempted to force the Miskitos into participating in the full range of the Nicaraguan Government's political and economic programs. The nature of many of these programs clashed with the Miskitos' independent traditions. The tactics employed by the Government caused a great deal of discontent in Miskito communities. That discontent manifested itself in opposition to the regime or support for an armed group (known as Musura) under the leadership of Steadman Fagoth.

Fagoth's group operated in the extreme northeastern part of the country along the Rio Coco River separating Honduras and Nicaragua. These operations led the Nicaraguan Government in early 1982 to resettle large numbers of Miskito Indians away from the border so as to deprive Fagoth's group of sanctuaries. In the course of this resettlement, the Nicaraguan Government razed Miskito villages in an area that had been the home of Miskito Indians for centuries. Those Miskitos who were resettled were removed to relatively secure surroundings and afforded the basic necessities but were uprooted from their traditional farming and fishing areas and required to shift to radically new ways of living.

In the course of the resettlement, a number of Miskito Indians were killed or have disappeared. The documentation concerning the resettlement is not good but the range of estimates for those killed or unaccounted for is from 50 to 100 individuals.

The Nicaraguan Government apparently realized the great unpopularity of its policy towards the Miskitos and has since taken a much ameliorated approach to Miskito concerns. In some cases, the government has permitted Miskitos to leave the resettlement camps and return to their ancestral villages. Fighting continues at low levels in Miskito and other Indian areas on the Atlantic coast of Nicaragua, but the abuses of which the Nicaraguan Government was originally, and justly, accused have largely disappeared.

HARASSMENT OF THE CATHOLIC CHURCH

The Nicaraguan Government has had very strained relations since 1979 with the hierarchy of the Catholic Church in Nicaragua. It has accused the bishops and, in particular, Cardinal Archbishop Obando y Bravo of engaging in partisan politics. The Government has prohibited the broadcast of masses on church holy days, has shut down the church's radio stations and publications, has sought to embarrass and deport clerics who have come into disfavor with the regime, and appears to have attempted to embarrass the Pope in his 1983 visit to Nicaragua. At various time, the Government has also attempted to exert more control over the church's schools and limit their enrollment.

One reason the church has become a target of the Government has been the outspoken nature of the bishops' pastoral messages to the faithful, particularly messages which have been critical of the sectarian nature of the Government or the economic failures of the Sandinista system, and those which have endorsed a dialog between the Government and the Contras.

While the Nicaraguan Government has harassed the archbishop and others its has considered opponents of the regime, it appears to have developed better relations with other religious figures, among them foreign priests, nuns, and various lay groups—both Catholic and otherwise—who live and work throughout Nicaragua. The experience of many who serve in parishes or religious communities outside Managua, as well as within the city, is that the regime has very actively engaged in supporting the kinds of social welfare activities, such as literacy, health, and education programs, in which these church groups assist.

Another factor in the Nicaraguan church-state relations equation is the division within the Catholic Church between the so-called popular church and traditional, orthodox Catholicism. Some of the religious figures who hold high Government positions in the Nicaraguan Government today are central figures in the popular church, whereas the bishops represent the orthodox and majority position in the church. The Government is thought to have tried to use the popular church as a way of distancing some Catholic congregations from the authority and teaching of the bishops.

PRESS CENSORSHIP

The Nicaraguan Government has consistently and pervasively censored all but clearly pro-government media in Nicaragua. This has included the radio stations and publications of the church but, particularly, the opposition newspaper, La Prensa. Censorship has ensured that information contrary to the regime's viewpoint is not published. The extent of censorship ranges from excising reports on Soviet actions in Afghanistan to stories that involve sports issues. The process by which La Prensa is censored is a cumbersome one and can be viewed, in part, as an attempt to limit the distribution of the newspaper. Without a variety of foreign financial contributions, including assistance provided by the National Endowment for Democracy and various friendly Western governments, La Prensa would have ceased publication years ago.

Censorship has been constant in Nicaraguan life since 1981 and has been justified by the Government of Nicaragua under a state of emergency declared in the spring of 1982 because of the attacks by Contra forces.

ELECTION PROCESS

The Nicaraguan elections in November 1984 have been referred to by some as Soviet style, sham elections. There are some similarities to Soviet bloc-style elections in that the military and security forces of the Government are identified completely with the ruling party, the media was controlled by the Government, and the conditions for the elections—including censorship and limits on opposition access to the media and political organizing—were regulated by a statute promulgated by the ruling party. All of these factors gave a great advantage to the Sandinistas in the 1984 election. At the same time, the conditions of the election were not so dissimilar from those taking place in many other countries throughout the Third World in which the U.S. Government fails to suggest that a sham has taken place.

With some notable exceptions of violence directed against opposition candidates, the actual conduct of the electioneering period was not marked by significant harassment of the opposition by the Nicaraguan Government. The election results probably reflect not only the advantages the ruling party had given itself but also its real popularity within the country. Even under more democratic conditions, the Sandinistas likely would have won a majority in the election.

The unknown factor in the election, besides the conditions under which they were held—conditions dictated by the Sandinista party—was the effect of the withdrawal of the major opposition (CDN) coalition from the election. There is speculation that the race could have been much closer had the CDN not withdrawn. There can be justifiable skepticism about the willingness of the Sandinista party to accept election results which gave it less than a clear majority but no evidence is avail-

able which suggests that the election tallies were altered by the Sandinistas.

1984 NICARAGUAN ELECTION

Party	Percent vote	Number deputies (seats)
Sandinista National Liberation Front, Daniel Ortega—Ruling party since July 1979 revolution	67.0	61
Democratic Conservative Party, Dr. Clements Guida—Pro-election splinter of traditional conservative party. Leadership took party into election against wishes of sizable pro-boycott faction	14.0	14
Independent Liberal Party, Virgilio Godoy—Liberal grouping kept on ballot against wishes of party convention and candidate Godoy. Some elected deputies have threatened not to take these seats in the assembly	9.6	9
Popular Social Christian Party, Mauricio Diaz—Progressive Christian democratic grouping	5.6	6
Communist Party of Nicaragua—Marxist-Leninist party	1.5	2
Nicaraguan Socialist Party—Marxist Leninist party	1.3	2
Popular Action Movement—Marxist-Leninist party	1.0	2
Invalid votes—Mostly spoiled ballots	6.1	

Figures are percentage shares of valid Presidential votes, and numbers of deputies in new, 96-seat National Assembly. Abstention Rate: 25 percent, with 1.17 million ballots being cast out of total registered electorate of 1.55 million.

Source: Supreme Electoral Council.

WHO ARE THE CONTRAS

Those armed groups opposing the Nicaraguan Government by force of arms are called the Contras. The single largest Contra force is the Nicaraguan Democratic Force, estimated to have between 15,000 to 20,000 active fighters. In addition, there are Indian groups collectively known as Kisan that are active on the Atlantic coast of Nicaragua. In the north, this group is referred to as UNO-Kisan. In the south, they are associated with the Southern Opposition Bloc [BOS].

Both the FDN and UNO-Kisan operate from sancturaries in Honduras. The Kisan forces operate in northeast Nicaragua along the Rio Coco south of Puerto Cabezas; the FDN forces operate principally in mountainous areas in the north central and northwestern parts of the border region and as far south as Matagalpa.

In the south of Nicaragua, along the Costa Rican border and both inside Nicaragua and in Costa Rica, are groups of Contras who at one time all came under the titular command of Eden Pastora, the famous Comandante Zero of revolutionary fame, who left the Nicaraguan Government to head military operations of a number of Contras factions united under the banner of the Democratic Revolutionary Alliance, or ARDE.

Pastora is no longer waging a military campaign. He recently received asylum from Costa Rica and has said he will pursue a wholly political struggle. Pastora has always been strongly critical of the UNO/FDN organization as dominated by ex-Somoza National Guardsmen and of the United States for not providing him with sufficient military support. What remained of Pastora's forces recently joined with an organization—formerly the FARN and now known as UNO/South—headed by Fernando "El Negro" Chomorro.

ORIGINS

The armed struggle against the Sandinista regime began in earnest almost immediately after the overthrow of Somoza. A number of ex-Somoza naitonal guardsmen escaped and settled in El Salvador and Guatemala. A small number settled in Honduras and many civilians settled in Miami.

The core group, known as the 15th of September Legion (named after Nicaragua's liberation day) set up headquarters in Guatemala.

There were also small pockets of resistance operating along the Honduran border, perhaps three or four groups of 50 to 75 ex-guardsmen involved in petty thievery and cattle rustling.

The organization of a resistance that could have some impact in Nicaragua began in early 1981 with the support of sympathizers in El Salvador and Guatemala assisted by Argentina. Argentina had provided training to some Salvadoran conservative groups and was also connected with senior officials in the Honduran military.

Was this a homegrown resistance movement that sought out the assistance of Honduras and the other country and later the United States, or did it begin with the United States seeking out assistance of the Hondurans and this other country to develop a unified opposition to the Sandinistas?

What is known is that the Latin American country forged a merger of the ARDEN [Nicaraguan Democratic Revolutionary Alliance], the military arm of which was the 15 September Legion, with the Nicaraguan Democratic Union [UDN] in September 1981 in an organizational meeting in Guatemala City. This group became known as the Nicaraguan Democratic Armed Force [FADN], later shortened to the Nicaraguan Democratic Force [FDN].

The close relationship that key Honduran officials had with the Latin American government and the close ties that developed between these officials and the U.S. Government in moving the Contra support effort forward were the key relationships in the creation of the FDN.

By the end of 1982, the general staff of the FDN had received so much criticism because its major task force commanders and officers were filled with ex-national guardsmen, the U.S. Government suggested and helped facilitate changes in the political directorate of the FDN. The object of the changes was to create a structure with genuine political credentials, untainted by association with Somoza. Edgar Chomorro, one of the individuals brought in to the directorate, has explained how the U.S. Government secured his participation and how the directorate was actually run. While the directorate had seven members, Chomorro states that actual power was wielded only by two individuals—Adolfo Calero, who was later named president of the Nicaraguan Democratic Force, and Enrique Bermudez, the commander for military operations.

When U.S. assistance first began, the plan set forth to the congressional intelligence committees was that there would be a military arm and a separate, political arm which would attempt to secure support from other nations. These two groups would not necessarily be part of the same movement. The greatest problem for the U.S. Government in managing assistance to the Contras was not the actual running of the war but developing a strong unified political movement that could attract support in Nicaragua.

In fact, there were few strong Contra political leaders and no effective political platform. In 1983, the new ARDE group, the Democratic Revolutionary Alliance, led by Alfonso Robelo and Eden Pastora, had no basic political platform whatsoever. Pastora was and is charismatic, but his political goals were ill defined.

Contra unity efforts began shortly after Pastora's forces first began fighting in Nicaragua in April 1983. All such unity efforts eventaully foundered on Pastora's reluctance to join with the FDN because of its ex-national guard leadership. On the other hand, although the U.S. Government provided Pastora with support, his claims about numbers of armed fighters and their military capabilities were thought by U.S. officials to be exaggerated.

The FDN, after some early reverses, became capable of conducting patrols in north and north central Nicaragua by early 1983. The FDN was never able to capture territory. Further, abuses against civilians and attacks against economic targets (which the congressional intelligence committees had been assured from the outset would not be undertaken) became commonplace. For some of the worst examples of such attacks, U.S. officials blamed the Latin American government advising the FDN. When this Latin American government pulled out of the operation in 1983 and only U.S. assistance and direction was provided, the FDN's record showed little change. As the FDN's numbers grew, so did attacks on economic targets or against civilians.

The FDN today still has as its political hierarchy the group that was selected by the U.S. Government in 1982 and still has an element of ex-national guard military leadership. FDN essential goals and objectives are no different today than they were at the outset—to overthrow the ruling Sandinista government of Nicaragua and install a new regime.

EXTENT OF NATIONAL GUARD INFLUENCE IN FDN

Many of the FDN's top military leadership consist of former national guard officers and noncommissioned officers. They permeate the general staff and field commander posts. As a percentage of the FDN membership the numbers of these individuals is small, but their influence in FDN military affairs is great.

U.S. ASSISTANCE

The United States has provided in excess of $100 million in aid—lethal and nonlethal—to the Contras from fiscal year 1981 through fiscal year 1986. This assistance has been provided almost exclusively in kind. Major categories of assistance have included weapons and ammunition, uniforms and other equipment, food, medicine, and transportation. With the exception of the $27 million in nonlethal assistance provided by the Supplemental Appropriations Act, 1985, U.S. aid has been provided through intelligence channels.

During fiscal years 1982 and 1983, assistance to the Contras was constrained by the Boland amendment, which prohibited the expenditure of U.S. funds for the purpose of overthrowing the Government of Nicaragua. During fiscal year 1984, Congress limited the amount of aid for the Contras to $24 million. Beginning in fiscal year 1985, Congress cut off all support to the Contras, but in August 1985, in the Supplemental Appropriations Act, 1985, $27 million in nonlethal assistance was appropriated for distribution by the Nicaraguan Humanitarian Assistance Office. In fiscal year

1986, Congress has appropriated funds for a limited amount of communications equipment and training for the Contras, as well as the provision of intelligence. The Intelligence Authorization Act for fiscal year 1986 provides that no intelligence funds may be used to augment this limited assistance except by reprogramming or the enactment of separate legislation.

UNO

The United Nicaraguan Opposition [UNO] was established at U.S. urging in June 1985 as a political and, to a lesser extent, military control group over the FDN and other Contra forces. Since that time the Indian group known as Kisan with approximately 1,000 fighters, has become associated with UNO. Most recently, forces under Fernando "El Negro" Chomorro operating in southern Nicaragua have come under the UNO umbrella and have been designated UNO/South. It is difficult to determine how many personnel are associated with UNO/South but it is probably under 500.

The three-man directorate of UNO (Adolfo Calero of the FDN, Arturo Cruz, a 1984 Presidential candidate, and Alfonso Robelo of ARDE) has had considerable ups and downs since its formation. Disputes have largely forcused on control of UNO's principal military force, the FDN, which now numbers some 17,000 personnel. Cruz and Robelo have allied themselves in an effort to obtain a greater say in military operations and, according to a Calero-Cruz-Robelo declaration in Miami on May 29, 1986, have reached such an accommodation.

UNO has stated that they support the Contadora process to find a political solution and that they are in agreement with the four democratic governments of Central America. UNO also indicates they have solved all of their internal difficulties and that all decisions will be by majority rule, with five exceptions. Those exceptions include: the expansion of the three-member directorate; decisions that concern the distribution of funds; a strategic change to the principles of the organization; the formation of new alliances with other groups; and the selection of a new military commander. Current military commanders, however, could be removed by majority, but the selection of a new commander would require consensus. If the directorate should become deadlocked, they can then turn to a five-man commission of distinguished Nicaraguans which has been established to resolve disputes. A civilian Secretary General and a civilian Military Coordinator have also been appointed to improve command and control.

With a change in direction at the top of the UNO leadership, the question remains whether they will, in fact, be able to change the FDN's military strategy. Currently, as they have for the last 5 years, the FDN attacks cooperative and state farms, vehicles on the roads and electrical towers and substations. Critics of the FDN believe these are economic targets while UNO spokesmen state that military and economic targets are inter-related and hard to distinguish. UNO indicates they are going to review the FDN's targeting strategy.

The thorny question is why the FDN can only attack economic targets when the El Salvadoran guerrillas with less than half as many fighters can attack Salvador and military units as they did last week when they attacked the Army barracks at San Miguel.

How effective the UNO directorate will be in gaining control over FDN forces and developing a political military program that will appeal to the Nicaraguan people remains to be seen.

CONTRA ATROCITIES

There has been a range of accusations of Contra atrocities. These allegations fall into two categories: Contra attacks and human rights abuses in Nicaragua, and so-called Contra death squads acting in Honduras.

A number of human rights groups have conducted studies, including interviewing alleged victims, to document Contra atrocities in Nicaragua. Almost exclusively, these consisted of attacks alleged to have been made by the FDN. In addition, many North American religious people who have lived in Nicaragua and who have either witnessed such attacks or have seen or spoken with the victims of such attacks have provided reports concerning Contra abuses. Some of the reports or interviews conducted by particular groups have been attacked as lacking objectivity or fairness.

Several things are apparent concerning these allegations. First, the administration basically relies on the statements of the FDN concerning these attacks. While this information is relevant, it is clearly biased. Second, what the FDN itself admits—for example, on its September 15th radio—and what eyewitnesses make clear, is that the FDN will attack, and has attacked, collective farms in Nicaragua. The FDN views these collectives as organs of the Sandinista Government. Undeniably, such attacks have led to the death of innocent agricultural workers. Some collectives have been defended. It seems clear that many have been defended because of previous Contra attacks.

The FDN also attacks any other so-called organs of the Sandinista Government. These include health clinics and schools. The FDN considers any government officials, however lowly, legitimate targets whether or not they are armed. Transportation of any kind on rural highways and roads in northern Nicaragua is subject to FDN attack. Many such vehicles are government vehicles, including buses operated by the State to transfer passengers from one point to another.

Other firsthand accounts detail executions, sometimes preceded by torture, of individuals in towns or villages which the Contras have temporarily occupied. The FDN denies that it tortures prisoners. However, Edgar Chomorro, the ex-FDN political directorate member, has stated that the FDN often makes a practice of not taking prisoners, particularly those who have fought fiercely against them in battle. The FDN also admits that its forces in the past have sometimes not been under its full control and will admit to abuses of particular commanders whom the FDN has later punished.

It is clear that sometimes the Nicaraguan Government invents abuses attributed to the Contras where none occurred or exaggerates the effect of Contra attacks. But, these efforts at propaganda and disinformation cannot hide what appear to be clear factual evidence of the widespread nature of Contra attacks, individual cases of executions and torture, as well as the continuing nature of such activities.

The provision of $27 million in humanitarian assistance funds last year required improved reporting on and action by UNO to improve its human rights record. Most of the disciplinary proceedings undertaken so far by UNO/FDN against their personnel have largely been for infractions committed against other UNO/FDN personnel. Reports persist of UNO/FDN troops kidnapping campesinos and attacking civilian settlements.

Facts concerning allegations of Contra abuses in Honduras are scarce. There is little or no evidence about allegations made concerning death squad-type activities by the FDN or some FDN members. What little information that is available comes from the Contras themselves.

At the same time, what is otherwise available in the press suggests, but in no concrete way supports, so-called Contra death squad operations. It appears possible that before 1982, some activities in Honduras were engaged in by individuals who became FDN officials that resulted in disappearances or deaths. Such activities could have taken place after 1982 as well. Whether such alleged activities represented a policy of the FDN cannot be established.

POPULAR SUPPORT

The numbers of armed Contras have grown to perhaps 17,000 today. This growth was directly related to provision of U.S. assistance to clothe and feed these fighters. It appears that many of the recruits to the FDN were campesinos from the northern provinces of Nicaragua. Another source of recruits was Sandinista militia or regular troops who either deserted or, when captured, decided to join the FDN. The political base of the FDN appears to be rural and to stem from those areas where the FDN actually operates. The FDN apparently has not developed a base of support in Nicaragua's cities.

One view of this situation is that many campesinos cooperate with the FDN rather than suffer reprisals. Another is that the FDN has developed true support among such people. What remains constant is that FDN supplies, ammunition, and other support must come from Honduras. Most such aid appears to come from the previously appropriated $27 million nonlethal U.S. aid and from contributions from some private U.S. sources. Previously, weapons and other funds were provided by the U.S. Government.

A somewhat different pattern of support has evolved among the Kisan and other Indian groups who have operated in the Atlantic coast region. There, fighters have all been indigenous to the region. These groups have at times claimed the allegiance of the great mass of the population. However, actual support appears to have waxed and waned and, in the period since U.S. military aid has effectively ceased, the number of Indian insurgent activities has greatly diminished.

POLITICAL MESSAGE

The Contras' political message is one of democracy, pluralism, a free economy, and fair, open elections. The link between this political platform and the activities of the armed Con-

tras is less clear. The political directorate of the FDN, for instance, appears to have been more of an afterthought than the generating forces behind creation of the FDN. UNO appears to have been created more for U.S. policy purposes than because of any Contra-generated unity impetus.

The political education and attitudes of the rank and file within the FDN and other UNO forces are difficult to ascertain. They are poorly educated. Reports of their political message suggest it is as religious as it is political. In any event, this message appears not to have taken root in terms of any armed resistance outside the areas where the Contras have been able to operate; that is, in the rural mountain areas of the north and north central Nicaragua. Particularly in the cities, there have been no developments that would indicate that the Contras' proselytizing has been in any way effective. Indeed, the Contras have gained what political respectability they have inside Nicaragua by allying themselves with the unarmed political opposition inside of Nicaragua and by UNO's endorsement of the peace proposal of January 17, 1986, made by the six Nicaraguan political parties.

PROSPECTS FOR THE CONTRAS

The President has requested $100 million in assistance for the Contras during the remainder of fiscal year 1986 and for fiscal year 1987. With this assistance, the administration expects that the Contras can dramatically increase the numbers of armed Contra troops and exert significant military pressure on the Sandinistas. The administration does not predict victory by the Contras but says that without Contra military pressure, the Sandinistas are unlikely to agree to democratic changes within Nicaragua or to moderate Sandinista behavior toward its neighbors.

While UNO pays lip service to Contadora, the Basic Agreement signed in Miami on May 29, 1986, stresses reaching "the goals of liberating and pacifying the fatherland" and that "after the liberation of Nicaragua, the new National Army will be made of combatants from all fronts . . ." The Contras believe that $100 million would set conditions for: First, the massive defection of Sandinista forces; second, the revolt of regional commands inside of Nicaragua; third, the addition of new recruits to the Contra cause; and fourth, widespread insurrection inside the country. They hold out the hope that with all this going on that conditions would be ripe in Nicaragua for a coup in the Sandinista leadership.

The problem with this thinking is that it does not tell us what Contra military pressure will produce. Since the beginning of U.S. assistance, the Contras' principle military tactic has been the ambush. Their troops have been forced to remain constantly on the move. The Contras brief experiments with conventional military tactics have resulted in little success and greatly strained their fragile logistics chain. Increased U.S. assistance, including logistics, seems unlikely to remove this basic restraint on Contra operations. The United States would have to equip the Contras with new equipment—including aircraft, surface-to-air missiles, heavy artillery and large numbers of transport vehicles—before they could seek to engage the Sandinistas on an equal footing inside Nicaragua. This kind of assistance would be costly, would require sustained high levels of aid and significant American involvement in transportation, logistics, maintenance, training, and advice. Moreover, it would significantly raise the stakes for the United States in Nicaragua and make the use of U.S. military forces more likely if the Contras could not beat the Sandinistas unaided.

The view of many professional military officers and political leaders, both United States and Central American, is that the Contras cannot achieve a military victory against Sandinistas and that the eventual resolution of the conflict will require the intervention of the United States.

The conclusion that I draw is that the Contras cannot achieve either military victory or seriously threaten the Sandinistas with the $100 million the President has requested. Either goal will remain unattainable unless the United States takes an increased direct role in aiding the Contras. Even then, the key factor will not be Contra military success but whether or not they can generate and sustain political support among the Nicaraguan populace. Despite the unpopular and repressive actions of the Nicaraguan Government, there is no evidence, after 5 years of guerrilla warfare, of measurable Contra political appeal within Nicaragua. This is most telling within the large population centers where the Sandinistas received their greatest support in the revolution of 1979.

A TRIBUTE TO DR. SPENCER FLO

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. CONTE. Mr. Speaker, I would like to take this opportunity to recognize the outstanding efforts of Dr. Spencer Flo of Greenfield, MA, who this year marks his 55th anniversary as a practicing physician and surgeon. Dr. Flo's contribution to his community extends far beyond medicine and on July 13, 1986, Dr. Flo's years of commitment will be honored at a testimonial dinner.

After graduating from the University of Michigan Medical School in 1931, Dr. Flo completed his resident surgical service at Boston City Hospital in 1935 and finished his house physician residency at Boston Lying Inn Hospital in 1938. Dr. Flo joined the U.S. Army Air Force in January 1942 and served until November 1945. Also in 1942, he became a member of the American Board of Surgery and the American College of Surgeons, and in 1946 became a member of the New England Surgical Society.

Dr. Flo's service to his community, however, extended beyond medicine. He served as a member of the Greenfield School Committee form 1952–55 and as a Greenfield Selectman from 1955–58. He later served 6 years on the town library's board of trustees and served years in the Greenfield Taxpayers' Association.

It is rare to see such selfless devotion to others, and Dr. Flo's tireless efforts are truly an inspiration to us all. This man's compassion, understanding, and healing skills have touched many lives and will continue to provide a valuable contribution in years to come.

I congratulate Dr. Flo on 55 years of distinguished and dedicated service. The residents of his community are truly fortunate to have benefited from such commitment.

I am proud to have such a capable and dedicated physician practing in my First Congressional District of Massachusetts.

"NEW LEFT" FOUNDER SUPPORTS CONTRA AID

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. WORTLEY. Mr. Speaker, there has been a great deal of debate over United States support to the Nicaraguan democratic resistance. While divisions remain on the means of bringing democracy to Nicaragua, there is, in Congress, a consensus that the Sandinista regime is oppressive and has failed to fulfill its leaders' 1979 promises to the Organization of American States to establish a pluralistic, democratic, nonaligned Nicaragua. Similar promises have been subverted before, in Cuba, Vietnam, Kampuchea, and Angola.

The issue of aid to the Nicaragua resistance was recently addressed by David Horowitz, a founder of the "New Left" and the movement against U.S. involvement in Vietnam. In "Nicaragua: A Speech to My Former Comrades on the Left" (Commentary, June 1986), Mr. Horowitz argues that "support for the Contras is a first line of defense." And, more importantly, "For Nicaraguans, a Contras victory would mean the restoration of democratic leadership from whom the Sandinistas stole the revolution in the first place * * *"

Mr. Horowitz, a man of the political left, offers us a warning if we fail to support the Nicaraguan resistance. I commend the following abridged version of Mr. Horowitz's article to my colleagues:

[From Commentary, June 1986]

NICARAGUA: A SPEECH TO MY FORMER COMRADES ON THE LEFT

(By David Horowitz)

Twenty-five years ago I was one of the founders of the New Left. I was one of the organizers of the first political demonstrations on the Berkeley campus—and indeed on any campus—to protest our government's anti-Communist policies in Cuba and Vietnam. Tonight I come before you as the kind of man I used to tell myself I would never be: a supporter of President Reagan, a committed opponent of Communist rule in Nicaragua.

I offer no apologies for my present position. It was what I thought was the humanity of the Marxist idea that made me what I was then: It is the inhumanity of what I have seen to be the Marxist reality that has made me what I am now. If my former comrades who support the Sandinistas were to pause for a moment and then plunge their busy political minds into the human legacies of their activist pasts, they would instantly drown in an ocean of blood.

The issue before us is not whether it is morally right for the United States to arm

the contras, or whether there are unpleasant men among them. Nor is it whether the United States should defer to the wisdom of the Contadora powers—more than thirty years ago the United States tried to overthrow Somoza, and it was the Contadora powers of the time who bailed him out.

The issue before us and before all people who cherish freedom is how to oppose a Soviet imperialism so vicious and so vast as to dwarf any previously known. An "ocean of blood" is no metaphor. As we speak here tonight, this empire—whose axis runs through Havana and now Managua—is killing hundreds of thousands of Ethiopians to consolidate a dictatorship whose policies against its black citizens make the South African government look civilized and humane.

To expand its territorial core—which apologists still refer to as a "defensive perimeter"—Moscow has already slaughtered a million peasants in Afghanistan, an atrocity warmly endorsed by the Sandinista government.

Minister of Defense Humberto Ortega describes the army of the conquerors—whose scorched-earth policy has driven half the Afghan population from its homes—as the "pillar of peace" in the world today. To any self-respecting socialist, praise for such barbarism would be an inconceivable outrage—as it was to the former Sandinista, now Contra, Edén Pastora. But praise for the barbarians is sincere tribute coming from the Sandinista rulers, because they see themselves as an integral part of the Soviet empire itself.

To the Left I grew up in, along with the Sandinista founders, Stalin's Russia was a socialist paradise, the model of the liberated future. Literacy to the uneducated, power to the weak, justice to the forgotten—we praised the Soviet Union then, just as the Left praises the Sandinistas now.

And just as they ignore warnings like the one that has come from Violetta Chamorro, the publisher of La Prensa, the paper which led the fight against Somoza, and a member of the original Sandinista junta—"With all my heart, I tell you it is worse here now than it was in the times of the Somoza dictatorship"—so we dismissed the anti-Soviet "lies" about Stalinist repression.

In the society we hailed as a new human dawn, 100 million people were put in slave-labor camps, in conditions rivaling Auschwitz and Buchenwald. Between 30 and 40 million people were killed—in peacetime, in the daily routine of socialist rule. While leftists applauded their progressive policies and guarded their frontiers, Soviet Marxists killed more peasants, more workers, and even more Communists than all the capitalist governments together since the beginning of time.

In 1957, Carlos Fonseca, the founding father of the Sandinista Front, visited the Soviet Union with its newly efficient totalitarian state. To Fonseca, as to Borge and his other comrades, the Soviet monstrosity was their revolutionary dream come true. In his pamphlet, "A Nicaraguan in Moscow," Fonseca proclaimed Soviet Communism his model for Lating America's revolutionary future.

This vision of a Soviet America is now being realized in Nicaragua. The comandante directorate, the army, and the secret police are already mirrors of the Soviet state—not only structurally but in their personnel, trained and often manned by agents of the Soviet axis.

But the most important figure in this transformation is not a Nicaraguan at all. For twenty years, from the time the Sandinistas first arrived in Havana, they were disciples of Fidel Castro. With his blessings they went on to Moscow, where Stalin's henchman completed their revolutionary course. Fidel is the image in which the Sandinista leadership has created itself and the author of its strategy. Its politburo, the comandante directorate, was personally created by Fidel in Havana on the eve of the final struggle, sealed with a pledge of millions in military aid. It was Fidel who supplied the arms with which the Sandinistas waged their battles, just as he suppplied the Cuban general—Zenen Casals—who directed their victorious campaign (just as the Soviets supplied the general who directed Fidel's own victory at the Bay of Pigs). Without Castro's intervention, Arturo Cruz and the other anti-Somoza and pro-democratic contras would be the government of Nicaragua today.

And it was Fidel who showed the Sandinistas how to steal the revolution after the victory, and how to secure their theft by manipulating their most important allies: the American Left and its liberal sympathizers.

Twenty-five years ago Fidel was also a revolutionary hero to us on the New Left. Like today's campus radicals, we became "coffee-pickers" and passengers on the revolutionary tour, and we hailed the literacy campaigns, health clinics, and other wonders of the people's state.

When Fidel spoke, his words were revolutionary music to our ears: "Freedom with bread. Bread without terror." "A revolution neigher red nor black, but Cuban olive-green." And so in Managua today: "Not [Soviet] Communist but Nicaraguan Sandinismo" is the formula Fidel's imitators proclaim.

Fidel's political poems put radicals all over the world under his spell. Jean-Paul Sartre wrote one of the first and most influential books of praise: "If this man asked me for the moon," he said, "I would give it to him. Because he would have a need for it."

When I listen to the enthusiasts for the Sandinista redeemers, the fate of a hero of the Cuban revolution comes to my mind. For in the year that Jean-Paul Sartre came to Havana and fell in love with the humanitarian Fidel, Huber Matos embarked on a long windowless night of the soul.

The fate of Huber Matos begins with the second revolution that Fidel launched.

All the fine gestures and words with which Fidel seduced us and won our support—the open Marxism, the socialist humanism, the independent path—turned out to be calculated lies. Even as he proclaimed his color to be olive-green, he was planning to make his revolution Moscow red.

So cynical was Fidel's strategy that at the time it was difficult for many to comprehend. One by one Fidel began removing his own comrades from the revolutionary regime and replacing them with Cuban Communists.

Cuban's Communists were then a party in disgrace. They had opposed the revolution; they had even served in the cabinet of the tyrant Batista while the revolution was taking place!

But this was all incidental to Fidel. Fidel knew how to use people. And Fidel was planning a new revolution he could trust the Communists to support: he had decided to turn Cuba into a Soviet state. And Fidel also knew that he could no longer trust his own comrades, because they had made a revolution they thought was going to be Cuban olive-green.

Although Fidel removed socialists and the Sandinistas removed democrats, the pattern of betrayal been the same.

To gain power the Sandinistas concealed their true intention (a Soviet state) behind a revolutionary lie (a pluralist democracy). To consolidate power they fashioned a second lie (democracy, but only within the revolution), and those who believed in the first lie were removed. At the end of the process there will be no democracy in Nicaragua at all, which is exactly what Fonseca and the Sandinistas intended when they began.

When Huber Matos saw Fidel's strategy unfolding in Cuba, he got on the telephone with other Fidelistas to discuss what they should do. This was a mistake. In the first year of Cuba's liberation, the phones of revolutionary legends like Huber Matos were already tapped by Fidel's secret police. Huber Matos was arrested.

In the bad old days of Batista oppression, Fidel had been arrested himself. His crime was not words on a telephone, but leading an attack on a military barracks to overthrow the Batista regime. Twelve people were killed. For this Fidel spent a total of eighteen months in the tyrant's jail before being released.

Huber Matos was not so lucky. Fidel was no Batista, and the revolution that had overthrown Batista was no two-bit dictatorship. For his phone call, Huber Matos was tried in such secrecy that not even members of the government were privy to the proceeding. When it was over, he was sentenced to solitary confinement, in a cell without sunlight, for twenty-two years. And even as Fidel buried his former friend and comrade alive, he went on singing his songs of revolutionary humanism and justice.

To believe in the revolutionary dream is the tragedy of its supporters; to exploit the dream is the talent of its dictators. Revolutionary cynicism, the source of this talent, is Fidel's most important teaching to his Sandinista disciples. This is the faculty that allows the comandantes to emulate Fidel himself: to be poets and hangmen at the same time. To promise democracy and organize repression, to attack imperialism and join an empire, to talk peace and plan war, to champion justice and deliver Nicaragua to a fraternity of inhumane, repressive, militarized, and economically crippled states.

The failure of Marxist economies to satisfy basic needs, let alone compete with the productive capitalisms of the West, has produced the military-industrial police states which call themselves socialist today. Nicaragua, with its Sandinista-created economic crisis and its massive military build-up, is but the latest example of this pattern.

Twenty-five years ago we on the Left applauded when Fidel denounced Cuba's one-crop economy and claimed that U.S. imperialism was the cause of the nation's economic plight. It seemed so self-evident. Cuba was a fertile island with a favorable climate, but U.S. sugar plantations had monopolized its arable land, and the sugar produced was a product for export, not a food for Cubans. The poor of Cuba had been sacrificed on the altar of imperialist profit. Whenever we were confronted by the political costs Castro's revolution might entail, we were confident that this gain alone—Cuba's freedom to grow food for Cubans—would make any sacrifice worthwhile. The same illusion—that the revolution will mean better lives for Nicaragua's poor—underlies every defense of the Sandinistas today.

It is nearly three decades since Cuba's liberation, and Cuba is still a one-crop economy. But the primary market for its sugar is now the Soviet Union instead of the United States. Along with this have come other economic differences as well. Cuba's external debt is now 200 times what it was when Fidel took power. And it would be far greater if the Communist caudillo had not mortgaged his country to his Soviet patron. So bankrupt is the economy Castro has created that it requires a Soviet subsidy of over $4 billion a year, one-quarter of the entire national income, to keep it afloat. Before the revolution, Cubans enjoyed the highest per-capita income in Latin America. Now they are economic prisoners of permanent rationing and chronic shortages in even the most basic necessities. The allotted rations tell a story in themselves: two pounds of meat per citizen per month; 20 percent less clothing than the allotment a decade earlier; and in rice, a basic staple of Cuba's poor, half the yearly consumption under the old Batista regime.

The idea that Marxist revolution will mean economic benefit for the poor has proved to be the most deadly illusion of all. It is because Marxist economies cannot satisfy economic needs—not even at the levels of the miserably corrupt capitalisms of Batista and Somoza—that Marxist states require permanent repression to stifle unrest and permanent enemies to saddle with the blame.

This is also why Castro has found a new national product to supply to the Soviet market (a product his Sandinista disciples are in the process of developing in their turn). The product is the Cuban nation itself, as a military base for Soviet expansion.

And in the Sandinista revolution Fidel's colonial plantation has produced its most profitable return: an opportunity for Moscow to expand its investment to the American land mass itself.

Nicaragua is now in the grip of utterly cynical and utterly ruthless men, exceeding even their sponsors in aggressive hostility to the United States. The Soviets may be the covert patrons of the world's terrorist plague, but not even they have had the temerity to embrace publicly the assassin Qaddafi as a "brother" the way the Sandinistas have. The aim of the Sandinista revolution is to crush its society from top to bottom, to institute totalitarian rule, and to use the country as a base to spread Communist terror and Communist regimes throughout the hemisphere.

Support for the contras is a first line of defense. For Nicaraguans, a contra victory would mean the restoration of the democratic leadership from whom the Sandinistas stole the revolution in the first place, the government that Nicaragua would have had if Cuba had not intervened. For the countries of the Americas, it would mean a halt in the Communist march that threatens their freedoms and their peace.

In conclusion, I would like to say this on the Left: you are self-righteous and blind in your belief that you are part of a movement to advance human progress and liberate mankind. You are in fact in league with the darkest and most reactionary forces of the modern world, whose legacies—as the record attests—are atrocities and oppressions on a scale unknown in the human past. It is no accident that radicals in power have slaughtered so many of their own people. Hatred of self, and by extention one's country, is the root of the radical cause.

As American radicals, the most egregious sin you commit is to betray the privileges and freedoms ordinary people from all over the world have created in this country—privileges and freedoms that ordinary people all over the world would feel blessed to have themselves. But the worst of it is this: you betray all this tangible good that you can see around you for a socialist pie-in-the-sky that has meant horrible deaths and miserable lives for the hundreds of millions who have so far fallen under its away.

UNCLE DAVE MACON DAYS

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. GORDON. Mr. Speaker, I would like to call to your attention the myriad of cultural jewels that the Sixth Congressional District of Tennessee has to offer.

The banjo is as dear to Tennessee tradition as the Stradivarius is to grand Vienna. Without exception buckdancing and clogging can be likened to the art of ballet in the hearts and minds of Tennesseans.

Each year in July, my hometown of Murfreesboro, in Rutherford County, plays host to a major event measuring the skill and execution of these early American art forms. Uncle Dave Macon Days, celebrated this year on July 11 to 13, is a unique event which promotes old-time music, crafts, art, and the folklore of the middle Tennessee region.

Uncle Dave Macon Days usually attracts more than 30,000 people and often exceeds the population of some of the surrounding towns. An interesting part of the festival is that it distinguishes between buckdancing and clogging as well as between bluegrass banjo and old-time banjo, as only the trained eye and ear of the middle Tennessee art enthusiast can do.

The event is named for Uncle Dave Macon, one of the first banjo superstars of the Grand Ole Opry in the 1920's. He is considered by Tennessee historians to be the individual who made the transition from rural folk music to modern country music. Born in 1870, he is said to have learned the early styles of "claw hammer" and "frayling" banjo picking from listening to former slaves and Civil War soldiers in the early days of the postwar era. He is credited as bringing old time music to the 20th century. Uncle Dave Macon Days was established in 1976 to promote old time music and to honor Macon and other individuals who perpetuate and encourage these early Tennessee art forms.

The dance competition requires that the original flat rhythm type buckdancing steps be performed for event qualification. It is this dance step which distinguishes buckdancing from clogging. No other festival is known to have such a requirement and further supports the event's desire to foster the original art form and attract the true experts.

During Uncle Dave Macon Days, competitions will be held to establish the grand champion at the skills performed. It is with this in mind that I, BART GORDON, as a Member of the U.S. Congress, proclaim these the National Old-Time Banjo, National Old-Time Buckdancing, and National Old-Time Clogging Championships to allow these established American art forms to receive the recognition they are due.

THE PRESIDENT'S COMPELLING ARGUMENTS FOR WHY WE MUST AID THE CONTRAS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. BROOMFIELD. Mr. Speaker, on the eve of another important debate on the question of aiding the Contras, I want to share with you what is undoubtedly the President's most convincing speech to date as to why our country must assist those freedom fighters.

Have we failed to learn from the past? I clearly remember the dismay of many Members of Congress when Fidel Castro publicly admitted that he was a Communist. I also remember how shocked many Congressmen were when the Soviet Union slowly, but surely, built Cuba into a base for Soviet expansionism in this hemisphere. Is history repeating itself?

Although the Contras are imperfect, they are the only hope for restoring democracy in Nicaragua. Unless we act soon, the Sandinistas will crush the democratic resistance in that country.

Do the Soviets question the importance of a Communist Nicaragua? Do they argue over the value of exporting Marxism-Leninism from that country to adjoining states? Do they debate at length about the advantage of helping the Sandinistas, a group which shares their philosophy of communism? Do they doubt for one moment the practicality of having a Nicaragua with seaports to service their submarines and ships and airfields where their spy aircraft are can be based? We all know the answers to these questions.

Like it or not, our planet has become very small. Nicaragua is very close to our borders. Soviet influence there can be projected throughout this hemisphere to the Rio Grande River with little effort. The time to act is now.

With these concerns in mind, I commend the President's excellent speech to my colleagues.

TEXT OF REMARKS BY THE PRESIDENT IN AN ADDRESS TO THE NATION

My fellow citizens. The matter that brings me before you today is a grave one and concerns my most solemn duty as President. It is the cause of freedom in Central America and the national security of the United States. Tomorrow the House of Representatives will debate and vote on this issue. I had hoped to speak directly and at this very hour to Members of the House of Representatives on this subject, but was unable to do so. Because I feel so strongly about what I have to say, I have asked for this time to share with you—and Members of the House—the message I would have otherwise given.

Nearly forty years ago a Democratic President, Harry Truman, went before the Congress to warn of another danger to democracy, a civil war in a faraway country in which many Americans could perceive no national

security interest. Some of you can remember the world then: Europe lay devastated.

One by one, the nations of Eastern Europe had fallen into Stalin's grip. The democratic government of Czechoslovakia would soon be overthrown. Turkey was threatened, and in Greece, the home of democracy, communist guerrillas, backed by the Soviet Union, battled democratic forces to decide the Nation's fate.

Most Americans did not perceive this distant danger. So the opinion polls reflected little of the concern that brought Harry Truman to the well of the House that day. But go he did. And it is worth a moment to reflect on what he said.

In a hushed chamber, Mr. Truman said that we had come to a time in history when every nation would have to choose between two opposing ways of life. One way was based on the will of the majority—on free institutions and human rights.

"The second way of life," he said, "is based upon the will of a minority forcibly imposed upon the majority. It relies upon terror and oppression, a controlled press and radio, fixed elections and the suppression of personal freedoms."

"I believe," President Truman said, "that it must be the policy of the United States to support free peoples who are resisting attempted subjugation by armed minorities or by outside pressures."

When Harry Truman spoke, Congress was controlled by the Republican Party. But that Congress put America's interest first, and supported Truman's request for military aid to Greece and Turkey—just as 4 years ago Congress put America's interest first by supporting my request for military aid to defend democracy in El Salvador.

I speak today in that same spirit of bipartisanship. My fellow Americans—and Members of the House—I need your help.

I ask first for your help in remembering—remembering our history in Central America so we can learn from the mistakes of the past.

Too often in the past, the United States failed to identify with the aspirations of the people of Central America for freedom and a better life. Too often our government appeared indifferent when democratic values were at risk. So, we took the path of least resistance—and did nothing.

Today, however, with American support, the tide is turning in Central America. In El Salvador, Honduras, Costa Rica—and now in Guatemala—freely-elected governments offer their people the chance for a better future—a future the United States must support.

But there is one tragic, glaring exception to that democratic tide—the Communist Sandinista government in Nicaragua. It is tragic because the United States extended a generous hand of friendship to the new revolutionary government when it came to power in 1979.

Congress voted $75 million in economic aid. The United States helped re-negotiate Nicaragua's foreign debt. America offered teachers, doctors, and Peace Corps volunteers to help rebuild the country. But the Sandinistas had a different agenda.

From the very first day, a small clique of Communists worked steadily to consolidate power and squeeze out their democratic allies.

The democratic trade unionists—who had fought Somoza's National Guard in the streets—were now told by the Sandinistas that the right to strike was illegal and that their "revoluntionary" duty was to produce more for the state.

The newspaper—La Prensa—whose courage and determination had inspired so much of the Nicaraguan revolution—found its pages censored and suppressed. Violeta Chamorro—widow of the assassinated editor—soon quit the revolutionary government to take up the struggle for democracy again—in the pages of her newspaper.

The leader of the Catholic Church in Nicaragua, Archbishop—now Cardinal—Obando y Bravo, who had negotiated the release of the Sandinista leaders from prison during the revolution, was now vilified as a traitor by the very men he helped to free.

Soviet arms and Bloc personnel began arriving in Nicaragua. With Cuban, East German, and Bulgarian advisers at their side, the Sandinistas began to build the largest standing army in Central American history and to erect all the odious apparatus of the modern police state.

Under the Somoza dictatorship, a single facility held all political prisoners. Today there are eleven. Eleven prisons in place of one.

The Sandinistas claim to defend Nicaraguan independence. But you and I know the truth. The proud people of Nicaragua did not rise up against Somoza—and struggle, fight, and die—to have Cubans, Russians, Bulgarians, East Germans, and North Koreans running their prisons, organizing their army, censoring their newspapers, and suppressing their religious faith. One Nicaraguan nationalist, who fought in the revolution, says: "We are an occupied country today."

I could go on, but I know that even the Administration's harshest critics in Congress hold no brief for Sandinista repression. Indeed, the final verdict has already been written by Cardinal Obando himself in the Washington Post. Listen carefully to the Cardinal's words.

He says: The idea that the Sandinista regime "is a democratic government, legitimately constituted, which . . . seeks the welfare and peace of the people and enjoys the support of the overwhelming majority is not true."

To accept this as true, the Cardinal says, "is to ignore the mass exodus of the Miskito Indians . . . the departure of tens of thousands of Nicaraguan men and women of every age, profession, economic status and political persuasion . . . it is to ignore . . . the most terrible violation of freedom of the press and of speech in the history of our country . . . the expulsion of priests and the mass exodus of young people eligible for military service." As for the Catholic Church in Nicaragua, we have been "gagged and bound," the Cardinal says.

Many brave Nicaraguans have stayed in their country despite mounting repression—defying the security police, defying the Sandinista mobs that attack and deface their homes. Thousands—peasants, Indians, devout Christians, draftees from the Sandinista army—have concluded that they must take up arms again to fight for the freedom they thought they had won in 1979.

The young men and women of the democratic resistance fight inside Nicaragua today in grueling mountain and jungle warfare. They confront a Soviet-equipped army, trained and led by Cuban officers. They face murderous helicopter gunships without any means of defense. And still they volunteer. And still their numbers grow.

Who among us would tell these brave young men and women—your dream is dead; your democratic revolution is over; you will never live in the free Nicaragua you fought so hard to build?

The Sandinistas call these freedom fighters contras—for counter-revolutionaries. But the real counter-revolutionaries are the Sandinista commandantes, who betrayed the hopes of the Nicaraguan Revolution, and sold out their country to the Soviet Empire.

The commandantes even betrayed the memory of the Nicaraguan rebel leader Sandino, whose legacy they falsely claim. For the real Sandino—because he was a genuine nationalist—was opposed to communism. In fact, Sandino broke with the Salvadoran communist leader, Farbundo Marti, over this very issue.

The true Nicaraguan nationalists are the leaders of the United Nicaraguan Opposition: Arturo Cruz—jailed by Somoza, a former member of the Sandinista government; Adolfo Calero—who helped organize a strike of businessmen to bring Somoza down; and Alfonso Robelo—a social democrat, and once a leader of the revolutionary government.

These good men refused to make any accommodation with the Somoza dictatorship. Who among us can doubt their commitment to bring democracy to Nicaragua?

So, the Nicaraguan people have chosen to fight for their freedom. Now we Americans must also choose.

For you and I and every American has a stake in this struggle. Central America is vital to our own national security—and the Soviet Union knows it. The Soviets take the long view but their strategy is clear—to dominate the strategic sea lanes and vital chokepoints around the world.

Half of America's imports and exports, including oil, travels through the area today. In a crisis, over half of NATO's supplies would pass through this region. And Nicaragua, just 277 miles from the Panama Canal, offers the Soviet Union ports in both the Atlantic and Pacific Oceans.

The Soviet Union already uses Cuba as an air and submarine base in the Carribbean. It hopes to turn Nicaragua into the first Soviet base on the mainland of North America.

If you doubt it, ask yourself: why have the last four Soviet leaders—with a mounting economic crisis at home—already invested over a billion dollars and dispatched thousands of Soviet bloc advisers into a tiny country in Central America?

I know that no one in Congress wants to see Nicaragua become a Soviet military base. My friends, I must tell you in all seriousness: Nicaragua is becoming a Soviet base every day that we debate and debate and debate—and do nothing.

In the 3 months since I last asked the House to aid the democratic resistance, four military cargo ships have arrived at Nicaraguan ports, this time directly from the Soviet Union. Recently we have learned that Russian pilots are flying a Soviet A.N.-thirty reconnaissance plane for the Sandinistas.

The Sandinistas claim this is just for making civilian maps. Our intelligence services believe this could be the first time Soviet personnel have taken a direct role in support of military operations on the mainland of North America.

Think again how Cuba became a Soviet air and naval base. You will see what Nicaragua will look like if we continue to do nothing. Cuba became a Soviet base gradually over many years. There was no single dramatic event—once the missile crisis passed—that captured the nation's attention. And so it will be with Nicaragua.

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The Sandinistas will widen and deepen another port while we debate: is it for commercial vessels or Soviet submarines? The Sandinistas will complete another air strip while we argue: is it for 707's or Backfire Bombers? A Soviet training brigade will come to Nicaragua. Half will leave and half will stay. And we will debate: Are they soldiers or engineers?

Eventually, we Americans will have to stop arguing among ourselves. We will have to confront the reality of a Soviet military beachhead inside our defense perimeters—about 500 miles from Mexico. A future President and Congress will then face nothing but bad choices, followed by worse choices.

My friends in the House, for over 200 years the security of the United States has depended on the safety of unthreatened borders north and south. Do we want to be the first elected leaders in U.S. history to put our borders at risk?

Some of you may say: this is fear-mongering. Such a danger to our security will never come to pass. Perhaps it won't. But in making your decision on my request for aid tomorrow, consider this: what are the consequences for our country if you are wrong?

I know some Members of Congress who share my concern about Nicaragua have honest questions about my request for aid to the democratic resistance. Let me try to address them. Do the freedom fighters have the support of the Nicaraguan people? I urge Members of the House to ask their colleague, the Chairman of the House Armed Services Committee, who recently visited a town in Nicaragua that was a Sandinista stronghold during the revolution. He heard peasants, trade unionists, farmers, workers, students, and shop keepers all call on the United States to aid the armed resistance.

Or listen to the report from Time Magazine of Central American scholar, Robert Leiken, who once had hopes for the Sandinista revolution. He says: "I have gone to a number of towns in Nicaragua where I have found that they the youth are simply not there. I ask their parents where they've gone, and they say, they've off to join the contras." In Managua, Leiken reports, 250 Nicaraguans stood on a breadline for 3 hours. "Who is responsible?" he asked. "The Sandinistas are responsible," the people said. "The Sandinistas," Leiken conclued, "have not only lost support. I think they are detested by the population."

Can the democratic forces win? Consider: There are 20 times as many Nicaraguans fighting the Sandinista dictatorship today as there were Sandinista fighters a year before Somoza fell. This is the largest peasant army raised in Latin America in more than 50 years. And thousands more are waiting to volunteer, if American support comes through.

Some members of Congress—and I know some of you—fear that military aid to the democratic resistance will be only the first step down the slippery slope toward another Vietnam. I know those fears are honest. But think where we heard them before.

Just a few years ago, some argued in Congress that U.S. military aid to El Salvador would lead inevitably to the involvement of U.S. combat troops. But the opposite turned out to be true.

Had the United States failed to provide aid then, we might well be facing the final Communist takeover of El Salvador, and mounting pressures to intervene—Instead—with our aid—the government of El Salvador is winning the war—and there is no prospect whatever of American military involvement.

El Salvador still faces serious problems that require our attention. But democracy there is stonger. And both the communist guerrillas and the right-wing death squads are weaker. And Congress shares credit for that accomplishment.

American aid and training is helping the Salvadoran army become a professional fighting force, more respectful of human rights. With our aid, we can help the Nicaraguan resistance accomplish the same goal.

I stress this point because I know many Members of Congress and many Americans are deeply troubled by allegations of abuses by elements of the armed resistance. I share your concerns. Even though some of those charges are Sandinista propaganda, I believe such abuses have occurred in the past. And they are intolerable.

As President, I repeat to you the commitments I made to Senator Sam Nunn. As a condition of our aid, I will insist on civilian control over all military forces; that no human rights abuses be tolerated; that any financial corruption be rooted out; that American aid go only to those committed to democratic principles. The United States will not permit this democratic revolution to be betrayed nor allow a return to the hated repression of the Somoza dictatorship.

The leadership of the United Nicaraguan opposition shares these commitments and I welcome the appointment of a bipartisan congressional commission to help us see that they are carried out.

Some ask: what are the goals of our policy toward Nicaragua? They are the goals the Nicaraguan people set for themselves in 1979: democracy, a free economy, and national self-determination.

Clearly the best way to achieve these goals is through a negotiated settlement. No humane person wants to see suffering and war.

The leaders of the internal opposition and the Catholic Church have asked for dialogue with the Sandinistas. The leaders of the armed resistance have called for a ceasefire and negotiations at any time, in any place. We urge the Sandinistas to heed the pleas of the Nicaraguan people—for a peaceful settlement.

The United States will support any negotiated settlement or Contadora Treaty that will bring real democracy to Nicaragua. What we will not support is a paper agreement that sells out the Nicaraguan people's right to be free.

That kind of agreement would be unworthy of us as a people. And it would be a false bargain. For internal freedom in Nicaragua and the security of Central America are indivisible. A free and democratic Nicaragua will pose no threat to its neighbors, or to the United States. A communist Nicaragua, allied with the Soviet Union, is a permanent threat to us all.

President Azcona of Honduras emphasized this point in a recent nationwide address. "As long as there is a totalitarian regime [in Central America] that has expansionist ambitions and is supported by an enormous military apparatus . . . the neighboring contries sharing common borders with the country that is the source of the problem, will be under constant threat." If you doubt his warning, consider this. The Sandinistas have already sent two groups of communist guerrillas into Honduras. Costa Rican revolutionaries are already fighting alongside Sandinista troops.

My friends in the Congress: With democracy still a fragile root in Central America—with Mexico undergoing an economic crisis—can we responsibly ignore the long-term danger to American interests posed by a communist Nicaragua, backed by the Soviet Union, and dedicated—in the words of its own leaders—to a "revolution without borders"?

My friends, the only way to bring true peace and security to Central America is to bring democracy to Nicaragua. And the only way to get the Sandinistas to negotiate seriously about democracy is to give them no other alternative. Seven years of broken pledges, betrayals, and lies have taught us that.

That is why the measure the House will consider tomorrow—offered I know in good faith—which prohibits military aid for at least another 3 months—and perhaps forever—would be a tragic mistake. It would not bring the Sandinistas to the bargaining table. Just the opposite.

The bill, unless amended, would give the Sandinistas and the Soviet Union what they seek most—time. Time to crush the democratic resistance. Time to consolidate power. And it would send a demoralizing message to the democratic resistance: that the United States is too divided and paralyzed to come to their aid in time.

Recently, I read the words of a leader of the internal democratic opposition. What he said made me feel ashamed.

This man has been jailed, his property confiscated, and his life threatened by the security police. Still he continues to fight. He said: "You Americans have the strength, the opportunity, but not the will. We want to struggle, but it is dangerous to have friends like you . . . to be left stranded on the landing beaches of the Bay of Pigs. Either help us or leave us alone."

My friends in the House of Representatives: I urge you to send a message tomorrow to this brave Nicaraguan—and thousands like him. Tell them it is not dangerous to have friends like us, Tell them: America stands with those who stand in defense of freedom.

When the Senate voted earlier this year for military aid, Republicans were joined by many Democratic leaders: Bill Bradley of New Jersey, Sam Nunn of Georgia, David Boren of Oklahoma, Howell Heflin of Alabama, Lloyd Bentsen of Texas, Bennett Johnston and Russell Long of Louisiana, Fritz Hollings of South Carolina, John Stennis of Mississippi, and Alan Dixon of Illinois. Tonight I ask the House for that kind of bipartisan support for the amendment to be offered tomorrow by Democrats Ike Skelton of Missouri and Richard Ray of Georgia, and Republicans Mickey Edwards of Oklahoma and Rod Chandler of Washington. This bipartisan amendment will provide the freedom fighters with what they need—now.

With that amendment, you also send another message to Central America. For democracy there faces many enemies: poverty, illiteracy, hunger, and despair. And the United States must also stand with the people of Central America against these enemies of democracy.

That is why—just as Harry Truman followed his request for military aid to Greece and Turkey with the Marshall Plan—I urge Congress to support $300 million in new economic aid to the Central American democracies.

The question before the House is not only about the freedom of Nicaragua and the security of the United States, but who we are as a people.

President Kennedy wrote on the day of his death that history had called this generation of Americans to be "watchmen on the walls of world freedom." A Republican President, Abraham Lincoln, said much the same thing on the way to his Inauguration in 1861.

Stopping in Philadelphia, Lincoln spoke in Independence Hall, where our Declaration of Independence was signed. He said far more had been achieved in that hall than just American independence from Britain. Something permanent . . . something unalterable . . . had happened. He called it: "hope to the world for all future time."

Hope to the world for all future time. In some way, every man, woman, and child in our world is tied to those events in Independence Hall, to the universal claim to dignity, to the belief that all human beings are created equal, that all people have a right to be free.

We Americans have not forgotten our revolutionary heritage. But sometimes it takes others to remind us of what we ourselves believe.

Recently, I read the words of a Nicaraguan Bishop, Pablo Vega, who visited Washington a few weeks ago. Somoza called Pablo Vega the "communist bishop." Now the Sandinistas revile him as the "contra bishop." But Pablo Vega is really a humble man of God.

"I am saddened," the good Bishop said, "that so many North Americans have a vision of democracy that . . . has only to do with materialism . . ." The Sandinistas "speak of human rights as if they were talking of the rights of a child—the right to receive from the bountifulness of the state . . . but even the humblest campesino knows what it means to have the right to act." "We are defending," Pablo Vega said, "the right of man to be."

Well Reverend Father, we hear you. For we Americans believe with you that even the humblest campesino has the right to be free. My fellow citizens, Members of the House: let us not take the path of least resistance in Central America again. Let us keep faith with these brave people struggling for their freedom. Give them, give me, your support; and together, let us send this message to the world: that America is still a beacon of hope, still a light unto the nations. A light that casts its glow across the land and our continent and even back across the centuries——keeping faith with a dream of long ago.

TRIBUTE TO DR. DAN COLLINS

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mrs. BURTON of California. Mr. Speaker, on June 7, 1986, about 700 San Franciscans gathered at the Fairmont Hotel in San Francisco to pay special tribute to an old and dear friend of mine, Dr. Dan Collins.

I want to extend my warm congratulations to Dan and to share with my colleagues some things about this very special man on the occasion of his 70th birthday.

Dan has distinguished himself as a spokesperson for social justice and civil rights on local as well as State and National levels. In addition to being vice president and trustee of the National Urban League, Dan is a founder and board member of the San Francisco Bay Area Urban League.

Dr. Collins is a member of the board of trustees of four institutions of higher education, one of them, his undergraduate alma mater, Paine College. As an authority on education, Dan has held consulting positions on national educational boards and he was the first black on the State board of education in California. Dan served on corporate boards and is a member of many, many foundations.

Dr. Dan Collins: Husband, father, grandfather, dentist, educator, businessman, and author, we salute you; for a lifetime of unselfish dedication to the improvement of mankind and for all your achievements in your personal and professional life, we salute you.

Dan Collins is truly the renaissance man—he is indeed a man for all seasons. I join San Franciscans in saluting Dan Collins for his many years of dedication and commitment to his fellow human beings.

KIRK ON LaROUCHE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LaFALCE. Mr. Speaker, soon we will be celebrating our National Day of Independence and the values of freedom and democracy that have made this country great for over 200 years. Political extremism is a direct threat to these values, and we must be constantly on the alert for the emergence of political fanatics. The recent events in Illinois, where candidates supporting Lyndon LaRouche defeated traditional candidates for the Democratic nominations for lieutenant governor and secretary of state, have raised our consciousness regarding the dangers of political extremism. A recent speech by Paul G. Kirk, Jr., chairman of the Democratic National Committee, describes these dangers in clear detail, and places them into the context of our own struggle to preserve our hard-won freedoms:

ADDRESS BY DEMOCRATIC NATIONAL CHAIRMAN PAUL G. KIRK, JR.

Within two weeks, all Americans will join the Empire State in the celebration of Liberty Weekend. The beauty of the Statue of Liberty—the symbol of America's basic principle—has been restored. We all look forward to a national celebration of our independence, our freedom, and our liberty. We will pledge our allegiance to these values. They are values we share despite our diversity. And we will pledge our fidelity to the responsibilities we share despite our individuality. We will pledge our allegiance and our fidelity to one another as Americans.

Whenever we have lost sight of that common bond as a people, we have foundered as a nation. When some of us refused to admit that human beings were not created to own other human beings, the nation divided in Civil War. When some were too greedy to believe that unbridled wealth could not be amassed at the expense of working America, the nation was crushed by economic Depression. When some were too proud to concede that no American, not even the President, is above the law, the nation was strained by the scandal of Watergate.

Today, the American tradition and the American condition call out for a renewed commitment to common purpose and to individual opportunity. We do no honor to the birth of this nation if we stand idle while Americans divide under a new social Darwinism, a blind non-policy which permits poverty as a price of one's birthright and wealth as the reward for one's greed and elitism.

When the politics of common sense and common purpose are overtaken by a politics of selfishness, threats to American liberty are inevitable. When people feel abandoned or ignored, and are left without hope in the daily struggle of their own lives, they search in desperation for easier answers. They are living in a vacuum crying out to be filled. They are vulnerable to cynical sloganeering, to simplistic solutions, and to extreme appeals to their baser instincts.

And when average Americans are not informed and their education as voters taken for granted, they, too, may be deceived by fanatical candidates or extremist cults whose purpose is to distort the value of true meaning and to pervert the meaning of true values.

Lyndon LaRouche is an extremist fanatic who distorted the value of true meaning and perverted the meaning of true values by naming his cult the National Democratic Policy Committee. Three months ago, two of his disciples won nominations of the Democratic Party for statewide office in Illinois.

And they won with the votes of too many decent, common sense citizens who, when asked why they had supported these candidates, said: "I didn't know who they were or what they represented."

No one can undo history, but the Democratic Party must not permit that kind of history to repeat itself. For those of us in leadership positions in the Democratic Party—at the national, state, and local levels—the Illinois primary results were a rude—but valuable—reminder of two basic truths of political life in America:

(1) Responding to the needs, the aspirations, the education of the American people must never be ignored or taken for granted;

(2) Political extremism of any form must never be ignored or taken for granted.

In the days following the Illinois primary, a close examination of Lyndon LaRouche and his extremist cult—by the Democratic Party and the media—revealed the classic hallmarks of fraud and fascism.

In a pattern not unlike that of a Mussolini or a Hitler, the LaRouchites has exercised political expediency by moving from the extreme left to the extreme right, indulging in Anti-Semitism and religious and racial bigotry, never acknowledging or accepting the fundamental principles of democracy—respect for the rights of others, respect for majority rule, and respect for civil—and truthful—public debate.

They specialize in hatemongering and hysteria, bilking the innocent and the elderly, blaming the world's problems on LaRouche's conspiratorial villains which range from your former Governor Harriman to the family of your former Governor Rockefeller, from the Jews to the Jesuits, from former Vice President Mondale to the Queen of England.

Just as other totalitarians have sought to destroy other democratic systems from within, the LaRouchites are participating in American politics under clouds of fraud and

false pretenses. The allegations are legion: —Fraud in the raising of funds; fraud in the recruitment of candidates; fraud in qualifying for a place on the ballot; fraud in calling themselves a U.S. Labor Party; fraud in gaining political access at home and abroad; and fraud in calling themselves National Democrats.

As I think of what the centennial celebration will mean to me, I will think first of my grandfather—of how he must have felt, at age 14, just a little boy all alone, when he saw for the first time the "Mother of Exiles" welcoming him from the shores of Ireland.

Then I will think of his son, my own father, one of 14 children and the father of 5 himself, and how he must have felt, upon his return from World War II, when he saw Lady Liberty standing gracefully and proud in New York harbor, of what it meant to him to be home and to have had to leave behind—beneath endless rows of crosses and Stars of David—sons, husbands, and fathers of every creed and color who had given their lives for liberty and for a campaign to combat and conquer fascism.

Our battle is another kind of battle, but our defense must be no less vigilant.

In every campaign since Illinois, the Democratic Party has sought to ensure that, before each primary election, no voter would be able to say: "Nobody told me who the LaRouche candidates were or what they stood for."

We have monitored filings in every state in which LaRouche candidates have sought the Democratic nominations. Even in districts where Democrats have done poorly in the past, we have fielded candidates to oppose them—not to debate them and give them political legitimacy, but to defeat them by telling voters of their political lunacy.

To date, our strategy has succeeded. Since Illinois, I have devoted the Democratic National Committee's efforts to political action, and the LaRouche candidates have not won a single contested nomination for federal, state, or local office. They have been defeated by the true Democratic Party in 85 out of 85 election contests. The Liberty we love and will soon celebate is one which permits extremists like LaRouche, however freakish, however fascist, however fanatic, —to exercise free speech in America's political process.

This decisive record of rejection of the LaRouchites by the Democrats at the polls may be the most effective statement that a political party can make to protect that process as a matter of political action. But, as Chairman of the Democratic Party and its National Committee—the keeper of the party's name, its integrity, its ideals and its traditions—I tell you, as a matter of political principle, that the LaRouche sect, masquerading as the National Democratic Policy Committee, represents all that is alien to the spirit and character of the true Democratic Party.

They practice the politics of intimidation and harassment; the politics of prejudice and the politics of paranoia; the politics of extremism and exclusion; the politics of fraud and the politics of fear. The Democratic Party of the United States rejects their tactics, their policies and their politics and calls on the voters of New York State to do the same.

It may have been only a fluke of history that so bizarre and extremist a movement has heightened the vigilance of the world's oldest political party. And, it is reassuring that the Democratic Party has been successful in repelling these fanatical forces during the past three months. But, it is critical that we remember and remain vigilant—not only against the LaRouche movement but against other extremist movements as well.

Political extremism in America did not begin with LaRouche victories in Illinois in March of 1986, and it may not end with the election results in September or November of 1986. The LaRouche movement is only a recent example of extremist cults that have capitalized on discontent, exploited fear, promoted hatred, distorted politics, and defiled the true meaning of liberty and democracy.

A century-and-a-half ago, the Know Nothings exploited the tensions which resulted when the "Mother of Exiles" first welcomed her newly adopted children. The Know Nothings whipped up bigotry against Catholic immigrants. For more than a decade, they brought hate to American politics.

In the aftermath of the Civil War, the Ku Klux Klan continued to terrorize blacks and succeeded in denying them rights they felt had just been won. In the 1920's, the 1960's, and even in the '80's—the Klan re-emerged to attack blacks, Catholics, Jews, and other racial and religious Americans whose very presence has strengthened the diversity and, thus, the character of this nation.

The McCarthyites of the 1950's, the John Birchers of the 1960's and the LaRouchites of the 1980's may not have agreed on every issue. But they have shared a common view of the world—a belief in evil and all-powerful conspiracies; a disdain for the decent and nobler instincts of people; an impatience with compromise, majority rule, and with free and open debate. They have shared an intolerance for pluralism, diversity, and inclusion—the traditional practices and principles of American democracy, and the traditional values of the Democratic Party.

No Kahane and no Farrakhan, no extremists, no racists, no separatists, no demagogues who are not democrats with a small "d," will have any place in a party which is proud to be called Democratic with a capital "D." We reserve instead a place for those who sing "Sweet Land of Liberty" with the black preacher who dreamed of the day and died for the "day with all of God's children, black men and white men, Jews and Gentiles, Protestants and Catholics, will be able to join hands" as freedom rings.

During the next several days, the Democratic Party and most Americans will reflect upon and remember the true meaning of freedom and liberty and the true meaning of traditional American values—the abhorrence of prejudice, the tolerance of ideas and beliefs, the character and strength of America that is the very product of her diversity and pluralism, the freedom and fairness that is inherent in the politics of representation and inclusion.

Since its birth, this republic has been the safest haven for those in search of political and religious freedom. The Founding Fathers came together from different ethnic and religious backgrounds. Though they built colonies with different needs, resources and economies, they shaped a government committed to the belief that we are one nation. Though they recognized that a foundation of religious and moral values would be essential to the survival of the new government, they built respect for diversity into its Constitution. They proscribed in its Preamble that its purposes and theirs was to ". . . secure the blessings of liberty to ourselves and our posterity . . ."

One of the blessings of liberty bestowed by this country and to be secured by us is the right and opportunity of any individual or group to participate in the American political process. But the right to participate in politics in America brings with it a responsibility to practice politics in the tradition of America.

In that context, and in anticipation of the nation's birthday, let me mention one other matter relating to the politics of our time. A new wave of activists—many organized by or affiliated with spiritual or religious leaders—is becoming increasingly vocal and active in the American political process. These Americans are involved in a good faith attempt to make their views heard. But the religious and lay leaders of their organizations could be truer to the very concepts their names represent.

Those who profess to hold dear the traditional values of America and call themselves the American Coalition of Traditional values would be truer to their name if their leader refrained from corrupting the traditional value of religious tolerance by declaring that Catholicism is a "false religion" and that Jews have brought their own suffering upon themselves.

Those who profess to honor the fundamental tenet of freedom and call themselves the Freedom Council could be truer to their name by refraining from moral absolutism and deeming less worthy those whose religious values or beliefs may differ from their own.

The issue of tolerance is at the essence of freedom, of liberty and of those values which are uniquely American. Our differences, our contradictions, our separate beliefs as Americans cannot be resolved by absolutism nor by denying their existence.

Democrats believe in separation of church and state which will allow any religion to flourish, to contribute to the public dialogue, to participate in public life without dictating public policy. We believe in religious tolerance not merely as the token toleration of another's faith, but as a precious asset of the American character.

If we are to truly celebrate liberty and freedom in America, we will all celebrate the right to believe freely and strongly in one thing while protecting the right of others to believe just as freely and strongly in the opposite. No American liberty is safe unless that American liberty is protected. It is our American political system that protects those liberties, and it is our political duty to protect that system.

The party of Jefferson remains true to the American and Democratic values of liberty and freedom, of racial brotherhood and religious tolerance.

From Thomas Jefferson, who wrote religious freedom into the laws of his state and nation . . . to Franklin D. Roosevelt, who saved working America and helped it enter the middle class and achieve economic security . . . to John Kennedy, Lyndon Johnson, and Jimmy Carter, who fought for civil rights and equal rights . . . the Democratic Party has stood for a vision of America as one nation, one people, with respect and caring for one another.

And today, that vision is no different. The Democratic Party is the party of common sense and the *only* party with a national sense of common purpose. It is the only political party that believes all Americans are in this adventure together, with equal and individual rights and opportunities, but with shared responsibilities.

The Democratic Party is, as it has always been, the political vessel for the hopes and aspirations of the average American. Democrats believe that individual opportunity and upward mobility, political, economic and otherwise, are reserved not just to the wealthy and the few, but are open to all, no matter one's roots, religion or region, no matter the color of one's collar or the color of one's skin.

It is no accident that the first Catholic nominee for the Presidency of the United States, a son of New York State, was a Democrat.

It is no accident that the first woman Vice Presidential nominee, a Catholic, a daughter of Italian heritage—and a daughter of New York State, was a Democrat.

It is no accident that the first Catholic to be elected President of the United States, a son of Massachusetts—and a son of Irish heritage, was a Democrat.

It is no accident that the first born-again Christian to be elected President of the United States, a son of Georgia, was a Democrat.

It is no accident that the two black presidential contenders, one a daughter of New York State, the other a son of South Carolina, have been Democrats.

At any time in our history, the surest political answer to extremism—the surest way to celebrate and renew the true meaning of liberty—is to fulfill the real mission of the Democratic Party.

To afford all Americans an equal opportunity to bring their voices and their values into the political process so long as they, in turn, respect that process by allowing others to do the same without fraud, or fear, or prejudice.

To build a future where every man, woman and child is given an equal opportunity to share in the promise of American life.

To do this, we only need to remember what I learned growing up in Boston: that the best politics is combining the toughness to govern with the compassion to care deeply enough to listen to the people, to respect their concerns, and to address their needs.

The politics of caring, of inclusion, and of values is the best strategy for victory; the proven model for principled, practical, common sense government; the proudest tradition of the Democratic Party; and the essence of the American political heritage of liberty and freedom.

As we celebrate Liberty Weekend together and as we take up the Democratic Party's battle today and in the days ahead, recall and take heart from the words of a noted journalist who said of other days and other struggles:

"The lesson of the days through which we are passing is that men and women cannot live upon the achievements of their forefathers, but must themselves renew them, . . . we cannot escape . . . the elementary facts of life—that for a people there is nothing for nothing, that what they have they must themselves make, that what they cherish they must themselves achieve, what they wish to keep they must themselves defend."

PANAMA DAILY INTERVIEWS CARDINAL OBANDO Y BRAVO

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LAGOMARSINO. Mr. Speaker, in a 1-minute speech today, I quoted Nicaraguan Cardinal Obando Y Bravo on life in Nicaragua and the ongoing war between the Contras and the Sandinistas. I urge my colleagues to read the entire text of the interview which follows:

According to the German internationalists, that is a "contra" strategy to move with greater ease through the northern mountains and "launch terrorist operations" against the civilian peasant population. "A good outcome in the case of the hostages is becoming increasingly difficult," the Europeans' communique noted.

In their document, the internationalists asked the government of Helmut Kohl and the Reagan administration to "end the kidnapping of their brother volunteer workers." The internationalists also maintain that the release of the hostages must be made "unconditionally." The Germans hold the governments of Bonn and Washington responsible for whatever may happen to the volunteer workers who have been held for 24 days by the FDN.

In view of the possibility that they may not be released through negotiation, the Europeans fear that only a "military solution" remains, which would mean a great risk to the lives of the workers. The Germans, in an attempt to draw world attention to the case, occupied the German Embassy in Managua on 10 May and have staged protests in front of the U.S. Embassy. Both the Germans and the Sandinista government blame the U.S. Government for the kidnapping of the volunteer workers.

PANAMA DAILY INTERVIEWS CARDINAL OBANDO Y BRAVO

(Interview with Archbishop Cardinal Oscar Obando Y Bravo by Mario Castro)

[Castro] Msgr, what is the Nicaraguan people's reality?

[Obando y Bravo] There is no doubt that our previous regime was unjust; now we have a leftist regime. If we are going to examine the situation from an economic viewpoint we must admit that the situation is very bad because we make our purchases with cards. In Nicaragua no one can buy what he wants, only what the state wants to sell.

In the war aspect there is a struggle against the groups that have turned against the government. The Sandinists say that all the insurgents are former Somozist guards, which is not true. Among them are peasants and former members of the FSLN. We have the cases of Engineer Robelo and Arturo Cruz, former members of the government, and there is also the case of Zero, Eden Pastora, former deputy minister of the interior. The truth is that the situation is tense, and international policy has a lot to do with it.

[Castro] What is the human rights situation in Nicaragua?

[Obando y Bravo] We must take into account that in Nicaragua there is a law that has suspended the Nicaraguans' rights and guarantees since 15 October 1985. For example, if I want to officiate a mass on the battleground, I must request permission to do so.

The Nicaraguan church has suffered a great deal. On 15 October precisely, a bulletin called "Iglesia" ["Church"] was issued. By 0800 the police had seized the bulletins, before any decrees had been issued. Later on they occupied our press and social support office, and recently we received a note informing us that the press as well as the social support office will be taken over by the government.

Our radio station was closed on 1 January because it joined the network carrying the president's speech late, etc. Now we have no way of reaching the people with our Sunday programs. Before this, I used to write a homily for the press every week, and now its publication has been prohibited. That means that freedom of expression has been totally restricted.

[Castro] What about the workers' freedom of expression?

[Obando y Bravo] There are unions that are independent and others that are aligned with the government. The independent unions celebrated 1 May with a mass that I officiated, but it was very difficult to advertise because the government prohibited any ads carrying my name. The other unions simply obey the government.

[Castro] What is the Catholic Church's role in Nicaragua?

[Obando y Bravo] To evangelize, spreading the good news of the dead and resurrected Christ. We are preparing a Eucharistic Congress scheduled for October on Christ the King Day, which will do a lot for the Lord's people.

Meanwhile, the church evangelizes and at times sheds light on some problems though a pastoral letter. The last pastoral letter referred to the people's church. We offer guidance, but it must be understood that when speaking of the church we also refer to the laymen, to the believers, who are the ones called upon to resolve temporary issues, things related to the government.

[Castro] Do you consider yourself a political leader in your country?

[Obando y Bravo] I look at the word "politics" from two points of view. One viewpoint is broad, the other strict. In the broad sense I understand it to be the search for common well-being; in that sense all of us are politicians. However, if we speak of party politics, of trying to achieve power, I believe the Catholic hierarchy should not participate in politics, because while it is true that there is a relative incompatibility when clergymen are members of a political party, there is also the risk of increasingly dividing the church. For priests, the only party should be Christ's.

[Castro] We spoke about liberation theology in Nicaragua.

[Obando y Bravo] There is a group of priests who have identified with the government. I would say they are part of the structure itself, and they believe that Marxism is the solution for the Latin American countries. They do not have a large number of people at the base levels, but they do enjoy a great deal of governmental publicity, especially abroad.

[Castro] In your opinion, can they belong to the church?

[Obando y Bravo] I believe that the church is always generous and merciful. Even if it applies a sanction, an excommunication, or an a divinis suspension, it is always a preventive-type of sanction that calls for reflection and a return to the right path.

In Nicaragua there are many priests who hold Cabinet posts, and the Holy See has

handled this as a special problem. Foreign Minister Miguel D'Escoto and Culture Minister Ernesto Cardenal have been suspended a divinis by the Holy See; Education Minister Fernando Cardenal has left the Jesuit order through a decision of the order's highest authorities.

Personally, I believe that priests should not occupy public posts. That is laymen's work, and I have always felt that in Nicaragua there are laymen who are capable of holding those positions and perhaps of doing a better job than a priest.

[Castro] What can you tell us about Miguel D'Escoto's behavior, the accusations he has made, and his description of you as sacrilegious?

[Obando y Bravo] Along with the Nicaraguan people I have prayed that he will reflect and reconsider; we have prayed a great deal for his conversion. As a bishop and a Christian I do not feel any hostility toward him, and I know that I must pray for those who pursue and slander us.

[Castro] How are the Nicaraguan church's relations with those in the rest of Central America?

[Obando y Bravo] We keep in touch. We have received the constant support of all the bodies of the church, not only in Central America but in many other countries in the world who, aware of the situation of their Nicaraguan brothers, have expressed their spiritual support. This shows that when the church is united and one of its members suffers, the rest join to ask the Lord for help.

[Castro] What can you tell us about the contras?

[Obando y Bravo] The truth is that I have not kept in touch with them. I only know what the media reports. They are people who have risen up in arms, and although it is true that some of them were members of Somoza's government, the majority of them are students and young peasants who were 6 or 7 years old when the Sandinist revolution attained victory. Also among them are former members of the FSLN, who are struggling because they want another type of government.

[Castro] Are they supported by the majority of Nicaraguans?

[Obando y Bravo] That is very difficult to determine, because it is impossible to carry out a survey at this time. The FSLN does not favor surveys, and there are sectors of the population that support the government.

[Castro] And the church?

[Obando y Bravo] The church is the mother of all. We pray for the Sandinists and those who have risen up in arms, because as pastors we see them as two brothers struggling to destroy each other. This is why we have insisted so much on conversion and reconciliation. That is the role of the church hierarchy.

[Castro] Do you believe your country's government will fulfill its offer to withdraw foreign troops from Nicaraguan territory if the United States does the same in Honduras?

[Obando y Bravo] That is what the Sandinists have said. Nevertheless, I believe that would also depend on how that resolution is supported. We know that human beings can make promises and not fulfill them, just as the Roman saying goes: "It is common among the wise to have a change of mind." It depends on how that proposal is supported.

[Castro] Does Contadora have a future?

[Obando y Bravo] I believe that those of us who are involved should be grateful to the Contadora countries for their goodwill. Success . . . that is something else.

[Castro] What is your opinion of the friction that exists between Presidents Reagan and Ortega?

[Obando y Bravo] I believe we should take into account that there is tension and when this happens there can be no peace or reconciliation because even the language used is laden with violence. That is why I always insist that it is necessary to seek the path of conversion, because there will be no prompt solution of those conflicts.

[Castro] To conclude, where is Nicaragua headed?

[Obando y Bravo] Nicaragua has a leftist regime, and it is on a socialist path.

[Castro] Do you see any possibility of change?

[Obando y Bravo] I will only repeat what many leaders have said: "The revolution has its objectives, and it will not change them." To mention what one of them said some months ago, I believe the revolution is making history on a one-eyed horse. Because of this it will be difficult for it to change its objective even if it must face many obstacles and difficulties. It will not change.

BOS, MISURASATA REJECT UNO AS MAIN CONTRA GROUP

[Excerpt] The Southern Democratic and Nationalist Forces [Fuerzas Democraticas y Nacionalistas del Sur] have announced that they reject the committee made up of Alfonso Robelo, Arturo Cruz, and Adolfo Calero as the main political organization of the opposition against the Managua regime, thus provoking a rift with the Nicaraguan Opposition Unity [UNO].

The Southern Opposition Bloc [BOS] celebrated yesterday an important assembly at the Coribici Hotel—inviting dissident militia members from Eden Pastora's military command and the national news media—to reveal various important points which define the military and political situation prevailing among the various sectors fighting the Nicaraguan regime.

The assembly was presided over by Bayardo Lopez, Alfredo Cesar, Brooklyn Rivera, Leon Nunez, and Dr Leonel Blandon.

Dr Blandon acted as master of ceremonies and presented Dr Alvaro Taboada, who read a BOS communique concerning the events expected in the coming weeks and which will considerably affect Nicaragua's destiny.

IN HONOR OF RUBELL HELGESON

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LEVINE of California. Mr. Speaker, I rise today in honor of Rubell Helgeson, a well known community activist, who will be honored on July 2 as the Pacific Palisades Citizen of the Year. Mrs. Helgeson was selected as the one community member who truly exemplifies civic service and community dedication for the year of 1985.

She has been described as "a virtual 'knight in shining armor' in her tireless devotion to the welfare of the Palisades. Her indefatigability is exceeded only by her incredible store of knowledge concerning the intricacies and machinations of city and State government."

As a member of the Citizen's Advisory Committee for the Brentwood-Palisades Plan, Rubell worked with the city council office to create a suitable plan for this sensitive region. Her work culminated in 1985 with the adoption of the village specific plan, governing the commercial district, and the creations of a local design review board, of which she is a member. The board now meets regularly to approve or deny new construction.

Rubell's community involvement began about 15 years ago, when she left a journalism career for a short stint to work on local community issues. That short stint turned into several years, and she became a board member and then president of the Pacific Palisades Property Owners Association.

Mrs. Helgeson, who hails from Minnesota, is married to Wayne Helgeson, who is an engineer, and they have two children, David and Kirsten. Recently, she has gone back to school at UCLA to study urban planning.

It is a pleasure to share the accomplishments of Mrs. Helgeson with my colleagues in the U.S. House of Representatives. I ask that they join me in extending Ms. Helgeson congratulations and best wishes for continued success in all of her future endeavors.

IN TRIBUTE TO JANE DOE INC.

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mrs. SCHROEDER. Mr. Speaker, I wish to bring to the attention of my colleagues a tribute to women business owners written by the woman I nominated as delegate to the upcoming White House Small Business Conference. Dr. Killian wrote an inspiring overview of why these women became business owners and what they face each day.

[From Network, June 1986]

CONGRATULATIONS JANE DOE INC.: A CELEBRATION FOR WOMEN BUSINESS OWNERS

(By Patricia Killian)

Put on your party hat, Jane Doe, Inc., you and your entrepreneur colleagues are part of the first economic celebration for women. In 1986 you are recognized as the fastest growing segment of the business world; 35 percent of all new businesses are started by women.

You are innovators, franchisers, retailers, high technology, service and product suppliers. Your businesses account for 20 percent of the U.S. gross national product. Why is that a reason for a party?

As recently as 10 years ago, it was believed that women-owned businesses accounted for essentially nothing (0.3 percent of the gross national product). "Believed" because no one kept track of women in business then. "Believed" that, although women might sew booties in their spare room or throw pots in their basement, they couldn't have been in real business.

Now it is known that you are business smart and becoming richer with average receipts of $400,000 per year, and you number in the millions. Definitely time for a cele-

bration! So who are some of you who are celebrating in Colorado?

Barbara Griffin of Whale Scientific with 19,000 square feet of manufacturing space in Commerce City who says, "I hold several patents on products our firm makes, and I market internationally."

Gizella Penn, president of Flexoveyor Conveyor Company, who has been manufacturing large equipment for over 20 years and just moved into another business upturn. Kass Rosenberger who founded Creative Home Health Care, and Adele Emerson who caters fine cuisine through her staff at Nutcracker Sweet.

Sandy Feldman who provides specialty nurses nationwide through her Critical Care, Inc. Barbara Gorgan with Western Industrial Contractors who installs huge pieces of machinery throughout the Rocky Mountain region, and Margaret Hainey whose Gemm Demolition blows up and tears down buildings by contract.

Ann Padilla whose SunnySide, Inc., Employment has just expanded to include temporaries after 11 years. Rosemary LaPorta who owns and operates one of the mountain region's finest art galleries. Diana Carroll, DRC Construction, who takes TV cameras to underground pipelines. Nora Mulholland of Office Furniture Broker who says, "We have 2,000 square feet of showroom and 8,000 square feet of warehouse." It is indeed a lively party, but. . .

Not everyone believes a party is called for, Jane Doe, Inc. *The State of Small Business: A Report of the President May 1985* states that there are 54,800 of you in Colorado and your average receipts are only $7,589! So, what's to celebrate about poverty?

"Oh, everyone knows that the report is not about women like me," says Jane Doe, Inc. "For example, the 11 celebrants just mentioned and I are not included because we own corporations, and the report talks only about women with sole proprietorships who filed Schedule C tax forms for either part-time or full-time self-employment in 1982.

"To compare the people described in the report with women who are full-time business owners is like comparing the dollars earned by part-time self-employed men with the dollar receipts of Martin Marietta, Adolph Coors, Gates and Hewlett-Packard. We aren't comparable.

"Would you like to hear how we got into business ownership?" asks Jane, sipping something cool. "Go ahead and ask."

Nora: "I was canned."

Ann: "I knew I could do as well as who I was working for and I could do it my way."

Barb: "My husband died and I had to provide for the children and myself, and the business was our only asset."

Pat: "I was laid off and it was the best thing that ever happened to me."

And are all the celebrants pleased to be in business? "Sure, says Jane Doe, Inc. "I'm pleased. Sometimes it's a hassle, but the rewards are worth all the effort. I'm doing something important and meaningful; I'm creating something that no one else can—my business done my way. And I'm not alone."

The Small Business Administration says women own 27.9 percent of all Colorado businesses. But that's probably a low estimate, Jane says, since only sole proprietorships are considered. "They keep forgetting that women incorporate businesses and form partnerships."

The National Association of Women Business Owners surveyed its members in 1983 and found that 60 percent of women-owned businesses are corporations. Those 54,800 Colorado women proprietors noted in the report probably represent about one-third of the women in business in Colorado, which means there are some 173,968 women business owners in our state.

"And that means," Jane says, "that women generate billions of dollars each year in Colorado. Could this be? This party is certainly getting crowded."

Over at the punch bowl, some party goers are comparing notes. "When I have to pay the bills, I sometimes go nuts. My cash flow gets real hairy during my offseasons!" says Diana.

"I know what you mean," says Stephanie. "I have to use my lines of credit until the receivables come in. And sometimes the interest rates I pay for short-term notes are way more than four points above prime."

"But it's the payroll expenses that hurt me," moans Arlis. "Workmen's compensation, social security, Colorado and federal withholding all really mount up, and I dare not be late paying those. Even when people are late paying me."

"If you think that you have it bad, just try keeping track in a retail store. We're constantly making sales tax payments and they vary depending on what city and county we're in," complains Carolyn.

"Well, I hired a great accountant and she helped my bookkeeper set up some useful record-keeping systems," brags Lavona.

And the party goers are off comparing experiences with their lawyers, their accountants, their business management and public relations and employee hiring and benefits consultants. Jane Doe, Inc., and friends come to the conclusion that their successes are due in part to their astuteness in recognizing when they need expert assistance. And knowing that they must pay for it.

Over at the hors d'oeuvres table some of the retailers are conversing while munching. "Did you know that 45.6 percent of all wholesale and retail outlets are owned by women?"

"Are you sure about that?"

"It's in *The Report.*" There is a moment of silence as everyone considers what it will be like when almost half of all types of business are women-owned, not just sales outlets.

Wilma Arnold of Faison Office Products, Judith Boyd of Les Chapeaux Ltd., Rose Edith Dwyer of Huymer Enterprises and Carolyn Fineran of Scandia Down Shops begin discussing market strategies. Lavona Marlow of Meggi's Dress Shop, Jane Martin of Potoflex Oven Sales and Judy Ruckstuhl of Color Profiles talk about marketing to upscale customers, while Carolyn Scholten of Best Book Buys and Marti Shotwell of World of Computers compare notes on the value of public relations, in addition to advertising.

From the center of the room comes a rumble of discontent. "I'm having the devil of a time getting financing," says Jane Doe, Inc. "I make and market all types of audio and video tape, but I'm a young business and therefore, I'm told, not a good loan risk."

You at least have inventory and equipment, but I have it even harder because I'm told I need to have collateral. My assets are my time and experience, and maybe some office equipment," says Laura who has a psychology office.

More than one-third of all service businesses are owned by women like Laura who have few business assets to pledge for business loans. "The last business loan I got I had to put a second mortgage on my house," explains Rose. "Would you believe that an established woman business owner back east had to have her 17-year-old son co-sign before she could get a loan? It's the truth. It was so outlandish that it was put into the CONGRESSIONAL RECORD!"

The celebration ceases and all is silent until Barb reminds them that when they want a business loan, they increase their chances of getting one with reasonable and appropriate terms if they provide a business plan, balance sheet, and profit and loss statement, along with the loan application form. And that the assistance of a good accountant helps too.

As the revelry slowly resumes, success stories are shared. Karen Boringer of Colorado Communication Resources, Sylvia Bellomy who owns The Maids, Mary Calhoun-Howe of Raemar Associates and Connie Maslow of Consultants for Business Meetings explains how they plan their business growth.

Nancy Peterson of the Penrose Executive Club and Dorothy Schluter of Dot Leasing describe how they change their business plans to meet changes in the marketplace. Martha Illige-Saucier, M.D., and Kae Marley who makes designer fashion explain why and how they provide personal care and service, and all the trainers, consultants and seminar producers talk about why they think Colorado women eagerly seek out their educational services.

The party becomes a network session where everyone learns a little about each other's business, and lots of business cards are passed around that will end up on business rolodexes for future references.

Then just before the dancing begins, Mary McCurry, president of the National Association of Women Business Owners and a Colorado CPA with a growing company, is presented with a dozen long-stemmed roses. The roses are in appreciation for her efforts on behalf of women business owners and for her urging them to share the value and vision of who they are.

The formal part of the celebration closes with Sandra Phillips, real estate broker, and Marlene Ospina of Ospina Investment Group leading the celebrants in cheers for the 20 percent of the gross national product. The celebrants agree to continue to support each other and to continue to do as Congresswoman Patricia Schroeder asks, "to walk together with energetic commitment and connectedness" toward the year 2000 and 50 percent of the gross national product.

(Patricia Killian, Ph.D., is owner of Speech-Perfection and Rehabilitation and is past president of the Colorado chapter of the National Association of Women Business Owners.)

SENATE—*Wednesday, June 25, 1986*

Legislative day of Monday, June 23, 1986

The Senate met at 10 a.m., in executive session, on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Not like the brazen giant of Greek fame,
With conquering limbs astride from land to land
Here at our sea-washed, sunset gates shall stand
A mighty woman with a torch, whose flame
Is the imprisoned lightning, and her name
Mother of Exiles. From her beacon-hand
Glows worldwide welcome; her mild eyes command
The air-bridged harbor that twin cities frame.
Keep ancient lands, your storied pomp! cries she
With silent lips. "Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore,
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!"

God of our fathers, as the Statue of Liberty is rededicated, we recall these significant words inscribed in the pedestal. May her torch of freedom continue to burn brightly. We praise You for our beautiful diversity and harmony—that to be American is to be black or red or brown or white. Thank You for a nation which is a refuge for all peoples, a haven for the oppressed.

We thank You, Lord, for leaders who seek the greatest good for the largest number in tax legislation, and for the profound sense of unity and harmony which prevailed in the Senate yesterday. Guide the conference that this integrity may be secure. In the love of God. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, is recognized.

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer, the President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Under the standing order, the leaders have 10 minutes each. I will reserve the time for the distinguished minority leader and any time I may not use I will reserve. That will be followed by special orders in favor of Senators HAWKINS, PROXMIRE, CHAFEE, LEAHY, STEVENS, BOREN, MELCHER, and HART for not to exceed 5 minutes.

VITIATION OF SPECIAL ORDER

I ask unanimous consent that the special order in favor of Senator STEVENS for today be vitiated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Then, the Senate will have routine morning business up until 11 o'clock with Members permitted to speak for not more than 5 minutes each.

At 11 o'clock, there are three possibilities. The most likely is S. 2129, the risk retention bill. We understand that can be done quite quickly, maybe in an hour's time. If not, the diplomatic security bill, which is a very important piece of legislation may be brought up.

I understand there are some who believe this bill would be a good place to put a nonbinding resolution dealing with the SALT agreement. I hope that would not happen on this important legislation. There is every reason to believe that people who serve in our Embassies around the world are at some times in great or mortal danger. This is very important legislation. I hope that those who have troublesome amendments would save them for another day.

And then another possibility is the housing bill, S. 2507. If we can complete action on that in half a day, we might do that. Later today we will do the conference report on the supplemental appropriations bill. It passed the House on a voice vote. I hope we could resolve any differences we may have rather quickly on the supplemental. Again, I know that in my State a number of farmers are being denied advance payments under various farm programs because there is no money appropriated. So that legislation is very important, and there are other very important provisions in that bill.

TV IN THE SENATE

Mr. DOLE. Mr. President, under the resolution whereby we approved television in the Senate, there was to be a test period where we sort of "pulled the plug" for a period of time from July 15 to July 29. I am suggesting that may not be necessary. It seems to me that there is no reason for the so-called cooling-off period scheduled to run from July 15 to July 29. I believe we have had fair success with TV in the Senate. I have not detected any abuses. There are certainly some things we should change as far as bringing products on to the floor from our home States, and things of that kind. Perhaps we have to tighten up the rules on things like the size of charts that I see popping up on both sides in our debates.

But overall, I cannot honestly recall a single instance where I felt that Senators on either side were abusing their rights just because we had television. Some said, "Well, the tax bill took a lot longer." We went back and checked into that. It really did not take a lot longer. It is a bigger tax bill in many respects than the one we did in 1981. It took about the same number of days—13 days. It took less time I think than the tax bill in 1964. It took 20 days to pass that one without TV in the Senate. There are a lot of comparisons being made, but in my view, on balance, we can continue TV coverage and still make adjustments in some of the regulations.

We have heard from experts, consultants, colleagues, reporters, staff members, and the people. We have a lot of input. We think we can make some changes. I know the distinguished minority leader has a monitoring group. They have made some good suggestions. We have a similar group on this side. So it would seem to me that if we just drop out of sight for a couple weeks, it might be a bit confusing. Although some would say it is more confusing that we are in sight. But we will leave that to the viewers.

Keeping the cameras rolling is at least something we should consider and, hopefully, we will not be going off the air.

NOMINATION OF DANIEL A. MANION TO BE U.S. CIRCUIT JUDGE

Mr. DOLE. Mr. President, last night we began debating the nomination of Daniel A. Manion to be a U.S. circuit

judge for the seventh circuit. I support Mr. Manion's nomination. And I do so for several reasons.

First, he has survived the most searching inquiries by the Judiciary Committee, and the Federal Bureau of Investigation. He was found qualified after an indepth review of his peers from the legal profession in the American Bar Association.

Second, I support Mr. Manion because there is a longstanding vacancy in the Federal judiciary that needs to be filled. In the midst of the partisanship that is swirling around this nominee, it is easy to overlook the needs of the judiciary. The position to be filled has been vacant since July 1984. The Seventh Circuit Court of Appeals is a busy court. It seems to me it is irresponsible for the Senate to delay further this nomination under such circumstances.

Third, I support this nomination because he is the President's choice.

Some might discount that as a valid reason. But the fact is, that President Reagan was elected, and reelected, by overwhelming majorities in 1980 and 1984. During both campaigns he repeatedly stressed the need to restore balance in the Federal judiciary. After all, Mr. Carter, in his single term, was responsible for the appointment of 256 judges, or more than 40 percent of the entire active Federal judiciary at that time.

A survey of the Judicature magazine, determined that even though these judges were to be selected by "merit," 95 percent called themselves moderate of liberal Democrats, and another 2 percent identified as Independents. It has taken President Reagan more than 6 years to balance out the Carter appointees.

Mr. President, on June 24 the Wall Street Journal ran an editorial, "More About Manion" that outlines the so-called allegations made against Mr. Manion, and very effectively shows how baseless these allegations are. The editorial concludes that, if the advise and consent role of the Senate becomes increasingly politicized, "it becomes less, not more, likely that important offices will be filled by men and women of quality."

Mr. President, I ask unanimous consent that the complete editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MORE ABOUT MANION

The Senate is about to vote on the nomination of Daniel Manion to be a Seventh Circuit judge in Chicago. Senators have heard plenty of arguments against Mr. Manion, thanks to a quarter-million-dollar ad campaign by the People for the American Way. They are summarized in Anthony T. Podesta's letter on the page opposite. But as with so many polemics in our contentious political life, they leave out a few key points.

Let's take them one by one:

Allegation: Mr. Manion says political opponents should be "penned up." Basis: In 1971, after his return from fighting in Vietnam, Mr. Manion appeared on the "Manion Forum," a radio show hosted by his father, Clarence. His role was to ask leading questions, such as why weren't antiwar protesters who broke the law jailed more often. Free speech guarantees expression within the law, but no jurist we know thinks violence gets First Amendment protection.

Allegation: Mr. Manion sympathizes with the John Birch Society. Basis: Clarence Manion was a member after serving as dean of the Notre Dame Law School. When he died, his son sent a letter to the society in thanks for its condolences. Daniel Manion never joined. He was a conservative deputy attorney general and state senator in Indiana. Michael Kendall, a liberal Democratic leader in Hoosier politics, sent a letter to Sen. Ted Kennedy saying few nominees were as "honest, truthful, unassuming, dedicated or judicious in their temperament."

Allegation: Mr. Manion doesn't believe in the Constitution. Basis: Sen. Howard Metzenbaum grilled Mr. Manion on a bill that would allow Indiana public schools to post copies of the Ten Commandments. Sen. Metzenbaum claimed that an identical Kentucky bill had been found unconstitutional. The Kentucky bill, however, *required* posting and *public expenditure* for the copies. The bill Mr. Manion supported gave schools the *option* of posting the commandments, but only if copies were *privately donated*. Anyway, legislators don't think voting for a bill in a gray area of constitutionality violates the oath of office. If Gramm-Rudman is unconstitutional, should Congress resign en masse?

As for the doctrine of incorporation, few scholars believe the Bill of Rights was intended to apply to the states. But Mr. Manion, like similarly skeptical jurists, says he is bound by the courts' acceptance of the principle.

Allegation: Mr. Manion doesn't have enough experience to be a judge. Rebuttal: Mr. Manion works in a small office in South Bend, Ind., and the briefs he submitted were on cases of condemnation, personal injury, tax, civil rights and securities law. How many judges had such a wide-ranging practice? Former Supreme Court Justice Robert H. Jackson was proud to have been a "country lawyer." Justice Oliver Wendell Holmes noted that the law would have more common sense if more judges had dealt with real-world issues and clients.

We could go on, but these allegations were never intended to rest on their own logic. They are a smokescreen for liberals who want to deny President Reagan his right of choice in judicial appointments. Sen. Paul Simon (D., Ill.) agrees, in effect, saying ideology is a reasonable consideration." Politics, not Mr. Manion's qualifications to be a judge, is the real concern. Sen. Simon gets an A for candor, but fails civics.

President Reagan gave the bottom line in his Saturday radio address. "Let's be honest," he said. "The real objection to Dan Manion is that he doesn't conform to the liberal ideology of some senators." Norman Lear and PAW are spending a lot of money to goad the Senate into politicizing its advise-and-consent role in presidential appointments. But the farther we travel down this road, it becomes less, not more, likely that important offices will be filled by men and women of quality.

Mr. DOLE. Mr. President, I would hate to see us head down that road—a road that invites endless partisan wrangling over each and every judicial nominee—a road, I might add, that leads nowhere.

A "willful minority" might have blocked President Roosevelt from appointing eight Supreme Court Justices in 6 years. It would have been easy to go on a sitdown strike during the last 2 years of the Carter administration, instead of allowing the bulk of the Carter appointments to be confirmed.

But we did not do that. We operated under the principle that a President has the right to appoint the judges of his choice. And only when there is overriding evidence that the appointee is unqualified, should we demure. I would hope that we could set aside the urge to stage a partisan coup in the name of justice, and relocate our traditional spirit of comity.

Very honestly, it seems to me we ought to be able to bring this matter up and vote on it up or down. But now we are going to have to, if we can, obtain cloture so that we can then proceed to the nomination.

Now, I can understand if it were some matter of great national importance that you might want to go the cloture route. But here we are talking about one individual, one American, who has been nominated to be a U.S. circuit court judge. In my view, whether we agree or disagree with Mr. Manion; whether we intend to vote for or against Mr. Manion; we ought to be voting on the merits and not going through this procedural exercise. So I urge my colleagues on both sides to give the man an up or down vote. He is a very good person. I know he has been made the target by those on the left; These contend that somehow he is not qualified; somehow he does not understand the Constitution; that he comes from a small town and by inference, therefore, does not reflect modern views.

□ 1010

Mr. President, there is a longstanding vacancy, and it needs to be filled. This candidate was found qualified after an indepth review by his peers in the legal profession. He does have support from Republican and Democrats on the outside. I hope and believe he has the support of many Democrats in the Senate.

I hope we will also understand that he is the President's choice. The President, in a lengthy letter to me last week and a letter to the distinguished chairman of the Judiciary Committee, Senator THURMOND, expressed his views. The President also expressed his views in his weekly radio address on Saturday.

I hope we can set aside the cloture motion and agree to, say, 8 hours of

debate tomorrow. We could have the debate, vote up or down on the nomination, and see what happens.

So far as President Reagan is concerned, he has been elected and reelected by overwhelming majorities. During both campaigns, he repeatedly stressed the need to restore balance in the Federal judiciary.

President Carter, in one 4-year term, was responsible for the appointment of 256 judges, or more than 40 percent of the entire active Federal judiciary. Ninety-five percent call themselves moderate or liberal Democrats; another 2 percent identify themselves as Independents.

I guess the biggest fault with Mr. Manion is that he is viewed as a conservative. I did not know that was a disqualification in this country. Whether you are running for office, or you want to be a judge, or whatever job you may aspire to, being a liberal or conservative should not be a disqualification.

Mr. President, the President has a right to appoint the judges of his choice. And at least, we should give the President an up or down vote. We owe it, first of all, not to the President, but to Daniel Manion. Mr. Manion is a person of integrity, who has a good record, who may not satisfy the views of some—but who does? None of us does. We find that out everytime we are running for reelection. We may not satisfy all Republicans or Democrats or Independents.

Mr. CHAFEE. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I am happy to yield.

Mr. CHAFEE. Mr. President, as I understand the situation, the majority leader would like to proceed with a vote on Mr. Manion, and the situation is that there is a filibuster or delaying of the vote.

I cannot understand the rationale of that. Let us get on with Mr. Manion, vote up or down. Those who oppose him would vote "No"; those for him would vote "Yes." What is to be gained by delaying, postponing, or filibustering it?

I think we want to proceed with the business of the Senate. I commend the majority leader for his statement; and I hope that those who are delaying this—and I take it there is a suggestion of a filibuster or delay in connection with this nomination—would let us get on with it. If his nomination is confirmed, fine; if it is not, at least the vote has been had. But let us get on with the voting. Nothing is gained by delaying the people's business, the business of the Senate, by filibustering this nomination.

Mr. DOLE. There is not much precedent for it. We checked back to 1973, and no judge has been rejected by cloture back to that date. If we are going to defeat the judge—judges have been defeated, Republican and Democrat—let us bring it out and vote. Let us not use some parliamentary maneuver to deny this man, a vote. It may be a very close vote. He may not have the votes. But let us find out.

I do not want to indicate that a number on the other side are not trying to put together a time agreement, because they are. If we cannot do that, I hope everybody will vote for cloture tomorrow, and then we would go on to the debate on the nomination.

There are some questions to be raised on every nominee. All of us are subject to questions, whether we are in or out of public life. When someone comes before this body to be a judge, or to serve in other public service, there are going to be some disagreements.

I thank the distinguished Senator very much.

Mr. CHAFEE. I hope we will not have to go through a cloture vote and all that business. I wish we could get a time agreement, whatever it is, and vote.

Mr. DOLE. We are working on it.

Mr. CHAFEE. I hope we can.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. Under the standing order, the Chair recognizes the acting Democratic leader, the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I yield 1 minute of the leader's time to the Senator from Illinois, and then I will ask unanimous consent that the remainder of the leader's time be reserved for his use later in the day.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

NATIONAL SPINA BIFIDA MONTH

Mr. DIXON. Mr. President, for the last 2 years, I have introduced joint resolutions which have designated October as "National Spina Bifida Month." Today, I introduce a joint resolution to designate October 1986 as "National Spina Bifida Month."

Spina bifida is a birth defect which results when one or more bones in the vertebra fail to close completely during prenatal development. It is the most common crippler of newborns, occurring in one of every 1,000 births. Spina bifida occurs more frequently than muscular dystrophy, multiple sclerosis, polio, and cystic fibrosis combined.

Although the cause is not known, spina bifida appears to be the result of multiple environmental and genetic factors. Studies have shown a high occurrence of spina bifida in urban areas and births during certain months of the year.

I am again introducing a joint resolution on spina bifida because the need still exists to heighten public awareness of this crippling birth defect.

Mr. President, I ask unanimous consent that the resolution be printed in the RECORD and I urge its prompt approval.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 368

Whereas spina bifida is a birth defect in the spinal column which occurs in one of every one thousand births in the United States;

Whereas spina bifida is the most common crippler of newborns, resulting when one or more bones in the back (vertebrae) fail to close completely during prenatal development;

Whereas while the cause of spina bifida is not known, it appears to be the result of multiple environmental and genetic factors;

Whereas although most of the March of Dimes and Easter Seal poster children have spina bifida, many people have not heard of the defect;

Whereas only a few cities in the United States have proper care centers and specialized professionals that can provide the most effective, aggressive treatment for children and adults with spina bifida; and

Whereas an increase in the national awareness of the problem of spina bifida may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for spina bifida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1986, is designated "National Spina Bifida Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

ORDER OF PROCEDURE

(The following occurred later:)

Mr. BYRD. Mr. President, I will ask the Senator from Maryland if he would not mind, I have just a few minutes left in my leader's time. I would like to make an observation at this point.

I will yield the floor, Mr. President, if whoever gets recognition would allow me to do that.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I yield to the distinguished minority leader without losing my right to the floor.

Mr. BYRD. I thank the distinguished Senator from Maryland.

Mr. President, I ask unanimous consent that my statement appear at another place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREPARING FOR A SUMMIT

Mr. BYRD. Mr. President, the new Soviet Ambassador, Mr. Yuri Dubinin, met with me and several of my colleagues earlier today around coffee. He submitted a proposal by resolution of the Foreign Affairs Committees of the Soviet Union and the Soviet nationalities of U.S.S.R., the Supreme Soviet. Those committees have met and have proposed that there be discussions on arms control matters with the Foreign Affairs and Foreign Relations Committees of the Congress.

In that meeting were Senators PELL, the ranking member of the Senate Committee on Foreign Relations; Mr. MOYNIHAN, who is an esteemed member of the Intelligence Committee and, of course, has supercredentials in various posts within our Government and within several administrations, posts dealing with foreign policy and domestic policy, having been former Ambassador to India and former Ambassador to the United Nations; Senator NUNN, the ranking member of the Armed Services Committee, and Senator CRANSTON, the Democratic whip.

We discussed the proposal that had been submitted by these committees of the Supreme Soviet. We emphasized that the important thing in our viewpoint was for Mr. Gorbachev to promptly state to our President his, Mr. Gorbachev's, intentions with respect to a summit.

We emphasized the importance that there be a summit; that Mr. Reagan is desirous of a summit; that if there is going to be a summit, there should be adequate preparations made, well in advance, with respect to the agenda; that the President had proposed a meeting between Mr. Shultz and Mr. Shevardnadze for the purpose of preparing the agenda, just as was done prior to the previous summit.

We stressed the fact that it was important from the standpoint of peace, that there be discussions regarding a mutual, verifiable arms control treaty, but not only with respect to the talks that are going on in Geneva and not only with respect to nuclear weapons and the strategic arsenals, but also with respect to conventional weapons.

We indicated to the Ambassador that if such meetings were to go forward, we felt that the membership on both sides should be small in number, that better discussions and a better dialog could be had with a small group rather than a large one.

□ 1210

Reference was made to the Senate observers group, which has the stamp of approval of the Senate thereon, and the fact that the observer group has been active in attending the negotiations in Geneva and has had continuing discussions with the negotiators there on both sides, and has been in a position to inform the Senate as to what they, the observers, have heard and seen.

We also stated that if there is to be such a dialog between such groups, the dialog should only begin after a summit date has been agreed upon. We made it very clear that we would not see this as a substitute for a summit by any stretch of the imagination and that if we are going to have meetings and continuing dialogs, no meeting should occur before a summit date has been agreed upon, but that the first meeting, if we decide on both sides—it would have to be bipartisan of course—to go forward, such a meeting should be held before the summit but only after a summit date has been agreed upon between Mr. Gorbachev and the President.

Of course, we perceive this as only a mechanism whereby there can be a continuing dialog in which no agreements can be entered into. The group would have no authority to enter into any agreements, but it could be beneficial, I should think, from the standpoint of a dialog and in helping to prepare for the summit.

We indicated to the Soviet Ambassador that we would discuss it further among ourselves. We did not say yea or nay to the proposal. We did suggest that if such a dialog between such groups does go forward, Mr. Dobrynin, the former Soviet Ambassador to the United States, be included as a part of the Soviet group. We also suggested that Mr. Ligachev, the No. 2 man in the Politburo, be included in such a group. That would give the Soviet group considerable stature from our standpoint.

We also made it clear, of course, that the organizational structure and jurisdiction and powers of committees in Congress are very, very different from the very inflexible structure of the Soviet parliamentary bodies and that those parliamentary bodies of the Soviet Union speak with one voice whereas, in the case of our own parliamentary bodies, there are many diversities and there is considerable difference in the stature and standing and influence as between the two.

I have told Mr. DOLE about what went on in our meeting and the fact that we emphasized the need for Mr. Gorbachev to get on with agreeing to a submit and agreeing to a date therefor.

I yield the floor.

RECOGNITION OF CERTAIN SENATORS

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Florida [Mrs. HAWKINS], to be followed by the Senator from Wisconsin, the Senator from Rhode Island, and the Senator from Vermont, for not to exceed 5 minutes each.

THE COCAINE APOLOGISTS

Mrs. HAWKINS. Mr. President, cocaine killed Lenny Bias, that brilliant basketball star from Maryland with a life bright with promise. It's now official from the Maryland State medical examiner. Even the network news is now telling us that casual, first time cocaine use can be lethal.

I would hate to think that it took the tragic death of Len Bias to make believers of Dan Rather, Tom Brokaw and company, in what was clear to many of us all along. But old myths die hard, harder than strong young men like Lenny Bias. And the myth of the harmlessness of those so-called recreational drugs like cocaine still has many believers in the mass media, the entertainment industry, our universities, and even the health profession.

We will continue to hear from the old predictable allies of the drug culture, like Dr. Lester Grinspoon of Harvard. Grinspoon was very quick to tell the world, after Len Bias' death, that his heart damage was unlikely to be caused by cocaine use. What is really discouraging is the ease with which drug use apologists like Grinspoon, who should have long ago been discredited, get their propaganda published in our national press.

It is heartening to see the Washington Post, now after Len Bias' death, full of dire warnings about cocaine. Will this new editorial policy survive the funeral? It was not always so at the Post.

If Lenny Bias looked at the front page of his morning newspaper when he was a senior in high school in Lanham, MD, he would read on page 1 of the Washington Post, on February 25, 1982, a story headlined "Cocaine Behavior—'Recreational' Sniffing Found No Riskier Than Alcohol or Tobacco: Heavy Use 'Enslaving'." Here it is: The editors put that message on page 1, in the headline of the article, just so casual readers like Lenny would not miss it, I guess.

This article goes on the quote Drs. Craig Van Dyke and Robert Byck of Yale who tell us in their wisdom that "the pattern of—cocaine use—behavior is comparable to that experienced by many people with peanuts or potato chips," and further "recreational use of the drug through the nose is neither addictive nor harmful."

To what editor of the Post does the community owe its appreciation, for deciding to run this fairy tale at all, let alone put it on page 1 with the message in headlines?

As chairman of the Senate Subcommittee on Alcohol and Drug Abuse, I have held many hearings on the subject and taken testimony from our best experts on the dangers of drugs like cocaine. Unfortunately, I have found the media by and large not at all interested in such testimony; so the

public, people like Lenny Bias, never got the message. Sadly they read the Post instead.

□ 1020

As a Senate subcommittee chairman, elected representative of the people of my State of Florida, I often watched powerlessly and in frustration as the media gave voice instead to the drug culture lobby. Organizations like NORML—National Organization for the Reform of Marijuana Laws—and others would get first rate coverage from the Post and others for their press conferences, new releases, editorial page offerings, or their congressional testimony. Freedom of the press, they call it.

Just last week, the Post gave that great guru of the drug culture, Timothy Leary, a huge, very favorable promotional piece, the feature article on page 5 of the style section. Any good PR man could probably quote you a price in six figures for the value of that promotion from the Post for Leary. Meanwhile, Timothy Leary continues to travel through our Nation's campuses, extolling the virtues of drugs and the psychedelic lifestyle to our impressionable young college students. Just another community service from the Post.

Wouldn't it be terrific if we had a news media that would run valuable promotional pieces like that for those wonderful private citizens fighting a stubborn and courageous war against the drug culture, rather than for it. They are fighting for that great unstylish majority of our society who have no use for drugs but no voice either. I could suggest a few names if the Post were interested, people like Joyce Nalepka, president of the National Federation of Parents for Drug Free Youth, Otto and Connie Moulton, founders of Committees of Correspondence of Danvers, MA, or Sue Rusche from Pride, of Atlanta, GA.

I won't hold by breath. But I'm not forgetting either. For those interested in a striking example of irresponsible journalism, I ask unanimous consent to have printed in the RECORD the Washington Post article by Thomas O'Toole of February 25, 1982, entitled "Cocaine Behavior—'Recreational' Sniffing Found no Riskier Than Alcohol or Tobacco: Heavy Use Enslaving."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 25, 1982]

COCAINE BEHAVIOR—"RECREATIONAL" SNIFFING FOUND NO RISKIER THAN ALCOHOL OR TOBACCO; HEAVY USE "ENSLAVING"

(By Thomas O'Toole)

Two medical researchers who have worked for six years with animals and humans at the Yale University School of Medicine claim that "recreational" sniffing of the illegal drug cocaine is no more habit-forming or threatening to health than are small doses of alcohol or tobacco.

"The pattern of [cocaine use] behavior is comparable to that experienced by many people with peanuts or potato chips," Drs. Craig Van Dyke and Robert Byck write in the March issue of Scientific American magazine. "It may interfere with other activities of the individual, but it may be a source of enjoyment as well."

On the other hand, Van Dyke and Byck say, heavy use of cocaine by smoking or injection can be so harmful that the drug becomes "enslaving," forcing the user to prefer the drug over anything else in life.

"When a drug like this is overused, it can be intensely destructive in the sense that a user's entire life structure may change," Byck said in a telephone interview. "When cocaine is taken regularly, it can cause sleeplessness, loss of appetite, hallucinations and paranoia. Injected cocaine or smoked cocaine can make users so enslaved it can destroy lives."

In experiments with 30 cocaine users and at least as many monkeys over a six-year period, the two researchers found that "recreational" users of cocaine who "snort" the drug through the nose feel effects that differ dramatically from those experienced by users who frequently inject it into their veins or smoke it in its pure powder form in what is called "free base."

So fleeting and so mild are cocaine's effects, Van Dyke and Byck report, that most recreational users cannot tell the difference between cocaine and other drugs such as lidocaine (Xylocaine), procaine (Novocaine) and even some placebos such as sugar and talc that in their powdered form resemble cocaine.

"Our subjects, all experienced cocaine users, could not distinguish a single dose of cocaine taken intranasally from the same quantity of the synthetic local anesthetic lidocaine," they write. "Such results are the first steps toward distinguishing the almost overwhelming mythology that surrounds cocaine from reliable information about its effects."

The two doctors said cocaine users may be paying $100 a gram for a drug that ranges from zero to 50 percent cocaine. Much of the cocaine being sold to users may be like bottles of cheap wine sold as vintage wine to those who cannot tell the difference, they said.

"It's clear to us that the cocaine on the street has been cut tremendously, espceially with local anesthetics, like procaine," Van Dyke said. "The only way users can test the stuff they're getting is by tasting it, and procaine will momentarily deaden the tongue and lips just like cocaine. There's no way people can tell the difference."

Despite the devastation caused when cocaine is smoked or injected, Van Dyke and Byck concluded that recreational use of the drug through the nose is neither addictive nor harmful.

"Cocaine users can take the same dose every day and get the same effect," meanning they do not gain a tolerance to the drug as do users of opiates, barbiturates and even alcohol, they write.

"There are withdrawal signs . . . but they are quite undramatic when compared with the withdrawal syndromes associated with opiates, barbiturates or alcohol," they write.

They conclude overall that "a considerable bureaucratic constituency depends for its existence on the public belief that cocaine is unequivocally pernicious. It is not clear whether the potential for the abuse of cocaine justifies the intensity of such efforts.

"The main threat from cocaine is the waste of human potential that could result from widespread consumption. Cocaine policy and regulations take little account of these conclusions."

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

IS SALT II WORTH FIGHTING FOR?

Mr. PROXMIRE. Mr. President, on May 27 President Reagan said that this country may not continue to abide by the second Strategic Arms Limitation Treaty [SALT II]. He charged that the Soviet Union has violated the treaty. He said that unless he sees evidence that the Soviet Union has stopped its violations, our country would proceed to increase our nuclear forces "according to our needs". The President's statement coincided with his announcement that we would comply with the treaty for now by dismantling two Poseidon submarines.

Secretary of Defense Weinberger on the following day, May 28 declared the United States would definitely ignore the treaty in August or September when it will arm B-52 bombers with cruise missiles in direct and deliberate defiance of the specific provisions of the treaty. Mr. President, is it in the national security interest of this country to kill the one and only treaty that restrains the offensive nuclear arms race between the United States and the Soviet Union? Note, Mr. President that I ask: "Is our deliberate violation of SALT II in the national security, I repeat—the national security—and strictly the national security interest of the United States?"

Obviously this action will fire a fatal shot into the heart of arms control. Certainly those who believe that arms control provides the only realistic alternative to a suicidal arms race with the Soviet Union will recognize this decision for the tragic mistake it is. But even those who have little or no faith in arms control negotiations with the Soviet Union will have serious reservations about what the end of SALT II will do to the strictly military position of the United States vis-a-vis the Soviet Union.

Mr. President, the only analysis this Senator has seen of what the termination of SALT II would do to the relative military strength of the Soviet Union and the United States has indicated that with the death of SALT II the U.S.S.R. will quickly and surely increase its military strength far more than the United States. This has been the consistent position of the generals and admirals who have the responsibility for our Armed Forces. It has

been the position of our outstanding military experts in the Senate, the leaders on whose expertise many of us have relied. Certainly a decision to repudiate this crucial treaty should require a specific and detailed bill of particulars on four counts. The Congress deserves to know precisely where and when and how the Soviets have in fact violated SALT II. We should have that allegation in details. We don't have it now. Is SS-25 a new missile and, therefore, in violation of the treaty?

Is the Soviet Union violating the SALT Treaty by encrypting their telemetry? Almost every Senator who has spoken on this issue, including critics of the administration's SALT decision, assume the Soviets have in fact violated the SALT Treaty. They may—I repeat "may"—all be wrong, the fact is that the wording of the SALT II Treaty is tragically ambiguous. We should go to the mat with U.S.S.R. to clarify it.

Second, we need to know the precise military significance of those violations. What kind of a military advantage do these violations—if they are substantiated—give the U.S.S.R.?

Third, we should know exactly what this administration has done with respect to those particular violations to protest them, to secure full explanations of them from the Soviets and to persuade the Soviets to discontinue the violations. We have a Standing Consultative Commission or [SCC]. What was the purpose of the SCC? It was established to secure compliance with arms control agreement—between the superpowers. Previous administrations have wisely and effectively used that commission to explore and rectify violations. We should know what this administration has done through the SCC with respect to the alleged Soviet violations of SALT II.

Fourth the Congress should know exactly what military advantages in detail, the United States will secure by over-riding SALT II. To date we in the Congress and the American people have none of this specific bill of particulars. We have nothing but flag waving generalities. Certainly when the President of the United States complains about Soviet violations all of us as loyal Americans will give the President the benefit of the doubt. But why doesn't the President make his case and make it specifically in detail?

Finally, the assault by the administration on SALT II has to be put in the context of the Reagan administration's record on arms control. The President has opposed each and every arms control treaty entered into by the United States and the Soviet Union for the past 25 years. He is the first President since the dawn of the nuclear age who has made no progress in negotiating arms control treaties. He has repudiated the treaty ratified promise of this country to negotiate a mutual verifiable end to nuclear weapons treaty. His star wars missile defense would carry the arms race into space and directly repudiate the ABM Treaty ratified by the Senate by an 89 to 2 vote. And now the President would drive the last silver spike into the heart of arms control by renouncing SALT II. In this dangerous nuclear age this is a sorry, and tragic record.

(Mrs. HAWKINS assumed the chair.)

THE MYTH OF THE DAY

Mr. PROXMIRE. Madam President, the myth of the day is that the Federal Reserve Board—the Fed—can reduce interest rates and juice up the economy. On Monday, the majority leader recommended that the Fed follow precisely this course. Because the economy is sputtering, the Fed will face increasing pressure to print more money and bring down interest rates.

I always hesitate before differing with the distinguished majority leader, but this is one case where the leader is making a mistake. Reduced interest rates would help the economy but the Fed may lack the power to get us from here to there, at least without a big assist from the Congress and the administration. The huge deficits we have incurred—both trade and fiscal—limit the ability of the Fed to act.

Suppose it does try to reduce interest rates. Right off the bat, that means that foreign investors are going to be less likely to help us finance our fiscal deficit by buying our bonds. Such foreign investment is one of the major reasons why these deficits have not driven up interest rates. If that source of money dries up, and the effort to lower interest rates will do just that, then the Fed may find its best efforts thwarted.

An even more important hobble, however, is that the Fed is already printing money at an alarming rate. If economics has one law that has yet to be repealed it is that inflation is caused by too much money chasing too few goods. Last year, the money supply jumped by over 12 percent while our output of goods and services limped along at a 2.2-percent growth rate, after adjusting for inflation. Other, broader measures of the money supply grew less rapidly, but their growth was still well above that of real economic growth.

How much more money growth can we tolerate without reigniting inflation? This Senator does not know the answer to this question but even the most steadfast optimist would have to start worrying after examining these figures.

Madam President, we—the Congress and the administration—would give the Fed a lot more elbow room if we were to act decisively to reduce the deficit. We should cut spending including military spending. We should, if we cannot cut spending enough, raise taxes. We must cut the deficit. So far, we have talked a good game, but have done little to followthrough. That, unfortunately, is not myth.

Madam President, I yield the floor.

RECOGNITION OF SENATOR CHAFEE

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

THE COMMUNITY AND FAMILY LIVING AMENDMENTS OF 1985

Mr. CHAFEE. Madam President, I believe most of my colleagues in the Senate would agree that people should live in homes not in institutions. Children should live with their natural parents, or when necessary, adoptive families or foster families. When this is not possible, they should live in small, homelike environments. Similarly, adults should live in the community—sometimes with friends, sometimes with their parents, but always in the community, if possible, and always with the support they need to achieve their full potential.

These ideas are taken for granted by many of us. But, Madam President, many Federal policies actually discourage their implementation.

There are individuals in our society today who do not have the opportunity to live in their own homes. There are families who have not had the opportunity to keep their children with them.

(Mr. WARNER assumed the chair.)

Mr. CHAFEE. Mr. President, why is this so?

I am talking about individuals who have mental or physical impairments.

Mr. President, people with disabilities have the right and the need to live in the community, regardless of the severity of their disability. We have the technical skill and the professional expertise to make this right a reality. This is an approach proven in community after community throughout this country—in my own State of Rhode Island, in Michigan, in New Hampshire, in Utah, and in many other States.

I have introduced legislation—the Community and Family Living Amendments of 1985, S. 873—which would encourage States to develop community-based services for those with mental or physical impairments. This would be accomplished by phasing down Federal Medicaid support for large institutions and transferring that support to the community. S. 873, the legislation I am introducing, pro-

poses a complete restructuring of the Medicaid Program as it relates to those with severe disabilities.

The enactment of S. 873 would mean that individuals now living in the community will never have to face the traumatic experience of being placed in an institution simply because there is no other place to go. It would mean that families would never be faced with a situation in which they can no longer care for their children at home and the only other option is institutionalization.

In order for a disabled individual to move back or remain in the community much careful planning is needed. In other words, the transfer from an institution to a community-based living facility requires planning.

Under the plan that I have proposed, every institutionalized person with a physical or mental impairment would have a right to have an individually tailored program that best meets their needs for supervision, support, health services, and education. My bill requires written program plans, developed at team meetings, with parent participation. I have stressed the word "program" for a reason. It seems to me we need to stop equating buildings with programs. Our society can and must offer a continuum of services, but we do not need large buildings to accomplish this. The notion that big buildings equal better programs has been shown to be false.

□ 1030

Some States are not yet ready to support some of their most challenging citizens in community settings. That is why the bill I have introduced provides a length of time, a period of 15 years in all, for this transition. Now, 15 years is a long time. It goes to the end of this century. And, by the end of that time, we certainly ought to be able to have worked out a transfer of most people out of institutions into small community-based facilities.

However, in the legislation, I have provided that 15 percent of the Medicaid funds currently going to the States can be used for institutionalization.

My bill gives parents the right to review and appeal any program dealing with their children. If a child is to be moved out before the parent thinks it is right—that is, moved out of the institution—then the parent has the right of appeal.

My legislation stands for many of the ideals held dear by all of us. Those ideals should apply to all Americans, but today they do not. Severely disabled people have been second-class citizens for too long, locked up in institutions. What we are trying to do is get them out of institutions. This has proven tremendously successful in my State and in other States, as well.

When the person is out of the institution in a smaller setting, community-based setting, that person realizes his or her full potential and learns to do things he or she was never called upon to do in a large institution.

So I ask my colleagues to join me and eight other cosponsors of S. 873 in developing a system where each person, no matter how disabled, is cared for, supported, and served in the community where we all belong—together.

S. 2596—THE PLASTIC WASTE REDUCTION ACT OF 1986

Mr. CHAFEE. Mr. President, I am pleased to introduce today a bill to address the adverse effects of plastic waste materials on the environment, including their effects on fish and wildlife. Joining me as cosponsors of this measure are Senators STAFFORD, PELL, BAUCUS, and SIMON.

Over the last decade, there has been growing concern among conservationists and scientists over discarded plastic in our Nation's waters and on land. Entrapment in plastic debris such as six-pack holders, packing bands, wrapping materials, and ingestion of plastic materials is known to kill thousands of birds, seals, turtles, sea lions, and fish each year.

After World War II, plastic materials displayed a hundredfold growth in the marketplace. Products previously made from metal, glass, paper, and cloth have been rapidly replaced by plastic products. Just last year, about 50 billion pounds of plastic was used to make a myriad of products. Of the total plastic usage, over 10 billion pounds was used in packaging applications. Given the existing data, a substantial portion may be improperly disposed of in the Nation's environment.

The wider use of plastic materials has led to a number of disposal problems with serious consequences. Lightweight plastic products discarded in the water neither sink nor disintegrate. This debris is virtually invisible to many types of marine life, and can float for years, causing entrapment and killing marine animals before eventually washing ashore.

In addition to entrapment of marine life, plastic debris is recognized to pose a hazard to fish and wildlife through ingestion. Raw plastic particles, from which plastic products are manufactured, enter the waters from manufacturing plants. These particles are also lost from ships, particularly from loading and unloading cargo. Fish and wildlife eat such raw plastic particles and plastic bags because of their resemblance to natural food. Ingestion can be fatal.

Plastic pollution in the ocean is of global magnitude. A survey of the South Atlantic found a density of 1,000 to 2,000 raw plastic pellets per square kilometer. On one beach in New Zealand, over 100,000 plastic particles have been found per linear yard of beach. It is estimated that at least 640 miles of a Japanese salmon driftnet are left to float in the North Pacific each year. Since plastic nets are not biodegradable, they will float until washing ashore or sinking with the weight of seaweed, algae, and barnacles. Marine mammals, seabirds, and fish become entrapped and die in the lost nets.

Another obvious effect of plastic pollution is the esthetic one. We cannot walk to our Nation's beaches and parks without encountering plastic litter. A recent beach cleanup effort in some coastal States, including Rhode Island, resulted in the collection of thousands of discarded plastic products. Among the most prevalent items were six-pack holders, packing bands, pieces of fishing nets, and containers. In an Oregon cleanup, 1,500 six-pack holders, over 2,000 strapping bands, about 18,000 pieces of styrofoam, and 1,000 pieces of plastic fishing gear were recovered.

It is also reported that marine debris poses hazards to seagoing vessels. Propellers, shafts, and intakes of marine vessels have been fouled by floating nets and other plastic debris. Sunken abandoned nets can be an obstacle to submersible craft. Plastic debris also poses a threat to divers.

Thus, far, there has not been a comprehensive study evaluating the impact of plastic debris on the environment including fish and wildlife. However, as the use of plastics continues to grow, we can't ignore the adverse environmental impacts of these materials. Congress needs to carefully examine the environmental pollution of discarded plastics on land and in waters and take appropriate steps to correct the problem.

My bill will establish a two-step approach.

First, the bill provides for a ban of nondegradable plastic six-pack holders and other plastic beverage connecting devices. EPA is required to issue the regulation 18 months after the date of enactment of this act. Following the regulation, manufacturers will have 6 months to comply and to use up their inventory of nondegradable materials. My bill will provide for uniform regulation of these products for all the States.

Mr. President, I'd like to add that 10 States, including Connecticut, Delaware, Maine, Massachusetts, New York, New Jersey, Oregon, Vermont, California, and Alaska have banned the sale of nondegradable six-pack holders and other plastic beverage connecting devices. Italy has recognized the problems of discarded plastics on the environment. In 1984, the Italian Minister of Industry issued a requirement that, by January 1, 1991,

all bags and plastic wrappings must be made of biodegradable materials.

Second, the bill requires the Administrator of EPA to assess the adverse impacts of discarded plastics on the environment including its effects on fish and wildlife. The bill also requires that within 18 months of enactment, the Administrator must make recommendations to Congress on actions which might be taken to alleviate the problem. In making the recommendations, EPA will consider the environmental, public health, and economic impacts of such actions.

In undertaking this study, the Administrator will consult with the U.S. Fish and Wildlife Service, other Government departments or agencies doing research in this area, as well as the affected industries.

I hope my colleagues in the Senate will join me in this effort to reduce the plastic pollution of our land and waters.

The problems posed by discarded plastic materials have been highlighted recently in articles in both the New York Times and Time magazine. I ask unanimous consent that copies of these articles, along with the text of the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 25, 1984]

DEADLY TIDE OF PLASTIC WASTE THREATENS WORLD'S OCEANS AND AQUATIC LIFE

(By Bayard Webster)

The world's seas and oceans, already polluted with spilled oil, toxic chemicals and radioactive waste, are now being fouled by a new and insidious form of pollution—plastic waste.

This plastic pollution is killing millions of birds, fish, whales, seals and sea turtles, marine scientists report. Their research has shown that the animals die after becoming entangled with discarded or broken plastic fish nets, straps, trawls, seines and snares, and also die after eating pieces or tiny spherules of plastic that are being dumped into all of the world's marine waters.

The problem has become so serious that 150 marine wildlife researchers from 10 countries met recently at the University of Hawaii in Honolulu for the first international conference on the issue. The meeting focused on the impact that nonbiodegradable plastic wastes and sections of untended nets have on animals that live in or depend on the ocean.

"It's a worldwide problem and one that's increasing," Warren King, chairman of the United States section of the International Council for Bird Preservation in Cambridge, England, said in an interview. Mr. King said the number of deaths of birds and marine mammals "boggles the mind."

Although ocean bathers and coastal walkers have noticed an increasing amount of plastic litter on the shores, little was known until recently about the nature of such wastes, how they enter the oceans and just how great the problem is.

The National Academy of Sciences estimates that each year commercial fishing fleets dump more than 52 million pounds of plastic packaging material into the sea and lose more than 298 million pounds of plastic fishing gear, including nets, lines and buoys.

The Entanglement Network, a Washington-based consortium of 14 environmental and marine wildlife conservation groups, presented data at the conference showing that one million to two million sea birds such as albatrosses, puffins, gulls, terns, murres and petrels die each year from becoming entangled in plastic nets or from eating bits of floating, discarded plastic. And more than 100,000 sea mammals, including whales, dolphins, seals and manatees, met similar deaths, the group said.

In a recent report to the World Wildlife Fund, Michael Donoghue, a New Zealand marine biologist, said the problem has become critical largely because of the development of a multitude of plastic products, particularly fishing nets.

Dr. Donoghue said plastic nets, most of which are made in Japan, are cheaper to produce and far less visible than the traditional multifilament nets made of twine or other biodegradable materials. They are also more difficult for the fish to detect acoustically. Sea mammals, for instance, rely on echolocation to navigate, and often become entangled in the nets and drown.

Moreover, large pieces of the plastic nets often break off, becoming "ghost nets" that present a continuous floating threat. Robert H. Day, an ornithologist at the University of Alaska, said sea birds often become entangled when they dive for the already-trapped fish.

Some animals drown, unable to return to the surface. Others, forced to drag the net along as they swim, die from exhaustion or from wounds as they are cut by the netting. Still others cannot capture their natural prey and starve. Young seals may have plastic netting around their necks that choke them as they grow.

Felicia Coleman and Dr. Duff H. S. Wehle, faculty members of the Shoals Marine Laboratory of Cornell University in Ithaca, say plastics in the oceans are being found in two forms, manufactured compounds, including nets and other fishing products, and raw particles in the form of pellets.

Detergent bottle caps, chips from Styrofoam containers and toy soldiers, cars and animals have been found in the stomachs of some 50 species of sea birds and many species of fish, turtles and mammals, the two researchers reported. Many whales, manatees, dolphins and sea turtles that feed on jellyfish often mistake plastic sheeting or bags for their prey and eat them. Once in the stomach, the plastic prevents the animals from assimilating real food and causing starvation.

Frank Corbin, director of communications for the Society of the Plastics Industry Inc., based in New York, said a major problem in developing biodegradable marine products, say, netting, was in determining how long the net should be useful, and then developing a plastic that would disintegrate soon after, but not before, that time. Other problems, he said, included offshore dumping of wastes and educating people to be more careful in disposing of their plastic litter.

Edward J. Carpenter, a biological oceanographer at the Marine Science Research Center at Stony Brook, L.I., who has studied the effects of plastic pollution on animals in the North Atlantic, the Sargasso Sea and the Mediterranean, said he had found that 30 percent of all fish had plastic spherules in their stomachs. "In small fish larvae that ingest the spherules, it's like a large animal having a bowling ball in his stomach," Dr. Carpenter said.

Conservation groups are pushing for Federal and local legislation to restrict the outpouring of plastic debris into the oceans. Other proposals include requiring that fishing nets be made of biodegradable materials.

THE PERILS OF PLASTIC POLLUTION

Biologist Stewart Fefer and three colleagues from the U.S. Fish and Wildlife Service had eagerly anticipated their assignment: a trip to Laysan, a 960-acre island about 1000 miles northwest of Honolulu. They were to study some of the 14 million seabirds that nest there, and they looked forward to their stay on what they assumed would be an island paradise with pristine beaches. What they discovered came as a shock. The sands of Laysan were strewed with an unbelievable variety of plastic trash. While doing his birdwatching chores, Fefer cataloged thousands of pellets as well as toy soldiers, disposable lighters and one toy Godzilla—all made of plastic. "This is one of the most remote islands in the world," he says. "I expected it to be just idyllic."

The debris that despoiled Laysan's beaches had been washed ashore by the waters of the Pacific, which like other oceans is becoming increasingly fouled by plastic flotsam. But while the floating and beached plastic is unquestionably an eyesore, the problem goes far beyond aesthetics. At the Sixth International Ocean Disposal Symposium in Pacific Grove, Calif., last month, scientists reported the plastic trash is causing injury and death to countless marine animals that feast on it or become ensnared in it. Says Ecologist David Laist, of the Marine Mammal Commission: "Plastics may be as great a source of mortality among marine mammals as oil spills, heavy metals or other toxic materials."

Prime contributors to the growing tide of plastic pollution are the world's merchant ships, which, according to a study by the National Academy of Sciences, dump at least 6.6 million tons of trash overboard every year. Some 639,000 plastic containers and bags are tossed into the oceans every day. Commercial fishermen are also major offenders. Estimates of the plastic fishing gear lost or discarded at sea every year range as high as 150,000 tons. Boaters and beachgoers add to the marine litter with six-pack yokes, picnic utensils, sandwich bags and Styrofoam cups. Cities and industries discharging waste directly into the water or dumping it at sea are also to blame. On some East Coast beaches near sewage outlets, so many plastic tampon inserters have washed ashore that residents refer to them as "beach whistles."

Perhaps the most ubiquitous form of plastic trash is the tiny polyethylene pellets used in the manufacture of plastic items. In one survey, researchers calculated that, on average, a square mile of the Sargasso Sea, southeast of Florida, contained between 8,000 and 10,000 bobbing pellets. Says Al Pruter. a fishery biologist and partner in a Seattle-based natural-resources consulting firm: "Almost without exception, surveys show plastic to account for over one-half the man-made products on the ocean surface."

The plastic is taking a heavy toll on marine life, particularly on seals, sea lions, turtles and seabirds. By one estimate, as many as 50,000 northern fur seals in the Pribilof Islands die each year after becom-

ing enshrouded in netting. "Young seals get their heads or flippers caught in it," says Laist. "Then they either become exhausted from toting it or their ability to catch food is restricted."

Smaller plastic items are frequently mistaken for prey by turtles and birds, often with fatal results. Leatherback turtles, which feast on jellyfish, are particularly attracted to plastic bags. Says University of Florida Zoologist Archie Carr, an authority on sea turtles: "Any kind of film or semi-translucent material appears to look like jellyfish to them." Trouble is, the bags—or other plastic items like golf tees—can form a lethal plug in the turtle's digestive tract.

At least 42 species of seabirds are known to snack on plastic. Of 50 albatrosses found ill or dead on the Midway Islands, 45 had eaten some form of the substance. In several, the plastic had either obstructed the digestive tract or caused ulcers. Says James Coe, program manager for the Marine Entanglement Research Program at the National Marine Fisheries Service in Seattle: "We have found everything from toy soldiers to pens, fishing bobbers and poker chips in the birds' stomachs." A study of wedge-tailed shearwaters, which breed on central Pacific islands, showed that 60% of the adults surveyed had ingested plastic. Even sea gulls, which are able to disgorge disagreeable food, are not immune to the plastic threat. They have been strangled by six-pack yokes.

Efforts to reduce the amount of plastic jettisoned into the oceans have been largely unsuccessful. Although the U.S. and 59 other nations agreed in 1972 to outlaw the dumping of durable plastics, among other substances, into the oceans, the treaty failed to address the discharge of ordinary garbage, which contains large quantities of plastic items. Ten states are trying to do their part; they have passed legislation requiring that six-pack yokes be made of treated plastic that degrades rapidly in sunlight. Nonetheless, concludes Zoologist Carr: "This junk is growing in abundance year by year. It is just getting outrageous."—By Jamie Murphy. Reported by Andrea Dorfman/New York and Jon D. Hull/Los Angeles

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S. 2596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) This Act may be cited as the "Plastic Waste Reduction Act of 1986".

(b) The Congress finds and declares that—

(1) when plastic rings and devices, which are increasingly being used to store, carry, and transport a variety of containers, are disposed in the environment, they persist for extended periods of time and have serious adverse impacts on fish and wildlife species and the environment; and

(2) although certain States, which require such rings and devices to break down upon exposure to natural elements, have been largely successful in reducing those impacts, other States have not enacted or enforced such laws.

TITLE I—STUDY OF PLASTIC POLLUTION

SEC. 101. (a) The Administrator of the Environmental Protection Agency (hereinafter referred to in this title as the "Administrator") shall undertake a study for the purpose of determining the adverse effects that the discarding and dumping of millions of pounds of plastics each year have on the environment, including fish and wildlife, within the United States and the oceans, and to enable the Administrator to make recommendations to the Congress as to what actions might be taken to eliminate or lessen such adverse effects.

(b) Such study shall be carried out with a view to determining the impact on the environment, including fish and wildlife, as a result of the discarding or dumping of such plastic, including—

(1) plastic debris discarded or dumped on and in all water bodies, including streams, rivers, lakes, bays, estuaries, and oceans;

(2) the discarding or dumping of raw plastic pellets on land and in all water bodies, including streams, rivers, lakes, bays, estuaries, and oceans; and

(3) the discarding or dumping of plastic finished products, including, but not limited to, plastic holders for multi-package beverages, plastic packing bands, fishing nets, or fishing gear, on land and in all water bodies, including streams, rivers, lakes, bays, estuaries, and oceans.

(c) In carrying out the study required by this title, the Administrator shall—

(1) consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, and all other departments and agencies of the United States engaged in research, investigation, or studies, involving, directly or indirectly, the impact of such plastics debris on the environment, including fish and wildlife, and such departments and agencies shall fully cooperate with the Administrator; and

(2) solicit and consider views and recommendations from representative members of the fishing industry, the beverage industry, the plastic industry, consumer interest groups, and other interested and affected individuals and businesses.

(d)(1) In making such recommendations as to actions which might be taken to eliminate or lessen the impact of the discarding or dumping of such plastics on the environment, including fish and wildlife (including recommendations to require the use of biodegradable or photodegradable plastics, or recycling), the Administrator shall consider and include in the report a statement as to the environmental, public health, and economic impacts of each such action so recommended.

SEC. 102. On or before the expiration of the eighteen-month period following the date of the enactment of this title, the Administrator shall report to the Congress the results of the study conducted pursuant to this title, together with recommendations in connection therewith. The Administrator shall identify those recommendations as to which the Administrator believes there is existing authority to implement, and those recommendations which will require legislative action by the Congress if they are to be implemented.

SEC. 103. There is authorized to be appropriated such sum as may be necessary to carry out the provisions of this title.

TITLE II—REGULATION TO CONTROL PLASTIC POLLUTION

SEC. 201. As used in this title, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "regulated item" means any device which is made, used, or designed for the purpose of packaging, transporting, or carrying multi-packaged cans, bottles, or other containers, and which is of a size, shape, design, or type capable, when discarded, of becoming entangled with fish or wildlife; and

(3) "naturally degradable material" means a material which, when discarded, will be reduced to environmentally benign subunits under the action of normal environmental forces, such as, among others, biological decomposition, photodegradation, and hydrolysis.

SEC. 202. Within eighteen months after the date of the enactment of this title, the Administrator shall require, by regulation, any regulated item to be made of a naturally degradable material which decomposes within a period established by such regulation. The period within which decomposition must occur shall be the shortest period of time consistent with the physical integrity of the item for its intended use.

SEC. 203. Nothing in this Act shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance respecting a regulated item that is more stringent than regulations promulgated pursuant to this Act.

SEC. 204. (a) Any regulation promulgated by the Administrator pursuant to this title shall contain provisions sufficient to assure that adequate recordkeeping and testing requirements for implementing and enforcing such regulation will be carried out.

(b) Any violation of a regulation promulgated by the Administrator pursuant to this title shall be punishable by a fine of not to exceed $25,000, or imprisonment for not more than 12 months, or both.

Mr. LAUTENBERG. Mr. President, I am pleased to join my distinguished colleague from Rhode Island [Mr. CHAFEE] in introducing the Plastic Waste Reduction Act of 1986, a bill to ban the use of nondegradable plastic six-pack beverage holders. This bill addresses an issue of increasing national concern—the fouling of our ocean waters with nondegradable plastic material.

At a time when we are working to curb the effects of dumping raw sewage and other contaminants into the oceans, the problem of plastic pollution has gone largely ignored. Since plastics were first introduced into the mass market, their use has grown dramatically. Yet, we have never adequately dealt with the environmental hazards created by these materials. For years, we treated the ocean like a giant garbage can. But now we are seeing the effects of this action. Our beaches are littered with debris which washes up from coastal waters. Marine animals are disfigured and dying. The problem can no longer be ignored. This legislation takes the first step in ridding our oceans of the problem of plastic pollution.

The devastating impacts of plastic trash on marine animals was brought to light in 1972, when staffers at the Marine Mammal Standing Center of New Jersey, located in Brigantine, NJ, found a sea turtle which had ingested a plastic bag. Since that time, increasing attention has been focused on the issue, and with this attention has come an increased awareness of the serious extent of the problem. Sea turtles, birds, and even the great whales

have become victims of plastics carelessly discarded into the ocean. Virtually every marine species is susceptible to the dangers posed by plastic debris.

Under this bill, the Environmental Protection Agency is directed to issue regulations banning nondegradable plastic beverage holders. Following promulgation of these regulations, manufacturers would have 6 months to switch to alternative packaging. The EPA would also, in conjunction with the Fish and Wildlife Service and other Federal agencies, conduct a broad study of plastic pollution. Based on that study, the EPA would report to the Congress on its findings, and on the need to develop additional legislation to adequately address the problem. Ten States currently impose bans on nondegradable plastic six-pack holders. This legislation will establish a uniform national policy on the control of plastic pollution.

Mr. President, nondegradable plastics don't go away. Without action, neither will the problem of plastic pollution. This legislation takes an important first step in assessing and controlling the problem. I hope that in the future the Senate will not limit itself to the problem of plastic six-pack holders, because the problem is much broader. With the completion of the EPA report required under this bill, we will have a better understanding of the problem of plastic pollution, and can take the appropriate steps to correct this situation. I look forward to working with my colleagues on the Environment and Public Works Committee on this bill, and in future efforts to control plastic pollution.

I urge my colleagues to support this bill.

RECOGNITION OF SENATOR HARKIN

The PRESIDING OFFICER. The Senator from Iowa is recognized.

WHEAT REFERENDUM

Mr. HARKIN. Mr. President, I want to bring to the attention of the Senate that today marks the beginning of a historic opportunity to save our family farm system of agriculture in America. Today the U.S. Department of Agriculture is sending out referendum ballots to every wheat farmer in the Nation. These ballots offer the farmers a choice: To continue with the current policies that are driving thousands and thousands of farmers off their land and bankrupting our National Treasury; or, an alternative, to establish a new direction that will restore profitability to agriculture.

It is a historic opportunity for wheat farmers to join together, to bring supply in line with demand, and to raise prices so that farmers can earn their income from the marketplace—and not from a Government paycheck.

So the vote on the wheat referendum should be a vote "yes;" a vote "yes" by the farmers to get their profit from the marketplace, not from a Government handout; a vote "yes" by the farmers to save the family farm system of agriculture and to half the move toward larger and larger corporation farms.

Finally this ought to be a vote "yes" by the wheat farmers of America for an agriculture policy that makes sense, not nonsense like the present policy.

This poll, Mr. President, is a nonbinding poll, but it will set an important precedent, and it will send a very important message to Washington. Now there is a reason that Secretary of Agriculture Lyng and the administration are lobbying heavily against this supply-management program. Because every vote cast by a farmer in favor of this referendum is a vote against the disastrous policy that this administration wants to continue for our family farmers.

The administration's export-based policy, in theory, ought to be a great success. It is just missing one thing: more exports. Since 1981, wheat exports in this country have dropped by 50 percent in volume and 58 percent in value. So the administration keeps lowering the prices, and exports keep dropping. What kind of farm policy is this?

Our wheat surpluses have reached record levels. What industry that hopes to stay in business continues to produce more and more when their warehouses are already full and no new markets exist for their products? But that is exactly what this administration is urging our farmers to do. By the end of this wheat harvest, I am told we will have enough wheat in storage in this country to make 27 loaves of bread for every man, woman, and child on the face of the Earth. What kind of farm policy is this?

And if it were not for deficiency payments to wheat farmers, even more of them would be going broke. But let me send a warning: he who giveth can also taketh away. And as the cost of the 3-year farm program escalates from $50 to $70 billion, I can guarantee every farmer in this country that the White House, under Gramm-Rudman, is going to cut back on our farm programs next year, taking money directly out of farmers' pockets. What kind of farm policy is this?

Well, I say it is not a farm policy at all. It is only a sure-fire formula to drive more farmers out of business. But there is an alternative. It is an alternative wheat farmers can help make a reality by voting "yes" on their referendum ballots.

This is a farm policy that makes sense, it is one that works, and it addresses the basic problems our family farmers are facing. What we are facing are just too much supply and not enough demand.

Yet this administration is telling farmers, "produce more, produce more, produce more." And yet the farmers are getting less and less and being driven off their land. Our small towns are dying, our small businesses in rural America are going bankrupt.

Just yesterday, a headline in an Iowa newspaper said that 17 more banks in the State of Iowa are being sold because of financial difficulties.

So I am urging wheat farmers to vote "yes" on the referendum, to vote "yes" to restore stability and profitability to American agriculture. Really, the bottom line of the referendum that is going to happen in the next couple of weeks is that farmers have a unique ability to send a message. It is nonbinding. I cannot guarantee, if the farmers vote "yes" on the referendum, that Congress will take action and change this disastrous farm program by this winter. But I can guarantee, if farmers vote "no" on the referendum, this Congress will do nothing and we will sit with the present disastrous program we have. But if farmers vote "yes" on the wheat referendum, then that will send a message to Washington that farmers do not like the present system and they want a change in agricultural policy.

So what I am asking the wheat farmers of American to do is to send a message—vote "yes" on the wheat referendum and let us change the policy that we are now on, this disastrous policy that we are now on, and return profitability to our family farmers.

RECOGNITION OF SENATOR BOREN

The PRESIDING OFFICER. The Chair recognizes the Senator from Oklahoma.

Mr. BOREN. I thank the Chair.

CAMPAIGN FINANCE REFORM

Mr. BOREN. Mr. President, I rise today to again discuss the desperate need to reform the way that we finance congressional elections in the United States.

The public is becoming increasingly aware of the massive growth of special interest influence in our Congress and how it often results in legislative stalemate. We are a country that very often properly expresses interest in elections held in other countries. We want to make sure that those elections are open, that they are impartial, and that they are fair.

How can we, then, stand silent when we see the massive erosion of the basic concept of grassroots democracy in

our own election process here at home in the United States?

The enormous growth and financial influence of political action committees, PAC's, has created an imbalance in the way that we finance our congressional elections.

While it is frightening that PAC contributions have grown from $12.5 million to over $100 million in less than 10 years, it is even more alarming that, according to recent reports, at the same time, contributions from small individual contributors at the grassroots have been cut in half.

□ 1040

While I have accepted no PAC contributions in the past, I have not branded all PAC's as inherently evil. But the system is now so completely out of balance that PAC's themselves are now even becoming victims of the process. There have been some instances in which candidates have sent pointed, threatening letters, even messengers seeking campaign contributions from political action committee managers in order to solicit funds through a tactic of pitting one PAC against another that has an opposing interest.

Mr. President, as my colleagues will recall, I announced in October of last year my intention to bring before the full Senate legislation dealing with campaign finance reform.

During the subsequent several weeks, that legislation was broadened, refined, and attracted a wide base of support here in the Senate. Cosponsors of S. 1806 now include Senators GOLDWATER, HART, KASSEBAUM, LEVIN, RUDMAN, STENNIS, DECONCINI, CHILES, BINGAMAN, BYRD, LEAHY, and BIDEN.

Through helpful and good-faith negotiations with the majority leader at that time, the Senate by unanimous consent agreed to allow this legislation to be considered as a second-degree amendment to S. 655, the low-level radioactive waste compact. The legislation was debated for 2 days in early December on the Senate floor, and in the one vote that was allowed to be taken on the amendment the Senate voted not to table the amendment, to keep it alive by a vote of 84 to 7.

This certainly is an overwhelming statement on the part of the Senate that campaign finance reform belongs on the national agenda. We all realize that we have a scandal waiting to happen, that we have a building crisis at the heart of our own political system. At the time of that vote which in many ways allowed some of our colleagues to sidestep the basic issue, I made a promise to my colleagues in the Senate that I would be vigilent in seeking action on this legislation before the passing of another election cycle.

Mr. President, every year there are those who say let us wait until after the next election to deal with this serious problem. We are always within two years of an election. We cannot afford to wait any longer to take action against something that is eating away at the very core of the democratic process, the control of the citizens themselves at the grass roots in their own States and in their own communities of the process for which their own officials are elected to serve them and represent them here in the Congress.

Mr. President, that day of reckoning is growing closer at hand. I have been engaged recently in good-faith negotiations with the distinguished majority leader in finding a time late next month when the Senate can again consider this legislation. I greatly appreciate his understanding and willingness to keep the commitment which he made late last year to call up S. 655, and to allow the amendment on campaign finance reform to be considered by the full Senate. It has been on the calendar now for some 6 months. We will soon have that timeframe.

So the issue can again be squarely placed on the national agenda.

I urge my colleagues to seriously reflect on this pending issue which will come before the Senate in the next several weeks. Former Solicitor General Archibald Cox said we must decide whether we want to have Government of the people, for the people, and by the people, or Government for the PAC's, by the PAC's, and of the special interests.

Mr. President, we cannot expect Members of Congress to act in the national interest when our campaigns and the election cycles are being financed more and more by special interests.

As I said, the day of reckoning is at hand. I urge my colleagues to seriously consider a matter of great importance to the political process itself.

TELEVISION IN THE SENATE

Mr. BOREN. Mr. President, I heard the earlier discussion between the distinguished majority leader and the distinguished minority leader about the waiting period before the final decision is made on television in the Senate.

I am encouraged by their remarks. I was the author of the amendment which established the 2-week waiting period because I wanted to make sure on a matter of such fundamental importance and change in this institution that we have an adequate opportunity to reflect upon it. I think the experiment in which we have been engaged in the last several days of televising the Senate's session has given all of us now a basic experience from which to make a final decision.

As the author of that particular amendment requiring the waiting period, Mr. President, I want to encourage the majority leader and the minority leader to move ahead with the idea of taking a vote on televising the Senate sooner. Having come through this experience, I do not think we now need to have a full 2-week waiting period for us to be able to make an intelligent decision.

I make that comment having heard the two distinguished leaders discuss the issue this morning as the author of the particular provision for a 2-week waiting period in order to encourage them to move ahead, to make a final decision on that issue so that we can bring other pressing legislative matters on to the Senate floor and move ahead with the legislative schedule.

Mr. President, I thank the Chair.

I suggest the absence of a quorum.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. If the Senator will withhold the request, the Senate under the standing order, as in legislative session, will now proceed to morning business. The Senators will be recognized for a period not to exceed 5 minutes.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1100

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FOUR HORSEMEN

Mr. SIMPSON. Mr. President, while we have a few moments, while driving our colleagues to ever greater heights—wherever they are—and they are working on some issues that can be brought before the body later in the day—for that is the way the Senate works. I know that is puzzling to many people, but it is a very essential part of our activities, to assure that the committees function and they do that in the morning hour; and that the meetings go on and they go in the majority leader's office and in the Democratic leader's office. That is the way the Senate works. It may appear to be rather ponderous, but in essence it works.

Yesterday was a classic example of that. I did not get to remark on that then. I shall very briefly do so today.

That was a superb exercise by the U.S. Senate, the true essence of bipartisanship, the way it should work, the way it is supposed to work, the way the Founding Fathers thought it could work.

It certainly would be most difficult to pay tribute to all who were involved, but it is not difficult to pay tribute to four persons who were deeply involved. Those are the majority leader, ROBERT DOLE; the chairman of the Finance Committee, BOB PACKWOOD; the ranking member of the Finance Committee, RUSSELL LONG; and the most extraordinary work of BILL BRADLEY. I want to refer, too, to the core group, that group who said that they would "hold tough", that coalesced in support of a tax bill, in committee and here on the floor; a bipartisan group that recognized the significance of the legislation that transcended all party lines. Certainly, that is what we saw yesterday in a vote of 97 to 3.

It had been rather dramatic, as they spoke of it, exciting and dramatic. It leads one to great prose and phraseology, but I thought of the four of them as a kind of "Four Horsemen."

We all remember the great and timeless sports reporting of Grantland Rice, how he described the Notre Dame backfield as the Four Horsemen. As I recall, it was something to the effect that "On a cold gray October day, the Four Horsemen rode again." Then he described them in mythology, and then in reality on that day.

Yesterday, these Four Horsemen that I have just described rode out on a very bright, fresh June day in Washington, which is about as rare as a vote of 97 to 3! The four of them put together this remarkable package. I just want to pay my respects to them: To Senator DOLE, our fine leader and former chairman of the Committee on Finance, who knows the issues beautifully and gave his committee chairman full rein; to Senator LONG, who served with my father here in this institution, the Senate.

RUSSELL LONG—how do you cap a career like that with anything more appropriate than this great personal triumph he was involved in with tax reform? Particularly his savvy, his uncommon degree of common sense; really an extraordinary effort and such a pleasure for me to serve with that gentle gentleman, as it was for my father, who served here before me.

Then BOB PACKWOOD, a man who recruited me for this task. He came to Wyoming and told me all the reasons I should run for the U.S. Senate. I really did not need many more, because my father had been here and I knew what it would be. I knew the trials, the tribulations, the triumphs, and the activities that would come before me. Someday, I may find the ability to forgive Senator PACKWOOD for that!

Not so. I love it. I love the work. I love the place. I love the colleagues.

He, in his steady, extraordinarily perceptive way, with an ability to shunt aside the extraneous and to press on—he, indeed, pressed on. While there were the fainthearted who, every day, would stick a microphone under his nose and say "It is gone, isn't it? It is out the window, isn't it?" he would say "No, we are going to get it."

There are many more in this arena—not the Senate but the arena of Washington—who really like to see things get messed up and fall apart; collapse. It is their kind of adrenalin. I have learned that. So they watched BOB PACKWOOD labor and he then brought that committee together in an extraordinary way in confidential activities and they hammered out the heavy stuff they had to do. You have to admire the man. He is a gutsy and extraordinary performer and it is a great pleasure to see his success.

Then, finally, BILL BRADLEY, who came here when I did. I met his folks when I came here, and I see that, indeed, the apple does not fall far from the tree. They are extraordinary. They must be very proud of this man, who has really done everything in his life with absolute, total dedication.

□ 1110

I was a member of the Wyoming Legislature, and not a reknowned basketball player in my own right, you see, and still am the tallest person in the U.S. Senate, even taller than the Senator from New Jersey, which is a matter of record, according to the curator at least. While in the legislature I read this remarkable man's book. It is entitled "A Sense of Where You Are." It was written about his days in basketball, and I thought to myself "Someday I would like to meet that man." And then, of course, we were both sworn in to this body on the same day.

Another thing we share is being here together at the conclusion of the civil rights debate on the floor of the U.S. Senate. The two of us were young men in the gallery, he a bit younger than I. But I shall never forget that extraordinary vote, watching it from the gallery. We were both in the Chamber, in the gallery that day. So we have come to have a very unique relationship. That comes I guess from those who pull the uniform on and play that game.

I was rather nominal as a basketball player. BILL did seem to have some better successes than I, as I reflect on it. In fact, in my days at the University of Wyoming I was listed in the statistical columns as simply "others." They called me Others Simpson at that time because they would list so and so and the other 10 and they just jumbled everybody else in there together and called them others. So I went through my basketball career being called that.

And here is BILL BRADLEY, who comes to us as much, much, much more than a basketball player. He served as the player of the year in tax reform. He kept his eye on that ball. He passed off when there was every opportunity to do so. He had more assists in one game than most guys have in a whole decade of playing the game. That was BILL BRADLEY. He was described yesterday as "The godfather" of tax reform. He, indeed, was the steady one who said, "If you keep getting mired down in the deductions, exemptions, special interests, you will never get it done, but if you just draw the line and pick those two rates, people will fall away because they know that is the bottom line."

That is what finally came to us. It came to us from the extraordinary efforts of those four people, to whom I wanted to briefly refer, remark upon and pay tribute, and that remarkable core group which stayed with it from the beginning, and the extraordinary staff of Democrats, Republicans, and professionals, all of those who did such a tremendous job of dealing with literally dozens of amendments and often in just minutes, handling them and accepting them or modifying them, and the ever patient Bill Diefenderfer, what an extraordinary effort he did for us.

In all my legislating—and I have done it in Cheyenne, WY, and now in Washington, DC—I have never seen such an effort. It was a pleasure to watch, a thrill to see unfold and now we must shepherd this and nurture it, give it stewardship through the conference. I know we will do that. I know Congressman DANNY ROSTENKOWSKI waits for it with great interest. He and Senator PACKWOOD have a very fine relationship, a personal relationship. It will be needed. It is maybe a government of laws and not men, but I have found that it is more a government of men and women and their personal relationships with each other as you move the tough pieces of legislation.

I express my deep admiration for those four, fully realizing I leave out others—and certainly that is not an affront in any way. It is just my deep desire to state my very sincere feelings as to the remarkable efforts of those four.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1140

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALLING ON CONGRESS NOT TO RECESS UNTIL FARM PROGRAMS ARE FUNDED

Mr. NICKLES. Mr. President, Oklahoma farmers are in the middle of wheat harvest—the result of a year's worth of work. Customarily, it is a time for bill paying. You see, farmers don't have monthly wages. They pay bills when the crop comes in. To help them pay debts without having to sell their crop at harvest time, traditionally the low point in the market cycle, farmers are able to take out a commodity loan under the farm programs. But this year has been a little different. The Commodity Credit Corporation, which makes crop loans and farm program payments, ran out of money June 4.

Earlier this year, farmers in Oklahoma and throughout the Nation signed a contract with the Government. They agreed to cut production in order to qualify for farm program benefits. They have lived up to their end of the bargain. But Congress, by failing to provide continued funding for the CCC, has let them down.

This is a problem which could have been avoided. Last year, the administration requested Congress to provide an indefinite CCC appropriation, basically a blank check for farm program funding. It was supported and passed by the Senate but was dropped in conference due to House objections. Such a measure, providing uninterrupted funding for farm programs, would have prevented the problem we are now experiencing.

Earlier this month, at my urging, the Senate temporarily laid aside tax reform legislation and passed a supplemental appropriations bill containing $5.3 billion to fund farm programs. The House bill however did not contain funds for farm programs. Fortunately, the funds were maintained in a compromise bill, which I have urged the President to approve.

Mr. President, I ask unanimous consent that a copy of a letter to Senator DOLE be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 4, 1986.

Hon. ROBERT DOLE,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR BOB: Oklahoma farmers are going to be put in a real bind unless Congress takes immediate action to fund the Commodity Credit Corporation. Today, the Commodity Credit Corporation (CCC), which funds government farm programs, ran out of money.

As you know, the Senate has included $5.3 billion to fund the CCC in its supplemental appropriations bill. However, the House included no additional funding in its supplemental spending bill. As you may recall, an indefinite CCC appropriation requested by the Reagan Administration passed the Senate but was dropped in conference with the House. Such a measure would have prevented the need for periodic CCC supplemental appropriations.

It is Congress' responsibility to compensate the CCC for losses incurred beyond its $25 billion spending authority. On behalf of agriculture producers in Oklahoma and through the nation, I strongly urge your assistance and that of our colleagues in obtaining approval of the necessary CCC funding.

Sincerely,

DON NICKLES,
U.S. Senator.

Mr. NICKLES. Mr. President, it is the responsibility of Congress to compensate the CCC for losses. If Congress is to fulfill its obligation to the farmers of America, the House and Senate must stay in session until the necessary CCC funding is passed and signed into law. This reminds me of a time last summer when I warned that unless Congress completed action on the wheat section of the farm bill, Oklahoma farmers would be unable to make planting decisions based on program details. Farmers lost that round. Mr. President, how many times will congressional inaction result in a loss to the farmers of America? How often will Congress rebuff the Nation's No. 1 industry?

Some of the President's advisers, have expressed opposition to provisions other than the CCC funding in the appropriations bill. I have asked several of my colleagues to join me in a letter to the President urging timely approval of legislation containing the necessary CCC funding. Mr. President, I ask unanimous consent that a copy of this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 24, 1986.

Hon. RONALD REAGAN,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: Soon, Congress may send you a supplemental appropriations bill containing sorely needed Commodity Credit Corporation (CCC) funding. Approval of this legislation will allow resumption of farm program payments, which have been suspended since June 4.

Last December, you approved legislation authorizing five years of farm programs. Now, farmers are harvesting the first crop under the new law and are unable to receive program benefits. Mr. President, they want and need to be paid. To a great extent, the existence of rural families and communities hinges on timely farm program funding.

Your advisers may urge you to veto the appropriations bill over a separate provision they find objectionable. If so, we urge you to act independently, considering a cost too often lost in billion dollar budget figures—the human costs the American people will pay if farm programs remain unfunded.

With this in mind, we strongly urge you to approve legislation containing the necessary farm program funding. Your consideration of this request is greatly appreciated.

Sincerely,

DON NICKLES,
U.S. Senator.

Mr. NICKLES. Today, we must move on farm program funding legislation so local ASCS offices can deliver on the promises made by Congress. A letter I recently received from an Oklahoma constituent clearly states the problem at hand. I ask unanimous consent that the letter from E.O. Wheeler with Wheeler Bros. Grain Co. be printed in the RECORD following my remarks and I urge my colleagues to join me in heeding its call.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[Mailgram]

WHEELER BROS. GRAIN CO.,
Watonga, OK, June 21, 1986.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR SIR: The Oklahoma wheat harvest is nearly complete. Our farmers need to be able to receive the Government loan payments. Many farmers have land payments and other bills due July 1st. We very strongly urge you to do whatever it takes to see that the local ASCS offices can start writing checks as soon as possible.

Sincerely,

E.O. WHEELER.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIPLOMATIC SECURITY AND ANTITERRORISM ACT

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to Calendar Order No. 655, H.R. 4151, the diplomatic security bill. The managers are here and prepared to go.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4151) to provide enhanced diplomatic security and combat international terrorism, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Diplomatic Security and Antiterrorism Act of 1986".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—DIPLOMATIC SECURITY

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Responsibility of the Secretary of State.
Sec. 104. Bureau of Diplomatic Security.
Sec. 105. Responsibilities of the Assistant Secretary for Diplomatic Security.
Sec. 106. Cooperation of other Federal agencies.

TITLE II—DIPLOMATIC SECURITY SERVICE

Sec. 201. Establishment of Diplomatic Security Service.
Sec. 202. Director of Diplomatic Security Service.
Sec. 203. Positions in the Diplomatic Security Service.

TITLE III—PERFORMANCE AND ACCOUNTABILITY

Sec. 301. Accountability review.
Sec. 302. Accountability Review Board.
Sec. 303. Procedures.
Sec. 304. Findings and recommendations by a Board.
Sec. 305. Relation to other proceedings.

TITLE IV—DIPLOMATIC SECURITY PROGRAM

Sec. 401. Authorizations of appropriations.
Sec. 402. Diplomatic construction program.
Sec. 403. Qualifications of persons hired for the diplomatic construction program.
Sec. 404. Cost overruns.
Sec. 405. Efficiency in contracting.
Sec. 406. Training to improve perimeter security at United States diplomatic missions abroad.
Sec. 407. Certain protective functions.
Sec. 408. Reimbursement of the Department of the Treasury.

TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM

Sec. 501. Rewards for information relating to international narcoterrorism and drug trafficking.
Sec. 502. Counterterrorism Protection Fund.
Sec. 503. Authority to control certain terrorism-related services.

TITLE VI—FASCELL FELLOWSHIP PROGRAM

Sec. 601. Short title.
Sec. 602. Fellowship program for temporary service at United States missions in the Soviet Union and Eastern Europe.
Sec. 603. Fellowship Board.
Sec. 604. Fellowships.
Sec. 605. Secretary of State.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Peace Corps authorization of appropriations.

TITLE I—DIPLOMATIC SECURITY

SEC. 101. SHORT TITLE.

Titles I through IV of this Act may be cited as the "Diplomatic Security Act".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) the United States has a crucial stake in the presence of United States Government personnel representing United States interests abroad;

(2) conditions confronting United States Government personnel and missions abroad are fraught with security concerns which will continue for the foreseeable future; and

(3) the resources now available to counter acts of terrorism and protect and secure United States Government personnel and missions abroad, as well as foreign officials and missions in the United States, are inadequate to meet the mounting threat to such personnel and facilities.

(b) PURPOSES.—The purposes of titles I through IV are—

(1) to set forth the responsibility of the Secretary of State with respect to the security of diplomatic operations in the United States and abroad;

(2) to provide for an Assistant Secretary of State to head the Bureau of Diplomatic Security of the Department of State, and to set forth certain provisions relating to the Diplomatic Security Service of the Department of State;

(3) to maximize coordination by the Department of State with Federal, State, and local agencies and agencies of foreign governments in order to enhance security programs;

(4) to promote strengthened security measures and to provide for the accountability of United States Government personnel with security-related responsibilities; and

(5) to provide authorizations of appropriations for the Department of State to carry out its responsibilities in the area of security and counterterrorism, and in particular to finance the acquisition and improvements of United States Government missions abroad, including real property, buildings, facilities, and communications, information, and security systems.

SEC. 103. RESPONSIBILITY OF THE SECRETARY OF STATE.

(a) SECURITY FUNCTIONS.—The Secretary of State shall develop and implement (in consultation with the heads of other Federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of United States Government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States. Such policies and programs shall include—

(1) protection of all United States Government personnel on official duty abroad (other than those personnel under the command of a United States area military commander) and their accompanying dependents;

(2) establishment and operation of security functions at all United States Government missions abroad (other than facilities or installations subject to the control of a United States area military commander);

(3) establishment and operation of security functions at all Department of State facilities in the United States; and

(4) protection of foreign missions, international organizations, and foreign officials and other foreign persons in the United States, as authorized by law.

(b) OVERSIGHT OF POSTS ABROAD.—The Secretary of State shall—

(1) have full responsibility for the coordination of all United States Government personnel assigned to diplomatic or consular posts or other United States missions abroad pursuant to United States Government authorization (except for facilities, installations, or personnel under the command of a United States area military commander); and

(2) establish appropriate overseas staffing levels for all such posts or missions for all Federal agencies with activities abroad (except for personnel and activities under the command of a United States area military commander).

(c) FEDERAL AGENCY.—As used in this title and title III, the term "Federal agency" includes any department or agency of the United States Government.

SEC. 104. BUREAU OF DIPLOMATIC SECURITY.

(a) THE BUREAU.—There shall be a Bureau of Diplomatic Security in the Department of State, to be headed by the Assistant Secretary for Diplomatic Security. The Assistant Secretary shall be responsible for carrying out the functions and duties set forth in section 105 and such additional functions as may be directed by the Secretary of State.

(b) NUMBER OF ASSISTANT SECRETARIES.—The first section of the Act entitled "An Act to strengthen and improve the organization and administration of the Department of State, and for other purposes," approved May 26, 1949 (22 U.S.C. 2652), is amended by striking out "fourteen" and inserting in lieu thereof "fifteen".

(c) POSITIONS AT LEVEL IV OF THE EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by striking out "(14)" following "Assistant Secretaries of State" and inserting in lieu thereof "(15)".

(d) COMPLIANCE WITH BUDGET ACT.—New spending authority (within the meaning of section 401(c)(2)(C) of the Congressional Budget and Impoundment Control Act of 1974) provided by the amendment made by subsection (c) of this section shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriations Acts.

SEC. 105. RESPONSIBILITIES OF THE ASSISTANT SECRETARY FOR DIPLOMATIC SECURITY.

The Assistant Secretary for Diplomatic Security shall be responsible for such activities related to diplomatic security as the Secretary of State shall designate.

SEC. 106. COOPERATION OF OTHER FEDERAL AGENCIES.

(a) ASSISTANCE.—In order to facilitate fulfillment of the responsibilities described in section 103(a), other Federal agencies shall cooperate (through agreements) to the maximum extent possible with the Secretary of State. Such agencies may, with or without reimbursement, provide assistance to the Secretary, perform security inspections, provide logistical support relating to the differing missions and facilities of other Federal agencies, and perform other overseas security functions as may be authorized by the Secretary. Specifically, the Secretary may agree to delegate operational control of overseas security functions of other Federal agencies to the heads of such agencies, subject to the Secretary's authority as set forth in section 103(a). The agency head receiving such delegated authority shall be responsible to the Secretary in the exercise of the delegated operational control.

(b) OTHER AGENCIES.—The President shall prescribe such regulations as may be necessary to assure that the implementation of titles I through IV does not limit or impair the authority or responsibility of any other Federal, State, or local agency with respect to law enforcement, domestic security operations, or intelligence activities (as defined in Executive Order 12333).

(c) CERTAIN LEASE ARRANGEMENTS.—The Administrator of General Services is authorized to lease (to such extent or in such

amounts as are provided in appropriation Acts) such amount of space in the United States as may be necessary for the Department of State to accommodate the personnel required to carry out this title. The Department of State shall pay for such space at the rate established by the Administrator of General Services for space and related services.

TITLE II—DIPLOMATIC SECURITY SERVICE

SEC. 201. ESTABLISHMENT OF DIPLOMATIC SECURITY SERVICE.

There shall be, within the Bureau of Diplomatic Security, the Diplomatic Security Service. The Diplomatic Security Service shall perform such functions as may be assigned to it by the Secretary of State.

SEC. 202. DIRECTOR OF DIPLOMATIC SECURITY SERVICE.

The Diplomatic Security Service shall be headed by a Director designated by the Secretary of State from among individuals having a demonstrated ability in the area of security, law enforcement, management, or public administration. The Director shall act under the supervision and direction of the Assistant Secretary for Diplomatic Security.

SEC. 203. POSITIONS IN THE DIPLOMATIC SECURITY SERVICE.

Positions in the Diplomatic Security Service shall be filled in accordance with the provisions of the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.) and title 5, United States Code. In filling such positions, the Secretary of State shall actively recruit women and members of minority groups. The Secretary of State shall prescribe the qualifications required for assignment or appointment to such positions. In the case of positions designated for special agents, the qualifications may include minimum and maximum entry age restrictions and other physical standards and shall incorporate such standards as may be required by law in order to perform security functions, to bear arms, and to exercise investigatory, warrant, arrest, and such other authorities as are available by law to special agents of the Department of State and the Foreign Service.

TITLE III—PERFORMANCE AND ACCOUNTABILITY

SEC. 301. ACCOUNTABILITY REVIEW.

In any case of serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad which is covered by the provisions of titles I through IV (other than a facility or installation subject to the control of a United States area military commander), the Secretary of State shall convene an Accountability Review Board (hereafter in this title referred to as the "Board"). The Secretary shall not convene a Board where the Secretary determines that a case clearly involves only causes unrelated to security.

SEC. 302. ACCOUNTABILITY REVIEW BOARD.

(a) MEMBERSHIP.—A Board shall consist of five members, 4 appointed by the Secretary of State, and 1 appointed by the Director of Central Intelligence. The Secretary of State shall designate the Chairperson of the Board. Members of the Board who are not Federal officers or employees shall each be paid at a rate not to exceed the maximum rate of basic pay payable for level GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Board. Members of the Board who are Federal officers or employees shall receive no additional pay by reason of such membership.

(b) FACILITIES, SERVICES, SUPPLIES, AND STAFF.—

(1) SUPPLIED BY DEPARTMENT OF STATE.—A Board shall obtain facilities, services, and supplies through the Department of State. All expenses of the Board, including necessary costs of travel, shall be paid by the Department of State. Travel expenses authorized under this paragraph shall be paid in accordance with subchapter I of chapter 57 of title 5, United States Code, or other applicable law.

(2) DETAIL.—At the request of a Board, employees of the Department of State or other Federal agencies, members of the Foreign Service, or members of the uniformed services may be temporarily assigned, with or without reimbursement, to assist the Board. Upon request, the Inspector General of the Department of State and the Foreign Service may provide assistance to the Board.

(3) EXPERTS AND CONSULTANTS.—A Board may employ and compensate (in accordance with section 3109 of title 5, United States Code) such experts and consultants as the Board considers necessary to carry out its functions. Experts and consultants so employed shall be responsible solely to the Board.

SEC. 303. PROCEDURES.

(a) EVIDENCE.—

(1) UNITED STATES GOVERNMENT PERSONNEL AND CONTRACTORS.—

(A) With respect to any individual described in subparagraph (B), a Board may—

(i) administer oaths and affirmations;

(ii) require that depositions be given and interrogatories answered; and

(iii) require the attendance and presentation of testimony and evidence by such individual.

Failure of any such individual to comply with a request of the Board shall be grounds for disciplinary action by the head of the Federal agency in which such individual is employed or serves, or in the case of a contractor, debarment.

(B) The individuals referred to in subparagraph (A) are—

(i) employees as defined by section 2105 of title 5, United States Code (including members of the Foreign Service);

(ii) members of the uniformed services as defined by section 101(3) of title 37, United States Code;

(iii) employees of instrumentalities of the United States; and

(iv) individuals employed by any person or entity under contract with agencies or instrumentalities of the United States Government to provide services, equipment, or personnel.

(2) OTHER PERSONS.—With respect to a person who is not described in paragraph (1)(B), a Board may administer oaths and affirmations and require that depositions be given and interrogatories answered.

(3) SUBPOENAS.—(A) The Board may issue a subpoena for the attendance and testimony of any person (other than a person described in clause (i), (ii), or (iii) of paragraph (1)(B)) and the production of documentary or other evidence from any such person if the Board finds that such a subpoena is necessary in the interests of justice for the development of relevant evidence.

(B) In the case of contumacy or refusal to obey a subpoena issued under this paragraph, a court of the United States within the jurisdiction of which a person is directed to appear or produce information, or within the jurisdiction of which the person is found, resides, or transacts business, may upon application of the Attorney General, issue to such person an order requiring such person to appear before the Board to give testimony or produce information as required by the subpoena.

(C) Subpoenaed witnesses shall be paid the same fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States.

(b) CONFIDENTIALITY.—A Board shall adopt for administrative proceedings under this title such procedures with respect to confidentiality as may be deemed necessary, including procedures relating to the conduct of closed proceedings or the submission and use of evidence in camera, to ensure in particular the protection of classified information relating to national defense, foreign policy, or intelligence matters. The Director of Central Intelligence shall establish the level of protection required for intelligence information and for information relating to intelligence personnel, including standards for secure storage.

(c) RECORDS.—Records pertaining to administrative proceedings under this title shall be separated from all other records of the Department of State and shall be maintained under appropriate safeguards to preserve confidentiality and classification of information. Such records shall be prohibited from disclosure to the public until such time as a Board completes its work and is dismissed. The Department of State shall turn over to the Director of Central Intelligence intelligence information and information relating to intelligence personnel which shall then become records of the Central Intelligence Agency. After that time, only such exemptions as apply to other records of the Department of State under section 552(b) of title 5 of the United States Code (relating to freedom of information) shall be available for the remaining records of the Board.

(d) STATUS OF BOARDS.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) and section 552b of title 5 of the United States Code (relating to open meetings) shall not apply to any Board.

SEC. 304. FINDINGS AND RECOMMENDATIONS BY A BOARD.

(a) FINDINGS.—A Board convened in any case shall examine the facts and circumstances surrounding the serious injury, loss of life, or significant destruction of property at or related to a United States Government mission abroad and shall make written findings determining—

(1) whether there are reasonable grounds to believe that the injury, loss of life, or destruction of property with respect to which the Board was convened was security-related; and

(2) whether there is reasonable cause to believe that a breach of duty by an individual described in section 303(a)(1)(B) contributed to such injury, loss of life, or destruction of property.

In making its findings, the Board shall take into account such standards of conduct, statutes, rules, regulations, instructions and other sources as may have been pertinent to the performance of work and official duties.

(b) PROGRAM RECOMMENDATIONS.—The Board shall make recommendations to the Secretary of State as appropriate to improve the efficiency, economy, suitability, or security of any program or operation which the Board has reviewed, particularly recommendations to promote security awareness and

individual accountability for security programs.

(c) DISCIPLINARY PROCEEDINGS.—

(1) NOTICE.—Whenever a Board finds reasonable cause to believe than an individual has breached a duty under subsection (a)(2), the Board shall promptly notify the individual concerned. The Board at the same time shall notify the head of the appropriate Federal agency or instrumentality of such finding and recommend that such agency or instrumentality initiate an appropriate investigatory or disciplinary proceeding.

(2) RECORDS.—Whenever notice of a finding under paragraph (1) is made, the Board shall transmit to the head of the appropriate Federal agency or instrumentality a certified copy of the record of the pertinent administrative proceeding undertaken by the Board under this title, which shall be part of the official record for all purposes of any disciplinary action against the individual concerned. The head of such agency or instrumentality shall maintain such copy under appropriate safeguards to preserve confidentiality and classification of information. For purposes of section 552(b) of title 5, United States Code (relating to freedom of information), such portion of the copy which corresponds to the portion of the original record which was turned over to the Director of Central Intelligence shall be deemed to be held by the Director.

(d) REPORTS.—

(1) PROGRAM RECOMMENDATIONS.—In any case in which a Board transmits recommendations to the Secretary of State under subsection (b), the Secretary shall, not later than 90 days after the receipt of such recommendations, submit a report to the Congress on each such recommendation and the action taken with respect to that recommendation.

(2) PERSONNEL RECOMMENDATIONS.—In any case in which a Board transmits a finding of reasonable cause under subsection (c), the head of the Federal agency or instrumentality receiving the information shall review the evidence and recommendations and shall, not later than 30 days after the receipt of that finding, transmit to the Congress a report specifying—

(A) the nature of the case and a summary of the evidence transmitted by the Board; and

(B) the decision by the Federal agency or instrumentality to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.

SEC. 305. RELATION TO OTHER PROCEEDINGS.

Nothing in this title shall be construed to create administrative or judicial review remedies or rights of action not otherwise available by law, nor shall any provision of this title be construed to deprive any person of any right or legal defense which would otherwise be available to that person under any law, rule, or regulation.

TITLE IV—DIPLOMATIC SECURITY PROGRAM

SEC. 401. AUTHORIZATIONS OF APPROPRIATIONS.

(a) DIPLOMATIC SECURITY PROGRAM.—

(1) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated before October 1, 1987, for the Department of State to carry out diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year:

(A) For "Administration of Foreign Affairs", as follows:

(i) For "Salaries and Expenses", $245,327,000.

(ii) For "Acquisition and Maintenance of Buildings Abroad", $857,806,000.

(iii) For "Counterterrorism Research and Development", $2,000,000.

(B) For "Antiterrorism Assistance", $4,840,000.

(2) Amounts appropriated pursuant to this section are authorized to remain available until expended.

(b) REPROGRAMMING TREATMENT.—Amounts made available for capital projects pursuant to subsection (a) shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogramming.

(c) SECURITY REQUIREMENTS OF OTHER FOREIGN AFFAIRS AGENCIES.—Based solely on security requirements and within the total amount of funds available for security, the Secretary of State shall ensure that an equitable level of funding is provided for the security requirements of other foreign affairs agencies.

(d) INSUFFICIENCY OF FUNDS.—In the event that sufficient funds are not available in any fiscal year for all of the diplomatic security construction, acquisition, and operations pursuant to the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for such fiscal year, the Secretary of State shall report to the Congress the effect that the insufficiency of funds will have with respect to the Department of State and each of the other foreign affairs agencies.

SEC. 402. DIPLOMATIC CONSTRUCTION PROGRAM.

(a) PREFERENCE FOR UNITED STATES CONTRACTORS.—Notwithstanding section 11 of the Foreign Service Buildings Act, 1926, and where adequate competition exists, only United States persons and qualified United States joint venture persons may bid on a diplomatic construction or design project, for which funds are authorized to be appropriated by this title, which has an estimated total project value exceeding $5,000,000.

(b) EXCEPTION.—Subsection (a) shall not apply with respect to any diplomatic construction or design project in a foreign country the laws or policies of which prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the Congress that he has urged such foreign country to permit the use of United States contractors on such projects.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "adequate competition" means with respect to a construction project, the presence of two or more qualified bidders who are (A) United States persons or are qualified United States joint venture persons and (B) who are submitting responsive bids for that project;

(2) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including State, the District of Columbia, and local laws;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States for more than 5 years before the issuance date of the invitation for bids or request for proposals with respect to a construction project;

(D) has performed administrative and technical, professional, or construction services similar in complexity, type of construction, and value to the project being bid;

(E) has achieved total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C);

(F) employs United States nationals in more than half of its full-time supervisory positions in the United States and will employ United States nationals in 80 percent of the supervisory positions on the foreign buildings office project site; and

(G) has the existing technical and financial resources to perform the contract; and

(3) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture.

(d) AMERICAN MINORITY CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction projects each fiscal year shall be allocated to the extent practicable for contracts with American minority contractors.

(e) SECURITY CLEARANCE REQUIREMENTS FOR CONTRACTORS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall issue regulations to—

(1) strengthen requirements for security clearances for all contractors and subcontractors involved in any way with a diplomatic construction or design project; and

(2) prohibit access to any design or blueprint relating to such a project by any such contractor or subcontractor without the appropriate security clearance.

SEC. 403. QUALIFICATIONS OF PERSONS HIRED FOR THE DIPLOMATIC CONSTRUCTION PROGRAM.

In carrying out the diplomatic construction program referred to in section 401(a), the Secretary of State shall employ as professional staff (by appointment, contract, or otherwise) only those persons with a demonstrated specialized background in the fields of construction, construction law, or contract management. In filling such positions, the Secretary shall actively recruit women and members of minority groups.

SEC. 404. COST OVERRUNS.

Any amount required to complete any capital project described in the Department of State's Supplemental Diplomatic Security Program, as justified to the Congress for the respective fiscal year, which is in excess of the amount made available for that project shall be treated as a reprogramming of funds under section 34 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2706) and shall not be available for obligation or expenditure except in compliance with the procedures applicable to such reprogrammings.

SEC. 405. EFFICIENCY IN CONTRACTING.

(a) BONUSES AND PENALTIES.—The Director of the Office of Foreign Buildings shall provide for a contract system of bonuses and penalties for the diplomatic construction program funded pursuant to the authorizations of appropriations provided in this title. Not later than 3 months after the date of enactment of this Act, the Director shall submit a report to the Congress on the implementation of this section.

(b) SURETY BONDS AND GUARANTEES.—The Director of the Office of Foreign Buildings shall require each person awarded a contract for work under the diplomatic construction program to post a surety bond or guarantee, in such amount as the Director may determine, to assure performance under such contract.

(c) DISQUALIFICATION OF CONTRACTORS.—No person doing business with Libya may be eligible for a contract under this Act.

SEC. 406. TRAINING TO IMPROVE PERIMETER SECURITY AT UNITED STATES DIPLOMATIC MISSIONS ABROAD.

It is the sense of Congress that the President should use the authority under chapter 8 of title II of the Foreign Assistance Act of 1961 (relating to antiterrorism assistance) to improve perimeter security of United States diplomatic missions abroad.

SEC. 407. CERTAIN PROTECTIVE FUNCTIONS.

Section 208(a) of title 3, United States Code, is amended by adding at the end thereof the following: "In carrying out any duty under section 202(7), the Secretary of State is authorized to utilize any authority available to the Secretary under title II of the State Department Basic Authorities Act of 1956.".

SEC. 408. REIMBURSEMENT OF THE DEPARTMENT OF THE TREASURY.

The Secretary of State shall reimburse the appropriate appropriations account of the Department of the Treasury out of funds appropriated pursuant to section 401(a)(1) for the actual costs incurred by the United States Secret Service, as agreed to by the Secretary of the Treasury, for providing protection for the spouses of foreign heads of state.

TITLE V—STATE DEPARTMENT AUTHORITIES TO COMBAT INTERNATIONAL TERRORISM

SEC. 501. REWARDS FOR INFORMATION RELATING TO INTERNATIONAL NARCOTERRORISM AND DRUG TRAFFICKING.

(a) INTERNATIONAL TERRORISM.—Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended to read as follows:

"(a) The Secretary of State may pay a reward to any individual who furnishes information leading to—

"(1) the arrest or conviction in any country of any individual for committing, or for conspiring or attempting to commit, an act of international terrorism; or

"(2) the prevention, frustration, or favorable resolution of an act of international terrorism if the act of international terrorism is against a United States person or United States property and is primarily outside the territorial jurisdiction of the United States.".

(b) INTERNATIONAL NARCOTERRORISM AND DRUG TRAFFICKING.—Section 36 of such Act is further amended—

(1) by redesignating subsections (b), (c), (d), (e), and (f) as subsections (c), (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) The Secretary of State, upon the request of a chief of mission and with the concurrence of the Attorney General, may pay a reward to any individual who furnishes information leading to—

"(1) the arrest or conviction in any country of any individual for committing outside the United States any narcotics-related offense if such offense involves or is a significant part of conduct that involves—

"(A) a violation of the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined for the purpose of the Controlled Substances Act);

"(B) an act of narcoterrorism, which includes the killing or kidnapping outside the territorial jurisdiction of the United States of—

"(i) any officer, employee, or contract employee of the United States Government while such individual is engaged in official duties, or on account of that individual's official duties, in connection with the enforcement of United States drug laws or the implementing of United States drug control objectives; or

"(ii) a member of the immediate family of any such individual on account of that individual's official duties in connection with the enforcement of United States drug laws or the implementation of United States drug control objectives; or

"(C) an attempt or conspiracy to do any of the acts described in paragraph (1) or (2); or

"(2) the prevention or frustration of an act described in paragraph (1).".

(c) FUNDING FOR REWARDS.—Section 36(g) of such Act, as redesignated by subsection (b)(1), is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", up to $2,000,000 of which may be used for rewards for information described in subsection (b)(1)(A) or (B). In addition to the amount authorized by the preceding sentence, there are authorized to be appropriated $10,000,000 for fiscal year 1987 for 'Administration of Foreign Affairs' for use in paying rewards under this section, up to $5,000,000 of which may be used for rewards for information described in subsection (b)(1)(A) or (B).".

(d) CONFORMING AMENDMENT.—Section 36(f) of such Act, as redesignated by subsection (b)(1), is amended by inserting "or (b)" after "subsection (a)".

(e) REPORTS ON REWARDS; DEFINITIONS.—Section 36 of such Act is further amended by adding at the end thereof the following new subsections:

"(h) Not later than 30 days after paying any reward under this section, the Secretary of State shall submit a report to the Congress with respect to that reward. The report, which may be submitted on a classified basis if necessary, shall specify the amount of the reward paid, to whom the reward was paid, and the acts with respect to which the reward was paid, and shall discuss the significance of the information for which the reward was paid in dealing with those acts.

"(i) The purpose of the rewards under subsection (b) is to assist narcotics law enforcement in the effective arrest and prosecution of major narcotics traffickers and, wherever appropriate, to offer rewards in connection with the killing of, or the attempt to kill, any United States officer or employee, in connection with the performance of narcotics control duties by such officer or employee, or any member of the family of such officer or employee. To ensure that the rewards program authorized by this section, especially subsection (b)(1)(A), does not duplicate or interfere with the payment of informants or the purchase of evidence or information, as authorized to the Department of Justice, the offering, administration, and payment of rewards under subsection (b), including procedures for—

"(1) identifying individuals, organizations, and offenses for which rewards will be offered,

"(2) the publication of rewards,

"(3) offering of joint rewards with foreign governments,

"(4) the receipt and analysis of data,

"(5) the payment and the approval of payment, and

"(6) the recommendations of rewards by chiefs of mission to the Secretary of State and the Attorney General,

shall be governed by procedures approved by the Secretary of State and the Attorney General.

"(j) As used in this section—

"(1) the term 'United States drug laws' means the laws of the United States for the prevention and control of illicit traffic in controlled substances (as such term is defined for purposes of the Controlled Substances Act); and

"(2) the term 'member of the immediate family' includes—

"(A) a spouse, parent, brother, sister, or child of the individual;

"(B) a person to whom the individual stands in loco parentis; and

"(C) any other person living in the individual's household and related to the individual by blood or marriage.".

SEC. 502. COUNTERTERRORISM PROTECTION FUND.

The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 39 as section 40; and

(2) by inserting after section 38 (22 U.S.C. 2710) the following new section:

"SEC. 39. COUNTERTERRORISM PROTECTION FUND.

"(a) AUTHORITY.—The Secretary of State may reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents primarily outside the territorial jurisdiction of the United States. Before making a payment under this section in a matter over which there is Federal criminal jurisdiction, the Secretary shall advise and consult with the Attorney General.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State for 'Administration of Foreign Affairs' $1,000,000 for fiscal year 1986 and $1,000,000 for fiscal year 1987 for use in reimbursing persons, agencies, or governments under this section.

"(c) DESIGNATION OF FUND.—Amounts made available under this section may be referred to as the 'Counterterrorism Protection Fund'.".

SEC. 503. AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES.

The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 40 (as so redesignated by section 502 of this Act) as section 41; and

(2) by inserting after section 39 (as added by section 502 of this Act) the following new section:

"SEC. 40. AUTHORITY TO CONTROL CERTAIN TERRORISM-RELATED SERVICES.

"(a) AUTHORITY.—The Secretary of State may, by regulation, impose controls on the provision of the services described in subsection (b) if the Secretary determines that provision of such services would aid and abet international terrorism.

"(b) SERVICES SUBJECT TO CONTROL.—The services subject to control under subsection (a) are the following:

"(1) Serving in or with the security forces of a designated foreign government.

"(2) Providing training or other technical services having a direct military, law enforcement, or intelligence application, to or

for the security forces of a designated foreign government.

Any regulations issued to impose controls on services described in paragraph (2) shall list the specific types of training and other services subject to the controls.

"(c) PERSONS SUBJECT OF CONTROLS.—These services may be controlled under subsection (a) when they are provided within the United States by any individual or entity and when they are provided anywhere in the world by a United States person.

"(d) LICENSES.—In carrying out subsection (a), the Secretary of State may require licenses, which may be revoked, suspended, or amended, without prior notice, whenever such action is deemed to be advisable.

"(e) DEFINITIONS.—

"(1) DESIGNATED FOREIGN GOVERNMENT.—As used in this section, the term 'designated foreign government' means a foreign government that the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979, engages in or provides support for international terrorism.

"(2) SECURITY FORCES.—As used in this section, the term 'security forces' means any military or paramilitary forces, any police or other law enforcement agency (including any police or other law enforcement agency at the regional or local level), and any intelligence agency of a foreign government.

"(3) UNITED STATES.—As used in this section, the term 'United States' includes any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States.

"(4) UNITED STATES PERSON.—As used in this section, the term 'United States person' means any United States national, any permanent resident alien, and any sole proprietorship, partnership, company, association, or corporation organized under the laws of or having its principal place of business within the United States.

"(f) VIOLATIONS.—

"(1) PENALTIES.—Whoever willfully violates any regulation issued under this section shall be fined not more than $100,000 or five times the total compensation received for the conduct which constitutes the violation, whichever is greater, or imprisoned for not more than ten years, or both, for each such offense.

"(2) INVESTIGATIONS.—The Attorney General and the Secretary of the Treasury shall have authority to investigate violations of regulations issued under this section.

"(g) CONGRESSIONAL OVERSIGHT.—

"(1) REVIEW OF REGULATIONS.—Not less than 30 days before issuing any regulations under this section (including any amendments thereto), the Secretary of State shall transmit the proposed regulations to the Congress.

"(2) REPORTS.—Not less than once every six months, the Secretary of State shall report to the Congress concerning the number and character of licenses granted and denied during the previous reporting period, and such other information as the President may find to be relevant to the accomplishment of the objectives of this section.

"(h) RELATIONSHIP TO OTHER LAWS.—The authority granted by this section is in addition to the authorities granted by any other provision of law.

"(i) CONSTRUCTION.—Nothing in this section may be construed to make unlawful any activity conducted by an officer or employee of the United States Government, or any agent thereof, which is properly authorized and conducted in accordance with Federal laws, rules, and regulations, including Executive Orders, governing such activities.".

TITLE VI—FASCELL FELLOWSHIP PROGRAM

SEC. 601. SHORT TITLE.

This title may be cited as the "Fascell Fellowship Act".

SEC. 602. FELLOWSHIP PROGRAM FOR TEMPORARY SERVICE AT UNITED STATES MISSIONS IN THE SOVIET UNION AND EASTERN EUROPE.

(a) ESTABLISHMENT.—There is established a fellowship program pursuant to which the Secretary of State will provide fellowships to United States citizens while they serve, for a period of between one and two years, in positions formerly held by foreign national employees at United States diplomatic or consular missions in the Soviet Union or Eastern European countries.

(b) DESIGNATION OF FELLOWSHIPS.—Fellowships under this title shall be known as "Fascell Fellowships".

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this title shall be provided in order to allow the recipient (hereafter in this title referred to as a "Fellow") to serve on a short-term basis at a United States diplomatic or consular mission in the Soviet Union or an Eastern European country in order to obtain first hand exposure to that country, including (as appropriate) independent study in Soviet or Eastern European area studies or languages.

(d) INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.—To receive a fellowship under this title, an individual must be a United States citizen who is an undergraduate or graduate student, a teacher, scholar, or other academic, or an other individual, who has expertise in Soviet or Eastern European area studies or languages and who has a working knowledge of the principal language of the country in which he or she would serve.

(e) WOMEN AND MEMBERS OF MINORITY GROUPS.—In carrying out this section, the Secretary of State shall actively recruit women and members of minority groups.

SEC. 603. FELLOWSHIP BOARD.

(a) ESTABLISHMENT AND FUNCTION.—There is established a Fellowship Board (hereafter in this title referred to as the "Board"), which shall select the individuals who will be eligible to serve as Fellows.

(b) MEMBERSHIP.—The Board shall consist of 9 members as follows:

(1) A senior official of the Department of State (who shall be the chair of the Board), designated by the Secretary of State.

(2) An officer or employee of the Department of Commerce, designated by the Secretary of Commerce.

(3) An officer or employee of the United States Information Agency, designated by the Director of that Agency.

(4) Six academic specialists in Soviet or Eastern European area studies or languages, appointed by the Secretary of State (in consultation with the chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives and the chairman and ranking minority of the Committee on Foreign Relations of the Senate).

(c) MEETINGS.—The Board shall meet at least once each year to select the individuals who will be eligible to serve as Fellows.

(d) COMPENSATION AND PER DIEM.—Members of the Board shall receive no compensation on account of their service on the Board, but while away from their homes or regular places of business in the performance of their duties under this title, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

SEC. 604. FELLOWSHIPS.

(a) NUMBER.—Up to 100 fellowships may be provided under this title each year.

(b) REMUNERATION AND PERIOD.—The Board shall determine, taking into consideration the position in which each Fellow will serve and his or her experience and expertise—

(1) the amount of remuneration the Fellow will receive for his or her service under this title, and

(2) the period of the fellowship, which shall be between one and two years.

(c) TRAINING.—Each Fellow may be given appropriate training at the Foreign Service Institute or other appropriate institution.

(d) HOUSING AND TRANSPORTATION.—The Secretary of State shall, pursuant to regulations—

(1) provide housing for each Fellow while the Fellow is serving abroad, including (where appropriate) housing for family members; and

(2) pay the costs and expenses incurred by each Fellow in traveling between the United States and the country in which the Fellow serves, including (where appropriate) travel for family members.

(e) EFFECTIVE DATE.—Subsection (d) of this section shall not take effect until October 1, 1986.

SEC. 605. SECRETARY OF STATE.

(a) DETERMINATIONS.—The Secretary of State shall determine which of the individuals selected by the Board will serve at each United States diplomatic or consular mission in the Soviet Union or Eastern Europe and the position in which each will serve.

(b) AUTHORITIES.—Such service shall be in accordance with the relevant authorities of the Foreign Service Act of 1980, the State Department Basic Authorities Act of 1956, and title 5 of the United States Code.

(c) FUNDING.—Funds appropriated to the Department of State for "Salaries and Expenses" shall be used for the expenses incurred in carrying out this title.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. PEACE CORPS AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Peace Corps Act is amended by amending subsection (b) to read as follows:

"(b) There are authorized to be appropriated to carry out the purposes of this Act $130,000,000 for the fiscal year 1986 and $137,200,000 for the fiscal year 1987.".

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise to ask the Senate's consideration of the Diplomatic Security and Antiterrorism Act of 1986. This legislation is a response to the immediate need to improve the security of our diplomatic posts overseas and to make management and operational changes in the Department of State which will strengthen our ability to fight the threat of terrorism.

In the past few years, we all have witnessed the deadly consequences of international terrorism. We know that

much of this terrorism is aimed directly at America and American interests. American diplomatic missions, the people who work in them and their families are the clearest symbols of American interests overseas and are, therefore, prime targets for international terrorists.

I think it is particularly important to point out that, while most people associate American missions abroad with the Department of State, in fact more than 70 percent of the personnel of the average Embassy are employed by other U.S. Government agencies. About 30 U.S. Government agencies have employees overseas representing American foreign policy interests, analyzing international economic developments, promoting the export of American products and services, and serving in a wide range of other duties.

The U.S. Government has about 17,000 Americans serving overseas in diplomatic missions and another approximately 31,000 foreign nationals. These numbers do not include personnel at military bases who are not included in the scope of the Diplomatic Security Act. Therefore, the State Department is responsible for the protection of about 48,000 employees plus the families of Americans assigned overseas.

Last year, a distinguished panel of experts headed by Adm. Bobby Inman made an extensive study of the security problems facing American interests overseas. The report of the Inman panel contained a number of recommendations to improve diplomatic security overseas as well as security for foreign diplomats in the United States.

Most of these recommendations have been incorporated in the administration's plan for a new Diplomatic Security Program. In February of this year, the State Department presented Congress with a request for a supplemental authorization of $4.4 billion over 5 years, beginning with the current fiscal year.

The administration's original request for a Diplomatic Security Program was contained in S. 2015 which I introduced earlier this year. The House passed H.R. 4151, which has the Diplomatic Security Programs and seven other titles on subjects related to various aspects of terrorism. The Diplomatic Security Program should be the focus of our attention at this time and, therefore, the legislation before us today is an amendment to H.R. 4151 and concentrates on the administration's original request.

Mr. President, the Committee on Foreign Relations has studied this authorization request for more than 3 months. We have talked with State Department officials, officials of other Government agencies represented overseas and representatives of private industry knowledgeable about the costs and procedures of the Overseas Security Program.

On May 14, the committee held a markup on the Diplomatic Security Act and voted to report the bill which is before the Senate today. This legislation has several key components:

It authorizes a total of $1,107,821,000 in supplemental funds for fiscal years 1986 and 1987.

It establishes within the Department of State a Bureau of Diplomatic Security to be headed by an Assistant Secretary with overall authority to manage the worldwide Security Program.

It establishes a Diplomatic Security Service as a professional career path in the Department of State.

It establishes an Accountability Review Board to investigate breaches of security where there are injuries, loss of life or serious destruction of property.

The bill also contains strong preference for the use of American companies in the construction projects and it bars from these projects any company doing business with the Government of Libya.

The committee considered numerous pieces of legislation dealing with the broader issue of terrorism. Three sections were included in the bill that were contained in the House-passed measure with slight modifications.

One section adds a new provision to the current terrorism rewards-for-information fund to permit rewards leading to the arrest and prosecution of major narcotics offenders for narcotics-related offenses committed overseas. Included in these offenses are the killing or kidnaping, or the attempted killing or kidnaping, of U.S. personnel and their families because of their connection to U.S. enforcement and control programs. An additional $5 million is authorized for the rewards-for-information program for 1987.

A second terrorism-related section permits the Secretary of State to regulate the provision of technical services to the law enforcement or security forces of countries defined as supporters of terrorism under the terms of the Export Administration Act. This provision narrows an original administration proposal which arose out of the Wilson-Terpil case and created some controversy by its vague definition of supporters of terrorism.

The last terrorism-related section in the bill permits the Secretary of State to make reimbursements for the protection expenses of those who have provided information relating to terrorist incidents outside the United States. This section augments the Administration of Justice Program by providing protection to witnesses in those instances where the United States has lent special assistance to the investigation and prosecution of a case.

This bill also has a provision for a fellowship program for U.S. citizens to work at American diplomatic missions in the Soviet Union and Eastern Europe for 1 or 2 years. This program, named after House Foreign Affairs Committee Chairman DANTE FASCELL, would serve two important purposes:

First, it would allow American students, teachers, and scholars to study the Soviet Union and Eastern European countries firsthand, a valuable resource to the United States.

Second, the Americans in this program would replace some Soviet and East bloc nationals working in our Embassies, thus increasing the overall security at these posts.

The cost of this program would come from the State Department's salaries and expenses account and no additional authorization is necessary.

Finally, this bill also has an amendment, added in the markup, to authorize an additional $7.2 million for the Peace Corps in fiscal year 1987. This amendment, which increases the Peace Corps' total authorization to $137.2 million, was proposed by Senator DODD and cosponsored by Senator KERRY and Senator EVANS. The objective of the amendment is to allow the Peace Corps to begin implementation of a 6-year plan to increase its volunteer force which Congress requested in Public Law 99-83 in 1985.

Mr. President, I would like to provide some additional details on the budget and the process by which the committee arrived at the authorization levels. As I said earlier, we studied the budget request in great detail. The budget submission provided by the State Department is more than 300 pages and each line item has a narrative to describe the particular expense and the reason for the request.

In examining the State Department request, we considered two main components: the total amount—$4.4 billion—and the period of authorization—5 years.

The committee decided that a shorter authorization period was necessary in order to fulfill our responsibility to those who represent our Government overseas and taxpayers here at home to see to it that the money is spent in the most efficient and effective manner. During the coming year, we will be examining the budget very closely to monitor the State Department's performance with these funds and funds received in previous years. Then, during the next, regular 2-year authorization process, we will respond to the situation and the needs at that time.

Another reason for the shorter authorization period is that this program is much larger than anything the State Department has undertaken

before and we want to be in a position to positively influence the Security Program should changes be necessary.

As to the amounts of specific authorization, the funds are intended for the following four categories:

For salaries and expenses, $243,175,000. In this category, the committee has made clear to the Department of State that the money should be spent on personnel and programs directly related to security. Nonessential items were cut back or eliminated from this authorization. This category has such important items as perimeter security for American missions, Marine guards, Seabees and security training. Also included here is money for counterintelligence and communications security, an area which the Inman Panel identified as needing special attention and which the committee agrees should have high priority.

For the acquisition and maintenance of buildings abroad, $857,806,000. With these funds the State Department will undertake the construction or renovation of diplomatic posts overseas and incorporate into these buildings new security systems and equipment. The cost of these individual projects is high because of the unique security requirements of American diplomatic posts and the need, in some cases, to acquire additional land to set back the buildings 100 feet from main roads, as security experts and Inman Panel recommend. In this category again, we have made it clear to the State Department that it should not spend this money on nonessentials and it should be very, very careful in its planning of new buildings to avoid costly designs that contribute nothing to security or basis building needs.

For counterterrorism research and development, $2,000,000. The technology which terrorists have used against our interests is not static but will change and become more dangerous. Therefore, we must continue our own research to anticipate and negate whatever threats we will face in the future.

For antiterrorism assistance, $4.840,000. This money is for the continuation of a program that provides training and equipment to help foreign governments improve their antiterrorist capabilities. This program also acts as an incentive to other countries to cooperate with the United States and other friendly governments in combating international terrorism.

Mr. President, the Committee on Foreign Relations had two objectives in formulating this supplemental authorization. The committee wanted to authorize a program which will substantially increase our ability to protect our people and our interests overseas. The committee also wanted to authorize a program which accommodates the tight budget situation which we are all facing today.

This supplemental authorization achieves both of those objectives and I urge my colleagues to vote in favor of the Diplomatic Security and Anti-Terrorism Act of 1986.

The PRESIDING OFFICER (Mr. GOLDWATER). The Senator from Rhode Island.

Mr. PELL. Mr. President, I join the chairman in urging the Senate to pass the Diplomatic Security and Antiterrorism Act of 1986. This bill, H.R. 4151, would authorize an appropriation of $1.1 billion for fiscal year 1986 and 1987 to initiate the administration's 5-year $4.4 billion security enhancement program. This project is designed primarily to finance the acquisition and construction of over 70 new chanceries, consulates, or residences and the renovation of an additional 170 posts. In addition to this ambitious construction program, the administration, through this legislation, hopes to:

First, consolidate all of the overseas diplomatic security responsibilities in the Department of State and create a new bureau for this purpose;

Second, establish a board of inquiry and accountability to review security breaches and to recommend action against negligent personnel;

Third, increase the protective services provided by the Department of State for foreign official visitors and diplomats within the United States;

Fourth, strengthen the residential security provided for U.S. employees at high threat diplomatic posts;

Fifth, increase the staff and training of security personnel in the State Department; and

Sixth, provide additional and improved technical security and communications equipment to reduce the vulnerability of U.S. diplomatic missions to electronic penetration.

Mr. President, there is no question that we must do all that is possible to provide adequate protection for American personnel abroad. Americans are being attacked in larger numbers and in increasingly brutal and indiscriminate ways. Since 1975, there have been a large number of citizens killed in 243 attacks against U.S. Embassies and personnel abroad.

In fact, more ambassadors have been assassinated since World War II while serving our Nation abroad than all of our generals and admirals killed in the same period as a result of two wars from enemy action. American diplomats deserve better protection.

I realize the numbers involved may not seem large in scope. In fact, since 1968, nearly 1,000 times as many Americans were killed as the result of drunk driving as of terrorists, but the very fact of Americans working for their Government being at risk I think is a fact that we should prevent.

In this regard, with regard to the total number of casualties, I ask unanimous consent to insert into the RECORD at this point a table prepared by the Department of State on U.S. casualties caused by international terrorism, 1968–85.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CASUALTIES CAUSED BY INTERNATIONAL TERRORISM, 1968–85

[U.S. Department of State, Office for Counter-terrorism and Emergency Planning]

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
United States:																		
Total dead	5	3	6	4	23	23	42	18	7	4	9	15	9	7	8	271	11	28
Total wounded	10	3	14	23	33	2	17	78	32	7	21	21	17	40	11	115	31	160
Total U.S. casualties	15	6	20	27	56	25	59	96	39	11	30	36	26	47	19	386	42	188

Mr. PELL. In July 1984, in response to the increasingly visible problem of state-sponsored terrorism, Secretary Shultz created an Advisory Panel on Overseas Security, chaired by Adm. Bobby Inman. Other members of the panel were Senator WARREN RUDMAN of New Hampshire; Ambassador Anne Armstrong, chairperson of the President's foreign intelligence advisory board; Congressman DAN MICA from Florida; Lt. Gen. D'Wayne Gray, U.S. Marine Corps; Ambassador Larry Eagleburger; Robert McGuire, chief executive officer of Pinkerton's Inc.; and Victor Dikeos, former director of security and of the multinational force in Rome.

This panel was created to review our security posture and to chart a course of action for the U.S. Government to take in better defending our personnel and buildings abroad. Our current defenses were simply inadequate. A more progressive plan to combat the scourge of terrorism was needed.

In June, 1985, the Inman panel submitted its comprehensive study and 109 recommendations. Most of these recommendations which cover a wide range of physical and technical security, intelligence, organization, and diplomatic efforts to combat terrorism were accepted by the Department of State. H.R. 4151 is designed to implement the Inman recommendation. In addition to the Department, many other agencies with personnel and interests abroad contributed to the development of this legislation.

This bill has broad bipartisan support. It passed the Democratic House by a vote of 389 to 71. Therefore, I urge my colleagues to support this bill. The lives of Americans working abroad may depend upon it.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in support of this legislation, now pending on the floor, to provide and enhance diplomatic security for our personnel serving abroad. This proposal flows from a series of recommendations made by the Advisory Panel on Overseas Security, which was convened by the Secretary of State following the Beirut bombings and chaired by Adm. Bobby Inman, now retired and, in my opinion, one of the most able men we have had in public service in this country in recent times. After a very thorough review of the problem, the Inman panel recommended a series of steps, well over 100, that could be taken to improve security.

While the panel noted that it was not possible to prevent all attacks upon our overseas facilities, it did detail a number of steps that could be taken to bring about significant improvement in the situation, including increased professionalism on the part of State Department security personnel, a strict accountability in cases involving a significant loss of life, and a major construction program for upgrading and building new diplomatic facilities overseas.

On the basis of the Inman panel recommendations, the administration submitted recommendations to Congress. The House of Representatives has acted and now it is time for the Senate to act.

Given the parliamentary situation, I will not propose an amendment on the floor, but I regret that an amendment I offered in the committee, which would have increased the authorization level of this bill by about 25 percent, was defeated on a close vote of 7 to 10 within the committee. That amendment was geared to provide an authorization sufficient to fund all the items which the Department of State had included within a band 1 recommendation.

The Department had originally submitted a very broad request to Congress. They were asked to reexamine their request very carefully, to consider it, to put priority items first; in the process of making that judgment, they came up, in effect, with band 1 recommendations. To provide an authorization for that band would have required an increase of about 25 percent over what is contained in the bill. I made such a proposal in the committee. It was not adopted—regrettably, in my view, because I do think this is an extremely important program, one that Congress needs to stand behind.

We had the benefit of the State Department's judgment as to what were the priority items and I thought it better to accept their evaluation items rather than for Congress, in effect, to substitute its own judgment. I am hopeful that when this matter goes to conference, we will be able to arrive at a figure that rests upon some solid basis for meeting the recommendation from the executive branch to Congress as to the authorization that is absolutely necessary. It seems to me that when the executive branch is really pushed to provide their top priorities, as was done with respect to this band 1 recommendation, Congress ought to go along with it.

This is a program with which we should be pennywise, because I believe we will end up running a very high risk: We will not only be pound-foolish in terms of the expenditure of money, but lives will be at risk.

The fact of the matter is that our diplomatic personnel serving in overseas posts are probably as much at risk as anyone serving in the U.S. Government under current circumstances. The figures on the number of diplomatic personnel who have been killed or injured over the last decade, as we confront the problem of international terrorism, are sufficient to cause not only concern but alarm. I think it is very important that we are now moving in a forthright way to deal with this problem.

The pending legislation seeks to do that. It does not go quite as far as I think it should have gone. I am hopeful that when we resolve the differences between the House and the Senate, we will be able to do better. This is an extremely important program. I know Members appreciate that.

□ 1220

There is an understandable tendency to focus on this program and its importance in the immediate aftermath of a particular incident, of a loss of life or an attack. We must also take the longer view. It is very important for Members of Congress and indeed the Nation to comprehend and appreciate the importance of the very well thought out and considered recommendations of the Inman panel, Congress and the country must stand behind the program on a sustained, continuing basis in order to do what we can to enhance diplomatic security and to provide the maximum protection possible we can for our personnel.

Mr. President, I yield the floor.

AMENDMENT NO. 2172

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER], for himself and Mr. LEAHY, proposes an amendment numbered 2172.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 107, in line 15, delete "$245,327,000" and insert "$283,104,000."

On page 108, between lines 20 and 21, insert the following new subsection:

"(e) ALLOCATION OF FUNDS FOR CERTAIN SECURITY PROGRAMS.—Of the amount of funds authorized to be appropriated by paragraph (a)(1)(A)(i), $34,537,000 shall be available only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations."

Mr. DURENBERGER. Mr. President, I rise in my capacity as chairman of the Senate Select Committee on Intelligence to propose the amendment before us. I ask unanimous consent that in addition to my colleague, the Senator from Vermont [Mr. LEAHY], who is the ranking member and the vice chairman of the Intelligence Committee, Senators COHEN, MURKOWSKI, HECHT, MCCONNELL, and BENTSEN also be included as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I will be very brief, I will begin by complimenting my colleagues on the Foreign Relations Committee for the difficult task they have undertaken over the last 1½ years to deal with the issues of diplomatic and Embassy security, not an easy task, and always a task that has resource parameters pressing. So I compliment the chairman of the committee and the ranking member of the committee for the excellent job that they and members of the Foreign Relations Committee have done.

Mr. President, the Diplomatic Security Act is an incredibly important measure. In the wake of the Beiruit bombings and numerous other terror-

ist attacks, our willingness to create a Bureau of Diplomatic Security and to authorize funds for better security is a crucial, tangible commitment of Congress to United States interests around the world. Without this concrete commitment to security, our Nation will be unable to maintain its active role in the world's capitals and centers of commerce.

Just as we support the Nation's defense, so must we now support it diplomatic security. Our diplomatic presence abroad is truly the first line of our defense. It enables us to seize opportunities for cooperation and for the amicable settlement of disputes with others. It saves us from having to resort to military measures, and it paves the way for the efficient use of our Armed Forces when that is necessary. We cannot—and must not—do without an active, assertive diplomatic presence overseas.

While much of the authorization in this bill is to improve the physical security of U.S. diplomatic facilities against the terrorist threat, some of the funding covers the important need for technical protection against hostile intelligence services. As our Embassies have adopted modern methods of communication, our adversaries have adopted modern methods to penetrate those communications. If our secrets are not to be compromised, we must improve our defenses against those hostile efforts. We must not scrimp on this protection. The compromise of sensitive information, whether it concerns secret negotiations instructions or Embassy security plans, can threaten American interests as severely as any terrorist bomb.

Indeed, it is especially important that we appreciate the inherent link between technical security and security against terrorism. Counterterrorist plans do not emerge out of thin air; they are written, discussed, and may well be stored in computers. Seemingly innocent information from people's conversations, communications or data bases can be of tremendous help to terrorist plotters or to the states that support them. And frankly, no physical security system is foolproof. It is of the utmost importance, then, to safeguard the information about our physical security efforts so that terrorists will not discover ways around them. The technical security programs that this amendment supports are a vital link in the chain of defense against terrorist attacks on U.S. facilities overseas.

The Foreign Relations Committee has subjected this bill to intense scrutiny and significant reductions. I can well appreciate the need, in a very difficult year from the budgetary standpoint, to pare down expensive building proposals. But these technical security programs are relatively low-budget items that are well worth the funds they require. They are needed now, and they can be implemented now; they are not dependent upon the pace of new Embassy construction; and they can all be accommodated within the levels prescribed in the report of the committee of conference on the State Department supplemental appropriation. Now that the conference report on the urgent supplemental has adopted a "salaries and expenses" figure that would permit full funding of these programs, we on the Intelligence Committee strongly urge our colleagues to earmark some of that figure for these programs.

There are three technical security areas that merit this special attention: protection of classified office equipment; expansion of information systems security; and hiring of U.S. citizens to manage and operate Embassy computers in high-threat locations. This amendment would provide $34.6 million for these programs, compared to the $12.6 million recommended by the Foreign Relations Committee. The amendment would delete another $7.7 million requested by the State Department that could not reasonably be used by these programs in fiscal year 1987.

These programs all respond to concerns raised by Admiral Inman's Advisory Panel on Overseas Security, and also by the Select Committee on Intelligence in our yearlong study of U.S. counterintelligence and security programs. Several of these programs grow out of efforts that were supported by the $35 million supplemental appropriation that Congress enacted last year at the urging of the Intelligence Committee.

Mr. President, security has long been the stepchild of our bureaucracies. It is inevitably seen as a sidelight, taking resources away from major missions and making people's lives more difficult. But security is essential, and events of recent years have made that terribly clear. In the past year, decades of bureaucratic inertia have been overcome and the Government has begun programs to improve the security of both persons and programs.

Now we must keep up that momentum. Programs that we have called for are beginning to appear; now we must fund them and support them. The payoffs will be real but invisible. They will be terrorist plots that fail, or that are rejected by the terrorists themselves; they will be intelligence coups that our enemies never achieve; they will be state visits that are unmarred by security problems, buildings that are neither bombed nor broken into, and secrets that remain secret.

This is a silent war, and the technical security programs that this amendment supports are a crucial movement of forces in that campaign. I urge my colleagues of the Senate to enlist in this campaign by supporting this amendment.

Mr. President, I also have a detailed description of the programs that this amendment supports. I ask unanimous consent that it be included in the RECORD at this point.

There being no objection, the description was ordered to be printed in the RECORD, as follows:

PROTECTION OF CLASSIFIED OFFICE EQUIPMENT

Emanations from electronic equipment can be intercepted and converted from electronic impulses into human language. In the past, recognition of this vulnerability has led to extraordinary physical and electronic protection for communications centers and communications equipment at overseas posts. Recent events have highlighted another important area of vulnerability: interception of emanations from typewriters and office equipment that are used to process classified information. To address this problem, the State Department has developed a coordinated program to protect classified office equipment.

The equipment protection program has four parts: product certification; secure transportation with State Department couriers; secure handling of repair jobs; and regular inspections of both equipment and security practices. New technical equipment is required in each of these areas, as well as more couriers, inspection personnel, and contracts for secure repair of the office equipment. The State Department requested $33,287,000 over two years for this program; we estimate that they can usefully spend $28,227,000 in fiscal year 1987. The Foreign Relations Committee would authorize only $10,646,000.

EXPANSION OF INFORMATION SYSTEMS SECURITY

The Department of State and other foreign affairs agencies are rapidly increasing their use of computers and word processors overseas. Admiral Inman's Advisory Panel on Overseas Security notes that this increase is being accompanied by a documented increase in the hostile electronic intelligence threat at those overseas facilities. Currently, however, there are few State Department personnel available to work on this problem, and none at the Regional Administrative Management Centers to which embassies typically turn first for help in managing office systems.

The Department of State proposes to assign six computer security personnel and one administrator to its three Regional Administrative Management Centers, and two computer security people plus an administrator for headquarters. They requested $1,872,000 for two years, but could usefully spend $764,000 in fiscal year 1987. The Foreign Relations Committee would authorize only $345,000.

U.S. MANAGERS AND OPERATORS OF COMPUTERS AT HIGH-THREAT LOCATIONS

The State Department operates large minicomputer systems and small office information (word processing) systems in many overseas locations. While these are unclassified systems, some contain sensitive information, particularly when the information in several files can be accessed and analyzed in the aggregate. Unclassified systems at high technical threat locations are especially vulnerable, and foreign nationals are currently involved in the management and

operation of systems in those locations. The State Department has designated certain countries as high technical threat locations based upon reported efforts of other countries to penetrate electronic systems in those locations.

Admiral Inman's Advisory Panel on Overseas Security recommends that no foreign national employee have access to an automated information system at any U.S. Embassy, and the State Department proposes at least to eliminate such foreign nationals as managers and operators of the equipment in high threat areas. State Department requested $7,124,000 for this program over two years, and we estimate that they could usefully spend their full FY 1987 request of $5,546,000. The Foreign Relations Committee would authorize only $1,578,000.

Mr. LUGAR. Mr. President, I rise in support of the amendment from the distinguished chairman of the Intelligence Committee. The Foreign Relations Committee and the Intelligence Committee have consulted with regard to the wisdom of this amendment and come to a unanimous point of view that it is in the best interest of this legislation and therefore we are prepared to accept the amendment on this side.

Mr. PELL. Mr. President, I concur in the view of our chairman. I think it is a good amendment. It is being joined by both the Intelligence and Foreign Relations Committees. However, before acting on it, I know that my colleague, the Senator from Vermont [Mr. LEAHY], would like to comment on it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the call of the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I am delighted to cosponsor this amendment with my distinguished colleague, the chairman of the Intelligence Committee, Senator DURENBERGER. I see in the chair the distinguished senior Senator from Arizona and former chairman of the Senate Intelligence Committee. I know both of my colleagues are well aware of the security considerations reflected in this amendment. The Durenberger-Leahy amendment to the Diplomatic Security Act would earmark $34,537,000 in the diplomatic security bill for three very important technical security programs. Currently, the bill provides only $12½ million for these programs. Our amendment earmarks an additional $21 million, almost $22 million for technical security improvements in our Embassies. The security of our Embassies and consulates abroad is a critical matter for all Americans, certainly to any of those who have visited abroad. It has been one of the first things mentioned to me by our Ambassadors or our security people. It is important for those who serve our country abroad, for those who use American facilities when they travel and really for each of us who care about America's ability to pursue an effective foreign policy. We have to protect our facilities abroad so that we can continue to influence and assist and do business with other people in the world. We are the preeminent nation in the world. We have to be able to carry out our responsibilities worldwide.

In an age of modern terrorism, it is not enough to bar the doors or to buttress walls or to hire more guards. Terrorists, and those who aid them, especially when it is State sponsored terrorism, can and do subject U.S. facilities to intensive surveillance, enormous surveillance. They seek to understand our security measures to determine their weak points. If we fail to protect the information about our security practices, we make it that much easier for terrorists to attack us.

Now, the State Department, responding to the recommendations of Admiral Bobby Inman's Advisory Panel on Overseas Security, has proposed some excellent programs to improve the security of communications and computers in U.S. Embassies. These programs are aimed at making sure that the typewriters and word processors handling classified information do not fall into hostile hands. Certainly, as vice chairman of the Intelligence Committee, I understand the concerns we have about that, as do the two distinguished Senators, the Senator from Minnesota and the Senator from Arizona.

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These programs are aimed at making sure that the typewriters and word processors handling classified information do not fall into hostile hands. They will put Americans in charge of the computers in U.S. Embassies, rather than leaving reams of sensitive information in the hands of foreign employees who may actually be hostile intelligence agents, and oftentimes are, and they will provide computer security experts, both at headquarters and in regional communications support centers. These are the most basic of security measures. They can be implemented in our current Embassies instead of waiting for new ones to be built, and they can be funded without adding to the overall total authorized in this bill. They deserve our support.

Today we are going to vote on authorizing $1.1 billion for overseas security through fiscal year 1987. The $34,537,000 that our amendment earmarks for high-priority technical security programs is only about 3 percent of the bill. I believe that the State Department can squeeze that amount out of its construction budget. Surely this is not too high a price to enhance technical security in those new Embassy buildings this bill will fund.

Let us make sure that our computers and word processors are in the hands of Americans, not hostile agents, as they have been many times in the past. The amount of money we are talking about is a tiny fraction of what we would lose if we do not do that.

As a member of the Appropriations Committee, I emphasize that our amendment is within the figures agreed to by the conference committee on the urgent supplemental appropriation. As a concerned citizen, I am convinced that this sign of our determination to strengthen technical security is a vital part of the effort to improve our security against hostile intelligence services and terrorist organizations. I urge the floor managers to accept this amendment and my fellow Senators to support it.

Mr. DURENBERGER. Mr. President, I thank my colleague.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2172) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2173

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. DENTON, and Mr. DECONCINI, proposes an amendment numbered 2173:

At the appropriate place in the bill add the following new section: That (a) paragraph (3) of subsection (b) of section 112 of title 18, United States Code, is amended by striking out "but outside the District of Columbia and".

(b) The Act entitled "An Act to protect foreign diplomats and consular officers and the buildings and premises occupied by them in the District of Columbia", approved February 15, 1938 (52 Stat. 30; D.C. Code 22-1115 and 1116) is repealed.

Mr. GRASSLEY. Mr. President, I thank Senator DECONCINI and Senator DENTON for cosponsoring this amendment with me.

This amendment is a product of legislation that Senator DECONCINI and I recently introduced, which was S. 2508. This would repeal a District of Columbia Code, and the section number is 22-1115. This local law for the District of Columbia makes it a crime to congregate within 500 feet of an Embassy and to refuse to disperse when ordered to do so by the police.

In effect, S. 2508 would replace the local law with a more recent and more comprehensive congressional statute codified in the Federal criminal law, and that was put on the books in 1972. The Federal statute protects foreign diplomats in all 50 States in this country, such as New York, where the headquarters of the United Nations is, and the home of many foreign diplomats of ambassadorial rank. This 1972 law prohibits activity within 100 feet—as compared to the 500 feet of D.C. law—of a diplomatic facility when it is designed to threaten, harass, coerce, or intimidate those entering or those leaving such a facility.

Congress did not extend this law to the District of Columbia, because it was said at that time that the District already had sufficient law, and it was evidently thought to be similar to this 1972 law.

However, the fact is this: The District of Columbia law is in no way similar. Unlike the Federal law, D.C. law prohibits more than two people from standing in front of an Embassy. On its face, this law, it seems to me, infringes upon our constitutional right of freedom of speech and freedom of assembly.

Moreover, we have had selective enforcement of the D.C. statute. That has resulted in the arrests of peaceful demonstrators—arrests that have taken these people, so arrested, through an ordeal of prosecution, trial, sentence, and, in some cases, even imprisonment.

It is grossly offensive to our constitutional values in this country to subject a U.S. citizen to prosecution simply because he or she stands peacefully on a public street holding a sign that might say something like "Russia Get Out Of Afghanistan," or have the word "Solidarity" on it, or have the words "Apartheid Is Evil."

There is no reason why professional diplomats in the District of Columbia need more protection from seeing such demonstrations than, say, those located at the consulates in New York or Chicago or Los Angeles.

What I have sent to the desk is, of course, the contents of S. 2508 in amendment form. Its adoption will ensure uniform treatment of Embassy property and personnel, while at the same time it ought to protect important constitutional rights of U.S. citizens.

Mr. President, the bill I have referred to, S. 2508, was favorably reported recently by the Security and Terrorism Subcommittee of the Judiciary Committee. That committee is chaired by our colleague Senator from Alabama [Mr. DENTON], and I thank him for his favorable consideration and the unanimous approval that this subcommittee gave to our bill. It also enjoys the sponsorship of Senator DECONCINI and the cosponsorship of Senator DENTON and Senator EAST. In addition, I have heard of no opposition to this proposal.

I defer to Senator DENTON, if he would like to make some comments on this amendment, of which he is a cosponsor.

Mr. DENTON. Mr. President, I thank my distinguished colleague from Iowa. I strongly support Senator GRASSLEY's amendment to H.R. 4151. I am proud to be a cosponsor.

As Senator GRASSLEY mentioned, we did clear the bill unanimously 2 days ago in the Subcommittee on Security and Terrorism, which this Senator chairs. In doing so, we noted that there was a bipartisan feeling on the subcommittee that in our haste to improve the security of Embassies, the security of airports, the security of Government installations around Washington, and the security of our citizens around the world, we must take careful consideration to avoid infringing on first amendment rights.

Mr. President, this amendment would repeal the District of Columbia law which makes it a crime for more than two people to congregate within 500 feet of an Embassy if they fail to leave when ordered to do so.

By repealing that law, we permit the Embassies in Washington, DC to fall under the same law as is applicable in the 50 States, which prohibits activity within 100 feet of a diplomatic facility when it is designed to threaten, harass, coerce, or intimidate those entering or leaving the facility.

Senator GRASSLEY mentioned that the current inconsistency in the law could prohibit peaceful demonstrators from congregating and expressing that which they are entitled to by their first amendment right. I appreciate his efforts in this matter. I should note that Senator DECONCINI has worked closely with me and with Senator LEAHY on this and on a number of legislative initiatives which do improve antiterrorism propensities in our country.

I thank Senator GRASSLEY for his leadership and for yielding to me.

Mr. GRASSLEY. Mr. President, I do not see any of my colleagues desiring to comment on this. It is my understanding that this amendment has been approved by the managers of the bill. If that is true, maybe we can have adoption of the amendment.

Mr. LUGAR. Mr. President, I am pleased to say that the Senate, I think, will be well advised to adopt the amendment of the distinguished Senator from Iowa. He has long been a champion of the peaceful rights of Americans to assemble and make known their points of view. He has brought this issue to the floor on numerous occasions.

Working in cooperation with the distinguished chairman of the subcommittee of the Judiciary Committee, on terrorism, Senator DENTON has done much excellent work in this area.

I believe they have come forward with a suggestion that merits our approval. We are prepared to accept the amendment on our side.

Mr. PELL. Mr. President, personally, I have some doubts here because I visualize not just peaceful demonstrators but overseas where you have angry problems sometimes surrounding our Embassies. I wish to keep them as far away as we can.

I hope if we accept this amendment it will not be used as an example or a precedent for other nations and other parts of the world to let mobs get closer as is the case now.

However, in view of the hard work and efforts of the supporters of the administration, and I believe certainly in America they are absolutely correct, we have no objections on this side.

Mr. GRASSLEY. Mr. President, I comment, first of all, to thank both of the managers of the bill. The chairman and the ranking minority member have been very cooperative, and without their help, I am not sure that this bill would be this far.

Also I wish to comment, because maybe I could alleviate some of the fear that the Senator from Rhode Island expressed about it and the point of view that he made in regard to what might be the situation in a foreign country, this was all taken into consideration in 1972 when the legislation now on the books that we are conforming the D.C. law to was all taken into consideration and was considered to be good public policy at that time.

As far as I know, there is no change of that thought at this point.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 2173) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DENTON. Mr. President, before I send an amendment to the desk I would say to the Senator from Rhode Island that I concur with his concern and would further state that my subcommittee will look into the concerns he has raised.

The United States has simply not been confronted with the same kind of incidents which have arisen in foreign countries with respect to their Embassies. If and when it does confront such a threat most assuredly Senator GRASSLEY, I am certain, as well as myself and members of my subcom-

mittee would take another look at this concession to first amendment privileges.

AMENDMENT NO. 2174

(Purpose: To amend the Atomic Energy Act of 1954 to provide for the national security by allowing access to certain Federal criminal history records)

Mr. DENTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama [Mr. DENTON] for himself and Mr. LEAHY proposes an amendment numbered 2174.

Mr. DENTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following:

NATIONAL SECURITY ACCESS

SEC. (a) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding after section 148 the following new section:

"SEC. 149. FINGERPRINTING FOR SECURITY CLEARANCE.—

"a. Every person in the process of being licensed or licensed pursuant to section 103 or 104b to operate a utilization facility shall require that each individual allowed unescorted access to the facility be fingerprinted. All fingerprints obtained by a licensee as required in the preceding sentence shall be submitted to the Attorney General of the United States through a person or persons designated by the Commission in consultation with the Attorney General for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee. Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to such person or persons designated by the Commission in consultation with the Attorney General.

"b. The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its responsibilities to promote the common defense and security and to protect the health and safety of the public.

"c. For purposes of administration this section, the Commission shall prescribe regulations to—

"(1) implement procedures for the taking of fingerprints;

"(2) establish the conditions for use of information received from the Attorney General in order to—

"(A) limit the redissemination of such information; and

"(B) assure that such information is used solely for the purposes provided in this section; and

"(3) provide individuals subject to fingerprinting the right to complete and correct information contained in the criminal history records prior to any final adverse action.".

(b) The provisions of subsection a. of section 149 of the Atomic Energy Act of 1954, as added by this Act, shall take effect upon promulgation of regulations by the Commission as set forth in subsection c. of such section. Such regulations shall be promulgated on or before January 1, 1986.

(c) The table of contents at the beginning of such Act is amended by inserting after the item for section 148 the following new item:

SEC. 149. Fingerprinting for security clearance.".

Mr. DENTON. Mr. President, this amendment to H.R. 4151, which I offer on behalf of Senator LEAHY and myself will incorporate the substance of S. 274, the Nuclear Power Plant Security and Anti-Terrorism Act, a bill which I introduced on January 24, 1985. On September 12, 1985, the Senate Judiciary Committee unanimously reported S. 274 with wide bipartisan support. The bill was then considered by the full Senate on October 3, 1985, and was passed with similar wide bipartisan support.

The purpose of the proposed Nuclear Power Plant Security and Anti-Terrorism Act amendment is to provide for the national security by granting nuclear power reactor licensees access to the national criminal history files of the Federal Bureau of Investigation. By creating a mechanism to conduct a background investigation on any individual having unescorted access to a nuclear power facility, the amendment will help to ensure that only individuals who are reliable and trustworthy have access to critically sensitive areas thereby significantly improving the security of that nuclear power facility.

Most background checks by nuclear power reactor licensees are limited to State and local files as things presently stand. Unfortunately, those files do not include information about an individual's criminal record, if any, from other parts of the country other than the local and the State from which that individual comes and where the power plant is located. By allowing nuclear power reactor operators to have access to the FBI's criminal history records files, they would be able to obtain more complete criminal histories. That information is an essential element in the determination of who should be granted unescorted access to nuclear facilities.

The Nuclear Regulatory Commission—the Commission—advises that there are 85 U.S. nuclear reactor plants that produce and are licensed for full power. There are five that are licensed for fuel loading and low power. These facilities currently produce approximately 15.5 percent of all our electrical power in this country. As of December 1984, 37 additional plants had been granted construction permits. when those plants become operational, nuclear power will provide approximately 25 percent of all our national electrical power. Although increasingly vital for energy, nuclear facilities can also present a grave danger to the environment and to human life, as Chernobyl dramatically indicates and with little help from saboteurs is a more important danger than that which Chernobyl appears to have presented.

The Commission has investigated more than a dozen incidents of suspected sabotage by plant employees. The incidents involved critical valves in the wrong position, miswired electrical equipment, and other problem areas. A Commission report indicated that between 1974 and 1982 there had been 32 possible deliberate acts of damage at 24 operating reactors and reactor construction sites, including the dozen reported since 1980.

I would like to offer some examples of these incidents, Mr. President, to give us a more immediate familiarity with them.

Examples of incidents include instrument valves apparently deliberately mispositioned in a way that knocked out the steam generator feed-water pump thus forcing the operator to reduce power immediately to keep the reactor from going into emergency shutdown. That incident happened on May 1, 1982, at the Salem atomic power station in southern New Jersey. Another example at the Beaver Valley plant near Pittsburgh, a valve normally left in an open position was found closed and the chain and padlock that normally secured the valve in the open position were missing. With the valve closed, emergency cooling water would not have been available for high pressure injection into the core.

The Commission reported: "Since there were no indication of unauthorized entry to the sites of these incidents, they are thought to have involved insiders." A 1983 Commission memorandum concluded that: "The major threat of sabotage to a nuclear plant is associated with the insider." More stringent employee screening procedures might have prevented many incidents of that kind.

Mr. President, currently, the FBI provides criminal history records checks only to Government or private entities specifically authorized by statute. The FBI originally disseminated criminal history records to State, city, and county officials if authorized by statute, ordinance, or rule for applicants for employment or for a permit or license, as well as for federally insured banks. However, in *Menard* v. *Mitchell*, 328 F. Supp. 718, 725-728 (D.D.C. 1971), rev'd. on other grounds, 498 F.2d 1017 (D.C. Cir. 1974), a U.S. District Court interpreted the statute which authorizes the FBI to collect criminal records (28 U.S.C. 534) as containing an implicit prohibition against dissemination to private entities and to State and local noncriminal justice agencies. The FBI, accordingly, amended its regulations to prohibit

criminal history record dissemination to the general public or private sector employers, except in limited circumstances not relevant in this case.

The Menard decision has, however, been partially superseded. Congress in Public Law 92-544, authorized the FBI to disseminate criminal history records to officials of federally chartered or insured banking institutions and to officials of State and local governments for purposes of employment and licensing decisions, if authorized by State statute and approved by the Attorney General. Following Public Law 92-544 Congress also authorized dissemination to private entities engaged in certain securities transactions, such as brokerage houses (15 U.S.C. section 78(F)).

Mr. President, to prevent nuclear power facilities from becoming targets of terrorists, extortionists, or saboteurs, the licensees must be given access to the data contained in the criminal history files of the FBI.

The criminal history records contain full fingerprint identification cards for individuals who have been arrested by Federal, State or local authorities. It is important to note that identification of the person arrested is based on a full set of fingerprints rather than a name, Social Security number or other personal identifier. Currently, the FBI maintains over 22 million arrests records broken into 1,200 fingerprint classification codes.

Mr. President, because these records are based on a full fingerprint identification, the FBI, by comparing fingerprints, can positively identify a record as belonging to a certain individual thereby ensuring that the person determining employment suitability does not attribute a criminal record to the wrong person. This procedure avoids problems which could occur if an unsophisticated noncriminal justice user of criminal record information undertook a criminal record check based on an individual's name and other identifiers. With a name check it is possible that a record could be attributed to the wrong person or, by merely, using an alias, a criminal record might never be identified.

While the arrest data contained in these criminal history records is generally accurate, it is often incomplete. The FBI requires that law enforcement authorities submitting arrest data subsequently submit information concerning the disposition of the arrest. Despite this requirement, FBI experts have informed the Senate Judiciary Committee that this disposition data does not get forwarded to the FBI in close to 50 percent of the cases.

Because of the imcompleteness of this data, the Senate Judiciary Committee was faced, during consideration of the original bill, with requiring the withholding from the Commission of arrest data unaccompanied by disposition. This would protect the privacy and due process rights of prospective employees, but it would risk the failure to provide the operator important and relevant information concerning the prospective employee. Alternatively, the Senate Judiciary Committee could authorize the FBI to provide a complete arrest history record to the Commission, provided that the Commission institutes a program to protect the rights of prospective employees to correct and supplement the record and to limit the redissemination of the information supplied to the operator. After weighing the pros and cons of each approach, the Senate Judiciary Committee chose the latter course.

I should note, however, Mr. President, that in choosing the latter course, Senator PATRICK LEAHY and myself added specific language to the original bill to protect the civil liberties of the individuals to be fingerprinted. That is, the original bill and the amendment specifically directs the Commission to prescribe regulations for the taking of fingerprints and for establishing the conditions for both using the information and limiting the redissemination of the information provided by the record check in a manner limited to the purposes contained in the act. The legislation gives discretion to the Commission to implement a practical program, through regulation, for carrying out the purposes of the act. Because of the possible incompleteness of the FBI's criminal history records mentioned earlier and because of the important due process and privacy interests of prospective employees, it was Senator LEAHY's and my belief that the regulations prescribed by the Commission shall contain the following minimum requirements:

First, individuals who are asked to submit fingerprints under the program will be notified that the fingerprints will be used to run a criminal history records check through the FBI;

Second, individuals who are subject to fingerprinting will be provided with an opportunity to complete and correct the information contained in the FBI's criminal history records prior to any adverse job action being taken; and

Third, the Commission will establish procedures to ensure that the information provided to the plant operator will only be used to determine whether the person is fit to be given unescorted access to the nuclear facility, and for no other purpose.

Mr. President, the original bill and the amendment have wide support. In written testimony endorsing S. 2470—the 98th Congress version of S. 274—Herzel H.E. Plaine, general counsel of the Nuclear Regulatory Commission, noted that the bill represented a means of facilitating nuclear reactor licensee efforts to obtain criminal history records and of promoting uniformity in industry-conducted personnel screening programs.

In testimony submitted to the Senate Judiciary Subcommittee on Security and Terrorism on June 13, 1985, Arthur E. Lundvall, vice president of Baltimore Gas & Electric Co., and president of the Nuclear Power Executive Advisory Committee of the Edison Electric Institute, noted that:

> Nuclear powerplants have effective security programs that may include a system for psychological evaluation of potential employees and the conduct(ing) of a background investigation that involves limited State and local police record checks. This system would be significantly improved with the enactment of S. 2470 (S. 274) since it would provide a uniform system for background investigation throughout the industry.

He goes on:

> Each individual's complete criminal history will be reviewed and we can be assured that, to the maximum extent possible, only stable, reliable, and law-abiding people have unescorted access to vital areas of our nuclear powerplants.

One other piece of testimony by the manager of Corporate Security, Alabama Power Co., Mr. David Hinman, submitted to my Subcommittee on Security and Terrorism expressed concern that the failure of the industry to obtain criminal history records based on fingerprint identification could permit terrorists and would-be saboteurs an opportunity for employment at nuclear plants, using falsified birth records and other falsified credentials. Mr. Hinman concluded by endorsing this amendment and stating that it is imperative that access to such records be provided to assure that employment in sensitive positions be conducted based on full information as to the trustworthiness of the individual.

Mr. President, the amendment which is endorsed by the Commission, the Department of Justice, and private industry, would help to ensure the safety of nuclear powerplants, and thereby protect our citizens and our environment from disasters on the scale of Chernobyl. It is urgently needed to safeguard the security of the United States and the welfare of the American people.

It is my understanding, Mr. President, that this amendment has the support of the distinguished chairman of the committee and the ranking member and I understand it has been cleared by both sides and is acceptable.

THE NUCLEAR POWERPLANT SECURITY

Mr. LEAHY. Mr. President, I am very pleased to be an original cosponsor of this amendment. I congratulate my colleague and chairman of the Subcommittee on Security and Terrorism, Senator DENTON, for his initiative

in sponsoring this legislation. I was proud to work closely with him on the final draft which was passed overwhelmingly by the Senate on August 3, 1985.

There are currently 85 nuclear reactor plants that produce and are licensed for full power in the United States. We recently saw the great harm that just one of these plants can cause, when the nuclear reactor at Chernobyl exploded killing and contaminating dozens of people in the Soviet Union. In the days following that accident, the milk from cows in my own State of Vermont, half way around the world, was found to contain high levels of radiation.

The Nuclear Regulatory Commission has investigated dozens of incidents of suspected sabotage by plant employees. Between 1974 and 1982, there were 32 possible deliberate acts of damage at 24 operating reactors and reactor construction sites. Several of those incidents could have resulted in a catastrophe at least on the scale of Chernobyl. All of those incidents were believed to have involved insiders.

At a time when terrorism is on the minds of most Americans, it would be inexcusable for us not to do everything reasonably possible to protect our nuclear powerplants from sabotage.

Under current law, most background checks by nuclear powerplant licensees are limited to State and local files. Those files do not include information about a person's criminal record, if any, in other parts of the country. By allowing nuclear plant operators to have access to FBI criminal records files, they would be better able to determine who should be granted unescorted access to nuclear facilities.

That is, very simply, what this legislation does. The nuclear plant licensee would bear the cost of fingerprinting and of the criminal records check, and could use the information obtained only for the limited purpose of determining if the person is fit to receive unescorted access to the plant. Individuals who are subject to fingerprinting would be given an opportunity to correct and complete any information contained in the FBI's records prior to any adverse job action being taken.

Mr. President, this amendment is drafted narrowly to accomplish its important purpose without unreasonably infringing on individual civil liberties. It is absolutely necessary legislation and I am proud to have taken part in the final draft. I urge my colleagues to support it.

□ 1250

Mr. LUGAR. Mr. President, I wish to identify our side strongly with the amendment offered by the distinguished Senator from Alabama. This measure, as the Senator has pointed out, gathered 44 cosponsors when it was passed by voice vote unanimously by the Senate last year. It is an important measure. It is illustrative of the vital work performed by the Judiciary Committee's Subcommittee on Security and Terrorism, which is chaired, of course, by Senator DENTON.

This legislation, in my judgment, adds an important tool to our efforts to protect weapons grade nuclear materials from falling into the wrong hands. It was recognized clearly by the Senate last year. In my judgment, it should be recognized again today. Our side endorses the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this seems like an excellent amendment. There is no amendment to it on our side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2174) was agreed to.

AMENDMENT NO. 2175

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 2175.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 124, between lines 9 and 10, insert the following new section:

SEC. 504. MANAGEMENT OF ANTI-TERRORISM ASSISTANCE PROGRAMS.

(a) Section 573(d) of the Foreign Assistance Act of 1961 is amended as follows:

Paragraph (4) is amended to read as follows: "(4)(A) Articles on the United States Munitions List may be made available under this chapter only if—

"(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in subsection (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus and armor plating), and they are directly related to anti-terrorism assistance under this chapter; and

"(ii) at least 15 days before the articles are made available to the foreign country, the President notified the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

"(B) The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

"(C) No shock batons or similar devices may be provided under this chapter."

Mr. LUGAR. Mr. President, the purpose of this amendment is to replace the present $350,000 worldwide cap on equipment and commodities of the Anti-Terrorism Assistance Program with a cap equal to 25 percent of the appropriated amount.

The Anti-Terrorism Assistance Program, enacted into law 3 years ago, has established itself as a valuable addition to our Nation's effort to defend itself and its citizens against terrorist attack.

The program has created valuable links between professionals in our Government with antiterrorism responsibilities and their counterparts overseas. The potential benefits of these contacts must not be underestablished. Should some future incident occur where American lives are endangered overseas, these linkages could expand dramatically the options available to the President in responding.

When enacted, Congress emphasized that the ATA Program was to emphasize training of foreign security forces; it was not to be an equipment transfer program. Congress placed a worldwide cap of $325,000 in equipment and commodities that could be provided under the program.

This amendment retains that emphasis. It removes the $325,000 cap on equipment and commodities and puts in its stead a cap of 25 percent of the total appropriated amount. That means that at a minimum, 75 percent of ATA funds will go for training.

The administration has asked for this change after having had experience with the ATA Program. They have discovered that few benefits derive from training an individual on equipment here in the United States which is then unavailable upon his return home. The problem is especially acute for those countries participating in the program which are experiencing severe financial problems.

As Congress has increased funds for the ATA Program, the $325,000 munitions limit has begun to constrain the training program itself. Several countries have faced immediate needs for airport security programs and have consumed most of the equipment funds. This amendment provides an appropriate ratio of equipment to training without altering Congress' intent that the ATA Program emphasize training.

In addition the amendment expands the categories of equipment which may be provided to include underwater and diving equipment, armor plating and structural materials for defense purposes, and secure communications gear.

It is my hope this amendment will be readily adopted.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, there is no objection to this amendment on our side. I suggest we proceed to vote on it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2175) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2176

(Purpose: To make available for use within the United States the United States Information Agency's film "The March")

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR], on behalf of Mr. KERRY, proposes an amendment numbered 2176.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 129, after line 3, add the following new section:

SEC. 702. DISTRIBUTION WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "THE MARCH".

Notwithstanding section 207 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "The March"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

On page 91, in the table of contents, after the item relating to Section 701, insert the following new item:

"Sec. 702. Distribution within the United States of the USIA film entitled "The March".

Mr. LUGAR. Mr. President, I am offering this amendment on behalf of Senator KERRY, a distinguished member of the Foreign Relations Committee. It provides that a film entitled "The March" might be shown principally on a television station in Boston, MA. Specific requirement is made under the act that Congress must rule on these exceptions. That is the purpose of the amendment today. On our side, we are prepared to accept the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this seems like an excellent amendment and we support its passage.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2176) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2177

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 2177.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

In the appropriate place in the bill insert the following amendment:

SEC. . (a) In addition to funds otherwise available for such purposes under chapter 8 of part II of the Foreign Assistance Act of 1961, assistance authorized to carry out the purposes of chapter 4 of part II of such Act for the fiscal years 1986 and 1987 (as well as undisbursed balances of previously obligated funds under such part) which are allocated for Egypt may be furnished, notwithstanding section 660 of such Act, for the provision of nonlethal airport security equipment and commodities, and training in the use of such equipment and commodities. The authority contained in this section shall be exercised in coordination with the office of the Department of State rsponsible for administering chapter 8 of part II of the Foreign Assistance Act of 1961.

(b) This section shall take effect on the date of enactment of this Act.

Mr. LUGAR. Mr. President, this amendment responds to an urgent request from the Government of Egypt for United States help in increasing security at Cairo Airport.

Airport security in the region is a high priority for the Egyptians and for the United States but the Egyptians do not have the financial resources to upgrade.

The United States Federal Aviation Administration [FAA] is working with the Egyptians to upgrade security and has identified $5 to $9 million in needed equipment and training.

The amendment would permit economic support funds [ESF] already allocated for commodity procurement in Egypt to be used to procure nonlethal airport security equipment such as x-ray machines and bomb disposal equipment, perimeter fencing, vehicles, closed circuit television systems, and so forth.

The procurement needs exceed the funding available under the antiterrorism chapter of the Foreign Assistance Act. The amendment would simply permit utilization of the ESF in Egypt for this purpose.

To ensure coordination of antiterrorism activities, the amendment requires that the procurement of equipment be coordinated with the office in the Department of State responsible for administering the antiterrorism program.

The amendment is Egypt-specific. It does not allow similar use of ESF worldwide. If there are similar needs elsewhere, the administration still must come back to Congress for additional authorization.

I know of no opposition to the amendment on our side. We are prepared to accept the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this is an excellent amendment. On behalf of the minority, I suggest its passage.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2177) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 2178

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STEVENS). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2178.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further

reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following section:

SEC. . INTERNATIONAL MEASURES FOR SEAPORT AND SHIPBOARD SECURITY

The Congress encourages the President to continue to seek an agreement through the International Maritime Organization on matters of international seaport and shipboard security, and commends him on his efforts to date. In developing such agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. Such agreement would establish seaport and vessel security standards and could include—

(1) seaport screening of cargo and baggage similar to that done at airports;

(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

(3) additional security on board vessels;

(4) licensing or certification of compliance with appropriate security standards; and

(5) other appropriate measures to prevent unlawful acts against passengers and crews on board vessels.

SEC. . MEASURES TO PREVENT UNLAWFUL ACTS AGAINST PASSENGERS AND CREWS ON BOARD SHIPS.

(a) REPORT ON PROGRESS OF IMO.—The Secretary of Transportation and the Secretary of State, jointly, shall report to the Congress by December 31, 1986, on the progress of the International Maritime Organization in developing recommendations on Measures to Prevent Unlawful Act Against Passengers and Crews on Board Ships.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following information—

(1) the specific areas of agreement and disagreement on the recommendations among the member nations of the International Maritime Organization;

(2) the activities of the Maritime Safety Committee, the Facilitation Committee, and the Legal Committee on the International Maritime Organization in regard to the proposed recommendations; and

(3) the security measures specified in the recommendations.

Mr. LAUTENBERG. Mr. President, this amendment has been cleared on both sides.

This amendment encourages the President to continue to seek an agreement through the International Maritime Organization [IMO] on matters of international seaport and shipboard security. It specifies that such an agreement would establish seaport and vessel security standards, and could include provisions on seaport screening of cargo and baggage, and security measures to restrict access to cargo, vessels, and dockside personnel.

The amendment also requires that the Secretaries of Transportation and State make a detailed, joint report to Congress by December 31, 1986 on the IMO's progress in developing such an agreement. The importance of such an international agreement cannot be overstated.

Mr. President, 1½ million Americans will travel on cruise ships this year, armed with only American passports. As passengers on the *Achille Lauro* learned, that is not enough. The *Achille Lauro* hijacking dramatized how vulnerable cruise passengers are to the ruthless tactics of terrorists. Nothing stopped the terrorists from smuggling weapons aboard the *Achille Lauro* while it was docked at one of its ports of call. No security measures prevented those terrorists from turning hundreds of dream vacations into nightmares. As Viola and Seymour Meskin, constituents of mine from New Jersey, and passengers on the ill-fated *Achille Lauro* testified before the House Merchant Marine Subcommittee, no one checked their bags or their person at any time before or during the cruise. The *Achille Lauro* was a floating invitation to terror. And there are more ships like it.

Before the *Achille Lauro* provides deadly inspiration to other terrorists, security aboard cruise ships must be improved. One life is too many to lose to terrorism.

Fortunately, until now, shipboard terrorism has not been as common as that directed at airlines. But cruise and cargo ships are large, slow moving means of transportation. They make ideal targets for major acts of terrorism and war. Others are undoubtedly watching to see if security improves in the wake of the *Achille Lauro* incident. It is in the interest of passengers, shipowners, and nations to make ships as secure as possible.

Currently, no Federal or international laws require that security measures be taken to protect ports, vessels, passengers, or crew from incidents of terrorism. Though many cruise ships and ports take such measures voluntarily, many do not. A cruise ship passenger simply cannot rely on the fact that the particular ship he or she boards will be safe.

Passing U.S. laws requiring stricter security on ships, while desirable, must be accompanied by similar action on an international scale. The cruise ship industry in the United States controls only two ships, with a third coming into operation within months. Most cruise ships are foreign-flag and foreign operated. Real improvements in cruise ship security will come only with the adoption of international safety standards. To reach this goal, we need cooperation on an international scale. Such cooperation has already begun at the international level.

The International Maritime Organization [IMO], a U.N. agency whose charter directs it to aid cooperation among governments on matters affecting shipping, has discussed the issue of maritime security at several meetings. IMO's Maritime Safety Committee has begun to draft international safety standards for shipboard security. If such standards are completed by the Maritime Safety Committee, and accepted by all IMO's members, they will go a long way to fulfilling the need for a workable international agreement on seaport security.

An international seaport security agreement will increase safety for the traveling public by requiring that countries observe agreed upon international standards to prevent terrorists from gaining a foothold on cruise and passenger ships. Measures that could be adopted to increase security range from instituting seaport screening of cargo and baggage to requiring additional security on board cruise ships. Other measures could include enacting international criminal sanctions against terrorists who seize or attempt to seize ships.

Cruise passengers, seeking relief from the wear and tear of ordinary international travel in the leisurely pace of a cruise ship would gladly endure some inconvenience in return for peace of mind on their cruise. As Viola and Seymour Meskin testified from firsthand experience, whatever it takes to ensure that cruise passengers are safe would be a great improvement over being hijacked.

Mr. President, the best tribute to the bravery of the *Achille Lauro* hostages, and to the life of Leon Klinghoffer, is to take strict precautions to assure that their experiences are not repeated. While the United States cannot act alone, we can lead the way. I urge my colleagues to adopt this amendment.

I yield back the remainder of my time.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, we wish to commend on our side the distinguished Senator from New Jersey for a thoughtful amendment. We are prepared to accept the amendment.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Having been a delegate to the IMO, which was the IMC, Intergovernmental Maritime Commission, I have been following its work through the years. I think it is eminently suited to take on this study and this report. The amendment is excellent. For our side of the aisle I recommend approval.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. LAUTENBERG. I thank the managers of the bill for their support. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agree-

ing to the amendment of the Senator from New Jersey.

The amendment (No. 2178) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2179

(Purpose: To urge the Secretary of State to substantially strengthen the foreign language skills of the U.S. Foreign Service)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 2179.

Mr. SIMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, add the following new section:

SEC. . It is the sense of the Senate that the Secretary of State substantially strengthen the foreign language training of foreign service officers and other diplomatic personnel who may serve in embassies overseas, and to work toward early implementation of a program focusing on acquisition and retention of effective linguistic skills throughout a foreign service officer's career.

Mr. SIMON. Mr. President, this is an amendment I have discussed with the chairman of the committee and the ranking member. I appreciate their cooperation on this.

It is an amendment that stresses the sense of the Senate that we have to strengthen our foreign language expertise in the Foreign Service. We have the only Foreign Service in the world where someone can get into the Foreign Service without speaking a foreign language. And it is costing us in all kinds of ways.

Just recently the diplomatic message the United States intercepted from Libya warning of the attack on the West German discotheque sat untranslated for several days because of the unavailability of someone to translate the telegram from Berber to English. One of the complaints of Yurchenko, the recent defector from the Soviet Union, who went back to the Soviet Union, was there was no one here with whom he could speak in Russian.

We had recently the case of the Ukrainian sailor where we had a language difficulty. At the U.S. Embassy in Pakistan right now, no one speaks Pashto, the language spoken by over 20 million tribesmen in Afghanistan.

At the U.S. Embassy in Manila where we have 1,500 employees, we have only one, the economic attaché, who speaks Tagalog. That happens to be the language spoken by the majority of the people in the area where you have the Communist revolt right now. Totally, in the Foreign Service we have only 30 fully fluent speakers of Arabic, we have only 15 to 16 U.S. Foreign Service officers fully fluent in Chinese, and only 10 Foreign Service officers who are fully fluent in Japanese.

Just recently Monteagle Sterns, former Ambassador to Greece, did an internal examination and report for the State Department. He reported not only do we have a bad situation, but it is getting worse. He makes comparisons with other countries and comparisons that are, frankly, not very helpful to our country. And he says we are hurting ourselves.

□ 1310

I had an amendment adopted on the Foreign Service Act a few years ago which called for the Secretary of State to designate two countries where we would have an experiment, where we would require everyone in those countries, including the secretaries, the Marine guards, AID people, everyone, to speak the language of the country.

Secretary Haig designated Senegal and Uruguay as the two countries.

It is very interesting. We have a report back from the State Department now saying it was an unbelievable success.

Well, it did not surprise some of us. Clearly, we ought to be moving in this direction.

I was pleased to note that the chairman of the committee quoted Bob Inman in his opening remarks. Admiral Inman, when he was still in the Navy, testified before a subcommittee I chaired in the House, in which he said we faced a horrendous problem in foreign language competency in our country.

The head of the CIA has talked about it. Secretary Weinberger has talked about it. Morehead Kennedy, one of the hostages in Iran, testified that of the 52 hostages in Iran, 6 spoke Farsi, the language of the country in which they were stationed. His explanation or one of the reasons for what happened is that he said we were speaking with the elite in English rather than speaking to the people on the street.

Well, we have a problem.

I thought initially about taking some money from this appropriation and having it put directly into this very serious area of concern. After discussing it with the chairman of the committee and having a brief discussion with Senator PELL and Senator SARBANES, I decided, instead, to have this sense-of-the-Senate resolution, which I believe is agreeable. I do want, however, for that to have some muscle.

For that reason, Mr. President, I am going to ask for a rollcall on this particular amendment so that we send the signal to the State Department that we are going to have to change.

Let me just add, this is not a problem for the State Department in isolation. It is a problem in our culture. We are the only nation on the face of the Earth where you can go through grade school, high school, college, get a Ph.D. and never have a year of foreign language. We have to change things.

I hope that the State Department will get a signal from this and that we can start improving things.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. SIMON. I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

The Senator from Indiana.

Mr. LUGAR. Mr. President, the Senator from Illinois has presented an important amendment. It is correct that we have had discussions with the Senator. The success was apparent at the Embassies in Senegal and Uruguay where the experiment was conducted, where their abilities were enhanced and improved.

It appears to me that the sense-of-the-Senate resolution with regard to increasing language capability is well placed. Therefore, we are prepared to accept the amendment. Obviously, the Senator has called for a rollcall vote and the Senate will be heard in a different way.

I would like to ask the distinguished ranking Member to get some indication from his leadership as to the desirability of having that vote at this time. It occurs to me that there are many Members who were not anticipating votes at 1:15, and who are some distance from the floor. I simply add that thought to give staff time to consult the leadership and determine what would appear to be the proper procedure at this stage.

Mr. PELL. I must say I have the same reaction. I know of at least one Senator on this side and others who are downtown attending various functions.

First, I will comment on the amendment and then I will suggest the absence of a quorum.

The amendment to my mind is an excellent amendment. I think it is a

disgrace that we are the only Foreign Service in the world where you can enter with just one language, English. I believe very strongly that greater emphasis should be made on foreign language training, particularly on tough languages, as the Senator from Illinois has pointed out.

I do, indeed, support this amendment. I know of no objection to it on our side.

Mr. SIMON. If the Senator will yield, can I ask unanimous consent to stack this vote and have it just before final passage? That would be fine with me.

Mr. LUGAR. The Senator has asked that a rollcall vote on his amendment occur before the rollcall vote on final passage.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1320

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that the amendment of the distinguished Senator from Illinois be set aside until, at the time of 2:15 on this date, the rollcall vote which has been requested will be cast on his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object.

Mr. LUGAR. Mr. President, I amend my unanimous-consent request to ask merely that the pending amendment be temporarily set aside. I do so in view of the fact that Members may wish to be informed via the hot lines of both parties before we set the time for the vote. My request is simply that the amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, while the minority leader is present, I should like to make a unanimous-consent request that the vote on the Simon amendment occur at 2 p.m., and that no amendment be permitted to the Simon amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN and Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 2180

(Purpose: Relating to trade between the United States and the Republic of Korea)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 2180.

Mr. McCONNELL. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . DENIAL OF BENEFITS UNDER THE GENERALIZED SYSTEM OF PREFERENCES TO THE REPUBLIC OF KOREA.

(a) The Congress finds that——

(1 the exports of the Republic of Korea to the United States have grown at an average annual rate of nearly 16 percent since 1981, United States exports to the Republic of Korea grew at an average annual rate of approximately 3 percent during that period with a decrease of 2 percent in 1985;

(2) in 1985 the United States imported from the Republic of Korea merchandise worth $10,013,085,000, the Republic of Korea only imported merchandise from the United States of a value of $5,720,136,000, resulting in a United States trade deficit of $4,292,949,000;

(3) in 1985 the United States extended to the Republic of Korea preferential treatment under the Generalized System of Preferences (GSP) program for certain products it exports to the United States worth $1,655,000,000, making the Republic of Korea the second largest beneficiary under such program;

(4) the Republic of Korea persists in maintaining the following acts, policies, and practices which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States commerce:

(A) the domestic market of the Republic of Korea is closed to cigarettes made in the United States to the extent that—

(i) it is illegal for citizens of the Republic of Korea to possess cigarettes made outside the Republic of Korea, and

(ii) a citizen of the Republic of Korea possessing foreign cigarettes is subject to a fine of up to $1,161.44, imprisonment, and loss of employment,

(B) the importation into the Republic of Korea of all beef and pork from the United States has been effectively banned since May 1985 even though, prior to the ban, the United States supplied most of the high-quality beef imported into the Republic of Korea,

(C) the Office of National Tax Administration of the Republic of Korea is scheduled to require that all distilled spirit products be manufactured with a minimum proportion of local raw materials after January 1987,

(D) the Ministry of Agriculture and Fisheries of the Republic of Korea restricts the importation of many United States agricultural items by refusing to grant import approval to those items, including fresh oranges, canned fruit cocktail, grape juice, wine, alfalfa products, edible meat offals, walnuts, fresh grapes, sausages, canned beef and pork, canned peaches, concentrated orange juice, other fruit juices, and canned corn and dried peas,

(E) the issuance of an import license for United States manufactured goods must have the recommendation of the Korean industry association whose members compete with the imported goods, which has an adverse effect on many United States products, including agricultural chemicals, soda ash, automotive parts, cosmetics, nylon carpets, loudspeakers, electric hand tools, razors and razor blades, machine tools, personal computers, electric shavers, cameras, and construction equipment,

(F) the importation of computers and peripheral equipment that can be produced locally has been effectively banned since July 1982, by the requirement of the Republic of Korea that investment or licensing of local production of computers and peripheral equipment be made as a condition for importing computers and peripheral equipment,

(G) tariffs imposed by the Republic of Korea remain unreasonably high on several products in which the United States has a comparative advantage, including—

(i) fresh fruits and vegetables (current tariff is percent ad valorem),

(ii) canned meat (current tariff is 40 percent ad valorem),

(iii) cosmetics (current tariff is 40 percent ad valorem),

(iv) wood products (current tariff is 20 percent ad valorem),

(v) electric hand tools (current tariff is 20 percent ad valorem),

(vi) computers (current tariff is 20 percent ad valorem),

(vii) automobile parts (current tariff is 30 percent ad valorem), and

(viii) chocolate confectionary (current tariff is 40 percent ad valorem, falling to 30 percent ad valorem in 1988),

(H) the application of emergency tariffs, adjustment tariffs, special commodity taxes, and value added tax on top of the general tariff rate, and other fees, make many products prohibitively expensive,

(I) the entire import regime of the Republic of Korea is designed, through the use of import licenses and quotas, to discourage the importation of any seafood, so that the only United States product now entering the Republic of Korea in any volume comes from joint ventures, and much of this is reprocessed in the Republic of Korea and exported,

(J) the Republic of Korea unreasonably restricts the sale of United States fire insurance to only those properties outside of the 10 largest cities in the Republic of Korea, and unreasonably denies licenses to United States firms to write life insurance,

(K) the Republic of Korea unreasonably denies United States banks the ability to participate fully in the domestic financial market, and

(L) the Republic of Korea does not adequately protect intellectual property; and

(5) these unreasonable, unjustifiable, and discriminatory acts, policies, and practices of the Republic of Korea burden or restrict United States commerce.

(b) It is the sense of the Congress that the Republic of Korea should not be treated as a beneficiary developing country under title V of the Trade Act of 1974, popularly known as the Generalized System of Preferences, until the unreasonable, unjustifiable, and discriminatory acts, policies, and practices described in subsection (a)(4) are eliminated and import restrictions imposed by

the Republic of Korea are liberalized through—

(1) agreement by the Republic of Korea that the purchase and sale of imported cigarettes, and regulation thereof by the Republic of Korea and its instrumentalities, will be conducted on a nondiscriminatory and equitable basis, including repeal of the law which makes it illegal for citizens of the Republic of Korea to use or possess imported tobacco products under threat of fine, imprisonment, or loss of employment;

(2) extension of the ability to import United States tobacco leaf into the Republic of Korea to all private non-Korean entitles;

(3) elimination of the ban on the importation into the Republic of Korea of beef and pork from the United States;

(4) inclusion on the Automatic Approval List of fresh oranges, canned fruit cocktail, grape juice, wine, alfalfa products, edible meat offals, walnuts, fresh grapes, sausages, canned beef and pork, canned peaches, concentrated orange juice, other fruit juices, and canned corn and dried peas;

(5) inclusion on the Automatic Approval List of agricultural chemicals, soda ash, automotive parts, cosmetics, nylon carpets, loudspeakers, electric hand tools, razors and razor blades, machine tools, personal computers, electric shavers, cameras, and construction equipment;

(6) elimination of the ban on the importation of computers and peripheral equipment that can be produced locally;

(7) reduction and binding of the general tariff rates imposed by the Republic of Korea to the levels of protection maintained by average industrialized countries, including, but not limited to, wood, wood products, and dairy commodities;

(8) elimination of the practice of discouraging the importation of seafood into the Republic of Korea;

(9) elimination of the requirement that all distilled spirit products be manufactured with a minimum proportion of local raw materials after January 1987;

(10) elimination of restrictions on the sale of United States fire insurance in the Republic of Korea;

(11) elimination of unreasonable denials of licenses to United States firms to write life insurance; and

(12) extension to United States banks of the ability to participate fully in the financial markets of the Republic of Korea.

Mr. McCONNELL. Mr. President, on March 19, I submitted Senate Resolution 369, which if approved, would express the sense of the Senate that the Republic of Korea should not be extended benefits under the generalized system of preferences [GSP] until the unreasonable and unjustifiable trade-related acts, policies, and practices described in the legislation are eliminated. Presently, 13 of my Senate colleagues have cosponsored this resolution: Senators ABDNOR, EAST, FORD, GORE, HEINZ, HELMS, HOLLINGS, SASSER, SYMMS, THURMOND, TRIBLE, WARNER, and WILSON. The resolution is embodied in the amendment that I have sent to the desk today.

I recognize that this initiative is narrow in its focus. By submitting Senate Resolution 369 and offering this amendment, however, I have chosen to isolate what I believe is a particularly important part of the trade debate. Korea is not alone in erecting trade barriers, but it has maintained in some areas especially egregious policies of import protection.

Title V of the Trade Act of 1974 as amended provides the authority to extend preferences and sets forth criteria for country and product eligibility, and for limitations of preferential treatment under GSP. In all GSP determinations, the President is required to take into account several discretionary criteria relating to country practices. Specifically, he is required, among other things, to examine "the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices * * *."

Furthermore, the President must consider "the extent to which such country is providing adequate and effective means under its laws for foreign nations to secure, to exercise, and to enforce exclusive rights in intellectual property, including patent, trademarks, and copyrights * * *." He must also consider "the extent to which such country has taken action to reduce distorting investment practices and policies (including export performance requirements); and reduce or eliminate barriers to trade in services."

Mr. President, it was after examining these criteria as applied to the Republic of Korea that I decided to submit Senate Resolution 369, and it is why I offer this amendment today. I am convinced that market access barriers that have been set up by the Republic of Korea to protect its markets require us to seriously consider eliminating duty-free access for Korean products and commodities to our markets. Let me take a couple of minutes to talk about the kind of barriers the Republic of Korea erects.

For example, the importation into the Republic of Korea of all beef and pork from the United States has been effectively banned since May 1985. Prior to the ban, the United States supplied most of the high-quality beef imported into the Republic of Korea. The Office of National Tax Administration of the Republic of Korea is scheduled to require that all distilled spirit products be manufactured with a minimum proportion of local raw materials after January 1987.

The Ministry of Agriculture and Fisheries in the republic restricts the importation of many U.S. agricultural items by refusing to grant import approval to those items. Included in the items which are subject to such restraints and are presented from being imported into the Republic of Korea are fresh oranges, canned fruit cocktail, grape juice, wine, alfalfa products, edible meats, walnuts, fresh grapes, canned beef and pork, canned peaches, frozen orange juice concentrate, and on and on. I have a whole list in my amendment of a variety of different American products that are either eliminated altogether from the market or to which are applied such restrictive quotas or such excessive tariffs that they are eliminated from the market.

Obviously, coming from a State that has 150,000 tobacco growers, I am particularly offended by the fact that in Korea, it is illegal for a Korean to possess a foreign cigarette. The Korean Government is not kidding about this. They arrested several Korean people back in 1984. What can happen to you if you have a foreign cigarette on your person? A Korean found with a foreign cigarette on his person is subject to a fine up to $1,161.44, imprisonment, and loss of employment. I call that rather serious protectionism.

The tobacco growers in Kentucky cannot understand why, in a country where many of them fought side by side to protect South Korea from the Communist invasion from the north, it is illegal to possess American cigarettes into which the tobacco they grow is placed.

After I submitted this resolution, with the support of all the Senators referred to earlier, I had a number of discussions with the various Korean officials in this country for a couple of months prior to my visit to Korea over the Memorial Day recess. I want to relate to my colleagues my experience upon my visit to Korea during that period.

The Koreans could not have been nicer. I met with their equivalent of our Secretary of State, their equivalent of our Secretary of Commerce, their equivalent of our Federal Trade Representative, and with the President of Korea, Chun Doo Hwan, for 45 minutes privately at the Blue House. During all of those discussions and most specifically during the discussion with President Chun, the following commitment was made: No. 1, that the Korean National Assembly, during its extraordinary session, which just ended yesterday, was to pass a bill which would begin to change the way the Republic of Korea handles imported cigarettes.

The bill which was to have passed during the extraordinary session would have begun to change the Korean ginseng and tobacco monopoly from a government agency into a corporation. This first step on the part of the Korean Government would have taken some courage. They have 30,000 employees in their tobacco and ginseng monopoly, Mr. President, larger than the State of Kentucky government. It was, of course, a move that

would have been somewhat unsettling to those Korean employees of the Government. Nevertheless, President Chun, whose party controls the National Assembly, assured me that that step would be taken during the extraordinary session.

The extraordinary session ended yesterday and the step was not taken. The President's party does control the National Assembly. While I understand and realize the political difficulties in taking that first step toward liberalizing the market, it seems to me clearly evident that this commitment was not kept.

No. 2, the second commitment made by the President was that in the regular session of the National Assembly this fall, Korea would pass a bill decriminalizing the possession of foreign cigarettes. I am now told that both steps will be taken in the regular session this fall. But I might say, Mr. President, I am quite impatient and I know other Members of the Senate from States which have commodities that are effectively shut out of the Korean market are growing equally impatient. Word was given that this step would be taken during the extraordinary session and it was not taken.

Mr. President, I offer the amendment today, even though I do not intend to press for its adoption or for a vote, because I think it is appropriate to bring up at this time the failure to honor this commitment on behalf of the Korean Government. I shall not, as I have assured the chairman of the Committee on Foreign Relations, press for a vote. I do think this is a matter that should come before the Senate this year. It is my understanding, from various observations that the majority leader has made, that some kind of trade legislation will be before the Senate, likely this summer. I shall indicate to him and I indicate to my colleagues today that I intend to offer this sense-of-the-Senate resolution as an amendment to appropriate trade legislation when it comes before the Senate, we hope this summer.

□ 1350

Mr. LUGAR. Mr. President, I have listened carefully to the distinguished Senator from Kentucky. He makes a very important point about conversations with the Government of South Korea. Let me indicate to the distinguished Senator, it is my understanding that many Senators, led by, of course, the majority leader, have expressed a serious interest in trade legislation. Indeed, a comprehensive bill was introduced with the cosponsorship of many committee chairmen last year. That bill still remains a working vehicle in the judgment of this Senator. My guess is that there are many Senators who would want to be heard, if they were in my stead presently, indicating a very considerable interest in the expression by the Senate on these issues, one of which the distinguished Senator from Kentucky has raised very specifically this afternoon. I appreciate the Senator's willingness to revisit this issue on another piece of legislation on another day but, likewise, the very explicit facts that he has brought to the attention of the Senate that clearly will be a part of the conversation as we look at overall trade legislation.

Mr. McCONNELL. If the Senator will yield, I must repeat my particular exasperation with receiving two specific commitments on this trip—two very specific commitments. Unlike a lot of the experiences that many of us have had abroad in trying to tie down an exact time after which a certain step was to be taken, I was told by officials in the Korean Government, unlike other governments in that area of the world, specific commitments would be made, A, and B, specific commitments would be kept. Two specific commitments were made, the first to be kept during the extraordinary session of the National Assembly that ended yesterday and that commitment was not kept. So I think it is a matter of grave concern to all of us who are looking for market access abroad. I thank the distinguished chairman of the Foreign Relations Committee for his observations and, Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

AMENDMENT NO. 2181

(Purpose: To express the sense of the Senate that funding of Kurt Waldheim's retirement allowance from the United Nations should be eliminated)

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair notifies the Senator from New York that it would take unanimous consent to set aside the Simon amendment.

Mr. MOYNIHAN. Mr. President, I thank the Chair for its courtesy. I ask unanimous consent that the Simon amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 2181.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

(a) FINDINGS.—The Congress finds that—

(1) Since Kurt Waldheim has lied repeatedly about his past, particularly his service as intelligence officer for convicted war criminal General Alexander Lohr;

(2) Since such mendacity enabled Kurt Waldheim to rise to the position of Secretary General of the United Nations;

(3) Since Kurt Waldheim currently receives $81,650 a year as a retirement allowance for his service in that position; and

(4) Since the allowance rewards him for having lied about matters that are at the very heart of the existence and purposes of the United Nations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President should instruct the Permanent Representative of the United States to the United Nations to introduce in the General Assembly—

(1) an amendment to the 1986-1987 United Nations Regular Program Budget eliminating funding of Kurt Waldheim's retirement allowance; and

(2) a resolution denying Kurt Waldheim a retirement allowance in all budgets after 1987.

Mr. MOYNIHAN. Mr. President, this amendment can be stated in very compact terms. It has to do with the pension allowance which is provided each year in the budget of the General Assembly for Mr. Kurt Waldheim in respect of his 10-year service as Secretary General. This amount is $81,650 a year. It is not a pension. There is no pension fund. It is, rather, an appropriation in lieu of a pension and is entirely optional with the General Assembly.

Mr. President, I do not think it necessary to rehearse here on the Senate floor the very painful and damaging details of the past history of Mr. Waldheim that we have learned in the course of this year's campaign for the Presidency of Austria in which he was a candidate, ultimately the successful one, and during which these facts came out.

Let me suggest that as the Senate acts in this measure—and I am sure that it will wish to do—we make a narrow statement of the facts dealing only with measures that can be fully established from the record but which in our view are sufficient to merit this action. The facts to which I refer are elemental and indeed there is only one important fact, which was that in all of his representations to the Western World, in his autobiography, in his official biographies, his public statements, Mr. Waldheim always represented that he was a member of the German Armed Forces, the German infantry—and in that time Austria was a part of Germany—that he fought for a period in the Eastern front, that is to say, in the Soviet Union, that he was wounded in the leg and returned in 1942 in most narrations and in effect left military service and resumed his law studies.

Mr. President, it is painful to say this, but this is a lie, a lie now admitted, a lie no longer in any dispute, but a lie that was not of just an ordinary misrepresentation of the past; rather, a misrepresentation that went to the very heart of the purposes and origins of the United Nations, for the fact is that Mr. Waldheim, after recovering, returned to military service and was actively involved on the staff of a war criminal, Gen. Alexander Lohr, who was executed for war crimes involving the Balkan region in 1943-44. It was he who ordered the expulsion, the deportation, if you like, of the Jewish community of Salonika, one of the oldest Jewish Sephardic communities of the Mediterranean, almost to the last child rounded up and deported to be destroyed, to be murdered at Auschwitz as an act of sheer madness.

It was Lohr who carried out, for a ruthless time, the extraordinary barbarous treatment of civilians in the guerrilla war that the Yugoslavian partisans and various groups undertook in response to the German invasion of that country. In all these matters, Mr. Waldheim was on hand. He was an intelligence officer. He was a translator. These are all his own admission. And they could even at this distance of time with enough openness, honesty, contrition, I think, be understood and accepted. This was the experience of many persons of that time and not everyone had their fate under their own control. But if you consider that the United Nations was formed in an alliance against Nazi Germany and its declarations of human rights, international law, are so fundamentally directed to putting an end to exactly those things in which Mr. Waldheim participated, for him to have concealed those facts is unjustifiable, is unforgivable, and has done the United Nations damage which will be a very long while before it becomes a matter of the past, and from which the institution has recovered, if indeed it does recover.

□ 1340

Some day, on this floor, we are going to have to talk about the process by which the United States involves itself in the selection of the Secretary General. But suffice it to say at this point that had Mr. Waldheim's past been known, it is very unlikely he ever would have been chosen. In my mind it is not possible that Mr. Waldheim would have been chosen Secretary General had this aspect of his past been known.

It happens that I was present on the evening, the early hours of the day, on which the choice was made. The United States had supported a distinguished diplomat, Mas Jakobson of Finland, who was unacceptable to the Soviet Union for the very reason of his distinctions. Other candidates were put in nomination. In the end, Mr. Waldheim was chosen, with obviously very little attention on our part to any background we might have needed to know. He was then the permanent representative of the Government of Austria. We had reason to take some things as given, but clearly we will not have that reason in the future.

In any event, had it ever developed in the course of his first term that he had in fact concealed this information the way he did, he would never have been nominated for a second term. Certainly the United States would have vetoed it. I was the permanent representative at the time the decision was made that we would support him for a second term, and I can speak with a degree of certainty that had this concealed past been known, there would have been no such second term.

So the question is now, What can we do? Well, we cannot undo the history of 10 years of this man as Secretary General, but we can cease to reward him for those 10 years of deception—and we know not what else.

It is the practice each year for the General Assembly to appropriate $81,650 as a payment in lieu of pension—in place of pension. It seems to me that this need no longer be done. Dr. Waldheim is President of Austria. He is well provided with the amenities and allowances and salary that go with that position. He has other resources as well from his past in the foreign ministry. We need not concern ourselves that he may become destitute as a consequence of our action. Our action gives our Government the first opportunity to state that it does not like what happened and wishes, by formal action, to declare its dismay and possibly to indicate its resolve that such an event will not happen again.

Mr. President, the amendment simply asks our President to instruct the permanent representative to offer an amendment striking this retirement allowance for the current year and for future years. I cannot doubt that this would be welcomed in the executive branch and in the Department of State as a measure of supporting what I cannot but suppose is the wish of the administration. It may be that they are not aware of this payment. All the better, then, that we could put them on notice and give them the opportunity and the right to say that the U.S. Senate supports them in this matter and, indeed, has urged it upon them.

Mr. LUGAR. Mr. President, it is always important to listen to the distinguished Senator from New York as he speaks about the United Nations. I know that I speak for all Senators in the admiration we have for his distinguished service on behalf of our country at the United Nations. It is of historical interest, as the Senator has pointed out, that he was present at the time that Mr. Waldheim came into the office that is being discussed.

I have no indication from the administration or the Department of State with regard to their feelings on the amendment. It is a new subject that has come to the attention of the managers of the bill today. At the same time, we have read the amendment carefully. It does express the sense of this body that the President of the United States ought to instruct our permanent representative with regard to the Waldheim pension. It seems to me to be a sensible and reasonable proposition, and we are prepared on this side of the aisle to accept the amendment.

Mr. PELL. Mr. President, I think the amendment of the Senator from New York probably expresses the chagrin of many of us for the behavior and the actions and the lack of fullness in telling the truth of the Secretary General.

We are aware of the good he did when he was Secretary General; conscious of the fact that his wife, who joined the Nazi Party as a young woman of 19, was persuaded by Secretary General Waldheim 2 or 3 years later, as a condition of their marriage, to get out of the Nazi Party.

So it is not all black and white here. But I do think that, on balance, the Senator from New York has raised some very valid points. There is no question that if the United Nations had been aware of the wartime record and service of Mr. Waldheim, he would not have been rewarded with the Secretary Generalship of the United Nations.

For that reason, I say there is no objection to this amendment on our side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2181) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agred to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I thank my distinguished friends, the chairman and ranking minority member of the committee.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 2182

(Purpose: To authorize a study of the feasibility of a program for the control and eradication of amblyomma variegatum (heartwater), in bovins animals in the Caribbean and for a program to control and eradicate amblyomma variegatum in countries in the Caribbean)

Mrs. HAWKINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will inform the Senator from Florida that the amendment of the Senator from Illinois would have to be temporarily set aside in order to consider the Senator's amendment and the Chair will also indicate to the Senator from Florida that the time of 2 o'clock has been established for voting on that amendment.

Does the Senator wish to set aside the amendment temporarily?

Mrs. HAWKINS. The Senator does wish to set the amendment aside temporarily.

The PRESIDING OFFICER. Without objection, the amendment of the Senator from Illinois is set aside temporarily.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida [Mrs. HAWKINS] for herself and Mr. MATTINGLY, proposes an amendment numbered 2182.

At the appropriate place insert the following:

(a) Section 103 of the Foreign Assistance Act of 1961 is hereby amended—

(1) by adding the following paragraph after paragraph (a)(2):

(3) Of the funds authorized to be appropriated in paragraph (2) of this subsection, $150,000 for the fiscal year 1986 shall be available only for a study of the feasibility of a program for the control and eradication of amblyomma variegatum (heartwater) in bovine animals in the Caribbean, to be completed within 180 days from the date of enactment of this Act. Of the funds authorized to be appropriated for the fiscal year 1987, not less than $4,000,000 shall be available only for the purpose of controlling and eradicating amblyomma variegatum in these countries.

Mrs. HAWKINS. Mr. President, I rise to offer an amendment to deal with an emergency situation that has arisen in the Caribbean. There has been identification of heartwater, known by its scientific name amblyomma vaniegatum, in several islands in the Caribbean.

This is a disease which has been unknown in this hemisphere until recently when it seems to have been transmitted from Africa to certain countries in the Caribbean.

There is reason to fear that this disease could be further transmitted to the southern, warmer regions of the United States where it could cause severe economic hardship on the cattle industry of this country. It could even be transmitted to the northern part of the country.

Agriculture, especially livestock raising, is an important element in the development of all the countries of this region. The disease transmitted is fatal. It can be transmitted by birds and wildlife, as well as bovine animals. There is no way these countries will be developed unless we show our concern for their agricultural industries.

This is an opportunity to help the countries of the region, and protect an important American industry, simultaneously. I hope the managers of the bill will be willing to accept the amendment. It is a small amount of money, but an amount that will be well invested.

We know that heartwater is present in the Caribbean. We cannot afford to have it spread into the United States. Florida could very well be the gateway and we cannot let that happen. The cattle industry in Florida is a $350 million a year business that is directly threatened by the possible spread of this disease.

This is a major type of amendment. We have been working on this problem since March 1986. This benefits the entire United States. A study that we do in our State is solving a problem throughout the United States and one wonderful thing about this particular amendment is it is a study to be done in 180 days so we will have a solution to this problem.

I unerstand it has been cleared on both sides of the aisle.

I thank both sides of the aisle for giving it immediate consideration, since it is a major matter.

Mr. LUGAR. Mr. President, I believe we are prepared to accept the amendment on our side.

The PRESIDING OFFICER. Is there further debate on the Senator's amendment? The question is on agreeing to the amendment.

The amendment (No. 2182) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. HAWKINS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I inquire of the managers of the bill since there is a vote scheduled for 2 o'clock. I have four very small amendments. They have been cleared on both sides. Will the managers agree that we might go forward at this time by asking the pending amendment be set aside?

Mr. LUGAR. Yes.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the pending amendment be laid aside for the purpose of considering en bloc four amendments that have been accepted by both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2183

(Purpose: To reduce the dollar threshold on contracts for which only U.S. contractors may bid)

(Purpose: To narrow the provision authorizing the Secretary of State to waive the requirement that U.S. contractors be used)

(Purpose: To permit more United States persons to bid on contracts)

(Purpose: To require that 10 percent of the contracts, to the extent practicable, be amended to small businesses)

Mr. RUDMAN. Mr. President, I send to the desk four amendments which I ask to be considered en bloc and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. RUDMAN] proposes an amendment en bloc numbered 2183.

Mr. RUDMAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 109, line 4, strike "$5,000,000" and insert in lieu thereof "$500,000 or which involves physical or technical security".

On page 109, line 7, beginning with "laws" strike all through line 13 and insert in lieu thereof the following:

"statutes which prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the House Committee on Foreign Affairs, the House Committee on Appropriations, the Senate Committee on Foreign Relations, and the Senate Committee on Appropriations what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by the Foreign Missions Act.".

On page 110, line 4, strike "5" and insert in lieu thereof "2".

On page 110, beginning on line 12, strike all through line 15.

On page 110, strike "(F)" and "(G)" where they appear and insert in lieu thereof "(E)" and "(F)", respectively.

On page 111, line 8, strike "(e)" and insert in lieu thereof the following:

"(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors. Contracts awarded pursuant to subsection (d) of this section shall not be considered in determining compliance with this subsection.

"(f)".

THRESHOLD FOR "BUY AMERICAN" PROVISION

Mr. RUDMAN. Mr. President. The committee bill indicates that only U.S. contractors may bid on diplomatic construction or design projects with total project values exceeding $5,000,000. The effect is to open those projects

valued at less than $5,000,000 to foreign competition, in effect often denying projects to American firms.

An ironic effect of the committee bill is to provide a "Buy American" preference for the larger projects likely to be bid on by large companies, while denying such preference for those projects more likely to be bid on by small business.

My amendment solves this problem by reducing from $5,000,000 to $500,000 the level at which foreign contractors may compete for projects involved in this diplomatic security enhancement program. In addition, it provides that only U.S. firms may compete on any projects involving physical or technical security.

FOREIGN PROHIBITIONS ON U.S. CONTRACTORS

Mr. President, the committee bill permits the Secretary of State to waive the preference for U.S. contractors when the foreign country has laws or policies which prohibit the use of U.S. firms, provided he notifies Congress of his intent to do so.

My amendment strengthens that by limiting the Secretary's authority to waive in situations where the foreign country has statutes precluding U.S. firms from competing. The amendment also requires the Secretary to report to the appropriation congressional committees on what retaliatory action, if any, he is proposing to take under the Foreign Missions Act.

The fact of the matter is that U.S. Embassies and consulates overseas are legally a part of the United States. No foreign country should be allowed with impunity to dictate to our Government who we may or may not use to build or improve the security of our diplomatic facilities.

MAKING IT POSSIBLE FOR MORE FIRMS TO COMPETE

Mr. President, the third amendment addresses provisions which effectively preclude many firms, especially smaller businesses, and any new companies from bidding on these projects.

The committee, in what I believe was an effort to try control quality, limited eligible contractors to companies who had been in business for at least 5 years and which had achieved a certain level of business volume. However, many of the companies involved in physical and technical security equipments and installations are evolving companies resulting from the recent upsurge in worldwide terrorism. The committee provision has the effect of precluding many of these newer companies from competing for contracts under this program. With less competition, the taxpayer will end up paying more.

My amendment solves the problem by reducing the 5 year requirement to 2 years and striking the business volume threshold.

SMALL BUSINESS SETASIDE

Mr. President, the fourth amendment establishes a setaside for small businesses, and now I quote from the amendment, "to the extent practicable."

The fact of the matter is that the State Department has a history of preferring to deal with a small number of favored suppliers for goods and services. Small businesses around the country who are not in favor find it almost impossible to successfully bid on State Department work.

My amendment attempts to address this problem by ensuring small businesses a percentage of the available work. At the same time, it provides the State Department with the flexibility to waive these provisions when absolutely necessary.

I might note that I expect the State Department to have good explanations if they fail to meet this requirement. As chairman of the Appropriations Subcommittee with jurisdiction over their budget, I intend to monitor their implementation of this provision carefully.

Mr. President, a very brief explanation.

As the committee bill is presently written, I believe that American companies will in general, have more difficulty in competing for contracts on the smaller projects.

Accordingly, these four amendments deal with enhancing the opportunities for American firms to do the kind of construction that we are talking about in support of the diplomatic security initiative that this Congress is going to fund at a very high level this year. These amendments will enhance the opportunity of American companies, both large and small, to do that work.

It is also the purpose of one of these amendments to ensure that only American companies will compete for projects involving physical or technical security.

I believe that fairly describes the amendments, which have been cleared on both sides.

Mr. LUGAR. Mr. President, my distinguished colleague, the Senator from New Hampshire, has proposed four amendments which will assure further participation by American small business in the Diplomatic Security Program

One of the most important objectives the Foreign Relations Committee had in drafting the amended version of H.R. 4151 was to see that American companies were involved in the program both for the economic benefit as well as the additional security it afforded the program.

The Senator's amendment certainly helps reach that objective.

I support the amendment on our side of the aisle and I am prepared to accept all four.

Mr. PELL. Mr. President, these are four excellent amendments.

Coming from the State where I do, where small business is really a great deal of all our business, I am glad indeed to recommend the passage of these amendments and commend the Senator from New Hampshire for having proposed them.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment (No. 2183) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RUDMAN. Mr. President, let me express my appreciation to the chairman and ranking minority member of the Foreign Relations Committee and their staff working with us and working out these amendments and allowing us to present them at this time.

I am sure the small business community of America does appreciate that.

Mr. LUGAR. I thank the Senator.

AMENDMENT NO. 2179

The PRESIDING OFFICER (Mr. RUDMAN). Under the previous order, the hour of 2 p.m. having arrived, the vote will now occur on the Simon amendment.

The question is on agreeing to the amendment of the Senator from Illinois. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON: I announce that the Senator from Oregon [Mr. PACKWOOD] is necessarily absent.

The PRESIDING OFFICER (Mr. PRESSLER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—99

Abdnor	Dole	Hollings
Andrews	Domenici	Humphrey
Armstrong	Durenberger	Inouye
Baucus	Eagleton	Johnston
Bentsen	East	Kassebaum
Biden	Evans	Kasten
Bingaman	Exon	Kennedy
Boren	Ford	Kerry
Boschwitz	Garn	Lautenberg
Bradley	Glenn	Laxalt
Bumpers	Goldwater	Leahy
Burdick	Gore	Levin
Byrd	Gorton	Long
Chafee	Gramm	Lugar
Chiles	Grassley	Mathias
Cochran	Harkin	Matsunaga
Cohen	Hart	Mattingly
Cranston	Hatch	McClure
D'Amato	Hatfield	McConnell
Danforth	Hawkins	Melcher
DeConcini	Hecht	Metzenbaum
Denton	Heflin	Mitchell
Dixon	Heinz	Moynihan
Dodd	Helms	Murkowski

Nickles	Roth	Stevens
Nunn	Rudman	Symms
Pell	Sarbanes	Thurmond
Pressler	Sasser	Trible
Proxmire	Simon	Wallop
Pryor	Simpson	Warner
Quayle	Specter	Weicker
Riegle	Stafford	Wilson
Rockefeller	Stennis	Zorinsky

NOT VOTING—1

Packwood

So the amendment (No. 2179) was agreed to.

□ 1420

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2184

(Purpose: To provide for forfeiture of proceeds derived from espionage activities, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. DENTON, Mr. THURMOND, Mr. LEAHY, Mr. MURKOWSKI, Mr. D'AMATO, Mr. BOREN, Mr. LAXALT, Mr. ZORINSKY, Mr. MCCONNELL, Mr. ARMSTRONG, Mr. DURENBERGER, Mr. MATTINGLY, Mr. LEVIN, Mr. ANDREWS, and Mr. LUGAR proposes an amendment numbered 2184.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following: Section 794 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(d)(1) Any person convicted of a violation of this section or of any other felony in violation of the provisions of this chapter shall forfeit to the United States, irrespective of any provision of State law—

(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section or of any other felony in violation of this chapter, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

"(3) The provisions of subsections (b), (c) and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)-(o)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property, if not inconsistent with this subsection.

"(4) Upon motion of the United States attorney made at any time after conviction of a person at a trial conducted under chapter 47 of title 10 with respect to convictions under sections 904 (article 104), 906 (article 106), 906a (article 106a), and for convictions under section 934 (article 134) that incorporate provisons of this chapter, a court of competent jurisdiction shall, if the court determines that the interest of justice so requires, order such person to forfeit to the United States all property described in paragraph (1) of this subsection.

"(e)(1) Upon the motion of the United States attorney made at any time after conviction of a defendant for a violation of this section, for any other felony in violation of this chapter, or for an offense described in subsection (d)(4) of this section, and after notice to any interested party, the court shall, if the court determines that the interest of justice so requires, order such defendant to forfeit to the United States all or any part of proceeds received or to be received by that defendant, or by a transferee or that defendant, from a contract relating to the depiction of such offense in a movie, book, newspaper, magazine, radio or television production, or live entertainment or presentation of any kind, or from a contract relating to an expression of the convicted person's thoughts, opinions, or emotions regarding such crime.

"(2) An order issued under this subsection shall require that the party with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such a contract.

"(3) Proceeds paid to the Attorney General under this subsection shall be paid into the general fund of the Treasury of the United States.

"(4) As used in this subsection, the term 'interested party' includes the defendant, any transferee of proceeds due the defendant under the contract referred to in paragrpah (1), and the person with whom the defendant has contracted.

"(f)(1) The Attorney General of the United States, at his discretion, is authorized to pay an amount not to exceed $100,000 as a reward for information—

"(A) leading to the arrest or conviction of any person for—

"(i) the commission of a felony in violation of this chapter or for a conspiracy or attempt to commit such an offense; or

"(ii) an offense described in subsection (d)(4) of this section, or for a conspiracy or attempt to commit such an offense; or

"(B) leading to the prevention, frustration, or mitigation of the effect of a felony in violation of this chapter or of an offense described in subsection (d)(4) of this section.

"(2) The Attorney General or the designeee of the Attorney General shall determine whether an individual furnishing information described in paragraph (1) is entitled to a reward under this section and the amount to be paid, except that the authority to pay a reward of $10,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, or the Director of the Federal Bureau of Investigation. A determination made by the Attorney General or the designee of the Attorney General under this subsection shall be final and conclusive, and no court shall have jurisdiction or power to review such determination.

"(3) No officer, employee, or member of the Armed Forces of the United States or of any governmental entity who, while in the performance of his or her official duties, furnishes the informaton described in paragraph (1) shall be eligible for any monetary reward under this subsection, except that a person who acts with official approval as an undercover source or informant, when it is not a part of that person's normal official duties to do so, may be eligible for such a reward.

"(4) There are authorized to be appropriated such sums as are necessary for the payment of rewards under this subsection except that no funds may be appropriated for this purpose prior to fiscal year 1987.".

Mr. STEVENS. Mr. President, the amendment I present to the Senate addresses what I consider to be a serious problem that faces our Nation, the question and the problem surrounding espionage.

I introduced S. 1654 on September 17 of last year to attempt to respond to that problem and that bill was pending before the Judiciary Committee for some time. It is now before us.

I offer this amendment on my behalf and also Senator DENTON, who worked very hard to get the bill out of the Judiciary Committee, as well as Senators LEAHY, MURKOWSKI, D'AMATO, BOREN, LAXALT, ZORINSKY, THURMOND, MCCONNELL, LEVIN, ANDREWS, MATTINGLY, ARMSTRONG, and DURENBERGER.

There are at least 41 cosponsors to the basic bill. Unfortunately I have been unable to contact all of them before today so I ask unanimous consent the remainder of the list be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senators Domenici, Heinz, Simpson, Glenn, Nunn, Hatch, Chiles, East, Chafee, Gorton, Kasten, Rudman, Goldwater, Garn, Bumpers, Byrd, Boschwitz, Exon, Nickles, Hawkins, Roth, Gore, Abdnor, Grassley, Quayle, and Symms.

Mr. STEVENS. This legislation, Mr. President, is not too complicated. It addresses the problem of spies, spies who have been selling information concerning the security of our country and have been profiting from that action.

It would deny spies the proceeds of the sale of the information. It would deny spies any royalties from the sale of any story pertaining to their activities, and it would allow rewards for those who turn in information which leads to the apprehension of spies.

By taking away the proceeds of espionage and confiscating property used to commit espionage, we will not just be punishing those convicted of espionage; we will make them think twice about entering into the career of spying for profit.

I believe that we can make it harder for people to get their hands on information of this type. We can try to improve detection methods and we will take various steps to increase security.

However, until we take away the motivation which has been present, that is the financial aspects of spying, we will not be able to stop what has been going on.

Our real job, I think, is to let everyone know that no one in this country will be allowed to profit from espionage.

This legislation will allow the confiscation of any of the proceeds of the sale of the spy story, that is of the spy himself or herself.

The public, I think, has a fascination with spies and espionage but infamy should not be the foundation for a public career or for financial success.

I really believe that it is time for us to act to prevent this type of situation from developing in our country. It is a growing threat to our national security.

Since 1945 there have been 65 prosecutions relating to espionage. Since 1982 the FBI has arrested 25 individuals for espionage; 18 have been convicted and six cases are still pending. This 4-year total is the highest rate for arrest and convictions for espionage charges since World War II. I think the figures speak for themselves.

The lure of money is taking people into espionage. It is attracting too many people and this prime motivation is sheer greed.

Law enforcement officials responsible for investigating espionage cases recognize the common denominator in these cases has become the search for profit. To quote Bill Baker, assistant director of the FBI, "It says in the KGB manual, 'Americans can be bought.'"

We are all aware of the Walker family spy case. We are actually fortunate that John and Michael Walker reached a plea bargaining agreement. This gives us the opportunity to answer questions about just how serious the damage done by the Walkers has been. The Walkers, however, are not alone in their infamy—by any stretch of the imagination. They have been joined in the headlines recently by Ronald Pelton and the Pollards.

There have been several serious cases in the last few years. The problem of U.S. citizens selling off national security information is best illustrated by a few examples.

Joseph Helmich was arrested on July 15, 1981, on charges of selling top secret information about a cryptographic system to Soviet agents. He was awarded the honorary rank of Colonel in the Soviet Army, and received $131,000.

David Barnett, a former member of the CIA's Directorate of Operations, pleaded guilty on October 29, 1980, to a charge of selling classified information on CIA operations to the Soviet Union. He admitted to receiving $92,600 for this information, and may have been paid an additional amount to try and secure a staff position with the Senate or House Intelligence Committees.

William Bell, a former employee of Hughes Aircraft Corp., was arrested on June 28, 1981. He was charged with espionage in connection with the sale of documents to the Polish intelligence service, for which he received approximately $110,000.

James D. Harper was arrested October 15, 1983, for selling missile data to a Polish agent. Harper reportedly was paid over $250,000. He pleaded guilty to one count of espionage, and was sentenced to life imprisonment on May 14, 1984.

In this sampling—which is far from exhaustive—there is a common factor which dominates each case. These individuals were paid fairly large sums for classified information. Each of them exchanged a portion of our national security for their personal gain.

We all recognize that it is time for Congress to do something about what has become a pervasive problem. This is by no means the only response I expect us to make to espionage. However, I believe this to be a major step in the right direction. If we discourage individuals from selling information we remove the incentive to commit espionage. I propose that we use the profit motive against these perpetrators. This legislation would confiscate the proceeds of espionage activity, and turn the tables on spies by paying those who provide information on their activities.

The tool we would create with this legislation to fight espionage is very similar to one available to drug enforcement agents. This is very appropriate, since the motivation to commit espionage and to deal in drugs is very similar. In both cases, the perpetrator cares little for the consequences of his actions. The reason for being in the business is to make money—at any cost, no questions asked. It is an embarrassment to our society.

It is now apparent that one of the best ways to strike at drug dealers is by taking away the profits of their business. Even though spies are inspired by a similar desire, the amounts of money we are talking about are decidely smaller. At the same time, the harm being done is much greater. Drug use is a plague in this country, but espionage threatens the nation's survival.

Taken as a package, I believe this proposal provides a fairly complete response to the prime motivation of espionage. It is carefully drafted so that it affects only those convicted of espionage felonies. The power to grant rewards is carefully limited to avoid abuse and excess. This is a good piece of legislation—one that demands action now. To put it off any longer could doom this proposal as time runs short later this year.

In my judgment, it is time for Congress to do something about this problem. I think the Senate knows that I have other legislation pending which I think is sort of old fashioned, but I believe spies just ought to be shot. As a matter of fact, the Senator from Arizona told me just now he thinks they ought to be hung using a loose rope.

I do not think there is anything about our system in the United States today that infuriates me as much as the increasing tendency of Americans to spy on their own Government and to do so because of the motivation of profit.

It is time for us to take a major step to discourage individuals from selling information, and if we do so, I think we will take action to remove the incentive to commit the espionage in the first place.

As I said, this amendment would confiscate the proceeds of espionage activities and turn the table on those who spy against their own country by paying individuals who provide information on the spying activities. The tool we would create with this legislation to fight espionage is very similar to that we are using in the drug enforcement area.

I think the Senate is well aware of that.

Mr. ANDREWS. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. ANDREWS. I appreciate my colleague yielding and I am proud to join him in this effort because of all the kinds of heinous acts against our people, the selling out of our Nation's secrets for profit is perhaps the worst.

You can talk about ideology, you can talk about people who disagree with what is going on within the Government, you can talk about general spying. They are all bad enough. But spying for pay for those 40 pieces of silver has absolutely no place, Mr. President, in this society of ours. Spying for profit, selling out your friends, your family, your neighbors, for a few dollars is the worst, the most treasonable act anyone can engage in against our people.

I would hope that we would be able to put this kind of stiff regulation in wherein we would confiscate any of the profit, any of the profit from writing the books or taking part in a movie later on, celebrating this great spy case or whatever it might be. Not only that, but I am totally inclined to go along with my colleague when he quotes our colleague from Arizona in saying, "These are the kinds of people who ought to be shot because there is

absolutely no justification for spying, for espionage, for profit."

I applaud my colleague for introducing this amendment. We cosponsored the legislation. It would be my hope that the leaders of the debate of this bill will accept this amendment because it is long overdue.

Mr. STEVENS. Mr. President, I thank the Senator from North Dakota. He has been in the forefront of those who have tried the assist to work out this legislation. I think we should mention Senator DENTON, who has worked very hard to see to it that the legislation be brought to the floor.

There is no question about it that we are now dealing with a different phenomenon in our country with this increased activity of espionage for money.

I have introduced legislation to make certain that that kind of activity, espionage for profit against our own Government, is considered treason.

□ 1430

I consider it to be treason and I think the country believes it is treason. This amendment has been carefully drafted. It does not affect those people who go out and study the activities of a convicted spy and present to the country the story of that type of activity. What it does is prevent the person who is convicted of espionage from profiting from the act and forfeit whatever that person received in connection with the espionage activity.

There is no reason to allow them to keep their ill-gotten gains and there is no reason to allow them to sell for any purpose the story of their actions.

Mr. President, I hope that the Senate will adopt this amendment. It is time for us to take this action, particularly in view of the number of cases that are pending right now in which substantial sums will be retained by those who have been involved if Congress does not act.

● Mr. MURKOWSKI. Mr. President, as a member of the Senate Select Committee on Intelligence I am acutely aware of the problem of espionage against the United States. Soviet bloc intelligence services spare no effort or expense in a relentless effort to steal scientific, technical, and defense secrets from the West. A single technical document can save Moscow years and hundreds of millions of dollars in research and development. Super-sophisticated U.S. intelligence systems, upon which our security depends, can be compromised in a few minutes by a traitor with special knowledge. Any reader of the newspaper in recent weeks knows these are not hypothetical possibilities; they are case histories.

We have seen the emergence of a new breed of spy, unscrupulous mercenaries willing to sell out their country for cash. Spying has become a lucrative business. Men like Walker and Whitworth apparently received hundreds of thousands of dollars for the information they provided. Walker, now that he has been caught, has embarked on a new money-making scheme to sell his story to a publisher. The more notorious the author, the fatter the royalties.

Why should espionage pay? It should not, and passage of the amendment will make sure it does not. It is time to make it abundantly clear that there will be no opportunity for the Walkers and their ilk to keep their ill gotten gains. Espionage is not fun and games. Anyone contemplating spying against this country must know that there will be no pot of gold at the end of the rainbow—only a very long stay in prison.

Mr. President, the amendment offered by Senator STEVENS is right on point. It prevents spies from taking advantage of their illegal activities, and says that spies cannot profit by receiving financial rewards from book royalties, movie rights, and similar arrangements. Clearly, Mr. President, the Senate must say loud and clear that spies cannot become "media stars" from their illegal activities. I urge my colleagues to support this important amendment.●

● Mr. DENTON. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Alaska (Mr. STEVENS) which incorporates the substance of S. 1654. The original bill, which was unanimously approved by the Judiciary Committee on June 12, 1986, will amend title 18 U.S.C. to provide for criminal forfeiture of proceeds derived from espionage activities and rewards for informations providing information leading to arrests in espionage cases. I commend Senator STEVENS for his leadership in this area and I am only too happy to join as an original cosponsor of this amendment.

Mr. President, recent events surrounding the Walker and other espionage cases have made it abundantly clear that the threat of espionage is real and pervasive. The Soviet Union, its client-states, and other hostile countries have a massive effort underway in this country to amass large amounts of material about our military secrets and technology.

The foreign intelligence-gathering in the United States has caused untold damage to our national security. The technological lead enjoyed by the United States in certain defense-related areas has been seriously eroded by the foreign success in obtaining classified scientific and technical information. In addition, spying has cost our country billings of dollars in stolen technology and military secrets. To reverse the trend, we must remove the financial incentive for those persons who would assist these foreign spies by engaging in espionage activity.

This amendment will remove the financial incentive and will aid in the battle against espionage. The amendment contains three separate provisions.

First, it requires that convicted spies forfeit all proceeds from their espionage activities by incorporating by reference the forfeiture provisions contained in the Comprehensive Drug Abuse Prevention and Control Act of 1970, (21 U.S.C. section 853);

Second, it requires that any proceeds from publication or television rights to the story on, or interviews of, convicted spies be forfeited (Mirroring the Son-of-Sam provisions contained in 18 U.S.C. section 3671);

Third, it establishes a new fund to reward those whose information leads to the arrest or conviction of spies (mirroring the rewards provision contained in the Rewards for Information Concerning Terrorism Act, 18 U.S.C. section 3071).

Mr. President, I am pleased that Senator STEVENS has accepted, at my suggestion, language which will make the provisions of the amendment applicable to members of the Armed Forces convicted of espionage pursuant to the Uniform Code of Military Justice, as well as those individuals convicted under title 18 of the United States Code.

This amendment represents a necessary tool in our fight against espionage. I urge my colleagues to support it.●

Mr. LEAHY. Mr. President, I am pleased to be an original cosponsor of this amendment. Simply stated, it will apply existing Federal procedures for forfeiture of criminal proceeds, and rewards for informants, to espionage cases.

We have all been shocked by the wave of espionage cases that have occurred in the Defense Department, among Defense contractors, and even in the intelligence agencies. Perhaps the most ominous development was revealed in the Walker case. Whatever other factors may have motivated John Walker to betray his country's defense secrets to the Soviet Union, his cynical attention appeared to focus primarily on the money he stood to make from his activities.

This amendment squarely addresses the ill-gotten gains from espionage and the incentive to turn in those suspected of this crime. It will be a useful contribution in our effort to see to it that espionage will never be seen to pay, and that those actually or contemplating spying for foreign powers recognize that others could be rewarded for providing information that leads to their arrest.

I want to congratulate Senator STEVENS for his initiative, and Senator

DENTON, chairman of the Subcommittee on Security and Terrorism, who worked closely with me on the Denton/Leahy substitute which became the final draft of this bill.

Mr. MATHIAS. Mr. President, will the Senator yield for a question?

Mr. STEVENS. I yield for a question to the Senator from Maryland.

Mr. MATHIAS. My question arises from the so-called "Son of Sam" provision of this amendment, which would prevent persons convicted of certain espionage offenses from profiting by writing about their crimes. It is surely a repulsive spectacle when an individual profits from the commercial exploitation of his crimes against the United States, and I am in complete sympathy with the Senator's effort to divert that profit stream. Nonetheless, I am also concerned about the degree to which any "Son of Sam" provision burdens the exercise of first amendment rights. Am I correct in my understanding that this amendment is modeled after the "Son of Sam" provision that Congress enacted in the Comprehensive Crime Control Act of 1984, and that now is codified at 18 U.S.C section 3671?

Mr. STEVENS. The Senator is correct. I am offering this legislation so that the forfeiture remedies that were made available to the Government in the Comprehensive Crime Control Act of 1984 with respect to crimes of violence can be used against those who are convicted of violating certain specified espionage statutes.

Mr. MATHIAS. Am I also correct that it is not the Senator's intent to inhibit in any way the right of a third person to write or publish an account of the crimes that a convicted spy committed against the United States?

Mr. STEVENS. The Senator is correct. Let me quote from a portion of the Judiciary Committee's report on the 1984 "Son of Sam" legislation. I am confident that it will help clarify the scope of the forfeiture provision that I am offering:

> . . . the [ ] amendment refers to money payable to the defendant's "transferee," rather than "any other party." This is to ensure that innocent third parties, such as Truman Capote, the author of "In Cold Blood," or other authors who have not participated in criminal conduct and who wish to depict the defendant's crime, are not affected by the proposed rule change.
> (S. Rep. No. 98-497 at 6.)

The "In Cold Blood" example is instructive here, since the corresponding provision in this legislation is not intended to reach an innocent third party who was not convicted of espionage when that third party writes or publishes an account of the events surrounding the espionage offense. It would apply to any proceeds due to the convicted spy or any part of the convicted spy's share that he has diverted to some third person.

Mr. MATHIAS. I thank the Senator from Alaska for that clarification. I have one additional question. One of the statutes covered by this amendment is 18 U.S.C. 793. As the Senator knows, an important case under that statute was recently concluded in my home State of Maryland. In that case, the jury convicted Samuel Morison of providing certain classified photographs to Jane's Defense Weekly.

I raise this point because the prosecution of Mr. Morison under section 793 is unprecedented, has wide-ranging first amendment implications, and is currently on appeal. In other words, the law in this area may be in a state of flux. Would the Senator's amendment have any effect on the substantive reach of section 793?

Mr. STEVENS. It is not my intent to affect in any way the definition of the underlying offenses to which this legislation would apply. Thus, this legislation should have no impact on the judicial interpretation of section 793. It would simply provide the Government with the opportunity to seek an additional remedy against someone finally convicted under that statute.

Mr. MATHIAS. I thank the Senator from Alaska.

Mr. STEVENS. Let me amplify the comments I have just had with Senator MATHIAS to emphasize again that this is not any attempt to invade the other areas of the Federal Code. Nor is it an attempt to in any way prevent a third party from engaging in the business of writing either for the print media or for the air or television media the stories of those who have been involved in these kinds of activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I am pleased to answer any questions my colleagues may have.

Mr. METZENBAUM. Mr. President, I do not think any of us would speak in opposition to the amendment of the Senator from Alaska with respect to the forfeiture of funds gained from espionage or from writing relative to that or removing pictures. I think we all support that concept. This language is, I think, identical with language that has been in the Judiciary Committee for several weeks.

We have been wrestling with one aspect of the problem I would like to discuss with my colleague from Alaska. That has to do with the question of the right of a defendant to have legal counsel and the concern that has been expressed that assumes the individual did engage in espionage or it was alleged that he did and then he hires counsel. As I understand it, under this provision, those funds that would have been paid to counsel could be forfeited as well. As a consequence, the individual might not be in a position to be represented by a lawyer. He is not guilty until he is found guilty.

I wonder whether or not it is the intent of the author of the amendment to preclude the right of the defendant to have legal counsel, even though it very well might be that some portion of those funds would be expended for legal counsel. Some thought has been given to giving the judiciary, the judge handling the case, some discretionary authority in connection with this subject. Would the Senator from Alaska care to indicate his thoughts on that subject?

Mr. STEVENS. Mr. President, we have no intention of changing the normal treatment of attorneys' fees in such circumstances. If an attorney has reason to know that his client is paying him the proceeds that he has obtained by committing a crime, then the money in the hand of the attorney is forfeitable. If he does not have reason to suspect that, then it is another matter.

It is my understanding that this has been handled this way in other circumstances, it does not come up just in connection with this case. If a person robs a bank and is on trial and the lawyer who is defending that person knows that the money he has received is part of the loot from the bank, he cannot keep that. I think those of us in our profession understand that full well. We are not seeking to change that.

Mr. STEVENS. I say to my friend from Ohio, I understand what he is saying. I have no intention of changing the normal treatment of attorney-client relationship nor the right of the attorney to be paid. Unless he has reason to believe that the money he receives is part of the proceeds of the crime, we do not affect his status.

Mr. METZENBAUM. I appreciate the comment of the Senator from Alaska. I think it goes most of the way to the thing about which I have concern. But let us assume for the moment that the attorney were to know where the proceeds came from but that for a host of other reasons, he was convinced that the defendant was not guilty. The man might have the money but he might not be guilty for any one of a number of reasons, including the conceivable reason of statute of limitations, that it was out of the jurisdiction of the court, that there was some violation of his rights as to how the information was obtained, that there was an unlawful search and seizure.

I am not trying to make out a case for any particular individual, but my colleague and I are both lawyers. I think we would both agree that a lawyer would not be held responsible or should not be called upon to make a judicial determination as to whether his client is or is not guilty.

I think it is reasonable to assume that the lawyer taking the individual's case is taking it on the basis that he—assuming he is going to put in a "not guilty" plea—that he in his mind feels that there is a chance of having the defendant found not guilty. All I want to do is let the individual, whoever he may be—whether he is accused of the most heinous crime, and certainly espionage has to be included in that category—to let that individual have legal counsel. Some have suggested that the courts could appoint counsel, but I think we would agree that if the individual had funds, and certainly substantial funds, it would not be reasonable to expect that the court would appoint counsel.

I have that one reservation concerning the Senator's response, which indicated that if he knew the man was guilty or where the money came from. I think he has practiced law long enough and I have practiced law long enough to know that nobody is guilty until the court has found the individual guilty and that every person has the right to have his day in court.

Mr. STEVENS. Mr. President, we have been in the practice of law for a long time, and I was the Government attorney in my State for 3 years, and I know some of these issues come up in a hard way.

I say to the Senator from Ohio that they cannot come under this amendment in any more difficult circumstances than they do in a drug situation today with all the drug cases we see, with tremendous funds being received by those peddling drugs. When we do apprehend them, we regain some of that money. We find that the defendant has received money and upon conviction, there are existing statutes which allow for forfeiture. As a matter of fact, this bill, as the Senator knows, is patterned after the drug statute that requires the forfeiture of the money received by the defendant who has been convicted of violating the law relating to drugs.

I say to my friend that this amendment before us does not require a forfeiture until conviction and it puts in the hands of the court that imposes the sentence the duty to order the forfeiture to the United States of the property we have listed as being subject to forfeiture. It is similar, as I said, to the drug statute.

Mr. METZENBAUM. I know it cannot cause a forfeiture of attorneys' fees as such. That is not indicated by implication or otherwise. Am I correct in my understanding?

□ 1440

Mr. STEVENS. The Senator is correct in the sense that we, of course, are not trying to require that—but if the court, following the normal procedures, would find that the attorney had knowledge of the source of the moneys he received, the court could order forfeiture of the moneys in the hands of the attorney in whole or in part, depending on what the court decides under the circumstances. But it is the Comprehensive Drug Abuse and Prevention and Control Act that has been the guide and it does, as I said, deal with the forfeiture of such funds that have been received and gives the authority to the court to order such other disposition of the property as it sees fit.

I think we have to leave this issue, Mr. President, where it has been in the past, and that is with the judge who presides over the case. Obviously, what the Senator from Ohio says is right, that until conviction the attorney is not in any way in a position of facing a forfeiture of moneys that have come into his hands as a result of his relationship with the defendant. But if he has knowledge and it can be shown and the court decides the attorney had knowledge the money the defendant delivered to him was received from proceeds of espionage or the proceeds of selling drugs, they are treated the same. It is up to the court to determine what should be forfeited under this statute.

Mr. METZENBAUM. Is it my understanding that the amendment of the Senator from Alaska is intended to be interpreted in the same manner the courts have interpreted the drug-related cases?

Mr. STEVENS. That is correct.

Mr. METZENBAUM. I have no further questions, Mr. President.

Mr. LUGAR. Mr. President, as a cosponsor of the amendment, I certainly commend the distinguished Senator from Alaska for a very important amendment. On our side, we are prepared to accept the amendment.

Mr. PELL. Mr. President, the colloquy between the Senator from Alaska and the Senator from Ohio cleared up one of the problems that might have been with us in approving this amendment. We think it is a good amendment and, as far as I know on my side, there is no objection to it. I recommend we go forward.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2184) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I thank the Senator from Indiana and the Senator from Rhode Island. I appreciate the contribution the Senator from Ohio has made to the legislative history on this amendment.

Mr. LUGAR. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

□ 1450

Mr. LUGAR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF DANIEL A. MANION

Mr. LUGAR. Mr. President, I want to take a moment to express the strong support I have for Dan Manion, who is being considered for an important judgeship. There will be a vote held on this floor tomorrow afternoon on cloture, so that we might proceed to a vote on Dan Manion.

He is a Hoosier, which means a resident of the State of Indiana. Beyond that, he has served in a distinguished capacity for 4 years as a State senator. He was elected in the South Bend area to that seat. I have know him, have campaigned with him, have been involved with him in politics in South Bend and have a very good idea of the support on both sides of the aisle that Dan Manion enjoys from both Democrats and Republicans. He has that support in his home town, which is a sizable city, a complex city, a city in which the votes are narrowly divided between Democrats and Republicans, in which independent voters have cast their lot with people of quality.

Mr. President, in my association with Dan Manion, I have found him to be a person of vigor, of character, and of intelligence. Very clearly, in his work in behalf of the people of the State of Indiana, he has demonstrated qualities which have led to very strong support in our State and very strong support from many persons around the Nation for his nomination.

I mention all this because there has been, I have noticed, a national campaign of persons who are not so well acquainted with Mr. Manion. I appreciate the nature of the argument that is being made. In short, many persons around the country believe that Dan Manion is a conservative and some believe he is too conservative for the courts and for issues that he might consider.

I think it is a misfortune that the issue has been cast in this mold. I appreciate that others have said that that really is not the issue. We are not persuaded that persons are either too conservative or too liberal but, rather, we are talking about competence. We are talking about specific opinions that have been written. We are talking about specific activities as part of legislative and administrative abilities.

Mr. President, I say in all candor that those who are attempting to make a case on the basis of competence have had to stretch very far. As a matter of fact, Dan Manion is a very competent human being, a very competent public servant, a person, I believe, of extraordinary force as he has presented conservative ideas in the State legislature—some of them adopted, some of them not. Clearly, he has acquitted himself well. I know of no one in Hoosier politics who ever thought he lacked confidence or lacked the ability to handle himself well in public life and with public issues.

Mr. President, I hope that as we take a look at this vote on cloture tomorrow, we take a look at another issue, and that is basic fairness to a nominee, a nominee for a very important office. In my judgment, most Americans believe that Mr. Manion ought to receive a vote up or down on the basis of his record, on the basis of the President's nomination of him for this high position.

I appreciate that legal scholars have been combing through the years to try to find if there is a single other instance in which a nominee for a judgeship has been blocked on the Senate floor by extended debate or filibuster. That instance, I think, for the particular office Mr. Manion seeks, has not been found, and for good reason.

Senators, whether Republicans or Democrats, believe in fairness. They believe in taking a look at the man or the woman, the nominee; the President who has made the nomination; the circumstances of that nomination.

I hope that precedent will prevail again, that there will be a strong vote for cloture, so that the debate can proceed after tomorrow on the merits of the case.

Senator DAN QUAYLE of Indiana and I, as those who are happy to count Dan Manion as our constituent, look forward to making a strong case on the merits for this nominee, the nominee of the President, for whom we have very great respect.

□ 1500

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1510

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MCCONNELL). Without objection, it is so ordered.

AMENDMENT NO. 2185

Mr. MATHIAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] proposes an amendment numbered 2185.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the appropriate place insert the following:

TITLE .—VICTIMS OF TERRORISM COMPENSATION

SEC 801. SHORT TITLE.

This title may be cited as the "Victims of Terrorism Compensation Act".

SEC. 802. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION.

(a) IN GENERAL.—Subchapter VII of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 5569. Benefits for captives

"(a) For the purpose of this section—

"(1) 'captive' means any individual in a captive status commencing while such individual is—

"(A) in the civil service, or

"(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the uniformed services);

"(2) the term 'captive status' means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

"(3) 'missing status'—

"(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

"(B) in the case of an individual other than an employee, has a similar meaning; and

"(4) 'family member', as used with respect to a person, means—

"(A) any dependent of such person; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

"(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

"(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

"(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

"(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

"(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

"(1) is incident to such individual being a captive; and

"(2) is not covered—

"(A) by any Government medical or health program; or

"(B) by insurance.

"(d)(1) Except as provided in paragraph (3), the President shall make a cash payment to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

"(2) A payment under this subsection in the case of any individual held as a captive shall be not less than the amount of the world-wide average per diem rate which would be payable to any person under section 5702 of this title, based on—

"(A) a period of time equal to the period for which such individual was held as a captive; and

"(B) the world-wide average per diem rate which, during the period of captivity involved, was in effect under such section.

"(3) The President—

"(A) may defer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

"(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

"(i) during the period of captivity of such individual; and

"(ii) related to the captive status of such individual.

"(4) A payment under this subsection shall be in addition to any other amount provided by law.

"(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

"(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

"(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by section 701 of such Act but excluding the bene-

fits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive.

"(2) In applying such Act under this subsection—

"(A) the term 'person in the military service' is deemed to include any such captive;

"(B) the term 'period of military service' is deemed to include the period during which the individual is in a captive status; and

"(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

"(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

"(i) after that individual has been in captive status for 90 days or more, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

"(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

"(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"(E) For the purpose of this paragraph, 'child' means a dependent under section 5561(3)(B) of this title.

"(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

"(i) after the termination of that individual's captive status, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

"(3) Assistance under this subsection—

"(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

"(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than full-time education or training).

"(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

"(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

"(1) such family member is held in captive status; and

"(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

"(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

"(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

"(j) The President may prescribe regulations necessary to administer this section.

"§ 5570. Compensation for disability or death

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) any individual in the civil service; and

"(B) any individual rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the uniformed services); and

"(2) 'family member', as used with respect to an employee, means—

"(A) any dependent of such employee; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

"(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

"(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

"(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

"(f) This section applies with respect to any disability or death resulting from an injury which occurs after September 30, 1985.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following:

"5569. Benefits for captives.
"5570. Compensation for disability or death.".

SEC. 803. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD.

Section 6325 of title 5, United States Code, is amended by adding at the end thereof the following: "The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6301(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.".

SEC. 804. TRANSITION PROVISIONS.

(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 802(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

(c) DEFINITION.—For the purpose of this subsection, "pay and allowances" has the meaning provided under section 5561 of title 5, United States Code.

SEC. 805. BENEFITS FOR MEMBERS OF UNIFORMED SERVICES WHO ARE VICTIMS OF HOSTILE ACTION.

(a) PAYMENTS.—(1) Chapter 10 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 559. Benefits for members held as captives

"(a) In this section—

"(1) 'captive status' means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after the date of the enactment of the Victims of Terrorism Compensation Act, monetary payment in respect of such period of captivity; and

"(2) 'former captive' means a person who, as a member of the uniformed services, was held in a captive status.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the

Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

"(2) Amounts so allotted shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

"(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

"(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

"(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

"(c)(1) Except as provided in paragraph (3) of this subsection, the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

"(2) The amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

"(3)(A) The President—

"(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii) of this subparagraph, until final disposition of such charge; and

"(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

"(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

"(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is punishable by dishonorable discharge, dismissal, or confinement for one year or more.

"(B) For the purposes of subparagraph (A) of this paragraph, a captivity-related offense is an offense that is—

"(i) committed by a person while the person is in a captive status; and

"(ii) related to the captive status of the person.

"(4) A payment under this subsection is in addition to any other amount provided by law.

"(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

"(6) Any payment made under paragraph (1) of this subsection that is later denied under paragraph (3)(A)(ii) of this subsection is a claim of the United States Government for purposes of section 3711 of title 31.

"(d) A determination by the President under subsection (a)(1) or (c) of this section is final and is not subject to judicial review.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"559. Benefits for members held as captives.".

(3)(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act, the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) DISABILITY AND DEATH BENEFITS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1051. Disability and death compensation: dependents of members held as captives

"(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

"(1) was caused by hostile action; and

"(2) was a result of the relationship of the dependent to the member of the uniformed services.

"(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

"(d) In this section:

"(1) 'Captive status' has the meaning given that term in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.

"(3) 'Secretary concerned' and 'uniformed services' have the meanings given those terms in section 101 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1051. Disability and death compensation: dependents of members held as captives.".

(3) Section 1051 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after September 30, 1985.

(c) MEDICAL BENEFITS.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1095. Medical care: members held as captives and their dependents

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

"(1) is incident to the captive status; and

"(2) is not covered—

"(A) by any other Government medical or health program; or

"(B) by insurance.

"(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

"(c) In this section:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Medical care: members held as captives and their dependents.".

(3)(A) Section 1095 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section.

(d) EDUCATIONAL ASSISTANCE.—(1) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS

"Sec.

"2181. Definitions.

"2182. Educational assistance: dependents of captives.

"2183. Educational assistance: former captives.

"2184. Termination of assistance.

"2185. Programs to be consistent with programs administered by the Veterans' Administration.

"§ 2181. Definitions

In this chapter:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.

"§ 2182. Educational assistance: dependents of captives

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

"(1) subsistence;

"(2) tuition;

"(3) fees;

"(4) supplies;

"(5) books;

"(6) equipment; and

"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a dependent of a person who is in a captive status for education or training that occurs—

"(1) after that person is in a captive status for not less than 90 days; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;

"(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the educational or training institution is not operated on a semester or quarter system; or

"(C) a date specified by the Secretary concerned in order to respond to special circumstances.

"(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

"(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"§ 2183. Educational assistance: former captives

"(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

"(1) subsistence;

"(2) tuition;

"(3) fees;

"(4) supplies;

"(5) books;

"(6) equipment; and

"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—

"(1) after the termination of the status of that person as a captive; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or

"(B) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

"(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

"§ 2184. Termination of assistance

"Assistance under this chapter—

"(1) shall be discontinued for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 1724 of title 38; and

"(2) may not be provided for any person for more than 45 months (or the equivalent in other than full-time education or training).

"§ 2185. Programs to be consistent with programs administered by the Veterans' Administration

"Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.".

(2) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 109 the following new item:

"110. Educational Assistance for Members Held as Captives and Their Dependents ..... 2181".

(3) Chapter 110 of title 10, United States Code, as added by paragraph (1), shall apply with respect to persons whose captive status begins after January 21, 1981.

SEC. 806. EFFECTIVE DATE OF ENTITLEMENTS.

Provisions enacted by this title which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 shall not be effective until October 1, 1986.

Mr. MATHIAS. Mr. President, this is an amendment to offer comprehensive compensation for American victims of terrorism abroad. This legislation has already been considered in the other body. In fact, a similar measure has been approved in the other body.

Its purpose is very straightforward. It would establish a permanent program to protect our diplomats, diplomatic families and foreign nationals whom we employ in our Embassies and our consulates around the world. If we are to engage able and well-educated individuals to serve abroad, we have to provide assurance that not only they but their families will receive educational and medical benefits in the event of a terrorist attack or, God forbid, in the event that they are taken hostage and held for prolonged periods of time.

The likelihood of such catastrophic events would at one time have been considered very remote. And for that reason, among others, no comprehensive program was established to meet such contingencies. As a result, we have yet to provide the hostages who were held in Iran and their families with any kind of adequate compensation for the experience which they endured as a direct consequence of their employment by the United States of America.

This amendment would only offer a just settlement to the hostages who went through those long days in Tehran, but it would establish a rational basis for compensating victims of such terrorism in the future.

I hold—and I am sure that every Senator would agree—that we have a moral obligation to those to whom we appoint to represent our interests all over the world. I think it is absolutely necessary that we be able to promise employees and their families that they and their survivors will be cared for if they are injured or killed in an attack or if they are held as hostages over a long period of time.

If we put an American employee's or official's family at risk by authorizing them to accompany him or her to a dangerous spot, then we have the normal employer's obligation to pay the medical expenses of the family member injured in an attack. If a former hostage is unable to return to active duty as a result of some traumatic incident, I think we have, as an employer, the normal employer's obligation to help in his or her retraining for other duties.

Furthermore, I think we must do what we can to continue to attract the most qualified foreign nationals who serve important secondary services at Embassies and consulates abroad. The State Department reports that it is becoming more and more difficult to recruit able employees because of the increased danger and because of the lack of prospects of any permanent relief if some problems of the kind I have been discussing should occur.

□ 1520

Now, I am well aware that there is considerable concern that the eligibility requirements of this legislation are too broad. One specific complaint is that it would cover employees of contractors who build Embassies and consulates. That is not an immaterial point in the light of the general purposes of this bill which will contemplate a serious construction activity. I would point out, however, that such employees are already covered by workmen's compensation for being part of the contract signed by the construction firms before they can begin on the project.

Such issues have been cited as compelling reasons to separate the terrorism compensation title of the bill from the other body from the legislation which is now before us. I respect the commitment to write and report a separate bill devoted to this problem.

But in all due respect I hardly think that we should wait on this subject. I am confident that some of the most specific terms that may be unacceptable to some Members such as the use of worldwide per diem or other rates for compensation in the hostage case can be worked out in conference. The State Department has offered to clarify and tighten any language in the bill with the other body that will ensure that only deserving cases receive benefits under the legislation.

But the fact is, the fact that we all have to live with, the fact that I think should weigh upon our consciences, all Americans, all of our officials, all of our employees abroad remain today without the kind of basic protection they deserve in the truly dangerous circumstances in which they live and work. The other body has already acted to correct this oversight in an effective, economical, and just manner. And I submit, Mr. President, that it is incumbent upon us to respect that work and to carry it through to completion without delay.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished Senator from Maryland has spoken eloquently as always to a very important point that is especially poignant with regard to those who have served our country in the foreign service in its broad sense in the past. And clearly, as the distinguished Senator from Maryland has pointed out, the House of Representatives as it thought about Embassy security legislation decided to address this problem of victims of terrorism compensation very directly and included title VIII in their bill. The Senate Foreign Relations Committee decided not to include title VIII in our markup largely because there were problems raised as the Senator from Maryland has mentioned, of the levels of compensation and and who would be covered.

Further, in a technical and jurisdictional sense, Mr. President, there were claims on this issue by several committees of the Senate for various reasons. There were calls for sequential referral, and we simply tried to meet this by indicating that we see the item as very important, and one on which separate legislation with separate hearings might be appropriate.

The distinguished Senator from Maryland already has mentioned in his remarks the fact that the House of Representatives has such a provision in its bill, and therefore the victims of terrorism compensation at this time will be a part of the conference with the House and the Senate in view of the fact that it is a conferenceable item. We will have an opportunity to discuss it.

I hope, perhaps, he would be willing to withdraw the amendment from consideration today on this bill with assurances that there are many Senators who will be members of that conference who have been made much more knowledgeable by the Senator's remarks today. Sensitivity clearly is an issue that is involved. With the intensity with which he is pressing these issues upon us, and in view of our sensitivity and our interest, I hope he will withdraw the amendment today and take part in that conference with others who share the concern and idealism he has expressed.

Mr. PELL. Mr. President, I share the sentiments of our chairman. I commend the Senator from Maryland for this amendment. As a former member of the Foreign Services I am particularly in sympathy with the travails of those men and women in today's world. But those in the military service receive rewards for different dangers, different risks, and different blows of fortune. If you are wounded, you get a Purple Heart. You get certain benefits if you are an invalid at home. If you are killed, your family gets certain benefits. If you are a prisoner of war, you get certain benefits. But to be a hostage is like being a prisoner of war only with greater risk in it, greater mental horror, and harassment because you do not know if you are going to survive. If you are a prisoner of war, you know that under the Geneva Convention you will be returned unless something dreadful happens. If you are a hostage, you have no idea whether you will be returned or not be returned, or shot in the back of your head instead.

So our people who are exposed to these dangers really deserve to be recompensed at at least the same standard or level that we do for our military. I hope this will be a criterion that will follow in the conference.

But in the meantime, I agree it probably would be best if this amendment is withdrawn at this time.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. I am reluctantly persuaded by the managers of the bill. I am persuaded, I must say to them with all due respect, not so much because of their arguments but because of their personal assurances that this matter will be considered in conference. As a little backup in my personal confidence in them, I even have the temerity to hope that I might be a conferee myself, and will be watching.

So I think under those circumstances the position that we have stated is a reasonable one. Therefore, I withdraw the amendment.

AMENDMENT NO. 2186

Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. MATHIAS] proposes an amendment numbered 2186.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, after line 3, insert the following new section:

SEC. 702. EXPRESSION OF SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE.

Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Department of State, the U.S. Agency for International Development (AID), or the United States Information Agency (USIA) from participation (including use of staff, other appropriate resources and service on the board of the USTTI) in support of any activities of the United States Telecommunications Training Institute (USTTI).

Mr. MATHIAS. Mr. President, The amendment I am offering, expressing support for the activities of the U.S. Telecommunications Training Institute, is not a contentious one and is similar to language which was attached in 1984 to th Cable Communications Policy Act. The USTTI is a nonprofit corporation sustained by private sector contributions and the volunteer services of those who sit on the board. Since 1982, this institute has offered tuition-free training to qualified telecommunications professionals from the developing world. The institute's success in equipping its participants with valuable training and a better understanding of the United States and its telecommunications industry is due in part to the working partnership between Government leaders and chief executives in the telecommunications field. This amendment simply clarifies that this cooperation between Government and corporate leaders does not present a "conflict of interest" on the part of the USTTI's Government board members.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, the Senator from Maryland has presented an important clarification. It is important there not be conflict of interest. He has made a good commendation in the course of his statement. On our side, we are prepared to accept the amendment. I have been advised by the distinguished ranking member of the Foreign Relations Committee, Senator PELL, that the Democratic side is likewise prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on the agreeing to the amendment of the Senator from Maryland.

The amendment (No. 2186) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, shortly I shall be proposing two amendments which have been discussed with the distinguished chairman of the Foreign Relations Committee and have been cleared on both sides of the aisle, amendments which deal with the subject of terrorism. For some time now, Mr. President, it has been apparent to everyone in the world that firm action had to be taken against terrorist attacks. Starting back in mid-1984, I introduced a series of legislative enactments, resolutions, and proposed bills to deal with terrorism. The matters first came to my attention as matters of some urgency with the April 10,

1984, shooting of the British policewoman by the Libyan diplomat.

□ 1530

Following that, I submitted a sense-of-the-Senate resolution seeking to limit diplomatic immunity because if anything is clear, it is clear that diplomatic immunity does not comprehend the shooting of a policewoman. That is not an act of diplomacy. I called at that time for a provision in the convention on diplomatic immunity.

Subsequent to 1984, there has been a series of terrorist acts taking American lives around the world, the lives of innocent American soldiers, and the lives of tourists around the world, calling for some firm action.

The two measures which I will offer deal with the effort of attacking the problem of terrorism, first by making it an international crime, with an international definition of terrorism, and, second, awaiting action for such an international definition of terrorism, legislation which would provide that it is a violation of the laws of the United States to attack, maim, or murder a U.S. citizen anywhere in the world.

The latter legislation passed this body on February 18 of this year by a vote of 90 to 0. I seek to attach it as an amendment to this legislation. It will be in the conference with the House and will be enacted into law, it will be signed by the President, and will provide much needed protection.

AMENDMENT NO. 2187

(Purpose: Expressing the sense of the Senate that the President should call for international negotiations to make international terrorism a universal crime prosecutable in the United States)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 2187.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following: In the past decade there have been nearly 6,500 terrorist incidents around the world, killing over 3,500 people and wounding more than 7,600, including over 2,500 incidents against Americans;

Terrorism anywhere affects nations everywhere by chilling the free exercise of sovereign authority;

Rampant terrorism by its very nature threatens world order and thereby all civilized nations and their citizens;

Any and every nation has the right, under current principles of international law, to assert jurisdiction over offenses considered to be "universal crimes", such as piracy and slavery, in order to protect sovereign authority, universal values, and the interests of mankind; and

Individuals committing "universal crimes" may be prosecuted in any nation in which the offender may be found, irrespective of the nationality of the offender or victim or the place of the offense: Now, therefore,

It is the sense of the Senate that the President should call for international negotiations for the purpose of agreeing on a definition of "international terrorist crimes" and for the purpose of considering whether such a crime would constitute a universal crime under international law. Such definition should require that acts constituting an international terrorist crime—

(1) involve the threat or use of violence or be dangerous to human life,

(2) would be a crime in the prosecuting jurisdiction if committed within its boundaries,

(3) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(4) transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

The President should also consider including in these international negotiations the possibility of establishing an international criminal court along the lines of the International Military Tribunal established after World War II for the trial of major war criminals at Nuremburg, Germany, that would have jurisdiction over the crime of international terrorism.

Mr. SPECTER. The essence of this amendment is to provide two resolution clauses. First, that it is the sense of the Senate that the President should call for international negotiations for the purpose of agreeing on a definition of international terrorist crimes and for the purpose of considering whether such a crime would constitute a universal crime under international law.

The second aspect of the resolution calls for the President to consider including in these international negotiations the possibility of establishing an international criminal court along the lines of the International Military Tribunal established after World War II for the trial of major war criminals in Nuremberg, Germany, which would have jurisdiction over the crime of international terrorism.

Mr. President, I suggest there is ample precedent for declaring terrorism an international crime. Piracy has long been an international crime, and in defining piracy as an international crime, it differed from the general concept that the crime could be prosecuted only in the jurisdiction where it was committed.

As, for example, if a crime were committed in the United States, for example, in my home State of Pennsylvania, it customarily could be prosecuted only in Pennsylvania. An international crime such as terrorism could be so defined that a terrorist could be prosecuted wherever he would be apprehended because terrorism is such a serious offense.

The act of torture has received some status as international crime. I think the time has come, Mr. President, that terrorism should be defined as an international crime. If such a definition can be agreed upon, we ought to look to the future to having the crime of terrorism and the terrorist defendants tried in an international tribunal similar to Nuremberg.

Mr. President, I realize that it is a difficult matter to achieve such a definition and to set up such an international tribunal, considering all the factors of national sovereignty and the difficulty of getting nations to act together. But it is the view of this Senator that such action will really put the imprimatur and the stamp on terrorism as an act which the world community will not tolerate. If these crimes were prosecuted in a world tribunal, there could be no question that such prosecutions, as distinguished from prosecutions of any specific nature, in an international tribunal would have much greater force and much greater weight than those prosecutions in an individual state.

That is the first amendment which I seek to offer, Mr. President, at this time.

At this time I yield to the distinguished chairman of the Foreign Relations Committee.

Mr. LUGAR. Mr. President, I commend the distinguished Senator from Pennsylvania for this amendment. He has been a scholar in this field, both as a U.S. Senator and as a distinguished prosecutor, a district attorney. We believe that the amendment is a sound one and we are prepared to accept it on this side.

Mr. PELL. Mr. President, I have one question I would like to be enlightened upon. That is in view of the fact that a crime is committed outside the United States in another country's jurisdiction, do we have now in the law the right to bring that particular criminal, or whatever you want to call him who carried out this act, under the jurisdiction of our own courts, or does that, as a matter of custom, remain under the courts of the country where the crime was committed?

Mr. SPECTER. The question which the distinguished ranking Member raises relates more directly to the next amendment I will offer, which makes it a violation of U.S. law and an act prosecutable in U.S. courts even if the act were committed in some other country.

On that subject, there is solid precedent as a matter of international law

that the United States may prosecute in U.S. courts an attack or a crime against the United States anywhere in the world regardless of the locale where the crime was committed.

On the amendment now pending, it encourages the President to work for an international definition of terrorism, with those acts prosecuted in international court.

There is no question about the jurisdiction of such an international tribunal to move to prosecute defendants in that context, where an act was committed anywhere in the world.

Mr. PELL. But in the present body of international law, is terrorism recognized as a crime?

Mr. SPECTER. I would think it is, but not with sufficient clarity so there is one coherent, cohesive definition of terrorism.

I believe there would be precedent for a nation to define terrorism in a variety of ways and to make it stick as a matter of national law and as a matter of international law. But there are some who would disagree with what is a justifiable definition of terrorism.

Some have said that one man's fear is another man's terror. That is why this Senator believes that there ought to be an international tribunal for international consideration. It would be a broader definition of what we in the United States would find to be an act of terrorism. Let others have input and let us try to reach an international consensus on terrorism.

Mr. PELL. But the international arbiter would be the International Court of Justice at The Hague. Have they had any cases of international terrorism?

Mr. SPECTER. I think that many would not recognize the International Court of The Hague as being the arbiter.

Mr. PELL. Who would?

Mr. SPECTER. The answer is that no one is the arbiter. The international law is defined most frequently as international narrowly. The fact is that international law customarily turns on where power lies, where force lies, and where the ability lies to carry out what nations seek to achieve.

□ 1540

So we do not have international law in so many situations involving international disagreements. There are some narrow ranges of international law on an international commercial transaction, maybe the U.S. district court for Washington, DC. But if you are talking about terrorism, talking about conflict, talking about encroachment, talking about acts of war maybe, there are wide differences of opinion as to what the act of the law is.

Mr. PELL. Mr. President, the reason I felt this should be pursued is that I understand this coming week, or later on this week, the International Court of Justice is going to come out with a case in which it is inferred that terrorists are our own people—Contras, and so forth—in Nicaragua. So I withdraw from suggesting the ICJ as an arbiter and turn again to asking whether we are not now creating a new body of law—which may be a good idea.

Mr. SPECTER. We may be creating a new body of law. Every time there is a judicial decision, in a sense, there is a new body of law. That is the way the common law functions.

A case arises, the court makes a decision, and the law is established on the relationship of that particular transaction or occurrence with those parties. That is the way the law evolves. When Congress passes a legislative enactment, we create many laws and there are many interpretations. Frequently, courts cannot agree among themselves as to what it has done—as in the circuit court of appeals this spring. The process of establishing the law is a very complex procedure. The thrust of this amendment is to try to bring some international focus on this critical aspect of terrorism so that it is not merely a U.S. determination.

Mr. PELL. Mr. President, I asked a theoretical question. Let us say that, in Central America, a Contra machineguns a bus and some people are killed there. Would they then be justified in passing a law in their country having us return from Miami or the United States that individual if he were in the United States?

Mr. SPECTER. That is precisely the sort of question which I do not think this Senator can answer or this body should answer. That is precisely the kind of question which ought to be addressed by an international tribunal. There would be a different answer by the courts in the United States to that question as opposed to the courts of Nicaragua. That is precisely why this Senator believes that there ought to be an international focus, an effort by an international tribunal to define terrorism in a way that transcends the interests of the United States and transcends the interests of the Contras or the Sandinistas, and seeks a philosophical definition of terrorism which would satisfy all parties, including those involved in the disputes in Iran or those involved in the disputes in Afghanistan or Angola.

It is a very, very difficult assignment but I think it is one which ought to be tackled on the international level, one which is long past due.

Mr. PELL. I join my friend from Pennsylvania and I support the amendment. There is no objection.

Mr. SPECTER. Mr. President, I am happy the Senator supports the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2187) was agreed to.

Mr. SPECTER. I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2188

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself, Mr. LEAHY, and Mr. DENTON, proposes an amendment numbered 2188.

At the appropriate place in the bill add the following:

SEC. .

(A) This section may be cited as the "Terrist Prosecution Act of 1985"

(B)(1) Part I of title 18, United States Code, is amended by inserting after chapter 113 the following:

"CHAPTER 113A—TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD

"2331. Findings and purpose.

"2332. Terrorist acts against United States nationals abroad.

"SEC. 2331. FINDINGS AND PURPOSE.

"The Congress hereby finds that—

"(a) between 1968 and 1985, there were over eight thousand incidents of international terrorism, over 50 per centum of which were directed against American targets;

"(b) it is an accepted principle of international law that a country may prosecute crimes committed outside its boundaries that are directed against its own security or the operation of its governmental functions;

"(c) terrorist attacks on Americans abroad threaten a fundamental function of our Government: that of protecting its citizens;

"(d) such attacks also threaten the ability of the United States to implement and maintain an effective foreign policy;

"(e) terrorist attacks further interfere with interstate and foreign commerce, threatening business travel and tourism as well as trade relations; and

"(f) the purpose of this chapter is to provide for the prosecution and punishment of persons who, in furtherance of terrorist activities or because of the nationality of the victims, commit violent attacks upon Americans outside the United States or conspire outside of the United States to murder Americans within the United States.

"SEC. 2332. TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD.

"(a) Whoever outside the United States commits any murder as defined in section 1111(a) of this title or manslaughter as defined in section 1112(a) of this title, or attempts or conspires to commit murder, of a national of the United States shall upon conviction in the case of murder be punished as provided in section 1111, for manslaughter be punished as provided in section 1112, for attempted murder be imprisoned for not more than twenty years, and for conspiracy be punished as provided by section 1117 of this title, notwithstanding that

the offense occurred outside the United States.

"(b) Whoever outside the United States, with intent to cause serious bodily harm or significant loss of liberty, assaults, strikes, wounds, imprisons, or makes any other violent attack upon the person or liberty of any national of the United States or, if likely to endanger his person or liberty, makes violent attacks upon his business premises, private accommodations, or means of transport, or attempts to commit any of the foregoing, shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) Whoever, outside of the United States conspires to commit murder, as defined in section 1111(a) of this title, within the United States of any national of the United States, shall be punished as provided in section 1117 of this title notwithstanding that the offense occurred outside the United States.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(e) No indictment for this section can be returned without the written approval of the Attorney General or his designee.".

(2) The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113, the following:

"113A. Terrorist acts against United States nationals abroad..... 2331".

Mr. SPECTER. Mr. President, this amendment is identical to S. 1429, which was adopted by the U.S. Senate on February 19, 1986, by a unanimous vote of 92 to zero. It is an amendment which has an extensive legislative history on a series of amendments or perfecting amendments which the Senator has introduced over the course of the past 2 years.

This amendment would expand U.S. law by making it a crime for anyone in any country to assault any U.S. citizen as part of an act of terrorism. This legislation would also preclude defendants in such cases from challenging the manner in which they were brought before the court.

A similar bill was originally introduced as S. 3018 in the 98th Congress.[1] This broader version now deserves prompt enactment.

We need not wait for international agreements to be finalized before we begin to exert the full force of the law against the terrorist menace. There are steps we can take right now, unilaterally, to expand our ability to protect our own citizens abroad.

Significant security measures have already been implemented at U.S. embassies and installations, and the new Overseas Security Advisory Council recently announced by Secretary Shultz should enhance the safety of corporate personnel in threatened areas throughout the world.

But there remains a critical gap in our arsenal against terrorism: murder of U.S. citizens outside our borders, other than of specially designed Government officials and diplomats, is not a crime under U.S. law.

I was stunned to realize that those responsible for murdering over 260 U.S. marines while they slept in their barracks in Lebanon are not guilty of any U.S. crime for their murder. Nor are those terrorists who cold-bloodedly shot two U.S. citizens during the hijacking in Kuwait. Existing law punishes only those who assault our diplomats. Under my bill, when a U.S. marine is killed or wounded in a bomb attack, an investigation can be initiated and the culprits can be brought to this country and prosecuted.

This act will in no way contravene or conflict with either international or constitutional law. While criminal jurisdiction is customarily limited to the place where the crime occurred, it is well-established constitutional doctrine that Congress has the power to apply U.S. law extraterritorially if it so chooses. (See e.g., *United States* v. *Bowman*, 260 U.S. 94, 98 (1922)).

International law also recognizes broader criminal jurisdiction. If an alleged crime occurs in a foreign country, a nation may still exercise jurisdiction over the defendant if the crime has a potential adverse effect upon its security or the operation of its governmental functions. This basis for jurisdiction over crimes committed outside the United States has been applied by the Federal courts in contexts ranging from drug smuggling to perjury. Clearly, then, the exercise of U.S. criminal jurisdiction is also justified to prosecute the terrorist who assaults or murders American personnel abroad. Such attacks undoubtedly have an adverse effect upon the conduct of our Government's foreign affairs, and potentially threaten the security interest of the United States as well.

But making terrorist murder a U.S. crime alone will not protect Americans abroad. We must also demonstrate our seriousness by applying the law with fierce determination. In many cases, the terrorist murderer will be extradited or seized with the cooperation of the Government in whose jurisdiction he or she is found. Yet, if the terrorist is hiding in a country like Lebanon, where the Government, such as it is, is powerless to aid in his removal, or in Lybia, where the Government is unwilling, more forceful intervention may be necessary.

This bill provides, in accord with constitutional and international law, the necessary subject matter jurisdiction to prosecute those who attack U.S. personnel abroad. But to obtain personal jurisdiction over the culprit himself, the suspect must first be seized or arrested and brought to the United States to stand trial. Under current constitutional doctrine, both U.S. citizens and foreign nationals can be seized and brought to trial in the United States without violating due process of law. See, for example, *Frisbie* v. *Collins*, 342 U.S. 519, 522 (1952); *Ferr* v. *Illinois*, 119 U.S. 436 (1886).

It may surprise some to hear that such methods are an appropriate way to bring criminals to trial. If someone is charged or chargeable with an offense and is at liberty in some foreign country, it is an accepted principle of law to take that alleged criminal into custody if necessary and return him to the jurisdiction which has authority to try him. That prosecution and conviction is sustainable and is proper under the laws of the United States and under international law.

This principle has been in effect for almost 100 years, going back to 1886, in the landmark case of Kerr versus Illinois, where the State of Illinois kidnaped a defendant in Peru, a man being charged with a crime in Illinois, and brought him back to Illinois for trial, where he was convicted. The case went to the Supreme Court of the United States and the Supreme Court of the United States said it was appropriate to try that man in Illinois and to convict him notwithstanding the means which were used to bring him back to trial in that jurisdiction.

No country in the world, no country in the history of the development of law, has more rigorous concepts of the due process of law than the United States of America and the U.S. Supreme Court. That doctrine was upheld in an opinion written by Justice Hugo Black, well known for his concern about defendants' rights, in the case of Frisbie versus Collins, handed down by the Supreme Court of the United States in 1952 and upheld in later decisions.

In the Frisbie case, Justice Black stated:

> This court has never departed from the rule announced in *Kerr* v. *Illinois*, that the powers of a court to try a person for a crime is not impaired by the fact that he had been brought in the court's jurisdiction by reason of a forceable abduction.

I would suggest to Senators that in dealing with the crime of terrorism, we ought to find the terrorists when we have some reason to believe we know who they are. It requires an investigation. It requires pursuit. It may know who require extradition or, where extradition is not possible, it may require abduction to bring these vicious criminals to trial.

Resort to such tactics will not ordinarily be necessary. The nation where the offender is found may prosecute that person itself or that nation may extradite him or consent to a seizure by U.S. agents within its territory. In

[1] September 25, 1984.

the rare instance, however, where there exists in effect no government capable of arresting or prosecuting the offender—and I would suggest that that situation exists in a nation like Lebanon today where there is hardly a government capable of enforcing law and order—in that extreme situation or wherever the terrorists may be found in nations which flagrantly violate international law or harbor international terrorists, then the United States may be compelled to use forceful methods to bring a terrorist to justice. And I would suggest that on a balancing test, that is an appropriate course of conduct.

It is the kind of forceful, effective action that the United States must be in a position to employ where necessary to respond to terrorist attacks against our citizens abroad. The legislation will accomplish that result.

I shall proceed at this juncture to summarize the thrust of this amendment.

The thrust of this amendment would make it a violation of U.S. law for a terrorist to attack, maim, murder, or assault a U.S. citizen anywhere in the world. This amendment is based upon the established principles of international law, that the United States has a sufficient interest or nexus so that even if the act occurred outside the territorial jurisdiction of the United States, judicial jurisdiction would attach in the U.S. courts.

Strange as it may seem, Mr. President, the United States of America could not have proceeded against the terrorists who brutally murdered 240 U.S. marines in Beirut. Strange as it may seem, the United States could not have proceeded against the terrorists who murdered the U.S. citizens in the Vienna and Rome airports. This bill seeks to correct that deficiency and to authorize the prosecution of these terrorists by the courts of the United States.

Mr. President, there is a little-known decision by the Supreme Court of the United States, handed down exactly 100 years ago, in 1886, which sets forth a sound jurisdictional base for this approach. The case was Kerr against Illinois. It involved a situation where Kerr, charged with fraud, had fled to Peru. While he was in Peru, he was arrested by Illinois authorities. You might say that he was abducted or even a harsher categorization would have been kidnapped.

In any event, Kerr was brought back bodily from Peru to Illinois, where he was prosecuted and convicted.

Kerr then challenged his conviction in the Supreme Court of the United States and the conviction was upheld, the Court saying it was appropriate to prosecute Kerr in the courts of the United States of America regardless of how he was brought back for that prosecution.

Later, Peru acquiesced in the United States action but Peru did not do so at the time Kerr was taken into custody.

The Eichmann case is another illustration, where the State of Israel took Eichmann from Argentina without consent by the Argentine Government, without extradition proceedings, and tried and convicted him for heinous crimes and later executed him.

Mr. President, this approach has been the subject of extended hearings. Secretary of State Shultz has testified that under appropriate circumstances, it was his view that it would be appropriate for the United States to take terrorists into custody and bring them back to the United States for trial. Attorney General Meese has testified to a similar effect. Legal counsel Abraham Sofair of the Department of State has given similar testimony.

One illustration of the use of this kind of jurisdiction occurred when the hijackers of the *Achille Lauro* in the Egyptian airliner were intercepted by U.S. planes and forced down on Italian soil. At that time, there was a disagreement between United States and Italian authorities as to who would take custody of the hijackers. Unfortunately, the Italian authorities got custody.

Had that not been so, those hijackers might have been brought back to the United States for trial under provision 2334 of the omnibus crime control law which made it a crime for any person or group to hijack or take U.S. citizens hostages.

This provision I consider to be eminently sound. The matter of taking these terrorists into custody is a delicate matter, one which we will have to approach with care, caution, and discretion. But in a world where terrorism is such a major problem and the United States has utilized the kind of force which we did in response to Libyan terrorism, this is a much more moderated approach. This is an approach which focuses on individuals who are specifically identified for specific acts, where probable cause has been established, where a warrant of arrest has been issued, where grand jury indictments have been presented in accordance with established principles of law.

It may surprise some to know that at this very moment, there are outstanding indictments out of the U.S. Court for the District of Columbia against the terrorists who hijacked the TWA plane, these terrorists being subject to U.S. jurisdiction because of the 1984 enactment which deals with hostage taking.

Mr. President, I consider this to be a very significant step forward, acquiesced in by my colleagues when this bill received a 29-to-0 vote on February 19. I am joined in sponsorship of this bill by the distinguished Senator from Alabama [Mr. DENTON] and the distinguished Senator from Vermont [Mr. LEAHY].

Mr. DENTON. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Pennsylvania, Mr. SPECTER, which incorporates the substance of S. 1429, the Terrorist Prosecution Act, a bill to amend title 18, United States Code, to authorize prosecution of terrorists and others who attack U.S. nationals abroad, a bill which passed the Senate on February 19, 1986, by a vote of 92 to 0.

Mr. President, in reviewing the subject of international terrorism, the Judiciary Subcommittee on Security and Terrorism, which I chair, collected sufficient evidence, through hearings, to conclude that there is more to terrorism than just a series of unrelated violent events perpetrated by several unrelated groups.

There is, for example, a clear pattern of Soviet-supported and equipped insurgencies seeking to destabilize, by revolution, whole regions such as southern Africa, to politicize established religion, such as in Nicaragua and the Middle East, and to export violence against the democratic governments of neighboring states.

The trends are clear. Cooperation among terrorist groups is increasing. In some instances drug money finances the violence. The lethality of the action is becoming greater as more powerful and more sophisticated weapons are employed. There is increasing disregard for the innocent. More diplomats and world leaders are targets. More innocent civilians are made into pawns. U.S. interests are the No. 1 target.

The pattern that emerges from studying the testimony obtained in more than 60 hearings before the Subcommittee on Security and Terrorism, and more recently in joint hearings with the Judiciary Committee and the Foreign Relations Committee, is that terrorism is the most widely practiced form of modern warfare. It is both a major force and a major trend in foreign affairs.

How successful have we been in dealing with terrorist warfare against our commerce, soldiers, diplomats, facilities, leaders, and private citizens? Not very. We in Congress sometimes adopt self-defeating, even contradictory, measures that often put us at odds with our friends and allies. Most people are outraged at the violence of terrorism as depicted by the daily news, but that rage is short lived.

We have come to a point that requires that we establish both a foreign and domestic policy for dealing with the obvious threat.

U.S. policy on terrorism is fragmented and only partially developed. I believe that it is essential that we determine the degree of the threat to our

interests, set our goals and objectives, and then develop a policy and commitments. From there, we must explain our policy so that we can build a consensus that will enable us to persevere and to succeed over the long haul.

Terrorism must be dealt with on many fronts and a military response alone will not suffice. First, we must have laws that are sufficient to meet the threat. We must have a mechanism capable of enforcing these laws. We must pursue diplomatic initiatives and our allies must stand firm with us on this issue. We must in the end be prepared to employ a full range of sanctions: legal, diplomatic, economic, and military.

This amendment, which incorporates the substance of S. 1429, will allow for prosecution in the United States of individuals who commit terrorist murders against U.S. nationals abroad. I believe that S. 1429, with the amendments suggested by Senator LEAHY and myself, represents a step forward in our ongoing fight against terrorism.

I urge my colleagues to support the amendment.

THE TERRORIST PROSECUTION ACT OF 1985

Mr. LEAHY. Mr. President, I am very pleased to be an original cosponsor of this important amendment. I want to commend Senator SPECTER for his initiative, and Senator DENTON, chairman of the Subcommittee on Security and Terrorism of which I am the ranking member, who worked closely with me on the final draft of this legislation which passed the Senate 92 to 0 on February 19, 1986.

The recent wave of terrorist attacks against Americans overseas has given new urgency to the debate over the proper U.S. response to international terrorism.

The United States needs a comprehensive counterterrorism policy. The cornerstone of that policy must be high-level, sustained diplomatic efforts which address the underlying causes of terrorism.

Part of that policy must be to improve our intelligence, so the discriminate use of force against terrorists who have committed or are about to commit violent acts becomes feasible and legitimate.

And, as this amendment demonstrates, our policy must include laws which provide for the criminal prosecution in the United States of terrorists over whom we can obtain jurisdiction through extradition and other means.

Remarkably, under current law, the murder of U.S. citizens outside our borders, other than of certain Government officials and diplomats, is not a crime.

The Terrorist Prosecution Act will close this serious gap in our arsenal against terrorists, by providing for long jail sentences for individuals who commit or conspire to commit terrorist assaults, murders or kidnapings against Americans abroad.

I am proud to have worked with Chairman DENTON and Senator SPECTER on this amendment which received the strong support of the State and Justice Departments and all members of the Judiciary Committee.

Terrorism will continue to plague us into the future. There are no simple solutions, but we should have every weapon at our disposal. The Terrorism Prosecution Act passed the Senate unanimously earlier this year, and I am confident that it will receive the same overwhelming support today.

Mr. SPECTER. Mr. President, I yield to the distinguished chairman of the Committee on Foreign Relations for his comments.

□ 1550

Mr. LUGAR. I thank the Senator.

Mr. President, the amendment offered by the distinguished Senator from Pennsylvania, as he has pointed out, came before this body in the form of legislation and received a 92 to 0 vote. That affirmation, I think, remains equally as strong presently, perhaps stronger, as we have come to realize the wisdom of the reasoning of the Senator from Pennsylvania and the piece of legislation that he introduced. It is certainly our pleasure to accept the amendment on our side and commend the Senator.

Mr. PELL. Mr. President, I would like to address the further question if I could to the Senator from Pennsylvania, and that is my recollection is several years ago there was a Chilean national in our country, Letelier, who was killed, assassinated by another Chilean terrorist on our own territory. As I understand this provision, it would mean that if the Chileans had the same law the assassin of Letelier could be tried under Chilean law just as we were able to try him under our law, if my recollection is correct. Is that correct?

Mr. SPECTER. I believe that if Chile has a law applicable within its own territorial jurisdiction, as a matter of international precedents they could assert jurisdiction over the Chilean who committed an offense in the United States against another Chilean, if they could gain custody of that individual, take him to Chile and prosecute him in Chile, entirely consistent with the principles of international law.

Mr. PELL. Following up the thought of taking custody, does that mean they would have to legally take custody, I mean extradite or would it be a question of kidnaping him like the fellow they took to Israel?

Mr. SPECTER. When you ask the question whether they have to legally take custody, that is like the rabbit in the hat. It is legal if the court says it is legal, and the courts have said it is legal regardless of how they gain physical possession of the individual. And that has a very solid legal precedent on moral and philosophical jurisprudential grounds because that individual is then afforded all the procedural protection as Kerr was in the State of Illinois, the right to confront his accusers, under the U.S. law a right to trial by jury, due process of law in the fullest sense of the word.

Now, I do not know what the law of Chile is, but Chile as a nation has the right to establish its own judicial system as it sees fit. The issue of how the defendant gets before the court in the United States is one which the Supreme Court has said is not germane or not determinative and once he is tried and convicted, the individual cannot complain about how he got before the court. But as a matter of basic justice, if we can put our hands on the hijackers of the *Achille Lauro*, who went to Italy and were let go and it was later decided they should have been prosecuted, if we could find any of these terrorists around the world where we are not constrained as in the circumstances of the Libyan raid to use the kind of force we did, how much wiser it would be to have a more moderate approach to find that specific individual.

When I was district attorney in Philadelphia—and a good many of these ideas come from the experience I had as the district attorney of a city and county—we frequently had people who barricaded themselves within buildings and we had to use force to take them into custody. Was it abduction? Was it forceful? Was it pretty tough? You bet it was. But a lot less tough than a bombing raid. And once you get that person into custody, you try him. You have evidence and you have witnesses and he gets plenty of justice through due process of law.

Mr. EAGLETON. Will the Senator yield for a question on the same point that Senator PELL raised?

Mr. SPECTER. I will.

Mr. EAGLETON. Does the Senator mind if I propounded a question to the Senator from Pennsylvania?

Mr. PELL. I do not.

Mr. EAGLETON. I heard the Senator's answer to Senator PELL but I do not know that that is directly responsive. I think what Senator PELL has in mind and what I now have in mind is if we have, under Kerr v. Illinois, the right to go into any country in the world and kidnap an individual there who has been duly indicted in an American court and to put our mitts on him by whatever means we decide to do it, bounty hunters, U.S. marshals, with or without the cloak of the law, whoever it may be—that is what Kerr v. Illinois seems to say and that is how we got into Peru—then other

countries can get into this same act and under a same kind of theory can come over here and do a little kidnaping of individuals to whisk them back to Chile.

Paraguay seems to like this a little bit. Iran might like this kind of business extraordinarily. Iraq would do a very good job at it. Syria would be no slouch at it. So my question is when you are devising a strong-arm law that gives global strong-arm powers to put the snatch on people, do not others then have the right to structure their laws if they so desire to play the same strong-arm game and to play it on the U.S. ball field?

Mr. SPECTER. I think the distinguished Senator from Missouri is raising a real issue, a real problem, a real concern. But I would say that that is a risk which is worth taking. At the present time, the strong-arm tactics are all on the side of the terrorists. They are not coming to the United States and taking U.S. citizens into custody, but they are taking Mr. Klinghoffer into custody on the *Achille Lauro* and they are brutally murdering him or they are finding U.S. citizens in the Roman airport and they are brutally murdering them there.

It is not determinative whether a U.S. citizen may be in the United States, in Pennsylvania or Missouri, or may be traveling abroad and is victimized by a terrorist there. We have to take a stand. Now, we have a pretty good defense in the United States if people come here and try to kidnap our citizens but it is not perfect. Within a few feet from where we are standing a bomb went off on November 7, 1983. It was a Monday night. It blew a big hole in the Republican cloakroom windows at that time. So we are subject to problems in this country. But it is similar, I say to the Senator from Missouri, to problems which he and I faced as prosecuting attorneys. I am sure the Senator had the experience many times of victims of crimes who did not want to prosecute because they were afraid that the defendants on bail would seek retribution and their families would be victimized. So that frequently when you seek to enforce the law and take tough actions against criminals, you face the possibility of reprisal.

But what I think we have to do is make a decision about what is appropriate treatment and what risks we are willing to take. I believe that if we could lay our hands on the terrorists who murdered Mr. Klinghoffer or if we could lay our hands on the terrorists who hijacked the TWA plane, we ought to take the chance.

Mr. EAGLETON. A brief rejoinder. I expect my colleague from Rhode Island would permit me to interrupt. I know we are all caught up in this business of terrorism, as we should be—horrible, dirty, filthy, atrocious business. Kerr versus Illinois did not relate to terrorism. It is a 19th century Supreme Court case; is it not?

Mr. SPECTER. That is correct.

Mr. EAGLETON. The person who fled, the fleeing fellow was not a terrorist? What was he?

Mr. SPECTER. Charged with fraud.

Mr. EAGLETON. Fraud. That could be a bum check. Anything on up.

□ 1600

So, if we are going to enunciate this doctrine as an American doctrine, we should be on notice—the people of Philadelphia should be on notice—that other nations could come in and send body snatchers into Philadelphia, into St. Louis, into Providence, RI, and grab people indicted for fraud; writing a bum check over $50—say, $51 in Missouri. It may have been upped to $100, so let us make it a $101 check. Say there is a $101 bum check from Iran on the bank of the shah; a $101 bum check on the Bank of Iraq; a $101 bum check on the Bank of Syria. They are indicted over there. They can come in and grab people out of restaurants, hotels, homes, whatever, in Philadelphia, whisk them back to those countries; and under the doctrine of the Senator from Pennsylvania, that would be legally permissible. That worries me.

Mr. SPECTER. The hypotheticals suggested by the distinguished Senator from Missouri, I would say, are not realistic, but the thrust of what he raises as his concern is, I think; and that is that if you are going to get tough with terrorists, you may be subject to reprisals. But I think that is something we have to be willing to risk, if we are going to be tough with terrorists.

I do not think they are going to come into cities in the United States and kidnap American citizens for bad checks.

Let me add to the distinguished Senator from Missouri the fact that the Kerr decision, an 1886 decision, does not stand by itself. It has been repeatedly upheld, as a matter of legal principle, by the courts in the United States; in a decision in 1950 written by Justice Hugo Black, one of the most noted civil libertarians in the history of the Supreme Court of the United States; and upheld in later decisions by the court of appeals. This approach articulated in the Kerr case is sound.

There is nothing to stop somebody from kidnaping an American citizen in the United States today and taking him to a foreign country, for fraud. That is something which could happen at any time. But I do grant that when we take strong action against terrorists, however we do it, we are going to be subject to risk of retaliation.

It is very much like the victim who testifies in a rape case, the victim who testifies in an assault case. If you want to bring those defendants to justice and be strong and tough it, they may seek to retaliate. But if we are going to have an orderly society, with law and order and justice, that is a risk we have to take.

Mr. PELL. Mr. President, I think there has been much benefit from this exchange, and we are being educated—I am, in any case. I know of no objection to this amendment on this side of the aisle, and I suggest that we vote for it.

The PRESIDING OFFICER (Mr. EVANS.) Is there further discussion? If not, the question is on agreeing to the amendment.

The amendment (No. 2188) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS and Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SPECTER. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. EAGLETON. Mr. President, may I make an inquiry of the Chair?

Is there still an informal rule that used to be in existence that there be alternating between Republicans and Democrats? I have been sitting here for a good part of an hour. There used to be, in the old days of comity, an unwritten rule that it went from one side of the aisle to the other. Has that been done away with?

The PRESIDING OFFICER. There is no such rule. The rule of the Senate is that the first Senator seeking recognition and recognized by the Chair is the one to be recognized. Of course, a tie may occur. Unfortunately, this Senator just assumed the Chair, and this is my first recognition.

Mr. HELMS. Mr. President, I will be delighted to defer to the Senator from Missouri. He and I have been waiting. I have three amendments which I understand will be accepted.

Mr. President, I defer to the Senator from Missouri, with the understanding that I will follow him.

Mr. EAGLETON. If the amendments will be accepted and can be handled quickly, I will wait.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had intended to offer an amendment at this time to transfer $10 million from funds available to the United Nations Department of Public Information to fund a coordinated, carefully targeted Interagency Program of Counterterrorism Research and Development.

The Technical Support Group of the Interdepartmental Group on Terrorism, formed at the recommendation of the Inman Commission, has identified major deficiencies in development funding for new techniques to identify and counter potential terrorist attacks. Accordingly, the administration requested an urgent appropriation of $10 million to fund priority programs.

Because of the wide diversity of terrorist threats, as well as the traditional differences in the missions of various Federal agencies, there are significant gaps in technological programs which no individual agency now has responsibility for addressing.

For example, the Federal Aviation Administration is currently developing an explosive detection device for airport use to combat contemporary bombs that defy traditional airport x ray machines, such as that likely used in the recent TWA flight 840 tragedy in which four Americans lost their lives. With some modification, this same technology could be adapted for use in Federal buildings such as the White House, Capitol, State Department, Embassies, et cetera. Yet, FAA's responsibility is airport security, and no agency is charged with taking a broader perspective on interagency needs, so that this potentially life-saving explosive detection device is not being developed for other uses.

I recently wrote to Secretary of State George Schultz urging him to evaluate this technology and its potential application to Embassy security because it is my understanding this kind of advanced technology is not currently being pursued at the State Department, or any other agency outside FAA.

Funding of the counterterrorism research and development plan proposed in this amendment will provide for a focused and coordinated interagency effort to fill these kinds of gaps in combating terrorism.

The funds will be utilized by various agencies according to agreed interagency research priorities for advanced technology applicable to countering terrorism and I understand that $400,000 of the $10 million would go to fund development of a technical plan to meet interagency needs for explosive detection using demonstrated thermal neutron activation technology.

It is extremely important that we develop the ability to anticipate potential terrorist tactics and develop suitable countermeasures before serious incidents occur. The scientific and technical know-how exists, but we lack a funded interagency structure to coordinate these activities and assure that all major technological areas are being addressed. Without this central coordination, there is no certainty that technological evolutions in the terrorist threat will be adequately addressed, or that research areas currently being neglected will be identified and pursued.

I would have proposed that the offset for these urgently needed funds come from the United Nations Department of Public Information. A recent General Accounting Office report that I requested indicates that about half of the media pieces put out by the United Nations Department of Public Information [UNDPI] on topics designated by the Department of State to be important to U.S. interests took positions contrary to U.S. policies and contained biases against the United States. Only one of the items produced during 1983-85 which GAO studied supported our interersts. On May 2, 1986, I wrote Secretary Schultz urging him to withhold U.S. funding for UNDPI until the materials it produces and distributes are less biased against America.

Clearly, our national interests are better served by a coordinated counterterrorism R&D effort than by subsidizing anti-American publications.

International terrorist violence has been largely limited to Europe and the Middle East, but the threat of terrorism within the United States grows more serious each day.

Members of this body in 1984 will not soon forget the explosion that ripped through the wall of the Senate Republican Cloakroom in the Capitol late one evening. The Senate had been scheduled to meet late that night, but had unexpectedly adjourned early. As a result, no one was in the Cloakroom at the time of the explosion, but the near-miss provided dramatic evidence of the reality of the threat even in the U.S. Capitol and the need for more effective security.

I ask unanimous consent that copies of my letters to Secretary Shultz on the explosive detection technology (May 8, 1986) and on the UNDPI—May 2, 1986—be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 2, 1986.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, DC.

DEAR GEORGE: I am writing to urge the withholding of United States funding for the United Nations Department of Public Information (DPI) until the materials it produces and distributes more significantly represents American interests.

A recent General Accounting Office Report that I requested, entitled "United Nations: Analysis of Selected Media Products Shows Half Oppose Key U.S. Interests," has provided important evidence that our positions are being ignored in DPI's literature and productions. DPI is the principal U.N. body engaged in public information activities and is responsible for producing and distributing a variety of media around the world.

The Report indicates that about half of the DPI materials analyzed on areas identified by the Department of State as being important to U.S. interests opposed our interests because they took political positions contrary to U.S. policies and/or contained elements of bias against the United States. The Report also concludes that only one of the items the study used supported U.S. interests.

Given that the United States' contribution to DPI is roughly 25% of its budget, it is critical that our national interests be served by this investment. The GAO study has clearly shown that our interests are not being furthered by DPI and I strongly urge that all U.S. funding for this program be withheld until DPI produces unbiased and fair materials that do not undercut our vital interests.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, May 8, 1986.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, DC.

DEAR GEORGE: I am concerned that advanced technologies capable of comprehensive explosive detection are not being included in the State Department's Embassy Security program. I strongly urge you to investigate Thermal Neutron Activation (TNA) explosive detectors and incorporate them into this program.

As the Inman Commission concluded, security at many of our embassies overseas is very much in doubt, especially in high-risk areas of the Middle East, Europe and Africa. While the Federal Aviation Administration has made important advances in this field, the State Department currently has no in-house development program underway to study TNA technology for inclusion in a comprehensive system of embassy security.

In January of this year, I was able to view a TNA detector which has been demonstrated to be effective in detecting the presence of all known types of explosives in luggage at four major U.S airports. I understand from the Westinghouse Corporation, one of the companies presently engaged in TNA research, that this technology can be modified for embassy or car bomb detection and will serve as an effective deterrent against today's sophisticated terrorists.

I also understand from Westinghouse that the Physical Security Division of the State Department is aware of the capabilities of TNA in identifying explosive compounds, but there has been no effort to utilize this technology.

I strongly urge you to evaluate TNA and implement this potentially life-saving system into the State Department's plan to enhance embassy security.

My best.

Sincerely,

ARLEN SPECTER.

Mr. RUDMAN. Mr. President, I appreciate knowing of the Senator's interest in this issue. I will certainly keep his views in mind when we are in conference with the House of Representatives. As the committee stated in its report accompanying the urgent supplemental appropriations bill, we were concerned that much of this work is already being done in other parts of the Government. However, the Senator has made a good point

about the need for interagency cooperation in the area of counterterrorism research and development. While I am not in a position to agree to a figure at this time, I fully expect funding will be made available for at least a portion of this request in 1986. At the same time, I understand his interest in pursuing research and development of explosive detection using demonstrated thermal neutron activation technology and I expect the interagency task force will give every consideration to a research proposal in this area.

Mr. SPECTER. I thank the Senator from New Hampshire for indicating his support for funding of a program for interagency counterterrorism research and development and his expectation that at least a portion of the $10 million can be included in the urgent supplemental for fiscal year 1986. Moreover, I appreciate his positive statement about pursuit of demonstrated thermal neutron activation technology for interagency explosive detection needs. In light of these remarks, I am withholding this amendment.

Mr. President, this matter has been discussed between the staffs, and my only request of the distinguished chairman of the Foreign Relations Committee would be to consider this matter in conference, with the request of this Senator that the Senator might accede to the higher figure. It is important for this research and development. But I shall not press the amendment at this time. I seek only to ask for that consideration by the distinguished chairman.

Mr. LUGAR. Mr. President, I thank the Senator for his consideration. We are sensitive to the argument being made and will give it every consideration.

Mr. SPECTER. I thank the Senator from North Carolina for yielding.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EXON. Mr. President, will the Senator from North Carolina yield for a question?

Mr. HELMS. I yield.

Mr. EXON. Mr. President, I do not want to interrupt the flow of Senate activity.

This Senator was advised that at 4 o'clock this afternoon, no later than 4, we would be going about the business of setting aside the bill before us so that the Senate would have an opportunity to work its will on the urgent supplemental appropriation.

I have talked to the majority leader and the chairman of the Appropriations Committee about this. The supplement appropriations is a tremendously important bill, and in my opinion we must get it passed this evening sometime.

Important as the measure is before us, I am wondering if there is any information that could be imparted to this Senator as to when we will take up the urgent supplemental appropriation. Does the Chair have any knowledge of that?

The PRESIDING OFFICER. There is no agreement to take up the urgent supplemental appropriation at 4 o'clock. The Chair has no knowledge as to precisely when that will be taken up.

Mr. LUGAR. Mr. President, if the Senator will yield, I should like to assist the Chair by saying that we have had great cooperation from the majority leader and the minority leader, and we are not going to abuse that.

It appears that there are three amendments by the Senator from North Carolina which will be agreed to. The minority leader will have amendments, and I suspect that we will accommodate those rapidly. To my knowledge, that will end the amending process, and we can move to final passage. I am pleasantly surprised by events at this point.

Mr. EXON. I thank the Senator.

AMENDMENT NO. 2189

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2189.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) ESTABLISHMENT UNDER INSPECTOR GENERAL ACT.—(1) Section 2(1) of the Inspector General Act of 1978 is amended by inserting "the United States Information Agency," immediately before "the Veterans' Administration".

(2) Section 11 of such act is amended—

(A) in paragraph (1) by inserting "or the Director of the United States Information Agency" immediately before "as the case may be;" and

(B) in paragraph (2) by inserting "the United States Information Agency" immediately before "or the Veterans' Administration".

(b) Of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1987, not less than $5 million shall be available only for the operation of the office of the Inspector General established by subsection (a) of this section.

Mr. HELMS. Mr. President, I will be brief. All three amendments that I shall offer have been cleared on both sides, I understand.

Last year, the Senate approved a measure creating an independent inspector general at the U.S. Information Agency under, of course, the Inspector General Act of 1978.

The USIA has been plagued with numerous difficulties, which I do not think need repetition here today. These difficulties have hampered American efforts to sell American foreign policy overseas. Some have argued that the Agency has become excessively politicized, but I would like to reiterate the Senate decision of last year by offering this amendment, to try once again to solve a problem that the Senate already identified at USIA.

The amendment earmarks a small amount of funds for fiscal year 1987 for startup costs for the new office. It is quite small in comparison with the total Agency's budget.

I emphasize that it is earmarking and not an additional expense. But it will provide a large return if it succeeds in identifying management problem at USIA. After all USIA and State are the only major agencies which do not have an independent IG. State has a mandate under law, but USIA does not even have a mandate. This amendment will correct this oversight.

Mr. LUGAR. Mr. President, the amendment does indeed affirm Senate policy. On our side, we are prepared to accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LUGAR. I understand that the other side of the aisle is prepared to accept the amendment, so there is no further debate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2189) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 1610

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

AMENDMENT NO. 2190, AS MODIFIED

(Purpose: To provide for an independent Inspector General for the Department of State)

Mr. HELMS. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 2190.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, after line 3, add the following new section:

SEC. 702. INDEPENDENT INSPECTOR GENERAL FOR THE DEPARTMENT OF STATE.

(a) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated for the Department of State for the fiscal years 1986 and 1987, 2,000,000 for the fiscal year 1986 and 12,000,000 for the fiscal year 1987 shall be available only for the operations and activities of the Inspector General for the Department of State, appointed by the President under section 3 of the Inspector General Act of 1978, to conduct those activities specified in section 209(g) of the Foreign Service Act of 1980, as such section was in effect before the date of enactment of this Act.

(b) ABOLITION OF PROGRAM INSPECTOR GENERAL.—(1) Section 209 of the Foreign Service Act of 1980 and section 150(b) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, are repealed.

(2) Not later than 30 days after the date of enactment of this Act, the Secretary of State shall reassign the personnel and dispose of the property, records, and unexpended balances of appropriations which were used by or available for use by the office of the Program Inspector General before the date of enactment of this Act.

(c) PROHIBITION ON USE OF FOREIGN SERVICE MEMBERS.—(1) No member of the Foreign Service, as defined by section 103 of the Foreign Service Act of 1980, shall be appointed Inspector General for the Department of State.

(2) No career member of the Foreign Service may participate in the recruitment, selection, or recommendation of any individual to be appointed by the President as Inspector General for the Department of State.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Independent Inspector General for the Department of State.

Mr. HELMS. Mr. President, Congress mandated an independent—and I underscore the word "independent"—inspector general at the State Department last year despite objections from the Career Foreign Service who believe that nothing should ever be publicly known about certain activities.

Now, the fact is—and I regret to say it—that the State Department has dragged its feet for the past year and has declined to carry out the law. They are trying very hard to cripple the independent inspector general office which they have yet to establish after a year by limiting it to audits, and that certainly was not the congressional intent.

The GAO has reported time and time again showing the urgent need for an independent inspector general. I do not believe we should allow the State Department to go forward with this massive budget expansion for embassy security without protecting the taxpayer by getting in place the inspector general office that we mandated last year.

Mr. LUGAR. Mr. President, I wish to pose a question to the distinguished Senator from North Carolina.

It is my understanding that the amendment now has deleted three words in the language of lines 14, 15, and 16, and all of line 17.

Mr. HELMS. I would be ready to accept that, I say to my friend.

Mr. LUGAR. Mr. President, we are prepared to accept the amendment.

Mr. PELL. Mr. President, on this side, too, we accept the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. HELMS. Mr. President, I have agreed with the managers of the bill to remove a legislative prohibition from the amendment against the assignment of Foreign Service personnel to the IG office at the State Department. I have done so because it is in fact redundant. The independent IG at the State Department must be, under the IG Act of 1978, in complete control of the personnel in his office including their hiring, continued employment, and promotion. If those who are the subject to the audit and evaluation activities of the inspector general are in any way in charge of the hiring, firing, promotion, or any other supervisory authority over the personnel in the inspector general's office, it undermines the intention of Congress and the independence of the office under the 1978 act.

Nothing would prevent a member of the Foreign Service from serving in the office of the inspector general should that member be hired by the IG as an independent decision. That would require the IG to offer permanent employment in his office to that member of the Service.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment.

Without objection, the amendment (No. 2190) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2191, AS MODIFIED

(Purpose: To prohibit the use of funds for facilities in Israel, Jerusalem, or the West Bank, and for other purposes)

Mr. HELMS. Mr. President, I send a third amendment to the desk and ask that it be stated. This amendment is cosponsored by the distinguished Senator from Nevada [Mr. HECHT], the distinguished Senator from Florida [Mrs. HAWKINS], and the distinguished Senator from Minnesota [Mr. BOSCHWITZ].

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, Mr. HECHT, Mrs. HAWKINS, and Mr. BOSCHWITZ, proposed an amendment numbered 2191.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, after line 3, add the following new section:

SEC. 702. PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this Act may be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank, except that $83,423,000 shall be available for site acquisition, development, or construction in Israel of a chancery and residence within five miles of the Israeli Knesset building and within the boundaries of Israel as they existed before June 1, 1967. *"Provided*, That nothing in this section shall require the construction of any facility if the Secretary of State determines and reports to the Congress that the physical security of personnel to be employed at that facility cannot be adequately guaranteed."

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Prohibition on the use of funds for facilities in Israel, Jerusalem, or the West Bank.".

Mr. HELMS. Mr. President, a brief background on this amendment and then we can put it to a vote.

As I stated earlier, I believe it has been agreed to, including the modification, by both sides.

The background is that the Diplomatic Security and Anti-Terrorism Act of 1986, which is H.R. 4151, includes a line item authorization of $857,800,000 for "acquisition and maintenance of buildings abroad" at 75 posts.

The State Department presentation to the Foreign Relations Committee proposes to spend $83,423,000 for the acquisition, development, and construction of a new U.S. Embassy complex in Tel Aviv and $41,083,000 for a new West Bank consulate in Jerusalem. The West Bank consulate is an independent representational office which, of course, reports directly to the Secretary of State and not to the U.S. Ambassador to Israel.

Mr. President, the construction of a new Embassy in Tel Aviv is an affirmative act which assumes that there will never be an outcome to the Middle East peace negotiations which acknowledges Jerusalem as the capital of Israel. Yet for historic, political, and religious reasons, it is inconceivable, at least for this Senator, that Israel would ever remove the key functions of its Government from Jerusalem. Nevertheless, once $142.5 million have been spent on new U.S. diplomatic buildings to set the status quo in concrete, it is no longer credible that the United States might one day recognize Jerusalem as the Israeli capital.

By building these complexes, we are saying to Israel that we can conceive

of no outcome to the peace negotiations which would allow us to have our Embassy in Jerusalem. I do not think we want to say this, Mr. President. By constructing the new buildings, the United States will change the status quo, and put the United States firmly on the side of those who do not recognize the right of Israel to exist, and who will not accept U.N. Resolution 242.

But unless Congress acts now, the State Department will proceed with site acquisition in Tel Aviv in October. H.R. 4152 gives the State Department the authority to proceed.

Previously, representatives of the State Department have always held that any change in the status quo would prejudge the outcome of negotiations. Thus the consulate in what was formerly East Jerusalem under Jordanian occupation was to be maintained as a separate entity to demonstrate that the United States was neutral as to the outcome of peace negotiations. Similarly, it was held that to move the Embassy to Jerusalem would be recognition of Israel's proclamation of Jerusalem as the capital of Israel, and would prejudge the future status of Jerusalem. But by acquiring new sites for the West Bank consulate in Jerusalem and the Embassy in Tel Aviv, the State Department upsets the fiction that the present locations are contingent upon the outcome of peace negotiations. By changing contingency to permanency, the whole character of the status quo is changed.

My amendment is carefully drawn to overcome previous objections. It provides the following:

First, it prohibits construction of a new West Bank consulate, since such construction would change the status quo, and would be redundant when a new Embassy is built in Jerusalem.

Second, it prohibits construction of a new Embassy in Tel Aviv, for the same reasons.

Third, it makes available $83,423,000 for the construction of a new Embassy complex, provided the site meets the following criteria: first, it is 5 miles from the Knesset building, and second, it is within the boundaries of Israel as they existed before June 1, 1967.

By adopting this formula, the amendment avoids mandating that the Embassy actually be in Jerusalem, and it avoids situating the Embassy in any site that would recognize the territorial changes that resulted from the 1967 war. The Knesset building itself is in a new part of the city, and well within the pre-1967 line. Thus only those who deny the right of Israel to exist could object to the United States action.

In the past, Mr. President, it was argued that the congressional proposals on moving the Embassy to Tel Aviv would trespass upon the constitutional prerogative of the President to conduct foreign policy and that the move itself would adversely affect the security of our other Embassies in the Middle East. Neither of these objections pertain to this amendment now pending.

The administration itself has raised the issue and sent it to Congress for action.

Moreover, my amendment is not mandatory. It merely restricts construction in Israel to the appropriate site if the administration chooses to act.

Finally, the security objection itself cannot be sustained in view of the fact that this bill itself is intended to raise security at all of our Embassies at a level sufficient to withstand terrorism.

Mr. President, I ask unanimous consent that the State Department program submission for Jerusalem and Tel Aviv be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD (REGULAR)

1986 SECURITY SUPPLEMENTAL ESTIMATES—1987 CAPITAL PROJECT SUMMARY/OUTYEAR COSTS

Project: New Chancery Compound.
Location: Israel, Tel Aviv.
Funds: Total, $83,423,000.
Post Profile: Chancery/Annex Occupancy.

	Americans		Foreign nationals		Total	
	Present	Projected	Present	Projected	Present	Projected
State	85	89	120	126	205	215
Other USG	25	28	52	56	77	84
Total USG	110	117	172	182	282	299

PROJECT AREAS

	Gross square feet	Net usable
Existing facilities	81,000	58,000
Proposed facilities	120,000	78,000
Difference	39,000	20,000

Narrative Description: The Embassy in Tel Aviv is faced with continued substantial security threats. The present Chancery is located in the center of the congested commercial district of the city with no security set-back from the surrounding streets. The building is now extremely vulnerable to terrorist or mob violence.

The Chancery does not have adequate space for requirements of all the U.S. agencies now in Israel. To adequately consolidate all U.S. Government offices into one Chancery compound to meet space program demands and security and structural designs objectives, it will be necessary to acquire an alternate site in Tel Aviv of 10-acres for construction of a 120,000 square foot office building compound. The new building will include space for additional staff, Marine Guard Residence (11,000 sq. ft.) and the personnel currently housed in leased properties.

[In thousands of dollars]

Activity	Date	Funds provided to date (fiscal year 1986)	Estimated obligations					Total funds required
			Fiscal year 1987	Fiscal year 1988	Fiscal year 1989	Fiscal year 1990	Fiscal year 1991	
Projects:								
Site acquisition	October 1986		15,218					15,218
Development			1,753					1,753
Construction				37,895				37,895
Special construction				8,073				8,073
1 time costs:								
Supervision				5,030	5,200	2,347		12,577
Commo and SY equipment					4,272			4,272
Furniture and furnishings					3,635			3,635
Total project costs			16,971	50,998	13,107	2,347		83,423

Project: Consulate Office Building.
Location: Jerusalem.
Funds: Total, $41,083,000.
Post Profile: Chancery/Annex Occupancy.

	Americans		Foreign nationals		Total	
	Present	Projected	Present	Projected	Present	Projected
State	19	19	40	40	59	59
Other USG	8	7	4	5	12	12
Total USG	27	26	44	45	71	71

PROJECT AREA

	Gross square feet	Net usable
Existing facilities	20,000	13,000
Proposed facilities	33,000	22,000
Difference	13,000	9,000

Narrative Description: The Consulate General in Jerusalem is faced with continued substantial security threats. The Consulate General is in two compounds, West Jerusalem and East Jerusalem. None of the Consulate buildings meets current security standards primarily due to the total lack of setback from streets.

To consolidate all Government offices into one compound to meet security and structural design objectives, it will be necessary to acquire a new site of 5 acres and construction of a 33,500 square foot building. The projected space requirements includes a Marine Guard Residence and USIA offices presently located in leased properties.

[In thousands of dollars]

Activity	Date	Funds provided to date (fiscal year 1986)	Estimated obligations	Fiscal year				Total funds required
				1987	1988	1989	1990	
Projects:								
Site acquisition			$10,000					10,000
Development			920					920
Construction				17,839				17,839
Special construction				2,104				2,104
One time costs:								
Supervision				2,125	2,130	1,061		5,316
Commo and SY equipment					3,849			3,849
Furniture and furnishings					1,055			1,055
Total, project costs			10,920	22,068	7,034	1,061		41,083

Mr. LUGAR. Mr. President, I would like to address a question to the distinguished Senator from North Carolina. In the amendment as he presented it to us and I think indicated it was modified were the words "providing nothing in this section shall require the construction of any facility unless the Secretary of State determines and reports to the Congress physical security of personnel employed at the facility cannot be adequately guaranteed."

Mr. HELMS. I say to the Senator he is absolutely correct, I would accept that modification.

Mr. LUGAR. I thank the Senator, and we are prepared to accept the amendment.

Mr. PELL. Mr. President, this side of the aisle has no objection. We are glad to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HELMS. Mr. President, in interest of time again, just for the record, I ask unanimous consent to be able to extend my remarks in connection with this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, this modification makes no change in my amendment. My amendment does not require the construction of any new facility anywhere. It merely prohibits the construction of an embassy in Tel Aviv. It makes funds available to construct an embassy near the Knesset building if the State Department wishes to.

I presume, Mr. President, that the State Department would not build any embassy or consulate in which our diplomats would be unsafe. I doubt that it is the intention of the distinguished chairman to suggest that a new embassy near the Knesset, built with modern antiterrorist construction, would be less secure than our old Embassy in Tel Aviv, situated as it is in an ordinary office building on a busy street.

It should be noted that the State Department did contemplate spending $41 million on a new West Bank consulate complex in Jerusalem. If a 41-million-dollar building in Jerusalem would be safe, then certainly an 83-million-dollar building would be safe. It would be very extraordinary indeed if the Secretary of State gratuitously declared that it would be unsafe to build a facility in Jerusalem after having submitted plans to build a smaller facility there. It would be very cynical indeed to try to pretend that we could not protect our diplomats in Jerusalem.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 2191) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HELMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, let me extend my gratitude to the managers of the bill for their excellent cooperation.

Mr. LUGAR. I thank the Senator.

Mr. HELMS. I thank them very much.

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. EAGLETON. Mr. President, I have been in the Senate now for close to 18 years and today has been one of the strangest of those 18 years.

Whether anyone knows it or not, we are in the midst of a filibuster, Mr. President.

A filibuster is where a Senator or group of Senators get up and speak at an unusual length on a given issue, talking on and on and on, and those who think they have talked too long file a thing called cloture to cut off that inordinate extended debate. Then at a time certain there is a vote on cloture and if 60 Senators vote to cut off the debate, that ends it, more or less, subject to the ad nauseam Allen-type amendments.

The purpose of my remarks at this time, Mr. President, are not to talk about the Senate rule, not to talk about the filibuster, but just to alert the country that we are in one, and it is most unusual that those who would normally be considered to be the filibusterers, those who are against the elevation from obscurity of Daniel Manion of South Bend, IN to the court that is right below the Supreme Court of the United States, the 7th Circuit Court of Appeals, those who are considered the filibusterers do not have any time to speak with respect to Manion. We are going to vote tomorrow to cut off debate without any debate having occurred.

There is a reason for it, Mr. President. There is a reason for it.

The Daniel Manion record as an attorney cannot withstand the focus of public attention and cannot withstand the focus of television attention.

□ 1620

You see, Mr. President, after we return from our July recess, if we are still on the Daniel Manion matter, we are off the air. We are off the air and all we will have are some live bodies in the gallery and a few sleepy-eyed reporters up there in the box that really do not write anything down. They are just serving their time up there from 9 to 5 pretending to write things down, But we are off the air.

And that's fine with those who are in favor of Mr. Manion going to this court, which, as I say, is right below the Supreme Court of the United States. They want it off the air. They want the Manion nomination to be kept as the most tightly guarded secret in America, next only I guess to star wars or some other top secret item that might be before the Intelligence Committee or the Armed Services Committee.

I am not gleefully happy to talk here today about Daniel Manion, attorney at law, from South Bend, IN, but I have to. I have to. Let me tell you why.

I had not been focusing an enormous amount of attention on the Manion nomination until about 2 weeks ago. I read, I think, two editorials that had been written about him. One of them I remember was in the New York Times. I cannot remember where the second one was. I do recall the New York Times editorial.

Mr. Daniel Manion sent word that he would like to see me. I thought, as a courtesy, it would be fine if I saw Mr. Manion. We had an interview. He is a pleasant man. He seems to be, in terms of civility and demeanor, a rather nice gentleman. We had a rather pleasant, if at times innocuous, conversation.

But I remembered reading in that New York Times editorial about some briefs he had written while practicing law. So I asked him about those briefs. He did not seem to want to pursue that part of the conversation very much. But as we parted, I said, "Well, Mr. Manion, I have not read those briefs but I'm going to read them and if I think they ought to be read by some other people, I'm going to send them to other people for their evaluation." And that is how the meeting ended. As I say, that took place a couple or so weeks ago.

Mr. President, I now have read those briefs and I sent those briefs to some of the most distinguished attorneys in the United States. I must say, in all sadness, but in all candor, the evaluation of those five or six briefs is that they are somewhere between awful and deplorable. My own personal evaluation, for what it is worth, is that I would give about three of them an outright F, meaning flunk; and I would give three maybe a friendly D-minus, hoping to encourage the student to do a little better the next time.

I have sat on moot courts in various law schools in this country, Mr. President—and I am sure other Members in this body who are attorneys have also sat on moot court competition or moot courts at Harvard Law School, St. Louis University, or Washington University.

A moot court competition, which is for freshmen law students at the end of the first year, goes something like this: A topic is thrown up for grabs and one of the young students takes the plaintiff's side, the other takes the defendant's side, and they write up the briefs and they argue before you. They submit the briefs in writing, of course and they orally argue the case and use the briefs as part of the oral argument.

Had those Manion briefs, to which I will make some reference now, been submitted to me in any of these moot court endeavors, I would have had to say to the student, the freshman law student:

> Young man or young lady, you have got to go back to the drawing board on this brief. You haven't got the right message. You haven't delivered it in the right way. You don't seem to have a grasp of the law. You don't seem to understand the legal issues that are involved in this case.

But my opinion is not all that important. It is pretty important to me; it is going to determine how I vote. But the opinion of some other people, Mr. President, is a lot more important.

I would like to share with you—and I will put the full letters in the RECORD—excerpts from the letters of some very distinguished attorneys to whom I sent the Manion briefs with a request they evaluate them and tell me what they say about Mr. Manion's qualifications to serve on the Seventh Circuit Court of Appeals.

I will just read some excerpts. As I say, I will put the letters in their entirety in the RECORD at the conclusion of my remarks.

I will start with this one from Sheldon Elsen. Sheldon Elsen is a professor of law at Columbia University, and he is chairman of the committee on Federal courts for the Association of the Bar of the city of New York. He also was a member of the President's Commission on Enforcement and the Administration of Justice, back in 1967. Here is what Professor Elsen, who is the chairman of this committee on the Federal courts for the New York City bar, said about the Manion briefs:

> These briefs vary in quality, depending in part on the complexity of the issue. None are better than mediocre and those which are relatively more complicated, that is, where the issues are not immediately apparent, are quite bad, indeed, opaque, confused, and rambling.

Next, I received a letter from Mr. Cyrus Vance. Cyrus Vance was the Secretary of State in the Carter administration, a nationally recognized attorney, general counsel for the Defense Department in earlier years, the senior partner of one of the most prestigious law firms in the United States, Simpson Thacher, at One Battery Park Plaza, NY. Here is what Cy Vance had to say after reading the Manion briefs:

> Individually and collectively, these briefs are barely adequate. They are far below the standard of legal analysis and writing required of a federal appellate judge. Two of the briefs *(Lindower* and *State of Indiana)* are poorly organized, wordy, and hard to follow. Their arguments do not match. All of the briefs suffer from inadequate attention to spelling, grammar, and syntax.

Continuing with Mr. Vance:

> The generally flaccid reasoning in the briefs does not put the client's case in the strongest favorable light and frequently fails to address the important arguments to the contrary.
>
> These briefs, in sum, do not display the learning, intellectual rigor or persuasive power which should characterize the work of a federal appellate judge.

So writes Mr. Vance.

The next evaluation comes from Mr. Archibald Cox. Mr. Cox, as most people know, is a professor at Harvard Law School, served as Solicitor General of the United States and also served as the Watergate prosecutor for a while—I wish he had served a longer while.

But, in any event, the office of Solicitor General is that office in the Department of Justice that presents the Government's appellate briefs to the Supreme Court of the United States and then makes the oral arguments before the Supreme Court based on those briefs. No one would be in a better position to evaluate the quality of legal briefs than would individuals who served as either the Solicitor General or worked in that office. Here is what Mr. Cox says after reading the Manion briefs:

> Yet even though the five cases were undemanding, the briefs, taken as a group, exhibit none of the skills in accurate legal analysis and clear and precise expression required to serve usefully as a judge on a U.S. Court of Appeals. On the contrary, the briefs contain much evidence of muddiness of both thought and expression.

□ 1630

Then another paragraph from Professor Cox's evaluation.

> The briefs as a group leave me—as I have said—with the conviction that Mr. Manion is not qualified to be a judge in the United States Court of Appeals. They evidence little capacity for pulling the key legal questions out of even rather simple facts, and for then stating clearly both the question and the disposition that he advocates. They accordingly suggest that he would be quite incapable of dealing effectively with the far more complex factual situations and issues of law that come before a U.S. Court of Appeals.

The next letter, Mr. President, is from Prof. Lawrence Tribe, one of the most highly recognized constitutional scholars and appellate advocates on the current seat; Harvard Law School professor, author of American Constitutional Law, and other treatises on the law. Here are the Tribe excerpts, again critiquing the Manion briefs.

> I have read the five briefs you submitted. I had in fact read several of them before, and could hardly believe that any one would submit them as evidence of legal ability.

I will insert parenthetically that Mr. Manion submitted these briefs to the Judiciary Committee as examples of his best legal work. He was asked to send in five of his best briefs. He was free to pick them out. Mr. Manion sent in five of these as his best. A sixth brief came to the Judiciary Committee surreptitiously, that is, over the transom in the dark of the night, anonymously, no fingerprints, no let-

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tering. But it was not one of Manion's best. I will have a little more to say about it. It has to be the worst of the worst.

Returning to Professor Tribe's letter:

> Learning that Mr. Manion regards them as his best work leaves me with a particularly sad feeling about the qualities of mind and scholarship that they reflect.

Continuing from Professor Tribe:

> • • • the burden should be on the President and on the nominee to persuade the Senate that it is not being asked simply to rubberstamp a purely ideological choice by the Chief Executive. But, in Mr. Manion's case, one unfortunately does not even reach the issue of excellence, since the briefs he has written provide convincing evidence of pervasive mediocrity and, to be quite frank, legal ineptitude of the first order.

I am a pretty blunt person, Mr. President. But I do not think I have ever been as blunt as that—"to be quite frank, legal ineptitude of the first order."

Continuing further with Professor Tribe:

> • • • the briefs are characterized by so shallow a command both of legal doctrine and of argumentation as to suggest a virtually complete absence of significant legal capacity.

How about that? "A virtually complete absence of significant legal capacity."

The next evaluation I have, Mr. President, is from Mr. Lloyd Cutler, senior partner of one of the biggest law firms in Washington, DC, maybe even the whole country, Wilmer, Cutler & Pickering. Here is what Mr. Cutler has to say about Mr. Manion's briefs:

> But based on my review of the briefs he submitted to the committee, I do not believe he possesses the capacity for legal analysis and exposition or the degree of carefulness required for appointment to the Federal bench, especially the Federal appellate bench. If these briefs had been submitted to me by an applicant for a junior position in our law firm, I would have voted against offering him a place. If these briefs fairly reflect Mr. Manion's capacities, I believe he falls well below the minimum standards of eligibility for an Article IV judge. Since it has been suggested that opposition to Mr. Manion's appointment is based on his conservative views, I should perhaps add that I have no knowledge or opinion concerning any such views, nor do I regard them as grounds for disqualification. I would not oppose any well-qualified nominee such as Justice Rehnquist or Judge Scalia on such a ground. My partner, John Pickering, former President of the District of Columbia Bar and the District's current State Delegate to the American Bar Association, has also reviewed the briefs, and he shares my opinion.

Next, Mr. President, former Dean Irwin Griswold, Harvard Law School, former Solicitor General of the United States, practicing Republican, and in the opinion of many lawyers the finest appellate lawyer in the United States. I asked a professor over the phone just the other day, I said, "Who is the John W. Davis of America today? I want to send these briefs to the modern John W. Davis." John W. Davis was the 1924 Democratic Presidential nominee. He had been Solicitor General in the Cabinet of President Wilson, and then later founded the firm of Davis & Polk. He was one of the finest appellate lawyers this country has ever known, as my colleague from Mississippi, Senator STENNIS, well remembers and well acknowledges. So this professor said, "Well, I guess Irwin Griswold is probably the closest we have today to being the modern John W. Davis."

So I packaged up the Manion briefs and sent them down to Dean Griswold. I still call him dean. I said, "Give me your evaluation." Here is what he writes back, just a few excerpts, on the Manion briefs.

> Turning to the substance of the briefs, the thing that strikes me is that they are all quite without distinction in organization, in clarity of expression, or in the effective use of authorities. I do not think that I can say they are bad briefs, but I can say that in my judgment they are not very good. Using law school terminology, I would say they were all "C" work. They would merit a passing grade, but they would not approach even the moderate distinction of being a "B" rank.

Another paragraph from Dean Griswold:

> In view of the finality of nearly all courts of appeals decisions, a good case may be made for the proposition that the same standards should be used in the confirmation of courts of appeals judges as is used with respect to appointments to the Supreme Court. At least there should be a considerable showing of experience and ability well above the ordinary. This seems to me to be entirely lacking with respect to Mr. Manion.

To repeat:

> This seems to me to be entirely lacking with respect to Mr. Manion.

Mr. President, there are some very strong words in those letters, strong words written by some very, very distinguished scholars, distinguished appellate lawyers and distinguished members of the bar. It takes a great deal of courage for one practicing the law to put these words on paper realizing that the Jimmy the Greek odds are that somewhere along the line Daniel Manion will squeak through with 52 to 53 votes and then serve the rest of his natural life on the Seventh Circuit Court of Appeals out there in the Midwest.

Many of these lawyers have a national practice, have offices in Chicago, Los Angeles, and Texas, and Lord knows where, have matters that will in time come before the Seventh Circuit Court of Appeals out there in Chicago. And, hence, it takes a great deal of courage for a legal practitioner, knowing that he and his firm may be before a court, to speak with such directness and such bluntness about the intellectual incapacity of one to serve on the appellate court.

□ 1640

I very seldom take the floor, Mr. President, to give a speech. Senator STENNIS remembers in my first couple of years I guess I was over here twice a day, speaking on Vietnam—at least twice a day, 5 days a week. We took the weekend off. Then the rest of my time was devoted to an attempt to cut the Pentagon budget. But it took so many years to get out of Vietnam and it was such a futile attempt to cut the Pentagon budget that in my later years I did not frequent the Senate floor as much as in my more ebullient younger days.

But I felt with respect to this issue that I had to.

There are 60 lawyers in the U.S. Senate. Each and every one of them takes an oath when he or she becomes a member of whatever State bar it is, that he or she is going to support and defend the Constitution of the United States. And even the 40 nonlawyers in the Senate, all of us, all 100 of us, take an oath when we become Members of this body to support and defend the Constitution of the United States.

The way the Constitution of the United States is defended and the way it is protected is by men of great wisdom, men and women of great wisdom, serving on our courts, our trial courts, our appellate courts, in this instance the court of appeals, and then the ultimate of ultimates, the Supreme Court. We rely on their intellect, their capacity, and their wisdom to render judgments on the laws and on the Constitution, sometimes to render unpopular opinions, sometimes to exhibit the most extraordinary of courage against the currents of the time, whatever those political currents might be.

So those jobs must only go to the best and the brightest. That should be the test. We have never adopted the Roman Hruska mediocrity test. It was offered at one time in a debate with respect to Judge Carswell, the elevation of Carswell to the Supreme Court of the United States back in 1970.

Senator Hruska, of Nebraska, said on March 17: "Well," speaking of Carswell, "even if he were mediocre, there are a lot of mediocre judges and people and lawyers, and they are entitled to a little representation, aren't they? We cannot have all Brandeises, Frankfurters, and Cardozas."

We rejected the Hruska mediocrity test. We said, there may be a lot who are mediocre. Yes, there are. There are too damn many of them, Mr. President. There are a lot of mediocre lawyers. There are a lot of awful lawyers, too damn many of them.

This May and June, 39,000 law students have graduated to enter the

practice of law, more than the profession can absorb, more than the profession needs, and probably half of them with less than the talent they need to practice law.

So, yes, there are a lot of mediocre lawyers around. But we do not say that the mediocre lawyers are entitled to their proportionate share of slots on the Supreme Court of the United States and the Seventh Circuit Court of Appeals. If half of the lawyers in this country are mediocre, and one could have a debate on that, then are we to preserve four of the nine slots on the Supreme Court of the United States for the mediocre and five for the superior?

We would have to have two confirmation proceedings. The President would have to nominate saying, "I hereby nominate Mediocre Joe for a mediocre slot and use the mediocre test when you confirm."

Then when he has somebody who is good, like Scalia, who is really good, he would say, "I hereby nominate him for one of the superior slots."

We do not want such a system.

The Federal court should have the highest test in terms of talent, integrity, background, capacity, skill. If you heard those quotes I read from those very distinguished scholars and attorneys, Daniel Manion flunks the test by every measure.

This is no small job we are talking about. This nomination may not make headlines in Los Angeles or in Miami or in Fairbanks, AK. But a lifetime appointment on the Seventh Circuit Court of Appeals is a very, very important position for life.

One thing about judges, when they put on a black robe: They live forever. There is something about a black robe that is good for the blood flow.

So Daniel Manion, who is in his early forties—44—will probably be on the Seventh Circuit Court of Appeals when some grandsons of current Members of the U.S. Senate are first elected to the U.S. Senate. These guys go a long time.

If you make a mistake, it is a lifetime mistake. There is no "Oops."

When you see these opinions that he has written and the problems he has with the English language and grammar, or more importantly, with pursuings a clear line of thought, you have to think what kind of judge he'd be.You cannot go back once the decision is made and say, "Hey, we would like to have a second chance."

These briefs, upon which I have laid great emphasis, are the closest thing we have to judge the quality of this man and to determine what kind of appellate judge he would be if confirmed. A legal brief marshals the facts, marshals the law, and lays it all out in a clear analytical way to guide the court in coming up with a decision.

A brief reflects how a lawyer thinks. It reflects how he analyzes. It reflects how he approaches the law. It reflects how he fits the facts with the law. It reflects how he reasons. It reflects how he writes.

By all of these tests, by all of those reflections, Daniel Manion of South Bend, IN, a nice gentleman, is a gentleman who does not belong on the Seventh Circuit Court of Appeals.

I do not know the precise legal system out in South Bend, IN. I presume they have a trial court, and then an intermediate appellate court, and probably a Supreme Court of Indiana, whatever they call it.

As I read the Manion briefs, and, indeed, as these other gentlemen have read the Manion briefs, Daniel Manion is what is called in the legal trade a small claims lawyer. There is nothing wrong with that. There are a lot of small individuals, small corporations, that have small claims, and require legal representation. There is nothing wrong with that. It is a necessary function of American society.

But that has been the sum total of Daniel Manion's practice of the law. That is the limit of his legal knowledge and his legal competence.

That is not the requisite knowledge and not the record of experience that is demanded for service on the Seventh Circuit Court of Appeals.

□ 1650

Some of Manion's supporters have said, "Well, he will learn. He will learn." They argue that if confirmed as a member of the court of appeals, Mr. Manion will learn about Federal law while deciding cases and that his writing will, in time, improve.

My lord, what a testimonial. It says, confirm this man, confirm this man and let him learn later the law that he will need to know as a Federal judge in a Federal court. Then he will learn how to write so that people can read his opinions and try to figure out what it is that the opinion holds.

Not good enough, Mr. President, not good enough.

I conclude with a true story. It happened in this body before JOE BIDEN was here, before DAN EVANS was here, but while RUSSELL LONG and JOHN STENNIS were here.

We had a marvelous one-term Senator in this body named Williman Spong of Virginia. He served one term. Bill Spong and I, and as I recall, FRITZ HOLLINGS, sat over there, sort of in left field, near the foul line, right up at the wall.

We had the Carswell nomination before the Senate, one of the most hard-fought battles that I can remember. It was back in 1970. It was a tough, tough fight.

Carswell was from the South. Bill Spong was from Virginia, obviously below the Mason-Dixon line. As this debate went on, Bill Spong, marvelous legal scholar that he was—when he left here, he later became the dean of William and Mary Law School—became very concerned. He said to me one day, "You won't see me for a week." I said, "Yes, what gives with you?"

He said, "I have gotten hold of every opinion that Carswell has written as an appellate judge."

Carswell made it to his court of appeals and he was being promoted. When you get on a court of appeals, it isn't necessarily the last stop—you can get promoted upward. Carswell made it to whatever that court of appeals is down South. So there were some printed decisions.

Bill Spong got hold of every typewritten decison or memorandum that Carswell had entered as a Federal district judge, Not all of those were printed. Some were typewritten. But he got all of them. A big batch of stuff.

He went away for a week. And I remember it as if it were yesterday. I was in my chair in the Senate. Spong came through those double doors over there and sat down next to me.

I said, "Bill, tell me, what do you know? What are you going to do?"

In his quiet, cryptic way, Spong answered, "Tom, he is not fit. Tom, he is not fit."

That is all he said. He had read all those opinions, read all those memorandums of opinion. And, as a first-rate lawyer, he made a judgment that G. Harold Carswell was not fit for a lifetime on the Supreme Court. In so doing, Bill Spong, with knowledge aforethought, committed political suicide.

He knew, as the only Mason-Dixon Senator to vote against G. Harold Carswell—and he was the only one—that he was committing political suicide.

They talk about "Profiles in Courage." As far as I am concerned, Bill Spong's vote was the highest profile in political courage I have ever seen.

Mr. President, if Bill Spong can give up a seat in the U.S. Senate because he thought keeping an unqualified person off the Supreme Court was important to the Republic, then I hope that my 99 colleagues at least will take a look at the Manion nomination for the court out there in Chicago, IL., another lifetime position.

You do not have to be a profile in courage on this one. All you have to be is a profile in good judgment, a profile in prudence, a profile in intellectual integrity. That is what a Senator has to do on this nomination.

Mr. President, before yielding, I ask unanimous consent that the following items be printed in the RECORD: First, I would like to have printed in the RECORD appendix A of the minority report, pages 29 through 34. That is an

analysis by the Chicago Council of Lawyers of the Manion briefs in such minute detail—down to commas, misspellings, syntax, misparagraphings and substance—that I do not want to bother the Senate with it at this time, but I hope my colleagues will read that.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Appendix A

THE CHICAGO COUNCIL OF LAWYERS,

May 20, 1986.

Senator PAUL SIMON,
Dirksen Senate Building, Washington, DC.

Attention: Ms. Laurie Westley.

DEAR SENATOR SIMON: Pursuant to your request, the Chicago Council of Lawyers has reviewed the following briefs written by Daniel Manion:

1. Brief of Daniel Manion in *State of Indiana* v. *Sumney;*

2. Brief of Daniel Manion in *Culver Educational Foundation* v. *Indiana Civil Rights Commission;*

3. Appellee's Petition for Transfer to Supreme Court in *Bearman* v. *University of Notre Dame;*

4. Memorandum in Support of Appellee's Petition for Rehearing in *Bearman* v. *University of Notre Dame;*

5. Brief of Daniel Manion in *Hassing* v. *Insulated Panel Co. of Indiana, et al.*

1. Brief of Daniel Manion in *State of Indiana* v. *Sumney*

The brief is poorly written. It is riddled with spelling errors, typographical errors and grammatical errors. The author seems to have no knowledge of when to use an apostrophe to make a noun possessive. Disagreement between subject and verb is rather common. It appears that very little attention or care was given to finalizing this brief for the Indiana Court of Appeals.

In addition to the more mechanical defects noted above, the brief is stilted and rigidly follows the form of the appellant's brief. Sentence structure is frequently convoluted and awkward. Redundancies are common. A great many sentences unnecessarily begin with "But" or "And" as if to take the place of logical connections. The brief frequently slips into colloquialisms for no good reason, e.g., "Norm Henry", "didn't" or Henry would testify "on most any subject." (The last phrase appears three times in the brief.)

The brief is neither clear nor forceful. It repeatedly speculates on what a witness "possibly" would have said had testimony been allowed. *See, e.g.,* pp. 14, 15. The argument is unnecessarily hard to follow. A C– job, at best.

Page	
	The typographical and spelling errors include:
Cover	Appellan[t].
1	Appellees (Defendant[s]).
4	"comperable".
9	"comparbility".
	No consistency in "Tr." vs. "TR", e.g., compare page 6 with page 10.
12	"prnperty".
15	"relelvant".
16	"funtion".
17	No period at end of sentence.
19	"rediculous".
35	"resonable".
37	"of$ 15,000.00.
	Grammatical errors include:
2	"opinion testimony . . . were".
6	"witnesses" as possessive—no apostrophe.
	No comma after David Wells.
7	"Sumneys" as possessive—no apostrophe.
8, 11, 20	"most any subject".
9	"states"—no apostrophe.
10	Omitted comma.
12	Omitted comma.
14	Appellants—no apostrophe.
15	"landowners"—no apostrophe.
21	"McCloskeys"—no apostrophe.
23	"States"—no apostrophe.
26	"States"—no apostrophe.
	No comma.
28	"landowners"—no apostrophe.
29	"States"—no apostrophe.
	"agriculture use".
	"similarity were".
32	Needs comma.
	Stilted or incorrect expressions include:
4	last paragraph: "which" is far from its antecedent.
6	"the amount of rates".
11	"that being".
14	"would possibly have had".
15	"testified what he thought the property was worth . . .".
17	"bring into evidence with Mr. Henry".
29	first sentence: a "disparity . . . has caused the controversy in this argument.
	Other examples of poor writing include:
12	"Mr. Henry was the State's star witness who would establish this alleged fact since he was part of the so-called "sham".
14	"they discussed alternative sites if that happened".
15	"case possibly allows".
19	"rediculous nature of the claim".
	"bad feeling".
20	Terrible construction in last sentence of Section I.
23	"on a very similar response".
27	Poor sentence structure.
29	"the comparables used by each side were . . . opposite".
31	"to emphasize that there be".
	Inconsistent capitalization on State v. state, e.g., compare page 32 with page 31 and 34.

2. Brief of Daniel Manion in *Culver Educational Foundation* v. *Indiana Civil Rights Commission*

The task of a federal court of appeal, as the tribunal of last resort for most litigants, is to interpret the law of the circuit for district court judges, the bar, and the public in cogent written opinions. Accordingly, the ability to write clearly and convincingly is a prerequisite for any judge or attorney who aspires to serve on a court of appeal. Daniel A. Manion's brief in *Culver Educational Foundation* v. *Indiana Civil Rights Commission* indicates that Mr. Manion's writing ability falls substantially short of the minimal requirements for the position.

Mr. Manion's brief in the *Culver* case reflects some aptitude for analyzing a legal issue and developing a reasonable argument concerning that issue. However, the brief thoroughly fails to communicate Mr. Manion's arguments in any effective manner. The brief is poorly organized and contains numerous syntactical, spelling, and punctuation errors. Informal, even colloquial, language is not uncommon in the brief.

A. *Organization.* Mr. Manion's brief is extremely difficult to follow because it lacks both an initial summary of Mr. Manion's overall argument and internal summaries of his principal points. As a result, the reader cannot discern the gist of an argument by Mr. Manion until after completing the entire section of the brief devoted to that argument, if then.

B. *Syntax.* Mr. Manion's syntax is frequently awkward and sometimes even tortured. Consider the following examples:

Page 6: "When these issues are taken into consideration, the chain reaction resulting from the hearing officer's erroneous finding is immense."

Page 6: (introductory sentence for section of brief) "This can be taken even further once this major error is acknowledged.

Page 8: "(In fact, a corrected version of Bernauer's proposal, which is likely identical, should have been substituted for what is in the transcript)."

Page 11: "Not only has the Commission required an undue burden on Culver that is contrary to law, more significantly, it has made an erroneous finding without which its judgment cannot stand."

Page 15: "In her own testimony Ms. Bernauer has referred several times to her own attitude problems than how she was becoming discouraged or disappointed or frustrated or whatever with the various operations of the academy and how they affected her."

In one instance, on page 13 of Mr. Manion's brief, his sentence structure becomes so tangled that he states the exact opposite of what he intends: "These attitude changes, as revealed in the final evaluations or addendums thereto of Mr. Walker and Mrs. England, weighed heavily against her not receiving a new contract."

C. Spelling. The following words are misspelled in Mr. Manion's brief:

"Indina" (page 2).
"perponderance" (pages 4, 9 (twice), 10 (twice), 22).
"evidentary" (pages 7, 8).
"verbatum" (page 8).
"proferred (page 10).
"language" (page 11).
"despository" (page 14).
"accomodating" (page 14).
"liabilty" (page 20, four times).

D. *Punctuation.* Mr. Manion appear to have some difficulty in correctly using the possessive form of nouns and in using commas to separate independent clauses in compound sentences. An apostrophe was omitted from possessive nouns on at least three occasions in Mr. Manion's brief. Clauses in compound sentences were not properly set off by commas on at least seven occasions.

When considered separately, these criticisms might seem picayunish. Taken together, however, they demonstrate Mr. Manion's unfitness to sit on a court that depends upon clearly written communications to do its job.

3. Appellee's Petition for Transfer to Supreme Court in *Bearman* v. *University of Notre Dame.*

4. Memorandum in Support of Appellee's Petition for Rehearing in *Bearman* v. *University of Notre Dame*

These comments address the substance and form of briefs submitted by Daniel Manion in *Bearman* v. *University of Notre Dame.* Mr. Manion's name is listed first on each of these briefs. "Memorandum in Support of Appellee's Petition for Rehearing" was submitted as an attachment to "Appellee's Petition for Transfer to Supreme Court."

Bearman involved an assault at a University of Notre Dame football game. Mr. and Mrs. Bearman left the game shortly before it ended. As they were walking through a parking lot toward their car, they observed two men who appeared to be drunk. The two were fighting. A few moments later, one of them fell into Mrs. Bearman from behind, breaking her leg. There were no ushers or security people in the area.

With respect to substance, these briefs appear to be average. They argue the strengths of the University's position, but they fail to confront its weakness.

The case turns on Comment (f) to the Restatement of Torts (Second) § 344 (1965). That Comment, quoted in the *Bearman* opinion, 453 N.E.2d at 1198, states:

If the place or character of his business, or his past experience, is such that he should reasonably anticipate careless or criminal conduct on the part of third persons, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.

The key basis for the court's opinion is the first clause of this sentence. The court held that the University should know that alcoholic beverages are consumed on the premises at tailgate parties and at its football games. The fact that such beverages are regularly consumed, by itself, supports the inference that the University had a duty to take reasonable precautions to protect its patrons from intoxicated persons. Implicitly, the court found it irrelevant that no assaults involving intoxicated persons had actually occurred in thirty years; knowledge could be inferred from "the place or character of his business."

Mr. Manion's briefs did not directly confront the court's analysis. They did not discuss the "place or character of his business" clause. Instead, they focused on the following clause, "or his past experience." The briefs do an adequate job of arguing that the University's past experience did not warrant providing additional protection. But by failing directly to confront the court's reasoning, the briefs do not give the court any convincing rationale for changing its result.

The briefs rely too heavily on distinguished Indiana law. *Sports, Inc.* v. *Gilbert,* 431 N.E.2d 534 (Ind.App. 1982), for example, involved an accident that occurred *off* the premises of a speedway following the speedway's eviction of an intoxicated person. The cited section of the Restatement did not apply, since the injured person was not an invitee of the speedway.

The briefs would have been more convincing if they emphasized the law from other states. Two cases, *Warner* v. *Florida Jai-Alai, Inc.,* 221 So.2d 777 (1969) and *Gill* v. *Chicago Park District,* 85 Ill.App. 3d 903, 407 N.E.2d 671, 673 (1980), are much more favorable to the University. Those cases involve closer fact patterns and have results that favor the defendants. Mr. Manion's briefs would have been stronger if these cases were given more emphasis.

The style of the briefs is poor. The Supreme Court brief is particularly awkward in spots. The sentence and paragraphs do not flow. (*See,* for example, the end of paragraph B and Paragraph C on page 2.) There are also several spelling errors. These include "insurer" and "erroneously" on page 2 and "petition" on page 4 of the Supreme Court brief, along with "Court's" and "possessor" on page 3 of the Court of Appeals brief.

The two briefs do not represent outstanding advocacy and do not articulate in the most effective fashions the reasons for reversal of the *Bearman* court's opinion. These briefs are, at best, average in quality.

5. Brief of Daniel Manion in *Hassing* v. *Insulated Panel Co. of Indiana, et al.*

The major issue in Mr. Manion's brief is whether a promissory note and guaranty received by plaintiffs from Insulated Panel Co. constituted the sale of securities under Indiana law.

A. *Form.* There are a few typographical errors, but not a significant number. More important is Mr. Manion's convoluted syntax, repetition of points he wishes to make, use of the vernacular, and even an occasional misspelling. For example, on one occasion he spells "germane" correctly (p. 2) and on another "germaine" (p. 19).

He occasionally uses incomplete sentences (p. 3, "IA).

He sometimes changes tense in the same paragraph (p. 4).

On page 4, he states "without question, Mr. Bell had *no intention for anything* other than a short term loan."

It is sometimes difficult to determine the antecedents of words such as "this" or "it".

On page 8, he states that "in this case the parties *pretty much agreed* that the promissory notes were securities, but in determining whether or not a security was involved, the court followed a quadruple test . . ."

For an example of confusing syntax, see the top of page 9.

On page 10, he writes "the question has been raised, by the Plaintiff and their attorney . . ."

In sum, Mr. Manion's writing is pedestrain and often difficult to follow.

B. *Analysis of the Issue.* The brief does a fairly good job of setting out the factual and legal basis for Mr. Manion's client's position that the note and guaranty were not "securities" under Indiana law. However, the issue is not a complex one, and a major portion of the argument is devoted to quotations from depositions.

Mr. Manion's writing is less than persuasive partly because his brief is not very well organized and the confusing syntax often makes his arguments difficult to follow.

Mr. Manion appears to have done a modest amount of research but does not always use the case law effectively to mount a persuasive argument.

The above evaluations of Mr. Manion's briefs were each written by a different member of the Council's Federal Judicial Evaluation Committee. We proceeded in this manner in order to obtain a number of views concerning Mr. Manion's writing ability. The evaluations speak for themselves; they support the Council's conclusion that Mr. Manion has not demonstrated the level of legal skill necessary for appointment to the Seventh Court of Appeals.

Very truly yours,

THOMAS F. GERAGHTY,
Chair,
Federal Judicial Evaluation Committee.

Mr. EAGLETON. Next, I ask unanimous consent that the full letters that I quoted from, from the various scholars and attorneys, be printed in the RECORD, including a cover sheet that has background notes on letter writing.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ONE BATTERY PARK PLAZA,
New York, NY, June 19, 1986.

Re: Confirmation of Daniel Manion for the Seventh Circuit Court of Appeals.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, DC.

DEAR TOM: I have your letter of June 16th. I have read carefully the four briefs by Mr. Manion which were enclosed with your letter (*Lindower; State of Indiana; Bearman;* and *Culver Educational Foundation*). I understand that these briefs were chosen by Mr. Manion as examples of his best appellate briefs. I note that none of these briefs involved an action in the federal courts.

Individually and collectively, these briefs are barely adequate. They are far below the standard of legal analysis and writing required of a federal appellate judge. Two of the briefs (*Lindower* and *State of Indiana*) are poorly organized, wordy, and hard to follow. Their arguments do not march. All of the briefs suffer from inadequate attention to spelling, grammar, and syntax.

The generally flaccid reasoning in the briefs does not put the client's case in the strongest favorable light and frequently fails to address the important arguments to the contrary.

These briefs, in sum, do not display the learning, intellectual rigor or persuasive power which should characterize the work of a federal appellate judge.

Please feel free to use this letter as you wish.

Sincerely yours,

CY VANCE.

HARVARD UNIVERSITY
LAW SCHOOL,
Cambridge, MA, June 20, 1986.

Hon. THOMAS F. EAGLETON,
Dirksen Senate Office Building, U.S. Senate,
Washington, DC.

DEAR SENATOR EAGLETON: I am glad to reply to your inquiry of June 18 with respect to the quantity of Daniel Manion's appellate briefs. I have read the five briefs you submitted to me. I had in fact read several of them before and could hardly believe that anyone would submit them as evidence of legal ability. Learning that Mr. Manion regards them as his best work leaves me with a particularly sad feeling about the qualities of mind and scholarship that they reflect.

As you may know, I submitted a letter, jointly signed by Professor Philip Kurland along with me, describing to the Senate Judiciary Committee my strong belief in the need for excellence in federal judicial appointments. As we explained in that letter, when evidence of legal distinction is not ap-

parent on the face of a nomination, the burden should be on the President and the nominee to persuade the Senate that it is not being asked simply to rubber-stamp a purely ideological choice by the Chief Executive. But, in Mr. Manion's case, one unfortunately does not even reach the issue of excellence, since the briefs he has written provide convincing evidence of pervasive mediocrity and, to be quite frank, legal ineptitude of the first order.

Quite apart from the sloppiness with which the briefs are prepared—with lapses in spelling and syntax so pervasive as to insult any judge's intelligence and sense of craft—the briefs are characterized by so shallow a command both of legal doctrine and of argumentation as to suggest a virtually complete absence of significant legal capacity. If they were submitted in just about any law school by a second-year student, these briefs would not receive much credit. The thought that they are representative of the best work of someone being seriously considered for a life-tenured post on the federal judiciary is little short of astonishing.

You should feel free to make whatever use you wish of these remarks. I am not at all reluctant to have them made public, since I believe it is the Senate's constitutional duty to withhold its consent from the Manion nomination.

Sincerely,

LAURENCE H. TRIBE,
Tyler Professor of Constitutional Law.

HARVARD LAW SCHOOL,
Cambridge, MA., June 23, 1986.

Hon. THOMAS EAGLETON,
U.S. Senate,
Senate Office Building,
Washington, DC.

Re: Nomination of Daniel Manion.

DEAR SENATOR: In accordance with your request, I have read and sought to judge impartially the five briefs prepared by Daniel Manion, who has been nominated to be a judge on the U.S. Court of Appeals for the Seventh Circuit.

Mr. Manion appears to have no experience whatever in a U.S. Court of Appeals and very little experience with any questions of federal law. This is an important deficiency. All fives briefs deal with simple facts and fairly simple questions of State law. All are very much less demanding of legal capacity than the complex situations and questions of statutory and regulatory law that form the bulk of the docket of a U.S. Court of Appeals. Yet even though the five cases were undemanding, the briefs, taken as a group, exhibit none of the skills in accurate legal analysis and clear and precise expression required to serve usefully as a judge on a U.S. Court of Appeals. On the contrary, the briefs contain much evidence of muddiness of both thought and expression.

The poorest of the briefs, in my opinion, was filed in *Lindower* v. *City of South Bend.* Plaintiff had filed an action seeking a declaratory judgment to the effect that the City had no "right, contractual or otherwise, to install such meters" as would measure the water supplied to Plaintiff by the City in order that the Plaintiff could be charged for the use. The trial court entered a summary judgment for Defendant to the effect that the City had a right to install the meters. Plaintiff, who was represented by Mr. Manion, appealed. Mr. Manion's brief is confused and confusing from the outset. The Summary of Argument begins with the surprising statement that, "the trial court *may* have lacked jurisdiction to rule in this case . . ." [emphasis supplied]. The statement is surprising both because it is equivocal and because the reader wonders why the plaintiff who filed the action should be challenging the court's jurisdiction. The latter question goes largely unanswered, although one later learns that the controlling statutes had been revised. As for the former question, Point I shifts from equivocation to the categorical statement that "the Trial Court Lacked Jurisdiction over the Subject Matter." Eventually one gets the impression that Mr. Manion's true position is that the trial court had jurisdiction to decide only whether the City had a contractual right to install the meters and therefore should not have drawn upon other sources of the right; but nowhere does the reader get a clear statement concerning other sources of the right. Furthermore, Point I of the brief concludes with the statement that: "The trial court arguably had jurisdiction under the old statute. When that statute was repealed, the more general jurisdiction of the PSC, under 1.C.8-1-2-54 and others, probably took over."

Despite the previous assertions that the trial court had no jurisdiction and this assertion that it "probably" had lost all jurisdiction, the conclusion of the whole brief asks a remand for trial.

In Point II, Appellant's brief argues that summary judgment should not have been entered for Defendant because there were genuine issues concerning material facts. The brief cites as an example an apparently unresolved dispute over whether certain rules and regulations were in fact distributed to users. The brief then very properly goes on to argue that this question was material because, if the rules and regulations were not distributed, there was no valid contract. The ensuing argument is divided under two headings, but the difference between them is nowhere clearly explained. The second heading is a gem of incomprehensibility: "If The "Rules and Regulations" Were In Fact A Contract Between The Utilities And The User, By Not Being Distributed As Required, An Agreement Was Impossible And Thus Not Enforceable As A Contract."

The brief is also filled with minor errors of spelling, syntax, and choice of words. One might put them down to the pressure to meet a short deadline if the same mistakes were not common in the other briefs and if there were not the same evidence of confused or careless thought. Given their pervasiveness they seem to me to confirm the other evidence of a low level of capacity for legal exposition or argument.

The Petition for Transfer and Brief in *Bearman* v. *University of Notre Dame* are also of poor quality. The case was a simple action to recover from Notre Dame University damages for personal injuries suffered by a patron at a football game when a drunk fell upon her. The trial court directed a judgment for the defendant University. The Court of Appeals then reversed, holding that the question whether the University was negligent in failing to take greater precautions to protect football game patrons against such injuries was for a jury to decide, even though no evidence had been offered to show that similar incidents had occurred at previous Notre Dame athletic events to give Notre Dame warning that the duty of reasonable care would include taking precautions against such incidents. Mr. Manion's papers seeking further review repeatedly assert that the Court of Appeals had held that the University was an insurer absolutely liable for such injuries. The opinion of the Court of Appeals makes it entirely clear that it made no such ruling. The Petition and Brief are directed to an issue that simply was not in the case.

Conceivably, the decision of the Indiana Court of Appeals might have been attacked by arguing that the jury's general knowledge about drunks at football games and about their conduct is an inadequate basis on which to conclude that "reasonable care" would require greater precautions than Norte Dame took against a drunk injuring one of its patrons. In the course of making that argument one might even say that to allow a jury to enter into such speculation on the basis of the juror's own knowledge, without some evidence, goes too far in the direction of imposing an insurer's liability. But by presenting an entirely false issue counsel gave up whatever small chance there was of prevailing on this ground.

The brief in *Culver Educational Foundation* v. *Indiana Civil Rights Commission* also seems seriously inadequate. The brief never presents with clarity the content of the order that the Academy is challenging through Mr. Manion. Neither does it state exactly what relief the Academy seeks.

The substance of the brief is divided under headings "Liability Argument" and "Damages Argument." Perhaps this is no worse than inartistic; but surely it is poor advocacy to commence the argument that there was no evidence to support the Commission's findings that Culver engaged in sex discrimination with the categorical assertion that "Federal Law Applies." The assertion is obviously unsound. Indiana law applies. All Mr. Manion means is that federal precedents should be persuasive with respect to Indiana law—a point that surely an experienced advocate would have made along the way in a sentence or two preceding his citation of the federal decisions and his argument showing how the principles there laid down govern the case.

In many contexts the distinction between applying federal law and looking to federal precedents has fundamental and critical importance, especially in the federal courts. That Mr. Manion fell into confusing the two, even if out of carelessness rather than ignorance, is a mark of very inferior work.

The argument is confused through much of the brief. Technical terms are apparently misused. The style is clumsy. The basic difficulty, however, is that the brief contains at the outset no clear and precise statement of the principal argument or arguments that counsel will develop.

I find less to criticize in the two remaining briefs, but neither is an example of persuasive advocacy. The brief in *Hansing* v. *Insulated Panel Company* leaves me with considerable misgiving because one gets the sense that not all the relevant facts appear; but, having none of the papers, I cannot tell whether that is in fact the case.

The briefs as a group leave me—as I have said—with the conviction that Mr. Manion is not qualified to be a judge of the U.S. Court of Appeals. They evidence little capacity for pulling the key legal questions out of even rather simple facts, and for then stating clearly both the question and the disposition that he advocates. They accordingly suggest that he would be quite incapable of dealing effectively with the far more complex factual situations and issues of law that come before a U.S. Court of Appeals.

It is a pleasure to be in touch with you again, Tom. I hope that we may have another chance to get together before you leave the Senate. Your retirement will be a major loss to all of us.

All the best.

Sincerely,

ARCHIBALD COX.

THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK,
New York, June 23, 1986.

Senator THOMAS F. EAGLETON,
United States Senate,
Washington, DC.

DEAR SENATOR EAGLETON: I am writing in response to your letter of June 19, with which you enclosed five briefs written by Daniel Manion, Esq., a nominee for the United States Court of Appeals for the Seventh Circuit. You have asked me to read these briefs and comment on their quality, with respect to Mr. Manion's legal ability to serve on the Seventh Circuit. You also asked for permission to make my views public.

I have considered it my duty to read and comment on these briefs, both as a citizen and as a lawyer, and because I chair the Committee on Federal Courts of The Association of the Bar of the City of New York. Accordingly I have read the briefs over the weekend and I would be happy to have you make my views public. I of course address only their qualities as legal writing; their contents are irrelevant.

These briefs vary in quality, depending in part on the complexity of the issues. None are better than mediocre and those which are relatively more complicated, that is, where the issues are not immediately apparent, are quite bad indeed, opaque, confused and rambling. The briefs are characterized by jarring mistakes in grammar and spelling. The phrasing of legal issues lacks precision and the statements of facts lack clarity.

Since Federal cases in general tend to be more complex than the cases treated by these briefs, I would anticipate that the nominee's writings as a Federal judge would be like his treatment of the relatively more complex parts of his briefs, that is, very unsatisfactory.

In my opinion the writer of these briefs has not demonstrated his qualifications to serve as a Federal judge and certainly not as a Federal appellate judge.

Very truly yours,

SHELDON H. ELSEN.

JONES, DAY, REAVIS & POGUE,
Washington, DC, June 23, 1986.

Hon. THOMAS F. EAGLETON,
Senate Office Building,
Washington, DC.

Re: Confirmation of Daniel Manion for the Seventh Circuit Court of Appeals

DEAR SENATOR EAGLETON: I am writing in reply to your letter of June 16th, with which you enclosed copies of several briefs written by Daniel Manion in cases in which he was counsel in Indiana State courts. In your letter, you refer to five briefs, however, only four briefs were enclosed. These are the briefs in the cases of Lindower v. City of South Bend, State of Indiana v. Robert E. Sumney, Culver Educational Foundation v. Indiana Civil Rights Commission, and Bearman v. University of Notre Dame.

I have read each of these four briefs carefully. However, I should point out that I have not seen the opposing briefs, so that I have no way to know how Mr. Manion dealt directly with the arguments made against him. Nor do I know how the cases were decided in the Indiana courts. Finally, I have no way of knowing how far these briefs are the product of Mr. Manion's own work, or were written with the help of associates in his office. I understand that he has submitted three of them, and that he accepts responsibility for them.

Others have pointed out numerous typographical and grammatical errors in these briefs. I do not refer to these further. I do not think that they are of first importance, except as they show a carelessness in preparing the briefs, and a failure to measure up to the standards that one would expect from a first-class law office.

Turning to the substance of the briefs, the thing that strikes me is that they are all quite without distinction, in organization, in clarity of expression, or in the effective use of authorities. I do not think that I can say that they are bad briefs, but I can say that, in my judgment, they are not very good. Using law school terminology, I would say that they were all "C" work. They would merit a passing grade, but they would not approach even the moderate distinction of "B" rank.

Another thing that I note is that these briefs are all in state courts, and they deal with what might be called "run of the mine" questions. They do not show any background in or ability to handle the types of complex questions in the fields of constitutional law, administrative law, or other areas involving the interpretation and application of complex federal statues. Such questions are the grist of the work of the federal courts of appeals.

In our system, as it has developed, the thirteen federal courts of appeals are, for most practical purposes, the courts of last resort in our federal judicial system. It is a fact not as widely known as it should be that less than one percent of the cases decided by the courts of appeals are actually reviewed by the United States Supreme Court. Thus, it is important to have judges of the highest caliber and experience on the courts of appeals. In view of the finality of nearly all court of appeals decisions, a good case may be made for the proposition that the same standards should be used in the confirmation of courts of appeals judges as is used with respect to appointments to the Supreme Court. At the least, there should be a considerable showing of experience and ability well above the ordinary. This seems to me to be entirely lacking with respect to Mr. Manion.

In particular, I am concerned that none of the briefs submitted by Mr. Manion was filed in a federal court, and that he appears to have had no experience in the federal courts. By and large, and except for diversity cases, the type of cases which come to the federal courts, both civil and criminal, are quite different from those in the state courts, and often, or usually, involve much more complex questions than those ordinarily heard in the state courts, and, in particular, than any of those dealt with in the briefs submitted by Mr. Manion.

I am reminded of a situation which arose some fifty years ago when President Roosevelt appointed as Solicitor General a fine and kindly man who had never had a case in the federal courts. His lack of experience soon became apparent, causing concern not only in the Executive Branch, but in the Supreme Court. He was replaced by Stanley Reed, who was, of course, an excellent Solicitor General, and later a distinguished Supreme Court Justice. But, a judge of the court of appeals, once confirmed and appointed, has life tenure, and cannot be replaced. The time to make a distinguished appointment is now.

You are free to use these views and my name during the debate on Mr. Manion's nomination.

Very truly yours,

ERWIN N. GRISWOLD.

WILMER, CUTLER & PICKERING,
Washington, DC, June 24, 1986.

Senator THOMAS F. EAGLETON,
United States Senate,
Washington, DC.

DEAR TOM: I have your letter of June 16 about Daniel Manion, and I have reviewed the briefs you enclosed.

I do not know Mr. Manion. I have no opinion as to his character, integrity, or judicial demeanor. But based on my review of the briefs he submitted to your Committee, I do not believe he possesses the capacity for legal analysis and exposition or the degree of carefulness required for appointment to the federal bench, especially the federal appellate bench. If these briefs had been submitted to me by an applicant for a junior position in our law firm, I would have voted against offering him a place.

The issue is not merely whether there are better qualified lawyers in the same state or circuit who satisfy an incumbent President's political criteria and are willing to serve. If these briefs fairly reflect Mr. Manion's capacities, I believe he falls well below the minimum standards of eligibility for an Article III judge. When the Senate receives such a nomination, Senators should perform their constitutional function by refusing their advice and consent.

Since it has been suggested that opposition to Mr. Manion's appointment is based on his conservative views, I should perhaps add that I have no knowledge or opinion concerning any such views, nor do I regard that as grounds for disqualification. I would not oppose any well qualified nominee, such as Justice Rehnquist or Judge Scalia, on such a ground.

My partner John Pickering, former President of the District of Columbia Bar and the District's current State Delegate to the American Bar Association, has also reviewed the briefs and shares my opinion. You may use our names if you wish.

Sincerely,

LLOYD N. CUTLER.

Mr. EAGLETON. Finally, Mr. President, I ask unanimous consent that a brief, one of these six briefs that I have mentioned, this one brief filed by Mr. Manion in the independent court of appeals in the case of Lindower v. City of South Bend be printed in the RECORD as typed, with misspellings and other unusual markings, but without any penciled notes.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

[In the Indiana Court of Appeals, No. 3-384 A 73, Appeal from the St. Joseph Superior Court, The Honorable William C. Whitman, Judge]

JASON D. LINDOWER, ET AL. APPELLANT, PLAINTIFFS, *vs.* CITY OF SOUTH BEND, APPELLEE, DEFENDANT

Brief of appellant:

ISSUES PRESENTED FOR REVIEW

I. Whether the trial court lacked jurisdiction over the subject matter.

II. Whether there were genuine issues as to material facts concerning whether or not the city had the right to install water meters, and whether summary judgment should have been denied.

A. Whether the failure by the city or its predecessor, South Bend Federal, to distribute the "rules and regulations" to the existing customers and new applicants as required by PSC regulations made that "contract" unenforceable.

B. Whether the "rules and regulations" was in fact a contract between the utility and the user, and by not being distributed as required, an agreement was impossible and thus not enforceable as a contract.

C. Whether the "contract" (i.e. the rules and regulations), had it been distributed, accomodates a flat rate as an alternative to the metered rates when the contract is taken as a whole.

D. Whether the application for water, sewer and trash service, when given to and signed by some of the river commons users, was done so through misrepresentation of purpose and content by the representatives of the city, thus rendering it unenforceable.

E. Whether the city has waived its right to install meters under the provisions of a written *contract*, if any did exist, and under the facts of this case.

STATEMENT OF THE CASE

This is an appeal from the Trial Court's granting of the defendant City of South Bend's Motion for Summary Judgment. (Tr. p. 138-143). On May 24, 1982, the plaintiffs, officers and/or directors of the River Commons Homeowners Association, filed a complaint for Declaratory Judgment and Injunction, to, among other things, prevent the City from installing water meters and to determine if the City had a right, contractual or otherwise, to install such meters. (Tr. p. 38-53). Responsive pleadings were filed and the City ultimately filed a Motion for Summary Judgment. (Tr. p. 58). Hearing on said Motion was held on September 19, 1983, (Tr. p. 129), and the court issued a summary judgment for the defendant City and against the plaintiff homeowners on November 18, 1983. (Tr. p. 130).

Judgment: "Now, therefore, the Court hereby declares and adjudicates:

1. That the City has a legal right to install meters in River Commons;

2. That the City has not waived its right to install water meters in River Commons;

3. That the City's installation of meters was not an attempt to generate additional revenue with which to pay for additions and extensions for the benefit of users in Laurel Woods;

4. That the City utility has the right to designate the kind of meter that is installed so long as the meter is of "standard manufacture"; and

5. That the health and safety of River Commons users is not threatened by the addition of users in Laurel Woods."

Date: November 18, 1983.

/s/ ——— ———, *Judge,*
St. Joseph Superior Court.

Plaintiffs filed a Motion to Correct Errors and Memorandum in Support thereof (Tr. p. 151-172), and the defendant filed a Memorandum in Opposition to said Motion. (Tr. p. 187-191). After hearing the trial court denied the Motion to Correct Errors. (Tr. p. 193).

"Hearing is held upon plaintiff's Motion to Correct Errors. Said motion is denied." (Tr. p. 193).

Upon denial of that motion the plaintiffs filed their praecipe for the Record of the Proceedings (Tr. p. 203) and submitted this appeal.

STATEMENT OF THE FACTS

River Commons is a subdivision located in St. Joseph County, Indiana, outside of the city limits of South Bend, Indiana. (Tr. p. 38). On July 24, 1978 a lease agreement was entered into between the City of South Bend (City) and South Bend Federal Savings and Loan Association for the management and lease—purchase of the water system which was owned by South Bend Federal and which was serving River Commons. (Tr. p. 38). During the time South Bend Federal owned and operated the water system the customers paid a $7.50 minimum monthly charge or flat rate, and water usage was not measured by meters. (Tr. p. 65).

Under I.C. 19-3-11.5-5 (now repealed) the City had the burden of proving to the Public Service Commission that the rates previously approved by the PSC (Tr. p. 67) were sufficient to meet certain statutory requirements. (Tr. p. 65).

At the hearing before the PSC on September 19, 1979 (Tr. p. 73) the City presented several witnesses. The Director of Utilities for South Bend testified that the City had not comtemplated increasing the rates above the $7.50 level. (Tr. p. 180). CPA Michael Smith testified that the River Commons customers were paying $7.50 per month (Tr. p. 182), that his projections for the City's ability to pay the 10 year lease—purchase were based on the $7.50 figure, and that the City represented to him, when preparing his projections, that the $7.50 rate would be maintained through 1989. (Tr. p. 184). He testified he was told by the City that there would be no rate increase. (Tr. p. 185).

The *City* abided by *their* sworn testimony until 1982, when, by a letter to the water customers in River Commons, dated April 2, 1982, Michael L. Vance, Director of Utilities for the City of South Bend, Indiana, notified the *customers* that if they did not give permission to install water meters in their *home*, the City would install a meter pit and meter in the public right of way at a charge of $475.00 per installation. (Tr. p. 49). The customers objected to the City's claim that it had a right to install meters, and as a consequence filed their Complaint for a Declaratory Judgment to determine *inter alia* the City's right to install meters and to enjoin the forced installation threatened by the City. (Tr. p. 38).

The customers were objecting for two primary reasons. First, because of the representations made at the hearing in Indianapolis before the Public Service Commission. Such testimony gained PSC approval of the lease-purchase, and the customers felt the City should be bound by those assertions until changed by the PSC.

The second reason for the *customer's* objection to the installation of the meters and really the only issue over which the trial court had jurisdiction *is* the lack of contractual authority by the City to unilaterally install meters.

The factual controversy focuses on four particular documents, those being the schedule of rates (Tr. p. 67), the Order approving the lease—purchase (Tr. p. 73), the Application for Water, Sewer and Trash Service (Tr. p. 101), and the General Rules and Regulations for Water Service (Tr. p. 92). The facts are uncontroverted that the rates as shown, including a minimum "flat" rate of $7.50, were approved by the PSC in 1977 (Tr. p. 63) and were incorporated in the PSC order of October 4, 1979. (Tr. p. 44). In addition, Utilities Director Michael Vance has asserted that the *day to day operations* of the River Commons water distribution system *is* subject to the General Rules and Regulations for water service to River Commons. (Tr. p. 87). The opening paragraph, those Rules and Regulations states that "the following general rules shall be a *part* of the contract with every person . . . who uses water service . . ." (emphasis added). (Tr. p. 92). Yet the homeowners have claimed that they never received this or any similar document (Tr. p. 103-127) and the distribution of such a pamphlet is required by PSC regulation 170 IAC 6-1-18.

The other part of the contract referred to in the Rules and Regulations apparently is the Application for Water, Sewer and Trash Service, and the customers' affidavit testimony (Tr. p. 103-127) indicates a major discrepancy *from* Michael *Vances* assertion in his affidavit that all 131 users who have applied for service have signed the application. (Tr. p. 89). Some never signed (Tr. p. 106, 108, 122); some signatures were unauthorized (Tr. p. 110, 114); others signed because the document was misrepresented by the City as a deposit receipt (Tr. p 116, 118, 120, 126).

In spite of the many genuine and controverted issues of material fact which were presented in the pleadings, affidavits and exhibits thereto, the trial court granted summary judgment. (Tr. p. 145).

SUMMARY OF THE ARGUMENT

The trial court may have lacked jurisdiction to rule in this case since much of its decision was *concentrated on* issues which are in the exclusive jurisdiction of the Public Service Commission. Also, the statute under which the plaintiffs alleged jurisdiction has since been repealed.

If the trial court invoked jurisdiction under contract law, which is usually outside the PSC jurisdiction, the granting of summary judgment was certainly improper. The two written contracts under consideration which supposedly gave authority to the City to install meters were not enforceable. One, known as the "Rules and Regulations" had never been given to the users as was mandated by PSC regulation. Also, its terms, when taken as a whole, clearly gave the alternative of providing water at a flat rate, which is precisely what the City has been doing for years. Since the City claimed that the contract governed the day to day operation of the utility, the court, even if it found no ambiguities or conflicting terms, should have examined extrinsic evidence to determine the contract's validity and enforceability. How could it even be a contract if the people most affected never saw it? Even when carefully examined, however, the contract did not give the City absolute power to install meters.

The other necessary part of the contract was an "application" for water service, which was executed under all sorts of questionable circumstances. the affidavits by both parties set forth numerous genuine issues as to material facts which the court erroneously disregarded. The conflicting facts should have prevented summary judgment and mandated a proper hearing at trial.

Also, the City may well have waived any right it may have claimed to install meters. The evidence and testimony presented by the City before the PSC when seeking approval of the lease—purchase of the River Commons water system very *definitely* promised a continuing flat rate with no meters. And its actions after it leased the system when it provided water at a flat rate agreement fulfilled those promises. Later the City reneged on its prior policy and attempted to force the meter installation.

The Court may not have had jurisdiction over the subject matter. By granting summary judgment, however, the court not only considered matters possibly outside its jurisdiction, but also disregarded numerous genuine issues as to material facts presented by both sides in affidavits and exhibits thereto. This summary judgment should be set aside and the case given a full hearing before the fact finder.

ARGUMENT

The essential thrust of this appeal is contractural—whether the City of South Bend, in accordance with its own contracts, had the absolute right to install water meters or whether there was a material fact issue in the balance thus precluding summary judgment. However, the issue of jurisdiction was primarily raised by the City as part of its Memorandum in Support *if* its Motion for Summary Judgment. (Tr. p. 68). The issue of subject matter jurisdiction, when in question, can and should be raised in the Court of Appeals, and is therefore presented as the first argument. Also, this issue is now relevant since the City and the Court in its ruling have ventured outside the issues of contract and into concerns reserved to the purview of the Public Service Commission.

I. The Trial Court lacked jurisdiction over the subject matter

Jurisdiction can and should be raised at any time, and although it was the City's Motion (Tr. p. 68) (to Dismiss for Lack of Jurisdication) that the Court overruled, the plaintiffs included the issue as part of *its* Motion to Correct Errors and as part of its appellate brief for the reason that the statute and the case law cited may bestow exclusive jurisdiction with the PSC.

". . . it is well established that when there is a lack of jurisdiction of the subject matter in the trial court, the question may be raised at any time and in any manner before final decision and, if not raised in trial court or by a party to the appeal, then it is the duty of the appeal court, *sua sponte* to raise and determine it." *Indiana Bell Telephone Co., Inc.* vs. *Frieland* (1978) 175 Ind. App. 622, 373 N.E.2d 344, U.S. Cert. Den. 440 US 916.

The jurisdiction of this court over at least some of the issues raised in this cause of action was challenged by the City in its Motion for Summary Judgment. Some background is necessary to show why the case was filed. Originally the plaintiffs had filed an injunction against the City in Circuit Court to prevent the City from forcing the installations of meters at a cost of $475.00 per household. (Tr. p. 49). At the suggestion of the City Attorney and by agreement of the parties, the plaintiffs withdrew the injunction action and refiled this Declaratory Judgment Complaint in Superior Court. Jurisdication was never questioned or discussed at that time.

However, at the hearing for the City's Motion for Summary Judgment and as a part of *her* argument that the Court lacked jurisdiction, (Tr. p. 68), the City Attorney referred to I.C. 8-1-2-54 which does give 10 persons the right to file a complaint before the PSC for the reasons that:

". . . any of the rates, tolls, charges or schedules or any joint rate or rates in which such petitioner is directly interested are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act whatsoever affecting or relating to the services of any public utility, or any service in connection therewith, is in any respect unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or can not be obtained, the commission shall proceed, with or without notice, to make such investigation as it may deem necessary or convenient. But no order affecting said rates, tolls, charges, schedules, regulations, measurements, practice or act, complained of, shall be entered by the commission without a formal public hearing." 8-1-2-54, *Wests Annotiated Indiana Code.*

An Indiana case interpreting this statute does raise a threshold question of whether a trial court may entertain subject matter jurisdiction before a plainfiff or customer of a utility has first established that it is without access to an administrative remedy before the Public Service Commission. *Indiana Forge and Machine Company, Inc.* vs. *N.I.P.S.C.O.* (1979), —— Ind. App. ——, 396 N.E.2d 910. This and other *casses* involving PSC jurisdiction give exclusive jurisdiction to the Commission of the issues raised in the case at bar with the *possible exception of breach of contract.*

". . . The question submitted to the trial court involved the breach of a voluntary contract. The construction and breach of such contracts are matters for judicial determination. The Public Service Commission does not have jurisdiction of such matters. "*Indiana Telephone Corp.* vs. *Indiana Bell Telephone Co., Inc.* (1976) 171 Ind. App. 616, 358 N.E.2d 218. Ind.

The *Indiana Telephone* case *is* a narrow distinction between the PSC's role in rulemaking to be applied thereafter and the enforcement by the Courts of liabilities presumed to already exist, future as opposed to past. However, *Indiana Forge, supra,* indicates that where there is an overlap of jurisdiction, the remedies before the administrative agency must be exhausted.

"Forge argues that the PSC has no jurisdiction over the construction of or the breach of contracts and that it cannot be awarded damages. However, these factors will not deprive the agency of jurisdiction if the claim is otherwise committed to agency review." *Indiana Forge and Machine Co., Inc.* Supra P.

The case goes on to adopt a concept from *Davis* on Administrative law:

"On the question whether the doctrine [primary jurisdiction] applies to problems of relief which are beyond administrative jurisdiction, the theory seems reasonably clear. The test is not whether some parts of the case are within the exclusive jurisdiction of the courts; the test is whether some parts of the case are within the exclusive jurisdiction of the agency. Because of the purpose of the doctrine—to assure that the agency will not be bypassed on what is especially committed to it—and because resort to the courts is still open after the agency has acted, the doctrine applies even if the agency has no jurisdiction to grant relief sought. 3 Davis, Administrative Law Treaties § 19.07 at 39 (1958)." *Indiana Forge and Machine Co., Inc., supra,* at p. 913.

Both the *Indiana Forge* and the *Indiana Telephone* cases give a thorough examination of the issue of jurisdiction.

Originally, when the plaintiffs filed the complaint on May 24, 1982, they alleged in pleading paragraph 12 that the trial court has subject matter jurisdiction.

"12. That this Court has jurisdiction over the subject matter at bar for the reason that I.C. 19-3-11.5-8 limits any challenge to the terms and conditions of the lease, and since any jurisdiction of the Indiana Public Service Commission for this matter falls under 19-3-11.5-1 and following, there are no administrative remedies available, and equitable relief is the only legal means available to the Petitioners." (Tr. p. 41 & 42).

I.C. 19-3-1.5-8 established a 30 day time limit to petition the PSC in order to challenge the lease. The City's attempt to force meter installation came long after the lease was approved without formal opposition.

Effective January 1, 1983, I.C. 19-3-11.5-1 *et seq.* was repealed and replaced by I.C. 8-1-5-2-27 *et seq.* Although the new statute retained some similarities, it was a substantial departure from the original very detailed and restrictive I.C. 19-3-11.5. Thus, when the water customers alleged jurisdiction in 1982 the original statute was still in force. When the City moved for summary judgment in 1983, the same statute had been repealed.

The trial court arguably had jurisdiction under the old statute. When that statute was repealed, the more general jurisdiction of the PSC, under I.C. 8-1-2-54 and others, *probably* took over.

II. There were genuine issues as to material facts concerning whether or not the city had the right to install water meters and summary judgment should not have been granted

The primary question before the trail court, and the only issue over which it may have had jurisdiction, is the question of whether the City has the right to install meters. This question focuses on the document referred to as the "General Rules and Regulations for Water Service" (herein referred to as "Rules and Regulations") for the River Commons Subdivision (Tr. p. 92-100). This document was filed with and received by the Public Service Commission on March 10, 1977, apparently in connection with the PSC order under Cause No. 34737 which also established a schedule of rates and charges (Tr. p. 63). The October 4, 1979 PSC Order under Cause No. 35797 states that the rates and charges approved in 1977 shall *remain* in full force and effect (Tr. p. 44-48).

Numerous fact questions and conflicts were raised in the affidavits and exhibits thereto filed by each party. Yet, the trail court granted summary judgment (Tr. p. 145). A summary judgment may be granted only if:

". . . the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits and testimony, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Rule 56(c), *Indiana Rules of Trial Procedure.*

A recent Indiana case involving a municipality summarizes the standards that must be met before a summary judgment can be granted.

Initially, a survey of the appropriate ground rules in the appellate review of an appeal involving a summary judgment is appropriate. Summary judgment may be granted only if all the material on file shows that there was no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. (cites omitted) A fact is material if it is decisive of either the action or a relevant secondary issue. (cites omitted) It cannot and should not be used as an abbreviated trial. (cites omitted) The trial judge may *not* weigh the evidence in a summary judgment proceeding. Even where the facts are undisputed, the ability to draw from them conflicting inferences which alter the outcome, will make summary judgment inappropriate. (cites omitted) In reviewing the propriety of a summary judgment, the facts alleged by the party opposing the motion must be taken as true. *Consolidated City of Indianapolis* vs. *Cutshaw* (1983), —— Ind. App. ——, 443 N.E.2d 853, 856.

The following issues, any one of which would be sufficient grounds for denial of a summary judgment motion, clearly show that there were genuine issues of material fact that should have been heard and resolved at trial.

A. The failure by the city or its predecessor, South Bend Federal, to distribute the "Rules and Regulations" to the existing customers and new applicants as required by PSC regulation made that "contract" unenforceable

As a matter of law the summary judgment motion should have been denied. 170 IAC 6-1-2 of the Indiana Administrative Code as it applies to the Public Service Commission of Indiana states:

"SEC. 2. Application of Rules. These rules shall apply to any public water utility subject to the jurisdiction of the commission pursuant to the provisions of the Public Service Commission Act, or any other statute of the State of Indiana, which is now or may hereafter be engaged in the production, sale or distribution of water service (herein called "utility" or "water utility")."

170 IAC 6-1-18 specifically requires that the customer and applicants be provided with certain information.

"SEC. 18. Information Provided by Utilities to Applicants and Customers. (A) All utilities except Class D Water utilities *must publish and distribute, without request, to all applicants for service and to all current customers, a comprehensive phamplet which, in clear language, easily understandable to a layman, fully describes the rights and responsibilities of the customers.* For Class D utilities it shall be sufficient to distribute a copy of Rules 11 to 16.2 [170 IAC 6-1-11-170 IAC 6-1-18] of these rules to their customers and applicants for service. (emphasis added).

(B) A utility shall supply free of charge a copy of the rate schedules applicable to the types of service available to new applicants for new and existing customers of residential service, upon request by the applicant or customer.

(C) Each utility, whenever it petitions the Commission for a change in any of its base rate schedules must furnish to each customer within forty-five (45) days of such request and prior to the date of the public hearing a notice which fairly summarizes the nature and extent of the proposed changes.

In its affidavit in support of summary judgment by the Director of Utilities for South Bend, the City has proclaimed that the "day to day operation of the River Commons water distribution system is subject to the General Rules and Regulations for water service for the River Commons Subdivision . . ." (Tr. p. 87).

The affidavits from the users, presented in opposition to the Motion for Summary Judgment, unanimously state that the "General Rules and Regulations for Water Service" were never distributed. (Tr. p. 103-128). Yet, it is precisely these rules—a self described "contract" that the City is attempting to enforce and which the Court, by its Declaratory Judgment, (Tr. p. 141) is condoning. The utility, both before and after the 1979 Order, has not complied with this regulation *requiring* distribution, and thus the pamphlet which supposedly describes the rights and responsibilities of a customer is *not* in force. The only contract in force is a current ongoing agreement to supply water for $7.50 flat rate. There is no agreement, as is required by regulation (and by the City's own document), for metered measurement of water use.

". . . (A) written instrument cannot take the place of and supersede a parol contract until the writing has been mutually adopted by the parties as an instrument embodying the terms of the agreement." 17 A C.J.S. *Contracts* § 381 (1963), *Foster* vs. *United Home Improvement Co., Inc.* (1981), —— Ind. App. ——, 428 N.E.2d 1351, 1356.

The only contract affecting the water users in River Commons which has been mutually adopted is the flat or minimum rate. The utility has provided water and the users have paid as billed.

Although it is not always necessary to prove a written or oral modification of a contract since modification of a contract can be implied from the conduct of the parties, (See *Gorbette* vs. *Estelle* (1982), —— Ind. App. ——, 438 N.E.2d 766), the conduct of the parties here clearly shows that there was no modification since the City has not properly notified the users. Clearly, as a matter of law, since the facts are undisputed, the City's violation of the PSC regulation makes unenforceable its own "Rules and Regulations" which they rely on as authority to install meters. And if there is still some question of whether or not the Rules and Regulations were distributed, the question surely raises a genuine isse of material fact that precluded summary judgment.

Mr. Lindower's Affidavit accompanying the Motion to Correct Errors also indicates that there was no 45 day notice in 1977 when the rates were changed. (Tr. p. 173) That too is a violation of 70 IAC 6-1-18(c) that could render the rates unenforceable now that they are attempting to apply them, but that is more likely an issue for the Public Service Commission and is not within the jurisdiction of the trial court.

B. If the "Rules and Regulations" Were In Fact A Contract Between the Utility and the User, By Not Being Distributed As Required, An Agreement Was Impossible and Thus Not Enforceable As A Contract.

The fact that the City did not distribute the Rules and Regulations not only violates the PSC regulations, but that failure also makes the enforcement of that document very questionable if not impossible.

"While as a general rule, the identity of the parties to a contract is ascertained from an examination of the written instrument (cites omitted) it is also true that mere reference to a more formalized contract does not void the presently existing agreement, whether that agreement is oral or an informal writing. *Greenfield Builders and Erectors, Inc.* vs. *Fellure* (1982), —— Ind. App. ——, 443 N.E. 2d 87.

The Rules and Regulations asserted by the City in its affidavit (Tr. p. 87) as authority for installing meters state at the outset that "the following general rules shall be a *part* of the contract with every person . . . who used water service . . ." (emphasis added). (Tr. p. 92) The testimony in the affidavits from Mr. Lindower also indicates that there were oral agreements made by the utility both when it initially supplied water service and when it sought approval of the lease—purchase agreement by the PSC.

Indiana recognizes the validity of a contract resting partly in writing and partly in parol, but such a contract is a mere oral contract. Where it is necessary to resort to oral evidence to establish the terms of the contract, the whole contract is oral. *Fellure, id* at p. 90.

Because the contract was not distributed, it is questionable that *any* of the agreement between the utility and the users is in writing, but there is no question from the written language that the Rules and Regulations document is not complete in and of itself. Even the City acknowledges the necessity of an additional contract in the form of the "Application for Water, Sewer and Trash Service", a copy of which is attached to Mr. Vance's supplemental Affidavit (Tr. p. 101) and is referred to in several of the Affidavits of the River Commons customers. (Tr. p. 106, 108, 110, 112, 114, 118, 122, 124, 127). These affidavits stress the gross misrepresentations made by the utility when demanding signatures.

An ambiguity as to the rights and obligations of the parties exists, and there is an absolute necessity to bring in extrinsic evidence to determine what agreements have or have not been made between and among the parties for the delivery and payment of water services, and with the necessity of such extrinsic evidence, there exists a genuine issue as to material facts, and summary judgment cannot be awarded as a matter of law.

C. The "Contract" (i.e. the "Rules and Regulations"), Had It Been Distributed, Accomodates A Flat Rate As An Alternative To the Metered Rates When the Contract Is Taken As A Whole

Assuming, arguendo, that the Rules and Regulations had been distributed and the document was able to stand alone as the enforceable contract between the utility and the users as is asserted by Michael Vance in his supplemental affidavit (Tr. p. 87), the "contract" is nevertheless subject to more than one interpretation.

In interpreting or construing a contract it is in the court's purpose to effect the intent of the parties. (cites omitted). Such intent is established, however, as of the time the contract was made and as reflected by the language used. (cites omitted). Courts must consider all of the provisions of a contract to ascertain meaning, not just individual words, phrases, or paragraphs, and must accept a construction which harmonizes the provisions rather than one which views the provisions as conflicted. (cites omitted). . . . Moreover, in order to apply rules of construction favoring the non-drafter of contract terms respecting (insurance), the language must be ambigous or of doubtful meaning. *Loving* vs. *Ponderosa Systems, Inc.* (1983), —— Ind. App. ——, 444 N.E.2d 896, 903.

The users are not here attempting to create an ambiguity, nor are they asking the court to rewrite the contract simply because there is a controversy. Rather, the users are asking the court to examine the langugage of the contract (Tr. p. 92-100, 101) taken as a whole. This is precisely what the trial court did *not* do as it selected language from only two of fourteen paragraphs to justify its decision. A complete examination of the *whole* contract will show that under some circumstances the contract provided for flat rate as an alternative to the metered rate.

Assuming, as stated by Michael Vance in his supplemental Affidavit, that the day to day operation of the utility is subject to the Rules and Regulations as filed with the PSC on March 10, 1977, (Tr. p. 87 para. 4), we must consider the whole contract. First, as stated above, the opening paragraph states that the rules *"shall* be a *part* of the *contract* with every person . . . ." (Tr. p. 87). Thus, it is a mandatory part of an intended contract. It is not simply a PSC mandate. It is a contract that implies all of the contract principles referred to herein, including mutuality or a meeting of the minds.

Paragraph 2 states that a written application shall be *required.* (Tr. p. 92). This refers to the "Application for Water, Sewer and Trash Service" presented by Utilities Director Vance as an exhibit to his affidavit (Tr. p. 101). Presumably the application is the rest of or certainly an integral part of the "contract" referred to as the "Rules and Regulations" (Tr. p. 87-100). Thus the wording in that document, the manner it was presented and the questionable circumstances under which it was signed are extremely important. So too is the fact that many of the users, as stated in the affidavits, (Tr. p. 106, 108, 110, 112, 114, 122, 124), never received or signed this part of the contract known as the "Application for Water, Sewer, and Trash Service". (Tr. p. 101). If the City has such a requirement prior to providing water, it is certainly a genuine issue as to a material fact of whether the requirement was met.

Paragraph 4 (Tr. p. 93) requires the execution of a contract and the installation of a meter *unless* a water utility representative turns on the water. Presumably in that instance a signed contract is not needed if the authorized person turns on the water. That is the situation with almost every user in River Commons including those signing affidavits. The last sentence also indicates that a *contract must be executed and* a meter installed. (Tr. p. 93). If no contract is signed, which is certainly a contested issue, then no meter could be installed.

Paragraph 5 (Tr. p. 93) contemplates a metering procedure *before* water service is delivered and presumably after the contract referred to in paragraph 4 is signed. Thus, water service now being delivered is without the meter and is outsidce the language of paragraph 5.

Paragraph 6 (Tr. p. 94) referring to metering, states *"unless otherwise specified in the contract between the utillity and the customer* or by the rate on file, the water supplied will be measured by a meter . . . . " Many if not most of the contracts between the utility and the customer by previous agreement have specified a flat rate. There are no written contracts in effect which call for meters, unless the City claims that the "Application" fulfills that requirement, and as shown by the affidavits, that signing process is very defective and in many cases nonexistent. The individual contracts of the River Commons customers are valid ongoing flat rate contracts, and they are accomodated by these Rules and Regulations (even if they had been distributed) and should continue to be honored by the City until the City follows its own "contracts" and the PSC regulations and properly amends or updates them.

Paragraph 9 (Tr. p. 96) most graphically illustrates the acknowledgement of a flat rate by these Rules and Regulations. "If a *customer on a flat rate* is found using water in excess of the *flat rate contract* or permits leaks on premises or wastes water . . . the utility may require the customer to provide a suitable place for the installation of a water meter and thereafter supply service in accordance with an applicable metered tariff." (Tr. p. 96). Thus, in order to force a customer to change from a flat rate contract to a metered tariff, the *utillity* must show that the flat rate customer is using excess water or is allowing leaks or otherwise wasting water. Such excess use is a fact question and the burden of proving the fact is upon the utility for *each* customer.

Other than a general indication by Mr. Vance in his first Affidavit (Tr. p. 60) that the "average" usage in River Commons is nearly double that of average use in South Bend, there is no showing of excess use or waste by a specific customer as is required by paragraph 9. Nor is there any indication of the difference in use before and after the City acquired the utility. Also, River Commons consists of larger homes with larger yards. There is no indication that the comparison is made with comparable neighborhoods in South Bend. Rather, it is apparent that the comparison is with the City as a whole which likely consists of numerous smaller households which would naturally use much less water, thus making the comparison irrelevant and invalid. Under any circumstance this is clearly a genuinely controverted issue as to a material fact, and summary judgment is inappropriate as a matter of law.

This issue concerning the contract interpretation is extremely important in this case. As was cited above, the Public Service Commission has jurisdiction over the operation of utilities, but it does not have jurisdiction over issues involving construction or breach of a contract between a utility and a customer. *Indiana Telephone Corp.* vs. *Indiana Bell Telephone Co., Inc. supra.* If this is not a contract case, the court should have refused jurisdiction. If it is a contract case, the court should have considered the contract language as a whole, not just two paragraphs. And it should have considered the vital question of fact raised rather than granting summary judgment.

The distinction between contract and utility issue is sharply focused in the case at bar. In its summary judgment (Tr. p. 138-143) the court cited two main reasons for its conclusion that the City had the right to install water meters. The first reason was based on an interpretation of the wording in an order of the Public Service Commission. Since the *commissions* order incorporated a schedule of rates and charges that included both non-metered and metered rates, the court concluded that the City and its prior owner had the right to install the meters. (Tr. p. 141). A conclusion on that basis is clearly within the sole province of the PSC. *Indiana Telephone Corp., id; Indiana Forge and Machine Company, Inc.* vs. *N.I.P.S.C.O., supra.*

The second basis for the trial courts ruling was the interpretation of the so called Rules and Regulations, a self described contract. The court cites the reference to meters in paragraph 6 and 7 as additional authority for the City and the utility's prior owner to install meters. (Tr. p. 141). While the court does have authority to interpret such a contract, *Indiana Telephone Corp., supra.*, in the process the trial court, as argued above, has completely disregarded the contract as a whole, the ambiguities, the conflicting terms, the "application" as an integral part of the contract, the misrepresentations made regarding the application, and above all the failure of the City to distribute the Rules and Regulations as required by the PSC rules.

The court lacks jurisdiction to interpret and enforce the Public Service Commission order. When turning to the contract, the surrounding circumstances involve numerous genuine issues of material fact that make summary judgment completely inappropriate.

D. The Application For Water, Sewer and Trash Service, When Given To and Signed By Some of the River Commons Users, Was Done So Through Misrepresentation of Purpose and Content By the Representatives of the City, Thus Rendering It Unenforceable

As has been shown above, paragraph 2 of the Rules and Regulations requires, as one part of the overall contract, a written application for service. The City has apparently admitted, through its actions and affidavits, that the signed application is a necessary authorization and a condition precedent to its installation of a meter for an individual customer. In his supplemental Affidavit Michael Vance goes so far as to say that all 131 users who applied for service after the October 4, 1979 approval of the lease-purchase have signed this application. (Tr. p. 89). His affidavit admits that at least 53 customers have no such contract, which contract is necessary for the enforcement of the Rules and Regulations. That uncontroverted fact alone disallows the utility to force meters on at least 53 customers.

More significant, however, is the issue of the other 131 customers. As is indicated by the affidavits submitted by the users, there is a serious question of fact as to whether those contracts were signed by all of the users. (Tr. p. 103-127). Someone not authorized to sign executed the document for Kenneth and Mary Farwig (Tr. p. 110) and for Christine Etzel. (Tr. p. 114). To their recollection, the document was never signed by Daniel and Judith Kloc, (Tr. p. 108), Arvid Patel, (Tr. p. 106), and Richard Ringhofer. (Tr. p. 122). The City acknowledges that it needs these documents properly signed, yet there is a genuine issue as to a material fact whether they were properly signed or signed at all.

In addition, the document was misrepresented to some of the customers who executed the document. The water works employee told Patrick Conroy that the application was a verification of his deposit and the fee was the same even if he didn't have a meter. (Tr. p. 120). Therefore he signed the document. Pamela Ward signed the application because she was told that it was a receipt for her deposit. (Tr. p. 118). Marvis Pillman told the water works employee he wanted no meter and she said he was to sign a receipt for his deposit. (Tr. p. 116). Jennifer Lahey said she didn't want a meter, and that she and her husband were leasing the property. She was told the form was a receipt for deposit and service charge. (Tr. p. 126).

In interpreting a written contract the court must attempt to determine the intent of the parties from the language of the contract. *R.R. Donnelley & Sons, Co.* vs. *Henry-Williams, Inc.*, (1981), —— Ind. App. ——, 422 N.E.2d 353. But if the contract is ambiguous and the meaning is to be determined by extrinsic evidence, it is a question of fact. *R.R. Donnelley & Sons, Co., id.*

Under certain conditions, to knowingly misstate the contents of a writing and to purposely misstate the facts which would cause signing the same as fraud. *Fleetwood Corp.* vs *Mirich* (1980) 404 N.E.2d 38.

"A party to a contract may rely on the representations of fact where the exercise of reasonable prudence does not dictate otherwise. The mere occurrence of a false representation does not necessarily require the other party to ascertain the truth of the representation." *State Farm Mutual Auto Insurance Co.* vs. *Price* (1979), —— Ind. App. ——, 396 N.E.2d 134.

The customer had no reason to believe otherwise. The service was and has been provided at the flat rate just as the utility employee said, the "application" notwithstanding. There are many material facts which must be examined in detail. Summary Judgment is proper only if there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Middelkamp* vs. *Hanewich* (1977), —— Ind. App. ——, 364 N.E.2d 1024. To find by summary judgment that the City has the legal right to install meters without examining these material facts is contrary to law and the Court of Appeals should reverse the summary judgment of the trial court and order a trial on the contractual issues over which the lower court has jurisdiction.

E. The City Has Waived Its Right To Install Meters Under the Provisions of a Written Contract If Any Did Exist, And Under the Facts of This Case

It remains the position of the appellant water users that the trial court did not have jurisdiction over the issues exclusively in the province of the PSC. However, since part of the two-fold reason for authorizing the City to install meters was based on interpretation of the PSC order, the water customers contend that, based on documents and evidence presented to the PSC, the City waived its "right", if any, to install the meters.

The customers, by all accounts, are presently on a flat rate of $7.50 per month. This has been the case both before and after the lease purchase was approved by the PSC on October 4, 1979. The two written documents that have been introduced into evidence by the City are the Rules and Regulations (Tr. p. 92-100) and the "Application for Water, Sewer and Trash Service" (Tr. p. 101) (hereinafter referred to as "Application"). As has been discussed above, the Rules and Regulations provide for a flat rate as an alternative to the metered rate under some situations. The Applications seem to require a meter before delivery of water service.

In its Declaratory Judgment, the Court has defined waiver as 'the intentional relinquishment of known right, claim or privilege". (Tr. p. 141). We have no quarrel with that definition. The facts presented to the Court in the form of affidavits and in the form of a transcript of the hearing before PSC (as was stipulated by both parties) very clealy raise the fact issue of waiver as defined by this Court.

The law in Indiana on waiver focuses strongly on actions of the parties to a contract. In *Rembold Motors, Inc.* vs. *Bonfield* (1973), 155 Ind. App. 422, 293 N.E.2d 210, the Court ruled that if the lessor accepted late payments *that* it constituted a waiver, regardless of the written contract. The City has obviously waived the provisions of the written "contracts" by providing water service without meters for the $7.50 flat rate. A contractual provision may be implied waived by the knowing and willing acquiscence of a party for whose benefit the provisions were inserted. *Terry* vs. *International Dairy Queen, Inc.* (D.C. Ind. 1983) 554 F.Supp. 1088.

"Once a contract condition has been waived and the waiver has been acted upon, the failure to perform the condition cannot be the basis for breach of the contract. Furthermore, waiver may be implied by the acts, omissions or conduct of one of the parties to the contract. *Integrity Ins. Co.* vs. *Lindsey* (1983), —— Ind. App. ——, 444 N.E.2d 345.

(The Court, in that case, upheld a denial of a Summary Judgment motion because of the existence of material issues of fact regarding the waiver).

At the September 19, 1979 hearing before the PSC then Director of Utilities for South Bend, John Stancati, testified that there were no meters in River Commons (Tr. p. 178), that the City at the time did not contemplate changing existing rates (Tr. p. 179) and that the City did not contemplate increasing the rates above the $7.50 level. (Tr. p. 80). The objective of the line of questioning by the Public Counselor was to ascertain if the City intended to install meters to generate additional revenue to pay for the Laurel Woods extension. The City steadfastly stood by the sufficiency of the flat rate. That is clearly a waiver made before the PSC in order to insure approval of the lease purchase.

Accountant Michael Smith, CPA, testified at the hearing that the River commons customers were paying $7.50 per month (Tr. p. 182); that is assumpton and projections were based on "present" rates ($7.50) through 1986, really 1989 (Tr. p. 183); that in his opinion the rates presently established for the River Commons utility would be sufficient (Tr. p. 183); that the City represented to him, as a basis for his projections, that the $7.50 flat rate would be maintained through 1989 (Tr. p. 184); and that he was instructed, when forming his conclusions, that there would be no rate increase. (Tr. p. 185).

The October 4, 1979 order approving the lease purchase set forth explicit limitations restricting the City from assessing the River Commons customers with additional charges to pay for Laurel Woods extensions. (Tr. p. 73-80). To gain that approval, the City testified through its two key witnesses that it did not contemplate anything but the $7.50 flat rate through 1989. Such action is the "intentional relinquishment of a known right". It certainly presents a genuine issue as to a material fact, and the Court's disregard for that fact issue makes the summary judgment contrary to law.

Also, since waiver may be derived *by* the acts or omissions of a party, the City's providing water service at a flat rate when its "contracts', especially the application, provide otherwise, is a strong basis for waiver. As shown above, the manner in which signatures for the Application were (or were not) obtained and the failure to distribute the Rules and Regulations are further evidence that the City waived its "Right" to install meters.

CONCLUSION

The court has no jurisdiction over Public Service Commission matters, especially with the repeal of I.C. 19-3-11-5. In confining itself to contractual issues only, the court is not only obligated to consider the writing as a whole, but also to resolve ambiguities by considering extrinsic evidence. Rather than granting summary judgment the court should have considered at trial the ambiguities, the conflicting terms, the "application" as an essential part of the contract.

Mr. EAGLETON. I ask unanimous consent that the evaluation of this Lindower brief, as done by the Chicago Council of Lawyers, be printed in the RECORD immediately following the Lindower brief.

There being no objection, the evaluation was ordered to be printed in the RECORD, as follows:

THE CHICAGO COUNCIL OF LAWYERS,
Chicago, IL, April 29, 1986.

Hon. PAUL SIMON,
Dirksen Senate Building, Washington, DC.

DEAR SENATOR SIMON: The following is the Chicago Council of Lawyers' evaluaton of a brief written for the Indiana Court of Appeals by Daniel A. Manion, in the case of *Jason D. Lindower, et al.* v. *City of South Bend*, No. 3-3841473. We provide this evaluation pursuant to your request. You have also told us that you would like us to review additional briefs written by Mr. Manion. We understand that you received those additional briefs last Saturday. Please keep in mind that our comments below pertain to only one brief written by Mr. Manion.

In perusing this brief for the purpose of evaluating Mr. Manion's qualifications, the Council took into account the position for which he seeks consideration. As we noted in our letter to you of April 9, 1986 concerning Mr. Manion:

"The Chicago Council of Lawyers believes that in order to be found qualified for appointment to the United States Court of Appeals, a candidate must have outstanding intellectual qualifications as demonstrated by performance in practice or scholarship. The most outstanding candidates should have established an exemplary record in both areas."

Assuming this brief to have been a recent product, rather than one drafted by him early in his career, it demonstrates a low level of competency compared to the excellence to which the judiciary and the public are entitled.

The brief contains numerous typographical errors, including:

Page 2: Contract is misspelled "contrct" in heading E.

Page 5: "Customer's" should be "customers'".

Page 6: The word "of" is missing between "the opening paragraph" and "those Rules".

Page 8: "Definitely" is misspelled "definately".

Page 9: "Memorandum in Support *if* its Motion".

Page 10: "Its Motion" should be "their Motion".

Page 11: "Casses" should be "cases".

Page 11: "Clearly show" should be "clearly shows".

Page 24: "Utility" is misspelled "utillity."

Page 26: "Commissions" should be "commission's".

Numerous grammatical and syntactical errors similarly reflect adversely on Mr. Manion, viz.:

Page 5: "The City, abided by their sworn testimony" should read "the City abided by its sworn testimony". In the phrase "over which the trial court had jurisdiction is the lack of contractual authority", the "is" should be "was".

Page 5: The sentence "First, because of the representations made at the hearing in Indianapolis before the Public Service Commission." is incomplete.

Page 6: In the phrase "a major discrepancy from Michael Vance's testimony", the word "from" should be "in".

Page 12: In the phrase "the *Indiana Telephone* case is a narrow distinction", the word "is" should be "draws" (or some other suitable verb).

Page 19: The word "*part*" is incorrectly emphasized. If any word deserves emphasis, it is the word "every".

Page 25: In the sentence "the distinction between contract and utility issue * * *.", either the word "a" or "the" should appear after the word "between", or the word "issue" should be plural.

Page 29: The sentence "Under certain conditions to knowingly misstate the contents of a writing and to purposely misstate the facts which would cause signing the same as fraud." is obviously garbled.

Page 31: In the phrase "the Court rules that if the lessor accepted late payments that it constituted a waiver", the second use of the word "that" is incorrect.

Page 33: In the phrase "since waiver may be derived by the acts", the word "by" should be "from".

The numerous typographical errors, grammatical mistakes, and syntactical errors in the brief raise concerns about Mr. Manion's ability to write, a key qualification for a judge of the Court of Appeals.

Moreover, in addition to the errors noted above, the brief lacks precision in its expression and argument. Putting aside the grammatical and syntactical errors, many of those who reviewed this brief for the Council commented that the quality of its content fell far below what one should expect from a candidate for the Seventh Circuit.

Very truly yours,

THOMAS F. GERAGHTY,
Chair, Federal Judicial Evaluation Committee.

Mr. EAGLETON. Mr. President, the Lindower brief is the one that came over the transom. The other five were the ones that Mr. Manion submitted as his best briefs. This is the one that came to the Judiciary Committee anonymously. Mr. Manion acknowledges it, though, as being his brief.

Mr. BIDEN and Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. THE Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I shall be very brief.

There are three judges currently in the news. There is Mr. Justice Rehnquist, lately nominated to be Chief Justice; there is Judge Scalia, nominated to be Justice; and there is Daniel Manion.

Justice Rehnquist is so conservative that when first nominated to the court, his staffers awarded him a little statue of the Lone Ranger. That is because he was a majority of one, time and time again, and the office joke was that Mr. Justice Rehnquist was the Lone Ranger because he was so conservative that nobody else on the court would go with him.

Mr. President, when the President of the United States nominated Justice Rehnquist, I, along with most of my colleagues on both sides of the aisle, said, "There is a man of quality, of intellect, of proven capacity, with all of those qualities that a Supreme Court Chief Justice ought to have."

I, for one, said, "I am for him. Send him up, Mr. President, and I will vote yes."

□ 1700

When Judge Scalia came up, they also said he is a man who is extremely conservative. He is a man also of great intellectual energy, of charm, of mental capacity, of integrity, of all of those other things which go to make up a fine judge. My reaction, when I heard of Judge Scalia was, if he appears at the committee hearing as he is talked about in the press, I also am enthusiastically for him, because he will certainly improve or be up to the standards of the Supreme Court when it comes to capacity, intellect, competence, and those other qualities of a judge that generally go with what we expect of the standards of the Supreme Court.

The third judge, Mr. President, is Daniel Manion, and to utter his name in the same breath with Judge Rehnquist and Judge Scalia is almost to make a joke. We are told that we ought to accept this third-quality or fourth-quality lawyer for the second highest court in the land because he is conservative. Because he is conservative, we ought to accept any judge that is sent up to us.

Mr. President, I say that is so much bunk. We in this Senate will not measure up to our own standards of integrity if we do not exercise some independent judgment and require some standards of quality when it comes to the second-highest court in the land.

Mr. President, I have read these briefs. Why, in one of these briefs there are six different errors on one page, not simple errors. Some are misspellings. They are generally the mark of a sloppy lawyer, not just a lawyer of medium quality but a sloppy lawyer. They are so bad, Mr. President, that you would have to say to make that many mistakes in any brief turned into any court of record disqualifies that judge for this kind of position.

Now, I do not say that Mr. Manion should be disbarred. I do not say that Mr. Manion should be dishonored. I do not say that Mr. Manion would not be a perfectly competent attorney in a whole range of endeavors, small claims, whatever it is. He would probably do an excellent job. But for the second-highest court in the land, the court of appeals, Mr. President, the fact that he is conservative is not enough. The fact that he might have voted right on right-to-life—and I think I have an unblemished record on right-to-life, but do not tell me Mr. President, that I have to vote for every judge that is sent up here if he happens to agree with me on the right-to-life issue. If that is the standard, why, send up my wife; she is probably stronger on right-to-life than I am, if that is possible.

Mr. President, we ought to have some quality, and we ought to have something better out of the White House than these veiled threats about trying to identify Senators as being part of the liberal claque around here if they do not approve every judge of whatever quality that is sent to us. I think that is offensive to this body, Mr. President, and I think the President of the United States ought to retract his statement and look at his nominee, and if that nominee is as poor in quality as all these law school deans say, as a thousand lawyers out of Chicago say, as commentator after commentator says, then I think the President ought to rethink his criticism of this body and withdraw his name and send us up, if he likes—and I am sure he would—a strong conservative, a strong right-to-life person but someone with a little judicial competence. This man has none.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, we are within about 5 minutes of completing a very important bill, the Diplomatic Security and Antiterrorism Act of 1986. But now we are hearing speeches on the Manion nomination. I do not object to that. Last night nobody wanted to talk. Tonight I think others do. But I hope that we complete action on the pending bill. I understand we are 5 or 10 minutes away from final passage, there are two amendments by the distinguished minority leader which would be accepted and the bill will end. Then I am proposing we have 2 hours of debate yet this evening on Manion, equally divided, and tomorrow have another 2 hours equally divided and then vote on the Manion nomination at 1 o'clock, at least on cloture. But I think what we see here is a little judicial assassination, not even giving the man the right to have an up-or-down vote. It has been a policy decision apparently, political decision, that we are going to take care of this guy and not going to invoke cloture, and therefore he will never have a chance to have a vote up or down of whether or not he should be confirmed. I believe that is unfortunate. I hope that is not the case. But I sort of sense that it is starting to boil on the other side. I hope that we

would treat this nomination as we have many in the past. I can recall after the election in 1980, a candidate by the name of Stephen Breyer, a Carter nonimee, and there was a cloture motion filed. I voted with those who wanted the Breyer nomination voted up or down. It seems to me that is the least we can do for someone who comes before this Chamber.

So, Mr. President, until we work out some agreement, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1710

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIPLOMATIC SECURITY AND ANTITERRORISM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2192

(Purpose: To coordinate further the international war on terrorism)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. DIXON, proposes an amendment numbered 2192:

On page 129, after line 3, add the following new section:

SEC. 702. COORDINATION OF INTERNATIONAL WAR ON TERRORISM.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is and remains a serious threat to the peace and security of free, democratic nations;

(2) the challenge of terrorism can only be met effectively by concerted action on the part of all responsible nations;

(3) the major developed democracies evidenced their commitment to cooperation in the fight to save terrorism by the 1978 Bonn Economic Summit Declaration on Terrorism; and

(4) that commitment was renewed and strengthened at the Tokyo Economic Summit and expressed in a joint statement on terrorism.

(b) POLICY.—It is the sense of the Congress that in order to concert action and increase information sharing in the international war on terrorism, the President should propose to the North Atlantic Treaty Organization (NATO) the establishment of a standing political committee to examine all aspects of international terrorism, review opportunities for cooperation, and make recommendations to member nations.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Coordination of international war on terrorism.".

Mr. BYRD. Mr. President, there is no reason for the United States to go it alone in the war on state-sponsored terrorism. The President's decisive action against Libya left residual bitterness in the minds of many Americans when they learned that our allies had refused to support the raid.

This administration has been accused of a unilateral policy of not consulting or including our closest allies until too late in the planning of major actions affecting them, or only after the fact. We need to regularize our discussions on areas of mutual interest. Nowhere is that need greater than in the face of the challenge of global terrorism.

I offer an amendment today that will encourage such cooperation by building upon antiterrorist commitments undertaken by heads of the developed democracies and expressed in the Bonn summit declaration against terrorism, and the recent Tokyo summit statement.

My amendment expresses the sense of the Congress that the President should propose that the North Atlantic Treaty Organization should establish a permanent political committee to deal with the subject of terrorism. NATO has been reluctant to exceed its mandate of cooperation against the Warsaw Pact threat. But the new international terrorism has targeted NATO interests, as well as those of individual member states.

The North Atlantic Assembly has established a working group on terrorism, and the NATO military structure has made strides toward better information sharing. However, a political committee of NATO would provide an important forum for government-to-government cooperation and policy discussions on terrorism. Such a committee could help in building a consensus for joint action, and in weighing options on a case-by-case basis.

Given the rise of state-sponsored terrorism, it is all the more important that like-minded governments share in planning a response.

Mr. LUGAR. Mr. President, the able Democratic leader has made an excellent contribution to this legislation. Our side is prepared to accept the amendment.

Mr. PELL. Mr. President, the Democratic side is delighted to accept the amendment of the Democratic leader and recommends its immediate adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2192) was agreed to.

Mr. LUGAR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the able chairman and the able ranking member of the committee for their acceptance of the amendment.

□ 1720

Mr. BYRD. Mr. President, I believe it is a good amendment. I thank the Senate for adopting it.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DANFORTH). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGENDA

Mr. BYRD. Mr. President, I have an amendment to the bill, an amendment on Afghanistan. I would like to discuss that amendment. It will take a little while, not very long. I think the amendment deserves some little bit of time, 30 minutes, 35 minutes, or 40 minutes, at least.

Some of my colleagues want to discuss the Manion nomination. Tomorrow there will be a vote on the cloture motion. That does not give my colleagues a great deal of time in which to discuss that nomination.

I would hope that they could discuss the nomination this afternoon and evening as much as they desire to do so. I would hope that the distinguished majority leader would allow them to do that.

I know that the distinguished majority leader wants to get on with finishing this bill, and I am perfectly agreeable to doing that.

However, I am agreeable to delaying my amendment, because the cloture vote is coming up on us under the rule, and there is no way of delaying that except by unanimous consent.

Those of us on this side who are opposed to the Manion nomination do want some time to discuss it before we have to vote on cloture.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. BYRD. Yes, I yield for a question.

Mr. BIDEN. As I understand it, we have a bill before us to be finished. We have a supplemental to be finished. Yet we have a cloture vote set for tomorrow at 11 o'clock. Is that the minority leader's understanding?

Mr. BYRD. Mr. President, there has been no order entered with respect to setting the cloture vote at a time outside the requirements of the rule. The rule would be that if the distinguished majority leader brings the Senate in at 10 o'clock tomorrow, then the cloture vote would occur a little after 11 o'clock. Whatever hour the distinguished majority leader brings the Senate in would determine the hour when the Senate would vote on cloture, because under the rule there is only 1 hour for debate on that cloture motion.

Mr. BIDEN. Mr. President, will the Senator further yield for another question?

Mr. BYRD. Yes, I yield.

Mr. BIDEN. The Senator from Delaware is under the understanding that the purpose of the cloture vote was to end debate. The assumption is that there was going to be debate before you move to end the debate. I know that we have the bill before us. There is the supplemental, which the majority leader indicates is important, and I agree with him on that, to deal with when the House sends it over, if it is not already here. I am confused as to how we can be accused of wanting to extend the debate, therefore, requiring a cloture motion to cut off the debate before we are allowed to engage in the debate.

The majority leader said last night that he was bringing it on last night. But I was told as I stood up to speak that the majority leader wanted to take us out by 6:30 p.m. I stood on the floor in response to a question. The majority leader said it was the intention to end by 6 or 6:30 p.m. The Senator from Delaware and the Senator from Massachusetts were prepared to go ahead. Instead, I gave an 8-minute statement last night to accommodate the Senate, thinking we had a chance to debate it today.

My question to the Senator from West Virginia is how can there be a motion to cut off debate that has not begun?

Mr. BYRD. Well, the distinguished Senator poses a very appropriate question. If the debate has not begun, it cannot be cut off. The Senator's observation is correct. I must say, of course, that the distinguished majority leader is acting within the rule. He may go to a matter in executive session without any debate on the motion—which he did. He may then immediately offer a cloture motion thereon, which he did, and he can do all that within the rule. Then, on the following day but one—in this situation, the cloture motion having been entered on Tuesday, the Senate will vote on the cloture motion on Thursday, 1 hour after the Senate convenes and following the establishment of a quorum.

So the majority leader is doing what he can do within the rules.

On the other hand, my colleagues who wish to debate the nomination are not being given much of an opportunity to do so. Once the Pastore rule had run its course today, of course, debate did not then have to be germane. An executive nomination can then be debated during legislative session, and that is what my colleagues were undertaking to do.

A quorum was suggested earlier a short time ago. I take it that the Senator from Delaware and the Senator from Massachusetts wanted to discuss the nomination, but the distinguished majority leader would not let the quorum call be called off.

I called the quorum off for the purpose of calling up an amendment to the bill. But I do want to take the opportunity, while I have the floor, to state that I think our colleagues should have had more time today and tomorrow to discuss this nomination.

It would require unanimous consent on tomorrow to extend the cloture vote beyond the time allowed by the rule, and the majority leader has proposed a request which is being checked out on this side. That request would allow for 2 hours tomorrow for debate rather than 1 hour.

I have not given my approval to the request, and that request would have to be run on our cloakroom lines as is the normal course.

□ 1730

However, if there is objection, then we are faced with the hard fact that we only have 1 hour for debate of the nomination under the rule.

Mr. DOLE. Will the distinguished minority leader yield?

Mr. BYRD. Yes; I yield without losing my right to the floor to the distinguished majority leader for a question or for a statement.

Mr. DOLE. Probably more in order of a statement, maybe with a question at the end.

Mr. BYRD. I yield for that purpose, Mr. President, with the Chair protecting my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I thank the minority leader.

I would just say, in trying to recollect, I think on Monday I was asked by the minority leader what the schedule might be for the week, because we start a recess on Friday, and what we had to do this week, what we would like to do this week. I believe, I have to check the RECORD, that I prepared in writing some information. I think I even handed it to the distinguished minority leader after I had used my leader's time.

Obviously, in that list, there might have been one or two things that are not going to get done. But, in that list was the supplemental, the housing bill, the Embassy Security Act, the Manion nomination, the Commodity Futures Trading Act, the Terrence Scanlon nomination, and I think a couple of other items.

The only point I suggest is now we are trying to figure out if we can squeeze that all in and complete action by Thursday evening. I have discussed this with this distinguished chairman of the Appropriations Committee, Senator HATFIELD. He reluctantly agreed to take the supplemental up tomorrow so we can debate the Manion nomination this evening. And that is a very important bill.

As I look at coming in at 11 o'clock tomorrow, by unanimous consent, having 2 hours of debate, we would vote on cloture on the Manion nomination—unless there should be some agreement to vote up or down on the nomination, which I think would be the best course of action to follow—then we hope to have three treaty votes following that and we would be on the supplemental by about 2 p.m. tomorrow.

It is my understanding that the House will be in session until we pass an adjournment resolution, but they plan on going out at 5 or 6 o'clock. That would leave 3 or 4 hours on the supplemental.

As I understand it, there are 60-some amendments in disagreement. We understand that there may be record votes requested for some of them. So it is on that basis that we are trying to finish this bill.

I certainly am prepared, if they want to debate it this evening, that is no problem, except the distinguished chairman of the committee is not here this evening. But, again, we can find another member of the committee on this side if they want a dialog or want an exchange to ask questions back and forth.

So there is no effort on the part of the majority leader to deny anyone the right to debate the Manion nomination. I think I asked the distinguished Senator from Delaware last evening what he would do if he were in my shoes and he said, "I think I would sort of proceed the way you are proceeding by filing a cloture petition," at least by inference.

Mr. BIDEN. If the Senator will yield, that was last night.

Mr. DOLE. That is when I stated.

So I think we ought to debate the Manion nomination. I think it ought to be on both sides. I do not believe we ought to be trying to defeat him by cloture. But, again, that is a judgment that can be made. We hope to discuss the precedent for that tomorrow on this side.

But, in any event, I would like to finish the pending legislation. It could be done in 5 minutes, or maybe 30 minutes with whatever the minority leader said he might take on that.

Then I would be perfectly happy that the Senator from Delaware, the Senator from Massachusetts, or any other Senator speak on either side. But they were suggesting that we stay until 10 or 11 o'clock tonight. I would rather not do that. I want to hear the distinguished Senator from Delaware, but not for 5 hours.

It seems to me there really is not any problem. If we could finish this bill then I will ask that we lay before the Senate the nomination. I do not have anything to say on it. I would be happy to yield the floor to anyone who wants it.

Mr. BIDEN. Will the minority leader yield?

Mr. BYRD. Yes, I yield to the distinguished Senator from Delaware with the same understanding as when I yielded to the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. I say to my friend from Kansas, through my friend from West Virginia, that there are—it must be an interesting exercise to the American people to watch how we talk to one another—but I say indirectly to my friend, the majority leader, that we have 13 Senators on the Democratic side who wish to speak and have all along wished to speak on the Manion nomination. That ranges from people who wish to speak a few minutes to people who wish to speak an hour or so.

I assume, although I have not found them, that there are probably about 13 people who want to speak for Manion. This Senator is anxious to engage someone in debate—anxious to engage one of the proponents of the Manion nomination in debate on the merits of this argument. I am here and waiting for that. I am ready to do that, as my colleagues are.

So, I assume there would be at least 13 people who are willing to carry the nominee's water on the other side, or some requisite number. There must be somebody for him over there who is willing to speak for him.

And just counting the 13 we have, plus, I assume, the number that is going to come from the Republican side, I do not see how this can be done in a couple of hours.

I further would state that I do not know what the hurry is. If the distinguished majority leader wishes to move on these other matters and the clock is running against us in terms of the recess, then he could vitiate the order for the cloture vote and we could take up the Manion nomination when we come back.

But to vote now or after 2 hours tomorrow morning, or a total of 4 hours today, with all the people who wish to speak to this important nomination, it seems to me to be a little inappropriate.

I want to make it clear that there is no intention on our part to not deal with the substance of this issue; that is, the qualifications of the gentleman from Indiana. So we are ready to talk.

My reluctance in finishing this bill and then starting the discussion on Mr. Manion is twofold: one is the point that the majority leader made, that the distinguished chairman of the Judiciary Committee, the man who is carrying the case for Mr. Manion, is not here to debate. That is No. 1. No. 2, that it is not likely that others will come to the floor to make the case for Mr. Manion. Although I would love to hear my colleague from Massachusetts, and I am sure he is equally enthralled with my voice, we get to talk to one another a lot on this. I just do not want to be here talking with like-minded people. I would like to find out where I am wrong on this nominee, and it seems to me that we are not going to get much debate.

The Senator from Kansas, which is his right, might very well, after 2 hours, say, "Let's go home" He can, you know. That is possible; right?

So that is my concern, I say to my friend from West Virginia, the Democratic leader. I am anxious to debate. Thirteen of my colleagues are anxious to engage in debate. It is a matter of substance. It is a very important matter, as are these other matters.

I believe we could work out an accommodation in time. But I just tell my friend from West Virginia, the Democratic leader, that I do not see how that can be done with a 4-hour period, 2 hours on a side.

I thank my colleague from West Virginia for allowing me to speak to my colleague from Kansas through my colleague from West Virginia.

Mr. DOLE. Will the minority leader yield just for a comment without losing his right to the floor?

Mr. BYRD. I yield for a comment.

Mr. DOLE. Just let me put it on the table. I am going to be here Friday. It does not make any difference to me whether we meet on Friday or not. I am prepared to devote all day tomorrow to Manion, get a unanimous-consent request that we come in at 11 o'clock and vote on cloture at 6 tomorrow evening. That is fine with me.

What we are going to do with the supplemental at that point—if we do not pass an adjournment resolution, the House will be here on Friday.

□ 1740

I do not have any problem. I am here. But I have already had, I must say very honestly, I think two Members from each side saying "When can we leave on Thursday? My plane is at 4 o'clock."

So I just suggest in trying to accommodate the wishes of Members who have important engagements outside of Washington starting late tomorrow we try to arrange a schedule. I do not have any problem with being here on Friday. If it takes that for an important nomination, then Members ought to stay here.

Beyond that, if we can finish the pending legislation, I do not want anybody cut off tonight. I have no intention of doing that as long as somebody is speaking. But if the Senator is looking for an exchange, then we will try to provide that.

Mr. BIDEN. I say to my friend from West Virginia, if he will yield, that is fine with me.

Mr. BYRD. Mr. President, did the distinguished Senator from Massachusetts wish me to yield?

Mr. KENNEDY. I am not quite sure. How is this left, Mr. Leader? I have been wanting to speak on this for the last 3 or 4 hours. How are we leaving this now? I am quite prepared to speak on it. Also I am glad to see the process of the Senate working its will. Where are we?

Mr. BYRD. Mr. President, the question is a good question. If I might make a suggestion respectfully to the distinguished majority leader, it is his call to make. The millstone is grinding very hard against those who want to debate this nomination. As I have already stated, I do not need to say it again, the distinguished majority leader has acted within the rules. The rules are pretty hard. It is a decision for the majority leader to make as to whether he wants to allow some debate for a day or two or whatever before he offers a cloture motion. He elected to offer it immediately. I have done that myself in the past.

So I have to concede that a majority leader has to make that judgment based on the circumstances as he sees them at the time. But I must also say to the distinguished majority leader, for his consideration I hope, that the minority allowed the Embassy security legislation to come up today without any objection. The minority could have objected, in which case the majority leader then could have moved, to it but there would have been debate on the motion to proceed in that event. But the minority did not seek to object to that request.

Second, I share the distinguished majority leader's feeling and that of the distinguished chairman of the Appropriations Committee, Mr. HATFIELD, that it is very necessary that the Senate act quickly on the conference report on the supplemental appropriations bill. But I must say for the record for all Senators that, if cloture is invoked tomorrow, then it will take unanimous consent to go to the supplemental appropriations conference report because, under the rule, once cloture is invoked, the Senate can go to no other business, except by unani-

mous concent, until the matter that has been clotured is disposed of.

So if cloture were to be invoked tomorrow, I am afraid we might not get to the supplemental appropriations bill at all, since it would require unanimous consent.

I wonder if the distinguished majority leader would consider, and I think he has shown great understanding and reason in suggesting that the debate go on on cloture until 6 o'clock tomorrow evening. I wonder if the distinguished majority leader would consider—and he may not wish to so indicate at this point—delaying the cloture vote until Friday. Meanwhile, we could go ahead and dispose of the supplemental appropriations bill, as well as the Embassy security bill this evening, and then the Senators would have all day tomorrow, if the leader would agree, to talk about the Manion nomination. Up to this moment, I should point out, that the Senate has formally debated the Manion nomination 39 minutes—only 39 minutes.

So I have tried to lay it out as well as I know how, saying that the majority leader is certainly within his rights. He has operated within the rules, But I also say that my colleagues who wish to say something about the Manion nomination—and that includes this Senator—it seems to me we are not going to have adequate time to do so in the time that is left this evening and tomorrow.

I hope that my suggestion will be considered by the distinguished majority leader.

Second, I ask the distinguished majority leader if he would not object to a quorum being called off so Senators who want to, can speak on the Manion nomination. They cannot even speak on it if a quorum cannot be called off.

Mr. DOLE. If the Senator will yield.

Mr. BYRD. Yes.

Mr. DOLE. I think we sort of had an indirect agreement there. I suggested and I think the Senator from Delaware indicated he has no problem with that, that we go ahead and complete the pending business, that I would call up the nomination and yield the floor. Then they can debate. If it takes 2 hours, it will take 2 hours. If it takes 3 hours, it will take 3 hours. Then we could come in tomorrow still a couple of hours before the cloture vote and dispose of the supplemental business by tomorrow evening. I would hate to drag it into Friday because there are some Members who may be opposed to the nomination who do not want to invoke cloture but they do not want to miss the vote. Plus to be very candid, already I know I am going to lose a couple of votes Friday. They already have their tickets in their hands, so to speak. So, I thought the Senator from Delaware indicated he had no problem with completing this bill within 5 minutes, and he could speak.

Mr. BIDEN. If I may—

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the Senator from Delaware to respond to the distinguished majority leader.

The PRESIDING OFFICER. Without objection.

Mr. BIDEN. I say to the majority leader, "I did not realize the supplemental was here already and was a privileged matter." It seems to me the suggestion made by the minority leader makes a lot of sense. If we can, I am willing to go to the bill before us now, finish it, bring up the supplemental, debate that, vote on that tonight, since everyone has to be here anyway and then tomorrow set a reasonable time to debate the Manion nomination until whatever appropriate time the majority leader would set for the cloture vote because then the Senator from South Carolina would be back. We would then be in a position to debate the issue. Other Senators who want to speak in favor of Mr. Manion will be here.

I am not being facetious when I say this. We can have hopefully an illuminating debate for our benefit and for the benefit of the public. That is fine by me.

Mr. DOLE. If the Senator will yield, if the minority leader will yield, now we are talking about something else totally different. I would prefer not to do that. I would like to leave it like it is and try to work out our problem if there is a problem.

We could have finished this bill 40 minutes ago, and the Senator would have had his speech partly made by now.

Mr. BYRD. If the distinguished majority leader would have let the Senator call off the quorum.

Mr. DOLE. It is just a test of wills of whether we are going to pass this bill before Senator BIDEN speaks. We can play that game all evening. I thought he wanted to speak on the nomination. Senator PELL and Senator LUGAR have been on the floor most of the day. I assume they are willing to wait, if necessary. It seems to me it is a little bit too much here to suggest we cannot complete action on the bill, let Senator BIDEN speak, and Senator KENNEDY, whoever, and we will have someone on this side in the absence of Senator THURMOND to come so they can have a little debate. By the time we find that person, maybe they will be ready to talk. But I would rather not inject a third element into it now.

Mr. BIDEN. If I may, for the last time, I have no objection to going to this bill, finishing the bill, and then going to the Manion nomination. The only reason I raised the alternative was that I am concerned that if, in fact, cloture is invoked, then are we now going to be put in the position of those of us who want to then conduct the debate under the rule—so that we have a full debate on Mr. Manion—to be put in the position to be told we are stopping the supplemental from coming up because once cloture is invoked, as the able Democratic leader pointed out, that is a matter that we cannot move from until we end. Are we not into Friday or Saturday? But if the majority leader will give me a gentleman's agreement that while the Senator from Delaware, after he invokes cloture, if he does invoke cloture, is operating under the rules, he will not repeatedly stand on the floor and tell America that those folks on the Manion nomination are really just driving the supplemental out of reach of the American people, et cetera? That is the only thing I am concerned about, to be fairly blunt about it, I say to the majority leader.

□ 1750

But if that will not happen, then I am delighted to do it the way the majority leader would like to proceed.

I did not hear his answer, but I am curious.

Mr. DOLE. I would be happy to work it out. If we invoke cloture, I would certainly try to get the 8-hour agreement I thought we were going to get earlier this week on the nomination; 4 hours on each side. that is what we hoped would happen. We did not think there would be this backdoor approach to kill the nomination.

Mr. BIDEN. The backdoor approach?

Mr. EXON. Will the Senator yield for a question?

Mr. BYRD. I yield to the distinguished Senator for a question. I ask unanimous consent that I may yield for the purpose of the Senator from Nebraska's asking a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, early last week sometime the majority leader and I had a little colloquy on the floor wherein we stipulated the tremendous importance of the urgent supplemental. At that time, we could not act on it because it had not passed the House of Representatives. I thought we had an agreement at that time that we would give it priority or immediate consideration when it came over. It is now here.

This Senator came on the floor at 4 o'clock today prepared to engage in debate and move along on the urgent supplemental for a number of good reasons, not the least of which is farmers throughout the United States have not gotten their money that they are entitled to for signing up for the farm bill, mainly with regard to deficiency payments, and they are busted.

As important as the Manion nomination is, and as important as the security legislation before us is, would it be out of order for this Senator to sug-

gest that maybe we could put aside both of those and dispose of them after we pass the urgent supplemental?

I am asking the majority leader.

Mr. BYRD. I yield to the majority leader.

Mr. DOLE. The distinguished chairman of the Appropriations Committee was here at 4 o'clock. He was advised that if we would complete action on this bill by 4:30, he was ready to go with the supplemental. I suggest that other Members felt compelled to speak on the Manion nomination. The Senator from Missouri made an excellent speech. Others would still like to speak on the Manion nomination.

At about 5:20 or 5:30, I believe it was, the Senator from Oregon, the chairman of the Appropriations Committee, the manager of the supplemental appropriations bill, departed. He did not see any opportunity, and I do not know whether there is one now. I told him, "You may want to place a phone call."

I mentioned the conversation with the Senator from Nebraska. We had a conversation last week and today. We are aware of the Senator's desire. We are trying to balance three things in the air. There are those who want to complete everything by no later than 4 o'clock on tomorrow. I doubt that that can be done.

Mr. EXON. Is it possible that we could get an agreement right now to set aside both the pending business and the debate on the Manion matter so we can take up the urgent supplemental?

Mr. DOLE. If the distinguished minority leader will yield, let me indicate that we are shopping for a time agreement on the supplemental right now. We are not losing time. The chairman of the Appropriations Committee felt if he could get this narrow time agreement, which is being worked on by both sides, we would still be ahead by several hours by doing what we are doing now. We can show that to the distinguished Senator from Nebraska.

Mr. EXON. Is there any objection by anyone presently on the floor to my suggestion to the majority leader, to setting aside the two matters that we have talked about, No. 1, the Security Act, and, No. 2, the Manion nomination, to move expeditiously and now to the urgent supplemental?

Mr. BYRD. If I may respond, the Manion nomination is not before the Senate to be set aside. That is what my colleagues are concerned about.

Mr. BIDEN. Will the Senator yield?

Mr. BYRD. Yes.

Mr. BIDEN. I have no objection to that. I do not want to be in the way of this urgent supplemental at all.

Mr. EXON. I would add, if I could, Mr. President, that I also talked with the chairman of the Appropriations Committee and that is one of the reasons I was here at 4 o'clock. He must have come in just after I left. I was here until about 4. He also assured me that he assumed we would take it up at 4 o'clock. Is there no way we can propound a request now, that the majority leader could not propound a request now, to set aside the pending business so we could go to that supplemental appropriations bill? If there is objection to that on the part of the majority leader, then I recognize that is his prerogative.

Mr. DOLE. Again, I would like to discuss it with the Senator from Nebraska, but I would say, if the minority leader will yield for that purpose, it is privileged matter. I would want the chairman of the committee to be present, of course.

Again I get back to the most ridiculous point of this bill before us which is very important, which concerns security. We can still pass that by 6 o'clock. That would eliminate one of the problems. Then we could go ahead with debate on Manion while we are trying to get a time agreement on the supplemental. We are not really losing any time. I think the chairman of the Appropriations Committee would rather have a time agreement for 2 hours than spending all day tomorrow on the supplemental. I believe we are making some progress on that one.

I would be happy to discuss it with the Senator from Nebraska. I know of his interest, and I know of the discussions we have had on the floor and privately.

Mr. EXON. I thank the majority leader.

DIPLOMATIC SECURITY AND ANTITERRORISM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2193

(Purpose: To express the sense of the Congress on United States policy toward Afghanistan)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia for himself, Mr. HUMPHREY, Mr. PELL, Mr. BIDEN, Mr. INOUYE, Mr. MELCHER, Mr. SASSER, Mr. PROXMIRE, Mr. DECONCINI, and Mr. KASTEN, proposes an amendment numbered 2193.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, after line 3, add the following new section:

SEC. 702. POLICY TOWARD AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

(2) the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized principles of international law;

(3) the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985, report to the General Assembly, concludes that "whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged" and that "[t]he Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations" including "use of antipersonal mines and of so-called toy bombs" and "the indiscriminate mass killings of civilians, particularly women and children";

(4) the Special Rapporteur also concludes that the war in Afghanistan has been characterized by "the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units" and that "[t]he demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul";

(5) the United Nations General Assembly, in a recorded vote of 80-22 on December 13, 1985, accepted the findings of the Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed "profound distress and alarm" at "the widespread volations of the right to life, liberty, and security of person, including the commonplace practice of torture and summary executions of the regime's opponents, as well as increasing evidence of a policy of religious intolerance";

(6) in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that "The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops" and that "Continuation of the military solution will, in the opinion of the Special Rapporteur, lead inevitably to a situation approaching Genocide, which the traditions and culture of this noble people cannot permit.";

(7) the Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the United States- Soviet bilateral relationship in many fields of great importance to the global community;

(8) the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

(9) President Reagan, in his February 4, 1986, State of the Union Address promised the Afghan people that "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom * * *".

(b) POLICY.—(1) It is the sense of the Congress that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(A) the appropriate provisions of material support;

(B) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugees in safety and dignity;

(C) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(D) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

(2) It is further the sense of the Congress that the Secretary of State should—

(A) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute the crime of genocide, he shall report his findings to the President and the Congress, along with recommended actions; and

(B) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Policy toward Afghanistan.".

Mr. BYRD. Mr. President, last week I met with leaders of the Afghan resistance, as well as the Pakistani Foreign Minister's to solicit his views on the Afghan question. It is clear to me that, despite Soviet claims of progress at the recent U.N-sponsored peace talks, the situation in that sad country remains very grave. Despite the brutality of the Soviets—and the acceleration of Soviet warfare against the people of Afghanstan—the resistance fighters tell me that the spirit of the people remains unbroken.

Mr. President, the United States ratification of the Genocide Convention will permit the United States a much stronger hand in confronting the Soviet Union on the vital matter of its activities in the nation of Afghanistan. The reality of Soviet behavior in Afghanistan seems to amount to the crime of Genocide as defined in that Convention. Now that the United States will shortly become a full party to that treaty, we can operate with a more credible and stronger hand in bringing the case against the Soviet activities in that country before the world community.

The President, despite the public relations blitz by the new Gorbachev leadership to portray itself as reasonable and flexible in its approach to the West, and despite hints and indications given here and there that Mr. Gorbachev is on the verge of making a major change in Soviet policy toward Afghanistan, no substantial change in Soviet policy or practices has yet appeared. Sooner or later, flashy new Soviet imagery must give way to practical changes in policy leading to a more constructive, humane, and productive path.

Mr. President, I think it is important to give the Soviets every opportunity to meet us halfway on the outstanding issues which divide our two nations. I have made very effort to do what I can to help produce a better atmosphere and mechanisms for reducing misunderstandings and for developing arrangements and agreements on arms control matters and regional disputes where our interests clash with those of the Soviets. I led a bipartisan Senate delegation to meet with Mr. Gorbachev last September. I have proposed that Mr. Gorbachev be invited to address a joint session of the Congress when he visits this Nation, provided that an address by President Reagan to the same joint session be televised unedited to the Soviet people.

Nevertheless, Mr. President, we must continue to impress upon the Soviets how repugnant their activities in Afghanistan are to us.

Most recently, General Secretary Gorbachev took the opportunity provided by his address to the 27th Communist Party Congress to say, "We should like, in the nearest future, to withdraw the Soviet troops stationed in Afghanistan at the request of its government." He went on to claim that there was agreement with the puppet regime in Kabul on a schedule for that withdrawal, and to remind his audience that, "It is in our vital national interest that the U.S.S.R. should always have good and peaceful relations with all its neighbors."

It is difficult to cultivate good relations when you are engaged in the wholesale massacre of unarmed civilians. I look forward to the day when the glimmers of hope for a change in Soviet policy raised by Mr. Gorbachev's words are translated into action, into reality, into military withdrawal. So far, unfortunately, only expectations have been raised.

The action by the Senate to approve the Genocide Convention for ratification, then, provides the United States with the opportunity to raise, for the first time as a signatory, the issue of Soviet violations of the Genocide Convention in Afghanistan. In his report of November 5, 1985, to the U.N. General Assembly on the "Situation of Human Rights of Afghanistan," the Special Rapporteur of the Commission on Human Rights described the situation during the fifth year of Soviet occupation of Afghanistan in these words:

> The Government, with heavy support from foreign troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations . . . It appears that in the course of operations, all kinds of sophisticated weapons, in particular those that have a heavy destructive and psychological effect, are being used. The target is primarily the civilian population, the villages, and the agricultural structure.

The report continues,

> As a result, not only individuals, but whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged.

The report cites "the use of antipersonnel mines and of so-called toy bombs" and "the indiscriminate mass killings of civilians, particularly women and children." The report notes that the war is characterized by

> the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units. The demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul.

This independent account by the United Nations conforms to the Genocide Convention's definition of that crime in article II, as the willful act of destroying in whole or part a national, ethnical, racial, or religious group by:

First, killing members of the group;

Second, causing serious bodily or mental harm to members of the group;

Third, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

Fourth, imposing measures intended to prevent births within the group; and

Fifth, forcibly transferring children of the group to another group.

The U.N. Report substantiates the fact that the Soviet Union and its Afghan puppets are engaged in acts which seem to satisfy the elements of this definition of the crime of genocide. In fact, the report demonstrates

that the Soviets in Afghanistan are engaged in many practices which, under the Convention, appear to amount to the crime of genocide.

The amendment I am offering today recognizes that the Soviet actions in Afghanistan may constitute the crime of genocide against the Afghan people, and calls upon the Secretary of State to investigate whether the Soviets are in fact violating their obligations under the Genocide Convention by virtue of their cruel warfare against the Afghan people.

In addition, it urges the Secretary of State to review the U.S. policy that affords diplomatic recognition to the puppet regime in Kabul. There may be sound reasons for this, but I believe it is time for the Secretary of State to conduct a thorough review of whether a continuation of this policy is appropriate. The Soviet Government is at war with the people of Afghanistan, and the so-called Government of Afghanistan is nothing but a Soviet sham.

I do recognize that we are looking forward to the possibility that the Soviets will pull their military forces out of Afghanistan and the Afghan Government that comes to power in the wake of that withdrawal will be the beneficiary of guarantees by both superpowers—and that that government will be independent and neutral and truly represent the whole of Afghan people. Obviously, an American presence is needed for such guarantees, and one might argue that a continued presence such as the one that now exists is therefore appropriate to that long-term goal.

□ 1800

Nevertheless, Mr. President, the entire concept of diplomatic relations in the context of Afghanistan today strikes me as questionable. I believe the question should be thoroughly reassessed by the executive branch on an expedited basis.

Mr. President, the amendment also states that the United States should take every opportunity to increase the visibility, internationally, of what the Soviets are doing in Afghanistan. This should be done in international meetings and fora of all kinds; it should be done by increased media coverage and the use of our programming capabilities.

I have reference to the Voice of America, Radio Free Europe, and other mechanisms available to the Department of State. It should be done by continuing to press the Soviets to allow journalists into Afghanistan so they can report freely on events there. The Soviet invasion and occupation of Afghanistan has been invisible too long. That means for the entire second half of the 7 years it has been going on.

The Soviet Union is getting a good return on the rumors it is floating about its desire to pull out of Afghanistan. As I told General Secretary Gorbachev last year, he has it in his power to end the war in Afghanistan. All he has to do is bring his troops home.

Finally, the amendment recognizes the need for material support for the people of that war-ravaged country, a renewed effort to encourage Soviet withdrawal and a political solution to the stalemate, and a renewed commitment to informing the world of the situation in Afghanistan.

I believe this amendment is entirely in keeping with the President's State of the Union promise to the people of Afghanistan that "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom." In 1984, I introduced the first successful Senate resolution calling for essential food and medical assistance for the people of Afghanistan. I believe that this amendment is an appropriate outgrowth of that earlier effort.

I point out, Mr. President, that this will be the first action to be taken by the United States in regard to the terms of the Genocide Convention. I can think of no more appropriate subject for the first action to follow ratification of the convention than the plight of the heroic people of Afghanistan.

When I led the first Senate delegation to meet Soviet General Secretary Gorbachev last September, we found the subject of Afghanistan to be the most contentious and emotionally volatile issue in our discussions. Since that time, we have heard persistent stories of increased Soviet willingness to reach an accommodation on the Afghanistan question. It would be a mistake for the Soviet leadership to believe that talk about solutions will reduce the outrage of the world community. As long as Soviet troops commit atrocities against the Afghan people and continue to occupy that long-suffering country, freedom loving peoples will decry these actions and will be moved to help the Afghan people.

As participants in the Genocide Convention, we are now in a much better position to join in condemning Soviet actions which, as described in the report to the United Nations General Assembly, amount to a calculated effort to destroy the Afghan people. This amendment will permit the Senate to make an appropriate statement on this matter.

The meeting that I had with Mr. Rabbanni and his group renewed my sense of admiration for the people of Afghanistan. They are courageous and determined in their struggle against a superpower war machine. I believe that we should stick with them for the duration of their long struggle, until they achieve what they so truly deserve—their national independence.

Mr. President, I ask the managers of the bill especially if they feel they have any objection or if it can be accepted.

Mr. HUMPHREY addressed the Chair.

Mr. BYRD. I yield, Mr. President.

Mr. HUMPHREY. Mr. President, I commend the distinguished Democratic leader for proposing this important amendment. I am pleased to join with him in urging our colleagues to accept it this afternoon.

The situation in Afghanistan is outrageous. The Soviets have committed every known barbarity in their invasion and continued occupation and bludgeoning of that poor country. Before the Soviets moved in some 6½ years ago, there were 15 million residents, citizens of Afghanistan. In the intervening years, somewhere between one-half of 1 million and 1 million have been killed as a result of the war.

I am not talking about combatants alone, Mr. President; indeed, they probably make up a small part of those who have suffered casualties. I am talking about men, women, children, and elderly persons who have been deliberately singled out and butchered by the Soviet occupiers and their puppets in Afghanistan. Out of 15 million, something approaching a million have been killed or wounded and some 4 million have fled Afghanistan altogether to Iran or, principally, to Pakistan.

The amendment proposed by the Senator from West Virginia is timely. I want to focus on two provisions of the "Resolved" section of the resolution. The resolution states:

Resolved that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

And it lists a number of things among which are:

(E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

The Senator from West Virginia is calling upon the United States to impress upon the Soviets the penalty they will pay if they continue with this occupation. I point out to my colleagues that if the United States Government undertakes what he has proposed here, it will represent a new departure, because we are not doing today anything that this Senator is aware of in the area of diplomatic relations or economic relations to im-

press upon the Soviets that there is any penalty at all for their continued bludgeoning of the people of that country. We have listed all of the important sanctions imposed by the last administration. They are all gone now. Aeroflot is flying into the United States, Pan American is flying into Moscow. Everything is cozy once again.

I point out that in this year alone, two Cabinet Secretaries have journeyed to Moscow—the Secretary of Commerce back in January, I think it was, or perhaps it was December of last year, with a party of over 100 American businessmen and women seeking new commercial contacts with the Soviet Union. That is a mighty poor way, is it not, to impress upon the Soviets the penalty they pay for their continued barbarities in Afghanistan, a Cabinet Secretary off to Moscow seeking new commercial contracts?

Just this past week, the Secretary of Housing and Urban Development was off to Moscow likewise to seek information on housing.

Mr. President, I am not suggesting that we should pursue a course of belligerence against the Soviet Union. I am saying our relations should be correct, neither warm nor cold, and we should begin to do the things that the Senator from West Virginia suggests—finding ways to impress upon the Soviet Union that there is a penalty for their continued military action in Afghanistan. We are doing nothing today.

It would represent a departure if we did what the Senator from West Virginia suggests. Indeed, it is business as usual today between the Soviet Union and the United States. I regret to say that. I regret to have to point that out, but it is an important point, one that should not go unnoticed in this debate.

One other point on which I want to focus, Mr. President, again in the "Resolved" section, laying out the things that the United States should do as long as Soviet forces continue to occupy Afghanistan. Section 2(B) says that we should review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

Mr. President, this week, much to his credit, the President of the United States entertained leaders of the Afghan freedom fighters in the White House. That was a significant step forward in advancing the standing of the freedom fighters of Afghanistan. It was long overdue, may I say.

But what kind of mixed signal does it send, what kind of inconsistent policy is shown, when the President on the one hand invites the Afghan leaders of the freedom fighters to the White House and, on the other hand, every single day of the year, the American flag is raised at an Embassy in Kabul, the seat of the very government against which those freedom fighters are struggling, with our encouragement in a material sense and a moral sense?

Here we are, encouraging these people to lay down their lives to free their society and we have an American Embassy at the seat of the government against which those people are struggling. Not only that, perhaps which is worse, that criminal puppet government has representatives here maintaining an Embassy in Washington. That is a classic case of sending mixed signals, that is a classic case of inconsistent policy. When you are trying to send a message to Moscow, the last thing you want to do is send mixed signals.

Mr. President, we cannot have one foot on one side of the fense and one foot on the other side of the fence when we are dealing with the Soviet Union and with this ghastly situation in Afghanistan. If we mean what we say, if the President means what he says and the Secretary of State means what he says and all of the other government officials who periodically make these lofty and inspiring statements about support for the freedom fighters of Afghanistan, then let us have a consistent policy. Let us send meaningful signals of the kind the Senator from West Virginia seems to imply so that the Soviets will understand the penalty that they will pay for continued military occupation of Afghanistan.

□ 1810

Let me just close with this observation, Mr. President. The Senator from New Hampshire has made a priority issue out of this matter of Afghanistan. I have looked at it closely now for 2 years. If there is one lesson to be learned, if there is one bottom line observation to be made about our efforts with respect to Afghanistan, it is this: There is nobody in charge, and that is why we have all these problems. That is why we have these inconsistencies. That is why we are sending mixed signals. That is why there is so little cooperation and coordination between the executive departments of this Government in implementing policy and turning into policy the lofty rhetoric of the President and the Secretary of State.

Truly, within the entire executive there is not one high-level official with any clout who spends full time on Afghanistan, making sure that all of the executive departments pull together. There is no such person. The management of our Afghanistan effort is part time and conducted by committees who meet from time to time and hash things other. That is no way to run an operation of this kind, especially when the stakes are so very high, not only for the people of Afghanistan but for the American people and for people everywhere who love freedom.

Mr. President, I and others have urged the administration to put someone in charge, to create a special office, if that is necessary, to catalog the opportunities that are available to us to send these kinds of signals. We are not calling for belligerence toward the Soviet Union but there are opportunities to bring additional military pressure to bear, additional economic pressure to bear, additional diplomatic pressure to bear, additional pressure of international public opinion to bear, opportunities that are being missed because there is nobody in charge.

I urge once again, Mr. President, although it is not part of this resolution, that the administration put somebody in charge, create an office that can catalog the opportunities, recommend policy—I am not saying make policy, recommend policy—and when it is adopted ensure that all of the executive departments and agencies cooperate and comply in carrying out that policy.

I commend the Senator from West Virginia for this important resolution and I urge my colleagues and fellow Senators to support it wholeheartedly.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Hampshire [Mr. HUMPHREY] for his strong support not only of the amendment in this instance but I thank him for his statement that he has made this matter involving savage slaughter of innocent women and children, old men in Afghanistan by the Soviet invaders a priority matter. I hope that other Senators will do the same. I commend him.

Mr. President, for the record, Mr. HUMPHREY is a cosponsor of this amendment, as are the following Senators: Mr. PELL, Mr. BIDEN, Mr. INOUYE, Mr. MELCHER, Mr. DECONCINI, Mr. SASSER, Mr. PROXMIRE, Mr. DOLE, Mr. WILSON, and Mr. DENTON.

Mr. President, I ask unanimous consent that other Senators who may wish to add their names as cosponsors may do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment. I am prepared to vote on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. DOLE. Mr. President, I ask unanimous consent that before the vote just ordered on the Byrd amendment the Chair turn to the conference report to accompany H.R. 4420, the Military Retirement Reform Act and it be considered under the following time agreement: 10 minutes on the conference report to be equally divided between the chairman of the Armed Services Committee and the ranking minority member or their designees, and that following the conclusion or yielding back of time the Senate proceed to vote on adoption of the conference report.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. To be clear then, I ask unanimous consent that following the vote on the conference report we would vote on the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Will the Senator yield?

Mr. DOLE. I will be happy to yield.

Mr. LUGAR. Mr. President, I should like to ask the leader if it would be possible for me to proceed with two technical items with regard to the security bill so that all would be tidied up prior to the vote on the Byrd amendment. My understanding is that there is no request for a rollcall vote on the overall bill, and we would be able to proceed to completion.

Mr. DOLE. Mr. President, I also ask unanimous consent there be no amendment to the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. And in addition, prior to the vote on the Byrd amendment, the distinguished chairman be permitted to offer technical amendment to the bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MILITARY RETIREMENT REFORM ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The report will be stated.

The Assistant Legislative Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4420) to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes, having met, after full and free conference, have agreed to and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. WILSON addressed the Chair.

Mr. STENNIS. May we have order, Mr. President.

The PRESIDING OFFICER. The request for order is needed.

The Chair recognizes the Senator from California.

Mr. WILSON. I thank the Chair.

Mr. President, I rise in support of this conference report which provides for changes in the military retirement system. I hope these changes will be viewed for what they are. They have been occasioned by an act of Congress requiring that the Senate Armed Services Committee and that in the House examine into the question of whether or not we may quietly compensate those who are peacekeepers for the United States and at the same time find ways of cutting costs. Some will regard these changes as long awaited reform, Mr. President. Others may not.

It is my hope, after the long, long hours of work, that this settlement will be regarded as fair and equitable, and at least as importantly that the changes made will assist the military in continued success in recruitment and retention of the kind of quality volunteer force that virtually all have acclaimed is of the highest quality in recent years.

Mr. President, I will give a very brief description of the elements of the House-Senate compromise. It is one that I think both the House and Senate have worked hard to achieve. The pay base will be that based on an average of the highest 3 years of salary. The multipliers will be for the period of the years 1 through 20, for someone retiring at the end of 20 years, 2 percent for each year. For years 21 through 30, for those that remain a full 30 years, there will actually be a 3.5 percent per year factor applied against that high 3-year base average.

The result of these changes, Mr. President, will be that someone who retires at the end of 20 years will receive 40 percent of that base; someone who retires at the end of 30 years will receive 75 percent of the base. The compromise I think goes a long way toward encouraging people to make at least a 20-year career of the military. That decision is made between the 6th and 12th year of service by most who make the election to become career enlisted or officers. The smaller number who remain for a full 30 years are encouraged to do so by a more handsome rate of retirement. All persons receiving benefits from military retirement will receive a cost-of-living adjustment of CPI minus 1, or of the Consumer Price Index less 1 percent for life. But at age 62 those in the military retirement system will receive a one-time restoral of both their retired pay base and the cost-of-living adjustment as if the multiplier were 2½ percent per year for each year, and as though the COLA were full, as it is under the present system, which means that at age 62, monthly retirement pay would be the same as it would be at that age under the present system, but 1 percent a year would be lost for inflation thereafter.

Mr. President, it is my own contention that we have not gone far enough in the way of reform. I hope to continue exploring a means to provide the option particularly valuable to those who retire after a career as enlisted men, at the time they make transition to civilian life—the option of a lump sum payment. It will be especially useful to those who find that suddenly they have new expenditures confronting them, whether it is an incurred expense, or an investment in a new business, or in the education of children of college age, or preparing them in some other fashion for return to the civilian sector and a second career.

Mr. President, in the interest of time, I will not detail further the compromise. I will say only that it was a reasonable compromise. Perhaps no one was fully satisfied by it. It results in considerable savings—almost $3.2 billion annually to the accrual account for retirement.

I would be derelict if I did not give sincere thanks and commendation to my friend and colleague from Ohio, the distinguished ranking minority member of the Committee on Manpower and Personnel, and to his staff and my own—to Mr. Lyles and Mr. Tucker, in particular—who have worked diligently and tirelessly to produce a good and a fair result.

Mr. President, this conference report provides for important—and, I emphasize, purely prospective—reform of the military retirement system. Some will regard these changes as reform. At the very least, I hope they will be regarded as fair to our future service men and women and as enabling the services to continue successful recruitment and retention of the highest quality volunteer force, at the same time taxpayers are saved $3.2 billion per year.

Mr. President, the military retirement system has been the subject of growing debate and criticism during the past few years. Critics have argued

that the present system encourages military personnel to leave active duty after only 20 years of service, rather than staying for a full career of 30 years of service. Others have simply claimed that the present system is too expensive, although usually without citing any persuasive basis for that claim. I reject the notion of comparing the military retirement system to any civilian retirement system, public or private sector, without recognizing the substantial differences in a career in military service and all other careers.

However, Mr. President, I am convinced that, as part of a larger compensation structure, military retirement can be reformed. The present military retirement system structure is essentially unchanged from the structure in the late 1940's. Since that time, there have been dramatic improvements in other elements of pay making up the total military compensation package, most notable the adoption at the advent of the All-Volunteer Force in 1972 of military pay comparability with civilian wages. Additionally, the demographics of our military forces have undergone dramatic change in the last 20 years. Today, there are many times more married personnel with families serving on active duty than has been the case in the past. This means that military personnel of today have a great need for, and a greater desire for, a greater share of their career military compensation while serving on active duty, as opposed to after they leave the service.

For these reasons, I became convinced last year that reform of the military retirement system can and should be undertaken, and a provision was included in the 1986 Defense Authorization Act which initiated the changes that are before the Senate today for final action. The pending conference report makes important changes pursuant to the charge given by 1986 act but falls short of the reform I had hoped for, to assist military retirees in a way I'll detail hereafter. But first the good news.

Mr. President, the Manpower and Personnel Subcommittee has held a number of hearings on this issue. I think some generally agreed-upon propositions concerning military retirement have been learned from those hearings, and are reflected in the pending changes.

For example, I think it can be said that while it is important to encourage military personnel to serve for careers longer than 20 years, it is also important to maintain the entitlement to be able to retire after only 20 years of service. Several factors are involved. First, while there are many military duties that can be easily and perhaps better performed by personnel serving more than 20 years, there also are some physically demanding positions which require a fair degree of youth and vigor. Those who are asked to perform these physically demanding tasks for 18 to 20 years, should be able to retire from the service at a relatively young age.

Additionally, there are some who would argue that if people serve 20 years, they would be willing to serve 25 years. That might or might not be true, but it fails to recognize that it is much earlier in a career that military career commitment decisions are really made. It is at the 8- to 10- to 12-year point when individuals decide to stop looking at their military service as a temporary job and decide to commit themselves to a career. With a 20-year retirement, those who have served 10 or 11 years are well on the way to earning retirement entitlement. Elevating the entitlement service requirement has a very negative psychological impact at that decision point.

Finally, because of the pyramidal grade structure of military organizations, especially in the officer corps where promotion and advancement is controlled by statute, if everyone were to stay for 30 years before retiring, it will not be long until the system becomes top heavy and the opportunity for growth and advancement in the lower ranks becomes increasingly dismal. This country learned, or at least should have learned, from the experiences of the late 1930's in attempting to mobilize for World War II, that a military organization filled with far too many senior and older personnel is ill prepared to fight a war. The 20-year retirement entitlement was designed to help avoid that situation.

A second generally accepted proposition is that while there may be some justification for reducing military retirement for those who serve less than full careers, and who thereby are able to pursue second careers at a relatively young age, there is a need, in fact, a national obligation, to recognize in old age that military retirees have spent their most productive years in uniform in service to the Nation. That is, while I may be prepared to agree that the retired pay of those healthy individuals retiring after only 20 years of service, usually at an age in the early 40's, can be reduced during the years in which they can be pursuing second careers I cannot agree that we, as a people, do not have the obligation when these retirees reach "old age" to provide them with a retirement system that reflects their service to us.

Finally, I think it is generally accepted that for a military retirement system to work well, it must be relatively simple and easily understood by the men and women in uniform.

Mr. President, I am pleased to tell my colleagues that the conference report before you today provides for each of these general propositions.

Mr. President, let me explain briefly the provisions relating to military retirement. Under the conference report, the pay base upon which military retirement will be based remains unchanged. It is the average monthly basic pay for the highest 3 years of pay during service. This is known as "High-3." The multiplier, or percentage for each year of service which is multiplied by the pay base, remains unchanged at 2.5 percent for each year of service. However, for each year of service less than 30 years, 1 percentage will be subtracted for each year less than 30. This means that a 20-year retiree will receive 40 percent of the pay base, as opposed to 50 percent under the present system. However, a 30-year retiree will receive the full 75 percent of the pay base, the same as under the present system. This change will serve as an incentive to serve more than 20 years, while at the same time maintaining a fair level of compensation for those who leave the active service after only 20 years.

With respect to cost-of-living adjustments, the present permanent law provides that military retirees be given an annual cost-of-living allowance of the percentage change in the Consumer Price Index. Only once in the past 5 years has Congress permitted military retirees a cost-of-living allowance as provided by the present system, most recently denying a cost-of-living adjustment to military retirees, including disabled retirees, as part of the Gramm-Rudman-Hollings legislation.

Mr. President, while the Congress has yet to confront the question of how to permanently resolve the question of cost-of-living adjustments for those personnel who were promised that inflation protection, including Social Security recipients, veterans, and present military retirees, who, by the way, should also be remembered as veterans, I think the time has come to face up to this question for who will enter military service in the future. This conference report does that by providing that those covered by this new system will be given annual cost-of-living adjustments equal to the increase in the Consumer Price Index, less 1 percentage point. This formula is known as "CPI Minus 1."

Let me now note that the only persons who will be affected by this conference report reform are those who first enter the military on or after August 1, 1986. It does not, let me repeat, does not, affect any person now retired from the military or now in military service. Only future entrants into the military will come under this system.

Finally, the conference report provisions provide for a one-time recomputation of retired pay at age 62, in rec-

ognition that about that time, military retired pay becomes the primary source of old age income for personnel who served in the military as a career. At the point when retirees reach age 62, retired pay will be recomputed as if the 1 percentage point penalty for retirement at less than 30 years of service had not applied. Additionally, at that time, the retired pay will be increased to the level it would have been if cost-of-living adjustments had been made under the full CPI rather than the CPI minus 1 formula.

In short, at age 62, the level of military retired pay will be restored to the level it would have been under the existing system. However, in light of the Senate vote during floor debate on this issue, all cost-of-living adjustments thereafter will be under the CPI minus 1 formula. So military retirees will lose 1 percent to inflation each year after age 62.

Mr. President, survivors' benefits and disability retired benefits for those coming under this new system will be determined using the same system as now in effect, except those benefits will be increased using the CPI minus 1 formula, along with the one-time CPI restoral at age 62 for disability retirees and at the time the member would have reached age 62 for survivors of retired members who die before reaching age 62.

Mr. President, if this system had been in effect during all of fiscal year 1986, it would have reduced the fiscal year 1986 defense budget requirements for future military retirement by slightly more than $3 billion. While no immediate Federal outlay savings would be realized because it does not reduce the level of benefits already earned by present retirees, this conference report represents a major reform of military retirement and should put an end to criticism and further attempts to reduce military retirement. I will work to insure that no further reductions will be made in the military retirement system structure for a number of years to come.

But there is one desirable change I will continue to seek, Mr. President. As I said during debate on the Senate bill in May, I was greatly disappointed that our bill did not include some provision for a lump sum payment of military retirement, at least as an option which retiring military personnel could elect at the time of retirement. I intend to continue to explore the possibility of offering such an option as part of the miitary system, without altering the overall cost of the program.

Mr. President, this conference report has been a long time in the making. It represents a reasonable compromise between the Senate and House bills, and historic change of the military retirement system. I think it will be fair to future military personnel and fair to the Nation, even if it does not yet offer the lump sum payment I have earlier advocated to assist military retirees in making the transition to civilian life. I urge my colleagues to vote to agree to the report.

Mr. NUNN. Mr. President, the conference report on H.R. 4420 includes two very important pieces of legislation: the Military Retirement Reform Act of 1986 and the Fiscal Year 1986 Supplementary Authorization Act for the Department of Defense. The Armed Services Committee has spent a great deal of time and effort on both of these items, and I urge my colleagues to support this conference report.

The conference agreement on military retirement reform is an excellent proposal that represents an improvement to both the House and Senate passed bills.

The essence of the conference agreement is the creation of a two-tier structure of benefits for active duty military members who retire with less than 30 years of service. The lower tier of benefits before age 62 recognizes the reality that almost all military retirees have a second career. The second and higher tier of benefits after age 62 provides essentially the current level of retirement benefits, although with less than full COLA protection.

Mr. President, I want to congratulate Senator GLENN and Senator WILSON for the hard work, dedication, and determination that they demonstrated over the past year that has produced this conference agreement on military retirement. They have had a thankless job. Needless to say, the issue of military retirement reform has not been a very popular subject with the Defense Department and the military services.

In my view, this conference agreement on military retirement reform will allow the Nation to continue to properly man our military forces, and it will provide an equitable retirement benefits for our dedicated men and women in uniform. At the same time, however, it will reduce the future costs of the military retirement system by almost 18 percent, or $3.2 billion on an annual fiscal year 1986 basis.

Mr. President, this conference also deals with the resolution of the dispute between the Armed Services Committee and the Appropriations Committee over appropriations provided in excess of authorization for fiscal year 1986. My colleagues will recall that the Fiscal Year 1986 Defense Appropriations Act provided substantial funds to the Department of Defense which were not authorized. After much discussion and debate, the Senate adopted a provision in the Fiscal Year 1986 Defense Appropriations Act which requires subsequent authorization of those funds before the Department of Defense could obligate or expend them.

The House Armed Services Committee included an fiscal year 1986 supplemental authorization bill for these funds in the retirement bill on which we conclude action today. The Senate Armed Services Committee attached its supplemental authorization as an amendment to the fiscal year 1986 urgent supplemental appropriations bill. This necessitated a complex four-party conference. The conference agreement is incorporated in the conference reports on the fiscal year 1986 urgent supplemental appropriation bill and the military retirement reform bill.

Mr. President, I want to note that the conference agreement does not solve the underlying problem. We have merely settled the dispute for this one year. There will be no resolution until we deal with the more fundamental issues of committee jurisdictions and Senate rules. I think we made some modest progress toward more cooperative arrangements between the Armed Services and Appropriations Committees this year, but an ultimate solution has eluded us. I assure my colleagues, however, that it was not for failure of good will and effort. We will continue to work tc solve this underlying problem.

Finally, Mr. President, I should note that the conference report contains a provision which formally establishes the position for the Under Secretary for Defense Acquisition in the Defense Department. This is a key recommendation of the Packard Commission, and reflects the hard work and dedication of Senator DIXON and Senator QUAYLE. The fiscal year 1987 defense authorization bill will contain more of the recommendations of the Packard Commission.

The creation of this new Under Secretary for Defense for Acquisition creates new opportunities to chart a positive course for procurement reform. The Congress has great expectation for this new position, and hopes that the administration rises to this opportunity by nominating a candidate of the highest caliber. That nominee should be uniquely qualified by reason of education and experience at the most senior levels of industry to guide the Department at this critical time. Further, the candidate preferably will have extensive experience with defense issues. The times demand the best talent our Nation has to offer to lead the Department in these critical areas.

Mr. GLENN. Mr. President, I support the conference report on the Military Retirement Reform Act of 1986 and urge the Senate to adopt it.

Senator WILSON and I have worked closely together on this matter, and I compliment him on the work that he,

Mr. Lyles, and Mr. Tucker have done. It has been a long effort. It has gone on for over a year. I think this is the best we can come up with.

As I said during the Senate floor debate on this bill, I think the current military retirement system has served the Nation well. Today, we have a well-trained, capable, and professional military force, and the military retirement system is one of the tools that have allowed us to build and sustain this force. If it were left up to me. I would not change a single thing in the retirement system, because it has served us well. I would leave it intact.

However, those of us in the Armed Services Committee with the responsibility for legislative oversight of Defense manpower recognize that there is a strong consensus with the Congress to reform the military retirement system. We were given a mandate by the Congress to come up with a proposal of reform the military retirement system in light of the budgetary difficulties we have before us today, so we had to make some changes. This conference report before the Senate today represents our best effort to balance the Congress desire to reduce the future costs of military retirement with our need to recruit and retain qualified men and women in our military services.

Mr. President, in my view, this conference agreement on military retirement reform is a significant improvement over both the House and Senate passed bills.

The essence of the conference agreement is the creation of a two-tier structure of benefits for active duty military members who retire with less than 30 years of service. The lower tier of benefits before age 62 recognizes the reality that almost all military retirees have a second career. The second and higher tier of benefits after age 62 provides essentially the current level of retirement benefits for military members during their old age, although with less than full COLA protection.

Here is how the new military retirement system will work: The formula for the multiplier would remain unchanged from the current system—2.5 percent for each year of service up to 30 years of service. However, for members who retire with less than 30 years of service, the multiplier would be reduced by 1 percentage point for each year of service the member retired less than 30. The reduction would be eliminated when the member reached age 62.

The annual COLA adjustment will be changed to provide an annual increase equal to the increase in the percentage point for life, with a one-time restoral in the purchasing power of the annuity at age 62.

For example, under this proposal a member retiring after 20 years of service would receive 40 percent of his average high 3 years of basic pay. At the present time, they get 50 percent. If he got that 40 percent after 20 years' service, he would receive an annual COLA of CPI minus 1 percentage point until age 62. At age 62, his multiplier would be restored to the current 50 percent of his average high 3-years of basic pay, and his monthly retired pay would be restored to what it would have been if he had received a full CPI COLA from the time of retirement. After age 62, he would continue to receive an annual COLA of CPI minus 1 percentage point.

A military member retiring after 30 years of service would receive the current 75 percent of his basic pay both before and after age 62. His retired pay would only be affected by the changed COLA formula.

The proposal also extends the reduced COLA formula of CPI minus 1 percentage point to disability retirement benefits and survivors' benefits, similar to the Civil Service Retirement Reform Act recently enacted. I specifically did not like that particular provision and hope we might able to change it later. Disability retirement, it seems to me, should not be penalized in that way, so we will work on that in the future.

Mr. President, one thing I want to emphasize is that everything we are talking about in this conference report is prospective. It applies in the future. We have set August 1, 1986, rather than the date of enactment as the effective date for the bill. This conference report would not affect the retirement benefits of anyone serving in uniform today. Only those people who entire military service after August 1, 1986, will be affected by these changes.

Mr. President, this conference agreement will reduce the future costs of the military retirement system by almost 18 percent, or $3.2 billion on an annual fiscal year 1986 basis.

This conference report is the culmination of more than a year of careful study and analysis by the House and Senate Armed Services Committees, the Department of Defense, the Congressional Budget Office, and the General Accounting Office. Not everyone involved in this process supports the conference report in the form in which it appears before the Senate today.

□ 1830

But in my view, this conference report will make prospective changes to the military retirement system that will allow us to continue to properly man our military services; that will still provide an equitable retirement system for military members; and that will also reduce the future costs of the military retirement system.

Mr. President, I urge the Senate to adopt this conference report so that the President can sign it into law before our own self-imposed deadline of June 30. It is very important to both the military services and to the Nation that we do so.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that the distinguished Senator from Arizona may have 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized.

Mr. GOLDWATER. Thank you, Mr. President.

I thank the majority leader.

Mr. President, I rise in support of the conference report on H.R. 4420, military retirement reform and fiscal year 1986 unauthorized appropriations.

Mr. President, this conference report represents a substantial reform in our Nation's military retirement system. The changes that we make with this bill will apply prospectively to those individuals joining the military after August 1, 1986. Let me make very, very clear to all my colleagues, and especially to all military retirees and those men and women who are currently serving on active duty, that the changes made in this bill will not apply to them. This legislation recognizes the promises that we have made to our military personnel, and I am determined not to break those promises. In a moment, I will defer to Senator WILSON, the chairman of our Manpower Subcommittee, who will explain the provisons of the retirement reform measure in detail.

Mr. President, this bill also contains the resolution of the controversy between the Defense Appropriations Subcommittee and the Armed Services Committee over the issue of excess or unauthorized appropriations. I am happy to say that we have worked out our differences in a very amicable way, and I want to express my very sincere, personal appreciation to the chairman of the Defense Appropriations Subcommittee, Senator STEVENS, for his cooperation in helping resolve this matter. Through this process, we have forged what I believe will be a greatly improved working relationship between the Armed Services Committee and the Defense Appropriations Subcommittee.

Mr. President, that concludes my remarks, I hope we can now move this conference report expeditiously. It is not a controversial bill, but it is important that we pass it today in order to avoid having to lay off several thou-

sands of people in the Defense Department.

I thank the Chair.

The PRESIDING OFFICER. The time on the conference report has expired.

The Chair recognizes the Senator from California.

Mr. WILSON. Mr. President, I thank the distinguished chairman of the Armed Services Committee.

We are ready to vote, Mr. President. The majority and, I believe the minority, do not see the necessity for a rollcall vote.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIPLOMATIC SECURITY AND ANTITERRORISM ACT

The Senate continued consideration of the bill.

Mr. LUGAR. Mr. President, earlier today during consideration of two amendments by Senator HELMS, Nos. 2190 and 2191, Senator HELMS agreed to modifications in a colloquy with me. However, through inadvertence the amendment submitted to the desk did not reflect those modifications.

I ask unanimous consent that the corrected copies of those amendments, with the modifications, be substituted to the versions submitted earlier.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendments, Nos. 2190 and 2191, have been so substituted.)

Mr. LUGAR. Mr. President, I know of no further amendments.

AMENDMENT NO. 2193

The PRESIDING OFFICER. The question is on agreeing to Amendment 2193. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON: I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. HECHT], the Senator from Nevada [Mr. LAXALT], the Senator from Oregon [Mr. PACKWOOD] and the Senator from South Carolina [Mr. THURMOND] are necessarily absent.

I further announce that, if present and voting the Senator from Florida [Mrs. HAWKINS], and the Senator from South Carolina [Mr. THURMOND], would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—94

Abdnor	Glenn	Metzenbaum
Andrews	Goldwater	Mitchell
Armstrong	Gore	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Gramm	Nickles
Biden	Grassley	Nunn
Bingaman	Harkin	Pell
Boren	Hart	Pressler
Boschwitz	Hatch	Proxmire
Bradley	Hatfield	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chiles	Hollings	Roth
Cochran	Humphrey	Rudman
Cohen	Inouye	Sarbanes
Cranston	Johnston	Sasser
D'Amato	Kassebaum	Simon
Danforth	Kasten	Simpson
DeConcini	Kennedy	Specter
Denton	Kerry	Stafford
Dixon	Lautenberg	Stennis
Dodd	Leahy	Stevens
Dole	Levin	Symms
Domenici	Long	Trible
Durenberger	Lugar	Wallop
Eagleton	Mathias	Warner
East	Matsunaga	Weicker
Evans	Mattingly	Wilson
Exon	McClure	Zorinsky
Ford	McConnell	
Garn	Melcher	

NOT VOTING—6

Chafee	Hecht	Packwood
Hawkins	Laxalt	Thurmond

So the amendment (No. 2193) was agreed to.

□ 1850

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I ask unanimous consent that the Senator from South Carolina [Mr. THURMOND] be added as a cosponsor to the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

There will be order in the Senate. There is too much conversation. Please remove your conversations to the Cloakroom. We cannot hear the Senator from Indiana.

Mr. KASTEN. Mr. President, I wonder if the distinguished Senator from Indiana will yield for a question?

Mr. LUGAR. I am happy to yield.

Mr. KASTEN. I am advised that the funding contemplated by this legislation will provide an increase of about 400 new positions for the Department of State's diplomatic security services.

Mr. LUGAR. The Senator from Wisconsin is correct.

Mr. KASTEN. Mr. President, it is my understanding that some of the new positions authorized in this bill are to be assigned on a nonreimbursable basis to the small security office of AID. It is my understanding that the discussions have focused on approximately 15 positions. This arrangement, which I strongly endorse, results from discussions between the Foreign Relations and Appropriations Committees with appropriate officers of the Department of State and AID. I wonder, Mr. President, if my understanding on this point is shared by the distinguished chairman, the Senator from Indiana.

Mr. LUGAR. Mr. President, the distinguished Senator from Wisconsin is correct in his understanding. A key consideration in this legislation is the necessity to fix responsibility for security of our diplomatic personnel in one officer, the Secretary of State. Section 106(a) of the act, however, in the interest of organizational effectiveness, vests authority in the Secretary to delegate operational control of overseas security functions of other Federal agencies to the heads of those agencies who remain fully responsible to the Secretary of State in the exercise of those delegated duties. In terms of day-to-day security operations, the AID security group must be able to execute and administer for AID's overseas personnel the Department's security standards and policies. It is with this requirement in mind that the Department of State and AID have determined that a limited number of these new positions, as the Senator from Wisconsin has indicated, should be made available to AID, funded from the supplemental appropriations provided under this bill.

Mr. KASTEN. I thank the distinguished Chairman, Mr. President. I believe the arrangement we have discussed here will enhance the effectiveness of this legislation by insuring that AID has sufficient resources to fully support the Department's security requirements in these hazardous times.

Mr. DENTON. Mr. President, the shocking hijacking of TWA flight 847, EgyptAir 648, the airport massacres in Rome and Vienna and the bombing of TWA flight 840 underscores the necessity for effective security at airports in this country as well as abroad. The aftermath of these bloody terrorist episodes demonstrated that lax airport security may have provided the opportunity for terrorists to carry out their grim mission of vengeance and death.

Mr. President, the United States must take a lead in securing its airports from access by terrorists and must also work with the international community to prevent the loss of lives of innocent air travelers at the hands of terrorists. To allow this Nation to take such a lead, I introduced S. 2468, the Antiterrorism and Air Security Act, a bill which was referred to the Commerce Aviation Subcommittee chaired by my distinguished col-

leagues from Kansas, Senator KASSEBAUM.

The Antiterrorism and Air Security Act will require that a criminal history check be conducted on any airline or airport employee whose duties permit them access to secured areas of airports or to commercial aircrafts. The act also proposes to make it a Federal crime to enter airport secured areas without authority. The latter provision is intended to deter the unlawful circumvention of airport security systems as well as the unauthorized penetration of secured areas on airports. Such activity must be forcefully proscribed by Federal law to combat any threat of terrorist activity against civil aviation in this country.

Mr. President, I had considered offering the substance of S. 2468 as an amendment to the bill currently being considered. However, after talking with Senator KASSEBAUM, chairman of the Aviation Subcommittee, who shares my concern over the safety of our airports, we concluded that it would be beneficial to conduct a joint Judiciary Security and Terrorism Subcommittee/Committee Aviation Subcommittee hearing on the question of airport security in general and S. 2468 in particular.

Therefore, at this point I will not offer S. 2468 as an amendment.

I look forward to working with Senator KASSEBAUM in our joint effort to protect our Nation's airports.

KOREAN TRADE PRACTICES—AMENDMENT NO. 2180

Mr. WILSON. Mr. President, I want to join with my colleague and friend from Kentucky, Senator MCCONNELL, in denouncing the blatantly unfair and protectionist trade practices of the Republic of Korea. This country, which has benefited so greatly from its friendship with the United States, should not so cavalierly maintain old trade barriers nor continue to erect new ones. Yet, Mr. President, it does.

The barriers run from high technology goods and electronic products to agricultural goods, both fresh and processed. The barriers also extend to pharmaceuticals, chemicals, books, and movies, which are denied fair market access both through tariffs and quotas and by refusal to provide adequate protection for intellectual property.

Mr. President, in the area of agriculture, South Korea maintains the most protectionist import policy of the newly industrialized countries in Asia. The list of trade barriers, particularly to high-value or specialty crops, is extensive and entrenched. Let me just point out a few examples.

The Korean Government, on January 1, 1986, implemented a comprehensive plan to protect their industries from agricultural imports. They attempted to justify these new import restrictions by arguing that balance-of-payments problems force them to preserve foreign currency. A Korea Trade News article on December 6, 1985, outlined this management plan that would be used to effectively control imports. This plan included several actions that are injurious to California.

For example, the Ministry of Agriculture and Fisheries has been sending letters to importers of raisins and citrus fruits informing them that importing such goods is contrary to the policy of conserving foreign exchange, and urging them to work with their customers to reduce the volume purchased.

South Korea has also tightened quarantine procedures against California citrus and requires our citrus to be subjected to 2 weeks of zero degree temperatures. This seriously reduces the high quality of our fruit, and is an unjustified nontariff barrier.

The other measures that went into effect on January 1 include a continued suspension of all high-quality beef imports, and imposition of quotas on frozen potato imports designed to keep imported french fries out of supermarkets.

The U.S. Agricultural Counselor in Seoul, in a report he submitted on December 23, 1985, concluded about these measures that "Traders in food products all report that they are experiencing overt pressure (letters and warnings) and indirect pressure (extra redtape and unexplained delays) aimed at discouraging imports of consumer-ready products, and that this pressure has been increasing in recent months."

In particular, the Koreans' move to tighten quarantine procedures has focused on California citrus, which is required to be subjected to 2 weeks of zero degree temperatures. The Koreans have unilaterally and incorrectly declared all California citrus to be infested with the Mediterranean fruit fly, in spite of the fact that the USDA gave California citrus a clean bill of health over 3 years ago.

In early December of last year, the USDA invited Korean scientists to come to the United States to make a firsthand inspection of their claims of fruit fly infestation, but to date, the Korean Government has not yet responded to the invitation.

Let me mention briefly a few other entrenched barriers. Korea maintains a senseless 60-percent tariff on United States raisin exports. There is no logical justification for this barrier since there is no raisin industry in South Korea to protect. The California Raisin Advisory Board has shown a positive and aggressive business attitude by developing a marketing program in Korea using targeted export assistance funds. Their efforts will be wasted if this trade barrier remains intact.

Finally, Korea was also a country designated by the USTR under the Wine Equity Act, which I authored in 1984, as a country that has significant market potential for United States wine sales, but maintains trade barriers, including tariffs, inhibiting such wine trade. Consultations with Korea to rectify these trade barriers have produced no results to date.

Now, outside the area of agriculture, there have been some promising signs. For example, there are press reports that the pending actions against Korea brought under section 301 of the Trade Act of 1974, covering insurance and intellectual property, are progressing significantly. Also, we are eagerly awaiting changes in Korean laws that will allow United States film distributors to do business in Korea.

Nevertheless, there are so many other important disputes to be settled, that we must press for continued improvement in order to allow for continued designation of the Republic of Korea as a beneficiary under GSP after the completion of the general review prior to January 4, 1987.

Mr. President, I commend the distinguished Senator from Kentucky [Mr. MCCONNELL], for bringing the present troublesome situation in United States-Korean trade relations to the attention of the Senate, and I sincerely hope that we can settle this matter quickly and comprehensively.

AMENDMENT NO. 2180

Mr. THURMOND. Mr. President, I rise today in support of the amendment by Senator MCCONNELL to the diplomatic security bill. This amendment expresses the sense of the Senate that the Republic of Korea should not be treated as a beneficiary developing country under the U.S. Generalized System of Preferences until Korea discontinues its "unreasonable, unjustifiable, and discriminatory acts, policies, and practices" with respect to trade. This amendment is identical to Senate Resolution 369, of which I am a cosponsor.

Last month, the President of the Republic of Korea made a commitment to Senator MCCONNELL that the National Assembly of Korea would pass a bill to privatize the Korean tobacco monopoly. Yesterday, the Korean National Assembly completed its special session. Not only did this bill not pass the Assembly, but the entire bill was withdrawn. I am disappointed that the Koreans did not carry through with this commitment.

Mr. President, this action by the Korean Assembly is particularly disappointing in view of the fact that Korea continues to flood our market with textile imports. For calendar year 1985, Korea was the source of over 10 percent of the textile and apparel imports coming into the United States. In fact, their total shipments of over

1.1-billion-square-yard equivalents was second only to the total sent to the United States by Taiwan.

Many of us have hoped that the Koreans would open their market to American businesses. U.S. businesses would like to trade with the Koreans. Unfortunately, this latest action shows a lack of commitment on the part of the Koreans. I am prepared to support legislation that would correct these trade inequities, and urge my colleagues to do the same.

THREATS TO THE INTEGRITY OF RURAL AND FARM STATISTICS

Mr. ABDNOR. Mr. President, by official count, more rural people live in the United States today than at any other time in history. This probably comes as a surprise to many Americans, rural and urban alike.

This highest-ever number of rural Americans occurs despite the fact that only 26 percent of our total U.S. population is rural. It is this percentage that is so often cited to indicate a decline in the rural population. For while half of the nation was rural at the end of World War I, about one-fourth is today. Rural population growth has always been a part of our country's overall growth, yet, only the declining percentage seems to receive attention and, by implication, to the detriment of rural inhabitants.

Still, and contrary to conventional hearsay, the number of rural people is growing rather than shrinking. According to the latest figures available for 1984, over 61 million people are rural residents. This number approximates the number of all people in our country a century ago.

There are as many rural Americans as all who live in the Nation's eight largest cities—New York, Los Angeles, Chicago, Philadelphia, San Francisco, Detroit, Boston, and Houston. Illustrated in other ways, rural people in total outnumber the combined population of the three largest States as well as that of the 30 smallest States. There are nearly as many rural people as there are persons under age 18 across the United States. The number of rural people in America is simply a large number by any national comparison.

While we can now realize that the rural population is large, we cannot know as much as we need to know about this major component of our society and economy. Studies tell us, for example, that rural unemployment data—one of the most salient pieces of information on the well-being of rural America—are tragically underestimated. Beyond shaky statistics on employment is evidence of even higher levels of underemployment in rural areas. Studies of such topics are reported in a new publication, "New Dimensions in Rural Policy," which has been prepared through the Joint Economic Committee.

Another rural-related topic that obviously requires more detail and attention is agriculture. Agriculture remains the dominant force behind economic and social well-being in many hundreds of our counties and, just as important, is the major national industry for rural and urban jobs alike. Yet, the U.S. census of agriculture is facing restrictions from Office of Management and Budget on top of continued funding difficulties as the Census Bureau gears up for the 1987 collection of data on farms throughout the more than 3,000 counties of the States.

Perhaps at no time has there been a greater need for a better count of our farms, farm operators, and indicators of what has been happening to our farms. American agriculture and hundreds of thousands of farmers in this proud land have taken a beating far too long. There is a strategic need to know how farms have changed since the last census of agriculture in 1982. We need more information on the factors that have torn at our way of farming, factors that have stressed individuals and farm families, factors that have strained or collapsed so many rural and farm communities, and factors that are sapping one of America's strengths.

The burden of ignorance of these matters is severe. To address the ongoing rural and farm crisis and to better manage long-term changes, we need quality data from our national agencies which provide it. Indeed, the provision of these data is a national responsibility to the federation of our States and to local areas.

All Americans benefit from this information. With quality data on rural and agricultural situations, citizens, scientists, and policy analysts can better provide the suggestions which can lead to valid, lasting rural and farm policies.

Today I call for quality data on rural and farm America. The integrity of rural and agricultural data must be protected and enhanced. Without accurate knowledge of the problems, attempting policy solutions may be ineffective, wasteful, and even counterproductive. The millions of our citizens who are facing the special problems of rural America certainly rate fair and comprehensive data on their conditions.

Late last week, the Census Advisory Committee on Agricultural Statistics—a group of representatives from agricultural businesses, farm organizations, farm labor organizations, agricultural universities, and agricultural scientists—unanimously passed a resolution that the Bureau of the Census and the agricultural division should move ahead without further restraint to finalize plans for the critically important 1987 census of agriculture.

Mr. President, I ask unanimous consent that their resolution be printed in the RECORD at this time.

RESOLUTION

Whereas the recent and ongoing agricultural and rural crisis demands quality census data including economic and social agricultural statistics,

Whereas the U.S. census of agriculture provides data for the Nation, States, and the only county level data and thereby carries the federated responsibility for us all,

Whereas we share the goal of obtaining high quality agricultural census data at the county level for use by Federal agencies, State governments, local county agencies, businesses, and private groups,

Whereas the mail-list development procedures are one important component in the process of building an accurate base for the 1987 census, follow-on surveys, and future censuses,

Whereas the census of agriculture is faced with the externally imposed prospect of moving from a methodology dependent upon carefully developed lists with nonfarm names to an optional combination of mail lists and area samples,

Whereas the loss of a large mailing list will make it impossible to produce detailed, county level data,

Whereas the quality and comparability with previous censuses would be lost and any follow-on surveys such as a farm finance survey would be impaired, and

Whereas list development for the next census would also be adversely affected,

It is resolved that:

The Advisory Committee on Agricultural Statistics supports the commitment of the Bureau to preserve and enhance the integrity of the data at the National, State, and the important county levels,

We support the Bureau's efforts to enhance mail list development and experimentation with data collection techniques which will improve lists and response rates,

As in the past, we support the concept of area samples as a supplement to State estimates but feel that area sampling cannot replace the need for county level estimates,

We recommend that the solution to quality agricultural census data with integrity at the National, State, and county levels lies not in budget cutbacks or in mail list restrictions but, instead, in the base of tried, demonstrated, and improved data collection techniques carefully developed through the experiences of recent censuses, and

We recommend that the agricultural census mailing list have an adequate number of addresses to maintain previous levels of completeness, as recommended by the Census Bureau, in the range of 3.7 to 4.0 million addresses.

Mr. President, let us not fail rural and agricultural America for lack of knowledge that is within our grasp. Rather, let us gain knowledge upon which to base sound solutions.

Mr. LEAHY. Mr. President, I rise to voice my strong support for the Diplomatic Security and Anti-Terrorism Act.

With the increase in recent years of terrorist attacks against Americans and American installations overseas, Congress has enacted a number of important pieces of antiterrorism legislation. As the ranking member on the

Subcommittee on Security and Terrorism, I am proud to have worked closely with Chairman DENTON on many of those measures. They include the enabling legislation for the Conventions Against Hostage-Taking, Aircraft Hijacking and Crimes Against Internationally Protected Persons. A program of antiterrorism assistance to foreign countries has been established, a rewards-for-information fund was authorized and funded, and a major airport security measure was adopted.

Since 1980, as a result of major attacks on United States Embassies in Iran, Pakistan and Libya, Congress embarked on a 5 year Security Enhancement Program and approved yearly supplemental funds for overseas security. Total State Department funding for security since 1980 has totaled over $1.4 billion.

Because of all that Congress has spent on security during the past 6 years, this legislation demanded careful scrutiny by the Congress. The administration requested almost $4.4 billion for diplomatic security over the next 4 years. That would amount to a fourfold increase in funding over the past 6 years, at a time when we are making major cuts in important domestic social programs.

No security is foolproof. We can never make our embassies impenetrable. We must resist the tendency to adopt a "bunker" mentality, whereby our embassies become fortresses and our diplomats cut off from the people of the countries where they are stationed. If we allow the fear of terrorism to overwhelm us, the terrorists will have won an important victory. They will hold this entire country hostage.

I support strong measures to combat terrorism. I have often recommended that we develop a comprehensive counterterrorism policy. Such a policy should be based on diplomacy, and include the ability to deter terrorist attacks by extraditing and prosecuting terrorists, and, if necessary, the discriminate use of force. Finally, we must do what is reasonably possible to protect our diplomats stationed overseas.

I believe that this bill, as reported from the Committee on Foreign Relations, is a good compromise. It authorizes appropriations for diplomatic security and antiterrorism totaling $1.1 billion for 1986–87, rather than the $4.4 billion over 4 years proposed by the administration.

In arriving at this amount, the committee considered that not all funds previously appropriated for security have been spent, that some of the administration's goals do not directly relate to security, and that others can be accomplished with less money and better management. This bill will insure that existing resources are used in ways which save lives and protect American interests. That is exactly what we should be doing, and I urge my colleagues to vote for it.

Mr. THURMOND. I rise to commend Senator LUGAR and the members of the Foreign Relations Committee for their efforts in bringing this important legislation before the Senate today.

Terrorism has increased dramatically in the last 5 years. I am particularly concerned that much of the terrorist activity has been directed against United States' interests and installations abroad. The vicious attack in 1984 on American Marines in Beirut, Lebanon is a clear illustration of terrorism specifically targeted at our Nation. The tragedy in Beirut and other acts of terrorism directed at American officials abroad raise important questions concerning the physical security of United States' Embassies and our other installations throughout the world.

Passage of the Diplomatic Security and Anti-Terrorism Act of 1986 is necessary so that our Nation can better defend against terrorists attacks. This legislation establishes the Diplomatic Security Service (DSS) which will be responsible for the security of our Embassies. The DSS will operate under the supervision of the Secretary of State. Substantial capital improvements to existing diplomatic facilities in order to improve security are authorized by this bill. The necessary construction work is to be performed by American contractors.

Mr. President, this legislation is of vital importance in order to protect Americans who serve our Nation overseas. I urge its passage.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 4151), as amended, was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD and Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. BYRD. Mr. President, I will only be 1 minute. So that the distinguished Senator from Maryland will get the floor, I only want a minute, and I yield the floor.

Mr. MATHIAS. Mr. President, I have a unanimous-consent request, one that I have discussed with the chairman of the Committee on Foreign Relations and with the ranking minority member of the Committee on Foreign Relations.

Mr. President, I ask unanimous consent that conferees on behalf of the Senate Governmental Affairs Committee be appointed specifically to deal with the Grassley amendment to H.R. 4151.

The Grassley amendment eliminates two sections of the District of Columbia Code from the law which prohibit and set penalties for interference with foreign diplomatic and consular offices, officers, and property. In addition, the amendment would bring the District of Columbia under the jurisdiction of the Federal proscriptions contained in 18 U.S.C. 112. As such, it is a matter which is arguably within the jurisdiction of the Subcommittee on Governmental Efficiency and the District of Columbia of the Governmental Affairs Committee. For this reason, I ask that representatives from that committee be appointed to the conference to address this amendment.

The PRESIDING OFFICER. The Senator is advised we have not yet appointed conferees on this bill.

Mr. MATHIAS. My unanimous consent was when they are appointed that there be conferees on behalf of the Governmental Affairs Committee on that specific amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MATHIAS. I thank the minority leader.

Mr. BYRD. Mr. President, if I might have 30 seconds.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. I compliment the manager and the ranking manager, Mr. LUGAR and Mr. PELL respectively, on the skill and the great dedication to the sense of purpose which they have demonstrated in handling the embassy security legislation. At all times they exhibited great forebearance, patience, and understanding toward those Senators who sought to bring up amendments. I thank them for the good job that they have done on behalf of the Senate.

Mr. President, I yield the floor.

Mr. LUGAR. Mr. President, I thank the majority leader, and the minority leader, for their cooperation.

Mr. BYRD. Mr. President, may we have order in the Senate so that we

can hear the distinguished manager of the bill?

The PRESIDING OFFICER. Will conversations going on please cease? We are asking for order in the Senate. The Democratic leader's request was well made. Please desist from further conversations.

The Senator from Indiana.

Mr. LUGAR. Mr. President, in addition to my thanks to the majority and minority leaders, I thank, of course, the distinguished ranking member of our committee, and all members of our committee who have prepared this markup and debate on this legislation. Also I want to thank the members of the staffs on both the majority and minority sides, and all Senators for giving us this opportunity.

Mr. PELL. Mr. President, I concur in these thoughts of the Senator from Indiana. I am very grateful to him, to our staffs, and to the leadership which helped us keep this bill on the road.

THE JUDICIARY

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. PELL. In view of the fact that for the moment I have the floor, I would like to glide into another subject, the subject of Daniel Manion to be a judge in the U.S. Court of Appeals for the Seventh Circuit which concerns me very much indeed.

I had the benefit of a long talk with him in my office and found him to be very open, honest, and decent. However, measured against the qualifications needed for a Federal circuit court judge, he simply does not measure up, in experience or legal scholarship. Because of his lack of qualifications I must oppose his nomination.

In my opinion, it is a shame that Mr. Manion has to bear the weight of criticism which has been most severe. This criticism should more properly be reserved for those in the executive branch who made such a poor selection for this nomination.

I would add here that I am not amongst those who have criticized Dan Manion because of his beliefs or his loyalty to his father's precepts or because he wanted the Ten Commandments displayed in schoolrooms. Rather I only wish that he had the judicial qualifications that would have permitted me to vote for him. I would only hope that in the future, the executive branch would send up candidates who are qualified and whom we in the Senate can proudly support. To send up a nomination like this can hurt a very fine young man without any real reason.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I oppose the confirmation of Daniel Manion to be a Federal judge in the U.S. Court of Appeals for the Seventh Circuit.

Let me respond at the outset to those who are so piously regretting that this issue may well be decided on a cloture vote instead of an up-or-down confirmation. That argument is disingenuous. The simple truth is too many Members of this body will vote for any administration nominee who is still breathing. The Justice Department hit bottom when it persuaded President Reagan to submit Mr. Manion's nomination. By rejecting the nomination the Senate will be sending an unmistakable message to Attorney General Meese that we expect future judicial nominees to meet at least minimum standards of competence.

Mr. Manion's nomination is in trouble for one reason only—his extreme lack of qualifications. He has had no experience in Federal courts. His briefs in State courts border on illiteracy. He insulted the Supreme Court by defying one of its key decisions interpreting the Constitution. He is opposed by the deans of a long list of major law schools throughout the country, and, compounding all of his other demerits, he refused to come clean in his Senate confirmation hearing.

Mr. Manion is a conservative—but ideology is not the issue in this debate. In fact, the issue of ideology is a red herring in the literal sense—a false odor dragged across the trail of Senate debate to confuse the real issue.

Democrats have voted to confirm dozens of President Reagan's conservative judicial nominees—but they have all had adequate qualifications. Manion flunks the test, not because he is conservative, but because he is not qualified. If the President wants to point the finger of blame for this fiasco, he need point no further than Ed Meese for setting the standard of qualifications so low.

In fact, the shoe is on the other foot. Mr. Manion's lack of qualifications to be a Federal circuit judge is so striking that it suggests he was nominated solely because of his conservative ideology and not for any distinction in the law.

In 1979, when I was chairman of the Senate Judiciary Committee, we held specific hearings on the selection and confirmation process for Federal judges, in order to develop a workable and effective set of standards to guide the committee in its evaluation of judicial nominees.

During the course of those hearings, Senator THURMOND, then the ranking minority member, noted that "it is important that we keep in mind and centrally focus our efforts on the fact that we must have qualified people on the bench * * * our emphasis, therefore, must be on ensuring that the judiciary of this country remains filled with judges of superior quality and merit."

Senator THURMOND went on to note that this task "is not to be taken lightly but (is) one which the Senate and this committee, as a screening tool of the body, must accomplish with careful scrutiny of each nominee." He then promised that he would continue to "fully evaluate the candidates to ensure that only those people best qualified for appointment are favorably reported" by the Judiciary Committee.

I completely agree with the views expressed by Senator THURMOND in 1979 concerning our advice and consent responsibilities as Members of the Senate.

Daniel Manion's nomination was not favorably reported by the Senate Judiciary Committee, and for good reason. He is not an individual of "superior quality and merit." Nor is he among the "best qualified for appointment."

The composition of the Seventh Circuit Court of Appeals and the credentials of the 13 judges now serving on that distinguished bench prove the point.

Six of the 13, almost half of the current bench, were already judges at the time of their nomination to the seventh circuit. Each had demonstrated an ability to analyze complex legal issues and judicial precedents, to apply the law to the facts in complex cases, and to write lucid, well-reasoned judicial opinions for the guidance of other courts, the bar, and the country as a whole. The skills and experience required for members of the seventh circuit were nothing new to these six judges.

An additional five members of the seventh circuit had distinguished themselves as faculty members at law schools prior to their appointment. Their experience obviously qualified them to meet the challenging tasks of the Federal appellate courts. Both roles require an exceptional ability to analyze complex questions of law and explain their views in clear, concise, and compelling terms.

The remaining two current members of the seventh circuit had been practicing attorneys for 25 years at the time of their appointments. And each of them had substantial litigation experience in the Federal courts.

By comparison, Mr. Manion has no experience even remotely approaching the distinguished qualifications of the judges he aspires to join. He has never served on the bench, he has never published a scholarly work, he has never been a faculty member at any law school, and he has never had any significant experience in dealing with Federal or constitutional issues. In fact, Mr. Manion has never even argued a Federal or a constitutional

claim in the court to which he seeks appointment.

Mr. Manion's lack of qualifications is obvious to leaders of the bar. He received the lowest passing grade from the American Bar Association's Committee on the Federal Judiciary; a minority of the ABA committee found him unqualified.

The Chicago Council of Lawyers, an organization of 1,000 attorneys in the largest city in the seventh circuit, concluded that Mr. Manion is not qualified. More than 40 law school deans, in an extraordinary letter to the Senate, have concluded that Mr. Manion is not qualified. Prominent law professors have stated that Mr. Manion is not qualified.

The evidence of Mr. Manion's lack of qualifications to be a Federal judge is displayed again and again in his own limited legal work. At the request of the Judiciary Committee, Mr. Manion submitted five of his best briefs to the committee for review. Members of the Chicago Council of Lawyers also examined these briefs.

The council's comment on Mr. Manion's brief in Lindower versus City of South Bend is typical of its analysis:

(T)his brief . . . demonstrates a low level of competency compared to the excellence to which the judiciary and the public are entitled . . . the numerous typographical errors, grammatical mistakes, and syntactical errors in this brief raise concerns about Mr. Manion's ability to write, a key qualification for a judge of the Court of Appeals.

It is an affront to the Senate to be debating a judicial nominee who falls so far short of the mark of distinction which should characterize nominees to our courts. I have here, on my Senate desk, copies of the briefs Mr. Manion submitted to our committee. I challenge any Senator to peruse these briefs and defend the proposition that Mr. Manion is qualified to sit on a Federal appellate court. Frankly, the caliber of these briefs is more appropriate to the seventh grade than to the seventh circuit.

The seventh circuit has jurisdiction over three States and 22 million people. Last year, the court handed down over 2,200 opinions, with each judge participating in over 500 cases and personally authorizing approximately 50 opinions. The office of Federal judge involves demanding work, and the Senate must demand that the individuals whom the President nominates are up to the task. Nothing in Mr. Manion's background suggests that he measures up.

I regret the necessity to speak this frankly in this debate. But a fundamental principle is at stake—the integrity of the Federal courts in our constitutional system of government. "Support the President" is not the end of the analysis. We have also taken an oath to support the Constitution—and that oath comes before all others.

Writing in the Federalist Papers two centuries ago, Alexander Hamilton predicted that only Senate confirmaton would stand between the inept nominee and the inept appointee. As he observed of the confirmation process, it "would tend greatly to preventing the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view of popularity."

Were Alexander Hamilton with us in the Senate today, he might well be a Republican, at least by party heritage. But I believe that he would also be leading the effort to ask the Senate to live up to its responsibility to defend the Federal courts.

□ 1910

So far, I have addressed only Mr. Manion's lack of credentials, accomplishments, and experience. Given his overwhelmingly unimpressive record, I believe it is unnecessary to look further to conclude that the nomination should be rejected.

Yet his deficiencies run deeper, for he also lacks a fundamental understanding of the Constitution and the role of the courts in our constitutional system of government.

The judicial branch of Government is the guardian of our basic constitutional principles. It provides the ultimate safeguard in our system of checks and balances, through its power to strike down statutes which transgress constitutional requirements, and even to order the President himself to act in accordance with the laws and the Constitution.

To a large extent, it is the Federal appellate judges who decide what the Constitution means, for very few cases ever reach the Supreme Court. Last year, for instance, the Supreme Court accepted only 171 cases for review. Of these, only 10 were from the seventh circuit. The vast majority of cases decided by the seventh circuit or any other circuit receive no further judicial review. Their word is final.

The judgments made at the appellate court level also contribute substantially to setting the tone and determining the substance of constitutional interpretations for the future. If a Federal appellate court signals that the time has come for more—or less—aggressive enforcement of particular constitutional rights, that message is often heard and heeded—with direct consequences for millions of Americans across the country.

It is because of the vast power and responsibility of Federal appellate judges that we insist they understand and respect the Constitution. Mr. Manion has demonstrated neither of these traits. As a State legislator, he sponsored legislation which he knew to be flatly unconstitutional because it violated the first amendment. Yet he insisted at our Senate committee hearings that his bill could somehow have become the law in Indiana, in spite of the fact that the Supreme Court had declared the measure unconstitutional just 2 months before. In doing so, Mr. Manion defied the Supreme Court and insulted the Constitution—and he does not belong on the Federal bench.

Mr. Manion now claims that he would support and implement Supreme Court decisions. But his concession comes too late. Before he was seated in the Indiana State Legislature, he took an oath of office to uphold, support and defend the Constitution of the United States. Yet when his personal views conflicted with that responsibility he violated his oath.

His actions as a State legislator in the past speak louder than his words today. Either Mr. Manion does not understand the Constitution, or he does not respect its mandate. In either case, he is not fit to serve on a U.S. Court of Appeals.

In addition, I am concerned about the lack of candor and credibility in Mr. Manion's testimony before the Judiciary Committee. I questioned Mr. Manion at his second hearing. I listened closely to his answers, and I observed his demeanor. I was troubled by his transparent efforts to divert attention from controversial positions which he has taken in the past. Several times during his testimony, he either did not recall or tried to evade responsibility for prior statements and positions.

For example, in 1979, he unequivocally endorsed the John Birch Society, stating in a letter that "Your members are certainly the people who are on the front line of the fight for Constitutional freedom." At his confirmation hearing, he said he does not recall the letter and does not know what the John Birch Society stands for.

In 1977, Mr. Manion heartily endorsed a book by Congressman Lawrence McDonald, which espoused extreme right-wing views. At his confirmation hearing, Mr. Manion said he does not remember the book, and when asked about specific positions taken in the book, he said he disagrees with them.

Finally, on several occasions, Mr. Manion has made statements and participated in efforts that express outright contempt for the long-established legal doctrine of incorporation, which makes the core protections of the bill of rights binding on the States. The doctrine of incorporation has protected American citizens from State laws which would inhibit free speech, violate the separation of church and state, or intrude on other fundamental rights. Every sitting Justice on the Supreme Court supports the doctrine.

At his confirmation hearing, Mr. Manion testified that he now agrees with the incorporation doctrine. But his sudden retraction on this issue is unconvincing. He said he had no idea whether he would seek to deincorporate any rights in the Bill of Rights.

Nominees who seek life tenure on our Federal courts must bear the burden of demonstrating that they are deserving of their solemn trust. The Senate should confirm only those nominees who truly are of "superior quality and merit." With all respect to Mr. Manion, he is not among them. The Attorney General has abused the Senate with this nomination, and it should be rejected by the Senate.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in support of the nomination of Daniel A Manion of Indiana, to be U.S. circuit judge for the seventh circuit.

He possesses broad legal experience, valuable legal skills, and high moral integrity, and almost everybody admits at least the latter. He is an accomplished lawyer, well qualified to sit on the Federal bench. He may not have practiced in Washington, DC, or New York City, San Francisco, Los Angeles, or Miami, but he was practicing as basically a small town lawyer in Indiana. I might mention he has the respect of the people in Indiana.

Dan received his B.A. degree at Notre Dame. While an undergraduate he was recognized for "excellence in leadership, academic attainment, and participation in military affairs."

Upon graduation from Notre Dame, Dan served in the Vietnam war. He is the first veteran of the Vietnam war to be nominated to a circuit judgeship. After his military service, Dan entered the Indiana University School of Law at Indianapolis. He graduated in the top one-third of his class in 1973. Rather remarkably, while he was studying law, Dan also worked full time as director of industrial development for the Indiana Department of Commerce.

Mr. President, I do not know how many of my colleagues have gone through law school, but I think they would find it was pretty tough to serve in a full-time position while going through law school and graduate in the upper third of your class, especially at a law school like Indiana.

After graduation from law school, Dan began serving as the deputy attorney general for the State of Indiana. While working as a member of the criminal appellate section, he wrote nearly 20 briefs on various criminal appeals. He argued cases before the Indiana Court of Appeals and the Indiana Supreme Court.

After serving in the attorney general's office for 2 years, Dan returned to South Bend in 1974 and began practicing with a law firm there. While working for them he handled real estate transactions, small corporation matters, business law advice, wills, and estates. Dan also handled his own litigations for plaintiffs and defendants.

In 1978, Dan was elected to the Indiana State Senate. He defeated the majority caucus leader and served the people of Indiana with distinction. He was a member of the judiciary committee and chairman of the civil law subcommittee. He also served as chairman of the committee on energy and environmental matters, a unique commendation for a junior member of the senate.

In 1980 Dan was encouraged to run for Congress. However, he had to decline because he was struck with a debilitating case of multiple sclerosis.

Mr. President, this is a unique individual who is being much maligned in this process. After a strenuous effort to overcome multiple sclerosis, he regained his health and he is now in complete remission. He ought to be respected and revered for the things he has gone through.

Dan's record in public service and private practice is highly commendable. He is known to be an honorable man who is dedicated to his profession, his family, his church, and his country. Upon learning of his pending judicial appointment, Father Theodore Hesburgh, president of Notre Dame University, said:

> I believe he will bring dedication, integrity, and a keen knowledge of the law to that position. His life has been one of service and commitment to justice. I believe he will exhibit these same qualities sitting on the Federal bench, and that his appointment will be a strong one.

Many of those who are criticizing Daniel Manion are quick to seize upon Father Hesburgh's statements in so many other areas, but they ignore this statement by this eminent president of one of the great universities in this country, and a great man himself, one who probably understands what it takes to make a great man.

A majority of the American Bar Association's Standing Committee on Federal Judiciary has determined that Dan is qualified to serve as circuit judge for the Seventh Circuit Court of Appeals.

Opponents of Mr. Manion have decried the fact that he only received a "qualified" rating from the ABA.

What they do not state is that "qualified" is the usual rating of the American Bar Association and it is a good rating and it is one that is very difficult to get.

It is a good rating and it is one that is very difficult to get.

As the Justice Department pointed out:

> Presidents Johnson, Nixon, Ford and Carter together appointed 555 federal district court judges. Of those, 282, or 50.8%, were rated "Qualified." Also, three District Court judges appointed by President Carter and three District Court judges appointed by President Johnson were rated "Not Qualified" by the ABA, but were nevertheless confirmed by the Democrat-controlled Senate. . . . Moreover, more than a quarter of all of President Carter's Circuit Court appointments approved by the Democrat-controlled Senate were rated "Qualified."

The Chicago Council of Lawyers stated in their letter that Dan "has a high reputation for integrity, conscientiousness, and fairness." Reports from South Bend, IN, lawyers indicate that he has "excellent interpersonal skills, and that lawyers who worked both with and against him like and respect him." They determined Dan would "be fair in ruling on cases which present issues on which he has strong political views."

The Chicago Council—a very critical council—also stated that:

> The majority of lawyers to whom we talked regarding Mr. Manion's legal experience, thought that he was a competent lawyer. . . . All vouched for his forthrightness and his adherence to high ethical standards.

Eugene I. Goldman, a lifelong Democrat and attorney with the Washington law firm of Steptoe & Johnson, worked with Dan in defending a lawsuit in South Bend, IN. In a letter to Senator STROM THURMOND, chairman of the Judiciary Committee, he stated:

> Mr. Manion is an excellent lawyer and would be a distinguished member of the Seventh Circuit.

The main opposition to Dan can be best summarized by a statement made by my colleague, Senator BIDEN. Concerning Dan, he said:

> I think you are a decent and honorable man, but I do not think I can vote for you because of your political views.

In other words—and I do not think there is much doubt here—the attacks upon Dan are clearly ideologically motivated. All pretense of objectivity have been dropped by the liberals in their assaults upon this distinguished lawyer. Even the Washington Post conceded the lack of impartial assessments of Dan's qualifications in a May 7, 1986, article. The Post stated:

> The Democrats have refrained from challenging any nominee explicitly on grounds of being too conservative, focusing instead on questions of temperament and personal conduct. But the Manion nomination is a flat-out fight over ideology.

Dan is an admitted conservative. He is a Reaganite Republican who believes in limited government and judicial restraint. He is an ardent advocate of personal liberty.

Dan has also been maligned because of his father's political views. His late father, Clarence Manion, was formerly dean of the University of Notre Dame Law School from 1941 to 1952; 11 years. He established and hosted "The Manion Forum," a syndicated radio and television program. The conserva-

tive program was broadcast over hundreds of States across America. Dan used to accompany his father on the show, voicing strongly held conservative views as a younger man.

He has been criticized for expressing doubts about the wisdom of the incorporation doctrine, whereby the Supreme Court has held that the 14th amendment mandates the application of the Bill of Rights to the States.

He is not alone. Some of the greatest legal minds in this century have agreed with him on that particular point, even though I have to admit, and he does admit, that 14th the Doctrine of Incorporation of the Bill of Rights in the 14th Amendment is basically established law at this time.

Recently the Attorney General of the United States, Mr. Meese, also denounced the incorporation doctrine as "constitutionally unsound."

It is apparent that Dan adheres to a strict constructionist interpretation of the Constitution. James Madison, the "Father of the Constitution" and the fourth President of the United States adhered to this policy too. So I would suggest that it seems as though Dan is in good company, being in the company of James Madison.

Critics of Dan claim that his cosponsorship of a bill authorizing the posting of the Ten Commandments in Indiana public schools demonstrated a disrespect for the Constitution and Supreme Court decisions. Nothing could be further from the truth. While Dan served in the Indiana Senate, he was acting as a legislator. That is a little bit different from serving as a judge. And a legislator has the right and privilege to disagree with a decision of the Supreme Court of the United States.

Dan cosponsored the bill authorizing the posting of the Ten Commandments after the Supreme Court ruled in Stone versus Graham that a State law requiring the posting of them in public schools violated the establishment clause. It should be noted that there is a difference between a statute requiring the posting of the Ten Commandments and one which merely authorizes their posting.

That alone is enough to allow any State legislator to try to make another attempt to do what he believes in. And I might add that a vast majority of them did believe in this in that legislature at that time. And I might also add that critics of Dan Manion have very conveniently failed to note this distinction and its constitutional importance. And there are others as well.

In a letter to Senate Majority Leader ROBERT DOLE, Assistant Attorney General John R. Bolton pointed out that:

Like the Gramm-Rudman-Hollings Act, the bill that Dan co-sponsored explicitly deferred to the courts on the question of its constitutionality and specified what should be done if it were found unconstitutional: "If this section is determined to be unconstitutional, all copies of the Ten Commandments displayed by authority of this section shall be immediately removed when the judgment becomes final."

It seems to me that there was an attempt to comply with the Constitution and to acknowledge that there may be a higher law than the one that they were establishing, or at least passing at that time.

It should also be pointed out that the Indiana bill had 17 other cosponsors, was supported by the Democratic Senators and passed the legislative body 39 to 9.

So he is going to be hung here in the Senate of the United States because of a bill that he had a right to back, that passed 39 to 9 with bipartisan support.

During the nomination hearings of Mr. Abner Mikva for the Federal bench, my colleague, Senator BIDEN said:

As I see it, our function in reviewing the qualifications of a judicial nomination is somewhat different from our function reviewing the qualifications of a nominee to an Executive Branch position.

Personal views on matters of policy falling within the purview of an Executive office are critically important in assessing a nominee's qualifications. Abner Mikva, as a member of Congress, has spoken out on practically every public issue coming before the House of Representatives in the past decade.

His views on those issues would be important if, for example, he were to be nominated to a Cabinet post where his job would be to implement his positions The necessary qualifications of a judicial nominee are somewhat different.

Although a nominee's personal views on matters likely to come before him are relevant, they are not nearly as important as the most elusive qualities of demeanor and judicial temperament. . . .

The real issue with a judicial nominee is whether he is capable of performing the delicate role objectively reviewing questions of law and fact.

He must be able to put aside any personal prejudice he might have on the matters before him.

Therefore, I believe what is properly before us here, as we consider Congressman Mikva's nomination, is not the views he has expressed on public issues as a member of Congress, but rather the degree to which he possesses those attributes experience has shown to be desirable in a judge, particularly the ability to be objective on the bench. To apply any other standard would be to disqualify from the judiciary virtually any public person who has been willing to take positions on judicial issues.

Specifically, I do not believe that elected officials should be disqualified for service on the federal bench simply because during the course of their particular career they have advocated positions with which some people have disagreed.

Nearly everyone familiar with Dan Manion's legal expertise has found him well suited to serve on the Federal bench. Since he possesses those qualities essential for service as a circuit court judge, I urge my colleagues to rise above partisan ideology and support his nomination.

Mr. HATCH. I also ask unanimous consent to put in the RECORD at this time a letter from President Ronald Reagan to Senator STROM THURMOND dated June 20, 1986.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
WASHINGTON, DC,
June 20, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR STROM, During the campaigns of 1980 and 1984, I made clear to the American people the kind of men and women I would select to fill vacancies on the Federal bench, including the United States Supreme Court.

I promised they would be men and women of demonstrable character and capacity, of practical experience and proven ability in the law. I would nominate, I said, judges and justices who shared my deeply held conviction that the function of America's courts, including the highest court, is not to make laws for the American people, but to interpret the law. Judges in a democratic society should not use their appointed offices to impose their social or political views upon society—in our system of Government this is the province of elected officials. This was a view stated again and again in those campaigns.

I believe I have kept faith with that commitment. And these thoughts were very much in mind when I selected Justice Rehnquist to succeed the retiring Chief Justice, and Judge Antonin Scalia to fill the vacancy thus created. Two nominees who better exemplify the qualities I pledged to seek in judicial appointments would be difficult to find.

Which brings me to the point of this letter. I am writing with a sense of profound concern about what is happening with the confirmation of Daniel A. Manion, whom I recently nominated to the United States Court of Appeals for the Seventh Circuit.

Dan Manion is a capable attorney, with a high reputation for integrity and substantial litigation experience. Colleagues he has faced in court and former Democratic opponents in the Indiana Senate have come forward to attest to his character and competence. Reviewing his record, the American Bar Association declared him fully "qualified" for the appellate judgeship to which he has been nominated.

Nevertheless, in recent weeks, Mr. Manion has become the target of a campaign that has sought to disparage his capabilities and his character, in order to defeat his nomination. Thus, I am writing to make known to you and your Senate colleagues my strongly held views about Dan Manion, and about his qualifications for service on the appellate bench.

First, the rating given to Dan Manion by the ABA, i.e., "qualified"—though disparaged by his critics—is the identical rating given almost half the Federal judges nominated by Presidents Nixon, Ford, and Carter. It is the same rating given two of my previous nominees to the Seventh Circuit, Judges Easterbrook and Posner, both of whom were distinguished professors of law at the time of their nomination. At what point was it that ABA rating of "qualified"

became an impediment to nomination to the Federal bench?

Second, Mr. Manion's legal experience is dismissed because it was gained largely at the State rather than the Federal level. But my own experience, before coming to Washington, was at the State level. It has been, and remains, my belief that our Federal circuit courts should reflect the diversity of the regions they serve. The Seventh Circuit contains Chicago, but it also contains smaller cities and towns, rural areas and farming communities, like Dixon, Illinois. Dan Manion, a country lawyer, would represent that diversity, just as the other judges whom I nominated to the Seventh Circuit bring experience from the academic world and the urban law community.

Moreover, when we recall that Mr. Lincoln himself and the late Senator Sam Ervin were proud to be known as "country lawyers," we ought to be hesitant before considering this kind of law practice a mark of ineligibility for service on the Federal bench. Nor should Mr. Manion's years of political experience in the State Senate and legal experience in Indiana's District Attorney's office be counted as of no consequence. Among the names any President should consider for the Federal courts, including the Supreme Court, when vacancies occur, are those of the most distinguished and experienced lawyers in the Congress of the United States.

Third, it is alleged that Mr. Manion, while serving as chairman of the Judiciary Committee in the Indiana Senate, "defied . . . the Constitution," when he proposed a bill authorizing the posting of the Ten Commandments in Indiana's public schools.

But this distortion is rooted either in ignorance or malice. Where the Supreme Court had disallowed the mandatory posting of the Ten Commandments in the Kentucky public schools, Dan Manion sponsored a bill permitting the voluntary posting in Indiana's schools, and added a provision that should the Supreme Court rule voluntary posting unconstitutional, the postings would immediately be removed. His bill passed the Indiana Senate with strong Democratic support.

Dan Manion is also opposed by some because his father, Clarence Manion, former dean of the Notre Dame Law School, was a member of the John Birch Society. Yet, surely, in 1986, the time has passed when guilt by association is acceptable practice, when an act of political discrimination can be committed against a Federal nominee because his late father held deeply controversial views.

Addressing Mr. Manion during his appearance before the Judiciary Committee, one Senator revealed, I believe, the true and undeclared motivation behind the campaign to defeat my nominee. "I think you are a decent and honorable man," the Senator said to Dan Manion, "but I cannot vote for you because of your political views."

Strom, here we come to the heart of the matter.

Dan Manion's "political views" are close to my political views. In particular, Dan Manion's belief that Federal judges should interpret the law, and not impose from the bench their social or philosophical notions upon society, is my belief. That is the real reason this nomination is encountering such hostility.

So, let me state my position directly. I intend to fight for the nomination of Dan Manion; and I do not accept that there should be a hidden restrictive covenant in the confirmation process that reads: No conservative need apply.

What appears to be taking shape is an attempt by some Senators to use their "advise and consent" power to overturn the mandate of the American people—as expressed in 1980 and 1984.

This is not an issue of Republican versus Democrat. It is an issue of whether or not a President of the United States has the right to choose Federal judges who share his judicial philosophy, so long as they are qualified by reason of character and competence. Presidents of both parties have asserted that prerogative; and I will not surrender it.

In his letter of endorsement, Father Theodore Hesburgh, who has known him since Notre Dame days, said of Dan Manion that his life has been one of "service and commitment to justice," that he would bring to the bench "dedication, integrity and a keen knowledge of the law." This represents my view exactly; and there is one final personal reason I want this nominee confirmed. Dan Manion would be the first of the Vietnam veterans to reach the Federal Appellate Court; and I want the record to show I made that appointment.

Please let me know how I can be of help.

Sincerely,

RONALD REAGAN.

Mr. HATCH. I ask unanimous consent to place in the RECORD at this time a letter from the U.S. Department of Justice from Mr. John Bolton, stamped May 27, 1986 to Senator ROBERT DOLE which answers a number of the so-called criticisms against Mr. Manion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND
INTERGOVERNMENTAL AFFAIRS,
Washington, DC, May 27, 1986.

HON. ROBERT DOLE,
United States Senate, Washington, DC.

DEAR SENATOR DOLE: The President has nominated Daniel A. Manion to the United States Court of Appeals for the Seventh Circuit. On May 8, 1986, the Senate Judiciary Committee voted 11-6 to report the nomination to the full Senate without recommendation.

A highly competent lawyer and former Indiana State Senator, Mr. Manion's nomination has been challenged on the basis of his political beliefs. This Department believes such opposition to be highly inconsistent with the constitutional responsibility of "advice and consent."

In their thoughtful "Dear Colleague" letter of May 21, Senators Lugar and Quayle "clarify the misleading portrait that [Mr. Manion's] detractors would like us to accept." To assist further in that effort, we have enclosed with this letter a briefing paper on Mr. Manion which more fully discusses his qualifications and refutes the baseless arguments against his confirmation. We wish, however, to highlight a few points:

1. Those who have worked with Daniel Manion, whether they share his legal philosophy or not, find him to be a lawyer of great competence, fairness and integrity. In the words of Father Theodore Hesburgh, the president of the University of Notre Dame, "[Daniel Manion's] life has been one of service and commitment to justice."

2. A former state legislator and Deputy Attorney General of Indiana, Daniel Manion is presently a trusted practicing lawyer in a relatively small rural/suburban community. Upon confirmation, Mr. Manion will bring substantial litigation experience in state law and important balance to the Seventh Circuit which has a high concentration of judges with either academic backgrounds or who practiced with large urban law firms. In the words of Senators Lugar and Quayle, he is "in touch with the hopes and aspirations of our Indiana constituents."

3. The ABA found Mr. Manion to be "qualified," a ranking given to the majority of judicial nominees in this and the last four administrations, Democratic or Republican. In fact, the same rating was given to former law professors Posner and Easterbrook who presently serve on the Seventh Circuit.

4. Possessing great respect for the U.S. Constitution, Daniel Manion did not disregard his oath as a state legislator, as some allege, when he co-sponsored legislation which was designed to clarify a prior ruling of the U.S. Supreme Court. Former U.S. Presidents, legal scholars of diverse opinion, and even current members of the Senate have acknowledged such activity to be a legislator's prerogative, if not duty.

5. Some who oppose Daniel Manion have done so by the disreputable technique of "guilt by association." A personal sentiment of gratitude for an expression of condolence on his father's death to a small bookstore affiliated with the John Birch Society has been horribly mischaracterized as a statement of Mr. Manion's legal views.

6. In short, anyone who carefully examines his qualifications will most readily conclude, as did Senators Lugar and Quayle, that Daniel Manion is "a man of high moral integrity, broad legal experience, intelligence and the proper temperament to serve on the bench of the U.S. Circuit."

President Reagan nominated Daniel A. Manion because he believes him capable to serve on the federal court. Surely, the constitutional process of advice and consent has not been reduced to a political litmus test. Senator Biden's statement at the end of Mr. Manion's hearing on April 30, 1986 that he would not vote for Mr. Manion because of his "political views," notwithstanding the fact that he also found him to be "a decent and honorable man," is simply not faithful to our constitutional tradition.

On behalf of the President and the Attorney General, I urge you to make the successful confirmation of Daniel A. Manion a top priority. My office stands ready to assist you and your colleagues in whatever way and to whatever extent you might request in this effort. This issue is one of crucial importance not only to the President and this Department, but also to our constitutional system. Thank you very much for your attention to this matter.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General.

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Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Father Hesburgh, the president of the University of Notre Dame, in support of Daniel A. Manion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF NOTRE DAME,
OFFICE OF THE PRESIDENT,
Notre Dame, IN, May 15, 1986.

Hon. DANIEL QUAYLE,
Hart Building, U.S. Senate, Washington, DC.

DEAR DAN: I am writing to support Daniel A. Manion, who has been nominated by the President to be a member of the U.S. Court of Appeals for the Seventh Circuit.

I have known Dan since he was a youth. His father was dean of the Notre Dame Law School, and his mother, Gina, is a longtime personal friend and wonderful woman. Dan is a reflection of the strong morals and high values that have always been so much a part of his family. I strongly believe that he would serve this country and the Seventh Circuit extremely well if his nomination were approved.

Dan compiled a fine record while he was an undergraduate student at the University. He was honored as the recipient of the John J. Cavanaugh Award, which is annually given to the senior Army cadet ROTC officer showing excellence in leadership, academic attainment, and participation in military affairs. In addition, Dan was a fine Notre Dame student, and has brought honor to both the University and himself as an alumnus who has shown himself dedicated to service and hard work for his country and his fellow human beings.

Again, I recommend the appointment of Daniel Manion as a federal judge. I believe that he will bring dedication, integrity, and a keen knowledge of the law to that position. His life has been one of service and commitment to justice. I believe that he will exhibit these same qualities sitting on the federal bench, and that his appointment will be a strong one. I would be happy to provide further information if requested.

With warm personal regards and best wishes, I remain.

Sincerely in Notre Dame,
THEODORE M. HESBURGH, C.S.C.,
President.

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from a well-known Democrat, Mr. David T. Ready, dated April 28, 1986, also in support of Mr. Manion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DAVID T. READY,
ATTORNEY-AT-LAW,
South Bend, IN, April 28, 1986.

Senator STROM THURMOND,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

RE: Daniel Manion.

DEAR SENATOR THURMOND: I am writing concerning the Senate Judiciary Committee's consideration of Attorney Daniel Manion's pending appointment to the United States Seventh Circuit Court of Appeals.

I have known Mr. Manion for a number of years. I believe that he is eminently qualified to fulfill the position of the United States Circuit Court Judge. I firmly believe he possesses the necessary intellect, integrity, and open-mindedness which practicing members of the Bar have a right to expect in our judicial appointments.

I would hasten to add that Mr. Manion enjoys an excellent reputation amongst his peers.

During the years 1977 through 1981 I had the opportunity to serve as United States Attorney for the Northern District of Indiana, having been appointed to that position by President Carter. This gave me the opportunity to practice in our Federal Courts at both the trial and appellate levels with greater frequency than most legal practitioners. It also gave me the opportunity to observe our Federal Judiciary at both trial and appellate levels. As such, I would hope that it also gave me some insight into what judicial qualities best serve our legal system, especially at the Federal Appellate level. I firmly believe Mr. Manion possesses those qualities, temperament, legal intellect, experience, fair-mindedness, judicial integrity, and a plain, old-fashioned willingness to work long and hard. I have no doubt that Mr. Manion's appointment will reflect credit upon the Federal Judiciary.

Mr. Manion is, of course, a Republican while, as you may surmise from my appointment by President Carter, I am a Democrat. Additionally, Mr. Manion enjoys a reputation of being a "conservative" while I am not. Nevertheless, the fact that Mr. Manion and I are not of a similar political persuasion or, for that matter philosophically attuned, it does not dissuade me from my admiration for him as a person and as a lawyer. He is, in short, a good lawyer who can become a great Judge.

Within the past week I have received two telephone calls inquiring as to Mr. Manion's qualifications. I suppose these calls came to me, based upon my prior services as United States Attorney. One of these calls came from the National Federation of Women Lawyers Organization based in Washington, D.C. Their questions and inquiries regarding Mr. Manion's qualifications were both pointed and thorough. I do not know what position this organization has adopted regarding Mr. Manion's appointment, but from the inquiry I received it appeared that they were open-minded about such an appointment and were merely calling to obtain information regarding his overall qualifications.

However, the second inquiry came from the People for the American Way. I must say that I was disappointed in the nature of their inquiry and the questions they asked of me. I have no bone to pick with that organization and, in fact, am sure that they serve a very valid and useful purpose in attempting to counter-balance some of our more conservative minded organizations. That is all in the give and take of the American political system. However, I must say that the overall tone of their inquiry was not one in which they were seeking my opinion on Mr. Manion's qualifications, but rather looking for something negative concerning Mr. Manion. When it became apparent that I was not going to accommodate them, simply because I do not know anything negative about Mr. Manion, their interest in talking to me waned sharply and the conversation terminated abruptly.

When I compare the two telephone interviews referred to above, I find that one was a thorough search into my opinons as to Mr. Manion's qualifications, whereas the latter was simply looking for negatives.

Finally, Senator Thurmond, I would note that the most recent appointments to our Seventh Circuit Court of Appeals have emanated from the area of academia. I have no problems with the qualifications of many of those persons who were so appointed. However, I believe that our Courts of Appeals are best served when they are comprised of former trial judges, academics, and practicing lawyers. It is my opinion that Mr. Manion is an excellent representative of that latter group and will well serve on the Court of Appeals.

Thank you for your indulgence.

Sincerely,
DAVID T. READY.

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Eugene I. Goldman, of the eminent law firm of Steptoe and Johnson, supporting Mr. Manion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STEPTOE & JOHNSON,
Washington, DC, April 23, 1986.

Hon. STROM THURMOND.
Chairman, Committee on the Judiciary, U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN THURMOND: I am writing in support of the confirmation of the nomination of Daniel A. Manion to serve on the United States Court of Appeals for the Seventh Circuit. By way of background, I have been a Democrat all of my life. For the last seven years, I have served as a director and member of the Executive Committee of the Washington Council of Lawyers, which shares its origins and commitment to the public interest with the Chicago Council of Lawyers. I am also a great admirer of Senator Simon and contributed to his campaign for the Senate. I have also had the opportunity to work with Mr. Manion in defending a lawsuit in South Bend.

I believe that Mr. Manion is an excellent lawyer and would be a distinguished member of the Seventh Circuit. I have reviewed the Chicago Council's letter to Senator Simon, dated April 9, 1986, and note the Council's findings that Mr. Manion "has a high reputation for integrity, conscientiousness, and fairness . . . has excellent interpersonal skills, and that lawyers who work both with and against him like and respect him . . . that the majority of lawyers . . . felt that he was a competent lawyer. A few lawyers told us that Mr. Manion was an outstanding lawyer. All vouched for his forthrightness and his adherence to high ethical standards."

I believe that the Chicago Council's findings, including its finding that Mr. Manion has been found to be a competent and outstanding lawyer, are inconsistent with the Council's ultimate, speculative conclusion that Mr. Manion will have difficulty with the legal issues routinely presented to the Seventh Circuit. I respectfully encourage the Committee to vote favorably on the President's nomination of Mr. Manion.

Very truly yours,
EUGENE I. GOLDMAN.

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Mr. Richard M. Givan, Chief Justice of the Indiana State Supreme Court, wherein he also expresses his support for Mr. Manion.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF INDIANA,
OFFICE OF THE CHIEF JUSTICE,
Indianapolis, IN, April 21, 1986.

Hon. HOWELL T. HEFLIN,
Senator,
Senate Office Building,
Washington, DC.

DEAR SENATOR HEFLIN: It has been some time now since you and I had pleasant visits at the Chief Justice Conferences. I have followed your career in the United States Senate with great interest and have appreciated your support for the judiciary. Like many other of your friends, I do not take the time to write to you unless I have some specific input.

At the present time, you have pending before you the nomination of Daniel A. Manion for Judge of the Seventh Circuit Court of Appeals in Chicago. I have known Dan quite well since he was a law student at the Indiana University School of Law in Indianapolis. At that time he worked in the State House and I saw him on a regular basis. He has not only had an outstanding career as an attorney, but has served in the Indiana State Senate as well. Dan not only has the high academic qualifications to serve as a federal judge, but also has impeccable personal integrity and a very friendly and pleasing personality. It is my considered opinion that the citizens as well as the bench and Bar of the Seventh Circuit will be well served by his appointment.

I know you receive many letters and communications on matters of this sort; however, I thought receiving a few remarks from an old acquaintance who has no personal ax to grind might help you in your decision.

Sincerely yours,

RICHARD M. GIVAN,
Chief Justice of Indiana.

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Mr. John J. Sullivan, of the Indianapolis law firm of Mendelson, Kennedy, Miller, Muller, and Hall.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MENDELSON, KENNEDY, MILLER,
MULLER & HALL,
Indianapolis, IN, May 9, 1986.

U.S. Senator ROBERT BYRD,
United States Senate,
Washington, DC.

Re: Nomination of Daniel Manion to 7th Circuit Court of Appeals

DEAR SENATOR BYRD: I would like to recommend the confirmation of the nomination of Daniel Manion to the 7th Circuit Court of Appeals.

I am a life-long Democrat. I have been our party's nominee to the office of Mayor of Indianapolis. I have been a delegate to our national convention. Also, I have been an attorney practicing law in Indiana for ten years.

Obviously, my political philosophy and that of Dan Manion are quite different. However, over the years I have respected Dan Manion as an individual, as a legislator and as an attorney.

I recall a discussion several years ago with Dan Manion regarding criticism he was receiving from members of his own party for his failure to support certain obscenity legislation because he believed the proposed legislation was unconstitutional. Dan Manion could have chosen the easier course of approving the legislation and letting the courts declare it unconstitutional, but he believed that the burden should not have been shifted to the court.

Some have criticized Dan Manion for his failure to publish articles or for his lack of appellate experience before the 7th Circuit. Good trial attorneys, particularly those from medium and small size firms, do not always have the time nor the staff to author legal treatises.

In general practice, unless there is a matter of principle that will require higher court review, a good trial attorney will posture his case to avoid an appeal. Appeals are costly and are often the result of attorneys who do not fully brief their case for trial.

The appellate courts need good trial attorneys who understand the law and the every day practice thereof. Dan Manion is a good trial attorney who is qualified to be an appellate judge. As an appellate judge, I believe that Dan Manion will follow the law. I would urge you and your colleagues to vote to confirm his nomination.

Very truly yours,

JOHN J. SULLIVAN.

Mr. HATCH. Mr. President, some of the criticism which has come Mr. Manion's way has come from the so-called Chicago Council of Lawyers. However, the Chicago Council of Lawyers also stated in their letter that Dan "has a high reputation for integrity, conscientiousness, and fairness." Reports from South Bend, IN, lawyers indicate that he has "excellent interpersonal skills, and that lawyers who worked both with and against him like and respect him." They determined Dan would "be fair in ruling on cases which present issues on which he has strong political views."

The Chicago Council also stated that "the majority of lawyers to whom we talked regarding Mr. Manion's legal experience, thought that he was a competent lawyer. * * * All vouched for his forthrightness and his adherence to high ethical standards."

Mr. President, I do not know about anybody else in this body, but I think it becomes somewhat arrogant for us to start criticizing a man who has had a smalltown practice, as though he really cannot practice anywhere else or cannot perform on the Seventh Circuit Court of Appeals.

The fact is that some of the greatest judges in this society have come from smalltown practices with all the wisdom and good judgment that smalltown practices sometimes bring to people in the practice.

Mr. Manion does not deserve the calumny that has been thrown at him by some of our friends in the U.S. Senate, although they may be sincere. I think they are doing it primarily on ideological grounds.

If we are going to make the appointment of judicial nominees a political thing, then we are going to politicize the Federal judiciary. In fact, it will then happen every time, by one side or the other. When that happens, it will be a regrettable thing.

President Reagan won 49 out of 50 States. This is his nominee. Mr. Manion received a qualified rating from the American Bar Association. That is the rating most judgeship nominees receive. It has always been tough to get and some have not gotten it. Some have been refused by prior administrations and this administration because they could not get a rating of at least qualified by the American Bar Association.

I think it stands in Dan's favor that he has gotten a qualified rating, even though he is a Conservative, and it seems more difficult for Conservatives to get qualified ratings.

With regard to the American Bar Association ratings for both circuit and district court appointments, President Reagan, in the 5½ years he has been President, has had a higher percentage of "exceptionally well qualified" appointments than any President since President Johnson.

For circuit court appointments, Reagan has 16.7 percent, Carter 14.3 percent, Ford 16.7 percent, Nixon 15.6 percent, and Johnson 27.5 percent.

On district courts, Reagan has 5.7 percent, Carter 4 percent, Ford none, Nixon 5 percent, and Johnson 7.4 percent.

In terms of sheer numbers, Reagan has more circuit court candidates rated exceptionally well qualified—12—than Carter, Ford, Nixon, or Johnson.

In all, 51.8 percent of President Reagan's court appointments have been rated exceptionally well qualified or well qualified. This is very similar to Carter's 55 percent, Ford's 48.4 percent, Nixon's 50.9 percent, and Johnson's 54.9 percent.

Are Reagan's second-term circuit court appointments growing increasingly less qualified? No; 39 percent of Reagan's circuit court appointments were rated "well qualified" in the first terms; that percentage has grown to 40.8 percent in the second term. During 1986 alone, 60 percent of all circuit court appointments have been rated "well qualified." Also, 50.3 percent of Reagan's appointments to all courts were rated "exceptionally well qualified" in the first term; that percentage has risen to 53.3 percent in the second term.

Are more of President Reagan's appointments receiving "not qualified" ratings from a minority of the ABA committee? No; 22 of Carter's district court appointments had minority "not qualified ratings; 3 of Carter's appointments were found not "qualified" by a majority of the committee. By contrast, only three of Reagan's first-term appointments—comparable time period to Carter—received a minority "not qualified" and none were found "not qualified" by a majority.

PHILOSOPHICAL

One evident problem with ABA's ratings is that they penalize academics

who may not have extensive litigating experience. For example, Judges Posner, Easterbrook, Noonan, and Scalia were rated only "qualified." Likewise other lawyers with distinguished careers in public service, like Judges Buckley and Silberman, were given only a "qualified" rating. If the ratings for these six candidates alone were changed to "well qualified," President Reagan's statistics for circuit court appointments in the top two categories—"exceptionally well qualified" and "well qualified"—would jump from 56.7 to 66.7. With this change, Reagan's statistics for circuit court appointments in the second term would jump from 51.9 percent to 67.7 percent.

One critic of President Reagan's appointments contended that his opposition was not based on ideology but quality concerns. As evidence, he cited his support for Judges Posner and Easterbrook. Both of these Judges, however, were law professors and accordingly received "qualified" ratings with a minority of the ABA committee considering them "not qualified."

The dangers of injecting partisanship into the judicial confirmation process were explored in a recent Harvard Law Review piece:

A. Injecting political considerations tends to make the judiciary another political branch. If the Senate treats the judiciary as a political institution, it will take on the same character in the eyes of the public and in the eyes of the Judges themselves. They may consider themselves selected to hew to a particular ideological line. The Judiciary's independence and prestige will be damaged.

B. Injecting partisanship could touch off a revenge and reprisal cycle. Republicans refrained from blocking candidates on ideological grounds during Carter's presidency. Future Republican restraint may not exist if democrats insist on partisanship.

C. Injecting ideology may not be successful anyway because of the surprise factor. A classic example is Chief Justice Chase. As Lincoln's Treasury Secretary, he drafted the legal tender laws. As justice, he struck them down as unconstitutional.

D. The basic assumption of those who inject politics into the selection process is that judges will carry a political agenda into the courts. Thus, this motion is based on noninterpretivism. It assumes that judges will act as lawmakers. If this becomes an accepted assumption, then the battle for the rule of law is lost.

Mr. President, I believe it is time to vote. And we will vote tomorrow on Mr. Manion. I hope our colleagues will take into consideration the high marks he gets from Democrats as well as Republicans in his home State and from people here as well.

I hope we will support Mr. Manion, because he deserves it.

Mr. President, I yield the floor.

Mr. BIDEN. Mr. President, it is with some reluctance that I take the floor. I might add that in the 14 years I have been in the U.S. Senate, and the 5 or so years I have been the ranking member of the Judiciary Committee, I have seldom taken the floor to object to a nominee.

I must say that my distinguished colleague on the Judiciary Committee, Senator HATCH, has demonstrated to me for the last 20 minutes or so why he has a reputation of being such a good trial lawyer. He is able to take facts and partial facts and package them in ways that appear to make a great deal of sense.

□ 1940

He uses phrases such as so much calumny may be thrown at this nominee, that this is a political debate based upon ideology.

He quotes the Senator from Delaware where the Senator from Delaware says:

I think you are a decent, honorable man but I do not think I can vote for you because of your political views.

And he ends the quote there without the next sentence which says "But that is another question." The context in which that statement was made by the Senator from Delaware and the entire quote not read by the Senator from Utah was examining Mr. Manion on what most people would, I believe, and we will discuss this tonight and tomorrow, believe to be fairly outrageous political views.

But the point I was making there, and I went on to make later in the hearing, was that is not relevant; we do not even have to get to that point.

He read a quote from the Mikva hearing where the Senator from Delaware said that in fact we should not disbar or discount the possibility of legislators being qualified for the bench, and I said in there and he did read this portion that although one's views are relevant they are not decisive.

So no one is on the floor of the U.S. Senate now or in the past suggesting that one's political views, if they are outrageous, if they are beyond the mainstream of American political thought, are not relevant for consideration.

We would and could debate Mr. Manion's nomination to the court even if he were otherwise qualified. Even if he were exceptionally bright, even if he had argued cases in Federal court on constitutional questions, which he has not, even if he had been the lead attorney in any major Federal question case before the Federal judiciary, which he had not, we would be arguing about Mr. Manion's views even if, even if he had a distinguished career in academia or even if he had served with distinction on a Federal bench, all of which he has not.

But because he has not achieved any notable excellence in any of these areas, we do not even have to get to the question of whether or not he believes Larry McDonald, and I would like to get that book if I may, Larry McDonald's view of the Constitution was, as portrayed by Mr. Manion, a roadmap to the future. I am paraphrasing him.

We do not have to get that far. All we have to get to is whether or not Mr. Manion, who is a fine man, is qualified to sit on the circuit court of appeals, the court of last resort, in fact, for the vast majority of litigants in the Federal court system.

I say to my colleagues, we have things backwards here. We continue to act as if it is the burden upon Members of the U.S. Senate to demonstrate that a man or a woman is not qualified to be on the bench. If I can make an analogy for my colleagues, it is a little bit like saying when a man or woman stands for election that the burden is on the public to prove that the aspirant for public office is not qualified. If I said that to any of the people in the gallery, all of whom are citizens and voting, they would look at me and say that is preposterous. And yet we would only be dealing with the prospect of the Senator from Delaware serving this Nation, 1 among 100, for 6 years.

So how can we adopt this preposterous notion that when a man or a woman is about to be placed in the third coequal branch of Government, a branch of Government that has much impact upon the life, the rights, the property rights, the physical rights, as any of the other two branches, how can we say that when a woman or man is put forward to serve for life, until death does he part, how can we say that the burden should be on the Senate which is analogous to the voters? We are the voters. We are the voters for the third branch of the Government. Is the burden on us to prove that a woman or man is not qualified to sit for life on the Federal bench?

That is a preposterous notion that is conveniently seized upon by the proponents of Mr. Manion in the absence of strong evidence that he is otherwise qualified to sit and determine and adjudicate the rights and privileges of American citizens, corporate or individual.

I might also add for my colleagues let us assume that Mr. Manion has the demeanor and the common sense, et cetera, that my distinguished colleague from Utah has pointed out. Assume he has a good way with people which is an important element for a judge to have.

We should all remind ourselves what the circuit court of appeals does. It does not even see. It does not even look at. It never meets. It has no notion who the litigants are. There is no need for bedside manner. There is a need for an incisive, precise, laser-type mind that can read and absorb the briefs that have been put before him

or her and then take those into his or her chamber and, among the dusty books and legions of cases that make up the stare decisis of this Nation, draw a conclusion as to whether or not the person appealing the decision from the court below is right or wrong. It does not require, as the family court requires, that special touch which is important in the family court. It does not require that special ability of a trial court judge to determine when witnesses are under so much pressure that in fact although they may be asked relevant questions they have lost control of their ability to know what they are saying. That takes a special sensibility. That is not what we are looking for in the circuit court of appeals.

It is a nice thing to have. What we are looking for in the circuit court of appeals are fine minds, schooled in the law, able to articulate their views and opinions in a concise, precise, analytical manner, to be able to be understood clearly, not only by the other six members of that court, not only by the proponents or opponents in the lawsuit but by every Federal court judge in the land for as long as that decision stands.

That does not take an ordinary mind. That is not a pedestrian requirement. It is a requirement of excellence.

What has become of us? What has become of us in this country? Here we are in great competition from around the world, from the Japanese, the Germans, the Canadians. Here we are saying in every other aspect of our life we should demand excellence. Here we are, in part thanks to the President of the United States, coming to grips with the requirement that Americans must be ready to compete anywhere and everywhere, and that the major criteria for that competition is honed excellence.

Now we are on the floor of the United States Senate, debating the nomination of a man to be elevated, and I say "elevated" for the rest of his life, to the circuit court of appeals, and we are told that, notwithstanding the fact he has no significant experience in constitutional issues, notwithstanding the fact he has never served on the bench, notwithstanding the fact he has no long academic record, notwithstanding the fact that he has not written any legal or scholarly articles, notwithstanding the fact that he has failed to demonstrate once, even once in his life a flair for judicial excellence or incisive reasoning or precise and clear thought, able to be transposed on paper, notwithstanding that, somehow guys like JOE BIDEN, who rise on the floor of the Senate to oppose a nomination for only the second time in 14 years, are political, that we are somehow partisan Democrats, who just want to stop the Reagan agenda from moving forward.

□ 1950

Now, my colleague raises several non sequiturs. He engages in logical fallacies that are amusing and confusing at the same time. And he knows how much I respect his ability as an opponent and as a friend.

Well, let us go through the logic of the argument my colleague makes. He said Ronald Reagan won 49 States. Therefore, since Ronald Reagan, I say to my friend from Illinois, Ronald Reagan won 49 States, he is entitled to incompetence on the bench. Because he has won 49 States, that means there has been a referendum on the ideological fervor that is being moved forward here.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I would be delighted to yield.

Mr. HATCH. That is not what I said. I do not believe anybody, the President or otherwise, has a right to put incompetence on the bench. I think I made a more than adequate case that he is not incompetent, that he is respected by his peers, even the Chicago set of lawyers who criticized him because they differ with him ideologically. They differ with him, but they admit he is competent, honest, capable, and has integrity. So that is hardly saying you are putting incompetence on the bench.

Mr. BIDEN. They said he is incompetent to serve on that bench.

Mr. HATCH. Well, they may say that, or a small select group of lawyers who oppose him may say that. But they admit there are plenty of others who say he is outstanding.

Mr. BIDEN. Agreed.

Mr. HATCH. Please do not misconstrue what the Senator from Utah has said.

Mr. BIDEN. Let me ask the Senator from Utah—I would be happy to yield to him on my time to answer the question—what was the point of his raising the issue about 49 States? I do not yield the floor.

Mr. HATCH. The point I am raising is this: When a President wins that overwhelmingly, he has the right to nominate and we have the right to advise and consent.

Mr. BIDEN. Correct.

Mr. HATCH. This President has nominated a person of integrity, of ability, of experience—although admittedly his experience was with a small law firm. I do not think a man even who serves on the Supreme Court—and there have been some distinguished ones who have—has to work with constitutional principles all his lifetime. I think it would be wonderful if he did; that would be a plus. But I do not think it is crucial.

There have been some noted members of the Supreme Court who have not worked very much with constitutional law before they went on the Court and distinguished themselves.

Mr. BIDEN. I ask the Senator to name me one.

Mr. HATCH. I will get a list of them.

But let me say this to you: I do not think that is crucial. I think it is crucial that he is honest, that he has judicial scholarship, and an ability to write, although he may not be a Friendly or a Cardoza or a Brandeis or even a Brennan or a Rehnquist.

The distinguished Senator from Delaware and several others say that he cannot write, but I think we can make a good case that he can write as well as the distinguished Senator from Delaware.

Mr. BIDEN. Do you believe that?

Mr. HATCH. Sure.

Mr. BIDEN. You believe he can write as well as I can?

Mr. HATCH. Probably as well, if not better.

Mr. BIDEN. That is an interesting phenomenon.

Mr. HATCH. Let me state that I have a copy of a letter, a Dear Colleague letter, from my distinguished colleagues on this particular issue. I have heard a lot of criticism of Mr. Manion for grammatical errors, for misspellings, for a whole raft of other things.

I would submit the May 5, 1986 letter is filled with syntax errors, grammatical errors, places where commas and periods should be but are not, and misspellings. This is signed by a number of Senators on the Judiciary Committee, who are passing upon whether or not someone should sit in any judgeship in the Federal Court.

I will just put this letter in the RECORD. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, May 5, 1986.

DEAR COLLEAGUE: We are writing to state our reasons for opposing the nomination of Daniel Manion to the United States Court of Appeals for the 7th Circuit and to ask that you join us in voting against his confirmation at the upcoming business meeting of the Judiciary Committee.

We believe that Mr. Manion's prior actions demonstrate that he does not sufficiently appreciate the supremacy of the Constitution and the Supreme Court's interpretations there of as the supreme law of the land and that he lacks the requisite qualifications for appointment to a court second in importance only to the Supreme Court.

As a state legislator, Mr. Manion cosponsored a bill he conceded he knew was unconstitutional. The bill authorized the posting of the Ten Commandments in public school classrooms and was cosponsored by Manion and others in the Indiana State Senate a short time after the U.S. Supreme Court, in the case of *Stone* v. *Graham*, 449 U.S. 39

(1980), had invalidated a virtually identical Kentucky statute and after the legislators had become aware of the decision.

Mr. Manion's justifications of his actions as "legislative preprogative" and "legislative protest" are incompatible with the Constitution itself and evidence an unacceptable insensitivity to American constitutional history. Together with substantive and political considerations, every legislator, either at the state or federal level, has the obligation to weigh the constitutionality of proposed legislation. The reason for this is obvious. The Constitution is a self-executing document and its viability as the "supreme law of the land" depends on the fidelity and faithfulness of those who are entrusted with governmental power. As our judicial system has envolved, the Supreme Court's interpretations of the Constitution are to be given weight equal to the original document itself.

To insure that such persons remain faithful to their trust, Article VI of the Constitution specifies that " . . . members of the several State legislatures, and all executive and judicial officers, both of the United States and the several States, shall be bound by oath or affirmation, to support this Constitution. . . ." Based on those fundamental principles, we can only conclude that Mr. Manion, as a state legislator, had no "legislative prerogative" to cosponsor a bill which he conceded was unconstitutional. As the Supreme Court stated in *Cooper* v. *Aaron: "No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it."* 358 U.S. 1, 18 (1958) (emphasis added).

Nor is cosponsoring and voting for a bill shortly after a virtually identical statute had been invalidated by the Supreme Court a permissible form of "legislative protest." Justice Frankfurter wrote eloquently of the responsibility of government officials: "Compliance with decisions of this Court, as the constitutional organ of the supreme Law of the Land, has often, throughout our history, depended on active support by state and local authorities. It presupposes such support. To withhold it, and indeed, to use political power to try to paralyze the supreme Law, precludes the maintenance of our federal system. . . . ." *Cooper* v. *Aaron* 385 U.S. at 26 (concurring opinion).

Indeed, the opinion of the entire Court in *Cooper* v. *Aaron* noted: "If the legislators of the several states may, at will, anual the judgments of the courts of the United States, and destroy the rights acquired under those judgments, the constitution itself becomes a solemn mockery." 385 U.S. at 18 (citations omitted).

Mr. Manion now says in retrospect that his "legislative protest" of the decision of the Supreme Court in *Stone* v. *Graham* might better have been filed as a resolution than as a bill. Nevertheless, he still holds the view that the bill, if passed, would have been the law until it was ruled unconstitutional by the courts, thereby implying that there was some power in the State of Indiana which, when asserted, could nullify federal constitutional law.

At the hearing on his nomination, Manion expressed reluctance to accept Supreme Court decisions as the "supreme law of the land," saying that he preferred to view them as stare decisis which must be followed by lower federal courts. Such an interpretation of Supreme Court decisions is at best troubling. The principle that Supreme Court decisions establish the supreme law of the land, which is binding on all lower federal courts as well as state legislators, is nearly as old as the Constitution itself. Article VI of the Constitution renders the Constitution the supreme law of the land, and as early as 1803, Chief Justice Marshall speaking for a unanimous Court in *Marbury* v. *Madison*, noted that "it is emphatically the province and duty of the judicial department to say what the law is." That decision declared that the Constitution and the interpretations of it by the Supreme Court are the fundamental and paramount law of the nation.

In sum, during his tenure as a state legislator, Mr. Manion substituted his own personal notion of what the law should be for the established rule as enunciated by the Supreme Court. In so doing, Manicn cavalierly disregarded his oath of office to uphold the Constitution. We believe that such disregard for the supremacy of the Constitution and the decisions of the Supreme Court disqualifies him to serve as a federal appeals court judge.

There is also a serious question as to whether Mr. Manion is qualified to serve in the position for which he has been nominated. He is one of a series of nominees for the federal appeals courts who have received the lowest possible approval rating of the American Bar Association. During the past one and a half years, 50 percent of such nominees have been rated merely "qualified" and 71 percent of those nominees, including Mr. Manion, were judged "unqualified" by a minority of the ABA Standing Committee on the Federal Judiciary.

Mr. Manion's legal practice consists primarily of small personal and commercial claims in state court. His federal practice has been limited to a handful of diversity jurisdiction cases involving issues of state law. Mr. Manion has little, if any, legal experience in federal constitutional or public issues. He in fact has never argued a case before the 7th Circuit nor been lead counsel in a trial in federal district court.

Mr. Manion's lack of legal experience with substantive federal issues was the basis for a finding by the Chicago Council of Lawyers that he was "unqualified" to serve on the federal appeals court. The Chicago Council of Lawyers is comprised of approximately 1,000 lawyers, many of whom are active litigators from the most prominent law firms in the city of Chicago. The Chicago Council's negative rating cannot be dismissed as simply reflecting its disagreement with Mr. Manion's ideology, as the Chicago Council approved other very conservative nominees including Richard Posner for the 7th Circuit and Harry Leinenweber for the district court.

Each of us believes that the President is entitled to nominate individuals who reflect his basic philosophy of government and the courts. However, Mr. Manion's undistinguished legal career combined with his prior lack of understanding of his oath of office to uphold the Constitution and the decisions of the Supreme Court cause us to view this nomination differently. We intend to vote against his confirmation and hope that, after examining this nominee closely, you will make a similar judgment.

Sincerely,

TED KENNEDY.
PATRICK J. LEAHY.
JOE BIDEN.
HOWARD M. METZENBAUM.
PAUL SIMON.

Mr. HATCH. But it contains several grammatical errors and other errors. I think it would cause someone to say, "How in the world can those sitting in judgment of Mr. Manion criticize him?"

He is a small-town, country lawyer who really did not do much appellate practice perhaps because he won most of his cases. In my particular case, I tried a lot of cases, but I did not have too much appellate cases because I did not lose too many. I am not bragging. I am suggesting that is fact. I do not know about Mr. Manion.

All I am saying is there is plenty of room for criticism of anybody if you want to scour long enough and hard enough.

Mr. BIDEN. I think the Senator from Delaware has the floor. Would you be willing to answer the question of why you raised the issue of winning 49 States?

Mr. HATCH. The reason I raised that issue was because a President that wins that overwhelmingly, having a right to nominate, having a right to put people into the Federal judiciary, should be given, I think, great weight in those nominations as long as those candidates meet certain minimum requisites to serve on the bench. And those candidates should not be shot down merely for ideological reasons, as this candidate is being attacked and has been attacked in the committee and on the floor. I believe that is really all that we have.

Mr. BIDEN. I appreciate the Senator's clarification. I suspect, then, he does not make any distinction between a President having won 49 States and a President having won a bare majority. I mean, does it make a difference in terms of who they can nominate? There are still basic minimum requirements.

Mr. HATCH. There are basic minimum requirements, but I think that the ideological requirements should not be one of them.

Do you agree with that or do you not?

Mr. BIDEN. Does the Senator suggest—I am still confused. What is the relevance of having won 49 States as opposed to winning 30 States?

Mr. HATCH. The relevancy is that the President's position ideologically has been accepted and adopted by 49 States. And the mere fact that this man may be a conservative should not be reason enough to shoot him down.

Mr. BIDEN. I see.

Mr. HATCH. Now, if the Senator can make a better case, that is another matter. I do not believe, on the record, the Senator can make a better case.

Let me go back to what the Senator said. I was thinking about some of the people who may not have had much experience in constitutional law before they came to the Supreme Court but who made eminently respectable reputations on the Court. I would cite

with particularity Mr. Justice Black, who did not have a heck of a lot of constitutional experience; neither did Mr. Chief Justice Warren.

And I could say that I am sure there are others, and I will try to come up with others, as well. But I do not think anybody is going to make a very good case that either of those spent a lot of time in constitutional law before they came to the Supreme Court.

I think almost everyone would say, regardless of whether you particularly agreed with their particular points of view, everyone would say they were great members of the Supreme Court of the United States of America. And I suspect there are many others.

Mr. BIDEN. Do you think Warren was a great Supreme Court Justice?

Mr. HATCH. I believe Earl Warren was a great Supreme Court Justice. I differ with him, naturally. I differ with Justice Rehnquist in some matters, naturally.

But the point is, he was a great Supreme Court Justice. You bet your life he was. And he earned the respect of many, many people in this society.

Mr. BIDEN. I am delighted that the Senator from Utah has clarified that there is a little distinction between winning 49 States and 30 States.

Mr. HATCH. I do not think there is much difference, except it was an overwhelming win, indicating the people in this country who were listening to his arguments that he was going to put in interpreters of the laws, who do not make laws, because they are unelected, interpreters or judicial activists, in contradistinction to those bodies of the executive and legislative branches of Government which were created under the Constitution to make those laws.

And he made that point. And it was one of the most important points he made during the 1984 elections and I believe great weight should be given to his position in that regard. I think that is precisely what he has been trying to do and that is why Mr. Manion has been offered.

If the truth is known, that is one reason my colleagues, sincere though they may be, would not like to see him on the bench, because they differ with him ideologically.

Mr. BIDEN. I think that is an absurd statement, but since I have the floor, let me finish and let me respond to——

Mr. SIMON. Will my colleague yield 1 minute for a minor point?

Mr. BIDEN. Sure, I yield.

Mr. SIMON. Our friend from Utah points out that you and I signed a letter that has some spelling errors in it. There is a slight difference between a casual letter circulated to our colleagues and the request, that I made through my staff, to Mr. Manion to send the five best briefs.

Mr. HATCH. Will the Senator yield?

Mr. SIMON. My colleague has the floor.

Let me just finish.

If you ask us to send the five best documents we have written, we are not going to send documents with sentences that do not make sense and that are as seriously flawed as these briefs.

□ 2000

And I think that is the point that my colleague from Delaware has made. I think it is a very valid point.

Mr. HATCH. Will my friend from Delaware yield just for 1 minute?

Mr. BIDEN. If it really will only take 1 minute.

Mr. HATCH. It might take a little bit more.

Mr. BIDEN. I will not yield the floor. I am inclined to wait. I am going to be here.

(Mr. MCCLURE assumed the chair.)

Mr. HATCH. Let me take 1 minute then.

The fact of the matter is that Mr. Manion, on the briefs that the distinguished Senator has criticized, lost only one of the cases addressed by those briefs. As a matter of fact, the briefs addressed the kind of law which 95 percent of the lawyers in the United States deal with regularly, and even though some of those cases have been lost, Americans consider the issues raised by those cases to be important enough to go on and on. But the point I am making is this. It is easy to stand back and criticize somebody who does not have reams of associate lawyers to do the work for them, and all kinds of secretaries and stenographers to do it. He may even have had to type some of it himself. In fact, he won most of the cases that he filed the briefs for.

I have to admit those are not Manion's best briefs as asserted by the distinguished Senator from Illinois. I think the distinguished Senator knew that when he got them because through the Justice Department Manion is told by Senator SIMON's staff, Ms. Westley, to send five briefs as soon as possible. That was on Thursday, April 17. The briefs were needed urgently because of Manion's scheduled April 30 hearing. He was tied up in Federal court all day Friday, April 18, and on Saturday, the 19th. So he went to the office and got five briefs from current cases and sent them to the Senator. So they were not the five most important briefs.

One last point. The letter I put in the RECORD, I think a "Dear Colleague" letter, suggests that we Senators have little room to criticize. I think we can find grammatical errors in almost everybody's "Dear Colleague" letters. That is not the point I am making nor am I making a point to embarrass my colleagues. I am saying it is easy to be picky about anything when one is in a pressure-packed confirmation proceeding.

I think that is one of the most picky and picayune things I have seen in all the confirmation proceedings that I have gone through in the 10 years since I have been here. The real question is, Is he a man of integrity? Does he have ability? Does he have conscientiousness? Would he be fair? Do the lawyers who worked with him and against him respect and like him? The answer to all of those is yes. Does he have the intellect and the capability? The answer is yes.

If we look at the rest of the arguments, they are made.

I thank my colleague.

Mr. BIDEN. Let me speak. I thank my colleague for this 1 minute. Let me speak to some of the whole cloth that is being suggested here. It is interesting again in the time that I have been here—it has only been 14 years—that you have 40 law school deans, and let me read the letter addressed to the leadership of the U.S. Senate.

Again this is from 40 law school deans, not from the Senator from Delaware.

JUNE 24, 1986.

Hon. ROBERT DOLE,
Majority Leader,
Hon. ROBERT BYRD,
Minority Leader,
U.S. Senate,
Washington, DC.

DEAR SENATORS DOLE AND BYRD: The Senate will soon consider the nomination of Daniel A. Manion to serve as a judge of the United States Court of Appeals for the Seventh Circuit. As law school deans, as lawyers, and as citizens, we urge that the Senate decline to consent to this nomination on the grounds that Mr. Manion is not qualified to serve on that court.

The Senate has few graver responsibilities than its constitutional obligation to advise and consent with respect to judicial nominees. Federal judges are members of an independent branch of government with great power over our society. Once appointed, these judges are responsible neither to the electorate, nor to either of the other two branches of government. The confirmation of a judicial nominee therefore has consequences far beyond those attendant to most other legislative acts. This is particularly true for a nominee to the Court of Appeals, for he or she may definitively influence the course of the law for millions of our people for many years to come.

A nominee's qualifications in scholarship, legal acumen, professional achievement, wisdom, fidelity to the law and commitment to our Constitution must therefore be correspondingly high.

Unfortunately, Mr. Manion does not meet these criteria. He has virtually no experience with major federal or other litigation, and has not published any scholarly or other writings. Although such litigation experience and scholarly writings may not be essential prerequisites, Mr. Manion has shown no other distinction as a lawyer. A majority of the American Bar Association screening panel found him barely qualified, and a minority found him not qualified. The Chicago Council of Lawyers, after close scrutiny of his record, concluded that his

professional qualifications were inadequate, noting that:

"Mr. Manion lacks experience in dealing with questions of federal law and federal constitutional issues. He also lacks experience with the kinds of complex federal litigation which he would have to review as a judge of the Seventh Circuit Court of Appeals. Moreover, the quality and extent of Mr. Manion's legal experience even in state court does not demonstrate the high level of legal expertise which the Council feels should be possessed by judges of the Seventh Circuit. Finally, Mr. Manion has not demonstrated any scholarly interest in state and federal law or constitutional issues."

We are also disturbed by the nominee's apparent lack of understanding of the role of the judiciary in protecting individual rights. This was manifested in his action as an Indiana state legislator in co-sponsoring a bill that authorized posting the Ten Commandments in school rooms shortly after the Supreme Court had invalidated a similar Kentucky statute in *Stone* v. *Graham*, 449 U.S. 39 (1980). Mr. Manion, in a recent hearing, conceded that the bills were virtually identical and explained his action as a kind of "legislative protest" against the Supreme Court. In the same hearing, he also seemed reluctant to accept Supreme Court decisions such as *Brown* v. *Board of Education* as "the law of the land," saying he preferred to view them as *stare decisis* which must be followed by lower federal courts.

In light of the above, we urge the Senate to deny consent to the nomination of Daniel A. Manion to the United States Court of Appeals for the Seventh Circuit. We are writing in our individual, rather than in our institutional, capacities, and have referred to our schools for identification purposes only.

Yours very truly,

Let me read where those deans reside:

Frederick R. Anderson, American University, Washington College of Law, Washington, D.C.

Jerome A. Barron, George Washington University National Law Center, Washington, D.C.

Florian Bartosic, University of California at Davis School of Law, Davis, California.

Paul Bender, Arizona State University College of Law, Tempe, Arizona.

Robert W. Bennett, Northwestern University School of Law, Chicago, Illinois.

Barbara A. Black, Columbia University School of Law, New York, New York.

Robert L. Bogomolny, Cleveland State University, Cleveland-Marshall College of Law, Cleveland, Ohio.

Kenneth S. Broun, University of North Carolina School of Law, Chapel Hill, North Carolina.

Guido Calabresi, Yale Law School, New Haven, Connecticut.

Paul D. Carrington, Duke University School of Law, Durham, North Carolina.

Jonathon B. Chase, Vermont Law School, South Royalton, Vermont.

Craig W. Christensen, Syracuse University College of Law, Syracuse, New York.

Lewis Collens, Illinois Institute of Technology, Chicago-Kent College of Law, Chicago, Illinois.

David G. Epstein, Emory University School of Law, Atlanta, Georgia.

John W. Ester, University of Maryland School of Law, Baltimore, Maryland.

Arthur N. Frakt, Loyola Law School, Los Angeles, California.

Daniel James Givelber, Northeastern University School of Law, Boston, Massachusetts.

Howard Alan Glickstein, Touro College School of Law, Huntington, New York.

Charles R. Halpern, City University of New York Law School at Queens College, Flushing, New York.

Janet A. Johnson, Pace University School of Law, White Plains, New York.

Frederic L. Kirgis, Jr., Washington and Lee University School of Law, Lexington, Virginia.

Arthur B. LaFrance, Lewis and Clark College, Northwestern School of Law, Portland, Oregon.

Betsy Levin, University of Colorado School of Law, Boulder, Colorado.

Barbara B. Lewis, University of Louisville School of Law, Louisville, Kentucky.

Paul Marcus, University of Arizona College of Law, Tucson, Arizona.

Peter W. Martin, Cornell Law School, Ithaca, New York.

Fredric Ransom Merrill, University of Oregon School of Law, Eugene, Oregon.

Richard A. Merrill, University of Virginia School of Law, Charlottesville, Virginia.

Carl Colburn Monk, Washburn University School of Law, Topeka, Kansas.

Robert Pitofsky, Georgetown University Law Center, Washington, D.C.

John Chapman Pittenger, Rutgers, The State University of New Jersey School of Law, Camden, New Jersey.

Robert Popper, University of Missouri-Kansas City, School of Law, Kansas City, Missouri.

Norman Redlich, New York University School of Law, New York, New York.

Terrance Sandalow, University of Michigan Law School, Ann Arbor, Michigan.

George Schatzki, University of Connecticut School of Law, Hartford, Connecticut.

Carl M. Selinger, West Virginia University College of Law, Morgantown, West Virginia.

Philip D. Shelton, Washington University School of Law, St. Louis, Missouri.

Peter Simmons, Rutgers, The State University of New Jersey, S.I. Newhouse Center for Law & Justice, Newark, New Jersey.

J. Clay Smith, Jr., Howard University School of Law, Washington, D.C.

Thomas H. Sponsler, Loyola University School of Law, New Orleans, New Orleans, Louisiana.

Robert M. Viles, Franklin Pierce Law Center, Concord, New Hampshire.

Sheldon A. Vincenti, University of Idaho College of Law, Moscow, Idaho.

James Vorenberg, Harvard University Law School, Cambridge, Massachusetts.

Stephen B. Young, Hamline University School of Law, St. Paul, Minnesota.

I suggest, Mr. President, that unless you are saying that those 40 law school deans—I think it is probably unprecedented in a confirmation process decided not on ideology, but merely upon qualification that this young man who is only 1 year older than I am is not qualified to be a circuit judge. I would also point out that when my colleague suggests that Hugo Black and Earl Warren did not have any significant background in constitutional issues, the issue is the nominee's exposure to complex issues and demonstrated excellence. If he had that, he would not have to have the exposure to these cases. Hugo Black I might add was a U.S. Senator from Alabama. I suspect some day the Senator from Delaware is going to have an opportunity to vote on the nomination of the distinguished Senator from Utah's nomination to the Supreme Court.

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I would suggest that his having achieved the office of U.S. Senator and comported himself in that office with some degree of demonstrated knowledge of complex issues and excellence, would hold him in relatively good stead.

I would suggest that Earl Warren, who was a former Attorney General and Governor of California, had a little bit of experience in dealing with complex issues and demonstrated abilities.

I would also like to suggest to my colleagues on the floor that this case involves a nice appeal out there to small town lawyers like me, and I am from a small town, a town smaller than the town which the nominee practices in. This does not involve small town lawyers not being qualified to serve on the bench, not being qualified because they are from small towns.

It is about whether they possess the academic and legal excellence.

Let me suggest that I read several editorials. The first is from the Roanoke, VA, Times World News, the morning edition on judicial nominees. I will not take the time to go through them all. I ask unanimous consent later that they be printed in the RECORD.

Next I will refer to an editorial from the Journal-Gazette of Fort Wayne, IN. I will ask that the entire editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Journal-Gazette (Fort Wayne, IN), June 3, 1986]

THE MANION TRANSCRIPT DESERVES ANOTHER READING

Sens. Richard Lugar and Dan Quayle have written a letter to their Senate colleagues to support the nomination of Daniel Manion of South Bend, to the U.S. 7th Circuit Court of Appeals in Chicago. We appreciate the senators' eagerness to defend a fellow conservative and Hoosier whose appointment has come under attack. But the letter is a puzzling document. It makes a personal attack on Manion's critics, and claims as true what was contradicted in his testimony before the Senate Judiciary Committee in April.

"Part of the political case against Dan Manion can be reduced to this: guilt by association," the Lugar-Quayle letter says. The senators say that Manion is being condemned because of his father's notorious right-wing activities. Among his other conservative activities, Clarence Manion helped found the John Birch Society.

But it's Daniel Manion who aligned himself with his father's extreme views. In one 1971 broadcast of the Manion Forum, Clar-

ence Manion argued that the Bill of Rights should not apply to state law. He contended that making such an application "is responsible for nine-tenths of the troubles which the states are now having with their redistricting . . . and with the various other interference with state laws, the schools, prayer and obscenity and the regulation of school districts . . ."

The next words from Daniel Manion, who was moderating the discussion, were not those of an impartial questioner but of a partisan:

"Well, I think you've pretty well established how this prayer decision was precedented fallaciously. The original case was wrong. . . ."

If you read Daniel Manion's testimony before the Senate Judiciary Committee, you'll not find him repudiating any of his father's views.

To the contrary, when Daniel Manion was given an opportunity to criticize the views of the John Birch Society, he fell to evasions or pleaded ignorance: ". . . I could not tell you what the policies of the John Birch Society are."

The Lugar-Quayle letter also claims Daniel Manion never endorsed Larry McDonald or his particular views. The late Congressman McDonald was a well-known Bircher. In a 1977 interview with McDonald on the Manion Forum, Daniel Manion extolled McDonald's book as "* * * one of the finest summaries of the history of our country—what has happened in the past, what has happened to us and what we have to do about it."

We urge Lugar, Quayle and their Senate colleagues to read the Manion transcript closely. It simply won't support the charge that Daniel Manion's critics have been unfair.

The real issue comes down to this. Daniel Manion is not qualified to sit on the U.S. 7th Circuit Court of Appeals. There's nothing in his record as an attorney, a state senator, an assistant state attorney general or in the transcript of the Senate Judiciary Committee proceedings to suggest otherwise.

Mr. BIDEN. This editorial states:

Dan Manion is not qualified to sit in the U.S. 7th Circuit Court of Appeals: There is nothing in his record as an attorney, a State senator, an assistant State attorney general, or in the transcript of the Senate Judiciary Committee to suggest otherwise.

This editorial is from Fort Wayne, not Los Angeles, New York, or Chicago. I do not think that Fort Wayne, IN, has a bias against small-town lawyers.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I will not yield. I pointed out that I did not interrupt when my colleague spoke for a half hour and I was delighted to hear what he had to say. I am sure we will have a chance to exchange views.

Next I will refer to the Minneapolis Star Tribune, "An Unqualified Aspirant to the Federal Bench."

Manion is entitled to his opinions, of course. But he is not entitled to be a Federal judge. Like many other Reagan nominees, he lacks the necessary credentials, intellectual breadth and respect for constitutional principles. That is why the Judiciary Committee took the unusual step Thursday of sending his name to the Senate without endorsement.

Next I refer to the Salt Lake City Tribune:

Although a lawyer for 13 years, Mr. Manion has never argued Federal appeals, has participated only 12 times in Federal trials at the district level, and has authored no known scholarship of a legal nature. This for a man who would be placed at the second highest level of the Nation's judiciary.

Next I refer to the New York Times, I am sure a newspaper my colleague thinks very highly of:

IN BRIEF, MR. MANION IS UNFIT

Mr. Manion's briefs are painful but essential reading for any Senator tempted to confirm his nomination. The committee of the American Bar Association that—barely—approved him should read the briefs and blush. An informed Senate would reject this nomination.

Next in the Chicago Sun Times:

A Lack of Excellence.

Next the Orlando Sentinel:

STRICT JUDGING FOR THE BENCH

What about Mr. Manion's shortcomings? For starters, the Chicago Council of Lawyers voted to oppose his nomination. No wonder. Here is someone who in 13 years of legal practice never even argued a Federal appeal of any kind. In the mere dozen Federal court cases which he was involved, none were of a complex nature that the 7th Circuit jurists often decide. Americans and the judicial system deserve better.

Next the St. Louis Post Dispatch:

Unfit For the Federal Bench.

Next is an article by Philip Kurland, who is not known as being a liberal jurist.

I cannot tell you that Mr. Manion does not meet these standards. I can say that, in what the press reveals of his experience, there is no evidence of the high standard of competence we have a right to demand of Federal judges. Only the Judiciary Committee has or can get a full record on which to base judgment.

Again the Louisville Times:

Nominee "Unfit By Any Standard."

The Philadelphia Inquirer:

Senate Should Reject Manion.

The Boston Globe:

Upholding Judicial Standards.

The Atlanta Journal-Atlanta Constitution:

Senate should Toss Out Reagan's Foul Ball.

The Petersburg's Times, St. Petersburg, FL:

Contempt of the Courts.

Next is the Los Angeles Times:

NOT AT ALL JUDICIAL

Manion lacks the qualifications and independence of thought necessary for this important judgeship. The committee should reject him.

Next from the Arizona Daily Star:

Unqualified Nominee.

Next the Plain Dealer:

Manion also suffers from inexperience, rigid ideology, low professional ratings, and a blindness to First Amendment guarantees.

Mr. President, I ask unanimous consent that the items to which I have referred be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 8, 1986]

IN BRIEF, MR. MANION IS UNFIT

When President Reagan set out to reshape the Federal bench, he made two promises. He would choose non-activists who knew the judiciary's proper limits and were content to interpret law, not make it. And he would pick lawyers of the highest caliber. The President has indeed found candidates who share his judicial philosophy, including several of outstanding ability. But two recent nominations broke the promise of quality and assaulted the intelligence of the Senate.

The Senate Judiciary Committee rightly balked at Jefferson Sessions, a nominee for an Alabama judgeship who was distinguished only by his insensitive remarks about minorities. But the committee has sent to the full Senate, without a recommendation, the equally flawed nomination of Daniel Manion for the Court of Appeals based in Chicago.

Mr. Manion, a lawyer in South Bend, has never appeared before the Seventh Circuit Court of Appeals, which reviews cases from Indiana, Illinois and Wisconsin. He has written no scholarly articles to help senators measure his intellect. His only relevant work record, legal briefs to state courts, would embarrass a first-year law student.

It's demeaning to have to grade a judicial nominee for spelling and syntax. But Mr. Manion's indict him as sloppy and lazy. His briefs are riddled with words like "definately" and "perponderance," "verbatum" and "comperable." Commas dangle, modifiers misfire and nouns disagree with their verbs. Some of his sentences make no sense at all. And the reader who slogs on finds no redeeming spark of originality or insight.

That Mr. Manion never mastered elementary verbal skills only emphasizes that his appeal is political: he espouses the tenets of the far right and disagrees with a number of Supreme Court positions. The President has a right to reshape the judiciary, but the Senate has a duty to insist that appointees measure up professionally. Since the Supreme Court cannot possibly review all circuit court rulings, appeals judges have the last word in most major Federal cases.

Mr. Manion's briefs are painful but essential reading for any senator tempted to confirm his nomination. The committee of the American Bar Association that—barely—approved him should read the briefs and blush. An informed Senate would reject this nomination and thereby tell the President to aim higher.

[From the Fort Wayne (IN) Journal-Gazette, June 3, 1986]

THE MANION TRANSCRIPT DESERVES ANOTHER READING

Sens. Richard Lugar and Dan Quayle have written a letter to their Senate colleagues to support the nomination of Daniel Manion, of South Bend, to the U.S. 7th Circuit Court of Appeals in Chicago. We appreciate the senators' eagerness to defend a fellow conservative and Hoosier whose appointment has come under attack. But the letter is a puzzling document. It makes a personal attack on Manion's critics, and claims as true what was contradicted in his testimony

before the Senate Judiciary Committee in April.

"Part of the political case against Dan Manion can be reduced to this: guilt by association," the Lugar-Quayle letter says: The senators say that Manion is being condemned because of his father's notorious right-wing activities. Among his other conservative activities, Clarence Manion helped found the John Birch Society.

But it's Daniel Manion who aligned himself with his father's extreme views. In one 1971 broadcast of the Manion Forum, Clarence Manion argued that the Bill of Rights should not apply to state law. He contended that making such an application "is responsible for nine-tenths of the troubles which the states are now having with their redistricting . . . and with the various other interference with state laws, the schools, prayer and obscenity and the regulation of school districts . . ."

The next words from Daniel Manion, who was moderating the discussion, were not those of an impartial questioner but of a partisan:

"Well, I think you've pretty well established how this prayer decision was precedented fallaciously. The original case was wrong . . . ."

If you read Daniel Manion's testimony before the Senate Judiciary Committee, you'll not find him repudiating any of his father's views.

To the contrary, when Daniel Manion was given an opportunity to criticize the views of the John Birch Society, he fell to evasions or pleaded ignorance: ". . . I could not tell you what the policies of the John Birch Society are."

The Lugar-Quayle letter also claims Daniel Manion never endorsed Larry McDonald or his particular views. The late Congressman McDonald was a well-known Bircher. In a 1977 interview with McDonald on the Manion Forum, Daniel Manion extolled McDonald's book as ". . . one of the finest summaries of the history of our country—what has happened in the past, what has happened to us and what we have to do about it."

We urge Lugar, Quayle and their Senate colleagues to read the Manion transcript closely. It simply won't support the charge that Daniel Manion's critics have been unfair.

The real issue comes down to this. Daniel Manion is not qualified to sit on the U.S. 7th Circuit Court of Appeals. There's nothing in his record as an attorney, a state senator, an assistant state attorney general or in the transcript of the Senate Judiciary Committee proceedings to suggest otherwise.

[From the Chicago (IL) Tribune, May 16, 1986]

A "SCOTCH VERDICT" ON A JUDGESHIP

(By Philip B. Kurland)

I write to protest the Senate Judiciary Committee's failure to pass on the merits of the candidacy of Mr. Daniel Manion for appointment to the United States Court of Appeals for the Seventh Circuit. It seems to me that if a majority of the committee does not have a strong conviction that the man is worthy of the office, the duty of the committee to the public requires a negative recommendation. The post under consideration is not one of minor importance or short duration. The credibility of the federal judiciary is essential to the legitimacy of its governance. It oughtn't be compromised by a "Scotch verdict."

Allow me to make clear my position on judicial appointments. I believe that a judicial nominee's political preferences are no more relevant to a capacity to perform the judicial function than are the nominee's sex, race, national or state origin, or religion. No one should be appointed or refused appointment for such considerations. And surely every President has exercised the prerogative of choosing nominees for the bench because they are close to rather than distant from his philosophy.

There are, however, limits to this freedom of choice which ought to be observed. These appointments are not mere patronage appointments, not only rewards for party service. Nor are they, like executive department appointments, the choice of persons within a chain of command, theoretically at least to be under the direction of the President.

Federal judges are independent of presidential will and their choice invokes the judgment—the advice and consent—of the Senate as much as the White House. For it must be remembered that, once appointed, the judges are not responsible for their good behavior to the President or even the citizenry but to the House of Representatives, empowered to impeach them for wrongdoing, and to the Senate, responsible for their trials on impeachment.

Surely only the President can nominate a federal judge; but only the Senate can confirm such a nomination. In the course of exercising their respective duties, the senators have fiduciary obligations to their oaths of office and their constituencies which are far greater than any obligation to their political parties.

A president cannot, in good faith, nominate, and a Senate cannot, in good faith, confirm, a judicial nominee who lacks the essential qualifications for office.

A federal judge should be qualified by reason of his training in the law, his experience at the bar, his commitment to community service, his breadth of vision and compassion for the human condition, even a little learning. Perhaps most important is a judicial temperament, which means a recognition that a judge is not a partisan, that his disinterestedness is the essence of his function.

It is here that a zealot or an idologue fails the test of judicial office. And it is up to the Senate Judiciary Committee to assure itself that a judicial candidate measures up on all scores. The question ought not to be whether a judicial nominee's ideology comports with a president's or a senator's. It is whether such mode of thought reveals a rigidity that could make a mockery of the rule of law by placing it in the hands of one who would use it for personal ends rather than those of the Constitution, the laws of the United States, and established judicial precedents.

I cannot tell you that Mr. Manion does not meet these standards. I can say that, in what the press reveals of his experience, there is no evidence of the high standard of competence we have a right to demand of our federal judges. Only the Judiciary Committee has or can get the full record on which to base a judgment. The burden of persuasion ought to be borne by the nomination, given the importance of the post and the life tenure that attaches to it.

[From The Chicago, (IL) Sun-Times, May 17, 1986]

A LACK OF EXCELLENCE

For the first time, one of President Reagan's nominees to the federal bench has not been endorsed by the Senate Judiciary Committee

And with good reason.

Daniel Manion, a conservative Indiana lawyer and a former state legislator, was nominated to serve as a federal appeals court judge in Chicago. But the committee, by a 9-to-9 vote, sent the nomination to the full Senate without endorsement.

The full Senate, when it votes later this month, also should not approve.

Some liberals base their opposition partially on Manion's politics. In the 1960s he co-hosted the television and radio program, the Manion Forum, with his father, Clarence, a founder of the John Birch Society. During confirmation hearings, Daniel Manion said he couldn't recall making some of the statements attributed to him during that period.

Some of Manion's backers argue that it is unfair to oppose him on the basis of his ideology. But, the Reagan administration in some regions has used ideology as much as many previous administrations as a basis for appointment to the bench. It is inconsistent to favor a nomination on the basis of ideology but to deny critics the the right to use that same standard.

Opposition to Manion, however, runs deeper than his ideological convictions. There is the question of his commitment to the integrity of the judicial system, raised by his action while he is an Indiana state senator. It came shortly after a Supreme Court ruling invalidating a Kentucky statue requiring all public schools to post a copy of the Ten Commandments in every classroom. A short time later he introduced a bill that would have allowed the posting of the Ten Commandments in Indiana public school classrooms. Did he figure that the Indiana Legislature could overrule the U.S. Supreme Court? Such an action by an officer of the court was cynical at best.

Moreover, there is the question of his lack of federal judicial experience. The Chicago Council of Lawyers found him unqualified based on their findings that he never served as a leading counsel in a federal trial or has handled a case involving constitutional issues. An American Bar Association screening committee found Manion "qualified"—the lowest of three positive ratings. A minority of the same ABA panel found him unqualified. Samples of his "best" briefs, submitted to the committee, were riddled with typographical and syntactic errors.

His supporters have argued that Manion is a fine fellow, with a high reputation for integrity and fairness. We don't contest those qualities. But the qualifications also demand a knowledge of the law, experience in handling federal cases and the thorough respect from both liberals and conservatives for the moninee's judicial qualifications. In short, the position requires excellence. Too many questions have been raised about qualifications for Manion to be considered among the best.

[From the St. Petersburg Times, May 14, 1986]

CONTEMPT OF THE COURTS

President Reagan's determination to pack the federal courts with right-wing extremists is giving honest conservatism a bad name.

He found the bottom of the barrel recently when he picked Daniel A. Manion, a lawyer and former state legislator from South Bend, Ind., for the 7th Circuit Court of Appeals at Chicago.

Manion proposed legislation to post the Ten Commandments in Indiana schoolrooms two months after the Supreme Court said such practices were unconstitutional. He has publicly challenged the supremacy of the Supreme Court and endorsed legislation that would strip it of power to rule in such areas as obscenity and church-state relations. He once declared that prayer in school and "the recognition of God in all public places" was the "basis" of the Constitution and the Declaration of Independence. The son of a founder of the John Birch Society, Manion in 1979 praised its members for being "on the front line of the fight for constitutional freedom."

Such a record reveals Manion to be no conservative at all. He is a radical who appreciates nothing about the Constitution that he as a judge would be sworn to protect and defend.

But Manion's defenders say the Senate has no business poking into his political views. The President, they say, won the election and is entitled by tradition to appoint candidates who reflect his views.

A nominee's opinions are relevant, however, when they raise such grave doubts concerning his ability to fulfill his oath. And the Senate has often refused to confirm candidates it considered unqualified. In Manion's case, the Senate contemplates a candidate who is clearly not what an appellate judge ought to be. Manion has spent his 13 years in the bar handling primarily personal injury and small claims cases. He has never been a lead attorney in a federal court case. He has never even argued a case in the 7th Circuit or any other federal appellate court. An American Bar Association screening panel rated him only "qualified," its lowest approval rating, with a minority voting to deny him even that. The Chicago County Council of Lawyers has called him unqualified.

Manion's credentials are so thin that the Senate Judiciary Committee, which had never before rejected a Reagan judicial nominee, refused on a 9-9 tie to recommend him. But it did Mr. Reagan the favor of sending the nomination to the floor without a recommendation, which will force all the senators to take a stand.

A President who would appoint someone so unqualified shows no respect for constitutional rights or for the prestige and dignity of the courts. The Senator's clear constitutional duty is to vote Manion down.

[From the Orlando Sentinel, May 13, 1986]

STRICT JUDGING FOR THE BENCH

The Senate Judiciary Committee could send a strong message to the White House on its picks for federal judgeships this week by voting against the nomination of Jefferson Beauregard Sessions III to a federal judgeship.

The message would read: Without question, the president has every right to appoint judges with compatible political and ideological views. But there will be no compromising on candidates lacking in qualifications and credibility.

A similar message was clear last week when the committee refused to report the nomination of Indiana lawyer Daniel Manion to the full Senate with a favorable recommendation. It's just too bad the panel did not flatly reject Mr. Manion, who became the first of 233 Reagan administration judicial appointees to be denied the committee's recommendations.

Lately, there just haven't been enough federal judicial nominations of the caliber of, say, Orlando attorney Patricia Fawsett. Mrs. Fawsett shares the president's conservative views. She has impeccable credentials, unlike Mr. Sessions and Mr. Manion. The committee last week approved Mrs. Fawsett's nomination after only 15 minutes of questioning.

Contrast her single appearance before the committee with Mr. Sessions' four appearances and Mr. Manion's three.

For a glimpse of just how bad Mr. Reagan's judicial appointments have been lately, consider this: Since January 1985 half of all the president's appellate court appointees, including Mr. Manion, got the American Bar Association's lowest approval rating—a mediocre "qualified." Mr. Sessions, who was nominated to a federal district court in Alabama, received the same ABA barely getting by rating.

Even more distrubing is Mr. Sessions' lack of credibility.

For instance, he has gone back and forth on whether he once remarked that the Ku Klux Klan's only problem was that some of its members smoked marijuana. He also has confirmed, and then denied, that he described the NAACP and the National Council of Churches as "un-American."

Mr. Sessions has the right to those views, but do citizens really want someone on the bench whose fairness becomes questionable each time that a black or liberal appears before him?

What about Mr. Manion's shortcomings? For starters, the Chicago Council of Lawyers voted to oppose his nomination. And no wonder. Here's someone who in 13 years of legal practice has never even argued a federal appeal of any kind. And in the mere dozen federal district court cases in which he has been involved, none were of the complex nature that 7th Circuit jurists often decide.

Americans and the judicial system deserve better.

[From the Salt Lake City Tribune, May 11, 1986

FOR BETTER JUDGES

Evidently, President Reagan went too far with his appointment of mediocre judges for the federal judiciary. Unfortunately, the Senate committee responsible for reviewing these nominations didn't go far enough.

Although the Senate Judiciary Committee refused an endorsement vote for Daniel A. Manion's ascendancy to the 7th U.S. Circuit Court of Appeals, it still sent the nomination on to the Senate. A mild rebuke lurks in the procedure when a sharper one was due.

Observers are beginning to wonder if the Reagan administration is deliberately weakening the federal judiciary. Since January, 1985, half the White House appellate judge nominees have been given no more than "qualified" ratings by the American Bar Association. Only "not qualified" is lower.

Mr. Manion, an Indiana lawyer, managed a "qualified," but the Chicago Council of Lawyers—as a circuit court of appeals judge he would preside in Chicago—flatly recommended against confirming him because he lacked necessary competence.

The tussle over Mr. Manion is complicated by arguments about his "ideology." He is the son of the late Clarence Manion; a former Notre Dame law school dean whose radio program. "The Manion Forum," was popular among deep-dyed conservatives. Beyond that, as a Hoosier legislator, the younger Manion apparently supported bills which would, in effect, defy U.S. Supreme Court decisions on such matters as schoolroom prayers and religious displays on public property.

More to the point, however: Although a lawyer for 13 years, Mr. Manion has never argued a federal appeal, has participated only 12 times in federal trials at the district level and has authored no known scholarship of a legal nature. This for a man who would be placed at the secod highest level of the nation's judiciary.

Mr. Manion appointment seems to be more than an isolated instance. Of the nominations since a year ago January for which the ABA could muster but "qualified" recommendations, two-thirds prompted "unqualified" in minority reports. It can't be all that difficult to find better prospects.

Surely in the Illinois-Indiana area, sufficient accomplished legal minds reside from among whom a Republican administration could choose judgeship nominations capable of easy, enthusiastic approval from a GOP-controlled committee. In the 9-9 Senate Judiciary Committee deadlock on Mr. Manion, two Republican members voted against the selection.

Since the majority GOP membership does dominate the committee, the Manion nomination was voted out, with no recommendation, for full Senate action. That action should now end an ominous trend by rejecting the appointment, sending the White House a verdict it can't misunderstand or ignore.

[From the St. Louis Post Dispatch, May 11, 1986]

UNFIT FOR THE FEDERAL BENCH

The Senate Judiciary Committee has finally begun to alter what Common Cause earlier this year called the panel's "assembly-line approval" of President Reagan's judicial nominees. The committee has refused to approve Daniel Manion for the 7th U.S. Circuit Court of Appeals and has sent him name to the full Senate without recommendation. On the nomination of Jefferson Sessions to a U.S. District Court in Alabama, the committee has held four hearings and has not scheduled a vote.

Both of these nominees should be ejected. Mr. Manion has neither the learning nor the experience to make him suitable for an appeals court. His briefs, said Sen. Joseph Biden, couldn't pass a grammar test. He has never argued a federal appeal.

But more important, he has shown that he lacks an understanding of the Constitution and the rule of the judiciary. Months after the Supreme Court struck down a Kentucky law permitting the posting of the Ten Commandments in public schools, Mr. Manion co-sponsored a nearly identical bill in the Indiana Legislature; he also sponsored a bill calling for classes in creation science in public schools. Mr. Manion does not know the meaning of the constitutional separation of church and state.

Neither Mr. Manion nor Mr. Sessions has shown an appreciation of civil rights. Mr. Manion praised a book attacking the Supreme Court's school desegregation decision. Mr. Sessions, as U.S. attorney in Alabama, prosecuted three civil rights workers on flimsy charges; they were acquitted by a jury. He has made racist remarks, which he later tried to explain did not mean what they said. With these nominees, the issue is not their right-wing views but that they are unqualified to be judges.

[From the Boston Globe, May 10, 1986]

UPHOLDING JUDICIAL STANDARDS

President Reagan's penchant for nominating lackluster ideologues for seats on the federal judiciary shows a disrespect for the courts and the law. The Democrats in the Senate must be supported in their efforts to make integrity and intelligence the prime standards for serving on the nation's highest courts.

The latest example of Reagan's effrontery is his nomination of Daniel Manion, a South Bend, Ind., lawyer, for a seat on the Seventh Circuit Court of Appeals.

The testimony to Manion's unfitness is abundant. As a member of the Indiana General Assembly, Manion cosponsored a bill to authorize the posting of the Ten Commandments in public school classrooms. He wrote a letter in 1979 in which he praised the John Birch Society for being "on the front line of the fight for constitutional freedom."

Although there are many other objectionable aspects to Manion's philosophy, Senate Democrats are wise not to attack Manion solely because of his political beliefs. Those beliefs would not necessarily disqualify him from being a member of the judiciary.

The main trouble with Manion is that he is inexperienced, recalcitrant and not qualified to sit on a federal appeals court. Manion received the lowest possible approval from the American Bar Association, which evaluates all judicial nominees, and was found unqualified by the Chicago Council of Lawyers.

Reagan's desire to place conservative judges on the federal bench is understandable, given the president's own views. However, there must be experienced conservatives of unquestionable intellect and integrity who are willing to serve.

The Manion nomination is one of several puzzling nominations from a president who portrays himself as a great upholder of law. Another was the nomination of Jefferson B. Sessions, the U.S. attorney in Alabama, who has a facility for making crude racial remarks, for a U.S. District Court judgeship.

Manion's nomination was the first to be sent to the floor of the Senate without endorsement from the Judiciary Committee. Senate Democrats are to be applauded and encouraged to keep sending Reagan the message that they will not countenance either mediocrity or extremism.

[From the Minneapolis Star & Tribune, May 10, 1986]

AN UNQUALIFIED ASPIRANT TO THE FEDERAL BENCH

By refusing to approve Daniel Manion's nomination to the 7th Circuit Court of Appeals, the Senate Judiciary Committee Thursday sent a message to President Reagan: Choose conservative judges if you will—but avoid the radical and the unqualified. The president should heed the plea.

Reagan says he seeks to appoint judges who are highly experienced legal thinkers, who favor "judicial restraint" and who won't use their power for "political action or social experimentation." That job description should have ruled out Manion from the start. An Indiana personal-injury lawyer with limited courtroom experience, Manion won the lowest possible passing grade from the American Bar Association's screening panel. As a television commentator in the early 1970s, Manion favored stripping the Supreme Court of much of its power to enforce constitutional rights. As an Indiana legislator, he challenged the high court's rulings on separation of church and state by pushing for the teaching of creationism and the display of the Ten Commandments in public schools.

Manion is entitled to his opinions, of course. But he isn't entitled to be a federal judge. Like many other Reagan nominees, he lacks the necessary credentials, intellectual breadth and respect for constitutional principles. That is why the Judiciary Committee took the unusual step Thursday of sending his name to the Senate floor without endorsement. The full Senate should refuse to confirm Manion and drive home the point that it will no longer tolerate unqualified nominees from Reagan.

[From the Atlanta Journal-Atlanta Constitution, May 10, 1986]

SENATE SHOULD TOSS OUT REAGAN FOUL BALL

The Senate Judiciary Committee has been overgenerous to President Reagan and the president's nominee for a judgeship on the Chicago-based 7th U.S. Court of Appeals. The committee refused to endorse the nomination and sent it off the floor action without a recommendation.

The full Senate, which can read between the lines of the 9-9 committee deadlock, should do the president a favor by declining to indulge this embarrassing nomination. Daniel Manion, on his good days, is a legal lightweight, and on his bad has been a demagogic right-wing extremist.

The American Bar Association rated Manion "qualified," its lowest positive ranking, with a minority calling him "unqualified." He has had almost no experience practicing in federal courts and no redeeming claim to legal scholarship. He has been, in the main, a small-time Indiana politician and a marginal far-right hustler.

In a series of *Manion Forum* radio and TV programs with his late father in the 1970s, Manion, among other nonsense, called for stripping federal courts of the right to review several basic constitutional issues and for penning up anti-Vietnam demonstrators as "advocating communism" and thus without a right "to run free." He has repeatedly praised the propeller-beanie crowd of the John Birch Society, in which his father was a big wheel, and he has repeatedly tried to force religion into public schools, sponsoring as a state senator legislation to require the teaching of creationism and a bill to require the display of the Ten Commandments in Indiana schools, the latter in direct defiance of a U.S. Supreme Court ruling just two months earlier that such posting were unconstitutional.

President Reagan ought to be ashamed of himself for this one. Since he is not, the Senate will just have to be ashamed in his stead.

[From the Philadelphia Enquirer, May 8, 1986]

SENATE SHOULD REJECT MANION

Today the Senate Judiciary Committee is scheduled to vote on President Reagan's nomination of Daniel A. Manion to be a judge on the Seventh Circuit Court of Appeals in Chicago. The nomination should be rejected. Mr. Manion is not qualified to sit as a federal judge, especially on the appellate bench.

The argument is often made that presidents should be granted wide latitude in selecting federal judges. Because presidential elections are the best mechanisms this democracy has for registering broad shifts in public values, there is wisdom in that—up to a point. Yet the Constitution grants the Senate power to affirm or deny judicial nominations, thereby entrusting it with the duty to require judicial nominees to attain at least a minimum standard of acceptability. As applied to the Court of Appeals, such a standard must set some minimum of proficiency as a scholar or practitioner of constitutional law.

In this regard Mr. Manion's credentials are so thin that any standard low enough for him to hurdle would open the judiciary to truly dangerous mediocrity. His 13 years of legal experience have been confined to personal injury defense, commercial litigation and small-claims work. He has participated in only 12 federal trials, never regarding federal law, and never as lead attorney. Appellate judges constantly must elucidate complex points of constitutional law through written opinions, yet Mr. Manion has never published a single piece of writing about constitutional law, or anything else.

Mr. Manion's nomination probably stems more from his work as an Indiana state legislator than from his slight achievements before the bar. In 1981 he sponsored a bill to require the teaching of "creationism." Repeatedly he has praised publicly the John Birch Society, which has included among its other right-wing views the conviction that President Dwight D. Eisenhower was a communist dupe. Mr. Manion often has questioned the legitimacy of Supreme Court authority and precedent. Thus he is not a true conservative either; his views instead are so far to the right of mainstream America legal and political thought that—even if otherwise qualified—he should not be entrusted with life-long judicial authority to rule on constitutional law.

The argument against Mr. Manion could go on and on. Qualified conservatives abound who would draw little opposition if only President Reagan nominated them. Before he leaves office Mr. Reagan will have appointed roughly half of the federal judiciary. To protect the judiciary's intellectual integrity, and through it the republic's foundation of law, the Senate is obliged to insist on higher standards than Mr. Manion can meet.

[From the New York Times, May 8, 1986]

WHAT KIND OF "LIKE-MINDED" JUDGES?

President Reagan's nominees for the Federal courts severely test his indisputable right to staff the bench with like-minded judges. More power to the Senate for resisting those whose background marks them as barely fit, or worse.

Consider the modest credentials of Daniel Manion, the South Bend attorney nominated for the United States Court of Appeals for the Seventh Circuit. Mr. Manion has never appeared before this important court and so got only the lowest passing grade from the American Bar Association's review panel. His inexperience in Federal practice might be forgivable if it were compensated by scholarship. It isn't. Mr. Manion is best known for his broadcast conversations with his father, the late Clarence Manion, which castigated Supreme Court decisions on race, religion and obscenity.

"I'm glad there is a way we can curtail the Supreme Court," he told his father in a 1971 broadcast. Congress, he suggested, should selectively strip the Court of jurisdiction, a cause that still interests Mr. Manion. He assured the Senate Judiciary Committee he would follow precedent as a judge. Yet in 1980, a few weeks after the Su-

preme Court struck down a law requiring the posting of the Ten Commandments in Kentucky schools, he co-sponsored a nearly identical bill as a member of the Indiana State Senate. He now lamely explains that disrespect for precedent as "a kind of protest."

Another nominee, Jefferson B. Sessions 3d, offers somewhat more legal seasoning for a District Court post in Mobile, Ala., but he can't understand why black Americans take umbrage at his lighthearted references to racial prejudice. Recalled for more confirmation testimony, he acknowledged calling the N.A.A.C.P., the A.C.L.U., the Southern Christian Leadership Conference and the National Council of Churches "un-American organizations." He now asserts he "never meant to suggest, nor do I consider these organizations to be un-American."

Both nominees baffle senators seeking to engage their intellect and measure their slim qualifications. The Senate should reject them and thereby notify the President that in offering such candidates as "like-minded," he insults the courts, the Senate and himself.

[From the Arizona Daily Star, Wednesday, May 7, 1986]

UNQUALIFIED NOMINEE: DANIEL MANION SHOULD BE REJECTED FOR COURT OF APPEALS

Appointing federal judges whose politics reflect his own is President Reagan's right. But surely the prospective pool of judges and attorneys includes numerous people with qualifications vastly exceeding those of Daniel Manion of Indiana.

Sen. Dennis DeConcini, D-Ariz., a member of the Senate Judiciary Committee, can help send Reagan back to that pool by voting to reject Manion's nomination to the U.S. Court of Appeals for the Seventh Circuit in Chicago.

The Judiciary Committee will vote tomorrow on the nomination of Manion, a former Indiana state senator who received the American Bar Association's lowest positive ranking. The Chicago Council of Lawyers opposes the nomination, saying Manion lacks "experience with the kinds of complex federal litigation which he would have to review as a judge of the Seventh Circuit."

Since the Supreme Court reviews only 100 to 150 appellate cases each year, it is extremely important that appeals court judges have a high degree of experience and scholarship. Manion, whose legal experience is in personal injury and small claims cases, has never argued a case before the Seventh Circuit Court. As for scholarship in legal interpretation, he told the Judiciary Committee that he had no published writings.

Beyond these questions, however, are concerns about Manion's extremist views of the Constitution, particularly on freedoms of religion and speech. In Judiciary Committee hearings last week, Senate Democrats questioned Manion about his sponsorship of a bill to allow the Ten Commandments to be posted in Indiana public schools two months after the Supreme Court ruled that such postings were unconstitutional.

They also expressed concern about his cosponsorship of a bill to require the teaching of creationism in the public schools, despite rulings in federal courts that creationism is an unconstitutional advancement of religion.

Sen. Paul Simon, D-Ill., questioned a 1979 letter by Manion to a John Birch Society chapter that said, "Your members are certainly the people who are on the front line of the fight for constitutional freedom." Concern also focused on statements he made in broadcasts in the 1970s on a radio and TV talk show co-hosted by his father. On two broadcasts in 1971, Manion called for Congress to enact legislation stripping the Supreme Court of broad areas of its jurisdiction to enforce constitutional rights.

These and other actions that show a blatant disregard for citizens' rights to free speech indicate a man who does not value basic constitutional principles and who does not have the basic qualifications for this crucial lifetime appointment. Reagan can do better, and still be ideologically comfortable.

[From the Los Angeles Times, May 7, 1986]

NOT AT ALL JUDICIAL

The Reagan Administration's appointments to the federal judiciary have included a number of well-regarded legal minds as well as some people of much less ability and experience. Among those of much less ability and experience. Among those in the latter group is Daniel A. Manion, who has been nominated for a seat on the Seventh Circuit Court of Appeals, which sits in Chicago and covers Illinois, Indiana and Wisconsin. Manion's record makes him a poor choice to be an appellate judge.

Manion has not distinguished himself either as a lawyer or as a legal scholar. Much of his adult life was spent with the Manion Forum, an advocacy group that produces radio and television broadcasts endorsing extremist right-wing views. He told the Senate Judiciary Committee that he had no published writings, which in itself should raise eyebrows about a nominee for a court that issues written opinions on complex legal issues.

The positions that Manion has espoused should give the Senate further pause about giving him a lifetime judgship. Manion has praised the John Birch Society, of which his father, Clarence Manion was a founding member, and called for the re-establishment of the House Un-American Activities Committee. During four years in the Indiana Legislature, he sponsored legislation to have the Ten Commandments posted in every classroom and to require schools to teach creationsim along with evolution.

His views of constitutional matters, which regularly come before the Courts of Appeals, are equally odd. For example, he opposes the incorporation doctrine, under which the Bill of Rights is applied to the states as well as to the federal govenment. He has repeatedly shown little regard for the First Amendment freedoms that federal judges must protect.

Manion lacks the qualifications and independence of thought necessary for this important judgeship. The Committee should reject him.

[From the Louisville Times, Monday, May 5, 1986]

NOMINEE "UNFIT BY ANY STANDARD"—HOOSIER JUDGE HOPEFUL IS SHORT ON CREDENTIALS, LONG ON IDEOLOGY

There's a big difference between most of the recent Reagan nominees to Federal district and appellate judgeships and Hoosier Daniel Manion, a former Indiana state legislator. The President wants to put Mr. Manion on the 7th Circuit Court of Appeals.

Though most other Reagan nominees have been extremely conservative, they have also been generally well qualified—either as scholars or lower court judges. Not so with Mr. Manion, who seems to be unfit by any standard.

Mr. Manion has been declared unqualified by the Chicago Council of Lawyers. The American Bar Association, which reviews all nominees for the federal bench, gave him the minimum passing grade.

Although scholarship and writing are among the most significant responsibilities of federal appeals court judges, Mr. Manion astonishingly told the Senate Judiciary Committee that he has no published writings. Certainly Mr. Reagan could have found a more suitable candidate.

Finally, Mr. Manion has never been a judge—not an impossible barrier to appointment, but still a distressing weakness considering the fact that he is not a scholar, either.

Beyond that, Mr. Manion would be unworthy of the federal appellate bench. His kindheartedness toward the extremist John Birch Society is disturbing. After the death of his father (a founder of the Birch society) in 1979, Mr. Manion wrote the organization, thanking members for their expressions of sympathy: "Your members are certainly the people who are on the front line of the fight for constitutional freedom."

In his own record he has given some indication of what he thinks of "constitutional freedom."

He holds a view that access to federal courts should be virtually as exclusive as membership in selective private clubs. In 1971 Mr. Manion declared on a television program that he would strip the Supreme Court of the power to enforce many constitutional rights, a view with which many more traditional conservatives differ.

As a Hoosier state senator, Mr. Manion advocated censorship of public school textbooks, at which time *The Louisville Times* noted that his guidelines were so strict that they would have sent works by Ernest Hemingway and Mark Twain to the dumpster.

He also worked to inject "scientific creationism" into the biology curriculum of Indiana public schools. After Kentucky's Ten Commandments bill was struck down by the U.S. Supreme Court, Mr. Manion sponsored a similar measure in Indianapolis. At the least it was a waste of time and at most a serious violation of the First Amendment separation of church and state.

Thursday the Senate Judiciary Committee, of which Kentucky Sen. Mitch McConnell is a member, will consider Mr. Manion's nomination. It should be soundly rejected.

[From the Plain Dealer, June 7, 1986]

SESSIONS REBUFFED

The appropriate response to the U.S. Senate's rejection of Jefferson Beauregard Sessions III to be a federal judge is "hooray!" It was the first time a Reagan judicial nominee had been rejected, and should embolden the Senate to block other unqualified candidates. After six months of hearings, the Senate Judiciary Committee doubted that Sessions could be a fair and impartial judge.

Sessions, 39, a U.S. attorney in Alabama, presented a record splotched with racist remarks, slurs on respected social-activist groups and the questionable prosecution of civil rights workers who later were acquitted. His racial insensitivity alone disqualifies him. His selective memory—he admitted some gaffs, then recanted his testimony—sealed the committee's vote.

In the kind of egregious chutzpah the nation has seen too often, Attorney General Edwin Meese III condemned the decision as "an appalling surrender to the politics of ideology." This, from the chief orchestrator

of placing young ideologues in judgeships to color the federal bench's philosophical bent for decades to come. "Political or ideological litmus tests should have no place in the confirmation process," Meese huffed, as if reserving the litmus paper for his own screening process.

Last month the Senate Labor and Human Resources Committee rightly rejected Jeffrey Zuckerman to be general counsel to the Equal Employment Opportunity Commission, whose goals he did not support. Also in May, the judiciary committee refused to confirm Daniel Manion, an Indiana lawyer picked for an appellate judgeship. But the panel narrowly agreed to send Manion's name to the floor without recommendation, leaving his confirmation possible, but more difficult. Manion also suffers from inexperience, rigid ideology, low professional ratings and a blindness to First Amendment guarantees. Last summer the same committee blocked the controversial choice of William Bradford Reynolds, who wanted to undo civil rights laws as associate attorney general.

By now the message should be getting through at the White House. People are not qualified for office just because the president or his associates say so. And the Senate is not going to retreat on issues of race. Under President Nixon, conservatives also were nominated to the bench and other high posts, but the appointees were persons capable of logic and reason. Reagan's choices are blind theorists who want their ideology to shape events instead of interpret them. For the country's sake, Meese and Reagan must learn this distinction.

The point is that those who suggest that this is somehow merely a trumped up exercise because we have no place else to go on a Wednesday night and we pick on Daniel Manion because he has an ideological bent with which some of us disagree, I might think really miss the point.

Let me put something else in perspective.

We have had 270 Federal judges that this President has appointed. I have been in charge of the Democratic position as the ranking Democrat on the committee during almost all of those submissions.

In the entire time that the President has been President of the United States, sending up 270 Federal judges, we have only on four occasions—only on four occasions—even asked the U.S. Senate to vote on the nominees by rollcall vote.

I would dare say there is nary a liberal nominee in the bunch. I would dare say, by any objective standards, at least 260 of those 270 nominees would be considered political conservatives.

We, in fact, can refer to just a few.

The President nominated and we confirmed and voted for, and I voted for, the chairman of the conservative party of New York State, a judge we put on the bench who was the attorney for the National Right to Life Organization, a very qualified, decent man named Noonan.

We put on the bench some of the finest conservative legal minds in this country.

Judge Scalia was put on the bench during this administration, and Judge Esterbrook.

There have been a number of extremely qualified, extremely competent and extremely conservative judges we have put on the bench.

But now that we take issue with this nominee to be put on the seventh circuit, all of a sudden it is somehow a major issue relating to whether or not it is political.

In the U.S. Senate Committee on the Judiciary we had a similarly unqualified man named Sessions. He was one of those four people that we took issue with. In the committee, the same argument went up, that Mr. Sessions is qualified, that this is merely political, and so on, and the Senate Judiciary Committee with all the Democrats and several Republicans voted against him and turned down his nomination because he was not qualified to sit on the district bench.

My colleague talks about the ratings that the judges have received under the Reagan administration. The fact of the matter is there has been a precipitous drop or change, in the Senator's view, in the caliber of the men and women—I should not say women because there are not many women sent up by this administration—in the caliber of the men who had been put forward under former Attorney General Smith, where the standards were fairly high.

□ 2020

They were as high as any administration, on balance. But in President Reagan's second term—and by the way, for the record, we should point out that there are several categories which the ABA looks at, that they put prospective nominees in when they give us their opinion as to their qualifications. The first is exceptionally well qualified; the second is well qualifiedd; the third is qualified; and the fourth is qualified/not qualified, the majority saying qualified, the minority saying not qualified. The fifth is not qualified.

Just in the second term, under Mr. Meese, the percentage of those sent up receiving a rating of qualified/not qualified, which is what was the case here, 37 percent of all the nominees that have been sent up for the circuit court of appeals in every circuit in the country, 37 percent, received a rating of qualified/not qualified—for the circuit court of appeals.

I also would like to speak, if I may, for a few moments to this notion that in fact, we are picking on small-town lawyers. Let me tell you, Mr. President, some of the finest minds in this country on the bench, some of the finest minds in this country in American politics, some of the finest minds in this country in the area of business and labor have come, like me—not that I am one of the finest minds—from small towns. I believe the Senator from Illinois is from a small town. I am from a small town in terms that the Senator from Utah is suggesting of the small town of South Bend, IN.

When you do not have much to point out as to what the qualifications are, you talk about the fact that your neighbors like you; the people with whom you deal as a lawyer like you. The fact that you are honest and honorable with them is a very positive point. But we are not talking here about nominating somebody to be an assistant attorney general. We are not talking about someone here that we are nominating to sit in a family court in the State of Delaware or Illinois or Indiana. We are not talking about someone here whom we are going to make the commissioner of baseball, although I guess the public might think that was more important than all the others I have named so far. We are talking about the circuit court of appeals.

The circuit on which we are about to place this man, if he is to be confirmed, has some very fine conservative minds. This idea that we are after conservatives—let me tell my colleagues whom we have appointed on that circuit just since we have been here, men who, in fact, are extremely conservative, men who are fine, fine men.

Frank H. Easterbrook. No one in this body would suggest that he is not a conservative by any standard one could find. Frank Easterbrook, though—and by the way, Richard Posner. Let me read their criteria.

Frank H. Easterbrook graduated cum laude from the University of Chicago Law School and was a clerk to the Hon. Levin Campbell, judge of the U.S. Court of Appeals for the First Circuit. From 1974 to 1979, Mr. Easterbrook engaged in appellate practice as assistant (1974-77) and later Deputy (1978-79) Solicitor General of the United States. Immediately prior to his appointment to the Seventh Circuit in 1985, he was a professor at the University of Chicago Law School.

Richard Posner graduated summa cum laude from Yale College in 1959 and Harvard Law School in 1962. He served as a clerk to Hon. William J. Brennan, Jr., U.S. Supreme Court and Assistant to U.S. Solicitor General Thurgood Marshall. Immediately prior to his appointment to the 7th Circuit in 1981, Mr. Posner taught at Stanford University and the University of Chicago Law Schools.

I could go down the list here, but shall not take up all the time.

Mr. HATCH. The Senator speaks of Mr. Posner being placed on the Seventh Circuit Court of Appeals. Does the Senator know what his rating was by the ABA?

Mr. BIDEN. I believe it was qualified.

Mr. HATCH. The same as Mr. Manion's. Mr. Manion had 11 to 13 or 14 ABA people find him qualified. There was one before that found him unqualified.

Mr. Posner, one of the most illustrious people in the country, now one of the most illustrious circuit court of appeals judges, was given a qualified rating by the ABA.

Mr. BIDEN. Mr. President, the Senator from Delaware has the floor. The Senator from Delaware was making the point responding to the charge that we have refused to put conservatives on the bench, that we have refused out of ideological reasons to go forward and allow conservative judges to sit here. That is the argument that has been made today; that is the argument that is going to be made tomorrow. In fact, the Senator from Delaware voted for both those men.

In fact, on that same circuit, there are six Reagan appointees, all very conservative men, all voted for by the Senator from Delaware. Now, because the Senator from Delaware and, I hope, a majority of my colleagues, conclude that one of the seven appointees to that court is not qualified, the Senator from Utah rises to suggest that this is pure politics. If it were pure politics, why did we vote for those other people? If it is pure ideology, why did we not contest those people?

Mr. HATCH. Will the Senator yield so I can give an answer?

Mr. BIDEN. The Senator is asking a rhetorical question. The Senator from Utah has asked his question. Let me finish my point.

I also pointed out that in addition to this notion that we have somehow decided to be purely political here, notwithstanding the fact that the 270 nominees that have come before the U.S. Senate during this administration, we have only even bothered to ask to vote on 4 of them.

In addition to that fact, that 40 law school deans from across the country said this man is not qualified to sit on the bench, I find that some of the statements that Mr. Manion made in terms of his credibility or his memory as to what he knows and does not know, what he had knowledge of, what he remembers or what he does not remember, are quite fascinating. It seems that the recent appointees under Mr. Meese have been people who have somehow concluded that all they have to do is come before this body and suggest or come before the Senate Judiciary Committee during the hearing process and suggest they will uphold the Constitution, notwithstanding anything else they have said. All they have to say is "I will uphold the Constitution," and if they say they will uphold the Constitution, they do not have to remember whether or not they endorsed constitutional principles that are somewhat out of whack or that others have had that they have cited in their past record. They assume they do not have to bother to explain inconsistencies.

For example, the Senator from Utah makes the case about the legislation that Mr. Manion voted on. Then he makes an analogy to the State legislature about posting the Ten Commandments. Then he makes an analogy to Abner Mikva, who is now on the court, and says, well, one legislator and another legislator; we went forward with the one, why not go forward with the other?

There is a little distinction. If a U.S. Senator or U.S. Congressperson, as Judge Mikva was, or a State senator like Mr. Manion, knows that what he or she is about to vote on is in fact unconstitutional, knows it to be unconstitutional, yet nonetheless goes ahead and votes for it, it raises the issue of whether or not, when they took their oath to defend and uphold the Constitution, they understood the oath they were taking. It is very difficult to take a position on a controversial issue which is in question as to its constitutionality or on which constitutionality is never raised and to take a position on an issue which you believe as an attorney—and at least he was clearly competent enough to make the judgment that what he was proposing was unconstitutional. If you believe it to be unconstitutional and nonetheless go forward and vote for it.

□ 2030

Mr. Manion in his testimony before our committee, when asked about this legislation, repeatedly made references to the fact that he believed that the law that he had proposed and voted for was in fact almost precisely like a law that had been overruled. He went on to suggest that—overturned the Kentucky law only a short time before. And he says, "I knew the Kentucky law had been overruled." And he says—and remember now, he is under oath. He knew that it had been declared unconstitutional and that he knew this was almost the same, but he made the argument, a very interesting argument, that in fact it was the equivalent of a legislative protest, and that was the way I believe he was going to move off this issue of whether or not he voted for something unconstitutional, that he knew to be unconstitutional. And Mr. Manion was, I thought, fairly straightforward and he answered the questions whether or not he knew. He said, "I knew the Kentucky law had been overruled." And I said, "Is that a distinction with a difference?" He said, "Well, obviously in Indiana this particular law had not been." And he goes on and says, "But it probably would have been."

And then in other parts through his testimony—when I finish my statement, I will be delighted to discuss this at some length with my colleague—he says that—in fact, when asked whether or not it would be challenged and overruled, he said, "Yes, I would say it would have been overturned. There is no question about that."

Now, I asked my staff to go back and get that testimony because I knew that this would be an issue during this debate, and I found something fascinating. Maybe it has happened before, but I do not recall it happening before. When we got the official transcript, it did not read precisely like what I remember. So I asked to go back and get the original transcription that was not the official transcript, and attached to it was a letter signed by Paul J. Guller, chief printer, and it says:

> Dear Witness: Enclosed is a transcript of your remarks to afford you the opportunity to review and correct it. Only changes in diction, expression, clarity, brevity, accuracy, or to correct any errors in transcribing are permitted. If changes in substance are desired, a written request must be made to the chairman. Please write all possible corrections legibly . . .

That was dated April 30. Now, after the hearing and after receipt of this letter, when the rough transcript was sent, Mr. Manion or someone on Mr. Manion's behalf went back and made some changes. And some of the changes I find, quite frankly, a little disturbing. Maybe I am wrong and maybe my colleague—and I would invite his comment at this point when I finish this, without yielding the floor, if he wishes to comment on this. I got a little confused because I remember clearly that he said he knew the law in Kentucky to have been overruled and unconstitutional. He believed the law in Indiana to be similar, if not precisely the same, and he was confident the Indiana law would be declared unconstitutional, there was no question about it.

Then I go back to read that, and I find the official transcript now reads, instead of the following—which would be on page 94 of the transcript—

> Senator BIDEN. Is that a distinction with a difference?
>
> Mr. MANION. Well, obviously, Indiana, this particular law has not been but it probably would have been.

Then I go look at the official transcript, and the official transcript says:

> Well, obviously, Indiana, this particular law had not been but it may have been.

"Probably would have" to "may."

Now, I look at page 97:

> Mr. MANION. Well, I think we passed that law basically as a protest stating that our opinion was in Indiana 39-to-9 in the Senate and, yes, it is unlikely that that would have survived the legislative process.

The new transcript reads:

And, yes, it is unlikely that that would have survived the legislative process.

Not very much of a distinction, reasonable, but then we go down and find:

Senator BIDEN. Unlikely? It is not impossible?

Mr. MANION. You mean ultimately if they were challenged?

Senator BIDEN. Yes.

Mr. MANION. Yes. I would say that it would have been overturned. No question about it.

But the official transcript now reads, I say to my colleague from Utah, the following. Instead of it saying:

Yes, I would say it would have been overturned, no question about it.

It now reads:

Yes, I would say it probably would have been overturned. "No question about it" deleted.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I will be delighted to yield.

Mr. HATCH. Let us understand something. The Senator invited me to respond on this issue. First of all, every nominee is accorded the courtesy under our committee of reviewing the transcript and making changes that need to be made. These were not in my——

Mr. BIDEN. If I say, he is entitled to change diction, expression, clarity, brevity, accuracy, or to correct any errors in transcribing.

Mr. HATCH. That is right. He actually had said "probably" in answer to several questions earlier, and he wished to make his statement clear and accurate. The accusation seems to be, as I understand it, Mr. Manion voted for a bill that he knew was unconstitutional.

Mr. BIDEN. If the Senator will yield, I yielded to him to answer the question.

Mr. HATCH. It is not the same situation.

Mr. BIDEN. I ask the Senator to respond to this. If he does not, I will not yield the floor. Will he respond to whether or not the record was changed the way I said. On page 97, line 19, from:

Yes, I would say it would have been overturned. No question about it.

to:

Yes, I would say it probably would have been overturned.

Mr. HATCH. I think to answer the Senator's question I have to go through what happened from my perspective, but let me try to do so. Whether it was a hypothetical question or inquiry or whatever it was, basically it was did he vote for a bill that he knew was unconstitutional or did he support a bill that he knew was unconstitutional. The answer to that is he voted for a bill that Senator METZENBAUM said was unconstitutional.

During the April 30 hearings Senator METZENBAUM asked Manion about a bill Manion voted for in 1981—this was the one we are talking about—allowing the Ten Commandments to be posted in State classrooms. Manion remembered the issue but not the specifics of the legislation, and I think the transcript bears this out.

Senator METZENBAUM, who had copies of both bills there before him, some of which were blown up for the TV cameras, told Manion that the two bills were identical.

Senator METZENBAUM. The question, Mr. Manion, is how could you, as a member of the legislature, introduce a proposal that you knew had been unconstitutional just 2 months before?

That is in the transcript at page 38.

Manion tried to point out that he was not sure that the bill was identical. Here is what he said:

I do not know what the distinctions were between our bill and that bill.

Page 39. Now, Senator METZENBAUM, who, again, had both bills in front of him—and Manion had not dwelled on this issue for over 5 years—prompted Mr. Manion. He said this:

There were none that I know of. Do you know of any?

Mr. Manion replied:

Not too many. I do not remember the distinctions.

Mr. BIDEN. If the Senator will yield, what does that have to do with my question?

Mr. HATCH. Let me get through. And then explained to Senator METZENBAUM that "He would have tried to tailor it"—that is, a bill responding to the recent court decision of unconstitutionality—"so that it did meet the requirement of the court of appeals or the Supreme Court."

That is at page 40. But Senator METZENBAUM, again with both bills before him—Manion was not even given copies—did not disclose, Senator METZENBAUM did not disclose that with the Ten Commandments legislation Mr. Manion had done just that. Instead, Senator METZENBAUM proposed that the bills were identical and attacked not Mr. Manion but Senator METZENBAUM's own straw man in this case.

□ 2040

Senator KENNEDY was also misled by Senator METZENBAUM in his attacking Manion for the same thing.

Senator KENNEDY said:

Well, is it your understanding that a State statute can overturn the Supreme Court decision?

Mr. MANION. Not that I know of.

Senator KENNEDY. Well, did not the Supreme Court rule on this, which is in your response to Senator METZENBAUM? Do you acknowledge that?

Mr. MANION. He—

Meaning Senator METZENBAUM—

explained to me it did rule on a Kentucky case; that is right.

Manion properly pointed out at that point that he was going on Senator METZENBAUM's reading of the bills, and his reading, of course, was erroneous at the time. So he pointed out to Senator KENNEDY that the bills would have to be compared.

Senator KENNEDY. So what would have been the effect of it even if the legislation had passed?

Mr. MANION. It probably would have been overruled. But I would have to compare the laws.

At that point, Senator KENNEDY got into a slight altercation with the committee chairman, insisting that Mr. Manion answer the question. Mr. Manion tried to accommodate him, and Senator KENNEDY implied that Mr. Manion was being evasive and was not answering.

Mr. BIDEN. I ask my colleague to respond to the question. Did he substantively——

Mr. HATCH. I do not think he substantively changed his position, no. He clarified his answer.

Mr. BIDEN. Then, why did he not submit a revision of his testimony, saying, "Although I said that, I did not mean that"? How can you possibly read that and say that it is not a substantive change in testimony?

Mr. HATCH. I do not think it was. He said "probably" throughout most of his testimony.

Mr. BIDEN. He was under oath. Is there any doubt that he said at least once when he was under oath, "Yes, I would say it would have been overturned. No question about it"?

The Senator from Delaware goes back to get that sworn statement, and that sworn statement now reads, "Yes, I say it would have probably overturned."

There is nothing appended to this that says: "Let me have another hearing and explain what I meant." There is nothing that says: "Although I said that, that is not what I meant."

Mr. SIMON. Mr. President, will the Senator yield?

Mr. BIDEN. I yield.

Mr. SIMON. Let me ask a question of the Senator from Delaware, because what he has just provided the Senate I find very intriguing.

I have to say that I have read and reread testimony from time to time; but in my 11½ years in Congress, most of that time in the House, I cannot remember anyone testifying under oath who has ever made that kind of change or was permitted to make that kind of change. Does the Senator from Delaware remember any such occasion?

Mr. BIDEN. I do not.

I moved down here to be closer to the Senator from Utah so I could hear him better.

I am raising an inquiry. Maybe there is reason for this. With all due respect,

it is a little like the answer my colleague from Utah is giving me: Although yesterday I may have said probably, probably, probably, the next day I say surely, surely, surely. Now I can go back the following day and say that although I said both of those under oath, "probably" one day and "surely" the next day, I can expunge the "surely."

Mr. HATCH. The fact is that Mr. Manion was misled by Senator METZENBAUM and I do not think it was intentional.

Mr. BIDEN. Did he say what he said?

Mr. HATCH. He was misled. Mr. METZENBAUM's arguments at the time assumed that the two statutes were identical, and there is obviously a distinction between a statute requiring the posting of the Ten Commandments and one that authorizes or permits such posting. He had been 5 years removed from this when he was asked those questions. I do not think there has been a substantive change.

Mr. BIDEN. Let me put it this way——

Mr. HATCH. I think that is really stretching it.

Mr. BIDEN. I think that is a ridiculous assertion.

We have sworn testimony here that has been materially changed. If a witness is on the stand during a trial and the witness says during the trial—the only analogy I can make when someone is under oath and the witness says, "I killed Cock Robin." Then, on appeal, the official transcript, without any further questioning as to whether he was misled, is that he thought Cock Robin was a hen down the street rather than a prized bird that the trial was about.

The trial is over; the hearing is over. He is no longer under oath. The transcript is being submitted on appeal, and on appeal, rather than asking for the case to be reopened and explained what he meant, he merely changes the transcript on appeal to change materially what he said.

How can anyone not understand that this is a material change? "Yes, I would say it would have been overturned. No question about it."

The only reason I found this out is that I asked my staff—I said, "Would you go back and get me the transcript so I may prepare it?" He goes back and gets the transcript, and I said: "Wait a minute. I don't remember this. Go get the original transcript."

I get the original transcript, and I look at the original transcript and at the official transcript, and there is a difference. It is moved from "no question about it" to "probably."

I suggest that the appropriate, ethical, and reasonable thing to do, if in fact Mr. Manion felt he had been misled, is to ask for another day of hearing, ask for an opportunity to come back under oath once again and in fact change his testimony. But not in an ex post facto way go back and change the testimony.

Mr. HATCH. Will the Senator yield on that point? Let us be fair.

Mr. BIDEN. Let us be honest while we are being fair.

Mr. HATCH. You be honest, too. I am being honest. Let us give the man a chance. I think the logical thing for him to do when he realized he was misled by a distinguished U.S. Senator was to clarify the transcript and make it accurate.

Mr. BIDEN. That is interesting; that is fascinating.

Mr. HATCH. He also used the word "probably," as I understand it. Here we have a distinguished U.S. Senator asking questions, assuming that the two statutes were identical, and he did not know. It was 5 years from that time. Senator METZENBAUM did not offer him the statutes, did not offer them side by side and say they are exactly the same.

Mr. BIDEN. Let us assume that is correct.

Mr. HATCH. That is correct. The fact is that when he realized that, he made the changes.

Mr. BIDEN. Would you have told the Senator from Delaware about that change had I not found it accidentally?

Mr. HATCH. Sure, if I had known about it. The fact is that he was being honest when he realized there was a mistake. The only word that was added is the word "probably," as I see it. Maybe I am wrong on that.

Mr. BIDEN. You are wrong on that, because, as I understand it, also stricken was "No question about it."

Mr. HATCH. That is consistent with the word "probably."

Mr. BIDEN. You might as well go back and change it.

Mr. HATCH. I suppose he could have called for another hearing and say, "I made a mistake because I was mislead by Senator METZENBAUM."

Mr. BIDEN. Misled by Senator METZENBAUM?

Mr. HATCH. Senator METZENBAUM asked the question in a way, couched in a way, that did not let the man know what the facts were.

Mr. BIDEN. Let me set the record straight.

The majority counsel, as pointed out to me, was the source of the cooperation here. When I asked my staff this question, they not only did not receive an evasive answer from majority counsel, but majority counsel pointed out to my staff that this change had occurred.

Mr. HATCH. Will the Senator yield on that point? I think I can clarify something.

Mr. BIDEN. Yes.

Mr. HATCH. The majority investigator did tell you that.

Mr. BIDEN. That is right, and that is what I just said.

The point is, though, that there is a material change.

Now, the reason I bothered to mention this is—does the Senator from Massachusetts wish me to yield?

Mr. KERRY. Will the Senator yield for a question?

Mr. BIDEN. I yield.

Mr. KERRY. I should like to ask him, through the Senator from Utah. I appreciate the discrepancy which the Senator from Delaware is drawing out here. To this Senator there is an enormous difference, a world of difference, a whole difference in meaning, a total difference between the concept of "possibly" and "probably" and "no question about it."

I do not see that there is anything there but a change of substance.

My question to the Senator from Utah is this: Even if there were a difference between the laws, what kind of posting, what kind of statutory permissiveness with respect to posting of the Ten Commandments, does he believe would be acceptable under those circumstances?

□ 2050

Mr. HATCH. The fact of the matter is that the Supreme Court says that a mandatory posting is unconstitutional. That implies that a nonmandatory posting might not be unconstitutional.

Any lawyer would give you that argument. There is nothing wrong with that.

Second, remember, Manion was a legislator.

I have seen a lot worse things going on in this body than ever went on there on that particular issue. I tell the Senator now almost every day in one of these two bodies someone brings up something. As chairman of a subcommittee of the Judiciary Committee dealing with constitutional issues every day I have to admit something is probably unconstitutional.

If you are going to hold the man culpable that he never sit on the Federal bench because he supported a law that might be unconstitutional because it, in fact, differed from what was ruled constitutional, my gosh, there is not a man or woman in either of these bodies who sit here who could ever sit on the Federal bench.

Let us be honest about it. There was a distinction between the Indiana law compared to the Kentucky law, and that distinction was that the Indiana law did not make it mandatory to post the Ten Commandments. That is a very, very important constitutional distinction.

I personally believe that this Supreme Court or that then-Supreme Court would have found the Indiana law to be unconstitutional, too, but

that is just a personal belief. They might not have.

Mr. KERRY. The Senator from Utah does not find it somewhat remarkable that a man we are thinking about elevating to the second highest court in this land was not capable in the face of repeated questioning in front of a committee where he knew he was going to be subjected to drawing these kinds of distinctions as an ex-legislator, who supposedly was drawing the distinction at that time, and was unable to and did not draw that distinction at that time and had to change his answer subsequently?

Mr. HATCH. If he was incapable, it was because of misleading questions by one Member of our distinguished body.

Mr. KERRY. The Senator is suggesting to me that this potential judge who is going to have to draw potential judgments——

Mr. HATCH. I am suggesting to you that before a man can answer questions about the comparison between two statutes he ought to at least be given the opportunity to examine both, or he should not be misled by a distinguished Senator's questions into believing that the two statutes were identical having not seen them for 5 years.

Now, when he finds that he was misled, then I think a question of common fairness dictates to the Senator, to me, to Senator METZENBAUM, and everybody else to say "You ought to be able to clarify that," because it is clear that he did not know what the question was because it was not right, it was not fair, it was not accurate, and it did not tell him there were distinctions between the Kentucky statute and the statute that he in fact and a whole raft of Democrats voted for in the Indiana Legislature, and that statute was decidedly different from the Kentucky statute.

Mr. KERRY. I say if it was——

Mr. HATCH. If the Senator makes a constitutional argument it was constitutional, although I personally would not do that——

Mr. KERRY. I say respectfully to my colleague that if it was in fact so distinguishable——

Mr. HATCH. It was

Mr. KERRY. And if this gentleman is indeed the quality kind of person we should be elevating to the second highest court in our country, when he comes before a body that he knows is going to be interested in asking him to explain his past, to tell me that the excuse is that he was misled by a U.S. Senator's questions does not do a lot to give this Senator confidence that when he is trying to discern between one question and another of attorneys who come before him in appellate brief he is going to have the ability to be able to do so on some things.

Mr. BIDEN. Mr. President, does the Senator from Delaware have the floor?

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. BIDEN. I thank you.

I would like to make a point here that there are two separate issues relating to this case.

The first is whether or not Mr. Manion knew or should have known that the law that he voted for was unconstitutional or whether or not he believed it to be unconstitutional and voted for it nonetheless. That is one issue.

There is a second and utterly distinct issue that has no relevance to the first, and that is, is it appropriate when, in fact, the witness who receives a letter saying that "under the rules of the U.S. Senate the enclosed transcript of your remarks affords you an opportunity to review and correct but only changes in diction, expression, clarity, brevity, accuracy, or to correct any errors in transcribing are permitted," to change that testimony? Now, the question is, Is the sworn testimony under oath that was changed a change in diction, a change in expression, a change in clarity, brevity, accuracy, or to correct errors in transcribing? That was my question.

And I will submit for my colleagues who will read the RECORD and be told about it by their staffs and who may be listening to this, I would suggest that changing a sentence under oath from "I would say it would have been overturned; no question about it," to read, "Yes, I would say it probably would have been overturned," is a material change in a transcript.

Now, there may be an explanation for it. There may be an explanation that the witness did not make the change. There may be an explanation that he, in fact, thought this was no material change. There may be an explanation he thought it was a material change but he thought he had the right to do it.

Whatever the reason, it warrants some explanation, because it is highly unusual for a transcript to be changed like that when in fact the transcript was one taken under oath.

And it would seem to me if we look at motivation for the change, it is obviously in the interest of the witness to change his testimony from saying that "there is no question that it would have been overturned" to "probably." The reason why is simple for all my colleagues and we all see it. If, in fact, a State legislator votes for a law he believes to be unconstitutional and says there is no question it would be overturned, then, in fact, it raises the issue of whether or not he or she is upholding the constitutional sworn oath that he or she took to uphold the Constitution.

Now if it moves from "no question about it" to "probably" then there is no question because if it is only "probably" the accusation could not be made or the question could not be raised that, in fact, they were violating their constitutional oath.

So, I have a concern. The concern is that there was in fact a material change and, second, there is an apparent motive to change it for the benefit of the nominee. That being the case——

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BIDEN. No; I will not yield at this point.

So what I want to raise for my colleagues' consideration is the second of two issues relating to the so-called posting of the Ten Commandments legislation.

One relates to whether or not it was or should have been unconstitutional.

The second was why was the sworn testimony changed under circumstances which expressly forbid material changes to be made?

Now, with regard to the question of whether or not the case in question, the Kentucky case, would have permitted, and it was the second issue now, separate and distinct from the first one about changing sworn testimony, materially changing, separate and distinct, the issue of whether or not the Kentucky case was so different from the case in Indiana.

Let me read from the court decision.

The court held that:

. . . the mere posting of the copies——

That is the Ten Commandments.

. . . under the auspices of the legislature provides the "official support of the State . . . Government" that the Establishment Clause prohibits.

But then it went on to say that the opinion made clear that the Ten Commandments could be included where appropriate in a study of history, civilization, ethics, or comparative religion. But the Court concluded that the permanent posting of the Ten Commandments, in a classrooms and at times when they were irrelevant to the subjects under study, had a preeminently religious purpose, particularly since readers were admonished on a variety of entirely religious subjects, such as the proper method of worship, the avoidance of idolatry, and the keeping of the Sabbath Day. 449 U.S. at 41-42.

So this distinction my colleague makes that one said "mandatory posting" and the other just said "posting" is, if you read the decision, in this Senator's view, a distinction without a difference.

They made it clear that the other was also unconstitutional. The posting for any purpose other than the study of relevant religion, comparative religion, civilization history, et cetera.

Mr. SIMON. Mr. President, will my colleague yield?

Mr. BIDEN. I yield for a moment. I wish to finish.

Mr. SIMON. I do not want to interrupt.

Mr. BIDEN. That is OK.

Mr. SIMON. Mr. President, there is a third question. The Senator may or may not have the answer, or maybe the Senator from Utah can get the answer, through the chief counsel of the committee—who changed the testimony. Was it the nominee? Was it someone else?

□ 2100

(Mr. TRIBLE assumed the chair.)

Mr. BIDEN. While I am finishing my statement, I would ask my staff to speak to the majority staff. Maybe they know the answer to that and it can be supplied for the Senator. I do not know the answer to that.

Now, let me move on, if I may, to a few other points that I would like to raise.

Again, now, we are talking about the circuit court of appeals. The argument has been made that somehow those of us who think this man is not qualified to sit on the circuit court of appeals must, first, prove our case, and, second—as if it is an inherent right, because you are nominated, to be put on the court—second, not only must we prove our case, if we make the argument that he is not qualified, either in attempting to prove our case—which is not our responsibility to prove our case; we leave the responsibility to the nominee and those who support him to prove their case, but assuming while we make that case that he is not qualified, the assertion is made that it is merely because we have a different ideological point of view than the nominee.

And I ask the rhetorical question once again: Out of 270 nominees that this President has submitted for consideration for advise and consent of the Senate since he has been President, if we wished to be political, why is it that there were only four rollcall votes asked? You might respond, "Well, maybe you knew you couldn't defeat the other people." But why is it that, in committee, in addition to that, we went on voice vote on 95 percent of these people? And some of the most conservative minds ever to be put on the bench have been placed on the bench, voted for by the Senator from Delaware, voted for by the Senator from the great State of Illinois, and voted for by the vast majority, overwhelming majority, of those who now oppose this nomination.

So I find it interesting that we are being political now because we pick 1—in fact we picked 4 out of 270 conservative appointments.

I do not think that makes any sense. I think that, in fact, it is evidence of the fact that there is not a strong argument for Mr. Manion.

Legislators have a right to disagree. Legislators do not have a right to vote for legislation that, in fact, is clearly unconstitutional or that they believe to be unconstitutional. Otherwise competent, small town attorneys have every right to be considered for the bench. But the measure for their consideration should be no less than big town attorneys. It should be one standard for all.

If you come from a large city and you are unqualified, you should not be on the bench. Merely because you come from a small town, does not mean you are automatic.

By the way, most people in my State would not consider South Bend a small town. South Bend is larger than our largest town. So I kind of take issue with the fact of what a small town South Bend is. It happens to be larger than the largest city in my State. If you want to talk about small towns, where I come from you are talking about towns of 10,000 or 20,000 people, 2,000 and 3,000 people.

But, again, I believe it is a red herring to suggest that this issue is about ideology, taking on a small town lawyer who otherwise is fully competent and capable. And if we even raise the issue, the burden is on us to prove beyond a reasonable doubt. This is a job for life. This is a job that in fact will affect the rights and privileges of Americans for a long time to come.

As I say, once again—and I am about to yield the floor because I have taken my share of the time for now, I will come back later this evening—the fact is this is not about ideology. This is not about whether Mr. Manion's view of the incorporation doctrine—and for everyone's edification, the incorporation doctrine is a crazy little thing that says, you know, the Bill of Rights applies to the States. That is the incorporation doctrine. The principle we settled about 70 years ago after a civil war and after some great tumult and turmoil, the basic principle has been settled.

It is true James Madison had questions about it, but that was 200 years ago before we had a civil war, before we had most of what in fact are the amendments that followed on, in fact all of the amendments that followed on from the First Ten Amendments, the so-called Bill of Rights.

I can understand that he has a view that says the Bill of Rights should not apply. I can understand that a man whose father was a very prominent member of the John Birch Society, I believe an organizer and a proponent of, and a distinguished man otherwise, I can understand why a son, out of loyalty to a father, would hold positions or state positions while the father was alive that are similar. I hope my son will be so loyal to me in some of the views that I have.

I even believe that the fact that this nominee has some very—what I think most people would agree would be—and I will read some of them later—some relatively extreme views, he is entitled to those views. He is entitled to have those views.

But I find it interesting that he does not remember some of those things. I find it interesting that he does not remember whether or not and under quite what circumstances and if he endorsed Larry McDonald's book. I am going to read excerpts later from the book so the public record will show the kind of things we are talking about. It is not just merely there is a book out there. You know, it is a kind of interesting book. And I will submit to my colleagues whether or not they think it clearly states what the Constitution is about.

I can understand him even having taken the position that the book makes sense. But I cannot understand how he does not remember it. I cannot understand how he does not remember the book. I cannot understand how he does not remember whether or not he specifically subscribed to it.

I can understand him sending the congratulatory or thank you note to members of the John Birch Society upon his father's passing. That is a noble, reasonable, and, in fact, I think very warmhearted thing to do. But I cannot understand why it was necessary to talk about the John Birch Society being in the forefront of our freedoms unless he believes that. But we do not even get to that. We do not even have to get to that point.

I raise them only as it relates to either the memory of this witness and his ability to remember facts in the past, or his credibility as to whether or not he is telling us now what he really remembered.

I also raise the issue of whether or not this young man has sufficient experience to be on the circuit court of appeals and whether or not his training adequately suits him to be on the second highest court in the land.

And I might add, in conclusion, it is not merely me that has raised that. My colleague from the State of Utah has been here almost as long as I have. He is almost as senior as I am. I doubt whether he can remember a time when 40 law school deans have taken it upon themselves to write to say this nominee is not qualified. I doubt whether—maybe there was a time; I do not remember it. But I surely think—and I read the list earlier, I will not repeat it—I surely think it is not merely what some might suggest is the Northern liberal establishment law schools. We are talking about law schools from all corners of this country, deans from all corners of this

country, legal scholars like Philip Kurland, who, by the way, the Senator from Utah and I went to on occasion to get some constitutional support for our position on busing, which is to be against busing, a man who is not known for his liberal views.

So, this is not merely a group of 40 to 50 to 60 Senators who, in fact, think that they just want to play politics today. It is all about whether or not the man who is going to be put on the bench for his life is qualified to serve on that bench. He will be there, as I said, long after all of us are gone. God willing, his health holding up, he will be there long after all of us are gone.

□ 2110

And it seems to me we have no opportunity or right, I might add, to review his conduct other than if it is totally outrageous and criminal in nature once on the bench, and I have no doubt it would not be that were he on the bench if it was criminal in nature. Since this is the only chance we have to review it is now, it is not unreasonable for us to suggest that maybe all those law school deans, all those other people out there might not be wrong, and that merely by raising this issue suggests after we have already voted on 269 candidates for the court, appellate court as well as the district court, and that somehow all of a sudden we have turned liberal. What has happened all of a sudden is the caliber of the nominee has dropped off markedly. That is why we are here this evening. That is why this Senator is here this evening.

I yield the floor.

Mr. HATCH. Mr. President, I have enjoyed the remarks of the distinguished ranking minority member of the Judiciary Committee as I always do. He is a very eloquent, very dynamic, very interesting and, I might add, a very intelligent man. He may very well be President of the United States someday. He paid me a compliment a few minutes ago. I will pay him one. But I can say one thing. He does qualify as a medieval philosopher with some of these tremendous arguments he has made, and I should be more specific since we are trying to be specific here. I think I should say a medieval scholastic philosopher because there is no question that when it comes to splitting hairs and finding just exactly the right twist to put on something he is as good as anybody I have ever seen. That is a compliment, not a negative remark. I know that he believes what he is saying, too, which also means a lot to me personally.

But let me say this. To make a fuss, as big a fuss as this very distinguished Senator has made about the fact that Mr. Manion goes back to the transcript and it is Mr. Manion who did, and clarified his testimony openly and according to standard committee procedure. Therefore, it is wrong to suggest this clarification was a deliberate error or an intentional disregard of appropriate conduct. I think is stretching it just a little bit. I could bring up the argument that it is really a change of clarity, it is not a substantive change in my opinion, but a clarification. You know, we could hypothetically ask whether, had the election been held 1 day later back in 1984, would Ronald Reagan have been elected President. I do not think anybody who knows anything about that election would say anything less but sure he would have been.

Mr. BIDEN. You would not suggest he could go back and change the vote, would you?

Mr. HATCH. No; but I would say this. I think on reflection if we wanted to be accurate since this question is hypothetical, there is a possibility that he could have lost. To be accurate, therefore, we probably would go back and say, well, probably he would have been but he may not have been. I mean there is a possibility he may not have been. This is analogous to Manion's clarifying efforts. So it is a change of clarity and one that I suggest that he should have made especially when he found out that he was misled by the distinguished Senator from Ohio. Be that as it may, I think we both have beaten that to death.

With regard to the 40 law deans, I will assert that there is not one conservative in all of those law deans. I think that is quite apparent on this particular letter. But turning to the letter itself, I ask unanimous consent that we put the letter in the RECORD—it is dated June 24, 1986.

The letter is printed earlier in today's RECORD.)

Mr. HATCH. That particular letter is very critical of Mr. Manion. There are a number of errors in that letter by these very important law deans, all of whom I respect, many of whom I admire. But nevertheless we will take one:

> The majority of the American Bar Association screening panel found him barely qualified.

That is not the rating the bar association gives. The fact was he had a qualified rating. To go a little bit further on what the facts were, not only was he rated qualified, but probably 11 out of 14 or I would say 10 to 13 of the panel's 14 members voted that he was qualified. One to four found him not qualified. That is not unusual. That has been going on for a long, long time, except that it has become an issue since Ronald Reagan has become President.

The bar association has been used in this regard. The fact is some have had minority reports before but it was never made an issue by anybody until Ronald Reagan became President. I think it is important to know——

Mr. BIDEN. If the Senator will yield on that, I can recall the Senator from Utah making an issue on——

Mr. HATCH. On the minority report? Not that I recall. I do not think we ever did that. I would be happy to apologize. But not that I recall. In fact, I do not recall voting against many of Jimmy Carter's judges. I did lead the fight along with Senator LEAHY, who deserves a great deal of credit, against the one, who was rejected by the Senate Judiciary Committee back in that time.

Let me make the point. A substantial majority of these illustrious members of that rating committee found him to be qualified which is not an easy rating to get. I think the distinguished Senator from Delaware would have to acknowledge that is a fine rating for anybody. Sure, it is nice to have a well-qualified or essentially well-qualified rating. But when people like Posner and Scalia and a whole raft of others who are some of the leading juridical minds in this country, leading legal minds in this country, give only that qualified rating, you know it makes you wonder about the system.

The reason that is so is because the bar association goes heavy on trial ratings. I cannot blame them for that except I think it is ridiculous when you have some of the greatest legal minds in the country just to rate him qualified when on the other hand I have seen them rate others exceptionally well qualified who I know the distinguished Senator from Delaware could beat in court every day of the week. Of course he could probably beat many people in court every day of the week. But be that as it may, I think it is ridiculous to get too caught up in the fact that maybe one person found Mr. Manion unqualified or maybe as many as three.

Manion replaces Judge Pell on the seventh circuit court of appeals. I might add Judge Pell is the only member of that panel whose background is a small town practice. So it is quite appropriate that we have a small town practitioner who has been called by virtually everybody including the Chicago group of lawyers headed by people who are very, very intelligent people but nevertheless a bar group which at the time was headed by Abner Mikva's former campagin manager.

There is nothing wrong with that. I am just saying it was a group of people. It was a small liberal bar group that basically would be expected not to support somebody with the conservative credentials that Mr. Manion had.

I would prefer to place a lot more reliance upon Steptoe and Johnson's Eugene I. Goldman who said I believe the Chicago counsel's findings including its findings that Mr. Manion has

been found to be a competent and outstanding lawyer. You know that is the center. Here is a liberal, small bar group very disinclined to find much good in a small town conservative lawyer who found him to be a competent and outstanding lawyer. Mr. Goldman says:

I believe that the Chicago counsel's findings, including its finding that Mr. Manion has been found to be a competent and outstanding lawyer, are then consistent with the counsel's ultimate speculative conclusion that Mr. Manion will have difficulty with the legal issues presented to the 7th Circuit.

I think Mr. Goldman's endorsement, a Democrat, a person who has no ax to grind, who understands the importance of having good people on the bench, is a lot more important then the speculative disendorsement of this small, liberal Chicago group of lawyers.

Back to the deans' letter, to say barely qualified shows I think almost an unconscionable branch of decorum and truth in describing Mr. Manion.

Let me go to another one. They say, "We are also disturbed by the nominee's apparent lack of understanding of the role of the judiciary in protecting individual rights. This was manifested in his action as an Indiana State legislator in cosponsoring a bill that authorized posting the 10 Commandments in schoolrooms shortly after the Supreme Court had invalidated a similar Kentucky statute in Stone versus Graham."

I think to make a big fuss about that is the height of scholasticism because he was a politically elected legislator, and that bill passed 39 to 9. It passed in a bipartisan fashion. I have to admit legislators play all kinds of games, and they were irritated at the time and they very easily could have done that. So to make that a big cause celebre by these illustrious law deans is beneath their dignity. I think it is beneath the dignity of this body to make such a fuss about it.

□ 2120

I think it has been more than adequately explained away in the fact that Senator METZENBAUM'S questions misled Mr. Manion. I can tell you that that was not fair, it was not right. It was not intentional but it still does not make it any the more fair. And it certainly is not fair for these illustrious liberal law deans to send this letter supporting their particular liberal philosophies and not take that into consideration.

They go on to say, "Mr. Manion in a recent hearing conceded that the bills were virtually identical and explained his action as a kind of legislative protest against the Supreme Court."

That goes on every day in legislatures. That is part of the legislative process. It even goes on in this body.

The fact of the matter is that to rely on that as being actual fact, when they did not understand that he was misled by inappropriate questioning, by being misled into thinking that both of the bills were identical, virtually identical, they say, fine, but it still does not answer that question, nor does that make a distinction between legislators and judges.

Then they go on to say in the same hearing he was also reluctant to accept Supreme Court decisions as the law of the land, saying he preferred to give them as exercises which must be followed by lower Federal courts.

What he is saying is he accepted that as controlling precedent. I do not see anything wrong with that. I think the principle of exercises has long been an accepted principle of constitutional as well as common law.

You can go on and talk to each of these. I think it is beneath the dignity of these deans to make these points, but I believe in their zeal to do so they have done so well intentioned. I think they believe that Mr. Manion is not the greatest nominee that could be nominated for the Seventh Circuit Court of Appeals. They are entitled to that belief.

On the other hand, they did not run for nor were they elected President of the United States. I might add they are entitled to their opinion. I even had the honor of putting this letter into the RECORD because I believe they are entitled to their opinion. I do respect a number of them as well.

Mr. Manion has participated in many trials, and his experience in trial practice has been denigrated here. He has participated in numerous Federal court cases. He is currently lead counsel in three cases, two involving securities and the Racketeering Influenced and Corrupt Organization Act and one diversity of jurisidiction case. Additionally, he is cocounsel in two patent cases and another diversity case.

A number of cases in which Mr. Manion was involved in the State courts involved cases that could have been brought in Federal courts but he chose the State court forum in the best interest of his client, or what he thought was the best interest of his client. Again, there is nothing wrong with that.

Look at the endorsement he does have, including Father Hesburgh.

Father Hesburgh is not known as a conservative in this country. As a matter of fact, I think most people who know Father Hesburgh would say he is a wonderful, liberal gentleman, as a matter of fact, one of the greatest men in this country. But the fact is he has endorsed Mr. Manion and he is the president of the University of Notre Dame.

Ordinarily, my colleagues who are finding so much fault with Mr. Manion would quote President Hesburgh on everything. They would rely completely on what he has to say. Here he says Manion would make an excellent addition to the Seventh Circuit Court of Appeals. But all of sudden his opinion is not very much.

These 40 law deans have many errors in their letters, but their opinions should be taken.

I enjoyed the distinguished Senator from Delaware, some of his comments about small-time communities and how they rally around people and so forth, and he has the support of some of the people.

Well, he acknowledged that and I give him credit.

But I will tell you, if he did not have the support of his home bar, of those people in the area, if he did not have their support, if he did not have even the language of the Chicago Council, though I do not think that is important because they clearly show an evidence they do not know much about Indiana laws, maybe you could criticize him. But even the council says this is a man who basically is a good man, who basically will be fair, who basically will do a good job.

I think, too, it is important to point out, with regard to the doctrine of incorporation, that no less an authority than Justice Burger has criticized the Supreme Court for saying that the entire Bill of Rights is incorporated into the 14th amendment, therefore, all of the States have to comply.

But, what Mr. Manion said, and I agree with those, like Manion, who say that the doctrine of incorporation is law today—what Mr. Manion said years ago was he understands basically the theory of Mr. Burger and other authorities who questioned the historical basis for this doctrine. These authorities note that this was not what the Supreme Court should have done, that it was not really within the framework of the Constitution as it existed at that time. Manion, however, recognizes that it is the law today and he would sustain and uphold it.

I do not think many serious students of constitutional law today will come in and say that the doctrine of incorporation should not be followed. As a matter of fact, it is very difficult to say that today, even though there is a tremendous body of legal analysis and legal briefing and historical writing which says that the Supreme Court should never have decided that constitutional issue in that particular way.

I can put a lot of other information in, but I know my distinguished friend and colleague from Illinois is anxious to speak. I feel guilty that I have taken so much of his time this evening. I have so much respect for him.

Let me say in closing for this particular moment, what it really comes down to, if you really look at all these

picayune little arguments against Mr. Manion. It is that he is not a big-shot lawyer, that we are used to big-shot lawyers around here, that they are the only ones who can really do the job, they are the only ones who can sit on these courts.

There are many who are not big-shot lawyers and I can name a whole raft of others, who have turned out to be distinguished judges, who were not the most illustrious lawyers in this country. But some became the best judges because they live in the real world and they should not be deprived of the opportunity, if they have these other qualifications, to sit on the bench.

The Chicago Council of Lawyers basically admits that he has these qualifications.

I personally believe that if you look at the virtual unanimous support of Indiana lawyers for Mr. Manion, you cannot ignore that.

I am not trying to distort or even lift out of context the comments of the distinguished Senator from Delaware, they were appropriate when he said that "I think you are a decent and honorable man."

That is what we need on the bench, decent and honorable men.

"But I do not think I can vote for you because of your political views."

Mr. BIDEN. Will the Senator finish the sentence?

Mr. HATCH. Let me say a couple of other things. Let me use the President's letter because I think he has a way of saying it better than anybody else.

Dan Manion's "political views" are close to my political views. In particular, Dan Manion's belief that Federal judges should interpret the law, and not impose from the bench their social or philosophical notions upon society, is my belief. That is the real reason this nomination is encountering such hostility.

So, let me state my position directly. I intend to fight for the nomination of Dan Manion; and I do not accept that there should be a hidden restrictive covenant in the confirmation process that reads: No conservative need apply.

What appears to be taking shape is an attempt by some Senators to use their "advise and consent" power to overturn the mandate of the American people—as expressed in 1980 and 1984.

This is not an issue of Republican versus Democrat. It is an issue of whether or not a President of the United States has the right to choose Federal judges who share his judicial philosophy, so long as they are qualified by reason of character and competence. Presidents of both parties have asserted that prerogative; and I will not surrender it.

If Mr. Manion is not competent, if he does not have the character, if he will not be fair, if he will not be impartial, those are the real arguments which we should consider. But I have not heard those arguments.

I have heard arguments like those made by the Chicago Council of Lawyers. You have heard them, too, and even though he was misled by questions and tried to correct it later, that was improper.

□ 2130

Even though he was misled by questioning and tried to correct it later, and he must have had an ulterior motive—an ulterior motive—to change that.

The fact of the matter is, let us not impose insurmountable, ludicrous arguments on the man when the fact of the matter is the basic argument is that he is too conservative.

Nobody is making the argument today that when he was 28 years of age, he got on his father's program and there were some off-the-wall remarks, at least in my view. He went to law school later and after a lot of those things, came to the place where he realized that maybe he was a little bit extreme at that time.

The real point is that he is just too conservative in the eyes of some of the Members of the U.S. Senate. But that is what Ronald Reagan has been called all his lifetime and now he is President of the United States, with an overwhelming mandate to nominate these people. When he has integrity, which the Chicago Council of Lawyers says he does—when he has character, which everybody says he does, Father Hesburgh and all the others—when everybody, even those who oppose him, admit that he would be impartial and fair—those are the types of qualities I would like to see in every judge, regardless of his ideological bent. Those are the things we look for consistently.

I have to admit that his father was a member of the John Birch Society and even though the distinguished Senator from Delaware says that is not much of an argument, he wrote the letter to the head of the John Birch Society office because they had been kind to him at the time of his father's death and said that they are at the forefront of constitutional battles.

It is a nice way of saying "Thanks for being kind to me, I am going to be kind to you."

And in fact, even some members of the John Birch Society are right, though not always. I have to admit that I differ with them in many ways. But they have a right to fight for the way they believe in the Constitution themselves. They are wonderful people who do it every day, who have given blood for this country, and who believe in this country the way the Senator from Delaware and I think we do.

The fact that he showed them a kindness back, I think, is pretty bad to criticize. The Senator from Delaware says that has no bearing here, and I agree with him, but it is amazing how many people have raised that issue here and how it has been distorted in the media—and, I must add, in this letter from these distinguished law deans in this country who, I think, have been known for accuracy in the past but will not be known for total accuracy in the future if anybody reads that letter carefully.

Again, I apologize to my dear friend from Illinois. I would like to rebut some further things. I may do them later. But I do apologize to the Senator for taking his time.

Mr. SIMON. Mr. President, I thank my colleague from Utah for his generous remarks. I commend my colleague, Mr. BIDEN, for his leadership on this. He has, not only on this but in general in our Judiciary Committee, provided exemplary leadership.

Let me commend also my colleagues, Senator KENNEDY and Senator METZENBAUM, for the work they have done on this particular nomination.

The question, Mr. President, is not whether the nominee is a nice person. I have heard today about the good things he has done in his community. If we were voting for a neighbor, I would be happy to vote for Mr. Manion. We are voting for the second highest court in the land. There are, I think three reasons for turning him down.

The overwhelming reason is that of quality. The second, and I shall explain why, is a much less important reason—ideology. The gentleman, the nominee, is far to the right of Senator HATCH of Utah, to the right of Senator TRIBLE of Virginia, to the right of President Reagan.

A third reason has been brought up tonight by my colleague from Delaware: Changing sworn testimony.

In 11½ years in this body, I do not recall ever having seen that happen, and I have a response to my question to Senator BIDEN. The staff did check and it was the nominee who changed the testimony.

Mr. President, a little history. Those who wrote our Constitution intended originally that the Senate make the appointments. In fact, that was the way the Constitution was drafted until the last session of the constitutional convention. Then it was changed so the President would make the appointments with the advice and consent of the Senate.

The Senate has historically been involved with the district nominations, and I am pleased to say the district nominations, by and large, have been better than those of the appellate court. I am not at all sure we have not been abdicating our responsibilities to some extent on the appellate court nominations. And historically, the Senate has not hesitated to turn down appointments by a President. When a Chief Justice was nominated by George Washington, the U.S. Senate turned down that nomination and, as

has been pointed out by Senator BIDEN, we have overwhelmingly approved the judges nominated by the President. Since I have been in this body, a year and a half, we have approved over 100 judges. We have had two rollcalls on this floor and on one of those two rollcalls, I voted for the nominee, in the case of Fitzwater from Texas. The proof is with the nominee. He, or as in some rare cases she—and they have been rare, as my colleague has pointed out—should be a stellar member of the bar to deserve this kind of nomination. Mr. Manion simply has not shown these qualities.

I ask myself, would I approve Mr. Manion to be a county judge in a rural county in Illinois or Delaware or Indiana or Virginia? I come to the reluctant conclusion that I could not approve this man to be a county judge, much less a judge on the second highest court of the land.

I shall be brief, Mr. President. I ask unanimous consent to have printed in the RECORD a letter from Common Cause. I submit it for the RECORD not only because of its content but because I have been critical of Common Cause for not taking a stand on judicial nominees.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMON CAUSE,
Washington, DC, June 24, 1986.

DEAR SENATOR: I write to urge you on behalf of Common Cause to vote against the confirmation of Daniel A. Manion, Esq. to be a judge of the U.S. Court of Appeals for the Seventh District.

Common Cause has rarely opposed any confirmation of any individual Presidential nomination, and has only opposed a judicial nomination once, during the Carter Administration. We have followed and expect to follow this policy regardless of the nominee's ideology. For example, Common Cause did not oppose the nominations of Robert Bork and Antonin Scalia to the U.S. Court of Appeals.

In the case of Mr. Manion, however, we find that he is not qualified to serve in the lifetime judicial position to which he has been nominated. Mr. Manion's professional record and his demonstrated failure to understand the very nature of our constitutionalism reveal his lack of essential qualifications.

A U.S. Court of Appeals requires judges of strong professional training coupled with legal experience of a high quality. Unfortunately Mr. Manion is woefully lacking in those qualifications. Although the American Bar Association Committee found him minimally qualified, a minority judged him "unqualified". A review of the public record does not provide any basis for concluding that Mr. Manion has the qualifications necessary for this job.

Mr. Manion has had almost no experience in dealing with questions of federal law that form a major part of the work of the U.S. Court of Appeals. Of the ten cases listed by him as the "most significant litigated matters which you have personally handled", two involved ordinary highway accidents, two involved claims for breach of warranty on the sale or repair of a single motor vehicle (one of which grew out of a highway accident), and two were land condemnations.

The briefs submitted by Mr. Manion to the Senate Judiciary Committee as evidence of his professional qualifications are of low quality and reveal scant ability either to marshal facts in a manner that brings out the precise legal issues or to present a disposition of the legal issues with clarity and force. Obviously a high degree of these skills is a requisite in a judge of a U.S. Court of Appeals. Mr. Manion has not demonstrated such skills in other ways. He has published nothing in professional journals or scholarly publications. Nor have his sponsors pointed to any other kind of professional experience providing evidence of Mr. Manion's ability to perform the duties of a judge of the Court of Appeals.

Mr. Manion's lack of qualifications is also evident in his basic misunderstanding of the very nature of our Constitution. Mr. Manion's lack of understanding, if not distaste, for our constitutional system was revealed on several occasions by his endorsement of legislation stripping the Supreme Court of jurisdiction in order to circumvent constitutional decisions of which Mr. Manion disapproved. As President Reagan's first Attorney General, William French Smith, wrote in opposing such court-stripping: "The integrity of our system of federal law depends upon single courts of last resort having a final say on the resolution of federal questions. The ultimate result of depriving the Supreme Court of jurisdiction over a class of cases would be that federal law would vary in its impact among the inferior courts."

Mr. Manion's failure to understand the fundamentals of our constitutionalism is also exemplified by his co-sponsoring a bill in the Indiana legislature to encourage public schools in Indiana to post the Ten Commandments, immediately after the U.S. Supreme Court had held such a posting to be unconstitutional. Whatever one's view of the merits of the Court's decision, it was inconsistent with the fundamentals of our constitutionalism for Mr. Manion, a public official sworn to uphold the Constitution, to seek to counteract the constitutional rights of Indiana citizens by legislation encouraging disobedience to the First and Fourteenth Amendments as construed by the Supreme Court.

Mr. Manion's statement that the ruling in the Kentucky case was not a judgment binding on non-parties is equally disturbing. While technically correct, this view is fundamentally wrong in terms of our constitutional system. Constitutionalism depends upon voluntary compliance with binding Supreme Court interpretations, unless there is good reason to believe that the court may soon change its course. There was no reason whatever in this instance. The system would entirely break down if public officials in every state were, like Mr. Manion, to assert freedom to disregard the Constitution as interpreted by the Court until each official was bound by a judgment against him or her. Consider what this would mean in terms of school desegregation or police practices. As Justice Frankfurter wrote in Cooper v. Aaron 358 US 1, 26: "Compliance with decisions of this Court, as the constitutional organ of the supreme Law of the Land, has often, throughout our history, depended on active support by state and local authorities. It presupposes such support. To withhold it, and indeed to use political power to try to paralyze the supreme Law, precludes the maintenance of our federal system."

In 1977 Mr. Manion said about Larry McDonald's book, We Hold These Truths, that, "My personal observation is that it is one of the finest summaries of the history of our country—what has happened in the past, what happened to us and what we have to do about it." The book, in fact, attacked the most important constitutional developments in the past half century.

The men and women who make able federal judges come from a variety of backgrounds and experiences. Although tested legal competence is usually to be desired, a man or woman whose experience in public life has fitted him or her to recognize and understand the basic tenets of our constitutional and legal system may become an effective appellate judge. Mr. Manion fails on both of these counts, lacking both the professional background and the commitment to our constitutional system that is necessary to serve as a federal appellate judge.

For these reasons, Common Cause strongly urges you to oppose Mr. Manion's nomination.

Sincerely,

ARCHIBALD COX,
Chairman.

□ 2140

Mr. SIMON. Let me quote from the letter from the Chicago Council of Lawyers, and I shall in a moment speak of the Chicago Council of Lawyers briefly. The council says in their letter to us, in which they find him not qualified:

Despite the positive information concerning Mr. Manion's personality and baisc competence as a lawyer, the Council is very concerned about the fact that Mr. Manion lacks experience in dealing with questions of federal law and federal constitutional issues. He also lacks experience with the kinds of complex federal litigation which he would have to review as a judge of the Seventh Circuit Court of Appeals. Moreover, the quality and extent of Mr. Manion's legal experience even in state court does not demonstrate the high level of legal expertise which the Council feels should be possessed by judges of the Seventh Circuit. Finally, Mr. Manion has not demonstrated any scholarly interest in state and federal law or constitutional issues.

Manion has never argued a case before the Federal circuit court of appeals, never been the lead counsel in a Federal trial court, never published any kind of scholarly writings. As to his briefs we are not being picky, with all due respect to my friend from Utah.

Senator EAGLETON made a magnificant statement earlier this afternoon. He did something that showed some creativity—and we are going to miss Senator EAGLETON in this body—he sent copies of the briefs—and I would again remind this body that I asked the nominee to send his five best briefs—to some legal scholars around the country. Here is one, Cy Vance, former Secretary of State, served under Republican and Democratic administrations. Cy Vance says:

Individually and collectively, these briefs are barely adequate. They are far below the standard of legal analysis and writing required of a Federal appellate judge. Two of the briefs are poorly organized, wordy and hard to follow. Their arguments do not wash. All of the briefs suffer from inadequate attention to spelling, grammar and syntax.

I will not quote from all these letters, but there are just a couple other quotations in these letters that I think are worth reading to the body. Here is one from Dean Griswald, former Solicitor General of this Nation.

The PRESIDING OFFICER. Will the Senator suspend for a moment. It seems that the voice amplification equipment is rubbing against the Senator's coat and there is some background distortion. We want to assure the Senator's remarks are recorded not only for history but also audibly.

Mr. SIMON. We will get another. All right?

The PRESIDING OFFICER. Much improved.

Mr. SIMON. I thank the Chair.

The PRESIDING OFFICER. The distinguished Senator from Illinois is once again recognized.

Mr. SIMON. I thank the Chair; I particularly want the Senator from Virginia to hear me because I know he is waiting breathlessly to hear what I have to say to determine how he is going to vote.

Dean Griswald, former Solicitor General, under both a Democratic and Republican President, said in his letter:

I am reminded of a situation which arose some 50 years ago when President Roosevelt appointed as solicitor general, a fine and kindly man who had never had a case in the Federal courts. His lack of experience soon became apparent, causing concern not only in the executive branch but in the Supreme Court. He was replaced by Stanley Reed, who was, of course, an excellent solicitor general and later distinguished Supreme Court Justice. But a judge of the court of appeals, once confirmed and appointed, has life tenure and cannot be replaced. The time to make a distinguished appointment is now.

Lloyd Cutler, one of the distinguished lawyers of our country, sent this response to Senator EAGLETON:

I do not know Mr. Manion. I have no opinion as to his character, integrity or judicial demeanor but based on my review of the briefs he submitted to your committee, I do not believe he possesses the capacity for legal analysis and exposition or the degree of carefulness required for appointment to the Federal bench, especially the Federal appellate bench. If these briefs had been submitted to me by an applicant for a junior position in our law firm I would have voted against offering him a place.

That is pretty powerful stuff.

The Wall Street Journal, June 23, quotes Philip Kurland, professor at the University of Chicago, who they described as a conservative constitutional scholar as saying, "This is probably the worst appointment they've had," talking about the administration.

My good friend from Utah says small town lawyers should not be rejected. My friends, he is not being rejected because he is from a small town.

First of all, South Bend has a population of 107,000 people. I come from a town of Makanda, IL which has 350 people. That is a real small town. Let me just give you a few examples of people who have been approved just recently by the Bar Association, have received a well-qualified rating, much above the rating of this gentleman: Melvin Brunetti from Carson City, NV, population 35,000; Duross Fitzpatrick, from Cochran, GA, population 5,000; Charles Lovell, Great Falls, MT, 58,000; Thomas McAvoy, Binghampton, NY, population 54,000; Alan McDonald from Yakima, WA, population 48,000.

Clearly that is not a factor.

I ask unanimous consent that the letter from the Chicago Council of Lawyers be placed into the RECORD.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE CHICAGO COUNCIL OF LAWYERS,
April 9, 1986.

Re Daniel Manion
Senator PAUL SIMON,
Dirksen Senate Building, Washington, DC.

DEAR SENATOR SIMON: The following is the Chicago Council of Lawyers' report on Daniel Manion's qualifications to be a judge on the United States Court of Appeals for the Seventh Circuit.

The Chicago Council of Lawyers believes that in order to be found qualified for appointment to the United States Court of Appeals, a candidate must have outstanding intellectual qualifications as demonstrated by performance in practice or scholarship. The most outstanding candidates should have established an exemplary record in both areas.

The Council has conducted an extensive review of Mr. Manion's personal background and legal career. We evaluated written biographical information and examples of his legal writing. The Council also received a list of references from Mr. Manion. This list included lawyers and judges who knew Mr. Manion and who had practiced with or against Mr. Manion. In addition, the Council developed its own list of Indiana lawyers. On March 24, 1986, seven members of the Council's Federal Judicial Evaluation Committee participated in a two-hour conference call with Mr. Manion during which we discussed Mr. Manion's legal background and experience, his judicial philosophy, his sponsorship of creationism legislation, and has views on issues such as the exclusionary rule, abortion, affirmative action, and the handling of criminal appeals.

PERSONAL QUALITIES

Mr. Manion has a high reputation for integrity, conscientiousness, and fairness. The reports from South Bend lawyers also indicate that Mr. Manion has excellent interpersonal skills, and that lawyers who work both with and against him like and respect him. Many of the lawyers to whom we talked also thought that despite his reputation for political conservatism, Mr. Manion would struggle to be fair in ruling on cases which present issues on which he has strong political views.

LEGAL EXPERIENCE

Mr. Manion was admitted to the Indiana Bar in 1973. He then spent eight months in the Indiana Attorney General's office handling criminal appeals and land condemnation cases. Mr. Manion left the Attorney General's office in 1974, when he joined his present firm. Since 1974, he has had a general civil practice consisting primarily of personal injury defense, commercial litigation, and small claims defense work. He has tried numerous small cases in state court. Mr. Manion has participated in twelve trials to varying degrees in federal court; however, he has not yet had the responsibility for being first chair in a federal trial. He told us he has never handled a case in which a federal constitutional issue was involved. He also told us that he has never argued a case in the Seventh Circuit.

The majority of lawyers to whom we talked regarding Mr. Manion's legal experience felt that he was a competent lawyer. A few lawyers told us that Mr. Manion was an outstanding lawyer. All vouched for his forthrightness and his adherence to high ethical standards.

Despite the positive information concerning Mr. Manion's personality and basic competence as a lawyer, the Council is very concerned about the fact that Mr. Manion lacks experience in dealing with questions of federal law and federal constitutional issues. He also lacks experience with the kinds of complex federal litigation which he would have to review as a judge of the Seventh Circuit Court of Appeals. Moreover, the quality and extent of Mr. Manion's legal experience even in state court does not demonstrate the high level of legal expertise which the Council feels should be possessed by judges of the Seventh Circuit. Finally, Mr. Manion has not demonstrated any scholarly interest in state and federal law or constitutional issues.

In conclusion, the Chicago Council of Lawyers is not confident that Mr. Manion will be able to deal adequately with the difficult legal issues which are routinely presented to the Seventh Circuit. Based on the foregoing, the Council finds Mr. Manion to be not qualified to be a judge on the United States Court of Appeals for the Seventh Circuit.

Very truly yours,
ROBERT G. PERKINS,
President.

Mr. SIMON. The Chicago Council of Lawyers has been described by my colleague from Utah as a small group of liberal lawyers. This small group of lawyers happens to be the most active in the city of Chicago, about 1,400 lawyers. They include liberals, conservatives, moderates, people of every hue. The president of that group is a fellow named Bob Perkins from the oldest law firm in the city of Chicago. I cannot think of the name right now, but it was founded by Robert Todd Lincoln. That group of lawyers has approved a number of conservative nominees from this body.

Do you want me to move over to that desk over there? All right.

Just as one example, just recently, they approved Judge Harry Linenwebber, who has been active in the Right to Life movement, who is well-known as a very conservative Republican, former Republican State legislator in Illinois, and a number of others like that. Clearly, that description of the Chicago Council of Lawyers is not an accurate description.

In addition to the statement read by Senator BIDEN on the law school deans, I ask unanimous consent to enter into the RECORD a letter by the dean of the University of Pennsylvania Law School and the dean of the University of Chicago Law School.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 11, 1986.

Hon. ROBERT DOLE,
Majority Leader,
Hon. ROBERT BYRD,
Minority Leader.
U.S. Senate,
Washington, DC.

DEAR SENATORS DOLE AND BYRD: The Senate of the United States will soon consider the nomination of Daniel A. Manion to serve as a Judge of the United States Court of Appeals for the Seventh Circuit. We are deeply concerned about the decision.

The federal courts play a critical role in our country's governance structure. The Circuit Courts of Appeal, in particular, are called on to decide complex issues which have substantial impact on the lives of many citizens. It is important that these decisions be made honestly, sensitively, and intelligently. Moreover, they must be made in a way which maintains public respect for the judiciary. That is not an easy task. It can be accomplished only if the President nominates and the Senate confirms persons who combine special qualities of intellect, training in the law, experience in wrestling with relevant questions, breadth of experience, and capacity for exercising reasoned judgment. There are many good people, decent lawyers, who nevertheless do not meet these special standards, and therefore, should not be appointed as judges of a United States Court of Appeals.

We believe that the case has not been made that Daniel A. Manion meets these special standards. The facts developed by the Senate Judiciary Committee do not show the high standards of competence and relevant experience which the public has a right to expect from an appointee to the federal bench. It is particularly disturbing that the Chicago Council of Lawyers, whose committee of investigation included one of our colleagues, concluded that Manion's professional qualifications were inadequate. A minority of the American Bar Association's screening panel also found Manion unqualified.

It is vital to the health of the process by which judges are appointed that the Senate be prepared to withhold consent when the President nominates as a judge a person whose qualifications do not meet the high standards necessary to assure that our courts continue to play a wise and constructive role in the complex task of governing this country. The Manion nomination is an appropriate time to signal the Senate's insistence on the requisite quality of judicial nominees and we urge you to vote against the nomination.

Sincerely,

ROBERT H. MUNDHEIM,
GERHARD CASPER.

Mr. SIMON. The final point I would like to make, Mr. President, to my colleagues is on the point of ideology. Clearly we have ample reasons beyond ideology for rejecting this particular nominee. But I think there are reasons of ideology also. We should not have huge swings in the law. When there is an indication that someone is too far to the right or to the left and is rigid in that position, I believe we have not only the right but the obligation to take a look at those positions.

The law should not be a pendulum swinging back and forth. There ought to be some stability to the law. And clearly in the case of Mr. Manion, he has expressed views that put him beyond the views of at least 97 Members of this body. His comments about the book by Congressman Larry McDonald as one of the finest summaries of the history of our country—and that book clearly has views that are just far, far out—is but one example.

□ 2150

I asked the nominee in the Judiciary Committee about the John Birch Society. I said:

Mr. Manion, I have a letter written by you to the John Birch Society on August 27, 1979 . . . in which you say your members are certainly the people who are on the front line of the fight for constitutional freedom.

The nominee was frankly evasive. When I asked him whether or not he believes what the John Birch Society says, Mr. Manion says: "Senator, I do not have any idea, other than those two things you have mentioned. I couldn't tell you what the policies of the John Birch Society are."

I said: "But you have a general impression?"

I will not go through all of this, but he says: "I don't know what issues, what their stands are on the Constitution or any other issues of current affairs."

I asked: "But you do not have either a plus or a negative impression of the John Birch Society, then?"

Mr. Manion said: "Well, I am not a member or I was not. I guess I have to judge each issue on its own."

Here is a man whose father is one of the cofounders of that organization. I certainly do not want to impose his father's views on him, but I think he has to have some idea whether the John Birch Society represents what he believes or not.

One final point, and that is when he mentioned that he was not a member of the American Bar Association. He has every right not to be a member of the American Bar Association, but I asked him why he was not a member of the American Bar Association. He said he was not a member of the bar assocation because they were sponsoring these exchange visits with the Soviet Union, lawyers in the Soviet Union.

Again, he has every right to do that, and if you were to take each of these in isolation, I think you could defend each of them. But together they provide a mosaic, and that mosaic is not one that suggests that here is someone who ought to be on the U.S. Circuit Court of Appeals.

Again, the question is, Do we have someone who is a stellar member of the bar, who ought to be approved? The answer clearly is that he should not be approved. I think the evidence is overwhelming. I hope this body does what it should do.

Let me add that I hope we resist the overtures from the White House. I understand that power that is in the White House. I understand that they have favors to grant. But we have an obligation not simply to this administration but to the future, and as we face our obligation to the future, I think it is very clear that we should reject this nominee.

I thank my colleagues.

Mr. BIDEN. Mr. President, my affable and innovative colleague from the State of Utah, who, with surprising insight, labels me a scholastic out of the Thomist School, points out——

Mr. HATCH. Not out of the Thomist School. The Stylites School—St. Simeon Stylites. He was a saint. That was quite a compliment.

Mr. BIDEN. I thought the Senator referred to me as a scholastic scholar, and I wanted to thank him for that reference. My mother would thank you, particularly I hope she is watching.

However, I must say that I have never seen anyone who can, with a smile, do to an argument and/or a colleague such damage.

I should like to respond, if I may, to a couple of points that my distinguished colleague made.

He pointed out, for the purpose of—and I think it is a reasonable position for him to aspire to—for the purpose of discrediting the 40 law school deans—he knows them better than I. I know none of them. I may know one or two of them. I do not know that I do. He pointed out that they are all liberals. It is amazing, this liberal conspiracy that abounds in this country. They are all liberals, and they have made three tragic mistakes in their letter.

Mr. HATCH. Four.

Mr. BIDEN. Four. Excuse me.

One of those four is their reference to the fact that he seemed reluctant to accept the Supreme Court decision such as Brown against Board of Education as the law of the land, saying he preferred to view them as stare de-

cisis, which must be followed by the Federal courts.

On page 41 of the transcript, Mr. Manion says:

I think that Supreme Court decisions, as they interpret the Constitution, does establish what we call stare decisis; and that is that those are precedents that do establish the interpretation for that particular issue or that particular part of the Constitution. Some call it the law of the land; I think that is kind of a term that is just used. I would rather call it a precedent that must be followed in the courts.

Then, on page 66, further commenting on this area, he said:

If it is more widespread, if it applies to laws, and there are similar laws throughout the country, the other laws would be affected by that Supreme Court decision, and any lower court where those other laws where challenged would be bound by the Supreme Court decision, assuming the laws were the same laws.

Now, it seems to me that the 40 law school deans were correct in making the distinction here, the distinction that I believe Mr. Manion made, and that is that he saw the Brown decision as stare decisis and not law of the land. "Stare decisis" means that lower courts had to follow it but that the Supreme Court would not necessarily, nor should they necessarily, be bound by the Brown versus Board of Education decision. That is the point that was being made here.

The reason for that point being made is that Mr. Manion—and I will not cause the Official Reporters of the U.S. Senate to have apoplexy by suggesting that this entire book be put in the RECORD, but I will read a few excerpts from the book "We Hold These Truths," by Lawrence Patten McDonald.

Mr. Manion interviewed Dr. McDonald in 1977 during a radio program sponsored by the "Manion Forum," a show he sometimes hosted. At that time, this nominee endorsed "We Hold These Truths," the book I have in my hand, with the following phrase:

My personal observation is that it is one of the finest summaries of the history of our country—what has happened in the past, what happens to us, and what we have to do about it.

Further quoting:

In your book, you bring down some very justified criticism of the Supreme Court that interprets the Constitution.

Further quoting:

We hope that other people in Congress, as well as all of the people listening to this program, will read your book, "We Hold These Truths," so that they can realize that solutions to our problems are available.

This is one of the more fascinating books I have read, and I must admit that I have not read it all, relating to an interpretation of the Bill of Rights, the Constitution, the law of the land.

Mr. Manion, in praise of this book as such an insightful view of American history—I assume he read the book—said, referring to page 94 of the book:

In May, 1954 *(Brown v. School Board)*, the Warren Court, by unanimous vote, overturned a Kansas state law under which school boards at Topeka and elsewhere were operating racially segregated public schools, providing separate but equal facilities for each racial group, in conformity with the separate-but-equal doctrine. The Warren Court said it had concluded, from looking into books and statements by sociologists and psychologists, that segregating black children from white children in public schools is bad for blacks, no matter what kind of facilities are provided, and no matter what the Fourteenth Amendment or any other part of the Constitution provides. The Warren Court claimed authority under the Fourteenth Amendment to hear and decide the *Brown* case, but acknowledged that the Amendment was not intended to affect the operation of public schools.

All previous Supreme Court changes of the Constitution had been twistings to make it yield authority for the President and Congress to do anything that met with Supreme Court approval. In the *Brown* case, the Court arrogated unto itself authority that was superior not only to that of Congress and the President but also to that of the Constitution itself. As expanded and developed by later Court decisions, as followed by lower courts (both federal and state), and as enforced by federal legislative and executive power, the 1954 *Brown* decision means that the Supreme Court has the power to order any person or group of persons anywhere in the United States to do anything a majority of the Court Justices might, at the moment, think is the sociologically correct thing to be done. It has this power no matter what the Constitution says or the people (including the Members of Congress and President) might want. The Supreme Court may reverse its own far-reaching decisions at any time, because its decisions are not based on the Constitution, but on books and other influences operating upon the Justices. *That* is the inevitable consequence of the Warren Court's revolutionary 1954 decision.

□ 2200

Now I listened to his statement when he made it about the distinction between the law of the land and stare decisis, not a resounding endorsement of what all Americans today take as a basic, fundamental law of the land that separate but equal is unequal.

I read his statements, transcripts of the programs where he endorses this book and many ideas of similar novelty contained in the book.

The book goes on talking about equality of voting. It says:

Four other constitutional amendments have damaged electoral processes in a subtle but dangerous way.

Wait until you hear what these dangerous subtleties are.

The Fifteenth Amendment (approved in 1870) prohibits State or Federal abridgement of the right to vote because of race.

My comment: Outrageous principle, is it not?

The Nineteenth Amendment (adopted in 1920)—

My insertion, another subtle but dangerous thing.

The Nineteenth Amendment extends the same prohibition to sex.

The Twenty-Fourth Amendment (ratified in 1964) prohibits poll taxes as voter qualifications for Federal elections.

My insertion, is that not outrageous?

Back to quoting:

The Twenty-Sixth Amendment—

The fourth of these dangerous things.

(approved in 1971) prohibits the abridgement of the right to vote because of age, of any person 18 years old or older.

My insertion, radical view.

Back to quoting the book.

All of these are cause amendments—

C-a-u-s-e amendments—

serving some political or sociological cause which had organized pressures and public support behind them; but they all were unnecessary.

Let me tell you what is unnecessary now. It was unnecessary to say you could not abridge the right to vote based on race. McDonald says that is unnecessary.

The 19th amendment—it was unnecessary to say women should have the vote, could not prohibit them from voting, as I might add we did until this amendment was passed. That was unnecessary.

Another unnecessary and dangerous thing that occurred is that we passed the 26th amendment saying those radical 18-year-old kids would have a right to vote. Oh, but would they vote.

And also the 24th amendment that does another dangerous thing. It gets rid of a poll tax. What an outrageous notion, how dangerous?

Quoting from the book,

If sufficiently valid to animate authentic public support the causes could have been served as fully and well at the State level without damaging the Federal Constitution.

Damaging the Federal Constitution to guarantee by amendment that blacks, women, and 18-year-olds should be able to vote—damaging the Constitution, saying there should be no Federal poll tax.

There are other provisions, and I will not keep the Chair up much longer and I realize we are going fairly late here, but there are other instances where quotations, and I am not taking it out of context—if anybody challenges I will be delighted to read the whole book tonight and educate the American public listening if there are any insomniacs out there and/or anyone in here as to what Mr. Manion cites as one of the finest summaries of the history of our country and a book that will give us solutions to our problems.

Hold on folks—salvation is on the way.

Reading on page 40 of the book talking about the Bill of Rights, the author said:

But in no case, in any jurisdiction, did due process mean a court looking into the fair-

ness or constitutionality of the law in question. That was another legal matter entirely.

Translated, that means that the argument is that in this fine interpretation of the Constitution, the due process clause does not allow a court to go in and say, does that State law abridge due process?

Again, when we say does it warrant us asking Mr. Manion about whether or not this book is something he subscribes to, asking him to explain whether or not when he said the things he said about this book he was merely being gracious or polite or what was he doing?

I would assume that if we had a nominee who believed all these things, and I do not know that Mr. Manion does, but if we had a nominee who believed all these things, I doubt there would be anybody on the floor or very few people on this floor who would come to defend the principles outlined in this book.

To suggest that—i wonder if there is anybody here—possibly the distinguished colleague who just walked by me might wish to defend the assertion that the 15th amendment, the amendment guaranteeing the blacks, women, and 18-year-olds have the right to vote is a dangerous precedent.

(Mr. SIMPSON assumed the chair.)

Mr. BIDEN. Let us assume that Mr. Manion held these views for the sake of discussion. Would anyone in here say that the Senator from Delaware was making ideological argument to suggest that a man or woman who held those views should not be on the Supreme Court, the circuit court of appeals, or the district court of the Federal judiciary?

I would think it would be totally within the rights of any Senator here to suggest that maybe we should not put a man or a woman on the Federal bench who held those views, totally out of the main stream of American politics or who views decisions relating to those guarantees as merely stare decisis and not the law of the land. I am not sure that we would not say maybe that person should not be on the court.

I doubt whether or not if someone came forward and made the argument that we should eliminate one of the branches of Government, which would be a reasonable thing—other nations do not all have three coequal branches of government—I suspect if someone came along and said we should eliminate one of them or we should ignore one, we would say here notwithstanding the fact he or she may be a decent, honorable person, maybe we should not put that person on the court.

I mean, you know, there are certain basic things we accept, I hope.

And it was the lukewarm, at best, endorsement of the Brown decision that gave pause to some of us, coupled with the assertions made about how good this book was, coupled with the assertions made about the John Birch Society, coupled with the way in which the nominee answered the question relating to whether or not he viewed the Brown decision as the law of the land, coupled with the change in testimony under oath, without at least this Senator knowing about it, that do at least raise the question of whether or not, notwithstanding everything else, there would be reason enough on the merits of what I have just stated to vote against this nominee.

But again let us go back to the comment that was made by many here today that this nominee has no significant experience in the Federal courts.

□ 2210

My worthy opponent in this matter, the distinguished Senator from Utah, cites several cases in which the nominee is now lead counsel in Federal courts. Diversity jurisdiction is one of those. Does anyone know what diversity jurisdiction means? It means one of those cases you are arguing whether or not which State court has jurisdiction, to go to a Federal court to decide that. Not what you would call a constitutional issue.

I do not know of any very complicated cases, great antitrust cases, complicated cases related to constitutional principles, significant cases relating to any other aspects of the practice of law that Mr. Manion has been involved in.

Now, again, I do not think it is unreasonable to suggest that someone who is going to be dealing with decisions we cannot even fully comprehend at this moment, that he is likely to be, if he reaches his life expectancy—which I sincerely hope he does—he is likely to be 30 years from now—if he is confirmed, 30 years from now brings us well into the next century—he is going to be making decisions about things such as cloning of genes, decisions about relating to phenomenal technological advances, complicated new corporate arrangements, international law impacting upon trade and commerce, questions about biomedical technology that take us far beyond where we are today.

It seems to me we have a right to ask whether or not, in his tenure as a legislator, whether or not, in his practice of the law, whether or not, in his academic background or whether or not, in his personal dealings on matters that are pro bono that he is involved in, he has demonstrated the ability to grasp, grapple with, sort out, and adjudicate complex questions and issues.

Now, again, it is not the burden upon the Senator from Delaware to prove that he does not possess those capabilities. It is the burden of those suggesting he should be a judge—particularly in light of the fact that so many diverse peopl- have raised the question of his capability—to prove that he possesses these qualities.

I have heard that his fellow practitioners liked him. I have heard that he has been in Federal court a couple of times, or several times. I have heard that he is from a small town—we keep using the small town. I do not know, the Senator from Utah acts like he is from New York or California. I do not know where he is getting off talking about small towns. His State is like mine, real small. His State is like mine. I do not know that Salt Lake City—I do not know whether there is any town bigger than South Bend—where I come from, South Bend is a big town, not a small town.

I hear that "small town" lawyers like him. I hear that he is an affable fellow. I hear he is a decent, nice guy. Fine. Does that meet the burden of demonstrating a significant grasp of the Constitution? What is there in his entire background that he ever indicates—other than what he said to us under oath or he said in his radio program—that he has any knowledge, comprehension, or understanding of the Constitution?

Well, he graduated from law school. That is one thing. He passed the bar examination. That is another thing.

What else is there? Has he tried any cases? Not that I am aware of. Maybe he has and has not told us about it.

The only times I know he has commented on consequential decisions of constitutional import have been times that leave one at least wondering about either his commitment to or depth of knowledge about it, including this whole controversy over whether or not he sponsored and/or voted for a law that, in fact, was unconstitutional.

You know, the Arkansas Legislature voted unanimously some years earlier on a law that was later declared totally unconstitutional. Other legislatures have done that. It is called political pressure—political pressure to yield to the whims of the moment.

The State of Delaware Legislature, my State, prior to the Supreme Court ruling, said separate but equal was equal and voted that way; voted for an amendment that kept in place in our constitution laws saying separate but equal was equal because it was very unpopular to do otherwise.

I have no doubt in my mind that it is very unpopular in Indiana or Delaware to vote against the posting of the Ten Commandments. I believe strongly in the Ten Commandments. I am a Christian. I practice my religion. I believe in it deeply.

But it is one thing to believe that, to adhere to, to attempt to adhere to, to teach your children the Ten Commandments and to kneel down at night and pray with them, and another thing to say that, under our

Constitution, they should, can, or must be posted in the classroom.

But, admittedly, it would be very unpopular to vote against that in any legislative body in the country. But it would also be unconstitutional to do so.

So every time Mr. Manion has spoken to that that I can find, every time he has been involved in anything that mentions the Constitution of the United States of America, or some aspect relating to it, he has left me with less than overwhelming confidence about his grasp, understanding, and devotion to it.

Yet we are told he is a decent man. We are told he is a man that is liked by his colleagues. We are told that he graduated from a prestigious university, which he did.

Well, I do not know whether that meets the burden of demonstrating he knows something about the Constitution, especially, I might add, once again, when he even countenances this bunch of—how can I say it—this very ineloquent document called "We Hold These Truths," one of the most absurd renditions of constitutional history and theory that has been written, in this Senator's opinion. It is preposterous.

How someone who we are about to put on the circuit court of appeals, assuming they are aware of this, would not say, "Mr. McDonald, this is garbage," I do not know.

Let us assume—and I say and mean this with all sincerity. Congressman McDonald was tragically killed in the bombing of the Korean aircraft along with his family.

But, notwithstanding that, assume today, for the sake of discussion, that we had a nominee before us and we asked him to read this book and then comment on it; come back 2 days later, after having read it, and say: "What do you think of this book?" this nominee for the curcuit court of appeals.

And he then said to us, after reading it—and I read you some excerpts from it, and I can assure you they are consistent with the entirety of the book—he came back and said:

> Well, my personal observation, Senators, is it is one of the finest summaries in the history of our country. What has happened in the past, what has happened to us, what they have done to us, those dangerous things, the 15th, 16th, 18th, 25th amendments, and what we have to do about those things that happened.

What would we say? What would you all say? Would you say, if then, JOE BIDEN said, "Well, wait a minute now. I am not sure I want to put you on the Federal bench interpreting my rights for the next 30 years."

Would you turn to me and say: "Oh, BIDEN, you are nothing but an ideological wag, a Democrat who is just trying to stop good, solid conservative minds from sitting on the bench"?

□ 2220

Would you say that to me? I respectfully suggest you would join me in saying you are right, BIDEN. This nice, affable, large town, medium town lawyer who has done some courageous things in his personal life and overcome some tragedy should not be on the bench especially when you along with me would have voted for 266 or 268 of the previous nominees that came up. I would invite my colleague—by the way, this is not coming up at the last minute. This was raised at the hearing, my colleague from Utah and all my other colleagues had the chance. I am sure they took it home and read it, every word of it—I am being facetious. But I invite anyone to come and tell me after they have read this book that in fact from their personal observations this is one of the finest summaries in the history of our country, or that it represents justified criticism of the Supreme Court of the United States of America.

This is crazy.

You know, we have a right, and an obligation to deal with the philosophy of a nominee as much as the President does.

I remind my learned colleague from Utah that up until literally the last moment in a compromise move in order to get the Constitution passed, up until the last moment the draft of the Constitution said "The President of the United States shall have nothing to do with choosing the Federal judges". It said it by its absense. It said that was the province of the Congress, in this body. But in a compomise at the end we said, well, the President will choose and we will dispose of it.

So, it became part of the Constitution with advise and consent. Then the President comes along, this President, a fine, decent, honorable man, who will go down in history as one of the most popular Presidents in American history, and I might note parenthetically with whom every public opinion poll shows that the majority of people disagree with him on his social agenda but agree with him on everything else—goes out and sets as his litmus test not only the choice of generally conservative people but people who agree with him on the very delicate issues which is his right to do of his social agenda, a social agenda he has not been able to get passed through the Judiciary Committee controlled by Republicans, has not been able to get past the U.S. Senate controlled by Republicans, has not been able to get past the U.S. House of Representatives controlled by Democrats, and is not law now because the American people do not want it to be law.

He comes along, and he says, "I want these people on the bench. I want Manion." He chooses them and he has made no bones about it, as Mr. Meese as his chief chooser makes no bones about it, that there is a certain test they all must pass relating to ideology. Then he says when we dare raise the issue of whether or not the philosophy of a nominee is within the mainstream of American public opinion, he says, "Shame on you, no ideology; OK for me but not you. I can apply litmus tests, but don't you do that."

Look, if in fact Mr. Manion who everyone agrees lacks a significant experience dealing with the constitutional questions, lacks total experience, totally lacks experience, but let us just say significant, a man who has never served in the court before, a man who does not come from a scholarly background, a man who has not held a position of Senator, Governor, Attorney General dealing with complex issues, if in fact he had come along and said when asked what he thinks about Brown versus Board of Education, if in fact he had said Brown versus Board of Education is law of the land, it is in fact a principle that is now enshrined in the Constitution, our view of the Constitution, one which I strongly support and one which I think was long overdue in coming—if he said with regard to this book when he interviewed Mr. McDonald: "Mr. McDonald, your book is replete with errors and your view of the direction this country should be taking is one that I strongly disagree with, I happen to believe that the amendment giving blacks, guaranteeing blacks the right to vote, the amendment guaranteeing that 18-year-olds can vote, the amendment that abolished once and for all the poll tax, the dreaded poll tax, that they are good things, not dangerous things"—if he had said those things I would have, notwithstanding the fact that he has no experience; think well, maybe he at least has a gut feeling and understanding about the Constitution.

But he did not say that. There is nothing on his record to indicate a scholarly knowledge of, or a practical knowledge of, the application of constitutional law, and the only time he speaks to it he speaks to it in such gibberish that he is either so sensitive to other people's feeling that he is willing to let basic constitutional principal go undefended, or he is sympathetic to the views that are expressed, or perish the thought, were he on the court he would have reluctance following the principles.

Look, you know what is really at stake here? What is at stake here is not Daniel Manion. My colleague from the State of Alabama said at another matter, "When there is a choice between an individual's aspiration to the court and the Constitution, I must side with the Constitution." What is at stake here is not the nomination of Daniel Manion. What is at stake here is what we, the U.S. Senate, are about

to say about the Federal courts. What is at stake here is how each of us feels about the role and the standing of the second highest court in the land, the circuit court of appeals. We can adopt a principle that in fact we have such a low regard for the court we can put people on the court for whom we have grave doubt about their abilities. We can say that. We have a right to say that. But I hope we would be ashamed to say that.

We can say that the circuit court of appeals does not demand excellence. We can say that. We have a right to. But shame on us. We can say that we will take a chance on putting on the circuit court of appeals someone who has failed to demonstrate excellence.

□ 2230

We can say that.

But what does it say we think about the Federal court system?

You know, the American Bar Association has been mentioned here a number of times in terms of its qualifications. The guide, and all it is is a guide—we are not bound by an ABA decision. If they say the nominee is totally unqualified, we can reject that. If they say they are highly qualified, we can reject that. Our job is to look beyond the recommendation.

As I look beyond the recommendation of the ABA, as I look beyond the recommendation of Mr. Manion's colleagues from a large size town of South Bend, as I look beyond the recommendation of the former president of the institution from which Mr. Manion graduated, I see a man who should not be on the circuit court of appeals.

When we decide on how we are going to vote on Mr. Manion, whether or not we are being philosophers or just simple U.S. Senators, we have the unpleasant task of saying to our colleagues and to the country what we think about the court based on who we decide should be on the court. All across America people have spoken about what they thought about the court, the standards which they believe are required.

In editorials, in letters, in comments and references relating to some of what Mr. Manion has produced. I do not believe Mr. Manion should be a judge, period. I do not believe Mr. Manion has been completely forthright with us in terms of his recollection of events. I do not believe Mr. Manion had any right to materially change, as I believe he did, the transcript relative to what he had said.

I do not believe Mr. Manion has the excellence that should be demanded of nominees for the circuit court of appeals.

I do not believe Mr. Manion has demonstrated his ability to write with clarity and judgment on a court where the only thing he gets to do is write.

I do not believe Mr. Manion ought to be in a position where notwithstanding any good intentions he may have, he will, in fact, do the court justice and shed great promise and pride upon his ability.

I do not believe we are doing anybody a favor, most of all Mr. Manion, putting him on the court, notwithstanding the fact that I am sure he would feel that way.

So, as I conclude my comments, I would say that we who oppose Mr. Manion have a right to do it and are correct in our doing it on three fronts: One, the lack of demonstrable capabilities required of the court; two, a lack of clarity relating to his memory; and three, his apparent, in the absence of anything else, views and interpretations of certain aspects of constitutional law.

I yield the floor and will respond if need be to anything the Senator from Utah may have to say.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I would be very loath to say anything at this late hour for fear there might be a response. I will say that I have enjoyed listening to the distinguished Senator, my colleague from Delaware. I think much of what he has said can be responded to and I think we have responded to it earlier this evening.

I ask unanimous consent to place into the RECORD at this point a legal analysis of Mr. Manion's briefs which has been prepared by the Department of Justice, which I think may answer some of the questions which have been raised this evening.

I believe that all of the objections to Mr. Manion have been answered and certainly can be answered in much greater detail. But we will leave that for another time and another place.

I just hope that our colleagues realize that this is a good man, found by his legal community to be a good man, one who is capable of performing this task. I am not saying that there are not others who are equally or better capable than he is. That is always the case in every nomination. But the President does support Mr. Manion.

I believe he is not only capable but I go along with the attorneys in this area, with Father Hesburgh, the president of the University of Notre Dame and other noted authorities that we have quoted, including Democrats and Republicans, who have done so in a bipartisan way. I hope that our colleagues will support Mr. Manion's nomination and support the President in submitting him.

I ask unanimous consent that the matter I referred to be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGAL ANALYSIS OF MANION'S BRIEFS

Some opposing the confirmation of Daniel A. Manion to the United States Court of Appeals for the Seventh Circuit suggest that Mr. Manion cannot spell. Others claim his legal briefs do not reveal sufficient substantive quality.

As this Department has indicated previously, these arguments against Mr. Manion are baseless. Many who rely upon such assertions do so as a pretext for opposing Mr. Manion's nomination on ideological or partisan grounds. To further illustrate this point, this Department has reviewed Mr. Manion's legal work in several recent cases in light of the criticisms made of this same work by the so-called "Chicago Council of Lawyers," a small liberal bar group headed by Abner Mikva's former campaign manager.

Before focusing on specific cases, we wish to note that of all the cases reviewed by the "Council," Mr. Manion was successful in all but one. To avoid any actual or apparent unfairness on our part, we start with the critique of the one case in which a decision unfavorable to Mr. Manion's client was rendered.

Bearman v. *University of Notre Dame* (Mr. Manion represented the University of Notre Dame).

In *Bearman*, the plaintiff sued the University of Notre Dame for injuries she received while attending a football game. Ms. Bearman alleged that the University was negligent in allowing an intoxicated fan to fall on her and break her leg. The trial court summarily entered judgment for the University; the Indiana Court of Appeals reversed, finding that the plaintiff should have been given an opportunity to present her case to the jury. The two briefs under discussion here are briefs Mr. Manion filed in behalf of the University in an effort to sustain the initial judgment of the trial court. The first is a "Petition for Transfer" to the Indiana Supreme Court.[1] The second brief is Mr. Manion's "Memorandum in Support of Appellee's Petition for Rehearing," which was filed in the intermediate appellate court, and subsequently included as an attachment to the Petition.

The "Council" reviewed Mr. Manion's briefs, and essentially tried to second-guess Mr. Manion's handling of this case. The "Council" claimed (somewhat ungrammatically) that the briefs did "not articulate in the most effective fashions [sic] the reasons for reversal of the *Bearman* court's opinion." For the reasons set forth below, we believe that the "Chicago Council's" opinion both mistakes Indiana law and misperceives the factual context of the case.

The "Council" advanced two major objections. First, they thought that Mr. Manion's briefs would have been more convincing to the Indiana Supreme Court if they had emphasized the law from states other than Indiana. This would certainly be a curious proposition to argue to anyone experienced in state litigation. Even a cursory review of the Indiana Rules of Appellate Procedure demonstrates that this proposition is contrary to Indiana procedural law. Rule 11 sets forth the grounds on which a petition for transfer must be based.[2] They include:

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[1] A petition for transfer is much like a petition for certiorari in the federal system.

[2] A petitioner is permitted to depart from this list only for a demonstrated "special need." See *Baker* v. *Fisher*, 296 N.E. 2d 882, 883 (Ind. 1973).

(a) That the opinion or memorandum decision of the Court of Appeals contravenes a ruling precedent of the [Indiana] Supreme Court,

• • • • •

(c) That there is a conflict between the opinion or memorandum decision and a prior opinion of the [Indiana] Court of Appeals stating concisely the conflict and opinion in which it occurs. . . .

Ind. Code Ann. AP. 11(B)(1) (Burns 1984).

The stated grounds do not include an argument that the law of other jurisdictions is somehow better than Indiana's. Mr. Manion properly emphasized prior Indiana decisions.[3]

Second, the "Council" suggests a "better" argument than the one Mr. Manion employed. Mr. Manion pointed out that the defendant University had never had an incident of this type in its long history of sponsoring football games.[4] Thus, he argued, past experience demonstrated that it was reasonable for the University not to anticipate such problems. Relying upon substantial Indiana precedent, Mr. Manion argued that the University was under no duty to guard against or control the actions of individual fans. See Memorandum in Support of Appellee's Petition for Rehearing at 5.

The "Council" thought Mr. Manion should have argued that the very *character* of college football games is such that one should not expect drunken behavior. Apart from displaying a certain heartwarming innocence, this argument is not obviously superior to Mr. Manion's. It is instead a strained attempt at second-guessing Mr. Manion's handling of the case. Given the inaccurate and the unmeritorious nature of the "Chicago Council's" comments, we think they have no relevance to a confirmation proceeding in the United States Senate.

True, Mr. Manion was unsuccessful in this appellate proceeding, and ultimately on remand, after a jury trial handled by one of Mr. Manion's associates, judgment was entered against the University. That fact, however, probably says more about the need for tort reform than Mr. Manion's advocacy.

Indiana v. *Sumney,* Mr. Manion represented Mr. Sumney; Mr. Manion prevailed).

The "Council" criticizes Mr. Manion for using contractions and colloquialisms in this land condemnation suit in which Mr. Manion challenged successfully the sufficiency of the State's condemnation award. (Mr. Manion secured and sustained on appeal a jury award of $75,000 in a case where the State offered only $10,000). Once again, however, the "Council's" elitism ignores Indiana practice. The Supreme Court of Indiana, itself, uses the expressions which the "Council" finds objectionable. See. e.g., *Bieghler* v. *Indiana,* 481 N.E.2d 78, 83 (Ind. 1985) (diminutives); *Murphy* v. *Indiana,* 477 N.E.2d 266, 269 (Ind. 1985) (contractions); *Anderson* v. *Indiana,* 466 N.E.2d 27, 29, 30 (Ind. 1984) (contractions); *Baker* v. *Fisher,* 296 N.E.2d 882, 883 (Ind. 1973) ("most any"). No doubt the "Council" would agree that a lawyer should not be "more correct" than the Supreme Court.

The "Council" similarly misses the point when it criticizes Mr. Manion's brief for "rigidly follow[ing] the form of the appellant's brief." Both appellant *and* Mr. Manion followed the rather precise form required by Indiana Rule of Appellate Procedure 8.3. See Ind. Code Ann. AP. 8.3.(A), (B) (Burns 1984). Apparently, the "Chicago Council" did not bother to research Indiana law before they leveled their criticisms at Mr. Manion.

Finally, the "Council's" gratuitous one-liner, "[t]he brief is neither clear nor forceful," is simply wrong. The brief contains numerous subheadings to assist the reader. See, e.g., Brief of Appellee, at 10, 17, 19, 20.[5] Most Indiana lawyers would find the clarity and force of the brief to be amply illustrated by Mr. Manion's success in the matter.

Culver Educational Foundation v. *Indiana Civil Rights Commission* (Mr. Manion represented *Culver;* Mr. Manion prevailed)

In this case, the "Council" grudgingly admits that Mr. Manion's brief "reflects some aptitude for analyzing a legal issue and developing a reasonable argument concerning that issue." However, once again, the "Council" gratuitously asserts that the brief does not "communicate Mr. Manion's arguments in any effective manner." Once again, this is simply false. Mr. Manion's brief contains numerous headings and subheadings to assist the reader. In fact, such subheadings appear on virtually every page. See, e.g., Hearing Brief of Petitioner at 4, 5, 6, 7, 8, 9, 11.

Mr. Manion likewise cites extensive caselaw to his advantage and includes appropriate cases from the United States Supreme Court. Moreover, the fact that Mr. Manion cites recent cases (including one which had been handed down only two months earlier, *Andre* v. *Bendix Corp.,* 774 F.2d 786 (7th Cir. 1985)) indicates that the brief was thoroughly researched. See Hearing Brief of Petitioner at 4.

Both the "Council" and this Department reviewed the briefs in several additional cases. While Mr. Manion won all of them, the "Council" disregards substance and instead merely notes that the briefs contain typographical errors. Based on these errors, the "Council" argues that Mr. Manion cannot spell. This argument is at best disingenuous, and at worst, condescending. These so-called spelling, grammatical and "syntactical" errors are really just garden variety typographical errors. True, they should have been discovered and corrected. However, busy people involved in important matters frequently delegate proofreading to others—and often are disappointed with the result. The various spelling, grammatical and syntactical errors in the attached "Dear Colleague" letter provide a good example. Certainly, this Department does not mean to impugn the abilities of those Senators who authored this letter. Such a leap in logic would be terribly unfair. It is a similar unfairness that we ask you not to visit upon Daniel A. Manion.

Mr. BIDEN. Mr. President, I would like to ask unanimous consent that the letter from the deans be inserted in the RECORD.

(The letter is printed earlier in today's RECORD.)

Mr. BIDEN. I have nothing further to say on Mr. Manion until tomorrow morning, except to suggest that the only reason we have kept the Senate in this late, I say to my distinguished colleague from Wyoming, is because tomorrow morning we will only have about 15 minutes to 1 hour to discuss this issue. That is why we went as late as we have. The Senator from Delaware, as everyone knows, would long ago have been on a train going back to his small town in Wilmington, DE, but for that.

Mr. SIMPSON. Is that a promise?

Mr. BIDEN. That is a promise, if the Senator will vote no. [Laughter.]

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER [Mr. HATCH]. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I do know that the hour is late, obviously, and the occupant of the chair has been very patient. The leadership appreciates that. The leadership also appreciates the going forward with some of the material tonight so it does not take us on into the late hours tomorrow afternoon. That is a good prospect for us and I appreciate that.

THE CALENDAR

Mr. SIMPSON. Mr. President, after conferring with the acting minority leader, I would like to inquire if he is in a position to pass on any of the following calendar items: Calendar item 677, S. 2147 and Calendar item No. 689, S. 2095.

Mr. BIDEN. There is no objection on this side, Mr. President.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the calendar items just identified be considered en bloc and passed en bloc and all committee-reported amendments be considered agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROCUREMENT CONTRACTS FOR CERTAIN NOT-FOR-PROFIT ORGANIZATIONS

The Senate proceeded to consider the bill (S. 2147) to extend the authorization for not-for-profit organizations operated in the interest of handicapped and blind individuals to receive procurement contracts under the Small Business Act, which had been reported from the Committee on

[3] Mr. Manion did argue, as a third ground for transfer, that the lower court erroneously decided a question of first impression under Indiana law (See Rule 11(b)). On that point, he properly devoted over three pages to the law of other jurisdictions. See Appellee's Petition for Transfer, at 2; Memorandum in Support of Appellee's Petition for Rehearing, at 7-10.

[4] The intermediate appellate court had relied on Comment (f) to the Restatement of Torts (Second) 344 (1965). That comment states in relevant part:

[A defendant] may, however, know or have reason to know, from past experience, that there is a likelihood of conduct on the part of third persons in general which is likely to endanger the safety of the visitor, even though he has no reason to expect it on the part of any particular individual. If the place or character of his business, or his past experience, is such that he should reasonably anticipate careless or criminal conduct on the part of third persons, either generally or at some particular time, he may be under a duty to take precautions against it, and to provide a reasonably sufficient number of servants to afford a reasonable protection.

[5] Likewise the "Council's" allegation that Mr. Manion speculates on "possible" testimony is rather disingenuous. It is clear from context that Mr. Manion is simply exploring hypothetical questions in order to rebut appellant's arguments. See, e.g., Brief of Appellee at 8, 14.

Small Business, with an amendment to strike out all after the enacting clause, and insert the following:

That section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended to read as follows:

"(c)(1) As used in this subsection:

"(A) The term 'Committee' means the Committee for Purchase from the Blind and Other Severely Handicapped established under section 1 of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46).

"(B) The term 'public or private organization for the handicapped' has the same meaning given such term in section 3(e).

"(C) The term 'handicapped individual' has the same meaning given such term in section 3(f).

"(2)(A) During each of the fiscal years 1987 through 1991, public or private organizations for the handicapped shall be eligible to participate in programs authorized under this section in an aggregate amount for each year of not more than $50,000,000.

"(B) In each of the fiscal years 1987 through 1991, no more than $8,000,000 of the $50,000,000 authorized for participation by subparagraph (A) may be placed on the procurement list maintained by the Committee pursuant to section 2 of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 47).

"(3) The Administrator shall monitor and evaluate such participation.

"(4)(A) Not later than 10 days after the announcement of a proposed award of a contract by an agency or department to a public or private organization for the handicapped, a for-profit small business concern that has experienced or is likely to experience severe economic injury as the result of the proposed sward may file an appeal of the proposed award with the administrator.

"(B) If such a concern files an appeal of a proposed award under subparagraph (A) and the Administrator, after consultation with the Executive Director of the Committee, finds that the concern has experienced or is likely to experience severe economic injury as the result of the proposed award, not later than 30 days after the filing of the appeal, the Administrator shall require each agency and department having procurement powers to take such action as may be appropriate to alleviate economic injury sustained or likely to be sustained by the concern.

"(5) Each agency and department having procurement powers shall report to the Office of Federal Procurement Policy each time a contract subject to paragraph (2)(A) is entered into, and shall include in its report the amount of the next higher bid submitted by a for-profit small business concern. The Office of Federal Procurement Policy shall collect data reported under the preceding sentence through the Federal procurement data system and shall report to the Administration which shall notify all such agencies and departments when the maximum amount of awards authorized under paragraph (2)(A) has been made during any fiscal year.

"(6) For the purpose of this subsection, a contract may be awarded only if at least 75 percent of the direct labor performed on each item being produced under the contract in the sheltered workshop or performed in providing each type of service under the contract by the sheltered workshop is performed by handicapped individuals.".

SEC. 2. Not later than September 30, 1990, the General Accounting Office shall prepare a report describing the impact that contracts awarded under section 15(c) of the Small Business Act have had on for-profit small business concerns for fiscal years 1987 through 1989. The report shall be transmitted to the Senate Committee on Small Business and the Committee on Small Business of the House of Representatives.

SEC. 3. There is established within the Small Business Administration a task force on purchases from the blind and severely handicapped which shall consist of one representative of the small business community appointed by the Administrator of the Small Business Administration and one individual knowledgeable in the affairs of or experienced in the work of sheltered workshops appointed by the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped established under section 1 of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products and for other purposes', approved June 25, 1938 (41 U.S.C. 46). The task force shall meet at least once every six months for the purpose of reviewing the award of contracts under section 15(c) of the Small Business Act and recommending to the Small Business Administration such administrative or statutory changes as it deems appropriate.

Mr. WEICKER. Mr. President, I rise in support of S. 2147, legislation which would reauthorize the eligibility of sheltered workshops operating for the benefit of the blind and handicapped to compete for Federal Government contracts set aside for small businesses. This legislation is cosponsored by Senators KERRY, COCHRAN, NICKLES, SARBANES, QUAYLE, BAUCUS, INOUYE, MATSUNAGA, PRESSLER, GORE, RIEGLE, HOLLINGS, and D'AMATO and was favorably reported by the Senate Small Business Committee by a vote of 17-0 on May 21, 1986. I urge my colleagues to join in supporting passage of this bill which will provide important employment opportunities for our Nation's disabled citizens.

Sheltered workshops are nonprofit organizations which provide work for handicapped and blind workers. They provide a rare opportunity for our Nation's most disadvantaged citizens to be productive in a work environment and to earn an honest wage. Until September 1983 the workshops were allowed to submit competitive bids for Government contracts. We tried in the last Congress to restore that authorization as part of an omnibus small business bill, but for reasons unrelated to the merits of the legislation, the proposal died in conference.

During Senate Small Business Committee consideration of S. 2147, we heard convincing testimony that there is a compelling need for additional employment opportunities for persons with severe handicaps. A recent study by Louis Harris & Associates indicates that two-thirds of the handicapped are not working, even though an overwhelming majority want to work, and over half fall below the poverty line. Great strides toward employment are being made through the Rehabilitation Act, the Developmental Disabilities Act, and the Javits-Wagner-O'Day Act. But clearly not enough has been done so far. The reestablishment of the authority of rehabilitation facilities to bid on small business set-aside contracts will provide an important source of meaningful jobs for severely disabled persons.

Let me take a moment, Mr. President, to explain how the program works and why S. 2147 offers an exciting opportunity for the thousands of handicapped and blind individuals throughout the country. And let me do so in concrete terms which will humanize this program. At the committee hearing on S. 2147, we heard very eloquent testimony from Dwight Whittaker, the executive director of a workshop in Idaho Falls, ID, who was representing NARF, the National Association of Rehabilitation Facilities. Mr. Whittaker's workshop had for several years entered into a 15(c) contract with the General Services Administration for the manufacture of survey stakes and hubs. This contract provided real meaningful work for over 150 disabled individuals in a rural part of the country. It did so in the context of providing needed items to the Federal Government at competitive prices. Without the benefit of the 15(c) program, the workshop would not have been able to put those handicapped people to work, and since expiration of the program in 1983, the workshop has been unable to renew the contract.

As Mr. Whittaker put it:

As a result of the lapse of previously enacted authority, the rehabilitation facilities have lost and continue to lose the opportunity to train and employ the disabled citizens of this great country. When small business set-aside privileges were available to the rehab facilities, they proved to be a valuable source of training and employment opportunities for many severely disabled and blind individuals.

Another example was provided by William Wolk, execuive director of the South Shore Rehabilitation Center in North Quincy, MA. Mr. Wolk showed a film entitled, "Right to Work" which featured a 30-year-old woman, Mary Ann, who was both retarded and autistic. The film showed Mary Ann working on a urinary leg bag for the Veterans Administration under a contract awarded through this program. Mary Ann's father spoke about the miracle and change in his daughter's life brought about through her employment at the workshop. As Mr. Wolk stated, the miracle was that she had had the opportunity to work, and in Mr. Wolk's judgment reauthorizing this program is the vital link to creating real job opportunities for people like Mary Ann who are not presently

employable in the competitive workforce.

Under the 15(c) program which S. 2147 seeks to renew, the handicapped and blind will find opportunities for real work more quickly. If a Federal agency needs to buy a particular item, it will place a notice in the Commerce Business Daily, soliciting bids. The workshop, along with other eligible suppliers, submits its bid, and if it comes in as low bid, it will receive the contract. It will succeed on its merits because it offers a quality product at a competitive price. And it will obtain the work assignment quickly, and without significant delays involved under Javits-Wagner-O'Day. That is the essence of section 15(c) and that is why it is such a vital addition to other Federal programs for the benefit of the handicapped. It allows sheltered workshops to enter the market for Government procurement contracts and to bid on them competitively.

Mr. President, the committee also heard concerns raised by small business owners that reauthorization of this program would cause them economic loss. The bill as reported out by the committee makes several improvements over previous laws, and I believe it strikes a fair and reasonable balance between the concerns of sheltered workshops and those of small business. Specifically, the bill establishes:

An annual $50 million cap on the contracts which can be awarded under section 15(c) of the Small Business Act.

An annual $8 million cap on the contracts awarded under section 15(c) which can subsequently be transferred over to the Javits-Wagner-O'Day Program;

An appeals process which gives the Administrator of the SBA the opportunity to adjudicate claims that an award of a contract to a workshop would cause a small business severe economic injury;

A 5-year sunset clause which should allow adequate time to study the program; and

A GAO study of the impact of the legislation by 1990.

With respect to the $50 million cap on awards under 15(c), this legislation reduces by one-half the $100 million limitation under previous enactments of this program. When workshops were eligible to bid under section 15(c) from 1981–83, less than $10 million in awards was actually made to workshops out of a total of $38 billion in contracts to small businesses. This represented, in fact, a miniscule one-fourth of 1 percent of the set-asides. As further protection for small businesses, S. 2147 establishes an $8 million limitation on contracts awarded under the 15(c) program which can subsequently be transferred over to the Javits-Wagner-O'Day Program and an appeals process to protect small business concerns that may suffer adverse economic impact.

The legislation requires that within 10 days of a proposed award to a sheltered workshop under the 15(c) program, a small business concern which has experienced or is likely to experience severe economic injury may file an appeal of the proposed award with the Administrator of SBA. The Administrator must decide the appeal within 30 days after it is filed. This appeals provision is intended to address the concern that workshops may have some sort of advantage over the for-profit companies and may therefore cause undue adverse economic impact. As in any appeals process, the burden of proof rests with the appellant to prove its case.

The grounds for appeal remain severe economic injury to the small business concern. The committee report sets forth several factors that the Administrator is encouraged to consider in deciding severe economic injury. In his review of appeals, the Administrator should not lose sight of the purpose of the program which is to provide employment opportunities for the disabled. It would be a distressing development contrary to the intent of the committee if the goal of providing meaningful work opportunities to the handicapped was defeated.

It is anticipated that the SBA Administrator will use this appeal authority judiciously and not permit the process to evolve into a general challenge every time a workshop is the successful bidder on a set-aside contract.

Mr. President, this legislation has the support of the National Association of Rehabilitation Facilities, the National Industries for the Severely Handicapped, the Association for Retarded Citizens of the United States, the National Easter Seal Society, Goodwill Industries of America, the National Association of Jewish Vocational Services, the General Council of Workshops for the Blind, and the National Industries for the Blind. I urge my colleagues to support it, so that once the House of Representatives acts, this important program can be reauthorized.

Mr. PRESSLER. Mr. President, I rise as an original cosponsor of S. 2147, reauthorizing eligibility for sheltered workshops for the severely handicapped to compete for small business set-aside contracts. I support passage of this important legislation. However, I would like to take this opportunity to raise some concerns I have regarding language in the committee report (S. 99-318) accompanying S. 2147.

Throughout consideration of this legislation in the Small Business Committee, every effort was taken to ensure for-profit small businesses were not adversely affected—and indeed, this is important. I feel strongly that sheltered workshops for the handicapped should be given the same consideration. The purpose of this legislation is to provide work for the severely handicapped, and we must keep this very important goal in mind.

In previous legislation, the Administrator of the Small Business Administration and the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped [CPBOSH] shared a dual adjudicative authority. Under S. 2147, the Administrator possesses this authority. Consultation with the CPBOSH Executive Director is required in this bill, and I want to stress this fact. The CPBOSH Executive Director possesses a wealth of experience in matters concerning handicapped employment and his or her advice will help to ensure bids submitted by sheltered workshops are given adequate and serious consideration. While the possibility of adverse impact on for-profit small businesses should be considered, adverse impact on handicapped employment must also be considered. In the case of new contracts, the appeals process should not come into play.

This leads me to my second point. On page 8 of the committee report there are six factors listed to be taken into consideration during the appeals process—five of which apply only to for-profit small business. I would like to urge that all six of these factors apply not only to for-profit small businesses, but to sheltered workshops employing severely handicapped individuals as well. The unemployment rate for the severely handicapped is astonishing, and sheltered workshops are virtually the only organizations which exist solely to provide these people with jobs.

In conclusion, I want to again stress that the primary purpose of this legislation is to provide employment for the severely handicapped. I wholeheartedly agree that this should not be accomplished at the expense of for-profit small businesses. But, I am concerned that the workshops may be prohibited from winning any set-aside contracts because of a possibility of adverse impact. It should be stressed that the phrase "severe economic injury" means just that, severe injury. I hope that this will be kept in mind during the 5 years this authorization runs, as well as the spirit of helping the handicapped who cannot always help themselves.

Mr. KERRY. Mr. President, I rise in support of S. 2147, legislation that will enable sheltered workshops to bid competitively for Federal Government contracts set aside for small businesses. The intent of this reauthorizing legislation is straightforward; it is designed to assist disabled citizens in gaining employment.

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At hearings before the Subcommittee on the Handicapped, and in my travels throughout my home State, I have witnessed firsthand the tremendous value to handicapped individuals to be able to contribute both as taxpayers and as workers in our society. And, not only is it fulfilling to an individual to be able to work, but it is essential to ones self-esteem and motivation. Despite the fact that disabled persons have an overwhelming desire to work, the employment statistics are still quite grim. According to a recent Harris survey, in America today there are over 20 million unemployed handicapped citizens of working age who want to work, yet due to a lack of available jobs, a staggering 60 percent of this Nation's disabled citizens are not working. This devastating figure stands in sharp contrast to the overall national unemployment rate which is roughly 7 percent, and makes passage of this bill so very important.

Keeping all of this in mind however, I am still quite cognizant of the concerns that many small businesses share regarding a potential loss of jobs. Let me allay some of these concerns by pointing out that S. 2147 places an annual $50 million cap on the amount of contracts that can be awarded under section 15(c) of the Small Business Act. It also includes an annual cap of $8 million on the amount of awarded contracts that can subsequently be transferred over to the Javits-Wagner-O'Day Act. And finally, this legislation establishes an appeals process under which the Administrator of the Small Business Administration is able to review a challenge to an award to a sheltered workshop if it warrants such action. In determining the viability of an award, the Administrator is encouraged to consider a variety of factors that could culminate in severe economic injury to a small business.

I would like to take just a moment, before continuing my statement, to clarify with my good friend from Connecticut the full intent of the language regarding the appeals process. It is my understanding that the Administrator of the Small Business Administration will confer whenever possible with the Executive Director of the Committee for the Purchase from the Blind and Other Severely Handicapped in determining the basis of an appeal.

Mr. WEICKER. That is correct. Because the Committee for Purchase has such an extensive background with Government contracts and sheltered workshops, its input into the appeals process is truly valuable.

Mr. KERRY. Would my colleague from Connecticut also assist me in explaining the need to reduce excessive and burdensome appeals which could detract from the purpose of our legislation which is to assist handicapped persons in competitively securing employment.

Mr. WEICKER. The committee report directs the Administrator of the Small Business Administration to promptly dismiss frivolous appeals. It is certainly not our intent to allow the appeals process to be dragged out and thereby offer small businesses an avenue to delay contract awards to sheltered workshops.

Mr. KERRY. In this same vein, can I then assume that the timeframe we have included in our legislation regarding the appeals process is to be strictly adhered to in order to prevent lengthy disputes, and should not be subject to waivers which will cause undue delays.

Mr. WEICKER. Again the Senator is correct. We are all aware of how lengthy and arduous an appeals process can sometimes be, and for that reason we have placed strict time limits into the legislation's appeals process.

Mr. KERRY. I thank my colleague from Connecticut for clarifying this for me.

I want to applaud the Small Business Committee for acting so quickly and unanimously in support of this legislation which is so vital to ensuring employment for America's handicapped population. I urge my fellow colleagues to follow the committee's example and pass this critical legislation that will improve the lives of disabled citizens across our Nation.

The PRESIDING OFFICER. Without objection, the committee amendment is agreed to.

The bill (S. 2147) was ordered to be engrossed for a third reading, read the third time, and passed.

INDIAN COMMUNITY COLLEGE AUTHORIZATION

The Senate proceeded to consider the bill (S. 2095) to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act, which has been reported from the Committee on Indian Affairs, with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribally Controlled Community College Assistance Amendments of 1986".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) GRANT PROGRAMS.—Subsection (a) of section 110 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) by striking out "1985, 1986, and 1987" in paragraph (1) and inserting in lieu thereof "1987, 1988, 1989, and 1990", and

(2) by striking out "such fiscal years" in paragraphs (2) and (3) and inserting in lieu thereof "the fiscal years 1987, 1988, 1989, and 1990".

(b) ENDOWMENT PROGRAM.—Section 306 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1836) is amended by striking out "1985, 1986, and 1987" and inserting in lieu thereof "1987, 1988, 1989, and 1990".

SEC. 3. DEFINITIONS.

(a) SATISFACTORY PROGRESS.—Subsection (a) of section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)) is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(8) 'satisfactory progress toward a degree or certificate' has the meaning given to such term by the institution at which the student is enrolled.".

(b) INDIAN STUDENT COUNT.—Subsection (b) of section 2 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(b)) is amended—

(1) by striking out ", in accordance with the standards and practices of the appropriate accrediting agency or the institution at which the student is in attendance," in paragraph (5),

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the completion of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.".

SEC. 4. OPERATION AND IMPROVEMENT GRANTS.

Paragraph (2) of section 108(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)(2)) is amended to read as follows:

"(2) $5,820,".

SEC. 5. CONTRACTS UNDER INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

Subsection (b) of section 109 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1809(b)) is amended by adding at the end thereof the following new paragraph:

"(3) No tribally controlled community college for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.".

SEC. 6. REPORT OF FACILITIES.

(a) IN GENERAL.—Section 112 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1812) is amended—

(1) by striking out "Administrator of General Services" each place it appears and inserting in lieu thereof "Secretary", and

(2) by striking out "enactment of this subsection" in subsection (a) and inserting in lieu thereof "enactment of the Tribally Controlled Community College Assistance Amendments of 1986".

(b) CONFORMING AMENDMENT.—Section 113(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1813(a)) is amended by striking out "Administrator of General Services" and inserting in lieu thereof of "Secretary".

SEC. 7. NAVAJO COMMUNITY COLLEGE.

Section 5 of the Navajo Community College Act (25 U.S.C. 640c-1) is amended—

(1) by striking out "the fiscal year beginning October 1, 1984, and for the three succeeding fiscal years" in subsection (a)(1) and inserting in lieu thereof "each of the fiscal years 1987, 1988, 1989, and 1990", and

(2) by striking out "for any fiscal year" in subsection (b)(1) and inserting in lieu thereof "for each fiscal year".

Mr. MELCHER. Mr. President, I am pleased to rise today in support of Senate bill 2095, a bill to reauthorize the 1978 Tribally Controlled Community College Assistance Act.

Education for Indian youth is a must. Education for young Indians opens the door of opportunity. Older Indians of any age must also have the chance to further their knowledge. Collectively, these first Americans will benefit from educational opportunities available at the reservation tribal colleges.

Currently, there are 21 tribal colleges operating with the assistance of this legislation, including 1 on each of the 7 Indian reservations in my home State of Montana. Nine of the colleges are fully accredited, six are candidates for accreditation, and six are in precandidacy status. This is no small accomplishment for a program that has been in operation for only 8 years. It reflects the desire and commitment of Indian tribes to provide quality, relevant education in the local community to meet the needs of reservation residents.

The tribal colleges offer varied degree programs, including business, nursing, arts, and science; some are 2-year institutions and others have 4-year degree programs. In addition, the colleges serve the local community by offering courses in adult education, vocational education, and high school equivalency. The colleges play a very special role in the lives of tribal members, many of whom are older than the norm, with no experience at traditional colleges and who are first generation college students.

The impact on Indian people, reflected by the growth in the number of colleges and the number of students served, is due to the ability of the colleges to respond to the unique and special needs of Indian students in a reservation setting. Many graduates of 2-year programs go on to complete a 4-year program elsewhere; others from 4-year programs go on to postgraduate work.

The tribes can be very proud of this success and Congress can be proud of making it possible through passage of the Tribally Controlled Community College Assistance Act of 1978.

The bill before us today will extend authorization of this act through fiscal year 1990. In addition, the bill clarifies the act with regard to student eligibility. It is a must bill to assure continued funding stability for tribal colleges. I urge its unanimous passage.

The PRESIDING OFFICER. Without objection, the amendment was agreed to.

The bill was order to be engrossed for a third reading, reading the third time, and passed.

□ 2240

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF SBA PILOT PROGRAMS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate turn to consideration of Calendar No. 699, H.R. 2787, extending SBA pilot programs.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

A bill (H.R. 2787) to extend through fiscal year 1988 SBA Pilot Programs under section 8 of the Small Business Act.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2194

(Purpose: To authorize funds for a Technology Transfer Institute to benefit small business)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator WEICKER and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. Weicker, proposes and amendent numbered 2194.

On page 1, between lines 2 and 3, insert the following:

TITLE I—SMALL BUSINESS PILOT PROGRAMS

On page 1, line 3, strike out "Section 1." and insert in lieu thereof "Sec. 101.".

On page 2, line 1, strike out "Sec. 2." and insert in lieu thereof "Sec. 102.".

On page 2, line 5, strike out "Sec. 3." and insert in lieu thereof "Sec. 103.".

On page 2, after line 8, insert the following new title:

TITLE III—TECHNOLOGY TRANSFER INSTITUTE AUTHORIZED

Sec. 201. (a) The Secretary of Education (hereafter in this title referred to as the "Secretary") is authorized to provide financial assistance, in accordance with the provisions of this title, to pay the Federal share of the cost of construction and related expenses for the establishment of the Technology Transfer Institute at the University of Bridgeport, located at Bridgeport, Connecticut, to be used to revitalize the competitiveness of small business industry in America, particularly in the international marketplace, and to serve as a regional demonstration center transferring emerging technology to small businesses.

(b)(1) No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) The Federal share may not exceed 50 percent of the cost of the project authorized by this title.

(c) There are authorized to be appropriated such sums, not to exceed $10,000,000, as may be necessary to carry out the provisions of this title. Funds appropriated pursuant to this section shall remain available until expended.

TECHNOLOGY TRANSFER INSTITUTE AMENDMENT TO H.R. 2787

● Mr. WEICKER. Mr. President, evidence from all sources shows us that America is experiencing an alarming and unprecedented slippage of its position as the preeminent leader in the international industrial, economic, and technological marketplace. Our economy shifted dramatically over the last decade from that of the old smokestack industry to one based primarily on high technology, service industries and small business. Our ability to regain the marketshare we have lost will be very dependent upon the continued investment and innovativeness of the small entrepreneur.

The role of the university in providing the degree of science and technology base needed for a strong national defense and for the health and wellbeing of the U.S. economy has been amply proven. The small business has an important role to play in the process of new technological innovation, new product development and the creation of jobs. The chance to become competitive relies extensively on collaborative efforts between the university and the small entrepreneur. However, the benefits of such collaboration are being hindered. While the university is often a powerhouse of new technology resources, there exists no mechanism for transferring the technology and information resources from the university laboratory to the small business venture. New technology and talent developing at universities is never utilized to the degree that it could by the small entrepreneur.

The war against foreign competition can be won. But it requires the kind of commitment that existed during the

early 1970's, before America became so sure of itself that it ceased making effort to remain competitive. We need productive partnerships among Government, small industry, and universities to build upon our industrial and technological resources in order to regain the competitive advantage among our foreign adversaries. A technology transfer institute, as authorized in this amendment, will demonstrate the effectiveness of this kind of partnership and Federal involvement. The return on this commitment will far exceed the initial dollars invested.

I urge the adoption of the amendment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2194) was agreed to.

Mr. WEICKER. Mr. President, I am pleased that today the Senate is considering H.R. 2787, a bill to extend through fiscal year 1988, two Small Business Administration [SBA] pilot programs which are designed to enhance SBA's ability to assist firms participating in the section 8(a), Minority Business Development Program.

The statutory authority for both programs expired on September 30, 1985. The House of Representatives unanimously approved this legislation on December 16, 1985. Following a full committee hearing on the bill, the Senate Small Business Committee, without objection, reported out H.R. 2787 on May 21, 1986.

The principal program authorized by H.R. 2787 is the Pilot Procurement Program. This program gives SBA increased authority to select and reserve contracts from an agency designated by the President to provide technically sophisticated multiyear contracts for the 8(a) program and to test the feasibility of this approach as a business development tool for the program.

This pilot program has been previously extended by the Congress. It was originally authorized in Public Law 95-507 for a period of 2 years—from October 1978 to September 30, 1980 and it was extended for 1 year by Public Law 97-481 until September 30, 1981. During those years the Department of the Army was designated by the President as the pilot agency. In the 97th and the 98th Congresses, I sponsored legislation to reauthorize the program in a civilian agency; in 1983 under Public Law 98-47 the program was extended until September 30, 1985. The Department of Transportation [DOT] was the designated pilot agency under this latest extension.

The program, over the past 2 years with DOT, has provided new and exciting opportunities for minority-owned firms. One midwestern firm was awarded a highly technical contract to design, manufacture, and test radio control equipment for the Federal Aviation Administration. Another small company located in California will design, develop, and produce 600 airport remote monitoring systems for FAA. These high-technology electronic systems will play a major role in automating the maintenance of FAA's landing systems in airports throughout our Nation. These two awards are examples of the nontraditional, long-term, higher dollar contracts received by 8(a) pilot participants. I might also add that both contractors are performing well and meeting the challenge of these sophisticated requirements. All minority contractors who testified at the hearing unanimously endorsed extension of the program. They strongly felt that without the pilot authority they would not have been awarded such challenging contracting opportunities. Thus, I firmly believe the pilot should be extended so that SBA and DOT can build on their experience to make more "quality" contracting opportunities available to minority-owned firms.

The second pilot program extended by this legislation is the Surety Bond Waiver Pilot Program. Under this program, SBA can waive bonding requirements for a section 8(a) start-up firm to help the firm gain Government contracting experience or establish a "track record". Since it was originally authorized in 1978, SBA has never utilized this authority. By extending this pilot the SBA will once again have the opportunity to test the bond waiver authority so that Congress can evaluate its usefulness as a business development tool.

Mr. President, those of us who have followed the evolution of minority business development in recent years have seen progress. Most notable is the advancement made by minority business through the Federal procurement process. But there is still much to be done. By approving this legislation we will continue on a progressive course and assure a rightful place for minority-owned businesses in our Nation's economic mainstream.

Mr. President, I ask unanimous consent that letters from the Latin America Manufacturers Association, the National Association of Minority Contractors, the National Federation of 8(a) Companies, and the Black Presidents Roundtable, supporting this legislation, be printed in the RECORD.

I urge my colleagues to support this legislation. SBA has been operating without this pilot authority for nearly 1 year. As a result, I believe certain unique contracts for minority businesses are being lost.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LATIN AMERICAN MANUFACTURERS ASSOCIATION,
May 14, 1986.

Senator LOWELL WEICKER,
U.S. Senate, Small Business Committee, Washington, DC.

DEAR SENATOR WEICKER: Soon you will be considering H.R. 2787, a Bill which would extend the 8a pilot program through FY '88. The purpose of this letter is to request your support for passage of this Bill. I will briefly outline our reasons in this letter.

The 8a pilot program has given the SBA a significant tool to help leverage larger, more technical requirements for minority firms from the Department of the Army and the Department of Transportation, the two agencies wherein the pilot authority has been used on a test basis. There is absolutely no doubt that the types of requirements let by the Army and DOT would not have occurred without the pilot program.

LAMA was directly involved with two large pilot requirements, so we speak from direct, first-hand experience. These requirements were:

(1) The 6HP military standard engine (MSE) for the Army built by Wedtech in the South Bronx—$30 million (more or less).

(2) The RMMS system for the FAA being developed and built by New Bedford Panoramex (NBP) of Santa Fe Springs, California—$40 million (more or less).

Beyond a shadow of a doubt, these requirements would not have been awarded to these firms were it not for the pilot program. The Army resisted the MSE 8a award strenuously for over two years, claiming that Wedtech was not capable of performing the requirement. The pilot authority was the only reason the Army's repeated attempts to pull back the MSE requirement were unsuccessful. Wedtech has produced a first class MSE which the Army has rated as excellent. As a consequence of this pilot program award, Wedtech has won other Army MSE requirements (different horsepower units) on a competitive basis, and is supplying other major companies with crankcase castings for other MSE engines (these castings are the most critical item on the MSE).

The DOT RMMS award to NBP is a more recent pilot program award. Under the leadership of Secretary Dole, DOT (unlike the Army) cooperated fully with SBA when the President assigned the pilot program to the Department of Transportation. FAA officials identified a number of significant projects for the pilot program. As a result of FAA's evaluation of the 8(a) firms submitted by SBA, NBP was selected for the RMMS requirement. NBP was a new entry into the 8(a) program and, although the firm had no track record in direct government contracting, the firm did have an outstanding technical capability and track record in private industry. Because of NBP's complete lack of experience in direct government contracts, there is simily no way a major requirement like the RMMS system could have gone to NBP outside of the pilot program.

It is clear to us that the pilot authority works. It is clear that the pilot authority is needed, particularly in the military agencies wherein we still encounter great resistance to the award of larger, more technical requirements to 8(a) firms. For your review, I have attached copies of my testimony to the House Small Business Committee on the subject of the pilot program. In this testimony, I have provided several detailed examples illustrating the unwarranted resist-

ance that 8(a) firms encounter at Federal agencies. These examples clearly show that the pilot authority is needed by SBA.

We disagree sharply with SBA over the need for this authority. It is reprehensible for SBA to take the position that the authority is not needed, particularly when the record clearly shows that SBA is unable to provide most of its 8(a) firms with contract support. We feel the pilot authority could be used by SBA in more creative ways. If the pilot program were placed at the Navy, for instance, SBA could request, at the beginning of each fiscal year, that the major Navy buying activities reserve a certain number of requirements with which to support its portfolio of 8(a) companies. By resisting the pilot authority, the SBA is disregarding one of the most effective tools available for securing a meaningful level of contract support for its 8(a) companies *and* a means for securing a much more equitable distribution of requirements among 8(a) firms.

There is one other major argument for the retention of the pilot authority and for its placement in DOD. That is the 5% minority enterprise goal recently required by the Congress and implemented by Deputy Secretary Taft. Direct contracting by the four defense agencies (Army, Air Force, Navy & DLA) with minority firms hover around 2% or less. Achieving the 5% goal is going to require special efforts and receptivity to new approaches.

The pilot program authority can be an extremely useful tool in helping DOD meet the 5% goal. It can be used to reserve larger, more technical requirements for the 8(a) program. It can be used to identify and reserve a wide variety of requirements so that the bulk of the 8(a) firms which currently receive little or no 8(a) contracts can actually begin receiving meaningful support from the SBA 8(a) program. And finally, the pilot authority managers with poor histories of 8(a) support can be caused to improve their minority contracting.

As you read this letter, please bear in mind that we are talking about a business program, not a giveaway program. Under no circumstances should 8(a) firms be awarded requirements unless they can perform them in a technically competent manner, within the required time frames and delivery schedules, and at a fair market price established by the buying agency. Front organizations and other abusers of the 8(a) program should be aggressively identified and eliminated from the program. LAMA has been in the forefront of the push for severe criminal penalties for front organizations.

Please accept our appreciation for your thoughtful consideration of the ideas contained herein. We urge your support for the continuation of the pilot program.

Yours truly,

LOU ARRANGA,
Chairman.
STEPHEN DENLINGER,
President.

NATIONAL FEDERATION OF 8(a) COMPANIES,
Falls Church, VA, May 15, 1986.

Hon. LOWELL P. WEICKER, Jr.,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR WEICKER: The National Federation of 8(a) Companies representing 2,800 firms across the country, fully supports H.R. 2787 to extend through Fiscal Year 1988 the Pilot Program under Section 8 of the Small Business Act.

The Federation has previously testified on this matter before the House Small Business Committee. A copy of the testimony is attached.

The Pilot Program, to the extent that it has been implemented in the Department of Army and the Department of Transportation, has benefitted the 8(a) Program in providing significant opportunities in the high-tech arena. This is very important. Historically, 8(a) companies were given opportunities primarily in low-tech work such as janitorial and food services. If we are to join the mainstream of the economy of this country, we need to have the opportunities to work in the most advanced state-of-the-art. This is the only way we can develop the technology, managerial and financial resources to go beyond the 8(a) program into the competitive arena.

Your support of minority business development and of H.R. 2787 will be appreciated by minority entrepreneurs in your state.

Sincerely,

ELIZABETH L. PAN,
President.

NATIONAL ASSOCIATION OF MINORITY CONTRACTORS,
Washington, DC, May 14, 1986.

Hon. LOWELL P. WEICKER, Jr.,
Chairman, Senate Small Business Committee, Washington, DC.

Subject: H.R. 2787.

DEAR SENATOR WEICKER: The National Association of Minority Contractors (NAMC) is a full-service, non-profit, trade association, established in 1969 to address the needs and concerns of minority construction contractors nationwide. Our membership of 3,500 contractors presently spans across 45 states. We strongly urge you to support H.R. 2787 when it comes up for vote in the Senate Select Committee on Small Business.

NAMC testified in support of such bill before the House Small Business Committee in November, 1985, and we submitted written testimony to the Senate Select Committee on Small Business this past March.

We sense that there might be some reluctances to support this bill because of the tenuous position of the Small Business Administration (SBA) as well as the recent draft report of the U.S. Commission on Civil Rights (CRC) recommending suspension of minority business set-aside programs.

With regard to the SBA, please keep in mind that regardless of the Administration's future plans for such agency, the Small Business Administration currently exists as an independent agency of the federal government. Such agency must administer those programs mandated by Congress with integrity and efficiency until directed otherwise by Congress. We ask that you not allow speculation to affect your vote in this matter. As you will see below, the passage of H.R. 2787 is crucial not only for minority entrepreneurs but for the entire American economy.

In 1981 the Center for Systems and Program Development, Inc. in Washington, D.C. conducted a survey among minority-owned firms in the Washington Metropolitan area, among which 8(a) firms are heavily represented. The survey indicated that employment among these minority businesses greatly exceeded the national averages.

Estimated employment for the 250 firms represented by the sample showed a total of 14,234 employees. Many of these employees in professional, technical and managerial categories would not find comparable positions in either the public or non-minority private sector if their jobs were terminated.

During the rest of the 1980s the importance of minority-owned businesses as employers will likely increase. The Bureau of Labor Statistics (BLS) projects slower employment growth in the goods-producing sectors through 1990. However, BLS also projects that employment demand in those retail non-goods producing areas, in which minority-owned firms are concentrated, will increase by as much as 8 percent. During the decade of the 1980s, total employment in the goods-producing sector is projected to grow by 5 to 7 million persons, compared to about 20 million in the non-goods producing industries.

The contributions of MBEs as employers are made even more clear when the impact of these firms on unemployment is assessed. In 1980, an estimated 3.15 million persons were unemployed each week. If unemployment benefits of $100 per week were paid to these persons, $315 million a week would be required. The collapse of MBEs could represent an additional outlay of $100 million in Federal unemployment benefits, since persons employed by MBEs would not have easily found jobs in either the public or private sectors in 1980, a recession year. Put another way, the continued survival of MBEs in 1980 could have saved the Federal government $100 million a week or $5.2 billion for the year.

The implications of these data and projections are clear. Minority entrepreneurs will have to employ at expanded levels to offset weak and declining labor demand in the goods producing and public service sectors severely impacted by reduction in Federal spending. H.R. 2787 gives one outlet for meeting this demand.

The Surety Bond Waiver Component of H.R. 2787 is also urgently needed—now more than ever. A nationwide study which NAMC has just completed under a grant from the SBA, indicates that lack of the availability of bonding is the number one reason given by minority contractors for being unable to perform large construction contracts. Frequently, the minority contractors has successfully bid on a contract but was not eligible to perform due to the unavailability of bonds to minority enterprises in today's stringent marketplace. Such problem causes the loss of jobs, tax revenues and entrepreneurial initiative. The bond waiver would go a long way toward eliminating this problem.

So far as the draft report of the CRC is concerned, I might remind you that this report was effectively contradicted by numerous reputable organizations, legislators, government agencies (including the SBA) and even by the Commission's own members. Not only did the Commission vote to table the report, but President Ronald Reagan even expressed his support of minority business set-aside programs.

President Reagan's support sent a much-needed signal from our nation's leadership to the country's number one employer of minorities—minority business enterprises. The message as, "We support you and we're behind you." We ask that you do the same by voting for H.R. 2787.

Very truly yours,

RALPH C. THOMAS III,
Executive Director.

[Western Union Mailgram]

ASSOCIATE CONSULTANTS V LEWIS,
Washington DC.

Senator LOWELL P. WEICKER, Jr.,
Washington DC.

SIR, the Black President's Round Table Association; and organizaton of minority businessmen, supports H.R. 2787, a bill to extend the SBA Pilot Program under section 8 of the Small Business Act.

We believe that this act will continue to strengthen the small and minority business community and will contribute to the overall economic well-being of the country.

We respectfully request your positive vote for H.R. 2787.

Respectfully,

LAWRENCE A LANDRY,
Member, Executive Committee,
Black President Round Table Association.●

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT OF 1965 AMENDMENTS

Mr. SIMPSON. I ask unanimous consent that the Senate turn to H.R. 5036, dealing with the arts and humanities.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 5036) to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2195

(Purpose: To revise the age category limitation on the allocation of funds)

Mr. BIDEN. Mr. President, I sent an amendment to the desk on behalf of Senator KERRY and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] for Mr. KERRY, proposes an amendment numbered 2195.

Mr. BIDEN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

ALLOCATION LIMITATIONS FOR EDUCATION OF THE HANDICAPPED ACT

SEC. 2. Section 611(a)(5)(A)(i) of the Education of the Handicapped Act is amended by inserting after "children" the first time it appears the following: "aged five to seventeen, inclusive,".

● Mr. KERRY. Mr. President, my amendment is basically a technical amendment designed to address an inconsistency with the funding allotment formula in Public Law 94-142, the Education of All Handicapped Children's Act.

Public Law 94-142 provides for a free and appropriate education for all handicapped children ages 3 to 21. However, there exists a 12-percent Federal funding cap in the law that is based on the number of handicapped children a State serves, as compared to the number of general school age children ages 5 to 17 in that State. Here lies the inconsistency. States that serve handicapped children outside of the general age category—which today a majority of the States do—are being unfairly penalized for serving this additional population. And this certainly was not the intent of the drafters of Public Law 94-142 or the Congress who passed this law a decade ago.

Under current law we have witnessed a tragic inequity in the availability of services. Handicapped children outside of the traditional school age range have not had universal access to special education. My amendment makes an essential change in the formula which will in fact give States the necessary added incentive to serve those handicapped youth who can ultimately benefit from proven, critical educational services that Congress has historically supported.

I strongly urge my colleagues to support this technical amendment which will assist States in providing educational services for handicapped children.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2195) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. SIMPSON. I move to reconsider the vote by which the bill was passed.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CARL D. PERKINS VOCATIONAL EDUCATION ACT AMENDMENTS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 4841, dealing with the Carl Perkins Vocational Education Act, which is being held at the desk.

The PRESIDING OFFICER. The bill will be stated.

The assistant legislative clerk read as follows:

A bill (H.R. 4841) to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE HOUSE

At 11:17 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 9, 24, 29, 30, 31, 32, 33, 34, 35, 36, 39, 48, 55, 58, 60, 63, 64, 66, 67, 68, 69, 70, 71, 73, 74, 86, 88, 94, 99, 103, 113, 125, 133, 138, 140, 153, 158, 159, 160, 165, 166, 167, 170, 171, 173, 174, 183, 188, 189, 190, 191, 194, 198, 206, 207, 208, 211, 214, 221, and 222 to the bill, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 10, 11, 15, 18, 20, 22, 23, 25, 28, 40, 42, 44, 45, 50, 54, 59, 77, 78, 79, 80, 81, 84, 87, 91, 93, 95, 96, 97, 98, 101, 107, 108, 109, 111, 112, 120, 122, 128, 131, 132, 134, 136, 143, 144, 154, 155, 162, 163, 168, 172, 175, 176, 179, 180, 182, 184, 186, 187, 192, 216, and 218 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendments of the Senate numbered 114 and 199 to the bill.

The message also announced that the House has passed the following bills, without amendment:

H.R. 3006. An act to correct certain inequities by providing Federal civil service credit for retirement purposes in the case of certain individuals who performed service as National Guard technicians before January 1, 1969; and

H.R. 3559. An act to amend the act establishing a Commission on the Bicentennial of

the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits on private contributions, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 345. Concurrent resolution expressing the sense of the Congress concerning democracy in the Republic of Korea.

At 5:14 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H. Con. Res. 4060. An act to amend title 5, United States Code, to provide that the full cost-of-living adjustment in annuities payable from the Civil Service Retirement and Disability Fund shall be made for 1987, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 347. Concurrent resolution expressing the sense of the Congress concerning the human rights in North Korea, and the reduction of tensions on the Korean peninsula.

S. 2180. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974; and

S. 2414. An act to amend title 18, United States Code.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 152. Concurrent resolution authorizing changes in the enrollment of S. 2414.

ENROLLED JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 365. Joint resolution welcoming the Afghan Alliance.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:30 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate.

S. 1073. An act to amend the Stevenson-Wydler Technology Improvement Innovation Act of 1980 for the purpose of improving the availability of Japanese science and engineering literature in the United States, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate.

MEASURES REFERRED

The following bill was read the first and second time by unanimous consent, and referred as indicated:

H.R. 3006. An act to correct certain inequities by providing Federal civil service credit for retirement purposes in the case of certain individuals who performed service as National Guard technicians before January 1, 1969; to the Committee on Governmental Affairs.

H.R. 4060. An act to amend title 5, United States Code, to provide that the full cost-of-living adjustment in annuities payable from Civil Service Retirement and Disability Fund shall be made for 1987, and for other purposes; to the Committee on Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 345. Concurrent resolution expressing the sense of the Congress concerning democracy in the Republic of Korea; to the Committee on Foreign Relations.

H. Con. Res. 347. Concurrent resolution expressing the sense of the Congress concerning the human rights situation in North Korea, and the reduction of tensions on the Korean peninsula; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3559. An act to amend the act establishing a Commission on the Bicentennial of the Constitution of the United States to clarify the status of employees of the Commission, to raise the limits on private contributions, and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 25, 1986, she had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 365. Joint resolution welcoming the Afghan Alliance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WEICKER, from the Committee on Small Business, without amendment:

S. Res. 434. An original resolution to urge the President to submit to the Senate a nominee for the position of Administrator of the Small Business Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on Labor and Human Resources:

Joyce Doyle, of New York, to be a member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 1992;

Diana D. Denman, of Texas, to be a member of the National Museum Services Board for a term expiring December 6, 1990; and

James S. Rosebush, of the District of Columbia, to be a member of the National Museum Services Board for a term expiring December 6, 1989.

(The above nominations were reported from the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. WARNER, from the Committee on Armed Services:

M.D.B. Carlisle, of the District of Columbia, to be an Assistant Secretary of Defense.

(The above nomination was reported from the Committee on Armed Services with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. EXON. Mr. President, from the Committee on Armed Services, I report favorably the attached nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of June 11, June 16, and June 19, 1986 at the end of the Senate proceedings.)

JUNE 25, 1986

*1. Lt. Gen. Donald M. Babers, U.S. Army, to be placed on the retired list. (Ref. No. 1164)

*2. Maj. Gen. Vincent M. Russo, U.S. Army, to be lieutenant general. (Ref. No. 1165)

*3. Vice Adm. Daniel L. Cooper, U.S. Navy to be reassigned. (Ref. No. 1170)

*4. Rear Adm. David E. Jeremiah, U.S. Navy, to be vice admiral. (Ref. No. 1171)

**5. Ervin J. Rokke, dean of the U.S. Air Force Academy, for reappointment to the active duty list, U.S. Air Force, in the grade of colonel. (Ref. No. 173)

**6. In the U.S. Army there are two promotions to the grade of lieutenant colonel and below (list begins with Abraham A. Ghiatas). (Ref. No. 1174)

**7. In the U.S. Army there is one promotion to the grade of major (Michael D. Mantooth). (Ref. No. 1175)

*8. In the Reserve of the U.S. Air Force there are 14 appointments to the grade of major general and below (list begins with Gene A Budig). (Ref. No. 1182)

**9. In the Marine Corps Reserve there are 63 appointments to the grade of colonel (list begins with William H. Alley). (Ref. No. 1183)

Total: 85.

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation:

Edward V. Hickey, Jr., of Virginia, to be a Federal Maritime Commissioner for the term expiring June 30, 1991.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Evelyn E. Crawford Queen, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTION

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHAFEE (for himself, Mr. STAFFORD, Mr. BAUCUS, Mr. PELL, and Mr. SIMON):

S. 2596. A bill to require the Administrator of the Environmental Protection Agency to conduct a study of the adverse effects that the pollution of the environment caused by discarding or dumping of plastics on land and in the waters have on the environment, including the effects on fish and wildlife, to make recommendations for eliminating or lessening such adverse effects, and to require the Administrator of the Environmental Protection Agency to control the pollution of the environment caused by the discarding of plastic on the land and in water; to the Committee on Environment and Public Works.

By Mr. DANFORTH:

S. 2597. A bill to amend the Tariff Schedules of the United States to provide a temporary suspension of the duties imposed on certain extracorporeal shock wave lithotripters; to the Committee on Finance.

By Mr. PELL:

S. 2598 A bill to authorize grants to States to enable States and local educational agencies to meet priority educational needs in the areas of school dropouts, programs to combat illiteracy, programs for the gifted and talented, and for basic skills instructions for secondary school students, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2599. A bill to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia; to the Committee on Energy and Natural Resources.

By Mr. WILSON (for himself, Mrs. HAWKINS, Mr. LUGAR, and Mr. TRIBLE):

S. 2600. A bill to amend section 201(g) of the Social Security Act to modify the manner in which payment is made from the Social Security Trust Funds for the cost of printing and mailing checks for benefits payable under titles II, XVI, XVIII and for other purposes; to the Committee on Finance.

By Mr. DIXON:

S.J. Res. 368. Joint resolution to designate the month of October 1986, as "National Spina Bifida Month"; to the Committee on the Judiciary.

By Mr. ARMSTRONG:

S.J. Res. 369. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day", and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WEICKER, from the Committee on Small Business:

S. Res. 434. An original resolution to urge the President to submit to the Senate a nominee for the position of Administrator of the Small Business Administration; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CHAFEE (for himself, Mr. STAFFORD, Mr. BAUCUS, Mr. PELL, and Mr. SIMON):

S. 2596. A bill to require the Administrator of the Environmental Protection Agency to conduct a study of the adverse effects that the pollution of the environment caused by discarding or dumping of plastics on land and in the waters have on the environment, including the effects on fish and wildlife, to make recommendations for eliminating or lessening such adverse effects, and to require the Administrator of the Environmental Protection Agency to control the pollution of the environment caused by the discarding of plastics on the land and in water; to the Committee on Environment and Public Works.

(The remarks of Mr. CHAFEE and the text of the legislation appear earlier in today's RECORD.)

By Mr. DANFORTH:

S. 2597. A bill to amend the Tariff Schedules of the United States to provide a temporary suspension of the duties imposed on certain extracorporeal shock wave lithotripters; to the Committee on Finance.

DUTY SUSPENSION ON LITHOTRIPTERS

● Mr. DANFORTH. Mr. President, current law permits nonprofit institutions that are established for educational or scientific purposes to import "instruments and apparatus" for their use duty-free if articles of equivalent scientific value are not being manufactured in the United States. This provision was enacted in 1966 to permit the United States to implement the Florence Agreement relating to international trade in scientific and educational devices.

Recently, several of our nonprofit hospitals and universities have sought to use this duty-free privilege to import extracorporeal shock wave lithotripters. The lithotripter is a medical device that permits the treatment of kidney stones without invasive surgery. The patient is immersed in water and subjected to ultrasonic high frequency sound waves which destroy the kidney stones. The device, which has recently been approved by the FDA for use in the United States, is presently made only by a West German company.

The nonprofit institutions that have imported lithotripters have encountered a very narrow interpretation of the duty-free privilege by the Commerce Department. Basically, Commerce believes that devices that can be used for therapeutic purposes are not scientific or educational instruments. Apparently, Commerce believes that the treatment of patients or the education of medical personnel does not fit within the objectives of the law. In some cases, Commerce has even disregarded advanced research projects requiring the use of lithotripters in concluding that the device is not eligible for duty-free treatment.

Commerce's interpretation is open to serious question, and at least one court has found their regulations too restrictive. Nonetheless, a legal challenge to the Commerce position would be time-consuming and costly, especially for nonprofit organizations. Rather than having the issue settled in court, the extension of temporary duty-free treatment to the importation of lithotripters by nonprofit institutions seems a reasonable solution. Accordingly, the bill I introduce today would allow those institutions to import lithotripters until the end of 1988 without duty. The bill would not affect the imports of lithotripters by profitmaking hospitals or providers of medical services and would assure that the spirit of the Florence Agreement is carried out.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"912.14	Extracorporeal shock wave lithotripters imported by nonprofit hospitals and research or educational institutions (provided for in item 709.15 or 709.17, part 2, schedule 7).	Free	No change	On or before 12/31/88".

SEC. 2. EFFECTIVE DATE.

(a) The amendment made by section 1 shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.

(b) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the date that is 90 days after the date of enactment of this Act, any entry, or withdrawal from warehouse, for consumption—

(1) which was made after December 31, 1983, and before the date that is 15 days after the date of enactment of this Act, and

(2) with respect to which there would have been no duty by reason of the amendment made by section 1 if such entry were made on the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry or withdrawal had been made on the date that is 15 days after the date of enactment of this Act.●

By Mr. PELL:

S. 2598. A bill to authorize grants to States to enable States and local educational agencies to meet priority educational needs in the area of school dropouts, programs to combat illiteracy, programs for the gifted and talented, and for basic skills instruction for secondary school students, and for other purposes; to the Committee on Labor and Human Resources.

TARGETED EDUCATIONAL ASSISTANCE ACT

Mr. PELL. Mr. President, the Federal financial share of public education represents about 10 percent of the total dollars spent on schooling in this country. That 10 percent, however small it may seem to be, carries a most important responsibility. It demonstrates clearly that there is a Federal role to be played in education, and it defines a series of critically important national education priorities. In doing so, it helps lay the foundation for developing the character of the next generation to whom we will inevitably pass the mantle of leadership.

I am deeply concerned that we are failing to pay heed to this fundamental responsibility. Pressure to balance the budget has all but paralyzed our stewardship over elementary and secondary education. Fiscal responsibility remains—as it should—our primary national foundation. But we cannot abdicate our responsibility for taking action in those areas where we see need. For there are critical problems that continue to cry out for Federal attention.

This responsibility brings to mind the words of the wonderfully articulate Adlai Stevenson:

To look squarely at the issue of education is to face nothing less than the central question
of whether civilization is to prove a fulfillment
of divine and national purpose—or whether
it is to prove a bitter mockery.

It is impossible to fix a price tag on the cost wrought by our failure to nourish and cultivate young minds. All studies, however, indicate clearly that massive educational inadequacy holds our future hostage. It sentences us to the ever-increasing price of welfare, unemployment and crime. It lays to waste our productive potential. And, it jeopardizes our national and economic security.

Class after class of high school dropouts sap the strength of our economy. Secondary students systematically graduate without sufficient reading ability. The number of illiterate adults remains constant. And our most promising national resource—gifted and talented students—is wasted by the absence of sufficiently challenging academic programs.

Because of my deep concern in this regard, I am today introducing legislation which is mindful of two polar objectives. This legislation remains true to the national pressure for fiscal responsibility. But just as important, it responds to the call to cultivate our lost and untapped human potential.

My legislation, the Targeted Educational Assistance Act [TEAA], is revenue neutral. It represents no additional cost to the American taxpayer. But, it addresses the very grave need in four priority educational areas: school dropouts, illiteracy, programs for the gifted and talented and basic skills for secondary students.

Quite simply, this legislation calls for a major redirection of use of chapter 2 block grant funds. In effect, it would target use of these funds to four areas of paramount national need. Just as our forefathers protested an excessive tax by dumping tea into the harbor, so the TEAA Act which I introduce today protests our failure to deal with these four problems in an adequate and effective manner.

As the Federal education dollar tightens, we must ensure that these dollars are directed to areas of greatest need. Under current law, chapter 2 funds can be used for virtually any educational program. Henceforth, under the TEAA Act, chapter 2 funds will be redirected to programs of dropout prevention, to combat illiteracy, to provide basic skills instruction for secondary students, and to challenging programs for the gifted and talented.

The TEAA bill preserves the current formula for allocating funds to both State and local educational agencies. It also maintains the power held by each SEA and LEA to determine its own priorities for how the funds shall be spent, so long as they are directed to one of these four priority areas.

School dropouts, illiteracy, functional illiteracy, and the special needs of the gifted and talented have long been placed on the front burner of national concern. Their claim to this position is easily demonstrable.

Our national dropout rate remains unacceptably high. Over 25 percent—or 1 million students—drop out of school each year. The human cost of dropping out is immeasurable; the economic cost is staggering.

A study by UCLA estimates that each class of school dropouts will represent a cost to our Nation of $200 billion over their life span. These figures are comprised of the sharp loss in productivity and generated taxes, as well as the cost of incarceration, unemployment and welfare assistance. The cost of dropping out will haunt us across the economic spectrum. In 1950 each American retiree had 17 workers paying his or her Social Security benefits. By 1992 each retiree's benefits will be supported by only three people. Such a society lets its youth population go to waste at its own peril.

Sadly, this deplorable situation will only become more threatening as time goes on. The recent drive toward excellence—for tougher standards and increased course requirements—may push students who are close to the brink of dropping out of school over that edge. In many urban areas where the dropout rate is already 80 percent, we cannot afford to allow that to happen.

The dropout rate in my own State of Rhode Island is 26.6 percent. Most of these dropouts are from the lower end of the economic ladder. Unfortunately for them, leaving school only serves to permanently entrench the cycle of poverty that their families have endured for generations.

Without basic skills, these high school dropouts have scant chance of achieving even a minimum standard of living. Without a decent job, these youth have a tremendous incentive to turn to crime. Ironically, it is cheaper to adequately educate a student than to keep that youth in jail. The cost of incarceration in Rhode Island is close to six times that of a high school education: $21,000 for incarceration versus $3,600 for high school. It would well serve the interests of our States therefore, if the Federal Government were to target some sorely needed funds into saving—and not squandering—this precious human capital.

Another area of human tragedy—that of illiteracy—has a dramatic impact on dropout levels. The inability to read while going through school has a devastating effect on a student's

sense of self-esteem. Leaving school becomes an unfortunate but preferable option.

It is estimated that well over 26 million people in this country cannot read. Tasks which we perform as reflexes are impossible for people who cannot read. Reading a newspaper, selecting cans of food, filling out a job application, and understanding a note sent home from school are beyond the reach of these people. Lack of reading ability forces an individual into perilous battles with prescription labels, traffic signs, and poison warnings. And, the consequences of massive illiteracy levels are acutely felt in every aspect of American life: in the workplace and in the home.

Illiteracy is cause for concern and alarm. In a comparison with other nations, the United States falls far short of even a respectable rank. Out of 158 member nations of the United Nations, the United States ranks an unimpressive 49th.

While 26 million people are illiterate, it is estimated that a far greater number of citizens are functionally illiterate, meaning that they read below an eighth grade level. Functional illiteracy among minority youth may run as high as 40 percent. Thirteen percent of all 17-year-olds have inadequate reading, writing, and comprehension skills.

Many of these students graduate from high school year after year. School systems lack the resources to ensure that each student can perform well on reading tests. Tragically, these inadequacies are immediately felt in the workplace. Those students who are able to obtain employment fail or fall behind on the job. This forces business and industry to spend $40 billion annually to train employees. Fast-food chains have had to switch their keyboards from words to pictures to improve the performance of their work force.

The military suffers the consequences of inadequate schooling as well. The Defense Department allocated close to $100 million over the past 6 years solely for basic skills training and remedial education for new recruits. In fact, the military has turned its weapons operations manuals into comic books so that recruits may better learn to operate them.

Clearly, there is overwhelming need for a saturation of compensatory education in our secondary schools. Failure to invest money in compensatory education and dropout prevention is to my mind penny-wise and pound-foolish. It costs only $500 to provide a year of compensatory education to a student before he or she gets into academic trouble. It costs over $3,000 when one such student repeats one grade once.

Outside of remedial education, there is another area where educational investment at an early stage will reap rewards manyfold in coming years. That investment is in the education of our gifted and talented children. There are 2½ million gifted and talented students in this country. Fifty percent of these students have never been identified. For those known to be gifted, curriculum is often inadequate. Roughly half of these students achieve below their ability level.

This country ransoms its future when it fails to push our best and brightest to the full limits of their abilities. Without a challenging education, many of these students will leave school altogether. In fact, close to 18 percent of high school dropouts are gifted and talented students.

The technological complexities of the coming age will require—as never before—the most sophisticated minds. Not only will we be called upon to produce the technology itself, but we will be required to recognize the ethical consequences of that knowledge as well.

The issues I have just described have reached the point of educational crisis. Yet, they have been left unattended, and are perilously close to a point of boiling over. To my mind, we have an obligation to commit Federal resources to address these needs.

The chapter 2 block grant provides a fitting vehicle for responding to this call. A major evaluation of the chapter 2 block grant by the Department of Education recognizes that funds which had served disadvantaged children are now directed toward other purposes.

With the need so great and the dollar so tight we cannot afford to continue to allow this money to be used for general purposes. Concentrating chapter 2 funds on these four priority concerns would at least ensure that the needs of dropouts, of the illiterate population, of educationally disadvantaged high school students, and of the gifted and talented are being addressed.

Toward that end, I am reminded of the words of Hubert Humphrey who said:

> The ideal, of course, is an educational system that will train rather than chain the human mind, that will uplift rather than depress the human spirit, that will illuminate rather than obscure the path to wisdom, that will help every member of society in the full use of his natural talents.

Too many students remain outside the grasp of this noble ideal. Those who do not reach to the full limits of their natural talents—dropouts, the illiterate, the gifted and talented and the functionally illiterate—lay a shaky foundation upon which to build this Nation.

I have long held that the real strength of this Nation is measured not by our weapons of destruction, nor by our machinery of construction, nor even by the amount of gold in Fort Knox. It is measured instead by the sum total of the education and character of our people.

We as a nation are diminished when we fail to educate one-quarter of our citizenry. We are crippled when 26 million people cannot read. And we as a people lose when 2.5 million students cannot be challenged to reach their full potential.

No citizen should have to live below the level of his full ability. It is my great hope that we in this Chamber can work together to achieve this ideal. We cannot afford in good conscience to turn our backs on a population which has nowhere else to turn.

To my mind, it is crucial that we move quickly to address these very grave problems. For, what we have at stake is no less than the future health, vitality and economic security of this great country. I commend the legislation we are introducing today to my colleagues on both sides of the aisle and urge them to join me in cosponsoring this very important bill.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Targeted Educational Assistance Act".

STATEMENT OF PURPOSE

SEC. 2. Section 561(a) of the Education Consolidation Improvement Act of 1981 (hereafter in this Act referred to as the "Act") is amended to read as follows:

"(1) school dropout prevention programs;

"(2) programs to combat illiteracy;

"(3) programs for the gifted and talented; and

"(4) basic skills instruction programs for elementary and secondary school students.".

STATE AND LOCAL APPLICATIONS

SEC. 3. (a) Section 564(a)(3) of the Act is amended by striking out "subchapters A, B, and C" and inserting in lieu thereof "subchapters A, B, C, and D".

(b) Section 566(a)(1) of the Act is amended to read as follows:

"(1) sets forth the planned allocation of funds under this chapter, for programs authorized by one or more subchapters of this chapter which the local educational agency intends to support, including the allocation of funds required to implement section 586;".

SCHOOL DROPOUT PREVENTION PROGRAMS

SEC. 4. Subchapter A of chapter 2 of the Act is amended to read as follows:

"SUBCHAPTER A—DROPOUT PREVENTION PROGRAM

"STATEMENT OF PURPOSE

"SEC. 571. The purpose of this subchapter is to reduce the number of elementary and secondary school students who do not complete elementary and secondary school education.

"USES OF FUNDS

"SEC. 572. (a) Funds allocated for use under this subchapter shall be used by State and local education agencies to establish and demonstrate—

"(1) programs to identify potential dropouts and prevent them from dropping out;

"(2) programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education; and

"(3) model systems for collecting and reporting information to officials of local educational agencies on—

"(A) the number, ages, and grade levels of the children not completing elementary and secondary education, and

"(B) the reasons why such children have dropped out of school.

"(b) Activities authorized under this subchapter may include—

"(1) the establishment of school district or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) guidance and counseling services, including peer interaction activities;

"(3) ombudsman or mentor services for potential school dropouts;

"(4) development and implementation of extended day or summer programs, designed to address poor achievement, language deficiencies, or course failures;

"(5) the establishment or expansion of work-study, apprentice, or internship programs;

"(6) projects designed to use the resources of the community to provide services to the local educational agency or potential school dropouts;

"(7) the evaluation and revision of program placement of students at risk;

"(8) reviewing curriculum relevancy;

"(9) activities designed to improve student motivation and the school learning environment;

"(10) training for school personnel to identify children at risk of dropping out, to intervene in the instructional program with support and remedial services, to develop realistic expectations for student performance, and to improve student-staff interactions; and

"(11) other services and activities which directly relate to the purpose of this subchapter.

"(c) In order to conduct the activities authorized by this subchapter, each State and local educational agency may use funds reserved for this subchapter to make grants to and enter into contracts with local educational agencies, institutions of higher education, community-based organizations, and other public and private agencies, organizations, and institutions.".

SPECIAL PROGRAMS FOR THE GIFTED AND TALENTED

SEC. 5. Subchapter B of chapter 2 of the Act is amended to read as follows:

"SUBCHAPTER B—SPECIAL PROGRAMS FOR THE GIFTED AND TALENTED

"STATEMENT OF PURPOSE

"SEC. 574. It is the purpose of this subchapter to permit State and local educational agencies to use funds available for this subchapter to plan, develop, operate, and improve programs designed to meet the special educational needs of gifted and talented children.

"AUTHORIZED ACTIVITIES

"SEC. 575. Activities authorized under this subchapter may include—

"(1) support programs which are designed to meet the educational needs of gifted and talented children at the preschool, elementary, and secondary levels;

"(2) providing for inservice teacher training of personnel to teach gifted and talented children;

"(3) providing for the special needs of disadvantaged gifted and talented children from low-income families; and

"(4) providing instructional equipment and materials including software.

"DEFINITIONS

"SEC. 576. For the purpose of this subchapter, the term 'gifted and talented children' means children, and whenever applicable youth, who are identified at the preschool, if applicable, elementary, or secondary school level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability, or in the performing or visual arts, and who, by reason thereof, require services and activities not ordinarily provided by the school.".

PROGRAMS TO COMBAT ILLITERACY

SEC. 6. Subchapter C of chapter 2 of the Act is amended to read as follows:

"SUBCHAPTER C—PROGRAMS TO COMBAT ILLITERACY

"STATEMENT OF PURPOSE

"SEC. 578. It is the purpose of this subchapter to permit State and local educational agencies to use funds available under this subchapter to reduce the number of children and adults who are functionally illiterate.

"AUTHORIZED ACTIVITIES

"SEC. 579. (a) Activities authorized under this subchapter may include—

"(1) the planning, development, and operation of programs which are designed to improve the basic literacy skills of the student and adult population;

"(2) training of personnel to teach basic literacy skills;

"(3) programs for the recruitment and training of volunteers;

"(4) outreach, guidance, and counseling services; and

"(5) programs which use the resources of the community to help develop and implement solutions for the problem of illiteracy.

"(b) In order to conduct the activities authorized by this subchapter, each State and local educational agency may use funds reserved for this subchapter to make grants to and enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private agencies, organizations, and institutions.".

BASIC SKILLS INSTRUCTION

SEC. 7. The Act is amended—

(1) by redesignating subchapters D and E as subchapters E and F, respectively; and

(2) by adding after subchapter C, as amended by section 6, the following new subchapter:

"SUBCHAPTER D—BASIC SKILLS INSTRUCTION

"STATEMENT OF PURPOSE

"SEC. 580. It is the purpose of this subchapter to permit State and local educational agencies to use Federal funds available for this subchapter to improve basic skills instruction for economically disadvantaged secondary school students.

"ACTIVITIES AUTHORIZED

"SEC. 581. (a) Activities authorized under this subchapter may include—

"(1) the planning, development, and operation of programs designed specifically to increase the basic skills proficiency of educationally and academically disadvantaged secondary school students;

"(2) teacher training, inservice, or retraining in basic skills instruction;

"(3) the payment of a salary supplement for teachers for providing after school or evening instruction to students; and

"(4) guidance and counseling services.

"(b) Each State and local educational agency conducting activities authorized under this subchapter shall make every effort, in carrying out such activities, to consult with parents of students in need of basic skills instruction.

"DEFINITION

"SEC. 582. For the purpose of this subchapter, the term 'economically disadvantaged secondary school students' means students aged 14 to 17, inclusive, who are counted under section 111(c) of the Elementary and Secondary Education Act of 1965, as modified by chapter 1 of this Act, in the fiscal year preceding the fiscal year for which the determination is made.".

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 2599. A bill to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia; to the Committee on Energy and Natural Resources.

PUEBLO OF ZIA LAND TRANSFER

● Mr. DOMENICI. Mr. President, the New Mexico Congressional Delegation has very carefully analyzed this relatively small transfer of about 1,840 acres of land from the Bureau of Land Management [BLM] to the Pueblo of Zia. We are fully in support of this request and ask the concurrence of our colleagues in declaring that the United States hold these lands in trust for the Pueblo of Zia. This bill is being introduced simultaneously in the Senate and in the House of Representatives.

The land in question is currently held by the Bureau of Land Management for grazing permitees. The Pueblo of Zia is the current permit holder of the 1,840 acres known as the Parada Piedra allotment. This allotment is completely surrounded by the Zia Pueblo Reservation. Passage of this legislation would consolidate the Zia Pueblo lands. To achieve this consolidation goal, the Pueblo also purchased the Estrella Garcia Ranch. The ranch was about 320 acres and has been placed in trust for the Zia Pueblo by administrative action.

This action to add 1,840 acres to the Pueblo of Zia makes good sense because there is no better use for this land that is encompassed by Pueblo of Zia land is currently being used by them. The Pueblo of Zia is currently almost 118,000 acres in size. The addition of the Parada Piedra allotment would enlarge the acreage to about 120,000 acres. In addition to the Tribal Council Resolution and the All Indian Pueblo Council Resolution of support for this action, the county commission of Sandoval County supports this transfer. In their resolution, the San-

doval County Commission states that "by such transfer, no lands would be removed from the tax rolls, nor would the rights of any adjacent landowners be impaired, nor would the use of any existing roadways or utility services be impeded."

The three major interested non-Indian parties are Plains Electric Generation and Transmission Cooperative, Inc., Yates Petroleum, and Merle Chambers. The former has an easement across the subject lands, and the latter two have oil and gas leases on the land to be placed in trust for Zia Pueblo. As regards the electric company easement, this bill provides for permission to renew the right-of-way at a fee to be determined by the BLM to be the fair value. This bill also protects the existing oil and gas leases and rights of ingress and egress across trust lands in order to reach lands subject to these continuing leases.

In its letter of support, the New Mexico State Office of the BLM states that the "land involved is completely surrounded by Indian land and isolated from other lands administered by the Bureau of Land Management, making it difficult for BLM to give proper management attention to the area. Therefore, strictly from a range management standpoint, transfer of the land to trust status for Zia would incorporate the land involved into the Pueblo's land, thus becoming eligible to benefit from the Bureau of Indian Affairs [BIA] range improvement programs and better able to achieve its maximum potential for grazing use." The State BLM Office concluded, "We are unaware of any negative consequences that would result to the United States or third parties as the result of such transfer."

I believe, Mr. President, that the BLM position is reasonable and that this transfer will actually serve to improve the land usage with the assitance of BIA funds. The BLM letter also states that the "Pueblo has proven to be a responsible manager, having sharply reduced the grazing of the area to allow the range to improve." All indications are that these improvements will continue with even greater incentives on the part of the Pueblo as the beneficiary of trust lands held for its use.

Another significant aspect of this land transfer is the protection of several religious shrines on the subject land. These shrines are still in use today, and, sadly many have been looted by non-Indians with little or no understanding of their purpose. There are sacred springs on this land, and rituals are conducted to maintain the Indian belief that their own old supernatural beings must know that the Indians are doing their part and that, hence, they, the supernaturals, must cooperate by doing theirs. Both efforts are necessary, according to Indian lore, "if Nature is to function for the coming season as through all time in the past." Thus, the shrines, which have been described to us by the Pueblo of Zia are still in use today and will be better protected under the provisions of this bill.

Mr. President, this bill is important to the people of Zia Pueblo. They are the current users of the land, and passage of our bill will enhance their ability to protect and use this land in a manner that will be beneficial to all. Therefore, the New Mexico Congressional Delegation endorses this bill, and we ask the concurrence of our colleagues.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2599

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. All rights, title, and interests of the United States in the surface and mineral estates (including oil and gas) of the following lands under jurisdiction of the Bureau of Land Management of the Department of the Interior that are situated within Sandoval County in the State of New Mexico are hereby declared to be held by the United States in trust for the benefit and use of the Pueblo of Zia:

Southeast quarter of the northeast quarter and the southeast quarter of Section 24, Township 15 North, Range 1 East, New Mexico Principal Meridian;

All of Section 25, Township 15 North, Range 1 East, New Mexico Principal Meridian;

South half of the southwest quarter and the southeast quarter of Section 26, Township 15 North, Range 1 East, New Mexico Principal Meridian;

All of Section 35, Township 15 North, Range 1 East, New Mexico Principal Meridian; and

East half of the northeast quarter and the northeast quarter of the southeast quarter of Section 3, Township 14 North, Range 1 East, New Mexico Principal Meridian,

Containing 1,840 acres, more or less.

SEC. 2. (a) Upon enactment of this Act and subject to the other provisions of this Act, the lands described in section 1 shall be administered in accordance with the laws generally applicable to property held in trust by the United States for Indian tribes.

(b) All gross receipts (including, but not limited to, bonuses, rents, and royalties) which—

(1) are derived by the United States from any contract, permit, or lease relating to the surface or mineral estate in the lands described in section 1, and

(2) are received by the United States after the date of enactment of this Act.

shall be administered in accordance with the laws generally applicable to receipts from property held in trust by the United States for Indian tribes.

SEC. 3. All lands described in section 1 and all the receipts from such lands referred to in section 2(b), shall be exempt from Federal, State, and local taxation so long as such property is held in trust by the United States. No distribution of such receipts to tribal members shall be considered as—

(1) income or resources of such members for purposes of any such taxation, or

(2) income or resources of such members for purposes of denying or reducing (or otherwise utilized as the basis for denying or reducing) financial assistance or other benefits to such member, or the household of such member, under the Social Security Act or any other Federal or federally assisted program.

SEC. 4. Notwithstanding any other provision of law, all applications for mineral leases involving the lands described in section 1, including oil and gas leases, pending on the date of enactment of this Act shall be rejected and the advance rental payments returned to the applicants.

SEC. 5. (a) Nothing in this Act shall deprive any person (other than the United States) of any lease, right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the surface or mineral estate of any lands described in section 1 on the day before the date of enactment of this Act.

(b) The water rights appurtenant to the lands described in section 1 shall be those water rights that are appurtenant to such lands under State law on the day before the date of enactment of this Act. Nothing in this Act shall be construed to create or affect any water rights other than those that are appurtenant to such lands under State law on the day before the date of enactment of this Act.

(c)(1) Nothing in this Act shall affect the right-of-way over any lands described in section 1 for a 115-KV transmission line by Plains Electric Generation and Transmission Cooperative, Inc., granted by the Bureau of Land Management of the Department of the Interior on April 18, 1961, and bearing identification number NM0149992.

(2) Plains Electric Generation and Transmission Cooperative, Inc., and its successors and assigns, shall be permitted to renew the right-of-way described in paragraph (1) under rules and regulations of the Secretary—

(A) to the same extent and in the same manner as would be permitted had this Act not been enacted, and

(B) for fees which are not greater than the fair value as determined by the Bureau of Land Management of the Department of the Interior.

(3) No charge, fee, or tax may be imposed by the Pueblo of Zia on any lands, facilities, activities, or revenue in connection with the right-of-way described in paragraph (1), except for fees charged with respect to any renewed right-of-way described in paragraph (2).

(d)(1) Nothing in this Act shall affect—

(A) the oil and gas lease issued on May 1, 1983, by the United States to Yates Petroleum Corporation, bearing Serial No. NM 55801,

(B) the oil and gas lease issued on December 1, 1977, by the United States to Merle C. Chambers, Denver, Colorado, bearing Serial No. NM 31557,

(C) any other oil or gas leases that were valid and subsisting on the day before the date of enactment of this Act,

(D) any rights, terms, conditions, and covenants (both express and implied) granted under any oil or gas lease referred to in any of the preceding subparagraphs, and

(E) reasonable access (including but not limited to rights of ingress and egress) across lands described in section 1 or which are otherwise owned by or under the control of the Pueblo of Zia insofar as it may be necessary to cross such lands in order to reach lands subject to any oil or gas lease

referred to in any of the preceding subparagraphs.

(2)(A) Notwithstanding section 2(a), the lands described in section 1 which are subject to the leases described in paragraph (1) shall continue to be administered by the Bureau of Land Management of the Department of the Interior in conformity with the laws and policies applicable to oil and gas operations on the public domain.

(B) All gross receipts from any leases described in paragraph (1) shall be administered in accordance with the laws generally applicable to receipts from property held in trust by the United States for Indian tribes.●

● Mr. BINGAMAN. Mr. President, today I join my distinguished colleague, the senior Senator from New Mexico, Mr. DOMENICI, to introduce legislation to convey a small parcel of land to the Pueblo of Zia. This transfer has the support of the entire New Mexico delegation and similar legislation will be introduced on the House side by the New Mexico Members.

This legislation conveys 1,840 acres of land now under the jurisdiction of the Bureau of Land Management [BLM] to the Bureau of Indian Affairs to be held in trust for the use and benefit of the Pueblo of Zia. This land presently forms an island within the current Pueblo boundary. Because it does not have legal access to the island, the Bureau of Land Management has not been able to conduct range management activity, nor has the Bureau of Indian Affairs taken responsibility for the lands because jurisdiction falls under the BLM. Because of this no mans land status, the Federal Government does not adequately supervise and manage this land. I believe that the bill we introduce today vests responsibility to the people who have the greatest interest in the land—the Pueblo of Zia.

While I support this transfer, it by no means presents my general preference for handling land issues within the Federal Government. Land in the public domain should not be transferred on a wholesale basis unless unique or extraordinary circumstances warrant such a transfer. On close analysis of the facts in this request, I believe that the interest of the public and of the parties involved are better served if the 1,840 acres are put into trust status.

I have tried to approach such land matters in as systematic a manner as possible. And although I readily acknowledge that each case is different, there are four major considerations that I use to guide me in tribal land transfer requests. My first consideration looks to the tribe's prior attempts, if any, to seek the land in question through congressional action, and/or any attempts to seek money damages either before the Indian Claims Commission or the Court of Claims. In this instance, the Pueblo of Zia has not made any previous request for congressional action nor, according to their attorneys, did they receive any damages for the tract of land. My general concern is that there must be some end to these types of cases and the goal of Congress should be to look at these requests in terms of whether they duplicate previous efforts. It behooves Congress to restore land when necessary but to refrain from doing so if equitable redress has already been achieved. I am satisfied that the Pueblo meets this concern.

The Pueblo's legal rights and equitable interests in the land are the third and fourth considerations that I find important. Although the Pueblo does not own the land outright, it does own the surface rights. In 1981 it purchased the grazing rights of the "Estrella Garcia Grazing Rights Allotment," which is the 1,840 acres in question. Since legal title demonstrates ownership and in this instance the Pueblo only has surface use, the equitable interest of a possessory act of occupancy, which is distinct from an outright property interest, helps us analyze the Pueblo's interest in the land. According to Prof. Florence Hawley Ellis of the University of New Mexico, the area has been occupied by the Pueblo of Zia since the 1300's. More importantly, the historical documentation and current information persuade me that the Pueblo continues to actually, exclusively, and continuously use the land. Zia religious leaders regularly visit the known eight religious sites on the 1,840 acres and the Zia potters continue to collect white, black, and red paints from a known site on this land. The Zia's longstanding historic and religious attachment to the land and the several major religious shrines at which the Zia worship convince me of the Zia's equitable interest. Further, the Zia plan to use the land for additional grazing, points to it's continued use for future generations.

The last and fourth consideration that influences my decisions on these types of issues, is the impact of the proposed transfer on third parties. Invariably the land a tribe seeks to have restored to it has a history of competing use and ownership. Consequently, we in Congress become factfinders—weighing the various interests—and then reaching the best result possible. Third party interests include the extent of surface use and who has that use; preexisting interests and legal rights such as easements, rights of way, memorandums of agreement, and water rights appurtenant to the land; and the public's present use of the land and how extensive that is. In the present case the Pueblo of Zia owns the grazing rights to the 1,840 acres, which means that unlike other situations this land has one surface user. There are however preexisting rights to the land in the form of two oil and gas leases owned by Yates Petroleum and a Mr. Merle Chambers. Also, Plains Electric Generation and Transmission Cooperative has a right-of-way for a transmission line. These legal rights are protected in the legislation, and the Pueblo and these entities have reached a compromise on the language to be included in this legislation. Further, the bill specifies that water rights appurtenant to the land shall be those rights existing under State law at the date of enactment of the bill and no new water rights are created or conveyed.

I believe that the legislation overall adequately addresses any preexisting rights and other interests and, when weighed against the almost exclusive use of the land by the Pueblo, the public interest is at a minimum. Also, Sandoval County where this land is located, supports the proposed transfer. I ask that a letter from the Sandoval County Board of Commissioners appear in the RECORD at the conclusion of my remarks. Also, I ask that a letter from Charles Luscher, State director of the Bureau of Land Management also appear at the conclusion of my statement. Mr. Luscher states in his letter that,

> We are unaware of any negative consequences that would result to the United States or third parties as the result of such transfer. The Pueblo has bought out the non-Indian ownership interest, and there are no other adjacent based lands that would entitle anyone else to acquire the grazing lease. Specific interests are protected in the proposed bill.

Mr. President, I believe that this legislation carefully weighs the various interests involved and seeks the most equitable solution possible. I urge my colleagues to favorably support this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 05-09-85

Whereas, the County of Sandoval, State of New Mexico, is the heart of Indian country, containing numerous Indian reservations, among them the Pueblo of Zia; and

Whereas, the County of Sandoval is keenly interested in the welfare of the Indian people of Sandoval County, the preservation of Indian religion and tradition, the economic development of its Indian tribes, and the consolidation of Indian land for further development of reservations; and

Whereas, the Pueblo of Zia has acquired, through the use of its own money and resources, rights to a parcel of land encompassed by its reservation lands, known as the "Estrella Garcia grazing allotment," composed primarily of rights to BLM leases and consisting of approximately 1,840 acres located in Sandoval County, New Mexico, and

Whereas, the Pueblo of Zia desires that such BLM lands be taken by the Untied States in trust for the Pueblo of Zia, in order that, by so doing, the lands of the Pueblo would be consolidated and would be amenable to certain benefits by the Bureau

of Indian Affairs which are not presently available;

Whereas, by such transfer, no lands would be removed from the tax rolls, nor would the rights of any adjacent landowners be impaired, nor would the use of any existing roadways or utility services be impeded;

Now Therefore Be It Resolved That the County Commission of Sandoval County, New Mexico, does encourage the efforts of the Pueblo of Zia in consolidating its lands and improving its economic base for the benefit of the Zia people, and does give its support and approval to any Federal legislation or administrative action which would transfer the described land, composed of 1,840 acres, from its present status as BLM land to land held in trust by the United States of America for the Pueblo of Zia.

U.S. DEPARTMENT OF INTERIOR,
BUREAU OF LAND MANAGEMENT,
Santa Fe, NM, March 27, 1986.

Hon. PETE V. DOMENICI,
U.S. Senator, SD-434 Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: This office, in consultation with our Albuquerque District Office, has reviewed the proposed bill "to declare that the United States holds certain domain lands in trust for the Pueblo of Zia," proposed to be introduced by you, which would declare certain land to be held in trust for the Pueblo of Zia.

The land involved, which consists of 1840 acres administered by the Bureau of Land Management, is not located near any paved roads or developed areas. Its only practical value is as grazing land; we are aware of no other development potential on the property. The Pueblo of Zia acquired the base fee land and grazing permits in 1979, and since then has managed the ranch to some extent as part of its larger grazing area. The Pueblo has proven to be a responsible manager, having sharply reduced the grazing of the area to allow the range to improve.

The land involved is completely surrounded by Indian land and isolated from other lands administered by the Bureau of Land Management (BLM), making it difficult for BLM to give proper management attention to the area. Therefore, strictly from a range management standpoint, transfer of the land to trust status of Zia would incorporate the land involved into the Pueblo's land, thus becoming eligible to benefit from the Bureau of Indian Affairs (BIA) range improvement programs and better able to achieve its maximum potential for grazing use.

We are unaware of any negative consequences that would result to the United States or third parties as the result of such transfer. The Pueblo has bought out the non-Indian ownership interest, and there are no other adjacent base lands that would entitle anyone else to acquire the grazing lease. Specific interests are protected in the porposed bill. The 115-KV transmission line of Plains Electric Generation and Transmission Cooperative, Inc., is specifically provided for in the proposed bill, as are the two oil and gas lessees, Yates Petroleum Corporation (Serial No. NM 55801) and Merle C. Chambers (Serial No. NM 31557). Any other persons are protected by Section 5 of the proposed bill, which recognizes "any lease, right-of-way, mining claim, grazing permit, water right, or any other right or interest which such person may have" in the land.

If we can provide any additional information, please feel free to contact us.

Sincerely,

CHARLES W. LUSCHER,
State Director.●

By Mr. WILSON (for himself, Mrs. HAWKINS, Mr. LUGAR, and Mr. TRIBLE):

S. 2600. A bill to amend section 201(g) of the Social Security Act to modify the manner in which payment is made from the Social Security Trust Funds for the costs of printing and mailing checks for benefits payable under titles II, XVI, and XVIII of such Act; to the Committee on Finance.

MAILING OF SOCIAL SECURITY CHECKS

● Mr. WILSON. Mr. President, the deficit problem is of paramount interest to us all, and the Gramm-Rudman-Hollings law makes a concerted effort to address this national pariah. I want to stress for the record my unwaivering support for the deficit reduction law despite the many unpopular decisions made to achieve a balanced budget by fiscal year 1991. Unfortunately, an unintended effect of Gramm-Rudman-Hollings is in need of congressional action.

As we all know, the Social Security Trust Funds have been protected from sequestration orders under the Gramm-Rudman-Hollings law. All Social Security recipients have been assured that their benefit checks will not be cut. We are all well aware of the fact that Social Security moneys belong to the American people—not to the Federal Government.

Mr. President, after careful study I have discovered that the moneys necessary to print and mail these very same Social Security benefit checks are subject to sequestration. The problem, Mr. President, is inherent in the current process in which the Financial Management Service receives its funds, and can easily be corrected. All we need to do is perform a simple accounting, or technical adjustment, which will not increase Federal spending.

Mr. President, the Financial Management Service is responsible to issue all Social Security benefits checks. FMS currently seeks an annual appropriation from Congress to pay for all costs associated with mailing the checks. FMS later bills the Social Security Trust Funds, managed by the Secretary of the Treasury, for it expenses related to the checks, and the trust funds then pay the General Fund of the Treasury. Under Gramm-Rudman-Hollings, FMS' budget request would be subject to sequester, as all Government agencies' budgets are. This could jeopardize FMS' ability to continue ensuring all Americans that all benefit checks would be issued and mailed on time.

To solve this problem, I am introducing legislation which proposes to do no more than change this particular process. It will permit the transfer of funds from the trust funds directly to the Financial Management Service rather than to the General Fund. FMS will therefore no longer have to go to Congress for an appropriation for mailing costs. At the same time we would be guaranteeing that FMS will be able to mail all benefit checks on time.

If we do not adjust the appropriation process for the costs necessary to issue and mail all benefit checks, the Financial Management Service will be faced with a no-win situation—on one hand the responsibility to mail out all checks but faced with a possible postage rate increase in the face of a mandated cut.

Mr. President, under my bill the Financial Management Service will continue to receive all the moneys necessary for it to provide its most vital service to all Social Security benefit recipients. This bill will tell all Americans, unequivocally, that they can rest assured—all benefit checks will continue to be processed and mailed on time.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2600

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. METHOD OF PAYMENT FOR COSTS OF PRINTING AND MAILING CERTAIN BENEFIT CHECKS.

(a) IN GENERAL.—Section 201(g) of the Social Security Act (42 U.S.C. 401(g)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) The Managing Trustee of the Trust Funds (which for purposes of this paragraph shall also include the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII) is directed to pay from the appropriate Trust Funds to the Secretary of the Treasury the amounts estimated by the Managing Trustee to be the stationery, printing, and postage costs to be incurred by the Financial Management Service of the Department of the Treasury with respect to the issuance of benefit checks under titles II, XVI, and XVIII of this Act during a three-month period.

"(B) amounts paid to the Secretary of the Treasury under subparagraph (A) shall be credited to the Financial Management Service and, notwithstanding any other provision of law, shall be available for expenditure by the Financial Management Service for the purposes specified in such subparagraph.

"(C)(i) No payment may be made under paragraph (1) for any item or service for which payment is made under subparagraph (A).

"(ii) Amounts paid to the Secretary of the Treasury under subparagraph (A) shall not be considered to be administrative expenses of the Trust Funds.

"(D) If it subsequently appears that the estimates under subparagraph (A) for any three-month period were either too high or

too low, appropriate adjustments shall be made by the Managing Trustee in future payments.

"(E) A final accounting of payments made pursuant to subparagraph (A) for any fiscal year shall be made at the earliest practicable date after the close thereof.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1986.●

By Mr. DIXON:

S.J. Res. 368. Joint resolution to designate the month of October 1986, as "National Spina Bifida Month"; to the Committee on the Judiciary.

(The remarks of Mr. DIXON and the text of the legislation appear earlier in today's RECORD.)

By Mr. ARMSTRONG:

S.J. Res. 369. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day," and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty; to the Committee on the Judiciary.

LET FREEDOM RING DAY

● Mr. ARMSTRONG. Mr. President, on July 4, 1986, Americans will celebrate the 100th anniversary of the Statue of Liberty. This is a celebration of our heritage as Americans. One way to take part in the celebration is to "Let Freedom Ring."

Today, I am introducing a resolution designating July 3, 1986, as "Let Freedom Ring Day." The resolution requests the President to issue a proclamation encouraging that bells across the country would ring simultaneously at 10:53 p.m. eastern standard time. The bell ringing would immediately follow President Reagan's lighting of the torch at the Statue of Liberty.

The Statue of Liberty symbolizes traditional values we Americans believe in—liberty, justice, freedom and opportunity. These were the basic values our ancestors came to America in search of. Many of our ancestors made the trek to America on boats via New York Harbor and their first glance of the United States was the Statue of Liberty.

It is difficult to imagine a world without the values that have become part of our everyday lives. What if we were not allowed to practice our own religions, or say what we felt, or write what we thought? America became a melting pot of races, religions, ideas, and dreams. Our ancestors came in search of what they could not find in their native countries.

As the 100th anniversary of the Statue of Liberty draws near, let us reflect on what it means to be an American. One way to take part in the celebration is to "Let Freedom Ring." The sound of bells ringing in every State across this great land of ours reminds us that we are Americans and we do enjoy the values of liberty, freedom, justice, and opportunity.●

ADDITIONAL COSPONSORS

S. 89

At the request of Mr. INOUYE, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 89, a bill to recognize the organization known as the National Academies of Practice.

S. 329

At the request of Mr. HECHT, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 329, a bill entitled the Highway Speed Modification Act of 1985.

S. 519

At the request of Mr. EVANS, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 528

At the request of Mr. EAGLETON, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 528, a bill to establish a Bipartisan Commission on Congressional Campaign Financing, to improve the manner in which congressional campaigns are financed.

S. 837

At the request of Mr. HEINZ, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 837, a bill to amend the Social Security Act to protect beneficiaries under the health care programs of that act from unfit health care practitioners, and otherwise to improve the antifraud provisions of that Act.

S. 1005

At the request of Mr. NICKLES, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1005, a bill to amend the Davis-Bacon Act to modify the provisions of such act prescribing the minimum wages to be paid laborers, mechanics, and helpers employed on public construction projects, and for other purposes.

S. 1259

At the request of Mr. THURMOND, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1259, a bill to correct certain inequities by providing Federal civil service credit for retirement purposes and for the purposes of computing length of service to determine entitlement to leave, compensation, life insurance, health benefits, severance pay, tenure, and status in the case of certain individuals who performed service as National Guard technicians before January 1, 1969.

S. 1810

At the request of Mr. SYMMS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 1810, a bill to require U.S. representatives to international financial institutions to oppose assistance by such institutions for the production of agricultural commodities in competition with U.S.-produced agricultural commodities, and for other purposes.

S. 1917

At the request of Mr. BRADLEY, the names of the Senator from South Dakota [Mr. ABDNOR], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 2093

At the request of Mr. ARMSTRONG, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2093, a bill to recognize the organization known as the National Mining Hall of Fame and Museum.

S. 2186

At the request of Mr. MURKOWSKI, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2186, a bill to exempt any amounts available to provide certain benefits to veterans with service-connected disabilities from any requirement for sequestration of funds under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

S. 2203

At the request of Mr. STAFFORD, the names of the Senator from Massachusetts [Mr. KERRY], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 2203, a bill to establish a program to reduce acid deposition and for other purposes.

S. 2333

At the request of Mr. DURENBERGER, the names of the Senator from New Hampshire [Mr. HUMPHREY], and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

S. 2379

At the request of Mr. BOREN, his name was added as a cosponsor of S. 2379, a bill to repeal the application of Revenue Ruling 86-63, relating to the deductibility of contributions to university athletic funds.

S. 2455

At the request of Mr. MITCHELL, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of

S. 2455, a bill entitled the National Organ and Tissue Donor Act.

S. 2468

At the request of Mr. DENTON, the name of the Senator from North Dakota [Mr. ANDREWS] was added as a cosponsor of S. 2468, a bill to amend the Federal Aviation Act of 1958 to strengthen aviation security programs, deter acts of terrorism in airports, and provide for the security of United States citizens traveling by air.

S. 2496

At the request of Mr. WALLOP, the names of the Senator from Oklahoma [Mr. NICKLES], the Senator from Oklahoma [Mr. BOREN], the Senator from Utah [Mr. HATCH], the Senator from Tennessee [Mr. GORE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Indiana [Mr. QUAYLE], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 2496, a bill to authorize the President to award congressional gold medals to Drs. Andrei Sakharov and Yelena Bonner for the great personal sacrifice they have made to further the causes of human rights and world peace.

S. 2499

At the request of Mr. RIEGLE, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 2499, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to increase the benefit payable with respect to the death of a public safety officer, and for other purposes.

S. 2536

At the request of Mr. HATCH, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 2536, a bill to provide for block grants to States to pay for the costs of immunosuppressive drugs for organ transplant patients.

S. 2570

At the request of Mr. WEICKER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2570, a bill entitled the Anti-Apartheid Action Act of 1986.

S. 2573

At the request of Mr. HEINZ, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2573, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

S. 2574

At the request of Mr. HEINZ, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 2574, a bill to amend the Disaster Relief Act of 1974 to provide more effective assistance to disaster and emergency victims.

SENATE JOINT RESOLUTION 311

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 311, a joint resolution designating the week beginning November 9, 1986, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 322

At the request of Mr. LAUTENBERG, the name of the Senator from Mississippi [Mr. STENNIS] was added as a cosponsor of Senate Joint Resolution 322, a joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 338

At the request of Mr. RIEGLE, the names of the Senator from Alabama [Mr. DENTON], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Maryland [Mr. MATHIAS] were added as cosponsors of Senate Joint Resolution 338, a joint resolution to designate November 18, 1986, as "National Community Education Day."

SENATE JOINT RESOLUTION 343

At the request of Mr. D'AMATO, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of Senate Joint Resolution 343, a joint resolution designating the week of September 21, through 27, 1986, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 345

At the request of Mr. DOLE, the name of the Senator from Nevada [Mr. LAXALT] was added as a cosponsor of Senate Joint Resolution 345, a joint resolution to designate the week beginning November 9, 1986, as "National Reye's Syndrome awareness Week."

SENATE JOINT RESOLUTION 355

At the request of Mr. LONG, the name of the Senator from Virginia [Mr. TRIBLE], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 355, a joint resolution to designate August 1986 as "Cajun Music Month."

SENATE JOINT RESOLUTION 360

At the request of Mr. GARN, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Idaho [Mr. SYMMS], the Senator from Massachusetts [Mr. KERRY], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of Senate Joint Resolution 360, a joint resolution to designate July 20, 1986, as "Space Exploration Day."

SENATE RESOLUTION 402

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Resolution 402, a resolution on minority setaside programs.

SENATE RESOLUTION 420

At the request of Mr. CHILES, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Resolution 420, a resolution to express the sense of the Senate regarding prompt payment of Medicare claims.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from Indiana [Mr. QUAYLE], and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Resolution 424, a resolution commending Colonel Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

SENATE RESOLUTION 434

At the request of Mr. WEICKER, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Washington [Mr. GORTON], the Senator from New York [Mr. D'AMATO], the Senator from Wisconsin [Mr. KASTEN], the Senator from Georgia [Mr. NUNN], the Senator from Tennessee [Mr. SASSER], the Senator from Montana [Mr. BAUCUS], the Senator from Michigan [Mr. LEVIN], the Senator from Illinois [Mr. DIXON], the Senator from Oklahoma [Mr. BOREN], the Senator from Iowa [Mr. HARKIN], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Resolution 434, an original resolution to urge the President to submit to the Senate a nominee for the position of Administrator of the Small Business Administration.

SENATE RESOLUTION 434—URGING THE PRESIDENT TO SUBMIT A NOMINEE FOR THE POSITION OF ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION

Mr. WEICKER, from the Committee on Small Business, reported the following original resolution; which was placed on the calendar:

S. RES. 434

Whereas President Reagan on April 7, 1986, signed the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272);

Whereas Title XVIII of Public Law 99-272 maintains the Small Business Administration as an independent agency and authorizes funding for its business loan, disaster, and management assistance programs through fiscal year 1988;

Whereas the provisions of Title XVIII of Public Law 99-272 are based on the congressional budget for fiscal year 1986, which embodied the three-year agreement reached with the administration regarding the future of the Small Business Administration;

Whereas the Senate and House, in budget resolutions for fiscal year 1987, have retained the Small Business Administration as an independent agency and assumed the

continuation of the Small Business Administration's business lending, management assistance, and disaster loan programs;

Whereas 45 out of 51 State sessions of the White House Conference on Small Business have recommended that the Small Business Administration be retained as an independent agency;

Whereas small businesses, which lead the Nation in job creation and innovation, are a vital segment of our economy as recognized by President Reagan's proclamation declaring May 18-24, 1986, as "National Small Business Week";

Whereas the Small Business Administration is the only Federal agency whose sole mission has been to serve our Nation's small businesses;

Whereas the best interests of this Nation's small business community are served through maintaining an independent Small Business Administration with both management assistance and financial programs;

Whereas since the resignation of Mr. James Sanders as Administrator of the Small Business Administration on March 31, 1986, there has been an Acting Administrator at the Small Business Administration;

Whereas certain actions of the Acting Administrator of the Small Business Administration have tended to undermine the morale of the Small Business Administration, as he would eliminate major small business programs, thereby directly contradicting the course of action for the Small Business Administration agreed upon by Congress and the President in the Combined Omnibus Budget Reconciliation Act: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that the Nation's 15 million small businesses deserve to be represented by an independent agency with a permanent Administrator who is committed to promoting all of the agency's programs; and

(2) the members of the United States Senate urge the President to submit immediately to the Senate for confirmation a nominee to be the Administrator of the Small Business Administration.

● Mr. D'AMATO. Mr. President, I rise today to join the distinguished Senator from Connecticut as an original cosponsor of a Senate resolution urging the President to submit to the Senate a nominee for the position of Administrator of the Small Business Administration, It is imperative that this position, which has been vacant since the resignation of James Sanders on March 31, be filled promptly.

The Small Business Administration, an independent agency which represents this Nation's 15 million small businesses, has had misguided leadership since April 1, when Mr. Charles Heatherly was appointed Acting Administrator. On this April Fools Day, Mr. Heatherly dismissed 6 of the 10 Regional SBA Administrators simply because they were ardent supporters of the programs and policies of the SBA—the very programs and policies they were charged to administer. Since that time, Mr. Heatherly has continued to pursue a course of action to dismantle the SBA and to transfer some of its programs to the Department of Commerce.

Mr. Heatherly's actions and arrogance fly in the face of the President's signing of the Consolidated Omnibus Budget Reconciliation Act on April 7 which included a 3-year reauthorization of the Small Business Administration. This law achieves over $2.5 billion in savings, while maintaining SBA's essential functions. These cutbacks, therefore, are consistent with the President's goal of reducing spending; however, it maintains the framework of a vital agency.

Mr. President, small businesses are the backbone of this Nation. These business enterprises are repsonsible for the creation of more jobs and inventions than any other segment of our economy. The importance of small businesses and the role these firms play in our economy cannot be underestimated and, certainly, should not be ignored.

Mr. President, I strongly support this resolution and urge our colleagues to do the same.●

● Mr. BUMPERS. Mr. President, I rise to speak in support of this original resolution, just reported by the Senate Small Business Committee, strongly urging President Reagan to submit a nomination for the office of Administrator of the Small Business Administration. Since March 31, when Jim Sanders resigned as SBA Administrator, SBA has been headed by an Acting Administrator, Mr. Charles Heatherly, whose qualifications for that position have never been reviewed by the Small Business Committee or by the Senate, as is required by law under the Small Business Act.

First, I want to commend the distinguished Senator from Tennessee, Senator SASSER, for having introduced a similar resolution in April which I cosponsored. Second, Chairman WEICKER has my highest commendation for calling our committee together to markup an original resolution on this subject.

I have been deeply concerned, Mr. President, about Mr. Heatherly's dedication to his job and about the implications of this situation for our Nation's 14 million small businesses, their owners and employees who pay taxes to support SBA and who are entitled to services in return for their tax dollars. I do not say this because I am concerned about the dedication of SBA's 4,000-or-so employees across the country. I say this because Mr. Heatherly, who seems to me to have slim qualifications for the job of Administrator to begin with, has spent a large amount of his time peddling the President's proposal to abolish SBA and liquidate its loans to raise money for the Federal deficit. This proposal has been advanced for the last 2 years by the Office of Management and Budget, and for 2 consecutive years Congress has concluded that it was not in the national interest to eliminate the only Federal agency specially designed to serve the most vibrant sector of our economy.

One would think that President Reagan agrees with this judgment, since he signed a 3-year reauthorization for SBA on April 7 of this year. That bill was based on legislation which Senator WEICKER, our distinguished chairman, and I drafted in 1985, S. 408, and which was the subject of 3 days of hearings in the Small Business Committee. That bill saved $2.5 billion in Federal spending over the next 3 years, while at the same time restructuring the agency so as to make it more efficient and effective.

The trouble with Mr. Heatherly, however, is that he doesn't seem to have read the paper for the last 2 years, because he is still telling business people and bankers that SBA is about to be closed down. Sadly, some people may have even made business decisions—such as not opening or expanding a business—based on Mr. Heatherly's statements that SBA would not be around to help. And there is no doubt that Mr. Heatherly's statements have had a devastating impact on morale within SBA.

Incidentally, Mr. Heatherly has made a number of blustery statements to the press about the supposed failings of both SBA and of Members of Congress. I will not now dignify those statements with a reply. In the event that the President should choose to nominate Mr. Heatherly to be Administrator, there will be time enough to examine both his qualifications and his intentions.

Advice and Consent by the Senate is the procedure which the Founding Fathers prescribed in the Constitution as the means by which Congress would oversee the President's selection of executive officers. It is the Senate's duty to consider such nominations carefully, but before we do that, the President must first send us a nominee.

In any event, Mr. President, this resolution now makes clear that the time has come to give SBA a permanent, full-time and dedicated Administrator who believes in small business, who believes that the Nation's small businesses should have an indepdendent voice within the executive branch of the Federal Government, and who is enthusiastic about carrying out that job. This resolution sends a strong message to the President. I urge the Senate to act promptly and pass this resolution.●

AMENDMENTS SUBMITTED

DIPLOMATIC SECURITY ACT

DURENBERGER (AND OTHERS) AMENDMENT NO. 2172

Mr. DURENBERGER (for himself, Ms. LEAHY, Mr. COHEN, Mr. MURKOWSKI, Mr. HECHT, Mr. MCCONNELL, and Mr. BENTSEN) proposed an amendment to the bill (H.R. 4151) to provide enhanced diplomatic security and combat international terrorism, and for other purposes; as follows:

On page 107, in line 15, delete "$245,327,000" and insert "$283,104,000."

On page 108, between lines 20 and 21, insert the following new subsection:

"(e) Allocation of Funds for Certain Security Programs.—Of the amount of funds authorized to be appropriated by paragraph (a)(1)(A)(i), $34,537,000 shall be available only for the protection of classified office equipment, the expansion of information systems security, and the hiring of American systems managers and operators for computers at high threat locations."

GRASSLEY (AND OTHERS) AMENDMENT NO. 2173

Mr. GRASSLEY (for himself, Mr. DECONCINI, and Mr. DENTON) proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the appropriate place in the bill add the following new section:

That (a) paragraph (3) of subsection (b) of section 112 of title 18, United States Code, is amended by striking out "but outside the District of Columbia and".

(b) The Act entitled "An Act to protect foreign diplomats and consular officers and the buildings and premises occupied by them in the District of Columbia", approved February 15, 1938 (52 Stat. 30; D.C. Code 22-1115 and 1116) is repealed.

DENTON (AND LEAHY) AMENDMENT NO. 2174

Mr. DENTON (for himself and Mr. LEAHY) proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the end of the bill insert the following:

NATIONAL SECURITY ACCESS

SEC. (a) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding after section 148 the following new section:

"SEC. 149. FINGERPRINTING FOR SECURITY CLEARANCE.—

"a. Every person in the process of being licensed or licensed pursuant to section 103 or 104b to operate a utilization facility shall require that each individual allowed unescorted access to the facility be fingerprinted. All fingerprints obtained by a licensee as required in the preceding sentence shall be submitted to the Attorney General of the United States through a person or persons designated by the Commission in consultation with the Attorney General for identification and a criminal history records check. The costs of any identification and records check conducted pursuant to the preceding sentence shall be paid by the licensee. Notwithstanding any other provision of law, the Attorney General may provide all the results of the search to such person or persons designated by the Commission in consultation with the Attorney General.

"b. The Commission, by rule, may relieve persons from the obligations imposed by this section, upon specified terms, conditions, and periods, if the Commission finds that such action is consistent with its responsibilities to promote the common defense and security and to protect the health and safety of the public.

"c. For purposes of administering this section, the Commission shall prescribe regulations to—

"(1) implement procedures for the taking of fingerprints;

"(2) establish the conditions for use of information received from the Attorney General in order to—

"(A) limit the redissemination of such information; and

"(B) assure that such information is used solely for the purposes provided in this section; and

"(3) provide individuals subject to fingerprinting the right to complete and correct information contained in the criminal history records prior to any final adverse action.".

(b) The provisions of subsection a. of section 149 of the Atomic Energy Act of 1954, as added by this Act, shall take effect upon promulgation of regulations by the Commission as set forth in subsection c. of such section. Such regulations shall be promulgated on or before January 1, 1986.

(c) The table of contents at the beginning of such Act is amended by inserting after the item for section 148 the following new item:

"Sec. 149. Fingerprinting for security clearance.".

LUGAR AMENDMENT NO. 2175

Mr. LUGAR proposed an amendment to the bill (H.R. 4151), supra, as follows:

On page 124, between lines 9 and 10, insert the following new section:

SEC. 504. MANAGEMENT OF ANTI-TERRORISM ASSISTANCE PROGRAMS.

(a) Section 573(d) of the Foreign Assistance Act of 1961 is amended as follows:

Paragraph (4) is amended to read as follows:

"(4)(A) Articles on the United States Munitions List may be made available under this chapter only if—

"(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c) (relating to detection and handling of explosive devices), articles in category X (relating to protective personnel equipment), or articles in subsection (b), (c), or (d) of category XIII (relating to speech privacy devices, underwater breathing apparatus and armor plating), and they are directly related to anti-terrorism assistance under this chapter; and

"(ii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

(B) The value (in terms of original acquisition cost) of all equipment and commodities provided under subsection (a) in any fiscal year may not exceed 25 percent of the funds made available to carry out this chapter for that fiscal year.

(C) No shock batons or similar devices may be provided under this chapter."

KERRY AMENDMENT NO. 2176

Mr. LUGAR (for Mr. KERRY) proposed an amendment to the bill (H.R. 4151), supra, as follows:

On page 129, after line 3, add the following new section:

SEC. 702. DISTRIBUTIONS WITHIN THE UNITED STATES OF THE USIA FILM ENTITLED "THE MARCH".

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitlted "The March"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy avilable, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Distribution within the United States of the USIA film entitled "The March".

LUGAR AMENDMENT NO. 2177

Mr. LUGAR proposed an amendment to the bill (H.R. 4151), supra, as follows:

In the appropriate place in the bill insert the following amendment:

SEC. . (a) In addition to funds otherwise available for such purposes under chapter 8 of part II of the Foreign Assistance Act of 1961, assistance authorized to carry out the purposes of chapter 4 of part II of such Act for the fiscal years 1986 and 1987 (as well as undisbursed balances of previously obligated funds under such part) which are allocated for Egypt may be furnished, notwithstanding section 660 of such Act, for the provision of nonlethal airport security equipment and commodities, and training in the use of such equipment and commodities. The authority contained in this section shall be exercised in coordination with the office of the Department of State responsible for administering chapter 8 of part II of the Foreign Assistance Act of 1961.

(b) This section shall take effect on the date of enactment of this Act.

LAUTENBERG AMENDMENT NO. 2178

Mr. LAUTENBERG proposed an amendment to the bill (H.R. 4151), supra, as follows:

At the appropriate place in the bill, insert the following section.

SEC. . INTERNATIONAL MEASURES FOR SEAPORT AND SHIPBOARD SECURITY

The Congress encourages the President to continue to seek an agreement through the International Maritime Organization on matters of international seaport and shipboard security, and commends him on his efforts to date. In developing such agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. Such agreement would establish seaport and vessel security standards and could include—

(1) seaport screening of cargo and baggage similar to to that done at airports;

(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

(3) additional security on board vessels;

(4) licensing or certification of compliance with appropriate security standards; and

(5) other appropriate measures to prevent unlawful acts against passengers and crews on board vessels.

SEC. . MEASURES TO PREVENT UNLAWFUL ACTS AGAINST PASSENGERS AND CREWS ON BOARD SHIPS.

(a) REPORT ON PROGRESS OF IMO.—The Secretary of Transportation and the Secretary of State, jointly, shall report to the Congress by December 31, 1986, on the progress of the International Maritime Organization in developing recommendations on Measures to Prevent Unlawful Acts Against Passengers and Crews On Board Ships.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following information—

(1) the specific areas of agreement and disagreement on the recommendations among the member nations of the International Maritime Organization;

(2) the activities of the Maritime Safety Committee, the Facilitation Committee, and the Legal Committee on the International Maritime Organization in regard to the proposed recommendations; and

(3) the security measures specified in the recommendations.

SIMON AMENDMENT NO. 2179

Mr. SIMON proposed an amendment to the bill (H.R. 4151), supra, as follows:

At the end of the resolution, add the following new section:

SEC. . It is the Sense of the Senate that the Secretary of State substantially strengthen the foreign language training of foreign service officers and other diplomatic personnel who may serve in embassies overseas, and to work toward early implementation of a program focusing on acquisition and retention of effective linguistic skills throughout a foreign service officer's career.

McCONNELL AMENDMENT NO. 2180

Mr. McCONNELL proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the end of the bill, add the following:

SEC. . DENIAL OF BENEFITS UNDER THE GENERALIZED SYSTEM OF PREFERENCES TO THE REPUBLIC OF KOREA.

(a) The Congress finds that—

(1) the exports of the Republic of Korea to the United States have grown at an average annual rate of nearly 16 percent since 1981, United States exports to the Republic of Korea grew at an average annual rate of approximately 3 percent during that period with a decrease of 2 percent in 1985;

(2) in 1985 the United States imported from the Republic of Korea merchandise worth $10,013,085,000, the Republic of Korea only imported merchandise from the United States of a value of $5,720,136,000, resulting in a United States trade deficit of $4,292,949,000;

(3) in 1985 the United States extended to the Republic of Korea preferential treatment under the Generalized System of Preferences (GSP) program for certain products it exports to the United States worth $1,655,000,000, making the Republic of Korea the second largest beneficiary under such program;

(4) the Republic of Korea persists in maintaining the following acts, policies, and practices which are unreasonable, unjustifiable, or discriminatory and which burden or restrict United States commerce:

(a) the domestic market of the Republic of Korea is closed to cigarettes made in the United States to the extent that—

(i) it is illegal for citizens of the Republic of Korea to possess cigarettes made outside the Republic of Korea, and

(ii) a citizen of the Republic of Korea possessing foreign cigarettes is subject to a fine of up to $1,161.44, imprisonment, and loss of employment,

(B) the importation into the Republic of Korea of all beef and pork from the United States has been effectively banned since May 1985 event though, prior to the ban, the United States supplied most of the high-quality beef imported into the Republic of Korea,

(C) the Office of National Tax Administration of the Republic of Korea is scheduled to require that all distilled spirit products be manufactured with a minimum proportion of local raw materials after January 1987,

(D) the Ministry of Agriculture and Fisheries of the Republic of Korea restricts the importation of many United States agricultural items by refusing to grant import approval to those items, including fresh oranges, canned fruit cocktail, grape juice, wine, alfalfa products, edible meat offals, walnuts, fresh grapes, sausages, canned beef and pork, canned peaches, concentrated orange juice, other fruit juices, and canned corn and dried peas,

(E) the issuance of an import license for United States manufactured goods must have the recommendation of the Korean industry association whose members compete with the imported good, which has an adverse effect on many United States products, including agricultural chemicals, soda ash, automotive parts, cosmetics, nylon carpets, loudspeakers, electric hand tools, razors and razor blades, machine tools, personal computers, electric shavers, cameras, and construction equipment,

(F) the importation of computers and peripheral equipment that can be produced locally has been effectively banned since July 1982, by the requirement of the Republic of Korea that investment or licensing of local production of computers and peripheral equipment,

(G) Tariffs imposed by the Republic of Korea remain unreasonably high on several products in which the United states has a comparative advantage, including—

(i) fresh fruits and vegetables (current tariff is percent ad valorem),

(ii) canned meat (current tariff is 40 percent ad valorem),

(iii) cosmetics (current tariff is percent ad valorem),

(iv) wood products (current tariff is 20 percent ad valorem),

(v) electic hand tools (current tariff is 20 percent ad valorem),

(vi) computers (current tariff is 20 percent ad valorem),

(vii) automobile parts (current tariff is 30 percent ad valorem),

(viii) chocolate confectionary (current tariff is 40 percent ad valorem, falling to 30 percent ad valorem in 1988),

(H) the application of emergency tariffs, adjustments tariffs, special commodity taxes, and value added tax on top of the general tariff rate, and other fees, make many products prohibitively expenses,

(I) the entire import regime of the Republic of Korea is designed, through the use of import licenses and quotas, to discourage the importation of any seafood, so that the only United States product now entering the Republic of Korea in any volume comes from joint ventures, and much of this reprocessed in the Republic of Korea and exported,

(J) the Republic of Korea unreasonably restricts the sale of United States fire insurance to only those properties outside of the 10 largest cities in the Republic of Korea, and unreasonably denies licenses to United State firms to write life insurance,

(K) the Republic of Korea unreasonably denies United States banks the ability to participte fully in the domestic financial market, and

(L) the Republic of Korea does not adequately protect intellectual property; and

(5) these unreasonable, unjustifiable, and discriminatory acts, policies, and practices of the Republic of Korea burden or restrict United States commerce.

(b) It is the sense of the Congress that the Republic of Korea should not be treated as a beneficiary developing country under title V of the Trade Act of 1974, popularly known as the Generalized System of Preferences, until the unreasonable, unjustifiable, and discriminatory acts, policies, and practices described in subsection (a)(4) are eliminated and import restrictions imposed by the Republic of Korea are liberalized through—

(1) agreement by the Republic of Korea that the purchase and sale of imported cigarettes, and regulation thereof by the Republic of Korea and its instrumentalities, will be conducted on a nondiscriminatory and equitable basis, including repeal of the law which makes it illegal for citizens of the Republic of Korea to use or possess imported tobacco products under threat of fine, imprisonment, or loss of employment;

(2) extension of the ability to import United States tobacco leaf into the Republic of Korea to all private non-Korean entities;

(3) elimination of the ban on the importation into the Republic of Korea of beef and pork from the United States;

(4) inclusion on the Automatic Approval List of fresh oranges, canned fruit cocktail, grape juice, wine, alfalfa products, edible meat offals, walnuts, fresh grapes, sausages, canned beef and pork, canned peaches, concentrated orange juice, other fruit juices, and canned corn and dried peas;

(5) inclusion on the Automatic Approval List of agricultural chemicals, soda ash, automotive parts, cosmetics, nylon carpets, loudspeakers, electric hand tools, razors and razor blades, machine tools, personal com-

puters, electric shavers, cameras, and construction equipment;

(6) elimination of the ban on the importation of computers and peripheral equipment that can be produced locally;

(7) reduction and binding of the general tariff rates imposed by the Republic of Korea to the levels of protection maintained by average industrialized countries, including, but not limited to, wood, wood products, and dairy commodities;

(8) elimination of the practice of discouraging the importation of seafood into the Republic of Korea;

(9) elimination of the requirement that all distilled spirit products be manufactured with a minimum proportion of local raw materials after January 1987;

(10) elimination of restrictions on the sale of United States fire insurance in the Republic of Korea;

(11) elimination of unreasonable denials of licenses to United States firms to write life insurance; and

(12) extension to United States banks of the ability to participate fully in the financial markets of the Republic of Korea.

MOYNIHAN (AND D'AMATO) AMENDMENT NO. 2181

Mr. MOYNIHAN (for himself and Mr. D'AMATO) proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the appropriate place, insert the following:

(a) FINDINGS.—The Congress finds that—

(1) Since Kurt Waldheim has lied repeatedly about his past, particularly his service as intelligence officer for convicted war criminal General Alexander Lohr;

(2) Since such mendacity enabled Kurt Waldheim to rise to the position of Secretary General of the United Nations;

(3) Since Kurt Waldheim currently receives $81,650 a year as a retirement allowance for his service in that position; and

(4) Since the allowance rewards him for having lied about matters that are at the very heart of the existence and purposes of the United Nations.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the President should instruct the Permanent Representative of the United States to the United Nations to introduce in the General Assembly—

(1) an amendment to the 1986-1987 United Nations Regular Program Budget eliminating funding of Kurt Waldheim's retirement allowance; and

(2) a resolution denying Kurt Waldheim a retirement allowance in all budgets after 1987.

HAWKINS (AND MATTINGLY) AMENDMENT NO. 2182

Mrs. HAWKINS (for herself and Mr. MATTINGLY) proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the appropriate place insert the following:

(a) Section 103 of the Foreign Assistance Act of 1961 is hereby amended—

(1) by adding the following paragraph after paragraph (a)(2): (3) Of the funds authorized to be appropriated in paragraph (2) of this subsection, $150,000 for the fiscal year 1986 shall be available only for a study of the feasibility of a program for the control and eradication of amblyomma variegatum (heartwater) in bovine animals in the Caribbean, to be completed within 180 days from the date of enactment of this act. Of the funds authorized to be appropriated for the fiscal year 1987, not less than $4 million shall be available only for the purpose of controlling and eradicating amblyomma variegatum in these countries.

RUDMAN AMENDMENT NO. 2183

Mr. RUDMAN proposed an amendment to the bill (H.R. 4151), supra; as follows:

On page 109, line 4, strike "$5,000,000" and insert in lieu thereof "$500,000 or which involves physical or technical security".

On page 109, line 7, beginning with "laws" strike all through line 13 and insert in lieu thereof the following: "statutes which prohibit the use of United States contractors on such projects. The exception contained in this subsection shall only become effective with respect to a foreign country 30 days after the Secretary of State certifies to the House Committee on Foreign Affairs, the House Committee on Appropriations, the Senate Committee on Foreign Relations, and the Senate Committee on Appropriations what specific actions he has taken to urge such foreign country to permit the use of United States contractors on such projects, and what actions he shall take with respect to that country as authorized by the Foreign Missions Act.".

On page 110, line 4, strike "5" and insert in lieu thereof "2".

On page 110, beginning on line 12, strike all through line 15.

On page 110, strike "(F)" and "(G)" where they appear and insert in lieu thereof "(E)" and "(F)", respectively.

On page 111, line 8, strike "(e)" and insert in lieu thereof the following:

"(e) AMERICAN SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount appropriated pursuant to section 401(a) for diplomatic construction projects each fiscal year shall be allocated to the extent practicable for contracts with American small business contractors. Contracts awarded pursuant to subsection (d) of this section shall not be considered in determining compliance with this subsection.

"(f)".

STEVENS (AND OTHERS) AMENDMENT NO. 2184

Mr. STEVENS (for himself, Mr. DENTON, Mr. THURMOND, Mr. LEAHY, Mr. MURKOWSKI, Mr. D'AMATO, Mr. BOREN, Mr. LAXALT, Mr. ZORINSKY, Mr. MCCONNELL, Mr. ARMSTRONG, Mr. DURENBERGER, Mr. ANDREWS, Mr. LEVIN, Mr. MATTINGLY, and Mr. LUGAR) proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the appropriate place, insert the following: Section 794 of title 18, United States Code, is amended by inserting at the end thereof the following:

"(d)(1) Any person convicted of a violation of this section or of any other felony in violation of the provisions of this chapter shall forfeit to the United States, irrespective of any provision of State law—

(A) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violation; and

(B) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violation.

"(2) The court, in imposing sentence on a defendant for a conviction of a violation of this section or of any other felony in violation of this chapter, shall order that the defendant forfeit to the United States all property described in paragraph (1) of this subsection.

"(3) The provisions of subsections (b), (c) and (e) through (o) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)-(o)) shall apply to—

"(A) property subject to forfeiture under this subsection;

"(B) any seizure or disposition of such property; and

"(C) any administrative or judicial proceeding in relation to such property, if not inconsistent with this subsection.

"(4) Upon motion of the United States attorney made at any time after conviction of a person at a trial conducted under chapter 47 of title 10 with respect to convictions under sections 904 (article 104), 906 (article 106), 906a (article 106a), and for convictions under section 934 (article 134) that incorporate provisions of this chapter, a court of competent jurisdiction shall, if the court determines that the interest of justice so requires, order such person to forfeit to the United States all property described in paragraph (1) of this subsection.

"(e)(1) Upon the motion of the United States attorney made at any time after conviction of a defendant for a violation of this section, for any other felony in violation of this chapter, or for an offense described in subsection (d)(4) of this section, and after notice to any interested party, the court shall, if the court determines that the interest of justice so requires, order such defendant to forfeit to the United States all or any part of proceeds received or to be received by that defendant, or by a transferee or that defendant, from a contract relating to the depiction of such offense in a movie, book, newspaper, magazine, radio or television production, or live entertainment or presentation of any kind, or from a contract relating to an expression of the convicted person's thoughts, opinions, or emotions regarding such crime.

"(2) An order issued under this subsection shall require that the party with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such a contract.

"(3) Proceeds paid to the Attorney General under this subsection shall be paid into the general fund of the Treasury of the United States.

"(4) As used in this subsection, the term 'interested party' includes the defendant, any transferee of proceeds due the defendant under the contract referred to in paragraph (1), and the person with whom the defendant has contracted.

"(f)(1) The Attorney General of the United States, at his discretion, is authorized to pay an amount not to exceed $100,000 as a reward for information—

"(A) leading to the arrest or conviction of any person for—

"(i) the commission of a felony in violation of this chapter of for a conspiracy or attempt to commit such an offense; or

"(ii) an offense described in subsection (d)(4) of this section, or for a conspiracy or attempt to commit such an offense; or

"(B) leading to the prevention, frustration, or mitigation of the effect of a felony

in violation of this chapter or of an offense described in subsection (d)(4) of this section.

"(2) The Attorney General or the designee of the Attorney General shall determine whether an individual furnishing information described in paragraph (1) is entitled to a reward under this section and the amount to be paid, except that the authority to pay a reward of $10,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, or the Director of the Federal Bureau of Investigation. A determination made by the Attorney General or the designee of the Attorney General under this subsection shall be final and conclusive, and no court shall have jurisdiction or power to review such determination.

"(3) No officer, employee, or member of the Armed Forces of the United States or of any governmental entity who, while in the performance of his or her official duties, furnishes the information described in paragraph (1) shall be eligible for any monetary reward under this subsection, except that a person who acts with official approval as an undercover source or informant, when it is not a part of that person's normal official duties to do so, may be eligible for such a reward.

"(4) There are authorized to be appropriated such sums as are necessary for the payment of rewards under this subsection except that no funds may be appropriated for this purpose prior to fiscal year 1987.".

MATHIAS AMENDMENT NO. 2185

Mr. MATHIAS proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the appropriate place insert the following:

TITLE .—VICTIMS OF TERRORISM COMPENSATION

SEC 801. SHORT TITLE.

This title may be cited as the "Victims of Terrorism Compensation Act".

SEC. 802. BENEFITS FOR CAPTIVES AND OTHER VICTIMS OF HOSTILE ACTION.

(a) IN GENERAL.—Subchapter VII of chapter 55 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 5569. Benefits for captives

"(a) For the purpose of this section—

"(1) 'captive' means any individual in a captive status commencing while such individual is—

"(A) in the civil service, or

"(B) a citizen, national, or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the uniformed services);

"(2) the term 'captive status' means a missing status which, as determined by the President, arises because of a hostile action and is a result of the individual's relationship with the Government;

"(3) 'missing status'—

"(A) in the case of an employee, has the meaning provided under section 5561(5) of this title; and

"(B) in the case of an individual other than an employee, has a similar meaning; and

"(4) 'family member', as used with respect to a person, means—

"(A) any dependent of such person; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of such person's family or household.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the head of an agency may allot all or any portion of the pay and allowances of any captive to the extent that such pay and allowances are not subject to an allotment under section 5563 of this title or any other provision of law.

"(2) Amounts so allotted to the savings fund shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with 3-month maturities issued during the preceding calendar quarter. Such interest shall be compounded quarterly.

"(3) Amounts in the savings fund credited to a captive shall be considered as pay and allowances for purposes of section 5563 of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which an individual is indebted to the United States under section 5562(c) of this title shall be deemed to be part of the amount due under such section 5562(c); and

"(B) any amount referred to in section 5566(f) of this title shall be deemed to be part of such amount for purposes of such section 5566(f).

"(5) An allotment under this subsection may be made without regard to section 5563(c) of this title.

"(c) The head of an agency shall pay (by advancement or reimbursement) any individual who is a captive, and any family member of such individual, for medical and health care, and other expenses related to such care, to the extent that such care—

"(1) is incident to such individual being a captive; and

"(2) is not covered—

"(A) by any Government medical or health program; or

"(B) by insurance.

"(d)(1) Except as provided in paragraph (3), the President shall make a cash payment to any individual who became or becomes a captive commencing on or after November 4, 1979. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such individual terminates or, in the case of any individual whose status as a captive terminated before the date of the enactment of the Victims of Terrorism Compensation Act, before the end of the one-year period beginning on such date.

"(2) A payment under this subsection in the case of any individual held as a captive shall be not less than the amount of the world-wide average per diem rate which would be payable to any person under section 5702 of this title, based on—

"(A) a period of time equal to the period for which such individual was held as a captive; and

"(B) the world-wide average per diem rate which, during the period of captivity involved, was in effect under such section.

"(3) The President—

"(A) may defer a payment under this subsection in the case of any individual who, during the one-year period described in paragraph (1), is charged with an offense described in subparagraph (B), until final disposition of such charge; and

"(B) may deny such payment in the case of any individual who is convicted of an offense described in subsection (b) or (c) of section 8312 of this title committed—

"(i) during the period of captivity of such individual; and

"(ii) related to the captive status of such individual.

"(4) A payment under this subsection shall be in addition to any other amount provided by law.

"(5) The provisions of subchapter VIII of this chapter (or, in the case of any person not covered by such subchapter, similar provisions prescribed by the President) shall apply with respect to any amount due an individual under paragraph (1) after such individual's death.

"(6) Any payment made under paragraph (1) which is later denied under paragraph (3)(B) is a claim of the United States Government for purposes of section 3711 of title 31.

"(e)(1) Under regulations prescribed by the President, the benefits provided by the Soldiers' and Sailors' Civil Relief Act of 1940, including the benefits provided by section 701 of such Act but excluding the benefits provided by sections 104, 105, 106, 400 through 408, 501 through 512, and 514 of such Act, shall be provided in the case of any individual who is a captive.

"(2) In applying such Act under this subsection—

"(A) the term 'person in the military service' is deemed to include any such captive;

"(B) the term 'period of military service' is deemed to include the period during which the individual is in a captive status; and

"(C) references to the Secretary of the Army, the Secretary of the Navy, the Adjutant General of the Army, the Chief of Naval Personnel, and the Commandant, United States Marine Corps, are deemed, in the case of any captive, to be references to an individual designated for that purpose by the President.

"(f)(1)(A) Under regulations prescribed by the President, the head of an agency shall pay (by advancement or reimbursement) a spouse or child of a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Except as provided in subparagraph (C), payments shall be available under this paragraph for a spouse or child of an individual who is a captive for education or training which occurs—

"(i) after that individual has been in captive status for 90 days or more, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date.

In order to respond to special circumstances, the appropriate agency head may specify a date for purposes of cessation of assistance under clause (ii) which is later than the date which would otherwise apply under such clause.

"(C) In the event a captive dies and the death is incident to that individual being a captive, payments shall be available under this paragraph for a spouse or child of such individual for education or training which occurs after the date of such individual's death.

"(D) The preceding provisions of this paragraph shall not apply with respect to any spouse or child who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"(E) For the purpose of this paragraph, 'child' means a dependent under section 5561(3)(B) of this title.

"(2)(A) In order to respond to special circumstances, the head of an agency may pay (by advancement or reimbursement) a captive for expenses incurred for subsistence, tuition, fees, supplies, books, and equipment, and other educational expenses, while attending an educational or training institution.

"(B) Payments shall be available under this paragraph for a captive for education or training which occurs—

"(i) after the termination of that individual's captive status, and

"(ii) on or before—

"(I) the end of any semester or quarter (as appropriate) which begins before the date which is 10 years after the day on which the captive status of that individual terminates, or

"(II) if the educational or training institution is not operated on a semester or quarter system, the earlier of the end of any course which began before such date or the end of the 16-week period following that date, and

shall be available only to the extent that such payments are not otherwise authorized by law.

"(3) Assistance under this subsection—

"(A) shall be discontinued for any individual whose conduct or progress is unsatisfactory under standards consistent with those established pursuant to section 1724 of title 38; and

"(B) may not be provided for any individual for a period in excess of 45 months (or the equivalent thereof in other than full-time education or training).

"(4) Regulations prescribed to carry out this subsection shall provide that the program under this subsection shall be consistent with the assistance program under chapters 35 and 36 of title 38.

"(g) Any benefit provided under subsection (c) or (d) may, under regulations prescribed by the President, be provided to a family member of an individual if—

"(1) such family member is held in captive status; and

"(2) such individual is performing service for the United States as described in subsection (a)(1)(A) when the captive status of such family member commences.

"(h) Except as provided in subsection (d), this section applies with respect to any individual in a captive status commencing after January 21, 1981.

"(i) Notwithstanding any other provision of this subchapter, any determination by the President under subsection (a)(2) or (d) shall be conclusive and shall not be subject to judicial review.

"(j) The President may prescribe regulations necessary to administer this section.

"§ 5570. Compensation for disability or death

"(a) For the purpose of this section—

"(1) 'employee' means—

"(A) any individual in the civil service; and

"(B) any individual rendering personal service to the United States similar to the service of an individual in the civil service (other than as a member of the uniformed services); and

"(2) 'family member', as used with respect to an employee, means—

"(A) any dependent of such employee; and

"(B) any individual (other than a dependent under subparagraph (A)) who is a member of the employee's family or household.

"(b) The President shall prescribe regulations under which an agency head may pay compensation for the disability or death of an employee or a family member of an employee if, as determined by the President, the disability or death was caused by hostile action and was a result of the individual's relationship with the Government.

"(c) Any compensation otherwise payable to an individual under this section in connection with any disability or death shall be reduced by any amounts payable to such individual under any other program funded in whole or in part by the United States (excluding any amount payable under section 5569(d) of this title) in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(d) A determination by the President under subsection (b) shall be conclusive and shall not be subject to judicial review.

"(e) Compensation under this section may include payment (whether by advancement or reimbursement) for any medical or health expenses relating to the death or disability involved to the extent that such expenses are not covered under subsection (c) of section 5569 of this title (other than because of paragraph (2) of such subsection).

"(f) This section applies with respect to any disability or death resulting from an injury which occurs after September 30, 1985.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5568 the following:

"5569. Benefits for captives.

"5570. Compensation for disability or death.".

SEC. 803. RETENTION OF LEAVE BY ALIEN EMPLOYEES FOLLOWING INJURY FROM HOSTILE ACTION ABROAD.

Section 6325 of title 5, United States Code, is amended by adding at the end thereof the following: "The preceding provisions of this section shall apply in the case of an alien employee referred to in section 6301(2)(viii) of this title with respect to any leave granted to such alien employee under section 6310 of this title or section 408 of the Foreign Service Act of 1980.".

SEC. 804. TRANSITION PROVISIONS.

(a) SAVINGS FUND.—(1) Amounts may be allotted to the savings fund under subsection (b) of section 5569 of title 5, United States Code (as added by section 802(a) of this Act) from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(2) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) MEDICAL AND HEALTH CARE; EDUCATIONAL EXPENSES.—Subsections (c) and (f) of such section 5569 (as so added) shall be carried out with respect to the period after January 21, 1981, and before the effective date of those subsections, under regulations prescribed by the President.

(c) DEFINITION.—For the purpose of this subsection, "pay and allowances" has the meaning provided under section 5561 of title 5, United States Code.

SEC. 805. BENEFITS FOR MEMBERS OF UNIFORMED SERVICES WHO ARE VICTIMS OF HOSTILE ACTION.

(a) PAYMENTS.—(1) Chapter 10 of title 37, United States Code, is amended by adding at the end thereof the following new section:

"§ 559. Benefits for members held as captives

"(a) In this section—

"(1) 'captive status' means a missing status of a member of the uniformed services which, as determined by the President, arises because of a hostile action and is a result of membership in the uniformed services, but does not include a period of captivity of a member as a prisoner of war if Congress provides to such member, in an Act enacted after the date of the enactment of the Victims of Terrorism Compensation Act, monetary payment in respect of such period of captivity; and

"(2) 'former captive' means a person who, as a member of the uniformed services, was held in a captive status.

"(b)(1) The Secretary of the Treasury shall establish a savings fund to which the Secretary concerned may allot all or any portion of the pay and allowances of any member of the uniformed services who is in a captive status to the extent that such pay and allowances are not subject to an allotment under section 553 of this title or any other provision of law.

"(2) Amounts so allotted shall bear interest at a rate which, for any calendar quarter, shall be equal to the average rate paid on United States Treasury bills with three-month maturities issued during the preceding calendar quarter. Such interest shall be computed quarterly.

"(3) Amounts in the savings fund credited to a member shall be considered as pay and allowances for purposes of section 553(c) of this title and shall otherwise be subject to withdrawal under procedures which the Secretary of the Treasury shall establish.

"(4) Any interest accruing under this subsection on—

"(A) any amount for which a member is indebted to the United States under section 552(c) of this title shall be deemed to be part of the amount due under such section; and

"(B) any amount referred to in section 556(f) of this title shall be deemed to be part of such amount for purposes of such section.

"(5) An allotment under this subsection may be made without regard to section 553(c) of this title.

"(c)(1) Except as provided in paragraph (3) of this subsection, the President shall make a cash payment to any person who is a former captive. Such payment shall be made before the end of the one-year period beginning on the date on which the captive status of such person terminates.

"(2) The amount of such payment shall be determined by the President under the provisions of section 5569(d)(2) of title 5.

"(3)(A) The President—

"(i) may defer such payment in the case of any former captive who during such one-year period is charged with an offense described in clause (ii) of this subparagraph, until final disposition of such charge; and

"(ii) may deny such payment in the case of any former captive who is convicted of a captivity-related offense—

"(I) referred to in subsection (b) or (c) of section 8312 of title 5; or

"(II) under chapter 47 of title 10 (the Uniform Code of Military Justice) that is pun-

ishable by dishonorable discharge, dismissal, or confinement for one year or more.

"(B) For the purposes of subparagraph (A) of this paragraph, a captivity-related offense is an offense that is—

"(i) committed by a person while the person is in a captive status; and

"(ii) related to the captive status of the person.

"(4) A payment under this subsection is in addition to any other amount provided by law.

"(5) Any amount due a person under this subsection shall, after the death of such person, be deemed to be pay and allowances for the purposes of this chapter.

"(6) Any payment made under paragraph (1) of this subsection that is later denied under paragraph (3)(A)(ii) of this subsection is a claim of the United States Government for purposes of section 3711 of title 31.

"(d) A determination by the President under subsection (a)(1) or (c) of this section is final and is not subject to judicial review.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"559. Benefits for members held as captives.".

(3)(A)(i) Except as provided in clause (ii), section 559 of title 37, United States Code, as added by paragraph (1), shall apply to any person whose captive status begins after January 21, 1981.

(ii)(I) Subsection (c) of such section shall apply to any person whose captive status begins on or after November 4, 1979.

(II) In the case of any person whose status as a captive terminated before the date of the enactment of this Act, the President shall make a payment under paragraph (1) of such subsection before the end of the one-year period beginning on such date.

(B) Amounts may be allotted to a savings fund established under such section from pay and allowances for any pay period ending after January 21, 1981, and before the establishment of such fund.

(C) Interest on amounts so allotted with respect to any such pay period shall be calculated as if the allotment had occurred at the end of such pay period.

(b) DISABILITY AND DEATH BENEFITS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1051. Disability and death compensation: dependents of members held as captives

"(a) The President shall prescribe regulations under which the Secretary concerned may pay compensation for the disability or death of a dependent of a member of the uniformed services if the President determines that the disability or death—

"(1) was caused by hostile action; and

"(2) was a result of the relationship of the dependent to the member of the uniformed services.

"(b) Any compensation otherwise payable to a person under this section in connection with any disability or death shall be reduced by any amount payable to such person under any other program funded in whole or in part by the United States in connection with such disability or death, except that nothing in this subsection shall result in the reduction of any amount below zero.

"(c) A determination by the President under subsection (a) is conclusive and is not subject to judicial review.

"(d) In this section:

"(1) 'Captive status' has the meaning given that term in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.

"(3) 'Secretary concerned' and 'uniformed services' have the meanings given those terms in section 101 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1051. Disability and death compensation: dependents of members held as captives.".

(3) Section 1051 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any disability or death resulting from an injury that occurs after September 30, 1985.

(c) MEDICAL BENEFITS.—(1) Chapter 55 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1095. Medical care: members held as captives and their dependents

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) any person who is a former captive, and any dependent of that person or of a person who is in a captive status, for health care and other expenses related to such care, to the extent that such care—

"(1) is incident to the captive status; and

"(2) is not covered—

"(A) by any other Government medical or health program; or

"(B) by insurance.

"(b) In the case of any person who is eligible for medical care under section 1074 or 1076 of this title, such regulations shall require that, whenever practicable, such care be provided in a facility of the uniformed services.

"(c) In this section:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1095. Medical care: members held as captives and their dependents.".

(3)(A) Section 1095 of title 10, United States Code, as added by paragraph (1), shall apply with respect to any person whose captive status begins after January 21, 1981.

(B) The President shall prescribe specific regulations regarding the carrying out of such section with respect to persons whose captive status begins during the period beginning on January 21, 1981, and ending on the effective date of that section.

(d) EDUCATIONAL ASSISTANCE.—(1) Part III of title 10, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 110—EDUCATIONAL ASSISTANCE FOR MEMBERS HELD AS CAPTIVES AND THEIR DEPENDENTS

"Sec.

"2181. Definitions.

"2182. Educational assistance: dependents of captives.

"2183. Educational assistance: former captives.

"2184. Termination of assistance.

"2185. Programs to be consistent with programs administered by the Veterans' Administration.

"§ 2181. Definitions

In this chapter:

"(1) 'Captive status' and 'former captive' have the meanings given those terms in section 559 of title 37.

"(2) 'Dependent' has the meaning given that term in section 551 of that title.

"§ 2182. Educational assistance: dependents of captives

"(a) Under regulations prescribed by the President, the Secretary concerned shall pay (by advancement or reimbursement) a dependent of a person who is in a captive status for expenses incurred, while attending an educational or training institution, for—

"(1) subsistence;

"(2) tuition;

"(3) fees;

"(4) supplies;

"(5) books;

"(6) equipment; and

"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a dependent of a person who is in a captive status for education or training that occurs—

"(1) after that person is in a captive status for not less than 90 days; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the date on which the captive status of that person terminates;

"(B) the earlier of the end of any course that began before such date or the end of the 16-week period following that date if the educational or training institution is not operated on a semester or quarter system; or

"(C) a date specified by the Secretary concerned in order to respond to special circumstances.

"(c) If a person in a captive status or a former captive dies and the death is incident to the captivity, payments shall be available under this section for a dependent of that person for education or training that occurs after the date of the death of that person.

"(d) The provisions of this section shall not apply to any dependent who is eligible for assistance under chapter 35 of title 38 or similar assistance under any other provision of law.

"§ 2183. Educational assistance: former captives

"(a) In order to respond to special circumstances, the Secretary concerned may pay (by advancement or reimbursement) a person who is a former captive for expenses incurred, while attending an educational or training institution, for—

"(1) subsistence;

"(2) tuition;

"(3) fees;

"(4) supplies;

"(5) books;

"(6) equipment; and

"(7) other educational expenses.

"(b) Except as provided in section 2184 of this title, payments shall be available under this section for a person who is a former captive for education or training that occurs—

"(1) after the termination of the status of that person as a captive; and

"(2) on or before—

"(A) the end of any semester or quarter (as appropriate) that begins before the end of the 10-year period beginning on the date on which the status of that person as a captive terminates; or

"(B) if the educational or training institution is not operated on a semester or quar-

ter system, the earlier of the end of any course that began before such date or the end of the 16-week period following that date.

"(c) Payments shall be available under this section only to the extent that such payments are not otherwise authorized by law.

"§ 2184. Termination of assistance

"Assistance under this chapter—

"(1) shall be discontinued for any person whose conduct or progress is unsatisfactory under standards consistent with those established under section 1724 of title 38; and

"(2) may not be provided for any person for more than 45 months (or the equivalent in other than full-time education or training).

"§ 2185. Programs to be consistent with programs administered by the Veterans' Administration

"Regulations prescribed to carry out this chapter shall provide that the programs under this chapter shall be consistent with the educational assistance programs under chapters 35 and 36 of title 38.".

(2) The table of chapters at the beginning of subtitle A of such title, and the table of chapters at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 109 the following new item:

"110. Educational Assistance for Members Held as Captives and Their Dependents ..... 2181".

(3) Chapter 110 of title 10, United States Code, as added by paragraph (1), shall apply with respect to persons whose captive status begins after January 21, 1981.

SEC. 806. EFFECTIVE DATE OF ENTITLEMENTS.

Provisions enacted by this title which provide new spending authority described in section 401(c)(2)(C) of the Congressional Budget Act of 1974 shall not be effective until October 1, 1986.

MATHIAS AMENDMENT NO. 2186

Mr. MATHIAS proposed an amendment to the bill (H.R. 4151), supra; as follows:

On page 129, after line 3, insert the following new section:

SEC. 702. EXPRESSION OF SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE.

Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Department of State, the U.S. Agency for International Development (AID), or the United States Information Agency (USIA) from participation (including use of staff, other appropriate resources and service on the board of the USTTI) in support of any activities of the United States Telecommunications Training Institute (USTTI).

SPECTER AMENDMENT NO. 2187

Mr. SPECTER proposed an amendment to the bill (H.R. 4151), supra; as follows:

In the past decade there have been nearly 6,500 terrorist incidents around the world, killing over 3,500 people and wounding more than 7,600, including over 2,500 incidents against Americans;

Terrorism anywhere affects nations everywhere by chilling the free exercise of sovereign authority;

Rampant terrorism by its very nature threatens world order and thereby all civilized nations and their citizens;

Any and every nation has the right, under current principles of international law, to assert jurisdiction over offenses considered to be "universal crimes", such as piracy and slavery, in order to protect sovereign authority, universal values, and the interests of mankind; and

Individuals committing "universal crimes" may be prosecuted in any nation in which the offender may be found, irrespective of the nationality of the offender or victim or the place of the offense:

It is the sense of the Senate that the President should call for international negotiations for the purpose of agreeing on a definition of "international terrorist crimes" and for the purpose of considering whether such a crime would constitute a universal crime under international law. Such definition should require that acts constituting an international terrorist crime—

(1) involve the threat or use of violence or be dangerous to human life,

(2) would be a crime in the prosecuting jurisdiction if committed within its boundaries,

(3) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(4) transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

The President should also consider including in these international negotiations the possibility of establishing an international criminal court along the lines of the International Military Tribunal established after World War II for the trial of major war criminals at Nuremburg, Germany, that would have jurisdiction over the crime of international terrorism.

SPECTER (AND OTHERS) AMENDMENT NO. 2188

Mr. SPECTER (for himself, Mr. LEAHY, and Mr. DENTON) proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the appropriate place in the bill add the following:

SEC.

(A) This section may be cited as the "Terrorist Prosecution Act of 1985"

(B)(1) Part I of title 18 United States Code, is amended by inserting after chapter 113 the following:

"CHAPTER 113A—TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD

"2331. Findings and purpose.
"2332. Terrorist acts against United States nationals abroad.

"SEC. 2331. FINDINGS AND PURPOSE.

"The Congress hereby finds that—

"(a) between 1968 and 1985, there were over eight thousand incidents of international terrorism, over 50 per centum of which were directed against American targets;

"(b) it is an accepted principle of international law that a country may prosecute crimes committed outside its boundaries that are directed against its own security or the operation of its governmental functions;

"(c) terrorist attacks on Americans abroad threaten a fundamental function of our Government: that of protecting its citizens;

"(d) such attacks also threaten the ability of the United States to implement and maintain an effective foreign policy;

"(e) terrorist attacks further interfere with interstate and foreign commerce, threatening business travel and tourism as well as trade relations; and

"(f) the purpose of this chapter is to provide for the prosecution and punishment of persons who, in futherance of terrorist activities or because of the nationality of the victims, commit violent attacks upon Americans outside the United States or conspire outside of the United States to murder Americans within the United States.

"SEC. 2332. TERRORIST ACTS AGAINST UNITED STATES NATIONALS ABROAD.

"(a) Whoever outside the United States commits any murder as defined in section 1111(a) of this title or manslaughter as defined in section 1112(a) of this title, or attempts or conspires to commit murder, of a national of the United States shall upon conviction in the case of murder be punished as provided in section 1111, for manslaughter be punished as provided in section 1112, for attempted murder be imprisoned for not more than twenty years, and for conspiracy be punished as provided by section 1117 of this title, notwithstanding that the offense occurred outside the United States.

"(b) Whoever outside the United States, with intent to cause serious bodily harm or significant loss of liberty, assaults, strikes, wounds, imprisons, or makes any other violent attack upon the person or liberty of any national of the United States or, if likely to endanger his person or liberty, makes violent attacks upon his business premises, private accommodations, or means of transport, or attempts to commit any of the foregoing, shall be fined not more than $5,000 or imprisoned not more than three years, or both. Whoever in the commission of any such act uses a deadly or dangerous weapon shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) Whoever, outside of the United States, conspires to commit murder, as defined in section 1111(a) of this title, within the United States of any national of the United States, shall be punished as provided in section 1117 of this title notwithstanding that the offense occurred outside the United States.

"(d) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"(e) No indictment for this section can be returned without the written approval of the Attorney General or his designee.".

(2) The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113, the following:

"113A. Terrorist acts against United States nationals abroad ..... 2331".

HELMS AMENDMENT NO. 2189

Mr. HELMS proposed an amendment to the bill (H.R. 4151), supra; as follows:

At the end of the bill, add the following new section:

(a) ESTABLISHMENT UNDER INSPECTOR GENERAL ACT.—(1) Section 2(1) of the Inspector General Act of 1978 is amended by inserting "the United States Information Agency," immediately before "the Veterans' Administration".

(2) Section 11 of such act is amended—

(A) in paragraph (1) by inserting "or the Director of the United States Information Agency" immediately before "as the case may be;" and

(B) in paragraph (2) by inserting "the United States Information Agency" immediately before "or the Veterans' Administration".

(b) Of the funds authorized to be appropriated to the United States Information Agency for the fiscal year 1987, not less than $5 million shall be available only for the operation of the office of the inspector general established by subsection (a) of this section.

HELMS AMENDMENT NO. 2190

Mr. HELMS proposed an amendment, which was subsequently modified, to the bill (H.R. 4151), supra; as follows:

On page 129, after line 3, add the following new section:

SEC. 702. INDEPENDENT INSPECTOR GENERAL FOR THE DEPARTMENT OF STATE.

(a) ALLOCATION OF FUNDS.—Of the funds authorized to be appropriated for the Department of State for the fiscal years 1986 and 1987, 2,000,000 for the fiscal year 1986 and 12,000,000 for the fiscal year 1987 shall be available only for the operations and activities of the inspector general for the Department of State, appointed by the President under section 3 of the Inspector General Act of 1978, to conduct those activities specified in section 209(g) of the Foreign Service Act of 1980, as such section was in effect before the date of enactment of this Act.

(b) ABOLITION OF PROGRAM INSPECTOR GENERAL.—(1) Section 209 of the Foreign Service Act of 1980 and section 150(b) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987, are repealed.

(2) Not later than 30 days after the date of enactment of this Act, the Secretary of State shall reassign the personnel and dispose of the property, records, and unexpended balances of appropriations which were used by or available for use by the office of the Program Inspector General before the date of enactment of this Act.

(c) PROHIBITION OF USE OF FOREIGN SERVICE MEMBERS.—(1) No member of the Foreign Service, as defined by section 103 of the Foreign Service Act of 1980, shall be appointed Inspector General for the Department of State.

(2) No career member of the Foreign Service may participate in the recruitment, selection, or recommendation of any individual to be appointed by the President as Inspector General for the Department of State.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"SEC. 702. Independent Inspector General for the Department of State."

HELMS (AND OTHERS) AMENDMENT NO. 2191

Mr. HELMS (for himself, Mr. HECHT, Mrs. HAWKINS, and Mr. BOSCHWITZ) proposed an amendment, which was subsequently modified, to the bill (H.R. 4151), supra; as follows:

On page 129, after line 3, add the following new section:

SEC. 702. PROHIBITION ON THE USE OF FUNDS FOR FACILITIES IN ISRAEL, JERUSALEM, OR THE WEST BANK.

None of the funds authorized to be appropriated by this Act amy be obligated or expended for site acquisition, development, or construction of any facility in Israel, Jerusalem, or the West Bank, except that $83,423,000 shall be available for site acquisiton, development, or construction in Israel of a chancery and residence within five miles of the Israeli Knesset building and within the boundaries of Israel as they existed before June 1, 1967.

"Provided that nothing in this section shall require the construction of any facility if the Secretary of State determines and reports to the Congress that the physical security of personnel to be employed at that facility cannot be adequately guaranteed."

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"SEC. 702. Prohibition on the use of funds for facilities in Israel, Jerusalem, or the West Bank.".

BYRD (AND DIXON) AMENDMENT NO. 2192

Mr. BYRD (for himself and Mr. DIXON) proposed an amendment to the bill (H.R. 4151), supra; as follows:

On page 129, after line 3, add the following new section:

SEC. 702. COORDINATION OF INTERNATIONAL WAR ON TERRORISM.

(a) FINDINGS.—The Congress finds that—

(1) international terrorism is and remains a serious threat to the peace and security of free, democratic nations;

(2) the challenge of terrorism can only be met effectively by concerted action on the part of all responsible nations;

(3) the major developed democracies evidenced their commitment to cooperation in the fight against terrorism by the 1978 Bonn Economic Summit Declaration on Terrorism; and

(4) that commitment was renewed and strengthened at the Tokyo Economic Summit and expressed in a joint statement on terrorism.

(b) POLICY.—It is the sense of the Congress that in order to concert action and increase information sharing in the international war on terrorism, the President should propose to the North Atlantic Treaty Organization (NATO) the establishment of a standing political committee to examine all aspects of international terrorism, review opportunities for cooperation, and make recommendations to member nations.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Coordination of international war on terrorism.".

BYRD (AND OTHERS) AMENDMENT NO. 2193

Mr. BYRD (for himself, Mr. HUMPHREY, Mr. PELL, Mr. BIDEN, Mr. INOUYE, Mr. MELCHER, Mr. SASSER, Mr. PROXMIRE, Mr. DECONCINI, Mr. THURMOND, Mr. KASTEN, and Mr. D'AMATO) proposed an amendment to the bill (H.R. 4151), supra; as follows:

On page 129, after line 3, add the following new section:

SEC. 702. POLICY TOWARD AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union invaded the sovereign territory of Afghanistan on December 27, 1979, and continues to occupy and attempt to subjugate that nation through the use of force, relying upon a puppet regime and an occupying army of an estimated 120,000 Soviet troops;

(2) the outrageous and barbaric treatment of the people of Afghanistan by the Soviet Union is repugnant to all freedom-loving peoples as reflected in seven United Nations resolutions of condemnation, violates all standards of conduct befitting a responsible nation, and contravenes all recognized principles of international law;

(3) the Special Rapporteur of the United Nations Commission on Human Rights, in his November 5, 1985, report to the General Assembly, concludes that "whole groups of persons and tribes are endangered in their existence and in their lives because their living conditions are fundamentally affected by the kind of warfare being waged" and that "[t]he Government of Afghanistan, with heavy support from foreign [Soviet] troops, acts with great severity against opponents or suspected opponents of the regime without any respect for human rights obligations" including "use of antipersonal mines and of so-called toy bombs" and "the indiscriminate mass killings of civilians, particularly women and children";

(4) the Special Rapporteur also concludes that the war in Afghanistan has been characterized by "the most cruel methods of warfare and by the destruction of large parts of the country which has affected the conditions of life of the population, destabilizing the ethnic and tribal structure and disrupting family units" and that "[t]he demographic structure of the country has changed, since over 4 million refugees from all provinces and all classes have settled outside the country and thousands of internal refugees have crowded into the cities like Kabul";

(5) the United Nations General Assembly, in a recorded vote of 88–22 on December 13, 1985, accepted the findings of the Special Rapporteur and deplored the refusal of Soviet-led Afghan officials to cooperate with the United Nations, and expressed "profound distress and alarm" at "the widespread violations of the right to life, liberty, and security of person, including the commonplace practice of torture and summary executions of the regime's opponents, as well as increasing evidence of a policy of religious intolerance";

(6) in a subsequent report of the Special Rapporteur of February 14, 1986, the Special Rapporteur found that "The only solution to the human rights situation in Afghanistan is the withdrawal of the foreign troops" and that "continuation of the military solution will, in the opinion of the Special Rapporteur, lead inevitably to a situation approaching Genocide, which the tradi-

tions and culture of this noble people cannot permit.";

(7) The Soviet invasion of Afghanistan caused the United States to postpone indefinitely action on the SALT II Treaty in 1979, and the presence of Soviet troops in that country today continues to adversely affect the prospects for long-term improvement of the United States-Soviet bilateral relationship in many fields of great importance to the global community;

(8) the Soviet leadership appears to be engaged in a calculated policy of raising hopes for a withdrawal of Soviet troops from Afghanistan in the apparent belief that words will substitute for genuine action in shaping world opinion; and

(9) President Reagan, in his February 4, 1986, State of the Union Address promised the Afghan people that "America will support with moral and material assistance your right not just to fight and die for freedom, but to fight and win freedom . . .".

(b) POLICY.—(1) It is the sense of the Congress that the United States, so long as Soviet military forces occupy Afghanistan, should support the efforts of the people of Afghanistan to regain the sovereignty and territorial integrity of their nation through—

(A) the appropriate provisions of material support;

(B) renewed multilateral initiatives aimed at encouraging Soviet military withdrawal, the return of an independent and nonaligned status to Afghanistan and a peaceful political settlement acceptable to the people of Afghanistan, which includes provision for the return of Afghan refugees in safety and dignity;

(C) a continuous and vigorous public information campaign to bring the facts of the situation in Afghanistan to the attention of the world;

(D) frequent efforts to encourage the Soviet leadership and the Soviet-backed Afghan regime to remove the barriers erected against the entry into and reporting of events in Afghanistan by international journalists; and

(E) vigorous efforts to impress upon the Soviet leadership the penalty that continued military action in Afghanistan imposes upon the building of a long-term constructive relationship with the United States, because of the negative effect that Soviet policies in Afghanistan have on attitudes toward the Soviet Union among the American people and the Congress.

(2) It is further the sense of the Congress that the Secretary of State should—

(A) determine whether the actions of Soviet forces against the people of Afghanistan constitute the international crime of Genocide as defined in Article II of the International Convention on the Prevention and Punishment of the Crime of Genocide, signed on behalf of the United States on December 11, 1948, and, if the Secretary determines that Soviet actions may constitute the crime of genocide, he shall report his findings to the President and the Congress, along with the recommended actions; and

(B) review United States policy with respect to the continued recognition of the Soviet puppet government in Kabul to determine whether such recognition is in the interest of the United States.

On page 91, in the table of contents, after the item relating to section 701, insert the following new item:

"Sec. 702. Policy toward Afghanistan.".

TECHNOLOGY TRANSFER PROGRAMS

WEICKER AMENDMENT NO. 2194

Mr. SIMPSON (for Mr. WEICKER) proposed an amendment to the bill (H.R. 2787) to extend through fiscal year 1988 SBA Pilot Programs under section 8 of the Small Business Act; as follows:

On page 1, between lines 2 and 3, insert the following:

TITLE I—SMALL BUSINESS PILOT PROGRAMS

On page 1, line 3, strike out "Section 1." and insert in lieu thereof "Sec. 101.".

On page 2, line 1, strike out "Sec. 2." and insert in lieu thereof "Sec. 102.".

On page 2, line 5, strike out "Sec. 3." and insert in lieu thereof "Sec. 103.".

On page 2, after line 8, insert the following new title:

TITLE II—TECHNOLOGY TRANSFER INSTITUTE AUTHORIZED

SEC. 201. (a) The Secretary of Education (hereafter in this title referred to as the "Secretary") is authorized to provide financial assistance, in accordance with the provisions of this title, to pay the Federal share of the cost of construction and related expenses for the establishment of the Technology Transfer Institute at the University of Bridgeport, located at Bridgeport, Connecticut, to be used to revitalize the competitiveness of small business industry in America, particularly in the international marketplace, and to serve as a regional demonstration center transferring emerging technology to small businesses.

(b)(1) No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) The Federal share may not exceed 50 percent of the cost of the project authorized by this title.

(c) There are authorized to be appropriated such sums, not to exceed $10,000,000, as may be necessary to carry out the provisions of this title. Funds appropriated pursuant to this section shall remain available until expended.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT AMENDMENTS

KERRY AMENDMENT NO. 2195

Mr. BIDEN (for Mr. KERRY) proposed an amendment to the bill (H.R. 5036) to make technical corrections to the National Foundation on the Arts and Humanities Act of 1965; as follows:

At the appropriate place in the bill, insert the following new section:

ALLOCATION LIMITATIONS FOR EDUCATION OF THE HANDICAPPED ACT

SEC. 2. Section 611(a)(5)(A)(i) of the Education of the Handicapped Act is amended by inserting after "children" the first time it appears the following: "aged five to seventeen, inclusive,".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry has scheduled 2 days of markup of legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

The markup sessions are scheduled for Wednesday and Thursday, July 30 and 31, 1986, at 9:30 a.m. in room 332, Russell Senate Office Building.

Please contact the committee staff at 224-2035 if further information is needed.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that testimony will be received on an additional measure at the hearing previously scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Friday, July 18, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC 20510.

The additional measure is S. 2534, to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, SC, and for other purposes. As previously announced, testimony also will be received on S. 2506, to establish a Great Basin National Park in the State of Nevada, and for other purposes.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and National Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 5 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at 202-224-0613.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 25, to hold a

hearing on S. 2214, to amend the Ethics and Government Act of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, June 25, in executive session, followed by open session, to finalize action of fiscal year 1987 DOD authorization bill markup, and to consider the nomination of M.D.B. Carlisle, to be Assistant Secretary of Defense for Legislative Affairs; and other routine military nomination, also, to consider H.R. 4409, the fiscal year 1987, Panama Canal Commission Authorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 25, 1986, in order to conduct a markup on the following legislation and to consider the following nominations:

S. 1815, the Polygraph Protection Act.

S. 2324, ACTION reauthorization.

S. 2536, to provide for block grants, for immuno suppressive drugs for organ transplant patients.

S. 2345, the AIDS bill and the Department of Labor executive level conforming amendments of 1986.

Dianna Denman to be a member of the National Museum Service Board; James Rosebush, to be a member of the National Museum Service Board; and, Joyce Doyle, to be a member of the Federal Mine Safety and Health Review Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, June 25, 1986, in order to consider the following legislation:

S. 2230—Federal Management Reorganization and Cost Control Act of 1986.

S. 2004—Government Management Report Act.

S. 2005—Inspector General Act Amendments.

S. 2426—Contract Disputes Act Amendments.

S. 2433—Simplified Competitive Acquisition Technique Act.

S.J. Res. 190—Productivity Improvement Joint Resolution.

S. 1657—Reorganization Act Amendments.

H.R. 3168—Consolidated Federal Funds Report.

Nomination: Evelyn Queen, Associate Judge, D.C. Superior Court.

H.R. 2946—D.C. Jury System Act.

H.R 3578—D.C. Judicial Efficiency & Improvements Act of 1985.

H.R. 3002—Executive Exchange Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Wednesday, June 25, 1986, in order to conduct a hearing on H.R. 1344, which provides restoration of Federal recognition to two Indian tribes in Texas.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ST. GEORGE ISLAND BICENTENNIAL

● Mr. STEVENS. Mr. President, I would like to let my colleagues and all Americans know about a celebration that will take place this August on the Island of St. George, Alaska. The people of this remote island in the Bering Sea will be observing the bicentennial of the discovery of St. George Island by the Russian fur trader Gavrill Loginovich Pribylov. They invite visitors to join them in this special bicentennial event.

In a proclamation passed by the Alaska State Legislature, the State traces the unique history of the St. George islanders—from vessels of early Russian fur traders to modern day Alaska Natives moving toward self-dependency.

Mr. President, I ask that the Proclamation to which I have referred be printed in the RECORD.

The proclamation follows:

[The Alaska Legislature]

HONORING ST. GEORGE ISLAND BICENTENNIAL

Exactly two hundred years ago this June, St. George Island, in the Bering Sea, was discovered by Gavrill Loginovich Pribylov, a Russian fur trader, which ended their long search for the breeding grounds of the northern fur seal. Several Aleut hunters accompanied Pribylov on the discovery voyage and were left on the island for a year to harvest seals, thus marking the beginning of the two century old role of the Aleuts in the fur seal industry. The Aleut people were initially taken from their families and homes in the Aleutian Chain and impressed into service for three to five year periods, but by the early 1820's, they were eventually settled permanently on the Pribilof Islands.

With the decline of the fur industry, Russia termed Alaska as no longer economical and sold it to the United States in 1867. For the next century, the Aleut people lived as virtual wards of the federal government with few typical citizen rights such as voting which was not extended to them until 1948. The seal harvest was leased to private American companies until 1909, at which time, due to conservation measures was again assumed by the federal government which lasted until 1983. Commercial sealing was conducted for the last time on St. George in 1972.

For the first time, the people of the Pribilof Islands hold their future in their own hands. They no longer are under the control of the federal government, and are no longer being subsidized. A new economy is emerging based on fishing and tourism and powered by the will of the people, to meet the challenge of a new beginning. Although they have long since left behind part of their old Russian way of life, there are many old traditions that still remain such as Russian styles of cooking, dress, music, and games along with the most positive cultural influence on the Aleut history, The Russian Orthodox religion.

The Alaska State legislature joins the residents of St. George and the whole Aleut culture in commemorating this bicentennial celebration as part of the Aleut transition toward self-dependency.●

THE BARRETT SISTERS

● Mr. SIMON. Mr. President, the Barrett Sisters, one of the leading female gospel groups in the world, mark an important milestone in their illustrious career on Monday, June 30.

At the Third Baptist Church of Chicago, Delois Barrett Campbell, Billie Barrett Greenbey, and Rodessa Barrett Porter will celebrate 25 years of singing gospel music.

The Chicago natives have toured Europe 11 times and have made countless appearances on radio and television shows. But they are perhaps best remembered for their brilliant appearance in the inspirational film "Say Amen, Somebody."

Several years ago, the sisters brought their joyous music to a homeless shelter in New York City. The trio sang for about 400 homeless men and women, who clapped, sang, and whistled their appreciation.

I join all of Chicago in congratulating the Barrett Sisters on 25 years of song and praise and echo words from "Say Amen, Somebody," that "You don't have to die and go to Heaven to hear the voices of angels."●

INSTALLMENT SALES PROVISIONS OF THE SENATE TAX REFORM BILL

● Mrs. HAWKINS. Mr. President, I would ask that a statement be placed in the RECORD on the Senate tax reform bill and a provision regarding installment sales. While an amendment by Mr. PRYOR was offered in committee I would just like to follow up on yesterdays colloquy on this issue with the following information.

The Finance Committee bill dramatically changes the tax consequences of using the installment method of reporting income. The committee, however, with the leadership of the Senator from Arkansas and with the agreement of the Treasury Department, provided that taxpayers can continue the current method of reporting if they pay interest on the deferred method of taxes.

Mr. President, this modification is important to many businesses including companies that sell homesites on the installment method. Importantly, it is also good tax policy.

The current amendment is a technical correction of the interest charge modification already in the bill. I am speaking in support of it because it is so important to thousands of workers in my State and hundreds of thousands of homesite buyers around the country. I hope that the conferences insist on maintaining this provision in conference and I would like to work with the Senator from Arkansas to assure this result.

Finally, Mr. President, I would like to make one important point. It is my understanding that this provision is designed to cover the sale of the homesites and not the sale of buildings or similar improvements to the site. I would also like to reiterate that the term improvements as used in the bill does not include common infrastructure items such as roads, sewers, drainage and similar items that render the homesite lots in buildable condition and that this is also the view of Senator PRYOR and Senator PACKWOOD.●

REBUILDING THE PEACE CORPS

● Mr. CRANSTON. Mr. President, during its consideration of the proposed "Diplomatic Security and Anti-Terrorism Act of 1986," the Foreign Relations Committee adopted as title VII an unrelated, bipartisan amendment to increase the 1987 authorization of appropriations for the Peace Corps from $130 million to $137.2 million in order to begin implementation of a 6-year plan to expand the Peace Corps to reach its congressionally-established goal of a 10,000-volunteer strength. As the Senate author of the provisions of the law enacted last year to establish this 10,000-volunteer goal, I am particularly delighted that we have begun the steps necessary to accomplish this goal.

GOAL OF 10,000 VOLUNTEERS

Mr. President, on April 14, 1985, I introduced legislation, S. 882, to mandate the establishment of a bipartisan Peace Corps National Advisory Council to help guide the future directions of this program, prohibit partisan influence in overseas staff appointments for the Peace Corps, and establish the goal of attaining a Peace Corps volunteer strength of 10,000-volunteers. The provisions of S. 882, as modified by agreement with the chairman of the Senate Foreign Relations Committee, the Senator from Indiana [Mr. LUGAR], were adopted by the Senate on May 15, 1985, and incorporated into the 1985 foreign assistance legislation which was enacted as the International Security and Development Cooperation Act of 1985, Public Law 99-83.

Mr. President, it is altogether fitting that in 1986—the year of the 25th anniversary of the creation of the Peace Corps—we begin the process of rebuilding and recommitting our Nation to supporting the Peace Corps. Despite the broad national support for this program and its symbolic significance to our international policies, the Peace Corps' strength has steadily declined over the past two decades from its height of more than 15,000 volunteers in 1966 to 9,000 in 1970, to a little more than 5,000 in 1984. Although the populations in the developing nations of the world had increased dramatically during this period, the number of Peace Corps volunteers had dwindled.

The rebirth of the Peace Corps began in 1981 when Congress enacted legislation I was privileged to author which removed the program from the ACTION agency and restored it to the independent status it had enjoyed in its first decade. The new visibility helped to stimulate a renewal of interest in the Peace Corps, both in the public eye at home and throughout the world. The call for volunteers to help fight the famine in Africa brought forth a flood of inquiries which poured into Peace Corps offices at the rate of 1,000 calls a day. Today, the Peace Corps is receiving the highest level of volunteer inquiries in 20 years and has numerous unmet requests from host countries for new or expanded volunteer efforts.

The establishment last year of the 10,000-volunteer goal demonstrated our national commitment to continuing, expanding, and strengthening this unique program. In order to develop a comprehensive and carefully designed plan for a phased-in expansion of the program, I initiated a February 3, 1986, letter signed by a number of Members of the House and Senate to Loret Ruppe, Director of the Peace Corps requesting the agency to prepare and submit a phased, realistic, and programmatically appropriate way to achieve the 10,000-volunteer goal. That plan was submitted to Congress on March 5 and provides a realistic blueprint for moderate Peace Corps growth over the next 6 fiscal years reaching the 10,000 level by fiscal year 1992. This plan would require a fiscal year 1987 appropriation of $137.2—a $7.2 million increase over the current authorization for fiscal year 1987—in order to support a total of 6,108 volunteers and 3,171 trainees.

The Foreign Relations Committee, in adopting this amendment to increase the authorization level for fiscal year 1987, has begun the implementation of this blueprint to achieve the 10,000-volunteer goal. I am delighted to express my strong support for this provision in the bill.

TWENTY-FIFTH ANNIVERSARY CELEBRATION

Mr. President, I can think of no more fitting tribute that this body can pay to the Peace Corps during this 25th anniversary year than to begin to implement the commitment made last year to rebuild and expand this unique program of people-to-people assistance. Of all the international efforts we make to achieve world peace and understanding, there is no greater contribution than that which we make through the Peace Corps. In this program we send to the developing nations of the world the best of America—our people, the America spirit, ingenuity, and compassion. These are dollars well invested. Our Nation and all of the nations where Peace Corps volunteers serve are immeasurably enriched by the contributions made by these volunteers.

Mr. President, I ask that my exchange of correspondence with Director Ruppe regarding the 10,000-volunteer goal be printed in the RECORD.

The material follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, February 3, 1986.

Hon. LORET RUPPE,
Director, The Peace Corps, Washington, DC.

DEAR LORET, As you are well aware, legislation (section 1102 of Public Law 99-83) was recently enacted establishing a goal of achieving a Peace Corps volunteer strength of 10,000 individuals.

As the authorizing and appropriating committees of both the House and Senate begin to consider how that goal can most effectively and productively be achieved within our present stringent budgetary limitations, it would be of great assistance to have input from the agency itself in the form of a comprehensive plan for achieving such growth in volunteer strength. We understand that the Peace Corps currently has requests, that it cannot fill because of budgetary constraints, from host countries for over 2,000 more volunteers.

Accordingly, we request that you prepare a detailed plan for a phased and orderly growth of the Peace Corps from its current size of 6,000 volunteers to a volunteer size of 10,000. In our view, a reasonable timeframe for accomplishing this goal would be four to six years. The plan should indicate (on annual and cumulative bases) the resources, including funding and staff, that would be needed to support such an expansion, the existing and potential interest in host countries to support such growth, an assessment of the availability of qualified volunteer applicants, and the new programming directions and new host countries that might be involved.

We know that you share our enthusiasm over the opportunities that achievement of a 10,000-volunteer goal will provide for the Peace Corps to carry out its mission throughout the world as it enters its second quarter of a century as a force to promote world peace and understanding. We look forward to working with you and the Peace Corps as these exciting plans are being developed.

We would appreciate receiving this detailed plan by March 1, 1986.

With warm regards,
Cordially,

ALAN CRANSTON,
Member, Senate Committee on Foreign Relations.

DANTE B. FASCELL,
Chairman, House Committee on Foreign Affairs.

Senators: Claiborne Pell, John F. Kerry, Patrick J. Leahy, Paul S. Sarbanes, Joseph R. Biden, Jr., Christopher J. Dodd, Thomas F. Eagleton, James R. Sasser, and Frank R. Lautenberg.

Representatives: Don Bonker, Howard Wolpe, George W. Crockett, Jr., Tom Lantos, Peter H. Kostmayer, Harry Reid, Mel Levine, Gary L. Ackerman, Morris K. Udall, Benjamin A. Gilman, Jim Leach, Doug Bereuter, Matthew F. McHugh, William Lehman, Vic Fazio, Robert Mrazek, Jerry Lewis, John Edward Porter,

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PEACE CORPS,
March 5, 1986.

Hon. ALAN CRANSTON,
Member, Senate Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR CRANSTON: In response to your request of February 3, we are providing a detailed plan for attaining a volunteer level of 10,000 over the next six years.

We share with you the concern for the needs of the developing world and a conviction that long-term development needs are best met through grassroots-level assistance. As we enter our second quarter-century, Peace Corps is reaffirming its role in providing such assistance, a role unique in the foreign assistance community.

As I participate in 25th Anniversary symposia around the nation, I am pleased and very proud of the continued support of the American people for the basic goals of the Peace Corps. The strong response made by Americans throughout the nation to our appeals for increased numbers of volunteers to support our Africa Food Systems Initiatives has been repeated in the enthusiastic response to our anniversary activities. The so-called "me generation" is in fact very responsive to the needs of people on the other side of the world, and willing to contribute their time and skills to meeting those needs. And an older generation of Americans has renewed its interest in international volunteerism; their extensive experience ensures that they have the skills so much needed overseas.

Due to time constraints, the attached plan has been developed by Headquarters staff, with limited participation by our overseas staff, who are occupied in making the program reductions required under Gramm-Rudman. Despite this constraint, we feel that the outlined volunteer levels are feasible and supportable. We considered possibilities for expanding existing programs, for initiating new projects in countries where we now serve, and for establishing new programs in countries where we do not now operate. We also weighed the likelihood that host countries would agree to, and support, potential expansions. And we carefully evaluated "saturation levels" for each country (the levels at which the sheer numbers of volunteers in a particular country would preclude further increases).

While increased levels of volunteers are feasible, it is important to note the limitations inherent in development of this plan:

The need to reduce the Federal deficit continues to be an urgent priority of this Administration. As I noted in my earlier letter, we need to balance the economic needs of the developing world with the economic needs of our own Nation.

Potential increases noted in the plan must be viewed as somewhat tentative, as they depend heavily on the concurrence of the host country government. As you know, the bulk of our volunteer activity is in direct response to a specific request from a host country. Since host country governments did not participate in the development of this plan, we cannot guarantee their response. We feel that the overall numbers are attainable, however, in light of the numerous requests we have received for new or expanded efforts, although this will also depend on the availability of scarce skills among our applicants.

Increases are also subject to change based on changing political and economic environments in the countries served. We have not identified individual countries in this plan for that reason. The overall numbers would not be expected to fluctuate much, though, as one country's increase may well offset another country's decrease.

Increased levels cannot be attained without the establishment of programs in countries where we do not now operate. As with expansions, such new country entries depend on the concurrence of the host country. We have received a number of contracts concerning possible new country entries, but would have to go through the formal negotiation process before establishing programs.

Any increase in volunteer levels would require a commitment of resources in both dollar and personnel terms, and may be difficult to achieve in the current budget environment. Peace Corps cannot, and will not, place volunteers overseas without adequate support to ensure their continued health and safety.

Despite the tentative nature of any specific numbers, especially on a country-by-country basis, Peace Corps does feel that the need for development assistance is there, and that we can play a valuable role in helping the developing world meet its long-term needs. As you well know, Peace Corps is a most cost-effective (and, in our eyes, our most effective) development assistance program.

I hope the enclosed plan responds to your request. If your have any questions or need additional information, I and my staff are available to assist you in any way possible.

Thank you for your continuing interest in, and support for, Peace Corps' programs.

Sincerely,

LORET MILLER RUPPE,
Director.

Enclosure.

SUMMARY OF RESOURCES REQUIRED TO REACH A VOLUNTEER FORCE OF 10,000 BY 1992

	Fiscal Years [2]						
	1986	1987	1988	1989	1990	1991	1992
Trainee input	2,615	3,171	3,714	4,233	4,572	4,890	5,317
Volunteer years	5,103	4,961	4,999	5,737	6,571	7,256	7,830
Volunteers on board end of year	6,012	6,108	6,630	7,686	8,581	9,307	10,054
Budget requirements (millions)	[1] $124.4	$137.2	$146.2	$157.0	$172.8	$185.3	$196.2
Staffing requirements (FTE)	1,039	1,097	1,168	1,211	1,269	1,309	1,318

[1] Excludes $5.59 million sequestered (from a total appropriation of $130 million) as a result of Gramm-Rudman-Hollings constraints.
[2] Projected resource requirements are in constant dollars.

Establishing and maintaining a volunteer force of 10,000 would require more than doubling our annual trainee input over the next four to six years.

From 1199 to 3053 in Africa (up 1854);

from 707 to 986 in Inter America (up 279);

from 684 to 1253 in North Africa, Near East, Asia and Pacific (up 569).

Most of the volunteers would serve in agriculture and education programs, with lesser increases in health, water/sanitation, forestry and small enterprise development.

Over a dozen new country entries would be planned (up from 63 at present).

Funding would need to increase by $72 million over current levels.

Staffing would need to increase by close to 300 FTE over current levels.

Fiscal Year 1987

Trainee input	3,171
Volunteer years	4,961
Volunteer's on board end of year	6,108
Staff (FTE)	1,097
Dollars in millions:	
Program support	45.2
RCDE	12.8
Volunteer operations	79.2
Total	137.2
Increased trainee input over fiscal year 1986 by 556:	
Africa	282
Inter America	224
North Africa, Near East, Asia and Pacific (NANEAP)	50

Major increases are in agriculture/rural development, education, small enterprise development and health.

Assumes entry into four (4) new countries (1 in Africa, 3 in Inter America).

Increases in staff provide for overseas staff, recruitment, and support services.

Increases in Volunteer Operations provide for:	
Basic training for new volunteers (trainees)	3.3
Program planning to support the expansion	.4
Medical support	.5
Program materials for volunteers	.2
Recruitment, other (1 FTE)	.2
Total	4.6
Increases in RCDE provide for:	
Recruitment (8 FTE)	2.2
Support to the UN Volunteer program (+5 volunteers)	.3
Total	2.5
Increases in Program Support provide for:	
Overseas staff (28 FTE)	1.4
Headquarters staff (21 FTE)	.8
One-time costs—new posts	.8
Conversion to State systems for personnel/payroll	.5
One-time upgrade of overseas computer systems	.8
Overseas support costs (vehicles, FAAS)	.6
One-time computer expansion	.5
Support services	.3
Total	5.7

Fiscal Year 1988

Trainee input	3,714
Volunteer years	4,999
Volunteer's on board end of year	6,630
Staff (FTE)	1,168
Dollars in millions:	
Program support	49.6
RCDE	13.0

Vol. ops	83.6
Total	146.2

Increases trainee input over fiscal year 1987 by 543:

Africa	360
Inter America	108
NANEAP	75

Major increases continue in agriculture/rural development, education, and small enterprise development.

Assumes entry into 3 new countries (1 in NANEAP, 2 in Africa).

Increases in staff provide for overseas staff, recruitment and support services.

Increases in Volunteer Operations provide for:

Basic training for new volunteers (trainees)	$3.2
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	.4
Medical support	.5
Recruitment, other (1 FTE)	.3
Total	4.4

Increases in RCDE provide for:

Recruitment (8 FTE)	.3
Support to UNV program (grant in alternating years)	−.1
Total	.2

Increases in Program Support provide for:

Overseas staff (43 FTE)	2.1
Headquarters staff (19 FTE)	.7
Overseas support costs (vehicles, FAAS)	.4
One-time upgrade of overseas computer systems	1.2
One-time costs for new posts	−.2
Other	.2
Total	4.4

Fiscal Year 1989

Trainee input	4,233
Volunteer years	5,737
Volunteer's board end of year	7,686
Staff (FTE)	1,211

Dollars in millions:

Program support	48.4
RCDE	13.7
Volunteer operations	94.9
Total	157.0

Increases trainee input over 1988 by 519:

In Africa	300
In Inter America	144
In NANEAP	75

Major increases are in agriculture/rural development.

Assumes no new country entries.

Increases in staff provide for overseas staff, recruitment, and support services.

Increases in Volunteer Operations provide for:

Basic training for new volunteers (trainees)	$3.1
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	7.5
Medical support	.6
Other (1 FTE)	.1
Total	11.3

Increases in RCDE provide for:

Recruitment (6 FTE)	.4
Support to UNV program (grant in alternating years)	.2
WATS equipment (one time)	.1
Total	.7

Changes in Program Support provide for:

Increases in:

Overseas staff (31 FTE)	+1.5
Headquarters staff (5 FTE)	+.2
Overseas support costs (vehicles, FAAS)	+.4
Total	2.1

Offset by decreases in:

One-time computer purchases	−.5
One-time upgrade to overseas computer systems	−2.0
One-time costs for new posts	−.8
Total	−3.3
Grand total	1.2

Fiscal Year 1990

Trainee imput	4,572
Volunteer years	6,571
Volunteers on board end of year	8,581
Staff (FTE)	1,269

Dollars in millions:

Program support	51.1
RCDE	14.4
Volunteer operations	107.3
Total	172.8

Increase trainee input over fiscal year 1989 by 339:

In Africa	373
In Inter America	−134
In NANEAP	100

The Inter America decrease reflects a slight slowing after the peak years of IFCA (Initiative for Central America).

Assumes two new country entries (in Africa).

Major increases in small enterprise development, water/sanitation, and agriculture/rural development.

Increases in staff for overseas staff, recruitment and support services.

Increases in Volunteer Operations provide for:

Basic training for new volunteers (trainees)	2.0
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	8.4
Medical support	1.7
Other (3 FTE)	.3
Total	12.4

Increases in RCDE provide for:

Recruitment (9 FTE)	.7
Support to UNV program grant in alternating years	−.1
New recruitment film	.1
New area office (3 FTE)	.1
WATS equipment (one time)	−.1

Increases in Program Support provide for:

Overseas staff (32 FTE)	1.6
Headquarters staff (11 FTE)	.4
Overseas support costs (vehicles, FAAS)	.3
One-time costs—new posts	.4
Total	2.7

Fiscal Year 1991

Trainee input	4,890
Volunteer years	7,256
Volunteer's on board end of year	9,307
Staff (FTE)	1,309

Dollars in millions:

Program support	53.6
RCDE	14.6
Volunteer operations	117.1
Total	185.3

Increase trainee input over 1990 by 318:

In Africa	254
In Inter America	−36
In NANEAP	100

Inter America' continues slowing.

Assumes 3 new country entries (1 in NANEAP, 2 in Africa).

Major increases in education and agriculture/rural development.

Increases in staff for overseas staff, recruitment and support services.

Increases in Volunteer Operations provide for:

Basic training for new volunteer (trainees)	1.9
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	6.9
Medical support	.9
Other (2 FTE)	.1
Total	9.8

Increases in RCDE provide for:

Recruitment film (one-time)	.2
Recruitment (7 FTE)	−.1
Support to UNV program (grant in alternating years)	.2
Total	.1
	.2

Increases in Program Support provide for:

Overseas staff (28 FTE)	1.2
Headquarters staff (3 FTE)	.1
Overseas support costs (vehicles, FAAS)	.2
Replace overseas computer systems	.8
One-time costs—new posts	.2
Total	2.5

Fiscal Year 1992

Trainee input	5,317
Volunteer years	7,830
Volunteer's on board end of year	10,054
Staff (FTE)	1,318

Dollars in millions:

Program support	54.9
RCDE	14.7
Volunteer operations	126.6
Total	196.2

Increase trainee input over 1991 by 427:

In Africa	285
In Inter America	−27
In NANEAP	169

Inter America continues slowing.

Assumes 2 new country entries (in Africa).

Major increases are in education and agriculture/rural development.

Increases in staff for overseas staff, recruitment and support services.

Increases in Volunteer Operations provide for:

Basic training for new volunteer (trainees)	$2.5
Overseas support to new volunteers (allowances, travel, in-service training, supplies, etc.)	5.8

Medical support	1.1
Other (1 FTE)	.1
Total	9.5
Increases in RCDE provide for:	
Recruitment (8 FTE)	.2
Support to UNV program (grant in alternating years)	−.1
Total	.1
Increases in Program Support provide for:	
Overseas support to volunteers (vehicles, FAAS)	.4
Reduced staff travel	−.1
Replace overseas computer systems	1.2
One-time costs—new posts	−.2
Total	1.3

NAUM AND INNA MEIMAN: HUMAN RIGHTS ABUSED

● Mr. SIMON. Mr. President, my friends Naum and Inna Meiman continue to be held captive in Moscow. For 10 years Soviet officials have denied them permission to emigrate to Israel.

The Meimans are persecuted for expressing their desire to leave the Soviet Union. Inna is critically ill with cancer. Naum is a 75-year-old man who once did "classified" work for the State. His work ended 25 years ago and his calculations are now outdated. Soviet authorities have denied the Meimans the right to live out their last days together in the land that they choose. The KGB has ransacked their apartment. The Soviets have also denied this couple the right to a phone in their home and confiscate much of their personal mail. Naum was forced to retire from his job, and Inna has been denied the right to modern medical treatment that is available in the West.

Naum and Inna should not have to tolerate this abuse of their basic rights. I implore the officials in the Soviet Union to let the Meimans emigrate to Israel.●

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT AND NAVAJO COMMUNITY COLLEGE ACT

● Mr. ANDREWS. Mr. President, I rise today in support of S. 2095, a bill to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act through fiscal year 1990. There are currently 21 title I tribally controlled community colleges in eight States serving over 4,000 students. Four of these colleges are located in my home State, North Dakota.

Mr. President, of these 21 colleges, 9 are fully accredited, 6 are candidates for accreditation, and 6 are in precandidacy status meeting all certification requirements. The degrees offered by these colleges are varied and include associate degrees in nursing, arts, applied science and vocational certifications, and bachelor of science degrees. The colleges and their tribes have made great progress in the last 3 years toward self-sufficiency and in meeting the needs of the Indian communities. Since 1983, an additional three colleges have come into existence; five additional schools have attained accreditation; and two schools now offer 4-year programs as compared to 1 in 1983.

Mr. President, I believe these colleges are performing an extremely valuable service and I strongly urge my colleagues to join me in supporting this legislation.●

ORDERS FOR THURSDAY, JUNE 26, 1986

RECESS UNTIL 11 A.M.

Mr. SIMPSON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 a.m. on Thursday, June 26, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIVISION OF TIME ON NOMINATION

Mr. SIMPSON. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order, the time between the conclusion of the leaders' time and 12 noon be equally divided between the chairman and the ranking minority member of the Judiciary Committee for debate on the Manion nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATORS

Mr. SIMPSON. I ask unanimous consent that during the day, there be special orders in favor of the following Senators for not to exceed 5 minutes each: THURMOND, CRANSTON, HUMPHREY, DECONCINI, ROTH, PROXMIRE, QUAYLE, SASSER, MATHIAS, KERRY, and WEICKER.

PROGRAM

Mr. SIMPSON. At 12 noon, under the provisions of rule XXII, a live quorum will begin, to be followed by a cloture vote on the Manion nomination.

Following the cloture vote, regardless of the outcome, it is anticipated that the Senate will turn to three treaties on the Executive Calendar—Calendar Nos. 8, 11, and 12, to be followed by three rollcall votes on the three treaties.

Following the treaty votes, if cloture is not invoked on the Manion nomination, the Senate will resume legislative sesson and it will be the majority leader's intention to turn to the consideration of the supplemental appropriations conference report. Therefore, several rollcall votes will occur during Thursday's session.

□ 2245

RECOGNITION OF THE MAJORITY AND MINORITY LEADERS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Democratic leader's standing order be reserved for his use at 11:50 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I would hope that that might be so for both the majority leader and the Democratic leader. I am not aware of having cleared that particular point.

The PRESIDING OFFICER. Is there such a request?

Mr. BIDEN. Will the Senator restate the request?

Mr. SIMPSON. I would ask the Senator from Delaware if we would rephrase that to request that both leaders' times be reserved.

Mr. BIDEN. I would rephrase it.

Mr. SIMPSON. I thank my colleague from Delaware.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. SIMPSON. Mr. President, it is also the majority leader's intention to bring up the housing bill, S. 2507, according to this lightly scribbled, chicken scratching here, following the supplemental appropriations bill.

Mr. President, I thank all the staff, in and outside the Chamber, for this activity late this evening. They are most appreciated.

I thank the acting Democratic leader for his assistance in concluding our day's activities.

Mr. BIDEN. I thank the Senator from Wyoming for his coaching.

Mr. SIMPSON. I get, Mr. President, some very good coaching from that side often and take it.

RECESS UNTIL 11 A.M. TOMORROW

Mr. SIMPSON. With that, in accordance with the previous order, I move we stand in recess until 11 a.m. on Thursday, June 26, 1986.

The motion was agreed to; and, at 10:46 p.m., the Senate recessed until Thursday, June 26, 1986, at 11 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, June 25, 1986*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Your Word has commanded, O God, that justice roll down like waters, and righteousness like an ever-flowing stream. Encourage each of us to use the talents You have given that we might do the works of justice in our communities and in the world. May Your gracious spirit lead every person of good will in the paths of righteousness and peace. This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SUNDQUIST. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SUNDQUIST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 119, answered "present" 1, not voting 40, as follows:

[Roll No. 195]

YEAS—273

Ackerman	Bosco	Cooper
Akaka	Boucher	Coyne
Alexander	Boxer	Crockett
Anderson	Breaux	Daniel
Andrews	Brooks	Darden
Annunzio	Broomfield	de la Garza
Anthony	Brown (CA)	Dellums
Applegate	Broyhill	Derrick
Archer	Bruce	Dicks
Aspin	Bryant	DioGuardi
Atkins	Bustamante	Donnelly
Barnard	Byron	Dorgan (ND)
Barnes	Callahan	Downey
Bateman	Carper	Duncan
Bates	Carr	Durbin
Bedell	Chapman	Dwyer
Beilenson	Chappell	Dymally
Bennett	Clinger	Dyson
Biaggi	Coats	Early
Boggs	Coelho	Eckart (OH)
Boland	Coleman (TX)	Edgar
Boner (TN)	Collins	Edwards (CA)
Bonior (MI)	Combest	English
Borski	Conyers	Erdreich
Evans (IL)	Lipinski	Rose
Fascell	Long	Rostenkowski
Fazio	Lowry (WA)	Roth
Feighan	Lujan	Rowland (GA)
Fish	Luken	Roybal
Flippo	Lundine	Rudd
Florio	MacKay	Russo
Foglietta	Manton	Sabo
Ford (TN)	Markey	Savage
Frank	Martin (NY)	Scheuer
Franklin	Martinez	Schneider
Frost	Matsui	Schulze
Fuqua	Mavroules	Schumer
Gaydos	Mazzoli	Seiberling
Gejdenson	McCurdy	Sharp
Gephardt	McDade	Shumway
Gibbons	McEwen	Siljander
Gilman	McHugh	Sisisky
Glickman	McKinney	Skelton
Gonzalez	McMillan	Slattery
Gordon	Mica	Smith (IA)
Gradison	Mikulski	Smith (NE)
Gray (IL)	Miller (CA)	Smith (NJ)
Gray (PA)	Miller (WA)	Snowe
Green	Mineta	Snyder
Guarini	Moakley	Solarz
Hall (OH)	Mollohan	Spence
Hall, Ralph	Montgomery	Spratt
Hamilton	Moore	St Germain
Hammerschmidt	Morrison (CT)	Staggers
Hawkins	Morrison (WA)	Stark
Hayes	Mrazek	Stenholm
Hefner	Murphy	Stokes
Heftel	Murtha	Stratton
Hertel	Myers	Studds
Hillis	Natcher	Sweeney
Hopkins	Neal	Swift
Horton	Nelson	Synar
Howard	Nichols	Tallon
Hoyer	Nowak	Tauzin
Hubbard	Oberstar	Taylor
Huckaby	Obey	Torres
Hughes	Olin	Torricelli
Hunter	Ortiz	Traficant
Hutto	Packard	Traxler
Jeffords	Panetta	Udall
Johnson	Pease	Valentine
Jones (OK)	Pepper	Vento
Jones (TN)	Perkins	Visclosky
Kanjorski	Petri	Volkmer
Kaptur	Pickle	Walgren
Kasich	Porter	Waxman
Kastenmeier	Price	Weaver
Kemp	Pursell	Weiss
Kennelly	Quillen	Wheat
Kildee	Rahall	Whitley
Kleczka	Rangel	Whitten
Kolter	Ray	Wirth
Kostmayer	Regula	Wise
LaFalce	Reid	Wolpe
Lantos	Richardson	Wortley
Leath (TX)	Rinaldo	Wright
Lehman (CA)	Ritter	Wyden
Lehman (FL)	Robinson	Wylie
Leland	Rodino	Yates
Levin (MI)	Roe	Yatron
Levine (CA)	Roemer	Young (MO)

NAYS—119

Armey	Clay	Dreier
Badham	Cobey	Edwards (OK)
Bartlett	Coble	Emerson
Barton	Coleman (MO)	Fawell
Bentley	Conte	Fiedler
Bereuter	Coughlin	Fields
Bilirakis	Courter	Frenzel
Bliley	Craig	Gallo
Boehlert	Crane	Gekas
Boulter	Dannemeyer	Gingrich
Brown (CO)	Daub	Gregg
Burton (IN)	Davis	Gunderson
Carney	DeLay	Hansen
Chandler	DeWine	Hartnett
Chappie	Dickinson	Henry
Cheney	Dornan (CA)	Hiler
Holt	McKernan	Slaughter
Jacobs	Meyers	Smith, Denny (OR)
Kindness	Michel	Smith, Robert (NH)
Kolbe	Miller (OH)	Smith, Robert (OR)
Kramer	Molinari	Solomon
Lagomarsino	Monson	Stangeland
Latta	Moorhead	Strang
Leach (IA)	Nielson	Stump
Lent	Oxley	Sundquist
Lewis (CA)	Parris	Swindall
Lewis (FL)	Pashayan	Tauke
Lightfoot	Penny	Vander Jagt
Livingston	Roberts	Vucanovich
Lloyd	Rogers	Walker
Loeffler	Roukema	Weber
Lott	Rowland (CT)	Whitehurst
Lowery (CA)	Saxton	Whittaker
Lungren	Schaefer	Wolf
Mack	Schroeder	Young (AK)
Madigan	Schuette	Young (FL)
Marlenee	Sensenbrenner	Zschau
Martin (IL)	Shaw	
McCain	Shuster	
McCandless	Sikorski	
McCollum	Skeen	

ANSWERED "PRESENT"—1

Jones (NC)

NOT VOTING—40

AuCoin	Fowler	Oakar
Berman	Garcia	Owens
Bevill	Goodling	Ridge
Bonker	Grotberg	Shelby
Burton (CA)	Hatcher	Smith (FL)
Campbell	Hendon	Stallings
Daschle	Hyde	Thomas (CA)
Dingell	Ireland	Thomas (GA)
Dixon	Jenkins	Towns
Dowdy	McCloskey	Watkins
Eckert (NY)	McGrath	Williams
Evans (IA)	Mitchell	Wilson
Foley	Moody	
Ford (MI)	O'Brien	

□ 1010

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1483. An act to authorize the Smithsonian Institution to plan and construct facilities for certain science activities of the Institution, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 3 with an amendment to the bill (H.R. 3511) "An act to amend title 18, United States Code, with respect to certain bribery and related offenses."

□ 1020

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3968

Mr. GEKAS. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of H.R. 3968.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A VOTE FOR CONTRA AID IS NOT A VOTE FOR DEMOCRACY

(Mr. DURBIN asked and was given permission to address the House for 1 minute.)

Mr. DURBIN. Mr. Speaker, whether we agree or disagree on Contra aid, the House vote today will focus less on the spread of communism and more on common sense. Last year, Congress, at the President's request, appropriated $27 million in humanitarian aid for the Contras in Nicaragua. The President asked for these funds to send food, clothing, and medical supplies to the Contra rebels he calls freedom fighters.

What happened to the U.S. tax dollars after they left our Treasury? More than half are unaccounted for. That is right: There is no record of what happened to over $14 million. Of the remainder, we know for certain that $450,000 went to one Honduran general, personally, and $3.8 million to a phony grocery store in Honduras being run by their military.

Another vote for the President's Contra aid will not strike a blow for liberty in Central America, it will be confirmation that the U.S. taxpayers are prepared to throw another $100 million to the profiteers and petty thieves who stand ready to exploit us.

A vote for Contra aid today is not a vote for democracy; it is a vote for further waste and fraud.

HUMPTY DOLLAR HAD A GREAT FALL

Mr. DANNEMEYER. Mr. Speaker, the historian Plutarch relates that Archidamus, the King of the Lacedaemonians, once asked Thucydides whether he or Pericles were the better wrestler. Thucydides made this answer: "Whenever I have thrown him and given him a fair fall, Pericles gets the better of me by insisting that he had no fall at all, and makes the bystanders, in spite of their own eyes, believe him."

According to news reports, Treasury Secretary Baker refused to acknowledge that the dollar has had a great fall, and tried to exculpate himself by repeating his earlier denials that he has never had a target for the dollar in mind.

Mr. Speaker, target or no target, the dollar has had a great fall, and the worst is not over yet. While it may be true that a lot of bystanders, in spite of their own eyes, refuse to admit it, irreparable damage to the confidence in the dollar, as well as in the competence and integrity of the managers of the dollar, has been done and the rest of us will have to pay dearly for it.

BORROWING MONEY TO BORROW TROUBLE IN LATIN AMERICA

(Mr. JACOBS asked and was given permission to address the House for 1 minute.)

Mr. JACOBS. Mr. Speaker, 60 years ago, Will Rogers said, "The United States will send the Marines into any country where we can get 10 people to invite us." A philosopher says that the only thing we learn from history is that we do not learn from history.

Maybe that is not entirely true. The American public, by the latest polls, by a 2-to-1 margin oppose the proposition of borrowing money to borrow trouble in Latin America by exporting revolution and terror to that region. The only question is, today, whether the House of Representatives will represent.

TIME TO STOP "MEXICO BASHING"

(Mr. McCAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCAIN. Mr. Speaker, it is with regret and some embarrassment that I stand in the well today. I regret that my comments today are necessary, and embarrassed because it is a member of my own party that makes them so. I am talking about the latest in a round of unfounded and somewhat irresponsible attacks on our neighbor to the south, Mexico.

Whether we like it or not, Mexico is on our southern border and will remain there. It does not behoove us to "bash" them. They are one of our most important trading partners; in 1985, we had 33 billion dollars' worth of commerce with Mexico. We have a long, undefended border to our south, and our cultures, especially in the Southwest, are deeply intertwined.

It is true that Mexico has its share of problems. They have a huge foreign debt. However, they have been making progress at addressing that problem. The years 1984 and 1985 were good years and trouble only came with the Saudi decision to practice predatory pricing in the oil markets. This has reduced Mexico's federal revenue by one-fourth and its export earnings by one-third since last January. It is also true that there is a serious problem with the drug trade, but I submit that if there were no demand here in the United States, the problem would be greatly alleviated.

As President Miguel de la Madrid has stated:

> Mexico is the initial frontier between the United States and Latin America, the partition between different cultures, each with its own blend of national and universal values. Because of this, the world looks on our relationship as a test of future possibilities for coexistence between the industrialized world and the developing world.

Given those stakes, it is time to stop bashing Mexico. We should, instead, be working jointly, as equals, for a better relationship between our two nations.

REVEALING STATEMENTS OF COMMANDER ZERO

(Mr. MRAZEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MRAZEK. Mr. Speaker, not too long ago my friend and distinguished colleague from California [Mr. DORNAN] looked up in to that gallery, and sitting there was a man considered to be one of the great heroes of the revolution; and he hailed Commander Zero, Eden Pastora, for his commitment in seeking to overthrow the Sandinista government.

This week, in the Washington Post, Mr. Pastora was quoted as saying that the Contras' military and political tactics are today Somocista. Their commanders are Somocistas, and as proof of their criminal strategies during 4 years of guerrilla warfare, they have not turned one prisoner over to the International Red Cross.

Mr. Speaker, these words from Eden Pastora are from a man who fought for years against the corrupt Somoza dynasty; a man who left the Sandinista government in opposition to certain undemocratic policies the government had undertaken; and a man who then refused to join the united Nicaragua opposition, the so-called unified Contra group created by the United States.

He refused to join because the majority of the Contra military commanders were the same men he fought against for years, while living in the mountains of Nicaragua. They are former members of Somoza's National Guard.

Although the cosmetics have changed and the United States has given the Contras a facelift by installing businessmen as the political leaders, we know that those who hold the guns are those who will eventually hold power.

Should the Contras ever overthrow the Sandinista government, it will be the former members of Somoza's National Guard who have yet to turn over one prisoner to the International

Red Cross. They will be running the country.

THE FHA IS BACK IN BUSINESS

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, yesterday the House passed and sent to the President House Joint Resolution 652 which extends until September 30, 1986, the authority of the Secretary of Housing and Urban Development to insure FHA loans. House Joint Resolution 652 also increased the FHA credit limit by $9.5 billion to a total of $83.9 billion for the fiscal year.

Passage of this legislation was absolutely essential because the FHA has been out of business for 18 straight days. All told there were 49 days in which FHA was not able to function since last October. During this time hundreds of thousands of would-be homeowners have been frustrated in their efforts to achieve their dream of owning their own home. Because of the delay in getting the FHA going again, many of these may end up paying a higher rate of interest.

Mr. Speaker, the good news is FHA is back in business. The bad news is that we don't know for how long. The $9.5 billion increase we approved yesterday, together with a larger increase in the supplemental appropriations bill, should carry us through until the end of this fiscal year but if for some reason the urgent supplemental appropriations bill is not signed into law Congress will be faced once again with providing additional short-term financing and we will have less than a week to do it.

In addition we have no assurance as to what will happen this fall. FHA may expire again in September. As long as the FHA program is held hostage to other legislation we place in jeopardy the opportunity for thousands of low- and moderate-income individuals to become homeowners.

This is not a responsible way to legislate. What we should do is pass legislation providing a long-term authorization of authority and a sufficient credit cap so that the home mortgage market has some stability. I have introduced legislation to do that. It is House Joint Resolution 656. Over 160 of my colleagues have cosponsored this already.

Mr. Speaker, we should pass this legislation because if we don't I am afraid we will relive the nightmare with regard to FHA that we have experienced these past 3 weeks. We should pass a long-term extension so that the home mortgage market has some stability.

□ 1030

WE NEED THAT $100 MILLION TO TAKE CARE OF OUR PROBLEMS IN OUR OWN COUNTRY

Mr. BEDELL. Mr. Speaker, today we will cast a vote, an important vote as to whether we should send $100 million of taxpayers money to a force in Central America trying to overthrow the Government of Nicaragua. Now I have 1 minute. If I had 1 hour, I could still not go over all of the reasons why it is crazy for us to consider this issue. But let me simply say that, although I do not admire the Government of Nicaragua, whether we like it or not, some people do not like to have the United States telling them who should be in their Government, particularly when we do it with arms used to kill their people. Most everyone will agree that this $100 million is not going to be enough to enable that force to overthrow the Government of Nicaragua.

Mr. Speaker, some people may not know it, but we have got troubles out in the countryside today. My farmers are in difficulty, small business is in difficulty, we are cutting back on what we can do to educate our young people. We do not have money to do that, but when it comes to sending $100 million to Central America to try to buy arms to try to kill the people, we open up the Treasury, and here we are. I say we should look at things realistically. If we are concerned about spending, we ought to be concerned about spending in all areas.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BEDELL. I will not yield. I am not going to yield. You try to take my time every time I get down here. I have made a lot of mistakes, but one mistake I am not going to make is to hear you take my time when you do not have an argument on your side so I cannot present my argument.

I yield back my time.

THE HUMANITARIAN AID WAS USED IN CENTRAL AMERICA FOR JUST THAT PURPOSE

(Mr. DEWINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEWINE. Mr. Speaker, the allegation has already been made on the floor today and I am sure will be made again later that the $27 million in humanitarian aid that the United States has sent to Central America has not been accounted for. This is a bogus argument. That is not the question.

The real question, Mr. Speaker, is whether or not we have received value for this money? That is the question. The evidence is clear that we have. We have been able to trace it with CIA reports, an elaborate system of vouchers which shows that the material we purchased with our money is arriving i Central America. That is the rea question.

Mr. Speaker, the real question tha we are facing today was put very suc cinctly by our Secretary of State. An that is: are we willing to see the Sovie Union become the dominant power be tween the Panama Canal and Mexico

That is the issue that we are goin to be debating today. I am going t vote in favor of the bipartisan packag that will help to ensure that th Soviet Union will not become tha dominant power in our own backyard

WORLD COURT RULING AND CONTRA AID

(Mr. FAZIO asked and was given permission to address the House for minute and to revise and extend hi remarks.)

Mr. FAZIO. Mr. Speaker, as we vote today on whether or not to provide the Contras with $100 million in mili tary aid, I think it is important tha we note that the World Court is ex pected to rule day after tomorrow on the legality, under international law of direct United States intervention in Nicaragua.

The President decided not even to present a defense of U.S. actions before the Court.

He has not even made a pretense of complying with international law before a court that we helped establish and often use—most recently in our conflict with Khomeini's Iran.

And by rebuffing the World Court, President Reagan has succeeded in branding the United States with the label of an international outlaw, a nation which feels unconstrained by the rule and word of law when it does not serve our own self-interest.

International law is meant to be a buffer between competing domestic laws of the world's states; it serves to preserve standards which benefit all nations—large and small.

Our actions in Nicaragua have not only been immoral, they have been illegal, and it should be no surprise to those of us in this Chamber if the World Court rules as such.

Our credibility and respect in the Third World and in Latin America are on the line today in Congess and on Friday before the World Court.

THE REAL LEADERS IN THE NICARAGUAN MILITARY

(Mr. EVANS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Illinois. Mr. Speaker, last March I was joined by several of my colleagues here on the House floor to talk about the leadership of the Contra military forces. We talked

about the cast of characters that make up the Contra high command and hold the real military power behind the Contras.

Let us not be fooled by the Contra convention in Miami. The so-called Miami agreements are nothing more than a public relations ploy to convince us that the Contras have abandoned their terrorist ways.

In fact, Mr. Speaker, the written agreements are nothing more than a few platitudes on paper. They are vague and contradictory and include so few details that they might have been authored by Clifford Irving.

Some of the key agreements in Miami were not even put down on paper. These concerned majority rule and the power of civilians over the Somoza leftovers who constitute the Contra military. These agreements are already the subject of contradiction and confusion among the Uno leadership itself. And the Contras long record of human rights abuses is dismissed as a minor infraction.

Mr. Speaker, Contra corruption goes deeper than drug running and deeper than $14 million misdirected to Honduran generals and Caribbean banks. It's corruption at the heart and soul of the Contras themselves. The comic strip "Doonesbury" has presented a more realistic picture of the Contra leadership than has this administration. I urge our colleagues to oppose aid to this gang of thugs and to support the Hamilton amendment.

IT ALL DEPENDS ON YOUR POINT OF VIEW

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, today we will confront the hypocrisy of Ronald Reagan's position in Central America. When former Sandinistas tell us that the Sandinista government is corrupt, Ronald Reagan says to invade them. When former Contras tell us that the Contra leadership is corrupt, he says reward them with $100 million.

When former Sandinistas tell us that Sandinistas are involved in the drug trade, Ronald Reagan says to invade them. When former Contra leaders and current Contra leaders tell us they are involved in drug trafficking, Ronald Reagan says to reward them with $100 milion.

When former Sandinistas say that the Sandinistas are violating human rights, Ronald Reagan says we should invade them. When Contra leaders say that the Contras are violating human rights, Ronald Reagan says reward them with $100 million.

Why does he say this? Because, he says, if we do not do it now, American youth will be brought into this war directly.

Let me tell you, ladies and gentlemen, the youth of America are being brought into this war today as we stand here because they are now having drugs pushed at them on the streets of America that were brought here by the leadership that Ronald Reagan wants to give $100 million to; the very Contra leaders that this administration is knowingly supplying with money, are knowingly supplying the young people of America with cocaine because that is how they are financing the war. They are desiring to finance it on the backs of American youth.

Do not weep for Lenny Bias and send $100 million to the Contras.

THE PRESIDENT AND THE AMERICAN PEOPLE REMAIN FAR APART ON THE CONTRA AID ISSUE

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, there are reasons why Americans are 2 to 1 against aid to the Contras. Americans are a practical people and they apply the lessons of their lives to political issues.

Does it make sense to throw so many dollars and so many bullets to overthrow a government that they do not like when they have no assurance about what type of government would take its place.

Recent reports document clear cut Contra drug connections, undisputed.

What a pity if after all the minings and all the killings and all the pain and all the suffering that results from Contra aid, the new government turns out to be another version of Somoza with drug kingpins at the top.

It's not such an improbability. Look at Panama and then examine the tie-in between drug smugglers and the Contras.

The American people are wise, Mr. President. Let them lead you on this one.

IF IT'S ANTI-COMMUNIST, THE LIBERALS SUSPECT IT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, I think you ought to examine what we have heard in 1 minute so far this morning about our choices in Central America. If it is anti-Communist, it is corrupt, the liberals tell us. If it is anti-Communist, it is unpopular, the liberals tell us. If it is anti-Communist, it costs too much, the liberals tell us.

Corruption is used as an issue by the very people who cannot bring themselves to deal with ethical violations right here in this House.

Unpopularity is used as an issue by people who deny even a vote on 80 percent issues like a balanced budget amendment to the Constitution.

Foreign aid cost is used by people as an issue who just yesterday voted $50 million to go to, of all places, Ireland. The issue here is whether you support an extension of the Soviet empire into Central America. Of course, that is the anti-Communist argument that the liberals hate so much.

WHERE IS THE MONEY, MR. PRESIDENT?

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Where is the money, Mr. President? Fourteen million bucks in Contra aid, missing.

The GAO investigation reveals massive fraud and graft. If this amount were missing in a domestic social program, the President and his rightwing friends in the House would blow the roof off the Capitol. Congress should not authorize another dime until the $14 million is accounted for. American taxpayers should expect no less. Receipts for goods never delivered, massive overcharges, checks made out to a Honduran military leader, United States funds in Caribbean bank accounts.

We want answers, Mr. President, and until we get them not another dime should go to the dope dealers, thieves, and murderers waging war in Central America.

THIS DEBATE IS A HISTORICAL NATIONAL DISGRACE

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, today is a historic day for the House of Representatives. But this debate is a historical national disgrace. We are debating an illegal, immoral war. If in fact Nicaragua is a national threat to this country and if in fact, as the President has pursued the overthrow of this government, he should declare that as his intent and that as his policy. Forty-two percent of the people killed by the Contras have been children.

I think this war has shown that the young suffer the most. I think the President is wrong. He has misled the American people.

I think this debate has come down to a red-baiting Communist scare. If communism is a threat to this world, then I suggest our joint naval training exercises with Communist China, our nuclear exchange pacts, our space satel-

lites pacts with Communist China fly in the face of this argument.

I ask this House to return morality and legality to this debate.

□ 1045

A VOTE FOR FREEDOM AND A VOTE AGAINST COMMUNISM

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker and my colleagues, the vote today is perhaps the most important one we will cast in many years. When you come right down to it, it is a vote for or against the establishment of a dangerous Soviet Communist base, a new Cuba in our own back yard.

We have all seen the pictures of the 11,000-foot airstrips that are supposedly being used for crop dusting. We have all seen the development of blue-water navy ports away from any population zones that are being used and will be used for the Soviet Navy.

It is a vote for or against the Brezhnev doctrine, which says that, once a country goes Communist, that is it, it can never be turned around, even if it is threatening its neighbors and the United States itself.

It is a vote for or against the Ortega-Qadhafi-Khomeini terrorist alliance. We have all seen the pictures of Qadhafi and Ortega, fists raised in clenched solidarity with Qadhafi saying, "We fight with the Nicaraguans because they fight the Americans on their own ground."

But most of all, it is a vote for or against the tide of democracy and freedom in this hemisphere.

To my colleagues who talk about the drug traffic, when Tomas Borge was implicated directly in drug traffic, where were the liberals at that time?

THE PRESIDENT HAS STRUCK OUT AGAIN

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, the President has struck out again. In the most recent poll, the American people by a margin of 2 to 1 have said no to his Nicaraguan policy. And the President knows that he has lost the American people. He is not even trying to persuade them anymore. No, he is aiming his full power as a great communicator at us, the Members of the House. We are to be his patsies.

We should demonstrate the same common sense as the people who send us here, whom we are elected to represent.

Today's $100 million will be tomorrow's billions. Today's Contras will be followed by young American soldiers.

Now is the time to tell Mr. Reagan war is not the answer; negotiation is. Let us end the tragic bleeding of Nicaragua. Let us end Contra aid today.

LET US HEAR SOME HUMAN RIGHTS SPEECHES FROM THE OTHER SIDE

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker and my colleagues, I hope that tone of the debate on aid to the resistance forces in Central America hits a higher note than some of these 1-minute speeches this morning.

My colleague, the distinguished gentleman from San Diego [Mr. BATES], got up and said that 42 percent of the victims in combat in Nicaragua in what is really a civil war were children. Forty-two percent killed were children? I never heard that before. Where did the gentleman get that, off the wall? Where are all these facts coming from that they have thrown around? Has the gentleman gone down and gone into the infirmaries and the hospitals of the young Contra fighters as I have with Mr. WEBER and talked to these young people, who are honorable people fighting for freedom in their country, who are barely children themselves?

What about the 11,000 people in the Gulag system of concentration camps down there? Why do not my good, noble liberal friends who have a fine record on human rights take the well and talk about what we are going to do about the political prisoners of conscience in Nicaragua, 11,000 of them? That is 22 times more than what the dictator Somoza had in his one federal penitentiary, Tipitapa.

Amnesty International and the left-wing group, America's Watch—I respect some of their work—they said that, at its worst, Somoza had 500 political prisoners. Now there are 11,000 in a nation of only 2.5 million people.

In Communist Vietnam with 61 million people, they only have 10,000 political prisoners. Let us hear some human rights speeches from the other side.

THERE ARE BANDITS IN BOTH CAMPS IN NICARAGUA

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

Mr. OBEY. Mr. Speaker, I agree with the gentleman who just spoke on one point. I do not think either the Sandinistas or the Contra leadership are people who, in the long term, are going to do this country any favors. I think you have a lot of bandits in both camps, and there is no question that both of them, if they could, would run drugs rather than do anything that is constructive.

Let me suggest, however, the issue facing us today is simply whether or not the policy which is being suggested to us will work.

The fact is the American public opposes the President's position in sending money to the Contras because they know that that will not deal with the roots of the problem.

If you want to save Central America, if you want to save Latin America, from communism, you had better do something about the fact that their Third World debt is shoveling $22 billion in capital out of that part of the world every year, which is killing their ability to run an economy in a way which will prevent communism from taking over in that part of the region. And the administration's proposal is not going to do anything significant about it. I would suggest that neither is the McCurdy amendment which will be proposed and offered to us as an alternative today.

I would urge Members who want to vote against stupidity to vote against the rule when it is offered to us today.

TODAY IS THE DAY OF RECKONING

Mr. BURTON of Indiana. Mr. Speaker, I wonder why Muammar Qadhafi sent $400 million to the Communist Nicaraguan Government and then said, "We support our brothers in Nicaragua because they fight America on their own soil." Why do you suppose he did that?

Why do you suppose the Soviet Union sent 18,000 tons of war materials into Nicaragua last year? They used to run it through Mariel Harbor in Cuba and repackage it and send it on Cuban ships so that there was no apparent direct involvement by the Soviet Union. But now, because of my colleagues on the left in this House, they are directly sending it into the harbors of Managua on Soviet ships. Why do you suppose they are doing it?

Why do you suppose the PLO and a lot of the other radical groups are down there in Nicaragua helping the Communist government?

It is because they know that the soft underbelly of America is the Mexican-American border, and we have severe problems in Central America, and they know that we are going to have to redirect our attention away from other parts of the world if that war gets out of control.

The leaders in Nicaragua have said they want a revolution without borders. Tomas Borge, Humberto Ortega, and Daniel Ortega said they want a revolution, wars of liberation, throughout that whole area.

I was in Chalatenango Province and I talked to a captured Communist

guerrilla. He was trained in Nicaragua. The weapons he used were from Nicaragua.

My colleagues, there is a cancer down there, a Communist cancer, that we must deal with, and today is the day. To wait will cause a major war in Central America—one which will cost many young American lives.

CONTRA AID CANNOT BUY PEACE

(Mr. WHEAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHEAT. Mr. Speaker, as we all know, the Contras have a lot of problems: A taste for torture, corruption, drug smuggling and virtually no popular support in Nicaragua or the United States.

In spite of these problems, Congress sent $27 million last year to support the rebirth of Somoza's Murderous National Guard. Over half of it never got there. The Honduran military wanted a piece of the action, and they got it. The GAO reports that Honduran military officers lopped off over $1 million intended for the Contras. Gen. Walter Lopez, commander of the Honduran Armed Forces, himself received a single payment of $450,000.

Aid to the Contras is the President's idea of seeing a problem and throwing money at it—in the case of General Lopez, a lot of money. But, Mr. President, the American people are not interested in financing Honduran shopping sprees or Contra atrocities. They want peace. Contra aid can't buy that.

LET US NOT SEND AID TO THE CONTRA THUGS IN CENTRAL AMERICA

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, what we are talking about here is a policy which cannot work. That is the bottom line. Even the President's advisers and the President himself admits that the Contras cannot win militarily.

So here is where we are. Because the Contras cannot win militarily, we will have another option, and that is to send in the Marines, because those are the only two options if we seek to accomplish the goal which, in fact, the President has stated sub silencio to be the policy of this country.

□ 1055

Because in fact the Contras are not popularly supported in Nicaragua, they cannot win. The Contras are not the freedom-loving democrats which the President portrays in his speeches. Their leaders are in Miami, their bank accounts are in Switzerland, and their foot soldiers are swatting flies in camps in Honduras. What we are going to be left with in another 4 or 5 years are 15,000 to 20,000 thugs, armed to the teeth, roaming throughout Central America with no support from the indigenous people down there. In fact, wreaking terror and havoc upon this God-forsaken country and their neighbors for a generation to come.

This is the time for us to stand up and to finally say, "No, we are finished with supporting people who have no support within their own region."

RULE ON AID TO THE CONTRAS SHOULD BE SENT BACK TO THE COMMITTEE ON RULES

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, I rise, troubled about the rule to Contra aid because there has been added a provision for economic aid to the tune of $350 million to go to El Salvador, to Honduras, Guatemala, Costa Rica, and Belize.

We now have two terribly important issues. I think we should send the rule back to the Rules Committee because this rule for aid has not gone through the Appropriations Subcommittee on Foreign Operations. There has not been 1 day of hearings; no discussion. Out of nowhere before the Rules Committee yesterday we have had grafted on yet another subject.

So I am hoping that because the administration has not asked for this aid, that we join in a bipartisan fashion and send the rule back to the Rules Committee.

CENTRAL AMERICAN POLICY IS STRATEGICALLY FLAWED

(Mrs. BURTON of California asked and was given permission to address the House for 1 minute.)

Mrs. BURTON of California. Mr. Speaker, I rise to oppose our continuing folly in Central America.

It is increasingly clear that United States policy in Nicaragua is not only strategically flawed, but is also marred by waste and criminality.

Increasing evidence has been developed that the so-called Contras are not the freedom fighters as portrayed by this administration. Rather there has been a pattern of widespread drug trafficking for personal use—transported and financed from Contra installations.

Ther investigative arm of Congress is the General Accounting Office. According to that Office several million dollars in United States aid to Nicaraguan Contra rebels have been traced to offshore banks, the Armed Forces of Honduras and obscure corporations. It was additionally found that one broker for the Contra rebels had received $3.3 million from the United States Government but had sent only $150,000 to Central America.

These findings, issued by an independent and nonpartisan body, raise shocking inferences about United States policy toward Nicaragua. It indicates that the blank-check mentality toward Central America, so enthusiastically espoused by the administration, is bad policy and an insult to the taxpayers of this country.

If all of these above situations were isolated and minimal in effect it might be excusable, as it stands it is terribly tragic.

This vote affords us the opportunity to reassess our position in Central America and breaths new life into the Contadora process.

I urge my colleagues to vote against aid to the Contras.

ALLEGATION OF A PAYOFF TO HONDURAN COMMANDER IN CHIEF IS TOTALLY FALSE

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the statement has been made that $450,000 went to the Commander in Chief of the Honduran Armed Forces based on a statement by GAO.

The State Department says that that is totally erroneous, that the Nicaraguan Human Assistance Organization purchased uniforms from a factory owned and operated by the Armed Forces and the payments were endorsed by the Armed Forces controller. There was nothing questionable about the transaction and the GAO mistranslated the Spanish on the order of payment. It was made out to the General Staff, not to the Commander in Chief, and it was paid into the Armed Forces Bank, a commercial enterprise owned by the Armed Forces but used by civilians as a capital transfer of dollars from the supplier's Miami account into the local currency on this domestic account.

NHAO has copies of the domestic bank records which clearly demonstrate the transfer. In short, the allegation of a payoff to the military commander is totally false.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1987

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 481 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 481

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5052) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be considered for amendment under the five-minute rule. All points of order for failure to comply with the provisions of clause 2 of rule XXI are hereby waived against all provisions of the bill through line 10 on page 8. After the bill has been read for amendment in its entirety and after the disposition of all other amendments, including any considered pursuant to the procedure specified in clause 2(d) of rule XXI, the Committee shall proceed to the further consideration of the bill pursuant to section 2 of this resolution. A motion that the Committee of the Whole rise and report the bill to the House with such amendments as may have been adopted shall not take procedence over the proceedings provided for in section 2. If such a motion is offered as preferential over amendments specified in the second sentence of clause 2(d) of rule XXI, and is adopted, the Committee of the Whole shall not rise but shall proceed to the further consideration of the bill pursuant to section 2.

SEC. 2. At the conclusion of the consideration of the bill pursuant to section 1 of this resolution, the text of title II as proposed by Representative McCurdy of Oklahoma and as printed in the report of the Committee on Rules on this resolution, shall be considered to be part of the bill H.R. 5052 and as having been read the first time, and no further amendment to the bill shall be in order except as provided in this section. All points of order against title II are hereby waived. After general debate on title II, which shall be confined to said title and shall continue not to exceed one hour and thirty minutes, to be equally divided and controlled among Representative McCurdy, Representative Obey of Wisconsin, and another Member opposed to title II, the title shall be considered as having been read for amendment under the five-minute rule. No amendment to title II shall be in order except the following amendments printed in the report of the Committee on Rules on this resolution, if offered by the proponents of said amendments identified in said report and in this resolution, or their designees, said amendments shall be considered only in the following order and shall be considered as having been read, shall all be in order any rule of the House to the contrary notwithstanding, and shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole:

(1) the amendment by Representative Edwards of Oklahoma, which shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent of the amendment and a member opposed thereto;

(2) the amendment by Representative Hamilton of Indiana, which shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto;

(3) the applicable version of the amendment by Representative Barnes of Maryland, which shall be in order only if amendment designated (1) above has been adopted and amendment designated (2) above had been rejected, or if amendments designated (1) and (2) above have both been rejected, and which shall be debatable for not to exceed forty-five minutes, to be equally divided and controlled by the proponent of the amendment and a Member opposed; and

(4) the applicable version of the amendment by Representative Mrazek of New York, which shall be in order only if amendment designated (1) above has been adopted and amendment designated (2) above has been rejected, or if amendments designated (1) and (2) above have both been rejected, and which shall be debatable for not to exceed thirty minutes, to be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. If amendments designated (1) and (2) above are both adopted, only amendment designated (2) shall be considered to have been finally adopted and reported back to the House. After the disposition of said amendments, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, and no instructions in a motion to recommit shall be in order except instructions germane, and otherwise in order to, the text of the bill preceding title II.

□ 1105

The SPEAKER pro tempore (Mr. WHITLEY). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT], for purposes of debate only, and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 481 is the rule providing for the consideration of H.R. 5052, the military construction appropriations bill for fiscal year 1987, and for amendments to the bill relating to Central America.

Section one of the rule is a 1-hour open rule for the bill reported from the Committee on Appropriations.

The rule waives clause 2 of rule XXI against specified provisions of the bill. Clause 2 of rule XXI prohibits the consideration of unauthorized appropriations. This waiver is needed because the military construction authorization for fiscal year 1987 has yet to be enacted.

Section 2 of the proposed rule provides for the consideration of amendments relating to Central America. The text of title II of the bill—as proposed by Representative MCCURDY of Oklahoma and printed in the report accompanying House Resolution 481—shall be considered to be part of the bill upon adoption of the rule. All points of order against title II are waived.

The rule provides for 1½ hours of general debate on title II to be equally divided and controlled between the gentleman from Oklahoma [Mr. MCCURDY], the gentleman from Wisconsin [Mr. OBEY], and a Member opposed to title II.

I want to repeat that again for my colleague, the gentleman from Mississippi [Mr. LOTT]. The rule provides for 1½ hours of general debate on title II to be equally divided and controlled between the gentleman from Oklahoma [Mr. MCCURDY], the gentleman from Wisconsin [Mr. OBEY], and a Member opposed to title II on his side of the aisle.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Mississippi [Mr. LOTT] for purposes of debate only.

Mr. LOTT. Mr. Speaker, I thank the gentleman for clarifying that point. There really will be three parts of this, 30 minutes each, and I wanted to make sure that there would be 30 minutes on this side for opposition to the McCurdy substitute which is in the bill. I thank the gentleman for clarifying that.

Mr. BONIOR of Michigan. Mr. Speaker, the only amendments in order to title II are specified in the rule and printed in the report and may be offered only by Members identified in the rule or their designees. These amendments will be considered only in the following order and shall not be subject to amendment or to a demand for a division of the question. All points of order are waived against consideration of the amendments.

First, the rule makes in order an amendment by the gentleman from Oklahoma [Mr. EDWARDS]. This amendment will be debatable for 1 hour, to be divided between Mr. EDWARDS and a Member opposed.

Second, the rule makes in order an amendment by the gentleman from Indiana [Mr. HAMILTON]. This amendment will be debatable for 1 hour, to be divided between Mr. HAMILTON and a Member opposed.

If both the Edwards and the Hamilton amendments are adopted, only the Hamilton amendment will be considered to have been fully adopted and reported back to the House. That is an important part of this rule. If both the Edwards—I repeat—and the Hamilton amendments are adopted, only the Hamilton amendment will be considered to have been fully adopted and reported back to the full House.

If the Hamilton amendment is not adopted, the following two additional amendments will be in order either to

the Edwards amendment or to title II if the Edwards amendment has not been adopted.

The two amendments are: an amendment by the gentleman from Maryland [Mr. BARNES] and the gentleman from California [Mr. PANETTA], which will be debatable for 45 minutes to be equally divided between Representative BARNES and an opponent of the amendment; and an amendment by the gentleman from New York [Mr. MRAZEK] which will be debatable for 30 minutes to be divided between Representative MRAZEK and an opponent of the amendment.

Representatives BARNES' and PANETTA's amendment basically, will disallow the spending of additional funds for the Contras until there is an accountability of the $27 million that was appropriated into law last summer and with regard to the expenditure of which there seems to be some question.

Additionally, Representatives BARNES and PANETTA have language in their amendment which addresses the question of the alleged drug scandals within the Contras, and they make a similar requirement in that provision before additional funds can be spent.

The Mrazek amendment—the second one that I referred to—which will be debatable for 30 minutes, the time to be divided between Mr. MRAZEK and an opponent of the amendment—basically restricts where U.S. troops may train—either under the base bill or under the Edwards substitute. It removes them from what is generally considered the combat activity in the war now being waged in Nicaragua.

The rule provides for one motion to recommit and specifies that any instructions contained in the motion to recommit must be germane and otherwise in order to the provisions of the bill which precede title II.

Let me briefly summarize the procedures under this rule.

First, the rule provides for the consideration of H.R. 5052—the military construction appropriations bill—under an open rule.

Upon completion of consideration of the military construction bill, we will move to the consideration of Central America. The rule adds a new title to the bill consisting of what has become known as the McCurdy proposal. The rule then makes in order amendments to that proposal.

First, Mr. EDWARDS will offer an amendment, which will be voted up or down.

Then, Mr. HAMILTON—and I want to emphasize this—will be guaranteed a vote—Mr. HAMILTON will offer an amendment, which will be voted up or down.

Under the so-called king of the mountain procedures that we have used before, the last passed of these two amendments will be considered to have been adopted.

If the Hamilton amendment is not passed, the Barnes-Panetta and the Mrazek amendments will be in order to either the Edwards or McCurdy proposal, whichever has prevailed.

The vote on final passage will be on the entire bill, including title II as or as not amended.

Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for yielding me the customary 30 minutes of time.

Mr. Speaker, the gentleman from Michigan [Mr. BONIOR] has done an excellent job explaining this rule, and he did it very thoroughly. I will not dwell on all the details, but there are some points that I would like to highlight.

This rule does provide for consideration of the base bill, which is H.R. 5052, the military construction appropriations bill for fiscal year 1987, and I should emphasize once again that we will be able to consider the military construction appropriations bill in the normal way.

□ 1115

Amendments would be in order to it. We will have an opportunity to discuss the MilCon portion of the bill itself, but then we will have title II, which is the section dealing with the funds for the freedom fighters in Nicaragua.

Under the rule, there will be one hour of general debate, as is normal, divided equally between the chairman and the ranking minority member.

Clause 2 of rule XXI is waived against all provisions in the bill through page 10, line 8. That clause prohibits the inclusion of unauthorized or legislative provisions in an appropriations bill.

It is a completely open rule with respect to the bill that was actually reported by the Military Construction Appropriations Subcommittee. When all such amendments are disposed of, a motion that the Committee rise and report the bill back to the House, if adopted, would preclude the offering of any limitation amendments pursuant to clause (2)(D) of rule XXI; but notwithstanding the adoption of such motion, the Committee would not actually rise, but instead would proceed to the consideration of the new title II.

So we will do title I, which is military construction, and then go in what I think is an orderly way to title II, dealing with the so-called Contra issue.

Under that procedure, the text of title II as proposed by the gentleman from Oklahoma [Mr. MCCURDY], as printed in the report on this rule, shall be considered as a part of the bill. It is folded into the bill.

Title II will be subject to 1½ hours of debate, divided equally between the proponent and opponent and the gentleman from Wisconsin [Mr. OBEY] who happens also to be an opponent.

I appreciate the gentleman from Michigan specifying that at least one-third of that hour and a half will go to an opponent on our side. We have clarified that.

The McCurdy title essentially provides for $100 million in assistance to the so-called Contras, with $30 million in nonlethal aid available immediately and the rest to be released in increments, if approved by Congress, with another vote on October 1.

In addition, the McCurdy title provisions would provide $350 million in economic assistance for the four Central American so-called front line countries: Guatemala, Honduras, El Salvador, and Costa Rica.

Like the Contra aid, all these funds would be made available from reprogrammed Department of Defense funds.

I would like to emphasize to my colleagues at the beginning what the problems are with the McCurdy substitute that is included as title II of this bill.

There are lengthy discussions with the gentleman from Oklahoma trying to find agreement that could get the broadest possible support on both sides of the aisle so that we could put this issue that has divided us so narrowly really for a couple years now to bed with bipartisan support.

I think those negotiations were in good faith, at least they were on our part; but there were two fundamental issues that we could not overcome that led to this provision that we have here today that requires the substitute to be in order and amendments.

No. 1, after weeks, months, yes, years of delay, which had been predicated on the assumption that there were going to be some negotiations that would lead to some peaceful settlement of the situation in Nicaragua, the MCCURDY provision would delay once again any genuine assistance to the Contras that would allow them to defend themselves and contribute to keeping the Communists in Nicaragua within their own borders.

In other words, only $30 million in more nonlethal assistance, no military assistance immediately.

So while we were talking back in March about a delay until some time in June or July for military assistance, now we are told we are going to delay it again. We are going to delay it from not the first of July, not the first of August or even September or October, but some time after October, and another vote timed very interestingly, October 1. I do not know what the

magic is of that date. It is conveniently 1 month before the next regular congressional elections. Perhaps we would have been willing to give on that.

In fact, our alternative does provide for a process to get an expedited vote on the last increment of funds, but that will be in February, but we could not agree on the fact that we would have to vote again on this issue, based on some very unclear negotiations or indications that something may be happening between now and October. What it amounted to was another delay.

How many of you want another vote on this issue on October 1? Remember, that is a very important part of the so-called McCurdy title.

Now, the rule does provide for offering two substitutes for title II, each subject to an hour's debate.

The first substitute to be offered will be by the gentleman from Oklahoma [Mr. EDWARDS] on behalf of himself and the gentleman from Missouri [Mr. SKELTON], who has made a very important contribution to the way this package has been developed and to the concessions that have been made. I consider this to be a very reasonable and moderate package in dealing with the problems in Central America, particularly in Nicaragua.

It is essentially the administration's approach, but modified recently in the spirit of bipartisan compromise and includes $300 million in economic assistance. I, for one, have been willing to support that, because I do think in Central America that the only answer is not military assistance to the Contras. We must do something to help economic conditions of those front line states that are very fragile new democracies in Costa Rica, Honduras, Guatemala, and El Salvador.

I agree with the old statement that a hungry belly does not much care who governs it. We have got to pay attention to the economic situation in Central America.

I think that is an area where we can find agreement, liberal and conservative, Democrat and Republican. That is a significant movement from what we had earlier on this whole issue.

It also includes $100 million in reprogrammed defense funds for the freedom fighters, of which $30 million would be for humanitarian aid. It is not all for military aid. They need basic supplies.

We are also not talking about heavy weapons. We are talking about very small arms, replacement and training, the sort of thing they really need down there to be able to do a basic job, and it would be in three increments. We do not just say, "Here is your full $100 million." It would be $40 million available immediately, and yes, it could be for ammunition, training, and for small arms; $20 million October 15 and $40 million February 15, with an expedited process to get a second vote of disapproval if the Congress wants that based on the situation at that time.

The McCurdy title essentially provides for $100 million in assistance to the Contras, with $30 million in nonlethal aid available immediately, and the rest to be released in increments if approved by Congress after October 1. In addition, the McCurdy title provides $350 million in economic assistance to four Central American countries. Like the Contra aid, all these funds would be made available from reprogrammed Department of Defense funds.

The rule provides for the offering of two substitutes for title II, each subject to an hour's debate. The first substitute to be offered will be by the gentleman from Oklahoma [Mr. EDWARDS], on behalf of himself and the gentleman from Missouri [Mr. SKELTON]. It is essentially the administration approach as modified recently in a spirit of bipartisan compromise. It includes $300 million in economic assistance for Guatemala, Honduras, Costa Rica, and El Salvador to be reprogrammed from existing foreign aid funds. It also includes $100 million in reprogrammed defense funds for the Contras, of which $30 million would be humanitarian aid.

The Edwards-Skelton substitute would provide the Contra aid funds in three installments of $40 million, $20 million, and $40 million, on enactment, October 15, and February 15 respectively, with no heavy weaponry until February of next year.

Next the rule makes in order the substitute by the gentleman from Indiana [Mr. HAMILTON] which makes $5 million available to assist in the Contadora peace process, and $27 million to assist refugees displaced by the conflict in Nicaragua.

Following disposition of the two substitutes, the rule makes in order two additional amendments to the title unless the Hamilton substitute has been adopted. In other words, they could be offered to either McCurdy or Edwards.

The first amendment by the gentleman from Maryland [Mr. BARNES] would require a Presidential report accounting for previously appropriated humanitarian assistance before new funds could be released. It would be subject to 45 minutes of debate.

The second amendment, by the gentleman from New York [Mr. MRAZEK], prohibits U.S. personnel from training Contras within 20 miles of the Nicaraguan border. It would be subject to 30 minutes of debate.

Under the terms of the rule, if both the Edwards and Hamilton substitutes are adopted, the Hamilton substitute would be the one reported back to the House—the so-called king-of-the-hill approach. While under the rules a separate vote may be demanded in the House on any amendment adopted in the Committee of the Whole, there will be no opportunity under this rule for a separate vote on the base title II proposed by Mr. MCCURDY, since it is not being considered as an amendment.

Finally, Mr. Speaker, the rule provides for one motion to recommit, with or without instructions, but instructions may not attempt to amend title II further.

Mr. Speaker, I think this is about as fair a rule as we can expect, though it has been a long time in coming. You may recall that when this issue was debated as part of the supplemental, we attempted on our side to decouple it with an amendment to the rule, but that was rejected. I was interested to note in the Rules Committee yesterday how many of our Democratic colleagues on the committee and who appeared as witnesses, seemed to yearn wistfully for the separate consideration of the Contra aid issue.

But the Democratic leadership has again insisted on tying this to another bill, and this is probably the only realistic vehicle we have at this point for advancing the cause of providing badly needed assistance to the democratic resistance in Nicaragua. I am just hopeful this bill will have a speedier journey through both Houses than the so-called urgent supplemental experienced. This is already 3 weeks overdue from when it was originally scheduled by the leadership.

Let me just make one additional comment about a provision of this rule that is a departure from previous rules. The rule provides that the McCurdy title and the various other amendments to it shall be those which are printed in the report to this rule as opposed to being designated by reference to inclusion in the CONGRESSIONAL RECORD of a particular date. I can understand the concern of the Rules Committee that Members might put something in the RECORD that is different from that which was presented to the Rules Committee, and when we waive points of order, especially germaneness, that is a legitimate concern.

However, the problem which gave rise to this concern and caution was not one in which a Member deceived the Rules Committee; rather it was one in which an honest mistake was made in the drafting of the rule itself. My own concern is that this procedure will make the text of the amendments less available to Members than would be the case if they were printed in the RECORD, since these rules and their reports are often not available when they are taken up on the floor.

I would hope we could arrive at some compromise procedure whereby these could be put in the RECORD again, but

that it would be done so in a way that the Rules Committee could ensure that what is dropped in the hopper is identical to what was presented to our committee.

In conclusion, Mr. Speaker, let me say that this is a somewhat complicated rule, though the process is not unusual in situations when we are attempting to assure that everyone has a fair opportunity to present their alternative and get a vote on it. The special treatment of the McCurdy title as original text instead of as an amendment is unique and somewhat skewed, and should be avoided in the future. But it was considered necessary to keep faith with the pledge made by the leadership to Mr. McCurdy. While this side was not a party to those negotiations or the detailed procedure which resulted, I think we have been treated about as fairly as could be expected under the circumstances in terms of presenting our bipartisan substitute. I therefore intend to support this rule.

Before I go further, the gentleman from Michigan has been patiently and very politely waiting for me to yield.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I wanted to thank the gentleman for his explanation about the McCurdy provision.

Mr. LOTT. Did I convince the gentleman to oppose it?

Mr. CONYERS. Well, I am trying to figure this out. If the supporters of Contra aid are opposed to McCurdy, or at least have trouble with it, I can tell the gentleman for sure that those who oppose Contra aid have trouble with it. How in God's name did it ever get into the rule at the last minute anyway?

Mr. LOTT. Well, that was the way that the leadership on the gentleman's side decided that this rule would be designed. I give credit to them that they at least advised us, on this side of the aisle, what they were going to do, and that is more than the minority gets quite often around here. They, at least this time, have given us a straight up vote for our preferred option. It is on such a bill that I think there can be some agreement to move forward.

It is not as bad as what we had on the supplemental appropriations. If this process had been set up on the supplemental appropriations bill, this issue could have been solved weeks or months ago.

I have to confess that I tried to figure out who was really getting the short end of the stick on this issue and I could not decide really whether it was to the advantage of those against Contra aid or those for it, so it must be about as fair as we are going to get out of this body at this time.

The gentleman is talking to the wrong guy about where this rule was concocted. I was not the devisor of this package.

Mr. CONYERS. Mr. Speaker, will the gentleman yield further?

Mr. LOTT. Yes; I yield.

Mr. CONYERS. Could the gentleman just tell me if there was any logic put forward why this provision, if it is important, could not have gone through the appropriate committees in the Congress and that there be hearings, at least 1 day or 1 hour of hearings, to substantiate the reasons for this extremely important measure now being pasted onto a controversial issue itself?

Mr. LOTT. Well, I would personally have preferred seeing this come up on a free-standing basis out of the appropriate committee; but for some reason, the gentleman's leadership has been determined all along to couple this with something.

I presume part of the reason is that it probably would be pretty hard to get something out of the authorization committee that would have jurisdiction; although, the Rules Committee, the maker of all kinds of interesting rules, could have had hearings and we could have reported out here on a free-standing basis, rather than being added to the military construction appropriations bill.

But in this case, I am not going to condemn the rule. I think it is about as fair as we could have under the circumstances. I would not write it this way, but at least we get a fair shot.

For that reason, I am going to vote for it and the other gentleman from Michigan nods and smiles in this instance. I am damning it in a way with faint praise; but I will vote for the rule so that we can on to the substance of the issue involved here.

Maybe the gentleman and I could work together in the future, I say to the gentleman from Michigan [Mr. CONYERS], on devising a little better rule.

Mr. CONYERS. Mr. Speaker, I thank the gentleman.

Mr. ENGLISH. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the gentleman from Oklahoma. I am enjoying this.

Mr. ENGLISH. Mr. Speaker, the gentleman from Louisiana well knows——

Mr. LOTT. Mississippi—I know we are an awful lot alike.

Mr. ENGLISH. Excuse me, Mississippi, the gentleman is right—I do not want to condemn him this early in the morning.

Mr. LOTT. I thank the gentleman very much.

Mr. ENGLISH. As the gentleman knows, in the past I have strongly supported Contra aid. I certainly can understand why people are reluctant in their support of it, but it is a very important issue and it is one that people have grappled with a good deal around this Chamber.

I think the debate has been stimulating, not only to the Members, but certainly has been worthwhile as far as the country is concerned.

I would vote once again for military assistance to the Contras, as long as we have some safeguards with regard to the funds. I think that is going to be a very important factor that comes out in this debate.

Mr. LOTT. Mr. Speaker, I would like to respond on that, and then I will yield further.

I would invite the gentleman to review the protections that we have in the Edwards-Skelton provision to track and make sure that this money is used in the way it should be. We have some very careful reporting procedures. I think the gentleman will find that our package is much stronger in that area than the McCurdy package. I will get that information to the gentleman, but I think he will be pleased with the precautions we have included.

Mr. ENGLISH. Mr. Speaker, will the gentleman yield further?

Mr. LOTT. I am happy to yield to the gentleman.

Mr. ENGLISH. Mr. Speaker, I think it is very important and I fully appreciate that; but the thing that really troubles me, we now no longer are going to be debating this issue with regard to whether or not this Nation should or should not provide military assistance to the Contras. Now we are folding in not only the military construction issue, but more importantly, I think, is the $300 to $350 million worth of aid, economic aid to those surrounding countries.

Now, this is an entirely different matter than anything we have discussed in the past and certainly it clouds the issue as to whether or not there should be arms going to the Contras. It is going to make it extremely difficult, I think, for Members to have it.

I requested the Rules Committee to provide for a rule to allow us to strike that so that that measure could be considered on its own.

Second, we do not have a plan before us today, that I know of, a long-term plan that tells us how we are going to deal with the economic problems of Central America, not to mention the problems we have got in Mexico; but that is the course on which we are embarking.

I think without question, with allegations, at least questions with regard to the use of funds that have already been sent down there for economic assistance, to then multiply that by ten-

fold and to expect that there are not going to be some very grave problems with that $300 million to $350 million worth of economic assistance, I think foolish.

That is the real problem I have with this rule, that these issues are important enough to the Nation that they should stand on their own merits. They should not be folded and blended together. I think that is where the gentleman from Michigan and I perfectly agree, even though we are on opposite sides of the fence with regard to Contra aid, and it is wrong.

Mr. LOTT. Mr. Speaker, I would like to respond to the gentleman and say that I appreciate his remarks. I have some of those sentiments myself.

I think the record over my years here in 13 votes on foreign aid packages, I think I voted against 12 of them.

I do think we should have some specificity as to how this money will be used and we can provide that to the gentleman. In fact, we have a breakdown of how much will go to El Salvador and how much to Honduras and how basically it would be used; but we should make sure it is used properly.

But I appeal to the gentleman to look at the question of the economy in these countries, particularly El Salvador.

□ 1130

We have a leader there in that country who is trying to move that country toward more democracy. He has a very weak economy, and if his economy does not provide some decent living conditions for his people, he could lose control.

Mr. ROEMER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I would be glad to yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Speaker, I would like to respond to my friend and colleague from Oklahoma by saying that his concern is well founded; that we ought not to piecemeal ourselves into the region.

I call my colleagues to a provision in the Edwards-Skelton substitute which requires on the 1st day of March 1987 a report to this Congress by the administration in terms of their long-term plans for the region. That would be point No. 1.

Point No. 2: Many men and women who have been in the region, met with the leaders and studied the problem think that bullets alone will not solve the problem. We need bullets and butter, coordinated with some long-term goals in mind. McCURDY made that contribution in this process, and I think it is a good one. I hope the gentleman considers that.

Finally, the $300 million in economic assistance that is in the Skelton-Edwards package comes not from new money or new taxes, but is reprogramming of money already appropriated by this Congress. That might not be the deciding point in the gentleman's mind, but it is an issue that should be studied. Old money, not new; guns and butter, in a coordinated program. And a report to this Congress on the 1st day of March next year about long-term economic policy.

Mr. LOTT. I thank the gentleman.

Mr. Speaker, I would like to refer the gentleman to page 25 of the Edwards-Skelton package, section 213, which deals with the accountability for funds. I think he will like that language.

Mr. ENGLISH. If the gentleman will yield very briefly again, the thing that troubles me is that it is too late next year. We have all seen in this Chamber program after program, particularly foreign aid programs, that we have backed into. We will send them a little money and then next year people come back to us and say, "Well, we have already committed this much money. We cannot back off."

So that is what troubles me. It is going to be too late at that time and that is the reason I will oppose the rule.

Mr. ROEMER. Mr. Speaker, will the gentleman from Mississippi yield?

Mr. LOTT. I yield very briefly. I am beginning to run out of time.

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Speaker, just a quick point in response to my colleague, the gentleman from Oklahoma. Again, his concerns are well founded.

I would point out that we are spending $890 million in economic assistance already in the region, right now. I agree with the gentleman that we ought to look ahead and not behind.

This bill, with all of its weaknesses, the Skelton-Edwards substitute does just that. It calls for planning, it calls for a look ahead. It calls for a combination toward a central regional policy. It will work. We ought to give it a chance.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding.

Mr. Speaker, a review of this rule very quickly it seems to me would, I would ask the gentleman, under the King of the Mountain procedures under which we are operating here, in order for the President's position to prevail, is it not true that we have to carry six out of the seven votes that are anticipated on this matter?

Mr. LOTT. In effect, that could be what is required. We have to try to certainly support the Edwards-Skelton provision and defeat the Hamilton-Barnes, or Hamilton as it is now known, and defeat the Barnes-Panetta, and defeat Mrazek, and it goes on and on.

This is no cake-walk. It is a complicated, convoluted process, but at least we get one clear, fair shot. I really feel and certainly hope that we can prevail in spite of the fact that we have to run through this jigsaw puzzle.

Mr. PARRIS. If the gentleman will yield further, I would say it is comforting to note that we have the usual impartial, nonpartisan resolution here that the majority generally favors us with.

Mr. LOTT. It is a matter of degree.

Mr. CONYERS. Mr. Speaker, if the gentleman will yield, do we have to defeat McCurdy, too?

Mr. LOTT. No, you will not have an opportunity to knock McCurdy itself out of the package. It is part of the package. I believe that is correct.

But, of course, you can vote against it. The gentleman from Michigan, I would imagine, would want to vote against military construction and whatever is in there for Contras. So the gentleman will have that opportunity.

Mr. CONYERS. I would not be too sure what the gentleman from Michigan is going to vote against under this convoluted rule.

Mr. LOTT. I would not want to put words in the gentleman's mouth, but he will have that opportunity.

Mr. Speaker, let me wrap this up, because I have other people who would like to speak on the rule.

We will have the Barnes amendment, which will be subject to 45 minutes of debate. We will have the Mrazek amendment, which will be subject to 30 minutes of debate.

I feel somewhat vindicated. Some of my colleagues over there were critical of the discharge petition that we filed because we had a "King of the Hill" process. And yet that is what we have here today, and the last one that is left standing wins. So we have to pass Edwards-Skelton, we have to defeat the Hamilton amendment. That is the normal procedure around here, but some people acted like we were pulling a fast one on them. We were not.

I have some time requests, but let me just sum up with this: Nobody is going to love this rule, and there are going to be questions about it right to the end. I suspect the gentleman from Michigan who helped design this package is not in love with it. But it is as good as we are going to get under these conditions on this issue, so I would hope we would pass the rule and get on to the substance. When we get to the substance, I urge my colleagues, look at, listen to, and then vote for the Edwards-Skelton substitute for the McCurdy language.

I want to emphasize once again: If Members want another vote, if Members want to walk through this exer-

cise again October 1, then go ahead and stick with the McCurdy substitute that is included in title II of the bill. I do not think the body wants to do that. I certainly hope that we will not.

Mr. Speaker, I am glad to yield 5 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the rule because, frankly, from the discussion by the gentleman from Mississippi, it appears that that is all we can get to put this important issue on the docket today. So, indeed, it is important that we discuss this issue.

This could be the last meaningful vote we get on this subject. I hope it will not be, but it will be if the aid that we have requested, and that the President requested, for the freedom fighters does not go through and if the McCurdy substitute or one of the other amendments other than the Edwards-Skelton amendment passes the House today.

In fact, if we have to come back on this issue, or if we delay this matter for another 3 months, I have been told in a conversation with representatives of this CIA that the CIA has estimated that by the end of July, food and support for the Contras will run out. By the beginning of August, ammunition will be in short, critical supply, and by late August, there will be rapid deterioration of critical ammo requirements, If the vote on the Contras, for the aid for the Contras fails today, a large exfiltration of Contras will emerge from Nicaragua beginning in late July.

So this will be a moot issue if we have to put this off again and discuss it again sometime later on. If that happens, in fact, if we lose this issue today, it would mean that the House of Representatives has chosen not to heed the cries for freedom in Central America. It would mean that we have chosen to reverse the progress that we have made in El Salvador where democracy is flowering. It would mean that we have elected to subject Costa Rica and Honduras to continued bombardment of border conflicts and terrorism and subversion. It would mean that we have turned our backs on the prospects for peace and democracy in Guatemala and that we have decided that our undefended border with Mexico, some 2,000 miles, could one day become an equivalent of the Korean DMZ or the Berlin Wall.

If we choose not to support the Contras today with the Edwards-Skelton amendment, it could mean that the Soviet Union will be given a free hand in Nicaragua and that the "Stalinistas" will be allowed to tighten their stranglehold on their nation with Soviet supplies that they are importing on a daily basis today. It will mean that the shipments, the armaments of the Soviets and Soviet pilots and military advisers and the various, miscellaneous other advisers of Cubans, Libyans, East Germans, Bulgarians, North Koreans and PLO will go on. All of these will be permitted to remain, and to foster the plans for the communication of Nicaragua and Central America without further United States interference.

It will mean that the forced relocation of Miskitos, the prison camps, the systematic imprisonment, torture and executions carried out regularly by the Sandinista government will not be deterred, and it will mean that the eradication of civil rights that has gone on in recent months, the vast restrictions on organized religion, the elimination of freedom and of the press, of free assembly, or free speech and free elections, the eradication of basic human decency and liberty in Nicaragua, all these will be unopposed if we fail in our effort to support the Contras today.

Most importantly, it will mean that the short-term politics of the situation has prevailed despite the guarantee that if we fail, long-term problems for Central America and the Western Hemisphere will be created.

Mr. Speaker, a negative vote on the President's package or on the Edwards-Skelton provision today will be a triumph for those who are insensitive to the cause of freedom in Nicaragua, and it will be a critical blow to the long-term prospects for freedom for 3 million Nicaraguans and ultimately for the 400 million people who inhabit the Central and North American Continents. A negative vote today, or a vote for the McCurdy or one of the other miscellaneous substitutes and against the Edwards-Skelton amendment, will represent a retreat of the United States in the face of advancing totalitarianism and it will be a grave mistake.

□ 1140

Mr. Speaker, I urge our colleagues to ignore the red herrings that have been thrown about this floor over the last few months and concentrate on the reality of this issue.

We need the freedom fighters, and the hopes of the freedom fighters in Nicaragua are dependent on us and our support of them. We have to provide that support, and we have to face the issue today, or else we have to admit that we are conceding Central America to the Soviet Union.

Mr. Speaker, I urge the defeat of all the provisions except the Skelton-Edwards amendment. I hope it prevails today.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me take a second to address a couple of issues, one of which I neglected to raise at the outset of my remarks. I described the rule that is pending before the House, but I would like to bring to the attention of my colleagues a new policy that the Committee on Rules adopted that is reflected in this rule.

In the future, when specific amendments are to be made in order by a rule, we intend to require that they be submitted to the Committee on Rules for printing in the report accompanying the rule. We will employ this practice rather than referencing amendments which had been printed in the CONGRESSIONAL RECORD by proponents.

This policy is meant to avoid the confusion and ensure that the Members are aware of the exact amendment to be made in order when extraordinary procedures are recommended by the Committee on Rules.

Quite frankly, it is a result of the confusion that we had last week on an amendment that was offered by a colleague of ours on the question of apartheid.

Mr. Speaker, I yield 3½ minutes to my distinguished friend, the gentleman from Ohio [Mr. HALL], with whom I have unfortunately a disagreement on this rule, but whom, nevertheless, I respect and look forward to working with on future rules.

Mr. HALL of Ohio. Mr. Speaker, I thank my friend, the Member who sits next to me on the Committee on Rules, for yielding time to me.

Mr. Speaker, I rise in opposition to the rule.

Since I am a member of the House Rules Committee, it is rare for me to vote against a rule sent by my committee to the full House. However, I am strongly opposed to this particular rule. I voted against it in the Rules Committee, and I intend to vote against it now on the House floor.

This is a bad rule for many reasons, but the most important reason is that it prevents the American people from having a clear vote on how their Representatives stand on the matter of aid to the Contras. The vote should provide a clear answer to the question, "Are you for or against aid to the Contras?"

The rule before us does not permit a simple answer to this question. Instead, we are presented with alternatives that are padded with various development programs, refugee aid, and time release formulas for so-called humanitarian and military Contra aid. The qualifiers and modifiers in these alternatives seem designed to confuse the issue for the American people. There is enough in each of these proposals to rationalize a position for almost any audience.

Our constituents have the right to know how we stand on aid to the Contras, without the extra baggage loaded onto these amendments. Are we afraid to make our positions clear?

What are our constituents to make of the McCurdy package? It makes $30 million available immediately for so-called nonlethal aid, with another $70 million in unrestricted aid to be released in increments after a vote by Congress after October 1. But this package is more than just Contra aid: it also includes $350 million in supplemental economic assistance to be sprinkled throughout Central America. Is this a vote on Contra aid or on a Marshall plan for Central America?

The Republican substitute would parcel out in installments a total of $30 million in humanitarian aid and $70 million in military aid. It also contains a regional assistance package totaling $300 million in economic aid. So a vote for it is not just a vote for Contra aid, it's a vote for a new foreign aid program for Central America. At a time when the Gramm-Rudman budget procedures are forcing cuts in both domestic and foreign spending, why are we allowing new foreign aid programs like these to pass through the House without any consideration whatsoever by the Foreign Operations Subcommittee?

The Hamilton amendment is preferable to the other two major alternatives because it contains no aid of any kind for the Contras. However, it calls for $27 million for those displaced by the conflict in Nicaragua, and $5 million to help the Contadora peace process. While the underlying objectives of this amendment may be worthy, they are a sideshow to the matter of Contra aid. It offers a chance to be for something other than Contra aid, but it skirts the real question before the Congress.

These strange alternatives and the ground rules for their consideration are the result of deals that have been made on the Contra issue. The goal seems to be to protect and cover Representatives confronted with tough votes. The American people are not well served by such procedures.

Let's not postpone the day of reckoning on the Contra debate further. Let's defeat this rule and return with another that will permit a clean up or down vote on Contra aid.

Finally, Mr. Speaker, I want to express my opposition to using the military construction appropriations bill as the vehicle for these Contra votes. Procedurally, it makes no sense to me to graft this issue onto an unrelated bill. Further, under this rule, those who are against Contra aid may well find themselves faced with no alternative but to vote against final passage of the military construction appropriations bill. I am a strong supporter of the military construction appropriations bill, and I think it is unfair to hold this important legislation hostage to an unrelated foreign policy debate.

I offered an amendment to this rule in Rules Committee which would have made in order an Obey amendment to strike title II, the Contra and foreign aid provisions, from this military construction bill. This would have given those opposed to Contra aid an opportunity to reject just that part of the legislation, and allowed the military construction appropriations bill to move forward. I regret that my amendment to the rule to permit this was rejected.

I am saddened to have to urge my colleagues to defeat a rule out of my own committee. Unfortunately, on this occasion I must call upon my colleagues to defeat this ill-conceived rule.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish that life were black and white and there were no grays and things would be crystal clear and Members would have no problems choosing between what is clearly right and what is clearly wrong. But it is not.

This issue is not that clear. The waters on this issue have been muddied by virtually everybody who has been involved in this issue, domestically and internationally. It is not simple; it is complex, and the complexity of the issue, unfortunately, is reflected in the rule that we have before us.

So people understand, make sure, my colleagues on my side of the aisle, who believe as I do that we should not be providing any aid to the Contras, that you will have a clear, black and white choice on that issue to the extent that I could give it. That is, vote for the Hamilton amendment. The Hamilton amendment will be made in order for a vote, irrespective of what happens on the preceding amendment.

So that is clear. Members on this side of the aisle will have a chance, if they so desire, to vote against not only the Republican Edwards-Skelton proposal or they will also have a change to substitute the McCurdy proposal with the Hamilton proposal that provides no aid for the Contras.

Mr. Speaker, I yield 3½ minutes to the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Speaker, this rule makes in order a very important amendment which I would like to discuss very briefly.

It is an amendment which would preclude any training by active duty American Armed Forces personnel or inactive duty personnel in support of the Contras within a 20-mile combat zone contiguous to the border of Nicaragua in either Honduras or Costa Rica.

I think it is important for us to remember that day in August 1964 when then President Lyndon Baines Johnson went on national television to tell us that two of our destroyers, the *Maddox* and the *Turner Joy*, had been attacked by North Vietnamese gunboats and we were going in with our bombers to Vietnam.

We paid a major price as a people, as a nation, for an attack that never took place on those two destroyers. President Johnson, even at that time, knew it was based on the sketchiest of evidence that we were going forward.

I submit to you that if we have Green Berets training the Contras or Rangers training the Contras in their base camps contiguous to the border with Nicaragua, those base camps which have been attacked in what are called hot-pursuit engagements in recent years dozens of times; that if we were to lose American boys in those camps, I would be concerned about our President perhaps again going on national television to tell the American people that American troops have been attacked and that we are going into Nicaragua.

This amendment does not preclude the training of any of the Contras in the areas where they could very possibly be trained in places like Aguacate in Honduras. It simply establishes a buffer zone so that American troops will not be put in harm's way.

I speak in support of this rule, although I know it is controversial. I happen to be a Democrat who opposes assistance to the Contras; nevertheless, I support this rule because I believe it is a fair rule.

□ 1150

The rule provides an opportunity for those opposed to Contra aid to support a positive approach embraced by the gentleman from Indiana [Mr. HAMILTON] and those of us who support the Hamilton amendment can vote in favor of it; it embraces a compromise approach, or several compromise approaches, and it embraces the President's alternative.

I would urge my colleagues to support the rule, and also support an amendment which precludes putting American troops in harm's way.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, this is a very difficult issue. I came to the House this morning and listened to the debate with my own delegation and within the Democratic caucus, and I must say it is one of the more difficult choices that I think we are going to be asked to make those of us who are Democrats, or liberals, or simply people who are unilaterally opposed to compromising on a very firm position against aid this very illegitimate force called the Contras.

I have decided to support my friend from Michigan [Mr. BONIOR] and the rule because I firmly believe it is not only fair to all of the various points of

view that are represented on this floor, and there are far more than two; because I think if we fail to support this rule, we will prematurely drive together what is still an unholy alliance of Members who are not yet at a point where they agree on one strategy in Central America.

I do not want to prematurely force my friends of good will arrayed around Mr. McCURDY to join with those forces on the other side of the aisle that are interested in giving military assistance today.

I think time is on our side. I think we are educating the American people about the history of this region and our misbegotten role in it. I want that time, the time that we need to continue that process of educating.

The President is not succeeding in selling the American people on his policy. We are not going to give him a victory today. If he in any way attempts to claim one, he will be inaccurate.

What we are perhaps requiring at worst is an opportunity to vote again, another day, when we may be even stronger than we are now. At best, I think we will have an opportunity to enact the Hamilton amendment with the growing support of the American people.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Michigan.

Mr. TRAXLER. The gentleman said we are buying time to educate. Is the gentleman aware that by 2 to 1 the American public opposes the President's initiative and effort here, and will the gentleman tell me why then we are proceeding against the public will?

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. FAZIO. I certainly do understand the will of the people and I think that it is eventually going to come home in an election year to an increasingly large portion of both caucuses; those who have any doubt about the popularity of our parties views and more than that, an intelligent appreciation the leadership can provide on this issue, will have no doubt as time goes by; and I fear no vote in October, if one comes, because I think we will do even better then. Our strength will have grown.

I want to be able to continue in the future to fight on this issue in a way that will deprive the Contras of the kind of assistance they seek today, and if we see this rule defeated, the kind of assistance I am afraid they will receive today; if they win unlimited military assistance we will have made it impossible for us to emerge from this quagmire in Nicaragua with anything like the kind of sane and rational policy that we all seek.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman frm Michigan.

Mr. TRAXLER. I would certainly hope that the Congress will be a representative body, and will follow the will of the American public in this instance. It is morally right; it is a good judgment; the American public is correct and we ought to listen to them.

Mr. FAZIO. The gentleman from Michigan [Mr. TRAXLER] is correct, and this rule is correct; let us support it.

Mr. LOTT. Mr. Speaker, may I inquire of the Chair the time remaining on both sides?

The SPEAKER pro tempore. The gentleman from Mississippi [Mr. LOTT] has 4 minutes remaining and the gentleman from Michigan [Mr. BONIOR] has 10 minutes remaining.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

I yield to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. I thank the gentleman for yielding to me.

Mr. Speaker, with regard to the general debate, it has been my view that now we have a bill that really has title I and title II; and so I presumed that during the general debate, military construction could be discussed and debated, but also the questions that are included in title II.

Is that the gentleman's interpretation?

Mr. BONIOR of Michigan. Mr. Speaker, we had hoped that there would be time to do the military construction debate in the military construction part of the bill, which is the first part of the bill; and that is why we reserved an hour and a half for the gentleman opposed to the McCurdy amendment; Mr. OBEY and Mr. McCURDY, and then gave an hour each on the two substitutes, and then 45 minutes on Barnes and 30 Mrazek on their amendments if indeed they are germane to what is pending.

Of course, the gentleman can talk about what he wants to, but I would assume that the gentleman from North Carolina [Mr. HEFNER], who is anxiously grabbing the microphone in front of me now, wants to talk about this bill, and I think it is an important bill and people want to speak on it, and they should; and he is going to control the time on that issue on our side of the aisle for that part of the bill, and it seems to me that we ought to be talking about military construction.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I would like some clarification. We have a bill here that may not be all that important, but it is to a lot of people who are looking for housing, our troops in Europe and other places; this is in excess of $8 billion.

I would like to ask the distinguished gentleman from Michigan, would it not be in order, if I control the time on this side, if someone wishes to speak as they are talking about the military construction bill, if they wish to speak on the other aspects of the legislation, that would certainly be in order. I control the time and can recognize people as I see fit, on whatever subject they would like to speak about.

Mr. BONIOR of Michigan. That is my understanding.

Mr. LOTT. Mr. Speaker, if the gentleman will yield further, I am sure we will have the customary 30 minutes of time over here; and I agree with the gentleman, this is very important legislation, the military construction appropriations bill.

There is an attachment, a rider, to the work the gentleman has done that maybe he would have preferred to be done some other way. We do not want to take away from military construction, and it should be fully debated, in general debate, but if the full hour is not used up, there are Members that may want to address this in the context of military construction in some way, and I just think we should not be limiting it by saying "No, you can't talk about title II" because title II is part of the bill.

The gentleman, the chairman of the subcommittee, clearly will direct the debate, I am sure, toward military construction; but there is some ambiguity here, and I would like to clear it up, like he would.

Mr. HEFNER. Mr. Speaker, if the gentleman will continue to yield.

Mr. BONIOR of Michigan. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I do not know what the ranking member wishes to do with the 30 minutes he has for military construction. We are certainly going to recognize Members on our side if they wish to speak about the merits of the military construction bill.

However, if we have some other time and they wish to speak about the merits of the Contra aid or the Skelton or the Hamilton or what have you, we are certainly not going to preclude them; and I would certainly hope that I would not be restricted from allowing Members on this side to speak on whatever they would like to speak about since this is, theoretically, our vehicle that we are honored to have this distinguished amendment, and this important issue onto our bill.

I would certainly hope we would have some latitude as to what we can talk about.

Mr. LOTT. Mr. Speaker, if the gentleman will yield, we just wanted to make sure we had the same guarantees on our side, and I think we are agreeing with the gentleman; he stated it very well just then.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, does the gentleman anticipate any amendment to the military construction portion of the bill?

Mr. HEFNER. If the gentleman will yield, it seems we certainly have some other sections, and we anticipate there are a couple of amendments that are going to be offered to the military construction. We will have a couple of amendments that are not controversial, but we have a couple amendments that will take some time.

Mr. MICHEL. If the gentleman will yield further, Mr. Speaker, we will consider them under the 5-minute rule?

Mr. HEFNER. I am assuming so. Mr. Speaker, I am assuming that we are going to be treated with the same courtesy as all other legislation that comes before this House; whether it be the Defense Subcommittee, Education and Labor, or whatever. We have worked very hard on this bill, and I am not real enthused and happy about the way that we are having to bring this bill up here.

Mr. Speaker, it is not the greatest honor that has ever been bestowed on me since I have been in this body to have these riders attached to our bill that we worked very hard on. We would like to, hopefully we will vote for this rule and get on with the legislation and just like everything else, the last guy standing is the one that will win.

Mr. MICHEL. I thank the gentleman.

Mr. Speaker, this gentleman certainly intends to support the rule, and would not in any way infringe upon his prerogative as chairman of that distinguished subcommittee, to make the points that have to be made on that confined area, and the amendments that have to be offered in a normal procedure.

I regret that we have to take it all en bloc, but that is the situation for what it is.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Speaker, I would point out very briefly that yesterday at the Rules Committee meeting I had requested a rule that would allow a motion to strike the economic aid, the $350 million.

The reason I did that is the same as many of those who oppose the Contra aid. I happen to support the Contra aid, but I feel that it is important enough that there should be a separate vote on that issue, and it should be by itself.

There is $350 million worth of economic aid and only $100 million as far as Contra aid. That means in effect, we are not going to be voting on Contra aid; we are going to be voting on foreign aid, not Contra aid.

□ 1200

That is an issue that should be determined on its own and on its own merits. We all recognize there are far more than four countries in Central America that have economic difficulties. What about Mexico? We all recognize something is going to have to be done with this entire region. Should it not be approached as a region, should it not be looked at in total, should we not decide in advance what our plan would be, what our expectations and our goals are for this region? Should we not decide on the directions we want the region to go? But instead once again we are backing into a foreign aid program, and I urge defeat of the rule.

Mr. LOTT. Mr. Speaker, I yield 2½ minutes to the gentleman from Arizona [Mr. MCCAIN].

Mr. MCCAIN. I appreciate the gentleman from Mississippi yielding.

Mr. Speaker, in response to what was just said by my colleague from Oklahoma, I would like to recommend to his consideration the fact that the entire Kissinger Commission report, so-called Caribbean Basin Initiative, was authorized by this Congress, and it does provide a framework for aid to Latin and Central American countries. I suggest that he examine it.

What I would like to focus on here today, and I will be supporting the rule, as convoluted as it may be, is the so-called McCurdy amendment or McCurdy aspects of this bill.

I would suggest to the Members of this body and to the American people that an argument can be made, and a compelling one, and will be made by Mr. HAMILTON, the distinguished chairman of the Permanent Select Committee on Intelligence, that there should be no aid for the Contras and we should do whatever we can to extricate ourselves from that very difficult situation we are in today.

That argument can be made. I think it deserves your consideration. I believe that the Skelton amendment also deserves your consideration because that will make a commitment that will send a signal to the freedom fighters in Nicaragua that this country is indeed supporting their struggle, for the promises that were made to them when the Sandinista government came to power and were not fulfilled.

But let me tell you, no argument can be made for the so-called McCurdy solution. No argument can possibly be made for a halfway entrance into a situation which will then continue the uncertainty and the unwise and undisciplined situation as we will find ourselves in.

No argument can be made to bring back again and again and again to the floor of this House another vote and another vote, obviously crafted to come up the 1st of October so that it will be then enmeshed and involved in election-year politics.

I say to my colleagues, consider both options. The time has come for this body and for the people of America to decide. Do we support those fighting for freedom in Nicaragua and throughout Central and Latin America? Or do we cut and leave it and make the best of a very bad situation?

The responsibility will lie with the decisions we make today. Let us make that responsibility clear. We will be faced today if we turn down the Skelton proposal with two options: one, accepting a Cuba in the Western Hemisphere and trying to cope with all that entails; or two, eventually sending in American troops to eradicate that cancer. If we do not support Skelton, we will be faced with those two options, neither of which is acceptable.

Mr. LOTT. Mr. Speaker, we have 1½ minutes remaining; is that correct?

The SPEAKER pro tempore. The gentleman is correct.

Mr. LOTT. Mr. Speaker, I yield the balance of our time to our distinguished leader, the gentleman from Illinois [Mr. MICHEL] to wrap up the debate on our side.

Mr. MICHEL. Mr. Speaker, as I indicated a moment ago, I am going to support this rule, as complicated as it is, and I would say certainly that all the negotiations that have been going on within the last 3 or 4 weeks have truly been in a bipartisan fashion. I think mention was made earlier that the gentleman from Oklahoma [Mr. MCCURDY], who serves on the Permanent Select Committee on Intelligence, thought there was a possibility of our getting together. But it is quite obvious that after a certain length or period of time that the gentleman wanted to refuse or at least he has had to refuse, or for whatever reason, any kind of military assistance up front. Mr. Speaker, that is core and central to this issue. It has got to be in that form to really be meaningful.

But then I am also intrigued by the question propounded by the gentleman from Oklahoma [Mr. ENGLISH] with respect to the economic assistance. Actually, the amount, yes, pretty rich for this gentleman's blood, too. But by the same token, it was in the interest of compromising and giving that long-term commitment and indi-

cation that beyond the immediate military and humanitarian assistance, to bring pressure to bear, to have that negotiating process move forward. We are also attempting by our first move here, in a long-range commitment, to implement the Kissinger Commission's recommendations for that entire area.

For my part, I am happy to see those four countries surrounding Nicaragua so actively engaged in their own future security, to have the leaders of their countries personally involved in wanting to make that decision and helping us formulate the kind of plan that I think ought to fly this afternoon, given a sufficient number of votes.

Mr. BONIOR of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. I thank the gentleman for yielding these 2 minutes to me.

Mr. Speaker, I think this rule is a fair one. I believe it deserves our support. It gives an opportunity to those Members who oppose any aid to the Contras the chance to vote against any aid to the Contras. It gives those Members who seek to support upfront military aid to the Contras the opportunity to support that upfront military aid. It provides to Mr. MRAZEK the opportunity to introduce a buffer zone to keep Americans free from harm in training the Contras. It further provides, through Mr. BARNES' amendment, strict accountability of any funds for the Contras. I think the rule is not particularly complicated, but I do think it is fair.

I support the McCurdy amendment notwithstanding the comments of my friend from Arizona [Mr. MCCAIN]. I believe it would strengthen the fledgling democracies in Central America within the framework of the Kissinger report. I think it enhances the likelihood of a peaceful settlement in that region. It requires certain Contra reforms which are badly needed with regard to human rights, with regard to subordinating the Contras' military leadership to the Contras' political leadership, to provide strict accountability of the money we are sending to those forces, and to ensure that they share the same democratic ideals on which we as a nation stand.

Finally, I believe the McCurdy alternative holds out the prospect of military aid as a last resort, but a very real option in the absence of progress at the bargaining table. The threat of military aid in October is an important element in this carefully crafted package of carrots and sticks. The McCurdy alternative is designed to better ensure that the people of Central America, not the Soviets, not the Cubans, not this country, but the people of Central America have the opportunity to choose their own destiny and not the destiny that will be thrust upon them by outsiders, or by forces of totalitarianism within these countries, whether they be from the political left or from the right.

Mr. Speaker, I urge adoption of the rule and support for the McCurdy amendment.

Mr. BONIOR of Michigan. Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 279, nays 148, not voting 6, as follows:

[Roll No. 196]

YEAS—279

Akaka	Craig	Heftel
Andrews	Daniel	Henry
Anthony	Dannemeyer	Hiler
Archer	Darden	Hillis
Armey	Daschle	Holt
Aspin	de la Garza	Horton
Atkins	DeLay	Hoyer
AuCoin	Derrick	Hubbard
Badham	DeWine	Huckaby
Barnard	Dickinson	Hutto
Barnes	Dingell	Hyde
Bartlett	DioGuardi	Ireland
Barton	Dornan (CA)	Jenkins
Bateman	Dowdy	Johnson
Bedell	Dreier	Jones (NC)
Beilenson	Duncan	Kanjorski
Bennett	Dwyer	Kasich
Bentley	Dyson	Kemp
Bevill	Eckert (NY)	Kindness
Biaggi	Edwards (OK)	Kolbe
Bilirakis	Emerson	Kolter
Bliley	Erdreich	Kostmayer
Boggs	Evans (IA)	Kramer
Boland	Fascell	LaFalce
Boner (TN)	Fawell	Lagomarsino
Bonior (MI)	Fazio	Lantos
Boucher	Fiedler	Latta
Boulter	Fields	Leath (TX)
Breaux	Fish	Lent
Brooks	Flippo	Lewis (FL)
Broyhill	Florio	Lightfoot
Bryant	Foley	Lipinski
Burton (IN)	Ford (TN)	Livingston
Bustamante	Fowler	Lloyd
Byron	Frank	Loeffler
Callahan	Franklin	Lott
Campbell	Frenzel	Lowery (CA)
Carney	Frost	Lujan
Carper	Fuqua	Lundine
Chandler	Gallo	Lungren
Chapman	Gaydos	Mack
Chappell	Gekas	MacKay
Chappie	Gephardt	Madigan
Cheney	Gibbons	Manton
Clinger	Gilman	Marlenee
Coats	Goodling	Martin (IL)
Cobey	Gordon	Martin (NY)
Coble	Gradison	Matsui
Coelho	Gregg	Mavroules
Coleman (MO)	Guarini	Mazzoli
Combest	Gunderson	McCain
Cooper	Hammerschmidt	McCandless
Coughlin	Hansen	McCollum
Courter	Hatcher	McCurdy
Coyne	Hefner	McDade
McEwen	Regula	Solarz
McGrath	Richardson	Solomon
McKernan	Rinaldo	Spence
McMillan	Ritter	Spratt
Meyers	Roberts	Stallings
Mica	Robinson	Stangeland
Michel	Roemer	Stenholm
Miller (OH)	Rostenkowski	Strang
Miller (WA)	Roth	Stratton
Moakley	Roukema	Sundquist
Molinari	Rowland (CT)	Sweeney
Mollohan	Rowland (GA)	Swindall
Monson	Rudd	Tallon
Montgomery	Saxton	Tauzin
Moorhead	Schaefer	Taylor
Morrison (WA)	Schuette	Thomas (CA)
Mrazek	Schulze	Thomas (GA)
Murtha	Sensenbrenner	Torricelli
Myers	Shaw	Traxler
Natcher	Shelby	Udall
Neal	Shuster	Valentine
Nelson	Siljander	Vander Jagt
Nichols	Sisisky	Vucanovich
Nielson	Skeen	Walgren
Nowak	Skelton	Walker
Olin	Slattery	Weber
Ortiz	Slaughter	Whitley
Oxley	Smith (FL)	Whittaker
Packard	Smith (IA)	Whitten
Parris	Smith (NE)	Wilson
Pashayan	Smith (NJ)	Wise
Penny	Smith, Denny (OR)	Wolf
Pepper	Smith, Robert (NH)	Wortley
Petri	Smith, Robert (OR)	Wright
Pickle	Snowe	Wylie
Price	Snyder	Yatron
Pursell		Young (AK)
Quillen		Young (FL)
Ray		Zschau

NAYS—148

Ackerman	Gray (PA)	Panetta
Alexander	Green	Pease
Anderson	Hall (OH)	Perkins
Annunzio	Hall, Ralph	Porter
Applegate	Hamilton	Rahall
Bates	Hartnett	Rangel
Bereuter	Hawkins	Reid
Berman	Hayes	Ridge
Boehlert	Hendon	Rodino
Bonker	Hertel	Roe
Borski	Hopkins	Rogers
Bosco	Howard	Rose
Boxer	Hughes	Roybal
Broomfield	Hunter	Russo
Brown (CO)	Jacobs	Sabo
Bruce	Jeffords	Savage
Burton (CA)	Jones (OK)	Scheuer
Carr	Jones (TN)	Schneider
Clay	Kaptur	Schroeder
Coleman (TX)	Kastenmeier	Schumer
Collins	Kennelly	Seiberling
Conte	Kildee	Sharp
Conyers	Kleczka	Shumway
Crane	Leach (IA)	Sikorski
Crockett	Lehman (CA)	St Germain
Daub	Lehman (FL)	Staggers
Davis	Leland	Stokes
Dellums	Levin (MI)	Studds
Dicks	Levine (CA)	Stump
Dixon	Lewis (CA)	Swift
Donnelly	Long	Synar
Dorgan (ND)	Lowry (WA)	Tauke
Downey	Luken	Torres
Durbin	Markey	Traficant
Dymally	Martinez	Vento
Early	McCloskey	Visclosky
Eckart (OH)	McHugh	Volkmer
Edgar	McKinney	Watkins
Edwards (CA)	Mikulski	Waxman
English	Miller (CA)	Weaver
Evans (IL)	Mineta	Weiss
Feighan	Mitchell	Wheat
Foglietta	Moody	Williams
Ford (MI)	Moore	Wirth
Garcia	Morrison (CT)	Wolpe
Gejdenson	Murphy	Wyden
Gingrich	Oakar	Yates
Glickman	Oberstar	Young (MO)
Gonzalez	Obey	
Gray (IL)	Owens	

NOT VOTING—6

Brown (CA)	O'Brien	Towns
Grotberg	Stark	Whitehurst

□ 1225

Messrs. GRAY of Pennsylvania, PANETTA, ANNUNZIO, DONNELLY, LEHMAN of Florida, and GRAY of Illinois changed their votes from "yea" to "nay."

Messrs. WHITTEN, STRATTON, and PASHAYAN changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 481 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5052.

□ 1228

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5052) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes, with Mr. HUGHES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina [Mr. HEFNER] will be recognized for 30 minutes and the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. HEFNER].

(Mr. HEFNER asked and was given permission to revise and extend his remarks.)

Mr. HEFNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the committee is recommending appropriations totaling $8,104,101,000 for fiscal year 1987 military construction and family housing. This is a reduction of $2,033,099,000 below the President's request, and is a slight increase over the fiscal year 1986 level as adjusted.

The committee conducted a thorough and comprehensive review of this year's request, holding 12 different hearings on separate functional areas. The level recommended is similar to the amount provided last year, yet it provides for the highest priority military requirements and will substantially improve both readiness and quality of life in the military. Functional areas where special emphasis occurred during our review of the fiscal year 1987 request were the degree of U.S. commitment overseas, the European and NATO construction program, the Persian Gulf and Pacific programs, the Caribbean Basin, stimulating U.S. business overseas, financial management and family housing.

DEGREE OF U.S. COMMITMENT OVERSEAS

In recent years as our European allies have recovered their strength, their willingness to dissociate themselves with the United States has grown. Today as a result of recent opposition on the part of some of our European allies to United States actions against Third World countries, our ability to use United States forces deployed in those countries is in question. The result is that a substantial portion of United States military forces are stationed where host governments may only permit their use against the least likely threat—a Soviet invasion of Western Europe. The committee has therefore deferred several new initiatives in Europe and cut all projects at low priority installations there. We have also called for a realignment study that will explore whether current U.S. deployment levels fits strategic as well as political realities.

EUROPEAN AND NATO CONSTRUCTION

As a result of the overseas base closure initiative last year the committee has concluded that various factors have made it difficult for the United States Command to reduce or consolidate existing installations in Europe. Opposition to the Army's construction program is particularly strong in Germany, where planned projects have been delayed and canceled due to political influence.

The committee, however, is extremely pleased with the expanded size of the NATO infrastructure program and has approved all funds requested. It is hoped that will result in expanded eligibility criteria and thereby reduce the United States unilaterally funded construction.

PERSIAN GULF—PACIFIC PROGRAM

A total of $1.1 billion has been provided by the United States in the last 6 years for the construction of a facility network in the Persian Gulf. This year no funds have been provided as the committee views this program as essentially complete.

The committee, in recognition of the critical importance of United States military facilities in the Philippines, has approved $40 million of $72 million requested subject to authorization. Any relocation to other areas in the region would degrade U.S. capabilities severely and cost in the tens of billions of dollars. The committee has made some reductions in Japan and Korea and has directed that the United States seek host nation funding. The Department is also to report on their intentions regarding accompanied tours in Korea.

CARIBBEAN BASIN

Since mid-1983 the United States has conducted a series of major and minor military exercises in Honduras of unprecedented size and duration. Since that time in addition to the $21 million approved for airfield upgrades in Honduras, a total of $6.5 million has been spent in O&M funds for temporary construction in support of a continuous United States presence. Because some of these funds have been spent improperly, and because the continuous U.S. presence in temporary facilities has caused numerous health and safety problems, the committee has established an exercise related construction fund. This fund will not be used for what should be military construction projects. The committee will support construction projects that are necessary to properly house and feed our personnel, as long as their mission and length of presence is clarified.

STIMULATING U.S. BUSINESS OVERSEAS

The committee has continued several policies aimed at enhancing U.S. business opportunity overseas. The complete American preference program in the Persian Gulf has been maintained, the partial preference in the American territories of the Pacific has been maintained, and the threshold for partial preference on architect and engineer contracts has been lowered to $500,000.

The committee has also extended the packaging of contracts at several locations overseas, and has called again for reforms in NATO contracting procedures.

FINANCIAL MANAGEMENT

The committee continued several policies established last year relating to the financial management of the military construction program, which included limitations on cross and split year funding authority, clarifying the use of expired funds and establishing new reprogramming thresholds. The committee opposed the requests by the Department to raise the minor construction limitation from $1 million to $2 million and to obtain expanded authority on the renovation of facilities. A foreign currency fluctuation fund has been established at the request of the Department to enable transfers to offset fluctuations in foreign currency rates.

ARMY LIGHT DIVISIONS

The committee has approved $175 million in fiscal year funds and $435 million in advance appropriations for the staging of the new light infantry division at Fort Drum, NY. All funds for the staging of the light division at Fort Wainwright, AK, were denied.

NAVY STRATEGIC HOMEPORTING

The committee has included $140 million of the Navy's strategic homeporting initiative at Staten Island, NY, and Everett, WA. The funds for Everett, WA, have been included subject to authorization.

MILITARY CONSTRUCTION, ARMY

The committee has approved $1,200,070,000 for this account, which is a reduction of $495,137,000 below the President's request. Major reductions included $434 million for projects failing authorization, $30 million in low priority projects and a $10 million general reduction to projects in Germany.

MILITARY CONSTRUCTION, NAVY

The committee has approved $1,364,090,000 for this account, which is a reduction of $450,010,000 below the President's request. Major reductions include $330 million in projects failing authorization and $100 million in low priority projects.

MILITARY CONSTRUCTION, AIR FORCE

The committee has approved $1,228,630,000 for Air Force military construction, which is $544,570,000 below the budget estimate. Major reductions include $415 million in projects failing authorization, $55 million in low priority projects, and $50 million from low priority installations overseas.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

The committee has approved $541,563,000 for military construction for the Defense agencies, which is a reduction of $220,537,000 below the President's request. Major reductions included $196 million from projects failing authorization, and $20 million from low priority projects.

NATO INFRASTRUCTURE

The committee has approved the full request of $247,000,000 for this account.

MILITARY CONSTRUCTION, RESERVE COMPONENTS

The committee has approved $435,541,000 for the Reserve components. This is a reduction of $15,659,000 from the President's request.

FAMILY HOUSING, ARMY

The committee has approved $1,573,991,000 for Army family housing, which is $166,655,000 below the budget estimate. Major reductions include $52 million in projects failing authorization, $30 million from the leasing account and $18 million from the maintenance account.

FAMILY HOUSING, NAVY

The committee has approved $71,494,000 for Navy family housing, which is a reduction of $80,419,000 from the President's request. Major reductions include $32 million in projects failing authorization, $6 million from operations and $8 million from the maintenance account.

FAMILY HOUSING, AIR FORCE

The committee has provided $807,420,000 for Air Force family housing, which is a reduction of $52,753,000 below the President's request. Major reductions include $12 million in projects failing authorization, $8 million in the maintenance account and $10 million from the leasing account.

FAMILY HOUSING, DEFENSE AGENCIES

The committee has provided $16,470,000 for Defense agencies family housing, which is a reduction of $1,130,000 below the President's request.

HOMEOWNER'S ASSISTANCE

The committee has provided none of the $6 million requested for this account.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	Fiscal year—		House	House compared with fiscal year—	
	1986 adjusted	1987 estimates		1986 adjusted	1987 estimates
Military construction, Army	1,524,436,000	1,695,200,000	1,200,070,000	−324,366,000	−495,130,000
Advance appropriation, 1988		221,000,000	221,000,000	+221,000,000	
Advance appropriation, 1989		162,000,000	214,000,000	+214,000,000	+52,000,000
Military construction, Navy	1,621,807,000	1,814,100,000	1,364,090,000	−257,717,000	−450,010,000
Military construction, Air Force	1,581,727,000	1,773,200,000	1,228,630,000	−353,097,000	−544,570,000
Military construction, Defense agencies	172,488,000	762,100,000	541,563,000	+369,075,000	−220,537,000
North Atlantic Treaty Organization infrastructure	9,510,000	247,000,000	247,000,000	+237,490,000	
Military construction, Army National Guard	97,197,000	121,100,000	115,724,000	+18,527,000	−5,376,000
Military construction, Air National Guard	115,309,000	140,000,000	140,000,000	+24,691,000	
Military construction, Army Reserve	58,340,000	86,700,000	76,417,000	+18,077,000	−10,283,000
Military construction, Naval Reserve	39,752,000	44,500,000	44,500,000	+4,748,000	
Military construction, Air Force Reserve	59,942,000	58,900,000	58,900,000	−1,042,000	
Total, military construction	5,280,508,000	7,125,800,000	5,451,894,000	+171,386,000	−1,673,906,000
Appropriations, 1987	(5,280,508,000)	(6,742,800,000)	(5,016,894,000)	(−263,614,000)	(−1,725,906,000)
Advance appropriation, 1988		(221,000,000)	(221,000,000)	(+221,000,000)	
Advance appropriation, 1989		(162,000,000)	(214,000,000)	(+214,000,000)	(+52,000,000)
Family housing, Army	1,375,089,000	1,740,646,000	1,573,991,000	+198,902,000	−166,655,000
Portion applied to debt reduction	−15,064,000	−7,646,000	−7,646,000	+7,418,000	
Subtotal, family housing, Army	1,360,025,000	1,733,000,000	1,566,345,000	+206,320,000	−166,655,000
Family housing, Navy	648,788,000	792,913,000	712,494,000	+63,706,000	−80,419,000
Portion applied to debt reduction	−16,239,000	−8,613,000	−8,613,000	+7,626,000	
Subtotal, family housing, Navy	632,549,000	784,300,000	703,881,000	+71,332,000	−80,419,000
Family housing, Air Force	806,926,000	860,409,000	807,420,000	+494,000	−52,989,000
Portion applied to debt reduction	−14,298,000	−6,909,000	−6,909,000	+7,389,000	
Subtotal, family housing, Air Force	792,628,000	853,500,000	800,511,000	+7,883,000	−52,989,000
Family housing, Defense agencies	15,755,000	17,600,000	16,470,000	+715,000	−1,130,000
Homeowners assistance fund, Defense		6,000,000			−6,000,000
Total family housing (budget authority)	2,846,558,000	3,417,568,000	3,110,375,000	+263,817,000	−307,193,000
Total portion applied to debt reduction	−45,601,000	−23,168,000	−23,168,000	+22,433,000	
Total, family housing	2,800,957,000	3,394,400,000	3,087,207,000	+286,250,000	−307,193,000
Grand total, new budget (obligational) authority	8,081,465,000	10,520,200,000	8,539,101,000	+457,636,000	−1,981,099,000
Appropriations, 1987	(8,081,465,000)	(10,137,200,000)	(8,104,101,000)	(+22,636,000)	(−2,033,099,000)
Advance appropriation, 1988		(221,000,000)	(221,000,000)	(+221,000,000)	
Advance appropriation, 1989		(162,000,000)	(214,000,000)	(+214,000,000)	(+52,000,000)
CONGRESSIONAL BUDGET RECAP					
Total, 1987	8,081,465,000	10,137,200,000	8,104,101,000	+22,636,000	−2,033,099,000
Amounts in this bill	(8,081,465,000)	(10,137,200,000)	(8,104,101,000)	(+22,636,000)	(−2,033,099,000)
Prior year outlays associated with this bill					
Total congressional mandatory and discretionary	8,081,465,000	10,137,200,000	8,104,101,000	+22,636,000	−2,033,099,000
Mandatory (total)					
(Mandatory new)					
(Prior year)					
Discretionary (new)	(8,081,465,000)	(10,137,200,000)	(8,104,101,000)	(+22,636,000)	(−2,033,099,000)

□ 1235

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first of all let me say that I want to thank the gentleman from North Carolina [Mr. HEFNER] who has outlined the basic provisions of the bill. I have worked with him for some time on this subcommittee. He is an ideal chairman to work with, is well-respected by the members of the committee, and I want to start out by giving him my compliments.

I am very pleased to join with Chairman HEFNER in presenting this bill for your consideration. I want to emphasize that we have worked together in a truly bipartisan manner to scrutinze the administration's budget request for military construction.

As the gentleman from North Carolina has stated, "We have reduced the administration's budget request by more than $2 billion, which represents a 20-percent cut, giving us a bill of $8.1 billion." The Subcommittee on Military Installations and Facilities of the Armed Services Committee reduced the administration's budget request by $1.6 billion, so they did a good bit of our work for us.

To achieve the reductions, I joined with the chairman in recommending that we follow certain guidelines. We have:

Deleted or deferred numerous projects that were not authorized;

Eliminiated overseas projects that are considered no longer necessary or at installations of marginal benefit;

Reduced in scope and price high cost facilities and packaging of construction contracts;

Eliminated projects that can or should be funded through NATO or host nation support;

Eliminated projects of low operational utility;

Reduced high cost family housing projects, and limited family housing operations and maintenance accounts to provide slight increases over last year's bill.

We also included several projects that were in the budget request but which were deferred by the authorizing committee.

For the Philippines, we have recommended $40 million of the $73 million budget request, subject to authorization. The authorizing committee deferred funding pending stabilization of the political situation and decisions on our continued use of Clarke AFB and Subic Bay. We thought that deferral or denial of funds would send the wrong signal at the very time we want to demonstrate our commitment to the Aquino government.

For the Navy's Strategic Homeporting Program, we provide a total of $140 million for Staten Island, NY, $54.4 million, and Everett, WA, $85.4 million. Everett is recommended subject to authorization. Altogether, we have reduced the budget request for strategic homeporting by $48 million.

For the Army's Light Infantry Division at Fort Drum, NY, we have recommended $175 million in fiscal year 1987 appropriations, which is $57 million less than the budget request and $5 million below the amount proposed for authorization. We are also recommending advance appropriations of $221 million for fiscal year 1988 and $214 million for fiscal year 1989. The Army has testified that by engaging in one large construction contract for the entire base, it will save more than $100 million through advance funding.

For the NATO Infrastructure Program, we are recommending funding for the entire budget request of $247 million. The subcommittee also has deferred funding of several new initiatives in Europe. For example, the subcommittee denied funding of $67 million requested for the relocation of the Navy's support activity facilities in Naples, Italy. Instead, we have directed the Navy to conduct a feasibility study on upgrading the existing facilities for seismic conditions and possible expansion.

In order to improve the quality of living and working conditions for those in the military, we have made a special effort to include adequate funding for family and unaccompanied personnel housing, for child care centers, and for hospitals and clinics. The backlog in housing and working facilities is enormous. But with the funds we are recommending, we will be taking a significant step forward in remedying these deficiencies.

The bill includes about $80 million for continued construction in support of the B-1 and MX. But there are no funds in the bill for ASAT or SDI since these projects were not authorized.

Also, we propose to continue the financial management policy changes which we directed the Department of Defense to implement in last year's bill. These reforms have resulted in better management of military construction funds and therefore we are proposing that these reforms be continued. We have also expressed dissatisfaction to any increase in the limitation on unspecified minor construction projects and to a request for broadened authority to use O&M funds for the renovation of facilities.

And finally, I would just reemphasize what the chairman has said about reporting a bill considerably below our tentative section 302(b) allocation in order to allow flexibility when we go to conference with the Senate. Therefore, I will join the chairman in opposing any amendments that may be offered today to add projects that have not been authorized.

This is a fair bill that balances our Nation's military requirements with the budget constraints we face today. I urge you to support this bipartisan measure that we bring to you for your consideration.

Mr. Chairman, I reserve the balance of my time.

Mr. HEFNER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I rise in strong support of this legislation, H.R. 5052, military construction appropriations for 1987.

I rise in strong support of this project to provide for the strategic homeporting of our 600 ship Navy, in this bill, H.R. 5052, military construction appropriations for fiscal year 1987.

I compliment the chairman, Mr. HEFNER, on his leadership ability in bringing this bill to the floor today in such a manner that the budget authority will provide for the highest priority of facilities to enhance or Nation's defense and deterrent capabilities, improve the quality of life, as well as to contribute to decreasing the deficit level to $144 billion during fiscal year 1987.

Throughout the hearings that have been conducted, emphasis has been placed on both the concept and the total cost of strategic home porting. The Navy has been involved, over the years, in building its fleet to support both the national military and maritime strategy. At the same time, it has reviewed its ship home porting posture in order to maximize the strategic effectiveness of our maritime forces in accomplishing this maritime strategy. Many of you may have read the comments of Rear Adm. Robert D. Yanow, Canada's senior military officer on the west coast, contained in the Navy Times of June 16, 1986. In this article, titled "Canada Would Welcome West Coast U.S. Battle Group," the importance of the strategic basing concept, as a positive impact on Canadian defense forces, was commented on. Significant support was expressed for location of the carrier battle group in the Northwest, since Vancouver outstrips all west coast ports—including U.S. ports—in total cargo tonnage. We realize the significance of protecting our oil supplies from Alaska as well as having a ready maritime force to act as a deterrent in this area of the Pacific.

Dispersal of the fleet to the gulf coast area provides a ready deterrent and more immediate support for ensuring access to this area, Central and South America. Approximately 55 percent of all crude oil imports and 45 percent of foreign trade enter the gulf ports. Additionally, approximately 60 percent of NATO resupply during the first 60 days of mobilization, in the event of war, comes from these same gulf coast ports. It is for these reasons

that I strongly support the strategic homeport concept and its funding.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, let me make a few remarks about title II of this bill.

First I would like to commend my colleague from Missouri [Mr. SKELTON] and the gentleman from Oklahoma [Mr. EDWARDS] for crafting an amendment that we will take up under title II dealing with aid to the Contras.

There may be a few Members in this body who still have not made up their minds as to how they might vote on this important issue, and they might be asking themselves what exactly has changed since the last time the House had this issue before it.

I think that the one circumstance that I would like to point out that has changed has been an increase in the Soviet Union's involvement in aiding the Sandinista government in Nicaragua. In May it was determined, and it has been announced, that the Soviet Union's spy planes and reconnaissance vehicles, the AN-30, have been used on at least four occasions to gather intelligence information about where the location of the Contras might be.

□ 1245

I think that this shows a new degree of escalation and increased involvement by the Soviets. In this hemisphere for the first time they are utilizing overflights from Nicaragua. I think this is a precedent that should not go unnoticed by Members of this body as we prepare to vote on this very important issue.

It is an issue and therefore a circumstance that has changed and I think it should be considered by Members who might have voted against aid before to reconsider their position based upon this new information about the Soviet involvement and their increased involvement in aiding the Sandinista government, the same Sandinista government that has, of course, cut off the rights and privileges that they had promised their people under the revolution that occurred and which they have personally betrayed.

So I commend my colleagues, the gentleman from Missouri [Mr. SKELTON] and the gentleman from Oklahoma [Mr. EDWARDS] for coming together with this amendment, a bipartisan amendment to recognize this change in circumstances and to deal with this very important and serious issue.

Mr. HEFNER. Mr. Chairman, I yield 5½ minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the gentleman very much for yielding this time to me.

I think the question that we have to ask is if the Contras overthrow the Sandinistas, what kind of people would we have running Nicaragua?

Who do the Contras look to for help? Who do they look to for advice? Unfortunately for this administration, the answer is not a good one. I want to cite an incredible story that unfolded in the San Francisco Examiner Monday of this week and I want us to study this one example, which was painfully documented in a story. It is about a gentleman named Norwin Meneses-Canterero.

1. He admits he dealt drugs for 6 months. He is described in a DEA report in 1984 as "the apparent head of a criminal organization responsible for smuggling kilograms of cocaine to the United States." Court records show he ran an internal drug operation for at least 10 years.

2. The multimillion dollar cocaine ring run by Meneses employed 3 FDN members (Nicaraguan Democratic Force) or Contras that this administration wants us to give $100 million to. One of the men was convicted of cocaine charges last year.

3. Former FDN members reported that Meneses financed at least 4 Contra functions.

4. Meneses admitted FDN members met in his Bay Area home and his wife's T'shirt factory in Los Angeles. Adolfo Calero—head of FDN said he met Meneses several times in San Francisco. Meneses said he never met Calero, but Calero said Meneses was a "sympathizer."

5. Edgar Chamorro—a former FDN director recalls Meneses organized 2 FDN meetings in California. "He was one of the main contacts."

6. According to FDN veterans in Miami and California, Meneses sent supplies to the FDN in Honduras, including video equipment and at least one truck. Meneses reportedly paid for the truck to be driven to Honduras.

7. During the Somoza years Meneses was identified by DEA as a "cocaine source of supply" in Managua. His brother was head of Managua police under Somoza.

8. When the Sandinistas took over in 1979, Norwin Meneses moved to the Bay Area where he opened a restaurant and bar and drove a Jaguar.

According to the Drug Enforcement Administration affidavit files in Federal court he continued to smuggle cocaine. That same affidavit links Meneses to drug trafficking in the San Francisco Bay Area, Los Angeles, New Orleans, Flordia, Nicaragua, Costa Rica, Panama, Colombia, and Peru. Those drugs wind up inside our children.

This administration deplores that. It has become the First Lady's crusade and she has been doing a fantastic job with it, and yet we would undermine that by giving dollars to these drug pushers.

9. According to 1983 testimony of one of Meneses associates Pereira-Lanuzo (a former Nicaraguan businessman) supplied a Nicaraguan dealer with cocaine and said the proceeds "belonged to the Contras revolution."

10. In 1982 and 1983, Meneses distributed cocaine through another FDN member in San Francisco and one in Los Angeles.

11. Chamorro and Frank Arana flew to San Francisco to select local FDN leaders. At a selection meeting on 11th Street in San Francisco, Meneses stood quietly at the back of the room.

12. At a similar meetings the next day in Los Angeles, Meneses threw a party afterward. According to Chamorro, Meneses recommended names for FDN positions and tried to recruit former Somoza military members in California to join FDN forces in Honduras.

What an outrage it is to give taxpayer dollars to an organization that gets its support from drug dealers—organized drug dealers who are getting our children hooked on cocaine. Members of the Contras are drug dealers and pushers. And these Contras look for support to men like Norwin Meneses.

Let me refer, Mr. Chairman, to something new in this debate. Somebody asked on the other side, "What is new in this debate?" The Select Committee on Narcotics Abuse and Control has given me information, that is from our very own committee, that links drug dealing to the Contras. They have told me:

A number of individuals who supported the Contras and participated in Contra activity in Texas, Louisiana, California and Florida, as well as in Honduras, Nicaragua and Costa Rica, have suggested that cocaine is being smuggled into the United States through the same infrastructure which is procuring, storing, and transporting weapons, explosives, ammunition, and military equipment for the Contras of the United States.

Now, let me say this. What that means is that we are supporting an infrastructure that is not only trying to overthrow the Sandinistas, but it is the same infrastructure that is getting cocaine to the children of America.

We have names which I cannot share, but can be shared with Members of the Congress if you want those names.

The gentleman from California [Mr. MILLER] this morning made a statement that says it all. He said, "Don't weep for Lenny Bias and then turn around and give taxpayer dollars to cocaine pushers."

Sure the Sandinistas aren't my cup of tea but we are not giving them dollars. We're giving dollars to the Contras.

This policy is a travesty. It's a pity. It's an embarrassment.

I say that we wait until we get an accounting and not lend support to any organization that gets its support from drug smugglers and pushers.

While we condemn the Government of Panama, as well we should, for drug involvement, let us not create another monster.

And who is out there dying in the Contra war? Not these drug pushers who plan to run the country after the Contras overthrow the Sandinistas with our help—they are driving

around in Jaguars and wearing designer suits.

It's the young—the 14-, 15-, and 16-year-old so-called Contras who are being used as cannon fodder.

What a policy we have going, Mr. President, supporting drug pushers and using children as gun fodder.

America must do better than that. America is better than that.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from Washington, [Mr. CHANDLER].

Mr. CHANDLER. Mr. Chairman, today we stand at the crossroads of our policy for Central America. Indeed, it is the region itself that is at a crossroads. One path leads to democracy and liberty for all the people of Central America and the other leads to oppression, both from the right and the left. we have never stood so close to this place before.

For the first time in decades, a revolutionary shift is taking place in the politics of the region. Four of our five Central American neighbors, more than any time before, are led by civilians, democratically by their people. Furthermore, these are men of the highest caliber. Social reformers like Jose Napoleon Duarte, who were beaten and jailed for their views; young businessmen with new and exciting economic ideas like Vinicio Cerezo in Guatemala and Oscar Arias of Costa Rica; highly educated statesmen like Jose Azcona of Honduras. These men now reside in the seats of power. While there is much promise, we must also be realistic. These new democracies are threatened by a huge army in Nicaragua, the largest ever assembled in the region, and they also face tremendous conflicts domestically. Democracy is in a vulnerable infancy in Central America.

These new governments need to be nurtured, supported, and encouraged. The traditional leaders of Central America—the military and the oligarchy, have grudgingly let go of their dominant roles, yet they still stand in the wings, ready to take the stage once again. Democracy is an experiment in Central America—an experiment that many of those no longer in power would like to see fail. But we have an opportunity to show them, to show all the people of the world what we know from our own experience—that democracy works.

Rightwing oppression does not work in Central America, and communism doesn't work either. Of course, that is not news to most of us—we have known that for nearly 70 years, but it has been proved once again in Nicaragua. Some of my colleagues are not comfortable calling the Sandinista government Communist, and this baffles me. The Sandinistas seem perfectly comfortable with it. Just look at their speeches, their laws, their press censorship, their communes, and the uniforms of their military advisers. When I traveled with 12 of my colleagues to Managua earlier this month, Daniel Ortega rambled about military dictatorship in the region, yet he was the only leader we met who wore a military uniform.

It is true that the Nicaraguan revolution of 1979 was not a Communist one, but neither was the Russian Revolution of 1917. As in Russia, within a few months of the legitimate revolution, a second one took place. The centrists were forced out and radicals took over. Indeed, of the three leaders of the democratic resistance forces fighting the Sandinista regime, two were members of the first revolutionary government and one was a businessman who led a crucial strike against Somoza and was a political prisoner. Today, there are more than 3,000 Cuban military and security personel, 350 Soviet tanks and dozens of sophisticated helicopters. The Sandinista army numbers 75,000, the largest ever assembled in the region, while Soviet pilots fly intelligence missions and Cubans fly combat missions. Internally, the press is censored more than ever and the church that helped bring the Sandinistas to power is persecuted once again. And tragically, the people still live in abject poverty.

This is the problem, but there is a solution, one that addresses the problems of the region, not just one country—a solution that does not shy away from the military leverage needed to win a diplomatic victory. This solution is the amendment offered by the gentlemen from Missouri, Oklahoma, Georgia, and myself. Our amendment addresses every major point that our bipartisan group has been concerned about.

Our amendment has the strictest accountability provisions of any regional aid package offered in this Congress. Military aid is delayed until September 1 to give the Contadora peace process more time. This is not a date that we selected randomly, but one offered by the democratic leaders of the region as the last chance for Contadora to reach a successful conclusion. Our amendment demands strict human rights observance by the Contras, absolutely no involvement in drug trade and immediate cessation of aid to the rebels in the event of a negotiated settlement. The region is also aided with $300-million in economic assistance.

Furthermore, Congress can vote to cut off the aid at anytime under expedited procedures if it chooses to do so. Some of my colleagues say we need more delay and more votes. This would send a clear message that the United States has a weak and uncertain policy for Central America: That Contadora should be a process of manipulation and delay and not one of compromise and resolution. The region needs action now, not in October. By October, it could be too late, and not just for the Contras. It may be too late for Duarte or Cerezo or Azcona.

We need to make a commitment now. The people of Central America in El Salvador, Guatemala, Honduras, Costa Rica, and Nicaragua yearn for and deserve democracy and freedom. They have the will to succeed, but not the tools. Like it or not, their future is in our hands.

Mr. HEFNER. Mr. Chairman, I yield 5½ minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, as a member of the Military Appropriations Subcommittee, I want to compliment our distinguished chariman, the gentleman from North Carolina, and the distinguished ranking minority member, the gentleman from Oklahoma [Mr. EDWARDS] and our excellent staff for the outstanding job that they have done in preparing this important legislation.

Today I am rising to discuss one part of this bill and that is the question of strategic home porting.

I want to support this program and tell you why. It is based on military arguments.

First of all, as we all know, Secretary Lehman laid out a very ambitious program to increase the size of the fleet from about 450 ships up to 600 ships.

It is appropriate at this point to think through what it is we are going to do about basing those ships, because they have to go somewhere. Either they are going to be dispersed, as the Secretary of the Navy and the Chief of Naval Operations and the last five CNO's have strongly recommended, or we are going to add them to existing bases, where there would be increased concentration and I think would not be in our military interest.

Let me just read a quotation from Admiral Zumwalt, who is known as one of the most progressive military leaders of our time. When asked about this question of strategic home porting, he said:

> There is no question that what spreading the fleet over a larger number of home ports will reduce ship vulnerability, enhance battle group integrity, avoid overcrowding, exploit and enhance our industrial base, improve Active and Reserve recruiting, and in some cases move our ships closer to operating areas.

□ 1300

I come from the State of Washington, and the Puget Sound area is a day and a half closer to the North Pacific than is southern California. We also have the very important Trident submarine base, which today basically goes undefended.

A carrier battle group at Everett, WA, would give us the ability to move

into the North Pacific to protect vital communications and sea links, especially between Alaska and the United States, and Alaska is one of those States from which we get extraordinary amounts of oil by sea to the west coast of the United States.

Also, the entire Soviet Pacific Fleet is larger than the entire U.S Navy, so there is a necessity for having an appropriate military presence in the Pacific Northwest.

The big question on this whole issue has been cost. Let me tell my colleagues that Secretary of the Navy Lehman said that he is prepared to live with a ceiling on this program of $799 million. Not $2 billion. Not $1½ billion. But $799 million. What you have to look at is the difference in the cost of dispersing the fleet and adding these ships to existing home ports. Because that is not free, if we put these ships in existing home ports, we have to dredge, we have to build additional docks and facilities, we have to have housing at those existing home ports. So the Delta, the difference between the two programs, is approximately $200 million spread over 5 years in the military construction bill.

Let me just argue for a moment that if we save just one frigate by dispersing the fleet, if we save just one ship because we have made the fleet less vulnerable, then we have paid for the entire cost of this program. In addition, we have done something wise for the families and for the young men who are manning these ships. We have increased their chances of surviving against a Soviet cruise missile attack, terrorist attack et cetera.

In my judgment, this program makes sense. I agree that in its first discussions there was too much politics mentioned and not enough mentioned about the military implications of this program. But as I have studied it over the last several years, I have become more and more convinced that this program has a strong underpinning in military rationale.

So today, if there is an amendment offered on this, I want to point out that both the House Committee on Armed Services and the Senate Committee on Armed Services have voted in favor of the concept of dispersing the fleet in favor of the concept of strategic home porting. This is one of the highest priorities of the Secretary of the Navy and of the Reagan administration.

So I hope we will not today make a very serious mistake in military judgment by not going forward with this very cost effective way of securing our ships, ships which, I might say, we have spent over $50 billion in constructing.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. RUDD].

Mr. RUDD. I thank the gentleman for yielding this time to me.

Mr. Chairman, as a member of the committee, I have worked along with this great committee in order to produce a good bill, a bill that is 20 percent below what the administration asked for. It is a credit to the members of the committee, it is a credit to the staff, and it certainly is a credit to the good leadership of the chairman, the gentleman from North Carolina, and my friend, the ranking member, the gentleman from Oklahoma.

It is a credit to the Department of Defense to work with the committee to find new ways, new methods of doing things so that we can bring costs down, keep the quality of our projects at their present level, and perhaps have more projects.

With regard to title II, Mr. Chairman, for 2 years the House of Representatives refused to send any military aid to the freedom fighters in Nicaragua. Much of the reason for this has been the effectiveness of a disinformation campaign paid for and organized by the Sandinista government.

Last year a flood of charges were made in Congress and the media based on several extensively documented studies on how the Nicaraguan resistance allegedly committed systematic atrocities against civilians. Those reports have since been proven false and were intended to disinform Congress and the public about the nature of the Nicaraguan resistance.

The three reports issued in 1985 and 1986 were the Brody report, the Fox-Glennon report, and the Dutcher report, all commissioned by the Washington office on Latin America, or WOLA. Analysis of these reports revealed that each was created with the active financial and physical assistance of the Soviet Government in Managua, compiled by American citizens strongly sympathetic to that regime, and promoted in Washington by a public relations firm which in the past served as a registered agent for the Sandinistas. WOLA itself has consistently maintained a bias in favor of the Marxist-Leninist governments.

All three of these reports were released shortly before the votes in Congress which would have sent military aid to the Nicaraguan freedom fighters. All three received positive coverage in the mass media at the time of their release, and all three were endorsed and promoted on the Hill in the legislative battle against aid to the resistance. This cycle of disinformation has been repeated today in the Washington Post. One article opposing aid is based on a news conference sponsored by WOLA. Another article claims that the Contras have placed mines to kill civilians. It bases its credibility on "a knowledgeable source," if one can believe that.

How willingly we seem to fall for this disinformation. The net result of our failure to comprehend this disinformation has been the paralysis of our decisionmaking process with regard to the freedom fighters. The Sandinistas realize that the key to their survival is our continued paralysis and their Interior Minister, Tomas Borge, has admitted this in saying that the battle for Nicaragua is not being waged in Nicaragua; it is being fought in the United States.

My colleagues, we must see through the Sandinista subterfuge and disinformation now, at this critical vote and juncture in Congress today. Let us vote for the Edwards-Skelton amendment and do the right thing with regard to our relations with Nicaragua and allow democracy a decent chance.

We all know that immediate military aid is the only way to prompt concessions from the Sandinistas to give democracy a chance in that poor country.

Mr. HEFNER. Mr. Chairman, I would inquire as to the time remaining on each side.

The CHAIRMAN. The gentleman from North Carolina [Mr. HEFNER] has 10 minutes remaining and the gentleman from Oklahoma [Mr. EDWARDS] has 16 minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. I thank the gentleman for yielding this time to me.

Mr. Chairman, as we approach this vote this afternoon, this major foreign policy vote, I would like to share with my colleagues, especially with those very few undecided, three reasons why I am supporting the Edwards-Skelton amendment.

First of all, I think we need to give the new democracies in Central America an opportunity, a chance to survive, to grow, and in time to flourish. I think if we allow the existing government in Nicaragua to totally maintain its control over that nation that it is only a matter of years until their subversion will truly be thoughout Central America.

Second, I am concerned about the people in Nicaragua. Think about it. Think about a single Communist system in the history of the world since the Russian revolution of 1917 that has worked. There are none. Think of a single Communist system with the basic freedoms that we take for granted, to assemble, religion, to debate, to have opposing ideas. It does not exist in those countries. Think of the economic pie, the economic opportunities. Every Communist country's economy is in a shambles today. The system just does not work.

I recently visited with a lady who was here from Cuba, an elderly lady.

She told me of how she had to carry water each morning up four flights of stairs to her apartment. The running water had quit working years ago. How she had been on a waiting list for 5 years to be able to buy a refrigerator. Her block captain made the determination as to who purchased what capital goods as such.

Is this the type of system the people of Nicaragua want? I suggest no.

Finally, I think a vote for Edwards-Skelton is a vote for our children.

□ 1310

If I might quote from Will Durant, one whom I consider to be America's greatest historian, his last work which he wrote so many, many years ago now, stated:

> Young nations, longing for an Industrial Revolution to give them economic wealth and military power, are impressed by the rapid industrialization of Russia under governmental management; Western capitalism might be more productive in the end, but it seems slower in development; the new governors, eager to control the resources and manhood of their states, are a likely prey to Communist propaganda, infiltration, and subversion.
>
> Should the leaders of America consider only the reluctance of this epicurean generation to face so great an issue, or should they consider also what future generations of Americans would wish that these leaders had done?

Should we consider what our children would wish that we would do today?

Mr. HEFNER. Mr. Chairman. I yield 4 minutes to the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL of Michigan. Mr. Chairman, as a member of the Subcommittee on Military Installations and Construction of the Committee on Armed Services, I arise to tell the House that in the very first section of the bill, I will be offering an amendment to strike the funds for home porting that has already been alluded to in this hour of debate.

This is a cost issue. This is not a partisan issue in any way. You can see that from the votes that have been taken in the other body, and also in the House Committee on Armed Services, the authorization committee.

If you are concerned about the defense budget, if you are concerned about waste in the defense budget, if you are concerned about the facilities in your own State that you believe are necessary for the military strength of this Nation, then listen hard and listen good.

In this bill, you will see the beginning of at least $1.5 billion to start home porting, to move ships from some ports that exist today to brandnew ports.

It has been said it will only cost $800,000 and they are willing to cap it.

Mr. DICKS. Mr. Chairman, will the gentleman yield on that point?

Mr. HERTEL of Michigan. When I am done. I let the gentleman finish his statement; the gentleman should let me finish my statement.

Mr. DICKS. It is $800 million, not $800,000. I thought the gentleman would want to correct his mistake.

Mr. HERTEL of Michigan. Mr. Chairman, $800 million is the figure that the Navy uses.

To be exact, the Navy uses the figure of $799 million.

But what it will cost is at least $1.5 billion. We believe the cost could go as high as $2 billion because we know from the Navy itself, they have not included in any way, shape or form the cost of housing for all of the sailors they want to move to these new ports.

But even more severe, we have environmental questions in the State of Washington. What they want to do is dredge up toxic waste in that harbor and they want to take it and dump it in the ocean, an amount of toxic waste that has never been dredged up to that great a degree. They want to dump it in the ocean. Many citizens in Washington State and around this country are concerned about that.

Another question with Everett, WA, is that it is going to take a brandnew road, $50 million. They tell us the legislature will pay for that, yet we have no authorization, no bill, no promise in law that the State of Washington will pay for this road. So if we pass the authorization; if we pass the appropriation this year, they will not have to pay for that road. In fact, the Washington Legislature does not even meet until next year. That is no assurance again for another $50 million there for the road that is necessary in order to reach the new naval base.

The other new port that is in this appropriation is that of New York City at Staten Island. First of all, why would you disperse naval ships to New York City when it is one of the top targets of the Soviet Union?

Second, why would you think it would be cheaper to disperse ships and sailors to a home port in New York when it is the most expensive city in the United States? Clearly it will cost more there for housing than it will in any other part of this country.

I said it is not a partisan issue. In the other body, the chairman of the Committee on Armed Services, BARRY GOLDWATER, who has received more awards from the defense community for his work in strengthening the security of this Nation than any other American in the history of this country, came out and called it politics. He said it was bad and a waste of money.

In our committee in the House, in the subcommittee, it did pass after Everett was deferred because of the questions that I raised and that language is in the bill in the authorization. Second, we cut down New York from $91 million for this year to $54.4 million and it still only passed by 10 to 7 in the subcommittee, with the chairman voting against it.

In the full committee yesterday, there was a lengthy debate. The debate lasted in the subcommittee for a day and a half on this question alone of home porting.

In the full committee, the vote was 20 to 27, again the chairman voting "no."

I ask you to listen to the amendment later. It is not home porting; it is home porking. It is a pork barrel and this House should vote against it.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding.

Many of my colleagues have made a number of allegations against the Contras today and I submit to them that they ought to read a report that came out by the State Department yesterday which refutes almost every one of those allegations, from the $450,000 that was allegedly paid to a Honduran officer, to the little grocery store that received $3.2 million. Every one of those arguments have been refuted by the State Department and I know that these are errors that my colleagues have made simply because they have not read the report. I wish they would read the report today to get the facts straight so they can tell the American people what the facts really are.

The facts are these: that 12 of the 19 countries south of the Mexican-American border have either Communist guerrillas trained in Nicaragua or weapons that came through Nicaragua or both. There is a cancer down there that is spreading out of Nicaragua that will engulf all of Latin America if we do not take action right away.

The Soviet Union has sent $1 billion in military assistance to Nicaragua. Why did they do that? It certainly was not because they are our friend. They want a military base on the mainland of North America and they are going to get it if we do not do what is right here today.

Mu'ammar Qadhafi sent $400 million to Nicaragua because he said: "We fight with our brothers; we support you because you fight America on their own soil." Our old buddy, Mu'ammar Qadhafi. Why would he send $400 million down there? He wants to see America withdraw her support from the Middle East so the PLO and the Soviets will have their way in that area.

Vietnam has sent weapons down there. The PLO has sent supporters down there. All the Communist fellow travelers are down there.

The Communists have not lived up to one commitment they made to the

Organization of American States in 1979. We should push to make them do that, and the only way to do that is to give the freedom fighters the $100 million that they need to keep pressure on the Sandinista government

What happens if we do nothing? Let us listen to what the President of the United States said yesterday in his speech. He said, and I quote, "Nicaragua is becoming a Soviet base every day that we debate and debate and debate and do nothing."

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, 36 years ago today, the North Koreans marched across the 38th parallel and invaded South Korea. President Truman responded with a very quick response and this Nation defended the freedom of the South Koreans.

□ 1320

That was June 25, 1950.

I suspect that if President Truman had come to the well of the House in the spring of 1950 and said, "Members of Congress, we have intelligence reports that the North Koreans are arming north of the border, would you please authorize money so that we can defend the people, our interests and our friends in South Korea?" Probably Congress would have said, "We don't want to do that; we don't want to spend money there."

Today we have a government in Nicaragua that is arming itself with help from its friends around the world, specifically, the Soviet Union and Cuba. Sometimes we have to ask ourselves whether people really intend to do what they say.

Listen to these comments of Minister Thomas Borge of Nicaragua. He says:

> We have Nicaragua, soon we will have El Salvador, Guatemala, Honduras, Costa Rica and Mexico.
>
> One day, tomorrow or 5 years or 15 years from now, we're going to take 5 to 10 million Mexicans and they're going to have one thing on their mind—cross the border, go into Dallas, go into El Paso, go into Houston, go into New Mexico, go into San Diego, and each one has inbedded in his mind the killing of 10 Americans.

Just maybe he means that. Some people will say, "Well, they don't have the capacity." There was a man named Adolf Hitler in 1923 in Lansdown Prison in Germany who wrote "Mein Kampf." The world did not pay any attention to him, either. World War II resulted from that.

To say, "Well, the Nicaraguans do not have the capacity of Germany," the response is they have friends around the world that will provide them with arms—the Soviet Union and Cuba.

The people, the Contras in Nicaragua, are fighting our battle for freedom. It is in our interest to help them at this time in order to stave off further involvement later on.

Mr. HEFNER. Mr. Chairman, may I inquire of the Chair the time remaining?

The CHAIRMAN. The gentleman from North Carolina [Mr. HEFNER] has 6 minutes remaining, and the gentleman from Oklahoma [Mr. EDWARDS] has 8 minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. FIEDLER].

Ms. FIELDER. Mr. Chairman, as we enter this very important debate, I cannot help but reflect upon this, not so much as a Member of the House of Representatives from the State of California, but as a citizen whose four grandparents left Eastern Europe, a portion of which is now a part of the Soviet Union, in order to evade the religious repression which existed for them at the beginning of the turn of the century.

I cannot help but think about what happened in Eastern Europe since World War II, which we all went through, and I cannot help but think about how would I feel if I were a citizen of Hungary or Poland or one of the other Eastern European nations, watching the debate going on here in the House of Representatives on whether or not we ought to assist those democrat efforts of the people of Nicaragua, the Contras, to try to restore some form of democracy to that country.

As we look at the history of what has happened throughout the world, Mr. Chairman, the loss of rights on the part of many citizens who now live under the cloak of communism, I cannot help but wonder how they would feel and what kind of decisions they would be making if they had the right to cast their vote today for aid for those democratic efforts that are being made.

I know, and I believe in my heart, that I am one of the lucky ones; and many people in this country are among the lucky ones whose family happen to avoid that kind of lifestyle because they had the courage to leave at a time when it was very dangerous politically and religiously to think and feel the way they did.

The same thing is going on today in Nicaragua. The Jewish community has all but evaporated from the scene because of religious repression; the Miskito Indians are almost nonexistent because of more repression there; the Catholic Church has not had the outcome they would like.

Do not denigrate the lives of people in Central America to this kind of lifestyle. They deserve better.

Mr. HEFNER. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Chairman, I would like to thank the chairman for yielding, and I congratulate the chairman and the ranking minority member, the gentleman from Oklahoma for a job well done on this military construction bill, a bill that addresses the quality of life of our personnel; a bill that includes housing, day care, medical; improvements for our military personnel. Important to personnel morale and for national security.

I would also like to congratulate my friend from the State of Washington that serves on the subcommittee, Mr. DICKS, for the work he does on quality of personnel. That is really important.

When the Hertel amendment comes up today, Mr. Chairman, I will vote for it. One of the home ports is no further than 20 miles from my home, and that is not an easy vote; but it is a vote I am going to cast for the Hertel amendment, because we cannot afford this expenditure in today's austere budget requirements.

We are going to miss the Gramm-Rudman target this fall. Let us stop kidding ourselves about that; the revenues are falling fast. We are going to miss the Gramm-Rudman target.

What are we going to do about that? Are we going to continue to say that we can go ahead with expenditures that do not make it on the high priority list? The simple fact of the matter is, home port is not as important as some other things within the military budget and some other things within the rest of the budget in this country.

We have got to be willing to make the tough cuts where they have to be. At home I have editorials that say, "You've got to balance the budget; you've got to make those cuts. Make sure you pay for the Everett home port." You cannot have it both ways.

If we are going to meet Gramm-Rudman, if we are going to make the priorities for personnel to have a strong military, if we are going to meet all the things we have said we are going to do, we have got to be willing to make the tough votes.

The right vote today will be for the Hertel amendment. Then after that, the right vote will be to support the committee on the rest of the fine work of title I on military construction within this bill.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON], who did not get a chance to finish his statement.

Mr. BURTON of Indiana. Mr. Chairman, I want to conclude the statement I started a while ago.

I ended by saying, "What happens if we don't do anything?" I wanted to quote the President of the United States, in the speech that he made yesterday. I think it is very important

that this body hear once again what the President had to say:

Nicaragua is becoming a Soviet base every day that we debate and debate and debate—and do nothing.

In the 3 months since I last asked the House to aid the democratic resistance, four military cargo ships have arrived at Nicaraguan ports, this time directly from the Soviet Union. Recently we have learned that Russian pilots are flying a Soviet A.N.-thirty reconnaissance plane for the Sandinistas.

The Sandinistas claim this is just for making civilian maps. Our intelligence services believe this could be the first time Soviet personnel have taken a direct role in support of military operations on the mainland of North America.

Think again how Cuba became a Soviet air and naval base. You will see what Nicaragua will look like if we continue to do nothing. Cuba became a Soviet base gradually over many years. There was no single dramatic event—once the missile crisis passed—that captured the nation's attention. And so it will be with Nicaragua.

The Sandinistas will widen and deepen another port while we debate: is it for commercial vessels or Soviet submarines? The Sandinistas will complete another air strip while we argue: is it for 707's or Backfire Bombers? A Soviet training brigade will come to Nicaragua. Half will leave and half will stay. And we will debate: are they soldiers or engineers?

Eventually, we Americans will have to stop arguing among ourselves. We will have to confront the reality of a Soviet military beachhead inside our defense perimeters—about 500 miles from Mexico. A future President and Congress will then face nothing but bad choices, followed by worse choices.

My friends in the House, for over 200 years the security of the United States has depended on the safety of unthreatened borders, north and south. Do we want to be the first elected leaders in U.S. history to put our borders at risk?

I hope Members will listen to the President of the United States.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER].

Mr. RITTER. Mr. Chairman, in the Washington Post today there is an editorial, and I would like to quote from one part of the editorial.

It states that:

The United States has important work to do in Central America: to ensure that Nicaragua not become a strategic base or a threat to its neighbors, * * *

□ 1330

Now the key word here is "become." Is not Nicaragua a strategic base poised against its neighbors and the United States already? Is that not a base that is currently building up? But we have seen the photographs of the 11,000-foot air strips, we have seen the photographs of the port that is being built on the east coast for deep-water naval vessels away from commerce and industry or population zones.

The fact is, ladies and gentlemen, Nicaragua already is a base now.

Now, what does the Washington Post say we should do to undo this Soviet base in our backyard? It does not say anything. What do my colleagues who vote against Contras aid say we should do to undo the Soviet base abuilding in our backyard? Nothing.

What does the Speaker of the House suggest that we do? Nothing.

Mr. EDWARDS of Oklahoma. Mr. Chairman, may I inquire how much time remains on this side?

The CHAIRMAN. The gentleman from Oklahoma [Mr. EDWARDS] has 2 minutes remaining.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding and for giving me the opportunity to make one observation.

We tend around here to get all mixed up in our priorities. We forget the basic issue. We go on and start analyzing the situation, and we forget that the basic priority, the basic issue here should be to help the Contras to help us get rid of the Sandinistas who will become or who will make Nicaragua a colony for the Soviets.

I was struck by the similarity here. I was looking at a magazine and saw one of these cute little pictures in the magazine of a kitten playing with a ball of yarn, and pretty soon that little kitten gets all mixed up, she gets all wound up in that yarn and cannot move. I think that by overanalyzing this thing we bring all kinds of extraneous issues into play, and we end up getting all snarled up in that twine and we are not able to move. So unless we keep our eye on that basic issue, that we do not want Nicaragua as a Soviet colony, then we are liable to get all bound up and cannot move.

Mr. EDWARDS of Oklahoma. Mr. Chairman, to conclude debate on our side, I yield 1 minute to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. I thank the gentleman for yielding.

Mr. Chairman, the debate has been excellent, but as the President said yesterday in his very eloquent statement from the Oval Office, as we continue to debate this issue, the Soviet Union continues to strengthen its hold in Central America.

As I have said here over and over and over again, there are two revolutions taking place in Nicaragua. One is that revolution to which the President referred yesterday, the revolution without borders, being strengthened by Mu'ammar Qadhafi, Yasser Arafat, Fidel Castro, and the Soviet Union.

The second revolution is the one that has been going on since 1979. It is that important revolution which overthrew the oppressive dictatorship of Anastasio Somoza. It is the revolution which promised free and fair elections, ending human rights violations, political pluralism and foreign policy that is not aligned; it is critically important that we do everything we can for those people who are reaching out for the same kinds of freedom that we have today and support this amendment being offered by the gentleman from Oklahoma.

Mr. HEFNER. Mr. Chairman, I yield myself the balance of my time to close the debate.

Mr. Chairman, we have a good bill. I know what our bill does. It helps the quality of life, it does a lot of things for a lot of people. It aids a lot of districts across this great country of ours, and it aids our allies, in Europe and different parts of the world. If I felt that $100 million for aid to the Contras would overthrow the Sandinistas and remove all the influence of the Soviet Union in Cuba, I would vote for $100 million. If I thought $200 million would do it, or if I thought $300 million or $500 million would do it, I would support it. I do not think it will. Now I have heard debate on this House floor earlier today that this is the most important vote we are ever going to cast; it is today or not at all. People got very emotional about it. It is an issue of liberal against conservative. That is not true. In the cafeteria line in my hometown of Concord, NC, a big Republican opponent who never supports me said, "Do not give them a dime because we do not think it is warranted".

I have had people from the different churches, from the Methodist Church, from the Presbyterian Church, and from other churches who have been there on the scene. I do not think they have been totally indoctrinated. Living in the countryside, that they have reported some atrocities. Some of those atrocities that they have reported I believe. I believe that there are certainly atrocities on the part of the Sandinistas, but I certainly believe there should be some scrutiny toward the Contras. For that reason I am not satisfied in my mind that these are a bunch of good old boys who want to get rid of all the Communists. When I see even the hint of some of these moneys going into bank accounts, which is part of my taxpayer money, and I am a taxpayer who incidentally paid more taxes last year personally than General Electric in dollars. But to me it is too simplistic a statement to say that, "if you will give us $100 million, we are on the side of the gods, we are right and we will get rid of the Sandinistas."

Somewhere down the line, we are going to have to talk tough with the Russians and the Cubans. They are the ones sending in the gun ships. They are the ones sending in the supplies. I have not talked with one person, not one person who believes that the Contras can effect a change

in the government of the Sandinistas. So for that reason I oppose aid to the Contras. If I thought $100 million or $200 million or half a billion dollars would do the job, I would gladly pay my part as a taxpayer of the United States.

We have got a good bill here. We do a lot of things for a lot of worthy districts across the country, for our fighting people, and for quality of life. I would hope in the final analysis when this bill is voted on, we will not overlook the good done in this bill and get sidetracked on side issues.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to express my strong opposition to H.R. 5052, the military construction appropriation for fiscal year 1987. The $2 billion reduction in construction funding for 1987 represents a dramatic shift in policy. A policy shift which will lead to a deterioration of morale and readiness within our Armed Forces.

The Packard Commission suggests that long-term, consistent budgets are one way to reduce waste within the military. However, in a rush to meet the Gramm-Rudman budget targets the House has begun to lead our reinvigorated Armed Forces back down "a slippery slope." And, I suggest that within a few years these drastic cuts in the support funding for our soldiers will lead us back to a time that is better left forgotten. A time when the military career was not viewed as an acceptable career opportunity by our young men and women.

For the long-term health of our armed services, this Congress must resist the temptation for quick, indiscriminate fixes. Unfortunately, this appropriations bill suggest some rather dramatic and unhealthy cuts.

Specifically, I am alarmed by the subcommittee's decision to delete all funding for the facilities at Fort Wainwright and Fort Richardson, AK, which will support the recently activated 6th Light Infantry Division.

Mr. Speaker, the previous 172d Brigade was split between Fort Wainwright and Fort Richardson in Alaska. The Department of the Army has reconfigured this force into the 6th Light Infantry Division.

The new 6th Division has an important dual role: First, to provide a strategically placed and well-trained light infantry division that can be deployed quickly—over polar routes—to areas of regional conflict; and second, to protect the valuable mineral assets and strategic military bases in Alaska.

The logic behind the Army's decision to station a light infantry in Alaska is sound. Alaska's massive size and varying terrain provide an excellent training ground for a light infantry. For this same reason, the 6th Light Infantry Division will be able to provide, as its second mission, the effective defense of Alaska. In addition, because of the availability of existing facilities in Alaska, the activation of the 6th Division will be cost effective.

These two missions are not only compatible but necessary. This dual role is increasingly important in light of the continued Soviet encroachment into the pacific arena. This spring, I participated in an enthusiastic ceremony to activate the 6th Light Division in Alaska. I was particularly proud and impressed by the amount of public support displayed by the residents of Fairbanks and Anchorage, AK.

As the closest State to the Soviet Union, the importance of an adequate defense has always been a top priority of Alaskans. Mr. Chairman, I would like to submit for the RECORD an article which outline the vulnerability of Alaska to Soviet infiltration.

Mr. Chairman, I am sensitive to the need for deficit reduction. I also believe that the Department of Defense needs to share in a portion of that burden. However, the House has pulled the rug out from under our military construction programs, particularly the indescriminate reduction of all construction funding for the 6th Light Infantry. In light of the vital role that Alaska will play in the defense of the United States, I urge that the House to reconsider, in conference, its unfortunate decision to delete all construction funding for the 6th Division.

[From the Washington Post, June 16, 1986]

ALASKA VULNERABLE TO SOVIET INFILTRATION

(By Jack Anderson and Dale Van Atta)

The ugly reality of more than 30,000 highly trained Soviet men and women specializing in assassination, sabotage and other deadly mischief—the Spetsnag forces—has not been lost on the Pentagon's counterterrorist experts. They've been quietly preparing U.S. defenses against the Soviet special forces.

No place is more vulnerable to Spetsnaz infiltration than Alaska. The vast area of the thinly populated 49th state—one-sixth of the total U.S. land mass—stretches to within three miles of the Soviet Union in the Bering Strait. Indeed, there are some in the Pentagon who maintain that Spetsnaz forces are training against targets in Alaska.

These suspicions, plus unconfirmed reports of unusal Soviet equipment in the Soviet Far East and possible Russian infiltration of Alaska, prompted Dale Van Atta to visit the area and investigate the threat posed by special forces commandos.

Last summer the Air Force took part in a coordinated exercise in Great Britain, Operation Brave Defender, aimed at a potential Spetsnaz strike. Even more to the point, the largest military exercise—open or secret—against the Soviet threat was staged in Alaska last year.

Operation Brim Frost involved 18,100 Army, Navy, Air Force, Marine and Coast Guard personnel, 285 aircraft and 1,150 vehicles.

The difficulty of defending Alaska against infiltrators is staggering. There are 72 square miles of Alaska for each U.S. soldier based there. Yet it may be, as the late Gen. Billy Mitchell once said, "the most strategic place in the world"—an area vital to U.S. security in the age of high-speed aircraft and intercontinental ballistic missiles.

Operation Brim Frost was in part "designed to meet the threat of sabotage operations against critical facilities by unconventional warfare forces," according to a briefing on the war game. In southern Alaska, "enemy" forces attacked the Beluga Power Station, which supplies electricity for much of the Anchorage bowl, where two-third of Alaskans live.

In central Alaska, Army Special Forces posing as Spetsnaz attacked the Trans-Alaska pipeline, which supplies oil to the "Lower 48."

While the security Van Atta inspected at the pipeline's source in Prudhoe Bay was impressive, oil officials acknowledged that it is impossible to defend the entire 799-mile length of the pipeline as it goes south. About 420 miles of pipeline are above ground: 4 feet in diameter but only an inch thick, easily vulnerable to even a rifle bullet.

Other tempting targets are the radar stations that provide the crucial early warning of missiles headed toward the Lower 48.

For example, Van Atta walked within a few feet of the "vitals" of an early warning station six miles east of the northernmost U.S. community, the Eskimo village of Barrow. He was not viewed with suspicion.

Pentagon and Alaskan officials admit there have been reports of suspicious activities by unidentified Caucasians along the state's western coast north of Nome and on St. Lawrence Island. This is the area closest to Siberia, and the intruders could have been Soviet Spetsnaz infiltrators.

Mr. BOULTER. Mr. Chairman, I rise in support of the fiscal year 1987 military construction appropriations bill. I am particularly pleased that the Appropriations Committee has included $12 million in funding to construct a medical training facility at Sheppard Air Force Base in Wichita Falls, TX.

Although the full $14.2 million for this project was not approved by the committee, I am encouraged that the committee has chosen to fund this very worthy project. As many of you may know, Sheppard Air Force Base trains all medical personnel for the Air Force, including physicians, dentists, nurses, and technicians. The facilities currently in use at Sheppard are woefully inadequate to train our military medical personnel and are presently located inside an old Titan missile assembly building and two adjacent buildings. Much of the laboratory and training facilities are outdated and technically obsolete. I believe we would all agree that the medical personnel of our armed services deserve nothing but the very best training facilities. For this reason, I encourage my colleagues to join me in support of this measure.

Mr. HALL of Ohio. Mr. Chairman, I rise in opposition to the bill. I do so with great reluctance because of the importance of this bill to my district. Since coming to Congress, I have consistently supported the military construction program. Just this March, I testified before the Appropriations Subcommittee on Military Construction in favor of the Military Construction Appropriations Act.

During the consideration of this bill in the Rules Committee, I offered an amendment to the rule to protect the Military Construction Appropriations Act from being tied up in a complicated legislative process that would confuse military construction with the unrelated Contra aid issue.

When that amendment was defeated, I opposed the rule in committee. I carried my effort to the floor to protect the Military Construction Appropriations Act, and I actively opposed adopting the rule.

Because the rule was approved, we are now considering a bill which is not the Military Construction Appropriations Act. It is some weird hybrid that approves money for military construction projects and gives aid to the Contras. I oppose aid to the Contras on moral grounds, and therefore, I must vote against this bill.

I do so, noting that if the bill is defeated, the House leadership is committed to bringing the Military Construction Appropriations Act to the floor—without unrelated Contra aid provisions.

I urge my House colleagues to defeat this bill to defeat aid to the Contras. And, in doing so, to allow a clean vote on the Military Construction Appropriations Act.

Mr. HEFNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Under the rule, all time has expired.

The Clerk will read.

The Clerk read as follows:

H.R. 5052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1987, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $1,200,070,000, to remain available until September 30, 1991: *Provided,* That of this amount, not to exceed $131,640,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor. In addition, for construction at Fort Drum, New York, there is appropriated in advance to be available for obligation in fiscal year 1988, $221,000,000, to remain available until September 30, 1992, and to be available for obligation in fiscal year 1989, $214,000,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,364,090,000, to remain available until September 30, 1991: *Provided,* That of this amount, not to exceed $143,770,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,228,630,000, to remain available until September 30, 1991: *Provided,* That of this amount, not to exceed $127,260,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $541,563,000, to remain available until September 30, 1991: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $78,200,000, shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committee on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the amount available for study, planning, design, architect and engineer services, $10,000,000, shall be available for site preparation construction in conjunction with the replacement hospital at Brooke Army Medical Center, Texas.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisiton of personal property, for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $247,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $115,724,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $140,000,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction Acts, $76,417,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction Acts, $44,500,000, to remain available until September 30, 1991.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $58,900,000, to remain available until September 30, 1991.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $367,680,000; for Operation and maintenance, $1,198,248,000; for debt payment, $8,063,000; in all $1,573,991,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1991.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $171,392,000; for Operation and maintenance, $532,031,000; for debt payment, $9,071,000; in all $712,494,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1991.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $96,840,000; for operation and maintenance, $703,215,000; for debt payment, $7,365,000; in all $807,420,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1991.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military depart-

ments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $240,000; for Operation and maintenance, $16,230,000; in all $16,470,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1991.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except; (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 113. None of the funds appropriated by this Act may be obligated and expended in any way for the express purpose of sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu, Hawaii.

SEC. 114. None of the funds in this Act may be used to initiate a new installation overseas without notification to the Committees on Appropriations.

SEC. 115. None of the funds appropriated in this Act for F-16 beddown projects in Misawa, Japan, may be obligated or expended unless there has been notification to the Committees on Appropriations that the approved Government of Japan budget for fiscal year 1987 includes projects associated with the F-16 beddown as an additive over the level of funding provided in Japanese fiscal year 1986 for the facilities improvement program.

SEC. 116. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 117. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 118. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 119. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1987, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 120. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 121. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the Ninety-ninth Congress.

SEC. 122. For transfer by the Secretary of Defense to and from appropriations and funds available during fiscal year 1987, or thereafter, for military construction or expenses of family housing for the military departments and Defense agencies, in order to maintain the budgeted level of operations for such appropriations and thereby eliminate substantial gains and losses to such appropriations caused by fluctuations in foreign currency exchange rates that vary substantially from those used in preparing budget submissions, an appropriation, to remain available until expended: *Provided*, That funds transferred from this appropriation shall be merged with and be available for the same purpose, and for the same time period, as the appropriation or fund to which transferred, and funds transferred to this appropriation shall be merged with, and available for the purpose of this appropriation until expended: *Provided further*, That transfers may be made from time to time from this appropriation to the extent the Secretary of Defense determines it may be necessary to do so to reflect downward fluctuations in the currency exchange rates from those used in preparing the budget submissions for such appropriations, but transfers shall be made from such appropriations to this appropriation to reflect upward fluctuations in currency exchange rates to prevent substantial net gains in such appropriations: *Provided further*, That authorizations or limitations now or hereafter contained within appropriations or other provisions of law limiting the amounts that may be obligated or expended for military construction and family housing expenses are hereby increased to the extent necessary to reflect downward fluctuations in foreign currency exchange rates from those used in preparing the applicable budget submission: *Provided further*, That for the purposes of the appropriation "Foreign Currency Fluctuations, Construction, Defense," the foreign currency rates used in preparing budget submissions shall be the foreign currency exchange rates as adjusted or modified, as reflected in applicable Committee reports on the Acts making appropriations for military construction for the Department of Defense: *Provided further*, That the Secretary of Defense shall provide an annual report to the Congress on all transfers made to or made from this appropriation: *Provided further*, That contracts or other obligations entered into payable in foreign currencies may be recorded as obligations based on the currency exchange rates used in preparing budget submissions and adjustments to reflect fluctuations in such rates may be recorded as disbursements are made: *Provided further*, That no later than the end of the second fiscal year

following the fiscal year for which appropriations for Family Housing Operation and Maintenance have been made available to the Department of Defense, and no later than the end of the sixth fiscal year following the fiscal year for which the appropriations for Military Construction and Family Housing Construction have been made available to the Department of Defense, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense": *Provided further*, That, at the discretion of the Secretary of Defense, any savings generated in the military construction and family housing programs may be transferred to this appropriation.

SEC. 123. The Secretary of the Navy shall enter into negotiations with shipyards located on Sampson Street, San Diego, California, and on Fort George Island, Jacksonville, Florida, to determine what liability (if any) the United States has for damages suffered by such a shipyard resulting from facility improvements made by such shipyard during 1982 in good faith reliance on representations and assurances provided to officials of such shipyard by representatives of the Department of the Navy in 1981 and 1982 with respect to future work of the Department of the Navy at such shipyard.

This Act may be cited as the "Military Construction Appropriations Act, 1987".

Mr. HEFNER (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill up to title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Are there any points of order against that portion of the bill not protected by the rule?

The Chair hears none.

AMENDMENT OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFNER: On page 3, line 14, after the word "law," strike out "$1,228,630,000" and insert "$1,220,130,000".

Mr. HEFNER. Mr. Chairman, I offer this amendment to bring the military construction appropriation bill (H.R. 5052) into compliance with the military construction authorization bill. The amendment reduces the Air Force military construction account by $8,500,000 to reflect the deletion of an unaccompanied officer personnel housing project at Goodfellow AFB, TX. This project is not authorized in the current version of the military construction authorization bill.

I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. HEFNER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS: At the end of the bill, insert the following:

"SEC. 124. For military construction for the strategic homeporting initiative, no more than $799,000,000 shall be appropriated or obligated through fiscal year 1991."

Mr. DICKS. Mr. Chairman, this amendment has been concurred in by the Secretary of the Navy and by the Department of Defense. Some Members have stated that the program for military construction and strategic home porting would range from $1.5 billion to $2 billion, to whatever.

What my amendment does is put all that to rest. This amendment would put a cap on this program of $799 million for all of the strategic home ports over the next several years. Obviously, the Navy sent up a budget program which delineates how much money is in there for each of these home ports. I believe, for Everett, WA, for example, it is $272 million. We are prepared to live with a cap on each of those programs as submitted by the Navy.

I hope this will end this question of, How much is this program going to cost? Second, I want to point out that there is a cost to putting these ships at existing home ports, and the cost runs around $600 million. So we are talking about a delta of $200 million to disperse the fleet. Every recent CNO supports this program.

Let me just mention what Admiral Zumwalt said. Admiral Zumwalt said that he strongly supported the program. He felt that it was in our vital interest—dispersing the fleet would add to the survivability. That is what we are talking about here. We are talking about dispersing the fleet so that, in case of a Soviet attack or some attack, all of our ships would not be in one place. This is the lesson that we learned from Pearl Harbor. This is the lesson that we painfully learned there when Tora, Tora, Tora occurred. Dispersing the fleet makes sense militarily and it is worth $200 million over the next 5 years.

I want to say this also to my committee members and friends, that our committee has done its job. I resent the allegation that was made earlier here that we have not made the tough choices. This committee reduced by over $2 billion the request made by the President of the United States for military construction. We made a lot of tough choices, as did the distinguished gentleman from California when he marked up this bill. So we have done our job. We are under Gramm-Rudman limitations, we are under any 050 targets, because we have done this job effectively.

The Secretary of the Navy has ranked this program as one of his highest priorities militarily because he understands that adding these ships to existing home ports would cost us a lot of money; we would have triple nesting. It is not good for those young sailors to have to walk across three other ships to get out to the fourth ship.

So this amendment stops all the malarkey, stops all the wild statements; it gets right down to it. We are capping this program. We have done this before. We did it on the B1B program. This is not unprecedented. I think the chairman of the committee, I am sure, would love to support this amendment, knowing of his frugality in these matters.

I yield to my friend from California, if he would like to endorse my amendment.

Mr. DELLUMS. Are you yielding to me?

Mr. DICKS. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Now let me simply ask, is the thrust of the gentleman's amendment to put a "cap" on the amount of money that this administration plans to spend for the program euphemistically referred to as the strategic home porting program at $799 million?

Mr. DICKS. Yes. This is in military construction funds.

Mr. DELLUMS. I would simply say to my colleague first that I would support the thrust of that amendment. Obviously I would not be here to oppose it. I personally think that dispersing the ships is an inadequate concept. You talk World War II. We are talking about a nuclear age and an age of MIRV technology, and I think that that renders that bizarre and absurd.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. DICKS was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman continue to yield?

Mr. DICKS. I would, of course, yield to the distinguished chairman of the Subcommittee on Military Construction of the Committee on Armed Services, whose subcommittee voted in favor of the concept of strategic home porting.

Mr. DELLUMS. I appreciate that. I simply say to my colleague one admonishment: Those of us who have been around here a long time know that there are caps and there are caps and there are caps. This sort of puts the nose of the camel under the tent, and I would believe beyond the shadow of a doubt that when we go back to this page 2 or 3 years from now, I guarantee you will find that this program will go far beyond $799 million.

□ 1345

The chairman of the Senate Committee, STROM THURMOND, on your counterpart authorizing committee, has also said that he wants a cap, and

it has report language demanding a cap at $799 million. Now he is chairman over there, the gentleman is chairman over here, and I am on the Military Construction Subcommittee. Mr. HEFNER and Mr. EDWARDS of Oklahoma are going to accept this amendment. I think right here we have the ability to make this cap stick.

Mr. DICKS. I would not think that the gentleman from California would renege on a solid commitment made here in the House of Representatives about maintaining this cap. Those were the old politics, and the gentleman has never been part of that.

Mr. DELLUMS. Mr. Chairman, I appreciate that from the gentleman, and I support the gentleman's amendment, and I will call the gentleman to task whenever we see that we go beyond $799 million.

Mr. DICKS. We will be there together, shoulder to shoulder.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I appreciate the gentleman yielding to me.

I am glad to know that all these people have signed on this cap, but what is capped? What is prevented from falling under the homeporting?

Mr. DICKS. This is the money that has been programmed by the Secretary of the Navy for strategic homeporting, the military construction money that has been allocated and will be requested. The Secretary has said that we can live with this. This money will be able to take care of all the strategic homeports that were in the Secretary's original plan, including those very important homeports on the gulf. All of the military construction money that is requested is captured in this amendment and was protected. It is all there. It was signed off.

Mr. LIVINGSTON. Mr. Chairman, if the gentleman will yield further, if all of that is protected and all of that is being capped in, what is being capped out?

Mr. DICKS. Well, it is this overstatement that has been made by some of the opponents who want to make this sound like it is a $1.5 billion program. We are just putting it right here in law that it cannot be.

That is why I think it ends this argument about inaccurate assessments that have been made about the cost of this program.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I think the gentleman from Louisiana [Mr. LIVINGSTON] raises a very good question, and the gentleman from California would like to put a little more specificity on it.

A $799 million cap, would that include family housing?

Mr. DICKS. I think that, except in one instance, family housing is not needed. We do not need family housing in Everett, WA. We have housing available to take care of this. There is no request in the budget for family housing at Everett. There never has been, and there never will be.

Our private sector people want to build housing in the State of Washington. We do not need military housing. I will not allow it to be funded.

Mr. DELLUMS. If the gentleman will yield further, that is not good legislative history. The gentleman has not answered the question.

Is family housing an integral part of the $799 million cap?

Mr. DICKS. Family housing is not part of the administration's program, so it is not capped.

I think there may be a request in New York, but that has not been funded by the gentleman's committee.

Mr. DELLUMS. So the answer to the gentleman's question is that family housing will fall outside of this $799 million cap.

Mr. DICKS. But it is not part of the request of the administration. That is what I am trying to tell the gentleman. They have not requested family housing, for example, at Everett, WA.

Mr. DELLUMS. Mr. Chairman, if the gentleman will continue to yield, this gentleman had a briefing in the bay area in California with eight naval officers, commanding officers of the naval facility. They briefed this gentleman on only one aspect of strategic home porting; namely, family housing.

They pointed out, one, there were over 4,000 family unit shortages; and No. 2, in the out years, they did anticipate military construction as a way of handling some of the family housing shortfalls.

So if the gentleman is not clear that this is part of the cap, I would simply say to my colleagues that family housing is going to fall outside of this figure. That is the specific answer to the gentleman's question.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has again expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 2 additional minutes.)

Mr. DICKS. Mr. Chairman, that is something the gentleman's committee would have to approve. The gentleman is chairman of the Military Construction Subcommittee. There is not going to be any additional housing for home porting unless the gentleman approves it. That is just the way it is.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, does the gentleman want to write legislative history on the floor that $799 million is the entire package?

Mr. DICKS. No; it is military construction money, and it is only the request made by the administration. In our area, there is no money requested for housing. So, in that instance, there would not be any housing required. We do not want military construction housing at Everett, WA. The private sector in our State can handle it.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, just again so that we can be accurate in what it is that we are pretending to be doing——

Mr. DICKS. No; we are not pretending.

Mr. WEISS. Let me ask the question.

Mr. DICKS. I will not yield them.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, the gentleman discussed with me the concept of the cap and I told the gentleman that I have no problem with it. I have not seen the amendment.

I have two concerns that I would raise with the gentleman. The first is that I think the gentleman from California [Mr. DELLUMS] is probably correct. My reading on this would be that if the administration changes its mind, for example, and asks for housing, they would be precluded. That would fall under the cap under the language I see in front of me.

I would say there is one other concern I have, too. We have done this before. We have caps, as the gentleman knows. But when we have done that, we have specified what year dollars and, therefore, there is an inflationary growth. There is no provision for that. This locks in, I assume, as this figure in current year dollars, which means there is a decreasing amount of worth that could be appropriated. Maybe the gentleman could respond to that.

But when I see the actual language of the amendment, I do have those concerns.

Mr. DICKS. This would be budget year dollars, so it would be fiscal year 1987.

Mr. CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has again expired.

(By unanimous consent, Mr. DICKS was allow to proceed for 2 additional minutes.)

Mr. DICKS. It would be budget year dollar to make the legislative history here. So there would be inflation allowed in that.

The key, I think, here is to understand that there were two versions of this program. There was the limited version, which is what we are trying to approve and cap here; and there was the enhanced version. That is what has caused the concern of the chairman and others about the potential for growth.

What we are doing here is capping this program at the limited version that was submitted by the Navy so that there would not be an enhanced version. But the funding would be in budget year dollars and, therefore, takes into account inflation.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I want to put myself in the position of siding with the gentleman. I sympathize with the gentleman's position on home porting. I think home porting is desperately necessary to spread the effect of the fleet both strategically and economically. I think both are extremely important to preserve the ultimate capability of our fleet.

But I am concerned that the gentleman is capping at a point that might protect the status quo on the initial programs toward home porting and ultimately limiting or abolishing any future program.

Mr. DICKS. No, this is not true.

The Assistant Secretary of the Navy has briefed us, has gone through this money, and it takes care of each of the parts of the strategic home port proposal.

As I have said, these are budget year dollars, so it does allow for inflation. It does do away with this problem that people have talked about, that this is going to be a $1.5 billion or $2 billion program.

I might add that the Senate Armed Services Committee has already said that it is going to impose this kind of a cap anyway, so this is going to happen. I am sure that the gentleman from California is going to accept that amendment. So we are going to have a cap on this program.

We did it on the B-1. It worked very effectively. We can do it here. It stops all the false statements, and I think it is a good program.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has again expired.

(On request of Mr. LIVINGSTON, and by unanimous consent, Mr. DICKS was allowed to proceed for 1 additional minute.)

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I appreciate the gentleman's explanation. The way the gentleman explained it, I will support the gentleman's amendment. But I hope it does everything the gentleman says it does.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I am simply trying to point out to my colleagues the reason why it is important to establish legislative history on the intent of this cap is that the Secretary of the Navy believes that family housing is counted in the figure of $799 million. But when you talk to the military personnel, they say it stands outside.

Mr. DICKS. I say to the gentleman that is not correct. Family housing would be outside the cap. I know the gentleman would not want to stand with that. It is a project-by-project, base-by-base requirement. Some of them have military housing in and some do not.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from California.

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Mr. DELLUMS. As the gentleman very well knows, in the request for New York, in the enhanced program, the Navy asked for money for family housing construction. So when the gentleman says we are not asking for money beyond the $799 million that that is not——

Mr. DICKS. We are tapping this at the limited program, Mr. Chairman.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 1 additional minute.)

Mr. DICKS. People are going to have to work out the housing requirements at the local level just like we are going to do in Everett, WA. There are all kinds of private developers who will build housing and then the Navy will guarantee a certain level of leasing.

Mr. DELLUMS. The gentleman has answered my question. This stops it before any enhanced program, period. That is the gentleman's statement, right?

Mr. DICKS. That is exactly right. That is what the gentleman and I talked about doing and I thought the gentleman agreed to that.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has again expired.

(On request of Mr. MOLINARI and by unanimous consent, Mr. DICKS was allowed to proceed for 3 additional minutes.)

Mr. MOLINARI. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman.

Mr. MOLINARI. I thank the gentleman for yielding.

Mr. Chairman, I want to be sure that we perfect the record and do not leave a misunderstanding.

The study that was made by the Secretary of the Navy and furnished to Senator THURMOND and others dated November 8, 1985, was where that figure first was picked up; that $799 million figure. It itemizes the pure costs for construction of the home port bases themselves, excluding housing.

Is that the gentleman's understanding?

Mr. DICKS. That is how I understood it.

Mr. MOLINARI. So it does not include the $799 million, any appropriated or nonappropriated funding for military family housing?

Mr. DICKS. That is how I understand it.

Mr. MOLINARI. Would this preclude, during the next fiscal years included in your amendment a request being considered for moneys for military housing?

Mr. DICKS. I would not think that it would.

Mr. MOLINARI. I thank the gentleman for this colloquy.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sorry that I arrived here toward the end of the last part of this debate because I do have more than a passing interest in it, and I did participate in the authorization bill. If I might have the attention of the author of the amendment, I would like to clear up something that is not clear in my mind.

The gentleman has offered an amendment that would cap the expenditure on home porting at $799 million; is that correct?

I yield to the gentleman from Washington [Mr. DICKS] for his response.

Mr. DICKS. Yes. The administration has made a request at $799 million for all of the strategic home ports; Staten Island, Everett, the one in Alabama, the one in Florida, the one in Texas, the one in Mississippi. All of these home ports would be protected under this bill.

Mr. DICKINSON. I understand. I understand what you are saying.

You are saying that you want a cap, but now you recognize, of course, that

there are two tiers here. One is an enhanced program and one is an unenhanced program. Is that right?

Mr. DICKS. Yes. What we are trying to do is block the enhanced program.

Mr. DICKINSON. Well, I do not think that is what the gentleman is trying to do. I think the gentleman is trying to save what he had in there; not block the other one.

The thing that causes me concern, let me say first, it was my amendment in the authorizing committee to put us on record in favor of the home porting concept.

Mr. DICKS. Yes. I understand that.

Mr. DICKINSON. This passed; I favor it. I am not trying to work at cross-purposes with the gentleman; I am trying to be of assistance if, in fact, that can be.

Mr. DICKS. I understand.

Mr. DICKINSON. Now, there are two tiers here or two ways to approach the problem. A bare-bones figure has been laid out by the administration and it says, "Now, this is the unenhanced part of the program; this is the bare bones for the entire home porting philosophy," and that this would encompass all of the bases that they say they will ultimately need.

Then there is another tier which is the enhanced program which includes housing and should include all of the things that go into quality of life and so forth. This is a higher figure that you would exclude with your amendment; is that right?

Mr. DICKS. If the gentleman will yield, I would like to clarify something.

Mr. Chairman, there was a letter written by Secretary Lehman. I would appreciate the attention of the gentleman from California [Mr. DELLUMS] because this goes back to the statements that were made earlier. Let me read this paragraph because I think it is quite important.

"This funding level, $799 million, does not include nonappropriated fund requirements or military family housing since additional housing would be required regardless of where the ships are placed."

Mr. DICKINSON. I understand that. Would the $799 million figure that you came up with——

Mr. DICKS. Is the bare-bones version.

Mr. DICKINSON [continuing]. However magical a figure that might be, having been plucked out of the air by someone, it says it does not include those things that you have just mentioned.

Then there is another figure over here that is the enhanced figure which is not $799 million but runs up to about $1.5 billion. I forgot the exact figure; maybe you could supply that for me.

Mr. DICKS. We are trying to stop the, we are trying to enact a cap that would put in place the bare-bones version, but obviously, housing is going to have to be looked at because housing is going to have to be required at the four existing——

Mr. DICKINSON. I understand all that. What I am trying to do is just set the record straight.

Mr. DICKS. Right.

Mr. DICKINSON. So there is a second step which is the enhanced portion of the program which does include some nonappropriated funds. It does include family housing. It does include facilitization in other aspects which is not in the bare-bones version.

Now that figure is what? About $1.5 billion?

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman.

Mr. HEFNER. I thank the gentleman for yielding.

Mr. Chairman, I think we are getting a bit confused here. This does not address family housing. This cap is for military construction, period.

Mr. DICKINSON. I understand; I think I have got it straight. One is a bare-bones facilitization just for the ports and the docks and the absolute, essential requisites to put ships in there.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. DICKINSON] has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. Then there is a second tier, if I might have the chairman's attention, that does include the amenities that you have just described such as family housing, such as, perhaps, recreational facilities; things that go into a normal base that are not included in the first cut, so to speak, or the first bite, of the $799 million. That is what the gentleman from Washington offers, to cap it at $799 million. That does not include a myriad of things that the chairman of my Subcommittee on Authorizations has alluded to, such as family housing.

There is another thing that gave us problems. The reason that we had the controversy in committee is because there is an additional expenditure that is not reflected even in the enhanced portion. The Navy does not like to talk about that, and maybe it will go away.

What bothers me is that if you want to cap it at $799 million, that is good if you are going to start with Washington State and start with New York, but then if you run into a very serious environmental problem, as we are told is possible in Washington State when they start bringing up the toxic sludge that has to be put someplace, and that has not been resolved yet.

If some unforeseen difficulty or problem arises then this could very well eat up a big portion of the $799 million and so those other bases that are downstream, whether they be in Texas, Alabama, Florida, wherever, they will be left out because you do not get to them yet.

Mr. HERTEL of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman.

Mr. HERTEL of Michigan. I thank the gentleman for yielding to me.

Mr. Chairman, the ranking member of the Armed Services Committee, here is a man so honest and having so much information with his service to the Armed Services Committee, that even though he is in favor of the concept, made the motion for the concept of supporting of home porting, he wants this House to understand what the numbers are, as he made sure our subcommittee understood what the numbers were.

We have responsibilities in that committee for the security of this country and we have to know how much things are costing.

The questions raised are valid. Let me summarize. Everyone is going to agree to this cap, because even a temporary cap is better than no cap. But we are just trying to clarify through this discussion what this cap involves. It involves from the Navy, from the administration, a request to cap the money that will be needed for the construction in these ports. It does not involve all of the other things that will be required.

The gentleman talks about private housing. The Government has to pay for the sailors and their families to live in the private housing. That is beyond the cap. All these other needs are beyond the cap.

Mr. DICKS. But they are going to have to pay for the sailors wherever they are.

Mr. DICKINSON. Mr. Chairman, I have the time, and I have not yielded to the gentleman from Washington [Mr. DICKS] as yet.

Mr. DICKS. The point that——

Mr. HERTEL of Michigan. Let me finish my point. Certainly we are going to have to pay for the sailors and families wherever they live, but let us not try to fool this Congress——

Mr. DICKS. I resent that. I am not trying to fool the Congress of the United States, except maybe the gentleman from Michigan.

Mr. HERTEL of Michigan. Let me qualify that.

Mr. DICKINSON. Mr. Chairman, if the gentleman would finish his statement, I promise to yield——

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. Not at this point. I will be glad to yield as long as I have time, and will get more additional time for the gentleman to reply, if I might.

Mr. HERTEL of Michigan. Mr. Chairman, I have all the respect in the world for the gentleman from Washington [Mr. DICKS]. I am talking about the House understanding what we are doing. The cap does not specify all the other costs. So if Members of the House think that it is only going to cost $800 million for this cap, and no other additional costs, this cap does not cover those additional costs of housing and all the other needs for these personnel. That is all. I think we are agreed on that in this conversation.

All the speakers up here are just trying to clarify that directly. It is a cap only for the military construction, not all of the other costs.

Mr. LOTT. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Chairman, I would like to ask just two or three questions, and I think that they can be answered briefly.

First of all I would like to confirm that the gentleman from Alabama [Mr. DICKINSON] is definitely for the home-porting concept. The record is clear on that. He is opposed to the Hertel amendment. Is that correct in both instances? Hertel is the one that eliminates it.

Mr. DICKINSON. I have not heard the amendment offered by the gentleman from Michigan [Mr. HERTEL] on the floor. I did oppose it in committee. It is to delete all of the New York money, if that is what the gentleman is talking about, some $54 million.

Yes, I voted against that.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. DICKINSON] has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. LOTT. If the gentleman will yield further, the answer I think in both instances is "yes."

Mr. DICKINSON. Based on the facts, in each individual case, now. We cannot just go out scatter-shooting; we are single-shooting here.

Mr. LOTT. Two more questions, and I think that the gentleman from Washington would like to get in on the answers, because he has been trying to get recognized anyway.

One is, as I understand what he said, the administration, the Secretary of the Navy has said that this amount, $779——

Mr. DICKS. Ninety-nine.

Mr. LOTT. $799 million is something that they can live with. That is what they expect the cost to be. But the key question that the gentleman from Alabama was getting to, and we need to hear from the gentleman from Washington, is—and this is what a lot of people are thinking—all right, Everett is going to be all right under this amendment, but what about those downstream, and frankly in the gulf? there are a couple Members worried about that.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Washington to respond to the question of the gentleman.

Mr. DICKS. We would be prepared on the authorization bill to accept a subcap at Everett at $272 million for military construction, so there is not any question——

Mr. DICKINSON. That is awfully generous of the gentleman. Included in that subcap is there a guarantee that anybody downstream is going to have anything left?

Mr. DICKS. We certainly hope to do that, because it is laid out by the Secretary of the Navy.

Mr. DICKINSON. I know that the gentleman hopes to, but——

Mr. DICKS. I am noticing more support for this from the gentleman than I have in quite awhile, in fact.

If the gentleman will yield on a couple factual problems, one is the question of dredging. The gentleman has a provision in his own bill that will not allow any of this money to be expended until we get the appropriate environmental permits. So he has already taken the step to protect against a problem occurring there.

We have a provision in our own bill that says if it is going to be very expensive to deal with the environmental problems, you have to come back to Congress and get approval. So this cap applies between now and 1991. It deals with military construction funds. Housing is a base-by-base question. If we do not build the housing at Newport, we are going to have to add existing facilities at the existing home ports. There is no way to do this on the cheap. It is going to cost you some money.

Mr. DICKINSON. Mr. Chairman, let me reclaim the time, if I might, because the chairman of my subcommittee wants to get in on the act.

Just let me say that the gentleman is very generous in offering to cap the project at $250 million.

Mr. DICKS. Seventy-two.

Mr. DICKINSON. That is all that you want out of this $799 million, and we can appreciate your generosity, except that some of us see there is no money in here, zero, zilch, naught in here for anything but New York and Washington State.

Mr. DICKS. Would the gentleman yield?

Mr. DICKINSON. No. So the gentleman wants to protect; he says, "That is fine, I am going to help my place, and we will help this place, and anything else that is left over, we are going to be just as fair as we can be in apportioning that, if there is anything left." It really should not work that way.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague for yielding, and I think that the gentleman states the case accurately. As I have tried to listen to the debate as it has unfolded, the practical effect of this amendment, this capping amendment, is to simply certify the figure that the Navy advanced several months ago, $799 million. But when you then factor in family housing, which in my estimation is not an enhanced program when you are dealing with the quality of life of human beings, other facilities that will be obviously necessary as a military facility evolves—not an enhanced program but a necessity as I understand military life, and third, as the gentleman adequately points out, those facilities that are downstream may have great difficulty receiving funds.

All we are doing here is institutionalizing the figure $799 million that we asserted in our committee was an inaccurate picture of what the ultimate cost of strategic homeporting would be all about. Even though this amendment passes as a cap, the practical effect is that we are still embracing a program that probably will end up costing between $1.5 and $2 billion.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from North Carolina.

Mr. HEFNER. We certainly do not want to limit the debate here, but we have a lot of things to do.

Mr. Chairman, I ask unanimous consent that all debate on this amendment end in 8 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina [Mr. HEFNER]?

Mr. HERTEL of Michigan. Mr. Chairman, reserving the right to object, would that include all amendments thereto?

Mr. HEFNER. No, on this particular amendment; not this section, just this particular amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mrs. MARTIN of Illinois. Reserving the right to object, Mr. Chairman, just so I am clear, is this on all amendments, or just on the amendment offered by the gentleman from Washington?

Mr. HEFNER. Just on the gentleman's amendment to put a cap on the home porting.

Mrs. MARTIN of Illinois. I just want to make one point on this, and then I will withdraw. We are going to spend an additional 5 or 6 hours arguing be-

tween $100 million and $400 million that has been made a large national issue. At the least, we are talking about $800 million here, but we are going to make sure that we only have an hour of debate.

I have got to say that I think home porting is as important as the Contra issue.

Mr. Chairman, I will withdraw my reservation of objection, but I will object if any Member tries to limit the next amendment up on home porting.

Mr. HEFNER. Mr. Chairman, if the gentlewoman will yield, I think that she is exactly right. I think that it is much more important. I am just trying to get to the next amendment, which, according to my understanding, is going to be an amendment to eliminate home porting. We seem to be hung up here on interpretation, and we may never reconcile this.

Mrs. MARTIN of Illinois. Mr. Chairman, I withdraw my reservation of objection.

Mr. HERTEL of Michigan. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The gentleman's request is that all debate on the Dicks amendment cease in 8 minutes.

Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 1 minute each.

The Chair recognizes the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL of Michigan. Mr. Chairman, I never had a problem with the amendment. All we were trying to do with the ranking member and others was clarify what it meant. Clearly, it does not include other costs beyond the military construction. Clearly, it will cost more to have families live in New York than in Virginia or other areas of this country. So I think that we have the facts on the record.

As I said, even a temporary cap is better than no cap. So we are not going to object to this amendment. We want to get to the main amendment to delete the funds for this idea.

(By unanimous consent, Mr. DICKS yielded his time to Mr. SWIFT.)

□ 1415

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, as so often seems to happen in these debates, we end up talking about apples and oranges. I am going to try to state my understanding and see if this is fair to everybody.

What I believe the amendment of the gentleman from Washington [Mr. DICKS] does is to cap at $799 million those facilities that the Navy said would cost $799 million.

What we are aimed at here is the concern that all of us in Congress from time to time have, that an agency says they are going to be able to do something for so much money and then we get into overruns.

The purpose of the amendment of the gentleman from Washington [Mr. DICKS] is to cap what the Navy says they can do for $799 million at $799 million.

We are not saying that there might not be the Navy coming to Congress for some things outside of that; some housing, particularly in New York not in my State, not in the other States, but perhaps in New York.

There will be some road construction that will come out of the military access road fund, and we are not talking about that.

So let us be clear. What we are trying to do is address directly the legitimate concerns of Members who do not want the Navy willy-nilly to overspend what it said it can do for $799 million. We do not claim any more for this amendment than that, but we do claim, and I think for those who are trying to clarify the issue, it seems to me that what I have just said is consistent with what the gentleman from Michigan has said, what the gentleman from Alabama said earlier, that is all the amendment is. I think it is a good sound amendment and I would urge all my colleagues to support it.

Mr. HERTEL of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to my colleague, the gentleman from Michigan.

Mr. HERTEL of Michigan. Mr. Chairman, I agree with the gentleman. It is a good summary.

Th CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I rise in support of the Dicks amendment and I yield the balance of my time to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, since I do not sense there is any opposition, I would hope that the Chairman and the ranking member would be willing to accept my amendment.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, we are prepared to accept the amendment. As the gentleman said earlier, some cap is better than no cap, so I am prepared to accept the amendment from my point of view.

Mr. EDWARDS of Oklahoma. Mr. Chairman, if the gentleman will yield, I do not have any objection to the amendment. If there are people on this side who do, however, have objections, and want to speak against it, I do not want to just accept the amendment. I want to allow those people the opportunity to be heard on it.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I just want to bring us back to where we started out when the gentleman first offered his amendment.

I have no objection to it, but when the gentleman started out, he said he wanted to do this, because there had been exaggerated figures of $1½ billion thrown around and he wanted once and for all to lay those figures to rest.

Well, the fact is that it has been established in the course of this discussion that the total cost may be $1½ to $2 billion and the proposed $799 million cap does not change that. We will be spending, if the home-porting program is allowed to stand, between $1½ and $2 billion. Those are the facts.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Washington [Mr. DICKS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HERTEL OF MICHIGAN

Mr. HERTEL of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HERTEL of Michigan: Page 3, line 1, strike out "$1,364,090,000" and insert in lieu thereof "$1,224,290,000".

Mr. HERTEL of Michigan. Mr. Chairman, let me begin by saying that we spent a lot of time on an amendment that we agreed with, but it was important to clarify.

I think the gentleman from Washington [Mr. SWIFT] did an excellent job of clarifying that.

Certainly we would rather have even a temporary cap. This House, this Congress, future Congresses can always raise any cap. It is only in statute, not in stone.

But what we learned from that long discussion was that this only involves a small portion, a portion of the total cost of establishing home porting as a policy.

Let me say, I respect my friends on the other side of this question on both sides of the aisle, especially those from New York and Washington, even though it has become clear to me in the last few weeks that even the members of those delegations from those two States that are concerned do not agree unanimously with home porting.

I have no interest parochially, I have no naval base in Michigan or in the Detroit area. I got involved in this because I am a member of the Subcommittee on Installations and after all the lengthy hearings and all the testimony, we found out that it was going

to cost far more than the $800 million that we have been discussing in this past amendment.

Let me tell the House the serious situation that we are in regarding the budget. In the appropriation last year that passed this Congress, we spent on military installations and construction $9.1 billion last year. In this appropriation and in the authorization that passed our Committee on Armed Services yesterday, it has already been cut to $8.34 billion. That is quite a large cut already and that cut is on existing facilities.

Those many Members who are concerned that they could not get the authorization for their States or their districts, that is because there was not enough money. There was a cut, not a freeze, let me make it clear, a cut, and a large cut already.

For the first time possibly in the history of the subcommittee, there were no add-ons, because there was no money, not a single add-on of all the Members who came to the committee and the subcommittee were accepted, not one. If you wonder why not, it was because there was a cut, not a freeze, but a cut, no money.

The only new money of any consequence is home porting, and we are only talking about two ports in this appropriation, Everett which has already been deferred by the authorizing committee, and New York which has already been cut by the authorizing committee from the $91 million requested for 1 year to $54.4 million which is in this appropriation also.

Now, the ranking member, the gentleman from Alabama, the ranking member of the full Armed Services Committee, said, "What about the other 11 ports after you take the big 2 first, use up all the money with all the questions involved, there is not going to be any money left for the ports in Texas, Alabama, Mississippi, or Florida."

If you look at the Navy's track record, definitely not.

But more than that, what about all the other existing facilities to support our military? Do you know where they will make up for the money where they want to increase it for home porting? The Navy wanted to cut money for secondary electric capacity for our Navy people in Guantanamo Bay, surrounded by Castro's Cuba. They wanted to cut that to start home porting.

What would the people down there do with unfriendly forces surrounding them, without enough electricity, if the first generator broke down?

But we changed that, we would not accept that from the Navy.

The Navy also to get their money for home porting suggested that we cut some of our intelligence capacity. It was not even our naval money that they were suggesting we cut.

The Intelligence Committee told us that could not be done, that would endanger the Nation; but that was the Navy's recommendation to get their money for home porting. We kept the money in for those intelligence needs.

So our committee had to make some very tough decisions, and as the ranking member of the full committee has said many times, we have to be careful that we do not endanger the security of this country, and that certainly involves the facilities in this country and around the world.

There is a lot of talk about the budget conference committee right now and the difference in the figures of the Senate of $301 billion and in the House of $285 billion.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. HERTEL of Michigan was allowed to proceed for 3 additional minutes.)

Mr. HERTEL of Michigan. Mr. Chairman, if you went all the way to the Senate figure, if you went and compromised between the House and the Senate figure, you still would not have enough money to avoid a cut in the military installations and construction budget for the first time in 6 years. That is how serious the question is.

We are already $1.6 billion below the President's request in the authorization that passed the Armed Services Committee yesterday. We do not have any new money. We do not have enough money for existing facilities, and over a hundred Members of this Congress know that they were not able to get the requests that they made to the committee for things in their districts because of this very tight situation. That is why we are saying that we should not go ahead with something that will be this expensive.

We know now after the last discussion on the cap amendment that we are talking about far more than $800 million. We are talking about housing. I said it costs more to house people in New York than it does in Virginia. That is a fact. We all know that. No one is going to dispute that.

We all know it costs to move personnel and families.

We all know that quality of life is one of the best things we have done in the last 5 years for the military.

Let me talk about the defense side of this and read a letter from BARRY GOLDWATER, the chairman of the Armed Services Committee in the Senate, who has received, as I said before in the general debate, more awards from the defense community than any other American in the history of this country. This is a letter that he wrote March 7, 1986.

The CHAIRMAN. The Chair would caution the gentleman not to refer to Members of the other body.

Mr. HERTEL of Michigan. Mr. Chairman, is it in order to refer to the letter?

The CHAIRMAN. Without objection, it may be submitted.

There was no objection.

Mr. HERTEL of Michigan. Mr. Chairman, I refer to this letter from Mr. GOLDWATER. He writes:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 7, 1986.

Hon. CASPAR WEINBERGER,
Secretary of Defense, Department of Defense, Washington, DC.

DEAR CAP: The issue of homeporting for navy ships is soon to come up before the Senate and quite frankly I'm opposed to it.

It seems to me that about half of our fleet is out to sea at all times and there is no reason, in my mind why we have to go to all this expense to prepare harbors and docks for ships where those facilities already exist.

I can tell you that this is pure unadulterated politics and it is an area where we can really save money and I don't want to take any positive action on it in my Committee. I would like to discuss this with you and preferably with you alone because any discussion involving the Secretary of the Navy can produce nothing but political results.

With best wishes,

BARRY GOLDWATER.

This is a letter from the chairman of the Senate Armed Services Committee. This is his opinion.

As I said at the outset of this debate, it is not a partisan issue. It is an issue, No. 1, of not having a strategic need; No. 2, not having the money.

If you are concerned about facilities that already exist around the world and in this country, if you are concerned about the level of funding that we have in the armed services budget, please vote for this amendment to save this money.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words. I rise in support of this amendment.

Mr. Chairman, at the risk of being called one who has parochial or provincial interests, I must say that there is a certain amount of truth in that, but it is more defensive than offensive; and what I would like to say to the body today about the subject of home porting is that the rules, the ground rules, the objectives, the whole situation has changed markedly since the committee upon which I have the pleasure to serve, the authorizing committee, the Committee on Armed Services, voted for the concept of home porting and dispersion, and I agree with that. I think that that is something we should hold for the future.

Now, I say the future because several things have happened since we arrived at that conclusion and endorsed the concept of home porting, and that is Gramm-Rudman-Hollings-Mack: limiting among other things defense expenditures drastically.

For the past few years, we have cut defense authorization a little here, a little there, until we have gotten to the place where we are today with Gramm-Rudman-Hollings-Mack, to the point that we are not looking at $320 billion for defense, we are not looking at $305 billion or $301 billion. We are looking at the House mark of $285 billion. That is fewer real dollars, actual dollars than last year.

□ 1430

So now, we are going to have to look into the future to establish priorities. One thing at which we must look is the subject of home porting.

Can we afford to build home-porting facilities now? When, under the strictures of Gramm-Rudman-Hollings-Mack we do not know, if we will ever get to a 600-ship Navy, to a 15-carrier battle group Navy, or the number of airplanes that would be required for those big-deck carriers if we got to a 15-battle group Navy.

So the subject comes up, then, what do we do now? How do we go back to $285 billion in authorization? Here, quite frankly, Members of this body, is where I will get a little bit provincial and parochial.

The Secretary of the Navy was asked, when challenged by the MilCon Subcommittee of the authorizing committee, the House Committee on Armed Services, "Mr. Secretary, where are you going to come up with the money to provide the new home porting funds for Washington and for New York?"

He said in effect, Simple. Among other things, we will take it out of California.

Well, I happen to represent a part of California. There are no Navy ports in my district, but I have some sort of provincial bias toward my State. But I pondered those remarks that the Secretary made, and he said basically, in order to get new ports, we will take money out of old ports, to provide for this 600-ship Navy, these 15-carrier battle groups, and the airplanes that go on the big decks that make up the carrier battle groups.

Ladies and gentlemen of the House of Representatives, we just cannot do that. With Gramm-Rudman-Hollings-Mack, we are going to be forced, we are forced, to look into the future to determine are we going to be able to stretch our programs like we did in the late 1970's, which practically economically bankrupted our position on defense. Are we going to take it out of uniforms and commissaries? Are we going to take it out of force structure, or what?

Let me tell my colleagues that rather than take it out of research and development which we so drastically need for the defense of our country, rather than take it out of uniforms and training and operations and maintenance, rather than take it out of military construction so our troops can be well housed and well clad and well fed, it is going to have to come out of troop strength eventually.

The CHAIRMAN. The time of the gentleman from California [Mr. BADHAM] has expired.

(By unanimous consent, Mr. BADHAM was allowed to proceed for 4 additional minutes.)

Mr. BADHAM. Troop strength, Mr. Chairman, includes the myth of a 600-ship Navy. It includes 40 tactical air wings. It includes 15-carrier battle groups, and it includes the airplanes to go on the big-deck carrier battle groups.

Ladies and gentlemen, if we persist in the cutting of defense by Gramm-Rudman-Hollings-Mack, we are never going to get there. Realistically, that is the law of the land and we are sworn to uphold the law of the land. So be it.

My point is simply this, ladies and gentlemen: It is foolish, it is senseless, to talk about additional home port and home port facilities today when we cannot, under any circumstances, be assured of having the ships to put there, the people to put there, the carriers and the planes to put there.

So my contention is, let us go slow and look back on this and revisit this at another time in the future when we can assure that the facilities that we do have are properly maintained and that we do not go off building new facilities until we are assured that we are going to have the ships to put there, the sailors to put there, the big-deck carriers to put there, and the planes to put on them.

So I would contend in support of the Hertel amendment that we should go slow, let us divert these projects until we can at least be sure where it is that we are going.

The CHAIRMAN. The time of the gentleman from California [Mr. BADHAM] has again expired.

(On request of Mr. LOWRY of Washington and by unanimous consent, Mr. BADHAM was allowed to proceed for 2 additional minutes.)

Mr. LOWRY of Washington. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I would be delighted to yield to the gentleman from Washington.

Mr. LOWRY of Washington. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman on his statement. My State is one of the home ports, Everett in the State of Washington. I have decided that we just cannot afford it within the priorities of our budget and within the priorities of our military budget.

I really appreciate the gentleman's experience on armed services when we look at the question of whether there is going to be an affordable 600-ship Navy. When we look at all the studies, like the CBO study, on paying for a 600-ship Navy, and look at the financial requirements of that, when we are talking about a 3-percent real growth in the future for the next 9 years and take a look at the budget we have before us today, on which I submit we are going to go over Gramm-Rudman this year, and the one we have today is less than a freeze, can we really believe we are going to have a 3-percent real growth in the military for the next 9 years and use that as a way to justify this expenditure?

The gentleman's experience on this makes total sense. We have to have the courage today to address that, pick our priorities, spend our dollars better, which means not here.

Mr. BADHAM. I thank the gentleman for his contribution.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I might have the attention of the author of the amendment, the gentleman from Michigan [Mr. HERTEL], let me see if I understand the import of the gentleman's amendment.

The gentleman is offering to delete $140 million, as I understand it, outright. The $140 million consists of two packages, so to speak. One is $85 million that was carried over but was fenced for Everett, WA; and the other is $54 million for New York. Is that right?

Mr. HERTEL of Michigan. If the gentleman will yield, that is exactly right. We are not talking about the concept in this amendment. That remains in the authorization. Many members of the subcommittee, in fact I, have put language to revisit the concept because the gulf ports are much cheaper and their communities have put up a much higher percentage of the funds necessary.

So that language is in the authorization to revisit it. What we are doing is saving the money for this year.

Mr. DICKINSON. I have a little problem in trying to reconcile the two because they are coming from two different directions. We really have to treat this home porting on a case-by-case basis.

We fenced the money for Everett and asked them to do four things. We just put it off for a year, but we asked them to do four things, in effect.

We said that they have, according to the press and people who live there, a toxic waste problem and we do not know if they are going to get an EPA statement or not, but we understand there is a growing resentment over the dredge and where the spoil is going to be put and is it going to be toxic. So we do not know what that is going to cost, and whether it has to be transported and a new method of sinking it

250 feet and capping it cannot be used, so it is going to be a lot more expensive.

We asked the State of Washington to solve the EPA question. There is an access road question, how it is to be financed, and that is rather expensive. We asked them to solve that question. There was a contribution from the State, local, and port authority, that they had to come up with the money. We asked them to come up with some money, whether it was a bond issue, an act of the legislature, or whatever.

We asked them to answer these questions and we will put this on hold. So this $85 million in there was contingent.

Mr. HERTEL of Michigan. If the gentleman will yield further, may I speak to that point?

Mr. DICKINSON. Yes, of course.

Mr. HERTEL of Michigan. The ranking member relates that language very well since he was the author of that amendment to have those requirements met.

My concern, and the reason I am striking the money on fencing is because if that language of the gentleman is taken out in the conference committee by the other body, then that money would be unfenced.

Mr. DICKINSON. Then the other $54 million applies to New York, where none of these problems pertain at the present time, as I understand it. There is no access requirement. They have already donated some $15 million worth of land. They are not worried about the toxic dredging, and so forth. So we allowed them to go forward with that portion and oppose the deletion of the $54 million.

□ 1440

But you have them lumped together, so you are not fencing it. The gentleman is just saying he is deleting the entire two packages; $85 million here, $54 million here. Take it all out, not contingent on anything, and we will revisit it next year.

Am I correct in the effect of your amendment?

Mr. HERTEL of Michigan. Mr. Chairman, that is exactly correct.

Mr. DICKINSON. Mr. Chairman, I thank the gentleman.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, the gentleman referred to a number of things that are Everett-specific. I appreciate the gentleman yielding for me to provide just a brief time to clarify a couple of points.

The concern, I believe, of the subcommittee was whether or not the EIS [environmental impact statement], was even going to be done in time for the money to be spent in fiscal 1987. I have a letter which I would be happy to share with the gentleman from the Corps of Engineers in the Seattle office that indicates that they are on schedule and they see no reason that they will not be. That will be resolved during this calendar year.

With regard to the access road, that is an issue which has been, I think, misunderstood, partly because initial estimates to which the road was designed are much higher than the Navy now says they need. So they designed a two-tiered road. Any time you go up in the air, you come up with an expensive road. We are not going to need to do that. It is being redesigned as a surface road now, and because it is still in the design state, we cannot tell you what the cost is. But it is going to be a lot lower than original estimates.

As had been the case all along, the city, the port and the State will all have money in the road and the defense access road would only be accountable for that portion that can be clearly and specifically assigned directly to the cost.

The last point I would like to make is that there has been some concern as to whether Everett planned to participate financially in this whole operation, partly going back, perhaps, to the promise the mayor gave the community that he would not ask for a bond issue.

The CHAIRMAN. The time of the gentleman from Alabama [Mr. DICKINSON] has expired.

(On request of Mr. SWIFT, and by unanimous consent, Mr. DICKINSON was allowed to proceed for 2 additional minutes.)

Mr. SWIFT. Mr. Chairman, will the gentleman yield further?

Mr. DICKINSON. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, what he was saying was very specific. He was not going to ask the city for a bond issue. That should not be interpreted as meaning there would be no local contribution. Both city government, county government, the port district, and the State are all expected to participate in some very specific ways that I can share with the gentleman.

Mr. DICKINSON. Mr. Chairman, I thank the gentleman, but to reiterate what I said earlier, these were contingencies that we wanted to come about before we released the funds and approved it. So I am sure that within the next budget cycle, they will be resolved and we will go forward with it.

But we would just ask that it be held in abeyance. This is not the case in New York, but both of the cases have been lumped together now, so you are voting on whether to delete the money for both, with no contingencies, just outright. That is what the vote is.

Mr. HEFNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly rise in opposition to the amendment.

As many of you know, the strategic home-porting issue has become a political issue which is very unfortunate.

Last year, the Congress appropriated $61.4 million for Staten Island, and $17.6 million for Everett for the initial construction of facilities in these two sites.

After appropriating funds, the Navy agreed to delay obligating these funds until the Committees on Armed Services review the strategic home-porting concept, which is what they have done. They have agreed to the concept.

GAO has been critical of the cost, and as we have already heard here today, we have had some controversy about a cap and one thing or another, but I would think at this particular time, the concept has been initiated and I would rise in opposition to the amendment and hope that the Members would reject this amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment. I do not want to give any long speech on this. The Navy feels that this homeporting concept is very important and I urge my colleagues to vote against the amendment.

Mr. MOLINARI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment is a dangerous amendment and one that destroys a fundamental pillar of present and future U.S. naval strategy.

The need and reasons behind strategic home porting can be stated very succinctly. Congress has endorsed and provided funds for the development of a 600-ship Navy. We will likely reach that goal in just 3 or 4 years. In fact, each of the ships remaining to join the fleet are now either under construction or they have been authorized to be constructed.

As we move toward 600 ships, we face a choice. Our existing ports cannot accommodate these new ships or their personnel. We can either build new piers and facilities at our present home ports or build new home ports.

The Navy found that this choice had important strategic implications: Our ships are now dangerously overconcentrated, with about half of our fleet in only two ports. Strategic home porting would disperse the fleet and thus reduce fleet vulnerability and allow quicker access to certain theaters of operation, thereby allowing us to establish a naval presence at a crisis point earlier. Strategic home porting would increase battlegroup readiness as well as organizational and command effectiveness. It takes full advantage

of our industrial and shipbuilding capabilities and will help to preserve those capabilites in various areas of the country.

So, clearly, on a strategic basis, home porting was the preferred action.

There has been a great deal said here today about strategic home porting. Everybody talks about this as though it is a new concept. The fact is that when we had more ships, we had more home ports. When we were faced with an austerity program back in the 1970's, they cut back on the ships, and because they cut back on the number in the fleet, necessarily they had to cut back on the number of home ports.

Now we are going back in the opposite direction, building more ships to the goal of the Navy, and that requires, for a commonsense standpoint, the construction of new home ports.

Nobody has mentioned today the fact that through the Navy's competitive quest here, they have picked up $150 million from the various home port sites as consideration for bringing the Navy ships to their areas.

When the costs of the Strategic Home Porting Program were considered, it was found that the difference between building new home ports, and putting ships in existing home ports was $217 million.

This is the figure that the Navy used.

Operationally, the cost difference would be $35 million to $50 million a year. The Navy, to check these figures, brought in a very, very prestigious accounting firm, Coopers & Lybrand, who have an expertise in naval strategic readiness. They found that the Navy was too conservative in their estimates.

As a matter of fact, it was their judgment, after reviewing all the figures, that were you to build the existing home ports up to the capacity that would be needed, you would save only somewhere between $100 million and $200 million.

When we hear this talk about $1.5 billion and $2 billion, the actual delta cost, the cost differential is somewhere between $100 million and $200 million.

Mr. DICKS. Mr. Chairman, will the gentleman yield? I want to make sure my colleagues heard that.

Mr. MOLINARI. I am glad to yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, the gentleman is saying that there is a cost, when these 120 ships have to go somewhere. If we put them in those existing home ports it is going to cost a substantial amount of money, probably around $600 million.

Mr. MOLINARI. Mr. Chairman, at least $600 million would be my estimate.

Mr. DICKS. The Secretary of the Navy says that the difference is between $50 million and $200 million to disperse the fleet. Is that correct?

Mr. MOLINARI. That is correct.

Mr. DICKS. Has not every Chief of Naval Operations, including Admiral Zumwalt, stated unequivocally that from a military perspective, dispersing the fleet is the right strategy because it will make it more difficult for any attacker to hit those ships. Is that not correct?

Mr. MOLINARI. Almost. I think every one except one. I think there is one CNO who disagreed.

Mr. DICKS. He works for the chamber of commerce at Norfolk.

Mr. MOLINARI. Chamber of commerce, the gentleman has got it. That is correct.

The CHAIRMAN pro tempore (Mr. LEVIN of Michigan). The time of the gentleman from New York [Mr. MOLINARI] has expired.

(By unanimous consent, Mr. MOLINARI was allowed to proceed for 5 additional minutes.)

Mr. SISISKY. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. Mr. Chairman, I yield to the gentleman from Virginia.

□ 1450

Mr. SISISKY. Mr. Speaker, the gentleman tried to compare the cost of present home ports versus the contruction of new home ports.

Now, is the gentleman talking about the A&E figures of new home ports or just the bare bone figure that we voted on today? Understanding, if the gentleman will, that we are talking about building infrastructures at these new ports.

So let us compare apples to apples and oranges to oranges, as somebody said. Is that a fair assumption that I made?

Mr. MOLINARI. Comparing apples and apples and apples and oranges; I do not know that that is a fair assumption, Mr. SISISKY. Yes, you are talking about new infrastructure, but you are also talking about new infrastructure at Norfolk and some of the other facilities.

Mr. SISISKY. Mr. Chairman, will the gentleman yield further?

Mr. MOLINARI. I yield to the gentleman.

Mr. SISISKY. I must bring this up, Mr. Chairman. The gentleman referred to an accounting firm that did the work for the Navy. Did the gentleman——

Mr. MOLINARI. Reclaiming my time, may I correct the gentleman, please.

Mr. SISISKY. Excuse me.

Mr. MOLINARI. They only reviewed recently the Navy's accounting figures.

Mr. SISISKY. If the gentleman will yield further, Mr. Chairman, I just want to be sure. The General Accounting Office, in their report, took 15 months for the report. I want the gentleman to know the date of a letter that came to members of the subcommittee for review was no more than 2 weeks. They reviewed—I am talking about analyzing numbers and everything else—in less than 2 weeks.

Mr. MOLINARI. Reclaiming my time, Mr. Chairman, that is substantially correct; but I think that is to the credit of the Navy. The Navy knew that this debate was coming up; they knew there was a great deal of controversy, so they asked this firm to come in and said, "Look over our figures. Tell us where we made mistakes," and you know what? They found there was a mistake; that the delta cost differential was not $217 million as the Navy had stated in Secretary Lehman's letter, but it was somewhere between $100 million and $200 million.

So we are talking about a net cost differential of maybe as low as $100 million but look what we are gaining.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman.

Mr. LIVINGSTON. Mr. Chairman, the gentleman says we are talking about a net cost of $100 million, and yet he is talking about the strategic benefits of disbursing the fleet throughout the outer coastal regions of the United States as opposed to concentrating all of our ships on one little point on the east coast and one little point on the west coast.

It seems to me that makes eminent sense. The Army disburses its army bases throughout the intercontinental United States and around the world; the Air Force disburses their bases all around the continental United States and throughout the world; yet the Navy combines all of its forces in one spot today, on the east coast and one spot on the west coast. That really does not make much strategic sense, in my mind.

Mr. MOLINARI. Reclaiming my time, Mr. Chairman, I thank the gentleman for his contribution. Let me say that is something that concerns me very deeply.

When I look at the numbers of ships—and I do not like to get into this argument because I know it is a sensitive one for those that have home ports in their area now, but those ports that have this extraordinary number of ships—and somebody has touched on Pearl Harbor.

My God, when we all see those films each year, I think we all have the same impression. How stupid could we be to permit this to happen? Here we are today thinking of making—in fact, we have been making the very same mistake.

Let me conclude my debate first, and I will be glad to respond to anybody else that would like me to respond. The two sites that we are debating

now; Everett and Staten Island, have been considered the top priority by the Navy for military construction in 1987; and the Navy has been willing to take cuts in other areas to keep this program on track.

Three times the House has voted on home port funding, and all three times we have approved it. Both the Senate and House Armed Services Committees have endorsed the program; extensive hearings have been held by those who are considered experts in this House; and the votes were taken within the last 2 weeks before the Senate Armed Services Committee and the House counterpart.

Mr. Chairman, I think we are up to a situation now where the Navy has spent some 4 to 5 years on the study. There has been debate time and time again. I think the issue is clear at this point, certainly in my mind. I think it is time to move forward. I would hope that when we finish, that we can defeat the amendment before us.

Mr. DE LA GARZA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I take this time to oppose the amendment, and hopefully I can give my colleagues on the floor and those colleagues that are listening to me elsewhere a justifiable reason for opposing this amendment.

I begin with myself, personally; not my congressional district, not my political career, but myself as a father of two young men that are serving in the Navy as officers.

I do hope the Members will forgive me for the personal reference, but it is very important. I have a son who is an officer in the Navy as a doctor, a surgeon. I have one who is in the Mediterranean on a missile cruiser that challenged Mr. Qadhafi and crossed the "line of death." I speak for them.

Second, if you will pardon the personal reference, when I was 17 years old, I joined the Navy and served 18 or 19 months in the Navy toward the end of World War II. Ever since then I have had this involvement with the Navy, that I have become in my own sense, in my own sphere, among my peers in my district, somewhat of an expert on the Navy.

This is what we are discussing today: Will we forget Pearl Harbor? Not the Japanese and not the involvement of another country, but where our ships were. Where they were located and how it was such a disastrous point of time for our naval protection of the security of this Nation.

Do we want that, or would we allow that to happen again? Mr. Chairman, this is where the 600-ship Navy theory or concept came about, and this is where the concept of this home port and spreading out where the ships are, how they are protected, how they could come into flotillas—and I do not think I am divulging any military secrets, but my boy that is out in the Mediterranean sailed from Florida. Some of his flotilla came from all of the eastern shore, and somehow they met out in the mid-Atlantic; and they went to the Mediterranean, and that is where they are now.

Can we be so provincial, can we be so selfish to say, "No, I want them all here, I want them all there. Yes, it's good for my political career. Yes it's good for the region"? I think that we are beyond that.

Mr. Chairman, we should not be discussing this issue here. That should be a concept and a part of military strategy that should not be discussed here.

The funds are appropriated, and we have a say-so as to how we operate the Navy, but the technical concepts by the experts I think should not even be debated by we, the political arm, the Congress; we the representatives of the people. Main Street, Mission, TX—we cannot discuss the technical aspects of how we are going to disburse the Navy. We cannot be selfish to the extent that we will impose, forgive me, our political needs of where we are going to place the Navy's ships.

Somehow the basic interest and the national security have to supersede what we do here, from the technical, concise expertise of those who know that area. Yes, we have the ultimate yea or nay, but we really do not have the expertise.

I would take my expertise from two sons.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 3 additional minutes.)

Mr. DE LA GARZA. Mr. Chairman, I take my expertise not from the Pentagon, not from the Navy, but from two sailors who are telling me what is best for the Navy. When they ask, what is best for the Navy they are asking what is best for this country.

One of them is out there in the Mediterranean, and he tells me "We need to be dispersed."

□ 1500

We need the *Iowa* in Corpus Christi. He does not care about what the economic impact in Corpus Christi is, how many jobs, how much housing we need, how we displace people from housing. He is thinking maybe, he is thinking United States of America. That is what he is thinking about. Now forgive me for being personal and deviating to this point, but that is where I think we should take our cues from, the fellow sitting out there in the Mediterranean challenging Mr. Qadhafi's line of death. Now will this take money from the farmers? No. It will not take money from the farmers. Will this take money from housing? No, it is not going to take money from housing. Will this take money from any of the welfare programs? No, it is not going to take money from them.

We are confusing the issue. The issue is the United States of America, the security of the naval forces and my boy's security on a ship in the Mediterranean. That is what I am discussing here today.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is absolutely on target. What we are talking about here is a plan carefully crafted with the support of the Chief of Naval Operations, the Secretary of the Navy, and Secretary of Defense, to disperse the fleet, to increase the chances for survivability. We do not want war to come. We hope that our military force will be a deterrent.

But if we spread these ships out, there is a chance that those young men who are serving in the U.S. Navy will have a greater chance to survive. There is absolutely no doubt about that, because if you do not disperse the fleet, if you add over 100 of them into the existing ports, then they are more vulnerable. They nest them four abreast. All these things underline the critical importance, to the young men in that Navy, of survivability.

I think the gentleman has done us a great service to get back to the basics on this issue.

Mr. DE LA GARZA. The gentleman is absolutely correct.

Mr. HERTEL of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Michigan.

Mr. HERTEL of Michigan. I thank the gentleman for yielding.

Let me raise one point on this question. I think everybody in this House would agree that New York City, our largest city, is not the No. 1 target, it is right after Washington, for the Soviets.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 3 additional minutes.)

Mr. HERTEL of Michigan. Mr. Chairman, will the gentleman continue to yield?

Mr. DE LA GARZA. I continue to yield to the gentleman from Michigan.

Mr. HERTEL of Michigan. I thank the gentleman for yielding further.

Mr. Chairman, we would all agree that New York City is the top target in the nuclear age. So we are not talking about past wars, we are talking about current and future situations. To disperse ships to New York makes no sense. That is what the Navy is asking for first, and that is where it is most expensive. That is why I have of-

fered this amendment. New York City is a target, is it not, the No. 1 target?

Mr. DE LA GARZA. If the gentleman would allow me to reclaim my time, there are no targets. Ten bombs will do it. You cannot segregate New York, San Francisco, Corpus Christi, Oklahoma City, Chicago. I mean, I say it with due respect to my friend, this is nonsense. Ten bombs will do us all in.

Mr. HERTEL of Michigan. I agree with the gentleman.

Mr. DE LA GARZA. We cannot be segregating the areas, we cannot be segregating the areas.

Mr. SISISKY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. SISISKY. I thank the gentleman for yielding.

Then I would ask my friend what the strategic interest is? I respect what the gentleman said and glorify his sons in the Mediterranean, but if that is no problem, tell me what the problem is in the ports? Forget about the economic reasons. Will the gentleman explain to me then if the bombs do not mean anything, tell me the strategic reason why we should have more ports in this time of economic crisis?

Mr. DE LA GARZA. The fact is that you have to disperse. What I am talking about is the entity, that in the nuclear age if a nuclear war is unleashed, forget it. Later we are going to vote on the conventional war in a very localized area. That is where the Navy comes in. That is where the battle wagons come in. I just heard, it was on a talk show, in sort of a ludicrous way that someone said, "I ran into this Lebanese and he was so upset about New Jersey. He says, what is wrong with the Garden State of New Jersey? And he kept saying New Jersey, New Jersey, New Jersey. It was because the New Jersey caused consternation and changed the tone of the war in Lebanon." The battleship he was talking about; that is what we are talking about, the concept of refurbishing the battle wagons, the concept of spreading them out.

I have been to Norfolk, I have been to Salerno, I have been to Florida, I have been to San Diego. In a conventional war, forget it. In Florida they have got 20 ships in a 1-square-mile turnaround basin.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has again expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. SISISKY. Mr. Chairman, will the gentleman yield further?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. SISISKY. I thank the gentleman for yielding.

The gentleman said something earlier in his presentation, Mr. Chairman, which is a strategic point, believe it or not. His son sailed from one place and had to wait for ships from another place. That is what this is all about. The Navy has never proven the fact——

Mr. DE LA GARZA. No, no. The gentleman is all wrong. The concept is that you meet en route. You cannot have them all in one place, you have to separate them all in different places.

The tender is here, the carrier is here, the missile cruiser is here, and they combine en route to a strategic point. That is what happened, that is what they were doing, and that is what needs to be done.

Mr. SISISKY. But that is exactly what the Navy tried to prove, that steaming time would be reduced by dividing the fleet. But fleets fight in task forces, not battle groups.

Mr. DE LA GARZA. Well, the gentleman is more than expert in that area. But if you are all going to the same place, the steaming time is not that relevant if you are all going the same way to join at a point. What I am trying to say is that the basic integrity of the ability of the U.S. Navy in a conventional operation, in a conventional operation—I make that very clear, the strategic import of the U.S. Navy is that they are dispersed in such a way that conventionally—and we know where the submarines are. We know how far they have come. They have come into the basic basin. That is not important on this issue because that is a fact of life, that is a reality we have to live with.

The important thing is, do we have them in strategic areas?

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has again expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. DE LA GARZA. I thank the chairman.

Mr. Chairman, I apologize for taking too much time. But my colleagues who are arguing about the concept are dividing into two segments, those who are provincial, which I respect because I would be likewise, and those who are arguing against the concept who would basically have somewhat not enough knowledge about the issue.

Now if I were in San Diego, I would not want to take my ships to Washington or someplace. That is basic. I can agree with that, I can sympathize with this. But I care more about one ensign in the Mediterranean and how he can do his job and how he can protect the security of this Nation than where the hell the ships are docked.

That is the basic thing that I am talking about today, not whether there are going to be enough for Corpus Christi or San Diego or Washington or New York. One ensign means more to me than anything we discuss here. How are we going to protect him? How are we going to give him the ability to protect this Nation? The integrity and the security and the life and the liberty of this Nation, that is what we are going to be discussing later today. That is my issue. We are not taking money from here, from the farmers, from housing, from increased welfare; we are talking about how we can make a sailor in the Navy represent his country to the best of his ability. And that, my dear friend, is where the item lies, that we disperse them all, that we give them the security necessary in conventional war, that we give them the ability to protect us here in this Congress, in this Nation.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has again expired.

(On request of Mr. CALLAHAN and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman.

Mr. CALLAHAN. I thank the gentleman for yielding.

The gentleman has so eloquently stated the story of the home porting concept. This debate has been taking place in the bodies of this Hall and across this rotunda for a great number of months. Without a doubt, it has been proven time and time again that the gentleman from Texas is absolutely right, that the concept of home porting is an absolute necessity in meeting the national defense of this great country.

We are not talking about the money, as the gentleman suggested, we are talking about the preservation of peace within this country, and the best national strategy that we can possibly develop. The gentleman is so right in his statement. I join with the gentleman wholeheartedly in opposition to the Hertel amendment.

Mr. DE LA GARZA. I thank the gentleman.

The question, as my colleague says, is, Are we going to vote the best interests of this country, as the experts of the Navy tell us, as the nonexpert lowly ensign in the Navy tells me? Are we going to vote for that, or are we going to make a political decision that we are going to do the political thing at this point in time, or are we going to put the integrity, the security, the welfare, the future of this Nation in jeopardy, as the experts tell us? The question is, Do we vote for ourselves or do we vote for the sailors who tell us this is what we need?

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise to speak in favor of the amendment. Let me say to my colleagues that Mr. DICKS earlier raised a cap that he proposed for military construction. The cost of this program is not just military construction. Let me tell you why. I appreciate the gentleman saying it is so important to protect our sailors because that is precisely what I am proposing to do in going with the Hertel amendment.

Right now we have a total of 21 minesweepers in this country, all of which were built in the 1950's, to protect our home ports, to allow ships to escape to the open sea, which is what they have to do in times of war.

Let me just tell you the Senators from New York stated it very well in testimony before the committee when it was asked of them, "Well, when you get these new ships up in New York, are you going to want some minesweepers to protect them so that if that harbor is mined, they can escape to the open sea before they are destroyed?" And their answer was, "You're darned right, we want some minesweepers." They are going to have to have at least three minesweepers in that particular city. They do not have them right now.

So they are going to want at least three minesweepers in New York City.

So you are going to have to have a bundle of minesweepers up in Everett, WA. I think you are going to have to have between 10 and 20 minesweepers to accommodate these new home ports. Let me tell you how much they cost. The MCM Avenger is $100 million in fiscal year 1987 money. So if you are going to build the minesweepers that you need to allow the ships to escape to the sea in times of national disaster, which is precisely what we are talking about in the new home ports, that is over $1 billion. If you go to 20 minesweepers, new minesweepers that are needed besides replacing the ones in existing home ports, which badly need to be replaced, that is $2 billion. I think the real cost in terms of minesweepers is between $1 billion and $2 billion. It depends on whether or not you take the MCM Avenger at $100 million in fiscal year 1987 dollars or $50 million in the MSH Cardinal minesweeper, which is $50 million in fiscal year 1987 dollars.

Mr. DE LA GARZA. Will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, the gentleman and I were at the same subcommittee hearing, and the Navy in fact asserted that that is an accurate statement in that they have in line or could refurbish minesweepers. That is not the issue. The issue is not $1 million or $2 million or this or that. I know where the Senators from New York State are coming from, and I know where the Senators from North Carolina and Virginia are coming from. That is what I was talking about, separating the political from the real need.

Mr. HUNTER. Let me reclaim my time in order to tell my friend from Texas that the Subcommittee on Sea Power of the House Committee on Armed Services has deleted a Trident submarine from markup because of dollar constraints. One of the most important strategic systems we have for the protection of the United States, the facts are—and I think the gentlewoman from Illinois will explain it better later—we are not going to have dollars. So for the Navy to say we are going to cover up these two naked home ports by buying a bevy of minesweepers that they have not bought, that they have not constructed and they said those minesweepers right now are on paper, they are not constructed and most of the minesweeping program is in trouble, is not to be realistic.

□ 1515

Let me just tell the gentleman, let me just read a few headlines. "Navy Minesweeper Flunks Its First Test," Defense News, March 17, 1986. "Fiberglass Hull Flunks Its First Test," "Design Flaw Endangers Crews Aboard Wooden Hull Ships."

We have enormous problems with the minesweepers. Even if we had the money, we are going to build strategic submarines. We are not going to build minesweepers first. The Navy has never built minesweepers first.

Mr. SISISKY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Virginia.

Mr. SISISKY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman talks about minesweepers, and the gentleman knows where the Navy is securing a lot of minesweepers at the present time, they call them opportunity ships, from the DEA and Miami Vice, or whatever they may be.

But there is another issue that the gentleman did not bring up, and I hope the gentleman will not forget, because the gentleman comes from a port that disallows Warsaw Pact ships who may give very good discounts to ports that do not get in there. The gentleman knows very well that the Navy has stated that they will not allow Warsaw Pact ships into three or four Navy ports.

This gentleman, and I think the gentleman was there, directly asked the Navy whether they would ban the entrance of Warsaw Pact ships into the larger ports such as the Port of New York, the Port of San Francisco——

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has expired.

(By unanimous consent, Mr. HUNTER was allowed to proceed for 3 additional minutes.)

Mr. SISISKY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Virginia.

Mr. SISISKY. The Chief of Naval Operations, who said 5 minutes before this gentleman asked that question that the integrity of the battle groups, they could stay in port and use communications devices between ships, and when I asked him specifically the question, would these Warsaw Pact ships be banned in these ports, he said, "I don't think it's necessary."

I want you gentlemen to understand from these large ports that if it goes by amendment or by the security of these ships, then the maritime interests in these cities ought to know the possibility of the lacking of Warsaw Pact ships in these areas.

I would ask the gentleman if that is not true?

Mr. HUNTER. Let me say the gentleman is precisely right. Let me just share with the gentleman the first embarrassing answer the Navy personnel gave to us was, "When these Warsaw Pact ships come into New York Harbor, what we are going to do is flush all of the Navy ships out of the harbor while they are coming in."

Can you imagine the cost of doing that and the silliness of doing that. After the laughter subsided, they said, "Well, we will come up with another answer later on."

Let me just say precisely that the gentleman is stating the fact. The Navy has banned Warsaw Pact ships from these ports for the simple reason that one nuclear weapon in a Warsaw Pact ship in the harbor can cause a lot of problems.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I can appreciate the gentleman's concern. But my concern is that I think we are deviating. The gentleman does not think that our Navy can sanitize?

I would be worried about Warsaw Pact ships. They are only coming in for grain. I think that at this time it is not really within the realm of reality that they would have nuclear weapons.

Mr. HUNTER. If the gentleman is stating to me that in a time of war the gentleman does not think the Soviet Union would be so dastardly as to put a harbor-blocking bomb inside one of their merchant vessels, I just want to

tell the gentleman that the Soviets use their merchant fleet and their fishing fleet for military operations all of the time. Absolutely the state in Russia, the Government and not individual enterprise, is in control of all their ships. Of course, they would use every advantage that they possible have to immobilize an American fleet.

Let me just say to the gentleman that the gentleman has agreed that the New York Senate delegation is correct in saying that they have a right to have some minesweepers if they have a new home port.

Does the gentleman agree with me that it would be only necessary then to send at least three $100 million new minesweepers to that particular port if they become a port? Is that not right?

Mr. DE LA GARZA. No; I do not agree with that.

Mr. HUNTER. How many does the gentleman think they need?

Mr. DE LA GARZA. I do not agree with that, because I think you can sanitize a port without the minesweeper. The gentleman is getting into a concept of World War II. We have the ability now to sanitize and to detect and to deter.

We are not talking about them coming in and mining the harbor and that kind of thing?

Mr. HUNTER. Will the gentleman tell me how we are going to sanitize a port without a minesweeper?

Mr. DE LA GARZA. I would not want to discuss it here with the gentleman, but it can be done.

Mr. HUNTER. It is a secret.

The CHAIRMAN. The time of the gentleman from California [Mr. HUNTER] has again expired.

Mr. MOLINARI. Mr. Chairman, I ask unanimous consent the gentleman be allowed to proceed for 1 additional minute.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. MOLINARI. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from New York.

Mr. MOLINARI. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just want to make sure that I understand this. If I understood the position of the gentleman from California, San Diego, CA, and the gentleman from Virginia, somewhere near Norfolk, VA, they would not oppose the home ports in New York and Everett and other places if the Navy had the minesweeping capacity? Is that a correct understanding on my part?

Mr. SISISKY. This gentleman did not say that, if the gentleman is asking this gentleman.

Mr. HUNTER. Let me answer the gentleman from New York. I think the personnel costs, the transportation costs, the costs of building infrastructure, hospitals, training schools, and everything are going to make this program prohibitive in light of our budget constraints.

But I am telling the gentleman all American taxpayers are going to be paying for this 300 million dollars' worth of minesweepers for New York and the same amount for Everett, WA. And the gentleman can easily see that this $200 million figure that the Navy laid out is just not realistic. We are going to go way over the billion-dollar mark just in minesweepers to protect the new ports.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Washington.

Mr. DICKS. If the gentleman is concerned about cost, I join with the gentleman from San Diego who is always very honorable in these matters, but we are going to have to spend money at San Diego and at Norfolk for facilities, for housing, for hospitals, and for all the things. So there is no free lunch here.

Mr. HUNTER. Mr. Chairman, reclaiming my time, the gentleman is precisely wrong. The present minesweeper deployment already takes care of existing home ports. Ships in existing home ports can escape to the ocean right now. If we want ships in New York to escape to the ocean, we are going to have to buy three $100 million minesweepers.

Mr. SISISKY. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Virginia.

Mr. SISISKY. That is basically true. There is no sense on dragging this on, but it is absolutely true.

Mr. HERTEL of Michigan. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Michigan.

Mr. HERTEL of Michigan. Mr. Chairman, I thank the gentleman from California for yielding to me.

I want to take 1 second out here and discuss, as the chairman was trying to, so we can reach an agreement on the time. Many Members have asked when we are going to vote on the question. I want to be reasonable, but I would agree with the chairman.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I want to tell the gentleman from San Diego [Mr. HUNTER] one of my boys is in San Diego, so my interest is not provincial. And to the others on the Atlantic, one of my boys is at Mayport. He is now out in the Mediterranean, so it is not provincial. I sympathize with the gentleman on the provincial aspect, but I am trying to get to the national security aspect.

Mr. DICKS. Mr. Chairman, I appreciate the gentleman's statement.

Mr. Chairman, I want to first of all rise in very strong opposition to the Hertel amendment. I think it is a mistake from a military perspective. I think the gentleman from Texas, the distinguished chairman of the Committee on Agriculture, has brought us back to the important issue. We are talking about the lives of our naval personnel who we are putting at risk by overconcentrating these ships at existing home ports.

I would like to point out to my colleague from Michigan, the author of the amendment [Mr. HERTEL] I would like to read a letter from Senator BARRY GOLDWATER, chairman of the Senate Armed Services Committee to Secretary John Lehman, dated June 5, 1986.

The CHAIRMAN. Without objection, the gentleman may read from the letter.

There was no objection.

Mr. DICKS. This is relevant to the debate and I want to be accurate.

The committee has had an opportunity to review extensively the Secretary of the Navy's strategic home porting initiative. It is the judgment of the committee that the strategic value of this plan has been clearly demonstrated. It is our understanding that the military construction costs of this program, as outlined in the Navy and the military necessity cost effectiveness report dated November 19, 1985, will not exceed $799 million. The committee has no objection to the Secretary of the Navy obligating and expending funds appropriated in fiscal year 1986 for construction of facilities at Everett, WA and Staten Island, NY.

□ 1525

Mr. HERTEL of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman.

Mr. HERTEL of Michigan. I thank the gentleman for yielding to me.

Mr. Chairman, to clarify, that as the chairman, I am sure Mr. GOLDWATER wrote that letter in regard to what the committee had done. But Mr. GOLDWATER himself not only voted against home porting but also sent a letter to Secretary Weinberger stating that he was totally opposed; that it had no strategic value.

Mr. DICKS. I appreciate the contribution by the gentleman.

Mr. Chairman, let me also point out the facts about where this money is going to be spent; the $799 million that Chairman GOLDWATER discussed.

Now, $188 million is at Staten Island; $272 million at Everett; $254 million at the gulf coast bases; and $85 million at San Francisco. So this money is spread out all over the country, there are a large number of States

that are affected. I might just say for my friend from Alabama, the distinguished ranking member of this committee, that we are all in this together. Either this concept of strategic home porting is going to go forward or it is going to be defeated. If it is defeated, I must say to my colleagues from other parts of the country that I do not think it will bode well for the future years.

I have looked at this project extensively. I honestly believe that Chairman DE LA GARZA had it right when he said, "What we should be thinking about here is the survivability of the ships." Now, let us face it: We have spent $50 to $60 billion building these ships, so why would we want to add them to existing ports where they would be more vulnerable? That is why all of the Chiefs of Naval Operations except the one that works for the Norfolk Chamber of Commerce have supported the concept of strategic home porting. It makes military sense; that is why they are for it.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman.

Mr. LIVINGSTON. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is eminently correct. It makes no sense to concentrate all of our forces in just a few isolated ports on both sides of the continent instead of spreading them around the whole Outer Continental Shelf and in the coastal regions.

Mr. DICKS. I would say to the gentleman from Louisiana you have oil that is coming in in your area; vital oil links that are coming in. We have oil coming down the west coast from Alaska to California to take care of the requirements of the entire west coast.

A battle group out of Everett could serve to help protect not only the Trident submarine base, but those vital sealanes carrying that oil. From a military perspective it makes sense.

What we are seeing here today are those people who represent existing home ports who think that they can get additional ships added to their home ports. Yes, we have a parochial interest as well.

The CHAIRMAN. The time of the gentleman from Washington [Mr. DICKS] has again expired.

(By unanimous consent, Mr. DICKS was allowed to proceed for 1 additional minute.)

Mr. DICKS. But what we are trying to do here today is support the policy that has been recommended by the Secretary of the Navy, by the Chief of Naval Operations, by the Chairman of the Joint Chiefs of Staff.

I will take the credibility of the CNO and the Secretary of the Navy and let us vote down the Hertel amendment.

Mrs. MARTIN of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise as a member of the Armed Services Committee, if the gentleman from Washington would listen briefly, who neither has a home port or is getting one. I would not, in any way, shape or form, either impugn the motives of either group because caring about one's district is an acceptable thing for Members of Congress.

Perhaps for those listening their offices who have wondered about this feeding frenzy that they have seen on the floor, they would like to hear from someone for whom there is never a chance of a home port or of taking 1 penny of ship's money from anybody. The Rock River is quite lovely, but it also is not going to be a port.

I come here also as a member of the Budget Committee and I tell you all this: A number of months ago we voted here, whether Republican or Democrat, on budget numbers. We thought perhaps if we were Democrats that that would go up a bit in conference; if we were Republicans we regretted, perhaps, that it would come down.

In either respect, the numbers not just for this year, but for next year and next year and next year make this whole argument moot. Here is the news, it is not nice, it does not make good press releases: There is not any money. The fact it will only cost $100 million more or San Diego will not need $300 million for minesweepers but Everett and Staten Island Ferry will, that is madness.

There is not even going to be enough to maintain San Diego. We are going to be shutting down bases that others of you voting on home ports with no real interest in it are suddenly going to say "why," not for home ports but just to maintain the numbers we have already voted on.

Members of the House, it is not wonderland here anyone. It is going to be difficult to maintain for the young men and women of the Navy, the Air Force, the Army, the Marines, and the Coast Guard, safety. But new pork, as enhancing as it is, is out of the question this year.

So I tell you as someone who will not get any of it from a State who is 50th in what we get back in defense spending, who would like to help out the Republicans and Democrats in home ports because it is useful to help your colleagues, that you may not have it.

Mr. BEDELL. Mr. Chairman, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield to the gentleman.

Mr. BEDELL. I thank the gentlewoman for yielding.

Mr. Chairman, first of all, I wish to commend the gentlewoman for her statement. I hesitated to say anything because I am not an expert in this issue. But it should be very clear that the debate we are having is between those who want to get home porting in their area and those who want to keep it in their area.

At least I believe the gentlewoman from Illinois and the people from Iowa and other places should have some voice in this issue if we are going to be spending extra money. I have talked to the chairman of the subcommittee, he tells me that they do not have to spend extra money at this time in order to house the ships that they now have.

If that is the case, and we are voting whether we should spend $140 million extra for something we do not have to have at this time, when my farmers cannot get the loans they need, when we do not have the money to give help to the students to get education, and this sort of thing, I would think that those people who are not involved in this and who may come from those areas that are not going to be involved in this particular parochial issue would give some thought as to whether they want to spend $140 million that at least apparently there is some indication that we do not have to spend at this time.

I again commend the gentlewoman for her statement.

Mrs. MARTIN of Illinois. I thank the gentleman for his contribution.

Mr. DICKS. Mr. Chairman, will the gentlewoman yield?

Mrs. MARTIN of Illinois. I yield briefly, understanding the gentleman's strong abilities in this area, but he has talked a lot.

Mr. DICKS. I thank the gentlewoman for yielding.

Mr. Chairman, I wanted to make sure that the gentlewoman knew that this committee, the budget request for this committee for military construction was $10.137 billion. This committee has reduced that by over $2 billion.

Mrs. MARTIN of Illinois. Mr. Chairman, I reclaim my time.

I should be fascinated; we cut almost $1 billion. It is not enough. The only way to cut it is to not do it. I am just saying, and it hurts to say it from both the Armed Services and Budget Committee: There is no cash. C-a-s-h.

I do not care how nice it is, we cannot do it.

Mr. HEFNER. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments hereto end in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 1 minute each.

□ 1535

(By unanimous consent, Mr. RUSSO yielded his time to Mr. SISISKY.)

The CHAIRMAN. The Chair recognizes the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am sorry that I only have limited time. I have been accused of being an expert around here. I assure this body that I am not an expert, but I do study the matter. I have been accused of representing Norfolk, VA. I do not; represent the area around Norfolk, VA, and I feel that this issue is something of which it can be said, "The gentlewoman from Illinois sized it all up."

She did it in the committee, and I tried to do it in the committee. In 1982 when this thing was set, the defense budget was growing at 10 percent real growth a year. It is not growing anymore. It is amazing to me. The Subcommittee on Seapower reported to the full committee yesterday. It took 5 minutes to say that we discontinued out of the budget a Trident submarine, two Aegis cruisers, and an Aegis destroyer, and the Navy still wants to do business as usual.

We have proven beyond the shadow of a doubt in my opinion in the committee that the strategic value of this mission is not here, the economics are not there.

I am going to say something, and it is not going to be nice, and I am probably going to regret what I am going to say.

It has been charged here today that this is political posturing from Members. Let me tell you something: You have never seen political posturing like what is going on in the Department of Defense over this issue. It is no accident that New York and Texas and California and other States have large delegations. Let us be honest. We called it another name, but I would never say that our Secretary, whom I admire greatly, would do anything like this, but it has been said that it is done.

I come back to the point that we cannot do business as usual. Certainly it will cost more money for the home ports that are there already to build a pier; in fact, in Norfolk they are building a $35 million pier right now. But the point is that we do not have to build the infrastructure.

(By unanimous consent, Mr. BEDELL yielded his time to Mr. HERTEL of Michigan.)

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. HERTEL].

Mr. HERTEL of Michigan. Mr. Chairman, as the author of the amendment, could I be allowed to reserve my time and be recognized near the end of the debate?

The CHAIRMAN. The Chair would be happy to recognize the gentleman later.

Mr. HERTEL of Michigan. I thank the Chair.

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. MILLER].

Mr. Miller of Washington. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have appropriated tens of billions of dollars to build a 600-ship Navy. No matter what the House decides on this amendment, those ships will have to be home ported somewhere. Either we put them in expanded existing facilities, or we disperse the ships and adopt the Navy's strategic home port plan. Either way, we will have to come up with money, whether to expand existing facilities or to build new facilities.

The cost difference of $100 million between the two alternatives is relatively small. But the strategic difference is great. It is the difference between dispersal for access and safety—and Pearl Harbor revisited. We should support dispersal and the Navy's strategic home port plan.

(By unanimous consent, Mr. MILLER of Washington yielded his time to Mr. HUTTO).

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. DELLUMS].

PREFERENTIAL MOTION OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from California [Mr. DELLUMS] is recognized for 5 minutes in support of his preferential motion.

Mr. DELLUMS. Mr. Chairman, I will not insist upon my motion that the Committee do now rise. I simply use this extraordinary tactic in order to gain some opportunity to speak on this terribly important matter. I think that we ought to limit debate only on issues that are noncontroversial; clearly this is controversial.

Mr. Chairman, I would like very much to speak to an issue that has not been addressed fully in this debate. This program is not entitled the Home Porting Program. It is referred to as the Strategic Home Porting Program. That term was not used loosely. So the argument here that in some way we need to expand the number of facilities for existing ships does not address this program. This program is called the Strategic Home Porting Program.

The subcommittee which I chair of the Committee on Armed Services has held more hearings on the policy of strategic home porting than any subcommittee or full committee in this entire Congress. So I would dare say that we have some reasonable knowledge about this issue.

Let us talk about "strategic." The Navy's rationale for the Strategic Home Porting Program: Dispersing ships to more ports will improve the U.S. defense posture and the survivability of the fleet. Mr. Chairman, if we were talking in the context of World War II, then this would make sense. This is an era of nuclear technology. This is an era of MIRV missiles. I would suggest to you that even if we dispersed the ships to 13 additional ports, do you think the Soviet Union cannot retarget 39 additional missiles of the 7,000 or 8,000 missiles that they have to render these ports vulnerable? That is bizarre and absurd on its face. So in terms of the first rationale, it is flimsy and without merit, Mr. Chairman.

No. 2, New York is now one of the facilities. New York is one of the high-priority target areas already targeted by the Soviet Union. So we are going to disperse ships into this more dangerous area? A second absurd and bizarre argument that flies in the face of intellect.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. Please, not at this time.

Mr. DE LA GARZA. The gentleman——

Mr. DELLUMS. Mr. Chairman, I insist upon my opportunity to speak.

The CHAIRMAN. The gentleman from California has the time.

Mr. DELLUMS. Thank you, Mr. Chairman.

Collating ships of the same battle group will enhance war-fighting coordination. We do not fight in battle groups, we fight in task forces. So if you have one ship at another location that has to rendezvous with you in some other place, it is not how fast the quickest ship gets there, it is how fast the slowest ship gets there. So we do not operate out of battle groups, we operate out of task forces. So the second argument goes out the window.

The third important argument: Home porting ships near locations with existing industrial capacity will permit the Navy to take advantage of this capability. Well, the existing ports already have this infrastructure, and already are taking advantage of this capability.

The fourth argument: Home porting ships in more diverse geographical locations will permit the Navy to train in a variety of environments and will reduce the response time to potential conflict areas. Now you tell me, is the harbor in San Francisco and the harbors in Everett, New York, a wide variety of environmental opportunities to train? You tell me what is so significant about a training facility in the middle of California that is more dif-

ferent than a training facility several miles up the coast. That is bizarre on its face. And as I said, you do not get to areas of conflict any faster than the slowest ship with which you have to rendezvous.

Finally: Developing additional logistical support complexes will help support the expanded fleet. That is precisely the point that we are trying to make. Mr. Chairman, we are going to have to expand these facilities; $790 million would not buy this program. If you support the concept, fine. That is what our political process is about, the right to agree and disagree on policy. But I think each of us, Republican, Democrat, liberal, conservative, moderate, man, woman, whatever in this body, if you support a policy, you should be able to rationally and intelligently go home and be able to say to your constituents, "I support this policy, and this is how much it costs." Not one single person on the floor of this entire Congress can tell you to a moral certainty how much this program is going to cost.

Even the person who says, "Let's cap it at 799" has the integrity and the honesty to say that he knows that the figure will go beyond that. We are not only going to build family housing, but we are going to build access roads, we are going to build brigs, we are going to build commissaries, we are going to build morale centers for the troops.

The CHAIRMAN. The time of the gentleman from California [Mr. DELLUMS] has expired.

Mr. DELLUMS. Mr. Chairman, I still have 1 minute on the earlier request.

The CHAIRMAN. The preferential motion takes preference over the 1 minute.

Mr. DELLUMS. Mr. Chairman, I still have 1 minute after the preferential motion is voted up or down; is that not correct, Mr. Chairman.

The CHAIRMAN. The gentleman is correct. Does the gentleman desire to take that now?

Mr. DELLUMS. That is my request, and then I would logically conclude my discussion, Mr. Chairman, if I may.

The CHAIRMAN. Without objection, the gentleman may proceed for 1 additional minute, on the preferential motion, in lieu of his 1 minute allocated on the pending amendment.

There was no objection.

□ 1545

Mr. DELLUMS. So Mr. Chairman, I do not perceive these latter issues that enhance the quality of life of our young men and women who serve in the military as some enhanced program. Do you think where people live and where people work, the recreation and morale, the child care facilities and what you have you, are enhanced programs? This deals with the quality of life of young people.

So in conclusion, Mr. Chairman, this is called the Strategic Homeporting Program. It falls flat on its face in terms of strategic arguments. It is not necessary. It does not deserve integrity. It does not give us survivability. It does not give us a safer situation. It only creates more danger for the people living in those ports.

Second, as the gentlewoman from Illinois pointed out eloquently and powerfully, we just do not have the funds.

Finally, I guarantee, Mr. Chairman, that this program will cost far in excess of $799 million at a time when we need to be educating our children, feeding our people, enhancing the quality of life of our poor, putting human beings back to work and taking the homeless off the streets.

Mr. Chairman, these ought to be our new priorities, not some new programs.

Mr. Chairman, I ask unanimous consent to withdraw the preferential motion.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DICKS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HEFNER. Mr. Chairman, I rise in opposition to the preferential motion.

Mr. Chairman, I was hoping the gentleman would withdraw his motion. We have worked very hard on this bill, and I am opposed to the amendment.

Mr. Chairman, I yield to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Chairman, I appreciate the chairman yielding to me.

I ask the Members to support the committee position on this.

This is the third salvo that the gentleman from Michigan [Mr. HERTEL] has fired at the Navy, but I know that my good friend, the gentleman from Michigan, does not want to torpedo the U.S. Navy. I am sure that he is a friend of it, but he just does not understand the fact that this Congress has authorized and we are buying a 600-ship Navy. We have got to put those ships somewhere.

The question is, should we put these ships into ports that are already congested with 100 plus, more than 100 ships in these ports, or should we do what every Navy strategist, with the possible exception of that one, says that we should do and should have done a long time ago, and that is to disperse the fleet?

Sometime ago, a few years ago, the Secretary of the Navy after examining our naval strategy decided, and rightly so, that we should not have all our ships in just two or three ports, but we should disperse the fleet. It was at that time I think called the Ship Dispersal Program, and later to be called the Strategic Home Porting.

A lot of Members of this House do not know about this strategic home porting plan. So I think it is good for us to realize that the Congress has authorized and we are buying a 600-ship Navy and we have 120 or 130 ships to put somewhere.

To assuage the fears of those people who have large numbers of ships in their ports, they are going to get some of these ships even in the strategic home porting plan.

I think all of us would agree that we need some ships along the gulf coast, for example.

The gentleman from Alabama in our committee, and this came through our subcommittee and we endorsed the Subcommittee on Military Construction, the Committee on Armed Services endorsed the concept of home porting. The full committee just yesterday endorsed the concept of home porting.

So we are saying that this is the right thing to do.

I want to tell the Members of this House also one thing that I think has not been addressed properly today and that is the standpoint of readiness and the industrial capability of our Nation. We need to maintain an adequate industrial base by home porting ships near locations with existing private sector industrial capacity in the Northeast part of the country and the Northwest and along the gulf coast that permits us to take advantage of that capacity during peacetime and to surge to wartime production levels more rapidly if needed.

The Navy and the entire maritime industry depends on a healthy and well-developed shipbuilding and repair industry.

The gentleman from Texas [Mr. DE LA GARZA] pointed out something that we should also take note of and that is, remember Pearl Harbor. We do not want our ships all in one area.

The gentleman from California is talking about the strategic capability of the Soviet Union and the ICBM's and, of course, sometimes we seem to think that would be the only war that would be fought, just a missile or two on either side and it would all be over with; but tell me why we are planning in a conventional way and we are spending billions and billions of dollars on conventional forces?

The point has been made about the cost of strategic home porting. Let me tell you that the cost of the military construction related to strategic home porting would only be about 7 percent of the entire military construction budget for the next 5 years.

Also, let me say that when you talk about this being too expensive, we are spending many times over this amount of money on many of the weapons systems that we are funding in our defense authorization and defense ap-

propriations bills for this Congress, of this Nation.

So I would ask all the Members to realize that in a number of these ports already we have a great amount of the infrastructure. The ports that we are voting on this year, Staten Island, NY, and Everett, WA, which do not have as much infrastructure as some of the others, but as we move on into home porting we will find that a number of these ports have a lot of the infrastructure, most of it, and also there is great participation on the part of the State and local communities which actually will match or better than match that put up by the Federal Government.

So in closing, Mr. Chairman, I would say that the House Armed Services Committee, the Senate Armed Services Committee, all of the naval strategists, all the past CNO's, with the possible exception of one, have said, "Yes, this is what we should do for the defense of our Nation. We should keep the freedom of the seas. We must maintain the freedom of the seas of the world and home porting is a good thing."

I ask you to vote "no" on the Hertel amendment.

The CHAIRMAN. All time has expired on the preferential motion.

The question is on the preferential motion offered by the gentleman from California [Mr. DELLUMS].

The preferential motion was rejected.

The CHAIRMAN. Under the limitation of debate time previously agreed to, the Chair recognizes the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Chairman, I rise in opposition to the amendment.

Quite frankly, Mr. Chairman, I have been surprised at the tone of some of the debate here today. There is no question that the Navy has looked at this very carefully. The Senate has already taken this issue up. The Armed Services Committee has already taken it up and considered it.

We are going to have 120 additional ships. We need greater dispersement. We need some of those ships to be based in the Gulf of Mexico.

In answer to the question of the gentleman from California about who is going to build the access roads, who is going to provide some of these facilities, I can answer that question. A lot of States and communities and counties that have said, "We support this concept, we are willing to make an investment locally because we think it is in the national security of our country and because it will be good for the areas affected."

It makes fundamental national security sense to not have all our ships based in just three home ports. We certainly should have a battleship and carrier group in the Gulf of Mexico.

So I would urge my colleagues to listen to the members of the Armed Services Committee, oppose this amendment, and support the home porting concept.

(By unanimous consent, Mr. DICKS yielded his time to Mr. DE LA GARZA.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, the gentlewoman from Illinois in her very eloquent way is wrong.

This concept, we are sharing. The gentlewoman should be grateful and my colleague, the gentleman from Michigan, should be grateful and my distinguished colleague, the chairman of the subcommittee, should be grateful.

For the first time, we are bringing in the local community. We are not doing all of the expense. We are sharing with the local communities. We are sharing with the States. We are sharing with the counties. The infrastructure is going to be built.

This is a novel and beautiful and good concept that we share with the localities and all the expenditure does not come from the Navy, from the Federal taxpayers, but we are sharing with the local entities.

Also, I would tell my colleagues in response to my distinguished friend and brother, the gentleman from California, you cannot feed the children, you cannot house the elderly, you cannot house the poor, you cannot provide for their energy and welfare, unless you have the security of this Nation. Everything is lost if you do not have the security of the Nation, and the security of the Nation entails, yes, the World War II concept.

Forget about the missiles. Ten missiles will do us in today. Bang, and that is it, and there is no world as we know it.

We have to have the ships for the sealanes. We have to have the old concept of World War II to keep peace in the Nicaraguas and in the South Africas and the Lebanons.

We may be right, we may be wrong. I take no responsibility——

The CHAIRMAN. The time of the gentleman from Texas has expired.

The Chair recognizes the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I yield my 1 minute to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman.

So what we are talking about here is not feeding the poor, housing the elderly, providing for infrastructure. We are talking about the integrity and security for the future of this Nation, and for that you need a Navy. The missiles, forget.

I agree with the gentleman from California. We need no more missiles. Ten will do us in. I agree with the gentleman 100 percent.

We should not be talking about how many more missiles, match them one by one, but we have to have the conventional security to provide for wheat to go to one area, for rice to go to another area, to have the conventional ability to feed the world, the poor of the world. That entails a conventional security, not missiles. We have got too many already. When we went past 10, we should have stopped. I agree with the gentleman.

We are talking now about how to disperse the Navy, now to provide for the security of my boy to fight his war in the Mediterranean for the integrity and security of this Nation.

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Chairman, I rise in support of the Hertel amendment.

I again want to say that one of the proposed home ports is 20 miles from my home.

Who are we trying to kid here? We are going to miss the Gramm-Rudman target this fall, we are going to miss it by about $15 billion because of falling revenue.

We are going to be back here then trying to figure out where to make the cuts to hit the target. We are going to have to be making those tough decisions. When you go to make those tough decisions, this home porting cost is not justified. It means we will have to make cuts elsewhere to pay for this.

The right vote is to vote for the Hertel amendment, have the courage to make the strong adjustment now. It is going to be tougher this fall. It is going to be tougher in the future.

My colleague on the Budget Committee, the gentlewoman from Illinois [Mrs. MARTIN] is absolutely right in talking about the budget problem.

Even at the $293 billion figure, we know we are going to be over Gramm-Rudman. That is a fact.

Make the vote now for the right priority.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield to me?

Mr. LOWRY of Washington. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I simply say to my colleagues that the ships that will be going into these new home ports are nuclear equipped ships, make no bones about it. We are not talking about traditional ships here.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I rise in favor of the amendment.

It seems to me it is a program that we cannot afford, plus the fact that re-

cently one of the major news networks did a rather interesting study of this particular problem, and what they looked at in home porting was, where is the money going to go? They looked at one city where the money is going and they found that a large percentage of that money is going to go to some of the most corrupt unions in the country who are directly associated with organized crime.

Our scarce resources are going to end up in the pockets of organized crime. We cannot afford that. I think we ought to approve this amendment.

(By unanimous consent Mr. HUTTO yielded his time to Mr. SWIFT.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington [Mr. SWIFT].

□ 1600

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield briefly?

Mr. SWIFT. I yield briefly to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I would just like to answer my colleague from California. These are not nuclear powered. The concept of refurbishing the old battlewagons are not nuclear-powered operations. This is conventional operation. We do not need to confuse the issue in that area.

Mr. SWIFT. I thank the gentleman for his contribution.

(By unanimous consent, Mr. LIVINGSTON yielded his time to Mr. SWIFT.)

Mr. SWIFT. Mr. Chairman, I should not be surprised that a great many of my colleagues have only focused on this issue for some time. Some are surprised that what we are talking about is not whether or not to build 600 ships. Some people in this body think they are yet to be built. The fact is, the 600 ships are built or almost completed. We have them.

What we are talking is that we bought the Rolls Royce. We are talking about whether we are going to build a carport for it.

The fact is, the $799 million, the entire home porting of all these extra ships at all of the ports throughout this country, will cost less than some of the ships that cost over $1 billion a copy that will be ported there; $799 million is a lot of money, but value has to be related to something. If I am going to sell you a brandnew 1986 car for $100, that is a deal. If I am selling you a candy bar for $100, that is not a deal.

We are talking about providing dispersal, which provides safety for these ships, at less than the cost of a single ship. It seems to me, put in that context, the whole economic issue changes drastically.

Let me speak for a moment to some of my colleagues who, as I have, have been concerned that we have skewed our national defense toward nuclear weapons. One of the things that I believe, and I think a number of my colleagues believe, is that we should have been putting greater emphasis on conventional weapons.

While it is true that we can put a nuclear weapon on a ship, the fact is that the Navy is an inherently conventional system. Some people say, "Come a nuclear holocaust, how are we going to save Navy through dispersal?" Come nuclear holocaust, the Navy anywhere is irrelevant. The whole purpose of the Navy and conventional weapons is to try and prevent our ever escalating to the point of nuclear exchange. The ability to disperse the Navy, the ability to send that Navy faster to places such as the North Pacific, 1½ days steaming time shorter than out of San Diego, all of those add up to essentially a strong increase of our conventional capability.

Those of us who have had some concern and have voted that concern about an overbalance toward nuclear weapons must now not have it both ways. We cannot be against nuclear buildup on one ground and against conventional on the other.

I believe this is a smart, intelligent, wise, conventional response to our military buildup.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I would be happy to yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes a very good point. This concept has been studied for the Navy for 2 or 3 years and has been adopted by the other body. The host city has already voted for the bonds to support the concept. It is needed and it ought to move forward.

A lot of cities wanted this, and now all at once they think, "Maybe we ought to take another look." This concept ought to move forward, and I support this move.

The CHAIRMAN. The Chair recognizes the gentleman from Hawaii [Mr. HEFTEL].

Mr. HEFTEL of Hawaii. Mr. Chairman, it is interesting that the former Chief of Naval Operations, Admiral Hayward, does not understand the reason for home porting and considers it a wasteful exercise in financial spending and extravagance.

It is interesting that the GAO tells us that we do not need home porting; that we have all the capacity we now need for the ships that are being built and will be built.

It makes no sense to indulge in this kind of spending when there is not a need for it, when Senator GOLDWATER tells us this is a boondoggle. There is something wrong when we have financial problems on the one hand and indulge in this kind of spending on the other hand.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise in strong support of the Hertel amendment. The time has come to put an end to the Navy's home-porting scheme—a plan that is wasteful, dangerous, and strategically unnecessary.

The more closely the Navy's rationales for the home porting policy are scrutinized, the more feeble they look. The Navy claims the new ports are both affordable and necessary. But according to a recent study by the General Accounting Office, the Navy has grossly underestimated the costs of home porting, and hundreds of millions of dollars could be saved by simply making better use of existing Navy ports. At a time when critical domestic programs are being senselessly cut or eliminated, it would be foolish to start this expensive, unjustified new construction program.

At the same time, the Navy has failed to show that these new ports will make even a minimal contribution to national security. After looking at the strategic rationales for the home porting plan, the GAO recently concluded, "The Navy's basis (for the home porting policy), both with regard to strategic considerations and costs, is not adequately demonstrated." Even the chairman of the Senate Armed Services Committee calls home porting "pure, unadulterated politics," and has pointed out, "there is no reason why we have to go to all this expense to prepare harbors and docks for ships where those facilities already exist." In the last few weeks, the home porting scheme has come within a single vote of defeat in each body of Congress.

But Congress is not the only place where home porting has been opposed. Ever since the Navy announced plans to build a new home port in New York City, the proposal has met with heated opposition from city residents. Most opponents are appalled at the idea of basing battleships equipped with nuclear weapons in the middle of the country's most populous metropolitan area. These fears have been renewed with every nuclear accident, past or present, that the media reports. The recent disclosure by the Navy that in the Pacific Basin between 1965 and 1977 alone, a total of 381 nuclear weapons incidents and accidents occurred, has given added weight to these concerns.

Last summer, an unprecedented 112,000 signatures were collected on a petition to place a referendum about the New York home port on the city ballot. It was the first time in two decades that a referendum won a place on the ballot as a result of a grassroots

campaign. Days before the vote, however, home port proponents convinced the courts to remove the referendum from the ballot on a technicality.

Despite the absence of a vote, opposition to the Navy plan has grown plain to all observers. The recent discovery that the Navy has selected as its housing site an area known as South Beach, which is a protected wetland, has only added to the uproar against the home port. To their credit, the House Armed Service Committee eliminated housing funds in recognition of this problem. But how can you have a Navy port without any place to house the people?

Taken as a whole, the plan for a New York City home port is in an extraordinary state of contradiction and confusion. The Navy pays great lipservice to public concern, yet ignores the community when those concerns are raised. The Navy claims it will only go where there is adequate, affordable housing. Yet New York City may well have less affordable housing than any city in the country—and the Navy is legally unable to build on the one housing site they have already chosen. The Navy keeps assuring New Yorkers of the economic boon the home port will bring. But the Pentagon's own fiscal impact analysis, inflated as it is, shows the home port to be, at best, revenue-neutral for New York City. And the people of New York have repeatedly raised questions about the safety of placing nuclear weapons in a busy harbor in their midst, only to have them callously dismissed by the Navy. Finally, the Navy assures Congress that home ports are cost-efficient and strategically necessary, while the GAO report portrays the program as a poorly conceived, wasteful extravagance.

Mr. Chairman, there was some question raised a moment ago by the gentleman from Mississippi as to who was going to pay for all the additional facilities such as housing. I have news for him. Contrary to his belief, as far as the city of New York is concerned, it expects, as it has been promised by the Navy, that the Navy, the Federal Government, the American taxpayer, is going to be paying for that housing. The GAO has estimated that with all the facilities, including housing, factored in, just the New York port and the State of Washington port will cost $1 billion.

That is what we are talking about and it is not appropriate to try to lowball what the cost will be.

After Chernobyl the middle of New York City is the last place in the world we ought to want to put a nuclear home port.

So we must ask ourselves again, why build the home ports? Why spend scarce Federal dollars on a costly plan that brings few, if any benefits to either the community or the Nation? Why impose this onerous project, which will aggravate New York City's housing crisis, on a community that seems reluctant at best to accept it? And last, why place nuclear weapons in the Nation's most populous region and possibly endanger the health and safety of millions for a plan for which the General Accounting Office finds no strategic justification?

Mr. Chairman, at least when they paid the $600, the Navy actually got their toilet seat, and when the Air Force paid $7,600, they received their coffeemaker. At a cost estimated by the GAO of over half a billion dollars, I'm not sure either New Yorkers or the Nation's taxpayers will get anything at all from the New York home port.

I urge my colleagues to support the Hertel amendment and end this poorly conceived and dangerous plan.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, as a member of the Committee on Armed Services, I have been, and express my wish, in favor of home porting in that committee.

Mr. ORTIZ. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to my friend and colleague, the gentleman from Texas.

Mr. ORTIZ. I thank the gentleman for yielding.

Mr. Chairman, I would like to reiterate what has been said before. It is that we pay now or we pay later.

The concept has been approved by the Subcommittee on Military Construction and by the full committee. The communities have kicked in a lot of money, in my State and my locale, to the tune of $50 million. If we wait any longer, we are going to have to pay for it at a higher cost.

The Navy has studied this problem for many years. They have been able to make a good argument as to why we need it.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan [Mr. HERTEL] to close debate.

Mr. HERTEL of Michigan. Mr. Chairman, when we began this debate, which has lasted longer than I think many of us expected, I said it would not be a partisan debate and it has not been. Most of the people who are opposed to my amendment understandably have new ports coming into their States under this bill, but this appropriation bill only deals with appropriations for Everett, WA, which has serious environmental questions and additional cost questions that have been raised in this debate, and the other city that is involved in this appropriation bill is New York City which, as has been pointed out in this debate, is the most expensive city in which to house our military personnel, and clearly, strategically, is one of the top targets of the Soviet Union.

Why move ships, why disperse ships, to New York, which is already one of the major targets, which is already the most expensive place to put our personnel. It makes no sense. That is why I offered this amendment. That is why other Members from around the country have come forward in opposition to home porting.

The gentlewoman from Illinois [Mrs. MARTIN] pointed out, as a member of the Committee on the Budget and the Committee on Armed Services, that there is no new money. We weaken our existing facilities around the world. We weaken our conventional forces when we take money that is not necessary to go forward with this new idea.

Senator GOLDWATER opposed it. He called it a boon-doggle, as the chairman of the Senate Committee on Armed Services. The gentleman from Wisconsin [Mr. ASPIN], the chairman of the House Committee on Armed Services, also voted against it. The vote in the Senate Committee on Armed Services was only won by one. That was the difference.

The CHAIRMAN. The Chair will caution Members not to refer to Members of the other body.

Mr. HERTEL of Michigan. I have tried all day to move this debate forward and to agree on a time limit, so I am going to be brief.

We are talking about the Navy not spending $800 million, but $2 billion. I am asking my colleagues to vote "yes" for the amendment and save $2 billion.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HERTEL].

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HERTEL of Michigan. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 190, not voting 2, as follows:

[Roll No. 197]

AYES—241

Ackerman	Broomfield	Dannemeyer
Akaka	Brown (CA)	Daschle
Anderson	Brown (CO)	Daub
Annunzio	Broyhill	Dellums
Applegate	Bruce	Derrick
Aspin	Burton (CA)	DeWine
Atkins	Byron	Dingell
AuCoin	Carper	Dixon
Badham	Carr	Donnelly
Barnes	Chappie	Dorgan (ND)
Bateman	Clay	Dreier
Bates	Clinger	Durbin
Bedell	Coats	Dymally
Beilenson	Coble	Dyson
Bereuter	Coelho	Early
Billey	Coleman (MO)	Eckart (OH)
Boland	Collins	Edwards (CA)
Bonior (MI)	Conyers	English
Bosco	Coyne	Evans (IL)
Boucher	Crockett	Fawell
Boxer	Daniel	Fazio

Feighan	Marlenee	Schumer
Fiedler	Martin (IL)	Seiberling
Ford (MI)	Martinez	Sharp
Ford (TN)	Mavroules	Shumway
Fowler	McCain	Sikorski
Frank	McCandless	Siljander
Frenzel	McCloskey	Sisisky
Garcia	McCurdy	Skeen
Gejdenson	McKernan	Slattery
Gekas	McMillan	Slaughter
Gephardt	Meyers	Smith (IA)
Gingrich	Michel	Smith (NE)
Glickman	Mikulski	Smith, Denny (OR)
Goodling	Miller (CA)	Smith, Robert (NH)
Gordon	Mineta	Smith, Robert (OR)
Gradison	Mitchell	Solarz
Gray (IL)	Moakley	Spratt
Gray (PA)	Monson	Stangeland
Gunderson	Moody	Stark
Hall (OH)	Moorhead	Stokes
Hamilton	Morrison (CT)	Studds
Hatcher	Murphy	Swindall
Hawkins	Neal	Synar
Hayes	Nielson	Tauke
Heftel	Oakar	Thomas (CA)
Hendon	Oberstar	Thomas (GA)
Henry	Obey	Torres
Hertel	Olin	Towns
Hillis	Owens	Traficant
Hughes	Oxley	Traxler
Hunter	Packard	Udall
Hyde	Panetta	Valentine
Jacobs	Parris	Vander Jagt
Jenkins	Pashayan	Vento
Kaptur	Pease	Visclosky
Kasich	Penny	Volkmer
Kastenmeier	Perkins	Vucanovich
Kildee	Porter	Walgren
Kindness	Price	Walker
Kleczka	Pursell	Waxman
Kolbe	Quillen	Weaver
Kostmayer	Rangel	Weber
Lagomarsino	Ray	Weiss
Lantos	Regula	Wheat
Latta	Reid	Whitehurst
Leach (IA)	Ridge	Whitley
Lehman (CA)	Ritter	Whittaker
Leland	Roberts	Williams
Levin (MI)	Rose	Wirth
Levine (CA)	Rostenkowski	Wolf
Lewis (CA)	Rowland (GA)	Wolpe
Lightfoot	Roybal	Wyden
Lipinski	Russo	Wylie
Lowery (CA)	Sabo	Yates
Lowry (WA)	Savage	Yatron
Lujan	Saxton	Zschau
Luken	Schaefer	
Lungren	Schneider	
MacKay	Schroeder	
Madigan	Schuette	
Markey	Schulze	

NOES—190

Alexander	Cobey	Foglietta
Andrews	Coleman (TX)	Foley
Anthony	Combest	Franklin
Archer	Conte	Frost
Armey	Cooper	Fuqua
Barnard	Coughlin	Gallo
Bartlett	Courter	Gaydos
Barton	Craig	Gibbons
Bennett	Crane	Gilman
Bentley	Darden	Gonzalez
Berman	Davis	Green
Bevill	de la Garza	Gregg
Biaggi	DeLay	Guarini
Bilirakis	Dickinson	Hall, Ralph
Boehlert	Dicks	Hammerschmidt
Boggs	DioGuardi	Hansen
Boner (TN)	Dornan (CA)	Hartnett
Bonker	Dowdy	Hefner
Borski	Downey	Hiler
Boulter	Duncan	Holt
Breaux	Dwyer	Hopkins
Brooks	Eckert (NY)	Horton
Bryant	Edgar	Howard
Burton (IN)	Edwards (OK)	Hoyer
Bustamante	Emerson	Hubbard
Callahan	Erdreich	Huckaby
Campbell	Evans (IA)	Hutto
Carney	Fascell	Ireland
Chandler	Fields	Jeffords
Chapman	Fish	Johnson
Chappell	Flippo	Jones (NC)
Cheney	Florio	Jones (OK)
Jones (TN)	Mollohan	Skelton
Kanjorski	Montgomery	Smith (FL)
Kemp	Moore	Smith (NJ)
Kennelly	Morrison (WA)	Snowe
Kolter	Mrazek	Snyder
Kramer	Murtha	Solomon
LaFalce	Myers	Spence
Leath (TX)	Natcher	St Germain
Lehman (FL)	Nelson	Staggers
Lent	Nichols	Stallings
Lewis (FL)	Nowak	Stenholm
Livingston	Ortiz	Strang
Lloyd	Pepper	Stratton
Loeffler	Petri	Stump
Long	Pickle	Sundquist
Lott	Rahall	Sweeney
Lundine	Richardson	Swift
Mack	Rinaldo	Tallon
Manton	Robinson	Tauzin
Martin (NY)	Rodino	Taylor
Matsui	Roe	Torricelli
Mazzoli	Roemer	Watkins
McCollum	Rogers	Whitten
McDade	Roth	Wilson
McEwen	Roukema	Wise
McGrath	Rowland (CT)	Wortley
McHugh	Rudd	Wright
McKinney	Scheuer	Young (AK)
Mica	Sensenbrenner	Young (FL)
Miller (OH)	Shaw	Young (MO)
Miller (WA)	Shelby	
Molinari	Shuster	

NOT VOTING—2

Grotberg	O'Brien

□ 1620

Mr. BILIRAKIS and Mr. KRAMER changed their votes from "aye" to "no."

Messrs. SKEEN, COYNE, GLICKMAN, SCHAEFER, ANNUNZIO, COLEMAN of Missouri, KINDNESS, LEWIS of California, WIRTH, and MINETA changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1630

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ: Page 16, after line 5, add the following section 124:

SEC. 124. No part of the funds appropriated in this Act may be obligated or expended for any purpose in connection with a replacement hospital at Brooke Army Medical Center, Texas, if such replacement hospital is designed to contain less than 450 beds.

Mr. GONZALEZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Chairman, I am offering an amendment to clarify and enforce the Appropriations Committee's intent regarding H.R. 5052, the fiscal year 1987 military construction appropriations bill.

H.R. 5052, particularly as explained in the committee's report, clearly contemplates funding for design and preliminary site construction of a 450-bed replacement hospital at Brooke Army Medical Center, TX. The report language mandating application of funds toward the construction of a 450-bed replacement hospital was written in recognition of an agreement reached in 1984 between Congress and the Department of Defense. The original House-passed version of the fiscal year 1985 military construction appropriations bill called for funding of a 695-bed replacement hospital at Brooke Army Medical Center. In conference, the House ultimately receded from its earlier language and agreed to language that did not specify the precise scope of the project. However, this concession was made only after the Office of the Secretary of Defense agreed to the construction of a 450-bed replacement to this agreement; the Army Corps of Engineers in 1985 entered into a $20.67 million architectural design contract calling for the design of a facility containing at least 450 beds.

Despite its earlier commitments to Congress and despite the consummation of contractual obligations for architectural services in connection with a 450-bed replacement hospital, on June 12, 1986, Assistant Secretary of Defense for Health Affairs William Mayer issued a decision approving the construction of a replacement facility at Brooke containing only 150 beds. This 11th hour breach of longstanding commitments to the Appropriations Committee, the Congress and the people of San Antonio shows a lack of good faith by the Department of Defense.

I believe that the DOD's conduct underscores the need for unambiguous language in the text of H.R. 5052 that holds the Defense Department to its earlier bargain and prevents the expenditure of appropriated funds in connection with a replacement hospital of less than 450 beds; given Assistant Secretary Mayer's recent actions, I am afraid that even clear report language may not suffice to prevent DOD from ignoring congressional intent.

For this reason I am offering an amendment, which would simply prohibit the use of any appropriated funds in connection with a replacement hospital of less than 450 beds.

I hope that my colleagues will support this amendment to clarify and enforce the committee's intent.

Mr. Chairman, this amendment is also coauthored by my colleague from Texas, the gentleman from Texas [Mr. LOEFFLER], to whom, I take this advantage to say, we owe a great debt of gratitude. The soldiers have a great debt of gratitude, also. Mr. LOEFFLER has been almost singlehandedly in the forefront on this issue.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I would be delighted to yield to the chairman of the subcommittee.

Mr. HEFNER. I thank the gentleman for yielding.

Mr. Chairman, we have looked at the amendment. We have no objection. We ask that the amendment be adopted.

Mr. GONZALEZ. I thank the distinguished chairman.

Mr. LOEFFLER. Mr. Chairman, will my distinguished colleague yield?

Mr. GONZALEZ. I would be delighted to yield to the gentleman from Texas.

Mr. LOEFFLER. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman from Texas on yet another fine innovative method of saving something that is near and dear not only to both of us and not only to the people involved in the military in and around San Antonio and south Texas but throughout the world. I look forward to working with the gentleman for the remainder of this year and then when I am gone and he is still in this body, I look forward to working with him again.

I thank the gentleman for yielding.

Mr. GONZALEZ. I thank the gentleman.

Mr. Chairman, I would just let the record show that we are suffering a great loss when Mr. LOEFFLER leaves the House because he has been the champion of the needs of soldiers, the hospital and medical care needs of the soldiers in our area.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I will be delighted to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Chairman, I want to express to the gentleman that I support his amendment, and I am pleased to do so.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. GONZALEZ].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

PREFERENTIAL MOTION OFFERED BY MR. HEFNER

Mr. HEFNER. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with such amendments as were adopted in the Committee of the Whole, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from North Carolina [Mr. HEFNER].

The preferential motion was agreed to.

The CHAIRMAN. Pursuant to House Resolution 481, the Committee does not rise and report. The text of title II printed in House Report No. 99-653, proposed by Representative MCCURDY, shall become title II of the bill.

The first reading of this title is dispensed with.

The text of title II is as follows:

Redesignate the existing provisions of the bill as title I and add the following new title II at the end of the bill:

TITLE II

PURPOSES

SEC. 201. The purposes of this title are—

(1) to promote economic and political development, peace, stability, and democracy in Central America;

(2) to encourage a negotiated resolution of the conflict in the region;

(3) to demonstrate United States support for and confidence in the objectives being pursued by the democratic countries in Central America for their countries and for the region; and

(4) towards these ends, to enable the President to provide appropriate assistance for the Nicaraguan democratic resistance, subject to the terms and conditions of this title.

POLICY TOWARD CENTRAL AMERICA

SEC. 202. (a) It is the policy of the United States that—

(1) the building of democracy, the restoration of peace, the encouragement of economic development, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American states;

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America; and

(3) the September 1983 Contadora Document of Objectives, which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region, is to be encouraged and supported.

(b) The United States—

(1) expressed its confidence in the abilities of the Governments of El Salvador, Guatemala, Honduras, and Costa Rica to negotiate a peaceful resolution to the conflict in Central America that protects and promotes the political and security interests of the region and United States interests in the region; and

(2) strongly supports as essential to the objectives set forth in subsection (a)—

(A) national reconciliation in all countries in the region, and especially the creation of a framework for negotiating a peaceful, democratic settlement to the conflicts in Nicaragua and El Salvador; and

(B) efforts to reach a comprehensive and verifiable final agreement based on the Contadora Document of Objectives, including efforts to encourage the Government of Nicaragua to pursue a dialogue with the representatives of all elements of the Nicaraguan democratic opposition for the purposes of achieving a democratic political settlement of the conflict, including free and fair elections.

POLICY TOWARD THE GOVERNMENT OF NICARAGUA

SEC. 203. (a) United States policy toward Nicaragua shall be based upon Nicaragua's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbors about—

(1) Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies, including the presence in Nicaragua of military and security personnel from those countries;

(2) Nicaragua's buildup of military forces in numbers disproportionate to those of its neighbors and equipped with sophisticated weapons systems and facilities designed to accommodate even more advanced equipment;

(3) Nicaragua's unlawful support for armed subversion and terrorism directed against the democratically elected governments of other countries;

(4) Nicaragua's internal repression and lack of opportunity for the exercise of civil and political rights which would allow the people of Nicaragua to have a meaningful voice in determining the policies of their government through participation in regularly scheduled free and fair elections and the establishment of democratic institutions; and

(5) progress toward a peaceful resolution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives.

(b) The United States will address the concerns described in subsection (a) through economic, political, and diplomatic measures, as well as through support for the Nicaraguan democratic resistance. In order to assure every opportunity for a peaceful resolution of the conflict in Central America, if the Central American countries have concluded an agreement based on the Contadora Document of Objectives or Nicaragua takes other significant steps to reduce the conflict in the region, the United States will limit the types and amounts of assistance provided to the Nicaraguan democratic resistance and take other positive action in response to steps taken by the Government of Nicaragua toward meeting the concerns described in subsection (a). Particular attention will be paid to whether—

(1) freedom of speech, assembly, religion, and political activity are being respected in Nicaragua and progress is being made toward the holding of regularly scheduled free and fair elections;

(2) there has been a halt to the flow of arms and the introduction of foreign military personnel into Nicaragua, and a withdrawal of all foreign military personnel has begun;

(3) a cease-fire with the Nicaraguan democratic resistance is being respected; and

(4) Nicaragua is refraining from acts of aggression, including support for insurgency and terrorism in other countries.

(c) The actions by the United States under this title in response to the concerns described in subsection (a) are consistent with the right of the United States to defend itself and to assist its allies in accordance with international law and treaties in force. Such actions are directed, not to determine the form or composition of any government of Nicaragua, but to achieve a comprehensive and verifiable agreement among Central American countries, based upon the 1983 Contadora Document of Objectives, including internal reconciliation within Nicaragua, based upon democratic principles, without the use of force by the United States. Nothing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United

States to engage in combat against the Government of Nicaragua.

POLICY TOWARD THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 204. (a) The United States shall assist only those groups within the Nicaraguan democratic resistance which—

(1) are committed to work together for democratic national reconciliation in Nicaragua based on the document issued by the six Nicaraguan opposition parties on February 7, 1986, entitled "Proposal to the Nicaraguan Government for a Solution to the Crisis in Our Country"; and

(2) respect international standards of conduct and refrain from violations of human rights or from other criminal acts.

(b) No assistance under this title may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

(c) The President shall use the authority provided by this title to encourage the Nicaraguan democratic resistance to take additional steps to strengthen its unity, increase the responsiveness of military forces to civilian leadership, pursue a defined and coordinated program for representative democracy in Nicaragua, and otherwise increase its appeal to the Nicaraguan people.

(d) In furtherance of the policy set out in this section, not less than $10,000,000 of the funds transferred under section 205(a) shall be available only for assistance to resistance groups otherwise eligible and not currently included within the United Nicaraguan Opposition (UNO), such assistance to be provided according to their needs and contribution to the resistance. In carrying out this subsection, not less than $5,000,000 of the funds made available pursuant to this subsection shall be available only for the Southern Opposition Bloc (BOS) and not less than $5,000,000 shall be available only for the Indian resistance force known as Misurasata.

(e) Notwithstanding any other provision of this title, no member of the United States Armed Forces, or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country.

TRANSFER OF FUNDS

SEC. 205. (a)(1) The Congress hereby approves the provision of assistance for the Nicaraguan democratic resistance in accordance with the provisions of this title.

(2) There are transferred to the President for use in carrying out the provisions of this title (other than section 214, relating to additional economic assistance for Central American democracies) $100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate. No limitation or restriction contained in section 10 of Public Law 91-672, section 8109 of the Department of Defense Appropriations Act, 1986, section 502 of the National Security Act of 1947, or any other provision of law shall apply to the transfer or use of such funds.

(b) Funds transferred under subsection (a) shall remain available for the same periods of time, but not beyond September 30, 1987, as such funds would have been available under the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), but for the enactment of this title.

(d)(1) There are transferred to the President, out of the $2,000,000 appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT", such sums as the President may require to facilitate the participation of Costa Rica, El Salvador, Guatemala, and Honduras in regional meetings and negotiations to promote peace, stability, and security in Central America. No limitation or restriction contained in section 15 of the State Department Basic Authorities Act of 1956, section 10 of Public Law 91-672, or any other provision of law shall apply to the transfer or use of such funds.

(2) Funds transferred under paragraph (1) shall remain available for the same period of time as such funds would have been available under the Supplemental Appropriations Act, 1985 (Public Law 99-88), but for the enactment of this title.

COORDINATION OF ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 206. The Secretary of State (or his designee) shall be responsible for policy guidance, coordination, and supervision of United States Government activities under this title.

APPLICATION OF EXISTING LAWS; LIMITATION ON USE OF CIA RESERVES FOR CONTINGENCIES

SEC. 207. (a) Except as otherwise provided in this title, funds transferred under section 205(a) shall be available for the purpose described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms, and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriation Act, 1985 (Public Law 99-88), shall be deemed to have been met for such use of such funds.

(b) The use of funds made available under this title is subject to all applicable provisions of law and established procedures relating to the oversight by the Congress of operations of departments and agencies.

(c) Nothing in this title shall be construed as permitting the President to furnish additional assistance to the Nicaraguan democratic resistance from funds other than the funds transferred under section 205(a) or otherwise specifically authorized by the Congress for assistance to the Nicaraguan democratic resistance.

(d) Funds from the Reserve for Contingencies of the Central Intelligence Agency may not be used to provide assistance for the Nicaraguan democratic resistance unless the use of those funds for that purpose is specifically approved by the Congress.

UNITED STATES POLICY AND USE OF FUNDS AFTER A PEACEFUL SETTLEMENT

SEC. 208. If the President determines and so reports to the Congress that a peaceful settlement of the conflict in Central America has been reached—

(1) the unobligated balance, if any, of funds transferred under section 205(a) shall be available for the purposes of relief, rehabilitation, and reconstruction in Central American countries in accordance with the authorities contained in chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance);

(2) Executive order 12513 of May 1, 1985, and the sanctions imposed with respect to Nicaragua pursuant to that Executive order, shall cease to be effective; and

(3) the United States shall take such other actions as are appropriate to encourage the economic and political development of the countries of Central America, including Nicaragua.

INCENTIVES FOR A NEGOTIATED SETTLEMENT

SEC. 209. (a) Assistance under this title for the Nicaraguan democratic resistance shall be provided in a manner designed to encourage the Government of Nicaragua to respond favorably to the many opportunities available for achieving a negotiated settlement of the conflict in Central America. These opportunities include the following proposals:

(1) Six opposition Nicaraguan political parties on February 7, 1986, called for an immediate case-fire, an effective general amnesty, abolition of the state of emergency, agreement on a new electoral process and general elections, effective fulfillment of international commitments for democratization, and observance of implementation of these actions and commitments by appropriate international groups and organizations;

(2) President Reagan on February 10, 1986, offered simultaneous talks between the Government of Nicaragua and all elements of the Nicaraguan democratic opposition in Nicaragua and between the Government of Nicaragua and the United States Government;

(3) President Jose Napoleon Duarte of El Salvador on March 5, 1986, offered an additional dialogue between the Government of El Salvador and the insurgents in El Salvador if the Government of Nicaragua would simultaneously engage in a dialogue with all elements of the Nicaraguan democratic opposition; and

(4) President Reagan's Message to the Congress of March 19, 1986, proposed a mission to Latin America by his special envoy to encourage the Contadora and Support Group countries to join in urging the Government of Nicaragua to initiate a national dialogue with representatives of all elements of the Nicaraguan democratic opposition.

(b)(1) Of the amounts transferred under section 205(a), $30,000,000 shall be available only for the provision to the Nicaraguan democratic resistance of the following:

(A) assistance of the types authorized by section 722(g) of the International Security and Development Cooperation Act of 1985, provided by the Nicaraguan assistance office established by Executive Order 12530;

(B) logistics advice and assistance;

(C) support for democratic political and diplomatic activities; and

(D) training in radio communications, collection, and utilization of intelligence, logistics, and small-unit skills and tactics.

(2) Of the $30,000,000 specified in paragraph (1), $3,000,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

(3) In furtherance of the objectives set forth in subsection (a), none of the funds authorized to be transferred by section 205(a), except the $30,000,000 specified in paragraph (1), may be obligated or expended for assistance to the Nicaraguan democratic resistance unless the conditions specified in subsection (c) are met.

(c) The restriction in subsection (b)(3) shall cease to apply on and after October 1, 1986, if—

(1) the President has determined and reported to the Congress that—

(A) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives,

(B) the Government of Nicaragua is not engaged in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire, leading to regularly scheduled free and fair elections and the establishment of democratic institutions, or is not taking other significant steps to de-escalate the conflict;

(C) the democratic countries of Latin America and Western Europe have not made a significant effort to induce the Government of Nicaragua to enter into such agreement, dialogue, and cease-fire; and

(D) there is no reasonable prospect of achieving such agreement, dialogue, and cease-fire through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance; and

(2) the Congress has enacted under section 210 a joint resolution approving the provision of assistance to the Nicaraguan democratic resistance under this title without regard to the restriction in subsection (b)(3).

(d) Upon the enactment of a joint resolution pursuant to subsection (c)(2), $25,000,000 of the funds transferred under section 205(a) shall be available for obligation and expenditure in accordance with this title (in addition to the funds provided for in subsection (b)(1)). Upon the transmittal after the enactment of that joint resolution of each report required by section 212, an additional $15,000,000 of those funds shall be available for obligation and expenditure in accordance with this title.

(e) If the conditions specified in subsection (c) are met, assistance to the Nicaraguan democratic resistance under this title (other than the assistance provided for in subsection (b)(1)) shall no longer be provided if at any time—

(1) the President determines that—

(A) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(B) the Government of Nicaragua is engaging in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire, leading to regularly scheduled free and fair elections and the establishment of democratic institutions, or taking other significant steps to de-escalate the conflict; or

(2) the Congress enacts under section 210 a joint resolution disapproving the provision of assistance to the Nicaraguan democratic resistance under this title (other than the assistance provided for in subsection (b)(1)).

(f)(1) Notwithstanding any other provision of this title, on or after October 1, 1986, funds may be obligated or expended for assistance under this title for a Nicaraguan democratic resistance group only if the President determines and reports to the Congress that—

(A) that group has agreed upon a program of principles and objectives directed toward the attainment of democracy in Nicaragua, such program to include a plan to provide a significant measure of autonomy for Nicaraguan Indians;

(B) that group has instituted full and adequate human rights-related training programs;

(C) that group has removed from its ranks all persons responsible for past human rights abuses in Nicaragua;

(D) that group has established procedures to ensure severe punishment of any person within that group who commits human rights abuses in the future; and

(E) in the case of the groups currently within the United Nicaraguan Opposition (UNO), the United Nicaraguan Opposition has been restructured to allow complete and balanced representation of all democratic opposition forces within that organization and to ensure full subordination of military commanders to the political leadership, as required in the communique signed by the United Nicaraguan Opposition directorate in Miami, Florida, on May 29, 1986.

(2) In making his determination under subparagraph (E) of paragraph (1), the President shall take into account the effectiveness and legitimacy of the political leadership of the United Nicaraguan Opposition, including the ability of that political leadership—

(A) to reflect the views and objectives of the internal and external Nicaraguan democratic opposition;

(B) to function as the spokesman for the Nicaraguan democratic opposition with Central Americans, international organizations, and the United States Government; and

(C) to represent the Nicaraguan democratic opposition in dealing with the Government of Nicaragua.

EXPEDITED PROCEDURES FOR CONGRESSIONAL ACTION

SEC. 210. (a)(1) A joint resolution described in subsection (c)(2) of section 209 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That pursuant to section 209(c) of the Military Construction Appropriations Act, 1987, the Congress approves the provision of assistance to the Nicaraguan democratic resistance pursuant title II of that Act without regard to the restriction in section 209(b)(3).".

(2) A joint resolution described in subsection (e)(2) of section 209 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That pursuant to section 209(e) of the Military Construction Appropriations Act, 1987, the Congress disapproves the provision of any assistance to the Nicaraguan democratic resistance pursuant to title II of that Act, other than the assistance provided for in section 209(b)(1).".

(b) A joint resolution described in subsection (a) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Public Law 98-473), except that—

(1) references in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a);

(2) references in such paragraphs to the Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress;

(3) references in such paragraphs to the eighth day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively; and

(4) debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 209, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

COMMISSION ON CENTRAL AMERICAN NEGOTIATIONS

SEC. 211. (a)(1) There is established the Commission on Central American Negotiations (hereafter in this section referred to as the "Commission"), which shall be composed of five members appointed as follows:

(A) One individual appointed by the Speaker of the House of Representatives;

(B) One individual appointed by the Minority Leader of the House of Representatives;

(C) One individual appointed by the Majority Leader of the Senate;

(D) One individual appointed by the Minority Leader of the Senate; and

(E) One individual, who shall serve as Chairman of the Commission, selected by majority vote of the other members of the Commission.

(2) Appointments pursuant to subparagraphs (A) through (D) of paragraph (1) shall be made within 5 days after the date of enactment of this title. The Chairman of the Commission shall be selected pursuant to subparagraph (E) of paragraph (1) within 10 days after the date of enactment of this title.

(3) No officer or employee of the United States may be appointed as a member of the Commission.

(b) The purpose of the Commission is to monitor and report on—

(1) the efforts of the Nicaraguan democratic resistance to coordinate and reform;

(2) the extent to which the democratic countries of Latin America and Western Europe have joined the United States in efforts to politically and economically isolate or otherwise bring pressure on the Government of Nicaragua; and

(3) the status of any negotiations on the peace, stability, and security of Central America, including negotiations conducted between or among—

(A) the Government of Nicaragua and representatives of all elements of the Nicaraguan democratic opposition, including the Nicaraguan democratic resistance;

(B) the government of Central American countries;

(C) the Government of the United States and the Government of Nicaragua;

(D) the governments of the Contadora and Support Group countries and the governments of the Central American countries; and

(E) the Government of El Salvador and the insurgents in El Salvador.

(c)(1) The Commission may appoint and fix the pay of not more than seven staff personnel, but at rates not in excess of the rate of pay in effect for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2)(A) Each member of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which such member is engaged in the performance of duties as a member of the Commission.

(B) While away from their home or regular place of business in the performance of duties for the Commission, members and staff personnel of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(3) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(d)(1) A majority of the members of the Commission shall constitute a quorum.

(2) All decisions of the Commission shall be by majority vote.

(e) The Commission may make such reports in connection with its duties as it deems necessary to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, except that—

(1) not later than 5 days after receipt by the Congress of a report by the President under section 209(c), the Commission shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report addressing all the matters which are required to be included in reports of the President by paragraphs (1), (3), (4), and (5) of section 212; and

(2) not later than September 24, 1986, the Commission shall prepare and transmit to the Congress a report on whether the Nicaraguan democratic resistance groups receiving assistance under this title have implemented the measures described in section 209(f)(1) and, with respect to the United Nicaraguan Opposition, an evaluation of the factors described in section 209(f)(2).

(f)(1) Salaries and expenses of the Commission, but not more than $400,000, shall be paid from the contingent fund of the Senate out of the Account for Miscellaneous Items, in accordance with the provisions of this section.

(2) Funds made available to the Commission by paragraph (1) shall be disbursed on vouchers approved by the Chairman, except that no voucher shall be required for the disbursement of the salary of an individual appointed under subsection (c).

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such section.

(g) the Commission shall terminate not later than 30 days after transmittal of the reports required by subsections (e) (1) and (2).

PRESIDENTIAL REPORTING REQUIREMENT

SEC. 212. On September 15, 1986, and every 90 days thereafter, the President shall prepare and transmit to the Congress a report on actions taken to achieve a resolution of the conflict in Central America in a manner that meets the concerns described in section 203(a). Each such report shall include—

(1) a detailed statement of the status of negotiations toward a negotiated settlement of the conflict in Central America, including the willingness of representatives of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement;

(2) a detailed accounting of the disbursements made to provide assistance with the funds transferred under section 205(a);

(3) a discussion of alleged human rights violations by the Nicaraguan democratic resistance and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses;

(4) an evaluation of the progress made by the Nicaraguan democratic resistance in broadening its political base and defining a unified and coordinated program for achieving representative democracy in Nicaragua; and

(5) an evaluation of the extent to which the democratic countries of Latin America and Western Europe have joined the United States in efforts to politically and economically isolate or otherwise bring pressure on the Government of Nicaragua.

ACCOUNTABILITY FOR FUNDS

SEC. 213. The President shall establish appropriate procedures to ensure that any assistance provided to the Nicaraguan democratic resistance under this title is used only for the intended purpose and is not diverted (through barter, exchange, or other means) to any other use. Such procedures shall include procedures to—

(1) establish the allowability of goods and services,

(2) establish the validity of suppliers,

(3) establish the reasonableness of prices on receipts,

(4) verify the delivery and receipt of goods and services,

(5) verify use to ensure goods are not diverted, and

(6) ensure that payments are made to suppliers.

ADDITIONAL ECONOMIC ASSISTANCE FOR CENTRAL AMERICAN DEMOCRACIES

Sec. 214. (a) The President shall transfer to the "ECONOMIC SUPPORT FUND" account for use pursuant to this section—

(1) $200,000,000 from the funds made available for "PROCUREMENT" by title IV of the Department of Defense Appropriation Act, 1984; and

(2) $150,000,000 from the funds appropriated for "PROCUREMENT" by title III of the Department of Defense Appropriation Act, 1985 (as contained in Public Law 98-473).

Funds transferred pursuant to this subsection shall remain available for the same periods of time as they would have been available under the applicable appropriation Acts but for the enactment of this subsection.

(b) The President shall use the $350,000,000 made available pursuant to subsection (a) to provide assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance) for the countries of Central America with democratically-elected governments, as follows:

(1) $100,000,000 shall be used for assistance for Guatemala.

(2) $75,000,000 shall be used for assistance for Costa Rica.

(3) $75,000,000 shall be used for assistance for Honduras.

(4) $50,000,000 shall be used for assistance for El Salvador. In the use of any of these funds pursuant to paragraph (5)(B)—

(A) preference shall be given to the import needs of the beneficiaries of agrarian reform, and

(B) the local currencies generated shall be used for projects described in section 702(e)(2) of the International Security and Development Cooperation Act of 1985 (and of those local currencies, not less than 50 percent shall be used to support agrarian reform and not less than 10 percent shall be used for judicial reform).

(5) Of the funds made available pursuant to this section for each of the countries specified in paragraphs (1) through (4)—

(A) not less than 60 percent shall be used for assistance in accordance with the policy direction, purposes, and authorities of chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance); and

(B) the remainder shall be used in a manner which will generate local currencies for use in accordance with those policy directions, purposes, and authorities.

(6) $5,000,000 shall be for assistance for Belize.

(7) $25,000,000 shall be used for activities carried out in Central America in accordance with section 104(c)(2) of the Foreign Assistance Act of 1961 (relating to the Child Survival Fund) that are administered by the United Nations Children's Fund.

(8) $20,000,000 shall be availabe for operating expenses of the Agency for International Development with respect to the assistance pursuant to this section.

(c) The assistance pursuant to this section shall be in addition to the amounts of assistance allocated for the countries specified in subsection (b) in the January 1986 allocation report pursuant to section 653 of the Foreign Assistance Act of 1961.

(d) Assistance pursuant to this section shall be provided consistent with the policies contained in section 702 of the International Security and Development Cooperation Act of 1985 (relating to El Salvador), section 703 of that Act (relating to Guatemala), and chapter 6 of part I of the Foreign Assistance Act of 1961 (relating to the Central America Democracy, Peace, and Development Initiative).

(e) Funds made available for assistance pursuant to this section may be obligated only in accordance with the congressional notification procedures applicable under section 634A of the Foreign Assistance Act of 1961.

The CHAIRMAN. Pursuant to the rule the gentleman from Oklahoma [Mr. MCCURDY] will be recognized for 30 minutes, the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and another Member opposed to title II will be recognized for 30 minutes.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in opposition to title II.

The CHAIRMAN. Is the gentleman opposed to title II?

Mr. EDWARDS of Oklahoma. I am opposed to title II, Mr. Chairman.

The CHAIRMAN. The gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the language in this title of the bill represents the efforts of a number of Members who have worked to develop a bipartisan policy with respect to Central America. It is based on the following propositions:

First, that the Sandinista government is undemocratic and repressive. To the extent that they export revolution and provide bases for Soviet and Cuban military operations, they pose a security threat to their neighbors and to the United States.

Second, the Contras have not become a unified and credible democratic alternative to the Sandinistas. They have no political identity in Nicaragua and no meaningful contact with the internal opposition. Nor are they an effective fighting force.

Third, support for the Contras must be seen as an instrument—not a goal—of U.S. policy.

Fourth, if we are to achieve a negotiated solution to the conflict, there must be clear incentives for both sides to negotiate.

Fifth, for the first time in history, there are now democratically elected leaders in four of the five Central American countries—leaders who, in my opinion, share our commitment to democracy and our security interests in the region.

Finally, Mr. Chairman—and perhaps most important—the proposal is based on the proposition that poverty, social injustice and denial of political liberty are, in the long run, the most serious threat to hemispheric security. There is no sense in setting the stage for democracy in Central America if we cannot produce an alternative to generations of oppression.

Questions have been raised as to whether there are any real differences between the language in the bill, and the substitute to be offered by my colleague from Oklahoma [Mr. EDWARDS]. I believe there are significant differences, and I will try to highlight them.

The bill makes $30 million available upon enactment for nonlethal assistance to the Nicaraguan Democratic Resistance. In effect, the funds could be used for purposes authorized by current law and for training. The Edwards substitute would provide $40 million upon enactment, but these funds could automatically be used for lethal military aid beginning on September 1.

The Edwards substitute requires no second vote. It lifts all restrictions on lethal aid to the resistance on February 15, based solely on a Presidential certification. To stop military aid, Congress would have to pass a joint resolution of disapproval, and both Houses would then have to override a Presidential veto.

Under the bill, none of the $70 million balance could be used before October 1. On or after that date, the money could be used only if two events occur:

First, the President must report to the Congress that the Central American countries have not concluded a Contadora agreement; that Nicaragua is not engaged in a serious dialog with representatives of the opposition; that the democratic countries of Latin America and Western Europe have not made a significant effort to influence Nicaragua; and that there is no reasonable prospect for reaching an agreement without additional assistance to the resistance.

Second, the Congress must enact a joint resolution approving the use of such funds.

Unless both of these events occur—Presidential certification and a congressional vote of approval—the additional assistance provided in the Senate resolution remains "fenced."

This second vote of approval is the principal objection that has been made by the distinguished assistant minority leader and some of his colleagues. The amendment, they say, would entail "yet another Contra aid debate."

Let's look at the facts. The Edwards substitute contains an expedited procedure for a vote of disapproval. So we will be debating this issue and voting yet again in any event. The difference is that the vote provided for in the bill is a meaningful one. If the President decides to request unrestricted lethal military aid, he will be asking for a commitment from this Congress that will extend far beyond the $100 million we are talking about today, and beyond the end of the next fiscal year.

The bill says, in effect, that this kind of commitment should be undertaken only with the support of a majority in both houses of the Congress. The decision should not be made by default. It should not be left up to 34 Members of the other body. If, after the report of the bipartisan monitoring commission, the President cannot muster a simple majority in the Congress to support his request for lethal military aid, then it seems to me that we should not undertake this kind of commitment. Conversely, if majorities in both Houses vote to support his request, it seems to me that we will have a lot stronger and more sustainable policy than we have right now.

In addition, none of the funds provided in the bill could be used for any purpose on or after October 1 unless the President reports to the Congress that strict conditions have been met by the groups receiving assistance. This is a key issue; even the President now admits that there have been abuses. We believe the language of the bill is far preferable to the language in the Edwards substitute, which requires only that groups receiving assistance "have agreed to and are beginning to implement" much milder reforms. I should add that the bipartisan monitoring commission must report to the Congress on whether the mandated reforms have been carried out, and progress or lack thereof will clearly be a factor in the outcome of any second vote.

With respect to support for democracies in the region, the bill reallocates $350 million in previously appropriated but unused DOD funds for economic assistance to Guatemala, Costa Rica, Honduras, and El Salvador, as well as UNICEF's regional child survival fund. I believe this is crucial to the success of U.S. policy in the region, and I am glad that my colleagues on the other side have joined me in endorsing it. As the Baltimore Sun states in an editorial today:

> Aid to the Contras makes sense only if it is part of a widely accepted regional effort that will allow Nicaragua's troubled neighbors to face down a Managua regime receiving more and more aid from the Soviet Union.

Finally, I state for legislative history that this title of the bill is separate from the part of the bill reported by the Committee on Appropriations, and that the provisions and conditions that apply to the committee bill do not apply to this title.

Mr. Chairman, those of us who have worked on this legislation do not claim that it is perfect. We do believe it is better than any of the alternatives that have been presented. The issue is not what passes or fails to pass on this floor today. It's not who "wins" or "loses." The issue is whether we can put together a credible policy that the American people can understand and support. Perhaps that is impossible. But at least I think, we should try.

□ 1645

Mr. Chairman, I reserve the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the proposition of the gentleman from Oklahoma and in favor of an amendment that will be offered shortly by the gentleman from Oklahoma [Mr. EDWARDS], the gentleman from Georgia [Mr. RAY], the gentleman from

Washington [Mr. CHANDLER], and myself.

In doing so, we offer a coherent policy for Central America. In doing so, we offer an effort to promote a policy which will be a pole star for the years to come between our country and that section of our hemisphere.

In a word, I would like to very briefly say what we will be providing as an amendment a bit later. We will provide $300 million in economic aid to promote democracy in Costa Rica, El Salvador, Honduras, and Guatemala. This is economic aid in our amendment to be offered later that will be taken from unspent, already appropriated moneys that have gone to the State Department.

Further, there will be $100 million in assistance to the Nicaraguan democratic resistance, the Contras, split 70 percent in military and 30 percent in humanitarian assistance.

Third, Mr. Chairman, this is a policy that is the fulfillment of the Kissinger Commission recommendations on economic aid, some military assistance, and keen attention to human rights.

Our efforts over the past few years has been to find a peaceful solution to the problems of the region, and we all know that they have been severe, especially the thorny problem brought about as a result of Nicaragua and the Sandinista government there.

Mr. OBEY. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, the issue is not whether we ought to defend American interests in Central America. We should. The issue is whether we are going to defend them effectively or ineffectively.

The President says that we need $100 million for the Contras. I would suggest that the Contras are probably more effective in running drugs than they are in fighting battles.

The American people oppose, by a margin of about 2 to 1, providing aid to the Contras, because they instinctively know that it would be wasted dollars.

I think we ought to take a look at what is happening. Originally, we were asked to provide $100 million in aid to the Contras. Now we have two alternatives before us, one of which would provide $400 million, another $450 million in combination packages for aid to the Contras and aid to Central America. We have a competing Republican amendment and we have a competing Democratic amendment. The price tag has grown and the price tag will continue to grow, because neither of these amendments will solve the basic problem.

If the American people opposed wasting $100 million in Nicaragua, I assure you they will oppose wasting $400 million or $450 million in Nicaragua and Central America.

I oppose both packages today, because they avoid the central problem, they waste money, and they will result in more killing.

Others will debate the advisability of our Nicaraguan policy. What I would like to focus on today is the idea that the provision of new economic aid to Central America, which has been grafted on to these packages, makes any sense at all. I would suggest to you that, under these circumstances, it does not.

The first reason I say that is because if we pass either the McCurdy amendment or the Edwards amendment, we will in fact cripple our ability to use other tools to defend our interests in the region or elsewhere in the world.

The foreign aid bill which our subcommittee will report out is already about $4 billion below the President's request. The McCurdy amendment, for instance, takes money out of defense; the Edwards amendment takes money out of a different source. But either way it means that our subcommittee, will be charged with either additional outlays on budget authority under these amendments. It means that in the next fiscal year we will have approximately $200 million, give or take a few dollars, we will have $200 million less to parcel out for other priority items which the President has indicated he wants us to provide money for.

Before this amendment was brought to us, we were already faced with a situation which would require virtually every major account in the foreign aid bill to be reduced by 20 percent, and it would mean that in the ESF area, for instance, if we make the provision, which we undoubtedly will, to set aside the needed money for Camp David, we would wind up having to cut the amount that goes to every other country in the world by some 60 percent below last year. If this amendment is adopted, it will require us to make even a deeper cut, and I doubt the President is going to want that.

Now the argument is made that we need to send these dollars to save Central American economic development. I think we ought to examine that. Let us take a look first at how much we have alread provided by way of economic assistance to Central America.

□ 1655

Since 1981, we have increased economic assistance to El Salvador by 171 percent. We have increased economic assistance to Guatemala by over 500 percent. We have increased economic assistance to Costa Rica by over 1,000 percent. We have increased economic assistance to Honduras by over 260 percent.

The Edwards amendment and the McCurdy amendment each would add additional amounts of money for those countries. The McCurdy amendment would add another $50 million to El Salvador; $75 million to Costa Rica; $75 million to Honduras; $100 million to Guatemala; and $5 million to Belize.

It would also provide additional UNICEF money and some aid operating expense money. Forty percent of that goes by way of cash transfer. Sixty percent of it goes by way of developmental projects. I would point out we already have in the pipeline in unexpended funds, some $550 million to those same Central American countries. They have not been able to use the money that we have already appropriated to them. I think we ought to ask why.

The reason is that added aid is not the way to attack the economic problem in Central America or Latin America. The problem goes far deeper and is far more fundamental than that. I would simply like to quote to you what Saul Linowitz, who headed the other Central American Commission has said in testimony before our committee.

He said, "I applaud the Kissinger recommendations with respect to an economic program but the timing is all-important. To make economic aid available when you have no infrastructure, when you have no real way of using that aid effectively does not advance the prospects for economic development or for peace."

Why do I agree with that statement? It seems to me that if the administration really wants to save Latin America we need to get at the gut problem. Neither of these amendments will do it. All additional economic aid to Central America will do at this time under these conditions is simply provide marginal assistance to those countries to enable them to pay back interest on debt that they already owe.

The administration is focusing its attention and its energies on an effort to provide $100 million in aid to the Contras. But the real problem in Latin America is the way the administration is mismanaging the mountain of debt in the Third World, most especially in Latin America, which is killing the economies of the region and killing our own economy in the process.

Latin America in 1982 had a combined debt of $320 billion. Today, they have a combined debt of $370 billion. The administration is following the policy of telling Latin America that their first priority is not to be economic growth, that their first priority is not to be jobs and food for their people, that their first priority has to be to make interest payments to American banks on past loans.

Latin America last year paid to the developed countries of the world $22 billion on interest payments on prior loans. Does anybody really think that providing $300 million in additional

economic assistance is anything but spitting in the wind against a $22 billion capital outflow from those countries?

I hate to sound like my good friend JACK KEMP, but on this subject I very much am in agreement with him. The idea that you think that somehow you can save the economies of Central America with more foreign aid is nonsense. The administration policy says, "Pay the banks first." What is the result? The result for the U.S. economy is that because Latin countries have to use their foreign exchange to pay back U.S. banks rather than buying American products, we cannot sell American goods in Latin America or Central America any more.

It also means that we are forcing those countries to produce commodities in the agriculture area and in other areas which already are in surplus on worldwide markets. That means that Argentina, for instance, can expand its exports by 47 percent but they can only expand what they make from those exports by 3 percent because of falling world prices. That is not the way to solve the economic problems in Central America or Latin America.

Mexico is a basket case. Equador, which was in reasonably strong condition just 1½ years ago because of oil, is now close to being a basket case. Take a look at Central America. The combined debt for Costa Rica, El Salvador, Guatemala, and Honduras is $11 billion. The additional amount in the McCurdy amendment will not even equal the interest payments which those four countries have to make to us this year.

I find mind boggling the idea that the administration and the Congress would devote its time and its energy and its resources to providing a $100 million aid package to a half-baked series of military operators in Nicaragua, focusing on the hole in the donut, when we are allowing Mexico to be in shambles, when we are doing nothing, nothing to prevent that mountain of debt from building and killing off the ability of those countries to run their economies in a way that will enable us to really cut off Marxists before they win more support in Latin America.

We need to face the central problem. If you really want to stop the Marxists in Central America we have to have a dramatic, radical change in our whole world economic policy. We have to stop killing our economy and the economies of Latin America and Central America. We have to recognize that our economic policies in the way we are managing that Third World debt is endangering not only our economy but endangering the very fragile democracies which now exist in some Central American countries and in Latin America.

I would urge the Members as an alternative to support the Hamilton amendment and to urge the administration to face up to the economic shambles which their management of that Third World debt problem is creating for Central and Latin America.

We have to face the fact that in the teeth of a $300 billion problem a lousy $300 million fix-up arrangement may give some people some political cover, but it will do nothing to attack the basic economic problem facing our potential allies in Central America.

We have to have a basic change if we want to contain the Sandinistas, if we want to contain Marxism. If we want to strengthen the economies of the region that is what we have got to do.

I would leave the Members with one other thought on a different subject. If anybody really believes that this little war that will be conducted under the administration policy will be a minor, little popgun affair, I urge you, I beg you to read the classified annex to this legislation which will describe in detail what kind of equipment and what kinds of activities will be carried out if the administration program prevails.

I urge you and beg to do it. If you believe, after reading that, that we really will have just a minor, little confrontation down there, indeed, you will be smoking something that is not legal.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman for yielding me this time.

Mr. Chairman, this vote may not be the key vote of the year as some have suggested, but it certainly could be. There is a general consensus now in this body of what we want and what we do not want. We want human rights; we want democracy; we want economic opportunity for the people of Central America.

What we do not want is a complete and total Soviet takeover of Nicaragua. What we do not yet agree on are tactics. My colleague from North Carolina earlier today stated, "Somewhere, someday down the line we are going to have to talk tough to the Soviet Union and Cuba."

I quote him to prove a different point than he made. Today could be that day. I urge the Members to support the Skelton-Edwards amendment because I believe it the best opportunity that provides the means for our Nation to accomplish these crucial and agreed-upon objectives for Central America.

□ 1705

The McCurdy proposal, though well-intentioned and possessing many positive elements, avoids making the crucial hard decision necessary for our policy to succeed. Simply put, we are facing a crisis in Central America. The Sandinista regime has been cynically using the Contadora negotiations as a smokescreen to buy time, much as Hitler did in Munich in 1938, to further militarize their nation and eliminate all opposition.

The Sandinistas feel just a little more time on negotiations, and a couple more votes in Congress, and the American people will tire of this whole debate and abandon efforts to promote democracy in the region. Perhaps they are right, but let us use today's vote to prove them wrong.

Mr. MCCURDY. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, as we all know, this is an extremely polarized issue. There are very few undecided Members. I would like to address my remarks to those few Members.

Mr. OBEY, my distinguished colleague from Wisconsin, addressed the economic aid portion of this measure. I would like to focus on those aspects of the bill.

Beginning with the passage of the rule, we have changed the policy of this Congress and of this Nation toward Nicaragua, because, as we are well aware, both the text of the bill, the McCurdy provisions, and the Republican substitute, the Edwards provisions, both contain a substantial amount of economic aid to the four democratic nations of the region.

This is a major departure from prior policy. It is finally an implementation of what was advocated in the bipartisan Kissinger Commission report and the so-called Jackson Commission.

To me this is a welcome relief, because it is the first time that we have had a bipartisan coherent regional policy to not only try to deal with the Sandinista problem, but, more important than that, to bolster the democracies in the region.

Several of us went down to Central America. For the information of those Members who have not been there recently, it is staggering to note that the progress that has been made in the four democratic countries surrounding Nicaragua is marvelous to behold: four democratic leaders that we can be proud of, but democratic regimes that are not entirely stable, that will not necessarily last forever, democratic regimes that we are going to have to support if we are going to have democratic leaders whom we can depend upon in that region.

For so long, as the Members are aware, our only allies down there were military figures. Now we have democrats. Let us support them. Now is an opportunity to do that, and both the Democratic initiative and the Republican initiative offer substantial economic aid.

As the Members are aware, we take our money from reprogrammed DOD money. It is a chance for Democrats to take appropriated military money and to turn it into peaceful aid to promote peace in that region. Under the Edwards plan, they prefer to take their money apparently from foreign aid that was, as I understand it, partially designated for African hunger relief. I understand that this aid was unable to be spent.

To me we are taking the money from the right place. It is reprogrammed money. It would not increase the deficit, and it will do a world of good down there to a region that we have largely neglected.

I have tremendous respect for my colleague from Wisconsin, but to me you can reduce many of his arguments to four basic points:

First, committee problems. I think that we all understand and respect committee problems, but with a major policy issue like this, we should not let committee problems override.

Second, I am afraid that throughout a lot of Democratic arguments there is a strong strain of isolationism, a lack of concern for other parts of the world that are extremely important to us both strategically and economically.

There is also a strain in many of these arguments in which we let the best be the enemy of the good: just because a plan is not perfect and does not address all global economic problems, it is not good enough.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, I rise today in support of the Edwards-Skelton bipartisan plan to provide aid to the United Nicaraguan Opposition, better known as UNO. UNO is the umbrella organization for the Contra political groups and freedom fighters. I wanted to explain this, because most Americans, including some Members of Congress, do not understand the organizational structure of the so-called Contra group.

Mr. Chairman, I was one of those who worked diligently on March 20, to defeat the last plan, which would have provided $100 million in aid and assistance.

I worked against this legislation for several reasons, but primarily because of concerns I had with reference to the credibility of the Contras, the accountability of UNO, and also, the accountability of the funds.

Mr. Chairman, during the last several weeks I have examined my vote of March 20, and I have attempted to educate myself by digging into the background of Central America, and the region. I have visited the UNO headquarters in Miami, FL, the FDN logistics directorate, the press, and the human rights organization in Honduras, and I have met with the heads of State of all of the Central American governments, including Daniel Ortega.

I am convinced that we were correct as a body to defeat the legislation on March 20, because it has put in motion a number of reforms which have been positive—reforms in our Nation's policy toward Central America as a region, reforms in the Contra organizations and their goals, and reforms in the procedures for accounting for the aid we distribute to Central America.

I want to give you the impressions of my visit and my investigation of the UNO and FDN organizations and their records and operating procedures.

First, I traveled to Miami, FL, where I met with the Contra leaders, Mr. Calero, Mr. Cruz, and Mr. Robelo and the Secretary General of the organization and visited with them for 2½ hours.

Almost 2 years ago these leaders, along with their advisers, realized that there has to be an organization other than a guerrilla fighting force. So the United Nicaraguan Opposition was organized as an umbrella group and in effect became an organization in exile based in Miami, which in my opinion could become the government in exile which the people of Nicaragua could build confidence in a rally to. The UNO's highest priority is a political settlement and not a military one. UNO is a fledgling infant, much smaller than the FDN (the primary Contra fighting force) which answers to it. It is making progress but has a long way to go and vitally needs our moral and financial assistance to be successful.

I was allowed without restriction to review in depth the accounting and purchasing procedures of the UNO and their military arm, the FDN—their logistics organization, their human rights organization, their press and propaganda organizations, and their directorate group. I also visited the Contra's base camps in the mountains on the Nicaraguan border on two occasions.

My colleagues, this is a larger and better coordinated organization than I had imagined. It has a strongly dedicated group of individuals including many professionals from all walks of life who are dedicating their lives to the organization in exile—many are serving without remuneration—and again I emphasize that they say their highest priority is a political victory. The director of their logistics operation is a graduate of Georgetown University, Dr. Gonzales, a prominent citizen and a director of UNO. He heads up a group consisting of the human rights coordinator, the press and propaganda division. There are numerous physicians, exiled business people and educators who are actively involved and dedicated to the UNO. There is no doubt, in my opinion that this group is serious and dedicated to a free democracy in Nicaragua.

I want to refer to the records which I examined. I was impressed with the meticulous detail of the records. I reviewed the procedures for purchasing and distributing equipment, food, clothing. My impression of the rather massive files, papework and documents remind me of the American bureaucracy which we are all familiar with.

Now this is not to say that their procedures should not improve but the accountability and records are not in the poor shape which we have been led to believe. The UNO is continuing to put in place procedures which will meet an even higher standard and scrutiny.

Mr. Arturo Cruz, a member of the UNO directorship, made the point that it is difficult to run a resistance movement which depends on a secure and confidential strategy when they have to make public to the world every detail. But he went on to say that they are willing to do so—they are willing for every allegation to be examined and if any allegation should turn out to be valid, they are pledged to confront and correct it. There has been a flood of allegations, but the GAO's intensive examination has not found any wrongdoing which they will certify. Despite this, our legislation, the bipartisan Skelton-Edwards-Ray-Chandler amendment, has strong accountability controls—much stronger than those offered in any other legisation we are considering to provide Contra aid. We have four separate sections which detail the accountability controls that must be put in place, and ensure that we in the Congress will receive a full accounting at regular intervals of how the aid has been spent, as well as regular confirmation that stringent accounting controls are being used.

My travels and studies and research have convinced me that massive misuse of funds has been exaggerated and that controls are now in place to provide the paperwork trail we need on future funds. I joined in introducing this amendment in part because it strengthens the accountability controls we need for future aid. I urge you to support our bipartisan amendment today.

Mr. McCURDY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

□ 1715

Mr. PICKLE. Mr. Chairman, I stood at the well in March urging my colleagues to take a close look at what was being asked of us on behalf of the Contras. Since then I am more firmly convinced that "total" war is not the answer to prodding the Sandinistas toward a more open society.

I support the McCurdy provision. This is the approach I adopted earlier this year and I continue to support it.

I do not want to escalate the war in Nicaragua, but rather seek a peaceful solution to the conflict and a continuation of the Contadora process. So that—just as in the Philippines and Haiti—the Nicaraguan people are allowed to bring about democracy.

We must provide the tools for them to do so. We must assist their transformation into a viable political alternative to the Marxist Sandinista regime.

We must sent a message to the Sandinistas that there is no alternative but democracy, and that the surest way to end U.S. aid to the Contras is to sign and honor a peace treaty that is acceptable to the United States and the democratic governments in Central America. To do otherwise is to prolong the suffering of the Nicaraguan people.

This humanitarian aid that I'm supporting must be better accounted for in the future. It is troubling to all of us who voted for the $27 million aid package last July that nearly half is questionably unaccounted for. There must be better accounting of these funds and I urge the administration to cooperate with Congress in this effort.

I am voting for aid to the Contras because it is important that the United States takes a stand for democracy in the hemisphere.

I also want to say that I believe the best approach to address the situation in Nicaragua is through negotiations. But, Mr. Chairman, I would want to make it very plain: the Contadora—group particularly the Central American governments—must take strong steps to convince Nicaragua to permit its people to experience the freedoms for which they so bravely fought—to pressure the Sandinistas to eliminate the presence of Soviet bloc advisors and the unsavory influence of antidemocratic regimes.

The nations of Central America have more to lose from a Marxist Nicaragua than any other group. They should take the boldest initiative through the ongoing negotiations.

Humanitarian aid for the Contras is not an escalation of the violence in Nicaragua but a statement endorsing balance and a call for negotiations and an end to the conflict. The Contras appropriately can keep the pressure on the Sandinistas to sign a regional peace agreement.

Mr. Chairman, I have consistently supported humanitarian aid. I received letters of commendation from the administration for taking this stand. They now pressure Congress for military aid, and I think this adjustment in their position should be noted.

Humanitarian aid to the Contras will send a message to Ortega that State-supported terrorism will not be the cancer that destroys democracy in Central America.

The United States cannot stand idly by and wash our hands of the conflict in Central America. We must offer support reflective of a democratic society and continue to work with our neighbors toward those ideals.

Finally, Mr. Chairman, I say the Contadora process must continue. Humanitarian aid can ensure that process.

The best hope for us is to continue the negotiation process at this point and hope that we can reach a peaceful solution. That is the best way to get peace now and I hope it is the procedure that we follow.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, it has been suggested several times in the course of this debate that issues related to title II of this legislation are not black or white, but an endless variety of shades of gray.

This Member of Congress, a member of the Foreign Affairs Committee and a former member of the Western Hemisphere Subcommittee, defers to only a few Members of this body in interest and knowledge of Latin America and the Caribbean. This Member is acquainted with the various policy nuances and certainly has not been uncritical of either the past actions of the House and Senate Intelligence Committees on the matter of Nicaragua, nor uncritical of either the Carter or Reagan administration on all of their decisions on Central America. This Member has also attempted to avoid either extreme language or actions on the matter of aiding the Nicaraguans who fight against the Sandinista regime of Nicaragua.

It is, however, in this Member's judgment, clear that the Skelton-Edwards amendment should be adopted. The so-called McCurdy compromise should be rejected, for it lacks the key element of compromise that is necessary for protecting the national interests of the democratic Central American republics and the United States of America. It approves no military aid to the Contras—and that is the only option really available at this time to bring pressure upon the Sandinista regime. That pressure is essential to restore a legitimate democracy to Nicaragua. It is essential pressure on the Sandinistas to leave their neighbors alone through a verifiable Central America peace and military de-escalation plan that satisfies Costa Rica, El Salvador, Honduras, and Guatemala, too. Although undoubtedly well-intentioned, the McCurdy approach is one more postponement and it will bring us no closer to a Central American peace. It will only provide more time for the growth of this Soviet bloc base on the mainland of North America.

It is frequently observed in this debate that the American people oppose military aid to the Contras. The attitude of the American public cannot and should not be treated lightly in this, The People's House. But now asking them "if they favor military aid to the Contras" is not the only question. Ask them "if they want a second Soviet bloc country in the Western Hemisphere—this one on the North American Continent." Overwhelmingly the response would be a resounding "no."

Earlier America made a tragic mistake in not pushing Cuba toward democratic institutions and traditions and toward basic economic reform. Today, realistically, Nicaragua must be assessed as a Soviet block country or, as a minimum, in the final stages of becoming a full-fledged Soviet bloc country under the hard-line Marxist regime that runs it. Their goals of regionalizing the Marxist revolution in Central America are publically stated and their military and terrorist tactics and armaments for achieving that revolution are all too apparent.

It is interesting to note that there is no appreciable support for the Sandinista regime in the Congress today. There is no longer doubt among Members of Congress that the Sandinistas are engaged in attempts to subvert the governments of their neighbors. There is also no longer any doubt about the fact that over thousands of Cubans are actively and directly involved in the Nicaraguan military.

As recent as 2 years ago there were substantial questions about these matters among Members of Congress. There is no longer any doubt since there is documented evidence from a variety of sources for every Member of Congress to examine. High-level Sandinista defectors are one source of such information. The only important question that remains is what the United States should do about a hard-line Marxist regime in this hemisphere. It has already become a Soviet outpost on the mainland of North America.

The Sandinista regime is not really interested in any evenhanded, verifiable Central American originated peace plan; nor are they interested in real, evenhanded measures for reducing the militarization of Central America. They certainly are not interested in power-sharing with even legitimate democratic forces in Nicaragua. Increasingly, it is clear that Cuban and Soviet bloc advisers call the shots at the negotiating table. Without military pressure—directly by the United States or indirectly through aid to the Contras—the Nicaraguans will persist in their aggressive plans to bring down the democratically elected governments of their neighbors and stamp out any political dissent and religious freedom within Nicaragua.

The time for delay is long past and the only real choice before us is now really crystal clear. Yes, there are legitimate criticisms of very real and tragic Contra abuses. It is almost always true of a largely untrained and poorly disciplined force. They, the Contras, are, nevertheless, fighting against a Marxist regime that is trying to destroy their neighbors' fledgling or longstanding democracies. They are fighting against what is clearly an emerging Soviet bloc country on the mainland of North America and they are fighting against totalitarianism in Nicaragua.

My colleagues, as you cast your vote on the Edwards-Skelton amendment, ask yourself whether the American people really want another Soviet bloc country in this hemisphere. Ask yourself if history will forgive you if America waited too long or was unwilling to protect Costa Rica from Sandinista subversion, terrorism, and aggression. Ask yourself if you gave the new democracies in Guatemala, El Salvador, or Honduras a chance to establish their roots and flourish. Ask yourself if history will judge you as willing to live up to America's leadership responsibilities for the free world. Ask yourself if you will be judged ready to halt this Marxist cancer in Central America when it was possible to contain or eliminate it.

We've seen the House stalled far too long on this crucial issue. Time has expired; we've gone the extra mile in testing the Nicaraguans' interest in a Central American peace plan and basic freedoms for their people. They have failed. Keep the only available, effective pressure on the Sandinistas until they accept a legitimate, verifiable peace and democratization plan created in Central America by Central Americans. Vote "yes" on the Skelton-Edwards amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise in support of the Skelton-Edwards amendment.

Like many Members, I went to Central America last spring for honest answers—answers on how and why and if we should continue our support for the democratic process south of our border.

I came home completely convinced, yes, we must continue to share the responsibility of supporting the fragile democracies, and adopt specific policies to be effective and obtain the maximum benefit for our dollars invested.

First of all, I am convinced the aid should have been legislatively bound for a reasonable time to allow for the Contadora negotiations to allow the funding to serve as a leverage to promote dialog. Every President, every diplomat, every military leader I met agreed with this position.

Second, I am convinced a second vote would be detrimental. Every Central American leader I met with also expressed their opposition to a second vote on the aid. The second vote would diffuse the commitment of our country and erode the strength of our support.

A second vote will say "maybe yes, maybe no" we will stand behind our neighbors in their quest for peace and democracy.

But we've had a reasonable time now for negotiations. We've tried but we aren't there. Today, we can send a strong message that the United States of America—not 60 days from now—supports and encourages democracy in Central America—denounces communism in our hemisphere. We can demonstrate this commitment by a strong vote of support for the Skelton-Edwards compromise.

The McCurdy language is part of the way, but let's not erode the strength of our commitment by saying maybe yes, maybe no. We'll tell you for sure in 90 days.

Let us get on with our responsibilities now.

Mr. OBEY. Mr. Chairman, I yield 4 minutes to the distinguished chairman of the Latin American Subcommittee, the gentleman from Maryland [Mr. BARNES].

Mr. BARNES. Mr. Chairman, I thank the distinguished chairman from Wisconsin for yielding.

When we passed the appropriation last year for $27 million in assistance to the Contras, my colleagues will recall that in the law that was passed we included language that said, "The President shall establish appropriate procedures to insure that any humanitarian assistance provided by the United States is used only for the intended purposes."

My subcommittee asked the General Accounting Office to do an audit of the expenditure of the $27 million to see if that provision of the law had been followed. It is rather clear, given the findings of the General Accounting Office, that the way in which this program has been administered has not been consistent with that requirement that there be an assurance that the funds be used only for the intended purposes.

Later I will be offering an amendment, along with the gentleman from California [Mr. PANETTA], to provide that no funds that may be appropriated today, can be spent until we have a complete report from the administration on how the last funds were spent, certainly a reasonable requirement. I do not think any Member would want to see more funds go down until we have a report from the administration on how the last funds were expended.

I think it is relevant as we consider votes on the McCurdy proposal and the other proposals before us to consider some of the very serious questions that have been raised with respect to the expenditure of the last $27 million.

For example, the General Accounting Office found that out of the accounts into which funds were deposited, some of this $27 million, out of those accounts some rather questionable payments were made. About a million and a half dollars went to the armed forces of Honduras, for example.

Very substantial amounts, in the hundreds of thousands of dollars, were deposited out of those accounts into accounts in the Cayman Islands and in the Bahamas.

Other significant amounts went to individuals who apparently have no connection that we can discover with providing medicine or food or clothing to the Contras.

There are a lot of important questions to be answered about this program. Our subcommittee has offered a number of opportunities to the State Department to appear before the committee to respond to the questions that have been raised and to answer the various questions that were included in the General Accounting Office report to the Foreign Affairs Committee, and the State Department has refused to appear.

The first invitation was issued on June 9 of this year, a couple weeks ago, and the State Department said that they could not appear as quickly as we had hoped.

We issued a second invitation. They said they could not appear. We issued a third invitation, and here we are on the moment of the vote and the State Department has yet, the administration has yet to come before the Congress to respond to the very serious questions that have been raised about the way the last $27 million was spent.

They have issued a fact sheet which I hope many of you have seen and perhaps we will have an opportunity to discuss that this afternoon. It raises more questions than it answers; but there are other questions that I would pose. I think we want answers to these questions before we vote for more money, whether it is $30 million or $100 million for the Contras.

I invite the State Department before we vote on this question to answer these questions. For example, why was there a payment from a supplier to the Cayman Islands bank account of a colonel of the Honduran Armed Forces?

Why were there more than $75,000 in payments to a person who appears to be the wife of a key Honduran military officer, reported to be the princi-

pal contact with the FDN of the Honduran military?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Arkansas [Mr. ROBINSON].

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. ROBINSON. I yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, today we are again debating and voting on President Reagan's request for $100 million in assistance to the freedom fighters in Nicaragua. I am sorry that we refuse to deal forthrightly with this issue and make a decision which will be in effect for a reasonable length of time.

Over the past 4 years this issue has come before the House again and again and yet there are those here who still try to insure that we will not have a final decision on the question of our support for freedom and democracy in the Americas. Those who would have us vote today and then vote again later this year and then vote again next year are not only temporizing and endangering the lives and prospects of the freedom fighters; they are playing politics with the security and future well-being of the United States.

I must say that I am sadly disappointed that this crucial foreign policy issue has degenerated into a partisan political battle seen by some as a way to attack the President and appeal to partisan emotions when the interests of the United States call for consensus and nonpartisanship. Those who refuse the President of the United States request to address the House on this vital matter and who are also the leading opponents of that President's efforts to save Central America from Communist expansionism must bear the burden of their actions when future history is written and the results of today's decision will be clear for all to see.

Mr. Chairman, there is clearly defined opposition to the Sandinista regime in Nicaragua. Popular support for the Communists was never universal and we have seen that support erode steadily as freedoms disappear in Nicaragua as fast as goods on the market shelves of that Government controlled economy. Accusations of human rights violations by the freedom fighters have been investigated and refuted or acknowledged and punished. At the same time the Sandinistas continue their repression of so many human rights of the Nicaraguan population that I do not have time to list them all.

Mr. Chairman, we have tried to negotiate with the Sandinistas. We have tried to nudge them gently with warnings, appeals and with mild economic sanctions. The results that these attempts have achieved from the Sandinistas is more than $500 million in Soviet weapons and the almost total suppression of the 6 million people remaining in that unfortunate country. The delivery and use of helicopter gunships, tanks, heavy artillery, and now Soviet piloted reconnaissance aircraft should be adequate evidence for any reasonable person of the Soviet desire to destabilize the Western Hemisphere and of the Sandinistas' willingness to obediently follow orders to sacrifice their nation and their people for the advance of the parasitic Communist philosophy.

The time for vacillation is over. The time to make a decision is here. There is no rational reason to postpone our decision further and to jeopardize the lives of the freedom fighters and the fate of Nicaragua. We must act. We must help these people. And we must help them now before the weight of Soviet weapons and Soviet bullets wipes out the hopes and aspirations of another people and dims the light of freedom by covering it with the blood of people who do not want to be slaves.

I support the bipartisan Edwards-Skelton amendment to H.R. 5052 and I urge all of my colleagues to join me in pursuing our national duty to help those who are willing to die to be free.

Mr. ROBINSON. Mr. Chairman, I rise in opposition to the McCurdy amendment.

This amendment reminds me of the young man who killed his mother and father. Then he went to court and threw himself on the mercy of the court because he was an orphan.

The McCurdy amendment kills the President's initiatives in Nicaragua. It also kills the Contras' efforts to place more pressure on the Sandinistas.

I would like to spend my time, since that is out of the way, talking about some of the statements that have been made here in reference to the Skelton-Edwards amendment.

First, I want to address the continuous allegations of drug running by the Contras and set the record straight. The No. 1 country guilty of sending drugs into this country and polluting the minds of our young people is Mexico; second, Colombia, and third, Panama.

The Contras are not drug smugglers. That is a smokescreen.

Second, there has been much talk about accountability. Well, how can we account for the aid when we write restrictive language that says no U.S. Government agent can go down there and make sure that the supplies get to the Contras?

Third, I want to talk about the polls. It seems that everyone says the American public is not behind the President because he is wrong and 2 to 1 are opposed to Contra aid.

□ 1730

In my opinion, our job is to lead. It is to go out and educate our constituents and not run for the political safety net.

Last, but certainly not least, I want to talk about the mindset of some of the editorial writers in this country who many of my colleagues are reading very religiously every day and shaping their opinions about Contra aid.

These people are the same people who said that we ought to withdraw support from Batista because he was such a bad person in Cuba. What did we get in his place? Castro, a Communist surrogate dictator. These are the same people who said we ought to withdraw support from Somoza. What did we get in Somoza's place? Ortega, another Communist puppet.

These are the same people who said instead of backing our troops in Vietnam we ought to follow those who are spitting on the American flag and burning their draft cards. These are the same people who said we ought to give away the Panama Canal.

I mention all of that because I think the mindset is very, very important. I urge my colleagues to vote "no" on the amendment offered by the gentleman from Oklahoma [Mr. MCCURDY] and "yes" on Skelton/Edwards.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BADHAM].

Mr. BADHAM. I thank the gentleman for yielding time to me, and I rise in strong support of the Edwards-Skelton proposal.

Mr. Chairman, Members from both sides of the aisle, have gotten up here today, and made any number of arguments and statements both in favor of, and against, aid to the Nicaraguan Democratic Resistance. Some of them have described prison systems and arms buildups, while others have discussed atrocities and alleged illegal monetary dealings.

While I welcome my colleagues' elaborations, I feel that some of these remarks are, at best, entertaining diversions. This is an emotional issue, and tempers have at times run high. As duly elected lawmakers, though, I would encourage you to approach this debate in a logical fashion. My colleagues, look carefully at this issue, strip away its many shades of gray, and make a decision on the one underlying question: Do we, as a people, actively support democratic institutions and opportunities for the people of Central America? Do the people of Central America deserve the same chance at self-determination that we had as a fledgling nation?

I think everyone believes our Central American neighbors should have the chances that we have had. Therefore, let's give them that opportunity. What we're discussing here is whether we're going to spend $100 million to do so.

I'll be frank with you, particularly those of you on the other side of the aisle, I would rather take the chance and spend the $100 million that the President has requested than proceed in the manner you advocate.

I have two reasons for feeling this way. First, to be perfectly honest, your track record is not the best going. Many of those now opposed to this aid package were also against aiding the Salvadoran Government, and predicted a new Vietnam in El Salvador if we provided aid. Well, we did so, and as

far as I'm aware, we have yet to commit combat troops.

Second, if the President is wrong, 100 million Americans are out $1. But if you're wrong, my constituents and yours will be paying quite a different price. My colleagues, I, for one, refuse to pay for isolationist tendencies with the blood of my constituents.

It is important, indeed vital, that we support the President in Nicaragua. I would urge my colleagues to vote "yes" on the bipartisan Edwards-Skelton proposal.

Mr. McCURDY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. I thank the gentleman for yielding this time to me.

Mr. Chairman, 164 years ago, the United States first urged the recognition of the emerging Latin American republics. Simon Bolivar spoke then of his plans to make the Americas the greatest region in the world. "Greatest," he said, "not so much by virtue of her area and her wealth, as by her freedom* * *"

Bolivar's vision has never been in greater peril.

Central America, and Nicaragua in particular, pose serious and difficult challenges for the United States. If there is anything on which we can agree, it is the complexity of the issues we face in that troubled region. In truth; there are no simple solutions to the current situation in Central America. There is no easy answer.

Those who seek to simplify the Nicaraguan question by focusing solely on the Contras do little to aid progress toward the broad, bipartisan policy that is sorely needed. In fact, the Contras have had major problems with internal discipline, and have had limited success in winning the support of the Nicaraguan people. While there may well be a place for the Contras in our Central American policy, they should not be the sole recipients of our aid, our support, or our sympathy. The administration has made the Contras the primary instrument of our policies in Central America; I believe this is unwise and may well be self-defeating.

Since the last vote on this issue, this fact has become clearer to all of us in the Congress. The bipartisan delegation which met the five Presidents of Central America earlier this month brought to light critical information about the situation in the region. Armed with this better understanding of changing conditions there, I believe we are ready to formulate a wiser and broader policy equal to the challenges we face.

Such a policy is both urgently needed and eminently possible. We have ceased to focus on whether the Sandinistas are a threat to their neighbors; that is accepted. We now face a much more difficult question: What should we do about the Sandinistas? What kind of long-range policy will give stability to Central America and help democracy to flourish?

I believe the McCurdy plan as incorporated in the military construction appropriations bill sets us on a course toward a comprehensive approach to Central America. Beyond the provision of $30 million in nonmilitary aid immediately to the Contras and $70 million in military aid after an October vote of approval, I would like to note some important provisions of the McCurdy plan that address specific and legitimate concerns many Americans have had on this issue.

First, a bipartisan congressional observer team would be appointed by the leadership of the House and Senate. The group would report regularly on the progress of the Contadora peace negotiations and the status of human rights in Nicaragua. It is my hope that this commission will inject an objective, dispassionate voice into this ongoing debate.

There has been much discussion about human rights abuses by the Contras. I have no doubt that those abuses occurred, and we need to act to correct this situation. In the McCurdy plan, specific funds would be designated to provide training to the Contra soldiers in the observance of human rights; and procedures would be created to stop funding if those who perpetrated such abuses were not expelled from their forces.

Many Americans are also concerned by revelations of improprieties in the use of the humanitarian assistance funds given in 1985. In response, this bill provides for much stricter accounting procedures for the funds appropriated to the Contras.

Another area of deep concern to me has been the narrow focus of our policy debate on the Contras to the exclusion of consideration of regional concerns. It is surely folly to believe that the decision on aid to the Contras will complete all necessary decisions on this region so full of hope and turmoil. We need to commit ourselves to a long-range partnership with the fragile democratic governments of Central America. The most important step we can take toward assuring the long-term stability of the region is the commitment of our resources and leadership to the economic development of Central America. To address the need for a regional approach, the McCurdy plan authorizes the diversion of existing funds to support a $350 million economic development plan for Guatemala, El Salvador, Honduras, and Costa Rica.

We need to press this mini-Marshall plan for Central America. Not since President John Kennedy founded the Alliance for Progress in the early 1960's has any administration set clearly defined social and economic goals for the region and then aggressively worked to achieve those goals. It is time to revive that spirit and commitment.

Finally, the United States must more clearly define to Cuba and the Soviet Union our vital security limits in Central America. We must be prepared to enforce those limits with American strength. Our responses must be specific and unequivocal—not undefined strategies such as the random mining of Nicaraguan harbors.

I do not consider the McCurdy plan a final answer to this extremely complex and difficult issue, but it is a broad and logical beginning toward crafting a bipartisan policy for all of Central America.

There are great opportunities for democracy to flourish in Central America. In Honduras, in Guatemala, in El Salvador, fledgling democracies are trying to grow. A new generation of democratic leaders has come to the fore in these nations that have for so long suffered under military juntas and the fear of political violence. Let us seize this opportunity to create a larger policy for our hemisphere.

As President Kennedy said 25 years ago:

> Our continents are bound together by common history, the endless exploration of new frontiers. Our nations are the product of a common struggle . . . and our people share a common heritage, the quest for the dignity and the freedom of man.

Today we have the opportunity to set our Nation's policy on a course toward security and democracy for our neighbors. We must give strength and direction to those striving for freedom across Central America.

Mr. OBEY. Mr. Chairman. I yield 6 minutes to the gentleman from New York [Mr. MCHUGH], a member of the Intelligence Committee and the Foreign Operations Subcommittee.

Mr. MCHUGH. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in opposition to the McCurdy proposal, and if it should survive this debate to final passage, I would urge the Members to vote against final passage.

I say this reluctantly because I do respect the work and the sincerity of the people who have worked with my friend, the gentleman from Oklahoma [Mr. MCCURDY], in fashioning this proposal. I know they have approached the issue seriously and believe they have a package which will address our interests in a responsible way.

I am also aware that the package, on its face, may appear attractive to many of our colleagues. First of all, with respect to Contra aid, it would provide $30 million in its initial phase for nonlethal assistance, and certainly as compared with the administration proposal as presented by my friends, the gentleman from Oklahoma [Mr.

EDWARDS] and the gentleman from Missouri [Mr. SKELTON], it is less objectionable for that reason. Their proposal, as we know, would provide $100 million in lethal and nonlethal assistance.

But for those of us who believe it is fundamentally wrong for the United States to provide support to the military efforts of the Contras, the assistance incorporated in the McCurdy proposal, even though it is called nonlethal, obviously is assistance to an army in the field, and for that reason should be rejected by those of us who believe that the Contra military effort is not consistent with U.S. interests.

A second and perhaps more beguiling element of the McCurdy proposal relates to the additional $350 million in economic assistance that would be provided to the four governments in Central America, three of which could be called fledgling democracies and the fourth being Costa Rica, which is a more settled democracy. This is attractive because we do have a strong interest in encouraging democracy and we do need to provide support to democratic governments in Central America, particularly since most of them are fragile democracies. So, on the face of it, additional economic aid does appear attractive and appropriate for us to consider very seriously.

Why should we not do it? I think there are two important reasons for not doing it at this time.

First of all, money alone will not solve the problems of Central America. Money from the United States in the form of economic aid will simply not do the job. It is important to remember that since 1980, in addition to $1 billion in military aid for Central America, we have provided almost $4 billion in economic aid. Yet, in each and every year since 1980, per capita GNP in Central America has gone down. Is it because we did not provide enough economic assistance? I do not think so. I think $4 billion is a lot of money. Basically it is because the continuing conflict and instability in that region makes it impossible for economic assistance to work effectively standing alone, because there has been capital flight from that region, and because of international economic problems, including the debt problems the gentleman from Wisconsin [Mr. OBEY] spoke about.

So, yes, we should provide significant help to our friends in Central America, and we have done so, but let us not assume that simply pumping more money into Central America in the form of aid will solve the problems.

Second, and most important perhaps, it is important for us to consider aid to Central America in the context of our entire foreign aid program, and consider it in the light of our other vital interests in the world. No one argues that Central America is not important to us. But we also have significant interests in other parts of the world: In Asia, in the Middle East, in Africa, in base rights countries, in international institutions.

In a few weeks those of us who serve on the Committee on Appropriations will have to write a foreign aid bill which takes into account all of these interests, and we will have to do so with 20 percent less money than we have in fiscal year 1986. That is going to require us to make some tough decisions about how to allocate a very limited foreign aid budget among all of these important interests, including Central America.

Consider some of the choices we have to make. Consider the Philippines, for example, a nation struggling to recapture and retain its democratic form of government, a country with significant economic and security problems, a country in which we have important base rights, a country which has twice the population of any country in Central America and is poorer than any country in that region. Yet today the Philippines receives less economic assistance from the United States than any country in Central America.

This year Central America has already been allocated $820 million in economic aid. If either the Edwards or McCurdy proposal prevails, over $1 billion of aid will flow to Central America this year. The Philippines has gotten $200 million in economic assistance. With the supplemental appropriations conference report we just passed, it would be increased to $300 million.

Please also consider the world debt problem that the gentleman from Wisconsin [Mr. OBEY] referred to. The Secretary of the Treasury, James Baker, has said that the international institutions, including the World Bank, will have to play an increasingly active role in addressing the problem. Yet, we are $200 million behind in existing commitments to these international institutions, and next year we are going to have an additional 20-percent cut in our commitments to these banks.

Consider also sub-Saharan Africa, with 15 times the population of Central America and less than half the per capita GNP, a region with desperate human and economic problems, and it gets less economic aid than Central America today.

□ 1740

I ask you to allow the committees that have jurisdiction to consider all of these important interests in the context of our entire foreign aid budget, including our interests in Central America, and then you can make a judgment on the whole package in a manner which enables you to weigh the relative merits of our aid allocations.

For these reasons, I urge you to reject the McCurdy and Edwards proposals, and support the Hamilton substitute.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. KEMP].

Mr. KEMP. Mr. Chairman, I rise to express my strong support for the bipartisan amendment to be offered by Mr. EDWARDS and Mr. SKELTON. Their amendment recognizes that we need to support the democracies of Central America, which face a difficult battle. They are struggling to expand their economies and the quality of life for all of their people, while standing up to the Communist threat of military expansion and subversion.

I believe the Edwards-Skelton amendment parallels the well-reasoned policy approach set by the bipartisan Commission on Central America. That Commission upon which I served and the Jackson plan that grew out of its recommendations, called for a balanced program of military and economic aid. It rejected a policy of containment as an adequate means of dealing with the Sandinista-Cuban-Soviet nexus. Containment is not enough: The Sandinistas must understand that nothing short of democratic reform and nonbelligerency toward their neighbors will be acceptable to the United States.

And the Commission called for continuing existing sources of pressure on the Sandinista government—including emphatically the Contras.

Mr. Chairman, for more than 5 years, a small faction of this House has consistently opposed every major aspect of President Reagan's policy in Central America. In 1981 and 1982, they said that there was no real Communist threat. In 1983 and 1984 they opposed realistic levels of military aid to El Salvador. And throughout they have said that the United States intends to send U.S. troops to fight in the region.

Today, this same minority of the far left are leading the opposition to the bipartisan amendment before us, which would provide $100 million in aid to the freedom fighters of Nicaragua, and another $300 million to support the democracies of Central America. But history has proved their judgment on Central America is wrong.

Earlier this year they were wrong again. No sooner had the House vote of March 20 denied aid to the democratic resistance in Nicaragua than the Communist Sandinistas raided Honduran territory to wipe out Contra bases.

The March offensive was the deepest and bloodiest incursion to date. Sadly, I predict it will not be the last.

The same small minority that saw no threats, that persuaded a majority in this House to block effective military assistance to the democratic resistance in Nicaragua, continues to put forth only one policy: a one-track option of negotiations.

They say negotiate, even though the Soviet Union pours over $500 million in military aid into Nicaragua and the United States Congress does nothing. Negotiate, they say, even though the Sandinista military grows to nearly 120,000 troops—with Soviet bloc and PLO and Libyan advisers—and the United States Congress does nothing.

Negotiate, they say, even though the Sandinista military grows stronger every day, the threat to the region grows greater, the internal totalitarian noose grows tighter—and the United States Congress does nothing.

Men and women are fighting and dying in a lonely struggle to regain their freedom and their God-given rights—and still the Congress waits for negotiations to work. But how can we expect good-faith negotiations from a regime that has violated every promise it made to the OAS? How can we expect diplomatic progress when procrastination only buys Ortega more time to consolidate his totalitarian powers? How can you expect to stop the spread of communism in our hemisphere when the U.S. Congress declares is neutrality.

This conflict in Nicaragua is no simple civil war. Libya has provided $400 million in military assistance to Nicaragua. Qadhafi is helping the Sandinistas as part and parcel of his campaign of terror against the United States.

We need to ensure that terrorists have no sancutary anywhere and that includes Nicaragua.

The legislative record of constant deferral and delay and conditionality is not policy. It is procrastination and self-delusion.

So my colleagues, consider the great consequences of your vote. The hour is already late. Any further delays will only buy more time for the communists: more time for incursions, more time for the Sandinistas to mount a phony peace campaign, more time for more Contras to die and more time for Soviet style foreign aggression to succeed in our hemisphere.

Freedom and democracy can win, but only if we who were sent here by the people deal with the difficult questions and make the hard choices. To vote down this amendment is to increase the risk this Nation would face from a Soviet-Cuban base in Central America. We cannot escape the verdict of history.

Let it be said of our generation that we shouldered our responsibilities that democracy and freedom prevailed.

Mr. McCURDY. Mr. Chairman, I yield 3 minutes and 45 seconds to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I rise in support of the McCurdy provision. Since I hope to be able to speak later in the debate on the McCurdy plan itself, I would like to address myself now mainly to the economic aid provisions in McCurdy plan.

In February, when we began this debate, it was a debate over $100 million in Contra aid and nothing more. The Kissinger Commission recommended military aid. It recommended military aid as a shield behind which to work out social and economic and political problems. We endorsed the Kissinger Commission. We authorized the money for it.

For the most part, its economic aid provisions have been honored in the breech. We have been buying the shield, but not the aid. We scrubbed the defense budget and shook out $100 million in loose change for Contra aid, but somehow that process did not work when it came to finding money to back up our own commitments to economic aid.

It did not work, at least, until, to the great credit of Mr. McCURDY, we scrubbed again and we found over $300 million which could be applied to fill out this gap, could be applied to economic aid for Central America.

This bill provides 3½ times more economic aid than military aid. It restores balance to the Contra aid proposal. It takes something that was a wobbly legged policy and makes a complete coherent policy for the whole region out of it.

When we went to Central America a few weeks ago, Contra aid was at the top of our agenda. We were, all of us, anxious to know how the Central American Presidents stood on Contra aid. Let me tell you how they stood.

We had to bring the subject up. We had to broach the subject ourselves. It may have been at the top of our agenda; it was somewhere near the bottom of theirs.

Arauz, the newly elected President of Costa Rica, is officially against Contra aid. Cerezo of Guatemala takes a position of "active neutrality." Those are his words. He asks us rhetorically: "How can I support United States aid to the Contras and oppose Cuban aid to guerrillas in Guatemala?"

Duarte says the same thing. The only thing that all five of these Central American Presidents openly support is aid, economic aid for their countries. They tell us that, at bottom, their economies will survive; their democracies will survive only if their economies grow.

They make that equation, all of them, clearly and emphatically. President Arauz of Costa Rica told us, "For the first time in history," he said, "four of the five Central American countries are democratic, but these are fragile. vulnerable democracies and we still," he said, "must show that democracy will work in Central America."

This is what he said: "The Indian in Guatemala; the campesino in El Salvador is going to measure our success in economic terms."

President Duarte of El Salvador told us: "The best pressure we can put on the Communists is not the Contras, but showing that democracy works." Clearly, he said, "We will show democracy works when we show that our market economies supported by democratic means work themselves."

"Right now," he said, "this is happening." But Duarte went on to tell us that his economic program is exacting such a heavy political price that he is not sure that he can continue to sustain it. "The poorest," he said "is suffering the most."

It would be the worst sort of hypocrisy to vote for Contra aid and to tell the country and to tell ourselves and our constituents that we are addressing the problem in Central America. Unless we are willing to vote for economic aid, substantial aid, we are not addressing the problem at all. Indeed, we are worsening it by widening the violence and instability that plague this region and doing nothing to correct the problems at their source.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, 3 months ago I stood before this body and urged my colleagues to support President Reagan's proposal to aid the Contras in Nicaragua. At that time I listed the numerous reasons why I believed the aid was necessary. Today, I believe the reasons which warranted my support for aid then are stronger than ever.

Earlier this year I spoke of my concern about the amount of Soviet military aid the Sandinistas had received as well as the presence of Soviet and Cuban military advisers. It is now estimated that the Sandinistas have received as much military equipment this year to date as they did in all of 1985. The doubling of the amount of arms entering Nicaragua is not the sign of a country preparing for a negotiated settlement.

In March I expressed my concern about the restrictions that were placed on the activities of the Catholic Church. Since that time, Cardinal Miguel Obando y Bravo, archbishop of Managua, has stated that the church has been bound and gagged by the Communist regime. The bishops of Nicaragua attempted to publish a plea for negotiations in their weekly column in the newspaper La Prensa, the only private newspaper in the country. This plea for cooperation and

dialog was censored by the Sandinistas as a threat to the country. Radio Catolica the only Catholic radio station in Nicaragua remains shut down by direct order of the State.

I have previously warned about the immigration problem this country would face if the Sandinistas were successful in spreading their revolution without borders to other Central American nations. A look at what has happened in Nicaragua is an indication of what could occur throughout the region. Since the Sandinistas rise to power in 1979, almost 10 percent of the population has left the country. The number of Nicaraguan refugees in other Central American countries and illegal immigrants in the United States now comes to nearly 225,000. Earlier this spring the Sandinista military attacked numerous Miskito Indian villages along the Atlantic coast. This unexpected assault triggered a mass exodus of 11,000 Miskitos across the river into Honduras, necessitating the United Nations High Commission on Refugees to declare a state of emergency.

It is often argued that we are driving the Sandinistas into the Soviet camp by our unwillingness to provide economic and humanitarian aid to the people of Nicaragua. Well, we tried that approach at the outset. From the time of their coming to power in July 1979 through April 1981, the United States provided the Sandinista government with over $118 million in aid, more than we provided the Somoza regime for the previous 20 years. And what was their response to this assistance? The establishment of ties with Cuba and the Soviet Union and the initiation of a massive military assistance program.

I have met with both the Contra aid supporters and those opposed to any further U.S. assistance. At the core of the opposition to our aid to the Contras is the fear that it will drag this country into a war we do not want, will not fight, and which the American people will not support. Well, the very last thing we wish is to involve American troops in a border war with Nicaragua and its neighbors. That is precisely the reason why it is necessary to act now in a modest way by giving the Contra forces the weapons they need to prevent the Sandinista from exporting their violent Communist revolution throughout Central America and to our own borders. If we fail to assist them, we will witness the collapse of the only armed resistance to a Sandinista domination of Central America and possibly the eventual fall of El Salvador, Costa Rica, Honduras, and Guatemala to the Soviet and Cuban backed armed revolution in this hemisphere.

There are thousands of Cuban-Americans and other Latin Americans in this country who have fled dictatorships. They know the price of appeasing Castro and the Soviet supported rebels. They lost their homelands, their liberty, and their families to Communist and rightwing oppression. Our aid to the Contras is a powerful symbol of hope not only to these people, but a clear declaration of our national will to resist Soviet-Cuban-Sandinista expansion in our hemisphere. By acting now to bolster the Contra resistance, we will offer millions of people in Central and Latin America hope for a better solution to their economic, social, and political problems than the Sandinistas and Fidel Castro offer them. That hope will vanish and political resistance will crumble in the region if we refuse aid to the only armed force willing to fight for freedom in Nicaragua.

We must not leave the Contras defenseless or else we would set the stage for direct American military intervention in Central America. That is a prospect none of us want and indeed one which we can and must avoid.

□ 1750

Mr. McCURDY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, what is the best policy for the United States to achieve our desired results in Central America? Results that every Member of this body agree on.

I think first it is a regional policy that recognizes the negotiations that are currently underway; and made no mistake, I, too, went to Central America, and there are negotiations underway.

Second, a policy that exerts absolutely the maximum amount of pressure on Nicaragua, to give them an incentive to negotiate in good faith, if in fact they will.

Third, a policy that assures that the Contra force is truly one fighting for democratic goals. It is the McCurdy plan that best achieves this policy.

It does so by first providing assistance to our allies, and my colleagues have spoken to that. Recognizing the fact that our allies' strength is the absolute best defense against Nicaragua and their export of revolution.

It does so by providing the incentive to negotiate through the provisions of military assistance in the event the Contadora process fails.

I was in Central America and know the commitment of the four presidents of the democracies there to those negotiations.

Let me point out that in the event of the failure of those negotiations, it is the McCurdy plan that delivers the heavy metal to the Contras earlier than the Skelton-Edwards plan; and I think we should support the internal resistance and provide the means for a marked escalation in the event of that failure.

I think we must then assure the accountability of the administration and the Contras on the issue of expenditure of funds. Any of the available options have some faults, some excesses. The most important distinction being the available options of accountability.

The Constitution of this great Nation provides the President with the power as Commander in Chief, but it reserves to the Congress the power to raise an army and to declare war. It is not sufficient for the President to say as he said months ago, "Just give me $100 million and do not ask me what I am going to do with it."

The McCurdy proposal recognizes the inherent constitutional duties of the President and the Congress, and preserves the checks and balances that are the beauty of that constitutional system.

The Congress must have the final say on the commitment of arms, and only the McCurdy plan preserves that important constitutional distinction.

The CHAIRMAN. The Chair will advise members of the Committee that there is remaining 7 minutes for the gentleman from Wisconsin [Mr. OBEY], 7½ minutes remaining for the gentleman from Oklahoma [Mr. McCURDY], and 7 minutes remaining for the gentleman from Oklahoma [Mr. EDWARDS].

Mr. OBEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, I rise in opposition to the Contras aid.

Mr. Chairman, here we go again, another Contra measure. Once again, we have to rehash Contra aid. How many times must we return to this issue? When will the administration get the message that the American people will not underwrite terrorists? This is getting to be a waste of Congress' time.

The administration must truly be embarrassed by the men that it has chosen as its so-called freedom fighters. The true character of the Contra leadership is clearly demonstrated by the disappearance of $27 million of previously approved funds. Where did this money go? The Government Accounting Office can't find it, the President won't talk about it, and the State Department can't account for it.

So where is it? The GAO states that $1.5 million was paid to officers of the Honduran armed forces but that millions of dollars more have been funneled to private brokers. Still another $14.1 million has mysteriously been placed in Miami bank accounts. I, for one, am appalled by press reports indicating that a small grocery store, set up by several Honduran Army officers, has received a whopping $3.8 million in United States funds.

Now, that's a lot of money for a jungle supermarket. Contras are even trading in dollars on the black market. Some people seem to be getting very rich as a result of U.S. aid. Now, the President wants to make them even richer; he says that we can trust the Contras.

What kind of freedom fighters are the President's Contras—these men that he says should be trusted with $100 million? The Contra leadership is composed almost entirely of former members of the Nicaraguan National Guard. These are the men who propped up the hated Somoza regime. These are the troops who repressed the people of Nicaragua for years. These are the men who shot, tortured, and brutalized Nicaraguan civilians. And these are the men who President Reagan says will win hearts and minds, and bring democracy to Nicaragua.

What have the Contras really brought to Nicaragua? Death, destruction, and misery, that is their gift. They have devastated the economy, forcing Managua to divert up to 40 percent of its budget to defense. Civilian casualties from the fighting amount to over 1,285 killed and 2,000 wounded. The Contras deliberately target health and agricultural workers, rebuilding programs, and the institutions that support daily life. Regularly, they engage in terrorist activities directed at unarmed civilians, yet these are the men the President has chosen to bring freedom and justice to Nicaragua.

Do the Nicaraguan people really need Contras? I think the answer is: No. Nicaragua does not need the Contras. Central America does not need more militarization and violence. What Central America needs is peace and stability. The region cries out for an end to the war. The people want an end to the fighting, the poverty, and the hatred. The nations of Central America need no more weapons of death, they need jobs. They need no more soldiers, they need food and justice. Negotiations are the only answer to the crisis in Central America—not the Contra's terror.

The Contadora process provides the vehicle for negotiations. It enables Central American nations to settle their own problems, in their own way, and in a peaceful manner. This is the process that the United States must support if it wants a just end to the crisis in Central America. But Contadora is impossible as long as the Contras continue their terror.

Congress must support peace, not war—negotiations, not Contras. The Contras represent a dead-end street. Military aid only leads to more war and continuing crisis. Once again, Congress must prevent any further funding of these terrorists. America must stand for peace, and justice, and human rights. No money for the Contras—not today, not tomorrow, not ever.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, our colleague from Arkansas calls Contra drug traffic a smokescreen. He is wrong on that.

Some shocking facts from our very own Select Committee on Narcotics Abuse and Control:

First, armed Contras are used to guard planes carrying cocaine.

Second, indicted drug smugglers admitted delivering one-half million dollars from drug sales to two Contra groups.

Third, one known drug kingpin has connections to the very top levels of the Contras.

These are documented facts, Mr. Chairman. Cocaine is killing our kids. Let us not play a role in this slimy business. We have some good alternatives; the Hamilton alternative and the Barnes amendment. Let us support those.

We have to be sure we know what we are doing and who we are going to replace the Sandinistas with. We know what is happening in some of the Central American countries; let us not see a repeat.

Vote "no" on Contra aid.

Mr. MCCURDY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Florida [Mr. MACKAY].

Mr. MACKAY. Mr. Chairman, the only sensible policy statement on Central America was the report of the Kissinger Commission. That report was warmly endorsed by the White House, and was passed without controversy by this House, by both liberals and conservatives: but then, that was last year.

It is ironic now that the McCurdy proposal, which tracks the policy recommendations of the Kissinger Commission, is now under attack by liberals and conservatives; under attack sufficiently so that we had to divide the opposition time to make sure that each side got their own fair shots.

Mr. Chairman, I would like to talk about two aspects of the Kissinger Commission report that are accurately reflected in the McCurdy proposal.

First, it reflects the central thrust of the Kissinger Commission report which says that, long term, we've got to try to stabilize that region economically; $300 million for economic aid is not perfect. The gentleman from Wisconsin [Mr. OBEY] is absolutely right, it is not perfect. Perhaps we should wait for something to come along that is perfect. By that time, the war will be over; $300 million is a start, and it is doing what we said we would do.

As the gentleman from Tennessee [Mr. COOPER] said, it is critically important that we recognize that economic stability is the key to any permanent regional solution in Central America.

The money is taken from the defense budget, there is some poetic justice in that. It does not increase the deficit; it also does not require that we breach commitments that we have made in other parts of the world.

If the gentleman from New York [Mr. MCHUGH] wants to know how we can meet our foreign aid requirements, I would suggest that he look in the defense budget, where a major portion of our foreign aid is.

We could perhaps send a bill to Japan for the money that we spend—I think it is foreign aid in that we defend them, at our cost; although they run a $60-billion annual surplus with America—we could send them a bill. We could begin to eliminate that part of our foreign aid budget.

□ 1800

The second thing about the McCurdy proposal that I want to talk about is that it reflects the Kissinger Commission recommendation for a two-track approach. It continues the pressure on the Sandinistas but it ensures that military aid will only be provided when a majority of this House is satisfied that all peaceful alternatives have been explored. It is not a perfect proposal, but it is a first step toward implementing the only rational and wise recommendations that have been made for a sensible foreign policy in Central America toward implementing the Kissinger Commission approach.

I urge its adoption, and I yield back the balance of my time.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, just in brief response to my friend from San Francisco who talked about drugs, I hope she has read the report from the investigator for Mr. Thomas Borge, who has defected, Elviro Jose Baldizon, who on page 13 ties drug trafficking to Thomas Borge, the minister of the interior. I hope she would read that.

Mrs. BOXER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I do not have the time, but I will show this to the gentlewoman. I am sure she has not read it.

Nine days from now, we will celebrate our Declaration of Independence, and I hope that we will all ask ourselves: Do we really want to permit the Soviet Union to become the dominant force on the land bridge between South America and North America? I hope I know the answer. But if you need a rationale for our helping freedom fighters, read that Declaration of Independence, find those words that say governments derive their just powers from the consent of the governed. And when any government becomes destructive of these ends it is the right of the people to alter or abolish it. That is what the freedom fighters are trying to do. And as the French helped us do the same thing, we should help them. And, remember, self-determination applies to people, not to governments that do not legitimately represent people.

Ought we not help these freedom fighters? The struggle is the same whether it is Angola, Afghanistan, or Cambodia.

Twenty-seven years ago Cuba, 90 miles from our coast, was swept into the Soviet orbit because we lost our nerve at the Bay of Pigs. We tried to

rehabilitate the situation with brave words, "we will pay any price, bear any burden," do you remember that? We ought to have learned something.

Now we face another "Bay of Pigs," only here it is not air cover that the freedom fighters want, it is just some weapons. It is weapons. Now we are confronted with Mr. MCCURDY's bill which, as I think about it, a souffle comes to mind. It looks all right, but there is nothing there. We will have the best-dressed casualties in Central America.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. YATRON], a member of the Committee on Foreign Affairs.

Mr. YATRON. Mr. Chairman, I rise in opposition to aid to the Contras.

Mr. Chairman, the administration is correct in its judgment that the Sandinistas are repressive and a source of subversion in Central America. I too, support freedom and democracy for Nicaragua but the problems we face in Nicaragua will not be resolved by sending $100 million to the Contras; $100 million represents a small down payment on a huge mortgage which will take years to pay and offers no guarantee for success. What it will guarantee is massive bloodshed.

If we genuinely want a nonaligned democracy in Nicaragua, we need to take steps which can be sustained by the American public over the long run. By lacking the broad-based support that the Afghan freedom fighters have, the Contras are living from one congressional vote to another.

Realistically, the Contras do not have the ability to defeat the Sandinistas on the battlefield. Therefore, we need to consider more viable alternatives.

Mr. Chairman, the administration constantly refers to the broken promises that the Sandinistas made to the Organization of American States. Why not use the OAS as a vehicle to achieve our objectives? Since the administration contends that the Sandinistas are a threat to our friends in the region and have a dismal human rights record, it should make a case to the OAS for comprehensive regional economic sanctions against Managua. Further, the administration should seek an OAS mandate to establish a multinational peacekeeping force to interdict arms supplies originating from Nicaragua to insurgencies operating in Central America.

If these measures do not bring about the desired results, the administration should consider asking the member states to implement a quarantine of military deliveries to Nicaragua. While there would be certain risks in pursuing this course of action, support for the Contras offers far more threatening implications for U.S. interests.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, critics of the Reagan administration policy in Central America repeatedly argue, "We must give negotiations a chance." The United States has been trying to negotiate with the Sandinista regime in Nicaragua since August 1981. There has been no constructive response from the Sandinistas in 5 years. Now, critics argue, we must have 90 additional days and another vote just on military assistance to give negotiations a chance before military aid can be sent to the Contras. There is nothing that has happened in the past 90 days that makes it any more likely that the Sandinistas will agree to a verifiable, enforceable Contadora agreement in the next 90 days. Further delays cannot be justified; it is time to support the democratic resistance in Nicaragua with the humanitarian and military assistance up front it needs to survive as a viable counter to the totalitarian, expansionist regime in Nicaragua. That is really what the Kissinger report is all about.

The internal political opposition inside Nicaragua has become increasingly critical of the Sandinista regime. Mrs. Maria Azucena Ferrey, vice president of the Social Christian Party of Nicaragua, wrote a letter to Comandante Ortega in which she urged Ortega to "experience first hand the level of discontent which exists" in Nicaragua. Mrs. Ferrey said, "Do not blame just external factors for what is going on here. * * * If what you preach about equal opportunity, pluralism, respect for the rights of others, individual and collective security were actually put into practice in daily life, * * * the external causes [the Contras] would not exist."

Mrs. Violeta Chamorro, publisher of the Nicaraguan newspaper La Prensa and an original member of the governing junta after the Sandinistas came to power, says the same thing about the Contras, referring to them as the "external dimension." Mrs. Chamorro says, "The external dimension, which apparently has been the one more dealt with by Contadora and the Contadora support group, is no more than the reflection and the echo of an interior imbalance revealed in popular discontent, emigration, and exile, which nourish subversion and the war of those who search through violent means what they can't achieve through nonviolent means." The clear message is that legitimate political opposition in Nicaragua is crushed.

Jaime Chamorro, the brother-in-law of Violeta Chamorro, says, "It is the general belief that if the Contras were not where they are, we wouldn't be there at all, because they serve to counteract the government's actions, and what they do has helped us survive.* * *"

When Congressman MIKE DEWINE and I visited Nicaragua in March 1985, we heard the same message from every private group we met—the church, labor leaders, political party members, La Prensa, and the private sector. They were concerned about the Sandinistas' campaign of repression. Several told us that before the Contras existed they had been "Public Enemy No. 1," but that now they were "Public Enemy No. 2." They said they would go back to being "Public Enemy No. 1" if the Contras were no longer an effective opposition force to the Sandinistas. They said the only way to prevent the Sandinistas from consolidating total control over their country and enabling them to export their revolution is to keep the pressure on them. I believe the way to keep the pressure on them is to continue to support the Contras. It is only through that kind of pressure that you can expect meaningful negotiations with the Sandinistas.

In this lengthy, and often divisive, debate, I am afraid we sometimes lose sight of the evolution of United States policy in Central America. Critics who complain about American actions in the region seem to make their arguments as though U.S. policy developed in a vacuum. They fail to acknowledge the fact that U.S. actions are a direct counter to a determined and continuing armed attack against our allies in the region. A review of the historical record puts U.S. policy into clearer perspective.

The United States cut off military assistance to Somoza in 1977; it initiated the 1979 OAS resolution calling on the OAS member states to recognize the Nicaraguan insurgents; during the first 2 years of the Sandinista government, the United States gave it $118 million in economic assistance, and in addition supported $292 million in World Bank and Inter-American Development Bank loans to the Nicaraguan Government; in August 1981, President Reagan offered to renew economic assistance in exchange for Sandinista termination of support for the Salvadoran guerrillas; there was no significant military opposition to the Sandinistas until the spring of 1982, more than a year and a half after the Sandinistas began their sustained, secret war against El Salvador. In October 1982, the United States and eight other democratic governments in the Western Hemisphere joined in the San Jose declaration which made a proposal outlining the essential conditions for peace in the area, with primary emphasis on free elections and human rights. The Sandinistas refused to meet with the group's spokesmen.

That account is only a very short list, and I could go on for pages describing efforts made by the United

States to engage in constructive negotiations with the Sandinistas which they have ridiculed, rejected, or ignored.

John Norton Moore, who is currently director of the Center for Law and National Security at the University of Virginia, has written at length regarding the justification for United States actions against Nicaragua given its activities in training, arming, and directing guerrilla movements in El Salvador, Honduras, Costa Rica, and Guatemala. Moore points out that the Rio Treaty, on which the defense of the inter-American system is based, provides for "a legal obligation * * * to assist in meeting an armed attack." It specifies that "Each one of the contracting parties may determine the immediate measures which it may individually take in fulfillment of the obligations contained in the preceding paragraph" and it specifies that these self-defense measures shall be valid "until the Security Council of the United Nations has taken measures necessary to maintain international peace and security." As Moore states: "Aggressive attack, whether covert or overt, is illegal and must be vigorously condemned by the world community, which must also join in assisting in defense against such attack. At a minimum, it must be understood that an attacked state and those acting on its behalf are entitled to a right of effective defense to end the attack promptly and protect self-determination." It seems to me, too much of the debate on aid to the Contras overlooks the Cuban-Nicaraguan secret war against its neighboring states.

And what of the Contras themselves? What do they represent and what are they fighting for? In May, the leaders of the Nicaraguan democratic resistance held lengthy meetings to clarify the objectives and principles which guide the Contra movement. I believe it is important to consider very carefully the document those leaders issued at the end of their deliberations, because it offers a very clear picture of the democratic goals the Contras seek to achieve. The communique released by the United Nicaraguan Opposition reflects its commitment to strengthening democratic procedures, incorporating all segments of Nicaraguan society into the opposition, ensuring civilian control of military forces, and guaranteeing proper human rights practices.

The structure of UNO would consist of the three-man directorate of Arturo Cruz, Alfonso Robelo, and Adolfo Calero. The decisionmaking process will be by majority vote. A consultative assembly, composed of Nicaraguan political, labor, and business organizations, will be established. All military forces—UNO-South, UNO-FDN, and UNO-Kisan—will be integrated into a single armed force under the control of a military commission composed of the directorate and the military commanders. A Secretariat for Military Affairs, headed by a civilian, will act as liaison between the directorate and military forces.

Three non-Nicaraguans, preferably one Latin American, one European and one North American, will be added to the Human Rights Commission. A commission consisting of a lawyer, a manager and an accountant not associated with UNO will be established to review control systems and auditing of aid. They will prepare a public report.

On political issues, the communique reiterates UNO's support for the six-party proposal as a means for achieving national reconciliation through dialogue. UNO supports efforts to reach a solution to the conflict in Central America through the Contadora process, and expresses confidence in the efforts of the democratic governments in Central America to reach a solution. UNO also reasserts its two-track—civil and military—policy to bring the Sandinistas into a real agreement. Military aid is vital to this policy.

Once again, in this debate, we reach the ultimate question: How do we achieve peace in Central America? Another way to ask the question is "How do we get the Sandinistas to negotiate?" Obviously, to achieve peace the Sandinistas will have to negotiate a peace agreement that is comprehensive, simultaneous and verifiable. The other Central American Presidents have said they will accept nothing less. Our objective must be to get the Sandinistas to accept that as well. To do that, I believe we must demonstrate to the regime in Nicaragua that they cannot achieve their goals through default, that the United States Congress will not sit back and do nothing while the Sandinistas consolidate their totalitarian regime and spread their revolution across their borders.

I urge my colleagues to support military assistance for the Contras as the essential element in keeping pressure on the Sandinistas to negotiate. I not only urge adoption of the Skelton-Edwards amendment, but I also urge an overwhelming vote in favor of this amendment to demonstrate to the Sandinistas that the United States is prepared to do what it must to preserve liberty and democracy in this hemisphere.

REMARKS BY ISRAELI FOREIGN MINISTER SHAMIR DURING JUNE 17 VISIT TO HOLON, ISRAEL

"We are mainly fighting against Arab terrorism. But we know that those organizations and others cannot cause much damage without being supported by states who help them with money, weapons, training areas, etc. That's why we believe the war against international terrorism—war in which the United States plays a leading role—is absolutely vital.

The U.S. attacks on Libya are of the utmost importance in that framework, and they have already deterred other states from walking along this path of supporting terrorism. International terrorism is an international monster that exceeds all bounds. We see this terrorism in Libya and we see it in other places such as Central America. We see it from Libya to Nicaragua.

We know that the PLO had assisted the Sandinistas and had cooperated with them in Nicaragua. The Sandinistas in turn have established a PLO base in Nicaragua. We welcome the American activities aimed at struggling with the danger of terrorism in that part of the world as much as we welcome the U.S. activities in Libya. There is a direct connection between Libya and Nicaragua, and this is a terror connection that spreads over continents and oceans. We believe that whoever is trying to deal with this threat has results and will have results."

Last weekend, by contrast, the Iranian foreign minister was in Nicaragua.

FINALLY, A STANDARD FOR THE "CONTRAS"

At long last, in a last-minute bid to rescue his $100 million military aid package for Nicaraguan rebels, President Reagan invites Congress to monitor the investment against open, measurable objectives. He promises to purge the rebel army of corrupt, antidemocratic elements and to support only an honorable civil war. He promises a still-incredible outcome—the establishment of democracy in Nicaragua—but calls that only the *best* guarantee that the Soviet Union will not gain another foothold in the hemisphere. He implies that he would also use the "contra" army for leverage in negotiations for different guarantees.

Two or three years ago, such a clear presentation might have secured the bipartisanship for which Mr. Reagan now pleads. The President still refuses to choose between the goal of toppling the Sandinistas and merely containing them—an ambiguity that deserves the resistance he has met. For whatever its value as a bargaining chip, the contra army has had no discernible success in igniting a popular rebellion against the Sandinistas.

But Mr. Reagan does now offer to accept a bipartisan Congressional commission to monitor the rebel forces. Since Congress is plainly unwilling to disband the "contras" altogether, this amounts to an offer it cannot refuse. It has two chances to attach effective strings to the contra appropriation, in the House today and then in conference with the Senate.

Mr. Reagan offers to spend the money in three phases, delaying heavier weapons until next year. That provides a chance to schedule additional votes after the November election and after Congress has heard from the monitoring commission.

A commission worth its salt should by then have received an honest budget for the contra aid, to guard against more diversions to profiteers. It should by then have reliable rosters of the rebel army, to insure that former Somoza soldiers and mere mercenaries have truly been retired. Above all, Congress could by then have tested the President's claim that thousands of Nicaraguans are waiting to join the rebels, once American backing is made clear.

The record of this C.I.A.-sponsored army does not justify the President's confidence that it can "win" a civil war. But neither does the record of the Sandinistas inspire trust in their promises to keep the Russians

and Cubans out. Neither side in Nicaragua is worth a wrenching, Red-baiting war of recrimination in the United States. America's available choices depend on discernible facts. By giving the President some of what he asks, with the strings that he now offers to accept, Congress may actually get those facts.

ECUADORAN GUERRILLAS WIDENING INTERNATIONAL LINKS

QUITO, ECUADOR (REUTERS).—A leftist Ecuadoran guerrilla movement allegedly trained in Libya and Nicaragua is widening its international links and raising concern in the United States.

The Alfaro Vive, Carajo (AVC) guerrilla group recently joined Peruvian and Colombian guerrillas to form the "Americas Battalion" inspired by the internationalism of guerrilla Ernesto "Che" Guevara.

The AVC's emphasis on violence has grown to the point that President Reagan mentioned the situation when he greeted Ecuadoran President Leon Febres Cordero in Washington in January.

"I say the United States stands with you," Mr. Reagan said during a White House ceremony. "That is especially true when it comes to defeat the twin menace of international terrorism and narcotics trafficking."

Fernando Rondon, U.S. ambassador to Ecuador, said in a speech in December that Washington was providing technical and financial assistance to combat political violence in Ecuador. The U.S. Embassy would not provide details of that assistance.

The Washington-based Heritage Foundation, which has close ties to the Reagan administration, urged the United States in January to spend $8 million to train the Ecuadoran army in counterinsurgency tactics to battle what it called the growing security threat posed by combined forces of the AVC and Colombia's M-19 guerrilla group.

The AVC, believed to have fewer than 1,000 members, is led mainly by former university students. It takes its name from Eloy Alfaro, a reformist Ecuadoran president from the 1890s.

Alfaro took power after leading a decade-long peasant insurgency.

The name of the guerrilla group translates roughly to "Alfaro Lives, Damn It." Claiming to be fighting for his ideals, the AVC is also battling what it brands a ruling oligarchy.

The rebels' protest against the policies of Mr. Febres Cordero's conservative government initially drew a sympathetic hearing from some center-left quarters.

Last year, the rebels stormed a meeting of Ecuadoran Women for Democracy, where witnesses said the hooded guerrillas drew applause after denouncing what they termed the erosion of democracy under Mr. Febres Cordero, a pro-American businessman elected in 1984.

Center-left critics allege Mr. Febres Cordero has repeatedly violated the Ecuadoran constitution. They often mention his order to ring the supreme court with police in September 1984 to prevent congressionally appointed judges from taking office.

"To some, the Alfaro Vive originally appeared as idealistic youths who were carrying out a popular revenge against the government's violence," said Cesar Verduga, head of the Quito-based Latin American Assembly for Human Rights.

"But they lost that image after they got violent and people died in their attacks."

The AVC, thought to be an offshoot of Ecuador's Communist Party, surfaced in 1983 when it stole Alfaro's sword from a museum. Last year it began to rob banks and kidnap businessmen to finance their operations. So far, it has raised more than $250 million, according to a captured rebel document.

The Ecuadoran government says the AVC has received training in Libya and Nicaragua. Ecuador broke diplomatic relations with Nicaragua's leftist Sandinista government in October.

Mr. Febres Cordero told foreign correspondents in March that "we have proof that part of the Ecuadoran subversive group has been trained and is being trained in Nicaragua."

Evidence of the Central American link includes Nicaraguan residence documents and Nicaraguan-published propaganda found with captured AVC members, according to Jofrey Torbay, secretary general of administration for the presidency.

About 30 or 40 rebels were believed to have been trained in Nicaragua, he said. Most of them were thought to have received training there between 1979 and 1983.

AVC leader Rosa Maria Cardenas had lived in Nicaragua and contacted the Libyan Embassy in Panama City seeking funds and training for AVC guerrillas, Interior Minister Luis Robles said.

At least 13 AVC leaders went to Libya in September 1983 for several months of training, according to an interior ministry document.

Mr. McCURDY. Mr. Chairman, I yield 3 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding to me.

It's often said that for our foreign policy to be successful, it must enjoy bipartian support. I would observe that we have almost seen in the last several weeks the emergence of a consensus position on Central America in the House. Several months ago, there were some Members at one extreme who felt that all we basically needed to do in Central America was to provide guns and bullets to the Contras. At the other extreme, we had a number of Members who felt that we really needed to do almost nothing and to simply let Central America sort out its own problems.

I think what we have seen here today my colleagues, with the final revision of the Skelton amendment, and with the incorporation of the McCurdy alternative in this bill, is the emergence of a near bipartisan consensus. While we are still some distance apart, I think that distance is relatively small as we come to a conclusion here this evening.

I am compelled to oppose both the amendments offered by my friend Mr. SKELTON and my friend Mr. HAMILTON. They are both thoughtful approaches, and it is difficult for me to oppose the two colleagues for whom I have the highest regard. I must do that, however, because I earnestly believe the McCurdy alternative offers the greatest likelihood of achieving a peaceful resolution of our differences, this administration's stated goal.

I have come to this conclusion for a number of reasons. Before I enumerate them, let me just take a moment to salute Mr. MCCURDY for the leadership that he has shown on this difficult issue. I think that he offers us an alternative that is going to work. In it, we pledge to strengthen the economies of the emerging democracies in Central America. We also come out foursquare in support of badly needed Contra reforms. We say with regard to the Contras we are not going to tolerate human rights violations. The McCurdy alternative also makes it clear that it's time for the tail to stop wagging the dog. We want the Contra military leadership to be clearly subordinate to the political leadership of that organization. We further want to ensure that the Contras stand for the same democratic principles that we do as a Nation. Finally, the McCurdy plan makes it clear that we want the Contras and our Government to be fully accountable for the millions of dollars of aid that we are prepared to provide for the Contras.

There has been some discussion in this Chamber today that negotiations have been going on for several years in Latin America and nothing conclusive has happened. Let me talk 1 minute, if I can, about how the right kind of pressure might finally get these talks off of dead center.

We know all too well here in this Chamber what pressure can do in terms of forcing meaningful negotiations. Those people in this Chamber who are lawyers also know all too well what pressure can do to bring opposing parties together to an agreement just prior to the beginning of a hearing or trial. We also know all too well in terms of labor negotiations what pressure can do to bring two divergent parties together to strike a compromise, just before a strike vote. The time has come to apply real pressure on the negotiating parties in Central America. I think the adoption of the McCurdy alternative will send a clear message: It is time to fish or cut bait.

Let me conclude with the remarks of Richard Nixon. I do not often quote Richard Nixon, but he said not long ago that if we are serious about containing the expansion of communism, we have to be willing to provide an economic alternative that works. He's absolutely right. The McCurdy alternative will work, in part, because it provides that kind of economic alternative. There is still plenty to be done in Central America.

Many of you have been there; I have been there. There are schools to build, there are hospitals to build, there are roads to build, there are children to educate, and there are people to feed. There is plenty to do with the money that we are now talking about providing to those people.

In a sense, these are exciting times in Central America. For the first time in our lifetimes, four out of five nations in that area have presidents elected by the people in elections tht even the opposition parties concede were fair. Four out of five. Let us endeavor to make it five out of five.

The McCurdy alternative embodied in this bill offers the best promise, with its comprehensive approach and carefully crafted balance of carrots and sticks, of doing just that. I urge its support.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, I rise today in support of the Skelton-Edwards-Ray amendment to this crucial package of assistance for the Nicaraguan resistance. I especially want to commend my colleague from Georgia [Mr. RAY] for his leadership on this issue.

This bipartisan amendment allows Congress to maintain the necessary degree of accountability for the aid without requiring subsequent votes to release funds for weapons purchases.

This amendment calls for the immediate release of $40 million in nonmilitary aid, $10 million more than the Contras would receive initially under the McCurdy amendment.

But, while the McCurdy amendment requires that Congress vote again—later this fall—on providing money for weapons, the Skelton amendment would let the President decide whether to release $20 million for the first weapons purchase.

The Skelton amendment also leaves a later delivery of $40 million for weapons to the President's discretion—but it gives Congress the option to disapprove release of those funds.

Mr. Chairman, we do not need to revisit this issue each month. We need to give the administration a clear direction and move on to other vital matters. We need to balance the budget, we need to provide for our Nation's defense, we need to meet the needs of our poor and our elderly. This debate on Contra aid has paralyzed this House. We cannot all be the Secretary of State. Under our Constitution, conduct of foreign policy lies in the executive branch of Government. We cannot conduct the foreign policy of the United States from this Chamber, as many of us are attempting to do. We have been told repeatedly that this conflict can be resolved by negotiation. Under the present posture, the Sandinistas have no reason to negotiate. They remain in power, they build up their Marxist-Leninist regime, and the Contras wither away.

The fires of communism are burning in Nicaragua while Congress stands here today fiddling. The Sandinistas will never negotiate in good faith until we give the President real negotiating power.

Now while I have been to Nicaragua and I know some of the other Members have, I do not think that is crucial to the issue, but I have found out that the real threat in Central America lies from the Managua regime, a military machine that has been built up which destabilizes those fledgling democracies in the area. We know the Hondurans cannot do anything about the incursions. We know about the El Salvadoran problem. We know that Costa Rica does not even have an army. Why, the Capitol Police Department can take that country. So being in the middle of this area, those fledgling democracies are threatened, and the entire stability of that region is in jeopardy.

I urge my colleagues therefore to support the Skelton-Edwards-Ray amendment.

Mr. OBEY. Mr. Chairman, all I can say is: Not the ones I know.

Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, there is no argument here about the Sandinista government. It is heading more and more toward a closed society. And there is no argument here about there being economic causes of unrest. I saw, as assistant administrator of AID for 4 years, that development assistance can work.

Two points about the economic alternative. One, when development assistance is placed in the context of increased military conflict, it most often loses its chance of effectiveness. And, economic assistance should not be used to divert or to sugar-coat a basic issue here. Will a solution involving increased military effort, likely work without the eventual direct use of military personnel, U.S. military personnel, regardless of the amount of U.S. economic assistance? The answer is no.

□ 1815

I ask, if there were no aid to the Contras in Edwards or McCurdy, would there be proposals here for $300 million more in economic assistance? Not by a long shot.

Mr. Chairman, I support the Hamilton amendment and urge its adoption.

Mr. OBEY. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, to sum up our views, the McCurdy amendment is certainly better than the Edwards amendment. It does delay final commitment to a tragically ineffective policy. But both the Edwards and the McCurdy amendment have a tragic flaw. They are throwing money at Central America, and we have demonstrated time and time again that that has not and will not solve the problem.

It will, however, divert us from actions that are needed to salvage economic and political stability in Central America. The idea that $300 million in economic aid can change a $370 billion problem is tragically misguided and preposterous on its face. If you want to shut the Soviets out in Central America, and obviously we all do, we need policy changes that will put economic growth ahead of repayment of interest to American banks. Only that can effectively apply enough resources to make a difference and to create political and economic conditions that will isolate the Sandinistas and will give democracy a chance in that region.

I urge support for the Hamilton amendment. I urge recognition that the administration's own world economic policies are the principal obstacles to strengthening democracy in our hemisphere. And I urge you once again, if you think that all we are talking about is a tidy little war in Nicaragua, to look at the classified annex which accompanies this bill and see what indeed the administration has in store if they win this vote today.

Mr. EDWARDS of Oklahoma. Mr Chairman, I yield my final 2 minutes to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Chairman, I, too, recently visited Central America with a delegation of House Members anxious to gain a better understanding about our country's involvement in the region.

I want to commend my colleague, the gentleman from Oklahoma [Mr. MCCURDY] for helping many of us in the body focus on the need for regional policy in Central America. We met with all of the Central American leaders, including Daniel Ortega.

The democratic leaders of the region are all in agreement that there will not be a lasting peace in Central America until all the nations are democracies. And unfortunately, after our discussion with Ortega, I have come to the conclusion that we will not see political pluralism in Nicaragua or peace in the region without putting pressure on the Sandinistas, as outlined by the Edwards-Skelton-Ray amendment. I believe this measure will lead to the necessary political, economic and military actions to encourage democracy and stability in Central America.

At issue today is just not whether to provide military assistance, but when. Why not agree to do it now, when it is needed and when it will make a difference? Why wait until an arbitrary date of October 1?

The entire region of Central America is in a state of flux. U.S. actions in the region have a greater consequence now than ever before. Aid to the Contras will distract the Sandinistas from

their efforts to consolidate a totalitarian Government in Nicaragua and export their Marxist revolution to neighboring nations. But the issue extends beyond guns to the Nicaraguan Contras. We must not become so consumed by that issue that we are blinded to the needs of other struggling democracies in the region.

The democratic governments of Central America are genuine but fragile. Each of these dedicated democratic leaders deserve our support and economic assistance. The future of democracy in the region depends on it. I think this can best be achieved by supporting the Edwards-Ray amendment, and I urge my colleagues to do so.

PREFERENTIAL MOTION OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. TRAFICANT moves that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes in support of his preferential motion.

Mr. TRAFICANT. Mr. Chairman, I do not plan to use all the time, and will probably through unanimous consent withdraw my motion at the conclusion of my statement.

However, I have not been able to get time. I think this is a very important issue, and I would like to offer my humble words on this particular issue.

I particularly feel that we should not send one more penny to Nicaragua. Ladies and gentlemen of the Congress, it is simply not a good investment. We are diluting our language here of freedoms and liberty with the fact that we are beginning and attempting to support an army that, after all these years and all this money, does not control one town or one village nor one street. In simple language and in simple terms, this is not good economic investment for America, and we are becoming the narcotic in Central America, and there is the correlation that there can be no success unless there is money to come from the United States. That is not a formula that will effect freedom and liberty in Central America.

Nicaragua is going to have to seek that on its own, and we cannot continue to support former Somoza people to effect those means and ends.

I just particularly feel very strongly that we have to start levying pressure with the international community. Right now we make it easy for Ortega.

I agree with many of my colleagues on the other side. We do not support nor do we fathom the concept of any regime similar to Ortega. However, the people in Nicaragua must deal with Mr. Ortega, and he can now hide behind the fact that since we have this Contra army at our doorsteps, funded by these revolutionary exporters in America, that I will continue to oppress and withhold the freedoms in Nicaragua.

I believe that we have not set up a good correlation, nor a very good foundation, to expedite freedoms in Nicaragua. Those people there are going to have to earn it and take some of those measures for themselves.

In closing, I would just like to say something not more or less off the cuff, but today is a very famous day in military circles in American history. It is the 110th anniversary of a famous military battle at the Little Bighorn with General Custer. I believe that he opted for a military decision and he did not have a coordinated effort in his particular plans at that time, and we here today are about to do the same thing.

In my humble opinion, while we have one senior citizen who does not have adequate nutrition or housing, children without an adequate education, we should not spend one dime down there, because it is not a good investment. It will make absolutely no difference. After all this period of time, 5 years, and all of the funds we sent, they do not have control of one street, let alone a town or a village.

Mr. Chairman, I ask unanimous consent to withdraw my motion.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. EDWARDS of Oklahoma. Mr. Chairman, reserving the right to object, it is my understanding that if I do object to the unanimous-consent request, we then have the similar time of 5 minutes.

The CHAIRMAN. The gentleman is correct.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

Mr. CHENEY. Mr. Chairman, I rise in opposition to the preferential motion.

The CHAIRMAN. The gentleman from Wyoming [Mr. CHENEY] is recognized for 5 minutes in opposition to the preferential motion.

Mr. CHENEY. Mr. Chairman, I rise to take this opportunity to obtain some time to discuss the basic issue before the House this afternoon.

On behalf of the Republican Policy Committee, I would like to include at this point in the RECORD a statement that the policy committee adopted yesterday, making it clear that the committee strongly supports the adoption of the Edwards-Ray amendment as a substitute for the McCurdy amendment, and reiterating the position of the Republican Party in the House that we strongly believe that it is extremely essential that the Congress support the President's request for assistance to the Contras.

The statement follows:

The Republican Policy Committee calls on the House of Representatives to vote for the survival of democracy in Central America by approving the bipartisan Skelton/Edwards/Ray/Chandler Amendment to the Military Construction Appropriation Bill. The bipartisan package provides for $300 million in economic aid to the four Central American democracies. It also authorizes $100 million in military and humanitarian assistance to the freedom fighters in Nicaragua, $40 million of which will be released as soon as the bill is signed.

The Nicaraguan freedom fighters urgently need military assistance. The United States has not given them one penny in military aid since September, 1984. During that same period, the Marxist Sandinista Government has received over $300 million in military assistance from communist bloc countries. The Presidents of the four Central American democracies are justifiably concerned about the potential threat posed by a Communist Nicaragua.

The interests of the United States require that we support policies that encourage democracy to flourish in Central America. The bipartisan amendment strengthens existing democratic governments while providing the Nicaraguan freedom fighters with badly needed, military assistance. The Republican Policy Committee urges adoption of the Skelton/Edwards/Ray/Chandler Amendment to resist Communist efforts to snuff out freedom in Nicaragua.

(Adopted by the House Republican Policy Committee June 24, 1986.)

Mr. CHENEY. Mr. Chairman, I am extremely concerned that the House has developed a pattern in recent years of politicizing, if you will, extremely important issues with respect to the Nation's security.

The House clearly has the power at this point to trash the President's policy in Central America. What is at stake today is the question of whether or not we are going to move forward, preserve the Contras, and preserve the four very fragile democracies that surround Nicaragua, or whether, in fact, the House is going to take what, I believe, would be an irresponsible act, destroy the administration's policy with respect to our efforts in Nicaragua and, in effect, leave the United States without any options at all in Central America in the years ahead.

□ 1825

Of great concern to me, Mr. Chairman, is the fact that those four democracies surrounding Nicaragua, Honduras, Guatemala, Costa Rica, and El Salvador all have very high rates of population growth, severely damaged economies and they are newly established democracies.

All of them require continued investment in economic growth if we are going to be able to prove that democracy in fact offers a better model than marxism in Central America.

Investment will never occur, economic growth will never occur as long as the Sandinistas are free to establish a Communist regime in Managua; as long as they are free to pursue the subversion of those neighboring countries.

I think it is absolutely essential that we keep the Sandinistas occupied, that we support the Contras and that we make it clear that we too believe in democracy in those surrounding nations if we are going to be successful in providing the kind of economic growth that will avoid the increase in poverty and the increase in unemployment that will otherwise occur.

Mr. Chairman, I think the choice before the House today is very clear-cut. We have argued this issue three times previously this year. It is not a new item for us, but it seems to me that the ultimate question for the House is to decide whether or not we want to preserve the option of supporting those Nicaraguan citizens who want to reclaim their revolution or whether we want to strip ourselves of any option in Central America other than diplomatic protest or the intervention of American troops.

I think as long as the Contras are in business, as long as the Contras exist, then the United States and the other nations in the region have options and the Sandinistas will not be able to consolidate a Communist regime in Managua.

Once the Contras are gone, there will not be any other course for the American Government except for diplomatic protest or the insertion of American troops, and neither one of those activities would be supported or is to be desired by the United States.

Mr. Chairman, I would strongly urge my colleagues to support the package. It is a good package; it has more economic assistance in it than it does military assistance. I think it is the kind of program that all of us can be proud of an that will, in fact, achieve our objectives in Central America.

Mr. DEWINE. Mr. Chairman, will the gentleman yield?

Mr. CHENEY. I yield to the gentleman from Ohio.

Mr. DEWINE. I thank the gentleman for yielding to me.

Mr. Chairman, in the brief period of time that is remaining I would like to briefly respond to an argument that was made by my colleague and good friend, Mr. BARNES, a moment ago.

I think the gentleman is bringing this up as a bogus argument. He has been stating time and time again the funds have not been accounted for in the $27 million.

The facts are these: The GAO never said in the testimony that was in front of our committee that this money was misspent. No proof that there is any leaking of these funds, any wrongdoing, anything illegal. The basic question is and the one that this Congress should be concerned with is whether or not the goods got through. That is the question in front of the Congress; that is the question we should be looking at.

The testimony has been very clear at the State Department that the goods have in fact gotten through. They have verified this. The key is the money is never put into the account; moneys are not put into the account until the goods have been delivered. That is the key. It is the order that we have to keep in mind. Not the fact that the money is put in. What happens first is, the goods are delivered, then the money is put in.

The CHAIRMAN. All time has expired on the preferential motion.

The question is on the preferential motion offered by the gentleman from Ohio [Mr. TRAFICANT].

The preferential motion was rejected.

The CHAIRMAN. Under the rule, the gentleman from Oklahoma [Mr. MCCURDY] has 1½ minutes remaining to close debate.

Mr. KASTENMEIER. Mr. Chairman, this is now the fifth time in the last 14 months that the House of Representatives is considering the issue of granting aid to the Nicaraguan Contras.

Yesterday, the President gave us his closing arguments of warmed-over charges against Nicaragua to pry loose $100 million to fuel the war in Central America and commit the United States to escalating military assistance to the Nicaraguan Contras. But, the President's appeals on behalf of Contra aid are even less persuasive now than in the past.

The time has come for us to act decisively and put the issue of Contra aid to rest once and for all.

The Contras lack political legitimacy in Nicaragua. They lack popular appeal in Nicaragua. There is no popular uprising in Nicaragua on their behalf. By themselves, the Contras cannot dislodge the Sandinistas. In short, the Contras represent a losing cause.

If the Contras are granted additional military assistance, this will permit them to carry on their war of terrorism against the people of a poor nation. The Nicaraguan people have been and will continue to be the chief casualties of this dirty war waged by the Contras and promoted by the United States.

As for so-called humanitarian aid to the Contras, as we all are fully aware, there are shocking revelations about the misallocation of the $27 million in "humanitarian" assistance which the Congress approved last year. The General Accounting Office has informed us that the State Department cannot verify the whereabouts of about half of this $27 million. It would make no sense to repeat this mistake.

Mr. Chairman, this debate over military aid to the Contras is really a debate over what political and moral principles shall inspire the future of Central America and our relations with that region. It is a debate over whose vision will be allowed to prevail. The choice is clear. We can vote for Contra aid and war or we can vote for diplomacy and peace. Diplomacy recognizes that dialog can be a prelude to peace and that words are preferable to bullets. A negotiated settlement of the differences between the United States and Nicaragua represents the ultimate hope for peace in Central America, and peace in Central America can best be attained through the Contadora process.

Mr. Chairman, I urge my colleagues to vote for the substitute offered by the gentleman from Indiana [Mr. HAMILTON] and stop Contra aid once and for all.

Mr. FRENZEL. Mr. Chairman, the last time the House took up the Contra question, the vote was on the President's proposal to give military and nonmilitary aid to the Contras. I voted no on that question, and, if that were today's question, I would vote no again.

The reason for my negative vote was that proposed U.S. policy was focused on the Contras' ability to cause the overthrow or removal of the Sandinista government. I doubted that the Contras could accomplish that goal. I thought that policy tended to isolate the United States, whereas I believed an effective policy would have to have a regional focus that would isolate Nicaragua.

I think it unlikely that the Contras will drive out the Sandinistas. If they are monitored and responsibly controlled, as seems possible under several of the policy options to be considered today, they may be a factor in forcing the Sandinistas to agree to a regional agreement satisfactory to the four democracies in the area.

The President still prefers the original $100 million proposal. I still oppose it.

Today we are considering quite a different set of proposals. The McCurdy amendment is already in the bill. It provides a regional approach, which I favor, but it requires another vote after October 1.

That second vote would be required before any military aid could go to the Contras. The first problem is that we have had plenty of votes and plenty of debate already. We ought to move on to other business. The second problem is, if the Contras give any leverage in the current negotiations, the four democracies need that leverage now, not next October.

The Edwards-Skelton-Ray-Chandler amendment is the counter to McCurdy. It also provides regionalization of reprogrammed economic aid to the four democracies, Guatemala, El Salvador, Honduras, and Costa Rica. It does not require an additional vote before sending military and nonmilitary aid to the Contras until next year. Then a vote will be required if the President proposes to send heavy weapons.

There is one other new feature in both the McCurdy and Edwards amendments. Both contain a provision for congressional monitoring of Contra aid. The monitoring will be conducted with reference to measurable standards or objectives such as the purge of corrupt or antidemocratic elements from the Contras.

I have been asked again and again today "Are you going to switch your vote?" The answer is a loud, clear no. I still oppose the President's original proposal.

I have made the choice to support the Edwards amendment, which is a very different question. It adds a regional approach with aid to the neighboring democracies. They, incidentally, have risen to the occasion by demanding that any agreement negotiated for the region must protect their security and insure peace in Central America.

The recent development of leadership in those countries, coupled with the $300 million in reprogrammed economic aid, makes this amendment a much different, and much better, proposal than the one which confronted us a few months ago.

The language in both the McCurdy and Edwards amendments that provides for congressional monitoring of the Contras, and our aid to them, is also a major change, and a major improvement, over that which was presented to us when last we voted.

At the time of the last Contra vote the President's proposal was defeated. Today we have two new different proposals, neither of which was a Presidential initiative. They were born of criticism right here in this House of the original White House proposal. They are both, unmistakably, congressional compromise proposals.

The President has been forced to accept changes which were conceived right here. This House has accepted its responsibility to share policy responsibility with the executive branch.

Because I believe we ought to make a decision now, I will support the Edwards proposal. The similar, but not identical, McCurdy proposal may also prevail, and, if so, may eventually have about the same effect as Edwards. But, because, of its unfortunate timing of a second vote, it is not my first choice.

Whichever becomes the choice of the House, I am grateful that the House has become a real policymaking participant. Members may agonize over the choice, but all ought to agree that the previous House vote against Contra funding was successful because it forced us to consider the question on our own terms as well as those of the President.

Mr. FAZIO. Mr. Chairman, I rise in strong support of the Hamilton amendment.

The administration wants to gamble American foreign policy on the Contras who are accused of committing atrocities against their own people, are disorganized internally and militarily, are guilty of misusing millions of dollars in U.S. aid, and cannot succeed on the battlefield. It's a bad gamble, one the American people don't want to make.

Our actions in Nicaragua not only represent bad policy, they are immoral and illegal.

Specifically, international human rights groups have concluded that the Contras have consistently targeted and killed civilians. And, there is no evidence that the Contras are improving their pattern of gross and systematic human rights violations.

In addition, our Government is on the verge of being branded an international outlaw by the International Court of Justice for our intervention in Nicaragua.

As my colleagues will recall, in early 1983, President Reagan approved a plan for the CIA to mine Nicaraguan waters. Later that month and in early 1984, the CIA proceeded to mine Puerto Sandino, allegedly as part of an effort to stem the flow of arms to guerrillas fighting in El Salvador.

In response to the mining, in November 1984, the World Court voted, over the administration's protests, to hear Nicaragua's charges against the United States. Since that time, the Court has been examining international law and custom to determine the legality of U.S. intervention in Central America.

The President decided not to present a defense of U.S. actions before the Court.

He has not even made a pretense of complying with international law.

And, it should come as no surprise to those of us in this Chamber if the International Court of Justice rules against the administration later this week when the Court is expected to issue its decision on the legality, under international law, of United States intervention in Nicaragua.

Mr. Chairman, rebuffing the World Court reeks of arrogance. The administration is annoucing to the world that we will abide by the rule and word of law only when it serves our own self-interest.

International law is meant to be a buffer between competing domestic laws of the world's states; it serves to preserve standards which benefit all nations.

The administration has acted illegally in the past, without specific congressional support. Our Government will act wrongfully and illegally again if we approve this aid today, but this time we will be the administration's accomplices.

Again, I urge a "yes" vote on Hamilton, a vote against any aid to the Contras—including nonmilitary aid—and a vote for a peaceful, negotiated settlement that will end the senseless bloodshed of innocent civilians in Nicaragua.

Ms. MIKULSKI. Mr. Chairman, 3 months ago, we debated this same question of aid to the Contras. And 3 months ago I stated my opposition to any military aid, lethal or nonlethal. Since then, the facts have not changed.

The majority of Americans continue to oppose aid to the Contras. The Contras do not have any more support among the people of Nicaragua than they did 3 months ago or 3 years ago. They control virtually no land in Nicaragua. They are neither a growing force, nor a respectable one.

Nicaragua is still a nation plagued by poverty, disease, and malnutrition. Most Nicaraguans want good crops, a roof over their heads, and a safe place for their families to live. Additional military assistance from the United States will only cause further bloodshed, further instability, and further aggravation of their desperate situation.

And most importantly, we must support the Contadora process. Mr. Chairman, our foreign policy objectives must seek to expand democracy and contain communism. The best way to promote democracy is by working on a multilateral basis with the countries of Central America. The Contadora process necessitates just that. Included in the present treaty are the following provisions:

An immediate cease-fire between the Government of Nicaragua and the Contras.

A complete withdrawal of all military advisers and the closing of all foreign military bases.

A ban on all arms imports and all foreign military exercises.

Mandates for free elections.

A ban on arms smuggling.

Ending support for guerrilla movements; and

The establishment of a verification commission to ensure that these provisions are followed.

We must focus more time and effort on aiding the Contadora process and less time and effort on aiding the Contras or the Contra war.

Mr. Chairman, some fear that if we do not give aid to the Contras, we will not be doing all we can to support democracy. I disagree. I believe the best way to affect change in Nicaragua is not through military force, but through the peace process. That entails putting our full support behind the Contadora negotiations, and full support behind demilitarization and stability for the entire region.

Mr. ROYBAL. Mr. Chairman I rise in opposition to title II.

Last year we appropriated $27 million in so-called humanitarian aid for the Contras. Now we find out that the State Department cannot even account for over half of that money, and it appears that the rest of it was spent in a very questionable manner. Considering these circumstances, I cannot believe we are seriously considering appropriating another $100 million for Contra aid.

Are we planning to ignore a major GAO investigation that reveals, at the very least, extremely shoddy accounting practices? I would like to find out what happened to the President's war against waste, fraud, and abuse, not to mention the strict oversight and accounting procedures that were supposed to be instituted. It appears we have paid to line the pockets of Honduran military officers and politicians and to enrich phony suppliers, while the people we were supposed to be aiding are not adequately clothed or fed.

However, even if the State Department were able to account for every penny of the $27 million we supposedly spent for Contra aid last year, there are still some serious questions that remain unresolved. Are the Contras true freedom fighters, or are they terrorist thugs, guilty of substantial human rights abuses? The evidence seems to point to the latter.

Do the Contras truly represent the will of the Nicaraguan people? It appears not. It is particularly telling that in their 5-year struggle to overthrow the Sandinistas they have failed to win even one single village. The Sandinistas may be every bit as unpopular as the President claims, but the people don't seem willing to embrace these former Somocistas as their saviors.

We should be discussing the appropriateness of the United States' openly trying to overthrow a legitimate government, particularly when there is an avenue for negotiation through the Contadora peace process. This discussion should include the administration's rationale for continually undercutting diplomatic channels through which we could attempt to peacefully resolve our differences. The

President has justified our activities by painting Nicaragua as a major Communist threat in our own hemisphere. Again, the evidence seems to cast doubts on Nicaragua's ability to threaten anyone, as poor as it is and having to struggle just to stay afloat.

No matter how you feel about these issues, you should be outraged that we are being asked to send $100 million in scarce funds out of this country to some shadowy never-never land where everything is classified and nothing is explained. This request is particularly inappropriate at a time when we are facing severe budget constraints, when we are being asked to slash and even eliminate domestic programs by the hundreds, when we know there are people right here in this country who live in the streets, people who cannot afford the basics of health care, people who cannot read or write and have no employable skills. Should we dress America's 13 million poor children in fatigues and call them "freedom fighters" so they will finally get some attention from this administration? Should we equip our 3.7 million elderly poor to fight the Communist threat so that the administration will agree that they deserve a decent place to live? If we rounded up all our poor and disadvantaged citizens and sent them off to fight the Sandinistas, would the administration then care if they were eating properly and dressing warmly and had a roof over their heads at night?

President Reagan has painted those who oppose further aid to the Contras as un-American. On the contrary, I believe it is un-American to spend money unwisely overseas when we have the sick and hungry and homeless right here at home. It is time to get our priorities straight and vote down any more aid to the Contras.

Mr. GARCIA. Mr. Chairman, we are once again debating one of the most contentious foreign policy issues to face this Congress—aid to the Contras. It has divided this body along ideological lines in a way that few, if any, other foreign policy concerns have.

Why is this so? Why has one of the most popular President's in recent history been unable to rally not only the Members of this body but the American people as well around an issue—no a cause—which he considers to be of such importance.

Much has been written and much has been said about aid to the Contras over the past few years. It is difficult to shed any new light on the subject. Nonetheless, I feel there are certain problems surrounding this debate that need to be clarified.

Getting back to my original question, why has not the President been able to muster sufficient bipartisan support for the Contras? In part, because there is a prevalent belief on the part of many from all sides of the political spectrum that the Contras will neither be able to exert enough pressure on the Sandinistas to force them to make changes in their style of governing, nor will they be able to overthrow the Sandinista government.

In addition, there have been any number of criticisms of the Contra leadership, particularly their past ties to Somoza's national guard. There are also allegations of corruption and misuse of funds by certain members of the leadership. Further, there have been internal political difficulties among these same leaders, casting a shadow over their ability to control their forces.

In essence, what began as a gun interdiction program has now become an ineffective, yet burgeoning policy to try and bring down the Sandinista government. No amount of lobbying or singing the praises of the Contras will empower them to achieve the goals the White House has for Nicaragua.

It is my belief that the only way for change to come about in Nicaragua is for the Nicaraguan people themselves to work for that change. There are still individuals and organizations within Nicaragua that actively oppose the Sandinistas. They do so simply by their very presence. Let me give you an example of what I mean. Recently, a member of my staff met with Nicaraguan trade union leader Alvin Guthrie, secretary general of the Confederation of Trade Union Unity [CUS]. While there is no question that Mr. Guthrie and his colleagues have been harassed because they are not Sandinista supporters, they are still willing to remain in Nicaragua and confront the Sandinista government, by refusing to be co-opted.

The meeting with my staff was arranged by the AFL-CIO's Free Trade Union Institute, hardly a pro-Sandinistra organization. Yet, the institute remains willing to help Nicaraguan free trade unionists to stand up to the Sandinistas in Nicaragua. As an institute publication clearly indicates, "* * * as the free trade unionists persist (in Nicaragua), so shall we stand in support of their arms." There is a lesson in this for us. These free trade unionists are the type of individuals we should support. We should put our energy and resources toward helping them to fight the Sandinistas from within Nicaragua.

As I have said before during debate on this issue, perhaps the biggest problem with the Contras is that they are not seen as an indigenous rebel force that could survive without the backing of the United States. Maybe what we ought to do is distance ourselves from the Contras, permitting them to work out their own internal problems and conflicts. If they were to seek and receive other legal means of support, maybe then they could honesty hope for success.

It must be clear to all of us, no matter our position on aid to the Contras, that this policy will never engender the bipartisan support of this body or the American people, and it is necessary to have that kind of support for this policy to be effective. An indication of the lack of popular support in this country for the President's Contra policy comes from a Washington Post-ABC News poll published in today's Post. It revealed that 62 percent of those polled generally oppose the granting of military and other aid to the Contras.

Finally, the only policy that will bring about a lasting stability to the region will be a long-term commitment of economic support and development assistance. The prosperity of its neighbors will bring about the downfall of the Sandinistas and enable the Nicaraguan people to build a democracy. While certain of the substitutes being offered today do call for economic aid, that aid is being offered as an afterthought to the President's military aid request. I believe this particular mix of military and economic aid only confuses and undermines our ultimate goal of bringing stability and prosperity to Central America.

We cannot, without undermining our own image in Latin America, pursue any other policy but negotiations—directly or through Contadora—and economic aid. Our difficulties with Nicaragua must be settled in a Latin American context, not merely on our own terms. Let us put our efforts behind the Alvin Guthrie's of Nicaragua; they are the real freedom fighters. They don't clamor for hundreds of millions of American dollars, they merely want our support. They certainly deserve it.

I urge my colleagues to vote against aid for the Contras.

Mr. LUNDINE. Mr. Chairman, due to obligations in New York, I am uncertain whether I will be able to be here later today when the House votes on proposals for aid to the Nicaraguan Contras. In the event that I will not be here, I wish to go on record as opposing further United States aid to the Nicaraguan Contras.

The House of Representatives has voted on aid packages for the Contras several times, and each time I have opposed proposals to send military aid to Nicaragua. I believe that the appropriation of money, whether $100 million in military assistance under the Edwards-Skelton amendment or $30 million in "nonlethal" aid and $70 million in conditional aid under the McCurdy plan, is, to put it bluntly, nothing more than a waste of money. Past expenditures have failed to result in any real progress toward a peaceful development of democracy.

I believe that it is counterproductive for the United States to supply military assistance to a rebel force that does not have the support of the Nicaraguan people and that has been repeatedly accused of corruption and human rights abuses. Instead, I believe that we can do much more to further democracy in this region by encouraging and supporting the peace negotiations of the Contadora countries.

Unfortunately, even humanitarian aid has not been immune from corruption. As the New York Times reported on June 11, recent GAO investigations have determined that a large percentage of the millions of American dollars intended as humanitarian aid to the Contras ended up in the offshore bank accounts of individuals or corporations, Contadora countries. Mr. Speaker, I do not want the dollars of American taxpayers to be siphoned off for the enrichment of a small group of people. It seems that at the present time we cannot ensure that our aid money is being used for the purposes we intended. Nor can we ensure that these expenditures are furthering our interests in the region. These would seem to me to be very sound and fundamental reasons for voting against further assistance packages.

Polls indicate that an overwhelming majority of the American people oppose military aid to the Contras. I believe that we should listen to our fellow citizens. President Reagan would do our country a great service if he were to use his enormous popularity to support and encourage peaceful efforts to establish a lasting democratic Government in Nicaragua.

Finally, Mr. Chairman, there is one other aspect of the debate over aid to the Contras which I believe has been overlooked. I agree that we should care about democracy in Nicaragua. But we must also remember that we have other interests in Latin America which are crucially important, and which deserve more attention than they are getting.

For the past 2 years the subcommittee which I chair has been examining the problem of Third World debt, particularly Latin American debt. Events of the past few days in Mexico confirm just how desperate the debt problem is for that country. I believe that the problems that Mexico is experiencing pose as great a threat to democracy in the region as do the military and political battles in Nicaragua. It is obvious that the long-term economic and political outlook for Mexico is of great importance to the United States. Indeed, the future stability of Mexico is possibly of greater importance to the stability of the region than is the future stability of Nicaragua. Mexico is certainly a greater political and economic power in the region. The President is fond of saying that the Sandinistas are only hours from our border. Mexico is our border.

It is not in the best interests of either the United States or the forces for democratic change that do exist in Nicaragua for the United States to become embroiled in a situation in Central America that is futile and counterproductive American resources could be put to much better use if they were channeled to support the Contadora peace process, and to positive initiatives to help other countries in the region.

Mr. FAUNTROY. Mr. Chairman, for the third time this year we are being asked to vote on a morally and strategically flawed proposal to provide assistance to the Nicaraguan Contras. I believe that we should vote down all legislation to assist the Contras.

We should instead vote for this amendment offered by our distinguished colleague, Congressman LEE HAMILTON which would provide no assistance to the Contras. The Hamilton amendment would chart a different policy course toward Nicaragua, one supportive of a non-violent option, the Contadora peace process.

Mr. Chairman, the Reagan administration policy of attempting to impose military solutions to complex political, economic, and diplomatic situations is exemplified in Nicaragua. It is an error ridden policy. If the Sandinista regime is an immediate and serious threat to the security of our citizens then a $100 million program for defense is inadequate, indeed ridiculous. If, as is the case, the administration is being driven by ideology then the proposal is an unwarranted, illegal, and strategically extravagant intervention in the internal affairs of a sovereign nation with which we still have diplomatic relations.

Much can also be said about the marginal capabilities and compromised integrity of the Contras. The Contras are divided and their leadership is dominated by the discredited officers of the Somoza National Guard.

Let's finally put this issue behind us, end all assistance to the Contras, and get out of the business of seeking to overthrow by violence a regime with whom we disagree ideologically.

I urge my colleagues to vote down all initiatives to assist the Contras as we debate and consider military construction appropriations for fiscal year 1987.

Mr. SHUMWAY. Mr. Chairman, I rise today in support of the Edward-Skelton amendment to provide aid to the Nicaraguan resistance.

Whether the Sandinistas are Communist or Marxist is not the crucial issue in this debate. My support for this aid package is based upon the anti-American policy that is being advanced by the Sandinista government.

In 1979, shortly after the revolution the Sandinistas prepared "The 72-Hour Document," a blueprint for constructing a Communist state in Nicaragua, in which they recognized that the true enemy they would have to confront was "the imperialist power of the United States."

In May of 1984, Commandante Bayardo Arce, a member of the ruling junta, delivered a speech to the Nicaraguan Socialist Party in Managua in which he stated:

Imperialism asks three things of us: to abandon interventionism, to abandon our strategic ties with the Soviet Union and the socialist community, and to be democratic. We cannot cease being internationalists unless we cease being revolutionaries. We cannot discontinue strategic relationships unless we cease being revolutionaries.

The Americas are the only region in the world in which the Soviet Union does not have a substantial presence. It is now attempting to establish a beachhead in Nicaragua. The Soviets already have Cuba as a base on the Atlantic side. Nicaragua gives the Soviets control of a port on the Pacific side and thus a gateway to the west coast of the Americas and the Pacific Basin.

The United States must make a decision about the presence of the Soviet Union in our hemisphere. The U.S.S.R. and its allies have provided almost $500 million in arms since 1979. Today there are about 200 Soviet and Eastern European advisers in Nicaragua. With the construction of a new military airport and a deep-water harbor, Nicaragua will be able to accommodate the full range of Soviet air and sea power, including nuclear submarines.

If we believe these developments are against the interests of the United States, then we must decide how to respond to this situation.

Nicaragua is not Grenada or Libya. No one is considering sending in the Marines to deal with this repressive government. The President has stated on numerous occasions that he will not send our troops to Nicaragua. Furthermore, the American people would not support direct U.S. military intervention. This is not a viable alternative.

There are those who place their hopes in negotiations to reduce the Soviet and Cuban military presence and to require free and fair elections. In June of 1985, Tomas Borge, the Nicaraguan Interior Minister, summed up the Sandinistas' interest in negotiations:

We will negotiate with the Contras on the day the right wing parties and COSEP (Superior Council of Private Enterprise) count all the grains of sand in the sea and all the stars in the sky. When they finish we will ask them to count them all again. (Tomas Borge, FSLN Interior Minister, in Daily Barricada, June 27, 1985.)

What other alternatives do we have? We can provide aid to the Nicaraguan resistance which shares our goals for a negotiated internal settlement and a representative government based on the free will of the people. While the Contras may not be an ideal fighting force, and the people of Nicaragua will continue to suffer as a result of this civil war, these freedom fighters are willing to risk their lives in the pursuit of democracy for Nicaragua.

The Nicaraguan freedom fighters represent the only real hope for democracy in Nicaragua. Without immediate military assistance they do not stand a chance against the immense armed forces of the Sandinistas and their sophisticated Soviet weapons.

Failing to provide aid to the freedom fighters will only further the Sandinistas' anti-American policy as they continue to strengthen their military alliance with the Soviet Union and to support terrorism and subversion in Central America.

America is the leading spokesman of the free world in promoting democracy, free trade, fair elections, and representative government. We have a long tradition of protecting these values throughout the world.

For these reasons, I believe we should support those who fight communism and Soviet intervention in our own hemisphere.

Mr. TALLON. Mr. Chairman, I rise in support of the Edwards-Skelton amendment. I believe this measure takes the necessary political, economic and military actions to insure democracy and stability in Central America.

It is unfortunate that our entire policy on Central America has been reduced to a debate on the issue of military aid to the Contras. As a result of the heated, and usually subjective debate on this matter the real issue has been lost. The issue is actually much broader; it involves the future of democracy in all of Central America.

Recently I was among a delegation of 13 House Members who visited the five Central American republics. We spoke individually with all five presidents, including Nicaraguan President Daniel Ortega.

We found virtually unanimous agreement among the presidents of the four democracies—Costa Rica, Honduras, El Salvador, and Guatemala that: There can be no long-term peace and stability in Central America unless and until all five countries are democracies; pressure on Nicaragua is necessary if the Sandinista regime is ever to agree to democratic reform; and the United States must not be so blinded by the Nicaraguan problem that it allows the three struggling democracies—Honduras, El Salvador and Guatemala—to flounder.

For four decades we have been trying to induce the Central American republics to move toward democracy. Certainly, it is a form of interventionism, but it is not one we should shy away from. And now, for the first time in history, four of the five republics are democracies. In the 1980's, El Salvador, Honduras, and Guatemala have elected presidents freely.

The presidents of each of these democracies are impressive, intelligent, thoughtful men. I heard Fourth of July speeches that would bring tears to your eyes—with one big

difference. These men aren't just mouthing traditional sentiments when they speak of democracy. Many of them paid dearly in earlier years for their commitment to democracy in the face of repressive military regimes. I only saw one national leader in military uniform—that man was Daniel Ortega.

Nicaragua, of course, has also held an election. But it is impossible to call Nicaragua a democratic state in any real sense of the word. Block committees are not the stuff of a pluralistic society. Asked directly if he would allow the opposition to win power in a free election—yes or no—Daniel Ortega concluded that the right of the Nicaraguan people to institutionalize Sandinista rule should not be abridged. In other words, the Marxist Sandinistas should reign permanently and unopposed. This is not democracy.

There is an inherent conflict between our ideals for government and those of the Sandinistas. In the words of El Salvador's President Jose Napoleon Duarte, "We all believe Central America will not have peace unless all five countries are democracies."

There was remarkable unanimity among the four presidents for the need to exert pressure on the Sandinistas to bring democracy to Nicaragua. As President Arias of Costa Rica said, "Ortega is not willing to negotiate unless there is a lot of political pressure from everybody—not only the Contadora countries." However, President Vincio Cerezo of Guatemala was most direct in urging us to keep our eye on the big picture. He said, "It is more important to consolidate the four democracies but all the talk is about $100 million for the Contras."

The message was clear—we must help the democracies to succeed in social and economic terms as well as in political terms.

Aid is not the sole answer, but it is an important one. A little cash goes a long way in the small economies of Central America. And it tells the people of the democracies that we are putting our money where our mouth is—we are truly supporting the cause of democratic pluralism in our hemisphere.

We must make clear that the United States is strongly supportive of the four democracies in Central America, and will take a dim view of a return to authoritarianism. We and the four Central American democracies need to continue to apply political, military and economic pressure on the Sandinista government. In addition, we can encourage our European allies to join us in pressing for democratic reforms.

The Contras, of course, will supply the military pressure required. For them to be a viable force, they need assistance to adequately train and equip troops and sufficient funding to prevent Ortega from simply waiting for Congress to tire and cut the purse strings. The Contras also require rational strategy and tactics, which evolve from skilled leadership wise enough to avoid human rights abuses that will discourage popular support.

American aid helps the four democracies by distracting the Sandinistas and making it difficult for them to try to export their revolution. In immediate terms, this is most significant to El Salvador. In the longer term, it is important to all the survival of democracy in Central America.

Yet we must go beyond giving guns to dissatisfied Nicaraguans. For democracy to take hold, it must be proven that it will work for the people. That means an economic aid package for the democracies.

President Cerezo of Guatemala said trade concessions were better than cash aids and several of the Presidents emphasized the debt burden. President Arias pointed to the flight of capital to Miami and the collapse of the tourist business which is the result of political instability. We need to review our policies on the debt burden, on trade relations and on investment promotion as well as direct aid with economic support for states that have chosen the high road of democracy. Mere talk will not do.

The entire region of Central America is in a state of flux and United States actions in the region have greater consequence now than ever before. The democratic governments of Central America are real but they are in danger of floundering. Each of these dedicated, democratic leaders deserves our support and assistance. The future of democracy in the region depends on it.

Mr. RODINO. Mr. Chairman, once again I rise to express my strong opposition to the proposal to provide $100 million for the Contras who seek to overthrow the Sandinista government in Nicaragua.

First in March, and then in April, we considered aid to the Contras and the request was not approved. Today there is clear evidence that there is even more reason to cease this assistance.

The Contras themselves failed, after a 2½ week summit meeting, to achieve a united political organization and to assert control over their military commanders, most of whom are former members of the Somoza National Guard. They have not acted to halt human rights violations and have demonstrated no firm commitment to democratic principles. In short, they do not represent a viable or acceptable alternative to the Sandinistas. On the contrary, they only spread terror and hatred among the innocent campesinos of Nicaragua.

Earlier there were reports of mishandling of funds and criminal activity, including drug smuggling. Now it is clear that a massive abuse of the funds already provided has taken place. The General Accounting Office has reported that over $14 million—more than half of the $27 million appropriated—may never have reached the Contras. The GAO found that approximately $1.5 million was syphoned off to the Honduran Armed Forces and that much of the money appears to have been shifted among various bank accounts.

It is shocking to realize that a vast amount of the money intended for humanitarian aid to the Contras has been illegally diverted or misused. But it is more shocking to learn that the State Department has not instituted adequate auditing procedures, as required by Congress, and is, in fact, obstructing congressional and GAO investigations into use of the funds.

How then, has the administration the effrontry to ask Congress to approve more Contras funds when it cannot even account for those already appropriated?

It is incredible to me that President Reagan would think we should send good money after bad, even granting that it is properly distributed, to these discredited and disorganized Contras who do not control a single village in Nicaragua and who do not inspire any popular, democratic support.

Under this President, deep cuts have been made in vital programs providing nutrition, health, education, job training and other needed services to the most vulnerable of our citizens—our children, the elderly, the poor. To me it is inconscionable to consider sending $100 million down the Contra drain while Americans are deprived of essential assistance.

I would single out the problem of hunger, which is particularly acute in America today. Recently our Select Committee on Hunger reported that under the Food and Stamp Program 13.9 million of the 33.7 million eligible persons, or 41 percent, were unserved. Under the WIC Program 7.26 million women, infants, and children, or 70 percent, were unserved; under the School Lunch Program 3.1 million eligible children, or 21 percent, were unserved; and under the School Breakfact Program 11.56 million eligible children, or 79 percent, were unserved. Private sector emergency food programs have dramatically increased, especially for families with children and the long-term unemployed, and yet people are being turned away.

Mr. Chairman, at a time when one of every four children lives below the poverty line we cannot waste $100 million on a suspect, no-win collection of marauders who have no hope of overthrowing the Sandinistas regime and who, themselves, do not represent a democratic alternative. Continued funding for the Contras would be counterproductive both to our national security and to the domestic stability of our country.

Mrs. KENNELLY. Mr. Chairman, I rise in support of the Hamilton amendment. I oppose aid to the Contras for two reasons: First, because of who the Contras are, and second, because of who we are.

In the words of one former Contra officer, the Contra leaders "have clean boots and dirty hands." Many of them are survivors of the vicious Somoza regime. Some of them are violent abusers of human rights who terrorize their own country men and women. Others have been occupied with financial abuses and graft. We may never receive a full accounting of the millions they have already received.

Now, President Reagan has pledged to correct these abuses. Frankly, I do not believe this can be done; I do not believe we can exert sufficient influence on the Contras. But even if we could induce the Contras to clean up their act, aiding them would still be wrong.

We are a country founded on the rule of law. We believe that democracy can work. The values we stand for are the highest aspirations of humankind—individual liberty, freedom, justice. We should not diminish our moral leadership in the world by underwriting a violent conflict with $100 million. That money can only continue a no-win situation.

The administration's policy in Nicaragua is simply wrong—politically, militarily, but above all, morally. It is a march of folly that takes us further from, not close to, our goals in Central America.

It is time to halt this march of folly, before we find ourselves marching to war. The Hamil-

ton amendment would do that, and I urge my colleagues to support it.

Mr. ANNUNZIO. Mr. Chairman, for 5 years now, the American people have been embarrassed by the policy of aiding the Contras who are trying to overthrow the Government of Nicaragua. American covert aid to the Contras has resulted in economic sabotage, in the deaths of many innocent civilians and the fraudulent use of millions of dollars of U.S. taxpayers' money. Rather than defend its misguided policy, the administration chose to withdraw from participation in the World Court, an institution we helped found.

The United States has many resources we can apply toward an effective Central American policy—economic, political, cultural, and diplomatic. The military approach has proven to be ineffective, immoral, and wasteful. Public opinion polls and mail to congressional offices indicate that the American people oppose aid to the Contras by a 2-to-1 margin. We should listen to the good sense of the American people and reject any further aid to the Contras.

Mr. FORD of Tennessee. Mr. Chairman, I rise in support of the substitute offered by the gentleman from Indiana [Mr. HAMILTON]. As previous Members have outlined, the Hamilton substitute provides $32 million in previously appropriated funds for Central American refugees, for resettlement of Contras who cease their military activities, and for the Contadora peace process. The amendment would also provide $27 million for assistance to persons in Central America displaced by the conflict in Nicaragua. Importantly, no money would be made available for the Contras to wage war.

I share the concerns of my colleagues both from the other side of the aisle and from my own party. No one wants to see the Central American region become a base for the projection of Soviet or Cuban military power. However, the means through which the administration has fought this threat have become counterproductive; the savagery of the resistance has caused the Nicaraguan people to despise both the Contras and the American Government.

Many of the Contras are former members of Somoza's brutal national guard. Reports of human rights violations have abounded of late. In addition, we have recently learned that the Contras have been involved in drug related activities. Are these the type of people that Americans want their tax dollars to be associated with?

With millions already provided to the Nicaraguan resistance, the Contras have not made any meaningful gains against the Sandinistas. There is no indication that more money will make any difference on this issue. As is, we still cannot fully account for the $27 million most recently provided by the Congress. As with any other appropriations bill approved by this body. Members deserve an explanation as to how millions of dollars have been spent.

In the era of Gramm-Rudman budget cuts, it would be hypocritical to provide aid for the Contras. The money should be spent instead to help the less fortunate here at home. At the very least, the money should be used to promote democracy through peaceful means. This is precisely what the Hamilton substitute does. Instead of giving the Soviets and their allies the opportunity to turn the regions volatile nature for their own purposes, the substitute channels that energy toward the democratic goals we hold so dear.

I find it extremely distasteful to be waging a secret war against a government with whom we conduct diplomatic relations. If our Nation, the most democratic in the world, cannot find an effective alternative to war as we try to achieve peace, we dishonor the principles upon which this Nation was founded. After 5 years of guerrilla warfare, the Contras do not have the support of the Nicaraguan people. An additional $100 million will not change that.

Mr. Chairman, I am extremely concerned that the eventual resolution of the conflict will require American military intervention into the region. No one here wants another Vietnam. However, to approve Contra aid puts the United States one step closer to repeating a mistake of the past. I urge my colleagues who are supporting Contra aid to reconsider their positions. Enactment of the Hamilton substitute will ensure that this country follows the "high road" in establishing a true democratic Government in Nicaragua.

Mr. BROOMFIELD. Mr. Chairman, our aid to the Contras will help to bring democracy back to Nicaragua. What happens to the Contras will directly affect the security of Central America, the security of the United States, and the well-being of the Nicaraguan people.

In the past, Congress has argued about the nature of the Sandinistas. Today, they are no longer seen as simple democratic reformers as they portrayed themselves in 1979. I believe that all of us will agree that they are Communists who are clearly "true believers."

In recent months, those Marxist-Leninists have stepped up censorship in Nicaragua, they crossed into Honduras and have bombed Miskito Indian villages. They are in the process of consolidating their power.

Comandante Ortega, not unlike his mentor in Cuba, wants a monopoly of power in that country. The church is being oppressed, the press is censored, opposition groups are harassed, and an efficient intelligence service "knows all."

If they get their way, there will be no opposition to the Sandinista regime. All pluralism in that society will disappear. If they succeed in their strategy, U.S. assistance to the Contras will also disappear.

The internationalist aspect of the Sandinistas is of great concern to me. They are committed to exporting their revolution to neighboring countries. Today, the Nicaraguan Government is involved in supporting revolutionary groups in many of the countries in Central America. If they succeed in convincing the Congress that we should end our assistance to the Contras, the Sandinistas will be able to devote more resources to the export of their failed revolution.

Our country's goals in Central America are clear. We want to protect Nicaragua's neighbors from Nicaraguan aggression. We want to help the Nicaraguan people achieve democracy. The freedom of the Nicaraguan people does matter. Our allies in Central America share these goals. For these reasons, our Government strongly supports the Contadora process. That peace effort is designed to reduce military tensions in the region. It also supports the growth of democracy in that nearby area.

Why must we support the Contras? The activities of the democratic resistance in Nicaragua put pressure on the Sandinistas. Comandante Ortega is forced by Contra operations to divert resources to deal with the Contras which might otherwise be turned against neighboring countries. The resistance is trying to bring democracy back to Nicaragua. The pressure from the Contras is also forcing the Sandinistas to deal with their neighbors. Those small countries want a democratic and peaceful Nicaragua.

Why hasn't Comandante Ortega signed the Contadora agreement, Why is he refusing to bring peace and pluralism to Nicaragua? Why is he refusing to negotiate with the opposition? Fortunately, the pressure from the Contras keeps reminding the comandante that there is a solution. There is a peaceful way. A negotiated settlement is the answer.

If we stop supporting the Contras, we will ensure their military defeat. The Sandinistas can further tighten the noose around the necks of their opponents. They can ignore the demands for democracy that their own people are making. They can forget about human rights and turn that poor country into a full-blown totalitarian state. Then, Communist Sandinista control will be complete, and their system will be strengthened. They will have succeeded in building another Cuba in this hemisphere. They will have established another Communist outpost right under the nose of Uncle Sam.

Do we want this to happen? We all know the answer to this question. Now is the time to help the Contras. We have no other choice.

Mr. AKAKA. Mr. Chairman, today we will have an opportunity to prove something to the people of the United States. We will have an opportunity to show them then we truly represent their concerns and that we are committed to ensuring that their concerns be aired in this forum.

The people of this great country have made known to us that they oppose aid to the Nicaraguan Contras. Some have phoned us. Some have written to us. Some have spoken to us during our visits back to our districts. Regardless of the means, however, they have clearly indicated to us that they want the United States to play no part in the funding of the Contras.

Mr. Chairman, when we are called upon to vote tonight, I intend to vote against aid to the Contras. I urge each and every one of my colleagues to do the same.

I am going to oppose aid to the Contras because I am convinced that the desire of the administration to extend funds—both military and economic—to the Contras is premised on ill-conceived notions which fly in the face of reality.

There are those who would have us believe that a vote for aid to the Contras is a vote for freedom in Nicaragua.

There are those who would have us believe that a vote for aid to the Contras is a vote against Soviet expansionism in our hemisphere.

And, there are those who would have us believe that a vote for aid to the Contras is a vote to for respect of human rights.

Then, there are those, who believe the truth: The real threat in Nicaragua is the threat posed by the administration's desire to promote a cause which does not represent the wishes of the very people it claims to protect. I am convinced that the administration's real goal lies not in freedom for the Nicaraguan people, not in the defense of Soviet expansionism, and not in a deep respect for human rights.

Rather, its real goal lies in a desire to overthrow the Sandinista regime. Remember, American intervention in Nicaraguan affairs has been more extensive than in any other country in Central or Latin America. Since 1981, the administration has merely used aid to the Contras as an instrument to realize its goal.

Yesterday, the President urged us to "remember" our history in Central America. Well, I remember all too well our history in Nicaragua: For more than four decades the United States supported one of the most corrupt and abusive regimes in that country's history—the Somoza family. Certainly, none of us want a return to that system. Nevertheless, a vote for Contra aid is a vote for United States intervention—a philosophical continuation of that age-old mentality.

I refuse to believe that I am inhumane, immoral, unpatriotic, or undemocratic because I oppose a return to that kind of history. I urge my colleagues to join me in opposing aid to the Contras.

Mr. GEJDENSON. Mr. Chairman, the procedure by which this issue was brought to the floor today forces me to make a very difficult choice. Like many other Members of this body, I firmly oppose continuing our failed policy of aiding the antigovernment rebels in Nicaragua. Also like many other Members of this body, I support the military construction budget as an important part of our national security policy. Because of the unusual way these two separate issues have been packaged together, Members who share these views are forced to vote against their desires.

The district I represent includes the U.S. Naval Submarine Base in Groton, CT, our national training center for submarine personnel. The base is well commanded by Capt. John Williams, and it has an outstanding record of providing quality training to the men and women who serve on submarines. Physical structures at the base have deteriorated over the years, however, creating the need for new and better facilities. Since coming to Congress I have worked to inform my colleagues of the need for these improvements.

Although severe budget constraints have forced the committee to reduce the level of military construction funding compared to last year, several projects of the most extreme importance to the sub base are included in this bill. I support these projects, and I would like to commend Chairman HEFNER for the fine job he and his committee did in drafting this legislation. Given the opportunity to vote on the military construction budget alone, I most certainly would support it.

Unfortunately, members are not able to debate the military construction budget on its own merits. Because the two have been tied together, Members who support the military construction projects in this bill must also be willing to support aid to the Contras in Nicaragua. Although the choice is difficult, I have decided I cannot in good conscience do that.

We have provided support to the Contras for 5 years, Mr. Chairman, and in 5 years that policy has proven to be a failure. As my colleague and Chairman from Maryland, Mr. BARNES, has pointed out, the administration cannot even account for more than half of the $27 million in humanitarian aid approved last year. As my colleague from California, Mrs. BOXER, has pointed out, numerous press reports have raised serious questions about whether Contra leaders are involved in drug trafficking to the United States.

These reports alone should be enough to convince Members to reject the Contra policy. Even more compelling, however, is the simple fact that the policy has failed. After 5 years, the Contras have failed to hold any territory, to gain popular support, or to pose a serious threat to the Communist Government of Nicaragua. Instead, they have allowed that government to maintain support by blaming the United States for its own failures. They have worked to weaken internal political opposition—anyone who opposes the Sandinistas is dismissed as a dupe of the United States.

Mr. Chairman, no one in this Chamber seriously believes that voting for $30 million for the Contras, or $100 million for the Contras, will allow them to achieve their objective. It will simply continue a policy that has failed and postone the day when we face that failure and work to craft a new one.

Although I would like to go on record in support of the military construction aspects of this bill, I cannot in good conscience support Contra funding. I urge my colleagues to vote against this bill and the committee to report back a clean bill.

Mr. MINETA. Mr. Chairman, the Hamilton amendent is the only prudent approach before us today. Indeed, it is the only funding alternative we are considering that can rightfully be labeled "humanitarian."

Lately, it has been in vogue to link humanitarian aid with military aid, as if this linkage will somehow make more palatable the fact that people are dying and suffering in Central America, and we are a party to it. Supplying the contras with military aid—next week or next year—will not make their cause of their methods more honorable to the Nicaraguan people who are in constant fear for their lives and well-being.

A military victory today will not bring peace tomorrow. We have subscribed to this view before in Central America and, sadly, it has brought neither stability nor prosperity to the region. A humanitarian policy is the only chance we have for a just solution, and the Hamilton substitute will set such a course.

Mr. STUMP. Mr. Chairman, I rise in support of the Skelton amendment to improve the effectiveness of the Nicaraguan Democratic Resistance. Without the Skelton amendment aid, there soon would be no effective Resistance in Nicaragua. Without an effective Resistance, the Sandinistas would be free to intensify their police-state tactics for repression of the Nicaraguan people and to step up their efforts to subvert the democratic governments of neighboring countries. Now is the time to stop the Communist advance—not 10 years from now when it will cost a great deal more in blood and treasure.

Nearly three decades ago. The United States failed to prevent Communism from taking hold in Cuba. As a result of that failure, the Soviet Union has access to military bases in Cuba today, and the United States must deal with Soviet-supported Cuban adventurism in many sports around the globe, including in Nicaragua. The United States cannot afford to make the same mistake with Nicaragua that it made with Cuba. We cannot tolerate a Marxist-Leninist state on the mainland of the Americas to serve as the platform to launch subversive enterprises in North and South America and to support global deloyment of Soviet forces.

The President's policy for countering the Soviet-Cuban thrust in Nicaragua is the wisest course. Full support for the Resistance will establish and maintain pressure on the Sandinista regime to meet the negotiating objectives of freedom, democracy, and security to which the United States and the Contadora nations have subscribed. The President's policy will counter Communist advances without involving the U.S. Armed Forces.

I urge my colleagues to support the Skelton amendment to carry out the President's program for bringing about a satisfactory resolution of the conflict in Central America. With the Skelton amendment, the Sandinistas will finally understand that the United States means business.

Mr. HUGHES. Mr. Chairman, there can be no doubt that the question of how to best bring peace and stability to Central America is a difficult one. Unfortunately, the parliamentary situation before us today does not make the resolution of this issue any easier.0I voted against the rule because I am concerned about the limited options before us this evening.

I supported the McCurdy amendment over the Edwards amendment because, while not perfect, it represented a more realistic and balanced effort to address our major security and foreign policy interests in Central America, while taking into account the concerns of those who favor a diplomatic and political settlement of the problems in Central America against those who feel that the United States should take a more aggressive, military stance. The measure would have furnished $30 million in humanitarian assistance to the Contras, but delayed military assistance for at least 90 days by an affirmative vote of the Congress.

With the passage of the Edwards of Oklahoma amendment, however, we now have only two choices—either send $100 million to the Contras in the form of military aid and advanced anti-aircraft weapons, or don't. Unfortunately, the situation in Central America is just not that simple, and neither should be our response. Under the circumstances, however, given the limited choices before us. I am compelled to vote for the Hamilton amendment and against immediate and uncontrolled military and economic aid. Even though I feel that the Hamilton amendment has a number of se-

rious problems, its adoption would be preferable to this renewed military swipe by proxy at the Sandinistan tar baby, which we may not be able to shake off for many years to come.

I believe that most Americans share the President's goal of supporting democracy in our hemisphere, and working against those regimes which attempt to export revolution and destabilize Latin America. Under the Constitution, he is our Commander in Chief and responsible for the conduct of U.S. foreign affairs, and his views demand the utmost consideration.

On the other hand, there is a large and growing body of evidence that our policy of aiding the Contras is flawed, both in its concept and its administration. There have been very serious charges of financial abuses in our past aid packages to the Contras, as well as fundamental questions about whether Contra aid will achieve the goals Mr. Reagan has set out for our Nation. I was elected to Congress to use my own commonsense and independent judgment on such matters and, where I differ with the President, to vote my convictions. Such is the constitutional role of Congress in providing a check and balance for administration policy. The question is not whether we should contain Communism, but whether we have only the option of using military means to achieve that goal.

In this regard, the administration has spared no effort to justify military action by portraying the Sandinistas in the worst possible light. Indeed, there is some basis in fact for many of the administration's charges. It has accused the Sandinistas of atrocities of all kinds including murder, imprisonment of political opponents, drug trafficking, and numerous human rights violations. It has cited the presence of Soviet and Cuban advisers, as well as Soviet arms shipments, as a threat to our national security. It has accused the Sandinista government of forcing centrist and democratic elements out of the broad-based Nicaraguan revolution, and converting it into a virulent Marxist-Leninist philosophy that will infect all of Central America.

On the other hand, to remedy these problems, the administration's instrument is the Contras, who themselves are no angels. Renamed by administration supporters as "freedom fighters," the Contras are a loose alliance of Nicaraguan counterrevolutionary groups based in Honduras, numbering between 15,000 and 20,000. Critics of U.S. policy have pointed out that the Contras have also committed serious atrocities, and include a substantial number of members the National Guard of deposed dictator General Anastasio Somoza-Debayle. The United States has already furnished some $100 million, including military aid, to the Contras, but they have never had any notable victories or gained significant numbers of adherents.

The stalemate in Nicaragua has led the administration to raise the ante, by furnishing the Contras with U.S. Green Beret training, and calling for a substantial increase in aid from $28 million in nonlethal aid last year up to $30 million in nonlethal and $70 million in weaponry this year, including advanced U.S. antiaircraft weapons. Interestingly, we are still attempting to determine what happened to millions of dollars of funds we just appropriated for humanitarian assistance to the Contras.

In fact, a recent investigation by the General Accounting Office revealed that, of the $27 million in humanitarian assistance to the Contras approved last year, slightly more than half—some $14.1 million—has not been adequately accounted for.

Some of this money, about $1.5 million, appears to have ended up in the hands of Honduran military officers. In the case of $4.4 million paid into the accounts of four brokers, less than $1 million can be traced to Central America. For the remainder of the funds, the trail becomes cold at offshore banks in the Bahamas and the Cayman Islands. One small neighborhood grocery store in Honduras, apparently owned by some Honduran colonels, has been paid some $3.8 million by the State Department, including a 20 percent carrying charge on all goods sent to the Contras. There have also been reports that some brokers and suppliers have made enormous profits trading U.S. dollars in illegal currency markets, and that some suppliers have been paid for supplies, such as uniforms, that have never been received by the Contras.

These abuses are an absolute disgrace. I believe it is scandalous that the administration has permitted U.S. funds to be handled in this manner. During these austere times, when so many programs to help our own farmers, the sick, the elderly, and other deserving individuals, are being pared to the bone, it is incredible that scarce Federal resources should be thrown up for grabs in this fashion. Frankly, I don't believe that one more penny should be allowed in aid to the Contras until the administration lives up to its responsibility to account for these funds. The McCurdy amendment would have imposed stronger accounting requirements on U.S. humanitarian aid to the Contras, and improves our ability to trace the ultimate disposition of these funds.

In addition these serious administrative faults, our policy of aiding the Contras is also subject to tremendous practical problems.

Certain facts are beyond dispute. The Contras number about 15,000 under arms. They face a Nicaraguan government force of 100,000, including national guardsmen. Few believe that the Contras can actually overthrow the Sandinistas. While there is some discontent with the Sandinistas within Nicaragua, it is not widespread. U.S. intelligence estimates indicate that the Contras are simply not popular enough to win, no matter how much aid we give them. Only direct U.S. military action would tip the balance.

It is that threat of a U.S. invasion that has been used by Daniel Ortega to rally and consolidate public support for his government despite some very serious economic and other problems. He has exploited the Contra threat to justify a large military buildup, suppress human rights and freedom of the press, and maintain a large Soviet-Cuban presence. In other words, our military threats are strengthening, not weakening, the Sandinista grip on Nicaragua. Meanwhile, atrocities and grievous human rights violations have been committed by both sides so, for those who want change, the Contras and their Somozan participants, offer little choice.

More to the point, however, the more aid we give the Contras, the more Daniel Ortega turns to the Soviets and the Cubans for assistance—military and otherwise. Ortega has said he will negotiate with us, but will never negotiate with the Contras, and there is no reason to doubt his resolve.

So, the question is what's next? More aid, more advisers, and then more aid? Since the Contras cannot themselves overthrow the government of Nicaragua, are we prepared to see through this proxy war when the Sandinistas don't cry uncle? Are we prepared to commit American ground troops, and air and naval support, when the Contras fall short?

Probably not, absent a clear threat to our national security. There is no question that the administration has made out a convincing case of abuses by the Sandinistas, but there are certainly other such governments around the world today which we can point out as equally or even more abusive, and we are not trying to overthrow all of them. As was stated in a recent interview by a former Republican Secretary of Defense, James Schlesinger, "Mere dislike of the Sandinistas is not an adequate basis for policy."

If we recall nothing else from our Vietnam experience, we should remember the impossibility of waging an undeclared war where there is no clear and present danger to our vital national security interests, and there is little prospect of success or support from the American people. Moreover, in terms of support from our allies, we are even more isolated than was the case in Vietnam.

Foreign ministers from eight Latin nations—Mexico, Brazil, Peru, Colombia, Panama, Uruguay, Argentina and Venezuela—visited Washington this year to urge us not to send military aid to the Contras. Canadian Prime Minister Brian Mulroney said the same thing during his visit. We have little support.

Like most Americans, as well as our democratic friends and allies in Central America, I believe that the most prudent course is to use economic, political and diplomatic pressure to achieve our foreign policy and national security objectives. The military opinion should be our last one, not the first, particularly since the problems in the region are more socioeconomic than political.

In this regard, the McCurdy amendment, like the Edwards amendment, breaks important new ground by attempting to look at the problems of Central America as a region, and shore up existing democracies. It reprograms some $350 million in already appropriated funds, and directs these funds for economic assistance to four of Nicaragua's neighbors in Central America—assistance which is of critical importance if we are to remedy some of the root causes of instability and revolution in this critical part of the world.

One of the most serious flaws in the past U.S. policy toward this region is that we have treated political unrest in Central America almost exclusively as a military problem. There is no question that there is a military dimension to the problems of Central America, but there is also terrible poverty, disease, and hopelessness in that part of the world. For the vast majority of Central Americans, there are few opportunities for economic or educational

improvement. It is indeed fertile ground for revolution, and I don't doubt for a minute that the Soviets will jump at every opportunity, no matter how small, to manipulate that discontent for their own advantage.

Our efforts in support of reform, to help the fledgling democracy in El Salvador, should tell us that there is a great deal to be gained by supporting the hopes and aspirations of the people of Central America, and not merely attacking the manifestations of their discontent and our own many years of neglect. I only wish that the administration had been as keen in support of the recommendations of its own Kissinger Commission as it has been in support of military aid to the Contras.

I very strongly support the reprogramming of funds to help the struggling democracies of Central America, to eliminate opportunities for Soviet exploitation of the problems of the region. I believe this would be an excellent supplement to the Contadora regional peace plan—which has been drawn up by the Latin nations themselves—and which calls for the withdrawal of Soviet and Cuban military advisers from Nicaragua, an end to arms shipments by outsiders into Central America, and other peaceful means to reduce tensions, de-escalate the arms buildup, assure regional stability, and address U.S. security concerns.

If we can achieve such a de-escalation, and then ecourage the building of a democratic centrist movement within Nicaragua, we would have a far better chance of tilting that country away from the Soviet-Cuban sphere of influence. In my judgment that should be the centerpiece of America's foreign policy in Central America.

Mr. BOLAND. Mr. Chairman, today's debate on our Government's policy toward Nicaragua is not a new one. All of the arguments have been made before, and I doubt that what any of us says in the well this afternoon or tonight will shed any new light on this difficult issue. I also know, however, that we draw no final curtain today, on this body's discussion of the Contras and the Sandinistas.

I believe that my position on the Contras is well known in this House. I have opposed military assistance to the Contras before—and I am opposed to that type of assistance today. I intend therefore, to vote for the Hamilton amendment which I believe, is the most likely of all the alternatives, to further a negotiated settlement to the situation in Nicaragua.

My opposition to assisting the Contras militarily, has always been based, on my judgment that they cannot accomplish any of the three main tasks assigned to them by President Reagan. To argue that the Contras can prevent Nicaragua from becoming a base for advanced Soviet weaponry, or that they can keep the Sandinistas from exporting their revolution to their neighbors, is to assert a conclusion unsupported by any evidence. To contend that Contra pressure will result in Nicaragua becoming a more open, less repressive society, is to ignore logic and the lessons of history. What we are being asked to do today is to make a down payment on a protracted military struggle—to invest in an organization, the Contras, that has never been able to get beyond guerilla-style operations, and which has never been able to generate, the level of popular support enjoyed by the Sandinistas, when they were insurgents, rather than rulers.

The great unanswered question about the President's Contra policy is "when?"—when, if we arm the Contras, can we expect them to take and hold substantial amounts of territory; when can we expect their popular support to increase to meaningful levels; when can we expect their pressure to result in internal reforms by the Sandinistas?

I hope the House will squarely face the fact that $100 million, even assuming it all reached the Contras, cannot answer those questions. That $100 million cannot buy a Contra victory. Adoption of the Edwards-Skelton amendment will, however, do several things. It will remove current restrictions on the type of support that can go to the Contras, and the agencies of our Government that can provide it. It will guarantee that, when this $100 million is gone, the administration will be back for more, either directly through additional requests for appropriations or indirectly by tapping the CIA's reserve for contingencies.

No; Mr. Chairman, $100 million cannot possibly advance an administration policy that is inherently contradictory, that seeks, on the one hand, to pressure the Sandinistas into changing the way they govern, while at the same time, maintaining that it is the very presence of the Sandinistas, and their philosophy, in the government of Nicaragua, that is a threat to the hemisphere. If we adopt the Edwards-Skelton amendment, we make the first installment on a military option that can have stalemate as its only realistic goal. I am not prepared to ask the Contras to die for that, nor am I prepared to ask the Nicaraguan people to endure the suffering that the pursuit of that goal will require. Nor, I would note, are any of the democracies of Latin America prepared to make those requests.

Those democracies have chosen another alternative with which to deal with the Sandinistas, the alternative of negotiation within the framework of Contadora. It has not been an easy process, nor have its results been especially encouraging to date. There is obviously a great deal of difficult work to be done, but the countries of Contadora, those with at least as much at stake in the Nicaraguan issue as we, have commited themselves to doing that work. They have chosen negotiation over the Contras. That was, and is, a wise decision, and it is one which could benefit from a greater degree of support by the United States. I hope that the votes we take today will reflect a judgment that that support should be forthcoming.

Mr. LEHMAN of California. Mr. Chairman, this House is faced with some extremely tough decisions today. As written, H.R. 5054 ties $100 million in military and humanitarian aid to the Nicaraguan Contras with $350 million in economic development assistance to Costa Rica, El Salvador, Guatemala, and Honduras. I support the latter and oppose the former.

In 1983, I said on this floor, "The only way the United States can truly achieve the President's objective of fostering democracy for the people in Central America is to help them establish the basis for a positive future." Now, we finally have an economic development assistance plan for Costa Rica, Guatemala, El Salvador, and Honduras supported by the administration, but we can only help those allies in Central America develop their economy if, at the same time, we provide $100 million in military and humanitarian aid to the rebels in Nicaragua. Is this really a choice?

I cannot support H.R. 5052 unless all aid to the Nicaraguan Contras is deleted. I rise in support of Mr. HAMILTON'S amendment because it recommends a policy of multilateral diplomatic and economic containment of Nicaragua and also a commitment to disallowing the establishment of a Soviet base in Nicaragua. The only funds in Mr. HAMILTON'S amendment is for Nicaraguans who have been displaced by the war. It provides no funds for the Contras. We must choose a path away from involving our country in the civil strife in Nicaragua and toward one which affirms our commitment to ending the economic and political problems in Central America.

The real question in this debate is whether we are truly in favor of reaching a diplomatic solution to the problems in Nicaragua, with the help of our allies, or whether we favor militarizing the opposition forces in Nicaragua in hopes that they will oust the Sandinista government. I hope that this House will not favor a military solution that could possibly one day involve U.S. troops, but vote for a package that fosters democracy in countries that are already our allies and strengthens our resolve to work through the Contadora process in resolving the problems in Central America with the people and the governments of that region.

We cannot hope for democracy in Nicaragua unless we abandon our misdirected plan of aiding the Contras. I agree with those who see the need for economic development in Central America. We need to strengthen the economies in the region so that they can become self sufficent and not fall prey to any country that would encourage rebellion. We need to support our allies in the region now both economically and diplomatically.

Mr. ROWLAND of Connecticut. Mr. Chairman, I rise in support of the amendment offered by Mr. EDWARDS and Mr. SKELTON.

I do so with no apologies and no regrets, because the President has bent over backward to accommodate the concerns of all the skeptics, myself included. This amendment buys time for a negotiated peace in Nicaragua without imposing a death sentence on the Contras. This amendment gives the Sandinistas 8 months to enter good-faith negotiations without cutting the Contras' legs out from under them.

Mr. Chairman, the President is to be commended for his willingness to compromise and the Edwards-Skelton approach represents a very significant compromise indeed. I was not afraid to vote against the President last time because I believed his approach was wrong. Wrong because it had too much stick and not enough carrot. Wrong because it didn't do enough to encourage the participation of the neighboring Central American nations.

But today we see a completely different approach, an approach that encourages peace without surrender and gives the Sandinistas real incentives to come to the bargaining table. The alternative is simply to do nothing

about the spread of communism and revolution in Central America and that is a path I simply am not willing to follow.

That's not to say I am willing to give the administration's policy a blank check. I have no desire to fund an endless war in Nicaragua. But those who oppose this relatively small amount of aid have no answer for the growing Soviet base in Central America. And no answer is far, far worse than the alternative before us today.

Mr. McCURDY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge passage of the bill and the provisions regarding Central America in this package.

I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to House Resolution 481, title II is considered as having been read for amendment under the 5-minute rule. No further amendments to the bill are in order except the following amendments to title II printed in House Report 99-653 if offered by the proponents of said amendments identified in said report, or their designees, which shall be considered only in the following order and shall be considered as having been read, shall not be subject to amendment, and shall not be subject to a demand for a division of the question; but each amendment shall be debatable as specified in House Resolution 481, equally divided and controlled by the proponent of the amendment and a member opposed thereto:

(1) The amendment by Representative EDWARDS of Oklahoma;

(2) The amendment by Representative HAMILTON;

(3) The applicable version of the amendment by Representative BARNES, which shall be in order only if amendment designated (1) above has been adopted and amendment designated (2) above has been rejected, or if amendments designated (1) and (2) above has both been rejected; and

(4) The applicable version of the amendment by Representative MRAZEK, which shall be in order only if amendment designated (1) above has been adopted and amendments designated (2) above has been rejected, or if amendments designated (1) and (2) above have both been rejected.

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The test of the amendment is as follows:

Amendment offered by Mr. EDWARDS of Oklahoma: Strike out title II (as added to the bill pursuant to House Resolution 481) and insert in lieu thereof the following:

TITLE II—CENTRAL AMERICA

PURPOSES

SECTION 1. The purposes of this title are to promote economic and political development, peace, stability and democracy in Central America, to encourage a negotiated resolution of the conflict in the region, and towards these ends, to enable the President to provide additional economic assistance for the Central American democracies as well as assistance for the Nicaraguan democratic resistance, subject to the terms and conditions of title.

POLICY TOWARD CENTRAL AMERICA

SEC. 2. (a) It is the policy of the United States that—

(1) the building of democracy, the restoration of peace, economic development, the improvement of living conditions, and the application of equal justice under law in Central America are important to the interests of the United States and the community of American States;

(2) the interrelated issues of social and human progress, economic growth, political reform, and regional security must be effectively dealt with to assure a democratic and economically and politically secure Central America; and

(3) the September 1983 Contadora Document of Objectives, which sets forth a framework for negotiating a peaceful settlement to the conflict and turmoil in the region, is to be encouraged and supported.

(b) The United States strongly supports as essential to the objectives set forth in subsection (a)—

(1) a long-term commitment of economic assistance to the Central American democracies in amounts recommended by the National Bipartisan Commission on Central America;

(2) national reconciliation in Nicaragua and the creation of a framework for negotiating a peaceful, democratic settlement to the Nicaraguan conflict; and

(3) efforts to reach a comprehensive and verifiable final agreement based on the Contadora Document of Objectives, including efforts to encourage the Government of Nicaragua to pursue a dialogue with the representatives of all elements of the Nicaraguan democratic opposition for the purpose of achieving a democratic political settlement of the conflict, including free and fair elections.

POLICY TOWARD THE GOVERNMENT OF NICARAGUA

SEC. 3. (a) United States policy toward the Government of Nicaragua shall be based upon that government's responsiveness to continuing concerns affecting the national security of the United States and Nicaragua's neighbors about—

(1) Nicaragua's close military and security ties to Cuba and the Soviet Union and its Warsaw Pact allies, including the presence in Nicaragua of military and security personnel from those countries and allies;

(2) Nicaragua's buildup of military forces in numbers disproportionate to those of its neighbors and equipped with sophisticated weapons systems and facilities designed to accommodate even more advanced equipment;

(3) Nicaragua's unlawful support for armed subversion and terrorism directed against the democratically elected governments of other countries;

(4) Nicaragua's internal repression and lack of opportunity for the exercise of civil and political rights which would allow the people of Nicaragua to have a meaningful voice in determining the policies of their government through participation in regularly scheduled free and fair elections and the establishment of democratic institutions; and

(5) Nicaragua's refusal to negotiate in good faith for a peaceful resolution of the conflict in Central America based upon the comprehensive implementation of the September 1983 Contadora Document of Objectives and, in particular, its refusal to engage in a serious national dialogue with all elements of the Nicaraguan democratic opposition.

(b) The United States will address the concerns described in subsection (a) through economic, political, and diplomatic mesures (including efforts to secure the cooperation of other democratic nations in such measures), as well as through support for the Nicaraguan democratic resistance. In order to assure every opportunity for a peaceful resolution of the conflict in Central America, the United States will—

(1) engage in bilateral discussions with the Government of Nicaragua with a view toward facilitating progress in achieving a peaceful resolution of the conflict, if the Government of Nicaragua simultaneously engages in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition; and

(2) limit the types and amounts of assistance provided to the Nicaraguan democratic resistance and take other positive action in response to steps taken by the Government of Nicaragua toward meeting the concerns described in subsection (a).

(c) The duration of bilateral discussions with the Government of Nicaragua and the implementation of additional measures under subsection (b) shall be determined, after consultation with the Congress, by reference to Nicaragua's actions in response to the concerns described in subsection (a). Particular regard will be paid to whether—

(1) freedom of speech, assembly, religion, and political activity are being respected in Nicaragua and progress is being made toward the holding of regularly scheduled free and fair elections;

(2) there has been a halt to the flow of arms and the introduction of foreign military personnel into Nicaragua, and a withdrawal of all foreign military personnel has begun;

(3) a cease-fire with the Nicaraguan democratic resistance is being respected; and

(4) Nicaragua is refraining from acts of aggression, including support for insurgency and terrorism in other countries.

(d) The actions by the United States under this title in response to the concerns described in subsection (a) are consistent with the right of the United States to defend itself and to assist its allies in accordance with international law and treaties in force. Such actions are directed, not to determine the form or composition of any government of Nicaragua, but to achieve a comprehensive and verifiable agreement among Central American countries, based upon the 1983 Contadora Document of Objectives, including internal reconciliation within Nicaragua based upon democratic principles, without the use of force by the United States.

(e) Notwithstanding any other provision of this title, no member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country. Nothing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the Government of Nicaragua.

POLICY TOWARD THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 4. (a) It is the policy of the United States to assist all groups within the Nicaraguan democratic resistance which—

(1) are committed to work together for democratic national reconciliation in Nicaragua based on the document issued by the six Nicaraguan opposition parties on February 7, 1986, entitled "Proposal to the Nicaraguan Government for a Solution to the Crisis in Our Country"; and

(2) respect international standards of conduct and refrain from violations of human rights or from other criminal acts.

(b) No assistance under this title may be provided to any group that retains in its ranks any individual who has been found to engage in—

(1) gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961); or

(2) drug smuggling or significant misuse of public or private funds.

(c)(1) It is recognized that the Nicaraguan democratic resistance has been broadening its representative base, through the forging of cooperative relationships between the United Nicaraguan Opposition (UNO) and other democratic resistance elements, and has been increasing the responsiveness of military forces to civilian leadership.

(2) The President shall use the authority provided by this title to further the develpments described in paragraph (1) and to encourage the Nicaraguan democratic resistance to take additional steps to strengthen its unity, pursue a defined and coordinated program for representative democracy in Nicaragua, and otherwise increase its appeal to the Nicaraguan people.

(d) In furtherance of the policy set out in this section, not less than $10,000,000 of the funds transferred by section 6(a) shall be available only for assistance to resistance forces otherwise eligible and not currently included within UNO, of which amount $5,000,000 shall be available only for the Southern Opposition Bloc (BOS) and $5,000,000 shall be available only for the Indian resistance force known as Misurasata.

ASSISTANCE OF THE CENTRAL AMERICAN DEMOCRACIES

SEC. 5. (a) There are hereby transferred to the President for assistance to the Central American democracies (Costa Rica, El Salvador, Guatamala, and Honduras) in accordance with the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $300,000,000 of unobligated funds from the accounts specified in subsection (b). Amounts transferred under this section shall be administered in accordance with the terms and conditions of chapter 6 of part I of the Foreign Assistance Act of 1961. Notwithstanding any other provision of law, funds made available by this section—

(1) shall be in addition to amounts previously appropriated for the fiscal year 1986 and allocated for assistance to Central American countries, and

(2) shall remain available for obligation until September 30, 1987, except that not less than $100,000,000 shall be obligated on or before September 30, 1986.

(b) Amounts made available by this section shall be transferred from such accounts as the President may designate for which appropriations were made by title II of the Foreign Assistance and Related Programs Appropriations Act, 1986, title IV of the Agriculture, Rural Development and Related Agencies Appropriations Act, 1986, (as contained in Public Law 99-190), and title II of the Urgent Supplemental Appropriations Act, 1985 (Public Law 99-10).

(c)(1) The Secretary of State, the Administrator of the Agency for International Development, and the Director of the Office of Management and Budget, shall—

(A) develop a plan for fully funding the assistance to the Central American democracies (Costa Rica, El Salvador, Guatemala, and Honduras) proposed in the January 1984 report of the National Bipartisan Commission on Central America; and

(B) provide a report describing this plan to the President and the Congress no later than March 1, 1987.

(2) The report required by paragraph (1) shall include an analysis and recommendations, prepared in consultation with the Secretary of Agriculture, on how more effective use can be made of agricultural commodities from the United States in alleviating hunger in Central America and contributing to the economic development of the Central American democracies.

(d)(1) There are hereby transferred to the President out of funds appropriated by the Supplemental Appropriations Act, 1985 (Public Law 99-88), under the heading "Assistance For Implementation of a Contadora Agreement" such sums as the President may require, but not more than $2,000,000, to facilitate the participation of Costa Rica, El Salvador, Guatemala, and Honduras in regional meetings and negotiations to promote peace, stability, and security in Central America.

(2) Funds transferred under paragraph (1) shall remain available for the same period of time as such funds would have been available under the Supplemental Appropriations Act, 1985 (Public Law 99-88), but for the enactment of this title.

(e) The Congress reaffirms its support for the establishment of a Central American Development Organization, authorized by section 464 of the Foreign Assistance Act of 1961, as an effective forum for dialogue on, and the continuous review and advancement of, Central America's political, economic, and social development, including the strengthening of democratic pluralism and respect for internationally recognized human rights. Toward this end, not less than $750,000 of the funds transferred by this section should be used to establish the Central American Development Organization and its administrative apparatus so as to ensure that Central American development objectives are encouraged.

ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 6. (a)(1) The Congress hereby approves the provision of assistance for the Nicaraguan democratic resistance in accordance with the provisions of this title.

(2) There are hereby transferred to the President for the purposes of this section $100,000,000 of unobligated funds from such accounts for which appropriations were made by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), as the President shall designate.

(b) Notwithstanding the Impoundment Control Act of 1974, not more than 40 percent of the funds transferred under subsection (a) may be available for obligation or expenditure in accordance with this title upon the date of its enactment; not more than an additional 20 percent of such funds may be so available no earlier than October 15, 1986, and 15 days after the transmittal to the Congress of the determination required by section 11(c); and not more than the remaining 40 percent may be so available no earlier than February 15, 1987, and 15 days after the transmittal to the Congress of the determination required by section 11(e).

(c) Funds transferred under subsection (a) shall remain available for the same periods of time, but not to exceed September 30, 1987, as such funds would have been available under the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), but for the enactment of this title.

COORDINATION OF AND ACCOUNTABILITY FOR ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

SEC. 7. (a) The Secretary of State (or his designee) shall be responsible for policy guidance, coordination, and supervision of United States Government activities under this title.

(b) Any agency to which funds transferred under section 6(a) are allocated shall establish standards, procedures and controls necessary to assure that such funds are fully accounted for and are used exclusively for the purposes authorized by this title. Such standards, procedures and controls shall be developed in consultation with the Comptroller General and the appropriate committees of the Congress, and shall include such safeguards as segregation of accounts, monitoring of deliveries, and requirements for the keeping of complete records available for audit by authorized representatives of the United States Government.

FUNDS FOR HUMANITARIAN ASSISTANCE

SEC. 8. (a) Of the amounts transferred under section 6(a), $30,000,000 shall be available only for the provision of humanitarian assistance to the Nicaraguan democratic resistance.

(b) Of the $30,000,000 made available only for purposes of subsection (a), $3,000,000 shall be available only for strengthening programs and activities of the Nicaraguan democratic resistance for the observance and advancement of human rights.

APPLICATION OF EXISTING LAWS

SEC. 9. (a) Except as otherwise provided in this title, funds transferred under section 6(a) shall be available for the purposes described in section 105(a) of the Intelligence Authorization Act for Fiscal Year 1986, and all the requirements, terms, and conditions of such section and sections 101 and 102 of such Act, section 502 of the National Security Act of 1947, and section 106 of the Supplemental Appropriations Act, 1985 (Public Law 99-88), shall be deemed to have been met for such use of such funds.

(b) The use of funds made available under this title is subject to all applicable provisions of law and established procedures relating to the oversight by the Congress of operations of departments and agencies.

(c) Nothing in this title shall be construed as permitting the President to furnish additional assistance to the Nicaraguan democratic resistance from funds other than the funds transferred under section 6(a) or otherwise specifically authorized by the Congress for assistance to the Nicaraguan democratic resistance.

(d) No limitation or restriction contained in section 10 of Public Law 91-672, section 8109 of the Department of Defense Appropriations Act, 1986, section 502 of the National Security Act of 1947, or any other provision of law shall apply to the transfer

or use of funds transferred to the President under this title.

USE OF FUNDS AFTER A PEACEFUL SETTLEMENT

SEC. 10. If the President determines and so reports to the Congress that a peaceful settlement of the conflict in Central America has been reached, then—

(1) the unobligated balance, if any, of funds transferred under section 6(a) shall be available for the purposes of relief, rehabilitation, and reconstruction in Central American countries in accordance with the authorities contained in chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to economic support fund assistance);

(2) the President shall terminate any economic embargo of Nicaragua then in effect; and

(3) the President shall take such further actions as are appropriate to carry out the policy described in section 2(a)(1) of this title with respect to all Central American countries, including Nicaragua.

INCENTIVES FOR A NEGOTIATED SETTLEMENT

SEC. 11. (a) Assistance to the Nicaraguan democratic resistance under this title shall be provided in a manner designed to encourage the Government of Nicaragua to respond favorably to the many opportunities available for achieving a negotiated settlement of the conflict in Central America. These opportunities include the following proposals:

(1) Six opposition Nicaraguan political parties on February 7, 1986, called for an immediate cease-fire, an effective general amnesty, abolition of the state of emergency, agreement on a new electoral process and general elections, effective fulfillment of international commitments for democratization, and observance of implementation of these actions and commitments by appropriate international groups and organizations;

(2) President Reagan on February 10, 1986, offered simultaneous talks between the Government of Nicaragua and all elements of the Nicaraguan democratic opposition in Nicaragua and between the Government of Nicaragua and the United States Government;

(3) President Jose Napoleon Duarte of El Salvador on March 5, 1986, offered an additional dialogue between the Government of El Salvador and the insurgents in El Salvador if the Government of Nicaragua would simultaneously engage in a dialogue with all elements of the Nicaraguan democratic opposition; and

(4) The United Nicaraguan Opposition on May 29, 1986, reiterated its support for the six-party proposal described in paragraph (1) as a means to achieve national reconciliation and democratization.

(b)(1) In furtherance of the objectives set forth in subsection (a), and except as provided in subsection (e), assistance to the Nicaraguan democratic resistance under this title shall be limited to the following:

(A) humanitarian assistance (as defined in section 722(g)(5) of the International Security and Development Cooperation Act of 1985);

(B) logistics advice and assistance;

(C) support for democratic political and diplomatic activities;

(D) training, services, equipment and supplies for radio communications, collection, and utilization of intelligence, logistics, and small-unit skills, tactics and operations; and

(E) equipment and supplies necessary for defense against air attacks.

(2) The assistance described in paragraph (1) shall be limited, by type and value, to the matters specified in the classified annex to the communication from the President to the Speaker of the House of Representatives and the President of the Senate dated June 24, 1986.

(3) No weapons or ammunition shall be delivered under this title to the Nicaraguan democratic resistance prior to September 1, 1986.

(c) On and after October 15, 1986, an additional $20,000,000 of the funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of Objectives;

(2) the Government of Nicaragua is not engaged in a serious dialogue with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity, leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialogue, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance.

(d)(1) Notwithstanding any other provision of this title, on or after October 15, 1986, funds transferred under section 6(a) may be obligated or expended only if the President determines and reports to the Congress that the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement—

(A) confederation and reform measures to broaden their leadership base;

(B) the coordination of their efforts;

(C) the elimination of human rights abuses;

(D) the pursuit of a defined and coordinated program for achieving representative democracy in Nicaragua; and

(E) the subordination of military forces to civilian leadership; and

(F) the application of rigorous standards, procedures and controls to assure that funds transferred under section 6(a) are fully accounted for and are used exclusively for the purposes authorized by this title.

(2) In making his determination under paragraph (1), the President shall take into account the effectiveness and legitimacy of the political leadership of those Nicaraguan democratic resistance groups receiving assistance under this title, including the ability of that political leadership—

(A) to reflect the views and objectives of the internal and external Nicaraguan democratic opposition;

(B) to function as the spokesman for the Nicaraguan democratic opposition with Central Americans, international organizations, and the United States Government;

(C) to represent the Nicaraguan democratic opposition in dealing with the Government of Nicaragua;

(D) to provide command and control for the military forces of all resistance groups receiving assistance under this title and to establish the goals for their military operations;

(E) to determine the distribution of and maintain accountability for assistance provided under this title; and

(F) to provide the legal mechanisms necessary for the enforcement of standards of conduct applicable to all members of the resistance groups receiving assistance under this title.

(e) On and after February 15, 1986, the restrictions in subsection (b) shall cease to apply and the remaining funds transferred under section 6(a) may be made available for obligation and expenditure for assistance to the Nicaraguan democratic resistance 15 days after the President determines and reports to the Congress that—

(1) the Central American countries have not concluded a comprehensive and effective agreement based on the Contadora Document of objectives;

(2) the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaraguan democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints of freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; and

(3) there is no reasonable prospect of achieving such agreement, dialog, cease-fire, and end to constraints described in paragraphs (1) and (2) through further diplomatic measures, multilateral or bilateral, without additional assistance to the Nicaraguan democratic resistance,

unless the Congress has enacted a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subsection (b)(1) within the limits of funds previously made available).

(f)(1) Notwithstanding subsection (e), no assistance (other than the assistance described in subparagraphs (A) through (C) of subsection (b)(1)) shall be provided at any time to the Nicaraguan democratic resistance under this title if—

(A) the President determines that—

(i) the Central American countries have concluded a comprehensive and effective agreement based on the Contadora Document of Objectives; or

(ii) the Government of Nicaragua is engaging in a serious dialog with representatives of all elements of the Nicaragua democratic opposition, accompanied by a cease-fire and an effective end to the existing constraints on freedom of speech, assembly, religion, and political activity leading to regularly scheduled free and fair elections and the establishment of democratic institutions; or

(B) the Congress enacts a joint resolution under section 12 disapproving the provision of additional assistance (other than assistance described in subparagraphs (A) through (C) of subsection (b)(1)).

(2) The prohibition contained in paragraph (1) shall not apply—

(A) with respect to assistance described in subparagraph (D) of subsection (b)(1) if the Government of Nicaragua fails to observe an applicable cease-fire; or

(B) with respect to assistance described in subparagraph (E) of subsection (b)(1) if the Government of Nicaragua acquires additional equipment or materiel to carry out air attacks.

CONGRESSIONAL PRIORITY PROCEDURES

SEC. 12. (a)(1) A joint resolution described in subsection (e) of section 11 shall be one

without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in section 11(b) thereof within the limits of funds previously made available.".

(2) A joint resolution described in subsection (f)(1)(B) of section 11 shall be one without a preamble, the matter after the resolving clause of which is as follows: "That the Congress disapproves the provision of additional assistance to the Nicaraguan democratic resistance pursuant to title of the Military Construction Appropriations Act, 1987, except as provided in subparagraphs (A) through (C) of section 11(b)(1) and paragraph (2) of section 11(f) thereof.".

(b) A joint resolution described in subsection (a)(1) or (a)(2) shall be considered in the House of Representatives and in the Senate in accordance with the provisions of paragraphs (3) through (7) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in Pubic Law 98-473), except that—

(1) references in such paragraphs to a joint resolution shall be deemed to be references to the respective joint resolution set forth in subsection (a)(1) or subsection (a)(2);

(2) references in such paragraphs to the Committee on Appropriations shall be deemed to be references to the appropriate committee or committees of the respective House of Congress; and

(3) references in such paragraphs to the eighth day and to fifteen calendar days shall be deemed to be references to the fifth day and to five calendar days, respectively.

(c) The provisions of this section are enacted—

(1) as exercises of the rulemaking powers of the House of Representatives and Senate, and as such they are deemed a part of the Rules of the House and the Rules of the Senate, respectively, but applicable only with respect to the procedure to be followed in the House and the Senate in the case of joint resolutions under section 11, and they supersede other rules only to the extent that they are inconsistent with such rules; and

(2) with full recognition of the constitutional right of the House and the Senate to change their rules at any time, in the same manner, and to the same extent as in the case of any other rule of the House or Senate, and of the right of the Committee on Rules of the House of Representatives to report a resolution for the consideration of any measure.

COMMISSION ON CENTRAL AMERICAN NEGOTIATIONS

SEC. 13. (a)(1) There is established the Commission on Central American Negotiations (hereafter in this section referred to as the "Commission"), which shall be composed of five members appointed as follows:

(A) One individual appointed by the Speaker of the House of Representatives;

(B) One individual appointed by the Minority Leader of the House of Representatives;

(C) One individual appointed by the Majority Leader of the Senate;

(D) One individual appointed by the Minority Leader of the Senate; and

(E) One individual, who shall serve as Chairman of the Commission, selected by majority vote of the other members of the Commission.

(2) No officer or employee of the United States may be appointed as a member of the Commission.

(3) The appointments referred to in subparagraphs (A), (B), (C), and (D) of paragraph (1) shall be made within 5 calendar days following enactment of this title, and the selection of a chairman referred to in subparagraph (E) of paragraph (1) shall be made within 10 days following enactment of this title.

(b) The purpose of the Commission is to monitor and report on the efforts of the Nicaraguan democratic resistance to coordinate and reform and on the status of any negotiations on the peace, stability, and security of Central America, including negotiations conducted between or among—

(1) the Government of Nicaragua and all elements of the Nicaraguan democratic opposition, including the Nicaraguan democratic resistance;

(2) the governments of Central American countries;

(3) the Government of the United States and the Government of Nicaragua;

(4) the governments of the Contadora and Support Group countries and the governments of the Central American countries; and

(5) the Government of El Salvador and the insurgents in El Salvador.

(c)(1) The Commission may appoint and fix the pay of not more than seven staff personnel, but at such rates not in excess of the rate of pay for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(2)(A) Each member of the Commission shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which such member is engaged in the performance of duties as a member of the Commission.

(B) While away from his home or regular place of business in the performance of duties for the Commission, a member or staff personnel of the Commission shall be allowed travel expenses, including a per diem in lieu of subsistence, not to exceed the expenses allowed persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(3) For purposes of pay and other employment benefits, rights, and privileges and for all other purposes, any employee of the Commission shall be considered to be a congressional employee as defined in section 2107 of title 5, United States Code.

(d)(1) A majority of the members of the Commission shall constitute a quorum.

(2) All decisions of the Commission shall be by majority vote.

(e) The Commission may make such reports in connection with its duties as it deems necessary to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, except that—

(1) not later than 5 days after receipt by the Congress of a report by the President under section 14 the Commission shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report addressing all the matters which are required to be included in reports of the President by paragraphs (1), (3), and (4) of section 14; and

(2) not later than September 30, 1986, the Commission shall prepare and transmit to the Congress a report on whether the Nicaraguan democratic resistance groups receiving assistance under this title have agreed to and are beginning to implement measures described in subparagraphs (A) through (F) of section 11(d)(1) and an evaluation of the factors described in section 11(d)(2).

(f)(1) Salaries and expenses of the Commission, but not more than $400,000, shall be paid from the contingent fund of the Senate out of the Account for Miscellaneous Items, in accordance with the provisions of this section.

(2) Funds made available to the Commission by paragraph (1) shall be disbursed on vouchers approved by the Chairman, except that no voucher shall be required for the disbursement of the salary of an individual appointed under subsection (c).

(3) For purposes of section 502(b) of the Mutual Security Act of 1954, the Commission shall be deemed to be a standing committee of the Congress and shall be entitled to use of funds in accordance with such section.

(g) The Commission shall terminate not later than 90 days after transmittal of the reports required by subsection (e).

PRESIDENTIAL REPORTING REQUIREMENT

SEC. 4. The President shall prepare and transmit to the Congress with each determination required by section 11 a report on actions taken to achieve a resolution of the conflict in Central America in a manner that meets the concerns described in section 3(a). Each such report shall include—

(1) a detailed statement of the status of negotiations toward a negotiated settlement of the conflict in Central America, including the willingness of the Nicaraguan democratic resistance and the Government of Nicaragua to negotiate a settlement:

(2) a detailed accounting of the disbursements made to provide assistance with the funds transferred under section 6(a) and a detailed statement of how the accountability standards, procedures, and controls established under section 7(b) and 11(d)(1)(F) are being implemented so as to assure that all such funds are fully accounted for and are being used exclusively for the purposes authorized by this title:

(3) a discussion of alleged human rights violations by the Nicaraguan democratic resistence and the Government of Nicaragua, including a statement of the steps taken by the Nicaraguan democratic resistance to remove from their ranks any individuals who have engaged in human rights abuses; and

(4) An evaluation of the progress made by the Nicaraguan democratic resistance in broadening its political base and defining a unified and coordinated program for achieving representative democracy in Nicaragua.

REQUESTS FOR ADDITIONAL ASSISTANCE

SEC. 15. The provisions of subsections (s) and (t) of section 722 of the International Security and Development Cooperation Act of 1985 shall apply—

(1) with respect to any request described in section 722(p) of such Act submitted by the President to the Congress on or after the date of enactment of this title, and

(2) with respect to any request by the President for additional economic assistance for the Central American democracies to carry out recommendations contained in the report required by section 5(c)(1)(B) (in which case references to a joint resolution in subsections (s) and (t) of section 722 of such Act shall be deemed to be references to a joint resolution without a preamble, the matter after the resolving clause of which is

as follows: "That the Congress approves the additional economic assistance for the Central American democracies that the President requested pursuant to title of the Military Construction Appropriation Act, 1987.",
except that, for purposes of consideration in a House of Congress of a joint resolution under subsection (s) or (t) of such section, amendments to such a joint resolution may be in order but only if such amendments are germane.

The CHAIRMAN. Under the rule, the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 30 minutes and a Member opposed to the amendment will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I ask unanimous consent to correct a clerical error in my amendment.

On page 24 of House Report 99-653, in section 11(e), the line reads: "1986"; it should read "1987".

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. The Chair will inquire of the gentleman from North Carolina [Mr. HEFNER] if the gentleman is seeking recognition for the purpose of opposing the amendment.

Mr. HEFNER. Mr. Chairman, yes, I am opposed to the amendment.

The CHAIRMAN. The gentleman qualifies. The gentleman will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the minority leader of the House.

Mr. MICHEL. I thank the gentleman for yielding me this time.

Mr. Chairman, those in the twilight of their careers in this House may not be around to see the ultimate result of what we do today.

But younger Members of the House will. If we make the wrong decision today, they are the ones President Reagan said will be faced with "bad choices followed by worse choices."

In recent weeks I have spoken to some of these younger Members. I'm talking about such distinguished younger colleagues as OLYMPIA SNOWE and ROBIN TALLON, ROD CHANDLER and RICHARD RAY, CONNIE MACK and AL BUSTAMANTE. They went to Central America recently. They went there with an open mind.

These Members came back and told of the fierce unyielding opposition to the Sandinistas by the four Presidents of the Central American democracies.

These Members came back supporting economic aid to the region and effective, timely military, and humanitarian aid to the Contras.

Mr. Speaker, let's face it—I love you personally and I respect your office—but on this issue you have a mind-set.

You haven't budged 1 inch from the original opinion you held 3 years ago.

I am reminded of the words of Mark Twain who said:

Loyalty to petrified opinion never yet broke a chain or freed a human soul.

Will, these younger Members have shown us older Members what an open mind can do.

Yes, I have always wanted to send military aid to the Contras. I, too, haven't changed on this point.

But after listening to these younger Members, I agreed that we should also have an economic aid package to the region, something I originally opposed.

I agreed to a September 1 date for sending arms, something I originally opposed. I listened and I learned from firsthand discussions about the Contras—their good points and their bad points.

Out of those discussions came a new consensus reflected in the bipartisan amendment offered by MICKEY EDWARDS and IKE SKELTON and ROD CHANDLER and RICHARD RAY.

These are the voices of true bipartisanship, voices of openness and reason and dialog.

Today we have to choose. Let's end the vacillation about our commitment to freedom and to the security of this hemisphere.

Systematic delay is not policy—it's paralysis.

The difference between our two approaches, Mr. Speaker, is that we want bipartisan consensus. But you want one-party conformity.

The bipartisan amendment speaks for those who cannot speak—the persecuted Roman Catholic Church, the persecuted Miskito Indians, the Jews forced to flee the Nicaraguans robbed of their heritage by Communists. The young men, some only in their early teens, who have left everything they hold dear to join the freedom fighters.

Their voices cry out to us: "Help us. Help us regain our freedom, our dignity, our country."

The McCurdy amendment turns its back on these people and says: "We don't trust you. We want yet another vote."

Well, we've got the only vote we need right here, right now.

Let's have the guts to nurture democracy and fight communism in our hemisphere. Today. Not tomorrow. I say, today, Mr. Speaker, so that during the next few years, our younger colleagues won't be "faced with bad choices followed by worse choices."

You and I are old war-horses, Mr. Speaker. We've fought the good fight. In a while, we'll be gone.

But I'm not going out as someone with calcified and petrified opinions.

I want principled consensus the genius of our form of Government. The bipartisan amendment gives us this consensus.

And I would plead with you one more time to give out truly bipartisan approach a chance to succeed.

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Mr. HEFNER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. I thank the gentleman for yielding time to me, and for purposes of response, I yield to the chairman of the Subcommittee on Western Hemisphere Affairs, the gentleman from Maryland [Mr. BARNES].

Mr. BARNES. I thank the gentleman for yielding to me.

Mr. Chairman, I just want to respond quickly to the comments of the gentleman from Ohio just a few moments ago in which he said that there is no evidence with respect to the diversion of funds that were provided last year to the Contras.

We have here on the floor some of the evidence—not all of it, some of it is available in the subcommittee—and anyone who would like to see it, although we have not made it public to the press, anyone who would like to see what we have would find us happy to share it.

Mr. ALEXANDER. Mr. Chairman, I yield to the gentleman from Iowa [Mr. BEDELL].

Mr. BEDELL. Mr. Chairman, I rise in opposition to funding for the Contras.

Mr. Chairman, I shall limit my remarks with respect to the issue of the President's funding request for the Contras because many of you know exactly how I feel about this particular issue. I have been and remain opposed to this funding request, and shall continue to oppose this funding request throughout the remainder of my tenure in office.

I am often amazed at the lack of a sense of history that permeates our debate on Nicaragua. In 1972 when I originally sought the opportunity to serve in this esteemed body, I questioned our Nation's involvement in the Vietnam war. That engagement, while valorous, remains one of the more tragic episodes in modern American diplomatic history. Today, some seem desirous of repeating that episode, or worse, proving that with shorter military supply lines and a more finely tuned publicity campaign that America is back, riding tall in the saddle, and capable of defeating a Marxist horde in our own back yard. Well I don't buy it and I don't think the American people buy it either.

Exactly what are our objectives in Nicaragua? It seems to me that our objectives are, or at least ought to be, a commitment to working with our hemispheric friends and allies in promoting the cause of democracy in Central America, and that as a democratic nation, we realize the best way in which to achieve this aim rests with finding solutions to the problems that induce the socio-economic inequities that permit the Soviet Union the opportunity to exploit such inequities to their

geopolitical gain. It seems to me that our objectives are, or at least ought to be, to deter Soviet-Cuban influence and adventurism through a commitment to developing with our hemispheric friends and allies the democratic institutions that protect the people of Central America from the tyrannies of either the political left, or the political right. Finally, it seems to me that our objectives are, or at least they would appear to be, a commitment to achieving these aims through a reliance upon diplomatic alternatives, not coercive covert or overt military force as applied by the proxy American forces known as the Contras.

It seems to me that we need only to use our sense of history to recall that continued support for the Contras spells a repeat of the errors of our Vietnam experience. How long can the Contras sustain themselves before Americans are dragged into the Nicaraguan conflict by accident or design? Who will train the Contras to utilize heavy weapons if they are permitted the opportunity to purchase such weapons, and where will such training take place? Under such circumstances, how long can we expect to await receipt of Gulf of Fonseca resolution requesting the deployment of American troops in Central America? When are we going to open up our eyes and see that what we are really being asked to endorse is an exorcism of President Reagan's Vietnam trauma and that the prescription for this exorcism is a good old dose of vintage John Wayne celluloid leading yet another charge against our enemies wherever they may be? When are we going to realize that our enemies in Central America are not the Nicaraguan people, but in fact, are poverty, hunger, disease, malnutrition, infant mortality, lack of education, lack of opportunity, lack of development, lack of hope, lack of dreams, and lack of confidence and trust in a United States that once served as a beacon of hope, but today, a United States that serves as a merchant of death.

Mr. Chairman, the Nicaraguan people are not the allies of the Soviet Union. They have nothing in common with the Soviet Union. The allies of the Soviet Union in Central America are poverty, hunger, disease, and lack of hope for a better life. These are the problems that our Nation retains the strength, vitality, and know-how to cope with. These are the enemies that our Nation has consistently defeated and continues to defeat decisively. These are also the allies that the Soviet Union consistently seeks out and exploits to their advantage. These then are the enemies we must seek to confront, isolate, and defeat.

I have listened to my colleagues assert that the moneys requested for the Contras are already appropriated funds, available to us from our Nation's defense budget and available to the Contras for their crusade against social injustice and economic inequity, but is $100 million enough to let them get the job done or will we be asked again in the near future to infuse another $100 million, $200 million, or worse, to infuse American blood in a campaign doomed to failure. I say if the $100 million is available, it would be better spent against poverty, hunger, and disease. It would be better spent in restoring the traditional American image of a true and dependable hemispheric friend and ally—a friend and ally that is part of the solution and not the problem.

Mr. Chairman, as I prepare to leave from office, I think of the incentives that brought me here. These incentives were a keen desire to use history as an education tool that protects us against our past mistakes. Today, that tool is available to us. United States national security interests in Central America lie with the application of social, economic, and political solutions to social, economic, and political problems not with a flexing of United States military might. Mr. Chairman, I pray we heed the lessons of history and sustain our position against military aid to the Contras.

Mr. ALEXANDER. Mr. Chairman, I rise in opposition to the amendment, as a part of my remarks I am including in the RECORD the GAO report on its investigation of the Contra corruption.

Mr. Chairman, we have heard a great deal of folksy philosophy today. As I listen to the well-intended and sincere remarks of my colleagues, and I do not question either, I am proud to use the down home philosophy from my home State of Arkansas which goes like this: "You can't make a silk purse out of a sow's ear."

That is what we are trying to do with the Contras. The gentleman from Maryland [Mr. BARNES] in his report notes that Congress gave the Contras $27 million in February of this year, and now the administration is coming back to Congress, asking for $100 million more. The gentleman from Maryland [Mr. BARNES], chairman of the Western Hemisphere Subcommittee has revealed that of the $27 million, most of it has not gone to the Contras. Most of the United States taxpayers money has gone to freedom fighters in other places like Florida, the Bahamas, the Cayman Islands, and Honduras. Even after a GAO—General Accounting Office—investigation we do not know where all of the $27 million has gone.

Please read the report of the investigation.

Much of the money has gone to foreigners without a clear connection to the Contras. The investigation reveals that $1,500,000 went to members of the Honduran Air Force; a Honduran general received $450,000; $3.8 million has been spent with a Tegucigalpa grocery store owned by colonels of the Honduran Army.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. If I have time I will yield to the gentleman. As I stated the grocery store is owned by Honduran colonels; $4.4 million went to four brokers of the Contras, of which $3 million has gone to Florida and Caribbean bank accounts.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. If I have time I will yield.

There are 15,000 to 20,000 Contras. The GAO reports that 62,120 belts were purchased, and 53,526 pairs of boots. The inventory sounds more like Imelda Marcos' closet than a revolutionary army inventory.

Corruption and mismanagement is the product of an investigation by the General Accounting Office.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. If I have time, I will yield to the gentleman.

The report is here for anyone to see. I will put a copy of the investigation in the RECORD for all of the world to see.

The administration's policy is not advancing democracy in Central America, it is helping private enterprise in Florida, in the Bahamas, in the Cayman Islands, and in Honduras. The Contra connection is not fighting for the cause of freedom. They are working for the Yankee dollar.

The report follows:

STATEMENT OF FRANK C. CONAHAN, U.S. GENERAL ACCOUNTING OFFICE BEFORE THE COMMITTEE ON FOREIGN AFFAIRS, SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS, HOUSE OF REPRESENTATIVES ON HUMANITARIAN ASSISTANCE TO THE NICARAGUAN DEMOCRATIC RESISTANCE

Mr. Chairman, Members of the Subcommittee:

I am pleased to be here to discuss GAO's continuing review of the $27 million in humanitarian assistance authorized for the Nicaraguan democratic resistance.

Our previous testimonies before this subcommittee focused on our concerns about the controls exercised over this program by the State Department's Nicaraguan Humanitarian Assistance Office (NHAO). Overall, we have concluded that the State Department does not have sufficient procedures and controls to ensure that program funds are being used for purposes intended by law.

NHAO does not have the ability to observe delivery and use of procured items to ensure that the items are not being diverted, bartered, or otherwise exchanged. Moreover, for items brought in the region, NHAO does not have the ability to validate invoice and receipt documents. We are generally satisfied with controls over payments to U.S. suppliers. However, NHAO does not have procedures to assure that all funds made available based on invoices and receipts from suppliers in the region are actually used to pay these suppliers.

Today I would like to concentrate on our most recent efforts to track expenditures for purchases made in the region—i.e. the results of our examination of bank records subpoenaed several weeks ago at the request of this subcommittee. But first I will briefly describe how State has been paying for the non-U.S. purchases.

NHAO obtains invoices and receipts as documentation of purchases made in the region. These documents are obtained by NHAO through the United Nicaraguan Opposition (UNO) in Miami. Before it authorizes payment, NHAO reviews them to ensure that the items are allowable under the program. However, because NHAO does not have a presence in the region, it is not able to verify the validity of the documents—that is that they are legitimate records of transactions, and that items indicated are being delivered to the resistance forces.

After NHAO approves the invoices and receipts, it issues a payment voucher, and the U.S. Treasury then transfers the funds. Because of the sensitivities of governments in the region to this program, State adopted a policy of not making payments directly to suppliers in the region. Instead the Treasury sends the funds to designated U.S. bank accounts mostly in Miami.

There are two types of accounts: (1) accounts owned by suppliers and (2) accounts owned by brokers authorized by suppliers in the region to act as their agents to receive payments. The brokers are, in turn, expected to pay these suppliers for the goods and services shown on the invoices and receipts provided NHAO. According to NHAO, some suppliers selected brokers to receive their payments because the suppliers did not maintain their own U.S. bank accounts.

As of May 10, 1986, Treasury paid a total of $14.1 million to these accounts, including $7.8 million paid into six accounts owned by suppliers, and $5.7 million into six accounts owned by brokers acting as agents for about 50 suppliers. In addition, two accounts owned by United Nicaraguan Opposition (UNO) organizations received payments of $583,000 for administrative, medical and other expenses; some of which were incurred in the region.

NHAO does not have specific information on the disbursement of funds deposited in these accounts. Its position is that the Treasury payments were made into the accounts for goods and services as shown in the invoices and receipts it obtained, and that it has no authority to trace the funds further.

On May 8, 1986, at this subcommittee's request, the House Committee on Foreign Affairs approved issuance of subpoenas on 14 U.S. bank accounts which had received funds under the humanitarian assistance program—the six accounts owned by suppliers, the six accounts owned by brokers, and the two accounts owned by UNO organizations.

At the subcommittee's request, we are examining the account records. As of June 9, 1986, we had reviewed the records of 8 accounts covering $12.2 million of the $14.1 million, which Treasury had deposited as of May 10 in those accounts. Our examinations have raised a number of questions.

For example, under a broker arrangement, one would expect to find disbursements from the account to the region in amounts roughly equal to Treasury deposits—either payments to specific suppliers or block payments to the region for further distribution there. However, we did not find this pattern with regard to most of the funds in the four accounts we analyzed. As of May 10, 1986, the Treasury paid about $4.4 million into these four broker accounts. However, we can trace only $785,674 as being paid into Central America by these brokers and only $185,434 of this amount being paid to identified suppliers. Instead, most funds in these broker accounts were disbursed in the United States or offshore banks. A significant portion of one broker account was not paid out and remained in the account.

At this point, I would like to describe in some detail the activity in several of the accounts we examined and to raise some concerns that we have based on our review.

BROKER A

Treasury paid one broker account about $654,000 based on invoices and receipts received from three suppliers in the region. Prior to these payments, the account had a $4,400 balance; no other funds have been deposited in this account since Treasury started making payments. Thus, virtually all the funds in this account are traceable to U.S. Treasury payments.

The bulk of these funds have not been sent to the specific suppliers, or into the region. As of the subpoena date, over $422,000 remained in the account, drawing interest. Partial payments were made to two of the three suppliers; the third supplier received no payments. In total, only $185,000 of the $654,000 deposited by Treasury was transferred to suppliers in the region. This account raises key questions: Why are humanitarian funds remaining in brokers' accounts? Why are partial or no payments being made to identified suppliers in the region?

BROKER B

Another broker account has received about $3.3 million from the Treasury since October 1985. At the time of the first Treasury deposit, the account had a balance of $68,700 and from October through May 1986 received deposits from other sources, totaling $659,581. Thus Treasury deposits comprise over 80 percent of the account's funds.

The Treasury payments to this account were based on invoices and receipts from 22 different companies or individuals. We could match none of the disbursements from this account to these companies or individuals. The records indicate that only about $150,000 was paid from this account to accounts in Central America. The other disbursements from the account, totaling $3.8 million, consist of payments to companies and individuals in the United States ($3.4 million) and to offshore accounts in the Cayman Islands and the Bahamas ($380,000).

Essentially, funds in this account are flowing from bank account to bank account, in the United States and offshore, and to individuals and companies which do not appear to be suppliers in the region. Since broker accounts were supposedly set up to assist in getting payments to these suppliers, this account raises questions about why so few payments are being sent into the region.

BROKER C

On November 4, 1985, a third broker account received a Treasury payment of $243,750 based on invoices and receipts from a commercial supplier for uniforms. At the time of this deposit the account had a prior balance of about $49,000. On November 6, 1985, the broker issued checks to the armed forces of a country in the region in the amount of $113,750 and $130,000 totaling $243,750—the exact amount of the payment by Treasury. The account records show only two payment to the supplier represented by the broker totaling about $52,000. These payments were in July, 1985—before the assistance program began. We question the basis for these payments to the armed forces.

SUPPLIER A

Turning now to a supplier account—that is, a company in the region which maintains an account in the United States and, thus, receives payments directly from the U.S. Treasury. This supplier has received payments from Treasury of about $6.6 million from November 1985 through May 10, 1986. These payments were based on company invoices and receipts furnished to NHAO. The only other deposit to the account during this period was for $32,000. Thus, virtually all payments made from this account were funds provided the company by the Treasury.

Treasury made its first payment to the company of $896,122 on November 16, 1985, and on November 18, 1985 a payment of $742,939 was made from this account to the armed forces of the country of the supplier. Again on January 8, 1986, a Treasury deposit of $411,974 was followed by a payment on January 10, 1986 of $450,000 to the Commander-in-Chief of that country's armed forces. Without Treasury's payments, there would not have been sufficient funds in the account at the times of these transactions to cover the amounts of the payments.

The invoices and receipts on which the Treasury payments to the account were based show they were for food and other consumables. A question is thus raised as to the basis for these payments to the armed forces.

In summary, the examination of the bank records has for the most part only raised more questions. Moreover, there is enough evidence to be concerned that humanitarian assistance may not be reaching the intended beneficiaries. Without adequate controls—and by that I mean mechanisms to validate invoices and receipts, trace payments to suppliers, and verify deliveries and use—that concern will remain.

BREAKOUT BY BROKER SHOWING AMOUNTS PAID IN THE REGION (AS OF MAY 10, 1986)

	Total Treasury deposits	Total payments in the region
Brokers: [1]		
A	$654,416	[2] $185,434
B	3,331,478	150,190
C	243,750	243,750
D	206,150	206,300
Total	4,435,794	785,674

[1] Includes only those broker accounts analyzed by GAO.
[2] The $185,434 is also identifiable as being paid directly to suppliers who submitted invoices.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, we will get around to the accounting when the Barnes amendment comes up. Suffice it to say that the investigation would have been better run by Inspector Clouseau. It was a hoax. They have not permitted the State Department and the GAO to sit down and talk together and exchange information and answer questions even today. So it is a fraud, it is a witch hunt, and we will get to that.

Mr. BARNES. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I will yield if the gentleman will get me the time from the gentleman from Wisconsin [Mr. OBEY] or somebody. Will the gentleman get me some time?

Mr. BARNES. I will be happy to try to get the gentleman some time so I can respond to the gentleman's outrageous statement.

We have been willing to provide the State Department everything we have.

The CHAIRMAN. Does the gentleman yield?

Mr. HYDE. No.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] has the time.

Mr. HYDE. I have heard Members of the Democratic leadership say that if a Soviet base is ever started in Nicaragua and gets underway, we will take care of that. We will send our troops down there. One of their leaders said, "If it's war they want, they'll get war."

Well I hope they never, never have to eat those words, but I want to recall to the Members, if time permits, what the President said yesterday, because I am sure that many of the Members did not get to hear it.

Here is what he said:

> Think again how Cuba became a Soviet air and naval base. You will see what Nicaragua will look like if we continue to do nothing. Cuba became a Soviet base gradually over many years. There was no single dramatic event * * * that captured the Nation's attention. And so it will be with Nicaragua.
>
> The Sandinistas will widen and deepen another port while we debate: is it for commercial vessels or Soviet submarines? The Sandinistas will complete another airstrip while we argue: is it for 707's or Backfire bombers? A Soviet training brigade will come to Nicaragua. Half will leave and half will stay. And we will debate: are they soldiers or engineers?
>
> Eventually, we Americans will have to stop arguing among ourselves. We will have to confront the reality of a Soviet military beachhead inside our defense perimeters—about 500 miles from Mexico. A future President * * * will then face nothing but bad choices, followed by worse choices.

Mr. HEFNER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I think that one thing we probably all agree on is that we are tired of this issue and tired of the rhetoric, and very frankly as tired and confused as the American people. I hope that at least by the end of this day we have resolved this issue one way or the other, but somehow I doubt it.

□ 1845

I think the worst position of all is for the United States to have a confused policy with regard to Central America. I guess that is the one question I have to keep asking. What is our policy in Central America with regard to the Contras? Is it to overthrow the Sandinistas? Is it to put pressure on them? Is it to interdict arms?

I have heard all those arguments and the fact is that it is not clear.

What exactly is our policy with regard to Central America? It is not clear.

So in the absence of a policy, then I am left with a very simple test in weighing these measures and the test is this: Is the money that we are spending at the present time working? Is it doing anything? Is it accomplishing anything?

We spent almost in excess of $100 million, if not more. What are we getting? Have the Sandinistas been weakened? No.

Have they been overthrown? No.

Have the Contras interdicted arms? No.

Are the Contras an effective fighting force? No.

Have they gained the support of any other Central American or Latin American country in terms of their policy? No.

Not only have these goals not been achieved, but in addition to that, we find out that $14 million has been diverted away from humanitarian assistance and is used for a number of other goals that do not relate to the purposes for which they were designed.

Now, based on that record of failure, we are being asked to provide another $100 million and $300 million in addition to that.

There is no other program that deserves to be funded based on that kind of record and this program does not deserve to be funded on its kind of record.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Chairman, I urge my colleagues to carefully consider the merits of the Skelton-Edwards amendment and to compare it with other amendments that are being introduced today. In doing so, I believe that you will be favorably impressed with the arguments you have already heard and will hear today, arguments which I hope will lead you to vote for the bipartisan amendment.

Mr. Chairman, as mentioned earlier, on March 20 of this year I worked to defeat the Contra legislation which would have provided $100 million in aid.

This was an extremely difficult vote for me, but I am convinced now that it was correct. It has caused those of us who support Contra aid to take a long look at that organization, and what can be done to improve it.

I personally have devoted many hours to becoming more knowledgeable on this issue.

Recently, I traveled to Miami, FL, where I met with the Contra leaders, Mr. Calero, Mr. Cruz, and Mr. Robelo, and visited with them for 2½ hours.

I came away from that meeting impressed with the UNO leadership and the mechanisms they have put in place to make sure that the civilians are in control of the military. I firmly believe that they are well on the way to becoming a government in exile. They are presently, an organization-in-exile.

I then went into the jungles of Honduras and actually visited the Contra troops and their families. I came away absolutely convinced that we must give them military and humanitarian aid now. That is one reason the House should accept our bipartisan amendment and reject the McCurdy approach.

I visited their hospital areas and talked at length with their doctors, their military commandos, their troops, their wounded, and the families of the thousands who have followed their husbands into exile.

These young patriots and their families have fled from their homes in Nicaragua, and elected to live in plastic covered leantos, huts, and tents in some of the most rugged jungles and mountains that I have ever seen.

The fact that these young men and women were here impressed me, but the fact that many of their wives and children, their mothers and fathers were with them—living in these primitive conditions—impressed me even more.

I am convinced that Americans in the majority do not understand the very serious and dangerous situation which is going on in Central America.

But I believe that even the most naive individual would be convinced that something is wrong when 250,000 Nicaraguans turn up in refugee camps in Costa Rica, 150,000 in Honduras, and more than 20,000 are willing to fight to their deaths to send a message to Daniel Ortega that they want a political change in their homeland.

Why are the Contras willing to pay such a price? Because the Sandinistas have a cruel and cold-blooded plan for establishing their power base in Nicaragua.

As the Sandinistas have consolidated their power, the middle class of citizens simply dissolved and political figures fled into exile. They are ignoring the middle aged and the elderly, and pouring much of their resources into brainwashing the young. Health care has all but vanished. Somoza had only 1 prison—the Sandinistas have 11. All this for a country which has a population no bigger than Atlanta, GA, or the Speaker's hometown, Boston, MA.

There is not much time—the Sandinistas have been in power for 7 years—the Marxist influence is in the schools, including the parochial schools. The block captains are in place, the secret and security police are brutally doing their enforcement job—more than 36 members of the political parties who worked for free elections in 1985 have disappeared or are in prison.

Children who were 7 or 8 years old when the Sandinistas took power are now 15 and and probably already under the influence of the Marxist philosophy.

The resistance movement is running out of food in the jungle while we debate and talk about second votes.

The Sandinistas are cruelly crushing all dissent in their country while they

brainwash these children and young people.

Mr. Chairman, today is the day when we will decide whether we are willing to pay the price to keep this hemisphere free. The young men and women I met in the jungle are willing. Today, we must stand with them.

The hour of decision is now—not October 15, not next February 1 or some time in the future—we must stand up and be counted.

I urge your support for our amendment.

Mr. HEFNER. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. Mr. Chairman, we have before us, in the Edwards-Skelton amendment, essentially the same proposal for $100 million in aid—most of it direct military aid—to the Contras, that we dealt with, and defeated, last March.

Today, we have more reasons than ever to vote against it. The American people recognize this. Today's ABC News poll shows that Americans oppose giving additional military or other assistance to the Contras by an overwhelming 2-to-1 margin.

The Contra program has been rotten from the start—out of control, ineffective, a waste of tax dollars and a shame on our Nation's proud heritage.

Just last week, as he laid down his arms, refusing to fight with the Contras, Eden Pastora warned us, "the Contras have no chance of military or political victory * * * their military and political tactics are Somocista * * * their commanders are Somocistas."

Now, more than ever before, this House should stand firm and oppose all aid to the Contras in face of growing evidence of Contra corruption—drug smuggling, gun running, and the diversion of funds.

The GAO has found that millions of dollars intended for so-called humanitarian aid to the Contras has ended up unaccounted for in banks in Miami, the Bahamas, and the Cayman Islands. Some has ended up in the personal bank account of the commander-in-chief of the Honduran Armed Forces. Millions more has been diverted to individuals and companies in the United States who have had nothing to do with supplying the Contras.

The problem of Contra corruption cannot be dismissed as a side issue, or as Sandinista propaganda. We have seen the checks, we have subpoenaed the bank accounts. There is no doubt—corruption is the lifeblood of the Contra program.

Is it any wonder that the Contras have not sparked a popular, democratic movement in Nicaragua? That they have not been an effective tool to pressure the Sandinistas?

You cannot fight for freedom with funds that are sitting in a Miami bank account. You cannot promote democracy, when you spend your time smuggling drugs and running guns!

The American people have a right to know how their tax dollars are being spent. I say to my colleagues who have supported the Contra aid program, you may think the American people will overlook the violations of international and domestic law in the Contra program. But you are wrong, the American people are outraged.

You may think that they will overlook the Contras' terrorist tactics, but you are wrong. The American people are outraged.

Now, when the American people find out how their tax dollars have been squandered, how they have subsidized Contra corruption, they will demand an end to Contra aid.

The story on Contra corruption is just beginning to unfold—and it's a horror story. When it's over, the American people will want to know—did you vote with the overwhelming majority of the American people, or did you vote to send $100 million more to drug dealers, gun-runners, and embezzlers!

That is the issue before us today. I urge my colleagues to vote "no" on the Edwards-Skelton amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is not an easy vote for me, because I voted against aid to the Contras just 90 days ago, but I do not regard this as just another vote to aid the Contras.

This amendment provides aid to our allies, Costa Rica, El Salvador, Guatemala, and Honduras as well. These countries want and need our aid. In the 90 days since the last vote, the Sandinistas have declined every opportunity for a peaceful outcome of the problems of Central America. They have driven 10,000 Miskito Indians from their country.

Right after the last vote the Sandinistas invaded Honduras and Ortego walked out of the Contadora process.

I voted no because I could not get good answers on what had happened to the money we had already sent. There were reports of generals lining their pockets, bank accounts in the Cayman Islands and drug peddling. I am now persuaded that a lot of that talk was unfounded.

The amendment before us has very strict accountability provisions, more comprehensive than anything before established. I believe the amendment supports the peace negotiating process, supports the four democracies in Central America, supports the democratic resistance movements in Nicaragua and now we know for sure where the money will go.

I think the whole process of negotiating since the last vote on March 20 on what the President wants and what he is willing to accept has been helpful in understanding our problem in Central America and now I will support the Edwards-Skelton amendment.

Mr. HEFNER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, we have not been exactly sitting idly by. The United States has been spending some money in this part of the world. I would like to point out to the Members that the cost of the United States presence in Honduras. Since 1983, we have conducted a series of joint military exercises in Honduras. These exercises, according to the Department's long-term construction plan for the Central American region are planned to continue through at least 1991 and according to a recent GAO study. The cost of the United States military presence in Honduras has been at least $195 million through fiscal year 1985. If we continue this presence, we will spend between now and 1991 some $342 million in this area. So we have not been sitting idly by.

Our people would be incensed if they knew there was a threat that humanitarian aid was being diverted to anybody's bank account. If these accusations are true, I think everybody would want to get to the bottom of it, and find out how this aid has been spent and it is going to be spent.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, here we are to debate yet again the issue of whether to fund the Nicaraguan Contras. We have been here before. We will be here again. I have opposed aid to the Contras in the past, and I oppose it now.

Mr. Chairman, this for some time has been a vital foreign policy issue to the Congress and to the country. The foreign policy issues have not changed over the course of the recent past with regard to this debate.

This has been an effort, a pursuit, a dogged pursuit by this administration to provide additional resources in support of a failed policy and in support of a fighting force which is ragtag at best, filled with incompetence, clearly incompetent and not able to do the job; but beyond the foreign policy issues and the military issues and the facts on the ground that have not changed in the recent past, what has changed?

The foreign policy issues have not. Even the Contras own field commanders have recently accused the FDN leadership of quackery in their conduct of the war against the Sandinistas.

The President said yesterday that there were 20 times as many Contras

as there were Sandinistas, when the Sandinistas took power, and yet the Contras cannot point to a single major victory even today.

But what has changed has been the issue of accountability, the issue of fiscal responsibility, the issue of what has occurred with the $27 million that has already been spent.

Mr. Chairman, I submit that if my distinguished colleagues on the other side of the aisle found that a poverty law office funded with public funds, a community redevelopment project or a program for the handicapped could not account for every single penny of its expenditures, these essential domestic programs would be cut to the bone.

□ 1900

We would be voting to cut off funds for programs for the handicapped, for programs for education, for programs for people who need them. But here, in a situation where we have demonstrated through an independent agency that over half of the dollars that have already been sent cannot be accounted for, here we wish to send an additional $100 million to support a failed policy.

Mr. Chairman, we are all aware of the arguments on both sides of this issue, so I will not reiterate them at this time. There is one area I do want to address, however, and that is the nature of the Contras themselves.

At the time the House last considered this issue, the FBI, the U.S. Customs Service, and the Miami attorney general were all investigating the Contras for illegal gunrunning and importing cocaine and other illegal drugs into this country to finance their military operations.

Now an investigation by the respected General Accounting Office has revealed the diversion and misuse of the $27 million in so-called humanitarian assistance for the Contras approved last year.

According to investigations by GAO and the press, the State Department is unable to verify how more than half of the $27 million has been used. Much of the money appears never to have reached the Contras, having been placed in bank accounts in Miami, the Bahamas, and the Cayman Island. The GAO concluded the funds were being sent from account to account, and that almost none of the funds went to legitimate suppliers in Central America.

In effect, millions of U.S. dollars appear to have been illegally diverted to uses other than Contra aid. Since February, GAO has reported three times to Congress that the administration has failed to set up the verification mechanisms required in law to monitor Contra aid.

According to GAO, at least $1.5 million has been been transferred from various accounts directly to officers of the Honduran Army, including a $450,000 check for the commander of the armed forces. Press reports state that Honduran military officers are using commercial outlets to siphon off funds meant for the Contras.

And what has been the administration's reaction to these findings? It has denounced GAO's report as "concocted" by congressional opponents of Contra aid and has denounced congressional inquiries as motivated by purely partisan politics. The administration has refused to permit GAO investigators to go to Central America to follow the money trail, has attempted to frustrate an investigation by the Western Hemisphere Subcommittee by denying information and by attempting to classify the information, has told GAO that there was no point in looking at bank documents from Miami banks with Contra accounts, and has blocked State Department officials from testifying about the GAO's report on bank documents subpoenaed by the Western Hemisphere Subcommittee.

Mr. Speaker, it is reprehensible that the administration would obstruct congressional attempts to carry out its responsibilities. If there is no misuse of funds, then what are they afraid of? The administration and the Contras must be held accountable for the dispensation of funds meant for the Contras. The administration has been arrogant and obstructionist toward congressional efforts to obtain the facts, and it is inconceivable that Congress provide even one more nickel without having a full account of where the money went.

In addition, Mr. Speaker, we have all heard about the ineptitude of the Contras—this rag-tag group that the administration claims to be some 20,000, but is probably far smaller in number.

The Contras have won no major victories. They control no territory. Gen. Paul F. Gorman, former commander in chief of the U.S. Southern Command, has testified that no matter how much aid we give the Contras, they cannot possible dislodge the Sandinista regime. Other military experts agree with this assessment.

So to whom are we giving this money? The President has claimed that our borders are being threatened. He has claimed that not giving aid to the Contras will result in a Red tide lapping at our shores. But what logic is it that would lead us to conclude that this rag-tag group would even remotely be able to stem this tide that the President and his administration so vividly imagine?

For all these reasons, I strongly oppose aid to the Contras. It is a gross and irresponsible misappropriation of taxpayers' money. It would far better serve our own national interests and the interests of our allies in this hemisphere if we used our scarce resources to help democracy to continue to blossom and flourish in the region.

Mr. Speaker, funding the Contras is so patently a bad idea. No good can come from it. It will accomplish nothing.

I urge my colleagues to vote against aid to the Contras.

Mr. EDWARDS of Oklahoma. Mr. Chairman, recognizing that there is no new money in this appropriation, I yield 3 minutes to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Edwards-Skelton amendment. As one Member who has been deeply concerned about our policies in this hemisphere, I have tried to study Central America and Nicaragua closely. I have voted against military aid to the Contras in the past because I did not feel we had any coherent policy with respect to the Central America republics. This amendment brings us closer to coming to terms with the region and its problems. For the first time, we are addressing the root cause of instability—poverty and a lack of economic opportunity. The aid to the Central American democracies is essential to the development of a policy. Without aid to these democratic governments, the Sandanistas will continue to cause uncertainty and instability in the region.

I have the highest respect for the author of the title to which this amendment is attached, my friend and colleague, the gentleman from Oklahoma [Mr. MCCURDY]. We traveled together to the five Central American countries 3 weeks ago. During that trip, we met with the Presidents of each country. After a series of conversations, I came away with the strong feeling that we need to continue to pressure the Sandinistas. I continue to hope for a negotiated settlement. So do Presidents Arias, Azcona, Cerezo, and Duarte. But I also believe that the Sandinistas intend to delay and to stall for time, playing on public opinion in this hemisphere and in Europe.

The question is not whether the Sandinistas will yield so long as we pressure them. The question is whether they will stop threatening to subvert the region. I am convinced that without military pressure, and it cannot be military pressure alone—it must be accompanied by diplomatic pressure from the democratic governments around Nicaragua. And that is why its important to help the four democratic governments in the region.

I have spoken recently to Mr. Ortega—what he says is simply at odds with the reality in Nicaragua. The miles and miles of slums and the long bread lines are not a consequence of

the U.S. embargo. They are the consequence of government policies which place revolutionary ideology and militarism above hunger, health, and education.

This amendment is not a final solution. But it accomplishes two things. It provides support to the four democratic countries in the region. without whose support no policy can be successful. Second, it underlines the simple fact that there will be no place in Central America until internal reform is forced upon the Sandinistas. I urge my colleagues to support this amendment.

Mr. HEFNER. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me first say that I spent part of last evening reading some of the evidence, including the GAO report, on what is happening to the money that was sent to Central America.

I know there are folks who want to dispute whether or not the GAO report is accurate or correct, but let me say that the GAO has testified before the Barnes subcommittee and indicated that the State Department itself blocked part of the audit trail that they were looking for to trace what has happened to these funds.

Let me also suggest, for purposes of this discussion, that those who take the microphone when they get their time, answer this:

Here is a report from an office down at the State Department that spent the money, and they said that they spent $16,764 at the Farmacia Upala, a small drugstore in Costa Rica. This is a drugstore, incidentally, that does not sell food. Of that $16,764, $15,907 went for food. This is a one-room drugstore. So the person who owns the drugstore was interviewed. Let me describe what she said. The owner of the one-room drugstore said:

Well, if I had written receipts for millions of colons—

Which is the Costa Rican currency—

I would not be here. Several Contras stopped in over a period of several months and bought some Rolaids and some cold medicine, but they paid cash and they bought very small amounts.

Mr. HYDE. Does the gentleman want an answer?

Mr. DORGAN of North Dakota. I would be happy to have the gentleman get some time and answer. I hope he does answer it.

I ask you: What happened to this money? What happened to the money when they spent $15,000 for clothing in a store that does not sell clothing. That does not make any sense to me, and there are dozens of examples like it.

My point is, and the point of the gentleman from Maryland [Mr. BARNES] and others, is that a great deal of the taxpayers' money is being wasted. The GAO has documented that waste, and you folks who act like Sherlock Holmes in tracking down an extra $3 of alleged waste for some senior citizen in this country, and now when confronted with waste of money sent to the Contra soldiers you act like Mr. Magoo. You see nothing, you hear nothing, you seem to have no interest in tracking down that wasted money.

I think you ought to be concerned about what you are going to do with $300 million you now want to throw at a problem in Central America. You are all too eager to waste the taxpayers money.

Now let me add some more general conclusions about this serious policy question.

Mr. Chairman, I oppose military aid to the counterrevolutionary guerrilla fighters—Contras—seeking to overthrow the Sandinista government of Nicaragua. I do not reach this conclusion lightly or without regard to some very troubling developments in Central America.

CRAFTING THE RIGHT POLICY

The President is absolutely right about one thing. We can't allow Sandinista-run Nicaragua to become the military sanctuary for Soviet fighters, bombers, missiles, or warships. Such a development would pose a grave threat to American security and we would have to prevent such a threat with all the military might at our disposal.

Let me be the first to say I would support a Presidential action to eliminate or remove such hostile forces from Nicaragua.

But we do not now face such a threat. We do face a hostile neighbor which has a dismal record on human rights, freedom of press, religion, and minorities; which may be foolish enough to cozy up to the Soviets and thereby cut itself off from its democratic neighbors.

Accordingly, I endorse economic sanctions against Nicaragua—as I do against South Africa and other human rights violators—to pressure the Sandinistas to bargain in good faith for a regional peace settlement. I support vigorous diplomatic pressure on the Sandinistas, especially in concert with the Contadora nations as part of a concerted effort to bring peace in the region.

Let me also say that the United States can play a major role in whether or not such sanctions and pressure bring results. To the extent that we do things like mine the harbors of Nicaragua, shun the authority of the International Court of Justice, and bargain with a closed mind, we disserve our cause. By contrast, a forceful, multilateral, and constructive approach can produce tangible gains in our foreign policy. I would urge the administration to pursue that high road to determine whether regional peace can be achieved without further bloodshed and civil war.

So there is no disagreement about the goal of policy toward Nicaragua. It is to prevent Soviet and Cuban military expansion, to advance the cause of freedom and human rights in Nicaragua, and to promote a peace in the region.

THE CONTRA-DICTION

Because the Sandinistas seem to edge toward a Soviet influence in our hemisphere, I can even see a potential role for military pressure against them. Such pressure would be like the Afghan resistance fighters who seem to be true champions of freedom and true soldiers of the people.

Unfortunately, such cannot be said of the Contra forces. On too many occasions they have misused American military aid as the means for terrorizing their own people. America's Watch and Amnesty International have carefully documented that the Contra human rights record is as bad or worse as the Sandinistas—a record littered with proven cases of rape, murder, and torture.

For the United States to arm those Contras in the name of freedom is certainly the ultimate foreign policy contradiction.

Nor do the Contras command popular support. They have yet to win and hold a single town for any length of time. Most Contra forces still operate outside the borders of Nicaragua, using the sanctuaries of camps in Honduras and Costa Rica for hit-and-run raids into Nicaragua. Not surprisingly, many Nicaraguans reject loyalty to the Contras, since their high command is rife with the hated followers of ex-dictator Somoza.

Equally disturbing is that the United States has provided some $150 million in Contra aid in the past 5 years with such meager results. For some time, the Reagan administration has argued that it needs $1 per day to field a Contra soldier. Assuming the generous administration estimate of 20,000 Contras, we should be able to support this fighting force for about $7 million a year. This is only one-fourth of the overt aid provided by the American taxpayer last year—let alone the private and secret aid which our Government has sanctioned or permitted.

So if the Contras truly are freedom fighters and if we have provided more than enough aid, where's the beef? It would seem that we are throwing good money after bad. And here is where the President is dead wrong.

WHERE DID THE CONTRA AID GO?

As a matter of fact, the administration now seeks a 400-percent increase in Contra aid at a time of tight budgets, ineffective Contra action, and alarming questions about what happened to the $27 million appropriated for the Contras last year.

I understand that funding a guerrilla war is not like approving the local school board budget. Providing cover for people threatened by violent opponents is understood.

Nevertheless, the General Accounting Office has painted a picture of lax accountability, disappearing money, profit skimming, and questionable diversions when it comes to this year's $27 million in Contra aid. In fact, the GAO could account for less than half of this supposedly critical aid.

For example, GAO found that $1.5 million was paid to officers of the Honduran Armed Forces, including a single payment to the commanding general. Of another $4.4 million deposited into four brokers' accounts in Miami, only $0.8 million was spent in Central

America, and of that sum, only $185,000 went to identified suppliers of aid to the Contras. The remainder drifted into American and Caribbean bank accounts. Such evidence suggested to GAO that accounts had been set up only to receive Contra aid payments, not to reimburse legitimate suppliers.

Among the most ridiculous stories on this trail of untabbed money is a small, neighborhood grocery store in the Honduran capital of Tegulcigalpa. The Super Medcado Herman Pedro has been paid some $3.8 million since last fall by the State Department for nonlethal supplies. Press reports indicate that this store was set up as a front for Contra aid by the Honduran military in order to skim off huge profits. These reports note that the store adds a 20 percent carrying charge to its Contra bills. One Miami Herald report charges that a $400,000 payment for uniforms never materialized as delivered goods for the Contras.

Similarly, press reports indicate that brokers and suppliers in the Contra aid chain make profits of up to 50 percent by trading dollars on the local currency black markets. It would seem that some of the Contras purported best friends are its worst enemies.

As a result of such scams, the GAO concluded that:

The State Department does not have sufficient procedures and controls to ensure that program funds are being used for purposes intended by law.

It went on to say, in recent testimomy, that funds in the Contra accounts were:

Following from bank account to bank account, in the United States and offshore, and to individuals and companies which do not appear to be suppliers in the region.

A New York Times article by William Buzenberg properly asks why President Reagan is not concerned about finding out the answer and I will include his searching analysis at the end of my remarks.

In response, the State Department has stonewalled the issue and refused to answer questions about this flaming paper trail. So the unanswered $64,000 question remains, "what happened to the $27 million in Contra aid?"

On top of this, the administration wants to funnel another $300 million in economic aid to four neighbors of Nicaragua in Central America. More than likely, Costa Rica, Honduras, Guatemala, and El Salvador need aid—if it is the right kind. But the administration backed amendment doesn't specify what kind of economic aid it is or which country gets how much? Is this simply the cover for more security aid, or the means of tackling the poverty, hunger, and ill-health which riddle the region? We have no answers to these questions, because the proposals sprang from a last-ditch lobbying effort, not the careful oversight of congressional hearings?

INSURING WISE INVESTMENTS

Since 1980, the United States has sent $5 billion in aid to Central America, including $1 billion in military aid. But money alone obviously is not solving all of Central America's problems. Without greater stability in the region, it will remain an economic basket case. Before we pump millions more into the region, it seems to me that we need to make sure that these are wise investments in food, education, health, and enterprise.

Finally, we need a frame for the aid canvas. What is the policy which governs aid? Unless we use military aid as a last resort instead of as a first resort, we will repeat the "gringo" mistake which has made all of Latin America suspicious and skeptical of U.S. motives. As sorry a crew as the Sandinistas are, we should exhaust every possibility for a regional peace settlement through the Contadora peace process, which enjoys the total support of all nations in the area. Only if that fails should be turn to arming genuine defenders of freedom, not fighters of freedom on whom the administration would mistakenly lavish the treasure of the American taxpayer.

[From the New York Times, June 19, 1986]

WHO GOT $27 MILLION INTENDED FOR CONTRAS?

(By William Buzenberg)

WASHINGTON.—Before Congress votes for more assistance to anti-Sandinista rebel forces, the Reagan Administration needs to provide answers to a number of serious questions being raised about what happened to the $27 million in tax dollars appropriated by Congress for that purpose last year.

At the request of a House Foreign Affairs Subcommittee, the nonpartisan General Accounting Office subpoenaed Miami bank records to follow the paper trail of that $27 million. The money, in the form of Treasury checks, was deposited into accounts of the rebels' suppliers and brokers in Miami. The G.A.O. contends that most of that money never went to Central America.

Under the State Department-administered payment plan, the money was intended to cover receipts and invoices for the rebels' food, medicine, clothing or other nonlethal assistance. Instead, the General Accounting Office found that only a fraction of the money went to the region to cover those receipts, and that most of it went to private rebel bank accounts in the Cayman Islands or the Bahamas, to private individuals or corporations in the United States and to the Honduran armed forces.

By law, the funds were supposed to be used for so-called humanitarian purposes. But because much of the money appears to have been siphoned off to other accounts not related to the receipts approved by the State Department, the G.A.O. believes it could have been used illegally for weapons or to line the pockets of rebel leaders.

The General Accounting Office and some members of Congress would like to know, for example, why the commander in chief of the Honduran military received a check for cash from one account for $450,000, and why a total of $1.5 million went to the Honduran armed forces. Was that for weapons, or for some other special arrangement between the rebels and Honduras?

The Administration's response to these disclosures has been troubling. First, it opposed the G.A.O.'s effort to subpoena Miami bank accounts, then tried to keep the information confidential. Now that the information is public, the Administration has yet to respond, insisting instead that it does not really matter where the money went after Miami as long as the goods were getting to the rebels. But some rebels groups have complained they aren't getting all of their supplies, and they themselves have blamed corrupt leaders.

Perhaps the best way to find out what has happened to the money is to follow this paper trail of the Miami accounts and compare that with the delivery of actual goods in Central America. That's what the G.A.O. wanted to do, but the State Department blocked it from pursuing leads in the region.

Various news organizations that have tried to follow this trail have made inquiries at small, storefront pharmacies and groceries that supposedly had done thousands of dollars worth of business with the rebels. Yet the store owners say they've never made out receipts for that much merchandise for the simple reason that their stores have never contained that much. Some former rebels even admit they collected blank receipts and falsely billed the State Department for payment.

This seems to be a common system used to enrich rebel leaders, but apparently it doesn't bother the Administration. When officials have been asked about these potential illegalities, they say Congress is to blame because it stipulated that the money could not go through the Central Intelligence Agency. The Administration seems to be saying that if only the funds were hidden, no one would know if money was missing or went to buy guns or bribe the Honduran armed forces—as if everything would be all right if no one knew what was happening.

It is a serious matter when the Administration ignores apparent violations of law in order to continue to carry out a policy of assistance to anti-Sandinista rebels. It is equally foolish to contend, as the Administration does, that those who want to know where the money has gone are merely playing politics. If the Administration now wants a fresh infusion of funds, it has an obligation to join Congress in trying to find the answers. In Watergate, the biggest crime was the cover-up of a smaller crime; in "contragate," the word "cover-up" is just now beginning to surface.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4½ minutes to the gentleman from Louisiana [Mr. ROEMER.]

Mr. ROEMER. I thank the gentleman for yielding this time to me.

Mr. Chairman, there is a lot right with the McCurdy provisions, and the credit for that should accrue to that gentleman and his team. I like the regional approach. I like the emphasis on economic assistance for Central American democracies.

What I do not like about the McCurdy provisions is the fact that while McCurdy claims a solid regional policy of both external economic aid to the region and internal pressure on the Sandinistas, the internal military pressure is only a promise, not a commitment. In fact, there is no military assistance in McCurdy until we have a second vote in October. McCurdy talks up, but it does not put up.

If McCurdy passes, my colleagues know what will happen. The Sandinista propaganda pundits will begin a so-called peace initiative in September and the regional politicians will publicly proclaim a need for 90 more days. Meanwhile, the freedom fighters will continue to fight a war without bullets. Not only will they lose, but freedom in Nicaragua will be dead and the

regional democracies will be threatened.

We cannot let that happen. As Senator BILL BRADLEY says, "We must give democracy in the area a chance to grow." McCurdy has helped a great deal by requiring the administration to focus on a regional policy. The administration has responded, and DAVE MCCURDY gets a lot of the credit for that from me.

The fact remains, however, that McCurdy delays military assistance, requiring yet another 90 days and a second vote before any bullets are provided, a second vote, by the way, just 5 weeks before your next election, and that is the difference here.

Both McCurdy and Skelton espouse the exact same philosophy, a regional policy with internal and external pressure on the brutal Sandinista dictators, but McCurdy then proceeds to delay military aid for at least 90 days and another vote. What kind of commitment is that? Where is the strong message for freedom in that? McCurdy makes the case for military aid; then refuses to deliver. McCurdy makes the case for a regional policy of bullets and butter, and then eliminates the bullets.

The bipartisan approach, Skelton-Edwards, holds the McCurdy good points, and there are many, but goes him one better, a commitment now, a commitment to freedom in Central America now. Remember, this region is absolutely vital to long-term American interests. As the world grows smaller and in some real sense more dangerous, we must extend a cooperative, helping hand to our neighbors to the South. To allow another Cuba a foothold in Central America shows an incredibly dangerous lack of resolve on America's part.

The Sandinista dictatorship in Nicaragua is just that kind of dangerous government. Surrounded by democracies, it preaches revolution in the region. It practices repression within its own borders. It allows its country slowly but surely to become a staging area for Soviet military and diplomatic mischief.

We cannot play the ostrich. America in this region must be the eagle, freedom's eagle.

Are the Contras perfect, many ask? Of course not. But Skelton-Edwards holds them accountable on the issues of human rights, funding, drugs, and organizational disunity. No, they are not perfect, but neither are we.

□ 1910

The only time I hear the word freedom associated with Nicaragua is with the Contras, the freedom fighters.

Skelton-Edwards does not commit American troops in this fight. In fact, it prohibits their use because there are Nicaraguans anxious to fight for freedom in Nicaragua. They just need our help, not our blood. Make the commitment now. It would prevent a much more difficult and dangerous commitment somewhere down the not-too-distant dusty road.

In our Nation, a great nation, a free nation, we have learned the painful lesson that freedom does not come free.

We fight for freedom at the ballot box, in the halls of the legislatures, and, occasionally, on the battlefield.

There is a fight for freedom going on in Central America. We are being asked to play a special, difficult, risky role. It is not a role that we want, but it is one that we ignore at our own peril.

Vote for Skelton-Edwards. It is a good plan. It can work, beginning now.

Vote for Skelton-Edwards.

Is it a tough vote? The toughest.

Is it a big vote? The biggest.

Is it the right vote? I believe it with all my heart.

Mr. HEFNER. Mr. Chairman, how much time do we have remaining on this side?

The CHAIRMAN. The gentleman from North Carolina [Mr. HEFNER] has 15 minutes remaining and the gentleman from Oklahoma [Mr. EDWARDS] has 9½ minutes remaining.

Mr. HEFNER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I rise in opposition to the aid to the Contras and in favor of the amendment offered by the gentleman from Indiana [Mr. HAMILTON].

Mr. Chairman, this is the third time in the session this House has taken up the issue of Contra aid. Twice previously, the House has rejected the administration's request for aid in favor of a more sound policy toward the region. In the past, we have argued the merits of military aid versus negotiations. We have argued the need for long-term benefits in lieu of the short-term satisfaction which may be brought to some by military assistance to the Contras. We have discussed those issues, and I do not believe any Member had changed on this issue.

But Mr. Chairman, other factors have come to light which have further muddied our policy goals toward the region. First, the General Accounting Office report to the Congress on the mismanagement of funds provided last year. Last year, the Congress agreed to the President's request for $27 million in nonlethal aid. Now we are told that the money cannot be accounted for by the Department of State. What we have been told is $1.5 million went to the Honduran high command, and many millions are stowed away in Caribbean banks.

My constituents are consistently wary of foreign aid. They understand the needs for such aid, but when they see abuse, they cry foul. When they read about Imelda Marcos and her thousands of pairs of shoes, they see red, not the red the President sees in Central America. When they see the tinhorn dictator of Haiti drain the central bank and flee to a swank French resort to a life of luxurious exile, they get mad.

Mr. Chairman, whether you call it military assistance, human assistance, or aid to freedom fighters, you can't hide the fact that it's foreign aid. In Pecos, TX, it's foreign aid, in El Paso, it's foreign aid, and in Sierra Blanca, it's foreign aid. And my constituents along the great lands of west Texas ask me why? Why do we continue to say "no" to the farmers, "no" to the school children, and "no" to the war on drugs—the real threat to our society, and at the same time we are able to find $100 million to throw down a hole. We have spent $927 million up to this date. And, when I go back and tell them that our State Department cannot tell us whether those funds were ever spent for assistance to the Contras, Mr. Chairman, they see red, not in Central America, but in Washington, DC.

Mr. Chairman, another issue which has come to light is the involvement of the Contra forces in narcotics smuggling. Every Member is aware of this activity and it has been acknowledged by many members of the administration. I find it an outrage that we would even consider a request for more funds for a group infiltrated with dope smugglers, while at the same time, the administration would ask us to consider cutting the customs service by 1,547 positions. The parents in El Paso, Van Horn, Valentine, TX, see no merit in our foreign aid, their tax dollars, going to finance the drug smuggling activities of anyone. They would rather see their money spent stopping those drugs.

Finally, Mr. Chairman, as many Members are aware, yesterday I introduced a resolution of inquiry to determine whether or not the White House and the National Security Council may have deliberately violated Federal law with secret assistance to the Contras during last year's ban on directly or indirectly aiding the Contras. Recent news reports have surfaced information that NSC staffer Lt. Col. Oliver North provided military direction to the Contras. To date, the administration has rejected inquiries into these allegations, yet Contra leaders and supporters have substantiated the charges. This charge, perhaps the worst of all, brings with it the premise that the administration deliberately violated the letter of the law.

Mr. Chairman, before you vote today on this issue consider these three new factors which have muddied the waters of our policy in Central America. Consider that we have no account-

ing of the last funds provided the Contras. Consider that elements within the Contras are involved in drug running. And, consider the possibility that the administration violated the law. These too, are important issues which effect our policy goals. These are issues which must be reviewed before another dollar of the taxpayer's money is spent in Nicaragua.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself 4½ minutes.

Mr. Chairman, what IKE SKELTON and I have placed before you, along with ROD CHANDLER and RICHARD RAY, is a bipartisan compromise designed to help preserve democracy in Central America, and, by so doing, to help preserve the security of the United States.

It is a compromise. It is the result of weeks of meetings in which Republicans and Democrats sat together for hours and hammered out differences in order to bring to this floor a proposal which not only will help further the twin goals of peace and democracy, but which we think the majority of this House will support. It is a package which we believe will help bring the Sandinistas to the bargaining table with the democracies of Central America.

And it is bipartisan. In the debate that you've just heard, you heard our case presented by as many Democrats as Republicans.

You've heard two themes emphasized, because they are the central focus of our case. Both the language in the bill and the Edwards-Skelton amendment provide improved accountability—our amendment, in fact, more so than the McCurdy language. Both provide for pressure to improve human rights. Both provide economic assistance to the Central American democracies. Both provide nonmilitary assistance to the freedom fighters in Nicaragua. Both provide for Presidential findings of a lack of progress in reconciliation and negotiations before heavy weapons can be provided to the Contras.

But there are two very important differences.

First, only our amendment provides any military assistance to the Contras. The McCurdy language does not provide one dime of military assistance, not one nickle of military assistance, not one penny of military assistance. It says: We'll think about it—maybe we'll decide to do something about it in the future.

And because only our amendment sets out a clear policy—a clear commitment to help the Contras militarily—only our amendment sends the message to the Contras, to the Sandinistas, and to the neighboring democracies in Central America, that it is the policy of the U.S. Government that we will give the Contras the help they need to bring the Sandinistas to the bargaining table.

Without this amendment, if we leave only the McCurdy language, we also send a clear message—a message that we have not really decided whether we'll give the Contras the help they need. The McCurdy language reaffirms to the world that we just don't know where we stand. And that, too, is a message that will be heard by the Contras, by the Sandinistas—and by the democracies in Central America.

Mr. Chairman, 10 years ago, Central America was a sea of oppression. From north to south, the people of Central America lived under dictatorships. A few people owned the land. A few people had the power. A few people had opportunity.

We are about to restore the flame of the Statue of Liberty. What the lady has said for so many years, and what she should still say today, is that we believe in freedom and democracy and opportunity for everybody. Not just if you're white. Not just if you live in North America. Not just if you speak English. But everybody.

And what we are being asked to say today in Central America is that everyone has a right to seek democracy and freedom. Hispanics, Indians, non-Yankees have a right to seek freedom and opportunity in their own countries. And they have a right to be protected against subversion from powerful forces in neighboring countries.

This is not a subtle question. We are not dealing with subtle allegations of hidden Communist sympathies among some lower level Sandinistas. We are talking about people who proclaim their communism, who are armed by the Russians and the Cubans, who travel to Moscow for Communist Party congresses and who try to overthrow the democracies which replaced those old dictatorships in the rest of Central America.

What we are being asked to do is to provide modest amounts of help so we can pressure that threatening government to sit down in good faith with Nicaragua's neighbors and agree to leave them alone to enjoy their freedoms and their new opportunities.

The French helped us. We helped the British in World War II. These people are not Europeans. But they, too, long for freedom, and it is in our power to help them achieve it. The McCurdy amendment does nothing—it gives neither the solace of a decision nor bullets for their guns—only the bipartisan Edwards-Skelton-Chandler-Ray-Huckaby-Stenholm-Lloyd-Robinson-Darden-Tallon-Bustamante-Roemer amendment can help. I urge you to support it.

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Mr. HEFNER. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in opposition to the McCurdy amendment.

Mr. SOLARZ. Mr. Chairman, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, once again, the House is called upon to vote for the President's request for $100 million in military assistance to the Contra rebels who are attempting to overthrow the Government of Nicaragua.

There is no constituency for this policy.

The American people, by a margin of 2 to 1, oppose the President's plan.

Our major European allies oppose military aid to the Contras.

And nearly every nation in Latin Americ believes that additional American arms will destabilize the newly flourishing democratic governments of the region and rekindle the flames of anti-Americanism.

In fact, the only real constituency for this military aid, other than the Reagan administration and its supporters in this body, are the Contras. And now, thanks to the General Accountin Office, we have a pretty good idea why they are so enthusiastic about the administration plan.

The GAO looked at the $27 million in nonmilitary aid which was provided to the Contras last year for food, medical supplies, clothing, and nonlethal equipment. Lo and behold, GAO has found that little of that money ever went to Central America.

Instead a substantial amount of that money ended up in private bank accounts in the Cayman Islands and the Bahamas. Some of the money went to private individuals and corporations in the United States. Substantial sums were used to make "purchases" from small, local stores—at levels which exceeded the inventory of those stores many times over. And hundreds of thousands of dollars went to the Honduran Armed Forces.

As William Buzenberg recently noted in the New York Times, there is another shocking aspect to this misuse of taxpayer money—the indifference of the administration to these abuses.

In fact, the administration fought to keep GAO from subpoenaing Miami bank records that document the bizarre paper trail of this scandal.

These allegations come from those who know the Contras best—former Contra commanders who allege that the money does not find its way to the Contra troops. According to these former leaders of the FDN, Contra troops have been denied adequate supplies while their leaders live "a high life."

And these are not the only serious charges leveled by one-time Contra supporters.

Eden Pastora, known as Commander Zero, has denounced his former allies by linking them to the hated ex-dictator Somosa.

"Their commanders are Somocista," Pastora charged. Their military and political tactics are Somocista. They employ 'criminal strategies.'"

In support of the Contras, supporters of the President's request are using a form of "Newspeak" to deceive the American people. They refer to the Contras as "freedom fighters," when their tactics are those of terrorists—murder, assault, and kidnapping.

The President has gone so far as to compare the Contras to our own Founding Fathers. That tactic may work well as a rhetorical flourish, but it severely distorts American history.

In fact, the President's comparison was denounced by the Organization of American Historians last April.

I would like to include in the RECORD a copy of the OAH resolution, as well as a policy statement signed by Prof. Leon F. Litwack, president of the OAH and the Pulitzer Prize-winning historian, two past presidents, Arthur Link and Ann Scott, and other leading scholars.

The resolution follows:

RESOLUTION

Whereas President Reagan has called the Nicaraguan contras "The moral equivalent of the Founding Fathers": Resolved:

That the Organization of American Historians deplores the President's invocation of the historical prestige and legacy of the Constitution's framers in order to promote the Administration's foreign policy and to impugn the patriotism of those who oppose that policy.

STATEMENT SIGNED BY 14 PRESENT AND PAST OFFICERS OF OAH

As professional historians and past and present officers of the Organization of American Historians, we deplore President Reagan's distortion of history for political purposes in describing the Nicaraguan contras, whose systematic abuse of human rights has been documented by independent observers, as "the moral equivalent of the Founding Fathers," condemn the policy of aid to the contras as a continuation of a long history of U.S. intervention in the internal affairs of Central America and Caribbean nations, and urge Congress to reject all requests for financial or military aid to the contras.

Leon F. Litwack, Daid Phelan, Nell Painter, Lawrence Levine, Kathryn Kish Sklar, Eric Foner, Mary Beth Norton, Charles Rosenberg, Cullom Davis, George Frederickson, and Richard Blackett.

Mr. Chairman, every Member of this House knows what would happen to a bill which tried to quadruple support for a program which was as riddled with fraud as the Contra aid program. Anyone searching for the model program illustrating waste, fraud, and abuse—in addition to generous violations of human rights and international law—need look no further than the administration's Contra aid request.

This bill demonstrates the administration's decision to reward deceit with a 400-percent increase in funding.

How ironic that a President who spent much of his career lambasting waste in government now calls for taxpayers to spend $100-million for a group which is essentially looting the taxpayers?

Where is the administration's much-vaunted insistence on accountability? Or is accountability only required for domestic programs which serve our people, but not from Nicaraguan guerrillas who use our constituents' money to line their own pockets?

Corrupt policies are being financed corruptly. The Congress should put an end to it, today, by defeating the request for aid to the Contras.

Let us get on about building a policy of trust and cooperation with the nations of Central and South America. Sending tens of millions of dollars to corrupt and discredited Contra leaders ill serves our own Nation and our future relationship with our neighbors in this hemisphere.

Mr. SOLARZ. Mr. Chairman, I rise in opposition to this amendment. It seems to me that the issue before us this evening is not whether we are for or against the spread of communism in Central America. Even President Reagan now acknowledges that all of us, Democrats as well as Republicans, share the administration's concern over the Sandinista regime in Nicaragua.

The issue before us this evening is how best to deal with the Communist threat in Central America, and whether we have a better chance of resolving it on the battlefield or at the negotiating table.

To answer that question, it seems to me that it is important to be clear about what are our objectives vis-a-vis the Sandinista regime. Here I think that most of us would agree that we have both security concerns on the one hand, and political concerns on the other.

From a security point of view, we want to prevent the establishment of Soviet military bases in Nicaragua. We want to secure the withdrawal of East bloc military advisers from that country. We want to bring to an end the interference of the Sandinistas in the internal affairs of their neighbors, and we want to facilitate the establishment of an acceptable balance of military power in Central America.

From a political point of view, on the other hand, our primary objective is to bring about the emergence of genuine political pluralism in Nicaragua, with all that means in terms of freedom of speech, freedom of the press, freedom of assembly, and freedom of religion.

How can we achieve these two very different but also very important objectives? The administration says that force and diplomacy go hand in hand, and that only by providing assistance to the Contras can we put enough pressure on the Sandinistas in order to reach an agreement at the negotiating table that will satisfy our security and political objectives.

I say to my colleagues in the House, pressure for what? If the purpose of the pressure is to get an agreement on the security issues the fact is that the Sandinistas have already indicated a willingness to preclude the presence of foreign military advisers, to forgo the establishment of Soviet military bases, to agree to an acceptable balance of power in the region, and to refrain from interfering in the internal affairs of their neighbors.

So if we want an agreement on these security issues, helping the Contras is not only not necessary, it is counterproductive.

Supposing the purpose of the pressure is to achieve our political objectives, to bring about real democracy in Nicaragua. Here I would say that it is naive to think that the Sandinistas would agree at the negotiating table to the establishment of a genuine democracy in their country.

The Sandinistas are not democrats; they are revolutionaries, and if we want to bring about the establishment of genuine democracy in Nicaragua, the only way to do it is to overthrow the Sandinistas; but virtually everybody agrees that with or without American assistance, there is no way the Contras can achieve that objective.

The only way to overthrow the Sandinistas is to send the Marines down there in order to do it; and not even President Reagan is in favor of that. He understands that if we were to send American troops to Nicaragua it would fan the flames of anti-Americanism throughout the hemisphere; it would be enormously divisive here at home; it would produce severe strains in our alliance, and it would bog us down in a prolonged military conflict in Central America.

So I submit that our policy is counterproductive and ought to be rejected.

Mr. BONIOR of Michigan. Mr. Chairman, I make the point of order that a quorum is not present and ask unanimous consent that there be a call of the Committee.

The CHAIRMAN. Without objection a call of the Committee is ordered.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 198]

Ackerman	Badham	Bevill
Akaka	Barnard	Biaggi
Alexander	Barnes	Bilirakis
Anderson	Bartlett	Bliley
Andrews	Barton	Boehlert
Annunzio	Bateman	Boggs
Anthony	Bates	Boland
Applegate	Bedell	Boner (TN)
Archer	Beilenson	Bonior (MI)
Armey	Bennett	Borski
Aspin	Bentley	Bosco
Atkins	Bereuter	Boucher
AuCoin	Berman	Boulter

Boxer
Breaux
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Bruce
Bryant
Burton (CA)
Burton (IN)
Bustamante
Byron
Callahan
Campbell
Carney
Carper
Carr
Chandler
Chapman
Chappell
Chappie
Cheney
Clay
Clinger
Coats
Cobey
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daschle
Daub
Davis
de la Garza
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart (OH)
Eckert (NY)
Edgar
Edwards (OK)
Emerson
English
Erdreich
Evans (IA)
Evans (IL)
Fascell
Fawell
Fazio
Feighan
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Franklin
Frenzel
Frost
Fuqua
Gallo
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hansen
Hartnett
Hayes
Hefner
Heftel
Hendon
Henry
Hertel
Hiler
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson
Jones (NC)
Jones (OK)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kastenmeier
Kemp
Kennelly
Kildee
Kindness
Kleczka
Kolbe
Kolter
Kostmayer
Kramer
Lagomarsino
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Loeffler
Long
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Mack
MacKay
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCain
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKernan
McMillan
Meyers
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mitchell
Moakley
Molinari
Mollohan
Monson
Montgomery
Moody
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Nowak
O'Brien
Oakar
Oberstar
Obey
Olin
Ortiz
Owens
Oxley
Packard
Panetta
Parris
Pashayan
Pease
Penny
Pepper
Perkins
Petri
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Reid
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
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The CHAIRMAN. Four hundred thirteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore (Mr. PEASE) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4420) "An act to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes."

The SPEAKER pro tempore. The Committee will resume its sitting.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1987

The Committee resumed its sitting.

Mr. HEFNER. Mr. Chairman, I would like to inquire of the Chair how much time we have on this side and how much they have on the other side?

The CHAIRMAN. The gentleman from North Carolina [Mr. HEFNER] has 8 minutes remaining, and the gentleman from Oklahoma [Mr. EDWARDS] has 5 minutes remaining.

Mr. HEFNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES. Mr. Chairman, I rise in opposition to aid to the Contras.

Mr. Chairman, once again I rise to oppose the President's policy toward Nicaragua. I ask my colleagues to examine and to question this policy. How can we ask our constituents to give $100 million to fight a war in Central America? What do we say to the hungry and homeless in our Nation? Why do we seek to feed, clothe, shelter, and arm the Contras when we need it so badly here? What do we say about the Contra atrocities—the raping and murdering of innocent women and children? Do we merely tell our constituents that it is war, and that bad things will happen? Or do we explain to them that they are taught to commit such atrocities by our very own CIA?

How many millions of dollars have we already spent on the Contras? And where has it gone? To bank accounts in Miami and grocery stores in Honduras? Make no mistake my colleagues, if Ferdinand Marcos and "Baby Doc" Duvalier were here today, they would tell you to keep the money coming, that they are fighting communism, and that they need as much money as we are willing to send. When will we learn? The best way to fight communism is not by throwing money at every anti-Communist who requests funds, but by fighting poverty, hunger, ignorance, and injustice. Let us move forward to a policy that not only protects our Nation, but that our Nation can stand behind and be proud of.

Mr. HEFNER. Mr. Chairman, I yield 45 seconds to the gentleman from New York [Mr. MRAZEK].

Mr. MRAZEK. Mr. Chairman, I have listened to this debate for several hours now, and fully appreciate the sincerity of Members on both sides who believe that their position will lead to democracy and freedom in Nicaragua. I can only confess to you that what I am about to say is probably heretical to bring up on this floor tonight, because I believe in the separation of church and state.

Nevertheless, I would address this brief statement to my fellow Christians in this body, and I would simply ask you the question: What would Jesus Christ, our Savior, tell us in relation to supplying $70 million in lethal aid—in surface-to-air missiles, machine guns, and howitzers—in an effort to bring democracy and liberty to the people of Nicaragua?

I can only tell you that I think the kernel of hope is in the McCurdy alternative, because it provides hope—the developmental resources to people in this pain-wracked region that may enable their children someday live in a world free of violence and of hunger. It's my belief that they will have an opportunity to live that life, if we support an approach that relieves the poverty, ignorance, and misery. Thank you.

Mr. HEFNER. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I oppose the Edwards amendment and I would like to point out five fallacies in my opponents' arguments.

No. 1, there is an urgency in their voices bordering on panic. They want the aid now. I suggest it is at least partly their own fault because all of them voted for the Hamilton amendment this spring. We would have had a lethal aid vote by now.

They say it is a top military priority. Where do they want the money from? From DOD? No. From African famine relief.

No. 3, they say they are for democracy. Do they trust the four Central American democracies? No. They do not even treat them like adults, and they do not want us to have a vote on lethal aid in October.

No. 4, they say they are for peace. Their only real enthusiasm is for lethal aid. They have enforced virtually every peaceful initiative.

No. 5, they say they want to control policy and not a slippery slope to Vietnam. Their vote of disapproval would turn over the issue to the vote of 34 Republican Senators.

Mr. HEFNER. Mr. Chairman, I yield 2 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, this bill offers a sensible compromise. For those opposed to military aid, or lethal aid, we withhold aid for 90 days, and make it subject to a second vote. For those who demand aid now, we provide aid now, $30 million, which surely is enough money for the next 90 days to sustain the Contras as a force; it's enough to clothe them, feed them, train them, give them intelligence and communication gear—all of which is permitted; but it's not the sort of aid that will change the character of the conflict—not at least in the next 90 days. For during that short period, we say in this bill to all the parties: negotiate in earnest.

On our trip this month, we talked to all Presidents of the five countries in Central America. All five told us that a treaty embodying the Contadora objectives could be achieved in 90 days, provided the parties genuinely want a treaty. So, that's what our provisions will test: the will and intent of the parties. Secretary Shultz has told us that we implore him to negotiate, but give him no chips to take to the table. Well, here are the chips: $30 million down, $70 million to come in 90 days, or on October 1.

In 90 days, if there is no prospect of a treaty, we will vote again. But before we do, we will have the benefit of counsel; we will have advice from our commission on the status of negotiations, the sticking points, the prospects for a treaty. And that's a critical difference between the bill as is and Edwards-Skelton-Ray.

Edwards-Skelton-Ray picks up our idea of a congressional commission, but for what purpose? If there is no second vote after the commission reports, we can receive the report, and consider their advice; but we can't act on it, if we forgo the second vote, we give up our control.

Some will say this bill is cumbersome. And I admit: indeed, it is. It's a short leash, and it's meant to be. Why? Because those of us who support this bill are not confident at all that the Contras are the answer. We have been told the Contras will clean up their act; we want to see it happen. But above all, if a negotiated solution is our objective, as the President said yesterday, before we step up conflict, let's try one last time to find a negotiated solution by negotiating.

This is a well-crafted policy; it is a well-crafted compromise; it accommodates concerns on all sides of this issue. I urge that we adopt it as is.

Mr. EDWARDS. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I rise in support of the Edwards/Skelton amendment that will provide military and economic assistance to the democratic resistance in Nicaragua. The time for debate is long since over; the need for immediate action is absolutely essential to reverse the further consolidation of power in Nicaragua by the Soviet-backed dictators.

In the last few months, Nicaragua's Communist regime has stepped up censorship, entered Honduras to strike at the Contras, and forced thousands of Miskito Indians to seek refuge in Honduras by bombing their villages in Nicaragua. Despite these most recent examples of hostilities perpetrated by the Sandinistas, many of my colleagues will believe that Daniel Ortega can be reasoned with. Meanwhile, the Nicaraguan army gets stronger, the repression of human rights in Nicaragua continues, and the task of the Contras gets stronger.

Over the last 7 years, the armed forces in Nicaragua have increased from 14,000 under Somoza to 120,000 under Ortega. This Sandinista military force is larger than the armies of all the other Central American countries combined. The Sandinistas have received between $400 and $500 million in military hardware from the Soviet Union and other east bloc countries in the last 5 years. New Soviets deliveries include tanks, MI–24 helicopter gunships—considered to be the most advanced in the world—MI–8 troop-carrying helicopters, armored vehicles, heavy artillery, anti-aircraft weapons, and multiple rocket launchers. At the Punta Huete airfield, landing strips capable of handling the most advanced and the largest aircraft in the Soviet inventory have been completed. Sophisticated fighters that would further upset the military balance in the region could arrive at any time.

To support this massive influx of Soviet arms, there are over 3,000 Cuban and 100 Soviet military advisors in Nicaragua. This unilateral military build-up is not in response to outside aggression, but instead, is part of a plan to destabilize Central America through brute force. There is irrefutable evidence that the Government of Nicaragua is the greatest single source of insurgency, subversion, and instability in Central America. Better than 80 percent of the arms and munitions sent by the Soviets and the Cubans to the Salvadoran terrorists pass through Nicaragua, and until such time as the Sandinistas are willing to bring an end to this activity, I think it is imperative that at the very least we make it difficult for them to do so. If that means providing the democratic resistance with much needed weapons to combat this aggression, I firmly believe that we owe it to the future of freedom and democracy in the region to take these measures.

The Sandinistas have also played host to terrorists from Libya, the PLO, Spain, Argentina, Chile, Italy, Germany, and Syria. In 1980, the PLO gave the Sandinistas a $12 million loan, and also helped them get a $100 million loan from Libya. The PLO has an embassy in Managua, and the Sandinistas were trained as far back as 1969 under PLO supervision in Lebanon and Libya. Surely the aims of a government that keeps company with the infamous list of terrorist groups previously mentioned are not to foster peace in Central America.

Although one could easily argue that our objectives are to protect Nicaragua's neighbors and help Nicaraguans reach democracy, how can we expect the resistance to deal with the Soviet-backed Sandinistas when we do not provide them with the means to do so. As the strongest democracy in the Americas, it is in our moral and strategic interests to help in the fight against Communist aggression. This is especially true when our part of the fight only consists of supplying the weapons, and not the active involvement of American combat forces.

Ideally, every one of us would like to see a peaceful settlement to the situation in Nicaragua. On numerous occasions, the democratic resistance has offered a cease-fire if the Sandinistas would negotiate a reconcilation. A process of internal reconciliation based on competitive elections, freedom of the press, and individual rights are all that the Contras are asking for before they lay down their arms. But being interested in dictatorial power rather than democratic pluralism, the Sandinistas have always refused these peace offerings. By delaying action on the President's aid request, the House of Representatives has given the Sandinistas every incentive to avoid serious negotiation and to step up repression.

As Violeta Chamorro of Managua's La Prensa realized after sharing power with the Sandinistas for nearly a year, "Without freedom first, there will never be peace." The longer we ignore the problem in Nicaragua, the less likely that a peaceful transition to democracy will occur without massive U.S. military aid, and possibly even direct military intervention. The time to act for peace in Nicaragua is now.

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Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may

consume to the gentleman from New York [Mr. WORTLEY].

Mr. WORTLEY. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Skelton-Edwards-Ray-Chandler amendment. This proposal addresses several of the criticisms of previous aid proposals. It is a fair and balanced compromise that deserves the bipartisan support of my colleagues.

There has been a great deal of discussion in recent weeks about the GAO report on the $27 million in humanitarian aid we approved last year. I am disappointed by the way in which this report has been handled. Instead of providing the State Department with a copy of the report so that it could respond to the GAO's concerns, only summaries and the testimony of GAO investigators have been available until just recently. This unequal approach has not promoted a considered and constructive review of the way in which the funds were dispersed so that problems can be identified and corrected. But then that was not the intention of the GAO report sponsors, who opposed the aid program in the first place.

This House bears its share of responsibility for the difficulties in accounting for funds dispersed from last year's assistance program. We gave the responsibility of dispersing these funds to an agency that does not have the infrastructure in Central America to ensure accountability. In fact, we specifically barred agencies with that capability from having anything to do with the program.

Rather than throwing the baby out with the bath water, we should learn from our mistakes and move to correct them. This is the kind of constructive approach taken by the Skelton-Edwards-Ray-Chandler amendment. By specifying stricter accounting procedures, it addresses current flaws in program administration and legislation.

The amendment before us also provides incentives and time for the Sandinistas to negotiate a political solution. A portion of the assistance would be available immediately to the democratic resistance forces, but only light weapons would be supplied until February of next year. This maintains our commitment to forces fighting for a free Nicaragua, but is also allows time to negotiate. In addition, the impending delivery of additional military assistance in February would give the Sandinistas incentive to agree to a real treaty that protects the interests of all Nicaraguans and the security of the Central American countries.

In today's debate, we are focusing on assistance to the Nicaraguan armed opposition. However, we should not lose sight of the internal opposition that bravely struggles for the rights of the Nicaraguan people. This group includes opposition parties, labor unions, human rights workers, La Prensa, and the Catholic Church, among others. In the face of harassment, threats, and imprisonment, these people continue to work against Sandinista repression.

Although there is no direct link between the internal and the armed oppositions, each acknowledges that it could not exist without the other. The armed opposition deflects the Sandinistas' attention away from the internal opposition, making it enemy No. 2 instead of enemy No. 1. The internal oppositions's valiant efforts on behalf of freedom and democracy give the armed opposition hope of success in reforming or removing the current Sandinista regime.

Some people have pointed to the "Peoples Church" as evidence that the Sandinistas aren't really repressive. But allowing a favored church to operate does not indicate freedom. It indicates manipulation. Freedom allows all churches to serve their congregations without fear and threats. The great majority of Nicaraguans belong to the Catholic Church, but the Catholic Church is not allowed to minister freely to its members. Moravian churches have been destroyed, evangelicals tortured and killed, and Jews harassed until forced to flee.

Sandinista repression is not limited to religion. It also extends to free labor unions, the press, and the Permanent Commission on Human Rights, as well as the general population. These are the very groups that fought against Somoza's repression and were instrumental in forcing Somoza to leave the country. The people in these organizations fed, supported, and protected the Sandinista leaders. Now they are the target of the Sandinista's machine to suppress independent voices in Nicaragua.

The combined efforts of the internal opposition, the armed resistance forces, and regional negotiators offer the only real hope of the Sandinistas ever acquiescing to a free and democratic society in Nicaragua. If this body fails to provide real support to the armed resistance, the efforts of the other two will be disastrously undermined. I urge my colleagues to take a stand and vote for the Skelton-Edwards-Ray-Chandler amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maine [Ms. SNOWE].

Ms. SNOWE. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Skelton-Edwards amendment.

I do so because it's time for the Congress to take decisive action on behalf of democracy in Central America. Since my first term in Congress 7 years ago, we've been waiting for the Sandinista Government to create a democratic process in Nicaragua. Presidents Carter and Reagan provided aid, in fact, to assist what we hoped would be a democracy growing out of the Sandinista revolution.

Well, it hasn't happened. Nicaragua is no more a democracy today than when the Sandinista revolution took power. And, after having met with President Ortega, having met with the Presidents of the four democratic countries of the region, and recognizing the tens of thousands of military personnel in Nicaragua I have little confidence that the Sandinistas currently have any intention of allowing self-determination in their country.

If this were a problem exclusive to the internal operations of Nicaragua, we wouldn't be having this debate today. But it's not. Nicaragua currently threatens the very fragile, emerging democracies of the region. As President Arias of Costa Rica said,

There will never be peace in Central America as long as there is a Marxist regime in Nicaragua with the characteristics of the nine commandantes.

We heard this message repeatedly during meetings with the four democratic Presidents—three of whom were only elected in the last 7 months. And we should pay particular attention to their message, because, for the very first time, they have taken their destiny into their own hands and are negotiating directly with Nicaragua. No longer is the peace process one directed from outside the region—those with the most at stake are now fully engaged in negotiations.

At the same time, these countries are struggling mightily, against substantial odds, to prove to their citizens the great lesson of our own country: That only through democracy will they enjoy the treasures of freedom, growth, and prosperity. But that is difficult to accomplish when they are forced to divert precious resources to defend against the Sandinistas.

Our goal—no, our responsibility—is to help them prove that democracy will lead to peace, stability, and prosperity. That means taking two steps right now. First is to provide direct economic aid to the four Central American democracies, so that their pursuit of freedom will have a greater opportunity to succeed; and, second, to apply pressure on the Sandinistas to negotiate a treaty which would allow a democratic process and self-determination in their land.

Aid to the Contras can provide a dimension of that pressure. Make no mistake, however—they aren't the ultimate solution to the problems in Central America. They simply can play a part in an overall policy designed to compel the Sandinistas to bargain with the same spirit shared by the democracies.

Now, some of my colleagues will point to President Ortega's weekend offer, made with little subtlety on the eve of the House vote, as a sign that Nicaragua is willing to sign an treaty which is in the best interests of the region. That would be an inappropriate suggestion to make. It ignores the fact that the democratic countries have serious concerns with the treaty language on issues such as troop size, verification, and the guarantees of a democratic process.

More fundamentally, however, President Ortega has had extraordinary opportunity to implement a democratic process. After all, it's been 2 years since any American military aid went to the Contras. It's been 3 months since this House last voted down military aid.

Given that record, does anyone believe the Sandinistas' latest proposal will embody genuinely free and open elections? Or that it will embody an effective end to all censorship? Or that it will provide a realistic guarantee of freedom of worship?

I doubt that it will. As do the leaders of the four democracies, I doubt that we will see any change for the good under a regime that has admitted having its own version of democracy—unless pressure is brought to bear upon the Sandinistas.

We must make our decision now whether or not we're willing to apply any pressure. My friends, if we can't make the decision now on military aid, we're certainly not likely to do so in October. In fact, by delaying the decision, you only serve to remove what little incentive

which may exist for the Sandinistas to bargain. The Sandinistas already have been provided ample time by this Congress to show a spirit of true conciliation and compromise.

Even still, under the Skelton-Edwards amendment, no military aid can be delivered until September 1. And, as the leaders of the democratic nations told us, if negotiations aren't successful by about that point, success will not come for a long time.

Make no mistake about it, those four countries don't have a long time to wait. They are surviving today, scratching for ways to keep the pulse of democracy strong in their own lands. They have a singularly impressive will to lay a foundation of liberty for the future of their countries, to bring the blessings of freedom upon their children and grandchildren.

And so, my colleagues, this is why I will vote today for regional economic aid, and for military aid to the Contras for the first time. This is a critical juncture for peace in Central America, the democracies, though in a delicate position, are willing to negotiate. Their future is inextricably linked to negotiating political freedoms and a democratic process in Nicaragua. Yet the Sandinistas have shown no willingness to proceed in good faith.

With those thoughts in mind, we have little choice but to maintain pressure on the Sandinistas. This could be, in fact, our last and best hope for democracy to take strong root throughout Central America. We cannot forget that the political landscape has changed significantly for the better in the past year, but will not remain so if left unaided. By helping other nations to spread political freedom, the United States can also help keep our hemisphere strong and United against totalitarian forces; and reduce potential threats to our citizens and our country.

Given the fragility of democracy in the region, given Mexico just to the north of the region contending with massive earthquake damage on top of their host of other problems, we cannot afford to have Marxism as the dominant force in Central America.

For, my colleagues, if we fail to help sustain democracy in the region, and if we fail to do so now, we are going to have a lot more than Nicaragua to worry about.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Skelton-Edwards amendment.

I hope the American people are listening today, because if they are they will see that a new consensus has developed in the matter of American policy in Central America.

Both Republicans and Democrats are now committing to the level of economic aid the Jackson-Kissinger Commission recommended. Economic aid acknowledges that a regional policy that addresses the cause of Central America's problems is critical to both peace and prosperity in that important area of our hemisphere.

And second, both the Republican and Democratic proposals now acknowledge that without some kind of support for the Contras the fragile democracies of Central America are in jeopardy and democracy in Nicaragua a hollow dream.

We in Congress have come a long way—we agree on the need for additional economic aid to the region; we agree on the need for immediate aid to the Contras; we even agree to provide weapons in timeframes only a month apart, and under the Democrats' plan highly lethal weapons could be provided after October 1, sooner than under the bipartisan Skelton-Edwards proposal.

The last step we must take together is to make clear that we mean what we say, that we are committed to our policy. That means no second vote, because that second vote returns us to a maybe-yes, maybe-no posture in regard to our own policy.

Furthermore, a second vote just before the election is pure politics, sheer theater, not policymaking. The Sandinistas know that and we must be straight about it here.

Remember, if we clearly adopt a broad, regional policy as we have the opportunity to do today by supporting the Skelton-Edwards amendment, and if thereafter, the nations of Central America reach a clear and verifiable agreement as they want to do, we have the power to redirect funding in response to direction from our allies.

In other words, if we need successive votes, we can have successive votes, as the Skelton-Edwards amendment clearly allows, but to require yet another vote so soon is to demonstrate that we are uncertain, uncommitted, and unreliable. Ask yourself, does Cuba and the Soviet Union so vacillate? Absolutely not.

Let's act. Let's act clearly and decisively. We are a democracy and can adjust our policy should circumstances change. But let us set our course and clearly side with democracy.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Chairman, I rise in the strongest possible support of the President of the United States of America and support the bill.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BOULTER].

Mr. BOULTER. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Edwards amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. ROWLAND].

Mr. ROWLAND of Connecticut. I thank the gentleman for yielding me this time.

Mr. Chairman, like many of my colleagues on both sides of the aisle, I have grappled with the issues of Central America. I voted against aid in the past in the hope of seeing movement by the Sandinistas. But tonight's vote is really a turning point. It is a turning point for a possible solution in Nicaragua.

Tonight, we must decide whether we really want to do something in Nicaragua or whether we merely want to walk away in disgust. Do we merely take the easy, political way out by supporting the McCurdy proposal or do we support a comprehensive, regional plan?

Like many, I had given the Sandinistas the benefit of the doubt time and time and time again. I think we have come to the test. At this point we must decide whether to fish or cut bait.

Mr. Chairman, unfortunately our Nation cannot afford to walk away. To our President we thank you. We thank you for bending over backward on this proposal and we thank you for working with us to develop a logical, rational, regional approach to solving this very difficult situation.

I urge the Members' support for the Skelton-Edwards amendment.

Mr. HEFNER. Mr. Chairman, to close debate in opposition to the amendment, I yield my remaining time to the distinguished majority whip, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. I thank the gentleman for yielding me this time.

Mr. Chairman, I have served in this body for a little over 20 years, that is not as long as some and longer than others. In that time I can recall a number of occasions that, in retrospect, were truly historic. This may well be such an occasion.

Tonight, the House is faced with a choice that divides people of good will and strong patriotic commitment as to what our policy should be for peace and reconciliation in Central America, for the protection of democratic values and for the interests of the United States.

Yesterday I think the President approached the issue of the good will of people on both sides of this question in the proper tone and sense.

This body has no unpatriotic Members. And the Members of this body seek to advance democratic values and seek to uphold tradition that gave our country birth and made us a voice for liberty, independence, and human rights throughout the world. All of us can share in the great pride of that reputation and that undertaking.

What we decide tonight is not whether we agree with the Government of Nicaragua; it has no supporters in this body. I agree with the characterizations that have been made by the President, the Secretary of Defense, and others concerning the woeful, lamentable decline of respect for human values, for religious freedom, and for freedom of the press that are the sad, daily chronicle of the abuses of the Government in Managua.

The question is: How should our policy deal with that problem and that reality? We believe that it can be best dealt with and contained by a policy of support for those countries that surround Nicaragua; those countries that have come to a full blossom of democratic values and practice; values and practices and for which we share a great enthusiasm, common effort, and support.

Many of us do not believe that embarking on a virtually unprecedented action of a proxy war against a government, however cold and disdainful it is in respecting the rights and traditions of its citizens is a policy consistent with our national interests.

Since the end of World War II it is unprecedented for the United States to openly undertake the overthrow of a government with which we maintain, for whatever reason, diplomatic relations. With respect, that is what we are talking about tonight. Bringing this government to the bargaining table is the officially stated objective of the administration, but the fact is that the administration also says that no Marxist-Leninist regime has ever willingly come to the bargaining table.

If you believe that the Contras can bring this government down, I suggest you support the Edwards amendment. If you believe that we can solve the problems in the region by the use of military force, I suggest you support the Edwards amendment.

But if you believe there is a better way, a way of diplomacy and common action between all of our allies, a way in common with those voices in Central and South America that call upon us to support the continued efforts of the Contadora countries; if you believe that by supporting democratic values instead of attempting to overthrow this government, however bad, by force, then I ask you tonight to vote against the Edwards amendment.

This House is being asked to decide on a policy in Central America that could become irretrievable and irreversible should we adopt the Edwards amendment.

It is my dread belief that once we embark on a course of military power and force, we will be committed to it, for months and years ahead and ultimately, to the introduction of American troops.

I accept the President's word that he has no present intention to use American troops in Central America. I also accept his judgment that it would be a tragic, devisive, and irreversible mistake to do so.

Therefore, vote against the Edwards amendment; vote for a chance for peace, diplomacy, reconciliation, and the expression of the highest values of our country.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LOWERY].

Mr. LOWERY of California. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the Edwards-Skelton amendment.

Mr. Chairman, today, once again, the House of Representatives considers the important issue of aiding the democratic resistance in Nicaragua. The crux of the issue—whether or not to aid rebels who are attempting to restore their stolen revolution—has not changed in the past few months. However, several ancillary matters have been raised today which, intentionally or not, have obfuscated the issue at hand.

Reaffirming my support of the resistance forces in Nicaragua, I am voting for the Edwards-Skelton amendment which provides the best and most sensible aid package to the Contras and the surrounding region. Few now doubt the intentions and tactics of the Sandinistas who have repressed the church, press, labor groups, and opposition parties. Sandinista prisons are bulging with political prisoners, far more than were ever incarcerated during the Somoza years.

The military buildup, the single most alarming aspect of Sandinista rule, has reached astounding levels. With 60,000 men in arms and another 50,000 ready for speedy mobilization, the Sandinista forces dwarf those of neighboring Honduras—21,000 troops—and Costa Rica, which has no army, and bodes ominously for the security of the entire region. Their weapons arsenal, including Hind helicopters and 300 missile launchers is equally forbidding.

Since last May, the Soviets have stepped up their involvement in supporting the Sandinistas. Specifically, the Soviets are running advanced spy-plane overflights in the region, gathering information on the location of the resistance and other regional security positions. In addition, a Soviet harbor base is in the process of being completed. I, for one, am not excited with the prospect of having a Soviet base between the United States and the Panama Canal. In short, the threat is real and, regrettably, increasing.

The Skelton-Edwards package includes $100 million for the resistance in Nicaragua with at least $30 million reserved for humanitarian uses. The funds would be released in three increments—$40 million upon enactment, $20 million on October 15, 1986, and $40 million on February 15, 1987. No heavy weaponry may be delivered until the second installment, and all military aid may be cut off by a joint resolution of the Congress.

Moreover, this package earmarks an additional $300 million in economic assistance to Guatemala, Costa Rica, El Salvador, and Honduras. While preferring to address general foreign aid measures separate from the security debate in Nicaragua, I nonetheless appreciate the increased pressures being felt by these "front-line" countries arising from the Sandinista-Contra conflict.

If the United States is committed to security and democracy in this hemisphere, then we must address the Sandinista menace in a forthright and coherent fashion. The aforementioned Edwards-Skelton package achieves this goal best. It aids both the surrounding fragile democracies, and the resistance forces within Nicaragua. Lip service to the freedom fighters in Nicaragua is not enough. Humanitarian assistance to the freedom fighters is not enough. We must provide the democratic resistance with the support necessary to attain a victory.

As I have stated before, I am not naive enough to believe that with this $100 million the Contras will defeat the massive Sandinista army—they certainly will not win without any military support. However, they can win in the way the Sandinistas won in Managua—not by rolling over the Sandinista army, but by controlling the countryside, gaining popular support, and forcing the Sandinistas to recognize that their oppressive and subversive policies are untenable.

A viable resistance force, ever ready for negotiation but also willing to fight, is the best hope for convincing the Sandinistas that a negotiated settlement is in their interest. It is naive to believe the Sandinistas will come to the peace table without the impetus of a viable Contra force. Strength of U.S. resolve in this matter is critical.

As alluded to earlier, additional issues have been raised this round—specifically, mismanagement of Contra funding—which cloud the fundamental issue at hand. Nonetheless, the issue of funding accountability is an important one and deserves comment. I will not support the Barnes/Panetta amendment—prohibiting further funding of the Contras until the last disbursement of $27 million is fully accounted for—for several reasons.

First, the State Department has assured Members of Congress that past Contra aid is fully accountable. The accusations of drug running and corruption by leaders of the United Nicaraguan Opposition [UNO] are unsubstantiated. Second, I find the timing of these "revelations" disquieting to say the least. Coming on the eve of this Contra debate, these fraud allegations are tinged with political overtones.

Nevertheless, it is important that legislators ensure that limited Federal resources are spent for their intended purpose. This is true of any Government program be it welfare or national security programs. Accordingly, I am pleased the Edwards-Skelton proposal contains stricter accounting provisions which should ensure that this money is spent in compliance with congressional intent.

Mr. Chairman, the issue at hand is critical to the democratic hopes of the Nicaraguan people, the security of surrounding countries, and the vigilance of the United States. I urge my colleagues to support the Edwards-Skelton proposal as the most coherent response to this issue.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding.

I rise in support of this bipartisan foreign policy amendment.

During this debate my colleagues on the other side of the aisle have continually referred to a recent poll which showed that by a 2-to-1 margin the American people do not

support aid to the Contras. What my colleagues have neglected to discuss, however, are other findings of the poll that reveal very different attitudes.

For instance, that same poll found that by a 2-to-1 margin the American people believe that the situation in Nicaragua is a threat to the security of the United States. This view is certainly not shared by my colleagues on the left who constantly ridicule the idea that Nicaragua could possibly be a threat to our country.

The poll also found that half of the Americans polled think that the United States should take all steps including the use of force to prevent the spread of communism in Central America. Moreover, when asked "Which would you rather see happen: for Nicaragua to become another Cuba in terms of its relations with the Soviet Union, or for the United States to go to war with Nicaragua to try to prevent it from becoming another Cuba" most respondents—37 percent—answered they would rather see the United States go to war with Nicaragua.

Mr. Chairman, the only thing these polls show is that the American people have varying views on the subject and either side can find some comfort in their results. My colleagues on the left habitually ignore the numerous polls showing that the American people are against tax increases and for Federal Government spending reductions to reduce the deficit by huge margins. They talk instead about leadership. Well that is precisely what our job is all about. Again it is time to do the job we were elected to do and make a tough decision. Do we want another Cuba on our doorstep? Or will we stand with the democratic resistance—the freedom fighters?

PUBLIC STRONGLY BACKS LIBYAN ATTACK BUT OPPOSES AID TO NICARAGUA REBELS

(By Peter Begans)

Americans strongly back President Reagan's recent military actions against Libya in the Gulf of Sidra, according to the latest ABC News poll.

But the survey shows Americans are four times more likely to think our actions against Libyan forces will increase terrorism rather than decrease it.

Methodology.—The ABC News special poll on Libya was conducted Mar. 25, 1986, by telephone among 530 men and women in the continental United States. The margin of error for the poll is plus or minus five percentage points.

Approve.—The public clearly supports Reagan and the U.S. military in the latest run-in with Libya. Two-thirds of the public (67 percent) say recent U.S. military actions against Libya have been just about right. Sixteen percent say we have been too tough and 12 percent say we have not been tough enough.

And Americans strongly approve of the way Reagan is handling the situation—66 percent approve while only 23 percent disapprove and 11 percent don't know. And there are indications Reagan's actions in the Mediterranean may increase support for his proposal to aid the anti-communist rebels of Nicaragua.

Not belligerent.—The public does not believe Reagan and the U.S. Navy have belligerently sought to teach Libya a lesson as Arab nations and the Soviet Union have charged. Only 27 percent of the public believe the Reagan administration ordered the Sixth Fleet into the Gulf of Sidra to pick a fight with Libyan leader Muammar Khaddafi, while two-thirds (66 percent) disagree with that.

And 86 percent of the public believe U.S. naval forces have a right to be in the disputed Gulf of Sidra that Libya claims as its territorial waters.

However, about a third of those people feel we should have avoided military exercises there because of the risk of a military clash with Libyan forces. Overall, 58 percent of the public says we should have held the Sixth Fleet's manuevers there, while 34 percent say we should not have.

Withdraw.—Despite the feeling that the U.S. has the right to be in the Gulf of Sidra, 69 percent of the public think we proved our point and should withdraw, something the Sixth Fleet did soon after. Only 15 percent say we should consider Libyan military actions against our fleet as an act of war and invade Libya with the goal of overthrowing Khaddafi.

In fact, there appears to be little sentiment for seeking vengence against Khaddafi. By 57 to 39 percent, the public disagrees that "It's time to teach Khaddafi a lesson even if it means risking a larger war." And only 20 percent of the public say, "The U.S. should see to it that Libyan leader Khaddafi is killed by whatever means available before he becomes even more powerful."

Terror.—However, a large group of Americans think this week's incidents in the Gulf of Sidra may have planted the seeds for future terrorist attacks against Americans. Forty-five percent of the public say our destruction of Libyan boats and missile bases will lead to more terrorism, while only 10 percent believe it will cause less terrorism. Thirty-nine percent believe it won't make a difference one way or the other.

Despite that, three out of five (61 percent) Americans disagree with the statement that Reagan is taking too many risks in the Libyan situation.

The poll was completed before the terrorist bombing April 1 in which four Americans died traveling aboard a TWA jetliner en route from Rome to Athens.

New York.—On the night of Mar. 25 ABC News asked the same questions from our national poll to New York City residents for WABC-TV and the New York Daily News. New Yorkers had virtually the same feelings as the public at large, strongly backing Reagan but unwilling to get into an offensive war with Libya.

A majority of Americans continue to oppose President Reagan's controversial $100 million aid package to the Contra rebels of Nicaragua.

But polling by ABC News shows Nicaragua's invasion of Honduras and Libya's attacks on the U.S. Sixth Fleet seem to be boosting public support for Reagan's position.

The public also approves of Reagan giving $20 million in emergency aid to Honduras, but opposes using American helicopter pilots to ferry Honduran troops to battle against Nicaragua.

Three polls.—ABC News conducted three national telephone polls in March focusing on aid to Nicaragua and Honduras. The first and most extensive was conducted March 6. The second was taken immediately after Reagan's speech to the nation on Nicaragua March 16. The third poll, conducted March 25, focused mainly on Libya but included several questions on aid to Honduras and the Contras. All three polls have a margin of error of plus or minus five percentage points.

Latest.—The most recent poll shows the public continues to oppose new military aid to the Contras, although by a smaller margin than earlier in March. Fifty-three percent oppose President Reagan's aid package to the rebels and 42 percent approve of it, a difference of 11 points. On March 16 the gap was 24 points—54 percent opposed to aid compared to 30 percent favoring it.

The March 25 poll was conducted on the day the U.S. Sixth Fleet destroyed Libyan gunboats in the Gulf of Sidra and U.S.-ally Honduras battled invading Nicaraguan troops. Judging from past experience, the "rally 'round the President" effect probably boosted support for the Contra aid proposal.

The Senate subsequently passed the Contra aid proposal and it now goes back to the House where it was narrowly defeated in mid-March.

Difficult.—Reagan has clearly had a hard time winning public support for Contra aid. In our March 6 poll, 52 percent of the public said they disapproved of the United States being involved in trying to overthrow the Nicaragua government, while only 32 percent approved.

And by 50 percent to 36 percent, Americans said the danger of getting entangled in Central American problems exceeded the danger of having communism spread in that region if the U.S. does nothing to stop it.

Disapproval.—In turn, the public has given Reagan poor marks on his handling of the Nicaraguan situation so far. On March 6 only 37 percent approved of the way Reagan was handling the situation there, while 47 percent disapproved. His address to the nation 10 days later did not improve his standing with the public (36 percent approved, 48 percent disapproved).

His marks on Nicaragua are nowhere near Reagan's very positive overall job approval rating which in the March ABC News/Washington Post poll was a remarkably high 65 percent.

Threat.—But despite disapproval of his Nicaragua policies, it appears Reagan made some headway in identifying the Sandinista regime as a threat to the U.S. in his nationwide speech. Immediately afterward, the percentage of Americans believing Nicaragua was a threat to the United States rose to 56 percent, up from 49 percent 10 days earlier. And the number saying Nicaragua was not a threat slipped from 43 percent to 31 percent.

Twenty-nine percent called the Marxist regime a major threat to the U.S. and 27 percent said it was a minor threat.

Audience.—The March 16 poll showed Reagan's address reached 38 percent of the public. Those who heard were more favorable to Reagan's argument that $100 million in U.S. aid is a worthwhile anti-communist investment, although even a plurality of them did not support Reagan's position.

Vietnam.—Public officials opposed to Contra aid have used their own rhetoric, much of it evocative of the Vietnam War, to block Reagan's aid package. But a two-to-one majority of Americans do not see us replaying the Vietnam War south of the border, according to our March 6 poll. Only 30 percent think the U.S. is headed for the same kind of involvement in Nicaragua as it had in Vietnam, while 61 percent think the U.S. will avoid that kind of involvement this time.

That may be because only 37 percent of the public would fight to prevent Nicaragua from becoming a Soviet satellite, while 28

percent are willing to let it become another Cuba if the U.S. can avoid war. The other 35 percent think there are other options or have no opinion.

Sex.—Reagan's major opponents on Contra aid turn out to be women. Women are just as likely as men to feel that Nicaragua is a threat to the U.S., but they are less inclined to support the overthrow of the Sandinista regime.

Women oppose Reagan's Contra aid proposal by 57 to 21 percent, according to the March 16 poll. Men are more closely split, opposing the aid package by 50 to 41 percent. Women also oppose overthrowing the Sandinista government by more than two-to-one, while men are only slightly opposed to it.

And by more than two-to-one, women disapprove of the way Reagan is handling Nicaragua. Men narrowly approve.

Party.—The polls show the issue of Contra aid has taken on a partisan coloring across the nation as well as in the halls of Congress. Republicans favor the new military aid to the Contras while Democrats and independents strongly oppose it.

Knowledge.—Raising the rhetoric on Nicaragua has increased public awareness of the situation to an all-time high. Fifty percent of the public know that we are supporting the rebels against the government there. In 1983 only 24 percent of Americans knew which side we were on. And as late as a year ago, only 37 percent knew we were supporting the Contras. Sixty-six percent of men know we are on the Contras side; only 35 percent of women do.

Nearly three-quarters say they have heard about the fighting between the Sandinista government and the Contras.

Honduran aid.—The most recent ABC News poll also shows a majority of Americans (54 percent) approve of President Reagan's decision to send $20 million in emergency military aid to Honduras. Honduras asked for the aid after Nicaraguan troops crossed over the Honduran border March 22 in pursuit of Contras forces which have their base camps in Honduras.

However, only 41 percent approve of using American helicopters and American pilots to transport Honduran troops to battle staging areas as Reagan agreed to. Fifty-five percent of the public oppose using American pilots and helicopters to support Honduran troops.

New York.—A separate WABC-TV/New York Daily News poll conducted March 25 found that New York City residents to be less supportive of Reagan's proposal to aid the Contras and Reagan's emergency aid to Honduras than the nation as a whole is.

Only 35 percent of New Yorkers favor the $100 million in new aid to the Contras while 60 percent oppose.

And New Yorkers are split on the $20 million in Honduran aid with 49 percent favoring it and 46 opposing it, while the nation favors it.

In addition, New Yorkers are more opposed to using American helicopter pilots to transport Honduran troops than the nation as a whole is.

A slim majority of the public want other over-the-counter drug manufacturers to follow Johnson and Johnson's lead and stop making over-the-counter medicines in capsule form because of the recent cyanide poisoning in New York.

The reason, according to a special ABC News poll: seven in 10 believe the Tylenol poisoning will lead to copy-cat crimes, and one out of three fear they or their families will fall victim to tampered medicine.

The poll also shows two-thirds of the public believe the Tylenol poisoning is the work of a mentally disturbed individual and not a terrorist conspiracy.

And an overwhelming 99 percent of the public say they have heard about the poisoned Tylenol death in New York.

Methodology.—ABC News conducted the special Tylenol poll for World News Tonight on Feb. 18, 1986, by telephone among 507 men and women nationwide. The margin of error for the poll is plus or minus five percentage points.

Approve.—Eighty-seven percent of the public approve of Johnson and Johnson's decision to stop making Tylenol products in capsule form. Only nine percent disapprove and five percent have no opinion.

From now on, the drug giant will make Tylenol and other medicines that used to be in capsules in the form of "caplets"—coated pills. It is estimated the changeover will cost Johnson and Johnson at least $100 million.

And 52 percent say other makers of over-the-counter medicine should follow Johnson and Johnson's example and stop making their products in capsule form. Meanwhile, 40 percent say those manufacturers should continue to make encapsulated medicine.

No blame.—It is clear the public does not blame Johnson and Johnson for the Tylenol poisoning, the second such crime in four years. Three-quarters—76 percent—say the company has done enought to insure that its products are not tampered with. Only 15 percent say Johnson and Johnson could have done more.

And two-thirds of the public (67 percent) feel the poisoning in New York is the act of a mentally disturbed person who wanted to murder someone at random. Only 20 percent think the poisoning is a terrorist conspiracy.

Fear.—But even though most people believe this latest crime was purpetrated by a lone individual, 71 percent of the public think the New York Tylenol death will cause others to try to poison people in the same way. And 36 percent say they fear that they or someone in their family will be hurt by taking tampered medicine.

Further, 41 percent are afraid that someone in their family will accidentlly take food or some other product that has been tampered with. Overall, 46 percent of the public—nearly half—say they fear that either the medicine, food or some other product they bring home from the store may be contaminated.

Change.—It appears Americans will be changing their habits because of the latest tylenol poisoning. Three out of five Americans say in the past they have taken nonprescription medicine in capsules. But only two in five say they will take such medicine in the future.

Saturation.—News of the New York Tylenol death has reached almost everyone in the country. Ninety-nine percent of the public—a staggering figure—have heard the story. That is nearly the same as four years ago when 100 percent of our survey heard about the Tylenol poisonings in Chicago.

In comparison, last December only 61 percent of the public said they had heard or read about the Gramm-Rudman-Holling tax bill that had just passed Congress. In November, 83 percent had heard of Star Wars which President Reagan and Soviet leader Gorbachev were discussing in Geneva.

METHODOLOGY

The ABC News poll on Libya and Nicaragua was conducted March 25, 1986, by telephone among 530 men and women in the continental United States. The same poll was conducted simultaneously in New York City among 505 city residents for WABC-TV and the Daily News.

The ABC News poll on Reagan's Nicaragua speech was conducted March 16, 1986, by telephone among 511 men and women in the continental United States.

The ABC News poll just on aid to the Contras was conducted March 6, 1986, by telephone among 543 men and women in the continental United States.

The ABC News poll on the Tylenol poisoning was conducted Feb. 18, 1986, by telephone among 507 men and women in the continental United States.

A sample of telephone exchanges is selected from all the exchanges in the continental United States. The exchanges are picked to guarantee that each region of the country is proportionately represented. Telephone numbers are formed by adding random digits to selected exchanges enabling interviewers to reach both listed and unlisted phones.

Survey responses are weighted by age, sex, education and race using the latest U.S. Census figures.

According to sample theory, you can be 95 percent sure that the results for the five polls are plus or minus three percentage points, the same as you would get in interviewing every adult in the population. The margin of error for the March poll plus or minus 3.5 percentage points. Additional inaccuracy may occur from the wording of certain questions or the order in which they are asked.

ABC's policy in its press releases is to present full results of poll questions in the order they are asked. We also provide complete trend. However, it is not possible for us to include demographic results or cross tabulations. Anyone interested in more specific information may contact The Roper Center or the Inter-university Consortium for Political and Social Research where a complete set of ABC data tapes are on file and available to the public. The full addresses for these tape libraries are: The Roper Center, University of Connecticut, Box 164-R, Storrs, Conn. 06268, tel. 203-486-4882; and Inter-university Consortium for Political and Social Research, Box 1248, Ann Arbor, Mich. 48106, tel. 313-764-2570. Permission to publish or broadcast the results of any independent research done on ABC data stored at these two institutions must be obtained from ABC News in advance.

Jeffrey D. Alderman directs ABC News' polling operations. He is assisted by Polling Associate John Brennan, Research Analyst Peter Begans and Researcher Karen Wright. Dr. John Blydenburgh of Clark University serves as ABC's polling consultant.

Chilton Research Services, a subsidiary of the American Broadcasting Cos., Inc., draws the samples, conducts the telephone interviews and processes the polling data at their facilities in Radnor, Pa. David Schehr directs the project at Chilton. Gil Barrish is Vice President and Director of Chilton Research.

ICR of Media, Pa., drew the sample and conducted the interviews for the March 6 survey on Nicaragua.

For further information call (212) 887-2621.

ABC NEWS LIBYA/HONDURAS 1986 POLL

(Complied by Karen Wright)

National poll: Number of interviews=530; Interview date Mar. 25, 1986; #0224

New York City Poll: No. of NYC residents=505; Interview date Mar. 25, 1986; #0223

1. Do you approve or disapprove of the way Ronald Reagan is handling the situation off the coast of Libya where fighting has occurred between Libya and the United States?

	National	New York City residents
Approve	66	63
Disapprove	23	30
DK/No opinion	11	7

2. As you may know, the fighting occurred after the United States Navy began a military exercise in part of the Mediterranean Sea called the Gulf of Sidra. Libya says the gulf belongs to Libya and the United States has no right to have ships there. The United States says the Gulf of Sidra is in international waters and we have a right to be there. Do you think the United States has the right to have ships in the Gulf of Sidra or not?

	National	New York City residents
Yes, U.S. has right to be there	86	80
No, U.S. does not have right to be there	8	15
DK/No opinion	6	5

3. Regardless of which country is right, do you think the United States should have held military exercises in the Gulf of Sidra or not?

	National	New York City residents
Yes, U.S. should	58	55
No, U.S. should not	34	38
DK/No opinion	8	7

4. What do you think about the military actions United States took against Libya in the Gulf of Sidra dispute so far. Do you think U.S. military actions have been too tough, not tough enough or just about right?

	National	New York City residents
Too tough	12	15
Not tough enough	16	19
Just about right	67	61
DK/No opinion	6	5

5. Just your best guess, do you think the Reagan administration launched the military exercise because it hoped it would provide an opportunity to get into a fight with Libya or don't you think that was the case?

	National	New York City residents
Yes, hoped for a fight	27	34
No, did not hope for a fight	66	57
DK/No opinion	7	9

6. Which of these two statements comes closest to your view:

a. The United States has made its point with Libya and we should now remove our fleet from the Gulf of Sidra, or

b. The United States should consider Libyan military actions against our fleet as an act of war and invade Libya with the goal of overthrowing Libya leader Qadhafi.

	National	New York City residents
Statement A	69	64
Statement B	15	21
(Vol) Somewhere in between	10	8
(Vol) Should not have been there at all	1	1
DK/No opinion	6	6

7. Do you think the U.S. response to the Libyan attacks will lead to more terrorism, less terrorism or don't you think it will make much difference one way or the other?

	National	New York City residents
More terrorism	45	46
Less terrorism	10	10
Won't make much difference	39	39
DK/No opinion	5	4

8. I'm going to read you some statements and after each please tell me whether you tend to agree or disagree with each: First, Reagan is taking too many risks in the situation with Libya and it's not worth it. (If needed: "Do you agree or disagree?")

	National	New York City residents
Agree	35	41
Disagree	61	55
DK/No opinion	4	3

8B. It's time to teach Khaddafi a lesson even if that means risking a larger war with Libya. (If needed: "Do you agree or disagree?")

	National	New York City residents
Agree	39	41
Disagree	57	57
DK/No opinion	4	3

8C. The United States should see to it that Libyan leader Khaddafi is killed by whatever means available before he becomes even more powerful. (If needed: "Do you agree or disagree?")

	National	New York City residents
Agree	20	27
Disagree	76	70
DK/No opinion	4	3

9. On a different subject, as you may know, "contra" rebels seeking to overthrow the government in Nicaragua have base camps in the neighboring country of Honduras. Sandinista government troops from Nicaragua have crossed over the border into Honduras to attack those "contra" rebel camps. President Reagan today sent $20 million in military aid to Honduras to help that country repel the Nicaraguan troops. Do you approve or disapprove of Reagan's having sent military aid to Honduras to repel the Nicaraguan troops which crossed over Honduran border?

	National	New York City residents
Agree	54	49
Disagree	39	46
DK/No opinion	7	5

10. In addition, Reagan authorized the use of American helicopters and American pilots to transport Honduran troops to areas near where the Nicaraguan troops are. The White House said the American pilots would avoid any direct involvement in any fighting. Do you approve or disapprove of such use of American pilots?

	National	New York City residents
Agree	41	33
Disagree	55	63
DK/No opinion	4	4

11. As you may know, President Reagan has asked Congress for new military aid for the Nicaraguan rebels know as the "contras." Do you agree or disagree with Reagan that Congress should approve that money?

	National			New York City residents—Mar. 25, 1986
	Mar. 25, 1986	Mar. 16, 1986	Mar. 6, 1986	
Agree	42	30	34	35
Disagree	53	54	59	60
No opinion	5	16	8	5

(For comparative purposes only) The House of Representatives has refused Reagan's request for 100 million dollars in military and other aid to the contra rebels in Nicaragua. Do you approve or disapprove of that action by the House?

	Mar. 24, 1986
Approve	60
Disapprove	35
DK/No opinion	4

WNT POLL—REAGAN SPEECH: AID TO NICARAGUA

Number interviews=511; Interview date March 16, 1986; 0221

1. Did you happen to see or hear President Reagan's speech tonight?

	Mar. 16, 1986
Yes, saw/heard speech	38
No, didn't see/hear speech	62

2. President Reagan is asking Congress for new military aid for the Nicaraguan rebels known as the "Contras". Do you agree or disagree with Reagan that Congress should approve that money?

	Mar. 16, 1986	Mar. 6, 1986
Agree	30	34
Disagree	54	59
No opinion	16	8

3. Do you approve or disapprove of the way Reagan is handling the situation in Nicaragua?

	Mar. 16, 1986	Mar. 6, 1986
Agree	36	37
Disagree	48	47
No opinion	16	16

(For comparative purposes only) Do you approve or disapprove of the way Reagan is handling the situation in the Central American countries of El Salvador and Nicaragua?

	Aug. 1, 1983
Agree	33
Disagree	48
No opinion	19

4. (slight variation of wording) Would you say that the situation in Nicaragua is a threat to the security of the United States or not? (Is that a major threat or a minor threat?)

	Mar. 16, 1986	Mar. 6, 1986	Jan. 17, 1984	Nov. 7, 1983
Threat (Net)	56	49	52	51
Yes, major threat	29	27	28	29
Yes, minor threat	27	22	25	22
No, not a threat	31	43	32	29
No opinion	13	8	16	20

ABC NEWS NICARAGUA POLL

(Compiled by Karen Wright)

Number of interviews=543; Interview date March 6, 1986; #0220

1. Do you approve or disapprove of the way Ronald Reagan is handling the situation in Central America?

	Mar. 6, 1986	July 29, 1985	June 22, 1985	May 13, 1985
Approve	47	44	43	40
Disapprove	34	45	45	47
No opinion	19	11	12	14

2. Which would you say is a greater danger to the United States:

	Mar. 6, 1986	May 15, 1983
a. The spread of communism in Central America because the U.S. doesn't do enough to stop it, or	36	34
b. The U.S. becoming too entangled in internal Central American problems as a result of trying to stop the spread of communism	50	55
Don't know	13	11

3. Do you agree or disagree that the United States should take all steps including the use of force to prevent the spread of communism in Central America?

	Mar. 6, 1986	May 22, 1984
Agree	48	55
Disagree	42	34
Don't know	10	11

4. Have you read or heard anything about the fighting between the Sandinista government in Nicaragua and rebels seeking to overthrow that government?

	Mar. 6, 1986	Mar. 25, 1985	Jan. 17, 1984	Nov. 7, 1983	Aug. 1, 1983
Yes, have read or heard	72	81	58	51	59
No, have not read or heard	26	18	39	46	39
No opinion	1	1	2	3	2

5. Is the United States backing the government there, or the rebels trying to overthrow the government?

	Mar. 6, 1986	May 22, 1984
The rebels	50	33
The government	14	26
(Vol) U.S. is backing neither	2	1
Don't know	33	40

(For comparative purposes only) Do you happen to know which side the U.S. is backing in Nicaragua, the rebels or the government?

	Mar. 25, 1985
The rebels	37
The government	23
(Vol) U.S. is backing neither	1
Don't know	39

(For comparative purposes only) (In reference to Nicaragua) Do you happen to know which side the U.S. is backing, the rebels or the government?

	Jan. 17, 1984	Nov. 7, 1983	Aug. 1, 1983
The government	27	24	24
The rebels	25	26	29
(Vol) Neither	1	*	1
No opinion	47	50	47

6. As you may know the United States is supporting the rebels. Would you say you approve or disapprove of the United States being involved in trying to overthrow the government in Nicaragua?

	Mar. 6, 1986
Approve	32
Disapprove	52
No opinion	15

(For comparative purposes only) As you may know the United States, through the CIA is supporting the rebels. Would you say you approve or disapprove of the United States being involved in trying to overthrow the government in Nicaragua?

	Jan. 17, 1984	Nov. 7, 1983	Aug. 1, 1983
Approve	23	30	20
Disapprove	55	48	62
No opinion	22	22	17

7. President Reagan is asking Congress for new military aid for the Nicaraguan rebels known as the "Contras". Do you agree or disagree with Reagan that Congress should approve that money?

	Mar. 6, 1986
Agree	34
Disagree	59
No opinion	8

8. Do you approve or disapprove of the way Reagan is handling the situation in Nicaragua?

	Mar. 6, 1986
Approve	37
Disapprove	47
No opinion	16

(For comparative purposes only) Do you approve or disapprove of the way Reagan is handling the situation in the Central American countries of El Salvador and Nicaragua?

	Aug. 1, 1983
Approve	33
Disapprove	48
No opinion	19

9. Do you think the United States is heading for the same kind of involvement in Nicaragua as it had in the Vietnam war or do you think the United States will avoid that kind of involvement this time?

	Mar. 6, 1986
U.S. is headed for the same involvement	30
U.S. is not headed for same involvement	61
No answer	9

(For comparative purposes only) Do you think the United States is heading for the same kind of involvement in Central America as it had in the Vietnam war or do you think the United States will avoid that kind of involvement this time?

	Mar. 25, 1985	May 22, 1984	Aug. 1, 1983
U.S. is headed for the same involvement	29	33	40
U.S. is not headed for same involvement	66	62	55
No answer	5	5	5

(For comparative purposes only) (Asked after an El Salvador question) Do you think the United States is heading for the same kind of involvement as it had in the Vietnam war or do you think the United States will avoid that kind of involvement this time?

	May 15, 1983	Mar. 21, 1982
U.S. is headed for the same involvement	37	46
U.S. is not headed for same involvement	55	49
No answer	8	5

10. (Slight variation of wording) Would you say that the situation in Nicaragua is a threat to the security of the United States

or not? (Is that a major threat or a minor threat?)

	Mar. 6, 1986	Jan. 17, 1985	Nov. 7, 1983
Threat (Net)	49	52	51
Yes, major threat	27	28	29
Yes, minor threat	22	25	22
No, not a threat	43	32	29
No opinion	8	16	20

11. Which would you rather see happen: For Nicaragua to become another Cuba in terms of its relations with the Soviet Union, or for the United States to go to war with Nicaragua to try to prevent it from becoming another Cuba.

	Mar. 6, 1986	June 22, 1985
Nicaragua to become another Cuba	28	32
United States go to war with Nicaragua	37	34
(Vol) Neither/there are other options	22	19
DK/No opinion	13	14

ABC NEWS TYLENOL 1986 POLL

(Compiled by Karen Wright)

Number of interviews=507; Interview date Feb. 18, 1986; #0218

1. Have you ever taken any capsule drugs or medicines that are sold without a doctor's prescription in drug stores or supermarkets?

	Feb. 18, 1986
Yes, have taken capsules	59
No, have not taken capsules	40
DK/No opinion	*

2. (If yes in Q. 1) Do you regularly use such capsule drugs or medicines?

	Feb. 18, 1986
Yes, regularly use them	34
No, do not regularly use them	66
DK/No opinion	*

3. Given a choice between taking medication in capsule form or non-capsule form, which would you prefer?

	Feb. 18, 1986
Capsule form	26
Non-capsule form	60
DK/No opinion	14

4. Have you ever taken a Tylenol capsule?

	Feb. 18, 1986	Feb. 12, 1986	Oct. 11, 1982
Yes	56	74	64
No	43	27	36
No opinion	1		1

5. (If yes in Q. 4) Do you regularly use Tylenol capsules?

	Feb. 18, 1986
Yes, use Tylenol regularly	33
No, do not use Tylenol regularly	67
DK/No opinion	

6. (Slight variation of wording) Have you heard or read about the death of a woman in New York recently caused by Tylenol capsules that were poisoned by cyanide?

	Feb. 18, 1986	Feb. 11–12, 1986
Yes, have heard	99	95
No, have not heard	1	5

(For comparative purposes only) Have you read or heard about the deaths in Chicago caused by Tylenol capsules that were poisoned with cyanide?

	Oct. 11, 1986
Yes, have heard	100
No, have not heard	*

7. Do you think the maker of Tylenol, Johnson and Johnson, has done enough to insure that its products are not tampered with or do you think that Johnson and Johnson could have done more?

	Feb. 18, 1986
Has done enough	76
Could have done more	15
DK/No opinion	10

8. As you may know Johnson and Johnson has said it will stop making Tylenol in capsules because of the cyanide poisoning and will only make Tylenol in pills from now on. Do you approve or disapprove of that action?

	Feb. 18, 1986
Approve	87
Disapprove	9
DK/No opinion	5

9. Do you think other makers of over-the-counter medicine should stop making their products in capsule form, or do you think they should continue to make their products in capsule form?

	Feb. 18, 1986
Stop making capsules	52
Continue to make capsules	40
DK/No opinion	8

10. If other makers continue to make over-the-counter medicines in capsule form, will you use them or not?

	Feb. 18, 1986.
Yes, will use capsules	39
No, will not use capsules	59
DK/No opinion	2

11. Do you agree or disagree that TV news reports of the Tylenol death in New York were sensationalized?

	Feb. 18, 1986
Agree	45
Disagree	46
DK/No opinion	9

(For comparative purposes only) Do you agree or disagree that TV news reports of the Tylenol deaths (in Chicago) were sensationalized?

	Oct. 11, 1982
Agree	40
Disagree	53
No opinion	7

12. Which of the following comes closest to your view? The Tylenol murder in New York is:

(a) The act of a mentally disturbed person who wanted to murder someone at random, or

(b) A terrorist act by a group out to hurt Americans

	Feb. 18, 1986
Statement A	67
Statement B	20
(Vol) neither	5
DK/No opinion	8

13. Do you think the New York Tylenol death will cause other people to try to poison people in the same way or not?

	Feb. 18, 1986
Yes, it will	71
No, it will not	24
DK/No opinion	5

(For comparative purposes only) Do you think the Chicago Tylenol deaths will cause other people to try to poison people in the same way or not?

	Oct. 11, 1982
Yes, they will	78
No, they won't	16
No opinion	6

14. Are you afraid that you or someone in your family will be hurt by accidentally taking some medicine that has been tampered with?

	Feb. 18, 1986
Yes, am afraid	36
No, am not afraid	63
DK/No opinion	1

15. Are you afraid that you or someone in your family will be hurt by accidentally taking food, or some other product, that has been tampered with?

	Feb. 18, 1986
Yes, am afraid	41
No, am not afraid	57
DK/No opinion	1

Net 14 & 15: Afraid self or family member will take either medicine, food or other product that's been tampered with

	Feb. 18, 1986
Yes, am afraid	46
No, am not afraid	52

	Feb. 18, 1986
DK/No opinion	2

Mr. EDWARDS of Oklahoma. Mr. Chairman, before I yield to our final speaker, I would like all Members to join me in welcoming back to the House Chamber for this vote our colleague, the gentleman from Illinois, Mr. GEORGE O'BRIEN.

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Mr. O'BRIEN. Mr. Chairman, I will not take long. It is such an honor to be one of you. You are wonderful people, and I note that there is a certain sense of fraternity irrespective of views, irrespective of party, that transcends all the other differences we have.

Today and tonight that is demonstrated by your demonstration of affection for Mary Lou and me. Thank you very much.

Mr. EDWARDS of Oklahoma. Mr. Chairman, to close the debate on our side, I yield 4 minutes to the cosponsor of the Edwards-Skelton amendment, the gentleman from Missouri, Mr. IKE SKELTON.

Mr. SKELTON. Mr. Chairman, the presence of our friend and colleague from Illinois not only makes this a historic occasion, but makes it a grand one.

The gentleman from Washington said that this is a historic time. There have been other historic times in this body. There was the time during the era of Henry Clay when this House supported independence and freedom in all of Latin America from the colonial yoke of the Europeans, on a bipartisan basis. There was the time during the era of Harry Truman when this House supported freedom and democracy in Western Europe on a bipartisan basis. There was the time during the period of John F. Kennedy when this House supported the free world and resisted the spread of communism on a bipartisan basis.

Then Vietnam came, and the sadness of those days caused this House to be divided. But since that time we have seen the continuing spread of communism, this cancer that has gone to the corners of the world: Afghanistan, the continent of Africa, and now in our hemisphere, in Central America—Central America, our own backyard.

It takes me just as long to fly from Washington, DC, to Kansas City, MO, as it takes to fly from Miami, FL, to Central America. I hope all of us when we go back to our dwellings tonight will get out the atlas and see that this is really very close to home—truly our backyard.

Mr. Chairman, tonight there is an opportunity once again in this body to speak as a bipartisan group for freedom and to stand for democracy and to stand against communism.

What is the issue before us this evening? The issue is not whether to choose one plan or another; the issue is not whether to adopt one issue or another amendment; but the issue is whether we will make a decision as a body.

Our amendment—the Edwards-Skelton-Ray-Chandler amendment—is the only decision that will be made and can be made tonight. The alternative is no decision; as a matter of fact it is what we do not want; prolonged indecision. We want a solid, decisive vote tonight. We ask this for our amendment.

You know, there was a time that history recalls, and it was a very little noted vote in this very Chamber in 1939, when this body voted down the armaments and fortification of Guam. No one paid much attention to it except the Empire of Japan, and they calculated and felt that as a result of that, America would not defend its interests in the far corners of the world.

That was a decisive move here that sent the wrong signal. We cannot afford to do that tonight. We must make a decision and send the right signal. Tonight we will decide whether we will recognize and act for our national security's interest, or to put that decision off. Tonight we will decide whether we will recognize and act on behalf of the democracies in our hemisphere, those four budding democracies, or put that decision off. I ask the Members to vote for our amendment, the Edwards-Skelton-Ray-Chandler amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Oklahoma [Mr. EDWARDS], as modified.

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 209, not voting 3, as follows:

[Roll No. 199]

AYES—221

Archer	Broomfield	Coleman (MO)	Dreier	Lipinski	Rowland (CT)
Armey	Brown (CO)	Combest	Duncan	Livingston	Rowland (GA)
Aspin	Broyhill	Coughlin	Dyson	Lloyd	Rudd
Badham	Burton (IN)	Courter	Eckert (NY)	Loeffler	Saxton
Barnard	Bustamante	Craig	Edwards (OK)	Lott	Schaefer
Bartlett	Byron	Crane	Emerson	Lowery (CA)	Schuette
Barton	Callahan	Daniel	English	Lujan	Schulze
Bateman	Campbell	Dannemeyer	Erdreich	Lungren	Sensenbrenner
Bennett	Carney	Darden	Evans (IA)	Mack	Shaw
Bentley	Chandler	Daub	Fascell	Madigan	Shelby
Bereuter	Chappell	Davis	Fawell	Marlenee	Shumway
Bevill	Chappie	DeLay	Fiedler	Martin (IL)	Shuster
Biaggi	Cheney	DeWine	Fields	Martin (NY)	Siljander
Bilirakis	Clinger	Dickinson	Fish	McCain	Sisisky
Bliley	Coats	DioGuardi	Flippo	McCandless	Skeen
Boulter	Cobey	Dornan (CA)	Franklin	McCollum	Skelton
Breaux	Coble	Dowdy	Frenzel	McDade	Slaughter
			Fuqua	McEwen	Smith (FL)
			Gallo	McGrath	Smith (NE)
			Gekas	McKernan	Smith (NJ)
			Gibbons	McMillan	Smith, Denny (OR)
			Gilman	Meyers	Smith, Robert (NH)
			Gingrich	Mica	Smith, Robert (OR)
			Goodling	Michel	Snowe
			Gradison	Miller (OH)	Snyder
			Gregg	Miller (WA)	Solomon
			Gunderson	Molinari	Spence
			Hall, Ralph	Monson	Stangeland
			Hammerschmidt	Montgomery	Stenholm
			Hansen	Moore	Strang
			Hartnett	Moorhead	Stratton
			Hatcher	Morrison (WA)	Stump
			Hendon	Murtha	Sundquist
			Henry	Myers	Sweeney
			Hiler	Nelson	Swindall
			Hillis	Nichols	Tallon
			Holt	Nielson	Tauzin
			Hopkins	O'Brien	Taylor
			Hubbard	Ortiz	Thomas (CA)
			Huckaby	Oxley	Thomas (GA)
			Hunter	Packard	Vander Jagt
			Hutto	Parris	Vucanovich
			Hyde	Pashayan	Walker
			Ireland	Pepper	Watkins
			Jenkins	Petri	Weber
			Johnson	Porter	Whitehurst
			Jones (OK)	Pursell	Whittaker
			Kasich	Quillen	Wilson
			Kemp	Ray	Wolf
			Kindness	Regula	Wortley
			Kolbe	Rinaldo	Wylie
			Kramer	Ritter	Young (AK)
			Lagomarsino	Roberts	Young (FL)
			Latta	Robinson	Zschau
			Leath (TX)	Roemer	
			Lent	Rogers	
			Lewis (CA)	Roth	
			Lewis (FL)	Roukema	

NOES—209

Ackerman	Coleman (TX)	Garcia
Akaka	Collins	Gejdenson
Alexander	Conte	Gephardt
Anderson	Conyers	Glickman
Andrews	Cooper	Gonzalez
Annunzio	Coyne	Gordon
Anthony	Crockett	Gray (IL)
Applegate	Daschle	Gray (PA)
Atkins	de la Garza	Green
AuCoin	Dellums	Guarini
Barnes	Derrick	Hall (OH)
Bates	Dicks	Hamilton
Bedell	Dingell	Hayes
Beilenson	Dixon	Hefner
Berman	Donnelly	Heftel
Boehlert	Dorgan (ND)	Hertel
Boggs	Downey	Horton
Boland	Durbin	Howard
Boner (TN)	Dwyer	Hoyer
Bonior (MI)	Dymally	Hughes
Bonker	Early	Jacobs
Borski	Eckart (OH)	Jeffords
Bosco	Edgar	Jones (NC)
Boucher	Edwards (CA)	Jones (TN)
Boxer	Evans (IL)	Kanjorski
Brooks	Fazio	Kaptur
Brown (CA)	Feighan	Kastenmeier
Bruce	Florio	Kennelly
Bryant	Foglietta	Kildee
Burton (CA)	Foley	Kleczka
Carper	Ford (MI)	Kolter
Carr	Ford (TN)	Kostmayer
Chapman	Fowler	LaFalce
Clay	Frank	Lantos
Coelho	Frost	Leach (IA)

Lehman (CA)	Oberstar	Staggers
Lehman (FL)	Obey	Stallings
Leland	Olin	Stark
Levin (MI)	Owens	Stokes
Levine (CA)	Panetta	Studds
Lightfoot	Pease	Swift
Long	Penny	Synar
Lowry (WA)	Perkins	Tauke
Luken	Pickle	Torres
Lundine	Price	Torricelli
MacKay	Rahall	Towns
Manton	Rangel	Traficant
Markey	Reid	Traxler
Martinez	Richardson	Udall
Matsui	Ridge	Valentine
Mavroules	Rodino	Vento
Mazzoli	Roe	Visclosky
McCloskey	Rose	Volkmer
McCurdy	Rostenkowski	Walgren
McHugh	Roybal	Waxman
McKinney	Russo	Weaver
Mikulski	Sabo	Weiss
Miller (CA)	Savage	Wheat
Mineta	Scheuer	Whitley
Mitchell	Schneider	Whitten
Moakley	Schroeder	Williams
Mollohan	Schumer	Wirth
Moody	Seiberling	Wise
Morrison (CT)	Sharp	Wolpe
Mrazek	Sikorski	Wright
Murphy	Slattery	Wyden
Natcher	Smith (IA)	Yates
Neal	Solarz	Yatron
Nowak	Spratt	Young (MO)
Oakar	St Germain	

NOT VOTING—3

Gaydos	Grotberg	Hawkins

□ 2015

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

□ 2030

AMENDMENT OFFERED BY MR. HAMILTON

Mr. HAMILTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HAMILTON: Strike out title II (as added to the bill pursuant to House Resolution 481) and insert in lieu thereof the following:

TITLE II

UNITED STATES POLICY IN CENTRAL AMERICA

SEC. 201. (a) The primary objectives of United States policy in Central America should be—

(1) to preserve the security of the United States;

(2) to prevent the Soviet Union and its allies from seeking to destablize the region or to develop or deploy an offensive military capability which directly threatens the United States;

(3) to achieve peace and reconciliation;

(4) to promote stability and economic development;

(5) to promote the observance of human rights and the strengthening of democratic processes; and

(6) to live at peace with Nicaragua so long as Nicaragua lives at peace with its neighbors.

(b) United States strategy for achieving the objectives stated in subsection (a) should include—

(1) an emphasis on seeking a negotiated, regional settlement;

(2) respect for the independence and territorial integrity of all nations;

(3) a clear commitment, through appropriate types and levels of military and economic assistance, to assist the nations of Central America in building and sustaining viable, democratic societies capable of withstanding aggression and subversion and of providing their people with an opportunity for better lives; and

(4) consistent diplomatic support on behalf of the observance of human rights by groups and governments, and support for democratic institutions throughout the region, in recognition of the fact that subversion feeds on repression.

(c) In furtherance of the objectives stated in subsection (a), United States policy with respect to Nicaragua should include the following:

(1) A commitment to preserve the security of the United States by preventing the Soviet Union and its allies from developing or deploying an offensive military capability in Central America that directly threatens the United States.

(2) A commitment to protect the security and territorial integrity of any nation of Central America in conformance with the Charter of the Organization of American States and the Inter-American Treaty of Reciprocal Assistance, which provide for collective action.

(3) Pursuit of a regional settlement through all diplomatic avenues, including—

(A) effective support for the Contadora process, which is addressing the questions of peace and security (including mechanisms for verification and enforcement) and internal reconciliation and political pluralism;

(B) giving priority to obtaining a ceasefire in Nicaragua;

(C) renewing bilateral talks with Nicaragua; and

(D) encouraging direct talks among the parties to the conflict in Nicaragua.

(4) The provision of incentives to Nicaragua if the Government of Nicaragua agrees to a ceasefire with its opponents, removes foreign military advisors, agrees not to provide material support for insurgencies and agrees to appropriate monitoring procedures under Contadora auspices to verify such agreement, respects human rights and the independence of the media, and makes progress toward national reconciliation and a pluralistic democratic system. Incentives should be structured to enable the United States to respond to positive steps by Nicaragua. These incentives could include—

(A) the suspension of United States military exercises in the region;

(B) the termination of the national emergency with respect to Nicaragua which the President declared in Executive order 12513 on May 1, 1985, and termination of the United States embargo against Nicaragua instituted pursuant to that Executive order;

(C) the resumption of normal trade, including the resumption of nondiscriminatory trade treatment (MFN status), the restoration of benefits under the Generalized System of Preferences, and the restoration of Nicaragua's sugar quota;

(D) the provision of bilateral and multilateral assistance of Nicaragua and the provision of technical assistance, help in agriculture and health, and volunteer services; and

(E) the creation of a Central American Development Organization (in accordance with section 464 of the Foreign Assistance Act of 1961) in which Nicaragua could participate.

(5) The imposition of further sanctions against Nicaragua should it intensify or expand activities hostile to United States interests and to peace and security within Central America. Such sanctions could include obtaining the cooperation of our allies in Western Europe and Japan, now Nicaragua's largest trading partners, in—

(A) cutting trade with Nicaragua;

(B) stopping bilateral assistance and blocking multilateral assistance to Nicaragua;

(C) imposing comprehensive economic sanctions against Nicaragua;

(D) breaking diplomatic relations with Nicaragua; and

(E) working with our Latin American allies, especially those in Central America, to isolate Nicaragua in regional affairs.

Such sanctions can only be effective if taken together with our allies. Unilateral sanctions have not and will not be effective.

SUPPORT FOR THE CONTADORA PROCESS

SEC. 202. (a) The Congress reaffirms its support for the Contadora initiatives and processes, particularly the principles for peace outlined in the Document of Objectives of September 9, 1983, and the Caraballeda Declaration of January 12, 1986. These include termination of support for irregular forces in the region, termination of support for insurrectionist movements in the region, negotiated limits on arms acquisitions, negotiated limits on international military maneuvers, progressive reduction toward elimination of foreign military advisers, effective steps toward national reconciliation and observance of human rights, commitment by the Central American nations to avoid aggression, and promotion of regional integration and cooperation.

(b) In accordance with the Caraballeda Declaration of January 12, 1986 (which was signed by the foreign ministers of all four Contadora nations and all four Contadora Support Group nations), and the Guatemala Declaration of January 16, 1986 (which was signed by all five Central American nations), the Congress urges the President to resume without preconditions direct bilateral talks with Nicaragua, which were suspended by the United States in January 1985.

(c) The Congress calls upon the President, in order to show support for the Contadora process, to announce that when all five Central American nations have signed an agreement based on the Contadora Document of Objectives, the United States will respond by taking positive steps which could include—

(1) supporting and observing that agreement;

(2) limiting the scope, duration, and locale of United States military exercises in Central America to those allowed by that agreement; and

(3) terminating the national emergency with respect to Nicaragua which the President declared in Executive order 12513 on May 1, 1985.

ASSISTANCE IN SUPPORT OF THE REGIONAL PEACE PROCESS

SEC. 203. (a) The Congress urges the President to support the regional peace process in Central America with diplomatic and financial assistance.

(b)(1) The President is authorized and encouraged to use up to $5,000,000—

(A) to provide assistance to the Contadora nations of Mexico, Panama, Venezuela, and Colombia, and the Contadora Support Group nations of Argentina, Peru, Uruguay, and Brazil, to assist those nations in reaching agreement among the nations of Central

America based on the Contadora Document of Objectives, including assistance for peacekeeping, verification, and monitoring systems; and

(B) to help implement any joint border commission agreement between Nicaragua and Costa Rica, or between Nicaragua and Honduras, which those nations enter into a furtherance of the purposes of the Contadora Document of Objectives.

(2) In addition to funds transferred pursuant to section 205, the $2,000,000 appropriated under the heading "ASSISTANCE FOR IMPLEMENTATION OF A CONTADORA AGREEMENT" by the Supplemental Appropriations Act, 1985, may be used to carry out paragraph (1) of this subsection.

(c) In addition, the Congress urges the President, at such time as an agreement based on the Contadora Document of Objectives is signed by all five Central American nations, to request such funds as may be necessary to assist in the implementation of that agreement.

ASSISTANCE FOR HUMANITARIAN NEEDS AND RESETTLEMENT

SEC. 204. Up to $27,000,000 of the funds authorized to be transferred by section 205 may be made available for use as follows:

(1) Except for amounts used pursuant to paragraph (2), these funds shall be used to provide food, medicine, or other assistance for the humanitarian needs of those who have been displayed by conflict in Nicaragua, regardless of whether they have been associated with the Nicaraguan opposition forces. Assistance under this paragraph may be provided only through the International Committee of the Red Cross or the United Nations High Commissioner for Refugees, and only upon that organization's determination that such assistance is necessary to meet humanitarian needs.

(2) Up to $15,000,000 of these funds may be used for the resettlement of members of the Nicaraguan opposition forces (and their families) who have terminated their military activities.

TRANSFER OF DOD FUNDS

SEC. 205. The President may transfer up to $30,000,000 of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in Public Law 99-190), for use in carrying out section 203(b)(1) and section 204 of this Act. The funds transferred under this section may include funds that have been made available for obligation beyond September 30, 1986, as provided by law.

REPORTS ON USE OF FUNDS

SEC. 206. No less frequently than once every 3 months, the President shall submit to the Congress a written report containing an accounting of any funds used pursuant to section 203 or 204.

NATIONAL COMMISSION ON CONTADORA

SEC. 207. (a) There is hereby established the National Commission on Contadora (hereafter in this section referred to as the "Commission"). The Commission shall—

(1) monitor and review the efforts of the Contadora nations to achieve a political resolution to the conflicts in Central America; and

(2) make recommendations with a view to building a consensus on United States policy toward Nicaragua.

(b) The Commission shall consist of an even number of members, such number to be determined jointly by the Speaker of the House of Representatives and the Minority Leader of the Senate, who shall each appoint half of the members of the Commission. A vacancy in the membership of the Commission shall be filled in the same manner as the original appointment.

(c) Not later than January 31, 1987, the Commission shall submit a report to the President and to the Congress with respect to its findings and recommendations. This report shall include—

(1) a detailed review of the status of the Contadora negotiations and United States support for those negotiations;

(2) a determination by the Commission of whether the Government of Nicaragua and the Nicaraguan opposition are facilitating the Contadora process;

(3) a recommendation on policies toward Nicaragua which the Commission believes represent a consensus that is sustainable and is supportable by the American people; and

(4) a recommendation on policies which the Commission believes will enhance peace and security throughout Central America.

(d) Members of the Commission shall receive no compensation on account of their service on the Commission, but while away from their homes or regular places of business in the performance of their duties on the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(e)(1) The Commission may employ experts and consultants in accordance with section 3109 of title 5, United States Code.

(2) Upon a request by the Commission, the head of any Federal agency may temporarily assign employees of that agency to the Commission in carrying out this section.

(f) Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(g) Funds for the expenses incurred by the Commission in carrying out this section, including travel expenses, shall be provided by Secretary of State.

PRESIDENTIAL REQUEST FOR ADDITIONAL AUTHORITY WITH RESPECT TO NICARAGUA

SEC. 208. (a) After considering the recommendations of the National Commission on Contadora contained in the report submitted pursuant to section 207(c), the President may submit to the Congress on or after January 31, 1987, a request for authority to take specified actions with respect to Nicaragua. The request must be accompanied by—

(1) the President's assurance that he has consulted with the Contadora nations and the Contadora Support Group nations concerning the proposed actions; and

(2) a description of the response of the Contadora nations and the Contadora Support Group nations to the proposed actions.

(b)(1) The provisions of this subsection apply, during the first session of the 100th Congress, to the consideration in the House of Representatives of a joint resolution with respect to the request submitted by the President pursuant to subsection (a).

(2) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the Congress receives the request submitted by the President pursuant to subsection (a)—

(A) the matter after the resolving clause of which is as follows: "That the Congress hereby authorizes the President, notwithstanding any other provision of law, to take those actions with respect to Nicaragua which are specified in the request submitted to the Congress pursuant to title II of the Military Construction Appropriations Act, 1987.";

(B) which does not have a preamble; and

(C) the title of which is as follows: "Joint Resolution relating to Nicaragua pursuant to title II of the Military Construction Appropriations Act, 1987.".

(3) A joint resolution shall, upon introduction, be referred to the appropriate committee or committees of the House of Representatives.

(4) If all the committees of the House to which a joint resolution has been referred have not reported the same joint resolution by the end of 15 legislative days after the first joint resolution was introduced, any committee which has not reported the first joint resolution introduced shall be discharged from further consideration of that joint resolution and that joint resolution shall be placed on the appropriate calendar of the House.

(5)(A) At any time after the first joint resolution placed on the appropriate calendar has been on that calendar for a period of 5 legislative days, it is in order for any Member of the House (after consultation with the Speaker as to the most appropriate time for the consideration of that joint resolution) to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of that joint resolution. The motion is highly privileged and is in order even though a previous motion to the same effect has been disagreed to. All points of order against the joint resolution under clauses 2 and 6 of Rule XXI of the Rules of the House are waived. If the motion is agreed to, the resolution shall remain the unfinished business of the House until disposed of. A motion to reconsider the vote by which the motion is disagreed to shall not be in order.

(B) Debate on the joint resolution shall not exceed ten hours, which shall be divided equally between a Member favoring and a Member opposing the joint resolution. A motion to limit debate is in order at any time in the House or in the Committee of the Whole and is not debatable.

(C) An amendment to the joint resolution is not in order.

(D) At the conclusion of the debate on the joint resolution, the Committee of the Whole shall rise and report the joint resolution back to the House, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion.

(6) As used in this subsection, the term "legislative day" means a day on which the House is in session.

(7) This subsection is enacted—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such it is deemed a part of the Rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the House to change its rules to any time, in the same manner, and to the same extent as in the case of any other rule of the House, and of the right of the Committee on Rules to report a resolution for the consideration of any measure.

The CHAIRMAN. Under the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

Mr. HYDE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana [Mr. HAMILTON] and will manage the time on this side.

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON] for 30 minutes.

Mr. HAMILTON. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise in support of this amendment, which I offer on behalf of the gentleman from New Mexico [Mr. RICHARDSON], the gentleman from Maryland [Mr. BARNES], and the gentleman from Vermont [Mr. JEFFORDS].

Mr. Chairman, this amendment is similar to an amendment I offered in April which passed the House overwhelmingly. This amendment emphasizes the need of a better United States policy toward Nicaragua, the need for negotiations and support for Contadora, the principle of nonintervention and the necessity of a ceasefire. It provides modest sums for refugees and resettlement, and modest financial support for the Contadora process. The amendment provides no aid to the Contras.

Mr. Chairman, this critical foreign policy issue has already been debated twice this year and five times in that past 3 years. So there is no need for extended discussion of this amendment today.

DESCRIPTION OF AMENDMENT

The amendment has six parts:

First, the amendment contains policy language which sets out what the primary objectives of United States policy toward Central America should be, then spells out a strategy for achieving those objectives and finally gives specific suggestions as to what should be the elements of United States policy toward Nicaragua. That policy should include:

A commitment to prevent the Soviet Union and its allies from deploying an offensive military capability in Central America that directly threatens the United States:

A commitment to protect Central American nations from attack;

Pursuit of a regional settlement through all diplomatic channels; and

A willingness to use, over the long term, incentives and penalties to respond to Nicaragua's behavior.

Second, the amendment reaffirms support for the Contadora initiatives and processes for establishing peace and security throughout Central America. In this section of the amendment, the Congress calls upon the President, in order to show support for the Contadora process, to announce that when all five Central American nations have signed an agreement based on the Contadora document of objectives, the United States will respond by taking positive steps.

Third, the amendment makes available up to $5 million, including the $2 million appropriated by the Supplemental Appropriations Act of 1985, for assistance to the Contadora nations to assist them in reaching a regional peace settlement. It also makes available assistance for peacekeeping operations to help implement any joint border agreement between Nicaragua and Costa Rica or Nicaragua and Honduras.

Fourth, the amendment makes $27 million available for those who have been displaced by conflict in Nicaragua, to be provided by the International Committee of the Red Cross or the U.N. High Commissioner for refugees upon that organization's determination of need for food, medicine or other humanitarian assistance. Up to $15 million of this amount would be available for resettlement of Nicaraguan opposition forces who terminate their military activities.

Fifth, the amendment creates a National Commission on Contadora to be appointed jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate. The Commission shall report not later than January 31, 1987, with respect to its findings on the status of the Contadora negotiations, and shall make recommendations on policies toward Nicaragua which the Commission believes represent a sustainable consensus on policy toward Nicaragua, that will enhance peace and security throughout Central America.

In the final section of the amendment the President may, on or after January 31, 1987, request of Congress authorization to take further actions with respect to Nicaragua. A joint resolution authorizing the President to take action would be considered under expedited procedures.

THE CHOICE BEFORE CONGRESS

Mr. Chairman, the issue before us is not the potential loss of Central America:

The Congress is united on what the United States cannot tolerate;

The Congress is quite prepared to support any action that will repel Nicaraguan aggression against its neighbors;

The Congress will act to prevent the introduction of advanced weaponry or to prevent the use of Nicaragua as a base for Soviet and Cuban military forces. We will not let Nicaragua become a strategic base or a threat to its neighbors. We will support and strengthen the countries in the region that are trying to build democracies;

The choice before us in Nicaragua today is different: It is whether to try to pursue a military solution or to pursue over time a regional policy which addresses security issues first and democracy in Nicaragua over the long-term.

A military solution is going to require far more military aid to the Contras than $100 million and far more time than 1 year to enable the Contras to defeat the Sandinistas or to make them cry uncle, in the President's phrase—or it will require the introduction of U.S military forces.

A $100 million program for the Contras cannot accomplish the stated objectives of U.S. policy.

There are five important reasons for this conclusion:

First, there is no evidence that military pressure will work.

The heart of present policy is that military pressure will turn the Sandinistas into Democrats. There is no credible evidence that that will happen.

What is the evidence that pressure will work? Look at the record of the last 5 years:

The Sandinistas have consolidated their control over Nicaragua, increased internal repression, and have shown no interest in political pluralism or democratic reform.

The Sandinistas have increased the size of their military forces and the size of the Soviet and Cuban military presence. According to the administration, they are expanding the export of revolution throughout the Western Hemisphere;

Every trend of concern to us in Nicaragua has gone from bad to worse.

I asked a high administration official what evidence we have that our policy of military pressure has worked.

He told me that our policy has led to internal differences among the comandantes. I asked him if he could identify who the relative "moderates" were among the Sandinista leaders. He could not do so;

He also told me that a leader in a neighboring Central American country thought our policy of pressure would work;

This was the entire evidence he gave me.

So, our evidence that pressure works is the say-so of a Central American leader who is deeply dependent on American aid, and the fact that nine comandantes don't always see eye to eye. I submit to you this is not very compelling evidence of success on which to base a policy of military pressure.

All the evidence on the ground in Nicaragua demonstrates the opposite, that military pressure through the Contras is not working.

Second, present policy entrusts the American national interest to the Contras. They are a weak reed to lean on. They are an imperfect instrument

with which to protect the U.S. national interest. Put me down as doubtful that aid for the Contras can be effectively translated into aid for our democratic cause.

Over the last 5 years, the Contras have received some $100 million in assistance, but they do not control a single town or village. There may well be some 27,000 Contras under arms but they control less territory today than ever before. They tend to stay primarily in safe haven in Honduras;

The overwhelming weight of American intelligence and military opinion is that the Contras have no chance of military victory in the foreseeable future. The outlook is for a prolonged, bloody stalemate;

The Contras have waged a war primarily against civilian targets, attacking buses on rural roads, agricultural workers, and civilian government officials. They attack Sandinista military units or other military targets infrequently. They have no credible presence in any urban centers;

Their human rights abuses and tactics of terror have been documented frequently by independent observers;

The Contras' principal political organization, UNO, is principally located in Miami and is little known inside Nicaragua. UNO is as much a creature of the CIA as it is a genuine resistance movement. The CIA has nursed it and rehearsed it.

UNO is better known today for press releases from Miami than for winning Nicaraguan hearts and minds;

Most Nicaraguans, rightly or wrongly, still identify the Contras as Somocistas, not freedom fighters. Few Nicaraguans know what UNO stands for; few know and trust its leaders;

There is strong evidence that assistance provided to the Contras in the last year cannot be accounted for. The GAO inquiry raised more questions than it answered. No one is able to verify how more than half the money has been used;

The Contra leaders have been more successful in Washington than they have been in Nicaragua.

Much has been made of the recent UNO meetings in Miami to forge greater unity and coordination inside UNO. Some progress may have occurred, but it is far too early to make any judgment about that. There are reasons for skepticism about the results of that meeting. The meetings were to last 2 days, but lasted 2 weeks. The United States engineered the meetings and heavily influenced, if it did not dominate, the proceedings. The key issue of civilian control over the military was not resolved. No personnel changes have been made among the top leadership of the military arm of the Contras controlled by the FDN. Mr. Calero retains control of the FDN, which continues as an independent political and military organization that forms part of the rebel front.

After 5 years and despite increasing discontent inside Nicaragua with the course of the Sandinista revolution, the Contras remain a question mark. There are simply too many questions about the Contras' political viability, adherence to democracy, military performance, respect for human rights and regional support for the United States to invest in them as guardian of the U.S. national interest in this area.

Third, the means proposed do not match policy ends.

Our rhetoric far outstrips our ability to perform—even with the $100 million. The President, for whatever reasons, is unwilling to ask for the resources needed to achieve his policy goals. He implies victory, but denies the resources for victory. There is, then, an ambitious goal, but very modest means to achieve it.

The most which has been claimed is that this package will lead to modest improvements in the Contras' military performance by the year's end.

Nobody sees the $100 million as the last request. This amendment is only a down payment on another request in early 1987. There are simply no good estimates today on how much time, how much money and how much training might be necessary to turn the Contras into a viable force. No one will answer the question what the United States will do if the $100 million does not work.

A highly placed adviser to the President admitted to me that $100 million may not be enough. My judgment is that this $100 million cannot do the job.

Fourth, the $100 million effort does not take into account the reaction of Nicaragua's Soviet and Cuban supporters to any United States military assistance. Experience suggests that when one side ratchets up the conflict, the other side responds in kind.

A high administration official told me that the Soviets would "back-off" if we supplied $100 million. If he is right, I will be surprised. My prediction is that if we provide more aid, so will the Soviets. The result will be more bloodshed, and a prolonged stalemate.

Our move in Nicaragua will not be the last move.

Fifth, the purposes of policy remain unclear.

The President supports $100 million for the Contras, but he has not made up his mind what it is we want to do with the Sandinistas. Is it to overthrow the Sandinistas, is it to pressure the Sandinistas to sign a Contadora agreement, or is it to pressure them to carry out internal reforms?

The President said in his 1986 State of the Union Message that we must provide moral and material assistance to those who wish "not just to fight and die for freedom, but to fight and win freedom."

The President said in February 1986, that it was United States policy "to promote a negotiated settlement in Central America and in Nicaragua based on the Contadora document of objectives."

The President also said in February that "substantial pressure" was necessary or the Sandinistas "will never embrace open, democratic norms."

These are completely different policies.

The President has not decided which it is he supports. He has been confused about his objectives and not clear about the role of negotiations in U.S. policy.

The problem with his proposal and its variants under consideration today is the same.

They are unwilling to make the fundamental choice the situation demands;

They go neither for a military solution nor a regional solution;

They will result in more bloodshed, more indecision and no solution;

They hope that a modest amount of additional military pressure on the Sandinistas will suddenly make conditions favorable, persuade the Sandinistas to have a miracle conversion, and force negotiations. But I see no evidence that the $100 million in aid or even another $100 million after it will make the Sandinistas come around. There is, so far as I can see, no evidence that the Sandinistas will change their stripes by reason of a modest amount of additional aid to the Contras.

The Sandinistas have no reason to negotiate with the Contras unless the Contras threaten their hold on power. The Contras pose no such threat with this modest amount of addition aid.

In sum, the low-level military pressure embodied by these proposals will get us nowhere.

The approach I propose is not, I acknowledge, problem-free. It is to let the Sandinistas exist—at least for the short-term—but stop their external conduct that threatens U.S. interests. This approach of isolation and containment of Nicaragua and pursuit of the Contadora process represents a better course than a half-hearted approach to a military solution.

I urge adoption of the Hamilton-Richardson-Barnes-Jeffords amendment.

□ 2040

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is not quite a perennial, but every time we debate the issue of the freedom fighters in Nicaragua, we are confronted by the Hamilton-Barnes amend-

ment, which simply says to people in that area:

We will not help you defend the cause of freedom, free press, freedom of religion, but if you want to flee your country, if you want to become a refugee, we will try to give you some tents and some food and make it a little more comfortable for you.

That is really the choice that you are given today.

I really have a problem with this bill because it was up the last time and it passed the House overwhelmingly. Then, for some strange, bizarre reason, the leadership of the Democratic Party dumped the bill. They just terminated the proceedings; the committee rose; and it was never heard of again, except it has revived today. Once more, Easter is here and we have this concept of the refugee protection. Flee your home, we will give you clean tents and a blanket, and let the Sandinistas consolidate their Marxist-Leninist regime and we will pay you to leave your country.

Why was it not followed through last time when it passed overwhelmingly? I am the last person to question the sincerity of the chief sponsors of this amendment, because they keep offering it. They must like it, and they must mean it.

But I am at a loss to understand why the leadership, when it passed overwhelmingly, dumped it. They must not have wanted it, even though the sponsors did. But it is confusing, and I just express my bewilderment to you.

I assume the gentleman from Maryland [Mr. BARNES] is a cosponsor of this; am I correct?

The chief sponsor, the gentleman from Indiana [Mr. HAMILTON], nodded in the affirmative, so I have that assurance.

I would like to bring to my colleagues' attention a contrast in philosophy from the cosponsor, the gentleman from Maryland [Mr. BARNES] whose answer now to the Contras and to the Sandinistas is to create refugees in Honduras.

By the way, I wonder how Honduras would feel about creating refugee camps and inducing people to leave their homelands and come and settle in Honduras, or settle in El Salvador, or maybe in Costa Rica? I wonder if we are creating a problem for them? I wonder if we are giving enough money?

But in any event, to get back to the gentleman from Maryland [Mr. BARNES], I was very much taken back in 1982, December 21, 1982, and I saved this. In fact, I carry it with me quite a bit.

It is a statement that the gentleman made on the floor and it is from the CONGRESSIONAL RECORD, page E5369 (Daily Edition).

This is what the gentleman from Maryland [Mr. BARNES], chairman of the Subcommittee on Western Hemisphere Affairs, said December 21, 1982, and I quote:

Nicaragua must now, unequivocally, choose the path of freedom, democracy, nonalignment, and respect of basic freedom for its people. Most recently, on September 29 I joined six other Members of the House in addressing a private letter stating these concerns to the Nicaraguan junta and directorate. That letter has not been answered.

Mr. Speaker, I must now say to the leaders of Nicaragua: What do we have to show for our efforts? What do we have to show for our forbearance? How much longer do you expect us to remain silent in the face of what seems to be the slow, but inexorable destruction of the ideals of your revolution?

I make this statement with full knowledge that it will be used by those who wish Nicaragua ill. But the seriousness of the situation demand it. Nicaragua must change course, and it must do so now.

1982. We are now June 25, 1986, and the gentleman's response to the consolidation of the Sandinista Communist-Leninist tyranny is "to-the-rear-march."

It is not to force these people to the negotiating table. It is to make refugees out of the people who love freedom.

Mysteries abound and some things are never made clear, but I just thought I would point that out to you and perhaps some day I will find why, in the gentleman's case, he has gotten more mellow toward the Sandinistas and most everybody else has gotten a little tougher.

The CHAIRMAN. The gentleman from Illinois has consumed 5 minutes.

Mr. HAMILTON. Mr. Chairman, I yield 5 minutes to the gentleman from Vermont [Mr. JEFFORDS], one of the principal sponsors of the amendment.

Mr. JEFFORDS. Mr. Chairman, it is always a pleasure to follow the gentleman from Illinois [Mr. HYDE] and I would like to point out to him that I was as shocked as he was, when the leadership pulled the bill after the Hamilton amendment passed, I thought it was my tremendous speech that I gave on the House floor that turned the body around and got a rousing vote for the Hamilton amendment last time. Then only to find, however, that that House's action was not followed through with, was, to say the least, disappointing.

I would point out that this is an extremely important amendment, notwithstanding the speech of my predecessor.

In fact will be the most crucial vote we have ever cast on U.S. policy in Central America. We've wrestled with this issue for much too long. But the course we set today will determine our relationship with our southern neighbors for decades to come.

Let's stop for a minute and ask what has occurred since our last vote. I would suggest that it was perhaps our vote last time that progress was made.

Because Congress held off on military aid to the Contras, the Contradora process has made great strides toward concluding a regional peace agreement. .

Yet, because we continue to support the Contras, our image in Central America is that we care more about overthrowing the Sandinistas than we do about helping the struggling democracies of the region.

We also are facing condemnation by the World Court for violations of international law by the CIA in the mining of Nicaragua harbors.

The question is: What should our Central American policy be? Today we will make a crucial and irreversible decision.

Nicaragua continues to abuse human rights, restrict basis democratic individual freedoms, and rely upon communist nations for military and economic support.

Our democratic friends in Central America are struggling to provide the basic economic necessities for their people and to institute social reforms.

Leftist insurgencies continue to threaten these democracies because people are discontent with the slow pace of real reform.

While the American presence is felt on the killing fields of Nicaragua, all of Central America is crying out for our help on the planting fields.

Today we must set our Nation on the proper course. As I have done so many times before, I urge my colleagues to reject all aid to the Contras. We must support a winning policy in Central America. We must approve the Hamilton substitute.

Once again we are being asked to hand over $100 million from American taxpayers to rebels who have abused their own people and who appear to have been abusing what money we have already sent them.

I am very concerned by the administration's inability to account for the $27 million we have already spent. When we are insisting on absolute accountability for all domestic programs, we can accept nothing less from foreign aid programs.

I am encouraged that the administration finally recognizes the value of providing economic assistance to other Central American countries. But this economic aid request deserves more consideration than it is now getting as an 11th-hour addition to the military construction bill. And tying it to a package of military support for the Contras is inappropriate and counterproductive.

Vermont's "Partner in the America's" is Honduras, and many people in my State have long been involved in direct aid development projects—the kind of economic assistance that is making a big difference in the lives of the Honduran people and building the infrastructure for democracy.

Vermonters involved in these projects have long recognized that a farmer's first concern is to have a plot of land and to be allowed to grow his corn. Any political system that can't meet basic needs such as this will be vulnerable to leftist insurrections.

By the same token, the success of democracy and economic development in any nation of the region will provide a stark example to the Nicaraguan people of what their government is not providing for them.

We are all concerned about the possibility of the Soviets gaining more influence in Nicaragua. Preventing them from doing so is a primary objective of the Hamilton substitute.

However, the Soviets have recently been looking for better relations with the United States. Their eagerness to reach some agreement on arms control and to maintain the SALT II limits centers around their economic need to prevent a costly arms race.

The Soviets are also unlikely to accept the drain on their economy that increased military and economic support for Nicaragua would require. Any improvement in Soviet-American relations would obviously be put at risk by a higher Soviet profile in Nicaragua.

If we provide military aid to the Contras, we effectively are forcing the Soviets to upgrade their own military involvement in order to save face by not letting down a regime which we have made dependent on them. However, without pressure from us, their own economic shortcomings will curtail their support for the Sandinistas.

Our Contra policy has so far gained us almost nothing and lost us a great deal. All we have succeeded in doing is to damage our image abroad and, in all likelihood, to bring down the condemnation of the World Court on us for our actions in Nicaragua.

If we want the world to see us as the defender of democracies—which we are—then we'd better start doing just that in Central America, or one day we may find no democracies down there at all.

I support the Hamilton amendment. I urge you to do the same.

□ 2050

Mr. HYDE. Mr. Chairman, I reserve the balance of my time.

Mr. HAMILTON. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Chairman, I fear that this body has just made a mistake of truly monumental and historic proportions, a mistake which will come back to haunt us and our successors for many years to come. I think it may well be the historic equivalent of the Gulf of Tonkin resolution, and I fear there may be blood on the hands of this body.

Mr. Chairman, it has been 10 weeks since last we met to debate Nicaragua, but little has changed.

Diplomacy, not armed intervention, remains the policy favored by our democratic friends in Latin America. The leaders of the largest Contra group—the FDN—remain corrupt, politically ineffective and militarily inept.

The Nicaraguan Government—unified by our disunity—totters forward, scaring our adminstration, but not our people.

The arguments against voting $100 million in unrestricted Contra aid are also unchanged. Such aid would support a policy that is illegal, brutal, ineffective, historically ignorant, domestically and internationally unpopular, and that will deepen direct U.S. involvement in a war in which we cannot with honor participate and that we cannot win.

Let us remember that the majority of Nicaraguans are desperately poor. They were poor under Somoza; they are poor today. They cannot afford the designer eyeglasses of Daniel Ortega, but neither do they have condominiums in Miami or bank accounts in the Bahamas. Their enthusiasm is directed at neither the Contras nor the comandantes; they desire not rhetoric, but food and jobs and dignity.

It is to this majority that our policy toward Nicaragua should speak, and it is to this majority that this stale debate over Contra aid has been and remains stunningly irrelevant.

Mr. Chairman, it was true 10 weeks ago; it is true today—

You cannot blunt the appeal of Marx by giving millions more to the Contras; the Marx brothers of counterrevolution.

Better we concentrate on true Democrats and true democracy, seeking both not just in Nicaragua, but in Chile, in El Salvador, in Panama, and throughout the hemisphere. Better we refer back to our ideals, to the real Founding Fathers, to the time when those who governed America shunned privilege and did not fear the poor.

We can build democracy without, but not with, violence; if we offer not only elections, but also justice; and if we remember, despite our zeal to protect this hemisphere from foreign foes, to respect the national sovereignty and personal dignity of those we have in the past so often insulted and for all too long ignored.

Ten weeks have passed since last we debated Nicaragua; but the facts are the same and the choice is the same. Support the Hamilton substitute, oppose the Contra giveaway. Let us start over in Nicaragua, and this time, let us get it right.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, many of my colleagues today have alluded to the GAO report which came before our committee, the Subcommittee on Western Hemisphere Affairs, that made some innuendo and allegations that there might have been some corruption.

Much of that misunderstanding took place because the GAO was prohibited from sitting down and meeting with Ambassador Doomling and the Nicaraguan Human Assistance Office. Also, much of that occurred because the State Department was not notified of some of these allegations.

Yesterday, the State Department released, and I tried to gain some time from many of my colleagues today to refute their arguments but they would not yield, the State Department issued a report which, item by item refuted everything that the GAO alleged, and I do not think there is any doubt that most of the allegations were incorrect.

If there is any corruption, those who were involved in it should be prosecuted, and we should make corrections; but the bottom line is, there is a Communist menace in Central America that must be handled.

Now what does the Hamilton substitute propose, or the Hamilton amendment propose? Like many of my colleagues today, there really is not any tangible alternative. All he is doing is given $27 million in relief if the freedom fighters will declare themselves refugees and I guess head north.

I wonder if this amendment also provides money for preparing road signs saying, "This way to America." We already have a terrible problem at the Mexican-American border, with as many as 10,000 illegal aliens crossing the border a day, and with this type of an amendment, I'm sure that would turn into a virtual tidal wave.

We have a severe problem down there in stabilizing Central America, and this amendment does not do it. The people in this body, and I applaud the gentleman from Oklahoma [Mr. MCCURDY] as making a constructive recommendation on solving this problem, but the people of this body voted a few moments ago for a program that will help the Contras put pressure on the Sandinistas while also providing humanitarian and economic aid to Central America.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HYDE. Mr. Chairman, I yield 30 additional seconds to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, already 400,000 of the 2.8 million people in Nicaragua have fled that country. If all we were to do was to give $27 million, as the Hamilton amendment suggests, as refugee relief, then we would see more people fleeing

that country; there would be no stability.

I think we ought to stick with what we have done so far, and support to the end the legislation that we have already adopted.

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I yield to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, the saga of United States involvement in Nicaragua has more twists and turns than a Keystone Cops chase scene. Only it's not funny. The latest plan being bandied about calls for sending $400 million in U.S. aid to Central America—$100 million of that military aid to the Contras.

My constituents and I have got some better ideas about how to spend this money, if it must be spent at all. For starters, Congress could make sure the Coast Guard has the resources it needs to protect fishermen off the Oregon coast. We could invest in new infrastructure and roads in Washington County, OR—and reap the economic dividends for years to come. And Congress could say "no" to the budget wizards in the administration who keep telling us there isn't enough money to fund soil conservation or export programs for Oregon agriculture.

Spending $100 million on a mercenary army in Nicaragua has to be one of the bad investments of all time.

If Congress had assurances that this full $100 million would be spent to run the Contra army, this would still be a rotten idea. We don't have even that. According to an audit by the General Accounting Office, the State Department can't account for fully half of the $27 million in so-called humanitarian aid authorized for the Contras last year.

Of the money we do know about, precious little of it has reached its intended destination. One and a half million dollars has ended up in the hands of the Honduran Armed Forces. Other funds have been transferred to offshore banks in the Cayman Islands and the Bahamas. Ignoring these sleazy revelations, backers of the Contra army press ahead.

Advocates of the secret war against Nicaragua have come up with every wild plan imaginable to keep the Contras in business.

They've tried the under-the-table plan, where funds are shipped to the Contras through third parties and tax exempt foundations—sometimes in violation of U.S. law.

They've tried the circular funding plan, where humanitarian aid earmarked for the Contras wends its way to the Honduran military or offshore banks instead.

They've floated the installment plan, where military aid is to be doled out in small increments—as though that somehow makes the secret war more palatable.

Today they're trying the modified Marshall plan, where $300 million in economic development aid to Central America is used to cover a $100 million allotment to the Contras.

No matter how you package it, aid to the Contras is wrong. It draws the United States more deeply into a military conflict in Central America. It undercuts proposals for a regional peace treaty. And it hurts U.S. prestige around the globe.

And no matter what you throw in as sweetener, aid to the Contras is bad policy. Economic aid to Central America won't contain Nicaragua or lessen the hold of the military in Guatemala or El Salvador. In the absence of an administration seriously interested in diplomacy, it won't buy peace in Central America.

But, for 300 million pieces of silver, some have decided to vote for Contra aid.

This proposal will hurt U.S. security in more ways than one. The White House has proposed that the $300 million be foisted from ammunition accounts at the Department of Defense. That just doesn't make sense. Our ammunition stockpiles are already too low—some of our Armed Forces don't even have the supplies they need for basic training.

For 4 years Congress has grappled with the issue of aid to the Contras. The intransigence of both sides has prevented any diplomatic inroads. It's created a highly charged atmosphere that breeds further decay and further problems.

There are clear steps, short of open war, that the United States can take to force change in the Nicaraguan Government. We can cut off diplomatic relations. Impose more stringent economic sanctions. We can work with our European and Latin allies for a Contadora peace process that will work. These are options that should and could be explored.

There are a long list of reasons, military, political, and factual not to vote for Contra aid. Instead, the White House is following a script called "Rambo goes to Central America," hoping for a box office smash. They obviously haven't completed a market survey. The vast majority of Americans don't want to spend their tax dollars on such a show.

I urge the House to vote against all aid to the Contras so that we can put the issue of military aid to the Contras to rest—and move ahead with a plan that can bring some measure of stability to Central America and economic development to the United States.

Mrs. KENNELLY. Mr. Chairman, I rise in support of the Hamilton amendment. I oppose aid to the Contras for two reasons: First, because of who the Contras are, and second, because of who we are.

In the words of one former Contra officer, the Contra leaders "have clean boots and dirty hands." Many of them are former members of the vicious Somoza regime. Some of them are violent abusers of human rights who terrorize their own countrymen and countrywomen. Others have been occupied with financial abuses and graft. We may never receive a full accounting of the millions they have already received.

Now, President Reagan has pledged to correct these abuses. Frankly, I do not believe this can be done; I do not believe we can exert sufficient influence on the Contras. But even if we could induce the Contras to clean up their act, aiding them would still be wrong.

We are a country founded on the rule of law. We believe that democracy can work. The values we stand for are the highest aspirations of humankind—individual liberty, freedom, justice. We should not diminish our leadership in the world by underwriting a violent conflict with $100 million. That money can only continue a no-win situation.

The administration's policy in Nicaragua is simply wrong—politically, militarily, but above all, morally. It is a march of folly that takes us further from, not closer to, our goals in Central America.

It is time to halt this march of folly, before we find ourselves marching to war. The Hamilton amendment would do that, and I urge my colleagues to support it.

Mr. HYDE. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, the first observation I would make is that you don't have to bribe boat people to leave their country. What we ought to be considering if, perish the thought this amendment were to pass, is the amount of money for relocation in this country, as my colleagues from Indiana had earlier suggested.

The second point I would make is that pacifism is a long and honorable tradition; but so, too, is St. Augustan's concept of the just war.

Finally, I would say to those individuals that embrace this concept, instead of giving timely support to those who are fighting on behalf of freedom, democracy, human rights, the right to freedom of religion and freedom of association, freedom of the press, freedom of elections, to let those people participate in tonight's proceedings.

I think it would be very revealing, because we have heard eloquently presented the Neville Chamberlain argument, and I think those people would have reminded us what Winston Churchill attempted to tell the British people on the eve of the war.

□ 2100

Winston Churchill said,

If you will not fight when victory is sure and not too costly, you may have to fight with all odds against you and only a precarious chance of victory.

He said,

There may even be a worse fate, you may have to fight with no chance of victory because it is better to perish than to live as slaves.

Mr. HAMILTON. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. BARNES], one of the principal cosponsors of the amendment.

Mr. BARNES. Mr. Chairman, I rise in strong support of the Hamilton amendment.

I take this time, Mr. Chairman, to respond to my friend from Illinois who correctly quoted me earlier. What I would point out to the gentleman is that he is absolutely correct in noting that for years I, and many of us here who are supporting Mr. HAMILTON's amendment this evening, have been just as critical of the actions of the Nicaraguan Government as the gentleman from Illinois and others who are in opposition to Mr. HAMILTON's amendment. Our view, however, is that the military policy that the United States has pursued in Central America and apparently will pursue more vigorously after tonight is actually helping the spread of communism in the hemisphere rather than retarding it. My personal view is that the actions of the Contras are about the best thing that the Sandinistas have got going for them.

As the foreign minister of one of the Contadora nations said to me recently, the toughest thing for the Sandinistas to take would be 6 months of peace.

Mr. HYDE. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I rise to support a policy for returning democracy to Nicaragua and peace to Central America. For the past 2 years, the House has decided against "Contra aid" in favor of giving the Saninistas the benefit of the doubt.

Like it or not, the Contadora process has been the policy choice of the U.S. Government. For the past 2 years, we have given the Sandinistas every opportunity to come to an agreement on regional security and domestic reconciliation without the threat of military aid. And to what end?

Mr. Chairman, I can't say we haven't made any progress during the history of this debate. At the very least, we are no longer arguing that the Sandinistas are "boy scouts" or representatives of the 1979 revolution which pledged basic, democratic freedoms. In fact, the past several years have confirmed our worst impressions about the Sandinistas. I challenge my opposing colleagues to deny the totalitarian nature of the Sandinista regime which they have defended in the past. Fortunately, we no longer have to explain the Sandinista plans for subjugating the country's church and press. And fortunately, for all the hundreds of million dollars in military aid and thousands of East bloc advisers, we no longer have to exhibit the Sandinistas' blueprint for strategic alignment with the Soviet Union.

My distinguished colleagues from the other side of the aisle have repeatedly harped that the administration's policy in Nicaragua is a failure. I admit that Nicaragua represents a failed policy, but it's not the administration's policy. The administration's policy was one of negotiation and military aid. We haven't given any military aid to the Contras for the last 2 years. This is a policy of the House. This is the failed policy of the House.

Mr. Chairman, we've all patiently waited for the Sandinistas to negotiate a peace and return to the pledges of the 1979 revolution. We all know the Contras have been patient. This was a movement characterized as artificially created by the CIA doomed to extinction without U.S. support. And yet, the Contras have survived and even grown, as we saw so well when the Nicaraguan Communists moved into Honduras. I believe we have a very strong policy here which was very clearly stated as the gentleman from Illinois pointed out here. I would like to state it very clearly. In 1961 it was President Kennedy in his inaugural address who said, let every nation know whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe to assure the survival and success of liberty.

Mr. HAMILTON. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH of Iowa. Mr. Chairman, as a Member of Congress I recognize that in foreign affairs the benefit of the doubt should be given to the President; as a Republican I believe it should be given to the leader of my party.

But the Contra aid issue should not primarily be considered in a partisan context; nor as reflective simply of philosophical differences between Members of Congress and the administration. Fundamentally, the issue at stake is the constitutional process and the role of law, domestic as well as international.

Today Congress faces an awkward and largely unprecedented dilemma. In the case of Vietnam Congress abdicated to executive discretion both in the appropriations process and in the Tonkin Gulf resolution. But in the case of Nicaragua, Congress passed a resolution, which with Presidential signature became the law of the land, specifically prohibiting United States efforts to overthrow that government.

Now it is faced with a problem of responsibility. Given the preemptive executive decision to commence without congressional sanction a civil war in Nicaragua, Congress is placed in the difficult position of having to determine which is a greater misdeed: pulling the rug out from under armed mercenaries who were trained and equipped in violation of U.S. law and who are currently marauding a countryside in violation of international law; or pulling the rug out from under the values we cherish as profoundly American: the sanctity of law; the rights of others to determine their own destiny in their own way; a decent respect for the opinions of mankind.

Every American citizen, however incensed he or she may be at the leftward lurch of the Sandinistas, should be concerned that the law of the land which the executive is obligated to enforce, and the law of nations as reflected in treaties and covenants to which our country is party, is being cavalierly disregarded.

Under article 94(1) of the United Nations Charter, the United States has a commitment "to comply with the decision of the International Court of Justice in any case to which it is a party." On November 26, 1984, the Court determined, pursuant to paragraph 36:6 of the Statute of the International Court of Justice, that the United States is a party to the case of Nicaragua versus the United States.

In this pending litigation the Court on May 10, 1984, issued interim measures ordering the United States and Nicaragua to refrain "from the threat or use of force against the territorial integrity of the political independence" of each other, to respect "the duty not to intervene in matters within the domestic jurisdiction" of each other, and to "ensure that no action of any kind is taken which might aggravate or extend the dispute submitted to the Court."

On Friday of this week the World Court is expected to issue a definitive opinion updating its interim orders. At issue is whether the United States is in violation of customary international law and specifically its commitments to the UN charter, the OAS charter, the Bogota Pact, the Law of Neutrality, and a Treaty of Friendship, Commerce, and Navigation with Nicaragua.

From the perspective of domestic law, at issue also is whether the executive has violated the so-called Boland amendment and encouraged violation of the Neutrality Act.

It is the judgment of this Member that the policies of the executive jeopardize our commitment to the rule of law.

So embarrassingly illegal have they become that the administration has been forced to attempt to withdraw from the jurisdiction of the World Court on this and similar political disputes and thus backtrack on an almost century-old U.S. commitment to utilization of an international tribunal for dispute resolution.

Here, it should be stressed that as far back as the administration of William McKinley, the United States supported the principle of international dispute resolution before an international tribunal and that even under the umbrella of an anti-League of Nations bias during the administrations of Harding and Coolidge we maintained our commitment to utilization

of the then-established international court.

Today the fundamental issues of world politics are, in the first instance, how we contain and constrain weapons of mass destruction and, in the second, how we can best advance the rule of law. To refuse to submit disputes to the World Court and abide by arbitration decisions of that body is to deny our heritage.

What this country lacks at this time is not just a sense of the importance of law but a sense of political philosophy and history.

Thomas Jefferson, we should recall, basically borrowed his philosophy of revolution from John Locke. Locke argued, and Jefferson accepted, the notion that the distinction between a state of nature and civilized society is that civilization requires rules and third-party arbitration.

For civilization to survive in the nuclear age we have a responsibility to pay heed to rules, to expand the rule of law, to build up, not tear asunder, institutions of conflict resolution. Otherwise, the law of the jungle will prevail and, in Robbies' terms life itself will be "nasty, brutish and short."

From a historical perspective we must recognize that there is simply no evidence that America is very good at running a civil-war-oriented foreign policy. On the other hand, there is evidence, as recently provided in the Philippines and Haiti, that despots cannot stand for long when their policies don't serve the interests of their people.

The Sandinistas have fallen victim to a kind of ideological corruption. But instead of allowing the weight of their own mismanagement to sink their intemperate revolution, the administration leaped precipitously into the fray and backed a force that has helped unite rather that divide the people. The Contras have proven adept at escalating violence but totally incapable of winning either the hearts and minds of the people or the civil war itself.

Our intervention has proven counterproductive, helping solidify an irrationally leftist government. We have chosen to aid groups whose leaders are themselves corrupt, who have squandered taxpayers' dollars, who have caused thousands of their original followers to become so disdainful of the counter-revolutionary model set by their own leadership that they have broken out of their barbed-wire camps and emigrated to the United States.

The time has come to reconsider an ill-chosen path. Liberals may have erred by believing the Sandinistas wouldn't opt in the direction of police state controls. Nevertheless, our country has an obligation to stand by the side of law and a constitutionalist foreign policy, with the understanding that not only do procedural concerns matter but that adherence to proper rules in the long run is more likely to produce proper results.

If order is to be carved from the chaos that characterizes our time, the rule of law rather than the primeval urges of the jungle must guide policymakers.

As the premier lawmaking assembly of our time, Congress has an obligation not to undercut the worth of law itself. It is the rule of law and the constitutional process, not a particular policy, which above all is on trial today.

The only conservative, the only constitutionalist option the House has today is to cease providing illegal assistance to illegal groups advancing an illegal foreign policy.

The CHAIRMAN. The gentleman from Iowa [Mr. LEACH] has consumed 2 minutes.

Mr. HYDE. Mr. Chairman, may I inquire how much time remains on this side?

The CHAIRMAN. The Chair will advise the gentleman from Illinois [Mr. HYDE] that the gentleman has 17½ minutes remaining and the gentleman from Indiana [Mr. HAMILTON] 13½ minutes remaining.

Mr. HYDE. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the chairman.

Mr. Chairman, I have never heard the distinguished majority whip speak with more eloquence than he did today. I took down some of Mr. FOLEY's words. He said everyone in this House is interested in the protection of democratic values. And I accept that. He said today, June 25, that no one in this House will defend the government in Nicaragua. And I believe that has come to be in this distinguished Chamber, but such was not the case when I left here in 1982 and they were being described as Boy Scouts.

On one occasion, mercifully, a former Member ran out of memory on his Boy Scout oath after "kind, obedient, thrifty, trustworthy," he did not get to "reverent," mercifully, because of the persecution of the church that we see down there now.

The gentleman from Washington [Mr. FOLEY] said the sad daily chronicle of abuses by that government in Nicaragua is awful. He talked, Reverend, about the cold implacable government, Reverend. I have here 12 mint sets of the pictures of the glag concentration camps that the religious left in this country never talks about. I will save you a set, Reverend. I have a set for you, Mr. Speaker. The detail is incredible. The Zona Franca prison has at least 1,000 people in it. There is a picture here of the hated Somoza's only prison, Tipitapa. It is now five times as large in land mass, three times as large in physical buildings and structures. Somoza at his peak, according to Amnesty International, whom I respect most of the time, and America's Watch, one of the stronger voices on the political left in this country, they claim that Somoza at his worst had 500 political prisoners, 500. There are now 11,000 political prisoners. Amnesty does not argue with me on that figure. A little simple arithmetic means that the figure is 22 to 1, people who are suffering as prisoners of conscience because of their beliefs in Nicaragua over what the hated oligarch Somoza did to his own country.

I have 12 sets of these photographs. I would love to get rid of them tonight. I have my mint copy back in my office. Of course, I would have brought out the big blowups, but the cameras never do them justice here. They do not have the fine detail of our KH-11 imagery that most of the time we only see here in top secret session. Those missions run by the SR-71's and the U-2's, keep in mind there is a rumor that Castro himself pushed the button.

Mr. STRATTON. Mr. Chairman, could I get a mint copy?

Mr. DORNAN of California. You can get a mint copy, Mr. STRATTON, one of my heroes on the other side of the aisle.

The U-2 pilots that risked their lives to overfly these Communist nations, remember Rudolph Anderson was killed bringing to this Congress the U-2 information.

There is a story accepted by some in the intelligence community that, when the Soviet SAM batteries were set up in Cuba to protect their intermediate-range ballistic missiles that had nuclear warheads, they were, some of them, already unloaded and others were coming this way and President Kennedy was looking at the U-2 photographs. There is a story, I repeat, accepted by some in the intelligence community that Castro asked one of the Russian officers controlling the SAM battery, "How do you fire that thing?" They showed him how they were tracking Major Anderson's U-2 at that moment. The Russian said, "It is all ready to go. You press this button." And Castro himself reached over and pressed the button and murdered Major Anderson, who won the Distinguished Flying Cross posthumously.

Hopefully, we do not have to see SAM sites, Bear bombers, submarine bases arming Nicaragua to the teeth the way Cuba is armed. We already suffer one Communist Soviet colony in this hemisphere, and I think that the last vote was the right vote for this House. As much as I admire, truly respect my chairman on several committees, Mr. HAMILTON, I think it would be best if we pressed on from here and accepted the earlier vote.

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, this truly is an awful day in our history. If the vote that was taken a half hour ago stands, this Nation is headed down another long tragic path toward war. I hope that decision still is reversible. I want to pay my respects to the distinguished Speaker of the House of Representatives, without whose efforts over these long past 5 years we would have found ourselves at this point a long, long time ago. It is quite clear that this administration has intended the road to war rather than the road to negotiated peace as its policy in Central America all along. And it is only the sense of right and decency exercised by the Speaker which has prevented the President from having his way a long time ago. Today's decision is especially tragic because the people of the United States are not blundering into this position; we are, over their strong opposition. So why are we, their Representatives, so hell-bent on taking this country to war? It is beyond my comprehension or understanding. Mr. Chairman, instead of proceeding to a final vote this evening on the final package, we ought to allow the American people to have their voices heard overnight. Let us vote for the Hamilton amendment and then stop until tomorrow. Then after the American people have had a chance to react we can have a vote on final passage.

Mr. Chairman, 3 months ago the American people opposed President Reagan's policy in Nicaragua by 54 to 30 percent. Today, that margin of opposition has increased. Now only 29 percent favor Contra aid, and 62 percent oppose it. After all the hype, all the distortions, and all the misleading claims by this administration, the American people are more opposed to the war than ever.

The administration says it wants the money to set up a democracy in Nicaragua. And they've chosen a rare collection of drug smugglers, gun runners, mercenaries, embezzlers and murderers to play the role of founding fathers. But maybe we should pay more attention to democracy here at home. The American voters, the people we are pledged to represent, don't want another nickel of their money spent on this war. This November, they'll have a chance to make this message abundantly clear.

Later this week, the International Court of Justice will rule on Nicaragua's suit against the United States. Does anyone think the United States will win that case? The Reagan administration knows it will lose—it's the first American Government in 40 years to cut and run from the World Court.

Legally, this administration hasn't got a leg to stand on. It's illegal to organize an army to attack another country, it's illegal to mine harbors, it's illegal to hire people to terrorize civilians. If we're serious about the rule of law, let's build a policy which is consistent with the law.

One thing about this policy is clear: it is getting more expensive all the time. Last year the price tag was $27 million in so-called humanitarian assistance. Who wound up with the cash? The Honduran military got $1½ million; banks in the Cayman Islands got some of it; crooked suppliers apparently skimmed off a great deal of it. Now 12 months later, the administration wants to put $100 million—a fourfold increase—into this promising enterprise.

But that's only the beginning. The administration package appropriates $300 million in aid to be divided among four Central American countries; Guatemala—a country whose military is still killing civilians at the rate of 60 per month; El Salvador, a country which still lacks a free press or a functioning judicial system; and Honduras and Costa Rica as well, all without committee consideration or hearings.

Where is this policy really leading us? A Pentagon study released last month foresees possible expenditures of $9.1 billion or more every year, and a commitment of 100,000 ground troops in addition to air and naval forces, to contain Nicaragua. If we continue on the present path, that is just where we will wind up. The Contras cannot win. Their leaders steal supplies and embezzle funds destined for the troops. The troops commit atrocities against civilians, and destroy whatever chance they may once have had of winning the hearts of the Nicaraguan people. If we continue to pursue military victory at any price, we will have to do it with the lives of young Americans.

Negotiations are a viable alternative to this grim scenario, if we let them succeed. In September of 1984, Nicaragua accepted a draft Contadora package, whereupon the administration pressured our allies to withdraw their support. The same thing has happened again in recent days. Once again Nicaragua has expressed support for the latest Contadora draft, after much difficult negotiating, and once again it is United States allies Honduras and El Salvador which have expressed objections. At other times the reverse has been true. What is clear is that a negotiated accord is possible, if we have the political will to see it through.

The Hamilton substitute charts a constructive course in this difficult area. It will facilitate the achievement of a workable, enforceable regional peace treaty. It spells out legitimate American interests in the region and sets forth a range of means, consistent with international and domestic law, for securing those interests.

Furthermore, it provides up to $27 million in resettlement and relief assistance for Nicaraguans displaced by the conflict. It specifically allows up to $15 million for resettlement of Contra troops who cease military activities. This is perhaps the most important single provision in this legislation. It will assist in the process of demilitarization and reconciliation. And it will assuage the very real concerns of the Hondurans, who fear the effects of a long-term Contra presence in their territory.

Before we step into the quagmire which stands before us, let us pause to consider the consequences of continued escalation. We do not have to repeat one of the worst chapters in our history. We do not have to step into this quagmire. I urge my colleagues to vote for the Hamilton substitute.

□ 2115

Mr. HAMILTON. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, let me put this debate in its starkest terms. The issue before us is whether we will have war or peace in Central America and whether, in that war option, American forces will be committed.

We are voting tonight to decide the fate of a region and the fate of Americans in the future.

This administration does not want peace in Central America. They do not want the Contadora process to work, because they do not want a Nicaragua with a Sandinista government in place. The administration wants that government overthrown. They cannot do that if the Contadora process works. They want the military option, and pursuing the military option means, ultimately, American forces committed 19th-century style to military overthrow of the Sandinista government of Nicaragua.

One after another initiative toward peace has been stopped by this administration, pushed aside, ignored. The White House in fact even pulled the rug out from its own negotiator, Mr. Habib, when one of their own officials called his description of the situation in Central America as imprecise and in error.

Ultimately we will need in the neighborhood of 100,000 United States troops to contain Nicaragua, and funds escalating far beyond the $100 million the administration is asking of the American people and of this Congress.

We are wrong to pursue the administration's policy, even this bifurcated process of first providing nonlethal and then military assistance. We are wrong to take that step because it is an irretrievable movement toward war in Central America involving American forces engaged once again in Nicaragua. I urge your support for the Hamilton substitute.

Mr. HAMILTON. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in support of the Hamilton amendment.

Mr. Chairman, once again, the House faces a vote on aid to the Contras in Nicaragua who are seeking to overthrow the government of that country. Over the past 4 years, the House has consistently voted against military aid to the Contras. So-called humanitarian aid passed by a very narrow margin. These votes reflect the consistent opposition of the American people to a military approach to the problems of Central America. Public opinion polls

and mail to congressional offices confirm that opposition. The American people are opposed to a military approach to Central America's problem because it is simply a bad idea, one that has been exacerbating problems instead of solving them. Many accounts of Contra atrocities and excesses, as well as the fraudulent use of American aid to their movement demonstrate not only the ineffectiveness of the military approach, but also its immorality and wastefulness. The House has repeatedly been asked to ratify a policy the American people reject and the House has repeatedly refused to vote for military aid to the Contras. We should again reject the policy of aiding the Contras and finally turn to a policy that has a chance of succeeding.

The current regime in Nicaragua has serious flaws and shortcomings. Its ideology and practices are offensive to most Americans. That does not mean that war is the only or the best approach we can take. Above all, no one should interpret a vote against war as an endorsement of the Sandinistas. That tendency on the part of some is offensive and unfair. No less an authority on Sandinista practices than the U.S. Catholic Conference recently issued a statement that says, "Pressures and attacks against leaders and institutions of the Catholic Church in Nicaragua have reached alarming proportions over the past year." The Catholic Conference continues, however, by rejecting military aid to the Contras. "Such aid merely intensifies and prolongs the conflict * * *" the document states.

Nicaragua's neighbors have also spoken out against a military approach to the regional problems and continue to support the Contadora process in pursuit of peaceful and rational solutions. Our European and Canadian allies have taken similar stands.

Nicaragua is s small country of fewer than 3 million people. Two-thirds of its economy is in the private sector. Political, religious, and social organizations continue their work despite the Sandinistas. The country is firmly within America's cultural orbit. Radio and television broadcast American movies and songs. Young Nicaraguan baseball players dream of playing in the major leagues in the great ballparks of the United States. These factors should be the foundation on which we built a policy. We should be working to strengthen the private sector in Nicaragua, instead of undermining it with sanctions and economic sabotage. We should be cooperating with the countries in the region to bring success to the Contadora process. We should coordinate with our European and Western Hemisphere allies to enhance private sector efforts to address poverty and illiteracy in Nicaragua and elsewhere in Central America. Above all, we should finally turn away from a misguided pursuit of military solutions to complex Central American problems.

Mr. HAMILTON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HYDE. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. HAMILTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WEISS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 245, not voting 5, as follows:

[Roll No. 200]

AYES—183

Ackerman	Frost	Obey
Akaka	Garcia	Olin
Alexander	Gejdenson	Owens
Anderson	Gephardt	Panetta
Annunzio	Glickman	Pease
Applegate	Gonzalez	Penny
Atkins	Gordon	Price
AuCoin	Gray (IL)	Rahall
Barnes	Gray (PA)	Rangel
Bates	Green	Reid
Bedell	Hall (OH)	Richardson
Bellenson	Hamilton	Rodino
Berman	Hawkins	Roe
Boehlert	Hayes	Rose
Boland	Hefner	Rostenkowski
Bonior (MI)	Heftel	Roybal
Bonker	Hertel	Russo
Borski	Howard	Sabo
Bosco	Hoyer	Savage
Boucher	Hughes	Scheuer
Boxer	Jacobs	Schneider
Brooks	Jeffords	Schroeder
Brown (CA)	Jones (NC)	Schumer
Bruce	Jones (TN)	Seiberling
Bryant	Kanjorski	Sharp
Burton (CA)	Kaptur	Sikorski
Carr	Kastenmeier	Slattery
Clay	Kennelly	Smith (IA)
Coelho	Kildee	Solarz
Coleman (TX)	Kleczka	St Germain
Collins	Kostmayer	Staggers
Conte	LaFalce	Stark
Conyers	Lantos	Stokes
Coyne	Leach (IA)	Studds
Crockett	Lehman (CA)	Swift
Daschle	Lehman (FL)	Synar
de la Garza	Leland	Tauke
Dellums	Levin (MI)	Torres
Derrick	Levine (CA)	Torricelli
Dicks	Long	Towns
Dingell	Lowry (WA)	Traficant
Dixon	Luken	Traxler
Donnelly	Manton	Udall
Dorgan (ND)	Markey	Valentine
Downey	Martinez	Vento
Durbin	Matsui	Visclosky
Dwyer	Mavroules	Volkmer
Dymally	McCloskey	Walgren
Early	McHugh	Waxman
Eckart (OH)	Mikulski	Weaver
Edgar	Miller (CA)	Weiss
Edwards (CA)	Mineta	Wheat
Evans (IL)	Mitchell	Williams
Fazio	Moakley	Wirth
Feighan	Moody	Wise
Foglietta	Morrison (CT)	Wolpe
Foley	Mrazek	Wright
Ford (MI)	Neal	Wyden
Ford (TN)	Nowak	Yates
Fowler	Oakar	Yatron
Frank	Oberstar	Young (MO)

NOES—245

Andrews	Bliley	Chappell
Anthony	Boner (TN)	Chappie
Archer	Boulter	Cheney
Armey	Breaux	Clinger
Aspin	Broomfield	Coats
Badham	Brown (CO)	Cobey
Barnard	Broyhill	Coble
Bartlett	Burton (IN)	Coleman (MO)
Barton	Bustamante	Combest
Bateman	Byron	Cooper
Bennett	Callahan	Coughlin
Bentley	Campbell	Courter
Bereuter	Carney	Craig
Bevill	Carper	Crane
Biaggi	Chandler	Daniel
Bilirakis	Chapman	Dannemeyer
Darden	Leath (TX)	Robinson
Daub	Lent	Roemer
Davis	Lewis (CA)	Rogers
DeLay	Lewis (FL)	Roth
DeWine	Lightfoot	Roukema
Dickinson	Lipinski	Rowland (CT)
DioGuardi	Livingston	Rowland (GA)
Dornan (CA)	Lloyd	Rudd
Dowdy	Loeffler	Saxton
Dreier	Lott	Schaefer
Duncan	Lowery (CA)	Schuette
Dyson	Lujan	Schulze
Eckert (NY)	Lungren	Sensenbrenner
Edwards (OK)	Mack	Shaw
Emerson	MacKay	Shelby
English	Madigan	Shumway
Erdreich	Marlenee	Shuster
Evans (IA)	Martin (IL)	Siljander
Fascell	Martin (NY)	Sisisky
Fawell	Mazzoli	Skeen
Fiedler	McCain	Skelton
Fields	McCandless	Slaughter
Fish	McCollum	Smith (FL)
Flippo	McCurdy	Smith (NE)
Florio	McDade	Smith (NJ)
Franklin	McEwen	Smith, Denny (OR)
Frenzel	McGrath	Smith, Robert (NH)
Fuqua	McKernan	Smith, Robert (OR)
Gallo	McKinney	Snowe
Gekas	McMillan	Snyder
Gibbons	Meyers	Solomon
Gilman	Mica	Spence
Gingrich	Michel	Spratt
Goodling	Miller (OH)	Stallings
Gradison	Miller (WA)	Stangeland
Gregg	Molinari	Stenholm
Guarini	Mollohan	Strang
Gunderson	Monson	Stratton
Hall, Ralph	Montgomery	Stump
Hammerschmidt	Moore	Sundquist
Hansen	Moorhead	Sweeney
Hartnett	Morrison (WA)	Swindall
Hatcher	Murphy	Tallon
Hendon	Murtha	Tauzin
Henry	Myers	Taylor
Hiler	Natcher	Thomas (CA)
Hillis	Nelson	Thomas (GA)
Holt	Nichols	Vander Jagt
Hopkins	Nielson	Vucanovich
Horton	Ortiz	Walker
Hubbard	Oxley	Watkins
Huckaby	Packard	Weber
Hunter	Parris	Whitehurst
Hutto	Pashayan	Whitley
Hyde	Pepper	Whittaker
Ireland	Perkins	Whitten
Jenkins	Petri	Wilson
Johnson	Pickle	Wolf
Jones (OK)	Porter	Wortley
Kasich	Pursell	Wylie
Kemp	Quillen	Young (AK)
Kindness	Ray	Young (FL)
Kolbe	Regula	Zschau
Kolter	Ridge	
Kramer	Rinaldo	
Lagomarsino	Ritter	
Latta	Roberts	

NOT VOTING—5

Boggs	Grotberg	O'Brien
Gaydos	Lundine	

□ 2135

Mr. VOLKMER changed his vote from "no" to "aye."

Mr. McKINNEY and Mr. HORTON changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BARNES

Mr. BARNES. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BARNES: At the end of title II (as added to the bill pur-

suant to House Resolution 481) as amended by the amendment by Mr. EDWARDS of Oklahoma, add the following:

ACCOUNTING FOR PREVIOUS ASSISTANCE

SEC. 16. (a) Notwithstanding any other provision of this title, funds made available by this title may be obligated for assistance for the Nicaraguan democratic resistance only after the President submits to the Congress a report containing the following with respect to the funds previously made available for assistance for the Nicaraguan democratic resistance that are described in subsection (b):

(1) Information establishing that the goods or services for which any such funds were paid on behalf of the Nicaraguan Humanitarian Assistance Office were actually received by the intended recipients, specifically including any information showing that the invoices and receipts provided to the Nicaraguan Humanitarian Assistance Office are legitimate records of transactions. To the extent that such information is not available, an explanation of why it is not available.

(2) Information establishing that the suppliers of those goods or services were actually paid with those funds, specifically including any information showing that the invoices and receipts provided to the Nicaraguan Humanitarian Assistance Office are legitimate records of transactions. To the extent that such information is not available, an explanation of why it is not available.

(3) Information concerning disbursements from the bank accounts to which any such funds were paid, specifically including the identity of the individuals and entities to whom those disbursements were made and the relationship of those individuals and entities to the goods and services with respect to which those funds were paid on behalf of the Nicaraguan Humanitarian Assistance Office.

(4) Information concerning any currency transactions entered into with funds in any bank account to which any such funds were paid, including information on the use of any profits derived from such transactions.

(5) Any possible violations of United States law which have been identified with respect to any such funds.

(6) An explanation of any payments, made from the bank accounts to which any such funds were paid, to any government official (including a member of the armed forces), candidate for political office or political leader of any country in Central America or to any relative of any such official.

(7) An explanation of each instance in which there are discrepancies between the amount of any such funds paid into a bank account and the amount of payments made to suppliers from that account.

(b) The funds referred to in subsection (a) are the $27,000,000 appropriated for "HUMANITARIAN ASSISTANCE FOR NICARAGUAN DEMOCRATIC RESISTANCE" by the Supplemental Appropriations Act, 1985 (Public Law 99-88), except for any such funds that (1) were paid to suppliers for purchases within the United States and (2) were not deposited in bank accounts into which any such funds for purchases outside the United States were also deposited.

(c) The report submitted pursuant to subsection (a) must also include assurances that—

(1) the Government of the United States, and

(2) the government of any foreign country in which assistance is delivered which was paid for with the funds described in subsection (b) or with funds transferred pursuant to section 205(a),

will permit visits to that foreign country by employees of the United States General Accounting Office and by employees of the United States Congress for purposes of verifying the delivery of such assistance.

(d) The report submitted pursuant to subsection (a) shall also include full and complete information on the involvement, if any, of members of the Nicaraguan democratic resistance in drug smuggling.

The CHAIRMAN. Under the rule, the gentleman from Maryland [Mr. BARNES] will be recognized for 22½ minutes and a Member opposed will be recognized for 22½ minutes.

Mr. HYDE. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Illinois qualifies, and will be recognized for 22½ minutes.

The Chair recognizes the gentleman from Maryland [Mr. BARNES].

Mr. BARNES. Mr. Chairman, I yield myself 9 minutes.

Mr. Chairman, I offer this amendment on behalf of myself and the distinguished gentleman from California [Mr. PANETTA]. Our amendment would place into law the following proposition, which we believe to be eminently sensible: Before we start to spend the $100 million in additional funds for the Contras that apparently is going to be appropriated tonight, we should at least do what we can to find out what happened to the $27 million that we authorized last year.

Frankly, I really do not see how anybody here can oppose the concept of our amendment.

Mr. Chairman, as I think most of our colleagues are aware, the Committee on Foreign Affairs has had the General Accounting Office doing a review of the expenditure of the $27 million that was appropriated last year. This was done at the request of the committee, and the GAO has been auditing the expenditure of those funds. We have also used some subpoenas of bank accounts into which some of those funds were deposited in order for the GAO to reach as many of the records as possible.

Let me briefly outline some of the GAO's findings. The GAO expected to find payments from brokers' accounts to suppliers to the Contras in the region roughly equal to State Department deposits into the accounts. They did not find this. For example, $4.4 million was paid into the four broker accounts that the GAO analyzed, but only about $786,000 of this was paid into Central America, and only $185,000 approximately of that was paid to the suppliers who had provided the invoices and receipts upon which the State Department had deposited the money.

Most of the funds in these accounts were sent to U.S. or offshore banks or remained in the accounts. The Treasury paid one broker account, for example, $654,000 based on invoices and receipts received from three suppliers in the region, but only $185,000 has been paid to these suppliers out of that account. The rest remains in the account drawing interest.

Treasury paid $3.3 million into another broker account based on invoices and receipts from 22 companies or individuals. No disbursements from this account to any of these companies or individuals could be identified by the GAO. Almost all of this money plus deposits from other sources went to companies and individuals in the United States, $3.4 million, and to offshore accounts in the Cayman Islands and the Bahamas, about $380,000. As I say, none of it went to the suppliers who had provided the receipts and invoices to the State Department upon which the payments were made.

The Treasury paid $244,000 approximately into another broker account based on invoices and receipts from a commercial supplier for uniforms. None of these funds went to that supplier. But two checks totaling the exact same amount, $243,750, were issued by this broker to the armed forces of Honduras.

On November 16, Treasury paid $869,122 into the Miami account of a Central American supplier. On November 18, 2 days later, payment of $742,939 was made from this account to the armed forces of Honduras. On January 8, Treasury deposited over $400,000 into the same account, and on January 10, payment of $450,000 was made from that account to the armed forces of Honduras.

□ 2145

In summary, what the GAO found was that approximately $1.5 million was paid to the armed forces of Honduras. Only in a few instances did the money go to the purported suppliers, raising obviously a very serious question of false invoicing.

I should note for my colleagues that submitting false invoices and receipts to the Federal Government for payment is a crime punishable by both fine and imprisonment.

If any of my colleagues have questions, by the way, about these receipts and the invoices, we have copies of them here. I have offered that to my friends in the minority who have questioned the seriousness of this investigation before. None of them has requested to see the documentation that we have, but we have them available here on the floor and we are making them available to the Justice Department.

I have spoken to the Director of the Federal Bureau of Investigation and I have spoken to the Assistant Attorney General of the United States in charge of the Criminal Division, notified

them that there is a serious possibility of criminal activity involved in the expenditure of these funds and that all the material will be provided to them.

Most of the money went to people and organizations with no apparent relations to the programs and is untraceable from there.

Let me note, for example, that there was a payment from a supplier to the Cayman Islands bank account. There was a payment from one of the suppliers who received United States Treasury funds to the Cayman Islands bank account of a colonel in the Honduran Armed Forces.

There was more than $75,000 in payments to a person who appears to be, and we do not know because we have not been able to ascertain this, but appears to be the wife of a key Honduran military officer, reported to be the principal contact with the FDN. We requested the State Department to tell us who this individual is. Presumably the State Department knows who is receiving these funds. We have not received that information.

There were over $40,000 in payments to leading Honduran politicians.

There were also additional payments to a person who appears to be related to one of these politicians, and again we have requested information from the State Department to find out who these individuals are. Presumably the State Department knows that.

A lot of the taxpayers' money, the GAO found, is still sitting in Miami bank accounts drawing interest for brokers. Some of the money was transferred to other banks and offshore banks in the Cayman Islands and the Bahamas.

So to say the least, Mr. Chairman, these findings raise some very serious questions, questions to which the administration has been notably unwilling to respond. Typically, they have been calling a lot of people a lot of names, but they have declined now three invitations to appear before the Foreign Affairs Committee to explain these findings, and as we prepare to vote tonight on this issue not one of these questions has been satisfactorily explained

In my view and in the view of the gentleman from California [Mr. PANETTA], we ought to at least have some answers before new money is spent. Our amendment, we think, takes a very moderate approach. It simply requires that the administration submit to the Congress a report, no additional vote required, no certification process involved here, simply a report from the administration on what information it has about the expenditure of these funds, and also, as Members know, there have been some serious allegations that the Contra leadership has been involved in drug smuggling.

We asked the administration to report on what information it has, if any, on drug smuggling by the Contras. The administration may very well come back and say that they do not believe that is true, or they may say they have no information, but this would simply require a report.

Mr. Chairman, I think it is an eminently reasonable amendment. I cannot imagine why any Member would vote against asking the administration to give the Congress a report on what information it has available to it and where the taxpayers' money went and what information it has available to it on whether or not the Contras were involved in drug smuggling.

We are not saying that there needs to be any additional votes on this issue.

We are providing and we have provided everything we have, all this information to the Justice Department. It really is the responsibility of the Justice Department to pursue a possible criminal investigation if they determine that is warranted on the basis of the material that we have.

Again, we have that information available to our colleagues here tonight. If you believe, for example, as the State Department has suggested in a factsheet they put out that the funds paid to the Honduran military were for uniforms, I would urge you to come over and look right here on the floor tonight at the invoices provided by a supermarket in Honduras that said those funds were for food and the funds were then paid to an account for that supermarket to pay for the food and then the account paid the money to the Honduran military.

Now we are told that it was for uniforms.

It is a criminal offense in the United States, punishable by both imprisonment and fine, to submit false invoices to the Federal Government for payment out of the Treasury. If you have any questions about whether that happened, I would urge my colleagues, before you get up and say it did not, come over here and look at the material.

Mr. HYDE. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, this is like coming to grips with a squid in the water. As soon as you get close, the ink comes out.

I am trying to figure out from the debate today how much money here is not accounted for. The gentleman from California [Mr. LEVINE] said half of it. The gentleman from Missouri [Mr. COLEMAN] said all of it, and I understand the gentleman from Maryland [Mr. BARNES] said 25 percent of it on a television show the other night. It is pretty hard to nail down.

I do know that this amendment and the kangaroo court investigation that preceded it are a classic example of how power can be abused.

This was and is an effort to intimidate a friendly country, intimidate military officers of a friendly country, intimidate suppliers who are cooperating in supplying in a guerrilla war and attacking a career ambassador, Ambassador Duemling, who is head of the Nicaraguan Humanitarian Assistance Office.

On the specific allegations made by Chairman BARNES today, among several of them, he referenced material the GAO has been prohibited from showing to the State Department.

The game plan is——

Mr. BARNES. Mr. Chairman, will the gentleman yield on that one point?

Mr. HYDE. Not until I am finished, and if I have any time, I will.

We all should have gotten time from the gentleman from Wisconsin [Mr. OBEY].

The game plan is that Chairman BARNES prohibits the GAO from even asking the State Department about questions it does not understand and then the gentleman from Maryland [Mr. BARNES] goes to the floor and makes his charges.

If the State Department could ever see the GAO records, it would answer the questions, just as it answered the venomous allegations of a bribe to General Lopez.

The Chairman's procedure is designed to hide information, ruin reputations and keep a blindfold on the GAO by preventing full cooperation with the State Department.

This was no honest bipartisan search for the truth. The deterioration of objections to Contra aid is fascinating. Early on the Sandinistas were not Communists. They were just Socialists with a human face.

Next it was Contra atrocities.

Next it was the Contras are ineffective.

Next it was the surrounding countries opposed the program.

Now they are reduced to good old reliable corruption, diversion of funds, and to make sure an honest bipartisan inquiry could not possibly occur, the investigation was not undertaken by the House Intelligence Committee as it was in the other body, but by the majority, the Democrats on the Western Hemisphere Subcommittee. They kept us out of it.

I am on that committee. There are several of us on that committee. We were not involved. This was a Democratic expedition run by the Democrats for their purposes.

They trotted out the GAO, and guess what they did. They forbade them to talk to the State Department. They subpoenaed private bank records, forbade access to them, and then demand that the State Department testify about them.

They stacked the deck. They tilted the table and they shaved the dice.

Mr. BARNES. Mr. Chairman, will the gentleman yield on this?

Mr. HYDE. No; not until I am through.

Mr. BARNES. The gentleman is making some incredibly serious accusations.

Mr. HYDE. That is right, that is right.

Mr. BARNES. The gentleman will not yield?

Mr. HYDE. No; I will not yield.

The CHAIRMAN. The gentleman from Illinois has the time.

Mr. HYDE. The gentleman has made serious accusations against allies of ours, against decent people, and that is a vulnerability somebody has to defend.

Now, the program was part overt and part covert. The delivery is covert, down on the scene and in country.

The proof of those deliveries is through CIA reports, which I suggest the gentleman has not seen. They are in the Intelligence Committee, where they belong.

If this was an honest, nonpolitical inquiry, the Intelligence Committee would have looked at this so we could look at those covert reports and analyze them.

That was done in the other body, by the way, and the chairman of the Senate Intelligence Committee, no friend of this program, investigating it from top to bottom and his report has been issued and I am going to read a part of it to you.

This is dated June 19:

News release, Senate Select Committee on Intelligence.

NHAO's Nicaraguan Human Assistance Office practice of paying suppliers through Miami bank accounts is legitimate and reasonable. I concur with NHAO's view that payments to these accounts for—

The CHAIRMAN. The Chair will caution the gentleman that under the rules the gentleman should not be reading from Senate documents.

Mr. HYDE. I should not be reading from a Senate document? This is a press release.

The CHAIRMAN. The gentleman will proceed in order. The Chair has indicated what is proper under the rules.

Mr. HYDE. I thank the Chair.

The release goes on:

I concur with NHAO's view that payments to these accounts for goods and services received complete the transactions, and that there is no basis for asking suppliers to explain how they utilize these funds after they have been received in exchange for supplies;

The GAO's inquiry has turned up no proof of wrongdoing or mishandling of funds. I note that the GAO has been very careful to testify that its inquiry raised questions but did not provide answers;

While NHAO's ability to monitor the delivery of humanitarian assistance in the region is limited, all available evidence supports the conclusion that the aid, as Congress intended, is getting through. Most importantly, the leaders of the resistance have pronounced themselves fully satisfied on this score;

Unfounded speculation and innuendo have done a grave disservice to honorable people in both the United States and Central America, people without whose support and cooperation this program could not have been realized. In some cases, imprudent disclosures may have placed lives in danger;

"Finally, I would like to commend the efforts of Ambassador Duemling and his staff. Duemling is an outstanding public servant who has labored effectively to implement the will of the Congress under difficult and trying conditions. He has been unfailingly responsive to the oversight concerns of the Congress. He and his staff deserve the support and thanks of Congress and the American people."

Now, that is what the other body's Select Committee on Intelligence found after an exhaustive review of both the classified information, the delivery by the CIA and the vouchers and receipts at this end.

There are many diplomatic sensitivities in this program that are totally ignored.

Now, the Democratic Study Group got a special report out, "Contragate" it is fetchingly called.

There are answers to every one of those allegations. But do you know what is sad? It is sad that this investigation was done to achieve a purpose, which was not a search for truth. If you were looking for the truth, you should have said to the GAO, "You sit down with the State Department, the people that administer this program, go over the vouchers, go over the records and let them answer your questions."

□ 2200

But you forbade that. Yes, sir, you did. The State Department people are here. They are in room H-236. And I am telling you that is what happened.

You can laugh. It is not your reputation that is being dragged in the mud, the Democratic Study Group's compendium of hyperbolic smears. If I had the time, I would read some of them to you, but they are outrageous and you ought not to be proud of it.

Mr. Chairman, I reserve the balance of my time.

Mr. BARNES. Mr. Chairman, I yield myself 1 minute.

A couple of quick comments. One, again, none of my colleagues have yet availed themselves of the opportunity to look at the material. They make all these statements, but they are not willing to look at the material.

Second, the State Department has been offered numerous opportunities to appear before the Committee on Foreign Affairs to respond to the findings of the GAO.

Third, the General Accounting Office has not only been in contact with the State Department, but we have shared everything we have with the State Department. The General Accounting Office briefed the State Department at the same time that it was briefing the Committee on Foreign Affairs. It made its report available to the State Department at the same time that it made its report available to the Committee on Foreign Affairs.

We did not know what the General Accounting Office would find when we asked the GAO to do its usual professional audit. No one knew what the subpoenas of those bank records would find. We did not know that we would find payments to Honduran officers and to relatives. We did not know we would find all of that.

Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. PANETTA], a cosponsor of this amendment.

Mr. PANETTA. I thank the gentleman for yielding this time to me.

Mr. Chairman, two preliminary remarks. I find it very interesting that we have not heard specific responses to what I think are very specific allegations presented by the GAO. There are arguments about partisanship and procedure, but no specific answers to the allegations that we have presented.

Second, if the State Department has those answers, then they really have nothing to fear from this amendment. All we are basically asking is that they provide that information so that we can look at the responses to the allegations that are being made.

We have a responsibility, it seems to me, regardless of how we voted, either for or against Contra aid, to ensure that the funds are being spent for a specific purpose outlined by the Congress. Last year, when we appropriated the $27 million for Contra aid, included in that law was a requirement that the President set up procedures and controls to ensure that that money was being used for humanitarian aid. That was included in the law, procedures, and controls to ensure that the aid was being used for humanitarian purposes.

But the GAO investigation has established, and I urge my colleagues to look at it, it is a very specific and thorough investigation. Their determination is that there are insufficient procedures to determine that in fact these funds were used for humanitarian aid and that, indeed, there is evidence to show that the funds were used for other purposes. Let me give Members some examples from the GAO report.

First of all, the way the funding was supposed to go was that invoices and receipts were supposed to be received at the State Department. They, in turn, then would deposit sums into the broker accounts, broker and supplier accounts in Miami. Those accounts would then funnel the money to the

suppliers, obviously to pay them for what they showed on their invoices and receipts.

What the evidence shows is that instead of the money flowing to the suppliers, and in some instances it is down to about 4 percent, the money was flowing to these areas: To the Honduran army. Checks were paid to the Honduran Army. Checks were made out to banks located in the Bahamas and in the Cayman Islands. Checks were made out to individual corporations in the United States not related to any receipts or invoices. And there is money that is still in the bank that is drawing interest that has not been paid to anybody, in the vicinity of one-half million dollars.

The second chart gives us an example of a specific account that was looked at by GAO. The invoices said that they ought to pay $3.3 million to this account; $3.3 million went into this account; $150,000 went into Central America. Zero went to the suppliers that showed on the invoices and the receipts.

Instead, where the money went to was to U.S. companies to the tune of $3.4 million, and again to those banks located in those islands, not related to any receipts of invoices.

The last example I want to point out is another account that GAO looked at. In this instance, $243,750 was put into an account based on receipts that were made by certain suppliers. The suppliers got zero out of that account. Instead, two checks were made out to the Honduran army, exactly 2 days later and in exactly the same amount.

I think the evidence that is being presented by the GAO is very clear, very specific, and very precise. The responses we get back are not specific and not precise. As a matter of fact, the State Department is basically saying once the money went into the account, we do not care about how it went out or tracked it at all. Well, I do care and you should care, because the law cares, and the law says that we ought to establish procedures to make sure that what came out of these accounts went to the suppliers who offered these invoices.

You and I both know in these days when we talk about budgets that we would simply not tolerate this kind of evidence in any other program. Food stamps, nutrition, health care, housing, you name it; we would not tolerate it and we ought not to tolerate it here.

The point of this amendment is to get the information from the State Department and from the administration, answers to these specific issues: Where did these checks go? Why did they not go to the suppliers? Where is the evidence that, in fact, the Contras received those supplies?

The point of this amendment is that we want to know where the money has gone, and we should not provide one dime until we have that answer. Surely, we owe that to ourselves, to the Nation, and to the taxpayers.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield for one quick question?

Mr. PANETTA. I would be pleased to yield to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Chairman, has the gentleman asked the Intelligence Committee of the House to look into this?

Mr. PANETTA. In response to the gentleman's question, I have seen the classified documents, and it had briefings from the CIA. They do not answer these questions.

Mr. BURTON of Indiana. The Intelligence Committee of the Senate has conducted an investigation. I just wonder why the gentleman is reluctant to have the Intelligence Committee of the House conduct a like investigation.

Mr. PANETTA. When we get that information directly from the CIA and it does not provide the answers, something is wrong.

Mr. HYDE. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. DEWINE].

Mr. DEWINE. I thank the gentleman for yielding this time to me.

My colleagues, when one first looks at this amendment, it looks like an innocuous, motherhood, apple-pie amendment. Who in the world could be against this? Read it. Just read it.

This is a gutting amendment. Make no mistake about it. This is probably the most important vote we are going to cast tonight. If this passes, it guts this program, and that I suspect is what my friend on the other side of the aisle would like to see happen.

The problem is, you get the right answer by how you frame the question, and what is the real question that this House should be concerned about? What are the American people legitimately concerned about?

What they are concerned about is this: When we spend our money, do we get value in return?

I just bought a car, the first time I bought a car in 10 years. I went into Monty Zinn Chevrolet and I bought a car. I did not ask Monty what he did with that money. I did not say, "Monty, when you put this in the bank, I want to see who you pay, if you pay your supplier, if you pay GM or who you pay, and I do not want to trace it back to the third and fourth generation. I care about one thing. Did you give me a car and was it what I paid for?"

That is the question. The gentleman from Illinois [Mr. HYDE] has already referred to what the conclusion was that was made by the Department of State, what the conclusion was from the CIA information, from the vouchers, that the goods were getting through. That is the bottom line. The goods are getting through.

In the other body, the chairman of the Intelligence Committee, Senator DURENBERGER, said all available evidence supports the conclusion that the aid, as Congress intended, is getting through.

□ 2210

Mr. AUCOIN. Mr. Chairman, point of order.

The CHAIRMAN. The Chair cautions the gentleman not to allude to Members in the other body. Under our rules, that is improper.

Mr. DEWINE. Mr. Chairman, I would ask my colleagues to look at the words on the second part of the amendment.

"The report submitted pursuant to subsection (a) must also include assurances that (1) the Government of the United States, and (2) the government of any foreign country in which the assistance is delivered," assurance from that foreign country that borders on Nicaragua, that they "will permit visits to that foreign country by employees of the United States General Accounting Office and by employees of the United States Congress," and we must have assurance from that country.

What do you think the odds are of that if you are a neighbor to a country that has the biggest military in that whole region of the world?

The gentleman from Illinois [Mr. HYDE] was correct. It is overt to us, but Lord, if you were down there on their border, the border of Nicaragua, you would insist that it be covert.

To say that it has to be overt to those countries down there means that you kill the program.

That is right. We have just gotten the answer. You want to kill the program. Do not kill this program.

My friends, the evidence is clear. GAO never, contrary to what has been said on this floor, the GAO has never once, and we cross-examined them and I was there for every single hearing, as my colleagues were. They never said there was any evidence that there was stealing or money misspent.

That is what the testimony was. Keep in mind, again, the real question. Are the goods getting through? Are we getting value for what we paid for? The answer is clearly "Yes."

Do not be taken in by this amendment that sounds wonderful.

I would submit, if the Barnes amendment was law in 1944 or 1945, D-day never would have occurred because I could not have verified every single penny was not misspent.

The CHAIRMAN. The Chair will observe that the gentleman from Illinois [Mr. HYDE] has 10½ minutes remaining and the gentleman from Maryland

[Mr. BARNES] has 7½ minutes remaining.

Mr. HYDE. Mr. Chairman, I yield 4 minutes to the gentleman from Arizona [Mr. MCCAIN].

Mr. MCCAIN. Mr. Chairman, the gentleman from California [Mr. PANETTA] who preceded me said that he has not received specific responses.

Let me give the gentleman, again, a specific response, a specific response that is based on an investigation by an intelligence committee with use of CIA and other intelligence capabilities which the GAO did not have when ordered to do so by the chairman of the Subcommittee on Western Hemisphere Affairs.

One more time, to the gentleman from California, that investigation determined "NHAO's practice of paying suppliers through Miami bank accounts is legitimate and reasonable." It is legitimate and reasonable.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. MCCAIN. I will if I have time.

I concur with NHAO's view that "payments to these accounts for goods and services received complete the transactions and that there is no basis for asking suppliers to explain how they were utilized after they have been received in exchange for supplies."

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. MCCAIN. If I have time. I will say it four times: If I have time; if I have time; if I have time; if I have time.

Mr. PANETTA. If the gentleman is going to refer to my argument——

The CHAIRMAN. The gentleman from Arizona has the time. The gentleman from Arizona refuses to yield.

The gentleman may proceed.

Mr. MCCAIN. The GAO's inquiry has turned up no proof of wrongdoing or mishandling of funds. I repeat that: The GAO's inquiry has turned up no proof of wrongdoing or mishandling of funds.

I note that the GAO has been very careful to testify that its inquiry raised questions, but did not provide answers. That brings us to a part of the GAO report which has been overlooked by the distinguished gentleman from Maryland [Mr. BARNES] and the distinguished gentleman from California [Mr. PANETTA].

That is the summary. Most people like to look at the summary. Let me quote to you the summary; it is very brief.

This is from the GAO, this was the basis of the shocking and appalling facts that were brought to the attention of the chairman of the Subcommittee on Western Hemisphere Affairs. "In summary, the examination of the bank records has, for the most part, only raised more questions." Let me repeat: "only raised more questions."

"Moreover, there is enough evidence to be concerned," to be concerned, "that humanitarian assistance may not be reaching the intended beneficiaries." I repeat, "may not be reaching the intended beneficiaries."

Without adequate controls, and by that, I mean mechanisms to validate invoices and receipts, trace payments to suppliers and verify deliveries in use, that concern will remain.

This summary of what the GAO determined is far different from what you have just been hearing. The GAO was very, very careful in their summary because they expressed concern. All of us are concerned. All of us should be concerned that every dime of the taxpayer's dollars is not misspent or wasted. But that is a far cry from the portrayal that has been made here of what happened to those funds.

Let me point out something else that was mentioned in a press release from the other body. "Unfounded speculation and innuendo have done a grave disservice to honorable people in both the United States and Central America, people without whose support and cooperation, this program could not have been realized. In some cases, imprudent disclosures may have placed lives in danger."

We are playing a very dangerous game here. There is a war going on down there. I think it would behoove all of us to not have a repetition of a situation, for example, where the GAO said there was a certain leader and the chairman of the committee said, "Well, let us just say outright that it is the Commander in Chief of the Honduran Armed Services because everybody knows that."

I believe that is taking a great deal of responsibility which is totally unwarranted.

There are sufficient procedures if we use the intelligence capabilities that we have to track what happened to this money.

Time after time after time, the GAO witness stated that there was insufficient evidence because there was insufficient capability on the part of the GAO to track these to completion.

Mr. BARNES. Mr. Chairman, I yield 1 additional minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I think it really behooves Members to look at the GAO report because, first of all, I think the statement made that the gentleman read is a correct one, but it also was preceded by this conclusion by the GAO on the front of the testimony:

"Overall, we have concluded that the State Department does not have sufficient procedures and controls to ensure that the program funds are being used for the purposes intended by law."

That is the conclusion of the GAO and that is the reason we need this information.

The point is this: If the answers are there, there is nothing to fear. Let us get those answers.

Mr. BARNES. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, the Members on this side of the aisle seem very convinced that the other body sees no problems with the Contras, be it in drug trafficking or be it in corruption.

I would refute that and read from a wire story today, an AP wire story as follows: "The Senate Foreign Relations Committee on Wednesday ordered a staff inquiry into allegations that Nicaraguan rebels have engaged in drug trafficking, gun-running and corruption." After a 2-hour closed-door meeting, Senator LUGAR, committee chairman, said a staff report on the allegations would be prepared and submitted to the panel.

So I do not think that the other body believes that the Contras are the founding fathers.

I would like to engage the gentleman from Maryland [Mr. BARNES] in a brief colloquy.

□ 2220

Is the gentleman familiar with the information from the Select Committee on Narcotics involving drug traffickers?

Mr. BARNES. If the gentlewoman will yield; yes, I am.

Mrs. BOXER. Mr. BARNES, do any of the people mentioned by the Select Committee on Narcotics appear in any of the accounts you have subpoenaed?

Mr. BARNES. If the gentlewoman will yield, the answer is yes; some of them have received payments from the accounts. A company that is alleged to be a conduit of the drugs figures prominently in one account, and a person identified by the committee acknowledged receipt of goods purchased with humanitarian assistance, but which we now believe may have been based on false receipts.

Mrs. BOXER. Mr. Chairman, I want to thank the gentleman for his great contribution, and my friend, the gentleman from California [Mr. PANETTA].

This is really a children's issue. I talked to one of my colleagues who went to Nicaragua. He said the Contras who were fighting on the lines; not the ones in the suits who are around here, are 14 and 15 years old; and the kids that are getting drugs on that same network are 15 and 14 and 13 years old; so it is a children's issue.

My hat is off to both gentlemen for this fine amendment.

Mr. HYDE. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH].

Will the gentleman yield to me?

Mr. GINGRICH. I yield to the gentleman.

Mr. HYDE. Mr. Chairman, I just want to comment on the last speaker, that the other body did not review the Contras and drug running; they reviewed the program of disseminating the $27 million in humanitarian aid. They determined the money was spent and the goods were delivered.

Mr. HUNTER. Will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman.

Mr. HUNTER. Mr. Chairman, let me just say that we presented in the last debate a picture of one of Thomas Borge's top assistants, a Sandinista, a Communist, loading a C-130 at a government air strip with marijuana. I think that clearly shows which side is heavily involved in the drug trade.

Mr. GINGRICH. Mr. Chairman, this is not a university debating society. This is not a studies group resolution committee; that is not a stump from which to maneuver or give speeches for election or reelection. This is the U.S. House of Representatives, and we are engaged in the deadly serious business of legally defining the ground rules for the struggle to save freedom in Central America from the Soviet empire.

For the purpose of this particular amendment, Lafayette's picture should be turned to the wall.

The gentleman asks us to look at documents. Here is a sample of the documents he asked us to look at. It shows: Beans, 5,241. Beans, 5,124. There are lots of documents.

I would suggest to this House, before you vote for Mr. BARNES' amendment, Members should read the transcript of the utterly unfortunate hearing held by Mr. BARNES' subcommittee.

Let me quote two levels. First of all, GAO. Again and again. Page 20:

I think that any comment on my part to that would get into the realm of speculation—

Refusing to follow the Chairman's lead.

Page 58:

I think that we can certainly provide a full accounting of the funds to the Department of the Treasury.

Page 59:

We have no evidence the humanitarian assistance is not reaching those folks.

Page 77:

Without exception, I believe there is an indication in those documents that the goods for services therein listed have been received by the UNO organization.

Again and again the GAO refused to follow the baiting of either the chairman or his members on the Democratic side, and agree to wild speculation and allegation.

But let me go a stage further. There is something wrong in this country when you can name by name an ally of the United States whose family could be killed; a man whose grocery store could be bombed; and I think it is utterly disgraceful, and I think this House should take actions on your hearing, because again and again the GAO said to you, "There are ground rules, and you are violating them," and you and Mr. KOSTMAYER by name violated them and made fun of them, and you should be ashamed.

Mr. BARNES. Mr. Chairman, I yield myself 1 minute.

The distinguished gentleman from Georgia [Mr. GINGRICH] brought to the well a document from which he read that said: Beans, beans.

This is an invoice provided to the State Department on the basis of which a substantial amount of American taxpayers' money, as I recall $400,000-some, was paid for food that was allegedly provided to the Contras.

What the General Accounting Office found in its audit was that the money paid in to the account to pay for that food was then paid to the Armed Forces of Honduras.

It is a Federal crime to submit false invoices to the United States for payment. If the invoice that the gentleman referred to is correct, that what was paid for was beans, and the money went instead to the military of Honduras, that raises serious questions.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BARNES. Mr. Chairman, I yield myself an additional 30 seconds.

That raises serious questions of possible criminal activity. It is on that basis that our subcommittee is making available to the Justice Department all of the information that we have available to us for the Justice Department to do its job.

The Director of the FBI has informed me personally that the FBI will undertake a vigorous investigation of this material; and I am sure they will do their job.

The gentleman's rather strong rhetoric tonight is not warranted, and I urge the gentleman to come over to the Foreign Affairs Committee office and see whether or not be thinks all this money was handled properly.

Mr. HYDE. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Chairman, I would just make two points to the distinguished gentleman from Maryland.

First, to those of your colleagues that applauded have not read the documents; they have not read the testimony I cited; but they applaud.

Second, the very distinguished gentleman from Indiana [Mr. HAMILTON], with him I do not agree ideologically, is in fact chairman of a committee established by the House to look after the kind of things we are talking about. That committee is designed to make sure that our allies are not killed by leaking their names, by saying things that should not be said, and by holding hearings that are timed before, according to the General Accounting Office itself, it has finished its work.

Mr. HYDE. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, in concluding this rather acrimonious and therefore unfortunate debate—but it is an important issue and people feel strongly about it; I know the gentleman from Maryland [Mr. BARNES] does and I do, too—I would just like to say that it is a shame that this inquiry was not conducted in a manner in which we were permitted to be a part of it, Mr. BARNES; you did not invite the minority in your subcommittee to be involved in this. That was a shame.

Second, you did not permit the GAO to ask questions of the Nicaraguan humanitarian assistant's office, and you know you did not. Let me just suggest to you that, it is interesting the standard of care this Congress imposed on the Afghanistan program and on the Cambodian program accounting, and the difference with Nicaragua.

From the report, July 1985, listen to this about Afghanistan:

The conference substitute earmarks $15 million in ESF funds annually——

Et cetera, et cetera.

The conferees recognize that the nature of the assistance to be provided requires some degree of flexibility in the application of standard audit procedures and requirements.

Then we go to Cambodia; the same language:

The conferees agree that the nature of the assistance to be provided requires some degree of flexibility in the application of standard audit procedures and requirements.

Not a word of flexibility about Nicaragua; only the CIA could not do it, the State Department's intelligence could not do it; they had to set up an eight-legged camel by design that was cumbersome and awkward, and then you do not permit interplay or interchange with ideas.

Let me share with you a little bit of the world of the GAO. Here is a report, "Foreign Assistance—How the Funds Are Spent." This was elicited by Mr. OBEY.

Let me read one little paragraph. This is brandnew; this is March 1986:

Because of time constraints and limitations in its computer system, UNICEF was not able to provide a full listing of U.S. suppliers of goods, freight, and other services.

What about AID?

AID officials noted that the $2.1 billion in disbursements to payee with a foreign address included substantial sums of direct cash transfers to foreign governments. Such transfers, they said, are often part of agree-

ments with foreign governments that include provisions for U.S. source procurement. However, cash transfers are comingled with other monies and there is no systematic documentation of their actual use.

Then they go the Eximbank, the World Bank, the IDB, the UNICEF in New York, FAO in Rome, ADB in Manila, and the same thing:

Vouchers also did not usually indicate the subcontractors, if any, that assisted the supplier in producing or providing the goods or service. Information we obtained from vouchers related to multinational corporations often did not reveal the origin of the goods or services which could have been provided through local subsidiaries or through independent vendors.

One standard for all.

□ 2230

Mr. BARNES. Mr. Chairman, may I inquire how much time remains on this side?

The CHAIRMAN. The gentleman from Maryland has 3 minutes remaining.

Mr. BARNES. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. I thank the gentleman for yielding.

I think there are a few facts we have to remember. First of all, the humanitarian aid was an overt program, it was not a covert program. We included in the law the requirement that the President have procedures to determine how these funds indeed were used for humanitarian purposes.

The second point I want to make to my colleagues is, please look at the amendment. If indeed the State Department and the President have the answer to these questions, then they have nothing to fear in this amendment. The amendment basically requires that the President submit to Congress a report containing the following: Information regarding how the money was received, how the money was paid, the checks that were used, and other information that the other side has said they have. And it also provides that the GAO can actually go onsite to determine that in fact these funds were spent for humanitarian purposes. If indeed this money was used properly and for humanitarian aid, there is nothing to fear in voting for this amendment. I urge my colleagues to do that.

Mr. BARNES. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, I think it has all been said. I think the gentleman from California stated it correctly. It is a very simple amendment. All we are asking is that the administration provide a report to the Congress outlining whatever information it has available to it about the expenditure of the funds. There may be some instances in which the administration says, "We don't have information available to us." That is their report. There may be instances in which they say the GAO was incorrect there or correct there, and that will be their report.

The amendment also requires that the report include information available to the administration with respect to the involvement, if any, of the Contras in drug smuggling. If the administration finds that there is no such involvement, that will be the report that the administration will submit to the Congress. I cannot imagine that any Member of Congress would want to vote against this. If the administration thinks that the material should be classified, it can submit it on a classified basis. The amendment does not say to whom it would be submitted. It could be submitted, for example, to the Permanent Select Committee on Intelligence. The gentleman thinks that is the right forum, although the old program, the $27 million, was an overt program under the oversight responsbility of the Committee on Foreign Affairs, and my subcommittee had the responsibility of oversight for this program.

But if the administration wants to submit its report to some other committee in the Congress on a classified basis, it could do so.

I cannot imagine the basis on which Members would oppose wanting to have at least access to the administration's views on the expenditure of these funds. It is a very straightforward amendment. It ought to be supported on a unanimous basis. I do not know how you would explain to your taxpayers at home that you do not care how their money is spent, that you do not care whether it is diverted for all the purposes that have been alleged by all kinds of people.

I am not saying that those allegations are true or untrue, but we ought to just have a report from the administration on them.

Mr. Chairman, I urge an "aye" vote. I hope it will be overwhelming. It certainly should be.

The CHAIRMAN. All time has expired. The question is on the amendment offered by the gentleman from Maryland [Mr. BARNES].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HYDE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 198, noes 225, not voting 10, as follows:

[Roll No. 201]

AYES—198

Ackerman	Atkins	Bevill
Akaka	AuCoin	Boggs
Alexander	Barnes	Boland
Anderson	Bates	Boner (TN)
Annunzio	Bedell	Bonior (MI)
Anthony	Beilenson	Bonker
Applegate	Berman	Borski
Bosco	Green	Panetta
Boucher	Guarini	Pease
Boxer	Hall (OH)	Penny
Brooks	Hamilton	Price
Brown (CA)	Hawkins	Rahall
Bruce	Hayes	Rangel
Bryant	Hefner	Reid
Burton (CA)	Hertel	Richardson
Carper	Howard	Rodino
Carr	Hoyer	Roe
Clay	Hughes	Rose
Coelho	Jacobs	Rostenkowski
Coleman (TX)	Jeffords	Roybal
Collins	Jones (NC)	Russo
Conte	Jones (OK)	Sabo
Conyers	Jones (TN)	Savage
Cooper	Kanjorski	Scheuer
Coughlin	Kaptur	Schneider
Coyne	Kastenmeier	Schroeder
Crockett	Kennelly	Schumer
Daschle	Kildee	Seiberling
de la Garza	Kleczka	Sharp
Dellums	Kostmayer	Sikorski
Derrick	LaFalce	Slattery
Dicks	Lantos	Smith (IA)
Dingell	Leach (IA)	Solarz
Dixon	Lehman (CA)	Spratt
Donnelly	Lehman (FL)	St Germain
Dorgan (ND)	Leland	Staggers
Downey	Levin (MI)	Stallings
Durbin	Levine (CA)	Stark
Dwyer	Long	Stokes
Dymally	Lowry (WA)	Studds
Early	Luken	Swift
Eckart (OH)	Markey	Synar
Edgar	Martinez	Torres
Edwards (CA)	Matsui	Torricelli
English	Mavroules	Towns
Erdreich	McCloskey	Traficant
Evans (IL)	McCurdy	Traxler
Fazio	McHugh	Vento
Feighan	McKinney	Visclosky
Flippo	Mica	Volkmer
Florio	Mikulski	Walgren
Foglietta	Miller (CA)	Watkins
Foley	Mineta	Waxman
Ford (MI)	Mitchell	Weaver
Ford (TN)	Moakley	Weiss
Fowler	Moody	Wheat
Frank	Morrison (CT)	Whitley
Frost	Mrazek	Williams
Garcia	Murphy	Wirth
Gejdenson	Neal	Wise
Gephardt	Nowak	Wolpe
Glickman	Oakar	Wright
Gonzalez	Oberstar	Wyden
Gordon	Obey	Yates
Gray (IL)	Olin	Yatron
Gray (PA)	Owens	Young (MO)

NOES—225

Andrews	Cobey	Gibbons
Archer	Coble	Gilman
Armey	Coleman (MO)	Gingrich
Aspin	Combest	Goodling
Badham	Courter	Gradison
Barnard	Craig	Gregg
Bartlett	Crane	Gunderson
Barton	Daniel	Hall, Ralph
Bateman	Dannemeyer	Hammerschmidt
Bennett	Darden	Hansen
Bentley	Daub	Hartnett
Bereuter	DeLay	Hatcher
Biaggi	DeWine	Hendon
Bilirakis	Dickinson	Henry
Billey	DioGuardi	Hiler
Boehlert	Dornan (CA)	Hillis
Boulter	Dowdy	Holt
Breaux	Dreier	Hopkins
Broomfield	Duncan	Horton
Brown (CO)	Dyson	Hubbard
Broyhill	Eckert (NY)	Huckaby
Burton (IN)	Edwards (OK)	Hunter
Bustamante	Emerson	Hutto
Byron	Evans (IA)	Hyde
Callahan	Fascell	Ireland
Campbell	Fawell	Jenkins
Carney	Fiedler	Johnson
Chandler	Fields	Kasich
Chapman	Fish	Kemp
Chappell	Franklin	Kindness
Chappie	Frenzel	Kolbe
Cheney	Fuqua	Kolter
Clinger	Gallo	Kramer
Coats	Gekas	Lagomarsino

Latta	Nelson	Slaughter
Leath (TX)	Nichols	Smith (FL)
Lewis (CA)	Nielson	Smith (NE)
Lewis (FL)	Ortiz	Smith (NJ)
Lightfoot	Oxley	Smith, Denny (OR)
Lipinski	Packard	Smith, Robert (NH)
Livingston	Parris	Smith, Robert (OR)
Lloyd	Pashayan	Snowe
Loeffler	Pepper	Snyder
Lott	Perkins	Solomon
Lowery (CA)	Petri	Spence
Lujan	Pickle	Stangeland
Lungren	Porter	Stenholm
Mack	Pursell	Strang
MacKay	Quillen	Stratton
Madigan	Ray	Stump
Marlenee	Regula	Sundquist
Martin (IL)	Ridge	Sweeney
Martin (NY)	Rinaldo	Swindall
Mazzoli	Ritter	Tallon
McCain	Roberts	Tauke
McCandless	Robinson	Tauzin
McCollum	Roemer	Taylor
McDade	Rogers	Thomas (CA)
McEwen	Roth	Thomas (GA)
McGrath	Roukema	Vander Jagt
McKernan	Rowland (CT)	Vucanovich
McMillan	Rowland (GA)	Walker
Meyers	Rudd	Weber
Michel	Saxton	Whitehurst
Miller (OH)	Schaefer	Whittaker
Miller (WA)	Schuette	Whitten
Molinari	Schulze	Wilson
Mollohan	Sensenbrenner	Wolf
Monson	Shaw	Wortley
Montgomery	Shelby	Wylie
Moore	Shumway	Young (AK)
Moorhead	Shuster	Young (FL)
Morrison (WA)	Siljander	Zschau
Murtha	Sisisky	
Myers	Skeen	
Natcher	Skelton	

NOT VOTING—10

Davis	Lent	Udall
Gaydos	Lundine	Valentine
Grotberg	Manton	
Heftel	O'Brien	

□ 2245

Mr. PERKINS and Mr. BADHAM changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MRAZEK

Mr. MRAZEK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MRAZEK: At the end of title II (as added to the bill pursuant to House Resolution 481) as amended by the amendment by Mr. EDWARDS of Oklahoma, add the following:

LIMITATION ON PARTICIPATION OF UNITED STATES GOVERNMENT PERSONNEL IN DELIVERY OF ASSISTANCE

SEC. 16. (a) United States Government personnel may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua.

(b) As used in this section, the term "United States Government personnel" means—

(1) any member of the United States Armed Forces who is on active duty or is performing inactive duty training; and

(2) any employee of any department, agency, or other component of the executive branch of the United States Government:

but does not include any officer or employee of the United States General Accounting Office of any employee of the Inspector General of the Department of State and the Foreign Service who is carrying out inspections, investigations, or audits with respect to assistance for the Nicaraguan democratic resistance pursuant to this title.

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. MRAZEK] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. MRAZEK] and will manage the time on this side.

The CHAIRMAN. The gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from New York [Mr. MRAZEK] for 15 minutes.

□ 2255

Mr. MRAZEK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, now that the House has made a positive determination to provide lethal assistance to the Contra fighting forces and has made an additional determination to provide training support for the Contras, this amendment simply seeks to provide some direction to the utilization of American personnel in the immediate combat zone contiguous to the Nicaraguan border.

Mr. Chairman, I think it is important to point out what this amendment will not do. It will not prohibit the United States from training the Contras. It will not affect United States military exercises in either Honduras or Costa Rica or the United States presence in El Salvador.

It does not prevent the U.S. Accounting Office and other U.S. Government personnel from going into restricting zones to investigate and audit the use of American aid. It does not affect the Central Intelligence Agency's intelligence gathering effort in this area.

Mr. Chairman, in recent years we have seen a number of situations, almost 200 in fact, which have involved a hot pursuit of Contra fighting forces that have attacked in Nicaragua and have retreated back across the border pursued by the Sandinista counterinsurgency forces. What this amendment would seek to prevent is the chance that American personnel, either active duty, Green Berets or Rangers, or inactive duty American personnel, would be providing training in the front lines, so to speak, in those Contra base camps very close to the Nicaraguan border.

It is the concern of some Members of the House of Representatives that in fact if those counterinsurgency forces from Nicaragua were to pursue Contra forces back across the border into Honduras, and there were in fact Rangers or Green Berets in those advance camps who had to defend themselves, that we might see a repetition of an incident that occurred on August 4, 1964, in which President Lyndon Baines Johnson declared that our two destroyers, the *Mattox* and the *Turner Joy* had been attacked in the Gulf of Tonkin when in fact such an attack never took place. Yet it served as the pretext for American involvement in Vietnam that led to significant cost to the United States of America as a people and as a Nation.

Again, this amendment does not preclude the training of the Contras in perhaps the areas where they would be best able to be trained in base camps like Aquacate which is 45 miles from the Honduran border, but it would prevent American troops from going into those camps where they could fall in harm's way.

Some people have suggested that it is in fact the intention of some people in the administration to see American troops in harm's way. That in fact $100 or $500 million is not enough to get the job done with the Contras and therefore it is going to take American troops to get to Managua.

Needless to say, we have heard over and over again in this Chamber that that is not the intention of the House of Repesentatives. So we offer this amendment, Mr. Chairman, in the hope that Members of this House will support a motion based on the knowledge that if American troops are not in the combat zone they cannot serve as a Gulf of Tonkin pretext to getting us involved in a war in Central America with American soldiers.

Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. I thank the gentleman for yielding me this time.

Mr. Chairman, I am sure each one of us have heard our constituents express a great concern, whether they be conservative, liberals, hawks, or doves, about the danger of the United States getting involved with military personnel. That is a concern that I believe it is important that we address.

This amendment offers that possibility. I think it reduces the risk of the U.S. personnel getting involved either in hot pursuit or possibly being even kidnaped and taken across the border as evidence of U.S. involvement.

As my colleague has mentioned, we have a number of bases beyond the 20-mile limit. This amendment would not preclude the continued joint exercises with the Hondurans and the United States personnel even within the 20

miles. The important thing is that it prevents U.S. personnel training Contras within the 20-mile limit and it keeps our people away from a potential war zone.

I am not wedded to the 20 miles. I am wedded to the principle involved here that there ought to be some barrier between the Nicaraguan border and the training camps. Perhaps in conference evidence would indicate that that mileage could be reduced and still provide a responsible basis for the necessary training programs. I do think it is important that in this legislation we establish the principle that there is a barrier there to prevent, as much as possible, any involvement of U.S. personnel in the actions and in the potential conflict between the Contras and the Sandinistas.

I think it would address the concern that many of our constituents have expressed to us about this whole situation in Nicaragua.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. MCCAIN].

Mr. MCCAIN. I thank the gentleman for yielding me this time.

Mr. Chairman, I know the hour is late but I find this a very curious amendment. It is my understanding at this time that American personnel are not allowed within 7 miles. I cannot help but be a bit curious as to why we arrived at 20 miles. Right now we all know that the Nicaraguans are equipped with the Hind helicopter which flies at 200 miles an hour. It seems to me that they could reach those 20 miles in less than 6 minutes. They are also going to be, at some time, supplied with Mig's as we know.

I do not understand what is magic about the 20 miles. I also would suggest to the gentleman that at least this body ought to be able to see a map and see what areas of Honduras that then prohibits American personnel from being present. I think we at least deserve that before placing these kinds of micromanaged restrictions, which this body is becoming for, by experts on tactical and strategic warfare.

I think maybe it is also important to recognize that the gentleman said it does not impact American intelligence gathering efforts. I think it does and will. In fact, I think that because of my reading of the amendment is that nonmilitary U.S. personnel are also prohibited that that would indeed prohibit U.S. intelligence-gathering capability from that area.

I also think it would be very important if we had a map and if we could conduct some of this in a classified fashion to know where some of the areas where the training is taking place and whether those areas are inside or outside of the 20-mile limit of which the gentleman speaks.

By the way, I could not help but be a bit amused at the gentleman's comparison to the 1964 Gulf of Tonkin incident. I guess the lesson then is that the U.S. ships should have stayed out of the Gulf of Tonkin. There are some who believe that U.S. ships should stay out of the Gulf of Sidra. Not, fortunately, the majority of the American people.

I think this is ill-conceived. I do not think that this body can make a judgment as to what arbitrary limit of mileage should be placed on the operations and training conducted by U.S. troops without a lot more information that we have at this time.

I have to oppose this amendment and I would suggest that the gentleman might be better served by going through the committee process so that we could get Members more fully informed as to the impact of an amendment of this nature.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. FIEDLER].

Ms. FIEDLER. Mr. Chairman, in reading through the detail of this particular amendment, I was struck by the fact that given the restrictive language of the amendment, this actually might preclude Members of the U.S. Congress or an investigative body of the Congress from appearing within 20 miles of the border, which might prohibit any kind of an investigative effort that individual Members or members of various committees might choose to participate in given any questions regarding the allocation of funds, the allocation of troops, and I felt that that was an issue that ought to be raised.

I note with interest that the author of this amendment is engaged in debate, and I would like to say something to him if I may, given adequate time to be able to make the comment directly to the Member. I ask my colleagues to please bear with me.

I would just simply like to make a brief comment to the gentleman over and above the comments that I have made regarding his amendment, and that is to say to him that the comment that he made earlier on the floor regarding the earlier debate he participated in I found as a Member of this body to be extremely offensive, and was very deeply saddened by the fact that he would use a religious element in debate on the floor of the House of Representatives when we are here to represent not specific religious elements, but we are here to represent districts which make up a broad spectrum of people from a broad base of different perspectives, and I just felt compelled to make that comment to him as somebody who was deeply surprised and deeply disappointed in that kind of comment being made on the floor of the House.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I rise today to express support for the Edwards-Skelton plan to provide aid to the Nicaraguan opposition. This plan, supported by the administration, provides the best hope for democracy and justice in Nicaragua.

Members of Congress on all sides of the issue agree that a Soviet and Cuban military surrogate in Nicaragua would present a serious threat to Nicaragua's neighbors and, indirectly, to the United States. They agree that the Soviet and Cuban—and, incidently, East German, PLO, North Korean, and Libyan—presence is there. They agree that there is the real possibility of the first Soviet and Cuban bases on the mainland of North America.

There is also general agreement that the Sandinistas' rule under Daniel Ortega is characterized by continuing and escalating internal repression. This is documented by the accounts of Nicaraguan religious, labor union, and human rights leaders, as well as representatives of the press. It is documented by the fact that two of the three United Nicaraguan opposition leaders are former members of the Sandinista hierarchy—Arturo Cruz was the former Nicaraguan Ambassador to the United States, and Alfonso Robelo was a member of the original post-revolutionary junta.

Moreover, there is agreement, although less broad, that it is the Ortega government that is currently frustrating the Contadora process, not the Contradora nations or the United States. The Contadora nations, most recently, urged the signing of a peace treaty by June 6, 1986. This deadline was later extended. On June 7 the Contradora group presented the Central American nations with a fourth draft of the proposed agreement. Ortega's Foreign Minister Miguel D'Escoto said on June 21 that the Sandinistas were ready to sign an agreement. It was left completed unclear, however, whether Mr. D'Escoto was referring to this draft, and whether, as in the past, the same old preconditions apply.

It seems clear that strong man Daniel Ortega of Nicaragua has learned well from his Soviet and Cuban masters how to play to American public opinion—to confuse, to diffuse, to obfuscate, to equivocate. It can be suggested that his latest supposedly conciliatory move was designed to influence the vote taking place here today.

When we last debated this issue, it was suggested by some that we should wait and attempt further efforts at negotiation before providing the Nicaraguan opposition with substantive support. We have effectively done that. Since the last vote on this issue on March 20, there has been no aid allocated, and there has been a renewed diplomatic initiative by the administration, undertaken by Ambassador Philip Habib. This effort continues to be frustrated by the Ortega regime.

I have been one of the most steadfast supporters of restraint in our relations with Nicaragua. The question before us, however, remains: What is the best way to influence events in Nicaragua in order to eliminate the

Ortega regime's threat to democracy in Latin America and in order to promote true democracy in Nicaragua?

The administration and its supporters advocate a policy that funds a large and growing Nicaraguan opposition movement that espouses the goal of a genuinely pluralistic system of government in Nicaragua—one that will not pose a threat to its neighbors. While a few in the opposition ranks today were National Guardsmen under Somoza, a large number of former Sandinistas, like Cruz and Robelo, are also included in the opposition's ranks. The administration position calls for funding the opposition unless and until Ortega agrees to provide them with the opportunity to compete in a truly democratic system, free from threats, censorship, and mob violence.

Others question whether this is the most effective or desirable approach. They point to the Contadora process as the way to go, and criticize the Contras for past human rights abuses and for the manner in which they have handled—or possibly mishandled—U.S. assistance.

The key thrusts of these proposals are not, however, exclusive of each other, as many contend. I think it is fair to question those who support exclusive reliance on the Contadora process about the reality of such an approach. With the largest army of any Central American nation, it is realistic to ask what will compel the Sandinistas to bargain in good faith at the Contadora table if the opposition is disbanded—if indeed the Ortega regime even stays at the table. Some might respond that they would still fear direct U.S. intervention. I would maintain that if they know the U.S. Congress is hesitant to support the opposition, they would be even clearer on the question of congressional support for direct U.S. military action.

On the other hand, those who have raised allegations regarding human rights abuses and possible corruption in the opposition ranks deserve to have their concerns addressed. I was pleased to hear the President speak yesterday to some of these questions, because they demand straightforward responses. On the question of human rights, efforts to train opposition fighting forces in order to make them a more disciplined army will occur with this funding. A stricter emphasis on human rights has already been realized, and this commitment will become even stronger in the days ahead, as it should. Provisions are contained in the administration's plan to punish human rights abusers.

Recent questions on corruption also merit serious discussion. Allegations of fraud have been resoundingly refuted by the State Department in recent days. In fact, it appears that the manner in which questions were posed to the General Accounting Office, whose report on aid to the opposition has generated so much public dismay and media attention, could not but have led to the incomplete and disconcerting response received from GAO. When GAO is prohibited from consulting with the State Department, it should come as no surprise that questions about our funding to the opposition will remain. In any event, this issue must be addressed honestly and in an apolitical manner. I am pleased to see that this process has already begun and is proceeding apace.

The future of democracy in Central America and indeed, the whole Western Hemisphere, may hinge on the vote we cast today. I hope my colleagues realize the decision each of us makes today on this issue—a decision that will certainly be difficult for some—is crucial to the success or failure of democracy and justice in our backyard. The unalterable conclusion that any objective observer must reach is that aid to the opposition—the most effective kind of pressure we can bring to bear—is necessary now. I urge my colleagues to adopt the Edwards-Skelton amendment.

Mr. MRAZEK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would simply like to state for the record that it is not the intent of those of us who authored this amendment to encroach on any CIA intelligence-gathering effort. In fact, this amendment relates strictly to the $100 million contained in the Skelton-Edwards package. It does not relate to any intelligence-gathering activities financed through the House Intelligence Committee either in the past or in the future. I would like to state that for the record before any vote.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise in support of the Mrazek amendment. This straightforward amendment is a commitment to keep American military and civilian personnel out of the war zones where obviously there is great potential for casualties.

If American servicemen's lives are to be at risk in Central America, such risk should be taken only as a result of a clear and concerted policy decision to go to war against Nicaragua. Such a decision should be reached by the President and Congress. Not attained by default.

The American people, in poll after poll, have said they are opposed to United States involvement in the war in Nicaragua. If Congress decides to turn a deaf ear to the American people by voting to send aid to the Contras, we, at the very least, must make certain that the aid does not pull us into an undeclared war in Nicaragua. This amendment is designed to keep us out of such a war.

The President has repeatedly said it is not his intention to send American troops into Nicaragua. This amendment will help the President to keep this commitment. The presence of United States advisers and trainers in the Contra camps near Nicaragua could become the tripwire which leads us to direct military involvement.

During this year, Contras, Sandinista soldiers, and, undoubtedly, innocent Nicaraguan people will be killed. Let us not add American servicemen to this list.

I urge my colleagues to vote for the Mrazek amendment.

Mr. MRAZEK. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I would just like to say that one of the greatest concerns of all the Members of the House is that our military personnel do not become embroiled in a war in Central America.

I believe that it is valid for all positions philosophically or ideologically wherever you stand that that is our greatest concern.

But if we look here tonight, we think about what is happening; our continuing appropriation measures of growing, escalating dollars for Central America is becoming almost the biggest business in Central America. I would hate to think that our troops would be down there close enough to perhaps even be drawn into such a problem.

I think it makes sense; the Mrazek amendment answers some of those questions on behalf of Members like myself who are concerned legitimately that our troops might be drawn into a conflict in Central America, so I support it.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Chairman, I certainly support the Mrazek amendment. I have heard the distinguished Speaker of this House, the gentleman from Massachusetts [Mr. O'NEILL] many times indicate that his biggest fear was the intent to bring in our own troops into Central America. This amendment ensures that this will not happen.

If we want to learn more about the present and the future, we ought to look to the past, look to our history. We know what happened in Vietnam. It was supposed to be a little thing that was going to be gotten over.

All of us have experienced loved ones either being wounded or dying in that war, and that war is still painful for so many people today who question why. Let us support the Mrazek amendment. It makes sense. It does not matter whether Members supported Contra aid or not, they can still support not having our troop involvement. That is the simple gist of what this distinguished gentleman is trying to do.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

Mr. MRAZEK. Mr. Chairman, I yield 30 additional seconds to the gentleman from Ohio [Mr. TRAFICANT].

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Ohio.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] will remain on his feet if he has yield to his colleague, the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, this is where I came in 15 years ago. At that time this House was out of sync with the majority view of the American people, and we were told that we had to stay in Vietnam to show our resolve.

The Mrazek amendment is making the best of a bad situation, and we ought to adopt it, but let us not kid ourselves. We are going to be sucked into this war when the Contras, as inevitably will be the case, are unable to succeed, and we will be told that we have to get in to back them. Some people never learn.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I have just one brief question. According to the language in the gentleman's amendment, it says that excluded from its provisions are "any officer or employee of the United States General Accounting Office of any employee of the Inspector General of the Department of State and the Foreign Service who is carrying out inspections, investigations, or audits with respect to assistance for the Nicaraguan democratic resistance pursuant to this title."

Am I to understand that military personnel for training purposes cannot be in there, but the GAO can?

Mr. MRAZEK. If the gentleman will yield, if in furtherance of an attempt to try to determine the careful expenditure of U.S. taxpayer dollars it is necessary to visit those base camps, that in fact would be the case.

Mr. BURTON of Indiana. The only point that I am trying to make is that I know the gentleman is concerned about a Gulf of Tonkin-type of situation; if we have GAO inspectors or people from the State Department down there that get shot up, would that not be a similar concern?

Mr. MRAZEK. If the gentleman will yield further, I am sure that there would be some Members of this House who would like to see members of the GAO attacked in some of those base camps, but I cannot predict the future.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

□ 2315

Mr. MRAZEK. Mr. Chairman, I would just conclude in reference to the personal statement made by the gentlewoman from California that it was an emotional point in this debate for me. I took the opportunity as a Christian to address fellow Christians in this Chamber, primarily because I suppose in this vast slaughterhouse of the world we live in I would like to think there are better ways to try to find a resolution to some of the problems that we must confront as a Nation.

I asked the question, What would Jesus Christ, our Savior, say in relation to sending howitzers and surface-to-air missiles to the Contra freedom fighters?

I regret having made that statement and I regret if it was found offensive.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. MRAZEK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MRAZEK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 215, noes 212, not voting, 7 as follows:

[Roll No. 202]

AYES—215

Ackerman	Downey	Kolter	Regula	Smith (FL)	Visclosky
Akaka	Durbin	Kostmayer	Reid	Smith (IA)	Volkmer
Alexander	Dwyer	LaFalce	Richardson	Smith (NE)	Walgren
Anderson	Dymally	Lantos	Rodino	Snowe	Watkins
Annunzio	Early	Leach (IA)	Roe	Solarz	Waxman
Anthony	Eckart (OH)	Lehman (CA)	Rose	St Germain	Weaver
Applegate	Edgar	Lehman (FL)	Rostenkowski	Staggers	Weiss
Atkins	Edwards (CA)	Leland	Roukema	Stallings	Wheat
AuCoin	Evans (IL)	Levin (MI)	Roybal	Stark	Whitley
Barnes	Fazio	Levine (CA)	Russo	Stokes	Whitten
Bates	Feighan	Lipinski	Sabo	Studds	Williams
Bedell	Fish	Long	Savage	Swift	Wirth
Beilenson	Florio	Lowry (WA)	Scheuer	Synar	Wise
Bennett	Foglietta	Luken	Schneider	Torres	Wolpe
Bereuter	Foley	MacKay	Schroeder	Torricelli	Wright
Berman	Ford (MI)	Markey	Schumer	Towns	Wyden
Biaggi	Ford (TN)	Martinez	Seiberling	Traficant	Yates
Boehlert	Frank	Matsui	Sharp	Traxler	Yatron
Boggs	Garcia	Mavroules	Sikorski	Udall	Young (MO)
Boland	Gejdenson	McCloskey	Slattery	Vento	
Boner (TN)	Gephardt	McHugh			
Bonior (MI)	Gilman	McKernan			
Bonker	Glickman	McKinney			
Borski	Gonzalez	Meyers			
Boucher	Goodling	Mica			
Boxer	Gordon	Mikulski			
Brooks	Gradison	Miller (CA)			
Brown (CA)	Gray (IL)	Mineta			
Brown (CO)	Gray (PA)	Mitchell			
Bruce	Guarini	Moakley			
Bryant	Hall (OH)	Moody			
Burton (CA)	Hamilton	Morrison (CT)			
Carper	Hawkins	Mrazek			
Carr	Hayes	Murphy			
Chapman	Hefner	Murtha			
Clay	Heftel	Myers			
Coelho	Henry	Neal			
Coleman (TX)	Hertel	Nowak			
Collins	Horton	O'Neill			
Conte	Howard	Oakar			
Conyers	Hoyer	Oberstar			
Coughlin	Hughes	Obey			
Coyne	Jacobs	Olin			
Crockett	Jeffords	Owens			
Daschle	Jones (OK)	Panetta			
Dellums	Jones (TN)	Pease			
Derrick	Kanjorski	Penny			
Dicks	Kaptur	Perkins			
Dingell	Kastenmeier	Price			
Dixon	Kennelly	Pursell			
Donnelly	Kildee	Rahall			
Dorgan (ND)	Kleczka	Rangel			

NOES—212

Andrews	Gregg	Pashayan
Archer	Gunderson	Pepper
Armey	Hall, Ralph	Petri
Aspin	Hammerschmidt	Pickle
Badham	Hansen	Porter
Barnard	Hartnett	Quillen
Bartlett	Hatcher	Ray
Barton	Hendon	Ridge
Bateman	Hiler	Rinaldo
Bentley	Hillis	Ritter
Bevill	Holt	Roberts
Bilirakis	Hopkins	Robinson
Bliley	Hubbard	Roemer
Boulter	Huckaby	Rogers
Breaux	Hunter	Roth
Broomfield	Hutto	Rowland (CT)
Broyhill	Hyde	Rowland (GA)
Burton (IN)	Ireland	Rudd
Bustamante	Jenkins	Saxton
Byron	Johnson	Schaefer
Callahan	Jones (NC)	Schuette
Campbell	Kasich	Schulze
Carney	Kemp	Sensenbrenner
Chandler	Kindness	Shaw
Chappell	Kolbe	Shelby
Chappie	Kramer	Shumway
Cheney	Lagomarsino	Shuster
Clinger	Latta	Siljander
Coats	Leath (TX)	Sisisky
Cobey	Lent	Skeen
Coble	Lewis (CA)	Skelton
Coleman (MO)	Lewis (FL)	Slaughter
Combest	Lightfoot	Smith (NJ)
Cooper	Livingston	Smith, Denny (OR)
Courter	Lloyd	Smith, Robert (NH)
Craig	Loeffler	Smith, Robert (OR)
Crane	Lott	Snyder
Daniel	Lowery (CA)	Solomon
Dannemeyer	Lujan	Spence
Darden	Lungren	Spratt
Daub	Mack	Stangeland
de la Garza	Madigan	Stenholm
DeLay	Marlenee	Strang
DeWine	Martin (IL)	Stratton
Dickinson	Martin (NY)	Stump
DioGuardi	Mazzoli	Sundquist
Dornan (CA)	McCain	Sweeney
Dowdy	McCandless	Swindall
Dreier	McCollum	Tallon
Duncan	McCurdy	Tauke
Dyson	McDade	Tauzin
Eckert (NY)	McEwen	Taylor
Edwards (OK)	McGrath	Thomas (CA)
Emerson	McMillan	Thomas (GA)
English	Michel	Valentine
Erdreich	Miller (OH)	Vander Jagt
Evans (IA)	Miller (WA)	Vucanovich
Fascell	Molinari	Walker
Fawell	Mollohan	Weber
Fiedler	Monson	Whitehurst
Fields	Montgomery	Whittaker
Flippo	Moore	Wilson
Fowler	Moorhead	Wolf
Franklin	Morrison (WA)	Wortley
Frenzel	Natcher	Wylie
Frost	Nelson	Young (AK)
Fuqua	Nichols	Young (FL)
Gallo	Nielson	Zschau
Gekas	Ortiz	
Gibbons	Oxley	
Gingrich	Packard	
Green	Parris	

NOT VOTING—7

Bosco	Grotberg	O'Brien
Davis	Lundine	
Gaydos	Manton	

□ 2330

Messrs. WHITTEN, MACKAY, and REID changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no further amendments to the bill, all time has expired.

Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. HUGHES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5052) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes, pursuant to House Resolution 481, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

MOTION TO RECOMMIT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BOEHLERT. I am in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BOEHLERT moves to recommit the bill, H.R. 5052, to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was not objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the noes appeared to have it.

RECORDED VOTE

Mr. EDWARDS of Oklahoma. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 249, noes 174, not voting 10, as follows:

[Roll No. 203]

AYES—249

Andrews	Gradison	Ortiz
Archer	Gregg	Oxley
Armey	Guarini	Packard
Aspin	Gunderson	Parris
Badham	Hall, Ralph	Pashayan
Barnard	Hammerschmidt	Pepper
Bartlett	Hansen	Petri
Barton	Hartnett	Pickle
Bateman	Hatcher	Porter
Bennett	Hefner	Price
Bentley	Heftel	Pursell
Bereuter	Hendon	Quillen
Bevill	Henry	Ray
Biaggi	Hiler	Regula
Bilirakis	Hillis	Richardson
Billey	Holt	Rinaldo
Boggs	Hopkins	Ritter
Boucher	Hubbard	Roberts
Boulter	Huckaby	Robinson
Breaux	Hunter	Roemer
Broomfield	Hutto	Rogers
Brown (CO)	Hyde	Roth
Broyhill	Ireland	Roukema
Bryant	Jenkins	Rowland (CT)
Burton (IN)	Johnson	Rowland (GA)
Bustamante	Jones (OK)	Rudd
Byron	Jones (TN)	Saxton
Callahan	Kanjorski	Schaefer
Campbell	Kasich	Schuette
Carney	Kemp	Schulze
Carper	Kindness	Shaw
Chandler	Kolbe	Shelby
Chapman	Kramer	Shumway
Chappell	Lagomarsino	Shuster
Chappie	Lantos	Siljander
Cheney	Latta	Sisisky
Clinger	Leath (TX)	Skeen
Coats	Lent	Skelton
Cobey	Lewis (CA)	Slattery
Coble	Lewis (FL)	Slaughter
Coleman (MO)	Lipinski	Smith (FL)
Combest	Livingston	Smith (NE)
Cooper	Lloyd	Smith (NJ)
Coughlin	Loeffler	Smith, Denny (OR)
Courter	Long	Smith, Robert (NH)
Craig	Lott	Smith, Robert (OR)
Crane	Lowery (CA)	Snowe
Dannemeyer	Lujan	Snyder
Darden	Lungren	Solomon
Daub	Mack	Spence
de la Garza	MacKay	Spratt
DeLay	Madigan	Stallings
DeWine	Markey	Stangeland
Dickinson	Marlenee	Stenholm
DioGuardi	Martin (IL)	Strang
Dornan (CA)	Martin (NY)	Stratton
Dowdy	Mazzoli	Stump
Dreier	McCain	Sundquist
Duncan	McCandless	Sweeney
Dyson	McCollum	Swindall
Eckert (NY)	McCurdy	Tallon
Edwards (OK)	McDade	Tauzin
Emerson	McEwen	Taylor
English	McGrath	Thomas (CA)
Erdreich	McKernan	Thomas (GA)
Fascell	McMillan	Valentine
Fawell	Meyers	Vander Jagt
Fiedler	Mica	Vucanovich
Fields	Michel	Walker
Flippo	Miller (OH)	Watkins
Florio	Miller (WA)	Weber
Fowler	Molinari	Whitehurst
Franklin	Mollohan	Whittaker
Frenzel	Monson	Wilson
Frost	Montgomery	Wolf
Fuqua	Moore	Wortley
Gallo	Moorhead	Wylie
Gekas	Morrison (WA)	Young (AK)
Gibbons	Murtha	Young (FL)
Gilman	Myers	Young (MO)
Gingrich	Nelson	Zschau
Glickman	Nichols	
Gonzalez	Nielson	
Goodling	Olin	

NOES—174

Ackerman	Frank	Owens
Akaka	Garcia	Panetta
Alexander	Gejdenson	Pease
Anderson	Gephardt	Penny
Annunzio	Gordon	Perkins
Anthony	Gray (IL)	Rahall
Applegate	Gray (PA)	Rangel
Atkins	Green	Reid
AuCoin	Hall (OH)	Ridge
Barnes	Hamilton	Rodino
Bates	Hawkins	Roe
Bedell	Hayes	Rose
Beilenson	Hertel	Roybal
Berman	Horton	Russo
Boehlert	Howard	Sabo
Boland	Hoyer	Savage
Boner (TN)	Hughes	Scheuer
Bonior (MI)	Jacobs	Schneider
Bonker	Jeffords	Schroeder
Borski	Jones (NC)	Schumer
Boxer	Kaptur	Seiberling
Brooks	Kastenmeier	Sensenbrenner
Brown (CA)	Kennelly	Sharp
Bruce	Kildee	Sikorski
Burton (CA)	Kleczka	Smith (IA)
Carr	Kolter	Solarz
Clay	Kostmayer	St Germain
Coelho	LaFalce	Staggers
Coleman (TX)	Leach (IA)	Stark
Collins	Lehman (CA)	Stokes
Conte	Lehman (FL)	Studds
Conyers	Leland	Swift
Coyne	Levin (MI)	Synar
Crockett	Levine (CA)	Tauke
Daschle	Lightfoot	Torres
Dellums	Lowry (WA)	Torricelli
Derrick	Luken	Towns
Dicks	Martinez	Traficant
Dingell	Matsui	Traxler
Dixon	Mavroules	Udall
Donnelly	McCloskey	Vento
Dorgan (ND)	McHugh	Visclosky
Downey	McKinney	Volkmer
Durbin	Mikulski	Walgren
Dwyer	Miller (CA)	Waxman
Dymally	Mineta	Weaver
Early	Mitchell	Weiss
Eckart (OH)	Moakley	Wheat
Edgar	Moody	Whitley
Edwards (CA)	Morrison (CT)	Whitten
Evans (IA)	Mrazek	Williams
Evans (IL)	Murphy	Wirth
Fazio	Natcher	Wise
Feighan	Neal	Wolpe
Foglietta	Nowak	Wright
Foley	Oakar	Wyden
Ford (MI)	Oberstar	Yates
Ford (TN)	Obey	Yatron

NOT VOTING—10

Bosco	Gaydos	O'Brien
Daniel	Grotberg	Rostenkowski
Davis	Lundine	
Fish	Manton	

□ 2340

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER (during the vote). The Chair understands that when the House adjourns tonight, it will adjourn to meet at 11 o'clock tomorrow morning, instead of 10 o'clock, by mutual agreement.

□ 2350

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on

H.R. 5052, the bill just passed, and that I may be permitted to include extraneous matter, along with tables and charts.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

HOUR OF MEETING ON THURSDAY, JUNE 26, 1986

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that when the House adjourns today it stand adjourned until 11 a.m. on June 26.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

A "NO" VOTE ON H.R. 5052

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, tonight I have taken what is for me an unprecedented step in opposing passage of the military construction appropriations bill, just approved by the House.

While I support the substance of the legislation reported out by my committee, and would have voted for the bill in the form that it was passed by the committee with usual amendments, I could not agree with the final product after it was amended by the full House to include military aid to the Contras.

The final bill clearly escalates the United States military involvement in the growing conflict in Central America, while failing to provide for even a rudimentary procedure for an accounting of previously appropriated funds, which we know to have been grossly misspent.

Mr. Speaker, I regret that I am compelled to vote against this bill. It contains a great deal of hard work by the subcommittee on which I serve, and I am convinced that the best course for the House tonight was to defeat it in its present form and have the Appropriations Committee return it in its original form tomorrow.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL 5 P.M. WEDNESDAY, JULY 2, 1986, TO FILE REPORT ON H.R. 3129, THE SURFACE TRANSPORTATION AND UNIFORM RELOCATION ASSISTANCE ACT OF 1986

Mr. MONTGOMERY. Mr. Speaker, on behalf of the gentleman from Illinois [Mr. GRAY], I ask unanimous consent that the Committee on Public Works and Transportation have until 5 p.m. Wednesday, July 2, 1986, to file a report on H.R. 3129, the Surface Transportation and Uniform Relocation Assistance Act of 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

GENERAL LEAVE

Mr. SUNDQUIST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Edwards of Oklahoma amendment to H.R. 5052, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

COMMUNICATION FROM THE HONORABLE MARIO BIAGGI, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable MARIO BIAGGI:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 25, 1986.

Hon. THOMAS P. O'NEILL,
Speaker of the House,
H-204 Capitol, Washington, DC.

DEAR SPEAKER O'NEILL: Under the provisions of Rule L, Paragraph 2, this is to notify you that my New York (Bronx) district office on June 2 and my Washington Office (served on counsel) on June 13 were served with subpoenas from the United States District Court, Eastern District of New York.

I apologize for the delay in notification, however, I was consulting with counsel relative to the subpoenas. Compliance will be done without prejudicing or waiving my rights and privileges under Rule L, Paragraph 8.

With every good wish, I am,
Sincerely,

MARIO BIAGGI,
Member of Congress.

GENERAL LEAVE

Mr. LOWRY of Washington. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Louisiana [Mr. BREAUX].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMONSENSE ADVICE FROM ALABAMIANS TO CONGRESS

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ERDREICH. Mr. Speaker, each year I have asked the people of Jefferson County to let me know how they feel about the major issues facing Congress by responding to my congressional questionnaire. I recently tallied the results of my fourth annual congressional questionnaire, and would like to thank the over 11,000 residents who took the time to answer and return their questionnaire response cards. My 1986 congressional questionnaire covered a broad range of issues, including deficit reduction, tax reform, defense spending, trade issues, and Social Security.

These responding to my questionnaire let me know what their budget priorities are, and strongly supported action by Congress to reduce and eventually eliminate Federal red-ink spending levels. Fifty-seven percent of those responding supported the Gramm-Rudman-Hollings Deficit Reduction Act that seeks to attain a zero deficit by 1991, and 58 percent favored a budget proposal to reduce Federal spending in all areas except Social Security and defense. While 37 percent thought current defense spending was too much and 40 percent felt it was about right, 62 percent of respondents thought that the current level of domestic spending was too much.

In response to specific questions on spending reductions proposed by the President, 66 percent favored lowering the Guaranteed Student Loan Program by $3.4 billion over the next 3 years, and 60 percent favored abolishing the Small Business Administration. There was an almost even split on the elimination of section 202 housing construction for senior citizens, and a 50–40 split on reducing funding for health research and health professions' education and training. A substantial 55 percent, however, were opposed to reducing Medicare by $58.3 billion over the next 5 years, increasing out-of-pocket costs to recipients by over 65 percent by 1991. Fifty-four percent favored raising fees on veterans' guaranteed home loans, while 49 percent favored reducing Child Nutrition and School Lunch Programs.

A strong majority voiced their opinion that the United States needed to toughen its trade policies. Some 80 percent favored strengthening current trade laws and developing new economic strategies to ensure full and fair U.S. participation in international trade, while 59 percent favored adopting policies to limit imports from countries that compete unfairly with U.S. goods, even if it means higher consumer prices.

As always, the opinions of the people of Jefferson Country serve as a valuable yardstick as I cast votes and put forth initiatives to best serve the people of Alabama and the Nation. I hope my colleagues in the House will

follow this good Alabama common sense on issues affecting our Nation. The responses to each question follow:

QUESTIONNAIRE RESULTS [1]

	Percent	
1. Do you agree with the Administration's budget proposal to reduce federal spending in all areas except Social Security and Defense?	58	31
Do you agree with spending reductions proposed by the President that would:		
2. Reduce Medicare by $58.3 billion over the next five years, increasing out-of-pocket costs to recipients by over 65% by 1991?	35	55
3. Lower the Guaranteed Student Loan program by $3.4 billion over the next three years?	66	25
4. Reduce funding for health research by $173 million in FY 1987, as well as cut funding for health professions education and training by 98%?	50	40
5. Raise fees on Veterans' guaranteed home loans?	54	36
6. Abolish the Small Business Administration (with estimated savings of $1.4 billion)?	60	30
7. Eliminate Section 202 housing construction for senior citizens?	45	44
8. Cut child nutrition and school lunch programs by $693 million?	49	41
In order to further reduce the deficit, would you favor:		
9. A reduction in defense spending?	45	45
10. A combination of restraint on all Federal spending and new tax increases?	61	28
11. An across-the-board freeze on all Federal spending?	54	35
12. Do you support the Gramm-Rudman-Hollings deficit reduction act which seeks to attain a zero deficit by 1991?	57	31
13. Do you support the President's tax reform plan that was passed by the House last year and is currently awaiting consideration by the Senate?	56	29
14. Do you favor adopting policies to limit imports from countries that compete unfairly with U.S. goods, even if it means higher consumer prices?	59	31
15. Do you favor strengthening current trade laws and developing new economic strategies to ensure full and fair U.S. participation in international trade?	80	8

[1] The total "Yes" and "No" response percentages on some questions do not equal 100 percent because a small number of respondents did not answer all of the questions.

Take a moment to think about the Federal budget again and give me your thoughts on overall spending policies.

	Percent
16. Do you think the current level of domestic spending is:	
a. about right?	22
b. too much?	62
c. too little?	12
17. Do you think the current level of defense spending is:	
a. about right?	40
b. too much?	37
c. too little?	12
18. Respondents were asked to rate 7 issues currently facing Congress on a scale of 1 to 7, 1 being the most important, 7 being the least important:	
1. Balance the federal budget	34
2. Protect Social Security and the rights of the elderly	20
3. Push for a nuclear arms agreement with the Soviet Union	19
4. Reform and simplify the tax system	18
5. Stop the spread of Communism in Central America and throughout the world	17
6. Build up America's military strength	14
7. Protect American jobs from unfair foreign competition	12

CONTRA DRUGS

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FEIGHAN. Mr. Speaker, the war in Nicaragua has spread to our shores. It has come across our borders surreptitiously, and it threatens both our security and our childrens lives. The invasion, however, is not one of troops and guns. It is an influx of narcotics—paid for in the lives of some of our best and brightest—like Len Bias—and paying for an armed force that President Reagan has embraced as the moral equivalent of our Founding Fathers.

The evidence against Contra involvement in drug running is mounting. Just 2 days ago in the San Francisco Examiner, a notorious drug smuggler was reported to be closely linked to leaders of the Contra force, the Nicaraguan Democratic Force, of FDN. The story claims that the smuggler, Norwin Meneses-Canterero, employed three men who were members of the FDN. One of them was the FDN's San Francisco representative.

The drug enforcement agency acknowledges Meneses' drug history, but denies that any U.S. investigation is being undertaken. Clearly, these charges bear further inquiry. At the very least, the President should be gravely concerned that the Contras may be involved in a trade which the President described as "an outrage." Drug trafficking alone represents an attack on our security. Drug trafficking by those we embrace as friends and to whom we offer substantial support is a much graver crime.

I believe there are many sound reasons to object strongly to sending American taxpayer dollars to the Nicaraguan Contras.

Our policy runs against international law. Our money has completely failed in any of its objectives to date. Our allies have consistently opposed our continued preference for protracted war over concerted efforts toward Contadora. The American people have rejected the President's plan time and time again. The Contras may even have used previously appropriated funds for purposes specifically prohibited by the Congress.

But now we must add the probability of drug running to the Contra's résumé. Mr. Speaker, I believe these new allegations alone should make us extremely hesitant to consider any further aid to the Contras. But taken in concert with the Contra's past offenses, they make aid to the Contras unthinkable.

The article follows:

[From the San Francisco Examiner, June 23, 1986]

NICARAGUAN EXILE'S COCAINE-CONTRA CONNECTION

(By Seth Resenfeld)

A Nicaraguan expatriate who admits he once trafficked in cocaine was an organizer and financial supporter in California for the contras, The Examiner has learned.

On at least a half dozen occasions, Norwin Meneses-Canterero met leaders of the Nicaraguan Democratic Force, or FDN, according to FDN head Adolfo Calero and several former members of the group. The U.S.-backed FDN is the largest contra group fighting to overthrow the government of Nicaragua.

During the same period, the multimillion-dollar cocaine ring allegedly run by Meneses employed three California men identified as FDN members, according to law-enforcement sources and FDN veterans. One of the men was the FDN's San Francisco representative, who was convicted of cocaine charges last week.

In a phone interview last week, Meneses, who never has been criminally charged, admitted he had trafficked in cocaine.

"I was doing that for about six months," he said. "That was about 1982."

Meneses, a 43-year-old businessman who moved from the Bay Area to Costa Rica about a year ago, has run an international drug operation for at least 10 years, according to U.S. law enforcement sources and allegations in court records.

A confidential U.S. Drug Enforcement Administration Intelligence report in 1984 described him as "the apparent head of a criminal organization responsible for smuggling kilogram quantities of cocaine to the United States."

Former FDN members around the country told The Examiner Meneses had helped finance at least four contra functions and sent a truck and video equipment to FDN members in Honduras.

Meneses, who speaks fluent English, said in the interview that he has allowed FDN members to meet at his Bay Area home and his wife's Los Angeles T-shirt factory. He denied, however, that he ever worked with the FDN or met its leaders.

Meneses said he never met Adolfo Calero, head of the FDN, although Calero acknowledged in an interview that he had met Meneses as many as four times at contra social functions in San Francisco.

"I have never had any occasion to meet with him privately. He has never contributed anything to me or to the FDN, as far as I know.

"Whoever is trying to connect me with this person is trying to hurt our struggle."

But Edgar Chamorro, a former FDN director, recalled that Meneses "appeared like a fund-raiser, an organizer" at two California FDN meetings in 1982.

"He was one of the main contacts in L.A.," said Chamorro, who has left the FDN and opposes U.S. contra funding.

Meneses visited FDN military chief Enrique Bermudez near the group's headquarters in Honduras about three years ago, according to several FDN veterans. Meneses acknowledged knowing Bermudez in Nicaragua before the revolution that brought the Sandinistas to power but denied having been in Honduras in the past seven years.

Bermudez could not be reached for comment.

According to a DEA report two years ago, U.S. authorities first identified Norwin Meneses as a "cocaine source of supply" in Managua in 1976.

That year, Meneses' brother, Col. Edmundo Meneses-Cantereo, was commander of the Managua police.

In 1979, the Sandinistas toppled Somoza. Norwin Meneses moved to Hillsborough and owned a restaurant and bar in the Mission District. He wore expensive clothes and drove a Jaguar, according to law-enforcement and FDN sources.

He continued to smuggle cocaine, according to a 1981 DEA affidavit filed in federal court here.

The Meneses organization has been linked to trafficking in the Bay Area, Los Angeles, New Orleans, Florida, Nicaragua, Costa Rica, Panama, Colombia and Peru, according to the affidavit and other DEA reports.

The group used a variety of smuggling techniques, including false passports, Co-

lombian freighters, couriers on commercial airlines and Norwin Meneses' private aircraft, according to DEA reports.

One Meneses associate was Horacio Pereira-Lanuzo, an expatriate Nicaraguan businessman who is appealing a 12-year Costa Rican cocaine sentence, a 1980 DEA report says.

According to testimony in a 1983 San Francisco cocaine case, Pereira supplied a Nicaraguan dealer here with cocaine and the proceeds "belonged to . . . the contra revolution."

Meneses employed at least three FDN members in California in his cocaine-trafficking business, according to information from FDN veterans and law-enforcement intelligence reports and sources.

One of the contras he employed was Renato Pena-Cabrera, the FDN spokesman in San Francisco between 1982 and 1984.

Jairo Meneses—Norwin's nephew—and Pena pleaded guilty in federal court last year to cocaine possession.

Pena said no proceeds from his cocaine sales went to the FDN. He refused further comment.

According to court records, Jairo Meneses, 97, testified last June he had been a delivery man and "bookkeeper" for Norwin Meneses since 1981.

He described his uncle Norwin as a "large dealer" who said "about 20, 30 kilos per month" at $56,000 each, for an average monthly take of $1.68 million.

Reached by The Examiner last night, Jairo Meneses declined comment.

In 1982 and 1983, Meneses allegedly distributed cocaine through another FDN member in San Francisco and at least one in Los Angeles, according to information from FDN veterans and law-enforcement sources.

In February 1984, according to a DEA report, Meneses was living in San Jose, Costa Rica, where he owned a downtown lot and part-interest in a restaurant near the U.S. Embassy called Pollo Loco, or crazy chicken.

Meneses said he had attended a Bay Area wedding this month and was moving to Mexico, where he owns a cattle ranch, because of the "politics here . . . the communists."

He said he had trafficked in cocaine only for six months in 1982 and quit because a relative "became sick" with the drug.

"I promised myself and my family that I'd never do that again," he said.

In October 1962, two FDN directors, Edgar Chamorro and Frank Arana, flew to San Francisco to select local FDN leaders. During the selection meeting at Tony's Imported Body Shop Services on 11th Street, Norwin Meneses stood quietly in the back of the room, according to Chamorro and other FDN veterans.

The next day, Meneses helped to arrange a similar FDN meeting in Los Angeles, provided refreshments before the meeting and threw a party afterward, they said.

"He was in charge of the organization of the L.A. meeting, the reception; he drove us to the meeting place," Chamorro said. "He gave us the schedule for that day . . . he knew people, he was recommending names" for FDN positions.

Meneses also was trying to get former Somoza military members in California to join FDN forces in Honduras, Chamorro said.

Tony Navarro, owner of Tony's body shop and the FDN San Francisco spokesman, said Meneses had attended the two 1982 meetings but never worked with the FDN or made contributions.

But Meneses denied he was at either the San Francisco or Los Angeles FDN meetings.

Soon after the meetings, Meneses reportedly sent supplies to the FDN in Honduras, according to FDN veterans in Miami and California. The supplies included video equipment and at least one truck, the veterans said. Meneses paid to have the truck driven to Honduras, two sources said.

Meneses denied he gave a truck, video equipment or money to the FDN. Calero denied knowledge of such donations.

Calero said he had met Meneses about two years ago in California at a dinner for FDN directors, "at dinners for the Nicaraguan exile community and at rallies."

In February 1984, Meneses helped pay for a $5,375 contra dinner attended by Calero and about 100 others at the Sir Francis Drake Hotel here, according to two former FDN members.

Calero said he could not recall the Sir Francis Drake affair or who paid the tab. "I attend so many dinners," he said.

On June 4, 1964, Meneses picked up the bill for Calero and about 20 contra supporters who dined in a private room at Caesar's Italian Restaurant near Fisherman's Wharf, according to two sources formerly with the FDN.

Meneses said, "I never met Adolfo Calero personally in my life."

On another morning, according to two sources, Meneses paid for a breakfast for Calero with the FDN women's chapter at the Pepper Mill Restaurant in Daly City.

Calero said he recalled a breakfast with "about half a dozen ladies," but not Meneses.

"I am unacquainted with his reputation," said Calero of allegations that Meneses was a smuggler. "If I knew anything, I would have given it to the police.

"If he is a big dealer, and he is in the United States, he should be in jail. Or if he is a big dealer, and he is in Costa Rica, he should be extradited."

50TH ANNIVERSARY OF THE FLOOD CONTROL ACT OF 1936

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. WHITTEN] is recognized for 5 minutes.

Mr. WHITTEN. Mr. Speaker, floods occurred at the beginning of history as evidenced in the great river valleys of the United States, the Columbia, the Sabine, the Rio Grande, the Missouri, the Ohio, the Tennessee, the Wabash, and many, many others, large and small, led by the Mississippi, which drains 41 percent of the land area of Continental United States.

In the early years of our Nation, 1781 to 1788, during the days of the Articles of Confederation, each State faced the problems of the land area within its border, and of course with land so plentiful, when floods were too great, it was easier to wear out land and move west. At first each person had the responsibility to look after his own, and efforts were few, and ineffective.

With time, the development of land adjacent to streams with expensive buildings, factories, and other costly developments we had neighbors to join together, and then local taxing units were formed to meet flood problems.

Later as the Nation's population increased, and as the land was cleared for cultivation, it became apparent that it would take concerted efforts if the Nation were to hold its own; that flood control was a national problem including flood prevention in the watersheds where in many areas the water must be held back, if it was to be controlled in the flat lands.

Today, with the development of the physical wealth of our country, the value of structures, equipment factories, inventories and land having increased by 41 times since 1934, it has become absolutely imperative that every effort be made to protect that wealth. In view of reduction of our forests, the increasing amount of land being placed under concrete, highways, shopping centers, now it is accepted that all Americans have an interest in protecting all of the United States.

Mr. Speaker, this, the 50th anniversary of the Flood Control Act of 1936, was signed into law by Franklin Delano Roosevelt on June 22, 1936, 50 years ago today.

At this point it is appropriate to look back and consider events that led up to passage of the Flood Control Act of 1936 and the benefits that have flowed to the American people from this important piece of legislation.

The Mississippi River floods of 1849 and 1850 prompted the first Federal flood control action when Congress appropriated money for two historic surveys of the Mississippi. Both were done by the Army Corps of Engineers—beginning the close association of the corps with Mississippi River flood control.

Back then, the corps believed levees alone could prevent floods along the Mississippi.

Disastrous floods in 1912 and 1913 along the Mississippi and Ohio Rivers raised the questions whether levees alone could be relied on or whether the Federal Government should provide more assistance to flood-prone areas.

In 1912, the Mississippi River was at flood stage for 60 days.

Four hundred and sixty-seven people were killed along the Ohio and flood damages were estimated at $147 million.

In 1917, for the first time, the Federal Government accepted limited responsibility for flood control in two sections of the country—the lower Mississippi and Sacramento River basins. The act also introduced the policy of local financial contributions for flood control.

Ten years later, the 1927 floods along the Mississippi convinced Congress and the corps that levees alone were not sufficient flood protection.

As a result of this flood, about 400 people died. Over 16 million acres were flooded; 41,000 buildings destroyed; and more than 700,000 driven from their homes.

That year, in 1927, Congress authorized the corps to survey the country's navigable streams in order to make plans for comprehensive development for navigation, water power, and flood control. Called 308 reports, these surveys provided Congress a basis for some emergency relief projects of the 1930's.

A year later, in 1928, a new act authorized a comprehensive plan for control of the Mississippi River and tributaries to include floodways, spillways, and channel improvements as well as continued work on the levees—thus ending the levees-only policy.

By 1935, Congress recognized a genuine nationwide need for increased Federal flood control assistance to include larger structures such as dams and reservoirs.

Congress also recognized a need for a work relief program. During the Depression, public works projects began looking very attractive as a means of employment.

The spring floods of 1936 also helped mold political and public opinion. The 1936 floods brought widespread disaster from Maine to Maryland.

In Pennsylvania, the hardest hit State, 84 people died and over 82,000 buildings were destroyed.

On June 22, 1936, President Franklin Delano Roosevelt signed the Flood Control Act of 1936. The act recognized for the first time that flood control on navigable waters or their tributaries is a proper activity of the Federal Government in cooperation with the States and in the interest of the general welfare.

Senator Royal Copeland of New York and Congressman Riley Wilson of Louisiana were the key people who guided the act through Congress.

This act authorized $320 million for 250 projects and a number of investigations and surveys. The Army Corps of Engineers would do most of the work.

The act also provided that the Soil Conservation Service of the Department of Agriculture would be responsible for conservation projects dealing with watershed run-off and soil erosion.

Since 1936, approximately 900 flood control projects have been built. This includes approximately 400 flood control dams. Between 300 and 400 flood control projects have more than one purpose—and include navigation, water supply, irrigation, recreation and hydropower.

In addition to flood control dams, the corps has built thousands of miles of levees, floodwalls, floodways, and improved channels.

Nonstructural measures are another solution to flood control. They include flood plain regulation, flood warning systems and floodproofing. A combination of nonstructural and structural measures have been used on the Charles River in Massachusetts. Opportunities are rare for purely nonstructural solutions to flood damage problems.

A particularly successful nonstructural project implemented by the corps is Indian Bend Wash in Scottsdale, AZ. It is a 7-mile greenbelt through the center of town that conveys flood waters to the Salt River. When not flooded, it is used as a recreation area complete with urban campground and golf course.

Cities such as New Orleans, built below the level of the neighboring Mississippi River, depend on structural flood control measures—such as levees and floodwalls.

Other cities along the Mississippi, Missouri and Ohio Rivers are nearly as dependent on levees and floodwalls. Such structural measures are an intrinsic part of their flood plain management program.

Flood control projects have provided relative security for those persons living in flood prone areas. The corps estimates an average of $10 billion in flood damages is prevented each year by flood control projects.

Flood control does not mean complete flood prevention, nor does it mean "zero risk." Nature is unpredictable. Occasional disasters will happen no matter what man does.

But disasters and irreversible damages continue to occur in still unprotected areas of country that we have demonstrated in the past 50 years that we have the capability to control. We are still at war to protect our inheritance; our land. Flooding and soil erosion continue to have a tremendous impact on our Nation's economy and on the safety and well-being of our citizens. The effects of urbanization and development compound the flooding problems. Through the construction of highways, buildings, and shopping centers, we are putting our land under concrete, destroying our forests and causing the water to flow into our streams and rivers much faster causing extreme hardships to the people who live in lower lying areas or at the end of the drainage systems. The potential average annual property damages from floods in the United States is estimated at about $4 billion annually. On the average, more than 300,000 people are evacuated from their homes or places of work annually, and about 185 lives are lost annually due to floods. One-sixth of all urban areas are in flood prone areas; over 200,000 square miles in our Nation are subject to flooding. According to some estimates, a 10-percent reduction in property damage could save our economy $200 to $400 million annually. The magnitude of the flood problem extends beyond these numbers when considering single events such as tropical storms and earthquakes with damages in the billions of dollars and the silent erosion of topsoil from the land of our Nation.

According to the World Watch Institute, by the year 2000 the amount of topsoil per person in the United States is projected to decline by 32 percent. Almost one half (44 percent) of the U.S. cropland is losing topsoil to affect productivity. Most of the loss (90 percent) is taking place on less than a quarter of the cropland. Unfortunately, the effects of erosion are often not visible until the situation has become irreversible. The predictable results will be starvation, vastly altered agricultural trade patterns and will ultimately affect the availability and use of all our water.

The current economy, however, is preventing us from making investments in our future. The Nation's real wealth is in its land and the productivity of its people. We cannot avoid paying the price at some point and that may be too late.

This kind of damage is not geographically isolated; for example, in the spring of 1983 some 41 States plus the Virgin Islands were plagued by floods. That year approximately $4.5 billion in flood losses were recorded by the National Weather Service. Louisiana and Mississippi alone sustained damages exceeding $600 million. In 1984 total flood damages were about $4 billion. Significant floods occurred in the Northwest, Midwest and Southwest States. Arizona, for example, experienced the worst disaster of the century when over $200 million in flood damages occurred. Severe damages occurred last year in the Middle Atlantic States with damage estimates at over $500 million and 40 lives lost. In February 1986, California experienced severe flooding problems; some 50,000 people were evacuated and an estimated 12,000 homes and 1,000 businesses were either damaged or destroyed. Currently, all the Great Lakes plus the Great Salt Lake have surpassed old records and continue to be dangerously high. Most of these lakes have set new monthly records for 8 or 9 straight months. Based on records dating back to 1900, most of these lakes stand at their all-time record high levels.

Flood control remains one of the best means of gauging man's success in reconciling his desire to improve our standard of living. We have got the capability and the readiness. We must protect our land and our property from floods for it is our country on which all else depends.

Mr. Speaker, man will continue to dream of mastering the rivers and protecting the environment that periodically threaten his home and his productivity. Possessing that dream, perhaps, is one thing that defines humanity—we must do our best to fulfill that dream, else we will become like China and India—and other worn out areas of the world.

□ 2400

FUNDING CRISIS IN MISSISSIPPI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, my State of Mississippi, just like many others around the country, is wrestling with a very tight budget situation. As a result of the funding problems, some cutback in personnel at the Mississippi Department of Public Welfare has been required. Clyde Walker, Jr. is director of the Lauderdale County Welfare Department. He has written a very informative and insightful article about what effects this reduction in force will have on his department and throughout the entire State. I want to share it with my colleagues:

HERE'S MY VIEW

(By Clyde Walker, Jr.)

"* * * and the people of Mississippi and Lauderdale County suffer."

If there is no special session of the Legislature, Lauderdale County and Mississippi stand on the brink of losing millions of dollars. There are many reasons the financial impact on Lauderdale County and Mississippi will be so great. We are talking about much more than 22 employees in Lauderdale County and 900 plus employees statewide. We are really looking at the loss of federal money and the recipients of programs such as the federal Food Stamp Program, Aid To Families With Dependent Children, Child Support, Food Distribution and other services provided by the Department of Public Welfare will be the first to suffer. These will not be alone however as the impact will be felt by banks, savings and loan institutions, doctors, hospitals, car dealerships, used car lots, service stations and grocery stores. The people cannot spend money which they do not have. If Food Stamps and Aid To Dependent Children cannot be approved in a timely manner and the other paper work cannot be completed then the people simply will not have the money to spend in the community.

We believe we have a fairly good understanding of the position the state of Mississippi is in at the present time. During the recent special session of the State Legislature, the House on two occasions passed spending bills by wide margins which would have provided additional funding for the State Department of Public Welfare, Mental Health and one or two other Departments.

The State Senate however failed to approve this legislation. The Governor has stated several times that he will not call a special session unless he has assurance from members of the State Senate that the money will be appropriated. The Senate on the other hand has pointed out that adequate revenue provisions are not in place and without this provision an appropriation will be a one-time "bandaid" approach only. Basically, this is the present scenario we are facing in Mississippi. We believe that some give and take is desperately needed quickly in order that the people of Mississippi will not have to hurt unnecessarily. Certainly we know that we need funding and that this is needed quickly. We also recognize that for this to be more than just a quick fix that some source of permanent revenue must be in place. Our concern is that the citizens of Lauderdale County and of the state of Mississippi are not caught in the middle.

We have earnestly and prayerfully solicited the help of the Legislature, both House and Senate, the Governor's Office, Congress and other sources in order that funds may be appropriated to those agencies that have been devastated by the lack of adequate state funding.

In our view, we are in a crisis and the crisis does not begin July 1 but began approximately two weeks ago when state agencies learned that funding would not be made available to maintain adequate staff to get the job done.

The Lauderdale County Food Stamp Office could be used as one example of what we see as the problem faced statewide. Lauderdale County has 14 Eligibility Workers and because of extremely heavy caseloads (the heaviest caseloads in the United States exists in Mississippi and one of the heaviest caseloads exists in Lauderdale County) have been unable to meet federal guidelines and regulations as far as error rate and currency.

After the reduction in staff, Lauderdale County will have 7 Eligibility Workers. We can, with a great deal of assurance, speculate that the 7 workers after reduction will be unable to complete more than 50 percent of applications and recertifications. If this proves to be true, this would translate directly into a monetary loss of approximately $280,000,000 monthly in Lauderdale County. Using this same basis for computation purposes, the monetary loss in Mississippi could amount to as much as twelve and one-half million dollars monthly. You simply can not put more than 5 gallons in a 5 gallon container and when staff is reduced by one-half, we will have 7 workers trying to do what 14 workers could not do. The direct result will be a monetary loss to Lauderdale County and to each county in the state where the work can not be done. We believe that all parties must sit down and negotiate and compromise where this is necessary in order that the people of Mississippi will not have to suffer unnecessarily. We believe the people of Mississippi will be deeply indebted to those who are willing to negotiate, compromise and take whatever action is necessary.

TRIBUTE TO ROBERT E. HUNTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. BREAUX] is recognized for 5 minutes.

Mr. BREAUX. Mr. Speaker, a son of Louisiana has been lost and every person in our State will suffer equally in this. Robert E. Hunter died yesterday doing what he has done for decades—representing the people of Louisiana in the Nation's Capitol.

Bob Hunter passed away in my office here in Washington during a meeting he asked for to solve some critical issues which affected the city of New Orleans and the Mississippi River. He died doing what he has always done for so many years, fighting for a State and a people he loved. As Senator RUSSELL LONG'S adminstrative assistant for 20 years, he was always at the forefront of issues affecting Louisiana.

Bob loved people and loved serving people. He chose to serve by a distinguished career in government. Before coming to the Hill with Senator LONG, Bob Hunter was an expert on navigation projects with the U.S. Corps of Engineers. There literally is not a water project in our State which hasn't been touched in some way by Bob. He was instrumental in all of the major projects from the Red River in north Louisiana to the Atchafalaya Basin in the south.

In addition to serving our State legislatively, Bob and Senator LONG were the guiding individuals responsible for starting one of the best known and innovative public relations events highlighting Louisiana when they began the annual Mardi Gras Ball in Washington 30 years ago. This event combines Louisianians and Washingtonians every year to show off Louisiana to the Nation, and Bob was at the forefront of organizing this extravaganza and maintaining its success. Bob's amazing organizational genius and ingenuity has allowed our State to proudly display its many resources to Washington, and his loss will be sorely missed by thousands of people who were transformed into Louisiana ambassadors.

I can attest to the fact that all of our Members will miss Bob's expertise and untiring assistance. He taught us all a great deal and we will greatly miss his Irish wit and his New Orleans charm. Louisiana has lost a giant of a friend. God Bless you, Bob Hunter.

Mr. TAUZIN. Mr. Speaker, yesterday morning, Louisiana lost a great friend, one who has served the State and the Nation well for years. Oliver Wendell Holmes once wrote that he believed the best service we can do for our country and for ourselves was to see so far as one may, and to feel the great forces that are behind every detail—to hammer out as compact and solid a piece of work as one can, to try to make it first rate, and to leave it unadvertised.

Robert E. Hunter embodied this statement, and he lived his life serving the people, both of Louisiana and our country. Robert Hunter, who served in the Corps of Engineers during the World War II and then afterward during civilian life, always worked to serve the people, to improve life for our citizenry. In 1955, Bob joined the staff of our senior Senator, RUSSELL LONG, where he worked in public service for some 18 years. Always giving of himself, always working to serve the people, Bob continued to work behind the scenes—to assist Louisiana and her residents and to give of himself to improve the caliber of life for our people.

Seldom do we find individuals who spend their lives working to better the lives of others, and seldom do we find a friend like Bob Hunter. By all those with whom we came in contact, he will be sorely missed, and his effort will be sorely missed by our Nation.

CONFERENCE REPORT ON H.R. 4420, MILITARY RETIREMENT REFORM ACT OF 1986

Mr. MONTGOMERY submitted the following conference report and statement on the bill (H.R. 4420) to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes:

Conference Report (H. Rept. 99-659)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4420) to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 10, UNITED STATES CODE; TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Military Retirement Reform Act of 1986".

(b) REFERENCES TO TITLE 10.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references to title 10, United States Code; table of contents.

TITLE I—RETIREMENT PROGRAM AMENDMENTS

Sec. 101. Retired pay multiplier.
Sec. 102. Adjustments of retired and retainer pay to reflect changes in the Consumer Price Index.
Sec. 103. Restoral at age 62 of retired pay multiplier and cost-of-living adjustments.
Sec. 104. Consolidation of retired pay base provisions.
Sec. 105. Rules of construction for purposes of computing retired pay.
Sec. 106. Years of service for computing retired pay.

TITLE II—CONFORMING AMENDMENTS TO COMPUTATION OF RETIRED PAY

Sec. 201. Retired pay computed under subtitle A.

Sec. 202. Members of the Army.
Sec. 203. Members of the Navy and Marine Corps.
Sec. 204. Members of the Air Force.
Sec. 205. Members of the Coast Guard.
Sec. 206. Commissioned officers of the National Oceanic and Atmospheric Administration.
Sec. 207. Commissioned officers of the Public Health Service.

TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS

Sec. 301. Survivor Benefit Plan annuities.
Sec. 302. Report on reserve retirement system.
Sec. 303. Definition.
Sec. 304. Technical and conforming amendments.
Sec. 305. Codification of permanent limitations on retired and retainer pay provided in appropriation Acts.
Sec. 306. Repeal of limitation on payments to accrual fund for fiscal year 1986.

TITLE IV—FISCAL YEAR 1986 UNAUTHORIZED APPROPRIATIONS

Sec. 401. Authority for obligation of certain unauthorized fiscal year 1986 defense appropriations.
Sec. 402. Limitation on obligation of certain unauthorized appropriations.
Sec. 403. Authorized military construction project.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Under Secretary of Defense for Acquisition.
Sec. 502. Limitation on expenditure of funds to procure T-46 trainer aircraft.
Sec. 503. Postponement of a certain Department of Defense contract.

TITLE I—RETIREMENT PROGRAM AMENDMENTS

SEC. 101. RETIRED PAY MULTIPLIER

Chapter 71 (relating to computation of retired pay) is amended by adding at the end the following new section:

"§ 1409. Retired pay multiplier

"(a) RETIRED PAY MULTIPLIER FOR REGULAR-SERVICE NONDISABILITY RETIREMENT.—In computing—

"(1) the retired pay of a member of a uniformed service who is retired under any provision of law other than—

"(A) chapter 61 of this title (relating to retirement or separation for physical disability); or

"(B) chapter 67 of this title (relating to retirement for non-regular service); or

"(2) the retainer pay of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of this title,

the retired pay multiplier (or retainer pay multiplier) is the percentage determined under subsection (b).

"(b) PERCENTAGE.—

"(1) GENERAL RULE.—Subject to paragraphs (2) and (3), the percentage to be used under subsection (a) is the product (stated as a percentage) of—

"(A) 2½, and

"(B) the member's years of creditable service (as defined in subsection (c)).

"(2) REDUCTION APPLICABLE TO NEW-RETIREMENT MEMBERS WITH LESS THAN 30 YEARS OF SERVICE.—In the case of a member who first became a member of a uniformed service after July 31, 1986, has less than 30 years of creditable service, and is under the age of 62 at the time of retirement, the percentage determined under paragraph (1) shall be reduced by—

"(A) 1 percentage point for each full year that the member's years of creditable service are less than 30; and

"(B) 1/12 of 1 percentage point for each month by which the member's years of creditable service (after counting all full years of such service) are less than a full year.

"(3) 75 PERCENT LIMIT.—In the case of a member with more than 30 years of creditable service, the percentage to be used under subsection (a) is 75 percent.

"(c) YEARS OF CREDITABLE SERVICE DEFINED.—In this section, the term 'years of creditable service' means the number of years of service creditable to a member in computing the member's retired or retainer pay (including 1/12 of a year for each full month of service that is in addition to the number of full years of service of the member).".

SEC. 102. ADJUSTMENTS OF RETIRED AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX

(a) IN GENERAL.—Section 1401a (relating to adjustments in retired pay to reflect changes in the Consumer Price Index) is amended by striking out subsections (b), (c), and (d) and inserting in lieu thereof the following:

"(b) COST-OF-LIVING ADJUSTMENTS BASED ON CPI INCREASES.—

"(1) IN GENERAL.—Effective on December 1 of each year, the Secretary of Defense shall increase the retired pay of members and former members entitled to that pay in accordance with paragraphs (2) and (3).

"(2) PRE-AUGUST 1, 1986 MEMBERS.—The Secretary shall increase the retired pay of each member and former member who first became a member of a uniformed service before August 1, 1986, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the base index.

"(3) POST-AUGUST 1, 1986 MEMBERS.—If the percent determined under paragraph (2) is greater than 1 percent, the Secretary shall increase the retired pay of each member who first became a member on or after August 1, 1986, by the difference between—

"(A) the percent determined under paragraph (2); and

"(B) 1 percent.

"(4) REGULATIONS.—Any increase in retired pay under this subsection shall be made in accordance with regulations prescribed by the Secretary of Defense.

"(c) RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH INTERVENING INCREASE IN BASIC PAY.—Notwithstanding subsection (b), if a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay based on rates of monthly basic pay that became effective after the last day of the calendar quarter of the base index, the retired pay of the member or former member shall be increased on the effective date of the next adjustment of retired pay under subsection (b) only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.

"(d) RULE FOR FIRST ADJUSTMENT AFTER RETIREMENT WITH NO INTERVENING INCREASE IN BASIC PAY.—If a member or former member of an armed force who first became a member of a uniformed service before August 1, 1986, becomes entitled to retired pay on or after the effective date of an adjustment in retired pay under subsection (b) but before the effective date of the next increase in the rates of monthly basic pay, the retired pay of the member or former member shall be increased, effective on the date the member becomes entitled to that pay, by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the base index, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the rates of monthly basic pay on which the retired pay is based became effective.".

"(e) PRO RATING OF INITIAL ADJUSTMENT.—Notwithstanding subsection (b), the retired pay of a member of an armed force who first became a member of a uniformed service on or after August 1, 1986, shall be increased on the effective date of the first adjustment of retired pay under subsection (b) after the member becomes entitled to retired pay only by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(1) the price index for the base quarter of that year, exceeds

"(2) the price index for the calendar quarter immediately before the calendar quarter in which the member became entitled to retired pay.".

(b) DEFINITIONS.—Such section is further amended—

(1) by striking out the second sentence of subsection (a); and

(2) by striking out subsection (g) and inserting in lieu thereof the following:

"(g) DEFINITIONS.—In this section:

"(1) The term 'price index' means the Consumer Price Index (all items, United States city average) published by the Bureau of Labor Statistics.

"(2) The term 'base quarter' means the calendar quarter ending on September 30 of each year.

"(3) The term 'base index' means the price index for the base quarter for the most recent adjustment under subsection (b).

"(4) The term 'retired pay' includes retainer pay.

"(h) PRICE INDEX FOR A QUARTER.—For purposes of this section, the price index for a calendar quarter is the arithmetical mean of the price index for the three months comprising that quarter.".

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of such section is amended—

(A) by inserting "PROHIBITION ON RECOMPUTATION TO REFLECT INCREASES IN BASIC PAY.—" after "(a)"; and

(B) by striking out "or retainer".

(2) Subsection (f) of such section is amended—

(A) by inserting "PREVENTION OF PAY INVERSIONS.—" after "(f)"; and

(B) by striking out "or retainer" each place it appears.

SEC. 103. RESTORAL AT AGE 62 OF RETIRED PAY MULTIPLIER AND COST-OF-LIVING ADJUSTMENTS

Chapter 71 (relating to computation of retired pay) is amended by adding after section 1409 (as added by section 101) the following new section:

"§ 1410. Restoral of full retirement amount at age 62 for members entering on or after August 1, 1986

"(a) GENERAL RULE.—In the case of a member who first became a member of a uniformed service on or after August 1, 1986, and who becomes entitled to retired pay before the age of 62, the retired pay of such member shall be recomputed, effective on the first day of the first month beginning after the member attains 62 years of age, so as to be the amount equal to—

"(1) the amount of the member's initial unreduced retired pay, increased by

"(2) the percent (adjusted to the nearest one-tenth of 1 percent) by which—

"(A) the price index for the most recent base quarter ending more than 31 days before the date the member attains 62 years of age, exceeds

"(B) the price index for the calendar quarter immediately before the date the member first became entitled to retired pay.

"(b) DEFINITIONS.—

"(1) In this section, the term 'initial unreduced retired pay' means the amount of retired pay—

"(A) to which the member was entitled when the member first became entitled to retired pay; or

"(B) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, to which the member would have been entitled on the date of the member's retirement without regard to that section.

"(2) The definitions in subsection (g), and the provisions of subsection (h), of section 1401a of this title apply to this section.".

SEC. 104. CONSOLIDATION OF RETIRED PAY BASE PROVISIONS

(a) TRANSFER OF SECTION 1406.—Section 1406 is transferred to the end of chapter 67, redesignated as section 1338, and amended—

(1) by designating the first sentence as subsection (a) and striking out "chapter 67 of this title" both places it appears therein and inserting in lieu thereof "this chapter"; and

(2) by designating the second sentence as subsection (b).

(b) CONSOLIDATION OF STATUTES.—Chapter 71 (relating to the computation of retired pay) is amended by striking out section 1407 and inserting in lieu thereof the following:

"§ 1406. Retired pay base for members who first became members before September 8, 1980: final basic pay

"(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—

"(1) GENERAL RULE.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service before September 8, 1980, is computed using the retired pay base or retainer pay base determined under this section.

"(2) EXCEPTION FOR RECOMPUTATION.—Recomputation of retired or retainer pay to reflect later active duty is provided for under section 1402 of this title without reference to a retired pay base or retainer pay base.

"(b) RETIREMENT UNDER SUBTITLE A.—In the case of a person whose retired pay is computed under this subtitle, the retired pay base is determined in accordance with the following table.

"For a member entitled to retired pay under section:	The retired pay base is:
1201 1202 1204 1205	Monthly basic pay[1] of grade to which member is entitled under section 1372 or to which he was entitled on day before retirement or placement on temporary disability retired list, whichever is higher.
1331	Monthly basic pay[2] of highest grade held satisfactory by person at any time in the armed forces.
564 1263 1293 1305	Monthly basic pay to which member would have been entitled if he had served on active duty in his retired grade on day before retirement, or if the pay of that grade is less than the pay of any warrant grade satisfactorily held by him on active duty, the monthly basic pay of that warrant officer grade.
633 634 635 636 1251	Monthly basic pay[3] of member's retired grade.[4]

[1] Compute at rates applicable on date of retirement or date when member's name was placed on temporary disability retired list, as the case may be.

[2] Compute at rates applicable on date when retired pay is granted.

[3] Compute at rates applicable on date of retirement.

[4] For the purposes of this subsection, determine member's retired grade as if sections 3962(b) and 8962(b) did not apply.

"(c) VOLUNTARY RETIREMENT FOR MEMBERS OF THE ARMY.—

"(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 3991 of this title or who is entitled to retired pay computed under section 3992 of this title, the retired pay base is determined in accordance with the following table.

"For a member entitled to retired pay under section:	The retired pay base is:
3911 3918 3920 3924	Monthly basic pay of member's retired grade.[1]
3914 3917	Monthly basic pay to which member was entitled on day before he retired.
3992	Monthly basic pay of grade to which member is advanced on retired list.

[1] For the purposes of this subsection, determine member's retired grade as if section 3962(b) did not apply.

"(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

"(d) RETIREMENT FOR MEMBERS OF THE NAVY AND MARINE CORPS.—In the case of a member whose retired pay is computed under section 6333 of this title, who is advanced on the retired list under section 6151 of this title, or who is entitled to retainer pay under section 6330 of this title, the retired pay base or retainer pay base is determined in accordance with the following table.

"For a member entitled to retired or retainer pay under section:	The retired pay base or retainer pay base is:
6323 6325(a) 6383	Basic pay of the grade in which the member retired.[1]
6325(b)	Basic pay of the grade the officer would hold if he had not received an appointment described in section 6325(b).
6326	Basic pay of the pay grade in which the member was serving on the day before retirement.
6330	Basic pay that the member received at the time of transfer to the Fleet Reserve or Fleet Marine Corps Reserve.
6151	Basic pay of the grade to which the member is advanced under section 6151.

[1] If the rate specified is less than the pay of any warrant officer grade satisfactorily held by the member on active duty, use the monthly basic pay of that warrant officer grade.

"(e) VOLUNTARY RETIREMENT FOR MEMBERS OF THE AIR FORCE.—

"(1) IN GENERAL.—In the case of a member whose retired pay is computed under section 8991 of this title or who is entitled to retired pay computed under section 8992 of this title, the retired pay base is determined in accordance with the following table.

"For a member entitled to retired pay under section:	The retired pay base is:
8911 8918 8920 8924	Monthly basic pay of member's retired grade.[1]
8914 8917	Monthly basic pay to which member was entitled on day before he retired.
8992	Monthly basic pay of grade to which member is advanced on retired list.

[1] For the purposes of this subsection, determine member's retired grade as if section 8962(b) did not apply.

"(2) RATE OF BASIC PAY TO BE USED.—The rate of basic pay to be used under paragraph (1) is the rate applicable on the date of the member's retirement.

"(f) COAST GUARD.—In the case of a member who is retired under any section of title 14, the member's retired pay is computed under section 423(a) of title 14 in the manner provided in that section.

"(g) COMMISSIONED CORPS OF NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—In the case of an officer whose retired pay is computed under section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o), the retired pay base is the basic pay of the rank with which the officer retired.

"(h) COMMISSIONED CORPS OF PUBLIC HEALTH SERVICE.—In the case of an officer who is retired under section 210(g) or 211(a) of the Public Health Service Act (42 U.S.C. 211(g), 212(a)), the retired pay base is determined as follows:

"(1) MANDATORY RETIREMENT.—If the officer is retired under section 210(g) of such Act, the retired pay base is the basic pay of the permanent grade held by the officer at the time of retirement.

"(2) VOLUNTARY RETIREMENT.—If the officer is retired under section 211(a) of such Act, the retired pay base is the basic pay of the highest grade held by the officer and in

which, in the case of a temporary promotion to such grade, the officer has performed active duty for not less than six months.

"(i) SPECIAL RULE FOR FORMER CHAIRMEN OF THE JCS, CHIEFS OF SERVICE, AND SENIOR ENLISTED MEMBERS.—

"(1) IN GENERAL.—For the purposes of subsections (b) through (e), in determining the rate of basic pay to apply in the determination of the retired pay base of a member who has served as Chairman of the Joint Chiefs of Staff, as a Chief of Service, or as the senior enlisted member of an armed force, the highest rate of basic pay applicable to the member while serving in that position shall be used, if that rate is higher than the rate otherwise authorized by this section.

"(2) DEFINITIONS.—In this subsection:

"(A) The term 'Chief of Service' means any of the following:

"(i) Chief of Staff of the Army.

"(ii) Chief of Naval Operations.

"(iii) Chief of Staff of the Air Force.

"(iv) Commandant of the Marine Corps.

"(v) Commandant of the Coast Guard.

"(B) The term 'senior enlisted member' means any of the following:

"(i) Sergeant Major of the Army.

"(ii) Master Chief Petty Officer of the Navy.

"(iii) Chief Master Sergeant of the Air Force.

"(iv) Sergeant Major of the Marine Corps.

"(v) Master Chief Petty Officer of the Coast Guard.

"§ 1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average

"(a) USE OF RETIRED PAY BASE IN COMPUTING RETIRED PAY.—The retired pay or retainer pay of any person entitled to that pay who first became a member of a uniformed service after September 7, 198J, is computed using the retired pay base or retainer pay base determined under this section.

"(b) HIGH-THREE AVERAGE.—The retired pay base or retainer pay base of a member under this section is the member's high-three average determined under subsection (c).

"(c) COMPUTATION OF HIGH-THREE AVERAGE.—

"(1) FORMULA.—For the purposes of this section, a member's high-three average is the amount equal to—

"(A) the total amount of monthly basic pay to which the member was entitled for the member's high-36 months, divided by

"(B) 36.

"(2) HIGH-36 MONTHS DEFINED.—

"(A) GENERAL RULE.—A member's high-36 months are the 36 months out of all the months of active duty served by the member as a member of a uniformed service for which the monthly basic pay to which the member was entitled was the highest.

"(B) RULE FOR NON-REGULAR SERVICE RETIREES.—In the case of a member who is entitled to retired pay under section 1204 or 1205 of this title or under chapter 67 of this title, a member's high-36 months are the 36 months out of all the months the member was a member of a uniformed service before becoming entitled to retired pay for which the monthly basic pay to which the member would have been entitled had he served on active duty during those months was the highest.

"(d) LIMITATION FOR ENLISTED MEMBERS RETIRING WITH LESS THAN 30 YEARS' SERVICE.—In the case of a member who is retired under section 3914 or 8914 of this title or who is transferred to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, the member's high-36 average shall be computed using only rates of basic pay applicable to months of active duty of the member as an enlisted member.

"(e) SPECIAL RULES FOR SHORT-TERM DISABILITY RETIREES.—

"(1) MEMBERS ENTITLED TO RETIRED PAY UNDER SECTION 1201 OR 1202.—In the case of a member who—

"(A) is entitled to retired pay under section 1201 or 1202 of this title; and

"(B) served on active duty for less than 36 months,

the months (including any fraction thereof) that the member served on active duty shall be deemed to be the member's high-36 months.

"(2) MEMBERS ENTITLED TO RETIRED PAY UNDER SECTION 1204 OR 1205.—In the case of a member who—

"(A) is entitled to retired pay under section 1204 or 1205 of this title; and

"(B) was a member of a uniformed service for less than 36 months,

the months (including any fraction thereof) that the member was such a member shall be deemed to be the member's high-36 months.

"(f) SPECIAL RULE FOR MEMBERS RETIRING WITH NON-REGULAR SERVICE.—

"(1) DISABILITY RETIREMENT.—In the case of a member of a uniformed service who is entitled to retired pay under section 1204 or 1205 of this title (relating to members on active duty for 30 days or less), the high-36 average is determined as if the member served on active duty and was entitled to basic pay for the member's high-36 months.

"(2) CHAPTER 67 RETIREMENT.—In the case of a person who is entitled to retired pay under section 1331 of this title (relating to retired pay for non-regular service), the person's high-36 average is determined as if the person served on active duty and was entitled to basic pay for the person's high-36 months.

"(g) DEFINITION.—In this section, the term 'years of creditable service' means the number of years of service creditable to a member in computing the member's retired or retainer pay (including $\frac{1}{12}$ of a year for each full month of service that is in addition to the number of full years of service of the member).".

(c) CONFORMING AMENDMENTS.—

(1) Sections 5083 and 5201(c) are each amended by striking out the last sentence.

(2) Section 6325(c) is amended by striking out the last sentence.

SEC. 105. RULES OF CONSTRUCTION FOR PURPOSES OF COMPUTING RETIRED PAY

Chapter 71 (relating to computation of retired pay) is amended by adding after section 1410 (as added by section 103) the following new sections:

"§ 1411. Rules of construction

"(a) CONSTRUCTION OF 'FIRST BECAME A MEMBER'.—For purposes of this chapter and other provisions of law providing for computation of retired or retainer pay of members of the uniformed services, a person shall be considered to first become a member of a uniformed service on the date the person is first enlisted, inducted, or appointed in a uniformed service.

"(b) REFERENCES IN TABLES.—Section references in tables in this chapter are to sections of this title.

"§ 1412. Rounding to next lower dollar

"Amounts computed under this chapter, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

SEC. 106. YEARS OF SERVICE FOR COMPUTING RETIRED PAY

Section 1405 (relating to determination of years of service for computation of retired pay) is amended—

(1) by striking out the matter preceding clause (1) and inserting in lieu thereof "(a) IN GENERAL.—For the purposes of the computation of the years of service of a member of the armed forces under a provision of this title providing for such computation to be made under this section, the years of service of the member are computed by adding—"; and

(2) by adding at the end the following:

"(b) FRACTIONAL YEARS OF SERVICE.—In determining a member's years of service under subsection (a)—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as $\frac{1}{12}$ of a year; and

"(2) any remaining fractional part of a month shall be disregarded.".

TITLE II—CONFORMING AMENDMENTS TO COMPUTATION OF RETIRED PAY

SEC. 201. RETIRED PAY COMPUTED UNDER SUBTITLE A

(a) DOPMA OFFICERS AND WARRANT OFFICERS.—Section 1401 (relating to computation of retired pay) is amended—

(1) by inserting "(a) DISABILITY, NON-REGULAR SERVICE, WARRANT OFFICER, AND DOPMA RETIREMENT.—" before "The monthly";

(2) by striking out the third, fourth, and fifth sentences;

(3) by striking out column 1 of the table and inserting in lieu thereof the following:

"Column 1	Take
Retired pay base as computed under section 1406(b) or 1407.	
Retired pay base as computed under section 1406(b) or 1407.	
Retired pay base as computed under section 1406(b) or 1407.	
Retired pay base as computed under section 1406(b) or 1407.	
Retired pay base as computed under section 1406(b) or 1407.":	

(4) by striking out the matter relating to formulas 4 and 5 under columns 2, 3, and 4 of the table and inserting in lieu thereof the following:

"The retired multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405	
"The retired multiplier prescribed in section 1409(a) for the years of service credited to him under section 1405";	

(5) by striking out "pay" each place it appears in columns 3 and 4 of the table and inserting in lieu thereof "retired pay base";

(6) by striking out footnotes 1, 2, 4, and 5 of the table and redesignating footnote 3 as footnote 1;

(7) by redesignating the references to footnote 3 in column 2 of the table to conform to the redesignation made by paragraph (6); and

(8) by adding at the end the following new subsection:

"(b) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or of any other provision of law, the person is entitled to be paid under the applicable formula that is most favorable to him.".

(b) RECOMPUTATION FOR LATER ACTIVE DUTY.—

(1) FORMULA FOR RECOMPUTATION OF NEW RETIREMENT MEMBERS.—Subsection (a) of section 1402a (relating to recomputation of retired or retainer pay to reflect later active duty of members who first became members after September 7, 1980) is amended to read as follows:

"(a) IN GENERAL.—A member of an armed force—

"(1) who first became a member of a uniformed service after September 7, 1980;

"(2) who has become entitled to retired pay or retainer pay; and

"(3) who thereafter serves on active duty (other than for training),

is entitled to recompute his retired pay or retainer pay upon release from that duty according to the following table.

"Column 1 Take	Column 2 Multiply by
Retired pay base or retainer pay base under section 1407 which he would be entitled to use if—	The retired pay multiplier or retainer pay multiplier prescribed in section 1409 for the sum of—
(1) he were retiring upon release from that active duty; or	(1) the years of service that may be credited to him in computing retired pay or retainer pay; and
(2) he were transferring to the Fleet Reserve or Fleet Marine Corps Reserve upon that release from active duty.	(2) his years of active service after becoming entitled to retired pay or retainer pay.".

(2) TECHNICAL AMENDMENTS.—Such section is further amended—

(A) by inserting "NEW DISABILITY INCURRED DURING LATER ACTIVE DUTY.—" in subsection (b) after "(b)";

(B) by inserting "ADDITIONAL OR AGGRAVATED DISABILITY INCURRED DURING LATER ACTIVE DUTY.—" in subsection (c) after "(c)";

(C) in subsection (d)—

(i) by inserting "COMPUTATION FOR LATER DISABILITY.—" after "(d)";

(ii) by striking out the second sentence; and

(iii) by striking out "monthly" both places it appears in the table; and

(D) by inserting "ALTERNATIVE RECOMPUTATION TO SUBSECTION (a) FORMULA.—" in subsection (e) after "(e)".

(3) CONFORMING AMENDMENTS.—Section 1402 is amended by striking out the second sentence of subsections (a) and (d).

SEC. 202. MEMBERS OF THE ARMY

(a) INITIAL COMPUTATION OF RETIRED PAY.—The text of section 3991 (relating to computation of retired pay) is amended to read as follows:

"(a) COMPUTATION.—

"(1) IN GENERAL.—The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed 'For sections', retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

"Formula	For Sections	Column 1 Take	Column 2 Multiply by
A	3911 3918 3920 3924	Retired pay base as computed under section 1406(c) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	3914 3917	Retired pay base as computed under section 1406(c) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 3925.

"(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 3914 of this title has been credited by the Secretary of the Army with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(b) GENERAL RULES.—

"(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

"(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(3) REFERENCES.—Section references in the table in subsection (a) are to sections of this title.".

(b) RECOMPUTATION FOR ENLISTED MEMBERS AND WARRANT OFFICERS ADVANCED ON THE RETIRED LIST.—The table in section 3992 (relating to recomputation of retired pay to reflect advancement on retired list) is amended to read as follows:

"Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 3925 of this title.[1]
B	Retired pay base as computed under section 1406(c) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

[1] In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.".

(c) CONFORMING AMENDMENT.—Section 3925 is amended by adding at the end the following new subsection:

"(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 3991 of this title—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded.".

SEC. 203. MEMBERS OF THE NAVY AND MARINE CORPS

(a) RETIRED AND RETAINER PAY FORMULA.—Section 6333 is amended to read as follows:

"§ 6333. Computation of retired and retainer pay

"(a) The monthly retired pay or retainer pay of a member entitled to such pay under this chapter or under section 6383 of this title is computed in accordance with the following table.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
A	6325(a) 6326	Retired pay base computed under section 1406(d) or 1407	75 percent.
B	6323 6325(b) 6383	Retired pay base computed under section 1406(d) or 1407	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.
C	6330	Retainer pay base computed under section 1406(d) or 1407	Retainer pay multiplier prescribed under section 1409 for his years of active service in the armed forces.

"(b)(1) Retired pay or retainer pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(2) References in the table in subsection (a) are to sections of this title.".

(b) CONFORMING AMENDMENTS.—

(1) Section 6322 is amended by striking out subsection (c).

(2) Section 6323(e) is amended by striking out "retired pay—" and all that follows and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(3) Section 6325 is amended by striking out "retired pay—" in subsections (a)(2) and (b)(2) and all that follows in those subsections and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(4) Section 6326(c)(2) is amended by striking out "retired pay—" and all that follows and inserting in lieu thereof "retired pay computed under section 6333 of this title.".

(5) Section 6328 is repealed.

(6) Section 6330(c) is amended—

(A) by striking out "retainer pay—" in paragraph (1) and all that follows in that paragraph and inserting in lieu thereof "retainer pay computed under section 6333 of this title."; and

(B) by striking out paragraph (4).

(7) Section 6383 is amended—

(A) by striking out "retired pay—" in subsection (c)(2) and all that follows in that

subsection and inserting in lieu thereof "retired pay computed under section 6333 of this title."; and

(B) by striking out subsection (k).

(c) MEMBERS ADVANCED ON RETIRED LIST.—Section 6151 (relating to higher retired grade and pay for members who serve satisfactorily under temporary appointments) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) Each member (other than a former member of the Fleet Reserve or the Fleet Marine Corps Reserve) who is advanced on the retired list under this section is (unless otherwise entitled to higher retired pay) entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

"Column 1 Take	Column 2 Multiply by
Retired pay base computed under section 1406(d) or 1407	Retired pay multiplier prescribed under section 1409 for the years of service that may be credited to him under section 1405.

"(c) Each former member of the Fleet Reserve or the Fleet Marine Corps Reserve who is advanced on the retired list under this section is entitled to retired pay determined in accordance with the following table. References in the table are to sections of this title.

"Column 1 Take	Column 2 Multiply by
Retired pay base computed under section 1406(d) or 1407.	Retired pay multiplier prescribed under section 1409 for the number of years of service credilable for his retainer pay at the time of retirement.".

SEC. 204. MEMBERS OF THE AIR FORCE

(a) INITIAL COMPUTATION OF RETIRED PAY.—The text of section 8991 (relating to computation of retired pay) is amended to read as follows:

"(a) COMPUTATION.—

"(1) IN GENERAL.—The monthly retired pay of a member entitled to such pay under this subtitle is computed according to the following table. For each case covered by a section of this title named in the column headed 'For sections', retired pay is computed by taking the steps prescribed opposite it in columns 1 and 2.

"Formula	For sections	Column 1 Take	Column 2 Multiply by
A	8911 8918 8920 8924	Retired pay base as computed under section 1406(e) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 1405.
B	8914 8917	Retired pay base as computed under section 1406(e) or 1407.	The retired pay multiplier prescribed in section 1409 for the years of service credited to him under section 8925.

"(2) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—If a member who is retired under section 8914 of this title has been credited by the Secretary of the Air Force with extraordinary heroism in the line of duty, the member's retired pay shall be increased by 10 percent of the amount determined under paragraph (1) (but to not more than 75 percent of the retired pay base upon which the computation of such retired pay is based). The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(b) GENERAL RULES.—

"(1) USE OF MOST FAVORABLE FORMULA.—If a person would otherwise be entitled to retired pay computed under more than one formula of the table in subsection (a) or the table in section 1401 of this title, he is entitled to be paid under the applicable formula that is most favorable to him.

"(2) ROUNDING TO NEXT LOWER DOLLAR.—The amount computed under subsection (a), if not a multiple of $1, shall be rounded to the next lower multiple of $1.

"(3) REFERENCES.—Section references in the table in subsection (a) are to sections of this title.".

(b) RECOMPUTATION FOR ENLISTED MEMBERS AND WARRANT OFFICERS ADVANCED ON THE RETIRED LIST.—The table in section 8992 (relating to recomputation of retired pay to reflect advancement on retired list) is amended to read as follows:

"Formula	Column 1 Take	Column 2 Multiply by
A	Retired pay base as computed under section 1406(e) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 8925 of this title.[1]
B	Retired pay base as computed under section 1406(e) or 1407 of this title.	The retired pay multiplier prescribed in section 1409 of this title for the number of years credited to him under section 1405 of this title.

[1] In determining retired pay multiplier, credit each full month of service that is in addition to the number of full years of service creditable to the member as 1/12 of a year and disregard any remaining fractional part of a month.".

(c) CONFORMING AMENDMENT.—Section 8925 is amended by adding at the end the following new subsection:

"(c) In determining a member's years of service under subsection (a) for the purpose of computing the member's retired pay under section 8991 of this title—

"(1) each full month of service that is in addition to the number of full years of service creditable to the member shall be credited as 1/12 of a year; and

"(2) any remaining fractional part of a year shall be disregarded.".

SEC. 205. MEMBERS OF THE COAST GUARD

(a) IN GENERAL.—Section 423 of title 14, United States Code (relating to the computation of retired pay), is amended to read as follows:

"§ 423. Computation of retired pay

"(a)(1) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) before September 8, 1980, is determined by multiplying—

"(A) the sum of—

"(i) the basic pay of the member's retired grade or rate, and

"(ii) all permanent additions thereto including longevity credit to which the member was entitled at the time of retirement; by

"(B) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

"(2) In the case of an officer who served as Commandant of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay applicable to the officer while so serving.

"(3) In the case of an enlisted member who served as the master chief petty officer of the Coast Guard, retired pay under paragraph (1) shall be computed at the highest rate of basic pay to which the member was entitled while so serving, if that basic pay is greater than the basic pay of the grade or rate to which the member is otherwise entitled at the time of retirement.

"(4) In the case of an officer whose retired pay is computed on the pay of a grade for which basic pay is not based upon years of service, retired pay under paragraph (1) shall be computed on the basis of the number of years of service for which the officer would be entitled to credit in the computation of pay on the active list had the officer been serving in the grade of captain at the time of retirement.

"(b) The retired pay of a member who first became a member of a uniformed service (as defined in section 101 of title 10) on or after September 8, 1980, is determined by multiplying—

"(1) the retired pay base determined under section 1407 of title 10; by

"(2) the retired pay multiplier determined under section 1409 of title 10 for the number of years of service that may be credited to the member under section 1405 of such title.

"(c)(1) In computing for the purpose of subsection (a) or (b) the number of years of service that may be credited to a member under section 1405 of title 10—

"(A) each full month of service that is in addition to the number of full years of service creditable to the member shall be counted as 1/12 of a year; and

"(B) any remaining fractional part of a month shall be disregarded.

"(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(b) CONFORMING AMENDMENTS.—

(1) Section 46 of such title is amended by striking out "and retired pay computed at the highest rates of basic pay applicable to him while he served as Commandant" in subsections (a), (b), and (c).

(2) Section 47 of such title is amended—

(A) by striking out "and retired pay" in subsections (b) and (c); and

(B) by striking out "and with the retired pay of that grade" in subsection (d).

(3) Section 51 of such title is amended—

(A) by striking out "and retired pay" in subsections (a) and (b); and

(B) by striking out "and with the retired pay of that grade" in subsection (c).

(4) Section 288(b) of such title is amended by striking out "Except as provided in section 423(b) of this title, the retired pay" and inserting in lieu thereof "Retired pay computed under section 423(a) of this title".

(5) Sections 291, 292, and 293 of such title are amended by striking out ", with retired pay of the grade with which retired".

(6) Section 327(b)(1) of such title is amended by striking out ", and with the pay".

(7) Section 334 of such title is amended—

(A) by striking out ", with retired pay of the grade with which retired" in subsections (a) and (b); and

(B) by striking out the second sentence of subsection (b).

(8) Sections 353, 354, 355, and 362 of such title are amended by striking out ", with retired pay of the grade or rating with which retired".

(9) Section 357 is amended—

(A) by striking out "the retired pay of the grade or rating with which retired" in subsection (b) and inserting in lieu thereof "retired pay"; and

(B) by striking out "by an amount" and all that follows in subsection (c) and inserting in lieu thereof "by an amount equal to 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired, in the case of a member whose retired pay is computed under section 423(a) of this title; or

"(2) the member's retired pay base under section 1407 of title 10, in the case of a member whose retired pay is computed under section 423(b) of this title.".

(10) Sections 421 and 422 of such title are amended by striking out "rating" each place it appears and inserting in lieu thereof "rate".

(11) Section 424 of such title is amended to read as follows:

"§ 424. Limitations on retirement and retired pay

"(a) The provisions of any section of this title shall not be construed so as to prevent any member from being placed on the retired list with the highest grade or rate and the highest retired pay to which the member may be entitled under the provisions of any other section of this title or under any other law.

"(b) In no case may the retired pay of a member exceed 75 percent of (1) the sum of the active-duty pay and all permanent additions thereto (including longevity credit to which the member is entitled) of the grade or rate on which the member's pay is computed, or (2) the retired pay base determined under section 1407 of title 10, as appropriate.".

SEC. 206. COMMISSIONED OFFICERS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Section 16 of the Coast and Geodetic Survey Commissioned Officers Act of 1948 (33 U.S.C. 853o) is amended to read as follows:

"SEC. 16. (a) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

"(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

"(2) 2½ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

"(b) Each commissioned officer on the retired list who first became a member of a uniformed service (as defined in section 101 of title 10, United States Code) on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

"(1) the retired pay base determined under section 1407 of title 10, United States Code; by

"(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

"(c)(1) In computing the number of years of service of an officer for the purposes of subsection (a)—

"(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as 1/12 of a year; and

"(B) any remaining fractional part of a month shall be disregarded.

"(2) Retired pay computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

SEC. 207. COMMISSIONED OFFICERS OF THE PUBLIC HEALTH SERVICE

(a) MANDATORY RETIREMENT.—Section 210(g)(3) of the Public Health Service Act (42 U.S.C. 211(g)(3)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) in the case of an officer who first became a member of a uniformed service before September 8, 1980, at the rate of 2½ percent of the retired pay base determined under section 1406(h) of title 10, United States Code, for each year, not in excess of 30, of his active commissioned service in the Service; or

"(B) in the case of an officer who first became a member of a uniformed service on or after September 8, 1980, at the rate determined by multiplying—

"(i) the retired pay base determined under section 1407 of title 10, United States Code; by

"(ii) the retired pay multiplier determined under section 1409 of such title for the number of years of his active commissioned service in the Service.".

(b) VOLUNTARY RETIREMENT.—Paragraph (6) of section 211(a) of such Act (42 U.S.C. 212(a)) is amended to read as follows:

"(6) The retired pay of a commissioned officer retired under this subsection who first became a member of a uniformed service after September 7, 1980, is determined by multiplying—

"(A) the retired pay base determined under section 1407 of title 10, United States Code; by

"(B) the retired pay multiplier determined under section 1409 of such title for the number of years of service credited to the officer under paragraph (4).".

TITLE III—MISCELLANEOUS RETIREMENT PROVISIONS

SEC. 301. SURVIVOR BENEFIT PLAN ANNUITIES

(a) UNREDUCED RETIRED PAY AS BASIS FOR ANNUITY.—

(1) Section 1447(2)(A) (relating to the definition of "base amount" for purposes of the Survivor Benefit Plan) is amended by inserting "(determined without regard to any reduction under section 1409(b)(2) of this title)" after "retired or retainer pay" the second place it appears.

(2) Section 1451 is amended by adding at the end the following new subsection:

"(h) Computation of a member's retired pay for purposes of this section shall be made without regard to any reduction under section 1409(b)(2) of this title.".

(3) Section 1452(c) is amended by adding at the end the following new sentence: "Computation of a member's retired pay for purposes of this subsection shall be made without regard to any reduction under section 1409(b)(2) of this title.".

(b) COST-OF-LIVING ADJUSTMENTS.—Section 1451(g)(1) is amended—

(1) by striking out "by the same total percent" in the first sentence; and

(2) by inserting after the first sentence the following new sentence: "The increase shall, in the case of any annuity, be by the same percent as the percent by which the retired pay of the person providing the annuity would have been increased at such time if the person were alive (and otherwise entitled to such pay).".

(c) RESTORAL OF COLA.—Section 1451 is amended by adding after subsection (h) (as added by subsection (a)(2)) the following new subsection:

"(i) In the case of an annuity under the Plan which is computed on the basis of the retired pay of a member or former member who would have been entitled to have that retired pay recomputed under section 1410 of this title upon attaining 62 years of age, but who died before attaining such age, such annuity shall be recomputed, effective on the first day of the first month beginning after the date on which the member or former member would have attained 62 years of age, on the basis of the amount of retired pay to which the member or former member would have been entitled upon recomputation of such pay effective on such date under section 1410 of this title, had the member or former member attained such age.".

SEC. 302. REPORT ON RESERVE RETIREMENT SYSTEM

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to Congress a report on the retirement system provided under chapter 67 of title 10, United States Code, for members of the Armed Forces performing non-regular-service. The Secretary shall include in the report any proposals of the Secretary for modifications to such system.

(b) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than February 1, 1988.

SEC. 303. DEFINITION

Section 101 (relating to definitions for purposes of title 10) is amended by adding at the end the following new paragraph:

"(43) 'Uniformed services' means—

"(A) the armed forces;

"(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

"(C) the commissioned corps of the Public Health Service.".

SEC. 304. TECHNICAL AND CONFORMING AMENDMENTS

(a) UNIFORMED SERVICES DEFINITION.—

(1) Section 716 is amended by striking out subsection (c).

(2) Section 1040(c) is amended by striking out "'Dependent' and 'uniformed services' in this section have the meanings of those

terms as defined in" and inserting in lieu thereof "In this section, the term 'dependent' has the meaning given that term in".

(3) Section 1402 is amended by striking out "(as defined in section 1407(a)(2) of this title)" each place it appears.

(4) Section 2830 is amended by striking out subsection (c).

(b) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 67 is amended by adding at the end the following new item:

"1338. Limitations on revocation of retired pay.".

(2) The table of sections at the beginning of chapter 71 is amended—

(A) by striking out the item relating to section 1402 and inserting in lieu thereof the following:

"1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980.";

(B) by striking out the items relating to sections 1406 and 1407 and inserting in lieu thereof the following:

"1406. Retired pay base for members who first became members before September 8, 1980: final basic pay.

"1407. Retired pay base for members who first became members after September 7, 1980: high-36 month average.";

and

(C) by adding at the end the following new items:

"1409. Retired pay multiplier.

"1410. Restoral of full retirement amount at age 62 for members entering on or after August 1, 1986.

"1411. Rules of construction.

"1412. Rounding to next lower dollar.".

(3) The heading of section 1402 is amended to read as follows:

"§ 1402. Recomputation of retired or retainer pay to reflect later active duty of members who first became members before September 8, 1980".

(3) The table of sections at the beginning of chapter 571 is amended—

(A) by striking out the item relating to section 6328; and

(B) by striking out the item relating to section 6333 and inserting in lieu thereof the following:

"6333. Computation of retired and retainer pay.".

SEC. 305. CODIFICATION OF PERMANENT LIMITATIONS ON RETIRED AND RETAINER PAY PROVIDED IN APPROPRIATION ACTS

(a) LIMITATION ON CREDITING CERTAIN UNSERVED SERVICE IN ENTITLEMENT TO AND COMPUTATION OF RETAINER PAY.—

(1) CODIFICATION.—Section 6330(d) is amended—

(A) by inserting "(1)" after "(d)";

(B) by striking out the second sentence; and

(C) by adding at the end the following:

"(2) In determining a member's eligibility for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve under subsection (b)—

"(A) a completed minority enlistment of the member is counted as four years of active service, if creditable to the member for such purpose before December 31, 1977; and

"(B) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term, if creditable to the member for such purpose before December 31, 1977.

"(3)(A) Subject to subparagraph (B), in determining a member's years of active service for the computation of retainer pay under subsection (c)—

"(i) a completed minority enlistment of the member is counted as four years of active service; and

"(ii) an enlistment of the member terminated within three months before the end of the term of enlistment is counted as active service for the full term.

"(B) In the case of a member who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section after December 30, 1977, service attributable under subparagraph (A) to time which, after December 31, 1977, is not actually served by the member may not be counted.".

(2) REPEAL OF SOURCE LAW.—Section 8039 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1930)), is repealed.

(b) SIX-MONTH ROUNDING RULE.—

(1) GENERAL RULE.—Retired pay or retainer pay may not be paid to a covered member of the Armed Forces (as defined in paragraph (3)) for any month in an amount that is greater than the amount otherwise determined to be payable after such reductions as may be necessary to reflect adjusting the computation of retired pay or retainer pay that includes credit for a part of a year of service to permit credit for a part of a year of service only for such month or months actually served.

(2) EXCEPTIONS.—The limitation in paragraph (1) does not apply to a member who before January 1, 1982—

(A) applied for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve;

(B) was being processed for retirement under the provisions of chapter 61 of title 10, United States Code, or who was on the temporary disability retired list and thereafter retired under the provisions of section 1210(c) or 1210(d) of such title; or

(C) was retired or in an inactive status and would have been eligible for retired pay under the provisions of chapter 67 of such title, but for the fact that the person was under 60 years of age.

(3) DEFINITION OF COVERED MEMBER.—For the purposes of this subsection, the term "covered member of the Armed Forces" means a member of the Armed Forces who became entitled to retired or retainer pay during the period beginning on January 1, 1982, and ending on September 30, 1983.

(4) REPEAL OF SOURCE LAW.—Section 8054 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473), is repealed.

(5) CROSS REFERENCE.—For the effective date of October 1, 1983, for provisions making permanent programmatic changes in law to accomplish the policy provided in such section 8054 (and prior provisions of law), see section 923(h) of the Department of Defense Authorization Act, 1984 (Public Law 98-94).

SEC. 306. REPEAL OF LIMITATION ON PAYMENTS TO ACCRUAL FUND FOR FISCAL YEAR 1986

Section 666 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 659), is repealed.

TITLE IV—FISCAL YEAR 1986 UNAUTHORIZED APPROPRIATIONS

SEC. 401. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 DEFENSE APPROPRIATIONS

(a) AUTHORITY.—The amounts described in subsection (b), totaling $5,446,930,000, may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1986 defense appropriations except as otherwise provided in section 402 (and except as such amounts may have been reduced by the order of the President issued for fiscal year 1986 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985).

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1986 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1986 defense authorizations.

(c) DEFINITIONS.—For the purposes of this title:

(1) FISCAL YEAR 1986 DEFENSE APPROPRIATIONS.—The term "fiscal year 1986 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1986 in the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190).

(2) FISCAL YEAR 1986 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1986 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for fiscal year 1986 in the Department of Defense Authorization Act, 1986 (Public Law 99-145).

(d) INTERPRETATION OF SECTION.—The authority provided by subsection (a) shall be considered to be the authorization required by section 8109 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190; 99 Stat. 1222).

SEC. 402. LIMITATION ON OBLIGATION FOR CERTAIN UNAUTHORIZED APPROPRIATIONS

(a) PROGRAMS NOT AVAILABLE FOR OBLIGATION.—Amounts described in section 401(b) may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1986 defense appropriations):

(1) Refueling tanker modification under Procurement for the Navy in the amount of $110,000,000.

(2) Research, development, test, and evaluation for the Air Force—

(A) for the Space Defense System in the amount of $15,066,000; and

(B) for the MEECN communications upgrade program in the amount of $15,000,000.

(3) Operation and maintenance for audit/inventory report reductions not taken in fiscal year 1986 defense appropriations in the total amount of $29,000,000.

(b) LIMITATION ON CERTAIN PROGRAMS.—

(1) 120-MILLIMETER MORTAR.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), for procurement of the 120-millimeter mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in section 8095 of such Act and in the joint explanatory statement of the committee of conference on the bill S.

1160 (99th Congress), printed in House Report 99-235.

(2) M72E4 LIGHT ANTIARMOR WEAPON.—Using funds appropriated in such Act, the Secretary of the Army shall—

(A) complete development and operational testing of the M72E4 light antiarmor weapon;

(B) type classify the weapon; and

(C) acquire a technical data package.

(3) PRIOR REPORTS TO CONGRESS.—Amounts authorized in section 401(a) for procurement of follow-on air defense equipment for the Army and amounts authorized for research, development, test, and evaluation for the Army for DIVAD alternatives may not be obligated or expended until the Secretary of Defense submits to the appropriate committees of Congress a report setting forth in detail the manner in which funds are proposed to be obligated or expended for such purpose.

(d) PROGRAM LIMITATIONS.—All limitations and requirements set forth in the Department of Defense Authorization Act, 1986, shall apply to the obligation of funds authorized by section 401(a) in the same manner as if the funds made available for obligation by such section had been authorized in such Act.

(e) TRANSFER AUTHORITY.—For the purposes of section 1401 the Department of Defense Authorization Act, 1986 (99 Stat. 742), authorizations in section 401(a) shall be deemed to have been made available to the Department of Defense in such Act.

SEC. 403. AUTHORIZED MILITARY CONSTRUCTION PROJECT

(a) AUTHORIZED PROJECT.—

(1) AUTHORIZATION.—The Secretary of the Navy may carry out the military construction project described in paragraph (2), funds for such project having been appropriated in the Military Construction Appropriations Act, 1986 (Public Law 99-173; 99 Stat. 1024).

(2) PROJECT DESCRIPTION.—The project referred to in paragraph (1) is a project for the construction of a berthing pier and bulkhead at the Naval Station, Staten Island, New York. The amount authorized for the project is $39,700,000.

(b) CONSTRUCTION WITH PUBLIC LAW 99-167.—

(1) PROJECT AUTHORIZATIONS—The project authorization in subsection (a) shall be deemed to have been included in section 201(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167; 99 Stat. 966).

(2) APPROPRIATION AUTHORIZATION TOTALS—The total amount authorized to be appropriated for the Department of the Navy set forth in section 602(a) of such Act (99 Stat. 980), and the amount authorized for military construction projects inside the United States set forth in paragraph (1) of that section, shall be deemed to be increased by the amount specified in subsection (a)(2).

(3) LIMITATION RELATING TO FUNDS FOR NAVAL STRATEGIC HOMEPORTING.—For the purposes of section 205 of such Act (99 Stat. 971), amounts available for the project authorized in subsection (a) shall be deemed to be funds appropriated pursuant to an authorization in section 602 of such Act for Naval Strategic Homeporting.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. UNDER SECRETARY OF DEFENSE FOR ACQUISITION

(a) CREATION OF POSITION.—Chapter 4 of title 10, United States Code, is amended by inserting after section 134 the following new section:

"§ 134a. Under Secretary of Defense for Acquisition: appointment

"(a) There is an Under Secretary for Acquisition, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Under Secretary shall perform such duties and exercise such powers as the Secretary of Defense may prescribe, except as otherwise provided by law.".

(b) REDESIGNATION OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING.—(1) Subsection (a) of section 135 of such title is amended by striking out the first two sentences and inserting in lieu thereof the following: "There is an Under Secretary of Defense for Policy and a Director of Defense Research and Engineering. They shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.".

(2) The second sentences of subsections (b) and (c) of such section are amended by striking out "Under Secretary of Defense for Research and Engineering" and inserting in lieu thereof "Director of Defense Research and Engineering".

(3) The redesignation by paragraph (1) of the position of Under Secretary of Defense for Research and Engineering as Director of Defense Research and Engineering does not affect the appointment to such position of the individual holding such position on the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—Section 136a(d) of such title is amended by striking out "Under Secretary of Defense for Research and Engineering" and inserting in lieu thereof "Director of Defense Research and Engineering".

(d) EXECUTIVE SCHEDULE POSITIONS.—(1) Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Under Secretary of Defense for Acquisition.".

(2) Section 5314 of such title is amended—

(A) by striking out "Under Secretaries of Defense (2)" and inserting in lieu thereof "Under Secretary of Defense for Policy"; and

(B) by adding at the end the following:

"Director of Defense Research and Engineering.".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 135 of title 10, United States Code, is amended to read as follows:

"§ 135. Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence".

(2) The table of sections at the beginning of chapter 4 of such title is amended by striking out the item relating to section 135 and inserting in lieu thereof the following:

"134a. Under Secretary of Defense for Acquistion: appointment.

"135. Under Secretary of Defense for Policy; Director of Defense Research and Engineering: appointments; powers and duties; precedence.".

SEC. 502. LIMITATION ON EXPENDITURE OF FUNDS TO PROCURE T-46 TRAINER AIRCRAFT

None of the funds appropriated to the Department of Defense for fiscal year 1986 may be obligated or expended for procurement of T-46 trainer aircraft until—

(1) a fiscal year 1987 Defense Authorization Act is enacted which authorizes appropriations for procurement of the T-46 aircraft; or

(2) October 1, 1986, if a fiscal year 1987 Defense Authorization Act is not enacted by such date.

SEC. 503. POSTPONEMENT OF A CERTAIN DEPARTMENT OF DEFENSE CONTRACT

(a) POSTPONEMENT UNTIL POLICY ESTABLISHED BY LAW.—The Secretary of Defense may not award a contract with respect to Defense Construction Supply Center Solicitation numbered DLA700-85-B-4-4607 (for the purchase of 178 crawler tractors) until Congress by law establishes a policy concerning the award of defense contracts to firms in which a foreign government or a wholly owned instrumentality of a foreign government) has a significant interest.

(b) EXCEPTIONS AT END OF 99TH CONGRESS.—Notwithstanding subsection (a), if Congress as of the date of the sine die adjournment of the 99th Congress—

(1) has not completed action on legislation establishing a policy described in subsection (a), such a contract may be awarded after the date of such sine die adjournment; or

(2) has completed action on legislation establishing such a policy and the President has not yet approved or disapproved such legislation, such a contract may be awarded after the date the President approves or declines to approve such legislation.

And the Senate agree to the same.

LES ASPIN,
MELVIN PRICE,
CHARLES E. BENNETT,
G.V. MONTGOMERY,
WILLIAM L. DICKINSON,
MARJORIE S. HOLT,
ELWOOD H. HILLIS,

As additional conferees for consideration of titles I, II, and III of the House bill and sections 1 through 12 of the Senate amendment:

PAT SCHROEDER,
IKE SKELTON,
NORMAN SISISKY,
TOMMY ROBINSON,
ALBERT G. BUSTAMANTE,
DUNCAN HUNTER,
HERBERT H. BATEMAN,
MAC SWEENEY,

For consideration of title IV of the House bill and sections 13 through 15 of the Senate amendment:

SAMUEL STRATTON,
BILL NICHOLS,
DAN DANIEL,
NICHOLAS MAVROULES,
WILLIAM WHITEHURST,
FLOYD SPENCE,
ROBERT E. BADHAM,
BOB STUMP,

Managers on the Part of the House.

BARRY GOLDWATER,
STROM THURMOND,
JOHN WARNER,
GORDON J. HUMPHREY,
BILL COHEN,
DAN QUAYLE,
JOHN P. EAST,
PETE WILSON,
JEREMIAH DENTON,
PHIL GRAMM,
SAM NUNN,
JOHN C. STENNIS,
GARY HART,
J.J. EXON,
CARL LEVIN,
EDWARD KENNEDY,
ALAN J. DIXON,
JOHN GLENN,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the dis-

agreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4420) to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

Uniformed Services Retirement Reform

The uniformed services retirement system has existed essentially unchanged for the last 50 years, and its basic form was established over a century ago. During the past two decades, the uniformed services retirement system has come under increasing scrutiny and attack. By recommending the changes included in this conference report, the conferees are attempting to put the issue of structural reform of the uniformed services retirement system to rest for the foreseeable future. The conferees believe that, as a result of these changes, the criticism of the uniformed services retirement system will subside and the concerns of service members regarding the uncertainty of retirement benefits can be assuaged.

The conferees emphasize that the changes to the uniformed services retirement system included in this conference report would apply only to those who first become members of a uniformed service on or after August 1, 1986. No member who had joined a uniformed service before that date—much less any current retiree of a uniformed service—would be affected.

Most of the features of the current uniformed services retirement system are well known.

(1) An immediate annuity is available to a service member who competes 20 years of service; no benefit is available to a service member who does not complete 20 years of service.

(2) Retired pay equals high-3 average basic pay times a multiplier. (For those becoming members of a uniformed service for the first time before September 7, 1980, retired pay is based on final basic pay instead of high-3 average basic pay.) The multiplier equals 2½ percent times years of service and ranges from 50 percent at 20 years of service to 75 percent at 30 or more years of service.

(3) Retired pay is adjusted annually by the increase in the cost of living as measured by the consumer price index (CPI).

The uniformed services retirement system is noncontributory. However, the service member contributes, while on active duty, to the social security system and, thereby, earns eligibility for a social security retirement benefit. The receipt of uniformed services retired pay has no effect on social security retirement benefits and vice versa.

The House bill would change the uniformed services nondisability retirement system as follows:

(1) The formula for the multiplier would be changed to 2 percent for each year of service up to 20 and to 3.5 percent for each year of service beyond 20. This formula would provide a multiplier of 40 percent at 20 years of service and a maximum multiplier of 75 percent at 30 years of service.

(2) The length of the averaging period would vary between 20 and 30 years of service, basing the calculation of the retirement annuity on high-5 average basic pay at 20 years of service and reducing the length of the averaging period gradually to high-3 average basic pay at 30 years of service.

(3) The cost-of-living adjustment mechanism would remain unchanged.

The Senate amendment would change the uniformed services nondisability retirement system as follows:

(1) The formula for the multiplier would be changed to 2.2 percent for each year of service up to 20 and to 3.1 percent for each year of service beyond 20. This formula would provide a multiplier of 44 percent at 20 years of service and a maximum multiplier of 75 percent at 30 years of service.

(2) The cost-of-living adjustment mechanism would be changed to provide the percentage increase in the consumer price index minus one percentage point (CPI minus 1) for life with a one time restoral in the purchasing power of the annuity at the point in time when the member would have reached 40 years of service.

(3) the length of the averaging period would remain unchanged.

In total, the provisions of the House amendment would save $3.1 billion on an annual accrual basis; the provisions of the Senate amendment would save $2.8 billion.

The conferees agreed to change the uniformed services nondisability retirement system as follows:

(1) The formula for the multiplier would remain unchanged—2.5 percent for each year of service up to 30 years of service. However, for members who retire with less than 30 years of service, the multiplier would be reduced by 1 percentage point for each year of service the member retired less than 30. The reduction would be eliminated when the member reached age 62.

(2) The cost-of-living adjustment mechanism would be changed to provide CPI minus 1 for life with a one time restoral in the purchasing power of the annuity at age 62.

With regard to the multiplier, the formula would provide a two-tiered retirement annuity: a reduced annuity between the time the member retires from the uniformed service and normal retirement age and an unreduced annuity thereafter.

For example, a member who retires with 20 years of service would receive retired pay based on a multiplier of 40 percent from retirement to age 62 and retired pay based on a multiplier of 50 percent thereafter. For a member who retires with 30 years of service, no reduction in the multiplier would be made and retired pay would be based on the maximum multiplier of 75 percent.

The formula would result in multipliers as shown in the following table:

Years of service	Recommended multiplier	
	Before 62	After 62
20	40.0	50.0
21	43.5	52.5
22	47.0	55.0
23	50.5	57.5
24	54.0	60.0
25	57.5	62.5
26	61.0	65.0
27	64.5	67.5
28	68.0	70.0
29	71.5	72.5
30	75.0	75.0

The conferees recommend no change to the length of the averaging period as part of this retirement reform legislation.

The conferees recommend that the only change to the reserve retirement system, at this time, be limited to the change in the method of adjusting retired pay. The conferees recommend that any further changes to the reserve system be deferred. The conferees believe that the reserve retirement system needs comprehensive review. The reserve retirement system, for example, plays a much smaller role in force management than the active duty nondisability retirement system. The objectives of the reserve retirement system need to be evaluated and the system structured to support those objectives.

The conferees direct the Secretary of Defense to review the reserve retirement system in conjunction with a review of overall reserve compensation as part of the Sixth Quadrennial Review of Military Compensation required by the Congress and included a provision (sec. 302) directing the Secretary of Defense to submit, by February 1, 1988, a report on the reserve retirement system with any legislative proposals to modify that system.

The conferees also recommend that the only change to the disability retirement system be limited to the change in the method of adjusting retired pay.

The conferees recommend that the contribution to and the annuity from the Survivor Benefit Plan continue to be based on retired pay amounts computed using an unreduced multiplier. In other words, a member who retired with 20 years of service would continue to contribute to the plan and the survivor would receive a benefit from the plan based on a multiplier of 50 percent even though the member was receiving retired pay based on a multiplier of 40 percent until age 62. This recommendation will maintain the integrity of the Survivor Benefit Plan for nondisability retirees and will keep the plan consistent among nondisability, reserve and disability retirees.

The conferees recognize that changing one aspect of an integrated personnel and compensation system could well engender need for adjustments in other aspects of the system. As future career force needs develop, the management tools for recruiting and retaining a military career force may require adjustment.

The conferees are confident that the Department of Defense and the military services will monitor this situation closely and provide the Committees on Armed Service of the Senate and House of Representatives annually in posture statements their assessments of the state of the career force, together with any recommendations for legislative action that may be necessary to prudent management of the career force.

Unauthorized Appropriations

Although the total amount appropriated for defense in fiscal year 1986 was substantially less than the total amount authorized, a number of appropriation accounts and several line items contained appropriations

in excess of the amounts authorized. To address these differences, the fiscal year 1986 Defense Appropriations Act included a provision, offered in the Senate, to require subsequent authorization for certain appropriated funds. Section 8109 of the fiscal year 1986 Defense Appropriations Act (Public Law 99-190) was designed to accomplish this objective. Since its enactment, the interpretations of section 8109 have varied widely, ranging from application to the statutory account levels to the various line items in the respective reports accompanying the fiscal year 1986 authorization and appropriation Acts.

Title IV reflects agreement on authorization for all excess appropriations. The conferees agree that this language is not intended to reflect a consensus on the scope and application of authorization required for appropriations. Rather, it seeks only to achieve a resolution to the fiscal year 1986 unauthorized appropriations issues.

The recommendations contained in title IV are based on a thorough review by the Committees on Appropriations and Armed Services of the Senate and House of Representatives of all disputed, unauthorized appropriations by taking into account the most recent available information on defense expenditures, program priorities and fiscal realities. The effect of these adjustments is neutral on the national defense function totals for budget authority and outlays. All funds contained in Public Law 99-190 were in compliance with budget resolution ceilings.

Approval of the unauthorized appropriations is not intended to offset the reduction in these appropriations made pursuant to the order of the President issued for fiscal year 1986 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177).

The following table summarizes the disposition of the amounts authorized to be obligated or expended.

DISPOSITION OF UNAUTHORIZED APPROPRIATIONS

Program	Authorization	Levels prior to Gramm-Rudman		Conference	
		Appropriation	Difference	Recommended level	Change from authorization
PROCUREMENT					
Army aircraft:					
AH-15 attack (Cobra Tom)	$104.50	$134.50	$30.00	$134.50	$30.00
AHIP	158.80	174.70	15.90	174.70	15.90
Army missiles: Stinger missiles	244.10	258.50	14.40	258.50	14.40
Army W&TCV:					
M577A2	23.60	33.60	10.00	33.60	10.00
M113	82.90	122.90	40.00	122.90	40.00
MBB recovery vehicles	188.80	211.40	22.60	211.40	22.60
Follow-on air def eqpt	0.00	150.00	150.00	150.00	150.00
120 am mortar	0.00	5.00	5.00	5.00	5.00
Army ammunition:					
Mortar ammo	0.00	96.20	96.20	96.20	96.20
AT-4 ltwgt multipurpose sys	41.60	59.20	17.60	59.20	17.60
War reserve ammo	0.00	200.0	200.0	200.0	200.0
Prodn base modernization	0.00	103.10	103.10	103.10	103.10
Chem demil facility	49.30	81.30	32.00	81.30	32.00
Army other procurement:					
SNAP	0.00	15.40	15.40	15.40	15.40
SOF com eqpt	7.30	11.33	4.03	11.33	4.03
KG-84	21.80	31.80	10.00	31.80	10.00
AFATADS	0.00	25.57	25.57	25,57	25.57
AFRTS (audio visu¹)	4.30	7.80	3.50	7.80	3.50
Boat, bridge erection	0.00	25.40	25.40	25.40	25.40
Depl med sys	84.40	96.70	12.30	96.70	12.30
CBT Supp eqpt med	77.50	98.70	21.20	98.70	21.20
Navy aircraft:					
F-14A	553.62	649.09	95.48	649.09	95.48
P-3 mod	152.89	396.09	243.20	396.09	243.20
Refueling tanker mod	0.00	110.00	110.00	0.00	0.00
Navy weapons: Wpns Industrial Fac	18.91	24.91	6.00	24.91	6.00
Navy shipbuilding and conversion					
SSN-688	2,113.20	2,123.20	10.00	2,123.20	10.00
BB reactivation	53.50	469.00	415.00	469.00	415.50
MCM mine countermeasures ship	167.10	197.20	30.10	197.20	30.10
MCM cost growth	0.00	97.00	97.00	97.00	97.00
ARTB training ship (conv)	26.50	175.40	148.90	175.40	148.90
Service craft	37.70	62.70	25.00	62.70	25.00
Undistr red'n not taken, Shpbldg	0.00	112.70	112.70	112.70	112.70
Navy other procurement:					
AN/SQR-17	15.20	22.00	6.80	22.00	6.80
War reserve ammo	0.00	70.00	70.00	70.00	70.00
Medical support eqpt	17.22	61.42	44.20	61.42	44.20
Undistr red'n not taken, OPN	0.00	245.00	245.00	245.00	245.00
Air Force Aircraft:					
Air defense competition	0.00	200.00	200.00	200.00	200.00
KC-10	208.20	226.80	18.60	226.80	18.60
Air Force One replat	0.00	280.00	280.00	280.00	280.00
AC-130H Drug interdiction	0.00	35.00	35.00	35.00	35.00
B-52 mods	428.60	451.20	22.60	451.20	22.60
B-1B mods	5.10	31.40	26.30	31.40	26.30
A-7 mods	3.40	60.00	56.00	60.00	56.60
F/RF-4 modes (including +92.0 for FA INS/HUD upgrade)	174.20	190.10	15.90	190.10	15.90
Airborne comm post mod	0.00	50.00	50.00	50.00	50.00
Air Force missiles:					
Rapier (Turkey)	3.58	7.58	4.00	7.58	4.00
AMRAAM adv proc	30.00	59.40	29.40	59.40	29.40
Minuteman mod	13.54	43.44	29.90	43.44	29.90
Air Force other procurement:					
Intell data handling sys	23.83	29.43	5.60	29.43	5.60
Med readiness, AF	120.04	135.74	15.70	135.74	15.70
War reserve ammo, AF	0.00	40.00	40.00	40.00	40.00
Defense agencies: Other DIS eqpt	0.00	5.00	5.00	5.00	5.00
Army Reserve:					
Miscellaneous equipment	0.00	350.00	350.00	350.00	350.00
Truck SLEP	0.00	15.00	15.00	15.00	15.00
Navy Reserve: Miscellaneous equipment	20.00	75.00	55.00	75.00	55.00
Marine Corps Reserve: Miscellaneous equipment	20.00	30.00	10.00	30.00	10.00
Air Force Reserve:					
Miscellaneous equipment	0.00	30.00	30.00	30.00	30.00
C-130H aircraft	120.00	150.00	30.00	150.00	30.00
Army National Guard:					
Miscellaneous equipment	100.00	350.00	250.00	350.00	250.00
Improved TOW vechicle	15.00	28.20	13.20	28.20	13.20
M198 howitzer	0.00	30.20	30.20	30.20	30.20
Truck SLEP	0.00	32.00	32.00	32.00	32.00
Air National Guard: Miscellaneous equipment	30.00	75.00	45.00	75.00	45.00

DISPOSITION OF UNAUTHORIZED APPROPRIATIONS—Continued

Program	Authorization	Levels prior to Gramm-Rudman		Conference	
		Appropriation	Difference	Recommended level	Change from authorization
RESEARCH AND DEVELOPMENT					
Army					
DIVAD alternatives	0.00	41.00	41.00	41.00	41.00
Med research, AIDS	0.00	40.00	40.00	40.00	40.00
TECM	(42.00)	[ ]	42.00	[ ]	42.00
Classified program	[ ]	[ ]	10.00	[ ]	10.00
Navy:					
Rolling airframe missile	3.95	10.95	7.00	10.95	7.00
Ship Subsys devel/LBTS	80.00	109.00	29.00	109.00	29.00
Quick reaction sys	12.00	20.00	8.00	20.00	8.00
Bigeye operational test, Navy	0.00	6.00	6.00	6.00	6.00
Air Force					
Space Defense System	149.93	165.00	15.07	149.93	0.00
MEECN comm upgrade	87.20	102.20	15.00	87.20	0.00
Air Force Oxie	0.00	20.00	20.00	20.00	20.00
Liquid synfuels	0.00	4.50	4.50	4.50	4.50
Precision TAC approach sys	0.00	3.00	3.00	3.00	3.00
Omega	[ ]	[ ]	66.80	[ ]	66.80
Special programs	(20.00)	(15.00)	5.00	(15.00)	5.00
Defense agencies: DRSP	(16.00)	(0.40)	15.60	(0.40)	15.60
Director, test and evaluation: Director, T&E	93.50	118.50	25.00	118.50	25.00
OPERATION AND MAINTENANCE					
Army:					
ADP management	(15.00)	(2.30)	12.70	(2.30)	12.70
Improper use of D&M funds	(15.00)	0.00	15.00	0.00	15.00
Yearend spending	(6.00)	0.00	6.00	0.00	6.00
Contract studies	(5.00)	(2.50)	2.50	(2.50)	2.50
Administration/supervision	4.00	7.00	3.00	7.00	3.00
Other combat equipment activities	152.60	154.60	2.00	154.60	2.00
Displaced equipment	235.10	238.10	3.00	238.10	3.00
Contracting support/studies	0.00	5.00	5.00	5.00	5.00
Capital expense equipment	5.80	6.80	1.00	6.80	1.00
Other personnel activities	39.90	41.90	2.00	41.90	2.00
Civilian training	5.00	6.00	1.00	6.00	1.00
Personal services contracting	16.00	19.00	3.00	19.00	3.00
Operations support	3.80	6.80	3.00	6.80	3.00
Area oriented depot modernization	4.00	6.00	2.00	6.00	2.00
Audit followup	(10.00)	0.00	10.00	0.00	10.00
AAFES lease payments	(1.00)	0.00	1.00	(1.00)	0.00
Design cost of NAF projects	(1.00)	0.00	1.00	(1.00)	0.00
Financial management	(5.00)	0.00	5.00	0.00	5.00
Excess property	(5.00)	0.00	5.00	0.00	5.00
Inventory control	(5.00)	0.00	5.00	(5.00)	0.00
Drug testing	9.80	11.30	1.50	11.30	1.50
AIDS testing	0.00	42.60	42.60	42.60	42.60
Medical enhancements	0.00	20.00	20.00	20.00	20.00
Med readiness	0.00	39.20	39.20	39.20	39.20
DIVAD replacement	0.00	4.80	4.80	4.80	4.80
Army readiness initiatives	0.00	137.00	137.00	137.00	137.00
Navy:					
Express property	(5.00)	0.00	5.00	0.00	5.00
Improper use of O&M funds	(20.00)	0.00	20.00	0.00	20.00
Contract studies	(10.00)	(5.00)	5.00	(5.00)	5.00
Audit followup	(10.00)	0.00	10.00	0.00	10.00
Yearend spending	(10.00)	0.00	10.00	0.00	10.00
Small clubs	(1.00)	0.00	1.00	(1.00)	0.00
Financial management	(10.00)	0.00	10.00	0.00	10.00
Sealift	771.30	787.30	16.00	787.30	16.00
Ready reserve fleet dispersal	0.00	3.60	3.60	3.60	3.60
AIDS testing	0.00	5.00	5.00	5.00	5.00
P–3A modifications	0.00	3.00	3.00	3.00	3.00
Marine Corps: Inproper Use of O&M Funds	(2.00)	0.00	2.00	0.00	2.00
Air Force:					
Inventory control points	566.73	571.73	5.00	571.73	5.00
Inventory control audit	(10.00)	0.00	10.00	(10.00)	0.00
Logistics support	203.42	205.42	2.00	205.42	2.00
AF classified proj	(1.62)	(1.12)	0.50	(1.12)	0.50
Administration	591.30	596.30	5.00	596.30	5.00
Training and personnel	1,388.47	1,390.27	1.80	1,390.27	1.80
Comm divestiture savings	(10.00)	0.00	10.00	0.00	10.00
Strategic support	353.66	358.66	5.00	358.66	5.00
Software modernization	7.72	9.72	2.00	9.72	2.00
Medical	765.71	766.46	0.75	766.46	0.75
ADP management	(25.00)	(6.80)	18.20	(6.80)	18.20
Improper use of O&M funds	(10.00)	0.00	10.00	0.00	10.00
Audit followup	(10.00)	0.00	10.00	0.00	10.00
Yearend spending	(4.00)	0.00	4.00	0.00	4.00
Golf courses	(5.00)	0.00	5.00	(5.00)	0.00
Med readiness	0.00	5.60	5.60	5.60	5.60
AIDS testing	0.00	5.00	5.00	5.00	5.00
Civilian training	0.00	3.00	3.00	3.00	3.00
Defense agencies:					
OSD general reduction	133.76	134.76	1.00	134.76	1.00
JCS general reduction	378.24	379.24	1.00	379.24	1.00
DLA	1,694.67	1,701.77	7.10	1,701.77	7.10
Yearend spending	(7.00)	0.00	7.00	0.00	7.00
ADP management	(10.00)	0.00	10.00	0.00	10.00
Small clubs	(1.00)	0.00	1.00	(1.00)	0.00
Inventory control	(5.00)	0.00	5.00	(5.00)	0.00
Air Force info service	54.43	56.43	2.00	56.43	2.00
Medical info systems	78.76	81.76	3.00	81.76	3.00
DCA	276.61	280.61	4.00	280.61	4.00
DA, classified program	(17.83)	(16.65)	1.18	(16.65)	1.18
Contract studies	(10.00)	0.00	10.00	0.00	10.00
Improper use of D&M funds	(2.00)	0.00	2.00	0.00	2.00
DA peer review	0.00	7.50	7.50	7.50	7.50
DA quality assurance	0.00	30.00	30.00	30.00	30.00
Army Reserve: Force struct init, Army Res	0.00	6.95	6.95	6.95	6.95
Air Force Reserve: F–4 upgrade, AF Res	0.00	2.40	2.40	2.40	2.40
Army National Guard:					
AIDS testing	0.00	2.50	2.50	2.50	2.50

DISPOSITION OF UNAUTHORIZED APPROPRIATIONS—Continued

Program	Authorization	Levels prior to Gramm-Rudman		Conference	
		Appropriation	Difference	Recommended level	Change from authorization
Force struct init	0.00	4.10	4.10	4.10	4.10
Environmental proj	0.00	0.40	0.40	0.40	0.40
ADP management fund: ADP management fund	$0.00	$100.00	$100.00	$100.00	$100.00
Environmental restoration fund: Environmental restoration	$329.10	$379.10	$50.00	$379.10	$50.00
Coast Guard reimbursement: Coast Guard reimbursement	$0.00	$100.00	$100.00	$100.00	$100.00
MILITARY CONSTRUCTION					
Berth Pier, Staten Is	$0.00	$39.70	$39.70	$39.70	$39.70
Total unauthorized appropriations			$5,486.63		
Total approved					$5,317.56

ITEMS OF SPECIAL INTEREST

120mm mortar

The conferees agreed to include language in the conference report (sec. 402(b)(1)) that restates the intention and direction of Congress concerning the procurement strategy for the 120mm mortar system. This direction was included in the original action on the fiscal year 1986 authorization and appropriation bills.

Lightweight multipurpose weapon

The conferees agreed to allow the Army to proceed with its programmed procurement of the AT-4 lightweight multipurpose weapon, for which $59.2 million was appropriated in "Procurement of Ammunition, Army" in fiscal year 1986. The conferees recognize that this weapon is the Army's choice for a lightweight anti-armor/multipurpose weapon and that no plan exists to procure any other weapon for this mission. However, the conferees believe that the Army unwisely and prematurely halted testing of the M72E4, an improved version of the current weapon that had been considered a back-up to the AT-4. This was done despite instruction in the statement of managers on the fiscal year 1986 Defense Appropriation Act that M72E4 testing be completed and that the weapon be type classified.

Accordingly, the conferees included language in the conference report (sec. 402(b)(2)) requiring the Army, within available funds, to complete development and operational testing, to type classify the weapon, and to acquire a technical data package. Inclusion of this provision in the conference report has been made necessary by the Army's flagrant disregard for the report language provided in conjunction with action on the fiscal year 1986 request.

Air defense competition

The Defense Appropriations Act for fiscal year 1986 fenced $200 million within "Aircraft Procurement, Air Force" for the air defense competition. The conferees understand that the language fencing these funds will be deleted and that the date for completion of the air defense competition will be changed from July 1, 1986 to November 1, 1986 in conjuction with the conference report on H.R. 4515, Supplemental Appropriation, 1986.

The intent of the action taken in the Supplemental Appropriations bill is to allow the Air Force more time to evaluate contractor bids, but an expeditious pace for evaluation is encouraged. The $200 million appropriated remains available to award a contract to the winner of the competition. The Air Force must submit a formal reprogramming if these funds are proposed to be used for any purpose other than the air defense competition, should contractor bids not meet Air Force requirements. Nothing in the actions taken in the Supplemental Appropriations bill or this bill precludes the Congress from considering the merit or affordability of the air defense aircraft requirement in subsequent legislation.

Audit reductions not taken

The conferees provided no authority to obligate or expend $29 million of unauthorized appropriations stemming from reductions taken in the authorization provided for various Operation and Maintenance accounts. The appropriations that were provided for these accounts did not reflect these reductions. The reductions are based on audit reports in the following areas:

AAFES lease payments, Army ($1 million)

Design cost of NAF projects, Army ($1 million)

Inventory control, Army ($5 million)

Small clubs, Navy ($1 million)

Inventory control audit, Air Force ($10 million)

Golf courses, Air Force ($5 million)

Small clubs, Defense Agencies ($1 million)

Inventory control, Defense Agencies ($5 million)

The conferees intend that any future reprogramming request for maintaining the operation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) look first to the savings resulting from these audit reductions as the source.

Program limitations

Consistent with the agreements reached with regard to the amounts of unauthorized appropriations, the limitations and requirements set forth in the Department of Defense Authorization Act for fiscal year 1986 (and in the joint explanatory statement of the committee of conference on the bill S. 1160 (99th Congress), printed in House Report 99-235), shall apply to the obligation of funds authorized by section 401 of this conference report in the same manner as if the funds made available for obligation by the section had been authorized in such Act.

MISCELLANEOUS PROVISIONS

SECTION 501—UNDER SECRETARY OF DEFENSE (ACQUISITION)

The Senate amendment contained a provision (sec. 14) establishing a new Level II appointment within the Department of Defense for an Under Secretary of Defense (Acquisition).

Although similar legislation is pending in the House of Representatives, the House bill contained no similar language. As a result, the House of Representatives has not yet had the opportunity to consider legislation establishing the office of Under Secretary of Defense (Acquisition) and, of equal importance, legislation defining the duties and responsibilities of that office.

Further, the provision in the Senate amendment is silent on the status of the existing Under Secretary of Defense for Research and Engineering, currently a Level III position.

Recognizing the positive contribution that the President's Blue Ribbon Commission on Defense Management has made and because of the expressed desire that the position be created so that a candidate may be nominated for appointment, the House recedes with a technical amendment changing the office of Under Secretary of Defense for Research and Engineering into the office of Director, Defense Research and Engineering.

The conferees, however, wish to indicate their commitment to examine and define the duties and responsibilities of the Under Secretary of Defense (Acquisition) in subsequent legislation, as well as to address such specific areas as audit policy, the Office of Test and Evaluation and the relationships within the Office of the Secretary of Defense.

The conferees also agreed to a provision (sec. 501(b)(3)) providing that in redesignating the position of Under Secretary of Defense for Research and Engineering as the Director, Research and Engineering, the present Under Secretary of Defense for Research and Engineering need not be reappointed by the President as Director, Research and Engineering.

SECTION 502—DENIAL OF FUNDS FOR T-46 AIRCRAFT

The Senate amendment contained a provision (sec. 15) that would prohibit the obligation and expenditure of funds appropriated for fiscal year 1986 for "Aircraft Procurement, Air Force" for the procurement of the T-46 trainer aircraft.

The House bill contained no similar provision.

The conferees agreed to a provision that would prohibit the obligation or expenditure of the funds appropriated for fiscal year 1986 for "Aircraft Procurement, Air Force" for the procurement of the T-46 trainer aircraft until September 30, 1986 or until subsequent authorization was enacted with respect to these funds. In the absence of such authorization, the prohibition would end on September 30, and the funds would be available for obligation or expenditure for the procurement of the T-46 trainer aircraft.

SECTION 503—POSTPONEMENT OF A CERTAIN DEPARTMENT OF DEFENSE CONTRACT

The Senate amendment contained a provision (sec. 13) expressing the sense of Congress that the Secretrary of Defense should postpone the final award of a contract with respect to a solicitation for crawler tractors, until the enactment of the Department of Defense Authorization Act for fiscal year 1987.

The House bill contained no similar provision.

The House recedes with an amendment providing that the Secretary of Defense may not award a contract until Congress by law establishes a policy concerning the award of defense contracts to firms in which a foreign government has a significant interest or until Congress adjourns *sine die*. The conferees have agreed to adopt this language to give Congress time to address the merits of the issue.

LES ASPIN,
MELVIN PRICE,
CHARLES E. BENNETT,
G.V. MONTGOMERY,
WILLIAM L. DICKINSON,
MARJORIE S. HOLT,
ELWOOD H. HILLIS,

As additional conferees for consideration of titles I, II, and III of the House bill and sections 1 through 12 of the Senate amendment:

PAT SCHROEDER,
IKE SKELTON,
NORMAN SISISKY,
TOMMY ROBINSON,
ALBERT G. BUSTAMANTE,
DUNCAN HUNTER,
HERBERT H. BATEMAN,
MAC SWEENEY,

For consideration of title IV of the House bill and sections 13 through 15 of the Senate amendment:

SAMUEL STRATTON,
BILL NICHOLS,
DAN DANIEL,
NICHOLAS MAVROULES,
WILLIAM WHITEHURST,
FLOYD SPENCE,
ROBERT E. BADHAM,
BOB STUMP,

Managers on the Part of the House.

BARRY GOLDWATER,
STROM THURMOND,
JOHN WARNER,
GORDON J. HUMPHREY,
BILL COHEN,
DAN QUAYLE,
JOHN P. EAST,
PETE WILSON,
JEREMIAH DENTON,
PHIL GRAMM,
SAM NUNN,
JOHN C. STENNIS,
GARY HART,
J.J. EXON,
CARL LEVIN,
EDWARD KENNEDY,
ALAN J. DIXON,
JOHN GLENN,

Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SUNDQUIST) to revise and extend their remarks and include extraneous material:)

Mr. KASICH, for 5 minutes, today.

Mrs. BENTLEY, for 30 minutes, on June 26.

Mr. JEFFORDS, for 60 minutes, on July 16.

(The following Members (at the request of Mr. LOWRY of Washington) to revise and extend their remarks and include extraneous material:)

Mr. WHITTEN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. BREAUX, for 5 minutes, today.

Mr. WHITTEN, for 5 minutes, on June 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SUNDQUIST) and to include extraneous matter:)

Mr. HILLIS.
Mr. MCCAIN.
Mr. DORNAN of California.
Mr. LOWERY of California in two instances.
Mr. SHUMWAY.
Mr. DELAY.
Mr. YOUNG of Alaska.
Mr. HENRY.
Mr. BARTON of Texas in three instances.
Mr. DICKINSON.
Mr. GALLO.
Mr. SCHUETTE.
Mr. CHANDLER.
Mr. MCCANDLESS.
Mr. SHUSTER.
Mr. BROYHILL.
Mr. COURTER.
Mr. GUNDERSON.
Mr. STANGELAND.
Mr. LEACH of Iowa.
Mr. KINDNESS in two instances.
Mr. ROWLAND of Connecticut in two instances.

(The following Members (at the request of Mr. LOWRY of Washington) and to include extraneous matter:)

Mr. FASCELL.
Mr. ERDREICH.
Mr. LEHMAN of Florida.
Mr. TALLON.
Mr. MRAZEK.
Mr. HERTEL of Michigan in three instances.
Mr. REID.
Mr. HEFTEL of Hawaii.
Mr. GAYDOS.
Mr. LIPINSKI.
Mr. WAXMAN.
Mr. GARCIA in two instances.
Mr. WALGREN.
Mr. LUNDINE.
Mr. ST GERMAIN.
Mr. MATSUI.
Mr. HAYES.
Mr. NICHOLS.
Mr. ASPIN.
Mr. HAMILTON.
Mr. EDWARDS of California in two instances.
Mr. LANTOS in two instances.
Mr. CLAY.
Mr. FOGLIETTA.
Mr. FAUNTROY.
Mr. BOLAND.
Mr. DIXON.
Mr. MOODY.
Mr. YATRON.
Mr. KOSTMAYER.
Mr. BRYANT.
Mr. ACKERMAN.
Mr. FAZIO.
Mr. COLEMAN of Texas.
Mr. DONNELLY.
Mrs. COLLINS.
Mr. WHITLEY.
Mr. PEASE.
Mr. STOKES.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 365. Joint resolution welcoming the Afghan Alliance.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following day present to the President, for his approval, a joint resolution of the House of the following title:

On June 24, 1986:

H.J. Res. 652. Joint resolution to provide for the temporary extension of certain program relating to housing and community development, and for other purposes.

ADJOURNMENT

Mr. WHITTEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 4 minutes a.m.) under its previous order, the House adjourned until today, June 26, 1986, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3780. A communication from the President of the United States, transmitting amendments to the request for appropriations for fiscal year 1987 for the Environmental Protection Agency, the Federal Communications Commission, and the National Council on Public Works Improvement, pursuant to 31 U.S.C. 1107 (H. Doc. No. 99-239); to the Committee on Appropriations and ordered to be printed.

3781. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter of offer to Japan for defense articles estimated to cost $50 million or more (Transmittal No. 86-38), pursuant to 10 U.S.C. 133b (96 Stat. 1288); to the Committee on Armed Services.

3782. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter of offer to Greece for defense articles estimated to cost $26 mil-

lion and a copy of the required certification (Transmittal No. 86-40), pursuant to 22 U.S.C. 2776(b) and 22 U.S.C. 2373(d); to the Committee on Foreign Affairs.

3783. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter of offer to Norway for defense articles and services estimated to cost $30 million (Transmittal No. 86-41), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3784. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed letter of offer to Japan for defense articles and services estimated to cost $70 million (Transmittal No. 86-38), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3785. A letter from the Acting Commissioner, Social Security Administration, transmitting notification of a proposed new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3786. A letter from the Assistant Secretary for Administration, Department of Housing and Urban Development, transmitting notification of the Department's intention to amend a Privacy Act system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3787. A letter from the Director, Office of Management and Budget, transmitting a report on OMB's activities under the Freedom of Information Act during calendar year 1985, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3788. A letter from the Secretary of the Treasury, transmitting a report on the status and operation of the State and local government fiscal assistance trust fund during fiscal year 1985 and a report on the administration of the Revenue Sharing Program, pursuant to 31 U.S.C. 6724(a); to the Committee on Government Operations.

3789. A letter from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting a copy of NACOA findings and recommendations on the classification and dissemination of multibeam bathymetric data, pursuant to 33 U.S.C. 857-15(b); to the Committee on Merchant Marine and Fisheries.

3790. A letter from the Administrator, Agency for International Development, transmitting a report on the implementation of farmer-to-farmer assistance between the United States and developing countries, pursuant to 7 U.S.C. 1736 nt; jointly, to the Committees on Agriculture and Foreign Affairs.

3791. A letter from the Secretary of Labor, transmitting the 1984 annual report on the administration of title V (enforcement) of the Employee Retirement Income Security Act of 1974, pursuant to 29 U.S.C. 1143(b); jointly, to the Committees on Education and Labor and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3005. A bill to direct the Secretary of the Interior to convey certain lands, withdrawn by the Bureau of Reclamation for townsite purposes, to the Huntley Project Irrigation District, Ballantine, Montana; with an amendment (Rept. 99-657). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1625. A bill to permit the use and leasing of certain public lands in Nevada by the University of Nevada (Rept. 99-658). Referred to the Committee of the Whole House on the State of the Union.

Mr. ASPIN: Committee of conference. Conference report on H.R. 4420 (Rept. 99-659). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY:

H.R. 5085. A bill to amend title XVIII of the Social Security Act to provide for two additional members of the Physician Payment Review Commission; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. EDWARDS of California (for himself, Mr. KASTENMEIER, Mr. CONYERS, and Mrs. SCHROEDER):

H.R. 5086. A bill to amend the United States Commission on Civil Rights Act of 1983 to eliminate authorizations for appropriations for the Commission on Civil Rights for fiscal years after fiscal year 1986; to the Committee on the Judiciary.

By Mrs. BENTLEY:

H.R. 5087. A bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government employees, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. FASCELL:

H.R. 5088. A bill to amend the Perishable Agricultural Commodities Act, 1930 to require commission merchants, dealers, and brokers to label perishable agricultural commodities with the name of the country of origin of such commodities; to the Committee on Agriculture.

By Mr. NEAL:

H.R. 5089. A bill to clarify the applicability of the Federal Election Campaign Act of 1971 to ostensibly nonpolitical foundations that are political committees by reason of engaging in efforts to influence elections for Federal office; to the Committee on House Administration.

By Mr. BROYHILL:

H.R. 5090. A bill to amend title XVIII of the Social Security Act to permit certain individuals with physical or mental impairments to continue Medicare coverage at their own expense; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. RITTER:

H.R. 5091. A bill to amend the Internal Revenue Code of 1954 to allow individuals to withdraw not more than $4,000 from their individual retirement accounts with a 2-year period for the purpose of obtaining job training or retraining, without incurring additional tax; to the Committee on Ways and Means.

By Mr. SHAW (for himself, Mr. FUQUA, Mr. FLIPPO, Mr. DIOGUARDI, Mr. WORTLEY, Mr. NIELSON of Utah, Mr. CHAPMAN, Mr. HORTON, Mr. MONSON, Mr. HUTTO, Mr. LAGOMARSINO, Mr. DAUB, Mrs. BENTLEY, Mr. MCCANDLESS, Mr. NEAL, and Mr. BEVILL):

H.R. 5092. A bill to establish a Federal Accounting Practices Review Commission; to the Committee on Government Operations.

By Mr. SHUMWAY:

H.R. 5093. A bill to provide for the sale by the Secretary of the Interior of the Sly Park Unit of the Central Valley Project to the El Dorado Irrigation District, Placerville, El Dorado County, CA; to the Committee on Interior and Insular Affairs.

By Mr. FLIPPO:

H.J. Res. 665. Joint resolution proposing an amendment to the Constitution of the United States to provide that any officer of the United States shall forfeit office and all benefits thereof upon conviction of a felony; to the Committee on the Judiciary.

By Mr. MINETA (for himself, Mr. DYMALLY, Mr. O'BRIEN, Mr. FASCELL, Mr. BROWN of Colorado, Mr. PEASE, and Mr. DORNAN of California):

H. Con. Res. 362. Concurrent resolution to express the sense of the Congress that a moment of silence be held during the official ceremonies for the Statue of Liberty for the return of the American captives in Lebanon; to the Committee on Post Office and Civil Service.

By Mr. SOLOMON:

H. Con. Res. 363. Concurrent resolution expressing the sense of the Congress that Fort Crailo in Rensselaer, NY, should be designated as the home of "Yankee Doodle"; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANTHONY:

H.R. 5094. A bill for the relief of Dale B. Thompson; to the Committee on the Judiciary.

By Mr. DE LA GARZA:

H.R. 5095. A bill to qualify the *Beta Lyra* for U.S. Charter Service; to the Committee on Merchant Marine and Fisheries.

H.R. 5096. A bill to qualify the *Fre-N-eze* for U.S. Charter Service; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 442: Mr. CHAPPIE.

H.R. 704: Mr. FIELDS.

H.R. 980: Mr. FISH.

H.R. 988: Mr. SHELBY, Mr. FUSTER, Mr. MORRISON of Connecticut, Mr. BROYHILL, Mr. NIELSON of Utah, Mr. MARTINEZ, and Mr. DAUB.

H.R. 1309: Mr. LELAND, Mr. HUBBARD, Mr. LIPINSKI, Mr. BEILENSON, Mr. EDWARDS of California, Mr. COELHO, Mr. COOPER, and Mr. STAGGERS.

H.R. 1916: Mr. REID, Mr. PORTER, Mr. FISH, Mr. FAWELL, Mr. VALENTINE, Mr. LOTT, Mr. CLINGER, Mr. EVANS of Iowa, and Mr. MARKEY.

H.R. 1945: Mr. OWENS.

H.R. 2049: Mr. FORD of Tennessee, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. MITCHELL, Mr. SAVAGE, Mr. WEISS, Mr. CROCKETT, Mr. CONYERS, and Mr. LELAND.

H.R. 2602: Mr. SWIFT.
H.R. 2815: Mr. BLILEY, Mr. ROBERTS, and Mr. COATS.
H.R. 2902: Mr. KOLTER.
H.R. 3024: Mr. NEAL, Mr. HERTEL of Michigan, Mr. BILIRAKIS, and Mr. TORRICELLI.
H.R. 3100: Mr. FUSTER, Mr. BORSKI, Mr. TRAFICANT, and Mr. HAWKINS.
H.R. 3638: Mr. ECKART of Ohio, Mr. HAYES, Mrs. BENTLEY, Mr. WHITEHURST, and Ms. MIKULSKI.
H.R. 3661: Mr. SWINDALL.
H.R. 3800: Mr. LIPINSKI, Mr. HAYES, Mr. LOEFFLER, and Mr. HARTNETT.
H.R. 3842: Ms. OAKAR, Mr. GRAY of Illinois, Mr. JONES of North Carolina, Mr. VENTO, Mr. MURPHY, Mr. PICKLE, Mr. LEVINE of California, Mr. REID, Mr. HYDE, Mrs. LLOYD, Mr. WYLIE, Mr. FRENZEL, and Mr. DORGAN of North Dakota.
H.R. 3936: Mr. OWENS.
H.R. 4003: Mr. CARR.
H.R. 4014: Ms. MIKULSKI and Mr. CLINGER.
H.R. 4056: Mr. CONTE.
H.R. 4067: Mr. STRANG, Mr. GALLO, and Mr. BADHAM.
H.R. 4075: Mr. SPENCE.
H.R. 4148: Mr. STANGELAND.
H.R. 4333: Mr. KOSTMAYER and Mr. ROWLAND of Connecticut.
H.R. 4397: Mr. DE LA GARZA and Mr. FROST.
H.R. 4487: Mr. ARMEY.
H.R. 4488: Mr. GLICKMAN, Mr. WEISS, and Mr. HAWKINS.
H.R. 4546: Mr. SUNIA and Mr. MARKEY.
H.R. 4567: Mr. ZSCHAU.
H.R. 4682: Mr. GREGG.
H.R. 4698: Mr. MARTINEZ.
H.R. 4709: Mr. WYDEN, Mr. FIELDS, Mr. DORNAN of California, Mr. MANTON, Mr. BORSKI, Mrs. BENTLEY, and Mr. LOWRY of Washington.
H.R. 4711: Mr. DWYER of New Jersey and Mr. STRATTON.
H.R. 4723: Mr. SYNAR, Mr. KOSTMAYER, Mr. WORTLEY, Mr. MYERS of Indiana, and Mr. WILSON.
H.R. 4756: Mr. LANTOS, Mr. FASCELL, Mr. WHEAT, Mr. FAUNTROY, Mr. DORGAN of North Dakota, Mr. RANGEL, Mr. JACOBS, Mr. WEISS, Mr. KOSTMAYER, Mr. BEILENSON, Mr. CLAY, Mr. DYMALLY, Mr. BATES, Mr. WEAVER, Mr. HAYES, Mr. MATSUI, Mr. MCDADE, Mr. ATKINS, Mr. SEIBERLING, Mr. KASTENMEIER, Mr. ACKERMAN, Mr. GARCIA, Mr. BUSTAMANTE, Mr. VENTO, Mr. HUGHES, Mr. UDALL, Mr. GILMAN, Mr. LEVIN of Michigan, Mr. ROBINSON, Mr. GEJDENSON, Mr. LEVINE of California, Mr. BARNES, Mr. SMITH of Florida, Mr. STUDDS, Mr. EDWARDS of California, Mr. BENNETT, Mr. BARNARD, and Mr. KOLTER.
H.R. 4766: Mr. HUTTO.
H.R. 4783: Mr. SMITH of Florida.
H.R. 4862: Mr. WISE, Mr. DIOGUARDI, and Mr. LIGHTFOOT.
H.R. 4865: Mr. UDALL and Mr. FAUNTROY.
H.R. 4874: Mr. NIELSON of Utah.
H.R. 4876: Mr. HUTTO.
H.R. 4884: Mr. GINGRICH, Mr. COUGHLIN, Mr. HORTON, Mr. WHITEHURST, Mr. LIGHTFOOT, Mr. MINETA, Mr. RAY, Mrs. VUCANOVICH, and Mr. SWINDALL.
H.R. 4887: Mr. FROST and Mr. DE LA GARZA.
H.R. 4894: Mr. BEREUTER, Mr. FAUNTROY, Mr. DORGAN of North Dakota, Mr. HALL of Ohio, Mr. HAYES, Mr. SAVAGE, Mr. LUNDINE, Mr. DE LUGO, Mr. KILDEE, Mr. MITCHELL, Mr. OBERSTAR, Mr. EDWARDS of California, and Mr. MATSUI.
H.R. 4922: Mr. BONIOR of Michigan, Mr. MRAZEK, Mr. HAWKINS, Mr. WHITEHURST, Mr. BEILENSON, Mr. WORTLEY, Mr. SPRATT, Mr. FISH, Mr. PRICE, Mrs. BOXER, and Mr. SMITH of Florida.
H.R. 4945: Mr. BORSKI, Mr. GARCIA, Mr. JACOBS, Mr. EDGAR, Mr. SPENCE, Mr. MARTINEZ, Mr. ACKERMAN, Mr. LEVINE of California, Mr. BOEHLERT, and Mr. HOYER.
H.R. 4972: Mr. HAWKINS, Mr. WILSON, Mr. SUNIA, and Mr. MONSON.
H.R. 5000: Mr. SAVAGE, Mr. WILSON, and Mr. HORTON.
H.R. 5060: Mr. MCCOLLUM, Mr. BURTON of Indiana, and Mr. OXLEY.
H.J. Res. 529: Mr. ANTHONY, Mr. SHELBY, Mr. STALLINGS, Mr. BOLAND, Mr. MOORHEAD, Mr. PORTER, Mr. MAVROULES, Mr. SMITH of Iowa, Mr. VANDER JAGT, Mr. EDGAR, Mr. SUNIA, Mr. LAGOMARSINO, Mr. COURTER, Mr. FLIPPO, Mr. MINETA, Mr. MCCOLLUM, Mrs. JOHNSON, Mr. HUNTER, Mr. DYSON, Mr. DEWINE, Mr. MORRISON of Washington, Ms. SNOWE, Mr. GUNDERSON, Mr. DARDEN, Mrs. BOGGS, Mr. STANGELAND, Mr. MOODY, Mr. COLEMAN of Texas, Mr. MACKAY, Mr. KANJORSKI, and Mr. KINDNESS.
H.J. Res. 564: Mr. WYLIE, Mr. DE LUGO, Mr. CLINGER, and Mr. PURSELL.
H.J. Res. 577: Mr. ECKERT of New York, Mr. FAWELL, Mr. PURSELL, Mr. GILMAN, Mr. WALKER, Mr. MACK, Mr. SLAUGHTER, Mr. BARTLETT, Mr. MOLINARI, Mr. LUNGREN, Mr. MILLER of Washington, Mr. DENNY SMITH, Mr. SILJANDER, Mr. BATEMAN, Mrs. VUCANOVICH, Mr. ROBERT F. SMITH, Mr. STRANG, Mrs. MARTIN of Illinois, Mr. GUNDERSON, Mr. BADHAM, Mr. KEMP, Mr. WEBER, Mr. DINGELL, Mrs. COLLINS, Mr. BLILEY, Mr. SMITH of New Jersey, Mr. GINGRICH, Mr. ROTH, Mr. ANDREWS, Mr. CHAPMAN, Mr. RAHALL, Mr. KANJORSKI, Mr. MURTHA, Mr. COYNE, and Mr. MOLLOHAN.
H.J. Res. 615: Mr. TAUZIN, Mr. BREAUX, Mr. NELSON of Florida, Mr. ERDREICH, and Mr. SOLARZ.
H.J. Res. 619: Mr. RALPH M. HALL, Mr. HEFTEL of Hawaii, Mr. YOUNG of Florida, Ms. OAKAR, Mr. BARNES, Mr. LEWIS of Florida, Mr. MRAZEK, Mr. SCHUMER, Mr. CONTE, Mr. BEDELL, and Mr. NEAL.
H.J. Res. 635: Mr. BROOKS, Mr. CHAPPIE, Mr. DORNAN of California, Mr. DYMALLY, Mr. FUQUA, Mr. GAYDOS, Mr. KOSTMAYER, Ms. MIKULSKI, Mr. OBERSTAR, Mr. OWENS, Mr. PARRIS, Mr. ROE, Mr. RODINO, Mr. SKELTON, Mr. STAGGERS, Mr. STOKES, Mr. TRAFICANT, Mr. WAXMAN, Mr. YOUNG of Alaska, and Mr. NEAL.
H.J. Res. 638: Mr. OWENS, Mr. BORSKI, Mr. HORTON, Mr. LIPINSKI, Mr. SMITH of Florida, Mr. BERMAN, Mr. ROSE, Mr. WYLIE, Mr. MANTON, Mr. YOUNG of Florida, Mr. MINETA, Mr. LELAND, Mr. FRANK, Mr. STUMP, and Mrs. MARTIN of Illinois.
H.J. Res. 642: Mr. LOEFFLER, Mr. ECKERT of New York, Mr. HUGHES, Mr. MINETA, Mrs. MEYERS of Kansas, Mr. BOEHLERT, Mr. RANGEL, Mr. LEVIN of Michigan, Mr. SABO, and Mr. SISISKY.
H.J. Res. 650: Mr. GOODLING.
H.J. Res. 656: Mr. DOWDY of Mississippi, Mr. APPLEGATE, Mr. KOLTER, Mr. ECKART of Ohio, Mr. MADIGAN, Mr. FISH, Mr. HUBBARD, Mr. TOWNS, Mr. DAVIS, Mr. ROBERTS, Mr. MONTGOMERY, Mr. ROBERT F. SMITH, Mr. STENHOLM, Mr. CHENEY, Mr. MCEWEN, Mr. RINALDO, Mr. SWINDALL, Mrs. LLOYD, Mr. LEATH of Texas, Mr. ROEMER, Mr. TAUZIN, Mr. WATKINS, Mr. RALPH M. HALL, Mr. ENGLISH, Mr. AUCOIN, Mr. MURTHA, Mr. GIBBONS, Mr. MCCURDY, Mr. HUTTO, Mr. NICHOLS, Mr. SKELTON, Mr. JENKINS, Mr. FLIPPO, Mr. PICKLE, Mrs. BOGGS, Mr. DERRICK, Mr. STRATTON, Mr. SYNAR, Mr. DENNY SMITH, Mr. KASTENMEIER, Mr. ANNUNZIO, Mr. GRAY of Illinois, Mr. PRICE, Mr. ASPIN, Mr. BENNETT, Mr. WOLPE, and Mrs. LONG.
H.J. Res. 664: Mr. ASPIN, Mr. BENNETT, Mr. FUQUA, Mr. HAWKINS, Mr. MCKINNEY, Mr. NEAL, Mr. ROWLAND of Georgia, Mr. SHUMWAY, and Mr. KOSTMAYER.
H. Con. Res. 102: Mr. BOULTER.
H. Con. Res. 351: Mr. EDGAR, Mr. QUILLEN, Mr. CROCKETT, Ms. MIKULSKI, Mr. HAMMERSCHMIDT, Mr. MOODY, Mr. BOSCO, Mrs. KENNELLY, Mr. SISISKY, Mr. HARTNETT, Mr. SUNIA, Mr. FISH, Mr. YATRON, Mr. MORRISON of Connecticut, Mr. MINETA, Mr. TALLON, Mr. GIBBONS, and Mr. KOSTMAYER.
H. Res. 379: Mr. DARDEN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3968: Mr. GEKAS.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follow:

405. By the SPEAKER: A petition of Mr. Detlev Landweer, et al, of Geneva, Switzerland, relative to the Contras in Nicaragua; to the Committee on Foreign Affairs.

406. Also, petition of the city council of New York, NY, relative to representation by American ethnic groups in the awarding of medals of liberty at the Statue of Liberty Centennial celebration; to the Committee on Interior and Insular Affairs.

407. Also, petition of the Paiute/Shoshone General Council, Lone Pine, CA, relative to taxing of tribal treaty-protected resources; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2436

By Mr. BARTON of Texas:
—On page 31, Sec. 102.(b), strike line 6 and all that follows through line 12, and redesignate the following subsections accordingly.
—On page 33 through page 36, strike all of Sec. 103.(b)(2),
Sec. 103.(b)(3), Sec. 103.(b)(6), Sec. 103.(b)(7),
Sec. 103.(b)(8), Sec. 103.(b)(9), Sec. 103.(b)(12),
Sec. 103.(b)(13), Sec. 103.(b)(14), and redesignate the remaining subsections accordingly.
—On page 42, Sec. 201, strike line 19 and all that follows through line 9 on page 43, and redesignate the following subsections accordingly.

H.R. 2436

By Mr. MONSON:
—On page 28, Sec. 102.(a), strike line 18 and all that follows through line 4 on page 29, and redesignate the following subsections accordingly.
—On page 29, Sec. 102.(a), strike line 5 and all that follows through line 15, and redesignate the following subsections accordingly.

H.R. 2436

By Mr. PACKARD:
—On page 32, Sec. 103(a)(1), in line 5, strike "(dealing with such" and all that follows

through "as appropriate)" in line 10, and renumber the lines accordingly.
—On page 32, Sec. 103(a), in line 20, strike all following "programs" through line 22, and insert in lieu thereof the following ";".
—On page 41, Sec. 201, line 16, strike "eleven" and insert in lieu thereof "seven";
—On page 41, Sec. 201, line 18, strike "seven" and insert in lieu thereof "five";
—On page 41, Sec. 201, line 20, strike "four" and insert in lieu thereof "two";
—On page 41, Sec. 201, lines 22 and 23, strike "one by the minority leader of the House of Representatives,";
—On page 41, Sec. 201, lines 24 and 25, strike ", and one by the minority leader of the Senate".

H.R. 2436

By Mr. SKEEN:
—On page 40, lines 17 through 20, strike all after the following: "budget for the coordinated program" and insert in lieu thereof the following ".".

H.R. 2436

By Mr. SMITH of New Hampshire:
—On page 44, Sec. 201, in line 20, strike "and" and all that follows through line 22 and insert in lieu thereof ".".

H.R. 2436

By Mr. WALKER:
—On page 29, Sec. 102(a), strike line 16 and all that follows through line 18, and redesignate the following subsections accordingly.

H.R. 4613

By Mr. GLICKMAN:
—Beginning on page 9, strike out line 15 and all that follows through line 22 on page 12, and insert in lieu thereof the following:

LEVERAGE TRANSACTIONS

SEC. 10. (a) Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) in the first proviso to the third sentence (relating to the definition of the term "commodity"), by striking out ", and transactions subject to regulation by the Commission pursuant to section 19 of this Act"; and

(2) in the sixteenth sentence (relating to the definition of the term "commodity trading advisor")—

(A) by striking out the comma after "a contract market" and inserting in lieu thereof "or"; and

(B) by striking out "or any leverage transaction authorized under section 19,".

(b) Section 8a of the Commodity Exchange Act (7 U.S.C. 12a) is amended—

(1) in each of subparagraphs (C) and (D) by striking out "or 19 of this Act" and inserting in lieu thereof "of this Act or section 19 of this Act before the repeal of such section"; and

(2) in paragraph (3)(E) by striking out "or 19 of this Act" and inserting in lieu thereof "of this Act or section 19 of this Act before the repeal of such section".

(c) The first sentence of section 9(b) of the Commodity Exchange Act (7 U.S.C. 13(b)) is amended—

(1) by inserting "or" after "4h,"; and

(2) by striking out ", or section 19".

(d) The first sentence of section 9(d) of the Commodity Exchange Act (7 U.S.C. 13(d)) is amended by striking out "or any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract".

(e) Section 9(e) of the Commodity Exchange Act (7 U.S.C. 13(e)) is amended by striking out each place it appears the following: ", or in any transaction for the delivery of any commodity under a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or under any contract, account, arrangement, scheme, or device that the Commission determines serves the same function or functions as such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract.".

(f) Section 12(e)(2) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)) is amended by striking out "or 19".

(g) Section 19 of the Commodity Exchange Act (7 U.S.C. 23) is repealed.

(h) Section 22(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 25(a)(1)(C)) is amended—

(1) by inserting "or" after the semicolon at the end of clause (i);

(2) by striking out clause (ii); and

(3) by redesignating clause (iii) as clause (ii).

(i) The amendments by this section shall become effective 2 years after the date of enactment of this Act.

EXTENSIONS OF REMARKS

A TRADITION OF POLISH RESISTANCE TO FOREIGN DOMINATION

HON. WILLIAM O. LIPINSKI
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LIPINSKI. Mr. Speaker, I rise today to inform my colleagues of an event occurring many years ago which still serves as a testimony to the patriotic spirit of the Polish people in general and Polish students in particular. I am referring to the Polish Children's Strike of 1901, while the country was under German domination. Today, another power oppresses Poland, but the same determination on the part of Poles to retain their nationality and regain their independence clearly remains.

I would like to include in the RECORD an article from the June 15 edition of the Polish National Alliance newspaper, Zgoda, which recounts this heroic event and its consequences.

POLISH CHILDREN'S STRIKE IN WRZESNIA IN 1901

(By John Kulczycki)

On May 20, 1901 an event occurred in a small town school house in Prussian Poland that eventually furnished the world with the spectacle of little Polish school children challenging the powerful German government, a spectacle that inspired ridicule of the German authorities and reminded the world of the foreign occupation of territory of the former Polish state. On that day, the teacher caned pupils in the highest grade of the elementary school in Wrzesnia who refused to use the German language in responding to the teacher during religion class.

The crying of the punished children soon drew a crowd in front of the school house, and several people led by the wife of the brick-layer Piasecka entered the school. Amid the shouting that ensued, Piasecka demanded to know if the German emperor had sanctioned the use of the German language in religious instruction and threatened to "scratch out" the teacher's eyes for selling "children's souls for a hundred (German) marks." This confrontation in the school lasted only a few minutes before a police officer cleared the people out, though when the teachers emerged from the school building the crowd outside greeted them with jeers and shouts of "Long live Poland."

But these events did not in themselves particularly catch anyone's attention, until the Prussian authorities decided to bring criminal charges against Piasecka and others that had entered the school house alone with those in the crowd whom the police had observed shouting insults or not immediately obeying an order to disperse, a total of seven women, three teenage youths, and fifteen men. It was the trial held in Gniezo in November 1901, that made the small town of Wrzesnia and its Polish school children literally world-famous.

The trial aptly symbolized the confrontation in Prussian Poland between the German authorities and the predominantly Polish population of the area. The defense lawyers included a Polish member of the German parliament, and Archbishop Florian Stablewski of Gniezno-Poznan, the undeclared primate of Poland, sent a personal representative. Even the state prosecutor declared that the main issue in the trial was the conflict between Germans and Poles, which he blamed on Polish agitation.

Despite the lack of violence during the events in Wrzesnia-even the police who testified minimized the threat posed by the crowd—the court ruled that all who took part in the "unlawful assembly" should be punished. All seven women and three youths as well as eleven of the men were found guilty and sentenced to a total of nineteen years imprisonment, with Piasecka receiving the sternest penalty of two and a half years in prison. Insisting upon the great danger of "excesses" such as occurred in Wrzesnia, the verdict explicitly justified its harshness as necessary to prevent a repetition of these events.

It was the severity of the verdict that turned the Wrzesnia affair into a cause celebre. The Prussian minister of justice himself recognized the inequity of the extraordinarily high penalties and twice in 1902 sought to persuade the Prussian Royal Council of Ministers to reduce them. The Council refused on the grounds that the government must avoid admitting to an act of injustice, which might help the Polish cause.

Meanwhile, however, the Wrzesnia affair aroused world-wide sympathy for the Poles with its image of sadistic Prussian pedagogues bullying and beating little Polish children for simply wanting to use their native language in school. Even in the German parliament German Catholic and socialist separatees criticized the Prussian school language policy. Protests were voiced elsewhere as well, and when a fund was established to aid the victims of the affair, donations poured in from other European countries and the United States, including from the Polish National Alliance.

The German authorities not only lost the propaganda war. They did not even immediately succeed in imposing their will on the Polish school children. The issue of the language of instruction for Polish school children was not a new one. In the course of the partitioning of the Polish-Lithuania Commonwealth in the eighteenth century, Prussia obtained a large Polish-speaking population. After the Napoleonic wars, during which Prussia lost much of this territory, the Prussian king promised the population of the Polish territory that Prussia regained at the Congress of Vienna in 1815 to respect its nationality and religion.

Initially, the Prussian authorities followed a policy of bilingual education, teaching children in their native language while they learned German. But once Prussia became part of a united German empire in 1871, this policy seemed no longer appropriate. In the next two years, the authorities eliminated the Polish language from the schools except for religion lessons and limited language classes. It was these remnants of the Polish language in the schools that Konrad Studt, the new Prussian minister of education from 1899, decided to eliminate.

By the end of the nineteenth century, Polish society in Prussia was well organized and used to defending its rights whenever these came under the attack of the German authorities. In the past the Poles of Prussia had protested and petitioned against attempts to remove their language from the schools. But this time, led by school children and their parents, they went further in resistance.

When the school in Wrzesnia first introduced German religious textbooks in April of 1901, some parents refused to buy them or to allow their children to use them. Gradually the resistance spread to the religion lesson itself, with pupils refusing to answer questions put to them by the teacher in German. The teacher punished their passive resistance by keeping them after school and eventually beating them with a cane, as on May 20.

Actually, the events of that day and resulting publicity initially stengthened what became known as a school strike and it even spread. Children in other towns and villages of Prussian Poland began to refuse to respond to their teachers when they used German in religion class or even to say prayers of the greeting "Praised be Jesus Christ" in German, for which the children were punished in the same way as in Wrzesnia. As the joke went, pity the poor Polish child: beaten by the teacher if he prays in Polish, beaten by his father if he prays in German, and beaten by the priest if he does not pray at all!

Eventually, the Prussian authorities were able to wear down the resistance of even the most determined Polish children by refusing to allow them to graduate from the elementary school until they ended their strike. Girls proved to be more persistent in their resistance than boys, at times even going against their parents wishes in refusing to use German. One of the two girls who led the resistance at the school in Pleszew avoided saying the word "God" in German even during other lessons, and both continued their "strike" from 1902 to 1905, when they were finally allowed to graduate, well over a year later than normal.

Thus by the end of 1905, resistance at all Prussian schools had ceased, which apparently emboldened the school authorities to try to eliminate Polish at a large number of schools in the spring of 1906. The result was the massive school strike of 1906-1907, in which some 93,000 pupils at over 1,600 schools throughout Prussian Poland participated. By imposing fines and even prison sentences on parents, the Prussian authorities were able to break the strike.

But it was a Pyrrhic victory. The children who took part in the school strike as well as their parents learned to see their Polishness as a source of pride and to see the government under which they lived as an alien one. When the chance came at the end of World War I in 1918, many of them joined in the uprising against their German rulers

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to win their homeland for the reborn Polish state. Today, the name "Wrzesnia" stands as a symbol of loyalty to the Polish nation even against the most overwhelming odds. It should serve as a lesson to any government trying to tear away anyone's mother tongue.

HOPE FOR DEMOCRACY IN PARAGUAY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. GARCIA. Mr. Speaker, I am inserting in the RECORD an article by Domingo Laino, an exiled Paraguayan political leader from Sunday's New York Times.

Mr. Laino is attempting to return to Paraguay today from exile. He has attempted to return on a number of other occasions only to be repelled. It is my hope that Mr. Laino will be permitted to return home and to lead his opposition political party, the Authentic Liberal Radical Party. The future of Paraguay depends on the ability of the present government to create a democratic process.

PARAGUAY FOR THE PARAGUAYANS

(By Domingo Laino)

I have been living in exile from my native Paraguay since 1982. This week, I am going back—much as Benigno S. Aquino Jr. tried to go back to the Philippines and Dim Dae Jung went back to South Korea—to challenge Gen. Alfredo Stroessner and assert my right to my homeland.

I was exiled in punishment for the "crime" of writing a book about General Stroessner's good friend, the late Gen. Anastasio Somoza Debayle of Nicaragua. When I have tried to go home over the past four years, my car has been turned back at the border and the planes I have been on have been denied permission to land. I have repeatedly offered to go back and stand trial for any charges the Government wishes to make against me, for I know I am an innocent man.

Today, as when I left, Paraguayans continue to struggle with the same decrepit regime that seized power in 1954 and has ruled ever since through an unconstitutional state of seige. "Peace and work with Stroessner" is the regime's favorite slogan, and it has plastered those words all over Asunción on billboards and in neon signs. But if there is peace under General Stroessner, why has he needed to maintain a state of siege for 32 years? If there is work, why does one out of every three Paraguayans have to leave the country in search of a job?

Today's Paraguayans are increasingly aware of the winds of democracy blowing through Latin America—in Argentina, Uruguay and Brazil. They also take hope from Haiti and the Philippines, where the people have banished the dictators who dominated their nations for years.

Even more important is the shift Paraguayans note in the Reagan Administration. The United States Ambassador, Clyde Taylor, has established contact with members of the Paraguayans opposition, expressing his commitment to human rights. These gestures have offended the dictatorship, which has been scathingly critical of the ambassador.

Paraguayans have also been affected by the foreign debt and the drop in their export income: both have contributed to the country's economic crisis, and have created grave divisions within the General's Colorado Party. Some members of the democratic opposition have taken to the streets of Asunción where their peaceful protests have been met by violence.

There is, then, increasing pressure inside the country for a transition to democracy. But this transition can not be peaceful without support from abroad and from the armed forces and the Roman Catholic Church.

The church has already assumed its role in the process by calling for a national dialogue. The democratic forces in Paraguay have accepted the call; only General Stroessner is opposed. The armed forces have not yet announced their position, but there is some hope that they will support a political opening.

A large majority of officers joined General Stroessner's party only because it was necessary for their military careers. What's more the corruption of the last decades has benefited only a few officers at the top; many soldiers live on their salaries and suffer from the same economic pressures the average citizen does. Certainly, those officers who are loyal to their institution—and not to the Colorado Party—are gradually preparing to join the church as a force for a peaceful transition.

Paraguay's political parties will have a less crucial role in the transition, for they have been weakened by General Stroessner's "divide and rule" tactics. Yet it remains important that no single political party be allowed to dominate the period of transition—certainly not the General's party. It is up to us Paraguayans, then, to strengthen the other parties, reinforcing their sense of their rights and obligations as they prepare to govern.

This optimistic scenario will depend in large part on the attitude of the United States. General Stroessner has been engulfed by econonic problems of his own making. Over the next six months, the World Bank and the Inter-American Development Bank will consider some $245 million in loans to Paraguay. If Washington backs these loans, it will extend a lifeline to the oldest dicatorship in the Americas. If the United States chooses to deny General Stroessner its economic, political and moral support, the Paraguayan people can continue to advance toward a new life in freedom from fear.

WHAT MAKES THE FED TICK?

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. COURTER. Mr. Speaker, it was fashionable not long ago to point out that Federal agencies like the CIA had become too secretive and consequently legislative remedies had to be found to bring "sunshine" to these agencies. In a democracy, it is thought, the daily operations of government at every level ought to be carried out in the full view of the people unless our national security would be thereby imperiled.

So far as I know, the setting of our monetary policy does not threaten our national security, yet operations at the Federal Reserve Board remain shadowy. As Joe Cobb, senior economist of the Joint Economic Committee, indicates in the attached article, the mania for secrecy at the Fed is reaching levels of absurdity we would not tolerate in any other Federal agency.

America's monetary policy has enormous effects on our economy and our people. Therefore our people have a presumptive right to know how the Fed goes about setting that policy. The very least the Federal Reserve should do is to release the minutes of the Board's meetings on a timely basis. This does not compromise the independence of the Fed any more than the Supreme Court's independence is compromised by the immediate publication of its opinions. However, in the absence of voluntary cooperation in bringing the agency into the democratic "sunshine," I am in favor of a legislative remedy to terminate the continued secrecy surrounding the Board's current monetary policy decisions.

[From the Wall Street Journal, June 2, 1986]

WHAT MAKES THE FED TICK?

(By Joe Cobb)

The Federal Reserve has been making news in a way uncommon to central banks. Last Feb. 24, a majority of its Board of Governors opposed Chairman Paul Volcker on the timing of a cut in the discount rate. Preston Martin then stepped down as vice chairman after a long, well-publicized power struggle. If there is to be more such internal controversy, the Fed's senior staff might be expected to aid Mr. Volcker in keeping a firm grip on monetary policy—a grip normally so strong that the February vote sent shock waves through the investment and financial communities. They probably will—but perhaps only up to a point.

Ingrained practices on the part of the senior staff normally act in subtle ways that enhance and make difficult any challenge to the chairman's power. Board member Martha R. Seger recently told American Banker magazine: "Memos are delivered to our desks; the rule of thumb is that we are supposed to get the material 48 hours before the meeting. Sometimes that deadline is met, sometimes it isn't."

A REMARKABLE CONTINUITY

While presidential appointees to the seven-member board come and go, the little-known senior staff of the Fed seems almost permanent. A brief review reveals a remarkable continuity of service:

Staff director Steven H. Axilrod did graduate work at the University of Chicago and came to work for the Fed's governors in 1952. He has been near the top of the staff hierarchy since the mid-1960s, when then Chairman William McChesney Martin helped put him there.

Donald L. Kohn, the deputy staff director, received his Ph.D. from the University of Michigan in 1971 and has worked at the board 10 years.

James L. Kichline, director of research and statistics, received his Ph.D. from the University of Maryland in 1968, joined the Fed and enjoyed rapid promotion to his present position in 1977.

Edwin M. Truman, director of the international finance division, was a professor at Yale before going to work full time at the Fed in 1972.

These senior staffers have contributed significant papers to the Federal Reserve Bulletin and enjoy an excellent reputation in the academic community.

Members of the governors board have little contact with the Fed's staff outside this small group, which controls the primary information channels to the policy makers. Except for former Vice Chairman Martin, who had two special assistants, only one governor, Henry Wallich, regularly has had an economist assigned to him to help with his work. Mr. Wallich's assistants generally are appointed by the research director for one-year terms. Mr. Martin's special assistants were recruited from outside the staff of the Board of Governors, which may say something about the apparent antagonism directed against him from within the Fed.

Not every governor apparently feels a need for a special assistant. Vice Chairman Manuel H. Johnson says he finds the staff "very responsive" to his requests for information. On the other hand, it is understood that Wayne D. Angell, a recent Reagan-appointed governor, has found less cooperation with his request for the staff to develop a price index that might be used to gauge the tightness or looseness of monetary policy. (Is it merely a coincidence that Chairman Volcker doesn't share his enthusiasm for such a price rule?)

Mr. Volcker runs the Federal Reserve with an iron hand, and the senior staff emulates that management style all down the line. Knowledge is power, particularly at the Fed, and no junior economist with alertness to his career would dare displease his superiors. If a governor were to ask the staff a question that could affect Fed policy, Mr. Volcker would be notified; however, contacts between governors and the Fed staff are minimal.

Junior members of the staff who do leave the Fed for high-paying positions elsewhere tell an interesting story of how official business is conducted. The formal methold of giving the governors information is the briefings on Monday and Wednesday mornings. The Monday briefings are tightly orchestrated by the senior staff to ensure that none of the more junior economists, who are present to make reports and answer questions, are likely to disagree with one another—or with their superiors. The briefings are higly technical and thorough, but they are not filled with any academic give-and-take or debate about the economy. There is only one acceptable point of view and it is usually that of staff director Steve Axilrod.

The Monday briefings are highly structured in other ways, too. The routine is strict: Prior to the meeting, an agenda is prepared for Paul Volcker, listing the staff economists who will be called upon to make reports. Always first up are members of research director James Kichline's group on the performance of the real sectors of the economy. When the presentation is completed, the economists who participated leave the board room. Next, the financial markets are reviewed, and that group of economists then leaves the room. Finally, the international team, headed by Edwin M. Truman, makes its report.

The Wednesday briefings are similarly controlled, but they focus on other issues such as the condition of the banking system rather than the economy. If a governor asks an economist a follow-up question, a subtle glance at the controlling senior-staff member often precedes any answer. If a senior-staff member feels the need to follow up the economist's reply with the dreaded words, "What he means to say is . . ." (to make the answer fit the approved point of view), the lowly transgressor knows that his career could be in deep trouble.

The Fed staff makes such a strict practice of secretiveness that it may even rival the internal security of the Central Intelligence Agency. Numerous memoranda have yellow cover sheets, indicating restricted access, and those with a pink sheet bear the names of those permitted to see them. Every office has a large "burn bag," and janitors are trained to report to the head office if a burn bag is not tightly sealed, or if a restricted memorandum is left out on a desk at night.

DIFFERS FROM UNIVERSITIES

Despite the Fed's clearly superior technical competence, the intellectual environment there is very different from that which prevails at the major universities, where professors and graduate students may be jointly and openly studying exactly the same questions about the direction of the economy and the consequences of different monetary policy options.

Such a tightly controlled shop might seem less than optimal for a policy-making body like the Fed, which has been shown to have such powerful effects on the nation's economy. After all, economists are famous for disagreeing, and the Board of Governors, as we have recently seen, even disagrees in public sometimes. Yet it is not necessarily the orthodoxy of the senior staff that influences the Fed's monetary policy. In recent years, it has been Paul Volcker's opinions that have really counted at the Federal Reserve. Of course, such an arrangement is not permanent. A recent news report indicated that senior Fed staffers have been more cooperative in handling requests from the other governors, now that President Reagan's appointees constitute a firm majority on the board.

A TRIBUTE TO COL. EDWARD T. RICHARDS FOR 30 YEARS OF MILITARY SERVICE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. GUARINI. Mr. Speaker, a member of a fine and honorable family in the West New York community of my district is retiring after 30 years of service with the U.S. Army in July.

A member of his family, West New York Police Officer Thomas Richards, is going to Germany for the retirement ceremony and has provided information for this tribute to Col. Edward T. Richards.

Colonel Richards was born on June 4, 1932, in Kingston, NY, and attended St. Joseph of the Palisades Grammar School in West New York, St. Peter's Prep in Jersey City, and the U.S. Military Academy in West Point, NY.

Colonel Richards is now assigned to the U.S. Army Element, Headquarters U.S. European Command, Stuttgart, Federal Republic of Germany as the Chief of the Operations Division.

His awards include:

The Bronze Star with an oak leaf cluster;

A second Bronze Star with a V device for valor;

Meritorious Service Medal with three oak leaf clusters;

National Defense Medal;

Vietnam Service Medal with a silver and bronze star denoting six tours of duty;

Army Service Ribbon;

Overseas Service Ribbon;

Vietnam Campaign Medal;

Combat Infantryman's Badge;

Senior Parachutist's Badge.

Colonel Richard's tours of duty include:

July 1980–June 1983.—Command, 7th Special Forces Group, 1st Special Forces, Fort Bragg, NC;

July 1979–June 1980.—Deputy Chief of Staff for Readiness and Training, HQ, First United States Army, Fort Meade, MD;

June 1978–June 1979.—Deputy G–3 for Headquarters United States Army Element I Corps (Republic of Korea/United States) Group, Republic of Korea;

August 1976–June 1977.—Command, HHC 2d Brigade, 24th Infantry Division, Fort Stewart, GA;

June 1974–August 1976.—Division G–3 for the 24th Infantry Division, Fort Stewart, GA;

June 1973–June 1974.—Commander, 2d Special Forces, 1st Special Forces Group (Airborne), 1st Special Forces, Okinawa.

In his early career from 1956 to 1973 Colonel Richards served in the following positions:

Rifle Company Platoon Leader;

Assault Gun Platoon Leader;

Executive Officer;

Assistant S–3 (Plans);

Assistant Professor of Military Science, Penn State University;

Training Officer;

Commander, Special Forces A Team, Republic of Vietnam;

Assistant S–3, Special Forces Group;

Chief, Training and Reserve Component Branch, Operations and Training Division G–3, United States Army, John F. Kennedy Center for Special Warfare;

Chief, Training Division, G–3, Special Warfare Center;

Operations Officer, SUARV Army Operations Center, Vietnam;

Office of the Inspector General, Department of the Army, Washington, DC;

Group Executive Officer, Special Forces Group.

Colonel Richard's academic achievements include attendance at:

Special Forces Qualification Course—1964;

The National Security Management Course—1970;

The Army Installation Management Course—1974;

The Army War College—1978.

I would like to extend my congratulations not only to Colonel Richards but to his family, as we know they also serve. He is married to Patricia Cralle Richards, and they are the parents of Karen Richards Foley, Julie Richards Yerks, Gregory T. Richards, and Laura Richards.

I would also like to pay tribute to his parents, Margaret V. Richards and Edward J. Richards.

Colonel Richards, I am sure, has earned a heartfelt salute from all of us who are concerned in America's defense. We are living in

difficult times and because of the tense world situation, we have placed great emphasis on the developments of our military forces.

The United States Army, in which Colonel Richards has served so faithfully, has served well performing a job of combat when necessary, but generally keeping the peace with overall readiness at all times.

Therefore, I believe Colonel Richards has earned this well-deserved salute. We wish him and his family the best of health during his retirement years.

OPERATION YOUTH

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. GRADISON. Mr. Speaker, I would like to take this opportunity to recognize an outstanding program which has been operating in my district for 35 years—Operation Youth. Operation Youth is a week-long conference during which young men and women learn about our Government. This nationally recognized summer program has won 28 awards from the Freedoms Foundation at Valley Forge. It uniquely combines learning and activity to give students a greater understanding of the American way of life.

This year's conference was held June 7–14 at Xavier University in Cincinnati. More than 100 area high school students participated. The theme this year was "An Understanding and Appreciation of America's Basic Freedoms." The program featured presentations by leaders from the areas of government, education, and law on topics such as "Freedom and Economics," and "The Future of the American Political System." Forums were then set up for the students to discuss these topics and other current issues. The students formed political parties and elected officials to a mock municipal government.

Mr. Speaker, I am extremely proud to recognize those who were elected to office as well as those who participated in other aspects of this program. They are as follows:

Mayor: Tim Burress of Goshen High School; vice mayor: Marci Rouse of St. Ursula Academy; city manager: Sean Halter of Turpin High School; clerk of the council: Jim O'Brien of Northwest High School; and city council members: Sara F. Andrews of Paulding High School, Anne Cunningham of Defiance High School, Amy Gaietto of Lima Central Catholic High School, Tara O'Neill of Toledo Notre Dame Academy, Todd Sams of Princeton High School, Susan Weaver of Tuscarawas Central Catholic High School, and Jenny Wenz of Mother of Mercy High School.

Also participating in the conference were:

Pam R. Alkire, Scott A. Anderson, Keith Arnold, Leslie Askern, Ann Marie Auer, Michelle Rene Barber, Kimberly S. Batsche, Jody Bigelow, Laura Bischoff, Diane Bohman, Tricia Bond, Beth Buerger, April Burger, Debbie Bye, Shelly Cappel, Stephen P. Carney, Cathryn Chislaghi, Jeff Christman, Karla Cooper, Kevin R. Corken, Christine Deel, tim Dennison, Megan Anne Dillon, James M. Driehaus, Alan Duning, Robert D. Eilerman, Kelly Ann Eldridge, Eric W. Enneking, James C. Evans, Tracy Evans, Claudia Eyler, George Fisher, Thomas A. Forbes, Jim Fortman, Margaret Fuller, Wendy Gay, Neal F. Giere, Suzamme M. Giesken, David Gullette, Brian Haigis, Bob Halderman, Geoffrey Hart, Chris Hill, Amy M. Hoepf, Brigid A. Horne, Terri A. Ille, Daniel Jeffers, Sean Kelley, John T. Kennedy, Tricia Kirkwood, Andrew F. Kossen, Jim Kramer, Julie M. Landis, Greg Leahy, Richard J. Mack, Heath W. McCarthy, Julia McCarthy, Joy McVay, Erin Miller, Patrick Moeves, Mike Mullinger, Robert Murphy, Mark Napier, Cindy North, Rick Ohmer, Michelle A. Otten, Jill Palmer, Jeff S. Pawlow, Brian Philipps, Jacqueline Pyles, Sarah M. Rose, Amy C. Sauer, Constance L. Sauer, Theresa Schaeffer, Joan Schmidl, Laura Schroeder, Tim Shawley, Thomas Sherman, Matthew Siegel, Rob Siegel, Jackie Slatzer, Thomas Smith, Kelly Sowder, Bill Spoor, Erica Sprenkel, Eric Stevenson, Craig Stiefel, Karen A. Streng, Daniel Stroup, Edward Sweeney, Denise L. Tangney, Theresa Ungruhe, Rick Vonderbrink, Jeffery N. Wople, Scott Warman, Gary S. Warshauer, Jennifer A. Weaver, Terri Weckenbrock, Jennifer Wegman, William A. Weis, and Joseph Wiehe.

I would especially like to honor William E. Smith, director of Operation Youth, and professor of accounting and finance at Xavier University. His dedication in insuring the success of the programs has been unsurpassed. His efforts, as well as those of the staff, enabled over 100 young citizens to gain new insight into the workings of democracy. The staff included:

Mr. Michael Vorbroker, program director; Ms. Marsha Telles, chief-of-staff; senior staff members; Brenda Green, Denise Heckman, Paul Darwish, Michelle Spaeth, and junior staff members; Tony France, Kathy Meinhardt, Ronald Murphy, Joseph Roesel, Joel Reginelli, and Nancy S. Thiele.

Mr. Speaker, I am happy to pay tribute to this outstanding and worthwhile program.

DIVESTMENT LEGISLATION APPROVED BY HOUSE VOTE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LELAND. Mr. Speaker, I'd like to share with my colleagues the following articles on our friend and colleague from California, RON DELLUMS, which appeared in the Washington Post and New York Times last week.

The articles detail Mr. DELLUMS' 16 year struggle to win House approval of divestment legislation. Last Wednesday's passage of his legislation by voice vote was a tribute to one man's commitment and unwaivering efforts to place the United States on the side of justice in South Africa. Mr. DELLUMS' persistence and commitment raised the veil and made the world view the atrocity and inhumanity that results from South Africa's apartheid policy.

Mr. Speaker, human dignity, morality, and freedom are not issues of compromise. Mr. DELLUMS recognized that reality. Last week's action by this body demonstrates that ideological purity does play a vital role in politics.

I urge my colleagues to read the following articles:

[From the Washington Post, June 20, 1986]

DELLUMS: EXONERATION IS HIS—PASSAGE OF ANTI-PRETORIA SANCTIONS MARKS MILESTONE FOR HILL VETERAN

(By James R. Dickenson)

To Rep. Ronald V. Dellums (D-Calif.), the House passage Wednesday of his stringent economic sanctions against South Africa was "a shot heard 'round the world." But he also views it as personal "exoneration" from the judgment that he is a moral gadfly and maverick who is out of the mainstream of power in the House.

The House astonished itself and many observers by passing Dellums' bill calling for a trade embargo and complete divestment by U.S. companies and citizens of their holdings in South Africa. It was the first time that divestment legislation has been passed by either house, and Dellums' version was far more stringent than the bill most observers expected to be passed.

In an interview yesterday, Dellums described the action as a major blow to apartheid that can't be undone or turned back. He also views it as a refutation of the belief of many—which is "personally painful" to him—that he is just another flaky politician from Berkeley.

'"Berserkely,' a lot of them call it," he said, smiling ruefully.

"Yesterday's action was the shot heard 'round the world, that was heard in Pretoria," he continued. "We haven't simply altered the debate on apartheid, we've changed the environment. Whatever the dynamics of that moment, its effect can't be changed.

"Whatever comes out of the Senate and conference has to be stronger. We've opened new possibilities because we've moved the fear barrier back. We politicians live with a multiplicity of fears."

This view was shared on both sides of the aisle in the House.

"Yesterday, the House went to Ron Dellums; Ron Dellums didn't go to the House," said Rep. Jim Leach (R-Iowa). "Bill Gray went to the House, but the House went to Dellums."

Leach was referring to a more moderate sanctions bill sponsored by Rep. William H. Gray III (D-Pa.), chairman of the House Budget Committee and one of the House's most influential insiders. It was expected to pass but was never voted on because of the surprise call-up and passage of Dellums' bill, which was the designated substitute for Gray's.

Passage of his bill was a personal milestone for Dellums, 50, a veteran of nearly 16 years in the House.

"This is the highest point of my political life, the most significant and personally rewarding," he said. "It's been a long journey to this moment."

His next most satisfying moment was his presentation of the alternate military budget in 1982, which proposed reducing spending by more than $50 billion and canceling several nuclear missile programs. It got only 55 votes, about a third from the Black Caucus.

In many ways, Dellums is a paradox.

He is still the outspoken liberal he has always been, but his colleagues now see him as one of the most gentlemanly, considerate, even courtly members on Capitol Hill. They also value him as a "moral force for reorder-

ing priorities," in Leach's words, but think he's "too liberal to be in the mainstream."

Dellums, however, finds that the role of moral-outsider-gadfly leaves a lot to be desired.

I came here not to project my personality but to project ideas, to lift the level of debate above rancor and personal attack," he said, "We're talking war and peace, life and death, man, and if you carry controversial ideas in a controversial personality, how can you ever get anything done?"

The problem, he contends is that he came to Congress during the counterculture revolution of the 1960s and the anti-Vietnam war protest and became the personification of Berkely and all it symbolizes.

My humanity got lost in the process," he said. "It has been personally painful to be considered just a gadfly, a maverick, a strong speaker, but outside the mainstream of power. What yesterday was about is that people have to see me in a serious way. This has been an exonerating factor."

He denies that he has just been an "off-the-wall voice."

"I introduced the first divestment bill 16 years ago," he recalled. "Did I come to the country or did the country come to me?"

When he first came to the Congress, Dellums seemed to be challenging its very legitimacy and that of the leadership, holding unofficial "hearings" on Vietnmam war atrocities and racism in the military. Over the years, however, he's mellowed.

His seniority entitled him in 1983 to become chairman of the military construction subcommittee, and he surprised his colleagues by his considerate dealings with them and his skill at managing legislation.

Dellums said that on Wednesday, he could sense momentum for his bill building during the day.

"Members, including Republicans, would come up to me and say, 'Ron I wasn't with you last year but I am this time.' I could also tell from the spectrum of people who were asking for time to speak on its behalf, including a greater number of Republicans. I knew we were gaining but not necessarily that we'd win."

As floor manager of the bill, Dellums had 30 minutes of debate time to mete out to his supporters.

"I don't like to give a colleague just a minute or 30 seconds to speak," he said. "But there were so many I had no choice. When [Rep. Charles E.] Bennett [D-Fla.] got up to speak, I had to fight back tears because I knew where he was coming from."

After the voice vote by which the measure passed, Dellums expected its opponents to call for a recorded vote.

"I sure wasn't going to ask for it but I was astonished that no one else did," he said. "I guess it was because they realized that if they did they'd have to account for their votes."

A staff aide speculated that conservatives who oppose sanctions wanted a bill so tough that the Republican-controlled Senate would balk at it. He also contended that the House leadership didn't want to chance defeating Dellums' measure because that would look like the House was backing down.

"They blundered into principle," he said.

[From the New York Times, June 19, 1986]

HOUSE VOTES BILL TO CUT OFF INVESTMENT IN SOUTH AFRICA; STRIKES BY BLACKS MULTIPLY

(By Neil A. Lewis)

WASHINGTON, June 18.—The House, in a surprise development, approved and sent to the Senate today a measure imposing a trade embargo and requiring complete divestment by American companies and citizens of their holdings in South Africa.

The measure, approved by voice vote, would require the severing of all economic ties with South Africa and would oblige the approximately 280 American companies doing business there to shut operations within 180 days if the bill were signed into law. It would impose a full embargo on trade, allowing only the import of certain materials if the President certified that they were of strategic importance.

The vote is certain to increase political pressure, not only on the Pretoria Government, but also on the Reagan Administration, which has vigorously opposed further economic penalties against South Africa.

POSSIBILITY OF CONFRONTATION

The measure is unusual in that sanctions against foreign governments are usually initiated by the President, as was the case when he ordered oil companies to halt operations in Libya, using his emergency powers. If the bill became law the President would be charged with enforcing the sanctions, but as Mr. Reagan opposes such moves he could decline to carry out the measure, leading to a possible confrontation with Congress.

At the United Nations today, the United States and Britain vetoed a Security Council resolution that would have imposed limited economic sanctions against South Africa. [Page A10.]

Edward P. Djerejian, a deputy White House press secretary, said the House vote would have no impact on the President's opposition to tougher economic sanctions.

SANCTIONS ADAMANTLY OPPOSED

"Our position on that remains the same," he said. "We are adamantly opposed to punitive economic sanctions."

The architect of the measure was Representative Ronald V. Dellums, Democrat of California.

"What we did today is going to give a tremendous boost to the momentum of the anti-apartheid movement in this country," he said. "I'm still shocked it happened."

After the vote, Representative William H. Gray 3d said, "This demonstrates the House and the American people wanted the strongest possible sanctions against South Africa." The Pennsylvania Democrat was the sponsor of a less severe sanctions measure that the House debated throughout the day and was anticipating voting on.

But in a move that stunned both supporters and opponents, the measure suggested by Mr. Dellums requiring a full trade embargo and complete economic disinvestment was adopted as a substiture by voice vote. Republican opponents hurriedly conferred on strategy and decided not to call for a roll-call vote. The measure itself was then quickly passed by voice vote.

"I was very surprised by what happened," said Representative Robert J. Walker, a Pennsylvania Republican who was a principal opponent. But Mr. Walker said the measure approved is so strict that it will be easier for President Reagan to veto it and more difficult for supporters to override a veto.

"Sanctions are dead," said Representative Mark Siljander, a Michigan Republican and a vocal opponent of sanctions. "We lost the battle but won the war."

The severe sanctions approved today could also make it less likely that it will be approved in the Senate, which has yet to take up the matter.

Mr. Djerejian said it was unclear if Mr. Reagan would actively fight to block the Senate measure.

Supporters of increasing economic pressure on the Pretoria Government were exultant at today's turn of events.

Representative Stephen J. Solarz, Democrat of Brooklyn, described the vote as "the American answer" to the state of emergency imposed in South Africa last week by President P. W. Botha. "It sends the strongest signal possible," he said.

The House had spent the day debating a more modest measure that was approved last week by the House Foreign Affairs Committee. That measure would have imposed economic penalties in two stages, the first requiring an end to all new loans and investments as well as banning the import of coal, uranium and steel from South Africa. In a year's time, if certain conditions including the release of the imprisoned anti-apartheid leader, Nelson Mandela, had not been met, the sanctions would be increased.

The measure approved today in its place would impose within 180 days of enactment a total embargo on trade with South Africa, except for the import of minerals if the President certifies they are of strategic importance. The 280 American companies that would have to cease operations employ about 66,000 people, according to the House Foreign Affairs Committee staff and do about $1.8 billion in business annually.

In addition, landing rights for South African Airways in this country would be suspended, thus ending the five-times-a-week flight from Johannesburg to New York.

Many American companies have already begun to draw down their investments in South Africa without any Government pressure to do so.

In today's debate, Mr. Siljander said he was opposed to apartheid, but did not believe crippling the South African economy was the answer. "Will the sanctions in this bill stop the killings there?" he asked.

THE SMELL OF BLOOD

Representative Lynn Martin, an Illinois Republican, said she would support sanctions because "I believe in South Africa today, there is a smell of blood and I believe there comes a time when we must stand up as a nation and be counted."

The consideration of increased penalties against South Africa comes 10 months after Mr. Reagan reluctantly imposed a series of limited economic penalties against South Africa by executive order. Both the House and Senate last year passed versions of a sanctions bill. Mr. Reagan, who had threatened to veto any such measure, abruptly reversed himself and issued the executive order when it became apparent that some form of legislation would be enacted over his veto.

His sudden change of position deflated the opposition and the Republican leadership was able to shelve the issue, sparing the President the likely political embarrassment of having his veto overridden.

The sanctions imposed by the President prohibited most new loans to the South African Government and banned the import of Krugerrands, the South African gold coins.

There are currently five countries for which there is a virtual ban on trade: Libya, Cuba, Cambodia, North Korea, and Vietnam. In those imstances, the President would have to certify he was suspending trade under various acts that grant him emergency powers due to national security considerations.

SUPPORT OF S. 1073, THE JAPANESE TECHNICAL LITERATURE ACT OF 1985

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. BROWN of California. Mr. Speaker, I rise today in support of S. 1073, The Japanese Technical Literature Act of 1985, which the House passed yesterday. The purpose of this bill is to enhance the Federal role in ensuring the availability of Japanese scientific, technical, and economic information to the scientists, engineers, and entrepreneurs of the United States.

This country must regain its status at the forefront of scientific and technical innovation in the development of products, services, and economic and societal advances. Our native entrepreneurial acumen, evidenced so often in the past, will allow us to convert innovative developments into that economic activity which will permit us to be, once again, preeminent in world trade.

Our position in world trade, compared to the Japanese, has changed dramatically in Japan's favor in recent years. As Mr. WALGREN's subcommittee indicated in its report on this bill:

The dramatic change in their competitive position in high technology is indicated by their expanding balance in trade with the United States. In 1985, the U.S. trade deficit with Japan totaled $50 billion. On a worldwide basis, Japan had a $45.6 billion trade surplus, while the United States had a record $150 billion trade deficit.

A large part of Japan's economic success can be attributed to that country's active national policy of collecting, translating, and subsequently applying foreign scientific and technical information to meet its own needs, as determined by its exceptional long-range planning. Not only does the United States not have a similar policy, it has not exhibited the willingness to engage in the kind of planning which would make such policies part of a cogent, overall strategy.

S. 1073 would provide us with at least a first, tentative step toward the kind of national program which could eventually become the means for this country forging ahead in international trade.

We can no longer afford the luxury of that historic reliance of ours on "Yankee ingenuity" which has tended to engender the belief that technologies and products which were "not invented here" are of little, or no, use to us. Japan is no longer merely a copier of foreign products nor simply a user of foreign technologies. Rather, that country has become a world leader in technological and entrepreneurial innovation, and we must make every effort to assist the American economy in countering its success—a success which is a real threat to our economic well-being.

United States business and industry are insufficiently aware of the value of Japanese scientific and technical information, and they are ineffective in exploiting it. The Federal Government must now take the lead in rectifying the situation before it is beyond rectification.

The National Technical Information Service [NTIS], which will play a major role in the implementation of the program initiated by this legislation, has the institutional skills and experience to determine those areas of information needs which are not now being met by academic, professional, or commercial sources. NTIS also has the ability to direct efficiently the utilization of resources made available by the passage of S. 1073. Additionally, S. 1073 requires that American businesses, professional societies, and library organizations be consulted in establishing selection criteria for the information to be acquired under this program.

The attitude of the Japanese Government toward its own technical information resources requires that the United States Government provide the leadership in the acquisition of Japanese information. The Japanese Government considers its information to be copyrighted, and will release it for reproduction and dissemination outside its own borders only on the basis of a formal agreement. The Japanese have displayed a willingness to enter into these kinds of agreements freely with United States agencies. Several such agencies and departments, including NTIS, the Department of Defense, Energy, State, and the National Science Foundation maintain information gathering activities in Japan. I urge that, as a part of any programs funded under the provisions of this legislation, those disparate activities be subject to coordination, at least to the extent of common reporting of their acquisitions.

Further, because of the proven value of such an agency as NTIS, I want to go on record as not being in concert with this administration's attempts to privatize this invaluable national resource. It is contrary to our national interests for NTIS to be either privatized or made a Government corporation—either change would jeopardize its ability to carry on its mission, a mission which will become more valuable with the passage of time.

In closing, I strongly recommend that we join the effort of our colleagues in the Senate and vote favorably on this bill. It is a small and overdue step in the support of the international economic competitiveness of our Nation.

Thank you, Mr. Speaker.

BUCKING THE SYSTEM

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. DORGAN of North Dakota. Mr. Speaker, I have become increasingly concerned about the reorganizing, or reconstituting, of U.S. farms, with USDA approval, allegedly to evade the $50,000 annual limit on certain commodity program payments. This type of practice threatens to undermine not only the integrity of one specific aspect of Federal agricultural policy, the payment limitation, but of agricultural programs in general.

To more adequately describe this problem, I'd like to share with my colleagues an article published on Tuesday, June 24, 1986, in the Washington Post. I believe it reveals one more reason why the present farm program is quickly becoming a failure.

[From the Washington Post, June 24, 1986]

LOOPHOLE LETS FARMERS GLEAN EXTRA SUBSIDIES

PROGRAM COSTS SOARING, OFFICIALS CONCEDE

(By Ward Sinclair)

Many farmers are reorganizing their large farm operations into smaller units to qualify for extra federal subsidies, according to U.S. Department of Agriculture officials, who acknowledge that this year's program costs will soar beyond earlier estimates.

The reorganizations, all apparently legal under USDA regulations, allow farmers to skirt the $50,000 limit on individual payments and collect additional tens of thousands of dollars, or more, in crop program benefits.

But these unanticipated outlays are only one factor in the rocketing cost of the new farm program's direct payments, which USDA calculates could reach $13 billion this year. The previous high, about $9 billion, was in 1983. Payments last year were $7.8 billion.

Robert L. Thompson, assistant secretary for economics, said yesterday that the programs fashioned by Congress last year "opened more loopholes" in the $50,000 payment limitation and will allow many farmers to receive $1 million or more in direct subsidies.

"Million-dollar-plus cotton and rice payments will be significant. There will be a small handful of wheat and feed-grain producers in the $1 million range, but payments of $150,000 to $200,000 will not be uncommon in wheat and feed grains," Thompson said. "It will get obscene."

Thompson and other administration officials argued during last year's farm bill debate that the $50,000 limit should be lowered and said that provisions exempting certain payments from the limitation would inflate program costs. "Congress certainly was duly warned," he said.

Reports that many farmers are reorganizing to get more federal benefits have led Reps. Dan Glickman (D-Kan.), Byron L. Dorgan (D-N.D.) and Leon E. Panetta (D-Calif.) to ask the General Accounting Office to investigate.

Glickman said he believed that the extra budget costs added by the reorganizations will force Congress to review farm policy next year.

"The cost numbers on this new farm program will get so gigantic that after the 1986 elections we will probably have to look at the issue of targeting federal benefits to the farmers who can demonstrate need," Glickman said.

Thomas Von Garlem, a USDA official who randomly reveiws farmers' proposals for reorganization, which are approved at the county level, said he has encountered cases in which farmers have become entitled to payments of upwards of $1 million by splitting their farms into smaller pieces.

Von Garlem said the reorganization issue has become "hotter than a firecracker. . . . More farmers are bumping the $50,000 limit, and as they do, they feel they are obligated to look for ways to avoid the limit."

Officials here could provide no numbers, but they said that the reorganizations are occurring on a large scale and that they are adding to the cost of the federal programs in a major way.

In a recent spot check in four counties, the GAO found that reorganizations had increased at least 50 percent in two Arkansas rice-growing counties, by about the same amount in one major Kansas wheat county and by about 20 percent in a smaller Kansas wheat county.

Von Garlem said he has seen cases in which an individual farmer has split a large farm into "15 or 20" new operations, which would qualify for direct subsidies of $750,000 to $1 million.

"There's definitely an increase in the reorganizations because more farmers are finding themselves subject to the $50,000 limit," he said. "The rules for defining eligibility are very complicated, but it all gets down to a definition of who is a 'parson.' "

While the law limits the subsidy on an individual basis, Von Garlem noted that it also allows the same person to qualify repeatedly for benefits by entering more than one farming unit in the program. Other variations allow payments up to the limit to members of partnerships.

Farmer A and Farmer B, for example, could each qualify for a $50,000 subsidy on his farm. Then, by forming a corporation and participating in it as partners, each could collect another $50,000 on another farm. And so on.

Milton Hertz, chief of the Agricultural Stabilization and Conservation Service, which overseas the federal crop support programs and subsidy payments, said the reorganizations appear to be most prevalent among rice and cotton farmers, who quickly reach the $50,000 limit because of generous provisions of the farm legislation adopted last year.

Under the new program, Congress directed that price support loan rates by pushed down to make U.S. commodities more competitive. But to maintain farmers' incomes, the legislators decreed that the direct subsidies known as deficiency payments remain frozen at 1985 levels.

The deficiency payments are the difference between the loan rate and a target price level set by Congress for each of the major commodities. Since loan rates are being driven down, the farmer's per-bushel or per-bale subsidy payment increases proportionately.

Hertz and Von Garlem said that because the subsidies are larger, farmers reach the congressionally imposed $50,000 limit that much quicker. And as a result, they look for ways to get payments beyond the limit by creating "new" farming entities that also are eligible for federal benefits.

Von Garlem said the issue of farmers attempting to avoid the limits is not new. "We started to tighten up on the payment rules in the 1970s on the basis of what we thought Congress intended when it set limits," he said. "Then Congress passed a law saying we had to follow the 1971 rules that we were trying to tighten. On this issue the legislative history is pretty clear."

DEMOCRACY WINS IN RECENT SPANISH ELECTIONS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. GARCIA. Mr. Speaker, this past Sunday, the people of Spain held elections for their Congress and Prime Minister. Once again, Prime Minister Felipe González emerged victorious. As an admirer of Felipe since the mid-seventies, I am pleased that he will continue as the leader of the Spanish Government.

But the real victors in Sunday's elections were the Spanish people. They have once again shown their total commitment to the democratic process. The years of darkness that preceded the emergence of the Spanish democracy in 1976 did nothing to quell the thirst of the Spanish people for democracy. Thus far, they have produced a number of fine political leaders, most notably Felipe González. I am certain, however, that he will not be the last.

I congratulate Prime Minister González and the people of Spain on their recent elections. In light of those elections, I am inserting in the RECORD excerpts from a New York Times Magazine article on Spain and Felipe González for my colleagues' perusal.

[From the New York Times Magazine June 22, 1986]

SPAIN'S NEW FACE

(By Edward Schumacher)

A salsa band led by two barebellied young women and a balding singer wearing a bow tie had been working up the crowd. Across the top of the green and white outdoor stage, an election banner read "Por Buen Camino"—On the Good Road. Then someone on the top tier of the grandstands saw him, and a thundering chant of "Felipe, Felipe" spread.

Felipe González Márquez, Prime Minister of Spain, stepped before the crowd in Valencia. He blushed as the cheering swept over him.

After nearly four years in office, Felipe González has emerged as one of Europe's brightest political stars. While the rest of the Continent is dominated by older leaders such as Helmut Kohl in West Germany or Margaret Thatcher in Britian, the handsome, boyish-looking González draws throngs of cameramen and squealing teenage fans when he visits foreign capitals. His forceful, forward-looking visions for Spain and a politically integrated Europe have made him a prized guest and speaker abroad. European Socialists are on the defensive, but he stands out as a proud exception, "Latinizing" the European left, as he puts it.

Forty-four years old, González is running for his second term as prime Minister in elections scheduled for today. Even his principal opponents—Manuel Fraga Iribarne of the centerright Popular Alliance and former prime Minister Adolfo Suárez of the moderate Social Democratic Center—say that, barring any unforeseen last-minute events, the question is not whether he will win, but by how much.

The elections thus seem to matter less than the attention they have forcused on the country and its leadership. What lies behind the dynamism of González and a whole new generation of Spanish political figures is a new Spain itself. The nation, which next month will observe the 50th anniversary of the start of the Spanish Civil War, has over the last decade undergone a quiet but dramatic revolution.

The arts are flourishing. The famed *Señoritos*, the idle sons of the Spanish rich, have become young professionals with rolled-up shirt sleeves, and the sons of blue-collar workers are getting college degrees. The country's young democracy is being held up as an example to other countries still laboring under dictatorships.

González has moved aggressively to restore Spain's identity and importance as a part of the West. Spain in the last six months has joined the European Community and voted to stay in the North Atlantic Treaty Organization. In Latin America, González has worked to reassert Spanish influence, and has clashed with both the Reagan Administration and the Sandinistas over politics in Nicaragua.

González himself is a Latin paradox. Despite his charismatic hold on the nation, he is little known beyond his public persona. A modern television politician, he tries to avoid face-to-face campaigning. Yet, he relishes parliamentary debate. And while his party has suffered some in opinion polls, González's own ratings have remained steadily high.

He has abandoned the ideology of the old Spanish left and replaced it with large doses of pragmatism and moderation.

"What socialism, and even the left, has often represented in the south of Europe," he said in a recent interview, "was this curious idea of permanently inventing the future while allowing the right to permanently govern the present. We have broken that dynamic a little. What we're dealing with here is not inventing the future. We're dealing with governing the present and transforming it with a practical vision of a freer, more equal, more just society."

The enthusiasm and energy that González and the Socialists have brought to Spanish Government and culture has captivated the rest of Europe, bringing Spain closer to its Continental neighbors than at any time in recent memory.

European art collectors have been flocking to Spain to buy new painting and sculpture. Spanish films have been winning Academy Awards and Cannes prizes. Spanish fashion designers are beginning to show their work in Paris and Milan. El País, a daily started after Franco's death, is compared to Le Monde and other major international newspapers.

In part, the cultural boom is a result of deliberate policy. Museums have been made free for Spaniards, and the Prado museum, long venerable but tatty, has undergone a major facelift. The education budget has nearly doubled and new emphasis has been given to improving Spain's generally poor universities.

But behind the cultural explosion—and González own rise—there is also an important social phenomenon: Spain has finally become a middle-class country. It began in the 1960's, under Franco. Spaniards went to work as migrants in Northern Europe, and European tourists came in such numbers that today Spain receives more tourists than any country in the world, according to United Nation's statistics. Both movements brought money and ideas to Spain. At the same time, the economy took off, tripling per capita income in the last 30 years.

Young people burgeoning with ambition have poured from the provinces into the cities. In 1955, 46 percent of the country's workers were fishermen and farmers. Today, two-thirds of those have abandoned the farm and the sea. Spain has done in 30 years what most of the rest of Europe did in 130 years, and the momentum is still pushing it forward. Therein lies the source of much of González's success. The new middle class in the González generation, and it shares with him middle-class values and a vision of a modern and moderate Spain.

It is a vision that led Spain into the Common Market. To Spaniards, the Common Market is much more than tomatoes or rolled steel. "What has been decided upon is Spain's great political decision to participate in a common West European destiny," González said in an interview. Joining the Common Market, he added, was "a priceless opportunity to modernize, to catch the train of history."

For González, it is also the starting point for a new, and active, Spanish foreign policy. Last month, for example, González went to Moscow. What transpired there was by international protocol extraordinary. González and the Soviet leader Mikhail S. Gorbachev were secluded together for nearly five hours, each accompanied by only one aide.

González is hardly an admirer of the Soviet Union. In a lively luncheon with President Reagan in the Moncloa, the two leaders swapped jokes. González told one about Karl Marx returning from the dead and saying over Soviet television, "Workers of the world—forgive me."

Now, under González's guidance, Spain has confirmed its place in NATO. The NATO referendum was the biggest hurdle of his administration. Spain joined the North Atlantic Treaty Organization in 1982, but, upon taking office, González halted the process of military integration, promising the referendum. He was leery of NATO then, but, in a major turnaround, admitted to a change of mind and campaigned hard in favor of Spanish membership in the alliance. In the referendum, he risked his political career—suggesting at one point that he might resign if he lost.

Defying all polls, González won the referendum by the surprisingly large margin of nearly 53 percent to 40 percent. He won by the dint of a disciplined party and his own popularity. Spain had decided once and for all to throw in its lot with the West, ending a Spanish intellectual fantasy that the country's ties to the Arab world and Latin America made it somehow different.

But the victory was not unqualified. To win over doubters, González, the posibilista, added three conditions to Spain's NATO membership. The first is that nuclear weapons will remain banned in Spain. The second is that, although Spain will participate in NATO military planning, its forces will not be subject to direct NATO military command, a bow to residual isolationist sentiments. The third is that González will work to reduce the number of American troops, 12,500, already authorized in Spain under a separate bilateral treaty.

Behind the third condition is anti-Americanism. "It's understandable," González said matter-of-factly. "The Americans backed Franco." González argues that visceral anti-Americanism is outdated, and also that the treaty allowing American bases in Spain is obsolete now that Spain is in NATO. The treaty, which dates back to 1953 and the cold war, is being renegotiated, and the Reagan Administration has been grudgingly amenable to Spanish demands.

The negotiations are an example of González's independence. American warplanes flying from bases in Britain to bomb Libya in April flew around Spain because of González's reticence about allowing them to enter Spanish airspace. He never said no, but after Lieut. Gen. Vernon A. Walters, the American delegate to the United Nations, felt out González in vague terms during a secret meeting in Madrid, the Americans never directly raised the issue. The likelihood of explosive anti-American demonstrations was clear to both men, according to Spanish officials, and González publicly condemned the raid.

In Latin America, the return of Spanish democracy has made the mother country a model and cultural magnet. Latin leaders almost weekly troop through Madrid to meet with González. He was swarmed like a pop idol by admiring crowds when he attended the inauguration of Raul Alfonsin in Argentina two years ago.

After Reagan's visit to Madrid last year, González said he was surprised by what he saw as a lack of expertise in United States policy toward Latin America. He differed with Reagan over putting pressure on Nicaragua.

But when three days later Nicaraguan President Daniel Ortega Saavedra showed up, González differed with Ortega, too. With Ortega by his side on a sofa in the Moncloa during a joint news conference, González said he would like to see more pluralism in Nicaragua. He took umbrage when Ortega equated Reagan with Hitler. The United States fought Hitler, González reminded him, and added, "If a similar situation arises, the United States would do it again."

INTRODUCTION OF THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. BROYHILL. Mr. Speaker, the problem of asbestos exposure in our Nation's schools is a problem that we are all concerned with. Years ago, before we understood the health hazards, asbestos was used throughout school buildings because of its great insulating and acoustical properties. Unfortunately, we have learned since then that asbestos is truely harmful. We must now all face the fact that something needs to be done to abate and reduce the health hazard posed by asbestos in schools.

I am pleased today to join my colleagues, Congressman LENT, Congressman DINGELL, and Congressman FLORIO, in introducing asbestos legislation that represents an important first step in dealing with this environmental problem. Schools across the country will be required to inspect for asbestos and to abate asbestos in those circumstances where it may pose a health risk. Schools will also be required for the first time to develop management plans that describe the problem and the steps that the school is planning to take. These management plans will be made available to parents, teachers, and other schoolworkers for review.

This legislation has several other provisions worth noting. These provisions include liability protections for school administrators and contractors. The legislation also includes new emergency response procedures which will allow both the Governor and EPA to act in case of an immediate and significant hazard.

I believe this legislation deserves the support of all the Members of the House, and I urge my colleagues to join in working toward its swift passage.

LADY LIBERTY'S TORCH SHINES IN GLASSPORT, PA

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. GAYDOS. Mr. Speaker, the eyes of the entire world will focus on New York City over the Fourth of July weekend as a newly restored Statue of Liberty starts its second century as the international symbol of freedom.

But the light from her refurbished torch will shine far beyond New York Harbor. It will be reflected in cities and towns across the land in a resurgence of patriotism not seen in the country since the Nation's bicentennial celebration a decade ago.

One municipality which has gone to great lengths to make the unveiling of the Lady of Liberty a memorable event is Glassport, PA, a community of 6,500 people in the 20th Congressional District. Sponsored by the Glassport Lions Club, a 3-day fair is planned to raise $25,000 to be donated toward the Lady's restoration.

It is a most ambitious undertaking, but Mr. Arthur F. Trunzo, chairman of the Liberty Centennial Celebration Committee, says: "Just as the immigrants showed uncommon courage by seeking freedom and opportunity in the New World, we feel it takes common courage to approach a fete such as our celebration for Miss Liberty in these hard economic times."

The beacon which is expected to draw thousands of visitors to Glassport will be an 8-foot high replica of the Lady herself. Originally destined for the Ellis Island Museum, the Lions Club arranged for its purchase through the Ellis Island Foundation.

Preceding the scheduled affair, which opens Friday, July 4, there is another event expected to attract statewide attention. At 11 a.m., Thursday, July 3, 75 people will gather at the base of the statue beside the community's honor roll to pledge their allegiance as new citizens of the United States. Coming from all sections of western Pennsylvania, the group will meet at the William S. Moorhead Federal Building in Pittsburgh and be given a police escort to Glassport. The oath of citizenship will be given by U.S. District Judge Alan N. Bloch and the keynote speaker at the ceremony will be Judge John P. Hester, a native of the community.

Mr. Speaker, for 100 years the Statue of Liberty has been recognized as the symbol of America's independence and the strength of her people—people such as Mr. Trunzo, the

officers and members of the Glassport Lions Club, and the more than 30 businesses and organizations which will participate in the local celebration.

Therefore, on behalf of my colleagues in the Congress of the United States, I extend to Mr. Trunzo and his committee: Steve Orlando, John DePiero, Edward Johns, and James Johns, president of the Lions Club, our sincere appreciation for their display of patriotism and our best wishes for a most successful observance.

TAKE POLITICS OUT OF THE SOCIAL SECURITY SYSTEM

HON. WILLIAM W. COBEY, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. COBEY. Mr. Speaker, I urge all of my colleagues to lend their support to passage of H.R. 5050, legislation which would make the Social Security system an independent agency.

Already, this legislation has attracted wide, bipartisan support in the House of Representatives. I believe this support comes because H.R. 5050 would take politics out of the Social Security system.

Today, we have a Social Security system that is healthy and economically sound. Social Security is vital not only to millions of senior citizens, but also to every American worker who contributes to the system. We have a great responsibility to keep the Social Security system strong. Therefore, I believe now is an opportune time to completely remove Social Security from the regular Federal budget and return it to its original status as an independent fund.

Several times since 1968, when Social Security was made part of the regular Federal budget, recipients have been told that the system was a major reason for the growth in the Federal deficit. They have also been told that their benefits are in constant jeopardy of being cut to remedy the deficit problem and help balance the Federal budget. This chain of events has done nothing to reassure the millions of people who need Social Security to help pay for medical care, rent, and other basic expenses.

I believe it is important to make clear that the Social Security system in the past several years has been financed entirely by the Social Security payroll tax and is therefore unrelated to our current deficit crisis.

By passing H.R. 5050, Congress will show it has the resolve to remove politics from a Federal program that is vital to many senior citizens. Thus, I urge every Member of this House to examine H.R. 5050 and give it their support.

EAST CENTRAL WASHINGTON COUNTY, NY, A SPECIAL PLACE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. SOLOMON. Mr. Speaker, anyone who has driven through the lovely hills and farmlands of east central Washington County, NY, knows that it is a very special place, the kind admired by artists, sports people, and other seekers of rural unspoiled places.

The residents of this area are also proud of their glorious surroundings. They are proud as well that, on July 12 of this year, they will celebrate the bicentennial of the establishment of their town, known as Hebron.

The Old Testament Village of Hebron was the burial place of the patriarch Abraham and King David's home for 7 years. Our own Hebron is likewise a special place, and a witness to the New World's faith in the land, the family farm, and traditional values.

The first residents of Hebron, Robert Creighton, John Hamilton, and David Whedon, were hardly pioneers who were equipped with all they needed to set up a home in the wilderness—a gun, an ax, some seed, some salt, and plenty of gumption. The Chase brothers, Abram and Timothy, who arrived shortly later, pushed on still further, to west Hebron, where they cleared the fields, raised their corn and carted it to the nearest gristmill, some 60 miles away.

Soon after, John Hamilton and Robert Wilson purchased a large tract and divided it for sale to relatives and friends from Rhode Island. This land, known as Campbell's Patent, was one of several grants made by the King of England as reward to soldiers for service in the French and Indian War. Most of the grantees had been members of the Highland Scotch 77th Regiment of Foot.

The population grew rapidly, and in 1786, the State legisature formally incorporated the new jurisdiction. Alexander Webster was selected as the first supervisor, and public improvements were undertaken.

By the turn of the century, Hebron had a population of about 2,500. Almost all of the early Hebronites were farmers, raising crops like Indian corn, potatoes, apples, and livestock in general, supplemented by the game they caught. There was not much surplus for sale, and cash was scarce. Gradually however, various residents took tannery, surveying, and weaving, while others became blacksmiths, harness makers, well diggers, and the makers of barrels, shoes, and brooms.

The early Hebron farmer-craftsmen were intent on clearing their land. Yet the more they cleared, the more time it took to farm and the less time was available for their sidelines. At the same time, farm surpluses grew and crops were taken to market over the improved roads. The local economy was thus ready to support full-time craftsmen and merchants. Villages and hamlets were born and quickly developed.

The larger villages which sprang up in Hebron included the Hollow, now known as East Hebron. One store building erected there in 1790 still stands. Another was Bedlam Corners, now West Hebron. Monroe's Meadows is today known as North Hebron. Many smaller hamlets were founded and still exist. These villages served the townspeople very well through the vast changes which came about in the 19th century.

During the industrial revolution, villages in the region manufactured such items as wagons, carriages, mill and leather products, and the famous Hebron potato hook.

Dairy farming became the principal agricultural specialty during the last part of the 1800's, and remains the principal agricultural specialty today, with bulk milk being shipped by truck to help feed the huge populations of the eastern seaboard.

Hebron's villages today are no longer the scenes of bustling commercial activities. Gone are the blacksmith shops and other signs of the way of yesteryear's village life. Gone, too, are the majority of operating family farms.

Yet Hebron's way of life remains vital. The town has not diminished, it has simply evolved into a new phase of history. Lumber, furniture, and cabinetry businesses are still found in town, as our antique shops, agricultural services, and at least one commercial orchard. Craftsmen still flourish here, as do the excellent artists for whom the area is well-known.

The town also has a widely admired volunteer fire department and an up-to-date town government. In the center of the township is the Hebron Camp and Conference Center, purchased by the Presbytery of Albany as a retreat and summer youth program site.

Today's Herbron maintains many physical links to its past, outstanding among them the one-room schoolhouses. The schoolhouse at East Hebron has been restored by the Hebron Preservation Society and now serves as a museum for artifacts, schoolbooks and pictures. Visitors to Herbron can also see some of the town's 34 cemeteries, the final resting places for those who founded the town and for many who have since shaped its destiny.

Hebron is also dotted with lovely old houses and wood frame structures of various architectural styles. Some are 200 years old. Among the most prized buildings are the three fully active churches remaining in the town, the handsome United Presbyterian Church, the stately Methodist Church and the Baptist Church built in 1826.

Hebron still boasts some of the most beautiful farms in the county, and its young people are active in 4–H and win ribbons and prizes each August at the famous Washington County Fair.

A few of today's 1,300 Hebronites can trace their ancestry back to the original prerevolutionary war era. Others are brand new to town, having relocated here to enjoy Hebron's beauty and rural lifestyle. All are proud of their town and determined to preserve it for future generations to enjoy.

This determination is keen now, as we mark the town's bicentennial. Ceremonies and events are planned to give voice and substance to the people's pride.

I would like to close by signaling out from among the many community-minded citizens the work of John Wever, town supervisor, Clif-

ford Rogers, president of the preservation society, and Warren Cardwell, whose painstaking research provided the framework for my remarks today.

I will have the honor of participating in Hebron's bicentennial on July 12. I would like to extend a cordial invitation to one and all to visit our area some day and experience hospitality—Hebron style. Take in the fair, a picnic a historical enactment, or just enjoy the peace and quiet of this small piece of heaven here on Earth.

TO COMMEND SONYA AND TANYA WITT FOR OUTSTANDING PUBLIC SERVICE

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. MICA. Mr. Speaker, the American Institute for Public Service was founded in 1973, to honor the highest ideals and achievements in the field of public service in the United States. Each year the Institute recognizes the dedication, sacrifice and accomplishments of individuals serving the American people, through it's annual presentation of the Jefferson awards.

I wish to take this occasion to commend Sonya and Tanya Witt, 15 year old twin sisters, from West Palm Beach, FL, who will be awarded the Outstanding Public Service Benefiting Local Communities Award Category today. Sonya and Tanya will join Secretary George P. Shultz, Mr. H. Ross Perot, Mr. Eugene Lang, Mr. Robert Hayes, Ms. Ruby Calloway, Ms. Therese Dozier, Ms. Fannie Roston and Mr. Philip Viall who will all receive the 1986 Jefferson Awards today in the Supreme Court ceremony.

Sonya and Tanya first saw the plight of the migrant and immigrant children whose parents work in the agricultural field of western Palm Beach County when they visited Hope Rural School, as part of a school project. They were so affected by the plight of these children, that they volunteered to work in the school's day care program. They learned firsthand, the needs of these children and the poverty that their families had left behind in their homelands of Mexico and Guatemala and were motivated to do something about it.

The twins began to raise funds by baking and selling cakes, mowing lawns and doing any type of small jobs that they could find, and also began collecting books, clothing, toys, and medicine. Their parents agreed that they would assist their daughters by matching their fundraising efforts and help to provide them with the needed airfare to deliver their gifts to the children of a remote mountain village of Merida, Mexico. During the Christmas holiday of 1985, accompanied by their father, Sonya and Tanya delivered their gifts to the Mayan Indian children.

The girls have begun another fundraising effort for a return trip to other poverty stricken areas of our neighboring countries. They have also been active in Cardinal Newman High School by organizing Aid to Africa and serving as cofounders and copresidents of SADD (Students Against Drunk Driving) in that school.

I had the distinct honor of meeting Tanya and Sonya and their parents at the Jefferson Award Ceremony today and was moved by not only their unselfish and deep responsibility for others, but by their untiring energy and commitment to performing extraordinary acts of public service in our community. They are to be commended and are examples to follow in helping establish international goodwill.

USDA'S HISTORIAN RETIRES

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. DE LA GARZA. Mr. Speaker, Members of the House, and I include myself, are sometimes critical of people who work for our Federal Government. When we want to criticize, we call them bureaucrats. But we all know that the roster of Federal employees also includes many thousands of skillful, dedicated men and women whose service provides great benefits to our Government, our Nation, and our people.

Today I want to pay tribute to one of those Government officials, a man whose work over half a century of service has made enormous contributions to American agriculture. He is Wayne D. Rasmussen, who will retire next month as the historian of the U.S. Department of Agriculture.

Thousands of people in this country and in many other parts of the world have reaped the benefits of Mr. Rasmussen's careful, comprehensive, and accurate work over the years.

There is an old and true saying that those who do not know about the mistakes of the past are doomed to repeat them. That's another way of saying that we cannot make sound policy for agriculture * * * or in most other fields, for that matter * * * if we do not know what has been done in this area in the past. One of Wayne Rasmussen's great contributions to our national agricultural policy has come in the way he has kept us in touch with the historical record. When Members of Congress needed background in agricultural history as the foundation for dealing with current and future problems, they have usually been turning to Mr. Rasmussen's work.

This has been going on for many years, Mr. Speaker. When Mr. Rasmussen first joined the Agriculture Department staff, Henry Wallace was Secretary of Agriculture and Franklin D. Roosevelt was in his second term as President. The New Deal farm programs were in place across the country and farm prices were recovering from the disaster of the Depression. In that spring of 1937, when Wayne Rasmussen began work at USDA, cotton prices had moved up to 14 cents a pound and wheat, at $1.26 a bushel, was above 100 percent of parity.

That was a time when the Nation's farm population was nearly 32 million and about one out of every four Americans lived on a farm. Since then, Mr. Rasmussen has served through the administrations of Presidents Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, and Reagan. He has served under Secretaries of Agriculture including Secretaries Wickard, Anderson, Brannan, Benson, Freeman, Hardin, Butz, Knebel, Bergland, Block, and now Secretary Lyng. Agriculture has gone through a technological revolution and our farm population has gone down to just a small fraction of the national total.

Through all these changes, Mr. Rasmussen has been a pioneer in research developing the use of history as a tool in studing and evaluating current and potential agricultural policies. His analyses of Government policies and programs have provided, over many years, an invaluable perspective on agricultural policy and the way it has affected all segments of our economy and our society. Congressional leaders have depended on this basic information, as have Government administrators, historians and economists. His work has provided a broad framework for understanding how American agriculture fits into the national and world political and economic scene. His studies, as a result, have had a major impact on American agriculture.

At the same time, Mr. Rasmussen's work has been an always-available and reliable source of information about American agriculture for reporters, scholars, and students. When news people wanted to give their readers, listeners or viewers the historical background that provides understanding and depth for current developments, they often went first to the man who served as the Agriculture Department's institutional memory, Wayne Rasmussen. Partly because reporters and scholars have come to trust his work, Mr. Rasmussen's interpretations of history have allowed a generation of nonfarm Americans to better understand the vital role of agriculture in their lives.

Mr. Rasmussen's influence goes far beyond our own country. He has often been called on to speak to representatives of foreign governments, to foreign scholars and other visitors to Washington. In 1976 he was selected by the U.S. Information Agency as bicentennial lecturer in the history of American agriculture, traveling in India, Iran, and Afghanistan.

Wayne Rasmussen was born on a cattle ranch in south-central Montana in 1915. He attended Eastern Montana Normal School and taught school in a one-room log cabin. He graduated with a degree of history in 1937 from the University of Montana and went to work for the U.S. Department of Agriculture in that same year. After 3 years in a records management post, he transferred to the history group in the old bureau of agricultural economics, and he has been there ever since. As he prepares to retire, he is the head of the agricultural history branch of the economics research service.

Wayne Rasmussen continued his education after joining the USDA and earned a Ph.D. in 1950 from George Washington University. He is past president of the Agricultural History Society, a founder and past president of the Association for Living Historical Farms and Agricultural Museums, past president of the Society for History in the Federal Government, a fellow of the American Agricultural Economics Association, and the recipient of the superior service and distinguished service awards

from the USDA. He has been a university teacher and an author of books including several on the history of the USDA.

Mr. Speaker, I said that Wayne Rasmussen is retiring, and it is true that he is leaving his post at the Department of Agriculture after 50 years. But he is not retiring from agricultural history. He is planning now to write an historical evaluation of the extension service, a work which I am sure will make another major contribution to our understanding of how our national institutions work.

As Mr. Rasmussen moves on to this next stage of a distinguished career, I think it is fitting that we spread on the public record the fact that the Congress appreciates and honors his service to agriculture and the Nation.

SOVIET SCIENTISTS STRESS SDI FEASIBILITY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. BEREUTER. Mr. Speaker, in an open letter signed by 30 Emigree Soviet scientists published in the Wall Street Journal on June 13, 1986, the Soviet Union's SDI research is characterized as "doable" and well-advanced. Since the late 1960's, according to the emigre scientists, the Soviet Union has engaged in major SDI research, exceeding that of the United States. Development and deployment of Soviet star wars systems is an important Soviet objective, say the emigres. They strongly urge that the U.S. pursue its own strategic defense shield.

For the Members' interest, the open letter from the Wall Street Journal is included in the RECORD:

AN OPEN LETTER TO AMERICANS BY 30 EMIGRE SOVIET SCIENTISTS

In relation to the Strategic Defense Initiative we must tell you, from our experience and understanding, and even though Gorbachev may deny it, we are convinced that:

1. The Soviet scientific community and government leaders believe that effective strategic defenses are technically possible and doable;

2. The Soviet Union has been intensely working on its own version of the Strategic Defense Initiative since the late 1960s, and puts much more of its efforts and resources into its "Star Wars" and strategic defense programs than does the U.S.

3. Development and deployment of Soviet "Star Wars" systems is part of the Soviet Union's global strategy against the noncommunist world which seeks by coercion to usher in the "final historic era" of worldwide Communism and "peace" maintained by Soviet military power.

4. The Soviet Communist leaders can be expected to continue working on their "Star Wars" system, either overtly or covertly and with high priority, no matter what they say or what they sign, or what the U.S. does. . . .

As former citizens of the Soviet Union, we love the country of our birth as much as we love the country of our choice. We want for all the millions of our countrymen, a future of peace and, eventually, freedom. The Strategic Defense Shield will, we believe, help achieve these goals by discouraging the Soviet leaders from using nuclear blackmail to gain their ends, and instead encourage them to turn inward and begin addressing the needs of the Russian and other people subjugated by them.

KIDNEY DISEASE PATIENTS AND THE NETWORK PROGRAM: THE NEED TO AMEND THE ADMINISTRATION'S PROPOSED REGULATIONS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. STARK. Mr. Speaker, Members' offices are receiving mail from end stage renal disease (ESRD) patients about a series of recent regulations issued by the Department of Health and Human Services which impact this life-saving program.

One of the areas of concern is a plan by the administration to fundamentally alter the ESRD Network Program. Currently there are 32 regional networks designed to provide quality assurance and analysis and to represent the concerns of the Nation's 80,000 kidney disease patients. Networks also provide the only reliable source of data and statistics on trends in the treatment of this disease and the operation of this $2 billion-plus program.

As chairman of the Ways and Means Health Subcommittee, I am concerned that the administration's proposed regulations will destroy this important program. HHS proposes to reduce the number of networks to about 14, to separate them from the data-gathering and verification function, to put the operation of the Networks up for competitive bid, and to make other changes.

My staff has reviewed the comments received by HHS to its Federal Register Notice of Proposed Rulemaking. They were all in opposition to the proposals. No one supports the changes. The concerns expressed in these comments from throughout the Nation convince me that we need to legislate some improvements and protections for this program, which is so important in giving patients a voice in the quality of their treatment. During the coming weeks, I will be developing a proposal to help preserve the Network Program. Comments and ideas from the public are most welcome. It is also my hope that the Appropriations Committee will provide more funds for the networks than the woefully inadequate $1 million requested by the administration.

Following are a series of quotes from the letters submitted to HHS in response to its Federal Register notice; they help make an excellent case for voiding much of the proposed regulation.

Rigo Lopez, a hemodialysis patient and president of the Orange County Chapter of the National Kidney Foundation:

"If I might be open with you, we patients have a very hard time just trying to live something close to a 'normal' life. Being on a dialysis machine 3 times a week for 4 to 5 hours each time, living on a restricted diet, not ever having enough energy to complete a simple task, cutbacks in Medicare, fighting the providers to get proper medical care in light of those cutbacks, and now you want to take away or completely change a proven system. A system we have come to rely on. And not just a system but a people we know and trust."

David E. Berger, director of government relations, National Medical Care, Inc.:

"Networks have in the past benefited from a substantial input of voluntary effort by members of the ESRD community. They have, in this regard, been an excellent example of the spirit of volunteerism which has been a cornerstone of many of President Reagan's policy initiatives. The 'local' character of the networks has been an important element in generating and supporting that voluntary effort. Volunteerism has allowed the Networks to do far more than would otherwise be possible given their limited budgets.

Jane Parker, president, American Nephrology Nurses' Association:

It takes a tremendous amount of effort on the part of network staff to complete even the routine data collection tasks. It seems absurd to even consider the suggestion of reverting to a data collection system that was tried in the past, yielded less than 50 percent compliance, and hence failed. How can we consider taking even a small step backward in collecting and maintaining the data on a federal program with costs in excess of $2 billion?

This routine and special data collection can only be accomplished completely and accurately under the current system where network staff work closely with facility staff and eventually get all necessary data.

Four and one half million dollars for a national data system along with everything else networks provide seems a reasonable expense for a $2+ billion program.

Friedrich K. Port, M.D., director of a Veterans Administration Hospital dialysis unit:

". . . I find that the proposed rule changes are a severe insult to the huge volunteer force that has been working for Networks.

Douglas Maxwell, M.D., University Nephrology Associates:

These organizations [Networks], which are extraordinarily economical, are the only organizations which provide any specific patient tracking data for the End-Stage Renal Disease Program. . .

Jack W. Owen, Executive Vice President, American Hospital Association:

While the AHA supports the effort to enhance the efficiency and effectiveness of the ESRD program, the AHA "has strong reservations about the way HCFA proposes to use a competitive contracting process to establish the network organizations.

Brad Stuewe, President, Network Coordinating Council:

As a result of the data operations of the 32 Networks, HCFA now has 100 percent compliance for the ESRD Facility Surveys with 99 percent accuracy.

Judith Ann Almdale, Director, Nutrition Service, West Suburban Kidney Center, SC.:

As a facility representative of Network 15, it is immensely satisfying for me to look back on the Network's many collective accomplishments in quality assurance, education, patient treatment and rehabilitation, data systems and other areas. Despite prior

funding limitations, the Networks have continued to provide an effective mechanism to insure the best possible ESRD services. This is due in great part to the extensive volunteer support and experience donated by those patients and professionals involved in the ESRD program. The networks will continue to function as a linkage between the Federal Government, the providers and the consumers of ESRD services as long as the proposed rule HSQ-115-P is not instituted.

John Gill, spouse of a ESRD patient:

In a final plea for a more realistic understanding of the ESRD program, I ask you, if your own spouse, child or another member of your family was a dialysis patient, would you vote for this proposal?

David M. Roxe, Northwestern Medical Faculty Foundation, Inc.:

Don't kill the Networks. The patients need them.

Allan G. Kavalich, Director, Nephrology, San Bernardino County Medical Center:

"The proposed rule would virtually destroy all that has been achieved by the networks in the past 8 years.

HCFA: PROMPT PAYMENT OF MEDICARE CLAIMS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. SMITH of Florida. Mr. Speaker, I am pleased to cosponsor House Resolution 471 introduced on June 11 by the gentleman from Florida [Mr. MACKAY]. This resolution calls for the prompt payment of Medicare claims and calls for congressional action if this is not accomplished.

HCFA has not allocated sufficient funds to process claims through the end of the fiscal year. This has resulted in a huge backlog of Medicare claims and a delay in payment to both beneficiaries and health care providers.

This deliberate attempt to deny timely processing of claims creates a false sense of economy. Unpaid claims are transferred to the next fiscal year in order to reduce the budget impact to HCFA. I fail to see the value of this budgetary maneuver which will only continue to delay the payment of claims.

In Florida, Blue Cross and Blue Shield was expected to receive enough funds from Medicare to process 20.6 million claims. With a reduction of $1.3 million from HCFA, Blue Cross and Blue Shield will be able to process 19 million claims. That will leave 2.1 million claims to be processed at the end of fiscal year 1986 as compared to over 500,000 remaining at the end of fiscal year 1985.

The increased waiting period has discouraged physicians from participating in the Medicare Program, since they are not being paid in a timely manner. In addition, the delay in claims processing presents a serious hardship for the millions of elderly citizens with limited financial resources forced to wait months to receive reimbursement for medical services.

I urge my colleagues to join in cosponsoring this resolution to send a loud and clear message to the administration that unless appropriate actions are taken, the House will ensure proper funding to guarantee the timely payment of Medicare claims.

SILVER SPRING MONKEYS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. MRAZEK. Mr. Speaker, I rise to express my outrage over yesterday's action by the National Institutes of Health [NIH]. As you are aware, NIH removed 15 monkeys in 1981 from a Maryland laboratory [IBR] when it discovered that they were living in grossly inhumane conditions. Since that time, the monkeys have been the subject of dispute between NIH and IBR, neither of which wants the primates. These monkeys, who are now mutilated as the result of research experiments performed on them, have gained notoriety as Members of Congress as well as the general public have urged NIH to release them to a primate sanctuary in Texas.

For reasons which remain unclear, it has taken NIH 5 years to resolve the monkeys' fate. Yesterday, in complete disregard for legislation pending in Congress urging that the primates be sent to the Texas sanctuary, NIH transferred the animals to Delta Regional Primate Research Center, located in Louisiana. This center has one of the highest animal mortality rates of any research facility in the Nation. In 1979, the center's Rhesus monkey mortality rate was 85 percent, and last year more animals died there from accidents than from experiments.

It is inconceivable to me why NIH would undertake this action. The monkeys' physical condition makes them poor subjects for future experimentation, and humane considerations make them more than qualified to live out their lives in peace.

I am proud to be an original cosponsor of legislation urging NIH to release the monkeys to Primarily Primates, the Texas sanctuary which has offered to provide permanent homes to the animals for the rest of their lives. I urge NIH to reverse yesterday's action by removing the monkeys from Delta Regional Primate Research Center and relocating them to the Texas sanctuary. The animals' value as research subjects has been exhausted, and it is time to set them free.

GILMAN SUPPORTS H.R. 4252 THE FIRE PREVENTION AND CONTROL ACT OF 1986

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to commend the Committee on Science and Technology for reporting legislation reauthorizing a variety of Federal programs to aid our local firefighters. The men and women who daily risk their lives to protect our families, homes, and businesses from the ravages of fire richly deserve the education and technologies afforded through these important fire prevention and containment programs.

In 1974 Congress recognized the tremendous need to consolidate Federal efforts to control and prevent fires. Accordingly, Congress enacted the Federal Fire Prevention and Control Act of 1974, authorizing research, education, and training efforts especially designed to help our local firefighters in the performance of their duties.

Since 1974, the U.S. Fire Administration [USFA] has functioned as the lead agency to help State and local governments develop the most effective measures in reducing the incidence and destructiveness of fire. While the Administration had recommended elimination of the USFA in their fiscal year 1987 budget proposal, this agency's work in the areas of fire prevention and control can be held directly attributable for 2,000 fewer deaths per year than prior to the establishment of these fire prevention programs. I join my colleagues on the committee in their strong support of the USFA.

Another service funded through this legislation is the National Fire Academy [NFA]. At the National Fire Academy, firefighters receive invaluable training—training which helps our dedicated firefighters perform their jobs more safely and effectively. The NFA also disseminates Federal research information to firefighters, trade organizations, insurance companies, academia, code-enforcement official, city managers, architects and engineers. I am pleased to note that the committee has continued allowing travel stipends and lodging expenses for firefighters attending the NFA. The average career or volunteer fire department cannot afford the expense of sending their members to participate in the fire-safety training programs at the NFA in Emmitsburg, MD. Therefore, it is important that we maintain this support so that our firefighters can continue to benefit from these vital programs. In that regard I note in the committee report, that volunteer firefighters might not have adequate access to the NFA. Indeed 75 percent of the people in this country live in areas served by volunteer fire departments and yet only 3 percent of the NFA participants are from volunteer fire departments. I join the committee in urging the NFA to give priority to volunteer firefighters in making course allocations and allotting travel stipends and to strengthen its field training program which is more accessible to volunteer firefighters.

The programs reauthorized under this measure, have over the past decade, improved the delivery of fire prevention technologies to our cities and towns, both large and small. Accordingly I urge my colleagues to fully support this measure and I invite our firefighters to avail themselves of these excellent programs.

ESTHER TORRENCE CRUM

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. DONNELLY. Mr. Speaker, I rise today to pay tribute to Esther Torrence Crum, a much-

admired native of Brockton, who recently retired after nearly three decades of service at the Veterans' Administration Medical Center in Brockton.

After attending local schools, Esther May Torrence went to New York City to study nursing at the Harlem Hospital. There she met Frank Crum. They were married in 1945; they were joined in 1947 by a daughter, Yvonne.

Esther Crum served at Harlem Hospital and Beth David Hospital in New York. The family moved back to Brockton in 1954, and Esther accepted a position at the Veterans' Administration hospital 3 years later.

As nurse and head nurse at the VA hospital, Esther drew high praise. On her retirement, she received a special commendation from the acting Medical Director which read, in part:

You are to be commended for 29 years of exemplary service to the Veterans' Administration. Throughout your career as a staff nurse and as head nurse, you have exemplified the highest professsional standards. You have served as a role model not only for the other nursing staff but for all employees at the Brockton Veterans Administration Medical Center.

That she is widely esteemed is evidenced by a petition signed by many of her coworkers and friends in the community, who nominated Esther this year as "Massachusetts Nurse of the Year."

In addition to her work on behalf of our Nation's veterans and her duties to her family, Esther Crum has been active in a wide variety of community service organizations, among them the Brockton chapter of the NAACP, Brockton League of Women Voters, Women's Guild of the Lincoln Congregational Church of Brockton, Brockton T.J. Bell Community Center, March of Dimes, Urban League Guild of Boston, National Urban League, American Nurses Association, and the National Black Nurses Association. She also served on the first board of directors of Self-Help, Inc. the Brockton area's community action agency.

I am pleased to take this opportunity to add my voice to those of many of her friends and neighbors in thanking Esther Crum for her many years of devoted service and in wishing her well on her retirement.

ALAMEDA NAVAL AIR REWORK FACILITY MAINTAINS HIGH RATING; EMPLOYEE PRODUCTIVITY GAINS CITED

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. DELLUMS, Mr. Speaker, I am pleased to announce that the Naval Aviation Logistics Command has again rated Alameda Naval Air Rework Facility as one of the Navy's most efficient. I have the honor of representing many of Alameda's 4,600 civilian employees in this body, Mr. Speaker, and it is with great pride that I submit the following press release from Alameda NARF summarizing this accomplishment:

NARF ALAMEDA, NO. 2 AND HOLDING

The Naval Air Rework Facility (NARF) Alameda has once again been ranked second in efficiency out of six NARF's nationwide. Results for the second quarter of fiscal year 1986 revealed that, with 87.13 points out of 100, Alameda placed second, bringing its four-quarter average to second place and 85 points.

Under the dynamic leadership of Captain R.W. Lloyd, commanding officer, the facility has come from $72 million in the red, ranked at 41 points out of 100 in 1983, to operating in the black by February 1986. Workers believe this dramatic turn-around averted a threat of closure indicated by the Pentagon's March 1985 announcement of 22 military installations (including NARF Alameda) that were so destined.

The six NARF's, two on the West Coast and four on the East Coast, are ranked quarterly by the Naval Aviation Logistics Command in Patuxent River, Maryland. The 4,600 civilian workers at Alameda have had to "work smarter" to compete for the Fleet's workload in an area where the cost of doing business if higher than any of the other NARF's. Much of that workload, if not performed at Alameda, would have to be accomplished elsewhere at the cost of establishing all new facilities.

DON SUTTON'S 300TH VICTORY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LEVINE of California. Mr. Speaker, I rise to congratulate Don Sutton on his 300th major league victory. In reaching this milestone, Don Sutton has become the 19th pitcher in the history of baseball to win 300 or more games. This is a remarkable accomplishment, by an extremely talented athlete.

Don Sutton's career is a testament to the importance of consistency and hard work. While he has not received the acclaim and recognition accorded to many of his more flamboyant, but less talented, contemporaries, he is, nevertheless, one of the great pitchers of our time. His election to the Hall of Fame is virtually certain.

Don Sutton first broke into the major leagues, and had his most productive seasons, with the Los Angeles Dodgers. The Dodgers are a team with a rich heritage of great pitchers. Great pitchers like Don Drysdale, Sandy Koufax, Don Newcombe, and Johnny Podres have given the Dodgers a well deserved reputation for consistently developing some of the finest pitchers in baseball history. Don Sutton has surpassed the career accomplishments of these great pitchers in such crucial categories as wins, shutouts, and strikeouts.

In addition to his 300 wins, Don Sutton holds a number of other major league records. Among them are:

Most years and most consecutive seasons with 100 or more strikeouts at 20;

Tying the National League record for the most 1-hit games with 5;

Most scoreless innings in a 4-game league championship series with 15⅔;

Most innings pitched in a 4-game championship series with 19;

Tying the 4-game series record for games won with 2; and

Most complete games and most strikeouts in a 4-game championship series. His lifetime championship series earned run average is a microscopic 2.06.

In addition, he was voted the National League rookie of the year in 1966 and was selected by the Sporting News as the right-handed pitcher of the year in 1976.

He now ranks sixth on the all-time career strikeout list and is ninth on the all-time shutout list.

All of these accomplishments identify Don Sutton, not only as one of the great pitchers of the last two decades, but one of the greatest of all time.

Mr. Speaker, I take great pleasure in paying tribute to Don Sutton, and I ask my colleagues to join with me in honoring him.

S. 2414

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. BIAGGI. Mr. Speaker, I rise in support of S. 2414, to address several of law enforcement's major concerns about the recently enacted Federal Firearms Law Reform Act.

As a 23-year police veteran, I joined the law enforcement community in expressing my vocal opposition to the Federal Firearms Law Reform Act—a bill I argued would make life easier for the criminal, while making the police officer's job more difficult and more dangerous. S. 2414 does not address all of my concerns about Federal Firearms Law Reform Act; however, together with several important concessions won by law enforcement during the previous consideration of the Federal Firearms Law Reform Act, I am pleased that important gains have been made in correcting serious and potentially life-threatening deficiencies that existed in the original product.

Most significantly, S. 2414 makes important improvements in the interstate transportation of handgun provision in the Federal Firearms Law Reform Act, which allows an individual to transport his handgun during interstate travel, as long as that individual has the weapon unloaded and not readily accessible. However, that broad provision allowed the gun to be as close by as the glove compartment, and had no regard for the gun laws in the state of origin or destination. This provided criminals with a gaping loophole in the law, and made it dangerous for the law enforcement officer. S. 2414 specifically states that during interstate transport the handgun must be unloaded and in a locked compartment in the trunk of a car or some other inaccessible location if the authomobile does not have a trunk. It could not be merely secured in the glove compartment. Further, interstate transportation of a handgun would only be allowed if the gun laws in the State of origin and the State of destination permit the individual to possess the weapon.

Second, the bill clarifies language in the Federal Firearms Law Reform Act that could be used by unscrupulous gun dealers to avoid

important recordkeeping requirements if they sell weapons on a not-for-profit basis to terrorists or other criminal types. S. 2414 would strictly prohibit such skirting of the law.

Third, S. 2414 would prevent gun dealers from avoiding recordkeeping requirements if they merely transfer a firearm from their business inventory to their private collection, and sell it from there.

Mr. Speaker, these are responsible and much needed changes that are clearly consistent with the best interests of law enforcement and, thus, public safety. I think it is important to recognize that these changes would not have been made if not for the dedicated and tireless efforts of the Law Enforcement Steering Committee Against S. 49, a coalition of 12 leading national law enforcement groups. Each of these groups deserves special recognition for their outstanding work on behalf of our Nation's nearly 600,000 Federal, State, and local law enforcement officers. These groups include the Federal Law Enforcement Officers Association; the Fraternal Order of Police; the International Association of Chiefs of Police; the International Brotherhood of Police Officers; the National Organization of Black Law Enforcement Executives; the National Sheriffs' Association; the National Troopers' Coalition; the Police Executive Research Forum; the Major Cities Police Chiefs; the National Association of Police Organizations; the Police Foundation; and the Police Management Association.

Mr. Speaker, seldom does the law enforcement community raise such a loud and unified voice. When they do, it is for very good reason, and this is one of those times. The law enforcement officers of our Nation have sacrificed much for the benefit of their fellowman; a fact that is clearly demonstrated by the more than 1,500 line of duty police deaths during the last 10 years. They ask very little in return. They have asked for the passage of S. 2414, and we should welcome the opportunity to show our respect and appreciation for the vital contributions made to our society by the law enforcement community. We should pass S. 2414.

THE 50TH ANNIVERSARY OF DOMINICK BARANELLO AND LUCY BERINATO

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LENT. Mr. Speaker, on July 5, 1936, Dominick Baranello wed Lucy Berinato in the Sacred Heart Church, Brooklyn, NY. This year, they will celebrate their 50th wedding anniversary. Their family and friends will commemorate this very special day with a dinner in their honor at the Imperial Manor, in Bethpage, NY.

In honor of this truly memorable occasion, I'd like to say just a few words about the Baranellos, who are my constituents from North Massapequa. I've known the Baranellos for several years. Their lasting relationship is testament to the importance they place on family values, and they are extremely proud of their children and grandchildren.

For many years, Dominick worked with the town of Oyster Bay. In 1971, he joined the Nassau County government as assistant director of the bureau of building services, and in 3 years, rose to the position of superintendent of Building Department of Public Works of Nassau County.

The Baranellos participate in many community activities and worthy organizations. Dominick is a member of the Kiwanis Club of Plainedge/North Massapequa. He is a charter member of the Massapequa Elks No. 2162, as well as the Order of the Sons of Italy in America [OSIA) Columbus Lodge No. 2143. In addition, Dominick Baranello has served with distinction for over 25 years as Republican executive leader of the town of North Massapequa. Their efforts to give of their time and of themselves to benefit their fellow man and the less fortunate are worthy of the highest commendation. The Baranellos are exemplary American citizens, and I am proud to represent them in Congress.

I'd like to join their family and friends in extending my most sincere congratulations to Dominick and Lucy Baranello on their 50th anniversary, and offer my best wishes for many years of continued health and happiness together.

COMMEMORATING THE RESTORATION OF UKRAINE'S INDEPENDENCE

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. HERTEL of Michigan. Mr. Speaker, today I rise to commemorate the 45th anniversary of the "Restoration of Ukraine's Independence."

It was during the revolution against the Tsarist Russian empire that Ukraine first declared its independence. A government was formed and recognized by many other legitimate governments. Unfortunately, once the Bolshevik party came into power in Russia, it launched an aggressive and eventually successful campaign against the Ukrainian forces. The indomitable spirit of these courageous Ukrainian people, however, was not defeated. An underground struggle continued, led by the Organization of Ukrainian Nationalists [OUN].

Directed by Stepan Bandera, the OUN persisted in its efforts against foreign occupation powers. When war broke out in June of 1941, the OUN was able to take advantage of the unstable situation caused by the conflict between Stalin and Hitler. On June 30, 1941, the Ukrainian underground occupied key areas of Lviv, the West Ukrainian capitol, including the city's radio station. It was from here that the Proclamation of the Restoration of Ukraine's Independence was broadcast, and the establishment of a Ukrainian Free State was begun. A provisional government was appointed and Mr. Yaroslav Stetsko became the Prime Minister. On that same day, in most towns and villages across Ukraine, smaller groups of the OUN surfaced and, with much popular support, led campaigns against retreating Russian soldiers.

Germany refused to recognize Ukraine's independence and issued an ultimatum demanding immediate cancellation of the Proclamation of Independence and the disbanding of the Government. When they refused to comply, Government leaders were tortured and sent to concentration camps. Many other Ukrainian leaders were shot or imprisoned. These barbarous acts did not defeat or deter Ukraine. In fact, by the summer of 1943, the German military occupation of Ukraine was in the process of disintegration.

Instead of peace following the defeat of Germany in Ukraine, the Ukrainians were forced to escalate their struggle in a new war against Soviet Russian imperialism. During this intense confrontation, which continued into the 1950's, the Ukrainian forces continued to valiantly fight for peace and freedom. Although never militarily defeated, the Ukrainian nationalists were eventually forced to decentralize and form a Ukrainian national underground.

Today, Ukrainians everywhere continue to struggle for the recognition and respect they so richly deserve. I ask that my colleagues remember these events and join with me and the Ukrainian community of southeast Michigan in commemorating the courageous and dedicated actions of the Ukrainian people who declared, and fought for, the restoration of Ukrainian independence.

MERVYN DYMALLY: A CHAMPION

HON. FOFO I.F. SUNIA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. SUNIA. Mr. Speaker, I rise today to bring to the attention of our fellow Members an excellent article about one of our finest colleagues. This past May 29 A.S. "Doc" Young of the Los Angeles Sentinel devoted his entire column to extolling the virtues and accomplishments of the Honorable MERVYN M. DYMALLY, the distinguished Member from the 31st District of California. Mr. DYMALLY and I began our congressional careers on the same day, January 3, 1981. I have always followed Mr. DYMALLY's work with tremendous interest.

Herewith is the Los Angeles Sentinel article. I recommend that our colleagues read it.

MERVYN DYMALLY: A CHAMPION

There are many Black champions in the nation's political arena today. There aren't as many, of course, as there should be; after all, only about one percent of the nation's half-million-plus publicly-elected officials are Black. But—especially in this big-money, television-dominated, political era—it isn't easy for Black candidates to mount winning campaigns.

Many of them—most of them, perhaps, if not all of them—are modern, melanin-tinted Horatio Algers who bootstrapped their way into victory.

Congressman Mervyn Dymally exemplifies the best among them. By All-American definitions, he is a champion-among-champions. His story is the stuff out of which

good books, motion pictures, and television specials are made.

Mervyn Dymally was born in Trinidad. When he came to the United States at an early age, he had to struggle because he was poor. But, he got an education and became a school teacher. From that launching pad, as it were, he entered politics, getting himself elected to the California State Assembly, the California State Senate, and the office of Lieutenant Governor. Meanwhile, he studied political science in college, mastered the art of working effectively with office-holders of varying political beliefs, and schooled others, including young, Black students and aspiring office-holders, in the winning ways of his profession.

When Mervyn Dymally ran for the Lieutenant Governor's office (while Jerry Brown was the Democratic candidate for Governor), he was a sleeper. He was Black. He had been, as said, born in Trinidad. Traces of the Trinidadian accent could be heard in his speech. He aspired to a state-wide office no other black person ever had held before him.

But, in typical Dymally fashion, he began his campaign long before the election. He traveled the state from one end to the other. He met with the powers-that-were, not only in politics, but also in business and the media and labor; he met with Democrats, Republicans, liberals and conservatives. He introduced himself to all those people of varying races, creeds, and colors, and he told his story convincingly.

Certain usually-hip members of the major media didn't take him seriously; they certainly didn't seem to realize that he was a serious contender for the office until it was almost time for the voters to go to the polls in the general election.

Jerry Brown was elected Governor.

Dymally, as I recall, out-polled Jerry Brown by some 200,000 votes!

Dymally, victory in the race for the Lieutenant Governor's office must be ranked among the greatest political triumphs of all time.

It must be ranked with Tom Bradley's election as mayor of a city with no more than 17 percent Black population; Edward Brooke's election to the U.S. Senate from Massachusetts when that state probably had no more than three percent Black population; Harold Washington's election as Mayor of Chicago, which is the most racist big city in America; Harvey Gantt's election as the Mayor of Charlotte, North Carolina; and Douglas Wilder's election last fall as the Lieutenant Governor of Virginia. Wilder, like Dymally, was a sleeper!

Mervyn Dymally is one of the smartest politicians in America today. He is a master of his craft. He is a great organizer and motivator. He loves being a professional politician who holds public office. He also possesses the incredible energy and stamina that political success demands. He has been known to spend as many as 20 hours daily in his profession for extended periods of time.

The bottom-line with Mervyn Dymally is hard work. He has admitted that, speaking modestly. He pays attention to detail. He leaves little to chance. He isn't one to take it easy, or to get over-confident, when an election is on the line. As as result, he rarely suffers defeat; the candidates he supports rarely suffer defeat.

In addition to the aforementioned "handicaps," Mervyn Dymally was forced over an extended period in his political career, to shoulder a heavy load of major-media criticism. He was accused of wrong-doing. Certain Black people heard or read the allegations and they, too, began to dump-on Dymally. But, he survived.

There probably was no way he could have been re-elected as Lieutenant Governor of California, Governor Brown being the kind of a person he was. But, this rare defeat-the first since he had begun to campaign for public office did not crush him. His daughter, probably softened the blow when she discerned a ray of sunshine in the loss.

"Now," she said, "I'll have my daddy back!"

But, this was his life. This was his career. And, he wasn't going to quit. He went on to win election as a United States Congressman, which he is today.

The vast majority of Black publicly-elected officials are Democrats. But, they aren't all "rubber-stamp Democrats."

The special needs of Black people, the unique problems they face, the reluctance of White racists, bigots, conservatives and others to play fair makes it mandatory that they project racial concerns as they do their jobs.

Some Black politicians believe they are more sincere than other politicians, that they are more sensitive to the needs of people, that they are more understanding.

Not all of them are, however. Like other politicians, bad Black politicians are talked about like dirty birds, blamed for various failures, compared to used-car salesmen.

It would be illogical to expect that all Black politicians would be as clean as the proverbial hound's tooth, as deeply committed to civil rights as the late Roy Wilkins or Dr. Martin Luther King, as spell-binding as Barbara Jordan.

But, we cannot sell the lot of them short. More than a few of them are heroic figures. It is the rare one, who isn't fascinating.

HOUSING ACT OF 1986

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 1) to amend and extend certain laws relating to housing, and for other purposes.

Mr. WYLIE. Mr. Chairman, on June 5, 1986, during consideration of the Housing Act of 1986, the House passed by voice vote an amendment offered by Mrs. BURTON, as amended by Mr. MORRISON, concerning procedures and policies for mandatory meals in assisted housing for the elderly.

The subject on this amendment was hotly debated both in subcommittee and full committee markup. The amendments offered at the committee level were by far much better than was in the original H.R. 1. H.R. 1 as originally introduced would have prohibited a mandatory meals program all together.

Now it is not that I am necessarily for anything mandatory, but meals programs in housing for the elderly have been proven to be beneficial to the tenants. Recently, there have been some court challenges on this issue between elderly tenants and owners of housing projects for the elderly. I believe that both HUD and the owners of housing projects for the elderly share some of the blame for some of the unfortunate incidents which have led to litigation. However, I believe that now that HUD is under court order to promulgate regulations pertaining to policies and procedures for mandatory meals—the regulatory process would be the more preferable arena to address this issue.

Recognizing that the gentlelady from California [Mrs. BURTON] had two previous court cases in her district, I understand and appreciate her concern and motivation for the amendment.

The Burton amendment, as I understand it, is quite similar to the court ruling which HUD is operating under to develop its regulations. I commend Mrs. BURTON for her work on this amendment along with my colleagues on the Banking Committee, Mr. VENTO and Mr. LEVIN who had input in the gentlelady's amendment.

However, I hope that the forthcoming HUD regulation meets the letter and spirit of the court order and the Burton amendment which would then obviate the need for the statutory provision should the regulation be published before a conference.

RETIREMENT OF ADM. JAMES D. WATKINS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. SKELTON. Mr. Speaker, I rise today to pay tribute to an outstanding military officer, Adm. James D. Watkins, who is stepping down as the Chief of Naval Operations.

A 1949 graduate of the U.S. Naval Academy, he served in destroyers and submarines. After completing the reactor engineering course at the Oak Ridge Library, he received a masters degree in mechanical engineering from the Naval Postgraduate School in 1958.

Throughout his military career, Admiral Watkins has held a wide variety of important command and staff positions culminating in the position of the 22d Chief of Naval Operations. Other key posts held recently include Commander in Chief of the U.S. Pacific fleet, Vice Chief of Naval Operations, and a dual assignment as Commander of the Sixth Fleet and as NATO Commander of Naval Striking and Support Forces Southern Europe.

As Chief of Naval Operations, Admiral Watkins concentrated on what he considered to be the cornerstone of naval professionalism—fighting smart. One of the admiral's earliest efforts as CNO was revitalizing of the Naval War College as a center for naval thought and study. The magnitude of improvement in the college is typified by the rise of post-command commanders attending the college from 3 to 128 officers within 3 years. In addition, the strategic studies group for six carefully selected officers was developed. This year-long fellowship provides the superb experience while stimulating and formalizing innovative strategic thought.

Mr. Speaker, I would also like to point out that Admiral Watkins emphasized interservice cooperation, a matter for which I have worked extensively. In a major effort to improve inter-

operability of military services and to take a joint approach toward development and procurement programs that have joint applicability, the joint resources management board was developed.

Awards and decorations received by Admiral Watkins include the Distinguished Service Medal, the Legion of Merit, the Bronze Star, and several other medals and ribbons. He has been decorated by various foreign countries including Brazil, Korea, France, Spain, Japan, Pakistan, and Sweden. In June 1983, he was inducted as a Knight of Malta, an international order of leading Catholic laymen dedicated to humanitarian charity.

Mr. Speaker, I feel that the Members join me in praising this distinguished American military officer for his many years of dedication to his country, and in wishing Admiral Watkins and his wife, the former Sheila Jo McKinney, and their 6 children, Katherine, Laura Jo, Susan, Charles, James Jr., and Edward all the best in the many years to come.

A BILL FOR THE RELIEF OF VALERIE S. FORD

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. BLILEY. Mr. Speaker, it is unfortunate that at times certain problems cannot be dealt with swiftly and simply. Small errors can engender great inconvenience and frustration. My purpose in introducing this private bill today is to correct an error made by the Navy with regard to the travel entitlements available to Mrs. Valerie S. Ford of Richmond, VA. I have various pieces of correspondence pertaining to the events surrounding the case. Since they only serve as a partial explanation of the situation, however, I will go over briefly the course of events.

In March 1982, SHC Gregory V. Ford, then husband of Mrs. Ford, received PCS [permanent change of station] orders which transferred him from Barbers Point, HI, to the U.S.S. *Ajax* [AR–6] in San Diego, CA. His wife and two children remained in Hawaii for the time being on the assurance that she could move until her husband had 1 year left on the new orders.

Later on, Mrs. Ford filed for divorce. Before the divorce became final, she made inquiries at the legal offices at Barbers Point to find out what she was entitled to under the regulations with regard to transportation. She was told that she was entitled to transportation up to 1 year from the date the divorce became final, which was on April 14, 1983. In November 1983, she decided to move and contacted JJPSO at Pearl Harbor. The transportation manager there at that time informed Mrs. Ford that she was entitled to transportation under the joint travel regulations [JTR] up to 1 year after her divorce became final.

On the authority she received from these inquiries, Mrs. Ford sold her home in Hawaii and found a job in the Commonwealth of Virginia. However, in March 1984, when she started the process to transport herself, her children, and her household goods to the mainland, she was told that the time in which she could claim her benefits had expired 6 months after her husband had received his PCS orders.

In a letter to Senator INOUYE, Capt. R.W. Twilde, Director of the Congressional Liaison Office of the U.S. Navy, writes that Mrs. Ford can only gain relief through the introduction of a private bill in Congress. He adds that the purpose of private bills is "to remedy unfair situations," and that he hopes "Mrs. Ford's request for this action is favorably received."

The bill I am introducing, if passed, would permit the Navy to reimburse Mrs. Ford for the costs of transporting her family and her household goods to Virginia where she is now a resident of the Third District. Senator INOUYE has introduced a similar bill in the Senate. I, too, hope that her request is favorably received.

Thank you, Mr. Speaker.

H.R. 5082

A bill for the relief of Valerie S. Ford

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONAL REIMBURSEMENT FOR CERTAIN TRANSPORTATION EXPENSES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Navy shall reimburse Valerie S. Ford (Social Security Number [redacted]) of Richmond, Virginia, for expenses she incurred for transportation of herself and her 2 dependent children during May 1984, from Makakilo, Hawaii, to Petersburg, Virginia, and for transportation of her household goods from Makakilo, Hawaii, to Richmond, Virginia, if such Secretary receives from Valerie S. Ford, within 1 year after the date of the enactment of this Act, an application for reimbursement and a documentation of expenses as would have been appropriate had such application and documentation been timely submitted.

(b) LIMITATION.—Sums paid under subsection (a) shall not exceed an amount which would have been payable for the transportation referred to in such subsection had such transportation been timely made and an application for reimbursement and documentation of expenses therefor been properly and timely submitted.

SEC. 2. LIMITATION ON ATTORNEY'S FEES.

Notwithstanding any contract or agreement, it shall be unlawful to pay, or deliver to, any agent or attorney, or for any agent or attorney to receive, any amount in excess of 10 percent of the sums paid under section 1, on account of services rendered in connection with this claim. Any person found to have violated the preceding sentence shall be fined not more than $1,000.

VIOLATIONS OF THE BOLAND AMENDMENT

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. COLEMAN of Texas. Mr. Speaker, today I am introducing a resolution of inquiry which directs the President of the United States to provide the House of Representatives with certain information regarding actions undertaken by National Security Council personnel which may have been illegal.

From October 1984 to November 1985, the Congress adopted the so-called Boland amendment. This amendment provided that no funds available to the Central Intelligence Agency, the Department of the Defense, or any other agency of the United States involved in intelligence activities may be obligated or expended to support, directly or indirectly, military or paramilitary operations in Nicaragua.

In November 1985, a revised Boland amendment took effect which permitted sharing intelligence information, giving nonmilitary advice, and providing communications equipment and training in its use.

Various media accounts over the past several months, not directly denied by the administration, have alleged that National Security Council personnel—specifically Lt. Col. Oliver L. North, Deputy Director for Political-Military Affairs—violated the Boland amendment by providing military advice to the Contras and arranged for as well as promoted a private network for indirect funding to the Contra high command, again in violation of the Boland amendment.

The network established by Lieutenant Colonel North allegedly employed the services of two intermediaries—Conservative Activist Robert W. Owen and retired Army Maj. Gen. John K. Singlaub Owen, operating as a private citizen during the time of the ban on military aid, worked out of North's office in late 1984 and early 1985. A senior administration official has been quoted as saying that North sent messages through Owen to the Contra high command and that Owen was generally perceived as North's "buffer"—allowing North to circumvent the Boland restrictions.

Retired Army General Singlaub is generally credited, according to various sources, with having established and coordinated an international network designed to raise money for the Contra high command's purported purchase of arms and for advising the Contra leaders on military strategy. Singlaub admits to meeting with North face-to-face once a month and notes that he communicated with North telephonically at least once a week. In an interview granted last October, Singlaub stated that his relationship with North was like that found in the military when a junior officer tells his superior what he plans to do and silence is regarded as approval.

My resolution of inquiry seeks answers and information to two central questions. Did Lieutenant Colonel North develop and implement a plan for Contra funding in the event that Congress did adopt the Boland amendment? Sources indicate that this plan exists in memo form somewhere within the offices of the NSC or the White House. Second, what was the degree of Lieutenant Colonel North's involvement with the Contra high command before, during, and after the Boland amendment became the law of this land? Did he assure the Contra generals that the administration would find a way to ensure continued funding and assistance even in the event of a congressional ban? Did he, as alleged, provide regular tactical and logistical assistance to the

Contra high command on a regular basis? Did Lieutenant Colonel North then implement a sham network of intermediaries to filter his continued advice to the Contra generals in direct violation of at least the spirit of the Boland language?

The silence of this administration on these particular points thus far is deafening. The White House, the State Department, and the National Security Council have refused to comment on these extremely serious charges or to even respond to congressional inquiries for clarification. I think that the American people, through their elected officials, deserve to have these allegations answered in a comprehensive as well as forthright manner.

No one can be allowed to operate above the law of this great country—least of all those officials obligated to defend our Constitution. This resolution of inquiry touches upon areas of concern that go far beyond the question of one's position relative to Contra aid. Rather, this course of action goes to accountability and ensuring that one branch of our Government disregards the other two.

Mr. Speaker, I introduce this resolution very reluctantly. I believe it to be a dark day in the history of this particular administration that such an action must be taken by a Member of Congress just to get a response to these disturbing charges.

A SALUTE TO ROBERT K. FINN

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. CONTE. Mr. Speaker, I rise today to pay tribute to Robert K. Finn, who at the young age of 52 passed away on May 17, 1986. His untimely death came as a shock to the estimated 1,000 mourners who crowded the foyer of St. Mary of the Assumption Church in Northampton, MA, to pay their last respects to Bob Finn.

During his 30 years in education, Bob showed unparalleled love and dedication to this work. As the first and only principal at Ryan Road School since its opening in 1967, he understood the needs of students at the elementary school level. The victim, at a young age, of an accident resulting in the loss of his own arm, he came to realize the importance of both compassion and toughness. He demonstrated the perfect combination of these qualities necessary to encourage the proper development of students in the crucial, formative, elementary school years. He was tough enough to push himself and others to his own high standards, while demonstrating the gentleness that made him loved, and approachable by all.

It was a fatherlike love for his students that may have been his most admirable quality. He truly cared for his students, seeing them not just as a job, but as his own personal responsibility. He was genuinely interested not just in their academic success or their good behavior, but in their development as human beings.

I am reminded of a story told to me by a former pupil of his. It seems that in the inaugural year of the Ryan Road School, there was a fight between two sixth graders. Bob, as I am told, asked the two boys into his office, and in lieu of doling out categorical punishments, he spoke with them, and made himself aware of the particular situation. He gently compelled the boys into speaking with each other, laughing, and then finally realizing the absurdity of their misunderstandings. The two boys shook hands, walked out together, and picked up the litter on the school together that day after school, never to fight again. Bob had involved himself, and personally solved the problem, as he often did, through his genuine concern, not through heartless punishment.

This love spread throughout every capability of his life. He willingly gave of himself to the community. He and his wife Joan cultivated a very strong family environment, and he was a devout Christian, not just on Sunday, but on every day of the year.

I salute Robert K. Finn, who will always be remembered as a remarkable educator, an exemplary family man, and a tremendous human being. His death is a terrible loss, and the void he leaves behind may never be filled.

AGENT ORANGE COMMISSION CITED BY NEW YORK TIMES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. FLORIO. Mr. Speaker, for some time there has been great concern about the exposure of Vietnam veterans to agent orange and other toxic substances used as defoliants in that conflict. Although many in Congress may think that the issue is a closed one due to settlements between some Vietnam veterans and the manufacturers of the defoliants, the following article indicates that for some the issue has hardly been opened.

The New Jersey Agent Orange Commission has been among the most active State commissions in the country. Its chairman, Allen Falk, and the commission's executive director, Wayne Wilson, have led the effort which has patiently assembled an immense research effort which will soon be concluded.

I believe that the studies being conducted will greatly aid in our understanding of the nature of the effects of exposure to agent orange and other chemically produced defoliants which were used as herbicides in Vietnam.

I encourage any of my colleagues who have questions about the commission to contact me or to contact the commission directly in Trenton. There are many thousands of veterans nationally who have legitimate questions about the issue and the commission stands ready to help them.

The article follows:

[From the New York Times, June 15, 1986]

AGENT ORANGE'S VICTIMS FIND SYMPATHY AT THE STATEHOUSES

(By Iver Peterson)

As questions about the long-term effects of exposure to Agent Orange among veterans of the Vietnam War have continued to be raised, a number of states have begun attempting to help provide some answers.

The Massachusetts Agent Orange Commission released last week the results of an informal survey it conducted among Vietnam veterans in the state who believed they had been exposed to the defoliant and one of its highly toxic elements, dioxin. The veterans reported very high incidences of birth defects, nervous disorders and other ailments.

Other states, one of them New Jersey, have undertaken more scientific research into dioxin contamination among veterans. Many state administrators say they are responding to foot-dragging in Washington. "With Gramm-Rudman at work there is a very popular anti-veteran bias in Washington," says Joseph Bangert, director of the Massachusetts program. "That may fly on the national level but it won't fly back in the states where the veterans are."

Moreover, spokesmen for national veterans organizations maintain that the Government would like to derail any broad, definitive Agent Orange studies to avoid a deluge of expensive disability claims.

Some 150,000 veterans have already filed claims with the Veterans Administration. So far, the V.A. has steadfastly refused to accept such claims as proof of service-connected disability.

Government officials insist that Washington has hardly been idle. However, a broad national study on the effects of Agent Orange exposure authorized by Congress in 1979 remains stalled.

The study, to be coordinated by the Federal Centers for Disease Control, has bogged down because, for one thing, many Government researchers now suspect that fewer people had been exposed to the herbicide than they originally thought and, for another, there have been bureaucratic disagreements over responsibilities and procedures. A Federal panel is expected to decide soon whether a way around the impasse can be found.

Last year the manufacturers of Agent Orange tried to force Washington to contribute to a $180 million fund they agreed to set up to benefit totally disabled Vietnam veterans and the families of those who have died. But a Federal judge ruled that the Government was not liable because no proof had been offered of a causal connection between the herbicide and injuries to veterans and their families. The manufacturers, which continued to deny that Agent Orange was harmful, said they agreed to the settlement, among other reasons, to avoid years of trials and appeals.

While the long-term effects of the chemical are disputed, this much is known: the Air Force sprayed upwards of ten million gallons of Agent Orange over Vietnam and Laos between 1967 and 1972 in what was said to have been an attempt to kill the canopy of jungle leaves that concealed enemy troop movements on the ground. Precautions were taken to keep G.I.'s out of sprayed areas for several days, officials say, but military records show that some troops entered contaminated areas as soon as a day later.

In addition, the defoliant—was widely used by ground troops to clear base perimeters.

Altogether, 15 states have launched their own Agent Orange monitoring and advocacy efforts. For the most part, the states have concentrations of veterans large enough to

apply political pressure on local legislators. Some state programs have been limited because of a shortage of money. Massachusetts and New Jersey are ranked the most active.

Some authorities say the programs aren't as objective as they should be and in fact may complicate veterans' attempts to obtain compensation. Wayne Wilson, director of the New Jersey program, defends his effort. "I think we have put together a research team that absolutely rejects the notion that our advocacy roles will somehow bias our research. Researchers are particularly sensitive to that charge and take those extra steps to make sure that doesn't happen."

Within a few weeks, he said, New Jersey will have completed a study of 150 Vietnam veterans who were exposed to the defoliant. The study involves comparing the levels of dioxin, using fat biopsies and blood samples, with the dioxin levels of other former service men and women stationed elsewhere. Once those data have been assembled, the next step will be to compare medical records to see if any correlation exists between dioxin levels and long term health disorders.

A CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. EVANS of Illinois. Mr. Speaker, for 10 years Members of this Chamber have risen in the conscience vigil to remind ourselves and the world of the plight of Soviet Jews. Today, I would like to introduce two refuseniks.

Grigory Vasserman is 36 years old, a husband and father. He and his family currently live in Leningrad. Abe is actively involved in the repatriation movement in Leningrad, and for seeking freedom in Israel, he has been beaten, harassed, humiliated, and threatened. In November 1984, he was featured in an anti-Semitic film, "Hirelings and Traitors" shown on Leningrad television. He was shown and named, and he and other refuseniks were branded as "Zionist agents" and "black-marketeers," betraying their country for gain.

Leonid Rokhlin is a 29-year-old man from Leningrad. In February 1982, Leonid submitted his first application for an exit visa. After waiting several months, he was informed that it was not in the interest of the state to allow him a visa. He has been unable to secure any type of professional job since he submitted his exit visa. He now works as a watchman and is not allowed to utilize his talents as a chemical engineer.

Mr. Speaker, both of these courageous men and their families are little known beyond the borders of the Soviet Union. And that is why we cannot forget them and the hundreds of thousands who still await. As relations between the United States and the Soviet Union continue to improve, making the world safer for all people, we must continue to fight for the recognition of basic human rights.

FEMA FUNDING OF THE NATIONAL EMERGENCY TRAINING CENTER—WEST

HON. HARRY REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. REID. Mr. Speaker, the National Emergency Training Center—West is in jeopardy. Despite the fact that the Maryland Emergency Training Center, the only one of its kind, does not have enough room for about half its applicants. H.R. 4252 will scrap plans for a western center.

FEMA's Emergency Management Institute conducts onsite as well as field and correspondence courses in a wide range of emergency management subjects. All such training for local and State emergency works is conducted out of the institute's Maryland campus. It is estimated that 2 million people, including police, firefighters, administrators, and municipal workers, make up the pool of potential trainees in need of this highly specialized instruction.

In fiscal year 1985, $3.2 million was appropriated for the conversion of the Stewart Indian Center at Carson City to a FEMA Emergency Training Center. The State of Nevada has been extremely generous from the start, including leasing the entire faculty for $1 per year. Yet no money was appropriated for the Center in fiscal year 1986, and now funding has been deleted in fiscal year 1987. The program has suddenly been "discontinued." Not only does H.R. 4252 fail to include money for this sorely needed emergency training, but it leaves the previously appropriated money to go to waste.

The establishment of a western office is essential to the continued benefit and operating efficiency of the Emergency Management Program. It is anticipated that a 25-percent airfare costs savings would result to students traveling to the west coast facility rather than to Emmitsburg. Furthermore, establishing a new western office would be significantly more cost-effective than expanding the Maryland facility: A 10-year phased-in expansion of Emmitsburg would cost roughly $91 million, or $10 million above the projected 10-year western plan.

The Carson City site is an ideal one. The Western States are growing at a rapid rate and the Bureau of the Census predicts that by the year 2000, one-fourth of the Nation's population will live in the 11 Western States. The western location would make the Center more convenient by air for many. But with the withdrawal of funding for travel stipends, it is now vitally important that a new center be accessible by car as well. A western campus at Carson City would be within an easy 1-day drive for over 34 million people.

Of course, the true advantage of a Western Training Center would be that it would make life-saving training and techniques available to thousands more firefighters. Every year, the Emmitsburg campus is forced to reject about 6,000 applicants who would like to learn to handle emergencies that strike their communities. For the sake of those 6,000 applicants, and the families and homes they protect, it is imperative that the National Emergency Training Center—West, a concept with enormous potential, be kept alive.

CONGRESSIONAL SALUTE TO THE STANFORD HOME FOR CHILDREN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. MATSUI. Mr. Speaker, I would like to take this opportunity to honor Sacramento's Stanford Home Foundation as it begins breaking ground for its new Stanford Home for Children facilities on June 22. The Stanford Home has long been respected for its services to disadvantaged, handicapped, and other less fortunate teenagers. The home provides residential care for its children through five group homes throughout Sacramento and a crisis center.

The expanded facilities of the new home will give the foundation the opportunity to provide the best possible services. For example, the home's education and health facilities will be improved through the construction of a new school. In addition, new housing will provide quarters for the Sisters who are involved with care of the children. Facilities will also be made available for the counseling of troubled teens and their families and for the administrative offices of the foundation.

These improvements will enable the home to accommodate more children in need of support and care. Without the fine work of the Stanford Home and the Sisters who run it, these children would be without their primary source of love and comfort.

The Stanford Home for children is an institution truly worthy of our highest recognition and honor. Please join me in congratulating the foundation and wishing them a speedy and successful expansion.

WHERE DID THE SILVER SPRING MONKEYS GO?

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. BROWN of California. Mr. Speaker, in April, 253 Congressmen and 53 Senators sent a letter to the National Institutes of Health [NIH] Director Dr. James Wyngaarden requesting NIH to transfer the 15 primates—Silver Spring monkeys—confiscated in 1981 by police during the execution of a search and seizure warrant on an NIH grant recipient, the Institute for Behavioral Research [IBR] to "Primarily Primates," a nonprofit primate sanctuary.

In response to this letter, which I signed, I received a letter on June 4, 1986, from William F. Raub, Ph.D., Deputy Director for Extramural Research and Training, NIH. This letter stated:

When the national significance of the pending litigation became clear, NIH deter-

mined that all interests would be served by its continuing as custodian of the 15 primates while the matter is before the courts.

I assure you that the NIH will continue providing excellent care for the primates while the matter is in the courts and remains prepared to facilitate whatever resolution might ensue.

On June 13, the Department of Health and Human Services held a congressional staff briefing regarding the future of the Silver Spring monkeys. At that time, a draft plan was presented to congressional staff to move the monkeys permanently to a facility which met the requirements of the Animal Welfare Act and the U.S. Public Health Service. While two facilities were mentioned as possibilities, it was pointed out that a decision had not been made about which facility the animals might be sent to, and that no final decision had been made to undertake this plan.

Because several Members of Congress did not feel this proposal was an acceptable solution, a resolution was introduced by Congressman ROBERT SMITH of New Hampshire on June 11, 1986, House Concurrent Resolution 351, which currently has 97 cosponsors and is pending in the House Energy and Commerce Committee. This legislation expresses the sense of Congress that the Silver Spring monkeys should be transferred from the National Institutes of Health to the custody of Primarily Primates, Inc., in San Antonio, TX. A similar resolution has been introduced in the Senate.

Mr. Speaker, it has been made perfectly clear that a large portion of the House of Representatives is very interested in and concerned about the future of these monkeys. Today, however, I have learned that the 15 monkeys are currently in transit to the Delta facility in New Orleans. My staff has contacted NIH's Congressional Liaison Office to find out more about this transfer of the monkeys. However, the only information the Liaison Office had available was confirmation that the animals are in transit, and that apparently Congress will be informed of this move through a letter, which I have not yet received. The court case which was referred to in the letter from Dr. Raub is still pending.

I am deeply concerned about the manner in which NIH has handled this transfer of the monkeys. Although NIH felt compelled to brief congressional staff about the status of the Silver Spring Monkeys on June 13, the final decision was made without notice, and the transport of these animals was undertaken in secrecy. As a Member of Congress who is under public scrutiny at all times, I find it difficult to justify such a closed door policy. Further, it is exactly this type of action which has frustrated the animal rights community time and time again, and which serves—in its mind—to justify protests, break-ins, and other actions.

Animal rights issues are often volatile and emotional. However, cloaking these debates in a cloud of paranoia and secrecy will only exacerbate the controversy. I recognize the concern of the science community about the growing interest in laboratory animal rights and the possible interference with legitimate research. As coauthor of the Improved Standards for Laboratory Animals Act of 1985 with Senator DOLE, I have been exposed to a variety of opinions about whether animals should be used in research. Some of these opinions I agreed with, others I did not. But I feel strongly that if we are to have laws that represent the views of the majority of our citizens, which in my mind is what democracy is all about, then these debates must take place in open arenas, open to the scrutiny of the constituents we represent.

For some time, animal welfare and animal rights groups have been distressed because animal care laws have not been adequately enforced by Federal agencies. It is this frustration that has led to increased activity in the animal rights movement. And, I expect that these groups will continue to fight until they receive assurances that animal care laws are being followed and that laboratory—and other animals—are protected from inhumane treatment. Making decisions, such as the removal of the Silver Spring Monkeys, behind closed doors, despite a strong showing of interest by Congress, does not reassure the public that our Federal agencies are taking the issue of laboratory animals seriously. Instead it sends a signal to both the public and to Congress that decisions regarding laboratory animals are still being made in spite of legitimate concerns of the public and of Congress.

Mr. Speaker, I am deeply disappointed in the decision of NIH to transfer the monkeys, but even more disappointed by the manner in which it was done. I believe there is a better resolution to this controversy, and recommend strongly that this decision be reassessed. I hope in the future, that NIH will refrain from making rash decisions behind closed doors.

INTRODUCTION OF THE ASBESTOS HAZARD EMERGENCY RESPONSE ACT AND THE ASBESTOS INFORMATION CLEARINGHOUSE ACT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LENT. Mr. Speaker, today I am pleased to introduce two new bills—the Asbestos Hazard Emergency Act of 1986 and the Asbestos Information Clearinghouse Act of 1986.

The first bill would require the inspection and abatement of asbestos by schools across the country. I am pleased to join my colleagues, Congressman BROYHILL, Congressman FLORIO, and Congressman DINGELL, in introducing this legislation.

Almost a year ago, the Commerce, Transportation and Tourism Subcommittee began a series of hearings on the health risks to children and adults associated with asbestos exposure in schools. At these hearings, we learned that asbestos is one of the few proven human carcinogens. Because of the long delay between exposure and onset of cancer, children are especially at risk.

We also learned during these hearings that compliance with EPA's current inspection standards is abysmally low. We learned that in many cases, schools have not taken the proper precautions in abating asbestos. All too often, untrained workers have, in the course of removing asbestos, created a greater asbestos problem and public health hazard.

The legislation we are introducing today is intended to help prevent these situations. The bill will require EPA to issue standards that specify the conditions requiring abatement as well as the procedures to conduct abatement. These standards should help give schools greater direction and information on how to safely abate asbestos in the school.

Perhaps even as important as the abatement and inspection standards are the provisions in the bill concerning contractor certification. Ultimately the soundness of any abatement work must rest on the qualifications and training of the asbestos abatement contractors. This bill will require EPA to establish a model contractor training program for States to adopt. These programs will require all contractors to take a course in abatement procedures and pass a test.

Finally, the bill we are introducing today contains several new provisions that will encourage and facilitate compliance with the legislation. Among these is a provision that will exempt asbestos abatement contractors from liability, as long as the contractor acts in accordance with the regulations and is not negligent.

The same liability protection is also extended to school administrators. We are hearing more and more from school administrators who have acted improperly because of liability concerns. This legislation will create an incentive for school administrators to comply with the act by exempting them from liability for nonnegligent actions which are in accordance with EPA regulations. Inducements such as these may do more than any enforcement measure to ensure compliance.

It should be noted that this legislation will impose a significant economic burden on schools across the country. EPA estimates that the total cost of this legislation will be hundreds of millions of dollars. Because of these significant economic costs, we have tried to keep the costs to schools down wherever possible. For instance, schools which have already conducted an adequate inspection that meets the requirements of EPA regulations will not have to needlessly repeat that inspection.

We are asking our schools to make a significant sacrifice in order to protect the health of our children and those who work in schools. I believe that ultimately this investment will be worthwhile. I am pleased to be introducing this compromise legislation.

Mr. Speaker, the second piece of legislation I am introducing today is the Asbestos Information Clearinghouse Act of 1986. I am pleased to join my colleague, Congressman DOWDY, in introducing this bill.

This bill establishes an Asbestos Information Clearinghouse at the Environmental Protection Agency. This Clearinghouse will collect samples of asbestos containing material from building owners and analyze the contents of the samples. The Clearinghouse would also collect information from manufacturers on the ingredients and formula of any manufactured asbestos product. The resulting sample analysis would then be made available to the building owner and the public upon request.

The intent of this legislation is to counter what many perceive as a history of wasteful proceedings in large scale asbestos property damage cases. Up to now, plaintiffs in asbestos cases have sued almost all asbestos manufacturing companies even though many of the companies may not have even produced the type of asbestos product in question. It is not uncommon to see 86 asbestos manufacturers listed as defendants in an asbestos property damage case.

The objective of this legislation is to establish a system by which information on the samples of asbestos containing material from buildings can be matched with classes of asbestos manufacturing products. This information will help narrow the number of defendants in a case by eliminating those manufacturers that did not produce the class of asbestos product in question. In at least one case so far, this kind of information has reduced the number of defendants from 50 or more to 5. The legislation is expected to reduce litigation time and cost.

In conclusion, Mr. Speaker, I believe both of these bills deserve the attention and support of this body. The first bill, dealing with asbestos-in-schools, will address an important public health problem in a responsible manner. The second bill will help expedite asbestos litigation cases and reduce needless litigation costs. I believe the public would be well served if both bills were enacted into law.

THE STATE OF THE PHILIPPINES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. HEFTEL of Hawaii. Mr. Speaker, this is the fifth of an insightful 10-article series on the Philippines written by George Chaplin, the editor-in-chief of the Honolulu Advertiser. This installment discusses the Philippine free press and one journalist's political opinions on the former Marcos and current Aquino administrations.

Restoring the Filipino people's right to freedom of the press represents a major step for the Aquino administration in reestablishing a democratic government. President Aquino's respect for this privilege is vital to a successful democracy in the Philippines.

The article follows:

PRESSURE POINTS FOR PHILIPPINES PRESS: AN INDEPENDENT JOURNALIST'S POLITICAL INSIGHTS

[Fifth in a series]

(By George Chaplin, Editor in Chief, The Honolulu Advertiser)

MANILA.—Journalism is a hazardous occupation in the Philippines. Since 1979 close to 30 newsmen have been killed; only one person has been charged and his case is still going on.

Raul Locsin, the 55-year-old editor and publisher of Business Day, probably the best newspaper in the city of 6 million, is a courageous journalist who is highly respected here and overseas. The East-West Center has several times had him as a seminar speaker and he never minced words during the entire Marcos regime.

Because his publication is specialized for the business community with a modest circulation (60,000), he was largely left alone—although Marcos would refer to Business Day as a "subversive sheet" which he cited as proof that a free press existed.

Locsin told us that "if Marcos has won the snap election, we were on his list to be closed."

Earlier, there had been two occasions of pressure.

The more blatant involved Juan Ponce Enrile, who at the time was Marcos' defense minister. Locsin said Enrile called him and declared that a coconut industry survey which the paper had done and was preparing to print infringed on national security.

When Locsin disputed that, Enrile pointedly told him his reporters had not yet been cleared by the military.

"I asked him", Locsin said, "whether I should bring the reporters right over so he could clear them."

Nothing further was said and Locsin printed the survey.

We got into other subjects, and he made these observations:

Even after the assassination of Ninoy Aquino, Marcos could have survived as president if he had done three things. One, if he had let General Fabian Ver go. Two, if he had not twice named chief justices and bypassd a senior in the supreme court, which violated tradition. And three, if he had not demonstrated undue interest in the proceedings and judgment in the Aquino assassination trial—that being perceived as disdain for justice.

The new constitution probably will largely follow the 1935 American-created bicameral constitution, providing for the presidential system. Cory had to abolish the existing constitution on taking office, since it was designed for a Marcos-type government.

"The perception here is that President Reagan is not wholeheartedly convinced there was a revolution. He's ambivalent, wanting to recognize Cory but not drop Marcos' friendship.

"Filipino people feel Reagan flimflammed all the way. They feel the revolution was already accomplished before the U.S. took a position.

"There's still great friendship for America. Out in the provinces, everybody says, 'Hi, Joe.' Among the older people there's a lot of pro-American feeling. But in the urban areas the young don't feel any special ties."

Americans are held to a higher standard (than other foreigners). There are high expectations of America. When you shout about democracy, freedom, justice, live up to it. Right now, there's more anti-American feeling here than anti-Japanese, and anti-Japanese sentiment is more related to culture than World War II.

Vice President (Salvador) Laurel "was right during the election campaign with his (U.S.) bases solution: after renegotiation the matter should be submitted to a plebiscite. I feel the people would vote for the bases."

The number of Marcos loyalists is not significant, but they could be a focal point around which other divisive elements could rally.

The economy is so ravaged that you can't make and keep a promise. The national system has been semi-feudal since the days of the Americans. We have a few rich people, a middle class which grew only in the last two decades, and masses of the exploited. There has to be a change in every stratum of society—education, labor and so forth.

He's hopeful long term, due in part to Cory's sincerity. At first she was timid, indecisive, but is now beginning to get the hang of it.

She ran under the PDP/Laban banner, and UNIDO (Laurel's party) coalesced. Some who supported her were more concerned with the spoils, positioning themselves for election probably six years hence.

Many feel (Local Government Minister Aquilino) Pimental is one of those. Laurel too. By that time Enrile will be a bit too old. He feels Enrite is sincere in his support of Aquino.

She has the capability to hold things together, if she wishes. If things remain the same for the next two or three years Laurel might pull out, but now even the military has to accede.

He gives Aquino a couple of years to get things done, but in the next six months she has to take firm positions on key issues. She's starting to, but is reluctant to do it directly from the president's office. She seems to be sensitive (because for the time being she has unlimited power) to being called another Marcos, so that tends to make her indecisive. But she's learning fast.

On priorities, the first need is to settle the political situation, to get a constitution so there's a legal framework. The country needs to know the rules of the game.

Second is agriculture, involving 70 percent of the population. Third, a price and incomes policy. Fourth, tourism promotion.

Although he's a graduate of the Jesuit university Ateneo, he says with a chuckle that he's not a member of the 'Jesuit Mafia," represented by several in Aquino's cabinet. Ateneo President Joaquin Bernas, a bright man still in his 40s, is a close adviser to Cory.

People are hungry for news and there are about 20 daily newspapers, which will later shake down to 3 or 4.

(The same observation was made to us by an American observer who said: In bygone years there were three or four national dailies. It was all very simple. You watched Channel 4 (the Marcos government station) and you knew what the headlines would be the next day.

(This, he said, is not an issue-oriented society. Women pay more attention to issues than men do. Family alliances are what count here. What province are you from? Family is the basis of everything. Filipino culture is learned with mother's milk. Interpersonal relationships are important. You build obligations outside the family, against the time when you need something.)

BICENTENNIAL COMPETITION ON THE CONSTITUTION AND BILL OF RIGHTS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. HAWKINS. Mr. Speaker, I would like to bring to your attention an educational project designed to commemorate the bicentennials of the Constitution and Bill of Rights throughout this Nation. Teachers and students in my congressional district are participating in the development and field testing of the National Bicentennial Competition on the Constitution and Bill of Rights. Representatives of my dis-

trict office have been working closely with representatives of the Los Angeles Unified School District in this effort.

Members of my staff have spoken with the teachers involved and have seen the program at work in their classrooms. They have been favorably impressed with what they have seen. Teachers report that the program provides students, some for the first time, an opportunity to discuss and develop a meaningful understanding of the fundamental principles and values of our system. Students have become deeply involved in discussing basic ideas underlying our Constitution and have shown a great interest in the program.

I am pleased to say that I serve on the National Advisory Committee of this project which is being administered by the Center for Civic Education. The Center has over 20 years of experience in conducting civic education programs on the national level and has an exemplary record. Under the able leadership of their Executive Director, Charles N. Quigley, they are continuing that tradition of excellence. The outstanding quality of the National Bicentennial Competition on the Constitution and Bill of Rights has recently led to its being granted Official Recognition by the Commission on the Bicentennial of the U.S. Constitution chaired by the Chief Justice.

Thomas Jefferson and John Adams, among other Founders of this Nation, noted the importance of providing educational programs that promote both civic competence and civic responsibility. The occasion of the forthcoming bicentennials provides us an opportunity to reaffirm this conviction and to promote the use of programs, such as this competition, that can reform and revitalize education about the Constitution and Bill of Rights in our Nation's schools.

During its last session, Congress passed Public Law 99-194 which authorized $5 million a year to be appropriated to the Commission on the Bicentennial of the Constitution to promote the development of programs on the Constitution and Bill of Rights designed for use by elementary or secondary school students and, in particular, to implement an annual national bicentennial Constitution and Bill of Rights competition in those schools.

I am pleased that the Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, has recommended an appropriation for $13 million for the Bicentennial Commission on the Constitution and that they have also recommended earmarking $2.7 million for nationwide implementation of the National Bicentennial Competition on the Constitution and Bill of Rights. I urge my colleagues to support these recommendations which will serve to enlighten our youth about the history of our democracy.

REMEMBERING DR. ERIC B. CHANDLER

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. COURTER. Mr. Speaker, it is with great sadness that I write in memory of Dr. Eric B. Chandler, civil rights leader and activist, of New Brunswick, NJ. Dr. Chandler arrived in New Brunswick in 1943. He was greeted by segregation and bigotry throughout the area. From that moment on he knew that he had a purpose in life. His mission was to bring greater understanding among people. He succeeded in his endeavors.

Dr. Chandler was educated at Bates, Harvard and Boston Colleges. He used his intelligence, strength and perserverance to help organize the Urban League of Greater New Brunswick. It was organized at the end of World War II and he served as its executive director for 13 years.

Dr. Chandler died earlier this month at the age of 83. His labor for the cause of decency has left an impression on all of us and he will be sorely missed.

U.S. PARTICIPATION IN THE INTERNATIONAL COFFEE AGREEMENT

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. GUARINI. Mr. Speaker, today I am introducing legislation to provide for continued U.S. participation in the International Coffee Agreement [ICA]. U.S. participation in this international treaty is due to expire on September 30, 1986. This bill would authorize U.S. participation in the agreement until October 1, 1989, for the life of the treaty.

The ICA is an international treaty signed by 46 producing countries and 24 consuming countries representing 98 percent of world production and 85 percent of world consumption. The United States has participated in the ICA since 1962 in an effort to minimize fluctuations in coffee prices and balance the economic interests of producing and consuming countries.

The 71 countries participating in the ICA of 1986—up from 67 in 1976—are responsible for virtually all production of coffee and over 90 percent of world coffee consumption. The ICA itself contains no fixed price objective. Rather, each year the members of the agreement establish a price range based on current production and consumption trends, inventory levels and other factors that influence the market. The price is negotiated yearly from September to September.

Coffee is the most important agricultural commodity in the export trade of the developing world. Over 40 nations depend on coffee for export earnings. It is essential to economic growth and debt repayment in most Central and South American countries. The United States is the world's largest consumer of coffee and the U.S. participation in and full support of the ICA is important for the economies of the developing nations. Full U.S. involvement serves a foreign policy goal of improving relations with these developing countries.

As a result of the drought in Brazil last year, market prices for coffee exceeded the upper limit of the quota system price range. They went from $1.26 per pound in October 1985 and peaked at $2.35 in January 1986. Quotas were suspended on February 18, 1986.

This price rise has led to questions about the need for the agreement but, even without the economic controls in place the agreement is essential. The ICA is an incentive to producers to maintain production, build stocks and accelerate exports to improve world coffee supply and quality in an orderly manner. It has largely been responsible for efforts by producing nations to accelerate exports to bring the price level of coffee to only 25 cents higher than its October 1985 average.

To halt U.S. participation in the ICA at this time would send a negative signal to producing countries. It could trigger actions, such as efforts to form cartels, which would adversely impact the U.S. coffee industry and U.S. consumers. Continued U.S. participation in the ICA provides the United States the opportunity to influence future marketing and production policies of coffee producing countries when consumers are most vulnerable.

The U.S. imports 17.5 million bags of coffee each year. We have the largest share of the market and the largest vote during the negotiations. The United States also has the largest stake in participating in this agreement and maintaining our cordial relations with coffee producing nations upon whom we greatly rely. For all of these reasons, I urge your support for this vital legislation.

"MY HERO" ESSAY WINNER

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to recognize a special young man who out of love and respect for his uncle received the Fenwick High School Essay Award. Keith Sommer's essay, "My Hero," is a masterpiece honoring his uncle Nick Perrino's hard work, loving care of his family, and determination to become a self-made successful businessman in the restaurant business of Chicago. Nick Perrino's Home Run Inn has been a favorite of Chicagoans for many years; which has led to the endless expansion of the restaurant since its conception in 1947.

Keith's honest and straightforward style of writing is another fine example of the outstanding students within the Fifth Congressional District of Illinois. Keith is to be commended for his imagination, coherency, and sincerity for the subject matter; as well as for his writing skills.

Not only is Keith a fine author, but he has something real to say to his uncle, his family, and to us. The love and pride he expresses for his family members are truly based on the finest ideals that have made this country strong and prosperous. The family unit is being preserved in the eyes of some of our most outstanding youth.

A TRIBUTE TO MR. STEW LEONARD

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. McKINNEY. Mr. Speaker, I rise today to congratulate Mr. Stew Leonard of Fairfield County, CT, who has been honored by the Small Business Administration as Connecticut's Small Business Advocate of the Year for 1986. This accolade is well deserved by Mr. Leonard, as his services have been as generous as his achievements have been extraordinary.

I am heartened by the Small Business Administration's recognition of Mr. Leonard, because I still find it difficult to maintain public awareness of the importance of small business to local and national economic strength. To a great extent, we as a nation often take small business men and women for granted because they so consistently and reliably meet our daily needs. We must never lose sight of the importance of small business and its success in creating new jobs, enhancing productivity, and providing the entrepreneurial spirit that has helped the United States compete in the world market. We also should not forget that most of us buy our cars, our houses, and our clothing, from small businessmen. In Fairfield County, we can't forget this because many of us buy our groceries as well from a small businessman.

Stew Leonard began his career in the dairy industry as a milkman, going door to door delivering milk in his father's truck. He eventually took over the family business with its small dairy and seven employees, but was soon forced to relocate when the State decided to run a highway right through his butter section. That was in 1966; by 1969, Stew had succeeded in securing a $485,000 small business loan from the Merchant's Bank & Trust Co. of Norwalk. With this small business loan and a few good ideas, Stew set up a new dairy a few blocks away.

Today, Stew Leonard's staff has swelled to 450. He has 50 butchers who cut meat to order. He buys produce by the ton and strawberries by the acre. Since he has opened, over 30 million customers have made their way through Stew Leonard's twisting aisle, and his store has been certified by Ripley's Believe It or Not as the largest dairy store in the world. Not only is it the largest, but it is also the most productive, with the highest sales per square foot of any retail store. In fact, in the greater Bridgeport area, Stew Leonard's does as much business with its 1 store as one of the national chains does with 12.

In his book, "A Passion for Excellence," Tom Peters says of Stew Leonard's: "It's a treat to shop there. It's a celebration of imagination and excellence. It's a show in every nook and cranny. * * * Stew Leonard has turned shopping into an event." Shopping at Stew Leonard's certainly is an experience, and for those who have had that opportunity it is clear why Stew is considered to be the intellectual heir to Walt Disney. I must admit that the first time I saw and heard his 9-foot mechanical dog singing and playing the banjo I was somewhat taken aback. But the kids love it, and as Stew has pointed out in the past, any parent whose child actually likes going to a grocery store is going to do a lot of shopping there.

It is this commitment to his customers which has allowed this small businessman from Connecticut to outsell even major national grocery chains. For instance, in his store, Stew has only two rules: "The customer is always right," and, "If the customer is wrong, reread rule one." Every day, he and his helpers go out of their way for their customers. He decides what merchandise to carry by a method he calls, "Ask the customers, and give them what they want," and he tells his people, "If you wouldn't take it home to your mother, don't put it out on the shelf." Stew Leonard knows that if you take care of the customer, the profits will take care of themselves. And as the 10,000 customers who shop at his store each week will attest to, Stew Leonard knows how to take care of his customers.

His ingenuity and constant innovation, his excellent merchandise and competitive prices, his efforts to make grocery shopping enjoyable, and his unswerving commitment to his customers, all set Stew Leonard at the very top of his class; however, it is his willingness to help other small business men and women which sets him in a class by himself. For the last 6 years, Stew has appeared as the opening speaker at the Greater Nowalk Chamber of Commerce's Free Small Business Development Center Program. And his services to small business do not end there, for it is a commitment which he honors every day of the year. Stew's office and advice are open for anyone who wants them, and there isn't a week that goes by that Stew isn't visited by people who own their own small businesses or are interested in starting one. These men and women come to Stew for advice because they know that he can help them, and he will help them.

Mr. Speaker, I congratulate Stew Leonard on receiving this honor, and I also commend the Small Business Administration for their choice. It is a wonderful compliment to Stew himself that though his store makes nearly $90 million annually, it has retained the friendliness and appeal of a small town general store. Through his integrity, innovation, and desire to please his customers, Stew Leonard has made his store as big as a small business can be.

IT'S A BEAUTIFUL DAY IN PENNSYLVANIA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. CLINGER. Mr. Speaker, "It's a beautiful day in Pennsylvania," a popular slogan proclaims, and it will be when the town of Brockway, PA, celebrates its 150th anniversary this summer.

On June 29, vespers at the local high school auditorium will kick off a week of festivities. On July 1 and 2, pageants depicting the history of Brockway will be held. Road signs in the area will be repainted with the 150th anniversary logo to publicize the momentous occasion, and numerous souvenirs will be available.

In a country that is little more than 200 years old, a town that has been in existence for 150 years has truly reached a milestone. The residents of Brockway deserve to be proud of their town's rich heritage and of the part that they have had in perpetuating its traditions.

I know that my colleagues will join me in congratulating Brockway, PA, on its longevity and important contributions to the region.

SCITUATE, MA: 350 YEARS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. STUDDS. Mr. Speaker, amid anticipation of the upcoming national celebration of the Statue of Liberty's 100th anniversary, I am very proud to make a special note of an equally important celebration this summer as Scituate, MA, commemorates its 350th anniversary—an anniversary which serves to remind us all of the important historical contribution made by Scituate to our region's and our Nation's heritage of liberty. This heritage is perhaps best described by the following historical account of Scituate written by Kathleen Laidlaw, president of the Scituate Historical Society.

SCITUATE—A HERITAGE OF FREEDOM BY THE SEA

(By Kathleen Laidlaw)

This theme describes the early history of "Scituate" named by the Indian Satuit, meaning cold brook and by 1640 Scituate. The Pilgrims came to Plymouth in 1620 for their type of religious freedom and the Puritans came to Boston in 1630 because they wanted to purify the Church of England. They both set up rather rigid rules for everyone who came here to live.

Who came to Scituate and why? The town is located halfway between Boston and Plymouth and is recorded as one of the earliest towns to be settled. Nathaniel Tilden came from Plymouth and bought land on 3rd cliff which had been cleared by the Indians as early as 1624 to start his farm. Timothy Hatherly, who helped finance the *Mayflower*, came to Plymouth in 1623 and returned to England in 1625 to report to his "Merchant Adventurers" of large tracts of land in Scituate which would be of great value and he returned in 1633. The "Men of Kent," from County Kent, England came in 1628 and started the first settlement at the corner of Kent Street and First Parish Road on lots 8 by 80 rods. Their houses were built of logs with thatched roofs made from marsh grass. The four Cliffs reminded them of the Cliffs of Dover and the marsh grass was used to feed their cattle.

They built their first church on Meeting House Lane in 1634. The Rev. John Lothrop, a Puritan, came from England with many of his followers by the way of Boston to Scituate as the first minister of the church. By 1639 he had this town so divided

he decided to go to Barnstable and took with him half of the early settlers. Rev. Charles Chauncey came as the second minister and his strong belief was "infant immersion". This idea was not accepted by the settlers so he left to go back to England. He stopped off at Harvard College and they offered him the presidency of Harvard if he would forget the infant immersion issue. He accepted. Henry Dunster was the retiring President of Harvard and he came here as the 3rd minister of the first church. Scituate had the first and 2nd Presidents of Harvard preach here. By 1636 the town became incorporated.

The population increased very rapidly because people came to Plymouth and did not feel they were allowed the freedom they came here for, so they came up the coast and settled here. James Cudworth, a Capt. in the Militia, was a very respected man in the community. When the Quakers came to Plymouth, they were run out and called the "children of the Devil". They came to Scituate and Capt. James Cudworth sheltered and protected them because he said "I am no Quaker and I am no persecutor." He felt everyone who came to America should have the freedom to do and think as they wished. He was stripped of his rank and lived as a private citizen for 15 years. Freedom for everyone was more important to him than his rank as Captain. Timothy Hatherly also supported Cudworth. The people came here to invest their talents, education and money to make this country a better place for everyone. They fought to establish the freedom that we all now enjoy.

From 1640 to 1872 over 1,000 ships were built on the North River. At the Briggs shipyard in Scituate, the *Columbia* was built in 1773. It was the first ship to carry the Stars and Stripes around the world and under Capt. Robert Gray discovered the Columbia River in Oregon. The tea ship *Beaver* was built in the Brick Kiln shipyard in Pembroke on the North River. During this period Scituate was more important than Plymouth or Boston.

In the 1600's the boundaries of Scituate went all the way to Abington. In 1727 a part of Scituate became Hanover. By 1849 South Scituate became Norwell.

In 1732 William Cushing was born at Belle House Neck. He became an associate Justice of the King's Bench. All of the Judges in the colonies were Loyalists, so during the revolution they fled but William Cushing remained as Chief Justice of the Supreme Court of Massachusetts. He believed in fighting for freedom. He was asked by President Washington to be Chief Justice of the Supreme Court of the United States of America. He refused because of his age and remained Associate Justice.

By 1810 the Scituate Lighthouse was built on Cedar Point. By 1812 we were at war with the British. Rebecca and Abigail, daughters of Simeon Bates (age 15 and 19) the lighthouse keeper, played the drum and fife behind the lighthouse and scared away the British. They have gone down in history as the "American Army of Two." The Lighthouse was lighted until 1860 when Minot's Light was built on Minot Ledge off the Scituate coast. The lighthouse deteriorated very badly and by 1916 the town of Scituate bought it for $1,000—provided the town maintain it as an historic site. In 1967, the town meeting turned the custody and administration of the Lighthouse over to the Scituate Historical Society. The Society opens it for all school children and the public during historical tours.

On January 13, 1784 Samuel Woodworth was born on Front Street. When he was 12 years old, his mother died and two years later his father married Betsy Northey and Samuel and his family went to live in what we now know as the Old Oaken Bucket Homestead. He worked the farm with his father and many times drank from the Old Oaken Bucket. He married and went to New York in 1817. He closed his office one day and went home and at the urging of his wife, he wrote the poem "The Old Oaken Bucket" about his father's plantation. It was put to music in 1852 and in 1935 at town meeting, was voted the official song of Scituate.

The town of Scituate has a very rich heritage which has been handed down to us by the early settlers who came here and under very difficult circumstances fought to give everyone the freedom to do and be whatever we want to be. We have it today because the people down through the years have continued to treasure that freedom and do whatever is necessary to keep it.

Mr. Speaker, I take this opportunity to congratulate the citizens of Scituate and I urge my colleagues to join with me as we celebrate the occasion of the town of Scituate's 350th anniversary.

NICARAGUA: WILL IT BE THE NEXT CAPTIVE NATION?

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. BROOMFIELD. Mr. Speaker, I want to commend an interesting Washington Times editorial on Nicaragua to my colleagues in the Congress. Very soon, Congress will take up the issue of assistance to the Contras. All of us will again hear the now familiar arguments on the merits of providing support to the Nicaraguan freedom fighters as well as the opposing views as to why Comandante Ortega is not such a real threat to democracy in this hemisphere.

Congress has a full platter this session and there are many pressing issues which must be resolved. Given the daily demands of serving in the Congress, few Members have time to sit and reflect on the long-term impact of many of the decisions we make in this branch of Government. Although some will disagree, what happens in Nicaragua will affect the future course of events in Central America.

Should pressure from the Contras on the Sandinistas end, those Marxist-Leninists could consolidate their revolution and turn that poor country into a clone of Cuba. Nicaragua would become a full-blown police state that could increase its efforts to export its revolution to neighboring countries. Soviet, Eastern bloc and Cuban economic, diplomatic and military ties would be strengthened and Nicaragua would fall slowly but surely into the classic pattern of a Communist state.

Whether we realize it or not, our vote on aid to the Contras does matter. From a historical perspective, we are faced with a major decision that could directly affect the future of freedom in this region of the world. In recent years, many in the Congress have asked how our Government allowed Castro to come to power. His acceptance of Soviet offensive missiles and the serious tension which resulted nearly brought the United States and the Soviet Union to a major military confrontation. Let us hope that the Congress will vote to avoid future clashes of this nature. Let's help those who represent the future of democracy in Nicaragua. Let us vote to continue support for the Contras. We don't need more Cubas so near to our southern borders. The choice is ours.

With these concerns in mind, I commend the following insightful article on Nicaragua to my colleagues.

REAGAN'S MANAGUA WATCH

(By Ben Wattenberg)

Having observed Memorial Day and Memorial Day (observed), perhaps it might be useful to observe what President Ronald Reagan and the present Congress will be remembered for in years to come. After all, it is one of the cliches of politics that the president, and sometimes even members of Congress, "have their eyes on the history books."

Will the history books remember our current leaders for a new tax-reform bill, even if it passes in a form pure as the driven snow? I doubt it. Twenty years from now, new loopholes and exceptions will encrust the tax purity with sufficient barnacles for some candidate for president to run on a platform that the tax code is "a disgrace to the human race." You can depend on it.

Inflation has been reduced in recent years. That's important. How important will it look 20 years from now? Probably not very. We will have had new inflations, new recessions, new arguments about deficits.

So I offer another choice, to both the president and the Congress. Our elected officials will be remembered by the history books by what America does in Nicaragua.

Strange how history takes a poor dinky little country like Nicaragua and bathes it in the full candlepower of global importance. But I do believe it is our central issue.

Why?

Well, there is another great cliche that drives American politics, particularly the presidency: "Not on my watch."

The game goes something like this: "Did the nuclear genie get out of the bottle?"—and the answer by a president approaching retirement is "Not on my watch." Or: "Did the Communists gain one square inch of territory?" And the answer (it is hoped) is, "Not on my watch."

Ronald Reagan and the Congress are facing one of those sorts of questions, but turned a different way. It goes this way: "Did we start to turn the tide against Communism?"

Unless Reagan and the Congress act decisively on the matter of Nicaragua, they are in danger of having the history books answer, "Not on their watch—and they had a real chance."

The Congress—finally—will vote on aid to the "contra" guerrillas within the next couple of weeks. President Reagan has some fairly good news to report to suppprt his case for aid. After a three-week marathon meeting, the "contra" leadership (the United Nicaraguan Opposition) has agreed to do many of the things the administration and the Democrats have wanted it to do. It has agreed to civilian rule over the military forces, to accountability of funds, to oversight of human rights, and to a broadened base of leadership.

Moreover, the Central American nations stiffened in the recent Contadora meetings. The Honduran president made his most unequivocal anti-Sandinista statements. The Costa Rican president hung tough on the idea that a real Contadora treaty must insist on authentic internal democracy in Nicaragua.

What's the problem? Two months ago all the pundits said Mr. Reagan would get the aid. Now, no one knows. There are reports of bickering and infighting over tactics and substance within the administration.

So, first, Mr. Reagan must crack heads and lay down the law to his own people.

Then he must work over the Congress with more vigor than ever, particularly those Democrats now on the fence. The swing Democrats must pay attention to history. The question before the House is this one:

If the United States can't roll back the Communists, here, in a small way, in a tiny, poor, neighboring nation in a place where it can hurt us—when and by whom will it ever be done? By President George Bush? President Gary Hart? President Mario Cuomo?

Now is the moment: a popular president, a nearby real threat, a chance to change the tide. If our leaders dither, they must consider how the history books will answer that big question: "What was done on their watch?"

If there is no action, now, the answer may well be: not a damm thing.

CCC FUNDING RESTORED

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. McEWEN. Mr. Speaker, it is with pleasure that I share with the farmers of southern Ohio the good news that Congress has today approved Urgent Supplemental Appropriations legislation.

Contained within this legislation is a very important provision which will provide for the funds needed to restore viability to the Commodity Credit Corporation. The $5.3 billion requested will assist the USDA in meeting its current year commitments for ASCS set-aside payments. This provision, alone, will certainly be beneficial to the farmers of southern Ohio many of whom have based their operations and expenses on the promise by the Federal Government that these CCC funds would be forthcoming. Certainly, Congress has acted in a prudent fashion by reaffirming their commitment and assuring that these promised funds are now forthcoming.

During this difficult year in the history of American agriculture, it is reassuring that my colleagues have seen fit to restore these important funds.

THE LOPEZ FAMILY OF CORDOVA, NM

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. RICHARDSON. Mr. Speaker, I would like to ask my colleagues to join me in honoring a family of artists from New Mexico who are participating in the 1986 Folklife Festival that will begin this week.

The Lopez family of Cordova, NM, are woodcarvers who have been creating images in northern New Mexico since the late 19th century. Jose Lopez began carving to take his mind away from the fact that his son had just been sent off to World War I. Lopez was soon "discovered" by Santa Fe artists and soon his children began carving. Now their descendants are active carvers. George Lopez was a recent recipient of the National Heritage Award given by the National Endowment for the Arts for his work in woodcarving.

I am honored to have these members of the Lopez family come to Washington as representatives of the Hispanic culture. I hope that each of my colleagues will have an opportunity to visit the Lopez family during their visit to the American Festival of Folklife on the Mall.

I include the following article in the CONGRESSIONAL RECORD in honor of the Lopez woodcarvers and the tradition that they strive to preserve.

THE "REVIVAL" OF IMAGE-CARVING IN NEW MEXICO: OBJECT-FETISHISM OR CULTURAL CONSERVATION?

(By Charles L. Briggs)

The traditional arts have had a tough time of it during the past hundred years, as industrialization has flooded markets with mass-produced goods. Collectors have denuded the artists' communities of traditional works, thus depriving future generations of crucial prototypes. While scholars and aficionados have lamented the demise of traditional arts, their concern has often been expressed in efforts to induce the artists' descendants to "revive" their traditions. In order to enhance the economic feasibility of such efforts, artists are encouraged to orient their production toward well-to-do outsiders rather than their own less affluent neighbors. Since the patrons' cultural and aesthetic values contrast with those of the artists and their communities, "market forces" frequently alter the form, function and symbolic content of traditional arts along lines which seem alien to its producers.

This process is so pervasive that it often appears to be inevitable. One may rightly ask if artists, collectors, museum personnel and/or scholars can really change its course in any way. This short sketch of one tradition—image carving in northern New Mexico—will argue that the development of greater sensitivity to the nature of traditional art and the needs of the artists would go a long way toward improving the situation. My goal here is to stimulate the reader to ponder some basic issues—ethical as well as cultural and aesthetic—concerning the role outsiders have played in the evolution of traditional arts.

The Spaniards brought images of the saints as they journeyed north from Mexico to conquer, colonize and missionize the "interior provinces" after 1598. During the 17th and 18th centuries, religious medallions, oil paintings and even small statues, largely made in Mexico, were exported to the northern province of New Mexico. These religious images were executed in the dramatic European style of the baroque. Artisans, often the gray or blue-robed Franciscans, living in New Mexico began producing graphic paintings on tanned hides after 1700, and a few mildly baroque reliefs and sculptures in the round were locally made before 1800. The basic style, iconography and techniques used in these religious images sought to replicate European models.

But a very different style arose in late 18th century New Mexico. Hispanic artisans of New Mexico, utilizing mostly local materials except for some pigments, began to fill the region's need for sacred images with works of a folk style. The preceding orientation toward late Renaissance prototypes and styles was replaced by local aesthetic and iconographic selections. The result was the creation of a distinctly local, folk tradition. This Hispanic folk style flourished from about 1775 to 1850 in panel paintings (retablos) and persisted in sculptures (bultos) until the end of the 19th Century.

Anglo-American traders began coming to New Mexico after the opening of the Santa Fe Trail in 1821. They were followed by foreign church authorities and the railroad between about 1850 and 1900. Large quantities of lithographs and plaster of paris statues flooded into the area, and the market for locally produced images virtually disappeared by the turn of the century.

History shows, however, that the art was merely dormant, not moribund. In 1868 José Dolores López was born in Córdova, a small community in the mountains of northern New Mexico, where he worked primarily as a farmer and rancher. When Córdova lost control of the surrounding grazing lands in 1915, however, the local economy fell apart, and López and his neighbors were hard-pressed to find cash income to fill the gap. López had always been a skilled furniture maker. (Two of his brightly painted chairs are shown in Plate 1.) Having begun whittling in 1917 as one means of reducing the anxiety he experienced when his eldest son was drafted into World War I, he soon began to use his newly developed chip-carving technique on his furniture. (Chip-carving, usually with curved blades, was Spanish tradition, but the work of López featured a straight-edge chisel, producing facets rather than troughs.)

Although initially López produced works only for his neighbors and for the local chapel, he was soon "discovered" by members of the Santa Fe artists' and writers' colony visting Córdova to witness Lenten rituals. Once López was induced to sell his works at craft fairs in Santa Fe, the Anglo patrons profoundly affected the carving of this Hispano in both style and subject matter. Having convinced López that bright house paints would prove too "gaudy" for Anglo-American patrons, they also persuaded him to widen his repertoire to include items, such as "Lazy Susans" and record racks, which were popular in Anglo-American homes. Exposure to German and Swiss mechanical toys resulted in López's adaptations of these forms as well (see Plate 2).

The most profound change came when Frank Applegate induced López to carve images. By the time of his death in 1937, José Dolores López had created representations of Adam and Eve in the Garden of Eden. Our Lady of Light, the Archangel Michael, St. Peter (Plate 3) and other religious personages, frequently drawing on 19th century polychromed works as prototypes. The bright colors were replaced by a complex array of chip-carved designs. In communicating his message to a non-Catholic audience, López frequently cut the name of the saint (along with his own) into the surface of the image.

López's work had two lasting effects on his community. First, his children began

carving, and now their descendants, as well as a number of unrelated families, are active carvers. López's son George, in fact, was a recent recipient of a National Endowment for the Arts' National Heritage Fellowship award, honoring his contribution to folk arts. Second, López's images have generated controversy within the Hispano community; some considered it a sin to sell sacred images to non-believers, while others felt that he was selling central religious and cultural symbols to non-Hispanos for personal profit.

What shaped the patrons' involvement in the "revival"? Their actions reflect an attitude of what may be called object-fetishism. When they looked at Hispano New Mexican religious arts, patrons saw the products only as objects. Accordingly they filled private and institutional collections with objects—particularly images. They were less interested in understanding and documenting the meaning of these objects and the reasons that people continued to venerate them. When the aficionados did not find artists producing the types of objects they expected, they declared the art to be dead. Therefore they encouraged Hispanos to "revive" such arts as carving, weaving and colcha embroidery. Since Hispanos were seen as having lost these skills, the patrons appointed themselves as the arbiters of "Spanish colonial art," acting as judges in exhibitions and establishing craft schools to re-educate the local people in their own arts.

The problem was that the outsiders did not grasp the real nature of traditional art. Rather than merely a set of objects, the tradition of image carving involves patterns created by relationships between wood and color, design and workmanship on the one hand and between the artist and the community on the other. The nature of the art is also to be found in the dynamic ways in which these patterns intersect with each historical epoch. The objects themselves can be thought of as particular or partial embodiments of these patterns: their cultural and artistic value is reflected in the way they evoke the totality of cultural, aesthetic and historical patterns which shaped them.

Seen in this light, the patrons' efforts seem exceedingly naive. They tried to promote purely "traditional," "colonial," or "Spanish" works rather than the carvers' own syncretic traditions. This era found Hispano society, however, in a vastly different set of historical circumstances. With the loss of much of the groups' land base and their immersion as workers into an industrial system, the factors which shaped their art were vastly different. Consequently the patrons' efforts to induce the artists to remain within the narrow and artificial definition of "Spanish colonial style" forced the art out of its underlying pattern of historical relevance.

The patrons lamented the effects of industrialization and cultural homogenization on Hispano society. They believed that renewed production of 19th-century styles would help preserve "Spanish colonial" culture as a whole. Their encouragement did not, however, focus on promoting new means by which Hispano artists could serve the changing needs of their own communities; rather the Anglo patrons taught the artists profit-oriented marketing strategies and ways of accommodating the newcomers' aesthetic. The most important characteristic of the image-carving art had once been its tremendous responsiveness to the cultural and aesthetic needs of Hispano Catholics, but by prompting the artists to cater to the art market patterns of the dominant society, the patrons encouraged them to undermine the fundamental premise of the art. In the end, the patrons furthered the very process of commercialization and Americanization that they decried.

This case is not cited because it is unique, for the same process has affected innumerable traditions in the United States and abroad. Our interest in "folk" or "handmade" arts and crafts moves us to buy and sell objects as a means of fostering tradition. I am not arguing that this process is entirely bad or that a few individuals could reshape it in toto. But the case of Córdova should indicate how collectors, dealers and scholars play a role in deciding whether the actions of patrons bring objects and historical patterns into harmony or discord.

There seem to be two ways in which we can take a positive role in this process. First, because collectors, dealers and scholars affect the way in which both artists and consumers relate to art, we must direct our efforts toward fostering patron awareness of the fact that artistic traditions comprise complex sets of cultural and aesthetic patterns. While objects embody particular intersections of these cultural and historical patterns, they are not the tradition itself. We must understand and respect the full complexity of cultural and artistic diversity, since we cannot know in advance how these patterns will be reflected at any given moment.

Second, it is the artists themselves who translate the connections between culture, artistic tradition and history into visual forms, not patrons or scholars. Our interest in fostering tradition is thus best served by supporting the artists' freedom to decide how patterns come together rather than by defining for the artist the nature of tradition or excellence. Ideally, works of art promote dialogue between individuals, communities, societies and even different historical epochs. When one party dictates the terms of the discussion, dialogue becomes monologue. The central responsibility of collectors, dealers and scholars is to try to negotiate a genuine dialogue. If this can be established, traditional artists will have a better chance of communicating the richness and complexity of their message.

HONORING AN EAGLE SCOUT

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. DUNCAN. Mr. Speaker, Frank "Bud" Myers, an 11th grader at Tellico Plains High School, Tellico Plains, TN, has earned the rank and privilege of an Eagle Scout.

Bud has not only participated in Scouting activities, but is a member of the varsity basketball team, and student council. He rounds out his extracurricular interests through his membership in the youth group of the First Baptist Church. As a hard-working and diligent young man, he has worked his way through high school by doing yard work, working in local businesses, and helping his parents with the Myers Funeral Home. He also works on the family farm.

Well liked by teachers and students alike, Bud can certainly be proud of his accomplishments. He has a bright and promising future ahead.

I PRAY FOR A BETTER TOMORROW

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to bring to my colleagues' attention the work of one of my constituents, Mr. David Gimbel, who has been working for 37 years to help retarded children.

As an active member of the Association for the Help of Retarded Children, which serves more than 10,000 people in New York State alone, Mr. Gimbel's efforts have helped to provide opportunities for many others. During the last 37 years, our Nation's capacity to serve the mentally retarded has increased significantly—public schools now offer special education classes, group homes and hostels exist solely for the mentally retarded, and each year thousands of mentally retarded children participate in the Special Olympics. It is because of organizations, such as the Association for the Help of Retarded Children, and because of individuals, like David Gimbel, that such strides have been possible.

Mr. Gimbel's work on behalf of the mentally retarded includes writing poetry, and I wanted to share with my colleagues one of his poems that I found to be particularly well written.

I PRAY FOR A BETTER TOMORROW

I am a senior citizen, a widower and the father of a one and only child who is severely retarded. After I laid my beautiful wife to rest into her eternal sleep my child greeted me at the head of the stairs. She embraced me and said, "Please bring my Mommy home." I shall never forget that moment for as long as I live.

For the past 36 years I have dedicated every spare moment of my life working on behalf of the retarded, "God's exceptional children" so that parents like myself can one day find a clearing in our forest of despair.

Today with the problem of AIDS retarded children in a sense are also not wholly accepted in our society. They are always placed on the bottom rung of the human ladder. It is not our children who should be pitied but instead those who looked down upon these loveable children.

Oh what a lesson of love the people of today could learn from these innocent children! Today in every part of the globe: the Middle East, Afghanistan, Central America and the devastating famine in Africa where we see babies dying of starvation.

And all because bombs, rockets and missiles are scorching the Lord's beautiful earth while taking away the food from abundant fields the hungry require, and shelter for the poor and the homeless.

"Wake up nations of the world" or we shall all wind up as in the very beginning of time itself with only God, the sky and the devastated earth.

DAVID GIMBEL.

A TRIBUTE TO DR. KIKUO TAIRA

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. COELHO. Mr. Speaker, I would like to take the opportunity to acknowledge one of the leading Japanese-American citizens in the Fresno community, Dr. Kikuo Taira, for being awarded the "Fifth Order of the Imperial Sacred Treasure from His Majesty Emperor Hirohito of Japan."

Born in Fresno, Dr. Taira has made many contributions to the community. He was the first Japanese-American cadet officer at Fresno High School and later went on to attend the University of California at Berkeley, for his undergraduate work as well as medical school. During his medical career, Dr. Taira spent 1 year interning in Japan and later at a relocation center for Japanese-Americans in Jerome, AR, during World War II, where he headed the hospital. He has maintained a general practice in Fresno for many years.

Dr. Taira has worked all of his life to bring together the Japanese and American cultures. He was the original organizer of the Boy Scouts in the Buddhist Church. He has worked on bridging the gap between the Buddhist religion and American Christianity teachings to enable Japanese-Americans to assimilate into American society more easily. Furthermore, he has taken an active role in the people to people program with our sister city, Kochi, Japan, as well as participated in the development of the Shin Zen Garden at Woodwar Park to introduce the beauty and art of Japanese gardens. Dr. Taira also organized a judo black belt association in central California to further introduce the Japanese art of self defense in this community.

Dr. Taira is truly deserving of the "Fifth Order of the Imperial Sacred Treasure from His Majesty Emperor Hirohito of Japan," and I would like to extend my congratulations to him and his family.

HOUSE OF REPRESENTATIVES PAGE SCHOOL FULL ACCREDITATION

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. KILDEE. Mr. Speaker, as chairman of the Education Task Force of the Page Board, I am pleased to announce that our House of Representatives Page School has received full accreditation by the Commission on Secondary Schools of the Middle States Association of Colleges and Schools. We are indeed proud of those people who have helped achieve this recognition. I would like to express the gratitude of the task force to the school faculty, past and present, which includes Dr. Robert F. Knautz, principal; Mrs. Shirley A. Alexander, administrative assistant; Evelyn E. Baugh, Walter S. Bodle, Barbara R. Bowen, David Cronin, Neal A. Cross, Robert S. Nelson, Stephen G. Stavros, Dr. Samuel Totten, Linda Walters, and Ronald L. Weitzel.

MANY UNANSWERED QUESTIONS ABOUT SDI

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 24, 1986

Mr. PEASE. Mr. Speaker, I am deeply concerned about the present administration's premature and reckless claim that the Strategic Defense Initiative Program—SDI or star wars—will render nuclear weapons impotent and obsolete. There are still many vitally important unanswered questions which should be addressed before any further investment of the taxpayers' money in this program is considered.

It is unclear whether the development of SDI is in violation of the 1972 Treaty on the Limitation of Anti-Ballistic Missiles—the ABM Treaty—agreed upon by the Soviet Union and the United States. In article V of the treaty it is stated that:

> Each Party undertakes not to develop, test or deploy ABM systems or components which are sea-based, air-based, space-based or mobile land-based.

However, the administration has chosen to avoid the question of compliance to the treaty by questioning the definition of such terms as "components" and "testing." The controversy surrounding these and other terms stems from certain ambiguities in the wording of the treaty. But, in article XIII the treaty accommodates for such problems by providing for the creation of a Standing Consultative Commission which, along with other duties, is designed to "consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous." It does not state that in the event that either nation cannot interpret the treaty it should go ahead and develop, test, and deploy a system which may violate the terms of agreement.

If one listens to those who negotiated the treaty, such as Ambassador Gerard Smith, perhaps such consultation with the Soviets would not be necessary. He argues that developing and testing ABM systems or components based on future technologies—which the United States and the Soviet Union have previously not developed—is in violation of the treaty. Perhaps ambiguities in the treaty would be answered by reviewing the spirit of the treaty. According to its opening remarks, the ABM Treaty was created on the premise that:

> • • • effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons.

Now, however, the administration believes that the creation of ABM systems in the form of SDI, which may or may not be in violation of the ABM Treaty, will somehow contain the arms race and reduce the likelihood of nuclear war. This is highly questionable. The Soviets have already stated that they will take any steps necessary to keep pace with all new United States defensive systems. Thus, the building of SDI may only increase the arms race. Indeed, as former Secretary of Defense Clark Clifford states, "We will have star wars or arms control; we can't have both."

The building of SDI may also increase, not decrease, the risk of nuclear war. If SDI proves not to be 100 percent effective against all nuclear attacks, a superpower may be tempted to attack first in a crisis situation. In this way a superpower could destroy key offensive missile installations and then use its SDI defense to destroy the other power's remaining missiles that may have survived.

It seems unlikely that the President's dream of a perfect defense can be realized and that it is more likely that only this potentially dangerous and even lethal, partially effective SDI system can be created. The SDI system is riddled with technical problems which have not yet been resolved. It is unclear whether a very vulnerable space-based system can be defended against direct attack, or whether it is possible to write and check the millions of computer code lines to the degree of accuracy necessary to anticipate all possible attack combinations. It is equally unclear whether the Soviets or other nations can develop successful countermeasures to SDI. It seems that our scientific community has little faith in the SDI system. According to the Union of Concerned Scientists, over 6,500 scientists and graduate students working in technological fields most pertinent to SDI research, including 57 percent of the 20 top physics departments, have taken a "pledge of nonparticipation" in the SDI Program. They have called SDI "ill-conceived and dangerous." Indeed, according to Paul S. Brown, Assistant Associate Director for Arms Control, Livermore Lab:

> When you consider what the President intended, which was a leakproof umbrella, I think that that's something that very few scientists think is going to be possible.

Even if SDI provided a means to stop every strategic ballistic missile launched simultaneously in a full-scale attack it may still not offer the protection the President envisions. We may not have to anticipate possible technologies that may undermine SDI far off in the future; that technology may already be on the horizon. According to Richard Perle, Assistant Secretary of Defense, the technology for creating insertable nuclear warheads, which would enable our Armed Forces to quickly transform conventional weapons into nuclear weapons, is at hand. How will SDI destroy these converted conventional weapons?

A question that always seems to be neglected is that of the effects of numerous, perhaps thousands of nuclear explosions on the atmosphere. If SDI could destroy all oncoming nuclear missiles, would we survive the effects of radiation? Even if SDI could destroy long-range strategic ballistic missiles before they reentered our atmosphere, certainly one must question what effect nuclear explosions just outside our atmosphere might have.

The administration originally called for $33.6 billion for SDI over a 5-year period. The cost estimates for a deployed system range from

several hundred billion to over $1 trillion and beyond.

Developing SDI may heighten the nuclear arms race and create a very dangerous and unstable world. It would cost the taxpayers an exorbitant sum. Given the potentially dangerous, even catastrophic effects that development of SDI poses and given the uncertainties and ambiguities surrounding the system as well as its astronomical cost to the American public, it is of the utmost importance that we treat further research and possible development of SDI with far greater caution. It disturbs me that the President and his administration has failed to provide a more accurate description of the problems facing SDI development and its possible implications.

I would like to bring to the attention of my colleagues just a couple of articles which appeared recently in two Ohio newspapers which voice great concern over the administration's direction on SDI.

[From the Journal (Lorain, Ohio), Dec. 9, 1985

BRIDGE OF TRUST

Since man has inhabited the earth he has dreamed of the perfect defense system, first against the animals and then against other men. No matter how sophisticated a defense network man or nations designed, though, the enemy has always found the weak spot in the armor. The same fate awaits President Reagan's Stars Wars defense system and that's one of two reasons why it will never be built. The second reason is its enormous cost.

How could the Stars Wars defense system, assuming it is built and put into place, be circumvented? Just like the Germans circumvented France's impenetrable Maginot Line in World War II. They simply went around it.

But how could any nation possibly go around Star Wars? Very easily. Look at the objective of the Stars Wars defense system: to identify, target and shoot down tens of thousands of enemy missiles. Obviously, the whole Stars Wars defense system is built on the concept that whatever nation would attack the United States would do so with nuclear missiles or at least aerial weapons. What if the attack came in another form, such as covert ground attack? What good would Star Wars be then?

What sort of covert ground attack? Why not have the nuclear weapons smuggled into the United States and placed in lockers at train stations, airports, rented apartments, rented business locations or homes all across the land. Nuclear weapons are about suitcase size, you know, but if an enemy would want larger weapons, then those could be brought in piece by piece. All the weapons could be fired by remote control and checked from time to time to make certain they are in firing order. Sound impossible? It isn't. And any nation faced with beating a defense system like Star Wars to deliver a first strike on the United States would be capable of building such a system.

The point we're making is that no defense system is perfect or long-lasting. The Soviets have people more ingenious than we at designing elaborate but inexpensive weapons networks of the sort we've described to neutralize Star Wars.

Seeking the perfect defense system is foolish. Star Wars is an impossible dream and will require billions of tax dollars to chase. And when the spending is over and the system is built, the nation will be no safer than it is today. Our enemies will be designing and building a counter-system. Defense does not rest in the heavens, it rests in the minds and good faith of men. At some point, the Soviet Union and the United States must begin trusting each other or else both nations will go broke fending off imaginary attacks from the other. Forgetting about Stars Wars would be a good place to begin building this bridge of trust.

[From the News Journal (Mansfield, Ohio), Jan. 5, 1986]

ANOTHER VIEW

High Frontier, the private group promoting President Reagan's Strategic Defense Initiative, has been running a TV cartoon ad showing missiles bouncing off a rainbow shield that covers a house and family. The clear purpose is to persuade viewers that Reagan's so-called Star Wars plan can protect every American home from Russian nuclear rockets. It's blatantly misleading, of course, as none other that Lt. Gen. James Abrahamson, the administration's SDI director, and Richard Perle, the assistant secretary of defense, have conceded.

Questioned sharply by members of a Senate committee recently, both officials acknowledged what everyone close to SDI knows full well: that there's no such thing as a perfect shield, and that even if SDI worked effectively enough to only allow penetration by only a limited number of enemy missiles, American cities would still be devastated and millions would die.

The High Frontier people know that as well as anybody. They also know that most viewers don't understand SDI's complex technology well enough to see through their flimflam. And while TV cartoon ads opposing Star Wars likewise take some liberty with the facts implying that SDI space weapons, in the process of stopping enemy missiles, would incinerate the earth below—those ads contain at least a grain of truth: SDI X-ray laser beams would in fact be powered by nuclear explosions in space whose consequences are entirely unpredictable. The pro-SDI ad hasn't even a saving note of accuracy; it's a flat-out lie.

Despite the Abrahamson and Perle disavowals, the phony High Frontier pitch is still on the tube. Any soap seller is required to have more respect for the truth.

PUBLIC GROWS IMPATIENT WITH LACK OF PROGRESS ON ENVIRONMENTAL ISSUES

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. WAXMAN. Mr. Speaker, the American people are growing impatient with our lack of progress in cleaning up hazardous waste dumps and curbing acid rain.

A recent Lou Harris poll indicates that the American public is nearly unanimous in its feeling that contamination problems are getting more serious and its impatience is now beginning to show.

The poll shows that nearly everyone in the country is worried about toxic contamination and acid rain. In my own State of California, the environmental issue is now the key issue in the race for the governorship.

I include for the RECORD a May 19, 1986, Lou Harris poll that shows how important the environmental issue has become to the American public nationwide.

ENVIRONMENTAL ISSUES COULD BECOME A FACTOR IN CONGRESSIONAL RACES

Despite the relatively low-key attention paid to environmental problems such as acid rain and toxic waste dumps, the American people are nearly unanimous in their feeling that contamination problems are getting more serious and their impatience is now beginning to show. This is according to the Harris Survey conducted by telephone between April 5th and 8th, among a national cross section of 1,254 adults.

Indeed, in the upcoming off-year elections, one of the real sleeper issues may well be that of enviromental controls. Here is how the issue might work, for example, in the case of toxic and hazardous wastes:

A big 93-6 percent majority of the public nationwide believes that "pollution of lakes and rivers by toxic substances from factories" is a serious problem. An almost as high 92-6 percent majority feels the same about "disposal of hazardous wastes." Obviously, nearly everyone in the country is worried about how to clean up toxic wastes dumps.

By 67-29 percent, another substantial majority favors passage of the $10 billion extension of the super-fund hazardous waste clean up program for the next five years. Congress has delayed passage and has just barely extended the program a few months at a time. Clearly, the public is getting impatient and upset at the lack of decisive action by Congress on the clean-up of hazardous wastes.

Finally, when the public was asked what would happen if a candidate running for Congress in their district were to take a position on an environment issue which they disagreed on, 16 percent said they would "certainly not vote for that candidate." This means that the environmental issue alone could affect as much as one vote out of every six. But when this overall indication is divided into those who are pro-environmentalist and those who are anti-environmentalist, a decisive and critical balance emerges. While the anti-environmental vote could muster 6 percent of the electorate to vote against a pro-environmental candidate, a much higher 10 percent of the electorate say they would certainly vote against an anti-environmental candidate.

Thus, the pro-environmental forces have a net four point balance in their favor. This may seem to be a small number of voters, but a swing of four points could easily mean the difference between Democratic or Republican control of the U.S. Senate this year. It could also account for the difference between a five or 10 seat pick-up for the Republicans, which might give Republicans and southern Democrats working control of the House. Or it could mean a net gain of 10 or 12 seats for the Democrats which could give the northern wing of that party solid control over the House.

The temper of the public is to be critical of business and the way it has handled environmental matters, as well as to be critical of the Republicans. For example, when asked which party they felt could do a better job of protecting the environment, the Democrats come out on top of the GOP by a substantial 49-32 percent margin.

But the mandate about business and the environment in many ways is more serious:

When asked who should pay for an injury to a person living near a landfill, and when

it cannot be determined that the injury was caused by wastes from a specific company, a big 58 percent feel that the companies using the landfill should pay and another 31 percent feel that the industry producing the waste should pay. By comparison, no more than 5 percent think the government should compensate the victim of such injuries.

A substantial 79–17 percent majority of the public is convinced that "pollution from acid rain" is a serious problem. A big 73–23 percent majority of the public is convinced that a substantial part of the costs required to clean up acid rain should be borne by "the shareowners of investor-owned electric utilities." This contrasts with a much lower 51–45 percent majority who feels that such costs should be borne by "electricity consumers nationally" and the narrow 49–46 percent plurality who feel those costs should be paid by "electricity consumers in eastern and southern states where most coal and oil is burned."

There are those in politics who feel that the environmental issue has cooled appreciably over the past few years. This evidence would not indicate that. To the contrary, it would suggest that big majorities of the American people are deeply upset at what they feel is the lack of progress on cleaning up toxic waste dumps and acid rain. And, it could well be that in 1986, they mean to do something about it at the polls.

TABLES

Between April 5th and 8th, the Harris Survey asked a nationwide cross section of 1,254 adults by telephone:

"I'm going to read you some different kinds of environmental problems. For each, would you please tell me if it is *currently* a very serious problem, a somewhat serious problem, only a small problem, or no problem at all in this country? "

SERIOUSNESS OF ENVIRONMENTAL PROBLEMS

[In percent]

	Very serious	Somewhat serious	Only a small problem	No problem at all	Not sure
Disposal of hazardous wastes	68	24	5	1	2
Pollution of lakes and rivers by toxic substances for factories	65	28	5	1	1
Contaminated drinking water	55	31	11	2	1
Pollution by radioactive wastes from nuclear powerplants	49	30	15	4	2
Pollution from acid rain	42	37	13	4	4
Air pollution by coal-burning electric powerplants	30	45	18	4	3

"Although experts disagree on the environmental impact of rainfall with high acid levels, most agree that acid rain is caused by sulfur emissions from electric utility plants that burn coal and oil and by nitrogen oxide emissions from cars and trucks. If Congress passed a law that required (read each item) to shoulder the substantial costs of cleaning up acid rain, would you consider such a law fair or unfair?"

ACID RAIN CLEAN-UP—WHO SHOULD PAY

[In percent]

	Fair	Unfair	Not sure
The shareowners of investor-owned electric utilities	73	23	4
Electricity consumers nationally	51	45	4
Electricity consumers in Eastern and Southern States where most coal and oil is burned	49	46	5

"When it cannot be determined that an injury to someone living near a landfill was caused by wastes from a specific company, who do you think should pay for an injury to such a person—the government, through general tax revenues, the industry that produces the waste, through a special tax on that industry, or a combination of companies that used the landfill?"

INJURY TO PERSON LIVING NEAR LANDFILL—WHO SHOULD PAY

	Percent
Government	5
Industry producing waste	31
Combination of companies using landfill	58
None of these (vol.)	2
Combination (vol.)	3
Not sure	1

"Congress has delayed passing a bill that will extend the super-fund hazardous waste cleanup program for five years at a cost of $10 billion. Do you favor or oppose Congress passing such a super-fund hazardous waste cleanup program appropriation of $10 billion."

FAVOR CONGRESS PASSING SUPERFUND BILL

	Percent
Favor	67
Oppose	29
Not sure	4

"Now suppose in the congressional elections this year, you found a candidate for Congress in your district whose views you mostly agreed with. Then suppose that candidate took a position on controlling air and water pollution and cleaning up acid rain and toxic waste dumps that you disagreed with completely. Would you *certainly* not vote for that candidate, probably not vote for that candidate, or could you still vote for that candidate?"

VOTE FOR CANDIDATE WITH DIFFERENT STAND ON ENVIRONMENT THAN YOURS?

[In percent]

	Could not vote for	Probably not vote for	Could still vote for	Not sure
Total	16	44	36	4
Proenvironment (Base: 67 percent favor in previous question)	10	29	25	3
Antienvironment (Base: 29 percent oppose in previous question)	6	13	10	(1)

METHODOLOGY

This Harris Survey was conducted by telephone within the United States between April 5th and 8th, among a cross section of 1,254 adults nationwide. Figures for age, sex, race and education were weighted where necessary to bring them into line with their actual proportions in the population.

In a sample of this size, one can say with 95 percent certainty that the results have a statistical precision of plus or minus three percentage points of what they would be if the entire adult population had been polled.

This statement conforms to the principles of disclosure of the National Council on Public Polls.

FIELD HEARING ON ALZHEIMER'S DISEASE

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. MRAZEK. Mr. Speaker, last weekend I had the opportunity to sponsor a field hearing of the House Select Committee on Aging in the Third Congressional District.

The subject of the hearing was problems associated with Alzheimer's disease. By now, most Americans are aware of this disease and the macabre ability it possesses to transform its victims from normal and vibrant citizens into mere living shadows. More than 2 million Americans suffer from the disease, which attacks the brain and causes initial disorientation and loss of recent memory, then progresses into profound memory loss, inability to control bodily functions, dependence on others for simple tasks and virtual personality transformations.

As expected at a forum of this type, my colleagues and I heard from a wide range of experts who confront the tragedy of Alzheimer's disease from many different perspectives. We heard from health care professionals, researchers, mental health experts and nursing home administrators. All of the testimony was both enlightening and valuable in terms of the future work that the Select Committee on Aging will be doing on this subject.

But perhaps the most compelling testimony we received came from Janet Walsh of Sands Point, Long Island, one of my constituents in the Third District. In the course of her brief statement, Ms. Walsh capsulized a virtual decade of pain and heartbreak that only the family of an Alzheimer's victim can know.

The story Ms. Walsh told was both tragic and poignant. As she said, she desperately wants other families to avoid the experiences that controlled her life. More than 120,000 Americans are estimated to die of Alzheimer's each year, but as her testimony demonstrates, people like Janet Walsh's father do not go quietly into the night. Their suffering, and that of those around them is both protracted and agonizing.

I recommend to my colleagues the following testimony from Janet Walsh as a reminder of the strides we still need to make in the world of medical science, and as a reminder of the role the Federal Government can play in this struggle:

TESTIMONY OF JANET WALSH

I am going to try and compress 9 years into 5 minutes, to try to let you understand what it is like to have someone in your family with Alzheimer's Disease. It is still very hard for me to talk about this but I need to do it because I want others not to have to go through what we did.

My father led a very full and energetic life and our home was a very happy one. He was chief engineer of a refrigeration firm, Commander-in-Chief of our local American Legion and a sergeant in the Police Auxiliary. My father was an avid hunter and fisherman, and always provided a secure environment for his family.

The disease started without any medical incident, i.e. a fall, stroke, etc. At first only

my mother sensed something was wrong. My father would call and say he got lost on a hunting trip. He hunted those particular woods all his life and was an excellent tracker. Then the call would come from somewhere local, again he couldn't remember how to get home. I was 15 at the time and quite concerned when my father would drive through a stop sign as if it were not there. My parents began to argue frequently which I interpreted as they didn't love each other, were headed for divorce. Needless to say the tension was mounting in our home. I kept hoping that one morning I'd wake to find everything back to normal. Normal would not be used to describe what followed.

After repeated incidents of paranoia and the inability to cope with everyday things, we took my father to his physician. The doctor informed my mother that my father was suffering from Hardening of the Arteries and she should watch him but not so much as to annoy him. He was given medication to help soothe his anxiety.

Shortly thereafter my father was forced into early retirement by the company he worked 30 years for. It was 1971 and he was 60 years old. The union my father belonged to interviewed him in my presence and found him competent to hold down a job and therefore found him one. You must understand my father still had days when he was as normal as anyone else, they were just becoming fewer and fewer. The new job lasted a week and it was determined that my father didn't want to work. Neither our doctor nor the union doctor that examined him would put down on paper a diagnosis that would enable him to retire disabled and therefore we were forced to accept the smallest pension, which amounted to 400 dollars a month. My father previously earned in excess of 30,000 dollars a year not including the tremendous overtime he would put in. Social Security benefits were at least a year away with all the paper work and processing. Fortunately for us my mother had taken a part-time job so that I could attend parochial high school. So all of a sudden the future was quite dim for us. For the next year, my father was constantly supervised to the best of my mothers', my two sisters, and my ability. Needless to say things got much worse. It was becoming apparent that my father could no longer handle even the simplest of tasks.

My mother never drove a car so we had relied on my father for transportation. Now this man was incapable of driving a car and we had to pretend that the car was stolen to get it away from him. Similar deception unfortunately had to be used to remove the gun my father carried as a police auxiliary sergeant and also his entire collection of hunting rifles. He was accusing the neighbors of stealing his wallet and personal belongings, we didn't want him to have access to anything that might bring injury to himself or anyone else.

All hopes of attending a college away from home were thrown out the window in my senior year of high school. I attended the city university in the fall of 1973 and held down a job in the college bookstore to support myself, my mother helped as best she could. It seemed that somehow before my father left his job he took out two bank loans with two different banks and we had no idea where the money went and my father had no recollection of getting the money, so my mother's financial burden was even greater.

Our home was turned into a prison, all doors and windows had to be kept locked. He had to be watched 24 hours a day. It seemed he never slept. My father had started to hallucinate the craziest of things and could have easily fallen down the stairs.

At one point the strain became so much that I came down with walking pneumonia and had to be hospitalized for two weeks. At that time the house psychologist had suggested that I seek therapy because he felt the pain in my chest was a result of stress. I was only 18 at the time and had heard of therapy only on T.V. for the very rich or the very crazy. If only he had told me about the clinics in our area that didn't charge someone in my position. I told him I didn't have the time or the money for that and would handle it myself. I consider that a point in my life when someone had the chance to help me, a professional who could obviously see the emotional pain I was in, and just passed on the opportunity.

Soon after my return from the hospital my father became violent. My father had never laid a hand on any of his children and would certainly never strike my mother. But strike my mother is exactly what he did. At that time my sister knew a neurologist at our local hospital and she asked him to see my father. The neurologist put my father through some testing and concluded that my father was suffering from Alzheimer's Disease. It was 1973 and we had never heard of this disease and it would be many years before we would see anything in writing describing the disease in non-medical terms.

My father remained in the private hospital for six weeks, most times heavily sedated or in a straight jacket, while we tried to find permanent placement for him. Fortunately my father was a veteran and was accepted to the Northport V.A. Hospital in Northport, Long Island. Once in the V.A. system at least we knew he would be cared for and hopefully return home when he was all better. Obviously we were very delusioned. The day he was admitted to the hospital they told us we would be unable to visit with him for a period of two weeks while they removed him from the heavy sedating drug to something milder and also acclimated him to his surroundings. Those two weeks went on forever in my mind, I was happy to get a good night sleep and not have to worry about what outburst my father would have next but I also missed him very much. When we finally did see my father we sat at a big table in what looked like a conference room and we all cried with him. He didn't recognize me then and never did again.

In the beginning my father was allowed to come home on weekends and holidays. The house turned into a nursing home when he came home and we all took turns caring for him, most of the burden of course fell on my mother. One day while I was bathing my father I stepped out of the room to get something, when I came back I found my father fully submerged in the tub. I yanked him up and screamed "What are you trying to do," he looked at me square in the face and said "Kill myself." If I had known then about all the years of agony for him to follow I would have closed my eyes and let him do it.

After a while it became to hard for us to handle him at home, especially with his escaping out of the house. There was a day when he escaped from the V.A. hospital and found a car that was running and got in and drove off. The car was parked outside a grocery store and the owner just ran in to pick something up. She left a young child in the back seat of that car. Fortunately the police pulled my father over and spotted his hospital band on his arm.

The V.A. was really not equipped for someone with the early stages of this disease, so my father was placed with mostly young Vietnam Veterans who were suffering from their own hell. My father ended up in several brawls with these young patients and suffered a classic black eye on a few occasions. Eventually the disease started to get the best of my father physically and a wheelchair was required to get around.

The deterioration finally started to increase rapidly and by this third year at the V.A. hospital he was confined to a chair. He remained at that hospital shifting in and out of bed or chair for four more years. Each year the disease took more and more of the man I had called father until he died on February 20, 1981 a mere skeleton.

We need a cure for this deadly disease. I have many more heart rendering stories to tell but I think everyone will get my point. Family members need help both emotionally, financially and with respite care. With each Alzheimer victim dozens of other lives are deteriorating also.

ACADEMIC AND ATHLETIC EXCELLENCE AT POINT LOMA

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. LOWERY of California. Mr. Speaker, in these days of increasing drug use among our youth, it is refreshing to learn of a group of young athletes who buck the trend. Athletes have sometimes been labeled as unintelligent, and often identified with the use of drugs. However, this is not the case with the boys on the Point Loma varsity baseball team. They are too dedicated both academically and athletically to get involved with drugs.

Not only are they skillful athletes, but also excellent students. All of the players on the team have at least a 3.0 grade point average. Motivation in the classroom has carried over into their performance in baseball. The team placed second in their league this year, after a tough playoff loss. The players are able to successfully balance their time between school and sports without neglecting one or the other.

This case is particularly pleasing to me because Point Loma is my high school alma mater. I want to wish the club the best luck and success both on and off the field.

Mr. Speaker, I wish to submit this article from the Star News which highlights the achievements of these outstanding young men:

The article follows:

[From the Star-News (CA), May 22, 1986]

SMART BASEBALL: POINT LOMA PLAYERS EXCEL ON THE DIAMOND AND IN CLASSROOM

(By John Geis)

The following are two recent political developments on the prep sports scene:

State Assemblyman Willie Brown has introduced legislation which would require all California high school students participating on athletic teams to achieve certain grade-point standards in the classroom.

The CIF-San Diego Section held a workshop earlier this week to discuss drug testing of high school athletes.

These two movements sprouted from a barrage of reports labeling athletes as poor students and—in some cases—drug users. Locally, however, all the news is not necessarily "bad."

For example:

Every member of the Point Loma baseball team earned a 3.0 grade-point average or better at the end of last semester.

The Pointers, disproving any myth about top students turning sour on athletic fields, are also in first place in the tough Eastern League with one game remaining on the schedule.

Dumb jocks? Strung out athletes? Not at Point Loma.

Listen to head coach Bill Hall:

"There's an interesting correlation between academics and baseball," he said. "With a 3.0 student, there's a drive to excel that carries into athletics."

Hall has 17 such players. "And that makes a better coach out of me," he said. "Occasionally, I have to hold a discussion with them, but during ball games they accept (the coaches') decisions—they know where we're coming from."

That kind of discipline, Hall points out, may go unnoticed by players, but it is invaluable to a coach.

The athletes, on the other hand, see additional benefits to fielding a team of scholars.

"I think it makes for a better environment," said senior catcher Pat Evenson, who leads the team in batting with a .492 average, 22 RBI and 12 homeruns.

And his teammates agree.

"It brings the team closer together," said pitcher Todd Bernard. "If you work hard at school, you also work hard on the baseball field."

Bernard, a senior, has earned a cumulative 3.07 GPA in seven semesters at Point Loma while Evenson has attained a 3.13 standing.

Besides bringing a hard-work ethic to the game, some Pointers insist that smart students are making smart plays on the diamond.

"A lot of teams practice situations," said senior shortstop Jim Brasher, who sports a 3.59 GPA. "We don't. I think that's partly because of our experience. A lot of us have been playing together since Little League."

Part experience and part intelligence.

"We play well together," said Eric Reading, "because we play with our heads in the game."

Reading and his twin brother, Chris, form a rather unique leadership tandem.

Eric's 4.0 unweighted GPA and weighted 4.4 mark makes him Point Loma's 1986 valedictorian. Chris' 1.38 ERA, 12-2 record and 86 strike outs in 86 innings makes him one of the top pitchers in the county. His cumulative GPA stands at 3.70 unweighted and 4.05 weighted.

"More or less he pushes me in school work," Chris said. "And I push him in sports."

And why not?

"I can get A's without working too hard," Eric said. "I don't think I'm a genius or anything. I just get my assignments done."

Chris has found batters in the Eastern League to be an equally simple challenge.

It seems athletics have not hindered either Readings'—or their teammates'—study habits. On the contrary, balancing baseball and text books has helped the Point Loma players budget their time more economically.

"During football season," said Brasher, who did not participate in that sport, "I was bored. I found myself watching TV in the afternoons. I even watched a couple cartoons."

Studying didn't start until the evening. So now that baseball has replaced Bugs Bunny, Brasher has had no trouble finding time to complete his homework.

"If you're determined," he said. "There's no reason why you can't (do well academically and athletically)."

While the Pointers' goals in the classroom seem to have been met, their goal on the field—the CIF championship—remains off in the distance.

Point Loma (7-2) leads the Eastern League by one game over defending CIF champion Mira Mesa (6-3). The Pointers' final game, however, is against the Marauders at Mira Mesa. Earlier in league play, Mira Mesa topped Point Loma 5-4 in extra innings.

If Point Loma loses again, they will fall into a two-way tie for first with Mira Mesa. But win or lose, they are assured of making the playoffs (two teams from each league advance).

"We're pretty sure of ourselves right now," Eric Reading said. "We want to win the championship, it's the goal we set out for every year."

If the Pointers do indeed advance that far, players and coaches alike say the determining factor will be *team character.*

"We knew we were going to be a good team at the beginning of the year," said Bernard. "And we came out playing really strong.

"The team is really together this year."

Said assistant coach Steve Horrow, who has been coaching some of the players since they were eight years old:

"I don't think the good attitude on this team is strictly dependent on winning, (but) kids like this, they're going to get their fair share of wins."

Outfielder Walt Edwards (3.68) is the sixth senior on the club who will graduate with a cumulative GPA over 3.0.

DRUG-TEST OPINIONS DIFFER

With both Point Loma players and coaches seemingly agree on all aspects of their game this year, one difference of opinion does exist.

It centers around drug testing of high school athletes.

The coaches, Bill Hall and Steve Horrow, said they are in favor of any measure that would help alleviate the use of drugs among teens.

"We've been fortunate that we haven't had a problem," Hall said. "But I'd be for anything that would change society's drug problem. If testing athletes at a young age is going to curtail (abuse), then I'm all for it."

The CIF held a workshop Tuesday detailing a voluntary drug screening program used at Edison High School in Huntington Beach. There is some sentiment to adopt the program here.

Point Loma players, however, felt no need exists to adopt such testing.

"I think it (urinalysis) is kind of ridiculous," catcher Pat Evenson said. "Pretty soon they'll be testing Pony League players."

"I know, on a team like ours, there is no drug problem," said pitcher Chris Reading. "We party every now and then, but we're like a family—we watch out for each other.

"I don't think in high school sports (testing) is the thing to do."

Some players saw drug usage as a problem with all types of youths—not just athletes.

"A lot of high school students use drugs," said senior Jim Brasher. "But on this team, there is no problem."

ANNIE ACKERMAN: A LEGEND IN HER OWN TIME

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. LEHMAN of Florida. Mr. Speaker, Annie Ackerman has been mentioned in the CONGRESSIONAL RECORD before and, God willing, there will be many more RECORD statements about this truly super person.

The following newspaper story tells much about Annie, her political wisdom, her legendary "clout" and her personal courage. Mr. Speaker, I know you remember Annie from your own visit to Dade County. She has a way of making an indelible impression on everyone she meets, from local precinct officials to national leaders. Our community rightfully chose to honor this outstanding individual on the evening of June 21.

The news article doesn't mention two qualities about Annie that make her so special. First, she is the most literate private person I know. She has great taste in books. She continually reads and has the ability to absorb information and relay it to her audiences. People recognize her intellectual integrity and strength, and this credibility adds to her political effectiveness.

Second, she has an overriding sense of loyalty and responsibility to her family. Through all the years I've known her and all the activities she has undertaken, her family has always come first. Her late husband, Irving, equaled his spouse in character, tough-mindedness, and brilliance.

Annie didn't seek public office only because, as she said, "I was born in the wrong era." Her first concern was her husband and their children and grandchildren. Her power base and her strength are self-generated, but the source of it all was and is her family.

In a time when families disintegrate and generations don't communicate, Annie Ackerman has bridged the gap. She is a true matriarch of five living generations of one family, a symbol of Jewish tradition and an expression of the American character.

Mr. Speaker, our representative, democratic form of government depends on people who are willing to become involved, who care enough about their community and our country to commit their time, talent, and ideas for the public good.

Even in this special, select group, Annie Ackerman is a leader.

[From the Miami Herald, June 22, 1986]

THREE HUNDRED HONOR ANNE: "A LEGEND"

(By Richard Wallace)

Anne Ackerman and political clout still go hand and hand.

Some 300 people, judges, politicians, the politically hopeful, and just old friends and well-wishers gathered at the Turnberry Country Club in North Miami Beach Satur-

day night to honor the "Condo-lady," for years a major power-broker in South Florida politics.

"Half of these people aren't even running and they're still here," said Judge Joseph P. Farina. "That's because Annie produces where a lot of people just talk. She gets people involved."

"She's a legend, even in presidential politics," said Sen. Joseph Biden, D-Del., featured speaker at the first Anne Ackerman Distinguished Floridian Award presentation. "When you talk Florida primary, people say if you get Annie you've got it half done.

Wearing a white feather boa, white gown and gloves and a trademark hat, the diminutive Ackerman gladhanded among the throng like she was running for office.

"I've got more kisses tonight than I've had in the last 10 years," Ackerman said. "What a magnificant thing to have happen."

Former Florida Gov. LeRoy Collins, the political power who helped propel his state from the Old South toward the New South during the late 1950's, was honored as the first recipient of the award, named for Ackerman, the widowed 72-year-old, 4-foot 11-inch, populist-preaching great-grandmother who built a condominium constituency into a major political force in Dade County.

"She's an extraordinary person," said Collins. "She never makes an excuse to stay out of an issue. She really epitomizes the strength of people being involved in government."

"She epitomizes his ideals," said Evelyn Schengrund, of the nonpartisan Forum of North Dade. "They are hers also, and of course that is the reason he was chosen and that future recipients will be chosen."

The award has extra significance to those familiar with Ackerman's 5-year-old battle against cancer.

"It memorializes her name. It perpetuates her name," Schengrund said.

Ackerman, widely known as Annie, has made an extraordinary name for herself over the past two decades as an almost hypnotically persuasive speaker and the commander of a 2,000-strong condo bloc vote.

Using her apartment in the sprawling Point East condo development in Northeast Dade as a political base, Ackerman—a recent inductee in the Florida Women's Hall of Fame—has passionately crusaded:

- Against algae-spawning phosphate-laden detergents.
- For the boycott against surging coffee prices.
- Against the proliferation of handguns.
- For increased air time for WPBT, public television.
- Against anything she perceived as social injustice.
- For the interests of the state of Israel.

Ackerman's political influence is reflected by the greetings from state, local and national politicians who have met with her, been photographed with her and warmly embraced her, including Steve Clark, Bob Graham and Walter Mondale.

Ackerman's prominence has flowed from a particular gift: the ability to convert words into political action.

"The first time I heard her speak, I was on the edge of my seat," Schengrund said. "She was saying all the things I wanted someone to say. She had the courage to say them."

Schengrund sums up Ackerman as "a great person to have in your corner on any issue."

Wearing one of the omnipresent hats that have become a personal signature for her—even while sitting in her condo—Ackerman on Friday explained her passions.

"I'm a romantic and my greatest romance is with America. I'm a first-generation American of immigrant parents who taught me to love America," she said.

"They came here because they believed that if they had the opportunity, their children would be born in freedom—that they wouldn't have to face the oppression of czarist Russia."

Ackerman, who spent her first 55 years in Chicago, became interested in public speaking under the tutelage of her high school debate coach, a woman. Later, Ackerman learned of the hurly-burly of urban politics by observing a man.

"I think I was taught by the best political person in the country," Ackerman said. "His name was Mayor Richard Daley of the city of Chicago."

Ackerman has a succinct summation for success as a Dade political force:

"We found that if we could deliver a vote, we were listened to. Now is that surprising?"

She has two reasons why she has never sought direct political power by running for office.

"The first reason was that I was born in the wrong era. Families were resistant—everybody was resistant. Today is a different story," she said.

"The second reason is, I found I could be much more effective out of office than in office. I can speak out on anything I choose to speak out on and have people listen. It's something you can't do when you have to fight for votes," Ackerman said.

Recent changes in Dade's political landscape—the switch from multi-member legislative districts to single-member districts and the rise of ethic political blocs— have weakened the condo-bloc clout Ackerman developed during the 1970s.

"I think that the power that they once had has been diluted by the bloc voting of blacks and Cubans," said Vergil Shipley, a University of Miami professor of politics and public affairs.

"It has meant that the condo vote is no longer as important countywide as it once was," Shipley said.

"She could get out 90 percent of the voters, and 90 percent of them would vote the way in which she had decided, which is a very formidable power," Shipley said.

Ackerman acknowledged that redistricting, which she opposed, has brought change.

"When we had multi-member districts in this area alone we had six legislators that we could vote for and they had a cross section of Dade County that they were beholden to, not one little fiefdom," she said. "Now we have 20 little fiefdoms with nobody talking to each other.

As with most issues, Ackerman also will discuss another concern, her health, with forthright frankness.

"I was a very healthy woman, but I am not anymore," she said. "I have been fighting cancer for five years.

"Has there been a recurrence? Yes. Am I still fighting? Absolutely. And I will continue to fight and continue to use every day I have to the fullest. That's the whole story," she said.

"I'm here, I'm fighting, I'm speaking and I'll continue to do it."

CONGRESSIONAL SALUTE TO BIKE-AID '86

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. MATSUI. Mr. Speaker, it is with a great deal of enthusiasm and respect that I lend my support to the Overseas Development Network [ODN] for their efforts to help the needy of the world. I would also like to commend the ODN on its project Bike-Aid '86: Pedalling for Progress, which is a cross-country bike-a-thon to raise people's consciousness to the plight of the hungry and suffering in our Nation and in others.

The ODN is a grassroots organization that seeks to educate and involve students in the constructive approaches to relieving world poverty. One major goal to the ODN is to challenge students to become involved in the development process of an undeveloped area. This development includes the construction of roads, schools and sanitary facilities, the initiation of new agricultural and management techniques, and the introduction of new technologies.

This year the ODN is sponsoring Bike-Aid '86 to help fund its year-round grassroots projects. Bike-Aid '86 is a mission involving hundreds of college men and women who are sacrificing the comforts of home to improve living conditions for their fellow man. The money raised will fund projects both abroad and domestically, as well as complement the budgets of other small self-help organizations' projects.

The continuing effort of the ODN, as represented by Bike-Aid '86 is a step in the direction toward a brighter future for the world's needy. I highly commend these services, and wish the participants of this important event my very best wishes.

FELIPE GONZALEZ AND UNITED STATES-SPANISH RELATIONS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. GARCIA. Mr. Speaker, the New York Times ran an op-ed piece by Jose Luis Gutierrez, editor of the Spanish newspaper, Diario-16 on the reelection of Spanish Prime Minister Felipe Gonzalez this past Sunday.

As Mr. Gutierrez aptly points out, the United States can certainly trust Prime Minister Gonzalez. Interestingly enough, Felipe is also a Socialist. That is a word that sometimes strikes fear in the hearts of ardent supply-siders. Yet, his brand of socialism is strongly on defense, has a flexible economic policy, and is commited to the welfare of the Spanish people. Perhaps, Felipe is not only to be trusted, perhaps we can learn from his brand of socialism as well. I submit Mr. Gutierrez's articles for the RECORD:

THE U.S. CAN TRUST GONZÁLEZ

(By José Luis Gutierrez)

MADRID.—Americans ought to be pleased by the re-election of Prime Minister Felipe Gonzalez. The charismatic 44-year-old incumbent is a known risk-taker and a Socialist determined to continue on the left-of-center course he has pursued for the past four years, but he has shown himself to be a staunch friend of the United States.

Mr. González's pro-American decision to keep Spain in the North Atlantic Treaty Organization was endorsed by the electorate in a referendum in March, but this Atlanticism is often criticized by his own, left-leaning political base. People on the left deride him as "the friend of the Americans" and "Washington's man." Gerardo Iglesias, first secretary of the Spanish Communist Party, has said that "González's political program is written in Washington." Nor does the criticism come only from the left.

A strong current of anti-Americanism, sentiments that reach as far back as the Spanish-American War of 1898, runs through Spanish society, as common on the right as on the left. Disapproval of the American raid on Libya in April ran high in the conservative opposition and among supporters of the former Prime Minister Aldolfo Suárez, who expressed his "most energetic condemnation of the attack." By comparison, Mr. González's comment—that he was "not in agreement with the methods used"—was relatively mild.

Mr. González's views have been maturing for some time—since long before 1982, when he was elected Prime Minister. Ten years ago, they were quite radical, often in line with the views of the Communist Party. Today, they are so moderate that they are sometimes confused with positions of the conservative opposition.

In 1976, in a book written by a French Socialist, Pierre Guidoni, who was later appointed Ambassador to Spain, Mr. González was quoted as saying, "NATO is nothing but a military superstructure implanted by the Americans to guarantee the survival of the capitalist system." Not even two years later, after his first visit to the United States, he told a Venezuelan audience: "I would rather be knifed in the gut going into the New York subway than live 30 years safely and tranquilly in Moscow."

In 1982, he threatened to hold a referendum on a resolution withdrawing Spain from NATO. By 1985, he was asking the country to vote exactly the opposite way. The Socialists' slogan in the national elections called for "change." At the time, Spanish voters thought they meant the country. Now it looks as if they also meant themselves.

Today, after nearly four years in office, Mr. González has become an enthusiastic defender of the free market system and the private sector. In May 1985, when he attended the inauguration of President Julio Maria Sanguinetti of Uruguay, he comfronted two journalists, supporters of Fidel Castro and the Sandanistas: "I will tell you the same thing that I told my friend Castro: The Communist system doesn't work." He made a similar comment several weeks later in Moscow: after a five hour interview with Mikhail S. Gorbachev, Mr. González called the Soviet leader "a prisoner of the superstitions" of the Soviet system.

Last September, Mr. González traveled to China and Japan, and on the return flight, the presidential plane flew over Alaska. Several American fighter planes appeared suddenly out of the blue and flew alongside the aircraft. A number of people in the Prime Minister's entourage were alarmed and annoyed, but when he was informed what had occurred, he commented expressively: "Those are our friends."

In this unmistakably pro-American context, the Socialist Government's threats to reduce the American military presence in Spain cannot be taken too seriously. A number of candidates in last week's election talked about canceling the agreement that allows up to 12,500 American troops to be stationed on Spanish soil. But Mr. González can be expected to continue negotiations with Washington for a more gradual reduction. Leopoldo Calvo Sotelo, a former Prime Minister, might just as well have been speaking for Mr. González when he said, "Yanquis, go home—but not all of you, just a few." And in the long run, it seems quite clear, the United States can count on Felipe González as a confirmed friend.

THE STATE OF THE PHILIPPINES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. HEFTEL of Hawaii. Mr. Speaker, this is the sixth of an insightful 10-article series on the Philippines written by George Chaplin, the editor-in-chief of the Honolulu Advertiser. This installment discusses the present controversy surrounding one of President Aquino's cabinet officers, Aquilino Pimentel, and his tactics in organizing political power in the towns and provinces outside of metro Manila. The article also includes an interview with Vice President/Foreign Minister Salvador Laurel and his views on the current political climate of the Philippines.

The article follows:

[From the Honolulu Advertiser, May 23, 1986]

CABINET OFFICER MAKES TROUBLE IN COUNTRYSIDE FOR CORY'S GOVERNMENT

(By George Chaplin)

MANILA.—President Cory Aquino still has a Joan of Arc image, but one of her cabinet officers is creating big problems for her in the provinces and towns scattered across the Philippines' 7,100 islands.

Understandably, she and her associates want to dismantle the old Marcos political network throughout the country. During her election campaign she pledged to do this "with the zeal of a crusading housewife let loose in a den of world-class thieves."

But her minister for local government, Aquilino Pimentel, has started replacing the thousands of provincial and municipal officials—governors and mayors, then down to town councilmen and barrio chiefs—with an overly heavy hand.

He is widely accused of operating by whim and caprice, and with an eye to his own political future by building a personal base.

In a recent chat with journalists, Defense Minister Juan Ponce Enrile said field reports from the military indicate that purging elected officials and replacing them in many instances with less qualified people is creating "a law and order problem."

Aquino does not want to hold local elections until there's a new constitution, which should be written this summer by a presidentially appointed commission and submitted to a nationwide plebiscite.

Also there's the feeling that, before any elections, the registration rolls need to be purged of the names of non-existent voters. If this is not done, the concern is that Marcos people will be fraudulently returned to office.

But meanwhile, observes Mark Fineman of the Los Angeles Times who is based here, "Local government in virtually every city, town and village . . . has ground to a standstill."

He quotes Pimentel's defense: "It is important that we remove these people whose sole purpose was to perpetuate Marcos' power, and that we place people in local governments who believed in the programs of President Aquino from the time her presidential campaign began."

But, as Fineman observes, "in an island nation as fragmented and decentralized as the Philippines, a change in national leadership has far less impact than changes among local governors and mayors—positions equivalent to the traditional island tribal chiefs who controlled such vital daily concerns as jobs, food distribution and village development projects."

In some instances, incumbents have refused to leave their posts and there have been clashes between, their supporters and those of the newly named successors.

We were told that in Cebu there were two governors and two mayors and that while the military commander there treated them all with respect, he took orders from none.

The dispute over Pimentel's appointments of what are called OIC's—officers in charge—is not only evident on local scenes, where there have been fights, protest rallies, petition-signing and other activities—but within the Aquino cabinet itself.

Pimentel is president of the PDP-Laban party (Partido Democrating Philipinas), which is in a coalition with UNIDO (the United Nationalist Democratic Organization) headed by Vice President/Foreign Minister Salvador Laurel. Yet, the complaint goes, the vast majority of appointees are from PDP/Laban. UNIDO's secretary general, Rene Espina, says local residents are "being saddled with people who had either lost in the last elections or are totally unknown to them."

Even supporters of Pimentel acknowledge that there has been far too little consultation with local people before appointments are made. One observer told us that because there are so many posts to be filled. Pimentel has simply relied on hasty recommendations from friends and associates.

Espina contends that an indiscriminate choice of officials and the resultant tumult is giving the Communist Party and its New People's Army additional ammunition in its fight against the government.

The Daily Inquirer, in an editorial, said that the controversy "goes much deeper than the mere jockeying for power between the PDP-Laban and the UNIDO.

"The partisan competition between the two Aquino camps. Pimentel should know by now, is just one aspect of the problem. At the grassroots level especially, politics in this country tends to take on a cult-ish dimension. Local constituencies are, therefore, wary to accept the leadership of anyone—no matter how well recommended by the Ministry for Local Government—they know little or nothing of.

"Popular resentment is heightened by the fact that they had not voted these OICs into office. As a former popular mayor of Cagayan de Oro City, whose citizens took to the streets time and again to support his

episodal brushes with the Marcos government, Pimentel should have known better."

Pimentel, of course, is not without those who feel he is doing what is necessary. A Manila Times columnist, Lito Monico Lorenzana, contends that provincial governors and mayors "were placed in office in 1980 through the manipulated vote of Marcos' 'one-party regime.'"

And, he continues, "acting as the dictator's surrogates, local officials established their own family dynastics along the model of the (Marcoses). As much as Marcos and his wife Imelda made the Philippines their kingdom, local executives turned cities and towns into their own fiefdoms.

"In the Metro Manila area, for example, the various city and town mayors presided as overlords on the order of Marcos' one-man rule, keeping the leverage of power for their families and cronies.

"They had their sons overseeing all juicy licensing and law enforcement functions or had them rampaging all over town as lords of vice and violence.

"Naturally those Metro Manila mayors and all their ilk throughout the country had to get walking papers in the general sweep designed to dismantle the old regime.

"So why all the beef when Minister Pimentel took it upon himself to sanitize the local units of the Marcos apparatus?"

The columnist said the six-year tenure of the officials ran out March 3 and on that day they should have stepped down to yield "to the people's will resoundingly articulated" in the February revolution.

The furor is more over the perception of Pimentel's politicking and questionable judgment rather than his basic integrity. He's a man who openly organized resistance to Marcos and was imprisoned several times for "inciting rebellion."

President Aquino, in an effort to defuse widespread controversy, has named a board of arbitration to review disputed appointments. It consists of Vice President Laurel, Political Affairs Minister Antonio Cuenco and Pimentel.

During an interview, Laurel was asked for his reaction.

He told us Pimentel was rocking the boat, that some incumbents were being replaced by people who were less popular or even undesirable. He suggested that all incumbent elected officials be considered first, if they're good administrators. But, on the other hand, if they're scoundrels, then they should be charged and replaced—and the next in line should be considered.

In another interview we asked Defense Minister Enrile for his views.

He replied:

With the new regime there's desire to get rid of the oppressive structure of the Marcos era, so Officers in Charge are being appointed. Many are said to be okay, but some are unwanted, and said to be of questionable judgment.

When there's an election (now seen between November and next February) I'm sure many (of those displaced) will come back.

Incumbents have in their favor, aside from the fact of having been elected, a legislative provision that they will remain until successors are elected and qualified.

There is a tendency to loosen up political stability of local government units, thus causing some national instability. I've submitted my view to the president. But since the fact is accomplished, the question is how to correct situations where some people are losing face.

Q: Is Aquino agreeing that there's a problem?

A: Yes, because she's getting the same feeling from different sources.

"SORTING OUT SANITY FROM THE MONSTROUS MADNESS"

(By George Chaplin)

MANILA.—The bloodless revolution of last February, while it ousted Marcos and restored freedom, is not finished, says Vice President/Foreign Minister Salvador Laurel.

"We have not yet achieved political stability so we're in no position to begin to achieve economic recovery. You don't talk about what to cook for lunch when the house is on fire. So let us not be over-confident that everything is all right."

In an interview, Laurel harks back to his April 19 speech to alumni of the University of the Philippines. There, he spoke of "the discontent, the impatience, the confusion and the tumult that still reverberates across the land," and cautioned that the "unfinished revolution" could "still take us to one of three possible directions."

One would be a swing to the extreme right, with a military coup, a violent takeover if the new government were to be perceived as "just as corrupt or as hopelessly ineffective" as the Marcos regime it supplanted.

A second possibility would be a swing to the extreme left, which would mean "a communist takeover, perhaps more violent and horrifying." This could result if people sensed "that the new government has failed to address (their) legitimate needs and grievances and gives them no hope of a better life."

Or, the third direction, would be "this government (which) by the grace of God may succeed, causing the tremors and aftershocks (of the revolution) to settle down and cease, allowing the return of normalcy and stability, so that economic recovery can begin and our people can start to work out a brighter, more secure tomorrow."

This course, he stressed, ironically may be the hardest to take "because it demands from us the highest measure of courage, determination, commitment, patience and sacrifice."

Now, after "trying to sort out sanity from the monstrous madness, the wanton waste, the staggering indebtedness, and the unmitigated corruption of the Marcos regime, we realize that we must wage a new war if we are to win completely our people's liberation."

The first order of business is to get a new constitution, which he feels can be drafted by a soon-to-be-named commission before the end of August and submitted to the people in a plebiscite in the fall.

The next step would be a call for elections for Parliament and provincial and local offices, with a campaign of 45 to 60 days.

Q: What about the feeling of some people that the elections probably can't be held before next January or February, because voter rolls have to be purged?

A: I don't believe we need too much to purge the voters' list. Many are padded, but it's not an insurmountable problem. This government is hellbent on having clean elections.

It can be done in November, as a transition bridge from a provisional government to full democracy.

Q: What about competition between the parties in the coalition?

A: I proposed to the president the unification of all political groups into a single party. It could be a merger or coalition, so we don't have to be jockeying for position. I submitted this position weeks ago. The president will have to decide. It's not up to Pimentel.

(This reference was to the resistance to a merger by the Minister of Local Government Aquilino Pimentel, who says he favors the idea of coalition.

(Pimentel, who heads the PDP/Laban Party as against Laurel's UNIDO, says a "merger means that an independent group like ours cannot retain its identity and its ideology and will be swallowed up by other parties.")

We asked Laurel about his relations with President Aquino.

A: I give her advice when I think I should. For instance, when going to Bali for the meeting with President Reagan, I told her what would be taking place so she could proceed intelligently.

Q: She is new to politics. You and others are politically experlienced. Is there dissension?

A: President Aquino is realistic in that respect. She delegates authority to cabinet members and allows them to work to their best.

Q: What of the U.S. bases?

A: Right now they are not in jeopardy. The government will respect the agreement until 1991 and after that all options are open depending on the world situation. We are open-minded.

My personal position is that if the U.S. is definitely interested in extending the term of the bases, there will be an agreement. One year's advance notice is required. If the Philippines responds favorably, panels from both countries will meet and negotiate a new pact starting from scratch. There were 25 unresolved issues in the 1947 agreement.

My view is that any such agreement should go to the people for a plebiscite. That's not normal, but this has been a subject of ongoing debate the last 39 years. Should the people say yes, that will end all debate and be conducive to more stable relations. If they say no, the U.S. would also have to bow to the will of the people.

The question of Philippines defense will of course be taken into consideration, as will overall U.S.-Philippines relations, which are now definitely stronger and which I expect to further improve.

Q: What about Marcos?

A: We want Marcos to stay for a while in the United States until our country is more fully stabilized.

(Laurel said that in Bali he'd told President Reagan that President Aquino wanted Marcos where U.S. court cases could be pursued against him in Manila's efforts to get back plunderered wealth, and that if he went to a third country he could get his hands on money he took and employ it to destabilize the government here.

(That, said Laurel, is why they have lifted his passport. Secretary of State Shultz has suggested that the passport should be returned, the intimation being that Marcos is proving an embarrassment to the U.S. and Washington would like to see him go elsewhere.)

Q: What about retrieving what Marcos took?

A: A great deal depends on the cooperation of the U.S. and other countries where properties are being kept. If, for example, the U.S. and Switzerland cooperated, within

a short time we should be able to get a substantial portion of it.

Q: What about relations with China and the Soviet Union?

A: We don't have much contact with them. We are a small developing country and our foreign policy is to make no enemy if we can make a friend.

Q: Do you have a message for the Filipinos in Hawaii?

A: I hope you'll make Marcos comfortable so he'll stay there longer.

TRIBUTE TO COL. FRED F.Y. PANG, USAF

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. ASPIN. Mr. Speaker, on October 1, Col. Fred Pang, U.S. Air Force, Director of Compensation, Office of the Assistant Secretary of Defense for Force Management and Personnel, will retire after 30 years of distinguished military service. His retirement will create a vacuum, not only in the Office of the Secretary of Defense but throughout the uniformed services, in other agencies of the executive branch, and in the Congress.

Colonel Pang has mastered the complexities of both of the key elements affecting human resources: compensation and personnel management. He has become the focal point in the Department of Defense for all issues that have a major impact on the management of military personnel. He is the focal point not because he is assigned to key positions; on the contrary, he has been assigned to these positions and been given two of the most difficult tasks addressed in the past decade because of his unquestioned expertise and his innate ability to lead.

He has demonstrated his ability to understand and explain the most complex aspects of military personnel and compensation. Understanding and explaining the status quo, however, would not by itself be remarkable. Colonel Pang has traveled far beyond the status quo. He has played the major role in resolving two of the most difficult legislative problems we have faced in a decade: changes to the Defense officer personnel management system and changes to the military retirement system.

In each case, Fred Pang was instrumental in defining the compromise—both within the Department and between the Department and the Congress—in the context of several diametrically opposed and strongly held positions. He has been able to cut through the dogmatic folklore that surrounds many of the important issues affecting military personnel, to see the ramifications of various courses of action—as well as inaction—and to develop a compromise solution that maintains the elements important to each of the participants, that results in a program based on sound policy considerations and, most importantly, that improves the system that governs the men and women who serve in the Armed Forces.

As chairman of the Military Personnel and Compensation Subcommittee, I understand the immense task inherent in coming to grips with the problems in this area. Colonel Pang has described and defended the Department's position consistently and forcefully throughout the years. This has not hampered him, however, from providing the committee with otherwise unavailable assistance and expertise, without which we could not have fully understood the impact of our decisions. This willingness to address alternatives, "to see the other side," is what has made Colonel Pang one of the most influential forces in the field of military personnel and compensation legislation. He has rightfully earned the respect of his subordinates, his peers and his superiors as a result of his aggressive, intellectual and purposeful leadership in this area.

Few of us can point to specific accomplishments that survive the test of time. Colonel Pang has left a well-defined trail of such accomplishments. But accomplishments alone do not reflect the full measure of Fred Pang's influence. More important is the impact that these individual accomplishments have on the status of the U.S. military personnel.

Today, the quality of military personnel is the best it has ever been. Today, serious problems in the personnel arena are at the lowest point they have ever been. Today, the military personnel and compensation system stands at a pinnacle.

This is no coincidence, Mr. Speaker. I have no doubt in my mind that the critical factor in this achievement has been the collective effort of Col. Fred Pang and the people he has led.

TRIBUTE TO COL. FRED F.Y. PANG, USAF

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. NICHOLS. Mr. Speaker, I rise to offer a tribute to a man who has served his country long and faithfully during a distinguished military career. Col. Fred Pang, U.S. Air Force, Director of Compensation, Office of the Assistant Secretary of Defense for Force Management and Personnel, is an officer who could well serve as an example of the ideal leader in any text on leadership. His approach is low key, but it is effective. He has the rare ability to grasp the solution to the most complex problems and to direct his efforts and the efforts of those around him toward the achievement of the desired ends.

No where has that ability been better demonstrated than in the consideration of the Defense Officer Personnel Management Act [DOPMA]. This legislation made the most substantial change in the officer personnel management system in over 40 years. That the problem was difficult was demonstrated by the inability to reach a compromise within the Department of Defense and between the Department and the Congress on an issue that affects the very livelihood of 300,000 military officers. For over 4 years, DOPMA languished in a legislative no-man's land. And then Colonel Pang arrived on the scene. He was able to look at the problem objectively and to suggest compromises that were finally adopted by all the parties involved. In no other area has public policy benefited more from the influence of Col. Fred Pang. DOPMA is and will remain a tangible monument to his leadership.

The measure of leadership is not limited to an individual's singular accomplishments, however, but extends more broadly to the influence the individual has on the environment within which he works. As the former chairman of the Military Personnel and Compensation Subcommittee, I know of the influence Fred Pang has had on his environment.

No more knowledgeable individual has ever assisted the subcommittee. Expertise is a fundamental requirement for a good leader; Fred Pang has, from this perspective, rightfully earned the admiration of all with whom he has worked. He is a font of knowledge, and his advice is sought by the military services, the other uniformed services, the Office of the Secretary of Defense, the Office of Management and Budget, and the committees of Congress.

His influence on those he has advised has been immense because Colonel Pang has credibility. He has been willing to explore all sides of an issue, not just to limit his discussion to the Department's position. More importantly, Colonel Pang has been able to give account to congressional constraints or overall objectives that may differ from those held by the Department and offer constructive suggestions within the congressional framework. This charactertistic, perhaps more than any other, has resulted in his ability to shape policy in a direction that is most beneficial to the military personnel whose well-being he has chosen to protect and enhance as his primary objective. He does not have to indicate that this is his primary objective. His actions, his accomplishments, and his direction convince all those with whom he has worked that such is the case.

Mr. Speaker, although we in the Congress will miss the counsel of Fred Pang, the loss will be greatest within the Department of Defense. No one has better represented the Department or its position. No one has achieved legislative solutions more favorable to the military personnel he has represented. Col. Fred Pang is a true leader and a man who will be sorely missed as he retires.

THE DEFENSE BUILDUP

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 25, 1986, into the CONGRESSIONAL RECORD:

THE DEFENSE BUILDUP

The 1981-1986 defense build-up cost almost $1 trillion, and current plans call for a second five-year build-up of over $1.8 trillion. More than 80% of those responding to my recent Ninth District questionnaire felt that much of the money going for the recent build-up has been wasted. Hoosiers express to me considerable skepticism about

defense spending. Here are some of the questions asked and my responses:

Question. Has there been a massive Soviet build-up in the last decade?

Answer. According to recent estimates by the Central Intelligence Agency and the Defense Intelligence Agency, overall Soviet military spending has increased some 27% since 1974. Soviet spending on weapons increased by 11-18%. During the same period, overall U.S. military spending grew 52%, and U.S. weapons spending increased by 113%. As for future Soviet spending, the CIA and DIA found that, rather than preparing for a military build-up, Gorbachev may be turning his attention to the Soviet economy.

Question. Were U.S. military forces severely underfunded in the 1970s?

Answer. There is no convincing evidence of a "decade of neglect". Every major conventional defense program currently in place, and almost all nuclear systems—the B1 bomber, MX missile, and Trident submarine—were researched and developed in the 1970s. During that period, the U.S. deployed more strategic warheads than the Soviets; increased the number of U.S. strategic weapons from around 4,000 in 1970 to 9,500 in 1980; developed air-, sea-, and ground-launched cruise missiles; improved the accuracy of the land-based (Minuteman) missile force; and fitted intercontinental missiles with multiple warheads.

Question. Is the Soviet Union's military arsenal superior to the U.S. arsenal?

Answer. The two superpowers have different military needs. As President Eisenhower said, "We need what we need, not what the Russians happen to have." The Soviet Union must spend heavily to protect its long border with China, while the United States faces no comparable border threat. According to the CIA and the Pentagon, some 15-20% of all Soviet military spending is directed toward China. In conventional weapons, the Soviets lead in the quantity of weapons, but U.S. weapons are technologically superior. In nuclear weapons, both sides are basically even. The Soviets have a commanding lead in land-based missiles, but the U.S. has superior bomber and submarine forces. In addition, the U.S. has strong, economically independent allies, while the Soviets' allies are largely economically dependent on the Soviet Union and are generally considered to be unreliable in the event of war. For the last 20 years, the NATO allies have outspent the Warsaw Pact every year.

Question. To negotiate real arms reductions with the Soviets, is it necessary for the U.S. first to build up its military forces?

Answer. Despite the largest peacetime build-up in U.S. history, the U.S. and the Soviets have failed to negotiate a single arms reduction agreement in over six years. In fact, the history of arms talks shows little correlation between arms negotiations and the level of defense spending. Most of the major U.S.-Soviet arms agreements were reached during periods in which U.S. military budgets were either declining in real terms or growing only modestly. Rather than encouraging arms control, increases in defense spending often create larger domestic constituencies that oppose cuts. The proposed Strategic Defense Initiative, for example, which the Pentagon hails as the bargaining chip that brought the Soviets back to the negotiating table, is itself non-negotiable and is already creating a network of supporters including researchers and contractors.

Question. Is it possible to reduce defense spending without jeopardizing national security?

Answer. The build-up has created a huge backlog of funds approved by Congress, but not yet spent by the Pentagon—some $300 billion by 1987. A broad range of defense analysts believes that it is possible to halt the growth in the defense budget and maintain a strong defense capability. They claim that large savings can be achieved by eliminating ineffective and duplicative programs, slowing the pace of weapons procurement, deferring construction, stripping inflationary padding, and re-estimating costs. At the same time, continued funding would be provided for readiness and most operations and maintenance accounts.

Question. Can the Pentagon manage a $1-2 trillion five-year budget effectively?

Answer. Many defense analysts agree that the rate of spending has been too fast to ensure proper cost control and effective management. They worry that huge budget increases have virtually eliminated any pressure on the Pentagon to develop a clear and consistent strategy, eliminate unecessary weapons systems, or conduct adequate testing before production. As an example, average unit costs of major weapons systems have risen by over one-third, although the Pentagon had argued that the faster rate of spending would decrease unit costs. Without doubt we are engaged in a military "spend-up"; it is much less clear that it is a build-up. The Congressional Budget Office found that, when compared to the previous four years, the Pentagon paid 91% more to buy only 6% more missiles; paid 148% more for only 30% more tanks; and spent 75% more for only 9% more aircraft. A former senior advisor to six Defense Secretaries also notes that there is great duplication in the strategic nuclear forces. For example, the Pentagon supports the air-launched cruise missile, the B-1B bomber, an advanced cruise missile, and the Stealth bomber—all of which have very similar missions against Soviet air defenses.

Question. Is the Pentagon receiving its fair share of federal tax revenues?

Answer. According to several recent studies, about 50 cents of every federal income tax dollar paid by individuals goes for military-related programs. That translates into an annual military tax bill of $1500—2000 for many single taxpayers and $3000-4000 or more for two-income families.

NORWOOD HONORED AS "NEIGHBORHOOD OF THE YEAR"

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. ERDREICH. Mr. Speaker, I have often talked with pride about the many neighborhoods that make up Birmingham, AL. Birmingham has been cited as having one of the top citizen participation programs in the country, and the residents of the city's 95 neighborhoods have contributed greatly both to the economic and cultural vitality that makes Birmingham a great place to live, work, and raise families.

I would like to take a few moments to tell my colleagues in the House about one particular neighborhood in Birmingham that has received national recognition. The Norwood Neighborhood Association was recently named "Neighborhood of the Year" at the Neighborhoods, USA Conference held in St. Paul, MN.

Neighborhoods, USA is a network organization representing 61 cities across the country. Each year model neighborhood projects submit presentations in different categories to be judged on criteria including self-help capacity, ability of organized groups and resources. A panel of distinguished jurors select special projects for recognition.

The Norwood Neighborhood Association's presentation focused on the networking of several groups to assist with the social needs of the neighborhood's residents. During the past year, Norwood has opened a community center operated by neighborhood volunteers, and worked closely with the new North Central Middle School. The neighborhood has established other programs for youth, focusing on drug prevention education, graduation activities, an official youth association, and athletic programs. The Norwood Neighborhood Association was also involved with the city of Birmingham in a "Paint for Pride" program as well as targeting all homes close to Norwood Boulevard for housing improvements. Over 80 people and organizations were cited for their work in improving life in Norwood.

Other neighborhood associations in Birmingham also received recognition for their community participation. The North Titusville Neighborhood Association was cited for their work in housing and community development projects, and Jefferson County was also cited for its work in the Rosedale community.

I am certain my colleagues are aware of the vital importance that strong citizen participation plays in the successful operation of programs to enhance and improve our neighborhoods. I would like to congratulate the Norwood Neighborhood Association for being named "Neighborhood of the Year", and commend all of the neighborhood associations in Birmingham for their efforts to make their communities and the city of Birmingham the best they can be.

HARD TRUTHS OF LEN BIAS' CASE

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. SHUSTER. Mr. Speaker, I would like to draw my colleague's attention to the following article by the distinguished columnist Haynes Johnson which appeared in today's edition of the Washington Post.

HARD TRUTHS OF LEN BIAS' CASE

In one of the countless commentaries on the death of Len Bias, superstar basketball player and local hero, the commentator recalled a W.H. Auden poem about the tragedy of an athlete dying young.

A better analogy exists in the tale of Daedalus and Icarus, one of those stories of gods and heroes from the ancient world of the Greeks, as reprinted in Bulfinch's "Mythology":

"Icarus, my son, I charge you to keep at a moderate height, for if you fly too low the damp will clog your wings, and if too high the heat will melt them. Keep near me and you will be safe."

Daedalus fitted the marvelous, intricate wings he had fashioned with thread and wax and feathers to his son's shoulders, kissed him, "not knowing it was for the last time," then flew off, encouraging Icarus to follow. As they flew above the earth, a shepherd stopped his work to watch, "astonished at the sight, and thinking they were gods who could thus cleave the air."

The fable proceeds to its tragic, preordained ending:

"The boy, exulting in his career, began to leave the guidance of his companion and soar upward as if to reach heaven. The nearness of the blazing sun softened the wax which held the feathers together and they came off. He fluttered with his arms but no feathers remained to hold the air. While his mouth uttered cries to his father it was submerged in the blue waters of the sea . . . ."

Whichever of the versions you prefer, the modern or the ancient, the Bias story was immediately treated as another near-mythical tale of tragedy: the godlike young athlete untimely taken as he is about to soar toward the sun. Initial accounts of his death reinforced these pleasant illusions: he was a perfect young man, a poet, a churchgoer, an inspiration and model for other youths and his college teammates.

It is no disservice to Bias to suggest that his story and example provide lessons that lie in harsh reality, not myth. Less than a week after his sudden death, hardly anyone connected with it looks good—not the University of Maryland, his teammates, the college athletic establishment, the police. It is hard to escape the conclusion that the truth is the lat thing they seem to have wished to face.

In his last semester, Bias was enrolled in five courses and passed none. He withdrew from two and failed three others. What does this say about scholastic standards there and the way superstar athletes are treated? The reality, of course, is that, at Maryland and other major institutions, star athletes are treated as commercial commodities, not students.

His teammates have drawn a veil of silence over the episode, abetted, it appears by their coach, who reportedly advised them how to respond to questions about the case. More disturbing is that those in the dormitory where Bias died have refused to be interviewed about what really happened there.

Inexplicably, even police accepted that situation, maintaining that they cannot question those young men because their attorneys will not permit it. This occurred although police immediately judged the death "suspicious," Bias was reported to have ingested cocaine, a "white substance" was found in his car and a possible criminal investigation was under way. Given these facts and yesterday's official finding that he died of "cocaine intoxication," why were those who refused to cooperate with the official investigation not held as material witnesses until statements were taken?

None of these facts detracts from the tragedy; they reinforce it. They cry out for the truth about his case to be known and its larger lessons understood by the widest possible audience. If and when that is done, Bias undoubtedly will be seen not as unique but as a victim of circumstances beyond his making and control.

Does anyone want to grapple with that greater meaning? Ironically, the poet Auden concluded in the negative when he addressed that question and related it to the ancient tale of the boy who flew too high:

Brueghhel's Icarus, for instance; how everything turns away
Quite leisurely from the disaster; the ploughman may
Have heard the splash, the forsaken cry,
But for him it was not an important failure; the sun shone
As it had to on the white legs disappearing in the green
Water; and the expensive delicate ship that must have seen
Something amazing; a boy falling out of the sky,
Had somewhere to get to and sailed calmly on

TRIBUTE TO COL. FRED F.Y. PANG, USAF

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. HILLIS. Mr. Speaker, I cannot let the occasion of the retirement of Col. Fred Pang, U.S. Air Force, Director of Compensation, Office of the Assistant Secretary of Defense for Force Management and Personnel, pass without acknowledging his outstanding contributions.

As the ranking Republican member on the Military Personnel and Compensation Subcommittee, I have seen the remarkable progress made in the field of military personnel and compensation in recent years. Colonel Pang has been intimately associated with the most concentrated confluence of changes affecting the military personnel and compensation system. Certain programs stand in continuing testimony to the impact he has had. Few leaders can look back over their careers and see the impact they have had. The Defense Officer Personnel Management Act and the soon to be enacted changes to the military retirement system are among the programs to which Fred Pang will always be able to point with pride.

Both programs required herculean efforts to reach fruition. Less substantial changes would have been easy and less than satisfactory changes would have required little effort. But that is not Fred Pang's way and that is not the way that results in programs that will stand the test of time and changing circumstances.

The Defense Officer Personnel Management Act [DOPMA] has already stood the test. I am firmly convinced that the officer personnel management system is more equitable, more efficient and more flexible as a result of the change 5 years ago, and I am not aware of anyone who would disagree. The key measure of success is how it is being received by those to whom it applies and here again the evidence indicates overwhelming success. This outcome is a direct result of the leadership of Colonel Pang.

The changes to the military retirement system were embroiled in perhaps the most emotional environment of any change ever made to the military personnel and compensation system. In this kind of an environment, clear understandings of important factors and critical decisions are difficult to make. The counsel of Colonel Pang provided the framework within which to make good decisions. The retirement system for new entrants was not desired by the Department of Defense, but future service members will be under a sensible and effective system—a result, I believe, that can be directly attributed to the quiet, but effective, diplomacy of Fred Pang.

These programs and many others will continue to serve as the foundation for military personnel and compensation for years to come. They will serve as the models for efficient and effective programs.

Colonel Pang has assisted the committee innumerable times. Each time we have benefited from the help. We did not always agree, because we held different objectives at times; but we always understood the ramifications of our decisions better as a result of Fred Pang's help. And the military personnel and compensation system is, today, significantly better for it.

However, the ultimate reward for Fred Pang for his years of dedicated and distinguished service is the mark he has left on service members. That is the bottom line; that is the final measure of success. Service members are better off today than they have ever been. Their well-being has been the singular, overriding concern of Colonel Pang; and their well-being could not have been in more capable hands.

Few service members know Colonel Pang; not many recognize the debt of gratitude they owe him. He is an unsung hero, and an untiring and faithful public servant. His retirement highlights an era of enlightened leadership that will be extremely difficult to maintain.

Mr. Speaker, we wish Col. Freg Pang the best in the future; he has unquestionably and unselfishly given all military personnel his best in the past.

DEATH BY HANDGUNS: A NATIONAL INSANITY

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. LEHMAN of Florida. Mr. Speaker, each year, about 10,000 Americans are killed by handguns. If these deaths were caused by a disease, Congress would probably have the National Institutes of Health looking for a cure. Rock musicians would hold aid concerts and movie and television stars would appear on telethons to raise research funds and to help the victims.

But death by handgun is not a disease. NIH is working on other problems, and there have been no concerts or telethons. About all that has happened in recent months has been passage of the McClure-Volkmer bill which actually weakens Federal firearms laws and makes it easier for criminals to obtain handguns.

A comparison of statistics on handgun deaths among several nations shows the extent of our problem: Great Britain, 4;

Canada, 6; Japan, 92; West German, 17; United States, 9,800. Clearly, it is time to do something about this insanity.

In south Florida, Dr. Lawrence Brant has launched a special effort to control handguns. Dr. Brant's wife Shirley, a remarkable, committed woman of many talents, was cruelly murdered this month by a robber armed with a handgun. In her memory, and in an effort to prevent such tragedies from recurring in our community, Dr. Brant established the Shirley Brant Memorial Fund Against Handgun Crime.

I would like to share with my colleagues a recent newspaper story about this matter:

[From the Miami Herald, June 19, 1986]

OUTRAGED, WIDOWER PUSHES FOR GUN CONTROL

(By Charles Whited)

In the aftermath of it Wednesday, friends still came in hushed, respectful clusters to the comfortable family home in North Miami Beach. In the Jewish tradition, the wall-length mirrors were covered with white paper for the time of grieving.

Dr. Lawrence I. Brant, the dentist, looked ashen and rumpled, his deep outrage putting a cutting edge to grief. Even now, he could not believe that this could happen to them.

"It always happens to someone else," he said. To calm himself, he sat at the work processor and wrote about her, about Shirley and what she had meant to him, and this sudden disaster that had ended it all.

"Inwardly and outwardly, you feel as if it never happened," he wrote. "You feel as if you're acting out a part in a play and expect your beloved to walk into the room in the next moment."

But she didn't, of course. And she wouldn't. Shirley Brant, mother of four grown children, blond and remarkably attractive at 49, former professional singer and model turned real estate agent, family matriarch and tireless activist for causes that stirred her, was dead and buried. . . .

Shot by a would-be robber in her North Miami Beach real estate office.

Six hundred people went to her funeral.

Now, five days after the murder, mild-mannered dentist Lawrence Brant was marshaling a campaign in his wife's memory, hoping to curb the proliferation of handguns in a Dade County where violent crime is running amok.

Something, he said, has got to be done to stop the slaughter of the gun control referendum to force tougher laws on the sale and possession of handguns.

"There is no reason why our community should have all these people running around loose with handguns," He said. "Other civilized countries have laws restricting the possession of small arms by citizens, while preserving their rights to own properly registered guns for hunting and sport.

"My rights are being violated when I cannot walk the streets of my community in safety, when we must live in fear, when my wife can't work in her place of business . . . We are middle-class people. We work, we pay the bills. And yet we look away; we don't relate violence to ourselves."

To finance the effort, Brant has established the Shirley Brant Memorial Fund against Handgun Crime. Donations should be sent to the fund at Universal National Bank, 17701 Biscayne Blvd., North Miami Beach, Fla. 33160.

Shirley Brant would have approved.

After 31 years of marriage, she was the light of her family's life and a vigorous worker for causes.

She inspired family activism for captive Soviet Jews, had been to Russia with her husband and once even staged a hunger strike in their behalf.

She worked for Jewish charities; the City of Hope, a cancer hospital in California; the Jewish Federation; and Beth Torah congregation. She was on the parents' board of Alexander Muss High School in Israel.

"Everything she did," said a close family friend, "she did well."

In a lighter mood, Shirley Brant still sang for bar mitzvahs and special occasions and liked to dabble in horoscopes and fortune telling. The stars told her she would live to be 80.

To help ease her husband's burden of financing a family of college-educated youngsters, she had launched her own real estate company with eldest son Benjamin, 29, as a partner. She was licensed as a commerical real estate broker.

Last Friday, as she talked with a client on the telephone in the firms' upstairs office at 16375 NE 18th Ave., two men came in off the street, apparently intent on stealing. One of them tried to take a secretary's purse.

The client on the phone heard Shirley Brant shout "Don't shoot?"

She was shot in the face with a small-caliber handgun. Police theorized it was a cheap, easily obtainable Saturday Night Special. The men fled empty-handed.

Thirty minutes later, at about 4:30 p.m., Lawrence Brant called his wife's number at the office. There were many things to discuss. They were having 70 people in for dinner on Saturday evening, to celebrate.

A son, Steven, 26, had just graduated from medical school at the University of Florida. Son Robert, 18, was to graduate a week later from North Miami Beach Senior High. A cousin, Edward Blumenthal, would be married on Sunday. Shirley's 50th birthday was coming up, on Saturday, June 21.

A policeman came on the line. He told the dentist that his wife had been shot and taken to Parkway General Hospital trauma center.

"I asked, 'How is she?'" Brant recalled. "He said they didn't know. I knew, then. When you're not told anything, it's very bad."

One of Brant's dental partners drove him to Parkway. A doctor told him his wife was dead.

Lawrence Brant's gun control campaign came as an afterthought. Mourners kept asking what they could do in Shirley's memory. The senseless crime, and their terrible loss, lay like an open wound.

The talk naturally turned to guns. "The only way you're going to get meaningful gun control is from the bottom up," politically knowledgeable friends told Brant. "You're not going to get it at the state level."

Steven delivered a eulogy at his mother's funeral. In it, he said, "I don't think I should be afraid to live in my own community, to be afraid to walk the street or greet somebody at my office or in my home. We made this community. We built this community. We have to do something to make it safe again."

Ironically, we spend hundreds of billions of dollars on all kinds of sophisticated nuclear weapons to make us safe from the Soviets when our citizens face a more immediate threat to their safety in their own communities. Just one percent of the amount we are spending on the MX missile and the Strategic Defense Initiative would go far toward helping our police, prosecutors and penal authorities protect us from the very real danger posed by criminals.

CONGRESSIONAL SALUTE TO MR. GORMAN BROWN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. MATSUI. Mr. Speaker, I would like to take this opportunity to pay tribute to Gorman Brown, the first employee to retire from KVIE/Channel 6 in Sacramento. KVIE/Channel 6 signed on the air in 1959 and Gorman has been instrumental in its initial and continued success. He retires as the most senior employee of KVIE/Channel 6 on June 30, 1986.

Gorman joined KVIE/Channel 6 in December 1958, as a transmission supervisor. In January of 1960, he was awarded the position of chief engineer for the station. He retires as the special projects engineer, a post he had held since July 1, 1979.

KVIE/Channel 6, Sacramento's only public television station, has consistently provided Sacramento residents with interesting and informative programming. This excellence in broadcasting, and the station's popularity and longevity, is largely a result of Gorman's efforts.

Mr. Speaker and my distinguished colleagues, please join me in extending warmest congratulations to Mr. Gorman Brown for his 28 years of loyal and dedicated service. His contributions to the continued success of public television in Sacramento will always be remembered. We wish Gorman a happy and satisfying retirement.

HUMAN RIGHTS ABUSE IN PARAGUAY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. GARCIA. Mr. Speaker, yesterday exiled Paraguayan political leader, Domingo Laino attempted to return to his home in Asuncion. He was accompanied by former U.S. Ambassador Robert White and a Uruguayan legislator Roberto Asiain. Not only was Mr. Laino denied entry into Paraguay, he was also brutally beaten by the Paraguayan police. Ambassador White and Mr. Asiain were also struck by the police.

This kind of behavior is inexcusable. It is a blatant disregard for human rights. If Paraguay is to have a future beyond General Stroessner, then it must begin to open up the political process. Our Ambassador to Paraguay, Clyde Taylor, has been doing a fine job trying to carry on a dialog with opposition parties in Paraguay. I certainly hope that he and the State Department will complain in no un-

certain terms about the treatment of Mr. Laino, Ambassador White, and Mr. Asiain.

I am inserting in the RECORD an article on this incident from today's Washington Post.

POLICE BEAT PARAGUAYAN, EX-U.S. ENVOY

ASUNCION, PARAGUAY, June 24.—Paraguayan police beat up exiled opposition leader Domingo Laino and former U.S. ambassador Robert White, who was escorting him off a plane here today on his fifth attempt to return home, witnesses said.

"Laino fell to the floor and even then he was subjected to a brutal beating. I think he had two broken ribs," Roberto Asiain, a Uruguayan legislator also accompanying the exile on his return, told reporters at the airport.

Laino later reboarded the plane that had brought him to Paraguay, and returned to Montevideo, the Uruguayan capital. He has been living in exile in Argentina.

White, who served as former president Jimmy Carter's ambassador to Paraguay and to El Salvador, flew with Laino from Montevideo as the exile tried to defy a ban imposed by the 32-year-old military government of President Alfredo Stroessner.

"When [Laino] started coming out of the plane, he was savagely beaten by plainclothes police with truncheons," White said. "Deputy Asiain and myself were also beaten."

White, 59, added that he thought he and Asiain could have been struck in the confusion rather than on purpose.

"It was evident that Laino was the one they meant to hurt," said White, who left his El Salvador post in 1981, soon after President Reagan took office and has been a vocal critic of U.S. policy in Latin America since. "This is an open violation of human rights," he said of the airport attack.

Police did not comment on the incident.

[In Washington, Lindsay Mattison, director of the International Center for Development Policy, which White heads, said the escort was organized to focus attention on Laino as a "foreign leader and a democrat" and to protect his attempted return.

[The center also organized a delegation to accompany South Korean opposition leader Kim Dae Jung on his return to Seoul last year, to prevent an attack such as that in which exiled Philippine opposition leader Benigno Aquino was slain when he returned to Manila in 1983.]

White said he would spend one or two days in Asuncion with the other members of Laino's party to meet local politicians and hold talks with the exile's wife, Rafaela.

Several Argentine and Uruguayan politicans and human rights activists also accompanied Laino today.

Laino is one of the leading opponents of the rightist government of Storessner.

The Boeing 737 of the Uruguayan state airline Pluna was met on its arrival here by a security cordon of a least 200 policemen around the airport.

Other passengers on the scheduled flight were allowed to disembark in the Paraguayan capital.

White said the group escorting Laino would lodge the appropriate complaints.

The attack on Laino came after growing antigovernment demonstrations and strikes in mid-March and April and an admission by Stroessner that there was dissent within his ruling Colorado Party.

After two rallies in March by the banned Radical Liberal Party, police broke up a rally by the Authentic Radical Liberal Party on March 28 and arrested its general secretary and other party leaders.

Police using whips, chains and machetes broke up another rally in April, and prevented thousands of supporters from entering the town.

Some reasons for the unrest have been traced to recession and to growing unemployment and inflation. Other factors are the recent return to democracy in neighboring Brazil and Argentina.

HAWAII LOOKS FORWARD TO ENHANCED TOURISM PROMOTION

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. HEFTEL of Hawaii. Mr. Speaker, Hawaii's foremost industry is tourism. The tourism trade has provided great economic benefits to Hawaii and made important contributions to local Hawaiian culture, the national economy, and American life. The economic, social, and cultural welfare of Hawaii is largely dependent on tourism. In the State of Hawaii alone, over 176,000 jobs are generated by the tourism industry, one out of every five in the work force depends on tourism for his or her livelihood, and $5 billion were spent by visitors and added to the 1984 economy.

Because of its tremendous cultural and economic benefits, efforts to promote tourism are evident at Federal, State, and private levels. Most recently, in the private sector, the Hilton Hawaiian Village unveiled an $80 million master plan to move the complex into the 21st century. The first phase of the project will be finished in August and the rest of the renovation should be completed by the summer of 1987. The theme of the project is "Return to Paradise" and the plans include relocation and redesigning of various facilities currently on the "village" grounds. Most notable are guest room renovations to the three towers in the hotel, the relocation of several restaurants on the property to an oceanfront location, the refurbishing of the entire Mid-Pacific Confrence Center, and the construction of a new freeform design pool in a tropical setting.

This development is an exciting project for the Waikiki community and the entire State of Hawaii. It will surely add a new dimension to the tourism trade by providing a great overall meeting/resort destination in the Pacific. Hilton should be commended for its farsightedness and initiative to promote tourism in Hawaii.

SUPPORT FREEDOM OF RELIGION IN THE MILITARY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. LIPINSKI. Mr. Speaker, I rise in strong support and urge my colleagues to support the Military Chaplains Faith Balance Act, legislation that would increase the number of priests and rabbis in the military services. The present imbalance denies the men and women of our Armed Forces the security and comfort that religion provides. In time of peace, it is still essential that those in the military have a chaplain of the same faith to turn to. Life in the military sometimes exacts huge sacrifices that religious faith is well-designed to deal with. This legislation would go far in making certain that our Nation's Armed Forces are spiritually prepared to go to war if that possibility should ever come about.

As evidence of its broad appeal, this bill has the support of many different religious and military organizations, such as the National Federation of Priests' Councils, the Jewish War Veterans of the U.S.A. and the American Ex-Prisoners of War, as well as strong bipartisan agreement in Congress. Only by taking action such as this can all Americans in the military enjoy freedom of religion in the fullest sense. Failure to address the serious shortage of priests and rabbis in the services will only have grave consequences on the recruitment of quality personnel to defend our country. Indeed, it would be a tragedy should Congress fail to take action on such an important piece of legislation.

REEXAMINE NATIONAL SECURITY PRIORITIES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. DORNAN of California. Mr. Speaker, naval power has played a vital role in the defense and security of the United States throughout our history. Without our ability to protect important sealanes, the United States would not be the economic and military power it is today.

Not only the Navy protects our shipping and sealanes, but the merchant marine complements the Navy in both peacetime and in times of crisis with its sealift capability. It is the merchant marine which has been neglected since the end of World War II while at the same time the Soviet Union has been rapidly building up its merchant marine fleet in preparation for any possible crises. Because of our neglect of our own fleet, we lack the necessary sealift capability to rearm our forces in times of crisis. We must rebuild our merchant marine, along with our Navy, to make sure we do not end up on the short end in the battle for the seas.

The accompanying article by Rear Adm. George Miller, U.S. Navy (retired), aptly illustrates the problems we face if we do not maintain our sealift and sea protection capabilities. I urge all my colleagues to read it closely.

[From the Washington Times, Apr. 25, 1986]

REEXAMINE NATIONAL SECURITY PRIORITIES, SAYS RETIRED ADMIRAL

(By George Miller, Rear Admiral, U.S. Navy (ret.))

One of the problems plaguing our national security seems to be that defense leaders have become so engrossed with big weapons that national strategy has suffered. Strategy is a procedure for attaining a goal, and to achieve a goal or objective requires an un-

derstanding of history, geography, and the opposition.

Naval historian Alfred Thayer Mahan counseled us to "understand the broad sweep of history." For example, Greece, Rome, and England achieved power through colonization of less-developed lands and shipping choke-points. They built navies to protect shipping lanes from competitors. In their later years, they became involved in overseas land wars, which bled away their human and material resources and hastened decline.

Napoleon said that "terrain is everything." Favorable geographic position is essential to global strategy, just as terrain is everything in land war.

The Soviet Union's drive for world domination includes particular interest in favorable geographic positions, such as shipping choke-points. As Soviet influence in these areas increases, U.S. access to them becomes more costly and less reliable.

Highly essential to successful strategy is understanding your competitor. You must know him so well that he cannot surprise you.

At the close of World War II, the Soviets undertook a comprehensive review of national security.

Heeding the lessons of history, the Soviets undertook a major naval and merchant shipbuilding program in the early 1950s. They have been "colonizing" the important shipping choke-points. For the first time in history, their defense-oriented "colonizing" and trade promotion are experiencing only half-hearted competition from Western nations—and no naval opposition.

The government of the United States, at the close of World War II, swept aside the experience of history, and in violation of its own Constitution, created a standing army. The Army and Air Force combined with the Navy and Marine Corps into a single, land-war bureaucracy. The U.S. merchant marine, which by law is necessary for national defense, has virtually disappeared. Consequently, the United States seems unable to act in its national interest except in land war, where each military service can have its "share" of the action and budget pie.

The constitutionality and indeed the relevance of the present U.S. national security arrangement need re-examination.

BOGGY CREEK AND FATHER JOE ZNOTAS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. PICKLE. Mr. Speaker, in a few days, we will be meeting in Austin with the Assistant Secretary of the Army to sign the final agreement between the Corps of Engineers and the city of Austin for the Boggy Creek flood control project. It has been more than 10 years since we started planning for this project, and if there is one man whom we all remember as being the driving force behind this project, it was Father Joe Znotas. It was Father Joe who called the early meetings, conferences, and rallies in support of this project. And Father Joe, who passed away in 1979, if you're listening now, it now appears that your labors have finally paid off.

This Boston bred man of the cloth became an Austin advocate for the poor people in Austin. Father Joe, as he was affectionately called, liked to say that he worked on the things that affected people every day—their schools, their unpaved road, and flood control projects. He did. He was a persistent gadfly to all governmental authorities—local, State, and Federal, but he was respected by all. Father Joe was always on the right side of the issue, but he was not always on the popular side of the issue. But that didn't matter to Father Joe. His calling was for a higher order.

When the rains came and floods threatened the residents of East Austin, it was a common sight to see Father Joe standing on the banks of Boggy Creek knee deep in mud and water, helping people escape the flooding, or remove household items to safer ground. He was like a beacon of hope offering solace and comfort to the residents of East Austin. It has been said that Father Joe believed in moving mountains stone by stone, with hope and patience. With regard to the Boggy Creek project, that hope and patience is now being rewarded. This project is still far from complete. But when the raging waters of Boggy Creek are finally brought under control by this project, it will be Father Joe, more than anyone else, who we will remember standing on the banks of Boggy Creek lending a hand to those in need.

I am proud to have worked with Father Joe and the many Austin citizens who have faithfully pursued this project to a successful ending.

A SALUTE TO NICK FRATTO AND PAUL PERHOSKY

HON. DOUG WALGREN

OF PENNSYLVANLIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. WALGREN. Mr. Speaker, It is with great pleasure that I want to recognize two outstanding educators who will be shortly retiring from their current positions after years of tremendous public service to the people of the Carlynton School District.

Dr. Nicholas Fratto and Mr. Paul Perhosky have served a superintendent and assistant superintendent, respectively, since the late 1960's. This year we will lose their educational skills as they take well-deserved retirements.

Dr. Fratto became superintendent of the Carlynton School District in 1969, after years of service as a high school teacher, guidance director, high school principal, and assistant superintendent. A graduate of Duquesne University, Dr. Fratto earned his doctorate from the University of Pittsburgh.

Married to Carole Ann Marusak, the Frattos are the parents of four children and active in the local community. Dr. Fratto has been president of the South Hills Area School District Association, the Carnegie Lions Club, and the Carnegie Salvation Army. He is currently president of the St. Barbara Church Council.

Paul Perhosky became assistant superintendent of the Carlynton School District in 1969, after working his way, like Dr. Fratto, through the ranks of education as a junior high teacher, junior high principal, high school principal, and elementary education supervisor. A graduate of Indiana State College, Mr. Perhosky earned his masters from the University of Pittsburgh.

Paul and his wife Justine are also involved in local community affairs. Mr. Perhosky has been president of the South Hills Curriculum Advisory Council and active in a variety of educational associations. An avid sportsman, Mr. Perhosky is a member of the Lakewood Rod and Gun Club. The Perhoskys are also members of the Holy Trinity Ukranian Catholic Church.

Mr. Speaker, I want to salute Nick Fratto and Paul Perhosky. These have not been easy years to lead our Nation's schools. Yet Nick and Paul have done so with great skill. They have given tremendously of themselves to improve the quality and reputation of the Carlynton School District. We salute their contributions and thank them for their work on behalf of our children. Their hard work, dedication, and commitment to quality education will never be forgotten.

ECONOMIC SANCTIONS HAVE HURT LIBYA

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. BARTON of Texas. Mr. Speaker, since 1981, the Reagan administration has steadily increased the economic pressure on Libya in order to persuade its criminal government to abandon its support for worldwide terrorism. Although the lack of cooperation from other countries has limited the effectiveness of these sanctions somewhat, the fact remains that United States sanctions have had a negative impact on the Libyan economy.

The Libyan economy has contracted every year since 1980. The foundation of the libyan economy is revenue from oil exports to the West, since the tiny country does not produce any other commodity of value to the world. Annual Libyan oil income has plummeted by more than half since 1980, when it was $22 billion. Foreign reserves in cash and gold have decreased from $14 billion a few years ago to $2 billion today. Libya is no longer riding high, and people are beginning to feel the pinch of a sharp economic downturn.

While much of the decline in Libyan oil income can be attributed to the fall in world oil prices, another very important consideration is the decline in Libyan oil production. Since 1979, Libyan oil production has plummeted by roughly half, from 2 million barrels per day to the current level of 1 million barrels per day. Much of this decline in oil production can be traced to the economic sanctions imposed by the Reagan administration, which encouraged the flight of United States technicians from Libya. The lack of oil technicians led to the sharp decline in Libyan oil production, and lower Libyan oil income.

The sharp downturn in the Libyan economy promises to strain the ability of Libya to launch military expeditions against her neigh-

bors such as Chad and sponsor international terrorism against the United States and the West. Since Libya spends about 40 percent of her oil income on the military budget, any reduction in oil income undermines the ability of Libya to finance military adventurism and terrorism. Last year, Libya was forced to cancel $700 million in military construction projects because of lowered oil income.

Libya also has apparently fallen $4 billion to $5 billion behind in their payments to the Soviet Union for arms purchases. Qadhafi changed the terms of Libyan arms purchases from the Soviets to include the barter of crude oil as a portion of the purchase price. To demonstrate its displeasure with these new terms, the U.S.S.R. slowed delivery of MIG–23's and withheld the assignment of antiaircraft radar technicians.

It is clear that reduced Libyan oil income will make support for military adventurism and international terrorism more of a burden for Colonel Qadhafi. He will not be able to deliver on all of his grand promises to his people and continue his generous support for terrorism if Libyan oil income declines by another half, as is now projected. It is possible that he will decide to keep his seat of power and reduce his support for terrorism. If he continues his support for terrorism it is possible that the strain on the libyan economy may encourage the military to launch a coup d'etat against Qadhafi. Obviously, either development would be good for the United States and the West.

COMMEMORATING THE 20TH ANNIVERSARY OF THE FREEDOM OF INFORMATION ACT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. FASCELL. Mr. Speaker, I am pleased to join our colleagues today in commemorating the 20th anniversary of the signing of the Freedom of Information Act. As one of the original proponents of this landmark legislation, I am honored to join in the celebration of its 20th birthday. July 4, 1966, is a day to be remembered for opening the doors on Government information and secrecy.

The adoption of the Freedom of Information Act made information about Government activities available to the American people. Passage of the bill insured the public's right to Government documents, as well as the right of citizens to be fully informed about the policies and activities of the Federal Government. The access to such information provided by this law was long deserved by the American people, and it is illustrative of one of the most important elements of a strong and responsive democracy. The Freedom of Information Act is itself a symbol of a healthy democracy and the value placed upon public access to Government information.

In the 20th year of the operation of the act, it is essential that we recognize the importance, review its utility, and not hastily adopt efforts of those wishing to restrict its scope. Mr. Speaker, I cannot emphasize the importance which the passage of this bill has had on the right of all Americans to know what their Government is doing—a right which is basic to the maintenance of our free and democratic society.

INTRODUCTION OF A BILL TO PROVIDE FOR THE SALE BY THE SECRETARY OF THE INTERIOR OF THE SLY PARK UNIT OF THE CVP TO THE EL DORADO IRRIGATION DISTRICT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. SHUMWAY. Mr. Speaker, today I am pleased to introduce a bill which will authorize the Secretary of the Interior to sell the Sly Park unit of the central valley project in California to the El Dorado County Irrigation District.

The Sly Park unit, consisting of the Sly Park dam and reservoir, Camp Creek Diversion dam and tunnel, conducts and canals, was originally authorized under the American River Act of 1949. Since its construction, the facilities have been operated totally independent of any of the other CVP facilities, although virtually all operation and maintenance responsibilities have been undertaken by the El Dorado Irrigation District. Despite this separation from the rest of the CVP, the Sly Park unit remains financially integrated with the CVP.

At a time, Mr. Speaker, when the Federal Government is reducing its involvement in water project construction and operation, particularly for smaller, independently operated projects such as the Sly Park unit, it makes sense both from fiscal and resource management standpoints to encourage this kind of local responsibility. In the long run the county of El Dorado and the Sly Park users will benefit from total independence in operating and maintaining the Sly Park unit; the Federal Government, as well, will recoup its original investment and cease to incur any more operating and maintenance costs.

As a matter of policy, there is plenty of precedent for this kind of sale. In fact, starting in 1956—after the Sly Park unit was authorized—reclamation contracts were written to allow for conversion of the contracts "under stated terms and conditions mutually agreeable to the parties * * * (so that) the remaining amount of construction cost which is properly assignable for ultimate return by it can be repaid to the United States."

The El Dorado Irrigation District is a political subdivision of the State of California, duly organized, existing and acting pursuant to State laws. It has ably demonstrated that it is capable of operating and maintaining the Sly Park unit, and it is the sole beneficiary of the project. I am aware of no opposition to this proposed sale of the Sly Park unit; in fact, the CVP Water Users Association officially supports this effort.

THE RAKKASANS FORM AGAIN

HON. HARRY REID

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. REID. Mr. Speaker, "Rakkasans," members of the famed 187th Airborne Regimental Combat Team, the only airborne unit of the Korean war, and the only airborne warfare regiment of the Army, whose colors bear 15 citations and 21 campaign streamers from World War II, Korea and Vietnam, will form again for their annual reunion in Las Vegas, NV, July 9–14, 1986. These veterans of the past will join with their comrades of the present five battalions of the regiment now on active duty to honor "fallen Rakkasans" and to renew their dedication to America.

The colors of the "Rakkasans" bear witness to the proud history of the regiment and of those units that joined to form the combat team. The regiment and its companion artillery battalion—674th Airborne Field Artillery—were activated on February 25, 1943. The regiment's colors have seen combat in New Guinea, Leyte, Luzon, Korea, and Vietman; they led in the occupation of Japan, pacified Koje-do; and maintained peace in Lebanon in the fifties.

The Rakkasan colors have never been furled and have never been struck in defeat. They fly today, as they have since first unfurled, in proud testament to the elan, esprit, and pride that make the airborne the elite of America's military forces.

The people of the great State of Nevada, the city of Las Vegas, welcome the "Rakkasans" and extend their best wishes for a successful reunion.

ACID RAIN LEGISLATION SHOULD BE CONSIDERED

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. ST GERMAIN. Mr. Speaker, along with over 160 of my colleagues from all parts of the Nation, I have cosponsored H.R. 4567, the Acid Deposition Control Act of 1986.

This is hardly the first piece of acid rain legislation to be introduced in the House. For a number of years I have sponsored legislation which would establish controls on sulfur dioxide and nitrogen oxide emissions. Initially bills were introduced which established these controls but ignored the costs to those who would have to pay for the controls. Representing a State which does not produce a measurable amount of acid precipitation, this seemed a reasonable position for me to support.

But, of course, compromise is the heart of the legislation process. In the 98th and now in the 99th Congress, I have supported bills which recognize the expense of controlling these emissions. H.R. 4567 achieves the necessary reduction in acid precipitation, at the same time providing a Federal subsidy to assure that no residential customer will see

electricity costs increase by more than 10 percent because of pollution control costs. The costs will be shared by areas receiving the benefits of emissions controls and by areas responsible for the emissions. States are allowed the flexibility to choose the way in which they achieve emissions reductions, rather than a particular method's being mandated by Congress.

H.R. 4567 has received national support. The bill has been marked up in the Health and Environment Subcommittee of the Energy and Commerce Committee. Now it deserves to be considered by the full committee. For too many years we have delayed in addressing this problem. In the spirit of compromise, it is time that the House have the opportunity to consider acid rain legislation and I am convinced that H.R. 4567 should be acted upon without further delay.

CHILE MOBILIZES AGAINST PINOCHET

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. ACKERMAN. Mr. Speaker, in the face of an encouraging trend toward democracy in South America that has brought expanded political freedom to such nations as Uruguay and Brazil, Chile remains an island of authoritarian rule. However, as the following report from the Council on Hemispheric Affairs [COHA] explains, the regime of Gen. Augusto Pinochet is facing increasing domestic opposition. In May, the "Civic Assembly," which includes leaders of 18 of the largest mass organizations in Chile, and represents 2.5 to 3 million people, delivered to the Presidential Palace the "Demand of Chile" calling for free elections and widespread democratic reform. Throughout April and May, opposition protests were numerous and well attended. But General Pinochet has refused to alter the 1980 constitution, which came into force through a rigged plebiscite, and which was custom tailored to allow him to remain in office until 1989. Chile's security forces continue their flagrant human rights violations.

This report first appeared in the May 28 issue of COHA's biweekly publication, the Washington Report on the Hemisphere. It was written by COHA research associate Lawrence Boudon. I commend his findings to the attention of my colleagues.

CHILE MOBILIZES AGAINST PINOCHET

(By Lawrence Boudon, Research Associate, Council on Hemispheric Affairs)

Encouraged by May Day demonstrations throughout the country—in which over 5,000 people were detained by the Chilean police—leaders of 18 of the largest mass organizations, known as the "Civic Assembly," marched to the Presidential Palace May 5 to deliver a document called the "Demand of Chile." Led by the President of the Federation of Professional Colleges, Dr. Juan Luis Gonzalez, the protesters were cheered along their path through the streets of Santiago and allowed by the police to reach the Palace. The protesters carried petitions which demanded a return to democracy and gave the government of Gen. Augusto Pinochet until May 30 to respond, at which time, according to Assembly Secretary Francisco Rivas, "we will set a date for a national strike during the month of June."

The Civic Assembly includes such organizations as the National Union of Workers, Workers' Democratic Center, Retail Commerce Confederation, Peasants' National Commission, and the Neighborhoods Coordinating Board. It represents, according to Dr. Gonzelez, 2.5 to 3 million people, or almost one-third of the total population. Its stated goal is to achieve democracy without violence, and it conforms to the plan of struggle set forth by the political parties that are signatories to the opposition National Accord. Gonzalez explained that "our intention is for the Civic Assembly to be a rallying organization for all the citizens of the country," with a strategy including "actions from sit-ins to strikes and boycotts."

The "Demand of Chile", which was delivered both to Pinochet's residence and to Interior Minister Ricardo Garcia, calls for free elections, the lifting of the "state of exception" (a form of a state of siege), dissolution of the secret police, the return of 211 exiles, reparation for victims of torture and assassination, creation of independent justice tribunals, and massive programs to create jobs and build housing.

In the past month, Pinochet has encountered increasing domestic opposition. A tour around the country sparked violent student protests in Temuco April 22 and Valparaiso April 25. The massive rallies and marches on May 1 ended in arrests, blackouts, barricade confrontations and dozens of injuries. Over ten thousand people were detained during the following ten days as police conducted dragnets through poor neighborhoods in and around the capital. Some 500 remain under arrest. Cardinal Juan Francisco Fresno charged Pinochet with "instilling fear and insecurity in the population, particularly in children." The State Department meekly commented that such actions "only help to prolong the cycle of violence" and "hinder progress towards democracy," a genteel formula that it also uses in dealing with violence in South Africa. Privately it says more, but is still worried over the prospective role of the left in a post-Pinochet Chile.

The protests continue, nevertheless, as one hundred journalists and photographers marched through downtown Santiago May 13 to demand freedom of expression. As Pablo Portales, leader of the Guild of Journalists addressed the group in front of the Ministry of Labor, police dispersed the crowd with tear gas and clubs. That same day, Christian Reitze, leader of the Humanist Party (PH), called upon Chileans to turn off their lights May 30 in a sort of informal "plebiscite" on Pinochet's rule, "to reflect upon the darkness in which Chile is living." Eight PH youths were arrested for handing out leaflets advertising the event.

The Chilean Communist Party (PCC), which did not sign the National Accord, issued its plan of struggle May 4 known as the "Military Task of the Masses," outlining actions to "demoralize, wear out, and disunite the armed and security forces" thus rendering the country "ungovernable." The document, which goes into great detail, declares the final goal to be a "National Insurrection."

But Pinochet remains intransigent. He reiterated April 23, following the disturbances in Temuco, that he had no intention of altering the Constitution of 1980, which he claims was "approved by the sovereign will of the people." Under its terms, Pinochet can legally remain in power until 1989. Moreover, Admiral Jose Toribio Merino, a member of the governing junta, declared May 6 that the security forces would continue their dragnets, saying that the efforts to restore order were "well done, in accordance with the law."

On May 8, the Chilean Human Rights Commission released its report which claims that in the past four years, Pinochet's security forces are responsible for 231 deaths, 694 attempted murders, 835 cases of torture, and 2,599 injuries. The Commission reported that it receives an average of 100 reports of human rights violations a month. In light of the escalating violence, Christian Democratic leader Gabriel Valdes called on May 8 for immediate free elections as the only peaceful solution to the country's crisis.

MEDICARE COVERAGE FOR THE DISABLED: PROVIDING INCENTIVES TO RETURN TO WORK

HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. BROYHILL. Mr. Speaker, today I am introducing legislation to remove a longstanding disincentive for the disabled in this country to return to work. Although the Federal Government has made a significant commitment—approximately $60 billion—to individuals with disabilities through programs that provide income support and health benefits, there have not been adequate efforts made to promote independence and self-sufficiency. Many of the disabled who could return to work are reluctant to take advantage of the trial work periods currently allowed under the Social Security Disability Insurance Program. Disabled people fear that taking the entry-level positions or low-paying service jobs most find available could leave them with less income and no health insurance as their Federal benefits expire. This is because disabled individuals with preexisting health conditions have a difficult time obtaining adequate health insurance from their employers.

In an effort to remove these penalties of returning to work, I am today introducing a bill which will allow disabled individuals who were entitled to benefits under the Social Security Disability Program to purchase Medicare coverage on the basis of a fee schedule related to their income. The legislation requires the Secretary of Health and Human Services to determine the premium cost for Medicare benefits and to assess qualified individuals a minumum payment amount of 25 percent of the full premium cost and a maximum payment amount of 8 percent of the individual's adjusted gross income.

In developing this legislation, I must credit Ms. Deborah McKeithan of Charlotte, NC, who brought to my attention the discouraging facts the Nation's disabled face when they seek employment. Ms. McKeithan, a victim of multiple sclerosis and epilepsy, has not only returned to work but has established her own business. Together with a group of friends, Deborah McKeithan established the Handicapped Organization for Women [HOW],

which now provides needed community services through 50 chapters in 30 States. In tribute to her efforts, Deborah has been honored by Newsweek, which profiled her achievements in its recent Collector's Edition article entitled "100 New American Heroes."

In May Deborah McKeithan came to my office to discuss the problems the disabled have in obtaining health insurance upon returning to work. She was concerned that such difficulties discouraged individuals who were receiving Social Security payments and health benefits from reaching their full potential as productive members of our society. Under the current system, eligibility for Social Security disability benefits and Medicare is based on the inability of an individual to engage in substantial gainful activity. Therefore, once an individual begins earning more than $300 a month, cash assistance is discontinued, and within 24 months, Medicare eligibility also expires. This leaves the disabled individual who has been back in the work force for 2 to 4 years unable to purchase health insurance at an affordable price.

With a fuller understanding of the problems of the disabled, I decided that it was time to change the disincentives which exist today and provide for a redirection toward greater self-sufficiency. Ms. McKeithan has convinced me that there are individuals currently receiving disability benefits who will seek employment given the opportunity to purchase health insurance at a price within their means. While I am aware that the bill I am introducing today will not solve all the problems which the disabled citizens of our country face, it will allow those individuals who were employed prior to their disability to return to work knowing they can purchase health insurance at an affordable price.

A summary of the legislation follows:

SUMMARY OF THE BILL

The legislation establishes a new section within Title 18 of the Social Security Act to allow certain disabled individuals to purchase Parts A and B of Medicare on the basis of a fee schedule to their income. Eligible individuals must be under 65 years of age; have been entitled to Medicare benefits under the Social Security Disability program (SSDI) and lost those benefits due to their engagement in substantial gainful activity; be determined on an annual basis to continue to have the physical or mental impairment that qualified the individual for SSDI; and be enrolled for benefits under this program since the first month in which they were entitled to benefits.

An individual who qualifies may enroll in the program during a seven-month initial enrollment period which begins the third month before he or she satisfies the requirements for the program. Special enrollment periods are also provided for in the legislation for eligible individuals previously enrolled in group health plans due to their employment. The monthly premium for individuals participating in this program would be the same as the premium determined for other individuals who are permitted to purchase Medicare under Section 1818 of the Social Security Act except for two qualifications: (1) the premium assessed cannot exceed 8% of the adjusted gross income of the individual, and (2) the premium assessed cannot be less than 25% of the full cost of the Medicare premium. If the individual purchases Medicare Part A, he or she can also purchase Part B. The sliding fee schedule would also apply for the Part B premium amount.

In addition, if an individual is enrolled in a group health plan due to his/her employment and has enrolled in this program, Medicare benefits would become secondary to benefits under the employer's group health plan. The legislation would take effect 60 days following enactment.

BALTIC FREEDOM DAY

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. YATRON. Mr. Speaker, I rise in recognition of a very famous day in world history. June 14, is not only Flag Day, but it is also celebrated as Baltic Freedom Day. Because this day fell on a Saturday, I want to take this opportunity now to pay tribute to the Baltic people who still suffer under Soviet domination.

A few weeks ago, the Congress passed legislation to declare June 14, Baltic Freedom Day, and the President signed the measure into law a few days later. While I am heartened by the overwhelming congressional support this measure has received, it is nevertheless distressing to note that such a resolution is necessary at all. The brutal and oppressive occupation of Latvia, Lithuania, and Estonia by the Soviet Union continues after 45 years.

In June 1940, Soviet troops invaded and illegally annexed the Baltic Republics, which had stood as independent, sovereign states for 22 years. The Baltic peoples have individual and separate cultures, national traditions and languages, distinct from Russia. These are people who cherish the fundamental principles of liberty and justice and who want nothing more than to manifest their national identities through independent statehood.

The continued domination of the Baltic peoples by the Soviets is indeed one of the saddest human tragedies of our time. For the last 46 years, the Soviets have ruthlessly endeavored to suppress Baltic nationalism. Baltic peoples have been systematically and forcefully deported from their homelands to Siberia and masses of Russians have been relocated in the Republics. The Soviets have totally eradicated any semblance of democracy, civil liberties, and religious freedom in the Baltic States. Families have been separated, and many individuals have been jailed at hard labor, while others have suffered vile and unspeakable forms of persecution, including death, for any exercise of their religious or ethnic beliefs. The human rights violations endured by the Baltic peoples are atrocious.

Yet, even under these extreme and terrible conditions the Baltic people have maintained their national identities and have continued their struggle for freedom. As the leader of the free world, the United States has an obligation to help the Baltic people and others who suffer under the heavy hand of oppression. As the chairman of the House Subcommittee on Human Rights and International Organizations, I will continue to endeavor to spotlight the abuses of the Soviet regime and to pressure Kremlin authorities to improve that country's human rights record.

I am submitting additional information to the RECORD for my colleagues' review.

THE BALTIC HOLOCAUST HASN'T ENDED

(By Ojars Kalniņs)

In the early morning of June 14, 1941, two heavily armed agents of the Soviet security police invaded the home of a Latvian in Soviet-occupied Riga. They ordered him out of bed and informed him that he was to be immediately deported to Soviet Russia as an "undesirable element."

They gave him fifteen minutes to pack. He was not even allowed to say goodbye to his wife, who was paralyzed and thus unable to go with hm. "Her heart rending screams are still sounding in my ears," he stated later in a letter to the Latvian Minister in Washington, DC. He was one of the lucky few to survive the Soviet-Nazi alliance to destroy the Baltic people. His wife was not. Although she lived through the first Soviet occupation of Latvia, she was later killed by the Nazis.

The above episode is typical of thousands experienced by Latvians, Lithuanians and Estonians on the night of June 13, 1941. During the previous year of occupation, when Baltic governments were toppled and leaders murdered, the people of these nations had already begun to feel the political consequences of Soviet rule. This night would bring the true meaning of "Sovietization" home to friends and loved ones.

It meant terror, beatings, deportation and death. In one fiendishly coordinated night of activity, the Soviet secret police arrested and deported over 15,000 Latvians. With similar sweeps in Estonia and Lithuania, the Soviets dragged off over 50,000 Baltic men, women and children and packed them into railroad cattle cars for a terrifying journey to Siberian slave labor camps. Many died in transit. Others died in the camps.

What began on June 14, continued for several weeks until over 100,000 Balts had been torn from their homes and families and sentenced to deprivation, degradation and death in Siberian forests, sub arctic tundras and arid steppes. They had received no warning. They had been charged with no crimes. To the Soviet regime in Moscow, they were simply annoying obstacles in the way of the Soviet invasion and absorption of the Baltic States.

If the viciousness of the Soviet takeover of the Baltic States sounds similar to what the Nazis did in Eastern Europe, it shouldn't come as a suprise. The Soviets and Nazis were both spiritual and political allies. In the 1939 Molotov-Ribbentrop Pact Moscow and Berlin agreed to a neat division of Europe. The Soviets could have the Baltic States. Finland and part of Romania. The Nazis could have everything due west.

Thus, like brothers in blood, Stalin and Hitler proceeded to carve up and cut out the hearts of countless ancient Northern and Eastern European nations, cultures and people.

Hitler, of course was finally stopped after destroying more than 11 million innocent lives. Stalin, however, eventually joined the Allies against Hitler, and thus had a free hand to ring up a total of more than 20 million dead.

Today, the Soviet/Nazi engineered destruction of the Baltic States continues. The nations of Lativa, Estonia and Lithuania remain under illegal Soviet rule. Mass deportation has been replaced by systematic

repopulation. The extermination of individuals has been superseded by the extermination of cultures, languages and traditions. What Hitler and Stalin wrought Gorbachev continues.

French journalist Jean Francois Revel has stated that "Soviet imperialism is irreversible not because it is invincible, but because it achieves recognition as legitimate under international law: sooner or later de facto power is accepted as rightful power.

Baltic Freedom Day. June 14, was created to make sure that the illegal Soviet occupation of the Baltic States is not accepted as "legitimate under international law." It calls attention to the beginning of Soviet genocide against the Baltic peoples. It is observed in the White House, the U.S. Congress and in nations throughout the world. It is a day of rememberance for a night of terror that has continued for 45 consecutive years. It is a chilling reminder that the Soviet war against the Baltic people has not ended.

RON COLEMAN'S DEMOCRATIC RADIO ADDRESS

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. BRYANT. Mr. Speaker, this past Saturday, my good friend and colleague from Texas, Congressman RON COLEMAN, was privileged to deliver the weekly Democratic radio address. The focus of his comments was how to make the best use of hard-earned taxpayer money when it is spent for foreign aid. When we are cutting programs vital to the health and safety of our citizens, does it make sense to funnel tax dollars to Nicaraguan Contra forces when we have no accurate accounting of where the $27 million already allocated has gone?

I commend Mr. COLEMAN's incisive comments to my colleagues' attention as we undertake this debate on expanded aid to the Contras:

RADIO ADDRESS TO THE NATION

Hello. I'm Congressman Ron Coleman from Texas.

When the House of Representatives once again considers the President's foreign aid request of one hundred million of your tax dollars for the Contras, the issue will not be whether communism should be curbed at every opportunity. This is not a litmus test of anyone's patriotism. We're all Americans, and we are gravely concerned at even the hint of a threat to our national security interests.

The question before the House next week is how to best make sure that your taxpayer-funded foreign aid money is wisely spent, and that this aid actually reaches the people it is intended to help.

Communism, in its many forms, cannot be stopped merely by throwing money at selected regional crises. Certainly the taxpayer-funded spending sprees of former Philippine President Marcos and his wife should have taught us something about being able to account for our foreign aid.

Buying Imelda Marcos over three thousand pairs of shoes and underwriting her Swiss bank accounts did very little to fight the communist insurgency or effectively serve our national interests. Before Congress decides to let the President hand over another $100 million in foreign aid to the Contras, some tough questions need to be asked—and answered.

Such as: Where did the $27 million in humanitarian aid that my colleagues and I voted for last year end up going?

Three weeks ago, when I visited a contra base camp with a bipartisan congressional delegation, the troops included ill-fed, poorly-clothed thirteen and fifteen year-old boys and girls. The field hospital lacked the most basic of medical necessities.

So where did the taxpayers' $27 million go?

The agency that keeps an eye on how our tax dollars are spent—the General Accounting Office—discovered that more than half of it disappeared without a trace . . . and that the State Department has no idea if any of those funds were properly spent.

Of the money that could be traced, nearly $1.5 million went to the armed forces of Honduras, including one $450,000 check for cash to its commander-in-chief.

And there are disturbing new reports that our own government officials may have deliberately violated the law that prohibited any open or hidden U.S. assistance for military operations inside Nicaragua during part of 1984 and 1985.

Because of the Administration's reluctance to publicly respond to allegations about this behind-the-scenes operation, I will this week introduce a formal Resolution of Inquiry to get at the truth. This is a serious step I do not take lightly, to deal with what may have been an intentional disregard for our own democratic process. I believe it will be supported by my colleagues in the Congress as well as you, the American people.

We Democrats think it's high time the American people know how their tax dollars are being spent—and that foreign aid, if it's needed, serve American interests. Imelda doesn't need another pair of shoes.

In these tough budgetary times, when the government says no to our farmers, no to education, and no to our working families, how can we hand over $100 million in foreign aid without getting any answers to some very basic questions?

We've already spent $927 million of your money for the war in Nicaragua. The President now wants Congress to approve another $100 million. How much will the President ask for next year?

And then what? Military advisers? Troops?

The mothers in El Paso and Pecos, Texas, don't want their sons sent off to an unnecessary war. Oh, they'll sacrifice, as we all will, if our nation or our freedoms are threatened.

But isn't there a better way?

Twenty major religious denominations oppose aid to the contras. Our democratic allies in Central America, South America, and Europe also oppose it.

And there is a simple reason: There are ongoing diplomatic efforts to pressure the Nicaraguans into a peaceful settlement that could contain the communist threat, or reduce arms, or establish freedom, and prevent the location of any communist-supplied offensive weaponry into the region.

U.S. diplomatic pressure on all of our allies could be brought to bear if this Administration wasn't so bent upon a military solution. We Democrats want to pursue a policy—one we believe reflects the commitment of the American people—that promotes peace, stability, reform, and hope as the best way of advancing democracy.

And, if—as a last resort—we are compelled to use force or support the use of force, and as you know, we always retain that option, we want you . . . the people who sent us here to serve you . . . to know that our efforts and your dollars will not be wasted.

This is Texas Congressman Ron Coleman, saying thank you very much, and have a good weekend.

PRESIDENT KENNEDY'S LEGACY ON ARMS CONTROL

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. MOODY. Mr. Speaker, 25 years ago this month President John F. Kennedy delivered a bold and courageous speech at the American University in Washington, DC. Kennedy's speech was dedicated to the pursuit of peace, peace which in his words would be:

[G]enuine peace—the kind of peace that makes life on earth worth living—and the kind that enables men and nations to grow and to hope and build a better life for their children—not merely peace for Americans but peace for all men and women—not merely peace in our time but peace in all time.

On that day 25 years ago, President Kennedy announced his efforts to conclude a comprehensive ban on the testing of nuclear weapons. Kennedy said:

The conclusion of such a treaty—so near and yet so far—would check the spiraling arms race in one of its most dangerous areas. It would place the neclear powers in a position to deal more effectively with one of the greatest hazards man faces * * * the further spread of nuclear weapons. It would increase our security—it would decrease the prospects of war.

Kennedy and all successive Presidents up to this one believed that a comprehensive test ban was a vital step toward reducing the threat of nuclear war, a vital step toward reducing the threat of reliance on nuclear weapons, and a vital step toward genuine peace. I share their view.

Yet we find ourselves commemorating Kennedy's words and vision at a time when hopes for a test ban and any arms control are being deliberately sabotaged by the Reagan administration. Kennedy's vision is being systematically shredded by those in this administration who oppose all arms control, those who see conflict as inevitable, accommodation as impossible, and communication as nothing more than an exchange of threats. This is precisely the world view that Kennedy cautioned us against.

Unlike John Kennedy, this administration sees no value in a test ban. Its officials argue that we must continue nuclear testing in order to complete President Reagan's strategic modernization plan and to develop star wars. Indeed, scientists at the national laboratories say each nuclear driven weapon in SDI—like the x ray laser—will require 100 to 200 nuclear explosions to develop.

Thus it is painfully clear that the administration is more than willing to abandon and avoid

arms control in order to build more nuclear weapons, both on land and in space.

Mr. Speaker, I believe a nuclear test ban will enhance our national security far more than the production of new and more sophisticated nuclear weapons. A test ban will enable us to prevent weapons technology from outpacing arms control. A test ban would enable the United States and the Soviet Union to meet their obligations under the Non-Proliferation Treaty, and it would help slow the spread of nuclear weapons to third countries.

No one in this House has any illusions that negotiating treaties with the Soviet Union is easy, but in this era of nuclear weapons, in which our fate is so tightly linked to the fate of our adversary, we must make the effort.

As President Kennedy said 25 years ago:

We can seek a relaxation of tensions without relaxing our guard * * *. Even the most hostile nations can be relied upon to accept and keep those treaty obligations, and only those treaty obligations, which are in their own interest.

So, let us not be blind to our differences—but let us also direct our attention to our common interests and the means by which those differences can be resolved. For in the final analysis, our most basic common link is that we all inhabit this small planet. We all breathe the same air. We all cherish our children's future. And we are all mortal.

The administration's failure to face the challenge of cooperation and peace is a tragedy for all of us who have hopes of a safer world for our generation and those to come. I urge President Reagan to enter into negotiations to end nuclear testing. He cannot do so too soon.

THE TORCH OF LIBERTY

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. DIXON. Mr. Speaker, as the 100th birthday celebration of the Statue of Liberty approaches, I wish to bring to the attention of my colleagues the work of one of my constituents, Miss Alberta Dredla. Miss Dredla is the author of the winning entry in the California Federation of Woman's Clubs 1986 Inspirational Poetry contest. I believe her poem, "The Torch of Liberty," expresses for many of us the patriotic and self-reflective spirit of this anniversary. It is a pleasure to share Miss Dredla's accomplishments with the House of Representatives, and to offer her my warm congratulations.

THE TORCH OF LIBERTY

Hold high the torch
of Liberty,
Tell the story
Just once more.

Listen to the voices
We cherish across the years
Telling us
To love and protect
This land of ours.

Hold high the torch
of liberty,
In a land where founders
Pledged to one another
Their lives, their fortunes
And their sacred honor.

In a land where strangers came
Homeless and tempest-tossed,
To a welcoming lamp
Beside a golden door.

Hold high the torch
of Liberty,
In a land where men breathe free,
Where faith and courage
Have changed the course of history.

Hold high the torch,
The timeless light of liberty—
The love of country
That lives in all our hearts.

LEGISLATIVE BRANCH TELECOMMUNICATIONS PLAN

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. FAZIO. Mr. Speaker, today I have introduced a House concurrent resolution which provides for the development and implementation of a coordinated telecommunications system for the House of Representatives, the Senate, and several agencies of the legislative branch.

As a result of hearings recently held by the Subcommittee on Legislative Branch of the Committee on Appropriations on the subject of legislative branch telecommunications, it became apparent that the deregulation of the telecommunications industry, our rapidly expanding telephone and data communications requirements, and current fiscal constraints have presented an opportunity for the legislative branch to benefit if these problems are worked out in a concerted, cooperative manner. In order to do that, most of the agencies and outside expert witnesses at those hearings suggested the development of a coordinated plan for meeting our telecommunications needs.

Fortunately, both the Committee on House Administration and the Senate Committee on Rules and Administration have taken important steps to acquire the necessary installations for their respective bodies. What is needed now is overall coordination throughout the legislative branch so that the technology can be shared. If we are careful and timely, we have the potential to vastly improve our current communication systems for the decades ahead.

The resolution I have introduced assigns responsibility to the Joint Committee on Printing to develop an overall plan for the acquisition and management of compatible telecommunications systems for the House of Representatives, the Senate, and the agencies of the legislative branch. The resolution directs the joint committee to consult with the relevant committees of each House of Congress and to use the technical assistance of the Architect of the Capitol. Moreover, and only for the purposes of the matter outlined in the resolution, the membership of that committee is expanded to include the chairman and ranking minority member of the Subcommittee on Office Systems of the Committee on House Administration and the chairman and ranking minority member of the Committee on Government Operations. Comparable Senate membership is also provided.

The resolution also prohibits the expenditure of funds for legislative branch telecommunication system components that are not in compliance with the approved plan. The plan is subject to approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

THE RETIREMENT OF GENERAL CHARLES A. GABRIEL

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. DICKINSON. Mr. Speaker, I take time today to publically acknowledge the distinguished military career of Gen. Charles A. Gabriel. General Gabriel is retiring as the Chief of Staff, U.S. Air Force, a position he has held since July 1982.

General Gabriel has provided the military leadership to bring the Air Force to a position that is second to none. Under his guidance, the Air Force has initiated or taken delivery of new weapons systems which keep us on the leading edge of technology—the B–1B and Peacekeeper, LANTIRN and AMRAAM, the C–5 and C–17, and several additional systems to expand our special operations forces. These systems add capabiity while increasing reliability and maintainability. Due to General Gabriel's personal attention, improved acquisition procedures are bringing systems on line that are under cost and ahead of schedule.

The focus on new weapons did not lessen Charlie Gabriel's sensitivity and concern for Air Force men and women who provide the real qualitative edge. He has worked hard to make sure his people have the right resources to do their jobs and an adequate level of compensation and benefits. His efforts have resulted in the highest quality, best educated, and most realistically trained force we have ever seen. They are the dedicated people, active duty, civilian, guard and reserve, who keep our nation safe and secure. We are indebted to Charlie Gabriel for leaving this legacy to the country.

Congress and the American people should salute General and Mrs. Charles A. Gabriel as they leave active duty. We will miss them, but we know they are true patriots who will continue to serve this great Nation.

MONTFORD POINT MARINE ASSOCIATION

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. CLAY. Mr. Speaker, on August 9–16, 1986, the St. Louis Chapter of the Montford Point Marine Association and the Marine Family will host the first Marine reunion convention in St. Louis, MO. Regrettably, I will not be able to participate in the National Marine

Awards Dinner on August 16. However, in honor of this momentous occasion, I am delighted to take this opportunity to share with my colleagues in Congress the proud history of the Montford Point Marine Association.

HISTORY MONTFORD POINT MARINE ASSOCIATION

Since 1775, the United States Marine Corps has served our country in peace and war. Today, the Marine Corps continues to serve the nation as a force in readiness, prepared to go wherever the national interests require. Through out its proud history, the Marine Corps has had in its ranks the finest of young American manhood. These Marines have made the Corps one of the world's most respected military organizations.

The Montford Point Marines are proud to be a part of this outstanding organizaiton.

Forty-two years ago, the President of the United States decided that a longstanding tradition which had eliminated participation of a segment of our population from active or inactive duty in the United States Marine Corps should be abolished. As a result of this Presidential thinking, blacks were recruited for the Marine Corps.

These men of color came from all states. Many had graduate degrees. But these "Choosen Few" were not sent to Parris Island or San Diego, the long time traditonal Marine Corps boot camps. The black recruits were sent to Montford Point, where a black Boot Camp training site was established at Camp Lejeune, N.C.

Historymaking events at Montford Point have been too numeous to mention, for almost every event at Montford Point has been history making. For example, the 51st and 52nd Defense Battalions, two anti-aircraft outfits, broke every record set by the corps .

It's a matter of military record, though not highly publicized, that these men distinguished themselves and did credit to the Globe and Anchor and to our country in whatever capacity they were asked serve. Even in the midst of tremendous adversity, they overcame whatever obstacles they encountered in the form of abuse, disrespect, and denial of human dignity. These adversities served to bind them together because communal suffering had been a common thing.

In 1965, a National Association of the first black men accepted for enlistment in the Marine Corps was organized. The organization was named the "Montford Point Marines Association" and the first annual reunion was proudly held in September 1965 in Philadelphia, Pa. National conventions have been held since 1965 in major cities around the country where chapters exist.

Hence, the birth of the Montford Point Marines Association, the purpose of which is: "To promote and preserve the strong bonds of frindship born from shared adversities and to devote ourselves to the furtherance of these friendships as Marine through the sharing of experiences and accomplishments to insure more peaceful times."

The objective of the Associations is one of Comradeship, Fellowship, Esprit De Corps, and Civic Services.

We are bound together with Marines everywhere and our motto is: Semper Fidelis (Always Faithful).

TRIBUTE TO MARVIN HALPERN

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. GARCIA. Mr. Speaker, I would like to take this opportunity to salute Mr. Marvin Halpern, a Bronx-born resident of Rockland County and a distinguished educator who is retiring after 37 years in the Bronx school system. Mr. Halpern was born and raised in the Bronx, attending Public School 80 and DeWitt Clinton High School. After receiving a B.A. and M.A. from the City College of New York, Mr. Halpern returned to the Bronx where he taught for 10 years at the intermediate level.

Mr. Halpern was named acting principal of Junior High School 55 in 1959 and in 1963, he was appointed acting principal of Junior High School 115X where he served as principal until his retirement this year. Mr. Halpern has touched many lives during his long tenure with his commitment to his students and his commitment to overcoming obstacles in order to provide the best education possible to the children of the Bronx.

I am sure that after 37 years of distinguished service to his community, Mr. Halpern will enjoy the opportunity to spend more time with his wife of 37 years, Ethel and their three children, Leslie, Lori, and Jeffrey. I wish him a wonderful and enjoyable retirement and the very best for the future for him and his family.

SAN JOSE CITY COUNCIL OPPOSES IMMIGRATION BILL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. EDWARDS of California. Mr. Speaker, I want to share with my colleagues a resolution which the City Council of San José adopted yesterday by an overwhelming vote. The resolution, authored by the distinguished Councilwoman Blanca Alvarado, urges the Congress to reject the Simpson-Rodino immigration bill.

The city council, like many other groups across the country, is especially concerned with making employer sanctions the linchpin of the immigration law revision bill. As the council's resolution points out, it is inevitable that employer sanctions "will lead to discrimination against the residents of San José who are immigrants and the children of immigrants."

I commend the resolution to the attention of my colleagues.

The resolution follows:

RESOLUTION AGAINST SIMPSON-RODINO BILL

Whereas: There is currently pending before the United States Congress legislation commonly referred to as the Simpson-Rodino Bill (S-1200 and HR 3810) to reform federal immigration laws; and

Whereas: The pending legislation contains provisions known as employer sanctions which will penalize employers who knowingly hire undocumented workers as a means of curbing the entry of undocumented immigrants into the United States; and

Whereas: Employer sanctions will place an undue burden on employers who will be required to become experts in recognizing valid immigration documents and will be subject to possible civil fines and/or criminal penalties if they mistakenly hire undocumented workers; and

Whereas: The added burdens and costs to employers implicit in such sanctions will result in employment discrimination against United States citizens and lawfully admitted immigrants of foreign appearance who apply for jobs; and

Whereas: The pending legislation will expand the temporary workers program which will only create a more controllable source of foreign labor with few rights;

Now therefore be it resolved that the Mayor and the City Council of San José oppose passage of the Simpson-Rodino immigration legislation on the grounds that it will lead to discrimination against the residents of San José who are immigrants and the children of immigrants, and that it will unduly burden the business people of San José.

Adopted this 24th Day of June, 1986.

HONORING SID SUSSMAN

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. COURTER. Mr. Speaker, it is an honor and a privilege for me to recognize Sid Sussman of Bernardsville, NJ. Sid has spent the last 35 years working with the Fresh Air Fund. He first heard about the program in 1950 and has been actively involved ever since.

His charitable contributions have enabled hundreds of inner-city kids the chance to spend their summers away from the glass and asphalt of the city. His gentle manner and genuine concern has made these kids feel at home.

Every year Sid thinks that he has done enough yet he keeps coming back. I cannot thank him enough for his dedication and urge him to continue working with the Fresh Air Fund for another 35 years.

"SINGIN' IN THE RAIN"—WE NEED MORE HELP FOR THE HANDICAPPED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. LANTOS. Mr. Speaker, the handicapped in America have long suffered due to the lack of adequate facilities across our country. The failure to provide the necessary rampways,

shelters, and other handicapped facilities places an unfortunate burden upon the handicapped and is an indictment of our concern for these less fortunate citizens. There is an unfortunate lack of interest and concern on the part of many administrators in assuring the most basic services for the handicapped.

Recently, I received a touching account from a constituent which I would like to share with this House. Rose Ann Feingenbaum has sought assistance in eliminating some of the problems faced by handicapped individuals. She shares a common experience, and I commend her heroism in coping with an invalid husband, who must use a wheelchair and is barely able to communicate. Her moving account brings an awareness that even under the most stressful circumstances kindness persists.

Mr. Speaker, I insert an excerpt of this moving article in the RECORD:

SINGIN' IN THE RAIN

(By Rose Ann Feingenbaum)

Monday mornings are bad enough when it's raining and a person has to go out in it, but it's doubly troublesome when you're in a wheelchair and you have to get in and out of the car and get to your destination without getting soaked.

There was a time when Stan and I loved to go out in the rain. That was before his accident when he could move about normally. Now, if we're snug in the house listening to the water dance on the roof and cascade out of the drain pipes, we love it. But going out in it is another matter, because my husband Stan is now wheelchair bound and needs my total help. He is also particularly vulnerable to respiratory problems.

(Rose Ann then gives a blow-by-blow account of the difficulty of getting from the car to the hospital in a torrential downpour. The result is that Stan is soaked and confused by the traumatic experience.)

I can't wait to get Stan into physical therapy and out of this quagmire. My feet are squishing as we cross the street and make for the side door of the Core building. It now occurs to me that my raincoat is wet a foot up from the hem. I can't think clearly anymore, I just push Stan's wheelchair up onto the sidewalk, scrunching all the small pine cones that have blown down from the wind and rain, and I open up the heavy glass door and we struggle inside, wet and bedraggled, trailing water all the way down the hall, and I don't care.

The conclusion of this sensitive piece stirs the conscience of all of us who are concerned about the handicapped. Why do we not have adequate rain shelters at hospitals? As Rose Ann thoughtfully asks in her closing remarks:

Why is it so easy to lower the flag to half mast in respect for those now dead, but yet so hard to raise a rain shelter at hospitals for those who didn't die, and who are trying so hard to live.

TRIBUTE TO JUDGE JOSEPH C. BRUNO

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. FOGLIETTA. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to an outstanding citizen of Philadelphia, Joseph C. Bruno, judge of the court of common pleas.

This Saturday, June 28, Judge Bruno is being honored as the next governor of district 745 of Rotary International. He will take office on July 1. District 745 encompasses most of eastern Pennsylvania with 44 local Rotary clubs within its jurisdiction.

Those of us who know Judge Bruno are not surprised by his selection to this high office: As district governor, Judge Bruno joins a select group of only 392 from 160 countries. He is a community leader, actively involved in the American Legion, the Veterans of Foreign Wars, the Union League of Philadelphia, the Boy Scouts of America, and the Philadelphia and Pennsylvania Bar Associations. He has traveled extensively to most countries of the world visiting courts and penal institutions. He has made indepth studies and lectured widely on the subjects of juvenile gang warfare in Philadelphia, the problems of narcotics and crime, and the judicial system. He is the recipient of the Distinguished Service Award from the Chapel of the Four Chaplains and of the Silver Medal Award from the National Society of the Sons of the American Revolution. He has been a lay speaker in churches in the United States and Europe.

Before his selection as district governor, Judge Bruno was president of the Rotary Club of Philadelphia—one of the largest Rotary clubs in the world.

What makes a man or woman truly deserving of an honor like the one being bestowed on Judge Bruno is a commitment of spirit to public service. Judge Bruno exemplifies this commitment. When asked what it means to be district governor, he humbly notes Rotary International's commitment to "Polio Plus"—a Rotary effort to eradicate 2,000 childhood diseases worldwide. He humbly notes with rotary's effort to upgrade the quality of medical care in Mexico and Nigeria by providing these nations with used and surplus medical equipment from the United States. He humbly notes Rotary International's effort to foster international understanding through an exchange program of business and professional leaders and a scholarship program for undergraduate and graduate students. Rotary International awards 13 times more scholarships than the Rhodes Scholarship Program.

Not once does Judge Bruno mention his own significant contribution to these humanitarian efforts. Yet, they are significant: He was awarded the Cavaliere Ufficiale by the Republic of Italy for his work with Rotary International and now has been elected to the district governorship by this peers at Rotary International's 1986–87 annual convention in Los Angeles.

Mr. Speaker, it has been said, "The world is sustained by study, by service, and by deeds of kindness." Clearly, Joseph C. Bruno is one of those who helps to sustain the world. I am delighted that so many have chosen to honor him on June 28, and I am pleased to add my voice to those who thank and congratulate him. His commitment to duty and to others is an example to us all.

A SALUTE TO SHERIFF BEN CLARK

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. McCANDLESS. Mr. Speaker, on Thursday, July 17, 1986, the California Inland Empire Council of the Boy Scouts of America will be honoring Sheriff Ben Clark of Riverside County, and Roy Rogers of San Bernardino County. I have the honor of representing Sheriff Clark here in the Congress, and would like to take this opportunity to salute him. My colleague from California, Mr. LEWIS, has the honor of representing Roy Rogers, and will be paying tribute to him, in which I join him.

Sheriff Ben Clark has been in the Riverside County Sheriff's office since 1950, and has been sheriff since 1963. In many ways, his name is synonymous with Riverside County. He has witnessed, and been a dynamic part of, the dramatic growth in our area in the past 36 years.

Sheriff Clark has worn many hats—that of the symbol of strong, honest, and progressive law enforcement, that of the community activist, that of a teacher, a humanitarian, a husband, a father, a grandfather, and a friend. How does he do it? He is privy to the exact same number of hours a day that we all have, yet he manages to do so much. He is surrounded by people who know that if you want to get something done, ask the busiest person you know—and in this case, that's Sheriff Ben Clark.

I am proud to call him a friend of mine, and wish him many more years of sheriffing, Ben Clark style.

MICHIGAN VETERANS' FACILITY

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. HENRY. Mr. Speaker, in 1886, 100 years ago, Michigan became the seventh State in the Union to establish a home for war veterans. After much debate lasting several years and I might add, denial of funds from the Federal Congress, the Michigan Legislature in 1885 adopted a law establishing the Michigan Soldiers' Home. Several months later, Grand Rapids was selected as the site for the new home, and in March 1886, ground was broken.

The home's cemetery was dedicated on May 31, 1886, and a time capsule was placed in the cornerstone of the Old Main Building on June 30, 1886. One hundred years later to the day, a new time capsule will be loaded into the cornerstone of the New Main Building, the major project of the 1980's now under construction. The Honorable N.A. Earle of Grand Rapids when dedicating the home in 1886 stated:

The institution . . . is built not as a charity, but as a fulfillment of a sacred trust, as making good a solemn promise, as the payment of an honest debt.

This sacred trust has been carried out through the years by the caring of more than 22,000 veterans from all of America's wars, except the Revolutionary War and the War of 1812. In 1894 the first women members were accepted and have continued to make up a small portion of the number of residents which today total over 700.

In the midfifties, social trends began to bring about changes in this country's domiciliary care institutions. New social and medical programs allowed elderly people to live independently for a longer period of time. As a result, people coming to the facility were generally older and less able to care for themselves than in the past. Maintaining the home as a small hospital became impossible and during the 1970's, the hospital operation was phased out in favor of developing an institution which would meet all the requirements of a first-rate nursing facility. Equipped with state-of-the-art therapy programs, on-site, registered professionals in physical and occupational therapy, speech, hearing, inhalations, psychological, and alcoholism therapies, the facility has developed into one of the best nursing care providers in the country.

Newly named the Michigan Veterans' Facility in 1944, the growing demand for additional beds, as well as modernization requirements have resulted in numerous building campaigns. The future promises even greater growth. With the majority of American's veterans not having yet reached an age where they will require nursing care, it is estimated that between 1990 and 2020, there will be an influx of veterans from World War II, and the Korean and Vietnam wars needing the services of nursing homes.

By upgrading the physical operations and the replacement of the outmoded Mann Building to accommodate the growing demand for skilled nursing care, the institution is embarked on what is hoped to be the last major expansion of the Michigan Veterans' Facility. Rather than enlarge the institution in the future, the Michigan legislature seems inclined to build new veterans' facilities in other parts of the State, such as the one now open in Marquette, MI.

Mr. Speaker, the Michigan Veterans' Facility has worked diligently to provide compassionate and first-class care to Michigan veterans and their families. Currently under the leadership of Commandant Frederick A. Traill, the facility hopes to expand its services to the veteran community throughout western Michigan—offering both night care and day care services, and respite care. Encouraging veterans to function at their maximum possible level, the facility will continue to place emphasis on greater flexibility and adaptability to members' individual needs and desires. As the Michigan Veterans' Facility begins its second century of services, its administration pledges to not lose sight "of the humanness of the people we are caring for, and the needs of those human beings * * *."

Please join with me, Mr. Speaker and colleagues, in offering congratulations to the Michigan Veterans' Facility on the occasion of the facility's 100-year anniversary and best wishes for continued success in servicing the needs of America's veterans.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, June 26, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 27

10:00 a.m.
Judiciary
To hold hearings on S. 2454, to repeal certain provisions of the Department of Defense Authorization Act of 1985 relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and H.R. 1338, to allow suits against the United States for acts or omissions of contractors in carrying out the atomic weapons testing program, and to substitute the United States as the party defendant in suits brought against such contractors.
SD-226

JULY 15

9:30 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold hearings on S. 2498, to prohibit loans to, other investments in, and certain other activities with respect to, South Africa.
SD-538

Commerce, Science, and Transportation
To hold hearings on S. 1903, to establish a national commercial driver's license, and to strengthen federal and state efforts to detect unsafe vehicles and drivers through random roadside inspections.
SR-253

10:00 a.m.
Energy and Natural Resources
To hold hearings on the nominations of A. David Rossin, of California, to be an Assistant Secretary of Energy for Nuclear Energy, Marshall A. Staunton, of California, to be Administrator, Economic Regulatory Administration, Theodore J. Garrish, of Virginia, to be Federal Inspector, Alaska Natural Gas Transportation System, and Richard H. Francis, of Virginia, to be President, Solar Energy and Energy Conservation Bank.
SD-366

JULY 16

10:00 a.m.
Energy and Natural Resources
Business meeting, to resume consideration of S. 2427, to improve the administration of the Federal coal leasing program.
SD-366

Labor and Human Resources
To hold oversight hearings on barriers to children's health care.
SD-430

Select on Indian Affairs
To hold hearings on S. 1453, Sioux Nation Black Hills Act.
SD-628

JULY 17

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 2417, to provide for the establishment of an independent commission to study and make recommendations regarding the management of aviation safety.
SR-253

Finance
Social Security and Income Maintenance Programs Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2412, to withdraw and reserve certain public lands.
SD-366

JULY 18

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2506, to establish a Great Basin National Park in the State of Nevada, and S. 2534, to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument in South Carolina.
SD-366

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2407, the Animal Drug Amendments and Patent Term Restoration Act of 1986.
SD-430

JULY 22

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on barriers to agricultural trade.
SR-332

Finance
Social Security and Income Maintenance Program Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and productivity on work and welfare issues.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs on work and welfare issues.
SD-430

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 230, to relieve the city of Dickinson, North Dakota of all obligations incurred in a contract entered into with the Secretary of the Interior concerning construction of certain facilities under the Reclamation Authorization Act of 1975, S. 252, to provide for the construction, operation, and maintenance of the Lake Andes-Wagner Unit, South Dakota Pumping Divison, Pick-Sloan Missouri River Basin Program, South Dakota, and S. 1704, to increase the authorization of appropriations for the North Loup Division, Pick-Sloan Missouri Basin Program, Nebraska.
SD-366

Environment and Public Works
Business meeting, to consider S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway Program.
SD-406

2:00 p.m.
Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to States for enacting medical malpractice liability reforms.
SD-430

JULY 23

9:30 a.m.
Rules and Administration
To hold hearings on S. Res. 330, to establish within the U.S. Senate a Special Committee on Families, Youth, and Children.
SR-301

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to continue consideration of S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway program.
SD-406

2:00 p.m.
Energy and Natural Resources
*Water and Power Subcommittee
To hold hearings on S. 1149, to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost, and related matters.
SD-366

JULY 24

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on operating differential subsidy programs reform.
SR-253

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 1026, to implement the policies of the proposed Continental Scientific Drilling Program of the United States relating to earth science research and technological development.
SD-366

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the establishment of new short-line and regional railroads.
SR-253

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

JULY 29

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-332

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review the response for home health care services.
SD-430

JULY 30

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video progamming.
SR-253

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2159, to designate the Big Sur National Forest Scenic Area in California.
SD-366

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

10:00 a.m.
Energy and Natural Resources
*Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

AUGUST 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 13

10:00 a.m.
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

CANCELLATIONS

JUNE 26

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Edward V. Hickey, Jr., of Virginia, to be a Federal Maritime Commissioner.
SR-232A

HOUSE OF REPRESENTATIVES—*Thursday, June 26, 1986*

The House met at 11 a.m.

The Reverend Dr. Calvin O. Butts III, pastor, Abyssinian Baptist Church, New York, NY, offered the following prayer:

God of our fathers and mothers, called by many names and residing in many houses of worship; we thank Thee for the privilege of the liberties we enjoy in this good land. Strengthen us to defend our liberties and empower us to mold into one people the masses who come here, those who were brought here, and those who were already here, that this may truly be one Nation under Thee.

Anoint, O God, with the spirit of wisdom, this great House of Government that it might stay loyal to the high aims which have been set before it, that there may be justice and peace at home and that we may show sympathy with all the peoples of the Earth in their quest for life and liberty.

Save us from violence and confusion, from pride and arrogance; forgive us our national and personal sins. Prosper the affairs of our industry, encourage the hearts and minds of our young, and reveal unto our hearts the true meaning of love.

And now, O Lord,
Shadowed beneath Thy hand,
May we forever stand,
True to our God,
True to our native land.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 4841. An act to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2798. An act to amend title 38, United States Code, to prohibit discrimination in employment because of the status of certain individuals as a member of a reserve component of the Armed Forces or as a member of the National Guard; and

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965.

REV. CALVIN BUTTS

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, I welcome this opportunity to thank Rev. Calvin Butts on behalf of the House, not only praying for the Nation but for this Congress.

Some 15 or 16 years ago, Reverend Butts came to the Abyssinian Baptist Church in central Harlem at the same time I was privileged to come to the U.S. Congress. One thing that we both have in common is that we both succeeded the late and the great Congressman Adam Clayton Powell.

I have tried desperately hard in this House to gain the respect of my colleagues in making certain that the people and the constituents in the 16th Congressional District received adequate and competent representation in Congress.

Reverend Butts has done more than just succeed Rev. Adam Clayton Powell, but has been a dynamo of a spiritual and community leader in central Harlem in our city, in our State, and in our Nation.

For all of those reasons, it is abundantly clear that when the final record is made for Adam Clayton Powell that it was not two people who succeeded and tried to replace him, but it will show that he has one of the best and most effective records that any legislator has had in the U.S. Congress, and Harlem and the Nation is a better place because we have Rev. Calvin Butts.

NATIONAL SPECIAL OPERATIONS AGENCY

(Mr. DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANIEL. Mr. Speaker, there is one element of our Armed Forces which is absolutely critical in every emergency, from a terrorist incident up through global war. That is our special operations forces—the Army Special Forces, civil affairs and psychological operations, and Ranger units; the Navy Seals and Special Boat units; the Air Force Special Operations Wing.

Although they represent a fraction of 1 percent of our military structure, they are, in a very real sense almost 95 percent of the usuable military capability available to the President at any given time. They, alone, are able to function throughout the spectrum of military activity, not as a deterrent, but in an active role, day-in and day-out, all around the world.

The Armed Services Committee has devoted over 3 years, within the Readiness Subcommittee and the Special Operations Panel chaired so ably by our colleague from Florida, EARL HUTTO, to the question of how to insure the readiness of our Special Operations Forces.

Our hearings, meetings, briefings, inspections, and visits over the past 3 years, Mr. Speaker, have convinced us that there must be thorough reorganization of our Special Operations Forces.

There must be a radically streamlined and unified command and control organization established; there must be total civilian control, accountability, responsibility, and oversight; and there must be an effective system established to guarantee that minimum necessary resources are provided to the Special Operations Forces.

If we don't assure those improvements, Mr. Speaker, oversight, command and control, and adequate resources, combined with a coherent national strategy and doctrine for their employment, then we are facing very dangerous and potentially disastrous problems worldwide, in our employment of our Special Operations Forces.

As a result, this morning, Mr. Speaker, I have introduced a bill for the establishment of a National Special Operations Agency. To be headed by a civilian director reporting to the President through the Secretary of Defense, the agency would unify command and control, resources, and doctrine and strategy for special operations.

The Special Operations Agency will permit continuous oversight, accountability, and responsibility for these activities.

I am joined by most members of the Armed Services Committee as cosponsors of this bill, Mr. Speaker, including our distinguished chairman and subcommittee chairmen.

The problems this bill seeks to address are very real, Mr. Speaker, and we believe the solutions proposed to be

the minimum necessary to adequately address them.

Our Special Operations Forces are crucial to us—and we owe them this attention and support.

NEED FOR KOREAN WAR MEMORIAL

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, yesterday marked the 36th anniversary of the beginning of the Korean war. The face of America and the lives of at least 5.7 million Americans who served there were changed forever. Of these Americans who served during that war, over 103,000 were wounded and, most important, 54,00 of them made the ultimate sacrifice.

It is deeply disturbing to me that, after 36 years, there is not yet a memorial in our Nation's Capital to honor these great Americans who served and sacrificed in the Korean war—The only group of war veterans not to be so honored. These individuals have been leap-frogged by time overlooked and ignored. It is within our power to see that this disservice is not permitted to go unremedied.

On November 6 of last year, the House-passed legislation providing for the erection a memorial to these veterans by a vote of 406 to 0. The other body on the other hand, has taken no action. As a matter of fact, tomorrow marks the first anniversary of the day the Senate companion bill was referred to the Energy Subcommittee on Public Lands and Reserved Water. It has been languishing there ever since. You may ask yourself, why have they been sitting on this bill? They say it is because there are already too many memorials in Washington.

I have but one thing to say in response to this travesty: the other body appears to have misplaced its national priorities. Imagine that with all the memorials to individual persons who have made measurable contributions to our Nation, we cannot find a small plot of land to memorialize those 54,000 men who gave their lives for their country and the ideals of freedom and self-determination—the ideals which form the foundation upon which this Nation rest and from which it gets its sustinance.

To be honest, Mr. Speaker, I am deeply saddened by the logic of the other body in this matter—or the lack thereof. I am hopeful that they will see the light before the close of this Congress.

VOLUNTARY RESTRAINT AGREEMENTS ON STEEL IMPORTS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, there has been very little success in getting foreign steel producers to abide by voluntary restraint agreements on their imports of steel products into the United States. We must start now to close some of the loopholes that some of these same trading partners are utilizing in shipping their products through small, developing nations that have no steelmaking industry in and of themselves.

I am today introducing legislation that will close these loopholes by denying generalized system of preference benefits to those countries that aid or abet in the transshipment of steel products produced by those nations that have already entered into or plan to enter into voluntary restraint agreements with the United States.

If we are truly serious in getting steel imports down to the level that the Reagan administration promised in 1984, then we must begin to put some teeth in the voluntary restraint agreement program. I would welcome the support of the Members of this Chamber who feel as I do about this very important problem and ask for your cosponsorship.

□ 1110

THE HELL IN AFGHANISTAN

(Mr. PORTER asked and was given permission to address the House for 1 minute.)

Mr. PORTER. Mr. Speaker, there are horrible atrocities being committed whose perpetrators escape the condemnation they deserve through apathy and ignorance of the American press, pubic officials, and citizens.

Children are kidnapped for reeducation in a place thousands of miles away and worlds apart. Crops are destroyed by invading troops. Chemical weapons are said to be used against civilian populations in hope of dampening their will to fight. Bombs shaped as lighters, pens and even toys are littered about, with knowledge that children will be the most likely victims.

Mr. Speaker, these crimes and more are being committed every day against the proud and once free peoples of Afghanistan at the hands of the invading Soviet forces. Yes, we must be vigilant to avoid further deterioration of human rights in places as South Africa, China, Chile, and Romania. But we must not give up as lost, those people who face perhaps the most desperate human rights situation in the world today, the Afghan freedom fighters.

SENIORS: BEWARE THE TELEVISION PITCHMEN

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, the message from yesterday's Aging Committee hearing on private insurance supplements to Medicare was a simple one: Beware the television pitchmen.

Day after day, we see on our television sets celebrities and stars pitching insurance policies that promise the elderly so much. Invariably, they claim that just one call to a toll free number will guarantee modestly priced, quality insurance coverage to the older applicant.

Yet what the Aging Committee heard yesterday was that there is often a great gap between what the television advertisement says the policy covers and what it actually does cover.

Mr. Speaker, the stars who advertise these policies are not mean, evil people. Many have been involved in countless charitable and community endeavors. They may simply not be reading the policies they are advertising.

Given that this may be the case, I am writing to the stars and to their professional organizations to request that they take steps to review these policies more carefully before they endorse them. I am also going to ask the networks, their affiliates and the National Association of Broadcasters to be watchful for obviously misleading policies to supplement Medicare.

No Member of Congress wants America's elderly to waste money on Medicare supplement insurance policies that are worth little more than the paper they are written on. Let's all call on the stars and celebrities to become careful about putting their prestige and stature behind the insurance policies they endorse on the airwaves.

PAY RETENTION FOR FEDERAL BLUE COLLAR EMPLOYEES

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, today I am introducing a bill that addresses a major concern for my district and that could become a problem for all of us in the very near future. My bill provides for a 2-year pay retention for Federal blue-collar employees who would be subject to a loss of pay due to a drop in the local wage survey.

As a result of the 1985 private sector prevailing wage survey in southern Arizona, blue-collar Federal workers in my district faced immediate pay cuts of up to 15 percent. The blame for this situation is placed on the elimination of over 600 jobs in the copper industry from the Tucson prevailing wage area. The preliminary report on the 1986

private sector prevailing wage survey indicates another reduction, although not as severe as 1985.

An amendment to the budget reconciliation package froze the 1985 pay cut. This pay freeze runs out at the end of this fiscal year. My bill would make all Federal blue-collar employees eligible to the pay retention provisions in title 5 of the United States Code that exist for regular civil servants.

This is an important piece of legislation that addresses a growing national problem. Last year Chicago and Louisiana narrowly avoided a similar situation. There are preliminary indications that there will be another round of reductions, with southern Arizona, Texas, and other single source economy areas to be the hardest hit. I ask my colleagues to support this legislation to save these hard working Federal employees from painful cuts in pay for arbitrary reasons.

MAINTAINING A NUCLEAR WEAPONS BALANCE

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Mr. Speaker, we are at a crossroads in maintaining the balance of nuclear weapons between the United States and the Soviet Union. The proposed abandonment of SALT II raises the possibility of a new and costly arms race.

Certainly, the President has the power—as Commander in Chief—to respond as he deems appropriate to the treaty violations already committed by the Soviets. However, we should remember that removing all restrictions will only provide the Soviets an excuse to increase the pace of their arms buildup—and that their totalitarian regime will commit unlimited resources for weapons construction.

This body has gone on record as supporting continued adherence to the numerical limits of SALT II. I believe that path—along with the prompt negotiation of a new, comprehensive and mutually verifiable arms treaty—offers the best hope for avoiding a nuclear holocaust and fiscal disaster for both nations.

REMARKS OF ISRAELI FOREIGN MINISTER SHAMIR

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I would like to share with my colleagues, remarks by Israeli Foreign Minister Shamir during a June 17 visit to Holon, Israel, in a lecture to students.

We are mainly fighting against Arab terrorism. But we know that those organizations and others cannot cause much damage without being supported by states who help them with money, weapons, training areas, etc. That's why we believe the war against international terrorism—war in which the United States plays a leading role—is absolutely vital.

The U.S. attacks on Libya are of the utmost importance in that framework, and they have already deterred other states from walking along this path of supporting terrorism. International terrorism is an international monster that exceeds all bounds. We see this terrorism in Libya and we see it in other places such as Central America. We see it from Libya to Nicaragua.

We know that the PLO had assisted the Sandinistas and had cooperated with them in Nicaragua. The Sandinistas in turn have established a PLO base in Nicaragua. We welcome the American activities aimed at struggling with the danger of terrorism in that part of the world as much as we welcome the U.S. activities in Libya. There is a direct connection between Libya and Nicaragua, and this is a terror connection that spreads over continents and oceans. We believe that whoever is trying to deal with this threat has results and will have results.

Mr. Speaker, by contrast, last weekend the Foreign Minister of Iran was in Nicaragua,

THE NAVAJO-HOPI RELOCATION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, Assistant Secretary of the Interior Ross Swimmer, the Director of the Bureau of Indian Affairs, recently issued a press statement declaring that "there will be no Federal action to evict the Navajos remaining on the Hopi partitioned lands on July 6." I am pleased that he finally made this statement publicly. I am concerned, however, that his statement is too little, too late to defuse the volatile atmosphere which permeates this issue. His statement is important, because it will help to counter the misinformation being circulated by groups trying to manipulate this tragedy for their own advantage. I am upset, however, by the timing of his statement. Coming only a few weeks before the July 6 date, Mr. Swimmer has done little to allay the fears and anxieties of the traditional Navajos who remain on the land. Had he made such a statement several months ago, these individuals, mostly older people, could have experienced far less anxiety about their future.

Congress has determined that no Navajo families on the disputed land can be relocated until such time as replacement housing has been provided for them. The real questions I would like to see Mr. Swimmer now address focus on his agency's role in the disaster which relocation has turned out to be and his plans for insuring that such disasters do not continue. There are stories and pictures which graphically depict the inadequacies of the Relocation Commission's and the BIA's attempts at relocating individuals and families. How, Mr. Swimmer, are you going to address these problems? As a concerned representative of Navajo people, I am requesting that the Interior Committee hold oversight hearings on relocation—its grisly past and the plans for its future.

July 6 is almost on us. Mr. Swimmer has spoken publicly to soothe public concerns. After July 6, the situation will not disappear—we will not forget the people involved. What faces us all next is, where do we go from here?

I have introduced a bill, H.R. 4872, to place a moratorium on forceable relocation of the Navajo's on this land. The bill would also establish a Presidential Commission of Navajo and Hopi elders, and Navajo and Hopi leaders and experts on the issue to try to develop a solution to the problem. I urge my colleagues to support this bill.

ADOPTING A BUDGET RESOLUTION

(Mrs. JOHNSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON. Mr. Speaker, taxing and spending are the fundamental responsiblities of Government and nothing is more important than this Congress adopting a budget resolution before we go off for a 2-week recess.

Earlier this year, we took the low road and we let the 1986 cuts be driven by the formula in Gramm-Rudman. So I have senior citizens who no longer get Meals-on-Wheels because of that formula-driven, mindless budget. I have Head Start slots that were lost to children, but I saw regional offices making some economies but clearly able to do more.

What I am saying is that the mindless priorities that result from a formula-driven budget are intolerable. The only way they can be avoided is for us to take the responsibility to write a budget. That Gramm-Rudman snapshot that is going to be taken in August is going to be a measure, not of our rhetoric, but of our actions.

It is incumbent upon us to agree to a budget resolution before we leave so that we will be able to take those actions that will assure this Nation that we, the Congress, can plan both to reduce the deficit and to provide the vital services that our people need and that the free world depends upon. So I urge my colleagues to oppose adjournment until we have agreed to a budget resolution, the first vital step to adopting budget bills upon our return. The first vital step to avoiding Gramm-Rudman's hatchet.

□ 1120

TWENTIETH ANNIVERSARY OF THE FREEDOM OF INFORMATION ACT

(Mr. ENGLISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGLISH. Mr. Speaker, this year, the Fourth of July will be a very special day for America. On the fourth, we will celebrate the 210th anniversary of the Declaration of Independence as well as the 100th anniversary of the Statue of Liberty.

There is another anniversary that falls on the fourth. The Freedom of Information Act was signed into law by President Lyndon Johnson on July 4, 1966. This year marks the 20th anniversary of the act.

The Freedom of Information Act plays an increasingly important role in the operation of our democratic society. The FOIA provides a means by which the public and the press can obtain information about how the Federal Government operates. The act is used regularly by those outside of Government who have no other way to obtain information.

The FOIA has been such a great success that now every one of the 50 States has enacted its own version of an open records law.

Mr. Speaker, an informed citizenry is essential to the American way of life. Democracy can thrive only in an open society. The Freedom of Information Act converts these ideals into enforceable rights. It has enabled Americans to live safer and healthier lives, and to govern themselves more efficiently.

The Freedom of Information Act is a modern American contribution to democracy, and it is fitting that we mark its anniversary each year on the Fourth of July.

FEDERAL ACCOUNTING PRACTICES REVIEW COMMISSION ACT OF 1986

(Mr. SHAW asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAW. Mr. Speaker—

I think it an object of great importance * * * to simplify our system of finance, and to bring it within the comprehension of every member of Congress * * * we might hope to see the finances of the Union as clear and intelligible as a merchant's books, so that every member of Congress, and every man of any mind in the Union, should be able to comprehend them * * * .

Although these words were spoken 184 years ago by Thomas Jefferson, the finances of the Union are anything but "clear and intelligible." To correct this situation I have introduced the Federal Accounting Practices Review Commission Act of 1986. This bill has the cosponsorship of all the Members of the House who are current or former certified public accountants.

Yesterday, the Government Affairs Committee of the other body reported out a bill which would establish such a Commission. They recognize, as we should, that it is time to bring our accounting practices up to the level envisioned by Thomas Jefferson in the 19th century before we start the 21st.

GRACE COMMISSION LEGISLATIVE PACKAGE

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, today Grace caucus members in both the House and Senate are introducing a package of cost-saving legislation reflecting recommendations of the President's private sector survey on cost control—commonly known as the Grace Commission.

This package of bills is designed to save American taxpayers at least—let me emphasize that—at least $7 billion over the next 3 years. That's an honest, conservative estimate from the Congressional Budget Office, put together without any blue smoke, mirrors, or tap dancing.

I know $7 billion won't balance the budget. But it's a start and a good one. It's the kind of effort the average taxpayer back home expects of us in Congress.

As cochairman of the House Grace caucus, I realize not every Member is going to support every bill in our package. That's not our goal or our expectation. But we think we have a legislative package with the greatest potential for support—from the Grace caucus and the entire House.

As I said when we organized the caucus, I'm excited about this. I think we can do some real good, that we can save the taxpayers some money. Now, isn't that a radical idea?

DESIGNATION OF HON. THOMAS S. FOLEY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL JULY 14, 1986

The SPEAKER laid before the House the following communication:

WASHINGTON, DC,
June 26, 1986.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore to sign enrolled bills and joint resolutions until July 14, 1986.

THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives.

The SPEAKER. Without objection, the designation is agreed to.

There was no objection.

THE PRESIDENT SHOULD ENFORCE LAWS PROHIBITING IMPORTATION OF GOODS MADE IN SOVIET SLAVE LABOR CAMPS

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, as we go home, back to our congressional districts for the district work period, and as we celebrate the Fourth of July, our independence and our freedom, we should remember something: We should remember that there are millions of Soviet citizens who are in Soviet prison-gulag prison camps for their religious and their political beliefs.

We should realize that in those camps they make, with slave labor, goods—chess sets, bubushka dolls, tea and other items that are imported into the United States.

A number of us Republicans and Democrats are sending a letter to President Reagan, asking him to urge and mandate that the Treasury Department enforce the law to prohibit import into the United States goods that are made in Soviet slave labor camps.

Mr. Shcharansky said when he was released:

Weak agreements only make those suffering behind the Iron Curtain more despondent. They are taking the tough line on the front; the least Western diplomats can do is to remember them in between the caviar and cocktail parties.

Mr. Speaker, I urge that we remember them over this Fourth of July recess, and we can do this by signing this letter to the President asking him to enforce the law.

DEPARTMENT OF ENERGY SELLS ELK HILLS OIL FOR HALF PREVAILING MARKET PRICE

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, today the taxpayers of the United States will lose $300,000 in revenues from the sale of oil from the Elk Hills Naval Petroleum Reserve.

Yesterday the taxpayers lost $300,000 as well as for many days before that. In fact, the U.S. Government will lose $300,000 every day until September 30, unless the Department of Energy rebids the current contracts for the sale of the oil from the U.S. Government oil field.

The General Accounting Office has reported that the Department is selling some Elk Hills oil for less than half the market price in that area. Some oil was sold for $6.30 per barrel

at the same time our government was buying oil at $12.60 a barrel for the strategic petroleum reserve.

Department officials acknowledged the mistake; they are trying to revise the bidding procedures for the contracts to be let in October, but under the current contracts they may rebid those contracts and the Secretary must bite the bullet and help us save taxpayers' dollars.

CONGRATULATING THE HUNTS OF CHICAGO ON THEIR 50TH WEDDING ANNIVERSARY

(Mr. HAYES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES. Mr. Speaker, I rise to honor Mr. and Mrs. Wilson and Lula Hunt, two residents of the city of Chicago who will soon celebrate their 50th wedding anniversary.

The love and dedication the Hunt's have shared throughout their years together should serve as an example for many of our young people today, that marriages can succeed if two people put their hearts into it. I am certain their marriage has been a shining example to their family, their friends, and their neighbours. Fifty years for many of us is a lifetime. For the Hunts, it has been a lifetime of love, love for each other, and love for their family.

Mr. Speaker, I know my distinguished colleagues in the U.S. House of Representatives will join me in wishing my constituents, Wilson and Lula Hunt not only a very, very happy 50th wedding anniversary, but also many more years of harmony and happiness together.

□ 1130

TAXPAYERS SHOULD OPPOSE SO-CALLED TAX REFORM

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend is remarks.)

Mr. MARLENEE. Mr. Speaker, the American taxpayers have one last chance. A more appropriate time could not have been provided than the Fourth of July recess when all of the elected Representatives will be home. This is the time for them to revolt, a time to say "no," a time to express their opposition to so-called tax reform which has passed both bodies of Congress. Those who are about jobs, those who are about generating investments, those who care about business should generate heat on their elected Representatives, heat aganst so-called tax simplification. The great flimflam is "Let's get rid of your protection against overtaxing abuse in exchange for a lower rate." Can visualize 2 years from now when they come back and raise that rate and you have no shelter, no protection?

Defeat so-called tax reform.

"CRACK"—EPIDEMIC IN NEED OF A CURE

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, there is a very serious tear in the fabric of our society, and it's called crack—smokable freebase cocaine. It's killing our kids, and sending violent crime statistics sky high. Having just come onto the scene in the last year, crack is one of the most addictive drugs known to man.

What are we doing about this crisis? Tragically, very little. Under current law, a person must possess the equivalent of 15,000 doses of crack before they are subject to maximum penalties. I am introducing a bill today that would trigger maximum penalties for dealing in just a 15-dose amount, enough to get about five people addicted to the drug for life. My bill would also provide tough, enhanced penalties for crack traffickers who conduct business near schools, and who hire young people to do their dirty work—a common practice in the crack trade. Finally, it would establish a maximum penalty of up to life imprisonment if a person distributes crack and it results in death. I urge my colleagues to join as cosponsors.

BETRAYERS OF UNCLE SAM SHOULD NOT BE ABLE TO REAP PROFITS FROM THEIR CRIMES

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, the "Son of Sam" legislation was adopted by the Congress of the United States and now constitutes the law of the land whereby a convicted murderer who, while sitting in prison or for his dastardly crimes, could reap millions of dollars of profit by writing articles and newspaper stories and books on his experiences, thereby adding indignity and insult to the victim who already lies in the grave.

Today I am introducing legislation or beginning the circulation of the bill among you for cosponsorship which I can aptly call the nephew-betrayer of Uncle Sam, whereby the same kind of prohibition that we now apply against "Son of Sam" people should be applied to those who would betray the United States of America in the various espionage and treason trials that are going on. And those who have been convicted of those crimes against the national security of the United States should be brought under the same kind of prohibition.

So while they are resting in prison they should not be able to benefit from the writings and books that they might be called upon to execute. We want to divert those kinds of profits into crime victims compensation, just as we have done for "Son of Sam" dastardly crimes.

THE ORIGINAL IDEA BEHIND THE STATUE OF LIBERTY

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, it is very important as we celebrate the centennial of the Statue of Liberty over this coming Fourth of July holiday that we understand the broadest and most profound meaning of that statue and the concept behind it.

One fact that has been lost in history seems to be the fact that the original conceiver of the idea, the conception of the idea of the Statue of Liberty came from a man named Edouard Rene Lefebvre de Laboulaye. De Laboulaye was very interested and concerned about slavery in the United States. He was the head of the French antislavery society and a friend of the American abolitionists.

The statue was conceived 20 years before it was actually executed. Bartholdi was a friend of De Laboulaye. Bartholdi attributes the idea of the statue to De Laboulaye. Most people do not realize this. But I have the verification and documentation from the Congressional Research Service of the Library of Congress. De Laboulaye was an admirer of President Lincoln. De Laboulaye conceived the statue not only as a tribute to the friendship between France and America and their joint enterprise in fighting for the American Revolution but also as a means to congratulate America for having freed its slaves. So as we celebrate this holiday, let us understand that the Statue of Liberty symbolizes liberty for everybody. It has a very broad meaning. We should not accept any narrow-minded conception of it, we should not accept a definition of the idea of liberty for an alien group. It belonged to everybody.

BOVINE GROWTH HORMONE

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, it is no secret that many of us in this Congress have spent a lot of time dealing with the surplus production of milk in this country. Today we have in

place the whole herd dairy termination program trying to achieve a supply demand balance. Yet while we have that legislation under way, new technology is coming on board, the bovine growth hormone to increase the production of milk for a cow anywhere from 10 to 40 percent. Farmers in my district say this is the last thing that we need; we do not need that any more than a drunk needs another drink. Yet it is coming.

However, I would like to suggest to my colleagues today that I will be introducing legislation to respond to this, not to stand in the way of progress, not to outlaw new technology but rather to require that the Secretary does not OK for commercial sale bovine hormone until three things happen. Until the Food and Drug Adminstration has completed an environmental impact statement and until the Department of Agriculture has done two things. One, study the impact of this growth hormone on the Dairy Price Support Program and its cost to the Federal Treasury. And, most importantly, do an impact on what this bovine growth hormone will do the structure of American dairy agriculture, in particular our family farms across this country. I call it to the attention of my colleagues. I encourage them to join with me in simply asking for answers, nothing more, nothing less.

I JUST THOUGHT I WOULD SAY THANK YOU

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, I am not here to talk about a budget. We will be doing that later. That is kind of a surprise.

It is to thank people.

The other day I had to rush around with a slip to put something into effect that Congressman GARCIA and Congressman HANSEN are going to help me with in a minute.

The reason I want to talk about it is because I think all of us have somebody like this in our district.

This idea is that the bells are going to ring across America just after the Statue of Liberty has had her torch relighted. It is going to make the 3d of July "Let Freedom Ring Day."

It was an idea of a man in his eighties who bugged me unmercifully, who has worked for years on Fourth of July celebrations, who is not rich, who is not famous but who cares about stuff like this.

Every single one of us has a man or woman or men and women like this in our cities, our towns, our rural, and city areas.

I think that is special. I think that maybe that makes it all worthwhile. It is going to happen in a little bit. He is going to be happy. A new tradition is starting. Lots of people, Republican, Democrat, helped make it happen very quickly.

So, I just thought I would say thank you, thank you all very much.

BANK BRIBERY AMENDMENTS ACT

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3511) entitled "An act to amend title 18, United States Code, with respect to certain bribery and related offenses," with a Senate amendment to the House amendment to the Senate amendments, and concur in the Senate amendment to the House amendment to the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment numbered 3, insert:

"(d) Federal agencies with responsibility for regulating a financial institution shall jointly establish such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply with this section. Such agencies shall make such guidelines available to the public.".

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. LELAND). Is there objection to the request of the gentleman from Michigan?

Mr. GEKAS. Mr. Speaker, reserving the right to object, I do so in order to ask the gentleman from Michigan [Mr. CONYERS] to relate briefly the theme of the bill and the contents of this legislation.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

Mr. Speaker, H.R. 3511 was initially passed by this House last October to address the problem of an overly-broad bank bribery provision enacted by the Comprehensive Crime Control Act of 1984. That provision makes it a crime to engage in conduct that is neither morally blameworthy nor violative of accepted and common business and commercial practices. The provision not only exposes people to selective and vindictive prosecution, but also breeds disrespect for the law in general.

The other body took up our bill earlier this year and passed it with three numbered amendments. Two of those amendments made salutary changes in the bill and were readily acceptable. Amendment No. 3, however, raised some problems, and we attempted by formal negotiations to work out a compromise. On April 22, we sent the bill back, agreeing to amendments 1 and 2 as passed by the other body, and to an amended version of amendment No. 3. We continued discussions with the other body about amendment No. 3 and worked out a further modification of that amendment. The other body has not returned the bill with that modification. The bill as it presently is before us deserves the support of this body so that it can be sent to the President for signature.

Amendment No. 3 as originally passed by the other body would have required the Justice Department to issue a "unified set of guidelines for identifying conduct which is prohibited" by the bank bribery provision. The amendment also provided that "compliance or noncompliance" with the guidelines was "relevant but not dispositive in determining whether a violation of this section has occurred."

We in this body saw no need for such an amendment. The bank bribery provision as originally passed by the House provides adequate notice as originally passed by the House provides adequate notice of the prohibited conduct. The Subcommittee on Criminal Justice has not received complaints from anybody that our language creates doubt or uncertainty about what is required, and I am sure that the subcommittee would have received complaints if lack of clarity were a problem. Amendment No. 3, in short, seeks to provide a solution for what is not really a problem.

Nevertheless, in a spirit of compromise, we attempted to accommodate the other body by agreeing to a modified version of amendment No. 3. Our modifications were essential to avoid the serious problems created by amendment No. 3, as originally passed by the other body.

For example, a defendant's failure to comply with the guidelines is relevant, if at all, only on the issue of defendant's state of mind—i.e., whether the defendant acted "corruptly" within the meaning of the bank bribery provision. To show that a defendant acted corruptly, the prosecution must establish that the defendant acted with a specific intent to disobey the law. *See* H.R. Rep. No. 335, 99th Cong., 1st Sess. 6, nn. 24, 25 (1985). If the defendant did not know of the guidelines or had not read them, however, then the guidelines cannot be relevant, for they could not have affected the defendant's state of mind at the time the defendant engaged in the conduct. Amendment No. 3, nevertheless, would have mandated the relevance of the guidelines.

Our modifications to amendment No. 3 required that the Justice Department issue prosecutorial guidelines and make those guidelines public. The Justice Department objected to this approach, as well as to the original amendment No. 3, and we continued to negotiate about further refinements in that amendment. Those negotiations have resulted in a jointly drafted guideline provision.

The best approach, in light of our views and the Justice Department's, would have been to drop amendment No. 3, but that was acceptable to the other body. We did insist upon, however, and the other body accepted, the next best approach—permitting, but not requiring, the issuance of guidelines; giving the guideline drafters the greatest possible discretion to formulate the guidelines and not mandating that any guidelines that may be issued are automatically relevant to a prosecution under the bank bribery provision. Thus, the provision, which was jointly drafted, requires that Federal bank regulatory agencies, acting together, issue "such guidelines as are appropriate to assist an officer, director, employee, agent, or attorney of a financial institution to comply" with the bank bribery provision. Any guidelines that are issued must be made public.

This provision does not mandate the issuance of guidelines, for the bank regulatory agencies may determine that guidelines are not appropriate. In determining whether to issue any guidelines at all, those agencies can consider all relevant factors, including the time and expense necessary to draft and promulgate such guidelines; the likelihood, in the collective judgment of those agencies, that guidelines will significantly aid in ensuring compliance with the bank bribery provision; and the frequency of prosecutions under the bank bribery provision. The nature and specificity of the guidelines, moreover, is within the discretion of the bank regulatory agencies. Thus, those agencies may decide to issue guidelines that simply identify factors to be considered by a bank official in determining whether to accept something of value from another. Indeed, if the bank regulatory agencies decide that guidelines are appropriate, guidelines that identify factors to consider would probably offer the greatest assistance to bank officials in complying with the bank bribery provision.

Finally, the provision, in the interest of uniformity, requires that the bank regulatory agencies act together, so that any guideline that is issued will reflect the collective judgment of the bank regulatory agencies. Thus, any guideline issued under this provision will be relevant to any bank employee or official, no matter which bank regulatory agency regulates the bank with which that official or employee is affiliated.

Mr. Speaker, I want to thank the gentleman from Pennsylvania [Mr. GEKAS], the ranking minority member of the Subcommittee on Criminal Justice, for his support and assistance in moving this legislation. There is a need to correct current law, and H.R. 3511 meets that need. I urge support for the bill.

Mr. GEKAS. Further reserving my right to object, Mr. Speaker, I thank the gentleman for his conscientiousness in bringing this matter to the attention of the House in such an expeditious manner.

Mr. Speaker, I remember very well when I introduced the legislation early in the session, which is the forerunner of what we have here today, I did so responding to the many horror stories that we heard around the country on innocent transactions between bank officials and customers, real estate agent and bank teller, secretary, if you will, in banking institution with a customer, in which it would be possible to convict either the customer or the secretary or the teller, of a crime where an innocent transaction of a presentation of a Christmas calendar as a gift or a luncheon or something that would be in the ordinary work-a-day world a totally innocent gesture.

Responding to that, our committee under the chairmanship of the gentleman from Michigan [Mr. CONYERS] I say to the gentleman, was able to hone in on rectifying this situation. The result is this bill, which says that those innocent transactions, unless it can be proved there was an intent to corrupt, should not be visited with the possibility of criminal action.

That is what we are about here today.

Further, when the gentleman from Michigan adds to his discription of the bill the fact that the Senate wanted to insert some guidelines to be part of the Federal agencies' part in regulating this particular aspect of it, I do believe that it was unnecessary, remains unnecessary, and it is possible of interpretation, I hope, that it will only take place when and if there are some ambiguities that arise that will require further explanation through regulations or guidelines.

Mr. CONYERS. Mr. Speaker, would the gentleman yield further?

Mr. GEKAS. Continuing under my reservation of objection, I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman. I think the point of the gentleman is very important because what we are saying is, rather than take the entire Congress to a vote on a matter that is essentially technical, that we will leave that to the good judgment of the Federal banking agencies, who will be the parties that will make the ultimate decision, that this colloque between ourselves on behalf of the House of Representatives will indicate to them how we think this matter ought to be resolved.

I want to thank the gentleman for his initiating the legislation which led to what I think improves the Criminal Code in a way that makes it real.

Unless our criminal laws mean what they say, there is no way that we can expect to catch little fish and serious criminals, white collar crime, underworld crime, unless we continue to refine our statutes. I am indebted to my colleague, the ranking minority member from Pennsylvania [Mr. GEKAS], and I thank the gentleman.

Mr. GEKAS. Mr. Speaker, with that I withdraw my reservation of objection and ask that the legislation be adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

A motion to reconsider was laid on the table.

□ 1145

LET FREEDOM RING DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 664) to designate July 3, 1986, as "Let Freedom Ring Day," and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object, but simply would like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the chairman of the subcommittee, the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Speaker, I thank the gentleman from Utah for yielding to me.

Mr. Speaker, I would just like to take a second, Mr. Speaker, because after today's session, most of us will be going back to our respective districts and we will not return here until July 15. But I think that over the next 2 weeks a great deal is going to happen

across the country especially in the city of New York with the lighting of the Statue of Liberty and the unveiling of the Statue of Liberty on its 100th birthday.

I think it is significant what our colleague, the gentlewoman from Illinois [Mrs. MARTIN] talked about. This proclamation, this resolution, was put forth by an average American, a person who, like millions of others, dreams of the moment in which they can pass a resolution on this floor.

It just seems to me that it is so appropriate that in New York we will be celebrating and we will let the freedom ring and bells will be ringing all over the United States, and that it would originate out of the Midwest. I think it is appropriate. I think that is what this country is all about.

So it is to that end that I would hope that all my colleagues, as we leave today, remember that it is the 100th birthday of the Statue of Liberty. We are completing the 99th Congress with this second session, and next year we will start the 100th Congress, another anniversary.

So lots of things are happening across America in 1986 and 1987, and I think it is a tribute to that gentleman who lives in Mrs. MARTIN's district, whoever he may be. We congratulate him on this fine resolution.

Mrs. MARTIN of Illinois. Mr. Speaker, will the gentleman yield?

Mr. HANSEN. Mr. Speaker, under my reservation of objection, I yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Speaker, I just want to thank everyone.

While they are celebrating in New York, let freedom ring will start in Mount Morris, IL, with Sandy Sandstrom.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 664

Whereas the United States has, for over two hundred years stood for liberty, justice, freedom, and opportunity;

Whereas the Statue of Liberty has, for one hundred years, symbolized the freedoms and liberties that we as a Nation so deeply cherish;

Whereas Liberty Weekend, a division of the Statue of Liberty-Ellis Island Foundation, has requested that individuals and groups across the United States ring bells on July 3, 1986, immediately following the relighting of the torch of the Statue of Liberty in New York City; and

Whereas such ringing of bells across the United States in conjunction with the celebration of the 100th anniversary of the Statue of Liberty should inspire all Americans to honor our Nation's heritage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 3, 1986, is designated as "Let Freedom Ring Day". The President is requested to issue a proclamation encouraging the people of the United States to ring bells immediately following the relighting of the torch of the Statue of Liberty which is scheduled to occur at approximately 10:53 p.m. on such day.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SENSE OF CONGRESS FOR A MOMENT OF SILENCE DURING OFFICIAL CEREMONIES FOR THE STATUE OF LIBERTY FOR RETURN OF AMERICAN CAPTIVES IN LEBANON

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 362) to express the sense of the Congress that a moment of silence be held during the official ceremonies for the Statue of Liberty for the return of the American captives in Lebanon, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I do not object. I would simply like to inform the House that the minority has no objection to the legislation now being considered.

Mr. Speaker, under my reservation of objection, I yield to the distinguished gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, on that same note, while we will all be celebrating here in the United States the 100th birthday of the Statue of Liberty, I think this resolution is timely and I think it is important, because there are Americans today who are being held captive through no fault of their own just because they are good Americans.

Mr. Speaker, the bottom line is that, while we are having a good time over this Fourth of July weekend, I would hope that we make it very clear that we have not forgotten these hostages and that this resolution is for that moment of silence.

Mr. MINETA. Mr. Speaker, today I rise in favor of the passage of House Concurrent Resolution 362, a resolution I sponsored to express the sense of Congress that a moment of silence to remember the United States hostages in Lebanon be held during the official ceremonies for the Statute of Liberty.

The relighting of Liberty's torch will be a great event for our Nation, an event celebrating our Nation's heritage of independence and freedom. However, these principles remain elusive for the five Americans who remain captive in Lebanon—Father Lawrence Martin Jenco, Terry Anderson, David Jacobson, Thomas Sutherland, and William Buckley.

Mr. Speaker, many of my colleagues and I have devoted many hours toward helping the families of these hostages and urging the administration to redouble its efforts to secure the hostages' release. How sad if our country forgets these Americans as it celebrates the birthday of its independence.

During the Fourth of July recess, we will return to our districts to join our families and friends. This holiday will be a time for all of us to reflect on the search for freedom and liberty which sparked our Nation's fight for independence. When we are visiting with our constituents during the recess, I urge my colleagues to take the opportunity to mention those Americans in Lebanon whose freedom remains only a dream. For the families and friends of Father Lawrence Martin Jenco, Terry Anderson, David Jacobson, Thomas Sutherland, and William Buckley, the Fourth of July will be yet another day of hope and remembrance.

Mr. Speaker, I invite my colleagues to join me in remembering the United States hostages in Lebanon and in renewing our Nation's efforts to secure the freedom and liberty of these Americans.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 362

Whereas the Statue of Liberty stands as a tribute to the principles of freedom;

Whereas this year, the United States will rededicate itself to the freedom and dignity of all people by relighting the torch of the Statute of Liberty;

Whereas on July 4, the United States will again celebrate its independence; and

Whereas Father Lawrence Martin Jenco, Terry Anderson, David Jacobsen, Thomas Sutherland, and William Buckley remain captive in Lebanon: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that during the official ceremony of the lighting of the torch of the Statue of Liberty, a moment of silence be held and that the light of hope for the return of the Americans held captive in Lebanon be rekindled.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. GARCIA: In the last clause of the Preamble, strike out "Father Lawrence Martin Jenco, Terry Anderson, David Jacobsen, Thomas Sutherland, and William Buckley" and insert in lieu thereof "five Americans".

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from New York [Mr. GARCIA].

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the various resolutions just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

SENSE OF CONGRESS IN SUPPORT OF A COMMEMORATIVE STRUCTURE WITHIN THE NATIONAL PARK SYSTEM

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the joint resolution (H.J. Res. 666) expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. DELLUMS). Is there objection to the request of the gentleman from Arizona?

Mr. McCAIN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Arizona [Mr. UDALL] to explain this resolution.

Mr. UDALL. Mr. Speaker, this is a simple, bipartisan resolution, cosponsored by over 100 Members of the House, including the chairman of the Subcommittee on National Parks, Mr. VENTO, and the ranking Republican member of the subcommittee, Mr. LAGOMARSINO, and my counterpart, the ranking Republican member of the full committee, Mr. YOUNG.

I want to emphasize that this resolution involves no Federal expenditure. Its purpose is to encourage the National Council on Economic and Educational Development to develop a detailed plan for an Afro-American museum and cultural center.

The Council will focus attention on Afro-American history and will gather scholars, planners, and architects together to mold a specific plan for the center. At the same time, it will initiate a campaign to raise private funds to implement the plan.

The NCEED is a nonprofit, charitable, and educational organization incorporated in the District of Columbia. It is operated exclusively for charitable and educational purposes and has been recognized by the Internal Revenue Service as coming within section 501(c)(3) of the Internal Revenue Code. The present membership of the board of directors includes:

Honorary Chairman: Lena Horne.

Board of Directors: Tom Mack, president; Johnny Johnson, treasurer; Phyllis Tate, secretary; Hon. MICKEY LELAND, Member of Congress; Hon. WALTER FAUNTROY, Member of Congress; Hon. Willie Brown, Speaker of the California Assembly; Carl Rowan, Jr.; and Broadus Butler, Ph.D.

Once this resolution is approved, it is my hope that the National Council for Education and Economic Development [NCEED] will begin to raise funds to make the necessary studies and to develop the plans that will be needed to make this concept a reality. The Council should develop a specific plan, including: Details for a structure; plans for perpetual operation and maintenance; estimate of funding requirements and the potential for private donations, and an outline of the role, if any, the Government should play in the future of the project.

The job of making this project a reality will be the responsibility of the NCEED. What we are doing is offering that organization encouragement and support.

The objective of this legislation is to help develop an understanding of Afro-American heritage and to help present and future generations to cope with the challenges of current-day society. This joint resolution is a step in that direction. We hope that, in the years ahead, we will have a structure, built with donated funds, which will tell this part of our history.

Mr. Speaker, I have no direct communication from the administration on this proposal, but letters have been received by NCEED from the Director of the National Park Service and the Secretary of the Interior supporting the concept of this measure. I feel it is appropriate to include them in the RECORD at this place.

THE SECRETARY OF THE INTERIOR,
Washington, June 24, 1985.

Mr. TOM MACK,
President, National Council for Education and Economic Development, Inc., P.O. Box 24029, Washington, DC.

DEAR TOM: I am pleased to learn of your plans to raise a private endowment to finance a commemorative structure within the National Park System dedicated to research and educational/interpretive programs to foster understanding, knowledge, opportunity and equality of all people.

I applaud the goals of the National Council for Education and Economic Development, Inc. This private initiative is wholly consistent with the President's objective to encourage voluntary efforts by the private sector in the preservation and interpretation of America's heritage.

While we cannot commit the Department or the Park Service to provide funds or to endorse legislation that provides funds, we look forward to a beneficial working relationship with NCEED.

Sincerely,

DONALD PAUL HODEL.

U.S. DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC, June 19, 1986.

Mr. TOM MACK,
President, National Council for Education and Economic Development, Inc., P.O. Box 24079, Washington, DC.

DEAR TOM: I appreciated your recent briefing on the incorporation of the National Council for Education and Economic Development, Inc. (NCEED), a non-profit organization, having for its primary purposes examination of the economic, constitutional, legal and social conditions and ramifications of slavery; the history of Afro-Americans; promotion of education and understanding among all people of the American slave experience and its role in the history of the United States; and elimination of barriers of every kind and nature to learning and opportunity faced by disadvantaged children of all races.

You propose to raise an endowment to assure a permanent location of a commemorative structure within the National Park System, together with research, development, implementation and communication of educational and interpretive programs dedicated to understanding, knowledge, opportunity and equality for all people, and that my endorsement of this commendable project does not commit the National Park Service to provide funds or endorse legislation that provides funding.

I understand that your interpretive programs would be developed jointly with the programs of the National Park Service as we move to strengthen our own interpretive programs of the richness and diversity of America's natural and cultural heritage.

I applaud your creative initiative and am pleased to note the significant progress NCEED has already made in pursuit of your very worthwhile goals. The President strongly encourages voluntary efforts from the private sector. With the continued effort of dedicated volunteers, such as you, I am confident that, together, we can make a valued contribution to the preservation and interpretation of our shared American heritage.

With warmest regards and all good wishes, I am

Sincerely yours,

WILLIAM PENN MOTT, Jr.,
Director.

Mr. Speaker, when carried to its ultimate conclusion, this resolution is only the first step toward erecting a significant pubic structure dedicated to Afro-American history and the heritage we all share. At this stage in the process, House Joint Resolution 666 represents recognition of the concept that there should be a place so dedicated, but it also is a positive contribution toward making the concept attainable.

Certainly there should be a place—probably in the National Park System—dedicated to Afro-American heritage. it should be a place for all Americans to learn and understand Afro-American history, but it should also be a place in which everyone can

take pride. It should be a place which will reach out to young people of all races in a spirit of brotherhood and unity.

In these days, when there is so much bitterness and bloodshed, we, in America, should be proud that by working together, we have found better ways to achieve equality for our people. This is not to say that ours is a perfect society, but only that we are trying to make it better. House Joint Resolution 666 is another contribution to that effort.

As we look forward to the celebration of Independence Day and to the rededication of the Statue of Liberty, let us not forget the great principles that they symbolize. For over two centuries, this Nation has struggled to give real meaning to the phrase in the Declaration of Independence "that all men are created equal". Great progress has been made, but the ideal has not yet been fully achieved.

And let us not forget, Mr. Speaker, that the Great Lady in the Harbor of New York who gave hope to "the tired, the poor, the huddled masses" was not present to greet the ancestors of most black Americans of this Nation. Their hopes and lives were shaped by different and difficult times. And yet through all the turmoil of past centuries a spirit of brotherhood and a spirit of hope and liberty for which that Lady stands has held this Nation—with all its diversity—together.

Mr. Speaker, the ultimate purpose of this legislation is to bring pride in, and reality to, the principles upon which this Nation is founded and to bring understanding and new opportunity through education and knowledge. We hope it will help bring all people of all races closer together. This joint resolution is like a small seedling deep in the forest looking for light and nourishment to grow into something meaningful and beautiful. This joint resolution can lead to—and I believe will lead to—a lasting place to tell the story of Afro-American history.

Great strides start with little steps. I hope this House will join all of the cosponsors of this legislation in taking that first little step.

Mr. McCAIN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the resolution we are considering today is an important first step in the development of a commemorative structure dedicated to the history of black Americans and the institution of slavery in America and throughout the world. As envisioned, the commemorative structure will be privately funded and will consist of a museum and cultural center. It will be a living institution that will contribute to the education of all Americans. It will provide scholars with an opportunity for research, and visitors of all ages, races and nationalities with an opportunity to learn about an important, but often ignored, chapter in our Nation's history.

Mr. Speaker, the history of this Nation with regard to slavery and the treatment of black and other minority Americans has not always been a proud history. But, as a nation we have worked and continue to work to overcome the devastating human tragedy that resulted from slavery and racism. We must, however, never forget the costs of such practices.

Mr. Speaker, I am proud to offer this legislation to my colleagues this morning. This joint resolution encourages and supports the efforts of the National Council for Education and Economic Development, Inc., to raise private funds for the development of the commemorative structure. Passage of this resolution will not result in the expenditure of any taxpayer dollars, but it will pay a considerable dividend to all Americans.

As we as a nation struggle to learn the lessons of our history, it is exceedingly appropriate that we support the National Council for Education and Economic Development. Every American will benefit from a structure dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people.

Before yielding back to the gentleman from Arizona, I would like to thank the chairman of the House Interior Committee for his leadership on this legislation. I also would like to commend and thank Mr. VENTO, the chairman of the Subcommittee on National Parks, Mr. LAGOMARSINO, the ranking Republican member of the subcommittee, and Mr. YOUNG, the ranking Republican member of the Interior Committee for their support of this important legislation. Finally, I would like to thank and commend the efforts of the staff of the Interior Committee in preparing this legislation for consideration by the House.

Mr. VENTO. Mr. Speaker, I wish to state my endorsement of the spirit of House Joint Resolution 666. The experiences and accomplishments of Afro-Americans have not been appropriately included in American history. The National Council for Education and Economic Development, Inc. [NCEED] proposes to raise private funds to establish a living memorial to our Afro-American past to help remedy this. Their effort to construct such a museum will complement the National Park Service's historic sites, seven of which are specifically related to Afro-American history. Such a museum would also complement the excellent work the American Association for the Study of Afro-American History and Life has done for so many decades. Historic sites with other primary themes incorporate in them much Afro-American history that is not adequately interpreted to the public. This lack of recognition for black sites, structures and artifacts goes far beyond our Nation's parks. In spite of the enormous outpouring of scholarly research on black history, the public still has relatively little access to sites and museums of black history. The National Council for Education and Economic Development, Inc., is to be commended for its effort to recognize more fully this history so integral to American history.

I am supportive that Federal contributions be made to establish and develop this museum. I am concerned, however, that lands other than National Park Service lands be chosen for this museum and am therefore pleased that an amendment has been agreed to which directs the review of other land within the WDC appropriate for this site. Certainly we can all agree that the National Park Service's mission is not to create historic resources. Much as I believe in the need for better inclusion of Afro-American history in all of American history, we should review and question carefully whether this museum is placed under National Park Service jurisdiction. National Park Service experience and knowledge will be helpful in focusing the need and framing an appropriate program as envisioned along with other Federal, State, and private sector participation. It is my hope that this ferment and competition of ideas will achieve the laudatory goals of this joint resolution.

□ 1155

Mr. McCAIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 666

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Council for Education and Economic Development, Inc., a private nonprofit organization having for its primary purposes examination of the economic, constitutional, legal and social conditions and ramifications of slavery; promotion of education and understanding among all people of the American slave experience and its role in the history of the United States; and elimination of barriers of every kind and nature to learning and opportunity faced by Afro-American, minority, poor and other children is deserving of encouragement and support of the American people in its program to raise an endowment to assure a permanent location of a commemorative structure within the National Park System dedicated to understanding, knowledge, opportunity and equality for all people.

AMENDMENTS OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer two amendments and I ask unanimous consent that they be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. UDALL:
Before "promotion of education and understanding" insert "the history of Afro-Americans;".
Before "dedicated to understanding, knowledge, opportunity and equality for all people." insert ", or on other Federal lands,".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the amendments offered by the gentleman from Arizona [Mr. UDALL].

The amendments were agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERMITTING USE AND LEASING OF CERTAIN PUBLIC LANDS BY THE UNIVERSITY OF NEVADA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1625) to permit the use and leasing of certain public lands in Nevada by the University of Nevada, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mrs. VUCANOVICH. Mr. Speaker, reserving the right to object, I shall not object, but I will ask the gentleman to explain the legislation for the benefit of the Members of the House.

I yield to the gentleman from Arizona [Mr. UDALL] for his response.

Mr. UDALL. Mr. Speaker, this Senate-passed bill is simple and straightforward.

The lands involved here are lands that the University of Nevada has already acquired from the United States under the Recreation and Public Purposes Act.

As usual in such cases, the patent to the university contained restrictions on the uses to which the lands can be put.

The university uses the lands for its Desert Research Institute, and it plans for that use to continue. However, the university wants to arrange for the private sector to play a role in the research activities carried out on these lands, and it would also like to be able to enhance the funding available for the research institute.

To achieve these ends, the university wishes to be able to lease the lands to private concerns who would be involved in the research activities. However, the administration has interpreted the restrictions in the patent to preclude this sort of arrangement, even though it appears that in at least one case (involving the University of Utah) similar restrictions were interpreted as permitting a similar arrangement.

At our subcommittee hearing, the administration's witness testified that they believe that the university should be required to pay to the United States the fair market value of removing the restrictions now in the patent, if the university wishes to proceed with its plans to lease the lands. The administration's testimony was that this would mean a payment by the university of approximately $3 million.

Because of similar objections by the administration, the Senate amended the original bill so that the reversionary clause would remain in the patent but the university would be explicitly authorized to lease the lands. The university testified that this is acceptable to them, and that is what the Senate-passed bill now before us provides.

Mr. Speaker, I believe that the Senate-passed bill is a fair and equitable compromise. I believe that the administration's continued opposition is unreasonable. I urge the House to approve the bill.

Mrs. VUCANOVICH. Mr. Speaker, further reserving the right to object, I support S. 1625 and am pleased that this legislation was passed out of committee and is now one step closer to enactment.

The lands described in S. 1625 were patented to the University of Nevada at Reno in 1972 and 1974 under the Recreation and Public Purposes Act. These lands are being used as a research park for Desert Research Institute, a component of the university, and a campus for a community college. This legislation will allow the university to lease these lands to public and private companies to engage in research and development programs that are compatible with the university's. There is no cost involved to the Government.

This is not a new concept. The University of Utah has a research park also operating under the Recreation and Public Purposes Act that leases land to the private sector for research purposes. To date, this venture has been very successful to the University of Utah, as well as the citizens of this country. This is the research park where the Jarvick artificial heart was developed and is made. In January of this year, Congress also permitted lands to be leased in Calcashieu Parish, LA, to be used as an industrial airpark. The ruling statute is the Recreation and Public Purposes Act.

This is a very important piece of legislation to Nevada. It will afford the university, whose research and development programs are largely publicly funded, to work closely with and benefit from collaboration with the private sector.

Thank you for your consideration and I urge passage of S. 1625.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the provisions of the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.), the Secretary of the Interior shall permit the University of Nevada to use (either directly or by lease) the lands described in subsection (b) of this Act as a site for a research and development center.

(b) The lands referred to in subsection (a) are described as follows:

(1) T. 20 N., R. 19E, Sec. 25: Lots 1, 2, 3, 4, 5, 11, SE ¼ NW ¼, NE ¼ SW ¼, Mount Diablo Meridian, Nevada, containing 309.11 acres; and

(2) T. 20 N., R. 19E, Sec. 25: Lots 6, 7, SW ¼ NE ¼, NW ¼ SE ¼, Mount Diablo Meridian, Nevada, containing 158.22 acres.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

DIRECTING SECRETARY OF INTERIOR TO CONVEY CERTAIN LANDS TO THE HUNTLEY PROJECT IRRIGATION DISTRICT IN MONTANA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3005) to direct the Secretary of the Interior to convey certain lands, withdrawn by the Bureau of Reclamation for townsite purposes, to the Huntley Project

Irrigation District, Ballantine, MT, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. MARLENEE. Mr. Speaker, reserving the right to object, I shall not object, but I would ask the gentleman to explain the legislation for the benefit of the Members of the House.

I yield to the gentleman from Arizona [Mr. UDALL] for his response.

Mr. UDALL. Mr. Speaker, the Committee on Interior and Insular Affairs reported this bill favorably after adopting an amendment in the nature of a substitute offered by the bill's sponsor, the gentleman from Montana [Mr. MARLENEE].

The bill would direct the Secretary of the Interior to transfer to the Huntley Irrigation District a total of about 31 acres of lands, divided among five different tracts.

Each of the tracts is located in an unincorporated community in Montana and is used for recreational or similar purposes.

The transfer of these tracts to the local communities is not possible under applicable law because the communities are not incorporated. The Huntley Irrigation District, however, has the status of a municipal corporation under Montana law.

As reported, the bill includes standard language to make clear that there is no attempt to effect a change in the ownership of any of the minerals associated with these lands, and a reversionary clause of the type usual for transfers under the Recreation and Public Purposes Act.

Mr. Speaker, I believe that this is a meritorious measure, and one which is not controversial. I urge its passage.

Mr. MARLENEE. Mr. Speaker, further reserving the right to object, I rise in strong support of H.R. 3005, which is a bill to convey title to approximately 32 acres of Bureau of Reclamation land, Federal land in Montana, to the Huntley irrigation project. The land is divided up into 5 parcels located in 5 small towns in Montana. The land is used as parks. I know of no opposition to the bill.

I would like to thank the gentleman for his support and urge approval of the bill.

Mr. Speaker, I rise in strong support of H.R. 3005, a bill to convey title to approximately 32 acres of Federal land in Montana to the Huntley irrigation district.

The land is divided up into five parcels located in five small towns along the Yellowstone River. The towns have been using the land as local parks since the early 1900's when the land was withdrawn for reclamation and irrigation purposes.

Under normal circumstances the 1906 Townsite Act would have allowed for automatic transfer of the lands to the towns for park purposes. However, the 1906 act required that the towns be incorporated.

The five towns have never reached the size which would warrant incorporation and the transfer was never made—a technicality which was completely overlooked at the time.

It was not until recently when the Bureau of Reclamation was reviewing its land records that the oversight was discovered. My bill authorizes the transfer to the water district which has the same status as a municipal corporation under Montana law which the act envisioned for the towns.

The lands have been maintained by the respective towns and considerable time and money has been spent to develop recreational facilities such as ball parks, walking trails, and picnic areas.

The Osborn Park is particularly interesting in that a group has located a museum on the site known as the Huntley Project Museum of Irrigated Agriculture. Using some historic buildings and constructing others, the museum has grown to where it now contains over 3,000 items dating back to the early homesteading days.

Section 3 of my bill, as amended by the committee, contains the standard type of reverter clause used in bills of this type to insure that the lands being conveyed are used for the intended purpose. In this case, the bill requires that they continue to be used for public park and recreational purposes, including the museum complex already located at the Osborn Park. It is also our intention in drafting the bill this way to allow such improvements as a waterslide which the community plans to construct. The parks are developed parks and these types of activities certainly fall within our meaning. I say this only to have it on record and I believe the chairman of the Public Lands Subcommittee will concur in my remarks.

I know of no opposition to our bill. The Department of Interior's Bureau of Land Management, testified in full support and I urge my colleagues to support it as well.

Thank you.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3005

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF CERTAIN LANDS.

Notwithstanding the provisions of section 2 of the Act of April 16, 1906 (34 Stat. 116; 43 U.S.C. 562), the Secretary of the Interior shall convey title to the lands described in section 2 of this Act, to the Huntley Irrigation District, a recognized municipal corporation of the State of Montana, located in Ballantine, Montana. Such conveyance shall be made without charge to the Huntley Irrigation District, except for administrative costs not to exceed $750 associated with the preparation of title to, and legal description of, such land.

SEC. 2. DESCRIPTION OF LANDS.

The lands to be conveyed under section 1 are all of the public lands withdrawn by the Bureau of Reclamation and reserved for townsite and public purposes under the provisions of section 3 of the Act of April 16, 1906, in the unincorporated townsites of Osborn, Ballantine, Huntley, Worden, and Pompeys Pillar in the State of Montana, and more particularly described as located in:

(1) Osborn Public Park in the Northeast ¼ of the Northeast ¼ and the Southeast ¼ of the Northwest ¼ of Section 16, Township 2 North, Range 28 East, town of Osborn, County of Yellowstone, State of Montana;

(2) Ballantine Public Park in Lots 1, 2, 3, 4, 5, 6, 7, 8, 13, and 14 Block 8, Southwest ¼ of Section 5, Township 2 North, Range 29 East, town of Ballantine, County of Yellowstone, State of Montana;

(3) The Riverside Park area of the Southeast ¼ of the Southwest ¼ of Section 24, Township 2 North, Range 27 East, town of Huntley, County of Yellowstone, State of Montana;

(4) Worden Town Park Reserve in Blocks 46, 49, and 50 of the Townsite located in the Southwest ¼ of the Southeast ¼ of Section 31, Township 3 North, Range 29 East, town of Worden, County of Yellowstone, State of Montana; and

(5) Pompeys Pillar Park in all of Blocks 17, 19, and 26 and a small portion of blocks 15 and 21 of the Pompeys Pillar Townsite located in the Southeast ¼ of Section 23, Township 3 North, Range 30 East, town of Pompeys Pillar, County of Yellowstone, State of Montana.

SEC. 3. RESTRICTION ON USE OF LANDS.

The lands conveyed under this Act shall continue to be reserved, maintained, and utilized for park and other public purposes. If any of such lands is used for any other purpose, the title to such land, together with all improvements thereon, shall revert to the United States.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike all after the enacting clause and insert in lieu thereof:

SECTION 1. CONVEYANCE OF CERTAIN LANDS.

Notwithstanding the provisions of the Act of April 16, 1906 (34 Stat. 116; 43 U.S.C. 566), and the preliminary injunction issued in *National Wildlife Federation* v. *Burford*, Civ. No. 35-2238 (D.D.C. 1985), the Secretary of the Interior shall convey all right, title, and interest of the United States in and to the lands described in section 2 of this Act, to the Huntley Irrigation District, a recognized municipal corporation of the State of Montana, located in Ballantine, Montana; Except that nothing in this Act is intended to affect the ownership of minerals located under the lands described in sec-

tion 2 of this Act. Such conveyance shall be made without compensation from the Huntley Irrigation District, except for administrative costs not to exeed $750 associated with the preparation of title to, and legal description of, such land.

SEC. 2. DESCRIPTION OF LANDS.

The lands to be conveyed in section 1 are more completely defined as those reserved public lands withdrawn for Bureau of Reclamation purposes and further withdrawn for townsite and public purposes and are described as follows:

(1) Osborn Public Park comprised of lot 19 of section 16, Township 2 North, Range 28 East, town of Osborn, County of Yellowstone, State of Montana;

(2) Ballantine Public Park in Lots 1, 2, 3, 4, 5, 6, 7, 8, 13, and 14 Block 8, Southwest ¼ of Section 5, Township 2 North, Range 29 East, town of Ballantine, County of Yellowstone, State of Montana;

(3) Riverside Park located in tract 123 Southeast ¼ of the Southwest ¼ of Section 24, Township 2 North, Range 27 East, town of Huntley, County of Yellowstone, State of Montana;

(4) Worden Town Park Reserve in Blocks 46, 49, and 51 of the Townsite located in the Southwest ¼ of the Southeast ¼ of Section 31, Township 3 North, Range 29 East, town of Worden, County of Yellowstone, State of Montana; and

(5) Pompeys Pillar Park consisting of all of blocks 17, 19, 26, and those portions of block 15 south of the main canal right-of-way and block 21 north of the main canal right-of-way as shown on the Pompeys Pillar Township plat, approved by the Assistant Secretary of the Department of the Interior on September 22, 1916, and located in the west half of the southeast quarter of section 23, Township 3 North, Range 30 East, town of Pompeys Pillar, County of Yellowstone, State of Montana.

SEC. 3. RESTRICTION ON USE OF LANDS.

The lands conveyed under this Act shall continue to be reserved, maintained, and utilized for public park (including museums) and recreational purposes. If any of such lands is used for any other purpose, the title to such land, together with all improvements thereon, shall revert to the United States.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I think we have adequately explained the bill and I know of no objection to it. I ask for approval of the amendment and passage of the bill.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PROVIDING FOR SETTLEMENT OF CERTAIN CLAIMS RESPECTING THE SAN CARLOS APACHE TRIBE OF ARIZONA

Mr. UDALL. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the bill (H.R. 3526) to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. McCAIN. Mr. Speaker, reserving the right to object, the San Carlos Apache Indian Tribe for several reasons were unable to fully pay Federal unemployment taxes for the years 1975, 1979, 1980, 1981, and 1983 for some employees. The tribe has since implemented changes in its financial systems to prevent this happening again. The Internal Revenue Service subsequently assessed back taxes, penalties, and interest. Additionally, the IRS attempted to levy upon the trust assets of the tribe.

The Department of the Interior disagreed with the IRS on levying on trust assets and suggested that the tribe and the IRS negotiate an agreement for a settlement of the past tax liability. H.R. 3526 represents the final step in the agreed upon settlement.

The tribe has paid the back taxes in the amount of $827,260.71, and the IRS has waived all penalties and interest on penalties. That waiver was not contingent upon enactment of legislation. However, the IRS does not have the authority to waive the interest on the back taxes which is also part of the agreement. H.R. 3526 would grant congressional approval of the settlement, particularly the waiver of interest on back taxes.

I believe it is important to note that all parties agree that tribes, like any other person subject to the Tax Code, also have the right to negotiate with the IRS on settlements on back taxes. H.R. 3526 recognizes these principles, and I urge my colleagues to support the bill.

Mr. Speaker, I would like to recognize the efforts of the gentleman from Arizona, Chairman UDALL, in arriving at a resolution for a tribe which is literally economically destitute and without this settlement would have faced severe difficulties in the ability for them to govern their tribe and assist their people.

□ 1205

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. McCAIN. I yield to the distinguished chairman, the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I wish to commend the gentleman from Arizona [Mr. McCAIN] for his hard work on this matter. We could not have put it together without him. He has explained the bill adequately, and I ask for its passage.

Mr. McCAIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that—

(1) the San Carlos Apache Tribe of Arizona and the Government of the United States entered into an agreement on May 15, 1985, to provide for the settlement of a dispute over certain liabilities owing to the United States;

(2) in partial fulfillment of this agreement—

(a) the tribe paid, in a timely manner, the unpaid liability claimed by the United States; and

(b) the United States has abated the penalties and interest on penalties from that liability; and

(3) the abatement provided for in this Act will complete the terms of said agreement.

SEC. 2. All interest arising from that liability which the San Carlos Apache Tribe of Arizona, as consideration, paid in full on May 16, 1985, is hereby abated and the tribe is released from any claim of the United States with respect to this matter.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3526, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONFERENCE REPORT ON H.R. 4420, MILITARY RETIREMENT REFORM ACT OF 1986

Mr. ASPIN. Mr. Speaker, pursuant to the order of the House of June 24, 1986, I call up the conference report on the bill (H.R. 4420) to amend title 10, United States Code, to revise the

retirement system for new members of the uniformed services, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LELAND). Pursuant to the order of the House of Tuesday, June 24, 1986, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Wednesday, June 25, 1986, at page 15590.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes and the gentleman from Indiana [Mr. HILLIS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference report on H.R. 4420—the Military Retirement Reform Act of 1986.

Mr. Speaker, this conference report culminates nearly two decades of attempts to modify the military retirement system. The change has been a long time in coming; it has had to overcome substantial opposition from some segments of the military services; and it has been the source of some concern among the men and women of the Armed Forces. However, the change we bring forward today is a good change and one that we can all support as good public policy.

Mr. Speaker, let me outline the provisions of the Military Retirement Reform Act for just a second. I would like to at this point also let the gentleman from Indiana [Mr. HILLIS] say a few words.

I would like to commend the gentleman from Indiana for his support on this issue and the Republican side for their understanding and counsel on this issue. This is a very, very sensitive issue in the military, and we all recognize the sensitivity of the issue, because of course of the implications for recruitment and for retention of our Armed Forces.

At a time of extreme budget constraint and at a time when we are changing retirement systems of civil service retirees, of the Social Security System, of private pension systems, we could not in good conscience not have done something about the military retirement system, which is costing a very, very great deal of money.

The trick, Mr. Speaker, of course is to change it in a way that does not do damage to the retention and the recruitment in the military services, and at the same time do something about saving some money.

The changes that we have here, I believe, and the gentleman from Indiana can talk about it himself, but I believe that we have accomplished some changes here that will do two things.

No. 1, it will put to rest for a time the whole idea about changes in the military retirement system, so that we need not have a lot of rumors going around among people in uniform that this or that provision of the retirement system is going to be taken away. I think that it is important that we put that issue to rest both within the Congress, within the administration, and of course within the Armed Forces, the uniformed Armed Forces.

Mr. Speaker, I would just like to outline the provisions very briefly, and then I would like to yield to other Members.

Very briefly what we have here is a system that changes the amount that a person gets from retirement for the people who retire before 30 years of service. At the end of 20 years of service instead of 50 percent of base pay, you get 40 percent of base pay. A person who retires at the end of 30 years of service still receives the amount that he receives now, namely, 75 percent of base pay. So the cut is essentially for the people who leave the service after a career shorter than the full 30-year career.

Second, because of what was in the Senate bill and the compromise that was worked out with the Senate, we have an adjustment in the COLA. It was not in the House bill, it was in the Senate bill, and in the conference we agreed to the provision coming over from the Senate bill, an adjustment for COLA, a COLA adjustment that gives CPI minus 1, instead of the full CPI, for the retirees.

One provision should be noted, that at the age of 62 this bill allows for a recomputation of the retirement pay so that a person who is genuinely retired and is age 62—in other words, somebody who is not starting out on a second career like he would be at age 42—but somebody at age 62, the real retirement age, that person has the retirement pay recomputed both from the standpoint of the multiplier and from the standpoint of the cost of living.

It is, I think, a fair proposal. The savings are made in the COLA and they are made in the pay for people who retire with less than a 30-year career. There is, however, a catchup at age 62 so that people who are truly retired at age 62 are people who will be reimbursed then and start again from the higher base at age 62.

There are a couple of other provisions in this bill, and just to make sure that the Members who are voting on this know, we do deal with one other issue in this that is important, and we have taken up the time of the House on it before, which is the issue of unauthorized appropriations.

I would like to commend the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Florida [Mr. CHAPPELL] for their cooperation in resolving this issue. We have an enormous struggle with the Senate, and I do not want to take up the time of the members of the committee any more on the issue, except to say that in this bill we also resolve the issue of the items that were not authorized but were appropriated, and we have a resolution to that issue.

Mr. Speaker, I am pleased to bring to the House the conference report on H.R. 4420—the Military Retirement Reform Act of 1986. This conference report culminates nearly two decades of attempts to modify the military retirement system. The change has been a long time in the coming; it has had to overcome substantial opposition from some segments of the military services; and it has been the source of some concern among the men and women of the Armed Forces. However, the change we bring forward today is a good change and one that we can all support as good public policy.

The uniformed services retirement system has existed essentially unchanged for the last 50 years, and its basic form was established over a century ago. During the past two decades, the uniformed services retirement system has come under increasing scrutiny and attack. By recommending the changes included in this conference report, the conferees are attempting to put the issue of structural reform of the uniformed services retirement system to rest for the foreseeable future. The conferees believe that, as a result of these changes, the criticism of the uniformed services retirement system will subside and the concerns of service members regarding the uncertainty of retirement benefits can be eased.

I want to emphasize that the changes to the uniformed services retirement system included in this conference report would apply only to those who first become members of a uniformed service on or after August 1, 1986. No member who had joined a uniformed service before that date—much less any current retiree of a uniformed service—would be affected.

The conferees agreed to change the uniformed services nondisability retirement system as follows:

First, the formula for the multiplier would remain unchanged—2.5 percent for each year of service up to 30 years of service. However, for members who retire with less than 30 years of service, the multiplier would be reduced by 1 percentage point for each year of service the member retired less than 30. The reduction would be eliminated when the member reached age 62.

Second, the cost-of-living adjustment mechanism would be changed to provide CPI minus 1 for life with a one time restoral in the purchasing power of the annuity at age 62.

The change to the cost-of-living adjustment mechanism would apply to all annuities—nondisability, disability, Reserve, and survivor benefits.

Although the change to the military retirement system does not arrive with a great deal of fanfare, it is one of the most significant legislative actions affecting the Department of

Defense in decades. The principal objective of the change is to make the military compensation system more efficient. There is no question in my mind that the military personnel system as a whole, will be more effective as a result of this change, and the savings will be substantial—approximately $3 billion per year out of a total of $18 billion for military retirement.

Increasing efficiency is the principal objective shared by the major reforms that are being considered by the Committee on Armed Services: Department of Defense reorganization and change to defense acquisition policy. The changes we make today—and the changes in the other areas that I hope we will make soon—are of historic significance. I do not recall when so many changes of this magnitude have been considered within such a compressed period of time.

UNAUTHORIZED APPROPRIATIONS

The conference report also addresses the issue of unauthorized appropriations. As the Members will recall, the Defense Appropriations Act for fiscal year 1986 provided $5.5 billion of appropriations in excess of the levels authorized. This is an issue that is of interest, obviously, to the authorizing and appropriating committees in both Houses.

The conference report authorizes the obligation and expenditure of the majority of the amount of unauthorized appropriations. Informal discussions between the four committees involved in this issue did not produce an agreement on the fundamental issue of the level of detail at which authorization and appropriations are provided. On this issue the four committees agreed to disagree. A consensus was reached only on the specific programs that should be denied authorization. Further resolution of the fundamental issue will need to be addressed in another forum.

Because the funds involved in the issue of unauthorized appropriations had previously been scored, the effect of the action of the conferees is neutral with regard to budget authority and outlays in the national defense function.

I would like to take this opportunity to express my appreciation to the Committee on Appropriations—particularly to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the committee, the gentleman from Florida [Mr. CHAPPELL], the chairman of the Defense Subcommittee, and the gentleman from Pennsylvania [Mr. MCDADE], the ranking Republican of the Defense Subcommittee—for their cooperation and assistance in resolving this issue of mutual interest. The working relationship between our committees has always been excellent and that spirit prevailed in the discussions leading to the resolution of this issue.

Finally, Mr. Speaker, I would like to express, on behalf of the conferees, our appreciation for the assistance we received from a number of individuals during our deliberations on military retirement reform.

Of particular note are the contributions made by Toni Hustead, the chief actuary for the Department of Defense. Her assistance in understanding the complex issues related to accrual accounting, her detailed knowledge of retirement plans, and her help in understanding the cost ramifications of a wide variety of changes to the military retirement system were invaluable to the deliberations not only of the conferees but of the Committee on Armed Services. She is an extraordinarily competent and untiring professional, and the product we present today has substantially benefited from her participation.

Similarly, Col. Fred Pang, Director of Compensation, Office of the Assistant Secretary of Defense for Force Management and Personnel, described and defended the Department's position consistently and forcefully but simultaneously assisted us with his insight and expertise in evaluating the impact of various options throughout the committee's consideration of this critical issue. His ability to coalesce divergent views into a cohesive position was essential to the eventual resolution of this issue.

Lt. Col. Mike Gaffney, Chief of the Entitlements Division in the Personnel Plans Directorate of the U.S. Air Force, played a key role in the development of the final agreement reached by the conferees. His ability to step back and take an objective view of the situation allowed him to influence the outcome in a substantial way. While others were stonewalling the process, he recognized the constraints and worked within them to achieve a resolution favorable to the future men and women of the Armed Forces.

The committee would feel far less comfortable with the final product of its deliberation had it not been for the herculean efforts of the Congressional Budget Office—in particular the efforts of Neil Singer, Elizabeth Sterman, Chris Frederiksen, and Robert Kornfeld, all under the direction of Bob Hale, Assistant Director for National Security. They produced what must have seemed like endless options for the committee's consideration. The results of their analyses were absolutely critical to the committee's understanding of the complexities of the military retirement system. Changes to a system as substantial as this must necessarily be made within an environment of pervasive uncertainty. The range of analysis reduced significantly the risk normally associated with such a change.

Finally, I would be remiss if I did not note the outstanding contribution made by Bob Cover of the Office of the Legislative Counsel. Because he has always served the Congress so well, we tend to overlook the individual effort he puts forth on every project. The complexities of the laws governing uniformed services retirement can not be overstated. We focus on the major policy issues, often forgetting that the decisions at that level must be translated into the fine detail contained in statute. That the policy works—and works so well—is directly attributable to the efforts of Bob Cover. On this legislation, he has outdone himself again, and we are—as always—impressed and greatly appreciative.

Mr. Speaker, the change to the uniformed services retirement system contained in this conference report is good public policy and something all of those who worked on it can look to with pride.

At this point, Mr. Speaker, I would like to reserve the balance of my time and let the gentleman from Indiana [Mr. HILLIS] be heard upon this issue.

Mr. HILLIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to begin by thanking my distinguished chairman for his kind words in his statement concerning the service that our side of the aisle has rendered in this matter with a difficult issue and one which took a considerable period of time to be resolved.

Mr. Speaker, I rise in support of the conference report on H.R. 4420—the Military Retirement Reform Act of 1986.

This is unquestionably landmark legislation. Changes to the military retirement system have been under consideration for 20 years. This consideration has from time to time raised concerns among members of the military regarding the stability of their retirement benefits. The change we are proposing should put this uncertainty to rest.

The change will result in reduced retirement benefits for individuals who enter active duty for the first time in the future. I emphasize that the changes do not apply to anyone currently on active duty. The change may have an adverse impact on the retention, although that will not be known for at least 10 years in the future. I am convinced, however, that even if additional special pays and incentives are required to offset a decrease in retention, the net savings will be substantial. We have, in other words, provided a more efficient system overall.

The change is based on the desire of the conferees to keep the retirement annuity about the same as it is today for those with 30 or more years of service and for all retirees in old age. The change is directed specifically to the years between the time the member retires and the time the member reaches age 62. The vast majority of military retirees continue to work during this period, and in fact, the Nation benefits from this continued employment. But in old age, the current retirement system provides annuities consistent with those provided by other major employers.

Within this framework, the conferees agreed to provide a two-tiered retirement annuity; a reduced annuity between the time the member retires from the uniformed service and normal retirement age and an unreduced annuity thereafter.

The chairman has explained in very adequate detail how this works. I am not going to reiterate it at this time. I just wish to say that I think that it is a very good piece of legislation. It took a great deal of time both for the staff and in hearings, both this House and the other body have made major contributions to it, and I think that the Nation will be well served by it, the military will remain strong, and that we will provide an adequate retire-

ment for those who serve us so well, particularly in their elder years.

I am happy to highly recommend it to the House. I am very proud to be associated with it. Again I thank my chairman for his leadership and his kind words in its behalf.

Mr. Speaker, a member who retires with 20 years of service would receive retired pay based on a multiplier of 40 percent from retirement to age 62 and retired pay based on a multiplier of 50 percent thereafter. For a member who retires with 30 years of service, no reduction in the multiplier would be made and retired pay would be based on the maximum multiplier of 75 percent.

The original House provision was designed to encourage continued service beyond 20 years by reducing the multiplier available at 20 years of service. This objective was maintained in the conference agreement. We expect more members will want to stay beyond 20 years of service. In fact, if they stay for 30 years, the structural change to the retirement system will not affect them at all.

The resolution on the cost-of-living adjustment provision attempts to conform to the resolution of this issue in the recent changes to the civil service retirement system while taking into account the fundamental underlying differences in the two systems. The change provides for an annual adjustment equal to the percentage change in the Consumer Price Index less 1 percentage point; the loss in purchasing power would be restored at age 62. Of particular importance is the restoral in the purchasing power of the military annuity at age 62. Because of the extended period of time elapsing between retirement and old age, the annuity would erode in value without a restoral provision. Thus, the objective of providing an adequate old age annuity would not be met. The provision agreed to by the conferees would restore the purchasing power and ensure its adequacy.

Mr. Speaker, on the whole, this change represents prudent public policy. My only regret is that it took so long to achieve. I urge the Members to support the conference report.

□ 1215

I just wish to say that I think it is a very good piece of legislation. There was a great deal of time spent by the staff in hearings both by this House and the other body. They have made major contributions to it. I think that the Nation will be well served by it. The military will remain strong and we will provide an adequate requirement for those who serve us so well, particularly in their elderly years.

I am happy to highly recommend it to the House. I am very proud to be associated with it.

Again, I thank my chairman for his leadership and his kind words in my behalf.

Mr. Speaker, I yield back the balance of my time.

Mr. ASPIN. Mr. Speaker, I yield whatever time she may consume to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding.

Basically, I want to recommend to people that they do vote for this conference report. I think it is very important that that be made clear, but I also want to talk just a little bit about what we are doing. Everything that we are seeing here is absolutely accurate, but we are only looking at the parameters of the public sector.

I chair the Civil Service Subcommittee. Yes, indeed, all people in the public sector are really feeling the squeeze as we come after their pensions, as we redo the COLA's, as we hold back on pay increases and as we do all those things.

I think the thing that bothers me the most in the military sector is if you look at the contractors and if you look at what is happening to their pensions and their pay, you would find that they are not going through the same type of backsliding that we are seeing in the public sector across the board for retirees, for active duty people, for the civilian sector, the Foreign Service and everybody else.

I think that it really is something we have got to focus on in this body eventually or we really are not going to have the kind of quality people that we need. I think we have very many patriotic people who want to serve but at some point they cannot afford to serve as we chip away.

Now, this is just one more little chip, and as I say, I think they did everything they could to make it as fair and as painless as possible, but it just keeps going in erosion.

Again, the people making money out of this defense budget are not the people in uniform, whose lives are on the line, but the people in three-piece suits who are fighting the wars in air-conditioned board rooms. I think that is important to point out.

We on the Post Office and Civil Service Committee looked at the whole Grace Commission report. You remember that. They came out very, very firmly against military retirement and other retirement programs and talked about what a ripoff it was and on and on and on, with all sorts of adjectives, pounding and screaming. We looked at the different public sector retirement programs compared to J. Peter Grace & Co.'s retirement programs, and guess whose turned out to be better? J. Peter Grace. Funny that they did not look at that, but they were only looking at the public sector parameters and that is what we are doing today, too.

At some point, at some point we have to look at this compared to the private sector parameters because we just keep losing more and more people and I think it is going to hurt.

In the whole personnel area, I think we are seeing more and more things coming around. We are seeing that we probably cannot do a pay increase next year. That is very troublesome. Obviously, that is not in this bill, but that is something we may have to look at if we do not get more money.

We are seeing that people who are overseas with their children and think they are going to be back home in time for school may not be, because we may delay their move back, which is going to unsettle them terribly because we do not have the money for moves, so we make the time for them to stay there longer.

We see that the falling dollar overseas means that people stationed overseas in the Foreign Service and in the military service and civilian service are taking tremendous paycuts, because what they are seeing is the dollar falls faster than we can ever adjust it, so they are taking paycuts to the tune of a third or more.

The private sector response to all these things is much faster and more flexible.

We do have to worry about retention and we do have to worry about quality and we do need to look at the whole package in comparison to the private sector.

So while I sponsor this, I think we have done the best job we possibly can. I do think we have to be forewarned that very soon we have to line up all of this and compare it to the private sector or we will wake up and find out that we really have done great harm to the service in America and really take quality people out.

Mr. ASPIN. Mr. Speaker, I just would like to make one more comment before we vote on this provision.

I would like to pay tribute to a member of the House Armed Services staff, the gentleman who is sitting next to me here, Mr. Bob Emmerichs, who has done the work on this issue, who is in fact the real brains behind the way in which we managed to corner the system to be here in the process of actually voting on this bill today. I would certainly like to say that without him we would not be voting on this measure today and I would like to give him my heartfelt thanks and share a little recognition to this very important member of the Armed Services Committee.

Mr. ASPIN. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASPIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks on the conference report on the bill, H.R. 4420.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

ADJOURNMENT OF THE HOUSE AND THE SENATE FROM THURSDAY, JUNE 26, 1986, OR FRIDAY, JUNE 27, 1986, TO MONDAY, JULY 14, 1986

Mr. McCURDY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 364) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 364

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 26, 1986, or on Friday, June 27, 1986, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, and that when the Senate adjourns on Thursday, June 26, 1986, or on Friday, June 27, 1986, pursuant to a motion made by the majority leader, or his designee, in accordance with this resolution, they stand adjourned until 12 o'clock meridian on Monday, July 14, 1986, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution whichever occurs first.

SEC. 2. The Speaker of the House and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House and the minority leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. The question is on the concurrent resolution.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, is the resolution not debatable under the rules?

The SPEAKER pro tempore. The gentleman is correct.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KOLBE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were yeas 215, nays 189, not voting 29, as follows:

[Roll No. 204]

YEAS—215

Ackerman	Anthony	Beilenson
Akaka	Applegate	Bennett
Alexander	Aspin	Berman
Andrews	Atkins	Bevill
Annunzio	Bedell	Biaggi
Boggs	Hefner	Pepper
Boland	Hertel	Perkins
Bonior (MI)	Hillis	Price
Bonker	Holt	Quillen
Borski	Horton	Rahall
Bosco	Hoyer	Rangel
Boucher	Huckaby	Ray
Boxer	Hutto	Reid
Brooks	Jenkins	Richardson
Burton (CA)	Jones (NC)	Ridge
Bustamante	Jones (OK)	Rodino
Byron	Jones (TN)	Roe
Carney	Kanjorski	Roemer
Chapman	Kaptur	Rose
Chappell	Kastenmeier	Rostenkowski
Clay	Kennelly	Rowland (GA)
Coelho	Kildee	Roybal
Coleman (TX)	Kleczka	Rudd
Collins	Kolter	Russo
Conyers	Kostmayer	Sabo
Cooper	LaFalce	Scheuer
Coyne	Lantos	Schneider
Crockett	Leath (TX)	Schulze
Daniel	Lehman (CA)	Schumer
Daschle	Lehman (FL)	Seiberling
Dellums	Leland	Shelby
Derrick	Levin (MI)	Sikorski
Dickinson	Levine (CA)	Sisisky
Dicks	Lipinski	Skelton
Dingell	Long	Smith (FL)
Dixon	Lowry (WA)	Smith (IA)
Donnelly	Luken	Smith (NJ)
Dowdy	Manton	Solarz
Downey	Markey	Spratt
Durbin	Martin (NY)	Staggers
Dwyer	Martinez	Stark
Dymally	Matsui	Stokes
Dyson	Mavroules	Stratton
Early	Mazzoli	Studds
Eckart (OH)	McCloskey	Swift
Edwards (CA)	McCurdy	Tauzin
English	McKinney	Taylor
Evans (IL)	Mica	Thomas (GA)
Fascell	Michel	Torres
Fazio	Mikulski	Torricelli
Fish	Miller (CA)	Towns
Flippo	Mineta	Traxler
Florio	Moakley	Udall
Foglietta	Mollohan	Valentine
Foley	Montgomery	Vento
Ford (MI)	Moody	Visclosky
Ford (TN)	Morrison (CT)	Volkmer
Frank	Murphy	Walgren
Gaydos	Murtha	Watkins
Gejdenson	Myers	Waxman
Gephardt	Natcher	Weiss
Gibbons	Nelson	Wheat
Glickman	Nichols	Whitehurst
Gonzalez	Nowak	Whitley
Gray (IL)	Oberstar	Whitten
Gray (PA)	Obey	Wolpe
Guarini	Olin	Wright
Hall (OH)	Ortiz	Wyden
Hamilton	Owens	Yates
Hatcher	Panetta	Young (AK)
Hawkins	Pease	Young (MO)
Hayes	Penny	

NAYS—189

Anderson	Cheney	Fawell
Archer	Coats	Feighan
Armey	Cobey	Fiedler
Badham	Coble	Fields
Barnard	Coleman (MO)	Fowler
Bartlett	Combest	Franklin
Barton	Conte	Frenzel
Bateman	Coughlin	Gallo
Bates	Courter	Gekas
Bentley	Craig	Gilman
Bereuter	Crane	Gingrich
Billirakis	Dannemeyer	Goodling
Billey	Darden	Gordon
Boehlert	Daub	Gradison
Boner (TN)	Davis	Green
Boulter	DeLay	Gregg
Broomfield	DeWine	Gunderson
Brown (CO)	DioGuardi	Hall, Ralph
Bruce	Dorgan (ND)	Hammerschmidt
Bryant	Dornan (CA)	Hansen
Burton (IN)	Dreier	Hartnett
Callahan	Duncan	Hendon
Campbell	Eckert (NY)	Henry
Carper	Emerson	Hiler
Carr	Erdreich	Hopkins
Chandler	Evans (IA)	Hubbard
Hughes	Miller (OH)	Slaughter
Hunter	Miller (WA)	Smith (NE)
Ireland	Molinari	Smith, Denny (OR)
Jacobs	Monson	Smith, Robert (NH)
Jeffords	Moore	Smith, Robert (OR)
Johnson	Moorhead	Snowe
Kasich	Morrison (WA)	Solomon
Kemp	Mrazek	Spence
Kindness	Neal	Stallings
Kolbe	Nielson	Stangeland
Kramer	Oxley	Stenholm
Lagomarsino	Packard	Strang
Latta	Parris	Stump
Leach (IA)	Pashayan	Sundquist
Lent	Petri	Sweeney
Lewis (FL)	Porter	Swindall
Lightfoot	Pursell	Synar
Livingston	Regula	Tallon
Lloyd	Rinaldo	Tauke
Loeffler	Ritter	Thomas (CA)
Lott	Roberts	Traficant
Lowery (CA)	Robinson	Vander Jagt
Lujan	Rogers	Vucanovich
Lungren	Roth	Walker
Mack	Roukema	Weber
MacKay	Rowland (CT)	Whittaker
Madigan	Saxton	Williams
Marlenee	Schaefer	Wirth
Martin (IL)	Schroeder	Wise
McCain	Schuetie	Wolf
McCandless	Sensenbrenner	Wortley
McCollum	Sharp	Wylie
McDade	Shaw	Yatron
McEwen	Shumway	Young (FL)
McGrath	Shuster	Zschau
McKernan	Siljander	
McMillan	Skeen	
Meyers	Slattery	

NOT VOTING—29

AuCoin	Frost	Mitchell
Barnes	Fuqua	O'Brien
Breaux	Garcia	Oakar
Brown (CA)	Grotberg	Pickle
Broyhill	Heftel	Savage
Chappie	Howard	Snyder
Clinger	Hyde	St Germain
de la Garza	Lewis (CA)	Weaver
Edgar	Lundine	Wilson
Edwards (OK)	McHugh	

□ 1240

Messrs. CRANE, TRAFICANT, SKEEN, GUNDERSON, BRYANT, and CARPER changed their votes from "yea" to "nay."

Mr. ECKART of Ohio changed his vote from "nay" to "yea."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

TECHNICAL CORRECTIONS TO NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES ACT OF 1965

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5036), to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, after line 10, insert:

ALLOCATION LIMITATIONS FOR EDUCATION OF THE HANDICAPPED ACT

SEC. 2. Section 611(a)(5)(A)(i) of the Education of the Handicapped Act is amended by inserting after "children" the first time it appears the following: "aged five to seventeen, inclusive,".

Mr. JEFFORDS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Vermont?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Montana?

Mr. JEFFORDS. Mr. Speaker, reserving the right to object, I shall not object, and I will yield to the gentleman from Montana so that he might explain what this is.

As I understand it, this is the bill as it passed the House with one amendment which deals with a problem on a cap with respect to the funding of Public Law 94-142.

What we are doing here is logically making the denominator of that formula consistent with the numerator so that we do not have a problem in the sense that they match as far as the universe which they are including. In other words, I believe in the numerator we have a larger universe than we do in the denominator.

This is causing a cap problem in at least one State, I believe the State of Massachusetts, and it would be perfectly consistent with the purposes of Public Law 94-142 to make this correction.

I ask the chairman if that is his understanding.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Montana, chairman of the subcommittee.

Mr. WILLIAMS. Mr. Speaker, the gentleman is correct.

In the fall of 1985, the Subcommittee on Select Education, which I chair, held hearings on the reauthorization of the Education of the Handicapped Act. One of the issues I asked witnesses to comment on was the unintended adverse effects of the 12-percent cap included in part B of the legislation (Public Law 94-142).

Part B authorizes Federal aid to be distributed among States under a formula, based primarily on the number of handicapped children, aged 3 through 21, in each State served by elementary and secondary schools. Current law also specifies that the number of handicapped students counted for purposes of determining a State's allocation may not exceed 12 percent of that State's total population between the ages of 5 and 17, even if the State's own special education law covers handicapped children aged 3 through 21.

This discrepancy has the unintended effect of discouraging States from expanding the age group receiving special education to cover children in the 3-5 and 18-21 age group. H.R. 5036 includes an amendment that addresses this unintended effect.

The amendment retains the 12-percent cap but provides that for purposes of determining whether the cap has been reached, the number of 5-through 17-year-old handicapped students will be divided by the State's 5-through 17-year-old population.

Mr. BARTLETT. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding and have asked the gentleman to yield for the purposes of supporting and explaining this legislation with the revised calculation of the special education student ceiling, which will enable States which have chosen to provide special education services to students below the age of 5 and above the age of 17 to do so without being unfairly penalized by the current calculations.

The proposal is essentially, as I understand it, an updating of the original 12-percent cap necessitated by the desired expansion of special education in the direction of younger and older students with handicaps. It is good public policy to expand special education to those students who are over 17 and under 5.

While we cannot and should not radically change the Federal funding, we can remove the penalty that is currently in law for doing so.

So our goal in placing the 12-percent cap on the number of students who can be identified as handicapped for the purpose of receiving Federal assistance was to direct special education services to those in the greatest need of specially designed instruction.

The formula, the way it has worked, has worked an unintended penalty on one State and I commend the gentleman from Montana for helping to correct that penalty.

I would also commend the gentleman from Massachusetts [Mr. CONTE] who brought this situation to the attention of the Subcommittee of Select Education. His interest and his support of Public Law 94-142 over the years has been a critical ingredient of the success of that program and in the lives of handicapped children around the country.

Massachusetts, itself, has been a leader in special education, beginning with chapter 766 and continuing today with this revised 12 percent formula.

I thank the gentleman for yielding and do support this needed change.

Mr. JEFFORDS. Mr. Speaker, further reserving the right to object, purely for the purposes of saying that we do not intend to object, and again thanking both gentlemen for their brilliant elucidation of the meritorious amendment.

Mr. CONTE. Mr. Speaker, I want to thank the distinguished gentleman from Montana [Mr. WILLIAMS] and the distinguished gentleman from Texas [Mr. BARTLETT], for agreeing to act on this important legislation today.

As they are well aware, this bill contains a provision that is very near and dear to me, and to the people of Massachusetts.

We have acted on many important pieces of legislation these last few days before the recess, but, for me, none of them has more critical significance than the one we are acting on now.

When the President signs this bill into law, he will take us one more step toward making the Education of the Handicapped Act a truly constructive, responsive, and beneficial law for the special children of our country.

Before today, the Federal Government provided an allotment for each handicapped student a State served. However, when the number of those children exceeded 12 percent of the State's normal school age population, that assistance was cut off.

This existing formula recognizes neither the additional time it may take to provide a handicapped child with the tools to operate in our society, nor our ability to intervene early on in the lives of these children to actually prevent early disabilities from becoming lifelong handicaps.

Six months ago, in response to a plea from the Massachusetts Commissioner of Education, I introduced legislation to correct these inequities and to send a clear Federal message that we would help the States provide all handicapped students with an equal education.

After 6 solid months of work and negotiation, and with the cooperation of the authorizing committees on both sides of the Capitol and the people downtown, we have reached an agreement that will temporarily put an end to these inequities.

Again, let me thank the chairman and ranking members of the subcommittee on behalf of all handicapped students in Massachusetts who would have gone unserved if this important legislation had not been enacted today.

Mr. JEFFORDS. Mr. Speaker, I withdraw my reservation of objection.

□ 1250

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Montana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

EDUCATION OF THE DEAF ACT OF 1985

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1874) to authorize quality educational programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

Mr. BARTLETT. Mr. Speaker, reserving the right to object, I will not object, but I reserve the right to do so in order to explain this legislation and to express my support of it.

Mr. Speaker, first, under my reservation, I yield to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I support this particular legislation, and I encourage my colleagues to vote for it.

Mr. Speaker, I would like to offer my wholehearted support of S. 1874, the Education of the Deaf Act. Serving as a Congressional Trustee of Gallaudet College with my friend, Representative DAVE BONIOR, of Michigan, for the past year, it has been an honor and rewarding opportunity for me to be associated with Gallaudet College and this legislation before us today.

S. 1874 "authorizes quality education programs for deaf individuals," fostering "Improved educational programs for deaf individuals throughout the United States."

Opening its doors to hearing-impaired individuals in 1964, Gallaudet College has grown to serve as an international educational symbol. Gallaudet College continues to deliver outstanding leadership, opportunities, programs, and vision for the hearing-impaired individuals of all ages.

Gallaudet College has evolved throughout its history as a multifaceted educational establishment offering learning opportunities for preschool youngsters at the Kendall Demonstration Elementary School [KDES], to the high school students at the Model Secondary School for Deaf [MSSD], to the extensive work occurring at the Gallaudet Research Institute [GRI]. This certainly is an open and innovative learning environment for Gallaudet students, facilty, and administrators.

Education, outreach, and research—cornerstones of the Gallaudet College mission—are clearly evident through the ageless activities executed on the main campus in Washington, DC, and five educational extension centers throughout the United States.

The unique aptitude, potential, and talent of hearing-impaired individuals is certainly a wonder. Gallaudet College continues to enhance and challenge the talents of hearing-impaired Americans, opening doors previously closed to the hearing-impaired. Gallaudet College's success is equally visible through the high percentage of graduate placement and careers of its many alumni.

For the first time in Gallaudet's 122-year history, the college will begin to admit undergraduate students without hearing-impairments this academic year. Believing that hearing students entering hearing-impaired related occupations would be well served by undergraduate programs that bring them early on into direct contact with hearing-impaired individuals, the Gallaudet College Board of Trustees approved hearing students' admittance last year.

A limited number of hearing transfer students will be accepted into baccalaureate programs related to the needs of the hearing-impaired, such as education, physical education, psychology, sign communications, and theater. Applicants must have completed at least 2 years at another institution of higher learning and will be expected to learn and/or know sign language, a skill used in all Gallaudet College classrooms.

Gallaudet College has been admitting hearing students into its graduate programs. Since 1891, more than 1,200 educators of the deaf have been trained at Gallaudet College, 70 percent of whom are hearing. Nearly 800 of these educators are working in mainstream situations.

Gallaudet College has the only program in the United States that educates and trains rehabilitation counselors for hearing-impaired and, to date, 80 percent of the graduates from that program are hearing. Gallaudet College also awards an associate degree in sign interpreting and, likewise, nearly all the recipients are hearing.

Responding to oversight hearings on deaf education conducted by the Senate last year, Gallaudet College is broadening its constituency to include not only a very limited number of hearing students in undergraduate programs, but is also reaching out to several populations traditionally underserved, such as international hearing-impaired students, older Americans with hearing impairments, profoundly deaf minority, and multihandicapped individuals. Serving more diverse constituencies is a goal of the Gallaudet College master plan to increase enrollment in the future.

I strongly encourage my colleagues to join me in support of this legislation allowing Gallaudet College to continue, as a university, in its prestigious heritage of improving the quality of life for the hearing-impaired, their families, and communities.

Mr. BARTLETT. Further reserving my right to object, Mr. Speaker, I yield to the gentleman from Michigan (Mr. BONIOR), the chairman of the subcommittee to explain the legislation.

Mr. BONIOR of Michigan. Mr. Speaker, I want to commend, as my colleague from Wisconsin has just done, the gentleman from Vermont, the gentleman from Texas, and, of course, the subcommittee chairman, the gentleman from Montana [Mr. WILLIAMS], for the fine job that they have done on the Education of the Deaf Act that we have before us.

Mr. Speaker, 170 years ago, two men set sail for America from France. One was a deaf Frenchman, Laurent Clerc; the other, a hearing American minister, the Reverend Thomas H. Gallaudet.

During the Enlightment, education for the deaf had flourished in France, and Reverend Gallaudet went to France to learn sign language and the techniques of deaf education.

The two men were now coming to America, hoping to found an American school for the deaf. As Laurent Clerc described it: "We went the voyage to America in useful employment. I taught Mr. Gallaudet the methods of signs, and he taught me English."

From that partnership, indeed, from that voyage, sprang education for the deaf in America. Laurent Clerc and Thomas Gallaudet founded the first school for the deaf in Amerca just 1 year later, in 1817.

In 1864, Thomas Gallaudet's son, Edward Miner Gallaudet, founded the first college for the deaf in the entire world. Today, Gallaudet College still stands as the single academic institution serving hearing-impaired people through a mission of teaching, research, and public service.

Laurent Clerc and the Gallaudet family ushered in a golden age for the hearing-impaired in the United States. At the end of the Civil War, there were 26 schools for the deaf in this country.

Today, in 1986, we are in the midst of a second renaissance, which began in the 1960's. It has been a period of new pride and accomplishment for hearing-impaired people.

But each generation of hearing-impaired Americans must renew the struggle for dignity and independence. It is a place where both the national and international deaf communities come together to shape a viable

future. And through its research institute, its five regional centers, and its prodigious outreach efforts at the elementary and secondary levels, Gallaudet truly touches the lives of hearing-impaired Americans of every age.

We know that deafness is not a disability like other disabilities. It is a disability that strikes directly at the ability to communicate, and so to learn. Deaf people must first create a language out of silence, and only then can they begin the formal tasks of learning.

Many fail. A recent study found that deaf high school students in general performed at the fourth-grade level in reading, and at a sixth-grade level in arithmetic (their best subject). Thirty percent of adult deaf Americans are illiterate, according to a 1974 survey.

Of Gallaudet's approximately 2,000 students, around 1,725, or some 85 percent, are prelingually deaf. That is, they were either born deaf or became deaf before they acquired a language.

Despite their disability, those students will not only graduate from Gallaudet, they will go on to succeed in the competitive world of the hearing. I'd like to share just a few compelling statistics with you:

Gallaudet's graduation rate, near 90 percent, was the highest of all deaf programs surveyed in a recent GAO report;

Of all the deaf college graduates in this country—mind you, out of all of them—two-thirds received their degrees from Gallaudet College;

The median income of Gallaudet graduates is about equal to the national average, and over time, the unemployment rate of Gallaudet graduates is actually lower than the national average for hearing America.

One hundred and seventy years ago, deaf education was born in a rare partnership between a deaf teacher and a hearing minister. If deaf education is to continue to grow in America, then we must constantly renew that partnership.

Mr. Speaker, that is why I am proud—both as a Gallaudet Trustee and a Member of Congress—to be an original cosponsor of the Education of the Deaf Act of 1985. This important legislation will provide an opportunity for increased visibility and a new vigor in the higher education community on behalf of deaf persons. For Gallaudet, it will mean the granting of university status and clearly, by any standard of recognition, this unique and historic institution deserves to take its place among the respected universities of the world.

Mr. Speaker, thank you for the opportunity to speak on behalf of the Education of the Deaf Act of 1985. I urge my colleagues to support this important legislation which will continue that very special partnership begun nearly two centuries ago on a voyage to America that forever changed the course of education for hearing impaired people throughout this country and abroad.

Mr. BARTLETT. Mr. Speaker, further reserving the right to object, I yield to the chairman of the subcommittee, the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, I want to thank my friends in the minority for their willingness to move in this fashion with S. 1874, the Education of the Deaf Act, which is an important piece of legislation recently passed by our colleagues in the other body, and I commend their fine work, exemplified through this legislation. S. 1874 authorizes quality education programs for deaf individuals, fosters improved educational programs for deaf individuals throughout the United States, and reenacts and codifies certain provisions of law related to the education of the deaf.

I appreciate the time and effort taken by the other body to provide us with a legislative vehicle to examine, improve, and expand educational opportunities for deaf Americans. S. 1874 is such a vehicle. The bill was introduced on November 21, 1985, and has enjoyed bipartisan support. It was considered by the Committee on Labor and Human Resources and its Subcommittee on the Handicapped and on May 6, 1986, the measure passed the full Senate by unanimous consent.

On May 8, the House Subcommittee on Select Education, which I chair, held a hearing on deaf education programs. We specifically asked our witnesses to comment on this legislation. Although the witnesses were all generally supportive of the Senate bill, they did express some minor concerns and suggested some clarifying changes. For this reason, I am offering an amendment in nature of a substitute to S. 1874, incorporating some of the suggested changes to supplement and strengthen this legislation. I am offering this substitute on behalf of myself and my colleague, Mr. BARTLETT of Texas, the ranking minority member of the subcommittee.

Title I of the substitute amendment, like S. 1874, provides for the continuation of Gallaudet College as Gallaudet University. This is not simply a title change, but rather, a recognition by this Congress of the valuable services that Gallaudet has been providing hearing-impaired individuals for more than 100 years.

Gallaudet and its graduates have made a productive contribution to the Nation through the fine educational, research, and service programs available at the school. It is important for each of us to understand the extent of this contribution. Let me cite several statistics:

Two-thirds of all deaf college graduates in this country have a Gallaudet degree;

Forty-two percent of Gallaudet's graduates obtain advanced degrees compared to a national norm of 18 percent;

More than 80 percent of Gallaudet's Model Secondary School students pursue a college education;

Ninety percent of Gallaudet's graduates each year are placed in jobs or go on to continuing education;

Unemployment rates for Gallaudet graduates are significantly below the national average; and

The incomes of Gallaudet's graduates are very competitive with those of their hearing counterparts.

These statistics go on and on. However, this is an institution concerned not only with quality education, but also with the search for new knowledge in the area of deafness. Gallaudet's research institute and its two demonstration schools are embarked on an impressive array of research aimed at improving the lives of deaf people. It is the largest research organization devoted to deafness-related issues.

This exemplary institution also extends itself far beyond its Washington, DC, borders to offer service programs nationwide. With its five regional centers and its large outreach commitment, Gallaudet provides continuing education programs to a variety of deaf constituencies, both young and old, in more than 30 States each year.

In these, and many more ways, Gallaudet is truly of university stature. I am pleased to report that this bill also recognizes the traditional rights and privileges for Gallaudet as a private corporation which have been recognized by previous legislation.

The substitute, like S. 1874, also continues the authority in current law for Gallaudet to maintain and operate the Kendall Demonstration Elementary School [KDES] and the Model Secondary School for the Deaf [MSSD]. S. 1874 requires that the programs operated by these two experimental schools be provided in accordance with the requirements of Public Law 94-142, the Education of All Handicapped Children's Act. The House substitute mandates that when a child is referred to or placed in either of these two experimental schools by a local educational agency, a State educational agency, or an intermediate educational unit, that the agency or unit is responsible for ensuring that these students receive special education and related services that are consistent with part B of the Education of the Handicapped Act (Public Law 94-142). This mandate, which is a codification of current policy, should not be construed as diminishing the responsibility of the staff at KDES and MSSD.

To the contrary, it is our expectation that staff from these schools will actually participate in the design of IEP's for children placed or referred to these schools.

It is also intent that these two experimental schools work more closely with the agencies that place and refer students to it as well as other agencies, regarding such areas as the sharing of techniques and curricula.

Title II of the House substitute, like S. 1874, provides for the continuation of the National Technical Institute for the Deaf [NTID]. This fine institution, which is currently affiliated with the Rochester Institute of Technology, provides a residential facility for postsecondary technical training and education for deaf individuals in order to prepare them for successful employment. The Senate bill reflects the original legislation that established NTID.

Title III of the House substitute, like S. 1874, establishes an ad hoc National Commission on the Education of the Deaf to study the current status of the full range of deaf education programs offered throughout the country, including regional postsecondary education programs established under the Education of the Handicapped Act, and to report specific recommendations to the Congress for improvements in these efforts. It is our hope that this Commission will provide advice to the Congress that will be useful in helping shape policies governing the future of Federal support of educational opportunities for all deaf citizens.

The House substitute expands the focus of the Commission to include a review of the quality of infant and early childhood education programs; adult and continuing education programs; the efficacy of part F of the Education of the Handicapped Act pertaining to instructional media; and the problems associated with illiteracy among deaf individuals.

With respect to the composition of the Commission, the House substitute mandates that at least five of the Commission members must be deaf. This sets the floor only. It is not our intent to restrict the number of deaf persons allowed to serve on the Commission. Instead, we want to ensure their full participation. The legislation clearly allows those individuals who make the appointments to the Commission to select additional individuals who are deaf. Further, we wish to ensure that Commission members are individuals who possess relevant experience and expertise in deafness, program evaluation, education or rehabilitation to undertake a comprehensive study of the status of deaf education programs and to provide recommendations for expansion and improvement of such programs.

S. 1874 includes a provision designed to improve the liaison between Gallaudet and NTID and the U.S. Department of Education. The House substitute clarifies the Senate provision by requiring that the Department of Education designate an individual to provide information to Gallaudet and NTID regarding the Department's efforts directly affecting the operation of their programs and any other such support or assistance that the institutions may request and that the Secretary deems appropriate. In designating an individual, it is not our intent that he or she become involved in the management, policymaking process, or governance of Gallaudet University or NTID. The individual is only to be a source within the Department of Education for providing information and coordination of the Department's efforts in the area of deafness as they relate to these institutions and provide a communications linkage and technical support role for them.

The House substitute sets the authorization level as such sums as may be necessary rather than specifying a specific level, as the Senate included in its bill.

The House substitute also provides for the establishment of an endowment for Gallaudet University and the National Technical Institute for the Deaf. This effort, which enjoys bipartisan support, would promote the financial independence of Gallaudet University and the National Technical Institute for the Deaf. My colleague, Mr. BARTLETT, will explain the proposal in further detail.

The remainder of both measures describe the administrative requirements for the auditing of a reporting from these programs.

There is one final issue that I would like to discuss. It pertains to the acceptance by Gallaudet of nonhearing-impaired students in its undergraduate program and the acceptance at NTID of foreign students. One important reason for passing this legislation is that it forces the Congress to take a more active oversight role in the activities of these federally funded programs. This has not been the case in the past. Both Gallaudet and NTID are proposing, or are making, policy that has the potential to alter their mission. We have serious concerns about both of these policies. With respect to Gallaudet, we would hope that it will suspend this policy shift, pending a more indepth congressional review of the issue next year. Of course, nonhearing-impaired students already accepted by Gallaudet need not be affected by such a suspension.

With respect to NTID, it is our understanding that to date no foreign students have been accepted. Therefore, we would expect that this policy not be advanced further until Congress has had an opportunity to carefully review the policy.

Although dramatic strides have been made in the area of deaf education in the last 20 years, some problems still exist. It is my hope that this legislation will address not only the issues raised regarding the educational opportunities that are now available to deaf students, but will also provide suggestions for the kinds of opportunities that will be needed in the future.

In closing, I want to take this opportunity to thank two of our colleagues who also serve on Gallaudet's board of trustees. Mr. DAVID BONIOR of Michigan and Mr. STEVE GUNDERSON of Wisconsin have been very helpful in the construction of this bill as they are both knowledgeable of the needs of the Nation's deaf citizens.

Mr. BARTLETT. Mr. Speaker, further reserving the right to object, I yield under my reservation to the ranking member of the full committee, the gentleman from Vermont [Mr. JEFFORDS]

Mr. JEFFORDS. Mr. Speaker, I rise in support of S. 1874, the Education of the Deaf Act. I congratulate Mr. WILLIAMS, the chairman of the Select Education Subcommittee, and Mr. BARTLETT, the ranking Republican of this subcommittee, for the substitute they have developed for this bill. This substitute addresses a vital purpose for an often neglected and misunderstood segment of our Nation's citizens.

Because of their unique disability, deaf Americans have had few opportunities in this country to pursue the education options open to all Americans, Indeed, without the exemplary service of Gallaudet College and the National Technical Institute for the Deaf, many deaf people would have few, if any, postsecondary education opportunities. Thus, I am proud to speak in support of this legislation.

Along with providing Gallaudet with university status—an honor that is long overdue—this bill will establish a Commission to review the quality of programs serving the deaf and to determine the availability of these programs. These activities are highly fitting, Mr. Speaker, for there are an estimated 18 to 22 million Americans, both young and old, who suffer from hearing loss. Each and every one of them deserves the opportunity to enjoy the benefits of what an education can bring. I lend my support to the concept of the Commission and wish them the greatest perseverence in these efforts.

In particular, I would urge this Commission to look closely at the record of Gallaudet College and NTID and their high level of interest in serving a variety of constituencies. Both should provide models that can be used in the development implementation of other programs for the deaf.

Further, I would urge that one of the first issues that the Commission studies is the extent to which these institutions admit foreign and nonhearing-impaired students into their programs. I would hope that these activities be reviewed within the context of congressional intent, and with respect to the level of Federal assistance such activities receive.

The range of services that these institutions provide leads me to suggest that the Commission would be wise to tap into the resources available at each. I would urge the Commission to call on the many highly skilled professionals at both Gallaudet and NTID as it takes on its assigned oversight duties and responsibilities. This is a resource the Commission should not ignore in the development of its findings and recommendations.

Mr. Speaker, the intent of the original Senate bill and this substitute is one which I am pleased to support. An appropriate level of oversight regarding our interest in furthering deaf education is established. Notwithstanding this desire for oversight, the bill grants the proper authority to Gallaudet and the Technical Institute in order to utilize their experience in developing high quality educational programs. I urge my colleagues to support this proposal.

Mr. BARTLETT. Further reserving the right to object, Mr. Speaker, under my reservation I want to take a minute, for the purposes of the record, to voice my support of S. 1874, the Education of the Deaf Act of 1986. This legislation will serve to strengthen and improve two major Federal educational programs serving deaf and hearing impaired individuals. There are approximately 17 million deaf and hearing impaired persons in this country. Their educational needs present Congress and the Nation with a serious challenge. The rate of illiteracy among deaf and hearing impaired adults is alarming and to many of the deaf and hearing impaired individuals exit our educational system ill-equipped to live and work in the mainstream of society.

I recognize and commend chairman of the Subcommittee on Select Education, Congressman WILLIAMS for the bipartisan approach he has taken in developing this legislation. Under his leadership I believe we have crafted a thoughtful piece of legislation that addresses future as well as present concerns.

S. 1874 places two excellent institutions, the National Technical Institute for the Deaf and Gallaudet College on a 5-year reauthorization schedule and establishes a Commission to study the needs of the deaf community. Individuals who are deaf or hearing impaired assume a unique place within the disability community. NTID and Gallaudet have for many years produced leaders in the field of deafness who have in turn contributed to the lives of deaf and hearing impaired individuals.

I believe that this legislation will strengthen and improve these two fine Federal programs for several reasons. Placing NTID and Gallaudet on a reauthorization schedule will necessitate increased congressional oversight and sensitivity to the needs of the deaf community. As new models of disability policy are developed and new issues addressed, NTID and Gallaudet will receive the congressional attention they deserve.

S. 1874 is a major step forward, in that it provides NTID and Gallaudet with a new matching endowment program, recommended by the administration, which will prove to provide the schools with supplemental funds. The endowments are structured so as to provide NTID and Gallaudet with a great deal of discretion concerning utilization of the endowment while ensuring that the fundraising activities of both institutions will lead to a sizable nest egg in the not-too-distant future. I commend the administration for developing this proposal and thank the gentleman from Montana [Mr. WILLIAMS] for the positive reception he has given to the endowment initiative.

This legislation establishes a Commission on Education of Deaf which I feel certain will generate particularly useful information on current and future educational needs of deaf and hearing-impaired individuals as well as their families. A host of obstacles confront hearing-impaired and deaf students. This Commission will provide Congress with the information it needs to tailor future legislation to the specific educational needs of the hearing-impaired and deaf students.

The future of the education of deaf and hearing-impaired individuals is certain to be an exciting and complex endeavor as society continues to break down barriers that exist between hearing and nonhearing individuals. I look forward to increased congressional oversight on the role of NTID and Gallaudet as we wrestle with complex and difficult policy issues. The appropriateness of admitting hearing as well as foreign students to NTID and Gallaudet are good examples policy decisions that will be improved by increased congressional oversight. I understand my colleagues concerns in reviewing these areas and look forward to working with NTID and Gallaudet toward a resolution consistent with Congress' purposes in establishing and funding these institutions.

As I'm sure my colleagues do, I believe there is a great deal to be gained when deaf and hearing impaired students interact with nonhearing impaired and foreign students. Determining the appropriate admissions policy and Federal responsibility for these students is a matter that I am confident can be resolved to everyone's satisfaction.

In part because of the nature of the disability, individuals who are deaf or hearing impaired do not maintain as visible a profile among other persons with handicapping conditions. It is our responsibility as lawmakers to recognize the needs of the deaf community and craft an appropriate Federal role in meeting those needs. I am confident that S. 1874 serves that purpose.

Mr. Speaker, under my reservation, I yield to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I want to take this opportunity to thank the gentleman from Texas [Mr. BARTLETT] for his cooperation and kindness, and my good friend, PAT WILLIAMS of Montana who I worked very closely with in correcting the redistribution of Federal funding to States. I think the gentleman did yeoman service, and we in Massachusetts are very, very appreciative.

Mr. BARTLETT. Mr. Speaker, under my reservation, at this time I would ask the gentleman from Montana if he would engage in a colloquy.

Mr. WILLIAMS. Mr. Speaker, if the gentleman will yield, I will be pleased to join with my colleague from Texas in a colloquy.

Mr. BARTLETT. It is my understanding that the funds appropriated to Gallaudet College for use at the Kendall Elementary School and the Model Secondary School constitute Federal financial assistance and therefore programs and activities provided by Gallaudet College at these schools must be provided in accordance with section 504 of the Rehabilitation Act of 1973. Do you agree with this statement?

Mr. WILLIAMS. Yes, I do.

Mr. BARTLETT. Do you agree with me that Gallaudet College must provide a free appropriate public education in accordance with section 504 to each qualified handicapped child or youth enrolled at or attending Kendall or the Model Demonstration School, including children who are placed or referred at these schools by their parents or guardian?

Mr. WILLIAMS. Yes, I do.

Mr. BARTLETT. What is your understanding of the term "appropriate education"?

Mr. WILLIAMS. An "appropriate education" includes, but is not limited to, special education and related aids and services that are designed to meet individual educational needs and are based upon adherence to procedures included in the section 504 regulations pertaining to educational setting, evaluation and placement, and procedural safeguards. Implementation of an individualized education program developed in accordance with part B of the

Education of the Handicapped Act is one means of providing an appropriate education.

Mr. BARTLETT. Is it your expectation that all children at Kendall Elementary and the Model Secondary School will have an IEP?

Mr. WILLIAMS. Yes. The IEP has proven to be an essential document for parents as well as teachers and administrators.

Mr. BARTLETT. Is it your understanding that with respect to actions regarding the identification, evaluation, or educational placement of persons who, because of handicap, need or are believed to need special instruction or related services, Gallaudet College must establish and implement at the Kendall Elementary School and the Model Secondary School, a system of procedural safeguards that includes: notice, an opportunity for the parents or guardian of the child or youth to examine relevant records, an impartial hearing with opportunity for participation by the child's or youth's parents or guardian and representation by counsel, and a review procedure?

Mr. WILLIAMS. Yes.

Mr. BARTLETT. Is it also your understanding that compliance with the procedural safeguards of section 615 of the Education of the Handicapped Act is one means of meeting this requirement?

Mr. WILLIAMS. Yes.

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for the colloquy.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The Clerk read the Senate bill as amended:

S. 1874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education of the Deaf Act of 1985".

TITLE I—GALLAUDET UNIVERSITY

PART A—GALLAUDET UNIVERSITY GENERAL AUTHORITY

CONTINUATION OF GALLAUDET COLLEGE AS GALLAUDET UNIVERSITY

SEC. 101. (a) GALLAUDET UNIVERSITY CONTINUED.—The Gallaudet College created by an Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes," approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. Hereafter Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this Act.

(b) PURPOSE.—The purpose of Gallaudet University shall be to provide education and training to deaf individuals and otherwise to further the education of the deaf.

PROPERTY RIGHTS

SEC. 102. (a) PROPERTY RIGHTS DESCRIBED.—Gallaudet University is invested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) DISPOSAL OF PROPERTY.—(1) With the approval of the Secretary of Education, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in the United States, as trustee, for the sole use of Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but if invested only the income from the investment may be used for current expenses of the corporation.

BOARD OF DIRECT TRUSTEES

SEC. 103. (a) COMPOSITION OF THE BOARD.—(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members selected as follows:

(A) Three public members of whom: one shall be a United States Senator appointed by the President of the Senate; two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) Eighteen other members, all of whom shall be elected by the Board of Trustees, who on the effective date of this Act shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to such date, and of whom one shall be elected pursuant to regulations of the Board of Trustees on nomination by the Gallaudet University Alumni Association for a term of three years.

The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(2) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall be a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) POWERS OF THE BOARD.—The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

(5) elect a chairman and other officers and prescribe their duties and terms of office, and appoint an executive committee and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the board deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to the provisions of section 403, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

PART B—KENDALL DEMONSTRATION ELEMENTARY SCHOOL

AUTHORITY OF GALLAUDET UNIVERSITY

SEC. 111. (a) GENERAL AUTHORITY.—For the purpose of providing day and residential facilities for elementary education for individuals who are deaf in order to prepare them for high school and other secondary study, and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation, and for the purpose of providing national technical assistance and outreach to train parents of deaf infants and children in skills which will assist children to reach their learning potential, the Board of Trustees of Gallaudet University is authorized to maintain and operate Kendall Demonstration Elementary School as a demonstration elementary school for the deaf, to serve primarily residents of the National Capital region.

(b) APPLICABILITY OF LAW.—The provisions of part B of the Education of the Handicapped Act shall apply to the programs described in subsection (a).

PART C—MODEL SECONDARY SCHOOL FOR THE DEAF

AUTHORITY OF GALLAUDET UNIVERSITY

SEC. 121. (a) GENERAL AUTHORITY.—For the purpose of providing day and residential facilities for secondary education for individuals who are deaf in order to prepare them for college and other advanced study, and to provide an exemplary secondary school program to stimulate the development of similarly excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under sec-

tion 122, to maintain and operate a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) APPLICABILITY OF LAW.—The provisions of part B of the Education of the Handicapped Act shall apply to the programs described in subsection (a).

AGREEMENT WITH GALLAUDET UNIVERSITY FOR THE MODEL SECONDARY SCHOOL

SEC. 122. (a) GENERAL AUTHORITY.—The Secretary is authorized to continue an agreement with Gallaudet University for the establishment and operation, including construction and equipment of a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the model secondary school will be used only for the purposes for which paid and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the University will make an annual report to the Secretary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to excellence of architecture and design, works of art, and innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the model secondary school will be paid wages of rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) SUBMISSION OF REPORT.—The Secretary shall submit the annual report of the University (required by clause (3) of subsection (b)) to the Congress with such comments and recommendations as the Secretary may deem appropriate.

TITLE II—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

AUTHORITY

SEC. 201. For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this title is authorized to operate and maintain a National Technical Institute for the Deaf.

AGREEMENT FOR THE INSTITUTE

SEC. 202. (a) GENERAL AUTHORITY.—The Secretary is authorized to continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this Act, shall give preference to institutions which are located in metropolitan industrial areas.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Institute will be used only for the purposes for which paid and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of the Institute in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of the deaf, and members of the public familiar with the need for services provided by the Institute;

(3) provide that the Board of Trustees or other governing body of the institution will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Institute will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) LIMITATION.—If within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

TITLE III—COMMISSION ON EDUCATION OF THE DEAF

COMMISSION ESTABLISHED

SEC. 301. (a) ESTABLISHMENT.—There is established a Commission on Education of the Deaf to make a study of the quality of infant and early childhood education programs and of elementary, secondary, and postsecondary education furnished to deaf individuals.

(b) COMPOSITION.—(1) The Commission shall be composed of 12 members as follows:

(A) Three members shall be appointed by the President.

(B) One member shall be appointed by the Comptroller General of the United States.

(C) Four of the members shall be appointed by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives.

(D) Four of the members shall be appointed by the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(2)(A) Members of the Commission shall be appointed from among individuals who have broad experience and expertise in program evaluation, deafness, education, or rehabilitation, which experience and expertise are directly relevant to the issues to be studied by the Commission.

(B) The Chairman shall be appointed jointly by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives, and the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(3) Members of the Commission may not be employed by or be a consultant to the National Technical Institute for the Deaf or Gallaudet University on the date the members of the Commission are appointed or for a period of one year prior to such date.

(4) Of the members appointed by the Speaker of the House of Representatives under paragraph (1)(C), at least one must be deaf and not more than two may be from the same political party. Of the members appointed by the President pro tempore of the Senate under paragraph (1)(D), at least one must be deaf and not more than two may be from the same political party.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) Members of the Commission shall be appointed not later than thirty days after the date of enactment of this Act.

DUTIES OF THE COMMISSION

SEC. 302. (a) STUDY DESCRIBED.—(1) The Commission shall make a study of—

(A) the degree to which appropriate postsecondary educational opportunities are available to deaf individuals;

(B) the advisability of expanding the number of federally supported postsecondary regional educational programs which serve the deaf;

(C) the training and technical assistance needs of infant and early childhood education programs and elementary, secondary, and postsecondary programs which serve the deaf;

(D) the degree to which appropriate elementary and secondary educational opportunities are available to deaf students including (i) the effects of part B of the Education of the Handicapped Act on elementary and secondary educational programs for the deaf and (ii) the role played by the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School;

(E) the role of research, development, dissemination, and outreach activities conducted by Gallaudet University and the National Technical Institute of the Deaf in education of the deaf;

(F) any other issues which the Commission determines will improve the quality of elementary, secondary, and postsecondary education provided to the deaf; and

(G) any other recommendations to improve quality or increase cost effectiveness of providing the education of the deaf.

(2) The study of each field described in paragraph (1) shall include a description of the findings in each such field together with recommendations for actions designed to address identified needs.

(b) REPORTS.—The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than eighteen months after the date of enactment of this Act, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Commission deems advisable.

(c) TERMINATION.—The Commission shall cease to exist ninety days following the submission of its final report.

ADMINISTRATIVE PROVISIONS

SEC. 303. (a) PERSONNEL.—(1) The Commission may appoint such personnel, including a Staff Director, as the Commission deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(2) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) HEARINGS; QUORUM.—(1) The Commission or, with the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

(c) CONSULTATION.—In carrying out its duties under the Act, the Commission shall consult with Gallaudet University, the National Technical Institute for the Deaf, other programs and agencies serving or representing the interests of deaf people, other Federal agencies, representatives of State and local governments, State and local educational agencies, and private organizations to the extent feasible.

(d) INFORMATION; STATISTICS.—(1) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office), information, suggestions, estimates, and statistics for the provisions of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(2) For the purpose of securing necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies.

(e) AGENCY COOPERATION.—(1) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this title.

(2) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies with or without reimbursement.

(f) GIFTS.—The Commission is authorized to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission shall be paid by the donor or the representative of the donor to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter the gifts in a special account to the credit of the Commission for the purposes in each case specified.

COMPENSATION OF MEMBERS

SEC. 304. (a) UNITED STATES OFFICER AND EMPLOYEE MEMBERS.—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(b) PUBLIC MEMBERS.—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate equal to the daily equivalent of the pay rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

TITLE IV—GENERAL PROVISIONS

DEFINITIONS

SEC. 401. As used in this Act—

(1) The term "Board of Trustees" means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 103.

(2) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment thereof, including architect's services, but excluding off-site improvements.

(3) The term "elementary school" means a school which provides education for deaf children from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(4) The term "Institute" means the National Technical Institute of the Deaf.

(5) The term "institution of higher education" means an educational institution in any State or in the District of Columbia which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State (or in the District of Columbia) to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree, (D) includes one or more professional or graduate schools, (E) is a public or nonprofit private institution, and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of this clause, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(6) The term "secondary school" means a school which provides education in grades nine through twelve, inclusive.

(7) The term "Secretary" means the Secretary of Education.

GIFTS

SEC. 402. (a) GALLAUDET UNIVERSITY.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of said Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of said Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

AUDIT

SEC. 403. (a) GENERAL ACCOUNTING OFFICE AUTHORITY.—All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the General Accounting Office.

(b) INDEPENDENT AUDIT.—Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an independent audit made of the programs and activities of the University and of the Institute, as the case may be.

REPORTS

SEC. 404. (a) GALLAUDET UNIVERSITY.—The Board of Trustees of Gallaudet University shall annually prepare and submit a report to the Secretary as soon as practicable after the first day of October of each year the condition of the corporation, including—

(1) the number of students of each description received and discharged during the preceding school year and the number remaining;

(2) the branches and type of training and education taught and progress made therein;

(3) a statement showing the receipts of said corporation and from what sources; and

(4) its expenditures and for what objects.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 202 shall prepare and transmit to the Secretary a report on the activities of the Institute, pursuant to the agreement under section 202(b)(3).

(c) MONITORING AND EVALUATION REPORT.—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to section 405, together with such recommendations, including recommendations for legislation, as the Secretary deems necessary.

MONITORING AND EVALUATION ACTIVITIES

SEC. 405. The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5, United States Code.

PROJECT OFFICER FOR EDUCATIONAL PROGRAMS FOR THE DEAF

SEC. 406. Not later than thirty days after the date of enactment of this Act, the Secretary shall appoint a project officer in the Office of Special Education and Rehabilitation Services of the Department of Education from among individuals who have experience and expertise in the education of the deaf to have responsibility for programs authorized by this Act. The project officer shall report directly to the Secretary. The project officer shall—

(1) coordinate the activities of Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for the deaf under the Education of the Handicapped Act and the Rehabilitation Act of 1973 to insure the provision of quality education to deaf individuals and avoid unnecessary duplication;

(2) review and comment on plans and other materials submitted by Gallaudet University and the National Technical Institute of the Deaf relating to research and demonstration activities, outreach activities, dissemination of information activities, technical assistance, and development of instructional materials; and

(3) assist in the preparation of budget requests with respect to programs authorized by this Act.

OVERSIGHT AND EFFECT OF AGREEMENTS

SEC. 407. (a) OVERSIGHT ACTIVITIES.—Nothing in this Act shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under title II.

(b) CONSTRUCTION OF AGREEMENTS.—The agreements described in subsection (a) of this section shall continue in effect, insofar such agreements are not inconsistent with the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 408. (a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated—

(1) $65,300,000 for the fiscal year 1987;

(2) $69,000,000 for the fiscal year 1988;

(3) $73,100,000 for the fiscal year 1989;

(4) $77,400,000 for the fiscal year 1990; and

(5) $82,000,000 for the fiscal year 1991,

to carry out the provisions of the Act, relating to—

(A) Gallaudet University,

(B) part B of title I, relating to Kendall Demonstration Elementary School, and

(C) part C of title I, relating to the model secondary school for the deaf.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated—

(1) $33,700,000 for the fiscal year 1987;

(2) $35,700,000 for the fiscal year 1988;

(3) $37,800,000 for the fiscal year 1989;

(4) $40,000,000 for the fiscal year 1990; and

(5) $42,400,000 for the fiscal year 1991,

to carry out the provisions of title II, relating to the National Institute for the Deaf.

(c) COMMISSION ON EDUCATION FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary, but not more than $1,000,000 to carry out the provisions of title III, relating to the Commission on Education of the Deaf. Sums appropriated pursuant to this subsection shall remain available until expended or until the termination of the Commission, whichever first occurs.

REPEALS

SEC. 409. (a) GALLAUDET COLLEGE.—The Act entitled "To amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954 (other than section 9) is repealed.

(b) KENDALL DEMONSTRATION ELEMENTARY SCHOOL.—The Act entitled "To modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes", approved December 24, 1970, is repealed.

(c) MODEL SECONDARY SCHOOL FOR THE DEAF.—The Model Secondary School for the Deaf Act is repealed.

(d) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf Act is repealed.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WILLIAMS: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Education of the Deaf Act of 1986".

TITLE I—GALLAUDET UNIVERSITY

PART A—GALLAUDET UNIVERSITY GENERAL AUTHORITY

SEC. 101. CONTINUATION OF GALLAUDET COLLEGE AS GALLAUDET UNIVERSITY

(a) GALLAUDET UNIVERSITY.—The Gallaudet College created by an Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes," approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. Hereafter Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this Act.

(b) PURPOSE.—The purpose of Gallaudet University shall be to provide education and training to deaf individuals and otherwise to further the education of the deaf.

SEC. 102. PROPERTY RIGHTS.

(a) PROPERTY RIGHTS DESCRIBED.—Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) DISPOSAL OF REAL PROPERTY.—(1) With the approval of the Secretary of Education, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but if invested only the income from the investment may be used for current expenses of the corporation.

SEC. 103. BOARD OF TRUSTEES.

(a) COMPOSITION OF THE BOARD.—(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members selected as follows:

(A) Three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) Eighteen other members, all of whom shall be elected by the Board of Trustees, who on the effective date of this Act shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to such date, and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association for a term of three years.

The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(2) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the

judgment of said majority, be to the interest and welfare of said corporation.

(b) POWERS OF THE BOARD.—The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive committee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the Board deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to the provisions of section 403, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

PART B—KENDALL DEMONSTRATION ELEMENTARY SCHOOL

SEC. 111. AUTHORITY OF GALLAUDET UNIVERSITY.

(a) GENERAL AUTHORITY.—

(1) For the purpose of providing day and residential facilities for elementary education for individuals who are deaf in order to prepare them for high school and other secondary study and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized to maintain and operate Kendall Demonstration Elementary School as a demonstration elementary school for the deaf, to serve primarily residents of the National Capital region.

(2) The Kendall Demonstration Elementary School shall also—

(A) provide technical assistance and outreach throughout the Nation to train parents of deaf infants and children in specialized learning skills; and

(B) develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in classroom situations with non-hearing impaired students.

(b) RESPONSIBILITY FOR COMPLIANCE WITH EDUCATION OF THE HANDICAPPED ACT.—Where a local educational agency, State educational agency, or intermediate educational unit refers a child to or places a child at the Kendall Demonstration Elementary School, such agency or unit shall be responsible for ensuring that the special education and related services provided to such child is consistent with part B of the Education of the Handicapped Act.

PART C—MODEL SECONDARY SCHOOL FOR THE DEAF

SEC. 121. AUTHORITY OF GALLAUDET UNIVERSITY.

(a) GENERAL AUTHORITY.—For the purpose of providing day and residential facilities for secondary education for individuals who are deaf in order to prepare them for college and other advanced study, and to provide an exemplary secondary school program to stimulate the development of similarly excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 122, to maintain and operate a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) RESPONSIBILITY FOR COMPLIANCE WITH EDUCATION OF THE HANDICAPPED ACT.—Where a local educational agency, State educational agency, or intermediate educational unit refers a child to or places a child at the Model Secondary School, such agency or unit shall be responsible for ensuring that the special education and related services provided to such child is consistent with part B of the Education of the Handicapped Act.

SEC. 122. AGREEMENT WITH GALLAUDET UNIVERSITY FOR THE MODEL SECONDARY SCHOOL.

(a) GENERAL AUTHORITY.—The Secretary is authorized to continue an agreement with Gallaudet University for the establishment and operation, including construction and equipment of a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the model secondary school will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the University will make an annual report to the Secretary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to excellence of architecture and design, works of art, and innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that the model secondary school will develop curricula, instructional techniques, materials, and programs for teaching hearing impaired and deaf students in classroom situations with non-hearing impaired students;

(5) include such other conditions as the Secretary considers necessary to carry out the purposes of this part; and

(6) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the model secondary school will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934, (40 U.S.C. 276c).

(c) SUBMISSION OF REPORT.—The Secretary shall submit the annual report of the University (required under subsection (b)(3)) to the Congress with such comments and recommendations as the Secretary may deem appropriate.

TITLE II—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

SEC. 201. AUTHORITY.

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this title is authorized to operate and maintain a National Technical Institute for the Deaf.

SEC. 202. AGREEMENT FOR THE INSTITUTE.

(a) GENERAL AUTHORITY.—The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this Act, shall give preference to institutions which are located in metropolitan industrial areas.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Institute will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of the Institute in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of the deaf, and members of the public familiar with the need for services provided by the Institute;

(3) provide that the Board of Trustees or other governing body of the institution will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Institute will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5) commonly referred to as the Davis-Bacon Act; and the Secre-

tary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(c) LIMITATION.—If within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

TITLE III—COMMISSION ON EDUCATION OF THE DEAF

SEC. 301. COMMISSION ESTABLISHED.

(a) ESTABLISHMENT.—There is established a Commission on Education of the Deaf to make a study of the quality of infant and early childhood education programs and of elementary, secondary, postsecondary, adult, and continuing education furnished to deaf individuals.

(b) COMPOSITION.—(1) The Commission shall be composed of 12 members as follows:

(A) Three members shall be appointed by the President.

(B) One member shall be appointed by the Comptroller General of the United States.

(C) Four of the members shall be appointed by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives.

(D) Four of the members shall be appointed by the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(2)(A) Members of the Commission shall be appointed from among individuals who have broad experience and expertise in deafness, program evaluation, education, or rehabilitation, which experience and expertise are directly relevant to the issues to be studied by the Commission.

(B) The Chairperson shall be appointed jointly by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives, and the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(3) Members of the Commission may not be employed by or be a consultant to the National Technical Institute for the Deaf or Gallaudet University during their appointment as members of the Commission and may not have been so employed for a period of one year prior to appointment.

(4) Of the members appointed by the President under paragraph (1)(A), not less than 1 shall be deaf. Of the members appointed by the Speaker of the House of Representatives under paragraph (1)(C), not less than 2 shall be deaf and not more than 2 may be from the same political party. Of the members appointed by the President pro tempore of the Senate under paragraph (1)(D), not less than 2 shall be deaf and not more than 2 may be from the same political party.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) Members of the Commission shall be appointed not later than 30 days after the date of enactment of this Act.

SEC. 302. DUTIES OF THE COMMISSION.

(a) STUDY DESCRIBED.—(1) The Commission shall make a study of—

(A) the degree to which appropriate postsecondary, adult, and continuing educational opportunities are available to deaf individuals;

(B) the advisability of expanding the number of federally supported postsecondary regional educational programs which serve the deaf;

(C) the training and technical assistance needs of infant and early childhood education programs and elementary, secondary, postsecondary, adult, and continuing education programs which serve the deaf;

(D) the degree to which appropriate elementary and secondary educational opportunities are available to deaf students including (i) the effects of part B of the Education of the Handicapped Act on infant and early childhood education programs and elementary and secondary educational programs for the deaf and (ii) the role played by the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School;

(E) the role and impact of research, development, dissemination, and outreach activities conducted by Gallaudet University and the National Technical Institute of the Deaf in education of the deaf;

(F) the degree to which the purposes of part F of the Education of the Handicapped Act (relating to instructional media for the handicapped) are being carried out;

(G) the problems associated with illiteracy among deaf individuals;

(H) any other issues which the Commission determines will improve the quality of infant and early education programs and elementary, secondary, postsecondary, adult, and continuing education provided to the deaf; and

(I) any other recommendations to improve quality or increase cost effectiveness of providing the education of the deaf.

(2) The study of each issue described in paragraph (1) shall include a description of the findings concerning each such issue together with recommendations for actions designed to address identified needs.

(b) REPORTS.—The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than 18 months after the date of enactment of this Act, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Commission deems advisable.

(c) TERMINATION.—The Commission shall cease to exist 90 days following the submission of its final report.

SEC. 303. ADMINISTRATIVE PROVISIONS.

(a) PERSONNEL.—(1) The Commission may appoint such personnel, including a Staff Director, as the Commission deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(2) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) HEARINGS; QUORUM.—(1) The Commission or, with the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

(c) CONSULTATION.—In carrying out its duties under the Act, the Commission shall consult with Gallaudet University, the National Technical Institute for the Deaf, regional postsecondary education programs for the deaf, other programs and agencies serving or representing the interests of deaf people, Federal agencies, representatives of State and local governments, State and local educational agencies, and private organizations to the extent feasible.

(d) INFORMATION; STATISTICS.—(1) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office), information, suggestions, estimates, and statistics to carry out the provisions of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairperson.

(2) For the purpose of securing necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies.

(e) AGENCY COOPERATION.—The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this title.

(2) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies with or without reimbursement.

SEC. 304. COMPENSATION OF MEMBERS.

(a) UNITED STATES OFFICER AND EMPLOYEE MEMBERS.—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(b) PUBLIC MEMBERS.—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States

Code, for each day (including traveltime) during which such members are engaged in the actual preformance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

As used in this Act—

(1) The term "Board of Trustees" means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 103.

(2) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment thereof, including architect's services, but excluding off-site improvements.

(3) The term "elementary school" means a school which provides education for deaf children from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(4) The term "Institute" means the National Technical Institute for the Deaf.

(5) The term "institution of higher education means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree, (D) includes one or more professional or graduate schools, (E) is a public or nonprofit private institution, and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of clause (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(6) The term "secondary school" means a school which provides education in grades nine through twelve, inclusive.

(7) The term "Secretary" means the Secretary of Education.

(8) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 402. GIFTS.

(a) GALLAUDET UNIVERSITY.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase or otherwise, property, both real and personal, for the use of Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf is authorized to receive a gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dipose of such property for the purpose stated in the conveyance or will.

SEC. 403. AUDIT.

(a) GENERAL ACCOUNTING OFFICE AUTHORITY.—All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditures of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use, shall be settled and adjusted in the General Accounting Office.

(b) INDEPENDENT AUDIT.—Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an annual independent audit made of the programs and activities of the University and of the Institute, respectively.

SEC. 404. REPORTS.

(a) GALLAUDET UNIVERSITY.—Not later than October 15 of each year, the Board of Trustees of Gallaudet University shall prepare and submit an annual report to the Secretary on the condition of the University, including—

(1) the number of students of each description received and discharged during the preceding school year and the number remaining;

(2) the branches and type of training and education taught and progress made therein;

(3) a statement showing the receipts of said corporation and from what sources; and

(4) its expenditures and for what objects.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 202 shall prepare and transmit to the Secretary a report on the activities of the Institute, pursuant to the agreement under section 202(b)(3).

(c) MONITORING AND EVALUATION REPORT.—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to section 405, together with such recommendations, including recommendations for legislation, as the Secretary deems necessary.

SEC. 405. MONITORING AND EVALUATION ACTIVITIES.

The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5, United States Code.

SEC. 406. LIAISON FOR EDUCATIONAL PROGRAMS FOR THE DEAF.

(a) DESIGNATION OF LIAISON.—Not later than 30 days after the date of enactment of this Act, the Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of the deaf to serve as liaison between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for the deaf under the Education of the Handicapped Act and the Rehabilitation Act of 1973.

(b) DUTIES OF LIAISON.—The individual serving as liaison for educational programs for the deaf shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions; and

(2) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) AUTHORITY OF SECRETARY.—Nothing in this section may be construed to affect the authority of the Secretary under this Act or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

SEC. 407. GALLAUDET UNIVERSITY FEDERAL ENDOWMENT PROGRAM.

(a) ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.—The Secretary and the Board of Directors of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund (in this section referred to as the "endowment fund") in accordance with the provisions of this section, to promote the financial independence of Gallaudet University. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) FEDERAL PAYMENTS.—

(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g) consistent with the provisions of this section.

(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the University).

(c) INVESTMENTS.—

(1) The University, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia. The endowment fund corpus and income may not be invested in real estate.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) For a twenty-year period from the date of the enactment of this Act, the University may not make a withdrawal or expenditure from the endowment fund corpus.

(2)(A) Gallaudet University may withdraw or expend endowment fund income for any expenses necessary to the operation of the University, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) The University may not withdraw or expend endowment fund income for any commercial purpose.

(3)(A) Except as provided in subparagraph (B), the University may not withdraw or

expend more than 50 percent of the total accumulated endowment fund income.

(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstance affecting the University.

(e) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if Gallaudet University—

(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

(f) DEFINITIONS.—For the purposes of this section the following terms have the following meanings:

(1) The term "endowment fund" means a fund, or tax-exempt foundation, established and maintained by Gallaudet University for the purpose of generating income for the support of the University.

(2) The term "endowment fund corpus" means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund form non-Federal sources.

(3) The term "endowment fund income" means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.

(4) The term "Secretary" means the Secretary of Education.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Such sums shall remain available until expended.

SEC. 408. NATIONAL TECHNICAL INSTITUTE FOR THE DEAF ENDOWMENT PROGRAM.

(a) ESTABLISHMENT OF FEDERAL ENDOWMENT PROGRAM.—The Secretary and the Board of Directors of the National Technical Institute for the Deaf are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund (in this section referred to as the "endowment fund") in accordance with the provisions of this section, to promote the financial independence of the National Technical Institute for the Deaf. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

(b) FEDERAL PAYMENTS.—

(1) The Secretary shall make payments to the endowment fund from amounts appropriated pursuant to subsection (g) consistent with the provisions of this section.

(2) Subject to the availability of appropriations, the Secretary shall make payments to the endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the Institute).

(c) INVESTMENTS.—

(1) The Institute, in investing the endowment fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(2) The endowment fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the District of Columbia. The endowment fund corpus and income may not be invested in real estate.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) For a twenty-year period from the date of the enactment of this Act, the Institute may not make a withdrawal or expenditure from the endowment fund corpus.

(2)(A) The National Technical Institute for the Deaf may withdraw or expend endowment fund income for any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) The Institute may not withdraw or expend endowment fund income for any commercial purpose.

(3)(A) Except as provided in subparagraph (B), the Institute may not withdraw or expand more than 50 percent of the total accumulated endowment fund income.

(B) The Secretary may waive the limitation under subparagraph (A), if the Secretary determines that an expenditure or withdrawal is a necessary response to exceptional or uncontrollable circumstances affecting the Institute.

(e) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the National Technical Institute for the Deaf—

(1) makes a withdrawal or expenditure of endowment fund corpus or income which is not consistent with the provisions of this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the endowment fund corpus or income.

(f) DEFINITIONS.—For the purposes of this section the following terms have the following meanings:

(1) The term "endowment fund" means a fund, or a tax-exempt foundation, established and maintained by the National Technical Institute for the Deaf for the purpose of generating income for the support of the Institute.

(2) The term "endowment fund corpus" means an amount equal to the Federal payments to the endowment fund and amounts contributed to the fund from non-Federal sources.

(3) The term "endowment fund income" means an amount equal to the total market value of the endowment fund minus the endowment fund corpus.

(4) The term "Secretary" means the Secretary of Education.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991. Such sums shall remain available until expended.

SEC. 409. OVERSIGHT AND EFFECT OF AGREEMENTS.

(a) OVERSIGHT ACTIVITIES.—Nothing in this Act shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under title II.

(b) CONSTRUCTION OF AGREEMENTS.—The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with the provisions of this Act.

SEC. 410. REPEALS.

(a) GALLAUDET COLLEGE.—The Act entitled "To amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954 is repealed.

(b) KENDALL DEMONSTRATION ELEMENTARY SCHOOL.—The Act entitled "To modify and enlarge the authority of Gallaudet College maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes", approved December 24, 1970, is repealed.

(c) MODEL SECONDARY SCHOOL FOR THE DEAF.—The Model Secondary School for the Deaf Act is repealed.

(d) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf Act is repealed.

SEC. 411. AUTHORIZATION OF APPROPRIATIONS.

(a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of this Act, relating to—

(A) Gallaudet University,

(B) part B of title I, relating to Kendall Demonstration Elementary School, and

(C) part C of title I, relating to model secondary school for the deaf.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, 1990, and 1991 to carry out the provisions of title II, relating to the National Technical Institute for the Deaf.

(c) COMMISSION ON EDUCATION FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of title III, relating to the Commission on Education of the Deaf. Sums appropriated pursuant to this subsection shall remain available until expended or until the termination of the Commission, whichever first occurs.

□ 1300

Mr. WILLIAMS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the

gentleman from Montana [Mr. WILLIAMS].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF AMENDMENT TO SENATE BILL, S. 1874, EDUCATION OF THE DEAF ACT OF 1986

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that, in the engrossment of the amendment to the Senate bill (S. 1874) just passed, the Clerk be authorized to make corrections in section numbers, punctuation, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the Senate bill, S. 1874.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

MAKING IN ORDER TODAY OR TOMORROW CONSIDERATION OF CONFERENCE REPORT ON SENATE CONCURRENT RESOLUTION 120, FIRST CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1987

Mr. GRAY of Pennsylvania. Mr. Speaker, I ask unanimous consent that it shall be in order at any time today or tomorrow, clause 2 of rule XXVIII to the contrary notwithstanding, to consider a conference report and amendment reported from conference in disagreement on Senate Concurrent Resolution 120, the budget resolution for fiscal year 1987, that any amendment reported from conference in disagreement be considered as read, that if the House acts first it shall be in order to consider without intervening motion, a motion offered by the chairman of the Committee on the Budget that the House recede from its amendment and concur with an amendment, to be debatable as provided in clause 2 of rule XXVIII, with the previous question considered as ordered on such motion, and that if the Senate acts first and further amends the House amendment, it shall be in order to consider without intervening motion a motion offered by the chairman of the Committee on the Budget that the House concur in or disagree to the Senate amendment or amendments, to be indivisible and debatable as provided in clause 2 of rule XXVIII, with the previous question considered as ordered on such motion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LOTT. Reserving the right to object, Mr. Speaker, I do not intend to object, but I would like to inquire. I understand the papers are being prepared now, is that correct?

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the chairman.

Mr. GRAY of Pennsylvania. I thank the gentleman for yielding.

I would say to the distinguished gentleman from Mississippi that at this time the papers are being prepared for a conference report. There will be a convening of the conference committee where we will, hopefully, formally approve the tentative approval that we have for a conference report, and then this would allow us to come immediately to the floor and to consider today this particular resolution, which would be the budget of the United States for the fiscal year 1987.

Mr. LOTT. Further reserving the right to object, we will have the papers available, of course, before that.

Mr. GRAY of Pennsylvania. The paperwork will be available, of course, prior to any consideration.

Mr. LOTT. Further reserving the right to object, do we have any idea when we can anticipate a vote, though, on this issue? Will we be ready by 3 o'clock?

Mr. GRAY of Pennsylvania. I wish I could give the distinguished gentleman from Mississippi an exact time. At this time I cannot. But it is our hope that if this is accepted through unanimous consent, that it allows us today at some time to bring it up, should we complete all of our business that has to be completed.

Mr. LOTT. I understand. I would like for us to be able to get the budget resolution if we can reach an agreement on the content. But I do say that I think we need to let the Members know some idea of what they can anticipate as soon as we can give them that information.

Mr. GRAY of Pennsylvania. I wish I could give an exact time, but it would be my hope and expectation that we could perhaps be to the floor by late afternoon, 4 o'clock or 5 o'clock, subject to a few technical disagreements.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WHITTEN. Mr. Speaker, reserving the right to object, I talked to the gentleman earlier. I understood he was to call me back.

You do realize the lateness with which this action is taken.

Our committee has had about 5,000 witnesses. We are ready to mark up the bills; we are ready to go. In order for us to live with the resolution you had before the House, we have had to make certain changes. I discussed with the gentleman as to whether he could go along with those. Otherwise, our committee will have to oppose this proposition, because it comes too late unless we have an understanding about some of the things we tried to do.

As the gentleman knows, in his resolution he counts on legislation bringing in money when the legislation has not even been introduced.

There are other things in there such as the $6.7 billion that you have for the current year from a synfuels cancellation—and we had to make that up. So unless the gentleman can tell me that he is going along with some actions that we have had to take trying to live with the House budget, which we are doing, I will have to call the committee together, and we will have to have a showdown.

Mr. GRAY of Pennsylvania. I will simply say to the distinguished chairman of the Committee on Appropriations, the gentleman from Mississippi, and also my chairman where I serve as a permanent member, that the considerations of the chairman have been given to our staff. In fact, just 15 minutes ago, I ran into the staff of the gentleman and asked him to go to my office to get a complete understanding with regard to the discretionary actions.

Mr. WHITTEN. If the gentleman will allow me, an understanding is all right; I want some agreement.

Mr. GRAY of Pennsylvania. I can simply say at this time to the chairman that we are trying to work out a solution to that concern. At this time I do not have an answer to the chairman.

Mr. WHITTEN. If I may have some notice in order that I might get the committee together because we cannot destroy the action we already agreed to.

Mr. GRAY of Pennsylvania. I will simply say to the distinguished gentleman from Mississippi that he will be advised in sufficient time prior to any conference report being reported as to the answer to his concern. Therefore, he and any other member of the committee or of this body will have an opportunity to make a decision as to whether they will support or oppose the conference report.

Mr. WHITTEN. The gentleman knows I think a lot of him and supported the budget as he has gone along. I will repeat again that I was on the study group that recommended the Committee on the Budget. I voted for the Committee on the Budget. But we cannot, as we see it, let this happen at the last minute after we have completed our work and upset everything we have done. It has been difficult to

live with the original resolution, but we have done so.

Mr. GRAY of Pennsylvania. I understand the gentleman's concern.

Mr. WHITTEN. The gentleman understands at this late hour we cannot undo all the good work we have done throughout the year.

Mr. GRAY of Pennsylvania. I can assure the gentleman he will get that information way in advance prior to the conference report coming so that he can make a determination.

Mr. WHITTEN. We will be glad to have you back on the committee.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. FAZIO. Mr. Speaker, reserving the right to object, and I obviously will not object, I simply would like to tell Chairman GRAY and hopefully in the earshot of Chairman WHITTEN that I do not think there could have been a more cooperative spirit than existed right on through, particularly this morning. Most if not all of the concerns that have been expressed by various subcommittee chairmen and staff members on the Committee on Appropriations have not only been dealt with, but they have been dealt with to the complete satisfaction of the Committee on Appropriations. I want to thank Mr. DERRICK as well as Chairman GRAY for the success they have had in dealing with our committee under very difficult terms.

Mr. DERRICK. Mr. Speaker, will the gentleman yield to me?

Mr. FAZIO. Further reserving the right to object, I yield to the gentleman from South Carolina.

Mr. DERRICK. I thank the gentleman for yielding.

Mr. Speaker, let me just add to what the gentleman has just said and what Mr. WHITTEN has said. I cannot address his particular concerns right at this moment, but I know that we have constantly stayed in touch with all the Subcommittees on Appropriations to make sure that we had their approval and we negotiated some. I feel we were all within that framework. I feel let's go ahead and get it over with.

Mr. FAZIO. I think we can move ahead together.

Mr. GRAY of Pennsylvania. Mr. Speaker, will the gentleman yield to me?

Mr. FAZIO. Further reserving the right to object, I yield to the chairman from Pennsylvania.

Mr. GRAY of Pennsylvania. I thank the gentleman for yielding.

Mr. Speaker, I would like to just compliment the gentleman from California [Mr. FAZIO], who is a subcommittee chair and who is a representative of the Committee on Appropriations on the Committee on the Budget, for the work he has done in making sure that whatever agreements are worked out are enforceable and that the committees, particularly the Committee on Appropriations, can live with them and be able to accomplish the deficit reduction.

Mr. FAZIO. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 4184, NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT, FOR FISCAL YEAR 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 482 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 482

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4184) to authorize appropriations to the National Science Foundation for the fiscal years 1987 and 1988, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute-recommended by the Committee on Science and Technology now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5(a) of rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 482 is an open rule providing for the consideration of the bill H.R. 4184, the National Science Foundation Authorization Act for fiscal year 1987.

Mr. Speaker, the rule provides 1 hour of general debate, equally divided between the chairman and ranking minority member of the Committee on Science and Technology, and makes in order a Science Committee amendment in the nature of a substitute now printed in the bill. This amendment will be considered as original text for purposes of amendment under the 5-minute rule and each section shall be considered as read.

In addition, House Resolution 482 waives points of order against the substitute for failure to comply with the provisions of clause 5(a), of rule XXI, which prohibits appropriations in a legislative bill.

Mr. SPEAKER, this waiver is necessary because this legislation makes several changes to the National Science Foundation Act of 1950. Specifically, the bill would allow the National Science Foundation to assume financial responsibility, for 5 years, for certain claims against grantees, contractors, and subcontractors associated with the Ocean Drilling Program, and would grant the National Science Foundation the authority to spend funds for scholarships and graduate fellowships. Because these provisions make previously appropriated funds available for these programs they would be in violation of clause 5(a) of rule XXI.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4148 is an annual authorization for the National Science Foundation for fiscal year 1987. Approximately $1.7 billion is authorized by the Science and Technology Committee, of this amount $1.4 billion would go for research and related activities, $93 million for science and technology, $110 million for the U.S. Antarctic program and $700 thousand for special foreign currency.

Mr. Speaker, the National Science Foundation is the primary source for research activities for colleges and universities from around the country. The Foundation plays a major role for the promotion of science and engineering education throughout the country, which enables the United States to continue to be competitive in the science marketplace throughout the world, and not to be dependent on other nations that could effect our economic security.

Mr. Speaker, H.R. 4148 is in line with the amount requested from the administration, the bill enjoys strong bipartisan support from members of the Science and Technology Committee, and I urge my colleagues to adopt the resolution.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 482 is an open rule under which the House will consider legislation authorizing roughly $1.7 billion for the National Science Foundation for the coming fiscal year.

The rule is a routine one, in that it makes in order a Science Committee amendment in the nature of a substitute which is printed in the bill as original text for the purpose of amendment under the 5-minute rule.

The rule does waive points of order against consideration of the committee substitute, since it does not comply with clause 5(a) of rule XXI. The committee substitute makes previously appropriated funds available for new programs, in violation of the rule.

Mr. Speaker, the gentleman from Massachusetts [Mr. MOAKLEY] has explained the need for this waiver quite well. The bill allows the National Science Foundation to assume financial responsibility for claims associated with the Ocean Drilling Program and authorizes new scholarship and fellowships.

Although the amounts authorized in the bill are in line with the request of the administration, the administration is opposed to several specific provisions of the bill—including the authority to indemnify claims associated with the Ocean Drilling Program.

Mr. Speaker, there was no controversy about this rule during our hearing in the Committee on Rules, and I urge the House to adopt the rule so we can proceed with the consideration of H.R. 4184.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1315

PROVIDING FOR CONSIDERATION OF H.R. 2436, NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1986

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 484 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 484

Resolved. That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2436) to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, and with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment in the nature of a substitute recommended by the Committee on Science and Technology now printed in the bill in italic, it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill in bold roman, as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR] for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. HALL of Ohio. Mr. Speaker, House Resolution 484 is an open rule providing for the consideration of H.R. 2436, the National Nutrition Monitoring and Related Research Act of 1986.

The rule provides for a total of 2 hours of general debate, with 1 hour to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Agriculture, and with 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology.

The rule further makes in order the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill in bold roman print as original text for the purpose of amendment. The substitute shall be considered under the 5-minute rule by sections, with each section considered as read. Both committees of jurisdiction agreed to make the Agriculture Committee amendment in the nature of a substitute the original text for amendment.

Finally, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, the purpose of H.R. 2436 is to provide a framework for examining the relationship between food consumption patterns and the nutritional and health status of our Nation. It establishes a 10-year coordinated National Nutrition Monitoring and Related Research Program, which will oversee the development of a comprehensive plan to coordinate nutrition monitoring activities and to help set up national nutrition monitoring priorities.

Currently, more than nine agencies of the Federal Government engage in nutrition research. There is an urgent need to coordinate and streamline the monitoring of our national nutritional data. Under this legislation, the Agriculture Department and the Health and Human Services Department will work together through an interagency board to prepare a plan to implement the coordinated National Nutrition Monitoring and Related Research Program. This plan will be submitted to Congress within 1 year of the legislation's enactment. Once finalized, the plan will be carried out over the course of the next 9 years.

I commend the chairmen of the Agriculture and Science and Technology Committees for their leadership in bringing this legislation before the House. In addition, I applaud the work on this measure by my colleague on the House Select Committee on Hunger, the gentleman from California [Mr. PANETTA].

I am not aware of any opposition to this open rule, and I urge my colleagues to adopt it.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 484 is an open rule under which the House will consider legislation creating a new, and rather complex system for monitoring the various national nutrition research programs.

The rule provides for 2 hours of general debate, to be divided between the two committees involved: the Committee on Agriculture and the Committee on Science and Technology.

The rule makes in order the amendment in the nature of a substitute recommended by the Committee on Agriculture, which is printed in the bill in bold roman print, as original text for the purpose of amendment under the 5-minute rule.

Mr. Speaker, both of the committees involved asked for this procedure, in order to have orderly consideration of their individual versions.

The gentleman from Ohio [Mr. HALL] pointed out that nine Federal agencies currently engage in nutrition

research, and expressed his view that there is a need to coordinate and streamline the monitoring of our national nutrition data.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Is the gentleman familiar with section 106 on page 17 of this bill?

Mr. TAYLOR. No, I am not.

Mr. WHITTEN. Let me read it to the gentleman:

SEC. 106. (a) Authorizations and appropriations for the fiscal year in which the comprehensive plan is submitted in final form under section 103(d)(3) and for the nine succeeding fiscal years, for purposes of carrying out the coordinated program and implementing the comprehensive plan, shall be requested by the Secretaries and by each of the agencies which are allocated responsibilities under the coordinated program pursuant to section 103(c), in a separate line item of the budget of the agency involved and consistent with the interagency budget for the coordinated program; and to the maximum extent feasible such appropriations shall be provided on a three-year basis, subject to annual authorization Acts hereafter enacted.

What it does is it provides direct appropriations, it makes 3 years of appropriations, and the legislative committees shall determine at what rate the money will be released. That is a clear case of moving into the appropriation field.

Of course, we do not have to do it, but I am just telling the gentleman I question seriously if this bill ought not go back to the barn.

Mr. TAYLOR. Mr. Speaker, I would say to the gentleman that this rule does not contain any of the waivers that would be necessary to avoid a point of order that might lie if this were an authorization bill that also contained an appropriation.

Mr. WHITTEN. We had no notice of the bill being up, being introduced, being reported or being up today. We had to pick up a copy to see what was in it. But it clearly moves into the appropriation field. Of course, fortunately for our committee, nobody can make us act. But it does attempt here to release the money in line with what the legislative committees say to do and at the rate they do. It directs us to appropriate for 3 years at a time. It is completely unworkable.

Mr. TAYLOR. I would say to the distinguished chairman of the Committee on Appropriations that there is no waiver in the rule.

However, this is a controversial bill. There are many controversies that will be coming out in the debate on the bill.

The administration has several concerns about the way the bill goes about streamlining things. I am informed that the minority members have several, nearly a dozen, suggestions to improve the bill, and they will be permitted under this open rule to offer their amendments under this rule.

Mr. WHITTEN. The point I make is with budget ceilings and Gramm-Rudman, we have problems like everybody's business. We are dealing this year with a budget resolution whereby there is legislation bringing in additional money where nobody even introduces a resolution. For the current year, we had $6.7 billion from the Synfuels cancellation. That was ignored. Right now we have a problem. And to come here and have a legislative committee come in and say that we have to appropriate for 3 years at a time, with us having annual controls imposed by the budget resolution, it just makes our whole situation unworkable. I think our committee, with the limits possible, has been most fair. We worked like everything trying to help everybody here. But to move in and take over, it just will not work.

Mr. WALGREN. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR. I yield to the gentleman from Pennsylvania.

Mr. WALGREN. Mr. Speaker, there is no intent on the part of any of the authorizing committees to move in and determine——

Mr. WHITTEN. If the gentleman from Missouri will continue to yield, it is the staff rather than the members. That may be the gentleman's case.

Mr. WALGREN. But as I understand it, the language was drafted so that we do not put any specific burden on the Committee on Appropriations.

It is an attempt to recognize that what we are involved in here is a long-range plan that has a future that runs really beyond 3 years, and the suggestion was that the Committee on Appropriations, to the degree that it is feasible for them, think in those terms. We do not ask more than that.

Mr. WHITTEN. I wish the gentleman had written the bill instead of the staff.

Mr. WALGREN. If the gentleman will yield further, I certainly realize that that may not be possible, and to the degree that that is not possible, certainly the bill does not then ask for that to be done.

Mr. WHITTEN. Mr. Speaker, I thank the gentleman. I appreciate the gentleman's attitude.

I do not believe any Member of Congress would intend to do this, but I wish they would read it.

Mr. TAYLOR. Mr. Speaker, I would say to the distinguished chairman of the Committee on Appropriations that I certainly share his concerns, and I will support an amendment to correct that situation.

I understand that the gentleman from New Mexico [Mr. SKEEN], a member of the Committee on Appropriations, will probably offer an amendment to delete the requirement that separate line items for nutrition monitoring be established in the budgets of the agencies involved. If the gentleman does, I will certainly support that.

Mr. Speaker, this is an open rule. I think the bill it makes in order is one that is controversial and there will be several controversial amendments offered. There are those who think that they can substantially improve this legislation during the amendment process.

But since it is an open rule and the Members will have the opportunity to offer amendments, those who wish to do so, I support the rule and urge the adoption of the rule.

□ 1325

Mr. HALL of Ohio. Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. McMILLAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 395, nays 4, not voting 34, as follows:

[Roll No. 205]

YEAS—395

Ackerman	Brooks	Daniel
Akaka	Broomfield	Darden
Alexander	Brown (CA)	Daschle
Anderson	Brown (CO)	Daub
Annunzio	Broyhill	Davis
Anthony	Bruce	DeLay
Applegate	Bryant	Dellums
Archer	Burton (CA)	Derrick
Armey	Burton (IN)	DeWine
Aspin	Bustamante	Dickinson
AuCoin	Byron	Dicks
Badham	Callahan	Dingell
Barnard	Campbell	DioGuardi
Bartlett	Carney	Dixon
Barton	Carper	Donnelly
Bateman	Carr	Dorgan (ND)
Bates	Chapman	Dornan (CA)
Bedell	Chappell	Dowdy
Bellenson	Cheney	Downey
Bennett	Clay	Dreier
Bentley	Coats	Duncan
Bereuter	Cobey	Durbin
Berman	Coble	Dwyer
Bevill	Coelho	Dymally
Biaggi	Coleman (MO)	Dyson
Bilirakis	Coleman (TX)	Early
Bliley	Collins	Eckart (OH)
Boehlert	Combest	Eckert (NY)
Boggs	Conte	Edwards (CA)
Boland	Conyers	Emerson
Boner (TN)	Cooper	English
Bonior (MI)	Coughlin	Erdreich
Borski	Courter	Evans (IL)
Bosco	Coyne	Fascell
Boucher	Craig	Fawell
Boulter	Crane	Fazio
Boxer	Crockett	Feighan

Fiedler	Lott	Saxton
Fields	Lowery (CA)	Schaefer
Fish	Lowry (WA)	Scheuer
Flippo	Lujan	Schneider
Florio	Luken	Schroeder
Foglietta	Lungren	Schuette
Foley	Mack	Schulze
Ford (MI)	MacKay	Schumer
Ford (TN)	Madigan	Seiberling
Fowler	Manton	Sensenbrenner
Frank	Markey	Sharp
Franklin	Marlenee	Shaw
Frenzel	Martin (IL)	Shelby
Gallo	Martin (NY)	Shumway
Gaydos	Martinez	Shuster
Gejdenson	Matsui	Sikorski
Gekas	Mazzoli	Siljander
Gephardt	McCain	Sisisky
Gibbons	McCandless	Skeen
Gilman	McCloskey	Skelton
Gingrich	McCollum	Slattery
Glickman	McCurdy	Slaughter
Gonzalez	McDade	Smith (FL)
Goodling	McEwen	Smith (IA)
Gordon	McGrath	Smith (NE)
Gradison	McKernan	Smith (NJ)
Gray (IL)	McMillan	Smith, Denny (OR)
Gray (PA)	Meyers	Smith, Robert (NH)
Green	Mica	Smith, Robert (OR)
Gregg	Michel	Snowe
Guarini	Mikulski	Solarz
Gunderson	Miller (CA)	Solomon
Hall (OH)	Miller (OH)	Spence
Hall, Ralph	Miller (WA)	Spratt
Hamilton	Mineta	St Germain
Hammerschmidt	Moakley	Staggers
Hansen	Molinari	Stallings
Hartnett	Mollohan	Stangeland
Hatcher	Monson	Stark
Hawkins	Montgomery	Stenholm
Hayes	Moody	Stokes
Hefner	Moore	Strang
Heftel	Moorhead	Stratton
Hendon	Morrison (CT)	Studds
Henry	Morrison (WA)	Sundquist
Hertel	Murphy	Sweeney
Hiler	Murtha	Swift
Hillis	Myers	Swindall
Holt	Natcher	Synar
Hopkins	Neal	Tallon
Horton	Nelson	Tauke
Howard	Nichols	Tauzin
Hoyer	Nielson	Taylor
Hubbard	Nowak	Thomas (CA)
Huckaby	Oberstar	Thomas (GA)
Hughes	Obey	Torres
Hunter	Olin	Torricelli
Hutto	Ortiz	Towns
Hyde	Owens	Traficant
Ireland	Oxley	Traxler
Jeffords	Packard	Udall
Jenkins	Panetta	Valentine
Johnson	Pashayan	Vander Jagt
Jones (NC)	Pease	Vento
Jones (OK)	Penny	Visclosky
Jones (TN)	Pepper	Volkmer
Kanjorski	Perkins	Vucanovich
Kaptur	Petri	Walgren
Kasich	Porter	Walker
Kastenmeier	Price	Watkins
Kemp	Pursell	Waxman
Kennelly	Rahall	Weber
Kildee	Rangel	Weiss
Kindness	Ray	Wheat
Kleczka	Regula	Whitehurst
Kolbe	Reid	Whitley
Kolter	Richardson	Whittaker
Kostmayer	Ridge	Williams
Kramer	Rinaldo	Wirth
LaFalce	Ritter	Wise
Lagomarsino	Roberts	Wolf
Lantos	Robinson	Wolpe
Leach (IA)	Rodino	Wortley
Leath (TX)	Roe	Wright
Lehman (CA)	Roemer	Wyden
Lehman (FL)	Rogers	Wylie
Leland	Rose	Yates
Levin (MI)	Rostenkowski	Yatron
Levine (CA)	Roth	Young (AK)
Lewis (FL)	Roukema	Young (FL)
Lightfoot	Rowland (CT)	Young (MO)
Lipinski	Rowland (GA)	Zschau
Livingston	Roybal	
Lloyd	Rudd	
Loeffler	Russo	
Long	Sabo	

NAYS—4

Dannemeyer	Stump
Quillen	Whitten

NOT VOTING—34

Andrews	Frost	Mitchell
Atkins	Fuqua	Mrazek
Barnes	Garcia	O'Brien
Bonker	Grotberg	Oakar
Breaux	Jacobs	Parris
Chandler	Latta	Pickle
Chappie	Lent	Savage
Clinger	Lewis (CA)	Snyder
de la Garza	Lundine	Weaver
Edgar	Mavroules	Wilson
Edwards (OK)	McHugh	
Evans (IA)	McKinney	

□ 1335

Mr. STUMP changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1345

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT FOR FISCAL YEAR 1987

The SPEAKER pro tempore. Pursuant to House Resolution 482 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4184.

□ 1345

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4184) to authorize appropriations to the National Science Foundation for the fiscal years 1987 and 1988, and for other purposes, with Mr. KOSTMAYER in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with. Under the rule, the gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 30 minutes and the gentleman from New York [Mr. BOEHLERT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4184, the National Science Foundation Authorization Act for fiscal year 1987.

The programs authorized in this bill represent a key investment in the Nation's economic future and its national security.

Mr. Chairman, H.R. 4184 is a strong and a well-balanced proposal that wisely invests Government resources. At the outset, recognition should be given to the chairman of the Science and Technology Committee, the gentleman from Florida [Mr. FUQUA], for his leadership in bringing this bill to the floor, and to the ranking minority member of the Science and Technology Committee, the gentleman from New Mexico [Mr. LUJAN], and the ranking minority member of the Subcommittee on Science, Research and Technology, the gentleman from New York [Mr. BOEHLERT], for their important contributions to this process.

And I think we ought to pause to recognize that the strength of the National Science Foundation itself, as reflected in the structure of the Foundation today, is in no small measure due to the effective effort of Congressman FUQUA, who, over the 20-some years he has served in the Congress has furthered the cause which American science is much better because of his service.

In the field of basic science research in American universities, the Federal role is unique. There is no other major source of support for university based science research, at least not across the board.

The charter of the National Science Foundation gives it the fundamental responsibility to insure that American scientific potential is realized. Other than the National Science Foundation, there is no Federal agency that provides such a wide scope of support to our educational system. While the National Science Foundation budget is relatively small in comparison to the total national effort in research and development, it is the primary source of support for fundamental science and engineering research at colleges and universities, where under our system such a critical share of basic research is conducted.

Mr. Chairman, the academic community performs most of the basic research in the physical and the life sciences. The National Science Foundation is the basic source of support for these research and development efforts, and most importantly, the laboratories and classrooms of universities are the training grounds for the scientists and engineers who will make the breakthroughs in science in the future. Thus, this bill sustains the effort to maintain our leadership in basic science research, and with it, our long-range economic health.

In light of these factors, H.R. 4184 provides a total authorization of $1.686 billion. This authorization level is identical to the authorization level proposed by the administration.

The major parts of the authorization include $1.482 billion for research and related activities, $93 million for science and engineering education, and $110 million for Antarctic research.

The committee bill reflects several changes in funding for two of the directorates within the National Science Foundation to strengthen two particular programs. The committee's amend-

ment reduced funding for the U.S. Antarctic Program by $7 million from that as proposed by the administration, a reduction of $7 million from $117 million, as requested, to $110 million, redirecting $3 million to the Biological, Behavioral and Social Science Directorate and $4 million to the Science and Engineering Education Directorate.

The NSF has been able to reduce its share of operations support for the Antarctic Program through the cooperation of the Coast Guard and other military agencies that are in the Antarctic. Thus, an authorization of $110 million, which is equal to the current year's spending level, will in reality permit strengthening of some present efforts in the Antarctic Program and at the same time allow some of these resources to be redirected.

The $3 million that is to be redirected to the Biological, Behaviorial and Social Sciences Directorate, is specifically targeted to the behaviorial and social sciences activities, with $2 million going to the Social and Economic Sciences Program and $1 million going to the Behaviorial and Neural Science Program. The social and behaviorial sciences have sustained over these last several years a disproportionate burden of budget reductions in the past, and even with this redirection of funds, these disciplines will receive less, I am sorry to say, but nonetheless it stresses the importance of adding this strength, these disciplines will receive less than they received in support from the National Science Foundation in 1980, so we are still not back to the levels of support that these disciplines have enjoyed.

Also, this action reflects the committee's concern that the social and behaviorial sciences must be supported in light of the contribution they can make across a wide range of our economy, from how foreign languages are learned, for the future in the international economy, to improving productivity and safety engineering. The contributions that this social and behaviorial sciences can make cannot be underestimated.

The $4 million redirected to the Science and Education Directorate is intended to strengthen the College Science Instrumentation Program by expanding it to include 2-year and community colleges. The College Science Instrumentation Program has been an effective mechanism for addressing a critical need, a need that has been recognized across the board in our educational system, but an especially critical need at the college level.

Recently, a report released by the White House Science Council on the Health of U.S. Colleges and Universities, known as "a new partnership," highlighted the aging condition of research facilities and the obsolescence of instructional equipment. This report, which is otherwise known as the Packard-Bromley report stressed the need to address this problem in order to improve the quality of science and engineering education. At the same time, the College Science Instrumentation Program should be open to as many institutions as possible in light of the increasing and critical role that the 2-year and community colleges are playing in training the technical personnel that our economy needs now and will need more of in the future.

This bill includes plans by the National Science Foundation to launch special initiatives in areas that in the view of the Director and others involved in the administration of the National Science Foundation are ripe for exciting breakthroughs and rapid advances, and so this bill funds in full measure the initiatives such as the global geoscience and biotechnology initiatives recommended by the administration. At the same time, the bill continues the special initiatives in the areas of advanced scientific computing and engineering research centers.

Also, the bill makes several changes to the National Science Foundation Organic Act. The amendment suggested by the committee includes a provision that permits the National Science Foundation Director to appoint the assistant directors, with the consent of the National Science Board, rather than to require these to go through the Presidential appointment process. This step would considerably reduce the time necessary to fill vacancies in senior management positions. At the same time, experience has shown us that the Director has been able to effectively delegate responsibility to non-Presidential assistant directors in a timely fashion. Also, in view of the fact that 30 positions within the policy and management structure remain Presidential appointments, there is no undercutting of the Presidential influence in direction of policy over the National Science Foundation by this change that has been requested for several years running now by the National Science Board.

H.R. 4184 also provides the National Science Foundation with the authority to provide indemnification for certain liability that may be incurred under the Ocean Drilling Program. This authority would be subject to reauthorization at the end of 5 years. In carrying out any offshore drilling program, commercial or scientific, there are certain inherent risks. In the past, the NSF was authorized to use the indemnification authority of 10 U.S.C. 2354 for certain claims that might be brought against grantees and subcontractors involved in the program, and thus this provision in effect continues the previous status of the National Science Foundation having the authority to provide indemnification, an authority that would otherwise expire.

The bill also prohibits the NSF from using its funds to implement or enforce changes to the Office of Management and Budget Circular A-21, which may have been proposed subsequent to February 11, 1986. This was approved in the committee after special hearings on the rather hasty promulgation by OMB which would have made a major change in administrative cost allowances to universities. The committee feels that any new policy with such substantial serious implications for the funds available to academic research should receive substantially more consideration and opportunity for interaction between the interested parties. Therefore, that provision is included in the bill.

The bill contains a variety of modifications to the NSF Act of 1950, which have been proposed by the administration, and which delete relatively obsolete provisions.

H.R. 4184, as reported by the Science and Technology Committee, reflects two organizational changes in the research directorates that have already been implemented by the Foundation's Director.

First, all activities related to computer science, information science, computer engineering, supercomputers, and computer networking will be consolidated into a new computer and information science and engineering directorate.

Second, the Astronomical Sciences Division of the Directorate for Astronomical, Atmospheric, Earth and Ocean Sciences [AAEO], will be reassigned to the Directorate for Mathematical and Physical Sciences. The AAEO Directorate has been renamed the Geosciences Directorate. Since astronomy has such a close association with mathematics and physics, it is felt that by moving the astronomical activities into the Mathematical and Physical Sciences Directorate, the organizational structure will more accurately reflect the relationships in the academic and research communities.

Mr. Chairman, I urge support for the bill, and I reserve the balance of my tme.

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume. I want to join with my colleagues in urging approval of the President's budget request for the National Science Foundation [NSF].

I think some Members of the House may have misconceptions about the National Science Foundation. This Agency does not simply engage in esoteric research distant from the concerns of average Americans, providing information that is merely "nice to know." Rather, the work of the National Science Foundation is needed to

solve our most pressing national problems.

Our Nation is involved in a pitched battle to retain its economic predominance in the world economy. Our jobs and our standard of living hinge on the outcome. Study after study has concluded that the keys to winning the battle are technology and education.

The work of the National Science Foundation is essential for technological advancement. The Agency funds the bulk of the basic research in this country that lays the groundwork for technological progress.

Indeed, much of NSF's budget is targeted at finding answers sought by industry. The engineering research centers and proposed biotechnology centers are prime examples. The National Science Foundation also does much to improve the quality of American education. The Agency funds teacher training institutes and curriculum development to help our public schools. What could be more important.

It also runs the College Science Instrumentation Program to help undergraduate colleges buy science and engineering equipment for instruction. This program, which our committee has expanded, has aided colleges in virtually every State. And next year the program will be opened to community and junior colleges for the first time—an important step to reach more students earlier in their careers.

The National Science Foundation, in short, is a sort of guarantor of our future economic health. It is a small, efficient agency that deserves our strong support.

□ 1400

Mr. Chairman, I reserve the balance of my time.

Mr. WALGREN. Mr. Chairman, I yield such time as he may require to the gentleman from North Carolina [Mr. VALENTINE], a member of the subcommittee and one of the most involved members in the development of this bill.

Mr. VALENTINE. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the authorization bill for the National Science Foundation for fiscal year 1987. I would like to commend our very dedicated chairman of the Committee on Science and Technology, the gentleman from Florida [Mr. FUQUA] and, of course, the chairman of our subcommittee, the distinguished gentleman from Pennsylvania [Mr. WALGREN].

Mr. Chairman, I am pleased with the recognition and commitment made on behalf of the administration to increase funding for the Foundation. The Foundation is this Nation's primary source of basic research support in U.S. universities and colleges. It also plays an important role in promoting science and engineering research and education, which provides the basic foundation for our country's continued preeminence in science and technology.

Our country must maintain its commitment to a new generation of scientists and researchers. This week, our Science, Research and Technology Subcommittee held a hearing on "Strategies for Exploiting American Inventiveness in the World Marketplace." While several areas were discussed in this context, one central theme throughout the hearing was abundantly clear: The U.S. competitiveness in the world economy is eroding while international competition becomes more intense.

This apparent erosion becomes even clearer when we look at the facts and figures of some of our most preeminent industries. As an example, world manufacturing of semiconductors experienced an 18.3-percent growth during the period between 1975 through 1980, while the U.S. semiconductor industry experienced a 23.7-percent annual growth rate.

In contrast, in the period between 1980 and 1984, world manufacturing experienced a 17.1-percent annual growth rate, while the U.S. experienced an annual growth rate of only 13.6 percent. The United States is not maintaining the previous share of the world market in this important industry. Even further, the U.S. share of the market is expected to drop from approximately 45 percent in 1984 to 42 percent in 1988. Creative and timely action is required now by our university and government research institutions to help avoid further erosion in this important segment of scientific research and development.

More important, Mr. Chairman, is a growing concern that the United States is on a downward trajectory toward losing its worldwide competitive position, which would result in a loss of a major portion of the non-defense-related semiconductor market. Such a result could have a very significant impact on the defense electronics industry, and, ultimately, on U.S. defense posture.

And finally, Mr. Chairman, I am quite pleased to see a significant increase in funding for science and engineering research and education with respect to increasing the number of minorities who choose science and engineering careers. It is important that we bridge the gap in this area, and this legislation addresses this matter.

Mr. Chairman, this legislation presents a unique opportunity to take action to help achieve long-term leadership while there is still time. I urge my colleagues on both sides of the aisle to lend their support to this legislation.

Mr. BOEHLERT. Mr. Chairman, I yield such time as he may consume to the distinguished ranking minority member of the Committee on Science and Technology, the the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in very strong support of H.R. 4184, a bill to reauthorize the National Science Foundation [NSF] for fiscal year 1987. The funding level contained in this legislation supports the budget of $1.686 billion in new obligational authority requested by the President.

I commend the administration and the NSF for a very sound budget proposal. It not only provides for adequate growth in several major initiatives, but also provides an overall reasonable increase in support of basic science and engineering research across the board.

I commend Mr. Erichbloch, Director of the National Science Foundation and Dr. Roland Schmitt, Chairman of the National Science Board [NSB] for the efficiency which they have built into the Foundation, as well as the persistence they have adopted in filling any and all vacancies within the top management levels of NSF and on the Board.

There are several programs sponsored by NSF that now have a cost-sharing factor assigned to them. This has not only leveraged the Federal investment in science, but it also has drawn State and local governments, academic institutions, and the private sector into a more nurturing alliance. Through science and engineering education programs, engineering research centers, supercomputer centers, and the College Science Intrumentation Program, the leveraging effect of NSF funds has translated into more academic institutions receiving more support for science.

There is also the need to adequately support the principal investigator often referred to as the "PI." This is an individual scientist, engineer, or educator who receives funding from NSF for a particular research project and who in turn supports several graduate students with that money. He or she is adding, in a very valuable and essential way, to the great wealth of trained manpower this Nation needs to meet an ever increasing high-technology world.

Mr. Chairman, there isn't a State in our Nation that does not in one form or another receive NSF funding. And, unlike other Federal bureaucracies, approximately 90 to 95 percent of NSF's funds leave the agency to support our Nation's educational institutions. NSF has amazingly low in-house administration costs. This speaks well for the management of a Federal bureaucracy.

Mr. Chairman, several Members have or will speak to the many endeav-

ors NSF has laid out in their 1987 budget. I will name just a few. NSF seeks an increase in funding—$18 million—for their global geoscience initative research emphasis treating the Earth in an integrated way, the interrelation of the physical, chemical, and biological processes. I strongly support this effort to view our planet in a more realistic manner. This program has very strong intergovernmental and international support.

Another initiative is in computational science and engineering, an effort to establish multidisciplinary teams so that the wealth of knowledge and experience in various fields of science, including theoretical and practical mathematics, can cross-fertilize.

Mr. Chairman, in closing I would again reiterate my unquestionable support of the NSF and the Presidents' fiscal year 1987 budget request. I urge my colleagues to join me in that support.

Mr. WALGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise at this point to express my strong support for H.R. 4184, the National Science Foundation authorization.

I do want to point out, though, Mr. Chairman, that the total authorization in this bill is $1.7 billion. While that may seem like a significant amount of money, when we consider that the Department of Defense research and development effort amounts to almost $35 billion, this amount of money pales in comparison. So I respectfully suggest, Mr. Chairman, that we need to reorder our priorities and continue to try to put more money into the National Science Foundation and other areas of research.

In a few moments I want to engage in a brief colloquy with the distinguished chairman of the subcommittee, the gentleman from Pennsylvania [Mr. WALGREN], but before I do, Mr. Chairman, I want to observe that the chairman, the ranking minority member, the gentleman from New York [Mr. BOEHLERT], and the rest of the members of the committee have produced a bill which, in my opinion, provides strong and justifiable support for basic scientific research.

The committee's recommendation accurately reflects the important contribution basic research makes to this Nation's ability to compete effectively in today's highly competitive world.

As a member of the Armed Services Committee, I recognize the contribution a sustained investment in basic research makes to national security. I have been interested, for some time now, in ways to expand the Federal investment in basic research, primarily by adjusting the distribution of the total Federal R&D investment. One avenue the Armed Services Committee has pursued has been to increase the DOD University Research Initiative. It is my hope that other actions might be endorsed by the Congress to support a continued adjustment in Federal R&D priorities.

In that light, the Science and Technology Committee is to be congratulated for the strong support it has consistently provided in this area.

I would like to comment on one particular aspect of the bill. In January of this year, several members of the Armed Services Committee, myself included, had the unique opportunity to view first hand some of the important basic research supported by the Foundation in Antarctica. The chairman of the full committee led a delegation of his own a few years back, and knows personally of the program's value.

I notice that the committee has reduced the recommended funding for the U.S. Antarctic Program by $7 million below the President's request. I know the committee was faced with the difficult task of setting priorities and trying to adequately support many worthwhile programs.

But I am concerned that this particular reduction could hamper significantly the logistical aspects of the program. I am specifically referring to the plans to upgrade and modernize the LC-130 aircraft and the research facilities so vital to this Nation's ability to maintain an active and influential presence on this unique continent.

Let me ask: If, during the conference with the other body, an opportunity arose to restore funding for the Antarctic Program and still uphold the committee's priorities with respect to research and instructional instrumentation, would the gentleman be willing to support such a proposal?

Mr. WALGREN. To the gentleman from Georgia, I would say that I am aware of the importance of the Antarctic Program from both an international foreign policy perspective as well as a scientific perspective. One must remember that the logistical component of the program, as important as it is, significantly overshadows the resources actually spent on the performance of the research. It is my view that the proportion of the total amount expended that goes for the support of the actual research should be strengthened and that to the extent possible, the DOD should bear more directly the logistical costs associated with the program.

With respect to the committee's specific recommendations concerning the behavioral and social sciences and undergraduate instrumentation, let me say that the committee has examined very closely the need for an adequate base of support for these particular issues. These are areas we maintain a long-standing interest in. The behavioral and social sciences has not seen the same enthusiastic support from this administration as most of the other basic research disciplines have.

In the area of college instructional instrumentation, these additional funds will help support badly needed equipment for the teaching of science and engineering at the Nation's 4-year and community colleges.

Mr. DARDEN. I thank the distinguished subcommittee chairman for his consideration of this request. And let me say that I agree with the issues raised by the gentleman and I know he will do everything possible to see that these activities are adequately supported.

□ 1410

Mr. BOEHLERT. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. Mr. Chairman, I ask for this time to ask the chairman of the subcommittee, Mr. WALGREN, did I understand in your answer to the gentleman from Georgia [Mr. DARDEN], that the gentleman does not contemplate cutting the other two budgets in order to restore the $7 million that we took from the Antarctic project, but only if we can work out something, perhaps, with the Department of Defense or some other way to restore those funds, rather than take them from the other two budget items, research and related and science and engineering and education.

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Pennsylvania.

Mr. WALGREN. Mr. Chairman, I do not know what we might agree as a committee in how to approach that question truthfully.

I personally emphasize the importance of that college instrumentation and the social and behavioral sciences as a very important increase that we provide in the committee bill. It is my understanding that because of the effort that the DOD will be making that had previously been anticipated to come from the National Science Foundation funds, that we certainly are not reducing the effort in the Antarctic.

But I would be the first among us all to encourage support for that program to the degree that we can reach a committee agreement on where that strength should come from.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to my distinguished colleague, the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Chairman, I thank the gentleman from New York and I just want to congratulate the subcommittee and the subcommittee chair-

man especially, the gentleman from Pennsylvania [Mr. WALGREN], and the subcommittee's ranking member, the gentleman from New York [Mr. BOEHLERT] on a really excellent job of preparing the National Science Foundation budget this year.

I especially want to take note of and congratulate the committee on the language of the report, which I believe is at page 13, regarding the expansion and use of television as a mode of education for the younger children in this country. The report highlights the fact that the National Science Foundation has had an integral part in funding "3-2-1 Contact" and "The Brain" program that, unfortunately, the Department of Education is now in the process, it appears, of backing out of the promotion of this sort of educational material, and in my opinion, that is regrettable, but the National Science Foundation should pick up on the promotion of this sort of material.

□ 1420

In my opinion, the potential for educating young Americans through the use of the medium of television and through the excellent programming such as "3-2-1 Contact" and "The Brain," and I understand there is a new program that is going to be coming on this fall in the area of science, is extraordinary.

We have our children today watching an average of approximately 5 to 5½ hours of television, this is clearly one of the quickest and most convenient ways that we as a nation can bring our children up to speed so that they can be competitive in a high technology world, and it is certainly appropriate that the National Science Foundation should be taking the lead in this area.

So again I congratulate the subcommittee on an excellent job in all functions and all directorates that the National Science Foundation is working in, but especially in the area of television education.

Mr. BOEHLERT. Mr. Chairman, I do want to thank my colleague for mentioning that, because he has provided the leadership in this area; he formerly served on the Committee on Science and Technology and it was under his leadership initially that this program was launched.

I cannot pass up this opportunity, as long as we are talking about the effective use of television, to put in a plug for, at the appropriate time, this Chamber's support for public broadcasting.

Mr. WALGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. STRATTON], who has maintained a very active and direct interest in the range of the National Science Foundation.

Mr. STRATTON. Mr. Chairman, I want to express my appreciation to the gentleman from Pennsylvania [Mr. WALGREN] for allowing me this time. As the gentleman from Georgia [Mr. DARDEN] has already indicated, the Committee on Armed Services had the opportunity of visiting the Antarctic in the early part of January; and I must say that I have to make a confession that I never realized that the operation of the Antarctic undertaking was being handled by the National Science Foundation. In fact, I admitted to the head of the Antarctic organization that many of us in Congress often when the National Science Foundation budget was up, we would figure, that perhaps we could take a few million off of the Science Foundation budget to get an easy economy vote.

When I recognized that the facilities down there and the tremendous operation that they are carrying on, I realized how soundly mistaken I had been and I pledged to the NSF people down there that when I got back to Washington and the budget for the Science Foundation came up, I would certainly support it very soundly.

Mr. Chairman, our committee was most impressed by the dedication of the Foundation's people there in Antarctica. Of course it was the summertime then and I imagine it becomes much more rugged in the winter. But the dedication and the willingness to give us a fill-in on exactly what goes on there and the different kinds of research that are going on. It was a thrilling and an exciting experience for all of us in a strange and beautiful land.

We had the opportunity of riding the Coast Guard's ice-breaker. We had the opportunity of seeing the vast amounts of snow over so much of the Antarctic area; and, with the support of helicopters provided by the Coast Guard and with the support of the aircraft provided by the Navy, we not only flew over the snow areas, but also those dry valleys in the middle of the Antarctic with all the snow on all sides.

That particular area of landscape looked more as though it came from southern Utah, or Arizona, or some place like that.

The high point of our visit was the opportunity to fly to the South Pole. In fact, we learned quite a bit about the Antarctic. For instance, I had never realized that the South Pole had an elevation of 10,000 feet, and it also has a very low temperature. At least when we arrived in that summer season, it had a temperature of 55 degrees below zero.

The facilities at the South Pole are remarkable also, as well as the facilities at McMurdo Sound. The buildings that are located at the South Pole in that temperature and with winds that blow so strongly are protected by a geodesic dome. We were told that we would find it very difficult to survive in that altitude, at 10,000 feet; but as a matter of fact when one got inside of the dome, the wind eased. I think the major problem at the pole was the wind rather than the altitude.

So I want to congratulate the Science Foundation for the terrific job that they are doing in operating these aircraft that fly to Antarctica and to the South Pole. We landed in a blizzard and took off in a blizzard. We landed at the South Pole in zero-zero conditions, but the ground controlled approach was certainly one of the highest quality.

I would also like to point out that there are a number of students who are carrying on research in Antarctica under the auspices of the Science Foundation. I do not think too many of them stay over, probably, in the winter but there was an outstanding group of young people who were taking advantage of the opportunities down in the bottom of the world in the summer season.

I would agree with the comments made by my good friend from Georgia that I, too, was shocked that the budget was being cut back by $7 million for the Antarctic research; I read in the paper the other day that there is a crisis in terms of the gap in the ozone down there. I understand there are some scientists who are setting out down there to find out whether we have a leak in the ozone, or why there is inadequate ozone, or enough as was expected in the Antarctic area.

I would think that the individuals who are going to be following that problem up would probably need an authorization or an appropriation of several million dollars to be able to determine exactly what the situation is with our very important goal.

A good deal of the world's weather, we were told, begins in the Antarctic and therefore if we are going to have to stop any leakage of ozone, we will have to do it first in the Antarctic.

Mr. Chairman, I just want to say that I appreciate the opportunity that the Science Foundation gave us, and I strongly support the budget submitted by the committee.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to a member of the full committee, the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I rise in support of H.R. 4184, the National Science Foundation Authorization Act for fiscal year 1987.

As a member of the Committee on Science and Technology, I am pleased that the committee unanimously approved the President's request level of $1.7 billion for the National Science Foundation.

While it is difficult to justify increased spending authorization during

the days of Gramm-Rudman-Hollings, I firmly believe that sustained and enhanced basic research is the key to U.S. industrial competitiveness, economic success, and national security.

The Federal Government continues to be the primary source for basic research support in the United States, funding two-thirds of the total national investment in basic research in 1985. Although NSF funding represents only 3 percent of the total Federal R&D budget, its proportion of total Federal basic research funding is nearly 17 percent. Even more significant, one-quarter of all basic research being carried out in U.S. colleges and universities is supported with NSF funds.

A serious concern of the committee is the significant drop in the number of students pursuing science and engineering careers. While the number of foreign citizens enrolled in science and engineering doctoral programs has increased by over 23 percent from 1980–83, the number of U.S. citizens enrolled in these programs has increased by barely 1 percent. This legislation provides $93 million to encourage able and interested students to pursue undergraduate and graduate programs in academic science and engineering. Further, one of the major components needed to enhance the quality of undergraduate science and engineering education is improved instructional scientific equipment and materials. H.R. 4184 provides $11.5 million for the college science instrumentation program [CSIP] and has extended the eligibility for CSIP grants to include 2-year and community colleges.

Also, the NSF has achieved great success in advanced scientific computing. NSF recently established for supercomputer centers, one, of which I am proud, is located at the University of California in San Diego. These centers will provide invaluable research and training opportunities for our Nation's scientists and students.

These are but a few examples of the valuable contributions the NSF has made to the advancement of science in the United States. It is clear that the NSF has an important role to play in the future of the country as international economic success is determined more and more by scientific and technological know-how. I urge my colleagues to support passage of H.R. 4184.

□ 1430

Mr. BOEHLERT. Mr. Chairman, I yield 4 minutes to our distinguished colleague from Florida, a member of the committee, the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. I thank the Chairman, and I thank the gentleman from New York who yielded.

Mr. Chairman, I rise in support of H.R. 4184, the National Science Foundation Authorization Act of Fiscal Year 1987, and commend the subcommittee chairman, Mr. WALGREN of Pennsylvania, and Mr. BOEHLERT of New York, the ranking minority member, for an excellent job on this bill.

Clearly, Mr. Chairman, the National Science Foundation plays a key role in promoting the scientific and engineering research needed to plant the seeds of our future technological advances.

Mr. Chairman, I am pleased that this authorization continues the trend of increased support for the basic sciences. Yet, in my view of even greater importance than the basic research itself, is the education and development of our next generation of researchers. Therefore, I support the increased funding for the College Science Instrumentation Program. Clearly, high quality equipment and materials are essential if we want to prepare today's students for tomorrow's challenges.

With much of our current attention focused on the trade deficit, I am encouraged that Congress, the administration, and the public now recognize the link between science and education and our competitive position in the world marketplace. For today, when Congress is under increasing pressure to reduce funding, science can sometimes be perceived to be taking needed funds away from more pressing problems. I believe it is important to realize that dollars spent on education, research, and technology are an investment in the future that benefits all Americans, an investment, I might add, that we cannot and must not lose, for if we do not make that investment, we betray the generations that follow and the scientific future of this great Nation.

This bill recognizes that fact and I urge all my colleagues to join us and support this important legislation.

I thank the Chairman, and I yield back the balance of my time.

Mr. BOEHLERT. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania, a member of the committee, and I commend the gentleman for his contribution to this bill.

Mr. WALKER. I thank the Chairman, and I thank the gentleman from New York for yielding and for his work on the bill.

Mr. Chairman, in years past, when there have been budgetary problems with NSF bills, I have not hesitated to come to the floor and criticize those bills and vote against those bills. But let me tell the Committee here today that there are no such problems with this particular bill. This is a good bill, this is the kind of NSF bill that we should be proud to bring to the floor. OMB has some problems with some policy statements that are in the bill, but those problems are not of a money nature. This is a bill that anyone who is concerned about the budgetary aspects can vote for. You can look at the policy things OMB is telling us about, but I would suggest that those are things that could be solved and one ought to vote for it.

Just to show you what kind of a struggle we went through, the gentleman from New York [Mr. STRATTON], a few moments ago, mentioned what he found in his trip to Antarctica. I congratulate him for that statement. I have been there, too. The kind of work done by those magnificent people down there is almost indescribable. He did a good job of pointing out some of the kinds of things that one finds there. We had to struggle with that issue in the committee. We decided there could be a modest cut in order to stick within the budget figures. But we did so reluctantly because a number of us from this committee had been there, too, and understand that the work going on is absolutely invaluable not only to this country but to the world. But it was a struggle, and we came to this kind of compromise.

We also recognized that what we do in this program is particularly of importance to our colleges and universities across the country. This is not only a science program, but it is truly, as the gentleman from Florida said just before me, an education program as well, because our colleges and universities are largely supported in their research efforts through the work of the National Science Foundation.

So this is a magnificent contribution to educating young people and ensuring that our institutions of higher learning have the kind of basis on which to make continuing contributions to our society.

So I would urge my colleagues to support this bill. It is a good bill. It is a bill that you can vote for and stay very easily within the budget constraints.

Mr. Chairman, I congratulate the gentleman from Pennsylvania [Mr. WALGREN] and the gentleman from New York [Mr. BOEHLERT] who have brought the bill to the floor in this manner.

The CHAIRMAN. The gentleman from Pennsylvania has consumed 3 minutes.

Mr. BOLAND. Mr. Chairman, I want to congratulate the gentleman from Pennsylvania, the chairman of the subcommittee of the Committee of Science and Technology, which authorizes the National Science Foundation, on producing an excellent bill. Clearly, the gentleman and the committee have always been strong supporters of the Foundation and fiscal year 1987 is no exception.

I do want to temper my praise of the committee's work with these general remarks. I think it is important to keep in mind that the National Science Foundation's request of $1,685,700,000 for fiscal year 1987 repre-

sents the largest increase—on a percentage basis—of any agency that will be funded in the HUD-Independent Agencies Appropriation Act. The increase above the 1986 adjusted level is more than $200 million. I don't think anyone on this floor has been a stronger supporter of the Foundation than myself—but I think it is important that we point out that the 302(b) allocation to the HUD Subcommittee is very, very tight—and it will be very difficult for us to find sufficient funds to fully fund every agency's desire. Basically, what I'm going to have to try to achieve, in marking up the 1987 HUD appropriation bill, is an essential balance among all the agencies—including subsidized housing.

I suspect that when we do markup the assisted housing account for fiscal year 1987 we are going to find another reduction below the adjusted current rate for 1986. Because of that we are going to have to take further reductions in subsidized housing—which provides poor families with an opportunity to live in a decent home—I want to put everyone here on notice, that I will not support additional cuts in that area to fully fund, all of the wants and desires of every other agency in the bill.

I think we are going to do the best job we can within our 302(b) allocation for the Foundation. But I'm not sure we're going to be able to come up with a $220 million increase above the current level in 1986.

Again I want to congratulate the gentleman from Pennsylvania and his subcommittee on their hard work.

Thank you, Mr. Chairman.

Mr. STARK. Mr. Chairman, I rise today to support the general provisions of the National Science Foundation authorization bill but to object to what I feel is an unreasonably low level of funding for earthquake hazard mitigation projects.

The administration's request of fiscal year 1987, which was accepted without change by the Science and Technology Committee, is $16.5 million. While this is a 5-percent increase over actual fiscal year 1986 funding, it is only 0.6 percent above the administration's request for fiscal year 1986 and is in fact 3.5 percent below actual fiscal year 1985 funding.

Mr. Chairman, let me review for the Committee some facts about earthquake probabilities. There is a 50-percent chance of a catastrophic earthquake along the southern San Andreas Fault within the next 30 years. There is a 90-percent chance of such a tragedy within the next 50 years. The initial human toll would probably be about 8,000 dead and 65,000 wounded. Property damage would likey run in the billions of dollars. The secondary effects would be even worse.

With every year that passes without an earthquake, the chances of one occurring the next year increases. Yet funding for earthquake hazard mitigation has actually been cut over the past 2 years. If anything, there should be an increasing sense of urgency; instead there is growing complacency.

While there is nothing we can do to prevent an earthquake, much can be done with seismic engineering to minimize the damage from a quake. I have introduced a bill, H.R. 1144, that would establish and fund an earthquake engineering center to expand and intensify such research. While there has been no action on the bill to date, I hope we will not have to wait for a Mexico City type disaster in this country before we take this problem seriously.

Mr. Chairman, I don't want to be put in a position of saying "I told you so." There will be a major earthquake in this country in the forseeable future—of that there is no doubt. It would be small comfort, though, to be proven right by future events when the cost would be thousands of lives and billions of dollars of damage. I urge the National Science Foundation and the appropriate congressional committees to reevaluate their priorities on the earthquake issue and to fund research at a level in relation to the threat that faces us.

Mr. BOEHLERT. Mr. Chairman, may I inquire how much time remains on this side?

The CHAIRMAN. The gentleman from New York [Mr. BOEHLERT] has 12 minutes remaining.

Mr. BOEHLERT. May I inquire of our subcommittee chairman if he has any additional speakers?

Mr. WALGREN. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

Mr. BOEHLERT. I have one further speaker, but before I yield to Mr. COBEY, a member of our committee, Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to stress that we are talking here about a jobs bill. Jobs is my favorite four-letter word. In this bill we are talking about the international competitiveness of the United States of America in the 21st century. We have not placed great emphasis in something maybe all of us take for granted who serve on the committee, the great supercomputer initiative that we launched just 2½ years ago, under which five major research university centers across this great country of ours will be given funding from the National Science Foundation in conjunction with funding that they are able to acquire from the private sector and funding from the individual States, to guarantee that we maintain our preeminent position in the world in supercomputer technology. That is extremely important in so many phases of our activities here in the United States of America.

In addition, we have finally at long last in our committee given proper recognition to the important role of engineering in our society and in preparing ourselves to be even more competitive in the world economy.

We have already as a result of the engineering research center initiative established 11 centers across the country. Four more are included in the fiscal year 1987 budget submission that we are discussing today. It is a good bill in so many respects but it is so much more than just scientists in laboratories with test tubes and all this complicated equipment that I sometimes find it difficult to comprehend. We are talking about jobs for America with the National Science Foundation. What could be more important?

Mr. Chairman, I am proud to identify with his legislation. I want to take this time to salute the chairman of our subcommittee, the gentleman from Pennsylvania [Mr. WALGREN], for his personal commitment and leadership. This is a subcommittee and a full committee which knows no party lines. We do not work as Republicans or Democrats; we work, you will pardon me if this sounds corny, as Americans who are trying to fashion something that is good for our future and the future of generations to come.

Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from North Carolina [Mr. COBEY]

Mr. COBEY. I thank the gentleman from New York for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 4184, the National Science Foundation bill.

Mr. Chairman, in a year of deficit reductions and Gramm/Rudman, the President's budget of the National Science Foundation show a moderate increase. This is a continuation of support for increasing civilian basic science, and engineering research and education.

Science and engineering research and education provide the Foundation for present and future economic competitiveness. They contribute to products that improve the lives of all our citizens and help to guarantee our national defense.

The NSF budget is the primary source of support for fundamental science, and engineering research and education in U.S. colleges and universities. This community is the principal performer of basic research in the physical and natural sciences that undergirds the entire R&D enterprise, governmental and private alike. The Nation's academic institutions provide the training ground for most of the scientists and engineers who staff our industrial, academic, and military laboratories. The President's request reflects his determination to preserve the Nation's leadership in basic research and to ensure our long range economic health.

Dr. Roland Schmitt, chairman of the National Science Board and vice president of Corporate Research and Development for the General Electric Corporation put it best when commenting before our committee on the basic challenges for research. He said the basic challenges are "meeting the increasing complexity of scientific and engineering research; the resource needs and shortages; and world competition in key research areas." These

three challenges must be met successfully if we are to maintain a strong, growing industrial base for our Nation, and continued improvements in the quality of life.

I'm pleased that there's a growing realization that many partners have a stake in the outcome of advancing science and technology by doing research, training people, and providing the needed funding. In the area around my district alone, we have the Research Triangle Park and three major universities who play a key role in this whole process. All North Carolina institutions combined received 21.7 million in NSF funds. I'm very pleased with the work our universities are doing in these important fields of research.

I want to congratulate the chairman of our subcommittee, Mr. WALGREN and our ranking Republican leader Mr. BOEHLERT for the leadership they provided in getting this bill to the floor.

Mr. BOEHLERT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island [Mrs. SCHNEIDER].

Mrs. SCHNEIDER. Mr. Chairman, one of the widely recognized cornerstones of America's greatness is our leadership in scientific endeavors. We fund scientific research through many mechanisms and a variety of agencies—each with a special mission, each with a different perspective. Yet among agencies that fund scientific research the National Science Foundation stands out for the breadth of scientific endeavors it funds, for its commitment to basic research, and its involvement in the education of the next generation of scientists and engineers.

It has only been in the years since World War II that our Nation has accepted the idea that support of basic science is the foundation on which we build technological advances. We need not look far to see the fruits of our investments. Basic science is one of the few endeavors in which the United States maintains a global advantage. If we are to regain our competitive advantage in the world marketplace we must retain our leadership in fundamental science and engineering research. We must also provide for the future of scientific research through quality science and engineering education. It is this charge of the National Science Foundation that today's appropriation request addresses.

So strong is the agreement about the value of the NSF's activities that we have a bill that represents a vanishing breed in the contemporary budget process—a consensus on the amount of total spending—between the administration and a congressional committee. There is widespread agreement on the need for budgetary restraint, but even stronger agreement that our economic future depends on our ability to maintain our leadership in the basic sciences.

Although the Federal budget contains nearly $100 billion annually in the category of research and development, this number is far in excess of our actual support for the scientific basis for commercial development. The Young Commission Report on Global Competition has pointed out that the United States is behind both Germany and Japan in spending on civilian R&D as a percentage of GNP.

The call for a larger role for the Nation's civilian sector R&D comes from many quarters. Last year, at a meeting of the Business Higher Education Forum in Scottsdale AZ, the point was made that the rapid growth in military research and development was drawing our most talented young scientists away from basic research and toward military technology. Nearly two-thirds of our Nation's R&D budget is spent on military and space programs, areas where commercial spill-over is not a prime objective, and indeed is often actively discouraged for national security reasons. The huge investment we have allowed in a variety of weapon-related programs is unlikely to yield a commensurate number of "spin-off" technologies for commercial development.

Mr. Chairman, I rise in support of the authorization provided for in this legislation. Our strength as a nation depends on our ability to compete effectively in an increasingly technological environment. Our future depends on our ability to educate the scientists and engineers of tomorrow.

Finally, we should not lose sight of our goal in choosing to support scientific activities. We fund science not only because it enriches our economy, nor because it helps ensure our competitive position in the world, although these are certainly admirable goals. We fund science for the more noble reasons that our society recognizes the importance of displacing ignorance and superstition with knowledge and understanding.

□ 1445

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to urge all of my colleagues in this Chamber, Republicans and Democrats alike, to support the initiative of the President and this administration in support of the National Science Foundation. We are talking about the future of America.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1987".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. (a) There are authorized to be appropriated to the National Science Foundation for the fiscal year 1987, the sums set forth in the following categories:

(1) Biological, Behavioral, and Social Sciences, $273,500,000.

(2) Computer and Information Science and Engineering, $122,980,000.

(3) Engineering, $172,470,000.

(4) Geosciences, $298,150,000.

(5) Mathematical and Physical Sciences, $489,870,000.

(6) Scientific, Technological, and International Affairs, $47,030,000.

(7) Program Development and Management, $78,000,000.

(8) Science and Engineering Education, $93,000,000.

(9) United States Antarctic Program, $110,000,000.

(b) Notwithstanding any other provision of this Act, from the amount authorized under subsection (a)(1)—

(1) not less than $33,430,000 is authorized only for purposes of the Social and Economic Sciences program; and

(2) not less than $49,870,000 is authorized only for purposes of the Behavioral and Neural Sciences program.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that section 3 and the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 3. Appropriations made under authority provided in sections 2 and 5 shall remain available for obligation for periods specified in the Acts making the appropriations.

SEC. 4. From appropriations made under authorizations provided in this Act, not more than $5,000 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the Foundation. His determination will be final and conclusive upon the accounting officers of the Government.

SEC. 5. Besides the sums authorized by section 2, not more than $700,000 is authorized to be appropriated for the fiscal year 1987 for expenses of the National Science Foundation incurred outside the United States,

to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 6. (a) Funds may be transferred among the categories listed in section 2, so long as the net funds transferred to or from any category do not exceed 10 percent of the amount authorized for that category in such section.

(b) In addition, the Director of the Foundation may propose transfers to or from any category exceeding 10 percent of the amount authorized for that category in section 2; but an explanation of any such proposed transfer must be transmitted in writing to the Speaker of the House, the President of the Senate, and the appropriate authorizing committees of the House and Senate and the proposed transfer may be made only when 30 calendar days have passed after transmission of such written explanation.

SEC. 7. (a) Section 3(a)(6) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(6)) is amended to read as follows:

"(6) to provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal Government; and".

(b)(1) Section 6 of such Act (42 U.S.C. 1864a) is amended—

(A) by striking out "(a)" after "SEC. 6."; and

(B) by striking out subsection (b).

(2) Section 5316 of title 5 of the United States Code is amended by striking out "Assistant Directors, National Science Foundation (4).".

(c) Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended by striking out ", within the limits of funds made available specifically for such purpose pursuant to section 16,".

(d) Section 11 of such Act (42 U.S.C. 1870) is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) by striking out the period at the end of paragraph (j) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(k) during the 5-year period beginning on the date of the enactment of the National Science Foundation Authorization Act for Fiscal Year 1987, to indemnify grantees, contractors, and subcontractors associated with the Ocean Drilling Program under the provisions of section 2354 of title 10, United States Code, with all approvals and certifications required by such indemnification made by the Director.".

(e) Title IX of the National Defense Education Act of 1958 (42 U.S.C. 1876 et seq.) is repealed.

SEC. 8. None of the funds authorized to be appropriated under this Act may be used to implement or enforce changes to the Office of Management and Budget Circular A-21 made subsequent to February 11, 1986.

The CHAIRMAN. Are there any amendments to the remainder of the committee amendment in the nature of a substitute?

The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. GRAY of Illinois] having assumed the chair, Mr. KOSTMAYER, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2095) to authorize appropriations to the National Science Foundation for the fiscal years 1987 and 1988, and for other purposes, pursuant to House Resolution 482, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it

Mr. BARTON of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 405, nays 2, answered "present" 1, not voting 25, as follows:

[Roll No. 206]

YEAS—405

Ackerman	Bonior (MI)	Collins	Dwyer	Latta	Regula
Akaka	Bonker	Combest	Dymally	Leach (IA)	Reid
Alexander	Borski	Conte	Dyson	Leath (TX)	Richardson
Anderson	Bosco	Conyers	Early	Lehman (CA)	Ridge
Andrews	Boucher	Cooper	Eckart (OH)	Lehman (FL)	Rinaldo
Annunzio	Boulter	Coughlin	Eckert (NY)	Leland	Ritter
Anthony	Boxer	Courter	Edwards (CA)	Lent	Roberts
Applegate	Brooks	Coyne	Edwards (OK)	Levin (MI)	Robinson
Archer	Broomfield	Craig	Emerson	Levine (CA)	Rodino
Armey	Brown (CA)	Crockett	English	Lewis (FL)	Roe
Aspin	Brown (CO)	Daniel	Erdreich	Lightfoot	Roemer
Atkins	Broyhill	Dannemeyer	Evans (IA)	Lipinski	Rogers
AuCoin	Bruce	Darden	Evans (IL)	Livingston	Rose
Badham	Bryant	Daschle	Fascell	Lloyd	Rostenkowski
Barnard	Burton (CA)	Daub	Fawell	Loeffler	Roth
Barnes	Burton (IN)	Davis	Fazio	Long	Roukema
Bartlett	Bustamante	DeLay	Feighan	Lott	Rowland (CT)
Barton	Byron	Dellums	Fiedler	Lowery (CA)	Rowland (GA)
Bateman	Callahan	Derrick	Fields	Lowry (WA)	Roybal
Bates	Carney	DeWine	Flippo	Lujan	Rudd
Bellenson	Carper	Dickinson	Florio	Luken	Russo
Bennett	Carr	Dicks	Foglietta	Lungren	Sabo
Bentley	Chapman	Dingell	Foley	Mack	Saxton
Bereuter	Chappell	DioGuardi	Ford (MI)	MacKay	Schaefer
Berman	Cheney	Dixon	Ford (TN)	Madigan	Scheuer
Bevill	Clay	Donnelly	Fowler	Manton	Schneider
Biaggi	Clinger	Dorgan (ND)	Frank	Markey	Schroeder
Bilirakis	Coats	Dornan (CA)	Franklin	Marlenee	Schuette
Billey	Cobey	Dowdy	Frenzel	Martin (IL)	Schulze
Boehlert	Coble	Downey	Gallo	Martin (NY)	Schumer
Boggs	Coelho	Dreier	Gaydos	Martinez	Seiberling
Boland	Coleman (MO)	Duncan	Gejdenson	Matsui	Sensenbrenner
Boner (TN)	Coleman (TX)	Durbin	Gekas	Mavroules	Sharp
			Gephardt	Mazzoli	Shaw
			Gibbons	McCain	Shelby
			Gilman	McCandless	Shumway
			Gingrich	McCloskey	Shuster
			Glickman	McCollum	Sikorski
			Gonzalez	McCurdy	Siljander
			Goodling	McDade	Sisisky
			Gordon	McEwen	Skeen
			Gradison	McGrath	Skelton
			Gray (IL)	McHugh	Slattery
			Gray (PA)	McKinney	Slaughter
			Green	McMillan	Smith (FL)
			Gregg	Meyers	Smith (IA)
			Guarini	Mica	Smith (NE)
			Gunderson	Michel	Smith (NJ)
			Hall (OH)	Mikulski	Smith, Denny (OR)
			Hall, Ralph	Miller (CA)	Smith, Robert (NH)
			Hamilton	Miller (OH)	Smith, Robert (OR)
			Hammerschmidt	Miller (WA)	Snowe
			Hansen	Mineta	Solarz
			Hatcher	Mitchell	Solomon
			Hawkins	Moakley	Spence
			Hayes	Molinari	Spratt
			Hefner	Mollohan	St Germain
			Heftel	Monson	Staggers
			Hendon	Montgomery	Stallings
			Henry	Moody	Stangeland
			Hertel	Moore	Stenholm
			Hiler	Moorhead	Stokes
			Hillis	Morrison (CT)	Strang
			Holt	Morrison (WA)	Stratton
			Hopkins	Mrazek	Studds
			Howard	Murphy	Sundquist
			Hoyer	Murtha	Sweeney
			Hubbard	Myers	Swift
			Huckaby	Natcher	Swindall
			Hughes	Neal	Synar
			Hunter	Nelson	Tallon
			Hutto	Nichols	Tauke
			Hyde	Nielson	Tauzin
			Ireland	Nowak	Taylor
			Jacobs	Oakar	Thomas (CA)
			Jeffords	Oberstar	Thomas (GA)
			Jenkins	Obey	Torres
			Johnson	Olin	Torricelli
			Jones (NC)	Ortiz	Towns
			Jones (OK)	Owens	Traficant
			Jones (TN)	Oxley	Traxler
			Kanjorski	Packard	Udall
			Kaptur	Panetta	Valentine
			Kasich	Pashayan	Vander Jagt
			Kastenmeier	Pease	Vento
			Kennelly	Penny	Visclosky
			Kildee	Pepper	Volkmer
			Kindness	Perkins	Vucanovich
			Kleczka	Petri	Walgren
			Kolbe	Porter	Walker
			Kolter	Price	Watkins
			Kostmayer	Pursell	Waxman
			Kramer	Quillen	Weber
			LaFalce	Rahall	
			Lagomarsino	Rangel	
			Lantos	Ray	

Weiss	Wilson	Wylie
Wheat	Wise	Yates
Whitehurst	Wolf	Yatron
Whitley	Wolpe	Young (AK)
Whittaker	Wortley	Young (FL)
Whitten	Wright	Young (MO)
Williams	Wyden	Zschau

NAYS—2

Crane	Stump

ANSWERED "PRESENT"—1

Parris

NOT VOTING—25

Bedell	Fuqua	O'Brien
Breaux	Garcia	Pickle
Campbell	Grotberg	Savage
Chandler	Hartnett	Snyder
Chappie	Horton	Stark
de la Garza	Kemp	Weaver
Edgar	Lewis (CA)	Wirth
Fish	Lundine	
Frost	McKernan	

□ 1505

Mr. WHITTAKER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize appropriations to the National Science Foundation for the fiscal year 1987, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on H.R. 4184, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 5 P.M., FRIDAY, JULY 11, 1986, TO FILE REPORT ON HOUSE RESOLUTION 461

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 5 p.m. on July 11, 1986, to file a report on House Resolution 461.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. WALKER. Mr. Speaker, reserving the right to object, do I understand that this is a matter that has been cleared with the minority?

Mr. KASTENMEIER. If the gentleman from Pennsylvania will yield, the resolution pertains to the impeachment of Harry E. Claiborne, and the minority has been consulted on this request.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

NATIONAL NUTRITION MONITORING AND RELATED RESEARCH ACT OF 1986

The SPEAKER pro tempore. Pursuant to House Resolution 484 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2436.

□ 1512

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2436) to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan, with Mr. KOSTMAYER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes, the gentleman from Missouri [Mr. EMERSON] will be recognized for 30 minutes, the gentleman from Pennsylvania [Mr. WALGREN] will be recognized for 30 minutes, and the gentleman from New York [Mr. BOEHLERT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALGREN].

□ 1515

Mr. WALGREN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support H.R. 2436, the National Monitoring and Related Research Act of 1986.

This legislation was introduced by Congressman MCKAY and Congressman BROWN of California. Each of these gentlemen have given a great deal of effort to creating a legislative vehicle which is supported by a broad cross section of organizations involved in the collection, the analysis and the use of nutrition and health data.

I want also to recognize the spirit of cooperation which this bill has enjoyed in the Science and Technology Committee under the leadership of the gentleman from New Mexico [Mr. LUJAN] on the minority side and the gentleman from New York [Mr. BOEHLERT], also on the minority side.

I also wish to especially recognize the assistance of our colleagues on the Agriculture Committee, the gentleman from Texas [Mr. DE LA GARZA] and the gentleman from California [Mr. PANETTA], who has maintained such a special interest in this bill, and the gentleman from Missouri [Mr. EMERSON] and others who have worked with us through the years on this issue.

H.R. 2436 is the product of 8 years of joint efforts between the Committee on Agriculture and the Committee on Science and Technology. The committee have worked with the administration and numerous agriculture, nutrition, and health groups to bring before the House today a bill that would meet the needs that have been expressed for more than a decade in the area of nutrition monitoring and related research.

Although H.R. 2436 has been reported by the Committee on Science and Technology and the Committee on Agriculture, it is clear that the subject matter of this legislation is also directly within the jurisdiction of the Committee on Energy and Commerce. I particularly want to recognize their interest and express our appreciation for the expedited consideration that committee has given this bill.

I would at this point, like to insert a letter to Mr. FUQUA from Mr. DINGELL, which expresses the understanding among these Committees, in the RECORD, as follows:

(June 26, 1986 letter to Honorable DON FUQUA from Honorable JOHN DINGELL)

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, June 26, 1986.

Hon. Don Fuqua,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Washington, DC.

DEAR DON: I want to congratulate Chairman KIKA DE LA GARZA, Subcommittee Chairman Doug Walgren and yourself for your efforts in moving H.R. 2436, the "National Nutrition Monitoring and Related Research Act of 1986," to the House Calendar. Like an earlier version in the 98th Congress (H.R. 4684) on which I corresponded with you in September 1984, it is good legislation that is clearly timely.

Doug Walgren is particularly aware that the bill covers health and related matters that are of concern to our Committee. However, I have indicated to him that our review of the bill, as reported by the Committee on Agriculture and your Committee, indicates that we really have no problem with the bill and are supportive of it.

Nevertheless, we are concerned as we were in the last Congress, about changes made as a result of Senate action and would, in such case, request to be represented on any Conference. I believe that Congressman Walgren understands this and will work with us in this regard and will make it clear when the bill is considered on the House Floor, that our jurisdiction will be recognized and preserved. Indeed, I believe, as in 1984, a letter to be included in the floor debate and conforming these understandings will be helpful.

With best wishes.
Sincerely,

JOHN D. DINGELL,
Chairman.

Nutrition monitoring surveys under the Reagan administration have come a long way since the Department of Health and Human Services and the U.S. Department of Agriculture Joint Implementation Plan was submitted to the Congress in 1981. The major forcus of those efforts has been on data collection and analyses, rather than on research.

Ways to improve the accuracy of the data, to make the data more useful for a broad range of users and to put together the data and surveys in ways that are useful on every level in our society have received inadequate attention, and yet these are the very factors that will increase the usefulness of the system and, in the long range, reduce the cost of a national nutrition monitoring system. Unfortunately, these are the factors that have received inadequate attention by previous administrations.

The difficulty in planning and implementing nutrition monitoring systems which integrate all these elements is not a matter of political philosophy, but rather it is a matter of priority setting, of cooperation, and of distributing responsibility among major responsible agencies.

H.R. 2436 fixes responsibility and coordination jointly with the Department of Health and Human Services and the U.S. Department of Agriculture. All Federal agencies that use or collect nutrition monitoring data are to participate in the preparation and the implementation of an interagency plan and budget under this legislation to accomplish specified priorities. We all recognize that a legislative mandate cannot overcome the will to hold close to one's vest or create the will to put aside what can be bureaucratic turf considerations for the sake of national priorities, but H.R. 2436 will allow the Congress the oversight needed to insure that national nutrition monitoring objectives are met.

The American Medical Association has recently indicated that the realization of a comprehensive national nutrition monitoring system was extremely important to the Nation, but they noted the continued lack of cooperation on the Federal level as a major barrier because of the limited cooperation between the Department of Health and Human Services and the U.S. Department of Agriculture in this area. The bill we have before us sets up a mechanism so that at the very minimum, the Congress will be able to see the degree to which this essential cooperation is achieved.

In addition, H.R. 2436 emphasizes two areas that the public and private sectors have identified as major important priorities to improve the current efforts that are under way. The first priority is to strenthen the assistance to State and local governments in their efforts to conduct nutrition monitoring. At present the Centers for Disease Control provides technical assistance to a selected number of States and local health jurisdictions. This consultation, as well as demonstration projects, should be available to all States who seek assistance. To make the Federal data sources more cost effective, systems must be in place to make available the statistical techniques that are available to the Center for Disease Control and State and local governments so that Federal data can be related and applied to understand what is happening in state and local populations.

The second priority is to accelerate research on methods for assessing dietary, nutritional, and health status. This methods research has the clear potential to reduce costs involving this area and by improving the usefulness of information and leveraging these funds through the involvement of industry and government partnerships, we can make a much more effective effort and make the Federal dollar deliver more to our citizens for each one.

The components of H.R. 2436 were not developed in a vacuum. Many of the features were recommended in reports of the National Academy of Sciences in 1981, again in 1984. On May 30, 1986, the Department of Health and Human Services and the Department of Agriculture released a preliminary copy of the long awaited progress report from the Joint Nutrition Monitoring Evaluation Committee, which involves both those agencies.

I want to set out in the record some of the recommendations that those agencies have now made so we can sense the direction which they themselves would encourage our national policy to go.

These recommendations closely parallel the thrust of this bill.

They recommend, the Joint Nutrition Evaluation Committee of the Department of Health and Human Services and the Department of Agriculture, that we establish a mechanism for learning more about the information that users of this kind of data need, especially information for Federal agencies, so there is more to be done in gathering data.

They recommend that we increase the availability of nutrition information from Federal surveys to those around the country.

They recommend that we improve the comparability of the data that we now collect so that more meaning can be gathered from the effort that we now make.

They recommend that we improve the timely publication of the data so that the judgments that might be made from this kind of information can be related directly to the problems of the day, rather than to be 10 years behind.

They recommend that we continue and expand efforts to study the factors that influence intake and nutritional status, especially among high-risk subgroups.

They recommend that we increase research to improve methods for assessing dietary intake and nutritional status, and they recommend that we provide adequate resources for the national monitoring system to implement these recommendations.

Now, if you take their recommendations seriously, you will be led step-by-step into the current of this bill and you will see that what we are recommending is broadly supported and now officially recommended as the direction national policy should go by the Joint Nutrition Monitoring Evaluation Committee of the administration.

In addition to these recommendations, the report interprets for the first time the available data on the food intake, nutritional status, and health of our citizens. However, both Departments, both the Department of Agriculture and the Department of Health and Human Services, caution that, "Most of the data presented in the report were collected during the 1970's and may not reflect current conditions."

It is in my view unbelievable that we have up-to-date information, indeed flash estimates of the data on the gross national product, the economic health of our country, we have it on the cost of living index, we have it on other national statistics, but in 1986 we only know the nutritional status as it related to health by looking back, as far back as the early 1970's, and we have nothing more current to give us guidance other than that.

H.R. 2436 is designed to correct this problem by requiring a percentage of the data to be collected and analyzed each year.

According to the National Academy of Sciences reports, the continuous collection and analysis of data would be much more cost-effective than the present system of gathering things in years past and then getting together the momentum to treat it all at once. It is something that we are doing on an ongoing basis and we are going to be doing it in a much more cost-effective way.

You will hear those opposed to H.R. 2436 state that the cost of this bill will be some multi-million-dollar cost beyond current expenditures. Nothing could be further from the truth. The most critical truth that I have been able to find in this whole area is that we do not have accurate information on what the actual expenditures now are in this area. We know that in the overall, we are spending something in

the range of $260 million, but not one person in this body can tell you how it is spent or who is spending it. It seems to me that the least obligation we owe as trustees of tax money is to manage it wisely, to manage it accurately, and that is the farthest thing from the truth in this area. We do not even know what is being spent, let alone be able to control some of the bureaucratic directions that money that is spent below the line item level in agencies as large as the Department of Health and Human Services or as large as the Department of Agriculture or the nine other agencies that are spending money in this area, we do not even know what they are doing, let alone be able to look our constituents in the face and say that we have properly managed their money.

Moreover, this bill provides for literally no spending, as a practical matter. It only seeks to create a plan, a plan that would then be developed in the administration and sent to the Congress for our evaluation, and that is all, period, simple, nothing more; so the thought that somehow or other we are requiring or somehow are committing to the expenditure of multimillions of dollars is just plain fiction.

You will also hear that since no new funds are authorized, the agencies will have to redirect resources from other programs somehow if this bill is enacted into law. That is clearly not the intent of the bill. I can find it nowhere in the bill and believe that it has to be an argument made up out of whole cloth.

The intent is that the agencies are expected to use resources currently used for nutrition monitoring and that this bill mandates nothing of the agencies other than the development of a plan, a plan that then is sent to the Congress and other officials in the administration for their evaluation. There is no way that the development of a plan can threaten to redirect any resources from other efforts in and of itself.

Under the provisions of the bill, the Federal agencies could request either more resources or less resources, as appropriate; but all our citizens would ask for nothing more. Congress will have the chance to review a specific budget line item for all Federal nutrition monitoring activities. Congress can then review and determine the appropriate level of expenditures for assessing the nutritional and health status of our citizens.

Passage of this bill will allow both Congress and the public, for the first time, the opportunity to exercise some oversight, literally to know what is going on.

We are presently spending $260 million with blinders on. Certainly our public does not want a know-nothing approach in an area that is as sensitive and can contribute so basically to the well-being of Americans across the board in our society.

So, Mr. Chairman, I urge support for this bill. It is a breath of fresh air after 8 years of stalemate between massive bureaucracies, each with their own interests and perspectives.

We mandate nothing except a system that will let us evaluate the cooperation that these agencies can bring together on the board as joint responsible agencies.

So I urge all of us in this Congress to support this bill.

Mr. Chairman, I reserve the balance of my time.

□ 1530

Mr. BOEHLERT. Mr. Chairman, I yield myself such time as I may consume. I rise in support of H.R. 2436.

Nutrition research has been responsible for some of the greatest strides in the field of human health. The more we learn, the more we discover how our diet helps determine our lifespan and its quality.

Yet nutrition research is hampered in this country because we do not know as much as we should about the diet and nutrition of our citizens.

That is partly because we do not do enough research, but it is largely because we are not taking full advantage of the research the Federal Government is doing already.

For example, both the Department of Agriculture and the Department of Health and Human Services conduct studies, but they are infrequent, the data is never fully analyzed, and the study methods make it difficult to compare the results.

There has been significant improvement, but the bottom line is we are still not getting our money's worth out of these studies. Indeed, it is difficult to ascertain what our money's worth should be. In the past, the agencies have had trouble telling us just what they are spending on nutrition monitoring.

The bill addresses these concerns.

Nutrition monitoring would be a line item so everyone inside and outside the Government could easily see what is being spent, and all the agencies that deal with nutrition monitoring would be required to coordinate and cooperate, how refreshing that would be, and come up with a long-range plan to improve their operations. The agencies always tell us this is their goal, anyway.

This bill would cost virtually nothing, something else that is refreshing, but could vastly expand the amount of useful information deductible from current studies. The bill does not mandate the creation of any new positions within Federal agencies and does not authorize spending for any new programs.

The bill would, however, ensure that officials in two existing positions, the Secretaries of Agriculture and Health and Human Services, see that we get the full value of their agencies' existing studies.

We should learn more about human health as a result.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from New York [Mr. BOEHLERT] has consumed 3 minutes.

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the distinguished ranking member of our full committee, the gentleman from New Mexico [Mr. LUJAN].

Mr. LUJAN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 2436, the National Nutrition Monitoring and Research Related Act. As the ranking Republican member on the Science and Technology Committee, I would like to thank the subcommittee chairman, Mr. WALGREN, and Mr. BOEHLERT, our ranking member on the subcommittee, for their interest and commitment to work through objections I raised to the bill, as it was introduced.

Following subcommittee markup, we negotiated on reducing the immediate costs in the bill related to staffing of the Interagency Nutrition Monitoring Board, giving the Board flexibility in designating the agencies best equipped to operate the competitive grants programs, limiting membership of the Advisory Council from 15 to 11, as well as staggering the appointments to the Council. There were several changes we made in the wording of the legislation to clarify any ambiquities in the bill and the report.

I would like to comment on the purpose of the legislation as I see it. First, I commend the Department of Agriculture and the Department of Health and Human Services for the improved management and commitment they have shown over the last 7 years to enhance coordination. Coordination of the Federal bureaucracy is a goal we all should strive for, and I believe there is always some room for improvement. I don't, however, share the opinion of some Members that nothing at all has been accomplished to increase our Federal investment in nutrition monitoring and research. Statements of that nature are as extreme and unfair as statements saying everything is hunky-dory.

Second, I believe this bill is a means to enhance the Federal investment in nutrition monitoring in such a way that the data we obtain in national surveys is more quickly available for interpretation, and improvements can be made where necessary and appropriate. This bill will not solve the problem of hunger in the United States, but it will tell us more about the utility of our Federal funds.

It is not my intention to scrap the ongoing efforts within USDA and HHS in lieu of a "broad new program" but, rather, the bill, as I see it, provides an enhanced way of doing business.

Mr. WALGREN. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. MACKAY].

Mr. MACKAY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I am a Johnny-comelately in this particular effort. I came on the Committee on Science and Technology 3½ years ago and found myself in a hearing where clearly people were in a state of great tension and clearly they were arguing about a matter they had discussed before at great length. I would just like to give my colleagues some background on this because I think people need this in order to understand what the argument is all about.

This bill is the culmination of an effort that began in 1969 with the White House Conference on Food, Nutrition and Health. That conference called for a coordinated National Nutrition Monitoring Plan. That conference asked for 2 pieces of information: One, the status of nutrition in America, which was not then available; and two, a baseline so that interested agencies like the Congress and interested professionals could determine whether things were getting better or were getting worse.

In 1970, the Department of Health and Human Services started a program called the HANES survey, Health And Nutrition Examination Study. They did two of these during the 1970's. These are sophisticated, statistically valid samples using both blood and urine tests. They could have become a valuable baseline effort, but the HANES study was not coordinated with the National Food Consumption Study which USDA had been doing every 10 years, which used different sampling, different data collected for different purposes, and further, the HANES data, collected at such great expense, was never analyzed.

In its oversight function, the Congress began prodding these two agencies. "Why can you not coordinate? Why can we not get a statistically valid sample? Why can we not get a baseline?"

This started in the Committee on Agriculture. It was then taken up in the Committee on Science and Technology.

In 1978, both the House and the Senate mandated a plan of implementation, mandated these two agencies to give us a plan for how this is going to be done. In 1982 we got the plan. That is 4 years. Four years waiting for a plan of implementation. The fancier the plan, the less actually got accomplished.

The HANES data has never been fully analyzed from 1971. Then, out of the 1983 argument, which occurred about hunger in America, President Reagan appointed a Hunger Task Force, and guess what it recommended? It recommended that we have a National Nutrition Monitoring Survey that is coordinated between these two agencies, with data available on a prompt and continuous basis.

So here we are, we are all trying to be polite, and the fact of the matter is that there has been 8 years of sheer sandbagging on the part of two of the most massive bureaucracies in the Federal Government, and we now in the Congress are having to mandate a coordinated plan with consistent data, consistent sampling, consistent techniques.

Will it cost money? No. We are simply asking people to do what they are doing now on an uncoordinated basis in a sensible, logical fashion. It will require some bureaucrats to change and it will mean we will finally get some useful data. Similar coordination efforts already exist between agencies that have to do with studies of acid rain, that have to do with studies of climate research, that have to do with studies of toxicology. These are the same type problems.

When we get rid of all the rhetoric and all of the talk about increasing Federal bureaucracies, what we are talking about doing here is requiring agencies to coordinate their efforts so we get a useful product so that the people of America can determine: First, what is going on in nutrition in America; and second, so we can get a baseline and determine whether things are getting better or things are getting worse.

It is really a very simple argument, it is a very simple piece of legislation, and I urge its adoption.

□ 1540

Mr. BOEHLERT. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BARTON], a member of our committee.

Mr. BARTON of Texas. Mr. Chairman, I rise in opposition to the National Nutrition Monitoring and Related Research Act. I do so for several reasons.

It is not that I am opposed to national nutrition monitoring; it is simply that I am opposed to enacting a new piece of legislation when we have existing legislation that I think is very adequate.

We have a saying down in Texas that you cannot make a silk purse out of a sow's ear. The bill that is before us today is an effort to do just that. I want to commend the gentleman from Pennsylvania [Mr. WALGREN] and the gentleman from New York [Mr. BOEHLERT] for their efforts in the committee and the subcommittee. This legislation that is before us today is an improved version.

When it first came to the subcommittee, there were many deficiencies in it. Those have been worked on and improved, but the fact of the matter is that we still have a sow's ear before us today.

One of the purposes of the act is to provide a coordinated effort on nutrition monitoring. We already have that. This report that I have right here is going to be released on July 15, and it is the Nutrition Monitoring in the United States, a prepublication copy. It has been put together by the U.S. Department of Agriculture and Health and Human Services.

It has the advisory committee that is in the bill before us today. It has a joint working team effort between USDA and HHS. This is a report that was required by the Nutrition Monitoring Act of 1981. So basically we have today what they are trying to pass in the legislative form.

The second point that I would like to make is that the bill that is before us today allegedly has not additional costs, other than perhaps $250- to $350,000 to pay an administrator if, in fact, they decide to have an administrator and to pay some travel expenses of the advisory committee.

The same bill, in the last session, had a cost of $30 million. They have pulled that out, and in lieu of it, they have a section 106 in the act that says "The Secretary shall come before the Congress each year and request an annual authorization."

The U.S. Department of Agriculture and Health and Human Services estimate that in order to meet all the requirements of this new legislation, it could cost anywhere from a minimum of $3 million a year up to $15 million a year for the next 10 years. When you add all that up, it could cost as much as an additional $182 million.

I will admit that it is probably not going to cost that much, but the minimum estimate is $70 million in additional dollars.

When we are living in an era of, if not reduced spending, at least holding the line on spending, I do not see that we can afford this kind of a potential expenditure.

Basically, we have a piece of legislation before us today. It is not bad legislation in an environment where spending was not a priority consideration, but we have got the pieces already in place that they are trying to flesh out, so I see no reason to go ahead with the bill before us today.

For that reason, I would ask that when it comes time to vote, that my colleagues vote no on this piece of legislation.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the gentleman from

Pennsylvania [Mr. WALKER], a member of our committee.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

The real question before us here today on this bill is do we really need to do this? There is nothing terribly wrong with this bill, but the question that we have to ask is: Do we really need to do it?

At a time of scarce Federal resources, do we really need to be creating another new program? Let us face it; what we are doing here is creating a program to do what it is that we should be doing. We ought to be doing oversight.

The chairman previously described the present status of affairs as the know-nothing approach. That is our fault. If we do not know what is going on in these nutrition programs, we created them. They have been done at our behest. If we do not know what is going on in them, that is our fault.

More bureaucracy is not the solution to failed congressional oversight.

Here we are. We have created a whole series of uncoordinated programs that we cannot monitor and now our solution is to create another program to look at all the other programs that were created before.

There is a real good use of taxpayer dollars for you. And, of course, what we are told is, by the people who come here to the floor today, "It is not going to cost anything."

If you really believe that, then I will introduce you to the guy who is still selling Brooklyn Bridge shares.

Because the fact is, you cannot put together these kinds of things without them costing some money. This is going to cost. When we get to the amendments, I think we will show you how it is going to cost.

Let us face it; nutrition research is important and it is being done.

The gentleman from Texas [Mr. BARTON] has just shown you a whole document of how it is being done and how it is being coordinated. All this particular approach wants to do is now add some more bureaucrats to the mix.

More bureaucrats is a drain on funds where we could be doing valuable research instead of draining resources for more bureaucrats. Do we need to do this? Should we do this? The answer is clearly "no."

Mr. FUQUA. Mr. Chairman, I strongly support H.R. 2436, the National Nutrition Monitoring and Related Research Act of 1986, a legislative proposal which has been developed through years of cooperation between the Science and Technology Committee and the Committee on Agriculture. H.R. 2436 was introduced by Mr. MACKAY, Mr. BROWN of California, and Mr. WALGREN, each of these gentlemen have worked tirelessly in creating a legislative vehicle which enjoys a broad base of support from a variety of organizations involved in the collection, analysis and use of nutrition and health data.

At this point Mr. Chairman, I would like to acknowledge the spirit of bipartisan cooperation which this bill has enjoyed in the Science and Technology Committee under the leadership of Mr. LUJAN and Mr. BOEHLERT. I also wish to especially recognize the assistance of our colleagues on the Agriculture Committee, Mr. DE LA GARZA, Mr. PANETTA, and Mr. EMERSON who have worked with us through the years on this issue.

A national nutrition monitoring system is a basic tool necessary to examine linkages between food consumption patterns, nutritional status, and health status. The baseline data and projected trends should be the basis for establishing food, nutrition and health policies, research priorities and education. At present, resources for Federal intervention programs, research and education are being allocated by policymakers, including Congress, on the basis of data that are 6 to 10 years old or nonexistent. All sectors of society use and rely on nutrition monitoring data. The data users have become frustrated that a more timely and reliable system has not evolved. H.R. 2436 will ensure that the present system is more responsive to the needs of society.

Over 70 organizations have endorsed this bill and I would like to include the list of supporters as part of the RECORD. Agricultural commodity, health, senior, religious and advocacy organizations all indicate that current Federal efforts in this area need strengthening.

The purpose of H.R. 2436 is not to create bureaucracies nor duplicate ongoing efforts as argued by the administration. Rather, the bill works by building on existing Federal management structures and ensuring continued scientific and technical advice from Federal policymakers and an independent advisory group. H.R. 2436 serves to make more effective use of Federal and State expenditures for nutrition monitoring and to enhance the performance and benefits of current Federal nutrition monitoring and related research activities.

At present, long-range planning and priority setting does not occur in a coordinated fashion. Each Federal agency involved in gathering and analyzing nutritional data follows their own agenda. Attempts in the past to coordinate these activities have failed—resulting in delays and unnecessary duplication.

Through the coordinated and bipartisan efforts of the Science and Technology Committee and the Agriculture Committee, H.R. 2436 has emerged as an uncomplicated means to set priorities, coordinate and effectively manage nutrition monitoring activities at the Federal level.

At this point, I would like to briefly review the way the bill as introduced has been streamlined through modifications by the Science and Technology Committee and the Agriculture Committee.

The primary responsibility for developing the comprehensive nutrition monitoring and related research plan and for implementing the Coordinated Interagency program now rests jointly with the Secretary of USDA and the Secretary of DHHS, rather than solely with the Secretary of DHHS.

The Administrator for Nutrition Monitoring and Related Research is to be an optional, rather than a mandatory appointment.

The Advisory Council is to consist of 11, rather than 15 appointed members.

All dietary guidance to be published by any Federal agency must be submitted to the Secretaries of USDA and DHHS. This provision will help to assure that basic dietary guidance from all Federal agencies is consistent and the confusion which frequently exists will be reduced.

Mr. Chairman, I encourage my colleagues on both sides of the aisle to carefully consider H.R. 2436. It is a sound measure which will promote the development of a coordinated, cost-effective monitoring system essential to developing a clear picture of the nutritional status of the American population. I urge you to vote for its final passage.

ORGANIZATIONAL ENDORSES OF H.R. 2436

American Academy of Pediatrics, Committee on Nutrition.
American Association of Retired Persons.
American Association of University Women.
American Baptist Churches.
American College of Preventive Medicine.
American Dietetic Association.
American Federation of State, County, and Municipal Employees.
American Heart Association.
American Home Economics Association.
American Meat Institutes.
American Nurses Association.
American Public Health Association.
American Public Welfare Association.
American School Food Service Association.
Association of Faculties of Graduate Programs in Public Health Nutrition.
Association of Maternal and Child Health and Crippled Childrens Directors.
Association of Schools of Public Health.
Association of State and Territorial Health Officials.
Association of State and Territorial Public Health Nutrition Directors.
Bread for the World.
California Conference of Local Health Department Nutritionists.
Center for Science in the Public Interest.
Center on Budget and Policy Priorities.
Child Welfare League of America.
Children's Defense Fund.
Clergy and Laity Concerned.
Coalition for Public Health Nutrition.
Coalition on Block Grants and Human Needs.
Community Nutrition Institute.
Consumer Federation of America.
Federation of Jewish Philanthropies (New York).
Food Research and Action Center.
Friends Committee on National Legislation.
Health Officers Association of California.
Institute of Food Technologists.
Interfaith Action for Economic Justice.
Joint Public Affairs Committee of the American Institute of Nutrition and the American Society for Clinical Nutrition.
League of United Latin American Citizens.
Lutheran Council, USA.
Mennonite Central Committee.
National Association of Counties.
National Association of County Health Officials.
National Association of WIC Directors.
National Black Child Development Institute.

National Cattlemen's Association.
National Consumers League.
National Council of La Raza.
National Council of Senior Citizens.
National Farmers Union.
National Grange.
National League for Nursing.
National Milk Producers Federation.
National Perinatal Association.
National Rural Housing Coalition.
National School Boards Association.
New York State Department of Education.
Older Women's League.
Public Voice for Food and Health Policy.
Rural Coalition.
Service Employees International Union.
Society for Nutrition Education.
Southern Health Association.
Subcommittee on Human Nutrition of the Experiment Station Committee on Policy of the Land Grant Colleges.
Teachers of Preventive Medicine.
The Children's Foundation.
The National PTA.
U.S. Conference of Local Health Officers.
U.S. Conference of Mayors.
United Church of Christ.
United Egg Producers.
University of North Carolina/Child Health Outcomes Project.
World Hunger Education Service.
World Hunger Year.

Mr. SCHEUER. Mr. Chairman, I rise in support of H.R. 2436, the National Nutrition Monitoring and Related Research Act of 1986.

In 1977, when I chaired the Subcommittee on Domestic and International Scientific Planning, Analysis and Cooperation, the subcommittee held hearings on the state-of-the-art in nutrition research. The common theme of all public witnesses focused on the woeful inadequacy of the U.S. nutrition surveillance system.

In 1983, the Subcommittee on Natural Resources, Agriculture Research and Environment, which I now chair, held a hearing on national food fortification policies. At that time, Food and Drug Administration witnesses told us they were unable to assess the adequacy of current policies because recent baseline data on the nutritional status of the U.S. population were not available. Food fortification is not a trivial matter since overconsumption of some nutrients could have toxic effects, yet in the case of other nutrients an inadequate intake could be debilitating. The necessary data had been collected in the 1970's, but not analyzed. This information has now been analyzed. Except for historical purposes, the investment in that effort was of little value. It is inconceivable that the United States would base food fortification policy on 1970 data in 1986. This is but one example of the shameful state of affairs that our nutrition monitoring system is in at the present time. The system is simply not working. H.R. 2436 will assure that corrective action is taken.

Investment in a clearer understanding of the relationship between diet, nutrition, and health would unquestionably increase the quality of life while reducing the cost of health care. Every year Congress sets priorities for health care, food assistance, food and environmental safety, agriculture production, and biomedical research without knowing the nutritional status of our citizens or the nutrient adequacy of the food supply. Policymakers simply cannot allocate limited resources wisely or judge the value of Federal programs without knowledge of nutrition and health trends. Neither Congress nor the executive branch can fulfill its oversight responsibility without accurate and timely data, and without the ability to track Federal funds being spent on nutrition monitoring and research. It is no wonder that organization after organization—from the President's task force on food assistance to the Heritage foundation, the National Council of Senior Citizens, and the National PTA—continue to express concern about our untimely, inefficient, and antiquated nutrition monitoring system.

It is time this Nation began focusing on health promotion and disease prevention to ease the cost of health care. It is also time we apply available technology to accurately assess and effectively maintain the nutrition-related health of our people. The assurance of a timely nutrition and health surveillance system is not enough. Unless the present imprecise, costly, and invasive assessment methods are improved through research and technology transfer, funds expended will continue to be wasted. That is a point this administration and past administrations apparently have not understood and still do not understand.

H.R. 2436, as reported, has taken into consideration many of the administration's concerns previously expressed about the bill as introduced. Yet, the administration still continues to find new reasons to oppose the measure. The opposition now centers around two of the bill's initiatives which are administration it declares unnecessary and costly. One priority is to leverage funds through industry/government/academia partnerships to improve assessment methods. This provision is in fact a cost saving measure.

The second priority is to provide technical assistance to State and local governments. This important feature of the bill was included at the request of State public health leaders. This priority does not create a new program, but rather provides a legislative mandate for the current nutrition surveillance activities of the Centers for Disease Control [CDC]. This will insure that the CDC program, as well as other nutrition monitoring activities, will not be terminated since the lack of congressional requirement for specific programs is frequently cited by OMB as justification for eliminating important programs. This priority is also a cost saving measure which would allow all States to receive technical assistance when State funds are expended for nutrition and health data, and allow all States to benefit from Federal data sources. The principle objections to these priorities have come from USDA, yet the initiative for assisting States in this regard is an ongoing function of DHHS.

The administration's other major objection to H.R. 2436 is the requirement of an annual report on the National Nutrition Monitoring Program. An annual report will provide for the evaluation of the program's effectiveness as well as an up-to-date analysis of the nutritional and health status of our citizens. This is exactly what is needed by policymakers at all levels of government. When program administrators object to management tools that will facilitate public and congressional oversight, a legislative mandate is long overdue.

I urge my colleagues to support H.R. 2436.

Mr. BOEHLERT. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I rise to add my support for the passage of H.R. 2436, the National Nutrition Monitoring and Related Research Act, without amendment. With the implementation of this bill we will have, for the first time in our Nation, a comprehensive, coordinated program for national nutrition surveillance, with special emphasis on the nutritional problems of high-risk groups and the availability of recent, policy-relevant data.

This system was first recommended in 1969 at the White House Conference on Food, Nutrition and Health and we have been struggling to put such a system in place ever since. Hearings on national nutritional status monitoring priorities and systems have been held by subcommittees of the Committee on Science and Technology since 1977. In 1984, H.R. 4684, was introduced in response to the nutrition monitoring needs expressed at oversight hearings and recommended by Government agencies, professional organizations, and nutritional scientists.

Since that time, the nutrition monitoring bill, now H.R. 2436, has been modified to meet the concerns and data needs of numerous organizations, senior citizens, health and nutrition professionals, scientists, education officials, advocates for children and low-income people, public officials and minorities. It also has enjoyed strong bipartisan support during its consideration by the Science and Technology Committee and the Agriculture Committee.

It is clear that this bill is needed. I have a special interest in it as a member of the Select Committee on Hunger. I believe that the emphasis it gives to high risk groups and improved timeliness of data collection, analysis and dissemination, and the assistance it provides to localities and States in their collection of nutrition data, will go a long way toward creating an early warning system for hunger in our Nation. I invite our colleagues to join in voting in favor of H.R. 2436.

□ 1550

Mr. BOEHLERT. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. MONSON].

Mr. MONSON. Mr. Chairman, as I look at this bill, it is hard to find why we should argue against it, because the programs that are contained in it are so good and so needed; but as I realize what else is going on in the federal system right now, it is obvious that it is a duplication of what is already occurring.

If we are not getting the information that we need from what is already going on, then we need to do something to stimulate a better approach to that, but the creation of a new program without eliminating existing programs is an added duplication that is going to cost additional money.

As a State official, I watched over and over as we, the Federal Government, began programs that were duplications of other programs that were already in existence. I frequently ask the question: Why, when a new program like that is created, are not old ones eliminated so that we do not have that kind of duplication?

If we could do that in this instance, if we could eliminate that kind of duplication, eliminate the spending that goes on for those programs, then I would have no objection to going ahead with this. It is going to cost us some money, say what you want to about it. When a new program is created, new things are mandated to be done, and we are going to be spending some more money.

Whether or not that is going to come out of other expenditures that are going on remains to be seen. What we do know is that it will cost money and that it is going to have to come from somewhere. We are either going to have to give it to them from the Congress through appropriations, or we are going to have to oversee the reprogramming of funding within those agencies already.

Now the statement was also made that there is no spending in this bill. Well, one of the things that is contained within this bill is a mandate that the program come back with a grant program included in it. I have never seen a grant program yet that does not cost money.

If we are going to have a grant program, that is going to cost money; we ought to define what the limits of that are before we get carried away with it.

So I would like to see that changed. If we can make some of these improvements in the bill, I can certainly support it; but without it, I think it is just another duplication, more additional spending that we cannot afford in the existing budgetary conditions.

Mr. BOEHLERT. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WALGREN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Chairman, I thank the gentleman for his leadership in this matter, as well as the chairman of the Subcommittee on Nutrition of the Committee on Agriculture for his leadership.

Mr. WALGREN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, the Nutrition Monitoring and Related Research Act (H.R. 2436) provides a long overdue organizational framework for a nutrition surveillance system. For more than a year H.R. 2436 has been actively debated by Members of the House Committee on Science and Technology and the House Committee on Agriculture. As a result, significant revisions were made so that the bill is now supported by over 70 organizations which range from scientific professionals to agricultural commodity groups. There was no opposition to H.R 2436 in the House Agriculture Committee when it was reported for consideration to the House on June 19, 1986. The bill was reported with one amendment which was proposed by the gentleman from Missouri, the Honorable BILL EMERSON, the ranking minority member of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition. The Emerson amendment, which is part of the bill being considered today, clarifies the language on dietary guidance. H.R. 2436 also received strong bipartisan support from the House Science and Technology Committee when reported on March 4, 1986.

For nearly 10 years the Committee on Agriculture and the Science and Technology Committee have sought to establish an effective national nutrition monitoring system. Prior legislation resulted in a joint implementation plan for a comprehensive national nutrition monitoring system [NNMS] submitted to Congress in 1981. This plan provided a report on Federal nutrition monitoring activities through 1987, and attempted to coordinate the nationwide food consumption survey conducted by USDA and the national health and nutrition examination survey [HNAMES] carried out by the Department of Health and Human Services. What was not achieved under the plan but would be achieved under H.R. 2436 is a continuous survey sampling that is reliable and compatible with those conducted by other agencies of the Federal Government and with State and local governments. What the plan did not accomplish is an integrated measure of food consumption, dietary intake, and related health implications that could well be achieved from more carefully designed national surveys.

H.R. 2436 provides the framework for coordination among Federal agencies that is currently lacking. Over nine agencies of the Federal Government now engage in nutrition research and training activities spending well over $200 million. The Department of Health and Human Services, the Department of Agriculture, and the Department of Commerce separately collect nutrition-related data on various sectors of our population through 19 separate surveys. In 1985, the Department of Health and Human Services estimated that about $13 million was being spent on nutrition monitoring activities, but could not provide an actual figure because costs were not contained in separate line items within the Department's budget. The Department of Agriculture's Human Nutrition Information Service [HNIS] spent about $13 million in fiscal 1986 for various activities relating to food supply and nutritional status studies, including the decennial national food consumption survey, without precise accounting for distinct nutrition monitoring activities.

In recent years there has been ample criticism of the shortcomings of agency coordination in data collection, analysis, and reporting on the ground that we do not have a comprehensive view of the nutritional status of our population. The 1985 report to the President and Congress by the National Agriculture Research and Extension Users Advisory Board is one example of statements calling for improved integration of resources. It stated:

> These limitations were a result of poor coordination among the appropriate Federal agencies. Each Department would conduct its own survey while ignoring the opportunity to coordinate with other agencies to economize and perhaps make the results more conclusive. Specific steps should be taken to coordinate the more than nine ongoing research studies under the auspices of four agencies.

Statements by the American Medical Association before the Federation of American Societies for Experimental Biology this year indicated that a comprehensive nutrition monitoring system is important to the promotion of health and prevention of disease, and "the current impasse should be resolved in 1986 by focused efforts of the Secretaries of two Departments."

These and other statements about the need for greater coordination, standardized procedures for data collection, and improved planning have emphasized the need for enactment of the Nutrition Monitoring and Related Research Act. This bill seeks to eliminate the current disarray in nutrition research by designating the Secretaries of the Department of Health and Human Services and the Department of Agriculture as the leaders in devising a national nutrition monitoring plan. Together, they will share the responsibility for timely, accurate data collection, while being required to stipulate in their annual fiscal budgets line items for nutrition monitoring activities. Together the Secretaries will develop long-range goals for monitoring, on a continuing basis, the food consumption practices and nutritional health of our general population. Together the Secretaries will be directed to work with State and local govern-

ments and the private sector to develop methodologies for nutritional studies based on uniform standards and practical measures.

The mechanism for achieving these objectives will be a seven-member independent task force, or interagency Board, controlled by the Secretaries. This Board may incorporate the existing Interagency Committee on Human Research, but goes further than that Board in its responsibility for research and monitoring activities. The key functions of the interagency Board would be to update the nutrition monitoring plan in such a way that a continuous data collection and nutrition surveillance system would be implemented by 1990. The Board could draw on the expertise of the scientific community through a council designated to evaluate data collection methods and recommend efficient and accurate reporting techniques. Overall the nutrition monitoring plan should provide nutritional and dietary information on our general population, with a special focus toward those most at risk and living in specific geographic areas.

As chairman of the Subcommittee on Nutrition of the House Agriculture Committee, I have reviewed information provided through existing surveys and have found the results disappointing. While there may be information available pertaining to dietary intake of a sample population surveyed, often this data is based solely on dietary recall and is not collected over a long enough period to yield reliable conclusions about the nutritional status of that group. Specific studies may examine the height and weight of newborns, but make no effort to follow the developmental patterns of those same babies who may or may not receive supplemental food assistance. Food consumption surveys are often distinct from dietary intake analysis and the ramifications for determining how these affect health are nearly impossible to determine.

In my view, H.R. 2436 is needed because it holds two agencies responsible for the efforts they are making to tell us something about the nutritional status of our citizens. It holds them accountable for the money we are spending, and the results we are getting. But, most important, this bill is needed because it will allow us to base food policy decisions over the next decade, and in the next century, on sound information. H.R. 2436 is critical to our planning and legislating, to our decisions about our food production and resources, and to our health over the long term.

I understand that a number of amendments to this bill may be offered today. H.R. 2436 was carefully examined by two committees of the House of Representatives. Members of both the Committees on Science and Technology and Agriculture had ample opportunity to amend the bill during that process. The only amendments which do not fall into this category deal with the language pertaining to section 106(a). That section would require that funding for the comprehensive plan be carried as separate line items in the budget and, to the maximum extent feasible, be carried as 3-year appropriations.

Except for this issue, what is proposed now is to consume valuable time on the House floor on what appears to be technical changes that could have been handled in the committees' markups.

For that reason, I urge the adoption of H.R. 2436 without amendments.

□ 1600

The CHAIRMAN. The gentleman from California has consumed 8 minutes.

Mr. EMERSON. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, the National Nutrition Monitoring and Related Research Act of 1986 was referred jointly to the Committee on Agriculture and the Committee on Science and Technology. Both committees have considered this bill and have completed action.

The purpose of H.R. 2436 is to establish a 10-year Coordinated Nutrition Monitoring Program in which public and private interests and priorities concerning this issue are discussed and evaluated in a cooperative manner. The bill establishes a Board comprised of representatives of Federal agencies involved in nutrition monitoring; a council comprised of persons providing scientific and technical assistance on nutrition monitoring; and, a grants program for development of uniform standards for monitoring dietary status and for State and local governments to develop the capacity to conduct nutrition monitoring.

I fully support nutrition monitoring activities. In fact, I was the author of an amendment to the 1985 farm bill that directs the Secretary to include in its nationwide food consumption survey a sample that is representative of low-income individuals. In addition the USDA will collect information on food purchases and other expenditures by low-income individuals when conducting the Department's continuing survey of individual food intake and any nationwide food consumption survey. The Secretary must continue to maintain the Department's nutrient data base and encourage research by public and private entities relating to effective standards, methodologies, and technologies for accurate assessment of nutritional and dietary status. This amendment is a part of Public Law 99-198.

I offered an amendment during the Agriculture Committee markup, which was accepted. My amendment clarified title III concerning dietary guidance. Any dietary guidance to be issued by a Federal agency will be submitted to the Secretaries of Agriculture and HHS to be reviewed before publication. This first phase of the review process will be completed within 1 month. Dietary guidance which is considered to be basic dietary guidance for the general population will be reviewed by the Secretaries and will not be released until approval is granted and notification is made to the head of the Federal agency issuing such guidance. This second phase of the review process must be completed within 6 months. In addition, basic dietary guidance includes guidelines for health promotion and disease prevention.

The Departments of Agriculture and HHS are responsible for providing nutrition information from the Federal Government. Now we can ensure that the basic dietary guidance issued by the Federal Government is consistent and compatible and that the Federal Government speaks with one voice on this issue to the general population. Therefore, every Federal agency, which includes an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress which is owned in whole or in part by the United States, must comply with the provisions of title III.

It is my hope that this bill will improve the system for nutrition monitoring and will provide more accurate and up-to-date information on the nutritional status of Americans.

I would like to mention that the two Departments, Agriculture and HHS, recently sent to the committee a prepublication copy of "Nutrition Monitoring in the United States: A Progress Report from the Joint Nutrition Monitoring Evaluation Committee." This document represents the first time the Department of Agriculture and the Department of Health and Human Services have consolidated data on nutritional issues into one report. The report will be formally released when it is printed, by July 15, 1986.

The report should serve as a valuable reference providing information on food intake, nutritional status, and health.

Several recommendations were included in this report, such as: Improvement in information exchange between those who gather the data and those who use it; an increase in the use of the data collected and improvement in the compatibility of the data from all Federal surveys; improvements in the methods for assessing information on nutritional status; and identification of more sources to include in the nutrition monitoring system.

I commend the two Departments for the improvement already made to the nutrition monitoring system and look forward to an even better system.

I would like to mention several accomplishments achieved by the agencies involved in nutrition monitoring. I realize problems have existed; however, those citing problems should not neglect to mention the accomplishments as well.

It took 6 years after completion of data collection for the HHS study (1971–74) to process the data. However, much of the second study (1976–80) was processed within 2 years.

A survey addressing the need to collect data on specific subpopulations, was conducted in 1982–84. Release of data was begun in 1 year. Data tapes for the remainder should be available by end of 1986.

The third HHS study is scheduled to be in the field in 1988. The responsible agency is proceeding with automation of the dietary interview. This and other procedures will result in a much shorter collection-to-release time than in the past.

The Centers for Disease Control produces an annual publication entitled "Nutrition Surveillance" that makes available nutrition-related data collected by State and local health departments. Monthly and quarterly tabulations are also available.

The continuing survey of food intakes by individuals was initiated by USDA in the spring of 1985, and the first data was released in December 1985. The survey is designed to capture usual dietary intake by resurveying the same individuals up to 6 times during a 12-month period.

The next USDA study is scheduled to begin in the spring of 1987.

These are significant achievements and the Agriculture Department and the Department of Health and Human Services have improved nutrition monitoring over the past 5 years.

Further improvements can come through H.R. 2436. I urge your support.

The CHAIRMAN. The gentleman from Missouri [Mr. EMERSON] has consumed 7 minutes.

Mr. PANETTA. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, today we are considering the National Nutrition Monitoring and Related Research Act of 1985, H.R. 2436. The purpose of this legislation is to make more effective use of Federal and State expenditures for nutrition monitoring, and to improve the performance and benefits of current Federal nutrition monitoring and related research activities.

This legislation is deeply needed, especially now when high budget deficits have made us all committed to improving the productivity of current Federal programs. There is no excuse for not getting the most benefit possible from the nutrition research and monitoring programs which are funded by our taxpayers.

This legislation is needed because our current Federal nutrition efforts are disjointed. Several agencies within our Federal Government have conducted nutrition-related research to meet their individual needs, including the Department of Agriculture, the Department of Defense, and the Department of Health and Human Services. Nutrition research undertaken by various Federal agencies has not been coordinated, and frequently has been conducted in a manner which does not allow for comparison between various studies. This lack of coordination has resulted in a very real loss of knowledge which could have been generated with relatively little extra effort.

With regard to nutrition monitoring surveys, the results of nutrition monitoring surveys have not been made available in a timely fashion, often being released years after the initial data was collected. The resulting lack of timely, objective nutrition monitoring data has resulted in the President or Congress reacting to hunger and malnutrition crises without the essential information needed to develop informed policies.

The National Nutrition Monitoring and Related Research Act of 1986 would increase communication and coordination among the many Federal agencies and departments conducting nutrition programs, thus increasing the benefit of this research to all interested parties.

LEGISLATIVE HISTORY

Annual hearings have been held on nutrition monitoring and related research for 8 years in the Science, Research and Technology Subcommittee. Subcommittees of the Committee on Agriculture have participated in the last five. When it became clear that our national nutrition monitoring and related research efforts were disjointed, and should be better coordinated, Congressman MACKAY, Congressman WALGREN, and myself introduced an earlier version of the National Nutrition Monitoring and Related Research Act in 1984, H.R. 4684.

The 1984 version was brought before the House under suspension of the rules, received well over a majority vote, but not the two-thirds vote needed for passage. On June 25, 1985, a joint hearing was held on H.R. 2436 with the Subcommittee on Science, Research and Technology of the Committee on Science and Technology and the Subcommittee on Department Operations, Research and Foreign Agriculture, and the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition of the Committee on Agriculture.

Prior to the House Science and Technology Committee markup, Congressman MACKAY, Congressman WALGREN, and I met with representatives of numerous agriculture commodity groups to ensure that their concerns about the legislation were addressed. Following the markup in the Science, Research and Technology Subcommittee, these agriculture commodity groups endorsed the legislation. These groups included the National Cattlemen's Association, the National Milk Producers Federation, the United Egg Producers, and the American Meat Institute. The House Agriculture Committee held a markup on H.R. 2436 on June 5, and reported it out of committee unanimously.

SUMMARY OF BILL

This legislation establishes a framework for achieving the stated objectives through an interagency board for nutrition monitoring and related research and a national nutrition monitoring advisory council. The Secretary of Agriculture and the Secretary of Health and Human Services are jointly responsible for the development of a comprehensive plan for nutrition monitoring and related research and for the implementation of the coordinated program. The interagency board is to assist the Secretaries in achieving these objectives. The bill also stipulates that an administrator may be appointed to serve as the central focus for these coordinating activities. The major functions of the advisory council are to provide scientific and technical advice on the development and implementation of the National Nutrition Monitoring and Related Research Coordinated Program and to evaluate the effectiveness of the program's implementation.

The Secretaries, with the advice of the interagency board, are responsible for the development of a 10-year comprehensive plan which is to serve both as a focal point for nutrition monitoring activities, and as a means to identify national nutrition monitoring priorities. The coordinated program is to build on the 1981 joint implementation plan for a comprehensive national nutrition monitoring system, and include at least the following components:

A grants program to promote State and local monitoring initiatives.

A grants program to accelerate the development of monitoring methods and standards.

Means to stimulate academic-industry-government partnerships to accomplish national nutrition monitoring needs; and

Methods to foster cost recovery and cost-sharing techniques.

Mr. Chairman, I cannot overemphasize the importance of this legislation. We are all aware of the crucial role proper nutrition plays in human health and longevity. However, we still have much to learn in this rapidly growing field.

The National Nutrition Monitoring and Related Research Act will bring the priority and coordination needed to maximize the benefits of our Federal nutrition efforts. These benefits will not only be enjoyed by policymakers who will have better data from nutrition monitoring surveys upon which to base policy decisions, but also by the nutrition community, which relies heavily on results from Federal research for their own work. In the end, it will be society as a whole which will benefit.

□ 1615

Mr. EMERSON. Mr. Chairman, I yield 4 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, most points that I would want to cover have been covered. I just want to rise in support of the bill. One of the most important aspects of this legislation, hopefully, will be to tell us whether or not we are spending our money and our resources in the right direction. We are in a time of limited resources. We cannot afford to waste.

I serve both on the Committee on Education and Labor, which has the WIC Program, school lunch and other programs, and also on the Committee on Agriculture with the Food Stamp Program. Thus I am one of the few Members who has an opportunity to watch all of these nutrition programs.

It is so difficult for us to try to act to ensure that our resources are allocated properly because we have insufficient data. We know from the studies, not the Government studies but from private studies done, that this particular program saves us $3 for every $1, and this program saves us $2, or maybe this program does not save us anything. But we do not have any real firm data or statistics from objective Federal studies to justify any reallocation of resources. Obviously, we should have that. If we are going to spend the precious dollars that we have in the right areas, we must know as to which programs are working and those that are not.

In addition to that, the anomaly of the situation is that the savings that we get from those programs are not in our committee. So there is tremendous pressure for us to cut back in this Nutrition Program and that Nutrition Program, even though they may be saving millions and millions of dollars, because the savings occur in the Committee on Ways and Means or somebody else's budget because of the reduction in the cost of the Medicaid Program, other health programs, or rehabilitation programs or whatever.

So it is incredibly important, as we move forward, that we do take the advice of the President's Commission on Hunger and others that we must coordinate our resources in this area. We must be able to determine as to whether or not, first of all, the money that we do spend is being spent wisely and is adequate, or, in addition to that, as to whether or not it is inadequate. Whether we should increase our spending because, even though it may cost more in the Education and Labor budget, it is going to save billions of dollars in someone else's budget. Only then can we really know as to whether or not our resources are being adequately spent.

Mr. Chairman I would like to make some additional comments on H.R. 2436, the National Nutrition Monitoring and Related Research Act of 1986. As a sponsor of H.R. 2436, I am particularly pleased to see this bill on the floor today for consideration.

H.R. 2436 is designed to both streamline and coordinate the nutrition data collection carried out by Federal agencies. There is a great deal of effort and resources currently expended on nutrition monitoring. The U.S. Department of Agriculture, the Department of Health and Human Services, the Bureau of Labor Statistics, and the Center for Disease Control all collect and analyze nutrition information. Even with this impressive lineup, serious gaps exist in available nutrition data.

As a member of the Agriculture Committee with a deep interest in the problem of hunger in America, I have been repeatedly frustrated by the difficulty in obtaining timely data on the food needs of the people in our Nation. Studies showing growing hunger in America, reports of higher infant mortality in our poorest rural areas, high rates of poverty among children, and an increasing demand for emergency food by Americans of all ages, all point to a serious hunger problem. What is lacking is the comprehensive information needed to evaluate the food needs of our Nation and to better direct future efforts to meet these needs.

Both the health and nutrition examination survey [HANES] compiled by HHS and the USDA's decentennial nationwide food consumption survey [NFCS] track information useful in evaluating the ability of our food and nutrition programs to meet this need. Unfortunately, no current data is available from either of these sources. In fact, the most recent data from these surveys dates back 6 years to 1980.

While the 10-year mark for NFCS rolls around in 1987 and data collection will begin again during that year, a complete analysis will not be available until sometime after 1990. Likewise, HANES data collection is not scheduled to begin until the fall of 1988, with actual analysis coming out several years later.

Policymakers, health professionals, program administrators, and charitable organizations need up to date data on the nutritional status of Americans in order to make informed decisions in a myriad of areas. As the President's Task Force on Food Assistance pointed out, the existing system clearly does not meet this need. H.R. 2436 includes the changes needed to move us to a system of timely and accurate analysis of the nutritional status of Americans.

Specifically, H.R. 2436 outlines a 10-year plan for a comprehensive nutrition monitoring and research program under the joint direction of the Secretray of Agriculture and the Secretary of Health and Human Services. The new program would basically maintain and coordinate existing Federal efforts, including HANES and NFCS, but would provide for the development of continuous collection and timely analysis of nutritional and dietary data by 1990. The plan also calls for an 11-member advisory council to provide the scientific and technical assistance needed to develop and maintain the nutrition monitoring and research system. Finally, this bill provides for review by the Secretaries of Agriculture and HHS prior to publication of dietary guidelines for the general population.

H.R. 2436 has the endorsement of over 70 organizations ranging from the American Heart Association to the National Milk Producers Federation. I urge my colleagues to give their full support to H.R. 2436.

Mr. EMERSON. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I stand in support of H.R. 2436. The purpose of the bill is to make more effective use of Federal and State expenditures for nutrition monitoring. We need a better coordinated system to collect and analyze information about the nutrition problems of our population. All the agencies in government who are involved in nutrition monitoring ought to be working more closely together, especially the Departments of Agriculture and Health and Human Services. I think that the central focus for coordination, management and direction of the Federal nutrition monitoring activities created by this bill—through the Interagency Board staffed by the Assistant Secretaries from the two key departments—will facilitate the coordination, accountability, and streamlined management of nutrition surveillance activities that we'd like to see.

I also think such a system will be more cost effective. Improved coordination among agencies should make more effective use of Federal expenditures. Unnecessary duplication of effort can be eliminated. The bill calls for more effective use of cost recovery management techniques and imposes charges and fees for publications to supplement the resources provided by the Federal Government. In addition, it calls for the development of partnerships to implement the nutrition monitoring plan and mechanisms to leverage funds from private sector data users.

I would like to conclude my statement by reminding my colleagues in the House that the current version of H.R. 2436 has been reported out by both the Science and Technology Committee and the Agriculture Committee with strong bipartisan support. I encourage you to vote in favor of H.R. 2436.

Mr. FORD of Tennessee. Mr. Chairman, I rise today in support of H.R. 2436, the National Nutrition Monitoring and Related Research Program.

This legislation which creates a coordinated initiative to monitor and develop national nutrition priorities is long overdue. Despite a generation of attention, undernourishment in America is still epidemic.

The problem is not comparable to the starvation in Ethiopia. But it warrants fears of an underclass of Americans whose health and intellectual power are stunted from birth.

The problem of malnutrition is most evident among pregnant women and young children. Among pregnant women in some parts of Memphis, TN, the infant mortality rate is 35 per 1,000 live births.

Part of the high infant mortality rate in these areas is due to the premature births to undernourished mothers, especially teen mothers.

The better a mother is nourished, the less likely she is to deliver a premature baby. The smaller the premature baby, the smaller its chances for survival and the longer its hospital stay after delivery.

The price for malnutrition among children is a higher frequency of mental retardation, limited growth, chronic illness, and early death. Such malnutrition often inhibits the healing of wounds and the health of bones, teeth, and blood vessels.

The existence of malnutrition in America is intolerable and must be challenged. The bottom line is that in a country of affluence and plenty of food, there is no reason to have levels of undernourishment such as we now have. I urge my colleagues today to support this bill.

Mr. DOWNEY of New York. Mr. Chairman, I rise today in support of H.R. 2436, the National Nutrition Monitoring and Related Research Act. This legislation is vitally important and worthy of resounding approval by the House.

Recently, in a symbolic act of national unity, millions of Americans held their hands across America. We all commended the millions who took part in Hands Across America, but it is not our job here in the Congress to be symbolic. H.R. 2436 gives us the chance to move beyond symbolism and into substance. We can show the hungry and malnourished of this country that we know they exist and are in need of assistance.

H.R. 2436 would improve Federal efforts in the area of dietary and nutritional status monitoring. This well-crafted legislation goes a long way toward ensuring that our Federal, State, and local public and private agencies would have the information necessary to address the problem of malnutrition in America. The need for timely, substantive, and accurate information in this area is well documented.

More than 22 percent of U.S. children currently live below the poverty line. That is a national disgrace. It is a disgrace that can only be corrected if the information is there to deal with it. That is why I urge my colleagues to join me in supporting H.R. 2436.

Mrs. SCHNEIDER. Mr. Chairman, for thousands of Americans, going to bed hungry is something that happens every night. All the same, the Federal Government is ill-equipped to address this critical problem. Despite the fact that several Federal agencies currently collect information on food practices, trends, and health implications, this data is never integrated. As a result, we do not have a clear picture of the nutritional needs of our population. In short, lacking reliable, conclusive information, there is no way we can fashion effective programs and policies.

The bill before us today, H.R. 2436, the Nutrition Monitoring and Related Research Act, will go a long way toward correcting this regrettable situation. It will make more effective use of Federal dollars spent on nutrition monitoring by coordinating the efforts of the Department of Agriculture [USDA] and the Department of Health and Human Services [HHS]. USDA and HHS will be required to prepare and put in place a national 10-year plan designed to:

Study and report on domestic nutritional and dietary trends;

Study low-income food and household expenditures;

Sponsor and conduct research on nutrition standards, technologies, and methodologies; and

Develop and update a national dietary and nutritional status data bank.

In addition, the bill will provide assistance to State and local agencies in developing their own procedures and networks for nutrition monitoring. In my own State of Rhode Island, this will be most welcome. State and local governments would also be provided with a say about the specific content of surveys through representation on a National Nutrition Monitoring Advisory Council.

In my view, H.R. 2436 makes good common sense and good fiscal sense. We need to know more about the nutritional needs of Americans in order to keep our Nation healthy, fit, and well fed. And, at a time when funds are short for both research and services, we need to be stretching Federal dollars as far as they will go. H.R. 2436 will accomplish both of these goals and I urge my colleagues to join me in voting for this sound and much needed legislation.

Mr. LELAND. Mr. Chairman, as chairman of the House Select Committee on Hunger, I strongly recommend the passage of H.R. 2436, the National Nutrition Monitoring and Related Research Act, without amendment.

Since its inception in 1984, the select committee has been collecting nutrition-related data from previously existing and ongoing studies in an attempt to respond to the increasing problem of hunger in the United States. The existence of hunger is evident in many ways, most obviously in the burgeoning growth of emergency feeding centers. While specific information is crucial to developing appropriate policy responses, timely and systematic data on the extent of hunger and its health consequences is severely lacking.

The Federal Government has two major nationwide nutrition surveys which collect data on individuals from all income groups: U.S. Department of Agriculture's Nationwide Food Consumption Survey and Department of Health and Human Services' National Health and Nutrition Examination Survey [NHANES]. The information from these surveys is not timely. The most recent nationwide data available on all age groups is from NHANES II conducted in 1976–80. Even this data has not yet been analyzed or interpreted in a published form.

The current design of these surveys make it impossible to identify subpopulation groups that are experiencing high rates of undernutrition, such as the frail elderly, migrant farmworkers, Native Americans, the long-term unemployed and the homeless. Further, the surveys are not integrated to provide a comprehensive view of hunger, household food expenditures, participation in food assistance programs, or related health problems.

A less extensive nutrition survey is conducted annually by the Centers for Disease Control [CDC]. Their Pediatric Nutrition Surveillance System compiles information on the nutritional status of low-income children from 34 States. Their reports, however, rely only on nutrition data on children who receive public screenings, missing many of the vulnerable children.

Twenty-nine cases of severe undernutrition among children were reported to the select committee last year by medical witnesses Katherine Christoffel, M.D., at the Children's Memorial Hospital in Chicago, and William Bithony, M.D., the medical director of the growth and nutrition program at Children's Hosptial in Boston. Such cases are not picked up by the current CDC Pediatric Nutrition Surveillance System because hospital data is not included.

H.R. 2436, the National Nutrition Monitoring and Related Research Act of 1985 is an important antihunger initiative because it would require coordination of ongoing Federal and State expenditures for nutrition monitoring, timely reporting of the data collected, and technical assistance to State and local governments who seek to target use of public funds to those persons at greatest nutritional risk. Specifically, H.R. 2436 calls for a 10-year comprehensive plan to be developed which includes a provision for continuous collection, processing, and accelerated analysis of nutritional data through a sampling data of the U.S. population designed to provide reliable data of high-risk groups and geographic areas.

Objective information allows hunger to be addressed dispassionately. The amendments being offered today strike at the heart of this bill's ability to effectively consolidate nutrition-related data.

Concern about the nutrition status of poor Americans is genuine among the majority of our citizens regardless of political party lines. The guidance of solid data is needed to translate this concern into solid legislation. But, if we continue to rely on piecemeal, out-of-date information, political rhetoric will dominate policy discussion.

Mr. EMERSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill in bold roman will be considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendment in the nature of a substitute recommended by the Committee on Science and Technology, and each section shall be considered as having been read.

The Clerk will designate section 1.

Mr. WALGREN. Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Nutrition Monitoring and Related Research Act of 1986".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality of the United States food supply;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including (A) dietary, nutritional, and health status measurements, (B) food consumption measurements, (C) food composition measurements and nutrient data banks, (D) dietary knowledge and attitude measurements, and (E) food supply and demand determinations;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(5) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title submitted to Congress in September 1981 by the Department of Agriculture and the Department of Health and Human Services, under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established under section 201;

(7) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly; and

(8) the term "local government" means a local general unit of government or local educational unit.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

ESTABLISHMENT OF THE COORDINATED PROGRAM

SEC. 101. (a) There is hereby established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) The Secretaries shall be responsible for the implementation of the coordinated program.

(c) To assist in implementing the coordinated program, there is hereby established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as deemed appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months.

(d) To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint a full-time Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas, and be selected on the basis of his or her established record of expertise and distinguished service; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

FUNCTIONS OF THE SECRETARIES

SEC. 102. (a) The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program and identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;

(4) include in the coordinated program and the comprehensive plan a competitive grants program, in accordance with the provisions of this Act, to encourage and assist the conduct, by Federal and non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in sections 103(a)(5) and 103(b)(9));

(6) include in the coordinated program an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years or more frequently if appropriate, a report, on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality of the national food supply; and

(9)(A) foster cost recovery management techniques in the coordinated program, and (B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the

actual costs incurred by the coordinated program in providing the publications involved).

(b) The Secretaries shall submit to the President for transmittal to Congress by Janaury 15 of each year an annual report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 103;

(3) analyze the dietary, nutritional, and related health status of the people of the United States, the nutritional quality of the national food supply, the relevant policy implications of the analytical findings, and future nutrition monitoring and related research priorities;

(4) include in full the annual report of the Council provided for in section 202; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM

SEC. 103. (a) The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate, date with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low income populations, blacks, Hispanics, and other minorities as appropriate), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) assess, analyze, and report, on a continuous basis, for a representative sample of the low income population, food and household expenditures, participation in food assistance programs, and periods experienced when resources were not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the activities of the Federal agencies.

(b) The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1990, for the continuous collection, processing, and analysis of nutritional and dietary status data through a stratified probability sample of the people of the United States designed to permit statistically reliable estimates of high-risk groups and geopolitical and geographic areas, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends:

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of obtaining dietary and nutritional status data and developing related data bases and networks to promote the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, outcomes, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) The comprehensive plan shall allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved, and shall contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program.

(d) The comprehensive plan shall—

(1) be submitted in draft form to the President for submission to the Congress, and for public review, within twelve months after the date of the enactment of this Act;

(2) be available for public comment for a period of sixty days after its submission in draft form under paragraph (1) by means of publication in the Federal Register;

(3) be submitted in final form, incorporating such needed revisions as may arise from comments received during the review period, to the President for submission to the Congress within sixty days after the close of the period allowed for comments on the draft comprehensive plan under paragraph (2); and

(4) constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related resource during the ten-year period of the program.

(3) Nothing in this section shall be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies (1) the department or agency to which funds are appropriated, or (2) the obligations of such department or agency with respect to the use of such funds.

IMPLEMENTATION OF THE COMPREHENSIVE PLAN

SEC. 104. (a) The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(3), and shall be—

(1) carried out in accord with, and meet the program objectives specified in, section 103(a) and paragraphs (1) through (11) of section 103(b);

(2) managed in accord with paragraphs (12) through (14) of section 103(b);

(3) carried out, by the Federal agencies involved, in accord with the allocation of functions and activities under section 103(c); and

(4) funded by appropriations made to such agencies as described in section 106, for each fiscal year of the program.

Congress through its appropriate authorizing committees shall exercise continuing oversight over the coordinated program, taking into account the Secretaries' annual reports and such other information and data as may be developed.

(b) Nothing in this title shall be deemed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF THE COORDINATED PROGRAM AND COMPREHENSIVE PLAN

SEC. 105. The Secretaries shall provide for and coordinate the conduct, by the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Bureau of Standards, and other suitable Federal agencies, of such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this Act.

AUTHORIZATIONS AND APPROPRIATIONS

SEC. 106. (a) Authorizations and appropriations for the fiscal year in which the comprehensive plan is submitted in final

form under section 103(d)(3) and for the nine succeeding fiscal years, for purposes of carrying out the coordinated program and implementing the comprehensive plan, shall be requested by the Secretaries and by each of the agencies which are allocated responsibilities under the coordinated program under section 103(c), in a separate line item of the budget of the agency involved and consistent with the interagency budget for the coordinated program; and to the maximum extent feasible such appropriations shall be provided on a three-year basis, subject to annual authorization Acts hereafter enacted.

(b) Nothing in this title is intended either (1) to authorize the appropriation or require the expenditure of any funds in excess of the amount of funds which would be authorized or expended for the same purposes in the absence of the coordinated program, or (2) to limit the authority of any of the participating agencies to request and receive funds for those purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

ESTABLISHMENT OF THE COUNCIL

SEC. 201. (a)(1) The President shall establish, within ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purpose of this Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries.

(2) The Council shall consist of eleven voting members, of whom—

(A) seven members shall be appointed by the President; and

(B) four members shall be appointed by Congress—one by the Speaker of the House of Representatives, one by the minority leader of the House of Representatives, one by the President pro tempore of the Senate, and one by the minority leader of the Senate.

(3) The Council shall also include the joint chairpersons of the Board as ex officio nonvoting members.

(b) The persons appointed to the Council shall be—

(1) eminent in the field of administrative dietetics, clinical dietetics, community nutrition research, public health nutrition, nutrition monitoring and surveillance, nutritional biochemistry, food composition and nutrient analysis, health statistics management, epidemiology, food technology, clinical medicine, public administration, health education, nutritional anthropology, food consumption patterns, food assistance programs, agriculture, or economics; and

(2) selected solely on the basis of established records of distinguished service.

(c) The persons appointed to the Council by the President shall include—

(1) one member who is a director of a nutrition research unit which is primarily supported by Federal funds, and who has a specialized interest in nutrition monitoring;

(2) one member who is an employee of a State government and who has a specialized interest in nutrition monitoring;

(3) one member who is an employee of a local government and who has a specialized interest in nutrition monitoring;

(4) one member who is an appointed representative of the Food and Nutrition Board, National Academy of Sciences.

(d) The Council membership shall at all times have representatives from various geographic areas, the private sector, academia, scientific and professional societies, minority organizations, and public interest organizations.

(e) The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed five years. In case a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(f) The term of office of each of the voting members of the Council shall be five years; except that of the seven members first appointed by the President, one shall be appointed for a term of two years, three for terms of three years, and three for terms of four years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be elected for the remainder of such term. No member shall be eligible to serve continuously for more than two consecutive terms.

(g) The initial members of the Council shall be appointed or designated (without regard to the requirements of the Federal Advisory Committee Act) not later than ninety days after the date of the enactment of this Act.

(h) The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(i) Appointed members of the Council shall not be employed by the Federal Government, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(j) The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d) shall serve as the Executive Secretary of the Council.

FUNCTIONS OF THE COUNCIL

SEC. 202. The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;)

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that shall contain the components specified in paragraphs (2) and (3), and that shall be included in full in the Secretaries' annual reports to the President for transmittal to Congress under section 102(b).

TITLE III—DIETARY GUIDANCE

Sec. 301. (a) The Secretaries shall issue and publish basic dietary guidelines for the general population based on scientific knowledge and the dietary patterns and nutritional status of the population.

(b)(1) Any Federal agency planning to issue basic dietary guidance shall submit the text of the proposed guidance to the Secretaries for review prior to release. The secretaries shall determine within thirty days after such proposed guidance is submitted whether the proposed guidance is basic dietary guidance for the general population.

(2) If the Secretaries determine that any proposed dietary guidance is basic dietary guidance for the general population, the Secretaries, within one hundred and eighty days after the date such determination is made, shall review such proposed guidance; and the guidance shall not be issued until the Secretaries have theretofore approved the proposed materials and notified the head of the agency of such approval. If the Secretaries fail to express any objection within that one-hundred-and-eighty-day period, the submitting agency may release the dietary guidance.

AMENDMENT OFFERED BY MR. WALGREN

Mr. WALGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALGREN: On page 40, line 5, strike "and" and insert "off".

On page 40, line 6, strike "and" and insert "of".

On page 40, line 17, strike the semicolon and all that follows through line 20, and insert a period.

Mr. WALGREN. Mr. Chairman, this amendment is being offered to accommodate the concerns raised earlier by the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Committee on Appropriations.

The amendment simply strikes any language that is suggestive of a 3-year appropriation for components of the comprehensive plan for nutrition monitoring.

This legislation is intended as the authorizing legislation, as the authorizing only, with respect to nutrition monitoring programs. It was not the intent of this language that was in the bill to interfere in any way with the jurisdiction of the Committee on Appropriations. That language was developed in an attempt to foster a long-range budgetary planning program by all the agencies involved, and this amendment will simply strike that language so there is no misunderstanding with any Member with respect to interfering with the appropriations process.

Mr. SKEEN. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman from New Mexico.

□ 1625

Mr. SKEEN. Mr. Chairman, I have an amendment that is printed in the RECORD that is identical to the one that the gentleman is offering except for the insertion of two words in line 5 and line 6. That is, one in line 5 and one in line 6.

I would have no objection to this consideration and incorporating these two ideas because it does exactly what we want to do. As a member of the Appropriations Committee, I have a grave concern over this section and had this amendment entered in the RECORD to do exactly what the gentleman is doing. I think that we can reach some kind of an accommodation on this.

Mr. WALGREN. We certainly want to reach agreement with the gentleman wherever it is possible.

Mr. SKEEN. If the gentleman will yield, since I had the amendment printed and went to all that great trouble to harass the gentleman from Pennsylvania, I think that we ought to accommodate one another.

Mr. WALGREN. I gather the gentleman is asking if I could withdraw my amendment and allow the gentleman's amendment to go forward?

Mr. SKEEN. If the gentleman will yield, I think he is gathering the right drift. We could reach some accommodation.

Mr. WALGREN. Mr. Chairman, we are happy to withdraw and we are unanimous on this side in support of the gentleman's amendment.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKEEN. On page 40, lines 17 through 20, strike all after the following: "budget for the coordinated program" and insert in lieu thereof the following".".

Mr. SKEEN. Mr. Chairman, at the outset I wish to thank the gentleman from Pennsylvania [Mr. WALGREN] for his acquiescence and in withdrawing his amendment.

Mr. Chairman, I think that we have had all the discussion that is necessary in incorporating this amendment. I will say this: What we have here is a deletion of a section that I think that flawed an otherwise, as Mr. PANETTA mentioned earlier, well-crafted bill.

It is very unusual and inconsistent to ask for an appropriation on a 3-year basis and then to have it annually authorized. I think this creates some kind of problems with the Appropriations Committee. I think that we have reached an accommodation.

With that explanation and with the accommodation of the chairman, which I appreciate very much, I urge the adoption of the amendment.

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman.

Mr. WALGREN. I thank the gentleman for yielding.

Mr. Chairman, on behalf of this side of the aisle we certainly accept the gentleman's amendment.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, the Committee on Agriculture has no problem with the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. SKEEN].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. MONSON

Mr. MONSON. Mr. Chairman, I offer two amendments and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. MONSON: On page 28, SEC. 102. (a), strike line 18 and all that follows through line 4 on page 29, and redesignate the following subsections accordingly.

On page 29, SEC. 102. (a), strike line 5 and all that follows through line 15, and redesignate the following subsections accordingly.

Mr. MONSON. Mr. Chairman, these amendments would remove the requirement that the comprehensive plan to be submitted by the Interagency Board on Nutrition Monitoring include competitive grants programs and also a grant program for State and local governments.

I offer these amendments because in reviewing the act itself, I find that the purposes of the act spell out very clearly what the intent of this study that we have heard referred is, especially on page 24 of the act where, in paragraphs 6 and 7 it says that:

We are to establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals and the public in support of the foregoing purposes and provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

Also, on page 32, it covers the design of the plan to meet the purposes of this bill. In paragraph 3 on page 32, it says:

Sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, procedures for conducting and reporting nutrition monitoring surveillance.

And in paragraph 5, it says:

Assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance.

Now, I do not have any objection with any of those purposes or with the ideas that are implemented there to cover how those purposes should be met. What I do find strange is that we are asking a group to go out and study something and then we come back and we mandate in the act what their studies should include. I have always found that a strange way to do business and I believe that we should take away from this bill the micromanagement effects that we are creating in the Congress, allow this agency to go out and make their study to do the job that they find is necessary and to recommend back with that study what should be done to meet the objectives here.

It may very well be that they will recommend that we have grant programs. But I think that we ought to allow the study to go forward first before we decide that the grant programs are necessary and I offer the amendment for that purpose.

Additionally, as I indicated a little earlier today, when you mandate a grant program you are incurring some costs. I think that we ought to be honest with ourselves and either acknowledge that those costs are going to be there and do our job as we should in an authorization bill and set the limits of what those costs should be or we should eliminate the requirements that would mandate these grants to take place.

So, for those purposes, I have offered this amendment and I would ask for support of my amendment.

Mr. WALGREN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Utah.

Mr. Chairman, as I understand it, the amendment would strike the requirement in this bill to include in the plan a grant program to develop research on methods in nutrition and health statistics. This is really the heart of the bill, and its effect would be to put us totally at sea.

It would be one thing if this were a thrust that was dreamed up by somebody who was trying to develop their own program or shape the world the way they want it to be. In fact, everyone that has had involvement in this area recognizes the importance of methods research.

The administration itself, both in the President's Task Force on Food Assistance strongly recommended enhanced research efforts to improve nutrition monitoring methods and this preliminary publication or the prepublication so it is the document itself that has been developed by the present Joint Nutrition Monitoring Evaluation Committee, asked priority be given to developing methods by which this information can be made more useful and the available data worked with more effectively.

□ 1635

So those levels of the administration that have been involved in this have called for exactly this portion of the bill, and I would urge my colleagues to defeat the amendment in order to keep this thrust of the bill in place.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman actually is offering two amendments, and I wish to speak to the second of the two amendments, which provides for a pro-

gram of grants to the States to facilitate their becoming more greatly involved in this program of nutrition monitoring and research.

I would say to the gentleman that this part of his amendment which strikes out the grants to the States' program is really counterproductive, because the purpose of those grants is to enable the States and local governments to take a larger part in this whole process to bring the programs closer to the governments which are called upon to use this in many cases, and in the long run is going to result in the States bearing a larger share of the cost, which I am sure is a goal which the gentleman would subscribe to.

So I think that, as the gentleman from Pennsylvania said with regard to the funding of grants to improve research methodology, to strike out the provisions which would encourage the States to take a larger role goes directly contrary to the philosophy of this administration, and in the long run is going to be a costly and counterproductive effort which will not meet the needs of the program that we are encompassing here.

I would ask the gentleman to really reconsider what he is trying to do here, and certainly I would urge the Members to vote in opposition to the amendment.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in opposition to this well-intentioned amendment. I would point out to my colleague that the grants program could not be established without further congressional review. We are not going to authorize or appropriate one dime until we have a plan developed jointly by the Secretaries of Agriculture and Health and Human Services, and until that plan is brought to the Congress along with recommendations and justification. So I think that we are getting unduly concerned about something prematurely.

I have confidence in this administration, and I have confidence in subsequent administrations in dealing with this very important issue, and I urge opposition to the amendment.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I think that we have reached the point in the debate that we now need to address some of the main issues head-on. One of the variables supposedly in this legislation is that there are going to be no additional costs, except perhaps $250,000 to $350,000 for some administration costs and some travel costs.

Right here we are establishing a competitive grants program in accordance with the provisions of this act to encourage and assist the conduct by Federal and non-Federal entities on an appropriate matching-funds basis. So some funds are going to have to be expended, some additional funds are going to have to be expended.

We do not have a firm cost estimate of just what that expenditure would be. In the bill that was before the Congress in the last session, $3 million was included for this area. In this bill we struck that language and as I said earlier, in section 106 funds are going to be appropriated on an annual basis. But the fact of the matter is if you are going to have a competitive grants program, somebody is going to have to provide some additional money.

Mr. WALGREN. Mr. Chairman, will the gentleman yield on that point?

Mr. BARTON of Texas. I am happy to yield to the gentleman.

Mr. WALGREN. This, I think, is one of the confusing elements here. We are operating in an area where a large amount of money is already being spent, and each of us wants to protect the taxpayer, and each of us also wants to be absolutely sure that additional spending, if any, survives a very high burden of proof.

In this instance we do not set a dollar amount on what this grants program would look like.

Mr. BARTON of Texas. I understand that.

Mr. WALGREN. There presently is in the Centers for Disease Control a grant program that is presently spending $1 million doing exactly what this grants program is designed to do. So we cannot at this point, as the gentleman from New York said, get prematurely worried here.

We cannot at this point say that anyone would recommend spending any additional money, because money is now already being spent, and presumably being spent well.

I thank the gentleman for yielding.

Mr. BARTON of Texas. I thank the gentleman from Pennsylvania for his comments. I would respond by saying that it is never too soon to be prematurely worried about expenditure of Federal tax dollars, and in this particular instance we do have a grants program that if authorized it would not be illogical to assume that at some point in time somebody is going to come before the Congress and request that additional funds be spent.

Mr. MONSON. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I am happy to yield to the gentleman from Utah.

Mr. MONSON. Mr. Chairman, I thank the gentleman for yielding.

I am getting some conflicting signals here because on one hand I am hearing that we are not going to be offering any grants until after the plan has been created, and on the other hand I am hearing that we are going to use these grants to help in the creation of the plan.

Somewhere along the way that is going to require some spending, and if our intended purpose, as I have heard stated here so many times today, is to really get a handle on what is really going on already with nutrition programs in the Federal Government, then I have a hard time understanding how anyone could object to this amendment, because this is not going to get a handle on what is already happening, it is going to add to the burden.

It may very well be that that plan will decide that this is something that is needed, and I acknowledge that. But until the plan comes forth and we understand what exactly is the best way to get a handle on nutrition in this country, then I think that we ought to wait until we see what the plan says.

I thank the gentleman for yielding.

Mr. BARTON of Texas. Mr. Chairman, I yield back the balance of my time and I urge the adoption of this amendment.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Very briefly, I think there are three arguments in opposition to the amendment that has been proposed here.

First of all, the whole purpose of this bill is to provide direction. As I said, it is unfortunate that we have reached this point, but we have nine agencies all doing their own thing, and the whole intent of this legislation is to try to coordinate what is happening with those nine agencies. Part of that direction is with regard to the grants programs that the agencies provide.

Two areas that are extremely important to target are, first, the whole issue of nutrition monitoring. If we do not target any kind of attention to the nutrition monitoring area, then we are not accomplishing very much. That is the whole purpose of the bill that is before us. The second is the assistance to State and local governments to get them involved in the nutrition monitoring. They have an important role to play. We have always said that. The issue of hunger, the issue of nutrition is a Federal, State, and local responsibility. So they have to participate in this as well.

Second, with regard to the funding issues, there are no additional funds involved here. First of all we are saying that this ought to be part of a comprehensive plan, this is not an authorization in and of itself, and second, these agencies already have a number of grants that are available to them. What we are saying is that it comes out of the same pot of money that you already have directed to these two areas. So we are not talking

about anything new in terms of funding; we are saying that the funds that you already have ought to be directed there.

I might say that I would direct the attention of Members to section 106, which makes very clear that nothing in this title is intended either to authorize the appropriation or require the expenditure of any funds in excess of the amount of funds which would be authorized or expended for the same purposes under the program. So we are not saying that they ought to go ahead and authorize or appropriate for any new funding.

The last thing that I want to mention is that these are not new initiatives. There are current programs that are ongoing in both of these areas, and for that reason I think that we can very well be able to benefit from those ongoing programs that are directed here. What we are trying to do in this whole area is to give emphasis to these two areas. That is the purpose of putting it into the plan, and that is the reason that this amendment should be defeated.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Utah [Mr. MONSON].

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. MONSON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 207]

Ackerman	Berman	Byron
Akaka	Bevill	Callahan
Alexander	Biaggi	Carney
Anderson	Bilirakis	Carper
Andrews	Billey	Carr
Annunzio	Boehlert	Chandler
Anthony	Boggs	Chapman
Applegate	Boner (TN)	Chappell
Archer	Bonior (MI)	Cheney
Armey	Bonker	Clay
Aspin	Borski	Clinger
Atkins	Bosco	Coats
AuCoin	Boucher	Cobey
Badham	Boulter	Coble
Barnard	Boxer	Coelho
Barnes	Brooks	Coleman (MO)
Bartlett	Broomfield	Coleman (TX)
Barton	Brown (CA)	Collins
Bateman	Brown (CO)	Combest
Bates	Broyhill	Conte
Bedell	Bruce	Conyers
Bennett	Bryant	Cooper
Bentley	Burton (IN)	Coughlin
Bereuter	Bustamante	Courter
Coyne	Hyde	Olin
Craig	Ireland	Ortiz
Crane	Jacobs	Owens
Crockett	Jeffords	Oxley
Daniel	Jenkins	Packard
Dannemeyer	Johnson	Panetta
Darden	Jones (NC)	Parris
Daschle	Jones (OK)	Pashayan
Daub	Jones (TN)	Pease
Davis	Kanjorski	Penny
DeLay	Kaptur	Pepper
Dellums	Kasich	Perkins
Derrick	Kastenmeier	Petri
DeWine	Kennelly	Porter
Dickinson	Kildee	Price
Dicks	Kindness	Pursell
Dingell	Kleczka	Quillen
DioGuardi	Kolbe	Rahall
Dixon	Kolter	Rangel
Donnelly	Kostmayer	Ray
Dorgan (ND)	Kramer	Regula
Dornan (CA)	LaFalce	Reid
Dowdy	Lagomarsino	Richardson
Downey	Lantos	Ridge
Dreier	Latta	Rinaldo
Duncan	Leach (IA)	Ritter
Durbin	Leath (TX)	Roberts
Dwyer	Lehman (FL)	Robinson
Dymally	Leland	Rodino
Dyson	Lent	Roe
Eckart (OH)	Levin (MI)	Roemer
Eckert (NY)	Levine (CA)	Rogers
Edwards (CA)	Lewis (FL)	Rose
Edwards (OK)	Lightfoot	Roth
Emerson	Lipinski	Roukema
English	Livingston	Rowland (CT)
Erdreich	Lloyd	Rowland (GA)
Evans (IA)	Loeffler	Roybal
Evans (IL)	Long	Russo
Fawell	Lott	Sabo
Fazio	Lowery (CA)	Saxton
Feighan	Lowry (WA)	Schaefer
Fiedler	Lujan	Scheuer
Fields	Luken	Schneider
Flippo	Lungren	Schroeder
Foglietta	Mack	Schuette
Foley	MacKay	Schulze
Ford (MI)	Madigan	Schumer
Ford (TN)	Manton	Seiberling
Fowler	Markey	Sensenbrenner
Frank	Marlenee	Sharp
Franklin	Martin (IL)	Shaw
Frenzel	Martin (NY)	Shelby
Gallo	Matsui	Shumway
Gaydos	Mavroules	Shuster
Gejdenson	Mazzoli	Sikorski
Gekas	McCain	Siljander
Gephardt	McCandless	Sisisky
Gibbons	McCloskey	Skeen
Gilman	McCollum	Slattery
Gingrich	McCurdy	Slaughter
Glickman	McGrath	Smith (FL)
Gonzalez	McHugh	Smith (NE)
Goodling	McKernan	Smith (NJ)
Gordon	McMillan	Smith, Denny (OR)
Gradison	Meyers	Smith, Robert (NH)
Gray (IL)	Mica	Smith, Robert (OR)
Gray (PA)	Michel	Snowe
Green	Mikulski	Solarz
Gregg	Miller (CA)	Solomon
Guarini	Miller (OH)	Spence
Gunderson	Miller (WA)	Spratt
Hall (OH)	Mineta	St Germain
Hall, Ralph	Mitchell	Staggers
Hamilton	Moakley	Stallings
Hammerschmidt	Molinari	Stangeland
Hansen	Mollohan	Stark
Hatcher	Monson	Stenholm
Hawkins	Montgomery	Stokes
Hayes	Moody	Strang
Hefner	Moore	Stratton
Heftel	Moorhead	Studds
Hendon	Morrison (CT)	Stump
Henry	Morrison (WA)	Sundquist
Hertel	Mrazek	Swift
Hiler	Murphy	Swindall
Hillis	Murtha	Synar
Hopkins	Myers	Tallon
Horton	Natcher	Tauke
Howard	Neal	Tauzin
Hoyer	Nelson	Taylor
Hubbard	Nielson	Thomas (CA)
Huckaby	Nowak	Thomas (GA)
Hughes	Oakar	Torres
Hunter	Oberstar	Torricelli
Hutto	Obey	Towns
		Traficant
		Traxler
		Udall
		Valentine
		Vander Jagt
		Vento
		Visclosky
		Volkmer
		Vucanovich
		Walgren
		Walker
		Watkins
		Waxman
		Weber
		Weiss
		Wheat
		Whitehurst
		Whittaker
		Whitten
		Williams
		Wilson
		Wise
		Wolf
		Wolpe
		Wortley
		Wright
		Wyden
		Wylie
		Yates
		Yatron
		Young (AK)
		Young (FL)
		Young (MO)
		Zschau

□ 1700

The CHAIRMAN. Three hundred ninety-four Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Utah [Mr. MONSON] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will remind the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 84, noes 312, not voting 37, as follows:

[Roll No. 208]

AYES—84

Archer	Frenzel	Nielson
Armey	Gingrich	Oxley
Badham	Gradison	Packard
Bartlett	Gregg	Parris
Barton	Hansen	Porter
Bateman	Hiler	Ray
Billey	Holt	Roth
Boulter	Hunter	Schaefer
Broomfield	Hyde	Schulze
Brown (CO)	Ireland	Sensenbrenner
Broyhill	Kasich	Shumway
Burton (IN)	Kindness	Siljander
Callahan	Kolbe	Skeen
Chandler	Kramer	Slaughter
Cheney	Lagomarsino	Smith (NE)
Coble	Loeffler	Smith, Denny (OR)
Craig	Lott	Smith, Robert (NH)
Crane	Lujan	Smith, Robert (OR)
Daniel	Lungren	Solomon
Dannemeyer	Mack	Strang
Daub	Marlenee	Stump
DeLay	Martin (IL)	Swindall
DeWine	McCandless	Walker
Dornan (CA)	McCollum	Weber
Dreier	Meyers	Whitehurst
Eckert (NY)	Miller (OH)	Whittaker
Fawell	Monson	
Fiedler	Montgomery	
Fields	Moorhead	

NOES—312

Ackerman	Boner (TN)	Coleman (TX)
Akaka	Bonior (MI)	Collins
Alexander	Bonker	Combest
Anderson	Borski	Conte
Andrews	Bosco	Conyers
Annunzio	Boucher	Cooper
Anthony	Boxer	Coughlin
Applegate	Brooks	Courter
Aspin	Brown (CA)	Coyne
Atkins	Bruce	Crockett
AuCoin	Bryant	Darden
Barnard	Bustamante	Daschle
Barnes	Byron	Davis
Bates	Carney	Dellums
Bedell	Carper	Derrick
Bennett	Carr	Dickinson
Bentley	Chapman	Dicks
Bereuter	Chappell	Dingell
Berman	Clay	DioGuardi
Bevill	Clinger	Dixon
Biaggi	Coats	Donnelly
Bilirakis	Cobey	Dowdy
Boehlert	Coelho	Downey
Boggs	Coleman (MO)	Duncan

Durbin	Leland	Rogers
Dwyer	Lent	Rose
Dymally	Levin (MI)	Roukema
Dyson	Levine (CA)	Rowland (CT)
Eckart (OH)	Lewis (FL)	Rowland (GA)
Edwards (CA)	Lightfoot	Roybal
Edwards (OK)	Lipinski	Russo
Emerson	Livingston	Sabo
English	Lloyd	Saxton
Erdreich	Long	Scheuer
Evans (IA)	Lowery (CA)	Schneider
Evans (IL)	Lowry (WA)	Schroeder
Fazio	Luken	Schuette
Feighan	MacKay	Schumer
Flippo	Madigan	Seiberling
Foglietta	Manton	Sharp
Foley	Markey	Shaw
Ford (MI)	Martin (NY)	Shelby
Ford (TN)	Martinez	Shuster
Fowler	Matsui	Sikorski
Frank	Mavroules	Sisisky
Franklin	Mazzoli	Slattery
Gallo	McCain	Smith (FL)
Gaydos	McCloskey	Smith (NJ)
Gejdenson	McCurdy	Snowe
Gekas	McGrath	Solarz
Gephardt	McHugh	Spence
Gibbons	McKernan	Spratt
Gilman	McMillan	St Germain
Glickman	Mica	Staggers
Gonzalez	Michel	Stallings
Goodling	Mikulski	Stangeland
Gordon	Miller (CA)	Stark
Gray (IL)	Miller (WA)	Stenholm
Gray (PA)	Mineta	Stokes
Green	Mitchell	Stratton
Guarini	Moakley	Studds
Gunderson	Molinari	Sundquist
Hall (OH)	Mollohan	Sweeney
Hall, Ralph	Moody	Swift
Hamilton	Moore	Synar
Hammerschmidt	Morrison (CT)	Tallon
Hatcher	Morrison (WA)	Tauke
Hawkins	Mrazek	Tauzin
Hayes	Murphy	Taylor
Hefner	Murtha	Thomas (CA)
Heftel	Myers	Thomas (GA)
Hendon	Natcher	Torres
Henry	Neal	Torricelli
Hertel	Nelson	Towns
Hillis	Nowak	Traficant
Hopkins	Oakar	Traxler
Horton	Oberstar	Udall
Howard	Obey	Valentine
Hoyer	Olin	Vander Jagt
Hubbard	Ortiz	Vento
Huckaby	Owens	Visclosky
Hughes	Panetta	Volkmer
Hutto	Pashayan	Vucanovich
Jacobs	Pease	Walgren
Jeffords	Penny	Watkins
Jenkins	Pepper	Waxman
Johnson	Perkins	Weiss
Jones (NC)	Petri	Wheat
Jones (OK)	Price	Whitten
Jones (TN)	Pursell	Williams
Kanjorski	Quillen	Wilson
Kaptur	Rahall	Wise
Kastenmeier	Rangel	Wolf
Kennelly	Regula	Wolpe
Kildee	Reid	Wortley
Kleczka	Richardson	Wright
Kolter	Ridge	Wyden
Kostmayer	Rinaldo	Wylie
LaFalce	Ritter	Yates
Lantos	Roberts	Yatron
Latta	Robinson	Young (AK)
Leach (IA)	Rodino	Young (FL)
Leath (TX)	Roe	Young (MO)
Lehman (FL)	Roemer	Zschau

NOT VOTING—37

Bellenson	Frost	O'Brien
Boland	Fuqua	Pickle
Breaux	Garcia	Rostenkowski
Burton (CA)	Grotberg	Rudd
Campbell	Hartnett	Savage
Chappie	Kemp	Skelton
de la Garza	Lehman (CA)	Smith (IA)
Dorgan (ND)	Lewis (CA)	Snyder
Early	Lundine	Weaver
Edgar	McDade	Whitley
Fascell	McEwen	Wirth
Fish	McKinney	
Florio	Nichols	

Messrs. HERTEL of Michigan, BROWN of California, COBEY, and MURTHA changed their votes from "aye" to "no."

Mr. GINGRICH and Mr. LOEFFLER changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

□ 1710

(By unanimous consent, Mr. LOTT was allowed to speak out of order for 1 minute.)

LEGISLATIVE PROGRAM

Mr. LOTT. Mr. Chairman, I proceed out of order just so that the membership can be informed as to what the situation is with regard to the schedule and what they might be able to anticipate for the next few hours.

When can we perhaps expect some action on the supplemental, the budget? Are we going to continue on this bill and the amendment process? Just generally so that the membership on both sides of the aisle will have some idea of what they can expect for the balance of the night and if, heaven forbid, it might even go over until tomorrow.

Mr. WRIGHT. Mr. Chairman, will the gentleman from Mississippi [Mr. LOTT], the acting minority leader, yield?

Mr. LOTT. I yield to the gentleman from Texas, the distinguished majority leader, for that purpose.

Mr. WRIGHT. Mr. Chairman, the two things on which we are waiting are the conference report on the supplemental appropriation and a possible conference report on the budget resolution.

With regard to the first, the other body is even now acting on their conference report on the supplemental. They are voting on proposed amendments. I do not know how to forecast how long they will work on that bill, nor can I give any intelligent prognosis as to how long we will have to work on it when we get it.

The ways of the other body are sometimes arcane and mysterious. If they finish it and send it over in any reasonable time, I think we would be well-advised to stay in and take it up and complete it this evening.

It is possible that we might have to come back in the morning at 10 o'clock. I hope we will be able to finish our business today.

However, I think most Members would rather that we complete the supplemental, and if there is a choice and a real chance, rather that we complete the conference report on the budget resolution before we leave.

Things are up in the air. We cannot tell you for sure. We will try to finish tonight if we can. However, we do not want to go until 1 or 2 o'clock in the morning, and may have to come back in the morning at 10 o'clock. We hope not.

In any event, when we finish these two, or reach the point where we conclude that it is unlikely for us to finish one of them, we will adjourn.

Mr. LOTT. We are basically waiting to see if the other body is going to make pretty good progress on the supplemental, with hopefully finishing it before too late tonight. It could, for some reason, go on.

Also, I understand that we are in the final stages of negotiation on a budget resolution. Perhaps some agreement could be reached on that in the next couple of hours.

But we are pretty much at the mercy of those two processes right now. Is that all you can tell us?

Mr. WRIGHT. Mr. Chairman, I think that is exactly right.

The distinguished chairman of the Committee on the Budget is here. I do not know whether he has anything he wants to add to that or not.

The gentleman might desire to yield to the gentleman for further information.

Mr. GRAY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Pennsylvania. I do not want too much information, though. I just want him to assure us that the gentleman is continuing to work diligently.

Mr. GRAY of Pennsylvania. Mr. Chairman, I would simply say to the gentleman from Mississippi that at this point, all items are in agreement in the budget except for one item.

Mr. LOTT. One item, good.

Mr. GRAY of Pennsylvania. One item which we thought we had agreement on early this morning. We found what we thought was an error made by the clerks in putting the numbers together and now we are discussing that error and trying to resolve that issue.

That issue is an issue of $250 million in reference to function 570 and Medicare deductability and preventing the deductability from rising for the elderly in the health care area. I think if the gentleman remembers, whether it was the House Committee on the Budget or the GOP substitute, in both budgets, we took the policy position that the House would not want the deductability to rise from 492 to 570.

Therefore, in our budget negotiations we had, thanks to the cooperation of the Committee on Ways and Means, additional money to prevent that rise from taking place.

At this time, there is disagreement over that issue. As soon as there is agreement, I, as chairman of the conference committee, will be able to call the conference together, present a conference report for approval of the conferees. I believe I can say to my

colleagues on both sides of the aisle, there is a real chance for a really total bipartisan agreement on the House side on this conference report.

Then we will be able to come to the floor immediately as a result of the cooperation of the ranking member, the gentleman from Ohio [Mr. LATTA] and the unanimous-consent request granted earlier. Thus, as soon as we hear from the other body on that one issue, I will say to the gentleman from Mississippi [Mr. LOTT], in 1 hour, we can be probably to the floor.

Mr. LOTT. Mr. Chairman, I thank the gentleman.

I would just like to make one request. As soon as the leadership on either side finds out any specifics about how late we will go tonight, if you will let us know, and we will be sure to let all the membership know as soon as we get any further information.

Mr. WRIGHT. Very good.

AMENDMENT OFFERED BY MR. PACKARD

Mr. PACKARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PACKARD: On page 32, SEC. 103.(a)(1), in line 10, strike "minorities as appropriate" and insert in lieu thereof "groups, at the discretion of the Secretaries".

□ 1720

Mr. PACKARD. Mr. Chairman, I am simply asking that some of the specific micromanagement here be opened up to give flexibility to the board and to the Secretaries.

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman.

Mr. WALGREN. The committee believes that you have a very good amendment, and certainly we support it on this side.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman.

Mr. PANETTA. Frankly, Mr. Chairman, one of the areas of concern is the gentleman eliminates "in periods experienced when resources are not sufficient to provide an adequate diet."

The whole purpose here is to focus on individuals who, when they have exhausted their benefits, in fact are therefore suffering from problems.

Mr. PACKARD. Reclaiming my time, if the gentleman will withhold for a minute, I think that is the second amendment that I will be offering.

Mr. PANETTA. That is not a part of this amendment?

Mr. PACKARD. That is not a part of this amendment.

Mr. PANETTA. If the gentleman will yield further, if that portion is not a part of this amendment, and this amendment solely deals with the groups at the discretion of the Secretary, then this committee has no problem with it.

Mr. PACKARD. It does.

With that agreement, Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PACKARD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 29, SEC. 102(a), strike line 16 and all that follows through line 18, and redesignate the following subsections accordingly.

Mr. WALKER. Mr. Chairman, what this amendment does is strike out a section of the bill that relates to the functions of the Secretaries under this particular bill.

It says in the bill that the Secretaries are to include in the coordinated program that they are putting together, an annual interagency budget for each fiscal year of the program. It is that section, the requirement that they put together an interagency budget for each fiscal year of the program, that my amendment would strike.

The reason why I am striking this is, it is cumbersome, it is burdensome, in checking with the agencies what we find is that it would require additional manpower in order to just do this part of the bill, this budget coordination.

The question one has to ask oneself when one looks at the totality of the program that we have here is: What is it they are submitting? We have a 9-year program that is anticipated under this bill.

What are they supposed to anticipate for the next 9 years? The administration's budget requests to include as their budget for each of these fiscal years? Our budget requests here in the Congress. Are they supposed to figure out what we are going to do on a budget? Good heavens, we just had a discussion here a minute ago—we cannot figure out what to do with our budget for 1 fiscal year. Are they supposed to anticipate for the next 9 years what Congress will do and include that? Are they supposed to anticipate our appropriations figures? Is that what they are supposed to put in this annual interagency budget? They have 9 years to anticipate here, and they are going to sit down a lot of additional manpower, trying to anticipate what we do for the next 9 years?

It just does not make any sense. It is going to be extremely burdensome; it is not going to get the job done that was anticipated under this. If we really want the Secretaries to be coordinating something, they ought not be asked to coordinate this kind of activity. They ought not be asked to look out 9 years and come up with budget figures; that is what we are going to end up with under this particular provision.

So all I am asking for is that we strike that provision out of the bill, since the money that we are talking about here is going to come out of the hide of the actual research programs, since we include no money in the bill. At the very least what we ought to do is take out those sections that add unproductive costs.

It seems to me what is being required by this particular section is unproductive costs, and that just does not make any sense at all. So I would ask the House to approve this amendment. It does no damage to the overall concept that is being pursued; it does absolutely no damage to the idea of managing the program differently, of coordinating efforts between the departments, but it does stop the sheer idiocy of suggesting that for each of the fiscal years of the program, the 9 years that are in the program, that these people ought to try to come up with a budget. That will take untold manpower to an unproductive end.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. BROWN of California. Mr. Chairman, I think I understand what the gentleman is saying. Obviously, in the terms that he has put it, it would involve a large guessing game.

Can the gentleman tell me what he expects the Defense Department to do when we ask them to prepare a 5-year program? Do they go through all this guessing about what the administration's budget is going to be? The House budget is going to be? The Senate budget is going to be? Or do they just give us their best thinking of what the defense needs of the country are going to be for 5 years?

Mr. WALKER. Reclaiming my time, I would say to the gentleman, to give us their best thinking; but it does take untold manpower in order to give us their best thinking.

The idea here that we are going to do all of these things without cost to the program is what this gentleman is aimed at. It takes the Defense Department a great deal of manpower to do those 5-year projections; and we are asking not for a 5-year projection here, we are actually asking for a 9-year projection; and we are saying that somehow there is going to be no cost to that. That just does not add up.

I am suggesting that that is very unproductive activity toward the end that supposedly we are trying to achieve, and that is a further coordinated program. I suggest to the gentleman that if the Defense Department example is what we are going to use,

then we had better look at just how much it costs them to provide those 5-year budget plans; it is considerable.

Mr. BROWN of California. We recognize that.

Mr. WALKER. Well, Mr. Chairman, in recognizing that, then we also recognize that this particular provision in this bill will add a great deal of cost that will come out of the hide of nutritional research programs; and I suggest to the gentleman that that is not what he is trying to achieve in the bill and that this particular amendment would just strike out a section that would otherwise add an awful lot of time and effort to bureaucratic handling of the program.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. BROWN of California and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. I further yield to the gentleman.

Mr. BROWN of California. Mr. Chairman, it is always stimulating to have a dialog with the gentleman from Pennsylvania.

We lay this job of projections on to the Defense Department and a number of other agencies for the basic rationale that we save money by understanding what the long-range program is. Is that not correct?

Mr. WALKER. Well, that is the theory behind what we do; but I am suggesting to the gentleman that we are now requiring of this particular program that they not only project for 5 years, but that they look out 9 years.

I suggest that it is almost impossible to look out an entire decade and try to come up with costs; and that that would be very, very expensive in terms of trying to get together the material that would allow them to do that. That is the point that I am making to the gentleman.

Mr. WALGREN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I suppose we could debate about whether or not a 5-year or a 9-year plan is feasible. One of the problems in this bill is that it is a very long-range program, and we are looking at assessments on the national level that literally have come historically every 10 years; so it makes certain sense to project out.

There is a rolling revision of this plan, so no numbers are locked in concrete; there is nothing set in stone about what might be out there in those outyears, but there has to be a recognition at some point that this is a program that is decades long.

As I understand it, the National Oceanographic Institute has a 10-year plan. So in areas where the problem goes long into the future, it is not unreasonable to try to project somewhat.

□ 1730

The basic problem with the amendment, however, is that it strips any interagency budget development, and that is the key to the whole bill. We have got $260 million being spent, we know not where, on, according to the Department of Agriculture's report, 3,700 separate projects in nine different agencies.

Now, if you do not have an interagency budget, you have no way to get a handle on any of that. We have an interagency budget with the acid rain task force. Let me give you the administration's view of the effect of that interagency budget:

> The strong interagency planning process prevents proliferation of loosely related projects and thus eliminates wasteful duplication and avoids crucial omissions.

Now that is exactly what we need in this area.

I would urge my colleagues to oppose the amendment on that basis.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I would be happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

The gentleman is making a point that today we spend $265 million on these programs. Can the gentleman tell us how much we are going to be spending 9 years from now on these programs?

Mr. WALGREN. That is why we need a budget that at least looks forward. I do not pretend to say that we can put a dollar amount, a dollar amount on the 10-year figure. But we ought to know that 10 years out we are going to be doing the 10-year survey and we ought to be knowing that there is a certain effort to be made in the 10th year that would not be made in the 9th year, and therefore we can know it is coming and plan accordingly and make things work.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WALGREN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. That is not what the language in his bill says. The gentleman now makes a much more rational case. But the language in his bill says that the Secretaries with the advice of this board are going to include a coordinated program, an annual interagency budget for each fiscal year of the program. That is out 9 years. These agencies are going to have to sit down and figure out what their budget is going to be 9 years from now in order to carry out this accomplishment. That just is not possible. These people would have to spend literally hundreds of hours trying to figure out what they might be spending 9 years from now. It seems to me that the language is at the very least imperfect and at the very worst could cause untold havoc in some of these departments. And if the gentleman wants to modify the language in order to do what he just explained to me, that is an entirely different proposition. But if not, then I would have to say that we have to strike this language at the very least because it will be literally hundreds of hours and millions of dollars spent doing something that none of these agencies have in hand. There is no agency of Government that has in hand a budget for 9 years from now.

Mr. WALGREN. If the gentleman will yield back, what is required now is an annual interagency budget for each fiscal year of the program. Now that is done each year which means that whatever plans are made for the future years, they are made because we know at certain sequences, it may be 3 years or 5 years or 10 years, there is going to be major efforts made to do a decennial review or something like that. We ought to know that is coming 10 years out or 5 years out.

What is asked for in the bill is this year an annual interagency budget for next year so that plans can be made and in the process of that each would project where this program is going. That is all. It is not an incredibly burdensome procedure, according to this gentleman.

Mr. WALKER. Mr. Chairman, will the gentleman yield further?

Mr. WALGREN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. That is not what the gentleman's bill says. Once again, if what he is saying were in the bill, that would make it an entirely different proposition.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(On request of Mr. WALKER and by unanimous consent, Mr. WALGREN was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman continue to yield?

Mr. WALGREN. I am happy to yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding.

OK. The problem that I have is that in section 102 it says the secretaries with the advice of the board shall, and then it goes down through a whole list of things. It does not say that that is in each year an event. As a matter of fact, if you look down in the next section, it says the secretary shall submit to the President for transmittal to the Congress each year by January 15 of each year, there we specify that it is an each-year proposition. But here we are specifying the secretaries have a

duty to include in the coordinated program that we are asking them to put together, the coordinated program, a 9-year program, an annual interagency budget for each fiscal year of the program. That implies that we are asking them to put together a 9-year projection. That is my problem with the language in the bill. It is not as specific as it is in other places. And it seems to me the gentleman's interpretation is not what the language of the bill states.

Mr. WALGREN. If the gentleman will yield back, certainly whatever projections are made this year for the fifth year out or the seventh year out or the ninth year out can be redone next year. It is not an incredibly complex process. If we set out a plan that requires a once-in-10-year HANES study to be done in the 10th year, we ought to know that is coming. And the plan by its nature must look out into the future. All this asked for is some recognition of what this program is going to look like on a multiyear basis. I really do not read anything more into the bill than that. Certainly a bill that preserves the flexibility for the administration every year to come in and adjust their future program in whatever way they see fit.

Mr. WALKER. Mr. Chairman, will the gentleman continue to yield?

Mr. WALGREN. I yield to the gentleman.

Mr. WALKER. So I do understand from the gentleman that it is the intent of this language to force these agencies to come up with a budget projection for the next 9 years, that they are to project out into the ninth year what their budget would be? That is precisely what the gentleman has just told me, I think.

Mr. WALGREN. If the gentleman will yield, we anticipate a rolling budget plan because there are major sporadic efforts that are going to be in the outyears and some estimate of what they account for should be made.

Mr. WALKER. I thank the gentleman; he has made my point.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the whole purpose of this bill again is to try to bring some sense of coordination between the nine different agencies that are involved in nutrition monitoring. That is the whole thrust of the bill. Right now we have nine different agencies involved with nine different budgets. When we ask a question, what goes into nutrition monitoring, we do not get a straight answer. We asked this of the Department of HHS. What was their report? I quote, "It is difficult to respond to your request for dollars spent on nutrition monitoring activities because often the costs are contained not in one but in several line items within the HHS agency budget." What we are asking here is that they put together an interagency budget that tells us how much is going for this purpose. Why? So we can look at one budget to determine whether they are spending it effectively or whether they are duplicating projects. The problem now is there is duplication all over the place. One agency is doing exactly the same study that another agency is doing, and on, and on, and on. This is for the convenience of the oversight that the gentleman from Pennsylvania is concerned about. If you want oversight, let us look at an interagency budget that leaves out where these funds are going. That is the whole point of having this presented to us. It is important. It is a key. It will force these agencies suddenly to look and say, "My God, we have three agencies doing exactly the same study." And if they do not stop it, we will here in the Congress.

So that is the purpose of having this budget.

I urge my Members, if you are serious about the need to coordinate it, we need to have this provision.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding.

Mr. Chairman, I think upon reflection maybe both sides are right.

There is some ambiguity. I am wondering if the offeror of the amendment would consider adjusting his amendment to have it read in section 6: "Include in the coordinated program each year an annual interagency budget."

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

If in fact the gentleman were willing to accept an amendment that would put "each year" language in there, I will withdraw at this time the amendment that I have at the desk and propose another amendment that puts that language in in each year, and that would take care of this gentleman's problem with the bill as it is now written.

Mr. PANETTA. In "each year" would not bother me one bit because that is exactly the intent here, to force the interagency budget to be developed each year. If that language would be satisfactory to the gentleman, it certainly would be satisfactory to this gentleman.

Mr. WALKER. If the gentleman would yield further, can we get the agreement of the gentleman from Pennsylvania on that language?

The CHAIRMAN. The gentleman [Mr. WALKER] needs unanimous consent to withdraw his amendment.

Mr. MACKAY. Mr. Chairman, will the gentleman yield briefly?

Mr. PANETTA. I yield to the gentleman from Florida.

Mr. MACKAY. I thank the gentleman for yielding.

Do I understand now that after 15 or 20 minutes of debate we are going to solve this huge problem by taking the words "for each year" which are now on the other side of the words "annual interagency budget" and move them to the front side? Is that correct? Is that somehow going to suddenly make this thing read different? That is what it says now.

Mr. PANETTA. To my satisfaction I believe it says it. But obviously the gentleman from Pennsylvania does not find that to be the case. I am willing to work with him to put it in the front side of it if we can arrive at an agreement here that this is the intent.

Mr. MACKAY. The gentleman is demonstrating a need for coordination in our basic literacy.

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I would be pleased to yield to the gentleman from Pennsylvania.

Mr. WALGREN. I thank the gentleman for yielding.

If I could propound a question to the gentlemen who are agreeing on this at this point: it is my understanding that it is extremely helpful to have an outyear projection of what the budgets will look like. Now I cannot quite factor in what happens when you put each year in front or behind the annual budget requirement. But I do feel it important that we have a long-term projection of what this program is going to be like so that the program makes the most effective point. As the report says, the committee intended the comprehensive plan to be a rolling 10-year plan updated and adjusted as necessary on a systematic basis with long-term priorities added.

The CHAIRMAN. The time of the gentleman from California [Mr. PANETTA] has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 3 additional minutes.)

Mr. WALGREN. Mr. Chairman, will the gentleman continue to yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. WALGREN. I thank the gentleman. If I may continue: with long-term priorities added as short-term goals are completed and program progress is evaluated. Now, I do not know what we are doing with each year, but I do not want to lose the long-term nature of this outlook.

Mr. PANETTA. My understanding, if I could have the attention of the

gentleman from Pennsylvania, is that what he is concerned about is just having to do a long-range projection every 6 or 10 years. My understanding is that part of the budget process always involves looking at the out-years, and that is a common practice, at a 5-year projection. But what we are interested in here is the fact that they present an interagency budget each year. If in fact in order to do that it requires long-range planning, I think that is part and parcel of what we are all after.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, my problem is we are creating a 9-year program here. It seems to me in asking agencies then to create budgets out 9 years, you are asking them to do a lot of extra work. If by adding the language that has now been suggested, what we do is ask them to use the data that they now have to do those projections, then it is not very costly. We are not talking about a lot of money there. But if you are talking about putting together something that will force them to come up with budget figures that do not exist in-house at the present time, then you are doing something very costly, and that is my objection.

So what I am trying to do is nail down language that would make sure that all they are being asked to do is that which they would be doing otherwise in the budgeting procedure. It seems to me by putting that language in, that that does make that point. That is all this gentleman is trying to achieve. I must admit that I am a little concerned when the gentleman from Pennsylvania indicates that he in fact does anticipate doing far more than that and therefore again seems to make my point that we are really looking for them to make 9-year projections here, which would be very, very difficult and very, very expensive for these agencies to do.

Mr. PANETTA. I understand the concern of the gentleman. My concern is that I think it is important and I think the gentleman understands that, it is important for these agencies to feed their information into one budget so that in fact we are looking at what programs are being implemented by the various agencies as part of that budget. That is extremely important, and I believe the gentleman supports that. Is that correct?

Mr. WALKER. If the gentleman will yield, I do support that. All I am trying to achieve is to make certain that they do not have to come up with all kinds of additional budget data in order to do that over a period of time where they do not have that budget data in hand anyhow. The coordination makes sense; the idea that under this bill they will have to do additional work to come up with additional budget material makes no sense.

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman.

Mr. WALGREN. I thank the gentleman for yielding.

My instinct is not to stand on requiring 10 years of budgets, but I think it important that we have a plan that has that kind of horizon in the future. And if there is some way that we can understand that the plan that is submitted anticipates what is to happen over this number of years, it would be helpful.

The CHAIRMAN. The time of the gentleman from Califorina [Mr. PANETTA] has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 2 additional minutes.)

□ 1745

Mr. WALGREN. If the gentleman will continue to yield, if there is some way that the plan could anticipate what is to happen over those 10 years.

For example, if in the fifth year out, we are going to do a 5-year national survey, that ought to be in the plan, and that ought to be anticipated, because it will not happen if in the fifth year we say, well, let us provide some money to do this plan. In the past we have done that and it has been 10 years before the survey has been completed.

So we need to look down that road. That is all I would like to emphasize, and I apologize for not being the most vassal legislative craftsman here. But I do not want to stand on budget, but I do think we need a plan.

Mr. PANETTA. Mr. Chairman, perhaps we can resolve it on the basis that, if indeed the information is available beyond a year and that these agencies, by virtue of OMB's requirements and others, may indeed be required to focus on a 5-year plan or beyond. If that information is available, then obviously we ought to be able to look at it over that period of time.

It does not demand any additional effort, but it basically is information that they would have.

My sense here is that we are arguing over, frankly, something that does not need to be argued over. Most of these agencies, in order to develop their annual budget, are going to look down the road. That, it seems to me, is part of the way they develop their annual budget and where they are heading. I think that is a common process.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman is correct. I am not trying to say that we cannot coordinate that material. But the way the language in the bill is now structured, it seems to me that it does give instructions to the Secretaries to prepare additional material over and above. All I am trying to do is arrive at some compromise. I am willing to come with new language. I am willing to withdraw my amendment to come up with some compromise that assures me we have language in there that does not force them to go to that additional expense. It seems to me by including each year language in there at the beginning, we do arrive at that solution.

The CHAIRMAN. The time of the gentleman from California [Mr. PANETTA] has expired.

(On request of Mr. WALKER, and by unanimous consent, Mr. PANETTA was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, if we could get the gentleman from Pennsylvania to agree to that, I will withdraw the amendment and propose another amendment to simply put that language in in that way. That takes care of my problem, and I think maintains precisely what the gentleman from California is saying he wants in the bill in terms of these coordinated budgets.

I would hope that maybe we could arrive at that kind of an accommodation because, otherwise, I will have to insist on my amendment. It seems to me then the gentleman from Pennsylvania has made my case for me that the gentleman does really intend that these projects go out 9 years, and that could be rather expensive for the Government.

Mr. PANETTA. My understanding is, for example, USDA looks 10 years down the road as it plans for its nationwide food consumption survey. That is a traditional activity by these agencies to try to project ahead.

So if that information is available, fine, and I think we ought to be able to look at it. What we are requiring here is the each-year budget, and I think that the gentleman's proposal seems to make some sense.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman.

Mr. BOEHLERT. Mr. Chairman, I say to the chairman of the subcommittee, the gentleman from Pennsylvania, cannot we get some resolution to this? I think it is much ado about nothing. I think the gentleman makes a good point. There is some ambiguity in it.

We are not trying to prevent anyone from doing anything long range. We want a long-range plan, obviously. But I think the gentleman from Pennsylvania, my colleague on this side of the aisle, is trying to prevent all the extra man-hours that would be required to prepare now a budget plan for this coordinated effort for 1995. We want the coordinated effort which we do not now have. We are making great progress with this. Let us move ahead. We make the modest adjustment I suggested. If the gentleman would make the adjustment on the amendment, we could all be happy.

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Pennsylvania.

Mr. WALGREN. Mr. Chairman, let me understand just what the suggestion is the gentleman from New York made as to the interposing of this language.

Mr. BOEHLERT. If the gentleman will continue to yield, the new language would read, "include in the coordinated program each year an annual interagency budget." That is what we are trying to get for each fiscal year of the program. That is what we are trying to get.

The CHAIRMAN. The time of the gentleman from California [Mr. PANETTA] has again expired.

Mr. WALGREN. I ask unanimous consent the gentleman from California have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BARTON of Texas. Mr. Chairman, reserving the right to object, I will not object, but I would suggest that the gentleman from Pennsylvania withdraw his amendment and they go to the back of the Chamber and work this out. We have four or five other amendments that we can work on while they solve this problem.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There is no objection.

Mr. WALKER. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania.

There was no objection.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I propose, instead of the amendment just withdrawn, to include new language in that section.

The CHAIRMAN. Does the Chair understand that the gentleman offers a new amendment?

Mr. WALKER. Mr. Chairman, I offer a new amendment.

The CHAIRMAN. Without objection, the amendment will be considered as read.

There was no objection.

The text of the amendment is as follows:

Amendment offered by Mr. WALKER: Page 29, line 16, after "program" insert "each year."

Mr. WALKER. Mr. Chairman, by this amendment, in that section of the bill addressed by my previous amendment, after the word "program," I would add the words, "each year," before the word, "an."

The CHAIRMAN. Without objection, the amendment is agreed to.

Mr. PANETTA. Mr. Chairman, reserving the right to object, if the gentleman, just to avoid confusion, would say, "each fiscal year" before "an annual interagency budget," I think it would be very helpful, because it then would read: "* * * each fiscal year an annual interagency budget for each fiscal year of the program."

Mr. WALKER. I accept the gentleman's modification.

The modification offered by the gentleman from California [Mr. PANETTA] to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] is as follows:

Insert the word "fiscal" after the word "each" in the amendment offered by Mr. WALKER.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER], as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTON of Texas: On page 31, SEC. 102. (b), strike line 6 and all that follows through line 12, and redesignate the following subsections accordingly.

Mr. BARTON of Texas. Mr. Chairman, what this amendment does is delete a duplicative reporting requirement. In this same section, on page 30, at the top of the page, subsection 8, the Secretaries are required to contract with a scientific body to do the same thing that they are required over here on a 2-year basis.

□ 1755

This amendment would delete the requirement that they then have to analyze the data that is going to be submitted every 2 years on an annual basis. So what the purpose of this amendment is to do, instead of analyzing the same data 2 years in a row, eliminate the requirement that that data be analyzed every year.

It does not strike the requirement that the Secretary should submit an annual report to the Congress evaluating the progress of the coordinated program. It does eliminate the requirement that they have to analyze the biannual data on an annual basis.

Mr. Chairman, I urge the adoption of my amendment.

Mr. PANETTA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is not a duplication here as the gentleman from Texas has pointed out. Indeed, both sections are required if in fact we are going to get an adequate analysis of the information that is derived.

The section that the gentleman wishes to strike is a section that analyzes the dietary, nutritional, and related health status of the information that comes in. It is the analysis of the information that is collected. The charts, the various numbers, the designations.

The need is to interpret the information that is collected, and that is what is provided for on page 8. They are two very distinct and separate functions, and for that reason they were laid out here differently. There is not a duplication here; it is an effort not only gather the information and analyze it, but also to provide for its interpretation. Unless we provide for this, we are not going to be able to get any benefit from the information that does flow from these nutrition monitoring efforts.

For that reason, I would urge the Members to vote against the amendment.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman.

Mr. BARTON of Texas. I thank the gentleman for yielding to me.

Is it not the gentleman's understanding that the requirement on section 8 at the top of page 30 requires that that data that is going to be published every 2 years also be analyzed? The language is almost identical. And publish every 2 years or more frequently if appropriate a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality of the national food supply.

The only difference is where over on section 8 on page 30 you are requiring it on a biannual basis and it is contracted out to a scientific body. On page 31, section 3, you are requiring that the same data be analyzed on an annual basis by people that are working directly for the Federal Government.

Mr. PANETTA. If the gentleman will look at page 31, section 5, it states that, "On the annual basis it will include an executive summary of the report that is most recently published by the scientific body as provided for in subsection A8," so that it would appear as an annual report, a summa-

ry of that report, and it would be made available on that basis.

I do not see any contradiction here between the two sections or the provisions that have been laid out in the bill.

Mr. BARTON of Texas. If the gentleman will yield, my amendment does not delete section 5; I do not deal with that at all. Again, I am asking——

Mr. PANETTA. The problem that we have is that without the analysis done on the basis of the information that is derived, section 8 does not make any sense and, therefore, section 5 does not make any sense. The three are interrelated. You have got to gather and analyze the information, you have got to provide for its interpretation, and it has to be done on a continuing basis. That is the whole point of having these provisions.

We are not trying to duplicate anything here. Indeed, we are trying to make use of the information collected in the most effective way.

Mr. BARTON of Texas. If the gentleman will yield, I guess I am just confused, because it appears to me that you do not have to analyze what you contract out with and that is what these, what you are going to be doing over on the next page is analyze something that is going to be analyzed anyway every 2 years. You are going to analyze the same thing every year.

Mr. PANETTA. Again, my understanding is there are two very distinct activities here involved with the information-gathering process. One is the analyzing of it in terms of the information that flows in. The establishment of the charts, the numbers, the statistics that have been gathered by virtue of the surveys that have been accomplished.

The next step has to be interpreting that information. What does it mean? What are its implications in terms of nutrition impact? They are very distinct activities and that is why they are laid out here in very different sections. To knock out one would then impact on our ability to do any interpretation because you have destroyed the ability to analyze the information. The two have to go together.

Mr. BARTON of Texas. If the gentleman will yield, why does it have the sentence, "to interpret available data."? Why have that if they are not going to do that?

Mr. PANETTA. Again, I will repeat the fact that we are talking about two very distinct activities. The analyzing is not interpreting here. Analyzing basically means pulling together the information that has been gathered, developing the charts, developing the information.

The CHAIRMAN. The time of the gentleman from California [Mr. PANETTA] has again expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 1 additional minute.)

Mr. PANETTA. Pulling together that information, developing the charts, developing the statistics, and basically accumulating what has been gathered by the various monitoring efforts. The interpretation of that becomes a scientific effort. It has to be provided to the American Society for Experimental Biology and the other Academy of Science organizations because they are the ones who can best then interpret that accumulation of information.

These are not the same activity; they are two very distinct activities. Thus, there is no duplication here.

Mr. BARTON of Texas. Mr. Chairman, I ask unanimous consent to proceed for 1 minute.

The CHAIRMAN. Without objection, the gentleman from Texas is recognized for 1 minute.

Mr. BARTON of Texas. Mr. Chairman, I respect the analysis of the gentleman from California of this section. I must respectfully say that in spite of his eloquent explanation, the Department of Agriculture and the Department of Health and Human Services, as of yesterday, did not agree with his analysis. For that reason, I would still ask my colleagues to adopt my amendment.

Mr. DANNEMEYER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not think anybody in this Chamber objects to an analysis of nutritional information so that the American public can better be advised as to whether or not what we are eating is really meeting the needs of the human system.

The irony of this whole process relating to this, yet a new program that is being proposed is that it is a duplication of what we are already doing. Would you believe that we have 95 staffers now working in the Human Nutrition Information Service. They have been at that job since 1981 when the agency was created by the U.S. Department of Agriculture and the Department of Health and Human Services as a result of a mandate passed by Congress in 1978.

The point I seek to make is just how much nutritional monitoring do we want to achieve? In the 1986 fiscal year we have appropriated $5 million for this effort and next year it is $6 million, the following year it is $8 million. That is provided in the Agriculture bill which we passed; the Food Security Act of 1985.

I would like to commend my colleague, the gentleman from Texas, [Mr. BARTON], for what he is after here in this amendment. He is merely suggesting that if we are going to analyze it every other year that should be enough. We do not have to analyze what we have done every other year every year. He wants to eliminate the every-year requirement, and I commend him for that and wish him well with this amendment.

As to the bill itself, I think the kindest thing that we in the House can do with this bill is bury it under the Capitol. That is the consideration I think it deserves. It is just another example of how the bureaucracy grows and grows and the taxpayers are stuck with the bill for all of this bureaucracy that sounds so good in terms of what it portends, but it will likely result in the production of reams of volumes of papers and analyses that will sit on a shelf somewhere and gather dust and never be read by anybody except the people who proofread the product at the printers when it was being published.

□ 1805

In case you are wondering about who you want to call if you want to check on the status of nutritional information in the Federal Government, here is a copy of the telephone directory for the Human Nutrition Information Service. The Director is Robert L. Rizek. Call him up. He is at 436–8457. Since it is after 5 o'clock, he has probably gone home, but next week if you want to call him and find out whether what you are eating is nutritionally proper, call him up. He will probably tell you and refer you to some of the reports that are in existence.

I note with interest that when this bill was on the Suspension Calendar, it had a money figure in it. As I recall, it was around $30 million, but I am not sure. Now that that money figure has been taken out, I suspect that the sponsors of the legislation believe that somehow if we hide the cost, the Members will be a little more inclined to approve yet another addition to the bureaucracy.

In closing, let me say that the kindest thing that we can do to this bill is to bury it in the bottom of the Capitol.

Mr. MACKAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I will not take 5 minutes, I will just speak from my experience and my acquaintance with the gentleman from California [Mr. DANNEMEYER] and others on that side. All I can say is, if the gentleman was on the subcommittees that had responsibility to do oversight on these agencies, he would not have had to call up the man, we had the man sitting there, and we could not get the man to give us a straight answer. We could not get him to tell us how much he was spending; we could not get him to tell us how his program tied together with anything else; and we could not get him to tell us when, after 8 years

of being mandated by this Congress, after 8 years we could not get him to tell us when we were going to have a comprehensive plan.

Here is what we have. This is a prepublication copy. The real copy is going to come out in July. Let me tell you when this was due. This was due 2 years ago. You know why we got that? Because the bill is coming on the floor for debate.

All I can say is, with all due respect, the gentleman is attempting to make an ideological argument over a very practical problem. We have a bureaucratic nightmare. We are on your side of the issue, and somehow or other it is very difficult to convince the gentleman that we are trying to save money and not spend money.

Mr. DANNEMEYER. Mr. Chairman, will the gentleman yield?

Mr. MACKAY. I am happy to yield to the gentleman.

Mr. DANNEMEYER. I am just curious, was this person who declined to issue the information asked to come before a congressional committee and testify?

Mr. MACKAY. These persons have been asked and they have appeared, the heads of the agencies have appeared; I can show you the record from 3 years ago when I had the heads of two agencies that are responsible, and I said, "Which of your agencies is responsible?" I knew one of them was, and you know what? They did not know which one was responsible.

That is a disgrace, and that actually happened. We have it on the record.

Mr. DANNEMEYER. I could not agree with my friend more, and I think that the responsible thing for us to do with that kind of performance from a member of the executive branch of Government is to bring each of them the retirement that they richly deserve and just exit them out of the budget process, and wish them well in their next employment, wherever that may happen to be.

Mr. MACKAY. I thank the gentleman for that comment, and frankly, that thought also crossed our minds.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTON].

The amendment was rejected.

AMENDMENT OFFERED BY MR. PACKARD

Mr. PACKARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PACKARD: On page 32, SEC. 103. (a)(2), line 21, strike "resources were" and insert in lieu thereof" nutrition benefits are".

Mr. PACKARD. Mr. Chairman, I simply was concerned in this small change that we would be asking for a system to be set up that would review the personal income and the personal spending habits of those that would be involved in programs, and I believe that we have reached an agreement that we are referring only to nutritional programs and short funding in those areas, that that is what we are talking about.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I am happy to yield to the gentleman.

Mr. PANETTA. I thank the gentleman for yielding, and I appreciate his cooperation. We have discussed this matter. He has made the appropriate amendment. What we are basically focusing on here are the adequacy of benefits that are provided and how they impact on an adequate diet and on the nutrition of those who receive those benefits.

This is something that we have been looking at time and time again with the hearings that we have in the Nutrition Subcommittee, and for that reason this type of analysis is important.

The gentleman has made the appropriate amendment, I thank him for it, and the Committee on Agriculture certainly has no problem with the amendment and would accept it.

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I am happy to yield to the gentleman.

Mr. WALGREN. On behalf of the Committee on Science and Technology, I certainly accept the amendment, and we appreciate the way that it has been presented.

Mr. PACKARD. Mr. Chairman, I thank the gentlemen, both of them, for their cooperation, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PACKARD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF NEW HAMPSHIRE

Mr. SMITH of New Hampshire. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Hampshire: On page 44, SEC. 201, in line 20, strike "and" and all that follows through line 22 and insert in lieu thereof".".

Mr. SMITH of New Hampshire. Mr. Chairman, my amendment is quite simple. It eliminates approximately $100,000 in travel stipends for the advisory committee members.

I think that we should take a look at what we have done. I think that the issue here is not the merits of nutrition monitoring; I think we all accept the fact that nutrition monitoring is a very noble cause. What we are looking at here, however, is two existing programs, both in Agriculture and in HHS, which are supposed to be monitoring nutrition.

They are not doing it, and the question is, actually two questions: who will do the monitoring, and why are not those who are supposed to be doing it and being paid to do it, doing it?

I feel that if we are going to create an advisory committee consisting of the Director of Nutrition Research, employee of a State government, employee of a local government, a National Academy of Sciences member, private sector representative, somebody from the academic community, and somebody "from a public interest group" among others, if we are going to put these people on a committee to do somebody else's work, then why do we not take the money from those who are not doing the job and compensate them for mileage, if that is what we need to do.

I think that the bottom line here is that if you are going to serve on this committee, it is a bit of an honor, and sponsorships are available from local community groups, support from the committee members, State nutrition agency, academic institutions, business groups, any number of individuals who are available to help defray the costs, or, as I said earlier, taking it from the Agriculture and the HHS people who are not doing the job to begin with.

In addition, I want to point out that both in the current Senate tax bill as well as the House tax bill, we do not know yet which one we will get, but in both bills there is a 100-percent deduction for this type of mileage allowance. So we are really paying twice, the taxpayers are paying twice here, which I do not think is in the best interest of the taxpayers, and hopefully not in the spirit and intent of the makers of the bill.

Why also must committee meetings, advisory committee meetings, if we create this committee, be held in Washington, DC? If there are members on this committee with travel problems, perhaps we could move the meetings out there wherever they are who are having the travel problems, or better yet, perhaps we could appoint somebody to the committee who does not worry about a little travel money in his own particular situation.

I think that the issue here is that we are paying additional people mileage to do something that should be done by the appropriate agencies, and I would ask that my colleagues support me on this amendment because we can save approximately $100,000 each year, and looking at the outlays over 10 years, you are looking at at least $1 million in travel to pay somebody to do something that we are paying somebody to do already, and therefore, Mr. Chairman, I would call for my amendment to be approved.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I suspect that many Members on the floor who are listening to these amendments are wonder-

ring as to what the real purpose of them is. This is not in any way to impugn the motives of the gentleman making the amendment.

We have here legislation which has been exhaustively examined in two committees, which has been before the House before and passed by a majority.

□ 1815

It is a good faith effort to save literally millions of dollars and to improve on our presently chaotic programs scattered throughout the Government of the United States.

The gentleman offering this amendment hopes, I guess, to perfect this legislation by what is sometimes a politically popular effort to strike out $50,000 for travel. The purpose of this travel fund, of course, is to pay for the expenses of non-Federal participants in the program who are asked to give us the benefit of their judgment, their wisdom, in order to improve this program and to better involve State and local agencies.

The gentleman in striking out these funds, I will not say that he deals a mortal blow to the program, he just has a chilling effect upon the participation of the very people who he would want to participate, the people from his State, from my State, from others who could give us a constructive viewpoint here.

Now, I ask the gentleman, in all honesty, is that really what he wants to do, or is he trying hopefully to draw out the consideration of this bill for so long that maybe the sponsors will give up and go home or something like that.

Mr. SMITH of New Hampshire. Mr. Chairman, will the gentleman yield to me?

Mr. BROWN of California. I am happy to yield to my friend.

Mr. SMITH of New Hampshire. Mr. Chairman, I think the issue here is that if you are going to compensate individuals for mileage, it is my understanding, and correct me if I am wrong, that these individuals are not being paid, is that correct?

Mr. BROWN of California. That is correct.

Mr. SMITH of New Hampshire. So if you are going to compensate them to travel to have these committee meetings to do somebody else's work, then why not take the money, fire somebody who is not doing the job and save the taxpayers the money and give them the mileage? That is all I am saying.

We can talk about duplication and talk about political motivation all we want, but in my State that is fiscal responsibility and good sensible management. If you have got somebody who is not doing the job managing and you put somebody else in to do the management, then get rid of the people who are not doing the management and compensate those who are.

Mr. BROWN of California. Well, I appreciate the gentleman's statement, but really, I am sure the gentleman does not think we are inviting people in to manage this program. We are inviting people in to help improve this program, to give us the kind of outside expertise and judgment that will reflect a broader constituency. That is not managing the program. That is helping the managers to relate their activities more clearly to the people that they serve.

I am struck, when I was first elected to Congress, I did not get any travel pay. I got one trip back to my district per year. I thought that was kind of shortsighted, because I cannot give the kind of representation to the people of my district with one trip per year and then making another dozen trips and not being paid for it.

The gentleman is asking in effect people who will come to Washington to represent the constituencies in the State to do it on their own money, and that is unrealistic, undesirable, and not good management.

Mr. BOEHLERT. Mr. Chairman, will my colleague yield?

Mr. BROWN of California. I am happy to yield.

Mr. BOEHLERT. Mr. Chairman, I could not agree more with my colleague.

I rise in strong opposition to the well-intentioned amendment. I have great respect for my colleague, the gentleman from New Hampshire, but we have discussed this.

What we want is a citizens advisory council, people who are knowledgeable in their fields, many of them currently working for local governments, and we all know that local governments are strapped for cash, and we are part of the problem.

Second, many of them are working not-for-profit agencies. They have great expertise. They want to make a contribution to their country. They would serve with no per diem, no compensation.

We are just asking for a modest investment on the part of the Federal Government to reimburse them for their actual travel expenses.

I do not think we should deny ourselves the expertise that is out there all across America, people who are working, making a modest income, making a great contribution at the local government level in the not-for-profit agencies.

I think that while the amendment is well-intentioned, I feel very strongly about it and I would urge my colleagues to oppose it.

Mr. BROWN of California. Mr. Chairman, I thank the gentleman for his comments.

I ask for "no" vote on the amendment.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I have the greatest respect for my colleagues on the other side of the aisle on this particular amendment. I would have some disagreement with the statement made that the purpose of this bill is to save money.

I would again point out that according to the estimates that I have, although no funds are authorized in this particular bill, the best estimates are that it is going to cost an additional $70 million on up to $182 million, so I do not think the purpose of the bill, at least it is not stated as such, is to save money.

With regard to this particular amendment, we had this same discussion in the subcommittee and in the committee about whether or not to allow travel expenses. At one point we also had an actual salary for some of the Members, and that was deleted. We did not delete the travel expense requirement, although in other advisory committees that our committee has set up we have deleted the travel expense requirement.

I would think that the people who are going to be appointed to this National Advisory Committee are of such stature, and it is such an honor to be appointed by the President or Congress to one of these committees, that they would be more than able to pay their own way to Washington, DC, for the committee meetings, or to wherever the meetings happen to be held.

Now, $100,000 is not a lot of money at the Federal level, but it is still Federal tax dollars and if we can save that money, I think it is worth doing; so I do support the amendment and urge my colleagues to do likewise.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I am more than happy to yield to my colleague.

Mr. BOEHLERT. Mr. Chairman, if I can recall that committee markup, there was strong bipartisan opposition after a thorough and spirited debate on the subject. We did address the subject of per diem which was in the original bill and we conceded that perhaps we were asking some public service and we would agree to eliminate the per diem, which we did; but in terms of the actual travel expenses, the point I made in the committee is a point I will make here. In many instances we are looking for some people who may be in upstate New York or in central Texas or New Hampshire, across this country, working in local governments, dedicated, committed, making a great contribution, maybe making the grand sum of $18,000 a year, with a family and three or four children, but they have something to

offer to this Nation and to this advisory committee.

We would ask them to come to Washington and share with us their expertise. We would also ask them to pick up the tab for their travel to Washington.

I really think that is unrealistic. That is asking something that the people are just not prepared or in a position to give. They would if they could, especially the people working in a not-for-profit organization across the country. We have all been exposed to them. The commitment is there. Do not deny them.

Mr. SMITH of New Hampshire. Mr. Chairman, will the gentleman from Texas yield?

Mr. BARTON of Texas. I am happy to yield.

Mr. SMITH of New Hampshire. Mr. Chairman, I would like to point out in response to the gentleman from New York that I do not have a particular issue with compensating the fine Americans who would come in and tell the people who are running these agencies how to save money, because apparently they are not doing a very good job of it. My issue here is why add $100,000 to our budget to do that when we could take that money from other sources in those agencies that are not doing the job. That is the issue.

Mr. BOEHLERT. Mr. Chairman, will the gentleman from Texas yield to me? I understand it is still his time.

Mr. BARTON of Texas. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Speaker, let me say that when the day arrives when we in Washington think we have all the answers is the day I am going to walk away from this Federal Government. We do not even know all the questions. What we need for grassroots America is people to come to Washington who daily live with these programs and live with the people we are privileged to represent and give us their best advice.

We cannot trust the judgment, the exclusive judgment of all those fine people working in the executive branch, and I am not downgrading them. They are very learned people. Just in this Chamber there are great learned people. I have great respect for all my colleagues.

But guess what, I do not trust our collective judgment alone without the input from those people across America that we would draw from to serve on these advisory committees.

Mr. BARTON of Texas. Mr. Chairman, I want to make a comment. I could not agree more with my colleague, the gentleman from New York, about all the answers not being in Washington. I would point out, though, that I could spend every waking hour of every day in my office visiting people who have made the trip from Texas at their own expense to talk to me about pressing national issues.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. BARTON of Texas was allowed to proceed for 3 additional minutes.)

Mr. BARTON of Texas. I cannot in all honesty feel that the caliber of the people who are going to be appointed to these advisory committees would not be able to supply their own travel expenses.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. If the gentleman from Missouri [Mr. EMERSON] has a comment to make, I am happy to yield to him.

Mr. EMERSON. Mr. Chairman, I just wanted to say that the gentlemen who are speaking on this by and large are from the Science and Technology Committee. I do not know what their experience there leads to in terms of an understanding whether or not the Science and Technology Committee is profligate, but I just want to assure the House that from the agriculture side of this issue, we have tried to be frugal. We are trying to see that efforts are coordinated, rather than duplicative. We want a proper input from Federal, State, and local officials on this.

I think in the language of the bill we have arrived there.

I do not take issue with the gentleman from the Science and Technology Committee. They have their own experience from their service on that committee, but I just want the House to know how frugal the Agriculture Committee has tried to be.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from New York a few minutes ago made the point about bringing in people from all over America. I think we all agree with that, that that is something that is very useful.

The problem with most of these advisory commissions, however, becomes that we do not bring in the average citizen to advise the Government. We do not bring in the commonsense of America.

What we tend to bring in are people who are beholden to these programs. They have Federal grants that run the programs. They are people formerly with the agencies and therefore they bring their expertise back to Washington. We tend to bring in people who formerly served within programs that have a tie to what we are doing.

The experience with these commissions over the years is not that we get a lot of independent knowledge from commonsense America, but rather that we get a lot of people on these commissions who are the so-called experts and many of those experts are the very ones who brought on the problems that we are now asking the advisory commission to try to solve.

I think that if we could be assured that what we were going to get was a lot of good commonsense Americans coming in, that we probably could do without the amendment of the gentleman from New Hampshire and assure that those people got their travel expenses.

If what we are going to get is a lot of former bureaucrats coming back to town to tell us how they should have run it when they were here, but did not, then it seems to me that maybe the gentleman from New Hampshire has a pretty good amendment and maybe we ought to make those people pay their way back to Washington. We paid them too much to come to Washington in the first place.

Mr. SMITH of New Hampshire. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New Hampshire.

Mr. SMITH of New Hampshire. Mr. Chairman, I would point out that I agree with my colleagues, the gentleman from New York, and the gentleman from Pennsylvania, on the commonsense issue.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. BOEHLERT, and by unanimous consent, Mr. BARTON of Texas was allowed to proceed for 3 additional minutes.)

Mr. SMITH of New Hampshire. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New Hampshire.

Mr. SMITH of New Hampshire. Mr. Chairman, there are thousands, in fact, millions of people all across America out there offering advice to this Congress. The problem is that this Congress is not hearing, it is not listening. If we were listening to the thousands of Americans and millions of Americans out there on these deficits, we would not be having this kind of bureaucratic mess that we are creating right here with this kind of legislation.

I think there are people out there who would like to come in here and tell this Congress, this Government, how to run itself, and it is not doing a very good job of it. It is as simple as that and this is a perfect example of it.

You are paying people to travel in here who are going to correct problems, and rightfully so, that need to be corrected, for individuals who are being paid to do it.

□ 1830

I have no objection to that. What I object to is paying the people who are not doing it, and I think that is still the issue.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield the balance of my time to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding.

Mr. Chairman, I would like to stress that we are not paying the people we are seeking to serve on this advisory commission. We are just reimbursing them for the actual travel expenses to and from any meetings incident to their service on the commission.

The CHAIRMAN. The gentleman from Texas [Mr. BARTON] is required to remain on his feet.

Mr. BOEHLERT. Just let me say this: In my previous life I was privileged to be a county executive in New York State. We had 1,600 people working for the county government, many of them experts in their fields. Many of them had a great deal to offer beyond Oneida County, NY. Many of them would have welcomed an opportunity to serve on an advisory council to give some advice and assistance to an agency of the Federal Government and would have been able to make major contributions.

The problem is that we did not have in our county budget the money to pay for their travel expenses and they did not have within their personal resources the money to pay the travel expenses.

I would suggest this, in reference to the comment made by our colleague, the gentleman from Pennsylvania: If we want to guarantee that we continue to have advisory panels like this, advisory councils like this, peopled only by people of substance and means, we would approve this amendment. But if we want to give opportunity to serve to people who have some special expertise but lack the resources, I would suggest that the amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Hampshire [Mr. SMITH].

The amendment was rejected.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTON of Texas: On page 42, SEC. 201, strike line 19 and all that follows through line 9 on page 43, and redesignate the following subsections accordingly.

Mr. BARTON of Texas. Mr. Chairman, what this particular amendment does, in the advisory committee that is going to be set up if this legislation becomes law, as the legislation is currently structured, it states that the individuals who are appointed to the advisory council by the President shall include one member who is director of the Nutrition Research Unit, one member who is an employee of a State government, one member who is an employee of a local government, one member who is an appointed representative of the Food and Nutrition Board of the National Academy of Sciences.

My amendment strikes the requirements that those particular types of individuals shall be appointed. The President would still appoint seven members. They would have to be people who were eminent in the field of administrative dietetics, clinical dietetics, community nutrition research. It just gives the President the flexibility to appoint any individual who meets the general requirements. It prevents the advisory council from becoming an advocacy council.

For those reasons, I would urge the adoption of the amendment.

Mr. WALGREN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this makeup of the council really is designed to enable the advisory council to serve with wisdom. We are not creating a body here that would be at variance with the President. The President appoints these individuals and, therefore, he certainly would use his wisdom and exercise his discretion in a way that would appoint good people to this advisory council.

The whole purpose of the program is to serve State and local governments, to respond to the specific needs of the kind of nutrition research units that are involved in this area. It is just a very important thing that the members of this council bring together the sensitivities from the sectors that they are specified to represent.

All the public witnesses who testified on this bill recommended that individuals from these particular areas make up that advisory council. It certainly needs to be an advocacy council for the direction of the program, but certainly with the proper restraint, because the individuals would be selected by a President who was choosing people who were constructive participants and had something to contribute.

Mr. Chairman, I urge my colleagues to oppose the amendment on that basis.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield for a question?

Mr. WALGREN. I would be happy to yield to the gentleman from Texas.

Mr. BARTON of Texas. I thank the gentleman for yielding.

Mr. Chairman, it is my understanding that my amendment does not eliminate the requirement that the Presidential appointees be eminent in their field and represent broad geographic areas from the private sector, academia, and things like that.

So since we are not specific in the congressional appointees, why should we be specific in the Presidential appointees? It would still ask that they meet the same high standards of achievement.

Mr. WALGREN. Mr. Chairman, reclaiming my time, we really want State and local government to be realistically involved in this area. I think it is very important that someone be on that board, with the judgment of the President, who is intimately involved in State and local government. I think it would be self-defeating for a theoretical nutritionist to ask a State government to do something that perhaps the State government is substantially unable to do.

So that is why we bring onto this board people who are practically involved in the areas where the service is intended to go.

I would point out that if this board works properly, the benefit that they could bring to our system is immense. When you consider that we are spending $19 billion in food assistance programs, $70 billion in medical care programs, a substantial portion of which is involved in nutrition-related deficiencies, perhaps not a substantial portion, but much for the elderly, the leverage that wise action has is tremendous. So that is why it is so important that we have people with practical, actual involvement in these areas.

Mr. BARTON of Texas. If the gentleman would yield further, I appreciate the answer.

Mr. Chairman, I would point out that my amendment would not preclude that. It just would give the President flexibility not to be limited to individuals in those particular educational areas and occupational areas.

Mr. WALGREN. Reclaiming my time, Mr. Chairman, I understand, but I would say that this is our responsibility to determine. We are the ones who are spending the taxpayers' money. We ought to set up a system that has our highest confidence, and this system, absent this requirement, would certainly not qualify for our confidence in the way in which we must invest it.

Mr. BARTON of Texas. If the gentleman would yield for one additional question, when the gentleman says "we," am I to assume the gentleman means we Members of Congress?

Mr. WALGREN. Yes. I believe this is a responsibility we should keep on this floor.

Mr. BARTON of Texas. All right. If that is the "we," then why does the gentleman not specify the appointees that the Congress actually designates on this advisory council?

Mr. WALGREN. There was a story about the sum total of the wisdom of Congress, and it was not very much, but where we can recognize a little bit of it, I think we ought to go in that direction, and this goes in that direction.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARTON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 157, noes 231, not voting 45, as follows:

[Roll No. 209]

AYES—157

Archer	Hansen	Pursell
Armey	Hendon	Regula
Badham	Henry	Ridge
Bartlett	Hiler	Rinaldo
Barton	Hillis	Ritter
Bateman	Holt	Roberts
Bentley	Hopkins	Rogers
Bereuter	Hubbard	Roth
Bilirakis	Hunter	Roukema
Billey	Hyde	Saxton
Boehlert	Ireland	Schaefer
Boulter	Jeffords	Schneider
Broomfield	Kasich	Schuette
Brown (CO)	Kindness	Schulze
Broyhill	Kolbe	Sensenbrenner
Burton (IN)	Kramer	Shaw
Callahan	Lagomarsino	Shumway
Carney	Latta	Shuster
Chandler	Lent	Siljander
Cheney	Lewis (FL)	Skeen
Clinger	Lightfoot	Slaughter
Coats	Livingston	Smith (NE)
Cobey	Loeffler	Smith (NJ)
Coble	Lott	Smith, Denny (OR)
Coleman (MO)	Lowery (CA)	Smith, Robert (NH)
Combest	Lujan	Smith, Robert (OR)
Coughlin	Lungren	Solomon
Courter	Mack	Spence
Craig	Madigan	Stangeland
Crane	Marlenee	Strang
Dannemeyer	Martin (IL)	Stump
Daub	Martin (NY)	Sundquist
DeLay	McCain	Sweeney
DeWine	McCollum	Swindall
Dickinson	McDade	Tauke
Dreier	McEwen	Taylor
Duncan	McGrath	Thomas (CA)
Eckert (NY)	McMillan	Vander Jagt
Emerson	Meyers	Vucanovich
Evans (IA)	Michel	Walker
Fawell	Miller (OH)	Weber
Fiedler	Miller (WA)	Whitehurst
Fields	Molinari	Whittaker
Franklin	Monson	Wolf
Frenzel	Moorhead	Wortley
Gallo	Morrison (WA)	Wylie
Gekas	Myers	Young (AK)
Gingrich	Nielson	Young (FL)
Goodling	Oxley	Zschau
Gradison	Packard	
Gregg	Parris	
Gunderson	Pashayan	
Hall, Ralph	Petri	
Hammerschmidt	Porter	

NOES—231

Ackerman	Barnard	Borski
Akaka	Bates	Bosco
Alexander	Bedell	Boucher
Anderson	Bennett	Boxer
Andrews	Berman	Brown (CA)
Annunzio	Bevill	Bruce
Anthony	Biaggi	Bryant
Applegate	Boggs	Burton (CA)
Aspin	Boner (TN)	Bustamante
Atkins	Bonior (MI)	Byron
AuCoin	Bonker	Carper
Carr	Hoyer	Price
Chapman	Huckaby	Rahall
Chappell	Hughes	Rangel
Clay	Hutto	Ray
Coelho	Jacobs	Reid
Coleman (TX)	Jenkins	Richardson
Collins	Johnson	Robinson
Conte	Jones (NC)	Rodino
Conyers	Jones (OK)	Roe
Cooper	Jones (TN)	Roemer
Coyne	Kanjorski	Rowland (CT)
Crockett	Kaptur	Rowland (GA)
Daniel	Kastenmeier	Roybal
Darden	Kennelly	Russo
Daschle	Kildee	Scheuer
Dellums	Kleczka	Schroeder
Derrick	Kolter	Schumer
Dicks	Kostmayer	Sharp
Dingell	LaFalce	Shelby
DioGuardi	Lantos	Sikorski
Dixon	Leath (TX)	Sisisky
Donnelly	Lehman (CA)	Slattery
Dowdy	Lehman (FL)	Smith (FL)
Downey	Leland	Smith (IA)
Durbin	Levin (MI)	Snowe
Dwyer	Levine (CA)	Solarz
Dymally	Lloyd	Spratt
Dyson	Long	St Germain
Eckart (OH)	Lowry (WA)	Staggers
Edwards (CA)	Luken	Stallings
Edwards (OK)	MacKay	Stark
English	Manton	Stenholm
Erdreich	Markey	Stokes
Evans (IL)	Matsui	Stratton
Fascell	Mazzoli	Studds
Fazio	McCloskey	Swift
Feighan	McCurdy	Synar
Flippo	McHugh	Tallon
Foglietta	McKernan	Tauzin
Foley	Mica	Thomas (GA)
Ford (MI)	Mikulski	Torres
Ford (TN)	Miller (CA)	Torricelli
Fowler	Mineta	Towns
Frank	Moakley	Traficant
Garcia	Mollohan	Traxler
Gaydos	Montgomery	Udall
Gejdenson	Moody	Valentine
Gephardt	Morrison (CT)	Vento
Gibbons	Mrazek	Visclosky
Gilman	Murphy	Volkmer
Glickman	Murtha	Walgren
Gonzalez	Natcher	Watkins
Gordon	Neal	Waxman
Gray (IL)	Nelson	Weiss
Gray (PA)	Nowak	Wheat
Green	Oakar	Whitley
Guarini	Oberstar	Whitten
Hall (OH)	Obey	Williams
Hamilton	Olin	Wilson
Hatcher	Ortiz	Wise
Hawkins	Owens	Wolpe
Hayes	Panetta	Wright
Hefner	Pease	Wyden
Hertel	Penny	Yates
Horton	Pepper	Yatron
Howard	Perkins	Young (MO)

NOT VOTING—45

Barnes	Frost	Moore
Bellenson	Fuqua	Nichols
Boland	Grotberg	O'Brien
Breaux	Hartnett	Pickle
Brooks	Heftel	Quillen
Campbell	Kemp	Rose
Chappie	Leach (IA)	Rostenkowski
Davis	Lewis (CA)	Rudd
de la Garza	Lipinski	Sabo
Dorgan (ND)	Lundine	Savage
Dornan (CA)	Martinez	Seiberling
Early	Mavroules	Skelton
Edgar	McCandless	Snyder
Fish	McKinney	Weaver
Florio	Mitchell	Wirth

□ 18500

Mr. AUCOIN changed his vote from "aye" to "no."

Mr. GEKAS and Mrs. ROUKEMA changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1900

Accordingly the committee rose; and the Speaker pro tempore [Mr. WRIGHT] having assumed the chair, Mr. KOSTMAYER, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 2436) to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan, pursuant to House Resolution 484, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BARTON of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 305, noes 85, not voting 43, as follows:

[Roll No. 210]

AYES—305

Ackerman	Bateman	Boner (TN)
Akaka	Bates	Bonior (MI)
Alexander	Bedell	Bonker
Anderson	Bennett	Borski
Andrews	Bentley	Bosco
Annunzio	Bereuter	Boucher
Anthony	Berman	Boxer
Applegate	Bevill	Brown (CA)
Aspin	Biaggi	Broyhill
Atkins	Bilirakis	Bruce
AuCoin	Boehlert	Bryant
Barnard	Boggs	Burton (CA)

Bustamante	Hubbard	Rangel
Byron	Huckaby	Regula
Carper	Hughes	Reid
Carr	Hutto	Richardson
Chapman	Jacobs	Ridge
Chappell	Jeffords	Rinaldo
Clay	Jenkins	Ritter
Clinger	Johnson	Roberts
Cobey	Jones (NC)	Robinson
Coelho	Jones (OK)	Rodino
Coleman (MO)	Jones (TN)	Roe
Coleman (TX)	Kanjorski	Roemer
Collins	Kaptur	Rogers
Conte	Kasich	Rose
Conyers	Kastenmeier	Roukema
Cooper	Kennelly	Rowland (CT)
Coughlin	Kildee	Rowland (GA)
Courter	Kleczka	Roybal
Coyne	Kolbe	Russo
Craig	Kolter	Saxton
Crockett	Kostmayer	Scheuer
Daniel	LaFalce	Schroeder
Darden	Lantos	Schuette
Daschle	Latta	Schulze
Dellums	Leath (TX)	Schumer
Derrick	Lehman (CA)	Seiberling
Dicks	Lehman (FL)	Sharp
Dingell	Leland	Shaw
DioGuardi	Lent	Shelby
Dixon	Levin (MI)	Sikorski
Donnelly	Levine (CA)	Sisisky
Dorgan (ND)	Lewis (FL)	Slattery
Dowdy	Lloyd	Smith (FL)
Downey	Long	Smith (IA)
Duncan	Lowery (CA)	Smith (NE)
Durbin	Lowry (WA)	Smith (NJ)
Dwyer	Lujan	Smith, Robert (OR)
Dymally	Luken	Snowe
Dyson	MacKay	Solarz
Eckart (OH)	Manton	Spence
Edwards (CA)	Martin (IL)	Spratt
Emerson	Martin (NY)	St Germain
English	Martinez	Staggers
Erdreich	Matsui	Stallings
Evans (IL)	Mavroules	Stark
Fascell	Mazzoli	Stokes
Fawell	McCain	Stratton
Fazio	McCloskey	Studds
Feighan	McCurdy	Sundquist
Flippo	McDade	Sweeney
Foglietta	McGrath	Swift
Foley	McHugh	Synar
Ford (MI)	McKernan	Tallon
Ford (TN)	McMillan	Tauzin
Fowler	Meyers	Taylor
Frank	Mica	Thomas (CA)
Franklin	Michel	Thomas (GA)
Frenzel	Mikulski	Torres
Gallo	Miller (CA)	Torricelli
Garcia	Miller (WA)	Towns
Gaydos	Mineta	Traficant
Gejdenson	Mitchell	Traxler
Gekas	Moakley	Udall
Gephardt	Mollohan	Valentine
Gibbons	Moody	Vento
Gilman	Morrison (CT)	Visclosky
Glickman	Morrison (WA)	Volkmer
Gonzalez	Mrazek	Walgren
Goodling	Murphy	Watkins
Gordon	Murtha	Waxman
Gray (IL)	Natcher	Weiss
Gray (PA)	Neal	Wheat
Green	Nelson	Whitley
Guarini	Nowak	Whittaker
Gunderson	Oakar	Whitten
Hall (OH)	Oberstar	Williams
Hall, Ralph	Obey	Wilson
Hamilton	Olin	Wise
Hammerschmidt	Ortiz	Wolf
Hatcher	Owens	Wolpe
Hawkins	Panetta	Wortley
Hayes	Pashayan	Wright
Hefner	Pease	Wyden
Heftel	Penny	Wylie
Hendon	Pepper	Yates
Henry	Perkins	Yatron
Hertel	Petri	Young (AK)
Horton	Price	Young (MO)
Howard	Pursell	Zschau
Hoyer	Rahall	

NOES—85

Archer	Bartlett	Boulter
Armey	Barton	Broomfield
Badham	Bliley	Brown (CO)
Burton (IN)	Holt	Ray
Callahan	Hopkins	Roth
Carney	Hunter	Schaefer
Chandler	Ireland	Sensenbrenner
Cheney	Kindness	Shumway
Coats	Kramer	Shuster
Coble	Lagomarsino	Siljander
Combest	Lightfoot	Skeen
Crane	Livingston	Slaughter
Dannemeyer	Loeffler	Smith, Denny (OR)
Daub	Lott	Smith, Robert (NH)
DeLay	Lungren	Solomon
DeWine	Mack	Stangeland
Dickinson	Marlenee	Stenholm
Dreier	McCollum	Strang
Eckert (NY)	McEwen	Stump
Edwards (OK)	Miller (OH)	Swindall
Evans (IA)	Molinari	Tauke
Fiedler	Monson	Vander Jagt
Fields	Moorhead	Vucanovich
Gingrich	Myers	Walker
Gradison	Nielson	Weber
Gregg	Oxley	Whitehurst
Hansen	Packard	Young (FL)
Hiler	Parris	
Hillis	Porter	

NOT VOTING—43

Barnes	Fuqua	Nichols
Bellenson	Grotberg	O'Brien
Boland	Hartnett	Pickle
Breaux	Hyde	Quillen
Brooks	Kemp	Rostenkowski
Campbell	Leach (IA)	Rudd
Chappie	Lewis (CA)	Sabo
Davis	Lipinski	Savage
de la Garza	Lundine	Schneider
Dornan (CA)	Madigan	Skelton
Early	Markey	Snyder
Edgar	McCandless	Weaver
Fish	McKinney	Wirth
Florio	Montgomery	
Frost	Moore	

□ 1925

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to make an announcement.

The Chair desires to announce that we just had a conversation with the leader in the other body, which now is debating the last of a series of proposed amendments to the supplemental appropriation conference report.

Other attempts to amend have been rejected, and if the present amendment pending at this time should not be agreed to, then there would be nothing further for the House to have to do with regard to the passage of the conference report on the supplemental appropriations bill.

If, on the other hand, an amendment should be agreed to in the other body, it would be necessary, of course, for the House to take further action with regard to that conference committee report.

So following this action, it will be the purpose of the Chair to seek a recess for such time as may seem to be desirable, let us say until perhaps 8 o'clock or thereabouts, and at that time we could come back and see what it looked like, if that seems to be agreeable to the membership.

Ms. OAKAR. Mr. Speaker, many Members are asking whether there is any possibility of the budget conference report coming out. Is that not possible?

The SPEAKER pro tempore. That is possible and, of course, if it were possible for us to take care of that tonight, the Chair thinks we would want to do it, though the Chair believes that most Members would feel it unwise, if it could be avoided, to have two nights in succession in which we would be in past midnight.

Ms. OAKAR. If I may further ask, in the event that we finish the business tonight relative to the supplemental, and the budget conferees do not have any voice in unison, then should we assume there are no votes tomorrow?

The SPEAKER pro tempore. That would be right, unless there were very strong evidence, strong compelling reason to believe that we would have a budget resolution to act upon tomorrow, in which case we would come in at 10 o'clock and try to be adjourned by noon or thereabouts. But unless there is strong compelling evidence to believe there is an agreement on a budget resolution, then the House would adjourn tonight and hang that conference report on a limb to await our return.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, do I understand that the recess authority the Chair is going to seek will be to recess until 8 o'clock so we are recessed until a time certain?

The SPEAKER pro tempore. There will be a recess until 8 o'clock or thereabouts, that is correct.

Mr. WALKER. I think the Members would prefer to have a time certain.

The SPEAKER pro tempore. It would take a unanimous-consent request, of course, of which the gentleman from Pennsylvania would surely be aware.

The Chair would at this time suggest a unanimous consent request that it be in order to have a recess for 1 hour, with bells to ring 15 minutes before the House reconvenes.

Without objection, that authority will be granted.

Mr. GRAY of Pennsylvania. Mr. Speaker, reserving the right to object, I will not object, but I would like to respond to a concern that I heard mentioned as I was coming to the floor by the Speaker with regard to the budget conference report.

Mr. Speaker, I have been in conversation with the chairman of the Budget Committee of the other body. I am hopeful as a result of that con-

versation that the last problem between our two bodies with regard to the conference report may now be solved and thus, if it is, which I expect to find out in 5 to 10 minutes, we expect to convene the conference on the budget resolution within the next 30 minutes and thus we would be prepared, Mr. Speaker, to bring to the floor as a result of the cooperation of the minority side by unanimous consent, and the work of the ranking member, the budget conference report for fiscal year 1987, hopefully in an hour to an hour and a half.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the Chair?

There was no objection.

GENERAL LEAVE

Mr. WALGREN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on H.R. 2436, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERSONAL EXPLANATION

Mr. AuCOIN. Mr. Speaker, on rollcall No. 197, on June 25, 1986, I am recorded as voting "aye." I meant to record my vote as "no" rather than "aye."

Mr. Speaker, I ask unanimous consent that this statement appear in the permanent RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to the authority just granted, the Chair declares the House in recess for approximately 1 hour.

Accordingly (at 7 o'clock and 25 minutes p.m.), the House stood in recess to reconvene at approximately 8:25 p.m.

□ 2032

AFTER RECESS

The recess having expired at 8 o'clock and 32 minutes p.m., the House was called to order by the Speaker pro tempore [Mr. WRIGHT].

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4515) "An act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes."

The message also announced that Senate agrees to the amendments of the House to the amendments of the Senate numbered, 10, 11, 15, 18, 20, 22, 23, 25, 28, 40, 42, 44, 45, 50, 54, 59, 77, 78, 79, 80, 81, 84, 87, 91, 93, 95, 96, 97, 98, 101, 107, 108, 109, 111, 112, 120, 122, 128, 131, 132, 134, 136, 143, 144, 154, 155, 162, 163, 168, 172, 176, 179, 180, 182, 184, 186, 187, 192, 216, and 218 to the above-entitled bill.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 175 with an amendment.

URGENT SUPPLEMENTAL APPROPRIATONS, 1986

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to proceed for 10 minutes at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, it is my duty, I think I should say, at this time to make motions, the effect of which are to kill the effort on the other side of the Capitol to add oil workers to come within the Trade Adjustment Assistance Act for workers. As chairman of the Committee on Appropriations, I have had wide experience with many subjects; I have dealt with them this year. I take this time to call the attention of my colleagues on the floor and for the record to point out at this time we are buying $170 billion from foreign countries for which we are not paying, running in the red. We are $49 billion behind in what we are buying from Japan.

We have $1.6 billion we are spending to support our Military Forces in the Japanese area while they in turn are sending their products over here, for their safety.

We have $4.6 billion we are spending for our military in West Germany. When you go over there, they ask you to buy more trucks and hire their local people. I deal with agriculture. I have kept it, because it is hard to find anybody who has the time to work at it.

In 1974, 1975, and 1980 and for the last 5 years, we have held American agricultural products off world markets because the administration won't use the existing law to sell these products for what they will bring. We will soon have an appropriation bill that is going to call for $16 billion from the Treasury so farmers can sell below the cost of production. That is a result of the new law.

I listened to the debate on the other side of the Capitol and, goodness knows, something needs to be done. Fortunately, in the oil areas they have not had many of these bad years, but in the rest of this country they have had plenty of them; textiles, shoes and many others whose industries are failing and creating unemployment. We hear about trade. It is not trade when you buy, and they do not.

It is not trade when we quit producing and start buying on credit, which we are doing.

Now the problem before us today is that on the other side of the Capitol they have a provision which is subject to a point of order.

The other body is trying to relieve a serious situation in the oil industry. They are fortunate not to have had other bad years. They are feeling it for the first time in many years. I wish to state what my purpose here is, and I want to describe the overall situation so you will know that I do not like the job that I will have to do later of insisting on the House position.

MOTION OFFERED BY MR. WHITTEN TO CONCUR IN SENATE AMENDMENT NO. 175

Mr. WHITTEN. Mr. Speaker, I move to take from the Speaker's table the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes, with the Senate amendment to the House amendment to the Senate amendment No. 175 and to concur therein.

The SPEAKER pro tempore. The Clerk will report the title of the bill and the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to Senate amendment No. 175, as follows:

At the end of the amendment insert:

CHAPTER VIII A—TRADE ADJUSTMENT ASSISTANCE

SECTION 1. (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers' in such workers firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) in the case of workers of a firm in the oil or natural gas industry, for which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services.

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of subsection (a)(3)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(3) Any firm, or subdivision of a firm, which—

"(A) engages in the exploration for oil or natural gas,

"(B) produces or extracts oil or natural gas, or

"(C) processes or refines oil or natural gas,

shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.

"(4) Any firm which provides essential parts, or essential services, to another firm that conducts activities described in paragraph (3) with respect to oil or natural gas, as its principal trade or business, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) sales or production, or both, of such firm have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) in the case of a firm in the oil or natural gas industry, for which such firm provides essential parts or essential services.

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(C) Any firm which—

"(i) engages in the exploration for oil or natural gas,

"(ii) produces or extracts oil or natural gas,

"(iii) processes or refines oil or natural gas, or

"(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses as its principal trade or business,

shall be considered to be in the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(c)(1) The amendments made by this section shall apply with respect to petitions for certification which are filed or pending—

(A) on or after September 30, 1986, and

(B) before October 1, 1987.

(2) Notwithstanding any other provision of law, no worker shall be eligible for assistance under subchapter B of chapter 2 of title II of the Trade Act of 1974 if—

(A) such worker is covered by a certification made under subchapter A of such chapter only by reason of the amendment made by subsection (a) of this section, and

(B) the total or partial separation of such worker from adversely affected employment occurs after September 30, 1987.

Mr. FRENZEL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I have moved that the House concur in the Senate amendment to the House amendment to the Senate amendment No. 175.

POINT OF ORDER

Mr. FRENZEL. Mr. Speaker, I have a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. FRENZEL. Mr. Speaker, I make a point of order that the amendment violates section 401(b)(1) of the Budget Act. Section 401(b)(1) prohibits consideration of any bill, resolution, or amendment which provides new spending authority which is to become effective before the first day of the fiscal year which begins during the calendar year in which the bill or resolution is reported.

The Senate amendment amends the Trade Act of 1974 to expand eligibility under the trade adjustment assistance program to cover workers and firms supplying essential parts or services to the oil and gas industry. The amendment would apply to petitions for certification which are filed or pending on or after September 30, 1986, and before October 1, 1987. The amendment would thereby provide new spending authority for worker weekly cash benefits effective in fiscal year 1986.

Since the effective date is before the first day of fiscal year 1987, the Senate amendment is a clear violation of section 401(b)(1) of the Budget Act and the point of order should be sustained.

Mr. WHITTEN. Mr. Speaker, I consented to the point of order.

The SPEAKER pro tempore (Mr. WRIGHT). The Chair will rule: The gentleman from Minnesota makes the point of order that the motion offered by the gentleman from Mississippi to concur in the Senate Amendment to the House amendment to the Senate amendment number 175 to H.R. 4515 violates section 401(b)(1) of the Congressional Budget Act of 1974. That provision prohibits the consideration of a bill, or amendment, which provides new entitlement spending authority, as defined in section 401(c)(2)(C) of the Budget Act, which is to become effective before the first day of the fiscal year beginning in the calendar year in which the bill under question is reported.

The bill H.R. 4515 was reported in the 1986 calendar year. The Chair agrees with the argument of the gentleman from Minnesota that the Senate amendment in question provides new entitlement authority for adjustment assistance under the Trade Act of 1974, since it requires the Secretary of the Labor to certify a newly defined group of workers as eligible for trade adjustment assistance. Since the Senate amendment provides for such spending authority to apply to petitions filed or pending on or after September 30, 1986, before the beginning of fiscal year 1987, the Chair therefore sustains the point of order against the motion offered by the Gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, the point I make, if I may be permitted, is that in textiles and in shoes and in many other things in this country we have faced the same situation. The motion that I have to make here I understand is correct under the rules. I can express the hope that the other side of the Capitol will add these other things to it.

Therefore, I move at this time, Mr. Speaker, to disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate.

Mr. FRENZEL. Mr. Speaker, has the Chair ruled on the point of order?

The SPEAKER pro tempore. The Chair has ruled on the point of order and sustained the point of order of the gentleman from Minnesota.

Mr. FRENZEL. I thanks the Chair.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I move to disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

The motion was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair intends to call special orders at this time and would like to announce to the membership that the conferees

on the budget resolution are at this moment meeting and have reported hopeful indications that in a matter of some 45 minutes or thereabouts they might expect to have a conference report for the consideration of the House. Therefore the Chair will proceed with hearing special orders for the time being or until such time as we can get a clarification of the intentions of the conferees.

GENERAL LEAVE

Mr. McMILLAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the special order today by the gentlewoman from Maryland [Mrs. BENTLEY].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

GENERAL LEAVE

Mr. TORRES. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Wisconsin [Mr. KASTENMEIER].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COLA EQUALITY

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, I rise to introduce legislation with a dual purpose—to exempt all Federal annuity programs from Gramm/Rudman and to assure all these programs are given the same cost-of-living-adjustment. True, there is already legislation before this Congress to exempt retirement funds from Gramm/Rudman. However, these bills say nothing of how the retirement programs will be treated once they exempted. Take for example Civil Service Retirement. There has been no Gramm/Rudman for the past 3 years and yet this program has not received the same COLA's as Social Security. In fact military and Federal retirees have received only one full COLA in the past 3 years.

My legislation, "the Cost-of-Living-Adjustment Act of 1986" will mandate that all annuitants of Federal retirement programs will receive the same COLA. No inequities and no discrimination. The only way to do this is to tie all cost-of-living-adjustments under other retirement programs to the same "trigger". In this case that same trigger is the Social Security Trigger. And, by virtue of Social Security's exemption from Gramm/Rudman these other programs should be exempt as well.

The other programs which will be linked to the Social Security COLA provisions are: Central Intelligence Agency Retirement and Disability fund under the Central Intelligence Agency Retirement Act of 1964 for certain employees (50 U.S.C. 403), the Civil Service Retirement and Disability fund chapter 85 of title 5, United States Code, Annuity payable under subchapter 5 of chapter 7 or title 31, United States Code, annuity payable from the Foreign Service Retirement and Disability fund under chapter 8 of the Foreign Service Act of 1980 (22 U.S.C. 4041 to 4067), annuity payable from the Judicial Survivors' Annuities fund under section 376 of title 28, United States Code, retired and retainer pay payable to members and former members of the Army, Air Force, Navy, and Marine Corps, retired pay payable to commissioned officers of the National Oceanic and Atmospheric Administration, retired pay payable to members and former members of the Coast Guard, retired pay payable to commissioned officers of the Public Health Service Act (42 U.S.C. 201 et seq.) compensation payable to employees and former employees under chapter 81 of title 5, United States Code, annuities authorized by the Railroad Retirement Act of 1974 shall so increase each annuity computed under section 3(6) of such act (45 U.S.C. 2316 (67)).

The bill includes all those programs included in Gramm/Rudman except for those programs covering annuitants whose retirement programs are administered by the Federal Government but who did not actually work for the Government or the military. Also, my legislation does not cover retired Presidents. Of the living retired Presidents I don't know one who can't or won't forgo a little revenue for the good of the country.

My bill is prospective beginning with fiscal year 1987. Just like every other Member of this body I would like to go back to the beginning of COLA's in the seventies and restore all those COLA's foregone. Also, I would like to restore the $12 billion in cuts which came March 1 of the year and the COLA's along with it. Quite simply, we can't. We don't have the money.

Also, my bill does not exempt the administrative costs for these programs. In my heart of hearts I believe that if Congress limits moneys for administrative cost the savings will be made up in cutting back on wasteful practices and not by cutting salaries or necessary spending. It's funny how managers find ways of tightening their belts when it comes down to belt tightening or else.

This is not another in a series of knee-jerk reactions to get pet programs out of Gramm/Rudman. Years ago Congress decided that since retirees where on a fixed income they needed something to help them cope with inflation. Retirees have no other way to keep up with rising prices unless they have a COLA. Although Congress made this decision the commitment has been less than solid and many retirees outside the Social Security System have been denied the right to keep up. They have, in short, been discriminated against. And, as a postscript, Congress causes the inflation which devastates these retirees. Gramm/Rudman or no Gramm/Rudman discrimination needs to be stopped.

The budget resolutions of both Houses of Congress show that we can grant the COLA's for most programs in this bill and still live with Gramm/Rudman. I submit we can go one step further and fund all these programs and still live with Gramm/Rudman. Surely, we'll have to dip into other programs to make this happen. This is justified because we have dipped into these retirement programs many times to fund increases in other parts of the budget. As a supporter of Gramm/Rudman I feel bound to work with the appropriate committee to find a way to pay for this bill. I pledge to do that. I also pledge to continue to support fiscal responsibility which will eliminate the inflation which makes COLA's necessary.

In closing, I ask each Member to consider who this bill benefits before Members decide how to vote. Military and Federal retirees are the beneficiaries of this bill. These folks have done as much as anyone to keep this Nation free and prosperous. Mr. Speaker, let's not turn our backs on them now. I urge my colleagues to join me in supporting this important legislation.

50TH ANNIVERSARY OF THE FLOOD CONTROL ACT OF 1936

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. WHITTEN] is recognized for 5 minutes.

Mr. WHITTEN. Mr. Speaker, floods occurred at the beginning of history as evidenced in the great river valleys of the United States, the Columbia, the Sabine, the Rio Grande, the Missouri, the Ohio, the Tennessee, the Wabash, and many, many others, large and small, led by the Mississippi, which drains 41 percent of the land area of Continental United States.

In the early years of our Nation, 1781 to 1788, during the days of the Articles of Confederation, each State

faced the problems of the land area within its border, and of course with land so plentiful, when floods were too great, it was easier to wear out land and move west. At first each person had the responsibility to look after his own, and efforts were few, and ineffective.

With time, the development of land adjacent to streams with expensive buildings, factories, and other costly developments we had neighbors to join together, and then local taxing units were formed to meet flood problems.

Later as the Nation's population increased, and as the land was cleared for cultivation, it became apparent that it would take concerted efforts if the Nation were to hold its own; that flood control was a national problem including flood prevention in the watersheds where in many areas the water must be held back, if it was to be controlled in the flat lands.

Today, with the development of the physical wealth of our country, the value of structures, equipment factories, inventories and land having increased by 41 times since 1934, it has become absolutely imperative that every effort be made to protect that wealth. In view of reduction of our forests, the increasing amount of land being placed under concrete, highways, shopping centers, now it is accepted that all Americans have an interest in protecting all of the United States.

Mr. Speaker, this, the 50th Anniversary of the Flood Control Act of 1936, was signed into law by Franklin Delano Roosevelt on June 22, 1936, 50 years ago today.

At this point it is appropriate to look back and consider events that led up to passage of the Flood Control Act of 1936 and the benefits that have flowed to the American people from this important piece of legislation.

The Mississippi River floods of 1849 and 1850 prompted the first Federal flood control action when Congress appropriated money for two historic surveys of the Mississippi. Both were done by the Army Corps of Engineers—beginning the close association of the corps with Mississippi River flood control.

Back then, the corps believed levees alone could prevent floods along the Mississippi.

Disastrous floods in 1912 and 1913 along the Mississippi and Ohio Rivers raised the questions whether levees alone could be relied on or whether the Federal Government should provide more assistance to flood-prone areas.

In 1912, the Mississippi River was at flood stage for 60 days.

Four hundred and sixty-seven people were killed along the Ohio and flood damages were estimated at $147 million.

In 1917, for the first time, the Federal Government accepted limited responsibility for flood control in two sections of the country—the lower Mississippi and Sacramento River basins. The act also introduced the policy of local financial contributions for flood control.

Ten years later, the 1927 floods along the Mississippi convinced Congress and the corps that levees alone were not sufficient flood protection.

As a result of this flood, about 400 people died. Over 16 million acres were flooded; 41,000 buildings destroyed; and more than 700,000 driven from their homes.

That year, in 1927, Congress authorized the corps to survey the country's navigable streams in order to make plans for comprehensive development for navigation, water power, and flood control. Called 308 reports, these surveys provided Congress a basis for some emergency relief projects of the 1930's.

A year later, in 1928, a new act authorized a comprehensive plan for control of the Mississippi River and tributaries to include floodways, spillways, and channel improvements as well as continued work on the levees—thus ending the levees-only policy.

By 1935, Congress recognized a genuine nationwide need for increased Federal flood control assistance to include larger structures such as dams and reservoirs.

Congress also recognized a need for a work relief program. During the Depression, public works projects began looking very attractive as a means of employment.

The spring floods of 1936 also helped mold political and public opinion. The 1936 floods brought widespread disaster from Maine to Maryland.

In Pennsylvania, the hardest hit State, 84 people died and over 82,000 buildings were destroyed.

On June 22, 1936, President Franklin Delano Roosevelt signed the Flood Control Act of 1936. The act recognized for the first time that flood control on navigable waters or their tributaries is a proper activity of the Federal Government in cooperation with the States and in the interest of the general welfare.

Senator Royal Copeland of New York and Congressman Riley Wilson of Louisiana were the key people who guided the act through Congress.

This act authorized $320 million for 250 projects and a number of investigations and surveys. The Army Corps of Engineers would do most of the work.

The act also provided that the Soil Conservation Service of the Department of Agriculture would be responsible for conservation projects dealing with watershed run-off and soil erosion.

Since 1936, approximately 900 flood control projects have been built. This includes approximately 400 flood control dams. Between 300 and 400 flood control projects have more than one purpose—and include navigation, water supply, irrigation, recreation and hydropower.

In addition to flood control dams, the corps has built thousands of miles of levees, floodwalls, floodways, and improved channels.

Nonstructural measures are another solution to flood control. They include flood plain regulation, flood warning systems and floodproofing. A combination of nonstructural and structural measures have been used on the Charles River in Massachusetts. Opportunities are rare for purely nonstructural solutions to flood damage problems.

A particularly successful nonstructural project implemented by the corps is Indian Bend Wash in Scottsdale, AZ. It is a 7-mile greenbelt through the center of town that conveys flood waters to the Salt River. When not flooded, it is used as a recreation area complete with urban campground and golf course.

Cities such as New Orleans, built below the level of the neighboring Mississippi River, depend on structural flood control measures—such as levees and floodwalls.

Other cities along the Mississippi, Missouri and Ohio Rivers are nearly as dependent on levees and floodwalls. Such structural measures are an intrinsic part of their flood plain management program.

Flood control projects have provided relative security for those persons living in flood prone areas. The corps estimates an average of $10 billion in flood damages is prevented each year by flood control projects.

Flood control does not mean complete flood prevention, nor does it mean "zero risk." Nature is unpredictable. Occasional disasters will happen no matter what man does.

But disasters and irreversible damages continue to occur in still unprotected areas of country that we have demonstrated in the past 50 years that we have the capability to control. We are still at war to protect our inheritance; our land. Flooding and soil erosion continue to have a tremendous impact on our Nation's economy and on the safety and well-being of our citizens. The effects of urbanization and development compound the flooding problems. Through the construction of highways, buildings, and shopping centers, we are putting our land under concrete, destroying our forests and causing the water to flow into our streams and rivers much faster causing extreme hardships to the people who live in lower lying areas or at the end of the drainage systems. The po-

tential average annual property damages from floods in the United States is estimated at about $4 billion annually. On the average, more than 300,000 people are evacuated from their homes or places of work annually, and about 185 lives are lost annually due to floods. One-sixth of all urban areas are in flood prone areas; over 200,000 square miles in our Nation are subject to flooding. According to some estimates, a 10-percent reduction in property damage could save our economy $200 to $400 million annually. The magnitude of the flood problem extends beyond these numbers when considering single events such as tropical storms and earthquakes with damages in the billions of dollars and the silent erosion of topsoil from the land of our Nation.

According to the World Watch Institute, by the year 2000 the amount of topsoil per person in the United States is projected to decline by 32 percent. Almost one half (44 percent) of the U.S. cropland is losing topsoil to affect productivity. Most of the loss (90 percent) is taking place on less than a quarter of the cropland. Unfortunately, the effects of erosion are often not visible until the situation has become irreversible. The predictable results will be starvation, vastly altered agricultural trade patterns and will ultimately affect the availability and use of all our water.

The current economy, however, is preventing us from making investments in our future. The Nation's real wealth is in its land and the productivity of its people. We cannot avoid paying the price at some point and that may be too late.

This kind of damage is not geographically isolated; for example, in the spring of 1983 some 41 States plus the Virgin Islands were plagued by floods. That year approximately $4.5 billion in flood losses were recorded by the National Weather Service. Louisiana and Mississippi alone sustained damages exceeding $600 million. In 1984 total flood damages were about $4.0 billion. Significant floods occurred in the northwest, midwest and southwest States. Arizona, for example, experienced the worst disaster of the century when over $200 million in flood damages occurred. Severe damages occurred last year in the middle Atlantic States with damage estimates at over $500 million and 40 lives lost. In February 1986, California experienced severe flooding problems; some 50,000 people were evacuated and an estimated 12,000 homes and 1,000 businesses were either damaged or destroyed. Currently, all the Great Lakes plus the Great Salt Lake have surpassed old records and continue to be dangerously high. Most of these lakes have set new monthly records for 8 or 9 straight months. Based on records dating back to 1900, most of these lakes stand at their all time record high levels.

Flood control remains one of the best means of gauging man's success in reconciling his desire to improve our standard of living. We have got the capability and the readiness. We must protect our land and our property from floods for it is our country on which all else depends.

Mr. Speaker, man will continue to dream of mastering the rivers and protecting the environment that periodically threaten his home and his productivity. Possessing that dream, perhaps, is one thing that defines humanity—we must do our best to fulfill that dream, else we will become like China and India—and other worn out areas of the world.

NICARAGUA: BAD POLICY BASED ON MISINFORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan, Mr. CROCKETT, is recognized for 5 minutes.

Mr. CROCKETT. Mr. Speaker yesterday this body took what I think was a dangerous and wrongheaded step to support the military activities of forces seeking to overthrow the legitimate government of our neighbor, Nicaragua.

I am troubled by this action, and by the distortions of truth and lack of information this vote was predicated on.

Too often, we in the Congress and the American people are denied information that would help us make informed choices. The State Department, for diplomatic reasons, and the media, for its own reasons, withholds or colors information on vital issues like Nicaragua, leaving us with little basis on which to find a rational policy.

For this reason, I am a strong supporter of congressional travel, allowing Members the opportunity to experience first hand the conditions and events that shape the lives of other peoples and the course of world history. Meeting face to face with the representatives of other governments, whether abroad or here in Washington, can help give perspective to our deliberations.

Yesterday, the House voted to give $100 million to the socalled Contras, a ragtag band of mercenaries, apparently led by drug dealers, who are trying to topple the Government of Nicaragua—a country we recognize, and whose embassy we protect here in Washington not far from the Capitol building itself. And yet how many Members of Congress, and how many of the American people, have taken the time and effort to learn and understand the Nicaraguan point of view from Nicaraguans themselves?

I recently had the privilege of attending a conference of lawyers, at which the Nicaraguan Minister-Counsellor, Mr. Francisco Campbell, a blackman, spoke. I was struck by his eloquent presentation of his government's position. I was also struck by the dissimilarity between his perception of the situation in his country, and the reports reaching the American people through the State Department and the mass media.

I would like, through the pages of the CONGRESSIONAL RECORD, to offer my colleagues and the readers of this important digest, the opportunity to read for themselves the remarks of Mr. Campbell:

SPEECH BY FRANCISCO CAMPBELL, MINISTER COUNSELLOR, EMBASSY OF NICARAGUA, JUNE 1986

The relations between our two countries are at a decisive cross-road. Positions and actions taken in the next few days could well determine whether our nations will become submerged in a most tragic and painful war or, grasping the opportunity for peace within our reach, avoid the nightmare of death and suffering that our two peoples clearly do not want.

Nicaragua and the Contadora countries have labored long and hard to promote a peaceful resolution to the conflict in Central America and are convinced that peace can be achieved if the U.S. decides to support negotiations. Unfortunately, the actions of the administration suggest a lack of political will to work toward peace. In fact, a Defense Department document recently made public states that the signing of a Contadora peace accord would inevitably lead to direct involvement of U.S. combat troops in a war against Nicaragua. This, to say the least, is a strange line of reasoning from an administration that says it supports the Contadora peace process.

The argument used to justify and sustain the illegal and unjust U.S. war against Nicaragua are based on false premises, which are presented in ways that distort reality to make it conform to predetermined ideological bias. Its fundamental assumption is that the Nicaraguan revolution is by nature hostile to the people of the United States and hence, a threat to the national security of the U.S.

There is no merit whatsoever to the contention that the Nicaraguan revolution is a threat to the security of the United States. On the other hand it is worth noting that no mention is made of Nicaragua's right to national security, for in the minds of U.S. strategist small countries such as Nicaragua apparently have no such right. To them this is reserved for major powers only.

Yet, the concept of national security is intimately linked to the principles of self-determination and independence and therefore, a legitimate concern of all nations, be they large or small. Problems develop, however, when one state carries this concept to extremes that impinge on the rights and security interest of another. When this happens, the issue ceases to be a question of national security and becomes simply the desire of one state to impose its will on another.

The crisis in Central America and more specifically the conflict between Nicaragua and the United States, illustrates the intrinsic threat that one State's unbridled interpretation of the concept of national security represents to the fundamental right to self-determination of another. On one hand is Nicaragua, a poor country with a population of less than three million people struggling to overcome a legacy of foreign domination, including forty-five years of U.S. supported Somoza dictatorship. On the other, is a U.S. administration that refuses to accept the fact that the Nicaraguan revolution, in part, is a direct result of the alliance of successive U.S. administrations with oppressive re-

gimes that systematically exploited the majority of Nicaraguans, namely, the peasants and workers.

Since the revolution itself represents the rejection of an unacceptable past, it is clear that profound structural transformations are necessary to redress injustices and to build a new and more just society. The freedom to implement these transformations is a fundamental right. The right of self-determination.

This right also has an external expression. In the case of Nicaragua it is to be found in our foreign policy of nonalignment which to us is a matter principle, essential to our survival. Nicaragua seeks to establish commercial and political relations with all countries. We need and want good relations with the United States and the West in all areas: political, cultural and economic. In 1984, less than 17% of our foreign trade was with Socialist countries, the rest, 83%, was with the United States, Western Europe, Japan and Latin America.

However, our efforts to maintain commercial and economic ties are met with U.S. hostility and aggression, including the economic embargo imposed by the administration on Nicaragua in May of last year.

The initial excuse for aggression against Nicaragua was the alleged flow of arms to El Salvador. This argument has been virtually discarded because despite more than four years of covert operations and expenditure of millions of dollars on the most sophisticated surveillance equipment, the administration has yet to produce any convincing evidence to substantiate the charge that Nicaragua is giving material aid to guerrillas in El Salvador.

Moreover, the Government of Nicaragua challenged the administration to appear before the world court to make such a case. The fact that the administration has chosen to boycott the court and the rule of law is proof that it was no evidence to support its charges.

The case submitted by Nicaragua on April 9, 1984 accuses the United States of violating the most fundamental principles of international law; by directing and supporting an army of mercenaries known as the Contras, by financing and promoting their acts of terror against Nicaraguan civilians, and by carrying out direct attacks through the mining of our harbours, bombing of our oil pipelines and storage facilities and other hostile acts.

In a matter of days the world court will pronounce judgement on whether it is the United States or Nicaragua that is guilty of sponsoring and directing terrorism in Central America. It will also determine whether it is the United States or Nicaragua that is violating the Charter of the United Nations and the charter of the Organization of American States by using military force to subvert the political independence and territorial integrity of another state. Nicaragua hopes that a favorable ruling by the court will convince the administration to stop its aggression and work towards peace.

The U.S. Adminsitration knows that peace can be achieved in Central America and it can be achieved now—immediately. All that has to be done is for each of the interested parties—including the United States—to agree to do what international law already obligates them to do—avoid the use of force, or the threat of the use of force and resolve differences through peaceful means. Nicaragua has been and is prepared to sign and comply with an agreement that includes the following points:

One, no Central American state—that is to say neither Nicaragua nor its neighbors—would provide material support of any kind to guerrilla groups seeking to overthrow any government in the region.

Two, no Central American state would allow any guerrilla groups to maintain bases or headquarters on its soil or use its territory to attack any state in the region.

Three, no Central American state would attempt to export its political or economic system to any other state.

Four, no Central American state would allow any foreign power to establish a base, or station troops or weapons, in its territory.

Five, no Central American state would acquire or import offensive weapons, and all the states of the region would immediately begin discussions aimed at reducing armaments and troop levels and sending home all foreign military advisers.

Nicaragua has actively participated in the Contadora process since it began in 1983 and is prepared to sign the regional agreement if all U.S. aggression against Nicaragua is suspended and the remaining issues resolved in the context of simultaneous steps called for by the Contadora countries. These remaining issues are related to foreign military maneuvers and commitments in regards to armaments.

To expedite the negotiations, Nicaragua, on May 15 of this year, presented a serious, comprehensive proposal to resolve the outstanding issues mentioned above. Our proposal which is equitable and fair, deserves a careful analysis by all the governments involved because, on the one hand, it provides for the basic national security requirements of each Central American state and, on the other, would establish clear limitations with respect to acquisition of offensive weapons. The Nicaraguan proposal would reduce, limit, regulate or forbid the following:

(1) All type of military aircraft.
(2) All type of military helicopters.
(3) Military airports.
(4) War tanks.
(5) Heavy mortars (over 120mm).
(6) Self-propelled anti-aircraft cannons.
(7) Multiple rocket launchers over 120mm.
(8) Artillery of over 160mm.
(9) Self-propelled artillery.
(10) Surface-to-surface rocket launchers placed on warships.
(11) Warships over 40 meters in length or more than 100 metric tons.
(12) International military meneuvers.
(13) Foreign military bases.
(14) Foreign military advisers.

On the question of military maneuvers, Nicaragua's proposal would prohibit all international military exercises in the Central American region. National military exercises, thst is to say military exercises conducted by the armed forces of a given country on its own territory, would be allowed, provided they are held thirty miles from borders with neighboring states and that those states be advised of the date and duration of the exercises. Observers from neighboring states should be invited.

We hope the other Central American countries, after careful examination of our proposal, will finally decide to abandon obstructionist posturing and take concrete steps towards an agreement.

Nicaragua, for its part, will continue to participate in the additional rounds of negotiations to conclude all pending matters, in the same constructive spirit that has always characterized our participation in the Contadora process.

The Latin American countries are convinced that the Contadora talks offer the best possibility for peace in Central America and have stated that continuation of present U.S. policy and renewal of aid to the Contras would represent a significant escalation of U.S. involvement and lock the U.S. into military options which will reduce the possibility of a negotiated solution. It opens the door to the ultimate military solution—direct U.S. combat action in Nicaragua, an eventuality bound to be painful and tragic to the people of the United States and the people of Nicaragua.

This tragedy can be avoided if the U.S. administration decides to heed the June 7, 1986 communique of the Contadora countries and the support group who once again called on the U.S. to suspend all aid to the Contras and end its attempt to interject the Central American conflict into the framework of East-West confrontation.

The desire of the Nicaraguan people and government is to achieve not only peaceful and normal relations with the United States, but friendly relations. We will continue our efforts towards that goal.

Latin America, Western Europe, Japan, Canada, the non-aligned countries, most of them friends of the United States, have called on the administration to negotiate its differences with Nicaragua. Influential members of the U.S. Congress have done the same. The North American people, according to the polls, are opposed to U.S. policy towards Nicaragua.

We believe that the administration should reflect on the reasons behind this generalized opposition to its policy of aid to the Contras and join the forces that are searching for peace through dialogue and negotiations.

Truth and justice are on the side of Nicaragua. This, despite the suffering and sacrifice we are forced to endure our spirit remains undaunted, for into the future we see our Nation standing tall among the free peoples of the world, proud to recount the history of the Nicaraguans who today are defending the independence, sovereignty and dignity of the Nation.

TRIBUTE TO GEORGIA NATIONAL HISTORY DAY WINNERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. RAY] is recognized for 5 minutes.

Mr. RAY. Mr. Speaker, I am proud to acknowledge and recognize to my colleagues in the House of Representatives, several outstanding young people from the Third Congressional District of Georgia who were participants in the National History Day Finalist Competition held at the University of Maryland.

Laura Shepherd, Allison Ma'luf, Nell Ma'luf, and Ruth Ann Smrekar were the students from the Troup County school system of Lagrange who placed second at the State History Day competition held in Georgia.

Danny Knight, a Troup High School sophomore, also won State honors for the second time in the second place category. This distinguished young man is one of the select few who will attend the Governors's honors program which is a highly competitive and outstanding achievement to attain in Georgia.

I am exceedingly proud of these gifted and talented young people who have been inspired and guided by the dedication and en-

thusiasm of their respective parents and teachers. With the recent criticism of our Nation's educational system, I am proud to point to these exceptional products of Georgia's schools. This is evident in their determination and aspirations of excellence. It is these characteristics which resulted in Ruth Ann Smrekar, Allison Ma'luf and Nell Ma'luf receiving medals as the outstanding State entry during the national competition with their interpretation of the signing of the Magna Carta. These students from West Side Junior High School were named best of Georgia's 28 nonplacing entries. I am especially pleased that Jennifer Bunyea from Fort Benning, GA, won first place in the State of Georgia with an essay entitled "The Personal Conflict of a Confederate Soldier During the Civil War." This young lady captured the struggles and triumphs of a man dealing with his conscious decisions of right and wrong, his responsibilities to himself and to this Nation.

As Members of Congress who share those same considerations today, we must make decisions on the issues of tax reform, the national deficit, Contra aid, and apartheid in South Africa. We have the obligation of representing to the entire world, our ideals of democracy and humanitarianism.

My colleagues, I urge you to take a moment, if you will, to read this excellent essay by Jennifer Bunyea. I know that in reading it myself, it has given me the added determination to meet the challenges of the issues at hand with decisive decisionmaking and positive solutions. Because of this essay by Jennifer, my fellow colleagues, I challenge each one of you to be a dedicated "soldier" who protects, defends, and benefits this Nation and the world.

THE PERSONAL CONFLICTS OF A CONFEDERATE SOLDIER DURING THE CIVIL WAR

(By Jennifer Bunyea, Grade 8, Junior Division, Don C. Faith Middle School, Fort Benning, GA)

Throughout history, soldiers have faced conflicts not only by facing the enemy, but by trying to survive day by day. Soldiers fighting for the Confederacy during the Civil War were no exception. J. Morgan Smith was a typical man who joined the Confederate Army to fight in a war he believed in until many personal conflicts arose that caused him to change his beliefs.

Smith joined the Mobile Cadets in 1860 upon coming home from the University of Georgia where he had not yet completed his education. On August 19, 1863 he married Kate Duncan. It was through his numerous letters to his beloved Kate that Smith was able to chronicle the changes he experienced as he fought for the Confederacy during the Civil War.

The Confederate soldiers suffered many hardships and conquered many conflicts to fight for the South and the ideas they believed in. Some of these hardships were results of mud, cold, and rain. The soldiers suffered some hardships from the mud. Marching was difficult because their boots would sink in the mud and make the soldiers march slowly. When the wind blew, mud would fly and hit them in the face.

The soldiers also suffered discomforts from the cold. Their clothing was not very thick and the freezing wind penetrated it. The soldiers did not have any sources of heat and their only comfort from the cold was a bed. Smith, too, suffered from the cold. He wrote letters to his wife, Kate, which revealed the agony of this freezing weather. He stated, "It is snowing very hard. My hands are cold and I have no other table to write upon except my knee." In yet another letter Smith combined his discomfort with the serious feelings of commitment he felt for the Southern cause:

"Tis a cold, chilly, rainy day. The wind whistles wildly by our little cabin, and as the rain patters upon its roof and sometimes upon the floor it forcibly reminds me of my present hardships—my past pleasures. But still I am not unhappy. Nay, I rather love these toils and hardships; for the more we endure, the more troubles and vexations that we have to encounter while we battle for freedom and our just rights, will make the cup of Liberty—when it is gained—taste the sweeter and will make us love our glorious country better, aye, better still."

In addition, the soldiers also suffered discomforts from the rain when marching. The rain made everything wet that the soldiers were carrying. The rain was even more uncomfortable than the cold weather.

There were three main things that defeated soldiers during the Civil War; illness, starvation, and death. Every day the soldiers fought all three in addition to the Union enemy. Disease was spread very quickly during the Civil War. Often times it was disease rather than bullets which killed able-bodied men. The diseases could not be treated adequately because there were not enough facilities to treat all the sick men. In addition, the sanitary conditions were not good. Many times the solidiers would get very sick and have extremely high fevers from marching in the cold.

In October of 1863 Smith developed a very serious illness. His congestion of the brain, commonly called brain fever, kept Smith off the lines for approximately one month. Because of his commitment to the Confederate cause, Smith found out where his regiment was and headed to camp as soon as he was well enough to travel.

Starvation, too, caused many soldiers to become sick and die. "Meat is a rarity we seldom indulge in. At breakfast our fare is green corn and corn bread; dinner, corn bread and green corn; supper, corn bread. Water too is scarcer than fine wines used to be." Malnutrition was wide-spread and many soldiers became sick. Some soldiers even resorted to stealing food.

Death was a conflict that caused J. Morgan Smith, and indeed most soldiers, to be gloomy and sad throughout the war. Thousands of men died on the battlefields during the Civil War and some of them Smith knew. As the war progressed Smith noted, "I never believed that any one could become so careless of death as we have all become." Many of the men were greatly demoralized and lost confidence in their success.

Although Smith did get depressed, he hoped he would never die and leave Kate a widow. Neither did he believe in giving up. Smith wrote to Kate in 1862, "If I fall I will carry your image with me and like Napoleon of old my last thought will be of her I love."

Many of the conflicts soldiers faced were caused by their consciences. The soldiers' consciences told them why they were fighting the war and what their beliefs were. Soldiers constantly found themselves mentally debating whether the Confederate cause was right or wrong. Many times a soldier in the Confederacy would have to fight against his brother in the Union. This caused great psychological conflict because the men wondered whether they were doing the right thing by fighting against their brothers.

Some Confederate soldiers wondered if they were fighting for the right side. Smith related in a letter to Kate a that friend of his, a preacher, joined the Confederate Army.

"But in fighting for us he felt he was doing wrong—that it was against his conscience. He endeavored to make his escape to the Yankees but was caught by our pickets and brought back. He is to be court martialed and in all probability will be shot."

It was believed that the preacher was then shot. This man paid the price of his life because he reacted to the conflict within his conscience when it told him that what he was doing was wrong.

J. Morgan Smith did not believe in giving up, but he did not want to be away from his wife. This became the major conflict in his life. He believed in the cause that he was fighting for until he was married in 1863. This caused many problems because he could not be at home to protect his beloved Kate if the Yankees were to come and raid the town. Smith stated, "I don't care much if they take everything so they will not harm or touch my precious Katie."

Loneliness was one of the major conflicts in J. Morgan Smith's life. It caused him to not want to fight, to be weary of the war, and to wish that he was dead. In September of 1864 Smith wrote to Kate:

"Oh, how willingly would I consent to live on corn bread crust if it could be sweetened by gazing on your dear face as I ate it. I sometimes get so gloomy and sad I almost wish I was dead, for life is nothing to me if I am to be separated from my heart's idol."

During the Civil War the soldiers moved around often and stayed in many different camps. For many soldiers it was hard breaking camp. They had to quickly pack up all of their items and say farewell to everything they had come to know. Camp would usually be a bustle while the soldiers were trying to get ready.

This added to the conflict in Smith's life because he wished to stay in a camp close to Kate. Unfortunately, the constant movement of his company prevented it. When Smith first became a Confederate soldier he was very happy about any of his orders because he was not married. But after two years of getting new orders, constant movement, and then his marriage to a woman he loved deeply, Smith wrote, "I cease to be excited now at any order and pay as little attention to the whistling of a bullet as I used to the breaking of a stick beneath my foot."

J. Morgan Smith wrote of his loneliness to Kate Duncan throughout the time he served as a Confederate soldier. He wrote many letters to her. "When writing to you I forget all around me and of course everything that tends to make me melancholy passes from my mind." Whenever he thought of her he wrote a letter to her—whether, in the tranches with shells continually exploding all around him, on the train to a new destination, or in the bare, uncomfortable camps.

Smith loved to receive letters from Kate. He wrote to her:

"Write soon if not disagreeable to you for you have no idea how much a letter from a friend serves to diminish the unbearable monotony of camp life. . . . But now the anticipation of receiving your letters will dispel the gloom of the future and make the present more cheerful."

Her letters brightened his day by telling him how she was doing and what was happening in those "dark days of sorrow and death." He always appreciated hearing about his old friends and her brother John with whom he became good friends.

J. Morgan Smith bore all the sufferings of the Civil War only by hooping that one day he would be reunited with his Kate. Smith wrote:

"I begin to realize now the glorious privilege of living in the same house with those we love. . . . To sleep beneath the shelter of the same roof, to meet morn, noon and evening around the same board; to converse familiarly by the same fire side; to share the same sorrows and pleasures is my ideal of true, earthly happiness."

Many men were bitter that they had to leave their loved ones to become soldiers. Smith did not feel that way when he entered the Confederate Army. In 1862 he wrote to Kate:

"If I fall it will be on Southern soil, under a Southern flag and fighting for Southern honor and Southern independence. If I conquer your heart will be gladdened by knowing that I fought bravely and gallantly."

Through all the hardships, though, he was not unhappy because he had Kate, whom he loved more than his own life and treasured like a precious jewel. Smith resolved that if they were ever to be finally reunited, he would never "go out of the house unless forced to do so."

Smith had tried many times to get an application for a leave of absence—that chance to go see Kate and his old friends in Summerfield. But he was never granted his leave. He felt life was nothing without being able to see her and hear her voice. Since he was not able to be near her, he "looked forward to the future with sadness and to the past with regret." While stationed in Atlanta, Smith even tried to transfer to Talledega to be near Kate. But he was not to be granted the transfer he so deeply wanted. It was not until Lee's surrender at Appomattox that Smith would finally be on his way home to his beloved Kate.

Today in the 1980's we have realized through Smith's numerous letters to his dear wife, Kate, that life for soldiers in the Confederate Army was really no different than today. Those soldiers faced many physical, psychological, and emotional conflicts. Smith faced all of the conflicts gallantly. But, ultimately, Smith had to compromise. He gave up the life with Kate that he wanted so badly in order to support the Southern cause he believed in so deeply.

INDIVIDUAL RETIREMENT ACCOUNTS CAN BE SAVED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, the bad news is that individual retirement accounts are under attack.

The good news is that this House can save them.

The attack on IRA's comes from the other body.

It has approved a tax bill which disallows the deduction for IRA contributions by most potential participants.

While the other body's tax bill has many fine features, it is way off base on IRA's. Now is not the time to discourage retirement savings by millions of Americans.

The House bill, which generally retains current law on IRA's, is right on the money.

It does what most Americans would have Congress do about IRA's. It leaves them alone.

If the Senate provisions prevail, IRA's as we know them will cease to exist.

It doesn't have to happen.

I am pleased to report that 54 Members of this House have joined me in sending a letter to House tax bill conferees which strongly urges that the House position on IRA's be upheld and that the Senate proposal to gut IRA's be rejected.

We can win this one if we stick to our guns. I urge the House conferees to reject the Senate proposals on IRA's.

THE SATELLITE HOME VIEWER ACT OF 1986

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KASTENMEIER] is recognized for 5 minutes.

Mr. KASTENMEIER. Mr. Speaker, today I join with three respected members of my subcommittee, Congressman MIKE SYNAR, Congressman RICK BOUCHER, and Congressman CARLOS MOORHEAD, as well as Congressman TIM WIRTH, in introducing the Satellite Home Viewer Act of 1986. This legislation amends the Copyright Act of 1976 to provide for the temporary compulsory licensing of the secondary transmission by satellite carriers of superstations for private viewing by Earth station [TVRO] owners.

In brief, the proposed legislation adds a new section 119 to the Copyright Act, creating a system by which scrambled superstation signals can be transmitted by common carriers, through distributors, to Earth station owners. The bill balances the rights of copyright owners, by ensuring payment for use of their property rights, with the rights of satellite dish owners, by assuring availability at reasonable rates of retransmitted television signals. The bill is novel in its approach: It creates a compulsory licensing system during a 4-year period with copyright royalty rates established by a mathematical formula; during a second 4-year period, rates are set by negotiation and binding arbitration. After 8 years, the entire legislative package is terminated by a sunset provision. The parties undoubtedly will report back to Congress on the success or failure of this two-phase plan. In the meantime, an exciting new communication technology—satellite Earth stations—will be allowed to develop assuming, of course, that the parameters of the copyright law are respected.

The legislation only addresses the issue of the retransmission of superstation signals by common carriers and the delivery of these signals—in a scrambled or encrypted state—to Earth station owners.

The legislation is the outgrowth of a hearing held in November 1985 by my subcommittee—the Subcommittee on Courts, Civil Liberties and the Administration of Justice, which has jurisdiction over copyright law—on "Copyright Issues Arising From New Communications Technologies." Building upon the firm foundation set by that hearing, I wrote to the Register of Copyrights—Ralph Oman—asking that he analyze the application of the Copyright Act on scrambling and on the prospective sale or leasing of descrambling devices to satellite dish owners.

The Copyright Act currently provides an exemption from liability for secondary transmissions of copyrighted works for passive carriers where the carrier "has no direct or indirect control over the content or selection of the primary transmission, or over the particular recipients of the secondary transmission * * *." Also, the carrier's activities with regard to the secondary transmission must "consist solely of providing wires, cables, or other communications channels for the use of others * * *."

In his response—dated March 17, 1986—to me, Mr. Oman set forth his preliminary judgment that the sale or licensing of descrambling devices to satellite Earth station owners by common carrier falls outside the purview of the copyright exemption granted passive carriers for secondary transmissions of copyrighted works, particularly when the carrier itself scrambles the signal.

"The exemption failing," Mr. Oman concluded, "the resale carrier requires the consent of the copyright owner of the underlying programming."

A recent letter, dated May 1, 1986, from Alfred C. Sikes, Assistant Secretary for Communication and Information, U.S. Department of Commerce, seconded the Register's conclusion about scrambling, descrambling, and sale of scrambled signals.

Although the issues may sound legalistic and esoteric, they can be distilled to the following proposition: under present copyright law, common carriers cannot lease or sell descrambling devices and then sell scrambled superstation signals to Earth station owners. Since the combination of these functions is far more active than the passive function of providing wires, cables, and other communications channels, the carriers would lose their unique status in the copyright law if they engaged in the described activities.

At least one common carrier—Southern Satellite which delivers WTBS—has already cogently presented this position to the Subcommittee on Telecommunications, Consumer Protection and Finance of the House Committee on Energy and Commerce.

* * * if Southern Satellite delivered WTBS to the backyard dish user there is no provision in the law for a copyright royalty payment to the copyright owner. Although it could be argued that since Southern Satellite is a common carrier and since the TVRO dish owner uses the signal for purely private viewing, there is no copyright liability. However, that position runs directly contrary to the philosophy of § 111 of the Copyright Act and as a result we believe that it is a very tenuous position.

I thank Congressman TIM WIRTH, chairman of the Subcommittee on Telecommunications, for initially bringing that testimony to my attention.

In drafting curative legislation, my subcommittee worked closely not only with the three current common carriers—Southern Satellite, United Video, and Eastern Microwave—and with active superstations [WTBS] but also with

representatives of the movie industry and the Earth station industry. The subcommittee also has consulted with interested parties in both the cable television and broadcasting industries. Last, the Copyright Office has been of great assistance in the drafting process.

It is my strong desire that the bill we have introduced today will spark debate and encourage all affected parties to work toward passage of a public law prior to the end of the 99th Congress.

The task of preparing the bill has been time-consuming and difficult. The proposed legislation reflects the same collision course of intellectual property law and technological change that was recently highlighted in a recent Office of Technology Assessment report on "Intellectual Property Rights in an Age of Electronics and Information" (1986). That report flashes a yellow light; it sounds a note of caution to those who would rush headlong toward legislation. The OTA report warns that the delineation of new rights in a changing technological environment is not an easy task. I believe that the Satellite Home Viewer Act of 1986 does proceed with caution through the yellow light and an intersection of many interested parties.

The proposal has not been subjected to public debate. And it has not undergone congressional hearings in the competition of ideas. Since hearings will not be held until after the July 4 recess, I hope that individuals and organizations interested by the bill will continue to work together to refine its provisions.

For example, there has been interest expressed by some parties that the number of superstation signals that might benefit from this legislation should be restricted. Another concern has been expressed that only distributors—and not common carriers—should be authorized to sell scrambled signals.

Since I have not had a chance to discuss pertinent issues with some individuals and organizations, I look forward to receiving comments from them. I would be especially interested in hearing views on the temporary compulsory licensing provisions of the bill, on the length of time for the licensing system to flourish, on the negotiation and binding arbitration provisions, and finally on the initial interface with cable television.

I urge my colleagues to join with me, Congressman SYNAR, Congressman BOUCHER, and Congressman MOORHEAD. Members who desire to cosponsor or want further information, should address their inquiries to the Subcommittee on Courts, Civil Liberties and the Administration of Justice—X53926.

Thank you, in advance, for your interest in and support for the Satellite Home Viewer Act of 1986.

Mr. WIRTH. Mr. Speaker, I am pleased to introduce today, along with my colleagues, Congressmen KASTENMEIER and SYNAR, the Satellite Home Viewer Act of 1986. This bill should go a long way in helping to achieve the goal of the Telecommunications Subcommittee, which I chair, to assure access by satellite dish owners to programming at competitive rates. I want to commend the efforts of Messrs. KASTENMEIER and SYNAR in working with me and the various affected interests to craft this legislation.

The subcommittee has been conducting an intensive examination of the satellite dish issue. As part of this effort, it became apparent that access to so-called "superstation" signals—such as Ted Turner's WTBS and Tribune's WGN and WPIX—might not be available to dish owners once these services were scrambled, because of legal impediments in the Copyright Act. Thus, as these services commence scrambling, the Nation's 2 million dish owners will not be able to receive these popular services unless the copyright law is amended to allow scrambled superstation signals to be marketed to the backyard dish owner.

While scrambling is an important way to assure programmers receive compensation for their property, scrambling of signals in a way which blocks access to programming by dish owners is not good public policy. That is why passage of this bill is a very important part of our efforts to solve the problems which now face the satellite dish consumer.

While the Telecommunications Subcommittee continues to focus on the principal communications issue of assuring the availability of program packages as a key way of lowering the price of satellite services to dish owners, I am very gratified that under the leadership of Congressman KASTENMEIER, the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, is attempting to resolve the copyright aspects of the satellite dish issue.

While I believe it may be necessary to make a few changes to this legislation, the bill provides a very constructive basis for assuring continued access by dish owners to superstation signals.

Mr. SYNAR. Mr. Speaker, I am pleased to join Representative KASTENMEIER, chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice, in introducing the Satellite Home Viewer Act of 1986.

This legislation is needed because as superstation signals are scrambled, current copyright law will prevent these signals from being sold to home dish owners.

There are three satellite carriers which relay broadcast distant signals—superstations—to cable systems nationwide. The cable systems generally sell these signals to viewers as part of cable programming packages. Cable viewers pay for the cable service and the cable systems pay a copyright fee for the use of the programming.

The three satellite carriers are exempt from copyright liability for transmission of these signals as long as they exercise "* * * no direct or indirect control over the content or selection of the primary transmission or over the particular recipients of the secondary transmission * * *." 17 U.S.C. 111(a)(3).

The satellite carriers intend to scramble distant signals in the near future. They are concerned that they are losing some of their market because home Earth station owners can pick up the satellite signals directly. Earth station owners are concerned that scrambling will make progamming inaccessible. The satellite carriers want to sell directly to Earth station viewers, but recent interpretations of title 17 suggest that they would lose their exemption from copyright liability if they attempted to do so.

The Satellite Home Viewer Act of 1986 creates a compulsory license for distant broadcast signals from satellite carriers, which will guarantee the right of Earth station owners to receive these signals. The bill also clarifies the legal status of satellite carriers to sell distant signals.

The satellite carriers may sell distant signals to Earth station owners through a distributor, which could be an Earth station dealer, a cable operator, or any other business which has access to a minimum number of subscribers. The bill creates a cause of action for copyright infringement if a satellite carrier discriminates against any distributor.

Satellite carriers will be liable for a copyright royalty fee of 12 cents, per signal, per month for each home dish subscriber. This fee will be paid to the Copyright Office, which will divide the money among those programmers whose work is included in the programs that are retransmitted by satellite carrier. Any satellite carrier may negotiate a voluntary rate with the copyright owners. This rate would supplant the statutory rate.

The 12-cent royalty fee established by this bill expires on December 31, 1990. At that time, the rate is replaced with either a voluntary rate, agreed to by the satellite carriers and the copyright owners, or a rate reached through binding arbitration. The legislation establishes the procedure through which a fee is established by an arbitration panel.

The Register of Copyrights has the authority to reject the rate established by the arbitration panel if that rate clearly is inconsistent with the criteria established in the bill. The Register must then establish within 30 days an alternative royalty fee consistent with those criteria. Any decision made by the Register with respect to a determination made by the arbitration panel may be appealed to Federal court.

The act expires on December 31, 1994.

A number of issues remain to be resolved as this bill is considered by the Judiciary Committee. First, it must be determined whether satellite carriers should be allowed to sell directly to home dish owners. Most satellite carriers have expressed no interest in selling programming directly, and intend instead to market through distributors. Distributors will be able to package a variety of signals, which will result in increased competition in the retailing of signals for home dish viewing. It is unclear whether there is any need to allow satellite signals to sell individual distant signals. Such language may undermine the passive exemption that satellite common carriers enjoy under the copyright law.

Second, it will be necessary to determine the appropriate date to sunset this legislation. The home dish industry is in an infant stage, and it is clear that we should not create a permanent structure for the delivery and payment of distant signals for home dish viewing. We believe that 8 years will be sufficient to allow the home dish industry to develop. At that time, Congress will be required to reconsider this issue and determine the extent, if any, of Government involvement that is needed in this area.

This legislation is the result of extensive negotiations with the satellite carriers, copyright owners, home dish representatives, and

others. It represents a good compromise of numerous competing interests, and I am hopeful that it will be enacted into law during this session of Congress. It is important that Congress ensure the availability of superstation signals for home dish viewing. This bill accomplishes that goal, while also establishing the framework for the development of healthy competition in this industry.

ACID RAIN LEGISLATION H.R. 4567, ROUNDLY CRITICIZED AT HEARINGS BY ENERGY CONSERVATION POWER SUBCOMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. DINGELL] is recognized for 5 minutes.

Mr. DINGELL. Mr. Speaker, yesterday, like my colleagues, I received a letter from Mr. Richard Ayres, chairman of the National Clean Air Coalition who urged me to:

Please contact Committee Chairman JOHN D. DINGELL and ranking member JAMES BROYHILL to urge them to immediately mark up H.R. 4567. Please cosponsor H.R. 4567 if you have not already done so.

Mr. Ayres properly noted that H.R. 4567 was "passed" by a vote of 16–9 on May 20, 1986 by the Subcommittee on Health and the Environment of our committee. But he failed to note that the bill was substantially amended in that subcommittee. He also did not mention that on June 19 and 20, 1986, the Subcommittee on Energy Conservation and Power of our committee with expertise in electric utility matters and chaired by our distinguished colleague from Massachusetts, ED MARKEY, held hearings on the bill. Those hearings were quite comprehensive and revealing.

Mr. Ayres also states:

This bill combines nationwide air pollution controls with a national financing plan designed to ease the burden of cleanup costs on the most affected states. States would have the flexibility to establish their own cleanup strategies to reduce total nationwide sulfur emissions by 9 million tons annually. Contrary to utility industry estimates, the Congressional Office of Technology Assessment estimates that the average residential electric consumer would have to pay only 2 to 3 percent ($1 to $1.50) more per month to clean up acid rain—which is about the price of buying one or two Sunday newspapers.

Mr. Ayres, however, did not mention that the Tennessee Valley Authority [TVA], while supporting the need for acid rain legislation, strongly objected to the provisions of the amended H.R. 4567. TVA called the so-called national financing plan—extolled by Mr. Ayres—as "unworkable." TVA said:

H.R. 4567 is a complex bill: The meaning and potential effects of many of its provisions are uncertain;

H.R. 4567 unnecessarily reduces flexibility and increases compliance costs for TVA on the order of $100 million annually;

TVA is particularly concerned that the use of averaged, State-wide emission rates as the compliance benchmark, while more desirable than individual unit emission limitations, would preclude achieving reductions through such measures as conservation and the use of alternative energy sources;

Under H.R. 4567, States with large amounts of oil- and gas-fired generation would be put in a more favored position than those States with large amounts of coal-fired generation;

The timing of some H.R. 4567's requirements pertaining to phase II would be largely unworkable.

Under the bill, capital costs of about $2 billion and annual costs for amortization, operation and maintenance, and low-sulfur coal premium cost, ranging from $575 million to $660 million, would be incurred; and

The increase in TVA's average residential, industrial, and commercial rates resulting from the bil is roughly estimated to be 12 to 14 percent which would be in addition to the $300 million in annual costs, that TVA is presently incurring for SO_2 reductions under the Clean Air Act.

Mr. Ayres also did not mention that at the June 19 and 20 hearings, the American Public Power Association, the National Rural Electric Cooperatives Association, and the Federal Energy Regulatory Commission [FERC] all testified that the bill's new provisions trampled heavily on the unregulated municipals and cooperatives in unprecedented fashion and was inconsistent with the provisions of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978.

Mr. Ayres did not mention that several State public utility Commission Members from Indiana, West Virginia, Alabama, Wisconsin, and Rhode Island were critical of the amended bill and several called it an intrusion on States' rights. Indeed, the Chairman of the Indiana Commission said:

Section 187(d) of H.R. 4567—This new subsection gives us a great deal of concern. This subsection requires the Governor of the State to assure that electric utility rate increases attributable to compliance under section 181 are substantially equivalent for residential electric utility ratepayers throughout the State. Present Indiana law (IC 8-1-2-4) requires that ratepayers can be charged only for facilities which are used and useful to the benefit of those ratepayers. Therefore, the ratepayers of one utility cannot pay for the cost attributable to rendering service to the ratepayers of another utility. Therefore, the Governor of Indiana could not provide the assurance required by subsection 187(d)(1).

The Rhode Island Commissioner was particularly critical of a provision that precludes any utility from sharing in the subsidy benefits—even though its ratepayers contributed money to the subsidy—if the utility challenges in any way the "validity or application" of any provision of the bill dealing with this emission program and wins or loses. He said it is an unfair provision and inconsistent with our system of justice and fairness.

Accompanying Mr. Ayres' letter, is a list of the National Clean Air Coalition member organizations, which includes the American Lung Association [ALA]. However, he failed to mention that on May 23, 1986, the ALA also wrote to me about this bill.

In that letter, the ALA did not endorse H.R. 4567, urge me to support it, or to schedule a markup. Instead, ALA urged strengthening of the current National Ambient Air Quality Standard [NAAQS] for sulfur dioxide "in order to insure protection against adverse health effects in the United States." The ALA also stressed:

The ALA continues to support this mechanism. Many members of the ALA's medical section, the American Thoracic Society, conduct the principal research which provides the basis for setting standards. ALA firmly believes that when considering mechanisms to protect sensitive populations—in the case of sulfur dioxide it is asthmatics and persons with hypersensitivity—the NAAQS program is an essential mechanism. H.R. 4567 would not reduce the need for adoption of a short-term standard for sulfur oxides.

Most importantly, the ALA's legislative agenda and priority for the Clean Air Act appears to differ from that of Mr. Ayres. The ALA letter states:

Review of the Clean Air Act and Need for Changes Beyond the Scope of H.R. 4567.

ALA has been concerned for some time that Congress has not addressed the reauthorization of the Clean Air Act from a comprehensive point of view. To maintain a balanced, effective air pollution control program, the Committee should consider a comprehensive review and reauthorization of the Clean Air Act. We believe that there are several provisions of the Act with significant public health benefits which should receive the attention of Congress. First and foremost is the nonattainment program. The Clean Air Act contains a series of deadlines for the attainment of the NAAQS, the last being December 31, 1987. Currently, EPA projects that between 32-45 areas of the country will not meet the deadline for ozone. We believe that Congress should review the nonattainment program requirements and provide for a program for current nonattainment areas to ensure that these areas are required to develop adequate programs to attain the NAAQS as rapidly as possible. Over 80 million people reside in nonattainment areas, with approximately 20 percent considered to be in sensitive populations as defined in the NAAQS provisions. We understand that the EPA is developing a program, "Reasonable Extra Efforts Program," to address the current nonattainment problems. EPA's approach fails to insure that these problems will be resolved promptly and consistently across the country. Accordingly, this public health problem should be dealt with legislatively and not administratively as EPA is planning to do.

A second area of concern is the need for changes in section 112 for the control of hazardous air pollutants. The mechanism currently in the Act has not worked as Congress had intended. Substantial delays in the listing and standard development process have plagued this program. The problems have been well identified in previous House and Senate hearings. Rather than accepting EPA's very limited approach to addressing this public health problem, Congress should, as part of a comprehensive reauthorization activity, revise this program to provide for a more timely process for listing and standard development.

I note that none of these matters are addressed in H.R. 4567.

Finally, Mr. Speaker, the Office of Technology Assessment witness at the Markey hearings testified that the annual bill for electric utility ratepayers—residential, industrial, and commercial—in the United States for SO_2 controls only would range between $2.7 to $3.6 billion, 1985 dollars over 20 years—with a default cost of $4.2 billion per year. That is no small change.

OTA also showed that under phase I of the bill, 14 States—Alabama, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Missouri, New Hampshire, Ohio, Pennsylvania, Tennessee, West Virginia, and Wisconsin—get "hammered" by 1993, while all the other States are unaffected, except by the subsidy, until 1997, even though many, like Florida, New York, Michigan, Massachusetts, and Minnesota, also contribute to the acid rain problem today.

Mr. Speaker, my sentiments about this bill and its future progress are stated in my June 24 letter to the Governor of Indiana as follows:

It is clearly my desire to work with Chairmen WAXMAN and MARKEY and Ranking Minority Members MADIGAN and MOORHEAD and the other Members of the Committee, including our distinguished Indiana Members, PHIL SHARP and DAN COATS, to fashion a fair and reasonable bill that protects jobs and does not pit region against region. In this regard, I share the views of Congressman SWIFT who stated last week at the excellent and helpful hearings held by Chairman MARKEY that acid rain is a problem that should be dealt with, but also this must be achieved without causing economic distress, especially for the 14 states heavily affected in phase I of H.R. 4567, most of which are in the Midwest and the South.

One of the real sticking points is, of course, the "national cost sharing" provisions of the bill. The sponsors agree that such cost sharing is needed. But the "compromise" contains so many strings and affects so many Federal and state laws and long-held ratemaking policies and practices, that it has caused many, including Tennessee Valley Authority, American Public Power Association, and the Electric Cooperatives to declare it "unworkable" and to actively oppose the bill.

Because our emission levels are already low, the only effect Michigan and many other states will have under phase I (other than the impacts on our auto-truck industry which I and others on the committee cannot support), is to contribute money to the national subsidy fund. But I cannot vote to commit my state's ratepayers to an unworkable and complicated scheme that does not protect jobs. Like many states in the West, including Washington, Michigan is not enamored with making any contribution. But, as Congressman SWIFT observed, this is a national, not a regional, problem and it is not in the national interest to impose heavy costs on the Midwest or the South simply because they do not have cheaper hydro power or Canadian power or alternative sources and they have an abundance of high sulfur coal and many old power plant units.

There needs to be a real balance, not only in cost sharing, but also in adopting measures that will not "hammer" a few states before they have an opportunity to use new retrofit technologies where appropriate. More time is needed to help fashion the least cost approach without serious effects on jobs. There is no "magic" in 1993 or 1997, but both dates appear to ensure that a utility's choices will be scrubbers or coal or fuel switching. Greater equity is needed in the first phase. Recognition of technology problems in regard to NOx controls for utilities that now use cyclone methods is needed, and, like Wisconsin, there must be recognition that emergencies and other events occur in utility operations.

Hopefully, all of us working together in a spirit of accommodation and national interest will be able to fashion a fair and reasonable bill that builds on H.R. 4567, that is a true compromise, and that will enjoy more than just a majority of the Committee Members, including those from Indiana and other states in the Midwest and the South. That is my objective. I hope it is that of all others on the Committee. The Markey hearings last week may, in fact, have been the catalyst that will move us toward reaching that objective with greater ease. Indeed, unless we achieve that objective, resistance to the legislation will abound.

TRIBUTE TO STEVE PFISTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MYERS] is recognized for 60 minutes.

Mr. MYERS of Indiana. Mr. Speaker, behind the scenes of any successful organization, there are a great many people who are not usually seen, who do not take the limelight, who are workers in the force or in the trenches, and the House of Representatives certainly is no exception to that rule.

There comes a time, however, especially when we have young, ambitious, very capable workers who support the activities of Members here and our functions, they have the opportunity to accept employment someplace else and make more money. This has been a proving ground for a great many people of this caliber.

Tonight, hopefully, this will be the last night of the session before the Fourth of July home district work period. We have a young man on the Republican side who will be leaving July 1 to accept a job in the private sector, a young man who came to us a few years ago and who had limited Government experience, but has done a tremendous job in supporting the Republicans and has worked in our cloak room for the past 3 years. This is Steve Pfister.

Steve is going to be most difficult to replace. We have a replacement already selected for Steve. Steve does leave not only a legacy here of a fine job in supporting Republican Members, but also the Democratic Members. We all necessarily sometimes have to get advice about what is in particular legislation. This is a resource that Members must depend upon, since Members are active in committee work and their office work and have to come to the floor in a hurry.

We are going to miss Steve very much. We do wish Steve much success as he moves into the private sector.

It is not going to be easy to replace Steve, but we have selected today Miss Joelle Hall, who has been working here as a bill clerk for quite some time, and Joelle will move into the position. Steve has filled.

Steve is, I think, here in the Chamber someplace. We do wish Steve much success, and we thank him for the years of dedicaton, for the extra effort and the number of hours that he has been away from his family. He is going to be a new father later this year, so lots of exciting things are happening for Steve Pfister.

So the Republican minority here, the Republican Members, who have taken Steve for granted, we do thank him very much for his service and wish him much success.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me, and for helping to remind the body of the dedicated service Steve Pfister has given to the minority over a period now of several years.

As the gentleman from Indiana has stated, he really is one of those people who works behind the scenes and who allows all of us to get our job done in a rather hectic atmosphere. The people who work in the cloak rooms for both parties are truly an invaluable aid to our getting our work done.

Steve has certainly been someone who has been relied upon by many, many Members as they come through here. I join the gentleman in congratulating him and wishing him well.

Mr. MYERS of Indiana. I thank the gentleman for his kind remarks.

Everyone here certainly appreciates Steve.

Mr. PORTER. Mr. Speaker, for the past 5 years Steve Pfister has served the Republican members of the House with great ability as assistant floor manager. His friendliness and competent work on our behalf has meant a great deal to our own work on behalf of our constituents and our country.

He and his lovely wife, Julie, are about to be proud parents and, simultaneously, Steve is leaving us for greener pastures with the National Retail Merchants Association.

Steve has served the Congress with honor and distinction, and I know I speak for all the Members in wishing Steve and Julie God's blessings upon their family and success in all they undertake.

Mr. BROOMFIELD. Mr. Speaker, I join my colleagues in expressing our real appreciation to Steve Pfister, our assistant Republican floor manager, for the many ways he has been of help to us on the House floor, and to extend our best wishes upon his new career.

Steve's thoughtfulness and consideration have helped all of us perform our work in the House more efficiently and effectively. His vast knowledge of House procedure and his conscientious handling of the many details that are involved in the smooth functioning of the House have made him an invaluable aid to all of us.

Mr. Speaker, Steve's many talents will surely be missed by all of us. However, we all wish him well in the coming years.

GENERAL LEAVE

Mr. MYERS of Indiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR CHAIR TO DECLARE RECESSES ON TODAY

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the Chair be permitted to declare recesses for any time this evening up to 9:45 p.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

EXPAND THE AGRICULTURE EXPORT ENHANCEMENT PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

Mr. BEREUTER. Mr. Speaker, tonight I would like to speak very briefly on the need to expand the agricultural export enhancement program.

The U.S. agriculture exports are at their lowest level in several years, 26 percent behind last year. There seems to be a growing inconsistency between USDA rhetoric and actions to promote agriculture exports. The main tool which the Reagan administration is relying upon to spur exports are the lowering of commodity loan rates and export promotion. The 1985 farm bill gives USDA the authority to lower loan rates and the necessary tools to expand our export markets through the export enhancement program, also known as the Export PIK Program.

However, there has been a far less ambiguous attitude by the USDA to apply our export programs and the export PIK. Rather than use export PIK across the board to include all customers of the United States, especially such good traditional customers like the Soviet Union and Nigeria, to name just two of the larger importers of U.S. grain, export PIK has instead been used only on a targeted basis to take away markets from our major competitors, and it has been done with very mixed results at times and, in other cases, with very detrimental results.

The Nigerians ask some hard questions that I think are impossible to answer appropriately. They ask why we, as good U.S. customers, paying cash on the barrelhead, have to pay more, in effect, for the grain we import from the United States than the countries of North Africa where we are using the export enhancement program or the Export PIK Program to take away those markets from European competitors.

I do not think there is a good answer to that. In the process, we are alienating the Nigerians, very good grain customers for the United States.

The Soviet Union, on the other hand, has long hinted that if the United States would offer their grain on the same terms it is offering to other countries under export PIK, they would buy more grain from the United States. While we have succeeded in taking back some of the lost markets in Algeria, Turkey and Egypt, we have offended and lost markets in other areas of the world.

□ 2055

From the Soviet perspective, Export PIK sets the world price, so if they do not qualify for Export PIK, they are then forced to pay a premium price for U.S. grain according to their logic, and I suggest to you that logic is correct.

Mr. Speaker, I urge my colleagues to join me in pushing the administration to expand Export PIK or the Export Enhancement Program for across-the-board coverage for all of our grain customers. The pending House trade bill in one of the provisions that is good in it for agriculture, would require such action and the 1985 farm bill gives the USDA authority to do so.

Let us get the administration to move on our surplus grain problems now. Here is one way to do it. Let us expand the Export PIK Program to make it available to our traditional customers as well.

SALUTE TO CHARLIE ROSE AND BILL THOMAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 15 minutes.

Mr. FRENZEL. Mr. Speaker, I take this time to address this packed House to call attention to some especially meritorious service provided to the House by some of its Members.

Members may recall that our House telephone system is a very expensive one, and that it was getting to the limits of its ability and actually becoming obsolete in its ability to serve this House. About the time these facts came to light, the telephone systems of the United States were deregulated by court order. That meant that the House had to develop a new telephone system under a new, comprehensive contract with one of a number of entities anxious to provide services to the House.

The committee charged with this responsibility was the House Administration Committee under the leadership of the distinguished gentleman from Illinois [Mr. ANNUNZIO]. Chairman ANNUNZIO and his committee designated the chairman of an appropriate subcommittee, the distinguished gentleman from North Carolina [Mr. ROSE], and his ranking member, the gentleman from California [Mr. THOMAS], to handle all the planning and contracting for the new system.

These gentlemen began their investigation of our telephone system. They spent literally hundreds of hours giving close attention to the system and trying to determine what was the best contract for the House. Had we proceeded on our old spending track for the next 10 years in the future, the House's cost would have been somewhere in the midfifties of millions of dollars; actually about $56 million. Now that is a little bit of a fake number, because we would not have, in any case, continued under the old track. We had to change that track because of deregulation.

However, due to the diligence and extraordinary ability of the two gentleman, Mr. ROSE and Mr. THOMAS of California, we are about to sign a contract with a contractor for a service system which we believe will do a good deal more for us than our current system, and which will be expandable into the services and technologies of the future and which will preserve our abilities to call our various districts as we need to call them.

It will do so at a total price, over 10 years, which will be less than half of the baseline price that it would have cost this House had we continued under the old system.

Almost more important than that, the House has, over the years, seen its telephone records be subpoenaed in such a way that the House has been unaware that its personal records have been turned over to various agencies of Government.

Once we get our new system into operation, we will own the data. We will not have to respond to subpoenas unless we choose to, and our telephone data will be our private information as I believe it should be. There is very little more privileged information than the telephone calls which we make to our constituents.

Mr. Speaker, Mr. ROSE and Mr. THOMAS of California have undertaken this responsibility as a third or fourth or fifth corollary obligation. Both of them have important committee assignments on more than one committee, and yet they labored month after month after month, and together they have developed the new contract.

At the direction of the House Administration Committee, these two gentlemen yesterday directed the Clerk of the House to sign a contract for the new system. I think this is an extraordinary example of effective service by individual Members of the House who labor long and hard for the

House, and who do so without forgetting the interests of our taxpaying constituents.

I salute Congressman CHARLIE ROSE and Congressman BILL THOMAS for this splendid achievement. I hope that Members of the House who also believe that their constitution has been extraordinary will stop them in the halls and applaud their work.

CHARLIE ROSE and BILL THOMAS, your colleagues salute your achievements for us and for our constituents. Well done, and many thanks!

RECESS

The SPEAKER pro tempore. Pursuant to the authority granted earlier today, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock p.m.), the House stood in recess subject to the call of the Chair.

□ 1250

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. NATCHER] at 9:57 p.m.

CONFERENCE REPORT ON S. CON. RES. 120, CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1987

Mr. GRAY of Pennsylvania submitted the following conference report and statement on the Senate concurrent resolution (S. Con. Res. 120) setting forth the congressional budget for the U.S. Government for the fiscal years 1987, 1988, and 1989:

CONFERENCE REPORT (S. CON. RES. 120)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 120) setting forth the congressional budget for the United States Government for the fiscal years 1987, 1988, and 1989, having met, after full and free conference, have been unable to agree on a conference report because the conference decisions have changed certain budget figures outside the scope of the conference. As set forth in the accompanying Joint Explanatory Statement, the conferees do propose a congressional budget incorporated in a further amendment for the consideration of the two Houses.

WILLIAM H. GRAY III,
JIM WRIGHT,
BUTLER DERRICK,
PAT WILLIAMS,
HOWARD WOLPE,
MARTY RUSSO,
ED JENKINS,
MARVIN LEATH,
CHARLES SCHUMER,
BARBARA BOXER,
BUDDY MACKAY,
JIM SLATTERY,
DELBERT LATTA,
LYNN MARTIN,
BOBBI FIEDLER,
BILL GRADISON,
CONNIE MACK,
BILL GOODLING,
Managers on the Part of the House.

PETE DOMENICI,
NANCY KASSEBAUM,
RUDY BOSCHWITZ,
DAN QUAYLE,
SLADE GORTON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
JIM SASSER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the concurrent resolution (S. Con. Res. 120) setting forth the congressional budget for the United States Government for the fiscal years 1987, 1988, and 1989, report that the conferees have been unable to agree. This is a technical disagreement, necessitated by the fact that in some instances the conference decisions include figures which (for purely technical reasons) would fall outside the range between the corresponding House and Senate provisions.

It is the intention of the conferees that the following amendment will be considered in the House and in the Senate.

The managers on the part of the House and the Senate submit the folllowing joint statement in explanation of the action agreed upon by the managers:

The substitute language which is to be offered (and which should be considered the language of the concurrent resolution as recommended in the conference report for purposes of section 302(a) of the Congressional Budget Act of 1974)—hereinafter in this statement referred to as the "conference substitute"—is as follows:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1987 is established and the appropriate budgetary levels for fiscal years 1988 and 1989 are set forth.

(a) The following levels and amounts are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:
Fiscal year 1987: $852,400,000,000.
Fiscal year 1988: $929,750,000,000.
Fiscal year 1989: $1,001,100,000,000.

(2) The appropriate levels of total new budget authority are as follows:
Fiscal year 1987: $1,093,350,000,000.
Fiscal year 1988: $1,166,450,000,000.
Fiscal year 1989: $1,215,850,000,000.

(3) The appropriate levels of total budget outlays are as follows:
Fiscal year 1987: $995,000,000,000.
Fiscal year 1988: $1,045,400,000,000.
Fiscal year 1989: $1,079,000,000,000.

(4) The amounts of the deficits are as follows:
Fiscal year 1987: $142,600,000,000.
Fiscal year 1988: $115,650,000,000.
Fiscal year 1989: $77,900,000,000.

(b) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1986, October 1, 1987, and October 1, 1988:

(1) The recommended levels of Federal revenues are as follows:
Fiscal year 1987: $638,850,000,000.
Fiscal year 1988: $687,750,000,000.
Fiscal year 1989: $738,250,000,000.
and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:
Fiscal year 1987: $5,950,000,000.
Fiscal year 1988: $6,300,000,000.
Fiscal year 1989: $7,350,000,000.
and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:
Fiscal year 1987: $55,700,000,000.
Fiscal year 1988: $60,150,000,000.
Fiscal year 1989: $64,250,000,000.

(2) The appropriate levels of total new budget authority are as follows:
Fiscal year 1987: $879,800,000,000.
Fiscal year 1988: $924,350,000,000.
Fiscal year 1989: $952,800,000,000.

(3) The appropriate levels of total budget outlays are as follows:
Fiscal year 1987: $799,150,000,000.
Fiscal year 1988: $739,850,000,000.
Fiscal year 1989: $862,500,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:
Fiscal year 1987: $160,300,000,000.
Fiscal year 1988: $152,100,000,000.
Fiscal year 1989: $124,250,000,000.

(5) The appropriate levels of the public debt are as follows:
Fiscal year 1987: $2,322,800,000,000.
Fiscal year 1988: $2,530,650,000,000.
Fiscal year 1989: $2,713,300,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1986, October 1, 1987, and October 1, 1988, are as follows:
Fiscal year 1987:
(A) New direct loan obligations, $34,550,000,000.
(B) New primary loan guarantee commitments, $100,750,000,000.
Fiscal year 1988:
(A) New direct loan obligations, $32,300,000,000.
(B) New primary loan guarantee commitments, $91,750,000,000.
Fiscal year 1989:
(A) New direct loan obligations, $30,050,000,000.
(B) New primary loan guarantee commitments, $93,500,000,000.

(c) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1987 through 1989 for each major functional category are:

(1) National Defense (050):
Fiscal year 1987:
(A) New budget authority, $292,150,000,000.
(B) Outlays, $279,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $304,100,000,000.
(B) Outlays, $285,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:

(A) New budget authority, $316,700,000,000.
(B) Outlays, $297,950,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(2) International Affairs (150):
Fiscal year 1987:
(A) New budget authority, $17,450,000,000.
(B) Outlays, $14,000,000,000.
(C) New direct loan obligations, $7,350,000,000.
(D) New primary loan guarantee commitments, $11,750,000,000.
Fiscal year 1988:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $13,850,000,000.
(C) New direct loan obligations, $7,400,000,000.
(D) New primary loan guarantee commitments, $11,700,000,000.
Fiscal year 1989:
(A) New budget authority, $16,600,000,000.
(B) Outlays, $13,200,000,000.
(C) New direct loan obligations, $7,500,000,000.
(D) New primary loan guarantee commitments, $11,700,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1987:
(A) New budget authority, $9,100,000,000.
(B) Outlays, $8,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $9,150,000,000.
(B) Outlays, $9,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $9,400,000,000.
(B) Outlays, $9,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1987:
(A) New budget authority, $4,850,000,000.
(B) Outlays, $3,500,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $2,900,000,000.
(B) Outlays, $2,850,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $5,350,000,000.
(B) Outlays, $4,750,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1987:
(A) New budget authority, $12,400,000,000.
(B) Outlays, $12,600,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $12,500,000,000.
(B) Outlays, $12,550,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $12,650,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1987:
(A) New budget authority, $23,800,000,000.
(B) Outlays, $23,500,000,000.
(C) New direct loan obligations, $14,300,000,000.
(D) New primary loan guarantee commitments, $8,000,000,000.
Fiscal year 1988:
(A) New budget authority, $26,100,000,000.
(B) Outlays, $24,900,000,000.
(C) New direct loan obligations, $12,100,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
Fiscal year 1989:
(A) New budget authority, $25,300,000,000.
(B) Outlays, $21,600,000,000.
(C) New direct loan obligations, $11,300,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1987:
(A) New budget authority, $10,300,000,000.
(B) Outlays, $2,050,000,000.
(C) New direct loan obligations, $4,450,000,000.
(D) New primary loan guarantee commitments, $53,750,000,000.
Fiscal year 1988:
(A) New budget authority, $10,800,000,000.
(B) Outlays, $6,550,000,000.
(C) New direct loan obligations, $4,350,000,000.
(D) New primary loan guarantee commitments, $43,250,000,000.
Fiscal year 1989:
(A) New budget authority, $8,200,000,000.
(B) Outlays, $2,000,000,000.
(C) New direct loan obligations, $4,600,000,000.
(D) New primary loan guarantee commitments, $44,150,000,000.
(8) Transportation (400):
Fiscal year 1987:
(A) New budget authority, $25,350,000,000.
(B) Outlays, $25,850,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
Fiscal year 1988:
(A) New budget authority, $26,800,000,000.
(B) Outlays, $26,950,000,000.
(C) New direct loan obligations, $400,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
Fiscal year 1989:
(A) New budget authority, $26,900,000,000.
(B) Outlays, $26,900,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
(9) Community and Regional Development (450):
Fiscal year 1987:
(A) New budget authority, $6,200,000,000.
(B) Outlays, $7,000,000,000.
(C) New direct loan obligations, $1,050,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1988:
(A) New budget authority, $6,550,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1989:
(A) New budget authority, $6,600,000,000.
(B) Outlays, $6,700,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1987:
(A) New budget authority, $33,450,000,000.
(B) Outlays, $30,550,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $10,300,000,000.
Fiscal year 1988:
(A) New budget authority, $30,300,000,000.
(B) Outlays, $31,450,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $10,700,000,000.
Fiscal year 1989:
(A) New budget authority, $30,400,000,000.
(B) Outlays, $30,900,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $11,000,000,000.
(11) Health (550):
Fiscal year 1987:
(A) New budget authority, $38,600,000,000.
(B) Outlays, $38,300,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1988:
(A) New budget authority, $40,500,000,000.
(B) Outlays, $40,550,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1989:
(A) New budget authority, $42,500,000,000.
(B) Outlays, $42,400,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(12) Medicare (570):
Fiscal year 1987:
(A) New budget authority, $83,000,000,000.
(B) Outlays, $73,250,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $91,400,000,000.
(B) Outlays, $21,450,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $101,450,000,000.
(B) Outlays, $90,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1987:
(A) New budget authority, $163,500,000,000.
(B) Outlays, $121,750,000,000.

(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $175,100,000,000.
(B) Outlays, $128,000,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $179,500,000,000.
(B) Outlays, $132,950,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1987:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $6,150,000,000.
(B) Outlays, $6,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,850,000,000.
(B) Outlays, $6,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1987:
(A) New budget authority, $27,000,000,000.
(B) Outlays, $26,550,000,000.
(C) New direct loan obligations, $1,550,000,000.
(D) New primary loan guarantee commitments, $16,300,000,000.
Fiscal year 1988:
(A) New budget authority, $27,300,000,000.
(B) Outlays, $26,900,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $16,950,000,000.
Fiscal year 1989:
(A) New budget authority, $27,300,000,000.
(B) Outlays, $26,900,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $17,550,000,000.
(16) Administration of Justice (750):
Fiscal year 1987:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $7,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $7,000,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1987:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,450,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $6,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $6,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) General Purpose Fiscal Assistance (850):
Fiscal year 1987:
(A) New budget authority, $1,950,000,000.
(B) Outlays, $2,750,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $1,950,000,000.
(B) Outlays, $1,950,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $2,050,000,000.
(B) Outlays, $2,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Net Interest (900):
Fiscal year 1987:
(A) New budget authority, $148,300,000,000.
(B) Outlays, $148,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $158,850,000,000.
(B) Outlays, $158,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $160,050,000,000.
(B) Outlays, $160,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Allowances (920):
Fiscal year 1987:
(A) New budget authority, $900,000,000.
(B) Outlays, $50,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $3,450,000,000.
(B) Outlays, $2,550,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $4,750,000,000.
(B) Outlays, $3,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(21) Undistributed Offsetting Receipts (950):
Fiscal year 1987:
(A) New budget authority, −$30,700,000,000.
(B) Outlays, −$36,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, −$40,350,000,000.
(B) Outlays, −$40,350,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, −$42,500,000,000.
(B) Outlays, −$42,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than July 25, 1986, the committees named in subsections (b) through (t) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

HOUSE COMMITTEES

(b) The House Committee on Agriculture shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $55,000,000 and outlays by $555,000,000 in fiscal year 1987; decrease budget authority by $49,000,000 and outlays by $549,000,000 in fiscal year 1988; and decrease budget authority by $43,000,000 and outlays by $543,000,000 in fiscal year 1989.

(c) The House Committee on Banking, Finance, and Urban Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: increase budget authority by $642,000,000 and decrease outlays by $1,658,000,000 in fiscal year 1987; decrease outlays by $523,000,000 in fiscal year 1988; and increase budget authority by $164,000,000 and decrease outlays by $546,000,000 in fiscal year 1989.

(d) The House Committee on Education and Labor shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $25,000,000 and outlays by $604,000,000 in fiscal year 1987; decrease budget authority by $150,000,000 and outlays by $449,000,000 in fiscal year 1988; and decrease budget authority by $250,000,000 and outlays by $141,000,000 in fiscal year 1989.

(e) The House Committee on Energy and Commerce shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $1,125,000,000 and outlays by $1,867,000,000 in fiscal year 1987; decrease budget authority by $500,000,000 and outlays by $1,721,000,000 in fiscal year 1988; and decrease budget authority by $500,000,000 and outlays by $2,012,000,000 in fiscal year 1989.

(f) The House Committee on Interior and Insular Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, other than as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $100,000,000 and outlays by $100,000,000 in fiscal year 1987; decrease budget authority by $100,000,000 and outlays by $100,000,000 in fiscal year 1988; and decrease budget authority by $100,000,000 and outlays by $100,000,000 in fiscal year 1989.

(g) The House Committee on Merchant Marine and Fisheries shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1987; decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1988; and decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1989.

(h) The House Committee on Post Office and Civil Service shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $100,000,000 and decrease outlays by $100,000,000 in fiscal year 1987; decrease budget authority by $100,000,000 and decrease outlays by $100,000,000 in fiscal year 1988; and decrease budget authority by $100,000,000 and decrease outlays by $100,000,000 in fiscal year 1989.

(i) The House Committee on Public Works and Transportation shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $1,783,000,000 and decrease outlays by $191,000,000 in fiscal year 1987; decrease budget authority by $2,243,000,000 and outlays by $1,023,000,000 in fiscal year 1988; and decrease budget authority by $2,723,000,000 and decrease outlays by $1,574,000,000 in fiscal year 1989.

(j) The House Committee on Small Business shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $438,000,000 and outlays by $343,000,000 in fiscal year 1987; decrease budget authority by $399,000,000 and outlays by $55,000,000 in fiscal year 1988; and decrease budget authority by $223,000,000 and outlays by $14,000,000 in fiscal year 1989.

(k) The House Committee on Ways and Means shall report changes in law within the jurisdiction of that committee sufficient to reduce the budget deficit by $4,350,000,000 in fiscal year 1987; to reduce the budget deficit by $4,095,000,000 in fiscal year 1988; and to reduce the budget deficit by $4,190,000,000 in fiscal year 1989.

SENATE COMMITTEES

(l) The Senate Committee on Agriculture, Nutrition, and Forestry shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $55,000,000 and outlays by $555,000,000 in fiscal year 1987; decrease budget authority by $49,000,000 and outlays by $549,000,000 in fiscal year 1988; and decrease budget authority by $43,000,000 and outlays by $543,000,000 in fiscal year 1989.

(m) The Senate Committee on Banking, Housing, and Urban Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: increase budget authority by $642,000,000 and decrease outlays by $1,658,000,000 in fiscal year 1987; decrease outlays by $523,000,000 in fiscal year 1988; and increase budget authority by $164,000,000 and decrease outlays by $546,000,000 in fiscal year 1989.

(n) The Senate Committee on Commerce, Science, and Transportation shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1987; decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1988; and decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1989.

(o) The Senate Committee on Energy and Natural Resources shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $1,025,000,000 and outlays by $1,217,000,000 in fiscal year 1987; decrease budget authority by $400,000,000 and outlays by $421,000,000 in fiscal year 1988; and decrease budget authority by $400,000,000 and outlays by $412,000,000 in fiscal year 1989.

(p) The Senate Committee on Environment and Public Works shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $1,883,000,000 and outlays by $291,000,000 in fiscal year 1987; decrease budget authority by $2,343,000,000 and outlays by $1,123,000,000 in fiscal year 1988; and decrease budget authority by $2,823,000,000 and outlays by $1,674,000,000 in fiscal year 1989.

(q)(1) The Senate Committee on Finance shall report (A) changes in laws within its jurisdiction which provide spending authority as defined in section 401(c)(2)(C) of the Congressional Budget and Impoundment Control act of 1974, sufficient to reduce budget authority and outlays, (B) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to reduce budget authority and outlays, or (C) any combination thereof, as follows: decrease outlays by $850,000,000 in fiscal year 1987, decrease outlays by $1,495,000,000 in fiscal year 1988, and decrease outlays by $1,790,000,000 in fiscal year 1989.

(2) The Senate Committee on Finance shall report changes in laws within its jurisdiction sufficient to increase revenues as follows: $3,500,000,000 in fiscal year 1987; $2,600,000,000 in fiscal year 1988; and $2,400,000,000 in fiscal year 1989.

(r) The Senate Committee on Governmental Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in sec-

tion 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $100,000,000 and decrease outlays by $100,000,000 in fiscal year 1987; decrease budget authority by $100,000,000 and decrease outlays by $100,000,000 in fiscal year 1988; and decrease budget authority by $100,000,000 and decrease outlays by $100,000,000 in fiscal year 1989.

(s) The Senate Committee on Labor and Human Resources shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $25,000,000 and outlays by $604,000,000 in fiscal year 1987; decrease budget authority by $150,000,000 and outlays by $449,000,000 in fiscal year 1988; and decrease budget authority by $250,000,000 and outlays by $141,000,000 in fiscal year 1989.

(t) The Senate Committee on Small Business shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $438,000,000 and outlays by $343,000,000 in fiscal year 1987; decrease budget authority by $399,000,000 and outlays by $55,000,000 in fiscal year 1988; and decrease budget authority by $223,000,000 and outlays by $14,000,000 in fiscal year 1989.

CONTINGENCY FUND FOR DEFICIT REDUCTION AND UNMET CRITICAL NEEDS

SEC. 3. (a)(1) Budget authority and outlays for unmet critical needs of amounts not to exceed the amounts specified in subsection (c) for fiscal year 1987 shall be allocated to the appropriate committees of the House of Representatives and the Senate, and the aggregates for fiscal years 1987, 1988, and 1989 in section 1 of this resolution shall be adjusted accordingly, when—

(A) legislation has been enacted which would ensure that any legislation providing for such additional funding would not increase the deficits for fiscal years 1987, 1988, and 1989 set forth in section 1 of this resolution;

(B) the President submits a request pursuant to paragraph (2); and

(C) the appropriate committees of the House of Representatives or the Senate have reported legislation as requested by the President that will, if enacted, make funds available for such unmet critical needs.

(2) If the President determines that additional funding is necessary for unmet critical needs, the President shall submit to the Congress a message or messages—

(A) requesting specific amounts of additional funding to meet such needs; and

(B)(i) requesting the enactment of legislation to ensure that the deficits set forth in section 1 of this resolution are not increased as a result of any additional funding provided to carry out such request; or

(ii) identifying legislation enacted before the date of such submission which would result in such additional funding not increasing the deficits set forth in section 1 of this resolution.

(b) The Committees on the Budget of the House of Representatives and the Senate are authorized and directed to report to their respective Houses revised allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, consistent with legislation reported pursuant to subsection (a)(1)(C), and revised budget aggregates to carry out this section. Upon the reporting of such revised allocations, the appropriate committees of such Houses shall report revised allocations pursuant to section 302(b) of such Act to carry out this section. Such revised allocations and budget aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c)(1) The amounts of budget authority and outlays available for allocation under subsection (a)(1) for funding unmet critical needs shall not exceed amounts as follows:

Fiscal Year 1987:

(A) New budget authority, $9,950,000,000;

(B) Outlays, $4,800,000,000;

of which not to exceed $6,850,000,000 in budget authority and $3,000,000,000 in outlays shall be available for additional defense spending.

Fiscal Year 1988:

(A) New budget authority, $15,450,000,000;

(B) Outlays, $11,450,000,000;

of which not to exceed $8,100,000,000 in budget authority and $6,400,000,000 in outlays shall be available for additional defense spending.

Fiscal Year 1989:

(A) New budget authority, $12,850,000,000;

(B) Outlays, $10,800,000,000;

of which not to exceed $10,500,000,000 in budget authority and $7,250,000,000 in outlays shall be available for additional defense spending.

(2) Amounts described in paragraph (1) may be used to provide funding for additional defense spending and additional nondefense funding in excess of functional levels set forth in section 1 of this resolution.

(d) Nothing in this section shall preclude the President requesting or Congress initiating legislation—

(1) to reduce the deficits for the fiscal years specified in subsection (a)(1) to levels below those set forth in section 1 of this resolution; or

(2) to ensure that such levels are not exceeded by reason of changing economic conditions or estimates.

Upon enactment of deficit reduction legislation of the type described in paragraph (1) of this subsection, the aggregates in section 1 of this resolution shall be adjusted accordingly.

GENERAL REVENUE SHARING EXTENSION

SEC. 4. Budget authority and outlays for funding an extension of general revenue sharing under the State and Local Assistance Act of 1972 through the end of fiscal year 1989 would be allocated to the appropriate committees of the House and Senate and the aggregates in section 1 of this resolution would be adjusted accordingly if—

(1) legislation ensuring that the funding would not increase the deficits set forth in section 1 of this resolution has been enacted into law;

(2) an authorization for such funding has been enacted into law; and

(3) such committee has reported legislation to provide such funding.

(b) The Committees on the Budget of the House of Representatives and the Senate are authorized and directed to report to their respective Houses revised allocations pursuant to section 302(a) of the Congressional Budget Act of 1974 and revised budget aggregates to carry out this section. Upon the reporting of such revised allocations, the appropriate committees of such Houses shall report revised allocations pursuant to section 302(b) of such Act to carry out this section. Such revised allocations and budget aggregates shall be considered for purposes of such Act as allocations and aggregates contained in this resolution.

(c) This section shall not apply to the extent that additional funding for general revenue sharing is provided for within the section 302(a) allocations of budget authority and outlays to the appropriate committees of the House of Representatives and the Senate made in the joint explanatory statement accompanying this resolution.

REPORT ON DOD INFLATION FUNDING

SEC. 5. (a) It is the sense of the Congress that the Secretary of Defense should transmit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate setting forth a full and complete accounting of all moneys appropriated to the Department of Defense for fiscal year 1986 in excess of sums needed to cover inflation. Such report shall be referred to the Committee on Appropriations and Committee on Armed Services of each House. The Committee on the Budget of each House shall be notified upon the transmittal of such report.

(b) It is further the sense of the Congress that the report described in subsection (a) shall also be submitted to the General Accounting Office which shall report to the Congress within a period of 14 days on its findings as to that report, and that upon receipt of the General Accounting Office report the Committees on Armed Services of the House and Senate shall take appropriate action to ensure that only the appropriate levels of funding for inflation are provided.

(c) It is further the sense of the Congress that for fiscal years 1988 and 1989, the Secretary of Defense shall, within 90 days of the close of each such fiscal year, issue to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report accounting for any moneys appropriated for each respective prior fiscal year to cover inflation, which have not been obligated for such purposes.

GNP DEFLATOR

SEC. 6. It is the sense of the Congress that the Committees on Armed Services of the House and Senate should consider legislation prohibiting the Department of Defense from using an arbitrary deflator (one not based on historical or factual data) for major weapons systems which would provide funding for major weapons systems inflation in excess of the GNP deflator.

FEDERAL CREDIT PROGRAM REFORM

SEC. 7. (a) The Congress finds that:

(1) The Federal Government is a major lender and allocator of capital through direct loan and loan guarantee programs.

(2) The creation of the Federal Financing Bank was a major step in streamlining and reducing the cost of these programs.

(3) Despite the improvements in funding brought about by the Federal Financing Bank, however, serious shortcomings remain in the allocation and management of Federal credit programs.

(4) Current allocation decisions for a loan and loan guarantee programs do not adequately reflect economic costs and, because cost calculations are not uniform across programs, they do not allow accurate comparisons among programs.

(5) Current Federal credit program controls provide little incentive for sound credit management practices or timely debt collection.

(b) It is therefore the sense of the Congress that the appropriate committees of the Congress should review proposals to change the Federal credit budget, including use of mechanisms which would—

(1) provide uniform budget treatment of Federal credit programs based on their subsidy cost;

(2) permit accurate comparison of credit and spending programs based on their true economic cost;

(3) promote effective management of Federal credit programs, providing accurate and comprehensive data on Federal credit activity and encouraging timely debt collection; and

(4) undertake accounting and management reforms for Federal credit programs as appropriate.

OIL AND GAS EMPLOYEES

SEC. 8. Since in the last six months the Government of Saudi Arabia has more than doubled its export of petroleum and petroleum products; and

Since these increased export volumes have resulted in a surplus of petroleum and petroleum products within the world marketplace; and

Since this surplus has directly resulted in a dramatic reduction of the weighted average price of international crude from $27.10 on January 7, 1986, to $13.08 on April 15, 1986; and

Since the United States has increased its importation of petroleum and petroleum products by 26 percent over the comparable period last year;

Since this dramatic reduction in price and the increased level of imports has resulted in a corresponding reduction in domestic petroleum exploration activities, including a reduction in the number of active rotary drilling rigs in the United States from 4,797 in 1981, to 865 as of April 21, 1986; and

Since the increase in petroleum imports and the reduction in domestic exploration efforts have resulted in a loss of jobs for individuals who are employed by the oil and gas industry and oil and gas service industry; and

Since American firms and employees that are injured by increased imports are eligible for temporary assistance under the Trade Adjustment Assistance Act; and

Since the Administration is narrowly interpreting the Trade Adjustment Assistance Act so as to exclude employees of the oil and gas industry and oil and gas service industry from receiving the benefits of this Act.

It is therefore the sense of the Congress that—

employees of the United States oil and gas industry and oil and gas service industry have been directly injured by a dramatic increase in imported petroleum and petroleum products and by the resulting decline in domestic oil exploration efforts; and

the Administration should immediately broaden its interpretation of the Trade Adjustment Assistance Act so as to allow employees of the United States oil and gas industry and oil and gas service industry to qualify for certification under the Act; and

if the Administration does not act immediately to resolve this matter, the Congress will address this issue on the first appropriate vehicle to be considered by the Congress.

STRATEGIC PETROLEUM RESERVE

SEC. 9. It is the sense of the Congress that the policy to fill the Strategic Petroleum Reserve to an ultimate capacity of 750 million barrels be reaffirmed. It is also recommended that the Federal Government purchase oil for the Reserve in a way designed to help domestic stripper oil well producers so as to minimize the shutting-in of stripper production.

COOPERATIVE EXTENSION SERVICE

SEC. 10. It is the sense of the Congress that Federal funds for the Cooperative Extension Service of the Department of Agriculture should be maintained at a level sufficient to carry out fully the vital services it is providing to rural America during a time of extreme stress. It is further assumed that this funding will be used especially to support and strengthen such core programs as 4-H Youth Development, Home Economics and Family Living, Natural Resources and Community Development, and services that provide agricultural financial analysis and farm management instruction.

FOREIGN AGRICULTURAL INVESTMENT REFORM

SEC. 11. It is the sense of the Congress that the use of foreign aid funds for financing the foreign production for export use of agricultural commodities already in surplus on world markets is a counter-productive use of American tax dollars as well as devastating to the American farmer who loses export markets from the unfairly subsidized competition.

SOCIAL SECURITY COLAS

SEC. 12. It is the sense of the Congress that legislation should be enacted to provide that social security cost-of-living adjustments, and COLAs in other programs linked to those adjustments, will be paid at the actual rate of inflation, whether it is above or below 3 percent.

SECTION 302(a) ALLOCATIONS

SEC. 13. The Chairman of the Committee on the Budget of the House of Representatives may file, not later than July 9, 1986, a report in the House containing the allocations required to be made pursuant to section 302(a) of the Congressional Budget Act of 1974. The report shall be printed as, and considered to be, a report of the Committee on the Budget and such allocations made in that report shall be considered to be the allocations required to be in the joint explanatory statement accompanying this resolution.

EXPLANATION OF CONFERENCE SUBSTITUTE

The following tables show the functional allocations and budget aggregates included in the conference substitute. The fiscal year 1987 columns show the budget aggregates and functional allocations for the budget resolution for fiscal year 1987. The columns for fiscal year 1988 and fiscal year 1989 show budget aggregates and functional allocations which the conferees consider appropriate for those years.

Conference agreement

Fiscal year 1987:	
Budget authority	$1,093.35
Outlays	995.00
Revenues	852.40
Deficit	142.60
Debt subject to limit	2,322.80
Fiscal year 1988:	
Budget authority	1,166.45
Outlays	1,045.40
Revenues	929.75
Deficit	115.65
Debt subject to limit	2,530.65
Fiscal year 1989:	
Budget authority	1,215.85
Outlays	1,079.00
Revenues	1,001.10
Deficit	77.90
Debt subject to limit	2,713.30

Conference agreement on-budget only

Fiscal year 1987:	
Budget authority	$879.80
Outlays	799.15
Revenues	638.85
Deficit	160.30
Debt subject to limit	2,322.80
Fiscal year 1988:	
Budget authority	924.35
Outlays	839.85
Revenues	687.75
Deficit	152.10
Debt subject to limit	2,530.65
Fiscal year 1989:	
Budget authority	952.80
Outlays	862.50
Revenues	738.25
Deficit	124.25
Debt subject to limit	2,713.30

FUNCTIONAL ANALYSIS

[In billions of dollars]

	House passed May 8, 1986			Senate passed May 2, 1986			Conference agreement		
	1987	1988	1989	1987	1988	1989	1987	1988	1989
Budget authority	1,086.35	1,159.65	1,205.35	1,101.260	1,170.011	1,220.868	1,093.35	1,166.45	1,215.85
Outlays	994.25	1,047.05	1,076.15	1,001.212	1,051.223	1,083.993	995.00	1,045.40	1,079.00
Revenues	857.20	941.20	1,011.90	857.212	941.164	1,011.918	852.40	929.75	1,001.10
Deficit	137.05	105.85	64.25	144.000	110.059	72.075	142.60	115.65	77.90
Function									
050 National Defense:									
Budget authority	285.00	295.50	306.50	300.953	312.154	327.153	292.15	304.10	316.70
Outlays	276.20	281.40	290.50	281.962	291.753	305.135	279.15	285.40	297.95

FUNCTIONAL ANALYSIS—Continued

[In billions of dollars]

	House passed May 8, 1986			Senate passed May 2, 1986			Conference agreement		
	1987	1988	1989	1987	1988	1989	1987	1988	1989
150 International Affairs:									
Budget authority	17.00	17.30	15.90	17.856	18.047	17.297	17.45	17.70	16.60
Outlays	13.80	13.55	12.85	14.205	14.134	13.557	14.00	13.85	13.20
250 General Science, Space and Technology:									
Budget authority	8.80	8.75	8.80	9.280	9.385	10.048	9.10	9.15	9.40
Outlays	8.75	8.75	8.65	9.097	9.168	9.502	8.90	9.10	9.15
270 Energy:									
Budget authority	4.90	4.65	4.80	4.666	5.971	5.771	4.85	2.90	5.35
Outlays	4.85	4.15	3.75	4.612	5.647	5.153	3.50	2.85	4.75
300 Natural Resources and Environment:									
Budget authority	11.95	12.00	11.80	12.500	12.599	12.399	12.40	12.50	12.30
Outlays	12.25	12.15	12.20	12.600	12.599	12.699	12.60	12.55	12.65
350 Agriculture:									
Budget authority	23.80	26.00	25.30	23.800	26.100	25.300	23.80	26.10	25.30
Outlays	23.55	24.80	21.55	23.500	24.900	21.600	23.50	24.90	21.60
370 Commerce and Housing Credit:									
Budget authority	9.80	9.35	7.55	10.004	10.503	7.508	10.30	10.80	8.20
Outlays	2.20	5.10	1.30	3.547	6.293	1.394	2.05	6.55	2.00
400 Transportation:									
Budget authority	24.60	26.35	26.30	26.795	26.493	26.592	25.35	26.80	26.90
Outlays	25.50	26.45	26.35	27.795	26.693	26.792	25.85	26.95	26.90
450 Community and Regional Development:									
Budget authority	6.30	6.45	6.50	6.891	7.191	7.090	6.20	6.55	6.60
Outlays	7.00	7.05	6.60	7.196	6.992	6.792	7.00	7.10	6.70
500 Education, Training, Employment and Social Services:									
Budget authority	33.75	32.85	33.80	33.229	30.278	30.177	33.45	30.30	30.40
Outlays	30.60	32.30	33.10	30.558	31.247	30.645	30.55	31.45	30.90
550 Health:									
Budget authority	38.65	40.50	42.70	38.598	40.523	42.523	38.60	40.50	42.50
Outlays	38.35	40.70	42.80	38.324	40.556	42.379	38.30	40.55	42.40
570 Medicare:									
Budget authority	83.00	91.40	101.45	82.900	90.900	100.800	83.00	91.40	101.45
Outlays	73.40	81.85	91.35	72.800	80.500	88.800	73.25	81.45	90.90
600 Income Security:									
Budget authority	165.25	172.90	176.50	161.350	169.263	173.100	163.50	175.10	179.50
Outlays	121.40	127.20	130.60	121.450	127.733	132.417	121.75	128.00	132.95
650 Social Security:									
Budget authority	226.65	257.00	281.40	228.370	260.468	286.487	227.05	259.80	285.10
Outlays	209.35	223.25	238.55	209.388	223.197	238.568	209.35	223.25	238.55
700 Veterans Benefits and Services:									
Budget authority	27.05	27.45	27.30	27.042	27.307	27.403	27.00	27.30	27.30
Outlays	26.70	27.05	26.90	26.458	26.907	27.103	26.55	26.90	26.90
750 Administration of Justice:									
Budget authority	7.20	7.15	7.25	7.199	7.099	6.999	7.20	7.10	7.00
Outlays	7.15	7.25	7.35	7.167	7.099	7.099	7.15	7.10	7.10
800 General Government:									
Budget authority	5.75	6.15	6.15	5.469	5.937	6.071	5.50	6.00	6.10
Outlays	5.65	6.05	6.20	5.387	5.937	6.071	5.45	6.00	6.10
850 General Purpose Fiscal Assistance:									
Budget authority	1.85	1.90	2.00	2.000	2.000	2.100	1.95	1.95	2.05
Outlays	2.65	1.90	2.00	2.800	2.000	2.100	2.75	1.95	2.05
900 Net Interest:									
Budget authority	143.50	151.50	148.95	143.936	151.953	149.763	143.65	152.30	150.65
Outlays	143.50	151.50	148.95	143.936	151.953	149.763	143.65	152.30	150.65
920 Allowances:									
Budget authority	0.55	1.60	2.65	0.517	1.936	2.087	0.90	3.45	4.75
Outlays	0.60	1.70	2.85	0.525	2.011	2.234	−0.05	2.55	3.90
950 Undistributed Offsetting Receipts:									
Budget authority	−39.00	−37.10	−38.25	−42.095	−46.096	−45.810	−40.05	−45.35	−48.30
Outlays	−39.20	−37.10	−38.25	−42.095	−46.096	−45.810	−40.25	−45.35	−48.30

CREDIT BUDGET—FUNCTIONAL ANALYSIS

[In billions of dollars]

	House passed			Senate passed			Conference agreement		
	1987	1988	1989	1987	1988	1989	1987	1988	1989
New direct loans	34.25	32.25	30.60	34.70	32.30	30.20	34.55	32.30	30.05
Primary loan guarantees	85.40	87.30	87.65	100.90	92.20	94.30	100.75	91.75	93.50
Function									
150 International Affairs:									
Direct loans	7.15	7.10	7.10	7.40	7.50	7.70	7.35	7.40	7.50
Loan guarantees	11.40	11.40	11.40	11.70	11.70	11.70	11.75	11.70	11.70
270 Energy:									
Direct loans	1.95	1.95	1.95	2.00	2.00	2.00	1.95	1.95	1.95
Loan guarantees									
300 Natural Resources and Environment:									
Direct loans	.10	.10	.05	.10	.10	.10	.05	.05	.05
Loan guarantees									
350 Agriculture:									
Direct loans	14.30	12.10	11.35	14.30	12.10	11.30	14.30	12.10	11.30
Loan guarantees	8.00	8.50	8.65	8.00	8.50	8.50	8.00	8.50	8.50
370 Commerce and Housing Credit:									
Direct loans	4.45	4.60	4.85	4.50	4.30	4.50	4.45	4.35	4.60
Loan guarantees	38.75	39.10	38.45	53.90	43.70	44.80	53.75	43.25	44.15
400 Transportation:									
Direct loans	.50	.40	.20	.50	.40	.20	.50	.40	.20
Loan guarantees	.05	.05	.05	.10	.10	.10	.05	.05	.05
450 Community and Regional Development:									
Direct loans	.95	1.20	1.05	1.10	1.30	1.10	1.05	1.30	1.10
Loan guarantees	.30	.30	.30	.30	.30	.30	.30	.30	.30
500 Education, Training, Employment and Social Services:									
Direct loans	1.50	1.40	1.25	1.50	1.40	1.30	1.50	1.40	1.30
Loan guarantees	10.30	10.70	10.95	10.30	10.70	11.00	10.30	10.70	10.95
550 Health:									
Direct loans			.05				.05	.05	.05

CREDIT BUDGET—FUNCTIONAL ANALYSIS—Continued

[In billions of dollars]

		House passed			Senate passed			Conference agreement		
		1987	1988	1989	1987	1988	1989	1987	1988	1989
	Loan guarantees	.30	.30	.30	.30	.30	.30	.30	.30	.30
600	Income Security:									
	Direct loans	1.80	1.90	1.45	1.80	1.80	.70	1.80	1.80	.70
	Loan guarantees									
700	Veterans Benefits and Services:									
	Direct loans	1.55	1.50	1.30	1.50	1.40	1.30	1.55	1.50	1.30
	Loan guarantees	16.30	16.95	17.55	16.30	16.90	17.60	16.30	16.95	17.55

ECONOMIC ASSUMPTIONS

The conferees accepted the economic assumptions shown in the table below as the basis for the revenue, spending, and credit estimates in the conference substitute. These economic assumptions were prepared by CBO for the February baseline budget projections. Both the House- and Senate-passed budget resolutions were based on these economic assumptions.

[Calendar years, billions of dollars]

	Actual 1985	Projected			
		1986	1987	1988	1989
Annual averages:					
Gross national product	$3,988	$4,269	$4,583	$4,930	$5,313
Percent change	5.7	7.0	7.3	7.6	7.8
Real GNP (1982 dollars)	$3,570	$3,689	$3,805	$3,931	$4,068
Percent change	2.2	3.3	3.1	3.3	3.5
GNP deflator (percent change)	3.3	3.6	4.1	4.1	4.1
CPI–W (percent change)	3.5	(1)	4.2	4.4	4.4
Civilian unemployment rate (percent)	7.2	6.7	6.7	6.5	6.3
3-month Treasury bill rate (percent)	7.5	6.8	6.7	6.4	6.1
Taxable incomes:					
Wages and salaries	$1,960	$2,094	$2,250	$2,414	$2,595
Corporate profits (economic)	$295	$344	$372	$403	$434
Memo: GNP, current dollars, fiscal year	$3,937	$4,192	$4,504	$4,838	$5,214

[1] The January 1987 cost-of-living adjustments for Social Security and other benefit programs will be based on the percent change in the CPI–W between the third calendar quarter of 1985 and the third calendar quarter of 1986. In the CBO baseline this was estimated to be 3.4 percent. The Senate and House resolutions and the conference substitue all assume, based on more recent data, that the rate of change will be 2.0 percent, that legislation will be enacted to repeal the 3-percent threshold for Social Security and some other COLA's, and that the full COLA at the actual inflation rate will be paid in all programs.

REVENUES

The House resolution recommended total revenues of $857.2 billion in fiscal year 1987, $951.2 billion in fiscal year 1988, and $1,011.9 billion in fiscal year 1989. It provided that revenues be increased by $10.7 billion in fiscal year 1987, $17.4 billion in fiscal year 1988, and $17.7 billion in fiscal year 1989. Of the amounts of additional revenues, Section 3 of the House Resolution specified that the following amounts should be used solely for the purposes of deficit reduction: $4.7 billion in fiscal year 1987, $11.2 billion in fiscal year 1988, and $10.5 billion in fiscal year 1989.

The Senate resolution recommended total revenues of $857.2 billion in fiscal year 1987, $941.2 billion in fiscal year 1988, and $1,011.9 billion in fiscal year 1989. It provided that revenues be increased, from a baseline excluding the revenue increases in the Consolidated Omnibus Reconciliation Act of 1985, by $13.2 billion in fiscal year 1987, $20.2 billion in fiscal year 1988, and $20.6 billion in 1989.

The conference agreement sets a revenue floor of $852.40 billion in fiscal year 1987, $929.75 billion in fiscal year 1988, and $1,001.10 billion in fiscal year 1989. It provides that revenues be increased by $5.95 billion in fiscal year 1987, $6.30 billion in fiscal year 1988, and $7.35 billion in fiscal year 1989.

FUNCTION 270: ENERGY

The conferees assume the sale of the Naval Petroleum Reserves and that it will be completed by the close of fiscal year 1988. Although this budget resolution does not include the proposed sale in the reconciliation instructions, the conferees believe the relevant committees should study the means and the costs and benefits of achieving such a sale.

The House conferees believe that if the Naval Petroleum Reserves were to be sold, any such sale should provide that their reserve status—imposed by Presidential Proclamation and Chapter 641 of title 10, United States Code—should be terminated if still in effect, and that the preexisting school land entitlements of the States affected, which were suspended by such reserve status, should be recognized. The House conferees believe that if these lands are no longer reserved for a national purpose, their ownership must revert to the original titleholder as a matter of equity.

FUNCTION 300: NATURAL RESOURCES AND ENVIRONMENT

The House-passed budget resolution assumed a twenty percent reduction in the funding for the Bureau of Reclamation. The conference agreement assumes that 1987 funding for the Bureau will be at the 1986 level as assumed in the Senate-passed resolution.

The reduction assumed in the House resolution was prompted by the repeated failure of the Bureau to respond in a timely or effective manner to serious concerns of Members of the House, particularly those from various areas of California. The House conferees emphasize that the House will review Bureau funding in detail in the 1988 budget resolution and the House will recommend an equivalent reduction in that budget if the Bureau continues to be unresponsive to the Congress on serious issues including project development, toxic contamination, and full and effective enforcement of the reclamation laws.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT

The conferees take note of the fact that some employees hired by Government-owned corporations receive salaries far in excess of the maximum allowable annual rate of basic pay for Federal employees under the General Schedule. In light of this, the conferees urge the appropriate committees of the House and Senate to initiate a comprehensive review of pay practices in the case of individuals in similar positions and report legislation which would correct this inequity.

FUNCTION 570: MEDICARE

The House conferees encourage appropriate House committees of jurisdiction to examine the prospect of providing payments under Medicare for vision care services performed by optometrists. Such services would include only those that optometrists already are licensed by their respective States to provide and that are already covered by Medicare when provided by physicians.

FUNCTION 600: INCOME SECURITY

Child Nutrition and WIC

The conference substitute assumes enactment of the conference report on H.R. 7, the School Lunch and Child Nutrition Amendments of 1986, which adds $0.05 billion in budget authority and outlays to the current policy baseline funding $4.2 billion for child nutrition programs in 1987. In addition, the conference substitute assumes an addition of $75 million in budget authority and $68 million in outlays above inflation in 1987 for the Special Supplemental Food Program for Women Infants, and Children (WIC).

FUNCTION 650: SOCIAL SECURITY

The conference substitute assumes that the fiscal years 1987 to 1989 program level for the limitation on administrative expenses account is set at the fiscal year 1986 level. It further assumes that any savings in administrative expenses for the Social Security Administration will not involve any re-

ductions in staffing or office closings. It is the conferees' position that drastic staff reductions or office closings should not go forward without consultation with Congress.

FUNCTION 800: GENERAL GOVERNMENT

It is expected that there will be sufficient funds to pay for current level expenditures for furniture items produced by sheltered workshops for the blind and other severely handicapped under the auspices of the Javits-Wagner-O'Day Act, P.L. 92-28.

FUNCTION 950: UNDISTRIBUTED OFFSETTING RECEIPTS

Oil Overcharge Funds

The conferees assume that the Congress will enact legislation to recover $2.45 billion in additional oil overcharge funds over the next three years, of which $1.25 billion will be recovered in fiscal year 1987. The conferees also assume full funding for the LIHEAP and DOE weatherization programs over the next three years. The House conferees will further elaborate on their assumptions below.

The House conferees assume that legislation will be enacted providing for the United States to receive, beginning on October 1, 1986, all amounts recovered and to be recovered from oil overcharge cases (which amounts have been determined not to be Federal funds), less the amounts required, as provided in such legislation, to provide overcharged persons with compensation as direct restitution in appropriate administrative and judicial proceedings.

The House conferees assume that oil overcharge funds presently collected and held in escrow, or otherwise, and undistributed pursuant to any administrative and judicial action, as well as future funds, will be available for distribution pursuant to such legislation. The House conferees assume that enactment of this policy will recover $1.25 billion in additional oil overcharge funds in fiscal year 1987, and $2.45 billion over the three-year period. If, however, actions beyond the control of the Congress or the administration should make part of these savings unachievable, the committees of jurisdiction would be held harmless for the savings that could not be achieved, if any.

The House conferees also assume that the legislation will provide that part of the oil overcharge funds recovered ($0.25 billion a year for three years) will be used annually, in addition to the funding assumed below, to make indirect restitution to consumers through the four DOE State Energy Conservation Grant programs referred to in the Warner amendment of 1982.

To ensure that such indirect restitution supplements and does not replace existing funding, and that low-income citizens continue to receive this assistance even though the States will not directly receive further oil and overcharge funds, the House conferees also assume, in Functions 270 and 600, the enactment of a three-year advance appropriation for the DOE low-income weatherization program and the HHS low-income home energy assistance program at the full funding levels assumed in those functions.

The Senate conferees do not accept the House assumptions for this function.

The Senate conferees assume that the Congress will enact legislation to recover $2.45 billion in additional oil overcharge funds over the next three years, of which $1.25 billion will be recovered in fiscal year 1987. It is the intent of the Senate that the low income weatherization, Energy Extension Service, Energy Policy Conservation Act grants, and Schools and Hospitals grant programs are funded at their current rate of $250 million for fiscal years 1987, 1988, and 1989, regardless of the disposition of lawsuits or reconciliation legislation regarding the recoupment of oil overcharge funds. If the courts approve the Department of Energy Stripper Well Exemption Litigation (M.D.L. No. 378), the Senate conferees believe Congress can recover additional funds from future overcharge cases.

Loan Asset Sales

The conference agreement on the budget assumes proposals to sell loan assets from a number of programs. If enacted, the loan sales assumed in the resolution would reduce fiscal year 1987 outlays by $3.1 billion.

Having assumed these sales, the conferees believe that it is essential to make sure that they can actually occur. The conferees hope that the appropriate committees of the Congress will consider legislation that establishes specific guidelines for the sale of these assets. Such legislation should address the process and terms of asset sales, including whether there should be any form of Federal guarantee and what kind of protections should be provided to borrowers.

The conferees believe that specific legislative guidelines for loan asset sales should be established to insure that the sales occur successfully and expeditiously without adverse consequences.

Reconciliation Instructions

The Senate resolution contained instructions to 11 Senate committees and 12 House committees to recommend changes in laws within their jurisdiction sufficient to achieve deficit reduction in fiscal years 1987, 1988, and 1989, necessary to effectuate the provisions and requirements of the resolution. The House amendment contained instructions of this nature directed to 11 House committees and 9 Senate committees. The conference substitute includes reconciliation instructions directed to 9 Senate committees and 10 House committees.

The Senate resolution required that instructed committees respond by May 30, 1986. The House amendment required instructed committees to report by June 5, 1986. The conference substitute provides that committees must respond by July 25, 1986.

The Senate resolution contained language expressing the sense of the Senate that all reconciled House and Senate committees should include estimates in their reconciliation responses, based on both the budget resolution and current law baselines, of the level of budget authority and outlays available for each program affected by that response after the recommended changes are made. The language also expressed the sense of the Senate that reports of the House and Senate Budget Committees accompanying a reconciliation bill or resolution also include similar estimates. The language defined the current law baseline as the level of budget authority and outlays provided for a program for a fiscal year under the laws in effect on the date of adoption of the concurrent resolution.

The House amendment contained no such provision.

The Senate conferees receded to the House.

RECONCILIATION BY HOUSE COMMITTEE

[In millions of dollars]

House committees	Fiscal year—						3-year	
	1987		1988		1989			
	BA	O	BA	O	BA	O	BA	O
Agriculture Committee:								
Rural development insurance fund								
Loan asset sales	−55	−55	−49	−49	−43	−43	−147	−147
Loan asset sales	0	−500	0	−500	0	−500	0	−1,500
Total Agriculture	−55	−555	−49	−549	−43	−543	−147	−1,647
Banking, Finance and Urban Affairs Committee:*								
Rural housing loans	642	−1,158	0	−23	164	−46	806	−1,227
Loan asset sales	0	−500	0	−500	0	−500	0	−1,500
Total Banking	642	−1,658	0	−523	164	−546	806	−2,727
Education and Labor Committee:								
Guaranteed student loans	−25	−25	−150	−135	−250	−235	−425	−395
Education loan asset sales	0	−579	0	−314	0	94	0	−799
Total Education and Labor	−25	−604	−150	−449	−250	−141	−425	−1,194
Energy and Commerce Committee:								
User fees	−100	−100	−100	−100	−100	−100	−300	−300
FERC user fees	−31	−31	−56	−56	−56	−56	−143	−143
Medicare provider payment reforms	0	−550	0	−1,200	0	−1,500	0	−3,250
Oil overcharge funds	−994	−1,186	−344	−365	−344	−356	−1,682	−1,907

RECONCILIATION BY HOUSE COMMITTEE—Continued

[In millions of dollars]

House committees	Fiscal year—						3-year	
	1987		1988		1989		BA	O
	BA	O	BA	O	BA	O		
Total Energy and Commerce	−1,125	−1,867	−500	−1,721	−500	−2,012	−2,125	−5,600
Interior and Insular Affairs Committee: User fees	−100	−100	−100	−100	−100	−100	−300	−300
Total Interior	−100	−100	−100	−100	−100	−100	−300	−300
Merchant Marine and Fisheries Committee: Coast Guard user fees	−50	−50	−50	−50	−50	−50	−150	−150
Total Merchant Marines	−50	−50	−50	−50	−50	−50	−150	−150
Post Office and Civil Service Committee: Unspecified	−100	−100	−100	−100	−100	−100	−300	−300
Total Post Office	−100	−100	−100	−100	−100	−100	−300	−300
Public Works and Transportation Committee: Highways	−1,783	−191	−2,243	−1,023	−2,723	−1,574	−6,749	−2,788
Total Public Works	−1,783	−191	−2,243	−1,023	−2,723	−1,574	−6,749	−2,788
Small Business Committee: SBA disaster loan asset sales	−438	−343	−399	−55	−223	−14	−1,060	−412
Total Small Business	−438	−343	−399	−55	−223	−14	−1,060	−412
Ways and Means Committee total Ways and Means deficit reduction		−4,350		−4,095		−4,190		−12,635
Total, deficit reduction	−2,934	−9,168	−3,491	−7,365	−3,725	−7,670	−10,150	−24,203

RECONCILIATION BY SENATE COMMITTEE

[In millions of dollars]

Senate committee	Fiscal year—						3-year	
	1987		1988		1989		BA	O
	BA	O	BA	O	BA	O		
Agriculture, Nutrition and Forestry Committee:								
Rural development insurance fund loan asset sales	−55	−55	−49	−49	−43	−43	−147	−147
Loan asset sales	0	−500	0	−500	0	−500	0	−1,500
Total Agriculture	−55	−555	−49	−549	−43	−543	−147	−1,647
Banking, Housing and Urban Affairs Committee:								
Rural housing loans	642	−1,158	0	−23	164	−46	806	−1,227
Loan asset sales	0	−500	0	−500	0	−500	0	−1,500
Total Banking	642	−1,658	0	−523	164	−546	806	−2,727
Commerce, Science and Transportation Committee: Coast Guard user fees	−50	−50	−50	−50	−50	−50	−150	−150
Total Commerce	−50	−50	−50	−50	−50	−50	−150	−150
Energy and Natural Resources:								
FERC user fees	−31	−31	−56	−56	−56	−56	−143	−143
Oil overcharge funds	−994	−1,186	−344	−365	−344	−356	−1,682	−1,907
Total Energy	−1,025	−1,217	−400	−421	−400	−412	−1,825	−2,050
Environment and Public Works Committee:								
User fees	−100	−100	−100	−100	−100	−100	−300	−300
Highways	−1,783	−191	−2,243	−1,023	−2,723	−1,574	−6,749	−2,788
Total Environment	−1,883	−291	−2,343	−1,123	−2,823	−1,674	−7,049	−3,088
Finance Committee:								
Medicare provider payment reforms		−550		−1,200		−1,500		−3,250
Customs user fees		−300		−295		−290		−885
Total Finance (spending)		−850		−1,495		−1,790		−4,135
Revenues		3,500		−2,600		2,400		8,500
Governmental Affairs Committee: Unspecified	−100	−100	−100	−100	−100	−100	−300	−300
Total Governmental	−100	−100	−100	−100	−100	−100	−300	−300
Labor and Human Resources Committee:								
Guaranteed student loans	−25	−25	−150	−135	−250	−235	−425	−395
Education loan asset sales	0	−579	0	−314	0	94	0	−799
Total Labor and Human Resources	−25	−604	−150	−449	−250	−141	−425	−1,194
Small Business Committee: SBA disaster loan asset sales	−438	−343	−399	−55	−223	−14	−1,060	−412
Total Small Business	−438	−343	−399	−55	−223	−14	−1,060	−412
Total, spending	−2,934	−5,668	−3,491	−4,765	−3,725	−5,270	−10,150	−15,703
Total, revenues		3,500		2,600		2,400		8,500
Total, deficit reduction		−9,168		−7,365		−7,670		−24,203

Miscellaneous Provisions

Contingency Fund for Deficit Reduction and Unmet Critical Needs

The conferees recognize that the fiscal year 1987 maximum deficit target of $144 billion established by the Balanced Budget and Emergency Deficit Control Act of 1985 requires that Congress, in its budget resolution, must prioritize the Nation's needs within the context of that mandate. However, there are certain needs of the country which cannot be accommodated within this conference substitute without the enactment of additional deficit reduction measures. These unmet critical needs may require an additional funding commitment for defense and nondefense programs. The conferees also recognize the potential need for reducing the deficit below the levels set forth in the resolution, or enacting additional measures to ensure that such levels are not exceeded by reason of changing economic conditions or estimates.

Therefore, to address these concerns, the conference substitute includes a contingency fund for deficit reduction and unmet critical needs. The provision:

Reserves from allocation budget authority and outlays for "unmet critical needs" in defense and nondefense areas in the following amounts:

Fiscal Year 1987:
Budget Authority, $9,950,000,000.
Outlays, $4,800,000,000.
Fiscal Year 1988:
Budget Authority, $15,450,000,000.
Outlays, $11,450,000,000.
Fiscal Year 1989:
Budget Authority, $12,850,000,000.
Outlays, $10,800,000,000.

Provides that, of the amounts reserved, not to exceed the following amounts, shall be available for additional defense spending:

Fiscal Year 1987:
Budget Authority, $6,850,000,000.
Outlays, $3,000,000,000.
Fiscal Year 1988:
Budget Authority, $8,100,000,000.
Outlays, $6,400,000,000.
Fiscal Year 1989:
Budget Authority, $10,500,000,000.
Outlays, $7,250,000,000.

Allows such allocation to be made to the appropriate committees if:

(1) legislation is enacted which would ensure that such additional funding would not increase the deficits set forth in the budget resolution;

(2) the President requests and identifies funding for unmet critical needs coupled with recommendations for legislation ensuring deficit neutrality, or cites previously-enacted legislation which would ensure such deficit neutrality; and

(3) the appropriate committees have reported legislation as requested by the President that will make funds available for such unmet critical needs.

Allows the President to request and Congress to initiate legislation to reduce deficits below the levels set forth in the budget resolution. If such legislation is enacted, aggregates are adjusted accordingly.

General Revenue Sharing

The Senate resolution contained a provision which would allow up to $1.8 billion in budget authority and outlays to fund an extension of general revenue sharing in fiscal year 1987, if such funding is previously authorized and costs are covered by revenues in excess of those reconciled.

The House amendment contained language providing that the spending levels in the resolution would not preclude funding for an extension of general revenue sharing through fiscal year 1989, if an authorization for the funding is enacted.

The conference substitute includes a procedure which would allow for additional funding, beyond the levels set forth in section 1 of the resolution, for general revenue sharing, if such funding would not increase the deficits set forth in the conference substitute. The conferees intend that the offset for general revenue sharing be separate and apart from the offset described in the provision for the contingency fund for deficit reduction and unmet critical needs in section 3 of this resolution.

Report on DOD Inflation Funding

The House amendment included a provision which reserved from allocation $3 billion in fiscal year 1987 budget authority for Function 050 (National Defense).

The language provided that allocation of such budget authority by the Committees on the Budget to the Committees on Appropriations of each House be predicated upon receipt of a report to both Houses by the Secretary of Defense and the General Accounting Office accounting for all monies appropriated to the Department of Defense in fiscal year 1986 in excess of the amount needed to cover inflation. The language also called for similar reports in fiscal years 1988 and 1989.

The Senate resolution contained no similar provision.

The Senate conferees receded to the House with an amendment deleting the reservation of budget authority and expressing the sense of the Congress that the Secretary of Defense and the General Accounting Office should transmit a report accounting for monies appropriated in excess of sums needed to cover inflation.

The Committees on Armed Services of the House of Representatives and the Senate are directed to take appropriate action to insure that only the appropriate levels of funding for inflation are provided.

GNP Deflator

The House amendment contained instructions to the House and Senate Armed Services Committees to report legislation prohibiting the Department of Defense from using an arbitrary deflator (one not based on historical or factual data) for major weapons systems which would provide funding for major weapons systems inflation in excess of the GNP deflator.

The Senate resolution contained no similar provision.

The Senate conferees receded to the House, with an amendment expressing the sense of the Congress that the appropriate committees should consider legislation which would prohibit use of such an arbitrary deflator for major weapons systems.

Federal Credit Program Reform

The Senate resolution contained a provision describing certain findings regarding the operation of Federal credit programs and the allocation and management of credit programs. The Senate resolution further included language expressing the sense of the Congress that the appropriate congressional committees should initiate credit reform legislation.

The House amendment contained no similar provision.

The House conferees receded to the Senate with an amendment calling upon committees to review proposals to change the Federal credit budget, including use of mechanisms which would provide uniform budget treatment of credit programs based on their subsidy cost.

Oil and Gas Industry Employees

The Senate resolution contained language regarding the adverse impact on oil industry workers of increased oil imports and decreased domestic oil exploration activity, and expressing the sense of the Senate that the administration should broaden its interpretation of the Trade Adjustment Assistance Act so as to alleviate this adverse impact.

The House amendment contained no similar provision.

The House conferees receded to the Senate with an amendment making the language an expression of the sense of the Congress.

Strategic Petroleum Reserve Purchases

The House amendment contained language expressing the sense of the Congress reaffirming the policy to fill the Strategic Petroleum Reserve to 750 million barrels. The language also recommended that oil should be purchased for the Reserve in a way designed to help domestic stripper oil well producers minimize the shutting in of stripper production.

The Senate resolution contained no similar provision.

The Senate conferees receded to the House.

Cooperative Extension Service

The House amendment contained language expressing the sense of the Congress that funding for the Department of Agriculture's Cooperative Extension Service should be maintained at a level sufficient to fully provide vital services to rural America during a time of extreme stress. The language further stated the assumption that funding will be used to support programs such as 4-H Youth Development, Home Economics and Family Living, Natural Resources and Community Development, and services providing agricultural financial analysis and management instruction.

The Senate resolution contained no similar provision.

The Senate conferees receded to the House.

Foreign Agricultural Investment Reform

The House amendment contained language expressing the sense of the Congress that United States financing for foreign production of agricultural commodities for export use is a counterproductive use of tax dollars and devastating to the American farmer who loses export markets from the unfairly subsidized competition.

The Senate resolution contained no similar provision.

The Senate conferees receded to the House.

Social Security Cost-of-Living Adjustments

The conference substitute contains language expressing the sense of the Congress that legislation should be enacted to provide that Social Security cost-of-living adjustments and COLA's in other programs linked to those adjustments will be paid at the actual rate of inflation, whether it is above or below three percent.

Section 302(a) Allocations

The conference substitute includes a provision which would allow the Chairman of the Committee on the Budget of the House to file with the House, not later than July 9, 1986, allocations required to be made pursuant to section 302(a) of the Congressional Budget Act of 1974. The allocations in that

report will be considered the allocations required to be in the joint statement accompanying the resolution.

Deficit Reduction Account

The House amendment included a provision requiring that increases in revenue through legislation greater than certain amounts be deposited in a new separate account which the President is required to establish in the Treasury, to be used solely for the purpose of reducing the Federal deficit, and further requiring that these additional revenues be set forth separately in the budget resolution with the stipulation that they are solely for the purpose of deficit reduction.

The Senate resolution contained no similar provision.

The conference substitute includes a procedure which provides that legislation may be enacted to reduce the deficits for fiscal years 1987, 1988, and 1989 below those set forth in the resolution.

NASA Space Shuttle Program

The Senate resolution contained a provision which would allow funding for the NASA space shuttle program of $976 million in fiscal year 1987, $915 million in fiscal year 1988, and $752 million in fiscal year 1989, if such funding is previously authorized and revenues sufficient to cover costs are enacted into law in excess of those reconciled.

The House amendment contained a provision allowing that, notwithstanding the spending levels in the resolution, funding for a shuttle orbiter to replace NASA's *Challenger* would be appropriate if an authorization for such funding is enacted into law.

The conference substitute includes a procedure which would allow for additional funding, beyond the levels set forth in section 1 of the resolution, for unmet critical needs in defense and nondefense areas if such funding would not increase the deficits set forth in the conference substitute.

Strategic Petroleum Reserve Deferrals

The Senate resolution contained language expressing the sense of the Congress that Congress intends to disapprove two deferrals proposed by the President relating to the Strategic Petroleum Reserve.

The House amendment contained no similar provision.

The Senate conferees receded to the House.

Highway Account

The Senate resolution included language expressing the sense of the Senate that, over the next three fiscal years, the cash balance in the Highway Account of the Highway Trust Fund should be reduced toward a minimum level of reserves, in a manner consistent with sound financial practices.

The House amendment contained no similar provision.

The Senate conferees receded to the House.

WILLIAM H. GRAY III,
JIM WRIGHT,
BUTLER DERRICK,
PAT WILLIAMS,
HOWARD WOLPE,
MARTY RUSSO,
ED JENKINS,
MARVIN LEATH,
CHARLES SCHUMER,
BARBARA BOXER,
BUDDY MACKAY,
JIM SLATTERY,
DELBERT LATTA,
LYNN MARTIN,
BOBBI FIEDLER,
BILL GRADISON,
CONNIE MACK,
BILL GOODLING,
Managers on the Part of the House.

PETE DOMENICI,
NANCY KASSEBAUM,
RUDY BOSCHWITZ,
DAN QUAYLE,
SLADE GORTON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
JIM SASSER,
Managers on the Part of the Senate.

Mr. GRAY of Pennsylvania. Mr. Speaker, pursuant to the order of the House of today, I call up the conference report on the Senate concurrent resolution (S. Con. Res. 120) setting forth the congressional budget for the U.S. Government for the fiscal years 1987, 1988, and 1989, and ask for its immediate consideration.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. The Clerk will read the conference report.

The Clerk read the conference report.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the House amendment reported in disagreement is considered as having been read.

The Clerk will designate the House amendment reported in disagreement.

The text of the House amendment to Senate Concurrent Resolution 120 is as follows:

Strike out all after the resolving clause, and insert:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1987 is established and the appropriate budgetary levels for fiscal years 1988 and 1989 are set forth.

(a) The following levels and amounts are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1987: $857,200,000,000.
Fiscal year 1988: $941,200,000,000.
Fiscal year 1989: $1,011,900,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1987: $1,086,350,000,000.
Fiscal year 1988: $1,159,650,000,000.
Fiscal year 1989: $1,205,350,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1987: $994,250,000,000.
Fiscal year 1988: $1,047,050,000,000.
Fiscal year 1989: $1,076,150,000,000.

(4) The amounts of the deficits are as follows:

Fiscal year 1987: $137,050,000,000.
Fiscal year 1988: $105,850,000,000.
Fiscal year 1989: $64,250,000,000.

(b) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1986, October 1, 1987, and October 1, 1988:

(1) The recommended levels of Federal revenues are as follows:

Fiscal year 1987: $643,850,000,000.
Fiscal year 1988: $700,550,000,000.
Fiscal year 1989: $750,750,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:

Fiscal year 1987: $10,700,000,000.
Fiscal year 1988: $17,400,000,000.
Fiscal year 1989: $17,700,000,000.

and of those amounts by which revenues should be increased, the following amounts shall be used solely for the purpose of reducing the deficits below the maximum deficit amounts:

Fiscal year 1987: $4,700,000,000.
Fiscal year 1988: $11,200,000,000.
Fiscal year 1989: $10,500,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1987: $55,700,000,000.
Fiscal year 1988: $60,150,000,000.
Fiscal year 1989: $64,250,000,000.

(2) The appropriate levels of total new budget authority are as follows:

Fiscal year 1987: $873,000,000,000.
Fiscal year 1988: $918,950,000,000.
Fiscal year 1989: $944,050,000,000.

(3) The appropriate levels of total budget outlays are as follows:

Fiscal year 1987: $798,200,000,000.
Fiscal year 1988: $840,150,000,000.
Fiscal year 1989: $857,650,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:

Fiscal year 1987: $154,350,000,000.
Fiscal year 1988: $139,600,000,000.
Fiscal year 1989: $106,900,000,000.

(5) The appropriate levels of the public debt are as follows:

Fiscal year 1987: $2,319,600,000,000.
Fiscal year 1988: $2,516,900,000,000.
Fiscal year 1989: $2,685,100,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1986, October 1, 1987, and October 1, 1988, are as follows:

Fiscal year 1987:

(A) New direct loan obligations, $34,250,000,000.

(B) New primary loan guarantee commitments, $85,400,000,000.

Fiscal year 1988:

(A) New direct loan obligations, $32,250,000,000.

(B) New primary loan guarantee commitments, $87,300,000,000.

Fiscal year 1989:

(A) New direct loan obligations, $30,600,000,000.

(B) New primary loan guarantee commitments, $87,650,000,000.

(c) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1987 through 1989 for each major functional category are:

(1) National Defense (050):

Fiscal year 1987:

(A) New budget authority, $285,000,000,000.

(B) Outlays, $276,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1988:

(A) New budget authority, $295,500,000,000.
(B) Outlays, $281,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $306,500,000,000.
(B) Outlays, $290,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(2) International Affairs (150):
Fiscal year 1987:
(A) New budget authority, $17,000,000,000.
(B) Outlays, $13,800,000,000.
(C) New direct loan obligations, $7,150,000,000.
(D) New primary loan guarantee commitments, $11,400,000,000.
Fiscal year 1988:
(A) New budget authority, $17,300,000,000.
(B) Outlays, $13,550,000,000.
(C) New direct loan obligations, $7,100,000,000.
(D) New primary loan guarantee commitments, $11,400,000,000.
Fiscal year 1989:
(A) New budget authority, $15,900,000,000.
(B) Outlays, $12,850,000,000.
(C) New direct loan obligations, $7,100,000,000.
(D) New primary loan guarantee commitments, $11,400,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1987:
(A) New budget authority, $8,800,000,000.
(B) Outlays, $8,750,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $8,750,000,000.
(B) Outlays, $8,750,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $8,800,000,000.
(B) Outlays, $8,650,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1987:
(A) New budget authority, $4,900,000,000.
(B) Outlays, $4,850,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $4,650,000,000.
(B) Outlays, $4,150,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $4,800,000,000.
(B) Outlays, $3,750,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1987:
(A) New budget authority, $11,950,000,000.
(B) Outlays, $12,250,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $12,000,000,000.
(B) Outlays, $12,150,000,000.
(C) New direct loan obligations, $100,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $11,800,000,000.
(B) Outlays, $12,200,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1987:
(A) New budget authority, $23,800,000,000.
(B) Outlays, $23,550,000,000.
(C) New direct loan obligations, $14,300,000,000.
(D) New primary loan guarantee commitments, $8,000,000,000.
Fiscal year 1988:
(A) New budget authority, $26,000,000,000.
(B) Outlays, $24,800,000,000.
(C) New direct loan obligations, $12,100,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
Fiscal year 1989:
(A) New budget authority, $25,300,000,000.
(B) Outlays, $21,550,000,000.
(C) New direct loan obligations, $11,350,000,000.
(D) New primary loan guarantee commitments, $8,650,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1987:
(A) New budget authority, $9,800,000,000.
(B) Outlays, $2,200,000,000.
(C) New direct loan obligations, $4,450,000,000.
(D) New primary loan guarantee commitments, $38,750,000,000.
Fiscal year 1988:
(A) New budget authority, $9,350,000,000.
(B) Outlays, $5,100,000,000.
(C) New direct loan obligations, $4,600,000,000.
(D) New primary loan guarantee commitments, $39,100,000,000.
Fiscal year 1989:
(A) New budget authority, $7,550,000,000.
(B) Outlays, $1,300,000,000.
(C) New direct loan obligations, $4,850,000,000.
(D) New primary loan guarantee commitments, $38,450,000,000.
(8) Transportation (400):
Fiscal year 1987:
(A) New budget authority, $24,600,000,000.
(B) Outlays, $25,500,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
Fiscal year 1988:
(A) New budget authority, $26,350,000,000.
(B) Outlays, $26,450,000,000.
(C) New direct loan obligations, $400,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
Fiscal year 1989:
(A) New budget authority, $26,300,000,000.
(B) Outlays, $26,350,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
(9) Community and Regional Development (450):
Fiscal year 1987:
(A) New budget authority, $6,300,000,000.
(B) Outlays, $7,000,000,000.
(C) New direct loan obligations, $950,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1988:
(A) New budget authority, $6,450,000,000.
(B) Outlays, $7,050,000,000.
(C) New direct loan obligations, $1,200,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1989:
(A) New budget authority, $6,500,000,000.
(B) Outlays, $6,600,000,000.
(C) New direct loan obligations, $1,050,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1987:
(A) New budget authority, $33,750,000,000.
(B) Outlays, $30,600,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $10,300,000,000.
Fiscal year 1988:
(A) New budget authority, $32,850,000,000.
(B) Outlays, $32,300,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $10,700,000,000.
Fiscal year 1989:
(A) New budget authority, $33,800,000,000.
(B) Outlays, $33,100,000,000.
(C) New direct loan obligations, $1,250,000,000.
(D) New primary loan guarantee commitments, $10,950,000,000.
(11) Health (550):
Fiscal year 1987:
(A) New budget authority, $38,650,000,000.
(B) Outlays, $38,350,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1988:
(A) New budget authority, $40,500,000,000.
(B) Outlays, $40,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1989:
(A) New budget authority, $42,700,000,000.
(B) Outlays, $42,800,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(12) Medicare (570):
Fiscal year 1987:
(A) New budget authority, $83,000,000,000.
(B) Outlays, $73,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $91,400,000,000.
(B) Outlays, $81,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $101,450,000,000.
(B) Outlays, $91,350,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):
Fiscal year 1987:
(A) New budget authority, $165,250,000,000.
(B) Outlays, $121,400,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $172,900,000,000.
(B) Outlays, $127,200,000,000.
(C) New direct loan obligations, $1,900,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $176,500,000,000.
(B) Outlays, $130,600,000,000.
(C) New direct loan obligations, $1,450,000,000.
(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1987:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $6,150,000,000.
(B) Outlays, $6,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,900,000,000.
(B) Outlays, $6,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1987:
(A) New budget authority, $27,050,000,000.
(B) Outlays, $26,700,000,000.
(C) New direct loan obligations, $1,550,000,000.
(D) New primary loan guarantee commitments, $16,300,000,000.
Fiscal year 1988:
(A) New budget authority, $27,450,000,000.
(B) Outlays, $27,050,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $16,950,000,000.
Fiscal year 1989:
(A) New budget authority, $27,300,000,000.
(B) Outlays, $26,900,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $17,550,000,000.
(16) Administration of Justice (750):
Fiscal year 1987:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $7,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $7,150,000,000.
(B) Outlays, $7,250,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $7,250,000,000.
(B) Outlays, $7,350,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1987:
(A) New budget authority, $5,750,000,000.
(B) Outlays, $5,650,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $6,150,000,000.
(B) Outlays, $6,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,150,000,000.
(B) Outlays, $6,200,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) General Purpose Fiscal Assistance (850):
Fiscal year 1987:
(A) New budget authority, $1,850,000,000.
(B) Outlays, $2,650,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $1,900,000,000.
(B) Outlays, $1,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $2,000,000,000.
(B) Outlays, $2,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Net Interest (900):
Fiscal year 1987:
(A) New budget authority, $148,150,000,000.
(B) Outlays, $148,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $157,950,000,000.
(B) Outlays, $157,950,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $158,050,000,000.
(B) Outlays, $158,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Allowances (920):
Fiscal year 1987:
(A) New budget authority, $550,000,000.
(B) Outlays, $600,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $1,600,000,000.
(B) Outlays, $1,700,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $2,650,000,000.
(B) Outlays, $2,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(21) Undistributed Offsetting Receipts (950):
Fiscal year 1987:
(A) New budget authority, −$35,850,000,000.
(B) Outlays, −$36,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, −$33,400,000,000.
(B) Outlays, −$33,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, −$34,150,000,000.
(B) Outlays, −$34,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than June 5, 1986, the committees named in subsections (b) through (u) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

HOUSE COMMITTEES

(b) The House Committee on Agriculture shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $80,000,000 and outlays by $79,000,000 in fiscal year 1987; decrease budget authority by $83,000,000 and outlays by $83,000,000 in fiscal year 1988; and decrease budget authority by $84,000,000 and outlays by $84,000,000 in fiscal year 1989.

(c) The House Committee on Banking, Finance, and Urban Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: increase budget authority by $642,000,000 and decrease outlays by $1,158,000,000 in fiscal year 1987; decrease budget authority by $0 and outlays by $23,000,000 in fiscal year 1988; and increase budget authority by $164,000,000 and decrease outlays by $46,000,000 in fiscal year 1989.

(d)(1) The House Committee on Education and Labor shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $25,000,000 and outlays by $25,000,000 in

fiscal year 1987; decrease budget authority by $150,000,000 and outlays by $135,000,000 in fiscal year 1988; and decrease budget authority by $250,000,000 and outlays by $235,000,000 in fiscal year 1989.

(2) The House Committee on Education and Labor shall report changes in laws within its jurisdiction which provide credit authority as defined in section 3(10) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce direct loan obligations by $0 in fiscal year 1987, $18,000,000 in fiscal year 1988, and $97,000,000 in fiscal year 1989; and to reduce primary loan guarantees by $235,000,000 in fiscal year 1987, $15,000,000 in fiscal year 1988, and increase primary loan guarantees by $55,000,000 in fiscal year 1989.

(e) The House Committee on Energy and Commerce shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $2,713,000,000 and outlays by $2,955,000,000 in fiscal year 1987; decrease budget authority by $415,000,000 and outlays by $886,000,000 in fiscal year 1988; and decrease budget authority by $402,000,000 and outlays by $1,114,000,000 in fiscal year 1989.

(f) The House Committee on Interior and Insular Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $448,000,000 and outlays by $448,000,000 in fiscal year 1987; decrease budget authority by $383,000,000 and outlays by $383,000,000 in fiscal year 1988; and decrease budget authority by $374,000,000 and outlays by $374,000,000 in fiscal year 1989.

(g) The House Committee on Merchant Marine and Fisheries shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $170,000,000 and outlays by $170,000,000 in fiscal year 1987; decrease budget authority by $180,000,000 and outlays by $180,000,000 in fiscal year 1988; and decrease budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1989.

(h) The House Committee on Post Office and Civil Service shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: increase budget authority by $950,000,000 and decrease outlays by $700,000,000 in fiscal year 1987; increase budget authority by $1,500,000,000 and decrease outlays by $950,000,000 in fiscal year 1988; and increase budget authority by $850,000,000 and decrease outlays by $2,150,000,000 in fiscal year 1989.

(i) The House Committee on Public Works and Transportation shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $836,000,000 and outlays by $119,000,000 in fiscal year 1987; decrease budget authority by $836,000,000 and outlays by $479,000,000 in fiscal year 1988; and decrease budget authority by $836,000,000 and outlays by $544,000,000 in fiscal year 1989.

(j) The House Committee on Science and Technology shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1987; decrease budget authority by $0 and outlays by $0 in fiscal year 1988; and decrease budget authority by $0 and outlays by $0 in fiscal year 1989.

(k) The House Committee on Small Business shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $438,000,000 and outlays by $343,000,000 in fiscal year 1987; decrease budget authority by $399,000,000 and outlays by $55,000,000 in fiscal year 1988; and decrease budget authority by $223,000,000 and outlays by $14,000,000 in fiscal year 1989.

(l) The House Committee on Ways and Means shall report changes in law within the jurisdiction of that committee sufficient to reduce the budget deficit by $4,200,000,000 in fiscal year 1987; to reduce the budget deficit by $3,695,000,000 in fiscal year 1988; and to reduce the budget deficit by $3,740,000,000 in fiscal year 1989.

SENATE COMMITTEES

(m) The Senate Committee on Agriculture, Nutrition, and Forestry shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $80,000,000 and outlays by $79,000,000 in fiscal year 1987; decrease budget authority by $83,000,000 and outlays by $83,000,000 in fiscal year 1988; and decrease budget authority by $84,000,000 and outlays by $84,000,000 in fiscal year 1989.

(n) The Senate Committee on Banking, Housing, and Urban Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: increase budget authority by $642,000,000 and decrease outlays by $1,158,000,000 in fiscal year 1987; decrease budget authority by $0 and outlays by $23,000,000 in fiscal year 1988; and increase budget authority by $164,000,000 and decrease outlays by $46,000,000 in fiscal year 1989.

(o) The Senate Committee on Commerce, Science, and Transportation shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $170,000,000 and outlays by $170,000,000 in fiscal year 1987; decrease budget authority by $180,000,000 and outlays by $180,000,000 in fiscal year 1988; and decrease budget authority by $200,000,000 and outlays by $200,000,000 in fiscal year 1989.

(p) The Senate Committee on Energy and Natural Resources shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $2,185,000,000 and outlays by $2,377,000,000 in fiscal year 1987; increase budget authority by $82,000,000 and outlays by $61,000,000 in fiscal year 1988; and increase budget authority by $78,000,000 and outlays by $66,000,000 in fiscal year 1989.

(q) The Senate Committee on Environment and Public Works shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combina-

tion thereof, as follows: decrease budget authority by $1,124,000,000 and outlays by $407,000,000 in fiscal year 1987; decrease budget authority by $1,101,000,000 and outlays by $744,000,000 in fiscal year 1988; and decrease budget authority by $1,088,000,000 and outlays by $796,000,000 in fiscal year 1989.

(r) The Senate Committee on Finance shall report changes in law within the jurisdiction of that committee sufficient to reduce the budget deficit by $4,200,000,000 in fiscal year 1987; to reduce the budget deficit by $3,695,000,000 in fiscal year 1988; and to reduce the budget deficit by $3,740,000,000 in fiscal year 1989.

(s) The Senate Committee on Governmental Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: increase budget authority by $950,000,000 and decreased outlays by $700,000,000 in fiscal year 1987; increase budget authority by $1,500,000,000 and decrease outlays by $950,000,000 in fiscal year 1988; and increase budget authority by $850,000,000 and decrease outlays by $2,150,000,000 in fiscal year 1989.

(t)(1) The Senate Committee on Labor and Human Resources shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $25,000,000 and outlays by $25,000,000 in fiscal year 1987; decrease budget authority by $150,000,000 and outlays by $135,000,000 in fiscal year 1988; and decrease budget authority by $250,000,000 and outlays by $235,000,000 in fiscal year 1989.

(2) The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction which provide credit authority as defined in section 3(10) of the Congressional Budget and Impoundment Control Act of 1974, sufficient to reduce direct loan obligations by $0 in fiscal year 1987, $18,000,000 in fiscal year 1988, and $97,000,000 in fiscal year 1989; to reduce primary loan guarantees by $235,000,000 in fiscal year 1987, $15,000,000 in fiscal year 1988; and increase primary loan guarantees by $55,000,000 in fiscal year 1989.

(u) The Senate Committee on Small Business shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $438,000,000 and outlays by $343,000,000 in fiscal year 1987; decrease budget authority by $399,000,000 and outlays by $55,000,000 in fiscal year 1988; and decrease budget authority by $223,000,000 and outlays by $14,000,000 in fiscal year 1989.

ESTABLISHMENT OF DEFICIT REDUCTION ACCOUNT

SEC. 3. (a) Revenues increased through legislative action above $6,000,000,000 in fiscal year 1987, $6,200,000,000 in fiscal year 1988, and $7,200,000,000 in fiscal year 1989, shall be used solely for the purpose of reducing the Federal deficit.

(b) These additional revenues shall be set forth separately in the congressional budget and clearly identified as for the purpose of deficit reduction only.

(c) The President shall immediately take such steps as are necessary to establish a separate account in the Treasury into which revenues referred to in subsection (a) shall be deposited. The account shall be administered in such a way as to insure that moneys deposited in the fund are available solely for the purpose of deficit reduction. The President shall report on an annual basis to the Congress on the financial condition of the fund and the extent to which the fund has reduced the Federal deficit.

RESERVATION OF DEFENSE BUDGET AUTHORITY

SEC. 4. (a) Of the recommended level of fiscal year 1987 budget authority set forth in section 1 of this resolution for Function 050 (National Defense), $3,000,000,000 is hereby reserved from allocation to the Committee on Appropriations under section 302(a) of the Congressional Budget Act of 1974.

(b) The Secretary of Defense is directed to transmit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate setting forth a full and complete accounting of all moneys appropriated to the Department of Defense for fiscal year 1986 in excess of sums needed to cover inflation. Such report shall be referred to the Committee on Appropriations and Committee on Armed Services of each House. The Committee on the Budget of each House shall be notified upon the transmittal of such report.

(c) The report described in subsection (b) shall also be submitted to the General Accounting Office which shall report to the Congress within a period of fourteen days on its findings as to that report.

(d) After the date on which the report of the General Accounting Office described in subsection (c) is transmitted, the Committee on the Budget of each House is authorized and directed to report to its respective House within five legislative days a revised allocation pursuant to section 302(a) of the Congressional Budget Act of 1974 of new budget authority to the Committee on Appropriations reflecting the full amount of budget authority described in subsection (a).

(e) For fiscal years 1988 and 1989, the Secretary of Defense shall, within ninety days of the close of each such fiscal year, issue to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report accounting for any moneys appropriated for each respective prior fiscal year to cover inflation, which have not been obligated for such purposes.

GNP DEFLATOR

SEC. 5. The Committees on Armed Services of the House and Senate shall report legislation prohibiting the Department of Defense from using an arbitrary deflator (one not based on historical or factual data) for major weapons systems which would provide funding for major weapons systems inflation in excess of the GNP deflator.

SHUTTLE ORBITER REPLACEMENT

SEC. 6. Notwithstanding the spending levels contained in section 1 of this resolution, funding for a shuttle orbiter to replace NASA's Challenger, lost on January 28, 1986, would be appropriate if an authorization for such funding is enacted into law.

GENERAL REVENUE SHARING

SEC. 7. The spending levels contained in section 1 of this resolution would not preclude funding for an extension of general revenue sharing under the State and Local Assistance Act of 1972 through the end of fiscal year 1989 if an authorization for such funding is enacted into law.

STRATEGIC PETROLEUM RESERVE

SEC. 8. It is the sense of the Congress that the policy to fill the Strategic Petroleum Reserve to an ultimate capacity of 750 million barrels be reaffirmed. It is also recommended that the Federal Government purchase oil for the Reserve in a way designed to help domestic stripper oil well producers so as to minimize the shutting-in of stripper production.

COOPERATIVE EXTENSION SERVICE

SEC. 9. It is the sense of the Congress that Federal funds for the Cooperative Extension Service of the Department of Agriculture should be maintained at a level sufficient to carry out fully the vital services it is providing to rural America during a time of extreme stress. It is further assumed that this funding will be used especially to support and strengthen such core programs as 4-H Youth Development, Home Economics and Family Living, Natural Resources and Community Development, and services that provide agricultural financial analysis and farm management instruction.

FOREIGN AGRICULTURAL INVESTMENT REFORM

SEC. 10. It is the sense of the Congress that the use of foreign aid funds for financing the foreign production for export use of agricultural commodities already in surplus on world markets is a counter-productive use of American tax dollars as well as devastating to the American farmer who loses export markets from the unfairly subsidized competition.

MOTION OFFERED BY MR. GRAY OF PENNSYLVANIA

Mr. GRAY of Pennsylvania. Mr. Speaker, pursuant to the order of the House of today, I offer a motion.

The Clerk read as follows:

Mr. GRAY of Pennsylvania moves that the House recede from its amendment to Senate Concurrent Resolution 120 and concur with an amendment, as follows:

Strike all after the resolving clause and insert in lieu thereof the following:

(For amendment, see text of the conference report and joint statement of the managers above.)

Mr. GRAY of Pennsylvania (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read, and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Pennsylvania [Mr. GRAY] will be recognized for 30 minutes and the gentleman from Ohio

[Mr. LATTA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GRAY].

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, and colleagues, I am pleased to bring before the House the conference report on the budget for fiscal year 1987 for the United States of America.

□ 2200

This agreement represents many hours and several weeks of negotiations between the House and the Senate conferees. Although this agreement certainly does not contain all that I would have wished, I believe it is a very credible budget document which, when implemented, will provide a lower deficit than required under Gramm-Rudman-Hollings legislation particularly in light of the restraints that we have had to face this year in the budget process.

The conference report before you today would achieve a deficit for fiscal year 1987 of $142.6 billion, more than $1 billion below the Gramm-Rudman target. It would do so without taxes above those requested by the President. In this time of fiscal austerity, we have put together a budget in which the necessary sacrifices are equally shared. At the same time, our conference report maintains the high priority initiatives included in the House-passed resolution. It protects programs serving those least able to help themselves. It provides for a children's initiative which would help address the problem of escalating poverty among America's children. It provides for the teacher initiative included in the House-passed resolution. It contains no Medicaid reductions. In the Medicare area beneficiary costs will not be increased, and there is substantial help to prevent the rise in the deductible.

However, in order to reach the Gramm-Rudman-Hollings target, we had to exercise spending restraint. In this regard the conference agreement follows the House approach of reducing rather than terminating lesser priority programs. Our agreement provides for full cost-of-living adjustment for Social Security and all Federal civilian and military retirees.

In the area of general revenue sharing, the conference resolution does not prejudice the reauthorization of the program. With regard to the national security, America's defense, the conference agreement contains $292.15 billion in budget authority and $279.15 billion in outlays for fiscal year 1987.

It provides for real growth in the outyears and for a 3-percent military and civilian pay raise in January of each year as assumed in the House-passed resolution.

In addition, the conference agreement establishes a contingency fund for further deficit reduction and unmet critical needs, both defense and nondefense.

In order to free up these funds for additional spending, the President must request funding for unmet critical needs. In addition, legislation must be enacted to ensure that such funding would not increase the deficit.

Should defense be a part of this contingency, the President must request—and the Congress must enact—such additional funding in a manner which is deficit neutral. No more than $6.85 billion in budget authority and $3.1 billion in outlays would be available, thus leaving a reserve for deficit reduction.

Thus, in a word, what we have done is we have said to the President if there is an unmet critical need as a result of whatever contingency, Mr. President, the Congress is prepared to make whatever adjustments are necessary in the budget requested and we will move with the legislation if it is deficit neutral.

Further, the resolution provides for strong enforcement, both through appropriation and the reconciliation process. It contains reconciliation directives to 10 House and 9 Senate committees of $9.2 billion in fiscal year 1987 and $24.2 billion over 3 years.

It is my intention following the adoption of this conference report to work very hard with those committee chairs and their committees to make sure that we implement this reconciliation.

In an era of tight budgets and fiscal restraint, it has not been easy to reach the deficit target of $144 billion while at the same time providing for an adequate defense, protection for the least fortunate in our society, and funding for the many competing priorities.

Yet the conferees were able to achieve these goals and to provide for several critically needed initiatives.

Mr. Speaker and colleagues, no Member will find this resolution to be perfect, to be just what they would want. But I believe when one looks at the realities that we had to face in terms of the availability of revenues, the necessity of reaching a total deficit under $144 billion and at the same time providing for domestic and security needs, that we have before us a fair and balanced agreement which I am happy to add has bipartisan support from the conferees. It achieves responsible deficit reduction without placing that burden unfairly on any one area of the budget.

Are there cuts? Yes. Are there cuts in areas that bothered many of us? Yes. But it is fair and it will provide for the goal. It provides a workable framework for appropriations and reconciliation action necessary to achieve the 1987 deficit target. At the same time, it moves us further down the road toward a secure future and a strong economy.

Let me add, my colleagues, no one budget will solve the fiscal crisis we are facing, a sea of red ink that has grown each year steadily where the national debt has been doubled from $900 billion in 1980 to over $2 trillion tonight as I talk with you.

But I believe this budget puts us in the direction of reducing those deficits and making sure that we add no more to that national debt.

Mr. Speaker and colleagues, let me take this opportunity in conclusion to thank the members of the Committee on the Budget on both sides of aisle who have labored so diligently to bring us this agreement.

I want to particularly thank the ranking member, Mr. LATTA, for his hard work and also his bipartisan cooperation.

Mr. Speaker, I urge all of my colleagues to support its adoption so that as we adjourn tonight to take the break of the Fourth of July, we will be able to tell America that we have not only seen historic action in terms of tax reform taken by both Houses but also that the budget for 1987 has been passed and we have met the deficit of Gramm-Rudman-Hollings of $144 billion.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. GRAY of Pennsylvania. I yield to the distinguished gentleman from Mississippi.

Mr. WHITTEN. I thank the gentleman for yielding.

May I say that we have cooperated with the chairman since he has been chairman. Our relations have been excellent. However, as he knows, the budget resolution was supposed to be adopted by May 15, I believe. We have completed our hearings on appropriations, I believe, without exception; we have stayed within the House-passed budget, and we are proud of that. We have held the line. In fact, our Committee on Appropriations has held the line throughout the years.

Now in agriculture it develops we are going to have $16 billion requested because we have the producers of agriculture selling products below the cost of production. All of those things that your committee does not have time to listen to makes us have to reserve the right to go to the leadership and ask for a waiver on this thing, should the circumstances require it.

Mr. GRAY of Pennsylvania. Let me say to the distinguished chairman I understand his comments this afternoon. Our staffs have reached an agreement with regard to the issues.

Mr. WHITTEN. I am sure you would agree that assumptions should yield to facts when we have the facts.

Mr. GRAY of Pennsylvania. That is why, Chairman WHITTEN, you will have an opportunity to make your own assumptions as you implement this budget as well as the authorizing committees.

Mr. WHITTEN. I thank the gentleman.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GRAY] has consumed 12 minutes.

Mr. LATTA. Mr. Speaker, I yield myself 7 minutes and 10 seconds.

Mr. Speaker, I agree with the statements just made by our chairman. This is a bipartisan budget. It was worked out over many, many hours. Let me say I believe it is a better budget than passed by the House and a better budget than we had in one respect in our budget that we proposed to the House.

First of all, there is one big objection that I have to the budget that we present to you tonight. We could not do anything about it. But sometime I think we must do something about it. That is, that it does not sunset any programs.

You know, I do not know how we are ever going to reduce expenditures if we do not start terminating some of these programs that we did not need in the first place and we do not need now, but we just keep funding them.

We do not terminate any of them.

A couple of years ago, you know, we always had the sunset legislation talked about in this Congress and nothing ever came of it. Well, nothing is going to come of it out of this budget because we do not mandate that any programs are terminated. We are going to leave that up to the authorizing committees to do that job, and hopefully, they will do it before it is too late. Having said that, let me say I agree with the chairman when he says there are no new taxes in this bill or this resolution. That was very important. Over and above what the administration requested, there was a lot of talk on both sides of the aisle about new taxes. Well, we avoid new taxes.

Let me say also that the provision dealing with the contingency fund was critical to our support of this budget because if the President sees a need for additional funding under 050 and under other areas of critical need, he can request up to $4.8 billion, only $3 billion of which can go to defense. This is critical to our support of this budget. As the chairman has pointed out, the deficit is $142.6 billion, well below the Gramm-Rudman target.

□ 2215

Certainly I agree with those who will be saying that we will have sequestration under this proposal that we bring to you tonight, unless we do the things that we provide for under this resolution. We provide for the sale of Conrail at $1.9 billion in fiscal year 1987. In order to reach these targets that we have in this bill, we have to sell Conrail. That does not say that we cannot sell it for $2 billion or more, but we do have that net amount of $1.9 billion for that sale.

There are other things in this bill that we provide for, additional revenues to bring this deficit down to $142.6 billion. This Congress must follow through if it adopts this budget.

Also, we have reconciled $24 billion; reconciled, meaning we are going to mandate that we go forward with these reductions, and certainly that is important if we are going to get down to the $142.6 billion.

Let me also point out that in the field of agriculture, we have a priority item, an agriculture credit initiative of $150 million a year to assist distressed farmers. To improve the security measures for our Embassies overseas, hiring additional IRS agents to provide better taxpayer service and improve collections and certain high-priority education, health and nutrition programs are contained in this budget.

I might also point out that the conferees dropped a very controversial provision, imposing agricultural user fees for such things as grain inspection, market news services, and veterinary programs.

To help us meet our deficit reduction goals, we are assuming the sale of the naval petroleum reserves in 1988. We are also assuming the imposition of new fees for users of the services of the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission, the Coast Guard, the Customs Services, and the Navigation Services.

Amending the major domestic spending reforms in the agreement are 10 percent cuts in UDAG grants and the Economic Development Administration programs.

Let me say we do provide, if this Congress wants to pass the legislation, No. 1, in the authorizing form; and No. 2, that we provide the means to pay for revenue sharing, but only under those conditions.

So I think that tonight we bring forward a good substitute budget that we can support on both sides of the aisle. I want to say to my good chairman that it has been a pleasure working with the gentleman once again on bringing to this House a compromise budget resolution.

EXPLANATION OF CONFERENCE AGREEMENT

The conference agreement meets the Gramm-Rudman target for fiscal year 1987.

The agreement projects deficits of $142.60 billion in 1987, $115.65 billion in 1988 and $77.90 billion in 1989.

The agreement includes additional revenues consistent with the revenue increase in the President's budget.

The agreement includes a contingency fund of $4.8 billion in outlays for unmet critical needs. The fund could be triggered only if: the President requests funding for unmet critical needs and recommends how the deficit should be further reduced to offset the additional funding; Congress enacts legislation to ensure that such additional funding will not increase the deficits in the budget resolution; and the appropriate committee reports the funding measure.

The agreement assumes full cost-of-living adjustments for all Social Security and Federal civilian and military retirees.

BRIEF SUMMARY OF FUNCTIONS

Function 050: National Defense

The conference agreement assumes $292.15 billion in budget authority and $279.15 billion in outlays for fiscal year 1987.

The conference agreement assumes a three percent military and civilian pay raise in January of each year as assumed in the House-passed resolution.

The conference agreement assumes budget authority will increase by one percent real growth in fiscal years 1988 and 1989.

In addition, the conference agreement provides for a contingency fund for deficit reduction and unmet critical needs of which not to exceed $6.85 billion in budget authority and $3 billion in outlays shall be available for additional defense spending in fiscal year 1987.

Function 150: International Affairs

The conference agreement assumes $17.45 billion in budget authority and $14.0 billion in outlays in fiscal year 1987.

The Enhanced Embassy Security program is assumed to be funded at $1.1 billion in fiscal years 1986 through 1987.

Appropriations for foreign aid programs are assumed to be at levels which would be below the fiscal year 1986 post sequestration freeze levels by about 10 percent.

Function 250: General Science, Space and Technology

The conference agreement assumes $9.10 billion in budget authority and $8.90 billion in outlays in fiscal year 1987.

The conference agreement assumes a freeze level for NASA programs.

The conference agreement assumes increases of $0.20 billion in budget authority and $0.10 billion in outlays for science and technology programs, and $0.05 billion increases for DOE general science and NASA basic research programs.

The conference agreement assumes the 2½ percent across-the-board reduction ($0.20 billion in budget authority and $0.10 billion in outlays).

Function 270: Energy

The conference agreement assumes $4.85 billion in budget authority and $3.50 billion in outlays in fiscal year 1987.

The conference agreement assumes $0.5 billion for SPRO oil purchases and $0.15 billion in budget authority for SPRO construction activities.

The conference agreement assumes a $0.05 billion increase for basic energy research activities.

The conference agreement assumes enactment of $0.1 billion in new energy (NRC) user fees.

The conference agreement assumes enactment of $0.05 billion in new FERC user fees.

The conference agreement assumes uranium enrichment programs funded at the freeze level.

The conference agreement assumes outlay reductions of $1.4 billion in fiscal year 1987 for REA loan asset sales that will be made

pursuant to the enactment of the fiscal year 1986 Supplemental Appropriation Act.

The conference agreement assumes the sale of the Naval Petroleum Reserve in fiscal year 1988, while *not* directing its reconciliation.

Function 300: Natural Resources and Environment

The conference agreement assumes $12.40 billion in budget authority and $12.60 billion in outlays for fiscal year 1987.

The conference agreement assumes funding at the 1986 level for the Bureau of Reclamation.

The conference agreement assumes funding for Forest Service roads of $40 million in Budget authority and $20 million in outlays.

The conference agreement adopts the House position on the navigation user fees which assumes enactment of the port tax included in the House-passed omnibus water resources bill (H.R. 6).

Function 350: Agriculture

The conference agreement for this function assumes $23.80 billion in budget authority and $23.50 billion in outlays for 1987.

The conference agreement assumes that the House recedes to the Senate in this function.

The conference agreement assumes $150 million per year for an agricultural credit initiative to assist distressed farmers. This initiative was assumed in both the House and Senate resolutions.

The conference agreement does *not* assume user fees for USDA grain inspections, market news services, egg processing plant inspections, and veterinary services, as the House-passed resolution had assumed.

Function 370: Commerce and Housing Credit

The conference agreement assumes $10.30 billion in budget authority and $2.05 billion in outlays in 1987. These amounts include the effects of the retirement reform legislation which was enacted after the House passed the budget resolution.

The conference agreement assumes funding for the Postal Service at the 1986 level of $716 million.

The conference agreement maintains the House-passed funding at the 1986 level for rural housing and for the SBA business programs.

The conference agreement assumes an additional $750 in premium income for the FHA mortgage insurance program in 1987. This assumes a further increase in the commitment ceiling to $120 billion in 1986 and $80 billion in 1987.

The conference agreement adopts the House position on rural housing loan asset sales which assumes sales proceeds of $1.15 billion in 1987.

Function 400: Transportation

The conference agreement provides $25.35 billion in budget authority and $25.85 billion in outlays in 1987 for transportation programs.

Highways—The agreement provides a 7½ percent reduction in the Federal aid highway program resulting in a budget authority level of $13,517 million and an obligation ceiling of $12,445 million in each year and total obligations of $13,045 million in 1987.

Conrail—The conference agreement assumes receipts of $1.90 billion from the sale of Conrail.

Mass Transit—The conference agreement retains the House-passed assumptions of a 10 percent reduction in Section 3 grants and a ten percent reduction in operating assistance with remaining transit programs maintained at current levels. This includes formula capital grants at $1,183 million, interstate transfer grants at $191 million and Washington Metro at $217 million. Total transit funding for 1987 and the outyears is $3,364 million in budget authority. The conference agreement does not assume reconciliation of the Section 3 grants.

Federal Aviation Administration—The conference agreement provides funding of $2.85 billion for FAA operations; $280 million for research and engineering; a funding level of $1,167 million for facilities and equipment; and an obligation ceiling of $955 million for airport improvement grants.

Coast Guard Programs—The conference agreement would split the difference with the Senate resulting in total funding levels of $1,695 million for operations and $263 million for acquisition, construction, and improvement.

Coast Guard User Fees—The conference agreement assumes new user fees of $50 million each year.

Other changes from House-Passed Resolution—The conference agreement provides an additional $688 million in budget authority and $165 million in outlays above the House-passed assumptions for unspecified increases in appropriated transportation programs.

Function 450: Community and Regional Development

The conference agreement assumes $6.20 billion in budget authority and $7.00 billion in outlays for fiscal year 1987.

The conference agreement assumes the rejection of the $500 million community development block grant deferral and other deferrals as in the House-passed resolution.

The conference agreement assumes a ten percent reduction below the 1986 level for Urban Development Action Grants, Economic Development Administration, Appalachian Regional Commission and subsidized rental housing, the same as the House-passed resolution.

The conference agreement assumes the sale of $1.0 billion in Small Business Disaster Loan assets as in the House-passed resolution, and the sale of $0.05 billion in Rural Development Insurance Fund Assets.

The conference agreement assumes an increase in the Bureau of Indian Affairs child welfare program as part of the Children's Initiative contained in the House-passed resolution.

Function 500: Education, Training, Employment and Social Services

The conference agreement provides $33.45 billion in budget authority and $30.55 billion in outlays in 1987.

The conference agreement assumes $200 million in budget authority for education and training activities contained in H.R. 4800, Trade Act of 1986.

The conference agreement assumes the House-passed guaranteed student loan (GSL) reconciliation provisions of $390 million over three years.

The conference agreement assumes full funding for the Children's and Teachers initiatives as well as the inflation increases for the low-income high priority programs.

The conference agreement assumes the $1.50 billion in additional funding included in the House-passed resolution for existing high priority education, training, and social services programs.

Function 550: Health

The conference agreement provides $38.60 billion in budget authority and $83.30 billion in outlays in fiscal year 1987.

The conference agreement assumes no reduction in the medicaid program as does the House-passed resolution.

The conference agreement provides the 1987 current policy baseline medicaid level of $26.1 billion, plus $0.1 billion in 1987 and $0.7 billion over three years to fund the medicaid initiatives assumed in the House-passed resolution.

The conference agreement assumes that States will be given the option of extending medicaid coverage to low-income pregnant women and infants under age one, as well as the elderly poor whose income is below the Federal poverty threshold.

In addition, the compromise assumes $50 million in 1987 to protect States against the loss of funds which may occur from the change to an annual medicaid determination.

The conference agreement assumes unspecified savings of $100 million in 1987 and $300 million over three years, which is to be achieved by a reconciliation directive to the House Post Office and Civil Service Committee.

The conference agreement assumes that the House and Senate split the difference on discretionary health funding, which adds $150 million to the House-passed level of $10.8 billion in 1987.

Function 570: Medicare

The conference agreement assumes $83.00 billion in budget authority and $73.25 billion in outlays for medicare.

The agreement assumes $0.25 billion in 1987 and $1.0 billion over three years to lower the hospital deductible.

The agreement reflects medicare provider reforms of $0.60 billion in 1987 and $3.30 billion over three years.

Function 600: Income Security

The conference agreement assumes $163.50 billion in budget authority and $121.75 billion in outlays for fiscal year 1987.

The conference agreement assumes $8.1 billion in budget authority for subsidized housing. The agreement assumes that 95,000 new units can be supported at this level. A financing change to capital grants allows for the same program level and mix as in the House-passed resolution.

The conference agreement assumes $0.05 billion in 1987 for the enactment of the conference agreement on H.R. 7, the School Lunch and Child Nutrition Amendments of 1986, as in the House-passed resolution.

The conference agreement assumes the Children's Initiative provisions included in the House-passed resolution—a $75 million increase over inflation in 1987 for the WIC program.

The conference agreement assumes the House-passed resolution assumption of $1,986 million in budget authority for the low income energy assistance program.

Function 650: Social Security

The conference agreement assumes $227.05 billion in budget authority and $209.35 billion in outlays for social security, the same as the House-passed level.

Function 700: Veterans Benefits and Services

The conference agreement assumes $27.00 billion in budget authority and $26.55 billion in outlays in fiscal year 1987.

The conference agreement assumes the House-passed level for VA medical care in 1987, which is $9.5 billion in budget authority.

The conference agreement also includes the House-passed level of $0.5 billion for VA medical facility construction in 1987, including start-up funds for four new nursing homes.

Function 750: Administration of Justice

The conference agreement provides $7.20 billion in budget authority and $7.15 billion in outlays, the same level as the House-passed resolution.

The conference agreement assumes inflation for all administration of justice programs plus $200 million for the Customs Service and $50 million for the Drug Enforcement Administration (DEA) to assist in drug and trade interdiction activities.

Function 800: General Government

The conference agreement for this function assumes $5.50 billion in budget authority and $5.45 billion in outlays for 1987.

The conference agreement assumes full funding of the administration's $4.10 billion request for the Internal Revenue Service (IRS).

The conference agreement assumes a $100 million increase over the 1986 funding level for the Legislative Branch.

The conference agreement also assumes additional Customs Service user fees of $300 million per year as requested by the administration to recover more of the cost of processing merchandise.

Function 850: General Purpose Fiscal Assistance

The conference agreement assumes $1.95 billion in budget authority and $2.75 billion in outlays for fiscal year 1987.

Function 920: Allowances

The conference agreement assumes $0.90 billion in budget authority and −$0.05 billion in outlays in fiscal year 1987.

The conference agreement assumes civilian Federal employee pay raises of three percent effective in January in each fiscal year.

The conference agreement assumes the sale of U.S. government loan assets sufficient to generate one billion dollars in net savings in each fiscal year.

Function 950: Undistributed Offsetting Receipts

The conference agreement assumes −$40.05 billion in budget authority and −$40.25 billion in outlays in fiscal year 1987.

The conference agreement assumes the same policy assumptions of the House-passed resolution, and estimates that recoveries will total $1.25 billion in fiscal year 1987, and total $2.45 billion over the three-year period. The conference agreement principally differs from the House-passed resolution in the estimate of the timing for the recovery of oil overcharge funds.

FUNCTIONAL COMPARISON

[Outlays—in billions of dollars; for fiscal years 1986–87]

	Function	Fiscal year 1986 Post GRH	Fiscal year 1987 CBO Base	House-passed	Senate-passed	GOP plan	Conference agreement	
050	Defense	269.50	284.00	276.20	281.95	280.00	279.15	(292.15 BA)
150	International affairs	17.10	15.30	13.80	14.20	14.10	14.00	
250	General science	8.90	9.05	8.75	9.10	8.80	8.90	
270	Energy	4.30	5.30	4.85	4.60	4.40	3.50	
300	Natural resources	12.70	13.05	12.25	12.60	12.40	12.60	
350	Agriculture	30.80	23.55	23.55	23.50	23.70	23.50	
370	Commerce and housing	3.60	3.75	2.60	3.45	2.60	2.05	
400	Transportation	27.50	28.00	25.50	26.45	25.30	25.85	
450	Community and regional development	8.00	7.50	7.00	7.20	7.20	7.00	
500	Education, training, and employment	30.60	30.95	30.60	30.55	30.00	30.55	
550	Health	35.70	38.30	38.35	38.30	38.00	38.30	
570	Medicare	68.00	73.70	73.40	72.80	73.10	73.25	
600	Income security	118.30	122.60	122.05	121.65	121.50	121.75	
650	Social Security	199.55	211.55	209.35	209.40	209.40	209.35	
700	Veterans	26.60	26.70	26.70	26.45	26.60	26.55	
750	Administration of Justice	6.80	7.00	7.15	7.15	7.00	7.15	
800	General government	6.00	5.50	5.65	5.40	5.10	5.45	
850	General purpose fiscal assistance	5.90	6.20	2.65	2.80	2.60	2.75	
900	Net interest	138.50	145.20	143.50	143.95	144.00	143.65	
920	Allowances	0.00	1.10	1.85	0.15	0.80	−0.05	
950	Undistributed offsets	−35.65	−37.30	−41.25	−39.80	−43.10	−40.25	
	Total	982.70	1,018.60	994.50	1,001.85	993.50	995.00	
	Revenues	777.80	846.40	857.20	857.20	849.70	852.40	
	Deficit	204.90	172.20	137.30	144.65	143.80	142.60	

Prepared by HBC minority staff.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, the gentleman said this is better than the House-passed resolution. I wish the gentleman would explain that further. I understand there is an increase of $7 billion in obligation authority for defense, and I assume that is one reason that the gentleman would ascribe to it being better. What are the reasons that it is better?

Mr. LATTA. Mr. Speaker, as I mentioned to my good friend, that is the reason. I would not be standing up here tonight supporting this resolution if we had not come forward with this contingency.

Mr. SMITH of Iowa. What are the additional reasons for it being better than the House-passed resolution?

Mr. LATTA. Mr. Speaker, I just mentioned to the gentleman, being from an agricultural area as the gentleman is, we take out those user fees that I mentioned. That is very, very important.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I would like some clarification as to the procedure that we would use. Let me use this as an example. The NASA budget is frozen in the program. We all suppose that the administration is going to recommend a shuttle to represent the *Challenger*. That cannot be added on to this budget unless, according to this contingency fund, provisions that the President must recommend, is that the only way to get something like that?

Mr. LATTA. Anything that exceeds these totals that I just mentioned, $142.6 billion, will have to come under the contingency fund and be requested by the President.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 and one-half minutes to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding for a brief colloquy.

Mr. Speaker, yesterday, the Committee on Public Works and Transportation reported H.R. 3129, the Surface Transportation and Uniform Relocation Assistance Act of 1986. That bill contains budget authority for highways consistent with what our committee believed the conference agreement to be. However, it is my understanding that those levels now differ from what is before the House, thereby necessitating a waiver of section 302 of the Budget Act in order to permit consideration of the bill on the floor. It is my further understanding

that the Budget Committee will support our request for a waiver of section 302 when the bill comes before the Rules Committee, and that the Budget Committee will not oppose the bill on the basis that it exceeds the budget. Is that correct?

Mr. GRAY of Pennsylvania. I would say to the gentleman from California, yes, I will recommend to the committee members that they support such a waiver request to the Committee on Rules.

Mr. ANDERSON. The conference agreement also includes reconciliation instructions to the Committee on Public Works and Transportation. Notwithstanding the underlying funding assumptions, it is my understanding that a submission by the Public Works Committee of the aggregate levels of highway budget authority and obligations for fiscal years 1987 through 1989 as contained in H.R. 3129 will be deemed by the Budget Committee to be in compliance with, and to have satisfied, the reconciliation directive pursuant to this conference report. Is that correct?

Mr. GRAY of Pennsylvania. I would say to the gentleman from California, "That is correct, yes."

Mr. Speaker, I yield myself such time as I may consume.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. GRAY of Pennsylvania. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, could the chairman tell us about the Budget Committee or the conference action with respect to the Presidential deferral of half a billion dollars?

Mr. GRAY of Pennsylvania. That is not a part of the budget process debate or the conference.

Mr. GONZALEZ. But does it not enter into your assumptions, on your budgetary assumptions in your report?

Mr. GRAY of Pennsylvania. No; it does not apply to our assumptions in our report.

Mr. GONZALEZ. In that briefing sheet the gentleman has there, it indicates differently, in that yellow sheet.

Mr. GRAY of Pennsylvania. Is the gentleman referring to recisions?

Mr. GONZALEZ. Deferral.

Mr. GRAY of Pennsylvania. I am afraid I do not know which briefing sheet the gentleman is referring to.

That is not a briefing sheet of the House Budget Committee I would point out to the gentleman, but I will try to answer. That is a DSG briefing sheet, not put forth by the Budget Committee.

Mr. SCHUMER. Mr. Speaker, will the chairman yield?

Mr. GRAY of Pennsylvania. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Speaker, I understand, sharing similar concerns in the housing area with the gentleman from Texas, what the gentleman is asking about. The conference agreement sticks with the House position and rejects the Senate $500 million deferral.

Mr. GONZALEZ. If the gentleman will continue to yield, that is a basic predicate in the assumptions on the budgetary conclusions in the conference?

Mr. SCHUMER. If the gentleman will yield, the gentleman from Texas is right, on the CDBG and all the others.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. GRADISON].

□ 2225

Mr. GRADISON. I thank the gentleman for yielding me this time.

Mr. Speaker, before we overcongratulate ourselves, let us make sure we strike a realistic tone in this discussion with respect to the likelihood of sequestration. It is vital that we sent an accurate signal to our colleagues, the general public, the credit markets, and the Federal agencies.

This Member's personal view is that this budget virtually assures sequestration unless the economy takes off in the near future. The budget includes billions in revenues from asset sales, privatizing Conrail and oil overcharge funds which may not materialize. This budget is based on the optimistic economic assumptions of last February rather than more recent data which suggests a 1987 deficit of $12 to $15 billion higher than earlier estimated.

As I see it, even in the unlikely event that all of this budget is implemented, the deficit will exceed $154 billion triggering sequestration. As a conferee, my conclusions are threefold: First, under this budget, sequestration is better than a 50-50 bet. Second, this budget moves in the right direction. Finally, further action by Congress will be needed if our deficit reduction targets are to be met.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1½ minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to express my very strong support for the budget resolution that is before us this evening. What is particularly striking is how dramatically different a document it is than that which was originally advanced by the White House.

It is dramatically different from the original White House submission in two key respects. First of all, it not only meets the Gramm-Rudman deficit target but actually exceeds the deficit reduction of the President's original budget as re-estimated by the Congressional Budget Office by some $16 billion.

Second, the priorities at this bipartisan budget depart radically from those of the President. In fact it is the redirection of the priorities of this country that is perhaps the msot significant feature of this budget.

I think it is important for the country that this budget is a bipartisan document. What that does is to reinforce the feelings of this institution, of the Congress representing the will of the American people, that we are not going to tolerate the decimation of vital domestic programs, that we are going to insist that the Pentagon begin to accept the same constraints we have imposed on the domestic side of the budget. What this budget reflects is a bipartisan commitment to resist the priorities and values the White House has sought to impose upon the country the past several years.

It is certainly true that there is no guarantee in this budget against sequestration. Yet it is also true that if this budget is accepted sequestration would impose a far less difficult challenge than were it to occur without this budget in place.

I also want to make the further point that to put this budget together without executive leadership, without some assistance from the White House, has been a very difficult task. We all know the constraints under which we have operated. This budget, in my view, represents a very significant legislative achievement.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. I thank the gentleman for yielding me this time.

Mr. Speaker, I am, as usual, disappointed with the budget resolution. It may be, however, that it is in this House and this country's best interests to pass the resolution for at least there is a modicum of outlay reductions through the reconciliation process.

I am, however, disappointed with the materials which the House has been given to try to understand what the conference committee has given us tonight. I notice on a yellow sheet entitled, "Reconciliation by House Committees," that the Ways and Means Committee is given a reconciliation of $4.35 billion in outlay savings. You know what that is folks? That is $3.5 billion of new taxes lurking in that little, harmless item of outlay savings.

I do not know if that is a mistake on the part of the committee or whatever, but I think the House ought to know that 40 percent of the alleged outlay savings in reconciliation are new taxes, and the House may think that is a good policy or it may not, but at least it ought to know what is in there.

We also ought to know what assets have been sold. Three billion of our loan portfolio? Those are savings? No;

they are one-time savings as we unload one asset—loans—for another asset—cash. Another $1.9 billion for selling a railroad we probably are not going to sell.

If you go out into future years, you find that we are selling an able petroleum reserve for what many people think is less than its value at a time when it is admittedly not smart to be selling such reserves because of the price of oil.

This resolution as it has been presented is loaded with smoke and mirrors and gas and lard and whatever else we put into budgets to try to make them attractive for ourselves. I think I am going to vote for this resolution. I do not minimize the task our committee had, and I congratulate all the people who worked on it. But I do not want to have any of us patting ourselves on the back and saying. "This is pretty good." It is the tiniest, little advance over the baseline that I can positively imagine at this time.

We certainly have to do better than this. My judgment is that if we pass this budget, which allegedly makes the deficit targets, we are going to have to pass a sequester resolution because this budget is not going to make it.

Again, I say it is better than nothing. I shall support it. I thank the committee for its hard work and wish they would have done a better job.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. RUSSO].

Mr. RUSSO. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to ask the Chairman a question about the reconciliation deadline. Would the Committee on Ways and Means be required to report a reconciliation bill by July 25?

Mr. GRAY of Pennsylvania. Yes. The committees are required to report their reconciliation legislation by July 25, in order that the reconciliation process could be completed prior to the August 15 snapshot, as provided by Gramm-Rudman. It is my hope that completion of the process would reduce the projected deficit under the Gramm-Rudman procedures.

However, I fully understand that the Committee on Ways and Means will be engaged in the tax reform conference and may not have time to complete its reconciliation legislation by July 25. I would say to the gentleman that we would not penalize the committee if this date cannot be met, although we increase the risk that an initial sequester order may be necessary if this legislation is not completed in time. However, as the gentleman well knows, the first snapshot is a warning to Congress of how much deficit reduction is required, and the snapshot taken in early October would determine any final binding sequestration order.

I would hope that the Ways and Means Committee would make every effort to meet its July 25 deadline and that, by the second Gramm-Rudman snapshot, the committee would have achieved its deficit reduction target.

Mr. RUSSO. Mr. Speaker, I thank the gentleman for his assurances and I can assure him that the committee will make every attempt to comply with the July 25 deadline in the budget resolution and that, by the second Gramm-Rudman snapshot, we will have certainly met our reconciliation instruction. Let me congratulate the chairman for his outstanding work on the budget and for the conference agreement which he brings to the floor tonight.

Mr. Speaker, if I may briefly respond to the gentleman from Minnesota, the $4.3 billion that the gentleman is talking about for a total deficit reduction from the Ways and Means Committee does not specify specifically that it has to be new taxes, it can be any means by which we reduce the deficit, so taxes are not assured to be passed.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. I thank the gentleman for yielding me this time.

Mr. Speaker, this budget, it seems to me, is a joke and a very bad one on the American people. In general, the spending restraint, as my colleague from Ohio said, is nonexistent, and the revenue numbers seem to be pulled right out of the air.

If you look at revenues, they are up $6 billion from the baseline and there are two problems with this. First, the new revenues originally proposed by the President are being double-counted. Either as savings or as part of the baseline.

□ 2235

If you look at the $2 billion cigarette tax, if you look at new revenues from reform of the civil service retirement system, or you look at new Superfund taxes, each one of them is being double counted on the revenue side.

Second, the baseline revenue estimate is hopelessly optimistic in light of new economic data. And I would call the Members' attention to the E.F. Hutton estimates of February, which were right in line with the CBO February estimate, but today E.F. Hutton is estimating revenues of $825 billion, which the budget resolution estimate is at $846 billion. So if E.F. Hutton is accurate, the deficit will be about $15 billion higher than we estimate it to be.

I would also draw the attention of the Members to these items:

The 3-percent pay raise for civilians is not provided for in the numbers. It is assumed that most of the cost will be absorbed by the agencies.

Second, the sale of SBA disaster loans, valued by the President at $700 million, and by the Senate at $350 million, suddenly is now worth $1 billion. No one knows where the $300 million extra would come from.

The conferees have taken the higher House number on rural housing loan sales—$1 billion, or 10 times as high as the President's original proposal.

Conrail sale is now magically worth another $100 million—$1.9 billion. No one knows where that is going to come from.

There is an unspecified directive to the Committee on Post Office and Civil Service to save $100 million; no one knows how.

Mr. Speaker, I would suggest that the budget numbers are fudged that the structural deficit issue remains, and that we will not achieve what we hope to achieve through this budget.

Mr. Speaker, if we pass this budget tonight, we may think that we are fooling the financial markets. We think that we are fooling the American people into believing that we are meeting the Gramm-Rudman targets. But, Mr. Speaker, we will not meet those targets. We will fall about $30 billion short, and we will only be fooling ourselves.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 30 seconds to the distinguished chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I want to congratulate the distinguished chairman of the House Budget Committee, the gentleman from Pennsylvania [Mr. GRAY], and the ranking minority member of the committee, the distinguished gentleman from Ohio [Mr. LATTA], for reaching agreement with the other body in a way that will assure that the veterans of our Nation will receive the benefits and health care services which they deserve during the next fiscal year.

As I understand it, Mr. Speaker, the numbers agreed to for function 700 generally track the funding levels contained in the budget resolution previously adopted by the House. The conference agreement assumes $27 billion in budget authority and $26.5 billion in outlays for the next fiscal year. It is important to note, Mr. Speaker, that the agreement assumes the House-passed level for VA medical care in 1987 which is $9.55 billion in budget authority and $9.35 billion in outlays.

The agreement also includes the House-passed level of $500 million for VA medical facility construction including start-up funds for four new medical facility projects including two nursing homes which the Committee on Veterans' Affairs recommended to the budget committee. These numbers are substantially above the recommended levels proposed by the administration.

Mr. Speaker, veterans throughout the Nation can be encouraged by what has been accomplished in the budget conference. The House has again confirmed its commitment to our Nation's veterans and I appreciate the leadership of the distinguished gentleman from Pennsylvania, the distinguished gentleman from Ohio, and other members of the conference who worked together to resolve differences in veterans' matters.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KASICH].

Mr. KASICH. I appreciate the gentleman's yielding time to me.

Mr. Speaker, I watched Chairman GRAY characterize this budget on the television, and I have to say that he really did sum it up pretty well. He said that there are constraints on everybody. If you are concerned about national security provisions for this Nation, you have to be a little upset, but you know we had to give a little bit, and everybody knew it. But we have come up; in fact we have come up from what the Committee on Armed Services did just a couple days ago.

If you are concerned about the nondefense area—and everybody is concerned about nondefense, providing for the needs of the people of this country—you had to give a little bit, but everybody knew that they were going to have to give a little bit.

But you know, we worked together. We are making the American people feel good tonight. You know why? Because I remember just 1 year ago when this side was hissing and booing when this side spoke, and this side was hissing and booing when this side spoke. But you know tonight we are all congratulating one another.

We have a sober approach. We know we do not have a miracle in front of us. But what we do know is that we came together as Republicans and Democrats, we gave a little bit on our own parochial interests, and now we have something that is fair, we have something that is compassionate, and we have something that meets many of the security needs of our Nation.

I think that Chairman GRAY and Mr. LATTA, our ranking member, have done an incredible job in being able to formulate something that makes sense for America.

You know the bottom line, though, is Gramm-Rudman works, does it not? Gramm-Rudman forced Republicans and Democrats to come together to meet a budget target, and that is exactly what we have in this document. Let us hope and pray that this economy can grow, and let us hope and pray that we can have the kind of revenues that we need to meet these targets. But I will tell you that tonight is a great night for our constituents, because we worked together, we all gave, and we put America first.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. WEISS].

Mr. WEISS. I thank the gentleman for yielding time to me for the purpose of a colloquy with the distinguished chairman of the Committee on the Budget regarding the general revenue sharing program.

Mr. Speaker, it is my understanding that the conference report provides that general revenue sharing could be reauthorized and funded without violating the Budget Act, even though there is no specific allocation within function 850. Is that correct?

Mr. GRAY of Pennsylvania. If the gentleman will yield, that is the intent of the resolution. Nothing in this resolution would prevent the reauthorization or appropriation for general revenue sharing, if it is the will of the Congress in both bodies.

Mr. WEISS. It is further my understanding that the funding for general revenue sharing, if reauthorized, is intended to be deficit neutral under the conference report so that such funding would not increase the deficits set forth in the conference report. Is that correct?

Mr. GRAY of Pennsylvania. That is correct.

Mr. WEISS. As we all know, it is entirely possible under the confusions created by Gramm-Rudman, or other factors, that the authorizing legislation could be preceded by various appropriations measures. Would anything in the conference report bar reauthorization of GRS under such circumstances?

Mr. GRAY of Pennsylvania. No, there is nothing in the conference report that would prevent the House and the Senate from acting on this issue.

Mr. WEISS. I very much appreciate the chairman's clarification of these points. Although I would much rather have had the budget resolution provide for full funding of this vital program within function 850, I appreciate the efforts of the gentleman from Pennsylvania.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, I am going to vote for this budget resolution, and I commend my good friend, the gentleman from Pennsylvania [Mr. GRAY], the chairman of the committee, and the ranking minority member, the gentleman from Ohio [Mr. LATTA], for all their hard work.

Let me say this. The reconciliation part of this bill is as phony as a 3-dollar bill. A billion twenty-five, two hundred fifty million dollars for oil-stripper agreement—I want to ask you, when is that coming forth? A billion nine for the sale of Conrail. I ask my good friend, the gentleman from New Jersey [Mr. FLORIO], when is that ever going to come out of the committee? Two billion dollars in asset sales—we had $400 million in the supplemental appropriation for a study of the Southwest Marketing Authority. It was cut out entirely by the Senate. I tried to get $100,000 in there for a study of the Southwest Power Marketing Authority—down the drain. I ask the Members, when is that going to come out?

A billion dollars in unspecified asset sales—all going down the drain, $6.15 billion. And these figures here—they will never see the light of day. Never. Believe me.

I filed a bill for a half a billion dollars for users' fees for the Coast Guard a year ago. Do you know how many cosponsors I have? You are looking at them, right here. Not a one. Not a one.

For the honor of the House, I am going to vote for this bill, but I am telling the Members, the reconciliation here is as phony as a 3-dollar bill.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 5½ minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I would like to follow up on a point made by the gentleman from Ohio [Mr. GRADISON], because I think it is a very important one. I am going to support this resolution because I think that it is essential that we establish a bipartisan congressional agreement on a different set of priorities than those laid out by the President's budget.

I think that these priorities are much more just for the country, a much more intelligent allocation of resources. I have some problems with it because I think, for instance, that we have gone up too far on the military budget. I agree with the judgments about the unrealistic estimate for some of the actions assumed in this resolution.

I would like to ask the chairman of the committee one question. I share the concern of the gentleman from Ohio about the potential for sequestration. One of the previous speakers just said that tonight proves that Gramm-Rudman works. I would like to suggest that tonight may wind up proving in the end that there is a significant flaw in Gramm-Rudman which some of us talked about a year ago, because as I read these numbers, and I know that the chairman of the committee has done as much as is humanly possible to avoid the sequestration problem, I know that his original resolution had a lower deficit than the Senate's for the express purpose of avoiding that possibility of sequestration, but the fact is that as I understand what is happening in the economy, it is possible because of the rigidities built into Gramm-Rudman last

year in refusing to take into account economic performance.

It is very possible that even if Congress lives up to each and every promise that it makes tonight in this resolution, that we could still face the possibility of sequestration if the economy sags below the expectations laid out by the administration.

□ 2245

That is my own concern. That is my own guess and I would like to know whether the gentleman agrees with that assumption.

Mr. GRAY of Pennsylvania. Mr. Speaker, if the gentleman will yield, I would like to respond because several speakers have mentioned this. I think I was the first Member of this body and certainly on the Budget Committee in either House back during the Memorial break to announce publicly to the Nation that I felt that economic growth was going to be slower than expected than the projections of the CBO, not the administration, because we are using CBO projections. The administration's OMB projections were much higher and much more of a rosy scenario of economic growth, and because of that slow growth we would have an overestimation of revenues.

I also said at that time that one of the good news items in the economy is that the policies have been successful in lowering inflation; however, as inflation has moved down, therefore if we had expected a higher inflation that means an overextension of revenues. I said that over 5 weeks ago.

Now everyone is saying, "Hey, we have a problem."

Now, let me add that I cannot control by myself, nor can this Budget Committee of the House or the Senate or this Congress, what totally happens to this economy. We must make our best estimate and guess on the most realistic numbers we have.

Now, let me just simply say this. I hope that we will not start blaming the budget process or the Congress for the defects that we find simply because Gramm-Rudman does not take into consideration changes in the economy which have nothing to do whatever with our spending at all, such as the two items that I mentioned and the two that the gentleman from Ohio is talking about.

I would agree with the gentleman from Ohio and the gentleman from Wisconsin that there may be a problem; however, our job is to try to restrain spending as much as possible.

I believe that the House budget that we passed did a better job of that. We came back with a compromise which within the context of reality does that to the best of our ability.

Let me conclude by saying, are we going to have sequestration? It depends. It depends on how optimistic or pessimistic will the OMB and the CBO be in their economic forecasts now being prepared. Small economic differences produce large differences in deficit.

It depends, too, on how much of this resolution will be enacted by this Congress before the August 15 snapshot and how much will be enacted before October 1 when it is the deadline; so we play a role if we enact.

Third, it depends on what will happen to the technical reestimates, such as agricultural outlays and defense spendout.

Fourth, whether we hit sequestration depends on other legislation enacted by this body; for instance, the tax reform bill, the thrift industry legislation, the urgent supplemental, and other legislation.

If we hold spending and if we are vigilant, then I believe that we can potentially avoid sequestration and thus I would say with the contingency fund, there is a mechanism that if the President and OMB feels we are going to hit the wall of sequestration they can call on the Congress to move into the contingency fund for deficit reduction and thus avoid sequestration.

Mr. OBEY. Mr. Speaker, I would simply like to thank the gentleman for that response. I agree with it and I think that points out, as the gentleman has indicated, if there is a flaw around here and if we run into sequestration because of that flaw, it is not likely to be because of lack of performance by the Appropriations Committee or lack of performance on the part of the Budget Committee, but because of the fatal flaw built into Gramm-Rudman, which refused to recognize initially our responsibility to recognize that the economy can do things over which we have no control.

Mr. FRENZEL. Mr. Speaker, earlier I stated that this budget resolution has been described in very misleading terms. It cannot possibly achieve its own targets, even in the unlikely event that all committees meet their reconciliation obligations.

If the resolution is so lousy and falls so short of deficit reduction objections, why, I have been asked, should anyone in his or her right mind vote for it?

The answer is merely because baseline spending is unacceptable. This budget is lousy, but it is marginally better than the status quo.

Stated another way, if we pass this budget, and if it is reconciled, we will require a slightly smaller sequestration resolution when we, as we inevitably will, fall short of the Gramm-Rudman-Hollings deficit reduction targets.

Mr. LATTA. Mr. Speaker, I have no further requests for time. I reserve the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I have one further request. I yield 1 minute to the gentleman from Mississippi [Mr. WHITTEN], the chairman of the Appropriations Committee.

If the gentleman needs additional time, I will be glad to yield further.

Mr. WHITTEN. Mr. Speaker, may I say, we might as well face some reality. None of the budget cuts that we have experienced in the last 5 years, have gone to reduce the debt or the deficit. All of it was caused by the increase of the carryover of unspent military funds.

What I wish to say is that the gentleman, in order to come up with what he has, and I have been voting for this as a target, is counting on estimates or assumptions only. On the face of it, they cannot happen. I realize what the gentleman is up against.

Now, what we have to do is realize that we have to have a strong economy to back up all this business. We have got to have public support. We have to have butter and guns, or you will not have the guns you want. That is our job.

Now, our Committee on Appropriations has stayed within the budget. We have held it down. We always have held it down. We are going to hold it down again.

I am asking the gentleman that when his estimate or his assumption is clearly going to be hard to achieve, is the gentleman going to admit it and let us go ahead and look after the country.

Mr. GRAY of Pennsylvania. Mr. Speaker, let me respond in closing to the question raised by the distinguished gentleman from Mississippi, the chairman of the Appropriations Committee.

The chairman correctly states that the role of the Budget Committee is to set the targets for each function or the ceilings, and thus what has developed over the years, 10 years of the Budget Act, is for us to give assumptions as to how we reached those targets or those ceilings. In certain cases, we agreed to reconcile assumptions and there are in this budget $24 billion of reconciled assumptions; however, in the rest of the area where we make assumptions, it is our best judgment that this is an appropriate way to reach a particular target or ceiling in a function; however, when there is not reconciliation it then becomes a responsibility of the authorizing committees and the appropriating committee who on many occasions have spent greater lengths of time reviewing these issues to determine what would be the assumptions to reach the target, and thus stay within the target.

So I would say to all of us, we must understand that the budget sets ceilings. It is up to the authorizing committees and the appropriating committees to determine what goes under those ceilings.

When we state what goes under it, we reconcile it; so I would respond to the question from the distinguished chairman that he is absolutely right

when he says our role is to set targets. We have done that, and thus by setting the targets we have come forward with a budget that reduces $142.6 billion in deficit reductions for fiscal year 1987 below the Gramm-Rudman target.

Mr. Speaker, I would urge my colleagues to understand, yes, we have the sequestration wall to face, but if you want to avoid it, then all we have to do is act and enact everything here.

Second, I would urge my colleagues to support this budget resolution. It is fair. It is equitable and it achieves the goal.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. KILDEE]. Pursuant to the order of the House of today, the previous question is ordered.

The question is on the motion offered by the gentleman from Pennsylvania [Mr. GRAY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 333, noes 43, not voting 57, as follows:

[Roll No. 211]

AYES—333

Ackerman	Chappell	Fiedler
Akaka	Cheney	Fields
Alexander	Clay	Foley
Anderson	Clinger	Ford (MI)
Andrews	Coats	Ford (TN)
Anthony	Cobey	Frank
Applegate	Coble	Franklin
Archer	Coelho	Frenzel
Atkins	Coleman (MO)	Gallo
Badham	Collins	Gejdenson
Barnard	Combest	Gekas
Bartlett	Conte	Gephardt
Barton	Conyers	Gilman
Bateman	Cooper	Gingrich
Bates	Coughlin	Glickman
Bennett	Coyne	Goodling
Bentley	Craig	Gordon
Bereuter	Crockett	Gradison
Berman	Daniel	Gray (IL)
Bevill	Darden	Gray (PA)
Biaggi	Daub	Guarini
Bilirakis	DeLay	Gunderson
Bliley	Derrick	Hamilton
Boehlert	DeWine	Hammerschmidt
Boggs	Dickinson	Hansen
Boner (TN)	Dingell	Hatcher
Bonior (MI)	DioGuardi	Hawkins
Bonker	Dowdy	Hayes
Borski	Downey	Hefner
Bosco	Duncan	Hendon
Boucher	Durbin	Henry
Boulter	Dwyer	Hertel
Boxer	Dymally	Hiler
Brooks	Dyson	Holt
Broomfield	Eckart (OH)	Hopkins
Brown (CA)	Eckert (NY)	Horton
Broyhill	Edgar	Howard
Bruce	Edwards (CA)	Hoyer
Bryant	Edwards (OK)	Hubbard
Burton (CA)	Emerson	Huckaby
Burton (IN)	Erdreich	Hughes
Bustamante	Evans (IA)	Hutto
Byron	Evans (IL)	Ireland
Callahan	Fascell	Jeffords
Carper	Fawell	Jenkins
Chandler	Fazio	Johnson
Chapman	Feighan	Jones (OK)
Jones (TN)	Moody	Smith, Denny (OR)
Kanjorski	Moorhead	Smith, Robert (NH)
Kaptur	Morrison (CT)	Snowe
Kasich	Morrison (WA)	Solarz
Kastenmeier	Murphy	Spratt
Kennelly	Murtha	St Germain
Kildee	Natcher	Staggers
Kindness	Neal	Stallings
Kleczka	Nelson	Stangeland
Kolbe	Nielson	Stark
Kolter	Oakar	Stenholm
Kostmayer	Oberstar	Stokes
Lagomarsino	Obey	Strang
Lantos	Olin	Stratton
Latta	Ortiz	Studds
Leach (IA)	Owens	Sundquist
Leath (TX)	Oxley	Sweeney
Lehman (CA)	Packard	Swift
Lehman (FL)	Panetta	Swindall
Leland	Parris	Synar
Lent	Pashayan	Tallon
Levin (MI)	Pease	Tauke
Levine (CA)	Penny	Tauzin
Lewis (FL)	Pepper	Taylor
Lightfoot	Perkins	Thomas (CA)
Livingston	Pursell	Thomas (GA)
Long	Rahall	Torres
Lott	Rangel	Torricelli
Lowery (CA)	Ray	Towns
Lowry (WA)	Regula	Traficant
Lujan	Reid	Traxler
Luken	Richardson	Udall
Lungren	Rinaldo	Valentine
Mack	Ritter	Vander Jagt
MacKay	Roberts	Vento
Manton	Robinson	Visclosky
Markey	Rodino	Volkmer
Marlenee	Roemer	Walgren
Martin (IL)	Rogers	Walker
Martin (NY)	Rose	Waxman
Martinez	Roukema	Weber
Matsui	Rowland (CT)	Weiss
Mavroules	Rowland (GA)	Wheat
Mazzoli	Roybal	Whitehurst
McCain	Russo	Whitley
McCloskey	Sabo	Whittaker
McCurdy	Saxton	Whitten
McDade	Scheuer	Williams
McEwen	Schneider	Wilson
McGrath	Schroeder	Wirth
McHugh	Schuette	Wise
McKernan	Schumer	Wolf
McMillan	Seiberling	Wolpe
Meyers	Sensenbrenner	Wortley
Mica	Sharp	Wright
Michel	Shelby	Wyden
Mikulski	Sikorski	Wylie
Miller (CA)	Siljander	Yatron
Miller (OH)	Sisisky	Young (AK)
Miller (WA)	Skeen	Young (FL)
Mineta	Slattery	Young (MO)
Moakley	Slaughter	Zschau
Molinari	Smith (FL)	
Mollohan	Smith (NE)	
Montgomery	Smith (NJ)	

NOES—43

Armey	Gaydos	Nowak
AuCoin	Gonzalez	Petri
Brown (CO)	Green	Porter
Carney	Gregg	Ridge
Carr	Hall, Ralph	Roth
Coleman (TX)	Hunter	Schaefer
Courter	Jacobs	Shumway
Crane	Kramer	Smith (IA)
Dannemeyer	LaFalce	Smith, Robert (OR)
Daschle	Lloyd	Spence
Dellums	McCollum	Stump
Dorgan (ND)	Mitchell	Vucanovich
Dreier	Monson	Watkins
English	Mrazek	
Garcia	Myers	

NOT VOTING—57

Annunzio	Dicks	Fuqua
Aspin	Dixon	Gibbons
Barnes	Donnelly	Grotberg
Bedell	Dornan (CA)	Hall (OH)
Bellenson	Early	Hartnett
Boland	Fish	Heftel
Breaux	Flippo	Hillis
Campbell	Florio	Hyde
Chappie	Foglietta	Jones (NC)
Davis	Fowler	Kemp
de la Garza	Frost	Lewis (CA)
Lipinski	O'Brien	Schulze
Loeffler	Pickle	Shaw
Lundine	Price	Shuster
Madigan	Quillen	Skelton
McCandless	Roe	Snyder
McKinney	Rostenkowski	Solomon
Moore	Rudd	Weaver
Nichols	Savage	Yates

□ 2310

The Clerk announced the following pair:

On this vote:

Mr. Donnelly for, with Mr. Florio against.

Mr. AUCOIN changed his vote from "aye" to "no."

Mr. EDGAR changed his vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate recedes from its amendment to the amendment of the House to the amendment to the Senate numbered 175, to the bill (H.R. 4515) "An act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes."

The message also announced that the Senate had passed without amendment bills, joint resolutions, and concurrent resolutions of the House of the following titles:

H.R. 237. An act to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such act;

H.R. 4801. An act to amend section 994 of title 28, United States Code, to clarify certain duties of the U.S. Sentencing Commission;

H.J. Res. 429. Joint resolution to designate July 2, 1986, as "National Literacy Day";

H.J. Res. 664. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day," and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty;

H. Con. Res. 362. Concurrent resolution to express the sense of the Congress that a moment of silence be held during the official ceremonies for the Statue of Liberty for the return of the American captives in Lebanon; and

H. Con. Res. 364. Concurrent resolution providing for a conditional adjournment of the two Houses from June 26 or 27 until July 14, 1986.

GENERAL LEAVE

Mr. GRAY of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter on the Gray motion to

recede and concur with an amendment to Senate Concurrent Resolution 120, the first concurrent resolution on the budget for fiscal year 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES AUTHORIZED BY LAW OR BY THE HOUSE, NOTWITHSTANDING ADJOURNMENT

Mr. HOYER. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Monday, July 14, 1986, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 16, 1986

Mr. HOYER. Mr. Speaker, I ask unanimous consent that business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 16, 1986.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CHANDLER (at the request of Mr. MICHEL), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. FRENZEL, for 15 minutes, today.

(The following Members (at the request of Mr. MCMILLAN) to revise and extend their remarks and include extraneous material:)

Mr. LUNGREN, for 60 minutes, on July 15, 16, 17, 21, and 22.

Mr. BEREUTER, for 5 minutes, on June 26.

Mr. MYERS of Indiana, for 60 minutes, on June 26.

(The following Members (at the request of Mr. TORRES) to revise and extend their remarks and include extraneous material:)

Mr. CROCKETT, for 5 minutes, today.

Mr. RAY, for 5 minutes, today.

Mr. ROSE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LATTA, to include extraneous material on Senate Concurrent Resolution 120, in the House, today.

(The following Members (at the request of Mr. MCMILLAN) and to include extraneous matter:)

Mr. MCDADE.
Mr. SHAW.
Mr. SMITH of New Jersey.
Mr. LEACH of Iowa in two instances.
Mr. EMERSON.
Mr. DANNEMEYER.
Mr. LAGOMARSINO in two instances.
Mr. LEWIS of California.
Mr. DORNAN of California.
Mr. CONTE.
Mr. HAMMERSCHMIDT.
Mr. RITTER.
Mr. BROOMFIELD in two instances.
Mr. HYDE.
Mrs. BENTLEY.
Mr. PORTER.
Mr. MCEWEN.
Mr. BADHAM.
Mr. BEREUTER.
Mr. MCCAIN in two instances.
Mr. HUNTER.
Mr. HORTON.
Mr. SKEEN.
Mr. GUNDERSON.
Mr. SOLOMON.
Mr. MILLER of Washington.
Mr. CRANE in six instances.
Mr. TAUKE.
Mr. FAWELL.

(The following Members (at the request of Mr. TORRES) and to include extraneous matter:)

Mr. SMITH of Florida.
Mr. LEHMAN of California.
Mrs. BOXER.
Mr. DANIEL.
Mr. FASCELL in three instances.
Mr. SPRATT.
Mr. CROCKETT.
Mr. STOKES in two instances.
Mr. DWYER of New Jersey.
Mr. DINGELL.
Mr. STARK.
Mr. BOSCO.
Mr. MILLER of California.
Mr. GARCIA.
Mr. LIPINSKI.
Mr. HAYES.
Mr. GRAY of Pennsylvania.
Mr. DE LA GARZA.
Mr. GAYDOS.
Mr. SCHUMER.
Mrs. COLLINS.
Ms. KAPTUR.
Mr. VENTO.
Mr. MCCLOSKEY.
Mr. BROOKS.
Mr. RODINO.
Mr. DOWNEY of New York.
Mr. LANTOS.
Mr. GARCIA.
Mr. RANGEL.
Mr. STARK.
Mr. HEFTEL of Hawaii.
Ms. OAKAR.
Mr. FLORIO in two instances.
Mr. SOLARZ.
Mr. HAWKINS.
Mr. FAUNTROY.
Mr. TORRES in two instances.
Mr. COYNE.
Mr. KOSTMAYER in two instances.
Mr. WEISS.
Mrs. BURTON OF California.
Mr. MRAZEK.
Mr. ST GERMAIN.
Mr. MCCLOSKEY.
Mr. LELAND in two instances.
Mr. WYDEN.
Mr. BONKER in two instances.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4841. An act to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the act.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2180. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and

S. 2414. An act to amend title 18, United States Code.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following day present to the President, for his approval, a joint resolution of the House of the following title:

On June 25, 1986:

H.J. Res. 297. Joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week."

ADJOURNMENT TO MONDAY, JULY 14, 1986

Mr. HOYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 364 of the 99th Congress, the House stands adjourned until 12 noon, Monday, July 14, 1986.

Thereupon (at 11 o'clock and 17 minutes p.m.), pursuant to House Concurrent Resolution 364, the House adjourned until Monday, July 14, 1986, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Miscellaneous reports filed with the Committee on House Administration and forwarded to the Clerk of the House concerning the foreign currencies and U.S. dollars utilized by Interparliamentary Unions and other similar groups or delegations during calendar year 1985 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO THE NORTH ATLANTIC ASSEMBLY, BELGIUM AND FRANCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN FEB. 13 AND FEB. 19, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Abbruzzese, P	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Bateman, H	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Burton, S	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Carman, N	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Courter, J	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Total					3,420.00		25,334.30				28,754.30
Garcia, R	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Gilman, B	2/13	2/14	Belgium		108.00						108.00
	2/16	2/19	France		351.00						351.00
Military transportation							4,800.17				4,800.17
Lasch, R	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Roberts, A	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Rose, C	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Total					3,195.00		25,067.61				28,262.61
Sparks, R	2/13	2/15	Belgium		216.00						216.00
	2/15	2/19	France		468.00						468.00
Military transportation							5,066.86				5,066.86
Total					684.00		5,066.86				5,750.86
Grand total											62,767.77

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CHARLIE ROSE, Apr. 18, 1985.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEETING OF THE NORTH ATLANTIC ASSEMBLY STANDING COMMITTEE IN PORTUGAL, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 28 AND MAR. 31, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Brooks, Jack	3/28	3/31	Portugal	56.062	324						324
Military air									6,885		6,885
Brady, John J	3/28		Portugal	56.062	324						324
Military air									6,885		6,885
Abbruzzese, P.A	3/28		Portugal	56.062	324						324
Military air									6,885		6,885
Committee total					972				20,655		21,627

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

Note.—Based on information available as of this date. n nn

JACK BROOKS, Apr. 18, 1985.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, INTERPARLIAMENTARY UNION, LOME, TOGO, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 23 AND MAR. 31, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Benjamin J. Guthrie	3/23	3/30	Togo		739.87		[3] 3,363.37				4,103.24
	3/30	3/31	Spain		8.00						8.00
Vance Hyndman	3/23	3/30	Togo		665.21		[3] 3,363.37				4,028.58
	3/30	3/31	Spain		4.00						4.00
Ellen P. Rayner	3/23	3/30	Togo		503.97		[3] 3,363.37				3,867.34
	3/30	3/31	Spain		4.00						4.00
Julie Illsley	3/23	3/30	Togo		494.84		[3] 3,363.37				3,858.21
	3/30	3/31	Spain		4.00						4.00
Delegation expenses:											
Official meals	3/23	3/30	Togo		2,278.97						2,278.97
Control room	3/23	3/30	Togo		1,032.91						1,032.91
Transportation	3/23	3/30	Togo				1,281.90				1,281.90
Overtime (Embassy personnel)	3/23	3/30	Togo						910.57		910.57
Miscellaneous	3/23	3/30	Togo						4.19		4.19
Committee total					5,735.77		14,735.38		914.76		21,385.91

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] DOD transportation provided pursuant to 31 U.S.C. 22A.

CLAUDE PEPPER, Mar. 19, 1986.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Akaka, Daniel	5/9	5/13	Mexico		244.02		[3] 558.84				802.86
Alexander, Bill	5/10	5/12	Mexico		177.38		[4] 483.00				660.38
Coleman, Ronald	5/9	5/13	Mexico		241.79		[3] 558.84				800.63
de la Garza, E (chairman)	5/9	5/13	Mexico		340.43		[3] 558.84				899.27
DeLay, Tom	5/9	5/13	Mexico		275.46		[3] 558.84				834.30
Dreier, David	5/9	5/13	Mexico		241.79		[3] 558.84				800.63
Gilman, Benjamin	5/9	5/13	Mexico		248.88		[3] 558.84				807.72
Goodling, William	5/9	5/12	Mexico		177.38		[3] 290.31				757.15
							[4] 289.46				
Kramer, Ken	5/10	5/13	Mexico		242.73		[3] 268.53				781.22
							[3] 268.53				
Lagomarsino, Robert	5/9	5/13	Mexico		241.79		[3] 558.84				800.63
Leland, Mickey	5/9	5/13	Mexico		249.31		[3] 268.53				642.84
							[3] 268.53				
Rangel, Charles	5/9	5/13	Mexico		253.39		[3] 558.84				812.23
Yatron, Gus	5/9	5/13	Mexico		241.79		[3] 558.84				800.63
Brown, Elliott	5/9	5/13	Mexico		241.79		[3] 558.84				800.63
Dunman,Tabor	5/9	5/13	Mexico		241.79		[3] 558.84				800.63
Chester, John C.	5/9	5/13	Mexico		241.79		[3] 558.84				800.63
	12/1	12/5	United States		312.14		[4] 240.00				552.14
Daoust, Elizabeth	5/9	5/13	Mexico		274.03		[3] 558.84				832.87
	12/1	12/5	United States		292.60		[4] 131.12				523.72
Livingston, Shelly	5/9	5/13	Mexico		241.79		[3] 558.84				800.63
	12/1	12/5	United States		405.10		[4] 263.00				668.10
Pena, Richard	5/9	5/13	Mexico		260.28		[3] 558.84				819.12
Tavlarides, Mark	5/9	5/13	Mexico		272.92		[3] 558.84				831.76
Delegation expenses:											
Stationery and supplies									969.99		
Ground transportation									1,273.00		
Inflight expesnes and control room charges									2,342.50		
Embassy assistance									209.59		
Baggage, miscellaneous									118.85		
Planning meetings									234.08		5,148.01
Committee total					6,060.37		11,570.35		5,148.01		22.778.73

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] DOD.
[4] Commercial.

E de la GARZA, Chairman, Mar. 26, 1986.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, CANADA-UNITED STATES INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Barnes, Michael (chairman)	5/16	5/20	Canada		252.31		[3] 264.89				517.20
Donnelly, Brian	5/16	5/20	Canada		270.85		[3] 264.89				535.74
Fascell, Dante	5/16	5/20	Canada		252.31		[3] 264.89				517.20
Frenzel, Bill	5/16	5/20	Canada		246.31		[3] 88.84				335.38
Gibbons, Sam	5/16	5/20	Canada		255.39		[3] 264.89				520.28
Hamilton, Lee	5/16	5/20	Canada		252.31		[3] 264.89				517.20
LaFalce, John	5/16	5/20	Canada		268.70		[3] 264.89				533.59
Martin, David	5/16	5/20	Canada		261.17		[3] 264.89				526.06
Miller, John	5/16	5/18	Canada		189.23		[3] 88.84				278.07

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, CANADA-UNITED STATES INTERPARLIAMENTARY GROUP, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1985—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Oberstar, Jim	5/16	5/18	Canada		126.15		[3] 88.84				214.99
Stangeland, Arlan	5/16	5/18	Canada		110.77		[3] 88.84				199.61
Bierman, Everett	5/16	5/20	Canada		252.31		[3] 264.89				517.20
Daoust, Elizabeth	5/16	5/20	Canada		226.92		[3] 264.89				491.81
	5/16	5/8	United States		339.79		[3] 308.88				648.67
Ingram, George	5/16	5/20	Canada		221.54		[3] 264.89				486.43
	12/5	12/8	United States		456.74		[4] 378.00		74.11		908.85
Johnson, Victor	5/16	5/20	Canada		252.31		[3] 264.89				517.20
Neal, Carolyne	5/16	5/20	Canada		223.07		[3] 264.89				487.96
Nelson, Steve	5/16	5/20	Canada		255.64		[3] 264.89				520.53
Delegation expenses:											
1986 conference deposit									500.00		
Official delegation meals and meetings									1,623.10		
Ground transportation									120.20		
Miscellaneous									30.00		2,273.30
Committee total					4,714.05		4,485.81		2,347.41		11,547.27

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] DOD.
[4] Commercial.

MICHAEL D. BARNES, Chairman, Mar. 28, 1986.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, INTERPARLAIMENTARY UNION, OTTAWA, CANADA, EXPENDED BETWEEN AUG. 29 AND SEPT. 7, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Claude Pepper	8/29	9/7	Canada		1,115.84		218.40				1,334.24
							[3] 103.13				103.13
Hon. Augustus F. Hawkins	9/4	9/7	Canada		273.51		[3] 819.80				1,093.31
Hon. Lindy Boggs	8/31	9/7	Canada		580.34		[3] 225.63				805.97
Hon. David E. Bonior	8/31	9/4	Canada		429.49		[3] 122.50				551.99
Hon. Mervyn M. Dymally	9/1	9/5	Canada		711.74						711.74
Hon. John Paul Hammerschmidt	9/1	9/4	Canada		298.66		[3] 716.67				1,015.33
Hon. Henry J. Hyde	9/4	9/7	Canada		365.91		[3] 819.80				1,185.71
Benjamin J. Guthrie	8/31	9/7	Canada		712.35		[3] 225.63				937.98
Marty Sletzinger	8/29	9/7	Canada		931.11		124.20				1,055.31
							[3] 103.13				103.13
Frances H. Campbell	8/29	9/7	Canada		1,097.17		218.40				1,315.57
							[3] 103.13				103.13
Ellen P. Rayner	8/31	9/7	Canada		590.57		[3] 225.63				816.20
Julie Illsley	8/31	9/7	Canada		592.56		[3] 225.63				818.19
Delegation expenses:											
Official meals	8/29	9/7	Canada		2,775.22						2,775.22
Control room	8/29	9/7	Canada		1,878.60						1,878.60
Transportation	8/29	9/7	Canada				98.52				98.52
Overtime (Embassy personnel)	8/29	9/7	Canada						1,442.06		1,442.06
Miscellaneous	8/29	9/7	Canada						46.61		46.61
Committee total					12,353.07		4,350.20		1,488.67		18,191.94

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] DOD transportation provided pursuant to 31 U.S.C. 22A.

CLAUDE PEPPER, Mar. 19, 1986.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3792. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3793. A letter from the Comptroller General, General Accounting Office, transmitting a list of all reports issued by GAO during the month of May 1986, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3794. A letter from the Plan Administrator, Farm Credit Banks of Jackson, transmitting the annual report for the farm credit retirement plan and the production credit associations' retirement plan for the year ending December 31, 1985, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3795. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting a copy of an approved application by the Hidalgo Irrigation District No. 1, Edinburg, TX, for a loan under the Small Reclamation Projects Act, pursuant to 43 U.S.C. 422d; to the Committee on Interior and Insular Affairs.

3796. A letter from the Assistant Secretary for Water and Science, Department of the Interior, transmitting notification of a proposed contract with the Farwell Irrigation District, Farwell Unit, Pick-Sloan Missouri Basin Program, NE, pursuant to 43 U.S.C. 505; to the Committee on Interior and Insular Affairs.

3797. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for the payment of interest on certain lease revenues paid to the Secretary of the Interior, to eliminate certain unnecessary reporting requirements, and for other purposes; to the Committee on Interior and Insular Affairs.

3798. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice; transmitting a copy of an order granting defector status in the case of a certain alien, pursuant to 8 U.S.C. 1182(a)(28)(1); to the Committee on the Judiciary.

3799. A letter from the Comptroller General, General Accounting Office; transmitting a report of recommendations to the Congress concerning the claim of Mr. John H. Teele to be reimbursed normal relocation expenses as though he had been an employ-

ee of the Federal Government transferred in the interest of the government from one duty station to another for permanent duty, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

3800. A letter from the Administrator of Veterans Affairs, Veterans Administration, transmitting a copy of draft legislation to amend title 38, United States Code, to limit the types of proposed disciplinary actions in which disciplinary boards function, to allow for the delegation of authority of the Chief Medical Director in certain situations and for related purposes; to the Committee on Veterans' Affairs.

3801. A letter from the Comptroller General, General Accounting Office, transmitting a report of the adverse opinion on the financial statements of the Export-Import Bank of the United States [Eximbank] for the years ended September 30, 1985 and 1984 and the reports on Eximbank's system of internal accounting controls and compliance with laws and regulations, pursuant to 31 U.S.C. 9106(a); 31 U.S.C. 3512(f); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GLICKMAN: Committee on the Judiciary. H.R. 4827. A bill to amend title 31, United States Code, with respect to the fraudulent use of public property or money; with an amendment (Rept. 99-660). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Counting all the jobless: Problems with the official unemployment rate (Rept. 99-661). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. S. 953. An act to validate contractual relationships between the United States and various non-Federal entities; with an amendment (Rept. 99-662, Pt. 1). Ordered to be printed.

Mr. SOLARZ: Committee on Foreign Affairs. H.J. Res. 626. Resolution to approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes; with an amendment (Rept. 99-663, Pt. 1). Ordered to be printed.

Mr. GRAY of Pennsylvania: Committee of Conference. Conference report on S. Con. Res. 120. (Rept. 99-664). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GLICKMAN (for himself, Mr. WOLPE, Ms. KAPTUR, Mr. FRANK, Mrs. SCHROEDER, and Mr. FISH):

H.R. 5097. A bill to amend chapter 11 of title 18, United States Code, to prohibit the President, the Vice President, certain other former Federal civilian and military personnel, and Members of Congress from representing or advising certain foreign entities for a period of 4 years after leaving Government service, and for other purposes; to the Committee on the Judiciary.

By Mr. APPLEGATE:

H.R. 5098. A bill to deny beneficiary developing country designations under the generalized system of preference to countries that aid other countries to circumvent certain trade obligations to the United States; to the Committee on Ways and Means.

By Mr. ARMEY (for himself, Mr. BOULTER, Mr. BARTLETT, Mr. BROWN of Colorado, Mr. COLEMAN of Texas, Mr. CRANE, Mr. DREIER of California, Mr. DORNAN of California, Mr. FAWELL, Mr. GEKAS, Mr. GUNDERSON, Mr. JEFFORDS, Mr. MILLER of Washington, Mr. PEASE, Mr. PACKARD, Mr. STRANG, Mr. NEAL, Mr. BARNARD, and Mr. DIOGUARDI):

H.R. 5099. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control regarding the improvement of executive agency mail management, and for other purposes; jointly, to the Committees on Government Operations, and Post Office and Civil Service.

By Mr. DORNAN of California (for himself, Mr. DANIEL, Mr. DIOGUARDI, Mr. STENHOLM, Mr. SILJANDER, and Mr. DANNEMEYER):

H.R. 5100. A bill to amend title 18, United States Code, to protect family decency, to amend the Child Abuse Prevention and Treatment Act to provide grants to encourage the States to carry out child protection reforms, and for other purposes; jointly, to the Committees on the Judiciary, Education and Labor, Energy and Commerce, and Post Office and Civil Service.

By Mr. BENNETT:

H.R. 5101. A bill to provide for disclosure by lobbyists, and for other purposes; to the Committee on the Judiciary.

By Mr. BIAGGI:

H.R. 5102. A bill to amend the Ship Mortgage Act, 1920 (46 App. U.S.C. 861 et seq.) and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 5103. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to provide more effective criminal penalties for violations involving cocaine, and for other purposes; jointly, to the Committee on Energy and Commerce, and the Judiciary.

By Mr. BLILEY:

H.R. 5104. A bill to provide for uniform cost-of-living adjustments under Federal retirement programs; to the Committee on Government Operations.

By Mr. BOULTER (for himself, Mr. BARNARD, Mr. BROWN of Colorado, Mr. BARTLETT, Mr. DORNAN of California, and Mr. PACKARD):

H.R. 5105. A bill to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act to increase economy and efficiency in the Federal Government and to reduce the Federal budget deficit by implementing certain recommendations of the President's public sector survey on cost control concerning the examination and inspection of meat, poultry, and egg products processing operations, and for other purposes; to the Committee on Agriculture.

By Mr. CARR (for himself, Mr. BROWN of Colorado, Mr. GUNDERSON, Mr. CRANE, Mr. STENHOLM, Mr. MILLER of Washington, Mr. ROTH, Mr. DORNAN of California, Mr. PEASE, Mr. ROEMER, Mr. FAWELL, Mr. BOULTER, Mr. BARTLETT, Mr. DREIER of California, Mr. BARNARD, Mr. DIOGUARDI, Mr. STRANG, Mr. NEAL, and Mr. FISH):

H.R. 5106. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control relating to improved coordination between Department of Defense research facilities; to the Committee on Armed Services.

By Mr. CARR (for himself, Mr. BROWN of Colorado, Mr. GUNDERSON, Mr. CRANE, Mr. STENHOLM, Mr. MILLER of Washington, Mr. ARMEY, Mr. ROTH, Mr. DORNAN of California, Mr. PEASE, Mr. PACKARD, Mr. ROEMER, Mr. FAWELL, Mr. GEKAS, Mr. COLEMAN of Texas, Mr. BOULTER, Mr. BARTLETT, Mr. BARNARD, Mr. DIOGUARDI, Mr. STRANG, and Mr. NEAL):

H.R. 5107. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control regarding the increased use of paralegals by the Department of Justice, and for other purposes; to the Committee on the Judiciary.

By Mrs. COLLINS:

H.R. 5108. A bill to authorize the Secretary of Health and Human Services to fund adolescent health demonstration projects; to the Committee on Energy and Commerce.

By Mr. DANIEL (for himself, Mr. ASPIN, Mr. PRICE, Mr. STRATTON, Mr. NICHOLS, Mr. MONTGOMERY, Mr. SISISKY, Mr. HUTTO, Mr. WHITEHURST, Mr. SPENCE, Mrs. SCHROEDER, Mrs. BYRON, Mr. FOGLIETTA, Mr. DELLUMS, Mr. MAVROULES, Mr. KASICH, Mr. LEATH of Texas, Mr. DARDEN, Mr. DYSON, Mr. MCCLOSKEY, Mr. SPRATT, Mr. BENNETT, Mrs. LLOYD, Mr. ROBINSON, Mr. HUNTER, Mr. HILLIS, Mr. MCCURDY, Mr. RAY, and Mr. HERTEL of Michigan):

H.R. 5109. A bill to establish a national special operations agency within the Department of Defense to have unified responsibility for all special operations forces and activities within the Department; to the Committee on Armed Services.

By Mr. WYDEN (for himself, Mr. WAXMAN, Mr. MADIGAN, and Mr. TAUKE):

H.R. 5110. A bill to encourage good faith professional review activities of health care entities, to require collection and dissemination to hospitals and other health care providers of information concerning certain payments in medical malpractice claims and certain adverse decisions, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DANNEMEYER (for himself, Mr. DORNAN of California, Mr. SILJANDER, and Mrs. BENTLEY):

H.R. 5111. A bill to amend the Rehabilitation Act of 1973 to exclude individuals with contagious diseases from the definition of handicapped individuals; to the Committee on Education and Labor.

By Mr. DIOGUARDI (for himself and Mr. WYDEN):

H.R. 5112. A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to impose in-

creased criminal penalties on cocaine dealers; jointly, to the Committees on Energy and Commerce, and the Judiciary.

By Mr. DORNAN of California (for himself, Mr. BOULTER, Mr. BARTLETT, Mr. BROWN of Colorado, Mr. CRANE, Mr. CARR, Mr. DREIER of California, Mr. MILLER of Washington, Mr. ROTH, Mr. PEASE, Mr. FAWELL, Mr. COLEMAN of Texas, Mr. CRAIG, Mr. NEAL, Mr. BARNARD, Mr. DIOGUARDI, and Mr. FISH):

H.R. 5113. A bill to increase Government economy and improve efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control relating to the consolidation of certain Department of Defense operations; to the Committee on Armed Services.

By Mr. DORNAN of California (for himself, Mr. BOULTER, Mr. BARTLETT, Mr. BROWN of Colorado, Mr. GUNDERSON, Mr. CRANE, Mr. CARR, Mr. DREIER of California, Mr. STENHOLM, Mr. MILLER of Washington, Mr. ARMEY, Mr. ROTH, Mr. FAWELL, Mr. JEFFORDS, Mr. NEAL, Mr. BARNARD, Mr. DIOGUARDI, Mr. FISH, and Mr. STRANG):

H.R. 5114. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control to strengthen the auditing of Department of Defense transportation bills, and for other purposes; jointly, to the Committees on Armed Services, and Government Operations.

By Mr. DORNAN of California (for himself, Mr. BARTLETT, Mr. BROWN of Colorado, Mr. GUNDERSON, Mr. DIOGUARDI, Mr. BARNARD, Mr. MILLER of Washington, Mr. PACKARD, Mr. STENHOLM, and Mr. NEAL):

H.R. 5115. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control regarding the consolidation of border management and the revision of overtime laws for inspectors, and for other purposes; jointly, to the Committees on the Judiciary, Ways and Means, and Agriculture.

By Mr. DREIER of California (for himself, Mr. BOULTER, Mr. BARTLETT, Mr. CRAIG, Mr. STENHOLM, Mr. CRANE, Mr. SWINDALL, Mr. ARMEY, Mr. DORNAN of California, Mr. FAWELL, Mr. PACKARD, Mr. ROTH, Mr. MILLER of Washington, Mr. BROWN of Colorado, Mr. FISH, Mr. NEAL, Mr. STRANG, and Mr. BARNARD):

H.R. 5116. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control relating to reduced Government competition with the private sector to provide goods and services; to the Committee on Government Operations.

By Mr. DREIER of California (for himself, Mr. BOULTER, Mr. ROEMER, Mr. JEFFORDS, Mr. CRANE, Mr. BARTLETT, Mr. STENHOLM, Mr. ARMEY, Mr. DORNAN of California, Mr. FAWELL, Mr. PACKARD, Mr. BROWN of Colorado, Mr. MILLER of Washington, Mr. GUNDERSON, Mr. NEAL, and Mr. BARNARD):

H.R. 5117. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control to aid in verification of housing eligibility, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, and Ways and Means.

By Mr. ECKERT of New York:

H.R. 5118. A bill to amend the Fair Labor Standards Act of 1938 to permit employees of public agencies to volunteer to perform for such agencies the same type of services for which the employees are employed; to the Committee on Education and Labor.

By Mr. EVANS of Illinois (for himself, Mr. DURBIN, Mr. ROWLAND of Connecticut, Mr. OBERSTAR, Mr. PEASE, Mr. ASPIN, Mr. SABO, Mr. MARTIN of New York, Ms. KAPTUR, and Mr. WOLPE):

H.R. 5119. A bill entitled: the "Foreign Sourcing in Defense Contracts Act"; to the Committee on Armed Services.

By Mr. FEIGHAN (for himself and Mr. SCHULZE):

H.R. 5120. A bill to amend the Internal Revenue Code of 1954 to clarify the tax treatment of voluntary employee benefit associations; to the Committee on Ways and Means.

By Mr. GEJDENSON:

H.R. 5121. A bill to require the Nuclear Regulatory Commission to conduct a study of the nuclear power reactor accident at Chernobyl, in the Soviet Union; to the Committee on Interior and Insular Affairs.

By Mr. GUNDERSON:

H.R. 5122. A bill to prevent the approval of bovine growth hormone by the Secretary of Health and Human Services until certain information is made available to the Congress for a reasonable time; jointly, to the Committees on Agriculture, and Energy and Commerce.

By Mr. HUNTER:

H.R. 5123. A bill to amend the Employee Retirement Income Security Act of 1974 to improve the financial solvency of multiemployer pension plans, and for other purposes; to the Committee on Education and Labor.

By Mr. KASICH (for himself, Mr. COURTER, and Mr. SPRATT):

H.R. 5124. A bill to amend title 10, United States Code, to direct the Secretary of Defense to ensure that, to the maximum extent practicable, commercially available products are used to fulfill equipment and supply requirements of the Department of Defense; to the Committee on Armed Services.

By Mr. KASICH (for himself, Mr. BOULTER, Mr. ROEMER, Mr. BROWN of Colorado, Mr. ARMEY, Mr. GUNDERSON, Mr. SWINDALL, Mr. CRANE, Mr. REID, Mr. DREIER of California, Mr. MILLER of Washington, Mr. ROTH, Mr. DORNAN of California, Mr. PEASE, Mr. PACKARD, Mr. JEFFORDS, Mr. FAWELL, Mr. GEKAS, Mr. BARTLETT, Mr. MOORE, Mr. DIOGUARDI, Mr. LAGOMARSINO, Mr. FISH, and Mr. NEAL):

H.R. 5125. A bill to improve the Government's debt collection and credit management practices, to implement certain recommendations of the President's Private Sector Survey on Cost Control, and for other purposes; jointly, to the Committees on Government Operations and the Judiciary.

By Mr. KASTENMEIER (for himself, Mr. SYNAR, Mr. WIRTH, Mr. BOUCHER, and Mr. MOORHEAD):

H.R. 5126. A bill to amend title 17, United States Code, relating to copyrights, to provide for the temporary compulsory licensing of the secondary transmission by satellite carriers of superstations for private viewing by earth station owners; to the Committee on the Judiciary.

By Mr. KOLBE:

H.R. 5127. A bill to amend title 5, United States Code, to extend the pay retention provisions of such title to certain prevailing rate employees whose basic pay would otherwise be subject to reduction pursuant to a wage survey; to the Committee on Post Office and Civil Service.

By Mr. KOLBE (for himself, Mr. BROWN of Colorado, Mr. GUNDERSON, Mr. CRANE, Mr. CARR, Mr. FISH, Mr. DREIER of California, Mr. STENHOLM, Mr. MILLER of Washington, Mr. ARMEY, Mr. ROTH, Mr. DORNAN of California, Mr. FAWELL, Mr. BOULTER, Mr. BARTLETT, Mr. BARNARD, Mr. NEAL, Mr. DIOGUARDI, and Mr. STRANG):

H.R. 5128. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control relating to reimbursements of the Department of Defense for the use of Defense Industrial Reserve property by Federal Government agencies; to the Committee on Armed Services.

By Mr. KOLBE (for himself, Mr. GUNDERSON, Mr. CARR, Mr. REID, Mr. STENHOLM, Mr. FISH, Mr. MILLER of Washington, Mr. BARNARD, Mr. ROTH, Mr. PEASE, Mr. PACKARD, Mr. ROEMER, Mr. FAWELL, Mr. DIOGUARDI, Mr. NEAL, Mr. GEKAS, Mr. JEFFORDS, Mr. COLEMAN of Texas, Mr. BOULTER, Mr. BARTLETT, and Mr. STRANG):

H.R. 5129. A bill to increase Government economy and improve efficiency and to reduce the deficit by implementing certain recommendations of the President's private sector survey on cost control regarding improved collection of tax revenue and enforcement of the internal revenue laws, and for other purposes; to the Committee on Ways and Means.

By Mr. KOLBE (for himself, Mr. CRANE, Mr. STENHOLM, Mr. MILLER of Washington, Mr. ARMEY, Mr. DORNAN of California, Mr. NEAL, Mr. PACKARD, Mr. FAWELL, Mr. BOULTER, Mr. BARTLETT, Mr. BARNARD, and Mr. DIOGUARDI):

H.R. 5130. A bill to increase Government economy and efficiency and to reduce the budget deficit by implementing certain recommendations of the President's private sector survey on cost control regarding improvements to Medicare auditing, medical review and administration, and Medicaid quality control, and for other purposes; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. KOSTMAYER:

H.R. 5131. A bill to increase the rate of duty on certain rubber footwear; to the Committee on Ways and Means.

By Mr. LEHMAN of California (for himself and Mr. BEREUTER):

H.R. 5132. A bill to increase the amount of capital available to financial institutions and other agricultural lenders for loans to farmers by providing a secondary market for farm mortgages through the establishment of a federally chartered corporation, and for other purposes; jointly, to the Committee on Agriculture, and Banking, Finance and Urban Affairs.

By Mr. LELAND (for himself, Mr. PANETTA, and Mr. RODINO):

H.R. 5133. A bill to permit State agencies to conduct food stamp outreach to the homeless, to permit the homeless to use food stamps to acquire prepared meals at certain establishments, and for other purposes; to the Committee on Agriculture.

By Mr. LELAND (for himself and Mr. RODINO):

H.R. 5134. A bill to prevent homelessness and to address the housing needs of the homeless; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LELAND (for himself, Mr. WAXMAN, and Mr. RODINO):

H.R. 5135. A bill to provide grants for the establishment and expansion of shelters for homeless parents with newborn infants; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LELAND (for himself, Mr. HAWKINS, and Mr. RODINO):

H.R. 5136. A bill to provide education for homeless children, job training for the homeless, and temporary shelter for runaway and homeless youth; to the Committee on Education and Labor.

By Mr. LELAND (for himself, Mr. WAXMAN, and Mr. RODINO):

H.R. 5137. A bill to provide health care and mental health services for the homeless; to the Committee on Energy and Commerce.

By Mr. LELAND (for himself and Mr. RODINO):

H.R. 5138. A bill to ensure that homeless individuals receive veterans' pension benefits; to the Committee on Veterans' Affairs.

H.R. 5139. A bill to amend the Social Security Act to establish a national right to shelter for the homeless, to provide assistance for the homeless under the AFDC and SSI programs, and to modify such programs to aid in the prevention of homelessness among families, children, and disabled and institutionalized persons; to the Committee on Ways and Means.

By Mr. LELAND (for himself, Mr. BARNES, Mr. CROCKETT, Mrs. COLLINS, Mr. DELLUMS, Mr. DE LUGO, Mr. DICKS, Mr. FAUNTROY, Mr. FAZIO, Mr. FOGLIETTA, Mr. FRANK, Mr. FUSTER, Mr. GONZALEZ, Mr. KASTENMEIER, Mr. LEVIN of Michigan, Mr. LOWRY of Washington, Mr. MARKEY, Mr. MATSUI, Mr. MITCHELL, Mr. OBERSTAR, Mr. PEPPER, Mr. PERKINS, Mr. RICHARDSON, Mr. RODINO, Mr. SAVAGE, Mr. SCHEUER, Mr. TOWNS, Mr. WAXMAN, Mr. WEISS, Mrs. KENNELLY, Mr. LUNDINE, Mr. HAWKINS, Mr. RANGEL, Mr. VENTO, Mrs. BOXER, and Mr. MOODY):

H.R. 5140. A bill to prevent homelessness and to provide a comprehensive aid package for homeless persons; jointly, to the Committees on Ways and Means, Agriculture, Education and Labor, Banking, Finance and Urban Affairs, Energy and Commerce, and Veterans' Affairs.

By Mr. McCLOSKEY:

H.R. 5141. A bill to amend the Toxic Substances Control Act to establish certain requirements regarding the disposal of polychlorinated biphenyls, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. ROUKEMA (for herself, Mr. FASCELL, and Mr. PORTER):

H.R. 5142. A bill to prohibit the production of binary nerve gas weapons, to encourage the negotiation of an international agreement to stop the use, production, proliferation, and stockpiling of lethal chemical weapons, and to encourage the improvement of defenses against the effects of the use of binary chemical weapons on U.S. Armed Forces; jointly, to the Committees on Foreign Affairs, and Armed Services.

By Mr. SENSENBRENNER:

H.R. 5143. A bill to amend title VIII of the act commonly referred to as the Civil Rights Act of 1968 to provide the Secretary of Housing and Urban Development and the Attorney General with additional authority to enforce rights to fair housing, and for other purposes; to the Committee on the Judiciary.

By Mr. TORRICELLI (for himself, Mr. SMITH of Florida, and Mr. MONTGOMERY):

H.R. 5144. A bill to amend the Internal Revenue Code of 1954 to provide that the interest on certain obligations issued by an issuer who is in arrears with respect to another obligation issued by the issuer, or guaranteed by a guarantor who is in arrears with respect to another obligation guaranteed by the guarantor, is not exempt from tax; to the Committee on Ways and Means.

By Mr. VENTO:

H.R. 5145. A bill to amend the Temporary Emergency Food Assistance Act of 1983 to require that excess cheese held by the Commodity Credit Corporation be made available, at the request of the chief executive officer of a State, upon a showing of need, and without charge, for distribution by eligible agencies in the State; to the Committee on Agriculture.

By Mr. WALGREN (for himself and Mr. WAXMAN):

H.R. 5146. A bill to provide immunosuppressive drugs to organ transplant centers; jointly, to the Committees on Ways and Means, and Energy and Commerce.

By Mr. WAXMAN (for himself, Mr. LELAND, Mrs. COLLINS, Mr. DELLUMS, Mr. FORD of Tennessee, and Mr. DIXON):

H.R. 5147. A bill to amend the Public Health Service Act to provide programs of newborn genetic screening; to the Committee on Energy and Commerce.

By Mr. WEAVER (for himself, Mr. AUCOIN, Mr. LOWRY of Washington, Mr. WILLIAMS, and Mr. WYDEN):

H.R. 5148. A bill to enable States primarily affected by the siting of repositories for high-level radioactive waste or spent nuclear fuel to participate effectively in the site selection, review, approval process; to direct the Department of Energy to reconsider its choice of sites for characterization as the first repository under clarified selection criteria; to allow the Department of Energy to consider sites in crystalline rock as eligible for characterization as the first repository; to require the Department of Energy to prepare an environmental impact statement for site characterization activities; and for other purposes; jointly, to the Committees on Interior and Insular Affairs, and Energy and Commerce.

By Mr. LELAND (for himself, Mr. FAUNTROY, Mr. UDALL, Mr. YOUNG of Alaska, Mr. VENTO, Mr. LAGOMARSINO, Mr. AKAKA, Mr. ALEXANDER, Mr. BARTON of Texas, Mr. BENNETT, Mr. BEREUTER, Mr. BERMAN, Mr. BEVILL, Mr. BLAZ, Mr. BONIOR of Michigan, Mr. BROWN of California, Mr. BRYANT, Mrs. BURTON of California, Mrs. BYRON, Mr. CHAPPIE, Mr. CLINGER, Mr. COELHO, Mrs. COLLINS, Mr. CONYERS, Mr. CROCKETT, Mr. DANNEMEYER, Mr. DARDEN, Mr. DELLUMS, Mr. DE LUGO, Mr. DIXON, Mr. DONNELLY, Mr. DOWDY of Mississippi, Mr. Dwyer of New Jersey, Mr. DYMALLY, Mr. FAZIO, Mr. FORD of Tennessee, Mr. FRANK, Mr. GARCIA, Mr. GILMAN, Mr. GONZALEZ, Mr. GORDON, Mr. GRAY of Illinois, Mr. GRAY of Pennsylvania, Mr. HAWKINS, Mr. HAYES, Mr. HORTON, Mr. HOWARD, Mr. HUCKABY, Mr. JONES of North Carolina, Ms. KAPTUR, Mr. KASTENMEIER, Mrs. KENNELLY, Mr. KINDNESS, Mr. KOSTMAYER, Mr. LANTOS, Mr. LEHMAN of California, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEWIS of California, Mr. LUNDINE, Mr. McDADE, Mr. MANTON, Mr. MARKEY, Mr. MARTINEZ, Mr. MITCHELL, Mr. MOLLOHAN, Mr. MORRISON of Connecticut, Mr. MURPHY, Mr. OBERSTAR, Mr. OBEY, Mr. OWENS, Mr. PASHAYAN, Mr. PRICE, Mr. RAHALL, Mr. RANGEL, Mr. REID, Mr. RICHARDSON, Mr. RODINO, Mr. ROE, Mr. ROSE, Mr. SAVAGE, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. SHUMWAY, Mr. SMITH of Florida, Mr. STAGGERS, Mr. STANGELAND, Mr. STARK, Mr. STOKES, Mr. SUNIA, Mr. TOWNS, Mr. VISCLOSKY, Mr. WALGREN, Mr. WEAVER, Mr. WEISS, Mr. WHEAT, Mr. WHITLEY, Mr. WILLIAMS, Mr. WILSON, Mr. WORTLEY, Mr. WYLIE, Mr. WOLPE, and Mrs. BOGGS):

H.J. Res. 666. Joint resolution expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people; to the Committee on Interior and Insular Affairs.

By Mr. PORTER (for himself, Mr. LANTOS, Mr. HOYER, Mr. GILMAN, Mr. YATRON, Mr. DORNAN of California, Mr. MILLER of Washington, Ms. MIKULSKI, Mr. RODINO, Mr. ACKERMAN, Mr. SCHEUER, and Mrs. BURTON of California):

H.J. Res. 667. Joint resolution to designate August 1, 1986, as "Helsinki Human Rights Day"; jointly, to the Committees on Foreign Affairs, and Post Office and Civil Service.

By Mr. McCURDY:

H. Con. Res. 364. Concurrent resolution providing for a conditional adjournment of the two Houses from June 26 or 27 until July 14, 1986; considered and agreed to.

By Mr. BADHAM:

H. Res. 488. Resolution expressing the sense of the House of Representatives that the Tax Reform Act of 1985 should be amended to reinstate the deduction for contributions to individual retirement accounts and to increase from $250 to $2,000 the amount which may be deducted for any taxable year by or on behalf of spouses who have no compensation for such taxable year; to the Committee on Ways and Means.

By Mr. CRAIG (for himself, Mr. STENHOLM, and Mr. ROBERT F. SMITH):

H. Res. 489. Resolution providing for the consideration of the resolution (H.J. Res. 27) proposing an amendment to the U.S. Constitution to establish fiscal responsibility through balanced Federal budgets; to the Committee on Rules.

By Mr. RODINO:

H. Res. 490. Resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on the Judiciary in the second session of the Ninety-ninth Congress; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

413. By the SPEAKER: Memorial of the legislature of the State of California, relative to the dairy herd buy-out program and the Mediterranean fruit fly; to the Committee on Agriculture.

414. Also, memorial of the legislature of the State of California, relative to Filipino war veterans; to the Committee on the Judiciary.

415. Also, memorial of the legislature of the State of California, relative to the Federal Tax Reform Act of 1985; to the Committee on Ways and Means.

416. Also, memorial of the legislature of the State of Louisiana, relative to the formula for distributing funds to the respective States in the Superfund Program; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DOWDY of Mississippi:

H.R. 5149. A bill for the relief of Joseph W. Newman; to the Committee on the Judiciary.

By Mr. GALLO:

H.R. 5150. A bill for the relief of Maria Camargo Rickle; to the Committee on the Judiciary.

By Mr. LOTT:

H.R. 5151. A bill to provide for the consideration under the Color of Title Act of a certain parcel of land in Waynesboro, MS; to the Committee on Interior and Insular Affairs.

By Mr. ROSE:

H.R. 5152. A bill for the relief of the Carolinas Cotton Growers Association, Inc.; to the Committee on the Judiciary.

By Mr. ROWLAND of Connecticut:

H.R. 5153. A bill for the relief of Maria Helena Vas and Jose Maria Vas; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 64: Mr. DASCHLE.

H.R. 471: Mr. DREIER of California, Mr. FAWELL, and Mr. ZSCHAU.

H.R. 927: Mr. HYDE.

H.R. 1059: Mr. GOODLING and Mr. SCHAEFER.

H.R. 1213: Mr. HOWARD.

H.R. 1402: Mr. ECKART of Ohio, Mrs. BOGGS, and Mr. WOLPE.

H.R. 1453: Mr. DE LUGO, Mr. FAUNTROY, Mr. KLECZKA, Mrs. BURTON of California, Mr. SIKORSKI, and Mr. SCHUMER.

H.R. 1613: Mr. PENNY.

H.R. 1705: Mr. PORTER.

H.R. 1875: Mr. HORTON, Mr. JENKINS, Mrs. BURTON of California, Mr. MARTIN of New York, Mr. YATES, Mr. STUDDS, and Mr. BUSTAMANTE.

H.R. 1946: Mr. DANIEL, Mr. MATSUI, Mr. MONTGOMERY, and Mr. OWENS.

H.R. 1985: Mr. HAMMERSCHMIDT.

H.R. 2353: Mr. MORRISON of Connecticut.

H.R. 2482: Mr. NOWAK.

H.R. 2504: Mr. EDGAR and Mr. DREIER of California.

H.R. 2815: Mr. NEAL.

H.R. 3040: Mr. KOLTER.

H.R. 3137: Mr. BOUCHER.

H.R. 3232: Mr. KINDNESS.

H.R. 3465: Mr. SAVAGE.

H.R. 3469: Mr. STARK. Mr. EDGAR, Mr. JEFFORDS, Mr. RICHARDSON, Mr. DORGAN of North Dakota, and Mr. KOSTMAYER.

H.R. 3487: Mrs. BOXER.

H.R. 3643: Mr. GUNDERSON.

H.R. 3646: Mr. DANIEL.

H.R. 3649: Mr. DANIEL.

H.R. 3655: Mrs. BOXER, Mr. DYSON, Ms. MIKULSKI, Mr. OBERSTAR, Mr. OWENS, Mr. TAUZIN, Mr. TORRICELLI, Mr. VENTO, and Mr. YOUNG of Alaska.

H.R. 3799: Mr. WOLPE and Mr. WEISS.

H.R. 3968: Mr. DIOGUARDI and Mr. KOLTER.

H.R. 4003: Mr. BURTON of Indiana.

H.R. 4046: Mr. KASTENMEIER.

H.R. 4096: Mr. MYERS of Indiana, Mr. PRICE, Mr. VALENTINE, Mr. HENDON, Mr. JONES of North Carolina, Mr. CARPER, Mr. DYMALLY, Mr. OWENS, Mr. TOWNS, Mr. CROCKETT, Mr. PANETTA, Mr. NEAL, Mr. DASCHLE, Mr. CONYERS, Mr. DAVIS, Mr. CARNEY, Mr. RUDD, Mr. HOYER, and Mr. ROSE.

H.R. 4155: Mr. MINETA, Mr. BIAGGI, Mr. SOLARZ, Mr. MARTINEZ, Mr. BENNETT, Mr. FISH, Mr. HAWKINS, and Mr. BRYANT.

H.R. 4179: Mr. LELAND, Mr. MOORHEAD, and Mr. TORRES.

H.R. 4273: Mr. RAHALL and Mr. KOLTER.

H.R. 4300: Mr. HOYER.

H.R. 4338: Mr. EMERSON and Mr. DOWNEY of New York.

H.R. 4344: Mr. PURSELL and Mr. FORD of Michigan.

H.R. 4365: Mr. VENTO, Mr. JACOBS, Mr. HAYES, Mr. OBERSTAR, and Mr. PENNY.

H.R. 4368: Mr. FRANK, Mr. LELAND, Ms. MIKULSKI, Mr. BERMAN, Mr. REID, and Mrs. BOXER.

H.R. 4489: Mr. ROBERT F. SMITH.

H.R. 4496: Mr. HUGHES, Mr. VENTO, Mr. DORNAN of California, and Mr. HAYES.

H.R. 4497: Mr. HUGHES, Mr. VENTO, Mr. DORNAN of California, and Mr. HAYES.

H.R. 4499: Mr. DE LUGO, Mr. MURPHY, and Mr. KOLTER.

H.R. 4500: Mr. DE LUGO and Mr. KOLTER.

H.R. 4501: Mr. DE LUGO and Mr. KOLTER.

H.R. 4502: Mr. DE LUGO and Mr. KOLTER.

H.R. 4503: Mr. DE LUGO and Mr. KOLTER.

H.R. 4504: Mr. DE LUGO and Mr. KOLTER.

H.R. 4505: Mr. DE LUGO and Mr. KOLTER.

H.R. 4506: Mr. DE LUGO, Mr. KOLTER, and Mr. KASTENMEIER.

H.R. 4538: Mr. RUDD, Mr. HILER, Mr. BARNARD, and Mr. BADHAM.

H.R. 4545: Mr. LAFALCE and Mr. SEIBERLING.

H.R. 4579: Mr. LENT.

H.R. 4612: Mr. LEHMAN of Florida, Mr. DONNELLY, Mr. GARCIA, Mr. DOWNEY of New York, Mr. EVANS of Illinois, Ms. MIKULSKI, Mr. WISE, Mr. SAVAGE, Mr. SMITH of Florida, Mr. BROWN of California, Mr. DELLUMS, Mr. BERMAN, Mr. TRAFICANT, Mr. SPRATT, Mr. DWYER of New Jersey, Mr. ROBINSON, Mr. ACKERMAN, Ms. KAPTUR, Mrs. BOXER, Mr. EDWARDS of California, Mr. BEDELL, Mr. FAZIO, Mr. LAFALCE, Mr. FROST, Mr. DORGAN of North Dakota, Mr. WEAVER, Mr. MRAZEK, Mr. TORRES, and Mr. HENDON.

H.R. 4630: Mr. ANTHONY, Mr. DELLUMS, Mr. JONES of North Carolina, Mr. CROCKETT, Ms. KAPTUR, Mr. ACKERMAN, Mr. COLEMAN of Texas, Mr. BARNES, Mr. SEIBERLING, Mr. CARPER, and Mr. FAZIO.

H.R. 4639: Mr. OWENS.

H.R. 4696: Mr. OLIN.

H.R. 4711: Ms. MIKULSKI and Mr. LUNDINE.

H.R. 4713: Mr. GORDON, Mr. SWINDALL, Mr. MORRISON of Connecticut, Mr. GREEN, and Mr. MOODY.

H.R. 4723: Mr. ROE.

H.R. 4761: Mr. GOODLING, Mr. LEHMAN of California, Mr. STUMP, Ms. MIKULSKI, Mr. MOLLOHAN, Mr. WILLIAMS, Mr. BLILEY, and Mr. MCMILLAN.

H.R. 4762: Mr. FISH, Mr. MORRISON of Connecticut, Mr. HAWKINS, and Mr. KASTENMEIER.

H.R. 4764: Mr. HORTON and Mr. LAFALCE.

H.R. 4766: Mr. DENNY SMITH.

H.R. 4772: Mr. MOLLOHAN and Mr. RAHALL.

H.R. 4825: Mrs. COLLINS.

H.R. 4831: Mr. FISH, Mr. SYNAR, Mr. MOORHEAD, Mr. HYDE, Mr. FEIGHAN, Mr. KINDNESS, Mr. STAGGERS, Mr. SHAW, Mr. HUBBARD, Mr. DEWINE, and Mr. SWINDALL.

H.R. 4853: Mr. BOULTER and Mr. TALLON.

H.R. 4870: Mr. DORNAN of California.

H.R. 4871: Mr. TORRICELLI, Mr. ROSE, Mr. FLORIO, and Mr. MARKEY.

H.R. 4882: Mr. FEIGHAN, Mr. KOLTER, Mr. MORRISON of Connecticut, and Mr. COLEMAN of Texas.

H.R. 4886: Mrs. SCHNEIDER.

H.R. 4919: Mr. ANDERSON, Mr. BARNES, Mr. BRYANT, Mr. BUSTAMANTE, Mr. COOPER, Mr. FRANK, Mr. GEPHARDT, Mr. GONZALEZ, Mr. HALL of Ohio, Mr. HUGHES, Mr. LEHMAN of Florida, Mr. RAHALL, Mr. SMITH of Iowa, Mr. STOKES, Mr. TOWNS, and Mr. VOLKMER.

H.R. 4920: Mr. MONSON and Mrs. BENTLEY.

H.R. 4922: Ms. KAPTUR and Mr. MITCHELL.

H.R. 5000: Mr. DIOGUARDI.

H.R. 5048: Mr. FIELDS and Mr. WILSON.

H.R. 5050: Mr. DICKS, Mr. MCCLOSKEY, Mrs. BENTLEY, and Mrs. COLLINS.

H.R. 5061: Mr. PENNY, Mr. HORTON, Mr. ROBERTS, Mr. TOWNS, and Mr. ERDREICH.

H.R. 5081: Mr. TORRICELLI.

H.J. Res. 127: Mr. BEDELL, Mr. WILSON, Mr. YATRON, Mr. LEHMAN of Florida, and Mr. BONIOR of Michigan.

H.J. Res. 262: Mr. LAGOMARSINO, Mr. MORRISON of Connecticut, and Mr. RAHALL.

H.J. Res. 311: Mr. MOLLOHAN.

H.J. Res. 417: Mr. HALL of Ohio, Mr. CONTE, Mr. LAFALCE, Mr. FAUNTROY, and Mr. TORRICELLI.

H.J. Res. 435: Mr. WILLIAMS.

H.J. Res. 504: Mr. DELLUMS, Mrs. MARTIN of Illinois, and Mr. SCHAEFER.

H.J. Res. 512: Mr. FISH, Mr. MURPHY, Mr. LEHMAN of Florida, and Mr. GREEN.

H.J. Res. 524: Mr. NEAL.

H.J. Res. 529: Mr. SWINDALL, Mr. OBERSTAR, Mrs. KENNELLY, Mr. SMITH of Florida, Mr. VALENTINE, and Mr. SPRATT.

H.J. Res. 531: Mr. LEWIS of Florida, Mr. BATEMAN, Mr. WOLF, Mr. FAUNTROY, Mrs. BYRON, Mr. STOKES, Mr. RUSSO, Ms. OAKAR, Mr. LIPINSKI, Mr. DONNELLY, Mr. REID, Mr. NIELSON of Utah, Mr. WISE, Mrs. MARTIN of Illinois, Mr. BROOKS, Mrs. VUCANOVICH, Mr. NEAL, Mr. MANTON, Mr. COATS, Mrs. COLLINS, Mr. SMITH of New Jersey, Mr. DARDEN, and Mr. DUNCAN.

H.J. Res. 552: Mr. JACOBS, Mr. COURTER, Mr. EVANS of Illinois, Mr. HENDON, Mr. STUMP, Mr. MILLER of Washington, Mr. MILLER of California, Mr. MILLER of Ohio, Mr. RINALDO, and Mr. KASICH.

H.J. Res. 577: Mr. SOLARZ, Mr. BOEHLERT, Mr. BROYHILL, Mr. CAMPBELL, Mr. CHANDLER, Mr. CHENEY, Mr. DELAY, Mr. EVANS of Iowa, Mr. LEWIS of California, Mr. MADIGAN, Mr. MOORHEAD, Mr. MORRISON of Connecticut, Mr. PORTER, Mr. ROBINSON, Mr. ROWLAND of

Georgia, Mr. ZSCHAU, Mr. SOLOMON, Mr. STALLINGS, Mr. STANGELAND, Mr. SPENCE, Mr. PRICE, Mr. RICHARDSON, Mr. RITTER, Mr. SKEEN, Mr. PICKLE, Mr. PACKARD, Mr. DARDEN, Mr. SKELTON, Mr. YOUNG of Missouri, Mr. COLEMAN of Missouri, Mr. VOLKMER, Mr. SMITH of Iowa, Mr. BROOMFIELD, Mr. CHAPPIE, Mr. BOLAND, Mr. YOUNG of Florida, Mr. JACOBS, Mr. DELLUMS, Mr. HUGHES, Mr. NELSON of Florida, Mr. COBLE, Mr. WHITEHURST, Mrs. KENNELLY, Ms. MIKULSKI, Mr. BOULTER, Mrs. LLOYD, Mr. DUNCAN, Mr. BORSKI, Mr. WATKINS, Mr. BILIRAKIS, Mr. BEILENSON, Mr. ROGERS, Mr. GARCIA, Mr. BIAGGI, Mr. WEISS, Mr. LIGHTFOOT, Mr. CRANE, Mr. PETRI, Mr. ANNUNZIO, and Mr. ALEXANDER.

H.J. Res. 607: Mr. BROWN of California and Mr. SCHEUER.

H.J. Res. 612: Mr. HOWARD, Mr. MARTINEZ, Mr. LIPINSKI, Mr. MONSON, Mr. HORTON, Mr. KOSTMAYER, Mr. LAGOMARSINO, and Mr. DAUB.

H.J. Res. 628: Mr. WYLIE, Mr. GEPHARDT, and Mr. LEHMAN of California.

H.J. Res. 642: Mr. FROST, Mr. CHANDLER, and Mr. DYSON.

H.J. Res. 649: Mr. COELHO, Mr. KOSTMAYER, Mr. MARTINEZ, and Mr. O'BRIEN.

H.J. Res. 656: Mr. GOODLING, Mr. FASCELL, Mr. HENRY, Mr. HUGHES, Mr. WILSON, Mr. BEDELL, Mr. HOWARD, Mr. WALGREN, Mr. WYDEN, Mr. BEVILL, Mrs. SCHROEDER, Mr. LEHMAN of Florida, Mr. HEFNER, Mr. CARR, Mr. JONES of Tennessee, Mr. FOWLER, Mr. PANETTA, Mr. RAHALL, Mr. ROSE, Mr. MAVROULES, Mr. RODINO, Mr. TRAXLER, Mr. STOKES, Mr. LAFALCE, Mr. SCHEUER, Mrs. SMITH of Nebraska, Mr. EVANS of Iowa, Mr. DURBIN, Mr. KANJORSKI, Mr. AKAKA, Mr. NATCHER, and Mr. EDGAR.

H.J. Res. 657: Mr. WALGREN, Mr. SUNIA, Mr. HEFTEL of Hawaii, Mr. MCDADE, Mr. KOSTMAYER, Mr. BOLAND, Mr. MORRISON of Connecticut, Mr. FAUNTROY, Mrs. HOLT, Mr. BEVILL, Mr. HOWARD, Mr. WORTLEY, Mr. KLECZKA, Mr. CONTE, Mr. ROE, Mr. KINDNESS, and Mrs. BENTLEY.

H.J. Res. 658: Mr. LAGOMARSINO, Mr. WORTLEY, and Mr. WHITEHURST.

H. Con. Res. 129: Mr. SMITH of Florida and Mr. HAYES.

H. Con. Res. 244: Mr. EARLY.

H. Con. Res. 332: Mr. KANJORSKI, Mr. MOORHEAD, Mr. PEPPER, Mr. EMERSON, Mr. DAUB, Mr. EVANS of Illinois, Mr. MICA, Mr. LAGOMARSINO, Mr. CONTE, Mr. RUSSO, Mr. HUNTER, Mr. SMITH of New Jersey, and Mr. FLORIO.

H. Con. Res. 333: Mr. WHITTAKER, Mr. LOEFFLER, Mr. THOMAS of Georgia, Mr. COATS, Mr. VOLKMER, and Ms. KAPTUR.

H. Con. Res. 334: Mr. PORTER.

H. Con. Res. 336: Mr. BARNES, Mrs. COLLINS, Mr. DELLUMS, Mr. EDGAR, Mr. LUNDINE, Mr. MCCURDY, Mr. MITCHELL, Ms. OAKAR, Mr. PEASE, Mr. WILLIAMS, Mr. FEIGHAN, and Mr. RAHALL.

H. Con. Res. 338: Mr. HORTON, Mr. HOWARD, Mr. SPRATT, Mr. ACKERMAN, Mr. MATSUI, Mr. MORRISON of Connecticut, Mr. OWENS, Mr. WEAVER, and Mr. SCHEUER.

H. Con. Res. 355: Mrs. SCHNEIDER, Mr. MARTINEZ, Mr. CHAPPELL, Mr. SMITH of Florida, Mr. SAXTON, Mr. BOEHLERT, Mr. HORTON, Mr. ROE, Mr. RODINO, Mr. DYMALLY, Mrs. LLOYD, Mr. YATRON, and Mr. BADHAM.

H. Con. Res. 362: Mr. RODINO, Mr. KOSTMAYER, Mr. AKAKA, Mr. LELAND, Mr. COELHO, Mr. FAZIO, Mr. HENRY, Mr. LEVIN of Michigan, Mr. YATES, Mr. MARTINEZ, Mr. DELLUMS, Mr. ANNUNZIO, Mr. DICKS, Mrs. BURTON of California, Mr. GARCIA, Mr. WALGREN, Mr. CONYERS, Mr. HOWARD, Mr. MRAZEK, Mr. HEFTEL of Hawaii, Mr. HAMILTON, Mr. LAGOMARSINO, Mr. SCHEUER, Mr. MACKAY, Mr. LANTOS, Ms. MIKULSKI, Mr. ROE, Mr. OBEY, Mr. EDWARDS of California, Mr. EARLY, Mr. FRANK, Mr. KINDNESS, Mr. RAHALL, and Mr. MURPHY.

H. Res. 407: Mr. ASPIN, Mr. BARNES, Mr. BERMAN, Mr. BONIOR of Michigan, Mr. BONER of Tennessee, Mr. CHAPPELL, Mrs. COLLINS, Mr. CROCKETT, Mr. DANIEL, Mr. DORNAN of California, Mr. DUNCAN, Mr. EDGAR, Mr. EDWARDS of California, Mr. GILMAN, Mr. GREGG, Mr. KASICH, Mr. KILDEE, Mr. KOSTMAYER, Mr. LEACH of Iowa, Mr. LOWRY of Washington, Mr. MCGRATH, Mr. MCMILLAN, Mr. MARTINEZ, Mr. MAVROULES, Mr. NEAL, Mr. NOWAK, Mr. PEASE, Mr. RANGEL, Mr. ROBINSON, Mr. SOLARZ, Mr. ST GERMAIN, Mr. SCHEUER, Mrs. SCHNEIDER, Ms. SNOWE, Mr. TOWNS, Mr. VENTO, Mr. WORTLEY, and Mr. WYDEN.

H. Res. 412: Mr. TAUZIN and Mr. COBEY.

H. Res. 451: Mr. FUQUA, Mrs. LLOYD, Mr. RODINO, Mr. SWINDALL, and Mr. DIOGUARDI.

H. Res. 461: Mr. SEIBERLING, Mr. MAZZOLI, Mr. HUGHES, Mr. SYNAR, Mrs. SCHROEDER, Mr. FRANK, Mr. CROCKETT, Mr. SCHUMER, Mr. MORRISON of Connecticut, Mr. FEIGHAN, Mr. BERMAN, Mr. BOUCHER, Mr. STAGGERS, Mr. SMITH of Florida, Mr. KINDNESS, Mr. LUNGREN, Mr. SENSENBRENNER, Mr. MCCOLLUM, Mr. SHAW, Mr. GEKAS, Mr. DEWINE, Mr. DANNEMEYER, Mr. BROWN of Colorado, Mr. SWINDALL, and Mr. TORRICELLI.

H. Res. 468: Mr. HARTNETT, Mr. FASCELL, Ms. KAPTUR, Mr. SAXTON, Mr. PASHAYAN, and Mrs. BOXER.

H. Res. 476: Mrs. HOLT, Mrs. ROUKEMA, Mr. DOWDY of Mississippi, Mr. TAUZIN, Mr. DORNAN of California, Mr. FISH, Mr. ROWLAND of Georgia, Mr. YATRON, Mr. WORTLEY, Mr. SHELBY, Mr. LEWIS of Florida, Mr. HEFNER, Mr. CHANDLER, Mr. BEVILL, Mr. HENRY, Mr. SAXTON, Mr. REID, Mr. YOUNG of Florida, Mr. BILIRAKIS, Mr. LUKEN, Mr. HORTON, Mr. KRAMER, Mrs. BENTLEY, Mr. RAHALL, Mr. DARDEN, Mrs. JOHNSON, Mr. FEIGHAN, Mr. SWINDALL, Mr. LIPINSKI, Mr. ECKART of Ohio, Ms. KAPTUR, Mr. MONSON, Mr. VALENTINE, and Mr. DIOGUARDI.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

408. By the SPEAKER: Petition of the Bay Mills Indian Community, Brimley, MI, relative to the Internal Revenue Service and Department of Justice policy on taxation of treaty reserved resources; to the Committee on Ways and Means.

409. Also, petition of the Lower Brule Sioux Indian Tribe, Lower Brule, SD, relative to the proposed imposition of Federal taxes on income derived from treaty-protected resources; to the Committee on Ways and Means.

410. Also, petition of the Northwest Indian Fisheries Commission, Olympia, WA, relative to the effects of the Internal Revenue Service to tax treaty Indian fishing income; to the Committee on Ways and Means.

411. Also, petition of the Prairie Island Tribal Council of the Prairie Island Sioux Community, relative to the policy of the Internal Revenue Service regarding Indians' salmon-fishing income; to the Committee on Ways and Means.

SENATE—*Thursday, June 26, 1986*

(Legislative day of Monday, June 23, 1986)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious Father, we pray for Dave Joy, lab manager of the Senate Photographic Studio, as he undergoes intensive cancer surgery on Tuesday, July 1. Grant Your comfort to his family, successful surgery, and a complete and rapid recovery.

Father God, as Independence Day recess begins, we pray for our families and the Senators' rest and relaxation. Grant, Father, that there will be opportunities for family togetherness, nurture, reconciliation, and renewal. You know, Lord, the responsibilities that await the Senators as they return to their States—constituent requests and needs which require attention. You know the necessity for devoting time to election campaigns, not only for those who are running, but for colleagues who will be supporting them.

Gracious God, make it possible for all the work that must be done to get done—but give to the Senators the will and the wisdom to make time for their loved ones and themselves. May this recess result in full satisfaction in every way so that the Senators will return refreshed and ready for the busy days through mid-August. In His name Who is life and light. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, is recognized.

JULY QUARTERLY REPORT

Mr. DOLE. Mr. President, the mailing and filing date for the 1986 July Quarterly Report required by the Federal Election Campaign Act, as amended, is Tuesday, July 15, 1986. Principal campaign committees supporting Senate candidates in 1986 elections file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records Office will be open from 9 a.m. until 9 p.m. on the filing date for the purpose of accepting these filings. In general reports will be available to the public 24 hours after receipt. For further information, please contact the Public Records Office on (202) 224-0322.

SCHEDULE

Mr. DOLE. Mr. President, first, let me indicate that I will yield 3 minutes of my leaders' time to the distinguished Senator from Connecticut [Mr. WEICKER]. Then I will reserve the remainder of my time until sometime after 11 or 11:40.

Between 11 a.m. and 11:40 a.m., the time will be equally divided between the chairman and the ranking minority member of the Judiciary Committee for debate on the Manion nomination.

The time between 11:40 and 12 is reserved for the two leaders or their designees, under the standing order, of 10 minutes each, and I will yield 3 minutes of my time to Senator WEICKER.

At some point during the day, the following Senators will be recognized on special orders for not to exceed 5 minutes each: Senators THURMOND, CRANSTON, HUMPHREY, DECONCINI, ROTH, PROXMIRE, QUAYLE, SASSER, MATHIAS, KERRY, and WEICKER. Of course, if they speak now, that time will come out of the debate on the Manion nomination.

At 12 noon, under the provisions of rule XXII, a live quorum will begin, to be followed by a cloture vote on the Manion nomination.

Following the cloture vote, regardless of its outcome, it is anticipated that the Senate will turn to the consideration of three treaties on the Executive Calendar, Calendar Nos. 8, 11, and 12, to be followed by three votes on the treaties—or maybe two votes; we can arrange that.

Following the treaty votes, if cloture is not invoked on the Manion nomination, the Senate will resume legislative session, and it will be our intention to turn to the supplemental conference report. I think we can say at this point that we are not going to take up the housing bill before the recess, but there is a chance that the budget conference report will be available later today. I have not discussed this with the chairman of the Budget Committee, but I believe an agreement has been reached. So I hope we can dispose of that later today, if not tomorrow.

SOUTH AFRICA

Mr. KENNEDY. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I yield.

Mr. KENNEDY. We are at the present time trying to take the House-passed bill on the sanctions on South Africa, which is at the desk, and there is other legislation which Senator WEICKER, Senator CRANSTON, and I have cosponsored that is going to committees in the Senate.

This is an issue which is of enormous inportance and consequence, and I am wondering, as we are coming into the final hours before the recess, if the leader can give us any assurance that we will have an opportunity to be able to address that particular issue in the period between the time we come back in mid-July and mid-August, and be able at least to use his best offices to ensure that we are going to be able to have a debate and action on the floor.

Mr. DOLE. Mr. President, out of whose time is this coming?

The PRESIDING OFFICER (Mr. EAST). The majority leader yielded.

Mr. DOLE. I am not going to spend time on that at this time, but I will be happy to discuss it later.

Mr. BYRD. Mr. President, I ask unanimous consent that until such time as the manager of the nomination is here to control half the time on this side, the distinguished Senator from Massachusetts [Mr. KENNEDY], may control half the time on this side, up to 11:40 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I will be glad to yield 1 minute of our time, if the majority leader would like to respond.

Mr. DOLE. I say, in response, that I know it is an important issue. It has been before the Senate before. The last time, we were able to reach some agreement. I would have to discuss this with the chairman of the Foreign Relations Committee, Senator LUGAR. I have not done that.

It is my hope to meet with members of the Black Caucus on the House side before the recess.

So, we are aware of it, and we are certainly sensitive to the need to respond, but at this point I cannot indicate when.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

INTEREST RATES, III: TESTING NEW GROUND

Mr. DOLE. Mr. President, before we embark on another "well-earned" recess, I would like to take a few moments of my colleagues' time on the subject of interest rates, and the course of the American economy.

Before elaborating further on my views on the need for interest rate reductions, I want to thank my distinguished colleague from Wisconsin, BILL PROXMIRE, for his remarks on this subject yesterday morning. The ranking member of the Banking Committee obviously has agreed to disagree with me; and I respect his prerogative in doing so. Senator PROXMIRE is second to no one in his awesome command of the field of banking and finance.

Nevertheless, Mr. President, I believe my colleague from Wisconsin will yet see the light—if he continues to listen to my remarks about the economy, and put the issue of interest rates in the proper context of the economic revolution that is sweeping the world economy.

THE BEST ANTIDOTE

Mr. President, I have referred before to this economic revolution. Trade, finance, and the flow of information that shapes market decisions are moving at a faster pace: They have to, in this age of high technology, and high stakes, for the international investor. The benefits of less regulation; lower and fairer taxes; more vigorous competition in open markets; and less Big Government manipulation of the economy are being appreciated as never before. We are moving into new territory for the world economy—the rules are changing, and America is at the cutting edge of change.

That's why we have to take some risks as the economic environment is transformed. Right now I believe we have to take a calculated risk in favor of stronger, but stable economic growth both here and abroad. And it may not be such a great risk, after all—the best antidote to inflation is, and always has been, stable economic growth coupled with policies that enhance productivity. In my view, moving to a lower interest rate environment at this time would help stabilize, not disrupt, the economic situation.

THE PROPER ROLE

Mr. President, the role of the central bank—in our case the Federal Reserve—is obviously critical here. I think we would all agree that the proper function of the Fed is to supply the money and credit our economy demands, consistent with price stability. In so doing, the Fed must avoid the opposing evils of artificially restricting the natural course of economic growth, or, of reviving the scourge of inflation by pumping-out money in the vain hope of forcing the economy to grow.

That is a tough job to ask anyone to do, and I stand second to no one in my appreciation of the extraordinary skill Chairman Volcker has brought to the task. He has used the powers of the Fed to guide the economy through some very difficult economic times, and he has had a spectacular success against inflation—a success many thought impossible only 5 or 6 years ago.

But economic conditions are changing, Mr. President. The marketplace has yet to fully adjust to the revolution we call "Reagaonomics," a revolution still in progress. Partly as a result of that, the old standards of measurement don't quite mean what they used to: Measurements of money growth, productivity, and economic potential just aren't sending very clear signals anymore. That means we can't rely on economic theory alone for guidance: We have to look at what's going on in the real economy.

I submit that the real world evidence right now suggests that our central bank is still operating so as to restrain, not accommodate, our capacity for real, noninflationary growth.

A FIRM HAND

Mr. President, no one needs to warn this Senator of the danger and futility of pumping-out money that has nowhere to go. I lived through the 1970's, like everyone else here, and we all understand that is a recipe for disaster. But in the world of the later 1980's, there are places for money to go. In America, manufacturing capacity is lower than at any time since the recession. Unemployment remains at 7.3 percent. And inflation remains lower than in many years.

I have always been one who believes that a firm and consistent monetary policy is the best recipe for noninflationary growth. I still believe that. But let's face it: Our policy on money hasn't been very consistent, except that it is supposed to be geared to restraining inflation. Monetary targets haven't been met except when averaged over a period of time. Changes in the types of money, and their uses, have been invoked as a reason to discount money growth figures, as have special cases like the Continental Bank rescue effort.

Mr. President, it just isn't clear what we are targeting anymore, or why. So until we get better guidance, maybe what we need to do is to sort of discount the information revealed in the monetary aggregates by reference to real-world inflation, growth, and productive capacity. That, in fact, is what the financial markets have been doing for some time—which is why the exceptional growth in M-1 over the past year has not produced anything like a serious concern that inflation is on the march again.

Mr. President, it is a great tribute to Paul Volcker, and his colleagues at the Fed, that they have such outstanding credibility in the financial markets. That credibility has been rebuilt, slowly but decisively, over the past 7 years. It is an invaluable resource that we can draw on in setting the right economic course. And it is precisely that credibility that I believe allows the Fed to take the lead in moving to a lower-interest rate world economy.

INFORMATION

Finally, Mr. President, I would note that everyone's job would be easier if we had better information, and more information, about what our central bank is doing—and about what its aims are. There is a huge industry out there called Fed-watching—I am not sure it's an industry that adds a lot to our economy. The marketplace only works when it has good information, delivered as rapidly and precisely as possible. Even though the Fed must necessarily keep close any number of sensitive financial matters, surely its broad-gauge goals—and actions in pursuit of those goals—need to be a matter of public record in as detailed a fashion as possible. The reports Chairman Volcker makes pursuant to the Humphrey-Hawkins act do help, but they also seem to engender more mystic speculation than hard information about what is going on.

I hope these remarks give the Senator from Wisconsin, and all of my colleagues, a better understanding of the concerns I have. Let me say that I am far from alone in these concerns: A similar message is being heard in many quarters, from highly regarded analysts of our economic situation. As an illustration, I would like to submit for the RECORD at this time two articles from the current issue of Business Week. I do not agree with everything in these articles, but their general thrust is along the lines of what I have been saying:

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WANTED: LEADERSHIP FROM THE FED

This year is witnessing revolutionary changes in fiscal policy. Congress is making efforts to wrestle the rampaging budget deficits to the ground, and it is considering the broadest reforms in the tax code in half a century. Long range, such changes should benefit the country enormously. But in the short term they create considerable uncertainty for business and individuals, which undoubtedly contributes to the sluggishness of the economy. For that reason alone, the Federal Reserve Board should respond with a more imaginative monetary policy.

Unfortunately, however, Fed Chairman Paul A. Volcker continues to brood about inflation. But the immediate threat to the country is not inflation. It's slow and uncertain growth. Consumer spending is lackluster, and business' capital spending is not expected to grow. Why should it? The utilization of industrial capacity now stands at less

than 79 percent, a decline of 3 percent from last spring. In addition, the unemployment rate is stuck at what used to be the recession level of more than 7 percent. And foreign economies aren't doing too well, either.

What the Fed should do is stop focusing on inflation and push interest rates down. And it should do this in a way that signals an unambiguous commitment to economic growth—even, say, a one-point cut in the discount rate. Earlier this year interest rates came down rapidly, spurring a brisk economic advance. But interest rates have stopped declining. Instead, they are a bit higher now than they were two months ago. Meanwhile, the expected second-half rebound looks more and more like a fading dream. Some economists are saying the economy may grow less than 3 percent this year.

Volcker insists he is not against lower interest rates. It's just that he believes that other industrial countries should initiate the downward trend, and the U.S. can follow. That would be nice, but it is unlikely. The Fed should take the lead.

LOWERING INTEREST RATES: "AFTER YOU." "NO, AFTER YOU"

(By William Glasgall)

The U.S., West Germany, and Japan all agree that lower interest rates can stimulate economic growth. But because it is worried about a precipitous decline in the dollar, the U.S. wants its two partners to reduce their rates first. Germany and Japan, for their own domestic reasons, are resisting (page 47). It's a familiar standoff with one, exception: While the big countries stall, interest rates are edging higher, and the world economic recovery is beginning to falter.

This doesn't have to happen. All three nations are still hewing to conservative policies born in the inflationary 1970s, when spiraling oil prices, too much money, and the falling dollar meant rapid inflation. That's a curious perspective right now. With oil prices slumping, the Organization for Economic Cooperation & Development says that inflation in Japan and Germany will hover around zero. And in the U.S. it will barely break 2 percent. Says Treasury Secretary James A. Baker III: "I don't see any sign today of a return to inflation."

Indeed, with prices in the industrial world rising at their lowest rate in two decades, many economists now are wondering if deflation is next. In this sort of environment, reasons David G. Hartman, Data Resources Inc.'s chief international economist, "there's no reason not to go ahead" with rate cuts.

WAITING GAME

The trouble is, both of the major foreign player also have good domestic reasons for not cutting rates. With the effects of January tax cut and lower oil prices still working their way through the economy, Germany expects growth of 3 percent or more. So central bank chief Karl Otto Pohl thinks lower rates will only worsen an already too-high rate of money growth. The Germans don't believe cheaper money will do much to reduce their 9 percent unemployment rate, since demand for unskilled labor probably wouldn't expand anyway. But they do think a rate cut could heat up already bustling areas where skilled jobs go begging (page 48). And the Deutsche Bundesbank complains further that with Germany's discount rate now a mere three-quarters of a percentage point above its postwar low of 2.75 percent, another reduction could send German investors fleeing to other currencies in search of higher yields.

Japan's objections to rate cuts comprise a curious mix of local, national, and international factors. Included are worries that lower rates will squeeze bank profits, add fuel to a wild boom in Tokyo real estate, and increase U.S. protectionism by reversing the yen's 16-month-long rise. The Bank of Japan shares the Bundesbank's fear of low rates. At 3.5 percent the Bank of Japan's discount rate is at its lowest point since World War II. So, says Yoshindo Takahashi of the Nomura Research Institute: "It is worried that it won't have any additional cards to play."

The notion that rates have an absolute floor fails to impress First Boston Corp. Economist Albert M. Wojnilower, however. Wojnilower says Japanese central bankers have asked him, "Shouldn't there be a minimum below which a discount rate shouldn't go?" His answer: "When I joined the Federal Reserve in 1951, the discount rate was 1½ percent. We look to that time as a rather good one."

SIGNS OF WEAKNESS

Adding to the impetus for rate cuts is a slew of worrisome economic data. While German forecasters are optimistic about the year, their economy contracted at a 4 percent annual rate in the first quarter. Industrial production in Japan, where exporters are struggling to adjust to a strong yen, will hardly rise at all this year. And in the U.S., a host of indicators suggest that the expected boom following the collapse of OPEC this winter is still waiting to happen.

Despite these signs of weakness, interest rates are high. Cyrus J. Lawrence Inc. economist Edward S. Hyman Jr. observes that the real interest rate—the cost of money minus the inflation rate—is a burdensome 5 percent in the U.S., Japan, and Germany alike. Only once since the end of World War II—in 1983, when a tax cut pushed up the U.S. economy—has the industrial world staged a recovery with real rates so lofty, he observes.

Can't anyone act? Federal Reserve Board Chairman Paul A. Volcker told the House Foreign Affairs Committee on June 18 that "other major industrialized nations" should be considering easing monetary policy. But the Fed, if it wanted, could take the first step. A unilateral move would risk signaling that the age of global economic cooperation, so vocally promoted by Baker, has yet to arrive. But the move would be worth the risk—especially if America's allies follow through with rate cuts. The world needs a push. Someone should start the engine.

Mr. CRANSTON. Mr. President, will the Senator from Massachusetts yield me 1 minute?

Mr. KENNEDY. I yield.

Mr. CRANSTON. Mr. President, I am delighted that the Senator from Massachusetts has brought up this all-important issue of apartheid. The Senator from Connecticut, who is standing, is also deeply interested in this matter, and he is one of the leaders in our efforts to bring this to a head.

We have a moral responsibility—this goes far beyond the matter of money—to provide leadership in bringing pressure to bear upon the South African Government to end apartheid. We, together, serve notice that we are going to do all within our power—there are many ways we can do it—to see that the Senate comes to grips with this matter and stands up and votes on this matter before we recess in August.

Mr. WEICKER. Mr. President, will the Senator yield me 30 seconds?

The PRESIDING OFFICER. The Senator from Connecticut has been yielded 3 minutes of the majority leader's time.

Mr. WEICKER. Mr. President, I should like to bring to the attention of the leadership on my side that whether or not the South African matter was to be brought up as an amendment to the Embassies bill was seriously discussed among Senator CRANSTON, Senator KENNEDY, and myself, which indicates the urgency we put on this matter.

I can assure my colleagues that within days that we get back from the recess, the issue will be on the Senate floor, and it is going to stay on the Senate floor until it is resolved.

While we have our recess and while we go through our parliamentary maneuvers, there are those who are dying, there are those who are dead, and the time has come to speak out now. I think the American people feel very clearly the obligation to speak out, and the only way they can do it is if we enact our proper role as leaders here on the Senate floor.

So I give fair warning as to what is going to happen within days of our return from this recess.

Mr. CRANSTON. Mr. President, if the Senator will yield, I simply add that I believe that the day we get back we will start this action, at least in terms of words, but far more than words, very soon after we return.

□ 1110

This matter is before three committees. There is another measure at the desk. There are many ways that we can get at it.

Mr. KENNEDY. In my concluding time, Mr. President, I just want to underline what our colleagues have stated, and that is that the principal sponsors of the legislation here in the Senate have every intention of assuring that the Senate have an opportunity to vote on the House bill and other measures before we recess in August.

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

The PRESIDING OFFICER. The Senator from Connecticut still has the floor.

Mr. WEICKER. Mr. President, what is the status of time now? Are we under leader's time or is the time under control of the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from Connecticut has 1

minute remaining on the 3 minutes allotted to him.

Mr. WEICKER. I ask that I be allotted some time by the Senator from South Carolina.

Mr. THURMOND. Mr. President, I will be glad to allot the distinguished Senator 5 minutes. Will that be enough?

Mr. WEICKER. I thank my distinguished colleague from South Carolina.

Mr. President, I would like to address for the few minutes the matter of the Manion nomination. There are really two issues involved here. And it is to the second point that I would like to address my remarks.

When Mr. Manion comes for an up-and-down vote, I am going to vote against him and at such time I will give the reasons therefor.

But I would like to address the matter of using the filibuster, if you will, or the necessity of a cloture vote, as being a way of blocking the nomination.

During the past several years I have on more than one occasion gone head to head with my conservative colleagues as I felt that they have used the legislative process to circumvent the Constitution.

Now, the shoe is on the other foot. Many of my dear friends in those battles are using or misusing the constitutional process to circumvent a legislative matter.

Article 2, section 2, provides for the advice and consent of the U.S. Senate, and it requires two-thirds votes on matters of treaties. And that same section then clearly provides that there be a majority vote, simple majority vote when it comes to a matter of advice and consent on nominations.

What I am saying is to impose a supermajority, that is, 60 votes, instead of a simple majority, circumvents the intent of the Constitution.

I think it has been wrong in so many areas to use the legislative process to circumvent that Constitution. Now I see it in another form.

Mr. Manion deserves a vote up or down. My vote is going to be down. But that is the way it ought to be done.

If there are those who object to conservatives being appointed to court positions, then they ought to do something about it at the polls, not to use procedural methods to avoid the issue.

I am going to vote for cloture. I am going to vote for it today. I am going to vote for it every time it comes up. This nomination deserves a vote up or down.

I do not know who has the votes on Mr. Manion. I hope he is not confirmed. But to use cloture, to use that 60-vote majority is wrong. It is wrong.

The Constitution does not provide for supermajority for the advice-and-consent process when it comes to Presidential nominees.

I would only say what we are seeing here is again a convoluting of the process to achieve a particular end as in the case of so many matters convoluting the legislative process to get at the Constitution. That is done mostly by my conservative friends and now those on my side of the philosophical spectrum are using the filibuster, using the cloture process to achieve their end when clearly that is not provided for in the Constitution.

If Mr. Manion gets nominated and further conservatives are appointed to the court, maybe that will galvanize an American population and American constituency out there that is just sitting on its duff, not participating in the political process, and then being stuck with the results of that nonparticipation.

But that inactivity is not going to be excused by this Senator, nor am I going to substitute a convoluting of the process for that inactivity at the polls.

Matters of philosophy are decided by the electorate, not by running in at the last minute and, in effect, through the legislative process, defiling the intent of the Constitution of the United States.

I would hope that cloture is invoked, and I would hope then that the nomination of Daniel Manion is defeated.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BIDEN. Who controls the time?

The PRESIDING OFFICER. The Senator from Delaware controls the time on the minority side and the chairman of the Judiciary Committee controls it on the majority side.

Mr. BIDEN. I yield 3 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I have tried over the tenure of this administration not to impose my values and standards on the nominees submitted by President Reagan. At the same time, I believe there are basic character and competence standards which must be applied to all nominees.

There is, however, a higher standard which must be applied to nominees for the Federal judiciary. Here we are asked to confirm individuals for lifetime appointments. Here we are asked to appoint individuals who have the power and duty to safeguard the very fabric of our democratic society. For if we are not a society ruled by law, where basic civil rights are held sacrosanct, then we will no longer be a democracy.

So, Mr. President, I take especially seriously the Senate's responsibility for confirming Federal judges.

Today, we are considering the appointment of Daniel Manion to serve on the Seventh Circuit Court of Appeals. The appellate court is the last arbiter of justice for most individuals, and I do not believe that Daniel Manion is qualified to assume that extremely important responsibility.

What are the standards which should be used to evaluate Federal judicial nominees? Clearly, a thorough knowledge and understanding of Federal law and judicial precedent is an absolute necessity. In addition, a commitment to upholding the Constitution, as it has been interpreted by the Supreme Court, is also essential. And, finally, it is imperative that these nominees possess the judicial temperament required to ensure all individuals equal justice under the law.

How well does Mr. Manion meet these standards?

Mr. Manion's legal experience is limited at best. He has never argued a case in a Federal appeals court; he has been first chair in few, if any, Federal trials. In fact, by his own description, Mr. Manion's legal practice primarily consisted of "collections in small claims." And the cases Mr. Manion has cited as the "most significant" in his career do not demonstrate the background in Federal legal issues that an appellate court judge should possess.

In a highly unusual move, more than 40 deans of respected American law schools have written to all of us urging the rejection of the Manion nomination because he has "virtually no experience with major Federal or other litigation." While supporters of Mr. Manion argue that he will gain knowledge of Federal law as he serves on the court of appeals, I do not believe this important court is the appropriate place for on-the-job training. This court is too important and there are too many qualified individuals to seek any but the most highly qualified individuals for this position.

Mr. Manion has also demonstrated a questionable commitment to respecting the authority of the Supreme Court. During his confirmation hearing, members of the Judiciary Committee questioned Mr. Manion closely about his views on the doctrine of selective incorporation by which protections in the Bill of Rights have been held to be binding on all the States. The statement of minority views in the committee report cites Mr. Manion's history of opposition to this doctrine. During the confirmation hearings, Mr. Manion acknowledged his earlier disapproval of the incorporation doctrine, but said he now believed that the protections in the first amendment apply to the States.

The committee report goes on to note Mr. Manion's opinion that this important doctrine "has become so integrated into our judicial system that I think it would be very difficult to overrule * * * although the Supreme Court could dissect it somewhat if it chose to do so." The report adds that Mr. Manion testified "that he had 'no idea' whether he would seek to disincorporate any fundamental rights." This lukewarm commitment to basic principles that have led to basic civil rights guarantees is very disturbing to me.

Finally, there is the question of judicial temperament. Clearly, one element of this is the demeanor and evenness of temper to keep sometimes emotionally charged trials functioning in an orderly manner. And, to my knowledge, no one has questioned Mr. Manion's comportment. But another essential element of judicial temperament is an open mind and a willingness to listen, without preconception, to the information presented to him. It is this ability that guarantees individuals equal justice under the law. Mr. Manion's consistent praise of organizations and promotion of literature that is directed to reversing the most basic civil rights and individual freedoms casts grave doubt on the objectivity required in a Federal judge.

So, Mr. President, I am forced to conclude that Mr. Manion does not meet the basic standards which I believe are critical for our Federal judiciary. And I cannot approve a nominee who cannot fulfill even the most minimal requirements that the American people have a right to expect from such an important Federal officeholder. I will not vote to confirm this nominee.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I yield myself 2 minutes.

Mr. President, I had an opportunity last night to speak at some length to this nomination and we had, I think, a very engaging debate with the distinguished Senator from Utah who very valiantly and I think very well defended this nomination.

I would just like to make two statements at this point.

□ 1120

No. 1, let us keep in mind, as this short debate goes on this morning—and I emphasize "short" because we do not have much time—that the burden of putting this man on the court does not rest with those who believe he should not be on the court, but, under the Constitution, the burden is upon those who support this nomination to domonstrate that he possesses the excellence to sit on this court.

The second point I would like to make is really what is at stake here, in my view, is the role of the U.S. Senate and our attitude toward, quite frankly, the circuit court of appeals, with what regard we hold that court.

As a distinguished colleague recently reminded members of the Judiciary Committee, our duty to the Justice system is far greater than our duty to any single individual. I believe our duty dictates that Mr. Manion not be placed on the Seventh Circuit Court of Appeals.

I will further make that argument today, but I see my colleague from the State of Maryland is here and wishes to speak and I yield him 3 minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I rise first to state my very strong view that the motion to invoke cloture on debate on the Manion nomination should be defeated.

This nomination was called to the floor of the Senate on Tuesday. A cloture motion was filed immediately to cut off debate. It is not as though the matter has been debated at any length at the time the cloture petition was filed. Immediately upon the nomination being brought up a cloture motion was put into place.

Most of yesterday was spent on another piece of legislation, so that the opportunity to debate this matter was greatly limited. It was only yesterday evening, late, when my colleagues, the ranking minority member and the other members of the Judiciary Committee were able to speak to the nomination. Prior to that, only Senator EAGLETON, who made a very forceful and persuasive statement, was able to express a view on this matter. So, with respect to the motion that is coming up very shortly on the cloture, I think it should be defeated so that we are assured of adequate time to examine this nomination.

Now, on the nomination itself, I will oppose it. I believe the wrong question is being put to the Senate, and that is why Mr. Manion should not be confirmed. The question we should be considering is why should he be confirmed? We are talking about placing someone on the second highest court in the Nation, the second highest judicial level, for a lifetime appointment.

We do not have the argument here with respect to the President's nominees that is made in executive branch appointments, and that is that the President ought to be able to have with him to help run the executive branch the people he wants and the Senate should take that into account in passing on the nominee. This judicial nomination is to the third independent branch of Government. The President has made a nomination. It is up to us to evaluate the nominee's record and qualifications. The nominee, if approved, will serve for life. If you make a mistake, it is a lifetime mistake.

Now, it is very clear, with the controversy surrounding this nominee, that he falls short of the qualifications and the abilities that one would expect for a nominee to go on a Federal circuit court of appeals. The ABA committee found him barely qualified; a minority found him not qualified. The Judiciary Committee itself did not report this nominee favorably to the Senate.

Some have asserted, "Well, a political game is being played with the President." The answer to that is very simple, 264 nominees of President Reagan's circuit court of appeals have been confirmed by the Senate and only 4 of them have even gone to a record vote on the floor of the Senate.

An adverse judgment has already been passed on Mr. Manion. It was passed by the Judiciary Committee itself which refused to give him a favorable recommendation. They brought the nomination here to the floor without any recommendation after a failure in the committee to obtain a favorable recommendation for this nominee.

I submit that he falls far short of the standard which should prevail for Federal judicial appointments. The case has not been made as to why he should be a Federal judge, and the burden should be on those who are asserting that he ought to go on the bench for life. The burden ought not to be on those of us who oppose the nomination to prove that he is not qualified.

You are not entitled to be a Federal judge. It is something to be earned. The nominee, to go to the Federal bench, ought to bring a record of experience and quality that merits his selection for a lifetime appointment in a very important and responsible position. That case clearly has not been made for Mr. Manion. This nomination ought to be defeated and the opportunity to debate the nomination ought to continue so Members have the opportunity to express their views on this important matter.

Mr. BIDEN. Mr President, unless the proponents would like to speak, I yield 10 minutes to the distinguished Senator from the State of Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I know nothing about the gentleman that has been nominated except what I have

learned here in connection with the case. And, on a personal basis, I certainly wish him well and I will not try to spear him in any way. But this does arouse in my mind a very serious question about the temperamental qualities that he seems to have that I believe probably will interfere seriously with carrying the immense load that goes with service on this particular court.

After all is said and done, our Supreme Court of the United States, as great a job as they do, actually passes on a very, very few cases. Percentagewise, it is just minimal in the course of a year just a very few people are directly affected by their cases being decided by the Supreme Court.

This court of appeals, as a whole, I think they do a marvelous job. They apply the legal principles in the law as passed by the Congress and as announced and followed generally by the people, by the Supreme Court of the United States. It is a tremendous undertaking and deserves and should have an abundance of our very best talent with endurance and will power to serve.

I do not like to be referring to myself in any way, but there is something a man learns in serving as a judge himself. I served several years as a trial judge in a court of unlimited jurisdiction, both civil and criminal. And in the course of that time, we had many cases, not involving great sums of money, but many cases.

Here is a man whose homestead is up, involves a lien on it or a mortgage on it.

Here is the wife and the children, everything they have and been able to save is dependent upon this jury verdict or the judge's ruling as to what is the law in a case. If they lose the case, they cannot raise the money to appeal it to the Supreme Court, pay the court costs and fees and so forth.

Here is a man here on trial for murder. The penalty can be the death penalty.

Here is every phase of criminal violations, most every phase. You sit amidst that atmosphere day after day, month after month, year after year. As I say, you learn. You learn something by the feel of things. A better understanding is evolved of the witnesses' testimony.

□ 1130

I came away from there with the feeling and the belief that I had learned a great deal about life, at least something about law. I found this case here. I did not seek it out. I heard it talked about. Someone gave me a copy of the report on it. I commend the Judiciary Committee, hard working as it is under the Senator from South Carolina, who has done an outstanding job in spite of all the other things he has to do, and a group of highly able men on that committee with varied experiences, well-trained, well-educated, and with knowledge of human nature. I tell you, it is an asset to the Nation. It has been an asset to me as I have tried to get at the bottom of this case, and have a firm feeling as to what should be my duty.

I read the report. There is a quote from Senator MATHIAS, of Maryland, a member of this committee. He has been chairman of the Rules Committee for many years. He and I have never been real close. But I have watched him, I have observed him, and I feel that he is honest, straight, and knows human nature. So I ask unanimous consent to make part of his remarks from the committee report a part of the RECORD.

There being no objection, the quote of Senator MATHIAS was ordered to be printed in the RECORD, as follows?

. . . We must conclude that he acted, not through ignorance of the supreme law of the land, but from indifference to its demands. Subjugating one's personal views to the duties of the bench is one of the most difficult responsibilities of a judge, and this incident made me doubt that Mr. Manion could fulfill it.

Mr. Manion's testimony before the Committee did little to dispel these doubts. Mr Manion acknowledged that if confirmed he would not have the power to overrule a Supreme Court decision. However, he was eager to note that he could criticize a decision, point out any obsolescence, problem or defect, or deviate from the decision if the facts in the two cases were different. While his answer is not incorrect, the tone is disconcerting. The real concern is whether, as a Circuit Judge, he would be sufficiently deferential to the Supreme Court. This concern was exacerbated by his statement that a Supreme Court decision was not "law of the land" but was actually *stare decisis*, which Mr. Manion perceived as "law of the case". This position seemed too close to the universally discredited doctrine that Supreme Court decisions apply only to the case at hand, and do not stand as the supreme law of the land.

Mr. STENNIS. I did not prepare, and do not have prepared a long statement. But this case deserves our utmost in understanding, in the willingness to stand up and be counted, as I see it, make a ruling in our minds, and then stand on it.

I lean with, and if you examine my record, you know I always lean with the President of the United States, whomever he is, because I believe that our system of government demands that the Chief Executive have a support here on this floor, and in the House of Representatives whenever feasible and possible, and we think he is correct. There is room in that belief for political parties. And I believe in the need for those views, and that is what they are, to help make our system work.

But I do not think the argument can be made with emphasis to everyone that to be loyal to the President or the Chief Executive we have to vote to confirm this or any other nomination in this field. The President has not recommended someone here to strengthen his administration to serve in his term to which he was elected. He is not recommending someone to help formulate foreign policy which is a special mission of his of course. He is recommending someone here to serve not 4 years but to serve for life beyond any of us, beyond the President or anyone else. It is a special created office within the Constitution of the United States. He merely functions here as someone to nominate. Then we have the special duty to pass on that nomination, as I say not for a 2-year or 4-year term but for a period of time that goes on and on beyond our time. And he can only be removed, the appointee that is finally chosen, appointed and confirmed, for cause as we say which means for violation of law and related matters where he cannot be removed by the President then but by the House of Representatives preferring charges, indictment we say. That is not all. Then there has to be a trial, a conviction, and a verdict of guilty by this body before this or any other nominee through this channel of our Constitution can be discharged or put out of office; either that or voluntary retirement. We have a statutory method for voluntary retirement.

We are having to row the boat ourselves. We are having to cut the way, cut the pathway. We are having to preserve the basic principles of our constitutional system. By the way, it will be 200 years old in just a few more days, so to speak. This program has been carried on successively for these near 200 years, through these appointments as we refer to them.

The PRESIDING OFFICER. The Chair wishes to advise the Senator that his 10 minutes have elapsed.

Mr. STENNIS. May I have 1 minute?

Mr. BIDEN. I yield another minute.

Mr. STENNIS. Through this court that we are passing on also, really great things have been done for a great number of people under which all of us are controlled, that and the Supreme Court—for 235 million people that our great Nation has grown to be. We must watch our step, know what we are doing, and be very careful to preserve the very essence and principles of these matters that I respectfully call to your attention.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I yield 1 minute to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I thank the distinguished floor manager.

Mr. President, the debate on the nomination of Mr. Daniel Manion to

the seventh district court has been immensely troubling to the Senator from Colorado. It has been marred by excesses by both proponents and opponents of the nomination; excesses which have obscured the central and decisive issue in the judicial nominations process.

I do not believe this debate is about ideology or politics. I do not believe this debate should be about Mr. Manion's father, or his relationship to the John Birch Society—an organization whose views I abhor. This debate is not about Mr. Manion's typographic skills, or his personal religious beliefs. And it certainly is not about the President getting his way.

The administration has falsely cast the issues raised by this nomination as grounded in politics or ideology. Its insistence that we approve its nominees automatically, without real consideration, denigrates not only the Senate but the Constitution. The Founders at one time contemplated a Constitution providing no Executive role for judicial appointments. The compromise we honor in debate today—advice and consent—demands an active role for the Senate in approving lifetime appointments for the judiciary. As we are reminded by Profs. Philip B. Kurland and Laurence H. Tribe, two distinguished constitutional commentators, this process must be serious; our role must be stringent and cautious.

In a memorandum they prepared for the Senate Judiciary Committee, these scholars said the following:

> Impeachment by the House and trial by the Senate is the only constitutionally authorized method of removing unfit judges, and the great difficulty of such a process makes it usable only in situations of outrageous misconduct. The only practical opportunity to consider the merits of a judicial candidate, therefore, is before that appointment is made. It thus becomes not only appropriate, but obligatory, that the Senate pass on judicial nominees with greater scrutiny than it reviews the President's choices for his own subordinates.

The American people and litigants before the seventh circuit deserve qualified and competent jurists on that court. The judges approved by the Senate for the Seventh Circuit Court of Appeals have impressive backgrounds. In the report of the Committee on the Judiciary on Mr. Manion's nomination, the credentials of his prospective colleagues are listed. They are impressive.

Prior to their appointment, these distinguished individuals pursued careers as academics, as legal scholars, as judges on inferior courts. They won Senate confirmation—not because they were "liberal" or because they attended "elite" eastern law schools. Some were clearly conservative. They all received fine educations from a variety of schools. One attended Mr. Manion's alma mater. In fact, they won confirmation in recognition of their competence, judicial temperment and respect for the Constitution of the United States.

But the Judiciary Committee could not approve Mr. Manion on these terms. His nomination could not command a majority of the committee's members. After failing to approve his nomination, the committee voted to send his nomination to the Senate without recommendation. To a large extent, their report demonstrates the wisdom of this judgment.

Some of the objections, while relevant, strike the Senator from Colorado as gratuitous, and I would be remiss if I did not mention them. Six pages analyze his writing and highlight spelling errors, pedestrian language, typos or slips of the pen. These would trouble me more if we were considering Mr. Manion for the position of Poet Laureate or editor of the CONGRESSIONAL RECORD. With all respect to my colleagues on the committee, I found it petty as best to dwell at length on editorial mistakes he must certainly regret and would surely take back, if he could. Equally important, this line of argument detracts from the central question—his legal competence.

According to materials Mr. Manion submitted to the committee, the most significant cases he argued in court involved automobile repairs, land condemnations, and traffic accidents. He has no significant expertise in cases which typically appear on the docket of the Federal courts. He has never argued a case in which a Federal constitutional issue was involved. If nominated, his judicial experience would constitute on the job training.

He has never argued a case before the seventh circuit court or any other Federal appeals court. Unlike many of his prospective colleagues on the seventh circuit court, he has published no legal or scholarly articles during his career which could enlighten the Senate as to his qualifications or his views.

The committee consequently had to rely on transcripts from radio and television broadcasts of the "Manion Forum" to learn more about Mr. Manion's legal views. I am in many respects uncomfortable with our reliance on this record—the same standards to which we hold jurists do not apply to broadcast hosts or their guests. But they are nonetheless evidence of his constitutional philosophy. In several instances, the nominee advocates "court-stripping," and questions the legitimacy of Supreme Court rulings and the 60-year old doctrine of selective incorporation. In the context of the committee's larger findings, these statements are disturbing indeed.

Mr. Manion, in testimony before the Judiciary Committee, evinced reluctance to accept Supreme Court decisions as "the supreme law of the land." He preferred instead the long-discredited theory of stare decisis; a theory that frees State and Federal officials from following the Supreme Court's interpretation of the Constitution.

As A State senator, he coauthored legislation authorizing the posting of the Ten Commandments in the schools, knowing the bill was unconstitutional. Mr. Manion suggested in testimony before the committee that, had the bill been enacted, it would have been law until it was struck down by the courts—as if the State legislatures were empowered to nullify Federal constitutional law.

Mr. President, these are the issues motivating my decision on Mr. Manion's nominations. His experience as an attorney has neither qualified nor prepared him to take his seat on the seventh circuit court. He holds legal views—as distinct from those which are ideological or philosophical in nature—which are outside the mainstream of American legal thought. And there is no substantial record which could lead the Senate to believe his tenure on the court would be marked by scholarship or excellence.

At issue is not Mr. Daniel Manion's character, but his competence. At issue is not Mr. Manion's ideology, for this Senate and this Senator have supported the appointments of numerous jurists who share his views. But what is the duty of the Senate if ideology is the only outstanding qualification of a nominee for the bench? Our duty, if we take our responsiblities seriously, is to reject the nominee.

Mr. President, I yield back the floor.

I thank the Senator from Delaware.

The PRESIDING OFFICER. All time of the minority has lapsed.

Mr. THURMOND. Mr. President, I yield 1 minute to the distinguished Senator from Idaho, Senator SYMMS.

Mr. SYMMS. I thank the distinguished chairman of the Judiciary Committee. I support the nomination of Dan Manion for the seventh Circuit Court of Appeals.

Mr. President, I really do not have time to give my entire statement at this time. I will reserve the balance of my time only to say in my 1 minute that I think some of the opposition to Mr. Manion I find quite intriguing. I have done some research on that. I want to discuss that.

I also think that I have a very high opinion of the two distinguished Senators from the State of Indiana which should be of some note where there has been a close friendship on the part of one of our Senators from Indiana, Senator QUAYLE, with Dan Manion, who has known him for years.

□ 1140

He knows him to be a man of high integrity, high competence, and certainly qualified to be on the court.

I have had the opportunity to know Dan Manion myself since 1974, and I second the opinion of Senator QUAYLE on that. I think he is highly qualified. I think that unfortunately this nomination has become most political, no matter what has been said heretofore. It is a political issue that we are discussing. I will discuss that at greater length after the vote on cloture.

I thank the distinguished chairman from South Carolina.

Mr. THURMOND. Mr. President, I yield 3 minutes to the distinguished Senator from Indiana [Mr. QUAYLE].

Mr. QUAYLE. Mr. President, very briefly, I just want to put in perspective where we are today.

This is a vote to invoke cloture to stop a filibuster against the nomination of Daniel Manion. This is not an up-or-down vote.

I want to go on record and concur with my colleague from Connecticut, Senator WEICKER, in pointing out to this Senate what they are doing as far as nominations that come through here are concerned.

Senator WEICKER and I have a different viewpoint on whether Dan Manion ought to be confirmed as judge of the Seventh Circuit Court of Appeals. he has announced today that he is going to vote against that nomination when it comes to an up-or-down vote.

However, we are both in solid agreement that we should not convolute the constitutional process of advice and consent which requires a majority vote.

I am a little bit disheartened to see that this is probably going to be a very partisan vote, along party lines, which shows that this is a political exercise. Though cloture may not be invoked today, though I hope it is, we will bring it back again and again, because I do not think the Senate wants to do what it is about to do; that is, to change the constitutional requirements of advice and consent of a judge nomination.

This process has become highly politicized. Make no doubt about that. I am not going to say it just started today. But at some time, Republicans and Democrats, the leadership on this side and on that side, will have to get together and cut out a little bit of this nonsense that I think is going on on politicizing the process around here. We have a Constitution. We know what the requirements are. Now we are going to be forced to vote not on the qualifications or competence of Daniel Manion but on a motion to invoke cloture.

We have not had that debate because the Democrats on that side of the aisle will not let us have that debate.

Now we are in a filibuster situation and I think that that is most unfortunate.

Mr. BIDEN. Will the Senator yield for a question?

Mr. QUAYLE. I do not have any time.

I think it is most unfortunate that we are in that situation. I hope over due time that we can get an agreement to get that debate and to have an up or down vote on Dan Manion.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. QUAYLE. I ask the chairman if I may have 3 additional minutes.

Mr. THURMOND. I extend 3 additional minutes.

Mr. QUAYLE. I thank the chairman.

I think it is about time that we have to do exactly what the Senator has said, that we have to observe that Constitution. I hope the leadership on both sides, after this vote, whichever way it goes, can come to some sort of an understanding for the good of this institution. Let us have a debate on Dan Manion. I look forward to that debate on Dan Manion. I can see that the vote will be very close, a very close call, basically along party lines.

I can only say in summary of Dan Manion that the people of Indiana know Dan Manion. They think quite highly of him. He has almost unanimous support of the people of Indiana. He has the strong endorsement of legal scholars in Indiana who know him. He has the strong endorsement of the presidents of universities who know him. He has strong support of those lawyers who have worked with him, both Republicans and Democrats, almost universal support of the people who know him.

The opposition to him comes from people who do not know him. The opposition comes from outside our State, those who have never met Dan Manion, who do not know his qualifications, who do not know his character, who do not know what kind of a jurist, what kind of a judge, he would be. They do not know.

What they have made is a political debate. There has been a lot of money spent and a lot of time spent. The bottom line is that those who know him almost universally support him and support him with a great deal of enthusiasm.

I hope in due time once we get beyond the theatrics, perhaps once we go flat, as they say, get this off TV, we will settle down and have an up or down vote on the Manion nomination, which the Constitution requires.

I think we are doing a real injustice to that process.

Things change around here from time to time. The shoe can be on the other foot. But I do not think what we are doing today in forcing a vote on cloture is the right way to go about voting on a nomination.

When we get an agreed time, allot as much time as the minority wants to debate the issue, and then get a time certain and vote on the nomination. That is the way the Senate ought to conduct its business.

Mr. McCONNELL. Mr. President, I rise today in support of the nomination of Daniel A. Manion to be U.S. circuit judge for the seventh judicial circuit. As a member of the Judiciary Committee and as a signator of the majority report accompanying Mr. Manion's nomination, I urge my colleagues to join me in granting the President of the United States his constitutional perogative to select judges of the Federal courts. I came to my decision on the merits of Daniel Manion's nomination after careful consideration of the factors I consider to be embodied in the proper role of the Senate in advising and consenting to Presidential nominations to the Federal bench.

In 1970, when I served as chief legislative assistant to the then junior Senator from Kentucky, Marlow W. Cook, I had the opportunity to express my views on the judicial selection process in a Kentucky Law Journal article. The occasion for my reflection then was the nominations of Judges Haynsworth and Carswell to the Supreme Court and subsequent Senate action on these nominations. The views I expressed some 16 years ago continue to guide my thoughts on the judicial selection process today.

At the time, I set forth five criteria by which, I believe, the qualifications of a Supreme Court nominee might be judged. Although my colleagues would surely agree that a lesser standard of review would apply to a nominee to a lesser Federal court than our highest court, I believe my criteria would still be instructive in regard to Mr. Manion's nomination.

First and foremost, a nominee must be judged competent. Like all nominees to the Federal bench. Mr. Manion was evaluated by the American Bar Association's Standing Committee on the Federal Judiciary. The 14 members of that committee are charged with evaluating on a professional and objective basis the qualifications of a nominee. A substantial majority of the ABA committee found Mr. Manion to be fully qualified for appointment to the Federal bench. That committee, by the way, is the only nongovernmental group that has direct input into the evaluation of a potential Federal judge.

Certain Members of this body, as well as a number of Washington based lobby groups, have attempted to question Mr. Manion's nomination on the basis of other groups' comments. The Chicago Council of Lawyers, a group

comprised almost entirely of big city lawyers in Chicago, perhaps the principle opponent of Mr. Manion, found him unqualified. Yet even that group, perhaps belying its bias found that "Mr. Manion has a high reputation for integrity, conscientiousness, and fairness." Based on its investigations, it found that "Mr. Manion has excellent interpersonal skills, and that lawyers who work both with him and against him like and respect him."

Mr. Manion's peers have supported his nomination. I would direct my colleagues' attention to endorsements of Mr. Manion by the Honorable Richard M. Given, chief justice of Indiana, and Eugene I. Goldman, of the law firm of Steptoe and Johnson. I would particularly like to read from a letter received from David T. Ready, the former U.S. attorney for the northern district of Indiana, appointed by President Carter. Mr. Ready wrote that:

[d]uring the years 1977 through 1981 I had the opportunity to serve as United States Attorney for the Northern District of Indiana, having been appointed to that position by President Carter. This gives me an opportunity to observe our Federal Judiciary at both trial and appellate levels. As such, I would hope that it also gave me some insight into what Judicial qualities best serve our legal system, especially at the Federal Appellate level. I firmly believe Mr. Manion possesses those qualities, temperament, legal intellect, experience, fair mindedness, judicial integrity, and a plain, old-fashioned willingness to work long and hard. I have no doubt that Mr. Manion's appointment will reflect credut upon the Federal Judiciary.

Such eloquent testimony speaks for itself.

The second criterion I proposed to apply to Supreme Court nominees was based upon achievement. Sixteen years ago, in referring to the nomination of Judge Carswell to the Supreme Court, I noted that "[a]fter all, it is the Supreme Court the Senate is considering not the police court in Hoboken, NJ, or even the U.S. district or circuit courts." Some may point to the lack of publications or other traditional indices of achievement as proving Mr. Manion unqualified for the position, but I would repeat that this is not a Supreme Court nominee we are considering. Mr. Manion has achieved a high level of respect among his peers which would indicate a successful career in and of itself. In fact, the Chicago Council of Lawyers found that:

"the majority of lawyers to whom [they] talked regarding Mr. Manion's legal experience felt that he was a competent lawyer. A few lawyers told [them] that Mr. Manion was an outstanding lawyer. All vouched for his forthrightness and adherence to high ethical standards.

Third, judicial temperament is vitally important. The Chicago Council of Lawyers said of Dan Manion:

Mr. Manion has a high reputation for integrity, conscientiousness, and fairness." They continued by adding that [m]any of the lawyers to whom we talked also thought that despite his reputation for political conservatism, Mr. Manion would struggle to be fair in ruling on cases which present issues on which he has strong political views.

As the report on Dan Manion's nomination noted—

[e]ven his most strident critics have to admit that he is a fair and just individual.

The final two criteria I would apply to prospective nominees require that the nominee must have violated no existing standard of ethical conduct rendering him unfit for confirmation, and must have a clean record in his life off the bench. Let me simply note that despite the exhaustive efforts of groups opposed to this nomination, not a hint of any impropriety or wrong-doing in his background emerged. Indeed, one of my colleagues on the Judiciary Committee admitted that "I think you are a decent and honorable man, but I do not think I can vote for you because of your political views."

Mr. President, I am convinced that opposition to the nomination of Daniel Manion to the seventh circuit is based upon ideology alone. Although the history of nominations in the Senate indicates that politics periodically becomes the paramount concern in approving or rejecting a nomination, I would urge my colleagues to disregard the rhetoric that has been stirred up by this nomination.

While I fully respect the opinions of my colleagues who disagree with the choice of Mr. Manion, and who would have made a different choice, I believe that a heavy burden must be met by those who would have a nominee rejected. Under the Constitution, our duty is to provide advice and consent to judicial nominations. In my judgment, the kind of evidence presented to the Judiciary Committee in this case provides no basis for denying the President of the United States his constitutional perogative to select Dan Manion to be a Federal judge. More than that, after testing Dan Manion against the standards I judged relevant years ago under different circumstances of different judicial candidates, I found him to meet this set of criteria. Mr. President, I would urge my colleagues to vote to confirm Daniel A. Manion's nomination.

Mr. SIMON. Mr. President, I ask unanimous consent that the following selection of letters on the qualifications of Daniel Manion for the Seventh Circuit Court of Appeals be placed into the RECORD. I also want to thank publicly the lawyers and legal scholars who have come forward to share their views and opinions of Mr. Manion's nomination. Colleagues who are willing to state their concerns about a nominee are to be especially commended; it is rare that doctors talk about other doctors; so it is with lawyers too. A public thank-you goes to people for the American way and the many organizations that have helped compile the enormous quantity of information that the Senate has had available throughout this very thorough review of Mr. Manion's qualifications for the bench.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF CHICAGO,
THE LAW SCHOOL,
Chicago, IL, May 28, 1986.

Hon. ROBERT BYRD,
Minority Leader.
Hon. ROBERT DOLE,
Majority Leader, U.S. Senate,
Washington, DC 20510

DEAR SENATORS BYRD AND DOLE: The Senate will soon consider the nomination of Daniel A. Manion to serve as a judge of the United States Court of Appeals for the Seventh Circuit. As law professors at the University of Chicago Law School and residents of the Seventh Circuit, we urge that the Senate decline to consent to this nomination on the ground that Mr. Manion is not qualified to serve on that court.

The Senate has few graver responsibilities than its constitutional obligation to advise and consent with respect to judicial nominees. Federal judges are members of an independent branch of government with great power over our society. Once appointed, these judges are responsible neither to the electorate, nor to either of the other two branches of government. The confirmation of a judicial nominee therefore has consequences far beyond those attendant to most other legislative acts. This is particularly true for a nominee to the Court of Appeals, for he or she may definitively influence the course of the law for millions of our people for many years to come.

A nominee's qualifications in scholarship, legal acumen, professional achievement, wisdom, integrity, fidelity to the law and commitment to our Constitution must therefore be correspondingly high.

Unfortunately, Mr. Manion does not meet these criteria. He has virtually no experience with major federal or other litigation, and has not published any scholarly or other writings. A minority of the American Bar Association Screening Panel found him unqualified, and the Chicago Council of Lawyers, after close scrutiny of his record, concluded that his professional qualifications were inadequate, noting that "Mr. Manion lacks experience in dealing with questions of federal law and federal constitutional issues. He also lacks experience with the kinds of complex federal litigation which he would have to review as a judge of the Seventh Circuit Court of Appeals. Moreover, the quality and extent of Mr. Manion's legal experience even in state court does not demonstrate the high level of legal expertise which the Council feels should be possessed by judges of the Seventh Circuit. Finally, Mr. Manion has not demonstrated any scholarly interest in state and federal law or constitutional issues."

We are also disturbed by the nominee's apparent lack of understanding of the role of the judiciary in protecting individual rights. This was manifested in his action as an Indiana state legislator in co-sponsoring a bill that authorized posting the Ten Commandments in school rooms shortly after the Supreme Court had invalidated a similar Kentucky statute in *Stone* v. *Graham*, 449 U.S. 39 (1980). Mr. Manion, in a recent hearing, conceded that the bills were virtu-

ally identical and explained his action as a kind of "legislative protest" against the Supreme Court. In the same hearing, he also seemed reluctant to accept the Supreme Court decisions such as *Brown* v. *Board of Education* as "the law of the land," saying he preferred to view them as stare decisis which must be followed by lower federal courts.

In light of the above, we urge the Senate to deny consent to the nomination of Daniel A. Manion to the United States Court of Appeals for the Seventh Circuit.

Yours very truly,

ALBERT ALSCHULER.
MARY BECKER.
JAMES HOLZHAUER.
NORVAL MORRIS.
GEOFFREY STONE.
DAVID STRAUSS.
CASS SUNSTEIN.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

Washington, DC, June 18, 1986.

DEAR SENATOR: On behalf of the AFL-CIO, I urge you to vote against confirmation of Daniel Manion for a seat on the U.S. Court of Appeals for the Seventh Circuit.

The Manion nomination presents an unusual situation. Rarely has the Judiciary Committee voted against approval of a judicial nomination. Indeed, though more than 260 nominees have been sent to the Committee by this Administration, this was the first that the Committee refused to approve. We believe that the record which caused members of the Committee from both parties to find Mr. Manion unqualified for the federal appellate bench requires the same conclusion by the full Senate.

Most significant in this regard is that Mr. Manion's experience—or more precisely his lack of experience—is simply inadequate to the high responsibility of a seat on a United States Court of Appeals. Mr. Manion has never participated in a federal appellate proceeding. Nor has he ever served as lead counsel in any case before the federal district courts whose decisions he would be called upon to review. He has not even participated in a federal case involving federal constitutional or public law issues. This lack of experience alone should disqualify a person for an appellate-court judgeship.

But a lack of critically-important experience is not the only respect in which Mr. Manion falls short of the qualifications that should be required of a federal appellate-court judge. The written word is the tool with which an appellate judge does his job. One who handles the language with as little skill and clarity as did Mr. Manion in the briefs he has supplied the Senate cannot be said to meet the minimum level of professional competence required for the job.

While we believe that the Manion nomination should be rejected for the reasons already set forth, there is another insuperable barrier to his confirmation. That barrier is Mr. Manion's demonstrated lack of understanding of the American system of constitutional law. His long record of extreme positions on the meaning of the Constitution, the scope of the Bill of Rights, the applicability of the Federal Constitution to the States, and the role of the Supreme Court, call into serious question whether, as a judge, he would be able to set aside his personal views and adhere to settled constitutional principles with which he disagrees. That question must be answered in the negative if one looks at Mr. Manion's action, as a State Senator, in cosponsoring a bill in the Indiana Senate just weeks after the United States Supreme Court had found unconstitutional a Kentucky law that Manion concededly believed to be virtually identical to the one he propounded.

Cases before the federal courts of appeals are typically complex, often involving either weightly constitutional questions or intricate questions of statutory construction. The appellate courts' decisions are most often final because the Supreme Court can review but a small fraction of such decisions. And, short of impeachment, no correction is possible where a nominee, after Senate confirmation, turns out to be inadequate to the task. The appointment is for life.

We in the labor movement are acutely conscious of the significance of the courts of appeals and the demands upon the judges who serve on these courts. Like all other groups in society, the cases in which we are involved are most finally decided by those courts. Because we do not expect that Presidential nominees will necessarily sympathize with us or share our social and economic views, we have not opposed judical nominees on those philosophical or ideological grounds. We do not do so here.

However, we submit that if the advise-and-consent fraction is to have any meaning with respect to judicial nominations, the nomination of Mr. Manion must be rejected because he fails to meet minimum standards of experience, competence, and demonstrated understanding of and commitment to fundamental principles of constitutional law.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

JUNE 18, 1986.

Senator PAUL SIMON,
SD-462
(Attention: Laurie Westley)

DEAR SENATOR: We urge you to oppose the nomination of Daniel Manion for a seat on the Seventh Circuit Court of Appeals. We base our opposition on his failure to demonstrate that he possesses the level of experience and professional competence to merit confirmation to this important court and on our belief that his views on the Constitution and the Bill of Rights would make it impossible for him to dispense justice independently and impartially.

Mr. Manion has practiced law in South Bend, Indiana for 13 years. During that time, he has never acted as lead counsel in a federal court trial, has never handled a case in which a federal constitutional issue was involved, and has never argued a case in the Seventh Circuit. Nor has he distinguished himself in the area of scholarship—his questionnaire does not list a single published article or speech. Based on this record, a majority of the American Bar Association Standing Committee on the Federal Judiciary gave Mr. Manion its lowest qualified rating, and a minority of the panel found that he was not qualified for the appellate court seat. The Chicago Council of Lawyers found Mr. Manion not qualified to be a judge on the Seventh Circuit.

In addition to the lack of experience and professional skill, Mr. Manion's views on such issues as application of the Bill of Rights to the states through the Fourteenth Amendment and free expression of dissenting views are well beyond the mainstream of American legal thought. We are concerned that Mr. Manion is so wedded to his views that he would not be able to set them aside when necessary to comply with Supreme Court decisions.

When put to the test of following his own ideology or complying with the Supreme Court, Mr. Manion failed. As a member of the Indiana Senate, Mr. Manion coauthored a bill that would have allowed the posting of the Ten Commandments in public school classrooms, two months after the Supreme Court rules a similar Kentucky law to be unconstitutional. He admitted that he knew the bill was unconstitutional, but said he acted to indicate his disagreement with the Court. This action, which violated his oath of office, shows that when a conflict occurred, Mr. Manion was controlled by his views rather than by the law of the land.

Mr. Manion is the most extreme example so far of the low qualifications of many of President Reagan's nominees to the Courts of Appeals. Of 28 Reagan nominees to the Courts of Appeals since January 1985, 11 have received mixed qualified/not qualified ratings by the ABA. For purposes of comparison, of President Carter's 56 appointees to the Courts of Appeals, only three were given this low rating.

The Manion nomination is the first to come to the Senate after a motion to favorably report the nomination failed to pass the Judiciary Committee. By defeating this nomination, the Senate could send an important signal to the Reagan Administration that it supports a selection process based on merit rather than on ideological purity.

We strongly urge that you vote to defeat this nomination.

Sincerely,

Nan Aron, Alliance for Justice; Oral O. Miller, National Represenative, American Council for the Blind; Kenneth T. Blaylock, American Federation of Government Employees; William Welch, American Federation of State, County, and Municipal Employees, AFL-CIO; Theodore R. Mann, American Jewish Congress; Ann Lewis, Americans for Democratic Action; Dr. Robert C. Maddox, Americans United for Separation of Church and State; William L. Taylor, Center for National Policy Review; Children's Defense Fund.

Commission on Social Action of Reform Judaism; Communications Workers of America AFL-CIO; Estelle Rogers, Federation of Women Lawyers; International Union of Electronic, Electrical, Technical, Salaried & Machine Workers, AFL-CIO; International Ladies' Garment Workers' Union, AFL-CIO; Mike Lewis, Washington Representative, International Longshoremen's Workers Union; Grace Uyehara, Japanese-American Citizens' League; Japanese-American Citizens' League Legislative Education Committee; Helene Karpa, President, Jewish Community Council of Greater Washington.

Betty K. Shapiro, Chair, Jewish Women's Caucus; Nancy Broff, Judicial Selection Project; Ralph Neas, Leadership Conference on Civil Rights; Rev. Dr. Charles Bergstrom, Executive Director, Office of Governmental Affairs, Lutheran Council; Len Rubenstein, Mental Health Law Project; G. Mario Moreno, Mexican-American Legal Defense and Education Fund; Gloria J. Barajas, Mexican-American National Women's Associa-

tion; Bob Bingaman, National Abortion Rights Action League; National Association of Letter Carriers, AFL-CIO; Yvonne Price, National Association of Negro Professional Women's Business Clubs; Senator Clarence M. Mitchell, President, National Black Caucus of State Legislators.

National Council of Senior Citizens; Kenneth F. Melley, National Education Association; Ruth Kobell, National Farmer's Union; National Gay & Lesbian Task Force; Clint Lyons, National Legal Aid & Defender Association; Ellie Smeal, National Organization for Women; Irene Natividad, National Women's Political Caucus; Helen Parolla, National YMCA; People for the American Way; Planned Parenthood Federation of America; Rainbow Alliance Lobby; Service Employees International Union, AFL-CIO; Edward J. Carlough, Sheet Metal Workers International Association.

Durwood Zaelke, Sierra Club Legal Defense Fund; William C. Velasquez, Southwest Voters Registration & Education Project; United Brotherhood of Carpenters & Joiners of America, AFL-CIO; Arnold Mayer, United Food & Commercial Workers, AFL-CIO; Michael Holland, United Mine Workers of America; Milan Stone, United Rubber Workers International Union, AFL-CIO; John J. Sheehan, United Steelworkers of America, AFL-CIO; Claudia Withers, Women's Legal Defense Fund; Kristina Kiehl, Voters for Choice.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE,
Washington, DC, June 24, 1986.

DEAR SENATOR: The confirmation vote of Mr. Daniel Manion as judge on the Seventh Circuit Court of Appeals is scheduled for Thursday, June 26.

The NAACP urges you to vote against this nomination.

We oppose Mr. Manion's confirmation because, in our opinion, he does not have the requisite open mind, impartiality and sensitivity to public issues or the judicial temperament required of appellate judges.

The NAACP questions his view that "The Civil Rights Act of 1964 is unconstitutional." The constitutionality of this act has long been settled; yet, Mr. Manion believes the act is unlawful.

We are also concerned that in his view "the Supreme Court (unconstitutionally) acted with authority superior to that of the Congress, the President and the Constitution itself" in the landmark Supreme Court decision of *Brown* v. *Board of Education.* The Supreme Court interprets the Constitution and once a decision is rendered it is the law of the land. Mr. Manion has not fully accepted this.

I am attaching a summary of the NAACP's rationale for its request for a vote against confirmation of Mr. Manion.

ALTHEA T. L. SIMMONS,
Director.

OPPOSITION TO THE NOMINATION OF DANIEL MANION AS JUDGE FOR THE SEVENTH CIRCUIT COURT OF APPEALS

Mr. Manion Has Been Rated "Not Qualified" to Serve As An Appellate Judge:

A minority of the American Bar Association Committee on the Judiciary reported Mr. Manion "not qualified"; a majority of that Committee gave him the lowest possible rating.

The Chicago Council of Lawyers with a membership of 1,000 found him "not qualified" in that he lacks technical skills as a writer as well as sufficient legal analysis to clearly convey the legal principles applied to the facts of a case. (Chicago is the largest city served by the Seventh Circuit Court of Appeals.)

Mr. Manion's court experience has been limited to litigating cases of small claims collections; appearances as co-counsel to give legal opinions on issues of state law; and other local action types of cases.

Mr. Manion does not have court experience in cases of constitutional law issues or of public interest which would come before the Seventh Circuit Court of Appeals.

Mr. Manion has unacceptable legal opinions on the U.S. Constitution:

He co-sponsored a bill in the Indiana State legislature which he admittedly knew was unconstitutional. The Supreme Court had just ruled within months on similar statutory language in a Kentucky statute, and held that the Ten Commandments could not be posted in public schools. Yet, Mr. Manion after this decision co-sponsored legislation which would permit posting of the Ten Commandments.

He has expressed in public statements, his view that Supreme Court decisions are not the law of the land. Such reasoning leads to a logical conclusion that legislators and lower courts need not adhere to legal principles articulated in Supreme Court decisions.

This view is contrary to Art. VI of the U.S. Constitution which explicitly states that the decisions of the Supreme Court are the law of the land. Moreover, challenges to undermine the weight given to Supreme Court decisions were settled as early as 1803 in the historic case of *Marbury* v. *Madison.*

Mr. Manion endorses the view that the Civil Rights Act of 1964 is unconstitutional. (See p. 22 Report from the Committee on the Judiciary, U.S. Senate—Nomination of Daniel A. Manion.)

Mr. Manion views the Supreme Court acted unconstitutionally in the landmark civil rights case of Brown v. Board of Education (school desegregation case).

Mr. Manion praises the John Birch Society.

LEADERSHIP CONFERENCE ON CIVIL RIGHTS,
Washington, DC, May 7, 1986.

Hon. PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: We write on behalf of the Leadership Conference on Civil Rights, a coalition of 185 organizations dedicated to the protection of constitutional and civil rights, to oppose the nomination of Daniel Manion to the Court of Appeals for the 7th Circuit. At a meeting of the Board of the Leadership Conference on May 5, a resolution to oppose Mr. Manion's confirmation was adopted without dissent for reasons which may be summarized as follows:

(1) Manion has expressed views on the role of the federal judiciary that are extreme. In the 1970s he went on record as opposing the application of the Bill of Rights to the states and as an advocate of stripping jurisdiction from the Supreme Court as well as the lower federal courts (Report pp. 5–11). He also lauded the work of the John Birch Society and heaped praise on Birch spokesman Larry McDonald for a book which repudiates the function of judicial review of state action and attacks Supreme Court decisions including *Brown* v. *Board of Education* that exercise such review (Report, p. 16).[1]

(2) As a State Legislator, Manion put his views into action by cosponsoring a bill he concedes he knew was unconstitutional. The bill authorized the posting of the Ten Commandments in public schools and was introduced by Manion and others in the Indiana Senate a short time after the Supreme Court had invalidated a similar Kentucky law in *Stone* v. *Graham.* Manion conceded at his April 30 hearing that his bill was identical in all material respects to the Kentucky law. He now justifies his action as a "legislative protest" which he says in retrospect might better have been filed as a resolution rather than a bill. But he still holds the view that the bill, if passed, would have been the law until ruled unconstitutional by the courts. (Transcript pp. 43–49).

(3) Manion is unconvincing in his explanation and modifications of his previous views and actions. He now says that the doctrine of incorporation is "ingrained in our law," that his views about court-stripping are irrelevant since that is a matter for Congress not judges, and that as a judge he would view his obligation to follow the law differently than he did as a state legislator (although the oath of office under Article VI is the same). But Manion continued to express reluctance to accept Supreme Court decisions such as Brown as "the law of the land," saying that he preferred to view them as stare decisis which must be followed by lower federal courts (creating the impression that he might assiduously seek out minor fact differences to distinguish decisions he didn't like). He also had a remarkably selective memory about the recent past. Professing not to know the beliefs of the John Birch Society, he said that he did not have an overall affirmative or negative opinion of the Society's program preferring to judge each issue on its own merits (Transcript p. 62).

(4) Manion lacks the qualifications for the 7th Circuit. While he has some experience in the federal courts, it has been as co-counsel on cases not involving important issues of constitutional or public law. But his own admission, he has published no writings on the law, scholarly or otherwise. And, as indicated, he has an extraordinarily weak grasp of the essentials of our constitutional system.

It should be clear that the opposition of the Leadership Conference to Mr. Manion's confirmation is not based on disagreement with his views about particular substantive issues. Rather it is founded on a record which demonstrates his failure in word and deed to accept the fundamental role of the federal courts in protecting individual rights and liberties. That record cannot be expunged by broad statements that the nominee would follow the rulings of the Supreme Court. Mr. Manion's record and his lack of basic qualifications for high judicial office provide an ample basis for opposition even by Senators who believe the President should be given very wide latitude in his judicial nominations.

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[1] "Report" refers to the detailed study prepared by People for the American Way, which is enclosed. "Transcript" refers to the transcript of Mr. Manion's second hearing before the Senate Judiciary Committee on April 30, 1986.

We urge you to vote against confirmation of Daniel Manion when the committee meets on May 8.

Sincerely yours,

BENJAMIN L. HOOKS,
Chairperson.
RALPH G. NEAS,
Executive Director.

AMERICANS UNITED FOR SEPARATION OF CHURCH AND STATE,
Silver Spring, MD, May 5, 1986.

Hon. STROM THURMOND,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR THURMOND: I write you this letter both as Executive Director of Americans United and on the basis of my deep respect for you as a serious student of the U.S. Constitution. Along with many in the country, I want to communicate my alarm over the nomination of Daniel A. Manion to sit on the U.S. Seventh Circuit Court of Appeals in Chicago.

Our studies show that Mr. Manion lacks the qualifications to hold such an important position. As you know, Mr. Manion received a low ranking from the American Bar Association. His extremist view will distort his ability to render fair and impartial decisions.

Of more particular concern to me are Mr. Manion's views on church/state issues. From his statements and actions he seems to have no regard for the time-honored principle of religious liberty through the separation of church and state. For instance, on the heels of a U.S. Supreme Court decision saying the State of Kentucky could not require the posting of the Ten Commandments in public schools, Mr. Manion arrogantly introduced a similar bill in the Indiana legislature. A man who holds the Supreme Court in such contempt should not sit on the Federal bench.

Furthermore, we take alarm at his kneejerk commitment to the John Birch Society. We are frightened by his inflammatory and injudicious statements proposing unconstitutional methods to curb dissent.

Senator Thurmond, as a public official sworn to uphold the Constitution, I'm sure you share my desire to have judicial nominees who will maintain our most basic liberties. This nominee seems to have a clear disregard for the U.S. Constitution and its principle of separation of church and state. We respectfully urge that you and the other members of the committee stop his nomination in its tracks.

Please give our best to Nancy and your children.

Anytime I can be of service to you or your family, you have only to call.

Sincerely,

DR. ROBERT L. MADDOX,
Executive Director.

JUDICIAL SELECTION PROJECT,
Washington, DC, April 30, 1986.

Hon. PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: The Judicial Selection Project, a coalition of civil rights and public interest organizations, urges you to oppose the nomination of Daniel Manion for a seat on the Seventh Circuit Court of Appeals. We base our opposition on his failure to demonstrate that he possesses the level of experience and professional competence to merit confirmation to this important court and on our belief that his views on the Constitution and the Bill of Rights would make it impossible for him to dispense justice independently and impartially.

Mr. Manion has practiced law in South Bend for 13 years. During that time, he has never acted as lead counsel in a federal court trial, has never handled a case in which a federal constitutional issue was involved, and has never argued a case in the Seventh Circuit. Nor has he distinguished himself in the area of scholarship—his questionnaire does not list a single published article or speech. Based on this record, the American Bar Association gave Mr. Manion its lowest "passing" grade, a mixed qualified/not qualified rating. The Chicago Council of Lawyers found Mr. Manion to be not qualified to be a judge on the Seventh Circuit.

We believe that this record makes clear that the Administration has nominated Mr. Manion not because of his litigation skills or his scholarship, but rather for his strongly held beliefs on a number of political and social issues. We are concerned about those views in several areas.

For example, Mr. Manion has by his actions indicated that he may have trouble drawing the line between church and state. As a member of the Indiana Senate, he coauthored a bill that would have allowed the posting of the Ten Commandments in public school classrooms, six months after the Supreme Court ruled a similar Kentucky law to be unconstitutional. He also cosponsored a bill to allow creationism to be taught in the public schools. In addition, Mr. Manion's view on such issues as application of the Bill of Rights to the states through the Fourteenth Amendment and free expression of dissenting views are well beyond the mainstream of an American legal thought.

Mr. Manion's nomination again demonstrates the Reagan Administration's commitment to ideology over professional competence. Of 28 Reagan nominees to the Courts of Appeals since January 1985, 11 have received mixed qualified/not qualified ratings by the ABA. For purposes of comparison, of President Carter's 56 appointees to the Courts of Appeals, only three were given this low rating.

The Judicial Selection Project believes that nominees for lifetime appointments to this Nation's Courts of Appeals should be the best that the legal community has to offer. They should meet the highest standards of professional excellance, be open-minded and fair, and should have demonstrated a commitment to equal justice. Mr. Manion does not meet this high standard. By defeating his nomination, the Judiciary Committee could send an important signal to the Reagan Administration that it supports a selection process based on merit rather than on ideological purity.

We strongly urge that you vote to defeat this nomination.

Sincerely,

NANCY B. BROFF,
Director.
NAN ARON,
Chair.

PEOPLE FOR THE AMERICAN WAY ACTION FUND,
Washington, DC, April 30, 1986.

DEAR SENATOR: People For The American Way, a 225,000-member citizen organization dedicated to the protection of constitutional rights and an independent federal judiciary, urges you to oppose the nomination of Daniel Manion to the Seventh Circuit Court of Appeals.

As you know, a federal judgeship is one of the most important positions an American citizen can hold. A nominee to the Federal bench for a lifetime appointment must possess outstanding intellectual qualifications, legal skills and experience, as well as an understanding and respect for the law and our Constitution. We do not believe that Mr. Manion meets this fundamental criteria.

Mr. Manion is not qualified to serve on the Court of Appeals. He has received poor ratings from bar associations, including the American Bar Association's Standing Committee on the Judiciary. He has no judicial experience, limited experience as a lawyer, and he has demonstrated no legal scholarship.

His views on the Constitution and Bill of Rights are outside the mainstream of American legal thought. A range of responsible viewpoints on constitutional issues is a strength, not a weakness, of the American judiciary. But every federal judge should honor the essence of our constitutional system which is based on respect for the separation of powers and for individual liberties.

Mr. Manion's record, however, reveals an alarming indifference, if not hostility, to the Bill of Rights. He has challenged the long-established legal doctrine of the 14th Amendment that made the core protections of the Bill of Rights including guarantees of freedom of press, speech and religion, binding on the states.

Mr. Manion has advocated stripping the Supreme Court's jurisdiction to protect constitutional rights by a means emphatically rejected by mainstream American legal thinkers.

Mr. Manion has questioned the fundamental constitutional principle of free speech, and as an Indiana legislator, he used his position to support proposals that violate the separation of church and state. In one particular instance, he co-sponsored a bill to allow the posting of the Ten Commandments in public school classrooms just one year after the Supreme Court expressly held that such religious activity violated the Establishment Clause.

Mr. Manion will not be an objective and impartial judge. His views on the Constitution, past legislative activities advocating those views, and participation in extremist organizations indicate that he would be unable to enforce constitutional rights and interpret federal law objectively and impartially.

A report that details our concerns about Daniel Manion's nomination is attached. We believe that the issues raised by this report constitute sufficient basis for the Senate Judiciary Committee to reject the nomination of Daniel Manion to the U.S. Court of Appeals.

Sincerely,

ANTHONY T. PODESTA,
President.

WASHINGTON COUNCIL OF LAWYERS,
Washington, DC, May 6, 1986.

Hon. STROM THURMOND,
Chairman, Senate Judiciary Committee, Washington, DC.

DEAR SENATOR THURMOND: It has come to my attention that Eugene I. Goldman, Esq. has written to the Committee in support of the nomination of Daniel A. Manion to the United States Court of Appeals for the Seventh Circuit. Mr. Goldman is a Director and member of the Executive Committee of the Washington Council of Lawyers. I write this letter to make clear that the views ex-

pressed by Mr. Goldman are personal to him. The Washington Council of Lawyers has taken no position on Mr. Manion's nomination.

The Council would appreciate your making this letter a part of the record.

Sincerely,

RICHARD L. JACOBSON,
President.

Mr. LEAHY. Mr. President, I rise today to express my opposition to the nomination of Daniel Manion.

In recent weeks, we have heard accusations from various Members of this body that those of us who oppose Mr. Manion's nomination do so for ideological grounds.

Even the President, on his weekly radio broadcast, said that: "Partisanship in the Senate has pushed fair play by the boards," and that we oppose Mr. Manion because he doesn't conform to "the liberal ideology of some Senators."

I would like to remind the President and some of my colleagues that all of us on the Judiciary Committee who voted against Mr. Manion's nomination voted for Judge Robert Bork, for Richard Posner, for Frank Easterbrook, and for John Noonan.

In the wildest stretch of the imagination, I do not believe that any one of these gentlemen could be said to conform to "liberal ideology." And that it not important. What is important is that all of these men possessed the intellect and qualifications for their respective judgeships.

I also would like to remind the President that I led the fight against Charles Winberry, a Carter administration judicial nominee, because I believe he lacked the integrity which is absolutely crucial for elevation to the courts. Partisan politics played no role in my efforts to defeat that nominee, and partisan politics plays no role in my opposition to Mr. Manion.

ISSUE—QUALIFICATIONS

Mr. President, the truth is, we really do not have to get to a discussion of Mr. Manion's ideology to find a reason why he should be defeated.

He simply lacks the qualifications, experience, and intellectual breadth to sit on the Seventh Circuit Court of Appeals.

What are some of the things we should look at to determine if a nominee is qualified?

Prof. Philip B. Kurland and Prof. Laurence Tribe, two of our foremost legal scholars, have written a letter to the Senate Judiciary Committee addressing just this issue. I quote from their letter:

> A nominee's entire record—professional achievements, public service, academic credentials, appellate briefs or other legal writings, scholarly or other publications—should be reviewed carefully to screen out the merely competent, and certainly, the simply mediocre.

Let us take a look at Mr. Manion's record from this viewpoint.

With regard to "professional achievements," Mr. Manion has little, if any, experience dealing with Federal constitutional or public law issues.

He has never argued a case before the seventh circuit or any other Federal appeals court.

He has argued few cases in Federal district court.

His legal experience consists mainly of small personal and commercial claims.

Included in Mr. Manion's list of his "10 most significant cases" are 8 cases in State court having to do with small personal and commercial claims.

In terms of "academic credentials," Mr. Manion graduated from Indiana University School of Law without particular distinction. While this certainly does not reflect negatively on the nominee as a human being, neither does it suggest that he is anything more than "merely competent." The burden of proof must be on the nominee to demonstrate outstanding credentials and a standard of excellence.

I invite Members of this body to compare Mr. Manion's academic and professional achievements with that of other members of the seventh circuit, which can be found in appendix B of the committee report on his nomination.

As part of a nominee's record, we are supposed to look at his or her appellate briefs. Well, we have had the opportunity to do so. In fact, we have reviewed five of Mr. Manion's "best" briefs that he, himself, chose to submit to the committee.

Now, President Reagan says that we are "trying to make a major issue of a few typographical errors * * *" in Mr. Manion's briefs. I wonder if the President has taken the opportunity to review the briefs personally. The Chicago Council of Lawyers did, and here is what they said about one of the briefs:

> The brief is poorly written. It is riddled with spelling errors, typographical errors and grammatical errors. * * * Disagreement between subject and verb is rather common. * * * The brief is stilted * * * sentence structure is frequently convoluted and awkward. * * * The brief is neither clear nor forceful. * * * The argument is unnecessarily hard to follow.

The Chicago Council of Lawyers sums up its analysis by stating that:

> These briefs are, at best, average in quality * * * they support the council's conclusion that Mr. Manion has not demonstrated the level of legal skill necessary for appointment to the seventh circuit Court of Appeals.

Mr. President, I am forced to agree with the council's assessment of Mr. Manion's writing.

It may interest you to know that in 1985, each member of the Seventh Circuit Court of Appeals took part in more than 500 decisions and personally wrote approximately 50 opinions. The seventh circuit simply is not the place to learn writing skills. It is not the place for on-the-job training.

In the area of "scholarly or other publications," the committee was unable to evaluate Mr. Manion's works because he has none to evaluate. He has written no scholarly or legal articles. As an Indiana State legislator, he gave several hundred speeches, by his own estimate, and yet submitted none for the committee to review since apparently, none were written down.

In short, Mr. Manion has nothing to recommend him for such an important judgeship. Nobdy is questioning his decency and integrity. But there are a lot of decent, average lawyers in this country, and we should expect, and indeed, demand more of a Federal appeals court judge.

Somehow, the Senate's constitutional role of advise and consent on judicial nominations has for some people come to mean a "rubber stamp of approval" for a President's nominee.

The responsibility of appointment to the judiciary is divided between the White House and Senate. The Senate has an obligation to the American people to carry out its function carefully and seriously.

I refer again to the letter by Professors Kurland and Tribe who said that:

> "The President is certainly entitled to prefer loyal supporters and like-minded thinkers in choosing among the exceptionally qualified.

Let me stress that, again, if I might—the exceptionally qualified.

> But no President has a right to treat Federal judgeships as mere patronage appointments simply to * * * assure a judiciary packed with "true believers."

The Professors go on to say that:

> * * * neither is a confirmation vote in order whenever the best that can be said of a nominee is that he has spent some time in law or public life and is untainted by any major scandal. Even at levels below that of the Supreme court, where the need for exceptional distinction should be beyond debate, the Nation has a right to expect more than minimum qualifications and probable fitness from its Federal judges.

There are many exceptionally qualified men and women in this country who would be an asset to the Federal judiciary. Certainly, many of them share the President's ideology, I urge the President to search out and nominate these individuals of high distinction and caliber, of excellence and keen intellect. And I urge this body to reject Mr. Manion's nomination because he lacks those important qualities, and to send a message to this administration that our Federal judiciary is not the place to compromise on the standard of excellence.

● Mr. DENTON. Mr. President, I rise today in strong support of the nomination of Daniel A. Manion to serve as a judge for the U.S. Court of Appeals for the Seventh Circuit.

It has become most apparent to me that partisanship has become the rule rather than the exception in these debates regarding President Reagan's recent nominees to the Federal bench. I am disheartened by this turn of events.

Daniel Manion comes to us as a nominee qualified according to American Bar Association standards. I think we should all be concerned by recent attempts to diminish the high standards required to receive a "qualified" rating by the ABA. Somehow people forget the integrity, experience and accomplishments one must achieve to attain a "qualified" rating for a Federal judgeship. Let us not forget that over 50 percent of the Federal judicial nominees from the four previous administrations were rated as "qualified" by the ABA. Furthermore, three Federal district court nominees in the Carter administration and three nominees to Federal district courts in the Johnson administration were rated as not qualified by the ABA. All were approved by the then Democrat-controlled Senate.

I don't want to sound inordinately partisan myself, but I bring up these facts and figures only to show that this body is no stranger to judicial nominees who have received the ABA's "qualified" designation. But suddenly the likes of Mr. Manion take center stage, and a perfectly solid ABA rating is called into question. I am appalled by the blatant display of partisanship on this nomination.

Mr. President, the record of Mr. Manion's integrity is an impressive one. It is impressive because Mr. Manion has clearly demonstrated that he has earned bipartisan support from those who know him and have worked with him.

I need only read from letters received from Democrats who strongly support Dan Manion's nomination. Mr. Eugene I. Goldman, a lifelong Democrat and a member of the executive committee of the Washington Council of Lawyers, worked with Dan Manion in defending a lawsuit in South Bend, IN. Mr. Goldman considers Dan Manion an "excellent" lawyer, who would be a distinguished member of the seventh circuit.

Attorney John J. Sullivan, the former democratic nominee for mayor of Indianapolis, recommended Dan Manion's confirmation.

Said Sullivan:

Obviously, my political philosophy and that of Dan Manion are quite different. However, over the years I have respected Dan Manion as an individual, as a legislator and as an attorney.

A most impressive recommendation of Dan Manion came from Mr. David T. Ready, the former U.S. attorney for the Northern District of Indiana, appointed by President Carter. Mr. Ready forwarded a letter to the Judiciary Committee which stated:

I have known Mr. Manion for a number of years. I believe that he is eminently qualified to fulfill the position of the United States Circuit Court judge. I firmly believe he possesses the necessary intellect, integrity, and openmindedness which practicing members of the Bar have a right to expect in our judicial appointments.

Mr. Ready concluded his letter by emphasizing the practical balance which Dan Manion would bring to the court. Mr. Ready said:

(O)ur Courts of Appeals are best served when they are comprised of former trial judges, academics, and practicing lawyers. It is my opinion that Mr. Manion is an excellent representative of that latter group and will well serve on the Court of Appeals.

Mr. President, unqualified nominees do not garner such accolades from the opposite side of the aisle. During his 13 years as a practicing attorney and a State senator, Dan Manion has shown those qualities of intelligence and integrity which have brought him the praise of his colleagues, no matter what their political affiliation.

Mr. President, the American Bar Association evaluates nominees for the Federal bench based on comprehensive and stringent standards. The ABA's Standing Committee on the Federal Judiciary thoroughly reviews a nominee's professional competence, judicial temperament, and personal integrity. A substantial majority of that standing committee found Dan Manion to be qualified for the position of Federal circuit judge.

Mr. Manion served a distinguished term in the Indiana State Senate from from 1978 to 1982. Unfortunately, there are those who harshly criticize Mr. Manion for the stand he took as a cosponsor of a bill to allow the posting of the Ten Commandments in classrooms. To those who detract from Dan Manion's position on that issue, I encourage you to strip away the rhetoric and look closely at the circumstances surrounding that piece of legislation. First of all, the Indiana bill was significantly different than the Kentucky law which has been declared unconstitutional by the Supreme Court in Stone versus Graham. The Kentucky law required the posting of the Ten Commandments, whereas the Indiana bill only authorized the posting. Second, the Stone decision was a 5 to 4 per curium decision, rendered without the benefit of briefs or arguments on the merits. Third, the issue in the Stone decision was the secular legislative purpose for the posting of the Ten Commandments, for which Justice Rhenquist made a very eloquent and precise argument in his dissent. Although I do not have the Indiana legislation before me today, it seems entirely likely that the intent of that legislation may well have withstood the precise scrutiny as articulated by Justice Rhenquist in his dissent, and could have been distinguished from the Court's majority position. Certainly the 39 State senators who passed the bill felt that it could pass constitutional muster. Finally, let us not forget that this controversial piece of legislation was carefully tailored by the Indiana Senate to become invalid should it be ruled unconstitutional.

I would be remiss if I allowed our concentration on one piece of legislation to detract from Dan Manion's distinguished term in the Indiana State Senate. Dan Manion chaired the Committee on Energy and Environmental Affairs after only 2 years in the State senate, served all of his 4 years on the Judiciary Committee and chaired the Subcommittee on Civil Law for 2 years.

It is significant that Dan Manion currently stands as lead counsel in three pending Federal cases and cocounsel for three other Federal cases. Of these cases, two have been brought under the Racketeer Influenced and Corrupt Organizations Act, two are patent infringement cases, and two are diversity cases.

Finally, Mr. President, it is most telling that Dan Manion has been endorsed by Father Theodore M. Hesburgh, president of Notre Dame University. Father Hesburgh spoke of Dan Manion as one who would "bring dedication, integrity and a keen knowledge of the law" to the position of circuit judge.

I would therefore encourage my colleagues to join with Father Hesburgh and the many others who support Dan Manion. I strongly encourage this body to give Dan Manion the strong bipartisan support that he deserves.●

Mrs. KASSEBAUM. Mr. President, I want to speak briefly regarding the nomination of Daniel A. Manion to the Seventh Circuit Court of Appeals.

Appointment to a court of appeals confers the second highest honor and responsibility in our judicial system. It is second only to the Supreme Court in prestige and power as the final arbiter in our constitutional system of government.

Given the vital role of the circuit courts in deciding issues that affect all Americans, I believe that those who serve on that high bench must possess the finest legal minds, the broadest legal experience, and a keen understanding of our Constitution. These are high standards but they are essential to safeguard the high standard of justice that is the foundation of our democracy.

I have come to the conclusion that Mr. Manion does not meet these high standards and I cannot support his nomination.

Over the past few weeks, it has become clear that the question of Mr. Manion's qualifications is a close one. The American Bar Association gave

him its lowest passing grade. Our own Judiciary Committee, which all of us trust to provide careful scrutiny and informed judgment on these appointments, was split 9 to 9 on the Manion nomination. Finally, distinguished members of the legal profession are deeply divided on the nomination.

I do not doubt the statements of Mr. Manion's supporters that he is a decent man and a competent attorney. Nor do I have a great concern about Mr. Manion's conservative political views. Instead, I am concerned that, at best, Mr. Manion may be marginally qualified to serve as a Federal judge. I hope that all of us have a higher standard than that for those who serve on the second highest court in the land.

CHICAGO COUNCIL OF LAWYERS

Mr. SYMMS. Mr. President, I support the nomination of Dan Manion for the Seventh Circuit Court of Appeals, and I find some elements of the opposition to Mr. Manion quite intriguing. While this court sits in Chicago, Mr. Manion has been nominated to fill an Indiana seat on the panel. The distinguished Senators from Indiana, Mr. LUGAR and Mr. QUAYLE, have informed us of the high praise and solid support which Mr. Manion has in Indiana. This high praise comes from those who know him best, his colleagues in the Indiana Bar and in the State senate.

Strong measures of support for Mr. Manion have come from both Democrats and Republicans in Indiana. Father Theodore Hesburgh, the president of the University of Notre Dame, known for years as a leader in the civil rights movement, has praised Dan Manion and his life reflecting a profound commitment to justice. Democratic and Republican officials throughout Indiana have supported Dan Manion because of his superlative integrity, his experience, his record, and his flawless reputation for fairness.

Mr. President, normally, we would find such support and qualifications grounds for an overwhelming vote for confirmation. That is not the case, however. An aroma of political inquisition, marshaled by the thought police of the liberal left, has surrounded the attack against Mr. Manion, and I intend to address one source of that opposition today.

Mr. President, I note that the minority on the Judiciary Committee bases a great deal of its opposition to Dan Manion on the criticisms of a group called the Chicago Council of Lawyers. This group, baptized with legitimacy by the minority during Mr. Manion's confirmation proceedings, opposed the Manion nomination. I take this opportunity to address that opposition.

The Chicago Council of Lawyers has a so-called review committee for judicial appointments. The members of this committee contacted many of Manion's colleagues to inquire as to his qualifications. Like virtually everyone else asking those who knew Manion, the council found high praise from those who had worked against him, as well as from those who worked with him.

Their April 9 letter to Senator SIMON states:

> Mr. Manion has a high reputation for integrity, conscientiousness, and fairness. The reports from South Bend lawyers also indicate that Mr. Manion has excellent interpersonal skills, and that lawyers who work both with him and against him like and respect him.
>
> Many of the lawyers to whom we talked also thought that, despite his reputation for political conservatism, Mr. Manion would struggle to be fair in ruling on cases which present issues on which he has strong political views.
>
> The majority of lawyers to whom we talked regarding Mr. Manion's legal experience felt that he was a competent lawyer. A few lawyers told us that Mr. Manion was an outstanding lawyer. All vouched for his forthrightness and his adherence to high ethical standards.

Mr. President, even though this letter was the ostensible basis for the minority's opposition to Manion, they did not deem it worthy of inclusion in their minority views—obviously because it contained so much praise, however begrudging it was.

In spite of their positive findings, the Chicago Council chose to oppose Mr. Manion's nomination. That perplexes me, Mr. President, and it perplexed a good many other people familiar with Mr. Manion's talents. For instance, Eugene Goldman is a member of the law firm of Steptoe and Johnson and a board member of the Washington Council of Lawyers. This group was founded on the same principles as the Chicago Council, and, unlike the members of the Chicago Council, Mr. Goldman has worked with Mr. Manion in Federal court. He wrote Senator THURMOND on April 23, 1986, agreeing with the findings in the Chicago Council report, but not with their decision to oppose Manion:

> I believe that the Chicago Council's findings, including its findings that Mr. Manion has been found to be a competent and outstanding lawyer, are inconsistent with the council's ultimate, speculative conclusion that Mr. Manion will have difficulty with the legal issues routinely presented to the seventh circuit. I respectfully encourage the committee to vote favorably on the President's nomination of Mr. Manion.

I ask unanimous consent to have the entire letter printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. The Washington Council of Lawyers took no position on the nomination, Mr. President. Mr. Goldman was their only member who knew Manion. Mr. Goldman, using the same standards he brings to his work on the executive board of the Washington Council, finds himself in agreement with the findings of the Chicago Council, and marvels at its conclusion. So do I, Mr. President, so do I. But I think we can go a long way toward understanding it if we look a little deeper.

Mr. President, like Mr. Goldman, I am moved to ask, if the Chicago Council of Lawyers found so much good information about Mr. Manion, why would they oppose his nomination? I have done a little research, and take this opportunity to inform the Senate about my findings.

I find that the history of the Chicago Council is informative. The Chicago Council of Lawyers was founded to support the defendants in the Chicago 7 trial, back in the days of the Vietnam war. Now remember, the Chicago 7 were a notorious group of defendants who tried to wreak havoc in their Federal courtroom to demonstrate their opposition to the Vietnam war. Given Mr. Manion's record as a Vietnam war veteran and as a supporter of victory over the Communists there—a sentiment he shared, and still shares, with President Reagan—I can understand why a group founded solely to organize lawyers against the war might oppose his nomination to a Federal bench located in Chicago. But the Chicago Council of Lawyers should be candid, Mr. President, and state their case on its ideological merits, rather than indulge in flights of fancy and concoct imaginary attacks on the nominee's qualifications.

Mr. President, the Chicago Council of Lawyers has been depicted in the Judiciary Committee as though it were the Honor Society of the American Bar Association. To set the record straight, I ask unanimous consent to have printed in the RECORD a letter from a Chicago lawyer with a more dispassionate view:

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SYMMS. Mr. President, Mr. Manion's opponents have been oscillating between the argument that, on the one hand, they are opposed to Mr. Manion solely on the basis of his qualifications, and, on the other hand, that we should consider his political views, regardless of his qualifications. They do so because they are unable to make the case on one ground or the other. So their opposition is, in effect, a shell game.

Indeed, the distinguished ranking minority member of the Judiciary Committee told Mr. Manion at his nomination hearing, and I quote, "I think you are a decent and honorable man, but I do not think I can vote for you because of your political views. But that is another question."

Mr. President, that is the question. That is the only question at issue here, and we should make no bones about it. It is the only issue with regard to the Chicago Council of Lawyers, frankly, and with all due respect for the distinguished Senator from Illinois, I think the Senate has a right to know the whole story about the Chicago Council of Lawyers before the Senate takes seriously the criticism of the nominee coming from that organization.

Mr. President, Mr. Wittebort's letter points out that the president of the Chicago Council of Lawyers, Robert G. Perkins, who signed the letter against Dan Manion, was Congressman Abner Mikva's campaign manager. Senator LUGAR and Senator QUAYLE, I would like to point out, support Congressman Mikva's nomination to the District of Columbia circuit, correctly keeping ideology out of the confirmation process—and nobody suggests that Ab Mikva was, or is, ideologically inert.

Mr. President, the argument that the Chicago Council failed to approve Manion solely on the basis of the qualifications of the nominee becomes even weaker when we consider their only contact with Mr. Manion, a telephone interview held after Mr. Manion's first confirmation hearing in March. During that conversation, the Chicago Council interrogators did not keep ideology out; in fact, they devoted the vast majority of their 2-hour interrogation of Mr. Manion to political issues: abortion, busing, school prayer, and the like. The discussion of qualification was quite brief by comparison.

Mr. President, it appears we have some Chicago thought police at work here. We have a group of activist, liberal-leftist lawyers who oppose politically everything they think Dan Manion stands for, and they are out to get him. The Chicago Council did not start harping on Mr. Manion's "inadequate qualifications" until they had determined that he was politically unacceptable in terms of their partisan program. And, I am sad to say, neither did the minority members of the Judiciary Committee.

Mr. President, I began by mentioning that Mr. Manion has been nominated to fill an Indiana seat on the seventh circuit. After reviewing the facts about the Chicago Council of Lawyers and their position on Mr. Manion, I think Senators will agree that the Chicago Council has about as much business taking a position on the Manion nomination as the Milwaukee Chamber of Commerce or the Peoria Lions Club. All are equally affected by the law, and by the quality of the members of the Federal judiciary, and I suggest we look not to radicals who know nothing about the nominee apart from their partisan inquisitions. I observe that the Chicago Bar Association has taken no position on the nomination, and that is proper and, I would add, speaks volumes about the context of the Chicago Council position.

Mr. President, I think the Senators who have been influenced by the report that Mr. Manion is opposed by the Chicago Council of Lawyers may now relax. The Chicago Council's opposition has been put in its political context. I call on my fellow Senators to reject this politicization of the nomination process, and confirm Dan Manion to the Seventh Circuit Court of Appeals.

EXHIBIT 1

STEPTOE & JOHNSON,
ATTORNEYS AT LAW,
Washington, DC, April 23, 1986.

Hon. STROM THURMOND,
Chairman, Committee on the Judiciary, U.S. Senate, Senate Dirksen Office Building, Washington, DC.

DEAR CHAIRMAN THURMOND: I am writing in support of the confirmation of the nomination of Daniel A. Manion to serve on the United States Court of Appeals for the Seventh Circuit. By way of background, I have been a Democrat all of my life. For the last seven years, I have served as a director and member of the Executive Committee of the Washington Council of Lawyers, which shares its origins and commitment to the public interest with the Chicago Council of Lawyers. I am also a great admirer of Senator Simon and contributed to his campaign for the Senate. I have also had the opportunity to work with Mr. Manion in defending a lawsuit in South Bend.

I believe that Mr. Manion is an excellent lawyer and would be a distinguished member of the Seventh Circuit. I have reviewed the Chicago Council's letter to Senator Simon, dated April 9, 1986, and note the Council's findings that Mr. Manion "has a high reputation for integrity, conscientiousness, and fairness . . . has excellent interpersonal skills, and that lawyers who work both with and against him like and respect him . . . that the majority of lawyers . . . felt that he was a competent lawyer. A few lawyers told us that Mr. Manion was an outstanding lawyer. All vouched for his forthrightness and his adherence to high ethical standards."

I believe that the Chicago Council's findings, including its finding that Mr. Manion has been found to be a competent and outstanding lawyer, are inconsistent with the Council's ultimate, speculative conclusion that Mr. Manion will have difficulty with the legal issues routinely presented to the Seventh Circuit. I respectfully encourage the Committee to vote favorably on the President's nomination of Mr. Manion.

Very truly yours,

EUGENE I. GOLDMAN.

EXHIBIT 2

ROBERT J. WITTEBORT, JR.,
ATTORNEY AT LAW,
Chicago, IL, June 19, 1986.

Hon. PAUL SIMON,
U.S. Senate, Washington, DC.

DEAR SENATOR SIMON: I am a managing partner in the 200-attorney Chicago law firm of Chapman and Cutler. As a graduate of Notre Dame Law School, I have been following with great interest the progress of President Reagan's nomination of Daniel A. Manion to the United States Court of Appeals for the Seventh Circuit. I will say at the outset that I believe Mr. Manion to be fully qualified to serve on the Seventh Circuit bench, and I hope his nomination is speedily confirmed by the Senate. But even if I did not feel strongly about Mr. Manion's nomination, I nevertheless would take exception to your description of the Chicago Council of Lawyers.

Judging the capabilities and performance of lawyers is an extraordinarily difficult task, and it is natural for laymen—and legislatures—to seek objective benchmarks. The endorsements of bar groups can act as such benchmarks, but their value as measures of legal ability, as opposed to political inclination, depends chiefly on their objectivity. Based on my twelve years of practice as a Chicago lawyer, I seriously question the objectivity of the Chicago Council of Lawyers. To place its rating on the same footing as that of the American Bar Association is misleading.

In the Senate Judiciary Committee Business Meeting transcript of May 8, 1986, you are quoted as saying that "[t]here are about 19,000 lawyers in Chicago and of that number *the most active* are members of the Chicago Council of Lawyers" (emphasis added). This comes as news to me. I think I know several lawyers who might fairly be characterized as among the "most active" in Chicago (whatever that may mean precisely) and who are nonetheless not members of the Chicago Council of Lawyers (which numbers, as you pointed out, only slightly more than one thousand). Indeed, according to the 1985–86 edition of *Sullivan's Law Directory*, notable non-members of the Chicago Council of Lawyers include (but are not limited to) such prominent litigators as Philip H. Corboy, Don H. Reuben, Anton R. Valukas, Dan K. Webb, and Neil F. Hartigan, Attorney General of the State of Illinois. I think those lawyers would be surprised to learn that they have been characterized in the United States Senate as not being among "the most active" lawyers in Chicago. In short, it is incorrect to describe the Chicago Council of Lawyers as comprising "the most active" lawyers in Chicago. It would, however, not be far off the mark to describe the Council as *the most activist* group of lawyers in Chicago—with all the liberal undertones that word implies when applied to lawyers and judges.

In response to a question from the chair concerning the political complexion of the Chicago Council of Lawyers, you stated that, among its members, "[t]here are many who are liberal; *there are many who are conservative'* (emphasis added). It is very difficult to formulate reliable tests to determine whether a given individual is liberal or conservative, and perhaps there are a few wayward "conservatives" in the Chicago Council of Lawyers—but to say there are "many" conservatives must, in my view, be wrong. Not only has the Chicago Council of Lawyers been associated with liberal causes for quite some time (for example, opposing the death penalty in the case of mass-murderer John Gacey, and challenging Governor Thompson's use of the amendatory veto), but the Council has been characterized—fairly, in my view—as "liberal" by the *Legal Times* (on March 19, 1984 and on March 31, 1986). This characterization is consistent with my own personal observation of the actions of the Council and the views of its members whom I know.

You further stated, Senator Simon, that the Chicago Council of Lawyers "obviously [has] approved the previous conservative

nominees of the President." With respect, it is my recollection that the Council *opposed* the nomination of Frank H. Easterbrook and took *no position* on the nomination of Kenneth F. Ripple. And in connection with the nomination of Richard A. Posner, George F. Galland, Jr., then the president of the Council, was quoted as saying ". . . I really disagree with [his conservative approach]" (The National Law Journal, November 26, 1984). This does not amount to a record of approving the President's nominees and reflects a clear anti-conservative bias in the Council's Seventh Circuit ratings.

Finally, although the Chicago Council of Lawyers clearly has the constitutional right to announce its views on the President's judicial nominations, I seriously question whether its ratings should be given the same weight as those of the American Bar Association. Not only is the Council ideologically biased, but it represents a small constituency—slightly over 1,000 lawyers in Chicago. The Seventh Circuit comprises three states. The Milwaukee Bar Association, the Springfield Bar Association, the Indianapolis Bar Association and even the Chicago Bar Association have not taken it upon themselves to pass judgment on nominees for the bench of the Seventh Circuit—why has the unsolicited view of a small Chicago association been given such weight? When the Council rates local, Chicago candidates for the bench and sitting judges, it is within its realm of competence because it knows the lawyers it is rating. I suggest that the Seventh Circuit is a different matter. If a local bar group's view is relevant, perhaps it should be that of the St. Joseph County Bar Association, which knows Daniel Manion: it overwhelmingly supports his nomination.

In short, Senator Simon, I am disturbed by your statements on May 8, and I am concerned that they may have left a misimpression of the nature of the Chicago Council of Lawyers, and a magnified sense of the importance of its rating, on those who heard or read them. I urge you to consider taking some action to clarify the situation. And I hope that you will weigh the nomination of Daniel Manion objectively. Thank you for your attention.

Very truly yours,

ROBERT J. WITTEBORT, Jr.

● Mr. ZORINSKY. Mr. President, I rise in opposition to the nomination of Daniel Manion to the Seventh Circuit Court of Appeals. After carefully reviewing his record I find that he lacks the skills and experience for this prestigious, life-tenured position. There are many fine and engaging human beings with a host of positive qualities, who nonetheless lack the extraordinary qualifications required of a Federal judge. I do not doubt that Dan Manion fits this description.

The reasons that I find Mr. Manion unqualified have been detailed in recent days by opponents of his nomination. Mr. Manion's legal briefs are mediocre at best, his experience as a litigator—especially in the Federal courts—is limited, and his lack of scholarly writings is indicative of his shocking indifference to constitutional jurisprudence.

Excuses have been made for Mr. Manion based on the fact that he is a "small town" lawyer. I find such comments insulting to rural America. Some of the finest legal minds—past and present—come from rural settings and, to the best of my knowledge there are law books and dictionaries in South Bend, IN. The courts, and legal ethics demand quality respresentation by attorneys wherever they practice their profession.

It has been suggested by some that this is a right to life issue. It is not. I am a strong and ardent supporter of the right to life movement—my credentials in this area are beyond reproach. However, if one of the criteria being used to evaluate a judicial nominee is his position on abortion—and for this is on consideration—why not have a prolife nominee who has argued a case before the Seventh Circuit Court of Appeals? Why not nominate someone who has distinguished himself or herself as a legal or constitutional scholar? In short, why should we not nominate a prolife candidate who exhibits the excellence Americans deserve in our judicial system?

Furthermore, it has been suggested that opposition to Mr. Manion is purely of a partisan nature. Last Saturday, President Reagan added his voice to those charging Manion opponents with partisanship and obstructionism. This is the greatest red herring of all. I find this accusation incredible in light of the President's 270 judicial nominees the Senate has already approved.

Finally, I believe that President Reagan's support for this nomination does a real disservice to the conservative social agenda. As stated above, I am a strong supporter of the right to life. While I do not think that Mr. Manion's Ten Commandment legislation was well thought out, I have supported efforts to allow students to pray in school. In fact, while some of my Democratic colleagues might find Mr. Manion's ideology objectionable, I do not. The point is that I agree with many of the sentiments Mr. Manion has expressed, but do not believe him qualified to be a Federal judge.

Certainly, there are more qualified conservative candidates available to represent the 22 million people of the seventh circuit. The administration has not simply nominated Mr. Manion to be a district court judge—a distinguished position in itself—but for this most eminent seat on the court of appeals. This is a reprehensible dereliction of duty on the part of the President's selection committee, and a case where the administration has placed ideology above concern for justice. It is up to the Senate to oppose this nomination, and I urge my colleagues to join me in opposing Mr. Manion.●

● Mr. KERRY. Mr. President, I oppose the nomination of Daniel A. Manion for the U.S. Court of Appeals for the Seventh Circuit. I would like to commend my distinguished colleague from Delaware, the ranking member on the Judiciary Committee, for his leadership in opposition to this nomination, and for insisting that the U.S. Senate meet its constitutional responsibilities of advice and consent.

Mr. President, the burden is not on the opponents of Mr. Manion's nomination to show why he should not be confirmed for the second highest court in the United States. Rather, the burden of proof is on the proponents of Mr. Manion's nomination to show why he should be confirmed for that high office. That burden has not been met.

Mr. Manion has written no law review articles, or other works of legal scholarship. He has handled no major cases. Indeed, he has never handled any Federal appellate case, and has never been the lead attorney in any Federal case. Mr. Manion has never taught or lectured at any law school. In sum, Mr. Manion is lacking in any legal distinction.

As the New York Times editorialized, in opposing Mr. Manion's nomination, "He has written no scholarly articles to help Senators measure his intellect. His only relevant work record, legal briefs to State courts, would embarrass a first-year law student * * *. And the reader who slogs on finds no redeeming spark of originality or insight."

Mr. Manion's work simply does not measure up to the standards which we have a right to expect of a nominee for a Federal appellate court. As the minority report of the Senate Judiciary Committee states, "Mr. Manion's legal briefs demonstrate a pervasive lack of technical ability, craftsmanship, attention to detail, and reasoning. In each case * * * Mr. Manion's writing fell far short of the standard that should be expected of a Federal appeals court judge." This was the finding not only of the Democratic members of the committee, but also of independent attorneys who reviewed Mr. Manion's briefs at the behest of the Chicago Council of Lawyers.

We have heard the comments of the lawyers on the council's Federal judicial evaluation committee about the quality of Mr. Manion's legal briefs. I need not add to those criticisms.

The bottom line is that Mr. Manion can claim no serious legal credentials. His 13 years of legal experience have been confined to personal injury defense, commercial litigation, and small-claims work. He has participated in only 12 Federal trials, and never as lead attorney. He received only a "qualified" rating from the American Bar Association, with a minority rating him as "not qualified." The Chicago Council of Lawyers opposes Mr. Manion's nomination.

All of us in this Chamber who are members of the legal profession know that there are minimum professional standards which we expect of ourselves, and of our colleagues. When a lawyer is nominated for a Federal judgeship, he or she should meet those professional standards. When the nomination is for a Federal appellate court, second only to the U.S. Supreme Court, the standard should be even higher. When a lawyer can only meet the barest minimum standard of the legal profession, and when a group of his own peers find him to be "not qualified" for the Federal bench, that lawyer should not be nominated for a position on the U.S. Court of Appeals.

Legal skills are not the only quality lacking in Mr. Manion. He has also shown a lack of regard for the U.S. Constitution. He has a history which raises serious questions. As a State legislator in Indiana, Mr. Manion cosponsored a bill to authorize the posting of the Ten Commandments in school classrooms, after the U.S. Supreme Court had already ruled in *Stone* v. *Graham*, 449 U.S. 39 (1980), that such a statute was unconstitutional.

Mr. Manion's defender now claim that his bill differed in some respect from the Kentucky bill which was ruled unconstitutional. But Mr. Manion himself failed to make that distinction in his testimony before the Senate Judiciary Committee. And if Mr. Manion could not make that distinction, in a case in which he was personally involved, how can he be expected to make the legal distinctions which an appellate judge is called upon to make every day, in difficult constitutional cases?

Mr. Manion has admitted that he knew of the Supreme Court ruling at the time he filed his bill, and that he knew that his bill was unconstitutional. He now claims that he filed it as a "legislative protest," or "legislative prerogative."

Mr. President, there is no "legislative prerogative" to overturn the U.S. Constitution. As the Supreme Court has held in Cooper versus Aaron, upholding the Court's landmark civil rights decision in Brown versus Board of Education, "compliance with decisions of this Court * * * depend on active support by State and local authorities. It presupposes such support. To withhold it, and indeed, to use political power to paralyze the supreme law, precludes the maintenance of our federal system."

Apparently Mr. Manion does not agree with that Supreme Court ruling. Apparently he believes that the Supreme Court is only supreme when he agrees with its decisions, and can be ignored the rest of the time. This is the only possible explanation for Mr. Manion's statement that Supreme Court decisions are not the "law of the land," but are merely "stare decisis," applying only to the case at hand.

It is ironic that Mr. Manion's nomination is supported by Attorney General Edwin Meese, a man who claims to believe in adhering to the "original intent" of the framers of the Constitution. I don't believe that the intent of the framers was to place the judgment of a Daniel Manion above the rulings of the U.S. Supreme Court.

Clearly, the basis for Mr. Manion's nomination is not his record of legal qualifications, or his knowledge of the U.S. Constitution. So we can conclude that the only basis for his nomination is, in fact, his ideology. And now the President and the Senator from Utah claim that Mr. Manion has been opposed on the basis of that political ideology. The opposite is in fact true. He has been opposed on the basis of his lack of qualifications. But he has been nominated on the basis of his far-right ideology.

However, I also think that some of his judgments regarding ideology raise serious questions. Mr. Manion has, on more than one occasion, endorsed the views of the John Birch Society. He has praised a book called "We Hold These Truths," by Birch Society spokesman Larry McDonald, as "one of the finest summaries of the history of our Nation," despite the fact that this book repudiates the function of judicial review of State action, and attacks the Supreme Court's landmark civil rights decision in Brown versus Board of Education.

Mr. Manion has also gone on record as opposing the application of the Bill of Rights to the States. That doctrine, known as "selective incorporation," was overruled by the Supreme Court 60 years ago. Yes, it was advocated in the John Birch Society book which Mr. Manion praised so effusively. But it has been discredited by legal scholars, and by the U.S. Supreme Court.

Mr. Manion also advocated stripping jurisdiction from the Supreme Court, and from lower Federal courts—a concept which has been rejected many times by the U.S. Senate, and one which clearly violates the constitutional doctrine of separation of powers.

Mr. Manion cosponsored a bill in the Indiana Legislature to allow the teaching of "creationism" in Indiana public schools, a clear violation of the principle first enunciated by Thomas Jefferson of separation of church and state. And, in a 1971 broadcast, Mr. Manion said that antiwar demonstrators "should be penned up * * * . Why are all these people, some who are even convicted criminals, going around the country and not only berating the Constitution and the free enterprise system but also advocating communism, why are they allowed to run free?"

Mr. President, I was one of those antiwar demonstrators in 1971. I suppose that Mr. Manion would have advocated that I should be "penned up." I respect his right to advocate that belief. But I do not think that a man who advocates those views understands the meaning of free speech, or the first amendment to the Constitution.

Mr. Manion's views are not the views of a true conservative. They are the views of a man who does not understand the U.S. Constitution or the values which it protects. And they are the views of a man who does not respect our judicial system. I have no objection to judicial nominees who hold conservative views. I have voted for many of them. But Mr. Manion does not meet the high standards which should be expected of a judge of the U.S. court of appeals.

I am disturbed by the fact that over 40 law school deans, from such eminent schools as Yale, Georgetown, Harvard, and New York University, have signed a letter to the Senate opposing Mr. Manion's nomination. I am troubled by the fact that a coalition of 51 groups, including labor unions, civil rights groups, and legal defense organizations, have joined together in opposition to the nomination of Mr. Manion.

I am also troubled by the fact that several members of the Senate Judiciary Committee feel that Mr. Manion has been less than candid with the members of the committee. I am disturbed by the revelations that Mr. Manion has tampered with the transcripts of the hearing of the Senate Judiciary Committee, to alter the meaning of this testimony.

And as a former prosecutor, I am troubled by Mr. Manion's frequent use of phrases such as "I don't remember," or "I don't recall." I have heard those kind of phrases used many times in the courtroom. I came to understand them as codewords for evasions and untruths. And when that person happens to be a nominee for a Federal judgeship, it is time to take a long, hard look at the credibility of that person. In Mr. Manion's case, I find that credibility to be lacking.

Mr. President, we have given President Reagan the benefit of the doubt many times on his judicial nominations. We have never yet rejected a single one of his judicial nominees on the floor of the U.S. Senate. But the time has come to draw the line. We would be abdicating our constitutional role of advice and consent if we were to confirm Mr. Manion's nomination. Indeed, we would be violating our oath of office, an oath to uphold and protect the Constitution of the United States, if we were to vote in favor of Mr. Manion. In good conscience, I cannot take that step. I will vote against the nomination of Daniel Manion for the U.S. court of appeals,

and I urge my colleagues to do so as well.●

QUALITY ON THE COURTS

● Mr. LAUTENBERG. Mr. President, I will oppose the nomination of Daniel Manion.

The courts hold a special place in our system. Most people will likely never set foot in a Federal courtroom. But, what happens there affects them. It affects the rights they enjoy, and the rules that govern their lives. It affects what they think and feel about their Government, and its capacity to do justice.

The Senate has a role here. It has an important role. It has a duty to see that our courts have men and women of skill, of experience, of intelligence. It needs men and women who will serve the law, serve the Constitution, and serve the people, with fairness, integrity, and compassion.

And, Mr. President, with swings in political mood, with changes in Presidents, we see changes in the backgrounds, in the leanings of those named to serve. That makes for a diverse judiciary—a judiciary as diverse as the Nation it judges.

But, diversity is no excuse for mediocrity. Ideology is no substitute for quality.

Does Mr. Manion meet the test? No he doesn't. First, he lacks the legal experience and skills that the public deserves. Second, he's displayed a disturbing lack of respect for the Constitution and the rulings of the Supreme Court.

Mr. Manion has never appeared before the court to which he has been nominated. He has not handled a substantial part of the range of complex cases that would come to that court. He has not distinguished himself in legal scholarship. His legal work, his writing, and the clarity of his reasoning has been found deficient by law professors.

Even more disturbing is his lack of respect for the Constitution. As a State legislator, he defied Supreme Court rulings. In hearings before the Judiciary Committee, he raised serious questions about his willingness to abide by Supreme Court precedent. He held contempt for Supreme Court decisions that apply the Bill of Rights to the States. He says now he accepts those decisions. But his conversion is less than convincing.

Mr. President, the record is discussed in detail in the minority views of my colleagues on the Judiciary Committee. The burden is on the proponents to show why this nominee should sit on the U.S. court of appeals, the second highest court in the land. The case has not been made.

I will vote against confirming this nominee.●

Mr. LEVIN. Mr. President, I oppose the nomination of Daniel A. Manion to be a U.S. circuit judge for the Seventh Circuit Court of Appeals.

I take no pleasure or satisfaction in opposing the appointment of an individual to the Federal bench. When the Senate debates the qualifications of a nominee, it is inevitable that there will be a personal element to the debate. I regret this, and I want to stress that I bear Daniel Manion no ill will. I've no doubt that Mr. Manion is a good man.

But when it comes to selecting judges for the Federal appellate bench, it is not enough to find "good" men and women. The men and women who serve on the court of appeals should have outstanding qualifications.

Too many of the President's recent judicial nominees have had mediocre records at best. Daniel Manion is the latest in a series of nominees who barely make the grade, according to the ABA Standing Committee on the Federal Judiciary. A majority found him just "qualified"; a minority rated him "unqualified." We must remember that when the ABA evaluates judicial nominees, it considers only competence, integrity and judicial temperament. It does not look at the nominee's political philosophy, nor does it seek to assign an ideological score to their prior conduct or views.

Mr. Manion is a conservative—everyone knows that. That surely neither qualifies nor disqualifies him. There are some circumstances under which ideology would be a disqualifying factor—if, for example, the nominees' ideology offends the basic values of our system or is inconsistent with the basic principles of American law. But in Mr. Manion's case, we don't even need to determine if his ideology is within the mainstream of American values because he is not up to the standards required for the Federal bench in other ways.

Mr. Manion has little, if any, experience in dealing with Federal constitutional or public law issues. He has never argued a case before a Federal appeals court. He has been first chair in few, if any, trials in Federal district court. The full extent of Mr. Manion's Federal trial practice has been limited to a handful of diversity jurisdiction cases involving issues of State law. His legal experience consists primarily of representation of clients in small personal and commercial claims, particularly in land condemnation cases, in State court.

Mr. Manion has never published any scholarly or other writings. While the publication of scholarly writings may not be an essential prerequisite for a Federal judge, it is a significant indication that a nominee has the keen intellect and legal insight that are essential for the work of the court of appeals. The only legal writings we have from Mr. Manion are the five briefs he submitted to the Judiciary Committee. Since these briefs have been extensively critiqued already I won't belabor the point. Suffice it to say that these examples of Mr. Manion's work—and remember, these were submitted as his best work—fall far short of the standard that should be expected of a Federal appeals court judge. His work is sloppy. Not only is it full of typographical, spelling, and grammatical errors, but it also lacks the clarity and logic we would expect, or indeed, require from a Federal judge.

Mr. Manion's supporters explain these errors as the result of an incompetent secretary or the pressure of severe time constraints. They say he submitted them with the caveat that they were unedited. Did he give the same caveat to the judge to whom the briefs were originally submitted? Mr. Manion is responsible for his own work, time constraint or no time constraint. These are not rough drafts; these are the actual briefs submitted to the judges in these cases. There is no acceptable explanation for the poor quality of these briefs other than that they are the work of a lawyer of mediocre talents.

The suitability of Mr. Manion to serve on the Federal bench is in fact so questionable that the deans of 44 of this country's most prominent law schools were compelled to write a letter to the majority and minority leaders urging that the Senate reject the nomination on the grounds that Mr. Manion is not qualified to serve on the seventh circuit court. Several other law school deans and distinguished professors of law have written on their own to the Senate leadership or to the Judiciary Committee with a similar message. Speaking for the administration, Attorney General Meese dismissed these letters as part of "an unseemly ideological battle being waged against this administration's nominees." In an article that appeared in yesterday's New York Times, Mr. Meese was further quoted as saying that "Dan Manion's qualifications are simply not in doubt * * *." It is simply incredible to me that anyone could seriously suggest that Mr. Manion's "qualifications are simply not in doubt," in view of substantial doubts about his qualifications expressed by a significant proportion of the best legal minds in our country. The views of 44 law school deans cannot be dismissed as "partisan attacks." These deans took the highly unusual step of signing such a letter because they could see, upon examining the record, that Mr. Manion did not meet the minimum criteria for a Federal judgeship.

Mr. President, the Senate should not be evaluating a less than distinguished lawyer to the Federal bench. The Senate should take seriously its constitutional duty with regard to judicial appointments. "Advice and consent"

does not mean "rubberstamp." It does not imply simple deference to the President. In the domain of appointments to the Federal bench, the Senate is an equal partner to the President, and should behave as such.

There is a critical distinction between administrative appointments to the executive branch and judicial appointments. In the case of administrative appointments, the President is entitled to considerable latitude. He is entitled to select people who reflect his views and who will carry out his policies. The Senate exercises its role by raising questions about the nominees' experience, competence, and ethical integrity.

But with regard to judicial appointments, we must apply a different standard. These are lifetime appointments, with removal only by impeachment. The power of the appointed individuals over the Constitution—and the statutes and executive actions flowing from it—is enormous. The men and women we put on the bench, for life, ought to have demonstrated some personal and professional qualities which justify their evaluation. The power we give to Federal judges, members of the third and coequal branch of the Federal Government, is too pervasive to permit us to accept mediocrity on the bench. We can and should require judges to meet a higher standard.

The question before us then should be: Does Mr. Manion meet this higher standard? After examining the qualifications of the nominee, I can only answer this question in the negative. Daniel Manion simply does not have the experience, legal acumen, or professional achievement we should look for in our Federal judges.

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

● Mrs. HAWKINS. Mr. President, I support Daniel A. Manion who has been nominated to be U.S. circuit judge for the seventh circuit. Daniel Manion would be an asset to our Federal judicial system.

Daniel Manion is a qualified and suitable individual to serve in this position as his record will demonstrate. He graduated from the University of Notre Dame in 1964 and went on to Indiana School of Law. His achievements in this time include the John J. Cavanaugh Award at Notre Dame and authoring some 20 briefs on various criminal appeals issues. In 1978, Daniel was elected to the Indiana State Senate where he demonstrated consistently his abilities in leadership and high standards.

As a partner in a South Bend law firm, Mr. Manion litigated a wide variety of cases which suitably prepared him for this post. These include cases in banking, civil rights, tax, insurance, and commercial defense. Furthermore, the ratings given Mr. Manion by his colleagues, the Chicago Council of Lawyers, reveal his character. They describe him as a man with a "high reputation for integrity, conscientiousness, and fairness" and one who is known for his "forthrightness and his adherence to high, ethical standards." His extensive legal experience serves as an admirable example to all aspiring U.S. circuit judges.

I fully support Daniel Manion's nomination to serve on the U.S. court of appeals because I believe he will uphold the U.S. Constitution in the manner Americans expect from such a judicial appointee. I join my fellow colleagues in supporting Mr. Manion for this position.●

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, what is the time situation?

The PRESIDING OFFICER. The minority leader has 10 minutes and the majority leader has 4 minutes remaining time under the control of the Senator from South Carolina.

Mr. BYRD. Mr. President, I ask the distinguished chairman of the Judiciary Committee if he would be willing to extend the time on both sides by 7 minutes, 7 minutes on each side. I first thought 5 minutes but I see more Senators here.

Mr. THURMOND. I have no objection.

Mr. President, we have no objection to extending the time 7 minutes on each side.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, without objection, it is so ordered.

Mr. BIDEN. Mr. President, I yield 2 minutes to the distinguished Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the Senator from Delaware.

Mr. President, this nomination comes down to one question. That is, under our oath of office that we take as Senators to uphold and defend the Constitution of the United States, Should we vote to approve the appointment of Daniel Manion to be a judge on the Seventh Circuit Court of Appeals?

I regard that oath of office to be very solemn. It is one we should take very seriously. Under our Constitution, it is the Federal judiciary which is the final protector and final arbiter of the constitutional protections that are so dear to us as Americans: free speech, freedom of the press, all the constitutional guarantees.

It is, therefore, incumbent upon us, as we take our oath of office, to make sure that the confirmation of appointments in the judicial branch of Government, the third branch of Government, are people of the highest competence and integrity, and are appointees who will protect and defend the Constitution of the United States.

I have personally met Dan Manion. I asked to see him. I wanted to meet him. I wanted to find out what this man is all about, to be sure that when I voted I was better informed in my decision of whether or not he should be confirmed to the circuit court of appeals.

Daniel Manion is a nice guy. He is decent. He is clean-cut. But I submit, Mr. President, that Daniel Manion is not sufficiently competent, nor does he have sufficient understanding of, knowledge of, or reverence for, the Constitution of the United States, which is a requisite to be a member of the circuit court of appeals.

I do not have the time to go into details; I do not have the time to go into all the facts.

But the fact is, the sole question is whether we as Senators are going to exercise our highest obligation, our highest duty. Our duty under our oath of office is to make sure that the appointees to the judicial branch do, in fact, have those highest standards and that they will protect our constitutional guarantees.

Mr. BIDEN. Mr. President, I yield 2 minutes to the Senator from Ohio.

Mr. METZENBAUM. I thank the Senator.

Mr. President, this nomination provides an opportunity for the Senate to exercise its constitutional duty. We are called upon to determine whether the nominee should assume for the rest of his life one of the most powerful and important positions in our legal system. The President has nominated Mr. Manion to the second highest court in the land. In the great majority of cases, there will be no review of the decisions he and his colleagues make. For all practical purposes, he will make the final decision in thousands of cases.

Some will say that the Senate should always let the President decide who the Federal judges of this country should be. Some will say that I want to take away the constitutional right of the President to choose Federal judges. I do not want to do that at all. The President has the privilege to appoint to the Federal judiciary persons who are compatible with his philosophy. But we cannot allow a presumption that the Senate must confirm each candidate the President nominates.

Those who say that the Senate should always let the President choose our Federal judges should read the Constitution. The Constitution says that the President "shall nominate and, by and with the advice and consent of the Senate, shall appoint judges of the United States." The Constitution says that the Senate must consent to the President's nominee.

Those who suggest that the Senate must approve anyone the President sends to the Senate are wrong.

Though I strongly believe that the Senate must play an independent and meaningful role, I do not believe that the President's choices must be opposed as a routine matter. I have voted for many conservative nominees who have advocated positions with which I disagree.

I am a member of the Judiciary Committee which has acted favorably on many nominees who embrace philosophies which I do not find palatable. We have confirmed over 270 of these nominees. I opposed only a few of these nominees for two simple reasons. One, I found that these nominees held views which were so extreme as to be inconsistent with fundamental constitutional principles. Second, I found that these nominees were not qualified to serve as Federal judges.

When Mr. Manion was before the Senate Judiciary Committee, I asked myself two questions. Is he qualified to serve on the Seventh Circuit Court of Appeals? Does he have sufficient respect for the Constitution and laws of this country? Regretfully—I was forced to answer both these questions "No."

Let me address the question of competency first—because this issue is so fundamental.

Why does Mr. Manion's competence matter?

Mr. Manion has been nominated to serve on the Seventh Circuit Court of Appeals. If he serves, he will hear arguments on some of our most complex legal issues. He will be expected to write opinions articulating the law of that circuit in a precise, clear and legally sound manner. I do not believe that Mr. Manion can meet these expectations.

Let me review the evidence.

The American Bar Association found Mr. Manion minimally qualified to serve on the seventh circuit. The American Bar Association's Standing Committee on the Federal Judiciary uses four categories to rate nominees: Exceptionally well-qualified, well-qualified, qualified, and not qualified. A majority of the ABA committee found him qualified, and a minority found him unqualified.

Not only did Mr. Manion receive a poor rating from the ABA; he also received a "not qualified" rating from the Chicago Council of Lawyers. This is a group made up of well-respected lawyers from Chicago, the largest city in the three States which make up the seventh circuit.

In an April 9, 1986 letter to Senator SIMON, the Chicago Council said:

> Mr. Manion has participated in 12 trials to varying degrees in Federal court; however, he has not yet had the responsibility for being first Chair in a Federal trial. He told us he has handled a case in which a Federal constitutional issue was involved. He also told us he has never argued a case in the seventh circuit.

The council concluded that Mr. Manion is "not qualified" to serve on the Seventh Circuit Court of Appeals. Their letter says:

> The council is very concerned about the fact that Mr. Manion lacks experience in dealing with questions of Federal law and Federal constitutional issues. He also lacks experience with the kinds of complex Federal litigation which he would have to review as a judge of the Seventh Circuit Court of Appeals. Moreover, the quality and extent of Mr. Manion's legal experience in State court does not demonstrate the high level of legal expertise which the council feels should be possessed by judges of the seventh circuit. Finally, Mr. Manion has not demonstrated any scholarly interest in State and Federal law or constitutional issues.

This past Tuesday, I asked my staff to contact the Chicago Council of Lawyers to verify the information in the council's April 9, 1986 letter to Senator SIMON on Mr. Manion's Federal trial experience. A spokesman for the council verified that all of the information was accurate.

The information Mr. Manion supplied to the committee also shows his lack of qualifications. The committee asked Mr. Manion to describe the 10 most significant litigated matters which he had handled.

He listed the following cases: A warranty case involving a volkswagen; a loan dispute; two negligence cases; an attorney malpractice case; two land condemnation cases; a utility sale case; a child custody case; and a personal injury case involving a motorcycle. According to the biographical information Mr. Manion supplied to the committee, two of these cases were Federal court cases.

The committee also asked Mr. Manion to describe the most significant legal activities he had pursued, including significant litigation which did not progress to trial.

In response to this question, Mr. Manion listed the following matters: Two breach of contract cases and a personal injury negligence case. Two of these cases were Federal court cases. Mr. Manion's experience is woefully inadequate.

The fact that Mr. Manion lacks significant Federal court experience troubles me enough. But I am also troubled by the fact that his written legal work is of poor quality.

The Chicago Council of Lawyers asked Mr. Manion to submit to the council five of his best briefs. Each brief was reviewed by a different member of the council's Federal Judicial Evaluation Committee.

We must seriously weigh the analyses of the council. The results are disturbing in light of the position to which Mr. Manion has been nominated.

The council found one of the briefs ineffective. The council said:

> Mr. Manion's writing ability falls substantially short of the minimal requirements for the position.

The council said:

> Brief thoroughly fails to communicate Mr. Manion's arguments in any effective manner . . . (the) brief is extremely difficult to follow because it lacks both an initial summary of Mr. Manion's overall argument and internal summaries of his principal points.
>
> As a result, the reader cannot discern the gist of an argument by Mr. Manion until after completing the entire section of the brief devoted to that argument, if then.

The council found other briefs deficient.

The council said:

> Mr. Manion's briefs did not directly confront the court's analysis . . . by failing directly to confront the court's reasoning, the briefs do not give the court any convincing rationale for changing its result.

The briefs, they said, "are, at best, average in quality."

Of another brief, the council said:

> Mr. Manion's writing is less than persuasive partly because his brief is not very well organized and the confusing syntax often makes his arguments difficult to follow.

The Chicago Council letter concludes by stating that:

> Mr. Manion has not demonstrated the level of legal skill necessary for appointment to the Seventh Circuit Court of Appeals.

Personally, I am appalled that these briefs may be Manion's best legal work. I am even more shocked that Mr. Manion chose to submit a brief so poorly argued and so riddled with technical error.

Does the nominee have any idea what acceptable legal work is? If Mr. Manion is confirmed, how will he recognize acceptable legal work?

Mr. Manion will be woefully out of place on the seventh circuit. I have compared Mr. Manion's credentials to the credentials the judges of the seventh circuit had when they were nominated. Mr. Manion cannot join these judges as an equal.

Of the 14 distinguished seventh circuit judges, five had served as U.S. district court judges—one for 20 years and another for 19 years. Two were justices on their State supreme courts. Four were professors of law at such institutions as the University of Chicago Law School and Notre Dame. Mr. Manion cannot be favorably compared with the current members of the seventh circuit. We should not compel this court to accommodate his weaknesses.

Not only will he be out of place among his colleagues on his own circuit, his qualifications do not measure up to those possessed by the other 59 men and women who have been appointed to the Federal appeals courts since January 1981.

Many of these judges had either solid legal experience or distinguished academic credentials. Twenty-nine percent were law professors. Forty-two percent had prior Federal legal experience—one was a Solicitor General, some were U.S. attorneys and Deputy Attorneys General. Forty-one percent had been Federal judges. Fifty-three percent were Federal or State judges. Fifty-eight percent received either the exceptionally well-qualified or well-qualified rating from the ABA.

I should also point out that over 40 deans of some of our finest law schools say that Mr. Manion is unqualified to serve on the seventh circuit. They wrote to the majority and the minority leaders of this body to "urge that the Senate decline to consent to this nomination on the ground that Mr. Manion is not qualified to serve * * *"

I have pointed out before that the quality of judges nominated over the past year has declined. But the nomination of Mr. Manion marks a new low.

The next issue I want to raise is whether the nominee has sufficient respect for the Constitution.

I have reviewed his actions as a State senator and I must be frank. I do not know whether Mr. Manion sufficiently respects the Constitution. I don't know whether he believes that Supreme Court decisions establish the law of the land. Because I have serious doubts, I must vote against Mr. Manion.

In January of 1981, while Mr. Manion was a State senator, he joined what he called a "legislative protest" against a Supreme Court decision. The decision he and other legislators protested, Stone versus Graham, struck down a Kentucky statute which required the posting of the Ten Commandments. The Supreme Court said that the Kentucky statute violated the establishment clause of the Constitution.

Two months after the Stone decision, Mr. Manion cosponsored a bill which permitted the posting of the Ten Commandments in public schools throughout Indiana. The bill was virtually identical to the Kentucky statute.

The Indiana State Senate bill stated that:

> Teachers in public * * * schools may display copies of the Ten Commandments * * * on the walls of * * * classrooms.

The invalidated Kentucky statute stated that:

> It shall be the duty of the superintendent of public instruction * * * to insure that a durable, permanent copy of the Ten Commandments shall be displayed on a wall in each * * * classroom.

Though the Kentucky statute mandated posting, and the Indiana bill would have permitted posting, Stone versus Graham condemned them both. The Supreme Court said that government posting was enough to violate the establishment clause.

Let me quote the court: The "mere posting under the auspices of the legislature provides the official support of the State government that the establishment clause prohibits." One need not be a scholar to know that the bill Manion sponsored was obviously unconstitutional.

And Mr. Manion told us at his confirmation hearing that he knew the bill was unconstitutional when he cosponsored it.

He said at his hearing that had the bill been enacted, and these are his words: "It would have to be declared unconstitutional * * *." He went on "Yes, I would say it would have been overturned. No question about it." So there is no dispute over the fact that Mr. Manion knew the bill was unconstitutional.

Mr. Manion defied the supremacy clause of our Constitution, article VI, when he cosponsored the ten commandment bill. That part of the Constitution states that:

> The Constitution shall be the supreme law of the land * * * and that * * * the members of the several State legislatures shall be bound by oath or affirmation to support this constitution.

When Mr. Manion joined the Indiana State Senate, he agreed to the principle of constitutional supremacy embodied in the supremacy clause and the decisions of the Supreme Court.

In spite of this oath, Mr. Manion called his sponsorship of the bill—and these are his words "legislative prerogative" and "legislative protest." Mr. Manion's knowing sponsorship of unconstitutional legislation—and his doctrine of State legislative protest and prerogative—are dangerously close to the doctrines of interposition and nullification. These doctrines—which amount to the view that the States may defy national law at will—have been rejected again and again by the U.S. Supreme Court.

I doubt whether Mr. Manion understands or embraces the idea that Supreme Court decisions on the Constitution are controlling. I doubt whether he understands that State legislatures must submit to Supreme Court decisions. My doubts remain, and I intend to vote against Mr. Manion's confirmation.

The information I have reviewed so far is sufficient to support my "no" vote on Mr. Manion. But my other observations convince me that a "no" vote is the only vote I can consider.

I am not the only member of the committee who believes that Mr. Manion has not been candid during his confirmation hearing. Some of his responses to committee members questions are just not credible.

For example, Senator SIMON asked him to explain his impression of a group called the John Birch Society. He said to the committee, "I do not know * * * what their stands are on the Constitution or any other issue of current affairs."

But the committee has seen an August 1979 letter Mr. Manion wrote to the American Opinion Bookstore, the local headquarters of the John Birch Society in Elkhart, IN.

Mr. Manion wrote:

> Your members are certainly the people who are on the front line of the fight for constitutional freedom * * * keep up your good work. Since I represent two townships in Elkhart, I would be happy to help you in whatever causes you may have before the State legislature.

This letter makes it difficult for me to believe that Mr. Manion knows nothing about John Birch Society.

The testimony Mr. Manion gave about a book he once endorsed was also not credible.

The committee asked Mr. Manion about his endorsement of a book called "We Hold These Truths" written by the late Congressman Larry McDonald. The book contains several extremist statements. One statement—"A Supreme Court decision is not the law of the land"—is of special interest to me.

In 1977, Mr. Manion interviewed Dr. McDonald during a radio program sponsored by the Manion Forum. During that broadcast, Mr. Manion endorsed the book "We Hold These Truths."

Mr. Manion said:

> My personal observation is that it is one of the finest summaries of the history of our country—what has happened in the past, what happened to us and what we have to do about it.

The following week, during another radio broadcast, Mr. Manion said to Dr. McDonald:

> In your book you bring down some very justified criticism of the Supreme Court that interprets the Constitution.

Mr. Manion's strong endorsement of Dr. McDonald's book strongly suggests that Mr. Manion read the book and agreed with its controversial concepts.

But during the confirmation hearing, Mr. Manion could not remember the book—or the interview. When Senator BIDEN questioned Mr. Manion on this subject, Mr. Manion said:

> I do not remember saying it nor do I remember the book.

Later in the hearing Mr. Manion insisted that he praised the book in order to remain polite to a guest on his show.

It is difficult for me to believe that his praise was mere politeness. It is especially difficult because the views Mr. Manion expressed during the McDonald interview are consistent with Mr. Manion's idea of State legislative protest and prerogative.

So not only does the nominee lack credibility, but he lacks it on the most

important issue of all—whether he accepts the authority and role of the Supreme Court in our constitutional system.

I have taken the time to explain my reasons, because I want them to be understood, and because I hope to persuade the undecided.

I have taken the time because I have enormous respect for the Federal judiciary, and because I want this branch of Government to remain respected and strong.

I have taken this time because the power to confirm a judge for life is awesome and must be exercised with great care and deliberation.

A convincing case has not been made for Mr. Manion's confirmation. He must be rejected.

Some say that this is an ideological debate. Do they mean that we who oppose Mr. Manion believe in the ideology of merit? If that is what they mean, then I agree that this is a debate over ideology.

Some say that this is a partisan debate. Do they mean that we who oppose Mr. Manion are partisans of the Constitution and the Supreme Court? If that is what they mean, I agree that this is a partisan debate.

Some say that this is a symbolic debate. Do they mean that we who vote against Mr. Manion want to send a clear signal to the President? If that is what they mean, then I agree that this is a symbolic debate.

With this confirmation, we must draw a line and take a stand.

Our vote must send the President a loud, clear message—do not send us nominees like Mr. Manion. Our courts are far too important, and our Constitution—far too precious.

Mr. BIDEN. Mr. President, I yield 1 minute to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, the nomination we are considering is critically important for one reason and one reason only—it poses in the clearest possible terms the responsibility of the Senate to assure that lifetime appointments to our Federal courts meet at least minimal standards of competence and integrity.

Mr. Manion's nomination is in trouble for the simple reason that he is utterly lacking in the objective qualifications required for a judicial nominee. He has had almost no experience in Federal courts; his briefs in State courts border on the illiterate; he insulted the Supreme Court by defying one of its key decisions interpreting the Constitution; he is opposed by the deans of a long list of major law schools throughout the country, and, compounding all of his other demerits, he refused to come clean in his Senate confirmation hearing, and doctored the hearing transcript to delete his own damaging testimony.

Mr. Manion is a conservative—but ideology is not the issue in this debate.

Democrats have voted to confirm dozens of President Reagan's conservative judicial nominees—but they have all had adequate qualifications.

Nine of the sitting members of the seventh circuit were appointed by Republican administrations, and four by Democratic administrations, and I voted for everyone of those sitting judges.

Mr. Manion flunks the test, not because he is conservative, but because he is not qualified. If the President wants to point the finger of blame for this fiasco, he need point no further than Ed Meese for setting the standard of qualifications so low.

In fact, the shoe is on the other foot. Mr. Manion's lack of qualifications to be a Federal circuit judge is so striking that it suggests he was nominated solely because of his conservative ideology and not for any distinction in the law.

Some may say it is the President's prerogative to choose judges by whatever standard he wants—no matter how mediocre their accomplishments, so long as they are not racists or tainted by a whiff of scandal. But the Constitution gives a coequal responsibility to the Senate to advise and consent on judicial nominations, and I reject the view that the Senate is nothing more than a rubber stamp.

A fundamental principle is at stake—the integrity of the Federal courts in our constitutional system of government. "Support the President" is not the end of the analysis. We have also taken an oath to support the Constitution—and that oath comes before all others.

Nominees who seek life tenure on our Federal courts must bear the burden of demonstrating that they are deserving of their solemn trust. The Senate should confirm only those nominees who meet at least a minimal standard of merit. With all respect to Mr. Manion, he does not measure up. The Attorney General has abused the Senate with this nomination, and it should be rejected. Instead of holding our noses and voting for Mr. Manion, we should uphold the Constitution and vote him down.

Mr. President, on the seventh circuit, there are 13 sitting judges. Six of those judges were distinguished jurists before sitting on the seventh circuit. Five of them were distinguished law professors from many of our distinguished law schools around this country. The other two had a combination of 25 years of service as lawyers, practicing in the Federal court and the circuit court. Those have been the criteria. Nine were appointed by Republicans and four by Democrats. I voted for each and every member of that court.

Mr. President, this nominee does not meet the minimum standards that we should establish in terms of service on that court. Instead of holding our noses and voting for him, as I said, I suggest that the Senate uphold the Constitution of the United States and say that he is not fit to serve on that court.

Mr. BIDEN. Mr. President, does the Senator from Delaware have 2 minutes left?

The PRESIDING OFFICER. The Senator has.

Mr. BIDEN. I yield 1 minute to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President and my colleagues, the question before us is whether or not we cut off debate and whether or not the question of quality in the Federal courts merits some additional time here.

The Senator from Montana, speaking just a few minutes ago, said, "I do not have time to go into this." We are talking about something that is very fundamental. We are talking about an administration that has given us a nominee who, by any standards, is below what we have been accustomed to.

Does this merit additional debate? I think clearly it does. We are not talking about an endless filibuster. We are talking about going into this and letting the American public know what the issue is. I hope we defeat the cloture motion.

Mr. BIDEN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I shall use the remainder of my time. I yield myself the 1 minute remaining to make three quick points.

No. 1, we were here last night all night willing to debate and nobody showed up to debate except the Senator from Utah. The Senator from Indiana, the Senator from Idaho, and others did not show up to debate the issue.

No. 2, this is not about politics. If it were about politics, the question would be why have we, the Senator from Delaware in particular, voted for 264 conservative judges? We have only asked four times since this man has been President, it is only four times that we have even asked for a rollcall vote.

No. 3, he is clearly, unequivocally not qualified to sit on the circuit court of appeals in the United States seventh circuit.

Last, our duty is to the Constitution first, individuals second and when in doubt, we must err on the side of the Constitution. I urge my colleagues to

err on the side of the Constitution and vote against cloture and eventually, which will come soon, I hope, against Mr. Manion.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. BYRD. Mr. President, throughout this debate and before it came to the floor and over the airwaves, much has been said about "partisanship" in connection with this nomination. I now read from the President's radio address of June 21 these excerpts:

> Partisanship in the Senate has pushed fair play by the boards, which is why I have sent a letter to the Senate expressing my strong opinion about the prerogative of the President to make qualified appointments to the Federal judiciary and what I feel has been the partisan use of the confirmation process.

Another excerpt:

> I believe the Senate should consider only a nominee's qualifications and character, not his political views.

Mr. President, let us take a look at what the Constitution says about the appointment process. There are three steps in the appointment process.

The President makes the nomination. That is a voluntary act. He can make that nomination based on whatever criteria he wishes to make it. That is his sole decision. The Constitution says "He shall nominate" meaning the President—"He shall nominate." That is the President's prerogative alone.

But listen further, Mr. President: "and by and with the advice and consent of the Senate shall appoint * * * judges of the Supreme Court, and all other officers of the United States. * * *"

The reference to officers of the United States includes Federal judges.

So, Mr. President, according to the Constitution, while only the President can nominate—the Senate cannot nominate—the appointment is shared by the President and by the U.S. Senate because the Constitution says, and I read again, the President "by and with the advice and consent of the Senate shall appoint."

The third step is the tendering of the commission to the person who is appointed. The President cannot reach that third step, he cannot present that commission if the Senate has not given its consent to the nomination. So, Mr. President, this is a role that the Constitution mandates the play.

It is the Constitution that Senators swear to defend and support when we enter upon our duties here. Each of us takes that oath and we say, "so help me God," we will do that, defend and support the Constitution of the United States.

So, those who write the speeches of the President should read the Constitution again. This is not a monarchy; this is not an absolute monarchy; it is not even a constitutional monarchy; and it is not the Soviet Union. This is the Senate of the United States, and the Senate is doing its duty under the Constitution of the United States.

The Constitution does not say that the Senate must rubberstamp the nominations of the President and it does not say one word, not one word, about qualifications here. It does not confine the advice and consent of the Senate to a decision as to qualifications. It simply says he, the President, shall nominate, and by and with the advice and consent of the Senate, shall appoint.

What we do is look at the whole man. I see that as my responsibility. What are his qualifications? What is his experience? And, yes, I have a right to consider his ideology.

The President has that right. Nobody questions his right to look at the ideology of his nominees. But if he has no doubt about his nominees, then, apparently, nobody else is allowed to have any doubts.

I say Senators are not confined to just looking at the qualifications.

□ 1200

Of course, we should look at the qualifications. Yes; we should look at character. Yes; we should look at the integrity and the experience and the ideology as we make these decisions. We should look at the whole man. I intend to fulfill that role.

Now, Mr. President, let us talk for a moment about partisanship. There have been 59 Federal appellate judges confirmed since January 1981 when this President assumed office for the first term. There have been 205 Federal district judges confirmed. That is 264 in total. And then there has been one Supreme Court Justice confirmed, Mrs. O'Connor. So we have had 265 confirmations. We have had five rollcall votes, including the vote on Mrs. O'Connor—five rollcall votes. That is one vote out of every 53 judges confirmed.

Now, that is not partisanship. It is stretching the word to accuse the Senate of partisanship. Of course, what the President is talking about is Democrat versus Republican when he charges partisanship.

Now, let us look at the nominee. This nominee will have life tenure during good behavior. He is in there for life. The President is not in office for life. No Senator is elected for life. But any Federal judge, once he is confirmed by the Senate and he gets his commission from the President, is a judge for life. And look at the awesome power that he holds over the life, the property, the rights of every man, woman, and child in this country, over commerce and business and agriculture, over institutions of government. And he will interpret the statutes of this country, he will interpret the organic law, the Constitution, of this country. This is an awesome power. A Federal judge can only be removed from office by impeachment by the House and a trial by the Senate. So we should not take the responsibility of advice and consent lightly.

Senators should not swallow the argument, "Well, give us an up-or-down vote." I do not buy that argument.

Mr. President, we have a solemn responsibility because Senators will be appointing a man to a very small class of people in this country, that of being a Federal judge, with all of the awesome power which goes with that high office. I say to my friends and to the President of the United States, with the utmost respect, and more particularly to those who write his speeches and also, yes, to those who swallow those speeches hook, line, and sinker, it is not the role of the U.S. Senate to put its rubberstamp on any President's nominees.

Yes, I go along with the idea that, generally speaking, any President should have the people he wants to serve in Cabinet positions and other high offices of this country. But the Senate also has its responsibility and it is not one to be taken lightly.

Aaron Burr, when he left this Senate, after having served as Vice President and having presided over this Senate for 4 years, in his farewell address to the Senate, said this:

> This house is a sanctuary; a citadel of law, of order and of liberty; and it is here in this exalted refuge—here, if anywhere, will resistance be made to the storms of political frenzy and the silent arts of corruption. And if the Constitution be destined ever to perish by the sacreligious hands of the demagog or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

That is what we are talking about, the Constitution of the United States. It is not our role to see that Constitution perish. It is our duty to solemnly weigh this confirmation. The question is not whether we like the man or do not like him.

Now, finally, we are about to vote on cloture. I do not think this man should sit on the Federal bench, and I will not lend my consent. Others have made the case. There is not one single high achievement in the law to which this man can point, not one instance of demonstrated excellence that I have found as I have reviewed the record. I have nothing against his character, his integrity. But looking at his experience, looking at the case that has been made by the committee, I can find nothing that recommends this man to sit on the Federal bench for life. No man or woman is born in this country with a birthright to be a U.S. Senator or a Federal judge. There should be a standard of excellence. We who are Senators have to stand before our

people every 6 years, and they make a judgment as to our competence or lack thereof, our record of service or lack thereof. But this man will be appointed for life. I say to my friends, to my fellow Senators, this man should not sit on the Federal bench. I shall oppose his nomination. I shall vote against him. I shall vote to recommit if that motion is made, and I shall vote against cloture.

The PRESIDING OFFICER (Mr. MATHIAS). The time of the minority leader has expired.

Mr. BYRD. I urge my colleagues to do the same.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, how does the time stand on each side?

The PRESIDING OFFICER. The Senator from South Carolina has 8 minutes remaining, and that is all of the time remaining.

Mr. THURMOND. There could not be 8 minutes. We extended it 7 minutes and I had about 11 before that. I was told it is 19 minutes in all.

The PRESIDING OFFICER. Because the minority leader used his reserve time, total time is reduced by about 10 minutes. Eight minutes are remaining.

Mr. THURMOND. How much time is remaining?

The PRESIDING OFFICER. Eight minutes.

Mr. THURMOND. Mr. President, we had originally how much time?

The PRESIDING OFFICER. The Senator——

Mr. THURMOND. I yielded 1 minute to Senator SYMMS. I yielded 5 minutes I believe to Senator QUAYLE. That is 6 minutes. How much did I have to start with?

The PRESIDING OFFICER. The Senator had 19 minutes to begin with.

Mr. THURMOND. Well, 6 from 19 is what?

The PRESIDING OFFICER. I believe that by process of simple arithmetic I arrive at the figure of 13.

Mr. THURMOND. Thirteen minutes. And then it was extended 7 minutes, which makes 20 minutes.

The PRESIDING OFFICER. Under the order, it was provided that the two leaders would be able to use their reserve time and the minority leader did so.

Mr. THURMOND. Well, they still have their time.

The PRESIDING OFFICER. Their time has also expired.

Mr. THURMOND. And I also have 19 or 20 minutes, whatever it is.

The PRESIDING OFFICER. The Chair somewhat unceremoniously interrupted the minority leader and cut short his speech. All of his time had expired. All of the leader's time had expired. The majority leader, however, has a remaining minute in addition to the 8 minutes of the Senator from South Carolina.

Mr. THURMOND. I do not see how one counts that. I have not yielded but 6 minutes over here, and I had 19 to start with and we extended it 7 minutes. At any rate, I will do the best I can.

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader have 3 additional minutes which he may yield to the distinguished Senator if he so wishes.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of this nomination. I have been in this Senate for 32 years. I do not think a finer man has come before this Senate to be a judge than Daniel Manion. He is a man of character and integrity. He is a man of ability. He is a man who has attained professional qualifications. He is a man of dedication. He is a hard worker.

□ 1210

This man was appointed by President Reagan. President Reagan sent a three-page letter to the Senate setting out the fact that Mr. Manion is a good man and his nomination should be confirmed.

This man was investigated by the Justice Department and the FBI. The Justice Department recommended Mr. Manion highly.

The American Bar Association, which passes on qualifications, recommends him, and in a few minutes I will cover a little more of that in detail.

Father Hesburgh, the president of Notre Dame, former Chairman of the Civil Rights Commission, recommends him. The chief justice of Indiana, Mr. Givan, recommends him.

The bar association of the county in which he practices law recommends him. Former Senator Hartke, a Democratic Senator from Indiana, who knows him well, a liberal Democrat, recommends him.

Senator LUGAR, the distinguished chairman of the Foreign Relations Committee in the Senate, and Senator QUAYLE, the junior Senator from Indiana, recommend him. They know him better than any of us know him. Should we be willing to take their statement, their qualifications? They would not recommend this man just for political purposes. It would hurt them back home if they recommended somebody who was not qualified.

Mr. President, those are recommendations.

I think the Senate ought to vote cloture for two reasons. The first is that I think the nominee is entitled to a vote by the Senate. How are you going to get the vote? Suppose he had 59 votes for him? Unless he had 60 votes, you could not get cloture, and the nominee would not get a vote. It seems to me that the fair thing to do, the just thing to do, the reasonable thing to do, is to give him a vote. His nomination may not be confirmed, but he ought to have a vote.

It will save time, because if this cloture vote fails, there will be another cloture vote, and maybe another cloture. I do not know how long it will go on. I have seen Lyndon Johnson here, as majority leader, go for four clotures in the Senate.

There has been quibbling here about changing the record. I should like to comment on the allegation made by opponents of Mr. Manion that he changed his testimony.

It is the practice of the Judiciary Committee to send each nominee a transcript of his or her testimony for appropriate corrections. That is the practice with all, Democrats and Republicans. The transmittal letter states that only changes in diction, expression, clarity, brevity, accuracy, or to correct any errors in transcribing are permitted. If changes in substance are desired, a written request must be made to the chairman of the committee.

Mr. President, the allegation that Mr. Manion changed the substance of his testimony is incorrect. A review of the transcript shows that the changes he made are consistent with his overall testimony on specific points.

For example, in responding to a question on the constitutionality of a bill, Mr. Manion's response on page 96 of the transcript reads: "Well, it would have been ostensibly unconstitutional, and it probably"—and "probably" was misspelled p-r-o-b-a-b-l by the reporter, I guess, who wrote the transcript—"would have been repealed."

Mr. President, this was corrected to add the word "have." So it would read, "It would have been ostensibly unconstitutional." The same thought. Then a "y" was added to correct the spelling of the word "probably."

On the very next page, 97, Mr. Manion, in response to a similar question said: "Yes, I would say it would have been overturned. No question about it," as he testified to on the previous page. This was edited to add the "probably" and delete the words "No question about it"—"Yes, I would say it probably would have been overturned."

Mr. President, these statements are not inconsistent. They, in fact, lend more consistency to his testimony and certainly, as required by the transmittal letter, was an accurate and clear representation of Mr. Manion's testimony.

To imply that Mr. Manion has somehow deceitfully changed the transcript and his sworn testimony is simply misleading and untrue. It is untrue, I repeat.

Mr. President, there was no departure from the facts, and a review of the transcript will show just that.

Mr. Manion has a high reputation for honesty and integrity. There is no hint of any impropriety or wrongdoing in his background. Even his most strident critics have to admit that he is an able, fair, and just individual.

The ABA found his professional background met the significant requirements that would qualify him to serve on a court of appeals. I believe that he will bring to the Seventh Circuit Court of Appeals an excellent background consisting of broad litigation practice, as well as experience as a State legislator. Mr. Manion is clearly qualified and his nomination should be confirmed by the Senate.

Mr. President, we have the transcript here to back up anything I say.

Mr. President, a number of allegations relating to Mr. Manion's nomination have been raised. In view of my limited time, I would like to discuss some of the more significant alleged objections to Mr. Manion.

ALLEGATION

Opponents say that Mr. Manion's ABA rating is not high enough. A substantial majority of the ABA committee found him to be qualified, and a minority found him to be not qualified.

RESPONSE

Mr. President, the ABA in a publication explaining the procedures utilized by their standing committee on Federal judiciary stated that the committee's evaluation of prospective nominees is directed primarily to professional qualifications and specifically includes consideration of competence, integrity, and judicial temperament:

Professional competence encompasses such qualities as intellectual capacity, judgment, writing and analytical ability, industry, knowledge of the law and professional experience.

The committee believes that political activity and public service are valuable experiences, but that such activity and service are not a substitute for significant experience in the practice of law.

In investigating temperament, the committee looks to the prospective nominee's compassion, decisiveness, open-mindedness, sensitivity, courtesy, patience, freedom from bias and commitment to equal justice, among other factors. The prospective nominee's character, integrity and general reputation in the legal community are investigated, as are his or her industry and diligence. Community and professional contributions are considered relevant.

The ABA committee's stringent examination of Mr. Manion's qualifications on this basis resulted in a substantial majority of the committee finding him to be qualified to serve on the Court of Appeals for the Seventh Circuit. A substantial majority indicates that from 10 to 13 members of the 14 member committee found the nominee to be qualified. Therefore, a negative vote by only one member of the committee would constitute a minority.

It should be noted that "qualified" is the norm. Furthermore, 43 percent of all nominees to the Court of Appeals under President Reagan have received this rating and each has been approved by the Senate. In this regard, it has been suggested that Mr. Manion does not meet the same high standards as other conservative nominees such as Judges Posner and Easterbrook of the seventh circuit, Judge Bork of the D.C. circuit, Judges Winter and Mahoney of the second circuit, Judge Noonan of the ninth circuit, and Judge Edmondson of the 11th circuit. It should be noted that as nominees, more than half of these judges received the same rating as did Mr. Manion. In fact, only one of these judges was rated higher than qualified by the ABA committee

Mr. President, we have the ABA committee, which is nonpolitical, to provide us with their advice. They have said that President Reagan's nominee to fill this seat on the seventh circuit is qualified. I think that the expertise of the ABA committee in such matters should be utilized. If they did not think Mr. Manion was qualified, they would have said so. I urge my collegues to read the rating for exactly what it is; a statement by the ABA that Daniel Manion is qualified for the position to which he was nominated.

ALLEGATION

It has ben alleged that Mr. Manion lacks Federal court experience.

RESPONSE

Mr. Manion has participated in numerous Federal court cases. Currently he is lead counsel on three pending Federal cases, two involving securities and the Racketeer Influenced and Corrupt Organizations Act, and one diversity case. Additionally, he is co-counsel on two patent infringement cases and another diversity case. a number of cases in which Mr. Manion was involved in State courts could have been brought to the Federal courts under diversity jurisdiction; but for tactical reasons, the actions were brought in State court. Practice in State courts should not be brushed aside as detracting from an individual's ability to perform ably on the Federal bench. A number of State court judges have been nominated and confirmed by the Senate for Federal judgeships and lack of Federal experience has not been a factor. Yet, now we hear concern about Federal experience. I think these expressions are afterthoughts to his opponents' real concern, and that is ideological differences.

Mr. President, on this subject of Federal experience, the committee received, as I previously stated, a letter from David T. Ready, the former U.S. attorney for the northern district of Indiana. Somebody said he might be prejudiced. He was appointed by President Carter. The letter reads in part as follows:

I have known Mr. Manion for a number of years. I believe that he is eminently qualified to fulfill the position of the U.S. circuit court judge. I firmly believe he possesses the necessary intellect, integrity, and open-mindedness which practicing members of the bar have a right to expect in our judicial appointments.

I would hasten to add that Mr. Manion enjoys an excellent reputation amongst his peers.

Who are his peers? His peers are the lawyers he worked with.

The letter continues:

During the years 1977 through 1981 I had the opportunity to serve as U.S. attorney for the northern district of Indiana, having been appointed by President Carter. This gave me the opportunity to observe our Federal judiciary at both the trial and appellate levels. As such, I would hope that it also gave me some insight into what judicial qualities best serve our legal system, especially at the Federal appellate level. I firmly believe Mr. Manion possesses experience, fair-mindedness, judicial integrity, and a plain, old-fashioned willingness to work long and hard. I have no doubt that Mr. Manion's appointment will reflect credit upon the Federal judiciary.

In commenting on an inquiry he received from one of Mr. Manion's leading detractors, an organization called "People for the American Way," described by the Washington Post as a liberal lobbying group, Mr. Ready states the following:

I must say that I was disappointed in the nature of their inquiry and the questions they asked of me. I have no bone to pick with that organization and, in fact, am sure that they serve a very valid and useful purpose in attempting to counter-balance some of the more conservative minded organizations. That is all in the give and take of the American political system. However, I must say that the overall tone of their inquiry was not one in which they were seeking my opinion on Mr. Manion's qualifications but rather looking for something negative concerning Mr. Manion. When it became apparent that I was not going to accommodate them, simply because I do not know anything negative about Mr. Manion, their interest in talking to me waned sharply and the conversation terminated abruptly.

Mr. Ready concludes:

Finally, Senator Thurmond, I would note that the most recent appointments to our Seventh Circuit Court of Appeals have emanated from the area of academia. I have no problems with the qualifications of many of those persons who were so appointed. However, I believe that our courts of appeals are best served when they are comprised of former trial judges, academics, and practicing lawyers. It is my opinion that Mr. Manion is an excellent representative of the latter group and will well serve on the court of appeals.

Mr. President, I think this letter is strong testimony to the fact that Mr. Manion has the wherewithal to perform well on the circuit court. The letter also cites an example of the bias

exhibited by his detractors under the guise of a fair evaluation.

ALLEGATION

Mr. Manion is accused of cosponsoring legislation when he was an Indiana State legislator that would have permitted the posting of the Ten Commandments in schools, knowing this action was in direct conflict with the Constitution of the United States.

RESPONSE

Mr. President, this criticism is raised because the referenced legislation was introduced not long after the U.S. Supreme Court in Stone versus Graham held unconstitutional a State law requiring the posting of the Ten Commandments in schools. Opponents have tried to equate this to the actions taken by Arkansas officials contrary to a Federal court order treated by the Supreme Court in Cooper versus Aaron.

The legislation involving the Ten Commandments which was struck down by the Supreme Court and the Indiana bill on the subject have been described as virtually identical by Mr. Manion's opponents. However, significant differences in the legislation exist. The Indiana bill merely permitted or authorized teachers to post copies in classrooms. The unconstitutional law required the Ten Commandments to be posted in the schools. This difference is not without legal significance.

Further, the Supreme Court stated that the Ten Commandments could "constitutionally be used in an appropriate study of history, civilization, ethics, comparative religion, or the like." The Indiana bill states its purpose in terms of the study of history and ethics. The Indiana bill expressly states that in the event it is found to be unconstitutional, the copies will be immediately removed. Such a statement is not dissimilar to that contained in Gramm-Rudman-Hollings providing alternatives if the law is found unconstitutional.

Although Mr. Manion characterized his action on the Indiana bill as a form of legislative protest, a close examination of the bill shows an awareness by the drafters of significant distinctions between the unconstitutional statute and the Indiana bill.

We turn now to the inappropriate analogy that this cosponsorship of the Indiana bill somehow defies the constitutional responsibility of legislators.

History is replete with examples of the widely accepted practice that legislators may introduce legislation even if they suspect the Supreme Court may not uphold it. Probably the best-known example of this is Abraham Lincoln's statement in the Lincoln-Douglas debates concerning the Dred Scott decision, when Mr. Lincoln said:

If I were in Congress and a vote should come up on a question whether slavery should be prohibited in a new territory, in spite of that Dred Scott decision I would vote that it should.

Another example would be the debate on the Miranda and Escobedo decisions of the Supreme Court prior to the passage of the Omnibus Crime Control and Safe Streets Act of 1968. I respectfully submit that such actions are not violations of an individual's oath to uphold the Constitution.

An analogy that Mr. Manion's action on this bill was similar to the action of Arkansas officials' failure to follow a Federal court order in Cooper versus Aaron is just not appropriate.

Another objection raised by Mr. Manion's opponents related to the fact that while serving in the Indiana Senate he introduced a bill authorizing the teaching in public schools of creation science along with evolution. Obviously, the constitutionality of such legislation has not been resolved. The Supreme Court just recently agreed to hear a case on the subject in its next term. Criticism of the legislation proposed by Mr. Manion can only be founded on an ideological basis.

Mr. President, I would like to point out at this time that although Mr. Manion has been highly criticized for two bills that he was associated with while in the Indiana Senate, his opponents have not commented on his overall legislative record. His record in the legislature demonstrates a thoughtful and fair approach to the problems a legislator faces daily. Some examples of this are bills which he has introduced authorizing halfway houses for certain incarcerated individuals, legislation protecting the rights of juveniles, and legislation promoting alternative forms of energy.

ALLEGATION

It has been alleged that Mr. Manion improperly interpreted the Constitution while appearing on the Manion Forum radio and television show.

RESPONSE

Mr. President, The Manion Forum was a program conceived and produced by Clarence Manion, the nominee's father and former dean of the University of Notre Dame Law School. The program was aired from 1954 through 1979. The purpose of the program was to provide a forum for conservatives who might not otherwise have a platform from which they could voice their views. Most of the statements attributed to Daniel Manion were in relation to comments being made by his father on the Constitution and decisions of the Supreme Court.

Comment has also been made concerning an interview conducted by Daniel Manion with the late Congressman Larry McDonald on the subject of McDonald's book "We Hold These Truths." This interview was conducted on the Manion Forum in 1977.

Many of the questions asked Mr. Manion at his confirmation hearings were in fact based on the views of his father and Larry McDonald. While there is no doubt that Daniel Manion made supportive statements, the environment in which these statements were made and the obvious purpose for which they were made, which was simply to stimulate the conversation, should be kept in mind.

ALLEGATION

Mr. Manion's opponents state that his testimony lacked credibility when compared to earlier statements he made on the Manion Forum.

RESPONSE

Mr. President, Mr. Manion's credibility is being attacked by allegations that in his testimony before the Judiciary Committee he recanted his previous statements made during public broadcast. It is important to note that many of the statements being criticized occurred over 15 years ago. Additionally, Mr. Manion's role as an interviewer encouraging others to speak freely should be kept in mind. I think that the fact that he testified honestly and forthrightly at the hearings on various constitutional issues should not be used at this point as anything other than a statement as to his beliefs. The reference back to statements on the Manion Forum, some of which were made prior to his graduation from law school, is simply not germane.

Mr. President, Mr. Manion's integrity and honesty should not be questioned. Even the Chicago Council of Lawyers, who opposed his nomination, stated that:

Mr. Manion has a high reputation for integrity, conscientiousness, and fairness. The reports from South Bend lawyers also indicate that Mr. Manion has excellent interpersonal skills, and that lawyers who work both with him and against him like and respect him. Many of the lawyers to whom we talked also thought that despite his reputation for political conservatism, Mr. Manion would struggle to be fair in ruling on cases which present issues on which he has strong political views.

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Mr. President, in view of such a statement from one of his chief opponents, I think that attacks on his credibility and integrity are inappropriate.

ALLEGATION

It has been alleged that Mr. Manion praised the John Birch Society in written communication to that organization.

RESPONSE

Mr. President, at the time of his father's death, Mr. Manion responded to many condolence letters. The communication referred to was simply such a response which he sent to the American Opinion Book Store, a small John Birch Society bookstore located in Elkhart, IN. Mr. Manion has been criticized for stating in this letter that its members were in the front line of the fight for constitutional freedom. A copy of this letter which was given to the committee was unsigned. Mr. Manion testified that he did not specifically recall this letter; however, he did respond to many letters at that time. He testified that his remarks would have been intended only to respond to an expression of sympathy from his father's admirers. He is not now nor has he ever been a member of the John Birch Society.

ALLEGATION

Mr. Manion's opponents state that his legal briefs lack quality.

RESPONSE

Mr. President, following weeks of emphasis on ideological differences, his opponents began to focus on alleged lack of quality, citing lack of Federal experience, absence of schol-

arly works, and a work product lacking in acceptable grammar and spelling.

While briefs submitted to the minority members of the Judiciary Committee were described by them as his best efforts, Mr. Manion has indicated that he was requested to respond under severe time constraints. The briefs were submitted with the caveat that he was aware of typographical errors, but his selection was intended to show the current diversity of his work. The Chicago Council of Lawyers provided the critiques of the briefs. These critiques are unsigned but were forwarded by the council. The critiques are short and concentrate on misspelled words and alleged faulty composition. Comments on legal content or effectiveness are few, other than unsubstantiated or undemonstrated criticism. No statement is made as to the outcome of Mr. Manion's efforts. However, Mr. Manion has advised that his clients have prevailed in three of the five actions, one was unsuccessful, and one is still pending. I think the final results are far better criteria by which to rate an individual's legal capabilities than the number of grammatical or typographical errors contained in his legal briefs.

Additionally, lawyers generally work under severe time constraints. Keep in mind that Mr. Manion practices in a comparatively small town with a small firm. The resources of such a firm cannot be compared to those of large firms in the areas of equipment and numbers of support personnel.

ALLEGATION

It has been alleged that Mr. Manion's typical cases have not adequately prepared him for a seat on the court of appeals.

RESPONSE

Mr. President, opponents of this nomination have selected certain cases Mr. Manion cited in his response to the committee questionnaire, and portrayed these as nothing more than small claims. This ianot a fair representation. My colleagues in this body who have practiced law know that the dollar amount involved in litigation has no bearing on the degree of difficulty or the importance of the issues involved. How many important issues have been considered and decided by the Supreme Court although the amounts in question were comparatively insignificant? Cost-effectiveness on a particular action cannot be the sole norm in deciding the importance of a case.

Mr. President, this demonstration of selective citation and partial recitation of facts completely ignores the reasons why the cases were cited by the nominee, which were to show the complexity of the litigation and law involved, regardless of the dollars at stake; for example, the complexity of warranty law.

Further, Mr. President, the recitation of cases by the opposition to this nomination is rooted in ideology. We must rise above the temptation to pervert the advice and consent process by making it into a litmus test for either liberal or conservative interests.

Mr. Manion's reputation for honesty and integrity is unquestioned. There is no hint of any impropriety or wrongdoing in his background. Even his most strident critics have to admit that he is a fair and just individual. The ABA found his professional background met the significant requirements that would qualify him for serving on the court of appeals. I believe that Daniel A. Manion will bring to the Seventh Circuit of Appeals an excellent background consisting of a broad litigation practice as well as experience as a State legislator. Mr. Manion is clearly qualified and should be confirmed by the Senate. I urge my colleagues to vote for the confirmation of his nomination.

□ 1220

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I understand I have 4 minutes.

The PRESIDING OFFICER. The majority leader has 4 minutes.

Mr. DOLE. Mr. President, I think the distinguished Senator from South Carolina, the chairman of the committee, has stated it very well. There has been recommendation after recommendation, coming from Democrats, coming from his peers, the American Bar Association, former Senators, Father Hesburgh, and I think we have to be realistic. There has apparently been a judgment made that we are not going to vote on this nomination; we are not going to be evenhanded with this nominee. For some reason he has been singled out. He is qualified. I do not know precisely how many nominees have been before this body before who had that rating and had no difficulty at all.

I think the distinguished chairman just pointed out some are charging that the transcripts were altered and he indicated how ludicrous those charges were.

What I have tried to do, and this may have been touched upon earlier—but I was meeting with the new Soviet Ambassador—and what I would like to see happen is that we set aside the cloture and vote up or down.

I have gone back and looked at the RECORD, and as far as I can determine, in the last 121 years we have only had cloture used on four judges.

One recent case was in 1980 after the election. A well-qualified candidate named Stephen Breyer, who was Senator KENNEDY's chief of staff on the Judiciary, came before this body after the election and there was an effort to sidetrack that nominee but I joined with the distinguished chairman of the committee in helping invoke cloture and the nomination was passed.

In 1984, I guess, on the Wilkinson nomination there was an attempt to block that and cloture was obtained.

The only other two were Justice Rehnquist in 1971 and Abe Fortas in 1968.

So it would seem to me that there really is not any precedent for this.

Are we going to require that you have 60 votes or a majority in this body? And what we are saying in this case is, because this may be a hot political issue and there are a lot of people gearing up on each side, and the liberal press sort of likes this kind of an issue, that we are going to require 60 votes. It just seems to me that is patently unfair; it cannot be justified.

There are going to be some voting for cloture today who are opposed to the nomination. The distinguished Senator from Connecticut has already spoken on that. He will not vote for the nominee, but he does not like this system and this way of proceeding.

And I would hope—and I know that everyone in this body is a fair-minded man or woman—let us go ahead and invoke cloture, let us get a time agreement on the nomination. We will take it up tomorrow. We will take it up the first day we are back. And we will vote up or down on whether or not he should be confirmed.

And that is really all I think he can ask. That is all we can ask ourselves.

Maybe someday one of us will be up here for confirmation for something. And someone may not like what we have done in the Senate or anywhere else. We ought to ask ourselves are we going to require the same standard if we were Mr. Manion, when it says a majority, but we require a super majority for Mr. Manion because somehow we do not like his views.

Mr. President, I hope we will do what is fair and what we customarily do in this Chamber and that is to give the man an up or down vote.

CLOTURE MOTION

The PRESIDING OFFICER. The time allotted having expired, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Daniel A. Manion, of Indiana, to be U.S. circuit judge for the seventh circuit.

Senators Bob Dole, Pete Wilson, Strom Thurmond, Barry Goldwater, Jake Garn, Al Simpson, Chuck Grassley, Steve Symms, Mitch McConnell, John P. East, Jeremiah A. Denton, Paul Laxalt, Chic Hecht, Rich-

ard G. Lugar, Orrin Hatch, Malcolm Wallop, Thad Cochran, Phil Gramm, Ted Stevens, Dan Quayle, and Don Nickles.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum Vote No. 9 Leg.]

Abdnor	Glenn	Metzenbaum
Andrews	Gore	Mitchell
Armstrong	Gorton	Moynihan
Baucus	Gramm	Murkowski
Bentsen	Grassley	Nickles
Biden	Harkin	Nunn
Bingaman	Hart	Pell
Boren	Hatch	Pressler
Boschwitz	Hatfield	Proxmire
Bradley	Hecht	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chafee	Hollings	Roth
Chiles	Humphrey	Rudman
Cochran	Inouye	Sarbanes
Cohen	Johnston	Sasser
Cranston	Kassebaum	Simon
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Kerry	Stafford
Denton	Lautenberg	Stennis
Dixon	Laxalt	Stevens
Dodd	Leahy	Symms
Dole	Levin	Thurmond
Domenici	Long	Trible
Durenberger	Lugar	Wallop
Eagleton	Mathias	Warner
East	Matsunaga	Weicker
Evans	Mattingly	Wilson
Exon	McClure	Zorinsky
Ford	McConnell	
Garn	Melcher	

□ 1240

The PRESIDING OFFICER. A quorum is now present.

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CURCUIT JUDGE FOR THE SEVENTH CIRCUIT

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, what is the request?

The PRESIDING OFFICER. The request is that the minority leader be recognized for 3 minutes.

Mr. THURMOND. Is this on the nomination of Mr. Manion?

Mr. BYRD. I want the distinguished majority leader to be here. I want to make a proposal to him.

Mr. THURMOND. Mr. President, I reserve the right to object and would like for it not to be acted on until we get the majority leader here.

Mr. BYRD. Otherwise, the Senate has to proceed under the rule and will begin the vote. I wanted to speak to the majority leader before the vote began.

Mr. President, I renew the request that I made. I think this will probably take more than 3 minutes. I hope the distinguished majority leader can be here. He is on his way, and he is having to cut short an appointment in order to be here at the moment. But I do not want to proceed until he is here.

The PRESIDING OFFICER. Is there objection to the request of the minority leader to have 3 minutes? Without objection, it is so ordered.

The minority leader has 3 minutes.

Mr. BYRD. I thank all Senators. I thank the Chair.

Mr. President, the distinguished majority leader has said that we should have an up-or-down vote on the nomination and we should not vote on cloture. Other Senators have said the same in the course of this debate.

Speaking for those on this side of the aisle, and the Democrats who have been accused of being partisan in this debate, I hope the distinguished majority leader would ask unanimous consent that the Senate not proceed with the cloture vote, that the Senate go immediately to a vote up or down on the nomination with the understanding that the rollcall vote not extend beyond, say, 20 minutes at the most. That is 5 minutes more than the usual 15.

What I am seeking to avoid here is a long, drawn-out rollcall. Senators are here. A quorum has been established. I hope the distinguished majority leader will ask the vote on cloture be vitiated, and that the Senate go immediately, without further motion, debate, quorum call, or other intervening action to vote up or down on the nomination and that that vote be closed within 20 minutes after it begins.

Mr. President, I yield to the distinguished majority leader, if he wishes, on my time.

Mr. DOLE. Mr. President, if the minority leader will yield, I think that is probably a good proposition. I just need a couple of minutes to think about it. [Laughter.]

Obviously, I want to take a quick head count to see how many are in town. [Laughter.]

As I understand, we have two absentees on our side and, of course, I assume it is going to be a very close vote.

□ 1250

Mr. BYRD. Mr. President, I ask unanimous consent that I may have 2 additional minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. If the minority leader would permit me to check, I think this is what we want to do. We want an up or down vote. I have made the statement and we have all made the statement, in fact, that we thought we might have an up or down vote when we were fishing around, shopping around, for an 8-hour time agreement. I do not want to press this anomaly knowing there are two affirmative votes who are not here. If it were my gamble, I would take it, if I were gambling, but if it is someone else's future I think I would be very cautious in making that judgment.

I appreciate the offer. I think it is in good faith, though I must say with two affirmative votes not here I have to be a little careful. This is not a roll of the dice. This could be the beginning or the end of a 44-year-old person named Daniel Manion who would like to be on the circuit court. It is not really sport. It is serious.

I like to take chances myself when I am involved, but I am not certain I should roll the dice when I know that this vote is very, very close at best.

Again, I do not want to dismiss the offer. What I need is about 5 or 6 minutes or maybe 10 minutes to take a look and see how far out of town people are. [Laughter.]

Mr. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 10 minutes while the distinguished majority leader has the opportunity to make the check.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The minority leader is recognized for 10 minutes.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats. Conversations will cease.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Members will take their conversations to the cloakroom. Staff will resume their seats. Staff will please stop conversing in the Chamber.

Senators will please suspend their conversations.

The minority leader is recognized for 10 minutes.

Mr. BYRD. Mr. President, if I may have the attention of the Senators.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, the distinguished majority leader has expressed concern about the future of this 44-year-old nominee. Mr. President, the function of the Senate today is to determine not what the future is of a 44-year-old nominee. The Senate, in fulfilling its responsibility under the Constitution, must look at the future of the Federal judiciary; what

is the future of the Seventh Circuit Court of Appeals.

But, more importantly, and above all of that, what is the future of every man, woman, and child over which this nominee, if he is confirmed, will hold power. And it is an awesome power.

The Senate should not be made to make its judgment on the basis of what the future of this nominee may be. The matter is far more solemn than that.

What is this man's qualifications? What are his credentials? What is his experience? What is his attitude toward the Constitution of the United States?

There is nothing in the world that I have found, as I indicated earlier, that would recommend this man as a nominee of excellence to be appointed to the Seventh Circuit Court of Appeals.

It is the future of the American people who live within that circuit court of appeals, that the Senate must consider.

And also the futures of Americans beyond that circuit are involved, because, as we all know, holdings in a given circuit may very well influence the decisions in another circuit.

Mr. President, one man's vote can make the difference in the seventh circuit. One man's vote can make the difference as to the influence of that court on the holdings of other courts in other circuits. And one man's vote here may make a big difference in the lives of men, women, and children and the institutions of Government, State and Federal.

As I have indicated, this is an awesome power to place in the hands of one man who would be given tenure for life.

No President can serve more than two terms under the 22d amendment of the Constitution. A President may serve 6 years and 1 day, or he may serve 10 years, as President of the United States. He might be elected only for one term. He does not get life tenure. The same can be said for Senators and Members of the House of Representatives and other offices in this land. They are not elected for life.

But here we are talking about a very special class of individuals, individuals appointed to the courts of this country.

So I would say to the people out there who are watching today, this is a matter that vitally affects them. It just does not go to the career, to the future, of one 44-year-old man. This may affect them, the men, women, and children all over this country.

Mr. CRANSTON. Will the Senator yield?

□ 1300

Mr. BYRD. Yes, I yield, Mr. President, without losing my right to the floor.

Mr. CRANSTON. Mr. President, it was my understanding, and maybe the Senator understood differently, that the majority leader was speaking perhaps not entirely about the future of the judge or would-be judge whose name is before us, but the future of two Senators who happened to be absent when there was a very, very important vote looming. I think my assumption was that that was part of what he was talking about, perhaps all he was talking about.

I would like simply to say that we have a count here of who is going to vote how. I am absolutely convinced that even if those two people were here, we would win this vote.

Mr. BYRD. Mr. President, I thank the distinguished Senator from California. If I misunderstood the distinguished majority leader, I apologize, but I thought he was saying that the future of this 44-year-old nominee was at stake.

Mr. President, the plea today was that we have an up-or-down vote, that we not have this cloture vote.

Mr. BIDEN. Will the Senator yield on that?

Mr. BYRD. Yes. That is precisely what we are offering, to vitiate the cloture vote and have that up-or-down vote on the nominee immediately.

I yield to the able Senator from Delaware.

Mr. BIDEN. I say to the Democratic leader that the reason I suggested to him and my colleagues that we go to an up-or-down vote was not that I am positive that we have the votes but that I am positive that the case that the majority leader made, that we should go with the vote, was the correct course to take. I acknowledge that it is "taking a chance," it is "rolling the dice." But the reason this Senator did not want to agree to an up-or-down vote before is that 8 hours was not sufficient time to debate this. We would not have had an opportunity to engage in this debate.

I want the Record to be clear on two things: No. 1, we are ready to vote. No. 2, on the question of whether or not there are two absent Senators, by my count, I understand—I know the two absent Senators.

I quite frankly was counting on one of them to be against Manion. Maybe I counted wrong, but one of those two I understood to be against Manion, or at least with a strong possibility of his being against Manion.

Last, this was an important cloture vote that was scheduled. Obviously, if there are two people absent and it is of concern to the majority leader, he did not think they were going to win the cloture vote anyway, so he understands where this is.

I think it is reasonable for him to take the 10 minutes, but I hope—regardless of whether we get cloture or whether we end the debate on whether this is political or it is a cloture vote or it is up or down and it wins and it is over, or if it is cloture and it fails—we begin to talk about the merits of this person.

I thank the Democratic leader for his leadership in explaining to the Senator from Delaware and others how to get to this point. His great skill and oratory have been very helpful today. Regardless of the outcome, I thank him. I am prepared to live with the outcome as one Senator. As a few of my colleagues told me, I will, in fact, have to live with outcome but I am ready to do that.

Mr. BYRD. Mr. President, I thank the distinguished ranking member of the committee. I also commend him for the leadership he has shown.

Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. DENTON). Thirty seconds.

Mr. BYRD. Mr. President, I yield 1 minute to the distinguished Senator from Hawaii, and I ask unanimous consent that my time may be extended for an additional 5 minutes out of courtesy for the majority leader.

The PRESIDING OFFICER. Without objection, the Senator from Hawaii is recognized.

Mr. MOYNIHAN. Will the minority leader ask unanimous consent that I may speak for 2 minutes?

Mr. BYRD. Mr. President, I yield 1 minute to the distinguished Senator from Hawaii [Mr. INOUYE], then I yield 2 minutes to the distinguished Senator from New York [Mr. MOYNIHAN].

The PRESIDING OFFICER. The Senator from Hawaii.

Mr INOUYE. Mr. President, I rise to join those who have spoken in opposition to the confirmation of Mr. Daniel A. Manion to the U.S. Court of Appeals for the Seventh Circuit.

Sixteen months ago in similar circumstances, I voted with a majority of this body to confirm Mr. Edwin Meese III for the position of Attorney General. I did so despite some misgivings, because I believe that the President should be able to select as part of his administration those people who, in his judgment, will be best able to carry out his policies. But Mr. Manion has not been nominated to be a member of the administration. He has been nominated to serve on the second highest court in the United States. And the difference between the two appointments clearly, in my mind, mandates a difference in result.

In the context of an appointment to the administration, I believe that fairness to the President dictates that the burden of proof lie with those who allege that a nominee is unfit. Such a standard is appropriate because the risk of error in administration appointments is minimized. Any subse-

quent demonstration of incompetence, unreasonable prejudices, or a disrespect for the mandates of the law are subject to correction and meaningful evaluation by the appointing and confirming bodies.

Under this standard, the Manion nomination would perhaps present a difficult case. But Mr. Manion has not been nominated to administer a Federal department under the watchful eyes of the President and Congress. He has been nominated to serve for life as a part of an independent Federal judiciary.

The risk of error in the case of this nomination, or any judicical nomination, is therefore substantially greater. A failure to assure that the nominee possesses the qualities and skills required of the demanding position could well effect the administration of justice for decades. And if the nominee proved to be inadequate, neither Congress nor the President would have any recourse short of impeachment. I therefore believe that in the case of judicial appointments, the burden must lie with the nominee's proponents to demonstrate that he or she is unquestionably able and willing to perform the duties of a Federal judge.

This burden has not been met with regard to Mr. Manion.

Professors Kurland, and Tribe in their letter to the chairman of the Judiciary Committee succinctly described the duties of a Federal judge:

> To Federal judges is given the task of policing the boundaries between State and Federal Government, of giving principled articulation to the content of basic human rights protected by the Constitution, enforcing the myriad and complex Federal statutes and regulations, and of overseeing complicated commercial and criminal litigations.

Additionally, appellate judges in particular must—

> Contribute lucidly to a body of legal precedents that can enlighten and guide trial courts, litigants and those who must try to anticipate what courts will do.

In light of these responsibilities, I do not think that it is unfair to evaluate a nominee's ability by carefully examining his academic writings, his experience before the court to which he will be appointed, and the demonstrated qualify of his work product. On the contrary, outstanding achievement in at least one of these areas would appear to be a minimum requisite for a person who we would empower to rule on matters of statutory and constitutional interpretation.

The record provides no support for Mr. Manion in this regard. Mr. Manion has published no scholarly articles and has never argued before the U.S. Court of Appeals. We are thus left with no way of even beginning to meaningfully assess the quality of his intellectual and technical skills other than through his work product. And here, we are presented with the conclusion of the Chicago Council of Lawyers that, based on a review of writings submitted by Mr. Manion, he has not demonstrated the level of legal skill necessary for appointment. On the basis of the analysis presented by the council, I am inclined to agree.

The briefs submitted by Mr. Manion which were the subject of the evaluation may, or may not, have been representative of the quality of his work. They are however, the only examples of his work product on the record before us. To my knowledge, we have been presented with no work of the quality that the people of the United States have the right to expect from the Federal bench.

One might also expect from a Federal judge a lifelong commitment to, and respect for, the rule of law as manifested in our Federal system. And here too, the Manion nomination is suspect. The nominee may indeed have been acting only as an interviewer in praising a book derogating the Supreme Court's decision in Brown versus Board of Education and the Civil Rights Act of 1964, but despite the fact that Mr. Manion gave 400 or 500 public speeches, the record contains no indications of sentiments to the contrary prior to his testimony before the Judiciary Committee.

Similarly, the nominee may have simply been acting out of courtesy when he identified the John Birch Society as "people who are in the front line of the fight for constitutional freedom * * *." And while a note in response to a condolence cannot be taken as definitive of his position, nothing other than a claim of ignorance is used to explain his posture with regard to the group and its beliefs.

The nominee may or may not have changed his mind since publicly denying the right of the Supreme Court to apply the Bill of Rights to the States. And he may indeed have come to agree that the separation of church and state applies on both the Federal and State level, but the record suggests no evidence of this prior to his confirmation. We have no idea if his current commitment to long established doctrines of the law are any more transient than his previous beliefs.

Mr. President, as I am best able to determine, the argument for confirmation in this case is based on a divided qualified rating by the American Bar Association, the recanting of previously expressed views during a Senate hearing, the endorsement of supporters, and a 13-year legal and political career which only occasionally touched the Federal courts. In essence, we are being asked to rely on an equivocal endorsement by the ABA, the changed mind of Mr. Manion, the assessment of his supporters, and a generous characterization of his career.

In light of the serious concerns raised during these confirmation proceedings, I do not believe that this constitutes a sufficient basis to justify confirmation.

I therefore urge my colleagues to join me in voting against confirmation.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, along with others in the Chamber, I had anticipated that the debate would be much longer than it apparently will be and had intended to join in at some length this afternoon or tomorrow. That is evidently not to be the case. In order that I not lose the opportunity, I would like to have placed in the RECORD a powerful and compelling letter from the dean of the Faculty of Law at Columbia University, a faculty which gave us, for example, John Jay in the early years of the Republic. It is a letter from Dean Barbara Black, who writes to oppose in her personal capacity the nomination of Mr. Manion.

She makes a very careful argument that rejects the thought that the constitutional role of the Senate with respect to confirmation is narrowly defined to guarding against dishonorable or dishonest appointments. She thinks this is a minimizing, trivializing interpretation of our responsibility. She asks us to speak to the large questions, the large judgment of the worth and the appropriateness of the appointments. She urges us in this instance to oppose and reject this nomination. I shall certainly vote that way.

Mr. President, I ask unanimous consent, so the record may be complete, that Dean Black's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COLUMBIA UNIVERSITY,
SCHOOL OF LAW,
New York, NY, June 19, 1986.

Hon. DANIEL PATRICK MOYNIHAN,
733 Third Avenue,
New York, NY.

DEAR SENATOR MOYNIHAN: I write as one of your constituents (and in purely an individual, not institutionally representative, capacity) to urge that you vote against the appointment of Daniel Manion to the United States Court of Appeals for the Seventh Circuit.

I find the nomination of Mr. Manion troubling in the extreme, and the implication of Senatorial consent to this appointment ominous.

Unless I have wildly mis-read the record, there is nothing to be said for Mr. Manion on the merits—there are as it were, no merits. His selection must be purely ideologically based, and therefore, whether by design or otherewise, this nomination constitutes a challenge to you and your colleagues. It would be difficult to imagine a

better test than this case, not so much of the meaning, as of the meaningfulness, of the Senatorial advice and consent: A vote for this appointment seems to me, inescapably, affirmation of the proposition that the Senate is merely the constitutional guardian against appointment of those actually dishonorable or dishonest, nomination of whom will be mercifully rare and almost certainly inadvertent. I know of no history that would compel, or indeed warrant, such a minimalist, even trivializing, interpretation, and no consideration that renders it politically or societally desirable. Moreover, opposition to this appointment says nothing at all about the propriety of a President's staffing the federal judiciary with people philosophically acceptable to that President, but merely affirms that all judicial nomineees must be people at least arguably qualified by experience, personal merit and professional distinction to serve.

As a lawyer and student of the history of the Anglo-American judiciary, and, more to the point, as a citizen concerned for the future of my country, I urge you to vote, and to speak out, against this appointment.

Sincerely,

BARBARA ARONSTEIN BLACK.

Mr. MOYNIHAN. Mr. President, I thank the minority leader for making this time available.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, I do not desire to hold the floor. I merely desire that the vote not begin until the distinguished majority leader comes back to the Senate and is in a position, I hope, to proceed with the rollcall vote on the nomination.

I yield, retaining my right to the floor by unanimous consent, to the Senator from California [Mr. CRANSTON].

Mr. CRANSTON. Mr. President, it seems to me that the way this nomination has been handled by those who are pushing it is in many ways an affront to the dignity of the Senate as a deliberative body and a frontal assault on the Senate's constitutional responsibilities.

This nomination was, after all, disapproved by a Republican-controlled Judiciary Committee, which nevertheless reported the nomination to the floor for the consideration of the full Senate.

The Senate is called upon by the Constitution to make its own, independent judgment as to whether this nomination is in the best interests of the United States of America.

But if the report in this morning's newspaper is correct, the constitutional process is being turned completely on its head. Not only is the President pressuring this body to ignore its independent constitutional responsibility to provide considered advice and consent to this nomination but he is apparently willing to nominate or seek to do so, persons about whom he has his own reservations, in order to obtain the votes of Senators who have reservations about Mr. Manion.

That is the lowest common denominator approach to the appointment of Federal judges.

We are urged to approve this nomination because other nominees with equally weak qualifications may have been approved in the past.

That kind of reasoning represents a guarantee that the quality of the Federal judiciary will continually deteriorate.

Again that is the lowest common denominator approach to the appointment process.

In my judgment, Daniel A. Manion does not meet the standard of excellence the framers of our Constitution intended for lifetime appointment to the Federal bench.

This nomination should be defeated. I think it is very ironic that the majority leader, after pleading with us all morning not to go through cloture but to have a vote, is now uncertain about the advisability of having a vote on this candidate.

Mr. KENNEDY addressed the Chair.

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's 5 minutes of time has expired.

Mr. BYRD. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Reserving the right to object, Mr. President, someone might be able to clarify for me what the position is. This Senator has been hounding the Senate to move on a highly important matter regarding the urgent supplemental. I was assured that it would be taken up yesterday, assured it would be taken up no later than 4 o'clock yesterday.

□ 1310

I was assured that it would receive priority consideration. I was assured within the last half-hour that we would take that up by 2 o'clock. I do not have any objection to the extension of time per se except to say that we are moving on this Manion proposition, which is not a priority matter under any legitimate consideration compared with the necessity of moving the urgent supplemental.

Could my friend, the minority leader, tell me whether or not he has any information, if we continue these 5 minutes upon 5 minutes upon 5 minutes, whether that will very likely delay into the 2 o'clock latest promise that I had with regard to the urgent supplemental?

Mr. BYRD. Mr. President, I can only respond if my request is granted.

The PRESIDING OFFICER. Is there objection to the request of the Democratic leader?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I did not mean for that response to sound flippant. Under the rule, the Chair is required to proceed immediately now with the cloture vote.

Mr. EXON. I simply say that I was not objecting to another 5 minutes. I am wondering how many 5 minutes there are. Is this going to go on until 6 or 7?

Mr. BYRD. I would hope not. I hope the distinguished majority leader, when he returns, will accept the proposal which has been made by the Democrats that we proceed immediately to a vote up or down on the Manion nomination and dispose of it.

Mr. CRANSTON. Will the minority leader yield?

Mr. EXON. I have no objection to that whatsoever. I just wish we would move.

Mr. BYRD. Yes. I hope we can do that.

Mr. CRANSTON. Will the minority leader yield for one moment?

Mr. BYRD. Yes.

Mr. CRANSTON. I wonder if the minority leader knows where all the Republicans are. Not only is the leader not here but the Chamber is vacant on the whole Republican side.

Mr. EXON. Or we can phrase it another way: Where are the Republicans just when we need them the most?

Mr. BYRD. I thank the distinguished minority whip for his very perceptive observation.

Mr. President, I am sure that it is the desire of the distinguished majority leader to move to the supplemental appropriation bill this afternoon, and that is also my hope because there are some very important items in that bill for a good many agencies. For example, there is $8 million in the bill for the Soil Conservation Service and $250 million in the bill for the Federal Emergency Management Agency. Those moneys are needed to further clean up from the ravages of last year's very devastating floods in West Virginia and in Mississippi and in several of the Western States including California. So I think it is the desire of all within the joint leadership to get to the supplement appropriation bill this afternoon.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I did not object to the latest 5-minute extension of the rule that required that we proceed to a vote 1 hour after we came in. I just am sending a signal very loud and very clear that I am not going to sit here all afternoon without raising an objection after a reasonable amount of time has been extended for the negotiations that seem to be going on now with those on the other side of the aisle. So I will be here to tune in on this. I would certainly like the signal to be sent that I wish we could have an up or down vote on the

Manion matter. I do not know why we cannot. That is what I had understood for the last 2 or 3 days the majority wanted.

Now it has been offered. Why do we not go ahead and vote up or down on Manion, get that out of the way, and then we can proceed to that very important matter hopefully of the supplemental appropriation and which among the other things, as the minority leader has mentioned, includes $5.5 billion desperately needed to carry out the farm programs that this body enacted.

I thank the Chair. I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time expired.

Mr. BYRD. Mr. President, I am still trying to accommodate the distinguished majority leader. I ask unanimous consent that I may proceed for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Reserving the right to object, and I will not object at this time, I would like to counsel with our leader about how long we are going to continue this procedure. So I will not object at this time.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts, and I think that implicit in his statement is a very sound principle, and that is, we ought to get on with this vote.

Mr. President, I will read from the RECORD of June 25. I would prefer to do that, however, when the distinguished majority leader is on the floor. So, Mr. President, I hope that the Chair will indulge me momentarily while I protect the floor hoping that the distinguished majority leader can be here when these minutes are up.

Mr. KERRY. Will the Senator yield?

Mr. BYRD. Mr. President, how much time do I now have?

The PRESIDING OFFICER. About 3½ minutes.

Mr. BYRD. About 3½ minutes.

I yield 2 minutes to the distinguished Senator from Massachusetts [Mr. KERRY].

Mr. KERRY. I appreciate that.

Mr. President, I, like many others, was under an expectation that we might have more time to debate and obviously, depending on what the majority leader says when he returns, that may in fact be the case. But I do also rise in opposition to this nomination.

Mr. President, I would just like to say very briefly——

Mr. BYRD. Will the distinguished Senator allow me to intervene? I note that there is no Parliamentarian at the desk.

Now, Mr. President, there should be a Parliamentarian at the desk. There are assistant Parliamentarians in the building. I hope they are not all discussing this parliamentary situation with the distinguished majority leader and other Senators. Certainly the majority leader and other Senators have a right to the advice of the Parliamentarian but there are assistant Parliamentarians around, and I would hope that one would appear. I have noted upon one or two occasions within the past few minutes that the distinguished Presiding Officer has had some problems in responding to inquiries from the floor because there is no Parliamentarian, whose responsibility it is to help guide the Chair.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. I will, as Presiding Officer, have to ask the gallery to refrain from laughter or be cleared from the Senate. There is a minute and a half remaining to the Senator.

Mr. BYRD. Mr. President, I yield 1 minute to the distinguished Senator from Massachusetts [Mr. KERRY].

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would simply say in summary that as an attorney, as a member of the bar, as a former prosecutor, as somebody who, as all of us who went through law school, looked at all the benches of our Federal system with a certain amount of awe and reverence, I am genuinely astounded by this nomination. This individual has been put in front of us in a way that somehow makes us responsible for showing why he should not be on the bench when, in fact, by every fair standard by which we make judgments about people we put on the bench, he is totally lacking in those qualities that make us have any reason to say why he should be put on the bench—no record of legal scholarship, no law review articles, no publications, no major cases that he has ever tried, no teaching experience, nothing measurable against those standards of others for whom we have voted.

□ 1320

So I am opposed to it. And I hope my colleagues will join me in that opposition.

Mr. KENNEDY. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The 5 minutes requested has expired.

Mr. BYRD. I ask unanimous consent that I may have an additional 3 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object—and I will not object at this time to an additional 3 minutes—I just feel that we have to move ahead.

I inquire of the Chair: If an objection is heard, I assume that, under the parliamentary procedures, we will go directly to the cloture vote. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. I may object the next time, but I will not object at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. I appreciate that.

Mr. President, I was just trying to inquire of the Senator from West Virginia, who has been in the Senate and on the Judiciary Committee for many, many years, if the fact that we are where we are today troubles the Senator from West Virginia.

We are talking now about a virtually evenly divided Senate on a matter of enormous consequence, the second highest court in this country, the circuit court, a lifetime appointment. Now we are going through this charade of trying to see who has the one- or two-vote advantage on a matter of such importance and consequence, when we are considering a lifetime appointment to the Federal bench, I am interested in whether the Senator, in his experience on the Judiciary Committee and as a Member of the Senate, has seen a circumstance such as we face today.

Mr. BYRD. Mr. President, I have not seen a circumstance that is a parallel to the circumstance that we are confronted with today.

Mr. KENNEDY. We are running out of time.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, do I have any time remaining?

The PRESIDING OFFICER. One minute and forty seconds.

Mr. BYRD. Mr. President, the distinguished majority leader is going to get his time. I ask unanimous consent that I may reserve 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we have obviously been doing what the other side was doing, seeing how many votes we have. There is no secret about it—this is very close. There is no secret about it that two of our votes are not here today. They are out of town.

There is no secret about it, as I indicated earlier, that this directly involves the future of one individual in this country, and it seems to me, in fairness, that he is entitled to the best shot we can give him. Whether he is a Democrat or a Republican does not make that much difference.

I think the surprise offer is generous in one respect but not in another. I think we are entitled to have 100 Members here—at least as many as we need, if we can achieve that—to make certain that he is not defeated by an absentee.

I know that this is a highly politicized matter, and I know that people feel strongly about it, and maybe there is justification on each side.

I am not certain that I am prepared, as a leader, to let somebody go down the tube just because two persons who might have supported him are not available at this moment.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. BIDEN. Would the Senator be willing if we gave him two pairs, so that the two people out of town would not affect the outcome of the vote?

Mr. DOLE. If I knew who the pairs were.

Mr. BIDEN. I would be willing to give a pair, and I suspect that we might get someone else, so that it would be evened out.

Mr. DOLE. I think everybody understands what I am saying.

Mr. BIDEN. I do not. I thought it was the two people out of town that worried you.

Mr. DOLE. It does worry me, yes.

Mr. BIDEN. You are assuming that both of those two people would vote for Manion. If I find you two people who would vote against Manion, would you be willing to go to an up-and-down vote right away, if we would pair out the two votes against Manion?

Mr. DOLE. Now we are talking real turkey here. [Laughter.]

Mr. BIDEN. That is right.

Mr. BYRD. Or about a real turkey. [Laughter.]

Mr. BIDEN. If the majority leader will yield, as long as we are talking about what the real game is here—and it is not a game; it is deadly earnest—the reason why the Senator from Delaware would like to move ahead quickly on this is that I do not want to find out that there has been an Air Force base moved from Delaware to Maryland, or three judges whose nominations were not about to be confirmed for the last 18 months all of a sudden popping up on the screen. I would like to settle it among the Senators, without the President. He made his case.

So I would think, to be self-congratulatory here, that there is a fairly generous offer we have made, if you are ready to go now. But I am not prepared to make that offer if you are going to wait until the President invites some people on helicopter rides or something else.

Mr. DOLE. The President is out of town.

Mr. BIDEN. Then, I am prepared to go ahead.

Mr. DOLE. I think that offer is statesmanlike. You have a future in politics.

Mr. BIDEN. I doubt it. If I lose this one, my future may be ended.

Mr. DOLE. I am not trying to delay it. I know that a number of Senators would like to get to the supplemental, and so would I. If we could stand in recess for 10 minutes and then come back and do one or the other—maybe we will discuss it for 10 additional minutes.

Mr. BYRD. Mr. President, I want to bend over backward to accommodate the majority leader. He and I know what the burdens of the majority leader are. But I hope we will get on with this vote.

It has been said on this floor that there is "a little judicial assassination" going on here—"not even giving the man the right to have an up-and-down vote." It has been kind of thrown in the teeth of Democrats that "it has been a * * * political decision, that we are going to take care of this guy and not going to invoke cloture, and therefore he will never have a chance to have a vote up or down" as to whether or not his nomination "should be confirmed."

Mr. President, I would hope that we would have this "up-and-down vote." I do not think of it in terms of a "roll of the dice," but if that is the context in which some wish to put it, let us have it. Let us vote and—who knows? We may lose, or we may not, so far as the nomination itself is concerned. When I say we may lose, I mean those of us who are opposed to this nomination. The Senate's will may, on the other hand, be the other way.

Mr. DOLE. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. Five minutes have expired.

Mr. DOLE. I ask for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I think we have made some progress. But if the shoe were on the other foot, every effort would be made by Members on your side to protect the nominee, to make certain he had every vote possible.

□ 1330

It might not still be enough. I am not certain how the vote is going to come out. But as I understand, the distinguished ranking minority member of the Judiciary Committee, Senator BIDEN, from Delaware, has indicated to offset the absentees on this side—I assume there is no one absent on his side—that there would be two Senators who would pair.

Mr. BIDEN. Mr. President, if the Senator will yield, to the best of my knowledge, there is no one absent on our side. I was under the impression that the two absent Senators were LAXALT and HAWKINS, both of whom I would be certain would vote for the nominee. Obviously Senator LAXALT is now here. I understand that absent will be Senator HAWKINS and Senator PACKWOOD. My understanding is Senator PACKWOOD might be against this nomination. So I would be prepared to pair with Senator HAWKINS. I would not be prepared to go out and search up a pair for Senator PACKWOOD.

Mr. DOLE. Now we are starting to trim our sails here a bit. I did not know we would be identifying Senators. The Senator indicated to make the balance—I think the RECORD will reflect—to make certain that the two who are absent were covered that he would find two pairs.

Mr. BIDEN. I was told Senator LAXALT and Senator HAWKINS were absent. Then right after the Senator said that, Senator LAXALT walked in. I have no doubt where Senator LAXALT is on this nomination. I do not have any prospect of convincing Senator LAXALT.

I have the undying belief in the generosity and good judgment of Senator PACKWOOD and so I am not at all certain that——

Mr. DOLE. It is my impression he would vote for the nominee, for confirmation.

Mr. BIDEN. I would then begin to shop and see if I can do something. If we are going to do it now, let us do it now.

Mr. DOLE. If there is some doubt about PACKWOOD, then I need to confirm with PACKWOOD. That would take getting him on the phone.

Mr. BIDEN. Is the majority leader prepared to vote right now, right this minute? Let us close it out, get two from the majority leader right now. We can do it right this minute. Just stop talking and do it.

Mr. DOLE. There are two pairs?

Mr. BIDEN. Yes.

Mr. DOLE. Who would vote against?

Mr. BIDEN. Who would otherwise be voting against Mr. Manion.

Mr. DOLE. Yes.

Mr. BIDEN. Let us go. Let us vote.

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. BYRD. By the majority leader it is agreed that the rollcall vote will not extend beyond 20 minutes at most?

Mr. DOLE. To make certain we have it right, there will be the distinguished Senator from Delaware and one other, the Senator from Hawaii, who will——

Mr. BIDEN. Given a pair to Senator HAWKINS, and Senator PACKWOOD.

Mr. DOLE. Right. Let me indicate I think that is eminently fair.

Mr. BIDEN. So do I.

Mr. DOLE. I do not know what the outcome is going to be.

Mr. BIDEN. Neither do I.

Mr. DOLE. We are not going to extend the vote beyond 20 minutes.

Mr. BYRD. We will begin immediately on the vote.

Mr. President, I hope the question would be put so that the vote could begin. The majority leader indicated it would not last beyond 20 minutes.

Mr. DOLE. Mr. President, as I understand, first it would be necessary to vitiate the cloture motion; is that correct?

The PRESIDING OFFICER. Yes.

Mr. DOLE. I ask unanimous consent that that be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I now ask unanimous consent that the Senate go into executive session to consider the nomination of Daniel A. Manion, of Indiana, to be U.S. circuit judge for the Seventh Circuit Court of Appeals.

There being no objection, the Senate proceeded to the consideration of executive business.

NOMINATION OF DANIEL A. MANION, OF INDIANA, TO BE U.S. CIRCUIT JUDGE FOR THE SEVENTH CIRCUIT

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Daniel A. Manion, of Indiana, to be U.S. circuit judge for the seventh circuit.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I suggest that the vote not extend beyond 20 minutes.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Daniel A. Manion, of Indiana, to be U.S. circuit judge for the seventh circuit?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STENNIS. May we have quiet, Mr. President?

The PRESIDING OFFICER. The Senator from Mississippi is correct. The Senate is not in order. The Senate will please come to order.

Mr. BYRD. Mr. President, I ask for the regular order on this vote—meaning that Senators vote from their seats.

The PRESIDING OFFICER. Regular order.

The legislative clerk resumed the call of the roll.

□ 1340

Mr. INOUYE (after having voted in the negative). Mr. President, on this vote, I have a live pair with the distinguished Senator from Oregon, Mr. PACKWOOD. If permitted to vote, I would have voted no. Mr. PACKWOOD would have voted aye. I withhold my vote.

Mr. BIDEN. Mr. President, I have a live pair. Were I permitted to vote, I would vote no. The Senator from the State of Florida [Mrs. HAWKINS] were she here, would vote aye. I withhold my vote.

Mrs. KASSEBAUM (after having voted in the negative). Mr. President, I understand Senator GOLDWATER is not here. If he were here, he would be casting an "aye" vote. I will give a pair, and be recorded as giving a pair to him.

Mr. SIMPSON. I announce that the Senator from Arizona [Mr. GOLDWATER], the Senator from Florida [Mrs. HAWKINS], and the Senator from Oregon [Mr. PACKWOOD] are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas, 48, nays, 46, as follows:

[Rollcall Vote No. 152 Ex.]

YEAS—48

Abdnor	Gorton	McConnell
Andrews	Gramm	Murkowski
Armstrong	Grassley	Nickles
Boschwitz	Hatch	Pressler
Byrd	Hatfield	Quayle
Chafee	Hecht	Roth
Cochran	Heflin	Rudman
Cohen	Heinz	Simpson
D'Amato	Helms	Stafford
Danforth	Humphrey	Stevens
Denton	Kasten	Symms
Dole	Laxalt	Thurmond
Domenici	Long	Trible
Durenberger	Lugar	Wallop
East	Mattingly	Warner
Garn	McClure	Wilson

NAYS—46

Baucus	Glenn	Moynihan
Bentsen	Gore	Nunn
Bingaman	Harkin	Pell
Boren	Hart	Proxmire
Bradley	Hollings	Pryor
Bumpers	Johnston	Riegle
Burdick	Kennedy	Rockefeller
Chiles	Kerry	Sarbanes
Cranston	Lautenberg	Sasser
DeConcini	Leahy	Simon
Dixon	Levin	Specter
Dodd	Mathias	Stennis
Eagleton	Matsunaga	Weicker
Evans	Melcher	Zorinsky
Exon	Metzenbaum	
Ford	Mitchell	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—3

Biden, against
Inouye, against
Kassebaum, against

NOT VOTING—3

Goldwater	Hawkins	Packwood

So the nomination was confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed, and I ask for the yeas and nays.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, may we have order in the Senate?

The VICE PRESIDENT. The Senate is not in order. Senators are asked to take their seats. The Senate will be in order.

Mr. HART. Mr. President, I make a point of order that the Senate is not in order.

The VICE PRESIDENT. Senators are asked to take their seats. The Senate is not in order. The Senate will be in order. The Senators are asked to take their seats.

□ 1410

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Is there objection?

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard. The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I move that the Senate go into legislative session.

Mr. BYRD. Mr. President, without the distinguished Senator's losing the floor, and addressing myself to the motion, would he be in a position to tell the Senate what the program will be for the rest of the day? I ask this in view of the fact that the distinguished majority leader is moving to go back into legislative session.

Mr. DOLE. What I would like to do—the nomination appears to be in a state of flux. [Laughter.]

Mr. BYRD. It is in intensive care.

Mr. DOLE. Yes.

Right now, our nominee is ahead. But what I would like to do is take up the three treaties, then go to the supplemental and, while we are doing

that, reach some agreement when we can have a vote up or down on the Manion nomination, probably after we return.

We would go ahead and do the supplemental and do the treaties. I think we have Members on both sides who are either headed for the airport or would like to be. So I would move to go into legislative session at this time.

Mr. BYRD. Will the distinguished majority leader yield the floor further?

Mr. DOLE. I am happy to yield, yes.

Mr. BYRD. Mr. President, if the distinguished majority leader plans to seek a vote on the treaties, the Senate has to be in executive session to consider the treaties. If the Senate is going to be back in executive session, I think the Senate should proceed with the nomination. The motion to reconsider is now pending, but it is clearly the distinguished majority leader's prerogative, if he wishes to do so, to move the Senate—he has the votes; it only takes a majority vote and I assume he would have them—to move the Senate back into legislative session. I hope the distinguished majority leader would not now propose that the Senate go to the treaties because they would be in executive session also.

The Senator certainly can keep the Senate in executive session.

Mr. DOLE. That thought occurred to me.

Mr. BYRD. But we may not vote on the treaties.

Mr. DOLE. That thought occurred to me, too, so I think we shall just move to go into legislative session.

Mr. BIDEN. Will the majority leader withhold?

Mr. DOLE. I am happy to withhold.

Mr. BIDEN. Things are getting, as the majority leader pointed out, complicated here. I just wanted to make sure, because it is a matter of honor with the Senator from Delaware, did the Senator from Kansas, the majority leader, understand the Senator from Delaware to have committed to continue to pair on votes or only on that one vote?

Mr. DOLE. I say for the record, there is no understanding beyond that one vote. We are not talking about the rest of the day or the rest of the week. We would like to have it, but it was only one vote.

Mr. BIDEN. We may be able to make a deal later on, but I thank the Senator for his response.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thought the Senator had made a motion and I think it is a debatable one.

Mr. DOLE. It is not debatable.

The PRESIDING OFFICER. The motion is not debatable.

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1420

Mr. DOLE. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. There is a motion to return to legislative session.

The motion was agreed to.

URGENT SUPPLEMENTAL APPROPRIATIONS, 1986 CONFERENCE REPORT

Mr. DOLE. Mr. President, I now ask unanimous consent that the Senate turn to the consideration of the conference report to accompany H.R. 4515, the supplemental appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

Mr. BYRD. Mr. President, after the clerk reports, if I could get the majority leader to indicate what the outlook is for rollcalls the rest of the day and whether there will be a session tomorrow.

Mr. LEAHY. Could we have order, Mr. President? Could we have order?

The PRESIDING OFFICER. The Senator is correct.

The Senate will come to order.

Mr. DOLE. Mr. President, let me alert my colleagues on each side, because I know there are a number of Senators who have very important business outside Washington, we will not call up the bill until we come back from the recess. There is no need to penalize somebody who has to leave so perhaps we could agree before we leave that that might be a vote after the policy luncheon on Tuesday, the 15th of July. But we can work that out later.

We will have, I would guess, votes on the supplemental this afternoon. We are trying to work it out so we will not be in session tomorrow. The one key question may be—I am looking at the distinguished Senator from Florida. I do not see the Senator from New Mexico—whether or not we could adopt a conference report on the budget. If that could be done—certainly we would like to do that yet this evening, we would try to avoid a Friday session if at all possible.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. EXON. Will the majority leader yield for a question.

Mr. DOLE. Yes.

Mr. EXON. Is it hopefully the intention of the majority leader to finish the deliberations and have final vote on the emergency appropriations bill even if it requires a session tomorrow?

Mr. DOLE. The answer is in the affirmative.

Mr. EXON. I thank the majority leader.

The PRESIDING OFFICER. The clerk will report the conference report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 19, 1986.)

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1430

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the conference agreement on H.R. 4515, the Urgent Supplemental Appropriations Act, provides a total of $1,698,120,000 in net new budget authority for fiscal year 1986. This total is $4,466,841,000 below the administrations supplemental funding request of $6,164,961,000.

With respect to rescissions and deferrals, the conference recommends that $6,953,924,000 in funds previously appropriated be rescinded and that $4,890,075,000 in funds deferred by the administration be disapproved.

As compared to the House and Senate versions of the bill, this conference report provides a net new budget authority level for fiscal year 1986 $18,635,000 above the House-passed level and $2,176,352,000 below the Senate-passed level. Mr. President, I ask unanimous consent that a table comparing the conference report to the President's request and the House and Senate-passed measures be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. HATFIELD. Mr. President, I am pleased to inform my colleagues that the recommendations of the conferees meet the requirement of the Congressional Budget Act, as amended by the balanced budget and Emergency Deficit Control Act of 1985, that additional fiscal year 1986 spending be provided through offsetting savings.

□ 1440

This deficit neutrality requirement imposed on this bill—including the conference agreement—results from the fact that the current Senate scorekeeping report for fiscal year 1986 filed by the Senate Budget Committee indicates that total spending actions taken in fiscal year 1986 exceed the total outlay level contained in the fiscal year 1986 budget resolution as well as the maximum deficit level specified in the Balanced Budget and Emergency Deficit Control Act of 1985.

As will be recalled, this was the case when the Senate acted on this measure earlier in the month. The bill reported to the Senate by the Appropriations Committee, as well as the bill passed by the Senate, recommended savings to offset the additional spending recommended so there would be no increase in the fiscal year 1986 deficit. This conference agreement also complies with that deficit neutrality requirement.

I would like to point out to my colleagues that this conference report provides funding for a number of urgent requirements. These include: $5.3 billion for the capital contribution to the Commodity Credit Corporation [CCC] which stopped all payments on June 5 of this month; $9 million for dairy indemnity payments, which will allow pending claims for heptachlor contamination to be processed; $72 million for Agriculture Stabilization and Conservation Service [ASCS] salaries and expenses to prevent closure of all offices in mid-July; $3.8 million to prevent the continued disruption of Federal civil jury trials; $18.8 million for the Board for International Broadcasting to offset the impact of foreign currency exchange rate shortfalls; $250 million in Federal Emergency Management Agency disaster relief funding to continue public and private assistance to victims of disasters; $340 million for the Internal Revenue Service; and $80 million for the Federal Aviation Administration [FAA] to prevent the furlough of employees late this summer.

In addition, this agreement also includes a number of other funding priorities designated by the administration, including $150 million in additional assistance to the new Government of the Philippines; $702 million for the State Department's Diplomatic Security Program; and $50 million in aid to Ireland.

Mr. President, I ask unanimous consent that a table highlighting these and other major funding items recommended in this conference agreement be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. President, the House and Senate conferees reported only one amendment in true disagreement. That is Senate amendment numbered 199 dealing with certain tax regulations regarding vehicle recordkeeping requirements. In acting on this conference report 2 days ago, the House insisted on its disagreement to this Senate amendment. The House also took action different than the conference recommendation on two other items reported in technical disagreement:

First, it adopted a substitute amendment in lieu of the further House amendment recommended by the conferees to Senate amendment numbered 23 dealing with the prepayment of Federal financing bank loans guaranteed by the REA. As many of my colleagues may be aware, the original Senate language on this matter was opposed by the administration. The conferees recommended new language to further limit the eligibility of borrowers qualifying under this provision. However, that new language is also unacceptable to the President and I have been notified by the Director of OMB that the President would not sign the bill if the language is included in the form recommended by the conferees. The House substitute language makes a further modification in the language which I understand will satisfy the administration to the extent necessary to remove its veto threat on the bill. Given this and the fact that the House has now accepted the modified language, I will move that the Senate concur in the House amendment.

Second, in acting on the conference agreement, the House insisted on its position on Senate amendment numbered 114. The effect of that motion is to delete the original Senate language extending the FHA mortgage insurance authority and making basic changes in the Urban Development Action Grant program formula.

These amendments will, of course, receive separate action here in the Senate. There are a number of other amendments reported in technical disagreement by the conferees. I will seek unanimous consent at the appropriate time to have those amendments adopted en bloc, excepting the several amendments which are either controversial or which members wish to further amend. I hope my colleagues can agree to this in order to expedite consideration of this conference report.

71-059 O-87-34 (Pt. 11)

EXHIBIT 1

URGENT SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1986

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
CHAPTER I							
DEPARTMENT OF AGRICULTURE							
Soil Conservation Service							
Watershed and Flood Prevention Operations	---	25,000,000	36,700,000	36,700,000	+36,700,000	+11,700,000	---
Agricultural Stabilization and Conservation Service							
Emergency Conservation Program	---	10,000,000	---	5,000,000	+5,000,000	-5,000,000	+5,000,000
Agricultural Research Service							
Buildings and facilities	---	---	11,100,000	---	---	---	-11,100,000
Food Safety and Inspection Service	---	3,700,000	4,500,000	3,700,000	+3,700,000	---	-800,000
Packers and stockyards administration	---	---	80,000	80,000	+80,000	+80,000	---
Farmers Home Administration							
Rural Housing Insurance Fund:							
(Direct loans)	(-7,000,000)	---	(-4,480,000)	(-3,000,000)	(+4,000,000)	(-3,000,000)	(+1,480,000)
(Deferral disapproval - D86-60)	---	(7,000,000)	(7,000,000)	(7,000,000)	(+7,000,000)	---	---
(Insured loans)	(-699,000,000)	---	(1,500,000)	(1,000,000)	(+700,000,000)	(+1,000,000)	(-500,000)
(Deferral disapproval - D86-60)	---	(693,000,000)	(693,000,000)	(693,000,000)	(+693,000,000)	---	---
Very low income housing repair grants	---	---	3,000,000	2,000,000	+2,000,000	+2,000,000	-1,000,000
Agricultural Stabilization and Conservation Service							
Salaries and expenses (transfer from Commodity Credit Corporation)	(71,598,000)	(71,598,000)	(71,598,000)	(71,598,000)	---	---	---
Dairy indemnity program	6,000,000	10,000,000	9,000,000	9,000,000	+3,000,000	-1,000,000	---
DOMESTIC FOOD PROGRAMS							
Food and Nutrition Service							
Feeding program for Women, Infants and Children (WIC)	---	20,000,000	---	20,000,000	+20,000,000	---	+20,000,000
Commodity Supplemental Food Program							
(Transfer from Commodity Credit Corporation)	---	(3,950,000)	(3,950,000)	(3,950,000)	(+3,950,000)	---	---
Food Donations Program							
Elderly feeding programs (by transfer)	---	---	(8,500,000)	---	---	---	(-8,500,000)
Elderly feeding programs (direct appropriations)	---	---	---	8,500,000	+8,500,000	+8,500,000	+8,500,000
Temporary emergency food assistance program (by transfer)	---	---	(2,440,000)	---	---	---	(-2,440,000)
Temporary emergency food assistance program (direct appropriations)	---	---	---	2,437,000	+2,437,000	+2,437,000	+2,437,000
Commodity Credit Corporation							
Animal and Plant Health Inspection Service:							
Citrus Canker (by transfer)	---	(14,000,000)	---	(11,100,000)	(+11,100,000)	(-2,900,000)	(+11,100,000)
Cooperative State Research Service (by transfer)	---	(5,000,000)	---	(5,000,000)	(+5,000,000)	---	(+5,000,000)
Avian Influenza (by transfer)	---	(10,000,000)	---	(5,000,000)	(+5,000,000)	(-5,000,000)	(+5,000,000)
Reimbursement for net realized losses 1/	5,300,000,000	---	5,300,000,000	5,300,000,000	---	+5,300,000,000	---
External combustion engines	---	---	(4,000,000)	---	---	---	(-4,000,000)
Total, Chapter I:							
New budget (obligational) authority	5,306,000,000	68,700,000	5,364,380,000	5,387,417,000	+81,417,000	+5,318,717,000	+23,037,000
(By transfer)	(71,598,000)	(104,548,000)	(86,488,000)	(96,648,000)	(+25,050,000)	(-7,900,000)	(+10,160,000)
(Loan authorization)	(-706,000,000)	---	(-2,980,000)	(-2,000,000)	(+704,000,000)	(-2,000,000)	(+980,000)
(Deferral disapproval)	---	(700,000,000)	(700,000,000)	(700,000,000)	(+700,000,000)	---	---

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
CHAPTER II							
DEPARTMENT OF COMMERCE							
Economic Development Administration							
Economic development assistance programs (deferral disapproval - D86-36)	---	(40,000,000)	(40,000,000)	(40,000,000)	(+40,000,000)	---	---
National Oceanic and Atmospheric Administration							
Operations, research and facilities	---	---	10,822,000	10,822,000	+10,822,000	+10,822,000	---
DEPARTMENT OF JUSTICE							
Legal Activities							
United States Marshals Service	---	---	2,600,000	2,600,000	+2,600,000	+2,600,000	---
(By transfer)	(2,600,000)	---	---	---	(-2,600,000)	---	---
Support of United States prisoners	---	---	3,000,000	3,000,000	+3,000,000	+3,000,000	---
Federal Bureau of Investigation							
Salaries and expenses	---	---	10,000,000	10,000,000	+10,000,000	+10,000,000	---
(Rescission)	---	---	-10,000,000	-10,000,000	-10,000,000	-10,000,000	---
Immigration and Naturalization Service							
Salaries and expenses	---	---	3,000,000	3,000,000	+3,000,000	+3,000,000	---
(By transfer)	(3,000,000)	---	---	---	(-3,000,000)	---	---
Federal Prison System							
Salaries and expenses	10,620,000	15,500,000	18,000,000	18,000,000	+7,380,000	+2,500,000	---
(By transfer)	(2,500,000)	---	---	---	(-2,500,000)	---	---
National Institute of Corrections (rescission)	---	---	-3,315,000	---	---	---	+3,315,000
DEPARTMENT OF STATE							
Administration of Foreign Affairs							
Salaries and expenses	228,494,000	---	288,047,000	283,104,000	+54,610,000	+283,104,000	-4,943,000
(By transfer)	---	(237,494,000)	---	---	---	(-237,494,000)	---
Acquisition and maintenance of buildings abroad	454,532,000	---	372,125,000	409,000,000	-45,532,000	+409,000,000	+36,875,000
(By transfer)	---	(454,532,000)	---	---	---	(-454,532,000)	---
Counterterrorism research and development	10,000,000	---	---	10,000,000	---	+10,000,000	+10,000,000
(By transfer)	---	(10,000,000)	---	---	---	(-10,000,000)	---
Total, Administration of foreign affairs	693,026,000	---	660,172,000	702,104,000	+9,078,000	+702,104,000	+41,932,000
Other							
The Asia Foundation	---	2,000,000	2,000,000	2,000,000	+2,000,000	---	---
Total, Department of State	693,026,000	2,000,000	662,172,000	704,104,000	+11,078,000	+702,104,000	+41,932,000
THE JUDICIARY							
Supreme Court of the United States							
Care of the buildings and grounds	46,000	46,000	46,000	46,000	---	---	---
Courts of Appeals, District Courts, and Other Judicial Services							
Salaries of supporting personnel	1,200,000	1,200,000	1,200,000	1,200,000	---	---	---
Salaries of supporting personnel (by transfer)	(12,000,000)	(12,000,000)	---	---	(-12,000,000)	(-12,000,000)	---
Fees of jurors and commissioners	3,800,000	3,800,000	3,800,000	3,800,000	---	---	---
Study of construction of office buildings	2,000,000	2,000,000	1,300,000	1,300,000	-700,000	-700,000	---
Space and facilities	---	---	---	---	---	---	---
Total, Courts of Appeals, District Courts, and Other Judicial Services	7,000,000	7,000,000	6,300,000	6,300,000	-700,000	-700,000	---
Total, The Judiciary	7,046,000	7,046,000	6,346,000	6,346,000	-700,000	-700,000	---

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
RELATED AGENCIES							
Department of Transportation							
Maritime Administration							
Operations and training (deferral disapproval-D86-53).	---	(9,350,000)	(1,738,000)	(1,738,000)	(+1,738,000)	(-7,612,000)	---
Board for International Broadcasting							
Grants and expenses	22,000,000	14,500,000	18,800,000	18,800,000	-3,200,000	+4,300,000	---
Small Business Administration							
Salaries and expenses (by transfer)	---	(2,000,000)	(2,000,000)	(2,000,000)	(+2,000,000)	---	---
United States Information Agency							
Salaries and expenses	17,326,000	---	---	---	-17,326,000	---	---
(By transfer)	---	---	(3,900,000)	(3,900,000)	(+3,900,000)	(+3,900,000)	---
Total, Chapter II:							
New budget (obligational) authority	750,018,000	39,046,000	721,425,000	766,672,000	+16,654,000	+727,626,000	+45,247,000
Appropriations 1986	(750,018,000)	(39,046,000)	(734,740,000)	(776,672,000)	(+26,654,000)	(+737,626,000)	(+41,932,000)
Rescissions	---	---	(-13,315,000)	(-10,000,000)	(-10,000,000)	(-10,000,000)	(+3,315,000)
(By transfer)	(20,100,000)	(716,026,000)	(5,900,000)	(5,900,000)	(-14,200,000)	(-710,126,000)	---
(Deferral disapproval)	---	(49,350,000)	(41,738,000)	(41,738,000)	(+41,738,000)	(-7,612,000)	---
CHAPTER III							
DEPARTMENT OF DEFENSE - MILITARY							
OPERATION AND MAINTENANCE							
Tenth International Pan American Games	---	---	8,000,000	8,000,000	+8,000,000	+8,000,000	---
(Rescission)	---	---	-8,000,000	-8,000,000	-8,000,000	-8,000,000	---
Operation and Maintenance, Defense Agencies	---	---	---	(260,000,000)	(+260,000,000)	(+260,000,000)	(+260,000,000)
PROCUREMENT							
Procurement of Weapons and Tracked Combat Vehicles, Army (rescission)	-34,400,000	---	-34,400,000	-34,400,000	---	-34,400,000	---
Shipbuilding and Conversion, Navy (rescission)	-40,100,000	---	-40,100,000	-40,100,000	---	-40,100,000	---
Missile Procurement, Air Force (by transfer)	---	---	(345,400,000)	(345,400,000)	(+345,400,000)	(+345,400,000)	---
Other Procurement, Air Force (rescission)	-40,000,000	---	-40,000,000	-40,000,000	---	-40,000,000	---
RESEARCH, DEVELOPMENT, TEST AND EVALUATION							
Research, Development, Test and Evaluation, Air Force (by transfer)	---	---	(316,886,000)	(316,886,000)	(+316,886,000)	(+316,886,000)	---
(Rescission)	---	---	-13,500,000	---	---	---	+13,500,000
Research, Development, Test and Evaluation, Defense Agencies (rescission)	---	---	-11,100,000	---	---	---	+11,100,000
REVOLVING AND MANAGEMENT FUNDS							
ADP Equipment Management Fund	---	---	100,000,000	100,000,000	+100,000,000	+100,000,000	---
(Rescission)	---	---	-100,000,000	-100,000,000	-100,000,000	-100,000,000	---
Total, Chapter III:							
New budget (obligational) authority	-114,500,000	---	-139,100,000	-114,500,000	---	-114,500,000	+24,600,000
Appropriations 1986	---	---	(108,000,000)	(108,000,000)	(+108,000,000)	(+108,000,000)	---
Rescissions	(-114,500,000)	---	(-247,100,000)	(-222,500,000)	(-108,000,000)	(-222,500,000)	(+24,600,000)
(By transfer)	---	---	(662,286,000)	(922,286,000)	(+922,286,000)	(+922,286,000)	(+260,000,000)
CHAPTER IV							
DEPARTMENT OF DEFENSE - CIVIL							
Department of the Army							
Corps of Engineers - Civil							
Flood control and coastal emergencies	---	25,000,000	---	25,000,000	+25,000,000	---	+25,000,000
General expenses (by transfer)	(3,000,000)	(3,000,000)	(3,000,000)	(3,000,000)	---	---	---
Total, Department of Defense - Civil	---	25,000,000	---	25,000,000	+25,000,000	---	+25,000,000

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
DEPARTMENT OF ENERGY							
Energy Supply, Research and Development Activities							
(Deferral disapproval - D86-38)	---	(23,156,000)	(23,156,000)	(23,156,000)	(+23,156,000)	---	---
Atomic Energy Defense Activities							
(Transfer from Research, Development, Test, and Evaluation, Defense Agencies)	(62,000,000)	(62,000,000)	---	(62,000,000)	---	---	(+62,000,000)
Total, Chapter IV:							
New budget (obligational) authority	---	25,000,000	---	25,000,000	+25,000,000	---	+25,000,000
(By transfer)	(65,000,000)	(65,000,000)	(3,000,000)	(65,000,000)	---	---	(+62,000,000)
(Deferral disapproval)	---	(23,156,000)	(23,156,000)	(23,156,000)	(+23,156,000)	---	---
CHAPTER V							
FOREIGN ASSISTANCE AND RELATED PROGRAMS							
Bilateral Economic Assistance							
Agency for International Development							
Economic support fund	100,000,000	---	100,000,000	100,000,000	---	+100,000,000	---
(By transfer)	---	(50,000,000)	---	---	---	(-50,000,000)	---
International Fund for Northern Ireland and Ireland	20,000,000	---	---	---	-20,000,000	---	---
(By transfer)	---	---	(20,000,000)	(50,000,000)	(+50,000,000)	(+50,000,000)	(+30,000,000)
Foreign Assistance Contingencies							
General contingencies	50,000,000	---	---	---	-50,000,000	---	---
Department of State							
Anti-terrorism assistance	4,840,000	---	---	---	-4,840,000	---	---
(By transfer)	---	---	(2,739,000)	(2,739,000)	(+2,739,000)	(+2,739,000)	---
Military Assistance							
Military assistance	50,000,000	---	50,000,000	50,000,000	---	+50,000,000	---
Reappropriation	15,000,000	---	15,000,000	---	-15,000,000	---	-15,000,000
(By transfer)	(14,355,000)	---	(14,355,000)	---	(-14,355,000)	---	(-14,355,000)
Total, Chapter V:							
New budget (obligational) authority	239,840,000	---	165,000,000	150,000,000	-89,840,000	+150,000,000	-15,000,000
Appropriations 1986	(224,840,000)	---	(150,000,000)	(150,000,000)	(-74,840,000)	(+150,000,000)	---
Reappropriation	(15,000,000)	---	(15,000,000)	---	(-15,000,000)	---	(-15,000,000)
(By transfer)	(14,355,000)	(50,000,000)	(37,094,000)	(52,739,000)	(+38,384,000)	(+2,739,000)	(+15,645,000)
CHAPTER VI							
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
HOUSING PROGRAMS							
Annual contributions for assisted housing (deferral disapproval - D86-41)	---	(2,300,805,000)	(2,300,805,000)	(2,300,805,000)	(+2,300,805,000)	---	---
Rescission in FY 1986	---	---	-3,000,000,000	-5,250,000,000	-5,250,000,000	-5,250,000,000	-2,250,000,000
Rescission in FY 1987	---	---	---	-6,042,000,000	-6,042,000,000	-6,042,000,000	-6,042,000,000
Rent supplement (rescission of contract authority, indefinite)	-1,158,920,000	---	-1,158,920,000	-1,158,920,000	---	-1,158,920,000	---
(Limitation on annual contract authority, indefinite)	(-41,390,000)	---	(-41,390,000)	(-41,390,000)	---	(-41,390,000)	---
Rental housing assistance (rescission of contract authority, indefinite)	-283,584,000	---	-283,584,000	-283,584,000	---	-283,584,000	---
(Limitation on annual contract authority, indefinite)	(-10,128,000)	---	(-10,128,000)	(-10,128,000)	---	(-10,128,000)	---
Housing for the elderly or handicapped fund (deferral disapproval - D86-45)	---	(530,220,000)	(530,220,000)	(530,220,000)	(+530,220,000)	---	---
Nonprofit sponsor assistance (deferral disapproval D86-46)	---	(457,000)	(457,000)	(457,000)	(+457,000)	---	---

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Federal Housing Administration Fund							
Federal Housing Administration Fund (limitation on guaranteed loans)	(6,500,000,000)	—	(57,580,000,000)	(57,580,000,000)	(+51,080,000,000)	(+57,580,000,000)	—
Government National Mortgage Association							
Guarantees of mortgage-backed securities (limitation on guaranteed loans)	—	—	(49,000,000,000)	(49,000,000,000)	(+49,000,000,000)	(+49,000,000,000)	—
COMMUNITY PLANNING AND DEVELOPMENT							
Community development grants (deferral disapproval B86-48)	—	(500,000,000)	(500,000,000)	(500,000,000)	(+500,000,000)	—	—
Rehabilitation loan fund (deferral disapproval B86-50)	—	(131,133,000)	(131,133,000)	(131,133,000)	(+131,133,000)	—	—
MANAGEMENT AND ADMINISTRATION							
Salaries and expenses (by transfer)	(10,100,000)	(23,701,000)	(30,000,000)	(30,000,000)	(+19,900,000)	(+6,299,000)	—
INDEPENDENT AGENCIES							
AMERICAN BATTLE MONUMENTS COMMISSION							
Salaries and expenses	1,553,000	1,553,000	—	1,553,000	—	—	+1,553,000
ENVIRONMENTAL PROTECTION AGENCY							
Salaries and expenses (by transfer)	—	(3,000,000)	(3,000,000)	(3,000,000)	(+3,000,000)	—	—
Construction Grants (release of appropriated funds)	—	—	(600,000,000)	(1,200,000,000)	(+1,200,000,000)	(+1,200,000,000)	(+600,000,000)
FEDERAL EMERGENCY MANAGEMENT AGENCY							
Disaster relief	250,000,000	250,000,000	250,000,000	250,000,000	—	—	—
Salaries and expenses (by transfer)	—	(2,920,000)	(2,920,000)	(2,920,000)	(+2,920,000)	—	—
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION							
Research and development (by transfer)	—	—	—	(5,000,000)	(+5,000,000)	(+5,000,000)	(+5,000,000)
Space flight, control and data communications	—	—	526,000,000	431,000,000	+431,000,000	+431,000,000	-95,000,000
Advance appropriation in FY 1987	—	—	—	100,000,000	+100,000,000	+100,000,000	+100,000,000
Research and program management (by transfer)	—	(38,100,000)	(38,100,000)	(38,100,000)	(+38,100,000)	—	—
VETERANS ADMINISTRATION							
Compensation and pensions	272,000,000	272,000,000	272,000,000	272,000,000	—	—	—
Readjustment benefits	91,000,000	91,000,000	91,000,000	91,000,000	—	—	—
Medical care (by transfer)	—	(30,000,000)	(30,000,000)	(30,000,000)	(+30,000,000)	—	—
General operating expenses (by transfer)	—	(6,000,000)	(6,000,000)	(6,000,000)	(+6,000,000)	—	—
Veterans Job training (by transfer)	—	(35,000,000)	(35,000,000)	(35,000,000)	(+35,000,000)	—	—
Total, Veterans Administration	363,000,000	363,000,000	363,000,000	363,000,000	—	—	—
CORPORATIONS							
Federal Home Loan Bank Board: (Limitation on administrative expenses, corporate funds)	(3,429,000)	(3,429,000)	(3,429,000)	(3,429,000)	—	—	—
Total, Chapter VI:							
New budget (obligational) authority	-827,951,000	614,553,000	-3,303,504,000	-5,546,951,000	-4,719,000,000	-6,161,504,000	-2,243,447,000
Appropriations 1986	(614,553,000)	(614,553,000)	(1,139,000,000)	(1,045,553,000)	(+431,000,000)	(+431,000,000)	(-93,447,000)
Appropriations 1987	—	—	—	(100,000,000)	(+100,000,000)	(+100,000,000)	(+100,000,000)
Rescissions	(-1,442,504,000)	—	(-4,442,504,000)	(-6,692,504,000)	(-5,250,000,000)	(-6,692,504,000)	(-2,250,000,000)
(By transfer)	(10,100,000)	(138,721,000)	(145,020,000)	(150,020,000)	(+139,920,000)	(+11,299,000)	(+5,000,000)
(Limitation on administrative expenses, corporate funds)	(3,429,000)	(3,429,000)	(3,429,000)	(3,429,000)	—	—	—
(Limitation on guaranteed loans)	(6,500,000,000)	—	(106,580,000,000)	(106,580,000,000)	(+100,080,000,000)	(+106,580,000,000)	—
(Limitation on annual contract authority, indfinite)	(-51,518,000)	—	(-51,518,000)	(-51,518,000)	—	(-51,518,000)	—
(Deferral disapproval)	—	(3,462,615,000)	(3,462,615,000)	(3,462,615,000)	(+3,462,615,000)	—	—

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
CHAPTER VII							
DEPARTMENT OF THE INTERIOR							
Bureau of Land Management							
Land acquisition (Rescission)	---	---	-3,000,000	---	---	---	+3,000,000
(Effect of new deferral) 1/	---	(-3,000,000)	---	(-3,000,000)	(-3,000,000)	---	(-3,000,000)
United States Fish and Wildlife Service							
Resource management	---	90,000	---	---	---	-90,000	---
Land acquisition	---	---	2,373,000	2,373,000	+2,373,000	+2,373,000	---
(Effect of new deferral) 1/	---	(-4,432,000)	---	---	---	(+4,432,000)	---
National Park Service							
Operation of the national park system	13,470,000	13,900,000	13,470,000	13,470,000	---	-430,000	---
Construction	---	---	3,420,000	3,850,000	+3,850,000	+3,850,000	+430,000
Land and water conservation fund (rescission of contract authority)	(-28,710,000)	-28,710,000	-28,710,000	-28,710,000	-28,710,000	---	---
(Effect of new deferral)	(-1,893,000)	---	(-1,893,000)	---	(+1,893,000)	---	(+1,893,000)
Geological Survey							
Surveys, investigations and research	---	---	1,400,000	1,400,000	+1,400,000	+1,400,000	---
Minerals Management Service							
Leasing and royalty management	---	800,000	---	200,000	+200,000	-600,000	+200,000
Payments to States from receipts under Mineral Leasing	800,000	---	---	---	-800,000	---	---
Office of Surface Mining Reclamation and Enforcement							
Regulation and technology (rescission)	---	-710,000	---	-210,000	-210,000	+500,000	-210,000
Bureau of Indian Affairs							
Operation of Indian programs	26,500,000	31,368,000	26,500,000	29,204,000	+2,704,000	-2,164,000	+2,704,000
Construction	---	---	4,900,000	2,500,000	+2,500,000	+2,500,000	-2,400,000
(Effect of new deferral)	---	---	(-4,900,000)	(-2,500,000)	(-2,500,000)	(-2,500,000)	(+2,400,000)
Territorial and International Affairs							
Compact of Free Association	178,750,000	178,750,000	210,890,000	210,840,000	+32,090,000	+32,090,000	-50,000
Total, Department of the Interior (net)	219,520,000	175,488,000	231,243,000	234,917,000	+15,397,000	+39,429,000	+3,674,000
RELATED AGENCIES							
DEPARTMENT OF AGRICULTURE							
Forest Service							
State and private forestry	---	161,000	161,000	161,000	+161,000	---	---
National forest system	165,700,000	165,700,000	165,700,000	165,700,000	---	---	---
Construction	---	---	1,700,000	1,700,000	+1,700,000	+1,700,000	---
Land acquisition	---	4,436,000	4,436,000	4,436,000	+4,436,000	---	---
Timber salvage sales (deferral disapproval-D86-3)	---	(3,153,000)	(3,153,000)	(3,153,000)	(+3,153,000)	---	---
Total, Forest Service	165,700,000	170,297,000	171,997,000	171,997,000	+6,297,000	+1,700,000	---
DEPARTMENT OF ENERGY							
Fossil energy research and development (deferral disapproval - D86-6A)	---	(62,205,000)	(22,541,000)	(25,871,000)	(+25,871,000)	(-36,334,000)	(+3,330,000)
(Effect of new deferral)	---	(-2,607,000)	(-2,607,000)	(-2,607,000)	(-2,607,000)	---	---
Naval Petroleum Reserve (deferral approval-D86-8A)	---	---	(-36,461,000)	---	---	---	(+36,461,000)
Energy conservation (deferral disapproval-D86-9A)	---	(36,782,000)	(14,906,000)	(14,826,000)	(+14,826,000)	(-21,956,000)	(-80,000)
Strategic petroleum reserve (deferral disapproval D86-37)	---	(197,940,825)	(41,182,000)	(41,182,000)	(+41,182,000)	(-156,758,825)	---
SPR petroleum account (deferral disapproval-D86-10A)	---	(315,000,000)	(577,534,000)	(577,534,000)	(+577,534,000)	(+262,534,000)	---
Alternative Fuels Production	1,020,360,322	---	1,020,360,322	1,020,360,322	---	+1,020,360,322	---
Appropriation applied to debt reduction	-1,020,360,322	---	-1,020,360,322	-1,020,360,322	---	-1,020,360,322	---

1/ Originally proposed as rescission.

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
DEPARTMENT OF HEALTH AND HUMAN SERVICES							
Health Resources and Services Administration							
Indian health services	---	20,000,000	1,800,000	13,500,000	+13,500,000	-6,500,000	+11,700,000
Indian health facilities (effect of new defferal)	---	---	(-13,745,000)	(-11,665,000)	(-11,665,000)	(-11,665,000)	(+2,080,000)
SMITHSONIAN INSTITUTION							
National Gallery of Art							
Salaries and expenses (by transfer)	---	(136,000)	---	(36,000)	(+36,000)	(-100,000)	(+36,000)
Total, Chapter VII:							
New budget (obligational) authority (net)	385,220,000	385,785,000	405,040,000	420,414,000	+35,194,000	+34,629,000	+15,374,000
Appropriations 1986	(1,405,580,322)	(415,205,000)	(1,457,110,322)	(1,469,694,322)	(+64,114,000)	(+1,054,489,322)	(+12,584,000)
Appropriation applied to debt reduction	(-1,020,360,322)	---	(-1,020,360,322)	(-1,020,360,322)	---	(-1,020,360,322)	---
Rescissions	(-28,710,000)	(-29,420,000)	(-31,710,000)	(-28,920,000)	(-28,920,000)	(+500,000)	(+2,799,000)
(By transfer)	---	(136,000)	---	(36,000)	(+36,000)	(-100,000)	(+36,000)
(Deferral approval)	---	---	(-36,461,000)	---	---	---	(+36,461,000)
(Deferral disapproval)	---	(615,080,825)	(659,316,000)	(662,566,000)	(+662,566,000)	(+47,485,175)	(+3,250,000)
(Effect of new deferral)	(-1,893,000)	(-10,039,000)	(-23,145,000)	(-19,772,000)	(-17,879,000)	(-9,733,000)	(+3,373,000)
CHAPTER VIII							
DEPARTMENT OF HEALTH AND HUMAN SERVICES							
Health Resources and Services Administration							
Health resources and services	---	---	2,000,000	2,000,000	+2,000,000	+2,000,000	---
National Institutes of Health							
National Cancer Institute	---	6,000,000	---	6,000,000	+6,000,000	---	+6,000,000
Office of Community Service							
Community Services Block Grant	---	---	5,000,000	1,500,000	+1,500,000	+1,500,000	-3,500,000
DEPARTMENT OF EDUCATION							
Impact Aid	---	20,000,000	---	20,000,000	+20,000,000	---	+20,000,000
Student Financial assistance	---	---	146,000,000	146,000,000	+146,000,000	+146,000,000	---
RELATED AGENCIES							
Soldier's and Airmen's Home							
Operation and maintenance (by transfer)	---	---	(1,241,000)	(1,241,000)	(+1,241,000)	(+1,241,000)	---
Total, Chapter VIII:							
New budget (obligational) authority	---	26,000,000	153,000,000	175,500,000	+175,500,000	+149,500,000	+22,500,000
(By transfer)	---	---	(1,241,000)	(1,241,000)	(+1,241,000)	(+1,241,000)	---
CHAPTER IX							
LEGISLATIVE BRANCH							
SENATE							
Salaries, Officers and Employees							
Administrative, clerical, and legislative assistance to Senators	243,000	---	---	---	-243,000	---	---
Offices of the secretaries for the Majority and Minority	80,000	---	---	---	-80,000	---	---
Office of the Sergeant at Arms and Doorkeeper	---	---	500,000	500,000	+500,000	+500,000	---
Agency contributions	32,000	---	---	---	-32,000	---	---
Total, salaries, officers and employees	355,000	---	500,000	500,000	+145,000	+500,000	---

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Continsent Expenses of the Senate							
Serseant at Arms and Doorkeeper of the Senate	9,100,000	---	---	---	-9,100,000	---	---
Miscellaneous items	650,000	---	---	---	-650,000	---	---
Total, continsent expenses of the Senate	9,750,000	---	---	---	-9,750,000	---	---
Total, Senate	10,105,000	---	500,000	500,000	-9,605,000	+500,000	---
HOUSE OF REPRESENTATIVES							
Salaries, Officers and Emplovees							
Office of the Serseant at Arms	---	---	500,000	500,000	+500,000	+500,000	---
Continsent Expenses of the House							
Standins Committees, Special and Select							
Salaries and expenses	350,000	350,000	---	350,000	---	---	+350,000
JOINT ITEMS							
Continsent Expenses of the House							
Joint Committee on Taxation	950,000	912,000	912,000	912,000	-38,000	---	---
Capitol Police							
Capitol Police Board	---	---	13,000,000	13,000,000	+13,000,000	+13,000,000	---
Official Mail Costs							
Expenses	50,499,000	---	---	---	-50,499,000	---	---
Total, Joint items	51,449,000	912,000	13,912,000	13,912,000	-37,537,000	+13,000,000	---
ARCHITECT OF THE CAPITOL							
Office of the Architect of the Capitol							
Salaries	---	---	250,000	250,000	+250,000	+250,000	---
Capitol Buildinss and Grounds							
Capitol buildinss	8,000,000	8,000,000	8,000,000	8,000,000	---	---	---
Capitol srounds	7,675,000	---	---	---	-7,675,000	---	---
Restoration of West Front (rescission)	---	---	-3,683,000	---	---	---	+3,683,000
Capitol Power Plant	2,000,000	1,583,000	1,583,000	1,583,000	-417,000	---	---
Total, Capitol buildinss and srounds	17,675,000	9,583,000	5,900,000	9,583,000	-8,092,000	---	+3,683,000
Library of Congress							
Salaries and expenses	---	---	1,000,000	867,000	+867,000	+867,000	-133,000
Total, Chapter IX:							
New budset (oblisational) authority	79,579,000	10,845,000	22,062,000	25,962,000	-53,617,000	+15,117,000	+3,900,000
Appropriations 1986	(79,579,000)	(10,845,000)	(25,745,000)	(25,962,000)	(-53,617,000)	(+15,117,000)	(+217,000)
Rescissions	---	---	(-3,683,000)	---	---	---	(+3,683,000)
CHAPTER X							
DEPARTMENT OF TRANSPORTATION							
Coast Guard							
Operatins expenses	---	35,500,000	35,500,000	35,500,000	+35,500,000	---	---
(By transfer)	(35,500,000)	---	---	---	(-35,500,000)	---	---
Acquisition, construction and improvements (By transfer)	---	---	(21,250,000)	(21,250,000)	(+21,250,000)	(+21,250,000)	---

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
Federal Aviation Administration							
Operations	6,755,000	80,000,000	80,000,000	80,000,000	+73,245,000	---	---
(By transfer)	(73,245,000)	(5,000,000)	---	(4,250,000)	(-68,995,000)	(-750,000)	(+4,250,000)
Research, engineering and development (by transfer)	(72,220,000)	---	(72,220,000)	(72,220,000)	---	(+72,220,000)	---
RELATED AGENCY							
Panama Canal Commission							
Operating expenses	---	20,000,000	---	18,300,000	+18,300,000	-1,700,000	+18,300,000
Total, Chapter X:							
New budget (obligational) authority	6,755,000	135,500,000	115,500,000	133,800,000	+127,045,000	-1,700,000	+18,300,000
(By transfer)	(180,965,000)	(5,000,000)	(93,470,000)	(97,720,000)	(-83,245,000)	(+92,720,000)	(+4,250,000)
CHAPTER XI							
DEPARTMENT OF THE TREASURY							
Departmental offices (rescission)	---	---	-912,000	---	---	---	+912,000
Internal Revenue Service:							
Processing tax returns	194,564,000	194,564,000	194,564,000	194,564,000	---	---	---
Examinations and appeals	68,706,000	68,706,000	68,706,000	68,706,000	---	---	---
Investigations, collections and taxpayer service	76,730,000	76,730,000	76,730,000	76,730,000	---	---	---
Total, Internal Revenue Service	340,000,000	340,000,000	340,000,000	340,000,000	---	---	---
United States Customs Service							
Salaries and expenses	---	30,831,000	30,831,000	30,831,000	+30,831,000	---	---
Operations and maintenance, air interdiction program	---	3,225,000	---	3,225,000	+3,225,000	---	+3,225,000
Total, United States Customs Service	---	34,056,000	30,831,000	34,056,000	+34,056,000	---	+3,225,000
Bureau of Alcohol Tobacco and Firearms	---	---	500,000	500,000	+500,000	+500,000	---
Office of Personnel Management (by transfer)	---	---	(100,000)	(100,000)	(+100,000)	(+100,000)	---
GENERAL SERVICES ADMINISTRATION							
Federal Buildings Fund (limitation)	---	---	(3,500,000)	(3,500,000)	(+3,500,000)	(+3,500,000)	---
Federal Retirement thrift investment fund							
Salaries and expenses	---	---	250,000	250,000	+250,000	+250,000	---
Total, Chapter XI:							
New budget (obligational) authority	340,000,000	374,056,000	370,669,000	374,806,000	+34,806,000	+750,000	+4,137,000
Appropriations 1986	(340,000,000)	(374,056,000)	(371,581,000)	(374,806,000)	(+34,806,000)	(+750,000)	(+3,225,000)
Rescissions	---	---	(-912,000)	---	---	---	(+912,000)
(By transfer)	---	---	(100,000)	(100,000)	(+100,000)	(+100,000)	---
TOTAL - New budget (obligational) authority	6,164,961,000	1,679,485,000	3,874,472,000	1,798,120,000	-4,366,841,000	+118,635,000	-2,076,352,000
Appropriations 1986	(8,727,325,322)	(1,708,905,000)	(9,619,056,322)	(9,672,404,322)	(+945,079,000)	(+7,963,499,322)	(+53,348,000)
Appropriations 1987	---	---	---	(100,000,000)	(+100,000,000)	(+100,000,000)	(+100,000,000)
Reappropriation	(15,000,000)	---	(15,000,000)	---	(-15,000,000)	---	(-15,000,000)
Rescissions	(-1,585,714,000)	(-29,420,000)	(-4,739,224,000)	(-6,953,924,000)	(-5,396,920,000)	(-6,924,504,000)	(-2,214,700,000)
Appropriation applied to debt reduction	(-1,020,360,322)	---	(-1,020,360,322)	(-1,020,360,322)	---	(-1,020,360,322)	---
(Deferral approval)	---	---	(-36,461,000)	---	---	---	(+36,461,000)
(Deferral disapproval)	---	(4,850,201,825)	(4,886,825,000)	(4,899,075,000)	(+4,899,075,000)	(+39,873,175)	(+13,250,000)
(Effect of new deferral)	(-1,893,000)	(-10,039,000)	(-23,145,000)	(-19,772,000)	(-17,879,000)	(-9,733,000)	(+3,373,000)
(By transfer)	(362,118,000)	(1,079,431,000)	(1,034,599,000)	(1,391,690,000)	(+1,029,572,000)	(+312,259,000)	(+357,091,000)
(Limitation on administrative expenses, corporate funds)	(3,429,000)	(3,429,000)	(3,429,000)	(3,429,000)	---	---	---
(Limitation on guaranteed loans)	(6,500,000,000)	---	(106,580,000,000)	(106,580,000,000)	(+100,080,000,000)	(+106,580,000,000)	---
(Limitation on annual contract authority, indefinite)	(-51,518,000)	---	(-51,518,000)	(-51,518,000)	---	(-51,518,000)	---
(Loan authorization)	(-706,000,000)	---	(-2,980,000)	(-2,000,000)	(+704,000,000)	(-2,000,000)	(+980,000)

	Supplemental Request	House	Senate	Conference	Conference compared with Estimates	Conference compared with House	Conference compared with Senate
GENERAL SUPPLEMENTALS							
Total, Chapter I:							
Agriculture:							
New budget (obligational) authority	5,306,000,000	68,700,000	5,364,380,000	5,387,417,000	+81,417,000	+5,318,717,000	+23,037,000
(By transfer)	(71,598,000)	(104,548,000)	(86,488,000)	(96,648,000)	(+25,050,000)	(-7,900,000)	(+10,160,000)
(Loan authorization)	(-706,000,000)	---	(-2,980,000)	(-2,000,000)	(+704,000,000)	(-2,000,000)	(+980,000)
(Deferral disapproval)	---	(700,000,000)	(700,000,000)	(700,000,000)	(+700,000,000)	---	---
Total, Chapter II:							
Commerce, Justice, State and the Judiciary:							
New budget (obligational) authority	750,018,000	39,046,000	721,425,000	766,672,000	+16,654,000	+727,626,000	+45,247,000
Appropriations 1986	(750,018,000)	(39,046,000)	(734,740,000)	(776,672,000)	(+26,654,000)	(+737,626,000)	(+41,932,000)
Rescissions	---	---	(-13,315,000)	(-10,000,000)	(-10,000,000)	(-10,000,000)	(+3,315,000)
(By transfer)	(20,100,000)	(716,026,000)	(5,900,000)	(5,900,000)	(-14,200,000)	(-710,126,000)	---
(Deferral disapproval)	---	(49,350,000)	(41,738,000)	(41,738,000)	(+41,738,000)	(-7,612,000)	---
Total, Chapter III:							
Defense:							
New budget (obligational) authority	-114,500,000	---	-139,100,000	-114,500,000	---	-114,500,000	+24,600,000
Appropriations 1986	---	---	(108,000,000)	(108,000,000)	(+108,000,000)	(+108,000,000)	---
Rescissions	(-114,500,000)	---	(-247,100,000)	(-222,500,000)	(-108,000,000)	(-222,500,000)	(+24,600,000)
(By transfer)	---	---	(662,286,000)	(922,286,000)	(+922,286,000)	(+922,286,000)	(+260,000,000)
Total, Chapter IV:							
Energy and Water Development:							
New budget (obligational) authority	---	25,000,000	---	25,000,000	+25,000,000	---	+25,000,000
(By transfer)	(65,000,000)	(65,000,000)	(3,000,000)	(65,000,000)	---	---	(+62,000,000)
(Deferral disapproval)	---	(23,156,000)	(23,156,000)	(23,156,000)	(+23,156,000)	---	---
Total, Chapter V:							
Foreign Operations:							
New budget (obligational) authority	239,840,000	---	165,000,000	150,000,000	-89,840,000	+150,000,000	-15,000,000
Appropriations 1986	(224,840,000)	---	(150,000,000)	(150,000,000)	(-74,840,000)	(+150,000,000)	---
Reappropriation	(15,000,000)	---	(15,000,000)	---	(-15,000,000)	---	(-15,000,000)
(By transfer)	(14,355,000)	(50,000,000)	(37,094,000)	(52,739,000)	(+38,384,000)	(+2,739,000)	(+15,645,000)
Total, Chapter VI:							
Housing and Urban Development-Independent Agenci							
New budget (obligational) authority	-827,951,000	614,553,000	-3,303,504,000	-3,546,951,000	-4,719,000,000	-6,161,504,000	-2,243,447,000
Appropriations 1986	(614,553,000)	(614,553,000)	(1,139,000,000)	(1,045,553,000)	(+431,000,000)	(+431,000,000)	(-93,447,000)
Appropriations 1987	---	---	---	(100,000,000)	(+100,000,000)	(+100,000,000)	(+100,000,000)
Rescissions	(-1,442,504,000)	---	(-4,442,504,000)	(-6,692,504,000)	(-5,250,000,000)	(-6,692,504,000)	(-2,250,000,000)
(By transfer)	(10,100,000)	(138,721,000)	(145,020,000)	(150,020,000)	(+139,920,000)	(+11,299,000)	(+5,000,000)
(Limitation on administrative expenses, corporate funds)	(3,429,000)	(3,429,000)	(3,429,000)	(3,429,000)	---	---	---
(Limitation on guaranteed loans)	(6,500,000,000)	---	(106,580,000,000)	(106,580,000,000)	(+100,080,000,000)	(+106,580,000,000)	---
(Limitation on annual contract authority, indfinite)	(-51,518,000)	---	(-51,518,000)	(-51,518,000)	---	(-51,518,000)	---
(Deferral disapproval)	---	(3,462,615,000)	(3,462,615,000)	(3,462,615,000)	(+3,462,615,000)	---	---
Total, Chapter VII:							
Interior and Related Agencies:							
New budget (obligational) authority (net)	385,220,000	385,785,000	405,040,000	420,414,000	+35,194,000	+34,629,000	+15,374,000
Appropriations 1986	(1,405,580,322)	(415,205,000)	(1,457,110,322)	(1,469,694,322)	(+64,114,000)	(+1,054,489,322)	(+12,584,000)
Appropriation applied to debt reduction	(-1,020,360,322)	---	(-1,020,360,322)	(-1,020,360,322)	---	(-1,020,360,322)	---
Rescissions	(-28,710,000)	(-29,420,000)	(-31,710,000)	(-28,920,000)	(-28,920,000)	(+500,000)	(+2,790,000)
(By transfer)	---	(136,000)	---	(36,000)	(+36,000)	(-100,000)	(+36,000)
(Deferral approval)	---	---	(-36,461,000)	---	---	---	(+36,461,000)
(Deferral disapproval)	---	(615,080,825)	(639,316,000)	(662,566,000)	(+662,566,000)	(+47,485,175)	(+23,250,000)
(Effect of new deferral)	(-1,893,000)	(-10,039,000)	(-23,145,000)	(-19,772,000)	(-17,879,000)	(-9,733,000)	(+3,373,000)
Total, Chapter VIII:							
Labor, Health and Human Services, and Education:							
New budget (obligational) authority	---	26,000,000	153,000,000	175,500,000	+175,500,000	+149,500,000	+22,500,000
(By transfer)	---	---	(1,241,000)	(1,241,000)	(+1,241,000)	(+1,241,000)	---
Total, Chapter IX:							
Legislative Branch:							
New budget (obligational) authority	79,579,000	10,845,000	22,062,000	25,962,000	-53,617,000	+15,117,000	+3,900,000
Appropriations 1986	(79,579,000)	(10,845,000)	(25,745,000)	(25,962,000)	(-53,617,000)	(+15,117,000)	(+217,000)
Rescissions	---	---	(-3,683,000)	---	---	---	(+3,683,000)
Total, Chapter X:							
Transportation:							
New budget (obligational) authority	6,755,000	135,500,000	115,500,000	133,800,000	+127,045,000	-1,700,000	+18,300,000
(By transfer)	(180,965,000)	(5,000,000)	(93,470,000)	(97,720,000)	(-83,245,000)	(+92,720,000)	(+4,250,000)
Total, Chapter XI:							
Treasury, Postal Service & General Government:							
New budget (obligational) authority	340,000,000	374,056,000	370,669,000	374,806,000	+34,806,000	+750,000	+4,137,000
Appropriations 1986	(340,000,000)	(374,056,000)	(371,581,000)	(374,806,000)	(+34,806,000)	(+750,000)	(+3,225,000)
Rescissions	---	---	(-912,000)	---	---	---	(+912,000)
(By transfer)	---	---	(100,000)	(100,000)	(+100,000)	(+100,000)	---

EXHIBIT 2

Fiscal Year 1986 Supplemental Appropriations Act (H.R. 4515)—Major items in the conference-recommended measure

Program	Budget authority
CCC reimbursement for net realized losses	$5,300,000,000
ASCS salaries and expenses (by transfer)	[1] 71.598,000
SCS watershed and flood prevention operations	36,700,000
Department of State: Embassy security	702,104,000
Philippine assistance	150,000,000
Assistance to Ireland and Northern Ireland (transfer)	[1] 50,000,000
FHA Loan guarantees	[1] 57,580,000,000
GNMA Loan guarantees	[1] 49,000,000,000
HUD management (by transfer)	[1] 30,000,000
NASA space flight	431,000,000
NASA research and program management (transfer)	[1] 38,100,000
Missile procurement, Air Force (by transfer)	[1] 345,400,000
RDT&E, Air Force (by transfer)	[1] 316,886,000
Atomic energy defense activities (by transfer)	[1] 62,000,000
EPA construction grants (release of funds)	[1] 1,200,000,000
FEMA disaster relief	250,000,000
VA compensation and pensions	272,000,000
VA readjustment benefits	91,000,000
Compact of free association	210,840,000
National Forest System (firefighting)	165,700,000
Alternative fuels production (debt retirement)	[1] 1,020,360,322
BIA operation of Indian programs	29,204,000
Student financial assistance (Pell grants)	146,000,000
FAA operations	80,000,000
Coast Guard operating expenses	35,500,000
Customs Service salaries and expenses	30,831,000
IRS funding	340,000,000
All other (net)	381,165,000
Deferral disapprovals	[1] 4,890,075,000
Rescissions	[2] 6,953,924,000
Conference-recommended supplemental	1,698,120,000

[1] Nonadd.
[2] Negative.

Mr. HATFIELD. Mr. President, I yield momentarily to the very able comanager of this bill, the Senator from Louisiana, Senator JOHNSTON, for any opening comments he may desire to make.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Oregon, the chairman of our committee, for his generous comments. I concur with the statement which he has just made. I commend him.

I commend the distinguished ranking minority member of the full Appropriations Committee, the Senator from Mississippi [Mr. STENNIS] whose guiding hand in this legislation has been steady and firm and extremely able as it always has been.

It is a pleasure for me to work under him and under his aegis in floor managing this bill.

Mr. President, I fully concur with the statements of my distinguished chairman and urge that the matter be adopted as he so stated.

Mr. HATFIELD. Mr. President, I express my continued appreciation to the Senator from Louisiana and also join in recognizing that the ranking minority member of the full committee, Mr. STENNIS, the Senator from Mississippi, is very much a part of the guiding hand force behind coming to this place where we can consider the supplemental appropriations bill.

SOIL CONSERVATION SERVICE

Mr. BYRD. Mr. President, I would like to engage in a colloquy with the chairman of the Senate Appropriations Committee and the chairman of the Appropriations Subcommittee on Agriculture and Related Agencies. I would like to confirm my understanding with respect to the $36,700,000 contained in this supplemental appropriations bill for watershed flood prevention activities of the Soil Conservation Service. Within the $36,700,000 there is to be made available $8 million for continued recovery work from the November flood in West Virginia, as outlined in the Senate report. Is that consistent with the conferees' intent?

Mr. COCHRAN. I am happy to confirm that the conferees have supported the Senate position on this matter, and that the full $8 millon is to be directed toward continuing flood recovery efforts in West Virginia.

Mr. BYRD. I thank the distinguished chairman of the Agriculture and Related Agencies Subcommittee, and would like to inquire about one more point. I have been told that the Soil Conservation Service has spent $26,300,000 on stream rechannelization, bank stabilization, debris removal, and other flood recovery activities in West Virginia since November 1985. The Service has been unable to complete this emergency work because it has run out of funds.

This flood has caused absolutely the worst devastation in terms of area and total damage that I have seen in my State. The severity of the damage was so great that the President, in making his disaster declaration which was recommended by the Federal Emergency Management Agency, waived all but the first $5 million in cost sharing by the State. The State has, of course, had many other flood-related expenses which were not covered by Federal assistance programs. So, the November flood has done great damage to the State treasury as well as the towns, roads, bridges, and countryside. The Department of Agriculture, following the President's example, also waived the 20 percent cost-sharing requirement for its emergency flood recovery activities to date in West Virginia.

My staff and I have conducted an extensive review of the flood recovery and rehabilitation efforts and, generally, the work of the Soil Conservation Service and other Federal agencies has been outstanding. However, with respect to the Soil Conservation Service responsibilities, much still remains to be done. I have seen many streams with debris, including rusted automobiles, and fallen trees lining the river banks. While this material is unsightly, it poses a much more serious threat to clog the stream channels when the next high water comes. The threat of severe flooding is much greater now in many West Virginia towns than it was before last November because of this debris and because of gravel deposits which still remain in some of the streams.

I do not say this by way of criticizing the Soil Conservation Service because, again, I believe the work that they have done to date has been excellent. But, they have run out of money, and the $8 million in this bill will permit them to continue their recovery activities in West Virginia. The concern that I have is that the Soil Conservation Service may change its cost-sharing policy with respect to this additional $8 million for flood recovery activities which are a direct result of the November 1985 disaster. Is it the chairmen's intent that the $8 million be used to continue the emergency activities in West Virginia under the same terms and conditions, including the cost-sharing waiver, as the $26,300,000 obligated to date?

Mr. COCHRAN. Absolutely. I certainly wish to join with the Senator from West Virginia in making it clear that it is our intent that the full cleanup operation administered by the SCS in his State should continue under the same terms and conditions as the previous flood-related expenditures in his State.

Mr. HATFIELD. I join the Democratic leader and my friend from Mississippi in confirming our understanding that this $8 million is to be spent on an exigency basis and under the continuing cost-sharing agreement which was in force previously.

Mr. BYRD. I thank the two chairmen for their understanding in clarifying this application of the funds.

Mr. D'AMATO. Mr. President, I rise today to ask my distinguished colleague, the chairman of the Appropriations Committee, if I am correct in my interpretation of an amendment I offered to this legislation in committee and which was subsequently accepted by the conference with the addition of some report language. In my opinion the purpose of this amendment is to ensure that, notwithstanding local law No. 19, New York City will receive all of the Federal funds it would otherwise be entitled to for this fiscal year.

Moreover, my understanding is that the first clause of the conference language is intended to specifically reaffirm congressional intent that the interstate transfer funds related to Westway for Federal fiscal year 1986 be obligated by the end of this fiscal year. Thus, Westway substitute transfer funds will be obligated if, by September 30, 1986, the Secretary of Transportation approves the plans, specifications, and estimates, and issues a letter of authority to proceed with a project utilizing such funds as is the case under current law and practice. Is this the understanding of my distinguished colleague?

Mr. HATFIELD. Mr. President, I would like to make it clear that my interpretation and understanding of the meaning of this amendment and the conference agreement is the same as the interpretation expressed by the Senator from New York.

Mr. D'AMATO. Mr. President, I thank the chairman.

FUNDING FOR VETERANS' JOB TRAINING PROGRAM

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am pleased to rise in support of the provisions in the pending conference report on H.R. 4515, the proposed Urgent Supplemental Appropriations Act for fiscal year 1986, that would make an additional $35 million available for continued operations under the Veterans' Job Training Act [VJTA] by requiring the Veterans' Administration to transfer that amount from the VA's minor construction account to the VJTA account. This provision represents the results of an initiative outlined in a letter that Senators DECONCINI, MURKOWSKI, and I sent to the Appropriations Committee on April 29, 1986, a copy of which I shall ask to be printed in the RECORD at the conclusion of my remarks, and a similar initiative in the House of Representatives.

The VJTA, formerly the Emergency Veterans' Job Training Act of 1983 [EVJTA], which I coauthored in the Senate, provides cash incentives to employers to hire and train certain long-term unemployed Vietnam-era and Korean-conflict veterans. The program currently has a carryover balance—from the $150 million originally appropriated for it in the fall of 1984—of some $12 million which is being used to place eligible veterans. More than 41,000 veterans have entered into training under EVJTA.

Last year, in the Veterans' Compensation Rate Increase and Job Training Amendments of 1985, Public Law 99-238, Congress approved provisions derived from an amendment I offered, together with the distinguished chairman of the Veterans' Affairs Committee, Mr. MURKOWSKI, that included a fiscal year 1986 authorization level of $65 million and made certain EVJTA Program improvements in order to deal with the weaknesses outlined in the EVJTA Program evaluation. Our amendment and the enacted final legislation also provided for reopening the program for new applications for eligible veterans for a 1-year period beginning February 1, 1986, and extended the ending date of the period for entering training to July 31, 1987.

Last December, in connection with the second continuing resolution for fiscal year 1986, the committee approved and the Senate agreed to an amendment Senator DECONCINI offered—on behalf of himself, Senator MURKOWSKI, and me—providing for the appropriation of $55 million for the program, contingent upon the enactment of authorizing legislation. Regrettably, those funds were deleted in conference with the House.

There is a real and continuing need for the kind of assistance available under the program. Since the program reopened for new applicants on February 1, more than 36,000 veterans have applied and been issued certificates of eligibility and nearly 3,000 have entering into training. Making available the additional funds in this supplemental appropriations package will help ensure that sufficient resources are available to serve the veterans it is designed to assist.

Mr. President, I want to take this opportunity to note that the distinguished Senator from Arizona [Mr. DECONCINI], who serves on both the Veterans' Affairs Committee and the Appropriations Committee, deserves the thanks of all veterans for his successful efforts in persuading the Appropriations Committee to adopt his amendment—by a vote of 15 to 9—which was similar to an amendment in the House-passed version—requiring the transfer of these funds. His efforts were instrumental in ensuring the success of this initiative.

Mr. President, I ask unanimous consent that a copy of the April 29 letter which I mentioned earlier be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, April 29, 1986.

Hon. MARK O. HATFIELD,
Chairman,
Hon. JOHN C. STENNIS,
Ranking Minority Member, Committee on Appropriations, U.S. Senate, Washington, DC

DEAR MARK AND JOHN: We are writing to advise you of Senator DeConcini's intention to propose, during the Committee's consideration of H.R. 4515, the proposed "Urgent Supplemental Appropriations Act, 1986", and to urge your support for, a provision transferring $35 million previously appropriated for the Veterans' Administration's minor construction account for FY 1986 from that account to the veterans job training account for the purposes of funding continued operations under the Veterans' Job Training Act (VJTA). This provision would be similar to one included in H.R. 4515 as reported by the House Committee on Appropriations. Copies of the amendment and a CBO estimate that Senator DeConcini's amendment would result in no increase in FY 1986 outlays are enclosed.

As you'll recall, last December, in connection with the second continuing resolution for FY 1986, the Committee approved an amendment Senator DeConcini offered providing for the appropriation of $55 million for the program, contingent upon the enactment of authorizing legislation. Regrettably, those funds were deleted in conference with the House.

The VJTA program—formerly the Emergency Veterans' Job Training Act of 1983—provides cash incentives to employers to hire and train certain long-term unemployed Vietnam-era and Korean-conflict veterans. The program presently has a carryover balance (from the $150 million originally appropriated for the program in the Fall of 1984) of some $17 million which is being used to place eligible veterans.

Nearly 39,000 veterans have entered into training under EVJTA. According to an evaluation of the program—carried out last year under contract with the VA—those who completed the program had an average hourly wage of $6.77; the completion rate for veterans who entered training under the program was estimated to be 44 percent; and the direct cost of training per participant was estimated to be $3,000.

Last year, in connection with the Veterans' Compensation Rate Increase and Job Training Amendments of 1985 (Public Law 99-238), the Congress approved provisions derived from an amendment offered by the Chairman and the Ranking Minority Member of the Committee on Veterans' Affairs that included an FY 1986 authorization level of $55 million and made certain EVJTA program improvements in order to deal with the weaknesses outlined in the EVJTA program evaluation. The legislation also provided for reopening the program for new applications for eligible veterans for a one-year period beginning February 1, 1986, and extended the ending date of the period for entering training to July 31, 1987.

There is a continuing need for the kind of assistance available under the program. Since the program reopened for new applicants on February 1, more than 25,000 have applied and been issued certificates of eligibility. Making available the additional funds in this supplemental appropriations package would ensure that sufficient resources are available to assist the veteran applicants it is designed to help.

We appreciate your past support of EVJTA, and ask for your support of this amendment.

With warm personal regards,
Cordially,

FRANK H. MURKOWSKI,
Chairman, Committee on Veterans' Affairs.
DENNIS DECONCINI,
Member, Committees on Veterans' Affairs and Appropriations.
ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs.

JOINT CONGRESSIONAL LEADERSHIP PLAN TO ENHANCE CAPITOL SECURITY

Mr. President, I would like to thank all the conferees on the fiscal year 1986 Urgent Supplemental Appropriations Act (H.R. 4515) for their hard work in resolving the differences between the House and the Senate versions of this legislation. I am particularly pleased that the conference committee has included in the conference report funding for the congressional joint leadership proposal to improve the security of the Capitol and the Senate and House office buildings, and look forward to its enactment.

As my colleagues know, my good friend, the majority whip [Mr. SIMPSON], and I, as the Democratic whip, were asked about a year ago by the majority leader [Mr. DOLE] and the minority leader [Mr. BYRD] to review current security measures around the U.S. Capitol, to consider any need for enhancing Capitol security, and to make appropriate recommendations. At the request to of the joint leadership of the other body, the House whips—TOM FOLEY, for the Democrats, and TRENT LOTT, for the Republicans—joined us in this endeavor. After much consultation, a joint congressional leadership package of four items was included in the Senate-passed version of the urgent supplemental relating to security of the Capitol: $500,000 each to the Senate and House Sergeants at Arms to rectify Capitol Police shortages; $13 millon to the Capitol Police Board to implement an improved U.S. Capitol security plan, subject to approval by the authorizing and appropriations committees; and $250,000 to the Architect of the Capitol for design and cost estimates for a final plan.

The majority whip and I have been in contact with all the Senate conferees to urge that the four items in the Senate-passed leadership package be retained intact. We are delighted that they were, since we are convinced that it is the responsibility of Congress to act to provide necessary protection for the Capitol Building, and especially for the thousands of people who visit and work in the building every day. We firmly believe that the four-part plan we presented would enhance much-needed security while not reducing access to the Capitol Building. Indeed, our proposal would increase that access in certain respects.

Mr. President, under the terms of the language passed by the Senate and approved by the conference committee, the final Capitol security proposal remains to be developed in detail by the Capitol Police Board and will then have to be approved by three House and two Senate committees before any expenditures from the $13 million could be made for implementation. The distinguished Senator from Wyoming [Mr. SIMPSON] and I look forward to working with all five of these committees, especially the two in the Senate—the Committee on Rules and Administration and the Appropriations Committee—as well as the Capitol Police Board—the Senate and House Sergeants at Arms and the Architect of the Capitol—to produce and obtain the requisite approval of the detailed plan.

I also look forward to cooperating with the Senator from New York [Mr. D'AMATO], the chairman of the Appropriations Committee's Legislative Appropriations Subcommittee, who has made a commitment to hold a hearing in the near future in response to concerns about the proposal expressed by that subcommittee's ranking minority member, the Senator from Arkansas [Mr. BUMPERS], with whom I also look forward to working closely.

Mr. President, I note that the conferees added a provision to the $13 million appropriation item to require that the transfer of project funds to the Architect of the Capitol to carry out the detailed plan once agreed upon shall be preceded by notice, along with submission of details regarding the scope, cost, and construction schedule of the work to be accomplished under each transfer, to and approval by the House and Senate Appropriations Committees. I fully understand the need for ensuring accountability for the expenditure of these funds but am concerned that this new series of hurdles will operate to create unnecessary delay in moving forward with implementation after approval of the final plan has been approved by the authorizing and appropriations committees.

I very much hope that the Appropriations Committee in each body will act as expeditiously as possible in connection with any such reprogramming requests.

For a detailed description of the congressional joint leadership Capitol-complex security enhancement proposal, I refer my colleagues to the material I inserted into the RECORD on June 5, 1986, beginning on page S6875.

In closing, Mr. President, I want to note how much I have enjoyed working with my counterpart, ALAN SIMPSON, on this project. As always, he is a great ally and friend to have. We also, of course, profited greatly from the work and input of Representatives FOLEY and LOTT, the House whips.

I also thank the Senate Sergeant at Arms, Ernie Garcia, for his great assistance and counsel, and Chief James Carvino, and Capt. Frank Shelton and Sgt. Frank Rader of the Security Planning and Research Unit, of the Capitol Police for their invaluable help. Also, my gratitude to the staff working with Senator SIMPSON and me, Joe Ratliff and Jon Steinberg.

Of course, none of this progress we are making today would have been possible without the full support of our two distinguished leaders, the majority leader [Mr. DOLE] and the Democratric leader [Mr. BYRD]. They gave us the assignment and have supported us throughout our work. We are most grateful. As well, we have had excellent cooperation and support from the chairman of the Appropriations Committee [Mr. HATFIELD] and the ranking minority member [Mr. STENNIS], and we are very appreciative for all of their help, as well as for that of Senators D'AMATO and BUMPERS, and the Appropriations Committee staffs, Keith Kennedy, Frank Sullivan, and Terry Sauvain.

The appropriations contained in the bill are only a first step, but they are the vital first step toward enhancing the security of the Capitol for all of America. We will be continuing our efforts to bring this to fruition, working with so many of our colleagues in the Senate and, of course, in the other body.

THE FHA EXTENSION

Mr. MATHIAS. Mr. President, the Senate's approval of the supplemental appropriations conference report brings us to the threshold of an important achievement—allowing the FHA loan guarantee program to continue in operation through September 30, 1986. Assuming that the President signs the supplemental appropriation bill, the only task that will remain will be to try to explain to the American people why this relatively modest goal has proven to be so difficult for the Congress to achieve.

Six times since the fiscal year began in October 1985, FHA's operations have been interrupted by Congress' inability or unwillingness to provide a full year funding to the agency. These disruptions have caused enormous hardship for more than 100,000 families and individuals attempting to purchase or sell a home.

Approximately 60,000 of those homebuyers are first-time homebuyers with an average income of $37,000. The FHA conventional mortgage insurance program is their only means to afford a starter home, as they do not qualify for private market mortgages which require substantial downpayments and points.

The FHA Commissioner estimates that 5,000 to 6,000 people each day have been unable to close on their loans since FHA reached its credit ceiling on June 18. Tens of thousands of lives have been disrupted. I know—and I think every Senator knows—the human cost of this delay, because we have all heard from the victims of this uncertainty.

My office here in Washington and my State office in Baltimore have received hundreds of telephone calls from distraught young couples whose loan commitments were expiring and who simply could not afford to pay ad-

ditional points and a higher mortgage interest rate. Additionally, homesellers have been frustrated because their inability to consummate sales, contingent on FHA mortgage insurance, has made it impossible for them to buy new homes.

One young woman called my office in tears last week. She and her husband were supposed to settle that day on the purchase of their first home. The 60-day lock on the interest rate for their mortgage loan also expired that day. All of the paperwork had been completed—the credit checks, the employment verification, the appraisal, the termite inspection, the property survey, the homeowners' insurance—but FHA was unable to issue a loan insurance commitment letter.

This couple not only lost fees they had paid at the beginning of the process; they also lost their mortgage commitment, and with it the home they had worked so long and hard to afford. They were absolutely devastated by the experience.

My staff could offer them little comfort. We could try to explain the procedural problems: arcane rules of the Senate, "holds" placed on the FHA extension legislation by other Senators to accomplish other ends, glitches in the House-passed extender, the bouncing of bills from one House to the other like ping-pong balls. We could conjecture as to when and if the Supplemental Appropriations Conference might be concluded and its report taken up by the Senate and House. We could also conjecture about the housing authorization passed by the House and not yet taken up by the Senate.

None of this was of any comfort to the frustrated people who called my office. They, their lenders, realtors, and a myriad of other actors in the real estate chain had acted in good faith to enter into a contract of sale. And then, out of the blue, the good old reliable FHA—the Federal Government—was failing to deliver on its commitment.

As a result of these stops and starts in FHA insuring authority, the agency has been out of business for 37 days in 9 months of this fiscal year. And untold thousands of housing consumers have been left holding the bag. This is no way to conduct the Government's business. It is unfair and it has cast doubt on the credibility of the FHA and of the Congress. The resulting uncertainty is beginning to shut-out moderate-income homebuyers who depend on FHA-insured loans to get into the housing market. As the executive vice president of the Mortgage Bankers Association said, "We are in the midst of a housing boom and the Government has gone out of the housing business."

Mr. President, the patchwork way in which this Congress has gone about continuing this program, which, since 1934, has aided moderate-income Americans to become homeowners, is a disgrace. And we have no one to blame but ourselves. We have not conducted the people's business in a timely and reliable way. The Congress inability to make decisions has generated needless frustration, heartache, and anger for thousands of American families.

Unfortunately, the problems encountered in reauthorizing FHA are not unique. The Gramm-Rudman-Hollings law was held out as a sure-fire means to guarantee that the Congress made budget decisions by certain deadlines. It was intended to improve the predictability of Government actions so that others—those in the private sector—might plan their lives and business activities accordingly. So far, not one of the deadlines imposed by Gramm-Rudman-Hollings has been met by this Congress.

There seems to be a growing institutional problem with the Congress in anticipating problems, evaluating alternative courses of action, deciding on a course, and acting on it in a timely manner. Much of the security of our Nation—economic, social, military, and emotional—rests on the reliability and predictability of the institutions of our Government to be there and deliver on their promises. The Congress is one of the branches of government which must adjust the way it conducts its business in order to meet the needs of the times.

I hope the President will sign the supplemental appropriations bill and put FHA back in business for the next 3 months at least. Even so, it is important that the Senate make a commitment to take up the housing authorization bill as the first order of business after the Fourth of July recess, and to make a timely reauthorization of FHA a priority item for the 99th Congress. We owe it to the thousands of home buyers and sellers of this Nation to make such a commitment and to deliver on it.

Mr. BUMPERS. Mr. President, I am pleased to note that the conferees on H.R. 4515, the fiscal year 1986 urgent supplemental appropriations bill, agreed to retain language in the Senate-passed bill restricting U.S. foreign assistance from bolstering the agricultural export capacity of countries with whom we compete in the world agricultural market. This is an important provision of vital concern to our Nation's farmers, and I have outlined my arguments in favor of this provision in a detailed statement during original Senate consideration of this legislation. I offered this language—section 209 of the final bill—as an amendment to the bill in the Senate Appropriations Committee, and I am gratified that the full Senate and the conference agreed that the amendment is a good one and that it should remain in the bill. Not one word of the statutory language of this amendment was changed by the Senate or conferees. I hope that the Senate will lend its approval to the conference report.

I am concerned, however, that the report language in the joint explanatory statement of the committee of conference describing section 209 does not accurately interpret the intent of the bill language. I would like the legislative history of this provision to be crystal clear with regard to the precise language of the provision and my intent in offering it. The amendment states that:

> None of the funds appropriated by this or any other act to carry out chapter 1 of part 1 of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this section shall not prohibit (1) activities designed to increase food security in developing countries where such activities will not have a significant impact on the export of agricultural commodities of the United States; or (2) research activities intended primarily to benefit American producers.

The provision restricts research done "in connection with" the growth of an agricultural crop for export in a foreign country. This phrase clearly prohibits research that is related to the production of a crop for export in a foreign country with whom we compete in agricultural markets. It was my full intent in offering this provision to the bill that all research which will enhance our export competitor's ability to compete—not just research designed to enhance our competitor's export capacity—should be prohibited.

This is where the conference explanatory language is incongruous with the language in section 209 of the bill as reported by the conference committee. The report states that the conferees agree that this language is only intended to apply to "projects or activities that are specifically and principally designed to increase agricultural exports * * * that can reasonably be expected to cause substantial injury to U.S. exporters." The bill language I offered in committee, which, as I mentioned, was accepted by the Senate Appropriations Committee, the full Senate, and the conference without change, is not so limited. The language applies to testing, grants, and so forth, "in connection with" the growth or production of foreign export commodities which compete with U.S. export commodities. I chose the phrase "in connection with" in order to give the limitation on assistance a broad effect. No particular intent or design on the part of the grantors in making a grant is articulated by the statutory language. If a grant is simply made in

connection with a foreign competing export, it is prohibited. The bill language does not require that projects by "designed" to increase foreign exports, and the statutory language itself belies such an interpretation.

Further, contrary to the explanatory statement, for section 209 to apply the foreign export need not "reasonably be expected to cause substantial injury to U.S. exporters." Under the rather precise language of the section, if the foreign export "would compete" with U.S. exports, foreign assistance activities "in connection with" the growth or production of such foreign export are banned regardless of the degree of injury expected to be suffered by U.S. exporters. In effect, injury to U.S. exports is presumed by the statutory language.

There are two exceptions. The first is assistance activities "designed to increase food security in developing countries where such activities will not have a significant impact on" U.S. agricultural exports. In other words, if activities are in connection with foreign exports which would compete with U.S. exports, they are prohibited, unless such activities are designed to increase food security in a developing country, that is, to help a poor country feed its own people, and won't have a significant impact on U.S. exports. The second exception applies when the research is intended primarily to benefit U.S. producers.

The point is that there are several projects which have been funded by AID which have had the effect of promoting an agricultural export crop in a competing country. I pointed to several of these in my floor statement when this bill first came to the floor for Senate consideration. These are the types of research prohibited by section 209 of this bill, not just those specifically designed to promote a foreign country's export capacity.

Again, the statutory language is clear, and the explanatory statement is irreconcilable with the statutory language it purports to interpret. I would expect a court interpreting section 209 to give such dramatically inconsistent explanatory language little weight.

One further clarifying comment is appropriate. Section 209 enumerates several types of research or similar projects which should be particularly restricted. To those familiar with the broad range of research projects that have been implemented by Agency for International Development [AID] in the past, one would notice that research or development of ways to utilize agricultural commodities is not included. This omission was fully intentional on my part.

Utilization research commissioned by the U.S. Agency for International Development may help the export capacity of a foreign agricultural competitor. However, utilization research will likely provide a disproportionate benefit to U.S. farmers. For example, if U.S. AID wants to conduct research on expanding the possible uses of soybeans, they should. Such research may increase global demand for soybeans and lower the present surplus of this crop both here and on the international market. For reasons such as these, I have enumerated in the language of the amendment the certain types of research that should be restricted if they lead to increased agricultural export production in a competing country.

Again, Mr. President, let me state that I am pleased that the amendment was agreed to by the full Senate and the conference committee. But I wanted to set the record straight on the appropriate interpretation of section 209 of the bill. One need look no further than the rather clear statutory language of the section.

Mr. STEVENS. Mr. President, chapter III of the urgent supplemental appropriations bill and conference report contains a recommendation for appropriations totaling $622,286,000 related exclusively to the Department of Defense Space Recovery Program and support. The entire amount recommended is covered through funds previously appropriated. These funds are urgently required to provide assured access to space to address national security needs in light of the shuttle disaster and recent missile failures. In compliance with the provisions of Gramm-Rudman-Hollings and the Senate's desire for a spending neutral supplemental appropriations bill, these additional funds are recommended from within appropriations made available in the past. It should be noted that the Congressional Budget Office has determined that the scoring for this proposal will yield a savings of approximately $160 million in this fiscal year. This is because the Appropriations Committee recommends funding be transferred from programs which have higher spending rates in order to offset the cost for the DOD Space Recovery Program.

Program financing is recommended from two areas—$561.9 million is to be derived from funds previously set aside from military personnel pay and retirement costs. We expect these amounts will no longer be necessary in light of expected enactment of military retirement reform legislation. These funds will be used for an expanded program for launch vehicles to carry defense payloads. In addition, $100.4 million is derived from funds appropriated last year for a tanker aircraft conversion program. The urgency to proceed with an expanded complementary expendable launch vehicle [CELV] program should be considered a higher priority requirement than the aircraft conversion program.

The conferees recommendation to address the assured access to space deficiency is derived from a proposal the administration is considering. While the President is still examining overall requirements for recovery of space launch capability in the aftermath of *Challenger* and Titan missile accidents, the administration is prepared to support this proposal to secure access to space. At this point I would like to insert in the RECORD a letter from the Director of the Office of Management and Budget which supports the action of the Senate Appropriations Committee to move along with the recommendation for additional funding in this fiscal year. In noting the OMB support for recommended transfers, I would also like to reiterate that the selection of these transfers of funds will yield an outlay savings of $160 million.

Recommended funding for the Space Recovery Program is the primary aspect of the defense section of this urgent supplemental bill. In addition there are administrative provisions recommended by the Senate and agreed to in conference. There is also a revision of a House recommended provision for the Senate's consideration. In particular, the House included a provision requiring issuance of grants for research activities and construction of facilities at two universities, Northeastern University and Rochester Institute of Technology. The conference recommendation would extend application of this provision to all projects previously directed by Congress, including these universities. Last year, Congress appropriated $55.6 million for nine separate university and research center projects. The recommended amendment would make funds available as grants in accordance with previous congressional instruction. While we must be mindful of the problems of earmarking funds, for the near-term it is important to clean up the detail on congressional direction from last year.

The conference report also reflects agreement on the matter of unauthorized defense appropriation for fiscal year 1986. Chapter IIIA of the bill embodies the substance of the agreement between the authorizing committees and Appropriations Committees. Although the conference agreement does not settle the question of defining the parameters of authorization required, it does reflect an amicable solution to the immediate concerns. The highlight of chapter IIIA is the agreement to authorize and make appropriated funds available for the Department of Defense Space Recovery Program. Of particular note, the conference report on H.R. 4220, the retirement reform legislation, will also include the appropriate authorizing bill language for fiscal year 1986 defense appropriations. In substance, this conference

report is intended to complement the action taken on the urgent supplemental appropriations bill.

While it is not the intention of the Appropriation Committee to force similar discrepancies with the authorizing committees in the future, I am concerned that the budetary process for fiscal year 1987 may be laying the groundwork for a repetition of this debate. Both the House and Senate versions of the budget resolution contain unrealistic outlay targets relative to budget authority targets.

Last week the Senate Armed Services Committee concluded its markup of the fiscal year 1987 defense authorization bill. While the reported bill seeks to comply with the budget authority limitations set in the Senate budget resolution, the Armed Services Committee's action exceed the resolution outlay targets by several billion dollars. The Appropriations Committee will not be afforded the opportunity to enroll a bill similar to the authorizing committee's recommendations due to the requirements of Gramm-Rudman-Hollings that the appropriations bill must comply with the outlay allocations derived from the budget resolution. When the authorization bill comes to the Senate floor we should be mindful of this potential discrepancy.

In summary, there are no new appropriations recommended in the defense chapter of the bill. In an effort to achieve a spending neutral program, all funds recommended are to be derived from funds previously appropriated which was accomplished by transfer. I trust the Senate will support the conference recommendations.

Mr. MATHIAS. Mr. President, as we debate the conference report to accompany H.R. 4515, I would like to commend the distinguished Senator from Oregon [Mr. HATFIELD] for his leadership in finding a just solution to a matter which began several months ago with a hunger strike by the leader of the "Community for Creative Non-Violence," Mitch Snyder. This solution, which would transfer title of the building at the corner of Second and D Streets in northwest Washington, DC, to the District for the purpose of providing a shelter for the homeless, is included as a provision in this bill and upon its passage, money intended to assist in the renovation of this property will be released to the District.

I first became involved in this issue in mid-March when I was contacted by representatives of the White House for my advice, as chairman of the Senate Subcommittee on the District of Columbia, on the best method to address the demands of the Community for Creative Non-Violence for a model shelter in the District. My impressions from the beginning have been that the President was interested in finding an appropriate and just solution to an ongoing problem. I believe that this remained his goal throughout the several months it has taken us to reach this point.

In order to more fully acquaint Senators with the work that has taken place on this matter, I have prepared a chronology of events since I first became involved. I ask that this chronology be placed in the RECORD at the conclusion of my remarks, so that it will be available for all to review.

The compromise which is included in the appropriations bill now before us is, in fact, the kind of just and appropriate response that the White House was trying to reach. I commend Mr. HATFIELD the able chairman of the Appropriations Committee for his work on this matter and I urge my colleagues to join me in support of the compromise.

CHRONOLOGY OF EVENTS—SHELTER TRANSFER

MARCH 13

Call to Senator Mathias in Oslo, Norway where he is presiding at a NATO meeting from Dennis Thomas asking for advice/help in solving requests for model shelter in DC and ending Mitch Snyder's hunger strike.

MARCH 14

White House meets with Tom Downs, City Administrator. They discuss a solution in which the WH will see that the City gets clear title to the 2nd and D street shelter, plus a sum of money to renovate. Downs makes clear that CCNV provides a very valuable service to the City, which they expect to continue. The City is also clear that it won't take the responsibility for the shelter (and the CCNV) without a full transfer of title. Downs agrees to take the deal back to see if it will get Mitch Snyder off the hunger strike.

MARCH 15-16

Negotiations continue. Finally, Sunday morning, an agreement is reached whereby the federal government will transfer the building to the City, and $5 million (towards the $7.5 million CCNV claims is necessary) for renovations.

MARCH 27

Senators Mathias and Eagleton introduce S. 2251, a one line bill, drafted with the help of GSA, which simply transfers title of the building to the City. GSA/WH inform the Senators that once the bill transferring title has passed, $5 million that has been identified for reprogramming within HHS budget will be turned over to the District.

APRIL 17

S. 2251 is discharged from the Governmental Affairs Committee and passed unanimously by the Senate. It is referred to the House Government Operations Committee in the House.

APRIL 15-EARLY MAY

A series of correspondence between various House members and GSA takes place. The House members question the wisdom of the agreement, and offer a number of ways that a transfer of the building (although not title) can occur without creating a precedent like S. 2251. GSA rejects these arguments.

MAY 8

Rep. Cardiss Collins introduces HR 4784 which would transfer jurisdiction of the property to the District pursuant to a special section of federal law relative to property transfers in the District of Columbia. 40 USC 122. The bill is referred to House Gov Ops.

MAY 14

Senator Hatfield offers an amendment to the Urgent Supplemental Appropriations bill for FY86 which is the substance of S. 2251. The bill also includes a $5 million appropriation for renovation.

MAY 15

House Gov Ops subcommittee holds hearings on HR 4784. GSA and City both testify, indicating solid support for the deal. Markup follows hearing.

MAY 22

Full Committee marks up HR 4784. Bill ordered reported that would transfer jurisdiction of the building "for providing shelter and related services to the homeless" pursuant to 40 USC 122. The bill will not transfer title and will not allow the District to sell the building if it so chooses.

JUNE 1

Snyder starts back on his hunger strike because no money for renovations have been forthcoming. The WH reiterates its position that they will not transfer any money until the building is in the hands of the City and the City will not accept any money until the building is transferred.

JUNE 3

The Senate adopts a sense of the Senate amendment that the WH should release the money.

JUNE 4

Mathias staff meets with staff of House Gov Ops to talk strategy. House staff insists on not transferring the building free and clear. Mathias staff stresses the agreement that title must pass or else money will not be turned over.

JUNE 5

House passes HR 4784, by vote of 242-116. Several debilitating amendments are just barely defeated. House substitutes its language onto S. 2251 and returns the bill to the Senate.

JUNE 6

The WH, at the urging of Senator Hatfield, releases nearly $1 million for renovations. Snyder estimates that this will take the project through July 1.

JUNE 9

S. 2251 is received in Senate and held at the desk.

WEEK OF JUNE 9

Mathias staff attempts to determine if House is adamantly opposed to any transfer of title (even with a reverter clause should use be determined to be improper). Finally, answer is that title transfer might be considered pursuant to something like 20 USC 484(k),which would provide that the building be used for certain specific purposes with a reverter if those purposes are violated. Hatfield can't agree to this because he is committed to full title transfer and cannot accept the reverter.

JUNE 16

Staffs of Mathias, Hatfield, Weicker, House Gov Ops meet to attempt to negotiate tentative agreement. Strong positions of House and Hatfield are maintained.

JUNE 17

Hatfield, Brooks and McCandless meet to discuss issue. Impass it reached once again.

JUNE 18

Hatfield offers solution which would transfer title to the building; however, rather than reverter, proposal would provide for a restriction on the sale of the building for ten years, during which time a defined portion of the proceeds of such sale would have to be paid to the federal government. In return, Hatfield adds an additional $1.5 million for renovations to the pot. This is adopted by the conference committee on the supplemental.

AMENDMENT 186 OF THE SUPPLEMENTAL APPROPRIATIONS BILL

● Mr. STAFFORD. Amendment 186 of the fiscal year 1986 supplemental appropriations bill provides that if by July 15, 1986, the Secretary of Transportation has not entered into a full funding agreement with officials of Dade County, FL, for the construction of a Metromover project in Miami, a memorandum of understanding submitted by Dade County "shall be deemed approved by the Secretary and shall be binding on the Department of Transportation." This is to be done even if certain provisions of the National Environmental Policy Act [NEPA] have not been fully met.

The statement of managers explains that the NEPA exemption was agreed to because of the conferees' belief that approval of the memorandum of understanding does not constitute a major Federal action. Surely, execution of a full funding contract for the Dade County project would represent a major Federal action.

Thus, I would like to clarify with the chairman and ranking member of the Subcommittee on Transportation and Related Agencies, Senator ANDREWS and Senator CHILES, a very important question: Is it your understanding that the language contained in Amendment 186 is not waiver of the NEPA process for this project and that Dade County will be required to complete all applicable provisions of NEPA before any construction funds are obligated?

● Mr. ANDREWS. Yes, my distinguished colleague is correct. The conferees stated in the conference report that this language provides that all NEPA requirements do not have to be completed to execute a memorandum of understanding for this project. However, all applicable NEPA requirements must be complied with before a full funding contract can be executed for the project.

● Mr. CHILES. I agree with what both of my distinguished colleagues have said. The Urban Mass Transit Administration and Dade County are now doing an environmental impact statement on this project on an accelerated schedule.

● Mr. STAFFORD. I thank my distinguished colleagues. I believe that the NEPA process is absolutely essential to assuring responsible, sound and successful transportation projects. I view NEPA as the foundation upon which all other Federal environmental laws are built upon for public works projects. For this reason, I will strongly oppose any waiver from NEPA. Do my distinguished colleagues agree that NEPA prohibits the construction of a project before a record of decision on the environmental analysis is issued by the Secretary of Transportation, and that nothing in the language of the supplemental appropriations bill changes that requirement?

● Mr. CHAFEE. I want to associate myself with what the distinguished chairman of the Environment and Public Works Committee, which has jurisdiction over NEPA, has said. I am very concerned about an exemption from NEPA for public works projects and I also want assurance from my distinguished colleagues that this project is not beng exempted from the NEPA process.

● Mr. ANDREWS. I agree with the Senators and know how strongly they support the NEPA process. This provision will not waive the NEPA requirements for a full funding contract. I agree that Dade County should move expeditiously to complete the environmental review before any funds can be obligated for construction of this project.

● Mr. CHILES. I also agree with my distinguished colleagues, and will do all I can to encourage Dade County to complete their environmental review as quickly as possible.

PORT OF MIAMI

● Mr. CHILES. One item in the supplemental is $30,831,000 for the U.S. Customs Service to fund an additional 777 customs inspectors. This is the dollar amount and the associated positions that were eliminated by the Gramm-Rudman sequester. It was the judgment of both bodies that to not restore these positions would adversely impact the Service's ability to continue its drug interdiction programs and would negatively impact the Service's ability to process and collect duties. I am pleased that this funding has been restored. I believe it is critical to the Customs Service and I urge the Customs Service to fill these positions as soon as possible.

As Senator DECONCINI and Senator ABDNOR, the chairman of this subcommittee know, the committee has provided guidance in the past to the Customs Service to address a critical problem at the Port of Miami by hiring at least an additional eight inspectors in the Port of Miami.

The Port of Miami is the largest cruiseship port in the world, processing, almost 2½ million passengers a year. On a typical weekend, the port processes between 14,000 to 16,000 passengers. All of these people have flight connections to make at the Miami International Airport. It is critical to make these flight connections and to clear the passengers on time.

The Customs Service, in order to clear the cruise ship passengers, pulls 15 to 16 inspectors out of cargo work at the port to work passengers. When the passengers are cleared, the Customs Service inspectors return to their cargo clearance work.

The practice results in large backlogs of cargo—often a 4- to 5-day backlog representing $5 to $6 million of merchandise. This backlog and the general and growing knowledge that it exists is placing the Port of Miami at a competitive disadvantage with other gulf and east coast ports. For those who must use the Port of Miami, it is a real commercial disadvantage, often with refrigerated items resulting in commercial loss.

I have written Regional Administrator Ed Kwas in Miami and he has complained about the lack of resources and other high priority efforts that have not permitted him to put additional inspectors at the port.

Would Senator ABDNOR, the chairman of the Treasury, Postal Service Subcommittee, yield for a question.

Senator ABDNOR. Yes I would be pleased to answer a question.

● Mr. CHILES. Now that we have provided an additional $30.8 million for customs inspectors, would Senator ABDNOR, the chairman of the subcommittee, join with me in directing the Customs Service to place at least eight more inspectors at the Port of Miami.

● Mr. ABDNOR. The Senator from Florida has talked with me about this matter and I concur that there is a need for these positions at the Port of Miami. I would certainly advise the Customs Service to give this matter high priority. I understand that Senator DECONCINI, the ranking member of the Treasury, Postal Service Subcommittee concurs.

● Mr. DECONCINI. I do concur and I would join with my colleagues in directing that at least eight more inspectors be assigned to the Port of Miami.●

Mr. MCCLURE. Mr. President, I wish to make one comment on the passage of H.R. 4515, the urgent supplemental appropriations bill. There is a large and important industry in Idaho which will benefit from the passage of this conference report. That industry is the beef cattle industry. Normally this industry does not benefit directly from Government farm subsidies. More often they are hurt by Government farm porgrams. This recently happended with the imposition of the Dairy Termination Program, which caused a dramatic decline in the cattle prices.

Passage of this supplemental is important to the cattle industry because Commodity Credit Corporation funds, which will be made available by passage of this bill, will go to buy red meat, namely beef, to help offset the

oversupply of beef brought on by the Dairy Termination Program. Up to now the Red Meat Purchase Program has been up to date and partly effective. But the most important purchase is now pending, that being the purchase by the Government of Brazil of 198 million pounds of American beef. This purchase would fulfill nearly one-half of obligated CCC purchases under the Red Meat Purchase Program. The Brazil sale is a Government-to-Government sale. If our Government cannot purchase the meat for sale, the Brazilian Government will cancel the purchase. Therefore, it is critical that this supplemental appropriation be made available as soon as possible.

The beef cattle market is making great strides in regaining the price that prevailed prior to the initiation of the Dairy Termination Program. The cattle producers believe that if the Brazil sale falls through because of lack of funds, another crash in cattle prices can be expected. I, for one, do not want this to happen. I urge acceptance of this conference report and fast passage into law.

Mr. HATFIELD. Mr. President, if there is no further debate I urge adoption of the conference report.

The PRESIDING OFFICER. Is there further debate?

Mr. HATFIELD. I move the adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I now ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate reported in disagreement with the exception of amendments numbered 23, 91, 93, and 175 and that no amendments be in order to amendment 93.

Mr. President, let me identify these exceptions so Senators will have a clear understanding of what we are excepting.

Amendment No. 23 is the prepayment for the FFB loans guaranteed by the REA.

Amendment No. 91 is the DOD university funding.

No. 93, the aid to Ireland, would be the one that would have no amendments in order.

No. 175 is the Department of Labor job care center provision which Senator JOHNSTON will offer a second-degree amendment to relating to trade adjustment assistance material.

Mr. President, that is the unanimous-consent agreement which I might comment has been cleared on both sides of the aisle and I would ask its adoption.

The PRESIDING OFFICER. Without objection, it is so ordered.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 10 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

During fiscal year 1986, and within the resources and authority available, obligations for direct loans and related advances pursuant to section 504 of the Housing Act of 1949, as amended, shall not exceed $11,335,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For loans for acquisition and development of building sites for mutual and self-help housing, $1,000,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and inset:

FEEDING PRORAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For an additional amount, for the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $20,000,000, to be distributed to the States under the existing fisical year 1986 growth formula.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For the operations of the Commodity Credit Corporation, not to exceed $5,,300,000,000 for capital restoration, to enable the Corporation to use the authority authorized by the Charter of the Corporation and other laws to carry out programs handled by the Corporation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 20 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

COOPERATIVE STATE RESEARCH SERVICE

(TRANSFER OF FUNDS)

The Secretary of Agriculture shall transfer $5,000,000 from the Commodity Credit Corporation to the Cooperative State Research Service to meet the matching funds requirement for development of an international trade center at Oklahoma State University.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

DEFICIENCY PAYMENTS

(a) Effective only for the 1986 crop of wheat, feed grains, upland cotton, and rice, notwithstanding any other provision of law, the Secretary of Agriculture shall make deficiency payments to producers on a farm under section 107D(c)(1), 105C(c)(1), 103A(c)(1), or 101A(c)(1) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1), 1444e(c)(1), 1444-1(c)(1), or 1441/1(c)(1)), as the case may be, if the Secretary determines that—

(1) the producers on a farm are prevented from planting any portion of the acreage intended for a commodity to the commodity or other nonconserving crops because of floor, heavy rains, excessive moisture, or drought; and

(2) the farm is located in an area that the Secretary determines has been substantially affected by a natural disaster in the United States or by a major disaster of emergency designated by the President under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(b) The amount of deficiency payments under subsection (a) shall be computed by multiplying—

(1) 40 percent of the projected payment rate; by

(2) the number of acres so affected but not to exceed the acreage planted to the community for harvest (including any acreage that the producers were prevented from planting to the commodity or other nonconserving crops in lieu of the commodity because of flood, heavy rains, excessive moisture, or drought) in the immediately preceding year; by

(3) the farm program payment yield established for the crop for the farm.

(c) Such sums shall be deducted from cropinsurance indemnity payments due as a result of such disaster.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 25 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ELDERLY FEEDING PROGRAM

For an additional amount for reimbursement at a level of 56.76 cents per meal during fiscal years 1985 and 1986, determined under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal years, $8,50,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 28 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: Upon the request of the Pike Place Market Preservation and Development Authority, Seattle, Washington, the Secretary of Commerce shall authorize the sale or lease to any person of the Fairley Group Building (project numbers 07-01-01890, as modified by 07-01-01890.01 and 07-11-02606) located in the Pike Place Market, King County, Washington, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965, if the transfer docu-

ments provided for the continued use of the Fairley Group Building as a pulbic market during the expected useful life of the building: *Provided*, That the provisions of 13 CFR 314.4 and OMB Circular A-102 Attachment N are hereby waived so long as the Fairley Group Building remains in the control of the public authority and is used as a public market during the expected useful life of the building.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 40 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Of the funds appropriated to the Department of Justice in Public Law 99-180, not to exceed $150,000 from "Fees and Expenses of Witnesses", not to exceed $150,000 from "Salaries and Expenses, antitrust Division", not to exceed $100,000 from Emergency Assistance in "Office of Justice Programs, Justice Assistance", and not to exceed $100,000 from the Public Safety Officers' Benefits Program in "Office of Justice Programs, Justice Assistance", may be transferred to "Salaries and Expenses, General Legal Activities" to pay expenses related to the activities of any Independent Counsel appointed pursuant to 28 U.S.C. 591, et seq.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

NATIONAL ASSISTANCE PLAN TO HALT ROCK AND CRACK COCAINE TRAFFICKING

The Attorney General as Chairman of the National Drug Enforcement Policy Board is directed to convene the Board to address on an emergency basis the crisis phenomenon that cocaine freebase, "rock" and "crack" cocaine, have caused in communities throughout the nation.

Within 60 days of enactment, the Board is directed to report to the Congress and to develop and implement a national plan of assistance to state and local governments to halt trafficking in rock and crack cocaine; to promote effective law enforcement efforts to identify, investigate, prosecute and incarerate perpetrators engaged in enterprises involving rock and crack cocaine; and, to foster public understanding of the dangerous effect of this substance on public health and safety.

This plan of assistance shall concentrate on methods of using existing laws in such areas as conspiracy, aiding and abetting, forfeiture, possession and trafficking to address this drug with its special potency and distribution characteristics, including the use of rock or freebase houses where the cocaine freebase is processed, distributed, and smoked. The Board's plan should also address those areas where existing law should be amended to strengthen enforcement and prosecution against rock and crack cocaine.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 44 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: $283,104,000, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *Provided*, That $222,104,000 of this amount shall become available for obligation on September 30, 1986.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 50 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

GENERAL PROVISION—DIPLOMATIC SECURITY PROGRAM

The funds made available by this chapter to the Department of State under the headings "Salaries and Expenses", "Acquisition and Maintenance of Buildings Abroad", and "Counterterrorism Research and Development" shall not be used for any purpose inconsistent with or contrary to authorizing legislation for the Diplomatic Security Program as enacted into law.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 54 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ADMINISTRATIVE PROVISION

Of the funds made available in title IV of Public Law 99-180, not to exceed $8,000,000 from "Expenses of Operation and Maintenance of the Courts" may be transferred to "Salaries of Supporting Personnel" and not to exceed $500,000 from "Expenses of Operation and Maintenance of the Courts" and not to exceed $2,500,000 from "Salaries of Judges" may be transferred to "Space and Facilities".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ADMINISTRATIVE PROVISION

Section 18006(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "declared before October 1, 1985" and inserting in lieu thereof "which occurred prior to October 1, 1985, and with respect to which a disaster declaration application was submitted prior to October 1, 1985".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 1. Section 8051 of the Department of Defense Appropriations Act, 1986, Public Law 99-190, 99 Stat. 1211, is amended by striking out "Army, Navy, and Air Force" and by striking out the proviso and inserting in lieu thereof: "*Provided*, That such transfers shall not exceed $678,700,000 for Operation and Maintenance, Army; $1,301,600,000 for Operation and Maintenance, Navy; $30,100,000 for Operation and Maintenance, Marine Corps; $608,700,000 for Operation and Maintenance, Air Force; $24,300,000 for Operation and Maintenance, Defense Agencies; $19,300,000 for Operation and Maintenance, Army Reserve; $47,600,000 for Operation and Maintenance, Navy Reserve; $4,200,000 for Operation and Maintenance, Marine Corps Reserve; $14,400,000 for Operation and Maintenance, Air Force Reserve; $42,100,000 for Operation and Maintenance, Army National Guard; and $35,400,000 for Operation and Maintenance, Air National Guard".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of "SEC. 3." named in said amendment, insert: SEC. 2.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 3. Section 8103 of the fiscal year 1986 Department of Defense Appropriations Act, Public Law 99-190, is amended as follows: in subsection (b) insert "the Department of Defense Space Recovery Program, the Civilian Health and Medical Program of the Uniformed Services," directly following "and the Coastal Defense Augmentation account,"; and insert a new provision at the end of subsection (b) before the period, as follows: ": *Provided further*, That $260,000,000 for the Civilian Health and Medical Program of the Uniformed Services shall be available without notification procedures otherwise required by this subsection".

Resolved, that the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 4. Of the amounts available to the Department of Defense, not to exceed $5,000,000 shall be available for such claims arising from property losses caused by the explosion of Army munitions near Checotah, Oklahoma, on August 4, 1985, and claims determined by the Department to be bona fide shall be paid from the funds made available by this section.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 81 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of "SEC. 6." named in said amendment, insert: SEC. 5.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 84 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CHAPTER III A

AUTHORIZATION OF CERTAIN UNAUTHORIZED APPROPRIATIONS

SEC. 1. AUTHORIZATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1986 APPROPRIATIONS.

Notwithstanding section 8109 of the Department of Defense Appropriations Act, 1986 (Public Law 99-190) and except as otherwise provided in this chapter, funds appropriated or otherwise made available to or for the use of the Department of Defense by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), and which were not otherwise authorized by law, are

authorized to be obligated and expended as provided in such Act.

SEC. 2. UNAUTHORIZED APPROPRATIONS.

The following programs and amounts provided in the Department of Defense Appropriations Act, 1986 (Public Law 99-190) are not authorized to be obligated or expended: Research and Development: Air Force Space Defense System, $15,066,000. Air Force MEECN communications upgrade, $15,000,000. Operation and Maintenance: Audit/inventory report reductions not taken in the appropriations act, $29,000,000.

SEC. 3. PROHIBITION AND LIMITATION ON OBLIGATION OF FUNDS FOR CERTAIN PURPOSES.

MARINER FUND.—Of the funds appropriated or made available by the Department of Defense Appropriations Act, 1986, none shall be available for construction of commercial type vessels, with or without military specifications, for lease to private shipping concerns under the Mariner Fund or any other program.

SEC. 4. AUTHORIZATION FOR OBLIGATION OF CERTAIN UNOBLIGATED FUNDS.

Of the funds appropriated by the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), but which may not be obligated or expended for the purposes for which appropriated by virtue of section 3 of this chapter, and of the funds made available for obligation and expenditure from prior year unobligated balances by section 8103 of the Department of Defense Appropriations Act, 1986, the following amounts are authorized to be obligatd and expended for the stated purposes and are subject to the same notification procedures set forth in section 8103 of the Department of Defense Appropriations Act, 1986, except for the Civilian Health and Medical Program of the Uniformed Services:

(1) for military pay, $1,599,400,000;

(2) for military retirement accrual payments, $2,156,000,000;

(3) for Coastal Defense Augmentation, $140,000,000;

(4) for the Department of Defense Space Recovery Program, $1,498,686,000;

(5) for the Civilian Health and Medical Program of the Uniformed Services, $260,000,000; and

(6) Any amounts remaining available from such funds are authorized to be obligated and expended and are available for readiness and for other purposes, including funds authorized for obligation and expenditure for purposes listed in clauses (1), (2), (3), (4), and (5) not otherwise required for such purposes.

SEC. 5. REVISION OF CERTAIN PROVISIONS OF PUBLIC LAW 99-190.

(a) Aircraft Competition.—The paragraph under the heading "Aircraft Procurement, Air Force" in title III of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190), is amended by striking out ", of which $200,000,000 shall be available only to initiate the air defense aircraft competition authorized by law" in the matter preceding the first proviso;

(b) Revision of Drug Interdiction Funds.—Of funds made available in the Department of Defense Appropriations Act, 1986, Public Law 99-190, $35,000,000 made available for purchase of one AC-130H aircraft and $3,000,000 made available for P-3 aircraft modifications shall be available only for the following purposes:

(1) for HC-130 tanker, $18,500,000;

(2) for Aerostat radar, $12,000,000; and

(3) for APS-138 radar system, $7,500,000;

(c) 120mm MORTAR.—Of the funds appropriated in the Department of Defense Appropriations Act, 1986, for procurement of the 120mm mortar, obligations and expenditures may be incurred only in accordance with the requirements set forth in House Report 99-235 and Section 8095 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190); and

(d) M72E4 LIGHTWEIGHT MULTIPURPOSE WEAPON.—From the funds appropriated in the Department of Defense Appropriations Act, 1986, the Army shall complete development and operational testing of the M72E4, type classify the weapon, and acquire a technical data package.

SEC. 6. TEMPORARY WAIVER ON POLYGRAPH EXAMINATION LIMITATIONS.

In computing the number of counterintelligence polygraph examinations that may be conducted during fiscal year 1986 under section 1221 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 726), there may be excluded from such computation any polygraph examination conducted during the period beginning on the date of the enactment of this Act and ending on September 30, 1986, if such examination—

(1) is conducted by the Air Force under an authorization granted by the Secretary of Defense on November 24, 1981; or

(2) is conducted under an authorization granted by the Secretary of Defense on August 31, 1982, and is conducted on a person who is participating in a national program—

(A) which has as its purpose the collection of specialized intelligence through reconnaissance;

(B) which is under the purview of the Director of Central Intelligence; and

(C) for which a polygraph examination was established on or before October 1, 1985, as a condition for participation in such program.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

For an additional amount, for "Flood Control and Coastal Emergencies", as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $25,000,000, to remain available until expended.

Using available funds authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, the Secretary of the Army shall, in consultation with State officials of the Great Lakes region, develop emergency contingency plans to prevent or control near term flooding along the Great Lakes. The Secretary shall report to Congress within sixty days after the date of enactment of this Act on the contingency plans. The Secretary is authorized to spend up to $1,000,000 for the purposes of this provision.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: in title II of the Foreign Assistance and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), subject to the notification process of the Committees on Appropriations

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: , or the equivalent amount in local currencies, may

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Notwithstanding any limitations on assistance to Haiti contained in Public Law 98-473 or Public Law 99-83, funds in the amount of $750,000 previously appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961, as amended, may be made available for Haiti to carry out such purposes: Provided, That none of the funds made available pursuant to this paragraph may be made available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: Provided further, That the funds provided under this paragraph shall be made available only to provide nonlethal military assistance for Haiti.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SPECIAL ASSISTANCE TO THE PHILIPPINES

ECONOMIC SUPPORT FUND

For an additional amount for the "Economic Support Fund", $100,000,000, to remain available until March 31, 1987: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be available for obligation unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance.

MILITARY ASSISTANCE

For an additional amount for "Military Assistance", $50,000,000, to remain available until March 31, 1987: *Provided*, That this amount shall be available only for the Philippines: *Provided further*, That none of these funds may be available for obligation unless the Appropriations Committees of both House of Congress are previously notified fifteen days in advance.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSIONS)

Of the amounts of budget authority that become available during fiscal year 1986 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, not less than $5,250,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded.

Of the amounts of budget authority that become available during fiscal year 1987 as a result of the forgiving, pursuant to section 4(c)(1) of the United States Housing Act of 1937, as amended, of any loan made pursuant to section 4(a) of such Act, $6,042,000,000 of budget authority (and such amounts of contract authority as correspond to the amounts of budget authority) are rescinded on or after October 1, 1986 and before September 30, 1987.

RENT SUPPLEMENT PROGRAM

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s), is reduced in fiscal year 1986 by not more than $41,390,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1), is further reduced in fiscal year 1986 by not more than $10,128,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 107 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CONSTRUCTION GRANTS

Of the funds appropriated in section 119 of Public Law 99-190 for necessary expenses to carry out title II of the Federal Water Pollution Control Act, an additional $1,200,000,000 is hereby made available: *Provided*, That the allocation of the $1,200,000,000 made available by this paragraph shall be in accordance with the formula in effect on October 1, 1984.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Space flight, control and data communications", $431,000,000, to remain available until September 30, 1987: *Provided*, That, upon enactment into law of this Act, $5,000,000 shall be transferred to "Research and development": *Provided further*, That $100,000,000, to remain available until September 30, 1988, is appropriated for fiscal year 1987 for "Space flight, control and data communications", and shall not become available for obligation until October 1, 1986: *Provided further*, That funds appropriated for fiscal year 1987 in the previous proviso may not be obligated until the Administrator of NASA has certified that the recommendations of the Rogers Commission have been implemented or are being implemented, or that an alternative approach satisfies the direction of the recommendation.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 109 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: not less than $25,000,000 nor more than

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 111 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

For payments to defray the costs of training and provision of incentives to employers to hire and train certain veterans as authorized by the Veterans' Job Training Act, as amended (29 U.S.C. 1721), $35,000,000, to remain available until September 30, 1988, and to be derived by transfer from "Construction, minor projects".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ADMINISTRATIVE PROVISIONS

Retroactive to October 1, 1985, all payments for appraisals performed on a contractual basis in connection with the liquidation of housing loans guaranteed, insured, or made in conjunction with loan guarantee operations shall be charged to the VA loan guaranty revolving fund.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 120 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: For an additional amount of "Land Acquisition", $2,373,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 122 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: $3,850,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 128 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: Notwithstanding any other provision of law, for data and information acquired in fiscal year 1986 or thereafter, by the Secretary, pursuant to section 1352(a)(1)(C)(iii) of title 43, United States Code, payment shall be made for processing costs to permittees with permits issued on or before September 30, 1985.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 131 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert ": *Provided further*, That the levels established for general assistance by Public Law 99-88 (99 Stat. 388), are the maximum allowable payments"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 132 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CONSTRUCTION

For an additional amount for "Construction", $2,500,000, to remain available until expended.

DEFERRAL

Of the funds previously appropriated under the heading "Bureau of Indian Affairs' construction" in Public Law 98-8 (90 Stat. 20), $2,500,000 shall not become available for obligation until October 1, 1986.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 134 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert: sections 177, 122, 221, 223, 103(k), 105(c)(2), and 105(m) of

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 136 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ", including $8,000,000 for initial capitalization of a trust fund to fund the Prior Service Benefits portion of the Trust Territory Social Security System in accordance with section 105(m) of Public Law 99-239, and $2,750,000 for the Enjebi Community Trust Fund, as authorized in section 103(k) of Public Law 99-239, and $9,340,000, to remain available until expended, for grants and necessary expenses to the Republic of Palau, to become available for obligation upon the enactment of S.J. Res. 325 or similar legislation"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 143 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

SEC. 1. Provisions of 7 U.S.C. 147b shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 97-942.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 144 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 2. (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, within funds made available by this Act or any other appropriations Act, release on behalf of the United States the condition described in subsection (b) of this section with respect to the tract of land described in subsection (c) of this section: *Provided*, That—

(1) the State of Georgia, acting by and through the Georgia State Properties Commission, enters into an agreement with the Secretary of Agriculture stating that the State of Georgia will convey the described tract of land to Brantley County, Georgia, for consideration determined adequate by the Commission, and which consideration shall, if withdrawn from the account, be used exclusively for public purposes;

(2) the State of Georgia shall pay into the Treasury of the United States as miscellane-

ous receipts a sum of money which the Secretary of Agriculture deems is sufficient to reimburse the administrative costs of releasing the condition pursuant to this subsection; and

(3) the State of Georgia shall provide to the United States the fair market value of the described tract of land, as determined by the Secretary, either in cash or by exchange of lands, waters, or interest therein.

(b) The condition to be released pursuant to subsection (a) of this section is the condition found in that certain deed dated March 30, 1955, which conveys from the United States to the State of Georgia, Georgia Forestry Commission, certain real property in Ware and Brantley Counties, Georgia, and which deed was recorded on May 17, 1955, in the Office of the Secretary of State, State of Georgia, providing that the land conveyed be used for public purposes and that the title to said land revert to the United States if it is not used for public purposes.

(c) The parcel of land to which the release provided for in subsection (a) of this section is described as follows:

All that tract or parcel of land, situated, located and being in Land Lot No. 128 in the 9th Land District of Brantley County, Georgia, being 55.04 acres, more or less, and being more particularly described as follows: Beginning at the point where the centerline of the SCL Railroad tracks from Waycross to Brunswick intersects the centerline of that certain Brantley County paved road known as County Road No. 15, and thence N 08 degrees 54'00" W a distance of 97.72 feet to a point; thence, N 79 degrees 40'50" E a distance of 40.02 feet to a point; thence, N 79 degrees 40'50" E a distance of 260.03 feet to a point; thence, N 68 degrees 30'00" E a distance of 390.0 feet to a point; this point being the point or place of beginning of the tract to be released from the described condition; thence, N 13 degrees 15'00" W a distance of 701.15 feet to a point; thence, S 73 degrees 10'00" W a distance of 647.09 feet to a point; thence, N 17 degrees 13'50" W a distance of 304.91 feet to a point; thence, N 61 degrees 23'03" E a distance of 2452.76 feet to a point; thence, S 06 degrees 09'26" E a distance of 275.29 feet to a point; thence, S 07 degrees 17'36" E a distance of 442.26 feet to a point; thence, S 00 degrees 30'41" E a distance of 183.67 feet to a point; thence, S 12 degrees 11'06" E a distance of 160.31 feet to a point; thence, S 05 degrees 13'46" E a distance of 390.62 feet to a point; thence, S 34 degrees 53'42" W a distance of 201.01 feet to a point; thence, S 75 degrees 01'09" W a distance of 1371.18 feet to a point; this point being the point or place of beginning of the tract.

For a more complete description of the tract, reference is hereby made to that certain plat prepared on August 4, 1985, by Harry Strickland, Brantley, County Surveyor, entitled "Survey for Brantley County" which plat is on file with the Georgia State Properties Commission.

(d) Section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937, as amended (7 U.S.C. 1011), shall not apply to the release provided for in subsection (a) of this section.

(c) The conveyance made pursuant to subsection (a) of this section shall reserve to the United States all gas, oil, coal and other mineral deposits as may be found in the lands conveyed by this section.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: $13,500,000: *Provided*, That $1,530,000 shall not become available for obligation until September 30, 1986: *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Educational Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1987

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 155 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

INDIAN HEALTH FACILITIES

(DEFERRAL)

Of the funds previously appropriated under this head, $11,665,000 shall not become available for obligation until October 1, 1986.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 162 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ADMINISTRATIVE PROVISION

Funds made available for fiscal year 1986 and hereafter to the Warren G. Magnuson Clinical Center of the National Institutes of Health shall be available for payment of nurses at the rates of pay and with schedule options and benefits authorized for the Veterans Administration pursuant to 38 U.S.C. 4107.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 163 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

OFFICE OF COMMUNITY SERVICES

COMMUNITY SERVICES BLOCK GRANT

SEC. 1. (a) The Administrator of General Services shall assign the property described in subsection (e) to the Secretary of Health and Human Services for transfer of such property in accordance with this section to the District of Columbia for use as a shelter for homeless individuals in the District of Columbia.

(b) Immediately after the assignment of such property pursuant to subsection (a), the Secretary of Health and Human Services shall transfer the title to such property without cost to the District of Columbia for use as a shelter for homeless individuals.

(c) The deed of conveyance for the property described in subsection (e) shall provide that, if the District of Columbia sells, leases, or otherwise transfers such property to any other person or agency, a fraction of the proceeds of such sale, lease, or transfer (as determined under subsection (d)) may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia and the remainder of such proceeds shall be paid to the Secretary of the Treasury and deposited as miscellaneous receipts of the United States.

Any sale, lease, or other transfer pursuant to this subsection shall be made after public advertising for bids or by other means designed to secure full and open competition.

(d) The fraction of such proceeds which may be retained by the District of Columbia for use in programs providing shelter and related services for homeless individuals in the District of Columbia shall be determined by dividing—

(1) the number of months that such property is used as a shelter for homeless individuals in the District of Columbia pursuant to this section prior to such sale, lease, or transfer; by

(2) 120, except that such fraction shall not be greater than one.

(e) The property to which this section applies is the property located at 425 Second Street, Northwest, in the District of Columbia, more fully described as follows:

All that parcel situated in the Northwest quadrant of the City of Washington, District of Columbia, and being a portion of District of Columbia Square Number 571, containing in their entirety former lots numbered 9 through 18, inclusive, and 22 through 26, inclusive, as recorded in Liber B, Folio 160 of the Records of the Office of the Surveyor for the District of Columbia, and lots 45 through 51 inclusive, as recorded in Liber 19, Folio 118 of the Records of the Office of the Surveyor for the District of Columbia; such land now known for purposes of assessment as Lot 820, and containing 1.16 acres of land, more or less; and more particularly described in a deed between the Reconstruction Finance Corporation and the United States of America, dated July 30, 1947, and recorded in Liber 8761, Folio 79 of the Land Records of the District of Columbia.

SEC. 2. For making a grant to the District of Columbia upon the completion of the conveyance to the District of Columbia of the property located at 425 Second Street, Northwest, in the District of Columbia, in accordance with section 1 and upon the submission of a request to the Office of Community Services, Department of Health and Human Services, by the District of Columbia, $1,500,000 for the repair and renovation of such property for use as a shelter for the homeless.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 168 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

Effective on October 1, 1980, section 3(d)(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by redesignating subparagraph (C) as subparagraph (D), and by adding after subparagraph (B) the following new subparagraph:

"(C) The local contribution rate for a local educational agency shall include current expenditures from that portion of a real property tax required to be levied, collected, and distributed to local educational agencies by county governments pursuant to state law where the remainder of such real property tax is transferred to the State."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 172 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

From the amounts appropriated to carry out the Rehabilitation Act of 1973, $27,945,000 shall be made available for special demonstration projects for the severely

disabled under section 311: *Provided*, That $8,613,000 shall be used for supported employment demonstrations.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 176 to the aforesaid bill, and concur therein with an amendment as follows:

On page 66 of the engrossed Senate amendments, strike out all after "made." In line 5, down through and including "made." in line 8.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 179 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CAPITOL POLICE

CAPITOL POLICE BOARD

For an additional amount for the "Capitol Police Board", $13,000,000, to remain available until expended, to implement an improved security plan for the United States Capitol, after such plan shall have been approved by the Senate Committee on Rules and Administration, the Senate Committee on Appropriations, the House Committee on Appropriations, the House Committee on Public Works and Transportation, and the Committee on House Administration: *Provided*, That upon approval of the House and Senate Committees on Appropriations, such Board is authorized to transfer to the Architect of the Capitol so much of such funds as may be necessary to enable the Architect of the Capitol to carry out appropriate projects to implement such plan, and the Architect of the Capitol is authorized to obligate and expend the funds so transferred to him to carry out contracts entered into without regard to section 3709 of the Revised Statutes, as amended: *Provided further*, That before any such transfer of funds to the Architect of the Capitol takes place, the House and Senate Committees on Appropriations shall review and approve detailed documentation describing the scope, cost and construction schedule of the work to be accomplished by the transfer of funds.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 180 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For an additional amount for "Office of the Architect of the Capitol, Salaries", $250,000, to remain available until expended: Provided, That these funds shall be transferred to the appropriation "Capitol Grounds", and the Architect of the Capitol is authorized to obligate and expend funds so transferred only for the detailed design and cost estimates associated with the construction aspects of the congressional joint leadership proposal to improve security of the Capitol and the House and Senate office buildings.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 182 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the first sum named in said amendment, insert: $867,000

Resolved, That the House receded from its disagreement to the amendment of the Senate numbered 184 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Out of available funds, the Coast Guard shall make available not more than $750,000 for maintenace, sealing and preservation of lighthouses in the Commonwealth of Massachusetts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 186 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: $84,250,000, of which $2,000,000 shall be derived by transfer from "Coast Guard, Retired pay", and $2,250,000 shall be derived by transfer from "Coast Guard, Research, development, test, and evaluation": *Provided*, That, if by July 15, 1986, the Secretary of Transportation and the appropriate governmental authorities of Dade County, Florida, have not reached agreement on the execution of a full funding contract for the project identified in section 320 of the Department of Transportation and Related Agencies Appropriations Act, 1986, the memorandum of understanding submitted by the Metro-Dade Transportation Administration to the Urban Mass Transportation Administration on June 6, 1986, shall be deemed approved by the Secretary and shall be binding on the Department of Transportation and Metropolitan Dade County upon acceptance by the appropriate Dade County governmental authorities: *Provided further*, That such memorandum of understanding shall be deemed approved by the Secretary notwithstanding 42 U.S.C., sections 4321 through 4335, inclusive, and applicable regulations.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 187 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *Provided further*, That, at a minimum, the air traffic control onboard employment level shall be 14,480 by September 30, 1986.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 192 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

RELATED AGENCY

PANAMA CANAL COMMISSION

OPERATING EXPENSES

For an additional amount for "Panama Canal Commission, Operating expenses", $18,300,000, of which $17,181,000 may be available either for operating expenses or for vessel accident claims as authorized by Public Law 99-209, and $1,119,000 shall be available for payment to the Republic of Panama, pursuant to article XIII, paragraph 4(c) of the Panama Canal Treaty of 1977.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 216 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 203. None of the funds in this Act, or any other appropriations Act for fiscal year 1986, may be used to implement changes to OMB Circular A-21 made subsequent to February 11, 1986: *Provided*, That this provision shall expire 60 days after the date of enactment of this Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 218 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

SEC. 207. Notwithstanding section 514 of Public Law 99-178, amounts appropriated by that Act for Federal financial assistance to the Trust Territory of the Pacific Islands shall be available, as would have been available had the Compact of Free Association Act (Public Law 99-239) not been enacted, until alternative funding is available under the terms of the Compact of Free Association Act of 1985 (Public Law 99-239). Thereafter, except insofar as the Compact of Free Association Act otherwise provides, such amounts shall be available only for the Republic of Palau, but only in amounts that such Republic would have received had the Compact of Free Association Act of 1985 not been enacted.

Resolved, That the House insist upon its disagreement to the amendments of the Senate numbered 114 and 199 to the aforesaid bill.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the Senate concurred in the House amendments.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED AMENDMENT NO. 23

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate the next committee amendment.

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

PREPAYMENT OF LOANS BY RURAL ELECTRIFICATION AND TELEPHONE SYSTEMS

In the case of a borrower of a loan made by the Federal Financing Bank, and guaranteed by the Administrator of the Rural Electrification Administration, under section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) that is outstanding on the date of enactment of this Act, the borrower may prepay the loan by payment of the outstanding principal balance due on the loan using private capital with the existing loan guarantee. No sums in addition to payment of such balance shall be charged as the result of such prepayment against the borrower, the Rural Electrification and Telephone Revolving Fund established under section 301 of such Act (7 U.S.C. 931), or the Rural Electrification Administration. To qualify for prepayment, a borrower shall certify that such prepayment will result in substantial savings to its customers or lessen the threat of bankruptcy of the borrower unless in such individual case, in the opinion of the Secretary of the Treasury, to

repay would adversely affect the operation of the Federal Financing Bank: *Provided,* That any regulations under this provision shall be issued and become effective within 30 days of enactment of this Act.

Mr. HATFIELD. Mr. President, I would like at this time to engage in a bit of colloquy for clarification on the amendment relating to the REA with Senators from North and South Dakota who I believe are here on the floor for that purpose.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. ANDREWS. I appreciate that, Mr. President, and the senior Senator from North Dakota, Senator BURDICK, will be here shortly to join in this.

Mr. President, since this amendment has been made a part of the overall bill, I would like to engage in a brief colloquy on the amendment that provides for prepayment of FFB loans by rural electric systems.

This important provision was first passed by the Senate, on June 5, 1986 after considerable debate by a vote of 62 to 36. It has now been sent back to this body by the House of Representatives. I continue to support this provision because it is clearly needed. It will permit rural electric systems to prepay, without penalty, any of their loan advances from the Federal Financing Bank. In doing this they will pay 100 cents on the dollar plus an accured interest on each individual FFB loan advance that they prepay. These FFB funds will be replaced with private capital on terms and conditions agreed to by the borrowers and private lenders and the existing REA guarantee on the loan to be prepaid will cover the new loan.

This provision will change an inequity in current FFB rules which prevent rural electric systems and their consumers from benefiting from the current decline in interest rates that has been achieved.

It was subjected to considerable debate in this body. It was adopted by a rollcall vote.

I would ask for a clarification of one provision that is included in the House language on this provision. It weakens to a certain extent the words of the Senate, but perhaps it does not. It provides that prepayment would be permitted "unless, in such individual case, in the opinion of the Secretary of the Treasury to prepay would adversely affect the operation of the FFB."

I would ask Senator HATFIELD, the chairman of the Appropriations Committee, to inform me if my understanding of that language is correct. My understanding is that this language was not included to prevent rural electric systems from prepaying their FFB loans and that the Secretary of the Treasury will not arbitrarily reject all or even most requests for prepayment.

Mr. HATFIELD. The Senator is correct. This language does not give the Secretary of the Treasury the authority to deny all requests for prepayment of FFB loans.

Mr. ANDREWS. I note also that the Congessional Budget Office has reported that the revised language passed yesterday by the House of Representatives will result in the same $300 million of outlay savings during fiscal year 1986 as was estimated by CBO based on the language passed by the Senate on June 5. I would, therefore, assume that the language before us now as changed in the House would result in no less then $300 million in refinancing during fiscal year 1986 and in fact if borrowers submit requests for refinancing in amounts greater than $300 million there is no reason to assume from the language before us that this could be rejected by the Secretary of the Treasury. I would think that as soon as possible after enactment of this act that the Secretary of the Treasury would immediately approve requests for prepayment in the cases of rural electric systems which are in financial difficulties, do not have parity of retail rates with their neighboring urban utilities, or have high-rate loans from the FFB. These approvals would not be rejected based on some arbitrary dollar limit. Does Senator HATFIELD agree with my interpretation of this language?

Mr. HATFIELD. I would say the Senator is correct in this interpretation and I would like to also add that I expect the Secretary to act in good faith and not arbitrarily reject prepayment applications as such.

The language does not limit the amount of FFB loans which rural electric systems could prepay. In fact this entire amendment is included in H.R. 4515 for the express purpose of permitting and facilitating these prepayments. There is no intent here to deny these requests.

Mr. ANDREWS. I appreciate the statement of the Senator. I thank the Senator for his clarification.

This provision is extremely important to our rural people, who in 75 percent of all cases pay higher rates than their urban neighbors. It is unfair to deny rural electrics the opportunity to refinance when investor-owned and other utilities are refinancing unprecedented amounts—expected to exceed $9 billion during this year alone. The FFB prepayment provision we voted on will allow rural people throughout this great Nation to share in the benefits of lower interest costs and lower electric rates.

Mr. ABDNOR. I certainly appreciate the chairman yielding to me.

Mr. President, Early this month, I cosponsored an amendment to H.R. 4515 to permit REA borrowers to repay any or all of their outstanding loans with the Federal Financing Bank [FFB]. This amendment is needed because under FFB's current rules, REA borrowers cannot receive any economic benefit from prepaying their FFB loans. They are simply locked in to long-term rates, which are as high as 15.128 percent.

This FFB rule is unfair. The Government's own cost of money is now in the 7- to 8-percent range. Refinancing is occurring in all segments of our economy, from homeowners to utilities. It makes no sense to deny rural electric systems this opportunity to replace Government loans with private capital at lower interest rates. The amendment I cosponsored with Senator BURDICK was passed by the U.S. Senate by a vote of 62 to 36 after more than 2 hours of debate.

Today, we are again considering H.R. 4515. This bill was passed yesterday by the House of Representatives with revisions to the FFB prepayment provisions. The revised language appears to permit REA borrowers to prepay their FFB loans unless the Secretary of the Treasury determines that these prepayments will adversely affect the operation of the Federal Financing Bank.

The House of Representatives decided to amend our provision on prepayment. They sought to accommodate the fears of the administration that this provision would lead to a precedent that others would try to unfairly take advantage of. This provision will not, however, create a precedent because in this case:

First, prepayments will be made by a group of borrowers—rural electric systems—who are in an industry with others who are doing an unprecedented amount of refinancing. I might point out that this year alone, investor-owned utilities are expected to refinance 19 billion dollars' worth of old high interest rate loans.

Second, savings from any prepayments will be used to reduce rates to consumers—the people at the end of the lines. They will not be used to benefit stockholders or investors.

Mr. Chairman, I will reluctantly vote for this bill only because of my understanding that the revised House language will not prevent rural electric systems from prepaying their FFB loans. It is my understanding that this language does not give the Secretary of the Treasury the discretionary authority to deny all borrowers to right to prepay.

I am disappointed that the original language offered by Senator BURDICK and me and adopted by the Senate was not retained by the House of Representatives. Under that language, all rural electric cooperatives would have been allowed to prepay their debts and then refinance in the private sector. Under Senator BURDICK's and my language, there would have been no

doubt. There would have been no suspicion. Very clearly our language was cleaner and more straightforward. Our language would have saved rural electric customers over $200 million annually.

Although the compromise accepted by the House is not as good as the language Senator BURDICK and I included in the Senate bill, I am informed that it still will allow for rural electric cooperatives to refinance. With the understanding that the Secretary of the Treasury will not arbitrarily deny refinancing requests and that refinancing will be allowed, I reluctantly accept the House language.

I might also point out that the Congressional Budget Office has completed an estimate of the savings that will result from this prepayment provision as revised yesterday by the House of Representatives. CBO's estimates for the House revision—a $300 million reduction in outlays—is the same as CBO's estimate for the provision I cosponsored. This means that the revised provision is intended to result in the same amount of refinancing as our original provision. I will therefore continue my support for this amendment, based on my understanding of the way that it will be administered. This is a low-cost provision that will greatly assist rural people throughout our Nation.

I have been one of the main sponsors of this amendment and think it is very necessary. Frankly, I would be remiss if I did not say that I would have much preferred the original Burdick-Abdnor language but I certainly understand how the art of compromise works here. We have an overall purpose of trying to obtain an appropriations bill.

I am very, very grateful to the Senator from North Dakota and the chairman for the colloquy they had to at least set forth the agreements that were obtained in making this compromise.

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The course of action that most people have agreed to hopefully will work and be a fair and equitable proposal that will take care of rural electric cooperatives.

I will say that I will be the first one to try to correct and improve the compromise or go back to the original Burdick-Abdnor language should the administration not uphold its promise. I thank you, Mr. Chairman, for the work you have done on this to salvage some form of a repayment policy. Let us hope that it will do what we expect it to do.

With the explanation and colloquy you have entered into with the Senator from North Dakota [Mr. ANDREWS], and this Senator I will support the amendment.

Mr. HATFIELD. May I respond to the Senator from South Dakota, in that I would associate myself with him in this whole matter. I think we have worked out an accommodation. I am sure the Senator will be very much a policeman on this as this is implemented. And down the line, next year or the following year, whatever, if this would appear to be getting off track, I know Senator ABDNOR would be the first there to correct it.

Mr. ABDNOR. I thank the Senator. That is correct.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, this Senator from Nebraska has to make a very important decision, and I am going to make it on the side of reason. I salute the head of the Appropriations Committee and the ranking Democrat thereon for their diligent efforts. I do not know whether they have said so or not, but I suppose that they find themselves not in essentially the same position as the Senator from Nebraska with regard to the REA loans that was voted out of the Senate on a fairly strong vote, as I remember it.

I want to say that I am most unhappy that the REA provisions that were adopted by the U.S. Senate were dropped in conference. I think it is only appropriate to say at this time why that was dropped in conference.

I refer, Mr. President, to a letter from the President's Director of the Budget, dated June 20, 1986, to the Honorable MARK HATFIELD, chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MARK: President Reagan will not sign H.R. 4515, the 1986 urgent supplemental appropriations bill, in its present form. The provision of the bill waiving prepayment penalties on REA loans is unacceptable to the President.

I ask unanimous consent that the balance of this letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. I want to say, Mr. President, that I suppose, under the situation that confronted the conferees, with the President of the United States saying, through his Director of the Budget, that he would veto the urgent supplemental and all that was in there, there was really no other way that the managers of the bill could respond. They may have something to say to that on their own. Maybe they have said it already.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. EXON. I am happy to yield.

Mr. JOHNSTON. Mr. President, I think the Senator read the first sentence in that letter. I have been seeing these letters come up from OMB and from the White House now for over a decade, and that is the most explicit veto threat I have seen in all that time.

It says the President will not sign. It does not say, "We will recommend," it does not say, "We may not," it says absolutely he will not sign based on the original text of the REA amendment.

So, facing a certain veto and facing the absolute necessity to get this urgent supplemental—and indeed it is urgent—then compromise seemed the better part of discretion, although we very, very strongly supported the original language as originally proposed by the distinguished Senator from North Dakota, who was the original author in the Appropriations Committee of this amendment.

Mr. EXON. I thank my friend from Louisiana. He said it all very well.

As unhappy as I am with this provision being deleted and as shocking as it is that the President of the United States is taking an anti-REA stand, I nevertheless will vote for the urgent supplemental appropriations because there are funds in that bill, not the least of which has to do with the money going to farmers throughout the Farm Belt. They need that money now. They have already waited for a month.

So I compliment the leaders who were in negotiation with this. I understand with this gun to their heads they had no other option. You made the right choice, as disappointing as that is for all of us.

I yield the floor.

EXHIBIT 1

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 20, 1986.

Hon. MARK HATFIELD,
Chairman, Committee on Appropriations, United States Senate, Washington, DC.

DEAR MARK: President Reagan will not sign H.R. 4515, the 1986 Urgent Supplemental Appropriations bill, in its present form. The provision of the bill waiving prepayment penalties on REA loans in unacceptable to the President.

The Administration strongly supports your amendment on the Senate floor to the amendment in technical disagreement with the House to the REA provision. Although the Administration has serious concerns about several other provisions, if your amendment were adopted the President's senior advisors would recommend that he sign H.R. 4515, as it otherwise presently is written.

Your amendment would require utilities with REA-guaranteed FFB loans to prove that waiver of the prepayment penalty for refinancing is necessary to avoid default. This is a reasonable requirement for utilities to satisfy if they wish to escape their contractual obligations.

Thank you for your strong leadership and constructive efforts on H.R. 4515.

Sincerely yours,

JAMES C. MILLER, III,
Director.

Mr. BURDICK addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. Mr. President, we again have before the Senate the issue of rural electrification administration borrowers who have loans from the Federal Financing Bank. This provision is of utmost importance to our rural electric cooperatives, as well as to rural telephone systems, because it allows them to repay their loans to the Federal Government with money they obtain from private lenders and provides a significant economic benefit for rural America.

Under the pending legislation, the 100-percent Federal guarantee of principal and interest would be maintained for loans prepaid using private capital. To generate the capital for the prepayment, the loan guarantee would be issued, transferred, or assigned to a legally organized lending agency—such as the Banks for Cooperatives or the National Cooperative Financing Corporaton—as provided under current law.

Such private lenders experienced with the rural utility industry will provide essential loan servicing. In addition, the lenders will be available to renegotiate or restructure loans as necessary, and otherwise meet the needs of the borrowers—thus relieving the Federal Government of some of those responsibilities.

The reason we are considering this issue again, Mr. President, is extremely troublesome for me. Apparently, President Reagan is adamantly opposed to this provision. For the life of me, I cannot understand his opposition. In every Federal lending program with which I am familiar, this administration has tirelessly pushed to get the borrower off the Government role and into the private sector.

Well, Mr. President, that is exactly what this measure does. The borrower pays back his loan from the Federal Government 100 percent—he pays back every penny. I just wish there were somebody either in the White House or in the administration who could explain to me what is wrong with that.

This provision simply states that once the borrower pays back the outstanding principal, no additional sums or penalties shall be charged to the borrower. In other words, it eliminates any prepayment penalty. As a matter of policy, there should be no prepayment penalty. A prepayment penalty is an obstacle to paying back the loan. When the Federal Government makes a loan to a borrower, does that mean we do not want that loan paid back?

Absolutely not. It means that the borrower is in need of the loan because he cannot get the same deal in the private sector. We want him to pay it back as soon as he can.

Think of student loans. We do not tell those students they cannot pay back their loans unless they pay a penalty. Think of loans to farmers through the Farmers Home Administration—be they for farm operating, farm purchasing, or home buying. Those farmers can pay back those loans at any time without paying a penalty. It would be unconscionable, unthinkable, to charge them an additional amount so that they would not pay the loan off ahead of schedule.

This Government, Mr. President, should not penalize its borrowers for paying back its loans ahead of schedule, it should congratulate them. It should extol them. It should reward them. We want that money back to the Federal Government, so that we can turn it around and make additional loans to those in need—additional student loans, additional farm loans, and additional REA loans.

□ 1500

The President is dead wrong on this issue. It is not costing the taxpayers anything. The fact that the Government will not be getting the high interest over the next 30 some years does not translate into a cost for the taxpayers. The Government can immediately reprogram the money, relend it, and make interest on their new loans. Where is the loss? I would challenge anyone to tell me that a student paying off his loan in advance is gouging the taxpayer. It is the exact same issue.

Now I understand that there is concern that this provision will adversely affect the operation of the Federal Financing Bank. How a bank getting its money back—100 cents on the dollar—can be construed as adverse is beyond me. The FFB is going to get $300 million back in fiscal year 1986 and $7 billion back in fiscal year 1987. This return can only be construed as a positive effect, not an adverse effect.

Mr. President, I hope this administration will keep in mind that this provision results in savings to the Government, and that unless the President and his administration work to facilitate these refinancings, there will be no savings and no reduction in the deficit.

Mr. President, if I may, I would like to ask my colleague, the distinguished chairman of the Appropriations Committee for his comments on several questions.

Mr. HATFIELD. I would be very happy to respond to the Senator from North Dakota.

Mr. BURDICK. What assurance do we have that the Secretary of the Treasury will cooperate with the intent of this provision and will not summarily turn down every application for refinancing?

Mr. HATFIELD. Let me say to the Senator from North Dakota that even though I have not talked to the Secretary of the Treasury personally, he was very much a party to the whole process of arriving at this compromise language. He acted through, and his views were given to me through, the Director of the Office of Management and Budget who was sort of the go-between our committee and the administration.

So I feel that he was a party to it. Therefore, he in effect signed off on it, and I have confidence as I indicated earlier that he will act in good faith, not capriciously and that he will honor the intent of this amendment, and particularly in light of the legislative history that is being built here today on the floor by the Senator from North Dakota [Mr. BURDICK], and previously the Senator from North Dakota [Mr. ANDREWS], and the Senator from South Dakota [Mr. ABDNOR]. Consequently, I really expect him to act in good faith on the applications as they arrive in his office.

Mr. BURDICK. The provision speaks about an adverse effect on the operation of the FFB. Would you agree with me that paying money back into the FFB by paying off the loan 100 cents on the dollar plus any accrued interest would not be an adverse effect in itself?

Mr. HATFIELD. It would seem to me so. I would say, yes.

Mr. BURDICK. Mr. Chairman, my concern is that the administration will stretch the meaning of "adversely affect" to such an extent that few refinancings will be allowed. Can we have the Secretary of the Treasury report to Congress and to the Appropriations Committees when he does determine that a refinancing would have an adverse effect and to spell out that effect to us?

Mr. HATFIELD. I certainly would be very happy to request the Secretary to report to us, to our committee, the Appropriations Committee, and through us to the entire body should he determine that a refinancing would have an adverse effect.

Mr. BURDICK. I would also hope that we can be assured that the administration will consider applications for refinancing in an expeditious manner. We have required that any regulations be issued and become effective within 30 days of enactment of this act. Is it the Senator's expectation that the applications will be acted on in a similar time period?

Mr. HATFIELD. Again, I do not know if the applications would be acted upon within a 30-day period. But I can say to the Senator that I am confident that the agency will act very expeditiously, and I have the assurance of the administration on that point, that they will act expeditiously as these applications are presented to them.

Mr. BURDICK. The Congressional Budget Office determined that this provision will return $300 million in savings for fiscal year 1986. The House amendment has not changed that estimate. The only way these savings will be achieved is by allowing some borrowers to refinance. Is the Senator's expectation that the Secretary of the Treasury will work to achieve those savings in 1984, and can he assure us that he will use his best efforts to reach that goal?

Mr. HATFIELD. The question is being propounded to me, Senator? My response to your question would be, yes.

Mr. BURDICK. Mr. President, with these assurances, I am hopeful that this administration will do its best to provide for as many refinancings as possible. Therefore, I will not press for changes at this time, but you can be sure that I will be watching this issue in the future and will press for changes if the need arises.

I thank the chairman of the committee.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER (Mr. SYMMS). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I first want to congratulate the distinguished senior Senator from North Dakota for bringing this amendment in the first place, and so ably championing that amendment in the committee and here on the floor; also to concur with the statements of our distinguished chairman, Mr. HATFIELD, in answer to his questions about the meaning of the compromise language.

I also would point out that it would be expected that in exercising the discretion which the Administrator will have with respect to these loans that I would expect they would rank loans according to some objective factors such as disparities between interest rates of the REA's and the urban investor-owned utilities so that if the interest rates of the REA were particularly high, compared to those of investor-owned utilities that would rank them very high in terms of priority.

Second, the length of time of the outstanding obligations of the REA compared to the average length of the outstanding Treasury obligations should also be a very strong factor. Finally, those with the highest interest rates as among the REA's. For example, if you had some REA's with a 12-percent outstanding loan portfolio as opposed to 10 percent in others, then of course the higher interest rates should get the higher priority.

I wonder if my distinguished colleague would concur with those matters with respect to the priority which should be given by the Administrator on these loans.

Mr. HATFIELD. I would concur within the scope of my understanding. I would like to yield to the chairman of the subcommittee, who also is a participant in this whole process. He may like to make some comments, but also would like to perhaps give his interpretation to the Senator from Louisiana.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thank the distinguished chairman of the full committee for yielding to me.

It is my understanding, having had conversations just within the last hour with representatives of the Department of the Treasury and Office of Management and Budget, that this is an authority which will be used, that the language in this amendment is not going to be used to get around the problem and give a veto power that will be used in every case by the Secretary of the Treasury to prevent prepayment. It is the understanding of this Senator that regulations will be drafted, guidelines developed by not only the Treasury Secretary but also the REA Administrator to help facilitate the understanding of this new authority to prepay, and the circumstances under which prepayment will be possible.

□ 1510

I think the distinguished chairman of the full committee has correctly stated, in response to the questions of the Senator from North Dakota and the Senator from Louisiana, that those utilities which have guaranteed loans, which are facing the possibility of default, who can certify that by prepaying without penalty they may be able to avoid default or bankruptcy and that this would be beneficial to their customers, will be permitted to prepay, if the Secretary can approve that as not adversely affecting the operation of the Federal Financing Bank.

I think the amendment has meaning and it will be helpful to distressed utility associations.

Mr. JOHNSTON. Will the Senator yield for a question, Mr. President?

Mr. COCHRAN. I am happy to yield.

Mr. JOHNSTON. Will the Senator agree with me that those loans which, first, have the highest interest rates, secondly, where there is the greatest disparity between the rural REA loans and the urban investor-owned loans, and those where the outstanding portfolio of the REA is longest as composed to the portfolios of the Treasury, that those three factors should definitely be considered very strongly in ranking which of the loans would receive the prepayment benefit and which will not?

Mr. COCHRAN. Mr. President, it is my judgment that those would be important factors. They would have to be considered by the Secretary in developing these regulations and guidelines. They ought to have a big impact on the establishment of that priority that the Senator described.

Mr. JOHNSTON. I thank the Senator.

Mr. COCHRAN. Mr. President, let me say in describing the subject area of this amendment that the Senate, I think, has gotten good concessions on this issue. The Senators from North Dakota, Senators BURDICK and ANDREWS, and Senator ABDNOR of South Dakota, who argued for this position on the Senate floor, have won a big victory, in my opinion, even with the change that was made in the language to provide the Secretary of the Treasury with this authority to approve and certify that there would be no adverse effect on the operation of the Federal Financing Bank.

I think the Senators are to be congratulated and that the Senate should adopt the amendment.

I yield to my distinguished senior colleague.

Mr. STENNIS. I thank the Senator.

Mr. President, I want to say a special word of commendation and thanks to my colleague and to the other Senators who worked on this problem. I remember it being something that should be done, but the more he exposed what the real facts were and explained it, the better it was accepted here. There were also contributions made on the House side by our colleague, Congressman WHITTEN.

I appreciate very much what the Senator did. This will do a lot of good.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Mississippi for his comments. He is absolutely correct in giving credit to our friend and colleague on the House side, Congressman JAMES WHITTEN, of Mississippi, for his constructive involvement and assistance in working out language that could eventually be approved by the House of Representatives and the administration as well. I think there is ample credit to be passed around in both Houses of Congress and in the administration for working to make this acceptable. I hope the Senate will approve it, Mr. President.

Mr. STEVENS. Mr. President, over the past few years, the Rural Electrification Administration has come under increasing criticism for making loans to electric cooperatives that started out providing service to rural residents but were later engulfed by urban areas. The critics charge that the REA's great mission to make electrical service available to rural America has been compromised by such loans.

In an effort to respond to these criticisms, the urban electric cooperatives are trying to shift their financing efforts from the REA and the Federal Financing Bank to the private sector.

Over the past several years, my colleague from Alaska, Senator MURKOWSKI, and I have worked closely with Chugach Electric Association—Alaska's largest electric cooperative—which serves many urban residents, to help Chugach make such a transition.

It is my understanding, Mr. President, that one of the primary purposes of the REA loan refinancing proposal before us is to assist urban electric cooperatives in making the transition from public to private financing. I would like to ask the distinguished chairman of the Appropriations Committee whether my understanding is correct and what impact the House amendment will have on such transition efforts.

Mr. HATFIELD. Mr. President, the senior Senator from Alaska is correct: One of the primary purposes of the refinancing proposal is to help urban electric cooperatives shift to new private sources of financing. The House amendment is not intended to impede this purpose. I do not believe that refinancing of urban cooperative loans would, in itself, adversely impact the operation of the Federal Financing Bank. We expect the urban cooperatives' refinancing efforts—including the effort of the Alaska REA cooperative the Senator mentioned—to move forward to completion.

Mr. STEVENS. Mr. President, I thank the chairman for clarifying this important point.

Mr. MURKOWSKI. Mr. President, a few weeks ago in connection with the Senate's consideration of H.R. 4515, the urgent supplemental appropriation bill for the fiscal year ending September 30, 1986, the Senate adopted an amendment which is very important for rural electric cooperatives throughout the Nation and in my State. Basically, the Senate amendment provided that REA cooperative electric utilities may prepay their outstanding principal balance on their high interest loans with the Government without incurring prepayment penalties if they secure new loans using private sources of capital.

The basic purpose of this amendment was to enable REA cooperatives to prepay and refinance loans made in the late 1970's and early 1980's during a period of very high—13, 14, and 15 percent—interest rates. The amendment would result in major savings in interest costs to the cooperatives and their customers. It is also in accord with general commercial finance business practices on prepayment penalties. Further, it more nearly places the REA cooperatives on a par with private and municipal electric utilities, many of which have already refinanced the high interest loans they incurred during the same period.

Recently, the House of Representatives considered the conference report on H.R. 4515. The REA refinancing amendment had been reported by the conference committee as an item in technical disagreement (Amendment No. 22). During the House's consideration of this matter yesterday, the distinguished chairman of the House Appropriations Committee offered an amendment which, I am informed, was designed to resolve some differences of opinion on this general subject between some Members of the Senate and House and the administration.

The House floor amendment was adopted and was added at the end of the third sentence in the first paragraph and provides as follows:

Unless, in such individual case, in the opinion of the Secretary of the Treasury, to prepay would adversely affect the operation of the Federal Financing Bank.

If I may, I would like to ask the distinguished manager of the bill a question or two concerning the meaning and operation of the House floor amendment.

This new language appears to be designed to protect the FFB's operations, solvency and financial integrity from being adversely affected as a result of permitting prepayment of these loans. Is that correct?

Mr. HATFIELD. Yes, that is my understanding.

Mr. MURKOWSKI. The House and Senate intent is that the regulations to implement the amendment would permit prepayment.

Mr. HATFIELD. Yes.

Mr. MURKOWSKI. Do the conferees intend that the Secretary would consider requests for prepayment on a case-by-case basis and would approve them unless the financial integrity and operational structure of the FFB were somehow adversely affected in a significant way?

Mr. HATFIELD. Yes, that is my understanding. We contemplate that individual loans may be prepaid unless the Secretary determines that prepayment would adversely affect FFB's operations.

Mr. MURKOWSKI. For some years the administration has urged that larger urbanized REA cooperatives find private sources of capital to finance their utility systems operations. If these types of utilities seek to prepay their FFB loans under the amendment, will the Secretary consider this administration policy as well as the impact, if any, on the FFB?

Mr. HATFIELD. Yes, I am sure the Secretary of the Treasury will consider all relevant policy considerations which have an impact on the FFB and the Treasury.

RURAL ELECTRIFICATION ADMINISTRATION LOAN AMENDMENT

Mr. ZORINSKY. Mr. President, I am compelled to vote for this provision effecting the prepayment of outstanding loans to the Federal Financing Bank only because I am concerned by the threat of a Presidential veto of the entire supplemental appropriations bill.

My farmers in Nebraska have exercised great patience in wating to receive checks that are due them from USDA.

Although this provision would give the Secretary of Treasury the power to veto individual loan arrangements, I understand that prepayment will remain an option for rural electric and telephone systems, and that appropriate regulations will be drafted accordingly.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move that the Senate concur in the House amendment to Senate Amendment No. 23, which is the REA amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the motion.

The motion was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that on the table.

The motion to lay on the table was agreed to.

EXCEPTED AMENDMENT NO. 91

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate the next committee amendment.

The PRESIDING OFFICER. The clerk will report the next amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 91 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken by said amendment, and insert:

DEPARTMENT OF DEFENSE ADMINISTRATIVE PROVISION

Of the funds previously appropriated or made available for research, development, test and evaluation for the Department of Defense for fiscal year 1986 pursuant to Public Law 99-190, $55,600,000 shall be available only for grants or contributions to educational institutions for research activities, construction of research related facilities and for other related purposes as provided in House Report 99-450 accompanying House Joint Resolution 465, Public Law 99-190, and the Secretary of Defense shall provide these grants or contributions expeditiously: *Provided*, That such grants or contributions are a one time obligation and expenditure and shall not interfere with or change the existing system of other competitive research grants or contracts.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, this amendment is going to require a rollcall vote. It is on almost precisely,

with one slight exception, the same subject that the Senate voted on June 5. On June 5, when this bill was before the Senate, an amendment was offered to strike the provisions of the bill which earmarked funds for research spending for the Department of Defense.

The committee bill did earmark funds for nine specified universities for specific research projects.

In addition to that, the House of Representatives had earmarked two different research projects for specific universities for research.

An amendment was offered on the floor on June 5 to delete the earmarking. We went to a rollcall vote and we voted by 58 to 40 to strike the earmarking for both the two House projects and the nine Senate projects.

Therefore, the Senate bill had no earmarking for university research. The House bill had earmarking for two projects.

The conferees met and restored to the bill, through this amendment in disagreement which we will be voting on, both of the House projects and seven Senate projects for a grand total of nine.

In other words, the Senate's position was, "Do not earmark for university research." The House position was, "Earmark two projects." The conferees came back and said, "We will earmark nine projects for specific spending for university research."

That is the specific issue that is before us now.

□ 1520

Is the Senate going to stick by its guns? Is the Senate going to stick by the principle which we established on the night of June 5? Is the Senate going to continue to stand by the basic premise that research money should be spent according to merit, not according to politics?

That issue was debated over a period of about an hour-and-a-half, as I recall, on June 5. Good speeches were made on both sides. The Senate thought about the subject, and the Senate voted. The position that we took on that night was that research money spent by the Department of Defense should be spent according to merit, that scientists, whether they are in-house scientists in the Department of Defense or whether they are scientists who are utilized on a peer review basis, professionals should make the decision as to where the wisest spending of our research dollars occurs. That was the position of the Senate.

Now the conferees come back to us with all of those projects put back that we struck earmarking for, and with the two House projects put back.

The question of principle, of course, is whether merit should govern determination of research spending or whether, instead, pork-barrel approaches should govern. It is notable, I believe, that of the nine items, the nine particular research projects that are specified, three of the universities never even had submitted proposals to the Department of Defense at the time that the Committee on Appropriations put the earmarking in for these proposals. No proposals were even submitted by the universities. Without even an application being made, the Committee on Appropriations selected three of the universities.

The Department of Defense went out into the field, looked at the universities that had applied, looked at the universities that had been designated by the Appropriations Committee, and the Department of Defense found that four of these earmarked universities did not have the research capability to do the job that we were going to hire them to do in this appropriations bill.

So three universities had not even sent in applications and four of them were found incompetent to do the job by the Department of Defense. Yet the conference committee comes back with an amendment in disagreement to earmark funds for these universities.

The position that is taken by the Committee on Appropriations, the position that money should be earmarked and not awarded by competition or by merit, is opposed by the White House and has been opposed by the White House; it is opposed by the Department of Defense; and it is opposed by, I believe, every professional organization that has anything to do with the field of education or the field of science in America.

The concept of earmarking and earmarking in this bill has been specifically opposed by the Association of American Universities, by the National Association of State Universities and land-grant colleges, by the American Council on Education, by the American Association for the Advancement of Science, the American Association of State Colleges and Universities, the American Physical Society, the National Academy of Sciences, the White House Science Adviser, the Department of Defense, and the Council of Scientific Society Presidents. Those are the opponents of this idea of earmarking.

Mr. President, let me turn briefly to the question of what earmarking does to our colleges and universities. We pride ourselves in this country on the quality of higher education. We pride ourselves that our colleges and universities are the cutting edge of America, this is the future of America. The capability not only of our colleges not only to train our young people but also to do very high-quality work in science and technology—this is the pride of America. If we adopt this amendment in disagreement, we are saying to our universities in this country that it does not matter whether they are qualified or not; it does not matter whether they have the capability to do research or not; it does not matter if they bother to file an application to do research with the Department of Defense or whatever department of the Federal Government. What matters is politics; what matters is pork-barrel politics; what matters is having the right friends on the right committees of the Congress of the United States.

There is a magazine which came out yesterday. It is Common Cause magazine. I suppose it is not the favorite magazine of a lot of people in the Senate, but that is neither here nor there. What is really striking about the magazine is the cover. This cover of Common Cause magazine shows three pigs, three pigs dressed up in academic garb, with morterboard hats and robes. The cover story is "Hog Heaven: How Pork Barrel Politics Pays Off for Universities."

Here is what universities are doing. I have heard this from educators. It is pretty well written up in this article.

Here is the state now of the relationship between our academic community and the Federal Government. There is a lobbyist in town named Mr. Cassidy. This Mr. Cassidy goes around to colleges and universities and says, "Pay me $2,000 a month for a minimum of 2 years and I will help you to get Government grants."

Mr. President, this is just plain wrong; it is just plain wrong for colleges to be bellying up to the trough of the Federal Government. If they want research grants to do research for our Government, it should be on the basis of their competence and their ability, not on hiring a lobbyist and getting into the pork barrel.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. Of course.

Mr. JOHNSTON. Was that the same issue of Common Cause magazine that spoke about the qualifications of Mr. Manion to be judge?

Mr. DANFORTH. I have not read it that far.

Mr. President, that is what this has done to our colleges and universities. It has transformed them into organizations that apply to lobbyists, pay lobbyists, lobby the Congress, just like anything else. I think that is wrong and I think that is what we are encouraging by this amendment in disagreement.

I think it is further true that from the standpoint on national defense—and that is that is what we are dealing with here, the national defense of this country—the strong point of the United States is not brawn, the strong of the United States is not how many

people we have in arms or how many tanks or how much artillery we have.

□ 1530

The Soviet Union has much greater ones than we have. The strong point of the United States is the quality of what we have, the ability of our research people to maintain the absolute forefront of development with respect to science and technology. That is our strong point, and that is why money that is spent for national defense and for research in national defense should be spent wisely and not just dished out on a political basis.

If any one of us in the Senate had a child who was very, very sick, to what doctor would we go to treat the child? Clearly, we would pick out the most qualified doctor available because we want the best competence to save the life of our child.

If somebody were to come to us and say, "Please, instead of hiring or retaining the most competent physician, retain somebody who is friendly or retain somebody who needs the job," we would not do that for our own family.

But what is at stake in national defense spending is the country. It is our children, and we cannot just dish out research money on the basis of what Members are on the Appropriations Committee. It has to be done, in my opinion, on the basis of competence.

And finally—just one further point—we are going to have a continuing battle in the Congress on national defense spending. In the age of huge budget deficits and Gramm-Rudman-Hollings, we are going to be fighting this battle of how much we can spend for national defense for the foreseeable future. I have always supported a reasonable level of defense spending, at least I have thought it was reasonable. But always we are asked, "Isn't there fat in the defense budget? Isn't there waste in the defense budget?" And we always have to argue, "Oh, this money is being spent wisely and we in the Congress are doing our best to make sure that it is spent wisely and efficiently and well." And we are always being asked, "Well, how about the $600 toilet seats, or the $700 hammers?" or the latest indignity that we have read about. And we have said, "Oh, we didn't know about that but we found out about it and we stopped it."

Well, Mr. President, this is fat. This is waste. It is absolutely wasteful to take research money appropriated for the Department of Defense and give it to four universities that the Defense Department has found are not competent to spend the money. It is absolutely wasteful to take money that is appropriated for our national defense and give it to three universities that never even applied for it when the money was put in the budget. That is waste. It is likened to the $600 toilet seats. It is scandalous and it is wasteful, and I do not know how, with a straight face, we can say that we have squeezed the fat out of the defense budget when we are throwing money at universities because they have hired lobbyists to get the money.

Mr. President, parliamentary inquiry. As I understand it, as yet, a motion has not been made to approve the amendment in disagreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. In that case I yield the floor.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise in support of the distinguished Senator from Missouri [Mr. DANFORTH]. I think he has made one of the best speeches I have heard in a long, long time on the floor.

On June 5, just 3 short weeks ago, the Senate passed, by an overwhelming 58 to 40 bipartisan majority, a majority of Republicans and majority of Democrats, an amendment of which Senator DANFORTH was the principal sponsor, which struck from this bill all earmarkings for defense research and development programs. This body, the U.S. Senate, said no to $80.6 million in earmarkings to 10 specific universities. None of these universities, Mr. President, not one, competed for these defense dollars. None, not one, won the award through the competitive process. None of these projects were authorized by the Armed Services Committee. None were requested by the Department of Defense. And in fact each one was opposed by the Department of Defense. That 58-to-40 vote on the Danforth amendment said no to pork-barrel science. It said no to the substitution of political power over open competition. It was a correct vote then. It is a correct vote now. Nothing has changed.

Mr. President, nothing has changed except that the conferees at the request of the House have overridden the Senate vote and placed $55.6 million of that $80 million of earmarking for nine universities back in the conference report. Now, I was on the conference and when I asked the House conferees what happened in the conference on this matter they responded, and I quote: "We had to give people what they wanted." So the earmarkings were restored. Nine universities will receive funding without going through competition, without being approved by the Department of Defense, and every other university in the rest of our States that would like to compete will lose out. Seven States win, forty-three States lose out, and the Nation loses out because the most competent researchers with the best capability will not have a chance to bid on these contracts.

Mr. President, this is just plain outrageous. Why the favoritism to these seven States? What makes them more equal than the other States? What gives them the right to stand at the front of the line and push all the others aside? Well, there is only one answer. They had patrons in the conference, patrons who look out for them, patrons who seek to insure that their universities get funding without going through competition where they may or may not survive.

Now, Mr. President, there is a hint in the conference university research amendment that having sinned once, having sinned once, the conference will not sin in the future. That is the rationale behind the curious wording of the proviso clause in the amendment, which states, and I quote now: "Provided that such grants or contributions are a one-time obligation and expenditure and shall not interfere with or change the existing system of competitive research grants or contracts."

Now, some people interpret that as meaning "we will never do it again. We did it this time, it was wrong, but we will not do it again." Well, taken literally, this language is a total contradiction of the amendment itself. The amendment provides funding for nine universities by going outside of, that is, by interfering with the existing system of competitive research grants or contracts. The implication is that this procedure shall not be followed again. Do you believe it? Do you believe it? Is it binding? Well, I have serious reservations as to whether or not it is binding. It does not appear to be binding in any legal way. It may be nothing more than a technique to insure violation of the competitive process one more time.

So, Mr. President, I support the Senator from Missouri in his effort to once again stop these earmarkings before the entire system of competition for defense dollars turns into a political test of wills and influence peddling.

That Danforth amendment has been strongly endorsed by the Defense Department on the basis of a vital principle. That principle was that the Defense Department should be allowed by Congress to allocate its research funds on the basis of professionally administered competition. The Defense Department contended that it could not secure research of the highest quality and the most reasonable cost unless they were allowed to rely on professionally administered competition.

Mr. President, on this issue, the Defense Department was absolutely right. Our military procurement is wasteful and scandalous enough with-

out the kind of gross intervention by individual Members of the Congress contained in the initial appropriation bill when it came to the floor, and still contained, unfortunately, in the conference report.

What did the Appropriations Committee bill do before it was corrected by Senator DANFORTH'S amendment? It took 10 projects in 8 States out of the competitive process and, in effect, it ordered that research funds should go to these projects in those States regardless of merit, regardless of price, regardless of the judgment of professional experts selected to supervise the competition between our economic institutions.

□ 1540

What did the Senate and House conferees agree to do? They, in effect, thumbed their noses as the Senate. They directed that 9 out of 10 noncompeting projects the Senate had removed from the bill by the Danforth amendment would go right back in the bill.

Let me spend a minute on the project they excluded.

One project, the $25 million research allocation to Arizona State University, was not included. To his everlasting credit, that Arizona project was explicitly opposed by the senior Senator from Arizona, Senator BARRY GOLDWATER. Here was an extraordinary situation, a Senator rising to oppose these 10 specially packaged gifts to 8 States, although his own State received the biggest single allocation of all—$25 million. That fact alone was a major reason, Mr. President, why such a decisive majority of the Senate voted for the Danforth amendment and to delete all of this special, noncompetitive earmarking.

Why did Senator GOLDWATER vote against this earmarking of defense research funds that so heavily favored his own Arizona? Senator GOLDWATER is chairman of the Senate Armed Services Committee. He is the prime majority expert in this body on national security. Senator GOLDWATER recognized what a serious threat this earmarking of defense funds for noncompetitive allocations is for the quality of defense research. He was supported in this position by Senator SAM NUNN, the ranking Democrat on the Armed Services Committee, this body's most minority expert on national defense, along with the distinguished Senator from Mississippi [Mr. STENNIS].

Senator NUNN spoke to me just a little while ago and said he felt it was a terrible thing that the conference had done in overriding the will of the Senate, so clearly and emphatically expressed on this matter.

The Defense Department itself takes the same position. Mind you, the Defense Department is not saying let us decide what institutions will get research funds. The Defense Department is saying let the allocation of defense research funds be decided by professionally supervised competition.

Mr. President, many of us in this body have criticized the waste and mismanagement in the Defense Department. The American people widely share the view that our Federal Government wastes billions on defense, in part because there is not enough competition in procuring the research as well as the weapons systems necessary to defend our national security interests. Throughout this country, we frequently hear the charge that the Government spends defense money to gratify some local economic or political interest. Do we waste money this way? Indeed, we do. Here is a prime example. There is nowhere that this criticism is more richly justified than in the deliberate, calculated, by-passing of competition represented by the action of conferees in flatly rejecting the emphatic decision of the Senate to eliminate all of the earmarked, noncompetitive research grants by adopting the Danforth amendment.

For these reasons, Mr. President, this Senator urges his colleagues to stay with the principle established by the Danforth amendment and to vote "no" on the pending amendment 91 to the conference report.

Mr. DECONCINI. Mr. President, I oppose the argument just put forth by my distinguished colleagues from Missouri and Wisconsin. They seem to approach this in a way that there is something wrong for one of us to come on this floor and try to represent a State university—or a private university, for that matter—that does not have the peer review process to even go to.

These particular projects we are talking about here are facilities. These are not proposals for some kind of research. They are the facilities to do the studying and the research.

I am disappointed that, once again, we have to stand here and defend a step that Members of the Senate have taken to help groups who are very worthy universities, who are seeking to expand the contribution they are trying to make to the scientific advancement of our country.

I say to my colleagues and the sponsors of this amendment that there is no money in amendment 91 for Arizona State University project at this time. That was taken out, and I am very sorry, and I will be glad to debate the Senator from Wisconsin on the reason why my senior colleague voted against this. There is far more to it than meets the eye. He is not here to engage in the debate today, so I see nothing gained by doing that. I have no vested interest in the universities that are covered by this provision in the conference report.

The real issue here has become bogged down in convoluted rhetoric about peer review and congressional responsibility. What we should be talking about is the appropriateness of spending more money on education and the facilities needs of institutions of higher education. We are all aware of the severe financial constraints under which we are operating. We all share a concern about balancing the budget. But we cannot lose sight of the necessity for spending funds essential to meet our future national needs. Developing university research facilities is fundamental to assuring our continued economic vitality and national security. It is our responsibility as Senators to support through appropriations, when necessary, efforts directed toward those goals. There is nothing sinister or wrong about this, in this Senator's judgment.

We should not have to be defending and debating the appropriateness of funds for university facilities or for education or for cancer research or for health care. We should recognize that we are making an investment in America's future through the education of its youth at universities with modern facilities. That is what is at stake today, as it was 2 weeks ago.

Some of my colleagues have implied that these university projects will take money away from other institutions, money that should have been awarded through peer review. That is not the case. First of all, there is no peer review system for funding university facilities. Second, if this money had not been appropriated for these universities, it would not have been appropriated at all.

Are we going to be so foolish as not to invest in our universities in order to have the facilities to do the research, so that we can have these weapons systems and the modern technology and scientific needs that this country has moved on for years?

This is not a matter of Senators injecting themselves into a peer review process. These funds are not for research projects but, rather, for research facilities and equipment. This is a matter of Senators injecting themselves—and properly so—into providing better facilities for more of our students at more universities throughout the country. I see absolutely nothing wrong with that. In my judgment, that is why we are sent here. This money should be spent in some universities. I am sorry it is not going to be spent in one in Arizona. But I am very supportive that it is going to be invested in some of the quality universities that are mentioned here and have been mentioned in past bills.

Some of my colleagues are talking about peer review and competition and money for research. They say we are acting out of turn, that we do not have

the expertise to make decisions about research funding. We are not making decisions about research funding, and I underscore that. We are making decisions about research facilities. And we have the expertise to do so. We know the sorry state of the infrastructure of U.S. universities. Facilities needs have been variously estimated at in the range of $20 to $50 billion. What we are considering today will mark just a small step in meeting some of those needs for some of our universities who deserve this funding.

□ 1550

For those who are calling for more competition, let me just say that providing new facilities and equipment for these universities will increase the competition for peer reviewed research dollars later, and perhaps it is this increased competition that some of my colleagues find troublesome, because if we have more universities that have the facilities so that they can compete in the peer review, because now it goes to a very limited number of schools, about 16 to 20, there is not much competition, so these universities that are named here are the ones, and Arizona will have really no chance or opportunity to ever get into that peer review. Here we are not talking about a peer review. We are talking about the facilities that the research will be accomplished in.

I am all for competition. Let us help these universities enter that competition. Without new facilities and equipment, they will never be truly competitive and the bulk of Federal research dollars will remain in the hands of a few universities in this country, those prestigious schools with reputations, and I take nothing from them—they are great schools—but it seems to me that some of our other schools are just as great, if they had the right to compete, which they do not have because they do not have the facilities. Those of us who share my point of view on this issue are the ones seeking to increase the competition, not restrict it.

And I ask my colleagues who oppose this funding, where do you expect these universities to go for the funds? They go but to their elected representatives.

I do not believe we should be penalized for doing our constitutional right or they should be penalized. I do not believe we should punish them for seeking and coming to their representatives and asking for some assistance so that they can partake in the moneys for facilities only, so then they can come to the peer review process.

As U.S. Senators we have the authority and the responsibility to act and represent what we believe is good and we can make an expert judgment as to facilities. I submit, in this case, universities are our constituents.

They have made a legitimate request to Congress, and I believe we should exercise our prerogative and appropriate these funds for these universities.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I am not going to take very much time on the merits of this issue. I think the Senator from Missouri and the Senator from Wisconsin have discussed it very well.

Let me just indicate, though, that I firmly believe that allocating our research funds on the basis that it is represented in this bill is a guarantee that we will proceed down the path of mediocrity in our national research enterprise.

For those of us who are interested in the long-term economic competitiveness of our Nation, I need to point out that our trading partners are not allocating our research funds on this kind of basis. The Japanese and Germans do not allocate research funds on the basis of which district happens to be represented on the Appropriations Committee in their particular legislative body.

We need to continue to use competitive merit-based procedures to allocate our limited research funds if we are not going to fall even further behind some of our international competitors in some of these key fields.

Mr. President, earlier this week the Senate took a very major step away from special interest legislating when we adopted the tax bill which was before us. As Senator LONG might say we stood up for the fellow behind the tree. The Senator from Louisiana is famous for his saying, "Don't tax you, don't tax me, tax the fellow behind the tree."

I would suggest that if that has been the rule here with regard to tax law for some years and perhaps we made a break with it this week—I would like to think so—but perhaps we have a different rule that is equally applicable or becoming applicable to the allocation of research funds which might be stated, "Don't forget you, don't forget me, don't forget those fellows behind the tree."

I think clearly we cannot afford to aliocate research funds on that kind of basis.

Mr. President, we need to allow the Department of Defense and its professional staff to allocate these resources to universities who put forth the best research proposals, and that is all that the Senator from Missouri is asking for here. These nine earmarked projects that have been referred to are not just new money that has been found. These projects are being funded from seven different defense research accounts. All of those accounts, I might point out here, are funded below the President's request in this year's budget, in the 1986 budget.

I have a table that I have prepared showing the cuts that we, Congress, have made in those seven accounts already that I ask unanimous consent to have printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

EARMARKED ACCOUNTS—FISCAL YEAR 1986 DEFENSE RESEARCH BUDGET

[In millions of dollars]

Account	President's request	Appropriations (following Gramm-Rudman)	Earmark
Army Defense Research Sciences	236.9	222.1	[1] 8.5
Army Military Disease Hazards Technology	29.0	26.0	[2] 2.0
Air Force Defense Research Sciences	206.3	194.5	[3] 6.5
Air Force, Very High Speed Integrated Circuits	193.8	191.1	[4] 13.5
DARPA, Defense Research Sciences	92.6	79.2	[5] 2.0
Defense Nuclear Agency	384.4	318.1	[6] 11.1
DARPA, Strategic Technology	254.4	216.7	[7] 12.0
Totals	1397.4	1247.7	55.6

[1] $5 million for Wichita State University for aviation research; $3.5 million for University of Nevada, Las Vegas, for computer research.
[2] $2 million for University of Kansas for neurotoxin research.
[3] $6.5 million for Iowa State University for unspecified research.
[4] $13.5 million for Northeastern University for engineering research.
[5] $1 million for Oregon Graduate Center for advanced semiconductor research; $1 million for Oklahoma State University for unspecified research.
[6] $11 million for Rochester Institute of Technology for microelectronics engineering and imaging sciences research.
[7] $12 million for Syracuse University for the CASE Center computer research project.

Mr. BINGAMAN. Overall, we have cut these seven research accounts by 11 percent for $150 million from what the Preseident asked for. If we force the Department of Defense to earmark another $55.6 billion of these funds we will be effectively making another 4-percent cut in these accounts. For some accounts, such as the Defense Nuclear Agency's account and DARPA's strategic technology account, the overall cut that would result would reach 20 percent or more.

I can assure you the Japanese are not making a 20-percent cut in their fifth-generation computer project and the Soviets are not making a 20-percent cut in their research on nuclear weapons effects in order to fund marginal projects in important legislator's districts. We should not be doing so either.

Mr. President, I urge my colleagues to reject this approach to the allocation of defense funds and to support Senator DANFORTH's stand in favor of a merit-based competition for these funds.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, first of all I would like to associate myself with the remarks made by my distinguished colleague from Arizona, Senator DECONCINI.

I think it is worthwhile noting, Mr. President, the fact of the matter is that there is no peer review system for

funding construction of science and technology facilities for our Nation's universities. It is a specious argument, absolutely specious. And yet, we keep hearing over and over and over that somehow we are interfering with this magnificent peer review system that works so well.

I would like to address some comments with respect to that system and I intend to ask for a GAO investigation because those that have been undertaken so far have not indicated that it has been run the way it should. It is the old buddy system and we will refer to that in my remarks.

Mr. President, the fact of the matter is, there is no peer review system for funding the construction of science and technology facilities for our Nation's universities.

A report from the Congressional Research Service—I will give Senators a copy of that—from Mr. Bosman of the Office of Science and Technology states:

> • • • I have made inquiries at the National Science Foundation [NSF], the Association of American Universities [AAU], and the General Accounting Office [GAO] concerning the application of the Federal peer review system to the construction of federally funded R&D facilities. These inquiries have brought to light no comprehensive surveys of explicit statutory mandates or regulatory requirements for the application of Federal peer review procedures to R&D facility construction, although peer review of Federal research projects is widespread.

Thus Mr. President, this argument that has suddenly come to the floor about peer review as it relates to construction of science and technological facilities is specious. That is the point that a number of us have been attempting to make. It may very well in the future provide some legitimate competition for relatively few universities that seem to share in a disproportionate amount of the research grants that are presently put out and spent out. It may even shake up the old boy network on peer review, that means the taxpayers, that appropriate the dollars we authorize appropriate and send to the university systems, and they will decide who under their councils of peer review will get the dollars. I would suggest that maybe we should look rather closely at that.

Thus, the peer review system is in place for research, instrumentation, and programs of that nature. But little, if any peer review is available for the assessment of proposals for the construction or renovation of facilities. Therefore, the argument that Congress is affecting the peer review system is misleading. All to often, the charges of the critics and the statements of the defenders do not appear to refer to the same topics (Science, Technology & Human Values, vol. 10, issue 3, summer 1985, Funding Science: The Real Defects of Peer Review and an Alternative to it, by Rustum Roy).

□ 1600

The fact of the matter is, the Department of Education for the first time since 1974 plans to conduct a program for funding facilities this year. The National Science Foundation has no line item program for facilities construction. NSF only has a recently developed policy statement. Therefore, there are no line item programs to funds university facility needs. Hence, there is no "peer preview" system to assess or fund facility needs.

In addition, many fail to recognize that in the recent 1986 report to the White House Science Council—panel on the Health of U.S. Colleges and Universities to the Office of Science and Technology Policy—that at a minimum $10 billion, $5 billion Federal and $5 billion non-Federal sources is needed to address the magnitude of the university infrastructure shortfall over the next 10 years.

Only a few agenices have ever allocated funds for facilities. For example, in 1984 the U.S. Government spent just under $50 million in support of science and engineering research and development [R&D] plants: This total includes construction, as well as renovation and repairs for existing facilities.

The Academic Facilities Program of the Department of Education has not had funds for the construction, reconstruction and renovation of academic facilities since 1974. For 1986, $38 million will be awarded under this program. The dates for the announcement have not been determined but already more than 700 inquiries have come into the Department of Education for funding. This $38 million represents less than 1 percent (.76 percent of $5 billion) of the $5 billion Federal share needed by our universities. No peer review; just beginning to come into a process of allocating some funds.

The National Science Foundation [NSF] does not have a program in place to systematically fund university facility construction and renovation. However, NSF has recently developed a policy to examine proposals that come in for facility construction assistance. This is not a clear signal of available funds for our universities. It is an indication that their needs will be considered. In the past, for example, NSF has funded construction for particular facilities in conjunction with the engineering programs, chemistry program, et cetera. For example, the engineering center's competition included funds for construction along with proposals that focused mostly on engineering research.

The few million that we are discussing is a small step toward meeting the $10 billion needed to address the infrastructure needs—both facilities and equipment—of our Nation's universities. We cannot afford to wait until the recommendations of the Packard Commission are acted upon to provide funding for university facilities. We must act now to help address a compelling national need.

Indeed, Congress has always played a major role in deciding which universities will receive funds for research facilities. During World War II and through the 1950's and 1960, Congress made a major commitment to building university facilities and national laboratories, which were most often also affiliated with universities. In making these decisions, Congress recognized that university research facilities were essential to the economic health of the country and vital to our national defense. "Peer review" did not come into play at that time, nor has peer review generally been applied to decisions concerning facilities. The Department of Defense does not have any tradition of using outside peer review panels to make decisions concerning the funding of research programs or facilities. Thus, we have been accused of violating a system that does not exist for the construction and renovation of science and engineering facilities.

The critics of these direct approaches to Congress have rallied around the concept of "peer review." However, the General Accounting Office [GAO] has several reports suggesting that without proper controls specialists who are appointed for proposal evaluation are involved in conflict of interest. In fact, GAO report number HRD 78-121 (November 17, 1978) shows: "Accountability in the evaluation process continues to be a problem. All proposal files should show why the experts were selected and how their comments were handled, so that Foundation officials who review the staff's recommended decisions on proposals can be sure that equitable evaluations are made." Furthermore, GAO report number PAD 81-16 (January 15, 1981) mentions that some reviewers have made decisions on grant proposals that create an appearance of impropriety under applicable Federal guidelines, policies and regulations.

The findings reported in the National Science Foundation's January 1986 publication is worthy of note. Federal support to universities, colleges, and selected nonprofit institutions for fiscal year 1984 shows that the top 10 universities received 27 percent of NSF funds. This represents about $277 million of $1 billion. The top 20 universities received 42 percent, or about $422 million of NSF's $1 billion. If you consider the total of $8.4 billion in both R&D and FFRDC funds nationwide for 1984, the top 20 universities re-

ceived more than $4.7 billion or more than 55 percent of these funds.

Similar findings have been summized by members in the academic community. For example, the president of Boston University, John Silber before the Congressional Science Policy Task Force (June 26, 1985) stated: "In practice, however, the system of peer review now in operation in this country is seriously flawed. Approximately 20 institutions, clustered in only three geographic regions receive nearly half of all Federal support." Daniel S. Greenberg in the October 1985 issue of Discover, entitled Science and Politics stated, "* * * Is U.S. science really injured by these end runs? Not a bit. Congressional wile and muscle have always played a major role in the economic and cultural development of this country."

Therefore, while peer review is clearly an appropriate mechanism for the evaluation of proposals for individual research projects, it is not the only appropriate or necessary mechanism for decisions on the location of federally supported or congressionally mandated research facilities. In its more extreme forms, the argument on behalf of the existing system of peer review incorporates several erroneous assumptions and neglects issues that are critical to the economic health and well-being of the United States and the research community itself.

The basic research conducted at universities provides the foundation for the later commercial development and application of new products and technologies critical to maintaining our ability to compete in the international marketplace and to be assured of a strong national defense. Therefore, it is equally important that the Congress makes certain that we have facilities to house this important research.

Mr. President, the location of university research facilities has enormous economic consequences both for the Nation at large and for the community in which they are situated, in particular. New facilities create new jobs and attract new industries. Decisions on where facilities should be built and what purpose they should serve have ramifications that go well beyond the realm of scientific responsibility or insight. Congress must make these decisions for it has the wisdom and the responsibility to do so.

Mr. President, I believe that the cry of those who oppose these funding projects on the altar of peer review is simply crying wolf when there exists no danger, where there is no intrusion to the academic life of science and research, but rather a legitimate expression of Members of Congress to aid and assist those universities who, for the most part, otherwise would be without.

UNIVERSITIES FACILITIES FUNDING

Mr. HEFLIN. Mr. President, I rise in support of the conference committee report to the supplemental appropriations bill. I was particularly pleased to note that my colleagues on the committee saw fit to put back in the bill funds for a number of university projects. This action rectifies the previous decision by the Senate to strike funding for these worthy institutions. I am glad that the midnight madness the Senate engaged in a few weeks ago in striking this provision of the bill can be redressed.

I would just like to make a few brief points to refute the allegations that have been made inaccurately against these universities and those of us in Congress that are supporting their cause.

First of all, to label congressional backing for university research facilities and equipment as "pork barrel politics" is needlessly inflammatory and altogether unjust.

Second, any attempt to classify these universities as saboteurs of some hallowed peer review system is inaccurate. These universities are merely exercising their constitutional rights to petition Congress on their own behalf. Congress should listen to their arguments, weigh the merits of the case, and make a decision. Congress should not be guided by unsubstantiated allegations that support for facilities at these universities might—just might—somehow, in some unspecified way, reduce the quality of scientific research in this country. I don't believe that. In fact, all the evidence points to the contrary conclusion: Funding for these facilities will contribute and add to both the quality and quantity of scientific research in this country, just as the Federal investments in our national laboratories and other universities have done in the past.

Mr. President, there is certainly a need for geographical equity in the distribution of university research funds. By exercising its legislative prerogative to earmark funds for special programs, Congress can help to redress the institutional and geographical imbalance which currently exists in the distribution of Federal research support to universities.

In 1984, 20 universities located primarily in the Northeast, and in California received 56 percent of all Federal research support. Universities in the South, the Southeast, the Southwest, the Plains States, and the Rocky Mountain States received only modest amounts of Federal research support.

It is not fair to funnel a disproportionate amount of our research dollars to only a handful of institutions located primarily on the east or west coast. The scientific talent of the country should not be confined to one or two geographical locations simply because the universities in these areas have the most modern facilities.

It is in the national interest to broaden the base of scientific research development and education in this country beyond the 20 schools which year after year receive the majority of Federal research dollars.

Third, opponents of university facility funding completely overlook the fact that considerations other than existing scientific capability must legitimately be taken into account when deciding whether or not to fund a university facility. Foremost among other considerations is whether or not a university facility will contribute to the economic development of the area in which it is located and to the Nation generally. The construction of a new facility will create jobs. Better facilities and improved equipment will attract top-flight talent to a university. Industries with interests related to the research agenda of the university will be attracted to that location in order to be near a source of supply of well qualified personnel and to be close to facilities where research on the cutting edge of new technologies is being conducted. Because of the important economic implications involved in funding these university projects, I believe it is altogether fitting that Congress reserve for itself the right to make some of these decisions.

University research facilities often serve as an anchor for industrial parks in which academia and industry work in partnership to apply research findings to the commercial development of new products and technologies vital to our national economic growth. University research facilities can and will stimulate the economic development of a community by attracting new industries in the areas of the university's research inquiries. The proximity of a university to industry will allow for the exchange of ideas, information, personnel, and technologies which will enhance the research quality and facilitate the increased commercial application of research findings.

Mr. President, I urge my colleagues to join me in voting in favor of the conference committee report.

Mr. DOLE. Mr. President, the issue in question here is whether or not nine universities which received $55.6 million for research funding under the DOD appropriations bill last year should actually receive the funds as Congress had directed. This is not a new issue. Congress has already appropriated these funds in this way once. We are merely trying to make certain that the intent of the Congress is carried out, and that Congress has some say as to where at least some of the research money in the DOD budget should go. These funds would be provided in addition to what the Penta-

gon had requested for research funds which would be subject to an internal peer review process.

After the passage of the continuing resolution for fiscal year 1986, the Department of Defense notified Congress that it was unable to obligate the funds appropriated for the university research facilities for construction purposes. This amendment to the conference committee report provides the authorization necessary to carry out the intent of the Congress as expressed in the continuing resolution.

FUNDING FOR FACILITIES, NOT RESEARCH

Mr. President, there is one issue that should be clarified at the outset—the funds under consideration in amendment No. 91 are for university facilities and equipment. They are not funds for research programs and activities. Therefore, it is debatable as to whether these funds should be subject to a so-called peer review process at all. True research money is not the issue here. This amendment to the conference report provides new funds to the Department of Defense specifically for the construction of facilities and the purchase of equipment. It does not take away previously appropriated funds which were to be awarded to universities through a competitive process.

NOT DISPROPORTIONATE SHARE

The $55.6 million contained in the amendment to the supplemental conference report represents just 4 percent of DOD spending on university research in fiscal year 1986—it hardly represents a "disproportionate share" of DOD funds for university research.

If the $55.6 million under consideration today were to be given directly to the Department of Defense for university research, it is likely, given past performance, that the funds would end up in the hands of those universities that are already receiving substantial support from the Federal Government for their research activities.

Again, I want to emphasize that the funds in question were added to the DOD budget for university research; the funds were not taken away from other university research programs at DOD.

PREVIOUS FEDERAL FUNDING PATTERNS

Mr. President, if you look at DOD funding patterns for university research in fiscal year 1984, you will find that just two institutions—MIT and Johns Hopkins—received $640 million or 49 percent of all university research funds awarded by the Department of Defense. Further, DOD awarded $862 million or 66 percent of its university research funds to just 10 institutions, while 76 percent of the funds went to only 20 institutions.

The Department of Defense does not have any tradition of using outside peer review panels to make decisions concerning the funding of research programs or facilities. Congress has been accused of circumventing a system that does not exist. Further, there is no existing Government program specifically designed to fund university research facilities. Only a few agencies ever allocate funds for such facilities, and they do so on an ad hoc basis. Such projects comprise only a small part of their budgets.

Nearly half of Federal research funds—48%—went to just 15 universities, 7 of which were located in California and 8 of which were located in the Northeast. I ask that a list of the top 20 recipients of Federal research funds in fiscal year 1984, showing the amount of funding each received, be included in the RECORD at this point, along with the list of the top 20 recipients of National Science Foundation funds in fiscal year 1984.

COMPETITION SHOULD BE FAIR

Without state-of-the-art facilities, universities cannot effectively compete for research funds. At the present time, just 20 universities receive $4.7 billion of the $8.5 billion the Government spends for research development—56 percent of the total.

The major part of these Federal research funds goes to a handful of institutions located primarily on the east or west coasts. Universities located in the Midwest, the Rocky Mountain States, the Southwest, and the South are virtually locked out of the competition for significant Federal support of their research activities. In fiscal year 1984, for example, 56 percent of all Federal funds for university research went to just 20 institutions, 7 of which were located in California.

In order to compete effectively for Federal research funds, universities must have state-of-the-art facilities. Until they possess such facilities, institutions will continue to be at a serious disadvantage in the competition for research funding and will be denied the opportunity of developing to their fullest potential.

Once these universities have modern research facilities, they will be competing for research funds under peer review and other existing systems for allocating research funds.

Facilities are instrumental in attracting faculty, industry, and private support to a university. With a state-of-the-art facility, a university will be able to attract the outstanding faculty necessary to conduct high quality research. In today's mobile society, scientists and professors are willing to relocate to those institutions that offer them the most up-to-date setting in which to work. The scientific talent in this country should not be confined to one or two geographic areas simply because the universities in these places may have the most modern facilities. Other universities deserve a chance to compete on equitable terms.

OPPOSITION FROM UNIVERSITY COMMUNITY

Mr. President, only a small segment of the academic and scientific community opposes the earmarking of funds. Just this morning I received a telephone call from Dr. Jean Meyer, the president of Tufts University. He firmly believes that Congress has every right to direct where the research money that it appropriates goes. Further, he described the peer review process as an "old boys network" that feels threatened every time something new happens. He does not think there should be only one system supporting research. Of the peer review process, he stated: "It is a self-interested, confused approach to use only one mode of funding research."

Further, in a letter to my distinguished colleague from Illinois, Mr. SIMON, the president of Northwestern University in Chicago says:

> Senator DANFORTH's argument that academic facility grants should not be approved without peer review, is somewhat disingenuous in light of the fact that there has not been any significant amount of peer-reviewed funding for academic facilities during the past fifteen years . . . moreover, peer review is not the only appropriate or necessary mechanism for decisions on the location of federally funded academic research.

In the June 15, 1986, issue of the Science and Government Report, those opposed to earmarking have been described as "well-heeled institutions who can mobilize to keep their privileged place in the distribution of Federal research funds."

KANSAS PROJECTS

Mr. President, as my colleagues know, this supplemental contains $5 million for Wichita State University in Wichita, KS, to construct an aviation research center. This Senator would not have supported that program if it did not have significant merit and was not strongly supported by the community itself, as well as surrounding industries. Wichita happens to be the heart of the aircraft industry, and the Boeing, Cessna, and Beech companies have pledged to match the Federal funds dollar-for-dollar. This is what I consider to be an outstanding example of public-private sector cooperation.

The basic research conducted at universities provides the foundation for the later commercial development and application of new products and technologies critical to maintaining America's ability to compete in the international marketplace. This type of effort is also critical in establishing and maintaining a strong national defense.

The location of university research facilities has enormous economic consequences for the Nation at large and for the communities and regions in which they are situated in particular. New facilities create new jobs and attract new industries. Decisions on where such facilities should be built

and what their purpose should be have implications that surpass the realm of scientific responsibility or wisdom. Congress, not the academic community, often has a better sense of priorities in making these decisions.

University research facilities will stimulate the economic development of a community by attracting new industries interested in the university's research endeavors. The proximity of a university to certain industries will allow for the exchange of ideas, information, personnel, and technologies which will enhance the quality of the research and facilitate the rapid commercial application of research findings.

At this point, I might also mention that $2 million are designated to go to the University of Kansas Medical Center in Kansas City, KS, to carry out research activities related to toxic substances. I believe both of these projects have great merit, and should not be viewed in the negative light that some have attempted to shine on this issue.

CONCLUDING REMARKS

Mr. President, the nine universities that were designated to receive funds appropriated in the continuing resolution last year have relied on receipt of these funds. They have engaged in their own fundraising activities through the private sector, and if these funds are withdrawn at this point, it will leave them in a most awkward financial position. Such a situation is unfair and unjust. Congress in this instance is simply upholding action that it has already taken in last year's appropriations process. The conference committee has decided to restore specific funding for nine university research projects. I suggest that we should support the action of the conference committee. I urge my colleagues to vote against the motion of the Senator from Missouri.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. EVANS). The Senator from Oregon.

Mr. HATFIELD. Mr. President, I move that the Senate concur in the House amendment to Senate amendment No. 91 and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I am going to move that we go back into executive session—but I want the distinguished minority leader to be alerted—and consider the motion to reconsider the Manion nomination. Then I will move to table the motion to reconsider and, hopefully, we can dispose of that matter and then not further interrupt the distinguished chairman of the Appropriations Committee with reference to the supplemental.

I indicated to the minority leader's staff earlier that this would be my procedure so there would not be any surprise. I will wait for the distinguished minority leader to come to the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise in support of the funding for university projects that is contained in the supplemental appropriations bill being debated today.

Let me begin by stating that I support the concept of merit-based peer review—when it is applicable. The peer review process has been established by several Government agencies to ensure that research funds awarded to academic, scientific, and medical institutions maintain our Nation's position as the leader in scientific and technological development. However, the current debate focuses on an entirely different issue. The issue before the Senate is whether new funds should be specifically appropriated for the construction of research facilities and the purchase of research equipment to academic institutions of established reputation who seek to become competitors for research money in a field dominated by a select group of universities that seek to maintain their privileged position. This is an important distinction.

□ 1610

First, let me address a misconception. Currently, there is no merit review process in place, whether at the Department of Defense or elsewhere, for reviewing the allocation of Federal funds for university construction projects. The peer review process is used in awarding funds for research in already existing facilities, but is not the basis upon which the Government distributes money for the construction of research facilities and equipment.

In fact, only a few agencies allocate funds for facilities and such projects constitute a small portion of their budgets. These scarce resources fail to meet an increasing problem of obsolete equipment and aging facilities that threatens the quality of academic research. Recently, the White House Science Council estimated the infrastructure needs of our Nation's universities to be approximately $10 billion.

In fiscal year 1984, the U.S. Government spent less than $50 million for the repair and construction of science and engineering research and development facilities.

Second, the overwhelming beneficiaries of merit-review in the awards of current research funds are a small group of select institutions that have benefited over the past several decades from the millions of dollars in Federal support, awarded on a non-merit review basis, for the construction of modern, sophisticated research facilities. In 1984, 56 percent of all Federal research funds went to only 20 universities. The construction of the research facilities at these select universities was not based on competitive merit-based review. But that support has been critical to their success in competing for Federal research funds that are subject to merit review.

Now, these same universities want to deny Federal support to other schools that are attempting to build their own research facilities in order to compete more effectively for scarce Federal research dollars. The great bulk of present Federal research funds flows to universities that benefited from past building programs, and it is unfair to deny other universities the opportunity to acquire the facilities essential to compete effectively for scarce research funds.

Obviously, these top educational institutions are performing quality research. But I am concerned that denying opportunities to other institutions will only serve to worsen the existing system and perpetuate the current double standard.

I particularly object to the "pull up the ladder" mentality by which existing elite institutions are seeking to keep other good institutions down.

The funds proposed to be awarded to nine educational institutions in this legislation is Federal money well-spent. Funding for university research facilities will serve a dual benefit.

It will increase the quality and quantity of research conducted in the United States by expanding the research base to include more universities. University research facilities will also stimulate the economic development of their communities by attracting new industries interested in the university's research endeavors. Northeastern University—one of the proposed beneficiaries of these funds—is an excellent example.

Northeastern intends to utilize these funds for the construction of a high technology resource center that is the focal point of an impressive community redevelopment program for the Roxbury-Dudley area—a chronically depressed part of Boston.

This redevelopment project will have a beneficial impact on the economy of a poor community. It will have the short-term effect of creating construction jobs, and it will have the long-term effect of promoting further economic development.

Through its unique cooperative educational program, Northeastern University has proven its commitment to the community by providing an equal educational opportunity to all people—regardless of income or race.

By assisting institutions such as Northeastern University in their important educational work, the Federal Government will assist thousands of Americans who may not otherwise have access to a quality education, stimulate the economy of these areas and provide new employment opportunities for community residents.

I am proud to lend my assistance to Northeastern University and other academic institutions that have labored diligently in a highly competitive environment to become respected members of the educational community. I ask my colleagues not to turn their backs on the future of these institutions and the students at these schools who are destined to become our future leaders.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from Iowa.

Mr. HARKIN. Mr. President, I rise in support of the motion by the distinguished chairman of the Appropriations Committee to concur in the conference report. I have just a couple of things I want to talk about with regard to this. I think the first one is regarding just who the lobbyists are that are lobbying on either side of the issue we are talking about here on the floor now.

I was quite astounded sitting in my office of hear the name of an individual for whom I have a high regard who is not a Member of the Senate, but an individual in the private sector, who represents different universities, who does a lot of work with universities, and I could not believe my ears to hear his name and his firm used in a rather pejorative sense. The individual referred to, Mr. Cassidy, does indeed have a firm in Washington in which people are employed to assist universities all over the United States, assist them not just in lobbying here in Washington, but to assist them in development programs, research programs, building science parks. There are over 50 people employed in this firm in helping universities develop and grow.

I cannot think of more laudable work to be done than in helping to build the scientific and educational base of this country. There are a lot of lobbyists in Washington. There are a lot of people to lobby for different things. I cannot think of a more laudable goal to be lobbying for than to increase the educational research, and scientific basis of this country.

So I was quite astounded to hear Mr. Cassidy's name and his firm used in that rather pejorative sense.

I would just point out again for the record, to be quite clear, that in this firm of Cassidy & Associates there is the former president of the University of Alabama, Dr. Frank Rose, 14 years president of the University of Alabama, a distinguished academician in his own right. He is there in this firm to help other universities develop their programs.

Also in this firm is Dr. Elvis Stahr, former president of the University of Indiana.

So to speak of this firm as just a bunch of lobbyists I think really is being a little bit disingenuous on the part of the Senator from Missouri when he used Mr. Cassidy's name here on the floor. The fact is that this group of individuals are involved, as I said, in helping universities all over the country.

But as long as we are talking about lobbyists, I did not hear the distinguished Senator from Missouri talk about another lobbyist, Jack Crowley, who is the registered lobbyist for the AAU here in town, who I am sure has been in offices all over the Hill, I am sure has been in the office of the distinguished Senator from Missouri and others, and calls all the time on the phone; or even Mr. Robert Rosenfweig the President of the AAU.

Come on. Let us face it. There are lobbyists all over who lobby for their interests. Jack Crowley is no different than any other lobbyist.

So when we are talking about individuals here on the floor of the Senate, I think we have to be a little bit careful about naming names because sometimes these things can tend to come back to haunt us.

As long as we are talking about lobbying, on behalf of universities, let me point out that Stanford University employs lobbyists from three different congressional offices, employees who formerly worked here on the Hill just to lobby for Stanford University.

The University of California has a full-scale lobbying office right here in Washington. The State of California has allocated $1½ million to lobby in Washington for one project in the State of California, the supercollider—$1½ million just to lobby for that.

So I think really when we are trying to cast aspersions on individuals who are doing work here in Washington; that is, work in two areas, one to get the Congress to allocate more money for research and development, and for facilities and equipment to upgrade the research base that we have in this country, then I think that it is somewhat disingenuous at best to say they are just lobbying on behalf of special interests.

□ 1620

I also think that individuals who are here working with universities around the United States to help them upgrade their facilities and equipment, ought to be applauded for their efforts rather than trying to be degraded.

So, Mr. President, I just wanted to make that point and to point out that there are all kinds of lobbyists around this town. When you name one, we might get on the list and name a couple thousand if that is what we want to do here.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I do not want to make a motion to go into executive session without the distinguished minority leader being present.

Mr. President, I yield to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I have listened to some tortured reasoning this afternoon on why the proposals made in the supplemental appropriations do not constitute good old-fashioned pork barreling. But they are indeed tortured sets of reasoning.

I had the privilege of serving for 6 years as president of a small college. I think only one other Member has had that privilege, that being the junior Senator from West Virginia, Senator ROCKEFELLER.

The PRESIDING OFFICER. Will the Senator withhold? There is not order in the Chamber.

The Senator from Washington.

Mr. EVANS. I thank the Chair.

Neither of those colleges were part of the old-boy network. We were not part of, as someone said, the three major geographic areas of the Nation to which 50 percent of this research money goes. We would have to fight and fight hard indeed for any piece of any action, and yet felt very strongly that what we got we should deserve, and we should deserve on the basis of review by those who have a significant and I think detached view of research, of research facilities, and how research facilities and research personnel and research capacity all tied in together.

Mr. President, we just had a vote on this very issue just a few weeks ago, and the vote, as I remember it, was rather substantially in favor of retaining a peer review and objecting to this concept of pass it around among the committee members according to who lobbied best. That vote, as I remember, was something like 60 to 40.

And yet 2 weeks later we are faced on the floor of the Senate with the same issue coming back to us and we are placed in the position, in a somewhat adverse situation, of trying to sustain the vote which we made just a short time ago.

That is the nature of conference committees, I suppose.

I would only pass along to all of my colleagues who worked hard, many who supported versions of the Senate-financed package in the tax reform bill, that we have now sent that on to a conference committee. Are we going to have the votes that were cast so overwhelmingly in the Senate on ver-

sions of that tax reform bill come back to us after conference totally twisted and turned about?

I would hope not.

Mr. President, let us just knock away all the gloss and all of the verbiage and all of the words. What we are talking about here is just plain good fatback pork, and those who are advocating the specificity of certain universities and certain colleges are those who would just like to get some good old fat side pork.

These are not roads or bridges.

I might say, Mr. President, we do not even try to do that much anymore. We have gotten over that old characteristic of trying to specify whose road and whose bridge would get built. We recognized that that ought to be done in a different way. It ought to be done on the basis of need. It ought to be done on the basis of engineering determinations. It ought to be done in a scientific or at least a respectable way.

But here we are not just dealing with roads and bridges. We are dealing with brains. We are dealing with the future of the Nation. We are dealing with the only thing that is likely to keep us competitive. We are dealing with the only thing that is likely to keep us competitive in the years ahead. I think we ought to be very careful before we substitute the pure lobbying of one Member to another for a specific benefit for one college or university or another in place of a responsible system.

Mr. President, I would only say, finally, that it might even be possible to do this if the Department of Defense asked for it, thought that it was a better idea, felt that the current situation was bad.

Mr. President, we have seen fit in the last couple of years, and I suspect we will see fit again this year, to reduce the Defense Department budget, to make it imperative on the Defense Department to use each dollar in the best way they can. But I do not see the Defense Department here asking for this kind of specificity. In fact, in a letter sent to several Senators, Secretary Weinberger made a strong case against the earmarking in the supplemental.

The Department funds research including that conducted at colleges and universities that is in support of our defense mission. Except when otherwise authorized by statute, individual projects are competitively selected for funding after taking account of all relevant considerations with the particular emphasis on the research needs of the Department and the technical merit of the research proposal.

Mr. President, in a time of tight defense budgets, at a time when many Members of this body are supporting the need for continued research in some important defense fields, including SDI, it seems to me not very smart to ignore the request of the Secretary of Defense, to veer away from the kind of practical, continuous, long-term review that has been done by the Department of Defense.

It is tough enough to limit defense now. It is even tougher to specify something the Defense Department does not want. I think it would not be in their best interest, and certainly is not in the best interest of either the scientific community of this country, the broad university community of this country, or in our own future which depends so much on legitimate funding of research and development.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

The Senator will withhold. The Senate is not in order.

The Senator from Nebraska.

Mr. EXON. Mr. President, I would like to pose a question to the managers of the bill. As I understand the situation we are in right now—unless we adopt the position of the committee as articulated by the chairman thereof—if we do go in and change the position agreed to in the conference, then we could find ourselves in the uncomfortable situation of forcing this measure back to the House of Representatives, which, from all practical standpoints, would set this aside and we would have to revisit this on July 15, or sometime thereafter when we return.

Is that the parliamentary situation that we find ourselves in now?

Mr. WEICKER. The Senator from Nebraska is correct.

Mr. EXON. Aside from the very important matter of the universities and under other circumstances I might find myself in support of the position taken by my distinguished friend from Washington, my friend from Wisconsin, and others. I would simply say that we have made a compromise, an unfortunate compromise, about eliminating the REA funding consideration because the President put a gun to our heads and said, "You either change that or I will veto the bill."

We have gone ahead and we waived that, unfortunately. As I said earlier, I do not believe the conferees had any option other than to agree to that.

I would simply say that we are going to find ourselves in the same situation if we do not accept the recommendation from the chairman of the Appropriations Committee. Therefore, in this instance, I would hope that the Senate would not agree to resist at this juncture the matter of where funding goes to universities, as worthy as that might be.

I simply say once again, that this measure is too important. We have to get this through and get the money flowing, following the commitments that we made to the people of the United States of America. Therefore, I hope when we come to a vote, in whatever form it comes, we go along with the recommendation of the chairman of the Appropriations Committee.

□ 1630

Mr. WEICKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EVANS). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I wanted to clarify a point made by the Senator from Nebraska and the Senator from Connecticut.

It is my understanding that subsequent to the disposition of this issue on university research, there is going to be an issue raised by the Senator from Louisiana [Mr. JOHNSTON] relating to trade adjustment assistance. I believe it is correct to say that the effect of that is that this conference report is going to have to go back to the House anyway. Is that not right?

Mr. WEICKER. That depends on the disposition of the amendment of the Senator from Louisiana, which, very frankly, I think might share the same fate as the amendment of the distinguished Senator from Missouri. So I would not want to say that is going to be the case.

Mr. DANFORTH. Mr. President, in other words, it is not correct to say that whether or not this matter goes back to the House depends solely on the position that we take on university research?

Mr. WEICKER. Mr. President, I do not think that statement was made either by the distinguished chairman of the committee or the Senator from Connecticut. The question that was asked is, if this amendment passed, would it go to the House? The answer was yes. It was not a question of solely——

Mr. DANFORTH. The same would be true of the amendment on trade adjustment assistance.

Mr. WEICKER. The same would be true of any amendment. That is a matter of speculation on the part of the distinguished Senator from Missouri.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 1640

Mr. WEICKER. Mr. President, I ask unanimous consent that the call for the quorum be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the motion to concur in the amendment of the House.

Is there further debate?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that further proceeding under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Mr. President, prior to having the vote on this motion, I want to respond to one point that was brought up in the debate on this issue the first time it came around several weeks ago.

In reading the RECORD at that time after the vote was taken, it became clear to this Senator that perhaps there had been some misconceptions on the part of some people as to what we were talking about in terms of the $56 million and the universities involved in these projects. I want to quote from the RECORD debate on June 5 of this year.

The distinguished Senator from Missouri said, "The issue raised by the amendment is whether the Appropriations Committee should earmark research money to certain specified universities."

Mr. President, the amendment at that time, just as the provision before us right now, does not provide funds for research projects. It provides funds for facilities and equipment. So that is not the issue. Let no one be led astray that we are talking about doing away with the peer review process for research. We are not. We are keeping peer review for research. But there is no peer review within the Department of Defense for facilities and equipment, and there has not been for years.

All we are saying is that we as the U.S. Senate and the other body, the House, are making decisions on facilities and equipment, not on research money but only on general purpose construction for facilities and equipment. So for those Senators who may have thought they were voting to uphold peer review for research money, that is not the case. What we are simply saying is that we here in the Senate and the other body have as much right and should in fact be involved in the decisionmaking process of facilities and equipment as unnamed bureaucrats sitting in the Department of Defense. That really is the issue and not peer review for research.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Florida [Mrs. HAWKINS] and the Senator from Oregon [Mr. PACKWOOD] are necessarily absent.

The PRESIDING OFFICER (Mr. WARNER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 153 Leg.]

YEAS—56

Abdnor	Gorton	Matsunaga
Andrews	Grassley	McClure
Baucus	Harkin	McConnell
Biden	Hatch	Melcher
Boren	Hatfield	Moynihan
Burdick	Hecht	Murkowski
Byrd	Heflin	Nickles
Chafee	Heinz	Pell
Cochran	Hollings	Pressler
D'Amato	Humphrey	Quayle
DeConcini	Inouye	Riegle
Denton	Johnston	Rudman
Dodd	Kassebaum	Stafford
Dole	Kennedy	Stennis
Domenici	Kerry	Stevens
East	Laxalt	Symms
Exon	Leahy	Thurmond
Ford	Long	Weicker
Garn	Lugar	

NAYS—42

Armstrong	Glenn	Proxmire
Bentsen	Goldwater	Pryor
Bingaman	Gore	Rockefeller
Boschwitz	Gramm	Roth
Bradley	Hart	Sarbanes
Bumpers	Helms	Sasser
Chiles	Kasten	Simon
Cohen	Lautenberg	Simpson
Cranston	Levin	Specter
Danforth	Mathias	Trible
Dixon	Mattingly	Wallop
Durenberger	Metzenbaum	Warner
Eagleton	Mitchell	Wilson
Evans	Nunn	Zorinsky

NOT VOTING—2

Hawkins	Packwood

So the motion to concur in House amendment to Senate amendment No. 91 was agreed to.

□ 1700

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to concur was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair is recognizing the Senator from Oregon.

Mr. HATFIELD. Mr. President, may we have order?

Mr. BUMPERS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will suspend until such time as there is order.

The Chair respectfully requests Members to retire to the cloakroom for the purpose of conversation.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, a number of colleagues have asked about the time frame——

Mr. BYRD. Mr. President, may we have order in the Senate so we can hear what the chairman has to say about the program?

Mr. HATFIELD. Mr. President, a number of the colleagues have inquired about the schedule. We have two more committee amendments, one dealing with aid to Ireland, and another one that will be offered by the Senator from Louisiana [Mr. JOHNSTON], relating to trade adjustment assistance.

I have not had any requests for a final passage rollcall, but there may be one.

I do not believe that there will be more than one on the Ireland aid because in fact there is a unanimous agreement where it was agreed that no amendment to that committee amendment could be in order so that amendment to the committee amendment will be voted on either by one rollcall or none depending on who requests it.

So those are the only two other committee amendments.

□ 1710

Mr. JOHNSTON. Will the chairman yield?

Mr. HATFIELD. I am happy to yield.

Mr. JOHNSTON, Mr. President, I am advised that a rollcall vote on final passage need not occur and will not occur because we have already concurred in the conference report.

Mr. HATFIELD. The comanager is correct. So that the most we could plan on at this point, I would say, would be probably one or two more rollcalls.

EXCEPTED AMENDMENT NO. 93

Mr. HATFIELD. The committee is ready to move ahead on committee amendment No. 93.

The amendment reads as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

INTERNATIONAL FUND FOR NORTHERN IRELAND AND IRELAND

(TRANSERS OF FUNDS)

For an additional amount for the "Economic Support Fund", not less than $50,000,000, which shall be available only for the United States contribution to the International Fund established pursuant to the November 15, 1985 agreement between the United Kingdom and Ireland, to be derived from funds appropriated or otherwise made available by the Foreign Assistance

and Related Programs Appropriations Act, 1986 (as enacted in Public Law 99-190), as follows: $4,900,000 by transfer from Title I of such Act, $12,350,000 of funds made available by such Act for the "Economic Support Fund", $9,100,000 by transfer from Title II of such Act, excluding funds made available for the "Economic Support Fund", $20,000,000 by transfer from Title III of such Act, and $3,650,000 by transfer from Title IV of such Act.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. ZORINSKY. Thank you, Mr. President.

FOREIGN ASSISTANCE TO NORTHERN IRELAND—WE DO NOT NEED A NEW FOREIGN AID PROGRAM

Mr. ZORINSKY. Mr. President, I am compelled to voice my strong disapproval of the $50 million for Northern Ireland in this supplemental. In the Foreign Relations Committee, I expressed my opposition even to the $10 million authorized for Northern Ireland, principally because of the economic fact of life we face in this country—we simply cannot afford it.

I want to support the hopes of Americans yearning for peace in Northern Ireland, but the stark reality here at home is that we are virtually broke, we are deeply in debt, farmers in the Midwest are losing their livelihoods, and other Americans are having great difficulty in making ends meet. It simply is not the time to send money to yet a new foreign aid recipient.

Furthermore, I am convinced that Northern Ireland does not need this assistance. I recently met with Members of the House of Commons who told me that the aid from the United States is not necessary. In fact, the money from the United States may as well be called aid to the United Kingdom, because that is the nation which will benefit from all of this. We will be saving the United Kingdom a lot of money. The responsibility for restoring peace in Northern Ireland lies essentially with the British. They have the resources; they have to make the tough decisions regarding the allocation of their foreign aid resources, just like we have to do in the Senate. I also want my colleagues to realize what we are doing here is wrong. We are starting a foreign aid program for Northern Ireland. This will become an annual ritual—the sums are sure to grow based on our past performance and on aid to other countries.

Some Members of the House of Commons have even gone so far as to inform me, if we approve this $50 million of aid to Northern Ireland, they will reduce, by the like amount of $50 million, the aid from Great Britain to Northern Ireland. So, in effect, we will displace money that the British would have given to Northern Ireland. So we might as well make the check out directly to the United Kingdom.

We are beginning a new commitment which we will have to keep for years to come, as the Government of Northern Ireland becomes more and more dependent on us for support.

Mr. President, the provision of $50 million for Northern Ireland also disturbs me because of the process that has been followed in determining that aid level. The Senate provision, making any aid for Northern Ireland subject to an authorization, was dropped in conference and the highest possible aid level of $50 million was substituted for the President's request of $20 million. The Senate Foreign Relations Committee has recommended an authorization of only $10 million, a level which, incidentally, I also opposed.

What we are doing here is circumventing the authorization process of the U.S. Senate Foreign Relations Committee.

Now, let me say this to my colleagues: I have heard each and every one of you, in the last 10 years that I have been here, when something came to this body, that circumventing a committee that you served on, you got pretty steamed up about us going around your committee and appropriating money that had not been authorized in your committee.

I think I have a right to feel the same way, as a member of the Foreign Relations Committee, that this $50 million has circumvented our committee and has not been authorized.

In my judgment, the higher figure of $50 million could not be sustained in the normal authorization process—and should not be.

I will be voting for this supplemental appropriation conference report, but I wanted to make my views on Northern Ireland absolutely clear to my colleagues. It is my intention to separate our amendment No. 93, and I take this opportunity, Mr. President, to ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, let me make an inquiry as to the parliamentary situation. The yeas and nays have been ordered on what? There was no motion to concur made by the manager of the bill on the committee amendment. I would be happy, if I am correct, to set the parliamentary situation for the Senator from Nebraska to make his request for the yeas and nays, but I really do not understand what he has made his request for the yeas and nays on.

The PRESIDING OFFICER. The Senator's point is well taken. There is no motion now pending before the body.

Mr. HATFIELD. Mr. President, I would like, then, to accommodate the Senator from Nebraska by moving that the Senate concur in the House amendment to Senate amendment No. 93 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I would like to express my own opposition to the provision contained in chapter 5 of the conference report pertaining to economic assistance to Northern Ireland. This provision in chapter 5 makes available $50 million as a contribution to an International Fund to be established pursuant to the Anglo-Irish agreement concluded last fall by the Governments of the United Kingdom and the Republic of Ireland. The funding would be provided by transfers from already appropriated moneys in the International Affairs account.

Mr. President, I personally, as well as the Foreign Relations Committee which I chair, are on public record as strongly supporting the Anglo-Irish agreement. In fact, the Foreign Relations Committee last week reported out S. 2572, legislation authorizing assistance in support of that agreement.

My objection to chapter 5 of the conference report, Mr. President, is based on my judgment that this $50 million funding level is too much, too soon. I strongly support the Anglo-Irish agreement, but I believe that the United States simply cannot afford to make a contribution of $50 million in fiscal year 1986. S. 2572, the bill reported by the Foreign Relations Committee last week, reflects that reality and authorizes a lower figure.

Our own budget constraints have meant that worldwide funding for foreign assistance programs has already been severely cut. This provision of $50 million to Northern Ireland, as contained in the conference report, constitutes in fact another cut. The conference report provision would spread the impact of these cuts across a multitude of multilateral and bilateral assistance programs, military assistance, refugee assistance, and even the Eximbank. In all likelihood, the cuts occasioned by the provision in chapter 5 of the conference report will impact most severely on economic development programs in Africa. We simply do not have the funding in the International Affairs accounts to address existing foreign assistance commitments. We certainly cannot afford to make an additional commitment of the magnitude envisioned in the conference report at this time.

The administration submitted legislation strongly supportive of the Anglo-Irish accord, but because of stringent budget constraints and other foreign policy priorities, it proposed only $20 million in fiscal year 1986 as our cash contribution to the Interna-

tional Fund. For its part, the Foreign Relations Committee has recommended only $10 million in fiscal year 1986. I am certain that if we were not operating under such severe resource constraints, the administration—because of its strong support for the Anglo-Irish agreement—would have proposed higher levels.

Mr. President, in addition to my substantive and fiscal objections to this provision in chapter 5 of the conference report, I have a procedural objection. As I noted, the Foreign Relations Committee acted favorably last week on legislation which would support the Anglo-Irish agreement. That legislation is awaiting action by the full Senate. That bill reported by the Foreign Relations Committee authorizes $10 million for the International Fund in fiscal year 1986. That level reflects the judgment of the committee as to a useful and prudent level of funding consistent with our own budget restraints.

The Foreign Relations Committee is not only willing but obliged to permit other Members of this body to address this issue. Unfortunately, in receding to the House position on funding for Northern Ireland, the conference committee eliminated the opportunity for authorization and, therefore, would prevent the Senate from addressing this issue directly.

Therefore, Mr. President, I would like to indicate my objection to this provision of the conference report. International economic and security commitments are already severely constrained by our budgetary situation. I find it impossible to support an additional cut in already limited funds, which would be the practical effect of the provision in chapter 5 of the conference report, without the Senate having the opportunity to assess fully the advisability of such cuts.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I would like to inquire on this particular subject matter of the managers of the bill about this particular amount.

As I recall the history of this—and I stand to be corrected—the administration sought $10 million to foster the agreement that the Republic of Ireland and Britain entered into in order to foster peace in Northern Ireland. If I am not mistaken, the sum asked for was $10 million.

Second, I would ask about this particular amount which, as I understand it, is now not less than $50 million.

□ 1720

Am I correct in believing that that $50 million has to come from foreign aid that we have already voted for? In other words, this would be a reduction from the lump sum of foreign aid which is being directed all over the world to countries that desperately need it? If I am correct in that, I find that extremely depressing and of great concern because those nations that are receiving our foreign aid such as the poverty stricken nations in Africa are being reduced by this extra large sum way above the administration's request, if I am correct, in order to accommodate this.

The first question is, Am I correct in believing that the administration asked for $10 million, not $50 million?

Mr. KASTEN. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. KASTEN. As chairman of the Foreign Operations Subcommittee, let me say that the administration sought $50 million for Ireland; $20 million of that $50 million was to come from ESF, and the remaining $30 million of the $50 million from a number of different programs. Those programs were primarily AID programs, the Housing Guarantee Program, private sector revolving loan funds, the Trade and Development Program, and Overseas Private Investment Corporation—they suggested it come from a number of different programs.

So the administration request was for $50 million, $20 million ESF, $30 million other programs.

Mr. CHAFEE. Now, is the committee compromise of $50 million all from ESF? So if we vote to approve this, that means that not only will those poor countries that are receiving foreign aid which has already been cut from the request of the administration, be cut not just $20 million that the administration sought, but an additional $30 million will come from somewhere in those accounts that is being distributed all over the world to various nations?

Mr. KASTEN. Will the Senator yield? The Senator is correct.

Originally, the Senate position was that the dollars would not come from existing foreign aid sources, that in fact the dollars would be new money. The House position, however, was that the dollars come from existing foreign aid funds and in the process of the compromise we now arrived at, the position the Senator described. Fifty million dollars will come from ESF and other funds already appropriated.

Mr. ZORINSKY. Will the Senator yield?

Mr. CHAFEE. I yield the floor.

Mr. BUMPERS. I would like to ask the Senator from Wisconsin a more basic question. Certainly the question of the Senator from Rhode Island is a relevant one. Where is the money coming from? But the more basic question is why are we putting $50 million into a program. I do not know what the money is to be spent for except it help bring peace maybe in Northern Ireland. What is the $50 million going for, and why are we involved in it? Is this not a sensitive problem with the United Kingdom?

Mr. BIDEN. If the Senator will yield, I will be delighted to answer that question.

Mr. BUMPERS. I am asking anybody who knows.

Mr. BIDEN. Mr. President, I know, among others in here, there are several reasons why. First of all, we are an international power with international power responsibilities with a long historical tie of about 40 million Irish here in this country—42 million. I am corrected by my Irish friend from Massachusetts, No. 1.

No. 2, let me suggest that we are filling our commitment made by this body in House Concurrent Resolution 239 to give economic support and aid if in fact the British would do finally what they did. I say finally, 800 years it has taken us to get to the spot where the British—and to the credit of Mrs. Thatcher—in conjunction with the Republic of Ireland have agreed, with the concurrence and leadership of our own President, upon the most positive move with regard to dealing with the bloodshed in Northern Ireland that has occurred since the early 1920's. It has taken a long time to get here.

We stand here and we talk about the rights of people in Micronesia. We stand here and every one of us, myself included, talk about the responsibilities we have to the tiny country of Israel. We stand here and we talk about how we have responsibilities in other parts of the world to help end bloodshed. And here we are, a nation with long and deep ties to the Irish people, able to play a constructive role after the British and the Irish, the Republic of Ireland finally have made a positive forceful step in the direction of peace, and we——

Mr. BUMPERS. If the Senator will yield, my question is, What is the money going for?

Mr. BIDEN. The money is going for economic development in Northern Ireland. It is part of the process where everyone understands unless there is opportunity, as the Senator from Arkansas so eloquently states on the floor here, for the underprivileged of America to have jobs, to have an opportunity to work, to have an opportunity to participate in the economic process——

Mr. BUMPERS. What is the unemployment rate in Northern Ireland?

Mr. BIDEN. The unemployment rate in Northern Ireland is staggering. I yield to my friend from New York who would have an exact number as he does everything else.

Mr. MOYNIHAN. In some Catholic areas of Northern Ireland, it is now approximately 60 percent.

Mr. BUMPERS. Sixty percent?

Mr. MOYNIHAN. It is about 22 percent for Northern Ireland as a whole.

Mr. BUMPERS. Why is England not able? I mean Northern Ireland and England are essentially one. Why are they not handling this problem? Why are we involved?

Mr. BIDEN. Because they essentially view themselves as one in a sense, and the argument is whether or not they should be one. It has in fact been a debate for some time.

Mr. BUMPERS. This $50 million does not resolve that?

Mr. BIDEN. No; but Mrs. Thatcher has taken a courageous move. She has taken as a consequence a great deal of heat for having done what she did. In turn, there are only so many times that she can go to the well on this.

But I see my friend from New York who is leading this effort in opposition to my distinguished friend from Nebraska who talks for the farmers, and I will share that, and I will remind him that the Senator from the consuming State of Delaware has voted with him on all the legislation relating to the farmers, not that that means he should change his mind. But the question is where our concern lies.

Mr. ZORINSKY. Have I asked the Senator to support a farmer living in Ireland?

Mr. BIDEN. No; the Senator has not. But I suspect he would ask me to support the opportunity to avoid bloodshed in other parts of the world. We do it all over the world. We seem to recognize our responsibilities and accede to other nations and other responsibilities we have. It seems to me the closest, nearest, and most needing ally of aid and assistance at this moment that could help hold an agreement together, and that holds some hope and prospect for peace in the region.

Mr. ZORINSKY. If my colleague will yield for just a moment, let me point out that Northern Ireland is not a third world country. Let me point out that there are many Germans in this country, many Polish people in this country; we are all from ethnic groups in this country. We can all find a cause for our ancestors. But believe it or not, I am getting calls from Irish living in Nebraska saying be reasonable with my tax money. And if it is to instill a good economy in Northern Ireland, their tax money can be better used for Irish in America who are going broke farming.

Mr. BIDEN. It is to help the peace process just as our aid to Poland was to help feed starving Poles, just as our aid to the non-Third World country of Israel is to support freedom, just like—and the list goes on. I respect the Senator's opinion. I was responding to the question as to why this is part of the linchpin as to whether or not the historic Anglo-Irish agreement—I mean how much money did we spend on the strength of the Camp David agreement for Egypt and for Israel? It was money well spent in my view to enhance the peace process. This is a similar circumstance.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I thank all of the previous speakers.

Speaking particularly to the Senator from Arkansas, I wonder if I might give a very brief account of this culmination of what is almost a decade of effort, and its origins. First, there is no relationship which the United States has with two other countries more close than that of Great Britain and Ireland. The American Revolution was part of a political movement made in Ireland, as well as in Britain, as well as here. Our relations have been involved for the very longest while. The largest single ethnic group in the country is of English-Scottish-Welsh, and the second largest is Irish. The signers of the Declaration of Independence were from abroad more from Ireland than from England, for example.

□ 1730

Nine years ago on Saint Patrick's Day, 1977, the distinguished Senator from Massachusetts, myself, our revered Speaker, and then Governor Carey, of New York, issued a statement having to do with the rising levels of violence in Northern Ireland which had been taking place for 8 years, a statement addressed not to Northern Ireland but to our own American compatriots, many of whom were providing support for both sides of the violence.

There are two large religions in that province, the Presbyterian and the Roman Catholic. They have been at violence for at least three centuries.

I once saw painted on the side of a wall "Remember 1689." That is the situation there.

We asked that the Americans stop giving any aid to violence in the North. We said,

> We appeal to all those organizations engaged in violence there to renounce their campaigns of death and destruction and return to the path and life of peace. And we appeal as well to our fellow Americans to embrace this goal of peace, and to renounce any action that promotes the current violence and provides support or encouragement for organizations engaged in violence.

We were part of that problem.

In that year, some months later, as a first statement in the history of our country, President Carter stated that "the people of Northern Ireland should know they have our complete support in their quest for a peaceful and just society." He went on to say that "the U.S. Government would be prepared to join with others to see how additional job-creating investment could be encouraged, to the benefit of all people in Northern Ireland."

This statement was made by President Carter in 1977. That was during the process of consultation between the Governments of Northern Ireland and England, in the context of the American Government saying we were willing to be part of the effort.

A growing number of Members of this Senate and the House were saying we wanted no support for violence.

As the distinguished Senator from Delaware said, the Hillsborough accords, as they are informally known, the agreement between Northern Ireland and the United Kingdom, was in fact a historic statement. It sets forth three propositions.

It said that the two governments affirm that any change in the status of Northern Ireland can only come about with the consent of the majority. It said there was no majority for a change, but that should a clear majority for a change emerge, legislation to bring it about would be introduced in the respective parliaments in Dublin and in Northern Ireland.

That was an enormous achievement. Nothing of its kind had ever been stated before, the acknowledgment of both sides, and then the consultative procedure between the two governments, as much concerned with terrorism as both sides have been.

This does go to both countries.

Immediately after that accord was signed, President Reagan congratulated the parties and spoke of the agreement's "promise of peace and a new dawn in the troubled communities of Northern Ireland." He went on to promise to work "closely with Congress in a bipartisan effort to find tangible ways for the United States to lend practical support to this important agreement."

One of the oldest conflicts in Europe has the potential of healing and being resolved.

Shortly after the President spoke, both Houses approved on December 5 House Concurrent Resolution 239, which declared our "willingness to work with the President in supporting the Anglo-Irish agreement with appropriate United States assistance, including economic and financial support, to promote the economic development of those areas of both parties which have suffered most severely from the violence in recent years."

Thereafter, the President sent us a 5-year, $250 million proposal and in the way that Congress has worked its way we now have the first-year installment.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to.

Mr. BUMPERS. Is this the first installment of $50 million a year?

Mr. MOYNIHAN. There is no such statement in the legislation. The President has proposed a 5-year package. We are approving 1 year with no future approvals.

Mr. BUMPERS. Would it be the Senator's intention for the U.S. Congress to appropriate $50 million a year for this purpose?

Mr. MOYNIHAN. I think if we could see what we find in the way of its effectiveness, if it is, yes.

I speak to a matter that has engaged this Congress for two centuries but never before in so constructive a purpose to bring about peace and reconciliation. I hope it will do that. I hope when it is set up in the record of debate, it will be so indicated.

Mr. KENNEDY. Will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. KENNEDY. Was it not the hope that these resources would induce contributions by other countries around the world?

Mr. MOYNIHAN. The Senator is absolutely right. This is to be a worldwide effort.

Mr. KENNEDY. As I understand, there have been early preliminary commitments by Canada, Australia, and also by a number of the European countries. I think there is a recognition that with this kind of a commitment by the United States, it will have a vast multiplier effect to try to move us beyond this amount.

Mr. MOYNIHAN. There is not a nation on earth where a historic division does not exist and where there is not simultaneously an urge to bring some healing to these people. We are left behind by the hundreds of millions around the world.

Mr. SARBANES. Will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. SARBANES. Is it not correct that the economic support that this would provide, in conjunction with the support coming from other countries, is really essential for the accord, the Hillsboro agreement, to have any chance of success in Northern Ireland?

Mr. MOYNIHAN. I so much agree. We are saying, and other countries are saying, that they did the right thing. It took a great deal of courage for the British Prime Minister to go into this, and the Irish Prime Minister moving forward. They said, "We are going to go the route of peace."

This is an opportunity for other countries to say, "That is right." You have friends when you do that. You are not left alone.

Mr. SARBANES. This is a breakthrough which is unprecedented in trying to resolve the Irish problem, is it not.

Mr. MOYNIHAN. Not since the Irish atttempt for home rule has anything happened, and that did not succeed.

Mr. DODD. If the Senator will yield, this proposition has opponents here, as our colleague from Nebraska raised the question based on other considerations. But our colleagues should know that there are those in Northern Ireland who are adamantly opposed to this Anglo-Irish agreement and adamantly opposed to this particular aid package.

I think it might be well for the Senator from New York to share with us who those opponents are and what extremes they come from.

Mr. MOYNIHAN. I would be happy to. I did not intend to raise the names on the floor.

Two days ago there was issued what amounted to an appeal to Protestants to mobilize for war against the British-Irish accord, and a warning that "This could come to hand-to-hand fighting in every street in Northern Ireland."

And it has its exact counterpart in the Catholic community. They are absolute minorities, both, but do we need to believe that a very small number of determined persons are willing to resort to violence to disrupt any consideration of this?

□ 1740

Mr. DODD. In a sense, then, despite the fact that some of our colleagues might approach this from a different perspective, what sort of a message would it send this evening if a majority of the U.S. Senate supported the extremists of the Unionists and the extremists of the Catholics by rejecting this aid package and adding another voice?

Mr. MOYNIHAN. It would be devastating and the Senate would have blood on its hand. I am sorry to use the phrase, but that is exactly what it would be.

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I would like to bring the conversation back into the context of reality. We have a $200 billion deficit. I do not think anybody up there in the galleries can write checks out if the money is not in the bank. We are undertaking another pledge and commitment that, once it starts, is infinite and it will continue to grow annually.

In the Foreign Relations Committee today, an additional $100 million was authorized for the Philippines. I think the American people are tired of being blackmailed in the name of providing peace in the world and lessening bloodshed everywhere, because we just "ain't" got the money to do it, to give it to everybody that wants it.

We are going to stop bloodshed in Central America; we are going to stop bloodshed in the Middle East; we are going to stop bloodshed in Asia. Now we are going to stop it in Ireland. We are going to stop it all over the world at the same time that we are a debtor nation and cannot even pay our own bills.

That is a joke, Mr. President. I think right now, and I do not know how many of my colleagues are aware of this, we are pledged to build a $10 million pavilion in Brisbane, Australia, for their World Fair. Now, I was going to raise that as a question and I was told, "You cannot do that, because New Zealand is mad at us. Australia is the only friend we have in that area, so we had better continue with the $10 million pavilion."

What chance does the American taxpayer have? When do they get the chance to get in line? Or do we have to wait until there is bloodshed in our own country to say, "Aha, finally, we can use some more of our money that we do not have to stop bloodshed in our own country?"

Let me say this: There are suicides in our country, due to the economic problems in agriculture and other sectors that are in trouble.

I am just saying, Mr. President, it is great for us to be philanthropic. Fine; let us all sit down and take our checkbooks out of our own pockets and write out our own checks to the Irish over there if we feel so pathetically inclined to do so.

I say, it is easy to give somebody else's money away. That is the way this operation works back here. We make money the old-fashioned way: we print it. I guess that is the way this body has operated.

[Laughter.]

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. If the Senator will suspend. The Chair admonishes the gallery that it is not to have any statements made.

The Senator from Connecticut.

Mr. DODD. Mr. President, a brief response to my colleague from Nebraska.

We are not here to argue the virtues of American foreign aid, although many Members of this body have in the past found the subject engaging.

The fact of the matter is we have a serious situation in this little helpless corner of Northern Ireland—2,500 human beings in a nation with a population of about 1.5 million have lost their lives in the last 17 years, with violence every single day in those counties. This Anglo-Irish agreement is an effort to resolve that problem.

No one can say with any degree of certainty—in fact, if you had to wager, you would have to conclude that it probably will accomplish little, given the history. But it is yet another effort to try to resolve that turmoil that tears that country apart.

What we are asking for here today is a little bit of help. Margaret Thatcher showed great courage, as the Senator

from New York has pointed out, and she is being bludgeoned throughout the United Kingdom because of the courage she showed to say, "Let us try to bring peace to that part of the world." Garret Fitzgerald, Prime Minister of Ireland, is being bludgeoned politically because he took a stand.

We can stand up here and say we are going to send money back to Nebraska or Connecticut to the farmer or the consumer—and not spend it to try to save those counties in Northern Ireland. I think we can do that. But we also like to take pride in the fact that we are a nation that cares about people, other people on the face of the Earth. We care about Latin America and Africa and we know money does not buy our way out of all problems. But we do know that here, a contribution might make a difference. It just might make the difference in bringing peace.

Fifty million dollars is a lot of money, but $50 million is a small price indeed if it can bring peace in Northern Ireland. Seventeen long years of bloodshed and this just might mean the end of it. And would we not like to be a participant or a party to that in this great Senate, to say we helped because we contributed some of our constituents' tax dollars to bring peace in that part of the world?

I hope our colleagues will go beyond that kind of short-term debate and argument and say to our constituents back home, "This is a sound investment of your tax dollar. This is the way we should be spending your tax dollars."

In many cases, right here at home, we squander and abuse tax dollars. So my hope is that the Senate will support the proposition of the Senator from Oregon [Mr. HATFIELD] and vote for this amendment.

Mr. ZORINSKY. The Senator is a member of the Foreign Relations Committee, as I am. We authorized $10 million; is that correct?

Mr. DODD. That is correct, in the committee. And the House authorized $50 million.

Mr. ZORINSKY. When future changes like this come back that circumvent our committee's ability to have brought this into our own body, is the Senator going to support it?

Mr. DODD. The Senator from Nebraska knows that, from time to time, we have all been through this.

I do not disagree that authorizing committees should not sit back and let every piece of legislation be written by the Appropriations Committee.

Mr. ZORINSKY. Does he think this is the proper vehicle?

Mr. DODD. This is the proper vehicle. We have had a strong expression. Three hundred and eighty to one was the vote in the other body for $50 million. We had a strong expression of support in the committee for this proposition. We disagreed on the numbers, but on the basic concept of whether or not we ought to be participating financially to try to make the Anglo-Irish agreement work, the overwhelming majority, by the final vote in the committee, expressed the will to do that, The fact that we did not have the numbers we want in that committee does not mean we should destroy it entirely.

Mr. ZORINSKY. I wish the Senator would not use the rationale of the overwhelming agreement in the other body as being the reason why he thinks this is proper, because I have heard him disagree at times with some of the votes in the other body. We are distinctly a separate body. I am proud to be in the U.S. Senate and not in the other body. I disagree sometimes with the votes in the House and thank God that we get a separate vote in the Senate.

MR. DODD. Mr. President, may I just say I am not offering that as the rationale for support of this, but merely as a piece of evidence that there is strong bipartisan support for this proposition among our colleagues in the other body and our colleagues on the Foreign Relations Committee. We have disagreed about the number, the dollar amount, but that does not seem to me to be the essence of the argument. The essence of the argument is that we ought to be participating, and that is where the Foreign Relations Committee has taken a position.

Mr. SARBANES. Will the Senator yield?

Mr. DODD. Yes; I yield.

Mr. SARBANES. The Senator from Connecticut is absolutely right. This issue was considered in the Foreign Relations Committee and the Senator from Nebraska disagrees with that because he feels no aid whatever should be provided, as I understand it. He is totally against the concept. That was not the decision of the overwhelming majority of the committee who were prepared to support aid. Perhaps not the level of the authorization, but the figure here is within the level of authorization that the House adopted and the Senate, had we gone to conference, would have had to adopt the authorization with the Senate figures.

We went for 3 years without an authorization bill in the foreign aid area, which was done by the Appropriations Committee. The Senator from Connecticut was one of the leaders in insisting that we move back on to the authorization path. This departs from it only in the sense that we are moving with an appropriation before the authorizing process has been fully completed.

□ 1750

To the extent the authorizing process has taken place, the judgment—although the Senator from Nebraska has disagreed with it—has been to move forward with some assistance. Now, this vehicle is important because time is of some urgency in this matter. If we are to provide the underpinning for the accords reached in the Anglo-Irish agreement, it is important to come forward in prompt fashion with some sustenance and also to gain the matching funds that are coming from a number of other countries which will help to make this package even more significant. So it seems to me, all things considered, we are moving according to the process. I serve on that committee and am sensitive to the role of the committee, but the committee has considered the matter and made the judgment that we ought to participate in this process.

Mr. ZORINSKY. Will the Senator yield?

Mr. SARBANES. Surely.

Mr. ZORINSKY. I would just like to conclude that I did not intend to take this long in presenting this case, but to borrow a phrase from down on Pennsylvania Avenue, "Here we go again." We are sticking our nose into a place economically that will get to enjoy many, many more years of our involvement. And I predict, as I sit down and yield the floor, that we will be back here again next year and the following year and the amounts will no longer be $50 million; they will be in excess of that.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. SARBANES. Will the Senator yield?

Mr. KERRY. I will yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I simply say in response to that, if this investment succeeds in bringing peace to Northern Ireland, it will be one of the wisest investments that this body and this Nation has ever made.

Mr. KERRY. Mr. President, I express my strong support for the $50 million in Irish aid contained in this conference report.

In April, I had the opportunity to meet with the Honorable John Hume of the Social Democractic Labor Party in Northern Ireland to discuss the package of assistance being put together in an effort to strengthen the Anglo-Irish agreement. John Hume is a political moderate who has placed his career on the line in support of the Anglo-Irish agreement which seeks a peaceful solution to the civil strife in Northern Ireland.

John Hume made the following point which I believe is relevant to what we are doing today. He stated that supplemental extradition treaty between Great Britain and the United States, which has stirred considerable controversy in this country, will not

even remotely deal with the issue of terrorism in Northern Ireland. On the other hand, he emphasized that the Irish aid proposal, which addresses major elements of the root causes fomenting the civil strife in Northern Ireland is the only effective means for bringing terrorism under control eventually.

As a signal of our strong support of negotiations which culminated in the signing of the Anglo-Irish agreement, two administrations—that of President Carter and President Reagan—committed themselves to supporting such an agreement with direct American financial assistance. The Irish did not ask for such assistance, but America promised that it would be forthcoming if the British and Irish would create a political and constitutional framework within which a solution could be found.

As John Hume pointed out to me, once the United States made such a commitment, to renege on it now would only undercut the Anglo-Irish agreement and play into the hands of the extremists on both sides, thereby fomenting growing terrorism in Northern Ireland. In addition, a less than satisfactory assistance program would signal our less then enthusiastic support for reconciliation in Northern Ireland. In other words, if terrorism is really a concern of the Senate, then the most important tool we have to deal with this problem is a reasonable aid package for Northern Ireland. I believe the proposal of the House of Representatives represents a reasonable level of assistance required to deal effectively with this problem.

In supporting the $50 million in proposed aid for Ireland, the bulk of which would be available for employment-generating projects in Northern Ireland, I think it is important to underscore one additional point. For this assistance to contribute effectively to attacking the root causes of the civil strife in Northern Ireland, it has to be administered fairly. The Irish Catholic minority has to sense that the discriminatory practices of the past have come to an end. If this assistance only perpetuates the discriminatory social, economic, and political policies of the past, then the United States will only become a part of the problem, rather than a significant contributor to the solution.

Within that caveat in mind, I urge that the Senate support the $50 million in assistance for Northern Ireland contained in this supplemental.

Mr. President, I do not want to prolong this debate if indeed the debate is about to end, but I would like to remind my colleagues of a couple of points.

First, I do not know, and I do not know if any of my colleagues in this Chamber can tell me, how much money we spent to maintain a force in the Gulf of Sidra, how much money it cost for some 18 F-111's and some 15 A-6's and 3 aircraft carriers to prance around in the gulf for a period of time to send a message in that region of the world about terrorism, but it certainly in a brief span of days was in the millions of dollars. No administration—I do not think any Congress—in recent history has spent more time or more energy trying to convince the world of the importance of taking steps to stop terrorism.

Now, the Irish Government did not ask for this money. They did not come to us hat in hand and say, "We want aid from the United States." The United States as part of its effort to make a statement about terrorism and to try to fulfill the role which we carry in the world went to the British Government and the Government of Ireland and said, "If you can put together a constitutional framework and a political framework that can help to lay the foundation for peace, then aid will be forthcoming." This is part of our initiative, not someone else's. I have heard my colleagues here on this floor allude to what the effect would be if we withdraw from our own part of that kind of initiative.

Now, we have spent a lot of energy in the Foreign Relations Committee recently, and I believe the Senator from Nebraska voted in favor of a treaty for extradition because the Prime Minister of Great Britain—he voted against it, excuse me, but overwhelmingly the committee voted for it and I think the sentiment of the country and certainly the President and others has been we need some kind of effort to make that further statement about terrorism.

Well, John Hume, who is a leader of the Social Democratic Labor Party in Northern Ireland, is a moderate, a moderate, who has placed his political career as well as his life on the line in the effort to try to create peace. He has said it is this aid package that is more central to the notion of fighting terrorism, more important in the effort to try to keep the IRA and extremists off balance in Northern Ireland than any other single effort that has been at their disposal in recent history and which is part of the peaceful framework which is trying to be created there.

So I would echo what we have heard from the Senator from New York and others. To pull out now, to say at this moment in time that we who have helped to initiate this effort are going to withdraw what is essential to the conclusion, to the effort to give it some meaning, would be a devastating message not only to our relationship with these two countries but it would be a devastating message with respect to this effort we have made, the expenditure of our moral power and our force to send messages about terrorism. If we want to give aid and give succor to terrorism, then do not give aid through this package. But if you want to help an effort for peace which would pay off in the long run, which is inexpensive compared to all the other losses which are incurred by seeing this dilemma continue, this is the way to go and I strongly urge us to support it.

Mr. SIMON. Will my colleague yield for a moment?

Mr. KERRY. I yield.

Mr. SIMON. Mr. President, I simply want to echo those sentiments. I speak with a little bit of conflict of interest. I have to tell you my wife is Irish by background. She was in Northern Ireland just 2 weeks ago. She came back very depressed about the situation there and said, "They need every spark of hope they can get." I think here we have a chance to give them a little bit of a spark of hope and we ought to do it. I commend my colleague.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to first voice my concerns about this legislation. It is as follows. The aid for Northern Ireland is not a new sum of money. It is being taken from the existing part of aid that has already been shrunk, and I am concerned and I wish greatly that they had succeeded, those involved with this process had succeeded in committee, if indeed it should be $50 million, that it be new money added to the aid package instead of taking money, clipping it from Senegal or Upper Volta or Sudan or whatever it is, those countries that so desperately need it.

Now, the Senator from Maryland made a statement on which I would like to just briefly question him, if I might. He said that this aid will be matched by other aid. Could he enlighten us a bit on that? He indicated that other countries were coming forward, if I understood him correctly, with aid and this is an important part of the total. Did I understand that statement correctly?

Mr. SARBANES. It is my understanding that a number of other countries—Australia, Canada—have under consideration providing money to be supportive of this effort to move toward peace in Northern Ireland, and the United States, of course, by moving to provide very important leadership, will be part and parcel of that effort.

Mr. MOYNIHAN. Might I add that the European Community is about to make some provision.

Mr. CHAFEE. I think that is an important factor. So on one side we have the fact that all these countries which are now receiving aid from the United States—and I believe should receive it

and are desperate, already having been reduced through various cuts including Gramm-Rudman—are going to receive less. However, at the same time it is my understanding from a conversation with the chairman of the subcommittee on this matter—and indeed it points out in the legislation—that some portion of the money will come from military assistance, $20 million of it will come from military assistance. That package is rather a large one, so there I do not think any nation will suffer too much.

On the other side of the coin we have the fact that this money will be extremely helpful in fostering the peace process in Northern Ireland and indeed, as has been pointed out, will act as a catalyst for other nations to contribute. I think that is a goal we should seek. I have been concerned, and followed this with some interest over the years, about the battles, the fighting in Northern Ireland and the tragedy that exists there.

□ 1800

For that reason, Mr. President, I will support the committee in this sum of money. But I hope that in the future if they provide money like this, they will not take it from the existing foreign aid package but will add the money from other sources, rather than from the existing aid package.

Mr. KASTEN. Mr. President, the amendment currently under discussion would provide $50 million pursuant to a request by President Reagan for assistance to Ireland and Northern Ireland in response to a formal agreement between the British and Irish Governments, signed November 15 of last year, which established a framework for constructing a durable peace in Northern Ireland.

This initiative is therefore our response to that agreement and is being provided in hopes of making some progress in that troubled area of the world.

Mr. President, I believe that most Members support the administration's request, and the controversy just seems to be how much and what type of assistance. The Senate supplemental had provided for $20 million in ESF-type assistance, whereas the House had suggested $50 million.

In conference with the House, we acceded to the $50 million number and the house agreed that that $50 million would not come out of existing ESF funds alone, but instead we distributed it proportionately over the entire foreign assistance bill.

This was a fair compromise, I believe, although I had hoped that we would have been able to provide new money as existing foreign assistance resources are already stretched to the limit, as the Senator from Rhode Island pointed out.

Mr. President, I think that this particular item is a reasonable response and I hope that the Senate will support the conference agreement.

Mr. MOYNIHAN. Mr. President, those of us who are in favor of this are much in the debt of the Senator from Wisconsin for his efforts and understanding which have made this possible.

In closing, may I suggest that the Senate might consider, with its actions in this coming vote, that if we do confirm the judgment of the committee, as I hope and am confident we will, we do so in honor of the President of the United States, Ronald Reagan, and the Speaker of the House.

● Mr. KENNEDY. Mr. President, I strongly support the financial assistance for Northern Ireland in the conference report, and I urge the Senate to reject any attempt to delete it or weaken it.

This $50 million assistance package provides much-needed United States support for the historic Anglo-Irish agreement signed last November by Prime Minister FitzGerald of Ireland and Prime Minister Thatcher of Great Britain. This far-reaching accord offers the best opportunity in a decade to achieve a peaceful settlement of the conflict in Northern Ireland, and the provision of United States financial assistance is a significant element in the prospects for the success of that accord.

The Anglo-Irish agreement provides new hope to the people of Northern Ireland that the Nationalist and Unionist traditions may at last be able to achieve a reconciliation that respects the rights of both traditions and end the violence that has wracked the province for the past 17 years, at a cost of over 2,500 lives and untold damage to the fabric of the community.

Most important, the agreement sends an important message to the people of Ireland—and the United States—that peaceful progress is possible in Northern Ireland, and that the path of the bomb and the bullet is not the way to Ireland's future.

In one of its central provisions, the Anglo-Irish accord includes the unprecedented British acceptance of a role for the Republic of Ireland in the day-to-day affairs of Northern Ireland. With this specific new role for Ireland, the long-suffering Catholic minority in the North will have greater assurance that its rights and aspirations will be more fairly honored and more fully protected.

All of us who favor the cause of peace in Northern Ireland recognize the need to make this United States financial contribution available as swiftly as possible. The Irish and British Prime Ministers have clearly expressed their determination to move forward. The best way for the United States to demonstrate its support for the accord is to provide assistance now—when support is needed most.

We had hoped to make these funds available before the end of 1985, so that our support could begin to work its healing effect in the early days as the accord was first being implemented. If we fail to approve this contribution now, in all likelihood no U.S. aid will be available before the end of the current fiscal year, and an entire year will have been lost to inaction.

It has now been 7 months since the Anglo-Irish accord was signed—and the tensions have seldom been higher in Northern Ireland. Current headlines report ominous new threats by the extremist leaders of the Unionist community in their unconscionable effort to cripple the agreement. A strong demonstration of American support for the accord is especially timely now—and will be an important counterweight against the irresponsible appeals to violence of those opposed to peaceful change.

America has strong ties to both Britain and Ireland, and this modest American contribution to a better future for Northern Ireland can be a useful part of the process to achieve a permanent and lasting peace. On the day the Hillsborough Agreement was signed last fall, President Reagan praised the accord and pledged his support. In doing so, the President was reaffirming the commitment made by the previous Administration to work closely with Congress in a bipartisan effort to find effective ways for the United States to support the cause of peace in Northern Ireland, including the provision of financial assistance.

Last December, the Senate and the House of Representatives passed resolutions commending the accord and declaring our willingness to provide appropriate U.S. assistance, including economic and financial support.

Legislation approving a U.S. contribution to the accord has been adopted by both the Senate Appropriations Committee and the Senate Foreign Relations Committee. The House of Representatives has already completed action on a 5-year program of financial assistance, of which this $50 million is the first installment for the current fiscal year, 1986.

This installment is not new money; the funds will be derived from the broad range of existing programs specified in the conference report, without serious harm to any single program. This appropriation will not bust the United States budget—but failure to adopt it will be a serious blow to peace in Northern Ireland and to our longstanding friendship with Ireland and Britain.

The United States funds will be used for economic reconstruction and revitalization of hard-hit areas in both

Northern Ireland and Ireland affected by the current violence. One of our principal goals is to provide employment opportunities for the most severly depressed areas of Northern Ireland—some of which have unemployment rates of 60 percent. The funds will also help to catalyze private investment in Northern Ireland, to attract new capital and thus provide further employment opportunities.

In addition, a substantial United States contribution is expected to induce contributions from other nations, including Canada, Australia and the members of the European Community.

Security measures alone cannot end the violence in Northern Ireland. The real hope and the best hope for lasting peace is the credible promise of common progress in the future for both communities if they put aside their ancient differences and learn to live and work together in peace.

Yesterday, the Senate passed a $1.1 billion dollar embassy security and antiterrorism bill, reflecting the deep concern that Americans share about the increasing level of terrorist attacks throughout the world. Few Americans, however, are aware of the terrorism with which the people of Northern Ireland have lived for the past two decades. The provision before us is the most concrete, positive step the United States can take to help the Irish and British Governments combat terrorism in Northern Ireland. If we are serious about fighting terrorism, it would be irresponsible for the Senate to refuse to approve this modest appropriation for Northern Ireland.

Many pitfalls lie ahead. Success of the Anglo-Irish accord is by no means guaranteed—and it will be tragic if America's lack of support contributes to the failure of the current initiative.

Make no mistake. Amid all the controversy over the accord, both sides in Northern Ireland are carefully watching what we do. The extremists hope that we will deny these funds, and play into their schemes to block the economic progress that is at the heart of the real promise of the accord. But those who are still committed to peaceful change will see in our support a fresh sign that the accord can work.

The Senate has the chance to make a small but important contribution to the fight against international terrorism. I urge my colleagues to reject this anti-Irish effort to approve the provision adopted by the conferees, and thereby do our part in the search for peace and an end to the violence on both sides in Northern Ireland.●

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment to Senate amendment No. 93. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from North Dakota [Mr. ANDREWS], the Senator from Arizona. [Mr. GOLDWATER], the Senator from Florida [Mrs. HAWKINS], and the Senator from Oregon [Mr. PACKWOOD] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—65

Baucus	Gore	Mitchell
Bentsen	Harkin	Moynihan
Biden	Hart	Murkowski
Bingaman	Hatch	Nunn
Boren	Hatfield	Pell
Boschwitz	Hecht	Pryor
Bradley	Heinz	Riegle
Byrd	Inouye	Rockefeller
Chafee	Johnston	Roth
Chiles	Kassebaum	Rudman
Cochran	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Cranston	Kerry	Simon
D'Amato	Lautenberg	Simpson
Dixon	Laxalt	Specter
Dodd	Leahy	Stafford
Dole	Levin	Stennis
Domenici	Long	Stevens
Durenberger	Mathias	Warner
Eagleton	Matsunaga	Weicker
Ford	Melcher	Wilson
Garn	Metzenbaum	

NAYS—31

Abdnor	Gorton	Nickles
Armstrong	Gramm	Pressler
Bumpers	Grassley	Proxmire
Burdick	Heflin	Quayle
Danforth	Helms	Symms
DeConcini	Hollings	Thurmond
Denton	Humphrey	Trible
East	Lugar	Wallop
Evans	Mattingly	Zorinsky
Exon	McClure	
Glenn	McConnell	

NOT VOTING—4

Andrews	Hawkins
Goldwater	Packwood

So the motion to concur in the House amendment to Senate amendment No. 93 was agreed to.

□ 1820

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED AMENDMENT NO. 175

Mr. HATFIELD. Mr. President, will the clerk report the next amendment?

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 175 to the aforesaid bill, and concur therein with an amendment as follows:

Strike out the matter stricken, and insert:

DEPARTMENT OF LABOR

ADMINISTRATIVE PROVISION

No Job Corps Center operating under part B of title IV of the Job Training Partnership Act shall be closed prior to July 1, 1987.

Mr. HATFIELD. Mr. President, will the Chair indicate what is precisely before the body at this time?

The PRESIDING OFFICER. Amendment No. 175.

Mr. HATFIELD. Committee amendment No. 175, is that correct?

The PRESIDING OFFICER. Yes.

AMENDMENT NO. 2169

Mr. JOHNSTON. Mr. President, I move to concur in the amendment of the House to the amendment of the Senate with a further amendment, which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] for himself, Mr. LONG, Mr. BENTSEN, Mr. BOREN, and Mr. NICKLES, proposes an amendment numbered 2196.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the end of the amendment insert:

Chapter VIII A.—Trade Adjustment Assistance

SECTION 1. (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or approprate subdivision thereof, or

"(B) in the case of workers of a firm in the oil or natural gas, industry, for which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services.

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of subsection (a)(3)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(3) Any firm, or subdivision of a firm, which—

"(A) engages in the exploration for oil or natural gas,

"(B) produces or extracts oil or natural gas, or

"(C) processes or refines oil or natural gas,

shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.

"(4) Any firm which provides essential parts, or essential services, to another firm that conducts activities described in paragraph (3) with respect to oil or natural gas, as its principal trade or business, shall be considered to be part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 234(c)) is amended to read as follows:

"(C)(1) The Secretary shall certify a firm (including any agricultural frim) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated.

"(B) sales or production, or both, of such firm have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) in the case of a firm in the oil or natural gas industry, for which such firm provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(C) Any firm which—

"(i) engages in the exploration for oil or natural gas,

"(ii) produces or extracts oil or natural gas,

"(iii) processes or refines oil or natural gas, or

"(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses as its principal trade or business,

shall be considered to be in the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(C)(1) The amendments made by the section shall apply with respect to petitions for certification which are filed or pending—

(A) on or after September 30, 1986, and

(B) before October 1, 1987.

(2) Notwithstanding any other provision of law, no worker shall be eligible for assistance under subchapter B of chapter 2 of title II of the Trade Act of 1974 if—

(A) such worker is covered by a certification made under subchapter A of such chapter only by reason of the amendment made by subsection (a) of this section, and

(B) the total or partial separation of such worker from adversely affected employment occurs after September 30, 1987.

Mr. JOHNSTON. Mr. President, when this bill was on the floor of the Senate earlier, we adopted an amendment with respect to trade adjustment assistance. That amendment was costed out by CBO at $44 million for the first year and a like amount for each of 4 successive years.

The OMB costed out that amendment at $115 million. Nevertheless, we adopted that amendment on the floor because of the dire straits of oil and gas workers and oil and gas States.

When we went to the conference committee, Mr. President, I met personally with members of OMB for the purpose of addressing their objections. OMB had four objectives.

First, it requested that we require the imported articles to be directly competitive with the articles produced by the workers' firm. Therefore, OMB asked that the word "direct" be added to section 222(a)(3). We agreed to this.

Second, the OMB suggested that all tertiary workers be removed from the bill; that is, those whose relationship to the oil and gas industry is not direct.

Third, they suggested that secondary workers be limited to the oil and gas business.

□ 1830

And finally OMB requested that the amendment's affect be limited to those workers who become eligible in fiscal year 1987 alone.

Mr. President, we acceded to OMB's request in full. Subsequent to that, the amendment was costed out by the Congressional Budget Office, which determined that in fiscal year 1987 it would cost only $7 million in budget authority and $7 million in outlays.

Mr. President, I send this memorandum dated June 19, 1986, from the Congressional Budget Office with respect to estimates for this amendment, and I ask unanimous consent that it be placed in the RECORD at this point.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 1986.

MEMORANDUM

Subject: Recent Estimates for Trade Adjustment Assistance.

This memorandum provides more details on the estimates that I have recently provided to you. The first is the trade adjustment assistance provisions in the recently passed Senate version of the fiscal 1986 supplemental appropriations bill (H.R. 4515), which would extend coverage to oil and gas industry workers and secondary workers in other industries. You also asked me to consider a one-year extension of covered to oil and gas workers and their suppliers, but to exclude other secondary workers.

Senate-passed H.R. 4515. In the Senate-passed version of the urgent supplemental appropriations bill for fiscal year 1986, an amendment was attached that would specifically allow oil and gas industry workers to be certified to trade readjustment allowances, and would extend eligibility for benefits to workers in firms supplying good and services to firms directly affected by increased imports (so-called secondary workers). The CBO estimate for the costs of these programs expansions are displayed below. The CBO assumed that this would increase the entitlement components of TAA-cash benefits and job search—by about 40 percent, the same assumption used in last year's deliberation of the secondary workers issue.

ADDITIONAL COSTS

[By fiscal year in millions of dollars]

	1987	1988	1989	1990	1991
Budget authority	44	45	47	48	50
Outlays	44	45	47	48	50

We did not specifically isolate the oil and gas workers in this estimate. Because the baseline incorporating COBRA relied on recent program history and in the previous year some oil refinery workers had been certified, the baseline implicitly includes some oil and gas workers. These workers would represent roughly 3 percent of the number of certified workers assumed in our current law estimates. The Department of Labor (DOL) assumed that the language of the Senate amendment to H.R. 4515 would cover roughly 2.5 additional workers for every oil worker who would be certified under current law. Although this is significantly higher than the 40 percent assumed for secondary workers in general, oil and gas workers were too small a proportion of all recipients to cause us to change the percentage for this amendment.

One-year extension to oil and gas workers and their suppliers. An alternative to the Senate amendment that is now under consideration is a one-year extension of TAA coverage limited to only oil and gas industry workers and their suppliers. Only petitions for certifications filed before the end of fiscal 1987 would be allowed. No benefits would be paid to any newly covered workers before October 1, 1986. The CBO estimate for this provision is displayed below.

ADDITIONAL COSTS

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Budget authority	7	3	0	0	0
Outlays	7	3	0	0	0

Outlays would occur in 1987 and 1988 under this proposal. The 1988 outlays occur because of the petitions filed in late 1987 which would not have their processing completed until sometime in 1988.

Additional considerations. The baseline assumptions upon which this estimate is based are the CBO February 1986 economic and budget projections. The economic forecast was actually completed in December before the oil price decline was fully realized. Although some decline from 1985 to 1986 had been forecast, it proved to be much smaller than the actual decline. As a result, our baseline budget projections do not reflect the dislocations caused by the oil price declines. Thus, even though almost 100,000 oil and gas industry workers have lost their jobs since January, the baseline

does not reflect this change in economic conditions. However, it is still uncertain how long oil prices will remain at the current level. If oil prices were to return to levels near those assumed in baseline, many oil and gas workers would probably regain their jobs. On the other hand, continued low prices could have important implications for spending in programs which are sensitive to unemployment. However, our economic forecast will not be revised until this summer, and revised baseline budget estimates will be produced at that time.

If you have any further questions, I may be reached at 226-2820.

RUDOLPH G. PENNER,
Director.

Mr. JOHNSTON. Mr. President, the OMB has further communicated that by virtue of reducing this matter to the point that it has been reduced, if accepted on the floor, it will not be vetoed by the President of the United States. It is fair to say that while we have answered and agreed to each and every objection of OMB, they still dislike trade adjustment assistance in its entirety. Nevertheless, they have specifically stated that the bill will not be vetoed if adopted in this form. That is as close to an endorsement as you can get from the Office of Management and Budget.

Mr. President, I will not restate at this point all of the reasons I, and others stated on the floor at the time a much bigger amendment was adopted. Let me simply say that we are in dire straits in the oil-producing States of this Nation. This is a $7 million amendment. We just adopted $50 million for Northern Ireland, $55 million for universities, and I hope no objection will be made to this very modest amendment which has now passed muster with OMB.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I rise in support of the Senator's amendment. Some 142,000 people have been off in the oil industry the first 5 months of this year. Many of us watched one of the major network shows the other night where they were bringing in U-Haul trailers from all over the Nation to move unemployed people out of Texas. They were taking the trailers to some Texas cities, such as Midland and Odessa, which have been great oil-producing cities where oil provided substantial employment. Now you are seeing an incredible reduction in that kind of work. We are seeing unemployment in Texas at the highest level it has been since the Great Depression. This is a time when we have more workers out of work in Texas than we have had since the early thirties.

I strongly support the amendment, as I did previously, of the Senator from Louisiana.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I make a point of order that this amendment violates section 401 of the Budget Act in that it is legislation on an appropriations bill.

Mr. JOHNSTON. Mr. President, I move to waive the Budget Act as provided by the Budget Act, and ask for recognition.

Mr. President, a $7 million amendment is being objected to when people in my State are suffering to a degree that they have not suffered since the Great Depression. The same thing is true of Texas.

Mr. President, as I was saying, this amendment involves $7 million for oil and gas workers who are laid off.

Mr. President, I had breakfast this morning with the new mayor of New Orleans. If I could give you some idea of how deep the suffering is in the oil and gas producing States, the mayor told me he has a $12 million deficit in the budget of the city of New Orleans. This deficit is requiring him this very day to lay off one-third of the policemen and firemen in New Orleans. It requires them to let out of jail 900 prisoners, many of whom are exceedingly dangerous. They had to close the public libraries for lack of money. A group of businessmen got together and said look, we cannot allow this to happen. Let us put up the money for 6 months and hope something will come along.

Some 1,800 employees of the city of New Orleans are being fired immediately. The State legislature is now in session and has had to cut $800 million from its budget. It is going to let off State workers by the thousands. The unemployment rate in my State—and Louisiana is not the only State impacted, Mr. President—is 13.2 percent and rising. Eighty thousand people who were formerly employed have left the State. Mr. President, you cannot hire a U-Haul trailer in Louisiana. They are all gone. They are actually chartering planes to send people to Miami to pick up U-Haul trailers and drive them back to bring them back to Louisiana. That is all that is left, Mr. President.

What this trade adjustment assistance does is two things. First, it gives extra unemployment insurance to those who are laid off in the oil and gas industry due to increased imports. Second, it gives retraining funds to those same people.

Next year, this amendment will cost 7 million measly dollars. Mr. President, the so-called Gramm-Rudman Act and the Budget Act provide for a waiver. If this is not an emergency, I do not know how you get an emergency, Mr. President. If this Senate cannot respond with $7 million to these people who are in dire straits, I do not know where the consistency is. How can we give $50 million to Northern Ireland and turn right around and say our own unemployed cannot get a measly $7 million? I voted for funds for universities, $55 million a month ago because I think the universities need it. But I can tell you they do not need it as badly as these unemployed workers do.

Mr. President, I plead with my colleagues that this amendment is only a fraction as large as it was, somewhere between one-fourth and one-seventh of what it was.

It has passed muster with the OMB. It is a very small amount but targeted right to the heart of the problem. I hope, Mr. President, that my colleagues will go along with this very small amendment.

Let me say one more thing, Mr. President. The House is in session, and will be in session until this matter is received by them. I have reason to hope that the House will accept this, in which event it will require no further action. If they reject the amendment, we will not have to have another rollcall vote. Therefore, it is not a question of Senators having to stay around here if they vote for this amendment. I want to make that very clear. However you vote on this amendment, Senators should understand that it is not going to require them to stay around for another rollcall vote.

While I have good reason to hope that the House will accept it, which would be the end of the matter, if they do not, then we will have no alternative but by voice vote to go along.

Mr. President, I cannot believe that this Senate after having voted 55 to 40 to waive the Budget Act for a much larger amendment would now turn us down for a much scaled-down version which has been approved by the OMB.

EXPANSION OF TAA PROGRAM TO INCLUDE LAID OFF OIL AND GAS INDUSTRY WORKERS

Mr. BENTSEN. Mr. President, I join with Senator JOHNSTON in calling for extension of the current Trade Adjustment and Assistance Program to oil and gas industry workers. I supported a similar amendment by Senator JOHNSTON when the urgent supplemental appropriation bill was considered. It was approved by the full Senate then, and I hope the more narrowly targeted version being offered by Senator JOHNSTON now will be approved as well.

The TAA Program is designed explicitly to provide temporary assistance, job training, and search help to workers in industries hard hit by foreign trade. The energy industry is a primary candidate for inclusion in that program. The amendment before us now will ensure that workers in that industry are eligible to participate in the TAA Program. Last year, some 20,000 American working men and women received benefits under TAA—in industries all across this Nation and in both service and manu-

facturing sectors. Over one-third of them received job training or job search assistance as well. That is a higher proportion than in past years under the TAA Program. It means that our unemployed oil and gas field workers or workers in firms supplying the energy industry will have the right to both temporary assistance and retraining if they so choose. In that sense, this amendment provides both a short-term answer to the problems afflicting oil and gas industry workers and a longer-term answer, too.

Some have questioned whether our oil and gas industry is really in economic distress due to foreign trade. In fact, the domestic energy industry is so dominated by events abroad that it catches a cold everytime Saudi Arabia sneezes. The price at which our domestic energy industry can sell its oil and gas is directly determined abroad. The quantity they can sell here at home is nearly completely up to the handful of major producers in the Organization of Petroleum Exporting Countries, or OPEC. The explanation is simple. OPEC can produce oil at $1 or less per barrel while much of our domestic production is considerably more expensive, with an average lifting cost approaching $10 per barrel. The vulnerability of domestic producers to foreign trade was dramatically demonstrated this winter when Saudi Arabia decided to reduce its price and increase its sales. It dropped prices by over one-half and captured market share by guaranteeing to match any lower price by any other producer.

A Government owned hand is on the value, not the invisible hand of the free market. The collapse in prices to the neighborhood of $13 per barrel now from $27 per barrel last fall has hit our domestic oil and gas producers on the chin. They are reeling—cutting output, laying off workers, slashing exploration budgets and shutting down all drilling not under binding contracts. It is all directly due to foreign trade.

There cutbacks have raged like a wildlife through the oil and gas industry. Nearly daily, papers across my State of Texas carry stories of budget cuts and layoffs. Nationally, the Bureau of Labor Statistics shows that 142,000 oil and gas industry jobs were lost in the first 5 months of this year. That's a loss of 23 percent in barely 5 months. At that pace, there will be only one person working in the oil and gas business by Christmas for every two in that industry this last Christmas. Any industry facing job loss at a 50-percent annual pace is in trouble. There is blood all across the energy heartland of our Nation. As I said before, U-Haul trailers are being brought into Texas from all over the Nation to move our unemployed to other States.

In recent weeks, the number of rotary rigs has fallen 85 percent from its 1981 peak to set new lows. Currently, there are barely the same number of oil and gas rigs in operation that we had in the dark, early days of World War II when our Nation was diverting pipe and everything else to the war effort. That collapse in drilling translates directly into declining exploration and fewer new oil discoveries. Only 1 well in 13 wildcats locates new deposits. Thus, all across the Nation we could well see a bare 3 wildcats a week come in this year, compared to 30 successful wildcats back in 1981.

That's bad news for the country. It means increasing vulnerability to OPEC oil blackmail. It means higher oil prices in the future. In my State of Texas, however, the impact has been much more immediate. Since January, 172,000 jobs have been lost in Texas. Some 40,500 of them have come directly from the oil and gas industry. But for each job lost directly in that industry, three or more others have been lost in the ripple effect. For example, since December, 15,000 jobs in manufacturing in Texas have been lost. Some 39,000 jobs in retailing have been lost. Even 6,000 needed jobs in the motion picture and amusement sector have been lost. All together, unemployment in my State of Texas has risen 44 percent since December to a record 779,000 in May. The unemployment rate has risen 50 percent since January.

Tell me any other State that has that kind of loss, and tell me about how you want to eliminate a $7 million assistance program designed to give oil and gas workers the same help that other workers get. Unemployment claims in the oil patch have jumped many fold.

This amendment will ensure that oil and gas industry workers in refining, exploration and production are eligible for TAA assistance. But it goes further than that. It recognizes that the ripple effects on other related industries is a real fact of life. Thus, laid-off workers in industries which provided goods and services to the oil industry, like drill bits and oil rigs, will be eligible as well. Finally, it will provide eligibility for workers laid off since last fall—since October 1, 1985.

The cost of this program is minimal—a mere $7 million for only 1 year, spread across the entire country. For those who still balk I remind you that providing help for oilworkers is just as deep a problem as providing help for steelworkers, textileworkers, or shoeworkers. It is only minimal assistance we ask for tonight.

I am very pleased to support this amendment. It is a quick and necessary Federal response to the crisis gripping our energy industry. I hope that the House or Representatives will act favorably on it.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I congratulate my colleague from Texas and my colleague from Louisiana for the amendment which has been offered. I join them in offering this amendment. I commend them also for their remarks they have just made to our colleagues in the Senate.

We had this issue before us a few days ago. The Senate went on record very strongly by a substantial margin in favoring a proposal to provide this kind of assistance to unemployed oilworkers thrown out of work because of developments in world trade and manipulation of prices by the governments of other nations.

Now we have an amendment before us much scaled back from that original proposal. I feel certain that my colleagues in the Senate will once again go on record as they did before in favor of providing this kind of assistance for oilworkers. We are simply talking about fairness and equity, Mr. President.

We all realize that we are living through a revolutionary change in our economic relationship with the rest of the world. Twenty years ago, 3 or 4 percent of the products that we produced in this country and the products that we used every day in this country moved through international trade. We had a self-contained national market, really open primarily to American producers of goods and services.

In just 20 short years we have had a revolutionary change in this relationship. We have had a fourfold increase in the percentage of the goods and services that we produce in this country that must be sold to markets overseas. We have had the same kind of increase in the level of imports coming into the United States. In fact, today, 80 percent of all the producers of goods and services in this country must compete with foreign competitors for the American market here at home. That is a drastic change in our economic relationshp with the rest of the world.

It takes time to adjust to these kinds of drastic changes, just as it took time, Mr. President, to adjust to changes that were wrought by the industrial revolution.

When the history of this period is written, it is going to be noted that this change was as dramatic and far reaching in the 1970's, 1980, in the last two decades of this century, as the industrial revolution, itself.

So we have realized wisely, I believe, that we needed a curb on the impact of those changes on the lives of people who simply had no control over what was happening to them. We have done that. We have provided additional unemployment benefits. We have provid-

ed a longer period of transition where jobs are not available. We have provided training assistance so that people who must learn new skills in order to take advantage of the employment opportunities that are available will have a chance to learn those skills.

Mr. President, in the years in which my particular part of the country and my particular State were in a boom, when we had very low unemployment, as a member of the Finance Committee I still consistently supported trade adjustment assistance that benefited citizens primarily in other parts of the United States because I did not think it was their fault that they were being thrown out of work. They could not direct their companies, they could not direct the policies of the governments of other nations, which in some cases were providing subsidies to their exports. They had no control over those forces that cost them their jobs and their livelihood.

These are proud people, people who want a chance to work, people who want a chance to support their families, people who want a chance to pay for the education of their children, people who want to make their house payments on time.

They do not want to sit back and draw a Government check. They want a chance.

But they have had no choice. They did not choose to become unemployed. They did not choose to lose their jobs.

I felt it was very important that all of us join together as Americans without regard to which part of the country we may happen to live in, without regard to which industry might be dominant in our State, that we reach out as Americans to help each other with compassion and with understanding, to try to help people make shifts in their lives, to learn new skills so they could remain productive, taxpaying citizens.

□ 1850

That is our goal. That is what the vast majority of the people that are affected by these changes want to do. They do not want to become wards of the Government. They are proud, independent people who want to pull their own weight in this society and contribute something back to it.

Mr. President, I am at a loss to understand why, for some reason, when you mention the word "oil," a whole new set of standards is thrown up. I think that sometimes when you say the word "oil," there are visions that come into mind of J.R. Ewing ruling some huge empire from Hollywood sets to chisel the rest of us.

I wish my colleagues had a chance to know the people who work on these drilling rigs, people who have undertaken great hazards on those jobs. I do not know how many people I have known who have worked on those drilling rigs and have suffered personal injury. Many of them I grew up with, and they are now working on those drilling rigs.

Now, because of the admitted—not as if it is a secret. Press conference have been held all over this world by the leaders of OPEC, saying they are manipulating the price of oil. Because of that manipulation, 86 percent of all the drilling rigs in the United States are stacked today, and the people who worked on those rigs are out of work. They did not have anything to say about it. That roughneck who lives in Okemah, OK or Seminole, OK, or Ardmore, OK, was not asked whether he wanted to be thrown out of a job because of a decision made by an oil minister in a Gulf state. He had no choice.

The price of oil has been so manipulated that not only have we stopped drilling, with the price being driven to levels below even those in 1941, which until this time had been the lowest recorded, but also, we are cutting out jobs on existing wells.

Studies have shown that with respect to the 400,000 stripper wells in this country, when prices get as low as $10 a barrel, we will have the plugging of some 60 percent of those wells within 12 months.

There is no way you can operate and produce from an oil well if the cost of lifting that oil is $15 a barrel when the price is $10. When that well is plugged, not only is that oil lost, tragically, to American consumers who have already paid the environmental costs and other costs of drilling that oil, but also, jobs are lost. The pumpers on those wells are thrown out of work, alongside the workers on the wells that are now stacked up and down the highways of States like mine.

The oilworkers who take these hazardous risks, who are not paid a higher wage per hour than workers in any other industry, are no less virtuous than workers in other industries. Their house payments and the cost of education for their children are no less real and no less pressing than the bills that come into the households of the steelworker, the shoeworker, the textileworker.

I appeal to my colleagues. In the past, we have all been guilty of this in the various regions of the country. We have all talked only in terms of what interested our own geographical regions. I hope we will try to set, aside that attitude, that we will realize we are all Americans together, and one part of this country cannot suffer for very long without it spilling over and impacting the rest of us.

There were some people in my part of the country, when we had a boom, who said: "We are an oasis. We don't have to worry about the economic problems in other parts of the country." They have learned that those economic consequences will affect other parts of the country as well.

Let us establish a standard that whatever happens to a region in the country—and that is a standard of fairness—we will treat all workers the same, hardworking people who are thrown out of jobs through no fault of their own, if they need retraining, and see that they have a chance to remain productive citizens.

We should meet the needs of that person who is a victim of economic forces beyond his control. We should meet that need whether that particular worker happens to be a Texan or an Oklahoman or a New Yorker or a Californian or an Alaskan. It should not make one bit of difference. We are all Americans together, and we should have equal treatment for people who find themselves in the same situation.

So I commend the Senator from Louisiana for taking the lead in offering this amendment. I am privileged to join him as a cosponsor. I hope my colleagues will support his proposal by an overwhelming majority.

Mr. GRAMM. Mr. President, I have listened to my dear colleague from Oklahoma talk about how some people react differently as soon as the word "oil" comes up.

I say to my colleague that no more beautiful word comes to my mind than "oil." Maybe that is because I represent, along with Senator BENTSEN, the great State of Texas. I represent people who are out of work. I do not need to be told how bad problems are in the oil industry. I have seen the devastation; and since we are talking about a collapse in world oil prices, certainly that qualifies under trade adjustment assistance.

My problem is the same one I had when we last debated this issue. It is that while I am fully in favor of granting coverage under trade adjustment assistance and would stand ready to vote for it, we have made a commitment this year, for the first time in a long time, to try set out some parameters to bring spending under control. We committed ourselves that if we are going to spend money on something of great importance, such as this, we will take that money from something else of less importance.

My objection to this amendment has nothing to do with the fact that we are trying to help people who legitimately need help. I agree with that. I do believe that in the past there has been this feeling, as our distinguished colleague from Oklahoma says, that everybody in the oil business is a "J.R. Ewing." I wish that were true today, because there are a lot of people suffering, and if they had his assets this would be an unhappy time but not such a painful one. For every person sitting in an air-conditioned office as the president of an independent oil op-

eration, there are a great many more men and women laboring in the industry, working hard day to day—or people who have no jobs.

Mr. President, what we are doing here is saying that there is this crisis in the Nation and therefore we should respond by overriding a point of order on the budget. My view is that there is a crisis in the Nation.

I wish our distinguished colleague from Louisiana had offered an amendment that reduced expenditures on another entitlement and said that this is a higher priority than some other program we are spending money on.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. GRAMM. Let me make an additional point.

Our distinguished colleague from Louisiana raised the point about aid to Ireland. I voted against aid to Ireland, even though we reprogrammed the money in terms of aid to Ireland, which is something that is not proposed here.

So we had one problem in that we are adding a new entitlement. That is something I, personally, could live with if we were saving the money in another area. But I come back to the point that each of us has a particular concern. My concern happens to be the one that has been expressed so articulately by my three distinguished colleagues from Louisiana, Texas, and Oklahoma. I share that concern. I also share our concern about trying to operate within the Budget Act.

I have no doubt this amendment will be approved, and there is no doubt that I will be happy the people in Texas will benefit from it—if the House accepts it. However, I must make the point that this amendment, as meritorious and compelling as it is, is a perfect example of why we are such poor stewards of the taxpayers' money.

We each have our own particular interest that is so important that we are willing to violate the budget because of it. Yet, in the aggregate, the net result is that deficits continue to be a deadweight burden on the economy; they continue to depress the creation of the very jobs we seek. That is why I voted against this amendment—not on the amendment itself, but on the point of order not to increase the deficit. That is why, if there is a vote here today, I will vote to preserve the budget point of order, even though I am strongly in favor of the content of the amendment and would vigorously support the amendment if the point of order did not lie against it on the budget or if there were an offsetting provision to hold the deficit neutral.

I yield to the Senator from Louisiana.

Mr. JOHNSTON. I thank the Senator for yielding.

Mr. President, I wish to make three points.

First, I think the Senator knows that this vote is not on a point of order. Rather, it is on a motion to waive the Budget Act, as we have done tens of times this year on other matters. The Senator will agree that we have waived the Budget Act a number of times, though not precisely on this point.

□ 1900

Mr. GRAMM. If I may, a point of order was made that under the Budget Act under title 401 we are creating a new entitlement here and in this process sending up the deficit. There is some dispute how much that is, whether it is $7 million or $30 million. That is going to be discussed later. That is not my point. We have waived the Budget Act in the past. I opposed it in the past. I think if we have critical needs—and I think the distinguished Senator from Louisiana has presented one that to me is certainly a critical need—what we should do is take the money away from a lower priority use, rather than simply waiving the Budget Act which we do on an almost continuing basis but which we do to the overall peril of the economy and the future of the country.

Mr. JOHNSTON. Second, was the Senator aware of two things: first, even though this point of order is on the question of creating a new entitlement, that the so-called entitlement is only for 1 year, that is, for those workers who are eligible for TAA during fiscal year 1987? Therefore, the Senator should be aware that this is not like other entitlements that go on forever—the Food Stamp Program or Social Security or whatever. This is, in effect, a 1-year entitlement. Second, since the point of order is on the question of the entitlement, there is no requirement that we take the $7 million from somewhere else and put it here, as it was, for example, in the tax bill.

There was no requirement to do that, which is the reason we did not do it. We could find it in a million places. This is only 1/100,000th or less of the Federal budget. It is chickenfeed for the budget. However, it is vital for oil workers. I think the Senator would certainly agree with that. He is aware of these three points, is he not?

Mr. GRAMM. I am perfectly aware but I go back to the point that if this is that critical—and I believe it is—I think it would have behooved us to have produced an amendment that made a corresponding reduction. I think those of us who are concerned about the deficit would have been eager to support it under those circumstances. We do have a point of order about a new entitlement, and I believe that we set out a Budget Act to achieve a worthwhile purpose. We do not fulfill that purpose by simply waiving the Budget Act, though we have that right. That is the source of my concern.

Mr. NICKLES and Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise in support of my good friends and colleagues, Senator JOHNSTON, Senator BOREN, and Senator GRAMM, and others in support of this amendment. We should not really have a long debate tonight. We have already debated this. The Senate debated it at length and the Senate by a strong majority agreed with those of us who said that oil and gas workers should be included under the Trade Adjustment Program. They are unemployed, not of their own choice. They are unemployed because of the Saudis and other countries deciding to increase world production and drive prices down. That is not the marketplace at work. It is manipulation of the market. But the Senate has voted. The Senate has debated. We have considered it and I would hope that we would not really waste a lot of time.

I think people know how we are going to vote. We have a lot of people who are wanting to leave town tonight. I hope that we would agree with Senator JOHNSTON and move this amendment forward. I was very disappointed that the House of Representatives dropped it. If one says, "Well, they dropped it for fiscal reasons," if you read the budget, if you read the supplemental appropriation bill, you will find lots of cats and dogs, lots of them. I agree with my good friend and colleague, Senator GRAMM from Texas, that maybe this would have been a better amendment if we had an offset, but right now we do not.

However, we do have a lot of unemployed workers who need some assistance, and they really do not have the time, they do not have the ability to wait for future legislative action. They are hurting. They are hurting right now. I introduced legislation today on behalf of myself and Senator BOREN that would make a legislative change, that would allow this assistance for oil and gas workers as it would for a steelworker or a rubber worker, a textile worker or any other industry, if that should happen. But we are not going to get that passed tonight. That should happen, and I hope that it will happen, in the next couple of months. But now what we have before us is the ability to be able to provide very limited, much more restrictive relief than what even passed the Senate a few weeks ago. So I hope that again we will move this forward and vote on it in the very near future.

Mr. DIXON and Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I rise to add my voice in support of what my friend from Louisiana is doing. So that there is no impression that this is just the oil-rich States like Louisiana, Texas, and Oklahoma that are interested, in southern Illinois we have a very substantial oil and gas industry, largely stripper wells, things of that kind. Over 4,000 unemployed workers in southern Illinois would be benefited by the passage of the amendment advocated by the Senator from Louisiana. I think that is generally true in many other States which have modest oil and gas industries with unemployed people. I urge my colleagues to support the Senator from Louisiana.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I will be brief because I know everybody does want to move on. I have great sympathy for what the distinguished Senator from Louisiana is attempting to do, but my concern is that it is not equitable. The fact is that we have other employees who have lost their jobs because of imports, other secondary workers who are not eligible for TAA. We only have to look at the textile industry, the steel industry, the automobile industry, the rubber industry, to name just a few sectors that have been hard hit by imports, like the secondary worker to the oil and gas industries, the employees supplying products to these industries are not receiving TAA either.

I think it is very important to understand that the primary employees of oil and gas are being treated exactly the same as employees of the textile industry, rubber, steel, and the others. They are all covered by TAA primarily because I was successful earlier this year in getting trade adjustment to be continued as part of budget reconciliation.

As you know, Mr. President, I have been working long and hard with the help of just about everyone in this Chamber to strengthen our Nation's Trade Adjustment Assistance Program. But I am also a proponent of equity, complete fairness in the administration of this assistance. All American workers and firms adversely affected by trade must be treated equally. Under no circumstances should we show bias or begin what could result in conflict among our country's various industries by favoring secondary workers in some instances but not in others. Unfortunately, this is the consequence of the Johnston amendment. We would be giving special coverage to the secondary workers in the oil and gas industry but not others.

Let me say, so the RECORD shows, it is my full intent to again offer a trade adjustment amendment in the Finance Committee which will cover all secondary workers including the oil and gas workers but also many others who have been adversely affected by imports. I would also say that, in answer to my distinguished junior Senator from Texas, I will once again make a proposal that is self-financed. I feel it is only fair that there be some kind of a small import fee that would pay the cost of this trade adjustment assistance.

So, Mr. President, while I rise in opposition to the amendment of the Senator from Louisiana, I assure him and the others that I intend to offer at the earliest opportunity an amendment that will cover all secondary workers. We will also provide the means to finance this proposal.

Mr. ABDNOR addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABDNOR. I rise simply to ask my colleague from Louisiana a question. I think I supported the Senator on the earlier amendment but I am just wondering what is different this time. The Senator and I both ran into the obstacle. The gentleman over in the House has the rule that all he has to do is what he did before, get up and refuse to accept it. I would hate to go through this exercise for nothing. Is there any reason to think that something is changed?

Mr. JOHNSTON. I appreciate my colleague's question. What has changed in the meantime is that we have negotiated with OMB and met four separate requirements that they required, including making this a 1-year entitlement instead of a 5-year entitlement. Second, we have reduced the cost. According to CBO, the original amendment would have cost $44 million in 1987. Now it costs $7 million.

Mr. ABDNOR. I am not trying to cause the Senator trouble. That is not my concern. That gentleman sits over there with rule XXI that he made up for his own behalf that says anything relating to his committee has to be out of his committee and approved by him, and all he has to do is bring it up and it is stopped, no matter what OMB or anyone else says. I dislike that and I am going to make a comment about it on another matter because I think it is grossly unfair to the Senate, that we have to put up with that. But it did happen. I am just wondering if the Senator got him called off. More power to him if he has.

Mr. JOHNSTON. I am telling my colleague I hope so.

□ 1910

Mr. DANFORTH addessed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I previously indicated to the Senator from Louisiana that I would like a rollcall vote on the waiver of the Budget Act. I have reconsidered that position and I shall not ask for a rollcall.

I do want to make just two points, though. The first is on the effect that this has on the budget.

There is a dispute on this. The Congressional Budget Office has indicated that it is about $7 million. However, during this debate, Director Miller of OMB telephoned me and said that their figures indicate that this is a $30 million cost, not a $7 million cost.

The second point I make is that it is important to distinguish between oil field workers and people who are employed in related industries.

Oilfield workers now may apply for trade adjustment assistance and, in fact, trade adjustment assistance has been given to some oil field workers. Not all that have applied, but some who have applied, have received trade adjustment assistance on a finding that those oil-field workers who have received assistance work for businesses that have been directly impacted by imports.

This amendment, as I understand it, does not go to the question of oilfield workers. It does not expand their rights. Rather, it goes to workers who are ancillary to the oil business, secondary workers who provide essential services to the oil industry. Therefore, what this amendment would do is single out businesses that are ancillary, secondary, to the oil industry and make them subject to coverage under trade adjustment assistance.

There are people who have advocated this as a general principle and the amendment that was offered by Senator JOHNSTON on the floor a few weeks ago did extend secondary trade adjustment coverage beyond the oil industry to other industries as well. What this amendment would do, as I understand the amendment, is single out the oil industry and provide trade adjustment assistance to those related industries that, in turn, feed into or supply the oil industry.

I think that this is something that is very doubtful. I do believe that it is an entitlement program. I think that it is not realistic to think that it is an entitlement program that will stop at 1 year or that will stop at only the oil industry, I think that it constitutes legislating on an appropriations bill.

This is not the way to broaden the Trade Adjustment Assistance Program if we want to broaden the Trade Adjustment Assistance Program. However, I recognize that the Senate voted on this matter a few weeks ago and I do believe that Senator JOHNSTON would have the votes in this case. In view of the hour, I shall not insist on a rollcall vote.

Mr. SIMPSON addressed the Chair.

THE PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I am not going to intrude upon the time of my colleagues at this hour but I do insist that this is an important issue in my State.

WYOMING UNEMPLOYMENT

Figures just released show that the unemployment rate in Wyoming is 10.8 percent—fourth highest in the Nation and directly attributable to the downturn in the energy industries.

OIL PRICE AND IMPORTS

In the first week of April 1986, spot market prices for oil briefly feel below $10 a barrel—or one-third the $30 price that prevailed as recently as November 1985.

In the last 6 months, the United States has increased its import of oil by 26 percent.

It is clear to me that the large increase in unemployment in the energy production States is directly attributable to the increased import of cheap foreign oil.

We have known in energy-producing States like Wyoming for many, many months that problems in our domestic energy industry spell deep problems for the entire country. It is imperative that we move swiftly on all fronts to lessen the effects of what thoughtful people would call the current crisis. Efforts to broaden the interpretation of the Trade Adjustment Assistance Act is but one of the many steps we should be taking.

The Trade Adjustment Assistance Act provides up to an additional 26 weeks of unemployment compensation and retraining funds to workers who have lost their jobs because of imports.

The reconciliation bill passed earlier this year by Congress extends the Trade Adjustment Assistance Program to 1991 and requires workers to be enrolled in a job search program to be eligible for cash benefits.

The Trade Adjustment Assistance Program has come under increasing—and valid—criticism for being little more than extended unemployment for certain workers in our society, but not for others who cannot prove they were hurt by foreign competition.

I have not always supported the TAA Program—and in these times of fiscal austerity I might well vote in favor of future restrictions—or even termination of the program.

However, as long as such a program exists, I believe that energy-related companies that have been hurt by foreign oil imports should be allowed to receive benefits under the Trade Adjustment Assistance Program.

Mr. JOHNSTON. Mr. President, the amendment that I am offering as an amendment to the House amendment to H.R. 4515 is a scaled-back version of the trade adjustment assistance amendment that was adopted by a vote of 55 to 40 during Senate consideration of the urgent supplemental. Specifically, this amendment limits the extension of TAA to the oil and gas and oil and gas service industries and eliminates the extended eligibility after fiscal year 1987. The CBO estimates that the cost of this amendment, both in terms of budget authority and outlays will be $7 million in fiscal year 1987 and $3 million in fiscal year 1988.

First, section (b)(2) of this amendment states that the whole oil and natural gas chain, from exploration to refining is one primary industry.

Second, by extending trade adjustment assistance to workers and firms that provide essential parts or essential services to the oil and gas industry, it is my intent to assure that such assistance will be available to the traditional suppliers of the oil and natural gas industry as defined in (b)(2). By such suppliers, I mean to include anyone who provides essential parts or services to anyone in that chain such as mud suppliers, drill bit suppliers, seismic companies, crew boat companies, board road suppliers, pipeline installation companies, helicopter operations, and others.

Mr. President, this amendment applies to primary workers in the oil and gas business and only to those workers whose principal trade or business is furnishing goods or services or labor to the oil and gas industry.

I thank my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

The motion was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 2169) was agreed to.

Mr. HATFIELD. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The Senator's motion is a motion to concur with the amendment.

The question is on agreeing to the motion to concur.

The motion to concur was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, first, I thank all colleagues for their help in this matter. I sincerely hope the House will be as accommodating. I certainly thank my colleague from Missouri who, even though he vociferously opposed the amendment, nevertheless allowed us to pass it with dispatch.

Mr. HATFIELD. Mr. President, I believe that now we have concluded the amendments in disagreement numbers 23, 91, 93, and 175. So that completes those amendments that have been sent to the desk.

The PRESIDING OFFICER. The Senator is correct.

There are still two Senate amendments pending.

Mr. HATFIELD. I understand. I simply wanted to get those with which we are in disagreement.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO 114

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate amendment No. 114.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The House insists on its amendment to amendment No. 114.

Mr. HATFIELD. Mr. President, that is UDAG amendment No. 114.

I move that the Senate recede from its amendment No. 114.

The PRESIDING OFFICER. Is there further debate on the motion of the Senator from Oregon?

Hearing none, the motion is agreed to.

Mr. HATFIELD. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 199

Mr. HATFIELD. Mr. President, I ask the Chair to lay before the Senate amendment No. 199, motor vehicle records maintenance.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

Senate amendment No. 199: Page 30, after line 4, insert:

SEC. 4. None of the funds appropriated by this Act or any other Act shall be used to implement temporary Internal Revenue Service Regulation section 1.274-5T or section 1.274-6T or any other regulation issued reaching the same result as, or a result to, such temporary regulations.

Mr. ABDNOR. Mr. President, I wish to speak on this amendment. I know what occurred in the conference committee and there was nothing we could do about it. I would not attempt to do what the Senator from Louisiana attempted.

□ 1920

Last year, by a 92 to 1 vote, the Senate passed a bill repealing the requirement that taxpayers keep detailed records on their business vehicles.

But the House, while boasting about how they were killing logbooks, passed a different bill which actually contained a requirement that taxpayers maintain "written records" and called for the IRS to issue a whole new set of

regulations specifying what sort of documentation would be required.

In conference, the Senate was able to water this language down, but the House conferees still insisted on enough language about "written evidence" that the IRS had the exact loophole they needed to reimpose their nit-picking recordkeeping rules all over again.

And the IRS took full advantage of that loophole by publishing new regulations. While technically those regulations do not require logbooks, most CPA's I have talked to are advising their clients that nothing short of detailed records documenting every business mile will protect them in the event of an audit.

The amendment which I wrote into the Treasury section of this supplemental and which we passed here in the Senate by an overwhelming 81 to 17 vote simply invalidates the increased substantiation requirements contained in the latest IRS regulations.

The Senate committee report language makes it crystal clear that the intent of this provision is simply to return to the substantiation requirements in effect prior to passage of the 1984 tax bill—the bill which caused the whole recordkeeping mess in the first place.

Despite the overwhelming sentiment here in the Senate for ending this nightmare for millions of honest taxpayers, the House conferees said they simply could not agree to this provision. They said it's a "tax or tariff" measure and violates rule 21 of the House. And yesterday, when this provision was brought up on the floor of the House, it was dropped as soon as the threat of a point of order was raised.

And I was astonished to hear one of the members of the House Appropriations Committee say on the floor of the House when the night legislation was before them that those who were supporting this amendment should just hold off and wait for the problem to be taken care of on the tax bill.

Well, the truth of the matter is that neither the House nor the Senate versions of the tax reform bill even address this problem. Who's kidding who? The opportunity to scrap the IRS logbook rules was right here, on this bill.

But the message being sent to the Senate is that no matter what we do, no matter what kind of majority we put together, we are simply no match for the procedural rules of the House of Representatives. I suggest to Senators that perhaps it is time to revise some of our own rules. Time after time when we go to conference on appropriation bills the House expects the Senate to accept numerous provisions which are clear authorizations and have nothing to do with appropriations.

On the other hand, when the Senate adds a legislative provision, House conferees simply throw up their hands and say, "nope, we can't take this, it's authorizing on an appropriation bill and is subject to a point of order on the House floor." This sort of one-sided exchange where the Senate is always forced to give up its legislative provisions while the House simply takes whatever it wants has got to stop.

By now the record should be clear. Those of us in the Senate have done everything possible to scrap this latest IRS bureaucratic boondoggle. But the buck stopped over on the other side of the Capitol.

The leadership in the House of Representatives, rather than agreeing to clean up this mess, chose instead to raise a technical procedural roadblock. As a result, millions of American farmers, ranchers and businessmen will have to maintain volumes of pointless records on their vehicles. That is the height of irresponsibility.

In fact, there was testimony before the Treasury appropriations subcommittee that the IRS's attempts to impose recordkeeping requirements will cost American businessmen 79 million man-hours of lost time very year. That's an awfully high price to pay when even the most inflated estimates of the extra revenue received by making taxpayers comply with these rules is $200 million on an annual basis, and I assure you I do not have any faith in that estimate in the slightest.

But the truth is that you are not going to get one dime's worth of extra revenue out of imposing ridiculous paperwork requirements. Anyone who wants to cheat will do so just as easily under the new IRS regulations. All that is accomplished by these rules is to stick honest taxpayers with a lot of extra paperwork.

I hope that Members of the House of Representatives are willing to take responsibility for their actions because when irate taxpayers complain to me about the ridiculous records they have to keep, I am going to tell them exactly where they should take their complaints—straight to their elected Representatives in the House.

Mr. President, this shameful action on the part of the House has to stop because it puts us in a ridiculous position. Anytime they want an authorization, that has the clearance and away it goes; but when we offer a very meaningful, a very worthwhile amendment, all we get is rule XXI shoved in our faces.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I commend the Senator from South Dakota [Mr. ABDNOR] for a very eloquent statement on this very terribly frustrating situation that we do face with the House of Representatives.

It is a very selective system of observing rules and not observing rules that they enjoy. But, obviously, it always becomes a matter for the Senate to observe the rule when we initiate some kind of action. It is their privilege to always disallow the rule or to ignore the rule when it comes to their role of initiating some kind of action.

I know the Senator from South Dakota especially has been in the center of that kind of frustration and I can understand his feeling.

I commend him on bringing this to the attention of the Senate.

Mr. President, I now move that the Senate recede from its amendment number 199.

The PRESIDING OFFICER. Is there further debate on the motion to recede?

If not, the question is on agreeing to the motion.

The motion was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OFFICE OF SURFACE MINING RESCISSION

● Mr. McCLURE. Mr. President, in the conference report on the fiscal year 1986 supplemental appropriations bill the Senate has accepted a House proposed rescission of $210,000 in the Office of Surface Mining but the report does not include language explaining the reasons. I would like to take a moment to explain the situation and the reasons surrounding that decision.

In the fiscal year 1986 continuing resolution, Congress provided funds for an additional 10 FTE's to assist States when their programs faulter. A total of six FTE's were to be used in Oklahoma to ensure a smooth transition from Federal primacy to State primacy and then to be used in other States that need attention. The remaining four positions were to be divided between the eastern and western field offices to aid States when their programs faulter.

OSM provided the additional six FTE's to work on the Oklahoma program. Unfortunately, in an effort to get the continuing resolution signed by the President, a 0.6-percent across-the-board reduction was made in the Interior section. This action eliminated one of the four other "troubleshooters."

The remaining three "troubleshooters" were not hired because of the constraints put upon the Office of Surface Mining by the 4.3-percent sequestration order. Since this function is de-

fined as a "subactivity," rather than a "program, project or activity," the Office of Surface Mining is operating within the scope of the law by reducing this function by more than 4.3 percent.

During this fiscal year people were shifted from within OSM to the offices of External Affairs, Public Affairs, and Congressional Affairs. In all instances except one, these people were either replacements for those who have resigned or came from within OSM. I do not believe that these hiring decisions were made at the expense of the "troubleshooters" but they were done separately.

The External Affairs, Congressional Affairs, and Public Affairs Offices, are all funded under General Administration. To comply with the sequestration order, General Administration reduced travel, reduced printing, and in some cases, vacant positions were left unfilled.

As the attached letter from the Director of OSM indicates, the external affairs function is important to OSM and is utilized to improve cooperation between industry, the States and environmental organizations.

OSM has recently been required to spend a great deal of time appearing before several congressional committees. As my colleagues know, responding to congressional requests to appear at oversight hearings is important for any agency especially an agency that has had as much difficulty as the Office of Surface Mining. These congressional appearances are running at a level above fiscal year 1985, so it is important for OSM to at least keep the congressional staff at a level consistent with last year's.

In accepting the rescission, Mr. President, I was informed by OSM that excess funds do exist and a $210,000 rescission will not adversely affect them. Adjustments will be made so current programs will not be affected. As my colleagues know, the Deficit Reduction Act requires this bill to be deficit neutral and every dollar helps to facilitate that cause.

Mr. President, I ask that a letter from the Director of the Office of Surface Mining be printed in the RECORD.

The letter follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, DC, June 18, 1986.

Hon. JAMES MCCLURE,
Chairman, Senate Subcommittee on Interior and Related Agencies, Committee on Appropriations, Washington, DC.

DEAR SENATOR MCCLURE: During the Fiscal Year 1987 budget hearings for the Office of Surface Mining Reclamation and Enforcement (OSMRE), questions were raised regarding OSMRE's intent to fill positions in its new External Affairs Office, which is designed to improve working relationships with industry, the States, environmental groups, citizens and the Congress, and our inability to hire so-called "troubleshooters" mandated in Fiscal Year 1986 report language for Field Offices to address State regulatory program problems. I have previously explained that the External Affairs Office was to be funded under a different line item in the budget than regulatory program personnel. I have also noted that, with respect to the troubleshooters, OSMRE did in fact comply with Congress' wishes to the maximum extent allowable; the reduction in planned program hiring was attributable to the 0.6 percent across-the-board reduction enacted for Fiscal Year 1986, and the subsequent 4.3 reduction required under the Gramm-Rudman-Hollings Act.

As you know, the House subsequently passed a rescission of $210,000 in the General Administration activity of our Regulation and Technology appropriation due to the above mentioned concerns, which we have appealed. Under the circumstances, I must clarify the status of our efforts to staff the External Affairs Office, and the effects of the proposal rescission.

The external affairs function is important and has been established in other agencies responsible for dealing with a wide range of interested parties. Congress has frequently indicated its belief that improved cooperation between industry, the States and environmental organizations is essential to carry out the Surface Mining Act. The External Affairs Office would clearly assist us in accomplishing this goal. However, after reexamining requirements for staff office functions in OSMRE Headquarters, I discovered that by assigning collateral duties to existing staff, three of four current external affairs position vacancies would not need to be filled, and they have been frozen accordingly. Further, I wish to discuss the staffing of the Public Affairs Office. Although the size of this office has increased from six to nine, the three additional people were transferred from the Technical Information Branch (Division of Reclamation Technology) to Public Affairs. Finally the Congressional Liaison staff has not been expanded at all; there are four people there now as there were last year. The enclosure describes some of the workload related to the Congressional Liaison function.

The proposed rescission, however, would have significant impacts during the balance of this Fiscal Year because it would reduce the overall resource base for the General Administration activity. If the rescission were enacted, there are several possible effects. We are studying the following options: delaying the relocation of several employees planned as part of the agency's decentralization initiative to improve program effectiveness in the assessments and collections area; deferring computer hardware and software purchases that have already been delayed; and deobligating some blanket purchase order authority for supplies and other essential materials that had been obligated at the onset of this Fiscal Year. The use, to date, of these blanket purchase orders has been less than expected. Therefore, we may have some unexpected savings available. Finally, we may have a savings available from compensation payments owed to the Department of Labor. In each case, it is important to note that activities not funded in the current year could not be cancelled altogether, but would ultimately have to be funded in the next fiscal year, thereby creating a continuing problem.

I hope that this information proves useful in your consideration of the proposed rescission.

Sincerely,

JED D. CHRISTENSEN,
Director.

HEARINGS (MAY, 1985—PRESENT)

1. House Appropriations Subcommittee on Interior and Related Agencies, Fiscal Year 1986 Appropriations, May 2, 1985.
2. Senate Subcommittee on Natural Resources Development and Production, Status of Oklahoma Program and Return to Primacy, June 14, 1985.
3. Senate Subcommittee on Natural Resources Development and Production, Cost Recovery—Permit Fees, July 9, 1985.
4. House Government Operations Subcommittee on Environment, Energy and Natural Resources, AML Fee Collection Program, July 11, 1985.
5. House Public Lands Subcommittee, Historic Preservation, July 30, 1985.
6. House Energy and Environment Subcommittee, Oversight Hearing on Fiscal Year 1987 Budget, February 18, 1986.
7. Subcommittee on Interior Appropriations, Fiscal Year 1987 Appropriations, March 5, 1986.
8. Senate Committee on Energy and Natural Resources, Director's Confirmation Hearing, March 7, 1986.
9. Senate Appropriations Subcommittee on Interior and Related Agencies, Fiscal Year 1987 Appropriations, April 22, 1986.
10. House Government Operations Subcommittee on Environment, Energy and Natural Resources, June 26, 1986.

WORKLOAD STATISTICS

Press Releases: 36 (since 12/85).
Federal Register Notices: 14 (since 12/85).
Request for Information: 127 (since 11/85).
Briefings: 6 (since 1/86).
Meetings: 15 (since 1/86).●

● Mr. COCHRAN. Mr. President, H.R. 4515, as agreed to by the conferees, includes funds for a number of important programs which come under jurisdiction of the Subcommittee on Agriculture, Rural Development, and Related Agencies.

The most urgently needed appropriation is $5.3 billion to reimburse losses of the Commodity Credit Corporation. On June 4, the Under Secretary of Agriculture notified the Congress that, as of the close of business that day, CCC would reach its $25 billion statutory limit on borrowing from the Treasury. The result of that situation is that local ASCS offices could no longer write checks to farmers for commodity loans, deficiency payments—including advance deficiency payments—and other activities for which CCC is responsible, as mandated by law. It is fully expected that this $5.3 billion will be sufficient for CCC operations for the remainder of the fiscal year.

A provision related to the CCC appropriation is the transfer of funds from CCC to the Agricultural Stabilization and Conservation Service [ASCS] for salaries and expenses. Without this transfer of $72 million, ASCS offices will be forced to close their doors in July.

This urgent supplemental bill also contains a provision which overturns the deferral of $700 million in rural housing loan funds. These funds will once again be available for loans for

construction of single family and multifamily homes in rural America.

Another urgently needed appropriation is $9 million for the Dairy Indemnity Program. This will provide funds for indemnifying dairy producers and manufacturers for pesticide contaminated milk in Arkansas, Oklahoma, and Missouri.

The conference agreement provides funds for the Citrus Canker Program in Florida, as well as for the National Soil Tilth Center at Ames, IA and $11.1 million is appropriated for the Citrus Canker Program, to be used only to the extent that the funds are matched on a 50-50 basis with State funds. In providing this appropriation, the conferees agreed to require the Secretary to restore to the Agricultural Research Service the $11.1 million for construction of the National Soil Tilth Center which had earlier been transferred to the Citrus Canker Program.

In addition, the conference agreement provides supplemental funding for several nutrition programs of the Department of Agriculture. There is $8.5 million for the Elderly Feeding Program which is administered by the Food and Nutrition Service, and $2.4 million for the Temporary Emergency Food Assistance Program which provides funding for storage and distribution of surplus commodities donated by the Department of Agriculture to needy individuals. For the feeding program for Women, Infants, and Children [WIC], the conferees agreed to include $20 million. As you may recall, the Senate had deleted funds for this program due to the fact that such funding would address problems brought about by improper planning on the part of a very few States. Since that time, it has become apparent that many States are having funding problems in the WIC Program due to unanticipated increases in the cost of infant formula which is a primary element in the WIC food package. Due to this occurrence, it became apparent that several States may have to reduce their programs. Therefore, the Senate receded to the House.

Under the agreement reached by the conferees, $3.7 million will be available for the Food Safety and Inspection Service [FSIS] to continue its meat and poultry inspection operations through the remainder of the fiscal year, without the necessity of furloughing any employees. This amount will also allow new and expanding plants to proceed with their plans of operation, with the assurance of adequate inspection by FSIS.

For Watershed and Flood Prevention Operations of the Soil Conservation Service [SCS] and the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service [ASCS], the conferees agreed on a total of $41.7 million. this will alleviate flood damage in the Western United States, West Virginia, Mississippi, and other locations identified by the SCS and ASCS.

There are other provisions in the bill which are of interest to Senators. These include a $5-million contingency fund within the Commodity Credit Corporation for use in the event of an outbreak of avian influenza, and legislative provisions regarding advance deficiency payments, the exclusion of permafrost soils from the "swampbuster" provision of the farm bill, and the prepayment of Federal financing bank loans by rural electric cooperatives.

Mr. President, I stress the urgency of the approval of this conference report. As I said earlier, the Commodity Credit Corporation has not issued checks to farmers in several weeks. If this report is not approved this week, and with the July 4 recess upon us, delaying the passage of legislation that would be signed by the President would further delay payments to farmers for another month and would very likely cause ASCS offices to close their doors. I urge the Senate to approve the conference report.●

● Mr. DOMENICI. Mr. President, I am prepared to support the conference agreement on the urgent supplemental appropriations bill for fiscal year 1986 with one modification.

Mr. President, as reported by the conference committee, this urgently needed legislation contains a precedent-setting provision that will compel the President to veto the measure, further delaying enactment of funding to continue vital Federal activities.

I urge the Senate to support the modification to the objectionable REA refinancing provision, so that this measure can be enacted to the immediate benefit of our farmers, home buyers, and other beneficiaries of ongoing Federal programs.

The conference agreement on H.R. 4515 provides $1.8 billion in budget authority and $0.3 billion in outlays for many Federal agencies for the remainder of fiscal year 1986. These total reflect the net effect of new budget authority, rescissions, fees, and other collections.

When adjustments for entitlement and other mandatory items are taken into account, the conference agreement would reduce the aggregate current level by $1.8 billion in budget authority and $0.2 billion in outlays. The conference report now before us, and with the REA modification, will meet the deficit neutrality requirement under the Balanced Budget and Emergency Deficit Control Act and is not subject to a section 311 point of order under the Budget Act.

I commend the distinguished chairman of the Senate Appropriations Committee and the Senate conferees for holding firm on having the House deferral language deleted from the final bill to allow the authorizing committees a chance to address this complex issue.

I am also pleased that the conferees have taken steps to make available all of the funds for the Department of Defense that were appropriated in the fiscal year 1986 continuing resolution, but that have been withheld from obligation for lack of authorization.

With a decline in defense appropriations of more than $5 billion between fiscal year 1985 and 1986, it is not prudent to allow billions of dollars to be withheld from use any longer.

Mr. President, I ask that tables showing the relationship of the conference agreement to the current level for fiscal year 1986, and to the maximum deficit amount for fiscal year 1986 under the Balanced Budget and Emergency Deficit Control Act, be printed in the RECORD at the conclusion of my remarks.

Finally, Mr. President, I would remind the Senate that the aggregate outlay totals for fiscal year 1986, when this last major spending bill is taken into account, remain at least $12.5 billion above the outlay ceiling established in the fiscal year budget resolution.

Spending is greater than anticipated inspite of the Gramm-Rudman-Hollings sequester and other deficit reduction efforts, due to slower economic growth and other factors largely beyond our immediate control. The fiscal year 1986 deficit is again expected to approach $200 billion, which makes it all the more difficult for the Congress to reach the fiscal year 1987 maximum deficit amount of $144 billion.

I assure my colleagues that the budget conferees are making every effort to report back a fiscal year budget resolution that reaches the deficit reduction goal to which we are committed.

The tables follow:

CURRENT LEVEL SCORING OF H.R. 4515—URGENT SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1986—CONFERENCE AGREEMENT

[Dollars in billions]

	Fiscal year 1986	
	Budget authority	Outlays
Total current level as of June 23, 1986	1,075.1	980.3
H.R. 4515, conference agreement	1.8	0.3
Adjustments for entitlement and other mandatory items in bill: [1]		
Veterans compensation	−0.3	−0.2
Veterans readjustment benefits	−0.1	−0.1
Compact of free association	−0.2	−0.2
Subtotal	−0.6	−0.5
Adjustment for assisted housing [2]	+2.2	
Adjustment for CCC	−5.3	
Total effect of H.R. 4515, conference agreement, on current level	−1.8	−0.2
Estimated current level	1,055.3	980.1
Fiscal year 1986 budget resolution S. Con. Res. 32	1,069.7	967.6
Current level over(+)/under(−) budget resolution targets [3]	−14.4	+12.5

CURRENT LEVEL SCORING OF H.R. 4515—URGENT SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1986—CONFERENCE AGREEMENT—Continued

[Dollars in billions]

	Fiscal year 1986	
	Budget authority	Outlays
Conference agreement over (+)/under (−)		
Senate-passed bill	+0.1	+0.2
House-passed bill	−3.0	−1.3

[1] These are amounts for entitlements and other mandatories estimated to be required in fiscal year 1986 and already included in the current level.
[2] Adjustment for the rescission of assisted housing funds included in this bill in excess of $3.0 billion, the authority for which has been enacted in previous legislation, including the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).
[3] As of June 23, 1986, the current level is under the budget authority ceiling by $12.6 billion and over the outlay target by $12.7 billion.
* Less than $50 million.

Note.—Details may not add to totals due to rounding.

Current level compared to maximum deficit amount

[Dollars in billions and fiscal year]	*1986*
Current level outlays, including H.R. 4515, conference agreement	980.1
Current level revenues	778.5
Current level deficit	−201.6
Gramm-Rudman-Hollings maximum deficit amount [MDA]	−171.9
Amount over MDA	29.7

Note.—Details may not add to totals due to rounding.●

SUPPLEMENTAL APPROPRIATION IMPROVES TARGETING IN THE WIC PROGRAM

Mr. HELMS. Mr. President, I am pleased to note the direction in which the appropriations bill moves with respect to targeting in the special supplemental food program for women, infants, and children [WIC]. The bill provides a modest first step in a necessary transition to target more effectively the Federal dollars spent in this program.

The need for improved targeting to States that focus their WIC programs on highest priority recipients has become increasingly evident.

Under existing practice, States serve recipients in six—or sometimes, seven—categories of eligibility. These categories are based primarily on categorical status and nature of nutritional risk condition as follows:

Priority I. Pregnant women, breastfeeding women, and infants at nutrition risk as demonstrated by hematological (blood-related) or anthropometric measurements, or other documented nutritionally related medical conditions, that demonstate the need of a person for supplemental foods.

Priority II. Infants, under 6 months of age, of women who were in the WIC program during pregnancy or whose mothers did not participate during pregnancy, but were at nutritional risk.

Priority III. Children at nutritional risk as demonstrated by anthropometric or hematological assessments or by related medical conditions.

Priority IV. Pregnant and breastfeeding women and infants at nutritional risk due to inadequate dietary patterns.

Priority V. Children at nutritional risk due to inadequate dietary patterns.

Priority VI. Nonbreastfeeding postpartum women at nutritional risk (for any of the above-mentioned reasons).

Note.—Regulations published February 13, 1985, allow state agencies the option of establishing a priority VII for risk of regression; expanding priorities III, IV, and V to include postpartum women; and setting subpriorities within a priority.

However, Mr. President despite the fact that priorities I and II represent those recipients for whom the benefits of the program are believed to be greatest, they are not the primary recipients of the present WIC Program.

The General Accounting Office, for instance, issued a report last year that included recommendations that targeting WIC benefits to the most vulnerable recipients needed more emphasis at all levels of program administration—Federal, State, and local. See "Need To Foster Optimal Use of Resources in the Supplemental Food Program for Women, Infants, and Children (WIC)," GAO/RCED-85-105, September 27, 1985.

Specifically, the GAO found "that WIC benefits were not routinely being targeted on a priority basis to eligible individuals who program officials believed were inherently the most vulnerable and therefore stood to benefit most from WIC."

The GAO reported: "The categories considered to be most vulnerable (pregnant and breastfeeding women and infants) comprised a little less than half of the combined caseload of the sites we visited" (20 local agencies in 5 States).

A recent survey by the Department of Agriculture also points out the failure of targeting on a national basis. Less than 40 percent of the recipients in September 1984 were in the top two priority categories. See "Study of WIC Participant and Program Characteristics," Office of Analysis and Evaluation, Food and Nutrition Service, U.S. Department of Agriculture, April 1986. Over half the recipients in both studies were children between ages 1 and 5 (priority categories III and V). The GAO reported: "Virtually all program officials we talked with expressed the view that such need and potential benefit varied in inverse relation to a child's age."

The GAO recommended that the Department of Agriculture revise its funding allocations to emphasize incentives for improved targeting:

> What is needed, we believe, is an active shift in emphasis on the (Food and Nutrition) Service's part towards making WIC service to the most vulnerable groups an integral and essential part of WIC policy and operation. We believe that the Service has broad authority to do this. We further believe that, in addition to stressing the importance of targeting as a means of enhancing program effectiveness, the Service could make it clear that actual performance by WIC agencies in targeting to the most vulnerable individuals will be a major concern of management evaluations, a basis for requiring corrective actions, and an important factor in allocating program funds among state agencies.

Mr. President, under current practices, the priority categories outlined earlier are used only when a State or local agency program has achieved the maximum participation level consistent with available funding, commonly referred to as being "at maximum caseload." The GAO said:

> Targeting WIC benefits and giving priority to qualified pregnant women, breastfeeding women, and infants—and doing this continuously throughout the program year rather than sporadically and inconsistently as is currently done—represents, we believe, an optimal use of scarce budgetary resources and a way of maximizing WIC's beneficial impacts, whatever the program funding level the Congress decides on.

The Department of Agriculture distributes annual WIC allocations to the States based on two formulas devised by the Secretary of Agriculture. In general, the first formula provides funding to maintain each State's participation at stable operating levels. It is frequently called the stability formula. Put simply, this funding takes each State's grant from the prior year and, subject to increased appropriations, adds funds to cover the cost of food price inflation. If funds are available in excess of the requirements of the stability formula, additional funds are allocated to States based on a second formula, known as a growth formula. This formula targets the additional funding to States that serve a smaller portion of their estimated income eligible population than the national average based on several factors. There are three factors considered in the so-called growth formula. They are: First, the number of women, infants, and children estimated to have income below 185 percent of the poverty guideline; second, the rate of low weight births; and third, infant mortality rates.

Currently, 31 States, Puerto Rico, and Guam are defined as growth States. Inasmuch as the supplemental conference report provides that all of the $20 million in new funding is "to be distributed to the States under the existing fiscal year 1986 growth formula," only these States will receive a share of this supplemental appropriation.

The Department of Agriculture has done a preliminary calculation on how much each State can expect under this appropriation bill. I understand that the conferees were also furnished this calculation. The following table outlines the amount and percentage of

funds each State might receive under this supplemental appropriations.

FISCAL YEAR 1986 WIC GROWTH UNDER SUPPLEMENTAL

	Growth funds	
	Percent	Total due
Connecticut	0.00	0
Maine	0.47	94,533
Massachusetts	0.56	112,529
New Hampshire	0.00	0
New York	0.00	0
Rhode Island	0.00	0
Vermont	0.00	0
Delaware	0.43	86,856
Maryland	0.00	0
New Jersey	3.00	600,579
Pennsylvania	3.78	756,431
Puerto Rico	7.87	1,573,055
Virginia	2.22	443,832
Virgin Islands	0.00	0
West Virginia	0.73	146,959
District of Columbia	0.00	0
Alabama	2.86	572,631
Florida	9.81	1,961,364
Georgia	0.00	0
Kentucky	0.00	0
Mississippi	0.00	0
North Carolina	0.00	0
South Carolina	0.00	0
Tennessee	2.37	474,845
Arkansas	2.67	533,735
Louisiana	0.00	0
New Mexico	1.85	370,978
Oklahoma	0.80	159,239
Texas	13.00	2,600,341
Illinois	4.68	935,167
Indiana	4.87	973,838
Michigan	0.00	0
Minnesota	0.00	0
Ohio	0.00	0
Wisconsin	0.00	0
Colorado	1.72	344,478
Iowa	1.53	306,800
Kansas	2.51	501,080
Missouri	1.01	201,371
Montana	0.35	69,072

FISCAL YEAR 1986 WIC GROWTH UNDER SUPPLEMENTAL—Continued

	Growth funds	
	Percent	Total due
Nebraska	1.70	340,178
North Dakota	0.00	0
South Dakota	1.12	223,648
Utah	3.58	716,844
Wyoming	0.00	0
Alaska	0.21	41,239
Arizona	3.33	666,797
California	13.70	2,739,097
Hawaii	2.42	483,289
Idaho	1.79	358,487
Nevada	0.00	0
Oregon	0.16	31,119
Washington	2.63	530,489
Guam	0.21	42,414
Indian Towns	0.00	0
Penobscot	0.00	0
Pleasant Pt	0.00	0
Seneca Nat	0.00	0
Seminoles	0.00	0
Miccosouk	0.00	0
Choctaw, MS	0.00	0
E Cherokee	0.00	0
ACL	0.00	0
8 No Pueblo	0.00	0
Isleta	0.00	0
San Domingo	0.00	0
Five Sandov	0.00	0
San Felipe	0.00	0
WCD Ent	0.00	0
Choctaw OK	0.00	0
Cherokee OK	0.00	0
Chickasaw OK	0.00	0
Tonkawa	0.00	0
Potawatami	0.00	0
Zuni	0.03	6,682
Shos/Arapah	0.00	0
Ute Mtn	0.00	0
Winnebago	0.00	0
Chey River	0.00	0
Rosebud	0.00	0
Stand Rock	0.00	0
Ft Berthold	0.00	0
ITCN	0.00	0

FISCAL YEAR 1986 WIC GROWTH UNDER SUPPLEMENTAL—Continued

	Growth funds	
	Percent	Total due
Maniilaq	0.00	0
Navajo	0.00	0
ITCA	0.00	0
Total	100.00	19,999,999

Source: Department of Agriculture.

Let me be clear, Mr. President. The existing formula does not, in my judgment, nor that of the GAO, sufficiently target WIC funds based on those highest priority categories. However, I think it is significant to note that all 10 States that had the highest degree of targeting—and 15 of the top 16—are growth States that would receive funding under the supplemental. Similarly, six of the eight States with the poorest degree of targeting would not receive funding under the supplemental.

I ask unanimous consent to enter in the record at this point a table from the GAO report outlining the percentage of caseload by priority risk categories served in September 1984. The States are ranked by the percentage of their caseload in categories I and II:

There being no objection, the table was ordered to be printed in the RECORD, as follows:

PERCENTAGE OF CASELOAD BY PRIORITY RISK CATEGORIES SERVED—SEPTEMBER 1984

	I	II	I&II	III	IV	V	VI	VII
GAO sample data	30.2	9.5	8.7	35.6	6.8	15.0	2.6	
Service data:								
Nationwide	28.3	11.8	40.1	83.3	4.5	12.0	5.0	0.1
New Mexico	54.3	21.5	75.8	24.3	0	0	0	
Oregon	38.0	11.4	49.4	29.6	6.9	13.1	1.1	
Washington	37.7	9.7	47.4	37.1	4.2	10.9	0.4	
Oklahoma	30.2	22.5	52.9	35.5	4.5	7.1	0.03	
Arizona	29.7	18.0	47.7	30.3	4.9	9.1	8.0	
California	37.1	18.1	55.2	26.0	2.1	5.7	11.0	
Delaware	23.1	16.3	39.4	41.4	3.6	6.8	1.3	7.5
Alaska	29.7	11.0	52.3	46.1	0.1	0.9	0.6	
Illinois	34.3	13.7	48.0	34.5	5.5	9.8	2.2	
Florida	32.5	18.1	50.6	35.3	2.7	5.3	6.2	
South Carolina	35.5	16.1	51.6	39.7	4.7	3.4	0.7	
Puerto Rico	37.1	9.8	46.9	49.3	0.6	2.3	0.8	
Utah	26.5	13.3	39.8	41.3	1.9	11.8	5.1	
Guam	21.4	6.8	28.2	42.3	6.2	19.2	4.2	
Kansas	31.8	8.4	40.2	36.6	8.6	13.7	1.0	
Nebraska	26.7	10.8	37.5	35.8	3.0	15.6	8.1	
Missouri	24.1	14.7	38.8	35.7	8.3	15.2	2.1	
Arkansas	24.1	6.6	30.7	30.0	12.2	27.1	0	
Hawaii	30.9	7.4	38.3	29.5	11.4	15.0	5.7	
Wisconsin	30.3	10.1	40.4	49.0	2.5	8.0	0	
Texas	29.2	10.6	39.8	29.4	8.6	16.0	6.2	
Tennessee	22.9	14.5	37.4	34.3	16.2	6.2	6.0	
Colorado	25.0	7.5	32.5	34.6	6.1	24.6	2.1	
North Carolina	28.2	10.7	38.9	44.4	2.7	7.7	6.3	
Pennsylvania	23.2	6.7	29.9	55.6	2.0	5.7	6.8	
South Dakota	27.3	8.5	35.8	39.2	5.9	19.2	0	
Wyoming	28.9	7.0	35.9	40.9	3.0	15.0	5.2	
Indiana	23.8	9.1	32.9	29.5	6.9	23.6	7.1	
Kentucky	18.9	14.8	33.7	28.7	7.8	21.8	8.0	
Virgin Islands	19.0	18.6	37.6	49.9	1.7	3.7	7.0	
Ohio	23.4	8.5	31.9	45.3	2.8	13.8	6.2	
Minnesota	25.7	8.8	34.5	47.2	3.1	13.3	1.9	
Maine	20.5	8.7	29.2	33.0	8.2	23.1	6.4	
Virginia	21.5	10.5	32.0	25.1	8.3	21.4	6.1	7.1
Idaho	19.8	10.3	30.1	18.6	16.5	34.5	0.3	
District of Columbia	17.4	10.5	27.9	25.8	7.7	30.0	8.6	
Connecticut	19.2	10.6	29.8	36.9	5.9	23.2	4.2	
West Virginia	25.4	10.6	36.0	51.3	4.3	7.7	0.7	
New Hampshire	19.2	8.3	27.5	33.9	5.8	26.4	6.4	
Nevada	20.0	6.7	26.7	30.0	8.7	27.7	7.0	
North Dakota	22.7	13.4	36.1	30.7	10.3	22.9	0	
Iowa	18.2	10.4	28.6	19.2	10.3	42.1	0	
Vermont	12.7	12.1	24.8	26.5	4.1	39.7	4.9	

Note.—WIC regulations published on February 13, 1985, allow State agencies the option of establishing a separate priority VII for risk of regression. This priority category is reserved for previously certified participants who might regress in nutritional status without continued supplemental foods and nutrition counseling. As the table indicates, two State agencies reported data in this category for September 1984.

Source: General Accounting Office.

Mr. HELMS. At least the States that historically have targeted their programs more effectively are more likely to receive a fair share of this supplemental, and, for the first time in the WIC Program's history, some degree of targeting will be required legislatively.

Another point should be made to the States that will be receiving supplemental appropriations. They should be certain that they maintain and, indeed, improve the targeting in the program.

It is my hope that the Department will move in a direction that will provide future increases in State funding based on priority need. This could be done by targeting to either certain priority categories—such as the highest two priority categories—or, perhaps more easily, by simply targeting to women and infants. While some women and infants are in lower priority categories, the overwhelming majority are in the first two categories. Administratively the latter approach may be easier, and, though not as precise, would be a step in the right direction. Whatever the approach taken, I urge the Secretary to respond to the recommendations of the General Accounting Office and to act aggressively to target assistance in the WIC Program more effectively.

In anticipation of changes to emphasize targeting, all States would be well advised to ensure that their programs increasingly focus on recipients in these highest priority categories.

Mr. BYRD. Mr. President, the conference committee has completed action on the fiscal year 1986 urgent supplemental appropriation bill.

Both the Soil Conservation Service and the Federal Emergency Management Agency have exhausted available funds for disaster assistance.

The bill provides $36.7 million for the Soil Conservation Service, $8 million of which is for stream-related work and repair of local flood protection projects in West Virginia.

This bill also provides $250 million in disaster assistance moneys for the Federal Emergency Management Agency. Also included is $1.7 million for flood recovery work in the Monongahela National Forest, the George Washington National Forest, the Thomas Jefferson National Forest, and the Parsons Forest Laboratory; and $3,420,000 for emergency rehabilitation costs to repair flood damage in the Harpers Ferry National Historical Park and the C&O Canal.

Aside from the disaster assistance moneys that are so vital to West Virginia, this bill provides funding for a number of other activities that are extremely important.

Without supplemental funding, the National Weather Service would be forced to furlough essential employees that are engaged in the forecasting of natural disasters attributable to tornado, hurricane, and flooding.

The U.S. Forest Service would be forced to curtail its fire fighting activities and the Customs Service its Drug Interdiction Program. The Immigration and Naturalization Service would not have the moneys to detain dangerous illegal aliens, and the Federal Aviation Administration would be forced to furlough air traffic control personnel.

This bill also raises the limitation on Federal Housing Administration [FHA] loan guarantees so that the FHA can begin processing loans again for families who want to buy a home at a time when they can take advantage of the low interest rates.

The conference report also provides sufficient funds to reopen the Library of Congress reading room for evening and weekend hours, as well as for acquisition of books and continuation of cataloging services.

The moneys provided in this bill are urgently needed.

A veto of this legislation will seriously jeopardize programs that we cannot afford to have interrupted or curtailed.

I strongly urge the President to sign this urgent supplemental as soon as possible.

Mr. President, I want to take this opportunity to thank Senators MARK HATFIELD and BENNETT JOHNSTON for the excellent job that they did in negotiating the supplemental appropriations bill, H.R. 4515, through the conference with the House and in managing the conference report on the Senate floor. Despite the additional pressure of meeting the Gramm-Rudman budgetary strictures, these dedicated Senators were able to craft a bill that meets the needs of many of our critical national programs and orders priorities in spending for the balance of this fiscal year.

I am especially grateful for the assistance that these Senators and Senator STENNIS gave me in continuing programs that are critical to my home State of West Virginia.

Mr. HATFIELD. Mr. President, again I wish to thank the Senator from South Dakota. Does he wish me to yield?

Mr. ABDNOR. Yes.

Mr. HATFIELD. I yield.

CONGRESSIONAL MAILING

Mr. ABDNOR. Mr. President, I thank the chairman for allowing me to have the floor here. I have one additional comment that I feel very important that I make. I probably should have made it earlier but it relates to the appropriations bill and once again when we had to withdraw our amendment I want to say a few words about it. Frankly it deals with congressional mailing.

Mr. President, I just want to call the public's attention to a very serious misuse of the congressional franking privilege. The frank itself is well-intentioned and has served a vital function of public information in our system of government. Only by the use of the frank have Members of the House and Senate been able to stay in touch directly with those they have been elected to represent. Constituents have a right to correspond directly with their Senators and Congressmen and to receive a response.

The frank is also important in allowing Members of Congress to advise constituents of important developments which would have a direct impact upon their lives. And Americans have a right to hear about such developments directly from those who write their laws rather than having to learn about such events secondhand in the media.

But in this time of serious Federal financing problems, it is essential that Members use the frank responsibly, and within reasonable limitations. Unfortunately, that is not happening. That is why the Senate appropriately agreed to limit its use of the frank.

Millions and millions of dollars worth of franked mail, much of it consisting of purely self-serving political mailings, continues to pour out of House offices without any consideration for the cost being imposed upon the American taxpayer who, of course, must pay for that mail.

For the 1986 fiscal year, Congress appropriated $95.7 million for franking privileges for its Members. This reflects a 4.3 percent cut as dictated by the new Gramm-Rudman-Hollings balanced budget law.

But it is downright shocking to realize that by May 21, Congress had already spent over $69 million of this amount. To deal with these runaway costs, the Senate passed Senate Resolution 374. In a nutshell, this resolution allotted half of the slightly more than $26 million left in the account between the House and Senate. And, in the Senate, we voted to make these caps binding on ourselves. Each Senator has been told right down to the dollar how much he can spend. And when he or she uses up that allotment, that's it—their mail operation must shut down.

□ 1930

But the House has refused to live under the same rules. Senate Concurrent Resolution 139, which was passed by the Senate, would make mail ceilings applicable to the House as well as the Senate. But it is just been twisting in the wind over in the House Administration Committee. And in the meantime, the House continues to mail merrily away at the taxpayers' expense.

While the Nation as a whole tightens its belt, the House fully intends to continue its current policy of over-

spending the congressional mail budget to its heart's content and paying for its excesses a year later by slipping some extra money into an appropriations bill. In other words, the House of Representatives is willing to make everyone else abide by Gramm-Rudman-Hollings but wants to make its own mailing privileges a "sacred cow."

And as much as we try, the House simply refuses to do anything about mending its ways. Right here in the supplemental appropriations bill the Senate included a provision which would limit Congress to spending no more for mail that it has appropriated—just as every other Government agency and program must do. Without this provision, there is nothing to prevent Congress from overspending its own budget for mail and that is precisely what the House of Representatives is doing. But the House conferees absolutely refused to agree to this provision. Instead, all they would agree to is a study of the problem.

That is just great. All we need around here is another study. I do not need a study to know that the current situation is nothing less than a scandalous disregard for hard working, taxpaying, Americans. And while we sit around and study, the House of Representatives will continue to blow the lid off congressional mail costs.

On June 16, my colleague from Indiana pointed out the impact of the Senate's one-sided attempt at self-restraint. In the first quarter of 1986, before the Senate's self-imposed mail limitations took effect, the House accounted for 52 percent of the total cost of congressional franking privileges compared to 48 percent for the Senate. But, in the second quarter, the House increased its mail costs by almost $2 million and accounted for 61 percent of the total cost of congressional mailings while the Senate actually cut its mail tab by $2.8 million. And what has happened as we get closer to the 1986 elections? For the third quarter, up to May 21, the House outspent the Senate by more than 2 to 1.

In other words, while the Senate has been doing its best to save the taxpayers some money and comply with Gramm-Rudman-Hollings, the House of Representatives is more than eating up every dollar we save by increasing its own torrent of mail. And what has been the effect of this one-sided attempt at self-restraint?

Well, I have dramatically cut back on the mail I am sending out and I can tell you that some of my constituents are wondering why they have not heard from me. Some of them are wondering if I care what they think any more—especially when they keep hearing from their Congressman. The Senate has passed major pieces of legislation, such as the tax bill, which I am chomping at the bit to tell South Dakotans about. But I am not doing it through the mail because I feel that Congress should be willing to live under Gramm-Rudman-Hollings just as we expect the rest of America to do.

I would like to issue a challenge here to Members of the House of Representatives. I challenge them to live within the same limitations upon mailings that those of us in the Senate have imposed upon ourselves. I also challenge them to publicly disclose the amount they are spending upon mail, just as each of us in the Senate is required to do. That is only fair. The American taxpayers deserve to know which of their Washington representatives are willing to do more than just talk a good fight when it comes to cutting expenses. They deserve to know which of their Congressmen are willing to live within these limits and which want to see this self-serving multimillion-dollar disregard for Gramm-Rudman-Hollings continue unabated. If Members of the House really care about cutting the budget, if they really care about the American taxpayer, they will take me up on my challenge.

Gramm-Rudman-Hollings received overwhelming support in the House, as well as the Senate. The had an awful lot of rhetoric in the House on Gramm-Rudman-Hollings. I think it is only fair that the House do its part and live up to the requirements of this landmark legislation.

I would also like to add that it appears at least as of today that the House has not faced the issue. The June 21, 1986 issue of Congressional Quarterly that I hold here in my hand reports that the House Appropriations Subcommittee on the Legislative Branch has marked up its fiscal year 1987 bill. That markup was held June 19. The subcommittee has included $95 million for fiscal year 1987 mailing, but leaves unresolved the fiscal year 1986 shortfall which could total as much as $45 million. Unless Congress acts the Postal Service would have to eat the loss. In short, that means postal customers—the American public will be subsidizing this account.

Mr. President, I think that is unfortunate. I think it is a total disregard for the taxpayers of this Nation.

Mr. President, I ask unanimous consent that an article out of a South Dakota newspaper covering this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAIL MUST GO THROUGH

(By Robert M. Andrews)

WASHINGTON.—Nothing, apparently, can stop a member of the House of Representatives who is bent on writing his or her constituents.

House members are churning out election-year newsletters to constituents as freely as ever despite righteous finger-pointing from the Senate and a polite reminder from the U.S. Postal Service that the congressional postage bill is overdue.

The Senate figures it is entitled to cry "shame" because it voted last month to impose curbs on the historic right claimed by members of Congress—the so-called franking privilege—to send unlimited amounts of mail at the taxpayers' expense.

So far, the House has refused to cooperate, and Sen. Dan Quayle, R-Ind., says this means the Senate's exercise in self-restraint is an empty gesture.

Quayle inserted into the Congressional Record last week a report from the Postal Service to House Clerk Benjamin Guthrie which showed that as of March 31, halfway through the fiscal year, Congress was $6.4 million in arrears on its postal bill.

Quayle noted that the Senate halted its mass mailings effective May 14, and agreed to spend only what was left of its share of the $95.7 million congressional mail budget this year. That share, calculated as slightly more than $13 million, was divided among senators according to their state populations.

At the same time, the Senate left an equal $13 million share for the House and urged it to follow the Senate's example. But the House has shown no interest in cooperating. In fact, says Quayle, the House share of total congressional mailing costs since the fiscal year began Oct. 1 has risen from 52 percent to 67 percent as of late May.

By continuing to spend beyond its means on mass mailings, Quayle says, Congress is rendering "absolutely meaningless" the spending reductions required under the Gramm-Rudman budget balancing law.

Sen. Pete Wilson, R-Calif., is pushing a bill that would ban congressional newsletters altogether. He says they often are "nothing more than political advertisements cloaked under the false pretext of providing news to constituents."

House members, meanwhile, seem undeterred by the Senate's attempt to embarrass them into putting the brakes on escalating mail costs, which Sen. Charles McC. Mathias, R-Md., calls a flagrant waste of the taxpayers' money.

Before the Senate imposed its own curbs, Mathias had predicted that without some voluntary restraints, the House and Senate would spend a record $146.2 million this year on government-paid postage.

Unsolicited newsletters account for the bulk of congressional mail, and the costs traditionally soar during an election year.

House members running for reelection in November apparently are shrugging off pressure from the Senate in their eagerness to stuff their mailbags with newsletters calling attention to their legislative achievements.

The rush is on, because, of congressional rules that forbid any mailings within 60 days of a primary election, a party convention, or a general election.

Mr. HATFIELD. Mr. President, before I yield the floor, I wish to take this opportunity to thank the entire Appropriations Committee who participated in this supplemental exercise, and particularly to the Senator from Mississippi, Senator STENNIS, for his leadership on that committee as the ranking member of our committee;

and to Senator JOHNSTON, of Louisiana, who has handled the floor management of this bill; along with our very excellent staff.

Mr. President, I believe the Senator from Missouri asked me to yield. I would be happy to yield.

Mr. EAGLETON. Does the Senator from Louisiana have brief remarks he would like to make?

Mr. JOHNSTON. Mr. President, I thank the Senator from Missouri. I would again like to say what a pleasure and honor it was to work with the distinguished Senator from Oregon, the chairman of the Appropriations Committee, on this bill. He has done a very excellent job on a very difficult bill. I wish to commend him, as well as staff on both sides of the aisle.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

□ 1940

COLLEGIATE JOCKCRACY

Mr. EAGLETON. Mr. President. A great deal of soul searching has occurred in recent days about the excruciatingly sad death of Maryland University basketball star Len Bias.

The whole scene is beset with tragedy. Tragedy in losing a fine young man at the peak of his skills and on the verge of a promising career in professional sports. Tragedy for his family and friends in losing one whom they cherished. Tragedy for the University of Maryland in seeing a superstar who proudly carried their sports emblem come to such a premature and untimely death.

Then there is the broader tragedy of what Len Bias' death signifies for sports as they are conducted at major colleges and universities which pursue aggressive athletic programs.

The Bias case illustrates what we have all known about big league university sports. Players are bought, rented, and hired by the university not to be students, but to be a commercial commodity for the university. The big league university hires its athletes the same way it hires an automobile or hires a paver to smooth out a driveway or hires a painter to spruce up the arena. There is little or no intent to see that he is equipped with intellectual or technical skills to compete in his postuniversity life, unless it be in professional sports.

The intent is to hire or rent a football or basketball team that can win games and gin up some money, gin up some publicity, and gin up some supposed prestige for the university.

Big league college sports is big money. If you fill the stadium and go to a postseason bowl game, that is big bucks for dear old alma mater. If you fill the basketball arena and go to the NCAA tournament, that is big bucks for dear old alma mater.

Of all young men in college football and college basketball, only a handful—a tiny handful—make the pros. Yet most every entering athlete hopes he may be the one.

If the school does not give a damn if he cuts classes or flunks courses, why should he care? If the school does not try to motivate him to acquire vitally needed educational skills, then how is he to be motivated?

The motto of today's sports-minded American universities is: "Ask not how his university can educate you; ask what sport you can play for this university."

Len Bias had, in essence, flunked out of the University of Maryland. Coach Lefty Driesell did not care because, one Len Bias was going to make millions in the pros, and two his playing time at the University of Maryland was over.

But what about all the other athletes at Maryland University who will not make the pros? What are they to do for the rest of their lives with a sham, nursemaided Maryland education and with a flunk out at that?

And Maryland is by no means the only culprit in this business of duping athletes. Scandals abound: University of Georgia, Clemson, Tulane, Texas Christian, University of Miami, University of Florida, and more.

Enticing, deceiving, and misdirecting athletes is a national collegiate disease and a disgrace. It is a huge, ugly, nefarious war of the university goliaths from coast to coast not to compete with Harvard or Stanford academically, but to compete with the University of Nevada at Las Vegas or the University of Houston in sleazy athletic programs.

In my own State of Missouri, some powerful alumni have expressed the view that a principal reason for trying to oust the chancellor of the University of Missouri—at Columbia—is the way she handled "the search for the football coach and athletic director."

It is the era of collegiate "jockcracy." Distinction in academics is secondary to "fight, team, fight."

So Len Bias' death should cause all of us to do lots of thinking—thinking about values, goals, and missions—thinking about what is first at a university and what's periperal—thinking about young people's minds and not about their height or bulk.

Some of the thinking must come from university presidents. I have talked to a few. They hate the athletic sleaze they know is going on. But they feel they are victims caught in the vise of alumni ego an the quest for athlectic cash and glory. As they see it, if other universities are doing it, they have to. That is the way the real world is.

Well, maybe one Robert Maynard Hutchins is not enough. But there is safety and comfort in numbers. If several university presidents could band together and say "no pass, no play" and say that athletes would be required to carry and complete a standard, unpampered course load, a beginning might be made. If the powerhouse athletic conferences would invoke and enforce standard rules of meaningful academic behavior, a beginning might be made.

Len Bias is dead. But lots of other noneducated, nongraduating jocks live in this country wondering what happened to them. The glory days are over and there is nothing to show for it. Life goes on and they are illequipped to cope. They have been used. They have been had. They were rented like the floor chairs in the arena and, like the chairs, they were folded up when the games were over.

Mr. President, I yield to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I want to compliment the Senator from Missouri for giving some thought about a subject which he obviously has spent some time on, and gave an excellent statement. I join him in the great frustration when he pointed out that athletes at least today are being used, and indeed, we need to change that. I thank the Senator for bringing that to the attention of this body, and to the American public. I think he is absolutely correct.

Mr. EAGLETON. I thank my colleague.

ORDER OF PROCEDURE

(At this point Mr. DECONCINI, Mr. ROTH, and Mr. HUMPHREY were recognized.)

GRACE COMMISSION LEGISLATIVE PACKAGE

Mr. DECONCINI. Mr. President, last Tuesday was an important and historic day in the Senate as we passed perhaps the most dramatic tax reform bill in the past two decades. Today I am honored to be standing on the Senate floor with two of my distinguished colleagues to lay before the Senate a package of legislative proposals that could also make a significant, longterm contribution to the way the Federal Government does business.

Today Senator WILLIAM ROTH, chairman to the Senate Governmental Affairs Committee has joined Senator GORDON HUMPHREY and me, as cochairmen of the Senate Grace Caucus, in introducing a total of 15 bills that, if adopted, will put into effect many of the recommendations contained in the President's Private Sector Survey on Cost Control, or "The Grace Commission Report."

On this same day, in the House of Representatives, the two cochairmen of the House Grace Caucus, Congressman BEAU BOULTER of Texas and Congressman BUDDY ROEMER of Louisiana, are introducing virtually the same package of bills as part of a bipartisan, House-Senate "Grace Commission Day."

Mr. President, let me say at the outset that some of the bills that will be introduced today will be controversial.

Some of them will mean major changes in the way Uncle Sam does its business; manages its programs; and obligates the taxpayers' scarce resources.

Frankly, I do not support several of the 15 bills that will be introduced and sponsored by my distinguished colleagues here on Grace Commission Day. Other caucus members will likewise not be in a position to sponsor each and every one of the bills that are introduced today.

Other caucus members will have similar feelings of support. They will support some but not all of them. But it is a move in the right direction.

However, that should not diminish nor detract from the significance of this day in the House and Senate as we put onto Congress' legislative platter a package of legislation that could save the American taxpayers at least $20.2 billion over the next 3 years.

Nor should my colleagues interpret reservations about some of these bills as diluting the common, united purpose of the House and Senate Grace Caucuses to put as many of the Grace Commission recommendations as possible before the Congress over the next several years.

Mr. President, the Grace Commission study was perhaps the most comprehensive evaluation of Government programs ever attempted in the history of this Nation.

It provided over 2,400 substantive recommendations on how we can save the beleaguered American taxpayers hundreds of billions of tax dollars; streamline Government operations, programs, and activities; and eliminate waste, fraud, and abuse.

We owe it to the American taxpayers to save the Grace Commission study from the proverbial "dusty shelf" and put as many of the Grace recommendations into effect as is practical.

And let there be no misunderstanding among my Senate colleagues.

As cochairman and cofounder of the Senate Grace Caucus, I am committed to working with my distinguished caucus cochairman and founder, Senator HUMPHREY, and the other 26 members of the Senate Grace Caucus, to move major elements of the Grace Commission proposals through Congress.

□ 1950

Mr. President, the Senate Grace Caucus, in concert with the Senate Governmental Affairs Committee, is taking a major first step today in the war on waste in Government. Now it is up to the Legislative and Appropriations Committees in the House and Senate to pick up the Grace Commission ball and run with it. I hope that they will accept the challenge and act promptly on this package of legislation that is being introduced today, Grace Commission Day, June 26, 1986.

Mr. President, I ask unanimous consent that I be allowed to speak briefly as if in morning business for the purpose of introducing what I consider to be perhaps the most important of the 15 Grace Commission Day bills, the Federal Credit Management and Debt Collection Improvements Act of 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I am today introducing a bill entitled the "Federal Credit Management and Debt Collection Improvement Act of 1986, June 26, 1986"—Grace Commission Day.

Mr. President, this bill deals with over $60 billion of outstanding debt but primarily with more than $24 billion of nontax debt that is owed the U.S. Government. A lot of Americans do not realize the significance of this huge delinquency balance. Roughly $35 billion of it is delinquent income taxes. The legislation that I have sent to the desk attacks the nonincome tax delinquencies.

It is hard to believe that so many Americans can be working and banking some of their paycheck and not paying their debt owed to the Federal Government. This bill will correct that, Mr. President.

Mr. President, the cosponsors of this legislation are myself, Senator HUMPHREY, Senator ROTH, Senator CHILES, Senator BRADLEY, Senator NUNN, Senator HELMS, Senator PROXMIRE, Senator GOLDWATER, Senator WILSON, and Senator ZORINSKY.

Mr. President, the bill that I am introducing today is perhaps the most comprehensive revision of our Debt Collection Act of 1982—a law that I sponsored along with our former colleague, Senator Percy of Illinois.

The bill that I am introducing today—the Federal Credit Management and Debt Collection Improvement Act of 1986—is a compilation of the best features of two other pending debt collection bills introduced in the House by Congressman JOHN KASICH of Ohio, and in the Senate by Senator ROTH, plus the legislative recommendation of the General Accounting Office following their comprehensive review, conducted at my request, of agency efforts to implement the Debt Collection Act of 1982 and improve debt collection Governmentwide.

Perhaps the cornerstone of this bill is the establishment of specific nontax debt collection targets for the Government as a whole and a mechanism for setting debt collection targets for the individual agencies and Departments with debt collection balances.

The bill establishes an overall target of $15 billion over 3 fiscal years for the collection of nontax delinquencies.

This figure represents the current balance of nontax delinquencies identified by the General Accounting Office in its May 1986 report to me, over 1-year old.

The bill also directs the Secretary of the Treasury and a newly created Under Secretary for Debt Collection and Credit Management to collaborate on establishing individual agency debt collection targets for each of the 3 fiscal years covered by the bill's aggregate collection targets.

Furthermore, for the first time, this bill would allow agencies that exceed their debt collection targets to keep 15 percent of the excess amount collected, while penalizing those agencies that do not meet their debt collection targets by reducing their annual appropriations by 15 percent of the shortfall.

These built-in incentives to aggressively pursue nontax delinquencies on the books and meet rigid targets will not only help the agencies involved, but also help reduce the Federal deficit as collections flow back into the Treasury.

According to GAO's report to me in May, nontax delinquencies grew by 55 percent over the past 4 years to a level of approximately $24 billion as of fiscal year 1985.

This bill will provide some tough new medicine for collecting a large portion of that debt owed to Uncle Sam.

Mr. President, this bill also contains some significant improvements in both debt management; credit administration; and Government accounting that will allow the Congress to finally receive a true picture of the level of nontax debt owed the Government and force agencies to manage, control, and eliminate debt in an efficient and effective fashion.

For example, the bill calls for the establishment of a comprehensive debt collection and credit management plan by each executive agency and department of the Federal Government, prepared in accordance with certain accounting practices, procedures, and automated management information systems that have been identified and adopted by the General Accounting Office. This will help to standardize the way agencies keep their books and report credit management and debt collection data to Congress and to the Secretary of the Treasury. It also calls for all legislative proposal for the en-

actment of new credit programs to identify the amount of Government subsidy contained in such direct or guaranteed loan programs. The bill also provides that the Government begin to use private sector market interest rates in setting interest rates for new direct loan programs and levies loan original and application fees to defray the cost of defaulted loans that currently fall squarely on the back of the American taxpayers.

Finally, Mr. President, this bill puts some real teeth into the existing Debt Collection Act by directing Government agencies witn large debt collection balances to use private sector collection agencies, credit bureaus, and salary offset to collect overdue, delinquent debts owed the Federal Government. The bill also calls for the executive agencies of the Federal Government to explore the feasibility of selling certain debts owed to the Government as another way of collecting delinquent nontax debts. These provisions will give the Federal Government virtually the same tools that the private sector currently has at its disposal to collect debts that are delinquent.

Mr. President, this is a good bill. At a time when we are desperately looking for ways to bring more revenue into the Treasury without raising taxes, a tough, aggressive debt collection bill is just what the doctor ordered. If we were to collect every dime owed Uncle Sam from both nontax and Federal income tax services, the deficit would be reduced by nearly one-third. And if you look at the GAO estimates for the total amount owed the United States from all sources, including foreign governments—$346 billion—it should be no surprise that the United States has not become a major debtor nation. This bill will not address all of the debt that is owed the United States, but it will, if enacted, make a major dent in the nontax debt side of our "Red Ink Ledger" and put some muscle into our Federal debt collection effort.

Mr. President, I hope that the Governmental Affairs Committee will promptly report out this important debt collection and credit management bill, either as free-standing legislation or as part of its response to the budget resolution's reconciliation instructions. It is a bill whose time has come.

I ask unanimous consent that a copy of the bill be printed in the RECORD and a section-by-section analysis be printed in the RECORD at this point.

There being no objection, the bill and section-by-section analysis were ordered to be printed in the RECORD, as follows:

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Credit Management and Debt Collection Improvements Act of 1986".

CREDIT MANAGEMENT AND DEBT COLLECTION

SEC. 2. Title 31, United States Code, is amended by inserting after chapter 37 the following new chapter:

"CHAPTER 38—CREDIT MANAGEMENT AND FEDERAL DEBT COLLECTION

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec. 3801. Purpose.
"Sec. 3802. Definitions.
"Sec. 3803. Appointment of Under Secretary of the Treasury for Debt Collection and Credit Management.
"Sec. 3804. Functions of the Under Secretary.

"SUBCHAPTER II—CREDIT EXTENSION AND ADMINISTRATION

"3811. Subsidy statement.
"3812. Interest rates.
"3813. Loan origination and application fees.
"3814. Withholding of funds.
"3815. Prior default by applicant.
"3816. Default and acceleration clauses.
"3817. Notice to applicant.
"3818. Study on private sector participation.
"3819. Regulations and financial contract.

"SUBCHAPTER III—DEBT MANAGEMENT

"3821. Delinquency and default standards.
"3822. Audit of credit programs.
"3823. Regulation deadline.
"3824. Collection targets.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 3801. Purpose

"In order to strengthen the overall credit management and debt collection of the Federal Government, provide central direction to, and coordination of, Federal credit management and debt collection activities by consolidating such activities within a single organizational structure, and provide for the production of adequate, accurate, timely, and consistent financial data for the use of the executive branch and the Congress in the financing, management, and evaluation of Federal programs, this chapter establishes in the Department of the Treasury an Under Secretary of the Treasury for Debt Collection and Credit Management.

"§ 3802. Definitions

"As used in this chapter:

"(1) The term 'executive agency' has the meaning given to the term 'agency' in section 552(e) of title 5.

"(2) The term 'obligation' means any note, bond, debenture, or other evidence of indebtedness, but does not include Federal Reserve notes or stock evidencing an ownership interest on the issuing executive agency.

"(3) The term 'direct loan' means a disbursement of funds by an executive agency (not in exchange for goods or services) under a contract that requires the repayment of such funds with or without interest. Such term shall also include an obligation guaranteed by an executive agency and purchased by the Federal Financing Bank. Such term shall not include any commodity price-support loan made by the Commodity Credit Corporation.

"(4) The term 'subsidy' means, with respect to a direct loan, the difference between—

"(A) the costs (including interest) which would have been incurred by a borrower to obtain the loan from private sources, minus

"(B) the costs (including interest) which were incurred by the borrower to obtain the loan from the Government.

"(5) The term 'debt' means an amount of money or property that has been determined by an appropriate official of an executive agency to be owed to the United States by any person, organization, or entity except another agency.

"(6) The term 'loan guarantee' means contingent liability of an executive agency. A guaranteed loan is—

"(A) any agreement in which an executive agency pledges to pay part or all of the amount due to a lender or holder in the event of default by the borrower; or

"(B) a direct Federal loan that an executive agency sold under a guarantee or agreement to repurchase.

"(7) The term 'credit extension' means that portion of the credit management cycle involving review and approval of requests for short-term or long-term credit.

"(8) The term 'financial contract' means any agreement or contract made by an executive agency, the primary purpose or results of which is to make private credit available, or available on more favorable terms than in the absence of the contract, to a non-Federal entity by indirectly or directly assuming the risk involved. Such term includes financial contracts such as an agreement to pay all or part of the principal or interest on the debt obligation of a non-Federal entity (debt service payments), financial lease agreements for assets and project financing, and repayment arrangements.

"(9) The term 'creditworthy' means a favorable determination entitling an applicant to receive credit, which is based on—

"(A) the perceived ability and willingness of the borrower to repay the debt and the lending organization's level of acceptable risk; and

"(B) the consideration of other Federal obligations that could jeopardize, or be jeopardized by, the new debt under consideration.

"(10) The term 'receivables' means amounts owed the Government upon completion of the acts giving rise to claims, and includes amounts, such as amounts due for taxes, loans, sales of goods and services, fines, penalties, forfeitures, interest, overpayments, fees, duties, rents, royalties, claims, damages, audit disallowances, and travel advances.

"(11) The term 'account servicing' means that portion of the credit management cycle dealing with monitoring the status of accounts of indebtedness, maintaining records of current debts, billing for amounts due, collecting amounts due, collecting past due amounts, handling debtor correspondence, performing followup functions, and providing accurate reporting of debt portfolios.

"(12) The term 'debt collection' means that portion of the credit management cycle dealing with recovery of amounts due after routine followup fails, and includes the assessment of the debtor's ability to pay, the exploration of possible alternative arrangements to increase the debtor's ability to pay, and other efforts to secure payment.

"(13) The term 'delinquency' means the status of any account which is 30 days past due.

"(14) The term 'default' means the failure to meet any obligation or term of credit, grant, or contract agreement that causes the lender to accelerate demand on the borrower because of the severity of the borrower's breach of the agreement, and for purposes of this chapter, default occurs—

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"(A) in the case of a direct loan, when the account is past due over 180 days; and

"(B) in the case of guaranteed loan, when the Government repurchases the loan.

"(15) The term 'reschedule' means to establish new terms and conditions to facilitate repayment of a debt.

"(16) The term 'referral for litigation' means—

"(A) referral to the Attorney General for appropriate legal proceedings; or

"(B) in any case in which an executive agency has statutory authority to bring legal actions without referral to the Attorney General, referral to the organization within the executive agency that is responsible for litigation.

"(17) The term 'credit report' means any written or documented oral communication of information provided by a commercial or consumer credit reporting agency dealing with the creditworthiness or financial reliability of an applicant or debtor.

"(18) The term 'Under Secretary' means the Under Secretary of the Treasury for Debt Collection and Credit Management appointed under section 3803 of this title.

"(19) The term 'agency head' means, with respect to an executive agency, the chief executive of the agency.

"(20) The term 'function' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

"§ 3803. Appointment of Under Secretary of the Treasury for Debt Collection and Credit Management

"There shall be in the Department of the Treasury an Under Secretary of the Treasury for Debt Collection and Credit Management, who shall be appointed by the President, by and with the consent of the Senate.

"§ 3804. Functions of the Under Secretary

"(a) The Under Secretary shall—

"(1) be the principal advisor to the President with respect to Federal credit management and debt collection policy;

"(2) provide leadership, central direction, guidance, and monitoring of the executive agencies in credit management and debt collection and related financial reporting;

"(3) prepare and transmit to the Congress and the Comptroller General, within one year after the date of enactment of this chapter and in consultation with agency heads, comprehensive debt collection and credit management plans which comply with subsection (b) of this section;

"(4) review executive agency credit management and debt collection plans and policies in order to assure that—

"(A) such plans and policies are—

"(i) consistent with the overall objectives, structure, and information requirements of comprehensive debt collection and credit management plans prepared under paragraph (3) of this subsection; and

"(ii) applied uniformly across agencies to assure parity and consistency; and

"(B) in the case of any project for the development of new or improved financial management systems, such project does not duplicate efforts by other agencies;

"(5) ensure that the President and the Congress are kept fully and currently informed of the Federal Government's—

"(A) financial position and results of its operations;

"(B) financial management condition;

"(C) requirements for financial resources to correct deficiencies and improve the effectiveness of accounting systems, financial systems, and systems of internal controls;

"(6) identify and establish financial management objectives and information requirements in order to define the data requirements of standards established by the Comptroller General for the use by all executive agencies in the development and operation of their financial management systems;

"(7) require each executive agency to submit comprehensive records describing in detail debt status and collection efforts, by program, project, or activity;

"(8) provide an annual summary of the activities conducted under this chapter to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives, describing the progress made in improving debt collection and credit management, and recommending such changes in Federal law for the purpose of improving debt collection and credit management as the Under Secretary considers appropriate; and

"(9) promulgate such regulations as may be necessary to carry out this chapter.

"(b) The comprehensive debt collection and credit management plans required under paragraph (3) of subsection (a), shall, at a minimum—

"(1) establish credit management and debt collection practices, procedures, and regulations that implement and comply with this chapter and chapter 37 of this title, regulations of the Under Secretary, and all other relevant laws, regulations, rulings, and guidance;

"(2) define and assign debt collection and credit management responsibilities for each executive agency;

"(3) establish employee performance appraisal standards and bonus award programs that take into account employee contributions to improving the operation of credit management and debt collection programs;

"(4) establish accounting practices and procedures and automated management information systems to enable each executive agency to produce accurate financial reports on those programs that generate receivables, including reports such as operating statements, statements of financial position, and cash flow statements; and

"(5) require annual evaluations of credit management and debt collection operations and systems in order to identify areas in which such operations and systems could be improved and to initiate actions to correct any problems identified through such evaluations.

"(c) Within 60 days after receiving a plan under paragraph (3) of this subsection, the Comptroller General shall prepare and transmit to the Congress a report which contains the analysis and comments of the Comptroller General with respect to the plan and the progress being made by executive agencies to strengthen credit management and debt collection.

"Subchapter II—Credit Extension and Administration

"§ 3811. Subsidy statement

"Any proposal by an executive agency for legislation to enact new credit programs or to amend existing credit programs shall contain an explicit statement of any subsidies in the direct or guaranteed loan program with which such proposal is concerned.

"§ 3812. Interest rates

"Interest rates in all new direct loan programs shall be related to market rates for comparable private sector loan programs, and the interest rates in such direct loan programs shall be adjusted annually to reflect changes in comparable private sector rates.

"§ 3813. Loan origination and application fees

"Loan origination and application fees shall be assessed on all loan or loan guarantee programs to defray administrative costs and costs of defaulted loans.

"§ 3814. Withholding of funds

"No executive or legislative agency shall directly or indirectly make available to any person any funds of the United States if the agency has notice that such person is delinquent in the payment of a debt owed the United States unless such person demonstrates that the debt is no longer delinquent or that arrangements satisfactory to the United States have been made for the repayment of such debt.

"§ 3815. Prior default by applicant

"Federal loan or loan guarantee funds may not be made available to any applicant who defaults on a Federal loan or loan guarantee made after the date of enactment of this chapter, unless—

"(1) the new loan or loan guarantee is necessary to protect the Government's interests;

"(2) the debt in default was discharged under Federal bankruptcy laws; or

"(3) the default has been cured.

"§ 3816. Default and acceleration clauses

"Loan and loan guarantee contracts shall contain default and acceleration clauses. Default clauses shall provide for interest from the date of default and at the greater of the interest rate due under the existing loan or loan guarantee contract or the rate prescribed by the Secretary of the Treasury under section 3717 of this title. Acceleration clauses shall provide that upon default the entire remaining principal balance shall be due and subject to collection at that time.

"§ 3817. Notice to applicant

"Each applicant for any extension of credit shall be provided a written notice specifying Federal debt collection policies and practices. Each such applicant shall be required to certify that such applicant has read and understands such policies and practices.

"§ 3818. Study on private sector participation

"The President shall provide for the conduct of a study to determine which existing Federal direct loan programs could be carried out, in whole or in part, by private lending institutions as direct loans without Government guarantees. Within one year after the date of enactment of this chapter, the President shall transmit to the Congress a report which describes the results of such study and contains such recommendations as the President considers appropriate, including recommendations for legislation.

"§ 3819. Regulations and financial contract

"(a)(1)(A) The Secretary of the Treasury shall establish Federal credit management policies and promulgate regulations implementing this subchapter. Such policies and regulations shall apply to—

"(i) direct loans, loan guarantees, loan insurance, financial contracts designed to support borrowing, and debts arising from contracts, grants, and other administrative arrangements; and

"(ii) all executive agencies and Government corporations unless specifically exempted from Federal control by other statutory authority.

"(B) The Secretary of the Treasury shall include regulations promulgated under this paragraph with respect to—

"(i) all credit practices necessary to make Federal credit practices substantially conform to the best established credit practices of the private sector;

"(ii) credit analysis of borrowers (including determinations with respect to creditworthiness, financial responsibility, financial statements, identification of collateral, and ability to repay);

"(iii) prescreening procedures (including the use of credit reports and records from the same or other executive agencies to identify applicants who are delinquent or in default on debt contracted under other Federal programs, projects, or activities);

"(iv) program eligibility;

"(v) alternative sources of credit;

"(vi) use of taxpayer identification numbers;

"(vii) establishment of regular repayment schedules;

"(viii) account servicing practices (including adequate recordkeeping and documentation, account review and loss estimates, followup procedures on delinquent accounts, and automation of loan servicing activities);

"(ix) debt accounting and reporting systems;

"(x) interest, penalties, and administrative costs;

"(xi) administrative offset;

"(xii) use of collection agencies;

"(xiii) referral for litigation;

"(xiv) calling guarantees;

"(xv) controlling and foreclosing on collateral;

"(xvi) Federal employee salary offset;

"(xvii) income tax refund offset;

"(xviii) rescheduling;

"(xix) writeoff and closeout procedures;

"(xx) portfolio sales;

"(xxi) management review; and

"(xxii) improvement plans.

"(2) Regulations promulgated under paragraph (1) of this subsection shall not apply to debt arising under the Internal Revenue Code of 1954, the Social Security Act, the tariff laws of the United States, or to debts owed by State or local governments.

"(b) The Secretary of the Treasury shall prescribe minimum requirements for contracts for all loans or loan guarantees governed by this chapter.

"Subchapter III—Debt Management

"§ 3821. Delinquency and default standards

"Within one year after the date of enactment of this chapter, each executive agency operating credit programs shall—

"(1) develop delinquency and default rate standards for each loan and loan guarantee program; and

"(2) transmit a report to the Congress specifying such standards.

"§ 3822. Audit of credit programs

"(a) Within two years after the date of enactment of this chapter, the Comptroller General shall audit the credit management and debt collection systems and operating policies of each executive agency which administers credit programs.

"(b) Each audit conducted under subsection (a) shall determine whether the executive agency has complied with the requirements of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982, the requirements of this chapter, and the related requirements of the Comptroller General, the Attorney General, and the Secretary of the Treasury. Copies of the audit report of each audit shall be provided to the Congress, the Under Secretary, and the agency head. With respect to any weaknesses disclosed by the audit, the agency head, within 60 days after receiving the audit report, shall furnish the Congress with an explanation of the reasons for such weaknesses and a plan of appropriate action to correct such weaknesses.

"§ 3823. Regulation deadline

"Within one year of the date of enactment of this chapter, each executive agency operating credit programs shall have promulgated all final executive agency regulations required by this chapter and the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982.

"§ 3824. Collection targets

"(a) The total amount of delinquent debts owed to executive agencies (other than debts arising under the Internal Revenue Code of 1954) shall be reduced by not less than $15,000,000,000 during the period beginning on October 1, 1986, and ending on September 30, 1989. For purposes of this section, the total amount of such debts shall be the total amount of such debts identified by the Comptroller General as of September 30, 1985.

"(b) The Secretary of the Treasury, after consulting with each agency head and receiving the proposals of each agency head for debt collection targets, shall develop and specifically establish debt collection targets for each fiscal year for each executive agency debt collection program. Such targets shall be established in conjunction with the provisions of the comprehensive debt collection credit management plans established pursuant to section 3804(a)(3) of this title and shall be designed to implement subsection (a).

"(c) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (b) of this section for an executive agency for a fiscal year are exceeded by such agency, 15 percent of the amount by which such agency exceeds the targets for such fiscal year shall be made available to the executive agency as additional program funding for the particular program or activities involved in the debt collection activity. The balance of the delinquent debts collected under this section shall be returned to the Treasury of the United States and shall be used to reduce the public debt.

"(d) To the extent that any debt collection targets established by the Secretary of the Treasury under subsection (b) of this section for an executive agency for a fiscal year are not met by such executive agency, the amounts that were appropriated for the programs or activities at the executive agency failing to meet such targets shall be reduced by an amount equal to 15 percent of the difference between the amount collected by the executive agency toward its debt collection target and the actual debt collection target established by the Secretary of the Treasury under subsection (b) of this section.

"(e) The Secretary of the Treasury shall promulgate regulations which prescribe standards for use by executive agencies in developing proposals for debt collection targets. Such standards shall require executive agencies to consider, for each program or activity, such factors as—

"(1) the characteristics of the debts and debtors involved;

"(2) the historical experience of the agency, other government agencies, and the private sector in the collection of similar types of debt;

"(3) the rates of delinquency and default;

"(4) planned improvements in the agency's debt collection programs; and

"(5) such other factors as the Secretary of the Treasury considers appropriate.

"(f) Officers and employees of executive agencies responsible for the management of debt collection programs shall be held accountable (as part of the performance standards to be established under section 3804 of this title) for establishing and periodically reviewing and revising procedures and targets that comply with the requirements of this section and the regulations of the Secretary of the Treasury.

"(g) Any reductions to executive agency appropriations under this section shall be reported in detail to the Congress by the Secretary of the Treasury and shall be included in detail in all budget justifications presented by the executive agency to the Congress.".

USE OF CREDIT BUREAUS

SEC. 3. Section 3711(f) of title 31, United States Code, is amended by—

(1) striking out "may" after "legislative agency" in paragraph (1) and inserting in lieu thereof "shall"; and

(2) striking out "may" after "system" in subparagraph (A) of such paragraph and inserting in lieu thereof "shall".

DEBT COLLECTION CONTRACTORS

SEC. 4. Section 3718(a) of title 31, United States Code, is amended by—

(1) inserting "to augment agency collection efforts" after "appropriate";

(2) striking out "may" after "head of the agency" and inserting in lieu thereof "shall";

(3) striking out "; and" at the end of paragraph (1);

(4) striking out the period at the end of paragraph (2)(B) and inserting in lieu thereof "; and"; and

(5) inserting after paragraph (2) the following new paragraph:

"(3) the person will submit to the agency status reports on the success of such person in collecting such debts at least once every six months.".

ROUTINE ADJUSTMENTS OF PAY

SEC. 5. Section 5514(a) of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(5) This subsection does not apply to intragency deductions for routine administrative overpayments which are the result of clerical or administrative error or delays in the processing of pay documents, and which are rarely controversial or disputed. With respect to these routine adjustments of pay, the agency should afford the individual reasonable opportunity to dispute the deduction. Such opportunity need not be provided prior to making the deduction.

"(6) No claim may be collected under the authority of paragraph (1) of this subsection at any time after 10 years after the claim first accrues.".

INTERNAL REVENUE SERVICE INFORMATION

SEC. 6. Section 6103(m)(2)(A) of the Internal Revenue Code of 1954 is amended—

(1) by inserting before the period a comma and "or other statutory authorities granting agencies independent claims collection authority"; and

(2) by striking out "the Secretary may" and inserting in lieu thereof "the Secretary shall".

DEBT COLLECTION REPORTS IN THE BUDGET PROCESS

SEC. 7. (a) Section 3719 of title 31, United States Code, is amended—

(1) by striking out "the Director of the Office of Management and Budget" in subsection (a) and inserting in lieu thereof "the Under Secretary of the Treasury for Debt Collection and Loan Management";

(2) by striking out "Director" each place it appears in subsections (a) and (b) and inserting in lieu thereof "Under Secretary";

(3) by striking out "and the Secretary at least once each year" in subsection (a) and inserting in lieu thereof "in accordance with regulations issued by the Under Secretary under section 3803 of this title";

(4) by striking out "and" at the end of subsection (a)(1)(E);

(5) by inserting "and" after the semicolon in subsection (a)(1)(F);

(6) by inserting after subparagraph (a)(1)(F) the following new subparagraph:

"(G) the agency's progress in implementing chapters 37 and 38 of this title, and the agency's monetary and programmatic goals for improving collections and reducing delinquencies and writeoffs;"; and

(7) by striking out "and shall report annually to Congress on the management of debt collection activities by the head of each agency" in subsection (b) and inserting in lieu thereof "and shall prepare (for inclusion in the budget submissions required by section 1105 of this title) a detailed statement of the Under Secretary's evaluation of each agency's implementation of its debt collection and loan management responsibilities for each debt collection and credit program administered by the agency".

(b) Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(26) a separate statement for each agency and program contains the information specified in section 3719(b) of this title.".

SELLING DEBTS OWED TO THE GOVERNMENT

SEC. 8. Section 3711 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) The head of each agency shall investigate the feasibility and cost effectiveness of selling the debts which that agency is responsible for collecting (either before or after they become delinquent or in default), using competitive procedures, and shall establish procedures to facilitate such sales when it would be to the Government's advantage to do so.

"(2) Whenever feasible, sales of debt under this subsection shall be for cash and without recourse, repurchase, or other guaranty or warranty agreement by the Government.".

TIME LIMITATIONS FOR BRINGING LEGAL ACTIONS ON DEBTS OWED THE UNITED STATES

SEC. 9. Section 2415 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) No provision of State law that would set an earlier deadline for filing suit shall apply to a suit filed for collection of a debt owed to the United States.".

DEFINITION OF DEBT AND CLAIM

SEC. 10. Section 3701(b) of title 31, United States Code, is amended to read:

"(b) In subchapter II of this chapter, the terms 'debt' and 'claim' mean any amount owed to the Government, except that such term does not include any amounts owed by one agency to another agency, and except as otherwise provided by law.".

SECTION-BY-SECTION ANALYSIS OF THE DEBT COLLECTION BILL

Section 2: Amends Title 31 U.S.C. by adding a new chapter on Credit Management and Federal Debt Collection.

Calls for the appointment of a new Under Secretary of the Treasury for Debt Collection and Credit Management who will have major new responsibilities for improving the Federal debt collection and credit management effort. Appointed by the President and confirmed by the Senate. He will be the President's chief adviser regarding Federal credit management and debt collection policy.

Subsidy Statement: Bill calls for identification of any subsidy contained in new proposed credit programs.

Interest Rates: Bill calls for interest rates on new credit programs be related to market rates for comparable private sector loan programs.

Loan Origination and Application Fees: Bill calls for loan origination and application fees to defray administrative costs and costs of defaulted loans.

Withholding of Loans: Bill calls for no loans to persons delinquent in paying back govenment loans unless he or she can prove loan payments are not delinquent or that they have taken steps to repay.

Also no loans to those who have defaulted on prior Government loans made after enactment of this bill, with certain exceptions.

Loans will contain default and acceleration clauses.

Study on Private Sector Participation: Bill directs President to conduct a study of private sector alternatives to Federal loan programs.

Regulations and other Matters: Bill calls for the Secretary of the Treasury to establish certain procedures and regulations to implement this chapter and to improve both debt collection and credit management.

Audit of Credit Programs: Bill calls for complete audit of credit programs by GAO two years after enactment of the bill.

Collection Targets: Bill calls for collection of $15 bilion over three years in non-tax debt delinquencies. Penalizes agencies who do not meet pre-determined debt collection targets (cuts their appropriations by 15% of the shortfall between actual collections and the target); and provides incentives for those agencies that exceed their pre-determined debt collection targets (15% of the excess over the target, agency can keep for programs.) Balance collected used to reduce the deficit.

Secretary of the Treasury sets the targets in consultation with executive agency heads.

Section 3: Use of Credit Bureaus: Mandates use of credit bureaus by executive agencies.

Section 4: Debt Collection Contractors: Mandates the use of private debt collection agencies by executive agencies.

Section 5: Routine Adjustments of Pay: Allows offset against salaries for debts owed and delinquent. Clarifies current law on this matter.

Section 6: Internal Revenue Service Information: Allows use of I.R.S. information to help in debt collection.

Section 7: Debt Collection Reports in the Budget Process: Directs that debt collection data be included in the Budget of the affected agencies and requires certain reports to Congress on debt collection performance by executive agencies.

Section 8: Selling Debts Owed to the Government: Calls for study of the feasibility of selling Government debts to the private sector as one means of debt collection.

Section 9: Time Limitations for Bringing Legal Actions on Debts Owed the U.S.: Addresses the issue of statute of limitations and conflict of laws with States that preclude collection action on Federal delinquencies.

Section 10: Definition of Debt and Claim: Clarifies definitions regarding debts and claims.

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Mr. ROTH. Mr. President, one of the most prevalent beliefs embedded in the mind of America is that Government wastes a lot of money. One recent survey, asking people how much of each tax dollar they think the Federal Government wastes, found the median response to be 48 cents.

While this figure appears a bit steep, and is in fact unrealistic, it should cause this distinguished body a little discomfort. Mainly because it does point to a problem that has been 210 years in the making. It points to mismanagement of public money—more than a venial sin in these days of deficit spending.

In fact, it's been reported that over a 3-year period, a total of $424 billion in savings could be obtained just from controlling waste—without harming social programs or even weakening our needed defense program. This dollar figure, along with 2,478 recommendations for reform, came packaged 18 months ago as the Grace Committee Report, following a sweeping survey by more than 2,000 of the best private-sector managers and executives this country has to offer.

Some of these recommendations have already been initiated. But much more remains to be done. For this reason I stand today, joined by a number of my colleagues, to introduce the omnibus Grace package of 15 separate bills. This package represents not only the commendable work of the Grace Commission, but also over 2 years of research and review by my committee on Governmental Affairs, assisted by the General Accounting Office.

I'm pleased to have it introduced in the wake of two significant events. One being the Governmental Affairs Committee vote to report another Grace-inspired bill, the Federal Management Reorganization and Cost Control Act of 1986, which passed Governmental Affairs unanimously and incorporates more than 50 of the Grace Commission's recommendations in the critical area of financial management. And the other being the historic tax reform bill—both of which lighten the burden on the taxpaying citizen and make sure the taxes that are paid are used effectively and efficiently.

This Grace package, introduced today, is a logical and most important follow-up. Just as the tax bill closed many of the loopholes that plagued our country's tax system. This Grace package will close the loopholes that have opened, with inequity and great expense, in our Government benefit and management systems.

Once passed, they will end wasteful duplication and consolidate Government efforts. They will streamline procedures, making them both efficient and cost-effective. And they will eliminate a great deal of fraud and abuse in our tax system and major programs.

For example, at the U.S. borders, we have customs officials and immigration officials who do the exact same jobs without sharing information or coordinating efforts. In our Defense Department we have depots and warehouses that are unnecessary. We have multiple and underutilized Army, Navy, and Air Force maintenance operations all set up to work on the same engines, the same equipment, and often only within miles of each other. We have dependents and survivors of military personnel who can't be treated in VA hospitals, and we have dependents and survivors of veterans who can't be treated in military hospitals. The bills are paid from the same pool, yet we waste hundreds of millions of dollars by sending these dependents away from the most appropriate and convenient medical centers—just as we waste money when our defense research laboratories don't share research data and findings, but duplicate effort and waste time and resources.

Of course, this not only cuts deep into our financial pocket, but threatens our national preparedness as well.

Mr. President, It's clear what a coordinated effort in this area could do both to end duplication and consolidate functions. But it's also amazing to see what money can be saved streamlining such Government procedures as livestock and poultry inspections. Both the Department of Agriculture and the General Accounting Office agree with the Grace Commission that periodic inspections, now possible through advanced technology in those industries, would be more effective than the continuous inspections now mandated by antiquated law. They would also save money.

It is amazing to see the savings possible if the Justice Department would use paralegals, where possible, to relieve their tremendous backlog of cases and allow our Federal attorneys more time to do litigative work.

There is also money to be saved by fighting fraud and abuse. And this Grace package will do just that by requiring social service applicants to submit Social Security numbers for income verification through computer cross-matching. Currently, 12 to 17 percent of applicants for housing benefits under section B falsify information to qualify for HUD benefits.

This package will also authorize the hiring of additional IRS staff to weed out underreporters and delinquent taxpayers who place an unfair burden on the backs of honest Americans. Currently, the IRS estimates that $100 billion in taxes is lost annually in underreporting—even more when we include delinquent taxes.

The package will also require and strengthen audits in a large number of Federal programs.

These represent only a few of over 80 Grace recommendations that are included in the 16 bills which make up this package and the Federal Management Reorganization and Cost Control Act.

Mr. President, the savings associated with these reforms—even with the most conservative estimates of GAO and CBO and including only half of the bills presented here today—total over $9 billion over 3 years. For this reason I urge prompt consideration and support of the entire Grace package of legislation.

Mr. President, I ask unanimous consent for the introduction in the RECORD of the following 12 bills of the Grace legislative package each to be preceded in the RECORD by a brief summary and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2619

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tax Collection and Enforcement Improvement Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that the amount of underreported taxes is estimated at $100,000,000,000 annually, a noncompliance rate of 18 percent, and that delinquent unpaid taxes have substantially increased in the past 5 years, rising from about $16,000,000,000 to over $35,000,000,000. During this same period, the number of tax returns audited has dropped by over 50 percent, and the Internal Revenue Service has experienced staffing and other management problems.

(b) PURPOSES.—In order to increase the enforcement of tax laws and improve the collection of unpaid delinquent taxes, this Act—

(1) authorizes 1,500 additional tax collections staff and establishes a target for the reduction of delinquent unpaid taxes,

(2) authorizes 1,000 additional staff for the information returns (document matching) program,

(3) authorizes 2,500 additional tax return examination and enforcement staff in each of the next 3 fiscal years,

(4) requires the classification and reporting of delinquent accounts on a basis of specified characteristics,

(5) requires the inclusion of levy source information in closing agreements,

(6) authorizes the use of electronic fund transfer and payroll deductions in installment agreements with respect to which payments are delinquent, and

(7) prohibits liquor wholesalers from selling to retailers who have not paid the Federal occupational tax stamp and requires computer matching as an enforcement tool.

TITLE I—COLLECTIONS AND ENFORCEMENT STAFF ENHANCEMENT

SEC. 101. INCREASED COLLECTIONS STAFF.

(a) IN GENERAL.—Within 5 fiscal years of the date of the enactment of this Act, the Secretary of the Treasury shall reduce the level of delinquent debt by at least $5,000,000, through the strengthening of the collection activities of the Internal Revenue Service. For the purposes of the preceding sentence, the Secretary of the Treasury shall increase the tax collections staff by 1,500 employees in fiscal year 1987.

(b) COLLECTIONS PLAN.—The Secretary of the Treasury shall, within 180 days of the date of the enactment of this Act, submit to the Congress a plan to halt the growth of backlogged collections and maximize the collection of taxes imposed by the internal revenue laws. The plan shall—

(1) detail the allocation of staff among the national, regional, and district offices and Internal Revenue Service Centers, based on projected workload volumes,

(2) detail the allocation of additional staff, encompassing all aspects of the collections process, and

(3) include an estimate of any additional staff needs beyond the 1,500 additional staff authorized in this section which shall be used to prepare the budget estimates for the Internal Revenue Service, including staffing estimates for the following marginal rates of return (marginal yield to cost)—

(A) 20 to 1,
(B) 15 to 1,
(C) 10 to 1,
(D) 7 to 1,
(E) 5 to 1, and
(F) 2 to 1.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Internal Revenue Service such sums as are necessary to carry out the purposes of this section.

SEC. 102. INCREASED INFORMATION RETURNS PROGRAM STAFF.

(a) IN GENERAL.—The Secretary of the Treasury shall increase by 1,000 in fiscal year 1987 the Internal Revenue Service staff allocated to the Information Returns (document matching) Program function.

(b) INFORMATION RETURNS PROGRAM PLAN.—The Secretary of the Treasury shall, within 180 days of the date of the enactment of this Act, submit to the Congress a plan to strengthen the Information Returns Program. The plan shall—

(1) detail the allocation of additional staff, and

(2) include an estimate of any additional staff needs beyond the 1,000 additional information returns staff authorized in this section, including staffing estimates for the same marginal rates of return required in section 101(b)(3) of this Act, to be used as a basis to prepare budget estimates for the Internal Revenue Service.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Internal Revenue Service such sums as are necessary to carry out the purposes of this section.

SEC. 103. INCREASED ENFORCEMENT STAFF LEVELS.

(a) IN GENERAL.—The Secretary of the Treasury shall increase by 2,500 the Internal Revenue Service staff positions in the tax return examination and enforcement function in each of the fiscal years 1987, 1988, and 1989.

(b) ENFORCEMENT PLAN.—The Secretary of the Treasury shall, within 180 days of the date of the enactment of this Act, submit to the Congress a plan to increase the number of tax returns audited. The plan shall include recommendations as to the staff needed by the Internal Revenue Service to increase the percentage of returns audited to at lease 2 percent within 5 years and to raise taxpayer compliance to 90 percent within 5 years, and shall be used as a basis to prepare budget estimates for the Internal Revenue Service.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Internal Revenue Service such sums as are necessary to carry out the purposes of this section.

SEC. 104. REPORTING.

(a) IN GENERAL.—Within 60 days after the end of fiscal year 1987, and each fiscal year thereafter, the Secretary of the Treasury shall submit to the Congress a report on the status of tax collections and on the level of delinquent debt that shall include—

(1) the value, age, stage of collection, and any other pertinent classification of all unpaid tax revenues owed the Federal Government,

(2) the level of delinquent debt at the end of such fiscal year,

(3) the amount of revenue raised as a result of collections of delinquent debt during such year,

(4) the number and value of tax accounts written off as uncollectible for the most current 3 fiscal years,

(5) the number of staff assigned to the collection function, and

(6) the relationships among the growth of—

(A) taxes paid,

(B) all receivables, and

(C) all delinquencies.

(b) ADDITIONAL REQUIREMENTS.—The Secretary of the Treasury shall also include, in the report to the Congress, the status of collection and enforcement enhancement of the Internal Revenue Service with respect to—

(1) the number of tax returns filed and the percentage audited for the current and preceding 2 fiscal years,

(2) the amounts of additional tax assessed and revenue collected as a result of such audits,

(3) an estimate of the amount of revenue indirectly attributable to the increased collection and enforcement functions,

(4) the rate of return and marginal cost for each dollar of expenditure by the Internal Revenue Service by function, and

(5) an estimate as to the future staff and computer support needs of the Internal Revenue Service to maintain an increasing level of revenue collection and taxpayer compliance.

TITLE II—IMPROVEMENT OF COLLECTION PRACTICES

SEC. 201. CLASSIFICATION OF DELINQUENT ACCOUNTS.

The Secretary of the Treasury shall maintain management information systems which, on an accurate and timely basis, classify the number of accounts and the value of delinquencies—

(1) at the various stages of collection (notice, taxpayer delinquent account, amounts currently not collectible, installment agreements, deferrals, and other stages as determined by the Secretary),

(2) by the type of taxpayer (individual or business),

(3) by the type of tax (income, employment, excise, and other types of tax as determined by the Secretary),

(4) by the source of delinquency (tax examination, non-filer, document match, and other sources as determined by the Secretary),

(5) by the delinquency history of the taxpayer (first-time delinquent versus repeater),

(6) by the age of delinquency (30, 60, 90, 120, and 180 days, over 1 year, over 2 years, and over 5 years); and

(7) by other such criteria as the Secretary determines proper in order to provide the Internal Revenue Service with better information with which to manage the collection processes.

SEC. 202. LEVY SOURCE INFORMATION INCLUDED IN CLOSING AGREEMENTS.

(a) IN GENERAL.—Subsection (a) of section 7121 of the Internal Revenue Code of 1954 (relating to closing agreements) is amended by adding at the end thereof the following new sentence: "Such an agreement (or any other form or document closing an examination) shall include levy source information if the entire tax is not paid when such agreement is entered into.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 203. COLLECTION UNDER INSTALLMENT AGREEMENTS.

(a) IN GENERAL.—Subchapter A of chapter 64 of the Internal Revenue Code of 1954 (relating to collection) is amended by inserting after section 6303 the following new section:

"SEC. 6304. COLLECTION UNDER INSTALLMENT AGREEMENTS.

"(a) IN GENERAL.—Under regulations prescribed by the Secretary, the Secretary may provide for the payment of any tax delinquency by means of an installment agreement.

"(b) NONPAYMENT OF AGREED INSTALLMENT.—

"(1) IN GENERAL.—Such agreement shall authorize the Secretary to collect an installment not paid on or before the date set for its payment by payroll deduction or electronic fund transfer (as defined in section 5061(e)(2)).

"(2) LIMITATION.—Any payment under paragraph (1) shall be subject to the limitations under section 6334.".

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 64 of the Internal Revenue Code of 1954 is amended by inserting after the item relating to section 6303 the following new item:

"Sec. 6304. Collection under installment agreements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

TITLE III—COLLECTION OF ALCOHOLIC OCCUPATIONAL TAX

SEC. 301. PROHIBITED SALES BY WHOLESALE DEALERS.

(a) IN GENERAL.—Subpart D of part II of subchapter A of chapter 51 of the Internal Revenue Code of 1954 (relating to tax on distilled spirits, wines, and beer) is amended by adding at the end thereof the following new section:

"SEC. 5118. PROHIBITED SALES BY WHOLESALE DEALERS.

"(a) IN GENERAL.—It shall be unlawful for any wholesale dealer in liquors or any wholesale dealer in beer to sell distilled spirits, wine, or beer to any retail dealer in liquors or retail dealer in beers unless such retail dealer has paid the special tax to cover the place where the business is conducted.

"(b) RECORDS.—Any wholesale dealer in liquors or wholesale dealer in beer shall keep, under such regulations as the Secretary shall prescribe, a record of the identification number appearing on the special tax stamp issued to each retail dealer in liquors or retail dealer in beer pursuant to section 5142(c)(2).

"(c) CROSS REFERENCES.—

"For penalties applicable to a violation of this section, see sections 5603 and 5687.".

(b) The table of sections for subpart D of part II of subchapter A of chapter 51 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new item:

"Sec. 5118. Prohibited sales by wholesale dealers.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 302. DOCUMENT MATCHING TO IDENTIFY NONCOMPLIANT RETAILERS.

The Secretary of the Treasury shall match information on income tax returns with returns filed under chapter 51 of the Internal Revenue Code of 1954 to ensure compliance with the tax imposed by section 5121 of such Code.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Unless otherwise provided in this Act, the provisions of this Act shall take effect on the date of the enactment of this Act.

TAX COLLECTION AND ENFORCEMENT IMPROVEMENT ACT OF 1986

Problem.—The amount of underreported taxes is estimated at $100 billion annually, indicating a noncompliance rate of 18 percent. Delinquent unpaid taxes have substantially increased in the past 5 years, rising from about $16 billion to over $35 billion. During this same period, the number of tax returns audited has dropped by over 50 percent, and the Internal Revenue Service has experienced staffing and other management problems. The Grace Commission estimated a three-year cost savings of $6.6 billion as the result of reforms in this area; however, many of the Grace recommendations have been accomplished administratively. This legislation provides the means to require a reduction in tax delinquencies by $5 billion over 5 years.

The purpose of this bill is to improve tax law compliance, increase collections, and reduce tax delinquencies by:

Authorizing 1,500 additional collections staff and establishing a target for a $5 billion reduction in delinquent unpaid taxes over 5 years;

Authorizing 1,000 additional staff for the information returns (document matching) program;

Authorizing 2,500 additional tax return examination and enforcement staff in each of the next 3 fiscal years;

Requiring the Classification and reporting of delinquent accounts on a basis of specified characteristics;

Requiring the inclusion of information on taxpayer equity sources in audit closing agreements when any amount of tax payable is outstanding;

Authorizing the use of electronic funds transfers and payroll deductions in installment agreements where tax payments are delinquent; and

Prohibiting liquor wholesalers from selling to retailers who have not paid the Federal Occupational Tax Stamp and requiring computer matching as an enforcement tool.

TAX COLLECTION AND ENFORCEMENT IMPROVEMENT ACT OF 1986—A Bill To Implement Certain Recommendations of the President's Private Sector Survey on Cost Control

Sec. 2. Findings and Purposes.—This Act is to strengthen efforts to recoup underreported and delinquent federal income tax revenue whose levels have risen rapidly in the last 5 years. In the same time period, audits have dropped significantly, and the IRS has had staffing and management problems. This Act:

Authorizes 1500 additional collections staff and establishes a target for the reduction of delinquent unpaid taxes;

Authorizes 1000 additional staff for the information returns processing program;

Authorizes 2500 additional tax return examination and enforcement staff in each of the next three fiscal years;

Requires the classification and reporting of deliquent accounts on a basis of specified characteristics;

Requires the inclusion of levy source information in closing agreements;

Authorizes the use of electronic funds transfer and payroll deductions in installment agreements where payments are delinquent; and

Prohibits liquor wholesalers from selling to retailers who have not paid for their Federal Occupational Tax Stamp and requires computer matching as an enforcement tool.

TITLE I.—COLLECTION AND ENFORCEMENT STAFF ENHANCEMENT

Sec. 101. Increased Collection Staff.—Within 5 fiscal years of the enactment of this Act, through strengthened collection activities, the Secretary of the Treasury is required to reduce the level of delinquent debt by at least $5 billion. An additional 1,500 staff is provided for this purpose.

The Secretary of the Treasury is required, within 180 days of enactment, to submit a plan to reduce the growth of backlogged collections and increase the collection of taxes. The plan is to detail the allocation of staff in all aspects of the collections process, based on projected workload, and to include an estimate of future staffing needs.

The Act provides there will be appropriated such funds as are necessary to carry out this section.

Sec. 102. Increased Information Returns Program Staff.—The Secretary of the Treasury is authorized an additional 1,000 staff in the information returns (document matching) function.

Within 180 days of enactment, the Secretary of the Treasury is required to submit a plan to strengthen the program which shall include an estimate of staffing needs.

The Act provides there will be appropriated such funds as necessary to carry out this section.

Sec. 103. Increased Enforcement Staff Levels.—The Secretary of the Treasury is authorized an additional 2,500 examinations and enforcement staff in each year for fiscal year 1987, 1988, 1989.

The Secretary is required, within 180 days of enactment, to submit a plan to increase the number of tax audits to at least 20% and taxpayers compliance to 90% within the next five years. The plan is to detail any additional staff needs.

The Act provides there will be appropriated such funds as are necessary to carry out this section.

Sec. 104. Reporting.—Within 60 days after the end of fiscal year 1987, and each year following, the Secretary will submit a report to the Congress on the status of tax collections and the level of delinquent debt. The Act delineates certain information to be included in the report.

TITLE II.—IMPROVEMENT OF COLLECTION PRACTICES

Sec. 201. Classification of Delinquent Accounts.—The Secretary of the Treasury is required to classify all delinquent accounts based on age, stage of collection, value, type of taxpayer, type of tax, source of delinquency, taxpayer collection history, and other such criteria as the Secretary deems necessary to better provide the Internal Revenue Service with information with which to manage the collection process.

Sec. 202. Levy Source Information Included in Closing Agreements.—Subchapter (a) of Section 7121 of the Internal Revenue Code of 1954 is amended so that levy source information is required with closing agreements or any such document that concludes an examination where the entire tax is not paid.

Sec. 203. Collection Under Installment Agreements.—The Secretary is authorized to use electronic funds transfers or payroll deductions to collect taxes when payments under installment agreements are delinquent. To do this, subchapter (A) of chapter 64 of the Internal Revenue Code is amended by adding a new section after section 5103.

TITLE III.—COLLECTION OF ALCOHOLIC OCCUPATIONAL TAX

Sec. 301. Prohibited Sales by Wholesale Dealers.—Subpart D of part II of Subchapter A of chapter 51 of the Internal Revenue Code of 1954 is amended to prohibit wholesale dealers in beer, wine, and distilled spirits from selling beer, wine, and distilled spirits to any retail dealer unless that retailer has paid the alcoholic occupational tax.

The wholesale dealer is required to keep records of their customers' compliance.

Penalties for not complying are stated in sections 5603 and 5687 of chapter 51 of the Internal Revenue Code of 1954.

Sec. 302. Document Matching To Identify Noncompliant Retailers.—To aid in enforcement, the Secretary of the Treasury is to match information on income tax returns filed under chapter 51 of the Internal Revenue Code of 1954 to insure compliance with the tax imposed by section 5121 of such Code.

TITLE IV.—EFFECTIVE DATE

Sec. 401. Effective Date.—This Act takes effect on the date of enactment.

S. 2622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Meat, Poultry, and Egg Products Inspection Improvement Act of 1986".

SEC. 2. FINDING AND PURPOSES.

(a) FINDING.—Congress finds that periodic and unannounced inspections of meat, poultry, and egg processing plants would be less expensive and more effective than continuous inspections of such plants currently made.

(b) PURPOSES.—It is the purpose of this Act—

(1) to increase the flexibility of the Secretary of Agriculture in utilizing inspection resources and improve the efficiency of inspections at meat, poultry, and processing plants by authorizing the Secretary to conduct inspections of processing operations at individual establishments in such a manner and with such frequency as the Secretary determines necessary and in accordance with regulations; and

(2) to concentrate inspection resources on plants in which more intensive inspection is required by reducing the frequency of examinations at exemplary plants.

SEC. 3. MEAT INSPECTION.

(a) DEFINITION OF OFFICIAL INSPECTION LEGEND.—Section 1(t) of the Federal Meat Inspection Act (21 U.S.C. 601(t)) is amended by inserting ", or prepared in an establishment inspected by the Secretary," after "passed".

(b) INSPECTORS OF MEAT FOOD PRODUCTS.—Section 6 of such Act (21 U.S.C. 606) is amended—

(1) by striking out "For" and all that follows through ": *Provided*, That subject" and inserting in lieu thereof the following:

"(a) For the purpose of carrying out this Act, the Secretary shall cause to be made, by inspectors appointed for such purpose, an examination and inspection of meat food products prepared for commerce in any slaughtering, meatcanning, salting, packing, rendering, or similar establishment.

"(b) Such examination and inspection shall be conducted in such a manner and with such frequency as the Secretary determines necessary and in accordance with regulations issued under this Act, based on—

"(1) the nature and frequency of the processing operations of the establishment;

"(2) the adequacy and reliability of the product monitoring system of the establishment;

"(3) the history of compliance of the establishment with inspection requirements imposed under this Act; and

"(4) such other factors as the Secretary considers appropriate.

"(c) All such products found not to be adulterated shall be marked, stamped, tagged, or labeled as 'Prepared in a USDA inspected establishment'.

"(d) All such products found to be adulterated shall be—

"(1) marked, stamped, labeled, or tagged as 'condemned'; and

"(2) destroyed for human food purposes in accordance with this Act.

"(e) The Secretary may remove inspectors from an establishment that fails to destroy such adulterated products in accordance with this Act.

"(f) For the purpose of an examination and inspection, such inspectors shall have access at all times, by day or night, whether the establishment in operating or not, to every part of the establishment.

"(g) Subject"; and

(2) in subsection (g) (as designated by paragraph (1)), by striking out "proviso" and inserting in lieu thereof "subsection".

(c) LABELING REQUIREMENTS.—Section 7 of such Act (21 U.S.C. 607) is amended—

(1) in subsection (a), by inserting "or 'prepared in a USDA inspected establishment'" after "and passed'" each place it appears; and

(2) in subsection (b), by striking out "inspected at any establishment under the authority of this title and found be not adulterated" and inserting in lieu thereof "inspected and passed, or prepared in an establishment inspected by the Secretary".

(d) REJECTION OF ADULTERATED MEAT OR MEAT FOOD PRODUCTS.—Section 8 of such Act (21 U.S.C. 608) is amended by striking out "passed.'" and inserting in lieu thereof "passed' or 'prepared in a USDA inspected establishment'.".

(e) REFUSAL TO LABEL.—Section 21 of such Act (21 U.S.C. 621) is amended by striking out ", or meat food product therefrom,".

SEC. 4. POULTRY PRODUCTS INSPECTION.

Section 6 of the Poultry Products Inspection Act (21 U.S.C. 455) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) For the purpose of carrying out this Act, the Secretary shall cause to be made, by inspectors appointed for such purpose, an examination and inspection of processed poultry products prepared for commerce in each official establishment processing such poultry products.

"(2) Such examination and inspection shall be conducted in such a manner and with such frequency as the Secretary determines necessary and in accordance with regulations issued under this Act, based on—

"(A) the nature and frequency of the processing operations of the establishment;

"(B) the adequacy and reliability of the product monitoring system of the establishment;

"(C) the history of compliance of the establishment with inspection requirements imposed under this Act; and

"(D) such other factors as the Secretary considers appropriate.".

SEC. 5. EGG PRODUCTS INSPECTION.

Section 5 of the Egg Products Inspection Act (21 U.S.C. 1034) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a)(1) For the purpose of preventing the entry into or flow or movement in commerce of, or the burdening of commerce by, any egg product that is capable of use as human food and is misbranded or adulterated, the Secretary, whenever processing operations are being conducted, shall cause to be made, by inspectors appointed for such purpose, an inspection of the processing of egg products, in each plant processing egg products for commerce, unless exempted under section 15.

"(2) Egg breaking operations shall be continuously inspected.

"(3) Except as provided in paragraph (2), such inspection shall be conducted in such a manner and with such frequency as the Secretary determines necessary and in accordance with regulations issued under this Act, based on—

"(A) the nature and frequency of the processing operations of the establishment;

"(B) the adequacy and reliability of the product monitoring system of the establishment;

"(C) the history of compliance of the establishment with inspection requirements imposed under this Act; and

"(D) such other factors the Secretary considers appropriate.

"(4) Without restricting the application of paragraphs (1) through (3) to other kinds of establishments within its provisions, any food manufacturing establishment, institution, or restaurant that uses any eggs that do not meet the requirements of section 15(a)(1) in the preparation of any articles for human food shall be deemed to be a plant processing egg products, with respect to such operations."; and

(2) in the first sentence of subsection (d), by striking out "at least once each calendar quarter" and inserting in lieu thereof "at least once a year".

MEAT, POULTRY, AND EGG PRODUCT INSPECTION IMPROVEMENT ACT OF 1986

Problems: Federal law requires the Department of Agriculture (USDA) to inspect the slaughter and processing of livestock and poultry products, and the egg product processing plants on a continuous basis. The Grace Commission, the USDA, and the General Accounting Office have determined that periodic, unannounced inspections of meat, poultry, and egg processing plants would be less expensive and more effective than the currently used continuous inspections. The Grace Commission estimated a $27.7 million savings over three years, while the USDA estimated $20.4 million.

The purpose of this bill is to implement the findings of the Grace Commission and the USDA on inspecting of meat, poultry, and egg processing plants. The current legislation is interpreted to require continuous inspection at processing establishments. This bill would authorize the Secretary of Agriculture to conduct inspections in such a manner and frequency as he determines necessary based on specific criteria:

The nature and frequency of the processing establishment's operations;

The adequacy and reliability of the establishment's product monitoring system;

The history of the establishment's compliance with the pertinent Act's inspection requirements; and

Any other factors that the Secretary determines appropriate.

Sec. 2. Findings and Purpose. The Congress, the General Accounting Office, and the Department of Agriculture have all found that periodic, unannounced inspections of meat, poultry, and egg processing plants would be less expensive and more effective than current continuous inspections at processing establishments that use improved modern processing technology, have reliable quality control systems, and have a history of complying with inspection requirements. This Act increases the Secretary of Agriculture's flexibility to conduct inspections in such a manner and with such frequency as the Secretary determines necessary. This would allow inspection resources to be concentrated on those areas where intensive inspection is required.

Secs. 3, 4, & 5. Meat, Poultry, and Egg Inspection. The Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act are amended to authorize the Secretary of Agriculture to conduct examinations and inspections of meat, poultry, and egg product processing operations at individual establishments in such a manner and with such frequency as the Secretary deems necessary and in accordance with regulations issued under those Acts.

The specific criteria for those examinations and inspections are the nature and frequency of the establishment's processing operations, the adequacy and reliability of the establishment's product monitoring system, the history of the establishment's compliance with the pertinent Act's inspection requirements, and such other factors as the Secretary determines appropriate.

S. 2623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mail Management Improvement Act of 1986".

PURPOSE

SEC. 2. In order to improve Federal agency management of mail operations and to reduce Government mail costs, this Act requires that executive agencies—

(1) evaluate their mail operations to identify and eliminate practices resulting in excessive mailing costs; and

(2) develop and implement plans and programs for making the necessary improvements in such operations.

MAIL MANAGEMENT

SEC. 3. (a) The Director of the Office of Management and Budget, in consultation with the Administrator of General Services, shall within 90 days after the date of enactment of this Act, issue a directive which requires each executive agency to—

(1) evaluate the mail operations of the agency in order to identify and eliminate practices resulting in excessive mailing costs;

(2) assign to an official designated by the head of the agency the responsibility for the development and implementation of mail management program for all offices and units of the agency;

(3) establish mail management objectives and responsibilities to be carried out by offices and units of the agency;

(4) within 6 months after the date of enactment of this Act, develop and submit to the Director for approval a mail management plan which provides for—

(A) improving the measurement of agency costs, in conjunction with the United States Postal Service, including the consideration of the use of postage meters or stamps;

(B) the determination of the advantages to the agency of using mail pre-sorting programs;

(C) the determination of the lowest cost class of mail necessary to effectively accomplish individual agency functions;

(D) the evaluation of the most effectiveness of using alternatives to the United States Postal Service for the delivery of agency mail;

(E) the review and consolidation of mailing lists used by the agency to distribute publications and other materials issued by the agency;

(F) the provision of training to agency personnel regarding cost-effective mailing practices; and

(G) the implementation of the agency's mail improvement programs, in conjunction with the Administrator of General Services;

(5) establish programs to implement the plan prepared under paragraph (4), including standards for receipt, delivery, collection, and dispatch of mail;

(6) publish and disseminate mail management standards, guides, and instructions, and establish and implement procedures for monitoring compliance with such standards, guides, and instructions;

(7) periodically submit to the Director of the Office of Management and Budget for approval revisions of the plan required by

paragraph (4), including an analysis of savings projected from the improvements in mail management provided for in such revised plan; and

(8) periodically report to the Director of the Office of Management and Budget on the progress of the agency in implementing the improvements in mail management contained in the most recent plan submitted to the Director under paragraph (4) or (7) and in achieving the savings projected in such plan.

(b) For purposes of this section, the term "executive agency" has the same meaning as in section 102 of title 31, United States Code.

"MAIL MANAGEMENT IMPROVEMENT ACT OF 1986"

A Bill to Implement Certain Recommendations of the President's Private Sector Survey on Cost Control.

SEC. 2. PURPOSE. To improve Federal agency management of mail operations and reduce Government mail costs, this Act requires agencies to evaluate their mailing operations and to eliminate practices resulting in excessive mailing costs.

SEC. 3. MAIL MANAGEMENT. The Director of the Office of Management and Budget, in consultation with the Administrator of General Services is required, within 90 days of enactment, to issue a directive which principally requires each executive agency to:

Evaluate the mail operations of the agency to identify and eliminate practices resulting in excessive mailing costs;

Assign to an official, designated by the head of the agency, the responsibility for the development and implementation of mail management programs for that agency;

Develop, within 6 months of enactment and subject to approval by the Director of the Office of Management and Budget, a plan to strengthen mail management; and

Periodically report to the Director on progress of the agency in implementing mail management improvement and in achieving savings under that plan.

S. 2624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act my be cited as the "Defense Select Consolidations Act of 1986".

TITLE I—CONSOLIDATION AND ADMINISTRATION OF DEPOT LEVEL MAINTENANCE

PURPOSE

SEC. 101. The purpose of this title is to improve the economy and efficiency of Department of the Defense depot maintenance operations by requiring the centralization of administrative decisionmaking responsibility and the consolidation of depot level maintenance facilities and operations.

DEFINITION

SEC. 102. As used in this title, "depot level maintenance facility" means a Department of Defense facility in which maintenance functions are performed (including inspection, test, repair, modification, alteration, modernization, conversion, overhaul, reclamation, or rebuilding of parts, assemblies, subassemblies, components, and weapons systems) and for which there is an extensive capital investment in fixed facilities, specialized tools, or complex test equipment for the performance of such functions.

DESIGNATION OF A DEPOT LEVEL MAINTENANCE FACILITIES MANAGER

SEC. 103. The Secretary of Defense shall, not later than 180 days after the date of the enactment of this Act, designate a single manager in the Department of Defense to be responsible for the administration of depot level maintenance facilities.

CONSOLIDATION OF DEPOT LEVEL MAINTENANCE FACILITIES

SEC. 104. (a) Not later than 2 years after the date of the enactment of this Act, the manager designated under section 103 shall develop and implement, consistent with the requirements of section 2687 of title 10, United States Code, a plan for the consolidation of (1) depot level maintenance facilities, and (2) the performance of management functions related to such facilities. The manager shall transmit such plan in writing to the Secretary of Defense and the Inspector General of the Department of Defense not later than the date which the Secretary of Defense, considering the requirements of this section, shall prescribe.

(b) In developing the plan under subsection (a), the designated manager shall determine and consider the potential mobilization requirements for depot level maintenance facilities and equipment and the total excess capacity in the present depot level maintenance system and shall identify those depot level maintenance facilities which should be deactivated or consolidated.

(c) The Inspector General of the Department of Defense shall review the plan required by subsection (a) and shall submit to the Secretary of Defense such comments and recommendations relating to the plan as the Inspector General considers appropriate.

(d) Not later than 90 days before the date on which the implementation of the plan required by subsection (a) commences, the Secretary of Defense shall submit the plan, together with the comments of the Inspector General under subsection (c), to the Committees on Armed Services of the Senate and the House.

MANAGEMENT OF DEPOT LEVEL MAINTENANCE FACILITIES

SEC. 105. (a) The manager designated under section 103 shall be responsible for establishing, modifying, maintaining, modernizing, and disposing of all depot level maintenance facilities and equipment and for reviewing and approving budget requests necessary to carry out such responsibilities.

(b) The resources available for the performance of depot level maintenance functions shall be under the overall control of the manager designated under section 103. The manager shall allocate such resources among the Department of Defense organizations involved in depot level maintenance operations.

(c) The Secretaries of the military departments shall consult with the manager designated under section 103 in developing budgets for the performance of the functions of depot level maintenance facilities and shall make requests for funds for such purpose through that manager.

TITLE II—CONSOLIDATION OF WHOLESALE DEPOT FACILITIES

PURPOSE

SEC. 201. The purpose of this title is to improve the economy and efficiency of the Department of Defense wholesale depot system by requiring the centralization of administrative decisionmaking responsibility for such system and the consolidation of wholesale depot facilities and operations.

DEFINITION

SEC. 202. As used in this title, "wholesale depot facility" means a Department of Defense facility that receives and stores material in bulk quantities and issues such material in bulk quantities to the ultimate user of the material. Such term does not include a facility for storage of material by the ultimate user pending use of the material.

DESIGNATION OF A WHOLESALE DEPOT FACILITIES MANAGER

SEC. 203. The Secretary of Defense shall, not later than 180 days after the date of the enactment of this Act, designate a single manager in the Department of Defense to be responsible for the administration and operation of wholesale depot facilities.

CONSOLIDATION OF WHOLESALE DEPOT FACILITIES

SEC. 204. (a) Not later than 2 years after the date of the enactment of this Act, the manager designated under section 203 shall develop and implement, consistent with the requirements of section 2687, title 10, United States Code, a plan for the consolidation of (1) wholesale depot facilities, and (2) the performance of the management functions related to such facilities. The manager shall transmit such plan in writing to the Secretary of Defense and the Inspector General of the Department of Defense not later than the date which the Secretary, considering the requirements of this section, shall prescribe.

(b) In developing the plan required by subsection (a), the designated manager shall determine and consider the potential mobilization requirements for wholesale depot facilities and the total excess capacity in the present wholesale depot system and shall identify those wholesale depot facilities which can most economically and effectively be deactivated. The manager should take into account transportation costs in determining the economy of deactivating wholesale depot facilities.

(c) The Inspector General of the Department of Defense shall review the plan required by subsection (a) and shall submit to the Secretary of Defense such comments and recommendations relating to the plan as the Inspector General considers appropriate.

(d) Not later than 90 days before the date on which the implementation of the plan required by subsection (a) commences, the Secretary of Defense shall submit the plan, together with the comments of the Inspector General under subsection (c), to the Committees on Armed Services of the Senate and the House of Representatives.

TITLE III—CONSOLIDATION OF BASE SUPPORT OPERATIONS

PURPOSE

SEC. 301. The purpose of this title is to improve the economy and efficiency of the Department of Defense by promoting cooperation among the military departments in base support operations and reducing the redundant performance of functions relating to such operations at military installations located in close proximity of each other.

DEFINITION

SEC. 302. As used in this title, the term "base support operations" includes fire protection services, housing management and maintenance services, finance and accounting services, refuse collection services, civil-

ian personnel management services, building and road maintenance services, security services, administrative services, logistical services, and supply and maintenance services.

PARTICIPATION IN THE DEFENSE RETAIL INTERSERVICE SUPPORT PROGRAM

SEC. 303. The military departments shall participate in the Defense Retail Interservice Support Program of the Department of Defense.

RESPONSIBILITIES OF THE SECRETARY OF DEFENSE

SEC. 304. The Secretary of Defense shall—

(1) encourage consolidation of base support operations under the Defense Retail Interservice Support Program in all geographic areas in which there are 2 or more military installations located within a 50-mile radius of each other;

(2) utilize the Defense Retail Interservice Support Program—

(A) to carry out a test program to consolidate base support operations at 2 or more military installations located in close proximity to each other;

(B) to identify other military installations at which base support operations could be effectively consolidated and to determine the economic feasibility of contracting for the performance of such base support operations by private sector enterprises; and

(C) to develop, and monitor the implementation of, a plan which provides (i) for the consolidation of base support operations at military installations pursuant to subclause (B), and (ii) for the consolidation within 5 years after the date the installations have been identified pursuant to subclause (B);

(3) establish a timetable for the completion, within 2 years after the date of the enactment of this Act, of all interservice consolidations of base support operations for installations where opportunities for such consolidations have been identified under the Defense Retail Interservice Support Program before the date of enactment of this Act;

(4) ensure that each plan for consolidation of base support operations developed under this section—

(A) includes milestones for the accomplishment of budget reductions by month and by year; and

(B) assigns responsibility for the performance and management of the base support operations consolidated under the plan; and

(5) each year, at the same time as the President submits the budget to Congress under section 1105(a) of title 31, United States Code, submit to Congress the cost of base support operations performed under contract and a summary of planned actions to consolidate base support operations and to reduce the cost of such operations.

TITLE IV—UNIFICATION OF TRAFFIC MANAGEMENT

PURPOSE

SEC. 401. The purpose of this title is to improve economy and efficiency in Department of Defense management of air, land, and sea transportation through the establishment of a single, unified traffic management command.

REQUIREMENT TO ESTABLISH A TRAFFIC MANAGEMENT COMMAND

SEC. 402. (a) The Secretary of Defense shall, not later than 1 year after the date of the enactment of this Act, establish a unified traffic management command which shall assume all traffic management functions assigned to the Military Traffic Command, the Military Sealift Command, and the Military Airlift Command.

(b) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall develop and transmit to the Committees on Armed Services of the Senate and the House of Representatives a plan to establish the unified traffic management command under subsection (a).

REPEAL OF A PROHIBITION RELATING TO CONSOLIDATION OF THE MILITARY TRANSPORTATION COMMANDS

SEC. 403. Section 1110 of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 747) is repealed.

DEFENSE SELECT CONSOLIDATIONS ACT OF 1986

Problems.—Numerous studies of the Department of Defense show that DoD depots have excess capacity for the maintenance of a variety of weapons systems and for the wholesale distribution of military material. There is also duplication of base support services in locations with more than one military facility and severe fragmentation of military transportation services. While there is widespread recognition that consolidation is necessary to cost effectiveness, service parochialism has stymied efforts to introduce reforms. The Grace Commission estimated that DoD service consolidations in these areas will result in $1.8 billion in savings over 3 years. GAO agrees that it is reasonable to anticipate savings of this magnitude.

The purpose of this bill is to consolidate and improve the efficiency and coordination of depot-level maintenance and wholesale distribution operations, base support services, and military traffic and transport management by:

Designation of a single manager in DoD for the administration of depot-level maintenance facilities with authority to plan for and to implement the consolidation of such facilities.

Designation of a single manager in DoD for the administration of wholesale depot facilities and operations with authority to develop a plan for the consolidation of such depots, which plan is to be submitted to the House and Senate Armed Services Committees.

Directing the Secretary of Defense to identify military installations where base support operations could effectively be consolidated, and within 2 years of enactment, develop a timetable for implementation.

Directing the Secretary of Defense to develop a "unified traffic management command" to combine functions of the Military Traffic Command, the Military Sealift Command, and the Military Airlift Command for submission to the House and Senate Armed Services Committees for action.

(A Bill to Implement Certain Recommendations of the President's Private Sector Survey on Cost Control.)

TITLE I—CONSOLIDATION AND ADMINISTRATION OF DEPOT LEVEL MAINTENANCE

SEC. 101. PURPOSE.—The purpose of this title is to improve economy and efficiency of Department of Defense depot maintenance by placing decision making in the hands of a single manager and requiring the establishment of plans for consolidation of depot level maintenance facilities and functions.

SEC. 102. DEFINITIONS.—For this Act, "depot level maintenance facility" means a facility in which maintenance functions are performed, and for which there are extensive capital investment in fixed facilities, specialized tools, or complex test equipment for the performance of such functions.

SEC. 103. CONSOLIDATION OF DEPOT LEVEL MAINTENANCE FACILITIES.—Within 180 days of enactment, the Secretary of Defense is to create a single manager for the administration of depot level maintenance facilities.

SEC. 104.—Within two years of enactment, the single manager is required to develop and implement a plan for the consolidation of depot level maintenance facilities, which considers the potential mobilization requirements for these facilities, determines the total excess capacity in the present system, and identifies the facilities that should be consolidated or deactivated.

The Department of Defense Inspector General is to review the plan and make comments and recommendations to the Secretary. Not later than 90 days before implementation of the plan, the Secretary is required to submit the plan and comments from the Inspector General to the Senate and House Armed Services Committees.

SEC. 105. MANAGEMENT OF DEPOT LEVEL MAINTENANCE FACILITIES.—The single manager is responsible for establishing, modifying, maintaining, modernizing, and disposing of all depot maintenance facilities and equipment. Funds needed to carry out these functions are to be reviewed and approved by the single manager.

The single manager also has overall control of the resources to carry out depot maintenance functions and is to allocate funds to individual defense activities involved in depot maintenance. The individual military departments are required to develop budgets and request funds through the single manager to carry out depot maintenance functions.

TITLE II—CONSOLIDATION OF WHOLESALE DEPOT FACILITIES

SEC. 201. PURPOSE.—The purpose of this title is to improve the economy and efficiency of the Department of Defense's wholesale depot system by putting the decision making in the hands of a single manager and requiring the consolidation of the wholesale depot facilities and maintenance.

SEC. 202. DEFINITION.—For this title, "wholesale depot facility" means a facility that receives, stores, and issues material in bulk quantities to the ultimate user, not a facility for storage of material pending use of material.

SEC. 203. CONSOLIDATION OF WHOLESALE DEPOT FACILITIES.—Within 180 days of enactment the Secretary of Defense is required to designate a single manager for the administration of wholesale depot facilities and operations.

SEC. 204.—Within 2 years of enactment, the single manager is to develop and implement a plan for the consolidation of wholesale depot facilities and their management functions, which considers the potential mobilization requirements for wholesale depot facilities, determines the total excess capacity in the present system, and identifies the wholesale depot facilities which can most economically and effectively be deactivated.

The Department of Defense Inspector General is to review the plan and make recommendations and comments to the Secretary. Not later than 90 days before implementation, the Secretary is to submit the plan and the recommendations and comments of the Inspector General to the Senate and House Armed Services Committees.

TITLE III—CONSOLIDATION OF BASE SUPPORT OPERATIONS

SEC. 301. PURPOSE.—The purpose of this title is to improve the economy and efficiency of the Department of Defense by requiring the military departments to participate in the Defense Retail Interservice Support Program to promote cooperation and reduce the redundancy of base operating support functions in those installations in close proximity to each other.

SEC. 302. DEFINITION.—For this Act "base support operations" means fire protection services, housing management and maintenance services, finance and accounting services, refuse collection services, civilian personnel management services, building and road maintenance service, security services, administrative services, logistical services, supply and maintenance services.

SEC. 303. PARTICIPATION IN THE DEFENSE RETAIL INTERSERVICE SUPPORT PROGRAM.—The military departments are required to participate in the Defense Retail Interservice Support Program. The Secretary of Defense is to encourage the consolidation of base support operations in places where there are 2 or more installations in 50 mile radius of one another.

SEC. 304. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE.—The Secretary of Defense is required to carry out a test program for base support operations consolidations; to identify other bases where consolidations could be feasible, while determining whether contracting to the private sector would be cost effective; and to develop a plan for carrying out the base support consolidations within five years of their identification.

The Secretary of Defense is required to establish a timetable for consolidation, within 2 years of enactment, those consolidations already identified before the date of enactment.

Each plan for consolidation is to include milestones for budget reductions by month and by year, and assign responsibility for implementation. The Secretary of Defense is required to submit to Congress, as part of the budget request, the value of those base operations' costs contracted out and a summary of planned actions for cost reductions and to consolidate base support operations.

TITLE VI—UNIFICATION OF TRAFFIC MANAGEMENT

SEC. 401. PURPOSE.—The purpose of this title is to improve the economy and efficiency of the Department of Defense's management of air, land, and sea transportation through the establishment of a single, unified Defense traffic management command.

SEC. 42. REQUIREMENT TO ESTABLISH A TRAFFIC MANAGEMENT COMMAND.—The Secretary of Defense is required to establish a unified traffic management command over all traffic management functions currently assigned to the Military Traffic Command, the Military Sealift Command, and the Military Airlift Command, within 1 year of enactment.

Within 180 days of enactment, the Secretary is required to develop a plan and submit it to the Senate and House Armed Services Committees to establish such a unified command.

SEC. 403. REPEAL OF A PROHIBITION RELATING TO CONSOLIDATION OF THE MILITARY TRANSPORTATION COMMANDS.—Section 1110 of the Department of Defense Authorization Act, 1983 (Public Law 97-252; 96 Stat. 747), which presently prohibits the establishment of a unified traffic management command, is repealed.

S. 2625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Health Care Auditing and Quality Control Improvement Act of 1986".

PURPOSE

SEC. 2. In order to strengthen oversight and quality control and to reduce administrative costs associated with the Medicare and Medicaid programs, this legislation—

(1) authorizes the Secretary of Health and Human Services to test and measure the cost effectiveness of using contractors to perform medicare audits; and

(2) requires the Secretary of Health and Human Services to develop procedures and guidelines for the medicaid quality control program.

MEDICARE AUDITING AND MEDICAL REVIEW

SEC. 3. (a) Section 402(a)(1) of the Social Security Amendments of 1967 (42 U.S.C. 1395-1(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by striking out the period at the end of subparagraph (K) and inserting in lieu thereof"; and"; and

(3) by inserting after subparagraph (K) the following new subparagraph:

"(L) to test and measure the cost effectiveness of audit and medical review under title XVIII of the Social Security Act performed by contractors other than the fiscal intermediaries and carries claims under parts A and B of such title.".

(b) The Secretary of Health and Human Services, in order to improve the administration of the Medicare program under title XVIII of the Social Security Act, shall, not later than one year after the date of the enactment of this Act, prepare and report to the Congress a recommendation of the optimum level and type of audit expenditures for the Medicare program, taking into account the results of tests conducted pursuant to section 402(a)(1)(L) of the Social Security Amendments of 1967.

MEDICAID QUALITY CONTROL

SEC. 4. (a) The Secretary of Health and Human Services, in order to improve the quality control program under title XIX of the Social Security Act, shall undertake a thorough review of the program's sampling design, data collection, and reporting requirements. The review shall also address corrective action and the time lapse between case eligibility identification and the determination of the dollar amount of services erroneously provided. Based on such review, the Secretary shall, not later than one year after the date of the enactment of this Act, develop procedures and guidelines for plans. Such procedures and guidelines shall, as a minimum, require the States to have in place (1) management information systems to prevent and detect errors and (2) corrective action plans meeting Federal standards.

(b) Notwithstanding section 1903(u) of the Social Security Act (42 U.S.C. 1396(u)) or any other provision of law, if a State does not conform to the Federal procedures and guidelines for the corrective action or for its quality control program, the Secretary shall reduce Federal reimbursement for State administrative costs under section 1903 of the Social Security Act by 5 percent for each quarter of State noncompliance.

FEDERAL HEALTH CARE AUDITING AND QUALITY CONTROL IMPROVEMENT ACT OF 1986

A Bill to Implement Certain Recommendations of the President's Private Sector Survey On Cost Control

Sec. 2. Purpose.—To strengthen health care oversight and quality control and reduce administrative costs, the Act authorizes the Secretary of Health and Human Services to test and measure the cost effectiveness of contracting for Medicare audits; and requires the Secretary to develop procedures for a Medicaid quality control program.

Sec. 3. Medicare Auditing and Medical Review.—Section 402(a) of the Social Security Amendments of 1967 (42 United States Code 1395b-1(a)(1)) is amended to authorize the Secretary of Health and Human Services to test and measure the cost effectiveness of using contractors to perform Medicare audits.

The Secretary is required, within 12 months of the enactment of the Act, to recommend to the Congress the optimum level and type of audit expenditures for the Medicare Program taking into account the results of the test of using contractors.

Sec. 4. Medicaid Quality Control.—The Secretary of Health and Human Services is required to undertake a thorough review of the Medicaid quality control program, and within 1 year of enactment, to develop procedures and guidelines for the program. As a minimum, the States will be required to have in place management information systems to prevent and detect errors and to develop corrective action plans that meet Federal standards.

The Secretary is required to reduce the Federal reimbursement for State administrative costs by 5 percent for each quarter of non-compliance.

Problems: (1) Past audits of Medicare expenditures have revealed large volumes of paid claims that were not legitimate. Consequently, audits and related medical reviews are expected to yield a high return on investment (7-to-1 according to a GAO estimate). (2) Quality control improvements are needed to reduce error rates in program payments for Medicaid. The Grace Commission estimated a 3-year cost savings for Medicare auditing of $447 million. GAO estimated savings of approximately $315 million over 3 years. No estimate of quality control improvements in the Medicaid program was made.

The Purpose of this bill is to strengthen oversight and quality control and to reduce administrative costs associated with the Medicare and Medicaid programs by:

Authorizing the Secretary of Health and Human Services to test and measure the cost effectiveness of using contractors to perform Medicare audits and;

Requiring the Secretary of Health and Human Services to develop procedures and guidelines for the Medicaid quality control program.

S. 2626

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Border Management Consolidation and Improvement Act of 1986".

PURPOSE

SEC. 2. In order to strengthen law enforcement at United States borders and ports of

entry and to reduce costs of border management, this Act—

(1) requires the consolidation of border management functions presently carried out by the United States Customs Service and the Immigration and Naturalization Service;

(2) requires the development of a comprehensive border management policy to eliminate overlap and duplication in the associated operating and support functions; and

(3) changes overtime laws for the United States Customs Service, Immigration and Naturalization Service, and Animal and Plant Health Inspection Service employees in accordance with the Federal Employee Pay Act to bring these employees pay entitlement in line with overtime pay provisions of other Federal employees.

TITLE I—BORDER MANAGEMENT CONSOLIDATION

SEC. 101. (a) The Director of the Office of Management and Budget, in consultation with the Assistant to the President for Policy Development, the Secretary of the Treasury, the Attorney General, and the head of any other concerned agency, shall develop and submit to the Congress by no later than the date that is 180 days after the date of enactment of this Act, a plan which—

(1) provides for the consolidation of the primary inspection functions performed by the United States Customs Service and the Immigration and Naturalization Service at the borders of the United States and at ports of entry into the United States; and

(2) sets forth a comprehensive border management policy to eliminate overlap and duplication in the operating and support functions of all Federal agencies that carry out activities at borders and ports of entry into the United States, that shall address, among other issues—

(A) the consolidation or elimination of paperwork,

(B) the reduction of burdens placed on travelers and businesses,

(C) the reduction of space requirements of such Federal agencies,

(D) the sharing of facilities and equipment by such Federal agencies, and

(E) the cross-training of inspectors.

(b)(1) The Director of the Office of Management and Budget shall begin implementation of the plan developed under subsection (a) on the date that is 60 days after the date on which such plan is submitted to the Congress. Implementation of such plan shall be completed by no later than the date that is 1 year after the date on which such plan is submitted to the Congress.

(2) Notwithstanding paragraph (1), the plan submitted to the Congress under subsection (a) shall not be implemented if a joint resolution described in paragraph (3) is enacted into law before the date that is 60 days after the date on which such plan is submitted to the Congress.

(3) The joint resolution referred to in paragraph (2) is a joint resolution of either House of the Congress the matter after the resolving clause of which is as follows: "That the plan submitted to Congress under section 101(a) of the Border Management Consolidation and Improvement Act of 1986 is disapproved and shall not be implemented.".

(4) Any joint resolution described in paragraph (3) which is introduced in either, or both, Houses of Congress—

(A) shall be jointly referred to the appropriate committees, and

(B) shall be considered to be a resolution described in section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)) for purposes of applying subsections (c), (d), (e), and (f) of section 152 of the Trade Act of 1974.

(5) The 60-day period described in paragraphs (1) and (2) shall be computed without regard to—

(A) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die, and

(B) any Saturday and Sunday, not excluded under clause (A), when either House of Congress is not in session.

TITLE II—EMPLOYEE OVERTIME COMPENSATION AND REIMBURSEMENT

UNITED STATES CUSTOMS SERVICE

SEC. 201. (a) Section 5 of the Act of February 13, 1911 (36 Stat. 901; 19 U.S.C. 261, 267) and section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a) are hereby repealed.

(b) Section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is amended to read as follows:

"SEC. 451. INSPECTIONAL SERVICES.

"(a) COMPENSATION.—

"(1) INSPECTIONAL SERVICES.—The provisions of this section shall apply to services rendered in connection with—

"(A) the boarding of aircraft, vessels, or vehicles,

"(B) the lading or unlading of cargo,

"(C) the lading of cargo or merchandise for—

"(i) transportation in bond,

"(ii) exportation in bond, or

"(iii) exportation with benefit of drawback,

"(D) the receiving or delivery of cargo on or from the wharf or airport, or

"(E) the examination of passengers' baggage arriving in, or departing from, the United States by water, land, or air.

"(2) OVERTIME.—

"(A) IN GENERAL.—For purposes of this section, the term 'overtime' means hours of work officially ordered or approved in excess of—

"(i) 40 hours in an administrative workweek, or

"(ii) 8 hours per day.

"(B) SUNDAYS AND HOLIDAYS.—Regularly scheduled work on Sundays and holidays shall not be considered overtime and shall be compensated at a rate of pay equal to 1.25 percent of the hourly rate of basic pay of the employee. Work performed as overtime (as defined in subparagraph (A)) on Sundays and holidays shall be compensated as provided in paragraph (3).

"(3) RATES OF COMPENSATION.—Any employee of the United States Customs Service who is required to perform any of the services described in paragraph (1) as overtime shall be compensated for those services as follows:

"(A) Such services performed as overtime shall be compensated at a rate of pay equal to 1.5 percent of the hourly rate of basic pay of the employee, and shall be calculated and paid in 15-minute increments.

"(B)(i) For services performed as overtime that are part of any assignment which begins more than 2 hours before or after a regularly scheduled or previous overtime assignment, an employee shall receive—

"(I) 2 hours of overtime pay for any work up to 2 hours in duration, and

"(II) overtime pay for actual time worked for any work greater than 2 hours calculated in 15-minute increments.

"(ii) An employee receiving overtime pay under this subparagraph shall receive 2 hours overtime pay in addition to any other overtime pay provided under this paragraph.

"(iii) For services performed as overtime that are part of any assignment which begins within 2 hours before or after a regularly scheduled or previous overtime assignment, the amount of overtime earned shall be calculated as if the employee had worked continuously to the beginning, or from the end, of the regularly scheduled or previous overtime assignments.

"(4) LIMITATION.—Compensation provided under this section, other than that attributable to the hourly rate of basic pay, shall not be paid if payment would cause an employee's aggregate pay during any fiscal year to exceed the maximum rate of pay for GS-15 under section 5332 of title 5, United States Code.

"(5) EXCLUSIVITY OF THIS SECTION.—Compensation shall be paid for the services described in paragraph (1)—

"(A) solely in accordance with the provisions of—

"(i) this section, and

"(ii) to the extent not covered by this section, the applicable provisions of title 5, United States Code; and

"(B) without regard to the provisions of section 207 of title 29, United States Code;

except that compensation provided under this section shall be in addition to, and not affected by, any holiday pay or premium pay for nighttime work authorized by law.

"(b) REIMBURSEMENT OF COMPENSATION.—

"(1) IN GENERAL.—Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), the master, owner, agent, or consignee of any aircraft, vessel, vehicle, or merchandise who has requested or required the rendering of any services described in subsection (a)(1) shall reimburse the Department of the Treasury for—

"(A) all overtime payable under subsection (a)(3), and

"(B) all amounts paid under subsection (a)(2)(B) in excess of the basic pay,

which are paid in connection with such services. If a customs officer reports for duty to render such services, such reimbursement shall be required regardless of whether the inspection or examination actually takes place.

"(2) PROCEDURES.—Before granting any special license under section 450 or 452, and before accepting any application from a consignee of merchandise for the rendering of services described in subsection (a)(1) on a Sunday or holiday or at any time that would require customs officers to provide such services as overtime, an amount of money which is sufficient to pay the compensation and expenses of the customs officers and employees assigned to provide such services shall be deposited or a bond for such amount shall be posted. In lieu of such deposit or bond, the owner or agent of any aircraft, vessel, vehicle, or line of aircraft, vessels, or vehicles may execute a bond, in an amount to be fixed by the Secretary of the Treasury, to cover such compensation and expenses (including the costs of issuing such special licenses) for the unlading or lading of such aircraft, vessels, or vehicles for a period not to exceed one year.

"(3) EXCEPTIONS.—The provisions of this subsection shall not apply to—

"(A) the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, or

"(B) the lading or unlading of merchandise, baggage, or persons arriving in, or departing from, the United States by motor vehicle, trolley car, on foot, or by other means of travel upon, over, or through any highway, bridge, tunnel, or ferry.

"(4) FERRY.—For purposes of this subsection, the term 'ferry' means a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement under this subsection.

"(c) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this section.".

(c)(1) Section 450 of the Tariff Act of 1930 (19 U.S.C. 1450) is amended—

(A) by striking out ", a holiday, or at night" and by inserting in lieu thereof "or a holiday or at any time that would require customs officers to provide any services described in section 451(a)(1) as overtime (within the meaning of section 451(a)(2)(A))";

(B) by inserting ", aircraft," after "vessel"; and

(C) by striking out "AT NIGHT" in the heading and inserting in lieu thereof "AS OVERTIME".

(2) Section 452 of the Tariff Act of 1930 (19 U.S.C. 1452) is amended—

(A) by striking out "at night" and inserting in lieu thereof "at any time that would require customs officers to provide any services described in section 451(a)(1) as overtime";

(B) by inserting ", aircraft," after "vessel"; and

(C) by striking out "AT NIGHT" in the heading and inserting in lieu thereof "AS OVERTIME".

(d) Paragraphs (2) and (3) of section 5549 of title 5, United States Code, are amended to read as follows:

"(2) section 294 of the Immigration and Nationality Act;

"(3) sections 450, 451, and 452 of the Tariff Act of 1930;".

IMMIGRATION AND NATURALIZATION SERVICE

SEC. 202. (a) Paragraphs (2) and (3) of section 5549 of title 5, United States Code, are amended to read as follows:

"(2) section 294 of the Immigration and Nationality Act;

"(3) sections 1450, 1451, and 1452 of title 19;".

(b)(1) The Immigration and Nationality Act is amended by inserting after section 293 the following new section:

"PREMIUM COMPENSATION FOR OVERTIME; REIMBURSEMENT OF COMPENSATION

"SEC. 294. (a)(1) The provisions of this section shall apply to services in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles, arriving in the United States from a foreign port by water, land, or air. The Attorney General may issue regulations to implement the provisions of this section.

"(2) An employee of the Immigration and Naturalization Service who is required to perform services under this section shall be compensated for those services as follows:

"(A) Hours of work officially ordered or approved in excess of 40 hours in an administrative workweek or in excess of 8 hours per day shall be considered overtime. Overtime shall be compensated at a rate of pay equal to one and one-half times the hourly rate of basic pay of the employee, and shall be calculated and paid in 15-minute increments.

"(B) For overtime work which begins more than 2 hours before or after a regularly scheduled or previous overtime assignment, the employee performing such work shall be paid the greater of—

"(i) the sum of overtime pay calculated for the period of overtime actually worked in 15-minute increments and 2 hours overtime pay; or

"(ii) 4 hours overtime pay.

All overtime under this paragraph shall be paid as provided in paragraph (A).

"(C) For overtime work which begins within 2 hours before or after a regularly scheduled assignment or within 2 hours after a previous overtime assignment, the amount of overtime earned shall be calculated as if the employee had worked continuously—

"(i) to the beginning of such assignment (in the case of overtime work which begins within 2 hours before a regularly scheduled assignment); or

"(ii) from the end of such assignment (in the case of overtime work which begins within 2 hours after the end of a regularly scheduled assignment or a previous overtime assignment).

Overtime earned under this paragraph shall be paid as provided in paragraph (A).

"(D) Regularly scheduled work on Sundays and holidays shall not be considered overtime, and shall be compensated at a rate of pay equal to one and one-quarter times the hourly rate of basic pay of the employee. Overtime work as defined in paragraph (A) performed on Sundays and holidays shall be compensated as provided in that paragraph.

"(E) Compensation provided for under this section, other than that attributable to the hourly rate of basic pay, shall not be paid if payment would cause an employee's aggregate pay during any fiscal year to exceed the maximum rate of pay for GS-15 under section 5332 of title 5, United States Code.

"(3) Compensation shall be paid for services covered under this section solely in accordance with the provisions of this section and, to the extent not covered by this section, the applicable provisions of title 5, United States Code, and without regard to the provisions of section 207 of title 29, United States Code, except that compensation provided for under this section shall be in addition to, and not affected by, any holiday pay or premium pay for nighttime work authorized by law.

"(b)(1) Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), the master, owner, agent, or consignee of such aircraft, vessel, vehicle, or merchandise who has requested or required any of the services provided for in subsection (a)(1) shall reimburse the Service, as determined by the Attorney General and pursuant to the procedures in paragraph (2) of this subsection. Reimbursement shall be required for all overtime payable under subsection (a)(2)(A) and all pay in excess of the rate of basic pay payable under subsection (a)(2)(D), in connection with any of the services provided for in subsection (a)(1). Such master, owner, agent, or consignee shall reimburse the Service for such pay that has been paid to an employee who has reported for duty whether or not the actual inspection or examination takes place.

"(2) The master, owner, or agent of such aircraft, vessel, or vehicle shall obtain a special license for unlading or lading during overtime, Sunday, or holiday hours pursuant to sections 450 and 452 of this title. Before any such special license to unlade or lade shall be granted, or before any application from a consignee of merchandise for overtime services shall be accepted, there shall be deposited sufficient money to pay, or a bond shall be required in an amount to be fixed by the Attorney General conditioned to pay, the compensation and expenses of the customs officers and employees assigned to duty in connection with the activities described in subsection (a)(1). In lieu of such deposit or bond, the owner or agent of any aircraft, vessel, or line of vessels or vehicles may execute a bond, in an amount to be fixed by the Attorney General, to cover and include the issuance of special licenses for the unlading or lading of such aircraft, vessels, or vehicles for a period not to exceed one year.

"(3) The provisions of paragraphs (1) and (2) of this subsection shall not apply to the owner, operator, or agent of a highway vehicle, bridge, tunnel, or ferry, between the United States and Canada or between the United States and Mexico, nor to the lading or unlading of merchandise, baggage, or persons arriving in or departing from the United States by motor vehicle, trolley car, on foot, or by other means of highway travel upon, over, or through any highway, bridge, tunnel, or ferry. As used in this paragraph, the term 'ferry' means a passenger service operated with the use of vessels which arrive in the United States on regular schedules at intervals of at least once each hour during any period in which customs service is to be furnished without reimbursement as provided in this subsection.".

(2) The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 293 the following new item:

"Sec. 294. Premium compensation for overtime; reimbursement of compensation.".

(c)(1) The Act entitled "An Act to provide extra compensation for overtime service performed by immigrant inspectors and other employees of the Immigration Service", approved March 2, 1931 (8 U.S.C. 1353a-b) is repealed.

(2) The Act of August 22, 1940 (8 U.S.C. 1353d) is amended by striking out "the Act of March 2, 1931 (46 Stat. 1467)" and inserting in lieu thereof "section 294 of the Immigration and Nationality Act".

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SEC. 203. The text of the Act entitled "An Act to enable the Secretary of Agriculture to furnish, upon a reimbursable basis, certain inspection services involving overtime work", approved August 28, 1950 (7 U.S.C. 2260), is amended to read as follows: "That this Act may be cited as the 'Agricultural Inspection and Quarantine Services Act of 1986'.

"DEFINITIONS

"SEC. 2. As used in this Act:

"(1) The term 'Secretary' means the Secretary of Agriculture.

"(2) The term 'Service' means the Animal and Plant Health Inspection Service of the Department of Agriculture.

"INSPECTION AND QUARANTINE SERVICES

"SEC. 3. This Act shall apply to employees of the Service performing inspection or

quarantine services relating to imports into and exports from the United States.

"RATES OF OVERTIME COMPENSATION

"SEC. 4. (a) An employee of the Service who is required to perform services referred to in section 3 shall be compensated for such services in accordance with this section.

"(b)(1) Hours of work officially ordered or approved in excess of forty hours in a workweek (as defined by the Secretary), or in excess of eight hours per day, shall be considered overtime.

"(2) Such overtime work of an employee shall be—

"(A) compensated at a rate of pay equal to one and one-half times the hourly rate of basic pay of the employee; and

"(B) calculated and paid in fifteen-minute increments.

"(c)(1) In the case of overtime work which begins more than two hours before or after a regularly scheduled or previous overtime assignment, an employee shall receive—

"(A) two hours of overtime compensation for any work up to two hours in duration; and

"(B) overtime compensation for actual time worked for any work greater than two hours calculated in fifteen-minute increments.

"(2) An employee receiving overtime under this subsection shall receive two hours overtime compensation in addition to any other overtime compensation required under this section.

"(3) Any overtime compensation referred to in paragraph (1) shall be paid as provided in subsection (b).

"(d)(1) In the case of overtime work which begins within two hours before or after a regularly scheduled or previous overtime assignment, the amount of overtime compensation earned shall be calculated as if the employee had worked continuously to the beginning, or from the end, of the regularly scheduled or previous overtime assignment.

"(2) Any overtime compensation referred to in paragraph (1) shall be paid as provided in subsection (b).

"(e)(1) Regularly scheduled work on a Sunday or holiday by an employee—

"(A) shall not be considered overtime; and

"(B) shall be compensated at a rate of pay equal to one and one-quarter times the hourly rate of basic pay of the employee.

"(2) Overtime work referred to in subsection (b) which is performed on a Sunday or holiday shall be compensated as provided in such subsection.

"(f) Compensation under this section, other than compensation attributable to the hourly rate of basic pay of an employee, shall not be paid to an employee if such compensation would cause the aggregate pay of the employee during any fiscal year to exceed the maximum rate of pay for grade GS-15 prescribed under section 5332 of title 5, United States Code.

"(g)(1) Except as provided in paragraph (2), compensation for services covered under this section shall be paid—

"(A) solely in accordance with this section and, to the extent not prescribed by this section, the applicable provisions of title 5, United States Code; and

"(B) without regard to section 207 of title 29, United States Code.

"(2) Compensation for services covered under this section shall be in addition to, and not affected by, any holiday pay or premium pay for night work authorized by law.

"REIMBURSEMENT FOR SERVICES

"SEC. 5. (a) Except as provided in section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), a person, firm, or corporation having ownership, custody, or control of a plant, plant product, or other commodity subject to inspection, laboratory testing, certification, or quarantine requiring the services of an employee of the Service shall reimburse the Secretary for such services in such amount and in such manner as is determined by the Secretary in accordance with section 4.

"(b) Reimbursement for any services referred to in section 3 shall be required for—

"(1) all overtime work referred to in section 4(b); and

"(2) all work compensated under section 4(e) in excess of the rate of basic pay of an employee.

"(c) If an employee reports for duty to a person, firm, or corporation to conduct an inspection or examination, such person, firm, or corporation shall reimburse the Secretary for compensation paid to such employee for such inspection or examination whether or not the actual inspection or examination takes place.

"REGULATIONS

"SEC. 6. The Secretary may issue such regulations as are necessary to carry out this Act.".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act, and the amendments made by this Act, shall take effect on the date of enactment of this Act.

BORDER MANAGEMENT CONSOLIDATION AND IMPROVEMENT ACT OF 1986

Problem: The Grace Commission study, like many others in the past, concluded that there is a costly and unnecessary duplication of effort undertaken at the nation's borders by the Customs Service and the Immigration and Naturalization Service (INS). Six other Federal agencies perform functions in this area as well. In addition, the Commission found that overtime provisions for Customs and INS officials were far more liberal than those for other Federal employees. The Grace Commission estimated that consolidation and overtime pay structure reforms will save $13.5 million over 3 years.

The Purpose of this bill is to strengthen law enforcement at the United States borders and ports of entry and to reduce costs of border management by:

Requiring the Office of Management to submit a plan for the consolidation of border management functions now carried out by the Customs Service and INS, and having such plan take effect within 60 days from submission to Congress unless disapproved during that period by a joint resolution;

Requiring development by OMB of a comprehensive border management policy to eliminate overlap and duplication among the associated operating and support functions performed by the several agencies involved; and

Changing overtime laws for Customs Service, Immigration and Naturalization Service, and Animal and Plant Health Inspection Service employees in accordance with the Federal Employee Pay Act to bring employees pay entitlement into line with overtime pay provisions of other Federal employees.

S. —

BORDER MANAGEMENT CONSOLIDATION AND IMPROVEMENT ACT OF 1986

A bill to Implement Certain Recommendations of the President's Private Sector Survey on Cost Control

SEC. 2. PURPOSE.—To strengthen law enforcement at the borders and ports of entry of the United States and reduce the costs of border management, that Act (1) requires the consolidation of border management functions carried out by U.S. Customs Service and the Immigration and Naturalization Service; (2) requires the development of a comprehensive policy to eliminate duplication in associated operating and support functions; and (3) brings the overtime pay provisions for Customs Service, Immigration and Naturalization Service, and Animal and Plant Health Inspection Service employees in line with pay provisions for other Federal employees.

TITLE I—BORDER MANAGEMENT CONSOLIDATION

SEC. 101. BORDER MANAGEMENT CONSOLIDATION PLAN.—Within 180 days of the enactment of this Act, the Director of OMB, in consultation with the Office of Policy Development of the Executive Office of the President, the Secretary of the Treasury, the Attorney General and the head of any other concerned agency, is required to submit to Congress a plan which

(1) provides for the consolidation of the primary inspection functions of the U.S. Customs Service and the Immigration and Naturalization Service, and

(2) sets forth a comprehensive border management policy to eliminate overlap and duplication in the associated operating and support functions to include the consolidation or elimination of paperwork, the reduction of burdens placed on travelers and businesses, the reduction of space requirements, the sharing of facilities and equipment, and the cross-training of inspectors.

The plan is to take effect within 60 days from submission to Congress unless disapproved during that period by a joint resolution.

The Director of OMB is to oversee the consolidation which is to take place within one year of the plans effective date.

TITLE II—EMPLOYEE OVERTIME COMPENSATION AND REIMBURSEMENT

SEC. 201. U.S. CUSTOMS SERVICE.—Section 5 of the Act of February 13, 1911 (36 Stat. 901; 19 U.S.C. 261, 267), section 2 of the Act of June 3, 1944 (19 U.S.C. 1451a) and an Act entitled, "An Act to provide extra compensation for overtime service performed by immigrant inspectors and other employees of the Immigration Service" are repealed. Section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) is then amended so that overtime compensation and reimbursement provisions for U.S. Customs Service employees are brought in line with overtime pay provisions for other Federal employees.

SEC. 202. IMMIGRATION AND NATURALIZATION SERVICE.—Similar to section 201 above, section 5549 of title 5, United States Code, is amended so that the overtime compensation and reimbursement provisions for Immigration and Naturalization Service employees are brought in line with overtime pay provisions for other Federal employees.

SEC. 203. ANIMAL AND PLANT HEALTH INSPECTION SERVICE.—Similar to sections 201 and 202 above, "An Act to enable the Secretary of Agriculture to furnish, upon a reimbursable basis, certain inspection services in-

volving overtime work", approved August 28, 1950 (7 U.S.C. 2260), is amended so that overtime compensation and reimbursement provisions for Animal and Plant Health Inspection Service employees are brought in line with overtime pay provisions for other Federal employees.

TITLE III—EFFECTIVE DATE

SEC. 301. EFFECTIVE DATE.—This act takes effect on the date of enactment.

S. 2627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act may be cited as the "Federal Hospital System Sharing Act of 1986".

PURPOSE

SEC. 2. The purpose of this Act is to improve the efficiency and reduce the costs of Veterans' Administration and Department of Defense hospitals by expanding the authority to share health-care resources.

SHARING VETERANS' ADMINISTRATION AND DEPARTMENT OF DEFENSE HEALTH-CARE RESOURCES

SEC. 3. (a) Section 5011(d)(1) of title 38, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "Under any such agreement, an individual who is eligible to receive direct health care in a facility at one agency that is a party to such a sharing agreement may be furnished health care at a facility of another such agency that is a party to the sharing agreement.".

(b) Section 5011(d)(3) of such title is amended by striking out "individuals who are not primary beneficiaries of" and inserting in lieu thereof "beneficiaries of an agency other than".

(c) Section 5011(g)(1) of such title is amended to read as follows:

"(1) The term 'beneficiary' means a person who is entitled by law to receive direct health care furnished by the Veterans' Administration or the Department of Defense.".

FEDERAL HOSPITAL SYSTEM SHARING ACT OF 1986

Problem: The Grace Commission study found that increased sharing of hospital resources between the Department of Defense and the Veterans Administration (VA) would reduce costs. In 1982, the Congress enacted the Veterans Administration and Department of Defense Health Resources Sharing and Emergency Operations Act (P.L. 97-174) which provides for sharing of hospital resources. The 1982 Act, however, extends sharing authority to cover primary beneficiaries and does not cover Defense dependents, retirees, or survivors of deceased military members. This has impeded sharing agreements between Defense and the Veterans Administration. The Commission gave no specific savings estimate in this area. GAO agreed that savings cannot be accurately quantified but believed they could be substantial.

The purpose of this bill is to improve efficiency and reduce costs of the Department of Defense and the Veterans' Administration hospitals through broadened sharing authority. The bill provides that all persons eligible to receive direct health care from the Department of Defense or the Veterans' Administration, such as Department of Defense dependents, military retirees, and survivors of deceased military members, may be provided care in another agency's facility.

A bill to implement certain recommendations of the President's private sector survey on cost control.

SEC. 2. PURPOSE.—To improve efficiency and reduce costs of the Department of Defense and Veterans' Administration hospitals, this Act broadens existing sharing authority. The Act provides that all persons eligible to receive direct health care from the Department of Defense or the Veterans' Administration, such as Department of Defense dependents, military retirees, and survivors of deceased military members, may be provided care in another agency's facility.

SEC. 3. SHARING VETERANS' ADMINISTRATION AND DEPARTMENT OF DEFENSE HEALTH-CARE RESOURCES.—Section 5011 of title 38, United States Code, is amended so that a person eligible for health care in one agency's facility may be provided care in another agency's facility. This extends existing sharing authority, currently limited to primary beneficiaries, to dependents as well.

S. 2628

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing Eligibility Verification Improvement Act of 1986".

PURPOSE

SEC. 2. In order to strengthen verification of eligibility and the proper determination of benefits for housing programs of the Department of Housing and Urban Development, this Act authorizes the Secretary of Housing and Urban Development—

(1) to require the applicant or participant to disclose his social security or employee identification number, with necessary safeguards to protect the individual; and

(2) to obtain access to wage and other information from State employment records maintained under the Social Security Act.

DEFINITIONS

SEC. 3. For purposes of this Act:

(1) The terms "applicant" and "participant" shall have such meanings as the Secretary by regulations shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(2) The term "Secretary" means the Secretary of Housing and Urban Development.

(3) The term 'public housing agency' means a public housing agency, as defined in section 3(b)(6) of the United States Housing Act of 1937, that is responsible for determining eligibility or level of benefits for housing assistance.

DISCLOSURE OF SOCIAL SECURITY AND EMPLOYER IDENTIFICATION NUMBERS

SEC. 4. As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest, or rental assistance of any kind, or mortgage or loan insurance, and to assure that the level of benefits provided under these programs is proper, the Secretary may require that an applicant or participant (including members of an applicant's or participant's household) disclose his or her social security number or employer identification number to the Secretary.

APPLICANT CONSENT AND SAFEGUARDS

SEC. 5. (a) As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant (including members of an applicant's or participant's household) sign a consent form approved by the Secretary authorizing the Secretary, or the public housing agency or owner responsible for determining eligibility or level of benefits, to verify household income, including salary and wage information of current or previous employers, pertinent to the applicant's or participant's eligibility or level of benefits.

(b) All applicants for and participants in programs covered by this section (other than those under section 235 of the National Housing Act) shall be notified at the time of application, and periodically thereafter, that the Secretary may conduct a computer match against records of State employment security agencies, and that the information authorized to be made available under this section will be used to determine eligibility or level of benefits for housing assistance.

(c) Any individually identifiable information received by the Secretary under this section shall be subject to the requirements of section 552a of title 5, United States Code, and the Secretary may release any such information to a public housing agency or owner only if the agency or owner agrees that the information is subject to these requirements.

(d) To protect applicants for and participants in programs covered by this section—

(1) no Federal, State, or local agency or owner receiving such information may terminate, deny, suspend, or reduce any benefits of an individual, until the agency or owner has taken appropriate steps to independently verify information relating to—

(A) the amount of the assets or income involved;

(B) whether the individual actually has (or had) access to the assets or income for his or her own use; and

(C) the period or periods when the individual actually had the assets or income; and

(2) before any termination, denial, suspension, or reduction of benefits is taken on the basis of information received under this section, an applicant or participant shall have the right to obtain, examine, and correct available documents and information which the Secretary, public housing agency, or owner responsible for determining eligibility or level of benefits has received under this section.

ACCESS TO STATE EMPLOYMENT RECORDS

SEC. 6. (a) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsections:

"(g) The State agency charged with the administration of the State law—

"(1) shall disclose, upon request and on a reimbursable basis, to officers or employees of the Department of Housing and Urban Development responsible for oversight and review in housing assistance programs of the Department, any of the following information contained in the records of the State agency with respect to individuals applying for or participating in any such program—

"(A) wage information (not including return information as defined in section 6103(b)(2) of the Internal Revenue Code of 1954),

"(B) whether an individual is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being re-

ceived (or to be received by the individual), and

"(C) the current (or most recent) home address of the individual; and

"(2) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to ensure that information disclosed under subparagraph (1) shall be subject to the requirements of section 552a of title 5, United States Code, and shall be used only for the purpose of determining an individual's eligibility for benefits, or the amount of benefits, under the programs of the Department of Housing and Urban Development.

"(h) The Secretary of Labor, in consultation with the Secretary of Housing and Urban Development, shall prescribe appropriate sanctions to be imposed for failure to comply substantially with the requirements of subsection (g).".

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall become effective on the date of enactment of this Act.

(2) If a State agency charged with the administration of a State unemployment compensation law approved under title III of the Social Security Act demonstrates, to the satisfaction of the Secretary of Labor, that it cannot, by reason of State law, comply with the requirements of the amendment made by subsection (a), the Secretary may prescribe that, in the case of such State, the amendment made by subsection (a) will become effective beginning with the first month beginning after the close of the first session of such State's legislature ending more than 30 days after the date of enactment of this Act. For purposes of the preceding sentence, the term "session of a State's legislature" includes any regular, special, budget, or other session of a State legislature.

Housing Eligibility Verification Improvement Act of 1986

Problem.—The Inspector General of HUD has estimated that between 12 and 17 percent of the tenants receiving Section B subsidy benefits falsify income information in order to obtain benefits. Benefit eligibility is certified by local housing authorities, not HUD, using income information supplied by the tenants. The Grace Commission found that HUD verification guidance, procedures, and other efforts were insufficient to prevent significant numbers of ineligible families from receiving benefits. The Grace Commission estimated that the institution of a computer matching system based on Social Security and employee identification numbers would result in 3-year savings of $1.9 billion. GAO could not comment on the accuracy of this estimate.

The purpose of this bill is to strengthen the verification of eligibility and the proper determination of benefits for housing programs of the Department of Housing and Urban Development by:

Requiring applicants or participants to disclose their Social Security or employee identification numbers, with necessary safeguards to protect the individuals; and

Authorizing the Department to obtain access to wage and other information from state employment records maintained under the Social Security Act.

(A Bill to Implement Certain Recommendations of the President's Private Sector Survey on Cost Control.)

Sec. 2. Purpose. To strengthen verification of eligibility and the proper determination of benefits for housing programs of the Department of Housing and Urban Development, the Secretary is authorized to (1) require the applicant or participant to disclose their Social Security or employee identification numbers, with necessary safeguards to protect the individual, and (2) obtain access to wage and other information from state employment records maintained under the Social Security Act.

Sec. 3. Definitions. The terms "applicant" and "participant" have the same meaning as defined by the Secretary by regulation; but do not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

Sec. 4. Disclosure of Social Security and Employer Identification Numbers. As a condition of eligibility for participation in any program of the Department involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to assure that the level of benefits provided under these programs is proper, the Secretary may require that the applicant or participant (including members of the household) disclose their social security or employer identification number.

Sec. 5. Applicant Consent and Safeguards. The Secretary is also permitted to require that the applicant or participant (including members of the household) in any HUD program involving initial and periodic review of income as a basis of eligibility or entitlement (meaning the rental assistance program) sign a consent form authorizing the Secretary, the public housing agency, or the owner responsible for determining eligibility or level of benefits to use any information pertinent to the applicant or participant's eligibility or level of benefit.

All applicants for and participants in programs covered by this Act are to be notified at the time of application, and periodically thereafter, that the Secretary may conduct a computer match against records of State employment security agencies, and the information authorization to be made available under this section will be used to determine eligibility of level of benefits for housing assistance.

Any individually identifiable information received by the Secretary under this section is subject to the requirements of the Privacy Act of 1974 (section 552a of title 5, United States Code), and the Secretary may release this information to the public housing agency or owner only if the agency or owner agrees that the information is subject to these requirements.

To further protect applicants and participants by assuring that actions that adversely affect them are based on reliable and validated information:

(1) No Federal, State, or local agency or owner receiving information under this section may terminate, deny, suspend, or reduce any benefits until the agency or owner has taken appropriate steps to independently verify information relating to the amount of assets or income involved and whether and when the individual actually had access to the assets or income for his or her own use;

(2) Applicants and participants have the right to obtain, examine, and correct available documents and information which the owner, the public housing agency, or the Secretary has received under this section before any termination, denial, suspension, or reduction of benefits takes place on the basis of this information.

Sec. 6. Access to State Employment Records. Section 303 of the Social Security Act is amended to require that State agencies administering State unemployment laws provide access to their data bases upon request of the Secretary and on a reimbursable basis. This authority would permit computer matching to facilitate eligibility and entitlement verification. (Similar access to this data is currently required in law for the AFDC and Food Stamp programs.)

Information obtained by the Secretary under this section would be subject to the Privacy Act and may only be used for the purposes of this Act.

The Secretary of Labor, in consultation with the Secretary of HUD, is to prescribe appropriate sanctions for failure to comply substantially with the requirements of this section.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Transportation Bill Audit Improvement Act of 1986".

FINDING AND PURPOSE

Sec. 2. Auditing Government transportation bills to identify areas of cost recovery has long been recognized as highly cost effective. In order to strengthen the transporation bill audit process, this Act—

(1) delegates to the Department of Defense the authority to audit its own transportation bills; and

(2) directs the Secretary of Defense, whenever practicable and cost effective, to contract with private firms for such audits.

TRANSPORTATION BILL AUDITS

Sec. 3. Section 3726 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) The Administrator of General Services shall delegate to the Secretary of Defense the authority of the Administrator to audit bills for transportation of individuals and property ordered by the Department of Defense.

"(2) The Secretary of Defense shall, whenever practicable and economically desirable, enter into contracts with private firms to audit transportation bills pursuant to this subsection.

"(3) The authority of the Secretary of Defense to enter into contracts under paragraph (2) of this subsection shall be to such extent or in such amounts as are provided in appropriation Acts.".

Defense Transportation Bill Audit Improvement Act of 1986

Problem: Auditing transportation bills to find areas of cost recovery has long been recognized as a highly cost effective practice. The Grace Commission found, however, that there is a 14 to 22 month backlog of transportation bill audits and that resources dedicated to this function had decreased substantially since 1975. The Commission also noted that, while GSA is responsible for all government transportation bill auditing, almost 80% of government transportation expenses were being incurred by the Department of Defense. Grace believed that Defense could do a better job in this area and called for GSA to delegate to Defense the authority to audit its own transportation bills. Also, Grace recommended that this function should be contracted out whenever possible. Grace believed that, since private transportation auditing firms operate on a commission basis, their auditors would have more incentive to identify billing errors and make recoveries, while at

the same time government overhead would be limited and the audit backlog reduced. The Grace Commission estimated a savings of $217 million over a 3-year period, including a one time savings of $72 million by eliminating the backlog. While agreeing with the Commission's findings and recommendations, GAO believed the 3-year savings would be $90 million.

The purpose of this bill is to strengthen the transportation bill audit process. The bill requires that GSA transfer to the Department of Defense the authority to audit its own transportation bills, and directs the Secretary, whenever practicable and cost effective, to contract with private firms for these audits.

(A Bill to Implement Certain Recommendations of the President's Private Sector Survey On Cost Control.)

SEC. 2. FINDINGS AND PURPOSE.—Auditing government transportation bills to identify areas of cost recovery has long been recognized as cost effective. To strengthen the transportation bill audit process, this Act transfers to the Department of Defense the authority to audit its own transportation bills and directs the Secretary, whenever practicable and cost effective, to contract with private firms for these audits.

SEC. 3. TRANSPORTATION BILL AUDITS.—Section 3726 of title 31, United States Code, is amended by adding a new subsection which requires that the Administrator of General Services delegate to the Secretary of Defense the authority to audit bills for the transportation of individuals and property ordered by the Department of Defense. The Secretary is required, whenever practicable and cost effective, to contract with private firms for these audits, and is granted the authority to enter into such contracts to the extent of amounts provided in appropriation Acts.

S. 2631

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Industrial Reserve Improvement Act of 1986".

PURPOSE

SEC. 2. The purpose of this Act is to improve the financial management of the Defense Industrial Reserve by requiring certain reimbursements of the Department of Defense by Federal Government agencies that use property transferred from such Reserve.

REIMBURSEMENT FOR TRANSFERRED DEFENSE INDUSTRIAL RESERVE EQUIPMENT

SEC. 3. Section 4 of the Defense Industrial Reserve Act of 1948 (50 U.S.C. 453) is amended—

(1) by striking out clause (4) and inserting in lieu thereof the following:

"(4) direct the transfer of such property to other Government agencies with the consent of such agencies and with reimbursement as provided under clause (5);";

(2) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(3) by inserting after clause (4) the following new clause (5):

"(5) prescribe general policies and fee schedules for reimbursement of the Department of Defense by other Government agencies for the full cost (including direct and indirect costs) of storage, repair, maintenance, and allocated overhead of property transferred to such agencies from the defense industrial reserve;".

DEFENSE INDUSTRIAL RESERVE IMPROVEMENT ACT OF 1986

Problem: When Government-owned industrial plant equipment used by the military services or defense contractors is idled, it is referred to the Defense Industrial Plant Equipment Center which selects some of the equipment to store in a general reserve. Defense maintains this reserve in case of mobilization and to avoid having to buy a new machine in peacetime. Defense regulations require that before buying new equipment that the military services and Defense contractors determine if general reserve equipment is available.

Currently, repaired equipment in the general reserve is free to the ultimate user. This is where Grace identified a problem. The users view the equipment as cheaper than it actually is because they do not share in the $28 million in annual costs to repair, store and maintain reserve equipment. Also, users often have to wait several months to determine whether equipment is available. To place Defense industrial plant equipment purchases on a sounder economic footing, the Grace Commission, supported by GAO, recommended that users of equipment from the Defense Industrial Reserve be required to pay the full cost of storage, repair, and maintenance of the equipment. The Grace Commission estimated a 3-year savings of $30.2 million which the GAO found to be realistic.

The purpose of this bill is to place Defense industrial plant equipment purchases on a sound economic footing by requiring that users of the reserve equipment pay the "full cost"; that is, all costs incurred, both direct and indirect, of storage, repair, maintenance, and allocated overhead. The Secretary of Defense would prescribe the general policies and fee schedules for reimbursement for the full cost of reserve equipment transferred to users.

(A Bill to Implement Certain Recommendations of the President's Private Sector Survey on Cost Control.)

SEC. 2. PURPOSE. To place Defense industrial plant equipment purchases on a sounder economic footing, the Act requires that users of this equipment pay the full cost of storage, repair, maintenance, and allocated overhead. Presently, the equipment is provided free of charge.

SEC. 3. REIMBURSEMENT FOR TRANSFERRED DEFENSE INDUSTRIAL RESERVE EQUIPMENT. Section 4 of the Defense Industrial Reserve Act of 1948 (50 U.S.C. 453) is amended, and new section 5 is added to require the Secretary of Defense to prescribe general policies and fee schedules for reimbursement to the Department of Defense by other Government agencies (which includes the military services) for the full cost of storage, repair, maintenance, and allocated overhead of the industrial plant equipment transferred to them.

S. 2632

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Paralegal Coordination and Activities Act of 1986".

PURPOSE

SEC. 2. In order to increase the productivity and cost-efficiency in the Department of Justice, this Act—

(1) establishes an Office of Paralegal Coordination and Activities to coordinate Justice's utilization of paralegals in the areas of legal research, litigation, legal support, and other legal activities.

(2) directs such office to study the potential for greater use of paralegals in Justice; and

(3) requires the Attorney General to report to Congress and the President the findings of the study to include recommendations to increase the efficient utilization of paralegals within the Department of Justice.

USE OF PARALEGALS

SEC. 3. (a) Chapter 31 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 530A. Use of paralegals

"(a) According to such rules and regulations as may be prescribed by the Attorney General of the United States, there shall be established within the Department of Justice an Office of Paralegal Coordination and Activities. The principal purposes of such Office shall be—

"(1) to coordinate efforts to increase utilization of paralegals in the areas of legal research, litigation support, and other legal activities within the Department not requiring the skill of an attorney, and

"(2) to coordinate paralegal training programs within the Department.

"(b) The Office established in subsection (a) shall study the possibility of increasing the use of paralegals within each legal division or office in the Department. Within one year after the date of the enactment of this section, the Attorney General of the United States shall report to the Congress and to the President of the United States on the findings of such study. The report shall include the following information for each legal division or legal office within the Department—

"(1) a summary of the division's or office's current utilization of paralegal services and the current job description for paralegal positions;

"(2) a description of the nonlitigative functions and responsibilities currently performed within each division or office by attorneys which could be performed successfully by trained paralegals, the extent of additional training and attorney supervision that may be required if paralegals are to assume such new duties, and corresponding job descriptions;

"(3) as dictated by the individual needs of each division or office, an estimate of the optimal ratio of paralegals to attorneys in terms of productivity and economy, including the potential cost savings which could be achieved from adoption of these ratios;

"(4) an estimate of the extent to which the optimal ratios determined in paragraph (3) could be achieved through administrative action by the Department without compromising the quality and quantity of legal service provided by the Department's legal staff, and if such administrative action would be insufficient to achieve these ratios, the extent to which the Department must raise its personnel ceilings by making application to the Office of Management and Budget;

"(5) an evaluation of the benefits and problems associated with the current methods used to fill paralegal positions within the Department and any recommendations the Attorney General believes would facilitate the hiring of qualified personnel in a timely manner; and

"(6) any additional recommendations which the Attorney General believes would

be useful in increasing efficient utilization of paralegals within the Department.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following new item:

"530A. Use of paralegals.".

EFFECTIVE DATE

SEC. 4. This Act and the amendments made by this Act shall become effective on the date of enactment.

PARALEGAL COORDINATION AND ACTIVITIES ACT OF 1986

Problem.—The Grace Commission found that the Department of Justice had a much lower ratio of paralegals to attorneys than the private sector. The Commission saw that increased use of paralegals in legal research, litigation support, and other legal activities not requiring the skill of a lawyer would increase productivity and cost-efficiency in the Department of Justice. GAO supports the Grace findings and has recommended that Justice expand paralegals' responsibilities, where possible, to allow attorneys to spend more time on litigative functions and less time on nonlitigative work. GAO's recent review of Justice's management practices highlighted that legal divisions and offices of U.S. attorneys generally lack sufficient work measurement data and have no explicit criteria for utilizing paralegals and for setting paralegal-to-attorneys staffing ratios which will enable the Department to make the best and most cost effective use of paralegals. The Grace Commission estimated the increased use of paralegals by Justice will save $13.4 million over 3 years.

The purpose of this bill is to increase the productivity and reduce costs in the Justice Department by establishing an Office of Paralegal Coordination and Activities to organize and coordinate efforts to increase utilization of paralegals and to coordinate paralegal training programs in the Department. The legislation requires that the new office study the increased use of paralegals to determine the proper ratio and best use of paralegals in Justice's legal divisions and offices. The Attorney General is to report the findings of this study to the Congress and President within 1 year.

"PARALEGAL COORDINATION AND ACTIVITIES ACT OF 1986"

(A Bill to Implement Certain Recommendations of the President's Private Sector Survey On Cost Control.)

SEC. 2. PURPOSE.—To increase the productivity and cost effectiveness in the Justice Department, this Act establishes an Office of Paralegal Coordination and Activities to organize and coordinate the utilization of paralegals by the Justice Department and study the potential for greater use of paralegals. The results of the study will be reported to the Congress and the President along with recommendations for more efficient use of paralegals.

SEC. 3. USE OF PARALEGALS.—Chapter 31 of title 28, United States Code, is amended by adding a new section which establishes within the Department of Justice, the Office of Paralegal Coordination and Activities. This office is to coordinate efforts to increase utilization of paralegals in legal research, litigation support, and those legal activities not requiring the skill of an attorney, and coordinate paralegal training programs in the Department.

The new office is to study the potential for increased use of paralegals in the Department of Justice's legal divisions and offices. Within one year of enactment the Attorney General is required to report the study findings to the Congress and the President.

The Act also delineates certain information that must be included in the report such as (1) a description of those nonlitigative functions and responsibilities currently performed by attorneys which could be performed by the training and attorney supervision of paralegals and (2) an estimate of the optimal ratio of paralegals to attorneys in terms of productivity and economy and the potential savings where these ratios to be adopted.

SEC. 4. EFFECTIVE DATE.—The Act takes effect on the date of enactment.

S. 2633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Credit Assistance Improvement Act of 1986".

SEC. 2. PURPOSES.

It is the purpose of this Act to place the rural electrification insured and guaranteed loan programs on a firmer economic footing and to recognize the changing conditions that enable rural electrical cooperatives to obtain credit without Federal assistance and subsidized Federal interest rates—

(1) by increasing the interest rate on new insured rural electrification loans to the cost of Treasury borrowing;

(2) by instituting "credit elsewhere" tests when considering whether additional Federal financial assistance will be extended;

(3) by collecting a fee for each new insured loan or loan guarantee; and

(4) by requiring loan applicants to develop a goal and plan for obtaining an amount of equity that will be sufficient to obtain credit from other sources in the future.

SEC. 3. INSURED LOANS.

Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended—

(1) in subsection (b), by striking out "5 percentum per annum" and inserting in lieu thereof "the cost of borrowing to the Treasury, as determined by the Secretary of the Treasury taking into consideration the current average market yield of obligations of the United States having maturities comparable to loans made under this section, as adjusted quarterly"; and

(2) by adding at the end thereof the following new subsections:

"(d) To be eligible to obtain an insured loan under this title, a borrower must demonstrate, on the basis of critiera established by the Administrator, that the borrower—

"(1) is unable to obtain credit elsewhere at reasonable rates and at terms consistent with the objectives of this Act; and

"(2) has developed a goal and plan for obtaining an amount of equity (net worth as a percentage of assets) that is sufficient to obtain such credit in the future.

"(e)(1) To be eligible to obtain an insured loan under this title, a borrower must pay a fee to the Administraor.

"(2) The amount of such fee shall be determined by the Administrator, except that such fee may not exceed 1 percent of the loan amount.

"(3) Such fee shall be payable at such time and under such conditions as the Administrator determines.".

SEC. 4. GUARANTEED LOANS.

Section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) is amended—

(1) by inserting "(a)" after the section designation;

(2) by striking out the second and third sentences; and

(3) by adding at the end thereof the following new subsections:

"(b) To be eligible to obtain financial assitance under this section, a borrower must demonstrate, on the basis of criteria established by the Administrator, that the borrower—

"(1) is unable to obtain credit elsewhere at reasonable rates and at terms consistent with the objectives of this Act; and

"(2) in the case of the guarantee of a loan for the construction or expansion of facilities for the generation and transmission of electric power, has considered and evaluated all other reasonable alternatives for the meeting of power requirements of the borrower, including the purchase of power from other sources.

"(c)(1) To be eligible to obtain financial assistance under this section, a borrower must pay a fee to the Administrator.

"(2) The amount of such fee shall be determined by the Administrator, except that such fee may not extend an amount estimated by the Administrator to be necessary to cover administrative expenses and probable losses arising from such assistance.

"(3) Such fee shall be payable at such time and under such conditions as the Administrator determines.

"(d)(1) If the guaranteed loan under this section is not available from a private legally organized lending agency, a borrower may apply to the Federal Financing Bank for such loan.

"(2) If a borrower applies for such loan and meets the eligibility requirements for such loan and loan guarantee, the Federal Financing Bank shall make, and the Administrator shall guarantee, such loan under this section."

SEC. 5. LOANS FROM OTHER CREDIT SOURCES.

Section 307 of the Rural Electrification Act of 1936 (7 U.S.C. 937) is amended to read as follows:

"SEC. 307. OTHER FINANCING.—If it appears to the Administrator that an applicant for financial assistance under section 305 or 306 is able to obtain a loan for part of the credit needs of the applicant from a responsible cooperative or other credit source at reasonable rates and at terms consistent with the ability to pay of the applicant and the achievement of the objectives of this Act, the Administrator shall request the applicant, in accordance with criteria established by the Administrator, to apply for and accept such a loan concurrently with such assistance.".

RURAL ELECTRIFICATION IMPROVEMENT ACT OF 1986

Problem: Since 1936, the Rural Electrification Administration (REA) has been lending money to utilities in rural areas. In 1973, Congress established two interest rates for REA borrowers, depending on need, 2% and 5%. The Grace Commission found that total interest expense for the REA will exceed income and interest paid to it from previous borrowers. Most of the credit needs of the borrowers are met through loans financed by the Federal Financing Bank (FFB), with a guarantee from the REA, which in effect converts the guaranteed loan into direct Federal loans. Grace believes that this

should be phased out in favor of private sector participation and that a "credit elsewhere" test should be implemented to preclude any financially sound borrower from receiving an REA guaranteed loan when credit is available from other sources. GAO has reported that many of the cooperatives borrowing from REA have the financial strength to borrow elsewhere. The Grace Commission also recommended a fee for each new loan or loan guarantee to help offset mounting REA obligations. The Commission, GAO, and REA agree that plans are needed to encourage and promote borrower self-sufficiency. The Commission estimated 3-year savings of $142 million from charging loan fees, and $3-4 billion in outlay reductions over 3 years if annual loan guarantee levels were reduced by 40%. GAO estimated that, for each $1 billion in new insured loans, increasing the interest rate from 5% to 8% would increase interest income by $30 million annually.

The Purpose of this bill is to place REA insured and guaranteed loans on a sounder economic footing and to recognize changing conditions which enable rural electrical cooperatives to obtain credit without federal assistance and subsidized interest rates.

Interest rates on insured loans would be changed to cover the cost of Treasury borrowing, and the borrower must demonstrate that it is unable to obtain credit elsewhere. The borrower must also develop a plan for being in a position in the future to obtain credit elsewhere, and pay a fee not to exceed 1% of the loan amount. This would not effect existing loans.

A loan fee would also be required for new loan guarantees, and interest rates charged by FFB for guaranteed loans would no longer be limited to the rate charged on similar loans it makes and purchases. The borrower would be required to look at all other alternatives for meeting power requirements and to accept a loan concurrently from some other credit source in cases where it appears that the borrower is able to obtain a loan for part of its credit needs.

(A Bill to Implement Certain Recommendations of the President's Private Sector Survey on Cost Control.)

SEC. 2. PURPOSES.—To place rural electrification insured and guaranteed loans on a sounder economic footing and to recognize changing conditions which enable rural electrical cooperatives to obtain credit without federal assistance and subsidized federal interest rates, this Act (1) increases the interest rate on new insured loans to the cost of Treasury borrowing; 2) institutes "credit elsewhere" tests when considering whether additional federal financial assistance will be extended; 3) establishes a fee for each new insured loan or loan guarantee; and 4) requires loan applicants to develop a goal and plan for obtaining an amount of equity that will enable them to obtain credit from other sources at some time in the future.

SEC. 3. INSURED LOANS.—Section 305 of the Rural Electrification Act of 1936 (7 U.S.C. 935) is amended, to change the interest rate for all new insured loans, from the present 5% per annum, to the cost of Treasury borrowing as determined by the Secretary of the Treasury. This change would not effect existing loans.

To obtain an insured loan in the future, the borrower must demonstrate that it is unable to obtain credit elsewhere at reasonable rates and comparable terms. The borrower must also develop a plan for being in a position in the future to obtain credit elsewhere, and pay a fee not to exceed 1% of the loan amount.

SEC. 4. GUARANTEED LOANS.—Section 306 of the Rural Electrification Act of 1936 (7 U.S.C. 936) is amended, to delete the prohibition against assessing fees or charges for guaranteeing loans (or for accommodating or subordinating liens or mortgages). Also deleted are provisions requiring the Federal Financing Bank, on the request of the borrower, to make loans guaranteed by the Administrator, and limiting the interest rate charged by the Federal Financing Bank to not more than the rate charged on similar loans it makes or purchases.

Three new sections are added to section 306. The first provides that, to obtain a loan guarantee, a borrower must demonstrate that it is unable to obtain credit from other sources at reasonable rates and comparable terms. In the case of loan guarantees for constructing or expanding facilities for generating and transmitting electric power, the borrower is required to have considered and evaluated all other reasonable alternatives for meeting its power requirements, including the purchase of power from other sources.

The second new section requires that to be eligible to obtain a loan guarantee (or accommodation or subordination of a lien or mortgage), the borrower must pay a fee to the Administrator at such time and under such circumstances as the Administrator determines. The amount of the fee is to be determined by the Administrator, but may not exceed an amount that the Administrator estimates to be necessary to cover administrative expenses and probable losses.

The third new section provides that, if a guaranteed loan is not available from a private legally organized lending agency, the borrower may apply to the Federal Financing Bank for such loan, and requires that, if the borrower applies and meets the eligibility requirements for the loan and loan guarantee, the Federal Financing Bank make, and the Rural Electrification Administration Administrator guarantee, the loan.

SEC. 5. LOANS FROM OTHER CREDIT SOURCES.—Section 307 of the Rural Electrification Act of 1936 (7 U.S.C. 937) is amended to require, rather than permit, the Administrator to request an applicant for financial assistance under sections 305 and 306 to apply for and accept a loan concurrently from another credit source. This is to be done in accordance with criteria established by the Administrator, in cases where it appears to the Administrator that the applicant is able to obtain a loan for part of its credit needs from a responsible cooperative or other credit source at reasonable rates and consistent with the applicant's ability to pay and achievement of the objectives of the Rural Electrification Act of 1936.

The amendment expands this requirement to not only insured loans under section 305, which are presently covered under section 307, but also financial assistance under section 306. The amendment also deletes a provision requiring that the Administrator's request that concurrent loans be applied for and accepted would be subject to the Administrator's full use of the funds made available to the Rural Electrification Administration for insured loans.

SEC. 6. EFFECTIVE DATE.—This Act takes effect on the date of enactment.

Mr. HUMPHREY. Mr. President, a year ago this month Senator DECONCINI and I formed the Senate Grace Caucus. We have now been joined by an additional 26 Members of this body, that is, we have a total membership of 28. The purpose of the Grace Caucus is very straightforward, to stop talking about the Grace Commission recommendations to cut Government costs and to start doing something about it in the way of concrete legislation. For the past 6 months the members of the Grace Commission Caucus and their staffs have toiled away finding the most likely reforms that we could undertake as our initial effort, and during the last 2 months the Grace Commission Caucus joined forces with the members of the Government Affairs Committee under Senator ROTH, who were also working in a like direction, and together we have produced a package of 15 bills which we are introducing today, 15 bills designed explicitly to implement the provisions of the Grace Commission recommendations.

Mr. President, ever since the Grace Commission completed its study in 1983, people have been wondering, "whatever happened to the Grace report?" There was much ballyhoo back in 1983, as it became known that billions upon billions of Federal dollars could be saved simply by increasing the efficiency of Federal operations. But then it seemed as though this 21,000 page study was put on the shelf, to collect dust. It took the Grace Commission 10 man-years to get a handle on this waste problem, and it came up with 2,478 recommendations to save $425 billion over 3 years. Three-quarters of those recommendations need congressional action. Some of the recommendations were acted upon administratively, and, in isolated cases, legislatively.

But today, Mr. President, the Grace Commission report is being taken off the shelf. The 15 bills which are being introduced encompass 78 separate recommendations. This is a small percentage of the total number of recommendations in the 47-volume study. But it is only a start. The opportunities are limited only by the imagination and our determination to bring spending under control.

This initial legislative package, if enacted in its entirety, would save $32.8 billion over the next 3 years, according to the Grace Commission report. And this is just the tip of the iceberg, Mr. President. The total savings which could be achieved with the implementation of the Grace report are in the hundreds of billions of dollars, why should the Federal Government continue to use antiquated methods of debt collection which are demonstrably inadequate? Why should we gobble up more taxpayer dollars to pay the Federal Government for goods and services that the private sector could provide less expensively? Why should the Department of Justice pay attorneys to do the work of paralegals? I believe this package addresses these

questions and many others in a responsible and reasonable manner.

Mr. President, we have a long way to go, indeed. Cutting the budget will take discipline and resolve, in great proportions. If we are to succeed in this regard, we must take the first step. This legislative package, I believe, is a significant first step. The time has come to act. I would urge all of my colleagues to join us in this effort.

Mr. President, I want to take just a few moments of my remaining time to discuss two of the bills which the Senator from New Hampshire is introducing. The first of the two bills has to do with contracting out, that is, looking to the private sector to perform many of the services which today are performed by Government employees.

In March of 1983, President Reagan said that, "The role of Government should not include peforming services and activities that can effectively be carried out by the private sector." Examples of services that can be contracted out are janitorial and maintenance work, data processing, and food services. In fact, the General Accounting Office has determined that there are thousands of activities within the Federal Government that could be contracted out without affecting the services rendered.

Why then, isn't the Government moving in this direction? The A-76 program was instituted to encourage such movement, yet there has been little. A-76 requires agencies to carry out cost comparisons in order to determine whether certain services should be contracted out. Yet a study done by OMB shows that "of 22 agencies reporting, 50 percent did not award any service contracts as the result of an A-76 review; they did not complete any cost comparison studies during fiscal year 1982 through fiscal year 1985."

□ 2010

In other words, they did not do anything they were supposed to under A-76; fully half of the 22 agencies reporting did nothing. So you can see the urgent need for this legislation, to get us moving and on schedule toward achieving cost savings through contracting to Government services.

But the agencies themselves are not solely to blame, Mr. President. Congress, too, is responsible for the lack of progress in this area. In recent years, Congress has enacted over 20 different prohibitions on contracting out. For example, GSA is prohibited from contracting out guard, elevator operator, messenger, and custodian services. This prohibition costs taxpayers $32 million each year. Because of such restrictions, only about 30 percent of the $20 billion to $30 billion spent on services is eligible for contracting out.

Mr. President, if we in Congress are to ask Americans to sacrifice in order to get the deficit under control, I do not see how we can allow this situation to continue. The legislation which I am introducing today would implement the Grace Commission recommendations concerning Government contracting to the private sector. The bill addresses the lack of progress on the part of Federal agencies, by requiring cost comparisons and setting a timetable and outline for accomplishing these goals. It has been estimated that it would take the Government 100 years, at its current pace, to complete cost comparisons of all its commercial activities. Under this bill, agencies would be required to complete the task in 5 years and to report to the Congress each year the savings being achieved.

The bill also addresses the problem within Congress itself. Federal agencies would be required to procure supplies and services necessary to carry out their duties from private sector sources, regardless of any other Federal statute, except under certain circumstances. Exemptions from the provisions of the bill are cases in which national security interests require a Government supplier, in which the agency function is so closely related to the public interest that a Government supplier would be required, and in which no private sector source is able to furnish the supplies or services at less cost than a Government supplier.

The legislation would go a long way toward resolving the problems of Government contracting to the private sector. It will do so in a responsible manner, stressing quality and reliability.

Mr. President, at this time I ask unanimous consent that the bill and the bill summary be printed into the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Performance of Commercial Activities Improvement Act of 1986".

PURPOSE

SEC. 2. It is the purpose of this Act to increase, where cost effective, the Federal Government's use of private sector sources to provide goods and services necessary for the operation and management of Government agencies.

DEFINITIONS

SEC. 3. As used in this section:

(1) The term "agency" means—

(A) an executive department as defined in section 101 of title 5, United States Code;

(B) a military department as defined in section 102 of such title;

(C) an independent establishment as defined in section 104(1) of such title;

(D) the United States Postal Service; and

(E) a wholly owned Government corporation as defined in section 9101(3) of title 31, United States Code.

(2) The term "Director" means the Director of the Office of Management and Budget.

(3) The term "governmental function" means a function with is so closely related to the public interest as to require performances by Government employees and includes those activities which require either the exercise or discretion in applying Government authority or the use of value judgments in making decisions for the Government.

GOVERNMENT COMPETITION WITH THE PRIVATE SECTOR

SEC. 4. (a) Notwithstandiang any other provision of law which does not supersede this section by specific reference to this section, an agency shall procure from private sector sources the supplies and services necessary for or beneficial to the accomplishment of the agency's authorized functions unless—

(1) the supplies or services are required to be provided by the agency or another agency under a provision of law which supersedes this section by specific reference to this section;

(2) the provision of the supplies or services is a governmental function; or

(3) the head of the agency determines and certifies to the Congress, in accordance with regulations prescribed by the Director, that—

(A) it is necessary in the interest of the national security for the Federal Government to have the capability to produce, manufacture, or otherwise provided the supplies or services;

(B) there is no private sector source capable of furnishing the supplies or services to the agency at a cost that is lower than the cost at which an agency can provide the same supplies or services, determined after a comparison of the costs;

(C) without regard to cost, there is no private sector source capable of furnishing the supplies or services to the agency; or

(D) the use of a private sector source would cause unacceptable delay or disruption of a program of the agency.

(b)(1) Except as provided in paragraph (2), if, under an exception prescribed in subsection (a), an agency is permitted to provide supplies or services other than by procurement from a private sector source, the head of the agency shall determine, in accordance with regulations prescribed by the Director, the most efficient method of providing such supplies or services at specified levels of quality and timeliness. That method shall be used to provide such supplies or services.

(2) If, under the exception prescribed in subsection (a)(3)(B), an agency is permitted to provide supplies or services other than by procurement from a private sector source, the agency shall provide such supplies or services by the method used to establish the agency's cost for the purpose of such exception.

(c) Cost comparisons for the purpose of subsection (a)(3)(B) shall be made in accordance with regulations prescribed by the Director.

ANNUAL REPORT ON COST SAVINGS

SEC. 5. At the same time that the President submits the budget to Congress each year under section 1105(a) of title 31, United States Code, each agency shall submit to Congress a report containing—

(1) an estimate of the amount that the agency will save during the fiscal year in which the budget is submitted as a result of the provision of supplies and services by

procurement from private sector sources instead of the provision of such supplies and services by an agency;

(2) an estimate of the amount that the agency will save during such fiscal year as a result of the provision of supplies and services by the methods required by section 4(b) instead of the procurement of such supplies and services from private sector sources;

(3) an estimate of the amount that the agency will save as a result of the provision of supplies and services as described in clauses (1) and (2) for the fiscal year for which the budget is submitted; and

(4) the amounts actually saved by the agency as a result of the provision of supplies and services as described in clauses (1) and (2) for the fiscal year ending before the fiscal year in which the budget is submitted.

STUDY

SEC. 6. (a) Not later than one year after the date of enactment of this Act, the Director shall transmit to the Congress a report on the study required by subsection (b). The report shall include a list of all cases identified under the study and the schedules prescribed under section 7.

(b) The Director shall—

(1) conduct a study for the purpose of identifying—

(A) those cases in which supplies or services provided by an agency can be procured from a private sector source;

(B) those cases in which supplies or services are provided under an exception prescribed in section 4(a); and

(C) those cases in which supplies or services procured from private sector sources were formerly provided by an agency; and

(2) determine whether the agency intends, in such cases—

(A) to conduct cost comparisons for the purpose of section 4(a)(3)(B); or

(B) to determine a method of providing the supplies or services under section 4(b).

(c) Each agency shall maintain records of the costs of providing supplies and services (whether procured from private sector sources or provided by an agency) for the cases identified for such agency under subsection (b).

COST COMPARISON SCHEDULE AND COMPLIANCE REVIEW

SEC. 7. (a)(1) For all cases which have been identified by the Director pursuant to section 6(b)(1)(A) and are not covered by an exception prescribed in paragraph (1), (2), (3)(A), (3)(C), or (3)(D) of section 4(a), the Director shall prescribe a schedule for the completion of cost comparisons for the purpose of subsection (a)(3)(B).

(2) The schedule prescribed pursuant to paragraph (1) shall require completion of the cost comparisons not later than 5 years after the date of the report required by section 6.

(b) At the end of each of the 5 years included in the schedule pursuant to paragraph (2), the Director shall—

(1) review the activities of each agency during such year for the purpose of determining the extent to which the agency is carrying out cost comparisons as provided in such schedule and is complying with the requirements of section 7;

(2) take any additional actions that the Director consider appropriate on the basis of such findings to ensure that the agency complies with the schedule each such year; and

(3) transmit to the Congress a report containing (A) the Director's findings for each agency as a result of such annual review, and (B) a description of any additional actions taken by the Director on the basis of such findings.

FEDERAL PERFORMANCE OF COMMERCIAL ACTIVITIES ACT OF 1986—PPSS THREE-YEAR SAVINGS: $3.3 BILLION

ISSUE

The Office of Management and Budget (OMB) Circular A-76 directs government agencies to contract with the private sector where it is possible and economical to do so and where it does not interfere with national security or critical government functions such as money, entitlements or exercising authority.

PPSS found that contracting out more federal government functions to private sector firms could save billions of dollars and result in more efficient services to the public.

Although the Reagan Administration has accelerated the use of contracting out, more could be done if Circular A-76 were law instead of a regulation.

PPSS RECOMMENDATION—PER 12

Codify the basic provision of OMB Circular A-76 to give contracting out the force of law.

PROPOSED BILL

The bill codifies OMB Circular A-76 by requiring federal agency procurement of goods and services from the private sector whenever cost effective unless; national security interests necessitate a government supplier; or private sector supply is more expensive or would cause unacceptable delay; or could not supply such goods and services.

Each agency shall report anticipated and actual savings from cost comparisons and efficiency reviews and shall keep records on costs of obtaining supplies from both private sector and government sources.

The OMB Director shall conduct a study to identify areas where goods and services could be procured from the private sector; prescribe a schedule to require the completion of cost comparisons of these areas within 5 years; and report to Congress annually on each agency's level of compliance.

Mr. HUMPHREY. The other bill deals with increasing cooperation and coordination between Department of Defense research laboratories. There are, I think, 36 such laboratories. Often they duplicate other's research simply because they do not know that another laboratory is doing the very same kind of research. In other cases, they are unable to take advantage of research done in another lab simply because they are not aware of it, as incredible as that may seem. This bill will attempt to correct that problem and will achieve a saving over a 3-year period of about $1½ billion.

Mr. President, I ask unanimous consent that the bill and the bill summary be printed in the RECORD.

There being no objection, the bill and bill summary were ordered to be printed in the RECORD, as follows:

S. 2629

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Defense Technology Data Exchange Improvement Act of 1986".

PURPOSE

SEC. 2. It is the purpose of this Act to strengthen coordination among Department of Defense reseach facilities and other organizations in the Department of Defense.

FINDINGS

SEC. 3. The Congress finds that centralized coordination of the collection and dissemination of technological data among research facilities and other organizations within the Department of Defense is necessary (1) to ensure that personnel of the Department are currently informed about emerging technology for defense systems, and (2) to avoid unncecessary and costly duplication of research staffs and projects.

DEFINITIONS

SEC. 4. For purposes of this Act:

(1) The term "Defense research facility" means any Department of Defense facility which performs or contracts for the performance of (A) basic research, or (B) applied research known as exploratory development.

(2) The term "milestone 0 decision" means a decision made within the Department of Defense that there is a mission need for a new major weapon system and that research and development is to begin to meet such need.

(3) The term "milestone I decision" means a selection by an appropriate official of the Department of Defense of a new major weapon system concept and a program for demonstration and validation of such concept.

(4) The term "milestone II decision" means approval by an appropriate official within the Department of Defense for the full-scale development of a new major weapon system.

COORDINATION OF DEPARTMENT OF DEFENSE TECHNOLOGICAL DATA

SEC. 5. The Secretary of Defense shall—

(1) promote, monitor, and evaluate programs for the communication and exchange of technological data—

(A) among the Defense research facilities, combat forces, and other organizations that are involved in developing for the Department of Defense the technological requirements for new items for use by combat forces; and

(B) among Defense research facilities and other offices, agencies, and bureaus in the Department that are engaged in related technological matters; and (2) ensure, to the maximum extent practicable—

(A) that Defense research facilities are assigned broad mission requirements rather than specific hardware needs;

(B) that appropriate personnel of such facilities are assigned to serve as consultants on component and support system standardization;

(C) that the managers of such facilities have broad latitude to choose research and development projects;

(D) that technology position papers prepared by Defense research facilities are readily available to all military commands and to contractors who submit bids or proposals for Department of Defense contracts; and

(E) that, in order to promote increased consideration of technological issues early in the development process, any position papers prepared by Defense research facilities on technological issues relating to a major component in a proposed major weapon system and any technological assessments made by such facilities in the case

of such component are made a part of the records considered for the purpose of making milestone 0, I and II decisions.

REPORT

SEC. 6. The Secretary of Defense shall submit to the Congress, within one year after the date of the enactment of this Act, a written report containing a description of (1) the actions taken by the Secretary for the purpose of implementing this Act, and (2) any other actions taken by the Secretary for the purpose of improving the management and utilization of Defense research facilities.

DEFENSE TECHNOLOGY DATA EXCHANGE IMPROVEMENT ACT OF 1986

Problem: About 75 Department of Defense laboratories provide technical support to research and development (R&D) activities in the weapons acquisition process. At present only basic research and exploratory development have visibility among all services. Knowledge of other research is not shared among the labs. A centralized coordinated effort to disseminate technology data among DoD labs is needed to provide operational forces with a better understanding of emerging technology for defense systems and to avoid unnecessary duplication of lab staff and projects. The Grace Commission estimated savings achieved by effective coordination in this area of $1.6 billion over 3 years. GAO could not verify this estimate but did anticipate that savings could be substantial.

The purpose of this bill is to strengthen coordination among Department of Defense research facilities by directing the Secretary of Defense to:

Ensure that personnel of the Department are currently informed with regard to emerging technologies for defense systems;

Take specific organizational steps to avoid unnecessary and costly duplication of research staffs and projects among the services; and

Report to Congress within one year on actions taken in the effort to implement the act and to improve the management and utilization of Department of Defense research facilities.

(A Bill To Implement Certain Recommendations of the President's Private Sector Survey on Cost Control.)

SEC. 2 and 3. PURPOSE AND FINDINGS.—Centralized coordination of the collection and dissemination of technological data from research facilities within the Department of Defense is necessary (1) to ensure that personnel of the Department are currently informed with regard to emerging technology for defense systems, and (2) to avoid unnecessary and costly duplication of research staffs and projects. The purpose of this Act is to strengthen the coordination between the Department of Defense research facilities.

SEC. 4. DEFINITIONS. For the purposes of this Act:

"Defense research facility" means any Department of Defense facility which performs or contracts for basic research of applied research (also called exploratory development) under the Department of Defense's research, development, test and evaluation budget categories 6.1 (basic research) and 6.2 (exploratory development).

"Decision milestone 0" means the Department of Defense mission need determination, which provides official sanction for a major system new start.

"Decision milestone I" means the Department of Defense concept selection, which provides the authority to proceed with the demonstration and validation phase.

"Decision milestone II" means the Department of Defense program go ahead and approval to proceed with full scale development.

SEC. 5. COORDINATION OF DEPARTMENT OF DEFENSE TECHNOLOGICAL DATA.—The Secretary of Defense is required to promote, monitor, and evaluate communications and data exchange programs between the Department's research facilities, the combat forces served, and the combat user representative organizations involved in establishing requirements for new material.

The Secretary is required to promote, monitor, and evaluate such programs among Department of Defense research facilities, offices, agencies, and bureaus working on related technologies and products.

The Secretary is also required to ensure that:

(1) research facilities of the Department of Defense are assigned broad mission requirements rather than specific hardware needs;

(2) the appropriate personnel of the facilities are assigned to serve as consultants on component and support system standardization;

(3) managers of the research facilities have latitude to choose research and development projects;

(4) research facility technology position papers are readily available to all military commands and to contractors who submit bids or proposals on Department of Defense contracts; and

(5) the technology position papers and assessments, applicable to each major component technology in a proposed system, be part of the record at the service and at Department of Defense milestones O, I, and II, to promote greater consideration of technology issues "up-front" in the developmental process.

SEC. 6. REPORT.—The Secretary of Defense is required, within a year of enactment, to submit to the Congress a report on any actions taken to implement the requirements of this section, and any other action that the Secretary has taken in an effort to improve the management and utilization of Department of Defense research facilities.

Mr. BRADLEY. Mr. President, I am pleased to join Senators ROTH, DECONCINI, HUMPHREY and others in introducing a package of cost savings measures developed by the Senate Grace Caucus, of which I am a member, and the Senate Government Affairs Committee. These management improvement bills are an outgrowth of the recommendations of the Grace Commission. While I do not support all 16 pieces of legislation being introduced today, I do support the general thrust of the legislative package.

Two years ago, the President's private sector survey on cost control, better known as the Grace Commission, undertook an 18-month study at the directive of President Reagan to identify and suggest remedies for waste and abuse in the Federal Government. The Commission, headed by 161 executives and staffed by over 2,000 professionals, submitted almost 2,500 recommendations for cost control and revenue enhancement.

Most of the report's recommended reforms are concerned with management issues, such as financial and procurement practices. Most recommendations can be implemented by administrative action, and many have been implemented. But some Grace recommendations require congressional action. The bills being introduced today include several Grace Commission proposals that must be enacted by Congress to take effect.

Mr. President, I am a cosponsor of 11 of the bills being introduced today. A brief description of the bills that I am cosponsoring is as follows:

The Federal Credit Management and Debt Collection Improvement Act of 1986 is aimed at strengthening credit management and debt collection, increasing collection, and reducing delinquencies. The bill establishes within the Treasury and Under Secretary for Debt Collection and Credit Management, requires the development of comprehensive improvement plans and mandates a number of credit management and debt collection practices.

The Federal Health Care Auditing and Quality Control Improvement Act of 1986 is aimed at strengthening oversight and quality control and reducing administrative costs associated with the Medicare and Medicaid Programs by authorizing the Secretary of Health and Human Services to test and measure the cost effectiveness of using contractors to perform Medicare audits, requiring the Secretary of Health and Human Services to develop procedures and guidelines for the Medicaid quality control program and repealing the Railroad Retirement Board's present authority to administer Medicare claims separately for its beneficiaries.

The Tax Collection and Enforcement Improvement Act of 1986 is aimed at improving tax law compliance, increasing collections, and reducing tax delinquencies by authorizing 1,500 additional collections staff and establishing a target for a $5 billion reduction in delinquent unpaid taxes over 5 years, authorizing 1,000 additional staff for the information returns program and authorizing 2,500 additional tax return examination and enforcement staff.

The Federal Hospital System Sharing Act of 1986 is aimed at improving efficiency and reducing costs of the Department of Defense and the Veterans' Administration hospitals through broadened sharing authority. The bill provides that all persons eligible to receive direct health care from the Department of Defense or the Veterans' Administration, such as Department of Defense dependents, military retirees, and survivors of deceased military

members, may be provided care in another agency's facility.

The Housing Eligibility Verification Improvement Act of 1986 is aimed at strengthening the verification of eligibility and the proper determination of benefits for housing programs of the Department of Housing and Urban Development by requiring applicants or participants to disclose their Social Security or employee identification numbers, with necessary safeguards to protect the individual. The bill also authorizes the Department to obtain access to wage and other information from State employment records maintained under the Social Security Act.

The Defense Transportation Bill Audit Improvement Act of 1986 is aimed at strengthening the transportation bill audit process. The bill requires that GSA transfer to the Department of Defense the authority to audit its own transportation bills, and directs the Secretary, whenever practicable and cost effective, to contract with private firms for these audits.

The Paralegal Coordination and Activities Act of 1986 is aimed at increasing the productivity and reducing costs in the Justice Department by establishing an Office of Paralegal Coordination and Activities to organize and coordinate efforts to increase utilization of paralegals and to coordinate paralegal training programs in the Department. The legislation requires that the new office study the increased use of paralegal to determine the proper ratio and best use of paralegals in Justice's legal divisions and offices.

The Mail Management Improvement Act of 1986 is aimed at improving Federal agency management of mail operations and reducing Government mail costs by requiring agencies to evaluate agency mail operations to identify and eliminate practices resulting in excessive mailing costs and to develop, within 6 months of enactment and subject to approval by the Director of OMB, a plan to strengthen mail management.

The Defense Technology Data Exchange Improvement Act of 1986 is aimed at strengthening coordination among Department of Defense research facilities by directing the Secretary of Defense to ensure that personnel of the Department are currently informed with regard to emerging technologies for defense systems and to take specific organization steps to avoid unnecessary and costly duplication of research staffs and projects among the services.

The Defense Select Consolidations Act of 1986 aims to consolidate and improve the efficiency and coordination of depot-level maintenance and wholesale distribution operations, base support services, and military traffic and transport management. The bill designates a single manager in DOD for the administration of depot-level maintenance facilities and directs the Secretary of Defense to develop a Unified Traffic Management Command to combine functions of the Military Traffic Command, the Military Sealift Command, and the Military Airlift Command. In addition, the Secretary of Defense is directed to identify military installations where base support operations could effectively be consolidated, and within 2 years of enactment, develop a timetable for implementation.

The Defense Industrial Reserve Improvement Act of 1986 is aimed at placing defense industrial plant equipment purchases on a sound economic footing by requiring that users of the reserve equipment pay the full cost; that is, all costs incurred, both direct and indirect, of storage, repair, maintenance, and allocated overhead. The Secretary of Defense would prescribe the general policies and fee schedules for reimbursement for the full cost of reserve equipment transferred to users.

Mr. President, these bills, if adopted, will reduce the deficit by several billion dollars. We know that deficits must be reduced. We know that programs must be cut back and taxes raised. But, before we decimate programs, we should do whatever we can to improve the efficiency of Government. That is what these bills are all about. I urge serious consideration of these matters by my colleagues.

Mr. WILSON. Mr. President, I rise to recognize "Grace Legislation Day" and to urge timely consideration of the 16 initiatives which are being introduced today by the Grace Caucus and Government Affairs Committee to eliminate waste in Government and help reduce the Federal deficit. This legislation incorporates 70 Grace Commission recommendations which attack the foundation of inefficiencies in the Federal Government.

The time has come, Mr. President, to address the Federal deficit head on. Congress must have the backbone to act now. The 16 Grace Legislation Day bills offer the rare opportunity to reduce the Federal deficit without raising taxes, without weakening America's defense and without harming necessary social welfare programs.

Real deficit reduction must not be accomplished by simply raising taxes. To this end, these revenue-enhancing Grace recommendations will lower the Federal deficit by combating waste and mismanagement in Government. I support the principles and directions of many of the Grace legislation bills because they go to the root of Government waste by addressing system failures, personnel mismanagement and program waste.

Mr. President, I believe that balancing the Federal budget is the single most important domestic issue facing the United States today. Failure to address this critical issue will certainly affect the vitality of the economic surge that the country is enjoying today.

While I do not support each recommendation that is being offered by the Grace Caucus, I wholeheartedly support the objective to bring efficiency back to the Federal Government. I share the caucus objectives and urge Congress to recognize that the time has come to find areas of agreement and bring a comprehensive package of cost-saving measures to the Senate floor before the end of the 99th Congress.

Mr. President, I commend my distinguished colleagues, Senators HUMPHREY, DECONCINI and ROTH and their staffs for making Grace Legislation Day a reality. I look forward to continuing to work with them to bring timely action on these proposals and to restoring fiscal responsibility to the Federal Government. We cannot let waste and inefficiency in Government swallow America's future.

THE CONGRESSIONAL GRACE CAUCUS LEGISLATIVE PACKAGE

Mr. THURMOND. Mr. President, as a member of the Congressional Grace Caucus, I am pleased with the introduction of a legislative package which contains several bills that are designed to reduce wasteful Federal spending, and to increase Government efficiency.

Mr. President, the reduction of Government waste is an especially important goal in light of the enormous budget deficit our past fiscal irresponsibility has wrought. Reducing the budget deficit through streamlining Government practices is indeed preferable to eliminating worthwhile Government programs.

President Reagan recognized this fact when he established his private sector survey on cost control, the Grace Commission, in 1982. Under the leadership of J. Peter Grace, chief executive officer and chairman of W.R. Grace & Co., the Grace Commission found almost 2,500 ways to cut waste and enhance revenues, at no cost to the taxpayer.

The purpose of the Congressional Grace Caucus, founded in October 1985, is to legislatively implement those recommendations, thereby reducing our budget deficit. Since October, the members of this caucus, along with "Citizens Against Government Waste," have been involved in the difficult task of drafting specific legislation to implement these suggestions. The bills which have been introduced today represent a positive step in the continuing effort to reform wasteful Government practices.

I urge the chairman of the respective committees to which these bills are referred to expedite committee

consideration of these measures. Furthermore, all Members of Congress should carefully examine these bills and work toward the elimination of Government waste.

RECOGNITION OF SENATOR SASSER

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

THE DRUG SMUGGLING PROBLEM IN BORDER STATES

Mr. SASSER. Mr. President, I wish to address a subject that has been troubling me for some time, that is the increasing volume of drugs pouring across our borders.

Over the past few years, the Federal Government has intensified drug enforcement efforts along the coast of the Gulf of Mexico. This program has been highly successful—it has resulted in increased arrests and confiscation of illicit drugs. This success, however, has spawned a whole range of new problems.

Drug dealers—looking for new ways to smuggle their deadly cargo into the United States—are leap-frogging the coastal States and landing their drugs farther inland. States like my State of Tennessee are becoming prime targets for drug smuggling.

Tennessee is easily within range of the aircraft commonly used by drug smugglers flying from South America. It contains many small, rural airports and airstrips that are particularly vulnerable to use by drug smugglers. Law enforcement officials in my State have identified over 30 airports which need additional surveillance.

These airports and airstrips are a particular problem. Many are operated only in the daytime. At night they are unattended and unmonitored.

The lights are simply turned off at night. The airport operator goes home and the airport is deserted for the entire night. It is a simple matter to have somebody in an automobile or two drive up to the airstrip at both ends of the strip, lighting up the landing strip. Then the illicit drug smuggler flies in, unloads the drugs and nobody knows the difference.

State and local law enforcement agencies simply do not have the manpower to monitor these airports and airstrips on anything approaching a regular basis at night or on weekends.

I believe we must allocate increased resources to denying these landing places to drug smugglers.

While anyone who reads the newspapers and listens to the news knows of the continuing wave of drug trafficking in Tennessee, the numbers are still staggering. In 1981 a raid in Sevier County, TN seized 600 pounds of pure cocaine with an estimated street value of $200 million.

In July 1982, in Cleveland, TN, law enforcement agents confiscated 1,200 pounds of pure cocaine worth nearly $600 million. Also seized were vehicles, weapons, and $450,000 in cash. This was the second largest cocaine seizure in U.S. history, and law enforcement officials believe the drugs were flown into Tennessee directly from Colombia.

The investigation of what has become known as the "Southern Comfort Gang" revealed that this one gang had smuggled 3,000 pounds of cocaine into the same Tennessee airport over a 3-month period. The resulting convictions broke the largest cocaine ring ever prosecuted in the United States.

This alarming trend has continued and drug dealers have become bolder and bolder.

Last September a drug smuggler flying over Tennessee set his plane on automatic pilot and bailed out with 80 pounds of cocaine strapped to his body. Luckily, his plane crashed in a wooded area. It could just as easily fallen on a residential area, a shopping center—or a school.

Unhappily for the drug smuggler, his parachute failed to open and he ended up in the backyard of a law-abiding citizen in Knoxville, who opened his back door the next morning to find a drug smuggler lying there dead, with cocaine strapped to his body.

More recently, law enforcement officers chased a drug-smuggling plane as it headed for the Chattanooga area. Realizing agents were closing in, the smugglers started dumping bales of cocaine overboard. They were finally captured outside Chattanooga with about 70 pounds of cocaine still on the plane.

Still, officials say they only know of a fraction of the illegal drugs coming into Tennessee and estimate that cocaine alone is a $500 million a year business in east Tennessee. And that is in an area where a vigorous effort is being made to apprehend drug smugglers and dealers.

This being the case, I was extremely disappointed to read the recommendations in Attorney General Meese's letter to the Congress last week which totally ignores the problems that States such as Tennessee are experiencing. The Attorney General's report calls for increased resources to be allocated to the Southwest border area—and certainly we need increased surveillance there.

But States such as Tennessee also need assistance. Not all the drugs are being intercepted along the coast. Inland States are now trying to cope with the drugs that are evading capture along the gulf coast. State and local officials are simply stretched to their limits. I believe that the Federal Government must focus on this problem and allocate increased resources to it.

In the weeks ahead, I will be offering a number of statements highlighting aspects of drug enforcement and prevention which are receiving less attention than they deserve.

One will be the need to improve and increase drug education efforts. As I travel around my State and visit schools, I talk to parents, students, and teachers who are concerned by the use of drugs among students—and drug use at a younger and younger age.

The need for drug education was vividly brought home by the tragic death of Maryland basketball star Len Bias. Here was a young man with his whole life ahead of him—and had fulfilled his every dream. And yet it was all gone in a few minutes.

Len Bias by all accounts a fine young man—who took his responsibility as a role model for others seriously. And yet, he died from what may well have been his first use of a deadly drug.

There is clear evidence that younger and younger students are trying drugs for the first time. We need to make a concerted effort to reach these young people before drug pushers do.

I shall be speaking on this subject again. I invite my colleagues to join me in exploring new strategies for combating drug trafficking and abuse.

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Mr. SASSER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LET FREEDOM RING DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 664, to designate July 3, 1986, as "Let Freedom Ring Day," and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The bill clerk read as follows:

A joint resolution (H.J. Res. 664) to designate July 3, 1986, as "Let Freedom Ring Day", and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. ARMSTRONG. Mr. President, on July 4, 1986, Americans will celebrate the 100th anniversary of the Statue of Liberty. This is a celebration of our heritage as Americans. One way to take part in the celebration is to "Let Freedom Ring."

Today, the Senate will pass a joint resolution designating July 3, 1986, as "Let Freedom Ring Day." The resolution requests the President to issue a proclamation encouraging that bells across the country ring simultaneously at 10:53 p.m. Eastern Standard Time. The bell ringing would immediately follow President Reagan's lighting of the torch at the Statue of Liberty.

The Statue of Liberty symbolizes traditional values we Americans believe in—liberty, justice, freedom and opportunity. These were the basic values our ancestors came to America in search of. Many of our ancestors made the trek to America on boats via New York harbor and their first glance of the United States was the Statue of Liberty.

It is difficult to imagine a world without the values that have become part of our everyday lives. What if we were not allowed to practice our own religions, or say what we felt, or write what we thought? America became a melting pot of races, religions, ideas and dreams. Our ancestors came in search of what they could not find in their native countries.

As the 100th anniversary of the Statue of Liberty draws near, let us reflect on what it means to be an American. One way to take part in the celebration is to "Let Freedom Ring." The sound of bells ringing in every State across this great land of ours reminds us that we are Americans and we do enjoy the values of liberty, freedom, justice and opportunity.

Mr. WARNER. Mr. President, I rise in support of House Joint Resolution 664, calling on all Americans to celebrate the relighting of the torch of the Statue of Liberty by ringing bells throughout the Nation on July 3, 1986.

It is my hope that every town hall, courthouse, and church steeple, or wherever bells symbolically commemorate important events, will ring out together in a truly nationwide salute to Lady Liberty and all the promise and hope that she has come to represent to the world.

From 1974 to 1976, I was privileged to work in each of the 50 States to assist communities in planning their individual commemorations. The capstone of those thousands of events took place with the parade of tall ships in New York harbor. On the deck of the U.S.S. *Forrestal*, I stood beside President Gerald R. Ford as he rang the bell of freedom signifying the historic event of our Nation's 200th birthday. As the President struck the first note, bells across America pealed in unison.

With the cherished memory of that successful bicentennial event in mind, I join with my colleague from Colorado, Mr. ARMSTRONG, in calling for this simple but meaningful demonstration to honor our Nation's monument to individual freedom.

Earlier today I spoke by telephone with Mr. David Wolper. Tonight, he is putting the finishing touches of genius on an American extravaganza which will begin to unfold July 3.

During the 1976 Bicentennial of our Nation, Mr. Wolper worked tirelessly and unselfishly, as he is doing today. Americans will always be proud of his unique contributions capturing the true spirit of our patriotic heritage.

The inspiration for "Let Freedom Ring Day 1986" came from Mr. Clarence "Sandy" Sandstrom of Mount Morris, IL, as voiced to Congresswoman LYNN MARTIN (Ill.-16). Following the leadership of Representative MARTIN, the U.S. House of Representatives has unanimously approved this resolution.

I am pleased to join with such patriots as David Wolper and Sandy Sandstrom in urging the Senate to adopt House Joint Resolution 664. In so doing we send a message to all Americans to "ring-in" the Centennial Celebration of the Statue of Liberty.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 664) was ordered to a third reading, was read a third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOMENT OF SILENCE FOR AMERICAN CAPTIVES IN LEBANON

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 362.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 362) to express the sense of the Congress that a moment of silence be held during the official ceremonies for the Statue of Liberty for the return of the American captives in Lebanon.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

Mr. BYRD. There is no objection, Mr. President.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. EVANS. Mr. President, I rise to support this resolution. The resolution calls for a moment of silence for the American hostages in Lebanon during the ceremonies celebrating the Statue of Liberty.

Mr. President, while I am a cosponsor of this resolution, I believe it can be improved. There are others who remain captive in Lebanon in addition to the five Americans noted in the resolution. There are a total of 11 hostages of different nationalities still held in Lebanon; of these, 7 are French.

I ask to have printed in the RECORD, at the conclusion of my remarks, the names of the other hostages held in Lebanon.

One hundred years ago, the country of France and the French people generously donated to America and the American people a wonderful symbol of the freedom and promise of our new land—the Statue of Liberty. The statue symbolized the commitment to freedom not only of the American people, but of the people of France as well. They have stood with us for liberty and equality since the birth of our Nation. We do not salute the past 100 years of Liberty alone—we are joined by all the free peoples of the world. Most of all we are joined in our Liberty celebration by France and the French people. I believe we would be remiss if we did not pay tribute to their captive countrymen. It is only fitting that we remember the French hostages during our celebration.

This resolution faces a tight schedule if it is to pass both Houses before we recess. I would like to offer an amendment to change the text of the resolution to include the seven Frenchmen and the other hostages. Mr. President, I will not offer such an amendment because I do not want to jeopardize the resolution's passage. I would strongly urge, and would ask my colleagues to join me in urging, that in calling for the moment of silence the names of all the hostages still captive in Lebanon also be included.

Our Liberty celebration and the relighting of the statue's torch will be a joyous occasion. The moment of silence affords us the opportunity to reflect on our freedoms and to remember those who cannot join our celebration because they are not free. The statue's torch has from the beginning been a beacon of hope and liberty. After 100 years, its light shines clearer and more brightly than ever. Let us hope that somehow its light will reach

half way around the globe to all those in captivity to let them know they are not forgotten and to give them hope.

The names requested to be printed in the RECORD are as follows:

Marcel Fontaine, French.
Marcel Carton, French.
Jean-Paul Kaufmann, French.
Michel Seurat, French.
Aurel Cornea, French.
Jean-Louis Normandin, French.
Camille Sontag, French.
Alec Collett, British.
John McCarthy, British.
Brian Keenan, Irish.
Chae Sung Do, Korean.

Mr. SIMON. Mr. President, I rise today in full support of this resolution.

Two weeks ago, I received a call from Sue Franceschini, sister of Father Lawrence Martin Jenco, one of the five Americans held hostage in Lebanon. Her request was a simple one that came as a result of that family's weekly Monday evening meeting. She said that the family had thought it would be appropriate, given the special nature of the Statue of Liberty celebration and the anguishing loss of freedom of the hostages, to hold a moment of silence for the captives at the Independence Day ceremony.

It is frankly a good idea. It is a good idea for us to reflect for at least a moment on the value of freedom. It is a good idea for us to keep this issue on the front burner. It is a good idea for this Nation to continue to do everything we can to secure the safe release of our countrymen.

It is my sincere hope that the sense of this resolution will become a reality during our Nation's commemoration of freedom.

I would like to make special note of the comments of the Senator from Washington. It is my sense that in those comments he has clarified the principles of freedom, justice, and dignity. These are rights which we as a nation believe should exist for all people. The right to freedom should not be limited to Americans, but is something for which we must continue to struggle for our international neighbors as well. We share a particularly poignant bond with the French on this occasion. I thank my colleague from Washington for his leadership and support his suggestion for the inclusion of all of the hostages in this moment of silence.

Finally, I would like to insert the names of those colleagues who have extended their support to this effort and thank them and their staff members for their responsiveness and concern for the hostages in Lebanon.

I ask unanimous consent that these names and this statement be inserted into the RECORD.

Mr. DIXON, Mr. D'AMATO, Mr. MOYNIHAN, Mr. KENNEDY, Mr. KERRY, Mr. WILSON, Mr. DURENBERGER, Mr. LEVIN, Mr. MURKOWSKI, Mr. LAUTENBERG, Mr. ARMSTRONG, Mr. HART, Mrs. HAWKINS, Mr. SASSER, Mr. MITCHELL, Mr. NUNN, Mr. GRASSLEY, Mr. CRANSTON, Mr. GORE, Mr. HARKIN, Mr. MATTINGLY, Mr. INOUYE, Mr. BOSCHWITZ, Mr. HATCH, Mr. ZORINSKY, Mr. EVANS, Mr. PRYOR, Mr. RIEGLE, Mrs. KASSEBAUM, Mr. SYMMS, Mr. SPECTER, Mr. ANDREWS, and Mr. BRADLEY.

INDEPENDENCE DAY—NOT EVERYONE IS FREE

Mr. DIXON. Mr. President, this resolution calls for a moment of silence to be held on the Fourth of July. This time of reflection would take place during the official ceremonies for the rededication of the Statue of Liberty. It will be a time to remember the five Americans who are still being held hostage in Lebanon by the Islamic Jihad.

Father Lawrence Martin Jenco is from Joliet, IL. I have met with his family on several occasions. They continue to have faith in the humanity of the captors and the strength of Father Jenco, Terry Anderson of Florida, David Jacobson of California, Thomas Sutherland of Colorado and William Buckley of Massachusetts.

The American people must not forget that for 515 days, Father Jenco has been a prisoner. The others, too, have all been held for over a year.

The Fourth of July is traditionally a day which signifies freedom and happiness for most Americans. Our joy is greatly diminished, however, when we think about our fellow Americans being held as captives. Ironically, most of these victims had gone to Lebanon to help rebuild that torn nation and to ease the suffering of its citizens. Innocently, they were kidnaped from the streets of Beirut and forced into a dark and isolated world.

Thankfully, two of the hostages are now home—Jeremy Levin and Benjamin Weir. Their reports of the treatment of the others have been shocking. More recent reports indicate that they are no longer in isolation and are no longer being tortured. We can only hope that is the case. Yet, we must not forget these courageous and innocent Americans, victims of a much larger struggle, especially on our day of independence. I ask my colleagues therefore, to support this resolution for a moment in which our Nation can pray together for the release of the hostages so that they may return to their families and friends and enjoy the liberty that we all take advantage of each and every day.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 362) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

□ 2030

TAX REFORM ACT OF 1986

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD the text of the Tax Reform Act of 1986 (H.R. 3838) as amended and passed by the Senate on June 24, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the bill (H.R. 3838), as amended and passed by the Senate, will be printed in a subsequent edition of the RECORD.)

UNITED STATES SENTENCING COMMISSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 4801, a resolution to amend the United States Code to clarify certain duties of the U.S. Sentencing Commission, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection to the discharge by the committee of this resolution and there is likewise no objection to moving to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4801) to amend section 994 of title 28, United States Code, to clarify certain duties of the United States Sentencing Commission.

There being no objection the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 4801) was ordered to a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REFERRAL OF S. 1696 OR H.R. 1246

Mr. DOLE. Mr. President, I ask unanimous consent that when S. 1696, or the companion H.R. 1246, is reported from the Committee on Environment and Public Works, it then be sequentially referred to the Energy Committee for a period not to exceed 15 calendar days, and that the Energy

Committee be automatically discharged at the expiration of the 15-day period if it has not reported the legislation.

Mr. BYRD. The request has been cleared on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF S. 1767

Mr. DOLE. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 1767, Michigan Wilderness, and it be referred to the Agriculture Committee.

Mr. BYRD. Mr. President, the request for discharge of the bill, S. 1767 and for its further referral to the Agriculture Committee, has been cleared on this side, and there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished minority leader if he is in a position to pass any or all of the following calendar items:

Calendar No. 659, H.R. 237; Calendar No. 687, S. Res. 404; and Calendar No. 698, H.J. Res. 429.

Mr. BYRD. Mr. President, the three items identified by the distinguished majority leader have been cleared by all Members on this side, and there is no objection to the request.

Mr. DOLE. I thank the minority leader.

I ask unanimous consent that the calendar items just identified be considered en bloc and passed en bloc and all committee-reported amendments be considered agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

COLLECTION OF CERTAIN ATTORNEY'S FEES

The bill (H.R. 237) to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such act, was considered, ordered to a third reading, read the third time, and passed.

DESIGNATING THE COLLEGE OF WILLIAM AND MARY AS THE U.S. REPRESENTATIVE TO THE TERCENTENARY CELEBRATION OF THE GLORIOUS REVOLUTION

The resolution (S. Res. 404) to designate the College of William and Mary as the official U.S. representative to the Tercentenary celebration of the Glorious Revolution was considered.

TERCENTENARY CELEBRATION OF THE GLORIOUS REVOLUTION AND THE REIGN OF KING WILLIAM III AND QUEEN MARY II

● Mr. WARNER. Mr. President, today the Senate is considering Senate Resolution 404, which would designate the College of William and Mary the official U.S. representative to the Tercentenary Celebration of the Glorious Revolution. This resolution was unanimously reported out of the Senate Foreign Relations Committee. It is not controversial.

I would like to take this opportunity to thank my esteemed colleagues on the Foreign Relations Committee for recognizing the importance of this legislation to the Nation. I would also like to thank my distinguished colleague from Virginia for his fine stewardship of this resolution during committee deliberations.

In 1988 celebrations begin for the Tercentenary of the Revolution, which marked a fundamental change in the relationship between man and government. The accession of King William III and Queen Mary II to the English throne in 1688 with the revolution, produced the bill of rights and the philosophical and political foundations upon which our forefathers built these great United States.

To celebrate this historical triumph, the Governments of the Netherlands and the United Kingdom have established the William and Mary Tercentenary Committee. The Tercentenary Committee has invited the College of William and Mary in Virginia to join the celebration as the new world representative because the college was chartered by King William and Queen Mary in 1693.

Mr. President, I believe it only appropriate for the Senate to designate the College of William and Mary as the official U.S. representative to the Tercentenary celebration.

A year-long program is planned to fully investigate the ramifications of the Glorious Revolution and to educate the public of its importance to our Nation. Programs are being planned to make our citizens aware of the values England and the Netherlands held in the 17th century. Additionally, an international conference may address such areas as the proper extent of governmental authority, the colonial impact of the events in England, American perceptions of constitutionalism, the role the English bill of rights played in the adoption of the Bills of Rights in America, and the impact of 17th century philosophers on the formation of colonial attitudes.

The United States will also begin celebrating the Bicentennial of its Constitution in 1989. Opportunities to hold joint events with the Bicentennial Committee will enhance the celebrations of both our Constitution and the Glorious Revolution. The potential for public participation in these events is great.

Such a designation for the College of William and Mary will demonstrate to other participating nations America's strong support of this celebration. The College of William and Mary's enhanced ability to raise private funds would allow the United States to make a meaningful contribution to this event at no cost to Federal taxpayers. The required trans-Atlantic logistics and communications network demand substantial private resources. This resolution will help William and Mary raise the funds to fulfill these demands. Furthermore, I am not aware of any other organization seeking such a designation, nor of any objections to this resolution.

Mr. President, as a Virginian with a deep respect for history, I would like to remind my colleagues how the Glorious Revolution is rooted in our history and the principles we cherish. Through English history, and at the time of the Glorious Revolution, the concepts of property right, privilege and immunity, due process, and the limitation of governmental power, were subject to the political expediency of the throne, and the self-sufficing control of the Parliament. Freedom or persecution, for many individuals, depended on the whim and conscience of the throne and the majority party in Parliament.

In 1688, the accession of William and Mary set into motion great changes, establishing a pattern of events leading directly to the American Constitution. For the first time, the laws governing individuals and the Parliament's relationship with the monarchy—the Bill of Rights—were codified in written form. Its existence eventually led to the belief that individuals conducted themselves according to written laws, and not according to the changing desires of the monarch. The Parliament learned to limit executive authority and abuse by directly controlling the Government's revenues and limiting the size of the army and its ability to abuse power.

Parliamentary laws further diluted the crown's omnipotence. The Triennial Act of 1694 asserted the freedom of Parliament to assemble and ensured frequent elections, making permanent a crude system of checks and balances. Religious persecution was inhibited by the 1689 Toleration Act. Its implementation eventually helped erode the belief that the state should sanction certain religions. Freedom of the press flourished after the lapse of the Licensing Act in 1695, which the church had used to censor divergent views.

The personalities of King William and Queen Mary complemented the actions of Parliament: supporting moderation and pluralism in religious beliefs; breaking the long precedent of

pressuring judges, thus promoting the idea of an independent judiciary; and, administering the electoral and legal systems as the Parliament wished, contrasting with their predecessors, who perverted those systems for personal gain. In short, no other event introduced or strengthened so many principles we now hold so dear—the written Constitution, individual rights, freedom of speech and assembly, and the limitation of Government power—than did the Glorious Revolution.

The accession of William and Mary moved John Locke to publish Two Treatises of Government, in which he analyzed the characteristics of the accession and laid out a concise theory of government. John Locke's works were available to students at William and Mary, including Thomas Jefferson. Many of Jefferson's beliefs originated and were shaped during his years of higher education—at the College of William and Mary. The masters at the college were of the liberal spirit embodied in the enlightenment, and Locke's philosophy was taken for granted, so it is hardly a coincidence that Jefferson's beliefs closely mirrored Locke's. Locke's philosophy is deeply imbedded in the declaration of independence and our Constitution. For this, our great Nation is indebted to the Glorious Revolution.

Mr. President, it is my hope that my colleagues will support this admirable endeavor. Our forefather's education in the roots of democracy, as exemplified in the Glorious Revolution, proved indispensible for democracy. As our forefathers turned man's hopes into reality, so may these oppressed people realize their dreams of democracy. It is to these aspirations the Glorious Revolution's tercentenary celebrations are ultimately dedicated.

I urge my colleagues to support this resolution and ask unanimous consent that it be printed in the RECORD at the conclusion of these remarks.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution and the preamble are as follows:

S. RES. 404

Whereas the years 1988-1989 signify the three hundredth anniversary of the accession of King William III and Queen Mary II to the throne of England; and

Whereas the Governments of the Netherlands and the United Kingdom have established a William and Mary Tercentenary Committee for the purposes of celebrating this event in all appropriate ways, including historical, educational, horticultural, maritime, artistic, scientific, and performing arts activities; and

Whereas the Tercentenary Committee has invited the College of William and Mary in Virginia, founded by their joint majesties under a royal charter granted in 1693, to be the New World representatives of the William and Mary Tercentenary celebration;

Whereas the historical and cultural ties of the 1688-1689 period to the constitutional history of the United States of America are profound, including the beginnings of the limited and constitutional government and the establishment of the English Bill of Rights; and

Whereas the College of William and Mary desires to organize and participate in celebrations relating to the Tercentenary in this country and in the Netherlands and United Kingdom as appropriate: Now, therefore, be it

Resolved, That the College of William and Mary in Virginia is hereby designated as the coordinating body for the 1988-1989 celebrations relating to the world of William and Mary and its relationship to the former British colonies now known as the United States of America.

NATIONAL LITERACY DAY

The joint resolution (H.J. Res. 429) to designate July 2, 1986, as "National Literacy Day", was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the various measures were agreed to or passed en bloc.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ATLANTIC STRIPED BASS CONSERVATION ACT AMENDMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to Calendar No. 647, S. 1813, a bill to extend the Atlantic Striped Bass Conservation Act.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. BYRD. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1813) to amend and extend the Atlantic Striped Bass Conservation Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike out all after the enacting clause, and insert the following:

SECTION 1. DEFINITIONS.

Paragraphs (3), (4), and (7) of section 3 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) are amended to read as follows:

"(3) The term 'coastal waters' means—

"(A) for each coastal State referred to in paragraph (4)(A)—

"(i) all waters, whether salt or fresh, of the coastal State shoreward of the baseline from which the territorial sea of the United States is measured; and

"(ii) the waters of the coastal State seaward from the baseline referred to in clause (i) to the inner boundary of the exclusive economic zone;

"(B) for the District of Columbia, those waters within its jurisdiction; and

"(C) for the Potomac River Fisheries Commission, those waters of the Potomac River within the boundaries established by the Potomac River Compact of 1958.

"(4) The term 'coastal State' means—

"(A) Pennsylvania and each State of the United States bordering on the Atlantic Ocean north of the State of South Carolina;

"(B) the District of Columbia; and

"(C) the Potomac River Fisheries Commission established by the Potomac River Compact of 1958.".

"(7) The term 'Plan' means the Interstate Fisheries Management Plan for the Striped Bass, dated October 1, 1981, prepared by the Commission and all amendments thereto related to fishing, including application of the time table for size limits to all 1982 year class females and females of all subsequent year classes of Chesapeake Bay stocks taken in the coastal waters of each coastal state, as approved by the Commission's Striped Bass Board in October 1985, whether or not such language was formally adopted as an amendment to the Plan.".

SEC. 2. COMMISSION FUNCTIONS.

Section 4 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by—

(a) striking subsections (a) and (c) and redesignating subsections (b) and (d) as (a) and (b) respectively.

(b) amending subsection (a), as so redesignated, to read as follows:

"(a) MONITORING OF IMPLEMENTATION AND ENFORCEMENT.—

"(1) During December of fiscal year 1987, and of each fiscal year thereafter, the Commission shall determine:

"(A) whether each coastal State has adopted all regulatory measures necessary to fully implement the Plan in its coastal waters; and

"(B) whether the enforcement of the Plan by each coastal State is satisfactory. Enforcement by a coastal State shall not be considered satisfactory by the Commission if, in its view, the enforcement is being carried out in such a manner that the implementation of the Plan within its coastal waters is being, or will likely be, substantially and adversely affected.

"(2) The Commission shall immediately notify the Secretaries of each negative determination made by it under this subsection.".

(c) amending subsection (b), as so redesignated, by—

(1) striking "subsection (c)" and inserting in lieu thereof "subsection (a)";

(2) striking "Secretary shall determine" and inserting in lieu thereof "Secretaries shall determine jointly";

(3) striking "Secretary shall declare" and inserting in lieu thereof "Secretaries shall declare jointly"; and

(4) striking "the Secretary shall carefully consider and review the comments of the Commission, that coastal State in question, and the Secretary of the Interior" and inserting in lieu thereof "the Secretaries shall carefully consider and review the comments of the Commission and the coastal State in question".

SEC. 3. MORATORIUM.

Section 5(a)(2) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note)

is amended by striking "Secretary" and inserting in lieu thereof "Secretaries".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

"SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

"For each of fiscal years 1986, 1987, and 1988, there are authorized to be appropriated such sums as may be necessary or appropriate to carry out this Act.".

SEC. 5. EFFECTIVE PERIOD.

Section 9 of the Atlantic Striped Bass Conservation Act is amended by striking "18 months after the date of the enactment of this Act." and inserting in lieu thereof "at the close of September 30, 1988.".

SEC. 6. FUNDING OF STRIPED BASS STUDIES.

Section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 767g(d) is amended by striking "and September 30, 1986" and inserting in lieu thereof "September 30, 1986, September 30, 1987, and September 30, 1988".

AMENDMENT NO. 2197

Mr. DOLE. Mr. President, I send an amendment to the desk in behalf of Senator CHAFEE, an amendment to the committee substitute.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] for Mr. CHAFEE and Mr. STAFFORD, Mr. BENTSEN, Mr. MITCHELL, and Mr. BAUCUS, proposes an amendment numbered 2197.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 18, insert "(2)," immediately after "Paragraphs", strike the comma between "(3)" and "(4)" and insert in lieu thereof "and", and strike "(7)".

On page 5, after line 20, insert a new paragraph as follows:

"(2) The term 'Atlantic striped bass" means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A)(i).".

On page 6, strike lines 21 through 25, and on page 7, strike lines 1 through 6.

On page 8, strike lines 9 through 25, and insert in lieu thereof the following:

"(c) amending subsection (b), as so redesignated, to read as follows:

'(b) SECRETARIAL ACTION AFTER NOTIFICATION.—

Upon receiving notice from the Commission under subsection (a) that a coastal State has not taken the actions described in that subsection, the Secretaries shall determine jointly, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.'.".

On page 9, strike lines 2 through 4 and insert in lieu thereof the following:

"Section 5 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by—

(a) striking '(4)(d)' and inserting in lieu thereof '(4)(b)'.

(b) striking 'Secretary' and inserting in lieu thereof 'Secretaries'.".

On page 9, after line 22, insert a new section as follows:

"SEC. 7. TRANSFER OF MILES CITY NATIONAL FISH HATCHERY

Notwithstanding any other law, the Secretary of the Interior shall convey to the State of Montana, without reimbursement to the United States and no later than 30 days following enactment of this legislation, all of the rights (including all water rights), title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon. The property conveyed shall be used by the Montana Department of Fish, Wildlife and Parks as part of the Montana fishery resources management program. If the property conveyed is ever used for other than these purposes, title to such property shall revert to the United States.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2197) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

● Mr. CHAFEE. Mr. President, the legislation before us today concerns a topic that I have been working on since 1979—saving the Atlantic striped bass.

The 1984 Annual Report to Congress on the Emergency Striped Bass Research Study concluded that striped bass stocks are continuing to decline as a result of contamination, habitat degradation, and fishing. The relative contribution of these factors to the decline is still unknown. But recent studies published this past year indicate that management measures to reduce fishing mortality, if stringent enough, would reverse the downward trend in striped bass numbers even if the principal cause for that decline is environmental degradation of spawning areas and not fishing pressure.

Now, I do not want to suggest that habitat preservation and control of environmental contaminants are not important. In the long run they are essential if we are to have a commercial and recreational striped bass fishery. In the meantime, we must do everything possible to reverse the decline of striper stocks by placing tight interstate controls on fishing.

In 1983 the Atlantic States Marine Fisheries Commission amended their interstate fishery management plan for the striped bass to reduce fishing mortality by an additional 55 percent. The problem was that the Commission had no means of ensuring that the States actually adopted the regulations necessary to comply with these new requirements. We recognized that problem and that's why we enacted the Atlantic Striped Bass Conservation Act in 1984. What we did there was direct the Commission to report on how well the plan was being implemented by the various States. The Federal Government, then, was authorized to impose a moratorium on the taking of striped bass in any State that the Commission found was not in compliance with the interstate plan.

However, in hearings this past July, which I chaired in the Environmental Pollution Subcommittee, we heard that there was disagreement with the Commission's finding that all States had taken sufficient action to achieve the 55-percent reduction in fishing mortality called for more uniform management actions by the States and for a clear-cut way of determining whether a State had complied with the plan's requirements.

Because of the shortcomings of the plan and the controversy surrounding the Commission's decisions on State compliance with that plan, I introduced the legislation before us today, which would have allowed the Interior and Commerce Departments to make a decision independent of the Commission's on whether a State had complied with the plan.

Since that time, however, the Commission's State representatives, who recognized the shortcomings of the plan, adopted yet another amendment in October of last year. I am encouraged by this. It may do the trick. It is designed to ensure that 95 percent of all female stripers hatched in the Chesapeake Bay in 1982, and every year since then, have a chance to reproduce at least once before being caught.

Of even greater significance is that the States approved, with no dissent, a timetable for putting some tough limits on the minimum-size striped bass that can be kept by commercial fishermen and recreational anglers alike. By summer of next year, the smallest Chesapeake Bay-reared striper that may be taken legally will have to be at least 33 inches in length. I believe that this timetable for imposing size limits over the next 1½ years will provide uniformity in the State's approaches to complying with the plan and that it also will provide a straightforward means for the Commission to make decisions on State compliance.

The Commission's State representatives have made the hard decisions that may be unpopular with some but that are clearly required to protect the

striped bass. What I am proposing we do here today is amend and extend the current act, which expired April 30, to make sure that the States stick by their commitment to protect the Chesapeake Bay stocks of striped bass.

The Environment and Public Works Committee has approved a bill—S. 1813—that will ensure the proper protection for stripers. This legislation is supported by the other Senate committee concerned with management of the striped bass, the Committee on Commerce, Science, and Transportation, chaired by Senator DANFORTH.

The House already has approved similar legislation to amend and extend the 1984 Striped Bass Act. Like the Senate bill it gives the States a choice of either following through with what their representatives on the Commission approved or of having the Federal Government impose a moratorium on fishing in their coastal waters.

Both bills largely retain the present act's procedure of imposing and lifting moratoriums. Our legislation, however, requires that Federal decisions in this regard be made jointly by the Interior and Commerce Secretaries. Now, I understand that the Commerce Department objects to this shared role with the Interior Department. But full and equal participation by the Interior Secretary in these decisions is appropriate because Federal responsibilities, expertise, and participation in striped bass management are shared by the Commerce Department's National Marine Fisheries Service and the Interior Department's U.S. Fish and Wildlife Service.

Largely because the Commission adopted size limits, both the House and Senate bills would continue to give the Commission sole responsibility for determining whether a State is complying with the plan or enforcing it satisfactorily. In our bill these determinations would have to be made annually.

The amendments to the act in the Senate bill are intended to provide for coherent, continuing management of the stocks of striped bass that migrate through the waters of the Atlantic coast States, while retaining traditional State-Federal roles and responsibilities for fisheries management.

Mr. President, the committee does have a number of changes to make in the bill which we reported, and I now send an amendment to the desk on behalf of Senators STAFFORD, BENTSEN, MITCHELL, BAUCUS, and myself, for the purpose of making clarifying and technical improvements to S. 1813 and for other purposes, and ask for its immediate consideration.

Mr. President, our bill amended the definition of the term "plan", as used in the Striped Bass Act, to clarify that it includes the timetable for size limits approved by the Commission's striped bass board. That clarification has since been made in the report not only of our committee, but more importantly, in the report of the House Committee on Merchant Marine and Fisheries. Consequently, the amendment by the leadership of the Environment and Public Works Committee would delete the clarifying amendment made by S. 1813 in the act's definition of the term "plan".

The committee amendment to S. 1813 also transfers the Miles City National Fish Hatchery from the U.S. Fish and Wildlife Service to the State of Montana. If the property conveyed to Montana is ever used for something other than fishery resources management, the title to the property reverts to the United States.

Finally, the amendment makes a number of technical and clarifying changes.

I understand that the leadership of the Committee on Commerce, Science, and Transportation has no objection to these changes to S. 1813.

I move adoption of the amendment.●

● Mr. DANFORTH. Mr. President, I would like to express my support for reauthorization of the Atlantic Striped Bass Conservation Act. The striped bass has been called the aquatic equivalent of the American bald eagle. These fish spawn in rivers from Florida to Canada, although a great portion of their lives is spent migrating along the North American coast of the Atlantic Ocean. This magnificent creature is a delectable tablefish as well as a prized game fish.

For a number of reasons striped bass stocks have been in severe decline over the past 15 years. Because they cross through the jurisdiction of many different States, no one State can effectively manage this valuable resource. To assure that the striped bass remain for future generations, an interstate conservation regime is the only alternative to a coastwide moratorium on all harvesting of this fish. The Atlantic Striped Bass Conservation Act allows for the implementation of just such an agreement. The Atlantic States Marine Fisheries Commission, which is comprised of representatives from all States on the Atlantic coast, develops management plans for striped bass. Under the Striped Bass Conservation Act, individual States have the choice of either complying with the plan or having a moratorium on fishing for striped bass in their waters.

The amendments we are proposing today extend and strengthen the Atlantic Striped Bass Conservation Act. The definiton of coastal waters is amended to include waters of the Potomac River and the District of Columbia. The Commission is required to determine on an annual basis whether each coastal State has adopted measures necessary to fully implement the plan. If a State is not in compliance with the interstate plan, the Secretaries of Commerce and Interior would jointly declare a moratorium on fishing in that State.

I applaud Senator CHAFEE for his efforts with respect to this legislation. The Senator from Rhode Island has a longstanding interest in the health and management of striped bass. The Commerce Committee and the Environment and Public Works Committee share jurisdiction over this bill. We appreciate the cooperation that Senator CHAFEE and the Environment and Public Works Committee staff have shown throughout the deliberations on this measure.●

● Mr. HOLLINGS. Mr. President, Atlantic striped bass have long been a prized gamefish and major commercial catch. In early American history striped bass was found as far north as the St. Lawrence River in Canada and as far south as the St. Johns River in Florida. South Carolina's Santee-Cooper lakes harbor fresh water striped bass stocks that are treasured by our recreational fishermen. They have been as popular in South Carolina as in the States of my northern neighbors, and we have also had to take firm management measures to avoid overfishing. In acknowledgment of its importance to South Carolina's anglers, the striped bass has been designated the official State fish. I support the reauthorization of the Atlantic Striped Bass Conservation Act in order to check the recent disastrous decline in striped bass stocks.

Striped bass stocks have been in decline for a number of years due to pollution, habitat destruction, and heavy fishing pressure. The fish know no boundaries, however, and no one State has been able to restrain the decline. Each of the States from Maine to North Carolina has had different policies regarding striped bass, but due to the migratory nature of the fish this incoherent management scheme has been ineffective.

To remedy this problem, the Atlantic States Marine Fisheries Commission, comprised of representatives from each of the Atlantic States, put forth an interstate management plan for striped bass in 1981. The Striped Bass Conservation Act originated shortly thereafter as a companion to the Commission's fisheries management plan. Under the act, the Commission evaluates the compliance of each State with the goals and policies stated in the striped bass plan and reports on the status of management to the Secretary of Commerce. If a State is not in compliance, a moratorium may be imposed by the Secretary on that State's striped bass fishery.

The amendments proposed in S. 1813 extend and strengthen the Atlantic Striped Bass Conservation Act. The

definition of coastal waters is amended to include waters of the Potomac River and the District of Columbia. This will allow the act to cover the full range of the important Chesapeake Bay striped bass stocks. The Commission will determine States' compliance with the striped bass plan goals on an annual basis. If a State is not in compliance, the Secretaries of Commerce and Interior will jointly declare a moratorium on fishing in that State.

The Senate Commerce Committee and the Environment and Public Works Committee shared jurisdiction over S. 1813. It has been a pleasure to work with the Environment Committee on this issue. I urge passage of this bill.●

TRANSFER OF THE MILES CITY NATIONAL FISH HATCHERY TO THE STATE OF MONTANA

● Mr. BAUCUS. Mr. President, I rise in support of the committee amendment, which I requested, to transfer the Miles City National Fishery Hatchery to the State of Montana. Both the State and the U.S. Fish and Wildlife Service have endorsed this transfer.

For over 40 years, the hatchery was operated by the Federal Government. But in 1983, the Federal Government decided to pull out. Since 1983, the Montana Department of Fish, Wildlife and Parks has operated the hatchery under a lease agreement with the U.S. Fish and Wildlife Service.

Under the States direction, production at the hatchery has increased dramatically. The State-managed hatchery produced in its first year almost eight times as many walleye fry, three times as many walleye fingerlings, five times as many northern pike fingerlings and twice as many smallmouth bass as had been produced in the average of the last 3 years' production under Federal operation. The hatchery also began production of crappie, which had not been reared recently at Miles City.

Despite the improved production under State management, more fish need to be produced at the hatchery for eastern Montana waters. A significant portion of the hatchery's production also is needed for the Fort Peck Reservoir, a Federal impoundment.

To meet these goals, the State has proposed to invest $4.9 million to improve and expand production at the Miles City Fish Hatchery.

But the lease between the State and the U.S. Fish and Wildlife Service is a year-by-year lease and can be broken on a short-term notice. Under this type of arrangement, the State cannot reasonably invest in the facility.

The Fish and Wildlife Service no longer needs this facility. The Service no longer plans to operate the hatchery.

Yet, without improvements, the hatchery doesn't meet the States needs. Montana needs an expanded facility. The Federal fish hatchery was constructed with public moneys. It should continue to be available to meet a public need.

This amendment would meet both needs. The Miles City Fish Hatchery would be transferred to the State of Montana. A public resource would be used for public benefit.

This transfer would be accomplished without any cost to the Federal Government. The amendment would ensure the continued use of the property for fish conservation and for maintaining the legendary sport fishing of Montana.

The amendment also specifies that the property would be used as part of the Montana Fishery Resources Program, and if ever used for other than these purposes, ownership would revert to the United States.

In short, all parties are anxious to see ownership of the Miles City Fish Hatchery transferred to the State of Montana. The State has demonstrated its ability to manage the facility. The facility would continue to be used for resource conservation.

The State has completed plans for $4.9 million in improvements. Work will begin on these improvements as soon as the State gains title to the property. Congress needs to act swiftly, so that this year's construction season will not be lost.

I strongly urge your support of this amendment.●

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to Calendar No. 637, H.R. 3358, the House companion bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3358) to reauthorize the Atlantic Striped Bass Conservation Act, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. DOLE. Mr. President, I move to strike all after the enacting clause and insert the text of S. 1813, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 3358) was passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that, if conferees are appointed to consider H.R. 3358, legislation to reauthorize the Atlantic Striped Bass Conservation Act, the Chair shall be authorized to appoint two members of the Committee on Commerce, Science, and Transportation, one majority and one minority, as conferees for the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that Calendar No. 647 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. DOLE. Mr. President, I inquire of the distinguished minority leader if he is in a position to confirm any of the following nominations on the Executive Calendar.

Calendar No. 908, Robert B. Helms;

Calendar No. 909, Ronald F. Docksai;

Calendar No. 910, Michael R. Darby;

Calendar No. 912, Joyce Doyle;

Calendar No. 913, Diana D. Denman;

Calendar No. 914, James S. Rosebush;

Calendar No. 916, Under the Air Force;

Calendar No. 917-918, Under the Army;

Calendar No. 919-920, Under the Navy;

Calendar No. 921, Edward V. Hickey, Jr.;

Calendar No. 922, Evelyn E. Crawford Queen.

All nominations placed on the Secretary's desk, with the exception of Edwin Corr.

Mr. BYRD. Mr. President, all of the calendar numbers identified by the distinguished majority leader have been cleared by all Members on this side and so we are ready to proceed.

Mr. DOLE. I thank the distinguished minority leader.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I, therefore, ask unanimous consent that the Senate go into executive session to consider the nominations just identified and that they be considered en bloc and confirmed en bloc.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The nominations are considered en bloc and confirmed en bloc.

The nominations considered en bloc and confirmed en bloc are as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Robert B. Helms, of Maryland, to be an Assistant Secretary of Health and Human Services.

Ronald F. Docksai, of Virginia, to be an Assistant Secretary of Health and Human Services.

DEPARTMENT OF THE TREASURY

Michael R. Darby, of Texas, to be an Assistant Secretary of the Treasury.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Joyce Doyle, of New York, to be a member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 1992, reappointment.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Diana D. Denman, of Texas, to be a member of the National Museum Services Board for a term expiring December 6, 1990, vice Liles B. Williams, term expired.

James S. Rosebush, of the District of Columbia, to be a member of the National Museum Services Board for a term expiring December 6, 1989.

IN THE AIR FORCE

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Brig. Gen. Gene A. Budig, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Wayne O. Burkes, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Charles W. Harris, [redacted] FG, Air National Guard of the United States.

To be brigadier general

Col. Patrick S. Boab, [redacted] FG, Air National Guard of the United States.

Col. John D. Campbell, [redacted] FG, Air National Guard of the United States.

Col. Wallace P. Carson, Jr., [redacted] FG, Air National Guard of the United States.

Col. Robert J. Dwyer, [redacted] FG, Air Natioal Guard of the United States

Col. Timothy T. Flaherty, [redacted] FG, Air National Guard of the United States.

Col. Frank B. Holman, [redacted] FG, Air National Guard of the United States.

Col. Harvey D. McCarty, [redacted] FG, Air National Guard of the United States.

Col. Edward E. Parsons, Jr., [redacted] FG, Air National Guard of the United States.

Col. Edward J. Philbin, [redacted] FG, Air National Guard of the United States.

Col. Thomas J. Quarelli, [redacted] FG, Air National Guard of the United States.

Col. LeRoy Thompson, [redacted] FG, Air National Guard of the United States.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Donald M. Babers, [redacted], age 54, U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code 601, to be reassigned to a position of importance and responsiblity designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Daniel L. Cooper, [redacted] 1120, U.S. Navy.

FEDERAL MARITIME COMMISSION

Edward V. Hickey, Jr., of Virginia, to be a Federal Maritime Commissioner for the term expiring June 30, 1991, reappointment.

THE JUDICIARY

Evelyn E. Crawford Queen, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years, vice George H. Revercomb.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, SENIOR FOREIGN SERVICE

Air Force nomination of Ervin J. Rokke, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of June 16, 1986.

Army nominations beginning Abraham A. Ghiatas, and ending Joey C. Dobbins, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 16, 1986.

Army nomination of Michael D. Mantooth, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of June 16, 1986.

Marine Corps nominations beginning William H. Alley, Jr., and ending William R. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 19, 1986.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the various nominations were confirmed en bloc.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

□ 2040

PROHIBITING CERTAIN ACTIVITIES WITH RESPECT TO SOUTH AFRICA

Mrs. KASSEBAUM. Mr. President, today I am introducing legislation that I had hoped would never become necessary. However, events in South Africa in recent weeks have forced me to conclude that it is essential for us to take a much tougher stand on that Government's repressive policies. Therefore, today I am introducing a bill to add new restrictions on American economic and other links with South Africa.

I had hoped that the Government of South Africa would come to grips with the realities that confront it and take significant steps to produce peaceful change. However, 5 years of cooperative, conciliatory American policy to encourage such a process has now reached a dead end.

The Government of South Africa now has adopted an attitude of defiance and confrontation. It has become so intransigent that our policies appear to be entirely irrelevant. The Government simply does not care about what we think or do, and goes out of its way to tell us so.

Given this state of affairs, there are few good options available to us. I believe it is vital, however, that the United States respond forcefully to the present trend of events in South Africa. It is for that reason that I offer this legislation.

The bill does three main things. First, it puts into law the President's Executive order on South Africa, which otherwise would expire this September.

Second, it mandates additional restrictions on new bank loans and new investments in South Africa and on landing rights of South African Airways in the United States. These provisions are similar to those contained in legislation introduced by Senators KENNEDY and WEICKER.

Third, it sets guidelines for American stockpiling of South African strategic minerals and aid to black South Africans.

This bill is intended to send a strong message to the Government of South Africa that its policies of repression are unacceptable, and to clearly establish the consequences for the South African Government's continuing refusal to embark on a course of negotiation with black South Africans.

The Government's recent efforts to control black unrest by force are not only morally objectionable; they also will not work. Black disaffection and insistence on change are growing inexorably. If the South African Government does not begin negotiations for political change soon, it may find that that option is lost forever to a violent alternative.

I believe that the United States has a responsibility to convey this reality to the South African Government, and to convey that message in very tangible terms.

I am well aware that South Africa often sees outside pressure as an attempt to coerce or impose a solution.

But the growing feeling in the West that economic pressure is needed does not reflect willful interventionism. Rather it has been prompted by the actions of the South African Government itself, which have convinced many that South Africa is on a road to ruin.

I am also aware that Western pressure, no matter how skillfully applied, cannot solve the problems in South Africa. I am very concerned that many in the United States and in South Africa have unrealistic expectations about what outside pressure can accomplish, which could lead to disappointment.

Nevertheless, with all the limitations and problems, I think that the time has come for tangible actions to put pressure on the South African Government. I believe that the measures in this bill represent a reasonable balance between the need for pressure and the costs that inevitably must be paid by those we are trying to help.

I think it is very important that the United States coordinates its actions toward South Africa with other Western countries, and that the West present a united front to South Africa. Accordingly, I offer these proposals with the hope that, if enacted, they would be implemented in close cooperation with other Western governments.

I hope that this bill can form the basis for a constructive debate about our South Africa policy, which can lead to a consensus that reflects our common purposes in opposing apartheid and seeking peaceful change in that important nation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "South African Restrictions Act of 1986".

SEC. 2. PROHIBITIONS ON LOANS TO, NEW INVESTMENT IN, AND OTHER ACTIVITIES INVOLVING SOUTH AFRICA.

(a) PROHIBITIONS.—No United States person may, directly or through another person—

(1) make any loan or other extension of credit to, or provide funds for the purpose of making a loan or other extension of credit to, the Government of South Africa or any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as determined under regulations which the President shall issue; or

(2) otherwise make any investment in South Africa.

(b) EXCEPTIONS.—

(1) The prohibition contained in subsection (a)(1) shall not apply to any loan or extension of credit for which an agreement is entered into before June 1, 1986.

(2) The prohibition contained in subsection (a)(2) shall not apply to an investment which consists of earnings derived from a business enterprise in South Africa established before June 1, 1986, and which is made in that business enterprise.

SEC. 3. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.

(a) PROHIBITION.—Notwithstanding any other provision of law, including any international agreement, the Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by an air carrier owned, directly or indirectly, by the Government of South Africa, by South African nationals or, in the case of an aircraft which is scheduled to land in or which has taken off from South Africa, an air carrier owned, directly or indirectly, by United States nationals.

(b) EXCEPTIONS FOR EMERGENCIES.—The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) DEFINITIONS.—For purposes of this section, the terms "aircraft" and "air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

SEC. 4. LABOR PRACTICES OF UNITED STATES FIRMS IN SOUTH AFRICA.

(a) It is the policy of the United States to encourage strongly all United States firms in South Africa to adhere to fair labor principles which have benefited those in South Africa who have been disadvantaged by the apartheid system.

(b) Accordingly, no department or agency of the United States may intercede with any foreign government regarding the export marketing activity in any country of any national of the United States employing more than 25 individuals in South Africa who does not adhere to the principles stated in subsection (c) with respect to that national's operations in South Africa. The Secretary of State shall promulgate regulations to further define the employers that will be subject to the requirements of this subsection and procedures to ensure that such nationals may register that they have adhered to the principles.

(c) The principles referred to in subsection (b) are as follows:

(1) Desegregating the races in each employment facility;

(2) Providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) Assuring that the pay system is applied to all employees without regard to race or ethnic origin;

(4) Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families;

(5) Increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) Taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health;

(7) Implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(d) It is the sense of the Congress that United States nationals referred to in subsection (b) should take reasonable measures to extend the scope of their influence on activities outside the workplace, by measures such as supporting the right of all businesses, regardless of the racial character of their owners or employees, to locate in urban areas, by influencing other companies in South Africa to follow the standards specified in subsection (c), by supporting the freedom of mobility of all workers, regardless of race, to seek employment opportunities wherever they exist, and by making provision for adequate housing for families of employees within the proximity of the employee's place of work.

SEC. 5. LABOR AND PROCUREMENT PRACTICES OF THE UNITED STATES GOVERNMENT IN SOUTH AFRICA.

(a) The Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall promptly take, to the extent permitted by law, the necessary steps to ensure that the labor practices described in section 2(c) are applied to their South African employees.

(b) The Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable and to the extent permitted by law, in procuring goods or services in South Africa, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by persons in South Africa disadvantaged by the apartheid system.

SEC. 6. PROHIBITION ON THE IMPORT OF MILITARY ARTICLES.

No arms, ammunition, or military vehicles produced in South Africa or of any manufacturing data for such articles may be imported into the United States.

SEC. 7. ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS.

Chapter 4 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 535. ECONOMIC SUPPORT FOR DISADVANTAGED SOUTH AFRICANS.—(a) Not less than $25,000,000 of the funds authorized to be appropriated to carry out this chapter for the fiscal year 1987 and each fiscal year thereafter shall be available for assistance for disadvantaged South Africans. Assistance under this section shall be provided for activities that are consistent with the objective of a majority of South Africans for an end to the apartheid system and the establishment of a society based on non-racial principles. Such activities may include scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise, alternative education and community development programs.

"(b)(1) Not less than $1,500,000 of the amounts provided in each fiscal year pursuant to subsection (a) shall be available to carry out with respect to South Africa the human rights purposes described in section 116(e)(2)(A) of this Act, of which not less than 35 percent shall be used for direct legal and other assistance to political detainees and prisoners and their families and for support for actions of black-led community organizations to resist, through non-

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violent means, the enforcement of apartheid policies.

"(2)(A) Except as provided in subparagraph (B), grants under this subsection may not exceed $10,000.

"(B) Of the amounts allocated to carry out this subsection, $100,000 shall be available each fiscal year only for grants to organizations which have available for their use resources whose value is at least equal to the amount of the grant under this subsection. Grants of up to $30,000 may be made to organizations. For purposes of this subparagraph, the term "resources" includes, in addition to cash assets, in-kind assets and contributions such as equipment, materials, and staff and volunteer time.

"(c) Assistance provided pursuant to the section shall be made available notwithstanding any other provision of law and shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa. Nothing in this subsection may be construed to prohibit programs which are consistent with subsection (a) and which award scholarships to students who choose to attend South African-supported institutions.

"(d) In providing assistance pursuant to this section, priority shall be given to working with and through South African nongovernmental organizations which are community-based and whose leadership and structure represent and have the support of the disadvantaged communities being served. Private organizations not based in the community, but which provide needed services to disadvantaged South Africans, may also receive assistance if such organizations and their programs have the demonstrable support of the disadvantaged communities being served.".

SEC. 8. NUCLEAR TRADE BETWEEN THE UNITED STATES AND SOUTH AFRICA.

(a) Notwithstanding any other provision of law—

(1) no license may be issued for the export to South Africa of goods or technology which are to be used in a nuclear production or utilization facility, or which, in the judgment of the Secretary of State, are likely to be diverted for use in such a facility;

(2) no authorization to engage, directly or indirectly, in the production of any special nuclear material in South Africa may be given;

(3) no license may be issued for the export to South Africa of component parts or other items or substances especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes; and

(4) no retransfer to South Africa of any goods, technology, special nuclear material, components, items or substances described in paragraph (1), (2), or (3) may be approved.

(b) Nothing in this section precludes assistance for International Atomic Energy Agency (IAEA) safeguards or IAEA programs generally available to the member countries of the IAEA, or for technical programs for the purpose of reducing proliferation risks, such as for reducing the use of highly enriched uranium and activities envisaged by section 223 of the Nuclear Waste Policy Act (42 U.S.C. 10203) or for exports which the Secretary of State determines are necessary for humanitarian reasons to protect the public health and safety.

(c) The Secretary of State, the Secretary of Energy, the Secretary of Commerce, and the Secretary of the Treasury may prescribe such regulations as may be necessary to carry out this section.

SEC. 9. EXPORTS TO SOUTH AFRICAN GOVERNMENT.

(a) No computers, computer software, or goods or technology intended to service computers may be exported, directly or indirectly, to or for use by any of the following entities of the Government of South Africa:

(1) The military.

(2) The police.

(3) The prison system.

(4) The national security agencies.

(5) ARMSCOR and its subsidiaries or the weapons research activities of the Council for Scientific and Industrial Research.

(6) The administering authorities for the black passbook and the book of life systems.

(7) Any apartheid enforcing agency.

(8) Any local, regional, or homelands government entity which performs any function of any entity described in paragraphs (1) through (7).

(b)(1) Computers, computer software, and goods or technology intended to service computers may be exported, directly or indirectly, to or for use by an entity of the Government of South Africa other than those set forth in subsection (a) only if a system of end use verification is in effect to ensure that the computers involved will not be used for any function of any entity set forth in subsection (a).

(2) The Secretary of Commerce may prescribe such rules and regulations as may be necessary to carry out this section.

(c) For purposes of this section, the term "computer" includes any computer that is the direct product of technology of United States origin.

SEC. 10. REGULATORY AUTHORITY.

The President shall issue such regulations, licenses, and orders as are necessary to carry out this Act. The President shall issue such regulations not later than 90 days after the date of the enactment of this Act.

SEC. 11. ENFORCEMENT AND PENALTIES.

(a) AUTHORITY OF THE PRESIDENT.—Subject to subsection (b), the President shall take the necessary steps to ensure compliance with this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with this Act and such regulations, licenses, and orders. In ensuring such compliance, the President may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(b) PENALTIES.—

(1) FOR PERSONS OTHER THAN INDIVIDUALS.—Any person, other than an individual, that knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than $500,000.

(2) FOR INDIVIDUALS.—Any individual who knowingly violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(c) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Whenever a person commits a violation under subsection (b)—

(A) any officer, director, or employee of such person, or any natural person in control of such person who willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who willfully carried out such act or practice,

shall be fined not more than $250,000, or imprisoned not more than 5 years, or both.

(2) RESTRICTION ON PAYMENT OF FINES.—A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d) SEIZURE AND FORFEITURE OF AIRCRAFT.—Any aircraft used in connection with a violation of section 3 or any regulation, license, or order issued to carry out that section shall be subject to seizure by and forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of such articles or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this subsection, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

SEC. 12. SOUTH AFRICAN STRATEGIC MINERALS.

The President shall review existing stockpile and contingency plans for ferrochrome, ferromanganese, platinum, and vanadium, to ensure that United States Government stockpiles of these minerals, together with domestic production and conservation capabilities, are adequate to meet defense and commercial needs in the event of a cutoff of supply of these minerals from South Africa for a period of up to three years.

SEC. 13. REPORTING REQUIREMENT.

(a) Not later than 90 days after the date of enactment of this Act, the President shall prepare and transmit to the Congress a report on the value, in terms of dollar amount and military significance, of American military technology transferred to South Africa, including any such technology transferred through third countries.

(b) Not later than twelve months after the transmittal of a report under subsection (a), and every twelve months thereafter, the President shall prepare and transmit to the Congress a report setting forth the value, in terms of dollar amount and military significance, of such technology transferred during the preceding twelve months.

SEC. 14. PROHIBITION ON THE IMPORTATION OF KRUGERRANDS.

(a) No person, including a bank, may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

(b) For purposes of this section, the term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

SEC. 15. CONSULTATION AMONG GOVERNMENT AGENCIES.

In carrying out their respective functions and responsibilities under this Act, the Secretary of the Treasury and the Secretary of Commerce shall consult with the Secretary of State. Each such Secretary shall consult,

as appropriate, with other government agencies and private persons.

SEC. 16. POLICY TOWARD FRONTLINE STATES.

It is the sense of the Congress that the President should discuss with the governments of the African "frontline" states the effects on them of disruptions in transportation or other economic links through South Africa and of means of reducing those effects.

SEC. 17. TERMINATION OF CERTAIN PROVISIONS.

The provisions of sections 2, 3, 6, 8, 9, 12, and 14 and all regulations, licenses, and orders issued to carry out such provisions shall terminate upon the certification by the President to the Congress that the Government of South Africa—

(1) has freed Nelson Mandela and all political prisoners, and has entered into good faith negotiations with truly representative leaders of the black majority for a new political system; or

(2) has totally dismantled the apartheid system.

SEC. 18. DEFINITIONS.

For purposes of this Act—

(1) UNITED STATES PERSON.—The term "United States person" means any United States resident or national and any partnership, corporation, or other entity organized under the laws of the United States or of any of the several States, of the District of Columbia, or of any commonwealth, territory, or possession of the United States.

(2) INVESTMENT IN SOUTH AFRICA.—The term "investment in South Africa" means—

(A) a commitment of funds or other assets (in order to earn a financial return) to a business enterprise located in South Africa or owned or controlled by South African nationals, including—

(i) a loan or other extension of credit made to such a business enterprise, or security given for the debts of such a business enterprise;

(ii) the beneficial ownership or control of a share or interest in such a business enterprise, or of a bond or other debt instrument issued by such a business enterprise; or

(iii) capital contributions in money or other assets to such a business enterprise; or

(B) the control of a business enterprise located in South Africa or owned or controlled by South African nationals, in cases in which subparagraph (A) does not apply.

(3) SOUTH AFRICA.—The term "South Africa" includes—

(A) the Republic of South Africa;

(B) any territory under the administration, legal or illegal, of South Africa; and

(C) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

(4) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage, and any corporation, partnership, or other organization which is owned or controlled by the Government of South Africa, as determined under regulations which the President shall issue.

(5) BRANCH.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through a separate incorporated entity.

(6) SOUTH AFRICAN NATIONAL.—The term "South African national" means—

(A) a citizen of South Africa; and

(B) any partnership, corporation, or other entity organized under the laws of South Africa.

(7) CONTROL BY SOUTH AFRICAN NATIONALS.—South African nationals shall be presumed to control a business enterprise or foreign bank if—

(A) South African nationals beneficially own or control (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the business enterprise or bank;

(B) South African nationals beneficially own or control (whether directly or indirectly) 25 percent or more of the voting securities of the business enterprise or bank, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(C) the business enterprise or bank is operated by South African nationals pursuant to the provisions of an exclusive management contract;

(D) a majority of the members of the board of directors of the business enterprise or bank are also members of the comparable governing body of a South African national;

(E) South African nationals have the authority to appoint a majority of the members of the board of directors of the business enterprise or bank; or

(F) South African nationals have the authority to appoint the chief operating officer of the business enterprise or bank.

(8) CONTROL BY UNITED STATES PERSONS.—A United States person shall be presumed to control a business enterprise in South Africa if—

(A) the business enterprise is operated by the United States person pursuant to the provisions of an exclusive management contract;

(B) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of the United States person;

(C) the United States person has the authority to appoint a majority of the members of the board of directors of the business enterprise; or

(D) the United States person has the authority to appoint the chief operating officer of the business enterprise.

(9) LOAN.—The term "loan" includes an extension of credit as defined in section 201(h) of the Credit Control Act (12 U.S.C. 1901(h)).

(10) BANK.—The term "bank" means—

(A) any depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A));

(B) any corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.);

(C) any corporation having an agreement or undertaking with the Federal Reserve Board under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.); and

(D) any bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)).

SEC. 19. APPLICABILITY TO EVASIONS OF ACT.

This Act and the regulations issued to carry out this Act shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this Act or such regulations.

SEC. 20. CONSTRUCTION OF ACT.

Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in section 18(a)(3)(C).

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 9:15 p.m., with Senators permitted to speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPEACHMENT TRIAL

Mr. BYRD. Mr. President, on behalf of the distinguished majority leader and myself, I am about to submit a Senate resolution for appropriate referral to the Committee on Rules and Administration.

Mr. President, by way of explanation of the reasons for the resolution, on June 3 the chairman of the Committee on the Judiciary of the House of Representatives, Mr. RODINO, introduced House Resolution 461, a resolution calling for the impeachment of Judge Harry E. Claiborne, chief judge of the U.S. District Court for the District of Nevada.

If impeachment is voted by the House with respect to Judge Claiborne, the Senate could be faced this year with conducting the first impeachment trial in 50 years. The last instance involved the impeachment trial of Judge Halstead L. Ritter, U.S. district judge for the southern district of Florida, in 1936.

The last time the Senate rules and precedents applicable to impeachment trials were examined in depth was in 1974, in anticipation of a possible impeachment trial of President Nixon. In my capacity at that time as assistant majority leader, I cosponsored a leadership resolution—Senate Resolution 370—that was adopted by the Senate, which directed the Rules Committee to review the existing rules and precedents that apply to impeachment trials, with a view to recommending to the Senate "any revisions, if necessary, which may be required if the Senate is called upon to conduct such a trial." The Rules Committee, acting at several executive sessions pursuant to the direction of Senate Resolution 370, conducted a thorough review and study of the impeachment trial rules and practices. I chaired certain of those executive sessions in my capacity as chairman of the Subcommittee on Standing Rules of the Senate and I participated extensively in the committee's work. As a result of our deliberations, the committee concluded that certain amendments to the present "rules of procedure and practice in the Senate when sitting on impeachment trials" were desirable. Those proposed amendments were embodied in Senate Resolution 390, which the Rules Committee ordered reported to the Senate as an original

resolution on August 21, 1974. No further action was taken by the Senate on that resolution.

Mr. President, the Senate Resolution 390 which was reported by the Rules Committee in 1974 contained some very significant proposed amendments to the rules. Those proposals should again be considered by the Rules Committee, and soon, especially in view of the possibility that there might be an impeachment trial in the Senate before the end of this year.

Parenthetically, may I state that I called the Speaker of the House of Representatives today to inquire as to how soon the House of Representatives would take up the impeachment resolution in the event that that resolution is reported out by the Judiciary Committee. The Speaker informed me that it would be the intention of the House leadership to take the matter up before the House very soon following the recess for the Independence Day holiday.

So this would mean that, in the event the House acts on that resolution promptly, as the Speaker indicated that it would do, and in the event that the matter comes over to the Senate, the Senate then would be confronted with the immediate prospects of—it could be immediate, and certainly before the end of the year—with the prospects of conducting a trial of Judge Claiborne in accordance with the Constitution.

In order to prepare for such eventuality, then, I have offered the resolution on behalf of the distinguished majority leader and myself, which will direct the Rules Committee to "review any and all existing rules and precedents that apply to impeachment trials with a view to recommending any revisions, if necessary, which may be required if the Senate is called upon to conduct such a trial." The resolution instructs the committee to report back to the Senate "no later than August 1, 1986." This is the same manner by which this process was initiated in 1974.

I have also discussed with the distinguished majority leader the submission of a resolution authorizing the printing of additional copies of a document entitled "Procedure and Guidelines for Impeachment Trials in the United States Senate," which was prepared at my request and direction in 1974.

I will shortly send that resolution to the desk on behalf of the distinguished majority leader and myself.

I thank the distinguished majority leader for his cosponsorship of these resolutions. I now send them to the desk and, of course, they will be referred appropriately.

I ask unanimous consent that they also be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

S. RES. 438

Resolved, That the Committee on Rules and Administration is directed to review any and all existing rules and precedents that apply to impeachment trials with a view to recommending any revisions, if necessary, which may be required if the Senate is called upon to conduct such a trial.

Resolved further, That the Commmittee on Rules and Administration is instructed to report back no later than August 1, 1986.

S. RES. 439

Resolved, That Senate Document 93-102, 93rd Congress, 2nd Session, entitled "Procedure and Guidelines for Impeachment Trials in the United States Senate" be reprinted as a Senate document and that there be printed, in addition to the usual number of copies of such document, such additional copies as are allowed to be printed under the limitations imposed by section 703 of title 44, United States Code.

Mr. BYRD. Mr. President, I thank the distinguished majority leader and I yield the floor.

Mr. DOLE. Mr. President, let me thank the distinguished minority leader for taking the initiative. I think it is well that we be prepared because, as I understand the conversation with the Speaker, in addition to a brief comment I had with the Republican leader in the House, BOB MICHEL, if it is going to be over here, we might as well be brought up to date and be prepared.

So I wish to thank the distinguished minority leader for taking this initiative.

Mr. BYRD. I again thank the majority leader.

THE BUDGET CONFERENCE REPORT

Mr. DOLE. Mr. President, let me also indicate that at 8:30 the House and Senate budget conferees went back to see if they could agree on a budget conference document. I am not certain how long that will take and I am not certain how long it will take the House to act if there should be an agreement.

□ 2050

But we would like to complete action on the budget conference report before we leave here this weekend. I hope that we can do it without a RECORD vote. A number of our colleagues on each side I do not think will find it too convenient to come in here at midnight or after to vote. I think the only other alternative is to decide the fact it will happen and we will put it off until a reasonable hour tomorrow.

So I hope that my colleagues who have indicated they wanted a RECORD vote will take a careful look at the document, if it is agreed to by the House and Senate budget conferees, and perhaps we can avoid a rollcall vote. I think some of us are willing to stay here most of the night to await the budget conference report but I am not certain that it would be fair to many of our colleagues to call them out of bed to come back for a RECORD vote. It would seem to me the better thing to do would be come back in tomorrow morning or sometime before noon and take it up at that time.

Mr. BYRD. Mr. President, I share with the distinguished majority leader the hope that this matter can be disposed of by voice vote. Nonetheless, recognizing the right of any Senator to ask for a rollcall vote, I am not in position at this moment to say that there will be no such request on this side.

As a matter of fact, I am informed of two Senators on this side of the aisle who have indicated that they may wish to have a rollcall vote on the matter.

Nevertheless, discussions are continuing with those two Senators, and it may be that I can inform the distinguished majority leader shortly as to whether or not they will request a rollcall vote. At that point, then the distinguished majority leader may act accordingly.

Mr. DOLE. Let me indicate that so far on this side there has been no request for a record vote. It does not mean one will not jump up. But so far there has been no request. And we hope that, in fact, the budget conference can reach agreement, and we can complete action before the recess.

Mr. BYRD. Mr. President, I have two additional requests, if the distinguished majority leader will bear with me.

I ask unanimous consent that a statement which I wish to make commending the managers of the supplemental appropriations conference report appear in the RECORD.

I also wish in that statement to not only commend those managers, but also to thank them for the support that they gave to me with respect to certain provisions and amendments carried in the bill that pertain in particular to West Virginia. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The statement appears earlier in today's RECORD.)

THE BOREN CAMPAIGN FINANCE REFORM AMENDMENT

Mr. BOREN. Mr. President, let me express to the distinguished majority my appreciation for the good faith discussions we have had about bringing S. 655, with my amendment cosponsored by 12 others on campaign finance reform, back to the floor of the Senate. As my colleagues will recall,

the Senate failed to table the amendment by a vote of 84 to 7, demonstrating an overwhelming feeling that campaign finance reform should be addressed by the Congress. In discussions late last year in December, it was agreed that the other provisions of S. 655 would be inserted in another bill by unanimous consent in return for a commitment by the majority leader that S. 655 would be called up in time for full Senate and subsequent House consideration prior to the election this year. Mr. President, the distinguished majority leader has shown his willingness to keep that commitment by indicating his intention to move Calendar Order 300—S. 655 with the pending Boren amendment—sometime between the August 4 and 15. The distinguished majority leader has also agreed to allow at least two legislative session days to consider the proposal, with the understanding that the term "session days" includes Fridays and Mondays and, if the majority leader so desired, the measure could be called up on a Friday or Monday, but that if a vote occurs, it would occur on a subsequent day of the week, after a reasonable period for additional debate on the day of the vote.

Mr. DOLE. Mr. President, as my distinguished colleague from Oklahoma has indicated, it would be my intention—barring any unforeseen necessity to bring up some other time-sensitive matter—to move to proceed to S. 655, with the pending Boren amendment on campaign finance reform, in early August, but no later than the 15th, when we recess for Labor Day.

As my colleague, Senator BOREN, has stated, I have made a commitment to bring S. 655, with the Boren amendment, back to the Senate for consideration, and it would be my hope that we will be able to dedicate 2 days—and perhaps a little longer—to this matter. Let me just say that there are a number of other pressing legislative measures which must be acted upon before we adjourn this year, and it may indeed be necessary to schedule this measure on a Friday and a Monday, with the expectation that any vote which might occur would take place on a subsequent day, after allowing a reasonable period of time for additional debate on the date of the vote. Allow me also to take this opportunity to express the hope that some common ground may be reached in the negotiations on this topic, which are currently taking place among members of the special task forces appointed by the two leaders. However, should those negotiations fail to produce any such result, our legislative agenda simply does not permit me to allocate an unlimited amount of time to debate this subject with no hope of a mutually satisfactory resolution. In any event, if for any reason some unforeseen development or time-sensitive legislation prevents my moving to proceed on S. 655 by the first week in August, I would intend to move to it as soon as possible thereafter, and in any case, before the Labor Day recess begins.

Mr. BOREN. Mr. President, again let me thank my colleague, Senator DOLE. I well realize the many constraints under which he must work and the difficulties in setting the Senate schedule, and I appreciate the courtesy and understanding which he has extended to me and the other cosponsors of this particular piece of legislation. I realize that should some unforeseen emergency prevent the leader from the sequence that he intends, that he would move to S. 655 at the earliest possible date thereafter.

Again, I express my appreciation to the distinguished majority leader.

Mr. DOLE. I thank the Senator from Oklahoma. We will do everything we can to meet this schedule. I also, as I have indicated in the statement, want to extend it. I do not want to get confused. We are attempting to work it out. We have a number of people. The Senator from Oklahoma met, I think, with Senator BOSCHWITZ and there are others on our so-called task force. The minority leader has appointed a number of Members on his side. It may be that we can reach some agreement. If that is the case, it would certainly simplify the problem.

Mr. BOREN. I thank the distinguished majority leader for his remarks. I certainly hope we can. He has been eloquent on this subject himself many, many times. I think all of us realize that there is a real need for campaign reform and to bring the way in which we finance elections into line with the basic American principles, and also to try to get some sort of movement in the right direction on getting campaign costs under control. It is a very serious problem and one which I know many of us share.

I thank the majority leader.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The minority leader.

Mr. BYRD. Madam President, as a cosponsor of S. 655, may I say that the distinguished majority leader has made a very strong and firm commitment with respect to this measure.

Having formerly been majority leader, I know what some of the constraints are upon the majority leader. I know what some of the uncertainties and the imponderables are as he attempts to look down the road.

So, looking at it from that viewpoint, I do not see how the distinguished majority leader could have made a more reasonable and clear commitment than he has just stated.

May I say, Madam President, one further thing: That is, when the majority leader states his clear understanding and his commitment on a matter of this kind, I have always found him to keep that commitment. I think of one very clear instance which just comes to my mind at this point. That was the commitment that the distinguished majority leader gave to me with respect to calling up the resolution governing television coverage of the Senate debates. He never deviated from that commitment. He kept it. I commented on it at the time.

So, I have found this majority leader a man of his word, as I have found his predecessor. They are men of their word.

I do not know how one could say more than the distinguished majority leader has said.

Mr. DOLE. Madam President, I want the RECORD to reflect my appreciation for the kind remarks. Certainly, as the distinguished minority leader knows, having been the majority leader, all you really have around here is your word. If you fail in that, maybe you can get away with it one time, but that would be all. Sometimes it is nigh impossible to keep it. But I think if we all respect the rights of our colleagues on both sides, in the long run it is a happy place.

We will be working with the Senator from Oklahoma. I do not feel that anybody feels that the present campaign financial laws are perfect and could not be changed. I would hope we could find some common ground.

Mr. BYRD. Madam President, is the Senate in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. BYRD. I thank the Chair.

EXPRESSION OF APPRECIATION TO MS. JEANIE BOWLES

Mr. BYRD. Madam President, I send to the desk a Senate resolution on behalf of myself and the distinguished majority leader [Mr. DOLE], and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 440) expressing appreciation to Mrs. Jeanie Bowles.

S. RES. 440

Whereas, Ms. Jeanie Bowles has performed in an exemplary manner all of the duties of her position of Assistant Editor in the office of the Official Reporters of Debates, which position she has held since she was appointed to it on February 2, 1981; and

Whereas, Senators and staff with occasion to work with Ms. Bowles admire her helpfulness and respect the high quality of her work; and

Whereas, the work of the Senate has been aided immeasurably by Ms. Bowles' commitment to fulfill the responsibilities of her position in an exemplary manner; and

Whereas, Ms. Bowles has been appointed to the position of Superintendent of Documents of the United States Senate, in recognition of the conscientious way in which she

performs all tasks assigned to her and the consistent superior quality of her work—

Therefore, be it resolved, that the United States Senate expresses its appreciation to Ms. Jeanie Bowles for her years of dedicated service as Assistant Editor in the Office of the Official Reporters of Debates, and extends its best wishes for success in her new position of Superintendent of Documents for the Senate.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 440) was agreed to.

The preamble was agreed to.

Mr. DOLE. Madam President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

A WORTHY HONOR

Mr. BYRD. Madam President, an annual rite of spring at most colleges and universities is the awarding of honorary degrees—a ceremony in which many of our Senate colleagues have been privileged to participate and often an occasion for warm and enjoyable encounters with the academic community.

Most such awards are gracious recognitions of the achievements, contributions, and/or talents of outstanding men and women.

That is certainly the case of one honorary Doctor of Laws degree that Stetson University in Florida granted last month to Dr. Floyd M. Riddick, Parliamentarian Emeritus of the United States Senate.

Dr. Riddick for many years served with distinction, unselfishness, and brilliance, first as the Assistant Senate Parliamentarian, and then as the Senate Parliamentarian. Beginning his duties in those capacities in 1951, Dr. Riddick worked at the elbows of Vice-Presidents Alben Barkley, Richard M. Nixon, Lyndon B. Johnson, Hubert H. Humphrey, Spiro Agnew, Nelson Rockefeller, and, for a time, Gerald Ford. During that period, he was also the advisor and friend of countless distinguished Senators.

Since his official retirement in 1974, Dr. Riddick has continued to serve the Senate whenever needed or asked, and he has updated his authoritative book Senate Procedure, which he co-authored in 1951 and 1964 editions with former Senate Parliamentarian Charles Watkins.

I congratulate Dr. Riddick on the receipt of this most recent honor, and I commend Stetson University for its wisdom in singling out an especially qualified scholar and exemplary American on whom to bestow its degree.

Madam President, I also want to call attention to the fact that Dr. Riddick, during all of the years of his retirement and continuing up to this day, has continued to serve the United States Senate without pay. He works with the Senate Committee on Rules and Administration. He works in the office of that committee. He is there for any Senator who may wish to inquire about the rules of the Senate or who has questions about the history and precedents of the Senate.

He faithfully attends committee meetings of that committee. Here is a man sui generis, one of his kind, one who is so dedicated to the service of the U.S. Senate that he continues to serve without salary unstintingly, giving of his time, his talents, and his strength to the service of this institution which he so dearly loves.

Madam President, I ask unanimous consent that a copy of the degree conferred upon Dr. Riddick be printed in the RECORD at this point.

There being no objection, a copy of the degree was ordered to be printed in the RECORD, as follows:

STETSON UNIVERSITY
HEREBY CONFERS UPON
FLOYD MILLARD RIDDICK
THE HONORARY DEGREE OF
DOCTOR OF LAWS

In testimony whereof the seal of the university and the signatures authorized by the board of trustees are hereunto affixed, given at Deland, Florida on the eighteenth day of May nineteen hundred and eighty-six.

Mr. DOLE. Mr. President, I want to associate myself with the remarks of the distinguished minority leader with reference to Dr. Riddick.

Mr. President, certainly, the minority leader has worked more closely with Dr. Riddick than has this Senator, but all of us on both sides of the aisle have great respect and admiration for his service to the U.S. Senate, which is continuing without any remuneration. We appreciate very much his continued efforts.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for his thoughtful and kind remarks. I am sure that Dr. Riddick will appreciate them.

□ 2110

Mr. HATFIELD. Madam President, I only wish I had been here on the floor when the Democratic leader was paying his tribute to Dr. Floyd Riddick, whom I also consider to be a very good friend. I was fortunate not only to be here in the Senate during the time he was Parliamentarian but now to be on the Rules Committee, and to have the continued service of Dr. Riddick as consultant to the Rules Committee is indeed a very fortunate situation for both the committee and the Senate to be in. I commend the Democratic leader for his appropriate tribute to Dr. Riddick.

URGENT SUPPLEMENTAL APPROPRIATIONS, 1986—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. HATFIELD. Madam President, I believe the House of Representatives has returned the supplemental appropriations bill to the Senate having not concurred with the amendment offered by the Senate to No. 175. Am I correct?

The PRESIDING OFFICER. The Senator is correct. It has been returned.

Mr. HATFIELD. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4515.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 175 to the bill (H.R. 4515) entitled "An Act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes.".

Mr. HATFIELD. Madam President, this is the amendment that had been offered by Senator JOHNSTON of Louisiana. Senator JOHNSTON and I discussed the possibility of this occurring. Senator JOHNSTON understood that if it did occur, we would then move to recede from that amendment. Therefore, at this time, I do make the motion that the Senate recede from amendment No. 175.

Mr. BYRD. Madam President, I am authorized by the distinguished Senator from Louisiana [Mr. JOHNSTON] who is the ranking member on this side, to state that he is aware of the circumstances and that he is aware of the motion that has been made by the distinguished chairman. We regret the necessity for the motion but we do understand.

Mr. HATFIELD. I thank the Democratic leader. Let me indicate that I, with great reticence and reluctance and sadness, offer this motion. I did support the effort of the Senator from Louisiana to be helpful to the oil and gas workers not only in Louisiana but in all the States that do have oil and gas workers.

The PRESIDING OFFICER. Is there further comment? If not, the question is on agreeing to the motion to recede from the Senate amendment to the House amendment to the Senate Amendment No. 175.

The motion was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Madam President, I thank the distinguished minority leader.

Mr. BYRD. I thank the distinguished Senator.

RAY "MIKE" LARKIN

Mr. BYRD. Mr. President, I wish to comment on the passing of a distinguished West Virginian, Mr. Ray Larkin—better known as "Mike"—of Paw Paw in Morgan County, on Saturday, June 21, 1986.

Ray was born on November 2, 1925, in Cumberland, MD. After graduating from Paw Paw High School in 1940, he served in the U.S. Navy during World War II. Following his discharge from the Navy, he traveled to Capitol Hill to begin a career that spanned 27 years. Ray served on the U.S. Capitol Police Force and as a senior doorkeeper for the Senate.

Just to the right of where I am standing, at the door, Senators daily, over the years, spoke to Ray Larkin, who was at that door at his post of duty, faithful always.

He was well liked by all Senators, and especially do I have a feeling of loss at his passing.

I should also say that during those years, he ably served West Virginia Senators: Harley M. Kilgore; Matthew M. Neely; my former colleague, Jennings Randolph; and myself, as well as having served my staff and me and many other West Virginians through us.

When Ray retired in 1982 in order to spend more time managing his farm in Morgan and Hampshire Counties, he left many friends here at the Capitol. In his service to the Senate he never forgot the people of West Virginia. Upon returning to Paw Paw, Ray established a friendship with the town's young people. He provided many of them with jobs after school on his farm and in his small furniture business.

During the floods of last November in West Virginia Ray contributed countless hours of his time and his own resources to help those stricken even though his own home and farm were partially destroyed.

Ray is survived by his mother, Mrs. Beulah Larkin; three daughters, Mrs. Janice Ireland, Mrs. Brenda Bagley, and Mrs. Peggy Lake; and four grandchildren. His wife, also a former Senate employee, Virginia Hardy Larkin preceded him in death in 1984.

Mr. President, I will miss him, as I know that his many friends here in the Senate will miss him.

Our prayers go out to his mother and others of his family and to his many friends in Morgan and Hampshire Counties and throughout all of West Virginia.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 2130

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Madam President, I understand that the budget conferences have now reached an agreement, and they may vote in the House about 10:15, and then it will be transmitted to the Senate.

I still hope there will not be a request for a rollcall vote in the Senate, because by the time we get it here, it will be 11 o'clock, and it will be after 11 before we have a vote; and I think many of our Members may have gone home for the evening.

RECESS UNTIL 10:20 P.M.

Mr. DOLE. Madam President, I move that the Senate stand in recess until 10:20 p.m.

The motion was agreed to, and at 9:38 p.m., the Senate recessed until 10:20 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. TRIBLE].

□ 2220

THE BUDGET RESOLUTION CONFERENCE REPORT

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Mr. President, the budget conference report for fiscal year 1987 will momentarily be considered on the floor, I thought that in the interest of both time and understanding I would make my comments now. Those who will be discussing and explaining the budget, particularly our distinguished chairman, the Senator from New Mexico [Mr. DOMENICI] and the ranking member, the distinguished Senator from Florida [Mr. CHILES], have heard from me on this particular score because we have just left the conference committee whereby the House and Senate conferees have joined in agreement. The budget conference report is now being considered and we are told it will pass the House in a moment or so and then be considered here in the Senate.

I wanted to make these comments in explaining my objection to the budget conference report and why I did not sign it to record that particular objection. I think that the body should know it is my feeling that the votes are here to adopt the conference report. But be that as it may rather than hold up the Senate until later with a detailed rollcall or otherwise losing credibility, which a Senator can lose at this late hour, I hope to gain some credibility for the budget process by registering this comment and objection.

Specifically, Mr. President, where we are now is practically where we were in August of last year when we adopted the 1986 budget. You will hear both the distinguished chairman and the ranking member say that this budget conference will be in conformance with the Gramm-Rudman-Hollings directive to keep the 1987 deficit to the amount of $144 billion. That it more than complies in that regard by drawing it down to $142.5 billion deficit, and having complied they in general have a very, very good budget.

All budgets have differences. All budgets are not agreed upon in every item, but I am only speaking to the importance of the discipline that we began to set and have continued to set, perhaps up until now during this calendar year.

I should be honest in my observation of the leadership given by both Senators DOMENICI and CHILES. They have worked around the clock. I have been in the conference with them when we have had the open conferences. They have done a masterful job by way of persistence. There has been no lethargy or indolence or lack of concern. I know conscientiously, for example, both would agree to a higher defense amount. Senator DOMENICI and I would particularly agree that a budget figure for the national defense function, function 050 of $301 billion in budget authority and some $282 billion in outlays would be more in order for the defense and security of this country.

So there are some fundamentals we have all agreed on and they have worked very hard for them. But they have not been able to effect the complete discipline of deficit reduction due to the President of the United States. And I say that most respectfully. The President of the United States endorsed Gramm-Rudman-Hollings and with his help and leadership we passed it in both Houses and he signed it into law. But he immediately began hedging. He hedged before his signature.

I remember meeting with Jim Miller, at that time the Director of the Office of Management and Budget designate, during a Sunday afternoon session and he said that the President had to have

his defense figures. He said Gramm-Rudman-Hollings would not touch defense and there also would not be any revenues to bring the deficit down. As one of the principal authors of the act I said, "Well, then count me out, because I represented it otherwise to my colleagues; I do not think I could go along with an approach unless it is across the board, balanced, and impartial with respect to programs. I also stated unequivocally that the Congress and the President both be allowed to consider expenditures and revenues in a balanced fashion, and defense and domestic spending in a balanced fashion." So they began to hedge and said they would have to look carefully at what we included.

Gramm-Rudman-Hollings included a balanced approach whereby you could have revenues or you could have spending cut on a combination of both. But you had to reduce the deficit and balance the budget. Otherwise, you would flip the trigger and require across-the-board cuts. Bluntly put, Gramm-Rudman-Hollings did not increase anybody's budget. It did not decrease anybody's budget. It said, "Let's have truth in budgeting." And on that particular point, to be extreme so as to be understood, you could give all the money to the Pentagon and eliminate the domestic side of Government and as long as you paid for it there was no trigger. Or you could eliminate the Pentagon and give it all to food stamps and as long as you paid for it there was no trigger. The trigger measure was in a lesser amount each year over a 5-year period to draw down on the $200 billion deficits that we have been running, bringing Government back into the black by the end of fiscal year 1990.

The President understood it. He signed it. He said, "It is great and we are still working for it, but there just can't be any revenues."

Well, that might be polemic or political strategy to squeeze every bit of spending cuts that the President may feel necessary, but this view did not begin this particular year, 1986. That started in 1981 and we have been on a course now for some 5 years of squeezing the budget. But as to his Republican colleagues and leadership in this Congress they don't agree with him. I can sit with Senator STAFFORD, the distinguished Republican chairman of the Education Committee, and he says, "We are not going to cut education any more."

I can sit with Senator MCCLURE, the Republican chairman of the Energy Committee, and he says, "We are not going to do away with the Energy Department, we are not cutting that. The President might think so but we are not going to do it." In 5 years running we have not done it. And the President continues to red-line certain programs that are not going to be red-lined. He tried 44 of them this year. I understand a man though convinced against his will is of the same opinion still. And so the President insists on his position, but in doing so he destroys a complete discipline that we could have at this particular hour on the budget process itself.

Let me emphasize the good of the process. The good is the discipline that we set in February. We immediately cut some $11.7 billion from last year's budget under Gramm-Rudman-Hollings. And we did it without a peep in either body of the Congress. Rumblings in the back aisles, yes. There are many who still will not agree. But they could have put in resolutions, they could have put in alternatives. No resolutions, no motions, no amendments, no alternatives. Again, on a late evening at approximately this same hour in March we made a point of order and saved $1 billion on an agriculture bill that had not been included in either body.

The conferees just stuck it in under an old habit knowing that we could plead about the great need of farmers, but, of course, farmers are suffering from the deficit as well as any. And so we held and saved that billion dollars.

We then had the reconciliation bill in April saving some $18 billion. And now the discipline set with respect to the 1987 budget. We now have both the House and the Senate acting in a historical fashion, history at least for the past 5 years, whereby instead of increasing budgets we cut the deficit some $38 billion in both Houses.

□ 2230

The discipline extended to tax reform. I am confident that had we not made the Gramm-Rudman-Hollings point of order with respect to tax reform, we would not have had the requirement for the revenue-neutral amendments. And we would have had many more amendments. We could have broken into extravagant spending and provided for more loopholes and more shelters. I am confident that Senator PACKWOOD, the leader, would agree in a flash that Gramm-Rudman-Hollings helped in the enactment of the historic tax reform bill we passed this week in the U.S. Senate.

Back to where we were in August 1985: At that particular time, when the 1986 budget conference was talking about a $171 billion deficit, I said no, the deficit is nearer $200 billion; and right now, CBO is going to give it to us as $210 billion or higher. So I was conservative.

Now I am back, and I have the same objection to this particular budget conference report. I see the very same predicament now as then whereby the leadership will tell you that we have reduced the deficit below the Gramm-Rudman-Hollings target to $142.5 billion, and CBO will be out by the middle of August and tell you it is nearer $165 billion, and we will have a sequester.

These leaders are of good judgment. They are judging a different thing than I am. I am trying to hold that discipline, and they are trying to be realists and say: "Look, like Kansas City, we have gone as far as we can go." Is it better that we take this particular budget and sequester from it or sequester from the 1986 budget, which would be the case with Gramm-Rudman-Hollings come October 1. If we sequester from Gramm-Rudman-Hollings on October 1—namely, the 1986 budget—you would be looking for $20 billion to $30 billion from a baseline deficit of $160 to $175 billion.

Now, under this particular one that the conferees have agreed to and presented to the Senate, yes, I think they are right; they would say maybe $10 billion and I would say nearer $20 billion for a sequester.

We had a $10 billion cushion built into the $144 billion deficit target for 1987, so we look at it in terms of $154 billion. Let me stress that particular point.

I wanted us, as conferees, to not look to the outside limit but look to the limit itself of $144 billion. But since the President was adamant and since he sat there and would not give at all, there was not much for the conferees to do.

The House Members had been burned. In 1982, the President of the United States asked the distinguished chairman, Mr. ROSTENKOWSKI, of the House Ways and Means Committee, for a tax increase. Chairman ROSTENKOWSKI and the House Members responded and went home and were blamed for it in the election by the President.

There is no education in the second kick of a mule. So they have sat there, like a mule, and said: "Wait a minute. We're not going forward with these revenues, with the President ready to give us that second kick."

We had Senator DOMENICI, Senator DOLE, and the entire Republican leadership, BOB MICHEL and everybody else we could, to plead rhyme and reason.

They came back in a delegation—the Secretary of the Treasury, the Director of the Office of Management and Budget, the Chief of Staff—and they said: "Let's have an auction sale. Let's sell the assets of the Government."

Winston Churchill said: "I did not come to preside over the demise of the British Empire." In this budget work, I certainly have not come to preside over the fire sale of the Government during the particular few years of tenure that we are allowed by the grace of the American people to serve in the Senate. But back to my major point, before I go into the details that give me the misgivings.

We are back to the same point again on what the real deficit estimate should be. They will tell you, that if you watch their language and you understand what they describe. Rather than $142.5 billion, it is going to be nearer $165 billion. I object to these kinds of soft figures. We know this minute, using the February estimate of CBO of 3.1-percent growth, under the GNP, that that has been on the optimistic side. CBO will come in August and tell us it is going to be nearer 2 percent or less; and under that particular prediction, we are going to lose some $15 billion, which is going to increase the deficit even this year. That is to be added on, because it is not to be triggered now.

We know, in addition, that the oil overcharge, was supposed to take effect in 1987; perhaps it will not. As Jimmy the Greek would give you a bet, or like a weather report, there is an 80-percent chance of it not happening and a 20-percent chance of it happening. In that case, that is $2 billion over and above that can be added to the deficit.

Take the matter of Conrail: No one really believes the sale is going to occur, and we have $1.9 billion in the budget for the Conrail sale. It could occur, but I have found Congressman DINGELL, the chairman in the House a pretty tough fellow. He has made known his opposition to the sale.

We have the loan assets I mentioned and some other soft figures—and there are the things I object to.

I also object to the defense figure, I say to the Senator from Michigan, because he is particularly interested in it.

If you take the national defense figure of $292 billion in budget authority and $279 billion in outlays under the 1987 proposal that will be before us, you will find that the $269 billion in outlays for defense for 1986, has been reestimated by CBO to be $275 billion. Therefore it will only be increasing by $4 billion from fiscal year 1986 to fiscal year 1987.

The distinguished Presiding Officer [Mr. TRIBLE] is a very active Member regarding defense issues. He would understand that if I, as an appropriator, have to fashion my outlays to $292 billion in budget authority. The only way I can do that, is to cut into operations and maintenance, and readiness. I do not think any of us in this body want to make those cuts.

So, I have resisted on those particular points.

A unique approach is in here that should be noted. I give Senator DOMENICI credit for establishing a reserve fund. It is more or less what the President said when I first proposed the budget freeze. He was in Indianapolis. The distinguished former majority leader, Senator Baker, came to me and said: "Fritz, if you will present your budget freeze tomorrow morning, I will be on the Senate floor with Senator DOLE, of the Finance Committee, and others, and let's see if we can get a bipartisan movement for a budget freeze."

□ 2240

That was 4 years ago.

That night in Indianapolis, President Reagan was rather annoyed, and he said, "If you don't like my particular budget then give me an alternative. Put up or shut up."

The next morning when I put up, President Reagan and TIP O'NEILL said, "Shut up." Speaker O'NEILL wanted more for social programs; the President wanted more for defense programs.

So what the distinguished chairman of the Senate Budget Committee, has done, is given us a put-up-or-shut-up reserve fund here. If you really want these amounts in defense, and I hope you do, then you will have to put up the revenues. The reserve fund could be used for deficit reduction or as well as increasing domestic programs. The reserve fund contains $9.9 billion in budget authority and $4.8 billion in outlays for fiscal year 1987.

There was a provision that limited the defense amount provision to $299 billion in budget authority and $282 billion in outlays in fiscal year 1987. So the President could increase the defense number from $292 billion to $299 billion in budget authority as well as increasing the outlay number from $279 billion to $282 billion if it passed the Congress. We thought $299 billion was a realistic budget authority number and $282 billion was a realistic outlay number for 1987 when we passed the Domenici-Chiles budget here in the U.S. Senate.

I think that is forthright. The President has put us in this sort of untenable position. No budgeteer likes to write contingency provisions. We like to be as accurate as possible. We like to be clear and understood. But we just cannot get President Reagan to budge on this issue. He has better credibility with the public on this score than we have.

No one, including the ranking Republican Member on the House side—DEL LATTA, says "I endorse this approach: I am taking it to my Republican colleagues. We have done the best we can do and we are going to have to fence this amount."

So, the reserve fund is a good idea and it puts the President to the task. Maybe it will bring into focus the difficulty that we have had because each year Congress has been willing to lead. I remember last year the Republicans here in the U.S. Senate put in a freeze proposal and it called for revenues. In September the President and Speaker O'NEILL got together, and then all of that discipline that had been set under their leadership went right down the drain.

We have tried again. We continue to knock on the door. We want a budget. And the budget conference, yes, will provide a better sequester basis than the fiscal year 1986 baseline but it is not the level of discipline that we wanted. No one can get total discipline. That is fanciful for anyone to suggest that.

But I feel a consciousness. You could see the Members in the conference, on both sides, had a little give and take on certain items. People parry back and forth to get their views a greater weight and a greater acceptance. But when you come right down to it, we held the line. And if we did not have Gramm-Rudman-Hollings working against the $212 billion deficit for 1986 and we had no requirement whatsoever to draw down on that deficit to the $144 billion target, heaven knows it would be up to $240 or $250 billion.

So I am a realist and I accept that. But somewhere and sometime in this debate on the budget it should be explained to the Members what we have done, and the soft figures that had to be accepted.

I do not want to take any more of the Senate's time at this particular late hour.

I do appreciate the leadership allowing me to present my views now, I see Senator DOMENICI and others are on the floor.

So unless there is further comment, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

□ 2250

Mr. DOLE. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER [Mr. SIMPSON]. Without objection, it is so ordered.

CONDITIONAL ADJOURNMENT OF THE TWO HOUSES OVER THE INDEPENDENCE DAY HOLIDAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate turn to consideration of House Concurrent Resolution 364, the adjournment resolution, with recall language.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 364) providing for a conditional adjournment of the two Houses from June 26 or 27 until July 14, 1986.

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, June 26, 1986,

or on Friday, June 27, 1986, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, and that when the Senate adjourns on Thursday, June 26, 1986, or on Friday, June 27, 1986, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this resolution, they stand adjourned until 12 o'clock meridian on Monday, July 14, 1986, or until 12 o'clock meridian on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution whichever comes first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution. The concurrent resolution (H. Con. Res. 364) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE BUDGET RESOLUTION CONFERENCE REPORT

Mr. DOLE. Mr. President, it is my understanding that we have the principals here, members of the Budget Committee, and others who would like to speak on the budget. The House is now voting on the conference report and it should be over here briefly. Maybe we could save a little time if we hear some of the debate now.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand that we will have the budget resolution over here from the House shortly and that, even though it is not formally before us, some Senators would like to begin to debate the issue or ask questions.

I have brief remarks before we come to that point when we are ready to vote, but at this point I yield the floor. If there are any questions of the Senator from New Mexico, obviously, I will try to answer them.

I yield the floor at this time.

□ 2300

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I voted against the budget resolution when it first came before this body last month because I did not believe the budget would deliver what its sponsors said it would deliver. I thought the numbers were not as solid as they should be. In fact, I believe the sponsors of the bill themselves said they gave them much more credit for what they did than they deserved, and that it probably could not deliver. In other words, the numbers were somewhat loose, and the American taxpayers were being misled by how much they would have to pay in extra taxes to support the budget.

Mr. President, the budget resolution has now been reported out of conference. Let me first be complimentary to those who have led this effort: Senator DOMENICI and Senator CHILES. No one around this whole Congress has labored longer, harder, or tried to work out the differences between ourselves and the House than they—indeed between ourselves within our own Chamber here, and then with the House.

□ 2310

They have spent nights here and mornings here and vacations here trying to get through this. They have tried to preserve some of these essentials of Embassy protection, air traffic safety, and some of those things that we see endangered if we have to go into a sequester type situation.

But I think we must look at this, the Federal budget, as one of the most important items to come before the Congress. So I deplore the fact that only a couple of us this evening have had a hold on whether we were going to have a rollcall vote on the budget resolution or not. It came down to where I was the last one left, so we are saying we are not going to have a rollcall vote on this. I have just withdrawn my requirement for a record rollcall vote on this tonight.

Here we are about to have what I view as one of the most important votes that we will cast because it sets the tone, in fact it sets the levels, at which we will be able to spend, which we will place on budget authority and budget outlays, and so on.

I say it is so important because we are talking about $1 trillion of budget authority. We have votes in this Congress all the time and votes on this Senate floor that involve tiny amounts, comparatively speaking, a few hundred thousand dollars or a few million. But here we are, in the middle of the night; in the interest of all getting out of here for this Fourth of July break, we are going to pass the conference report without questioning anything about it to any degree; we are going to pass a budget that has $1 trillion in budget authority and $995 billion, almost $1 trillion, in budget outlays.

So I say this is one of the most important votes of the session and it is going to go on a voice vote. We have yet to have any discussion on the Senate floor about the assumptions that were made with regard to inflation or gross national product; with regard to whether we are going to have to have taxes or not; whether we have to sequester or not; what the employment assumptions are, the inflation assumptions, the gross national product assumptions.

Will a sequester be likely under this budget? Will we get into huge figures on sequestering where we are forced to cut across the board on life and death items like airlines safety, the Food and Drug Administration, checking up new drugs? Are we setting up a new thalidomide situation?

The sequester under Gramm-Rudman is one where there is no choice. Under a sequester we give up our right to make decisions about priorities for Government spending. Yet we are to pass this on a voice vote this evening, without even really fully understanding what we are voting for, and just in the last few minutes, as a matter of fact, even having a hard copy of what we are voting for.

So I say while I voted against this when it went to conference because I was very concerned about some of the assumptions, I would like to go ahead and explain this just a little further.

My colleagues will recall that in an effort to meet the Gramm-Rudman targets the budget that we voted out at that time called for $13.2 billion in new taxes. That sounds like a lot of money and it is.

I would like to remind my colleagues of how we in the Senate reached that number.

Originally, the number in the budget resolution was a lot higher, totaling $18.5 billion. During the course of debate we added another $3 billion, approximately. We then faced the prospect of having to tell the American taxpayers that their taxes would go up by more than $21 billion.

Then it seems a funny thing happened on the way to final passage. The Senate "found" $8 billion. We found that simply by making some different assumptions about how the economy would affect the budget.

Would it not be nice if we could only balance the budget this way every time? How easy it would indeed be. Instead of worrying about how we could pay for essential programs without big tax hikes we could simply call on some bright economist or somebody with a different econometric model to tell us the budget will balance itself. We could avoid all the pain of trying to rein in spending and maybe we could even do without Gramm-Rudman-Hollings.

Mr. President, I was and still am opposed to a budget resolution that misleads us this way.

I know it is not the intent of the chairman and the ranking minority member of the committee to deliberately mislead anyone. Indeed, they brought out the figures at that time and we went ahead and voted them anyway. But the figures were cooked.

I do not think Julia Child could have done a better cooking job. The budget resolution we voted for was basically a tax-and-spend budget.

If we want to get a little technical, it might be worth looking at how the Senate found the $8 billion. The $8 billion came from the fact that the rate of inflation has come down in recent months. Interest rates have come down; the cost of goods and services have not risen as much as predicted. This, of course, means that the Government does not have to pay as much interest on its debt. We can save some money on some of the things we buy. This is where the $8 billion comes from.

That sounds simple, doesn't it? However, there is a catch. If prices do not rise by as much as we predict, then the gross national product does not rise by as much either. If GNP falls short of projections, then so do tax revenues.

So we do not get as much tax revenues as we originally planned. In fact, I am informed that in the short run taxes go down by more than the amount we save. So what does that do to the $8 billion we thought we had saved?

Well, I have been asking myself that question ever since the Senate voted to pass the budget resolution.

So we could go on with this. I do not plan to give a lengthy speech tonight, other than these short remarks. But I guess I could ask the sponsors of the legislation, the ranking minority member and the chairman of the committee, a general question as to whether they can assure us that with this budget they feel that it is sequester-proof, considering the problems I have just described and all the other problems of slippage in this budget.

Mr. President, I would ask the floor managers of this bill if they could respond to a couple of short questions on this. I will not get into a lot of technical discussions this evening. I know that later on they will discuss details of this budget that is coming out of conference. I would ask a general question: Can the floor managers assure the Senate that this budget is sequesterproof? Can you say that we are guaranteed that with this budget it is our best estimate that we will not get into a sequester-type situation?

I mentioned a number of problems that I thought the bill had when it went to conference. I think it still has those and perhaps more coming out of conference. What is the prognosis for a sequester under this budget?

Mr. DOMENICI. Mr. President, I assume the distinguished Senator from Ohio is asking that question of me, and perhaps also of the senior Senator from Florida, the ranking member.

I will answer the question this way: The Senator asks whether I can assure the Senate that there will be no sequester. The answer is very simple, one word: No.

Mr. GLENN. Would the Senator answer as to whether he thinks there is more likelihood of sequestering under this budget that came out of conference than the one that the Senate sent into conference?

Mr. DOMENICI. I do not think there is any doubt. In spite of the defense number being significantly higher in the budget the Senate passed, the chances of avoiding sequester under the Senate-passed budget resolution were significantly higher.

Mr. GLENN. Avoiding sequestering?

Mr. DOMENICI. Yes; I say if you have to have some probability, the probability of a sequester occurring if this budget is totally implemented are higher than the probability that there would have been a sequester had the Senate-passed resolution been totally implemented.

Mr. GLENN. I say to the distinguished chairman who has worked so long and hard on this and from private conversations we had in the Cloakroom, I assumed that would be the answer. I know he is a very honest and straightforward person on this. I am sorry he could not come out with something that would render us perhaps more sequester-proof, hopefully. If we get into sequestering, we get into automatic cuts, we get into safety, airline safety, food and drug, and all the things we are familiar with. That is one of the dangers we face with Gramm-Rudman-Hollings, the likelihood of sequestering.

Mr. DOMENICI. I might say to my friend from Ohio, one can answer another way, however.

There is a sequester that could be very large. There is a sequester that could be of less size. I would assume that since the sequester is applied evenly and defined already in the law as to what it hits, with a high degree of probability, that the sequester, if it occurs, will probably be less in amount if we adopt and implement this budget than if we did not have it.

□ 2320

Mr. GLENN. Would the distinguished Senator from Florida comment on that?

Mr. CHILES. I think the distinguished Senator from Ohio asked two questions. One was could we assure him that there would not be a sequester under this budget.

Second was, do we think the chances of having a sequester under this budget are higher than they were under the budget passed out of the Senate.

In the vernacular of Senator Mansfield, the answers would be "nope" and "yup."

Mr. GLENN. Could the Senator tell me what inflation assumptions were used in the resolution we are considering?

Mr. CHILES. We were using an inflator of about 3.5 percent, going to 4.1 percent in 1987, 4.1 percent in 1988, 4.1 percent in 1989.

Mr. GLENN. Are those figures different from the inflation assumptions that came with the original resolution we passed out of here?

Mr. CHILES. The economic assumptions were prepared by CBO for the February budget projections. Both the House and our resolutions were based on those economic assumptions.

This was the old inflation assumption.

Mr. GLENN. Did the conference consider the revenue as well as the spending effects of its inflation assumptions?

Mr. CHILES. That would be part of the CBO economic forecast.

Mr. GLENN. Would either of the floor managers care to comment on whether they feel we are going to have to have a tax increase if we go this route and pass this resolution?

Mr. CHILES. I say to my good friend from Ohio that we did take the COLA part of reducing the COLA's down to the 2 percent. We did take that. We did take the savings or the resulting economic savings from that.

Mr. DOMENICI. Would the Senator from Florida yield on that?

Mr. CHILES. Yes; I yield.

Mr. DOMENICI. Let me say to the Senator from Ohio that we did not change the basic macroeconomic assumptions from those made by CBO when we started this budget, which were used by both Houses.

On the other hand, there are certain programs within the budget that are directly affected by the cost-of-living index as an add on. Social Security cost of living and the other costs of living are prime examples of that.

We did, instead, say it would be, if we were going to assume 3.5 percent for the COLA, we would have left the spending even higher than it really was going to be because we know at this moment, just a short few weeks away from the time that it will be trigged, that the inflation rate CPI is down. So we used 2 percent for those kinds of programs, thus reducing the expectation from automatic increase, thus reducing the expenditures.

Mr. GLENN. Is it the opinion of the chairman of the committee that we

are going to have to have a tax increase?

Mr. DOMENICI. Let me say that if the Senator is asking the question, to avoid a sequester would we need a tax increase, all I can say is that I have already said the chances of a sequester, even with this budget resolution, are still there. I am not here giving the Senator assurance that we will avoid a sequester.

If the Senator wants to be assured that the sequester would be avoided, absolutely and unequivocally, you have to do one of two things: Significantly reduce expenditures or raise revenues. I do not think we are going to significantly reduce revenues but I do not believe we are going to put on any taxes either. That is why we are saying that, indeed, you are apt to have a sequester.

Mr. GLENN. The Senator said reduce revenues. I believe he meant reduce expenditures.

Mr. DOMENICI. Reduce expenditures, excuse me.

In this budget resolution, defense numbers are lower than we reported out.

I do not recall, and I apologize if I should know, the Senator's position on defense, whether he thought our figure in the budget on defense was too high, too low, or about right. But most of us feel it has to be about where the Senate had it—some felt it should be higher, some felt it should be lower, but that it should be substantially about where it is. If you are going to have higher defense numbers as you move through the years because you are going to become aware, through the dynamics of living with the bill, that you cannot live with these numbers—what we are saying with the budget resolution is you are going to break this budget unless you find some additional revenues to pay for any additional defense. That is the essence of the reserve.

You have a reserve set up into which new revenues or new resources would go to be held there in abeyance, on call, if you need it for an emergency like—not exclusively but like—an add on to defense. In that event, however, if you drew on that, you would not necessarily be avoiding a sequester because presumably, if you use $3 billion for defense, you would have $3 billion in revenues, which is neutral. If you had all the revenues we expect in that reserve and do not spend them all, you do reduce the deficit somewhat.

But I remind everyone that if you had them all in the first year, you would only reduce the deficit by $4.8 billion.

Mr. GLENN. It is my understanding that while we do not like what we have here—I know particularly the floor managers are not overly fond of what has been brought back either—that without this resolution, we could be faced with a sequestering of perhaps as much as $50 billion, as opposed to perhaps a $10 billion sequestering or something of that order, if we pass the resolution. Is that correct?

Mr. CHILES. I think the Senator is correct. We actually have reduced expenditures about $40 billion in this resolution.

Now, if all of the savings that we have projected in here do not materialize—and again, I think neither the Senator from New Mexico nor I is trying to say they will all materialize—we wanted to reconcile much more of those savings and were unable to get the House to do that. We had a much higher reconciliation as we left the Senate than we came back with. Outside of taxes, we had about $32 billion and ended up with about $24 billion in this proposal.

We also are concerned about the fact that it looks like the anticipated revenues are not going to be as high as we thought and when the next estimate comes out, we think they might be lower. Those are the reasons—we have about $142 billion in this budget, so we have a $10 billion cushion before the sequester takes effect. That means we have about $11.5 billion that we play with, so to speak; with those revenues $10 billion lower if all our savings do not materialize, we could have a sequester and that sequester could be $5 to $10 billion—in that range. I guess it could be higher, could be lower. But let us say it is within that range.

I think what the Senator needs to look at and certainly what the Senator from Florida and the Senator from New Mexico had to look at, is would we be better to take a sequester of $5 to $10 billion off a base that Congress has set having to do something with setting those priorities the Senator from Ohio talked about—FAA, Coast Guard, some other things that we considered to be very important. There are all kinds of programs in here that Congress has worked its will on. Or do we want to see what could be a $50 billion sequester more or less on the side off of the base that we had last year, which is not set some of the priorities that we think are more important this year.

□ 2330

Mr. GLENN. Mr. President, it is late and I will not belabor this. The House has already voted, and as I understand it has voted overwhelmingly in favor of this. A short time ago I withdrew my requirement for a record rollcall vote on this because I have no doubt what the result would be here in the Senate tonight. Very blessed few of us here this evening are even concerned with this. I do not know whether we could get a quorum or not even to have a vote, but I see this as a very important issue.

I am very concerned that we have worked ourselves into such a process here when we are making assumptions about our budget now—$1 trillion budget in authority, an outlay budget of $995 billion, almost a trillion—that here we are setting this up without having a good debate on this and without questioning underlying economic assumptions. We are going ahead and passing this on a voice vote in the middle of the night. I think that is not the way to do the business for the great American people.

I do not think we are doing right by them. When we have assumptions that are made to sort of fit the answers that we wish to get, that is the wrong way to go at it, and I say that with all due respect for the tremendous effort that has been put forward by both of the floor managers of this bill. They have done an outstanding job. I know they seem somewhat frustrated at what they were able to get with our colleagues over in the House. I share their disappointment in that.

When the floor managers stand up on this floor tonight and say we have a bill which they think is less than we went out of here with, the American people are the lesser for it, as I see it, because we have now placed ourselves in greater jeopardy of sequestering of funds; we have placed ourselves in greater jeopardy of having to go to a tax increase to have a viable economy. That is not the way to do business for the United States of America, as I see it. So I do not like the process we are following. I feel rather helpless to do anything about it. But I felt that it was important to at least stand on the floor this evening and make my concerns known.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the distinguished Senator from Ohio has expressed frustrations on his own behalf which quite obviously are shared by the two distinguished managers of this bill and by this Senator as well.

One of the high points of this year's session of the Senate was the magnificent performance of the distinguished Senators from New Mexico and Florida in crafting a budget resolution which was so overwhelmingly passed by this Senate 2 months ago. That resolution dealt courageously and effectively not only with the challenges of the Gramm-Rudman bill but with the perceived necessity for fiscal responsibility in this country and for fairness and balance in both our spending and in our taxing policies.

It is quite clear, both from the answers of the two distinguished managers and from the observations of this Senator, that the resolution which has

been reported by the conference committee is neither so courageous nor so effective that the chances that there will be a sequestration are far greater than they were under the resolution as it originally passed the Senate.

Nevertheless, the members of the conference committee, and particularly its two leaders, have done the best they possibly could do with a House of Representatives which was not willing to face the problems which are facing this country squarely and courageously. If there is a sequester, it will be smaller as a result of the passage of this resolution and its enforcement than would otherwise be the case.

□ 2340

This resolution at least moves us haltingly in the right direction, if not decisively in the right direction. It does include at least an appropriate balance among various defense and domestic accounts. It does leave it up to the administration and future agreement between the two Houses as to whether or not there will be somewhat more money for defense or for vital social policies if Congress and the President agree, somehow or other, to pay for them and not further increase our deficits.

It is therefore, in those circumstances, worthy of support by members of the Senate. It is worthy of support with many caveats and with many cautions and with much disappointment after the proposal which was originally passed by the House.

These two managers have done a magnificent job. They have done the best job which possibly could have been done under the circumstances. They deserve the gratitude of the other Members of the Senate and of their fellow citizens in the 50 States.

Mr. DOMENICI. Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, I have two main objections to the conference report. First, the process under which the report is being brought up is not responsible. There are few members here, and even fewer who have a detailed grasp of what is in the conference report. This is not an inconsequentional matter we are considering here. It is the budget of the United States. It deserves to be fully debated, but, in fact, it is not even fully known. It should be both fully known and debated, but given the procedure in place, both are impossible. The Congress is anxious to go on its Fourth of July recess, but it is doing so in a way that does no honor to our forefathers.

Second, from the information available, this budget appears to be an unrealistic plan for deficit reduction based on unrealistic economic assumptions, unrealistic assumptions about the sale of Government assets, and a continuing refusal to look at the need for new revenues. The need for substantial defict reduction and the obligation to meet the Gramm-Rudman targets remain. Unfortunately, this budget will not achieve those targets.

Earlier this week, the Senate passed a tax reform bill that used the revenues generated from loophole closing and an effective minimum tax for some uneven tax cuts. We should have used most of those revenues for deficit reduction. If we had, we would be here now with a real budget which will bring about real and substantial deficit reduction.

Also earlier this week, we passed a tax reform bill which was designed to increase the bond of trust between the Government and the people. Only a few days later we are about to pass a budget resolution conference report which will erode that trust.

So, let this statement make clear what would have been clear if there had been a recorded voted. The junior Senator from Michigan votes "no."

Mr. GLENN. Mr. President, I made my remarks a few moments ago and had a colloquy with the floor managers of the bill.

I just wish to add that if we were to have a rollcall vote tonight, I would be recorded as voting against this.

I am under no illusions as to what the vote would be. It would be overwhelmingly in favor of the conference report. I would vote against this for all the reasons I have given in the last half hour or so. But I did not finish up my statement by saying that I would be voting against this, as when I went to conference.

I think we are misleading the American people with this. It is a shame, and I do not like that. I know that the floor managers of the bill are not overly proud of this. It was what they came back with.

As to the likelihood of sequester, the requirement for that has become greater, not less. It is that or a tax increase, neither of which is very good, and that is the outcome of the conference report.

I want to make it clear that if we were to have a rollcall vote this evening, I would record my vote against the conference report. I say that with all due respect to the floor managers, who have worked hard and long on this. I wanted to make that clear before I left the Chamber this evening.

Mr. DOMENICI. Mr. President, I think we will be able to get consent shortly to bring up the conference report.

First of all, there is nothing at all misleading about this. The Senator from New Mexico and the Senator from Florida are not standing before the Senate misleading anyone, nor will there be any written statements that we will put in the record that will mislead anyone.

I am not here tonight, as I have been on perhaps three of the five budgets I have managed on the floor—I am not here tonight extremely proud of this product, but I am satisfied.

Basically, I have concluded, after looking at it: No budget resolution at all, no budget resolution tonight, because we would say to our conferees on the House side, "We want to talk 2 or 3 more days." We have a big recess in between, and we would come back and start working.

I had to analyze what I am going to get that I have not already gotten from the House in all these days and nights. I am already tired—2 nights until 2 o'clock in the morning and 5 or 6 days before that, in the normal spirit, where you are arguing, wrangling, pushing, and shoving, and we are here. We have already exceeded the time we are allotted under the Budget Act to be in conference, and we are not going to do much better.

So I concluded that we did not have the greatest budget resolution when we passed it here. It was good. The House, in my opinion, had a much inferior budget in terms of the effect on deficits and realism. It was fairly good if you assumed that you could get by with the defense numbers they had, but I did not believe we would go through this thing with those defense numbers, and we have come up somewhat—$6 billion in budget authority and halfway on outlays, about $3 billion. That provides a substantial add on to the appropriators as they handle the defense budget.

However, if you take that out, they were too low in defense to be realistic, in my opinion. Our budget was only a good budget, not one that was nearly that good to be proud of, but one that could get the job done. We went to conference with a House budget that was less good, so to speak, and we came out with a budget that is somewhere in between.

Consequently, the decision here tonight is not misleading. The reason there are not a lot of Senators here is simple. We are somewhat between the House budget and the Senate budget, and these are targets but for the reconciliation part.

I do not say we will come in within the Gramm-Rudman-Hollings totals using all these economic assumptions. Most Senators know that we have a big problem with defense, at least those who voted for the high numbers. They know this is the best we will get from the House at this point. Those who think we need more see an outside fighting chance that you might be able to get some additional defense under this reserve.

Let me tell Senators what I have been doing for the last 3 years. In a tax debate, I stood back there and told them there is no way that a budget

process can perform miracles. There is no way you can go to conference with the House and insist that you get everything you went there with. And we did not, either. We performed no miracles, and we did not get everything we went there with.

So I am not going to spend a lot of time here this evening explaining this budget.

There is some reconciliation here. Some committees have been ordered to do some things. This Senator is not going to stand by and watch a reconciliation bill—I am saying right now, on record tonight, front and center—with a whole bunch of junk in it.

We passed the Byrd amendment. With majority support, it finally got through here. We are not going to have extraneous material in this reconciliation.

We go to these committees, and they make these cuts that are prescribed; and if they do that by adding in 15 new programs so that we start some new things in the name of savings, I guarantee, from this Senator's standpoint, I will be down here and be saying: "Let's not pass that reconciliation bill. Let's add to this gamble of a sequester, but let's quit playing games."

We are still going to have a big deficit; and if luck is not with us, we will make a little bit of a stride this year. But until we are ready to face up to the realities of the entitlement programs, which we do not want to change—and on this very budget we could not get the entitlement changes in the Medicare field that the Senate voted for overwhelmingly, which I believe the leading senior citizen organizations in this country would support, because we ran into a House that said, "That's just one we won't pass."

So we could have said: "If you don't want it, we'll go home and come back and negotiate again."

We elected not to do that. We thought that is all we could get. We think that would have been modest reform at best, and we could not get it. That is a couple of billion dollars over the 3 years. And so it went.

Now let me talk about defense. Frankly, I do not believe that we are going to find ourselves able to adequately appropriate for the national defense under the numbers in this budget. But neither do I believe that we can continue to say that there is going to be a significant military buildup, no revenues, and we are going to meet Gramm-Rudman-Hollings totals with some kind of magic, the magic of unexpected growth, unexpected revenues that are going to come down here from heaven instead of from the taxpayers. I just do not believe that. I have said it before and I will say it again.

The third point is that we are not going to get it out of domestic spending, when we leave out of the budget, for domestic change and reform and cuts, 40 percent of the entire budget, which are the major entitlement programs in this country.

If those decisions are made, then do not blame the Senator from Florida, LAWTON CHILES, or the Senator from New Mexico, PETE DOMENICI, and do not blame the budget process, because we cannot do any more than the U.S. Congress lets us do and that the President of the United States will support. That is basically it.

So I do not mind anything said here tonight, except that I do not like anybody to say it is misleading. There is nothing misleading about this. If every economic assumption holds true, and that is what we are expecting here—we cannot change them every 2 weeks—if every program is funded precisely as we assume in this budget, and if the outlays in defense are as low as we assume in this budget, with absolutely no changes, then there is nothing misleading. You will be at the end of this year under Gramm-Rudman-Hollings.

On that score, I will say that is the case. If I am wrong, I am wrong, but I believe that is the case.

□ 2250

But the truth of the matter is that you cannot believe that all of those are going to stay that way. We had hoped that we would make enough permanent changes that even if we were off a bit we would not have a sequester. It is that part that we are not sure of. Gramm-Rudman-Hollings gives you a $10 billion buffer between the $144 billion and sequester time. It is that portion we are talking about, at least I am, when I answer the question that I do not believe I can say with certainty that there will not be a sequester.

But I nonetheless believe that we ought to have a set of guidelines, sort of a master plan, and I will take $24 billion in reconciled savings, even if some of them are asset sales, if we can get them. We surely do not want to throw those away, and there is no way to get those without a budget resolution.

We have reached the point, I say to my friend from Florida, when $24 billion in reconciled savings or revenues are nothing. I can remember being on the Budget Committee when if you could get $5 billion in reconciled savings that were real, I mean you had to almost pull teeth for it. But we have gotten to the point where clearly the deficits are so mammoth that even with $24 billion over 3 years we cannot stand here and tell you that we are certain we are going to get the job done.

FIRST CONCURRENT RESOLUTION ON THE BUDGET

Mr. DOMENICI. Mr. President, I submit a report of the committee of conference on Senate Concurrent Resolution 120 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk road as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill concurrent resolution (H. Con. Res. 120) setting forth the congressional budget for the United States Government for the fiscal years 1987 1988, and 1989, having met, after full and free conference, have been unable to agree.

(The conference report is printed in the House proceedings of the RECORD of today, June 26, 1986.)

Mr. DOMENICI. Mr. President, I ask unanimous consent that the chairman and ranking minority member of the Senate be permitted to file on July 14, 1986, the allocations required by section 302(a) of the Budget Act with respect to the statement of the managers accompanying this conference report and that such allocations be considered to be allocations required by section 302(a) of the Budget Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to file remarks analyzing this budget if I desire to do so and that they be made a part of the RECORD as if stated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I would like to ask the chairman of the Budget Committee a question, if I may, about the reporting date for the Finance Committee's response to reconciliation and the chairman's understanding with respect to the form in which the Finance Committee may meet its reconciliation instructions.

Mr. DOMENICI. Yes; of course, I would be pleased to respond.

Mr. CHILES. First, with respect to the total reconciliation instruction, I understand that the Finance Committee is instructed to reduce spending by $0.850 billion in outlays in fiscal year 1987, $1.495 billion in fiscal year 1988, and $1.790 billion in outlays in fiscal year 1989. In addition, the Finance Committee is instructed to raise $3.5 billion in revenues and fiscal year 1987, $2.6 billion in fiscal year 1988, and $2.4 billion in fiscal year 1989. Finally, I note that the language of the resolution contains the same reporting date for both of these reconciliation instructions—July 25. Is this all correct?

Mr. DOMENICI. Yes; the Senator is correct in his precise statement of the language. But let me make the Budget

Committee's position very clear with respect to the conditions under which the Finance Committee will be considered to be in compliance with the instruction, particularly with respect to revenues.

The reconciliation instruction clearly intends that the Finance Committee comply with the instruction as to spending under its jurisdication on the date specified in the resolution—July 25. As the chairman knows, Gramm-Rudman-Hollings requires that an estimate of the fiscal year 1987 deficit be made on August 10. It is essential to enact as much deficit reducing legislation as possible before the so-called August "snapshot."

However, the resolution is not intended to be similarly binding on revenues. First, as the distinguished chairman well knows, the Senate has passed a historic tax bill, H.R. 3838 which the Finance and Ways and Means Committees will begin to conference after the recess. It would be a difficult task for the committees to finish this conference and originate a separate tax bill for the purposes of reconciliation.

Second, the Budget Committee is well aware that the Finance Committee can not consitutionally originate revenue legislation here in the Senate. This is important because the reconciliation instruction for the Ways and Means Committee is specified in terms of deficit reduction rather than in separate instructions for revenues and outlays. This means that the Ways and Means Committee may not originate any revenue legislation at all, which would leave the Finance Committee without an appropriate vehicle.

Therefore, though the resolution includes a specific reporting date, the Budget Committee intends to provide the Finance Committee with as much flexibility as possible in meeting its revenue instruction.

Mr. CHILES. Does this mean that the Finance Committee can either report a revenue bill under the normal reconciliation date or use the revenues from H.R. 3838 to meet its reconciliation instruction?

Mr. DOMENICI. That is correct. The committee can originate a separate bill if it wishes by July 25. The committee can also raise some revenues in the context of the tax reform bill, as long as the revenues represent a net increase in revenues above the baseline over the 3 budget years—fiscal year 1987 through fiscal year 1989. In this regard then, the Budget Committee will consider the Finance Committee to have complied with its reconciliation instruction if H.R. 3838 is enacted by the time of the second "snapshot" if it raises the required amount of revenues over the budget period, and the Finance and Ways and Means Committees indicate that they intend that this revenue satisfy their reconciliation instruction.

Mr. CHILES. The Budget Committee's position is clear and I thank the Senator

Mr. DOMENICI. Mr. President, I yield the floor.

Mr. CHILES. Mr. President, I stand with my colleague from New Mexico, the chairman of the Budget Committee, to urge the passage of the conference report.

Mr. President, we have damned this conference report with feign praise for a while and I guess we could go on with that a little bit longer.

It is pretty obvious that we do not feel that this plan is as good as we went out of the Senate with, a plan that we have 70 Senators, a majority of the Republicans and a majority of the Democrats, support, a plan that we thought went much farther in deficit reduction, a much stronger bill in the reconciled savings, savings that you know that you would probably get.

But it was not to be that we were able to get that plan adopted.

I think that we were faced in that condition of whether we were going to come out with a plan like this or whether we were just going to say we would have the conference, we would not have a budget, or we would go over.

I agree with the remarks of the Senator from New Mexico that waiting 3 more weeks until after the recess would not have accomplished anything or given us the opportunity to make much more in savings.

Our problems were not simply the House. Our problems were the whole dynamics of where the President was on revenues, the fact that in the House the Republican Members would not support the proposition to reconcile the revenues, in effect to tell the Committee on Ways and Means and the Finance Committee that they had to raise the taxes. We would be willing to do that in the Senate. We had passed that in the Senate. The House Republicans would not support this and, therefore, the House Democrats said, "We are not going to put that provision in and have the President be able to say that we are the tax and spend guys. We will only do that with the support of the President."

That was not forthcoming. There were some negotiations or some invitations. They were not accepted.

Then the President later said that he was not going to do that.

That put us in a situation in which it was impossible to get what the Senate felt was necessary to put a modicum of new taxes in to be able to get a better plan, be able to use that to actually get more in the way of spending and more in the way of deficit reduction.

Right now I feel that I am kind of like Indiana Jones running down through the jungle with that boulder kind of coming after me, and the question I guess that we had to determine is are we going to be knocked over, bowled over by the boulder, or do we want to run down the path and feel like we are going to be chased by a rock.

There is an old saying that you are between a rock and a hard place. I think we were between the rock and the boulder.

I think we have selected the rock and said that we cannot guarantee to the Senate, and we do not, that there will not be a sequester. I think that there is a danger, a strong danger that we will have a sequester. If the revenues are turned down, if we do not get the savings, we certainly probably will have one.

But the question is whether we would be better off to work off a small sequester or one that we know would be certain to be $50 billion plus if we do nothing.

When you put the choices to us like that the answer is fairly simple.

Mr. President, there are a lot of other things I could talk about this plan that I am concerned about. One of them is asset sales. It seems that every time we turned around with the House and tried to seek some savings, the only thing that we could get was that we will sell off something else.

Mr. President, I rue the day that we started selling assets. I think we are selling the birthright of the country. I think we are selling that birthright for a bowl of porridge and I guess we will keep doing that now until we sell off all of the assets, but it is much like the kind of fellow who starts going to the pawnshop and starts carrying the furniture and the jewels and everything else of the household items to go to the pawnshop, and he just goes and goes, until there is nothing else to carry to the shop.

I wonder what is going to happen the rest of this year, if we get in trouble, as the chairman has said next year when we are still going to have budget problems. Is the only thing that we are going to do is to take some of our assets to the pawnshop and how long will we do that?

Someday, Mr. President, the public is going to understand that not having any taxes and borrowing more money is just as devastating or more so perhaps than if you had the taxes.

If you have to raise the taxes, there is some restraint on spending the money because there is some responsibility to go home and explain to people why you had to raise the taxes and why you thought that spending is necessary. If you can spend the money by borrowing or selling an asset you do not have to explain that. You can go back and say, "Look at this budget; we

didn't have to raise your taxes, no new taxes, hallelujah, hallelujah."

Someday, and I hope it is not very long off, Mr. President, the public is going to understand that that is a tax just as sure and it is going to reflect itself in higher interest rates and higher inflation, it is going to reflect itself in the loss of will as we continue to see here as if we had raised these taxes.

Mr. President, having said all this, I know we are going to pass this. I think it is the best thing that we can do tonight.

I thank the distinguished chairman from New Mexico for his efforts in this regard. He has been tireless. He has been patient and more patient I think than the Senator from Florida has displayed in this process.

Mr. President, I also thank the staff on both sides of the aisle. They have worked longer and harder than the Senator from New Mexico and myself and they will be working longer and harder tonight, as we go home, as they try to put the pieces together for this. But I offer them my thanks as well.

□ 2400

Mr. DOMENICI. Mr. President, I, too, want to thank the staff. For every hour we spend, they spend 25 or 30. I particularly want to thank Bill Hoagland, the staff director on the majority side, and Rick Brandon, the staff director on the minority side. The staff works for them and, in thanking the two, we are thanking all of those that helped us.

Mr. President, I have nothing further tonight that I want to say on this matter.

Mr. DOLE. Mr. President, will the Senator yield for a question?

Mr. DOMENICI. I am pleased to yield.

Mr. DOLE. Could I just ask one question about Conrail?

Mr. DOMENICI. Yes.

Mr. DOLE. I may be asked by the Secretary of Transportation whether or not that is going to be reconciled. [Laughter.]

Are we really going to sell it this year?

Mr. DOMENICI. It is not going to be reconciled.

Mr. DOLE. Is it close?

Mr. DOMENICI. You see, any time I talk with the House in conference about can we do this or can we do that, well, we have to wait until somebody is talked to over there in the House. So, frankly, I was holding out for reconciliation on Conrail. I told the chairman of the House group, "Well, I think I will go talk to Chairman John Dingell," because his committee says whether we sell Conrail or not.

I talked to him about what he thought was going to happen in the next 10 or 12 months. What I concluded was that he wanted to get rid of Conrail and get it out of the public sector. He just wanted to do it a different way. I, frankly, thought he was just as committed as many of the Senators here on the floor, including the chairman of the committee that proposed it and carried the bill. It is just that it is going to take a while, because there is a difference of opinion as to how.

We have, therefore, in this budget, the moneys for Conrail added in as if we had received the $1.9 billion. It went up to $1.9 billion because the appraisals of the sale price are going up.

But I, frankly, feel better about that than some of the other items we did not reconcile. I think that is going to happen during the fiscal year and I think it is going to be realized.

Mr. DOLE. I thank the Senator.

Mr. President, we leave for the fourth of July recess having completed the tax reform bill and a fiscal 1987 budget, bad as it is, that meets the deficit targets contained in the Gramm-Rudman-Hollings Balanced Budget Act.

We still have a way to go on both issues. The conference on the tax reform bill will take a while. But I am confident that we will have the tax reform bill on the President's desk by Labor Day.

As for the budget, we have to implement it. That means passing the appropriations bills and getting reconciliation savings through as well.

I must be honest about the specifics of this budget agreement. It is not nearly what I hoped it to be. My biggest disappointments, and I believe the administration's as well, are the defense number and the small amount that we will be asked to cut from domestic spending. It is not what Congress should be committing to its national security next year nor does it go nearly far enough in reducing spending.

The minimum test of this budget is that it meets the Gramm-Rudman-Hollings targets. It does not, however, make as many major program reforms in areas that cry out for restraint.

I am, however, pleased that the budget does not impose a tax increase on the American people.

Before leaving, Mr. President, I want to offer my special thanks to the Chairman of the Budget Committee, Senator DOMENICI. Without PETE's dedication and persistence, we would not be at this point. I know what an enormous burden it is for him, but PETE bears it like a soldier. And I sincerely appreciate it, and, I am sure the rest of the Senate does as well. I also want to acknowledge the contributions made by the ranking Democrat on the committee, Senator CHILES, and all the hardworking members of the Budget Committee, and the committee staff led by Bill Hoagland and Rich Brandon.

Mr. President, I intend to support this conference report, but must again reiterate my concerns that it falls far short of the goals we all had in mind early in the year. Deficit reduction means just that, reducing the deficit. This conference report arguably meets that definition, but not nearly to the degree that it should.

Mr. EXON. Mr. President, as we move out for the recess, and there are very few of us remaining in the Halls of Congress at this late hour, I want to personally thank first the majority leader and the minority leader for the cooperation and understanding that I had from both of them with regard to the passage today of the urgent supplemental appropriations. I felt this Senator was in their hair a few times on that, but, as usual, both of these outstanding U.S. Senators were generous with their time, consoling at times. They did not move quite as fast as this Senator would have liked at times. But they have additional responsibilities in this Senate over and above that of the Senator from Nebraska. I thank both of them for their understanding.

Mr. BYRD. Will the Senator yield?

Mr. EXON. I am happy to yield.

Mr. BYRD. I thank the distinguished Senator for his kind remarks. He is a good Senator. He takes his duties seriously. I admire him for that.

Mr. EXON. I thank my distinguished colleague, the distinguished minority leader, the Senator from West Virginia.

Without delaying things any further, I would like to salute the truly outstanding work of the chairman of the Budget Committee and the ranking minority member thereof.

Certainly, I feel that Senator PETE DOMENICI, of New Mexico, and Senator LAWTON CHILES, of Florida, the ranking Democrat on that committee, really went beyond the call of duty in the most difficult budget negotiations that I expect we have ever had. They were outstanding in their efforts and I want to compliment them as a member of that Budget Committee.

I would simply say, Mr. President, that I suspect that no one is totally satisfied with the budget. I have never seen a budget that everyone is totally satisfied with.

I would also say that I suspect that some of the numbers that came out is that budget will, in the end, be proven not accurate. But that is the situation with every budget that we have ever acted upon here in the U.S. Senate.

I am particularly concerned about the questions that we have in this budget with regard to the numbers. It is a highly unusual situation where we are forced to come to the floor of the U.S. Senate and approve a budget

which is pretty iffy, especially with regard to the defense numbers.

I also serve, as you know, Mr. President, on the Armed Services Committee. Earlier this week the Armed Services Committee finished their markup on the defense budget and we marked to a figure of $301 billion, which was the figure authorized previously by the U.S. Senate.

I hope that the President would listen very carefully to the learned words from the chairman and the ranking minority member on the Budget Committee, because if he does not then I suggest we are going to have much more difficulty in fitting the essential national security needs of the United States of America into the very tight budget shoe with which we are working.

Having said those things, I am just pleased at least we have protected the budget process. As infallible as that budget process is, I think it is fundamental if we are ever going to get deficit spending under control and ever begin hopefully at some time in the future to reduce the national debt. It is quite obvious by the budget that we have just adopted that that number is going to be billions of dollars below that $301 billion figure. I suspect that this will require the Armed Services Committee to go back into markup once again to authorize the reduction from the total that will eventually emerge as far as the 1987 fiscal year budget is concerned, and after the President makes his wishes known now that the budget matter has gone to his desk for his proper action. I hope that the President would sign this budget.

With that, Mr. President, I yield the floor. I thank my colleagues for giving me this time for these brief remarks.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the conference report.

The conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its amendment to the resolution of the Senate (S. Con. Res. 120) entitled "Concurrent resolution setting forth the congressional budget for the United States Government for the fiscal years 1987, 1988, and 1989", and concur therein with the following amendment:

Strike out all after the resolving clause, and insert:

That the Congress hereby determines and declares that the concurrent resolution on the budget for fiscal year 1987 is established and the appropriate budgetary levels for fiscal years 1988 and 1989 are set forth.

(a) The following levels and amounts are set forth for purposes of determining, in accordance with section 301(i) of the Congressional Budget and Impoundment Control Act of 1974, as amended by the Balanced Budget and Emergency Deficit Control Act of 1985, whether the maximum deficit amount for a fiscal year has been exceeded, and as set forth in this concurrent resolution shall be considered to be mathematically consistent with the other amounts and levels set forth in this concurrent resolution:

(1) The recommended levels of Federal revenues are as follows:
Fiscal year 1987: $852,400,000,000.
Fiscal year 1988: $929,750,000,000.
Fiscal year 1989: $1,001,100,000,000.

(2) The appropriate levels of total new budget authority are as follows:
Fiscal year 1987: $1,093,350,000,000.
Fiscal year 1988: $1,166,450,000,000.
Fiscal year 1989: $1,215,850,000,000.

(3) The appropriate levels of total budget outlays are as follows:
Fiscal year 1987: $995,000,000,000.
Fiscal year 1988: $1,045,400,000,000.
Fiscal year 1989: $1,079,000,000,000.

(4) The amounts of the deficits are as follows:
Fiscal year 1987: $142,600,000,000.
Fiscal year 1988: $115,650,000,000.
Fiscal year 1989: $77,900,000,000.

(b) The following budgetary levels are appropriate for the fiscal years beginning on October 1, 1986, October 1, 1987, and October 1, 1988:

(1) The recommended levels of Federal revenues are as follows:
Fiscal year 1987: $638,850,000,000.
Fiscal year 1988: $627,750,000,000.
Fiscal year 1989: $732,250,000,000.

and the amounts by which the aggregate levels of Federal revenues should be increased are as follows:
Fiscal year 1987: $5,950,000,000.
Fiscal year 1988: $6,300,000,000.
Fiscal year 1989: $7,350,000,000.

and the amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:
Fiscal year 1987: $55,700,000,000.
Fiscal year 1988: $60,150,000,000.
Fiscal year 1989: $64,250,000,000.

(2) The appropriate levels of total new budget authority are as follows:
Fiscal year 1987: $879,800,000,000.
Fiscal year 1988: $924,350,000,000.
Fiscal year 1989: $952,800,000,000.

(3) The appropriate levels of total budget outlays are as follows:
Fiscal year 1987: $799,150,000,000.
Fiscal year 1988: $139,850,000,000.
Fiscal year 1989: $862,500,000,000.

(4) The amounts of the deficits in the budget which are appropriate in the light of economic conditions and all other relevant factors are as follows:
Fiscal year 1987: $160,300,000,000.
Fiscal year 1988: $152,100,000,000.
Fiscal year 1989: $124,250,000,000.

(5) The appropriate levels of the public debt are as follows:
Fiscal year 1987: $2,322,800,000,000.
Fiscal year 1988: $2,530,650,000,000.
Fiscal year 1989: $2,713,300,000,000.

(6) The appropriate levels of total Federal credit activity for the fiscal years beginning on October 1, 1986, October 1, 1987, and October 1, 1988, are as follows:
Fiscal year 1987:
(A) New direct loan obligations, $34,550,000,000.
(B) New primary loan guarantee commitments, $100,750,000,000.
Fiscal year 1988:
(A) New direct loan obligations, $30,300,000,000.
(B) New primary loan guarantee commitments, $91,750,000,000.
Fiscal year 1989:
(A) New direct loan obligations, $32,050,000,000.
(B) New primary loan guarantee commitments, $93,500,000,000.

(C) The Congress hereby determines and declares the appropriate levels of budget authority and budget outlays, and the appropriate levels of new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1987 through 1989 for each major functional category are:
(1) National Defense (050):
Fiscal year 1987:
(A) New budget authority, $292,150,000,000.
(B) Outlays, $279,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $304,100,000,000.
(B) Outlays, $285,400,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $316,700,000,000.
(B) Outlays, $297,950,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(2) International Affairs (150):
Fiscal year 1987:
(A) New budget authority, $17,450,000,000.
(B) Outlays, $14,000,000,000.
(C) New direct loan obligations, $7,350,000,000.
(D) New primary loan guarantee commitments, $11,753,000,000.
Fiscal year 1988:
(A) New budget authority, $17,700,000,000.
(B) Outlays, $13,850,000,000.
(C) New direct loan obligations, $7,400,000,000.
(D) New primary loan guarantee commitments, $11,700,000,000.
Fiscal year 1989:
(A) New budget authority, $16,600,000,000.
(B) Outlays, $13,200,000,000.
(C) New direct loan obligations, $7,500,000,000.
(D) New primary loan guarantee commitments, $71,700,000,000.
(3) General Science, Space, and Technology (250):
Fiscal year 1987:
(A) New budget authority, $9,100,000,000.
(B) Outlays, $8,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $9,150,000,000.
(B) Outlays, $9,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $9,400,000,000.
(B) Outlays, $9,150,000,000.
(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.
(4) Energy (270):
Fiscal year 1987:
(A) New budget authority, $4,850,000,000.
(B) Outlays, $3,500,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $2,900,000,000.
(B) Outlays, $2,850,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $5,350,000,000.
(B) Outlays, $4,750,000,000.
(C) New direct loan obligations, $1,950,000,000.
(D) New primary loan guarantee commitments, $0.
(5) Natural Resources and Environment (300):
Fiscal year 1987:
(A) New budget authority, $12,400,000,000.
(B) Outlays, $12,600,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $12,500,000,000.
(B) Outlays, $12,550,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $12,300,000,000.
(B) Outlays, $12,650,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $0.
(6) Agriculture (350):
Fiscal year 1987:
(A) New budget authority, $23,800,000,000.
(B) Outlays, $23,500,000,000.
(C) New direct loan obligations, $14,300,000,000.
(D) New primary loan guarantee commitments, $8,000,000,000.
Fiscal year 1988:
(A) New budget authority, $26,100,000,000.
(B) Outlays, $24,900,000,000.
(C) New direct loan obligations, $12,100,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
Fiscal year 1989:
(A) New budget authority, $25,300,000,000.
(B) Outlays, $21,600,000,000.
(C) New direct loan obligations, $11,300,000,000.
(D) New primary loan guarantee commitments, $8,500,000,000.
(7) Commerce and Housing Credit (370):
Fiscal year 1987:
(A) New budget authority, $10,300,000,000.
(B) Outlays, $2,050,000,000.
(C) New direct loan obligations, $4,450,000,000.
(D) New primary loan guarantee commitments, $53,750,000,000.
Fiscal year 1988:
(A) New budget authority, $10,800,000,000.
(B) Outlays, $6,550,000,000.
(C) New direct loan obligations, $4,350,000,000.
(D) New primary loan guarantee commitments, $43,250,000,000.
Fiscal year 1989:
(A) New budget authority, $8,200,000,000.
(B) Outlays, $2,000,000,000.
(C) New direct loan obligations, $4,600,000,000.
(D) New primary loan guarantee commitments, $44,150,000,000.
(8) Transportation (400):
Fiscal year 1987:
(A) New budget authority, $25,350,000,000.
(B) Outlays, $25,850,000,000.
(C) New direct loan obligations, $500,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
Fiscal year 1988:
(A) New budget authority, $26,800,000,000.
(B) Outlays, $26,950,000,000.
(C) New direct loan obligations, $400,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
Fiscal year 1989:
(A) New budget authority, $26,900,000,000.
(B) Outlays, $26,900,000,000.
(C) New direct loan obligations, $200,000,000.
(D) New primary loan guarantee commitments, $50,000,000.
(9) Community and Regional Development (450):
Fiscal year 1987:
(A) New budget authority, $6,200,000,000.
(B) Outlays, $7,000,000,000.
(C) New direct loan obligations, $1,050,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1988:
(A) New budget authority, $6,550,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1989:
(A) New budget authority, $6,600,000,000.
(B) Outlays, $6,700,000,000.
(C) New direct loan obligations, $1,100,000,000.
(D) New primary loan guarantee commitments $300,000,000.
(10) Education, Training, Employment, and Social Services (500):
Fiscal year 1987:
(A) New budget authority, $33,450,000,000.
(B) Outlays, $30,550,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $10,300,000,000.
Fiscal year 1988:
(A) New budget authority, $30,300,000,000.
(B) Outlays, $31,450,000,000.
(C) New direct loan obligations, $1,400,000,000.
(D) New primary loan guarantee commitments, $10,700,000,000.
Fiscal year 1989:
(A) New budget authority, $30,400,000,000.
(B) Outlays, $30,900,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $11,000,000,000.
(11) Health (550):
Fiscal year 1987:
(A) New budget authority, $38,600,000,000.
(B) Outlays, $38,300,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1988:
(A) New budget authority, $40,500,000,000.
(B) Outlays, $40,550,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
Fiscal year 1989:
(A) New budget authority, $42,500,000,000.
(B) Outlays, $42,400,000,000.
(C) New direct loan obligations, $50,000,000.
(D) New primary loan guarantee commitments, $300,000,000.
(12) Medicare (570):
Fiscal year 1987:
(A) New budget authority, $83,000,000,000.
(B) Outlays, $73,250,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0
Fiscal year 1988:
(A) New budget authority, $91,400,000,000.
(B) Outlays, $21,450,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $101,450,000,000.
(B) Outlays, $90,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(13) Income Security (600):
Fiscal year 1987:
(A) New budget authority, $163,500,000,000.
(B) Outlays, $121,750,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $175,100,000,000.
(B) Outlays, $128,000,000,000.
(C) New direct loan obligations, $1,800,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $179,500,000,000.
(B) Outlays, $132,950,000,000.
(C) New direct loan obligations, $700,000,000.
(D) New primary loan guarantee commitments, $0.
(14) Social Security (650):
Fiscal year 1987:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $6,150,000,000.
(B) Outlays, $6,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,850,000,000.
(B) Outlays, $6,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(15) Veterans Benefits and Services (700):
Fiscal year 1987:
(A) New budget authority, $27,000,000,000.
(B) Outlays, $26,550,000,000.
(C) New direct loan obligations, $1,550,000,000.

(D) New primary loan guarantee commitments, $16,300,000,000.
Fiscal year 1988:
(A) New budget authority, $27,300,000,000.
(B) Outlays, $26,900,000,000.
(C) New direct loan obligations, $1,500,000,000.
(D) New primary loan guarantee commitments, $16,950,000,000.
Fiscal year 1989:
(A) New budget authority, $27,300,000,000.
(B) Outlays, $26,900,000,000.
(C) New direct loan obligations, $1,300,000,000.
(D) New primary loan guarantee commitments, $17,550,000,000.
(16) Administration of Justice (750):
Fiscal year 1987:
(A) New budget authority, $7,200,000,000.
(B) Outlays, $7,150,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $7,100,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $7,000,000,000.
(B) Outlays, $7,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(17) General Government (800):
Fiscal year 1987:
(A) New budget authority, $5,500,000,000.
(B) Outlays, $5,450,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $6,000,000,000.
(B) Outlays, $6,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $6,100,000,000.
(B) Outlays, $6,100,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(18) General Purpose Fiscal Assistance (850):
Fiscal year 1987:
(A) New budget authority, $1,950,000,000.
(B) Outlays, $2,750,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $1,950,000,000.
(B) Outlays, $1,950,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $2,050,000,000.
(B) Outlays, $2,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(19) Net Interest (900):
Fiscal year 1987:
(A) New budget authority, $148,300,000,000.
(B) Outlays, $148,300,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $158,850,000,000.
(B) Outlays, $158,850,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $160,050,000,000.
(B) Outlays, $160,050,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(20) Allowances (920):
Fiscal year 1987:
(A) New budget authority, $900,000,000.
(B) Outlays, −$50,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, $3,450,000,000.
(B) Outlays, $2,550,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, $4,750,000,000.
(B) Outlays, $3,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
(21) Undistributed Offsetting Receipts (950):
Fiscal year 1987:
(A) New budget authority, −$30,700,000,000.
(B) Outlays, −$36,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1988:
(A) New budget authority, −$40,350,000,000.
(B) Outlays, −$40,350,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1989:
(A) New budget authority, −$42,500,000,000.
(B) Outlays, −$42,500,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

RECONCILIATION

SEC. 2. (a) Not later than July 25, 1986, the committees named in subsections (b) through (t) of this section shall submit their recommendations to the Committees on the Budget of their respective Houses. After receiving those recommendations, the Committees on the Budget shall report to the House and Senate a reconciliation bill or resolution or both carrying out all such recommendations without any substantive revision.

HOUSE COMMITTEES

(b) The House Committee on Agriculture shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $55,000,000 and outlays by $555,000,000 in fiscal year 1987; decrease budget authority by $49,000,000 and outlays by $549,000,000 in fiscal year 1988; and decrease budget authority by $43,000,000 and outlays by $543,000,000 in fiscal year 1989.

(c) The House Committee on Banking, Finance, and Urban Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other that as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: increase budget authority by $642,000,000 and decrease outlays by $1,658,000,000 in fiscal year 1987; decrease outlays by $523,000,000 in fiscal year 1988; and increase budget authority by $164,000,000 and decrease outlays by $546,000,000 in fiscal year 1989.

(d) The House Committee on Education and Labor shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays ; or (3) any combination thereof, as follows: decrease budget authority by $25,000,000 and outlays by $604,000,000 in fiscal year 1987; decrease budget authority by $150,000,000 and outlays by $449,000,000 in fiscal year 1988; and decrease budget authority by $250,000,000 and outlays by $141,000,000 in fiscal year 1989.

(e) The House Committee on Energy and Commerce shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $1,125,000,000 and outlays by $1,867,000,000 in fiscal year 1987; decrease budget authority by $500,000,000 and outlays by $1,721,000,000 in fiscal year 1988; and decrease budget authority by $500,000,000 and outlays by $2,012,000,000 in fiscal year 1989.

(f) The House Committee on Interior and Insular Affairs shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $100,000,000 and outlays by $100,000,000 in fiscal year 1987; decrease budget authority by $100,000,000 and outlays by $100,000,000 in fiscal year 1988; and decrease budget authority by $100,000,000 and outlays by $100,000,000 in fiscal year 1989.

(g) The House Committee on Merchant Marine and Fisheries shall repoort (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction which provide

spending authority other than as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1987; decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1988; and decrease budget authority by $50,000,000 and outlays by $50,000,000 in fiscal year 1989.

(t) The Senate Committee on Small Business shall report (1) changes in laws within its jurisdiction which provide spending authority, as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974, sufficient to reduce budget authority and outlays; (2) changes in laws within its jurisdiction other than those which provide spending authority as defined in section 401(c)(2)(C) of the Act, sufficient to achieve savings in budget authority and outlays; or (3) any combination thereof, as follows: decrease budget authority by $438,000,000 and outlays by $343,000,000 in fiscal year 1987; decrease budget authority by $399,000,000 and outlays by $55,000,000 in fiscal year 1988; and decrease budget authority by $223,000,000 and outlays by $14,000,000 in fiscal year 1989.

CONTINGENCY FUND FOR DEFICIT REDUCTION AND UNMET CRITICAL NEEDS

SEC. 3. (a)(1) Budget authority and outlays for unmet critical needs of amounts not to exceed the amounts specified in subsection (c) for fiscal year 1987 shall be allocated to the appropriate committees of the House of Representatives and the Senate, and the aggregates for fiscal years 1987, 1988, and 1989 in section 1 of this resolution shall be adjusted accordingly, when—

(A) legislation has been enacted which would ensure that any legislation providing for such additional funding would not increase the deficits for fiscal years 1987, 1988, and 1989 set forth in section 1 of this resolution;

(B) the President submits a request pursuant to paragraph (2); and

(C) the appropriate committees of the House of Representatives or the Senate have reported legislation as requested by the President that will, if enacted, make funds available for such unmet critical needs,.

(2) If the President determines that additional funding is necessary for unmet critical needs, the President shall submit to the Congress a message or messages—

(A) requesting specific amounts of additional funding to meet such needs; and

(B)(i) requesting the enactment of legislation to ensure that the deficits set forth in section 1 of this resolution are not increased as a result of any additional funding provided to carry out such request; or

(ii) identifying legislation enacted before the date of such submission which would result in such additional funding not increasing the deficits set forth in section 1 of this resolution.

(b) The Committees on the Budget of the House of Representatives and the Senate are authorized and directed to report to their respective Houses revised allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, consistent with legislation reported pursuant to subsection (a)(1)(C), and revised budget aggregates to carry out this section. Upon the reporting of such revised allocations, the appropriate committees of such Houses shall report revised allocations pursuant to section 302(b) of such Act to carry out this section. Such revised allocations and budget aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c)(1) The amounts of budget authority and outlays available for allocation under subsection (a)(1) for funding unmet critical needs shall not exceed amounts as follows:

Fiscal Year 1987:

(A) New budget authority, $9,950,000,000;

(B) Outlays, $4,800,000,000;

of which not to exceed $6,850,000,000 in budget authority and $3,000,000,000 in outlays shall be available for additional defesne spending.

Fiscal Year 1988:

(A) New budget authority, $15,450,000,000;

(B) Outlays, $11,450,000,000;

of which not to exceed $8,100,000,000 in budget authority and $6,400,000,000 in outlays shall be available for additional defense spending.

Fiscal Year 1989:

(A) New budget authority, $12,850,000,000;

(B) Outlays, $10,800,000,000;

of which not to exceed $10,500,000,000 in budget authority and $7,250,000,000 in outlays shall be available for additional defense spending.

(2) Amounts described in paragraph (1) may be used to provide funding for additional defense spending and additional nondefense funding in excess of functional levels set forth in section 1 of this resolution.

(d) Nothing in this section shall preclude the President requesting or Congress initiating legislation—

(1) to reduce the deficits for the fiscal years specified in subsection (a)(1) to levels below those set forth in section 1 of this resolution; or

(2) to ensure that such levels are not exceeded by reason of changing economic conditions or estimates.

Upon enactment of deficit reduction legislation of the type described in paragraph (1) of this subsection, the aggregates in section 1 of this resolution shall be adjusted accordingly.

GENERAL REVENUE SHARING EXTENSION

SEC. 4. Budget authority and outlays for funding an extension of general revenue sharing under the State and Local Assistance Act of 1972 through the end of fiscal year 1989 would be allocated to the appropriate committees of the Houe and Senate and the aggregates in section 1 of this resolution would be adjusted accordingly if—

(1) legislation ensuring that the funding would not increase the deficits set forth in section 1 of this resolution has been enacted into law;

(2) an authorization for such funding has been enacted into law; and

(3) such committee has reported legislation to provide such funding.

(b) The Committees on the Budget of the House of Representatives and the Senate are authorized and directed to report to their respective Houses revised allocations pursuant to section 302(a) of the Congressional Budget Act of 1974 and revised budget aggregates to carryout this section. Upon the reporting of such revised allocations, the appropriate committees of such Houses shall report revised allocations pursuant to section 302(b) of such Act to carry out this section. Such revised allocations and budget aggregates shall be considered for purposes of such Act as allocations and aggregates contained in this resolution.

(c) This section shall not apply to the extent that additional funding for general revenue sharing is provided for within the section 302(a) allocations of budget authority and outlays to the appropriate committees of the House of Representatives and the Senate made in the joint explanatory statement accompanying this resolution.

REPORT ON DOD INFLATION FUNDING

SEC. 5. (a) It is the sense of the Congress that the Secretary of Defense should transmit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate setting forth a full and complete accounting of all moneys appropriated to the Department of Defense for fiscal year 1986 in excess of sums needed to cover inflation. Such report shall be referred to the Committee on Appropriations and Committee on Armed Services of each House. The Committee on the Budget of each House shall be notified upon the transmittal of such report.

(b) It is further the sense of the Congress that the report described in subsection (a) shall also be submitted to the General Accounting Office which shall report to the Congress within a period of 14 days on its findings as to that report, and that upon receipt of the General Accounting Office report the Committees on Armed Services of the House and Senate shall take appropriate action to ensure that only the appropriate levels of funding for inflation are provided.

(c) It is further the sense of the Congress that for fiscal years 1988 and 1989, the Secretary of Defense shall, within 90 days of the close of each such fiscal year, issue to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report accounting for any moneys appropriated for each respective prior fiscal year to cover inflation, which have not been obligated for such purposes.

GNP DEFLATOR

SEC. 6. It is the sense of the Congress that the Committees on Armed Services of the House and Senate should consider legislation prohibiting the Department of Defense from using an arbitrary deflator (one not based on historical or factual data) for major weapons systems which would provide funding for major weapons systems inflation in excess of the GNP deflator.

FEDERAL CREDIT PROGRAM REFORM

SEC. 7. (a) The Congress finds that:

(1) The Federal Government is a major lender and allocator of capital through direct loan and loan guarantee programs.

(2) The creation of the Federal Financing Bank was a major step in streamlining and reducing the cost of these programs.

(3) Despite the improvements in funding brought about by the Federal Financing Bank, however, serious shortcomings remain in the allocation and management of Federal credit programs.

(4) Current allocation decisions for a loan and loan guarantee programs do not adequately reflect economic costs and, because cost calculations are not uniform across programs, they do not allow accurate comparisons among programs.

(5) Current Federal credit program controls provide little incentive for sound credit management practices or timely debt collection.

(b) It is therefore the sense of the Congress that the appropriate committees of the Congress should review proposals to

change the Federal credit budget, including use of mechanisms which would—

(1) provide uniform budget treatment of Federal credit programs based on their subsidy cost;

(2) permit accurate comparison of credit and spending programs based on their true economic cost;

(3) promote effective management of Federal credit programs, providing accurate and comprehensive data on Federal credit activity and encouraging timely debt collection; and

(4) undertake accounting and management reforms for Federal credit programs as appropriate.

OIL AND GAS EMPLOYEES

SEC. 8. Since in the last six months the Government of Saudi Arabia has more than doubled its export of petroleum and petroleum products; and

Since these increased export volumes have resulted in a surplus of petroleum and petroleum products within the world marketplace; and

Since this surplus has directly resulted in a dramatic reduction of the weighted average price of international crude from $27.10 on January 7, 1986, to $13.08 on April 15, 1986; and

Since the United States has increased its importation of petroleum and petroleum products by 26 percent over the comparable period last year;

Since this dramatic reduction in price and the increased level of imports has resulted in a corresponding reduction in domestic petroleum exploration activities, including a reduction in the number of active rotary drilling rigs in the United States from 4,797 in 1981, to 865 as of April 21, 1986; and

Since the increase in petroleum imports and the reduction in domestic exploration efforts have resulted in a loss of jobs for individuals who are employed by the oil and gas industry and oil and gas service industry; and

Since American firms and employees that are injured by increased imports are eligible for temporary assistance under the Trade Adjustment Assistance Act; and

Since the Administration is narrowly interpreting the Trade Adjustment Assistance Act so as to exclude employees of the oil and gas industry and oil and gas service industry from receiving the benefits of this Act.

It is therefore the sense of the Congress that—

employees of the United States oil and gas industry and oil and gas service industry have been directly injured by a dramatic increase in imported petroleum and petroleum products and by the resulting decline in domestic oil exploration efforts; and

the Administration should immediately broaden its interpretation of the Trade Adjustment Assistance Act so as to allow employees of the United States oil and gas industry and oil and gas service industry to qualify for certification under the Act; and

if the Administration does not act immediately to resolve this matter, the Congress will address this issue on the first appropriate vehicle to be considered by the Congress.

STRATEGIC PETROLEUM RESERVE

SEC. 9. It is the sense of the Congress that the policy to fill the Strategic Petroleum Reserve to an ultimate capacity of 750 million barrels be reaffirmed. It is also recommended that the Federal Government purchase oil for the Reserve in a way designed to help domestic stripper oil well producers so as to minimize the shutting-in of stripper production.

COOPERATIVE EXTENSION SERVICE

SEC. 10. It is the sense of the Congress that Federal funds for the Cooperative Extension Service of the Department of Agriculture should be maintained at a level sufficient to carry out fully the vital services it is providing to rural America during a time of extreme stress. It is further assumed that this funding will be used especially to support and strengthen such core programs as 4-H Youth Development, Home Economics and Family Living, Natural Resources and Community Development, and services that provide agricultural financial analysis and farm management instruction.

FOREIGN AGRICULTURAL INVESTMENT REFORM

SEC. 11. It is the sense of the Congress that the use of foreign aid funds for financing the foreign production for export use of agricultural commodities already in surplus on world markets is a counter-productive use of American tax dollars as well as devastating to the American farmer who loses export markets from the unfairly subsidized competition.

SOCIAL SECURITY COLAS

SEC. 12. It is the sense of the Congress that legislation should be enacted to provide that social security cost-of-living adjustments, and COLAs in other programs linked to those adjustments, will be paid at the actual rate of inflation, whether it is above or below 3 percent.

SECTION 302 (a) ALLOCATIONS

SEC. 13. The Chairman of the Committee on the Budget of the House of Representatives may file, not later than July 9, 1986, a report in the House containing the allocations required to be made pursuant to section 302(a) of the Congressional Budget Act of 1974. The report shall be printed as, and considered to be, a report of the Committee on the Budget and such allocations made in that report shall be considered to be the allocations required to be in the joint explanatory statement accompanying this resolution.

Mr. DOMENICI. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I yield the floor.

Mr. DOLE. Mr. President, let me congratulate the managers and members of the staff on each side. They have done an outstanding job. This is always a very difficult process. There was a lot of bipartisan support this time around on the budget.

I know many, including many members of the committee, are disappointed at the final outcome. But, nonetheless, at least technically, we have met the provisions and conditions of Gramm-Rudman-Hollings. Whether or not there will be a sequester remains to be seen. I hope not.

But, in any event, I personally want to thank both the distinguished chairman, Senator DOMENICI, and the distinguished ranking member, Senator CHILES, for their getting it done before the recess. In my view, had they waited until after the recess, it would have been even more difficult.

I share their view that, as imperfect as it is, it is better to do it now and get on with it. We have plenty of work to do when we come back. We have got a mountain of it. This will be just one less hill to climb when we return.

MORE ON POLITICAL HUNGER

Mr. HELMS. Mr. President, Dr. Larry Brown of Harvard University School of Public Health recently issued yet another in his installments of political commentaries on "Hunger in America" under the guise of academically credible research.

Dr. Brown and his Physician Task Force have attempted to play on the genuine concerns that Americans have for the poor by using their reports as a basis to criticize, indeed, lambaste the Reagan administration's overall economic policy.

Thus far, the news media seem to have accepted at face value the "findings" of Dr. Brown's various reports. Under careful examination, it is clear that Dr. Brown uses a hit-and-run approach, making outlandish claims which, after his press conferences, are demonstrated to be without foundation. Meanwhile, however, his charges have received considerable media attention.

This Senator keeps hoping that the liberal news media will prove itself not to be so liberal. However, my view is reinforced when the press permits Dr. Brown's charges to be printed and broadcast without the same degree of scrutiny and examination that certainly occurs when administration officials make statements on almost any subject.

The time has long since come when more critical analysis should be made about Dr. Brown's charges and about the blatantly political basis for those charges.

The latest report, issued May 21, marks the third in a series of diatribes by Larry Brown against the Reagan administration. The first, entitled "Hunger in America: The Growing Epidemic," was released in 1985 following an election year (1984) tour of eight States—seven of which, including my own State of North Carolina, had U.S. Senate elections. The 1985 report was the culmination of individual "reports" that were made in at least most of the individual States. For instance, his report on the North Carolina situation was released the

week of the November 1984 elections. In a truly nonpartisan fashion, certain comments by Brown, not favorable to this Senator from North Carolina, were included in news stories on the morning of the election.

The charges he made in May against the President are similar to those he leveled against me in 1984. His North Carolina report charged that "widespread hunger" that he claimed to find in my State was being fostered amid a "climate of meanness" created, he said, by leaders who are more interested in catching welfare cheaters than feeding undernourished people. His singular example—again, on the morning of the election—was the senior Senator from North Carolina.

The latest accusation from Dr. Brown is that "barriers which knock people off the rolls" have been placed in the "path of local programs trying to reach American households eligible for and in need of food stamps".

Dr. Brown finds that 20 to 22 million Americans participating in the Food Stamp Program each month is not enough, and believes that taxpayer-financed recruiting schemes should be implemented to encourage even greater food stamp participation. Indeed, while the monthly number of recipients is around 20 to 22 million, the Department of Agriculture estimates that roughly 35 million Americans—or 1 out of 7—participate in the Food Stamp Program at least 1 month during the year. Yet, Dr. Brown thinks this is not enough.

Dr. Brown's report criticizes the elimination of Federal funding for federally required outreach activities which, prior to 1981, were used to recruit individuals to participate in the Food Stamp Program. The Carter administration's obsession with outreach was well documented, and led to bipartisan attempts to curtail the excesses of federally imposed requirements for outreach activities.

Attempts to reform the process were initiated in 1980. Representative BERKLEY BEDELL proposed an amendment to S. 1309, a bill to increase the food stamp authorization, to prohibit the Federal Government from imposing time requirements relating to outreach activities upon local food stamp administrators. Representative BEDELL noted:

> The purpose of this amendment is to correct a problem that at least exists in my State and may exist in other States.
>
> In a recent visit to my district, I found that food stamp personnel were being required to spend several hours per month in outreach efforts to try to get more people to come and take food stamps at the same time that our food stamp program is running out of money and threatens to be completely eliminated.
>
> Mr. Chairman, the amendment * * * is an attempt to inject a degree of reason and common sense into the matter in which the food stamp program is administered.* * *

Regardless of the level of support which one has for the Food Stamp Program, I think that most of us will agree that it makes absolutely no sense for the States to set mandatory "outreach" requirements when program personnel could better spend their time reviewing applications and cases in an effort to reduce fraud or error in the program. Also, as I just mentioned, this effort seems even more ridiculous when required at a time when the Food Stamp Program is threatened to be shut down for lack of funds.

The Bedell amendment was agreed to by a voice vote. Subsequently, Representative NORMAN D. SHUMWAY attempted to reverse Federal policy by prohibiting Federal funding of outreach activities. Said Representative SHUMWAY:

> It is increasingly obvious to me that the outreach aspect of the Food Stamp Program is no longer necessary. We all know now that participation is at an all-time high. I believe very strongly that Americans know what this program is. They know what is available to them and what their needs indicate, and they know how to have access to the program.
>
> I think particularly at a time when we are trying to streamline the operation of this program, to continue to reach out and to spend scarce tax dollars to advertise a program of this sort is a mistake for us to perpetuate. I think the unprecedented number of Americans now receiving food stamps certainly points to this conclusion.

Representative TOM FOLEY then the chairman of the House Agriculture Committee, offered a substitute amendment to the Shumway amendment to eliminate the Federal requirement for outreach activities, but maintain Federal funding of outreach activities that States carried out. Chairman FOLEY stated:

> What my amendment does is simply say that the requirement in the present State plan that States must conduct outreach activities is stricken, leaving it up to every State to decide whether information should be given to potential or real food stamp recipients.

The Foley substitute was adopted by voice vote and replaced both the pending Shumway amendment and the earlier Bedell amendment. However, the provision was dropped in conference with the Senate, and was not included in the final version of the bill adopted by the Congress.

In 1981, the Senate Committee on Agriculture, Nutrition, and Forestry adopted, as a provision in S. 1007, the food stamp reauthorization bill, the Shumway amendment eliminating the Federal requirement for outreach and Federal funding. The Senate committee report outlined succinctly the reasons for the action:

> Present law requires States to conduct "outreach" by informing low-income households of the availability of the food stamp program and its eligibility requirements and benefits. Information includes notification, distribution of applications and instructions on completing them.
>
> Almost without exception, local and State administrators who testified before the Committee, cited the mandatory outreach requirements as burdensome, onerous, and/or unnecessary. Each county within a State is required to conduct specific and reported outreach in the food stamp program outlined in meticulous detail in nine full pages of regulations. Among the many provisions currently mandated by regulation:
>
> State agencies shall contact the news media on a regular basis to provide current information on the Program, including announcements regarding the semi-annual and annual changes in allotments and eligibility standards.
>
> State agencies shall develop and conduct special outreach efforts designed to reach specific groups of low-income people. At a minimum, these efforts shall be directed toward participants in AFDC, SSI, general assistance and unemployment compensation programs who are eligible for food stamp benefits but who are not participating in the Program; toward applicants for HUD Section 8 housing assistance; toward Indians living on reservations where the State agency is running the Program on the reservation; and toward migrant households that periodically reside in a State.
>
> State agencies shall actively attempt to recruit volunteers to assist outreach staff in achieving the outreach program's objectives. Volunteers shall be sought from other government agencies, private agencies, organization, groups, and from the public.
>
> In addition, State agencies shall monitor participation rates and direct special outreach efforts toward groups that have comparatively low rates of participation. These groups may include the elderly, disabled, various ethnic groups, minorities, and the working poor.
>
> State agencies shall develop and conduct special outreach efforts directed toward low-income residents of specific geographic areas such as all or parts of cities, counties or regions of the State.
>
> In certain areas, radio and television public service announcements have been used to "advertise" the food stamp program. Bus placards, posters in grocery stores, pamphlets, press release have all been used in various States to encourage greater food stamps participation.
>
> The Committee believes that now with 23 million recipients on the program—one in every ten Americans—the American people, as a whole, are well-informed about the availability of food stamps and that aggressive Federal requirements for outreach are wholly inappropriate.
>
> All outreach activities are funded 50 percent by the Federal Government. While the direct Federal expenses for outreach is small—around $4 million annually—this cost is multiplied many times over if the outreach is "successful", as new receipients swell the caseload and subsequently the expenses of the program. Indeed, one eligibility worker Jeff Peterson, from Alexandria, Virginia, noted, in testimony before the Committee, the irony of the outreach requirement at the same time the food stamp program was running out of money during fiscal year 1980:
>
> Last June, as the program was running out of funds, Congress mandated further outreach to publicize the program. So, while Congress was contemplating ending direct benefits to all recipients by not refunding the program, it was mandating increased expenditures in indirect projects that benefited no one. In view of President Reagan's desire to reduce the budget, it seems senseless to spend money advertising the avail-

ability of the program, which we want reduced anyway.

Responding to the outreach mandate, the State of Wisconsin recently printed 2,000 copies of a "Food Stamp Nursery Rhyme Coloring Book", which included "rhymes" along with illustrations designed for small children to color.

The Committee eliminates both the Federal requirements for outreach and Federal funding of outreach activities. States that feel the need to continue outreach may do so, but with no Federal funding. However, the prohibition on Federal funding of outreach should not be construed to inhibit informing food stamp applicants and recipients of their rights and responsibilities.

This prohibition on funding should not unduly restrict the State from providing (with 50 percent matching Federal funds) information to potential recipients who are inquiring about participation in the food stamp or other Federal or general assistance programs. However, the Committee does not intend, for Federal funding to be used to continue soliciting or recruiting recipients to the program. * * *

The provision was also included in the Senate and House reconciliation bills and was adopted as a part of Public Law 97-35.

The reasons for the elimination of outreach are just as valid in 1986 as they were in 1980 and 1981. The President is absolutely right when he says that most people are aware of food stamps. There is no greater confirmation of that fact than by the continuingly high participation in the program—one in 12 Americans every month, and more than 1 in 7 in the course of a year.

Not only are poor Americans aware of the existence of the Food Stamp Program but also they are, in many instances, keenly aware of the details of eligibility loopholes and special rules. This has been mentioned repeatedly by witnesses testifying before the Senate Committee on Agriculture, Nutrition, and Forestry.

It should also be stressed that there is no limitation on informing potential recipients who are inquiring about participation in the food stamp or other Federal or general assistance programs. Food stamp applicants and recipients continue to be informed about their rights and responsibilities under present law.

The Food Stamp Program now costs $12.5 billion annually. Quality control reviews of the Department of Agriculture indicate that almost $1 out of every $10—8.64 percent during fiscal year 1984, for example—spent in the program now goes to someone who is either not eligible for food stamp benefits at all or has been overissued benefits for a total of approximately $900 million in misappropriated benefits. Rather than not enough people receiving benefits, the historical problem has been that quite a few recipients are not entitled to what they have already received.

Indeed, Dr. Brown's real complaint seems to be with verification procedures which have been implemented to curtail fraud, waste, and abuse in the Food Stamp Program. I am frankly astounded by his recommendation that one of the answers to what he sees as remedying this supposedly low participation is to allow recipients to receive benefits without the necessary verification of their income and other household circumstances that determine appropriate benefit levels. Such lax administration, termed "self-declaration," would permit food stamp participation without even the minimal verification procedures that exist today. He apparently wants to return to the days when the Federal Government essentially hung out a sign saying "come and get 'em," with little verification of eligibility.

If we have almost 10 percent rates of overissuance with the current degree of verification, there is no telling how much more fraud we would have without it. In past years, estimates of overissuance have often hit 20 percent or more of total program costs. A system which eliminated verification of the accuracy of household income information would make matters far worse. Of course, Dr. Brown's plan, according to his May report would be to eliminate the Federal error rate system, so that States could make unlimited overpayments, without ever having to reimburse Federal taxpayers. Such a course of action is, in my judgment, outrageously irresponsible, costing taxpayers hundreds of millions of dollars in the next several years.

Another of Dr. Brown's recommendations is to increase by 4½ times the assets test that applies in the Food Stamp Program. Currently, households may have up to $2,000 in liquid assets and remain eligible for the Food and Stamp Program. Households with elderly recipients may have up to $3,000 in liquid assets. Dr. Brown recommends that these income ceilings be increased to $9,000. He also recommends that the allowance for automobiles be increased to $6,500, from the present level of $4,500. Dr. Brown's report states that food stamp families should not have to "sell or use up most assets—cars, household items—as a condition of help when they are in economic distress." Dr. Brown's task force apparently does not understand how the assets test works. Neither the value of a family's home nor any household items are included in determining the household's asset levels. Countable assets are liquid, primarily cash, assets—including checking accounts, savings accounts or certificates, stocks, and bonds. What the increase in assets would permit would be for households receiving food stamps to have as much as $9,000 in the bank and still be eligible for food stamp benefits. These liberations of the assets test would increase food stamp costs by hundreds of millions of dollars.

The legislative recommendations made by Dr. Brown in May would likely increase Food Stamp Program costs by billions of dollars over the next few years. This is above and beyond the $5 to $7 billion in increased costs that Dr. Brown estimated would result from the recommendations of his 1985 report in the Food Stamp Program, and an array of other Federal programs, including Medicaid, Aid to Families with Dependent Children, and various child nutrition programs.

I have previously examined some of Dr. Brown's charges from the 1985 report, so I shall not revisit those now. However, perhaps it would be useful to focus on other analyses which contradict Dr. Brown's interpretation of the current status of the nutritional health of poor people in this country, and to examine his January 1986 report on 150 so-called hunger countries.

The President's Task Force on Food Assistance concluded in January 1984 that the Food Stamp Program had become more targeted as a result of the 1981 reconciliation changes.

The 1981 changes have "not caused a decline in participation within the poverty population, the Food Stamp Program's primary target population.

Specifically, the task force stated:

These participation trends suggest that households in poverty continue to have access to the Food Stamp Program and the available food stamp resources have become more effectively targeted towards the poverty population in recent years.

The task force found that food stamp participation had shifted toward those below poverty as follows:

FOOD STAMP TARGETING

[In percent]

	Share of recipients in families with income below	
	100 percent of poverty line	130 percent of poverty line
1979	59.3	72.6
1980	63.1	76.8
1981	65.4	78.3
1983	71.3	83.7

Many of the task force findings have been substantiated by another, more recent report released last summer by the Department of Agriculture. (See "The Effects of Legislative Changes in 1981 and 1982 on the Food Stamp Program," prepared by the Urban Institute for the Office of Analysis and Evaluation, Food and Nutrition Service, U.S. Department of Agriculture, May 1985.)

The report was required by the Omnibus Budget Reconciliation Act of

1982. Among other things, the study found that:

The legislation of 1981 and 1982 had a perceptible impact on food stamp caseloads, average benefits, and total costs, but far less than was previously expected.

The composition of the caseload did not change as a result of the legislation.

While cost of living delays decreased the purchasing power of benefits for a temporary period, subsequent adjustments restored the value of maximum benefits to previous levels.

The average incomes of food stamp recipients were virtually unchanged over the period in which the legislation was implemented.

While the recession affected the number of program participants to some degree, the impact on caseloads and costs was far lower than expected because the relationship between the Food Stamp Program and the unemployment rate is far more complex than previously thought.

The study concluded:

The findings of this study support the conclusion that the changes enacted in 1981 and 1982 did not fundamentally change the basic structure of the Food Stamp Program. As a result, the effects of the legislative changes on the number of participants, average benefits, and total program costs were smaller than originally expected.

Let me stress that finding, Mr. President. Contrary to Larry Brown's charges, the Urban Institute study concluded that "the changes enacted in 1981 and 1982 did not fundamentally change the basic structure of the Food Stamp Program." This Senator believes we needed to restructure the program, but that did not happen.

The study also noted that savings from the reconciliation bills were overstated:

The study found that the legislative changes—independent of changing economic conditions and demographic characteristics—reduced program costs in fiscal year 1982 by about $450 to $650 million, a reduction of about 4 to 6 percent. These savings are well below the level of savings expected at the time of enactment of the 1981 and 1982 legislation. Several factors tended to reduce the actual savings relative to the original projections. Most notably, the projections were based on assumptions about the performance of the economy—particularly about the course of food increases—that were not borne out.

The study's conclusions with regard to lower savings from differences in actual food price inflation thus confirmed an earlier CBO analysis that had indicated the 1981 budget savings to be overstated. (See "Revised Estimates of Effects of Legislation Enacted during 1981 affecting the Food Stamp and Child Nutrition Programs," pages 45-55 of hearing on "Administration's Budget Proposals for the Food and Nutrition Service Programs," Senate Committee on Agriculture, Nutrition, and Forestry, April 11, 1983.)

CBO found the 3-year savings from the 1981 reconciliation bill overstated by $700 million, and the overestimate from the 1981 farm bill to be $500 million over 3 years. Both overestimates were because food price inflation had been considerably lower than assumed in the original CBO effects of cost-of-living adjustments for several program changes enacted in 1981.

The Committee on Agriculture, Nutrition, and Forestry, has heard discussion in committee testimony regarding the impact of food stamp spending on the "safety net" of Federal programs available to the poor.

Mr. John C. Weicher, F.K. Weyerhaeuser Scholar in Public Policy Research at the American Enterprise Institute, testified before the Nutrition Subcommittee on June 14, 1985, with regard to the Food Stamp Program and the safety net:

Clearly there has been a change in the momentum of policy, if not the direction. The growth of safety net programs has been slowed if not halted, and the safety net has not been extended further

But the effects of this change in direction on the welfare of most households have probably been small. The changes in the income maintenance programs turn out to be less significant than much of the public discussion would suggest. The safety net has probably been maintained, particularly for the poorest people.

Even Robert Greenstein, director of the Center on Budget and Policy Priorities and former Administrator of the Food and Nutrition Service under President Carter, came to a similar conclusion at the same hearing:

For some time, there was a fair amount of debate between those who argued that cuts in the food programs had caused a large upsurge in hunger and those who denied that a hunger problem existed. I think the evidence increasingly indicates that both of these positions were mistaken. The program of hunger is real, but it is caused by many factors. Federal budget cuts in food programs probably were not the principal cause here.

The Agriculture Committee has monitored the performance of the Federal food assistance programs closely since the adoption of the 1981 and 1982 legislative changes, and will continue to maintain oversight of the program. The committee believes the Food Stamp Program continues to respond appropriately to the food needs of poor Americans.

Mr. President, I ask unanimous consent that an article by economist Warren T. Brookes be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

URBAN INSTITUTE DEBUNKS HARVARD'S HUNGER HYPE

(By Warren T. Brookes)

Hunger is far too important a subject to be trivialized by gimmick promotions or phony "studies." But that, unfortunately, is what both Harvard and Hollywood are now doing.

Last May, the Urban Institute—one of the nation's most prestigious social research organizations—presented its congressionally mandated study on the effects of the Reagan 1981-82 changes in the food stamp program.

The exhaustive 250-page, two-volume study (which included month-by-month, 13-year longitudinal studies of food stamp case and benefit levels, modified by similarly detailed analysis of economic factors), concluded that the Reagan changes "did not fundamentally change the basic structure of the food stamp program," and that they "probably did not have a significant impact . . . on the number of recipients or average benefits. . . ."

The study also showed that "the real value of food stamp benefits [in the 1981-84 period] was unchanged, indicating the purchasing power of the benefit was largely maintained."

It also confirmed the fact that since 1978, constant dollar benefits per household had risen 18 per cent, while the actual percentage of the poverty population receiving food stamps had risen from 49 to 59 per cent, because of greater targeting, with 95 per cent now going to poverty level, up from 83 percent in 1978.

Curiously, none of the major networks even mentioned this extraordinary independent study. They simply ignored it.

Compare this total silence with the elaborate CBS hype on January 14 of a new 35-page "study" by Harvard University's "Physician Task Force on Hunger in America." It purported to show "the 150 worst 'hunger counties' in America," and concluded that since 1977, "our nation has lost significant ground in its battle to end domestic hunger . . . [and] regressed in its commitment to see that its people are adequately fed."

Hyperbolic language like this led CBS' Dan Rather to devote an unprecedented seven full minutes, or nearly one-third of his "Nightly News Broadcast," to this "study," including on-location reports from some of the "hunger counties" and a highly emotional interview with the study's chief author, Dr. Larry Brown.

What the public was never told is that neither Rather nor Dr. Brown in his study bothered to interview or consult either the Urban Institute nor the U.S. Department of Agriculture to confirm its "findings."

Fortunately, ABC and NBC did call the USDA, and downplayed the Harvard study, while the "McNeil-Lehrer News Hour" got John Bode, assistant secretary for food and consumer services (nutritional programs), to publicly debate Dr. Brown.

Bode called Brown's study "a worthless sham," and cited as evidence the Urban Institute findings, with good reason.

"Worthless sham" is too kind a characterization for the Harvard study. It was done "in the office," taking 1979 Census data on poverty by county, "up-dating" those county poverty numbers by the blunt instrument of regional poverty changes, 1980-84. It then compared those contrived numbers with the actual number of food stamp recipients, county by county in a single month, July 1984, which Brown knew is the lowest annual participation month in the food stamp program.

Using this fatuously silly personal computer exercise, Brown then defined as "hunger counties" those where poverty was above 20 per cent, and where food stamp recipients constituted less than 33 per cent of the total "poverty population."

Not surprisingly, Brown came up with a high percentage of the nation's most heavi-

ly agricultural counties, concentrated in Nebraska, North and South Dakota, Texas and Missouri, where poverty analysis, based solely on cash income, is most likely to ignore the existence of home-grown food as "inkind" income—something that would destroy their whole "hunger-county" thesis.

When NBC and AP news reporters went to these counties, they were told that "these Eastern academics simply don't know what they are talking about." True enough.

Brown's researchers admitted they had not made any field studies. They never took classes in statistical logic, either.

In their report, they cited the famed 1977 Field Foundation study which had concluded that food stamps had conquered hunger.

Yet, in 1977, less than 49 per cent of America's poor were receiving food stamps, and there was no Women's Infant Children (WIC) food supplement program, and less than 15 million Americans received benefits worth 18 per cent less (in purchasing power) than in 1984.

Today, nearly 60 per cent of all poor people receive food stamps (over 72 per cent in "constant terms" if the Labor Department had properly adjusted the '77-'83 consumer price index) and we're spending a huge 58 per cent more, in constant food dollars, than we spent in 1977, when the Field Foundation said hunger was no longer widespread.

Remember this, when listening to the Harvard hype, and the "USA for Africa's" plans for the May "Hunger Chain" across the U.S.

GENERAL ACCOUNTING OFFICE ASSESSMENT OF PHYSICIAN TASK FORCE JANUARY 1986 REPORT

Mr. HELMS. The General Accounting Office recently undertook a review of the methods used in the Physician Task Force Report issued in January, 1986, entitled "Hunger Counties 1986." The report was requested by Representatives BILL EMERSON and TOM COLEMAN, both of Missouri, which, according to the task force report, had 17 of the 150 hunger counties in the Nation. The GAO report is entitled, "Hunger Counties: Methodological Review of a Report by the Physician Task Force on Hunger," GAO/PEMD-86-7BR, March 18, 1986.

The General Accounting Office report "found major limitations in the approach taken by the Physician Task Force." Indeed, the limitations were of such a magnitude as to vitiate the overall integrity and credibility of the report, according to the GAO. The task force devised its own methods for measuring hunger and describing the distribution of hunger across the country, methods which the GAO has noted are woefully inadequate. In layman's terms, the task force compared apples and oranges.

The January 1986 Physician Task Force report purported to identify the geographic areas of the country where food need is greatest and to show that the Federal Food Stamp Program is at least partially responsible for needs not being met in those areas. The task force identified what it termed "150 hunger counties" in the United States, counties in which large numbers of citizens experience hunger and high risk of nutritional deprivation, according to the task force. However, the GAO questioned whether the report showed the real distribution of the number of persons experiencing hunger or nutritional deprivation.

Even if one accepts, as the GAO did not, Brown's assumption that low food stamp participation in high poverty counties was a predictor of food need, the task force report fails to identify those counties with the largest absolute number of nonparticipants. The GAO stated:

A consequence of using a relative participation indicator is that the task force method does not account well for counties where participation rates are high but, nevertheless, large numbers of people do not participate, as in counties with large numbers of eligible persons. A county of 250,000 residents eligible for food stamps with a participation rate of 85 percent would have 37,500 nonparticipants. In contrast, the estimated number of nonparticipants in Eureka, Nevada (the county with the lowest participation rate on the list, 1.71 percent), was 585 persons. This means that the characterization by the task force of counties with low participation must be used cautiously. There may be large numbers of nonparticipants in counties with high participation rates.

We may put the effect described above somewhat into context by noting that the average population of the 150 counties was 12,000 while the average population in counties across the nation was 70,000. It could be argued that the greatest need for reducing hunger is in counties that have large numbers of people who do not participate in the food stamp program, counties where the participation rate is not necessarily low. Using a relative indicator, as the task force did, would not produce the 150 counties with the largest absolute number of nonparticipants.

The number of persons eligible for food stamp participation in the task force report was not based on a direct determination of the number of county residents actually eligible for food stamps, but rather was derived from indirect factors that were estimated by the task force. Indeed, most of the task force methodology is based on indirect means and estimates. There have not been facts or figures on any direct measures of hunger in the physician task force reports.

In identifying its "hunger counties," the task force used two surrogate measures. The GAO found major problems in both.

First, the task force picked out counties in which 20 percent or more of the population was below 125 percent of the poverty level in 1979; then the task force adjusted for regional changes in the poverty population through 1984. The task force found that 716 counties met this criteria. The 20-percent figures was an arbitrary determination, and it should be noted that slight variations in the figure chosen would make major differences in the subsequent calculations.

The GAO found a basic flaw in this procedure for identifying the high poverty counties of 1984. In effect, the task force assumed that poverty figures for individual counties could be projected from 1979—for which county-by-county data was available—to 1984 through the use of poverty estimates for the four Census Bureau regions. The GAO noted:

It is not obvious that all counties, if any, within a region had a change in poverty rate from 1979 to 1984 identical to the regional average. Counties within a region are anything but homogeneous. It seems unreasonable to expect that changes in poverty in Navajo County, Arizona, would be same as changes in Los Angeles County, California (both in the West), or that poverty rate changes in Alachua County or Dade County, Florida (both in the South), would be the same. The application of broad regional adjustments to produce county estimates introduced unknown, but real, errors in the task force estimates. . . .

Dr. Brown asserts that his methodology was similar to that used in two previous studies, from 1968 and 1973—studies which, I might add, were also subject to criticism with respect to their accuracy. However, as the GAO notes, the methodology was not precisely the same. Indeed, if he had used the earlier methods, between 80 and 132 of his 150 counties would no longer be considered high poverty counties.

Next, the task force measured food stamp participation for one month, July, of 1984 in the 716 counties it had identified as high poverty counties, as compared to the number of persons in those counties that it estimated to be eligible for food stamps. Counties in which fewer than 33 percent of those eligible for food stamps participated in the Food Stamp Program were judged the 150 hunger counties. Here again, the 33-percent figure was an arbitrary cutoff selected by the task force. The GAO found further, and more serious, problems with this methodology.

The task force compared food stamp participation to a number of eligible persons in each county using its adjusted 1984 count of persons with incomes below 125 percent of the Federal poverty levels—based on the regional projections of 1979 data—as a surrogate for any specific data on the number of those actually eligible for food stamps. However, the GAO noted that this produces a serious overestimate of eligible persons—and therefore an underestimate of food stamp participation among eligible people—because of a failure to consider the food stamp eligibility test for assets:

We think the task force seriously overestimated the number of eligible participants because data were not available with which to adjust for persons who were eligible for food stamps by the income test but not by the assets test. Because information on assets is not available county by county, it is impossible to estimate the effect of applying

an assets test to the county data. However, it is know that approximately 25 percent of food stamp applicants who are eligible by income on the national level are ineligible when an assets test is applied. If the national figure were applied uniformly to the task force calculations, 52 of the 150 'hunger counties'—that is, more than a third—would no longer . . . [meet the task force definition for inclusion as a "hunger county"].

Moreover, the task force compared food stamp participation in 1 month in 1984 to a number of potentially eligible persons, as determined on an annual basis. The GAO considered this comparison of monthly and annual data to be a major limitation on the task force report's accuracy, producing inaccurate and probably low participation rates.

The total number of persons who participated in the Food Stamp Program at any time in 1984 was approximately 34 million, according to GAO, but, during the year, some number went on and off the rolls; thus, the participation in a given month was significantly less than total yearly participation. In 1984, the average monthly number of food stamp recipients was aboaut 20 million persons. The GAO concluded:

We consider it a major limitation to compare monthly participation with annual eligibility; the result of the comparison is serious inaccuracy in the distribution of counties.

Perhaps more fundamental to the failure of the task force was the underlying assumptions about the presumed correlation between lack of food stamp participation and hunger. The GAO concluded:

It is not clear that the fundamental relationship between hunger and food stamp program participation underlying the task force report can produce an accurate estimate (no matter how methodologically sound the procedure), since this relationship has not been demonstrated.

The GAO reported:

Aside from the problem of "hunger counties" as a concept, we have difficulty believing that the task force method accurately depicted the distribution of hunger in the United States. Several of the limitations in its participation indicator apply also to the calculations of the distribution of hunger. Our main concern is that the method the task force used for determining the distribution of hunger did not measure hunger directly, in the sense of estimating the degree of chronic underconsumption of food and other nutrients.

The usual recourse in this situation would be to seek a combination of factors that were highly correlated with the variable that could not be directly measured (in this case, hunger), and this is what the task force attempted to do. It equated hunger to the shortfall in food stamp participation in high-poverty counties. In other words, the task force assumed that poverty and food stamp participation were related to hunger and devised a method for indirectly estimating its distribution.

Our difficulty is with the strength of the assumed relationship. If the relationship was somewhat weak and if other factors were also related to hunger, then the distribution of counties calculated by the task force was inaccurate. Two examples will illustrate our point: alternative sources of food and the purchasing power of the dollar. County-to-county variation in either of these factors could help account for county-to-county variation in hunger.

People who are poor by income standards may have enough to eat, even though they do not use food stamps. For example, farmers who depend on their crops and students who depend on their parents may show low income but have sufficient food. Some people may have access to private food donation or other programs that provide funds for food—Aid to Families with Dependent Children, the Child Care Food Program, the School Lunch and School Breakfast programs, the Summer Food Service Program, Supplemental Security Income, or the Special Supplemental Food Program for Women, Infants, and Children. As a consequence, using poverty and food stamp participation as indicators may overstate hunger in some counties.

County-to-county variations in purchasing power also could account for variations in the degree of hunger. If purchasing power varies while the sources of food are held constant, persons with low purchasing power will tend to be more hungry than those with high purchasing power."

. . . Overall, we have serious doubts about the method used to determine the geographic distribution of hunger that was reported in 'Hunger Counties 1986'. We are not convinced that the method reveals the country-level distribution of persons who chronically experience underconsumption of food and other nutrients. Therefore, we doubt whether the 150 "hunger counties" represent the areas of most extreme need.

Mr. President, I commend to my colleagues who are interested in the subject—and to members of the media who have chosen to believe Dr. Brown's charges without examining the facts—that they reveiw the GAO report, entitled "Hunger Counties: Methodological Review of a Report by the Physician Task Force on Hunger," GAO/PEMD-86-7BR, March 18, 1986.

POLITICAL ACTIVISTS WITH A POLITICAL AGENDA

Mr. President, perhaps it might provide insight to understand the perspective of the task force reports if more attention had been focused on the composition of the task force.

I was somewhat amused to find some considerable understatement in one of the comments made by the Physician Task Force on Hunger in America in the first installment of its reports. It is surely one of the few understatements in task force documents generally noted for considerable overstatement.

"Admittedly, we are not politicians."

Such is the caveat included in the foreword to the first—1985—segment of several task force reports. This comment and countless others like it are apparently intended to convey an image that members of the task force are interested health professionals free from politically tainted motivations or biases.

In reality, the 1985 report—and, for that matter, the January and May 1986 reports—described existing Federal food assistance programs through an interpretation that was clearly and unmistakenly both liberal and political. The first task force report was, by any reasonable measure, a political document from front to back. That interpretation is being continued this year through additional task force pronouncements.

I have already cited my own experience with the nonpolitical sense of timing. Inasmuch as this is an even-numbered year, I suppose we should expect more charges from politically-motivated groups.

Perhaps it would be appropriate to examine more closely the political credentials of this supposedly nonpolitical group. The original—1984-85—task force was composed of 22 members—18 medical doctors, 2 ministers, and 2 Ph.D.s, one of whom served as chairman. The January 1986 study had a slightly revised composition, but with the same characteristics. The May 1986 report had one less medical doctor.

The image cultivated by the task force seems to be one of truly concerned physicians banning together to search in earnest for the causes of hunger which they believe to exist. I have no quarrel with the academic and medical credentials of the members of the task force. However, I am concerned that while holding themselves out as impartial citizens, many of the members are, in fact, liberal activists, some of whom has been deeply involved in Democratic Party politics. In some respects, the task force seems to be composed of a Democratic administration in exile rather than simply a group of concerned, nonpartisan physicians. Because of these political connections, one must view with the greatest caution the extreme, at times abusive, appraisal which the group makes of the hunger situation under the present, Republican, administration.

Dr. Julius B. Richmond served as a member of the task force. He is the director, division of health policy, research and education at Harvard Medical School. Dr. Richmond is also a former Assistant Secretary of Health and Surgeon General—1977-81—under President Jimmy Carter. During the administration of President Lyndon Johnson, between 1965 and 1966, he served as Director in the Office of Health Affairs at the Office of Economic Opportunity.

The task force also lists Joyce C. Lashof, M.D., dean of the School of Public Health, at the University of California at Berkeley. This is the same Joyce R. Cohen Lashof, M.D., who served as Deputy Assistant Secretary for Health Programs between 1977-78 in the administration of President Jimmy Carter.

Dr. George Pickett, associate dean and professor of the University of Alabama School of Public Health, was also included as a task force member. Between 1964-65, during the Johnson administration, Dr. Pickett served as Assistant Chief of the Special Projects Section in the Cancer Control Program of the U.S. Public Health Service within the Department of Health and Welfare. Who's Who in America—43d edition, 1984-85—also notes that Dr. Pickett is a Democrat.

Dr. Victor Sidel, a member of the physician task force, is a member of the New York State Public Health Council, having been appointed by New York's Democratic Gov. Mario Cuomo. Dr. Sidel has also been active in Physicians for Social Responsibility, a group urging U.S. disarmament. The political action committee of the Physicians for Social Responsibility primarily supports Democratic candidates.

Rev. Kenneth Dean was one of the nonphysicians included in the task force. He is listed as pastor of the First Baptist Church of Rochester, NY. Reverend Dean is a Democrat who ran, unsuccessfully, for Congress in 1974 in the Fourth District of Mississippi against Representative, now-Senator, THAD COCHRAN, Republican of Mississippi.

Rev. Craig Biddle was another nonphysician task force member. As the director of a liberal church advocacy group—IMPACT [National Interreligious Network]—he champions a number of liberal causes. He and his wife have visited Nicaragua in support of the Marxist Sandinista government and in opposition to the Reagan administration's efforts to support the Contras opposed to that government.

Dr. C. Arden Miller is the chairman and professor of the department of maternal and child health at the University of North Carolina School of Public Health in Chapel Hill, NC. Dr. Miller has been a consultant to the Department of Health and Human Services during the administration of President Jimmy Carter. He has also been a member of the advisory committee on national health insurance for the Ways and Means Committee in the House of Representatives.

Quite a few members of the physician task force served on the select panel for the promotion of child health, a panel proposed and appointed during the Carter administration. This panel, appointed by President Carter's then-HEW Secretary Joseph Califano, issued a report entitled "Better Health for Our Children: A National Strategy" on December 2, 1980. The report called for, among other things, national health insurance, and an expansion in both the Special Supplemental Food Program for Women, Infants, and Children [WIC] and Aid to Families with Dependent Children [AFDC] Programs. Even though the Food Stamp Program was already costing an unprecedented amount of $10 billion, the panel also urged that the Food Stamp Program be expanded both in numbers of individuals served and in the benefit levels for program recipients.

Dr. Richmond, as Assistant Secretary of Health, served on the panel. Other panel members who also serve on Larry Brown's physician task force were Dr. John C. MacQueen, who served as vice-chairman of the panel, and Dr. Aaron Shirley. Listed as contributors to the panel were Dr. Miller and Dr. Pickett, previously cited.

Perhaps most enlightening, Mr. President, is the fact that Larry Brown, the chairman of the supposedly nonpartisan band of academicians, I am informed, worked under liberal activist Sam Brown at ACTION during the Carter administration—hardly the haven of detached, nonpartisan research in those years.

Thus, it seems clear, Mr. President, that these members of the physician task force have longstanding, clearly delineated views which would lead them to oppose the efforts of the present administration. Efforts to reduce Federal spending, no matter how well-targeted or how successful, would invariably be opposed by those who not only resisted such efforts but spearheaded the Carter administration efforts to increase spending for such programs even further.

In the name of "advocacy for children," these individuals have established political credentials clearly at odds with the present, Republican, administration. It is no wonder that they are willing to step forward to label the administration's efforts as causing "epidemic hunger in America." Such accusations are more appropriately seen as liberal political epithets than any reasonable or objective assessment of our Nation's present food assistance programs, which, I might add, cost far more today than they did under the administration of President Carter.

Additionally, Mr. President, it is abundantly clear that at least some participants in the task force study had clearly preconceived ideas of what they would find and what they would recommend before they finished their research—and, in some cases, before they even started it.

Dr. J. Larry Brown, the chairman of the task force, testified at a Senate Nutrition Subcommittee hearing on April 6, 1983 a full year before the task force began its work. Dr. Brown had theorized that Federal Food Assistance Program cutback had prompted what he saw, even then, as hunger in America caused by the Reagan administration policies. At the Senate hearing, Dr. Brown stated:

> Our data is not sufficient to draw a cause and effect relationship between OBRA (Omnibus Budget Reconciliation Act) cutback and the rise of the emergency food pantries, but their temporal relationship certainly in my mind places the burden on those who say that those are unrelated phenomena or events.

In a followup question I asked Dr. Brown to clarify this charge. Part of his response follows:

> In our research, we did not ask families coming to soup kitchens and food pantries whether they do so because of OBRA-mandated cuts in nutrition programs, which otherwise would have enabled them to eat. This is why we cannot say conclusively that there is a cause-and-effect relationship between the two. But the fact that the Reagan Administration initiated the most massive cuts in nutrition programs in the history of our country, and the fact that the number of families coming to soup kitchens and food pantries dramatically increased following those cuts, indicates that they are temporally related.
>
> While it is theoretically conceivable that some factor(s) other than the OBRA cuts forced these families into the soup lines, their temporal relationship and common sense would indicate that the cuts caused these Americans to resort to this means of feeding their families. Clearly the burden of proof now rests on those who would deny such a relationship.

Dr. Brown's espousal of a temporal relationship has evolved into an unequivocal statement by the task force that "Hunger has returned to our Nation primarily due to governmental failure." As outlined earlier, his charges are not supported by other analysts.

The thin veneer of the supposed scientific inquiry by the physician task force can be seen from the pronouncements made by Dr. Brown long before the task force concluded its first report. After visiting three of the eight States to be visited, Dr. Brown indicated to reporters on May 5, 1984 that he would recommend a 25-percent increase in the Food Stamp Program. Needless to say, when the principal author of a report makes known his views before the investigation is complete it raises considerable question about the objectivity of the remainder of the investigation and the thoroughness of that investigation. Sure enough, the final physician task force report recommended a 25-percent increase in the Food Stamp Program—at a cost, I might add, of over $4.5 billion annually.

Dr. C. Arden Miller's views were clear before the physician task force was formulated. On January 11, 1984, Dr. Miller criticized the findings of the President's Task Force on Food Assistance in a news conference sponsored by the American Public Health Association. Drs. Miller and Pickett are former presidents of the American Public Health Association. Dr. Sidel is the current president.

Dr. Brown and at least three other physicians who would become members of the task force—Drs. Lattimer,

Sidel, and Shirley—testified before the House Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition during 1983. Their preconceived views, like Dr. Brown's, were readily apparent. Dr. Lattimer, for instance specifically called for increased spending for Medicaid, AFDC, WIC, and title XX social services.

This is not a record of independent physicians. Rather, Mr. President, it is one in which a preponderance of the membership have had clearly identifiable views opposing the philosophy of the Reagan administration.

The three installments by the physician task force have been political documents, hardly the objective, or scientific study the task force seeks to portray to the American people. They should be reviewed in that context.

PHYSICIAN PAYMENT REVIEW COMMISSION

Mr. DOLE. Mr. President, 2 weeks ago, the Senate received notice that the Office of Technology Assessment [OTA] had selected the 11-member Physician Payment Review Commission [PHYSPRC]. Congress established the formation of this Commission to advise both the Congress and the administration on the complex area of Medicare physician reimbursement policy. This advisory body has been enthusiastically awaited by many Members of Congress, particularly those of us with a longstanding interest in the area of physician payment reform.

While it is a certainly challenging task to put together a broadly representative panel on such a diverse subject, one requirement stands out to those of us who recognize the unique concerns of our rural constituents. We must be sure that those who live and serve in rural America will have their concerns adequately represented. In the recent past, we recognized this need in the area of hospital payment when we added rural representation to the Prospective Payment Assessment Commission. The same need is equally compelling in the area of physician payment.

Fortunately, the Office of Technology Assessment has responded rapidly to the request made by the Senate Rural Health Caucus and has agreed to appoint a Commissioner-designate from a rural area to serve for 1 year in a consulting capacity. That individual will, at the end of that year become a full voting member for a 3-year term commencing May 1987. I complement OTA for being both flexible and timely in their response to our request and I am personally looking forward to the contribution of PHYSPRC as we continue our efforts in Medicare physician payment reform.

COCAINE CRIMES

Mr. BUMPERS. Mr. President, I am pleased to join as a cosponsor of three bills recently introduced by my distinguished colleague from Florida Senator CHILES, which would help law enforcement stop the epidemic spread of rock cocaine across this country. The recent tragic death of University of Maryland basketball star Len Bias as a result of cocaine intoxication has focused the attention of the Nation on the abuse of this potent drug. So it is an especially appropriate time to consider ways to attack this terrible problem. Senator CHILES' bills would toughen current laws on the manufacture and sale of this most potent type of cocaine, and would place the stiffest penalties on manufacturers and distributors of the drug who make or sell it near schools or with the help of school-age children.

The use of cocaine, which is the most addictive and powerful of all narcotic drugs, has become an epidemic in our society. Rock cocaine is a relatively new form of cocaine. It is made by a freebasing procedure which entails the heating of cocaine with water and baking soda, thus removing the hydrochloride base in the drug and leaving an almost pure narcotic substance. The heating procedure leaves a sticky residue which is allowed to dry and is then cut into chunks (rock) or slivers (crack) and sold. Because the residue is almost pure narcotic, it is very potent, very addictive, and can be lethal.

It is estimated that there are 4 to 5 million cocaine users in this country, and one out of every six high school seniors has tried cocaine at least once. The majority of cocaine users are turning to this new, more potent form of the drug, which is now widely available in 17 of this countries largest cities. The traffic in rock cocaine has grown immensely over the last year and is spreading a new crime wave through cities and towns across the Nation. This is a situation in which street traffic in drugs has gotten ahead of the law. Senator CHILES' bills would amend several provisions within the Controlled Substances Act to create new penalties needed to cover the use and manufacture of this newly developed drug.

The first bill, S. 2560, would list rock cocaine under schedule I of the Controlled Substances Act, which indicates that the narcotic has a high potential for abuse, has no known medical use, and can be deadly. Rock cocaine is without any medical use and should certainly be listed among the most dangerous types of drugs, and its users and makers should be subject to the severest penalties.

The bill would place the toughest penalties, a 20-year prison term and $250,000 fine, on those who manufacture, distribute, or possess 1 gram or more of rock cocaine. The penalty currently applies to those in possession of 1 kilogram of cocaine hydrochloride. However, 1 kilogram of rock cocaine would amount to over 15,000 doses, much more than any one dealer would likely possess, so the amount was lowered to indicate the potency of a very small amount of the drug.

Senator CHILES' other two measures would increase the penalties against rock cocaine manufacturers and dealers who employ minors under 21 years of age in their drug enterprise or who manufacture drugs near our children's schools. One bill, S. 2561, would make it a felony to employ a person under 21 years of age to distribute any controlled substance and impose a penalty on any violator double that imposed on makers and sellers of rock cocaine, that being a maximum 20-year term or $250,000 fine. Repeaters could receive a penalty three times that amount. As Senator CHILES has pointed out, young children are often indispensable to rock dealers and are used as deliveries, customer hustlers, and police lookouts. They are paid for their work with a dose of rock or crack and soon become hard addicts themselves. Thus our children are being victimized by these ruthless cocaine dealers, and it is time we put a stop to this deplorable situation before these children's lives are completely destroyed.

The other bill, S. 2562, would expand current law prohibiting the distribution of any controlled substance within 1,000 feet of a primary or secondary school by including the manufacture of controlled substances under the coverage of that law. The above penalties would also apply under this provision, and any repeater could receive a life sentence.

Mr. President, I believe these three bills make several sorely needed changes in our drug laws, which have fallen behind the times. The recent development of rock cocaine makes these changes imperative, for without them the cocaine epidemic will certainly spread out of control. I commend Senator CHILES for introducing this legislation and for his continued efforts at eradicating the drug abuse problem in this country.

I am also a strong supporter of his amendments placed on the supplemental appropriations bill which direct the Attorney General to call an emergency meeting of the National Drug Enforcement Policy Board to address the rock and crack cocaine issue and require the Board to develop a plan to promote effective law enforcement efforts to search out and prosecute cocaine traffickers, including agreements with our Latin American neighbors to reduce the importation of cocaine into this country. It is only through such an all-out effort that Congress can

expect to tackle the drug problem in the United States.

RHODE ISLAND RESOLUTION ON NUCLEAR TESTING

Mr. PELL. Mr. President, the Rhode Island General Assembly recently passed a resolution urging the President and the Congress of the United States to respond immediately to the Soviets' unilateral halt of nuclear testing.

I share the assembly's view that we should respond to Mr. Gorbachev's offer. We must not allow the Soviets to claim the high road on arms control issues. Instead, Congress and the executive branch should cooperate in devising a viable, concrete proposal to enhance our security through effective arms control.

The strong interest in and support for a moratorium expressed by Rhode Island legislators was of particular interest in the light of a joint resolution which Senator DANFORTH and I have introduced and which has gained 20 other cosponsors. Our legislation, Senate Joint Resolution 252 urges the President, at the earliest possible date, to:

Endorse and request Senate consent to ratification of the Threshold Test Ban Treaty and the peaceful Nuclear Explosions Treaty, signed in 1974 and 1976 respectively;

Call upon the Soviet Union to join in a further agreement reducing the permitted yields of explosions, as specified in the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, to the lowest possible verifiable levels which advances in seismic detection and other verification capabilities will allow;

Express to the Soviet Union and Great Britain the desire of the United States to resume negotiations to conclude an agreement leading immediately or in balanced steps to a mutual and verifiable ban on nuclear explosions to which all nations would be invited to become party; and

Seek Soviet agreement to facilitate negotiations by declaring at the earliest practicable date a mutual moratorium of finite duration on nuclear explosions.

In the course of recent hearings held by the Committee on Foreign Relations at my request, the concepts in Senate Joint Resolution 252 received enthusiastic support from several expert witnesses.

Mr. President, I think the resolution passed by the General Assembly of Rhode Island is indicative of the strong sentiment for effective arms control. I ask unanimous consent that the full text of the resolution be printed in the RECORD immediately following my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

HOUSE RESOLUTION

Whereas, A nuclear war would result in death, injury and disease on a scale unprecedented in human history; and

Whereas, Spending for the arms race is contributing to record budget deficits that threaten our nation's economic security while programs providing essential assistance to communities throughout the country are being cut back; and

Whereas, A ban on nuclear testing would promote the security of the United States by constraining new developments in the U.S.-Soviet nuclear arms competition and by strengthening efforts to prevent the spread of nuclear weapons to non-nuclear countries; and

Whereas, A ban on testing would be a concrete and easily achievable first step towards a complete halt to the nuclear arms race and deep reductions of ever-expanding nuclear arsenals; and

Whereas, A ban on nuclear testing can be verified with high confidence by a worldwide network of seismic monitors, satellites, and other verification technology operated by the United States and other nations; now, therefore, be it

RESOLVED, That this house of representatives of the state of Rhode Island and Providence Plantations hereby memorializes the President and the congress of the United States to respond immediately to the Soviets' unilateral halt of testing by joining them in a mutual and verifiable suspension of testing as a first step toward freezing and reversing the arms race; and further memorializes the members of the Rhode Island congressional delegation to support legislation that would enact a moratorium on nuclear testing to be continued as long as the Soviets do not test; and be it further

RESOLVED, That the secretary of state be and she hereby is authorized and directed to transmit duly certified copies of this resolution to the President of the United States and to the members of the Rhode Island congressional delegation.

LIBERTY WEEKEND

Mr. MATHIAS. Mr. President, about a month ago my wife, Ann, asked a question that is typical of her and of her concern for people. She asked "Who is going to attend the ceremonies at the rededication of the Statue of Liberty?" I did not know the answer so I addressed the question to Lee Iacocca who has been the chairman of the committee for the restoration of the statue.

Ann's question was especially pertinent in the light of Emma Lazarus famous poem in which she attributes to the Statue of Liberty the moving words of "The New Colossus:"

"Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore, send these, the homeless, tempest-tossed, to me: I lift my lamp beside the golden door."

These are words not only inscribed upon the pedestal of the Statue of Liberty, they are words inscribed on the hearts and woven into the hopes and dreams of millions of people around the world. One reason that these lines have had such an appeal is that they have been proven to be true and neither an idle boast nor a hollow promise. It is the work of each generation of Americans to maintain this credibility.

Thus Ann was worried when she saw the press reports that only those affluent and influential enough to buy a $5,000 ticket would be admitted to the ceremonies rededicating the Statue of Liberty. There would indeed be an irony if the tired and the poor were to be ousted entirely by the sleek and the rich. It would erode the perception of America in a significant way.

Our responsibility is not only to protect our own good name, but also to honor the spirit and traditions of the Statue of Liberty. When Edward deLaboulaye conceived the idea of presenting Liberty to the United States as the gift of the French people it was more than a generous impulse. The proposal for the gift was made at a significant moment in French history. The French people had recently abolished the Second Empire and established a republic. In so doing they had isolated themselves from their neighbors in Europe where every other country was governed by a monarchy with the exception of the Swiss Confederation. The gift of the Statue of Liberty was an expression not only of friendship, but also of solidarity in support of the ideal of liberty and justice. With the gift we accepted a trust and we must not casually or carelessly violate it. We do still aspire to a free and just society and we should not behave in a way that gives any other impression.

For all of these reasons I thought Ann's question was not only reasonable but important. I submit at this point in the RECORD my letter of May 30 to Mr. Iacocca and the response received from Mr. David L. Wolper, Chairman of Liberty Weekend.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 30, 1986.

Mr. LEE IACOCCA,
Chrysler Corp.
Detroit, MI

DEAR MR. IACOCCA: The nation is impressed with the progress being made in the restoration of the Statue of Liberty and with the plans for its rededication. You have earned both our thanks and our congratulations.

One aspect of the program has not come to my attention in the press and I am therefore asking you directly about it. That is the question of how many seats will be provided for the public free of charge and how they will be allotted.

It would be a travesty if a monument that is a symbol of welcome to the tired, the poor, the homeless and the tempest tossed, should not offer a place for them on this occasion. I am confident that you will not let

this happen and I look forward to hearing of the arrangements that you have made.

Sincerely,

CHARLES MCC. MATHIAS, Jr.

LIBERTY WEEKEND,
New York, NY, June 12, 1986.

Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senator,
Senate Office Building,
Washington, DC.

DEAR SENATOR MATHIAS: In answer to your letter to Lee Iacocca on May 30th regarding our plans for the Statue of Liberty celebration. You asked a question, about how many seats are provided for the public free of charge and how they will be allotted. Let me give you the breakdown each day.

On July 4th, we have Operation Sail, on this day there is literally millions of areas available free to the public all the way from the Verrazano Bridge in New York Harbor to the George Washington Bridge, both on the New York and the New Jersey shoreline. There are parks, highways, freeways, docks, etc., that are open to the public by the city of New York, State of New Jersey, State of New York and cities along the Hudson River.

In the evening for the fireworks display, on July 4th, you can see it free from anywhere in Brooklyn, the lower part of Manhattan. The fireworks display circles around the bottom of Manhattan from the Brooklyn Bridge to the World Trade Center. It was designed that way so the largest amount of people could see the event free.

Also on the 4th of July is the Americana Concert at Liberty State Park in New Jersey. Here we have the Boston Pops Orchestra conducted by John Williams as well as a host of 10 popular American stars performing in a free concert for the public. The State of New Jersey expects around 15,000 to 20,000 people to attend.

The next day on the 5th of July, we have a concert in Central Park in New York with the New York Philharmonic Orchestra conducted by Zubin Mehta. There are eight international classic stars performing from 8 to 10 p.m. The city of New York expects between 250,000 to 500,000 to view these ceremonies free.

On the 5th and 6th of July, we have the Liberty Conference, where major political figures, journalists, historians and educators gather together to discuss Liberty the next fifty years. This will be a two day conference, in which there is seating which is all free for approximately 400 people each session in the three sessions.

Of course, during the 5th and 6th, all the tall ships and the Naval ships that sailed in the harbor on the 4th, are open free to the public to visit. The ships will be tied up throughout New York, New Jersey, Brooklyn and Staten Island.

Practically the entire weekend is free. It has been paid for, by selling tickets just to the Opening and Closing Ceremonies and the sale of certain television rights. I think we have an excellent opportunity for the public in this area and for anybody who is visiting from around the country to have a terrific free weekend.

Best personal regards,

DAVID L. WOLPER.

Mr. MATHIAS. As I read Mr. Wolper's letter, and as I understand my several conversations with his staff and with the Department of the Interior, not one free ticket will be available to new immigrants or to older Americans nor to any of the members of the American community that make up the uncomplaining and stalwart backbone of this great land. Mr. Wolper's suggestion that they watch from the Verrazano Bridge and the shoreline of New Jersey and New York may be fine for the tall ships, but will surely be of little value for the ceremonies that express the essence of the occasion, the rededication of the Nation to liberty as well as the rededication of the Statue of Liberty. I am sure that Mr. Wolper would not have intended to imply that they were the same thing any more than Marie Antoinette would actually have said "Let them eat cake."

I have therefore answered Mr. Wolper's letter with a plea to invite representative Americans to attend the ceremonies as the guests of Liberty Weekend. I submit a copy of my letter for the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, June 25, 1986.

Mr. DAVID L. WOLPER,
Chairman/Executive Producer, Liberty Weekend, New York, NY.

DEAR MR. WOLPER: Thank you for responding to my letter addressed to Lee Iacocca inquiring whether the general public would have access to the principal ceremonies.

I understand your point that millions of people will be able to view the scene from the shore line and from the Verrazano and George Washington Bridges. But it is not the same thing as being present at the event.

It is my strong recommendation that you invite, as guests of Liberty Weekend, some representative citizens. Selection of the individuals to be invited will not be easy, but I suggest that the choices come from groups such as senior citizens, handicapped children, and the large number of new citizens who will be naturalized on July Fourth.

I believe that the ceremonies will be more meaningful, both substantively and symbolically, if the attendance is expanded in this way.

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
U.S. Senator.

Mr. MATHIAS. Mr. President, I urge the Festival of Liberty to open its arms to less affluent Americans so that all the people who make up this country can share in the celebration. The statue may be more tarnished by an exclusive ceremony than by the years of natural elements that have buffeted her exterior. We must allow representatives of those for whom she has issued the invitation to attend the ceremony.

CHIEF JUSTICE BURGER AND THE COMMISSION ON THE BICENTENNIAL OF THE CONSTITUTION

Mr. STEVENS. Mr. President, I have had the pleasure during the last several months of working with Chief Justice Burger on the planning of the bicentennial of our Constitution. I must say I was caught off guard by the announcement that he will retire as Chief Justice of the United States. However, knowing of his personal commitment to the success of the celebration of this bicentennial, it comes as no surprise that he has decided to devote his full attention to bringing it home to the people of the United States.

The Chief Justice explained in his comments this afternoon that he was logging over 100 hours a week between his responsibilities on the Court and his efforts to prepare for the bicentennial. Some of our colleagues mention from time to time the quality of life in the Senate, but it seems to me that we have it easy compared to the Chief Justice.

I have been impressed since the first meeting of the Commission on the Bicentennial of the Constitution—of which I am pleased to be a member—with the time and effort he has devoted to thinking about and planning for the bicentennial of the Constitution. The members of the Commission were not selected until last year, even though it was established in 1983. He, however, has been preparing for this for years. We held our first meeting at the end of July. During those meetings the Chief reminded us that time was short, and the job we have to do is very large. He has set us a fine example for the members of the Commission, the Members of this body, and for the people of this country.

He is devoted to the success of the celebration of this 200th anniversary of our Constitution. He has defined success as reaching every person we can—both in the United States and across the world—with what has been called the miracle at Philadelphia—the concepts embodied in the U.S. Constitution. Two things should happen during this bicentennial: we should encourage people to think about the meaning of the Constitution, and we should celebrate the anniversary of its creation.

This is an occasion truly worth celebrating. The craftsman and tradespeople of Philadelphia celebrated the ratification of the Constitution by having a Grand Federal Procession on the Fourth of July in 1788. They were not just having a good time: they were making a point. The support of the people for this new form of government was proved by their participation. These processions occurred throughout the new States as additional States ratified the Constitution. Every Federal procession in 1788 had more marchers in line when the parade ended than when it began.

The people of the new United State's then, knew the importance of

the Constitution—it was a shield to protect their precious independence. We know the importance of the Constitution—and we can point to its success over the last 200 years. Celebrating the bicentennial is more than a happy occasion: it is a reaffirmation of our faith in the Constitution.

I have a speech here which the Chief Justice made in September of 1983 at the International Conference on Constitution Writing. I want to insert this speech in the RECORD, and I hope that each of my colleagues will take the time to read it. It should serve to remind us all of how fortunate we are to be a part of the government which the Constitution established.

Mr. President, I ask unanimous consent that the text of Chief Justice Burger's speech be printed in the RECORD at this point.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

WELCOMING REMARKS OF WARREN E. BURGER, CHIEF JUSTICE OF THE UNITED STATES, AT THE INTERNATIONAL CONFERENCE ON CONSTITUTION WRITING

This morning—given the occasion and the approach of the 1987 Bicentennial of our own Constitution—rather than discussing contemporary constitutional problems, I ask you to indulge me in some historical reminiscences—to look back with me at the struggles which took place in our country nearly two centuries ago leading to our Constitution.

I do not mean to discuss the contents of that document but rather to ask: how did it come about that 55 men in a country of barely four million were cast by history to take actions that led to one of history's greatest experiments in government of a free people under a written Constitution?

Since it was a wholly new experiment in government, it is not surprising that the Constitution was under attack from the moment it was signed in Philadelphia. The delegates had labored through four hot months to produce the document, but on that cool Autumn morning—Monday, September 17—42 delegates were present, and as we know, three of them refused to sign their names to the draft. Others signed reluctantly.

At that final meeting in Philadelphia, Benjamin Franklin, one of the wisest of all the Founding Fathers, and the most senior made some observations, and his words are so filled with wisdom that it is worth recalling them. He said this:

"Mr. President, I confess that there are several parts of this Constitution which I do not at present approve, but I am not sure I shall never approve them: For having lived long, I have experienced many instances of being obliged by better information or fuller consideration, to change opinions even on important subjects, which I once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment, and to pay more respect to the judgment of others."

Other men had less moderate things to say about the new Constitution. Some of them were very harsh indeed. For example in the following year, at the Massachusetts Ratification Convention, one delegate had this to say:

"Mr. President, . . . some gentleman have called on them that were on the stage in the beginning of our troubles, in the year 1775. I was one of them. And I say that if anybody had proposed such a constitution as this in that day, it would have been thrown away at once. It would not have been looked at. . . . Does not this constitution . . . take away all we have—all our property? Does it not [have power to] lay all taxes, duties, imposts, and excises? And what more have we to give?"

Then another delegate, Mr. Smith, answered him saying:

"Mr. President, I am a plain man and get my living by the plow. I am not used to speaking in public, but I beg your leave to say a few words to my brother plowjoggers in this house. I have lived in a part of the country where I have known the worth of good government by the want of it."

The delegate then explained that he had been a member of the convention that formed his own state Constitution and that he had learned something of the need for checks and balances of governmental power. He concluded, saying that as to the Constitution drafted at Philadelphia:

"I did not go to any lawyer to ask his opinion. We have no lawyer in our town and we do well enough without. I formed my own opinion and [I] was pleased with this Constitution."

To secure the ratification of our Constitution by the states was no easy task, for there were articulate and popular heroes like Patrick Henry in Virginia opposing it. We know, too, that it was only the great prestige of George Washington and James Madison, buttressed by a rising young public leader, John Marshall, who out-debated that great orator Patrick Henry in the Virginia Convention, that brought about Virginia's ratification. Without Virginia's ratification there would have been no Constitution—at least at that time.

I have always found it difficult, and I suspect others may share that difficulty, really to understand how separate and how independent were the 13 sovereign states that made up the Confederation preceding the Constitution. We know, of course, that the people of Massachusetts Bay regarded themselves as allies—allies of 12 other states. They thought themselves quite different from the people of Virginia or Maryland or New York. This confusion of allegiances is illustrated in the circumstances surrounding President Lincoln's offer in 1860 to Robert E. Lee of the command of all the Union armies at the outbreak of our Civil War.

Lee loved the Union and was distressed at the idea of any states seceding from that Union. He hated slavery but was so much a product of the colonial age of his father, General Harry Lee, one of Washington's generals, that instead of accepting Lincoln's offer, he resigned from the Army. He went immediately to Richmond to offer his services to the Governor for the defense of Virginia—not for the support of secession, not for the defense of slavery, not for the dissolution of the Union, but simply in the 18th century tradition of men who were Virginians first and Americans second. This episode has always helped me understand the enormous difficulty of getting the Constitution ratified.

Now let me take you back from this digression to the year 1787 when even the word "constitution" was not a familiar one. Americans of that day had a great fear of central governments stemming from the fact that our Revolution had been fought to escape from the clutches of a distant and strong central government in London. When the Continental Congress met in New York early in 1787 to consider convening what we now know as the Constitutional Convention, the authorizing resolution was carefully circumscribed. The delegates to that meeting in Philadelphia were to be sent there as members of a committee . . . for the sole and express purpose of revising the Articles of Confederation.

There was no hint of drafting a new Constitution, but rather a study of the existing articles which, of course, created no real central government at all. Patrick Henry had refused to be a delegate from Virginia, because, as he put it, he "smelled a rat." The "rat" Patrick Henry apparently referred to was that there was a risk of something more than a "committee" to "revise" the existing Articles.

Those Articles reveal how jealous each of the states was about its own sovereignty. The language used in the charter of the Confederation reads in the familiar terms of a treaty between sovereigns. The words are these, and we must marvel as we recall them: The said states hearby severally enter into a firm league of friendship with each other.

"Severally"! A "firm league"! "Friendship"! These are the words used by 13 states speaking to each other! Of course it is clear that the bonds between the 13 states were very loose indeed. The terrible privations, and the needless deaths from starvation and freezing suffered by Washington's troops, at Valley Forge only a few miles from where the Constitution was later to be drafted, attest to the looseness of that Confederation. That looseness caused those men at Valley Forge to suffer through a terrible winter, because the states had no binding duty to provide the promised food, the material and the money necessary to support the Revolution and its armies. There was no central power to levy and collect taxes or to raise armies. We were not yet truly a nation.

The Continental Congress was indeed a loose confederation without the attributes of sovereignty and it is nothing short of a miracle that the Revolution was successful, or that there was any occasion to convene what we now describe as the Constitutional Convention. It was our good fortune that King George III and his ministers sitting in London had to keep a good deal of their powder dry to deal with adversaries more powerful and more dangerous than the 13 erstwhile colonies.

One state, for example, paid nothing in the way of taxes or contributions to the Confederation for at least five years before the meeting in Philadelphia. The State of Rhode Island declined even to send delegates to Philadelphia in 1787! As a result of this lack of central authority, soldiers under Washington often furnished their own clothing, their own guns, even their own gunpowder at times. Hamilton, the financial genius of the Confederation, and later of the new government under the Constitution, was described in the war period as "Receiver of Continental Taxes"—the "receiver," not "collector"! The "taxes" were gifts like contributions to a church—purely voluntary.

These terrible experiences not only dictated Washington's strategy of evading contact with British troops by keeping his armies on the run, but also shaped his political philosophy, that a strong central or federal government was imperative. John Marshall, a

young captain in Washington's army, spent that terrible winter at Valley Forge, and his political and constitutional views took shape in terms of the need for a strong central government. Those views later found their way into opinions of the Supreme Court when that young Captain became Chief Justice 20 odd years later. The justly famous opinions of the Court in *Marbury* v. *Madison*, *McCulloch* v. *Maryland* and *Gibbons* v. *Ogden* bear the imprint of that harsh winter at Valley Forge. Thus did Valley Forge help shape our constitutional jurisprudence.

The ambivalence and fears of the people of some of these 13 states toward a central government very nearly cost us the victory in the Revolution—and came close to frustrating the ratification of the Constitution as well. Our leaders learned that without strength there can be neither independence nor freedom.

Hamilton surely had it impressed upon him that if the payment of taxes by the people and by states was purely a matter of choice, there would never be a nation. He said that what was needed was the kind of structure that appealed not to ". . . the narrow colonial sphere in which we have become accustomed to move," but rather to ". . . that enlarged kind suited to the government of an independent nation."

When we realize that nearly a century later so great an American as General Robert E. Lee could not shake off the "narrow colonial" attitude of the 18th century, it is not surprising that Hamilton did not succeed in persuading the Continental Congress in 1787 to enact the proposed resolution in express terms calling for a Constitutional Convention. He had to compromise for a "committee" to review the old Articles of Confederation. Madison and Hamilton, like Washington, knew that the structure created by the Articles of Confederation, including the Continental Congress, was what we call today a "paper tiger"—a multi-lateral "treaty" among 13 sovereign states agreeing to cooperate and collaborate for limited purposes.

Robert E. Lee's attitude of state sovereignty was still shared in one way or another by millions of his fellow Southerners in 1860—all fine Americans. But it was rejected by even more millions of Americans in the North who shared President Lincoln's conviction that the preservation of the Union was the "paramount object" of the Civil War—because the Constitution and its values were worth saving even at the cost of the terrible war. Alexis de Toqueville took note of this belief when he observed that although Maine, our northernmost state, was about 1000 miles from Georgia, then our most southerly state, the habits, language and civilization were less different than those between Normandy and Brittany.

We remember, of course, that there were rigid limits on commerce in 1787. The 13 states printed their own money. One thing which merchants and businessmen hoped for was a system that would open up the channels of commerce. Imperative to commerce would be a common currency, a central revenue system, a central banking system, a central authority to deal with other nations—and no trade barriers between the states. Our Constitution gave our 13 separate and sovereign states a "common market" nearly two centuries before those words entered our vocabulary.

Madison, who is often called the "father of the Constitution," had been a close student of the history of governments. Before going to Philadelphia he had immersed himself deeply in study. One of his early writings can be read as a foreshadowing of what emerged in Philadelphia and later in Marshall's opinions for the Supreme Court. Madison had written:

"Let the national Government be armed with a positive and complete authority in all cases where uniform measures are necessary . . . . Let it have a negative, in all cases whatsoever, on the legislative acts of the States [and] [l]et this national supremacy be extended also to the judiciary department."

Those final 12 words foreshadowed *Marbury* v. *Madison*.

Madison could not match the eloquence of his fellow Virginians, Thomas Jefferson or Patrick Henry, but he was a profound thinker, a craftsman, an engineer in terms of political science. It was the great good fortune for our country—and for the very idea of human freedom—that Madison became the principal draftsman, if not the principal architect, of the Constitution. Philosophically, he was then more attuned to the ideas of Washington, Hamilton, and Adams concerning the needs of the new country than he was to the thinking of his close friend and political ally Thomas Jefferson. Given Jefferson's visions of a nation of farmers, artisans, strong yeomen, and his fear of a strong central government, perhaps it was just as well that Madison arrived in Philadelphia in advance of the formal meetings and that Thomas Jefferson, like Patrick Henry, did not attend at all.

It surely must be clear that a loose federation of 13 sovereign states such as we had during the conflict with England would have doomed us to a balkanization that would have made us easy conquests of those great powers who were anxious to maintain a foothold in North America.

It is difficult to recreate the atmosphere that must have existed in Philadelphia in that summer of 1787. In terms of 18th century travel and communications, our 13 states were very distant from each other, stretching farther than Morocco to Copenhagen, and spread the length of the Atlantic Coast from New England to Spanish Florida. We were hemmed in by British to the North and by Spain and France to the South and West with continuing interest in Florida, Louisiana and control of the Mississippi River.

Perhaps it was something of these concerns, these fears, that moved Benjamin Franklin, who was not known to be dedicated to orthodox religious institutions, to offer a motion that the Convention should be opened every morning with a prayer. However, there were no funds available to pay a chaplain!

One thing many delegates shared, because of what they had suffered as colonists, was a feeling that a government with built-in checks and balances was imperative. A constant theme underlying the debates and discussions during those hot weeks in Philadelphia revolved around the need for, and the states' objections to, the surrender of some state authority and sovereignty to a new, and as yet unknown and undefined national or central government.

James Wilson, one of the ablest men at the Convention, and Pennsylvania's first Justice on the United States Supreme Court, at one point put his finger on this problem, arguing that:

"If no state will part with any of its sovereignty, it is in vain to talk of a national government."

"I do not see the danger of the states being devoured by the national government. On the contrary, I wish to keep them from devouring the national government."

The fear of central power, and the need for central power permeated the debates throughout the convention. The tensions that these conflicting ideas developed were revealed in the rather bitter comments of two prominent leaders, James Wilson and John Dickinson. Dickinson at one point said:

"If the general government should be left dependent upon state legislatures, it would be happy for us if we had never met in this room."

As with any deliberative body, small or large, when the issues are of great consequence, and especially when they probe into the unknown, feelings grow tense and utterances occasionally can become harsh. The Constitutional Convention was a process of give and take in the highest tradition of open democratic discourse among free people. On the main proposition, that is the system of checks and balances, with three coequal and independent departments, it is our good fortune—and perhaps that of all free people—that Madison, Hamilton, Morris and Wilson would not yield.

The day after the Convention on September 18, 1787, the delegate from New Hampshire wrote to a member of his family, saying:

"It was done by bargain and compromise, yet notwithstanding its imperfections, on the adoption of it depends whether or not we shall become a respectable nation, or a people torn to pieces by intestine commotions, and rendered contemptible for ages."

Franklin's closing speech perhaps said it as well as could have been said:

"In these sentiments sir, I agree to this constitution with all its faults if they are such."

When asked at the close of the sessions what the Convention had created, Benjamin Franklin answered: "A republic, if you can keep it."

The delegates left Philadelphia exhausted but rightly entitled to be elated, but the document produced had yet to run the gauntlet of the states' ratification processes.

The outcome was largely determined by the action of Virginia, then the largest of the states. There the debate was long and heated. The revolutionary hero, Patrick Henry, was the chief spokesman against ratification. John Marshall, at that time a rising young lawyer 32 years of age, was the chief spokesman for the ratification. His victory over the formidable Patrick Henry brought him into national prominence. Fourteen years later he became Chief Justice of the United States.

Historians have never reached any firm agreement as to why the subject of judicial review of the actions of the political branches were not made express in the Constitution. One view is that this authority was taken for granted and, of course, that view is well supported. The other more tragic matter is the failure to come to grips with the institution of slavery. There the unarticulated compromise was to let that issue await future developments. There is general agreement that had the men in Philadelphia tried to resolve that question there probably would have been no Constitution at that time. Nearly a century later it took a terrible Civil War to terminate that institution and we are still living with some of the social consequences of the institution of slavery and working to redress them.

In the history of our country two great documents stand out: the Declaration of Independence and the Constitution. One, the Declaration, is a statement of principles and aspirations; the other, the Constitution, was directed at the means to achieve ordered liberty through government and subject to change only by consent of those governed.

We have survived for two centuries because our strength was not simply in the concepts of those two documents—great as they are—but because of the strengths of people who are free, of personal integrity, of individual responsibility and accountability, of the traditions of home and family—and of strong religious beliefs.

Today, the importance of the rule of law and concepts of human freedom are far more widely understood and accepted than in 1787. At least two centuries of human history confirm that those values can, with rare exceptions, best be served by means of written constitutions.

Mr. STEVENS. Mr. President, with the departure of the Chief Justice a new era will begin for the Supreme Court. William Rehnquist has been an outstanding Justice during his 15 years on the Supreme Court and will make an equally outstanding Chief Justice. The President is to be commended for selecting Judge Scalia as the new Associate Justice. I look forward to seeing his influence on the opinions of the Court.

DEBTOR NATION STATUS FOR THE UNITED STATES

Mr. THURMOND. Mr. President, the June 25, 1986, edition of the Washington Post reported further ill consequences resulting from the ever increasing level of foreign goods entering our country. The bad news is that the United States now holds the dubious distinction of being the No. 1 debtor nation in the entire world. Last year marked the first time since 1914—over 70 years ago—that our country owed foreign interests more than they owed us. This is particularly disturbing in light of the fact that as recently as 1982 the United States was the largest creditor nation in the world.

Mr. President, as the top debtor in the world, the debt of the United States exceeds $107 billion. Yes, we owe more money than debt-ridden countries such as Brazil, Mexico, and Argentina. Essentially what has happened is that foreign nations have received more and more American dollars as they increased exports to our Nation. They have then turned around and invested those dollars in a larger and larger chunk of our economy. The huge debt is a unhealthy development which drains income from our country because we have to pay interest and dividends on overseas investments located here. This large and growing debtor status casts a shadow over the economic viability of the United States and threatens our position as a world power.

Mr. President, it is unlikely that the huge debt of the United States will decrease until we curb our ever growing merchandise trade deficit. In 1985 we imported $158.5 billion more than we exported, resulting in the fourth straight record setting annual deficit. Over $20 billion of this deficit can be attributed to textile trade. Unfortunately, the textile trade deficit continues to grow as imports continue to flood our markets. For the first 4 months of 1986, textile and apparel imports are up 26 percent over the first 4 months of 1985. As a result, plants are forced to close and workers lose their jobs. On June 25, 1986, the Daily News Record reported that Levi Strauss & Co. will close three domestic sewing plants and permanently lay off about 1,200 employees. These workers will join more than 350,000 others that have lost their jobs to textile imports over the last 5 years.

It is my hope that the administration will finally realize the gravity of our Nation's trade problems and begin taking strong steps to improve the situation. Vital industries such as textiles, which the Defense Department ranks second only to steel in importance to national defense, must be given a fair chance to compete against foreign imports. The jobs and economic well being of thousands of Americans depend on it.

Mr. President, I ask unanimous consent that the previously mentioned articles from the Washington Post and the Daily News Record appear in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1986]

U.S. BECOMES WORLD'S No. 1 DEBTOR NATION

(By Stuart Auerbach)

The United States leapfrogged Brazil and Mexico last year to become the world's largest debtor nation, with foreign interests owning $107.4 billion more in the United States than Americans own overseas, the government reported yesterday.

The deficit resulted from a $111.8 billion swing from the year before, when the United States registered a $4.4 billion surplus in its financial position with the rest of the world. As recently as 1982, moreover, the United States was the world's largest creditor nation.

"It's amazing to go from a small net creditor to the biggest debtor in one year," said C. Fred Bergsten, director of the Institute for International Economics and a Treasury Department official in the Carter administration.

He cited the "breathtaking pace of deterioration" as a major economic problem for the United States. "It shows how enormous the momentum is in the wrong direction" and how hard it will be to turn around, he said.

The debt is believed to have grown by $30 billion in the first three months of this year, and Bergsten predicted it will hit $500 billion before it levels off. Further, if the value of the dollar fails to continue falling, he said the debt could reach $1 trillion in the 1990s.

"That's levying a pretty big cost to the economy. That's the price of neglecting the problem for five years," he said.

A strong stock market surge late last year accelerated America's foreign debt, as the value of stocks owned by overseas investors gained in value. As recently as last Tuesday, when the Commerce Department released the broadest measure of U.S. international transactions, economists predicted that this country had ended 1985 as the No. 3 debtor nation, behind Brazil and Mexico.

Brazil, which until last year had been the world's leading debtor nation, owes $100 billion. Mexico owes $95 billion.

President Reagan has brushed off the significance of growing foreign debt as a problem for the economy, asserting that it shows the strength of America because so many foreigners want to invest their money here.

But many economists disagree. They say the large and growing debtor status of the United States casts a shadow over its economic viability, even though America is not in the position of Mexico, Brazil and other Third World nations of being unable to pay its large international debts.

"It is unsustainable and undesirable," said Bergsten.

"It's a very unhealthy development," agreed Larry Chimerine, chairman and chief economist of Chase Econometrics.

He said the debt drains income from the country because the United States has to pay interest and dividends on overseas investments in this country. "Fundamentally, what we are doing is importing goods and exporting bonds, or IOUs, if you will," said Chimerine.

The problem could worsen if the overseas investors decided to sell their holdings and the United States had to repay capital, as Mexico and Brazil are being asked to do in paying off their loans, instead of meeting only interest and dividend requirements.

Chimerine added that there won't be a turnaround until the United States curbs its merchandise trade deficits, which have set records for four straight years and reached $158.5 billion in 1985.

This is the first time the United States has been a debtor nation since 1914, when it owed foreign interests $2.2 billion more than they owed this country.

[From the Daily News Record, June 25, 1986]

LEVI'S CLOSES THREE SEWING PLANTS, LAYS OFF 1,200 IN CONSOLIDATION

SAN FRANCISCO.—Levi Strauss & Co. will close three domestic sewing plants—including two basic men's jeans facilities—and permanently lay off about 1,200 employes.

The company said the move was part of an ongoing effort to consolidate production and eliminate excess manufacturing capacity.

The two men's jeans plants are located in Blackstone, Va., and Tyler, Texas. The Blackstone unit employs 265, while the Tyler facility has 556 workers. The third Levi plant, located in Corpus Christi, Texas, produces women's polyester pants and skirts and has a work force of 376. Following the closings, Levi will have 41 plants in the United States.

Production at these three facilities will be "absorbed" by other Levi plants, according to a company spokesman.

"We are announcing these closures at a time when the company's business is strong," said Thomas W. Tusher, chief operating officer of Levi's. "The momentum of

earnings improvement which started in 1985 continues due to the sustained strength of our men's jeans business in the United States and the turnaround in the company's international division."

He added that "the closures are necessary in order for Levi to continue to be successful in marketing quality products in our competitive environment. Through increased productivity and the addition of second shifts at other facilities, we can control costs by consolidating our men's jeans production."

He noted that the closing of the women's plant in Corpus Christi "is the result of a decrease in demand for polyester pants and skirts, reflecting the softness of the overall women's polyester market."

Tusher said the decision to close the three plants was made "after careful and thoughtful review process. We deeply regret the impact the closures will have on our employees and their communities."

According to company policy, Levi is providing employes a minimum of 13 weeks notice, or equivalent pay, plus severance. The company will also extend full medical coverage for three to six months and provide outplacement services at each facility.

WITH ARMS CONTROL GONE, THE BUDGET MAY STOP THE ARMS RACE

Mr. PROXMIRE. Mr. President, what happens to military spending if we abandon the SALT Treaty? Military experts including the Joint Chiefs of Staff have told us that the Soviets could and very likely would rapidly increase their nuclear arsenal buildup. For a year or two at least they would be in a far better position than the United States to add missiles and warheads at a relatively modest cost. Does anyone doubt that if the United States proceeds to violate the SALT treaty at the end of the summer the Soviets will build up their nuclear force? I don't. What do our intelligence agencies tell us? They tell us that the Soviets can, if they wish, gain a swift and definite military advantage if we terminate the SALT agreement. What did the Joint Chiefs of Staff tell us before they were muzzled? They told us our national security will diminish if both countries proceed without the restraint of the SALT Treaty.

Now, of course, all of this is in the short run, over the next year or two, How about in the longer run? Doesn't this country have the superior economy? It does. Don't we have the technological advantage? We do. So why be concerned about an all out, no-holdbarred nuclear arms race? Wouldn't we win world military dominance and certainly domination over the Soviet Union in such a race? Mr. President, the answer to this one is easy and certain. We wouldn't win such a race. Why? Because no one would win such a race. Oh sure, we might end up with a bigger and better nuclear arsenal than the Soviets. But so what? What would we do with it? The National Academy of Science, our most prestigious scientific body, has told us that if only 1 percent of the present, I repeat, the present Soviet nuclear arsenal, should strike American cities we would instantly have between 35 and 55 million dead Americans. I repeat, again 1 percent. Our cities would be devastated. Our Nation would be utterly destroyed as an organized society. Does any competent person believe that we could under any circumstance prevent anything like 99 percent of Soviet missiles from striking our cities? Of course not.

After years of building up both nuclear arsenals the United States might eventually have a 2 to 1 or 3 to 1 advantage. Would that make us more secure than we are now? No way. The Soviets could destroy us and we would destroy them just as surely then as now.

Could that kind of mutual buildup, with the United States deploying the larger number make us less secure? Very possibly. Here's how. As the arms race speeds ahead, nuclear weapons would take many unpredictable forms. The variety as well as the number of weapons would increase. We could expect the velocity of weapons to leap ahead. Instead of a missile requiring one-half hour to travel over the pole to the continental United States it could shorten the time to a minute or two. Some weapons might be able to travel at the speed of light—which means in a small fraction of a single second they could cover the distance from the Soviet Union to any and every American city. The vast array of offensive and defensive weapons would require complex computer coordination and instant literally split-second reaction by the President and his commanders and by their opposite numbers in the Soviet Union. With this complexity and sharply increased reliance on new technology, the possibility of a devastating nuclear accident that could destroy civilization would be enormously increased.

The cost of the arms race to both nations would surely be extraordinarily heavy. Once neither super power has any arms control inhibition, the incentive to match or surpass the other side in numbers and lethal quality will explode by leaps and bounds. In veiw of the monopoly of power in the hands of Soviet leaders and the feebleness of public opinion in the Soviet Union, the military could and would commandeer every bit of human, material, and technological resource that was not essential to the subsistence of the people of the Soviet Union. But how about the United States? In this fifth year of triple digit deficits, this year of Gramm-Rudman's first bite, this year with a President of the United States who reacts to every proposal of a tax increase with "Make my day," how will the United States react to the end of arms control and the onrushing Soviet nuclear buildup? Would the President very likely call on the Congress to throw our great economic resources sled-length into the military competition? Would the Congress agree? With an election never more than 2 years away, and with military spending increases—even modest increases already opposed by a majority of the American people—the answer isn't easy. The general American opinion that both superpowers already have an enormous excess of nuclear weapons would probably prevent the Congress from giving the President anything like the all-out, full-steam-ahead request he would require to match the Soviets' buildup, let alone exceed it.

The hawks in the administration who have considered arms control their principal problem in "winning" an arms race with the Soviet Union may very well find another reason why they cannot "win" such a race. They may find that it's not arms control, it's a public unwillingness to pay for what it takes to "win" such a race with the Soviet Union that will prevent the big nuclear buildup they so fervently advocate.

MYTH OF THE DAY—NONBANK BANKS ARE GOOD FOR THE ECONOMY

Mr. PROXMIRE. Mr. President the myth of the day is that nonbank banks are good for consumers and the economy. In fact, Mr. President, nonbank banks are the greatest threat to safe banking since Willie Sutton.

A nonbank bank is essentially a loophole discovered by clever attorneys. It allows any company to own and operate a bank in spite of a 200 year-old policy of keeping banking separate from commerce and industry.

How is this possible? It is possible because of a loophole in the Bank Holding Company Act. Under that act, a bank is defined as an institution that accepts demand deposits and makes commercial loans. If a Bank does not do both, it is not a bank in the eyes of the Bank Holding Company Act. Hence the name, nonbank bank.

The practical significance of this loophole is that it allows any company to own a nonbank bank without being regulated as a bank holding company. In order to preserve the separation between banking and commerce, the Bank Holding Company Act requires that any company that owns a conventional bank can only engage in businesses that are closely related to banking. However, a large, diversified company can acquire a bank without being regulated as a bank holding company by simply stopping the bank from making commercial loans or accepting demand deposits.

There are those who think this loophole is just fine. In fact, they want to dress it up and make it legitimate by calling it a consumer bank or family bank. Who can be against consumers or families?

Others want to continue the nonbank as nonthrift thrifts. They would let any company into the banking business as long as the bank were run as a savings and loan association.

Mr. President, all of these proposals spell serious trouble for our financial system. I would like to discuss just two of these problems today.

First, nonbank banks by whatever name impose an intolerable burden on our system of bank regulation. Because the activities of the parent are unregulated, we will have more bank failures at great cost to our deposit insurance funds.

Second, nonbank banks expand and intensify competitive inequities in our financial system. The nonbank bank allows large conglomerate companies to offer a variety of packaged financial services under one roof while real banks are confined to a much narrower market sphere. If we wanted to deliberately weaken the strength of our banking system, I couldn't think of a better method.

BANK SAFETY UNDERMINED

Because of the nonbank loophole, any company is now able to set up banking subsidiaries called nonbank banks. These subsidiaries are like regular banks in that they enjoy access to the Federal Reserve payment system and discount window. They also have their deposits federally insured. However, unlike their bank holding company counterparts, the owners of nonbank banks are not regulated by the Federal Reserve and are free to engage in any activity they choose, however risky.

Advocates of nonbank banks claim that these unregulated holding companies are not a threat to the Federal Reserve System. They say that the legal corporate walls that separate affiliates within a holding company can effectively insulate the bank from the misfortunes of the parent or its other subsidiaries.

Unfortunately, Mr. President, this theory doesn't hold water. Studies indicate that the financial health of any unit within a holding company structure directly affects the financial health of the other units. Consumers, encouraged by the joint marketing and sales techniques that make diversified business dealings so attractive in the first place, are unlikely to appreciate the legal separateness of the affiliated units. A scandal in Sears' securities division, for example, could easily rock consumer confidence in the banking unit and set off a run on deposits.

Investors, faced with poor earning reports of holding company affiliates, may react as if it is the bank that is ailing. Indeed, investors would be wise to look beyond the financial condition of the bank to the entire holding company. Since management within holding companies tends to overlap. If one unit in the company is mismanaged, it may be reasonable to expect poor decisionmaking in the bank affiliate as well. Even if the bank is properly run, investors may not want to do business with an organization whose reputation has been tarnished.

Finally, holding company managers may use bank assets to aid the troubled affiliate and thereby cause the failure of the bank. Although current laws are designed to protect banks from such abuse, managers may feel inclined, and history is full of examples, where managers have violated these statutes in time of financial crisis. And the OFT cited reason for violating these laws is the fear that the failure of one subsidiary could jeopardize the entire conglomerate.

Mr. President, now that we have debunked the myth that legal corporate walls protect banking subsidiaries, it becomes obvious that we have a potentially disastrous situation on our hands. The Federal Reserve Board is charged with providing for a safe and sound banking system. A likely catalyst of instability, the commercial owners of nonbank banks, are outside the reach of the Board's regulatory control. Thus, the nonbank bank loophole has rendered the Federal Reserve incapable of fulfilling its important mandate.

COMPETITIVE INEQUITIES

Another problem caused by commercial ownership of banks is that traditional bank holding companies are unable to compete with their unregulated, commercial counterparts. Companies like Sears want to own nonbank banks because checking accounts are the perfect bait with which to lure consumers into buying a wide variety of products and services as one neat package. Since traditional bank holding companies are restricted by Federal Reserve regulations, they cannot offer the same diversity of services. The obvious consequence is that banks will lose their customer base to the Sears-type supermarkets. Mr. President, by not closing the nonbank bank loophole, Congress has created an uneven playing field on which banks, and therefore the public at large, are the inevitable losers.

Congress must not abdicate its responsibility to shape the financial services marketplace. All holding companies that own banking subsidiaries of any type must be regulated by the Federal Reserve and subject to restrictions now imposed upon traditional bank holding companies. We must not allow an unintended loophole in the law to create a haphazard and eventually unsafe banking system.

U.S. FOREST SERVICE GETS FLEECE OF THE MONTH

Mr. PROXMIRE. Mr. President, I am giving my Fleece of the Month for June jointly to the U.S. Forest Service for spending $51 million preparing for Alaska timber sales and to Congress, which makes them do it. Over the last 5 years the Forest Service offered for sale 2.36 billion board feet of timber in Alaska's Tongass National Forest but sold only 43.7 percent; spent $116 million building 255 miles of new roads to service the sales, and lost on average 83 cents on the dollar for every sale they made.

Talk about a classic case of logrolling. The taxpayers get rolled while the timber companies get the logs.

Why did the Forest Service spend millions on roads for timber that no one wants to cut, or which gets harvested only at giveaway prices?

The answer is simple. Under a last-minute amendment to the 1980 Alaska Lands Act, the Forest Service must offer for sale 450 million board feet of timber each year in Alaska's southeastern panhandle. The law sets up a separate fund immune from congressional review which must pay out, at a minimum, $40 million each year in subsidies for these sales. Yet, even with the enormous subsidies, only 39.5 percent of the timber offered for sale last year attracted buyers.

According to the Forest Service's own figures, the agency could lose as much as $6 billion over the next 50 years by continuing the Tongass program.

Only the Federal Government could defy the laws of nature by planting a pinecone and growing a deficit. These sales prove the Government has truly gone nuts.

What about the specific practices which run up the program's price tag? Here are just a few:

At Couverden in 1984 and 1985 the Forest Service spent over $5½ million putting in almost 30 miles of road and eight bridges in advance of a sale which drew no bidders. While the Department of Agriculture intends to reoffer the sale, their minimum acceptable bid for the area will bring in just $266,233, a loss of 95 percent.

Even worse, cutting the timber in the Couverden area could harm the region's rich natural resources, rated by the State of Alaska as in the top 8 percent of all fish and wildlife habitat in all southeast Alaska.

In Yakutat, the Forest Service built a "bridge to nowhere" across the Dangerous River where no timber sales have been offered or planned for in the near future. No road connects to the far end of the bridge. From the taxpayer's viewpoint this river certainly deserves its name.

At Berners Bay, only a successful lawsuit by environmental groups

stopped a 26-mile road costing $5 million for a timber sale even the Forest Service admits it could not sell. The road would have jeopardized one of the most popular recreational areas in the region.

Why did the Forest Service run up large bills for unneeded roads? Because in Alaska, unlike the rest of the United States, forest roads are not paid for by timber purchasers but are built and paid for in advance by the U.S. Government with Joe Taxpayer footing the bill.

The values of fish and wildlife in the spectacular Tongass Forest far outweigh in both dollar and spiritual value the entire Alaska Timber Program. The forest contains the largest habitat for bald eagles and grizzly bear and the richest salmon fishery in the world.

It's time to reform the Tongass Program. Therefore, I am asking the General Accounting Office for an investigation of the management of the Tongass Timber Supply Program.

SDI AND NUCLEAR TECHNOLOGY

Mr. McCLURE. Mr. President, recently the Idaho National Engineering Laboratory held a first-of-a-kind conference on the strategic defense initiative and nuclear technology in Idaho Falls. A speech delivered there by James W. Vaughan, Jr., carried a theme that reached far beyond the assembled audience of the SDI experts. Mr. Vaughan, who has been Acting Assistant Secretary for Nuclear Energy for the Department of Energy for the past 2 years, spoke of the lessons that must be learned from the Challenger and Chernobyl accidents by those who work in the space and nuclear technologies.

Mr. Vaughan charged all concerned to rededicate themselves to the pursuit of excellence in their technical endeavors and never waiver from the premise of "safety first."

"Safety," he noted, "is not something that is simply a matter of oversight or something you can inspect into a complex piece of equipment after it is designed and built. Safety must be designed and built into the device from the beginning. Safety must become an inherent part of our thinking and commitment to excellence."

Mr. Vaughan said the nuclear energy programs to support SDI and other defense applications are new and exciting technical challenges. They represent evolutionary—even revolutionary improvements in this country's application of nuclear energy technology. Some tough design and operation decisions are ahead as well as major safety considerations. He noted it was appropriate that the conference was held at the INEL, which has a firm commitment to excellence and the assurance of safe and reliable design and operation on nuclear energy sources for both commercial and military applications. Fifty-two reactors have been built at the INEL, once called the National Reactor Testing Station. A number of safety-related tests have been conducted there, such as the EBR-II breeder reactor loss-of-coolant test this spring that showed the walk-away safety of the liquid metal breeder reactor, the loss of fluid test last summer, when DOE intentionally and safely demonstrated the meltdown of nuclear fuel, and the ongoing experiments in the advanced test reactor that serves the Navy's nuclear propulsion program.

It is from the naval nuclear power program that Vaughan believes the United States will find the principles to direct this grand new SDI venture—principles such as technical competence, responsibility, willingness to face the facts and make tough decisions, conservatism of design and learning and applying lessons from mistakes.

Vaughan, who spent 28 years with Admiral Rickover in the Navy program, concluded that no technology, including nuclear power is perfect, but the laboratories, the agencies, and the industries must continue to assure it remains an acceptable risk. I want to thank Mr. Vaughan for his statement, and to commend him for the excellent job he has done the past 2 years as he led the country's nuclear energy program.

Mr. President, I ask unanimous consent that my remarks and Mr. Vaughan's speech be printed as read in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

"SDI & NUCLEAR TECHNOLOGY: LESSONS FROM CHALLENGER AND CHERNOBYL"

(Remarks by James W. Vaughan, Jr.)

INTRODUCTION

It is an honor and a pleasure for me to be with you tonight. The Department's Office of Nuclear Energy is pleased to have joined the Idaho Operations Office and the Idaho National Engineering Laboratory (INEL) in sponsoring this symposium. The programs and future directions which are the topics of discussion during these two days are of importance to our Nation and represent a significant cooperative effort between the Department of Energy and the Department of Defense, through its SDI office, as well as some cooperative efforts with NASA.

In keeping with the theme "SDI and Nuclear Technology" I thought it would be appropriate to focus tonight on "lessons from Challenger and Chernobyl".

ACCIDENTS AND LESSONS

These two tragic events in 1986—the explosion of the space shuttle Challenger off Cape Canaveral and the nuclear reactor accident at Chernobyl in the Soviet Union—have captured worldwide public attention. These accidents—both of which surely could have been avoided—send a clear and distinct message to all of us as we consider the growing reliance on nuclear energy to enable new and exciting space missions and other defense applications. The basic message is that we must continue to pursue our designs and applications on a sound technical and management basis and maintain the pre-eminence of safety in everything we do. This is not a new message, but it has been starkly reinforced by these two dramatic events which took their toll in human life, destroyed expensive technical machines, and signaled significant negative impacts for ongoing programs.

The lessons that are emerging from these disasters are relatively simple and clear cut:

(1) Don't assume everything is safe and reliable just because a strongly-supported national program has a good operating record and a series of successes.

(2) Don't put off resolution of true safety issues in the name of expediency or budget constraints, and

(3) As you navigate down narrow channels in tough waters, watch for the red flags and warning buoys as they start to appear, listen to these signals—be they from your engineers, your contractors, or your test data—and take action before you run the ship aground.

Many of you may also know that Challenger's next scheduled mission was to include the launch of NASA's Gallileo space probe powered by two radioisotope thermoelectric generators—called RTG's—each of which contain about 8 kilograms of plutonium 238 and convert the long lived decay heat to electricity.

At the time of the Challenger accident we had already completed a significant amount of safety analysis work related to potential accident scenarios. We assessed a very low probability of plutonium dispersal that could have adverse effects on public health and safety in the event of an accident. However, the Challenger explosion appropriately has caused us to re-evaluate our analyses. How realistic are the accident scenarios and assumptions? Have we done all the testing we need? Have we included enough protective factors to provide even greater assurance of public health and safety in the event of an accident?

The fact that we have flown 22 missions with RTG's without incident or mishap is not enough. Even though, in hindsight, the Challenger accident was one that could have been avoided by more attention by engineers and senior management to details and by correction of known problems affecting flight safety and reliability, we must not make "band-aid" fixes and then adopt the premise of "that can't happen again."

The Chernobyl nuclear reactor accident is an even more complex situation. We do not yet fully know whether human errors, design deficiencies or a combination of these were the principal cause of the accident. We do know that the reactors at Chernobyl are uniquely a Russian design, built to Russian standards, and operated to their procedures. They are very different from nuclear power reactors used in this country and the rest of the free world. We believe that they would not have been licensable here or in other free world countries. We believe that safety considerations may have taken a back seat to costs. But a serious nuclear accident did happen and we must heed the lessons that are evolving as more facts become known.

The Challenger and Chernobyl accidents exacerbate our already difficult task of ensuring public understanding of nuclear

power's benefits, safe operating record, and emphasis on protecting public health and safety. But, this task is not impossible if we do not waver from the premise of "safety first." We face a tough challenge in establishing our credibility with the American people and dispelling their misconception about nuclear power. An informed and educated public is essential to our ability to continue to safely deploy nuclear energy sources on land and in space. We must not lose sight of our responsibility to articulate to the public our many accomplishments and plans for the future—and about our concern for the same things they are concerned about when it comes to nuclear power—costs, reliability, and, most importantly of all, safety. I urge each of you in your various roles to do your share in accomplishing this objective.

OUR NUCLEAR ENERGY PROGRAMS

The nuclear energy programs to support SDI and other defense applications that are being discussed in this symposium are new and exciting technical challenges. They represent both evolutionary and somewhat revolutionary improvements in our application of nuclear energy technology. In the years ahead, we will face some very tough design and operational decisions. The nearer term SP-100 program to prove out the design of a 300 kilowatt electric propulsion system requires a thorough testing of advanced reactor fuels and materials, integration of these reactor and power conversion systems, confirmation of heat dissipation capabilities, and many other features.

Major safety considerations for this space platform with a nuclear reactor power source include: first, the ability to protect against adverse affects during a launch accident by bringing the reactor critical only after it is in orbit, and second, the desirability of maintaining the platform safe orbit for hundreds of years in case something goes wrong or after its useful life is expended. The fact that the DOD and the DOE have committed over $500M to an SP-100 ground engineering test program is a reflection of our commitment to do it right and do it safely. We will not waver in that commitment.

The extension of these reactor technologies to achieve power levels in the multimegawatt range for space applications are equally exiting and demanding efforts. We are beginning to examine very innovative design concepts which will stretch and challenge our technical capabilities to develop and apply higher temperature fuels and materials to achieve the power levels demanded by future missions within their size, weight and reliability constraints.

As we consider new approaches for meeting SDI mission needs through nuclear technology, it is important to note the vital contribution of all of DOE's laboratories, facilities, and industrial infrastructure to the President's SDI objectives. The collection of government and industrial expertise that many of you here represent, plus the facilities at our national laboratories, are a vital part of the overall SDI effort. This setting in Idaho is particularly appropriate for us to reflect on nuclear safety.

The Idaho National Engineering Laboratory emerged from the early days of the Atomic Energy Commission when we labeled this area of the desert the National Reactor Testing Station, with a firm commitment to excellence and assuring the safe and reliable design and operation of nuclear energy sources for both commercial and military applications. To date some 52 reactors have been built here. It has been my privilege over the last 28 years to be personnally involved in a number of INEL activities.

The importance placed by the Department on reactor safety, and its central role in our space reactor program can be graphically illustrated by recalling the unique SNAPTRAN-3 experiment performed here in 1964. In that test an actual SNAP reactor core was immersed in water to determine the maximum consequences of a water impact and flooding accident. The small energy and fission product release served to demonstrate the very limited risk from launching the SNAP 10A reactor into space. SNAPTRAN-3 was only one of many safety-related tests conducted here at the INEL, even up to the present time.

For example:

Recall the recent series of tests at the EBT-II reactor here at Argonne-West where we ran a series of loss of coolant tests and demonstrated the inherent safe shutdown of a sodium cooled reactor design without operator action. This is a valuable building block for some of our future advanced reactor designs.

Recall the "Loss of Fluid Test" completed here last summer by an international consortium, with U.S. leadership, where we purposefully and safely demonstrated the meltdown of nuclear fuel to understand the dispersal and deposition of fission products, so that in the unlikely event of a reactor accident we would have the technical understanding to continue to assure protection of the public health and safety through our "defense in depth" concepts.

Recall also the specialized facilities here that serve our Navy's nuclear propulsion program. The work done in the Advanced Test Reactor thoroughly verifies fuels and materials properties and behavior before we even commit them to reactor designs. And the Naval reactor prototypes, further to the West, were the pioneers of both our nuclear submarine and surface ship programs. They continue to be used to improve reactor concepts and provide an invaluable service to the Nation to assure that the Navy's operating personnel are thoroughly trained to carry out their awesome responsibility of safely operating shipboard reactors to provide a vital component of our Nation's defense.

ASSURING SAFETY AND RELIABILITY

How can we capitalize on what we have learned from these experiences to continue to assure safe and reliable operation of our nuclear energy sources and their space platforms?

In looking for lessons from Challenger and Chernobyl, many tend to recall the Three Mile Island nuclear accident in 1979. Shortly after that event, Admiral Rickover and I prepared testimony for the Congress in which we attempted to summarize some of the principles that helped make the Navy nuclear power program successful. Many of these principles have also been translated into the commercial nuclear power program and I believe these principles form the basis for some of the things we need to keep in mind as we move forward with new applications of nuclear energy for SDI and other space and defense programs.

Let me briefly summarize some of these key principles.

The underlying principle is that design and operation of safe and reliable nuclear reactors requires adherence to the concept of integration, wherein all elements of a system are recognized as important and reliable performance of each must be constantly reinforced. Technical problems cannot be solved by specifying compliance with one or two simple procedures.

The specific principles I want to touch on with you tonight are: technical competence, responsibility, willingness to face the facts and make tough decisions, conservatism of design, and learning and applying lessons from mistakes.

Designers, builders, operators, and managers of nuclear projects must all possess the requisite technical competence for their task. A sophisticated technical program requires a fundamental understanding of, and commitment to, the technical aspects of the job and a willingness to pay infinite attention to the technical details. This can only be done by those who understand the details and their implications. Remember, the Devil is in the details.

Responsibility is a unique concept. It resides and inheres in key individuals at various levels of engineering and management. An individual may share it with others, but his portion is not diminished. He may delegate it, but it remains with him. He may disclaim it, but he cannot divest himself of it. Even if he does not recognize it or admit its presence, he cannot escape it. If responsibility is rightfully his, no evasion, or ignorance or passing the blame can shift the burden to someone else. Unless we can point our finger at the man who is responsible when something goes wrong, then we have never had anyone really responsible.

A third principle for successful application of a sophisticated technology is to resist the human inclination to hope that things will work out despite evidence or suspicions to the contrary. This may seem obvious, but it is a human factor we must be conscious of and actively guard against. It can affect you in subtle ways, particularly when you have spent a lot of time and energy on a project and feel personally responsible for it, and thus somewhat possessive. If conditions require it, you must be willing to face the facts and brutally make the tough decision needed to effect changes despite potential cost and schedule delays. There have been a number of times in successful programs where hard decisions were made to stop work and redesign or rebuild equipment to provide the needed high degree of assurance of satisfactory performance. The person in charge must personally set the example in this area and require his subordinates to do likewise.

In any engineering endeavor, and particularly in an advanced field such as nuclear power, conservatism of design is necessary so as to allow for possible unknown and unforeseen events. This conservatism must be built into the design from the very beginning. If the basic design is not conservative before it is committed to hardware, it quickly becomes impractical to build in the needed conservatism. It becomes necessary to add complexities to the system in an attempt to compensate for the inadequacies of the basic design. These complexities, in turn, may serve to complicate operation and impact reliability.

Because we are dealing with sophisticated machines conceived and created by man, it is important to believe and be constantly mindful that mistakes can and will be made. We must make accommodations for inevitable mistakes and renew our commitment to apply the lessons learned from them.

CONCLUSION

The lessons from Challenger and Chernobyl are clear. Safety and the protection of the public and environment must remain pre-eminent. Safety is not something that is simply a matter of oversight or something you can inspect into a complex piece of equipment after it is designed and built. Safety must be designed and built into the device from the beginning, be it a nuclear energy device or a conventional mechanical device. And safety must be an inherent part of our thinking and commitment to excellence. No technology—including nuclear power—is perfect. But we must continue to assure it remains an acceptable risk.

In closing let me again emphasize the importance of an informed and educated public as the key to assuring acceptance of these space and nuclear technology activities. Those of you here are among the best informed in the country. You have worked and lived with nuclear power for most of your lives and you understand the true commitment to safety and the protection of the public and environment. We need to transfer that level of appreciation and commitment to the public. Each of us in this room has a personal and professional responsibility to do so. Let us all heed this responsibility as we proceed through the next decade meeting the challenges of developing innovative and imaginative techniques to use the atom in enabling our growing space and defense activities.

THE CONTINUING PERSECUTION OF BAHA'IS IN IRAN

Mr. HEINZ Mr. President, the world's attention is now focused on the chaos and repression in South Africa, where the Government has dropped a curtain of silence over its deeds. But there is another country, Iran, equally cut off from outside scrutiny by its government's actions, where great injustices are also being committed.

Earlier this month, the Iranian Government executed Farid Behmardi, a leader of the Iranian Baha'i community. Mr. Behmardi was tortured before he was hanged. What were Mr. Behmardi's crimes? He committed the crime of hewing to a faith that is considered heresy in fundamentalist Islamic Iran. He died for holding his own religious beliefs, one of the bedrock human rights that the United States and all civilized nations hold dear.

Information is difficult to get on Iranian persecution of religious minorities. But we now know that two other Baha'is who had been imprisoned for their religious beliefs were hanged in May. And this official murder of good Iranian citizens is not all that has happened in Iran. Also last month, a 15-year old Baha'i boy was stoned to death by a mob that was incited against a faith that is not recognized in Iran as legitimate.

Islam is a great religion, which respects the other great religions. The Iranian people are a dignified people, with a civilization thousands of years old. But the current Iranian Government, which garbs its hate and mayhem in an extreme and intolerant version of Islam, is barbarous and uncivilized. It is murderous. It practices genocide of its own loyal citizens not on the basis of race, but of belief.

Mr. President, our leverage against the murderous mullahs of Iran is limited. But we do know that there are more Baha'is in prison, at least five of whom may face execution in the near future. I ask the Senate to join me in condemning the barbaric, murderous persecution of the Baha'i segment of the Iranian people by their own government.

And I call on the other governments of the Middle East and Africa, which find in Islam a guide to public policy, to practice the tolerance that is part of Islam's great traditions. The Baha'i faith pays tribute in its doctrine to several of the world's great religious traditions. It is no threat to Islam, nor to any other creed. Baha'is should be respected as the good citizens of their countries that they are.

Mr. President, the Iranian Government may try to hide its crimes from the world. Like South Africa today, or the Soviet Union in Afghanistan, or the tyranny of Stalin, or the genocide of the Nazis, the murderers of Iran's current regime will try to cover their tracks. But they will not succeed. We will not let them. The world will know, and the world will remember.

A TRIBUTE TO DR. LOREN GARY, JR.

Mr. HEFLIN. Mr. President, I would like to call to the attention of my colleagues the truly outstanding contributions and service of a very close friend of mine, Dr. Loren Gary, Jr., who is from my hometown of Tuscumbia, AL.

Dr. Gary has been doctor to many, many people in Tuscumbia for almost 40 years. He is originally from Georgetown, GA, where his father was also a doctor and served for several years in the Georgia State Senate. We were fortunate, indeed, when, in 1947, Dr. Gary moved to Tuscumbia, acquired his Alabama's medical license, found an office, and set up practice with brother Robert. The type of medicine he practiced seems to be nearly extinct today. I suppose it can best be described as "country doctoring."

Dr. Gary has provided every aspect of health care to the people of his community. He is the only doctor which many people in Tuscumbia have ever had. He has delivered them as babies, cared for them as they grew through childhood, and then delivered their babies. He has spent many a long night at the bedside of his patients. Many people in Tuscumbia will tell you that they have seen Dr. Gary asleep in his car, after a house call had kept him awake all night. I imagine that he's vaccinated nearly every baby, child, and adult in the entire Tuscumbia area. However, I hear that he, himself, has a certain needlephobia, a fear of needles. He doesn't mind giving shots, he just doesn't like to have them stuck in his hide. His deep concern and great care have saved many lives. People have shown their gratitude and thanks by naming their children for him. "Gary" and "Loren" are both very popular names in Tuscumbia.

In addition to the care he has provided to the health of the citizens of Tuscumbia, Dr. Gary has also served as chairman of the Tuscumbia Housing Authority since 1949. He was the first and has been the only housing authority chairman. Several years ago I had the honor of serving the housing authority. Dr. Gary was great to work with. At that time, I was struck by the realization of the many wonderful ways in which Dr. Gary has cared for the community of Tuscumbia. Not only has he provided for their health and well-being, but he has also helped provide for their shelter. Thus, he has been instrumental in providing two of the three basic needs which all human beings attempt to attain—health and shelter. He also did a little farming. This makes him a complete provider.

For his 36 years of outstanding service with the housing authority, the Department of Housing and Urban Development has recently honored Dr. Gary with a proclamation. In Tuscumbia he was honored by having the new public housing subdivision named in his honor. It is called "Gary Courts."

I feel that these honors only begin to express the appreciation of the many whom Dr. Gary has helped and supported. His contributions to medicine and to the livelihood of the Tuscumbia Area are immense. His example is one which all should emulate. I wish to congratulate my friend, Dr. Loren Gary, for his tremendous achievements and contributions, as well as acquiring the love and affection of the people of Tuscumbia and Colbert County, AL.

TRIBUTE TO CHIEF JUSTICE WARREN E. BURGER

Mr. HEFLIN. Mr. President, I rise today to congratulate Warren E. Burger for his outstanding accomplishments and contributions to our Nation's judicial system during his tenure as Chief Justice of the United States.

When most individuals are nominated to become judges, many believe that their sole function will be to decide cases. Chief Justice Burger was well aware that his position would not only be that of Chief Justice of the United States but also as chief administrator of our judicial system. During

his confirmation hearing in 1969, Warren Burger, then a judge on the Court of Appeals of the District of Columbia, was asked about the duties of the Chief Justice of the Supreme Court. He answered that he conceived those duties to be, first of all, "Basically the same as they have been as a member of the U.S. Court of Appeals—deciding cases." But, he went on to say that ". . . the Chief Justice of the United States is assigned many other duties, administrative in nature. I would think it was the duty of the Chief Justice . . . to make our system work better. And I would expect to devote every energy and every moment of the rest of my life to that end should I be confirmed."

Chief Justice Burger has clearly fulfilled both of these duties in his stewardship of the Supreme Court.

First, as Chief Justice for 17 of this Nation's most tumultuous years, Warren Burger has decided the hard cases. Equally as important, however, Chief Justice has worked tirelessly to improve the organization and efficiency of Federal and State Courts. He has modernized our judicial structure and has reformed or replaced some of the most outdated judicial practices and systems. Even before his appointment as Chief Justice, Warren Burger advocated the use of court administrators, and soon after taking office in 1969 was instrumental in creating the institute for court management, an organization to train court administrators. Today there are over 1,000 court administrators at different levels of our judicial system. The Chief Justice also successfully urged Congress to create the position of "Circuit Executive." This circuit executive assists the Chief Judge of each of the Federal circuits in an administrative capacity. Furthermore, the Chief Justice was responsible for Congress's creation of the position of administrative assistant to the Chief Justice of the United States. This position has been extremely successful in providing a liaison with other judicial administrators and in fostering public education concerning the judicial system.

In addition to the above administrative positions, the Chief Justice has made major strides in helping the Federal district and circuit courts cope with their increased case loads which have more than doubled in the 17 years that the Chief Justice has been in office. He created the Conference of Metropolitan Chief Justices to help with the administrative problems in the larger Federal district courts. The Chief Justice has sponsored wider use of Federal magistrates and encouraged the use of six-member juries in civil cases which has saved millions of dollars and simplified and expedited jury selection. Additionally, Chief Justice Burger urged the Congress and the public to increase personnel and budgets for all facets of the judicial system. During his tenure, the budget of the judicial branch has increased to over $1 billion and the number of Federal and circuit judges has increased from 468 to 761. Because of his efforts, the Chief Justice has been appropriately described as the single most effective, innovative, and significant figure in the country in the area of judicial improvement.

An unresolved goal which the Chief Justice noted was his effort to alleviate the ever increasing case load which faces the Supreme Court. He has been a strong advocate of the creation of an intercircuit panel between the court of appeals and the Supreme Court. The legislation creating this panel which will alleviate this problem will soon be before this body.

No Chief Justice in recent history has more readily assumed the role of chief administrator of our Nation's judiciary. In this role, Chief Justice Burger has helped to bridge the administrative gaps between the Federal and State courts. The Chief Justice has stated that "The two systems of State and Federal courts are 'different pews' in the same church." In this area he was the prime motivator in the creation of a State-Federal council consisting of State and Federal judges to help in the administration of justice in each State. As of today, over 40 States have created such councils.

Chief Justice Burger has devoted his energies to modernizing the judiciary and encouraging improvements in what once was an inefficient administrative structure. Nowhere have the Chief Justice's efforts been more visible or successful than in the State courts of this country.

Chief Justice Burger has always recognized the importance and vital role of the State courts in our judicial system. He understands that it is in the State courts that most of our citizens will first confront the scales of justice. Accordingly he has always sought to maintain an equal balance ensuring that the quality of justice in the State courts is equal to the quality received in the Federal courts. In 1971, the Chief Justice proposed that a national center for State courts be created. The center has become a "clearinghouse" and think-tank for innovations in court administration and an effective voice for all State courts.

The leadership of the Chief Justice was also instrumental in the creation of the State Justice Institute. The institute will provide a vehicle through which State courts as a collective body can formulate and foster programs that will benefit the State court systems nationwide and thereby the Federal system as a whole. The institute will provide opportunity for the education and training programs for judges and other court personnel and will focus on programs directed at providing better mechanisms for managing and monitoring case loads.

In my home State of Alabama we have made substantial progress in improving the machinery, structure, and administration of justice. Chief Justice Burger was a source of great encouragement and inspiration to those involved in the judicial reform movement in Alabama. His counsel, advice, as well as his visits, proved to be of immense value to Alabama judicial system.

This July will bring a close to the fine career of Warren E. Burger as Chief Justice of this Nation's highest court. Since the Senate will not return until after his departure. I would now like to congratulate Chief Justice Burger for an outstanding tenure as the Chief Justice. His improvements in both Federal and State courts has vastly improved the system of justice for all Americans.

I wish the Chief Justice well in his job as Chairman of the Commission on the Bicentennial of the Constitution. It seems only fitting that such a Commission should be headed by a man who has devoted his entire life to making our justice system work better.

In taking the oath of office in 1969, Chief Justice Burger declared that "I will administer justice without respect to persons, and do equal right to the poor and to the rich, and I will faithfully and impartially discharge and perform all the duties incumbent on me as Chief Justice of the Supreme Court of the United States according to the best of my abilities and understanding, agreeable to the Constitution and laws of the United States."

The Chief Justice has, indeed, honorably fulfilled his oath on every day of the last 17 years.

I LOVE THIS COUNTRY: I HAVE NO OTHER

Mr. MATHIAS. Mr. President, on July 4 of this year, our country will welcome thousands of permanent resident aliens as new U.S. citizens. Five hundred people will take the oath of citizenship at a special ceremony on Ellis Island, and a record 12,000 will become naturalized at the Orange Bowl.

While this day will be one of celebration and fulfillment for thousands, to others it will bring frustration and disappointment. A recent Wall Street Journal article tells the story of Jose Rodriguez. This 79-year-old immigrant from Cuba, who has lived here since 1980, was bitterly disappointed when told he cannot become a citizen unless he can demonstrate that he has mastered the English language. He shouted in Spanish, "I love President Reagan; I'd give my life for him. I love this country, I have no other."

Scenes like this are not uncommon in the offices of the Immigration and Naturalization Service. Elderly people who are qualified in every other way are barred from U.S. citizenship because they have difficulty in mastering the English language. Some, like Jose and Manuela Broche of Rockville, MD, study English for years but die before mastering the language requirement for citizenship.

To remedy this situation, 10 Senators have introduced S. 1296, which would add an additional exemption from the English language requirement. Current law exempts those who are physically unable to learn English and those who are over 50 years old and have been permanent resident aliens living in this country for at least 20 years. S. 1296 would extend this exemption to elderly individuals over 65 years of age who make a diligent effort to learn the English language and have been lawful permanent resident aliens living in the United States for at least 5 years. These individuals must still meet the education requirement, demonstrating an adequate knowledge of U.S. history and Government.

The Immigration and Naturalization Service estimates this legislation would only affect about 3,200 of the approximately 166,000 persons who become naturalized citizens each year. In addition, S. 1296 would have no significant budgetary impact because permanent resident aliens are eligible for the same benefits as citizens. What this legislation would do is give those elderly people who value U.S. citizenship the chance to achieve it.

S. 1296 reaffirms a basic precept of our immigration policy: welcoming those who are qualified to be U.S. citizens and who would cherish that status. I urge my colleagues to add their names as cosponsors of this legislation and to join in reaffirming this principle as we near the centennial celebration of the symbol of American immigration—the Statue of Liberty.

RETIREMENT OF CHIEF JUSTICE BURGER

Mr. MATHIAS. Mr. President, one of my first duties as a member of the Committee on the Judiciary was to consider the nomination of Warren Burger to be Chief Justice of the United States. Not only because of the importance and historic significance of the appointment, but also because it was for me a case of first impression, I took a special interest in the process of confirmation. Having begun that aspect of our careers at the same time, it now appears that we shall each leave public service to take up different responsibilities also at the same time.

I voted to confirm Chief Justice Burger's nomination with the confidence that he brought to the Supreme Court solid legal competence, broad experience in government and a strong commitment to the traditions shaped by American history. That confidence has been justified by Chief Justice Burger's record in the Supreme Court and by his leadership beyond the court room.

The inevitable monument of a Chief Justice is the body of judicial opinion and case law he has produced. There is no need to embellish that, nor would I be able to do so. Suffice it to say that Chief Justice Burger's work touches the critical historical issues of his time.

But some of Warren Burger's important contributions will not be found in the reports of the Supreme Court. His exhortation to the bar to meet its responsibilities merits the thanks of every lawyer. His advocacy with Congress of judicial administrative improvement and adequate judicial compensation merits the thanks of every judge of both Federal and State courts. His attention to the lessons to be learned from history is an example for every citizen and an inspiration to those who dedicate themselves to the preservation of the American spirit.

I feel a debt of gratitude to Warren Burger and I hope that he and Mrs. Burger will be able to enjoy many years of a less arduous life. His work on the commemoration of the bicentennial of the Constitution will further attest to his devotion to that great contract and to the rule of law that it embodies.

THE 30TH ANNIVERSARY OF THE NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Mr. SYMMS. Mr. President, last month we passed a resolution designating this day, June 26, 1986, as "National Interstate Day," marking the 30th anniversary of the Interstate and Defense Highway System. In fact, it was on June 29, 1956, that President Eisenhower signed the legislation that brought to fruition his long-held dream of creating a modern, efficient network of highways connecting the Nation from coast to coast and between our northern and southern borders.

Today, that Interstate System—some 42,500 miles of highway—is more than 97 percent complete with a total Federal expenditure of $99.9 billion. The Interstate System is easily the largest and most important public works project in the Nation's history. The best thing about this tremendous Federal expense, Mr. President, is that the Interstate System has been built on a pay-as-you-go basis with moneys paid in advance by the Nation's highway users.

The same act that established the Interstate System also created the Highway Trust Fund for the collection of highway user fees and the subsequent distribution of those funds to construct and maintain our highways. The lion's share of the money apportioned from the Highway Trust Fund—nearly $100 billion out of a total $160 billion expenditure—has been spent on the highway system of greatest national significance, the Interstate System. As chairman of the Environment and Public Works Subcommittee on Transportation, I am pleased with the Senate's continued support for the Federal-aid highway program and the efforts to complete this great public works project.

WHAT THE INTERSTATE SYSTEM MEANS TO THE NATION

I want to turn to the Interstate System's tremendous impact on the political, social, and economic lives of Americans. I'm sure many would think first of the economic importance of a modern highway system to transport goods from producers to consumers. Without doubt, the Interstate System is the Nation's preeminent means of transportation. Construction of the interstate has significantly increased safety and efficiency in the cross-country movement of goods and people.

Today, the Interstate System and other highways on and off the Federal-aid system carry the vast majority of the Nation's goods either all or part of the way to market. Over 90 percent or our textile mill products, 89 percent of our fresh fruits and vegetables, 84 percent of our furniture and fixtures, and 81 percent of our meat and dairy products are transported all or part of the way to market on highways. Obviously, the economic value of a safe and modern network of interstate highways is tremendous.

Aside from its economic value, the Interstate System has affected our lives in another very important way, the value of which is incalculable. I'm talking now about freedom, Mr. President, the freedom of mobility which has become so deeply ingrained in our national character, so much a part of our lives, that many of us fail to recognize and appreciate its value.

The 42,500 miles of interstate highways allow the American people greater personal mobility and, hence, more individual freedom than can be enjoyed by any other people in any other country in the world. It is this connection—the bond between mobility and freedom—which has long been the basis of my strong support for the Federal-aid highway program and my commitment to the completion of our Interstate System.

Yesterday, the Washington Post reprinted an article by Robert J. Samuelson in which Mr. Samuelson makes the following observation: "To under-

stand America, you must understand highways." He argues that our devotion to President Eisenhower's grand plan for an Interstate Highway System reflects the great love of freedom and mobility which is intrinsic to our character as a people.

In the last paragraph of his article, Mr. Samuelson quotes from a passage in David Brodsly's "L.A. Freeway," where Mr. Brodsly writes:

Every time we merge with traffic, we join our community in a wordless creed: belief in individual freedom, in a technological liberation from place and circumstance, in a democracy of personal mobility. When we are stuck in rush-hour traffic, the freeway's greatest frustration is that it belies its promise . . . [The] archeologists of some future age will study [the freeway] . . . to understand who we were.

I believe the ideas expressed in the Samuelson article are an accurate portrayal of the impact of highways, and particularly the Interstate System, on the private and public lives of Americans. They have, as Mr. Samuelson says, "reshaped American culture . . . and strengthened common life styles."

Our Interstate Highway System stands today as a powerful tribute to the vision of President Eisenhower. On the occasion of the 30th anniversary of the Interstate System, I wanted to acknowledge President Eisenhower's lasting contribution to the cause of freedom.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WE ARE OUR HIGHWAYS

(By Robert J. Samuelson)

Flip on the radio any weekday morning and you will hear something like this: Traffic on the Beltway is slow at the intersection with Rte. 50. Big problems on Rte. 123. We have an accident. Southbound traffic is backed up two miles."

To understand America, you must understand highways. In the past half century, these masochists marvels have—along with telephones, television and jet planes—reshaped American culture. They have shrunk the nation, homogenized the landscape and strengthened common life styles. Freeways are not a place but a stage of our history. Driving them, passing office complexes and listening to commuter reports, you could be in Any City, U.S.A.

It's an apt moment for these musings, because the modern-highway era dawned 30 years ago. On June 29, 1956, President Dwight D. Eisenhower signed a law creating the highway trust fund to pay for 90 percent of the Interstate Highway System; the states paid the rest. Although the 42,500-mile system (97 percent complete) constitutes only 1 percent of our highways, it carries a fifth of the traffic. More important, it has "reconfigured economic geography," as urban scholar James Hughes of Rutgers University argues. It hastened suburbanization and spurred rapid truck transportation that brought the low-wage South into the national economy. It allowed, as Hughes says, "Frank Perdue to feed the entire Northeast from eastern Maryland."

There are those who see highways as a wellspring of vulgarity that produced suburban sprawl, strip development, decrepit central cities and smog. In turn, highways were created by the "highway lobby" of road builders, auto companies, truckers and oil companies. But this story is backwards. The impulses that, after World War II, caused Americans to buy more cars and to move to suburbia—which created pressure for more highways—reflected deeper longings for space and status. In the 1950s, narrow, congested two-lane roads were seen as driving hazards and obstacles to economic growth. The Hearst newspapers had a full-time editor supervising stories on the need for better highways. Between 1952 and 1955, these stories would have filled 1,229 newspaper pages.

Even without the interstates, there would have been huge expressways, Los Angeles' early freeway, the New York State Thruway, the Pennsylvania Turnpike all predated the interstate system. But Eisenhower accelerated the building and gave it coherence. According to his biographer, Stephen Ambrose, the interstate system was his "favorite" domestic program. Writes Ambrose: "Eisenhower was often called . . . a 'Whig President,' with the implication that he was a 'do-nothing' leader. But by advocating a highway program on a gigantic scale, he embraced the strongest tradition of 19th-century American Whigs, John Quincy Adams, Henry Clay . . . had all been advocates of internal improvements paid for by the federal government."

Some dreams have been fulfilled. As our vast vacation migrations attest, we are more mobile than ever. The interstates are one reason (along with better cars, the 55-mile-an-hour speed limit and seat belts) for improved driving safety. In 1956, there were 39,628 highway deaths. In 1985, there were 45,700, despite roughly a tripling of registered vehicles and of travel. But no one envisioned that highways would be catalysts for huge social disruptions—the decline of central cities, the maiming of railroads, the eclipse of the Northeast. The 1950s' illusion was that government created only benign social change.

The reality is that the interstate system always has had huge unintended consequences. Once it entered cities, as opposed to connecting them, it aroused outrage from neighborhoods that objected to being carved up by concrete. "We said to the highway engineers. 'You can't just make these decisions and plow through cities,'" recalls Ben Kelley, a Department of Transportation official in the 1960s. Hearings and appeals were required. Some cities halted the interstates at their borders. In San Francisco, the stub of an incomplete roadway simply stopped in midair.

The beltways have been the latest upheaval. Originally designed to speed long-distance travelers around crowded cities, they have anchored developments of offices and shopping centers. According to Hughes and his colleague George Sternlieb, two-thirds of office construction now occurs in the suburbs. The beltway is Main Street, and congestion moves farther into the suburban fringes. There's a Parkinson's Law of urban highways; cars expand to fill available concrete. We are condemned to endless searches for relief through more car pools, new bypasses, enlarged ramps. One government forecast predicts that urban-freeway delays may quintuple by 2005.

Was there an alternative? Probably not. In a country that cherishes mobility and freedom, strict land controls are anathema. America is too big, and we want to live and work in too many places to make mass transit viable. Even with big subsidies, mass transit carries only one-twentieth of commuters, less than half the 1960 share.

Americans seem willing to tolerate delay and inconvenience. Commuting times may have changed little since the late 1800s, when most urban workers lived within a mile of work and they walked. Today, the average American spends 20 minutes driving to work and he lives 10 miles away.

For better or worse, we are our highways. As David Brodsly writes in "L.A. Freeway": "Every time we merge with traffic, we join our community in a wordless creed: belief in individual freedom, in a technological liberation from place and circumstance, in a democracy of personal mobility. When we are stuck in rush-hour traffic, the freeway's greatest frustration is that it belies its promise . . . . [The] archeologists of some future age will study [the freeway] . . . to understand who we were."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:17 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate No. 3 to the bill (H.R. 3511) to amend title 18, United States Code, with respect to certain bribery and related offenses.

The message also announced that the House has passed the following bill, without amendment:

S. 1625. An act to permit the use and leasing of certain public lands in Nevada by the University of Nevada.

The message further announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 664. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day", and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statute of Liberty.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 362. Concurrent resolution to express the sense of the Congress that a moment of silence be held during the official ceremonies for the Statue of Liberty for the return of the American captives in Lebanon; and

H. Con. Res. 364. Concurrent resolution providing for a conditional adjournment of the two Houses from June 26 or 27 until July 14, 1986.

ENROLLED BILLS SIGNED

At 7:28 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2180. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974;

S. 2414. An act to amend title 18, United States Code; and

H.R. 4841. An act to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the act.

At 9:08 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the amendment of the House to the amendment of the Senate numbered 175 to the bill (H.R. 4515) making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes.

At 11:33 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses of the amendment of the Senate to the bill (H.R. 4420) to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes.

The message also announced that the House agrees to the amendment of the Senate to the following bill:

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and Humanities Act of 1965.

The message further announced that the House recedes from its amendment to the concurrent resolution (S. Con. Res. 120) setting forth the congressional budget for the U.S. Government for the fiscal year 1987, 1988, and 1989, and concurs therein, with an amendment, in which it requests the concurrence of the Senate.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3357. A communication from the Assistant Secretary of State (Legislative and Intergovermental Affairs), transmitting, pursuant to law, a report with respect to AWACS Delivery to Saudi Arabia; to the Committee on Foreign Relations.

EC-3358. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the provision of emergency military assistance to Honduras; to the Committee on Foreign Relations.

EC-3359. A communication from the President of the United States, transmitting, pursuant to law, a plan for the provision of assistance to Nicaragua; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, with amendments and an amended preamble:

S. Con. Res. 137: Concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a national STORM progam (Rept. No. 99-328).

By Mr. ANDREWS, from the Select Committee on Indian Affairs, without amendment:

H.R. 3247: A bill to amend the Native American Programs Act of 1974 to authorize appropriations for fiscal years 1987 through 1990 (Rept. No. 99-329).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 2610: An original bill to authorize supplemental economic and military assistance for the Philippines, and for other purposes (Rept. No. 99-330).

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

H. Con. Res. 325: A concurrent resolution to commend the government and people of Berlin for keeping alive the spirit of equality, freedom, and human dignity through their solemn commemoration of the 50th anniversary of Jesse Owens' victories at the 1936 Berlin Olympic Games.

H. Con. Res. 326: A concurrent resolution expressing the sense of the Congress that the existence of the Berlin Wall after twenty-five years is a visible indictment of the communist system and that the continued vitality of the Western Sectors of the city is a testament to the Berliners' courage and devotion to freedom.

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment:

S. 2538: To authorize the distribution within the United States of the USIA film entitled "The March".

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 354: A joint resolution to designate the week of October 5, 1986, through October 11, 1986, as "National Drug Abuse Education and Prevention Week".

S.J. Res. 360: A joint resolution to designate July 20, 1986, as "Space Exploration Day".

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 143: A concurrent resolution expressing the sense of the Congress on the resumption of the United Nations High Commissioner for Refugees Orderly Departure Program for Vietnam.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Saundra Brown Armstrong, of Virginia, to be a Commissioner of the United States Parole Commission for a term of six years.

By Mr. LUGAR, from the Committee on Foreign Relations:

Mary Kate Bush, of the District of Columbia, to be United States Alternate Executive Director of the International Monetary Fund for a term of two years.

Harry W. Shlaudeman, of California, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federative Republic of Brazil.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Harry W. Shlaudeman.

Post: Ambassador to Brazil.

Contributions, amount, date, donee.

1. Self, none, Harry W. Shlaudeman.

2. Spouse, none, Carol Jean Dickey Shlaudeman.

3. Children and spouses, none, Karl Frederick Shlaudeman, Katherine Estelle Shlaudeman, Harry Richard Shlaudeman.

4. Parents, deceased, Karl Whitman and Florence Pixley Shlaudeman.

5. Grandparents, deceased, Harry and Margaret Shlaudeman, Walter and Estelle Pixley.

6. Brothers and spouses, none.

7. Sisters and spouses, none, Herbert and Marcia Jepson (sister and brother-in-law).

Jonathan Moore, of Massachusetts, to be United States Coordinator for Refugee Affairs and Ambassador-at-Large while serving in this position, vice Howard Eugene Douglas, resigned.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Jonathan Moore.

Post: Ambassador-at-Large and U.S. Coordinator for Refugee Affairs.

Nominated, January 16, 1986.

Contributions, amount, date, donee.

1. Self, Jonathan Moore, $250 "Richardson Salute" December 1984, Elliot L. Richardson fund-raising dinner, U.S. Senate nomination campaign.

2. Spouse, Katherine Andres Moore, none.

3. Children and Spouses, Joan, none; Jennifer, none [1]; Jocelyn, none; Charles, none [2]

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[1] NOTE.—Jennifer Moore *may* have contributed a maximum of three donations to political candidates of no greater than $15.00 each during June-August 1983; her checkbook and stubs covering this period were stolen and never found.

[2] NOTE.—Charles Moore worked as full-time volunteer in Richardson-for-Senate campaign for 2 months June-August, 1984.

4. Parents, Mrs. A.N. Moore, $5.00 "Studds for Congress Committee"; Charles F. Moore, Jr. (deceased November 10, 1985).

5. Grandparents (all deceased prior to 1960).

6. Brothers and Spouses, Benjamin Moore (divorced; remarried), none; Barbara Moore, none.

7. Sisters and Spouses, Lydia Dupentuis (divorced), none; Deborah Geithner, none; Peter Geithner, none.

Robie Marcus Hooker Palmer, of Vermont, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Hungary.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robie M.H. Palmer.

Post: Ambassador, Hungary.

Contributions, amount, date, donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents, none.
5. Grandparents, N/A, deceased.
6. Brothers and spouses, N/A, none.
7. Sisters and spouses, none, Alex Palmer; Georgie and George Cheney.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. LUGAR. Mr. President, for the Committee on Foreign Relations, I also report favorably two Foreign Service lists which appeared in their entirety in the CONGRESSIONAL RECORD of June 5, 1986, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they lie at the Secretary's desk for the information of Senators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NICKLES (for himself and Mr. BOREN):

S. 2601. A bill to amend the Trade Act of 1974 to make the oil and natural gas industry eligible for trade adjustment assistance; to the Committee on Finance.

By Mr. PRYOR (for himself, Mr., BUMPERS, Mr. BENTSEN, Mr. BAUCUS, and Mr. BURDICK):

S. 2602. A bill to provide for two additional members of the Physician Payment Review Commission; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. GORE):

S. 2603. A bill to establish the National Clearinghouse for the Homeless; to the Committee on Labor and Human Resources.

By Mr. HEINZ (for himself and Mr. GLENN):

S. 2604. A bill to amend the Social Security Act with respect to the standards for participation of skilled nursing facilities and intermediate care facilities under the Medicare and Medicaid programs, to amend the Older Americans Act of 1965 with respect to the ombudsman program, and for other purposes; to the Committee on Finance.

By Mr. SYMMS (for himself, Mr. ABDNOR, Mr. BOREN, Mr. HECHT, Mr. MATTINGLY, and Mr. NICKLES):

S. 2605. A bill to amend the Foreign Assistance Act of 1961 to facilitate the use of economic support fund assistance for commodity import programs; to the Committee on Foreign Relations.

By Mr. EAGLETON:

S. 2606. A bill for the relief of Francis Aditola; to the Committee on Finance.

By Mr. DANFORTH:

S. 2607. A bill to extend the suspension of duties on certain small toys; to the Committee on Finance.

By Mr. GORE (for himself and Mr. MOYNIHAN):

S. 2608. A bill to prevent homelessness and to provide a comprehensive aid package for homeless individuals; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. BOSCHWITZ, Mr. BUMPERS, Mr. DURENBERGER, Mr. EXON, Mr. GRASSLEY, Mr. KASTEN, Mr. MATTINGLY, Mr. MOYNIHAN, Mr. NICKLES, Mr. PRESSLER, and Mr. PRYOR):

S. 2609. A bill to provide for the establishment of rural enterprise zones, and for other purposes; to the Committee on Finance.

By Mr. LUGAR, from the Committee on Foreign Relations:

S. 2610. An original bill to authorize supplemental economic and military assistance for the Philippines, and for other purposes; placed on the calendar.

By Mr. STEVENS:

S. 2611. A bill to improve efforts to monitor, assess, and reduce the adverse impacts of drift nets; to the Committee on Commerce, Science, and Transportation.

By Mr. MATTINGLY (for himself and Mr. GARN):

S. 2612. A bill to amend the Export Administration Act of 1979 to authorize controls on exports, including the export of capital, from the United States, to countries supporting terrorism, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN:

S. 2613. A bill to suspend for a 4-year period the duty on certain parts of indirect process electrostatic copying machines; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. ROTH, and Mr. RUDMAN):

S. 2614. A bill to provide for parallel imports in order to continue to provide savings for U.S. consumers; to the Committee on Finance.

By Mr. GLENN:

S. 2615. A bill to suspend for 2 years the duty on 1-(3-Sulfopropyl) pyridinium hydroxide; to the Committee on Finance.

By Mr. GLENN:

S. 2616. A bill to amend the Tariff Schedules of the United States to extend suspension of duties on umbrella frames; to the Committee on Finance.

By Mr. RIEGLE:

S. 2617. A bill to establish within the Department of Agriculture an Office of Emergency Aid for Farm Families to provide grants to States for emergency services to farm families, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DANFORTH (for himself, Mr. MOYNIHAN, and Mr. EAGLETON):

S. 2618. A bill to amend the Tariff Schedules of the United States to change the classification of certain prefabricated bitumen roofing membranes; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. PROXMIRE, Mr. MATSUNAGA, Mr. BRADLEY, Mr. ZORINSKY, and Mr. CHILES):

S. 2619. A bill to increase Government economy and improve efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding improved collection of tax revenue and enforcement of the internal revenue laws, and for other purposes; to the Committee on Finance.

By Mr. DECONCINI (for himself, Mr. HUMPHREY, Mr. ROTH, Mr. BRADLEY, Mr. NUNN, Mr. HELMS, Mr. PROXMIRE, Mr. CHILES, Mr. GOLDWATER, Mr. WILSON, and Mr. ZORINSKY):

S. 2620. A bill to improve the Government's debt collection and credit management practices, to implement certain recommendations of the President's Private Sector Survey on Cost Control, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HUMPHREY (for himself, Mr. ROTH, Mr. SYMMS, Mr. WILSON, Mr. ZORINSKY, and Mr. MCCLURE):

S. 2621. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control relating to reduced Government competition with the private sector to provide goods and services; to the Committee on Governmental Affairs.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. WILSON, and Mr. MCCLURE):

S. 2622. A bill to amend the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act to increase economy and efficiency in the Federal Government and to reduce the Federal budget deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control concerning the examination and inspection of meat, poultry, and egg products processing operations, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. DECONCINI, Mr. HELMS, Mr. SPECTER, Mr. BRADLEY, Mr. GOLDWATER, Mr. WILSON, Mr. ZORINSKY, and Mr. CHILES):

S. 2623. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding the improvement of executive agency mail management, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. DECONCINI, Mr. PROXMIRE, Mr. BRADLEY, Mr. ZORINSKY, and Mr. CHILES):

S. 2624. A bill to increase Government economy and improve efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control relating to

the consolidation of certain Department of Defense operations; to the Committee on Armed Services.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. GOLDWATER, Mr. WILSON, and Mr. ZORINSKY):

S. 2625. A bill to increase Government economy and efficiency and to reduce the budget deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding improvements to Medicare auditing, medical review and administration, and Medicaid quality control, and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. HELMS, Mr. EAST, Mr. ZORINSKY, Mr. SYMMS, and Mr. MCCLURE):

S. 2626. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding the consolidation of border management and the revision of overtime laws for inspectors, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. BRADLEY, Mr. ZORINSKY, Mr. WILSON, and Mr. CHILES):

S. 2627. A bill to increase Government economy and efficiency and to reduce the deficit by implementing a recommendation of the President's Private Sector Survey on Cost Control relating to the sharing of Veterans' Administration and Department of Defense health care resources; to the Committee on Veterans' Affairs.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. DECONCINI, Mr. HELMS, Mr. BRADLEY, Mr. GOLDWATER, Mr. EAST, Mr. WILSON, Mr. ZORINSKY, Mr. SYMMS, Mr. CHILES, and Mr. MCCLURE):

S. 2628. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control to aid in verification of housing eligibility, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. DECONCINI, Mr. PROXMIRE, Mr. MATSUNAGA, Mr. MATTINGLY, Mr. BRADLEY, Mr. ZORINSKY, and Mr. CHILES):

S. 2629. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control relating to improved coordination between Department of Defense research facilities; to the Committee on Armed Services.

By Mr. ROTH (for himself, Mr. DECONCINI, Mr. PROXMIRE, Mr. BRADLEY, Mr. ZORINSKY, and Mr. CHILES):

S. 2630. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control to strengthen the auditing of Department of Defense transportation bills, and for other purposes; to the Committee on Governmental Affairs.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. DECONCINI, Mr. PROXMIRE, Mr. MATSUNAGA, Mr. ZORINSKY, and Mr. CHILES):

S. 2631. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control relating to reimbursements of the Department of Defense for the use of Defense Industrial Reserve property by Federal Government agencies; to the Committee on Armed Services.

By Mr. ROTH (for himself, Mr. HUMPHREY, Mr. DECONCINI, Mr. WILSON, Mr. ZORINSKY, Mr. CHILES, and Mr. MCCLURE):

S. 2632. A bill to increase Government economy and efficiency and to reduce the deficit by implementing certain recommendations of the President's Private Sector Survey on Cost Control regarding the increased use of paralegals by the Department of Justice, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. HUMPHREY, and Mr. WILSON):

S. 2633. A bill to amend the Rural Electrification Act of 1936 to increase economy and efficiency in the Federal Government and to reduce the Federal budget deficit implementing certain recommendations of the President's Private Sector Survey on Cost Control concerning rural electrification credit assistance, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BYRD:

S. 2634. A bill for the relief of John H. Wolff; to the Committee on the Judiciary.

By Mr. MCCLURE (for himself and Mr. SYMMS):

S. 2635. A bill to protect the integrity and quality of certain reaches of the Henry's Fork of the Snake River, ID, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. KASSEBAUM:

S. 2636. A bill to prohibit loans to, other investments in, and certain other activities with respect to, South Africa, and for other purposes; to the Committee on Foreign Relations.

By Mr. LONG:

S. 2637. A bill relating to the application of the drawback provisions of section 313 of the Tariff Act of 1930 to certain imports of cane sugar; to the Committee on Finance.

By Mr. DECONCINI:

S.J. Res. 370. A joint resolution proposing an amendment to the Constitution of the United States regarding judges appointed pursuant to article III; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. GRASSLEY, Mr. PELL, Mr. EXON, Mr. METZENBAUM, Mr. SYMMS, Mr. MOYNIHAN, Mr. D'AMATO, Mr. LEAHY, Mr. HEINZ, Mr. LONG, Mr. SARBANES, Mr. LAUTENBERG, Mr. HATCH, Mr. KERRY, Mr. DODD, Mr. RIEGLE, Mr. WILSON, and Mr. DOLE):

S.J. Res. 371. A joint resolution to designate August 1, 1986, as "Helsinki Human Rights Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN:

S. Res. 435. A resolution to recognize Mr. Eugene Lang for his contributions to the education and the lives of disadvantaged young people; to the Committee on the Judiciary.

By Mr. KERRY:

S. Res. 436. A resolution expressing the sense of the Senate regarding the establishment of an international trade and financing development program; to the Committee on Foreign Relations.

By Mr. DECONCINI:

S. Res. 437. A resolution expressing the sense of the Senate that the Government of Mexico should open its one-party system to greater democratic freedoms in the upcoming election; to the Committee on Foreign Relations.

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 438. A resolution directing the Senate Committee on Rules and Administration to study the Senate rules and precedents applicable to impeachment trials; to the Committee on Rules and Administration.

S. Res. 439. A resolution to authorize the reprinting of Senate Document 93-102, 93d Congress, 2d session; to the Committee on Rules and Administration.

S. Res. 440. A resolution expressing appreciation to Ms. Jeanie Bowles; considered and agreed to.

S. Res. 441. A resolution to modify the provisions of S. Res. 28, relating to television in the Senate, to continue television coverage of the Senate until such time as the Senate votes on the question of continuing such coverage; ordered held at the desk by unanimous consent.

By Mr. SIMON (for himself, Mr. DIXON, Mr. D'AMATO, Mr. MOYNIHAN, Mr. KENNEDY, Mr. KERRY, Mr. WILSON, Mr. DURENBERGER, Mr. LEVIN, Mr. MURKOWSKI, Mr. LAUTENBERG, Mr. ARMSTRONG, Mr. HART, Mrs. HAWKINS, Mr. SASSER, Mr. MITCHELL, Mr. NUNN, Mr. GRASSLEY, Mr. CRANSTON, Mr. GORE, Mr. HARKIN, Mr. MATTINGLY, Mr. INOUYE, Mr. BOSCHWITZ, Mr. HATCH, Mr. ZORINSKY, Mr. EVANS, Mr. PRYOR, and Mrs. KASSEBAUM):

S. Con. Res. 153. A concurrent resolution to express the sense of the Congress that a moment of silence be held during the official ceremonies for the Statue of Liberty, for the return of the American captives in Lebanon; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. DECONCINI):

S. Con. Res. 154. A concurrent resolution concerning the Soviet Union's persecution of members of the Ukrainian and other public Helsinki Monitoring Groups; to the Committee on Foreign Relations.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. NICKLES (for himself and Mr. BOREN):

S. 2601. A bill to amend the Trade Act of 1974 to make the oil and natural gas industry eligible for trade adjustment assistance; to the Committee on Finance.

OIL AND GAS WORKERS EQUITY ACT

● Mr. NICKLES. Mr. President, I am today introducing the Oil and Gas Workers Equity Act of 1986. This legislation will correct an inequitable situation by making all oil, gas, and service industry workers eligible for the Trade Adjustment Assistance Program

benefits under the Trade Act of 1974. This will put oil and gas workers on a par with the workers in other industries who are adversely affected by imports.

As you know, excess production capacity by the Government of Saudi Arabia, the so-called swing producer of OPEC, doubled that Government's production to over 4.5 million barrels per day. The stated purpose of such production is to increase the Saudi market share by creating a petroleum surplus in the market in order to lower prices and drive other production out of business.

As U.S. imports of crude and refined products have risen, American oil and gas exploration and production have declined precipitously leaving thousands of workers unemployed and threatening our energy security. An example of the devastating influence these imports have had on the industry is evidence by the fact that the national rotary rig count, one of the major indices of industry health, has dropped from a high of 4,530 in 1981 to a low of 720 today. In fact, we had more rigs in operation in Oklahoma alone 4 years ago than are operating in the entire United States today! The Oklahoma rig count has dropped from almost 900 to about 100 rigs today.

As you might expect, this drop in activity has had a devastating effect on employment in the industry. In Oklahoma alone, it is estimated that more than 60,000 energy industry and related jobs have been lost in the last few years, with 5,600 lost in the first 3 months of this year. Unemployment is over 20 percent in some counties and the unemployed number more than 120,000 in our State.

Most of these workers are unemployed because of the intentional efforts of those in the Middle East cartel. OPEC is using predatory pricing to flood the market with petroleum, undercut U.S. prices, and recapture the Arab market share. We believe that fairness dictates that these oil and gas workers be treated just the same as any other worker who losses his or her employment due to imports.

Mr. President, the bill we are introducing today amends the Trade Act of 1974 to clarify that when duly certified under section 222 of the act, workers from oil, gas, and oil service firms are eligible to apply for adjustment assistance. Under this provision, oil and gas workers are eligible to apply for benefits when a significant number or proportion of workers have lost their jobs or have had their jobs threatened and the sales of their companies have decreased absolutely due to price declines or imports.

The bill also amends section 251(c) of the act of provide that oil and gas firms which have a significant number of their workers and sales affected by imports or a decline in prices are also eligible for adjustment assistance. The amendments made by the act shall apply to petitions for certification that are pending on, or filed on or after the date of enactment of this act.

Mr. President, you will recall that the Senate has twice approved the concepts embodied in this bill. In addition to approving the extension of the term of the Trade Assistance Program in general, in the budget resolution we passed a specific resolution urging that the inequities in interpretation of the act for oil and gas workers be remedied. Later, we amended the urgent supplemental appropriations bill to provide for oil and gas worker benefits. Unfortunately, that provision was stripped from the bill by Members of the other body.

Mr. President, we submit that this bill is needed to combat the effect of oil imports attributable to other governments. The bill is essential to promote adjustment to trade competition. Its tightly crafted provisions will equalize the treatment of oil and gas workers. This legislation is desperately needed by the citizens of Oklahoma and the other oil and gas producing States. I urge you to adopt this provision.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2601

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Oil and Gas Workers Equity Act of 1986".

SEC. 2. (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like, or competitive with, articles which are produced by such workers' firm, or appropriate subdivision thereof, contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of this section—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(3) Any firm, or subdivision of a firm, which—

"(A) engages in the exploration for oil or natural gas,

"(B) produces or extracts oil or natural gas,

"(C) processes or refines oil or natural gas, or

"(D) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding subparagraphs and such parts or services are uniquely suited to such activities,

shall be considered to be a firm producing such oil or natural gas and producing the processed or refined products of such oil or natural gas.

"(4) The requirements of subsection (a)(3) shall not apply in the case of workers of a firm, or subdivision of a firm, that produces oil or natural gas, or any processed or refined product of oil or natural gas, if a decline in the average world price of crude oil or natural gas contributed importantly to—

"(A) the total or partial separation, or threat thereof, described in subsection (a)(1), and

"(B) the decline in sales or production described in subsection (a)(2).".

(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) sales or production, or both, of such firm have decreased absolutely, and

"(C) increases of imports of articles like, or competitive with, articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of this subseciton—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(C) Any firm which—

"(i) engages in the exploration for oil or natural gas,

"(ii) produces or extracts oil or natural gas,

"(iii) processes or refines oil or natural gas, or

"(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses and such parts or services are uniquely suited to such activities.

shall be considered to be a firm producing such oil or natural gas and producing the processed or refined products of such oil or natural gas.

"(D) The requirements of paragraph (1)(C) shall not apply in the case of a firm that produces oil or natural gas, or any processed or refined product of oil and natural gas, if a decline in the average world price of crude oil or natural gas contributed importantly to—

"(i) the total or partial separation, or threat thereof, described in paragraph (1)(A), and

"(ii) the decline in sales or production described in paragraph (1)(B).".

SEC. 3. The amendments made by this Act shall apply to petitions for certification that are pending on, or filed on or after, the date of enactment of this Act.●

By Mr. PRYOR (for himself, Mr. BUMPERS, Mr. BENTSEN, Mr. BAUCUS, and Mr. BURDICK):

S. 2602. A bill to provide for two additional members of the Physician Payment Review Commission; to the Committee on Finance.

ADDITIONAL MEMBERS OF THE PHYSICIAN PAYMENT REVIEW COMMISSION

● Mr. PRYOR. Mr. President, I rise today to introduce legislation on behalf of myself, Senator BUMPERS, Senator BENTSEN, Senator BAUCUS and Senator BURDICK to expand the membership of the Physician Payment Review Commissions.

As my colleagues will recall, the recently enacted Consolidated Omnibus Budget Reconciliation Act of 1985 mandated the establishment of this Commission. Pursuant to that law, the Commission is to make recommendations to the Congress by March 1 of each year regarding adjustments to the reasonable charge levels for certain physicians' services, as well as changes in the methods for determining the rates of payment for such services. The Commission is also empowered to collect and assess information on medical and surgical procedures and services and to advise the Health and Human Services Secretary on the development of a relative value scale for physician payment.

To appreciate the purpose of the legislation being introduced today it must be viewed in the context of what has come to be known as the crisis in rural America. We cannot talk about the plight of the farmer or the threatened collapse of America's rural economy without also recognizing the difficulties and challenges confronting our entire system of health care in rural America. Access to affordable, appropriate health care in rural areas has been a continuing problem which has only been exacerbated by inequitable payment policies. In addition, fully one-quarter of our Nation elderly reside in these small, rural communities, and that number is rising steadily.

Mr. President, this new Commission promises to play a critical role in one important aspect of our health care system—that part which pertains to practicing physicians. The Commission's work will hold particular relevance for physicians practicing in rural areas because, traditionally, these individuals have been underpaid for their services. These historical imbalances in the physician payment mechanism have reduced incentives for physicians to practice in rural areas, and every effort must be made to rectify these policies.

On June 11, 1986, the Office of Technology Assessment announced the names of the 11 individuals which had been chosen as members of the new Physician Payment Review Commission. Unfortunately, not one of the 11 individuals chosen was a representative of rural America. A number of my colleagues in the Senate were greatly concerned, and it is now my understanding that OTA has agreed to appoint a commissioner-designate to represent rural America. This individual would be a nonvoting member of the Commission, but would be in line to assume the first opening on the Commission—which is expected in May of 1987).

Although OTA has made a good-faith effort to respond to the concerns of my colleagues, I believe it is essential that the Congress, the Secretary of HHS, and the Commission itself should have the benefit of full input from rural America throughout deliberations on this important health care matter. For this reason, I am introducing which would expand the Physician Payment Review Commission by two members—from 11 to 13—with the intention that one of the new slots would be filled by a rural primary care physician.

As I see it, this is the only way of assuring that the deliberations of the Commission will adequately reflect the concerns and problems encountered by rural Americans. I urge my colleagues to join me in this effort.●

● Mr. BAUCUS. Mr. President, I am pleased to join my colleague from Arkansas [Mr. PRYOR] in introducing legislation to provide for two additional members on the Physician Payment Review Commission.

This fall, the Physician Payment Review Commission [PhysPrc] will begin an important study on ways to reform Medicare payments for physicians' services. I expect that the work of the Commission will guide Medicare policy for many years to come.

So, it is very important that the Commission has diverse membership. It is important that the Commission represents a full range of opinions and expertise as it prepares reports to Congress and to the Secretary of Health and Human Services on changes in the reimbursement for physician services.

I am particularly concerned that the Commission is sensitive to the problems that rural America faces in preserving quality health care. Wide payment differences exist between rural and urban physicians. And there are often wide disparities in the amounts paid to physicians with different specialties providing the same services. These differences have contributed to the difficulties that many small rural communities face in attracting and retaining qualified medical professionals.

Appointments to the Commission are the responsibility of the Director of the Office of Technology Assessment [OTA]. I have discussed the importance of having a rural representative on PhysPrc with the Director of OTA, Dr. John Gibbons, and with the newly designated Chairman of PhysPrc, Dr. Phil Lee. And I know that they strongly agree that a rural perspective is needed on the panel.

In response to the concerns expressed by the entire Senate Rural Health Caucus, the Director of OTA has made a commitment to appoint a rural physician to PhysPrc as a Commissioner-designate prior to the panel's first meeting this fall. The Commissioner-designate will then take his place on the panel as a full voting member at the first available opportunity.

This arrangement will help to make sure that a rural voice is heard from the start when the Commission begins its work. The Director of OTA has worked closely with all of us who are concerned about improving rural health care. And his responsiveness to our concerns gives me confidence that PhysPrc will start out on the right foot.

The main purpose for the legislation we are introducing today is to establish a permanent seat for a rural representative on the Commission so that any questions about constraints on the appointment authority of the Director of OTA are removed. This legislation will also give the Director of OTA the flexibility that we believe he needs to structure a more balanced panel overall.

I commend the Senator from Arkansas for this legislation, which I believe will make the Commission better able to fulfill its mission.

Finally, I want to recognize the efforts of my distinguished colleague from Texas [Mr. BENTSEN], a cosponsor of this legislation and a strong advocate for improving the quality and access of health care for rural Americans.

The Senator from Texas has worked hard to ensure that the health care needs of rural Americans are no longer overlooked in the development of national health policy. And, I have been pleased to work with my colleague and with the entire Senate Rural Health Caucus to make sure that the interests of those who live in rural communities are properly represented on the Physician Payment Review Commission.

The Senate Finance Committee will soon be considering health legislation. And I look forward at that time to working with my colleagues on the committee as well as the 34 members of the Rural Health Caucus to guarantee that the health needs of 60 million rural Americans are fully represented throughout the deliberations of the

Physician Payment Review Commission.●

By Mr. DOMENICI (for himself and Mr. GORE):

S. 2603. A bill to establish the National Clearinghouse for the Homeless; to the Committee on Labor and Human Resources.

NATIONAL CLEARINGHOUSE FOR THE HOMELESS ACT

● Mr. DOMENICI. Mr. President, today I most pleased to be joined by my most able colleague, Senator ALBERT GORE of Tennessee to introduce a bill to establish a National Clearinghouse for the Homeless. As a nation of great resources, we can do a better job of finding shelter and providing needed services for the homeless individuals and families of America. As Senator GORE and I become involved with the problem of homelessness in America, and particularly, the mentally ill homeless, it occurred to us that we are able to help match missing children with their parents. If we could focus our efforts in a similar way for the homeless then those who want to help can be more effective and those who need the help will benefit.

The more we learned about the efforts of Americans to help the homeless, the more we became convinced that the clearinghouse tool was missing from the toolbox of public and private efforts on behalf of the homeless people of America. We wondered how we might shape the missing tool so that all the other available tools would be more effective. This bill is the result of that thinking.

In November 1983, Secretary of Health and Human Services [HHS] Margaret M. Heckler announced the creation of a task force headed by the director of the Office of Community Services. This task force had representation from the U.S. Departments of Labor, Defense, Agriculture, Interior, Housing and Urban Development [HUD], Transportation; the General Services Administration, Federal Emergency Management Agency, Veterans' Administration, Action and the Postal Service to "ensure a united Federal effort" to help the homeless. Regional working groups were also established "under the auspices of the HHS regional directors in 10 cities from Boston to Seattle to expedite Federal help and integrate our effort with State, municipal, and private efforts."

On December 20, 1984, Secretary Heckler announced another initiative. "To better focus our efforts," she said, "I am strengthening the Federal Interagency Task Force on Food and Shelter for the Homeless that I established last year." She appointed Under Secretary Charles Baker to oversee the work of the task force and the regional offices. The Secretary charged the chairman of the task force, Dr. Harvey Vieth of the Office of Community Services, "with developing general policy on the homeless and identifying usable resources within HHS" and coordinating with "private sector, philanthropic organizations, as well as appropriate trade associations, to share information and develop partnerships to aid the homeless."

By this time, there had been 10 interagency agreements made to coordinate services for the homeless. The major innovations were: First, the leasing of vacant Federal facilities to shelter projects; second, donation of surplus property to food banks and shelter projects; third, the leasing of HUD-held single-family homes to mayors or local organizations that support homeless projects; fourth, the linking of Department of Defense [DOD] commissaries with HHS-approved food banks to make use of DOD nonmarketable surplus foodstuffs; fifth, the leasing of Farmers Home Administration (FmHA) single-family homes as shelters; and sixth, and agreement with the Department of Energy [DOE] to make shelters for the homeless eligible for weatherization grants.

This bill, Mr. President, builds upon the experience of the Federal Interagency Task Force on the Homeless. Our intent is to continue to improve Federal responsiveness; further encourage private donations; improve our knowledge about the plight of the homeless; use this new knowledge to better serve the needs and attack the causes of homelessness; improve our ability to blend Federal, State, local, and private resources; and provide easy access to the complicated system of support.

While the HHS Task Force on the Homeless has become a center of information and coordinated assistance, much remains to be done to improve available services. This bill adds several ingredients to make some necessary improvements. We propose first, the addition of a toll-free national hotline for the homeless; second, an advisory council to guide the clearinghouse functions; third, a national incidence study to help us understand the full scope of the problem and address its root causes; fourth, annual reports to the Congress on outstanding unmet needs and recommendations for action to help the homeless; fifth, better training of shelter workers to handle mental illness symptoms, alcohol and drug abuse, and special health problems; sixth, a computerized system to improve referrals and to match resources with needs; seventh, a more active effort to tap private resources; eighth, exploration of innovative ways to finance shared apartments and housing to bring shelter to those who are more able to live independently; and ninth, an authorization of $20 million per year for the first 3 years to implement these changes and additional activities.

The mental illness factor is a special focus of the clearinghouse. Among studies that determine causes of home lessness, a consistent finding is that the so-called deinstitutionalization of mentally ill persons has played a clear role in the increase of homelessness among those mentally ill persons who did not find support from community-based activities. Deinstitutionalization came about as a result of new court rulings on "involuntary commitment rules," new psychotropic drug therapies that encouraged more outpatient treatment, and the promise of successful treatment in community based mental health centers.

The General Accounting Office [GAO] report, April 9, 1985, says that between "1955 and 1980, the population of State mental institutions decreased by more than 75 percent, from 559,000 to 138,000. * * * Starting in 1963 (the President Kennedy Plan), a system of federally supported community mental health centers was initiated to serve the mentally ill, including those being deinstitutionalized. However, less than 800 of the originally estimated 2,000 community mental health centers needed to provide community care were established."

The new clearinghouse would clearly have the responsibility of determining the validity of such as an estimate and recommending proper action to alleviate the conditions brought about by deinstitutionalization. Similar responsibilities would be applicable to the other commonly cited causes of homeless—unemployment, personal crises, reductions in public assistance, declining supplies of housing for low-income people, and alcohol and drug abuse problems.

To meet our goal of improved coordination of existing services, Mr. President, it will be important for the National Clearinghouse for the Homeless to monitor the actual application of Federal resources from existing programs. We would expect the clearinghouse to improve the targeting of available resources and to promulgate rules changes to simplify this task. The fact that we cannot now give solid estimates of Federal participation of programs for the homeless indicates the necessity of better monitoring and better information for the administration and the Congress.

In closing, we would like to mention a few attributes of the National Clearinghouse for the Homeless that we believe are essential if we are to do a better job of mobilizing our national resources to help the homeless. First of all, we establish an advisory council of 18 members, 12 appointed by the President and 6 appointed by the Congress—3 each from the Senate and the House of Representatives. This council

elevates the visibility of homelessness at the Federal level. It also provides for an independent assessment of Federal efforts to help the homeless.

Next, the clearinghouse would establish a national computerized data base with the capacity to match private contributions to shelters and other programs of assistance to the homeless. Third, we would establish a national toll-free telephone line to provide individual referrals to shelters, to serve as an initial contact point for groups to learn of the resources available to them—including the experiences of other shelter operators—and to provide a national central point of contact for individual and group contributions for the homeless.

The National Clearinghouse would also become a center of national efforts to improve the ability of shelter workers to identify and effectively handle mental health, alcohol abuse, drug abuse, and other health problems. Finally, I would like to stress the new informational responsibilities of the clearinghouse. For the first time, we will, as a nation, have better information about the problem of homelessness and the efforts to alleviate the problem. This will be an important planning tool for the Congress, State legislatures, and local city councils.

The National Clearinghouse for the Homeless would not be the provider of food stamps, temporary shelter, or counseling and health services. The clearinghouse would function as the overseer of the many Federal efforts for the homeless. It would encourage more private participation by demonstrating that private donations and gifts would be used for direct services and needs. It would elevate the participation of the Federal Government by accepting responsibility for being the visible contact point for those who want to help and for those who need the help.

Mr. President, I suspect that we have a lot to learn about ways to help the homeless and to provide avenues of recovery and assistance for those who are beyond helping themselves. The potential of our many existing Federal programs is great. I would like my colleagues to see the wide array of potential assistance, and for this reason I am attaching two key background documents for the RECORD. The first is Secretary Margaret M. Heckler's memorandum of December 20, 1984, to strengthen the task force; the second is a draft memorandum from the Federal Task Force on the Homeless to the Homeless Provider Community dated April 1986, summarizing the Federal programs available to help the homeless, and I ask unanimous consent that they be printed in the RECORD.

We encourage our colleagues to review this material. We hope that careful thought about the benefits of doing a better job with our existing resources and the potential for improved coordination will lead to support for the clearinghouse concept. The National Clearinghouse for the Homeless goes beyond the current efforts of our Federal Government in the many important ways I have described to help the homeless people of America.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, December 20, 1984.

Memorandum for: Charles D. Baker, Under Secretary; Dixon Arnett, Deputy Under Secretary for Intergovernmental Affairs; Harvey Vieth, Chairman, Federal Task Force on the Homeless; Assistant Secretaries; StaffDiv, OpDiv.

Subject: HHS Actions to Help the Homeless.

My commitment to help feed and shelter the homeless remains strong. The need is still there and our efforts must increase.

Several HHS programs can and are being used to help the homeless. By providing them with necessary support services, such as medical care or alcohol and drug abuse assistance, we are attacking the underlying causes of homelessness. I believe we can do even more with our existing resources, and I am asking your help in accomplishing this. Existing resources, adequately targeted towards the needs of the homeless, can help alleviate the problems facing this fragile group.

To better focus our efforts, I am strengthening the Federal Interagency Task Force on Food and Shelter for the Homeless that I established last year. Attached is a paper discussing the problem of homelessness, summarizing the Task Force's accomplishments during the past year, redefining the role of the Task Force, and laying out its agenda for the coming year.

Under Secretary Charles Baker will oversee the work of the Task Force and the regional offices.

The Chairman of the Task Force, Dr. Harvey Vieth, is charged with developing general policy on the homeless and identifying useable resources within HHS, as well as maintaining liaison and coordinating with the other federal agencies who are members of the Task Force. He will also coordinate with private sector, national philanthropic organizations, as well as appropriate trade associations, to share information and develop partnerships to aid the homeless.

Dixon Arnett, Deputy Under Secretary for Intergovernmental Affairs, will work closely with Dr. Vieth to ensure that the Department's policies are implemented by the regional offices. The regional offices will be the day-to-day coordinator of HHS activities on behalf of the homeless and will deal directly with shelter and food bank operators and local government.

I cannot impress upon you enough my commitment to use HHS's resources to help the homeless. Please give the Task Force any help they request. The Task Force telephone number is 254-6004.

MARGARET M. HECKLER,
Secretary.

THE FEDERAL TASK FORCE ON THE HOMELESS

INTRODUCTION

In October 1983, Margaret M. Heckler, Secretary of the Department of Health and Human Services (HHS) met with the National Citizens' Committee for Food and Shelter, a private organization which encourages public and private cooperation to obtain housing and food for the homeless. At the meeting, the Secretary offered to take the lead in coordinating a federal effort to work with the Citizens' Committee and on October 31, 1983, she announced the creation of the Federal Task Force on Food and Shelter for the Homeless.

The Task Force, unique as the first interagency unit dealing with the homeless to be established by a departmental initiative rather than by statute, is chaired by HHS and includes representatives from thirteen other federal agencies: the Departments of Agriculture, Defense, Energy, Interior, Labor, Housing and Urban Development, and Transportation, as well as the General Services Administration, the Federal Emergency Management Agency, ACTION, the Census Bureau, the Veterans Administration and the postal Service. The Task Force is supported by a small central staff at HHS headquarters and by HHS regional staff assigned by Regional Directors to deal with the problems of the homeless.

The purpose of this paper is to (1) briefly review the activities and accomplishments of the Task Force during the first year of its existence, (2) redefine the role of the Task Force and (3) outline an agenda for the Task Force's support staff at HHS headquarters and in the HHS regional offices. Before doing this, however, it might be useful to describe once more both the problem that gave rise to the Task Force—the problem of homelessness—and the response to this problem on the part of federal, state and local agencies and the private sector.

WHAT IS A HOMELESS PERSON?

A homeless person is someone who lacks the financial resources or community ties needed to provide for his or her own adequate shelter. Homeless persons live in public and private emergency shelters, in the streets, under bridges, in subways, bus terminals, airports, railroad stations, parks and abandoned buildings or in temporary voucher hotels, motels or apartments, or in jails or hospitals which they enter with the underlying purpose of seeking shelter.

HOW MANY HOMELESS ARE THERE?

No one has done a thorough census of the homeless population in the United States. In the absence of one, some advocates for the homeless have claimed that the national total is as high as two million persons and this estimate has achieved fairly wide currency. In May 1984, Secretary Samuel R. Pierce, Jr., of the Department of Housing and Urban Development (HUD), released a systematic national study of those homeless on any one night, which concluded that "as best as can be determined from all available data, the most reliable range is 250,000 total number of people, nationally, who were homeless on an average night in December 1983 or January 1984." This number includes both the chronically homeless and those who are temporarily without shelter. Because of the large turnover among the temporarily homeless, the cumulative annual count could well range between two and three times the daily total.

Some commentators have dismissed the argument over numbers as pointless since even the HUD report's lower figure indicates there is a serious problem, given the fact that only one-fourth to one-third of the homeless population can be accommodated in existing shelters. As Philadelphia Mayor

William Goode put it: "Let's not waste our time arguing numbers."

WHO ARE THE HOMELESS?

Studies indicate that around 66% of the homeless are single men, 13% single women and 21% family members. Looked at from another perspective, the homeless generally fall into three categories: people who have suffered recent economic setbacks or eviction, people who have experienced severe, personal crises and people who are chronically disabled by mental illness and/or alcohol and drug abuse (estimated to be from one-half to two-thirds of the homeless population).

In respect to the first group, the so-called "new homeless", the problem is diminishing as a result of the continuing economic recovery which has already created 6.5 million new jobs. The personal crises that are responsible for the second group of homeless—divorce, domestic violence, release from a jail or hospital with no place to go, being stranded while traveling etc.—are usually temporary in nature, and a large turnover is common among this group.

It is the third group—the chronically mentally ill and the substance abusers—who are not only the most numerous among the homeless, but the most difficult to help. Through the mid-60's, most of the homeless were the so-called skid row alcoholics. After the passage of the 1963 Community Mental Health Centers Act, large numbers of mentally ill persons were released from, or ceased being admitted to, state mental institutions. Nationally, the number in mental hospitals declined from 505,000 in 1963 to 125,000 in 1981 and this resulted in a significant increase in the homeless population. A growing number of States are moving to remedy this situation by providing more money for community-based mental health centers.

Another factor which exacerbated the problems of the homeless was "gentrification"—the rehabilitation of downtown housing for new affluent purchasers and the demolition of low-cost residential hotels and boarding houses in urban renewal projects. The result was a decline in the supply of single room occupancy (SRO) units lived in by low-income persons.

HOW ARE THE HOMELESS NOW BEING HELPED?

The vast majority of the efforts to assist the homeless are being undertaken by the private sector, including businesses, local non-profit groups, churches and synagogues, and other voluntary organizations. For example, 54 percent of shelters are operated by non-religious private groups, 40 percent by religious groups, and 6 percent by city and county governments. A variety of private sources provided 63 percent (or $138 million) of the 1983 operating expenses for all shelters. In addition, an average of four volunteer staff hours per bed per night was donated to shelters.

In the area of food assistance, in 1983, of the 300-odd food banks in the United States, the 79 which belong to the Second Harvest network distributed to organizations serving the poor some 118 million pounds of food donated by the food industry and other private givers. The dollar value of this food was estimated to be $197 million. Forty percent of this amount (or $78 million worth of food) went to soup kitchens and congregate feeding sites patronized by many homeless persons. In addition under an agreement negotiated by the Task Force, some twenty food banks received around 500,000 pounds of surplus food from vendors serving military commissaries.

Local governments also play a major role in the provision of food, shelter and other services for the homeless. According to the HUD report, about 80 percent of local governments (cities and counties) do at least one of the following: operate shelters; give money to private groups to operate shelters or other services; lease or rehabilitate buildings for private shelter providers; and furnish vouchers to homeless persons for use in hotels, motels and apartments.

States have provided services mostly by "passing through" to local goxernments monies from federal sources such as the Federal Emergency Management Agency, HHS (through the Community Services and Social Services Block Grants), and HUD (through the Community Development Grant). Recently, a few States (Maryland, New Jersey, California, Massachusetts and New York) appropriated substantial sums to provide either social services or shelter for the homeless. For example, New York has committed $21 million for construction during FY 1985. In addition, a commission appointed by Governor Cuomo has just recommended allocating $330 million in additional state funds over the next five to eight years for community-based services for the mentally ill. The commission also urged establishment of a system of financing to assure that mental health funds "follow the patient" from the institutions, with each local agency being held accountable for care in its area. Due to the economic upturn, the majority of states are registering a sizeable surplus in state revenues, making it likely that more state funds will be available in the future to help the homeless.

With respect to the Federal Government, there is a mistaken perception on the part of some advocates for the homeless that the Federal Government's assistance has been limited to the $210 million for emergency food and shelter distributed during the past two years by the Federal Emergency Management Agency. In point of fact, the Federal Government has applied many millions of additional dollars to the problems of the homeless, through such programs as USDA's Emergency Feeding Programs ($1 billion in surplus commodities since 1982. $50 million a year to help pay for the cost of distributing excess foods and $75 million to emergency feeding stations), HUD's Community Development Block Grant ($34 million in FY 1983), HHS's Community Services Block Grant ($62 million in FY 1983 for emergency food and shelter), HHS' Alcohol, Drug Abuse and Mental Health Block Grant ($1.3 million for research grants in FY 1984) and HHS' Program for Runaway and Homeless Youth ($23 million in FY 1984). In the case of the Community Development and Community Services Block Grants, the amounts were not earmarked by Congress but were set by the states administrating the block grants. Other block grants which can be utilized by state and local governments for assistance to the homeless include the Preventive Health and Health Services Block Grant, the Social Services Block Grant and the Primary Care Block Grant (also known as Community Health Center Program). It is the prerogative of the states and municipalities to set priorities and determine the percent of these resources that will be directed to the homeless.

In addition, there is a wide range of Federal entitlement programs from which about 20-35% of the homeless are deriving some help. These include Medicaid, Medicare, Food Stamps, Aid to Families with Dependent Children, Social Security Disability Insurance, Supplemental Security Income and Veterans Cash and Medical Benefits (The total dollars received by the homeless under these programs is not known).

Finally, there is the contribution which has been made during the past year by Federal Task Force on Food and Shelter for the Homeless. The accomplishments of the Task Force to date include ten agreements with federal agencies to support local food and shelter projects. These major sharing agreements consist of the following:

1. An agreement with General Services Administration (GSA) to make vacant Federal facilities, not targeted for other immediate disposition, available for lease to shelter and shelter-related projects. An example of this was the transfer of a vacant federal building at Second and D Streets, NW, to the District of Columbia Government for use as a shelter for 800 homeless people.

2. Another agreement with GSA to donate surplus property to food banks and shelter projects. Food banks and shelter operators can now apply through county or city governments to State Property Offices to requisition surplus property, such as refrigerators, medical equipment, heaters, kitchen supplies, furniture and clothing. To date, approximately 400 community-based providers across the country have requested information from the Task Force on how to gain access to this property.

3. An agreement with the Department of Defense to renovate and lease appropriate facilities to homeless shelter projects at the lowest possible coat. Six such shelters are currently in use, and several others in the final stages of negotiation. Secretary Weinberger has just reiterated, in a strongly worded memorandum to all military commanders, his commitment to providing more unused military facilities to organizations serving the homeless.

4. An agreement with the Department of Housing and Urban Development that authorizes HUD Regional Administrators to lease single-family homes in HUD-held inventory to mayors and/or local organizations that support homeless projects. Under this agreement a model project is operating in Memphis, Tennessee, which uses 10 HUD's single-family units to provide interim housing at $1.00 a year to homeless families. The local provider is the Metropolitan Interfaith Association. Several days ago, Secretary Pierce directed his staff to take administrative action to expand the use of single-family acquired properties as emergency family shelters, through intensified publicity and outreach efforts by HUD's regional officials. In the same memorandum, the Secretary ordered the following additional steps to be taken: (1) encourage the preservation of single-room occupancy (SRO) housing through use of several Section 8 programs; (2) provide priority for admission to assisted housing for those who are, or are about to be, homeless, including battered spouses; (3) expand the use of small, vacant Public Housing Authority units by homeless persons and (4) encourage greater use of Community Development Block Grant funds for rehabilitating shelters and providing shelter services.

5. An agreement with the National Guard to make armory facilities or manpower services available to local food bank and shelter operators.

6. An agreement with the Department of Defense under which food banks are linked through HHS with military commissaries and may obtain nonmarketable, surplus foodstuffs through commisary vendors. To

date, approximately 120 food banks have been linked with approximately 190 Army, Navy, Air Force and Marine Corps installations. DoD commissaries, like other supermarkets, at times have food that they cannot sell, but that is still edible. This program is designed to get that food to people who will eat it rather than let it go to waste. HHS' ten Regional Directors are responsible for overseeing the day-to-day workings of the agreement.

7. An agreement with the Department of Transportation for Coast Guard commissaries to make nonmarketable surplus foodstuffs available to food banks.

8. A further agreement with DoD to make warehouse space on military bases available, where appropriate, to food banks for the storage of food.

9. An agreement with the Department of Agriculture that authorizes Farmers Home Administration (FmHA) county supervisors to lease single-family homes to community non-profit organizations for use as shelters. FmHA initially will establish pilot projects in four states.

10. An agreement with the Department of Energy to make shelters for the homeless eligible for DOE grants for weatherization of dwelling units.

In addition, the Task Force conducted a workshop for operators of 30 successful soup kitchens and shelters around the country, and based on this, has just published a "how-to-do-it" guide summarizing various model programs. The guide, the first of its kind to be produced under federal auspices, will be distributed to interested states, localities, institutions and local organizations serving the homeless.

WHAT IS THE FUTURE ROLE OF THE TASK FORCE?

The original charter of the Task Force was based on the following assumptions:

1. *Homelessness is essentially a local problem.* The problem originates at the community level and the focus of efforts to resolve it must be at this same level. The needs of the homeless are best assessed at the local level and it is only there that the appropriate support and assistance can be pulled together and delivered creatively and with caring. More and more communities are beginning to realize this and are taking the lead by organizing partnerships between businesses, churches, private individuals, care providers and state and local service agencies to establish shelter and rehabilitation facilities for the homeless.

2. *New federal programs for the homeless are not the answer.* There is a considerable array of existing resources at the federal level which have not yet been fully utilized. These resources include benefit programs for which the homeless are eligible and surplus building space, supplies, equipment and foodstuffs, etc. There are also more resources at the state and local level which can be applied to the problems of the homeless, thanks to budget surpluses generated by the economic upturn.

3. *Knowledge of strategies used in many communities to help the homeless needs to be transferred to other communities.* The various kinds of things that need to be done to meet the needs of the different categories of homeless persons are all being done now somewhere in the country; what is needed is a systematic effort to document and disseminate what is happening, so that other communities can benefit from this knowledge.

In the light of these assumptions, the role of the Task Force can be summed up as follows:

1. Identifying potential resources controlled by federal agencies.

2. Cutting red tape and helping to remove impediments so that these resources can be more effectively targeted to the homeless.

3. Acting in general as a facilitator or broker between local governments and shelter providers on the one hand and federal agencies on the other, but only when such assistance is requested by a local group and/or local officials.

4. Serving as an information source on homeless issues for the White House, Congress and the provider community.

5. Assisting in identifying examples of successful local approaches to the problem of homelessness and assisting in the dissemination of this information throughout the provider community.

This approach reflects President Reagan's emphasis on community initiative and responsibility, in partnership with federal technical and material assistance.

HOW WILL THE TASK FORCE CARRY OUT THIS ROLE IN THE COMING MONTHS?

While solid groundwork has been laid and much has been accomplished, a great deal remains to be done to target existing federal resources more directly toward the homeless. The Task Force will be focusing on the following priorities in the coming months:

1. Work with the Social Security Administration (SSA), the states and localities, and shelter operators to identify those shelter residents who qualify under existing law for social security disability or supplemental income benefits. These residents could then provide for their own housing, which could in turn qualify them for other existing programs that require recipients to have a fixed address.

SSA has established, in cooperation with state and local officials, a pilot outreach program in New York city in which claims examiners visit various shelters to counsel residents on their rights, accept benefit applications, and advise residents of the outcome of the application process. Expanding such an outreach program to other areas could significantly reduce the homeless population through the use of existing resources.

2. Continue to identify existing resources that can be used to help the homeless and produce interagency agreements to make these resources available to organizations serving the homeless. Existing programs for job training, mental health care, alcohol and drug abuse assistance, and other support services could be used to attack the underlying causes of homelessness. The Task Force will also review existing interagency agreements and revise them where necessary.

3. Continue to develop working relationships with national organizations such as The National Citizens Committee for Food and Shelter, the National Mental Health Association, the American Psychiatric Association, the American Institute of Architects, veterans' organizations, etc. These organizations can be of great assistance in mobilizing private sector support throughout the nation.

4. Respond to state and local requests for help by cutting red tape and by furnishing guidance on resources availaole through HHS' Regional Directors and through other regional and national networks. By acting as a broker between local providers and federal agencies, the Task Force can speed up the application process and, where appropriate, obtain a waiver of restrictive practices.

5. Work with the private sector to ensure that information on resources, methods, and potential problems (and how to deal with them) are available to those who want to set up food banks or shelters. Much of this information is currently available only in a piecemeal fashion from private sector or government computer banks. Access to a central information retrieval system will significantly aid the Federal Government's management of homeless programs and provide a ready source of information for inquiries from Congress, the White House and the press.

6. In concert with other agencies, organize conferences, workshops and regional meetings for shelter operators, service providers and state and local officials, with a view to producing more "how-to-do-it" guides for local use. A case in point is a suggestion that a workshop be held to produce a simplified, easy-to-use reference manual containing brief descriptions of all programs, resources and facilities, both public and private, available to homeless persons and to organizations serving the homeless—a kind of "catalog of domestic assistance" for the homeless.

7. Designate the HHS Regional Directors as the frontline coordinators and implementers of the various interagency agreements negotiated by the Federal Task Force in Washington. These officers of the Regional Directors are the logical places in which to center the efforts of the Task Force. These are much closer to the problem than the national office and they are in regular contact with state and local officials who are dealing with the problem. Each Regional Director will be asked to establish and chair a regional task force for the homeless, comprising representatives from GSA, HUD, DOD and other federal agencies where appropriate. The regional task force will go into action only when a local community has determined its need and requests assistance from the task force. Local requests for help reaching the Federal Task Force in Washington directly will be referred to the Regional Directors. The Task Force in Washington will continue to take the lead in establishing general policy and resolving issues affecting more than one region.

FEDERAL TASK FORCE
ON THE HOMELESS,
Washington, DC, April 1986.

MEMORANDUM

To: Homeless Provider Community.
From: Harvey R. Vieth, Chairman.
Subject: Summary of Federal Programs Available to Help the Homeless.

Attached is a listing of Federal programs that can be used to help the homeless, along with their budget authority for fiscal year 1985. While we have attempted to use a broad perspective in identifying applicable Federal programs, this listing should not be considered as exhaustive.

In many cases, these programs are block grants that can be used for a wide variety of purposes, including feeding and sheltering the homeless. The decisions on how to spend these funds are often the responsibility of the states and/or localities. In some cases, the funds go directly to an individual or institution, not a state or local government.

Most of these programs were not designed specifically with the homeless in mind, but they can be used for that purpose. Some of these programs may be eliminated or scaled back as a result of budget reductions.

ACTION PROGRAMS TO HELP THE HOMELESS

VISTA Volunteers

1985 Funds/Services—330 volunteers working on 72 homeless projects

First established in 1964 by the Economic Opportunity Act, the VISTA Program has been asked to provide qualified Volunteers to thousands of community and neighborhood organizations. Wherever malnutrition, inadequate housing, poor education, and limited opportunities can be found in this country, VISTA Volunteers are enlisted to change these conditions.

The Volunteer's role in the poverty problem-solving process is focused toward mobilizing community resources and increasing the capacity of the target community to solve its own problems. While VISTA Volunteers serve as important links between the local sponsor and the people being helped, it is crucial to the concept plan for the performance of the Volunteer's functions by local citizens.

U.S. DEPARTMENT OF AGRICULTURE

FOOD STAMP PROGRAM

1985 Funds-Services—$10.8 billion in benefits; $974 million for administrative costs.

Food stamps are available to all applicants who qualify based on income levels and other criteria, whether or not they have a fixed address or have resided in a city or county for a certain period of time. Consequently, the homeless can qualify for food stamps, although we have no estimates of how many homeless are actually getting this assistance. Food stamps are available within five days to those with very low assets ($100 or less) and either very low income ($150/month or less) or destitute migrant status. Other eligible applicants receive benefits within 30 days.

The Food Distribution Program distributes surplus food and purchases additional foodstuffs for distribution to needy persons.

The Charitable Institutions portion of this program gives away food to hospitals, nursing homes, and other nonprofit organizations that provide nutrition services for needy persons. Soup kitchens, shelters, and similar groups that feed the homeless qualify for this assistance if they serve meals on a regular basis.

1985 Funds/Services—$165 million worth of food

The Temporary Emergency Food Assistance Program (TEFAP). This food intended for individuals; much of it is distributed through food banks and may feed homeless persons or they may be served in soup kitchens and shelters.

1985 Funds/Services—$978 million worth of food

Child Nutrition Programs. Various programs provide assistance to children. All children in participating schools can receive the benefits of school lunch and school breakfast. The Child Care Food Program, the Summer Feeding Program and Special Milk Program also provide food assistance to children.

1985 Funds/Services—$4.4 billion

Special Supplemental Food Program for Women, Infants, and Children (WIC). WIC provides vouchers for nutritous food supplements, nutrition education, and access to health services.

1985 Funds/Services—$1.5 billion

SHELTER PROGRAM

1985 Funds/Services—3 Houses leased at $1 per year for use as shelters

USDA has authorized Farmer's Home Administration (FmHA) county supervisors to lease, at the lowest possible cost, single-family homes in FmHA-held inventory to local housing authorities or to community non-profit organizations for use as shelters for homeless persons. Single-family homes in FmHA-held inventory, not otherwise targeted for immediate disposition, are available under this agreement.

Anyone interested in starting a shelter program using a FmHA single-family home, should contact the HHS Regional Representative or the local FmHA county supervisor. They will work with the State housing authority and the Department of Agriculture to arrange for housing to lease to an organization or to a local official to shelter the homeless.

U.S. DEPARTMENT OF DEFENSE

EMERGENCY SHELTER PROGRAM

1985 Funds/Services—DOD offered 600 excess Defense facilities to states/localities. Only 10 shelters are currently operating

The Department of Defense (DOD) has agreed to make available appropriate military facilities to be used as homeless shelters or for use as warehouse space for food banks. When necessary, such facilities will be renovated at DOD expense. Vacant DOD facilities can be used to shelter small or large numbers of homeless individuals.

EXCESS PERSONAL PROPERTY, EQUIPMENT, AND CLOTHING

1985 Funds/Services—$2.4 million worth of property

The Department of Defense (DOD) has agreed to donate excess bedding (e.g., cots and blankets) and other excess property to shelters for the homeless. For information on obtaining such excess property, contact the HHS Regional Representative for the Homeless for your area.

SURPLUS MILITARY FOOD—HHS/DOD/DOT JOINT PROGRAM

1985 Funds/Services—2.1 million pounds of food donated to food banks from 2/83-9/85, largely in the last year

The Department of Defense (DOD) and Department of Transportation (Coast Guard) have agreed to link food banks through HHS with military commissaries to allow the food banks to obtain non-marketable, surplus food stuffs. DOD and Coast Guard commissaries, like other supermarkets, at times have food that they cannot sell, but that is still edible. These agreements with DOD and DOT are designed to direct food to persons in need rather than let it go to waste. Food banks assume the responsibility for final inspection and distribution of the food and must bear any costs associated with food pick up and distribution.

NATIONAL GUARD SERVICES

1985 Funds/Services to D.C.—Figure not available

The National Guard (NGB) has agreed to make its facilities or manpower services available, within the mission of the NGB training operations, to support food and shelter operations.

The National Guard primarily helps organizations that feed or shelter the homeless by transporting food, clothing, or other surplus property. They may also be able to provide other manpower services or allow the use of armories for storage, depending on the specific unit involved.

U.S. DEPARTMENT OF ENERGY

WEATHERIZATION ASSISTANCE PROGRAM [WAP]

1985 Funds/Services—$191 million

A dwelling unit is eligible for weatherization assistance if it is occupied by a "family unit" and if it can meet certain income requirements. DOE has clarified that a "family unit" includes all persons living in the dwelling, regardless of relationship. Shelters for the homeless therefore may qualify for the grants. In general, the combined income for all the residents of the dwelling may not exceed 125% of the poverty level, which is adjusted for the number of residents of the dwelling, or the family unit must contain a member who has received certain cash assistance payments defined in the program regulations. States also have the option under certain conditions of using the eligibility criteria for HHS's Low Income Home Energy Assistance Program (LIHEAP).

To apply for weatherization assistance, an organization must submit an application to the local agency designated in the State's WAP Plan as the subgrantee for the area in which the organization is located. Generally, DOE weatherization funds are channelled through local Community Action Agencies.

FEDERAL EMERGENCY MANAGEMENT AGENCY

EMERGENCY FOOD & SHELTER PROGRAM

1985 Funds/Services—$90 million

Grant awards from this program are designed to provide emergency food and shelter to needy individuals through local private voluntary organizations as well as local units of government. Services received under this program should not reduce or affect assistance an individual receives under any other Federal, State, or local assistance program. This program is not intended to address or correct structural poverty or long-standing problems. Rather, this appropriation is for the purchase of food and shelter, to supplement and extend current available resources, and not to substitute or reimburse ongoing programs and services.

A National Board chaired by FEMA and consisting of representatives of the United Way of America; the Salvation Army; the National Council of Churches; the National Conference of Catholic Charities; the Council of Jewish Federations, Inc.; and the American Red Cross, determines the amount and distribution of funds to those areas having the highest need for food and shelter assistance.

Each area designated by the National Board to receive funds is required to constitute a Local Board with representatives to the extent practicable including, but not limited to, the same organizations represented on the National Board, except that the Mayor (or his/her designee) or appropriate head of government (or his/her designee) will replace the FEMA member. Many Local Boards include representatives from the business and provider communities.

The Local Boards are responsible for determining which private voluntary organizations and/or public organizations in an area should receive grants and recommending the amount of the grants.

GENERAL SERVICES ADMINISTRATION

SURPLUS FEDERAL PERSONAL PROPERTY, EQUIPMENT, AND CLOTHING

1985 Funds/Services—Figure not available

The GSA program for the donation of Federal surplus personal property is administered through a nationwide network of State Agencies for Surplus Property. From time to time, items such as refrigerators, blankets, clothing, kitchen equipment, medical supplies and furniture, which could be used by homeless and needy people, become available through this program. State, county, and municipal agencies which have the responsibility for providing services for these people can establish eligibility to participate in the donation program. Having done so, such agencies can acquire federal surplus personal property, retain accountability for it, and loan it to nonprofit organizations that serve the homeless and needy but that are unable to establish program eligibility on their own.

USE OF EXCESS OR SURPLUS FEDERAL REAL PROPERTY

1985 Funds/Services—3 facilities

GSA has agreed to make appropriate vacant Federal facilities, not targeted for other use or immediate disposition, available for shelter-related projects. If any appropriate GSA facilities are available, they can be used to store food or property, or to shelter homeless individuals, where State or local facilities cannot meet the need.

Also, temporarily unneeded space which is retained in GSA's public buildings inventory is periodically advertised for sealed-bid leasing. Through this bidding process, a charitable agency can lease excess Federal space for a set period of time.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF HUMAN DEVELOPMENT SERVICES [OHDS]

Older Americans Act (Title III, Section 303 as amended).

1985 Funds/Services—$669 million

Under this legislation, funding is provided to State Agencies on Aging to initiate local community projects to provide social services to older persons. Assistance to the elderly homeless is an eligible activity. These services, which are carried out primarily through (local) area agencies on aging, provide numerous benefits. Among them are nutrition services to the elderly. These projects are designed to provide persons aged 60 and older with at least one hot nutritious meal five or more days a week. Most meals are served at congregate sites, although 28% are home delivered. During FY 1984, a total of 383,599,000 meals were served.

Runaway and Homeless Youth Program. (Runaway Youth: Title III, Part D, Section 341 of the Juvenile Justice and Delinquency Act of 1974 as amended).

1985 Funds/Services—$23 million

The purpose of the program is to provide financial assistance to establish and strengthen community-based centers designed to address the needs of runaways and homeless youth and their families. While most frequently thought of on a national scale, runaways and homeless youth remain largely a State and local program and should be treated first and primarily with State and local resources. Funding for fiscal year 1985 supports approximately 170 runaway and homeless youth projects as well as the national toll-free runaway youth hotline.

OHDS Coordinated Discretionary Grants. (Section 426 other than subsection a, 1, C and 110 of the Social Security Act; the Child Abuse Prevention and Treatment Act other than section 4b; and Title II of P.L. 95-266).

1985 Funds/Services—$43 million to public and private groups

These grants, awarded yearly, are intended to fund innovative approaches to meeting human service needs. It is possible that a private or public agency may apply for a grant supportive of a food or shelter program, if that is innovative and satisfies one of the priority areas in the Program Announcement.

Social Services Block Grants. (Title XX of the Social Security Act as amended by P.L. 97-35).

1985 Funds/Services—$2.7 billion

These block grants, awarded to the States, are designed to furnish a variety of social services best suited to the needs of individuals residing within a State. Emergency food and shelter may be among the programs conducted by each State.

OFFICE OF COMMUNITY SERVICES [OCS]

Community Services Block Grant (CSBG) Program.

1985 Funds/Services—$372 million

The CSBG Program is a block grant program under which assistance is provided by a statutorily established formula to states and territories to help alleviate the causes of poverty. States and territories receiving CSBG funds are required to comply with a number of assurances designed to insure that the funds are used for the benefit of the low-income or poor as defined in the Federally established poverty income guidelines. The states are required to provide a wide range of services and activities designed to assist low-income people in areas of employment, education, housing, and emergency assistance.

HEALTH CARE FINANCING ADMINISTRATION [HCFA]

Medicaid.

1985 Funds/Services—$23 billion

Indigent people who are 65 years of age or older, or who are members of families with dependent children, or who are disabled and blind are eligible for Medicaid. In all States, persons on AFDC rolls are automatically eligible for Medicaid. In around 30 States, persons on SSI rolls are automatically eligible for Medicaid. Homeless persons, therefore, who are receiving SSI or AFDC benefits are automatically eligible for Medicaid benefits in the majority of States. Homeless persons who are not receiving SSI but are medically needy may qualify for Medicaid in 36 States, if they meet the income and age or the disability requirements.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION [ADAMHA] OF THE PUBLIC HEALTH SERVICE

ADAMHA is made up of three parts: the National Institute of Mental Health (NIMH), the National Institute on Drug Abuse (NIDA), and the National Institute on Alcohol Abuse and Alcoholism (NIAAA). Some of the major ADAMHA programs that can be used to help the homeless are summarized below. In addition, there are several smaller research, training or demonstration programs that may be useful.

ADAMHA BLOCK GRANTS

1985 Funds/Services—$490 million

These block grants can be used for alcohol and drug abuse programs and for mental health programs. The mental health funds are used mainly for Community Mental Health Centers (CMHC). CMHCs must provide the following services to be eligible for block grant funds:

outpatient services for the chronically mentally ill, children and the elderly;

24-hour emergency care services;

day treatment of psycho-social rehabilitation services;

screening of patients for admission to state mental health facilities;

consultation and education services.

No statistics are available for homeless clients of CMHCs. They are, however, eligible for the services.

PROGRAM FOR THE HOMELESS MENTALLY ILL

1985 Funds/Services—$430 million from several research, training and demonstration programs, some of which were directed to the homeless

The Program for the Homeless Mentally Ill coordinates ADAMHA research, training, and technical assistance initiatives pertaining to the homeless with serious alcohol, drug abuse, and mental health problems. The program achieves its objectives through ongoing NIMH, NIDA, and NIAAA programs. The program also works directly with national organizations.

COMMUNITY SUPPORT PROGRAM (CSP)

1985 Funds/Services—$6.6 million

CSP assists States and localities in developing comprehensive Community Support Systems to stimulate improved Community-based Care for the chronically mentally ill. The program is designed to avert homelessness among the population. Additionally, in FY 1983 money was set aside to study the demographics and characteristics of the homeless mentally ill. In FY 1985, grants will be made to develop innovative city-based demonstrations of service delivery to the homeless mentally ill. Grants are made to State mental health authorities, who often subcontract with local governments.

CENTER FOR STATE HUMAN RESOURCE DEVELOPMENT

1985 Funds/Services—$4 million

The Center provides grant funds to State Departments of Mental Health to develop their capacity to conduct systematic human resource development activities and to develop and implement demonstration program to address human resource development issues including but not limited to: planning and evaluation; workforce management (i.e. recruitment, selection, distribution, utilization, redevelopment, retraining, and education); and training (i.e. curriculum development for target priority populations like the homeless and implementation of short-term skills development, continuing education, etc.).

HEALTH RESOURCES AND SERVICES ADMINISTRATION [HRSA] OF THE PUBLIC HEALTH SERVICE

MATERNAL & CHILD HEALTH SERVICES & PRIMARY CARE BLOCK GRANT [MCH]

1985 Funds/Services—$478 million

MCH Block Grant funds are allocated by formula to State health authorities. Since the State programs have an orientation toward high-risk persons, and the homeless may be so described, it is likely that State programs provide services to this segment of the population. However, a survey of 1982,

1983 and 1984 State applications revealed no specific data relating to the homeless. States must apply for block grant funds annually. State health agencies are required to operate the block. States must prepare a report to the Secretary of HHS describing intended use of funds plus a description of their compliance with eight assurances of quality, fairness and appropriateness of expenditures. They must also prepare annual post-expenditure reports on how funding was used. States must match every four Federal dollars with three state dollars for the MCH Block grant.

COMMUNITY HEALTH CENTERS [CHC]

1985 Funds/Services—$375 million

Community Health Centers (CHCs) provide health services to medically underserved populations in both urban and rural areas. In FY 1984, nearly 600 community health centers provided services to approximately 4.7 million people. CHCs are required to provide services regardless of an individual's ability to pay. Since many of the nation's homeless may be located in medically underserved areas where CHCs are situated, it is expected that a large number of them may be making use of these resources. Proposals must be designed to improve availability, accessibility and organization of health care within medically underserved communities. Services should be consistent with plans of local Health Systems Agencies and State Health Planning and Resources Development Agencies. A needs/demand assessment is required. The applicant must assume part of the project costs, determined on a case by case basis.

MIGRANT HEALTH PROGRAM

1985 Funds/Services—$44 million

The Migrant Health Program is a discretionary grant program which awards funds to support the development and operation of migrant health centers and projects which provide primary ambulatory and inpatient health services, supplemental health services, and environmental health services for migrant and seasonal agricultural farm workers and their families as they move and work. Migrant health "centers" must serve as a "high impact area" (not less than 4,000 migratory agricultural workers and seasonal workers for more than two months in any calendar year). Migrant health "programs" may be in areas where there is no migrant health center and in which not more than 4,000 migratory agricultural workers and their families reside for more than two months.

NATIONAL HEALTH PLANNING & RESOURCES DEVELOPMENT

1985 Funds/Services—$58 million

The National Health Planning program funds state and local health planning agencies whose principal functions include development and implementation of plans and review of capital expenditures for the purposes of: improving health; increasing access, acceptability, continuity and quality of health services; restraining increases in costs of services provision; and preventing unnecessary duplication of health resources. One of their principal priorities is provision of primary care services for medically underserved populations, especially those located in rural or economically depressed areas. Many agencies have worked for the improvement of health services for the indigent. However, the agencies do not themselves provide services. Some of the health planning agencies have recently focused on meeting the needs of new immigrants, both legal and illegal. The State Health Planning and Development Agencies are organizations of State government, usually the State health department. Health Systems Agencies are private non-profit or public regional planning bodies. All applicants file applications for designation and funding in return for performing certain planning, resource development and regulatory activities prescribed by law. States must match 25 cents per $1.00 Federal. HSAs receive additional Federal funding of 19.5 cents on the dollar for local funds.

NATIONAL HEALTH SERVICE CORPS

1985 Funds/Services—$60 million

The National Health Service Corps provides loans to communities and to medical practitioners to assist in establishing and maintaining health care services in Health Manpower Shortage Areas. They are required to provide services to all without regard to ability to pay. These health personnel may be an important resource in meeting health care needs of the homeless. Communities may apply for designation as a Health Manpower Shortage Area and assignment of Corps personnel. Designation and assignment, however, are at the discretion of the Secretary. There are no set funding matching requirements. The Government pays medical, dental and other health personnel while the community usually provides a medical facility, support personnel, and assumes responsibility for managing the practice.

SOCIAL SECURITY ADMINISTRATION [SSA]

SSA Outreach:

SSA has undertaken a nationwide effort to identify and help serve those many hard-to-reach homeless people who may be entitled to Supplemental Security Income (SSI), or Social Security Retirement, Survivors, or Disability Insurance (SSDI) benefits. SSA field offices maintain current information about providers of services to the homeless. They establish and maintain liaison with service providers to ensure that program information is available to providers' staffs, and request the providers' assistance in identifying homeless people who may be eligible for benefits. In some cases, especially in areas with large homeless populations, this may involve taking claims at the facilities (such as shelters and soup kitchens) that provide services for the homeless.

SOCIAL SECURITY BENEFITS

1985 Funds/Services—$165.5 billion (paid directly to retirees and their survivors)

A fixed address is not required in order to receive Social Security benefits. Consequently, homeless persons who meet the other program requirements may qualify for retirement benefits, Supplemental Security Income (SSI), or Social Security Disability Insurance (SSDI). Under these Social Security programs, monthly benefits may be paid to disabled people, as well as to retired workers and their dependents, and to suvivors of deceased workers.

Once a homeless person's eligibility for payments is established, the Social Security office can make special arrangements for delivering checks and notices. Checks and notices can be delivered to a shelter or other third party address, or even to the Social Security office, if necessary. In cases where a person is incapable of handling his or her own money—because of an impairment, for example—SSA can appoint a representative payee to receive checks and notices on his or her behalf. A shelter or other organization can serve as the payee, if there are no relatives or friends who can do so.

SUPPLEMENTAL SECURITY INCOME (SSI)

1985 Funds/Services—$11 billion (paid directly to individuals)

The SSI program makes monthly payments to people who are 65 or older, disabled, or blind and have little or no income and assets. Most States supplement the Federal SSI payments and provide Medicaid. States also may offer a variety of social services. Also, under a 1983 change in the law, some people who are residents of public emergency shelters can now receive SSI payments for up to 3 months during any 12-month period. This includes homeless people. Prior to the change, people who lived in public emergency shelters were not eligible for SSI.

SOCIAL SECURITY DISABILITY INSURANCE [SSDI]

1985 Funds/Services—$19 billion (Paid directly to individuals)

Under the SSDI program, SSA pays monthly disability benefits to:

1. Disabled workers under 65 and their families;

2. Unmarried people disabled before 22. These checks are payable based on the work record of a parent (or grandparent under certain circumstances) who receives Social Security retirement or disability checks or dies; and

3. Disabled widows and widowers (and, in some cases, disabled surviving divorced wives and husbands) of workers who were insured at death. These checks are payable as early as age 50.

Disabled workers must have worked long enough and recently enough under Social Security to be insured under this program. The work requirement varies depending on the age of the worker. Under Social Security, you're considered disabled if you have a severe physical or mental condition which:

1. Prevents you from working, and

2. Is expected to last (or has lasted) for at least 12 months, or is expected to result in death.

Your checks can start for the 6th full month of your disability. Once checks start, they will continue as long as you are disabled and unable to perform substantial gainful work. Cases are reviewed periodically to make sure the person remains disabled.

AID TO FAMILIES WITH DEPENDENT CHILDREN [AFDC]

1985 Funds/Services—$8 billion in benefits

Money payments are made directly to eligible needy families with dependent children to cover costs for food, shelter, clothing, and other items of daily living.

EMERGENCY ASSISTANCE PROGRAM

1985 Funds/Services—$78 million in benefits for the federal share

This program provides temporary financial assistance in the form of money or vendor payments to assist needy families with children in emergency or crisis situations to avoid destitution or to provide living arrangements. It has been used to prevent homelessness among families. This is an optional State program in which 28 States (including the District of Columbia) currently participate. The program is operated by the States, which have a great deal of flexibility in defining the emergency situations they will cover. The federal government provides a 50 percent matching share, which is available only for one period of 30 consecutive days in any 12 month period for each eligible family.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HUD-OWNED SINGLE FAMILY HOMES

1985 Funds/Services to—25 homes currently being used

HUD will lease HUD-owned single-family homes in the General or Special Risk Insurance funds to cities for shelter use, for a nominal amount. Cities or shelter providers are eligible lessees and must bear the cost of any required repairs. Leases are limited to no more than one year, but may be renewed at the end of the lease period at the option of the city or shelter provider if the properties are still needed for shelter use.

EXISTING HOUSING AND MODERATE REHABILITATION PROGRAM (SECTION 8)

1985 Funds/Services—New budget authority of $3 billion to be spent over a 15 year period. Also, new vouchers (to be used in renting units in the private market) were allocated, with a budget authority of $769 million to be spent over a 5 year period. In addition, units allocated in previous years continued in 1985

The Section 8 Housing Assistance Payments Program for Low Income Families (known as Section 8 Existing Certificates) provides housing assistance payments to participating private landlords on behalf of eligible tenants to provide decent, safe and sanitary housing for lower and very low income families at rents they can afford. Housing assistance payments are used to make up the difference between the approved rent due to the owner for the dwelling unit (which must be reasonable in relation to rents for comparable units) and the occupant family's required contribution toward rent. Assisted families are required to contribute up to 30 percent of their adjusted family income toward rent. Administering Public Housing Authorities may provide an "emergency" priority for admission to the program for homeless families or individuals who are otherwise eligible to participate. Cities or shelter providers should contact the local public housing agency administering the Section 8 program to discuss the possibility of making this assistance available to homeless families or individuals who are otherwise eligible for Section 8 assistance.

HOUSING FOR THE ELDERLY OR HANDICAPPED (SECTION 202)

1985 Funds/Services—New budget authority of $1.5 Billion in 1985. Most housing for the elderly and handicapped is now handler under the Section 8 program. Units allocated in previous years continued in 1985

The Section 202 Program provides direct loans that may be used to finance the construction or rehabilitation of rental or cooperative detached, semidetached, row, walk-up or elevator-type structures. Purchase of an existing structure without rehabilitation or moderate rehabilitation is eligible only for group homes for the non-elderly handicapped. The program may be used to provide housing with supportive services for the chronically-mentally ill, who constitute a large proportion of the homeless population.

The nonprofit sponsor and borrower must receive certification of eligibility for the Section 202 program from HUD. A general announcement of Fund Availability is published in the Federal Register early in each fiscal year announcing the availability of funds to HUD Field Offices. A borrower proposing housing for the chronically-mentally ill must provide evidence of funding for the services portion of the proposed program, since HUD does not fund services.

PUBLIC AND INDIAN HOUSING

1985 Funds/Services—New budget authority of $2.9 billion to develop or rehabilitate housing units, amortized over a 20-30 year period. In addition, $1.5 billion in new budget authority was provided for the operation of existing public housing units. Units provided in earlier years continued in 1985

This program is designed to assist public housing agencies (PHAs) in providing lower-income housing by (1) acquiring existing housing from the private market (acquisition); (2) procuring construction by competitive bidding where the public housing agency acts as the developer (conventional); or (3) letting contracts to private developers (turnkey). Annual contributions are made to public housing agencies to provide debt service payments, to assure the lower-income character of the projects, and to achieve and maintain adequate operating and maintenance service and reserve funds. PHAs may provide an "emergency" priority for admission to the program for homeless families or individuals who are otherwise eligible to participate. Cities or shelter providers should contact the local public housing agency to discuss the potential for using PHA vacant units to house homeless families or individuals who are otherwise eligible for the public housing program.

COMMUNITY DEVELOPMENT BLOCK GRANTS (CDBG)—ENTITLEMENT GRANTS

1985 Fund/Services—$2.4 billion. Between FY 1983 and FY 1985 $77 million was targeted to homeless projects by local governments

Under the CDBG entitlement grant program, localities may undertake a wide range of activities directed toward neighborhood revitalization, economic development, and provision of improved community facilities and services. Entitlement communities develop their own programs and funding priorities (after holding public hearings and otherwise receiving citizen input) as long as program/activities conform to the applicable standards and program regulations. In addition, block grant funds are available to pay for public services within certain limits. Units of local government may contract with other local agencies or nonprofit organizations to carry out part or all of their programs. Shelter acquisition, shelter rehabilitation and shelter operations may be funded by the entitlement community as eligible activities under the block grant program.

VETERANS ADMINISTRATION PROGRAMS TO HELP THE HOMELESS

The Veterans Administration (VA) is required by law to provide benefits and services only to persons who qualify as a result of prior military service under other than dishonorable conditions. A recurring problem concerning determination of eligibility lies in the unwillingness or inability of some of the homeless to provide the VA with basic background information, such as name, Social Security number, date of birth and dates of military service.

VA PENSION AND COMPENSATION BENEFITS

1985 Funds/Services—$10 billion (paid directly to the veteran or his survivors)

Veterans who meet certain age and service requirements or who have a service connected disability are eligible for pension and/or compensation.

COMMUNITY RESIDENTIAL CARE PROGRAM

1985 Funds/Services—12,000 residents took advantage of this program

Although the VA does not provide free shelter for indigent veterans, some homeless veterans receiving VA pension or compensation, Social Security, or other funds may qualify to participate in the Residential Care Home Program, the largest of the VA's extended care programs. This program provides residential care, including room, board, personal care and general health care supervision to veterans who do not require hospital or nursing home care, but who, because of mental or physical health conditions, are not able to resume independent living and have no suitable family resources to provide the needed care. Care is provided mainly in private homes and is paid for by the veterans from VA compensation/pension benefits, SSI, etc., at an average cost of $340 per month. All homes are inspected by a VA multi-disciplinary team prior to incorporation into the program and annually thereafter. Veterans receive monthly follow-up visits from VA social workers and other health care professionals, are are outpatients of local VA facilities. Currently, over 12,000 veterans are receiving care in over 3,000 homes.

DOMICILIARY CARE PROGRAM

1985 Funds/Services—$92 million

This program served an estimated 12,200 veterans in 16 centers with an average of 400-500 beds (average daily census of 6,000). This program provides a group living arrangement for those with minimal medical and rehabilitation needs. The beneficiaries must have an income of less than $415 per month.

U.S. DEPARTMENT OF LABOR

EMPLOYMENT SERVICE PROGRAM

1985 Funds/Services—$830 million

State employment security agencies operate within each State through local Job Service offices which serve both job seekers and employers. The assistance offered includes interviewing, testing, counseling, referral to training and other employability development resources, and placement in jobs. Specialized services for various groups (such as veterans, youth, women, older workers, and the handicapped) are also provided.

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

1985 Funds/Services—$326 million

This program provides, fosters, and promotes useful part-time work opportunities (usually 20 hours per week) in community service activities for low income persons who are 55 years old and older, and who have poor employment prospects.

JOB TRAINING PARTNERSHIP ACT FOR DISADVANTAGED YOUTH AND ADULTS

1985 Funds/Services—$3.8 billion

This program provides job training and related assistance to economically disadvantaged individuals, and others who face significant employment barriers. The ultimate goal of the Act is to move trainees into permanent, self-sustaining employment. This includes $10 million for veterans employment programs.

EMERGENCY VETERANS JOB TRAINING PROGRAM

1985 Funds/Services—$76 million

This program provides employers 50 percent of the starting wage, up to $10,000 per veteran, when they hire and train veterans in a growth industry or a technology-based or demand occupation. The intent of the program is to help industry fill permanent positions that involve significant training of at least six months to Korean and Vietnam-era veterans, and is run in cooperation with the Veterans Administration.

Targeted groups are Korean and Vietnam-era veterans who have been out of work for 15 of the preceding 20 weeks. They must have served for at least 180 days and been honorably discharged.

Training will be funded for between 6 and 9 months, and in some cases may be approved by the VA for between 3 to 15 months. Actual training can take place on the job, in a vocational or educational institution, or in a specialized training center.●

● Mr. GORE. Mr. President, I want to join my colleague, Senator DOMINICI, in introducing the National Clearinghouse for the Homeless Act of 1986.

Clearly, the problem of homelessness is complicated, widespread, and growing at an alarming rate. It is generally accepted that the structural causes of homelessness are inadequate low-cost housing, medical care, mental health treatment, educational, and unemployment. In addition, there is widespread agreement among Federal, State, local officials and charitable organizations serving the homeless that the services that are currently designed to serve the poor and malnourished—and that often describes the homeless—are not well coordinated.

The National Clearinghouse for the Homeless would be a major step toward improving that coordination. The clearinghouse would serve to better target Federal policy actions and proposals to ensure that we are not exacerbating already tragic conditions for the homeless by making budget cuts or issuing regulations which actually produce little savings and create monstrous, even more costly problems in their wake.

As Senator DOMINICI has noted, the clearinghouse would not be the direct provider of emergency shelter, food stamps, or other relief for the homeless. Instead, it would function as a coordinator of many public and private efforts to slow the dramatic increase in homelessness by better managing the programs that now exist.

Mr. President, I favor a broad, comprehensive approach to deal with the long-term structural causes of homelessness. Toward that end, today I also introduced the Homeless Persons' Survival Act, which improves targeting of existing programs and increases funding for a variety of critical, safety net programs that must be improved if we are to begin addressing this program.

That legislative initiative will be lengthy and face numerous challenges. The bill Senator DOMINICI and I are introducing today, to establish an efficient clearinghouse to monitor Federal programs for the homeless, is a sound, immediate start toward the goal we all support: ending the tragic national problem of homelessness.●

By Mr. HEINZ (for himself and Mr. GLENN):

S. 2604. A bill to amend the Social Security Act with respect to the standards for participation of skilled nursing facilities and intermediate care facilities under the Medicare and Medicaid Programs, to amend the Older Americans Act of 1965 with respect to the ombudsman program, and for other purposes; to the Committee on Finance.

NURSING HOME QUALITY REFORM ACT

● Mr. HEINZ. Mr. President, thousands of our oldest and sickest citizens live in nursing homes which fail to provide care adequate to meet even their most basic health and safety needs. The problem of poor quality nursing home care has been exposed and examined many times and in great detail over a period of years, most recently through a 2-year investigation conducted by the Senate Special Committee on Aging, which I chair. And yet the remedies have always seemed to be just out of reach.

Today, I am introducing legislation which will finally give us the Federal and State muscle to protect America's most vulnerable citizens, those who must reside in nursing homes.

The legislation I am introducing today is based on the findings of the committee's hearing and investigation into the current status of quality of care in nursing homes and on recommendations made by the Institute of Medicine on improving nursing home quality of care. This bill will help us achieve two important goals: First, to improve the quality of care and quality of life in nursing homes, and second, to create a strong, effective enforcement system to ensure that substandard care is met with appropriate and swift penalties.

This legislation is necessary to meet our promise to older Americans that, at least to the extent that Medicare and Medicaid pay the bills, they will be cared for with respect, allowed to live with dignity, treated as individuals, and be able to live with their frailties and physical difficulties as independently as possible.

Unfortunately, many barriers prevent the fulfillment of those promises. First, the Federal and State governments have not fulfilled their responsibility to ensure that nursing home residents are provided proper care. While we have come a long way in improving the physical facilities in nursing homes, thousands of patients still suffer from poor nutrition, inadequate nursing care, and general neglect that we hoped had been corrected long ago by State and Federal reforms. Existing Federal and State enforcement policies are so seriously lacking that, in 1984, over one-third of the Nation's skilled nursing facilities failed to comply with even the most essential health, safety, and quality standards of care. Nearly a thousand of these homes fail to meet these basic standards year after year, providing clear evidence that no effective penalties exist to sanction nursing homes that provide poor quality care.

Second, payment for nursing home care, especially under the Medicaid Program, has been pitifully small in many areas of the country for years. To some degree, you get what you pay for. The Federal and State governments have been asking for high-quality care at bargain basement prices. As a result, some nursing homes have been forced to cut corners, including hiring untrained or inadequately trained staff.

To address these problems, the legislation I am introducing today will establish effective and uniform standards of nursing home care, a range of penalties for unacceptable nursing home care, reliable methods of inspection, proper resources for inspection and enforcement actions, penalties for States that do not adequately protect nursing home residents, and increased consumer and community involvement in protecting nursing home residents.

To remedy the problem of inadequate standards and poor Federal enforcement, this bill will mandate that all nursing homes that participate in Medicare and Medicaid meet the same high quality standards, that patients' rights are made a condition of Medicare and Medicaid reimbursement, and that Federal intermediate sanctions are used to penalize nursing homes found in violation of quality care standards.

Today, regulations provide for two types of nursing homes—skilled nursing facilities [SNF's] and intermediate care facilities [ICF's]—and require much less stringent standards for the latter than for the former. In reality, very little difference exists between the types of patients who reside in those facilities. This legislation would mandate that all participating nursing homes would have to meet a single set of high standards now applied only to SNF's.

This bill would require that Medicare and Medicaid participation could be revoked from nursing homes that violate the rights of nursing home residents. Currently, while nursing homes are required to respect patients' rights, violation of these rights is considered too small an infraction to warrant revocation of Medicare and Medicaid participation. These rights—such as the right to privacy, the right to clean and safe living arrangements, and the right to freedom from abuse—

are clearly a major part of the care picture. This bill will put the patients first by requiring that their rights are respected.

This bill would also reform the nursing home inspection process, which was originally designed to provide frequent, random, unannounced inspections, followed by swift sanctions for violators, but which has been marred by inspections that are anything but random and unannounced and by poorly designed penalties that are unusable, and so are unused.

At present, the only Federal sanction available is to require that a substandard nursing home be closed and patients moved to other settings. This penalty is rarely used, however, because in most parts of the country, there are no available nursing home beds. This bill will mandate surprise, random inspections and will create a set of intermediate sanctions that can be used against nursing homes that violate good quality care standards. In this way, the Federal Government will be able to impose civil fines, restrict further admission of patients to the facility, and place substandard facilities under receivership. These intermediate measures will allow patients to continue receiving care while the Federal and State governments monitor required improvements.

To remedy the problem of inadequate payments to Medicaid nursing homes, this bill proposes the implementation of a case mix reimbursement system for Medicare and Medicaid nursing homes. Case mix reimbursement would allow the Federal and State governments to more closely tie reimbursement to the level of care each patient needs and would help ensure that nursing home residents will receive high quality care.

Taken together, the provisions of this bill will help fashion a comprehensive reform of our long-term-care system that has become an alternative of last resort to most, and a nightmare too many older Americans. I urge my colleagues to support this legislation and help put the care back into nursing home care.

I ask unanimous consent that the bill be printed in its entirety at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nursing Home Quality Reform Act of 1986".

TITLE I—MEDICARE AND MEDICAID PROGRAMS

SEC. 101. REQUIRING MEDICAID INTERMEDIATE CARE FACILITIES TO MEET MEDICARE SKILLED NURSING FACILITY REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 1905(c) of the Social Security Act (42 U.S.C. 1396d(c)) is amended by striking "which (1)" and and inserting in lieu thereof "which meets the requirements of section 1861(j) for a skilled nursing facility, except that with respect to an institution for mental diseases such term means an institution which (1)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to intermediate care facility services furnished on or after September 30, 1987.

SEC. 102. CHANGES IN CONDITIONS OF PARTICIPATION.

(a) IN GENERAL.—Section 1861(j) of the Social Security Act (42 U.S.C. 1395x(j)) is amended—

(1) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) provides for the establishment, adherence to, and periodic review of adequate policies and procedures for the management of the facility, which assure that—

"(A) an overall plan and budget that meets the requirements of subsection (z) is in effect,

"(B) all nurse aides or nurse assistants providing direct patient care have completed a State-approved training program in a State-accredited institution,

"(C) except as required by a State case management or preadmission screening program, no different standards are applied to the admission, transfer, discharge, and service on the basis of any patient's source of payment,

"(D) all employees providing direct patient care have cleared an appropriate criminal background check,

"(E) patients regularly participate in decisionmaking in the facility's operations and have a mechanism for the presentation of patient concerns, and

"(F) representatives of the State office of long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) have access to the facility and its residents, and, with the permission of a patient or patient's legal guardian, have access to review the patient's medical and social records;";

(2) by striking paragraph (5) and inserting in lieu thereof the following:

"(5)(A) maintains clinical records on all patients, and

"(B) provides for accurate assessments of each patient—

"(i) that are performed—

"(I) upon admission, periodically, and whenever there is a change in patient status, and

"(II) by a professional registered nurse who has received appropriate training for this purpose, and

"(ii) the results of which are recorded and maintained in a standard format in the clinical records of the patient;";

(3) by striking paragraphs (8) and (10);

(4) by redesignating paragraphs (9), (11), and (12) as paragraphs (8), (9), and (10), respectively;

(5) by redesignating paragraphs (13), (14), and (15), as paragraphs (17), (18), and (19), respectively;

(6) by inserting after paragraph (10) and before paragraph (17), as so redesignated, the following new paragraphs:

"(11) cares for patients in such a manner and in such an environment as will promote maintenance or enhancement of the patient's quality of life, including—

"(A) providing a supportive, comfortable, homelike environment in which patients have a choice over their surroundings, schedules, health care, and activities,

"(B) treating patients with dignity and respect, and

"(C) affording patients opportunities to interact with others in and outside the facility;

"(12) assures that each patient regularly receives high quality care to meet individual physical, mental, and psychosocial needs which is designed to maintain or improve each patient's mental and emotional well-being;

"(13) assures the protection of each patient's civil and legal rights, including (but not limited to) the right—

"(A) to be fully informed, as evidenced by the patient's written acknowledgment, before or at the time of admission and during his or her stay, of these rights and of all rules and regulations governing patient conduct and responsibility;

"(B) to be fully informed, and given a written statement before or at the time of admission and during his or her stay, of services available in the facility and of related charges for such services, including any charges for services not covered under this title or under a State plan approved under title XIX, or not covered by the facility's basic per diem rate;

"(C) to be informed in writing at least 30 days in advance of any changes in the availability of services or in the charges for these services;

"(D) to nondiscrimination on the basis of the patient's source of payment or disability;

"(E) to be fully informed by a physician of his or her medical condition, unless medically contraindicated for a specified and limited period of time (as documented, by a physician, in the patient's medical record), and to be afforded the opportunity to participate in the planning of his or her medical treatment;

"(F) the right to inspect freely his or her medical and social records upon request to the facility;

"(G) to receive prior notice—

"(i) at least 3 days before an intrafacility transfer of the patient,

"(ii) at least 3 days before lapse of bed-hold days for the patient, and

"(iii) at least 20 days before the patient's discharge from the facility;

"(H) to receive sufficient preparation and orientation to ensure safe and orderly transfer or discharge from the facility and to have this preparation and orientation documented in the patient's medical record;

"(I) to appeal transfers and discharges to a State hearing officer before they occur;

"(J) to full access to an representative of the State office of long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965);

"(K) to be assisted, throughout his or her stay, in the exercise of his or her rights as a patient and as a citizen, and to this end his or her right to file complaints under this section, voice grievances, and recommend changes in policies and service to the staff of the facility and to outside representatives of his or her choice (including long-term care ombudsmen and representatives of governmental agencies administering the programs under this title and title XIX) free

from restraint, interference, coercion, discrimination, or reprisal;

"(L) to organize, maintain, and participate in resident advisory and family councils, the meetings of which shall be afforded privacy and facility space;

"(M) to manage his or her personal financial affairs or be given, at least quarterly, an itemized accounting of financial transactions made on his or her behalf whenever the facility accepts his or her written delegation of this responsibility for any period of time in conformance with State law;

"(N) to a clean and safe living environment;

"(O) to be free from mental and physical abuse;

"(P) to be free from chemical and physical restraints, except—

"(i) as authorized in writing by a physician for a specified and limited period of time, or

"(ii) in emergencies when necessary to protect the patient from injury to himself or herself or to others (in which case notice of the use of such restraints, and an explanation of the circumstances thereof, shall be promptly provided to the attending physician and noted in the patient's medical record);

"(Q) to meet with visitors from inside and outside the facility during at least 12 hours of each day;

"(R) to associate and communicate privately with persons of the patient's choice;

"(S) to send and receive mail unopened;

"(T) to be treated with dignity and respect by the staff of the facility;

"(U) to be free from forced labor or experimentation of any type;

"(V) to be assured confidential treatment of his personal and medical records;

"(W) to approve or refuse the release of such records to any individual outside the facility, except in the case of a transfer to another health care institution or as required by law or third-party payment contract;

"(X) to maintain personal clothing and possessions as space permits and to be provided security in storing possessions;

"(Y) to participate freely in social, religious, and community activities; and

"(Z) if the patient is married, to private visits from his or her spouse and to share a room if both are patients in the facility;

"(14) assures that no retaliation or reprisal is made with respect to any patient or employee by reason of his or her filing of a complaint with the State office of long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965), the State survey agency, or the Secretary with respect to the quality of care, environment, or services provided by the facility;

"(15) makes information with respect to its policies and procedures regarding the rights of patients available to the public, patients, and guardians and relatives of patients, and to any relative or other person serving as a representative payee of a patient pursuant to section 205(j) of this Act; and

"(16) trains and involves the staff of the facility in the implementation of such policies and procedures."; and

(7) by adding at the end thereof the following:

"The assessments required by paragraph (5)(B) shall include (but not be limited to) the identification of medical problems, the measurement of physical functioning (such as mobility and the ability to conduct daily activities), and the measurement of mental and psychosocial functioning.

"For purposes of paragraph (14), any action that is taken by a representative of a facility within 120 days of the filing of a complaint described in such paragraph by a patient or employee and that has an adverse effect upon the patient or employee shall raise a rebuttable presumption that the action was taken in retaliation or reprisal for the filing of the complaint. Unless such presumption is successfully rebutted (as determined by the Secretary), the Secretary shall impose and collect (by withholding from amounts otherwise payable to the facility under this title or by any other method deemed appropriate by the Secretary) a civil penalty of not less than $1,000 and not more than $10,000 for each retaliation or reprisal.

"In the case of a patient adjudicated incompetent in accordance with State law, the rights set forth in paragraph (13) shall devolve upon the person to whom the patient (before being rendered incompetent) has assigned a durable power of attorney, or, in the absence of an effective durable power of attorney, to the patient's guardian, next of kin, or relative or other person (other than the facility) serving as representative payee under section 205(j)(1). In the case of a patient who has been rendered (but not adjudicated) incompetent, such rights shall devolve upon the person to whom the patient (before being rendered incompetent) has assigned a durable power of attorney.".

(b) CONFORMING AMENDMENTS.—(1) Section 1905(c) of such Act is amended by striking "1861(j)(14)" and inserting in lieu thereof "1861(j)(18)".

(2) Sections 1863 and 1883(f) of such Act are each amended by striking "1861(j)(15)" and inserting in lieu thereof "1861(j)(19)".

SEC. 103. CHANGES IN CERTIFICATION PROGRAM AND PROCESS.

(a) SEPARATING SURVEYS AND CONSULTATIVE SERVICES.—Section 1864(a) of the Social Security Act (42 U.S.C. 1395aa(a)) is amended by inserting before the period at the end of the fourth sentence the following: "and such consultative services shall be separate from the survey process and shall not be performed by those individuals conducting the survey".

(b) POSTING SURVEY RESULTS.—Such section is further amended by inserting, after "readily available form and place" in the fifth sentence, the following: ", and require (in the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients' representatives),".

(c) DISCLOSURE OF INSPECTION REPORTS.—Section 1106(e) of such Act (42 U.S.C. 1306(e)) is amended—

(1) by striking "60" the first place it appears and inserting in lieu thereof "30",

(2) by striking "report; nor" and inserting in lieu thereof "report. Nor",

(3) by striking "(e) No report" and inserting in lieu thereof "(e)(1) Except as provided in paragraph (2), no", and

(4) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the first sentence of paragraph (1), the Secretary may release a report described in subsection (d) to a State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) or a designee before the end of the 30-day period described in such sentence.".

(d) DETERMINATION OF SKILLED NURSING FACILITY COMPLIANCE.—(1) Section 1864 of such Act is further amended by adding at the end the following new subsections:

"(d) Any agreement under subsection (a) entered into by the Secretary to determine whether an institution is in compliance with the conditions of participation applicable to a skilled nursing facility shall include the following provisions:

"(1) Certification surveys conducted with respect to a facility—

"(A) shall not be announced in advance,

"(B) shall be conducted by a multidisciplinary team of professionals (including at least a registered professional nurse, a registered dietician, and a registered sanitarian) who have passed a standardized, State-administered competency examination approved by the Secretary,

"(C) shall focus on the quality of care provided to patients,

"(D) shall include a private meeting between patients and survey personnel to discuss patients' experiences within the facility with respect to patients' rights and compliance with the standards applicable to the facility under this title,

"(E) shall be conducted, with respect to each facility and except as provided in subparagraph (F), between 9 and 15 months after the previous survey for the facility, with such surveys being conducted, on a Statewide average, 12 months apart, and

"(F) may be conducted less often than annually with respect to a facility only if the facility is fully in compliance with each of the minimum standards established by the Secretary under section 1861(j).

"(2) The State shall provide comprehensive initial and continuing training for the professionals described in paragraph (1)(B), including at least 40 hours of continuing training each year.

"(3) In addition to surveys described in paragraph (1), the State shall provide for an abbreviated survey of a facility within 45 days after a change in ownership of the facility, a change in the facility's administrator, or a change in the facility's director of nursing.

"(4) The State agency responsible under the agreement must maintain and utilize a specialized survey team for the purpose of identifying, surveying, gathering and preserving evidence, and carrying out any enforcement action against chronically substandard facilities and any other facility that poses an immediate threat to the health, safety, or well-being of its patients. Such a team shall include (or have prompt access to, an attorney, physician, registered professional nurse, investigator, and other health professionals and shall be available for providing enforcement training and technical assistance to regular survey staff of the State.

"(5) In accordance with specific procedures developed by the Secretary, the State agency shall provide for investigation of complaints respecting skilled nursing facilities.

"(e) Notwithstanding any other provision of this section, no agreement under this section shall apply with respect to determining whether an institution owned by a State is in compliance with the conditions of participation applicable to a skilled nursing facility. Such determination shall be made, for purposes of this title and title XIX, by the Secretary.

"(f) The Secretary shall develop and implement criteria and procedures for the evaluation of plans of correction submitted by institutions seeking compliance with the

standards for skilled nursing facilities. Such criteria and procedures shall be designed—

"(1) to maximize specificity in the plans,

"(2) to require on-site evaluation of the implementation of plans dealing with deficiencies relating to patient care, and

"(3) to emphasize the need for correction to provide for permanent compliance with the standards.

Any institution that fails to submit an acceptable plan of correction shall be subject to sanctions under section 1866(f)(4).".

(e) REIMBURSEMENT OF STATES FOR SURVEY COSTS.—Subsection (b) of section 1864 of such Act is amended by adding at the end the following new sentence: "Payments under this subsection shall include full reimbursement for any State expenditures associated with carrying out subsection (d).".

(f) EXERCISE OF MEDICAID LOOK-BEHIND AUTHORITY.—Section 1902(a)(33)(B) of such Act (42 U.S.C. 1396a(a)(33)(B)) is amended by striking the comma after "except that" and inserting in lieu thereof the following: "(i) the Secretary shall annually validate State determinations regarding a random sample of 5 percent of skilled nursing and intermediate care facilities, and (ii)".

SEC. 104. INTERMEDIATE SANCTIONS; RECEIVERSHIP AUTHORITY.

(a) MEDICARE PROGRAM.—

(1) Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(A) by striking "health and safety" each place it appears and inserting in lieu thereof "health, safety, and well-being", and

(B) by adding at the end the following new paragraphs:

"(4) The Secretary shall develop and implement a range of intermediate sanctions to apply to facilities which have been determined to meet the conditions described in (1)(B). Such sanctions shall include (at a minimum) civil fines and penalties and suspension of vendor payments. The Secretary shall develop and implement specific criteria as to when and how each of these intermediate sanctions is to be applied, the amounts of any fines, and the severity of each of these penalties. These criteria shall be designed so as to minimize the time between identification of violations and final imposition of these sanctions and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies. In accordance with such criteria, the Secretary may impose any such sanction in lieu of, or in addition to, imposing the sanction otherwise provided under paragraph (1).

"(5) In addition to any other action which the Secretary may take pursuant to this title, the Secretary may fine such facility $50 per day for any day on which such facility does not substantially meet the requirements of section 1861(j) or of the provider agreement.

"(6) For purposes of reimbursement under this title and any State plan approved under title XIX, any amount paid by a facility under paragraph (4) or (5) shall not be taken into consideration as a cost incurred by the facility.

"(7)(A) In any case where the Secretary determines that a skilled nursing facility is chronically failing to meet substantially the requirements of section 1861(j) or of the provider agreement, or determines that the facility's deficiencies immediately jeopardize the health and safety of its patients—

"(i) the Secretary shall give public notice of such determination, and

"(ii) in the case of a skilled nursing facility that is not in a period of State-ordered receivership (as defined in subparagraph (C)), the Secretary may appoint a receiver to—

"(I) oversee the operation of the facility;

"(II) establish and oversee the implementation of a correction plan to bring the facility into compliance with the applicable requirements of the State plan, this title, title XIX, and State licensing requirements by a date set forth in the correction plan; and

"(III) assure the health and safety of the facility's patients during the receivership period.

"(B) Subject to paragraph (1), payment shall be made under this title with respect to any services furnished by any such facility to patients who remain in such facility during any period of receivership ordered by the Secretary or the State with respect to such facility.

"(C) For purposes of this paragraph, a period of State-ordered receivership with respect to a facility is a period during which—

"(i) the State has appointed a receiver to oversee the operation of the facility;

"(ii) the State has in effect a correction plan to bring the facility into compliance with the applicable requirements of the State plan, this title, title XIX, and State licensing requirements by a date set forth in the correction plan; and

"(iii) the State has taken measures to assure the health and safety of the facility's patients during the period.

"(D) Public notice shall also be given in any case in which such deficiencies are determined to be rectified.

(2) APPEAL RIGHTS.—Paragraph (2) of section 1869(f) of such Act is amended to read as follows:

"(2) Each facility which is aggrieved by a determination under paragraph (1) is entitled to notice and opportunity for a hearing with respect to the determination. Such hearing shall not occur until after the determination has been implemented.".

(b) MEDICAID PROGRAM.—

(1) Section 1902(i) of such Act is amended by adding at the end thereof the following new paragraphs:

"(4) In addition to any other action which the State or the Secretary may take pursuant to this title, the Secretary may fine a facility $50 per day for any day on which such facility does not substantially meet the requirements of section 1861(j) or 1905(c) or other requirements of the State plan.

"(5)(A) In any case where the Secretary determines that a skilled nursing facility or intermediate care facility is chronically failing to substantially meet the provisions of section 1861(j) or 1905(c) or other requirements of the State plan, or determines that the facility's deficiencies immediately jeopardize the health and safety of its patients—

"(i) the Secretary shall give public notice of such determination, and

"(ii) in the case of a facility that is not in a period of State-ordered receivership, may, in lieu of decertifying the facility, appoint a receiver (as described in section 1866(f)(7)) with respect to such facility.

"(B) Subject to paragraph (1), payment shall be made under this title with respect to any services furnished by any such facility to patients who remain in such facility during any period of receivership ordered by the Secretary or the State with respect to such facility.

"(C) Public notice shall also be given in any case in which such deficiencies are determined to be rectified.".

(2) Section 1902(a)(31) of such Act (42 U.S.C. 1396a(a)(31)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) by adding "and" at the end of subparagraph (C), and

(3) by adding at the end the following new subparagraph:

"(D) with respect to a facility which the State or the Secretary determines no longer substantially meets the provisions of section 1861(j), but which has deficiencies that do not immediately jeopardize the health and safety of its patients, for intermediate sanctions pursuant to the criteria developed under section 1866(f)(4);".

(c) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) shall become effective one year after the date of the enactment of this Act.

(2) The Secretary of Health and Human Services shall develop and implement the range of sanctions described in section 1866(f)(4) of the Social Security Act by not later than one year after the date of the enactment of this Act.

(2)(A) The amendments made by subsection (b) shall apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the first day of the first calendar quarter that begins more than one year after the date of the enactment of this Act, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendments made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet the additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 105. PRIVATE RIGHT OF ACTION AND ACTION FOR CRIMINAL NEGLIGENCE.

Title XI of the Social Security Act is amended by inserting after section 1129 the following new section:

"CAUSES OF ACTION RESPECTING FAILURE OF SKILLED NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES TO MEET STATUTORY REQUIREMENTS

"SEC. 1130. (a) Any individual who—

"(1) is entitled to benefits under part A of title XVIII or under a State plan approved under title XIX with respect to inpatient services in a skilled nursing facility or intermediate care facility which is required to comply with the requirements of section 1861(j), and

"(2) is adversely affected by the failure of a facility to meet such requirements,

may bring an action in an appropriate Federal district court to enforce such requirements with respect to the facility. Such action may be brought not later than 180 days after the date of the alleged violation and may be brought without exhausting administrative remedies. In such an action the court may award appropriate compensatory and injunctive relief, including actual and punitive damages, attorney fees, and court costs.

"(b) Any institution which has an agreement in effect under section 1866 or with a State under title XIX to provide services

under title XVIII or XIX as a skilled nursing facility or intermediate care facility and which exercises gross negligence in the care provided to a patient for which payment may be made under either such title shall be fined not to exceed $200,000 or imprisoned for not more than five years, or both.".

SEC. 106. EFFECTIVE DATES.

Except as otherwise specified in this title, the amendments made by this title shall take effect 90 days after the date of the enactment of this Act.

TITLE II—ADDITIONAL PROVISIONS RELATING TO LONG-TERM CARE

SEC. 201. ELIMINATION OF POST-HOSPITAL REQUIREMENT FOR EXTENDED CARE SERVICES.

(a) ELIMINATION OF 3-DAY RULE.—(1) Section 1812(a)(2) of the Social Security Act is amended to read as follows:

"(2) extended care services for up to 100 days during any spell of illness;".

(2) Subsection (i) of section 1861 of such Act is repealed.

(b) CONFORMING AMENDMENTS.—(1) Section 1812 of such Act is amended by striking subsection (f), and redesignating subsection (g) as subsection (f).

(2) Sections 1812(b)(2), 1812(e), 1813(a)(3), 1813(b)(2), 1814(a)(6), 1861(v)(1)(G)(i), 1861(v)(2)(A), 1861(v)(3), 1861(y), 1866(b)(3), 1866(d), 1883(d), and 1883(f) of such Act are each amended by striking "post-hospital" each place it appears.

(3) Section 1814(a)(2)(B) of such Act is amended—

(A) by striking "post-hospital"; and

(B) by striking "for any of the conditions" and all that follows, and inserting in lieu thereof a semicolon.

(4) Section 1861(y) of such Act is amended by striking "POST-HOSPITAL" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished after the date of the enactment of this Act.

SEC. 202. STUDY OF CASE-MIX APPROACH FOR NURSING HOMES.

The Secretary of Health and Human Services shall conduct a study of the feasibility of eliminating separate categories of facilities providing long-term care for purposes of the programs under titles XVIII and XIX of the Social Security Act, and replacing such categories with a single designation of long-term care facility which would provide and be reimbursed for various levels of long term care. The Secretary shall report the results of the study to the Congress not later than January 1, 1988.

TITLE III—AMENDMENTS TO THE OLDER AMERICANS ACT OF 1965

SEC. 301. OMBUDSMAN PROGRAM.

(a) AUTHORITY AND IMMUNITY OF OMBUDSMAN.—

(1) AUTHORITY OF OMBUDSMAN TO DESIGNATE REPRESENTATIVES.—Section 307(a)(12)(B) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)(B)) is amended by inserting ", or any individual designated by the ombudsman to be the representative of the ombudsman," after "ombudsman".

(2) IMMUNITY OF OMBUDSMAN AND DESIGNEES.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended by adding at the end thereof the following new subsection:

"(g) No ombudsman appointed under subsection (a)(12), and no individual designated under such subsection by the ombudsman to be a representative of the ombudsman, shall be liable under any State or Federal law for carrying out any function, duty, or activity authorized or required under this section if such ombudsman or such individual exercises due care in carrying out such function, duty, or activity.".

(b) TECHNICAL ASSISTANCE AND TRAINING FOR OMBUDSMEN AND DESIGNEES.—The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by inserting after section 313 the following new section:

"TECHNICAL ASSISTANCE AND TRAINING FOR OMBUDSMEN

"SEC. 314. (a) The Secretary shall provide technical assistance and training to ombudsmen appointed under section 307(a)(12), and to individuals designated under such section by ombudsmen to be representatives of such ombudsmen, in order to enable such ombudsmen and such individuals to carry out the ombudsman program effectively.

"(b) There is authorized to be appropriated to carry out subsection (a) $2,000,000 for fiscal year 1987 and $1,000,000 for each of the succeeding fiscal years.".

SEC. 302. ESTABLISHMENT OF NATIONAL LONG-TERM CARE OMBUDSMAN PROGRAM ADVISORY COUNCIL.

(a) ESTABLISHMENT OF COUNCIL.—There is hereby established in the Department of Health and Human Services the National Long-Term Care Ombudsman Program Advisory Council (hereinafter in this section referred to as the "Council") which shall advise the Secretary of Health and Human Services with respect to the development, administration, and priorities of the ombudsman program carried out under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(b) APPOINTMENT OF MEMBERS TO COUNCIL.—The Council shall consist of 9 members who shall be appointed from among individuals described in subsection (c) as follows:

(1) APPOINTMENT BY PRESIDENT.—One member shall be appointed by the President.

(2) APPOINTMENTS BY SPEAKER OF THE HOUSE OF REPRESENTATIVES.—Four members shall be appointed by the Speaker of the House of Representatives.

(3) APPOINTMENTS BY THE PRESIDENT PRO TEMPORE OF THE SENATE.—Four members shall be appointed by the President pro tempore of the Senate.

(c) INDIVIDUALS ELIGIBLE FOR APPOINTMENT.—Any individual who is—

(1) an ombudsman appointed under section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)),

(2) a representative of a State or area agency on aging designated under section 305 of such Act,

(3) a long-term care provider,

(4) a representative of individuals who are residents of long-term care facilities,

(5) a representative of a State agency responsible for the certification of long-term care facilities,

(6) a health care professional, or

(7) a person involved in advocacy with or on behalf of nursing home residents,

is eligible to be appointed as a member of the Council.

(d) TERM AND CONDITIONS OF SERVICE.

(1) TERM OF APPOINTMENT.—Members of the Council shall be appointed for a term of 4 years, except that any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(2) COMPENSATION.—Members of the Council shall serve without compensation.

(3) EXPENSES.—While serving away from their homes or regular places of business, on the business of the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as expenses are authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(e) PERMANENCY OF COUNCIL.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.

SEC. 303. ANNUAL REPORT TO THE CONGRESS.

Not later than January 15 of each year, the Secretary of Health and Human Services shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report—

(1) summarizing and analyzing the data collected under section 307(a)(12)(C) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)(C)) in the then most recently concluded fiscal year,

(2) identifying significant problems revealed by such data, and

(3) making recommendations regarding appropriate legislation to resolve such problems.

SEC. 304. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect October 1, 1986.●

● Mr. GLENN. Mr. President, today I am introducing with my distinguished colleague, Senator JOHN HEINZ, legislation to improve the quality of life for elderly and disabled Americans who reside in nursing homes. There should be no debate over need for a national commitment to protect nursing home residents from poor care; to guarantee their civil and legal rights; and to see that they are treated with respect and dignity. This simply is common decency. That is why I believe, as the senior Democratic member of the Senate Special Committee on Aging, we need to enact the Nursing Home Quality Reform Act of 1986.

This much-needed legislation addresses a wide range of serious quality problems identified by our committee, the prestigious Institute of Medicine [IOM] and many others. I would like to provide a brief background as to why this bill is necessary.

Early in its tenure, the Reagan administration attempted to deregulate and reduce Federal oversight of nursing homes. As a result of fierce opposition from Congress, advocates for the elderly and the public, the Health Care Financing Administration [HCFA] contracted with the IOM, which is part of the National Academy of Sciences, for a 2-year study of nursing home quality and the Federal role.

The IOM issued its seminal report—"Improving the Quality of Care in Nursing Homes"—early this year, concluding that there is a clear need for a stronger and improved Federal role in the regulation of nursing home care. The IOM report reflects the findings and recommendations from several recent major initiatives of our committee.

Last fall, we conducted a series of hearings on quality of care issues associated with Medicare's prospective payment system. The hearings identified critical issues associated with posthospital care services, including problems with beneficiaries access to nursing home care and weaknesses in Federal and State oversight of quality. In May, we conducted a hearing entitled "Nursing Home Care: The Unfinished Agenda," which revealed that an alarming number of nursing homes are chronically deficient and repeatedly provide substandard care. It is clear that the Federal Government, and far too many States, lack adequate inspection and sanction authority. Furthermore, HCFA appears unwilling to use the authority it has and to implement the laws that Congress has passed. For example, HCFA has yet to release a final rule for implementing the intermediate sanction which Congress authorized in 1980.

Mr. President, I must stress that the majority of America's nursing homes are honest and above board—many of them provide excellent care. The enforcement provisions of the Nursing Home Quality Reform Act are not aimed at them. Rather, these provisions are aimed at those who insist on providing poor care and violating the rights of nursing home patients, who are among our society's most vulnerable and powerless citizens.

The legislation we are introducing today is comprehensive and addresses many of the critical issues raised by the IOM, our committee, and others. It would move us toward a reimbursement system based upon the individual needs of residents and the elimination of artificial distinctions between levels of care. All nursing homes would be required to meet skilled nursing facility requirements. We would require the Secretary to prepare for transition to a case-mix reimbursement system. My home State of Ohio has already done this and it ought to done nationally.

Patients' rights would be elevated to a condition of participation and prohibitions against discrimination of Medicaid patients would be strengthened, as would the Federal and State nursing home inspection system, including requiring unannounced inspections. To improve the ability of the Nation's network of 600 State and local ombudsman programs to solve the problems of nursing home residents, ombudsmen, many of whom are older volunteers, would be guaranteed access to nursing home residents and their records. This critical program would also receive greater support for training and technical information.

The legislation would broaden the range of sanctions available to use against poor nursing homes as alternatives to closing facilities and abruptly moving the residents to new settings, sometimes many miles away from their families and friends. This act would also require that nurses' assistants who provide an estimated 80 percent of the direct patient care, be trained to perform their critical tasks.

In closing, Mr. President, I would like to also mention an important event that took place earlier today. This morning, Senator HEINZ and I participated in a press conference with several House Members, some 14 national senior citizens' organizations and the well-known actor, Kirk Douglas. This press conference kicked off a national grassroots effort—the "Campaign for Quality Care in Nursing Homes"—to implement the IOM report. Spearheaded by the National Citizens Coalition for Nursing Home Reform and chaired by Mr. Douglas, this effort will play a crucial role in improving nursing homes. We here in the Congress can do our part by enacting the Nursing Home Quality Reform Act of 1986. I urge my colleagues to support us in this timely and essential effort.●

By Mr. SYMMS (for himself, Mr. ABDNOR, Mr. BOREN, Mr. HECHT, Mr. NICKLES, and Mr. MATTINGLY):

S. 2605. A bill to amend the Foreign Assistance Act of 1961 to facilitate the use of economic support fund assistance for commodity import programs; to the Committee on Foreign Relations.

FOREIGN AID COMMODITY INCENTIVE ACT

● Mr. SYMMS. Mr. President, the trade status of the United States has also been the focus of a great deal of concern in recent months. Our position as a net importer has caused Americans to be frustrated and lose confidence in our ability to compete in the world marketplace.

I have always believed that these problems are largely our own fault. Our foreign aid program provides an example of this. As a generous and prosperous nation, we dedicate a portion of the resources of our Nation to aiding friends, allies, and those people around the world less fortunate than we. Our foreign aid programs, however, are not always designed with the interests of the United States in mind.

Clearly, the most desirable foreign aid program would be one which efficiently aided the people of other nations, while also providing markets and employment for American citizens.

My bill, which is a companion to my FAIR bill, S. 1810, is intended to reform some aspects of our foreign aid program to increase the benefit from these programs, both to the people of the beneficiary nation and to American businesses, workers, and taxpayers.

My bill will require the Agency for International Development to conduct an indepth study of the needs of each of the nations to which we give foreign aid under the Foreign Assistance Act of 1961. The bill then directs U.S. AID to determine whether the needs of that nation can be met by providing American goods and services, agricultural and otherwise, instead of direct cash grants. Those nations which receive cash would be directed to spend as much of that cash on American goods and services as practically possible. An audit of the expenditure of these funds would then be conducted by the GAO to ensure that the cash grants were spent in an appropriate way.

In many cases, the money which we provide to other countries in foreign aid is used to buy products which are in direct competition with those produced in our town country. Now, I continue to support free trade and a free market atmosphere among the nations of the world, and I do not wish to bully any nation into buying American products, but it seems strangely self-defeating for us to actually give nations money to buy our competitor's products.

The motive behind my bill is simple: To ensure that American foreign aid money is used appropriately, for the purposes which we intended its use, and to encourage the use of our foreign aid dollars in a way which benefits the American farmer, businessman, and taxpayer.

Of course, there will be times when it is not logistically feasible for U.S. goods to be provided in time or at reasonable cost to a nation in need. Because of cases like this, my bill remains flexible enough so that U.S. AID can make these determinations based on the reality of each different situation. My goal is to require that the "buy America" option be considered, first by U.S. AID before they grant the aid, and second, by the recipient nation before they spend the aid money. The auditing procedures will give us a feel for the prudence with which these decisions are made.

The example of the Philippines remains all too vivid in most of our minds. Such tales of waste and abuse of American foreign aid funds do great damage not only to the people of the affected nation, but to the U.S. foreign aid program and American prestige as well. Cash is inherently harder to trace and control than are our agricultural commodities and manufactured goods, which are needed in these nations in any case.

If the Philippines can be used as an example of how not to manage an aid program, then Israel may be used as an example of how bilateral foreign aid can be used to maximize the benefits to both nations. Although all of the aid Israel receives from us is in cash grants and loans, the Israelis

have managed that aid money effectively and have voluntarily imposed a "buy America" condition on themselves. As a result, American citizens reap a great deal of benefit from our Government's aid to the people of Israel.

Indeed, my bill can be seen as an attempt to impose—on the other nations which receive our foreign aid—conditions similar to those the Israelis have imposed on themselves.

A large part of my motivation, I admit, is the plight of the American farmer. They suffer the damage caused by huge surpluses, while we continue to give cash to nations which are literally dying for food. In many cases this cash is used to bolster the agricultural competition which our farmers increasingly face from abroad. The result is more surpluses, lower prices, and more bankrupt American farmers.

I think that this bill, like my Foreign Agricultural Investment Reform Act, is fair. It will benefit everyone except our economic competition and those who scheme to abuse and squander our foreign aid dollars.●

● Mr. NICKLES. Mr. President, it is my pleasure to once again join my distinguished colleague from Idaho, Senator SYMMS, in introducing legislation aimed at correcting an atrocious use of U.S. tax dollars that is working against the American farmer.

Currently, through direct cash tranfers, U.S. tax dollars are being granted to foreign nations to purchase goods that they need. The problem is that this money, our money, is often used by beneficiary nations to purchase from other nations goods and services that are readily available from American industry.

While our grain bins are busting out all over the country, American tax dollars are buying grain from foreign producers. Counter to domestic agriculture policy goals, this process increases surpluses and decreases sales. We must take corrective measures to combat this problem.

The legislation we are introducing today, the Foreign Aid Commodity Incentive Act, amends the Foreign Assistance Act of 1961 to require foreign economic assistance to be provided with commodities rather than cash transfers when it will best meet the needs of the beneficiary nation. A country that receives a cash transfer is required, to the extent practicable, to purchase goods produced or grown in the United States.

It has been reported that during fiscal year 1987, 61 percent of the economic support funds of $4.183 billion is earmarked for cash transfers. According to General Accounting Office reports on the Philippines and Central America, such transfers result in loss of control by AID leaving no assurance that goods and services purchased will be of U.S. origin. Consequently, the use of cash transfers, while providing foreign exchange to purchase needed products, can result in U.S. tax dollars being used to directly benefit the competition of U.S. industry.

This measure is similar in nature to a bill Senator SYMMS and I introduced last fall, S. 1810, the Foreign Agricultural Investment Reform [FAIR] Act, which curbs the ability of lenders such as the World Bank and the International Monetary Fund [IMF] to make low-interest loans to foreign nations so they can produce low-priced farm exports. It infuriates me that American tax dollars funneled through international lenders, and now we find out through the Agency for International Development, have helped foreign nations compete with American farmers in export markets.

The legislation that we are proposing requires that when determining the specific needs of recipient nations, the needs of American agriculture and other industry will be considered first and foremost. By using the simple auditing procedure prescribed in this measure, the farmer and the taxpayer in America can be assured that their needs are given proper consideration.

For far too long the agriculture producers of our Nation have been the object of our own Government's bad policies involving foreign aid. It is one thing to assist a neighbor, but it is an entirely different thing when we help our neighbors at our own expense. By adopting this and similar measures, such as the Foreign Agricultural Investment Reform, or FAIR Act, many of the holes in our agricultural economy can be plugged up.

Through this proposed legislation we can monitor the purchases of lender nations, and instead of giving those nations direct cash grants we can give them finished goods and products that will benefit both nations. The Foreign Aid Commodity Incentive Act will require nations that receive U.S. assistance through the Agency for International Development to explore the "buy American" option first.

To summarize, we have an opportunity to correct a serious problem. This legislation will certainly not erase the dilemma faced by the American farmer. It will, however, along with the FAIR Act, cause substantive changes in the current foreign aid system and will return some equity to the American farmer and taxpayer in the world market.●

By Mr. GORE (and Mr. MOYNIHAN):

S. 2608. A bill to prevent homelessness and to provide a comprehensive aid package for homeless individuals; to the Committee on Finance.

HOMELESS PERSONS' SURVIVAL ACT

● Mr. GORE. Mr. President, today I am introducing legislation which proposes a comprehensive solution to the tragedy of homelessness in our country. I want to take this opportunity to outline the bill, and urge my colleagues to join me in this initiative.

Recent studies are unanimous in their conclusion that homelessness is growing at a rate not seen since the Great Depression. Estimates from the most well-informed relief agencies place the number of homeless people in the millions. In 1985, a U.S. Conference of Mayors survey found that the homeless population annually increases by 25 percent.

No longer limited to chronic alcoholics and "bag people," homelessness in America now affects as diverse a population as can be found in our country—families with children, the elderly, recently unemployed, mentally and physically disabled, and members from a range of minority groups. These individuals can be found in all regions of the country and in both urban and rural areas.

However strong their commitment, local governments and charities alone cannot meet the alarming, increasing need for more low-cost housing, more effective mental health care, complicated educational placement needs, and other needs of those now or about to become homeless.

The Homeless Persons' Survival Act of 1986 is an effort to address not only the emergency requirements for shelter, but the deeper, structural problems that have made homelessness a national disgrace. The bill is based on the work of a coalition of national organizations with expertise in related areas of homelessness. The bill proposes Federal action to provide emergency relief, preventive measures and long term solutions to the plight of homeless Americans.

This long-term solution realistically addresses the widely recognized primary cause of homelessness: scarcity of low-income housing. The bill attacks this cause by increasing the number of subsidized housing certificates and public housing units now available, and by preserving existing units. In addition, the act provides for the special housing needs of the mentally ill.

If decisive action is not taken, the homeless crisis will continue to grow at an astronomical rate and at large expense. Preventive measures and long-term solutions are inherently more cost-effective in the long run than emergency relief shelters and hotels.

As the number of homeless persons in our country grows uncontrollably, the need for a comprehensive national response intensifies. Mr. President and distinguished Senators, I urge you to

seriously consider this legislation and help initiate a responsible, cost-effective solution to a growing problem that is tragic in both human and economic terms.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeless Persons' Survival Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMERGENCY RELIEF FOR THE HOMELESS

Subtitle A—Emergency Shelter for the Homeless

Sec. 101. National right to shelter; requirement that emergency assistance be provided, both for needy families with children and for homeless individuals.

Subtitle B—Social Security Assistance to the Homeless

Sec. 111. Outreach to homeless individuals who may be eligible for benefits under OASDI and SSI programs.
Sec. 112. Extension of SSI eligibility for s. 'lter residents.

Subtitle C—Hc_.th and Mental Health Care for the Homeless

Sec. 121. Health services for the homeless.

Subtitle D—Emergency Food for the Homeless

Sec. 131. Food stamp outreach to homeless individuals.
Sec. 132. Meals served to homeless individuals.
Sec. 133. Authorization of appropriations for food storage and distribution costs.

Subtitle E—Emergency Assistance to Homeless Families and Children

Sec. 141. Education for homeless children.
Sec. 142. Temporary shelter for runaway and homeless youth.
Sec. 143. Shelters for homeless parents and infants.

Subtitle F—Job Training for the Homeless

Sec. 151. Amendments to the Job Training Partnership Act.

Subtitle G—Entitlements Eligibility for the Homeless

Sec. 161. Clarification of residency requirement under certain entitlement programs.

TITLE II—PREVENTION OF HOMELESSNESS

Subtitle A—Prevention of Evictions

Sec. 201. Prevention of unnecessary evictions from public and subsidized housing; provision for relocation; demolition or other disposition of public housing.
Sec. 202. Prevention of unnecessary evictions from private rental housing.

Subtitle B—Preservation of Low Income Housing

Sec. 211. Preservation of single room occupancy buildings.
Sec. 212. Continuation and expansion of rural housing programs.

Subtitle C—Prevention of Homelessness of Disabled and Institutionalized Persons

Sec. 221. Eligibility of mentally ill persons for HUD-assisted housing.
Sec. 222. Immediate SSI payments to chronically mentally ill individuals.
Sec. 223. Continuation of full SSI benefits through third month of institutionalization.
Sec. 224. Pre-release procedures for institutionalized persons.
Sec. 225. Single application for SSI and food stamp benefits by SSI pre-release individuals.

Subtitle D—Prevention of Homelessness of Families and Children

Sec. 231. Modification of AFDC deeming rules for dependent children in extended families.
Sec. 232. Foster care maintenance program.

TITLE III—INCREASED LOW INCOME HOUSING

Sec. 301. Increased funding for section 8 existing housing and moderate rehabilitation programs.
Sec. 302. Expansion of newly constructed or substantially rehabilitated public housing units.
Sec. 303. Increase availability of tax-foreclosed property to house the homeless.
Sec. 304. Residential alternatives for the mentally ill homeless.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) homelessness in the United States has reached alarming proportions and has become a national emergency;

(2) not since the Great Depression has homelessness in the United States reached the epidemic proportions that it now has among major segments of the population;

(3) in 1984, the Department of Housing and Urban Development estimated that the average annual increase in the homeless population is 10 percent;

(4) in 1985, the United States Conference of Mayors conducted a survey which revealed that the homeless population annually increases by 25 percent;

(5) the homeless population includes growing numbers of families, single men and women, children, and teenagers;

(6) a significant minority of the homeless are mentally disabled and require specialized shelters and housing;

(7) the dimensions of the homelessness crisis have grown, both in numbers and in scope, beyond the capacity of State and local governments to handle without Federal participation;

(8) the range of needs of the homeless require the coordination of specialized services to be provided to them;

(9) it is in the national interest to strengthen existing programs and to create new Federal, State, and local cooperative programs to meet the needs of the homeless population, and to enact measures specifically designed to prevent additional homelessness;

(10) assistance to the homeless should—

(A) be community-based;

(B) include emergency shelter and sustenance;

(C) provide comprehensive support including, but not limited to—

(i) clinical treatment,

(ii) social support services, and

(iii) help in securing entitlements; and

(D) seek to provide lasting solutions to the problems which beset the homeless in the United States, such as arranging for transitional and long-term housing;

(11) the homeless have the right to be free from discrimination on account of transiency or homeless status; and

(12) every Federal agency and every agency or organization which receives Federal financial support is under a duty to ensure that the homeless are accorded the full protection, opportunities, and services guaranteed to them by law.

(b) STATEMENT OF PURPOSE.—The purpose of this Act is to alleviate and eradicate homelessness through short-term emergency relief and long-term preventive measures.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HOMELESS INDIVIDUAL.—The term "homeless individual" means any individual who lacks a fixed and adequate nighttime residence, and such term includes any individual whose primary nighttime residence is—

(A) in a publicly or privately operated shelter which provides temporary shelter of any type;

(B) in a street;

(C) in a transportation station;

(D) in an abandoned building;

(E) in a park; or

(F) in any other public or private place not designed for, or ordinarily used as, a regular sleeping accomodation for human beings.

(2) AT RISK OF BECOMING HOMELESS.—The term "at risk of becoming homeless" means, as applied to an individual, that the individual—

(A) lacks a regular and permanent nighttime residence;

(B) lives in temporary makeshift arrangements in the accommodations of others;

(C) lives in institutions of any type without a fixed and adequate place to live upon discharge; or

(D) lives in grossly substandard or grossly inadequate accommodations.

(3) SHELTER.—The term "shelter" means any supervised public or private facility designed to provide temporary living accommodations.

TITLE I—EMERGENCY RELIEF FOR THE HOMELESS

Subtitle A—Emergency Shelter for the Homeless

SEC. 101. NATIONAL RIGHT TO SHELTER; REQUIREMENT THAT EMERGENCY ASSISTANCE BE PROVIDED, BOTH FOR NEEDY FAMILIES WITH CHILDREN AND FOR HOMELESS INDIVIDUALS.

(a) DECLARATION OF ENTITLEMENT.—Every homeless individual is entitled as a matter of right to decent overnight shelter. Programs to effectuate this right, most particularly the emergency assistance program under part A of title IV of the Social Security Act, shall be primarily administered by State governments either directly or through delegation to local governments, utilizing both public facilities and nonprofit providers; and both State and Federal courts shall have jurisdiction to enforce this

right in private actions brought by or on behalf of homeless individuals.

(b) EMERGENCY ASSISTANCE MADE MANDATORY.—Section 402(a) of the Social Security Act is amended—

(1) by striking "and" at the end of paragraph (38);

(2) by striking the period at the end of paragraph (39) and inserting "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide that the State will furnish emergency assistance to needy families with children and to individuals who are homeless in accordance with section 406(e).".

(c) SCOPE OF ASSISTANCE TO HOMELESS INDIVIDUALS.—Section 406(e) of such Act is amended by adding at the end the following new paragraph:

"(3) Emergency assistance under this subsection shall also be provided to all individuals in the State who are homeless without regard to the durational and eligibility requirements set forth in paragraph (1). Emergency assistance to such individuals may be in any form specified in or under subparagraphs (A) and (B) of paragraph (1), except that it shall in any event include the provision of adequate food and shelter and counseling concerning social services, including child care, job search assistance, and location of permanent housing; and such assistance shall be furnished in accordance with standards and reimbursement schedules established and prescribed in regulations by the Secretary.".

(e) CONFORMING AMENDMENTS.—Section 406(e)(1) of such Act is amended—

(1) by inserting "and to homeless individuals" immediately after "needy families with children";

(2) by inserting ", or furnished under subsection (e)(3) in the case of homeless individuals" immediately after "training for employment" in the matter preceding subparagraph (A); and

(3) by striking the semicolon at the end of subparagraph (B) and all that follows and inserting a period.

Subtitle B—Social Security Assistance to the Homeless

SEC. 111. OUTREACH TO HOMELESS INDIVIDUALS WHO MAY BE ELIGIBLE FOR BENEFITS UNDER OASDI AND SSI PROGRAMS.

Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

"OUTREACH TO HOMELESS INDIVIDUALS WHO MAY BE ELIGIBLE FOR OASDI OR SSI BENEFITS

"SEC. 1138. (a) The Secretary shall establish and conduct an ongoing program designed to provide information about benefits under title II and title XVI (including federally administered State supplementary benefits) to homeless individuals.

"(b) In conducting the program under this section, the Secretary shall—

"(1) seek to identify all homeless individuals (not already receiving benefits) who may qualify for any of the benefits referred to in subsection (a);

"(2) ensure that such individuals fully and clearly understand their rights under the programs involved;

"(3) assist such individuals in applying for any benefits for which they may be eligible and in obtaining and providing the information and supporting documents which may be necessary for that purpose; and

"(4) take any and all other actions which may be necessary or appropriate to ensure that all homeless individuals receive the benefits to which they are entitled.

"(c) In recognition of the particular difficulties which homeless individuals experience in understanding their rights and obtaining benefits to which they may be entitled under the programs involved, the Secretary shall require that all district offices of the Social Security Administration schedule regular hours, for the conduct of the activities described in subsection (b), at shelters and local programs that serve the homeless.

"(d) The Secretary shall—

"(1) periodically review the procedures of the Social Security Administration in order to identify and remove any bureaucratic barriers which homeless individuals may face when they file claims for benefits;

"(2) establish procedures to ensure that claims filed by homeless individuals are not dismissed merely because such individuals are unable to provide sufficient or correct information; and

"(3) establish accountability procedures designed to evaluate the performance by the district offices of the Social Security Administration of their functions under this section.

"(e) In carrying out the program under this section, the Secretary shall take such steps as may be necessary to ensure that all forms, notices, pamphlets, and other materials used under such program are written and arranged in a manner which is clear, readable, and suited to the needs of the homeless individuals involved, and that such materials will be distributed where homeless individuals are to be found and will fully and fairly provide such individuals with the information necessary to enable them to assess and understand their rights and to know what if any action is required.

"(f) The Secretary shall from time to time (not less often than annually) submit to the Congress a full and complete report on the program under this section, together with such recommendations as may be deemed appropriate.".

SEC. 112. EXTENSION OF SSI ELIGIBILITY FOR PUBLIC SHELTER RESIDENTS.

Section 1611(e)(1)(D) of the Social Security Act is amended—

(1) by inserting "or halfway house" after "public emergency shelter"; and

(2) by striking "; except" and all that follows and inserting a period.

Subtitle C—Health and Mental Health Care for the Homeless

SEC. 121. HEALTH AND MENTAL HEALTH SERVICES FOR THE HOMELESS.

(a) GRANTS.—From the funds appropriated under subsection (h), the Secretary of Health and Human Services shall make grants to qualified entities of the purpose of enabling those entities to deliver outpatient health care, mental health, case management, and advocacy services to homeless individuals and families.

(b) QUALIFICATIONS OF GRANTEES.—In order to receive a grant under this section, an applicant must be a public or private non-profit entity, and must have entered into a contract and qualified to receive payments, under the appropriate State plan approved under title XIX of the Social Security Act. In making grants, the Secretary shall give preference to qualified applicants that have experience in delivering health care or mental health services to medically underserved populations (as defined in section 330(a)(3) of the Public Health Service Act) or to individuals who are chronically mentally ill.

(c) SERVICES FURNISHED UNDER GRANT.—Entities receiving grants under this section must:

(1) provide outpatient health care, mental health, and case management services in locations that are accessible to homeless individuals and families, including shelters and other appropriate community residences;

(2) provide, or make arrangements for the provision of, 24-hour-a-day emergency health and mental health services to homeless individuals and families;

(3) make referrals of homeless individuals or families to hospitals for necessary inpatient services, and assist such individuals and families in obtaining funding for such services through Federal, State, or private sources;

(4) make referrals of homeless individuals diagnosed as having communicable diseases to appropriate local public health agencies for treatment;

(5) provide outreach services to inform homeless individuals and families of the availability of health care and mental health services; and

(6) advocate on behalf of homeless individuals and families to assure that health care resources are made available from public and private sources to meet the health and mental health needs of such individuals.

(d) LIMITATION ON CHARGES FOR SERVICES.—Entities receiving grants under this section must provide health care and mental health services, within the limits of its capacity, to any homeless individual or family regardless of ability to pay for such services. If any entity receiving grants under this section imposes charges for health care services furnished under the grant, such charges—

(1) must be pursuant to a public schedule of charges;

(2) may not be imposed with respect to homeless individuals or families whose income is below the nonfarm income official poverty line defined by the Office of Management and Budget (and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981); and

(3) must be adjusted to reflect the income and resources of the homeless individual or family provided the services.

(e) USE OF GRANT FUNDS.—Funds provided under a grant under this section may not be used for any of the following purposes:

(1) to provide services other than outpatient health care, mental health care, case management, and advocacy;

(2) to make cash payments to homeless individuals or other intended recipients of services;

(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment, unless the Secretary finds, based on a showing of exceptional circumstances, that a waiver of the requirement in this paragraph will is essential to carrying out the purposes of this section; and

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

(f) REQUIREMENT FOR NON-FEDERAL MATCHING.—A grant to an entity under this section may not exceed 75 percent of the cost of the services for which the grant is made. Non-Federal contributions required by this paragraph may be in cash or in kind, fairly evaluated, including plant, equipment, or services, but not including amounts provided by the Federal Government or services assisted or subsidized by the Federal Government.

(g) OTHE TERMS AND CONDITIONS OF GRANT.—No grant may be approved under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain and be accompanied by such information as the Secretary may specify. No such application may be approved unless it contains assurances that—

(1) the applicant will use the funds provided only for the purposes specified in the approved application;

(2) the applicant will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this section;

(3) the applicant will establish an ongoing quality assurance program respecting services furnished under the grant and will maintain the confidentiality of patient records;

(4) in the case of an applicant for a project which will serve a homeless population including a substantial proportion of individuals of limited English-speaking ability, the applicant has (A) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences; and

(5) the applicant will report to the Secretary annually on the utilization, cost, and outcome of services furnished under the grant.

(h) AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (a), there are authorized to be appropriated $140,000,000 for fiscal year 1987.

Subtitle D—Emergency Food for the Homeless

SEC. 131. FOOD STAMP OUTREACH TO HOMELESS INDIVIDUALS.

(a) OUTREACH PERMITTED.—Section 11(e)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended by inserting after "Act" the following: ", except food stamp outreach activities directed at households that do not reside in permanent dwellings and households that have no fixed mailing addresses".

(b) ADMINISTRATIVE COSTS.—The first sentence of section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended by striking "and (4) fair hearings" and inserting "(4) fair hearings, and (5) outreach activities directed to the homeless".

SEC. 132. MEALS SERVED TO HOMELESS INDIVIDUALS.

(a) DEFINITION OF FOOD.—Section 3(g) of the Food Stamp Act of 1977 (7 U.S.C. 2012(g)) is amended—

(1) in clause (1), by striking "and (8)" and inserting "(8), and (9)";

(2) by striking "and" at the end of clause (7); and

(3) by inserting before the period at the end the following: ", and (9) in the case of households that do not reside in permanent dwellings and households that have no fixed mailing addresses (including residents in temporary shelters), meals prepared for and served by public or private nonprofit establishments (eating or otherwise) that feed such individuals, by private establishments that contract with the appropriate State agency to offer meals to such individuals at concessional prices, and by public or private nonprofit shelters in which such households temporarily reside and that do not require such households to pay more for such meals than other individuals are required to pay for such meals".

(b) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) of such Act (7 U.S.C. 2012(i)) is amended by inserting after "battered women and children," the following: "individuals who do not reside in permanent dwellings or have no fixed mailing addresses,".

(c) DEFINITION OF RETAIL FOOD STORE.—Section 3(k)(2) of such Act (7 U.S.C. 2012(k)(2)) is amended by striking "and (8)" and inserting in lieu thereof "(8), and (9)".

(d) REDEMPTION OF COUPONS.—The first sentence of section 10 of such Act (7 U.S.C. 2019) is amended—

(1) by striking "and" after "battered women and children,"; and

(2) by inserting after "blind residents" the following: ", and public or private nonprofit establishments, private establishments that contract with the appropriate State agency, or public or private nonprofit shelters that feed individuals who do not reside in permanent dwellings and individuals who have no fixed mailing addresses".

SEC. 133. AUTHORIZATION OF APPROPRIATIONS FOR FOOD STORAGE AND DISTRIBUTION COSTS.

Section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking "$50,000,000 for each of the fiscal years ending September 30, 1986, and September 30, 1987," and inserting "$50,000,000 for the fiscal year ending September 30, 1986, and $100,000,000 for each of the fiscal years ending September 30, 1987, through September 30, 1989,".

Subtitle E—Emergency Assistance to Homeless Families and Children

SEC. 141. EDUCATION FOR HOMELESS CHILDREN.

Subpart 3 of part C of the General Education Provisions Act is amended by inserting after section 436 the following new section:

"EDUCATION FOR HOMELESS CHILDREN REQUIRED

"SEC. 436A. (a) No State or local educational agency may receive assistance under any applicable program unless such State or local educational agency has complied with the requirements of this section with respect to providing free public education to homeless children.

"(b)(1) Each State educational agency shall adopt and implement a plan to ensure that each homeless child within the State is provided full and equal educational opportunities.

"(2) Each local educational agency shall ensure that school social workers, attendance workers, or other qualified personnel interview families and children in shelters or other temporary housing within the school district of such agency in order to determine the educational needs of homeless children.

"(c)(1) No State or local residency requirement may be applied so as to bar any homeless child from attending school.

"(2) The local educational agency of each homeless child shall either—

"(A) continue the child's education in the school district of origin for the remainder of the school year; or

"(B) enroll the child in the school district where the child is actually living;

whichever is in the child's best interest.

"(3) The choice required by paragraph (2) shall be available regardless of whether the child is living with the homeless parents or has been temporarily placed elsewhere by the parents.

"(d) Each homeless child shall be provided adequate transportation to the school selected according to the provisions of subsection (c).

"(e) The records of each homeless child shall be maintained—

"(1) so that the records are immediately available when a child enters a new school district; and

"(2) in a manner consistent with section 438 of this Act.

"(f) Each local educational agency shall ensure that each homeless child may participate in all educational programs and services, including special programs for handicapped, disadvantaged, and for students with limited English proficient; programs in vocational education; programs for the gifted and talented; and school meals programs.".

SEC. 142. TEMPORARY SHELTER FOR RUNAWAY AND HOMELESS YOUTH.

(a) DEFINITION OF "PROVIDING TEMPORARY SHELTER".—Section 312(a) of the Runaway and Homeless Youth Act is amended by adding at the end the following: "For purposes of this subsection, 'providing temporary shelter' means providing shelter until permanent shelter can be provided elsewhere.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1986, and shall not apply with respect to assistance provided before such date under the Runaway and Homeless Youth Act.

SEC. 143. SHELTERS FOR HOMELESS PARENTS AND INFANTS.

The Secretary of Health and Human Services shall make grants to private, nonprofit organizations for the establishment or expansion of shelters for homeless parents and their newborn infants.

Subtitle F—Job Training for the Homeless

SEC. 151. AMENDMENTS TO THE JOB TRAINING PARTNERSHIP ACT.

(a) DEFINITION OF ECONOMICALLY DISADVANTAGED TO INCLUDE HOMELESS.—Section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)) is amended—

(1) by striking "or" at the end of subclause (D); and

(2) by inserting before the period at the end of subclause (E) the following: "; or (F) is a homeless individual".

(b) SERVICE LOCATIONS TO BE CONVENIENT TO HOMELESS.—Section 107(a) of such Act (29 U.S.C. 1517(a)) is amended by adding at the end the following: "Proper consideration shall also be given to the extent to which the service provider will provide services in locations that are convenient to homeless individuals.".

(c) INCLUDING HOMELESS AMONG THOSE ENCOUNTERING BARRIERS TO EMPLOYMENT.—Section 203(a)(2) of such Act (29 U.S.C. 1603(a)(2)) is amended by inserting "homeless individuals," after "veterans,".

Subtitle G—Entitlements Eligibility for the Homeless

SEC. 161. CLARIFICATION OF RESIDENCY REQUIREMENT UNDER CERTAIN ENTITLEMENT PROGRAMS.

(a) UNDER AFDC PROGRAM.—Section 402 of the Social Security Act is amended by adding at the end the following new subsection:

"(f) The lack of a permanent address shall not prevent any individual or family from being eligible for aid under the State plan or from receiving such aid. The State agency shall provide a method of receiving applications for aid under the plan, processing such applications and any claims which may arise in connection therewith, and making payments of such aid with respect to eligible individuals and families who do not reside in permanent dwellings or have fixed mailing addresses.".

(b) UNDER SSI PROGRAM.—Section 1611 of such Act is amended by adding at the end the following new subsection:

"Lack of Permanent Address Not To Affect Eligibility

"(i) The lack of a permanent address shall not prevent any individual from being eligible for benefits under this title or from receiving such benefits. The Secretary shall provide a method of receiving applications for benefits under this title, processing such applications and any claims that may arise in connection therewith, and making payments of such benefits with respect to eligible individuals (and eligible spouses) who do not reside in permanent dwellings or have fixed mailing addresses.".

(c) UNDER MEDICAID PROGRAM.—Section 1902(b)(2) of such Act is amended by inserting before the semicolon the following: ", regardless of whether or not the residence is maintained permanently or at a fixed address"

(d) UNDER VETERANS' PENSION PROGRAMS.—Section 3020(a) of title 38, United States Code (relating to payment and delivery of veterans' benefits), is amended by adding at the end the following new sentence: "The Veterans Administration shall design and implement a plan for transmittal or delivery of benefit checks to veterans who have no fixed or permanent address.".

(e) UTILIZATION OF SHELTER PERSONNEL.—In developing a method of receiving and processing the applications of homeless individuals pursuant to sections 402(f), 1611(i), and 1502(b)(2) of the Social Security Act and section 3020(a) of title 38, United States Code, the Secretary of Health and Human Services and the Administrator of Veterans' Affairs shall give consideration to training and utilizing the personnel of shelters and other entities serving the homeless to receive and process such applications.

TITLE II—PREVENTION OF HOMELESSNESS

Subtitle A—Prevention of Evictions and Foreclosures

SEC. 201. PREVENTION OF UNNECESSARY EVICTIONS FROM PUBLIC AND SUBSIDIZED HOUSING; PROVISION FOR RELOCATION; DEMOLITION OR OTHER DISPOSITION OF PUBLIC HOUSING.

(a) CONDITIONS TO BE MET BEFORE EVICTION.—

(1) IN GENERAL.—Before any owner or manager of any federally assisted rental housing project in any State may institute an eviction action for nonpayment of rent against any tenant in such housing project, the local public housing authority shall—

(A) review the tenant's situation and verify that the tenant's rent has been accurately computed and assessed;

(B) notify the tenant of any rental payment or relocation assistance which may be available through the State or local office of public assistance, or other sources such as the program of emergency assistance to needy families with children under section 406(e) of the Social Security Act (42 U.S.C. 606(e)), and the Federal Emergency Management Agency; and

(C) after performing the duty imposed under subparagraph (A), take reasonable steps to assist the tenant in relocating the tenant in emergency shelter if the tenant would otherwise become homeless.

(2) REGULATIONS.—Within 30 days after the effective date of this Act, the Secretary of Housing and Urban Development shall issue such regulations as may be necessary to ensure compliance with paragraph (1) with respect to any housing assisted by the Secretary under the United States Housing Act of 1937, section 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965.

(b) DEMOLITION OR OTHER DISPOSITION OF PUBLIC HOUSING.—

(1) Section 18(a)(1) of the United States Housing Act of 1937 is amended by striking "or " after "purposes," and inserting "and".

(2) Section 18(b) of the United States Housing Act of 1937 is amended—

(A) by striking "and " at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) the public housing agency has developed a plan for the addition of public housing dwelling units in an aggregate number equal to the number of such units proposed to be demolished or disposed under such application, and the Secretary has agreed to provide funding for such plan if necessary, except that (A) such 1-for-1 replacement requirement shall not apply if there is no local need for low-income housing as determined by the agency and the Secretary, after notification of and comments from the tenant and other interested parties; and (B) if necessary funding for public housing dwelling units is not available, project-based dwelling units assisted under section 8 may be substituted.".

SEC. 202. PREVENTION OF UNNECESSARY EVICTIONS FROM PRIVATE RENTAL HOUSING.

(a) GRANT PROGRAM.—The Secretary of Housing and Urban Development shall, to the extent approved in appropriation Acts, contract to make, and make, grants available to local governmental units for the purpose of providing emergency rent relief payments to landlords on behalf of tenants who face eviction due to temporary financial difficulties.

(b) RENTAL ASSISTANCE PAYMENTS.—

(1) AUTHORITY OF LOCAL GOVERNMENTAL UNITS TO MAKE RENT PAYMENTS TO LANDLORDS ON BEHALF OF CERTAIN TENANTS.—Any local governmental unit which receives any grant under subsection (a) shall use such grant to make emergency rent relief payments in accordance with paragraph (2), to landlords on behalf of tenants who meet the requirements of subsection (c) and who apply for such assistance. Not to exceed 5 percent of such grants may be used to cover administrative costs.

(2) AUTHORITY OF LOCAL GOVERNMENTAL UNITS TO DETERMINE PAYMENTS.—Local governmental units may determine the amounts necessary to be paid to any landlord under paragraph (1) on behalf of any tenant, beyond the amounts, if any, that the tenant is able to contribute toward rent payments, subject to the following conditions and limitations:

(A) MAXIMUM OF TOTAL RENT DUE.—The total amount of any payment shall not exceed the total amount of rent due the landlord from the tenant.

(B) INITIAL PAYMENT NOT TO EXCEED 3 MONTHS RENT.—The initial payment may include an amount necessary to make the payments of such rent current, except that such amount may not exceed an amount equal to 3 monthly rent payments of the tenant.

(C) MINIMUM AMOUNT TO BE PAID.—Payments are to be designed to ensure that the total monthly housing expense of the tenant does not exceed 30 percent of the monthly net effective income of the tenant.

(D) MAXIMUM OF 12 CONSECUTIVE MONTHLY PAYMENTS.—Payments are not to be made for a continuous period of more than 12 months.

(E) MAXIMUM OF 20 MONTHLY PAYMENTS OVERALL.—Payments are not to be made for an aggregate of more than 20 months.

(F) TERMINATION OF PAYMENTS.—Payments are to be terminated when the local governmental unit determines that changes in the financial circumstances of such tenant render such payments no longer necessary to prevent eviction of the tenant.

(3) EXPEDITIOUS PROCESSING OF APPLICATIONS.—Any local governmental unit which receives any grant under subsection (a) shall, within 21 days after the receipt of any application for rental assistance under subsection (b), notify the tenant and landlord involved of its determination to approve or disapprove the application. If the processing takes longer than 21 days, the application shall be automatically approved.

(4) ACCEPTANCE OF RENTAL ASSISTANCE PAYMENT BY LANDLORD IS A WAIVER OF CLAIMS AGAINST TENANT FOR NONPAYMENT OF RENT.—Any landlord who accepts any payment of assistance under paragraph (1) which covers the outstanding claims of the landlord waives the right to institute or continue eviction proceedings that are based on a claim of nonpayment of rent for any period before the date of the payment.

(5) REPAYMENT OF ASSISTANCE BY TENANTS.—

(A) IN GENERAL.—Payments made under paragraph (1) on behalf of any tenant shall be repayable to the Secretary by the tenant on terms and conditions prescribed by the Secretary consistent with this subsection.

(B) MAXIMUM AMOUNT.—Any local governmental unit which receives any grant under subsection (a) shall ensure that the monthly repayment amount for any tenant making repayments under subparagraph (A) is calculated so that the sum of the monthly repayment amount and the total monthly housing expense of the tenant is at most 30 percent of the monthly net effective income of the tenant.

(C) INTEREST CHARGES.—

(i) ESTABLISHED BY SECRETARY.—The Secretary may establish interest charges on payments made under paragraph (1), taking into consideration the average interest rate on all interest-obligations of the United States then forming a part of the public debt, computed at the end of the month preceding the month in which the initial payment is to be made on behalf of the tenant.

(ii) ACCRUAL.—Interest charges on any payments made under paragraph (1) shall not begin to accrue until termination of the payments.

(6) DEPOSITED IN EMERGENCY RENT RELIEF FUND.—Amounts received by the Secretary from any local governmental unit as repayments under paragraph (5) or as interest on assistance payments made under paragraph (1), shall be deposited in the account of the local governmental unit in the Emergency

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Rent Relief Fund established in subsection (h).

(7) MONITORING OF TENANT'S ABILITY TO PAY.—The Secretary shall establish procedures for any tenant on whose behalf payments are made under paragraph (1), and any tenant who is to make repayments under paragraph (5), to inform the local governmental unit making such payments, or receiving such repayments, of any significant increase or decrease in the income of the tenant.

(8) PERIODIC REVIEW OF TENANT'S FINANCIAL CIRCUMSTANCES.—The Secretary shall establish procedures to be followed by local governmental units for reviewing, not less frequently than annually, the financial circumstances of any tenant on whose behalf payments are to be made under paragraph (1), and any tenant who is to make repayments under paragraph (5), to determine whether such payments or repayments should be adjusted or terminated.

(c) ELIGIBILITY FOR ASSISTANCE.—Any local governmental unit which receives any grant under subsection (a) shall make rental assistance payments under subsection (b) to any landlord on behalf of any tenant if it has determined that all of the following requirements have been met:

(1) LANDLORD HAS NOTIFIED TENANT OF INTENT TO EVICT TENANT FOR NONPAYMENT OF RENT.—The landlord has notified the tenant that the landlord intends to evict the tenant for nonpayment of rent.

(2) RENTAL PROPERTY IS TENANT'S PRINCIPAL RESIDENCE.—The rental property involved is the principal residence of the tenant.

(3) RENT IS AT MOST THE MEDIAN RENT FOR UNITS IN THE AREA OF SIMILAR SIZE RENTED IN LAST 2 YEARS.—The monthly rent payable by the tenant is at most the median rent paid for rental units of the same size by tenants who moved into or within the area in which the local governmental unit is located during the most recently completed period of at most 24 months for which such data is available.

(4) RENT IS DELINQUENT DUE TO EVENTS OUTSIDE CONTROL OF TENANT.—Events outside the control of the tenant have rendered the tenant unable to—

(A) correct a rent payment delinquency within a reasonable time, and

(B) resume full rent payments.

(5) PAYMENT IS NECESSARY TO PREVENT EVICTION.—The payment is necessary to prevent eviction of the tenant.

(6) PAYMENTS WILL PROBABLY BE TEMPORARY.—There is a reasonable likelihood that the tenant will resume full rent payments—

(A) within 12 months after the beginning of the period for which payments under subsection (b) are to be provided, or

(B) on termination of assistance under such subsection.

(7) TENANT INCOME OR HOUSING CHARACTERISTICS.—The tenant—

(A) has an income not to exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(B) has suffered a precipitous loss of income beyond the tenant's control; or

(C) is likely to become homeless, as determined by the Public Housing Agency.

(d) APPLICATIONS FOR ASSISTANCE BY TENANTS.—

(1) LANDLORDS MUST NOTIFY QUALIFIED TENANTS.—Each landlord shall before instituting eviction proceedings against any tenant who meets the requirements of subsection (c)(2) provide actual notice to the tenant of the availability of assistance under subsection (b).

(2) LANDLORDS CANNOT BEGIN EVICTION PROCEEDINGS UNLESS LOCAL GOVERNMENTAL UNIT DISAPPROVES APPLICATION.—Eviction proceedings may not proceed against any tenant who meets the requirements of subsection (c)(2) and submits an application for assistance under subsection (b), before the landlord has been notified by the local governmental unit involved that the tenant's application has been disapproved.

(3) SUBMISSION OF APPLICATION STAYS EVICTION PROCEEDINGS UNTIL LOCAL GOVERNMENTAL UNIT DISAPPROVES APPLICATION.—The submission of an application for assistance by any tenant who meets the requirements of subsection (c)(2), after eviction proceedings have begun shall automatically stay the proceedings until receipt of notification of disapproval of such application.

(e) EFFECT OF LANDLORD NONCOMPLIANCE.—

(1) ENJOINMENT OF EVICTION PROCEEDINGS.—Any eviction proceeding in any State shall be enjoined on proof of failure to comply with paragraph (1) or (2) of subsection (d).

(2) PROHIBITION ON JUDICIAL APPROVAL OF EVICTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), in any State which requires judicial approval of eviction, compliance with paragraphs (1) and (2) of subsection (d) shall be pleaded and proved before such approval may be given with respect to any tenant eligible for assistance under subsection (b).

(B) EXCEPTION IN CASE OF TENANTS REFUSING TO APPLY FOR ASSISTANCE.—Proof of the refusal of any tenant eligible for assistance under subsection (b) to submit an application for such assistance shall satisfy the burden of proof established in subparagraph (A).

(f) ALLOCATION OF GRANTS TO LOCAL GOVERNMENTAL UNITS.—

(1) ALLOCATION FORMULA.—The Secretary shall allocate the amounts to be made available under subsection (a) so that the aggregate amount allocated to local governmental units in any State shall be equal to the sum of—

(A)(i) the ratio of the number of unemployed persons in the State to the number of unemployed persons in the United States, multiplied by

(ii) ⅓ of the amount appropriated under the authority established in this section;

(B)(i) the ratio of the population of the State to the population of the United States, multiplied by

(ii) ⅓ of the amount so appropriated; and

(C)(i) the ratio of the extent of poverty in the State to the extent of poverty of the United States, multiplied by

(ii) ⅓ of the amount so appropriated.

(2) APPLICATION FOR GRANTS.—Applications for grants under subsection (a) shall be made by local governmental units in such form, and according to such procedures, as the Secretary shall prescribe.

(3) RULES FOR CONSIDERATION OF APPLICATIONS.—In considering applications for grants under subsection (a), the Secretary shall take into account—

(A) the degree of demonstrated need in the local governmental unit; and

(B) the capacity of the local governmental unit to administer the program of assistance under this section.

(4) PROCESSING OF APPLICATIONS.—The Secretary shall process applications for grants under subsection (a) as expeditiously as possible, and shall make such grants within 60 days after the effective date of the regulations issued by the Secretary under subsection (g).

(g) AUTHORITY OF THE SECRETARY.—Within 90 days after the effective date of this Act, the Secretary shall issue such regulations as may be necessary to carry out this section.

(h) EMERGENCY RENT RELIEF FUND.—

(1) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a revolving fund, to be known as the Emergency Rent Relief Fund.

(2) COMPOSITION OF FUND.—The Fund shall consist of—

(A) any amount approved in appropriation Acts for purposes of carrying out this section;

(B) any amount received by the Secretary as repayment for payments made under subsection (b);

(C) any amount collected by the Secretary under subsection (g)(2)(A); and

(D) any amount received by the Secretary from investments made under paragraph (4).

(3) AVAILABILITY OF FUNDS.—Amounts in the Fund by reason of subsection (b)(6) or (g)(2)(A), or by reason of investments made under paragraph (4), shall, to the extent provided in appropriation Acts, be used by the Secretary to make grants to local governmental units—

(A) for the making of emergency rent relief payments to landlords on behalf of tenants under subsection (b); and

(B) for the administrative expenses associated with the making of such payments not to exceed 5 percent of the funds authorized for this section.

(4) INVESTMENT OF SURPLUS FUNDS.—Any amount in any account of the Fund determined by the Secretary to be more than the amount required to be in such account during the next 12 months to carry out this section shall be invested by the Secretary in obligations of, or guaranteed as to both principal and interest by, the United States or any agency of the United States.

(i) REPORT TO CONGRESS.—Within 60 days after the effective date of this Act, and not less frequently than every 90 days thereafter, the Secretary shall submit to the Congress a report on—

(1) the then current rate of rent payment delinquencies and evictions in the rental housing market areas of the Nation of immediate concern if the purposes of this section are to be achieved; and

(2) actions taken and actions likely to be taken with respect to making assistance under this section available to alleviate hardships resulting from any serious rates of delinquencies and evictions.

(j) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(2) LOCAL GOVERNMENTAL UNIT.—The term "local governmental unit" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(3) TOTAL MONTHLY HOUSING EXPENSE OF THE TENANT.—The term "total monthly housing expense of the tenant" means the sum of—

(A) the monthly rent payment due by the tenant; and

(B) the average monthly utility costs of the tenant with respect to the tenant's dwelling unit.

(4) INCOME OF THE TENANT.—The term "monthly net effective income of the tenant" means the the tenant's adjusted income, as defined in section 3(b)(5) of the United States Housing Act of 1937.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) FUND.—The term "Fund" means the Emergency Rent Relief Fund established in subsection (h).

(k) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section there is authorized to be appropriated $250,000,000 for fiscal year 1987. Any amount so appropriated shall be deposited in the Fund and shall remain available until expended.

(l) BORROWING AUTHORITY.—To carry out the purposes of this section, the Secretary of Housing and Urban Development may issue to the Secretary of the Treasury notes or other obligations to the extent approved in appropriation Acts, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made. The Secretary of the Treasury shall purchase any notes and obligations issued hereunder and for that purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code; and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by the Secretary of the Treasury under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. The Secretary of Housing and Urban Development may not issue notes or other obligations to the Secretary of the Treasury pursuant to this section except as approved in appropriation Acts.

Subtitle B—Preservation of Low Income Housing

SEC. 211. PRESERVATION OF SINGLE ROOM OCCUPANCY BUILDINGS.

(a) RECEIPT OF CERTAIN FEDERAL FUNDS CONDITIONED ON PRESERVATION OF SRO'S.—

(1) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 104(c) of the Housing and Community Development Act of 1974 is amended by inserting "and the number of properties in which some or all of the units lack bathroom or kitchen facilities suitable to meet the needs of homeless individuals and families" after "abandoned dwelling units" in paragraph (1)(A).

(2) URBAN DEVELOPMENT ACTION GRANTS.—Section 119 of such Act is amended by adding at the end the following:

"(s) No assistance may be provided under this section for projects which would result in the closing or removal from service or demolition of residential property in which some or all of the dwelling units lack bathroom or kitchen facilities.".

(b) ADDITIONAL ALLOCATION OF SECTION 8 CERTIFICATES.—

(1) EXISTING HOUSING PROGRAM.—In addition to the amount of budget authority provided for section 8(b)(1) of the United States Housing Act of 1937 in appropriation Acts for fiscal year 1987, the Secretary may reserve authority to enter into contracts for annual contributions obligations aggregating not more than $25,710,000 for the preservation of private residential property in which some or all of the dwelling units lack bathroom or kitchen facilities.

(2) MODERATE REHABILITATION PROGRAM.—In addition to the amount of budget authority provided for section 8(e)(2) of the United States Housing Act of 1937 in appropriation Acts for fiscal year 1987, the Secretary may reserve authority to enter into contracts for annual contributions aggregating not more than $30,750,000 for the preservation of private residential property in which some or all of the dwelling units lack bathroom or kitchen facilities.

(3) ELIGIBILITY FOR SECTION 8.—The second sentence of section 3(b)(3) of the United States Housing Act of 1937 is amended by inserting ", except units assisted under section 8" before the period.

SEC. 212. CONTINUATION AND EXPANSION OF RURAL HOUSING PROGRAMS.

(a) FUNDING.—Section 513(c) of the Housing Act of 1949 is amended to read as follows:

"(c) The Secretary may, to the extent approved in appropriation Acts, enter into rental assistance contracts under section 521(a)(2)(A) aggregating not more than $300,000,000 during fiscal year 1987."

(b) RESTRICTIONS ON DISPOSAL OF PROPERTY IN FmHA INVENTORY.—Section 510(e) of the Housing Act of 1949 is amended by inserting before "unless (1)" the following: "on the private housing market unless the Secretary first offers such property to persons eligible for assistance under this title, and, if any such property remains available after such offering, offers such property for sale to public or private nonprofit organizations for rehabilitation with financing under this title or through other public or private financing, on the condition that only low income families or persons or very low-income families or persons will be thereby assisted, and, if any such property still remains available, makes such property available for use as shelter for the homeless to the extent there is a need for such shelter, and".

Subtitle C—Prevention of Homelessness of Disabled and Institutionalized Persons

SEC. 221. ELIGIBILITY OF MENTALLY ILL PERSONS FOR HUD-ASSISTED HOUSING.

The Secretary of Housing and Urban Development shall withdraw regulations, proposed before the date of enactment of this Act, under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and issue revised rules under such section consistent with the nondiscrimination policy of such section.

SEC. 222. IMMEDIATE SSI PAYMENTS TO CHRONICALLY MENTALLY ILL INDIVIDUALS.

Section 1631(a)(4) of the Social Security Act is amended by adding at the end (after and below subparagraph (B)) the following: "For purposes of subparagraph (B), any individual who is chronically mentally ill, as determined in accordance with regulations of the Secretary on the basis of definitions prescribed by qualified medical and mental health experts, shall be considered to be presumptively disabled and shall be so certified by the Secretary. Any such certification shall be effective for a period of 6 months from the date it is issued.".

SEC. 223. CONTINUATION OF FULL SSI BENEFITS THROUGH THIRD MONTH OF INSTITUTIONALIZATION.

Section 1611(e)(1) of the Social Security Act is amended—

(1) in subparagraph (A), by striking "and (D)" and inserting "(D), and (E)";

(2) in subparagraph (B), by inserting "(subject to subparagraph (E))" after "throughout any month"; and

(3) by adding at the end the following new subparagraph:

"(E) A person may be an eligible individual or eligible spouse for purposes of this title, and subparagraph (B) shall not apply, with respect to any particular month throughout which he or she is in a hospital, extended care facility, nursing home, or intermediate care facility or community residence receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, if—

"(i) such person (upon his or her admission to the institution involved) may reasonably be expected to be institutionalized for a period of 3 months or less, as determined on the basis of a physician's certification;

"(ii) the particular month involved is one of the first 3 months throughout which such person is in the institution during a continuous period of institutionalization;

"(iii) such person is chronically mentally ill (as defined by the Secretary in regulations); and

"(iv) such person (alone or with his or her spouse), throughout the particular month involved, continues to maintain and provide for the expenses of a personal residence to which he or she may return upon discharge from the institution.".

SEC. 224. PRE-RELEASE PROCEDURES FOR INSTITUTIONALIZED PERSONS.

Section 1631 of the Social Security Act is amended by adding at the end the following new subsection:

"Pre-Release Procedures for Institutionalized Persons

"(j)(1) The Secretary shall provide for the establishment, maintenance, and improvement of procedures designed to ease the transition of institutionalized persons from medical, penal, and other institutions to the community, and to prevent homelessness, by permitting such persons to apply for benefits under this title prior to their discharge or release from such institutions and thereby assuring that essential support (such as housing, food, and clothing) is available to them upon such discharge or release.

"(2) Under regulations prescribed by the Secretary, the procedures described in paragraph (1) shall—

"(A) require that personnel of the district offices of the Social Security Administration, and of the appropriate State disability determination services, make regular visits to all institutions of the types involved to receive and process applications for benefits under this title;

"(B) provide for the development of descriptive materials on such procedures for use by such district offices and by social service departments in such institutions;

"(C) provide training for employees in such district offices; and

"(D) establish time limits within which State agencies must complete their processing of applications filed pursuant to such procedures.".

SEC. 225. SINGLE APPLICATION FOR SSI AND FOOD STAMP BENEFITS BY SSI PRE-RELEASE INDIVIDUALS.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following new subsection:

"(p) The Secretary and the Secretary of Health and Human Services shall develop a system under which an individual applying for supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) prior to the discharge or release of the individual from a public institution under the pre-release program established under section 1635 of such Act shall also be permitted to apply for participation in the food stamp program by executing a single application.".

Subtitle D—Prevention of Homelessness of Families and Children

SEC. 231. MODIFICATION OF AFDC DEEMING RULES FOR DEPENDENT CHILDREN IN EXTENDED FAMILIES.

(a) IN GENERAL.—Section 402(a) of the Social Security Act is amended—

(1) in paragraph (31)—

(A) by striking all beginning with "(or such" through "the month");

(B) by striking "(B)" and inserting "(C) 185 percent of";

(2) by adding "and" at the end of paragraph (36);

(3) by striking "; and" at the end of paragraph (37) and inserting a period; and

(4) by striking paragraphs (38) and (39).

(b) CONFORMING AMENDMENT.—Section 402(a)(7) of such Act is amended by striking "or (31)" in the matter preceding subparagraph (A).

SEC. 232. FOSTER CARE MAINTENANCE PROGRAM.

Section 472 of the Social Security Act is amended by adding at the end the following new subsection:

"(i) Foster care maintenance payments may be made under this part on behalf of any child otherwise qualified for such payments, up to the age of 21, so long as such child meets the requirements of subparagraph (A), (B), or (C) of section 406(a)(2) (as applied in the State involved) or is participating in an independent living program established under section 477 or in another supervised independent living program approved by the Secretary for purposes of this section.".

TITLE III—INCREASED LOW INCOME HOUSING

SEC. 301. INCREASED FUNDING FOR SECTION 8 EXISTING HOUSING AND MODERATE REHABILITATION PROGRAMS.

(a) EXISTING HOUSING PROGRAM.—Section 5(c) of the Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(8) Notwithstanding any other provision of this subsection and in addition to any authority to enter into contracts contained in any other provision of this subsection, the Secretary may, to the extent provided in advance in appropriation Acts, enter into contracts under section 8(b)(1) of the United States Housing Act of 1937 to assist 100,000 additional families occupying existing dwelling units each year for 15 years. The authority contained in the preceding sentence shall cease to be effective on the expiration of 15 years after the effective date of the Homeless Persons' Survival Act of 1986.".

(b) MODERATE REHABILITATION PROGRAM.—Section 5(c) of such Act is amended by adding at the end the following new paragraph:

"(9) Notwithstanding any other provision of this subsection and in addition to any authority to enter into contracts contained in any other provision of this subsection, the Secretary may, to the extent provided in advance in appropriation Acts, enter into contracts under section 8(e)(2) of the United States Housing Act of 1937 to assist 40,000 additional families occupying existing dwelling units each year for 15 years. The authority contained in the preceding sentence shall cease to be effective on the expiration of 15 years after the effective date of the Homeless Persons' Survival Act of 1986.".

(c) MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS.—

(1) GOALS.—Section 203(a) of the Housing and Community Development Amendments of 1978 is amended by striking "(a)" and all that follows through the semicolon at the end of paragraph (1) and inserting the following:

"(a) The Secretary of Housing and Urban Development (hereinafter in this section referred to as the 'Secretary') shall manage and dispose of multifamily housing projects that are owned by the Secretary, or whose mortgages are held by, assigned to, or being foreclosed upon by the Secretary, in a manner that is consistent with the National Housing Act and this section and that will, in the least costly fashion among the reasonable alternatives available, further the goals of—

"(1) preserving so that they are available to, and affordable by, low- and moderate-income persons—

"(A) all units in multifamily housing projects that are formerly subsidized projects; and

"(B) in all other multifamily housing projects, at least those units that are, on the date of assignment, occupied by low- and moderate-income persons or vacant;".

(2) MANAGEMENT SERVICES.—Section 203(b)(2) of such Act is amended by striking ", owned by the Secretary" and inserting "to which subsection (a) applies".

(3) MAINTAINING OF PROJECTS.—Section 203(c) of such Act is amended to read as follows:

"(c) The Secretary shall—

"(1) to the greatest extent possible, maintain all occupied multifamily housing projects to which subsection (a) applies in a decent, safe, and sanitary condition;

"(2) to the greatest extent possible, maintain full occupancy in all such projects; and

"(3) maintain all such projects for purposes of providing rental or cooperative housing for the longest feasible period.".

(4) FINANCIAL ASSISTANCE.—Section 203 of such Act is amended—

(A) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(B) by inserting after subsection (c) the following new subsection:

"(d) In carrying out the goals specified in subsection (a)(1) the Secretary shall, to the extent provided in appropriation Acts, take one or both of the following actions:

"(1) Enter into contracts under section 8 of the United States Housing Act of 1937 with owners of multifamily housing projects that are acquired at foreclosure or after sale by the Secretary. Such contracts shall be attached to the project involved for a period of not less than 15 years and shall be sufficient to assist all units that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, or that are vacant at such time (which units shall forthwith be made available for such families). In order to make available to families any units that are occupied by persons not eligible for assistance under such section 8, but that subsequently become vacant, the contract shall also provide that when any such vacancy occurs the owner involved shall apply to the Secretary for additional assistance to the project involved under the same terms as the original assistance. The Secretary shall provide such contracts at fair market rents that, consistent with subsection (a), provide for the rehabilitation of such project and do not exceed the most recently adjusted fair market rents for substantially rehabilitated units published by the Secretary in the Federal Register. Such contracts shall not be subject to section 16 of the United States Housing Act of 1937.

"(2) Provide purchase-money mortgages to the owners of multifamily housing projects that are acquired at foreclosure or after sale by the Secretary on terms that will ensure that the project will remain available to and affordable by low- and moderate-income persons for a period of not less than 15 years.".

(5) PARTIAL CLAIM PAYMENTS.—Section 203(e)(1) of such Act, as so redesignated by this subsection, is amended by striking "owned by the Secretary" and inserting "to which subsection (a) applies".

(6) LIMITATIONS ON CERTAIN TRANSFERS.—Section 203 of such Act is amended—

(A) by redesignating subsections (g) and (h), as so redesignated by this subsection, as subsections (h) and (i); and

(B) by inserting before such subsection (h) the following new subsection:

"(g)(1) The Secretary may not approve the transfer of any mortgage insured by the Secretary on any formerly subsidized project unless such transfer is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such mortgage in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by such mortgage.

"(2) The Secretary may not approve a transfer of the physical assets of any formerly subsidized project subject to a mortgage held or insured by the Secretary unless the proposed owner agrees to maintain the low- and moderate-income character of such project for a period of not less than the remaining term of such mortgage.".

(7) FORMERLY SUBSIDIZED PROJECTS.—Section 203(h) of such Act, as so redesignated by this subsection, is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraph:

"(2) For the purpose of this section, the term 'formerly subsidized project' means a multifamily housing project receiving any of the following assistance immediately before the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary:

"(A) below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act;

"(B) interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act;

"(C) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965;

"(D) direct loans at below market interest rates, made under section 202 of the Housing Act of 1959 or section 312 of the Housing Act of 1964; or

"(E) housing assistance payments made under section 23 of the United States Housing Act of 1937 (as in effect before January 1, 1975) or section 8 of the United States Housing Act of 1937 (other than subsection (b)(1) of such section).".

(b) ACQUISITION OF INSURED MULTIFAMILY HOUSING PROJECTS.—Section 207(k) of the National Housing Act is amended by inserting after the second sentence the following new sentence: "In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 203(a)(1) of the Housing and Community Development Amendments of 1978.".

SEC. 302. EXPANSION OF NEWLY CONSTRUCTED OR SUBSTANTIALLY REHABILITATED PUBLIC HOUSING UNITS.

(a) CONSTRUCTION AND REHABILITATION.—Section 5(c) of the Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(10) Notwithstanding any other provision of this subsection and in addition to any authority to enter into contracts contained in any other provision of this subsection, the Secretary may, to the extent provided in advance in appropriation Acts, enter into contracts for the construction or rehabilitation of 40,000 additional public housing units each year for 15 years. The authority contained in the preceding sentence shall cease to be effective on the expiration of 15 years after the effective date of the Homeless Persons' Survival Act of 1986.".

(b) PERFORMANCE FUNDING SYSTEM.—

(1) IN GENERAL.—Section 9(a) of such Act is amended—

(A) by striking the last sentence of paragraph (1); and

(B) by adding at the end the following new paragraph:

"(3)(A) For purposes of making payments under this section, the Secretary shall utilize a performance funding system that is substantially based on the system defined in regulations and in effect on November 30, 1983 (as modified by this paragraph), and that establishes standards for costs of operation and reasonable projections of income, taking into account the character and location of the project and the characteristics of the families served, in accordance with a formula representing the operations of a prototype well-managed project. Such performance funding system shall be established in consultation with public housing agencies and their associations, be contained in a regulation promulgated by the Secretary prior to the start of any fiscal year to which it applies, and remain in effect for the duration of such fiscal year without change.

"(B) Under the performance funding system established under this paragraph—

"(i) changes to the allowable expense level shall be made annually to reflect actual inflation rates for the most recent year for which data is available;

"(ii) in the first year that the reductions occur, any public housing agency shall share equally with the Secretary any cost reductions due to the differences between projected and actual energy rates attributable to actions taken by the agency which lead to such reductions;

"(iii) funds received by any public housing agency from sources other than tenant rents or other tenant payments, investment income, or income earned from commercial leases or receipts, including any amounts recovered through litigation, shall not be counted as income in computing the allowable subsidy nor shall prior receipt of any such funds affect the allowable expense level;

"(iv) payments to public housing agencies may only be ratably reduced if sufficient funds are not available, and, if excess funds are available, they shall be retained by the Secretary for use in the next fiscal year;

"(v) there shall be a formal review process for the purpose of providing such increases to the allowable expense level of a public housing agency as necessary—

"(I) to correct inequities and abnormalities that exist in the base year expense level of such public housing agency;

"(II) to reflect changes in operating circumstances since the initial determination of such base year expense level; and

"(III) to ensure that the allowable expense limit accurately reflects the higher cost of operating the project in an economically distressed unit of local government;

"(vi) public housing agencies shall be reimbursed for costs incurred that were beyond their control and the full extent of which were not taken into consideration in the original distribution of funds for the fiscal year involved;

"(vii) subsidy eligibility shall be calculated on the basis of 97 percent occupancy rate, except that a lower occupancy rate shall be permitted if—

"(I) it is due to vacant units in projects funded for modernization activity that is on schedule; or

"(II) it is acceptable to the Secretary as part of the plan of the public housing agency to achieve not less than a 97 percent occupancy rate over a reasonable period of years;

"(viii) public housing agencies shall maintain reasonable operating reserves similar to those established by well-managed, privately owned rental property;

"(ix) the estimate of the rental income for the next fiscal year of a public housing agency shall be based on the actual rent for the fourth, fifth, or sixth month prior to the beginning of the new fiscal year of the public housing agency;

"(x) any revenues resulting from rental income or other income (excluding investment income) in excess of estimated revenues from such items may not be recaptured, used, or computed to reduce assistance provided under this section, unless such estimate—

"(I) was unreasonable according to regulations in effect when the estimate was made; or

"(II) was fraudulent and deceptive; and

"(xi) estimated investment income may be recomputed and appropriate adjustments may be made at the end of the fiscal year to reflect actual average cash availability and average interest rates during such year.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of such Act is amended—

(A) by striking "not" the first place it appears and all that follows through ", and by"; and

(B) by inserting before the period at the end the following: ", and, for fiscal year 1987, the same amount as was authorized to be appropriated for fiscal year 1986 (of which amount not more than $100,000,000 shall be made available for purposes of clauses (v) and (vi) of subsection (a)(3)(B))".

(3) TIME OF PAYMENT.—Section 9 of such Act is amended by adding at the end the following new subsection:

"(e) Assistance to be provided to any public housing agency under this section for any fiscal year of such agency shall commence not later than the 1st month of such fiscal year, and shall be paid in equal monthly or quarterly installments or in accordance with such other payment schedule as may be agreed upon by the Secretary and such agency.".

(c) MODERNIZATION OF VACANT UNITS.—Section 5(c) of such Act is amended by adding at the end the following new paragraph:

"(11) Notwithstanding any other provision of this subsection and in addition to any authority to enter into contracts contained in any other provision of this subsection, the Secretary may, to the extent provided in advance in appropriation Acts, enter into contracts for the modernization of 70,000 additional vacant public housing units each year for 15 years. The authority contained in the preceding sentence shall cease to be effective on the expiration of 15 years after the effective date of the Homeless Persons' Survival Act of 1986.".

SEC. 303. INCREASE AVAILABILITY OF TAX-FORECLOSED PROPERTY TO HOUSE THE HOMELESS.

Section 104(b)(4) of the Housing and Community Development Act of 1974 is amended by inserting before the semicolon the following: "and it has adopted the necessary ordinances and administrative procedures to ensure that vacant properties which are taken through in rem proceedings, held by the grantee, and suitable for housing or related services, are conveyed to public or private nonprofit agencies serving the homeless which can demonstrate a sound plan for rehabilitating (if necessary) or operating such properties, subject to the agency's use of the property for the homeless".

SEC. 304. RESIDENTIAL ALTERNATIVES FOR THE MENTALLY ILL HOMELESS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 103 of the Housing and Community Development Act of 1974 is amended by inserting after the second sentence the following new sentence: "There is authorized to be appropriated for purposes of assistance under sections 106 and 107, $4,000,000,000 for fiscal year 1987. The Secretary shall assure that 13.275 percent of such funds are used nationally to provide group living arrangements and other community residence programs to homeless individuals who are mentally ill.".

(b) HOUSING FOR THE ELDERLY OR HANDICAPPED.—Section 202(a)(4) of the Housing Act of 1959 is amended by adding after subparagraph (C) the following new subparagraph:

"(D) For assisting projects which provide group living arrangements for mentally ill individuals at risk of becoming homeless and for providing technical assistance to community groups desiring to expedite development of projects to house homeless individuals, there are authorized to be appropriated $125,000,000 for fiscal year 1987.".

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect on October 1, 1986.●

Mr. DANFORTH (for himself, Mr. ABDNOR, Mr. ANDREWS, Mr. BOSCHWITZ, Mr. BUMPERS, Mr. DURENBERGER, Mr. EXON, Mr. GRASSLEY, Mr. KASTEN, Mr. MATTINGLY, Mr. MOYNIHAN, Mr. NICKLES, Mr. PRESSLER, and Mr. PRYOR):

S. 2609. A bill to provide for the establishment of rural enterprise zones,

and for other purposes; to the Committee on Finance.

RURAL ENTERPRISE ZONE ACT

● Mr. DANFORTH. Mr. President, on behalf of myself and Senators ABDNOR, ANDREWS, BOSCHWITZ, BUMPERS, DURENBERGER, EXON, GRASSLEY, KASTEN, MATTINGLY, MOYNIHAN, NICKLES, PRESSLER, and PRYOR, I am today introducing the Rural Enterprise Zone Act of 1986. Our bill would authorize establishment of enterprise zones in America's neediest rural communities, giving a much-needed boost to State and local development efforts.

On June 16, 10 cosponsors joined me in introducing this legislation as an amendment to the Tax Reform Act. Though our strong support for the Senate Finance Committee's tax reform package prompted us to withdraw the amendment, we are committed to seeking Senate approval of this proposal. I look forward to working with my colleagues toward that end.

Rural America is today experiencing an upheaval as severe as any since the Great Depression. Families are losing farms they have worked for generations. Storeowners in many small towns can no longer hold out for better times. As tax revenues diminish, schools, libraries, and roads suffer, making decline even more difficult to reverse. Rural America's brightest young people are leaving their homes because they see no hope for the future. With businesses closing, there are fewer jobs available, yet more and more rural families need to find work which will allow them to keep their farms and homes. Unless Congress acts to help rural communities help themselves, it may soon be too late to reverse the decline that threatens our small towns.

Drawing on legislation which has twice been approved by the Senate, our bill would authorize the Secretary of Housing and Urban Development to designate up to 45 depressed rural areas as Federal enterprise zones. Only severely distressed areas—as measured by urban development action grant criteria, as well as unemployment, poverty, and population loss—would qualify for Federal incentives under this program. Businesses which locate or expand within the designated zones would be eligible for limited Federal tax and regulatory benefits, in addition to substantial benefits offered by State and local governments. Together, these commitments would give community leaders a powerful tool in their efforts to attract and keep needed jobs.

Thirty States have initiated enterprise zone programs, and the concept is already an integral part of economic development in many areas. Missouri's enterprise zone program assisted in attracting 4,600 new jobs during its first 2½ years. Nationally, State enterprise zone initiatives are credited with attracting $6.6 billion in new investment to depressed areas.

The Rural Enterprise Zone Act of 1986 would build on this success to address rural America's increasingly desperate plight. I am confident that this legislation will make a real contribution to the recovery of needy communities throughout the country, and I look forward to its enactment into law.●

● Mr. ANDREWS. Mr. President, I am delighted to cosponsor this important piece of legislation with Senator DANFORTH and others.

We are experiencing a crisis in rural America of immense proportions.

And every day it is getting worse.

In my State of North Dakota, our two major industries—agriculture and oil—are both suffering severe depression.

Far too many farmers have been holding out for the hope of getting just 1 good year so they can start to get back on their feet.

However, they can only hold out for so long.

Of those who have been able to avoid bankruptcy or foreclosure, many have already left the farms in search of employment elsewhere.

And too many who stay on the farm often need an outside job to supplement their income.

Some have already lost their farms and are seeking new occupations.

The farm crisis has had a crippling effect not only on the farmers themselves, but also on the communities of rural America.

As we know well in North Dakota, when the farmer has a bad year, the Main Street merchants have a bad year too.

When the farmers have several bad years, you have many small businesses which must severely cut back or close down entirely.

This results in additional lost jobs and further damage to our rural economy.

Although the farm crisis has been building for several years, my State has more recently been hit with an additional depression in the oil industry.

When you add the problems in the oil industry to that of the farm crisis, the result is major economic uncertainty in several of the Midwestern States, including North Dakota.

Some of the counties in our State have unemployment rates ranging as high as 17 percent.

In addition, these numbers do not reflect the fact that many of our talented young people have had to leave the State to find jobs elsewhere.

North Dakota's largest export is not wheat or oil, but tragically it is our dedicated, well trained young people.

Although many would like to remain in the State, job opportunities are limited.

The people in North Dakota and rural America have a strong work ethic.

They're dedicated, productive workers.

They just want the opportunity to provide a good living for themselves and their families.

All we need to do is to give incentive for business to locate in our rural areas.

I think this bill is a vital step toward achieving that goal.

We have a strong labor force in rural America, willing and waiting for job opportunities.

However, they can only wait so long.●

● Mr. DURENBERGER. Mr. President, I rise today to join my distinguished colleague from Missouri as cosponsor of the Rural Enterprise Zone Act of 1986. I have long been a supporter of the enterprise zone concept as an innovative approach to promote new jobs and industry in distressed areas. Typically, enterprise zones are envisioned as a response to economic decline in urban areas. In the bill we are introducing today, this promising concept is now adapted to the specific needs of rural America.

Mr. President, those needs have never been greater. My Subcommittee on Intergovernmental Relations recently explored a dimension of the farm crisis that has been largely overlooked thus far—the growing threat which that crisis, coupled with simultaneous cuts in Federal and State aid, poses to the future financial viability of rural governments in America.

Many Members of this body are already familiar with the grim reality of the farm crisis. A few figures tell the story:

Real net farm income declined from $14.9 billion in 1979 to just $5.4 billion in 1983.

In some States, farmland values have plummeted by as much as 44 percent over the past 5 years.

Total farm debt has soared to over $200 billion.

The farm crisis is not only a personal tragedy for thousands of farmers but also for small businesses. In one nine county area in southwestern Minnesota, we found that there are 3,650 fewer commercial sector jobs—about 15 percent—than there would have been had the relatively high income years of the mid-1970's continued. Without a healthy farm economy to support them, local businesses are forced to close, jobs are lost, and commercial property values decrease.

Together, these economic consequences of the agricultural recession threaten to create yet another victim of the farm crisis: rural States and local governments. As farmland and commercial property values decline, assessed property tax valuations—the

cornerstone of the local tax base—will also decline. And with property taxes comprising up to 48 percent of local own source revenues in some farm States, this devaluation places a severe strain on local governments' capacity to raise very basic public services like education, public safety, and health.

Nor are States often able to fill the gap. Half of the agriculturally dependent States examined in the subcommittee's study experienced revenue growth significantly below the national average in fiscal year 1985 or 1986, and some experienced actual declines in one of those years. As a result, three-fourths of these States were forced to make midyear budget reductions during the past year.

The bottom line of these trends is bleak. If a response is not made now, while there is still time, local governments in rural areas are in danger of losing one-fifth of their per capita revenues due to falling land values and cuts in Federal and State aid. That amounts to $1,000 per family of four.

At the same time local revenues are being squeezed, service demands on rural governments are increasing. More and more farmers and their families are seeking stress and financial counseling from public agencies and applying for AFDC and State and local general assistance programs.

In short, Mr. President, if we do not act now we may bear witness to a permanent decline in the quality of life in rural America.

The farm crisis does not lend itself to easy quick-fix solutions. The subcommittee's report suggests that action by all levels of government is needed to ease the financial squeeze felt by farmers, businesses, and rural government.

At the national level, tax policy offers one important avenue for addressing the long-term needs of rural America. The bill we are introducing today to establish rural enterprise zones utilizes one approach to using tax policy to aid distressed rural communities. Our proposal to provide special tax incentives for businesses locating or expanding in rural enterprise zones will create new job opportunities and strengthen the economic base of small rural towns.

Rural enterprise zones are especially attractive as a supplement to other tools in the revenue code which help diversify distressed rural economies. As we approach the home stretch in our drive to enact tax reform, one of the most critical decisions we can make is to preserve the full deductibility of State and local taxes. This deduction is the single most important national policy tool for enabling rural State and local governments to address their own public service and economic development needs. Without this deduction, State and local revenues may decline by as much as 20 percent over the long term.

The ability of State and local governments to issue tax-exempt bonds is another important tax policy which we in Congress must protect. The tax-exempt treatment of municipal bonds directly supports public infrastructure needs and lays a foundation for diversifying the economy.

Still, tax policy is only half the story. We must look at all the tools available to us in addressing the complex and difficult problems of rural development. In recent years, we at the national level have expressed concern about the rural crisis, but our budget decisions have sometimes made the rural decline more precipitous. Among the 85 agricultural counties studies by my subcommittee, Federal aid declined by 18 percent between 1982-84, compared to a national average increase of 0.1 percent. And the scheduled elimination of GRS will hit towns and counties in rural America twice as hard as the average locality.

Yet I believe there is a way to balance our growing budget constraints with our responsibility to aid rural communities in need. Over the coming weeks, I will be urging my colleagues to consider a streamlined program of general purpose grants targeted to our most distressed communities—in both rural and urban areas. The program, called targeted fiscal assistance [TFA], will serve as a fiscal safety net for needy communities, guaranteeing that they will be able to provide their citizens with a minimum level of basic services like police and fire, public health and sanitation, roads and bridges.

Can rural communities survive the farm crisis? I think they can, but only if government at all levels act swiftly and creatively. We, in Congress, must accept our part of the responsibility. We must seek innovative and effective solutions that balance our fiscal responsibilities with our responsibilities to communities in need. Rural enterprise zones meet this challenge, and I believe the Targeted Fiscal Assistance Program does as well. I urge my colleagues to support them.

Mr. President, I ask unanimous consent that a summary of my subcommittee's report "Governing the Heartland: Can Rural Communities Survive the Farm Crisis?" be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

GOVERNING THE HEARTLAND: CAN RURAL COMMUNITIES SURVIVE THE FARM CRISIS?

By the end of this decade, entire communities risk falling victim to the farm crisis unless federal and state policies are fashioned which respond to their growing needs. In the absence of appropriate policy responses, local government revenues in many rural states may fall 20% below the amounts needed to continue current services. At the same time, many rural communities will face increased service demands as financial and emotional stress takes its tolls among farmers and main street businessmen. Left alone, such communities will have little choice but to hasten their own decline by raising taxes from a dwindling tax base and by cutting the services needed to promote longterm economic development.

Can rural communities survive the farm crisis? Yes, but only if federal and state governments act creatively to address this growing revenue and service squeeze and help rural America cope with the transition to a more stable agricultural economy.

INTRODUCTION

For three years ominous headlines describing an expanding farm crisis have filled the nation's newspapers. The public has learned of the serious financial problems facing America's farmers, and of the massive drops in farm income and farm land values which have occurred during this decade. Attention has been focused on the direct, often dramatic impacts on individual farmers, their families, and on small businesses in rural communities throughout America.

Another dimension of the farm crisis has been largely overlooked—the growing threat to the financial viability of rural local governments. Declining farm incomes and farm property values erode the local tax base. At the same time, demands for many publicly provided services increase, creating a squeeze between falling revenues and higher costs. In many communities, the financial vise is being tightened further by cuts in federal and state aid.

If these trends continue, rural local government cannot avoid cutting services and raising taxes. In the absence of such actions, local government revenues will fall short of existing expenditure levels by an average $106 per capita in the eight multi-county regions examined. (figure 1) Under more pessimistic assumptions about further drops in land values and cuts in intergovernmental aids, per capita revenue shortfalls of $250 or more were estimated for some areas. (figure 18) The higher taxes and reductions in services necessary to overcome such shortfalls have the potential to permanently change the quality of life in the rural America.

THE TROUBLED AGRICULTURAL ECONOMY

Since 1980, net farm incomes have fallen precipitously. From 1980 through 1984, real farm incomes averaged only $25 billion in 1982 dollars, down nearly 40 percent from the average of the seventies and down more than 25 percent from the average of the sixties.

When farm incomes decline, main street spending also falls, eliminating jobs and reducing incomes in the local commercial sector. The size of the scope of those impacts was estimated for a nine-county region in southwestern Minnesota. Assuming that the average farm income levels of the early 1980s continue, there are 3650 fewer commercial sector jobs (about 15 percent) than there would have been had the relatively high-income years of the mid-1970s continued.

VANISHING HEALTH

The decline in agricultural income since 1981 has produced an enormous drop in the value of farm land. (figure 4) Nationwide, agricultural land values fell by more than 30 percent, or $227 per acre, during the past four years. Farm land values declined only

one other time in the postwar period, in 1954, when they fell by one dollar.

When viewed in constant dollars, the results are even more sobering. Nationwide, between 1982 and 1985, farm land values fell by $146 billion—a loss of wealth for farm land owners equal to the combined assets if IMB, GE, Kodak, Proctor & Gamble, 3M, Dow Chemical, McDonald's, RCA, Upjohn, Weyerhauser, and CBS.

IMPACTS ON LOCAL PROPERTY TAXES

Over time, this massive devaluation in farm assets will significantly erode the local tax base of rural communities. The impacts are already evident in Minnesota where taxable valuations dropped about 25 percent between 1983 and 1985. In other states, agricultural assessed values have remained relatively stable when measured in current dollars because assessment systems based on agricultural productivity are slow to adjust to changes in market values. Nevertheless, taxable valuations have already dropped an average of 20 percent since 1981 in inflation adjusted dollars. (figure 8) With land values continuing to fall, it is only a matter of time before declines in assessed valuations in current dollars are observed.

Dramatically increased rates of property tax delinquencies are a leading indicator of future problems. Between 1980 and 1985, annual delinquencies jumped severalfold in the Nebraska localities examined—rising from $.75 million to over $5.5 million. Delinquencies also more than doubled in the Iowa, Kansas, Minnesota, and Montana communities surveyed. (figure 10)

THE SERVICE SQUEEZE

Rural governments are being squeezed by increased service demands as well as falling revenues. Many of the new demands for services are a direct response to increasing unemployment in the agriculturally dependent regions. Although national unemployment rates fell 9 percent from January, 1985, to January, 1986, unemployment rose an average of 10 percent in five of the states studied and fell in only two.

Rising unemployment and financial stress are taking their toll on rural Americans and straining social service facilities. A regional mental health center in southwest Minnesota reports outpatient services up 30 percent since 1984; 24-hour crisis intervention activities are up over 300 percent; and substance and family abuse consultations are up 67 percent. Similarly, overall social service demands are up 30 percent in northern Iowa, despite declining population.

DIM PROSPECTS FOR STATE AID

Rural local governments can expect little immediate assistance from their states. State tax bases also depend on the health of the agricultural economy, and many states are under serious budgetary stress. Six of the eight study states had tax revenues grow more slowly than the national average in fiscal 1985, 1986, or both. There were absolute declines in revenues in four of the eight states in one of those two years. Six of the eight states surveyed were forced to take the extreme step of making mid-year reductions in their fiscal 1986 budgets.

FEDERAL AID CUTS COMPOUND THE FISCAL SQUEEZE

Federal aid reductions, past and prospective, are compounding the effects of the farm crisis on rural governments. Between 1982 and 1984, federal aid to general purpose local governments, excluding General Revenue Sharing, rose by .1 percent nationwide. In the eight agriculturally dependent regions examined in this study, federal aid actually declined by 18 percent during that same period.

The proposed elimination of revenue sharing will hit rural local governments twice as hard as the average locality. Revenue sharing comprised 44.5 percent of all federal aid received by agriculturally dependent local governments, but only 21.8 percent of the federal aid received by all general purpose local governments.

POLICY RESPONSES: COPING WITH CHANGE

The fiscal bind confronting rural governments is both immediate and long term. In the short run, the difficulties stem from the rapid rise in property tax delinquencies. The resulting cash flow problems are being compounded by reductions in state and federal aid.

Ultimately, the most serious problems are posed by the dramatic declines in farm land values. But, because assessed values in most states have only begun to reflect the steep fall in market values, serious long-term erosion in public services can still be avoided if prompt actions are taken at all levels of government. For local governments, this means continuing efforts to "do more with less," although there is evidence that many have already exhausted the efficiency gains from cutback management. For state governments, it means diversifying and broadening the tax base and attempting to maintain a constant level of state aids through tough fiscal times. For the federal government, it means preserving a leaner, more targeted version of general aid to local governments and maintaining those portions of the tax code that support local economic development and self-help.

The farm crisis ranks among the most severe regional economic recessions since the 1930s. If left unchecked, it has the potential to seriously—and in some cases permanently—undermine the fiscal foundations of many rural communities. But intelligent policy decisions, made before the situation worsens, can ease the impacts of transition to a more stable agricultural economy, and rural local governments can avoid becoming another victim of the farm crisis.●

By Mr. STEVENS:

S. 2611. A bill to improve efforts to monitor, assess, and reduce the adverse impact of driftnets; to the Committee on Commerce, Science, and Transportation.

DRIFTNET IMPACT MONITORING, ASSESSMENT, AND CONTROL ACT

● Mr. STEVENS. Mr. President, the discharge of plastics in the ocean environment is posing an increasing threat to the marine life which is so important to our Nation's citizens. The debris is produced from a wide variety of sources, but many of the problems facing marine life in the North Pacific are caused by the high seas fishing fleets of Japan, Taiwan, and the Republic of Korea.

Last year, I chaired a National Ocean Policy Study oversight hearing on the impact of the foreign pelagic driftnet fleets on salmon, marine mammal, and seabird populations. The nets create a devastating curtain of death for all living marine resources, a condition which I labeled "the AIDS of the North Pacific" during the hearing.

The total driftnet fishery fleets of Japan, Republic of Korea, and Taiwan number approximately 1,700 vessels, each of which sets a 9- to 20-mile-long net each night for a total of more than 1 million miles per year. The driftnet fishery contributes as much a 1,000 miles of lost and discarded netting a year. These "ghost nets" continue to create havoc for the living marine resources of the high seas for many years after they have been cut loose or lost by the high seas fishing fleets.

The 172-vessel Japanese mothership salmon fleet constitutes only 10 percent of the total number of vessels in the North Pacific. These vessels alone kill approximately 5,000 Dall's porpoise and 500,000 to 750,000 seabirds each year. If this kill is at all representative of the total fleet, the kill of marine mammals and seabirds is staggering.

The Japanese mothership and land-based salmon fleets also harvest 8 million salmon of North American origin each year. Moreover, the high loss rate for all salmon caught in driftnets results in substantial "noncatch mortality." In 1983, for example, 3 million salmon were entangled in driftnets but fell from the nets before they were hauled.

In response to concerns raised by Alaskans and various environmental organizations, I am today introducing legislation which will lay the groundwork for an eventual resolution of this environmental problem.

Section 3 provides for a definition of driftnet which excludes nets less than 1.5 miles in length. Though I have my doubts about the propriety of domestic driftnets of this length, I wish to avoid fisheries which are appropriately regulated under State law.

Section 4 requires a U.S. observer to be on all foreign fishing vessels which fish in U.S. waters, including Japanese salmon vessels fishing in accordance with the International North Pacific Fisheries Convention. This section prohibits fishing permits for those vessels which are deemed unsafe for the carriage of U.S. observers.

The legislation also requires the Federal Government to carry out a series of investigations into impacts of the high seas driftnet fishery, and submit recommendations to Congress on potential solutions. Section 4 requires the Secretary of State to negotiate scientific agreements with various foreign governments designed to develop cooperative monitoring programs and accurate assessments of the impact of the driftnet fishery on living marine resources. Section 5 requires the Secretary of Commerce to undertake an independent report on this matter. Section 8 requires the Secretary of Commerce to develop recommendations on a net marking and identification system. Part of this

study will include a detailed analysis of the application of biodegradable plastics to the driftnet fishery.

The Magnuson Fishery Conservation and Management Act currently imposes a fee on foreign fleets which fish in the U.S. EEZ. This fee is based on the costs of enforcement attributable to foreign fishing activity. Section 6 of my legislation provides that the costs of conducting an effective Coast Guard enforcement program relating to the International North Pacific Fisheries Convention be incorporated into the foreign fishing fee calculation.

Section 7 directs the Secretary of Commerce to create a "bounty" system for the retrieval of the ghost nets which plague salmon, seabird, and marine mammal populations.

Finally, section 9 creates a 60-mile "Seabird Protection Zone" around the Aleutian islands. All driftnet fisheries defined under this legislation would be prohibited within the confines of the zone. The Aleutians are an important breeding ground for Alaska's seabirds. Testimony at the October 9 oversight hearing highlighted the need for the creation of this zone.

The use of high seas driftnets is destructive and should be discontinued. Until such time, our Nation must convince other nations of the need to employ degradable plastics in their high seas fisheries. Concerned nations are already beginning to take action. It is my understanding that the Government of Australia has recently prohibited the Taiwanese high seas fleet from operating in its Exclusive Economic Zone.

However, Americans also discharge plastics into the ocean environment. I would like to submit an article from the June edition of Time which puts into perspective the impact of plastics on marine life, and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The impact of plastic pollution in general, and high seas driftnets in specific, will become the most important environmental issue facing Congress in the coming years. I urge my colleagues to follow the issue closely, and will welcome cosponsors to the bill I have introduced today.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Driftnet Impact Monitoring, Assessment, and Control Act of 1986".

FINDINGS

SEC. 2. The Congress finds that—

(1) the use of long, plastic driftnets is a wasteful, indiscriminate and destructive fishing technique that results in the entanglement and death of enormous numbers of target and non-target fish, marine mammals, seabirds, and other living marine resources off the coasts of the United States;

(2) there is a pressing need for detailed and reliable information on the number of fish, marine mammals, seabirds and other living marine creatures that become entangled and die in actively fished driftnets and in netting that is lost, abandoned or discarded; and

(3) increased efforts are necessary to monitor, assess and reduce the adverse impacts of driftnets.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires, the term—

(1) "driftnet" or "drift gillnet" means a gillnet composed of a panel of plastic webbing one and one-half miles or more in length that is placed in the water and allowed to drift with winds and currents for the purpose of entangling fish in the webbing in the course of commercial fishing operations; and

(2) "Secretary" means the Secretary of Commerce, or the Secretary's designee.

MONITORING

SEC. 4. (a) Section 201(i)(2) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821(i)(2)) is amended—

(1) in subparagraph (A), by inserting immediately after "vessels" the following: ", other than vessels harvesting anadromous species under the International Convention for the High Seas Fisheries of the North Pacific Ocean, and the North Pacific Fisheries Act of 1954 (16 U.S.C. 1021 et seq.),";

(2) in subparagraph (B)—

(A) by striking "zone—"and inserting in lieu thereof "zone,";

(B) by striking "(i)";

(C) by striking "impractical, or" and inserting in lieu thereof "impractical; or" and

(D) by striking clause (ii).

(b) Section 204(b)(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(6)) is amended by adding at the end thereof the following:

"(C) The Secretary shall not approve any permit for a vessel aboard which the facilities for quartering of a United States observer (pursuant to section 201(i)) or for carrying out the functions of such observer are determined by the Secretary to be so inadequate that the health, safety or welfare of such observer can not be assured.".

(c) The Secretary shall—

(1) immediately initiate, through the Secretary of State, negotiations with each foreign government that conducts, or authorizes its nationals to conduct, driftnet fisheries in waters off the coasts of the United States, for the purpose of arranging for reliable cooperative monitoring and assessment of the numbers of fish, marine mammals, seabirds and other living marine creatures killed and retrieved, discarded, or lost by that government's driftnet fishing vessels in waters beyond the jurisdiction of the United States;

(2) not issue any permit under section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)) to any vessel of any foreign government that fails, within one year after the date of enactment of this Act, to enter into an arrangement under paragraph (1) that is determined to be adequate by the Secretary; and

(3) provide to the Congress by not later than one year after the date of enactment of this Act a full report on the results of the Secretary's efforts under this section.

IMPACT REPORT

SEC. 5. The Secretary shall provide to the Congress within one year after the date of enactment of this Act, and every 12 months thereafter, a report identifying the nature, extent, and impact upon living marine resources of all driftnet fisheries off the coasts of the United States, both within and beyond the fishery conservation zone of the United States (as defined in section 3(8) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(8)). The report shall include the best available information on the number and flag state of vessels involved, the areas fished, the length, width, and mesh size of driftnets used, the target species, and the number of fish, marine mammals, seabirds, and other living creatures killed by such fishery, as well as any other information the Secretary considers appropriate. The Secretary, through the Secretary of State, shall request such information for inclusion in such report from the relevant foreign governments and shall include in such report an evaluation of the adequacy and reliability of the data and estimates received from such governments or other sources.

ENFORCEMENT AND FOREIGN FISHING PERMIT FEES

SEC. 6. Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended by adding at the end thereof the following:

"(G) The Secretary shall include in the determination of the total costs of carrying out the provisions of this Act the costs of an effective enforcement program for the exercise of exclusive management authority and, in particular, to ensure the conservation and management of all anadromous species throughout their migratory range, consistent with section 102 of this Act. The Secretary shall consult at least annually with the Secretary of the department in which the Coast Guard is operating to determine the costs of an optimally effective enforcement program so that it can be reflected in and fully recovered through the schedule of fees established pursuant to subparagraph (A).".

NET BOUNTY SYSTEM

SEC. 7. The Secretary shall promulgate regulations to implement a net bounty system to pay persons who retrieve from the marine waters of the United States and deposit with the Secretary, or the Secretary's designee, lost, abandoned, of discarded driftnet or other plastic fishing net material. The Secretary shall make such payments for this purpose as the Secretary determines to be appropriate from the Fishing Vessel and Gear Damage Compensation Fund established under section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) to the extent and in such amounts as are provided in advance in appropriation Acts.

NET MARKING, REGISTRY, AND IDENTIFICATION SYSTEM

SEC. 8. (a) The Secretary shall, in consultation with officials of other Federal agencies and such other persons as may be appropriate, develop recommendations for the establishment of a driftnet marking, registry, and identification system to provide a reliable mechanism for the determination of the origin by vessel, if possible, of lost, discarded, or abandoned driftnets and frag-

ments of driftnets. The Secretary shall also evaluate the feasibility of and develop recommendations for the use of biodegradable or other materials in a portion or all of the driftnet that would accelerate the decomposition of driftnets left to float at sea and thereby reduce the hazards such driftnets pose to living marine resources.

(b) The Secretary shall provide to the Congress, not later than six months after the date of enactment of this Act, a report setting forth—

(1) the recommendations developed under subsection (a) of this section;

(2) the most effective and appropriate means of implementing the recommendations;

(3) the need, if any, for further research and development efforts and the estimated cost and time required for completion of such efforts; and

(4) the need, if any, for legislation to provide authority to carry out such recommendations.

SEABIRD PROTECTION ZONE

SEC. 9. (a) There is established a seabird protection zone surrounding the Aleutian Islands off Alaska within which no driftnet fishing is permitted. The inner boundary of the zone is a line coterminous with the high water line on the shore of each of the Aleutian Islands and the outer boundary of the zone is a line drawn in such a manner that each point on the line is no less than 60 miles from the inner boundary line, except to the extent that such outer boundary would extend beyond waters or territory subject to the jurisdiction of the United States.

(b) The Secretary, in cooperation with the Secretary of the department in which the Coast Guard is operating, shall enforce the prohibition against driftnet fishing in the seabird protection zone established under section (a) of this section. Any such driftnet fishing within the zone shall constitute, be treated as, and deemed to be a prohibited act under section 307 (16 U.S.C. 1857) and subject to sections 307 through 311 (16 U.S.C. 1857-1861) of the Magnuson Fishery Conservation and Management Act relating to enforcement and penalties for such prohibited acts.

THE PERILS OF PLASTIC POLLUTION

Biologist Stewart Fefer and three colleagues from the U.S. Fish and Wildlife Service had eagerly anticipated their assignment: a trip to Laysan, a 960-acre island about 1,000 miles northwest of Honolulu. They were to study some of the 14 million seabirds that nest there, and they looked forward to their stay on what they assumed would be an island paradise with pristine beaches. What they discovered came as a shock. The sands of Laysan were strewed with an unbelievable variety of plastic trash. While doing his birdwatching chores, Fefer cataloged thousands of pellets as well as toy soldiers, disposable lighters and one toy Godzilla—all made of plastic. "This is one of the most remote islands in the world," he says. "I expected it to be just idyllic."

The debris that despoiled Laysan's beaches had been washed ashore by the waters of the Pacific, which like other oceans is becoming increasingly fouled by plastic flotsam. But while the floating and beached plastic is unquestionably an eyesore, the problem goes far beyond aesthetics. At the Sixth International Ocean Disposal Symposium in Pacific Grove, Calif., last month, scientists reported that plastic trash is causing injury and death to countless marine animals that feast on it or become ensnared in it. Says Ecologist David Laist, of the Marine Mammal Commission: "Plastics may be as great a source of mortality among marine mammals as oil spills, heavy metals or other toxic materials."

Prime contributors to the growing tide of plastic pollution are the world's merchant ships, which, according to a study by the National Academy of Sciences, dump at least 6.6 million tons of trash overboard every year. Some 639,000 plastic containers and bags are tossed into the oceans every day. Commercial fishermen are also major offenders. Estimates of the plastic fishing gear lost or discarded at sea every year range as high as 150,000 tons. Boaters and beachgoers add to the marine litter with six-pack yokes, picnic utensils, sandwich bags and Styrofoam cups. Cities and industries discharging waste directly into the water or dumping it at sea are also to blame. On some East Coast beaches near sewage outlets, so many plastic tampon inserters have washed ashore that residents refer to them as "beach whistles."

Perhaps the most ubiquitous form of plastic trash is the tiny polyethylene pellets used in the manufacture of plastic items. In one survey, researchers calculated that, on average, a square mile of the Sargasso Sea, southeast of Florida, contained between 8,000 and 10,000 bobbing pellets. Says Al Pruter, a fishery biologist and partner in a Seattle-based natural-resources consulting firm: "Almost without exception, surveys show plastic to account for over one-half the man-made products on the ocean surface."

The plastic is taking a heavy toll on marine life, particularly on seals, sea lions, turtles and seabirds. By one estimate, as many as 50,000 northern fur seals in the Pribilof Islands die each year after becoming enshrouded in netting. "Young seals get their heads or flippers caught in it," says Laist. "Then they either become exhausted from toting it or their ability to catch food is restricted."

Smaller plastic items are frequently mistaken for prey by turtles and birds, often with fatal results. Leatherback turtles, which feast on jellyfish, are particularly attracted to plastic bags. Says University of Florida Zoologist Archie Carr, an authority on sea turtles: "Any kind of film or semi-translucent material appears to look like jellyfish to them." Trouble is, the bags—or other plastic items like golf tees—can form a lethal plug in the turtles digestive tract.

At least 42 species of seabirds are known to snack on plastic. Of 50 albatrosses found ill or dead on the Midways Islands, 45 had eaten some form of the substance. In several, the plastic had either obstructed the digestive tract or caused ulcers. Says James Coe, program manager for the Marine Entanglement Research Program at the National Marine Fisheries Service in Seattle: "We have found everything from toy soldiers to pens, fishing bobbers and poker chips in the birds stomachs." A study of wedge-tailed shearwaters, which breed on central Pacific islands, showed that 60% of the adults surveyed had ingested plastic. Even sea gulls, which are able to disgorge disagreeable foods, are not immune to the plastic threat. They have been strangled by sixpack yokes.

Efforts to reduce the amount of plastic jettisoned into the oceans have been largely unsuccessful. Although the U.S. and 59 other nations agreed in 1972 to outlaw the dumping of durable plastics, among other substances, into the oceans, the treaty failed to address the discharge or ordinary garbage, which contains large quantities of plastic items. Ten states are trying to do their part; they have passed legislation requiring that six-pack yokes be made of treated plastic that degrades rapidly in sunlight. Nonetheless, concludes Zoologist Carr: "the junk is growing in abundance year by year. It is just getting outrageous."—By Jamie Murphy, Reported by Andrea Dorfman/New York and Jon D. Hull/Los Angeles.●

By Mr. MATTINGLY (for himself and Mr. GARN):

S. 2612. A bill to amend the Export Administration Act of 1979 to authorize controls on exports, including the export of capital, from the United States, to countries supporting terrorism, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

TERRORIST SUBSIDY PREVENTION ACT

Mr. MATTINGLY. Mr. President, today I am introducing, with the chairman of the Senate Banking Committee, Senator GARN, legislation that provides the President with discretionary authority to control the flow of financial transfers from U.S. banks to countries that support international terrorism—the so-called 6(j) countries, as defined under the provisions of section 6(j) of the Export Administration Act. Currently, the countries so designated are Syria, Libya, Southern Yemen, Iran, and Cuba.

In an article which appeared in the June 22, 1986 edition of the Washington Post, former national security staff member Roger W. Robinson, Jr., details Western deposits to the Libyan Arab Foreign Bank [LAFB]. I ask unanimous consent that the article appear in the RECORD at the conclusion of my remarks. The LAFB had $2.63 billion in total assets at the end of 1984, certainly enough to help ease Libya's desperate need for cash in the wake of falling oil prices and more than likely helping to finance Libyan acts of international terrorism. Where did these funds come from? The possibility of United States funds being used directly or indirectly to finance acts of terrorism directed against innocent civilians is part of the much larger problem of Western financial transfers to adversaries such as the Soviet Union, Soviet bloc nations, and others.

Legislation has been introduced—S. 812—that would allow the President to control financial transfers to the Soviets and to the controlled Eastern bloc countries as well as Vietnam, Kampuchea, North Korea, and Cuba. I am a cosponsor of S. 812, but S. 812 does not address financial transfers to countries that have been designated under section 6(j) provisions as supporting international terrorism. The legislation I am introducing today

would make certain that the President could regulate financial flows to these 6(j) countries, just as S. 812 attempts to regulate bank loans and other transfers to the Soviet Union and the other controlled countries.

Mr. President, this legislation is necessary. The President does not now have the authority to intervene in such transactions unless a national state of emergency has been declared. Specific information regarding commercial loans made by U.S. banks to the 6(j) countries is not publicly available because it is proprietary information. My proposal would not necessarily change that, but it would provide the President with the authority to consider a wider range of policy options than he is currently empowered to do. It would also enable him to require the appropriate regulatory bodies to gather from U.S. commercial banks more comprehensive and detailed information surrounding such financial transfers. Three bank regulatory agencies—the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve System—already collect certain country exposure data from most of the 215 U.S. banks involved in international lending activities. This reporting requirement has since been codified under the International Lending Supervision Act and does provide some information. For instance, for the five 6(j) countries, United States banks are owed a total of $102.2 million by three of these nations: Iran, Libya, and Syria. But information about new loans being made to these countries is not publicly available. More importantly, should the President wish to intervene in any such transaction, after he obtains such knowledge, he would have very limited authority.

Existing authority that would allow the control of such transfers is inadequate. Currently, the President could act only in time of war, under the Trading With the Enemy Act, or in the case of a national emergency as declared under the International Emergency Economic Powers Act. My legislation would allow the President, at his discretion, to take any action he deems appropriate to regulate or control U.S. financial exports or transfers to countries identified by the Secretary of State pursuant to section 6(j) of the Export Administration Act as countries supporting international terrorism. In addition, the legislation would clarify existing law by authorizing the President to control exports of goods and services that will likely support or be used to commit an act of terrorism against U.S. citizens or will benefit a person committing such acts, or will benefit a country identified by the Secretary of State as a country supporting terrorism. This authority would be exercised by the Secretary of Commerce, in consultation with the Departments of Defense and State. Finally, the appropriate agencies would be responsible for conducting negotiations with other countries regarding their cooperation with any controls imposed as a result of this amendment to the Export Administration Act.

Mr. President, U.S. commercial banks cannot expect to continue to operate in a vacuum with regard to their overseas loans. We must pull their heads up out of the sand. We cannot have commercial banking interests working against U.S. policy interests or goals. This country needs to adopt more realistic lending practices and principles when lending to the countries who are actual or potential adversaries. I believe that our long term security depends, in part, on the development of a comprehensive and thorough picture of how our adversaries fund their activities. The Terrorist Subsidy Prevention Act will provide the means for the United States to begin to develop a response to this sort of international financial activity. This will allow us to act more efficiently to regulate potentially harmful financial flows to countries supporting international terrorism. I ask my colleagues to support this effort to eliminate a source of potential funding of international terrorism.

Mr. President, I ask unanimous consent that the text of my legislation appear in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Terrorist Subsidy Prevention Act".

SEC. 2. Section 3 of the Export Administration Act of 1979 is amended—

(1) in paragraph (2)(B), by striking out "and" after the semicolon;

(2) in paragraph (2)(C), by striking out the period and inserting in lieu thereof a semicolon;

(3) by adding at the end of paragraph (2) the following:

"(D) to restrict the export of capital, the extension of credit, the making of loans, or the transfer of financial resources to destinations or persons outside of the United States in order to combat terrorism and thereby promote the national security interests of the United States; and

"(E) to restrict the export of goods and technology where the President determines that such export (i) will likely support or be used to commit acts of terrorism against United States citizens, (ii) will likely benefit persons committing such acts, or (iii) will benefit countries supporting international terrorism, as defined pursuant to section 6(j) of this Act.".

SEC. 3. The Export Administration Act of 1979 is amended by inserting after section 8 the following new section:

"ANTI-TERRORISM EXPORT CONTROLS AND CAPITAL CONTROLS

"SEC. 8A. (a) FINANCIAL CONTROLS.—

"(1) AUTHORITY TO CONTROL.—In order to carry out the policy set forth in section 3(2)(D) or section 3(2)(E) of this Act, the President may prohibit, curtail, monitor, or otherwise regulate the export or transfer, or participation in the export or transfer, of money or other financial assets, including the making of a loan or the extension of credit, subject to the jurisdiction of the United States or exported or transferred by any person subject to the jurisdiction of the United States to the government of any country designated pursuant to section 6(j) as a country supporting international terrorism, or to any political subdivision thereof or any organization or association owned by or acting for or on behalf of such government or political subdivision thereof.

"(2) EXERCISE OF AUTHORITY.—The authority conferred by this subsection shall be exercised by the Secretary of the Treasury, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Commerce, and such other departments and agencies as the Secretary of the Treasury shall consider appropriate.

"(3) NEGOTIATIONS.—The Secretary of the Treasury, in consultation with the Secretaries of State, Defense, and Commerce, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation with controls imposed pursuant to this subsection.

"(b) CONTROL OF EXPORTS FOR TERRORIST PURPOSES.—

"(1) AUTHORITY.—In order to carry out the policy set forth in section 3(2)(E) of this Act, the President may prohibit, curtail, monitor, or otherwise regulate the export or transfer, or participation in the export or transfer, of goods and technology subject to the jurisdiction of the United States or exported or transferred by any person subject to the jurisdiction of the United States if the President determines that—

"(A) such export will likely support or be used to commit an act of terrorism against the person or property of a United States citizen,

"(B) will likely benefit persons committing such an act, or

"(C) will benefit countries defined pursuant to section 6(j) of this Act as countries supporting international terrorism.

"(2) EXERCISE OF AUTHORITY.—The authority conferred by this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, the Secretary of State, and such other departments and agencies as the Secretary considers appropriate, and shall be implemented by means of export licenses issued by the Secretary.

"(3) NEGOTIATIONS.—The Secretary of State, in consultation with the Secretary of Commerce, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation with controls imposed pursuant to this subsection.".

SEC. 4. Section 10 of the Export Administration Act of 1979 is amended—

(1) in subsection (a)(1), by striking out "All export license applications" and inserting in lieu thereof "Except as provided in subsection (p), all export license applications";

(2) in subsection (j)(1), by inserting before the period ", except in the case of any license that may be required pursuant to section 8A(a) of this Act, in which case the Secretary of the Treasury shall establish such procedures"; and

(3) by adding at the end thereof the following new subsection:

"(p)(1) Any export license applications required pursuant to section 8A(a) of this Act shall be submitted by the applicant to the Secretary of the Treasury. All determinations with respect to any such application shall be made by the Secretary of the Treasury.

"(2) To the extent necessary, the Secretary of the Treasury shall seek information and recommendations from the Government departments and agencies concerned with aspects of the United States domestic and foreign policies and operations having an important bearing on the policy set forth in section 3(2)(D) of this Act.".

SEC. 5. Section 12 of the Export Administration Act of 1979 is amended—

(1) in the second sentence of subsection (c)(1), by inserting before the period the following: ", or in the case of information obtained with respect to section 8A(a) of this Act, unless the Secretary of the Treasury so determines"; and

(2) in subsection (e), by striking out "The Secretary" and inserting in lieu thereof "Except with regard to the authority provided under section 8A(a), the Secretary".

SEC. 6. Section 14(a) of the Export Administration Act of 1979 is amended—

(1) by striking out "and" at the end of paragraph (19);

(2) by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(21) actions taken by the President and the Secretary of the Treasury to carry out the policies set forth in section 3(2)(D) of this Act, as described by the Secretary of the Treasury in a report submitted for inclusion as a part of the Secretary's annual report required by this section.".

SEC. 7. Section 15 of the Export Administration Act of 1979 is amended by inserting "and the Secretary of the Treasury" after "Secretary".

SEC. 8. Section 16 of the Export Administration Act of 1979 is amended—

(1) in paragraph (7), by striking out "and" after the semicolon;

(2) in paragraph (8), by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(9) the term 'extension of credit' includes loans, credit sales, the supplying of funds through the underwriting, distribution, or acquisition of securities, the making or assisting in the making of a direct placement, or otherwise participating in the offering, distribution, or acquisition of securities; and

"(10) the term 'loan' includes any type of credit, including credit extended in connection with a credit sale.".

[From the Washington Post, June 22, 1986]

LIBYA'S CASH FLOW—WESTERN DEPOSITS HELP GADHAFI SURVIVE

Western bank deposits with the Libyan Arab Foreign Bank are easing Libya's financial crunch—and may be helping to finance Libya's questionable activities abroad.

Libya needs cash to help pay its bills. Moammar Gadhafi's regime currently has about $4 billion in arrearages (late payments) to both communist and noncommunist governments on various supply contracts and projects. Italy heads the list with about $600 to $700 million in arrearages, with Turkey second at roughly $400 million. The Soviet Union and East European countries are owed about $1 billion.

Libya's financial strains emerged during the 1980s because of falling oil revenues. The country's total financial reserves, including gold, have dwindled from about $15.4 billion in 1981 to about $7.2 billion today. Continuing depressed levels of oil earnings should further deplete Libyan financial reserves.

One useful Libyan financial outlet is the Libyan Arab Foreign Bank, or LAFB. The bank was established in 1972 and engages principally in syndicated lending and foreign banking joint ventures (including equity in 26 foreign banking establishments.) At the end of 1984 the bank had total capital and reserves of $328 million and $2.63 billion in total assets.

Western bank deposits appear to play a significant role in funding LAFB's assets. Although balance sheet information is sketchy, numbers provided by LAFB suggest that demand and time deposits make up more than 80 percent of LAFB's total funding. Western bank deposits comprise a sizeable share of this total.

With Libyan-sponsored terrorist attacks occuring in several Eurpean capitals, we might expect that western deposits in LAFB would be eroding. But this apparently hasn't happened.

Agreement in the West to withhold deposits from LAFB would bring important economic pressure on Libya, adding to the problems caused by that country's sharply deteriorating balance of payments position. Without stronger allied support for such economic measures, the United States will continue to lack viable policy alternatives between diplomatic and military options.

By Mr. MOYNIHAN:

S. 2613. A bill to suspend for a 4-year period the duty on certain parts of indirect process electrostatic copying machines; to the Committee on Finance.

DUTY SUSPENSION OF PARTS OF INDIRECT PROCESS ELECTROSTATIC COPYING MACHINES

● Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation that would temporarily suspend the duty on certain parts and components imported for the manufacture of office copying machines operating by the indirect electrostatic process.

The U.S. industry has seen its market share steadily eroded by imports, so that today U.S. manufacturers have only 15 to 20 percent of the domestic market. In the face of this competition, the major U.S. manufacturers, Zerox, IBM, and Eastman Kodak—New York companies all—have taken steps to reduce costs and improve competitiveness.

For example, Xerox Corp.—which employs 6,700 workers in the Rochester, NY, area in the manufacture of office copiers for sale here and abroad—has worked closely with its domestic suppliers to improve their ability to supply Xerox with parts and components, based on the principles of quality, cost, and delivery. Xerox also has worked closely with its workers—represented by the Amalgamated Textile & Clothing Workers Union—to improve labor productivity.

Mr. President, it goes without saying that this is an industry where the competition is intense and where all factors affecting price are important. In this regard, my bill would help U.S. manufacturers meet foreign competition and would make maintenance and expansion of their manufacturing operations in the United States more attractive.

The bill is supported by the Computer & Business Equipment Manufacturers Assoc., whose members represent the leading edge of American high technology industries in the computer, business equipment, telecommunication and software sectors. In addition, it is supported by the Amalgamated Clothing Textile Workers Union. Finally, I know of no objections to the bill.

Mr. President, I urge my colleagues to support the legislation.●

By Mr. CHAFEE (for himself, Mr. ROTH, and Mr. RUDMAN):

S. 2614. A bill to provide for parallel imports in order to provide savings for U.S. consumers; to the Committee on Finance.

PRICE COMPETITIVE PRODUCTS ACT

● Mr. CHAFEE. Mr. President, American consumers save billions of dollars a year due to the availability of parallel imports, or "gray market" merchandise. These products are threatened by a recent court decision. The legislation I am introducing today is vitally needed in order to maintain consumer access to this merchandise, by clarifying the law with respect to imports of trademarked goods. Joining me as cosponsors of this measure are Senators ROTH and RUDMAN.

Parallel imports are genuine, trademarked articles manufactured abroad and purchased on the world markets by independent American importers. These include such trademarked goods as Japanese cameras, Swiss and Japanese watches, fine foreign perfumes, tires, crystal, electronic goods, and computer chips (semiconductors) which are sold to U.S. consumers at discounts of 25 to 40 percent less than the identical products. The products are manufactured in the same plants, but imported and sold through different channels at vastly different prices.

There are two routes by which genuine trademarked goods are brought to U.S consumers: through a "U.S. authorized distributor" owned or controlled by the foreign manufacturer, or through independent U.S. importers who purchase the goods from foreign authorized distributors. Other than price, the products are identical.

For many decades, some overseas manufacturers have been setting up subsidiary companies in the United States, which they own and direct. The foreign firms designate their American subsidiaries as the exclusive importers and distributors of their trademarked perfumes, watches, cameras, and other such products in this country.

The foreign firms see the United States as a wealthy market where they can demand—and get—higher prices for their goods than anywhere else in the world. They set prices on the goods higher here than they do overseas, often by as much as 30 to 40 percent.

For many years, Treasury Department regulations have permitted independent American importers to compete with foreign-owned importers. The American independents, often small businesses, buy these popular products overseas on the open market at the lower "world" price. The independents can then pay to ship them back to the United States, pay U.S. customs duties, and still sell them to retailers for 30 to 40 percent less than the manufacturers' own distributors are charging for the same products.

This huge price difference has led to the enormous growth of "price competitive" retail stores and catalog/showroom businesses, which buy their goods from the independent importers. Such stores—from large chain stores to individual "mon and pop" neighborhood stores—sell upward of $100 billion worth of goods each year, employ hundreds of thousands of employees and also make an enormous investment in the good will of trademarks through their widespread advertising and marketing of paralled imports. All in all, then, they make a very valuable contribution to our economy. Price-conscious Americans who shop at these stores may be saving billions of dollars annually.

The difference in prices is quite remarkable. A Seiko watch, for example, which is sold for $200 by an "authorized dealer," may be sold for $120 or $140 by a discount retailer who buys from independent importers. Similar savings can be made on imported perfumes. Here are some examples of very popular brands: Two ounces of Chloe Toilet Water—authorized dealer price $22.50, parallel importer price $13.99. Anais Anais/Cacharel—authorized dealer price for 1.7 ounces is $18.00, but $11.99 on the gray market. Opium perfume, which is sold to authorized U.S. dealers at $96 per ounce, can be bought retail in Paris by an independent importer, shipped to the United States and duty paid, all for $69—still far less than U.S. wholesale price.

The same price savings can be made on camera purchases. Here are a few examples: an Olympus camera which sells for $290 at American discount stores cost $325 when bought from the authorized distributor. The price comparisons for a Nikon motor drive is $156 versus $230, a Minolta camera $150 versus $189. Even Dom Perignon Champagne can be purchased at a discount: $40 versus $60.

If we eliminate the paralled market, U.S. consumers will really suffer, being forced to pay up to 40 percent more, billions of dollars per year for consumer products, and product availability will be limited only to those major metropolitan areas where exclusive "authorized" stores choose to locate.

Let me make it very clear that paralled imports are not counterfeit goods or cheap imitations of brand name, trademarked goods. They are genuine goods, manufactured by the trademark holder and they do not displace American manufacturing jobs. Some authorized distributors say they are being unfairly treated and injured by unauthorized competition, but this overlooks their real complaint, namely the high prices charged to American distributors by foreign manufactures.

Most courts have upheld the longstanding customs regulations against the attacks of the authorized distributors. However, a recent decision of the U.S. Court of Appeals for the District of Columbia Circuit, COPIAT versus United States (May 6, 1986), struck down these regulations on the basis of a narrow reading of the legislative history behind section 526 of the Tariff Acts of 1922 and 1930. The court explicitly acknowledged that consumer and other benefits would be lost, but stated that these arguments should more properly be addressed to Congress.

The COPIAT decision is in conflict with decisions of two other Federal circuit courts of appeal: the court of appeals for the Federal circuit last year in Vivitar versus United States, which the Supreme Court declined to review, and the Second Circuit Court of Appeals on June 9, 1986, in Olympus versus United States. Rehearing of the COPIAT decision will be sought, as well as Supreme Court review, but this process could take years and leave the matter highly uncertain in the interim. If the regulations were ultimately struck down, parallel importers, which are small businesses whose trade necessarily requires long lead time, could be bankrupted before Congress could act.

As a result, positive legislation is urgently needed now. The legislation which I introduce today makes clear current congressional intent in favor of parallel importation and avoids leaving it to the Supreme Court to divine what congressional intent was more than 50 years ago. The legislation protects parallel importation and consumer savings in two ways.

First, it adds to section 526 a new subsection (f) which enacts into law the current customs regulations and the 50-year-old policy allowing parallel importation of genuine, trademarked articles in the case where related parties own the trademarks here and abroad. Second, my bill settles the issue the same way in trademark infringement suits, most of which have followed the customs regulations, by making clear that the Lanham Trademark Act of 1946 does not restrict the importation or sale of foreign-made articles bearing a genuine trademark.

Parallel markets are legal in Japan, France, Germany, and in every other country which is a major American trading partner. It would be entirely inappropriate for the U.S. Government to provide protection to foreign manufacturers whose own governments do not provide comparable protection for discriminatory pricing by American manufacturers.

Finally, contrary to the foreign manufacturers' claims, there are no warranty or other consumer "deception" problems with parallel imports. The Magnuson-Moss Warranty Act requires manufacturers of consumer products sold in the United States to honor the written warranties they provide with their products unless they explicitly disclaim those warranties in writing. The purchaser of a parallel import can also look to the discount retailer from whom he purchased the product for warranty service, under the extensive network of existing Federal, State, and municipal consumer protection laws and agencies, as well as private sector consumer "hotlines." In fact, most discount retailers offer even more extensive warranties than the manufacturers. Sales of parallel imports would not continue to rise year after year if consumers were being deceived or confused by buying from price-competitive sources.

Mr. President, I ask that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2614

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Price Competitive Products Act of 1986".

SEC. 2. Section 526 of the Tariff Act of 1930 is amended by adding at the end thereof the following:

"(f)(1) Nothing in this section shall restrict the importation or sale of foreign-made articles bearing a trademark or trade name identical with one owned and registered by a citizen of the United States or a corporation or association created or organized within the United States when—

"(A) both the foreign and the United States trademark or trade name are owned by the same person or business entity;

"(B) the foreign and domestic trademark or trade name owners are parent and subsidiary companies or are otherwise subject to common ownership or control; or

"(C) the articles of foreign manufacture hear a recorded trademark or trade name applied under authorization of the United States owner.

"(2) As used in paragraph (1), the term—

"(A) 'common ownership' means individual or aggregate ownership of more than 50 percent of the business entity; and

"(B) 'common control' means effective control in policy and operations and is not necessarily synonymous with common ownership.".

SEC. 3. Section 42 of the Act of July 5, 1946 (15 U.S.C. 1124), known as the Lanham Trademark Act, is amended by—

(1) inserting "(a)" before "Except"; and

(2) adding at the end thereof the following:

"(b)(1) Nothing in this section shall restrict the importation or sale of foreign-made articles bearing a trademark or trade name identical with one owned and registered by a citizen of the United States or a corporation or association created or organized within the United States when—

"(A) both the foreign and the United States trademark or trade name are owned by the same person or business entity;

"(B) the foreign and domestic trademark or trade name owners are parent and subsidiary companies or are otherwise subject to common ownership or control; or

"(C) the articles of foreign manufacture bear a recorded trademark or trade name applied under authorization of the United States owner.

"(2) As used in paragraph (1), the term—

"(A) 'common ownership' means individual or aggregate ownership of more than 50 percent of the business entity; and

"(B) 'common control' means effective control in policy and operations and is not necessarily synonymous with common ownership.".●

By Mr. RIEGLE:

S. 2617. A bill to establish within the Department of Agriculture an Office of Emergency Aid for Farm Families to provide grants to States for emergency services to farm families, and for other purposes; to the Committee on Government Affairs.

FAMILY FARM EMERGENCY PROTECTION ACT

● Mr. RIEGLE. Mr. President today, I am introducing the Farm Family Emergency Protection Act of 1986. This legislation is designed to meet a problem that I have encountered in Michigan, and which I believe is occurring throughout the Nation.

There is truly a farm crisis, and there are few signs that it will ease in the near future. Commodity prices are low and will remain so for the rest of the year; there are no indications that foreign trade is increasing to a level that will improve the overall agricultural economy, and the human costs of bankruptcy and foreclosure grow daily.

Farmers are in many cases ineligible to receive assistance from many of the programs which are available to workers in other industries. Farmers do not ordinarily receive unemployment compensation. Aid to Families with Dependent Children is sometimes difficult, if not impossible, to receive due to asset limitations, or deprivation requirements. Most importantly, medical insurance is usually canceled or lapses, and families must either forego medical care or rely entirely upon charity.

The legislation that I have introduced would authorize $15,000,000 to provide limited, but vital assistance to eligible farm families for medical assistance, under the Medicaid Program; cash assistance under the Aid to Families with Dependent Children Program; moving and relocation assistance, and job counseling and training.

Mr. President, many families have already seen their lives disrupted by the farm crisis. Bankruptcies and foreclosures are continuing, and I am certain that they will increase. The debate accompanying the 1985 farm bill revealed that thousands of farmers will leave farming in the next 5 years, it is virtually inevitable, and there are few, if any, programs available to ease the real hardships that bankruptcy and foreclosure represent. The hardship imposed by the farm crisis extends to all of rural America. Entire communities are disrupted, stores close, additional jobs are lost, and there is no immediate end in sight.

The legislation that I am introducing will provide a small measure of relief to farmers and their families, and will be a step toward reducing the human cost that is behind the bleak statistics showing the decline of the agricultural economy. I ask unanimous consent that a copy of the legislation be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2617

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Family Emergency Protection Act of 1986".

SEC. 2. DEFINITIONS.

As used in this Act, unless the context requires otherwise:

(1) DIRECTOR.—The term "Director" means the Director of the Office appointed under section 4(b)(1).

(2) OFFICE.—The term "Office" means the Office of Emergency Aid for Farm Families established under section 4(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) STATE.—The term "State" means each of the 50 States.

(5) STATE AGENCY.—The term "State agency" means the agency of the government of a State that has the responsibility for the administration of the State plan submitted under section 9 in the State.

SEC. 3. ELIGIBILITY.

(a) CRITERIA.—To be eligible to receive emergency services under this Act, a person must—

(1) be a farmer or rancher who is—

(A) engaged primarily and directly in farming or ranching in a State;

(B) a citizen of the United States;

(C) an owner or operator of not larger than a family farm or ranch; and

(D) in a state of economic crisis because the farmer or rancher has—

(i) declared bankruptcy; or

(ii) been forced to liquidate property as the result of foreclosure on a loan, mortgage, or lien; or

(2) a member of the family of a farmer or rancher described in paragraph (1) who is related by blood or marriage to the farmer or rancher and who resides with the farmer or rancher.

(b) DURATION.—A person described in subsection (a) shall be eligible to continue to receive emergency services under this Act until the date that is 36 months after the date the farmer or rancher, or a member of the family of the farmer or borrower, first received services under this Act.

SEC. 4. OFFICE OF EMERGENCY AID TO FARM FAMILIES.

(a) ESTABLISHMENT.—There is established within the Department of Agriculture the Office of Emergency Aid for Farm Families.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Office shall be headed by a Director of the Office of Emergency Aid for Farm Families, who shall be appointed by, and under the direction and supervision of, the Secretary.

(2) LEVEL V CLASSIFICATION.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Director of the Office of Emergency Aid for Farm Families, Department of Agriculture".

(c) FUNCTIONS.—It shall be the function of the Office to—

(1) evaluate and approve or disapprove plans of operations submitted by States under section 9 for providing emergency services to eligible farm families;

(2) allocate funds and make payments to State agencies for emergency services to eligible farm families in accordance with this Act;

(3) coordinate emergency services provided to eligible farm families under this Act with other assistance provided to the families to avoid duplication;

(4) maintain records, and provide an annual report to Congress, on the demand for emergency services under this Act and the administration of this Act; and

(5) perform such other functions as are necessary to carry out this Act.

SEC. 5. AUTHORIZATION FOR APPROPRIATIONS.

Subject to section 11, for the purpose of making allotments to States to carry out the activities described in sections 8 and 9, there are authorized to be appropriated $15,000,000 for each fiscal year.

SEC. 6. ALLOTMENTS.

From the amounts appropriated under section 5 for each fiscal year, the Director shall allot to each State that demonstrates to the Director a need for such allotment an amount that bears the same ratio to the total amount appropriated under such section for such fiscal year as the number of farms in the State (as measured by the latest census of agriculture published by the Secretary of Commerce) bears to the number of farms in all States that demonstrate to the Director a need for such allotments.

SEC. 7. PAYMENTS UNDER ALLOTMENTS TO STATES.

The Director shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 6 from funds appropriated under section 5.

SEC. 8. USE OF ALLOTMENTS.

(a) IN GENERAL.—Amounts paid to a State under section 7 from its allotments shall be used to provide emergency services to eligible farm families in accordance with this section.

(b) MEDICAL ASSISTANCE.—

(1) IN GENERAL.—Subject to paragraph (2), a State agency shall provide to an eligible farm family medical assistance of the type described in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) for medical expenses incurred by the family for which the family does not otherwise receive reimbursement.

(2) FULL FEDERAL FUNDING.—Notwithstanding section 1905(b) of such Act, the Federal medical assistance percentage for medical assistance provided under paragraph (1) shall be 100 percent.

(c) SOCIAL SERVICES.—

(1) CASH ASSISTANCE.—If an eligible farm family is headed by a farmer or rancher who is not otherwise employed, a State agency shall provide to the family cash assistance in an amount that is equivalent to the amount of aid provided under the State plan approved under the aid to families with dependent children program established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(2) HOME ENERGY ASSISTANCE.—A State agency shall provide to an eligible farm family home energy assistance that is similar to assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8601 et seq.).

(3) HOUSING ASSISTANCE.—

(A) MOVING EXPENSES.—If an eligible farm family is required to sell or liquidate the primary residence of the family as the result of an economic crisis referred to in section 3(a)(1)(D), a State agency shall reimburse the family in an amount not to exceed $1,000 for any moving or relocation expenses incurred by the family as the result of the crisis.

(B) RENTAL EXPENSES.—A State agency may provide a family described in subparagraph (A) with an additional subsidy for rental expenses incurred by the family as the result of the crisis.

(4) FAMILY SERVICES.—A State agency may establish centers to provide to eligible farm families professional, self-help, or other forms of—

(A) stress management assistance;

(B) family financial planning assistance; and

(C) educational counseling.

(d) EMPLOYMENT ASSISTANCE.—

(1) IN GENERAL.—A State agency shall offer to an eligible farm family—

(A) employment counseling;

(B) job search assistance;

(C) day care for a preschool child; and

(D) before and after school care for a child below the age of 13.

(2) JOB SKILLS TRAINING.—A State agency may establish a program to provide job skills training to eligible farm families.

(e) NUTRITION ASSISTANCE.—A State agency shall conduct outreach activities to inform eligible farm families of the availability of nutritional assistance under Federal, State, and local nutritional programs such as—

(1) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) (including the availability of expedited coupon issuance to eligible households described in section 11(e)(9) of such Act (7 U.S.C. 2020(e)(9));

(2) the school lunch and school breakfast programs established under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively;

(3) the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761);

(4) the special supplemental food program for women, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

(5) the temporary emergency food assistance program established under the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

SEC. 9. STATE PLANS.

(a) REQUIREMENT.—To be eligible to receive an allotment under section 6, a State must submit for approval by the Director an annual plan of operation specifying the manner in which the grant will be used to provide emergency services to eligible farm families in accordance with this Act.

(b) COMPONENTS.—A State plan of operation required under subsection (a) shall—

(1) designate an agency of State government as the State agency responsible for the administration of the plan in the State;

(2) provide emergency services to eligible farm families in accordance with section 8;

(3) establish an outreach program for providing emergency services to eligible farm families; and

(4) contain such other provisions as are determined appropriate by the Director.

SEC. 10. REGULATIONS.

The Secretary shall issue such regulations as are necessary to carry out this Act.

SEC. 11. TERMINATION DATE.

The authority provided under this Act shall terminate 5 years after the date of enactment of this Act.●

By Mr. DANFORTH (for himself, Mr. MOYNIHAN, and Mr. EAGLETON):

S. 2618. A bill to amend the Tariff Schedules of the United States to change the classification of certain prefabricated bitumen roofing membranes; to the Committee on Finance.

TARIFF CLASSIFICATION OF CERTAIN PREFABRICATED BITUMEN ROOFING MEMBRANE

● Mr. DANFORTH. Mr. President, today I am introducing with Senators MOYNIHAN and EAGLETON legislation to change the tariff classification of prefabricated modified asphalt roofing materials. Although the principal components of this product are asphalt, oil, polyethylene, and synthetic rubber, the Customs Service recently ruled that it should be classified as a textile since a very small amount of fabric is used to reinforce the product.

The Customs decision results in a duty rate of 50 percent, effectively barring imports of the product. This legislation would amend the Tariff Schedules of the United States to create a new classification for modified bitumen roofing membrane identical to that for automobile tires, which is an analogous product. To be eligible for this tariff rate, however, the textile reinforcing component of the product would have to be manufactured in the United States.

Mr. President, this seems to me to be a reasonable solution to the problem. I look forward to receiving comment on the bill from the domestic roofing materials industry and other interested parties.●

● Mr. MOYNIHAN. Mr. President, today I join Senators DANFORTH and EAGLETON in introducing legislation to remedy an apparent misclassification by the Customs Service of a prefabricated bitumen roofing product that contains a scrim membrane.

The Customs Department has apparently chosen to classify this material as a textile, because of its scrim content, even though scrim comprises only about 3 percent of its content.

Mr. President, the scrim under question is made by Bayex, in Albion, NY, and then exported for use as an input into the product this legislation seeks to address.

By creating a new tariff number, and allowing this prefabricated bitumen to enter with a lower duty—if its reinforcement medium is of 100 percent U.S. manufacture—we would be aiding this New York textile company, and others like it who, in an effort to readjust to current market conditions, have had to search for additional markets abroad.●

By Mr. McCLURE (for himself and Mr. SYMMS):

S. 2635. A bill to protect the integrity and quality of certain reaches of the Henry's Fork of the Snake River, ID, and for other purposes; to the Committee on Energy and Natural Resources.

HENRY'S FORK OF THE SNAKE RIVER PROTECTION ACT

● Mr. McCLURE. Mr. President, today Senator SYMMS and I are introducing legislation designed to protect, from future hydroelectric development, approximately 60.9 miles of the Henry's Fork of the Snake River in Idaho. The Henry's Fork of the Snake River has long been recognized as possessing outstanding natural, scenic and recreational values.

Our effort, in introducing this legislation, is not to add another layer of government management to this river, but rather to preserve the status quo. During extensive discussions with a wide variety of interest groups and during our personal inspection of the entire river, it is obvious that a great majority of those people concerned want this river to remain in its present ownership status, with current management practices to continue by private property owners in the area, by local government entities, by the

Forest Service, and by the State of Idaho.

What makes this legislation necessary, at this time, is the threat of hydroelectric development on the river at other than existing impoundments. Several hydroelectric projects have been proposed to this date, all but one would require some type of new impoundment structure. One of the proposed hydroelectric developments would utilize an existing Bureau of Reclamation dam at Island Park Reservoir.

This legislation would allow, under existing requirements of the Federal Energy Regulatory Commission, the one hydroelectric application of the Raft River Rural Electric Coop to proceed, providing FERC also determines that "significant and permanent alternation of streamflow, habitat, water temperature and quality will not occur as a result of the project."

Development of this project, at the existing Island Park Dam, is widely supported by area residents, ratepayers, and by many concerned environmentalists, providing there is no alternation of the quality of the river. It would appear that the project applicants can and are willing to meet those standards, and therefore this legislation would allow that specific project to proceed.

Mr. President, the Henry's Fork of the Snake River actually has two origins. Officially the river begins at the outlet of Henry's Lake. However, a significant tributary of the river begins at Big Springs, a natural wonder in itself. At Big Springs, crystal clear water, always at 58 degrees Farenheit despite atmospheric temperatures, gushes from several springs at the base of a low conifer-covered hill. Gigantic rainbow trout patrol the quiet waters below the bridge at the springs, waiting for food to be tossed into the water by recreation visitors. In contrast to the tranquility of the Big Springs and the associated broad, shallow, slow moving river with its scenic marshes, meadows and moose, is the Henry's Fork Canyon. Here, the river has entrenched itself into a well-defined canyon. Conifer-covered slopes are steep and cliffy. Two spectacular waterfalls occur in the canyon. Upper Mesa Falls is 106 feet high and cascades in a single sheet over the vertical rock face. Lower Mesa Falls is 70 feet high and multileveled. The river funnels into a narrow channel as it churns and boils down the terraced chute to the river below.

The Henry's Fork has an international reputation as one of the best fishing streams in the United States. Trumpeter swans winter on the river at Harriman State Park. The entire segment is essential bald eagle habitat.

In general terms, the Henry's Fork of the Snake River flows southward within the boundaries of the Targhee National Forest in southeastern Idaho, just west of Yellowstone National Park. Land ownership along the river is a mixture of predominantly national forest, State, and private. There are several existing shoreline developments along the river, and two hydroelectric power projects are currently in operation. About 7 miles of the river flows through Harriman State Park.

Existing uses include fishing, float boating, camping, and sightseeing. Fly fishermen claim that the river is the finest stream in the country for large rainbow trout. River waters are entirely appropriated by the Fremont-Madison Irrigation District.

There has been significant summer home development in the area, including resorts and lodges. The Henry's Fork of the Snake River is the dominant feature of what is known as the Island Park area, and the entire area is widely used by recreationists from nearby communities, and by many millions of visitors traveling through, on their way to and from the West Entrance to Yellowstone National Park. Additionally, snowmobiling and cross-country skiing have become dominant winter activities, making the area a year-round haven for recreationists.

Mr. President, legislation has passed the House of Representatives which would designate a portion of the Henry's Fork of the Snake River in a study for Federal Wild and Scenic River status. The approach Senator SYMMS and I take with this legislation is important for two primary reasons:

First, our legislation encompasses a longer stretch of the Henry's Fork, including that section of the tributary originating at Big Springs.

Second, there is no need for Federal Wild and Scenic River designation which would only add another layer of Federal regulation to an area which is currently being managed by the Forest Service, by the State of Idaho, and by local government entities to nearly universal satisfaction. In short, those who care about the future of the Henry's Fork want it left the way it is. They do not want future hydroelectric development which might alter the river from its present course, but they likewise do not want all of the restrictions imposed by Wild and Scenic River designation.

This legislation will accomplish these two goals. It will protect a magnificent river, a river whose primary and best use is that of recreation. It will continue the traditional mix of Federal, State, and local management of the area which has proven so successful throughout the years.

Finally, Mr. President, I want to thank the many citizens of Southeastern Idaho and those from around the Nation who care very deeply about the Henry's Fork. Particularly the members of the Henry's Fork Foundation, an organization which has contributed much to the enhancement, preservation, and general public enjoyment of this river. Members of this organization, along with many others, have helped us in our efforts to structure this legislation. Their dedication contributed much to the many thousands and millions of recreationists who visit the area each year.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2635

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Henry's Fork of the Snake River Protection of 1986".

GRANTING OF FERC LICENSES AND PERMITS

SEC. 2. Except as set forth in Section 3 of this Act, the Federal Energy Regulatory Commission [FERC] is prohibited from taking any action, other than denial, on any application for a license, preliminary permit, or exemption or any further action on an issued preliminary permit pursuant to sections 4(e), 4(f), and 30 of the Federal Power Act, as amended (16 U.S.C. 797 (e-f), and 823), for any project proposed to be sited on or adjacent to that portion of Henry's Fork of the Snake River, Idaho (including that segment originating at Big Springs), or its tributaries within one-half mile of their confluence with Henry's Fork of the Snake River, from its point of origin at Henry's Lake, Idaho, to the point of its confluence with the backwaters of Ashton Reservoir, Idaho.

SEC. 3. The prohibition in section 2 of this Act shall not apply to the application for license filed for the Island Park Dam hydropower project (FERC project number 2973): *Provided,* That such license may be approved only if FERC determines that significant and permanent alteration of streamflow, habitat, water temperature and quality will not occur as a result of the project.

SEC. 4. (a) Nothing in this Act shall be construed as authorizing (either expressed or implied) the appropriation or reservation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, (3) be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right, or (4) otherwise be construed to affect the validity of any existing license, permit, or certificate (other than as set forth in section 2) issued by any Federal agency pursuant to any other Federal law.

(b) With respect to this Act, no other provision of any other Federal law shall be construed as authorizing the implied appropriation or reservation of water by any Federal agency.●

By Mr. LONG:

S. 2637. A bill relating to the application of the drawback provisions of section 313 of the Tariff Act of 1930 to certain imports of cane sugar; to the Committee on Finance.

SUGAR DRAWBACK EXTENSION LEGISLATION

● Mr. LONG. Mr. President, today I am introducing a bill identical except for technical corrections to H.R. 4563. This bill would allow the drawback of import duties paid on raw sugar imported from November 1, 1977 until March 31, 1985, provided that the export of refined sugar or sugar-containing products occurs before October 1, 1991.

The purpose of the bill is to assure that U.S. cane sugar refiners can continue to export refined sugar by carrying back the privilege to recover drawback. But for this legislation, sugar refineries in Louisiana and other States will close. These refineries process our domestic cane crop as well as producing 500,000 tons per year of exportable refined sugar.

Drawback means the refund of previously paid import duties and other fees. Drawback is a traditional and internationally-accepted practice all countries use. The idea is that so long as an imported product is used for the purpose of making a product that will be exported, or is itself reexported, then U.S. duties that have been paid should be refunded on the exported product, less 1 percent. This is much the same philosophy as the policy of other governments which refund value added taxes and other consumption taxes on products made in those countries and subsequently exported. Under current law, drawback privileges can only be exercised for a limited period of time.

The use of drawback is the only way U.S. sugar refiners can be competitive today. U.S. cane sugar refiners are to a great extent dependent on imported raw sugar, which is not subject to quotas under our agricultural price support programs if the imported sugar is processed and reexported as refined sugar. However, over the last few years, the European Economic Community has been subsidizing the export of refined sugar. The Community produces only refined sugar, since it grows beets, not sugar cane. The result has been that the natural difference in world prices between refined sugar and raw sugar has diminished almost to the point of disappearing, making it uneconomic for U.S. sugar refiners to engage in this export business without access to unused drawback that is not available under current law because the statutory time period has expired.

Under this bill, U.S. refiners would be privileged to carry forward drawback for years in which the drawback was not used. I am informed that the estimated annual drawback claims under the bill would amount to about $53 million.●

By Mr. DECONCINI:

S.J. Res. 370. Joint resolution proposing an amendment to the Constitution of the United States regarding judges appointed pursuant to Article III; to the Committee on the Judiciary.

CONSTITUTIONAL AMENDMENT ON JUDGES

Mr. DECONCINI. Mr. President, I am introducing today a Senate joint resolution that proposes a constitutional amendment on the subject of the discipline of Federal judges.

Section 1 of the amendment would provide that a Federal judge appointed pursuant to article III of the Constitution shall, upon conviction for a felony and exhaustion of all appeals, forfeit office and all benefits thereof.

Section 2 specifically gives the Congress the power to legislatively set standards and guidelines by which the Supreme Court may discipline judges appointed pursuant to article III who have brought disrepute on the Federal courts or the administration of justice by those courts. The section specifically provides that the discipline authorized by Congress and the Supreme Court may include removal from office or diminution of compensation. I believe this legislation is required to maintain the high expectations of integrity and impartiality of the judiciary that the citizens of the Nation have every right to expect.

Under the present state of the law, it is questionable if there are any teeth to sink into a judge who has violated his oath of office through his or her actions while serving on the bench. In 1980 the Congress adopted public law 96-458, the Judicial Tenure and Disability Act. This act has been largely ignored by the Federal judiciary. In deed, they have not even come up with rules and guidelines for the conduct of their operations. Nothing in 5 years. The blame for this must rest squarely with the judges of the courts of appeals. I can only urge them to act quickly and responsibly.

However, even when these judges finally do get around to setting their guidelines, I have no expectation that anything will come of it by way of investigating instances of alleged judicial misconduct and then bringing the matter to head. The record of the past 5 years—a record of inactivity—speaks for itself.

The impetus for this resolution clearly stems from the stunning state of events that surround Federal District Court Judge Harry Claiborne of Nevada. This judge was indicted for bribery, perjury, and income tax evasion in 1983. He was convicted in August of 1984 on the tax charges. Since 1983, he has continued on the Federal bench, receiving pay, but hearing no cases. Even after all direct appeals were exhausted and he entered a Federal prison, he has refused to resign from the bench. Section 1 of the resolution would preclude this unseemly chain of events from happening again in the future.

Section 2 of the bill is designed to place teeth into judicial discipline. Under Public Law 96-458, the courts can discipline errant judges in modest ways such as public or private censure, temporary removal of caseload, and reporting findings of their investigations to the House of Representatives for possible use in an impeachment. Even these modest disciplinary actions have not been used to date. The resolution would permit Congress to set standards and guidelines by which the Supreme Court may discipline Federal judges. Congress sets the outlines of the disciplinary process, but we would leave it to the courts to implement. I believe that by proceeding in this fashion we give the Supreme Court all the tools it needs to conduct the affairs of the judicial branch in a manner that will assure that a judge who brings the judiciary into disrepute or who brings into disrepute the administration of justice by the courts will be punished. At the same time, by making the Supreme Court the disciplinary body, we will maintain the independence of the judicial branch to the greatest degree possible. It will be judges judging judges, but under guidelines as set by the policymaking branch of Government, the legislature.

The section also makes clear that the discipline that can be meted out includes removal from office and reduction in compensation of an article III judge. The threat of impeachment has been in reality no threat. The last impeachment of a Federal judge was over one-half century ago. We may have that sad opportunity again within the next few months—but the situation should never again be permitted to become so bad with such bad publicity for Federal bench at the cost of the many honorable public servants who serve in the Federal judiciary. With a process in place that might have a realistic opportunity of providing for swift and sure justice for judges who have brought the judiciary into disrepute, I hope to make Federal judges think twice before engaging in such activity.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. RES. 370

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and pur-

poses as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE ——

"SECTION 1. A judge appointed pursuant to Article III shall, upon conviction of a felony and exhaustion of all direct appeals, forfeit office and benefits thereof.

"SEC. 2. The Congress shall have the power by appropriate legislation to set standards and guidelines by which the Supreme Court may discipline judges appointed pursuant to Article III who bring disrepute on the Federal courts or the administration of justice by the courts. Such discipline may include removal from office and diminution of compensation.".

By Mr. DECONCINI (for himself, Mr. GRASSLEY, Mr. PELL, Mr. EXON, Mr. METZENBAUM, Mr. SYMMS, Mr. MOYNIHAN, Mr. D'AMATO, Mr. LEAHY, Mr. HEINZ, Mr. LONG, Mr. SARBANES, Mr. LAUTENBERG, Mr. HATCH, Mr. KERRY, Mr. DODD, Mr. RIEGLE, Mr. WILSON, and Mr. DOLE):

S.J. Res. 371. Joint resolution to designate August 1, 1986, as "Helsinki Human Rights Day"; to the Committee on the Judiciary.

HELSINKI HUMAN RIGHTS DAY

Mr. DECONCINI. Mr. President, I am pleased to introduce today with many of my colleagues a joint resolution that authorizes and requests the President of the United States to designate August 1, 1986, as "Helsinki Human Rights Day."

Eleven years ago, on August 1, 1975, representatives from 35 countries joined together in signing the Final Act of the Conference on Security and Cooperation in Europe, often referred to as the Helsinki accords.

In agreeing to the Helsinki accords, the signatory nations have acknowledged their adherence to the principles of freedom. Not, perhaps, to the sophisticated modes of parliamentary democracy, but to the basic rights of citizens to emigrate, to be reunited with their families and to enjoy at least the minimal respect of their government of their individuality and personal worth.

Unfortunately, several signatory nations have not adhered to the human rights and humanitarian standards of this agreement. The Government of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, have violated their commitments to the Helsinki accords; they have denied individuals their inherent rights to freedom of religion, thought, conscience, and belief, and they have restricted the movement of people, ideas, and information.

By proclaiming August 1, 1986, the 11th anniversary of the signing of the Helsinki accords, as "Helsinki Human Rights Day," we are reaffirming our commitment to the principles upon which our own democracy was founded. We are sending a message to the signatory nations, particularly the Soviet Union and Eastern Europe, that we expect them to live up to their international agreements.

I urge each Member of this body to support this resolution, and I ask unanimous consent that the text be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S. J. RES. 371

Whereas August 1, 1986, will be the eleventh anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereafter in this preamble referred to as the "Helsinki Accords");

Whereas on August 1, 1975, the Helsinki Accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the Helsinki Accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki Accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki Accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki Accords also express the commitment of the participating States in whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki Accords also express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki Accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the United Nations, to promote universal and effective respect for them";

Whereas the Helsinki Accords also express the commitment of the participating States to "confirm the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki Accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound";

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki Accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki Accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki Accords also express the commitment of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki Accords, have acknowledged an adherence to the principles of human rights and fundamental freedoms as embodied in the Helsinki Accords;

Whereas the aforementioned Governments have violated their commitments to the Helsinki Accords by denying individuals their inherent rights to freedom of religion, thought, conscience, and belief;

Whereas the aforementioned Governments have violated their commitments to the Helsinki Accords by restricting the freer movement of people, ideas, and information;

Whereas the concluding document of the Madrid Review Conference of September 9, 1983, called for the Ottawa Human Rights Experts Meeting, the Budapest Cultural Forum, and the Bern Human Contacts Experts Meeting to discuss questions concerning respect for human rights and cooperation in humanitarian fields as embodied in the Helsinki Accords;

Whereas these meetings, which were attended by representatives from all the signatory States, presented important opportunities to address issues of compliance with

the human rights and humanitarian provisions of the Helsinki Accords; and

Whereas in November 1986 representatives from the signatory States will be meeting in Vienna to review implementation of the Helsinki Accords, including the human rights and humanitarian provisions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1986, the eleventh anniversary of the signing of the Helsinki Accords is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki Accords, urging all signatory nations to abide by their obligations under the Helsinki Accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President if further requested to continue his efforts to achieve full implementation of the human rights provisions of the Helsinki Accords by raising the issue of noncompliance with the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania at every available opportunity;

(4) the President is further requested to convey to all signatories of the Helsinki Accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is the most effective means to promote the full implementation of the human rights and humanitarian provisions of the Helsinki Accords.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

● Mr. D'AMATO. Mr. President, I am pleased to join my colleague from Arizona, Senator DECONCINI, in introducing legislation designating August 1, 1986, as "Helsinki Human Rights Day." It has been my privilege to serve with him on the Helsinki Commission. As Chairman of the Commission, I want to acknowledge his tireless efforts to promote human rights and freedom.

August 1, 1986, marks the 11th anniversary of the signing of the Helsinki Final Act. For more than a decade, 35 nations, including the United States, Canada, and every European country with the exception of Albania, have been involved in the Helsinki process. The cornerstone of this process is the Helsinki Final Act.

The Final Act is significant in that it established a standard for behavior against which the actions of the signatory states could be judged. It contains specific commitments to "respect human rights and fundamental freedoms, including the freedoms of thought, conscience, religion or belief, for all without distinction to race, sex, language or religion." Furthermore, the 35 participating states agreed to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms . . ."

While some states have earnestly attempted to implement the commitments made in Helsinki, the behavior of others has fallen far short of the standard. As President Ford noted when signing the Final Act, "History will judge this conference not by what we say today, but by what we do tomorrow—not only the promises we make but by the promises we keep."

Nobel laureate Dr. Andrei Sakharov has stated, "The whole point of the Helsinki accords is mutual monitoring, not mutual evasion of difficult problems." As a signatory to the Final Act, the United States has a moral obligation to press for full implementation of existing human rights commitments. Today, many individuals continue to be separated from loved ones, denied the right to be reunited with family. Believers are imprisoned and harassed because of their faith. Others are denied the right to their rich cultural heritage. Many who seek to secure their rights are placed in labor camps, internal exile, or confined to psychiatric hospitals. These prisoners of conscience are often subjected to particularly harsh conditions.

Recently I had the pleasure of meeting with two champions of human rights in the Soviet Union, Dr. Elena Bonner and Natan Shcharansky, founding members of the Moscow Helsinki Group. Both have paid dearly for their steadfast dedication to the human rights movement. Bonner is currently serving a sentence of 5 years' internal exile. Shcharansky was released by the Soviets last February after 9 years in the gulag. Appearing before the Commission, Shcharansky testified, "* * * the mistake wasn't in signing the act. The mistake is not to demand that the Soviet Union fulfill its obligations under the Final Act."

Mr. President, I ask unanimous consent that the 10 principles agreed to at Helskinki be included in the RECORD at this time.

There being no objection, the principles were ordered to be printed in the RECORD, as follows:

I. SOVEREIGN EQUALITY, RESPECT FOR THE RIGHTS INHERENT IN SOVEREIGNTY

The participating States will respect each other's sovereign equality and individuality as well as all the rights inherent in and encompassed by its sovereignty, including in particular the right of every State to juridical equality, to territorial integrity and to freedom and political independence. They will also respect each other's right freely to choose and develop its political, social, economic and cultural systems as well as its right to determine its laws and regulations.

Within the framework of international law, all the participating States have equal rights and duties. They will respect each other's right to define and conduct as it wishes its relations with other States in accordance with international law and in the spirit of the present Declaration. They consider that their frontiers can be changed, in accordance with international law, by peaceful means and by agreement. They also have the right to belong or not to belong to international organizations, to be or not to be a party to bilateral or multilateral treaties including the right to be or not to be a party to treaties of alliance; they also have the right to neutrality.

II. REFRAINING FROM THE THREAT OR USE OF FORCE

The participating States will refrain in their mutual relations, as well as in their international relations in general, from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations and with the present Declaration. No consideration may be invoked to serve to warrant resort to the threat or use of force in contravention of this principle.

Accordingly, the participating States will refrain from any acts constituting a threat of force or direct or indirect use of force against another participating State. Likewise they will refrain from any manifestation of force for the purpose of inducing another participating State to renounce the full exercise of its sovereign rights. Likewise they will also refrain in their mutual relations from any act of reprisal by force.

No such threat or use of force will be employed as a means of settling disputes, or questions likely to give rise to disputes, between them.

III. INVIOLABILITY OF FRONTIERS

The participating States regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assulting these frontiers.

Accordingly, they will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating State.

IV. TERRITORIAL INTEGRITY OF STATES

The participating States will respect the territorial integrity of each of the participating States.

Accordingly, they will refrain from any action inconsistent with the purposes and principles of the Charter of the United Nations against the territorial integrity, political independence or the unity of any participating State, and in particular from any such action constituting a threat or use of force.

The participating States will likewise refrain from making each other's territory the object of military occupation or other direct or indirect measures of force in contravention of international law, or the object of acquisition by means of such measures or the threat of them. No such occupation or acquisition will be recognized as legal.

V. PEACEFUL SETTLEMENT OF DISPUTES

The participating States will settle disputes among them by peaceful means in such a manner as not to endanger international peace and security, and justice.

They will endeavour in good faith and a spirit of co-operation to reach a rapid and

equitable solution on the basis of international law.

For this purpose they will use such means as negotiation, enquiry, mediation, conciliation, arbitation, judicial settlement or other peaceful means of their own choice including any settlement procedure agreed to in advance of disputes to which they are parties.

In the event of failure to reach a solution by any of the above peaceful means, the parties to a dispute will continue to seek a mutually agreed way to settle the dispute peacefully.

Participating States, parties to a dispute among them, as well as other participating States, will refrain from any action which might aggravate the situation to such a degree as to endanger the maintenance of international peace and security and thereby make a peaceful settlement of the dispute more difficult.

VI. NON-INTERVENTION IN INTERNAL AFFAIRS

The participating States will refrain from any intervention, direct or indirect, individuals or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State, regardless of their mutual relations.

They will accordingly refrain from any form of armed intervention or threat of such intervention against another participating State.

They will likewise in all circumstances refrain from any other act of military, or of political, economic or other coercion designed to subordinate to their own interest the exercise by another participating State of the rights inherent in its sovereignty and thus to secure advantages of any kind.

Accordingly, they will, inter alia, refrain from direct or indirect assistance to terrorist activities, or to subversive or other activities directed towards the violent overthrow of the regime of another articipating State.

VII. RESPECT FOR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE FREEDOM OF THOUGHT, CONSCIENCE, RELIGION OR BELIEF

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.

They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his fee and full development.

Within this framework the participating States will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience.

The participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere.

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essental factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.

They will constantly respect these rights and freedoms in their mutual relations and will endeavour jointly and separately, including in co-operation with the United Nations, to promote universal and effective respect for them.

They confirm the right of the individual to know and act upon his rights and duties in this field.

In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will also fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

VII. EQUAL RIGHTS AND SELF-DETERMINATION OF PEOPLES

The participating States will respect the equal rights of people and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States.

By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.

The participating States reaffirm the universal significance of respect for and effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves as among all States; they also recall the importance of the elimination of any form of violation of this principle.

IX. CO-OPERATION AMONG STATES

The participating States will develop their co-operation with one another and with all States in all fields in accordance with the purposes and principles of the Charter of the United Nations. In developing their co-operation the participating States will place special emphasis on the fields as set forth within the framework of the Conference on Security and Co-operation in Europe, with each of them making its contribution in conditions of full equality.

They will endeavour, in developing their co-operation as equals, to promote mutual understanding and confidence, friendly and good-neighbourly relations among themselves, international peace, security and justice. They will equally endeavour, in developing their co-operation, to improve the well-being of peoples and contribute to the fulfillment of their aspirations through, inter alia, the benefits resulting from increased mutual knowledge and from progress and achievement in the economic, scientific, technological, social, cultural and humanitarian fields. They will take steps to promote conditions favourable to making these benefits available to all; they will take into account the interest of all in the narrowing of differences in the levels of economic development, and in particular the interest of developing countries throughout the world.

They confirm that governments, institutions, organizations and persons have a relevant and positive role to play in contributing toward the achievement of these aims of their co-operation.

They will strive, in increasing their co-operation as set forth above, to develop closer relations among themselves on an improved and more enduring basis for the benefit of peoples.

X. FULFILLMENT IN GOOD FAITH OF OBLIGATIONS UNDER INTERNATIONAL LAW

The participating States will fulfill in good faith their obligations under international law, both those obligations arising from the generally recognized principles and rules of international law and those obligations arising from treaties or other agreements, in conformity with international law, to which they are parties.

In exercising their sovereign rights, including the right to determine their laws and regulations, they will conform with their legal obligations under international law; they will furthermore pay due regard to and implement the provisions in the Final Act of the Conference of Security and Co-operation in Europe.

The participating States confirm that in the event of a conflict between the obligations of the members of the United Nations under the Charter of the United Nations and their obligations under any treaty or other international agreement, their obligations under the Charter will prevail, in accordance with Article 103 of the Charter of the United Nations.

All the principles set forth are of primary significance and, accordingly, they will be equally and unreservedly applied, each of them being interpreted taking into account the others.

The participating States express their determination fully to respect and apply these principles, as set forth in the present Declaration, in all aspects, to their mutual relations and co-operation in order to ensure to each participating State the benefits resulting from the respect and application of these principles by all.

The participating States, paying due regard to the principles above and, in particular, to the first sentence of the tenth principle, "Fulfillment in good faith of obligations under international law", note that the present Declaration does not affect their rights and obligations, nor the corresponding treaties and other agreements and arrangements.

The participating States express the conviction that respect for these principles will encourage the development of normal and friendly relations and the progress of co-operation among them in all fields. They also express the conviction that respect for these principles will encourage the development of political contracts among them which in turn would contribute to better mutual understanding of their positions and views.

The participating States declare their intention to conduct their relations with all other States in the spirit of the principles contained in the present declaration.

Mr. D'AMATO. Mr. President, it is appropriate that we reaffirm our commitment to these principles as we prepare for the Vienna Review Meeting, which will discuss their implementation. Freedom is the inalienable and universal right of all men and women. The Helsinki process has become a key element of our enduring commitment to its protection and promotion. But our work is far from complete. Millions continue to suffer under repressive regimes in the Soviet Union, Bul-

garia, Czechoslovakia, East Germany, Hungary, Poland, and Romania. Let us not evade the difficulties which Dr. Sakharov referred to, but redouble our efforts in the promotion of individual human rights.●

ADDITIONAL COSPONSORS

S. 951

At the request of Mr. GORTON, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 951, a bill to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such act.

S. 1793

At the request of Mr. KENNEDY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1793, a bill to amend the Public Health Service Act to establish a grant program to develop improved systems of caring for medical technology dependent children in the home, and for other purposes.

S. 1810

At the request of Mr. SYMMS, the name of the Senator from Alabama [Mr. HEFLIN] was added as a consponsor of S. 1810, a bill to require U.S. representatives to international financial institutions to oppose assistance by such institutions for the production of agricultural commodities in competition with U.S. produced agricultural commodities, and for other purposes.

S. 1917

At the request of Mr. BRADLEY the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 1943

At the request of Mr. DIXON, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of S. 1943, a bill to amend the Federal Deposit Insurance Act.

S. 2050

At the request of Mr. METZENBAUM, the name of the Senator from Colorado [Mr. HART] was added as a cosponsor of S. 2050, a bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes.

S. 2064

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2064, a bill to require the President to make an annual report on the national strategy of the U.S. Government to certain committees of Congress and to require joint committee meetings to be held on such report.

S. 2148

At the request of Mr. NICKLES, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2148, a bill to amend the Fair Labor Standards Act of 1938 to require that wages based on individual productivity be paid to handicapped workers employed under certificates issued by the Secretary of Labor.

S. 2208

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2208, a bill to establish the African Famine, Recovery and Development Fund for the relief, recovery, and long-term development of sub-Saharan Africa, and for other purposes.

S. 2209

At the request of Mr. DOLE, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such act to require concurrent notification of eligibility for SSI and medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

S. 2288

At the request of Mr. CHILES, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2288, a bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants under 1 year of age.

S. 2331

At the request of Mr. HEINZ, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2331, a bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and posthospital services furnished under the Medicare Program, and for other purposes.

S. 2410

At the request of Mr. BAUCUS, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Mississippi [Mr. STENNIS], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Arkansas [Mr. PRYOR] were added cosponsors of S. 2410, a bill to amend the Social Security Act to provide for improved treatment of small rural hospitals and sole community hospitals under title XVIII and XIX of such act, and for other purposes.

S. 2453

At the request of Mr. COHEN, the names of the Senator from Illinois [Mr. DIXON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. HATCH], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 2453, a bill to enhance the capabilities of the United States to combat terrorism and other forms of unconventional warfare.

S. 2494

At the request of Mr. BRADLEY, the names of the Senator from Tennessee [Mr. GORE], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2494, a bill to amend title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2498

At the request of Mr. KENNEDY, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Missouri [Mr. EAGLETON], the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 2498, a bill to prohibit loans to other investments in, and certain other activities with respect to, South Africa, and for other purposes.

S. 2515

At the request of Mr. WEICKER, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2515, a bill to reauthorize the Rehabilitation Act of 1973, and for other purposes.

S. 2533

At the request of Mr. DIXON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2533, a bill to amend the Food Stamp Act of 1977 and the Temporary Emergency Food Assistance Act of 1983 to alleviate hunger among the homeless by improving certain nutrition programs, and for other purposes.

S. 2545

At the request of Mr. CRANSTON, the name of the Senator from Colorado [Mr. HART] was added as a cosponsor of S. 2545, a bill to place a moratorium on the relocation of Navajo and Hopi Indians under Public Law 93-531, and for other purposes.

S. 2560

At the request of Mr. CHILES, the names of the Senator from Georgia [Mr. NUNN], the Senator from Massachusetts [Mr. KERRY], the Senator from Nevada [Mr. HECHT], the Senator

from Oklahoma [Mr. BOREN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 2560, a bill to amend schedule I of the Controlled Substances Act to include cocaine freebase.

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 2560, supra.

S. 2561

At the request of Mr. CHILES, the names of the Senator from Georgia [Mr. NUNN], the Senator from Massachusetts [Mr. KERRY], the Senator from Nevada [Mr. HECHT], the Senator from Oklahoma [Mr. BOREN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 2561, a bill to amend the Controlled Substances Act to provide enhanced penalties for employment of persons under age 21 to distribute drugs.

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 2561, supra.

S. 2562

At the request of Mr. CHILES, the names of the Senator from Georgia [Mr. NUNN], the Senator from Massachusetts [Mr. KERRY], the Senator from Nevada [Mr. HECHT], the Senator from Oklahoma [Mr. BOREN], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of S. 2562, a bill to amend section 405A of the Controlled Substances Act, relating to the distribution of a controlled substance in or near a school, to include the manufacture of controlled substances.

At the request of Mr. BUMPERS, his name was added as a cosponsor of S. 2562, supra.

SENATE JOINT RESOLUTION 126

At the request of Mr. PRESSLER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 126, a joint resolution to condemn Bulgarian brutality toward their Turkish minority.

SENATE JOINT RESOLUTION 196

At the request of Mrs. HAWKINS, the name of the Senator from Nebraska [Mr. ZORINSKY] was added as a cosponsor of Senate Joint Resolution 196, a joint resolution designating September 22, 1986, as "American Business Women's Day."

SENATE JOINT RESOLUTION 343

At the request of Mr. D'AMATO, the names of the Senator from Idaho [Mr. MCCLURE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Tennessee [Mr. GORE], the Senator from Arkansas [Mr. PRYOR], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. MURKOWSKI], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Georgia [Mr. NUNN], the Senator from Florida [Mrs. HAWKINS], the Senator from Massachusetts [Mr. KERRY], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of Senate Joint Resolution 343, a joint resolution designating the week of September 21, 1986, through September 27, 1986, as "Emergency Medical Services Week."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. MCCLURE, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of Senate Concurrent Resolution 43, a concurrent resolution expressing the sense of the Congress that the English language is the official language of the United States.

SENATE CONCURRENT RESOLUTION 130

At the request of Mr. HOLLINGS, the names of the Senator from Nevada [Mr. LAXALT], the Senator from Tennessee [Mr. GORE], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Rhode Island [Mr. PELL], the Senator from Georgia [Mr. NUNN], the Senator from Mississippi [Mr. STENNIS], and the Senator from Maryland [Mr. MATHIAS] were added as cosponsors of Senate Concurrent Resolution 130, a concurrent resolution to recognize the visit by the descendants of the original settlers of Purrysburg, SC, to Neufchatel, Switzerland, in October of 1986 as an international gesture of goodwill.

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. HART, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Texas [Mr. BENTSEN], were added as cosponsors of Senate Concurrent Resolution 131, a concurrent resolution expressing the sense of the Congress that the Soviet Union should immediately provide for the release and safe passage of Naum Meiman and Inna Kitrosskaya-Meiman.

SENATE CONCURRENT RESOLUTION 147

At the request of Mr. CRANSTON, the names of the Senator from Nevada [Mr. HECHT], the Senator from Rhode Island [Mr. PELL], and the Senator from North Dakota [Mr. BURDICK], were added as cosponsors of Senate Concurrent Resolution 147, a concurrent resolution to express the sense of the Congress that the monkeys known as the Silver Spring Monkeys should be transferred from the National Institutes of Health to the custody of Primarily Primates, Inc., animal sanctuary in San Antonio, TX.

SENATE RESOLUTION 397

At the request of Mr. QUAYLE, the name of the Senator from South Carolina [Mr. THURMOND], was added as a cosponsor of Senate Resolution 397, a resolution expressing the sense of the Senate regarding the lending practices of multilateral development banks.

SENATE RESOLUTION 424

At the request of Mrs. HAWKINS, the names of the Senator from Virginia [Mr. TRIBLE], and the Senator from Kentucky [Mr. MCCONNELL] were added as cosponsors of Senate Resolution 424, a resolution commending Col. Ricardo Montero Duque for the extraordinary sacrifices he has made to further the cause of freedom in Cuba, and for other purposes.

SENATE RESOLUTION 431

At the request of Mr. BUMPERS, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Rhode Island [Mr. PELL], the Senator from Vermont [Mr. STAFFORD], the Senator from Missouri [Mr. DANFORTH], the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Mr. MATHIAS], the Senator from Connecticut [Mr. WEICKER], the Senator from Colorado [Mr. HART], the Senator from Michigan [Mr. LEVIN], the Senator from Michigan [Mr. RIEGLE], the Senator from Washington [Mr. GORTON], the Senator from Oregon [Mr. PACKWOOD], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Iowa [Mr. HARKIN], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Washington [Mr. EVANS], the Senator from Illinois [Mr. SIMON], the Senator from Ohio [Mr. METZENBAUM], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Montana [Mr. BAUCUS], the Senator from Nebraska [Mr. EXON], the Senator from Illinois [Mr. DIXON], the Senator from New York [Mr. MOYNIHAN], the Senator from Connecticut [Mr. DODD], the Senator from Maine [Mr. MITCHELL], the Senator from Maryland [Mr. SARBANES], the Senator from Kentucky [Mr. FORD], the Senator from Missouri [Mr. EAGLETON], the Senator from Arkansas [Mr. PRYOR], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from North Dakota [Mr. BURDICK], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Tennessee [Mr. SASSER], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Texas [Mr. BENTSEN], the Senator from Montana [Mr. MELCHER], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Resolution 431, a resolution supporting the numerical sublimits of existing strategic offensive arms agreements.

SENATE CONCURRENT RESOLUTION 153—RELATING TO A MOMENT OF SILENCE FOR THE RETURN OF THE AMERICAN CAPTIVES IN LEBANON

Mr. SIMON (for himself, Mr. DIXON, Mr. D'AMATO, Mr. MOYNIHAN, Mr. KENNEDY, Mr. KERRY, Mr. WILSON, Mr. DURENBERGER, Mr. LEVIN, Mr. MURKOWSKI, Mr. LAUTENBERG, Mr. ARMSTRONG, Mr. HART, Mrs. HAWKINS, Mr.

SASSER, Mr. MITCHELL, Mr. NUNN, Mr. GRASSLEY, Mr. CRANSTON, Mr. GORE, Mr. HARKIN, Mr. MATTINGLY, Mr. INOUYE, Mr. BOSCHWITZ, Mr. HATCH, Mr. ZORINSKY, Mr. EVANS, Mr. PRYOR, and Mrs. KASSEBAUM) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 153

Whereas the Statue of Liberty stands as a tribute to the principles of freedom;

Whereas this year, the United States will rededicate itself to the freedom and dignity of all people by relighting the torch of the Statue of Liberty;

Whereas on July 4th the United States will again celebrate its independence; and

Whereas Father Lawrence Martin Jenco, Terry Anderson, David Jacobsen, Thomas Sutherland and William Buckley remain captive in Lebanon: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that during the official ceremony of the lighting of the torch of the Statue of Liberty, a moment of silence be held and that the light of hope for the return of the Americans held captive in Lebanon be rekindled.

SENATE CONCURRENT RESOLUTION 154—REGARDING THE UKRAINIAN HELSINKI MONITORING GROUP

Mr. D'AMATO (for himself and Mr. DECONCINI) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations.

S. CON. RES. 154

Whereas on August 1, 1975, the Final Act of the Conference on Security and Cooperation in Europe was signed at Helsinki, Finland, by 33 European states, together with Canada and the United States;

Whereas the signatories of the Helsinki Final Act committed themselves under Principle VII to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion;

Whereas Principle VII specifically confirms the "right of the individual to know and act upon his rights and duties" in the field of human rights, and Principle IX of the Final Act confirms the relevant and positive role organizations and persons can play in contributing toward the achievement of cooperation among nations;

Whereas the signing of the Final Act raised the expectations of the peoples of the Soviet Union for greater observance by the Soviet Union of human rights, and engendered the formation of the Moscow, Lithuanian, Georgian, Armenian, and Ukrainian citizens' monitoring groups to inform the peoples of the Soviet Union and the world with regard to the Soviet Government's compliance with the Final Act;

Whereas affiliated groups—the Psychiatric Abuse Commission, the Christian Committee, the Adventists Rights Group, the Catholic Committee, the Ukrainian Catholic Initiative Commitee, and the Disabled Rights Group—later were established by citizens to address areas of specific concern;

Whereas four members of Helsinki Monitoring Groups, Oleksiy Tykhy, Yuri Lytvyn, and Vasyl Stus of the Ukrainian Group and Eduard Arutunyan of the Armenian Group, died after years of inhumane treatment in Soviet labor camps;

Whereas November 9, 1986, marks the tenth anniversary of the establishment of the largest such citizens group, the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords;

Whereas the establishment of this group coincides with the opening on November 4, 1986, of the Vienna Review Meeting of the Conference on Security and Cooperation in Europe;

Whereas the Ukrainian Helsinki Monitoring Group opened a new phase in the Ukrainian struggle for human and national rights, providing impetus for human rights activists to demand not only that the Soviet Government uphold the human rights guaranteed by the Soviet Constitution, the Helsinki Final Act, and other international human rights declarations and covenants, but also to assert that the Western democracies have a solemn responsiblity to support the struggle for achievement of human rights of Ukrainians and other peoples living under Soviet domination;

Whereas the Soviet Union continues to violate the human rights provisions of the Helsinki Final Act and other international human rights declarations and covenants by denying to the citizens of Ukraine and other Soviet Republics rights of national identity and basic human rights through intensified russification, ethnocide, repression, and imprisonment of the citizens of Ukraine and other Soviet Republics who lawfully engage in calling the Soviet Government to account for violations of human, national, and religious rights as well as the rights of family reunification and emigration; and

Whereas the blatant disregard by the Soviet Union of the humanitarian provisions of the Helsinki Final Act and other international human rights declarations and covenants, in particular its persecution of the members of Ukrainian and other public Helsinki Monitoring Groups, contribute to tensions between East and West and give rise to doubts about Soviet commitments to their international obligations: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. DISCUSSIONS WITH THE SOVIET UNION CONCERNING THE UKRAINIAN AND OTHER PUBLIC HELSINKI MONITORING GROUPS.

It is the sense of Congress that the President and the Secretary of State should firmly insist at the Vienna Review Meeting of the Conference on Security and Cooperation in Europe, and at all other appropriate opportunities for discussions with the leadership of the Communist Party and Government of the Soviet Union, that—

(1) imprisoned and exiled members of the Ukrainian and other public Helsinki Monitoring Groups in the Soviet Union be released from their incarceration in the spirit of the Final Act of the Conference on Security and Cooperation in Europe; and

(2) members of the Ukrainian and other public Helsinki Monitoring Groups be allowed to emigrate to the countries of their choice.

SEC. 2. INFORMATION ON HUMAN RIGHTS VIOLATIONS IN THE UKRAINIAN REPUBLIC.

It is the sense of the Congress that—

(1) the Secretary of State should ensure that the United States consulate in Kiev reports on Soviet human rights violations in the Ukrainian Republic, and

(2) information provided by that consulate on those violations should be included in the semi-annual reports on compliance with the Helsinki Final Act which are submitted by the President to the Commission on Security and Cooperation in Europe pursuant to Public Law 94-304.

SEC. 3. TRANSMITTAL OF RESOLUTION TO PRESIDENT AND SECRETARY OF STATE.

The Secretary of the Senate shall transmit copies of this resolution to the President and Secretary of State.

● Mr. D'AMATO. Mr. President, I rise today to submit a concurrent resolution commemorating the 10th anniversary of the founding of the Ukrainian Public Group to Promote the Observance of the Helsinki accords. In addition, it calls upon the President and Secretary of State to raise with Soviet authorities the issue of repression of human rights activists.

The Ukrainian Helsinki Monitoring Group, the largest of its kind, was formed to monitor Soviet compliance with the human rights provisions of the Helsinki Final Act, an agreement signed in 1975 by 35 nations, including the United States and the Soviet Union. This group of private citizens, led by Mykola Rudenko, was established on November 9, 1976, in Kiev, Ukraine.

Similar groups were organized in Moscow, Lithuania, Georgia, and Armenia. In addition, special affiliated groups included: the Psychiatric Abuse Commission, the Christian Committee, the Adventists Rights Group, the Lithuanian Catholic Committee, the Ukrainian Catholic Initiative Group, and the Disabled Rights Group.

Of the 37 Ukrainian monitors, all but one have been subjected to long terms in labor camp and internal exile. Sixteen remain in prison or exile. Three others died while serving camp terms under the extremely harsh conditions.

The work of the group underscores the Ukrainian drive for individual freedom and national self-determination. Since the early 1920's the people of Ukraine have struggled to break the chains of Soviet domination. Seven millon Ukrainians died between 1932-33 as a result of Stalin's artificially induced famine. During the Second World War, Ukrainian partisans fought both the Nazis and the Soviets.

Forty million Ukrainians continue to seek those basic human rights guaranteed by the Helsinki Final Act and other international agreements. The harsh treatment of members of the Ukrainian Monitoring Group by Soviet authorities demonstrates the failure of the Soviet Union to live up to its pledges.

The Soviets continue to pursue a brutal policy of russification designed to strip Ukrainians of their rich heritage and culture. Churches have been destroyed, publishing of material in Ukrainian has nearly come to a halt,

and Russian is taught instead of the native language.

In addition about 40 percent of known Soviet political prisoners are Ukrainian. Among them is Yuriy Shukhevych, a Ukrainian prisoner of conscience who has spent more than 34-years of his life in Soviet Prisons, labor camps, and internal exile. The son of Roman Shukhevych, commander of the Ukrainian Insurgent Army [UPA], Yuriy was first arrested at the age of 15 because he refused to renounce his father and the cause of Ukrainian independence. Despite his own travail, Shukhevych has emerged as an advocate of human rights for those living under Soviet rule. In January 1979, while still in prison, he became a member of the Ukrainian Helsinki Monitoring Group.

Recent events in connection with the disaster at Chernobyl also raise serious questions regarding Soviet discrimination against citizens of Ukraine. Many Ukrainian-Americans have not been allowed to contact friends and loved ones in the aftermath of the accident, despite provisons of the Helsinki Final Act which gurarantee such contacts. Others have been frustrated in their efforts to send assistance to victims of the tragedy. The Soviet response to Chernobyl demonstrates that, despite an extensive disinformation campaign, the Kremlin is as closed as ever. Instead of genuine reform, Gorbachev continues to pursue the same old policies followed by his predecessors.

I urge my colleagues to support this concurrent resolution as an expression of solidarity with members of the Helsinki monitoring and affiliated groups, including members of the Ukrainian Monitoring Group, who have remained steadfast in their pursuit of individual human rights. Together, they are a shining example of human courage and dedication to the highest principles of human civilization.●

SENATE RESOLUTION 435—TO RECOGNIZE THE CONTRIBUTIONS OF EUGENE LANG

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 435

Whereas the number of young peole who fail to graduate is unacceptable in many high schools, especially in urban areas; and

Whereas failure to graduate deprives these young people of many employment opportunities and further educational opportunities; and

Whereas many disadvantaged young people are never encouraged to pursue a college education and are unaware of scholarship opportunities; and

Whereas Eugene Lang's donation of time and money to the Class of 1981 at P.S. 121 in East Harlem has provided every class member the opportunity to attend college; and

Whereas 50 of 51 class members are expected to attend college because of Mr. Lang's efforts in an area where the dropout rate approaches 75 percent; and

Whereas six new sponsors have offered the same opportunity to 425 schoolchildren in New York City and Mr. Lang has established the "I Have a Dream Foundation" to replicate his idea in other cities: Now, therefore, be it

Resolved, that it is the sense of the Senate that—

(1) Eugene Lang is to be commended for his recognition of a serious problem in inner city schools and his contribution of time and money to correct it. His efforts have provided disadvantaged young people the incentive and the means to finish high school and attend college.

(2) Americans are encouraged to use their time and resources to give disadvantaged young people educational opportunities they do not normally have.

SENATE RESOLUTION 436—REGARDING THE ESTABLISHMENT OF AN INTERNATIONAL TRADE AND FINANCING DEVELOPMENT PROGRAM

Mr. KERRY submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 436

Resolved, That this resolution may be cited as the "International Development Resolution of 1986".

SEC. 1. The Senate finds that—

(1) international trade and finance are so inter-related that both condition international development and impact on national economic decisionmaking and foreign policy formulation;

(2) current levels of developing country debt stifle exports from the United States, place downward pressures on commodity prices, and jeopardize the commercial financial system;

(3) the international debt crisis forces debtor nations to reduce their consumption of products to the United States and to increase exports competing with American products, thereby causing injury to the manufacturing base of the United States and job dislocation for our workers;

(4) the size and composition of the United States trade deficit and the overexposure of United States financial institutions assisting with the balance of payments problems of developing countries reflect the most obvious detrimental consequences of the debt crisis;

(5) the strictly case-by-case financial approach to dealing with the debt international debt crisis has failed to enhance the international trading system or result in the resumption of normal and predictable levels of private and public lending to debt-ridden nations of the third world;

(6) it is in the national interest of the United States and other nations of the world to participate in an open and fair international trading system, to contribute to the stabilization of the international financial system, and to promote national economic growth as a process mutually beneficial to industrial and developing nations alike:

(7) the persistence of the current economic crisis makes necessary the adoption of extraordinary measures to resolving this crisis.

SEC. 2. It is the policy of the United States—

(1) to promote international development through the formulation of trade and financial policies designed to strengthen international cooperation which accommodates the mutual interests of the industrialized and developing nations in a growth-oriented world economy:

(2) to support, with positive incentives, the enhancement of freer and fairer international trade;

(3) to support improvements in the mechanisms of international lending in order to provide for market stabilization and to strengthen the integrity of the international financial system; and

(4) to establish an international trade and finance development program which can deal effectively with ameliorating the international debt crisis.

SEC. 3. The purposes of an international trade and finance development program should be—

(1) to strengthen international economic relations among the participants in this program, through the coordinated and equitable appropriation of financial resources, the allocation of which, under this program's criteria, would be to provide inducements for increasing the imports of developing nations and the stablization of international financial markets;

(2) to strengthen economic growth in developing nations by increasing their participation in the world trading system through alleviation of their debt burden;

(3) to contribute to the stabilization of financial markets by mitigating the negative impact of the debt crisis on private financial institutions, thereby avoiding the potential of widespread bankruptcy while re-establishing the creditworthiness of debtor nations which, in turn, would allow the resumption of normal international commercial lending;

(4) To establish a basis for economic cooperation among sovereign nations, which enhances multilateralism and burdensharing and prevents the politicization of international trade and finance.

SEC. 4. It is the sense of the Senate that the President should instruct the Permanent Representative of the United States to the United Nations to propose an agreement on international trade and finance development which provides for—

(1) the establishment of a progressive cap to limit the external public debt-service payments of developing nations based upon their net trade performance, as an inducement for the reduction of developing nation trade surpluses through increased imports;

(2) the establishment of an alternative progressive scale on public debt-service payments relief for trade deficit developing nations, so as to assure that their import capacity is sustained and external economic adjustment is growth-oriented;

(3) the establishment of conditions for the repayment of external public debt-service of developing nations, for which debt relief was accorded, in order to assure the non-capitalization of interest on the rescheduled debt during the grace period and fixed interest rates during the maturity period, and which assure creditor commercial banks full debt repayment at market interest rates in return for eliminating interest spreads or commissions;

(4) the allocation of resources by industrialized nations, the contribution of which would be proportional to the effective benefit derived from the increase in trade among the parties, the said amount of which would

be available only to fund the financial operations of the agreement;

(5) the deposit by developing nations seeking debt relief of 10 percent of the total amount of their annual debt relief for use under the agreement to cover potential defaults;

(6) the establishment of an International Trade and Finance Development Council, comprised of a Board of Directors and an Executive-Secretary who would decide by equal vote on the Program's statutory provisions required to implement the agreement;

(7) representation on the Board of Directors, which should be regional in nature and shall include representation from the International Monetary Fund, the Bank for International Reconstruction and Development, and the General Agreement on Trade and Tariffs;

(8) the termination of the agreement at the end of five years.

SEC. 7. The Secretary of the Senate shall transmit a copy of this resolution to the President.

● Mr. KERRY. Mr. President, I am submitting today the International Development Resolution of 1986, expressing the sense of the Senate regarding the establishment of an international trade and financing development program. This program is designed to provide a comprehensive solution to the debt crisis which affects Latin America and other Third World nations, and which threatens the U.S. economy as well.

This proposal is explained in detail in a background paper accompanying the resolution, which I will place in the RECORD in the near future. Basically, the plan circumvents the failed case-by-case approach of the Baker plan, and provides a comprehensive approach to the debt problem, one which is mutually beneficial to both developing nations and to the American ecomony. This plan would provide incentives to debtor nations to increase their imports of U.S. goods, without affecting their export capacity. It would improve the current U.S. trade deficit, and would provide jobs for the American worker. It would also guarantee to U.S. banks eventual repayment of their outstanding loans to debtor nations, loans which would otherwise have to be written off in all likelihood. This plan would stabilize the international financial system, and would promote economic growth in a process mutually beneficial to both industrial and developing nations.

The present debt crisis is a threat not only to the economies of Latin American and other developing nations. It is also a threat to the forces of democracy which are sweeping throughout Latin America and other Third World nations such as the Philippines. At present, the debt crisis creates an intolerable burden on many Third World countries. With those economic pressures come political pressures, which threaten the fragile democracies of many developing nations. In order for those democracies to flourish, they must have stable economic conditions which allow for economic growth. The present Baker plan for dealing with the debt has failed to provide the conditions for economic growth. In order to encourage the process of democratic change, and create the conditions for economic growth in developing countries, a new approach is needed.

The plan which I have outlined would provide a fresh approach. In simple terms, it would provide for the establishment of a progressive cap to limit the external public debt-service payments of developing nations, based upon their net trade performance, as an inducement for the reduction of developing nation trade surpluses through increased imports. It would also establish an alternative progressive scale for public debt-service payment relief for developing nations, to assure that their import capacity is sustained, and to ensure that external economic adjustment is growth oriented. And it would establish conditions for the repayment of the external public debt of developing nations, which would assure creditor commercial banks full debt repayment, in return for eliminating interest spreads or commissions on the rescheduled debt.

This plan would involve the cooperation and participation of both developing and developed nations, and would be beneficial to both. I believe that it is a real and viable alternative to the present administration policy. The Baker plan, on its own terms, has failed. It is time for a new approach, one which is creative, and one which can work. The plan which I am presenting today creates an alternative which represents a realistic solution to the debt crisis. I hope that my colleagues will join in support of this plan.●

SENATE RESOLUTION 437—RELATING TO UPCOMING ELECTIONS IN MEXICO

Mr. DECONCINI submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 437

Whereas the great nation of Mexico has been a helpful and constructive United States ally and neighbor;

Whereas Mexico's stability and prosperity is crucial to peace and progress in the Americas;

Whereas the rich cultural diversity and vibrant society of Mexico is experiencing severe economic problems, and the United States and other nations can do no less than assist in this time of economic stress;

Whereas Mexico in its long-range commitment to popular democracy has been a role model for other developing nations;

Whereas President de la Madrid has pledged that elections in Mexico would be clean and "morally renovated" upon his election to the presidency;

Whereas the mid-term municipal elections in December 1984 led to Mexican and international accusations of massive fraud and bribery and resulted in damaging this proud nation's status as a democratic leader in Latin American countries that claim that their political systems are responding to social pressures through democratic change;

Whereas at least three people and possibly as many as eleven were killed and scores injured in January 1986 when protests against alleged fraud in municipal elections forced police to move against demonstrators;

Whereas the Mexican newspaper of Monterrey, El Norte, documented 1,065 incidents of fraud in 14 hours—from ballot box stuffing to disappearances of election officials—after setting up their network of reporters in the July 1985 mid-term elections;

Whereas an Arizona newspaper reported a bus full of voters from the State of Chihuahua pulling into the neighboring Sonoran town of Agua Prieta to vote illegally;

Whereas with economic problems increasing, oil prices dropping, and social unrest growing, Mexico can offer its electorate an opportunity to speak out and share in the country's future through the ballot box;

Whereas the political, social, and economic stability of Mexico is inexticably intertwined with the United States as events in one country inevitably and increasingly influence the other; and

Whereas municipal and gubernatorial elections throughout Mexico beginning in July 1986 and lasting for six months will provide an opportunity to reflect the Mexican peoples desire for and the government's commitment to fostering the growth of democratic institutions: Now, therefore, be it

Resolved, That (a) it is the sense of the Senate that the longstanding friendship between Mexico and the United States is best served by the commitment of these countries to democratic freedoms and institutions.

(b) Placing the highest priority on this commitment, the Senate hereby—

(1) urges the President of Mexico to live up to his pledge to achieve morally renovated elections and open the one-party system of Mexico to greater democratic freedoms in the upcoming State and municipal elections;

(2) encourage the Government of Mexico to appoint a special independent citizen body representing all the recognized political parties for the purpose of objectively evaluating and monitoring those elections and working with the Commission Federal Electoral (CFE); and

(3) stresses that the great nation of Mexico should continue its long-term commitment to democratic principles and its leadership role in the Americas to promote democracy.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DECONCINI. Mr. President, last week my distinguished colleague from Texas, Senator BENTSEN, eloquently discussed the situation in Mexico. I listened intently to his statement and, as another Senator sharing a long border with Mexico, I agree with many of his insightful remarks. In particular, I would like to quote specifically from his talk:

We are not always going to find that our policies are in concurrence or agreement.

That is the way it is between two major nations living side by side as neighbors. This is a tough time for Mexico. It is a time when we should offer understanding and cooperation on the problems that we all agree exist.

I respect Mexico's sovereignty and autonomy. I respect this great nation's rich cultural diversity and vibrant society. I also value their close friendship. This is why I am introducing a resolution expressing the sense of the Senate that the Government of Mexico should continue its long-term commitment to democracy and open its one-party system to greater democratic freedoms in the upcoming elections. The longstanding friendship between Mexico and the United States is best served by the commitment of these countries to democratic freedoms and institutions.

This resolution places the highest priority on this mutual responsibility and thereby urges the President of Mexico to live up to his pledge to achieve "morally renovated" elections and open the one-party system of Mexico to greater democratic freedoms in the upcoming state and municipal elections. President de la Madrid achieved initial progress in this area but subsequent reports have indicated electoral fraud and abuse in the most recent elections. This abuse includes ballot stuffing, vanishing election officials, and fraudulent voter lists.

Second, this resolution encourages the Government of Mexico to appoint a special independent citizen body representing all the recognized political parties for the purpose of objectively monitoring and evaluating these elections and working with the Commission Federal Electoral [CFE]. While I recognize that many Central and Latin American democracies allow international observers to watch election returns, I do not believe this is called for in Mexico's situation. I do think that, given the volatile situation in Mexico, this could vent some discontent by allowing opposition parties a fairer chance in the elections.

This resolution also stresses that the great nation of Mexico should continue its long-term commitment to democratic principles and its leadership role in the Americas to promote democracy. Mexico has supported the overall endeavor of democracy and the press, while under some control, is increasingly vocal and critical of the Government. Mexico supports a diplomatic solution to the problems in Nicaragua. Admittedly, the opposition political parties have yet to win a governor's race. A crucial contest between the PRI [Institutional Revolutionary Party] and the PAN [National Action Party] will take place July 6 in Chihuahua. This must not be perceived as fair and a legitimate reflection of the Mexican electorate in Chihuahua.

I fully recognize the nature of this challenge to the Mexican Government. This will echo instantly from Mexico City to Nogales to Washington. DC. For Mexico is our third largest trading partner, after Canada and Japan. They supply the United States with more oil than any other country. Its precarious economy threatens the stability of many American banks. The influx of immigrants into the United States has transformed cities from San Diego to Chicago. But it would be a mistake not to challenge Mexico to continue its commitment to democratic principles and freedoms. It would be a mistake not to invite President de la Madrid to live up to his pledge to "morally renovate" the elections. It would be a mistake to think that Mexico cannot meet this challenge.

Nowhere else in the world, Mr. President, does a developing country like Mexico share an undefendable 2,000-mile border with a wealthy country like the United States. My State of Arizona shares 377 miles of this border. I understand that Mexico must address the denationalization of State companies, curb corruption, stabilize their debt, and open up political channels for opposition parties. By continuing in their commitment to democracy, Mexico would warrant deeper and more fundamental support from the world community for reasons that go beyond momentary financial concerns. Living up to this democratic challenge can only broaden this worldwide support.

SENATE RESOLUTION 438—DIRECTING A STUDY OF THE RULES AND PRECEDENTS OF THE SENATE APPLICABLE TO IMPEACHMENT TRIALS

Mr. BYRD (and Mr. DOLE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 438

Resolved, That the Committee on Rules and Administration is directed to review any and all existing rules and precedents that apply to impeachment trials with a view to recommending any revisions, if necessary, which may be required if the Senate is called upon to conduct such a trial.

Resolved further, That the Committee on Rules and Administration is instructed to report back no later than August 1, 1986.

SENATE RESOLUTION 439—AUTHORIZING THE REPRINTING OF A SENATE DOCUMENT

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 439

Resolved, That Senate Document 93-102, 93rd Congress, 2d Session, entitled "Procedure and Guidelines for Impeachment Trials in the United States Senate" be reprinted as a Senate document and that there be printed, in addition to the usual number of copies of such document, such additional copies as are allowed to be printed under the limitations imposed by section 703 of title 44, United States Code.

SENATE RESOLUTION 440—EXPRESSING APPRECIATION TO MS JEANIE BOWLES

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 440

Whereas, Ms. Jeanie Bowles has performed in an exemplary manner all of the duties of her position of Assistant Editor in the office of the Official Reporters of Debates, which position she has held since she was appointed to it on February 2, 1981; and

Whereas, Senators and staff with occasion to work with Ms. Bowles admire her helpfulness and respect the high quality of her work; and

Whereas, the work of the Senate has been aided immeasurably by Ms. Bowles' commitment to fulfill the responsibilities of her position in an exemplary manner; and

Whereas, Ms. Bowles has been appointed to the position of Superintendent of Documents of the United States Senate, in recognition of the conscientious way in which she performs all tasks assigned to her and the consistent superior quality of her work—

Therefore, be it Resolved, that the United States Senate expresses its appreciation to Ms. Jeanie Bowles for her years of dedicated service as Assistant Editor in the Office of the Official Reporters of Debates, and extends its best wishes for success in her new position of Superintendent of Documents for the Senate.

SENATE RESOLUTION 441—RELATING TO TELEVISION COVERAGE OF THE SENATE

Mr. DOLE (for himself and Mr. BYRD) submitted the following resolution; which was ordered held at the desk by unanimous consent:

S. RES. 441

Resolved, That notwithstanding any other provision of S. Res. 28, agreed to February 27, 1986, television coverage of the Senate shall continue under the same basis as provided during the live test period under section 5 of S. Res. 28 unless the Senate votes pursuant to section 15 of S. Res. 28 to end coverage.

AMENDMENTS SUBMITTED

URGENT SUPPLEMENTAL APPROPRIATIONS, 1986

JOHNSTON (AND OTHERS) AMENDMENT NO. 2196

Mr. JOHNSTON (for himself, Mr. LONG, Mr. BENTSEN, Mr. BOREN, and Mr. NICKLES) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 175 to the bill (H.R. 4515) making

urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes; as follows:

At the end of the amendment insert:

CHAPTER VIII A

TRADE ADJUSTMENT ASSISTANCE

SEC. 1. (a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended to read as follows:

"SEC. 222. GROUP ELIGIBILITY REQUIREMENTS.

"(a) The Secretary shall certify a group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(1) a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated,

"(2) sales or production, or both, of such firm or subdivision have decreased absolutely, and

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) in the case of workers of a firm in the oil or natural gas industry, for which such workers' firm, or appropriate subdivision thereof, provides essential parts or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(b) For purposes of subsection (a)(3)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(3) Any firm, or subdivision of a firm, which—

"(A) engages in the exploration for oil or natural gas,

"(B) produces or extracts oil or natural gas, or

"(C) processes or refines oil or natural gas.

shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.

"(4) Any firm which provides essential parts, or essential services, to another firm that conducts activities described in paragraph (3) with respect to oil or natural gas, as its principal trade or business, shall be considered to be a part of the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(b) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that—

"(A) a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separted,

"(B) sales or production, or both, of such firm have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) in the case of a firm in the oil or natural gas industry, for which such firm provides essential parts or essential services.

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B) Natural gas shall be considered to be competitive with crude oil and refined petroleum products.

"(C) Any firm which—

"(i) engages in the exploration for oil or natural gas,

"(ii) produces or extracts oil or natural gas,

"(iii) processes or refines oil or natural gas, or

"(iv) provides essential parts, or essential services, to another firm that conducts activities described in any of the preceding clauses as its principal trade or business,

shall be considered to be in the oil or natural gas industry and to be a firm providing essential services for such oil or natural gas and for the processed or refined products of such oil or natural gas.".

(c)(1) The amendments made by this section shall apply with respect to petitions for certification which are filed or pending—

(A) on or after September 30, 1986, and

(B) before October 1, 1987.

(2) Notwithstanding any other provision of law, no worker shall be eligible for assistance under subchapter B of chapter 2 of title II of the Trade Act of 1974 if—

(A) such worker is covered by a certification made under subchapter A of such chapter only by reason of the amendment made by subsection (a) of this section, and

(B) the total or partial separation of such worker from adversely affected employment occurs after September 30, 1987.

ATLANTIC STRIPED BASS CONSERVATION ACT AMENDMENTS

CHAFEE (AND OTHERS) AMENDMENT NO. 2197

Mr. DOLE (for Mr. CHAFEE, for himself, Mr. STAFFORD, Mr. BENTSEN, Mr. MITCHELL, and Mr. BAUCUS) proposed an amendment to the bill (S. 1813) to amend and extend the Atlantic Striped Bass Conservation Act, and for other purposes; as follows:

On page 5, line 18, insert "(2)," immediately after "Paragraphs", strike the comma between "(3)" and "(4)" and insert in lieu thereof "and", and strike "(7)".

On page 5, after line 20, insert a new paragraph as follows:

"(2) The term 'Atlantic striped bass' means members of stocks or populations of the species Morone saxatilis, which ordinarily migrate seaward of the waters described in paragraph (3)(A)(i).".

On page 6, strike lines 21 through 25, and on page 7, strike lines 1 through 6.

On page 8, strike lines 9 through 25, and insert in lieu thereof the following:

"(c) amending subsection (b), as so redesignated, to read as follows:

'(b) Secretarial Action After Notification.—

Upon receiving notice from the Commission under subsection (a) that a coastal State has not taken the actions described in that subsection, the Secretaries shall determine jointly, within 30 days, whether that coastal State is in compliance with the Plan and, if the State is not in compliance, the Secretaries shall declare jointly a moratorium on fishing for Atlantic striped bass within the coastal waters of that coastal State. In making such a determination, the Secretaries shall carefully consider and review the comments of the Commission and that coastal State in question.'.".

On page 9, strike lines 2 through 4 and insert in lieu thereof the following:

"Section 5 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by—

"(a) striking '(4)(d)' and inserting in lieu thereof '(4)(b)'.

"(b) striking 'Secretary' and inserting in lieu thereof 'Secretaries'.".

On page 9, after line 22, insert a new section as follows:

"SEC. 7. TRANSFER OF MILES CITY NATIONAL FISH HATCHERY.

Notwithstanding any other law, the Secretary of the Interior shall convey to the State of Montana, without reimbursement to the United States and no later than 30 days following enactment of this legislation, all of the rights (including all water rights), title, and interest of the United States in and to the fish hatchery property located south of Miles City, Montana, and known as the Miles City National Fish Hatchery, consisting of 168.22 acres, more or less, of land, together with any improvements and related personal property thereon. The property conveyed shall be used by the Montana Department of Fish, Wildlife and Parks as part of the Montana fishery resources management program. If the property conveyed is ever used for other than these purposes, title to such property shall revert to the United States.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 26, in order to conduct a hearing to receive testimony from John Gavin, U.S. Ambassador to Mexico, regarding the current situation in Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Aging, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, June 26, at 2 p.m., to hold a hearing on "Geriatric and Gerontological Education and Training."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Intergovernmental relations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 26, at 9:30 a.m., to hold a hearing on S. 2403, access to health care and related legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate on Thursday, June 26, in order to consider pending Executive nominations and the lobbying bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATOR ERNEST F. HOLLINGS AND THE SCHOOL LUNCH PROGRAM

● Mr. LEAHY. Mr. President, I rise today to congratulate Senator ERNEST F. HOLLINGS for his continued support of the School Lunch Program. As the Orangeburg Times-Democrat of South Carolina reported on June 6, 1986, a 1-year study conducted by students from South Carolina State College has shown that free lunch programs help low-income children meet their nutritional needs. When comparing what these children eat outside of school with what the school lunch provides them, it is apparent that daily protein needs are supplemented by the school lunch program. I would like to add my support as well to this necessary and viable program.

Mr. President, I ask that the article from the Orangeburg Times-Democrat be entered in the RECORD.

The article follows:

THERE IS A FREE LUNCH—AND IT'S IMPORTANT

(By Sherri A. Clayton)

A school lunch study at Bennett Middle School reveals that low-income children are served foods meeting their nutritional needs. South Carolina State College graduate students Tom Vargo and Harriett Priester conducted a study at the school comparing protein and iron levels in children participating in the school lunch program.

The results astonished them and gave U.S. Sen. Ernest F. Hollings another leg to stand on in support of free and reduced-price lunch for the nation's public schools.

The study revealed the sample group of 78 children, ages 11 to 14, getting free lunch had less-than-normal levels of albumin, the body's most abundant protein, in their blood, children paying full price for lunch were within the recommended levels.

What this study shows is that the selection process for the free lunch program must be good. These children need it," Vargo said as he explained that school lunches provide from 53 percent to 94 percent of protein recommended for children each day.

Albumin carries antibodies that help fight diseases. Without free lunch, the children could have an increase in health problems and be absent more often from school, Vargo said.

The study also shows the food being served is meeting the children's needs, he added.

"If they didn't have the lunchroom program, many would be in trouble," Vargo said.

"These children have to eat what they're given. Their age makes them dependent on what the school and parents give them," he said.

"I went in thinking there would be no difference. But compare what is eaten outside of school," Vargo said.

Besides taking blood samples, the study surveyed the students' eating habits.

Vargo and Ms. Priester found that children on free lunch had such food as grits and soft drinks for breakfast. Most ate breakfast while having foods such as bologna, vegetables and turkey necks for an evening meal.

The children whose parents paid for lunch ate foods such as eggs, cereal and fruit for breakfast.

Protein levels are built over a period of time, Vargo said. It would take several weeks of starvation before protein began to break down in the body, he said.

"Look at the blood protein. Blood won't lie," he said.

The study revealed that black male children on free lunch had albumin within the recommended range. Females getting free lunch had levels lower than the recommended range while white males had levels significantly lower than the females.

As to the reason, Vargo could only speculate. "The white males could be taking in more carbohydrates and not enough protein to keep their albumin levels up," he said.

The study also revealed the iron levels to be within ranges found in other studies. The levels were within the recommended ranges, Ms. Priester said.

The study took about a year and a half to complete because of preliminary research, obtaining local and federal permission to do the study, getting the information from the children and processing the results.

Vargo and Ms. Priester hope to finish their graduate theses this summer.

In a search for more information, Vargo and a fellow student traveled to Washington to look for similar studies. With the help of Holling's office and the Congressional Research Service, they could not find studies similar to the one done at Bennett.

"We're excited because it (the study) really makes a case for free lunch. It's getting us away from rhetoric and showing why students need free lunch and what could happen to their health if they don't," said Dorothy Seder, a Hollings aide.

Ms. Seder said Hollings has opposed every Reagan administration proposal to cut the program since the President took office.

Hollings wrote a book, published in 1970, called "The Case Against Hunger" recounting his experience of seeing hunger and malnutrition in his hometown of Charleston, and in Columbia, just a few blocks from the Governor's Mansion.

"I hope by this book to make you believe that hunger exists in this land, that hunger poses this land, that hunger poses danger to our nation, that hunger is costing this country more in dollars than the most elaborate array of feeding programs.

"What has gone wrong? Once upon a time it was, I was hungry and you fed me.' Now it's 'I am hungry and you form a committee or call me shiftless,' " he wrote.

The 1981 Reagan Reconciliation Bill cut about 3.7 million children from the program, decreasing enrollment to 22.9 million. Five years later, enrollment is about 23.6 million, Ms. Sedar said.

The president proposed eliminating reduced-price lunches, but schools need the money to continue the programs, Ms. Seder said. Without the money from reduced- and full-price meals, some schools would not be able to continue their lunchroom programs. The children suffer, she said.

As to the future of the program, Ms. Seder said Hollings may ask Vargo and Ms. Priester to testify before Senate subcommittees next year, when the study will be used to defend the school lunch program from budget cuts.●

OMB'S INVOLVEMENT IN AGENCY RULEMAKING

● Mr. LEVIN. Mr. President, on Monday, June 16, 1986, Senator DURENBURGER and I announced new procedures implemented by OMB to disclose OMB's involvement in agency rulemaking under Executive Orders 12291 and 12498. Notice of these new precedures was sent out by Dr. Wendy Gramm, administrator for the Office of Information and Regulatory Affairs of OMB, in a memorandum to agency heads.

In order to make this document available to all Members of Congress and the public, I ask that a copy of that memorandum be placed in the RECORD at this point along with my statement made at last weeks announcement.

The memorandum and statement follows:

STATEMENT OF SENATOR CARL LEVIN—PRESS CONFERENCE ON OMB DISCLOSURE POLICY

I am pleased to announce a significant victory in our effort to make the regulatory process open and accountable. Our battle with the Office of Management and Budget (OMB) has been resolved. They will implement, effective today, significant new disclosure procedures for the review of rules under Executive Orders 12291 and 12498. We will withdraw our objections to the appropriations of funds for the continuation of the Office of Information and Regulatory Affairs (OIRA) and will seek passage of a bill to reauthorize the office.

The procedures conform in significant ways to the bill, S. 2023, which Senator Durenburger, Senator Rudman and I introduced earlier this year and are the product of a series of recent negotiations between OMB and our offices. We believe, if faithfully executed, they will go a long way to reestablishing the public's role in the rulemaking process, which has been the intent of Congress since it passed the Administartive Procedure Act in 1947.

No longer will OMB operate within the shade-drawn, doors-closed, no-fingerprints environment in which it has operated for the past five years. From this point on, OMB's input into the rulemaking process

will be a matter of public record, available for all who are so interested to see and judge.

Let me take a minute before I explain the procedures themselves to provide a brief background on just what review process these procedures address for those who may be unfamiliar with it.

On February 17, 1981, President Reagan issued Executive Order 12291, which required all covered agencies—that included all Executive Branch agencies, but not the independent regulatory agencies—to submit their proposed and final rules to OMB for review prior to publication. It directed OMB to review the rules for compliance with five cost-benefit principles layed out in the Executive Order.

The Order set a timetable for OMB review of 10 days for nonmajor rules and up to 60 days for major rules. Implicit in the Order, however, is the understanding that these timeframes are not inviolate and can be extended indefinitely by OMB. In short, OMB can, under E.O. 12291, delay the publication or implementation of a rule indefinitely if it sees fit, but arguably only if one of the standards in the Order is not met.

E.O. 12291 was followed on January 4, 1985, with E.O. 12498. This Executive Order results in more than just the rules themselves being submitted to OMB for review. It requires each rulemaking agency to clear it annual regulatory agenda with OMB so that OMB can have a key role in deciding not only how rules should look when they're issued, but which rules should be issued in the first place.

Some have called for the elimination of the OMB review process altogether. They argue that OMB has no legitimate role in reviewing many of the highly complex, unique and exhaustively developed rules agencies are required to send to OMB for review. Others, like myself and Senator Durenburger and Senator Rudman, have not reached that conclusion.

I am a supporter of the concept of executive oversight under the right conditions. I like the notion of a President who is watching the shop and that as an elected official, he is the person—allegedly acting through OMB—to whom the public can turn both for results, and for blame. And it is a legitimate way to avoid unnecessary duplication of and inconsistency in rules. Finally, it protects us from the "tunnel vision" of agency personnel that can come from being identified as the "protector" of any particular interest area. In short, the concept of executive oversight of agency rulemaking can make good management sense. And over the past five years I have stated that position on numerous occasions.

But, OMB has undermined the genuine support for the concept of executive oversight—that is an advisory, coordinating rule for the President in the rulemaking process—by persons like myself and some of my colleagues, by the strong-arm and highly secretive manner in which it has implemented the concept. It has bullied agencies who have been given the authority to issue regulations into submitting to OMB's demands, and it has trashed Congressional concerns for public participation in the rulemaking process by ignoring indications from Congress that sunshine is an essential element to the success and legitimacy of OMB review.

That is why the action taken by OMB today is, while a long time in coming, so significant. From now on we will be able to observe first-hand the extent of OMB's role in shaping regulations and the public will be able to respond to OMB's arguments and actions.

The procedures that are being put in place today are as follows.

OMB (and when I say OMB, I mean the office in OMB that reviews rules, OIRA) will disclose copies of all draft proposed and final rules sent by anyone in the rulemaking agency to OMB for review.

OMB will disclose copies of all written materials exchanged between OMB and the head of the rulemaking agency.

OMB will disclose any draft regulatory program sent to OMB for review under E.O. 12498.

OMB will make available to the public and the relevant rulemaking agency all written material received from persons outside the federal government concerning the agency's rules, a list of all meetings with persons outside the federal government and a list of all other communications—including phone calls—with persons outside the federal government pertaining to the rules of the agency. Moreover, the relevant rulemaking agency employees will be invited to attend all scheduled meetings held between OMB and persons outside the federal government. These procedures will apply to any agency requesting them.

Finally, OMB will continue to publish, as it now does, an annual accounting of the rules it reviews under E.O. 12291, including a list of the rules sent to OMB for review which were returned to the rulemaking agency and which were never published. It will also, on a monthly basis, identify those draft proposed and final rules for which OMB has completed its review during the preceding months and will state the length of OMB's review for each such rule.

The implementation of these procedures has been a long time in coming. I have been pushing for disclosure similar to this since E.O. 12291 was first issued in early 1981. In 1982 the Senate went on record with a vote of 92–0 in support of the Levin-Rudman amendment to the Regulatory Reform bill, S. 1080, which explicitly required the disclosure of draft proposed and final rules sent to OMB for review, disclosure of written material exchanged between OMB and the rulemaking agency, and a written summary of the significant changes made in the rule pursuant to OMB's involvement. OMB was on record at the time in support of that amendment. That bill, which passed the Senate, however, did not pass the House.

In the next Congress, in 1984, the Senate Governmental Affairs Committee unanimously passed a reauthorization of the Paperwork Reduction Act with an amendment by myself and Senator Rudman which would have required disclosure similar to that in the earlier regulatory reform bill. OMB said it supported that, too. But OMB never took any direct action itself to implement the disclosure procedures which it repeatedly, on the record, said it supported.

This year, after years of footdragging by OMB on the subject, Senator Durenburger, Senator Rudman and I introduced an even tougher bill, S. 2023, on the subject of disclosure. Senator Durenburger chaired an oversight hearing on OMB's involvement in agency rulemaking, and we were again treated to horror stories involving significant health and safety rules.

Well, it is my hope that these new disclosure procedures will eliminate these horror stories. The Congress and the public will know exactly the extent to which OMB affected the outcome of a rule and the basis upon which OMB argued for its position. No longer will it be a guessing game. And, the public will know whom it should be lobbying on specific issues, because it will know from which agency the criticisms of the rule are coming.

By disclosing the draft proposed and final rules which OMB reviews and by having a list of the outside parties with whom OMB has talked as well as the other aspects to these procedures which I previously mentioned, we can restore confidence in the integrity of the rulemaking process and bring the public back into the game as full and equal players.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 13, 1986.

Memorandum: For the Heads of Departments and Agencies Subject to Executive Order Nos. 12291 and 12498.
From: Wendy L. Gramm, Administrator, OIRA.
Subject: Additional procedures concerning OIRA reviews under Executive Order Nos. 12291 and 12498.

From the time the President signed Executive Order No. 12291 on February 17, 1981, OMB has worked with the Departments and Agencies to develop and implement various procedures concerning the review of draft rules by the Office of Information and Regulatory Affairs (OIRA). We have also developed trial procedures and supported legislative proposals concerning our reviews as we have gained experience with these Executive Orders. For example, last year, we implemented on a pilot basis with the Environmental Protection Agency additional procedures concerning OIRA's communications with persons outside the Federal Government.

We have also supported an American Bar Association Resolution that endoresed the President's regulatory review efforts and recommended that more information concerning our reviews be made available to Congress and the public.

The purpose of this memorandum is to advise you of additional procedures that we have determined, as a matter of administrative discretion, to implement concerning our review of draft rules under Executive Order. 12291 and to set forth our policy on disclosure of agency regulatory program drafts under Executive Order No. 12498.

CURRENT PROCEDURES

These new procedures supplement our current procedures. As you are aware, Executive Order No. 12291 establishes certain procedures; the Administrative Procedure Act sets forth procedural and substantive requirements that govern agency action; other statutes establish procedures; and OIRA has adopted its own internal rules concerning its review of draft rules under Executive Order No. 12291. Furthermore, Departments and Agencies usually have established rules or practices to implement their rulemaking activities.

Attached to this memorandum are copies of some of the relevant materials concerning our reviews and procedures. Several of the most important features of these current procedures are:

REVIEWS UNDER EXECUTIVE ORDER NO. 12291

Rules must meet statutory requirements. Executive Order No. 12291 reviews cannot result in rules not authorized by law or rules that do not carry out statutory requirements.

Rulemaking decisions are made by agency heads. Executive Order No. 12291 makes it clear that the rulemaking authority of the agency head is not displaced by the Order.

Rules must be based on the agency record. Executive Order No. 12291 cannot cause rulemaking decisions that are not supported by the agency rulemaking record. The law requires that all agency decisions must be rationally based on information in the agency record.

Requirements of Executive Order No. 12291 apply only to the extent permitted by law. If there is a conflict between the Executive Order or the President's regulatory principles in Executive Order No. 12291 and the law, the law governs.

CURRENT OIRA PROCEDURES

Only the Administrator and Deputy Administrator within OIRA (or someone specifically designated by them) may communicate with someone who is not employed by the Federal Government on regulations submitted to OIRA for review under Executive Order No. 12291.

Written materials received from anyone not employed by the Federal Government are made available in OIRA's public reading room for review by the public.

OMB has advised persons who wish to send us information about regulatory proposals to send information to the rulemaking agency, with a copy to us, so that the material may be made a part of the agency record.

In general, OIRA provides written reasons to the agency whenever OIRA returns a regulation to an agency for further review because it is not consistent with the President's regulatory principles.

OIRA issues full reports annually on the disposition of all rules reviewed under Executive Order No. 12291, including a list of all returned rules.

NEW PROCEDURES

1. OIRA will make available, upon written request made to OIRA after publication of an ANPRM or NPRM in the Federal Register, copies of any draft of the ANPRM or NPRM submitted for OIRA's review under Executive Order No. 12291;

2. Similarly, OIRA will make available, upon written request made to OIRA after publication of the final rule in the Federal Register, copies of any draft of the final rule submitted for OIRA's review under Executive Order No. 12291;

3. OIRA will make available, upon written request made to OIRA after the ANPRM, NPRM or the final rule is published in the Federal Register, all written correspondence concerning the draft submitted for OIRA's review under Executive Order No. 12291 that is exchanged between OIRA and the agency head;

These procedures are derived from provisions in S. 2433, as reported from the Senate Governmental Affairs Committee, with Administration support, in 1984. The Report on S. 2433 (No. 98-576, 98th Congress, 2d. Sess.) contains explanatory material as to how these provisions would have been interpreted had S. 2433 been enacted. We will be guided by that material in implementing these first three provisions.

4. OIRA will send EPA copies of all written material concerning EPA rules that OIRA receives from persons who are not employees of the Federal Government;

5. OIRA will advise EPA of all oral communications concerning EPA's rules, e.g., meetings, telephone calls, that OIRA (i.e., the Administrator and Deputy Administrator) has with persons who are not employees of the Federal Government; and

6. OIRA will invite EPA to all scheduled meetings with such persons concerning EPA's rules;

In May 1985, we instituted with EPA on a trial basis other procedures to better conform our Executive Order No. 12291 review procedures to EPA's somewhat unique internal procedures and statutory provisions concerning rulemaking. (See attached letter dated May 30, 1985, Attachment D). These procedures are practical, and EPA believes that they are useful. This Memorandum revises those procedures with EPA and makes them a part of OIRA's current procedures.

(Note: These procedures do not apply to information collection requests under the Paperwork Reduction Act of 1980, even if such requests are a part of a proposed agency rule. Other procedures apply to such matters, see 5 CFR Part 1320.)

7. OIRA will apply these procedures (#4 through #6) to any other Department or Agency that is subject to Executive Order No. 12291 if that agency elects to institute these procedures, or any part of them.

Procedures #4 through #6 presently apply only to EPA. Although patterned upon EPA's statutory and internal procedures nonetheless, OIRA is prepared to extend these procedures to other agencies if the head of the agency so requests.

In addition:

8. OIRA will make available upon written request to OIRA made after the Regulatory Program is published, any agency draft submission sent to OIRA under Executive Order No. 12498;

9. OIRA will continue to publish a complete annual accounting of Executive Order No. 12291 activities;

10. OIRA will make available upon written request to OIRA made after the end of a calendar month, a list of all draft ANPRMs, NPRMs and draft final rules for which OIRA has completed review under Executive Order No. 12291 during the preceding month (and the length of our review for each); and

11. OIRA will place in its public reading room: all written material received from persons outside the Federal Government concerning agency rules; a list of all meetings with persons outside the Federal Government pertaining to rules of an agency if that agency elects to participate in procedure #6; and a list of all other communications with persons outside the Federal Government pertaining to rules of any agency if that agency elects to participate in procedure #5.

These procedures do not provide for exemptions for such matters as national security information, criminal investigation information or confidential business information because we have not received such information during our reviews under Executive Order Nos. 12291 and 12498. If we do receive such information, however, that presents questions of the propriety of its release, we will discuss the matter with the Attorney General and the Senate Governmental Affairs Committee.

These new procedures and OIRA's existing procedures are intended only to improve the internal management of the Federal Government, and are not intended to create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers or any person.●

LITHUANIAN MELODIES PLAY ON

● Mr. SARBANES. Mr. President, I want to bring to the attention of the Senate an outstanding and commendable record of service of two of Baltimore's community leaders. For nearly 40 years, the Lithuanian community in Maryland has been served with weekly broadcasts of Lithuanian music, news, and community events on the Lithuanian Melody Hour.

Keeping the Lithuanian heritage alive in Baltimore on this leading radio program, Albert J. Juskus and J. Kestutis Laskauskas have dedicated themselves to maintaining the language, culture, and traditions that have marked the countless valuable contributions Lithuanian immigrants have made to American society. As the son of immigrants who came to this country, I know and appreciate the importance of the work of these two men and others like them who preserve the rich diversity of our many and varied cultural traditions.

Mr. President, the Baltimore Catholic Review recently reported on the efforts of these two community leaders to keep the Lithuanian heritage on the air for nearly 40 years. I ask that this article be printed in the RECORD.

The article follows:

[From the Baltimore Catholic Review, June 18, 1986]

LITHUANIAN MELODIES PLAY ON

(By Mary K. Tilghman)

When J. Kestutis Laskauskas arrived in Baltimore in 1949, he heard the familiar cadences of Lithuanian on the radio. "I never expected to hear it so far away from home," recalls the Lithuanian native.

He had discovered the Lithuanian Melody Time, a weekly ethnic program organized by two Lithuanian-Americans from St. Alphonsus Parish.

And, when one of the two founders left the program, he joined the two-man staff with Albert J. Juskus.

The Lithuanian Melody Time got its start Jan. 11, 1948 on WBMD-AM and is now the longest continuous-running ethnic radio show in Baltimore.

"We never missed a Sunday in 39 years," Laskauskas says with pride.

Joe Ruzga's mother heard an anniversary announced on a Lithuanian show in New Jersey and suggested Baltimore needed such a show. The Western Electric engineer and Juskus got together to work on the Lithuanian Melody Time on a brand new station, WBMD.

"We did it more or less to preserve the language," said Juskus, whose parents emigrated from Lithuania. His knowledge of the language his parents taught him was fading.

Since then the format has never varied. Lithuanian music—everything from opera arias to tender patriotic songs about an independent Lithuania—fills most of the time. Announcements about events, birthdays, anniversaries and even funerals are presented both in Lithuanian and English.

That half hour always takes people—both Lithuanian natives and second or third gen-

eration Americans—back to the old country, even if it's just for a short time.

"I know people who are waiting from Sunday to Sunday to hear something in the Lithuanian language," Laskauskas said, his own speech lightly accented.

Both announcers have their own collections of music which play on the air.

Their collections are carefully guarded—they went to a lot of trouble to collect those albums. Juskus has visited Lithuania six times, always bringing back stacks of albums his cousins have purchased since his last visit. The Soviet Union forbids its citizens from mailing tapes or albums.

Their collection also includes performances done locally—some as far back as the 1950s. Every once in a while we play one back and excite someone." said Juskus, who retired after 30 years with the Baltimore City Fire Department.

On June 15, broadcast time changed from 3:15 p.m. to 10:30 a.m. with 15 minutes cut from the show. Despite the shorter show, the change in time will be warmly welcomed, according to Laskauskas.

And it will continue to do what the Lithuanian Melody Hour is supposed to do—keep the Lithuanian heritage alive in Baltimore.●

A MILLION GRADUATES

● Mr. SARBANES. Mr. President, our colleagues from many States will be pleased to note that sometime during this traditional season of graduations, the 28 colleges and universities operated by the Jesuits in the United States have graduated their one-millionth living alumnus. Contributing to this extraordinary accomplishment is Loyola College in Baltimore, one of Maryland's leading institutions of higher education.

It has always been my firm conviction that there is no greater endeavor than the education of our young people. Offering the opportunity for a true education and developing the potential for success in this increasingly complex world are two of the most important tasks in a democratic society. I want to express my own appreciation for the leadership and initiative of the many teachers and administrators at the Jesuit institutions, and expecially Baltimore's Loyola College for their outstanding contributions.

Mr. President, Father Joseph A. Sobierajski, assistant dean of arts and sciences and rector of the Jesuit community at Loyola College has written an outstanding article about the important role these 1 million graduates have played in our society and the founding that the Jesuit institutions have given these men and women.

Father Joseph makes many important observations in his article, but one struck me as especially noteworthy:

Concern for the individual has always been primary in Jesuit education, but the aim of that concern is to graduate a person who can make an impact on society, a person with credible academic and professional qualifications and one rich with concern and compassion for others, one whose life is not self-centered but other-centered.

Mr. President, I know our colleagues join me in saluting the Jesuits on the accomplishments of their colleges and universities, on the dedication of those who teach and administer and most of all on the contributions of their graduates.

I ask that Father Joseph's article, which appeared in the Baltimore Sun, be printed in the RECORD.

The article follows:

[FROM THE BALTIMORE SUN, MAY 31, 1986]

A MILLION GRADUATES

(By Joseph A. Sobierajski)

During this 1986 graduation season the 28 Jesuit colleges and universities in the United States will graduate their one millionth living alumnus. That is an extraordinary accomplishment, but equally extraordinary is this system of colleges which span the country from Loyola College to Boston College, to Georgetown University to St. Louis University, to Creighton University to Gonzaga University to Loyola-Marymount with 21 others scattered in between linked by the philosophy of education that purports to do something essentially different with and for the students who come to them for an education.

The purpose of Jesuit education is rooted in the experience of St. Ignatius Loyola, the founder of the Society of Jesus. His "Spiritual Exercises" are the distillation of that experience, and they are the cornerstone of Jesuit education. Appropriately enough for the Sixteenth Century, the Principle and Foundation of the "Exercises" acknowledge God's love as the creative source and the goal of all reality. The experience of the "Exercises" leads the individual to an understanding of God's unique love for him and calls forth a response in kind.

Love, Ignatius says, is found in deeds much more than in words. One who loves, therefore, gives to the beloved what he has no matter what it may be. So too is our response to God's love. When we realize God's great love for us, our response is to give what we have, ourselves, with the talents, abilities, and qualities that make us unique. This is, of course, fine for a 16th-century mystic, but what does it have to do with education, especially higher education in the latter part of the Twentieth Century?

Jesuit education means to parallel the experience of the "Exercises." Gerard Manley Hopkins, the 19th century Jesuit poet, wrote, "The world is charged with the grandeur of God." The liberal-arts approach of Jesuit education presumes the world to be good. It aims not only at the discovery of that world by its students, but also at the discovery of God's grandeur through the things of the world. Education is in a very real sense a religious experience: whether its subject matter be quantum mechanics, Chaucer, or software engineering, it reveals something of the magnificence of a Creator who shares himself in the world he has made.

Jesuit education acknowledges the duality of a human being as body and soul, thereby demanding a growth in virtue as well as knowledge. Moral development is the partner of intellectual development, for without virtue, knowledge can be both dangerous and threatening. An education which stresses ethical and moral principles can lead students to make proper choices in the use of knowledge and to admit the responsibility for their acts and decisions as well as the interdependence of all men and women.

Jesuit education focuses not only on individuals and their intellectual and moral development, but also on the individual as a creative force in society. Concern for the individual has always been primary in Jesuit education, but the aim of that concern is to graduate a person who can make an impact on society, a person with credible academic and professional qualifications and one rich with concern and compassion for others, one whose life is not self-centered but other-centered. To be such a person is to acknowledge as Ignatius of Loyola did the overwhelming love of God and to respond by the giving of self and goods of others.

This program that Jesuit education lays out for itself is an awesome one. While it seeks the same excellence in the pursuit of knowledge that the best higher-education institutions seek, it is also strongly countercultural in its stress of the spiritual, moral and transcendent. One can well imagine that it is not an education to which all students would readily assent, even all of those enrolled in Jesuit institutions. Every student who does, however, is a unique asset to our society. The contributions such men and women can make and have made to public life as physicians, lawyers, teachers, businessmen and everyday citizens are invaluable for the continued health of our nation.

One million living alumni! We have no way of knowing how many of them have responded to the challenge of their education, but the number must be significant. Of those million alumni, Loyola College claims 26,000, and of those, 17,000 are citizens of Maryland. They sit as judges in our courts, save lives in our hospitals, minister to the poor and needy, educate the young, run our financial institutions and raise their families guided by the ideals of their education.

Father Joseph, S.J., is assistant dean of arts and sciences and rector of the Jesuit community at Loyola College.●

THE RURAL ELECTRIC COOPERATIVES

● Mr. BOREN. Mr. President, the Oklahoma Association of Electric Cooperatives brings a group of outstanding young people from our great State to Washington each year. The young people are selected for this trip to our Nation's Capitol through essay contests conducted by the various electric cooperatives in Oklahoma. A highlight of the Washington visit each year is a breakfast in the Capitol where the essay winners dine with members of the Oklahoma congressional delegation. One member of the group is selected to read his or her winning essay at the breakfast meeting.

This year, Ms. Traci Bridges of Skiatook, OK, a winner in the contest conducted by the Verdigris Valley Electric Cooperative with headquarters at Collinsville, OK, was selected to read her essay entitled "Snow White and the REC." I want to share that essay with my colleagues in the U.S. Senate today:

I ask that it be printed in the RECORD.

The essay follows:

SNOW WHITE AND THE REC

Once upon a time, a girl named Snow White lived in a comfortable apartment in the city. She loved her total electric kitchen, and the way her apartment stayed cozy and warm in the winter and cool in the summer. She had leisure hours to read, watch television, cook and she enjoyed watching the city lights from her tenth-floor window.

Little did she know that soon her fairy-tale lifestyle would change. Across town her electric company's meter reader, Wylie Kilowatt, was talking to his computer. He said, "Computer, computer in the hall, who has the largest bill of all?" The computer replied:

"I must confess, Snow White's meter is a mess, her apartment building was built, you see, back in 1923. The windows leak, the insulation is weak, the heating unit could make you 'freak', the air-conditioner wastes energy, but that's great for you and me. We'll raise her rates, her bill will be more than she anticipates, but that's all fine, don't you see, it means more income for you and me."

When Snow received the bill she was horrified! She wrote the computer explaining her dilemma. The computer called Wylie Kilowatt instructing him to disconnect Snow's electricity and bring back a copy of the disconnect order as proof he had followed instructions.

Upon Snow's return home that evening, the elevator wasn't working. She climbed ten flights of stairs only to find her apartment dark and cold. She was so horrified that she fled to the country.

She found a small cottage in the edge of the forrest which looked deserted. When she went inside she found the sink full of dishes, everything covered with dust, and dirty clothes everywhere. In one room there were seven little beds. Carved on each bed was a name, they read: "Sneezy", "Sleepy", "Grumpy", "Happy", "Doc", "Dopey", and "Bashful". Seeing the beds, Snow realized how tried she was and fell fast asleep across all seven beds.

Meanwhile, the little men who lived in the cottage were on their way home. Sneezy was a farmer and grew vegetables. Happy, a dairyman, milked cows and sold the milk door to door. He wasn't really happy but door-to-door salesman must "act" happy. Doc, an inventor, was frustrated. When darkness fell, he had to leave his inventions—even if he was near a breakthrough. Sleepy, who was never able to sleep because it was always too cold or too warm, was unemployed. Grumpy worked in his gold mine. He rarely found gold, but always came home covered in black dust. Dopey, an architect and builder who spent his days building houses, always reserved a few hours of daylight to work on his designs. But, there was never enough time to cultivate his many ideas. Bashful, like Sleepy, was unemployed and looked for work each day.

They were very surprised to find Snow White in their cottage. Soon, Snow learned that they were kind and when they learned of her experience in the city, they told her that she could stay.

The next morning after the little men left, Snow could not find the dishwasher. So, she drew water, chopped wood, built a fire, heated the water, washed, rinsed, and dried the dishes. There was no vacuum cleaner. She had to sweep, sweep, sweep. Next, the laundry. (OH NO! More Hot Water!) She scrubbed, rinsed, and hung the clothes to dry. Now it was time to cook dinner. With no refrigerator, she had to kill, clean, pluck, cut up, and cook a chicken. To her horror, she needed more hot water and a hot fire to cook.

When the little men came home, they washed up (which means more water to draw) and ate dinner. Now Snow had more dishes to wash—it was chop, stack, heat, wash, rinse, and dry. Now it was dark, too dark to read. Her manicure was ruined, her hair was a mess, and her muscles ached. She had no leisure time at all. She was ready to return to the city and face Wylie Kilowatt when she remembered reading about the Rural Electric Cooperative (REC).

The next morning when she vitited the REC office, she was relieved to learn that by using REC, they would be part owners and by cooperating with neighbors, who were also part owners, they could keep rates low. Today with help from REC. . . .

Sneezy is not sneezy. Using irrigation, he plants a larger acreage. Cool storage facilities keep vegetables fresh longer, now he quick freezes and packages them for future use. An air-cleaning device on his heat pump has eliminated his allergies.

Happy's efficient, sanitary, large-scale dairy is very successful. REC helped reduce manual labor, allowing him to increase his operation. He supplied local stores with fresh milk. His knuckles have healed, and his feet are well. Happy is really happy.

Doc is no longer frustrated. Electric lights, calculators, and computers have given him time to use his creative mind. To conserve fossil fuel, he looked for more effective fuels. He invented a wind energy device which revolutionized that field. His system of wind turbines in combination with a power tower use both wind and solar energy with dramatic results. He is working with wave energy conversion, ocean thermal conversion, hydroelectric power, and further studies into solar power.

Sleepy's new climate controlled home allows him to rest at night. He is now a productive employee of the REC. He is conducting energy audits, installing lines, and checking sub stations. His maintenance-type duties and continuous working efforts have practically eliminated power outages.

Grumpy is now a pleasant coal miner operator. He discovered subbituminous coal, usually found only in North Dakota, Montana, and Texas, but this is a fairy tale and anything is possible in fairy tales, so he found subbituminous coal in Oklahoma, which he sold to the REC to produce efficient low-cost electricity. He named his mine "Grumpy's Famous Fossel Fuel Facility".

Dopey is a very successful architect and builder. His energy efficient designs are now famous. He has hired Bashful as his assistant, and they can never call him "Dopey" again.

At the and of the year, the REC had saved so much money through peak-load devices, Grumpy's coal, and Doc's new inventions that they had money left after expenses. The non-profit REC paid all it's members a rebate.

Since the seven little men had built their own homes, Snow was all alone in the cottage. She called the REC for an energy audit. A few replacement windows and some new insulation fixed the cottage up.

One day Wylie Kilowatt showed up at Snow's door disguised as a traveling salesman, she recognized him at once. She paid the money she owed him with her rebate check, sang him a lullaby, sent him on his way, fell in love with the REC director, married him, and lived happily ever after.●

IMPACT OF CHERNOBYL NUCLEAR ACCIDENT

● Mr. METZENBAUM. Mr. President, it has been almost 2 months since the nuclear accident at Chernobyl. In human terms, this accident has been a terrible tragedy. At least 26 individuals have already died, others are critically ill and nearly 100,000 have been evacuated from their homes. For some, it is unclear when they will be able to return to their homes, if ever.

Now, we are starting to receive analyses from researchers who have used available radiation data to calculate the long-term impacts of this accident, and they underscore its severity.

Estimates of fatal and nonfatal cancers which will be caused from this accident range from the tens of thousands to the hundreds of thousands.

In fact, Dr. John Gofman, professor emeritus of medical physics at the University of California at Berkeley, who has had illustrious careers in the fields of medicine and nuclear energy, has calculated that on the basis of currently available data, Chernobyl will result in 357,655 fatal and nonfatal cancers, and 14,710 cases of leukemia. This would make Chernobyl the largest industrial accident in the history of mankind. Dr. Gofman's findings were reported in a paper presented to the environmental Congress and Fair in Wurzburg, West Germany.

Mr. President, I will ask that this paper be included in the RECORD.

Dr. Gofman cautions that the true impacts could be much higher, because some radiation data is incomplete or unavailable.

Dr. Gofman's work underscores the serious impacts that radiation from a nuclear accident can have on a population over time. It shows that we must redouble efforts to ensure that our nuclear facilities are absolutely safe and that oversight agencies give the highest priority to safety.

There may be some who claim Dr. Gofman's estimates are too high. That may or may not be so, but Dr. Gofman's reputation in the field is an excellent one. If there is uncertainty, it only underscores the need for more independent research.

The fact of the matter is that throughout the history of this Nation's development of nuclear energy—for weapons and for electricity—there has been a tendency to underestimate and downplay the impact of radiation on public health. This is particularly true for the Department of Energy and the Nuclear Regulatory Commission. Despite this, there is a growing consensus that there may be no safe threshold for radiation.

Unfortunately, most of the work in this area is funded and controlled by private and governmental interests with a stake in quieting public concerns about radiation health effects.

This issue was eloquently addressed in a recent editorial in U.S. News and World Report by Harold Evans, the editorial director of that publication.

I will also ask that Mr. Evans' editorial be included in the RECORD.

Mr. President, Chernobyl holds many lessons for us if we will only attempt to learn them.

It is imperative that we realize that a serious nuclear accident can happen, and place more emphasis on safety and emergency planning.

It is also imperative that we support more objective and independent research in the area of radiation effects.

The public has a right to know what risks it faces. It also has a right to expect that we in the Government will do all we can to protect them from those risks.

I now ask that the aforementioned documents be printed in the RECORD.

The documents follow.

CHERNOBYL: THE GREATEST INDUSTRIAL ACCIDENT IN MANKIND'S HISTORY

(By John W. Gofman, M.D., Ph.D., Professor Emeritus, Medical Physics, University of California at Berkeley)

While a great deal of attention has been riveted upon the occurrence of acute radiation poisoning, including deaths thereof, from the Chernobyl accident, by far the greater toll of human life taken will be in the form of cancers and leukemias. No honest scientist today will claim there is any safe threshold dose for radiation-induced cancer or leukemia. The extensive epidemiological evidence makes it clear that cancer and leukemia occur in direct proportion to the doses received by members of any irradiated population. Indeed much of the evidence shows that each unit of radiation exposure contributes more to cancer and leukemia induction at low total doses than does each unit of exposure at high total doses.

The requirements for Estimation of the Cancer and Leukemia Toll from the Chernobyl Accident:

Radiation-induced cancer and leukemia will occur either with exposure of the total body to ionizing radiation or with exposure of parts of the body to ionizing radiation. It is self-evident that total body exposure yields more cancers per unit doses than does partial body exposure for that same doses in rads. We shall use the rad and millirad units here, since virtually all the relevant issues for Chernobyl would show that the rad and rem are equivalent (and the millirad and millirem are equivalent. The overwhelming evidence indicates that the total exposure (at any particular age) is the dominant consideration, rather than the exposure rate, for induction of cancer or leukemia. No protection is to be counted on for distributing the does over time.

If we know the integrated total body doses received, in rads or millirads, per person, and if we know the population of any country whose residents received this average doses per person, we can immediately assess the toll of cancer and leukemia to be expected for that country.

For a population of mixed ages (including all the children and adults), we use a measurement known as the accumulated person-millirads received to the whole body. Thus if the average dose is 100 millirads, and the population is 10,000,000, we would say:

Person-millirads=(10,000,000 persons) x (100 millirads)=1,000,000,000 person-millirads.

From extensive epidemiological studies of cancer induction in various human populations, I have presented a set of numbers for what we call the Whole-Body Cancer Dose. That is the dose in person-millirads which will guarantee one fatal cancer. In Radiation and Human Health (Sierra Club Books, 1981, Hardcover Edition) I have presented the values of the Whole-Body Cancer Dose for males and females of all ages, and of a mixed population of all ages and both sexes.

For our considerations here of Chernobyl, it is the Whole-Body Cancer Dose for a population of mixed ages that we will use extensively. That value is 268,000 person-millirads, and the delivery of that dose to a population will guarantee one fatal cancer in that population. And because the incidence of cancer is approximately *Twice* the mortality rate, we can add one additional non-fatal cancer from that dose delivered. There is no requirement that each individual receive the same dose. We simply need the weighted average dose for the population and then multiply it by the population size to get the person-millirads, as in the definition above. Using that hypothetical population of 10,000,000 persons above, and its receipt of 1,000,000,000 person-millirads, we would calculate the number of cancers as follows:

Fatal Cancers=1,000,000,000 person-millirads÷268,000 person-millirads per cancer =3,730 fatal cancers plus 3,730 non-fatal cancers. Total Cancers =7,460 for that radiation dose to the population.

Clearly to provide the cancer toll for Chernobyl, we need the average total body dose received in each country affected (which is all of Europe, Scandinavia, and the Soviet Union, at least) and the population of the country. Let us turn to this issue.

The Country-by-country Doses Received from the Chernobyl Accident:

It is regrettable, and really a major disgrace, that even 30 days after the accident, many of the data concerning dosage received by various populations are either fragmentary or non-available. But sufficient data do exist (WHO [1] sources, U.S. EPA [2]) to enable us to estimate at least the minimum number of fatal and non-fatal cancers and the minimum number of leukemia cases—all from the Chernobyl accident. When more data become available, the true number of fatalities and non-fatal cancers is certain to be considerably greater than that estimated in this report, unless WHO and EPA have some errors on the high side.

The Sources of Radiation We Must Consider:

(1) Direct radiation of the whole body from gamma rays in the cloud of radiation passing over a population.

(2) Inhalation of radioactive substances from the passing cloud and radioactive substances re-suspended after deposition on the ground.

(3) Direct radiation of the whole body from gamma rays emitted from radionuclides deposited on the ground.

(4) Ingestion of radionuclides (from milk, water, meat, fruits, vegetables.)

We can state at the outset that all the requisite measurements for a complete assessment are far from available. But for most populations we can estimate a minimum whole body dose, depending upon which of the items listed above have been measured. We can be sure that a very high dose must have been received by some of the populations from the early passing cloud, when the short-lived radioisotopes were abundant. In fact, the missing of this radiation-source and its cancer consequences can make a tragedy appear not to be too serious. But Chernobyl is the greatest human industrial tragedy, even with the minimum estimates of its health consequences.

The Available Data for Estimation of Doses:

The WHO or the U.S. EPA may provide estimates for the total population averages or they may provide data for doses received at certain specified locations in various countries. The population average whole-body dose is the one to be desired, but when it is not available to us, we shall use the following set of rules to estimate doses.

If only one location has been measured in a country, we shall assume half the country received that dose and half the country received zero dose. This is a cautious procedure which avoids overcrediting the dose from a region which might not be representative—as for example, a region of heavy rainfall with a large washout of the radioactive material and its deposition on the ground.

If two or more locations have been measured in a country, we shall use the average of the measurements for dose.

In some areas there are measurements which enable us to know the deposition of cesium-137 on the ground, and aside from being in the early passing cloud, this will be the dominant source of whole-body radiation. And we know how to convert the data for cesium-137 on the ground to the integrated total body dose over time, including both external dose and that from ingestion. (See Radiation and Human Health, Hardcover Edition, p. 548)

In some areas such cesium-137 measurements cannot be estimated, and we shall have to rely on whatever other measurements have been provided us. For countries where no data are available we may have to leave estimates to be added later when and if data become available. Where a country has reported to WHO that the average dose is some value, we shall use that average dose, in the absence of the specific data from which we estimate the dose ourselves.

It is not the purpose of this report to present the extensive calculations which we use to convert the reported data to final estimates of average dose to each population. That will be presented in a much more detailed paper in the early future. (We can consider such a later paper as "Part 2" of this report.)

Our current estimate of the best value for minimum dose received by an "average" person in each country plus the cancer fatalities and additional non-fatal cancers caused by such doses are all presented in Table 1, which follows. In the preface to Table 1, there is a major caveat concerning accuracy of doses reported to us by WHO and EPA.

LEUKEMIA ESTIMATES

Leukemia is estimated separately from other cancers using a mixed-age population leukemia dose of 6,500,000 person-millirads (See *See X-Rays: Health Effects of Common Exams*, Sierra Club Books, 1985). Leukemias

[1] WHO=World Health Organization; United Nations.

[2] EPA=Environmental Protection Agency, United States.

are especially important because they cause larger loss of life span per case, by far, than does cancer.

A PREFACE TO THE READER USING DATA IN TABLE 1

The source of all dose estimates in the following table derive from information in either WHO documents or U.S. EPA documents:

The WHO document is "Updated Summaries of Data Received in Europe Re Chernobyl Reactor Accident", dated 30 May, 1986. Sent by Mr. J.I. Waddington to Mr. Mike Mardis, U.S. E.P.A. The EPA Documents are a series dated, May 8, May 9, May 12, and May 14, 1986 entitled "Chernobyl Radiation Data Summary" United States Environmental Protection Agency.

The author of this paper (and Table 1) can in no way vouch for the goodness of the numbers provided to him in the WHO or EPA reports. Some of those numbers are truly suspect, because of inconsistencies. But it is not science to pick and choose the numbers one might like to throw away. Either an independent source must go over all the entries or none at all, for otherwise this becomes managed science.

The reader will note the astounding values for dose in Finland, Sweden, and United Kingdom. These doses necessarily lead to a high number of cancer fatalities calculated. The doses may be correct as they stand; they may not be correct. But scientifically no one has a right to eliminate these doses simply because they give rise to high cancer estimates. So, remember we are at the mercy of the reporting sources and any errors they may introduce.

The author expects in Part 2 of this report (to follow soon) to test a method of cancer calculation which does not depend on these reporting sources. However, it is always desirable in the extreme to have reality checks for any model which attempts to describe the accident's consequences.

The reader will note the lack of calculations for most of the Soviet Union. Only the most fragmentary data were provided to WHO, via the I.A.E.A.[3] I even hesitated to put the Ukraine value in the table, because the dose data are so woefully inadequate. As an absolute minimum for cancers produced, it provides some glimmer of the problem within the Soviet Union.

TABLE 1.—CANCER CONSEQUENCES OF DOSES REPORTED TO WHO OR USEPA UP THROUGH MAY 30, 1986

[It must not be assumed that all doses have been reported. Rather, these doses and consequences are best regarded as minimum estimates]

	Population (thousands)	Whole body dose (millirads)	Fatal caners induced	Nonfatal cancers	Leukemias induced
Country:[1]					
Sweden	8,300,000	788.0	24,400	24,400	1,000
Austria	7,600,000	51.5	1,460	1,460	60
Finland	4,900,000	12,500	229,000	229,000	9,400
Poland	36,900,000	31.3	4,300	4,300	175
Rumania	22,900,000	18.9	1,600	1,600	65
Czechoslovakia	15,500,000	4.4	260	260	11
Hungary	10,600,000	9.0	360	360	15
Yugoslavia	23,000,000	15.0	1,290	1,290	50
Belgium	10,000,000	4.2	160	160	6
Bulgaria	8,600,000	2.7	90	90	4
Denmark	5,100,000	14.8	280	280	12
West Germany[2]	61,400,000	132.0	30,200	30,200	1,250
France	54,540,000	3.4	700	700	30
Greece	9,700,000	14.3	520	520	20
Italy	56,244,000	44.8	9,400	9,400	390
Netherlands	14,400,000	6.3	340	340	15
Norway	4,134,000	2.3	35	35	1
Switzerland	6,500,000	15.6	380	380	15
Turkey	48,000,000	2.1	380	380	16
Ukraine	50,667,000	85.8	16,200	16,200	675
United Kingdom	54,000,000	180.0	36,300	36,300	1,500

[1] For Spain and Portugal the levels reported were so low that they did not merit entry here.
[2] There is not a single measurement yet provided by the World Health Organization or EPA for East Germany.

Note: The WHO Report indicates that many data additional to those in the report have been made available to them, but there was not time to assemble it all. Particularly is this commented upon for the United Kingdom data. Obviously, if an unbiased update of doses, which allow a more complete picture for various regions of a country, is provided, the cancer calculations presented here are subject to serious revisions. I would emphasize an unbiased update of data, since countries sponsoring nuclear power may be prone to favor low-doses being reported to maintain some residual public support for their nuclear power programs.

LET'S FACE IT, WE GOOFED

(By Harold Evans)

Nobody can escape Chernobyl. Even as Mikhail Gorbachev made his lamentably late public statement 18 days after the disaster, his radioactive rain was falling on the United States. Low levels of the dangerous iodine 131 were turning up in milk in Western states.

The findings were accompanied, as usual, by official statements that there is nothing to worry about. But there is. There may be no cause for immediate alarm, but there is durable cause for skepticism because the history of radiation is a history of assurances falsified by time. Chernobyl will yield some benefit if it forces everyone to confront that issue squarely and, of course, soberly. Gorbachev was disingenuous when he denied that the Soviets had delayed warning their neighbors, but unhappily he was able to find refuge in criticism of sensationalism in the Western media. Headlines such as the *New York Post's* "15,000 Buried in Mass Grave" are not merely wild; they divert attention from the more insidious issue of the effects of radiation over long periods.

The mortal words on the subject of the risks from fallout were uttered not by Gorbachev but by Dr. Bill Burr, deputy director at the Energy Research and Development Administration's division of biomedical and environmental research in June, 1977: "Let's face it, the U.S. goofed." Dr. Burr was commenting on the prevalence of thyroid cancer in natives of the Marshall Islands 23 years after the U.S. bomb tests. The theory when we set off the bombs was that islanders received only low-level radiation so that a detailed follow-up was not necessary.

It was wrong. That was not an aberration. From Hiroshima on, most of the statements on radiation, mainly by physicists on corporate and government grants, have been proven blindly optimistic. We were told no one was at risk from small doses of radiation below a certain safety "threshold." In 1980, an expert panel of the National Academy of Sciences confirmed what the biologists had long been saying: There is no such threshold. Every increment of radiation increases the risk of a cancer or of genetic damage for succeding generations.

Clearly, some risks have to be taken for the benefit of medical diagnosis, but the concept of the threshold was less concerned with X-rays than with calming public anxiety about involuntary radiation from weapons fallout and nuclear power and resisting compensation claims from Army veterans, power-plant workers and the citizen victims living downwind of the Nevada test site. And despite the effective rebuttal of the threshold, we are even now fed pablum about "acceptable" levels of radiation. Acceptable to whom?

The answer is that they are acceptable to successive bureaucracies in all the nuclear powers that have fought hard to keep the truth from the people. The Department of Energy cut off a long-term research contract with Dr. Thomas Mancuso of the University of Pittsburgh when in 1975 he started coming up with findings linking cancer deaths at the government's Hanford, Wash., plant with exposure to low-level radiation. Dr. Robert Pendleton of the University of Utah was cut off when he began to finger high radiation from underground testing in 1974. Crucial medical records were destroyed at Oak Ridge, Tenn. And only last month, the Department of Energy tried to conceal yet another release of radiation from the Nevada test site.

That this nuclear testing is obnoxious and unnecessary, as I believe, is a proposition that some would debate. But who can defend the absurdity that most of the money for radiation-health-effects research comes from the Department of Energy, which has a vested interest in nuclear power and weapons testing? And why should mili-

[3] I.A.E.A.=International Atomic Energy Agency, a trade organization of the states sponsoring nuclear energy.

tary nuclear stations escape the scrutiny of the already limp Nuclear Regulatory Commission?

Einstein warned that we had unleashed a malevolent genie. Would that it could be speedily bottled up again. But the end of this century, all the peoples of the world may be exposed to twice the level of radiation from natural sources. Between 1971 and 1984, there were 151 significant nuclear-safety incidents in 14 countries. We cannot afford any more accidents. We ought not to tolerate the specious glosses on our predicament. They are nothing less than a betrayal of mankind.●

CALL TO CONSCIENCE: THE CASE OF THE APEKIN FAMILY

● Mr. MITCHELL. Mr. President, I rise today to speak on behalf of the Apekin family of Moscow. Since 1979, they have suffered for trying to exercise their right to emigrate to Israel, as granted under the Helsinki accords.

The Apekin's tragic story mirrors those of thousands of other Soviet Jews. Vladimir, his wife Ekaterina, their daughter and grandaughter are "refuseniks." Since they were officially denied permission to leave the Soviet Union, both Vladimir and Ekaterina have lost their jobs, been subject to officially sanctioned harassment, and been denied needed medical care.

The Apekin's story is made more tragic by the fact that a visa would not only grant the Apekins freedom; it also might save Vladimir from losing his legs. Mr. Apekin suffers from an ischemic heart condition that daily denies his legs life-giving blood flow. Sadly, Vladimir has been repeatedly denied space in a hospital where he might receive proper medical treatment.

Recently, after cosigning a statement of intent to stage a peaceful demonstration with three other refusenik families, hospital space miraculously became available. However, because of the aggravated state of the disease, the Soviet prognosis is double amputation. Here in the West an alternative treatment exists.

The Apekins have paid the 2,100 rubles required to renounce their Soviet citizenship. They have consistently filed all required paperwork. Nothing should stand in the way of their emigration. Unfortunately, it is not a fair or even rational system which will decide the fate of this family; it is the arbitrary and unjust Soviet bureaucracy to which they and we must appeal. Currently, Vladimir's daughter is staging a hunger strike to draw attention to her family's situation.

Mr. President, today I make a special appeal to those who hold the strings of power in Moscow. On behalf of the Apekins, the Meimans, the Bogomolnies, Yuli Edelstein, Ida Nudel, Josef Berenstein, and the many others for whom a visa might mean a prolonged or healthier life, I ask the Soviet leadership to give prompt attention to these cases. The lives of these brave people depend on it.●

NATIONAL DAIRY MONTH

● Mr. BOREN. Mr. President, it may come as a surprise to some of my colleagues in the Senate that the dairy industry is an important part of agribusiness in Oklahoma.

According to the latest statistics from our State department of agriculture, milk and cream production is the third largest agriculture commodity in the State. We have 107,000 dairy cattle and 6,000 dairy farms producing more than a million pounds of milk and cream annually.

This month dairy farmers across the country are observing the 50th anniversary of June Dairy Month, and I want to congratulate those in Oklahoma and the other States on this occasion.

I want to share with my colleagues the remarks of Ivan K. Strickler, Chairman of the Board of the National Dairy Promotion and Research Board, before the national holstein convention. I will ask that his remarks be included in the RECORD at the conclusion of my remarks.

The National Dairy Board was created by Congress in 1983 primarily as a maketing promotion effort to encourage greater consumption of dairy products by the American public. In the first 2 years of the Board's operations the results have been encouraging, and this is the essence of Mr. Strickler's comments to the holstein convention.

I am encouraged that this program is working, and extend my best wishes to all dairy farmers everywhere for continued success.

I ask that the remarks of Mr. Strickler be printed in the RECORD.

The remarks follows:

REMARKS OF IVAN K. STRICKLER

INTRODUCTION

Personal Observations.

NATIONAL DAIRY BOARD UPDATE: ACCOMPLISHMENTS

Last month, the National Dairy Board held its second Annual meeting in Arlington, VA. In the course of three days of intensive meetings, Board members reviewed the progress of the National Promotion and Research efforts during the past year.

It was clear to us at that time the program had came a long way in the short space of 24 months. It was clear that we had a great deal of work ahead of us. I know I speak for everyone of our 36 Board members when I say that we are eager to continue our efforts to improve the bottom-line perspective for the entire dairy industry.

Today, I'd like to present to you some of the highlights of the Board's activities and accomplishments during its second year of existence.

Before I get into the program areas, I'm going to talk briefly about a subject that is probably uppermost on the mind of everyone in this room—finance. As dairy farmers, you are providing the vital link for the Board's life support system—the promotion funding. Therefore, you have a right to know how well the Board is administering the funds entrusted to it.

I am extremely pleased to report that two recent audits have been quite complimentary to the Board in the handling of its funds.

The Office of the Inspector General of the U.S.D.A. recently completed an audit of the entire dairy promotion program. In the report that will be published sometime in June or July, the National Dairy Board, the qualified promotion programs and the U.S.D.A. will be examined separately.

In a preliminary exit interview, we were informed of the auditors' conclusions about the Board's financial procedures. The auditors found no reason to recommend improvements in controls and procedures. In fact, they went so far as to compliment the Board on its collections and compliance system.

I have been told this is a very unusual response by the Office of the Inspector General and I am very impressed that our financial program is so well regarded.

In addition, Peat, Marwick and Mitchell recently completed the Board's regularly-scheduled annual audit. Traditionally, this year-end review would provide the opportunity for auditors' recommendations for improvements in procedures and controls. However, these financial experts also gave the Board a clean bill of health.

In the Board's program areas, many exciting initiatives were launched during the course of the past year.

ADVERTISING

As you know, our biggest financial commitment is in the area of advertising.

This year, the Board broke new ground in the development of a program to test market new promotional campaigns before their national release. The procedure makes good business sense, particularly in terms of the large sums of money involved. Like other major advertisers, we will test market our programs and go back to the drawing board if we find the plans are not meeting our objectives.

EVALUATION

We are working to expand the information base to make our evaluation program the best possible of its kind. Three econometric research programs are under way at four land grant universities. Ron Ward of the University of Florida and Bruce Dixon of the University of Arkansas are working on a fluid milk model. Stan Johnson and Helen Jensen at Iowa State University are evaluating the Board's calcium program and the effectiveness of calcium advertising. And, Olan Forker and Don Liu at Cornell University are working on possible improvements in the database for dairy econometrics and market research.

This is only the beginning of this effort. Additional projects on cheese, butter and ice cream have been targeted, once the database is adequate.

NUTRITION EDUCATION EVALUATION

The Board has extended its evaluation efforts into a new area this year, as it examines the effectiveness of its nutrition education program. An independent study on health professional advertising has provided same positive results about the dairy message.

The first wave of the study showed that the health professional groups the Board

has been advertising to the longest are the most favorable about the use of dairy products for osteoporosis and bone disease problems. This is a strong indication that our advertising campaigns have been effective in changing the opinions of these groups toward dairy products.

The Board's independent study results have been supported by a third party study conducted for Grey Medical Advertising. The results of this study parallel the Board's findings and even tend to be a bit more positive—which might be expected from an advertising agency.

PUBLIC RELATIONS

In the first year, the Board concentrated its public relations efforts on informing the nation's dairy farmers about the extent of its activities. This year, the program had been expanded to reach consumers nationwide through a variety of efforts.

We began with osteoporosis and were very successful with the airing of television public service announcements. A total of 68 p.s.a.s featuring Members of Congress offering a brochure on the bone disease resulted in the distribution of more than 25,000 brochures.

We have been conducting media training sessions for selected researchers conducting Board-funded projects. This will help the researchers get the scientific message to the consumer in a clear fashion through the media.

And, most recently, we have begun to take advantage of our expanded position as a media resource with the release of information on the significant increase in dairy product consumption during the past two years.

PRODUCT RESEARCH

In its first year, the Board funded 19 product research projects. This year, the effort in this area has increased significantly.

During the past 12 months, we have in place more than 40 product research projects and one workshop on research opportunities for the dairy foods industry.

The areas under study include: improved flavor for lowfat dairy products and the development of dairy products for lactose intolerant individuals.

NUTRITION RESEARCH

In the area of nutrition research, the Board has begun to increase funding for research projects that ultimately will be helpful in its promotion efforts. I have brought a brief film with me to describe our efforts in this area.

Since its inception, the Board placed 80 percent of its budget into advertising efforts designed to move products quickly. Most of our Board members realize that a long term view is important and have begun to shift program funding accordingly.

Currently, of the 83 research projects funded by the dairy industry, 51 are funded by the National Dairy Board. This is a 20 percent increase from 1985. In addition, 1987 budget projections allocate an even greater percentage of funds to this effort.

Nutrition research has a longer life span than the results of commercial advertising. We know that education and research programs pay off, although they take a longer time to develop results. Once the results are available, this information can encourage consumers to modify their eating habits and our promotion efforts can have a longer lasting impact.

An additional new venture in the area of nutrition research is the development of the Board's Industry Review Committee. We hope this committee will provide direction in the establishment of industry priorities to develop the best possible nutrition research program for the dairy industry.

FUTURE

Obviously, we have built up a great deal of momentum in the past 24 months and I am certain this will continue to build in the year ahead.

ADVERTISING

We have begun to lay the groundwork for new advertising and promotion plans.

The first of these plans involves strengthening our communications on fluid milk to young people between the ages of 10 and 16. Work is under way now to develop a test program to see if special advertising messages geared to this group will generate more total milk sales.

A second avenue is the exploration of the combined effect of consumer couponing, along with advertising as a way to generate increased butter sales. We plan to test this in a limited number of markets in the coming year.

A third area of new development is a reconsideration of the best way to encourage to eat more cheese. Several alternative campaigns to focus more directly on the reasons to buy cheese than current advertising are under review. The best of these approaches also will be tested in a limited number of markets in the coming year.

In addition, we will continue to monitor all of our current on-going campaigns and recommend ways to strengthen and refine those efforts in the coming months.

All of these programs reflect the Board's commitment to constantly develop new programs for better ways of selling dairy products.

DAIRY RESEARCH

The Board is working to revitalize the dairy studies structure with the establishment of Dairy Research Centers at universities nationwide. The Centers will help the industry in the long run by providing a new foundation for the education and training of dairy food scientists for industry, academic and public service careers.

The Board will provide approximately $1.5 million a year for the program. Each Center will receive approximately one-third of its funding from the Board, with others, including the university and local industry, contributing the remainder.

We hope that these Centers will represent almost every dairy producing region in the country.

PROMOTION STRUCTURE

As many of you may know now, the National Milk Producers Federation appointed a dairy Promotion Structure Committee which has spent the past six monts reviewing the promotion structure of the industry.

That Committee has reported to the National Milk Executive Committee and will be bringing its concepts to the attention of the UDIA Board, National Diary Board and boards of local units during the next few weeks.

The Committee report is an attempt at a compromise plan. After extensive discussion and review, it will be presented to Secretary Lyng.

As changes in the promotion structure are considered, it is important for everyone involved to remember that we must stay within the law, or be prepared to ask Congress to change the law. If we ask for changes, we must realize that we run the risk of getting changes that we, as an industry, do not want.

On the other hand, we must be careful in our interpretation of the law. We must realize that the law is not what we want it to be, it is what Congress gave us. Many experts spent a great deal of time preparing the language with a specific purpose in mind. We have to look at it objectively, without attempting to bend the words to fit our ideas.

In any event, we must be prepared to realize that the Department of Agriculture and the Justice Department ultimately will determine the meaning and correct interpretation of the law.

WRAP UP

Looking back at our last year's efforts, I am quite pleased with the bottom-line results. The National Dairy Board was created by Congress to increase the sale of dairy products. According to the preliminary findings, we are meeting that mandate and finding higher than anticipated increases in dairy product use.

The 1983 farm bill that established the National Dairy Board projected that the increased advertising would push dairy product sales up by two percent. U.S.D.A. statistics indicate that, since the Board's inception, sales have far surpassed that prediction.

According to the U.S.D.A., milk and dairy product commerical use totaled more than 131 billion pounds in 1985, 3.7 percent more than in 1984. And, in 1984, the same category totaled 126.5 billion pounds, 3.3 percent more than in 1983. The total increase during this two-year period is seven percent, or 8.6 billion additional pounds of milk and diary products used commercially, the largest two-year increase in memory.

Of course, many factors influence these commercial use statistics. Real prices are going down. Real income is going up. Unemployment continues to decline. And more money has been spent on dairy product advertising, promotion and research.

The impact of today's dairy promotion dollars is significant, however. In the past, all of the other factors—dropping prices, increasing income and decreasing unemployment—have been present without resulting in a similar increase in dairy product use. Clearly, advertising, promotion and research are having a significant effect on American consumers nationwide.

As we look ahead to our third year of promotion and research work, I am excited by our past success and the challenges before us. With your continued support, the National Dairy Board will work to continue this dramatically positive trend.●

HILTON HAWAIIAN VILLAGE

● Mr. INOUYE. Mr. President, tourism is of fundamental importance to the State of Hawaii. It is our largest source of revenue and a major source of employment for our citizens. I am thus pleased to note the presence of a delegation of Hawaiian performers and businessmen who are in Washington this week to inaugurate an $80 million renovation of one of Hawaii's premier hotels—the Hilton Hawaiian Village. Leading the delegation is Mr. Earl McDonough, senior vice president of Hilton Hotels in Hawaii, who will unveil a master plan for the renovation entitled, "A Return to Paradise." I trust that my colleagues and the American people will take advantage

of the first-class facilities and service available in the Aloha State when planning their vacations.●

WEDNESDAY'S CHILD

● Mr. HATFIELD. Mr. President, newborn babies are in constant demand for people wishing to adopt, but there is a group of forgotten children desperately seeking families to call their own. These kids have been classified as hard-to-place children. They are usually past kindergarten age, may have been abused when they were younger, and many of them have physical impediments of one kind or another. They are much harder to place with parents than healthy newborn babies. But a relatively new program in the State of Oregon is working to improve the odds against the hard-to-place children.

Since 1984, the Oregon Children's Services Division [CSD] and KATU Television in Portland have collaborated on a program to help find families for this special group. Together, these organizations produced a series called "Wednesday's Child." In 2 years, this television program and the local news broadcast have featured a total of 49 children. The children are interviewed and videotaped while they participate in typical children's activities such as ice skating, fishing, or eating at their favorite restaurant. A host from the TV station does the interviewing and prompts the children to reveal things about themselves that might never be expressed in an official adoptive report.

Every month, the Oregon CSD has approximately 75 to 100 children waiting for adoption. Not all of these kids can be videotaped, but the children that are can expect to be placed with a permanent family in an average of 2.2 months. Children not fortunate enough to be videotaped are processed through an adoption exchange and are usually placed in an average of 6.7 months. These two numbers can be compared with the average placement time for easy-to-place children, which is about 3 months. Easy-to-place children are defined as being zero to 6 years old and having no major physical or psychological impediments. Placing children in permanent families is more cost effective, and, more importantly, much better for the general welfare of the children. As it stands now, hard-to-place kids who do not find adoptive parents are usually moved from foster home to foster home for a variety of reasons. These kids lack the reassurance and love that comes with having a permanant family and a place to call home. The average base cost of foster care for a 10-year-old child is at least $2,700 per year. This figure is only the amount of money paid by the State to the foster family; it does not include the money spent on administrative costs or the annual medical costs of caring for a child.

Because the program has been such an overwhelming success, the Federal Government has maintained their funding support level at 100 percent and the program directors plan to feature one child per month on videotape for the coming year. Oregon CSD also plans to experiment with producing their own videotapes for inhouse use. I am excited about this program and I vigorously urge the Nation as a whole to study this creative adoption program.●

UNIVERSITY OF WISCONSIN DAIRY SCHOOL

● Mr. KASTEN. Mr. President, the people of Wisconsin stand behind their dairy tradition with a great deal of pride and enthusiasm. We look to the University of Wisconsin dairy school as the vanguard to continue this strong tradition.

The dairy school, however, means much more to the State of Wisconsin than technical and scientific experimentation. It represents a long-time favorite commodity: Babcock Hall ice cream. I ask to have printed in the RECORD the tribute to the University of Wisconsin dairy school in a recent New York Times article. I thank them for sharing with the people of Wisconsin the fruits of their research so that we all may enjoy this wonderful ice cream.

The article follows:

[From the New York Times, June 25, 1986]

EXALTING IN ICE CREAM, EXOTIC AND PLAIN

(By Paul Fanlund)

MADISON, Wis., June 24—The mother of the bride-to-be directed an urgent letter to the University of Wisconsin's dairy store. "Having grown up in Madison on ice cream from Babcock Hall," the mother wrote on her daughter's behalf, "she'd like to have some to serve with the cake." Enough for 150 guests shipped to central Illinois in the heat of June, if you please. Such are the burdens of ice cream excellence.

If someone had told Dr. Stephen Moulton Babcock in 1890 that his name would endure for a century, he probably would have attributed the fame to his test for measuring fat in milk. That advance prompted the university to create the nation's first dairy school and, eventually, to name a building for him. Today the Babcock name is most often associated on this Big 10 campus—and throughout the city and state and among nostalgic Wisconsin alumni nationwide—not with an arcane dairy process, but with ice cream.

And not just good ice cream, but creamy, smooth, fresh ice cream scooped in generous portions for 65 cents a single dip and 85 cents a double. Prices are reviewed four times a year to insure that they cover costs but produce no profit.

Babcock Hall rotates about 75 flavors, changing its menu monthly. The old standbys are always available: vanilla, chocolate, strawberry, butter pecan, fudge marble, mint, coffee, chocolate chip and four flavors of sherbet. A recent list of the more exotic rotating flavors included blackberry cordial, black walnut, orange custard chocolate chip, caramel cashew, chocolate cake, almond chocolate, mocha chip, apple strudel, egg custard and chocolate toffee bark.

The orange custard chocolate chip—which combines chocolate chip candy, egg custard, orange essence and orange coloring—was cited in a recent book on ice creams, "The Very Best: Ice Cream and Where to Find It."

As many as 1,000 gallons of ice cream are produced every weekday in Babcock's gymnasium-sized dairy plant by the university's Food Service Department. Unlike most ice creams the ones produced here are done without a premade ice cream base. Babcock also houses a well-known cheese research institute.

The plant receives about 20,000 pounds of raw milk a day from two university-owned dairies and five private farms, turning it into all types of milk and milk products.

To avoid complaints of unfair competition from commercial ice cream producers, Babcock products are not sold off campus but are distributed at two student unions, in dormitories and at the university hospital.

The heart of Babcock Hall's ice cream consumption is the salesroom, as it is called, in Babcock Hall. The hall itself is a nondescript three-story brick building and its small Formica-dominated salesroom is similarly plain.

On most days, a procession of students and faculty members troop in past old-fashioned dairy cases containing milk butter, yogurt and cheese to wait in one of three lines—two for cones, one for sundaes and shakes.

A bulletin board has posters boosting the state's dairy industry and displays the many local and national awards Babcock ice creams have garnered. The board also features a neatly typed list of the ingredients in the current month's offerings.

It may seem appropriate that Wisconsin's major university has such an affinity for dairy products in general and ice cream in particular. After all, Wisconsin is the nation's leading producer of milk, butter and cheese. Even its nondairying citizens appear to take that image to heart. Gov. Anthony S. Earl confronted an agitated constituency last year when the state contemplated dropping its 50-year old "America's Dairyland" license plate motto. Governor Earl averted what he predicted would be an acrimonious debate in the Legislature and declared the motto safe.

While the university's dairy school has been making ice cream since about 1900, it apparently was not until the early 1950's that the products moved toward connoisseur quality. Much of the credit has been given to William C. Winder, who retired in 1981 as a professor of food sciences. In 1940, he began teaching a course, called Ice Cream Making and Related Products.

"I didn't think much of the quality of the ice cream they were selling," Mr. Winder explained in a recent interview. So he began "an evolutionary path" of changing ice cream mixtures and processing methods. "Even in the latter years, we changed things occasionally," he said. "But we would never grade it down just to sell it cheaper. I suppose that's the legacy I left them."

In his day, Mr. Winder and a few colleagues usually did their own taste tests. Today, Thomas Blattner, the dairy plant manager, said, new flavors are run through a "sensory analysis laboratory," a formal

process of taste panels comprising graduate students and faculty members.

The no-scrimping philosophy endures, however. Mr. Blattner said Babcock uses only fresh milk, thus avoiding what he called the undesirable flavor of whey powder, which many commercial ice cream makers use to cut costs.

Babcock uses only cane sugar for a clean, sweet flavor, he said, instead of corn syrup used in some ice creams, which he said creates a flat sensation. For a fuller texture, Babcock ice cream contains 12 percent butterfat, 2 percentage points more than the legal minimum for labeling a product ice cream, Mr. Blattner added.

Regular customers love almost anything chocolate, Mr. Blattner said, and there are usually 5,000 or so customers a week (except in the dead of winter, when it drops to about 2,500 a week). But Babcock's patrons are also game for the exotic flavors, he said.

Still, there is an occasional flop. Ice cream flavored with licorice chips was one. And there are the slow movers; the flour sherbet flavors are in that category, Mr. Blattner said. "I've heard people speculate we are Dairyland U.S.A. and people prefer high butterfat products," he said. "I don't know." Whatever the reason, he added, "sherbet just doesn't fly in this part of the world."●

UKRAINIAN FREEDOM

● Mr. LEVIN. Mr. President, this coming week all America will celebrate the rededication of the Statue of Liberty. Her message and spirit represents the deepest yearnings of mankind. As we celebrate, we will glory in the triumphs of freedom and the just struggles won.

As we do so, let us not forget those whose struggle for freedom has yet to be won, and those whose just battle continues.

June 30 marks an important date, an anniversary we should also note this coming week. June 30, 1941, is a day of profound importance in the history of the struggle for Ukrainian freedom. As such, it is a day of importance for all people who love freedom.

On June 30 we commemorate the 45th anniversary of the proclamation of the restoration of Ukraine's independence.

As the Organization of Ukrainian Nationalists fought both Nazi Germany and the Soviet Union, the fighting in the Ukraine was bitter, and the bravery and sacrifice of the Ukrainian people was inspired. Yet, eventually, the Soviet army reoccupied, and Ukraine was no longer free.

This coming weekend, the commemorative committee of the 45th anniversary of the restoration of Ukraine's independence on June 30, 1941, will hold a commemorative banquet in Warren, MI.

As all of us celebrate in the relighting of Miss Liberty's torch, let us remember the flame of freedom which also still burns in the soul of the Ukrainian people. As we celebrate our freedom, let us remember and honor the millions of Ukrainians who have fought, sacrificed, and struggled for their freedom. As we celebrate our liberty, let us remember and pray for Miroslav Medvid who symbolizes the desire and struggle for liberty that cannot be extinguished.

As the flame of liberty burns, it burns for all people who value and struggle for freedom. Her flame burns for the tenacious spirit of the Ukrainian people who will never abandon the dream and struggle for freedom.●

S. 2064, THE NATIONAL STRATEGY ACT

● Mr. D'AMATO. Mr. President, I rise today to join my distinguished colleague, the senior Senator from Virginia, in cosponsoring S. 2064, the National Strategy Act, which requires the President to make an annual report to Congress on the national strategy of the U.S. Government regarding our foreign policy and international objectives.

It is apparent that it is necessary to improve the communication between the administration and Congress on the matters of foreign policy and national defense. Presently, this information is transmitted in a very chaotic and incoherent manner. The National Strategy Act will provide a single and unified forum for communication on these important areas between the executive and legislative branches of Government to provide a base from which to begin the budget process.

Under the provisions of S. 2064, all information regarding the administration's views on issues of national strategy will be presented comprehensively to the Congress as a unified package. The presentation of this information in a coherent fashion is, indeed, vital to the swift and effective execution of the legislative process.

Furthermore, this bill will require that the administration formulate a more cohesive foreign policy. Administration officials will have to agree on a single text, rather than each department doing so separately. It is obvious that improving intragovernmental communication will make the entire national strategy policy process more efficient. In the age of Gramm-Rudman-Hollings and $300 billion defense budgets, it is imperative that everything possible be done to improve the efficiency of Government. This proposed legislation furthers this goal by gathering important information and presenting it all at once in a comprehensive manner, rather than in several—sometimes contradictory or ambiguous—pieces and over a period of several months. Reaching a consensus on national strategy requires a huge amount of cooperation and coordination among the different departments and offices of the Government. This legislation will go a long way in providing and encouraging that cooperation.

We have before us an opportunity to increase the effectiveness of Congress in dealing with the administration and in crafting a budget. I commend the senior Senator from Virginia for his efforts on this important legislative effort, and I strongly urge my colleagues to join me as cosponsors.●

ENGLISH LANGUAGE AMENDMENT

● Mr. SYMMS. Mr. President, over the past few months I have received many letters of support for Senate Joint Resolution 20, the English language amendment, which 16 of my colleagues and I sponsor. These letters come from all over the United States; from organizations and societies representing large numbers of Americans from many ethnic backgrounds: Dutch, Hungarian, Turkish, Ukranian, Italian, Romanian, Thai, Greek, Czech, Danish, Jamaica, Polish, Afghan, Swedish, and numerous others.

Many of these organizations include strong statements of pride in their ethnic heritage and native language, as indeed they should. As sponsors of the ELA we encourage all Americans to reinforce their strong ties with the culture and language of their ancestors. We also encourage our people to become fluent in foreign languages so that America may become more competitive in this global economy.

However, all the letters of endorsement also make strong statements of support for the English language amendment. From a large Pennsylvania-based fraternal association comes this statement:

We concur fully . . . that the United States Congress has the opportunity to leave behind a legacy to generations of Americans. The English Language Amendment makes it clear that the knowledge and mastery of the English language is essential to full and complete participation in American society.

From another ethnic society:

We believe that there can be only one official language for political and national cohesion.

Another national council founded in 1918 and based in Illinois spoke of its strong efforts to preserve the culture of the motherland then added:

At the same time, we have always stressed the necessity of learning English as soon as possible and becoming an active part of American life.

Mr. President, in closing I wish to read a moving letter I recently received from Rolling Meadows, IL:

As an ethnic American, my family and I fully support the proposed amendment to the Constitution now in Congress which seeks to have English legally recognized as the one and only language of the United States.

In 1950 we came to the United States under Truman's Displaced Person Act as victims of the Communist coup d'etat in Czechoslovakia with no knowledge of the English language. I took some English lessons before coming to the United States during our stay in Austria. My wife and two minor sons did not speak English at all.

"When we arrived in Chicago, sponsored by the Church World Service Organization, we were immediately introduced to an English speaking world. My older son, then seven years old, forthwith attented a grade school in Chicago. Since he did not speak English he was placed in the first grade. Within six weeks he already mastered the English language and was advanced to the second grade. My younger son, then four years old, spoke fluent English within a short time and had no difficulties in school. Both of my sons were on the honor roll of their schools.

I, myself, went to John Marshall Law School attending night courses. During the day I worked in factories to support my family, and later in a church as a business administrator. After graduating from law school I established myself as an attorney. Both my sons are college graduates; the older one owns a successful insurance company, and the younger one is an attorney himself employed as a corporate lawyer with a Chicago industrial firm.

I would like to emphasize how important it is to master the English language, which opens up every possibility for a successful career. In my opinion, billingualism is not the way for achieving success in our great land of opportunity. Recognition of a common language is necessary to preserve the basic internal unity required for political stability and national cohesion. The proposed amendment would reaffirm the importance of English in our national life. It would clarify to newcomers that learning English is indispensable for full participation in American society and economy. It would reaffirm that we are truly "One Nation, indivisible."

Mr. President, I ask that any of my colleagues who wish to join us in this effort please contact my office. We will happily supply you with information, and will welcome your support.●

BALTIC FREEDOM DAY

● Mr. SIMON. Mr. President, earlier this month was the anniversary of the occupation of the Baltic States by the Soviet Union. This marks the 46th year since the people of Estonia, Lithuania, and Latvia lost the freedom to express their culture openly. Mass deportation has occurred and systematic repopulation. The Soviet occupation of the Baltic States represents an attempt to destroy a culture. However, the fight to hold on to this culture still continues.

The nations of Estonia, Lithuania, and Latvia remain under illegal rule by the Soviet Union. The Soviets continue to deport millions of Estonians, Lithuanians, and Latvians to remote parts of the Soviet Union. At the same time, the Soviet Union has introduced large numbers of Russians into the Baltic States in an attempt to displace the Baltic culture. However, the Communists have been unable to completely crush the spirit and determination of the Baltic people.

I am privileged to celebrate June 14 as Baltic Freedom Day. This day was created to ensure that the illegal Soviet occupation of the Baltic States is not accepted as legitimate by the international community. The United States has never recognized the illegal occupation of the Baltic States.

The persecution that continues in the Baltic States should never be forgotten. June 14 stands "as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people." The spirit of the Baltic people to renew and express their culture can be seen as an example to people of suppressed cultures around the world. I can only hope that one day democracy will ultimately prevail and the sovereignty of these three nations will be restored.●

WILLIAM S. WOODSIDE, A CORPORATE LEADER FOR PUBLIC EDUCATION

● Mr. SIMON. Mr. President, William S. Woodside is the chairman of the American Can Co. Mr. Woodside was elected chairman of American Can in 1980, following 30 years of service as a manager in a variety of posts with that company. He has been a director of the company since 1975, served as president from 1975 to April 1981 and CEO from 1980 to April 1986. He holds the bachelors degree in business administration from Lehigh University and a masters degree in economics from the Harvard University. He joined American Can as the company's first economist in 1950.

As chairman, Mr. Woodside has been the architect of American Can's strategic redirection program, which included the sale of the billion-dollar paper products sector and a move into insurance and financial services.

I first learned of Mr. Woodside's extraordinary efforts in support of education during his testimony before a joint hearing of the Senate Subcommittee on Education, Arts and Humanities and the House Subcommittee on Elementary, Secondary and Vocational Education on the subject of adult illiteracy. He made an excellent presentation to the committee about both the importance of assuring an educated citizenry for business purposes and increasing our economic competitiveness. American Can, under the direction of Mr. Woodside, has made a commitment to education in a very concrete way. Last fall, a comprehensive report on illiteracy was completed with the support of American Can. That corporation, because of the personal interest of its chairman, continues to support programs for illiterate adults which show foresight for increasing both human potential, and the contributions of an educated work force to U.S. industry.

Recently, Mr. Woodside spoke at the readership forum of the Institute for Educational Leadership. In his remarks he describes the increasing importance of providing a strong education foundation for all public school students and business' role in assuring quality and relevance in the curriculum. I commend to my colleagues Mr. Woodside's May 1, 1986 address.

I ask unanimous consent that Mr. Woodside's remarks be included in the RECORD.

The remarks follow:

REMARKS OF WILLIAM S. WOODSIDE

I stand before you a satisfied consumer. Two former Fellows of the Institute for Educational Leadership hold key positions at the American Can Company Foundation. Fay Reisler, IEL Class of '79, is our Associate Director. Miguel Garcia, IEL Class of '85, is the analyst of our National Themes Program. Julie Latzer, also of the IEL Class of '85, provides staff support to me in my capacity as Chairman of the New York City Partnership's Education Committee. Dan Merenda, IEL Class of '79, runs the national School Volunteer Program which is the recipient of the largest national theme grant our Foundation has given thus far. And, of course, our work with your leader, Mike Usdan—I won't tell you his class year—has been enormously satisfying and productive. It is because I have this firsthand knowledge of your organization and its people that I am particularly delighted to be here today.

I want to preface my remarks this afternoon by noting that whenever we discuss educational leadership, we tend to talk about political leaders, business leaders, school boards and administrators, community organizations and professional organizations. But we tend to forget the leadership that occurs inside the classroom—the personal leadership and guidance provided by teachers who care about their students, who take great pride and joy in their work, but whose leadership impact may not be felt—or recognized—until long after the student has graduated. In my mind, a conference on the leadership factors in education policy is long overdue. But as we look at the issues involved in educational leadership, let us also pledge to ourselves that we will not overlook the leadership role our teachers play in our lives and our society—and how indebted so many of us are to so many of them.

You have given me a broad mandate: to discuss the corporate role in supporting education and the leadership factor in encouraging support for education. I have decided to scale down that mandate and discuss two issues. First, the need to clarify the role the business community can play in public education; and in so doing I want to make some specific statements about the appropriate role of the private sector with respect to a broad range of domestic social issues. Second, I want to touch upon the need to view public education within the context of the other social problems that impinge upon the educational process; to help clarify just what we want our schools to achieve and to make sure we do not hold them responsible for problems they did not create and should not be expected to solve.

In some respects, my presence here today is one measure of how far we have come in establishing a business role in public education. Ten years ago, the topic you assigned me would not have been on anyone's agenda. Back then, you may recall, corporations and public schools had little contact with each other. Business was involved with higher education. The elementary and secondary schools were not an area of our concern. Somewhere along the line though, in the midst of national concern about public education, the economy and our cities, the business community gradually began to realize that we did in fact have an important stake in the future of our public schools. Some may find that change surprising. I do not. Many business leaders, myself included, are products of our public schools. We have an intensely personal appreciation of their contribution to society and their value to the individual. We are troubled when our schools are in trouble because we know that if our schools decline, our cities and communities also will decline. We are troubled because we know that without a first-rate system of public education—and one that is first-rate for everyone and not just for some—our nation will not change for the better. The growth in corporate involvement in public education also reflects a change in how corporations see themselves in relationship to society. Many within the business world now know they cannot exist as isolated, autonomous islands, walled off from the communities in which they are located. So, instead of defining institutional relationships in terms of the barriers and differences that keep them apart, many corporations are seeking to define their relationship to community institutions in terms of the goals and values they share in common. Granted, it has been a long time coming, but the private sector is now beginning to acknowledge, on a wider scale than we once thought possible, the fact that no community can prosper if its members, including corporations and public schools, have no contact with each other or have no common ground on which to meet together and to work together.

The school-business partnership programs that have developed around the country are a strong indication of this change in attitude. Nobody is keeping precise records, but the number of corporations involved in partnership programs such as Join-A-School, Loaned Executive Programs, mentoring programs and curriculum development programs has grown dramatically. These programs are important. They provide the business community with a much needed window on the world of public education. But partnership programs also have their liabilities. One of the most serious liabilities is that by focusing so extensively on what is happening in the private sector, we will ignore what is happening, or not happening, in the public sector. I want partnership programs to grow and flourish. But I do not want declining public support for public education to become the price we pay for private sector involvement. And it is up to us, as business leaders and education leaders, to use our influence and our energy to make sure this does not happen.

Let me remind you that the concept of public-private partnerships came into vogue at the same time limits on government spending and limits on government involvement in social programs started to become popular. Proponents of cutbacks in government programs and services seized on the partnership concept as evidence that government programs could be reduced without causing much harm, dislocation or hardship. People who opposed these reductions, on the other hand, beaten at the polls in various elections, grasped at the partnership concept as a way of preserving some services that otherwise might be lost. There is no question in my mind that we all subscribed to a very good idea. The problem, I submit, is that we overstated its potential. Our vision was so focused on the role of the private sector that we failed to fully understand the enormous implications of the changes in thinking that were occurring within the political system with respect to the role the public sector should play in public education or in assuming responsibility for various other domestic social problems.

A recent proposal by Secretary of Education William Bennett provides a good illustration. Secretary Bennett wants to provide $600 worth of vouchers so low-income children who are not doing well in public schools can attend private schools. The issue, however, is not how one feels about vouchers. The issue is that vouchers are being proposed as a way of dismantling federal aid to education. They are being proposed as an alternative to the Title I Program, now called Chapter I, at a time when the need for this program may be greater than at any time in its 20-year history. What happens if such a misguided proposal should ever by chance be enacted? Will the school-business partnership programs provide the New York City schools with the $300 million it receives each year from the Title I Program? Or, to take another example, can school-business partnership programs provide New York City with the $100 million loss in public education funds that could occur in the first full year of the Gramm-Rudman-Hollings Balanced Budget Act? Can we count on public-private partnership programs to provide increased salaries and better working conditions for teachers, to keep our school libraries filled with books, to provide the additional financing and organizational structure so that successful innovations can be applied on a larger scale? The answer, of course, is "No."

School-business partnerships can develop some useful and innovative programs. They can even help us to set a national education agenda. But they cannot provide the financial and leadership foundation that can help us solve our education problems—and we need to stop acting as if they can. When corporations first started developing partnership programs several years ago, many of us said we did not want to become involved in public education to let government off the hook. We said we did not want government using our involvement as an excuse to ignore its own responsibility. We said we did not want our programs to become a screen of voluntarism behind which an entire generation young people, too many of them underprivileged, would be denied basic opportunity and justice. The time has come for all of us—business leaders and educators—to make good on that promise. It is time for all of us to combine the knowledge we have gained with the resources already at our disposal and become active and organized advocates in behalf of an increased and more defined public role in public education; a role that does not necessarily try to recreate the Sixties but which prepares us for the educational needs of the Eighties and Nineties.

That brings me to my second point. When we look at the socio-demographics of our current and future school-age population, we see the following:

Nearly 25% of American children live in households whose incomes are below the poverty line.

Nearly half the black children in America under the age of six live in poverty.

More and more students are coming from single-parent homes.

There are an increasing number of students for whom English is not the native language.

Some 23 of the largest 35 school systems in the country are "majority minority" school systems—systems in which students from minority groups comprise the majority of all students.

There is a continuing drop in the number of high school graduates, particularly in the Northeast, and a 40% dropout rate among Hispanics.

In addition, teenage pregnancy is on the rise, and so is teenage unemployment and teenage crime.

There are some positive signs in the data. The number of black middle-class students is increasing. But the overwhelming message of the demographic material, as Harold L. Hodgkinson concluded in an IEL study, is that the children in our school systems and coming into our school systems, are increasingly poorer, more ethnically and linguistically diverse, and they have more handicaps that affect their learning.

This is not an isolated observation. Some months ago, the New York Times published a front-page article on poverty and youth that began with the following lead paragraph:

"Complex social, economic and political factors are creating a vast new class of poor Americans who are much younger, less educated and more likely to give birth sooner than recent generations of the poor."

The material in the article prompted U.S. Senator Daniel Patrick Moynihan to observe that the United States of today may be the first society in history where children are much worse off than adults. "It is time we realized," Senator Moynihan said, "that we have a problem of significant social change unlike anything we have experienced in the past."

One implication of this trend seems clear. The public schools, more than ever, will be looked upon as the critical avenue of opportunity for disadvantaged youth. They will be called upon to play a greater, more comprehensive role in shaping our society than at any time during the past half century. If the schools are to succeed in this task this nation must begin responding, in a fundamental way, to the deep-seated and long-standing inequities that exist in our society. If our schools are to succeed, our students must no longer feel that they have no place in this society, and their experience must no longer tell them they have few opportunities outside the classroom door. Otherwise, we will be placing an almost impossible burden on our schools, setting before them a task that no institution, no matter how well equipped, no matter how well staffed, no matter how well funded, can handle by itself.

If we rely on a single institution to respond to injustice, poverty and lack of opportunity, we will eventually undermine the contribution that institution legitimately can make in its own right. Poverty, homelessness, hunger, unemployment, alienation and lack of opportunity do not begin in our schools. They only become more visible in our schools because the school is where the reality of poverty and the idea of opportuni-

ty come into conflict most directly and most frequently among our young people.

Let me give you an example of one area where we can make a difference before our young people enter the public schools. The relationship between good nutrition and the ability to learn has been thoroughly documented in many studies during the past several years. Millions of children who live in poverty depend on the various child nutrition and food stamp programs that now are threatened with another round of budget cuts and regulatory restrictions—even though the Gramm-Rudman-Hollings Balanced Budget Act exempted child nutrition programs from its purview.

The most cost-effective nutrition program is the Special Supplemental Food Program for Women, Infants and Children—The WIC Program. Studies show that $3 in medical costs are saved for every $1 spent in a WIC Program. The WIC Program, though, only serves one-third of the people who are eligible for its benefits. Yet another 27,000 people are in danger of being dropped from the program altogether. At some point, that kind of shortsightedness is going to show up in our educational system. And once again, the schools will be asked why they can't do their job.

You can find the same kind of story in the Head Start Program. At least three million children are eligible for Head Start, and there is general agreement that statewide Head Start programs would be one of the best strategies for improving the educational future of low-income children. But only 400,000 children are enrolled in Head Start programs throughout the country. That's only 13% of the eligible population. And there are no plans to expand the program.

In the meantime, we still have to face the fact that the demographics of public school support are changing. The number of households with school-aged children is declining. Three years ago, people 65 and older surpassed teenagers as a percentage of our population. By 1990, people under the age of 20 will comprise less than 30 percent of our population for the first time. A steadily increasing percentage of Americans no longer has any direct and immediate contact with public education. As a result, many feel they no longer have a stake in what happens to our schools. Our task—yours as well as mine—is to clearly and often articulate the compelling case that everyone in this country has a stake in our schools. This is a leadership issue and a challenge that awaits you.

I trust that the IEL Fellowship Program will prepare you well to provide the kind of educational leadership that is so very essential to future generations of Americans. Your opportunities will be enormous—but so too, will be your responsibilities.

In closing, I thought about ending my remarks with a quotation about leadership taken from one of the Greek philosophers or from an American President. But in the final analysis it was Sergeant Preston of the Yukon who perhaps said what I wanted to convey most succinctly when he told his enraptured television viewers, "that only the lead dog gets to enjoy the change in scenery."

We need a change in scenery with respect to a broad range of social and educational policy in this country, and I hope that you will be the ones out in front.

Thank you and very best wishes.●

S. 2331, MEDICARE QUALITY PROTECTION ACT OF 1986

● Mr. GORTON. Mr. President, I am pleased to join my distinguished colleagues from Pennsylvania, Senator HEINZ, and several members from both sides of the aisle as a cosponsor of S. 2331, the Medicare Quality Protection Act of 1986.

We all, Mr. President, like to have the confidence that, when we need it, we will have access to affordable, high quality health care—and older Americans are no exception. In fact, the possibility of not being able to gain access to affordable, high quality health care is perhaps more troublesome to this group than any other. It was primarily for this reason that the Medicare system was established in 1965. Today, Medicare provides the bulk of health care protection for our Nation's 27 million elderly.

For years, Medicare functioned as a cost-based reimbursement system; however, eventually it became clear that the actual expenses being paid by Medicare were exceeding the services provided. It was this realization, coupled with a desire to maintain the financial stability of the Medicare system in tight fiscal times—that prompted Congress, in 1983, to begin paying Medicare claims prospectively. In doing so, Congress dramatically altered the nature of Medicare reimbursement to hospitals. We knew then that these were major changes, and that ultimately some slight alterations might have to occur due to problems we would discover in this new system. Nonetheless, implementation of the prospective payment system was the right thing to do.

Mr. President, the prospective payment system has now been in place for nearly 3 years—a time during which we have closely watched and studied the impact it has had on both beneficiaries and providers. We have learned much from the input of both beneficiaries and providers during this period—both through individual correspondence related to this issue and the oversight hearings that have been held in both houses. As a result of this activity, we have discovered several problems which are addressed by this legislation.

S. 2331, the Medicare Quality Protection Act, seeks to make changes which will ensure that Medicare beneficiaries are receiving top quality medical care, and changes which should lead to fair reimbursement rates for hospitals. Although this legislation is not the total answer, I believe it represents a major step toward the fine-tuning of the prospective payment system and will afford us the opportunity to address the issue of quality health care for older Americans.

First, we discovered a disturbing number of cases in which Medicare patients are being discharged from the hospital before they have recovered—frequently coined as—"quicker and sicker"—or released when the patient has homecare needs and that patient has no access to homecare services. The prospective payment system provides hospitals with the incentive to reduce the length of the hospital stay, so that acute care is provided only as long as medically necessary—after the patient is medically ready, he or she is released from the hospital. This policy, in and of itself, makes good sense; however, in some cases, posthospital care is necessary for a full and complete recovery. What has become clear, is that some Medicare beneficiaries do not have access to the needed pasthospital care.

The Medicare Quality Protection Act addresses this situation by seeking to ensure beneficiary access to necessay posthospital nursing home, and home care, by making permanent the waiver of liability—releasing the patient of responsibility for certain expenses—and by broadening its scope of applicability. Specifically, this would include denials related to intermittency requirements and those who are homebound, those cases which have created the most major difficulties for beneficiaries and providers. This provision of the bill serves to refine and strengthen action taken on the reconciliation bill.

In addition, the Medicare Quality Protection Act requires the Department of Health and Human Services to develop a standard to be utilized in the determination of whether an individual beneficiary requires posthospital nursing home, home health, or other health care services. Such a standard would be used by discharge planners, health care providers and others working to serve the health care needs of Medicare beneficiaries.

Second, we discovered that occassionally, under the prospective payment system, patients with multiple or serious conditions are being prematurely discharged, inappropriately transferred or even refused admission by a hospital. One of the main factors leading to such occurrences is that the prospective payment system reimburses based on the average cost for a particular condition. There is no flexibility to account for any difference that might exist in the severity of an individual patient's illness. This has placed hospitals in an awkward position because they want to, and have the responsibility to, treat patients regardless of the severity of their illness; however, the reimbursement is sometimes not adequate. At the same time, though, the notion has been that in the aggregate things will balance out, but this appears to not always be the case.

In an attempt to address the "severity of illness" problem, The Medicare

Quality Protection Act requires the Department of Health and Human Services to develop, by January 1, 1988, a multitiered scale which will reflect variations in the severity of illness and case complexity among each diagnosis related group [DRG]. This approach will lead to improved accuracy of DRG payments to hospitals, while at the same time assuring hospitals that they will get reimbursed adequately for even the most severe cases.

Third, we discovered that most Medicare beneficiaries do not have a very good understanding of their rights under the Medicare system. When a beneficiary does not have a good understanding of his or her rights, it can sometimes open the door for abuse. For example, reports have surfaced of an occasional hospital administrator telling a patient that his cr her Medicare coverage has run out, even though that patient—and the patient's family—may not believe he or she is medically ready to leave the hospital. Without an understanding of the appeal rights, that patient may leave the hospital rather than appeal—when in fact, it may have been better for that patient to stay in the hospital for an extra couple of days. I do hope such cases are few and far between; however, it does require us to restate that hospitals have a responsibility to provide appropriate treatment for their patients—whether the treatment falls within the average number of days on which the particular DRG is based or not. The best way to prevent these type of occurrences is to provide beneficiaries with access to information regarding their appeal rights.

The Medicare Quality Protection Act requires hospitals to notify patients of their rights during the admission process. Should patients decide—after receiving written notification of their discharge—that they wish to appeal the discharge decision, they will have three calendar days to do so before becoming liable for continued days of stay. The legislation also requires the peer review organization to review the appeal within the same 3 calendar days, to prevent any situations where an appeal may be made, but not reviewed, before the patient has to begin paying for additional days.

On balance, I believe this legislation represents a good effort at beginning to fine-tune the Medicare prospective payment system. I give the Medicare Quality Protection Act my support and look forward—as a cosponsor—to working with the other Members who have cosponsored this legislation to resolve some of the minor issues that still remain unresolved. I urge others to offer their support also, as it is time that we get on with the task of fine-tuning Medicare's prospective payment system—a task that will result ultimately in assuring older Americans that they, too, can have confidence that, when needed, they will have access to affordable high quality health care.●

TRADE RELATIONS WITH THE SOVIETS

● Mr. HELMS. Mr. President, there has been a disturbing crescendo of support for normalization of trade relations with the Soviet Union. Some have called for a moratorium on the application of the Jackson-Vanik amendment, which prohibits the granting of most-favored-nation trading status to a Communist nation, such as the Soviet Union, that restricts the emigration of its people.

Mr. President, in the June 24 edition of the Wall Street Journal Melvyn Krauss points out that the Soviets have embarked upon a highly visible campaign to improve their human rights image in the international community. Mr. Krauss accurately asserts that this campaign is not a signal that the Soviets are in fact interested in sharply curbing their emigration restrictions, but are conducting a cosmetic charade intended to open additional international markets for their own commodities and thereby stimulate the Soviet economy.

The article states the sensible and realistic view that normalization of trade relations with the Soviets should be pursued with extreme caution and that such normalization be predicated on the progress of Soviet emigration policy far beyond its current status.

Mr. President, I ask that the article be printed in its entirety in the RECORD and commend its contents to the review of the members of the Senate.

The article follows:

STOP REWARDING THE SOVIETS FOR HUMAN-RIGHTS IMPROVEMENTS

(By Melvyn Krauss)

The Soviets clearly are on a campaign to improve their human-rights image in the West. In February, they released Anatoly Shcharansky from prison and permitted him to emigrate to Israel. In the past few weeks, Soviet authorities have announced they resolved 71 cases of divided Soviet-American families and would allow more than 200 Soviet citizens to emigrate. Why are the Soviets signaling they might be interested in relaxing their severe curbs on emigration? The answer undoubtedly has a good deal to do with the dramatic drop in the price of oil.

Mikhail Gorbachev knows better than most that the price of oil has dropped from a high of over $40 a barrel to its present level of less than $15 a barrel. He apparently has come to the conclusion that unless he can obtain increased loans and trade concessions from the West, to make up for the shortfall in foreign-exchange induced by the oil price drop, his time as the top Soviet leader could be short. Thus, the basic parameters of the Gorbachev strategy have been established: to catch the West's attention, send out a "loss-leader" like Shcharansky; then, make a deal for increased Soviet emigration in exchange for Western economic concessions.

One top Soviet priority appears to be the obtaining of most-favored-nation trade status from the U.S. The Jackson-Vanik Amendment to the 1974 Trade Act, however, prohibits the U.S. from granting most-favored-nation treatment to communist countries that restrict emigration unless the president issues a waiver on the ground that emigration curbs have been relaxed. Romania, Hungary and China are the only communist countries to currently enjoy such a waiver.

Now, it is quite clear that considerable support for the Jackson-Vanik Amendment came—and continues to come—from American Jewish leaders who are committed to a policy of buying the freedom of Soviet Jews with U.S. trade concessions. "If the Soviet Union wishes to make a movement, there's honey on the spoon," said Morris P. Abram, chairman of the National Conference on Soviet Jewry. "If the Soviets make substantial and significant changes in emigration, there will be support for a government waiver, but it's got to be very substantial."

Of course, very substantial changes in Soviet emigration practices imply very substantial U.S. trade concessions to the Soviets, and this should give pause to all Americans—both Jews and non-Jews. At a minimum, granting the Soviets most-favored-nation status would enrich our enemy. Trade gains, to some extent, would replace oil revenues as the fuel for both the Soviet military machine and Moscow's imperliistic adventures abroad.

Moreover, normalizing trade relations with the Soviets would serve to strengthen the hand of U.S. businessmen who want to sell high-tech goods to the Soviets, even goods that directly endanger our national security. "Contrary to prevailing myths in the media," writes Edward Jay Epstein in the June issue of Comentary magazine, "the vast preponderance of technology transfers from West to East proceeded not from espionage or theft but from openly arrived at deals with some of the largest corporations in the West."

Advocates of dentente often ask: What's wrong with exporting food and nonmilitary goods to the Russians? A great deal. For even when the West sends only humanitarian goods, such as wheat and butter, domestic resources are freed within the Soviet Union—resources that can be used to build tanks and missiles.

The major practical objection to this argument is that if the U.S. doesn't export to the Soviets, U.S. economic competitors in the West will. This highlights an important problem for U.S. foreign policy: If the U.S. wants to deprive the Soviets of normal economic exchange with the West, it must be willing to discipline those allies who, out of weakness or the desire to make a fast buck, undermine U.S. foreign policy.

Another reason to discard Jackson-Vanik is that the U.S. should avoid all policies that tangibly reward the Soviets for their brutal treatment of dissidents—rewards that may encourage them to take, torture and trade other dissidents in the future. The West Germans, for example, have been buying political prisoners for cash from East Germany for over a decade. But rather than decrease the total number of political prisoners held by the East German regime, this policy actually has served to increase the number.

Those who argue, as Jackson-Vanik supporters do, that the U.S. should offer the

Soviets trade and other inducements to obtain human-rights progress fall into a Soviet trap. Following this advise could lead to an increased exodus of political prisoners from the Soviet Union. But this would not signify an improvement in the human-rights situation. On the contrary, it means the Soviets would be under continuing pressure to replace their stock of political prisoners for trading purposes. For every prisoner released, a new one would be found to take his place.

Indeed, one wonders how much good American Jewish leaders really do Soviet Jews when they lobby for trade concessions in return for liberalized emigration. True, some Soviet Jews will be able to leave if a Jackson-Vanik-style deal is made (just as Romania recently promised to allow 1,000 people to emigrate so that it could retain U.S. most-favored-nation trade status). But the reason many Jews are not allowed to leave the Soviet Union in the first place is the U.S. interest in Soviet emigration makes the Jews a valuable bargaining chip for the Soviets. They know that, at some point, they will be able to trade the detained Jews to the West for a handsome profit. Benign neglect, not bribery, may be the best way U.S. leaders can help Soviet Jews, and other citizens, make their exit to the West.

The case against Jackson-Vanik is in essence a part of the more general case against detente. Giving the Soviets incentives for decent behavior not only enriches them but leads to reverse linkages—that is, more—not fewer—human-rights violations are committed because the trade carrot is offered. There is, in fact, only one way the West can elicit better behavior from the Soviet leaders, and that is to reduce the resources they have at their disposal to do harm. Squeezing the Soviets—by forcing the oil price down, for example—is more likely to induce them to quit Afghanistan or to build fewer tanks and missiles than will bribes that serve only to make Soviet crimes profitable.●

JULY 4, 1986—INDEPENDENCE DAY

● Mr. RIEGLE. This year's Fourth of July celebration is a very special one, for it marks both the 210th anniversary of American independence, and the rededication of the Statue of Liberty which, for the past 100 years has symbolized America's unity and its diversity.

Between 1886 and 1930, some 30 million immigrants were welcomed to the United States by the majestic Lady Liberty, towering over New York City's harbor. It did not take long for the statue, a gift from the people of France in honor of our democratic values, to become the symbol of freedom and of hope for a better lift to people all around the world.

Of all the nations in the world, the United States has the most generous immigration policy. Over the past century, more immigrants have come here than to any other country, and the ethnic diversity, to which each of us contributes, represents one of America's greatest resources.

I believe that our shared commitment to the principles of freedom, democracy, and respect for the individual has played a critical role in America's emergency as the most free and prosperous society on Earth. In the Declaration of Independence, Thomas Jefferson wrote that:

All men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are life, liberty and the pursuit of happiness . . . [and] that to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

The guarantees spelled out by Jefferson in the Declaration of Independence and represented by the Statue of Liberty have withstood the rigorous test of time, and continue to distinguish this Nation from all others in its concern for the rights of its citizens.

If we are vigilant in protecting the democratic values on which America was founded, our Nation will grow even stronger and be better able to face the challenges of the future. Only through our undying commitment to preserving the freedoms which she represents will Lady Liberty's torch continue to shine as the beacon of hope for people throughout the world.●

DETAINEES UNDER SOUTH AFRICA STATE OF EMERGENCY

● Mr. LEVIN. Mr. President, in South Africa, on June 12, a state of emergency was declared covering the entire country. Estimates of detention under the state of emergency run as high as 3,000. Under the state of emergency, detentions are authorized to be held without charge or trial. It is impossible to verify the total number or the identities of those detained, since the South African Government refuses to release that information. In addition, under the state of emergency regulations, anyone who publishes or distributes the names of people allegedly detained faces a possible 10 year jail sentence or an $8,000 fine. Local newspapers are continually frustrated in their reporting by the press restrictions, branded the tightest in the world by many lawyers. For one such paper, a small weekly titled the Mail, remaining within the bounds of South Africa's sweeping regulations has meant blacking every name in a two page spread listing detainees. Since the emergency began, three freelance workers associated with the Mail have been detained.

Despite these intimidating and dangerous circumstances, information has reached the Lawyers' Committee for Civil Rights Under Law, Amnesty International, the World Council of Churches and other monitoring groups from sources who have placed themselves at great personal risk.

The attached list of names has been compiled through this process. The accuracy of the list cannot be definitely verified so long as the South African Government refuses to release such disappearance of hundreds of individuals.

In view of the urgency of the situation, I wish to place on record the names of some of those who are feared to have been detained.

The list follows:

PARTIAL LIST OF PEOPLE DETAINED IN SOUTH AFRICA UNDER THE STATE OF EMERGENCY JUNE 24, 1986

(Affiliation is listed to the right—when known.)

EASTERN CAPE PROVINCE

East London:

Albert Whittlers (Justice & Reconciliation).

Graaf Reinet:

Gordon Bitterhand; David Duka; Nophondo Booi; Mouse Hendricks; Gerald Jack; Zobantu Jantjies; Dannie Koeberg; Rev. Kolobile; Jack Mbotya; Rev. Moses Mtwalinga; Rev. Temba Nyatyowa; John Phantsi; and 600 Church Members.

Middleburg:

Dominee Abie Visagie (Dutch Reform Mission Church; Chair, Midlands Council of Churches; and Miriam Mobo (Middleburg Council of Churches).

Plettenberg Bay:

Shuba Alfred; Nxongo Douglas; Martin Lindiwe; and Martin Simon.

Port Elizabeth:

Annaline Bester (End Conscription Campaign); Duze? Barry Eason (End Conscription Campaign); D.J. Grant (End Conscription Campaign); Tim Hoffman (End Conscription Campaign); Michael Loewe (End Conscription Campaign); Dennis Neer (General Secretary, Motor Assemblers' & Component Workers' Union of SA); Edgar Ngoye (President, UDF); Dominic Souchon (End Conscription Campaign); Sandy Stewart (End Conscription Campaign); Philip Wilkinson (End Conscription Campaign); and George Wolfart (End Conscription Campaign).

Somerset East:

Over 100 People (Somerset East Civic Assn.).

Willowmore:

John Bees; Mr. Luiters; and Koot Visser.

Other:

Aida Kgina (?) (UDF Official); ? Makola (UDF, Cradora); and at least 5 People (UDF Officials).

NORTHERN CAPE PROVINCE

Rev. Canon Augustine Maropong (Chair, Northern Cape Council of Churches (Kimberley)).

WESTERN CAPE PROVINCE

Beaufort West:

Peter Andrews; Freddy Fortuin; Rev. Timothy Kellem; David Maans; Samual Mau; Themba Mlonyeni; Sipho Sam; and May ?.

Cape Town:

Desmond Abrahams; Lee-Ann Moira Abrahams; Mrs. Adams; Jacques Adonis; Mary Adonis; Moira Adonis; Joseph Aranes; Cyril August; Andrew Badenhorst; Cornelia Blaauw; James Bodi; James Booi; Chris Carelse; Jamain Christians; Quintin Claasen; William Cloete; Jane Coombe (End Conscription Campaign); Louis Daniels; Mogamat Khalid Desai; Elizabeth Erasmus (Gen. Secy., Clothing Workers Union); Mike Evans (End Conscription Campaign); Charlene Fester; Leslie Fich; Martin Fisher; Richard Grootboom; Andrew Hermanus; Neil Hermanus; Lorna Houston; Roland Inhills; Shanaaz Isaacs; Suleiman Isaacs; De-

siree Ivanberg; Joshua Jackson; Stanley Jacobs; Adam Jaffer; Zolile Jaxa; Gerald Johannes; Stanley Johnson; Sidima Kabanyama; Mr. Kiosh; Nico Kleinhans; Andre Koopman; Christian Lakay; Eugene Lakay; Ray Lazarus; Dr. Tennyson Lee; Leslie Liddell (Secy., Western Province Council of Churches); Edwin Lombard; Joshua Louw; Lesley Maasdorp (Students' Rep. Council, Univ. of Western Cape); Rev. Howard Marawu (UDF); Joan Marinus; Brendalin Marks; Joseph Marks, Sr.; Joseph Marks, Jr.; Rev. Charles Martin; Richard Martin; Russell McGregor; and Llewellyn McMaster.●

THE LATE SENATOR CASE AND THE INTERSTATE HIGHWAY ANNIVERSARY

● Mr. ABDNOR. Mr. President, I would like to join in celebrating the 30th anniversary of the interstate and National Defense Highway System. This immense system, which now includes nearly 41,000 miles nationwide and 678 miles in my home State of South Dakota, has truly united the States of this Nation. On this anniversary it deserves recognition as the greatest highway system in the world.

On this date I would also like to honor the late Francis Higbee Case, former Senator from South Dakota, for his dedication to and heralded efforts on the creation of our Interstate System.

Francis Case was elected to the House of Representatives in 1936, serving for seven consecutive terms until he was elected to the Senate in 1951, where he served until his death on June 22, 1962. While in the Senate as the ranking Republican on the Public Works Committee and chairman of the Subcommittee on Roads and Highways, he did much to create our Interstate System.

Senator Case was known as a quiet, almost colorless statesman. His road legislation received few headlines, and he was seldom given credit as the author of highway legislation, as many of his bills were introduced by the chairman of the committee. However, he should be credited with building a monument which archeoligists a millenium from now may find to be proof of our productive genius, or madness, or both—the Interstate Highway System."

It was Senator Case who sponsored the "pay as you go" concept. It was this concept, that the users of the highways should pay for its construction rather than adding the costs to the Federal deficit, which when included in title II of the Highway Revenue Act of 1956, allowed the Congress to give the go-ahead on construction of the Interstate System. Senator Case also sponsored amendments which provided farmers with refunds on the interstate revenue gas tax and compensated both telephone and electric companies for relocation of lines disrupted by the highway construction.

For all Senator Case did for our great Interstate System, I feel it is only fitting that his accomplishment should be recognized on this the 30th anniversary of our great Interstate and National Defense Highway System.●

SYMBOL OF UNITY

● Mr. ABDNOR. Mr. President, it is a happy circumstance that in 1986 we are celebrating not only the Year of the Flag, the 210th anniversary of our Independence and the Centennial of the Statue of Liberty. Culminating this celebration will be the Fourth of July festivities from sea to shining sea of this great land.

My constituent, Helen Williams of Rapid City, SD, in a salute to our country's heritage and endeavoring to foster a resurgence of patriotism has composed the following poem which I commend to the attention of my colleagues.

The poem follows:

THE SYMBOL OF UNITY, STRENGTH AND FREEDOM

(By Helen Williams)

Its blue, its red, its white in folds
Float gently in the tranquil breeze.
Against the sky so bright, its hues
Reflect the freshness of the day.
Our flag! It humbles all our hearts.
Each motion of its stripes and stars
Depicts the strife and toil of old
When first the stripes were cut and sewn,
And pure white stars were scattered there
To light the field of regal blue.

When winds of battle rage in war,
The flag flies on from stations proud,
And gives its strength to fighting men.
Its hues and story both entwine.
Within its flaunting golds of force.
The Courage of this banner's stand
Is drawn from deeds unpraised by men
Which symbolize the stars of white
Upon their bed of rest—the blue,
Which proudly casts their light abroad.

Each drop of blood that's drawn in war
Alights upon the shield of white,
And prints its owner's name thereon.
As long as this great flag shall fly
The stripes of red record accounts
Of gallant deeds unknown by most.
Upon the field of battlement
They saw their duty, fought and died.
A prayer which sealed their lips in death
Is that eternal peace shall reign.

Its weathered edges frayed and worn
Display a graduer 'gainst the sky.
A strength of peace as well as war,
Upholds this banner waving high.
An aged man surveys his farm
With weary steps and tired eyes.
But pride of Freedom crowns his life,
And lights his withered brow.
For every wrinkle pressed by care—
Laughter folded several there.

This man has reaped the richest crop
That men have ever planned or known.
He came to meet the challenge here
That lay beneath the flowing grass.
Because he lived in Freedom's land
This soil so rich was his to till,
And his to keep for livelihood.
The first few years were hard and long,
But family stars were bringing light
Which set again his cares aright.

When first this flag was planned and born
The people still were lightly sworn
To Unity of others rights.
Division sought to stifle Unity.
But, unified, they ended war,
And, linked together, burdens bore
Upon their shoulders—side by side.
From common problems came the Strength
To raise the flag above the land
Which now is held by Freedom's hand.

Old Glory is the Symbol of Unity, Strength and Freedom!●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. RUDMAN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. J. Patrick Boyle, of the staff of Senator PETE WILSON, to participate in a program in Taipei, Taiwan, sponsored by the Sino-American Cultural & Economic Association, from July 2 to July 11, 1986.

The committee has determined that participation by Mr. Boyle in the program in Taipei, Taiwan, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Peter Galbraith, a member of the Committee on Foreign Relations staff, to participate in a program in the People's Republic of China, sponsored by the Chinese Institute of Foreign Affairs and the United States-Asia Institute, from June 29 to July 17, 1986.

The committee has determined that participation by Mr. Galbraith in the program is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Messrs. Lamar Smith, Wayne Abernathy, John Walsh, Steve Harris, and Patrick A. Mulloy, members of the staff of the Committee on Banking, Housing, and Urban Affairs, to participate in a program in Ottawa and Toronto, Canada, sponsored by the Centre for Legislative Exchange, from July 7 to July 10, 1986.

The committee has determined that participation by Messrs. Smith, Abernathy, Walsh, Harris, and Mulloy in the program in Canada, at the expense of the Centre for Legislative Exchange, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Kellye Eversole, a member of the staff of Senator DAVID BOREN, to participate in a program in Taipei, Taiwan, sponsored by Tamkang University, from June 27 to July 6, 1986.

The committee has determined that participation by Ms. Eversole in the program in Taipei, Taiwan, at the expense of Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. David Rudd, a member of the staff of Senator ERNEST F. HOLLINGS, to participate in a program in Taipei, Taiwan, sponsored by The Sino-American Cultural & Economic Association, from July 2 to July 12, 1986.

The committee has determined that participation by Mr. Rudd in the program in Taipei, Taiwan, at the expense of Sino-American Cultural & Economic Association, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Polly L. Gault, a member of the staff of the Subcommittee on Education, Arts and Humanities, to participate in a program in Taiwan, sponsored by the Sino-American Cultural & Economic Association, from July 2 to July 14, 1986.

The committee has determined that participation by Ms. Gault in the program in Taiwan, Republic of China, at the expense of the Sino-American Cultural & Economic Association, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Jackie Clegg, a member of the staff of Senator JAKE GARN, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad Adenauer Stiftung, from June 21 to June 28, 1986.

The committee has determined that participation by Ms. Clegg in the program in the Federal Republic of Germany, at the expense of the Konrad Adenauer Stiftung, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Cliff Shannon, a member of the staff of Senator JOHN HEINZ, to participate in a program in Taiwan, sponsored by Tamkang University, from June 27 to July 6, 1986.

The committee has determined that participation by Mr. Shannon in the program in Taiwan, Republic of China, at the expense of Tamkang University, is in the interest of the Senate and the United States.●

FREEDOM OF INFORMATION AFTER 20 YEARS

● Mr. KENNEDY. Mr. President, 20 years ago this July 4, the Freedom of Information Act—of which I am proud to have been an original sponsor—became the law of this land. Because of this act, our country has become stronger, our people more knowledgeable, and our democracy more secure.

A recent report by People for the American Way commemorates this significant anniversary, which is occurring on the same day that our Nation celebrates the rededication of one of the greatest symbols of our freedom, the Statue of Liberty.

This report cites many important instances in which implementation of the mandate of the Freedom of Information Act has brought vital information to the attention of the public and enlightened our national debates. These examples are clear reminders that only through open government and constant vigilance can our democracy truly serve the interests of all the people of our Nation.

I commend this report to the attention of the Senate, and I ask that it may be printed in the RECORD.

The report follows:

THE FREEDOM OF INFORMATION ACT AFTER TWENTY YEARS

July 4, 1986, marks the twentieth anniversary of the Freedom of Information Act, popularly known as "FOIA." Special recognition of the Act and its contribution to our society is especially appropriate this year when the best known symbol of freedom and democracy in the world, America's Statue of Liberty, is unveiled anew, her torch rekindled. Because of the Freedom of Information Act, the democratic ideals of an informed citizenry and self-government have burned more brightly during the past twenty years than ever before in our nation's history. Celebration of the importance of the Freedom of Information Act is also fitting for a society in the midst of an information age, when policies about public access to information become decisions about the very nature of society itself.

The ideals embraced in the enactment of the Freedom of Information Act were indeed as important to the earliest champions of American democracy as they are to us today. It was James Madison who declared:

"A popular Government without popular information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or perhaps both. Knowledge will forever govern ignorance: And a people who mean to be their own Governors, must arm themselves with the power which knowledge gives."

Among the strongest, and probably the most ironic, declarations of the importance of open information and the relationship of government and citizens was that made by former President Richard M. Nixon. Commenting on an Executive Order concerning the classification of government records, Nixon stated to Americans:

"Fundamental to our way of life, is the belief that when information which properly belongs to the public is systematically withheld by those in power, the people soon become ignorant of their own affairs, distrustful of those who manage them, and eventually incapable of determining their own destinies."

The Freedom of Information Act is itself a symbol of a healthy democracy and the value placed upon public access to government information. Most importantly, the Act converts ideals into enforceable rights. It has enabled Americans to live safer and healthier lives, and to govern themselves more efficiently. However, neither the values nor the benefits of the Freedom of Information Act can be taken for granted. In the twentieth year of the operation of the Act it is essential that we recognize its importance, review its utility, and not hastily adopt the efforts of those wishing to restrict its impact and scope.

I. THE FREEDOM OF INFORMATION ACT

On July 4, 1966, the Freedom of Information Act was signed into law. The Act was designed to replace an earlier section of law under which government agencies considered themselves free to withhold information from the public under whatever subjective standard could be articulated for the occasion. Most importantly, the Freedom of Information Act set a standard of openness for government from which only deviations in well-defined areas would be allowed. The FOIA then went on to define those areas in a series of nine "exemptions." Finally, it provided a remedy for the wrongful withholding of information: the person requesting information from the government could take his or her case to court.

In 1974, the Freedom of Information Act was amended in response to widespread delay in processing requests and arbitrary withholding of information by agency officials. In 1976, the Act was amended again by a special provision of the Government in the Sunshine Act.

As established in the original Act, any person has a right, enforceable in court, of access to records of executive branch agencies of the federal government, except to the extent that such records (or portions thereof) are protected from disclosure by one of nine exemptions. It is important to note two areas of access not within the scope of the Act: (1) access to federal records by the U.S. Congress; and (2) public access to records of state government agencies. Since the enactment of the Freedom of Information Act, every state has enacted some form of open information law.

From its earliest days of passage through the present, the Freedom of Information Act has reflected the constant push and pull of the separation of powers between the Congress and the Executive Branch. Its enactment in 1966 culminated eleven years of investigations and deliberations in the U.S. House of Representatives and half as many years of consideration in the United States Senate. No department or agency spokesman supported the legislation during committee hearings and President Lyndon Johnson reluctantly signed the measure into law.

The 1966 Act mandated minimal cooperation from executive branch agencies which were able to unreasonably delay responses to requests and exercise broad administrative discretion to withhold information. Congressional oversight proceedings in the House during 1972 and in the Senate in 1973 found that departments and agencies were not faithfully administering the statute. The House Committee on Government Operations concluded in its report that the "efficient operation of the Freedom of Infor-

mation Act has been hindered by 5 years of foot-dragging by the Federal bureaucracy." (H. Rept. 92-1419, p. 8)

In response to these findings of practices antagonistic to the public interest, a bipartisan effort in Congress produced amendments to strengthen the public access procedures of the Act. Although the proposals were consistently opposed by agency and department spokespeople, just as during the establishment of the 1966 Act, the Congress passed the amendments in 1974. President Gerald Ford opposed the amendments and vetoed the bill. President Ford argued that federal agencies would be unreasonably burdened by the setting of specific response times to the requests, that military secrets and confidential law enforcement files would be jeopardized, and that the bill was "unconstitutional and unworkable." A month later the bipartisan support of Congress overrode President Ford's veto and the 1974 amendments to the Freedom of Information Act became law.

Today, the tension of separation of powers between Congress and the Executive Branch continues to be felt in the Freedom of Information Act arena. Since entering office, President Ronald Reagan has launched the most aggressive campaign to oppose open information policies and amend the Freedom of Information Act by narrowing its scope. Shortly after President Reagan assumed office in 1981, Attorney General William French Smith announced that he was initiating a "comprehensive review" of the Freedom of Information Act, primarly because "years of experience have made clear that many persons are employing it in ways that Congress did not intend." Other reasons cited as prompting the study were the "costs of administering the Act and the volume of litigation it spawns."

Since 1981, President Reagan's initiative has itself spawned omnibus legislation and several narrower amendments. While the Administration's effort has been prodigious, the Congress has only approved one of the measures, The CIA Information Act of 1984. This law broadens the CIA's ability to exempt its operational files classified from FOIA disclosure. Where President Reagan has failed legislatively, however, he has succeeded through other actions, including Executive Order 12356, which broadens the permissible scope of confidentiality of executive agency information under the FOIA. In addition, the President has supported agency directors, particularly CIA director William Casey, in preventing to press from publishing information made available in courtroom trials. Director Casey threatened to prosecute the Washington Post, Time, and the Washington Times for publishing facts from a recent espionage trial. According to press accounts, President Reagan went one large step further when he personnally called the publisher of the Washington Post, Katherine Graham, and asked her not to publish the story. The story was not published.

The current Administration's agenda for restricting public access to government information has created among the greatest tensions between the Congress and the Executive Branch in the history of the Freedom of Information Act. Once again, the bipartisan efforts in Congress have been rejected by the Executive Branch. At the June 5, 1986 hearing on the most recent effort to amend the Freedom of Information Act, Representative Glenn English, Chairman of the Subcommittee on Government Information, Justice, and Agriculture, announced with regret:

"Our efforts to find a compromise that would be acceptable to the community of FOIA requesters and to the Reagan Administration have failed. Each side has a completely different view of the problems with the FOIA and a completely different agenda. It proved impossible to find enough common ground to support a compromise."

Chairman English, who has worked closely with the ranking Republican on the Subcommittee, Representative Tom Kindness, and others, including Representative Gerald Kleczka, went on to describe the polarization of positions fostered by the Reagan Administration.

"Until there is a real commitment to FOIA in the executive branch, only minor improvements can come through legislative action.

"Perhaps there is a lesson here for the Reagan Administration as well. Some believe that there has been a deliberate campaign on the part of the Administration to undermine the operation of the FOIA. This perception has intensified opposition to legislative changes. If agencies would begin to demonstrate a clear commitment to improved processing of FOIA requests, the Administration might discover that some of the opposition to its legislative proposals would diminish."

II. PUBLIC BENEFITS FROM THE FREEDOM OF INFORMATION ACT

Although Congress and the Executive Branch continue to be at odds over the Freedom of Information Act, American society has reaped enormous benefits from its enactment. Upon reviewing the contributions of the Freedom of Information Act to American society, one can only conclude that if such a law did not exist in the United States then it would have to be invented. The Freedom of Information Act stands alone in granting a judicially enforceable right of public access to records of federal agencies. The exercise of that right by the public and the press has made a positive impact on government efficiency and costs, the health and safety of American citizens, and has promoted essential principles of democracy in the United States. Furthermore, evidence indicates a lack of factual basis for some criticism of the Freedom of Information Act pertaining to threats to national security and investigative law enforcement, and the role of the courts in enforcing rights granted in the Act. The following are a few examples of contributions of the Freedom of Information Act in attacking government inefficiency, promoting public health and safety and documenting federal grantmaking to unqualified recipients.

A. Disclosures of government inefficiency and waste

1. National Aeronautics and Space Administration

Federal audits of the National Aeronautics and Space Administration (NASA), obtained through Freedom of Information Act requests, have revealed to the public, for the first time, a history of poor management at NASA. The significance of these disclosures lies not only in the revelation of agency mismanagement and waste of billions of taxpayers dollars. Experts have concluded that mismanagement, detailed in federal audits, has severely hurt the space program and is directly linked to safety problems that culminated in the Challenger explosion and the death of its seven astronauts.

The documents obtained through FOIA requests describe administrative deficiencies and spending abuses at NASA for the past 15 years in virtually every area of NASA operations. The space shuttle program was just one of many areas scrutinized by Government inspectors, other programs include those to develop satellites and planetary probes, space experiments, as well as the establishment of NASA headquarters and field centers.

Specifically, the federal audits singled out the Marshall Space Center in Huntsville, Alabama, for particulary poor management. The Marshall Space Center was responsible for contracting and monitoring the booster rockets and fuel tanks in the failed Challenger mission. The General Accounting Office auditors reported in November 1985 that the Marshall Space Center improperly monitored defective equipment. Less than two months later, the rocket boosters maintained and managed at Marshall were the single greatest source of mechanical failure leading to the Challenger disaster on January 28, 1986. (New York Times, April 23, 1986) FOIA requester—New York Times.

2. Department of Defense

Federal audits of the top ten defense contractors were conducted by the Defense Contract Audit Agency and publicly disclosed through a Freedom of Information Act request to the United States Air Force. Originally the Air Force rejected the request for disclosure of the audits to avoid competitive injury to the companies involved. However, the request was taken to court where a federal judge ordered the Air Force to disclose the information.

The audits disclosed by the Air Force revealed that the defense contractors were routinely charging lobbying costs to their defense contracts as legitimate business expenses. The Defense Contract Auditing Agency estimated that between 1974-1975 these ten contractors alone charged the Department of Defense at least $2 million in lobbying costs and $2.5 million in entertainment costs. Examples of these abuses ranged from Lockheed Aircraft claiming travel expenses to the Paris Air Show, including first class airfare for the executives and their wives, to Raytheon Corporation claiming the cost of a goosehunt for company employees and their guests.

As a result of these disclosures, Secretary of Defense Caspar Weinberger launched an indepth investigation into such practices allowing contractors to siphon off funds for weapon systems in order to deepen business ties with the government. New policies were subsequently established to control such abuses by the Pentagon. (Common Cause Magazine, August, 1981, p.16-23) FOIA requester—Common Cause.

B. Disclosures regarding public health and safety

1. Cancer Risks Associated with Atomic Bomb Facilities

An Atomic Energy Commission study of cancer rates of 30,000 workers in "Plutonium City", an atomic bomb facility in Hanford, Washington, during World War II, was disclosed to the public for the first time in 1978 through a Freedom of Information Act request. The study was begun in 1964 by a professor at the University of Pittsburgh. In 1975, after 11 years of work on the study, the Department of Energy, assuming the responsibilities for the Atomic Energy Commission, abandoned the project claiming as the reason the "imminent retirement" of the professor in charge. In fact the professor had six years before retirement, and the

study was shelved because of the extensive findings directly linking work at "Plutonium City" with increased rates of cancer among workers. (Washington Star, August 3, 1978, p. A10) FOIA requester—Washington Star.

2. Effects of Painkilling and Anesthetic Drugs Administered To Women During Childbirth

A study conducted for the National Institutes of Health showing a clear connection between the administration of certain medications to mothers during childbirth and the impairment of brain development, was disclosed to the public for the first time in 1979 through a Freedom of Information Act request.

At the time the study was conducted, 95% of all births in the United States were medicated. The study determined that certain painkilling and anesthetic drugs administered to women during childbirth resulted in brain impairment, but government review of the study eliminated key findings, diluted the author's conclusions, and delayed publication in a medical journal in May of 1978. The study was unpublished at the time of the FOIA request in 1979. (San Francisco Examiner, January 14, 1979, p. 13) FOIA requester—UPI.

3. Adverse Effects of Arthritis Drug

Public disclosure of adverse reaction data on an arthritis drug linked to severe liver damage resulting in dozens of deaths, was accomplished through a FOIA request to the Food and Drug Administration. The drug, Oraflex, was removed from the market amidst allegations that the FDA had rushed throught the approval.

At the center of the controversy over disclosure was evidence that the drug manufacturer actively repressed the reaction data it provided to the FDA by marking it "Trade Secret/Confidential." The drug manufacturer was attempting to exempt its own evidence of the harmful effects of the drug through use of one such FOIA exemption related to trade secrets and information of competitive value to businesses. (Testimony of Dr. Sidney Wolfe before the House Subcommittee on Government Information, Justice and Agriculture—hearings on S. 774, May-August, 1984) FOIA requester—Public Citizen Health Research Group.

C. Disclosures regarding tax evasion

A 1975 FOIA request disclosed the results of a 1973 Internal Revenue Service survey on small business compliance with federal tax laws. The survey was conducted as part of the IRS's Taxpayer Compliance Management Program to uncover the extent of tax evasion and improve compliance enforcement.

The survey detailed that 33% of all small businesses (i.e. businesses with assets under $1 million) had been underpaying their federal income taxes; and that 28% of these companies went entirely undetected by IRS compliance enforcement mechanisms by the end of each year.

The survey enabled the IRS to measure the extent of tax evasion, and in some cases begin to recover the taxes owed to the federal government. For example, it was determined that in 1969 small businesses had under paid $641 million in federal taxes. The IRS was able to recover $194 million of this amount. Overall the survey concluded that small businesses are able to escape undetected because most small corporations are not audited by the IRS. (New York Times, July 21, 1975, p. 31) FOIA requester—Corporate Accountability Group.

D. Disclosures from the Department of Justice

In 1986, following much attention focused on controversial federal grants for juvenile justice programs, a Freedom of Information Act request was filed with the Department of Justice. The FOIA request produced documents revealing that a large domestic violence prevention grant amounting to $622,905 was made to a controversial group with no track record in preventing family violence, nor the objectivity necessary to adequately address the problems of family violence.

The FOIA request had asked for documents relating to any grants made to Phyllis Schlafly or the Eagle Forum. Documents provided showed that a $622,905 grant was made from the Department of Justice's Office of Justice Programs to the Task Force on Families in Crisis. In a letter from the Executive Director of the Task Force on Families in Crisis to the Department of Justice dated April 18, 1986, it was stated that "the only reason we made application in the first place was because we believe the government has an obligation to balance the tremendous amounts of government money already given to feminist groups . . ."

Documents provided through the FOIA request demonstrated that the Task Force was a screen for the Eagle Forum, and its president, Phyllis Schlafly, who had lobbied for the grant. The executive director of the Task Force on Families in Crisis also serves as the vice-president of the Eagle Forum. Particularly disturbing is the lack of understanding demonstrated by Phyllis Schlafly concerning the realities of violence encountered by women and children in the United States. Schlafly's views in these areas include that "virtuous women are seldom accosted by unwelcome sexual propositions and familiarities . . .," and that the public schools are the primary victimizers of children. In reaction to the findings from the FOIA request, the House Subcommittee on Criminal Justice, chaired by Congressman John Conyers, has begun an investigation into this and related Justice Department grants. Congesswoman Patricia Schroeder has also questioned the propriety of grantmaking by the Justice Department to organizations which have opposed the goals of the program. FOIA requester—People For The American Way.

These constitute but a few examples of the vital role that the Freedom of Information Act plays in attacking government secrecy and promoting the public good.

III. ENFORCING THE PUBLIC RIGHT TO INFORMATION IN FEDERAL COURT

The true force given to the presumption of a public right of access to records in federal agencies under the Freedom of Information Act derives from the right to pursue requests in federal court under Section 4*B). The importance of this provision cannot be overstated.

Although critics of the Act, including former Attorney General William French Smith, have alleged that the judicial remedy allows the courts to operate as a floodgate of government information, and unduly burdens the federal courts, statistics demonstrate that the courts have predominantly decided cases in favor of the federal agencies. A recent study documents both the wide public use of its right to pursue disclosure requests in court and the frequency with which the courts have denied plaintiffs their requests.

In a 1986 study of the need to establish an administrative tribunal to resolve the Freedom of Information Act disputes, the report, commissioned by the Administrative Conference of the United States, showed that between 1980 and 1985, 3013 cases were filed by FOIA requesters. However, 92% of the cases were terminated before the pretrial period, 7% reached pre-trial, and only 1% were tried. The report concluded that in cases where the judgement was known, 81.1% of the cases were decided in favor of the federal agencies; only 11.6% favored the requester; 6.7% ruled partially in favor of both requester and agency; and 20.5% of those cases appealed were reversed. (Grunewald, Mark H. A Study of the Desirability and Feasibility of Establishing An Administrative Tribunal To Resolve Freedom of Information and Other Public Access Disputes. The Administrative Conference of the United States, February 25, 1986)

In contrast to the claims of Attorney General Williams French Smith and others, it appears that the enforceable right to pursue FOIA disclosures in federal court is neither abused, unmanageable by the courts, nor a source of unrestrained disclosure of information from federal agencies.

IV. THE DEVELOPMENT OF OPEN INFORMATION LAWS BY STATE GOVERNMENTS

As mentioned in a letter accompanying this report, a second report will be provided in the months ahead which details the open information laws and issues in each state and district. However, an overview of the twenty year history of the Freedom of Information Act would be incomplete without a brief discussion of the development of state laws paralleling the establishment of rights under the under the Freedom of Information Act.

The Freedom of Information Act creates the right of public access to records of executive branch agencies of the federal government, but has absolutely no legal bearing on the disclosure of records belonging to state governments. Since the enactment of the Freedom of Information Act in 1966, however, all states have passed some type of access to information statute.

Approximately one-half of the states have passed laws similar in scope to the federal law. In order words, such laws included three essential elements: (1) presumption of a public right of access to government records, placing the burden of proof to withhold information upon the government; (2) enforceability of this public right in court; and (3) statutory exemptions to disclosure of information.

Among the state laws, the New York and Connecticut statutes are actually as effective as the Freedom of Information Act, because both states establish an oversight body in the executive branch to ensure that the laws are enforced to the fullest extent.

In California, the open information law applies not only to executive branch agencies, but also to local governmental bodies.

The activity among state legislatures in the open information area has intensified in recent years, demonstrating an appreciation by the states of the principles and benefits of the Freedom of Information Act. The adoption of these laws at the state level stands in sharp contract to efforts by the current administration to restrict the scope of federal law. During the past year alone, 40 states passed a total of 197 separate measures, 158 expanded by the scope of existing legislation. Florida, Massachusetts, New Jersey, and New York each passed at

least 25 open information bills during the 1985–86 legislative year.

V. THE FUTURE OF THE FREEDOM OF INFORMATION ACT

The Freedom of Information Act, after twenty years of operation, remains the single statutory mechanism granting an enforceable right of public access to government records. The Act has simultaneously served as an instrument and a symbol of open information in a democratic society. Critics of such policies, however, have focused on the Freedom of Information Act as the source of greater problems in such areas as national security, investigative law enforcement, and government costs.

There is no argument over the importance of matters of national security. There is also no argument over the essential role of investigative law enforcement in our nation. Likewise, it is crucial that all government programs, including implementation of the Freedom of Information Act be well managed and efficient.

However, the Freedom of Information Act, its specific rights, and the related First Amendment rights of free expression, and free and open debate between citizens and their government, must not be minimized. Where legitimate matters of national security and law enforcement, for example, are jeopardized by the Act, factual arguments must be heard as to the need for amendments. However, opponents of the Act must be required to substantiate their claims and not simply attack the Act as a source of a problem orginating elsewhere.

For example, in 1979, FBI Director William Webster alleged that the Freedom of Information Act was being used to undermine investigations by permitting outsiders to identify informants and possibly harm them. Director Webster announced that he was initiating a study within the FBI to prove his allegations, and that he would send the results of the study to Congress to justify his desire to weaken the Freedom of Information Act. In August of 1980, Webster abruptly cancelled the study. Seven thousand FBI agents had been interviewed at this point and the results failed to support Webster's allegations. In fact, the study showed that only 19 informants had refused to cooperate with the FBI due to FOIA disclosure, and no informants had been harmed due to disclosure of information about their work with the FBI. Director Webster never released the study to Congress. The study was finally released to the public through the FOIA request and subsequent report by NBC News reporter Carl Stern.

Another example of unsubstantiated allegations of FOIA misuse was made in 1983 in relation to the issue of national security. On January 5, 1983, Rear Admiral Edward A. Burkhalter Jr., Director of the Intelligence Community Staff, spoke to the Armed Forces Communications Electronics Association.

Rear Admiral Burkhalter stated that the Freedom of Information Act was "one of the more productive means by which the Soviets have acquired large amounts of valuable information in recent years."

A private American citizen reading an account of the Rear Admiral's speech endeavored to learn more about the subject. The citizen contacted all federal agencies related to defense and intelligence seeking to substantiate the allegations of Soviet use of the Freedom of Information Act. The agencies were unable to document a single incident in support of the Rear Admiral's allegations.

Finally, a lawsuit was filed to force the Rear Admiral to disclose evidence supporting his claim. Burkhalter's speechwriter responded to the request stating that the allegation was based on a similar claim made in 1982 by Attorney General William French Smith, and from a 1982 Senate Report on technology transfer to the Soviet bloc. However, when examined, neither source was found to contain more than the same unsubstantiated claims and allegations that FOIA requests were being made by the Soviets.

The significance of these examples is not to argue that national security, or confidentiality of investigative law enforcement should not be addressed within the context of the Freedom of Information Act. Rather, it is to demonstrate the tendency of the critics of the Act to raise the fears of Americans by criticizing the single strongest law granting public access to government information. Neither the Act itself, nor the important rights it grants to Americans should be diminished simply because it stands alone in United States law. Instead, proposed amendments should be carefully balanced with the strengths of the Act, its enormous benefit to American society, and the concerns attendant to reducing public access to information in a democracy.●

NATIONAL FOREST PLANNING IN IDAHO

● Mr. SYMMS. Mr. President, on Wednesday of last week, Senator McCLURE, Congressman CRAIG, and I met with Forest Service Chief Max Peterson and the two regional foresters directly responsible for Idaho National Forest. We requested the meeting because of the trend we see forest planning taking.

Forest Service planning, which eventually dictates the amount and type of use made of National Forest resources, is crucial to the State of Idaho and other Western States. Though focusing on Idaho, I'm convinced that the situation is similar in other Western States. A few basic facts illustrate my concerns. Sixty-eight percent of the land area of Idaho is Federal property. Of this, 20 million acres or 38 percent is national forest land. This Federal land supports about 68 percent of the commercial timber growing in Idaho. Timber supplies from the national forests supply 43 percent of the raw material for Idaho's forest products industry.

Historically, the national forests, as they should, have provided more than half of the timber harvested in Idaho. However, the share of Idaho's timber economy supported by the national forests has been declining steadily. It is a decline from the pre-1980 average of more 50 percent of the States total timber supply to less than 45 percent today. This may seem a minor difference, but it could add up to more than 700 lost jobs in Idaho. This decline is not the result of a shortage of timber. Indeed, national forest timber growth is more than double the annual removals from the forests, both from timber harvesting and natural mortality.

The Forest Service share of Idaho timber harvest has decreased for several reasons. Because of environmental constraints the volume of timber considered available from the national forests has been decreasing. At the same time the cost of harvesting the national forest timber offered for sale has significantly—and sometimes unnecessarily—increased. The basic trend has been accelerated, temporarily perhaps, by the depressed lumber market of the past few years. Much of this depression is the result of a tidal wave of Canadian lumber swamping our industry.

In Idaho, these Federal policies have resulted in increases in State and private timber production to fill the void caused by decreasing national forest sales. However, State and private timber holdings have reached their practical limits of productivity. If Forest Service timber offerings aren't increased, more cut-backs and mill closures are likely to occur in Idaho's forest products industry.

Mr. President, Idaho just can't stand this. Our forest products industry has been the State's second most important industry. In 1979 it provided jobs for more than 19,000 people at an average income of slightly more than $19,000. It should be noted that this was about 50 percent higher than the average income in the State at that time. In the first half of 1985, forest products employment was about 12,350 and the average annual wage for the industry was only $18,600. It's not difficult to trace the industry's decline. I can list, without hesitation, 11 plants that have been closed or curtailed or where the employees have accepted significant wage reductions to keep the doors open.

It's a matter of pride to me and everyone in the industry that actual production was about the same in 1979 and 1985. Our people have just become vastly more productive. These people have gone to the wall to protect their jobs and their communities. Now, it appears that a recovery might be just ahead. But, lumbering in Idaho must survive now if it is to recover later. We cannot have unnecessary constraints on raw material availability. I just can't stand by and see them subjected to further abuse by unnecessary constraints on raw material availability.

The national forest plans are currently being reviewed at the direction of the Assistant Secretary of Agriculture, to determine the overall impact on dependent communities. This has never been done before and I commend the Department and the Forest Service. Still, it's strange that while all environmental issues—water quality, big game habitat et cetera—are carefully considered, the impact of Forest

Service plans on peoples lives and their jobs are considered only as a nice-to-do courtesy.

I want to emphasize, most clearly, that I'm not urging unreasonable increases in national forest timber harvests in Idaho. One of the alternatives in the current plans would more than meet the industry's wood needs. This alternative would fit within applicable laws and regulations. It would simply shift the emphasis toward jobs and community stability. I support this alternative as being reasonable and responsible.

I'm concerned about the quality of our environment. Everyone is. However, I think having a job and being able to support a family with some security is one of the most basic environmental imperatives. For that reason I'll continue to work to insure that adequate supplies of national forest timber are made available to sustain Idaho jobs and communities.●

PHYSICIAN PAYMENT REVIEW COMMISSION

● Mr. BENTSEN. Mr. President, last week during the heat of battle over our important tax reform legislation, another significant victory occurred to the benefit of millions of Americans throughout the Nation. I want to discuss that situation for a few minutes this morning, because it might have been overlooked—and because it is an excellent illustration of what can be accomplished when Members coalesce behind a common goal.

As background, Mr. President, I would point out that health care is big business, and it touches every family in America. Health service expenditures make up nearly 11 percent of the gross national product. In 1984, Americans spent almost $390 billion for health care—approximately $1,400 for every man, woman, and child in the Nation.

We have made some headway in controlling these costs, but not enough. The 1983 reforms in hospital payment have slowed institutional cost increases to just over 6 percent, and reduced much of the uncertainty over reimbursement that plagued finance officers in the early years of the Medicare Program. Yet payments for physician services continue to rise at an alarming rate—10 percent in 1984. And while there have been countless recommendations to redesign physician payment practices, there has simply been no agreement on solutions beyond temporary measures.

The 1985 reconciliation bill signed into law by the President April 7 took what I consider a very positive step by creating an 11-member panel to advise the President and Members of Congress on physician payment reform of the Medicare Program. While this undertaking is of great importance to physicians, and to the elderly and disabled, it is also of very significant interest to the business community and to State and Federal officials who typically consult Medicare fee screens when setting payment rates for other health insurance policies and programs.

However, when Office of Technology Assessment Director John Gibbons recently announced the selection of 11 individuals to serve on the Physicians Payment Review Commission, it was immediately clear that at least two major constituences would not be represented at the negotiating table: Rural America and the group of States that make up the southern region of the Nation.

In response, Majority Leader DOLE and I, together with Senators BURDICK, BAUCUS, and DURENBERGER of the Rural Health Caucus, circulated a letter calling on Director Gibbons to reconsider his decision and open the Commission's membership to a more representative cross section of Americans. More than 30 members of the Senate, from all regions of the country, joined us in this effort.

I am pleased to report that we were able to reach a compromise permitting each of the 11 original members to serve, yet also ensuring representation of rural communities through the appointment of a Commissioner-designate. With the exception of voting, the Commissioner-designate will have all privileges and responsibilities of membership, and will become a full Commission member at the first available opening. While no official commitment to select a southerner has been made, it is my hope that Dr. Gibbons and his staff will correct the problem of geographic imbalance by choosing someone from the southern region as the Commissioner-designate.

I would like to take this opportunity to commend Director Gibbons and his fine staff, particularly Dr. Roger Herdman, for their responsiveness and sensitivity in dealing with our request.

Although we may move to expand the statutory membership of the Commission during the reconciliation process later this year, the immediate creation of a Commissioner-designate position will ensure that the constituencies not represented in the original group will be at the negotiating table from the very beginning of the Commission's deliberations.

Mr. President, over the next 3 to 5 years, we in the Congress will be called upon to make some extremely difficult and far-reaching decisions on the methods and rates used to compensate physicians under federally financed health programs. The recommendations of this Commission will influence our deliberations and affect the quality of the choices we make. I am therefore pleased to be able to report that the 60 million Americans living in rural communities will have a hand in developing those recommendations.

I ask unanimous consent that copies of the correspondence from Rural Health Caucus members to Dr. Gibbons, and Director Gibbons letter of commitment be included in the RECORD immediately following my remarks.

The material follows:

CONGRESS OF THE UNITED STATES,
OFFICE OF TECHNOLOGY ASSESSMENT,
Washington, DC, June 25, 1986.

Hon. LLOYD BENTSEN,
U.S. Senate, Washington, DC.

DEAR LLOYD: I want to thank you and the other members of the Senate Rural Health Caucus for your letter concerning the composition of the Physician Payment Review Commission. You expressed concern over the lack of explicit representation of rural America on the Commission, and concern that greater effort be given to achieving geographical balance. I agree with you that both concerns are of great importance in creating a balanced Commission. However, as you know, the selection process was very difficult because of the need to represent at least eight legislatively specified areas of expertise within the confines of a Commission of only eleven members.

As you know, we have become very aware of and sensitive to the concerns of the members of the Caucus. After receiving your letter of June 10, Dr. Roger Herdman, OTA Assistant Director for Health and Life Sciences, met several times with Members and staff. As outlined in those discussions, I am confirming our intention to be directly responsive to your concerns by appointing a commissioner-designate representing rural America. The commissioner-designate will be appointed as a full participant in the meetings, deliberations, and other activities of the Commission, but will not have voting privileges. The commissioner-designate will be appointed by me as a full voting member of the Commission when the first opening occurs on the Commission (e.g., either by expansion of the Commission or by expiration of the term of a present commissioner in May 1987).

We look forward to working with the Caucus to assure that an outstanding person will be appointed as commissioner-designate in the near future.

Sincerely,

JOHN H. GIBBONS

U.S. SENATE,
Washington, DC, June 10, 1986.

JOHN GIBBONS, Ph.D.,
Director, Office of Technology Assessment, Washington, DC.

DEAR DR. GIBBONS: It has come to our attention that you are prepared to release the names of eleven individuals selected by the Director of the Office of Technology Assessment to serve on the newly created Physician Payment Review Commission (PhysPRC).

We are deeply disappointed to learn, however, that there will be no representative of rural America on this panel. We are also dismayed at the lack of geographic balance among the persons selected to serve.

As members of the Senate Rural Health Caucus, we represent both political parties and all regions of the country. But we share one goal, to improve access to quality health care for the nearly sixty million individuals who live in rural communities.

All too often rural America is overlooked by those responsible for national health care policy. Yet fully one quarter of the elderly reside in communities where access to care is contingent on the willingness of physicians to practice in sparsely populated areas.

The purpose of PhysPRC, as defined in P.L. 99-272, the Consolidated Omnibus Reconciliation Act of 1985, is to make recommendations to the Secretary of Health and Human Services, and to the Congress regarding payment for physician services. The statute explicitly requires that those recommendations take into account "differences in payment amounts for physicians' services . . . which are based on differences in geographic location or specialty." Physicians best able to represent this perspective are those who live and work in small communities.

We therefore urge you to reconsider your decision and include a rural physician on this panel. Moreover, we believe the Secretary and Members of Congress would be better served by a Commission whose membership includes all regions of the country. Thank you for your attention to our request.

Sincerely,

LLOYD M. BENTSEN.
QUENTIN N. BURDICK.
MAX BAUCUS.
BOB DOLE.
WILLIAM PROXMIRE.
DALE BUMPERS.
SAM NUNN.
JAMES A. MCCLURE.
CHARLES E. GRASSLEY.
J. JAMES EXON.
TOM HARKIN.
JAMES ABDNOR.
RUDY BOSCHWITZ.
DON NICKLES.
MARK ANDREWS.
CHIC HECHT.
WILLIAM S. COHEN.
DAVE DURENBERGER.
GEORGE J. MITCHELL.
STROM THURMOND.
ALBERT GORE, JR.
LARRY PRESSLER.
EDWARD ZORINSKY.
PATRICK J. LEAHY.
JOHN D. ROCKEFELLER IV.
BOB KASTEN.
NANCY LANDON KASSEBAUM.
JOHN C. STENNIS.
ERNEST F. HOLLINGS.
TED STEVENS.
DONALD W. RIEGLE, JR.●

NAUM AND INNA MEIMAN: FREEDOM DENIED

● Mr. SIMON. Mr. President, in 1 week our country will be celebrating the Fourth of July holiday. Throughout the United States families will be celebrating Independence Day and their freedom. During "Liberty Weekend" there will be many festivities and events highlighted by the relighting ceremony of the Statue of Liberty.

My friends, Naum and Inna Meiman, cannot enjoy the freedoms many of us take for granted in this country. The Meimans are Soviet Jews who have applied to emigrate to Israel and have been refused for over 10 years. They are an elderly, ailing couple. They would like to spend what time they have, together, in Israel, but the Soviet Government continues to deny them this right. The Meimans pose no threat to the Soviet Government and should be allowed to choose their own home.

The Soviets gain only negative publicity by refusing to grant a couple like the Meimans permission to emigrate. By releasing the Meimans, they could demonstrate that they are concerned about human dignity and human rights.

I commend my colleagues to remember those who are not in our fortunate positions as we celebrate our freedoms and liberties on July Fourth.

I strongly urge the Soviets to allow the Meimans to emigrate to Israel.●

HUMAN RIGHTS IN NICARAGUA

● Mr. HARKIN. On June 17, Senators PATRICK LEAHY, PAUL SIMON, and DENNIS DECONCINI joined me in holding informal hearings on human rights in Nicaragua. We took the unusual step of calling this informal hearing because the human rights issue has not been fully addressed by the Senate or the administration.

As Congress prepares to reconsider the administration's request for $100 million in aid to the Contras, we will spend much time discussing the Contadora process, the Nicaraguan arms buildup, and now, a new element of the debate, Contra corruption.

Too little attention has been spent on what I believe should serve as the foundation of our Nicaragua policy—human rights. Unfortunately, the debate that has occurred on this issue has focused more on the personalities and reputations of human rights groups than on the content of their reports.

Over the past decade, Congress has firmly established in law the principle that the United States should deny aid to governments which engage in gross violations of human rights. There has also been written into international law rules governing armed conflict for civilized nations.

Both standards should be applied to the Contras.

We have a long and proud tradition of holding ourselves to a higher moral principle in the conduct of our foreign policy. We must not use as an instrument of that policy forces which systematically practice torture, kidnapings, and murder.

Before defining our overall policy toward Nicaragua, we need to focus not only on the human rights record of the Contras, but also on that of the Nicaraguan Government. For this reason, this hearing will focus on the full range of human rights violations, including arbitrary detention and treatment of the Miskitos, as well as violations of the laws of war.

I have long believed that human rights should serve as the bedrock of American foreign policy. This informal hearing was a first step toward ensuring that that standard is applied to U.S. policy in Nicaragua.

THE PANELISTS

The witnesses testifying at the June 17 hearing were from organizations which represent the full range of views on this topic, and which provided an objective assessment of the human rights situation in Nicaragua.

The first two witnesses represented the Washington Office on Latin America. Robert Goldman is a professor of international law at American University, and a member of the boards of WOLA, Americas Watch, and the International Human Rights Law Group. Mary Dutcher is a graduate of St. Louis University, and former assistant attorney general for the State of Missouri. In 1984, she became a member of the long term of Witness for Peace and in November 1985, she took a leave of absence from Witness for Peace to prepare the WOLA report on Violations of the Laws of War by both sides of the conflict in Nicaragua.

Speaking on behalf of Amnesty International was Curt Goering. Mr. Goering is the Deputy Director of the U.S. Section of Amnesty. He previously worked for 5 years as coordinator within the Washington office on Europe, the Middle East, the Soviet Union, and Africa. Appearing with Mr. Goering was Rhona Weitz, who is responsible for Latin American issues for Amnesty International.

The fourth witness, Mr. Douglas Payne, is assistant to the director of the Center for Caribbean and Central American Studies of Freedom House. He has written on Central America for "Freedom at Issue, Strategic Review," and other publications.

Speaking for Americas Watch was Aryeh Neier, vice chairman and executive director of the organization. He is currently vice chairman of Helsinki and Asia Watch, and previously served as executive director of the American Civil Liberties Union.

The final witness was Steve Tullberg, a staff attorney with the Indian Law Resource Center. He has worked in the field of Indian law for over 8 years. The center has worked closely with Misurasata, the Nicaraguan Indian organization headed by Brooklyn Rivera. Mr. Tullberg accompanied Brooklyn Rivera during his official trip to Nicaragua in October 1984, and since May 1985, he has been involved in several unsuccessful efforts to reopen negotiations to end the Indian war on Nicaragua's Atlantic coast.

Mr. President, I ask unanimous consent that the written statements of the panelists be printed in the RECORD. I am also enclosing for the RECORD the statement of Senator LEAHY. Follow-

ing the remarks from the Senator from Vermont is a written statement on the problem of Contra abuses submitted by several of his constituents.

The material follows:

STATEMENT OF SENATOR PATRICK J. LEAHY DURING INFORMAL HEARINGS ON VIOLATIONS OF THE LAWS OF WAR IN NICARAGUA

Congress will soon again be asked to resume support for the contras fighting the Sandinista government of Nicaragua. One of the key factors that has prevented congressional approval is the continuing series of highly credible reports that the contras have engaged in numerous human rights abuses, including impermissible violence and even atrocities.

The Administration has based its policy of support to the contras on its charges against the Sandinistas. These include Sandinistas-supported subversion in Central America, their military build-up, and consolidation of a Marxist-Leninist state which is suppressing civil rights.

The subversive activities and other security threats are said to justify U.S. support for the contras as an exercise of self-defense. But—regardless of the other problems with this theory—no such acts of international self-defense could possibly be valid if they were based on systematic or regular violations of the laws of war, which are the fundamental laws of armed conflict for civilized nations.

Despite consistent troubling reports from the field, and the research of creditable independent organizations, the Administration has tried to minimize the issue of serious human rights abuses. But this issue is a fundamental one which must be considered by every moral person before deciding whether the contras merit our support.

I have described in much greater length elsewhere (floor statement of February 26, 1986, see Congressional Record of that day) my conclusions on this issue. But it is all-too-clear that the Administration has yet to face it.

First, the Administration has never responded credibly to the numerous well-documented charges which have been made, or to the conclusion which must otherwise be made on the basis—that the contras have engaged in routine, even systematic, violent abuses of human rights.

Second, the Administration has apparently never tried to get to the truth of this matter. As Vice Chairman of the Intelligence Committee, I raised the issue with the CIA early last year. I was astounded to learn, in the response of the CIA itself (letter from the Acting Director, March 29, 1985), that the resulting study was their "first comprehensive look at the subject, and [that] previous analysis has dealt with abuses only in passing."

Third, the Administration has not responded to numerous attempts to pursue this issue and resolve it. For example, on March 13, 1986—at a hearing of the Foreign Operations Subcommittee of the Appropriations Committee—Secretary Shultz promised that he would send Assistant Secretary Abrams to meet with me prior to the next vote on this issue, which was then expected in March. Mr. Abrams has still not followed up on this commitment.

There has also been incomplete examination of this issue by the Senate. There have to my knowledge never been full hearings on this issue of contra human rights abuses held by any Senate committee. From time to time, there have been informal explorations of this issue, such as the one we are engaged in today.

The failure of either the White House or the Senate to face up to this issue is why we are here today. We are fortunate to have had the benefit of the independent efforts of numerous private organizations with excellent reputations.

Today we have represented here the views of several of the organizations that have contributed most effectively and responsibly in this area. In addition, we are fortunate to have a range of views represented so that there can be full exploration of the facts as well as their significance for U.S. policy in Central America.

The issue of human rights violations and atrocities in Nicaragua is of intense concern to many of my constituents in Vermont. Some have gotten together and sent me a statement about the problem of abuses by contra forces, including accounts based on first-hand witnesses. I plan to include that statement in the record of this hearing today.

TWO NICARAGUAN JOURNEYS

(By Roddy O'Neil Cleary, Campus Ministry, University of Vermont)

I'm a Vermonter, a mother of two teenage sons and foster mother of a Cambodian teenage daughter. My first trip to Nicaragua was in February of 1984. I went for two reasons. First because I had heard of atrocities being committed against women and children by counter-revolutionaries who were being funded by my country. As a women this made me sick and angry. Secondly I felt strongly as a mother that it was incumbent upon me to work for peace in Central America before my sons were sent there to militarily "defend democracy." The more I studied the history of U.S. intervention in Latin America over the past fifty years, the more clearly it seemed that this history was repeating itself in Nicaragua.

My second trip to Nicaragua was in February of '86. As in '84, I travelled with a dozen other Vermonters, who had religious affiliations and were committed to working for justice and peace with our Nicaraguan brothers and sisters. In my work as a campus minister at the University of Vermont, I have been inspired by the student concern over issues relating to Central America. This active concern was instrumental in my decision to return to Nicaragua.

On both trips the stories of Contra atrocities were confirmed by first hand experiences. In February of '84 I visited with a mother and family in Teotecacinte, a Nicaraguan border town between Honduras and Nicaragua. The mother told of how her little four year old daughter's head was blown off by a Contra mortar shell.

On Feb. 21st of '86, I visited a thirteen year old girl in intensive care at the hospital in Leon. Her name was Pilar Betanco Castillo. She was one of approximately sixteen victims of a Contra attack that occurred outside the town of Somotillo on Feb. 16th. Our group had heard about the massacre the following day as we gathered at Ocatal to participate in a religious pilgrimage. This was a pilgrimage that had its counterpart throughout Nicaragua, during the first two weeks of Lent.

It was from this pilgrimage that Pilar was returning when the pick-up truck carrying her was ambushed by Contras. All the passengers in the truck were unarmed civilians, women and children. It was driven by a dedicated Swiss agricultural worker, Maurice Demierre. He was beloved by the campesinos for his effective work in organizing farm cooperatives.

The Contras killed Maurice plus five women and children. Nine persons were wounded. Our Vermont group visited the hospitalized victims in an effort to make some reparation for the terrible suffering and death caused by our administration's policy in Nicaragua.

Standing beside Pilar, who was immobilized by shrapnel in her spine and a metal brace riveted into her skull, I thought of my own thirteen year old in Vermont. Pilar's agony is still with me, even though she died a month or so ago.

From my experience of living with and listing to Nicaraguan campesinos, I am convinced that my country supports terrorism and is a scandal to the world community. As a woman I vow to do everything in my power to change the immoral policy that is responsible for the deaths of over 15,000 Nicaraguans over the past four years.

STATEMENT OF MARY DUTCHER, ESQ.

Good afternoon. My name is Mary Dutcher. I am the attorney who authored WOLA's 1985 Report, "Nicaragua: Violations of the Laws of War by Both Sides" and the first Supplement to that Report, which was published yesterday, covering the first three months of 1986.

Prof. Goldman has done an excellent job of explaining the applicable law. The purpose of the Report and Supplement is to document the extent of compliance by both sides with the standards set forth in that law.

Both documents reveal that a prima facie case has been established of gross violations of the laws of war by contra forces that continued during the first three months of 1986. Although not pretending to be quantitative, both documents are illustrative of the conduct of the war in Nicaragua. Of that 41 incidents documented in the Supplement, 35 are attributable to the counterrevolutionary insurgents. These violations include 21 kidnappings involving 104 persons; 11 murders; 6 indiscriminate attacks resulting in the deaths of 13 civilians; 2 attempted summary executions; 1 case of threatening behavior; 3 violations of the rights of the wounded and sick resulting in 54 deaths; and 4 cases of outrage against personal dignity (2 cases of mutilation and 2 cases of rape—one involving 15 women and the other involving 2 women). These are incidents that occurred in the first three months of 1986.

There are six documented violations by the Nicaraguan armed forces, which include 5 indiscriminate attacks resulting in the deaths of 12 civilians and 1 case of threatening behavior. There was no evidence to conclude that the Nicaraguan armed forces engage in a systematic pattern of violations of the laws of war.

On Good Friday (March 28, 1986), Gregorio Ruiz Borge was taken out of house by counterrevolutionary forces to be summarily executed. He believes his work coordinating the community volunteers putting up a fence around a school that United States citizens had built was the reason for what happened to him. He was stabbed in the neck three times, but somehow survived to provide one of the 71 sworn statements on which the Supplement is based.

Another 3 of the sworn statements relate to an incident in January, when about 15 women were raped by insurgents on the At-

lantic Coast. One of them, herself a Miskito Indian, states, "Two men raped me. It was about two in the morning. They did this all in front of all the other women and children that were in the house. I started to cry because they did this to me in front of all these people."

On February 16, Maurice Demierre, a Swiss agronomist, and five other unarmed women were killed when the pickup that DeMierre was driving was ambushed. That incident is documented by 3 sworn statements of passengers in the pickup, as well as by a communique from nongovernmental organizations working in Nicaragua.

Nicaraguan armed forces, including both the army and the militia, were involved in five incidents of indiscriminate attack against civilian targets. Two of the sworn statements detail an incident in February in Matagalpa where 4 Nicaraguan soldiers opened fire on a family, leaving a father and his three grown sons dead, and wounding the mother and her young nephew.

The 41 incidents documented in the Supplement occurred in the first three months of 1986. The 1985 Report documents an additional 139 such incidents that occurred from February through December of 1985, 21 attributable to the Nicaraguan armed forces and 118 attributable to the counterrevolutionary forces.

I would like to go into some detail about the methodology used in the investigation because one of the important aspects of the Report and the Supplement is the extensive on-site knowledge on which they are grounded. Investigators were trained in the laws of war that Prof. Goldman has explained to us, as well as in investigative techniques and how to take a sworn statement. I drew on my experience as Attorney in Charge of the St. Louis Office of the Missouri Attorney General, where we conducted many investigations, in the training of investigators.

The investigators, mostly members of the long term team of Witness for Peace, for the most part lived in the war zones and, after their training, returned and took sworn statements from eyewitnesses or victims about incidents that were common knowledge in their communities. Others—such as the professional photographer and the bee keeper—travelled to various parts of Nicaragua. I travelled also, both spot checking the incidents reported by the investigators and going to areas where no investigators lived, such as Wiwili (on the border between the Departments of Nueva Segovia and Jinotega) and Waslala and Siuna, in Zelaya. One 60 mile stretch of road on the way to Waslala has had more than 40 ambushes in the last two years, so the local people say.

I am going into some detail because the type of violation that is the subject of this report is one that occurs usually in the countryside. Most of the human rights reporting about Nicaragua does not primarily address the violations of the laws of war—these incidents of kidnapping, rape, murder of civilians, mutilation, indiscriminate attack—because they do not occur in the cities, where there is infrastructure to report them. They occur in remote places in the countryside. As a result, many go unreported.

For example, at the beginning of the 1985 Report, I went to the Permanent Commission on Human Rights, a critic of the Nicaraguan government, to ask for cases of Nicaraguan army violations of the laws of war. Although they generously cooperated and opened their files, we found that they contained very few violations of the laws of war. Of the 21 Nicaraguan armed forces violations in the 139 incidents documented in the 1985 Report, only 4 were on file at the Permanent Commission. The other 17 came to light in the field. Similarly with this Supplement: the monthly publications of the Permanent Commission for January and February of 1986 contained only one possible case of violations of the laws of war. All of the 6 Nicaraguan armed forces violations were discovered in the field. The primary value of this Supplement, then, is the verifiable information it offers about the actual conduct of the war in the countryside of Nicaragua.

I have noted one alarming trend that I hope does not reflect a change in policy since beginning the investigation for the Supplement in 1986. It has to do with the increasing disrespect by the counterrevolutionary insurgents for the lives of foreign nationals doing humanitarian work in Nicaragua. Beginning with the death of Maurice DeMierre, a Swiss agronomist, in February near Somotillo, Chinandega (reported in the Supplement), there have been other incidents of aggression against foreign nationals. Although I do not yet have sworn statements on these incidents, there is no doubt that they happened; and they reveal an alarming pattern. They include, besides DeMierre's death in February, the kidnapping of 8 unarmed West German construction workers on May 18 near Nueva Guinea, Zelaya (released after 25 days of captivity); and the killing of a male nurse from Spain, Ambrosio Mogorron, and 8 other members of a health team doing polio vaccinations by a land mine near San Jose de Bocay on May 24.

The other point that needs to be emphasized is that there is no sign that the pattern of gross violations by counterrevolutionary forces is changing. I recall the three weeks in May before I left Nicaragua as being particularly bloody and, although I have not yet obtained sworn statements about the following incidents, there is no doubt that they occurred;

*May 3, 1986. Quibuto, a resettlement area for persons displaced by the war located near San Juan de Rico Coco in Madriz, was attacked by contra forces who kidnapped 8 civilians, including a teacher, and a brother and sister aged 13 and 15. The troops also burned down 14 houses and 5 public buildings, including the health center and food storage warehouse.

*May 11, 1986. Around 11 p.m. at night, 6 contras entered the home of 12 year old Ruth Maria Sequeira in Las Santos, near Nueva Guinea in Zelaya, and killed her mother and 10 year old brother. In the firing and shooting before the soldiers entered the house, Ruth was shot in the foot and shrapnel hit two of her siblings, Jose Maria (age 5) and Pablo Jose (age 2), wounding him in the chest.

*May 17, 1986. Three Housing Ministry Workers were killed when their Toyota pickup, the first in a caravan of 14 construction trucks, hit a land mine at Sompopera in Jinotega. Sompopera is the same location where an anti-tank mine was detected and deactivated just before a bus full of 60 persons was to ride over it in January of 1986 (described in the Supplement). It should be noted that the violation consists in the placement of such "blind" weapons that cannot distinguish between civilian and military targets and that give no warning.

*May 18, 1986. 8 unarmed West German volunteer construction workers, 4 men and 4 women, were kidnaped from the Jacinto Haca cooperative 20 miles northeast of Nueva Guinea, Zelaya, where they had been helping to build housing for the peasants of the cooperative. They were released in mid-June, after 25 days of captivity, one seriously ill with hepatitis.

*May 20, 1986. 2 cooperatives at Mireflores, 17 miles northeast of Esteli, were attacked. Among the 8 people killed were three children, which may or may not have been a violation, depending on the particular circumstances. The contra forces destroyed 14 houses and 2 warehouses. They also burned down the one school in the area.

*May 24, 1986. A health worker from Spain and 8 other members of a health team doing polio vaccinations were killed by a land mine near San Jose de Bocay in Jinotega.

All of the 268 sworn statements that form the basis of WOLA's 1985 Report and its First Supplement are on file at the Washington Office on Latin America and contain information designed to facilitate verification by independent investigators. I invite and encourage others to investigate for themselves the compliance by both sides with the laws of war in Nicaragua.

"HUMAN RIGHTS IN NICARAGUA"

(Presentation by Douglas W. Payne)

On October 10, 1980, fifteen months after the fall of the Somoza, Sandinista Interior Minister and founding member Tomas Borge addressed the visiting Inter-American Commission on Human Rights of the OAS. He began his presentation this way—"The most important thing is our historic, strategic decision to be in favor of human rights."[1] This admission, in one of Borge's renowned moments of candor, that the Sandinistas commitment to human rights was the result of a strategic decision, reveals exactly the relationship between the Sandinista political-military organization and the concept of human rights.

The question then becomes—when and why did the Sandinistas make such a strategic decision—what is the nature and the goal of that strategy—and how is it translated in the condition of human rights in Nicaragua today?

The professed goal of every armed revolutionary group in Latin America since Castro has been the seizure of power. But following Fidel's success came years of failure—rural insurgencies defeated throughout the 1960s, urban guerrillas suppressed in the early 1970s, the Sandinistas themselves nearly crushed, first at Rio Coco in 1963 and again at Pancasan in 1967. Little popular support, powerful military regimes, and a poor image in a region historically adverse to the Marxist-Leninist way. Che's foco and the Tupamaro urban cells were shelved by most sane theoreticians.

However, the 1970s saw the emergence of human rights as a central issue in international affairs, especially in the Latin American wing of the Roman Catholic Church, and then in the foreign policy of the Carter administration. In Latin America a new generation of priests found in socialist theory a rationale for securing the rights of the oppressed in this world, instead of preparing for salvation in the next. Following the electoral ascendancy of Allende Marxism in Chile, Fidel timed his visit to Santiago to address a hemispheric conference of these priests, and declared them to be "strategic allies of the revolution."[2]

A number of these priests were Nicaraguan. The Sandinistas, rebuilding after the 1960s, began to successfully recruit them on the basis of a shared concerned for the oppressed, of which there was no shortage in Somoza's Nicaragua.

So, while the Sandinista cadres were receiving ideological training in Cuba and at Patrice Lumumba University in Moscow, and military training in North Korea and at PLO camps in the Middle East, their strategic allies in the Church became secret members of the Sandinista Front. The strategy was to isolate Somoza in the new Western climate of human rights concern. The Sandinista solidarity networks in Latin America, Europe, and the United States expanded through the advertisement of Somoza's crimes, which were indeed real, and the Sandinistas were endorsed by a mantle of Christianity, an excellent cover for a small armed Leninst contingent in search of wider support. The goal of the strategic decision mentioned by Tomas Borge was to broaden support among non-Marxists through strategic political deception.

In 1977, a Nicaraguan Jesuit priest, Fernando Cardenal, appeared before a U.S. Congressional committee to denounce the murder of innocent civilians by the Somoza regime, and to read a list of names of those killed. What was not known at the time was that Cardenal was a full member of the Sandinista Front, the FSLN, and that his testimony was based not on Church investigations but written for him by the Sandinista National Directorate. Furthermore, the names of the innocent civilians were actually peasant collaborators of the armed Sandinista cells. Cardenal confirmed this deception in a 1983 interview published by Orbis Books, the Maryknoll publishing house.[3]

In a December 1984 interview in FSLN party newspaper Barricada, Cardenal revealed how in late 1976 he was summoned to a safehouse in southern Nicaragua by Comandante Eduardo Contreras of the FSLN National Directorate.[4] Contreras, who'd overseen the building of an arms pipeline through Mexico and Honduras with the assistance of the Cuban DGI, gave Cardenal a double-bottom suitcase containing documents to smuggle out of the country. Cardenal took them to Costa Rica where they were edited by Comandante Luis Carrion, and novelist and secret FSLN member Sergio Ramirez. Cardenal read these documents before the Congressional Committee. When members of the committee asked him who he represented he told them "I am here in the name of the barefoot lowly peasants of Nicaragua." [5]

Meanwhile, two other Nicaraguan priests, Ernesto Cardenal and Miguel D'Escoto, both secret members of the Front, toured the U.S., Europe, and Latin America to boost the FSLN-run solidarity committees, spearhead fundraising, and portray revolution as the only hope for a return to human rights in Nicaragua. These committees were to eventually channel tens of millions of Church and private dollars into a bank account in Costa Rica in the name of Ernesto Cardenal. The FSLN translated these dollars into arms.

It might also be noted that during the 1970s Maurice Bishop, leader of the budding Marxist-Leninist New Jewel Movement in Grenada was also enhancing his image and obscuring his real intent by organizing and heading in 1976 the Grenada Council for Human Rights to denounce the brutalities of the Eric Gairy regime.[6]

In 1977 the Sandinistas institutionalized the concept of strategic political deception in a new, internal Political-Military Platform.[7] The document was a blueprint for how a Marxist-Leninist vanguard of less than 200 could galvanize an entire nation, with international support, to rise up in insurrection. The strategy was to build tactical alliances with all sectors of Nicaraguan society in order to isolate Somoza and the National Guard. The method was to obscure the FSLN's goal, stated in the 1977 document, of a Marxist-Leninist state beneath the gloss of Christianity, nationalism, social democracy, and advocacy for human rights. This 2-tiered strategy becomes evident if you compare the secret 1977 Platform with the public program issued by the FSLN in 1978.[8] The 1978 program, the top tier if you will, would form the basis a year later of the government program recognized by the OAS when it called for the removal of Somoza. This program proclaimed the FSLN's adherence to the principles of political pluralism, a mixed economy, and non-alignment, principles the Sandinistas continue to proclaim today.

By December 1979 Somoza was completely isolated in Nicaragua and the Western World. A full-scale and decisive insurrection was six months away and the Sandinistas had the steering wheel. Humberto Ortega was able to tell his commanders in the field—"Without slogans of Marxist orthodoxy, without ultra-leftist phrases such as 'power only for the workers,' 'toward the dictatorship of the proletariat,' etc., we have been able—without losing at any time our revolutionary Marxist-Leninist Sandinista identify—to rally all the people around the FSLN." [9]

The 5-person Junta that replaced Somoza in July 1979 was the final broad front deception that ensured Sandinista hegemony in the new government.[10] It had been agreed, by all parties, that the Junta would rule by decree, by a majority vote of its members, until elections were held. The Junta appeared to include only one Marxist. In actuality 3 of its members—Daniel Ortega, Sergio Ramirez, and Moises Hassan were all members of the FSLN vanguard. This vanguard, led by a nine-man National Directorate, consisted in 1979 of less than 500 ideologically sound cadres. But through the Junta, and by decree, the National Directorate of the FSLN was able to consolidate complete state and military control within one year.

It is important to note that the sophisticated synthesis of guerrilla warfare and broad-front techniques that produced the Sandinista victory was elevated as a hemispheric model by the Cuban Communist Party. At a conference of Latin American communists and revolutionary groups held in Havana in 1982 Manuel Pineiro, chief of the Americas Department of the Cuban Party invoked Lenin to emphasize that the FSLN's success came through "taking advantage of any, even the smallest opportunity of winning a mass ally, even though this ally is temporary, vacillatory, unstable, unreliable and unconditional." [11]

It is no coincidence that when Nidia Diaz, one of the FMLN guerrilla comandantes in El Salvador, was captured last year, documents she was carrying revealed that the FMLN also incorporates broadfront deception in its strategic line, with a special emphasis on human rights. One document describes the existence of an internal human rights front whose task is to promote among outside observers specific human rights issues that would enhance the FMLN's military capability. For instance, it was stressed that the issue of civilian deaths during Salvadoran Air Force bombing was paramount for promotion because the bombing was the most effective tactic against FMLN military operations and had to be defused.[12]

Meanwhile, back in Nicaragua, 1979. The nation celebrates. There will be elections, political pluralism, and respect for human rights and freedoms, just as it stated in the Statute on Rights and Guarantees agreed upon by all sectors of the anti-Somoza alliance. However, in October, three months later, the less than 500 cadres of the FSLN assembled in Managua to receive instructions from the National Directorate. These instructions are in a document called Analysis of the Situation and Tasks of the Sandinista People's Revolution. This document, now commonly referred to as the 72-hour-document, is the hidden tier of the next stage, the consolidation stage, of the Sandinista 2-tiered strategy. The Statute on Rights and Guarantees is the top tier, the mask.[13]

Examination of the 72-hour-document reveals it to be a declaration of class war. The goals of the FSLN are stated to be the consolidation of FSLN power in a revolutionary state, and the building of a Leninist party and a politically trained party army to ensure that power. It is acknowledged that because of this policy, counterrevolution is inevitable, and that a massive, politically trained party militia will also have to be created. It was further acknowledged that the FSLN revolutionary line would determine an inevitable clash with non-Marxist governments and especially the United States. For this reason, the document states that the FSLN will continue to submerge its actual program beneath a public adherence to the principles of political pluralism, mixed economy, respect for human rights and freedoms, and international nonalignment. It was planned that the appeal of the mask, including concrete tactics like enthusiastic participation in intergovernmental organizations and human rights forums, would make believers of enough of the western democracies and certain sectors of the United States, especially the churches, to isolate the U.S. government that would inevitably become adversarial as real FSLN policy began to wink through the facade.

Within the first year of the revolution of the FSLN National Directorate, through its control of the Junta, issued over 500 decrees that gave the FSLN complete control over all repressive and policy-making sectors of the state. It restructured the Council of State to give itself a rubber stamp majority. It announced that elections would not take place until 1985, and that they would not be held to decide who holds power in Nicaragua. It signed a party-to-party agreement with the Soviet Communist Party and subsequently announced the goal of enlarging the Sandinista army to 50,000 men equipped with the most modern military hardware available. It began building a Sandinista People's Militia with a projected target of 300,000 members, to be armed after political training. It took control of all mass media with the exception of one newspaper. It set up a national system of Sandinista Defense Committee modeled on the Revolutionary Defense Committee in Cuba. And it declared that opposition to FSLN policy would be tolerated "as long as it is within the rules of the new system we are constructing." [14]

In the second year of the revolution the Sandinistas accelerated the expansion of

the party in preparation for fusing it with the structures of the state. The projected goal was 50,000 cadres by 1985. That has been reached. The burgeoning FSLN-controlled mass organizations were the pool from which they were drawn. Candidates undergo a 3-stage Leninist integration process that takes two to three years. The continued espousal of political pluralism, a mixed economy and human rights, however, was becoming for most sectors of the former anti-Somoza alliance *un engano*, a hoax. It was the word they used when they resigned their positions in protest, were forced out, or driven into exile by smear campaigns in the Sandinista controlled media.

The Permanent Commission on Human Rights, established in 1977 and instrumental in exposing the crimes of Somoza and protecting the rights of Sandinista prisoners, began to report on abuses by Sandinista State Security in suppressing the groundswell of opposition. As during Somoza, it investigated disappearances, political prisoners, arbitrary detention, the increasing restrictions on political and press freedoms, and the abuses of a parallel judicial system controlled by the FSLN.

In mid-1980 the Sandinistas countered by creating its own human rights body—the National Commission for the Promotion and Protection of Human Rights. The strategy of creating FSLN-controlled parallel organizations in order to undercut and eventually eliminate independent ones had already been evident in the labor and professional fields, and in the emergency of the so-called People's Church. As an arm of the Foreign Ministry, the National Commission was from the outset an advocate and defender of the Sandinista's public adherence to human rights.

In early 1981, Jose Esteban Gonzales, national coordinator of the independent Permanent Commission, reported to the Pope in Europe that about 800 people had disappeared or been killed for political reasons during the first months of the revolution, that the Sandinistas were holding between six and eight thousand political prisoners. State Security immediately occupied the Permanent Commission office on Managua. It was turned inside out and all the files photocopied. When Gonzalez returned from Europe he was arrested and charged with violating public security law in making the accusations in Rome. After protest by various international organizations, he was released. Detained again two days later he managed to flee the country through the Venezuelan Embassy.

Since that time the Permanent Commission has functioned under duress, its office and personnel attacked by mobs directed by the Interior Ministry, its access to paper and printing restricted. Last month the Commission was verbally informed that any report or publication in 1986 must first undergo prior censorship by the Interior Ministry. The Ministry in its oral statement (the order was not delivered in writing) said the penalty would be severe but did not specify. The Commission is deciding this weekend whether to challenge or not publish.

By the end of the second year of the revolution Nicaragua was polarized—two distinct and divergent lines—just as the internal Sandinista documents on class struggle had projected. On the one side the FSLN, in control of the government and rapidly expanding its army, militia and security apparatus with East Bloc assistance, as well as its mass organizations and party structure within the state. In counterpoint, there had emerged a broad opposition—disjointed, but as wide-ranging as the alliance that ousted Somoza. It included the private business sector, the Permanent Human Rights Commission, an array of political parties from center-left to center right, the independent labor unions, newspaper La Prensa, professional groups, the traditional Catholic Church, and the Miskito Indian population on the Atlantic Coast. The Miskitos, virtually left alone by the Somozas, were rebelling against the Cuban personnel that had arrived in the first year to restructure their culture and economy.

In early 1981 State Security arrested the principle Indian leaders and three to four thousand Miskitos fled to Honduras. That spring, opposition efforts to hold rallies were violently disrupted by government-controlled mobs which also attacked the La Prensa office forcing it to shut down for two days. A few months later, at the second anniversary celebration of the revolution, Daniel Ortega clarified the issue, stating that FSLN policy was "dictated by the people. We are not going to go on discussing the rules of the game. The people set the rules of the game, and he who wishes can play them, and he who does not can leave or the people will crush him." [15]

It should be noted that during these first two years the U.S. provided $118 million in outright donations to Nicaragua, more than it had given during the entire Somoza period, and supported an average of $12 million per month in new lines of credit from the World Bank and the Inter-American Development Bank. The U.S. stopped aid after the Sandinistas provided military and logistical assistance to the Salvadoran guerrillas during their failed 1981 offensive. It should also be noted that in August 1981, Assistant Secretary of State Thomas Enders offered to renew aid, support Nicaragua through mutual regional security arrangements, and not support the few hundred former National Guardsmen that were preparing an insurgency from Honduras. In exchange the Sandinistas would only have to cease support for the Salvadoran guerrillas and reduce their armed forces. The Sandinistas ignored the offer. It was not until four months after that the United States decided to give covert assistance to the small, poorly equipped group in Honduras.

1982 and 1983 were key years in the Sandinista strategic attitude toward human rights. Their massive ongoing resettlement, begun in 1981, of nearly a third of the Miskito Indian population came to light in the international press—hundreds of disappearances, burned villages, forced marches to detention camps, thousands fleeing to Honduras and Costa Rica. The Sandinistas claimed it was for their own protection against external aggression. It should be noted, however, that the Miskitos as well as the Black Creole population had been rebelling against Sandinista policy and Cuban presence since 1980, that 3,000 Miskitos had already fled, and that a full-scale uprising seemed imminent. Also it should be remembered, that in the history of the hemisphere there was only one other case of massive forced resettlement of indigenous populations and it was occurring simultaneously in Guatemala, under severe international protest, where the military regime was confronting nearly 10,000 armed guerrillas whose command center was in Nicaragua.

After an on-site investigation in 1982, the Inter-American Commission on Human Rights determined that the forced resettlement violated the rights of the Indians under the American Convention on Human Rights, of which Nicaragua is signatory to, that it was carried out and continued to be carried out in an atmosphere of fear and severe conflict, and that prior to the resettlement a considerable number of Indians had been executed.[16]

Also in 1982, March, the Sandinistas installed a state of emergency which suspended all constitutional guarantees including habeas corpus. All non-Sandinista political activity was outlawed and all non-Sandinista media, essentially La Prensa and the Catholic Church radio station, were subjected to prior censorship. The measures were taken in response to the blowing of two bridges near the Honduran border by what the Sandinistas referred to as the contras, short for counterrevolutionaries. The name stuck. At the time the contras still numbered in the hundreds.

What must be acknowledged is that the state of Emergency merely formalized measures the Sandinistas were already taking against a broad domestic and peaceful opposition. The Permanent Human rights Commission and opposition spokesmen argued that the measures were political and took their case to international human rights forums. After nearly three years of receiving the benefit of the doubt, the treatment of the Miskito Indians and the State of Emergency placed the Sandinista's human rights policy under deep scrutiny.

As reports of disappearances continued throughout 1982, among the Latino as well as Miskito population, the Sandinistas were forced to respond to an increasing number of inquiries from both private and inter-governmental rights groups. In December Tomas Borge created a secret Special Investigations Commission inside the Interior Ministry. Its task was to thoroughly and honestly investigate the missing persons cases that the Inter-American Commission was inquiring about. The results of the investigations were to go solely to Borge.

Alvaro Jose Baldizon was named by Borge as chief investigator on this Commission. Last year, after two and a half years, Baldizon defected. He has passed numerous lie detector tests, and has been interviewed by major media and human rights groups. He charges that 90 percent of the accusations received from the Inter-American Commission were true, that the Sandinista government employs a policy of systematic execution against Miskito Indians and political opposition figures. He said he personally investigated and corroborated around 300 cases. He charges that the executions are carried out by a national network of specially trained secret teams directed by Tomas Borge and Interior Vice Minister Luis Carrion. The program is called "special measures." Borge wanted each case alleged by an international organization investigated internally in order to prepare plausible denial. For instance, executions that took place in northern Nicaragua, and where most of the accusations were aimed, were routinely explained as contra killings.[17]

To date Baldizon's testimony has been denied and his identity questioned by only the Sandinista government. Within days of Baldizon's defection his brother and wife were arrested. His wife is currently under house arrest and his brother's whereabouts are unknown. It should also be noted that two defectors from State Security testified in Costa Rica, months before Baldizon's defection, that they were aware of government directed executions.[18] And Jorge

Alaniz Pinell, the former Director of Planning in the government Reconstruction Fund who left Nicaragua in 1983, has charged in a recent book published in Panama that he was also aware of such executions.[19] Confirmation awaits. Baldizon has agreed to pinpoint the graves he is aware of but warns that many of the locations are in areas where a government permit is required for travel.

The Foreign Ministry, meanwhile, stepped up efforts to promote a positive picture of human rights in Nicaragua. According to Mateo Jose Guerrero, former director of the government's National Commission on Human Rights, in exile since spring 1985, reports prepared and published by the Ministry were attributed to the Human Rights Commission. Commissioners that balked were replaced and in some cases driven into exile. Those that remained were given instruction by the Foreign Ministry on the positions to take at international conferences and on how to impress visiting delegations with Nicaragua's human rights policy. The commission was then notified that all accusations against the Sandinista government would be handled by the Interior Ministry, and that the commission's chief function would be to facilitate the efforts of international groups coming to Nicaragua to investigate alleged contra violations.[20]

By 1984 the Sandinistas distinct 2-tiered strategy on human rights matched and meshed with the 2-tiered program of deception defined in 1977, and in the 72-hour document in 1979—On one level simulate and promote a positive appearance to mask, on the other level, the measures necessary to maintain and consolidate power in a revolutionary socialist state.

1984 also found the Sandinistas holding an election, an event that can most generously be described as a state-controlled plebiscite masquerading as political pluralism. Those who are concerned with the rule of law, and those who are concerned with advising Nicaragua on the rule of law, might want to ask Daniel Ortega what he is president of. The electorial law doesn't say. It just states that a president will be elected. There is no constitution. They say there won't be one until 1987. Even if you were to judge the elections as fair you would still have to ask—where is the law that says what the president is?

Meanwhile, Bayardo Arce, the member of the FSLN National Directorate in charge of overseeing the process, availed himself of the opportunity to reiterate the FSLN's strategic line during a speech to the Nicaraguan Socialist Party on the meaning of the elections. The speech was secretly taped and later appeared on the pages of newspaper Vanguardia in Barcelona. Sandinista authorities have acknowleded the speech and the Socialist Party has confirmed its authenticity.[21]

Arce delineated the Sandinistas' "two-way strategy for the confrontation with aggression during the construction of socialism." He stated that the principles of political pluralism, mixed economy and nonalignment "made us presentable in the international context." In this context, he said, elections were a necessary nuisance and would be used as an opportunity to wage a political-ideological campaign among the people. Afterward, the cover of a constitution, a "bourgeois instrument," would be used to "construct concrete socialism through the strategy of power of the Sandinista Front."

The condition of human rights in Nicaragua cannot be understood without placing it in the context of the Sandinista strategy of power.

The class war waged by the Sandinistas has now escalated into a near civil war that threatens their power. There is duel superpower intervention, first by the East Bloc and allied revolutionary states, then by the United States. A major goal of Sandinista foreign policy since 1983, and especially the human rights component of that policy, has been to deflect protest and criticism of their oppressive domestic policies, by focusing negative international attention instead, on the abuses of a rapidly growing armed opposition, and the U.S. government that has assisted it.

This policy has been largely successful. In the last year, while the Sandinistas have again utilized a forced resettlement—the removal of a projected 100,000 peasants from their homes in north central Nicaragua, begun last year and still underway—and while they have yet to respond to a request by the Inter-American Human Rights Commission for an on-site investigation of habeas corpus violations, and while last October they removed whatever political rights and civil liberties still remaining, the major human rights focus on Nicaragua has been on the alleged abuses of the contras.

Never before has an insurgency been so thoroughly investigated for human rights violations. In fact, with the exception of an America's Watch report on the behavior of the Salvadoran FMLN, no investigation focused primarily on a guerrilla group has occurred before. Contra abuses have occurred and been confirmed, most recently in a book by Washington Post reporter Christopher Dickey.[22] The brutality of some of the cases is reminiscent of methods used by Augusto Sandino himself against informers during his guerrilla exploits in the 1920s and 1930s. The "vest cut" and other curious practices have been described by his chroniclers.

But this new business of investigating rights abuses by insurgent forces raises important questions, particularly in the area of methodology. First, it must be acknowledged that a war is going on in Nicaragua, a rural war, a war in which the distinction between combatant and civilian is easily blurred. The Sandinistas themselves have been instrumental in blurring the distinction by transporting civilians in military vehicles in war zones. Why do the Sandinistas send mothers to visit their soldier sons at the front in military transport? Why are they incorporating the elderly and pre-draft age youths into armed neighborhood militias? Why do many of the militia wear civilian clothing? What happens to the distinction when the Sandinista leadership proclaims Nicaragua an armed people?

In an October interview with Washington Post correspondent Joanne Omang that was published in its entirety only in FSLN newspaper Barricada, Defense Minister Humberto Ortega said that agents from both the military and the Interior Ministry had infiltrated contra groups with the task of killing leaders and creating paranoia. He also noted that the Sandinistas has laid thousands of land mines to destroy the contras.[23] He did not mention, nor was he asked about, press reports from Honduras that claimed civilians fleeing the latest forced relocation were being killed or maimed by mines. In such an atmosphere of mutual treachery and deceit, investigators must be particularly scrupulous in analyzing the testimony of alleged victims of either side.

Then there is the phenomenon of the "rural choice" that has to be taken into account in this type of analysis. In any rural insurgency, the inhabitants of the contested area, the peasants, are faced with a choice. They can stay put and attempt to adopt a chameleon-like neutrality acceptable to both sides—they can flee to areas controlled by the government—or they can join the insurgents. When neutrality becomes too dangerous, which generally becomes the case, the inhabitants will go in what they perceive to be the safest direction.

In the last five years there has been a clear trend in both El Salvador and Guatemala. Guerrilla forces peaked in El Salvador, some reports as high as 20,000, during the period of heaviest government repression. With the advent of a democratic government and a reduction in death squad activity, the guerrilla forces have diminished to less than 6,000. In Guatemala, guerrilla forces peaked at an estimated 10,000, once again during the period of severest government repression. With the advent of democratic procedures and a reduction in death squad activities, the number is down to 2,000. Meanwhile, in Nicaragua, contra forces have grown in four years from less than 1,000 to over 20,000 and the number is rising. It is the only insurgent force in Central America today that is growing, and the manpower is coming primarily from the peasant and small landholder population. Taking into account the rights violations committed by the contras, the question than becomes—What is it about the Sandinistas that causes these people to flee and take up arms against them. And why have the Sandinistas resorted to forcibly relocating to controlled areas those that haven't fled?

From Christopher Dickey's book it also emerges that most rural dwellers in Nicaragua have a natural tendency to rebel against authority. This is generally true throughout Central America. In particular they are against Sandinista land reform which usurps private land for government-run cooperatives. Unlike dense-pack El Salvador, Nicaragua has no shortage of arable land. Why are the Sandinistas, having duly confiscated Somoza property, now forcing traditional peasant landholders into a state operation in a so-called mixed economy? The peasants are protesting that resistance means being labeled a contra by Sandinista Defense Committees. The Permanent Human Rights commission reports increasing numbers of peasant disappearances and arbitrary detentions. It would be interesting to see if the Sandinistas were so solicitous of observers seeking to investigate these allegations. Maybe the answer is in their refusal to respond to the Inter-American Commission regarding habeas corpus violations.

The use of human rights as a component of foreign policy by the Sandinistas raises, finally, the question of the role of human rights in determining U.S. foreign policy. The Sandinistas clearly perceive the issue solely as it pertains to their strategic line of political deception. There long adherence to Marxist-Leninist ideology, and their behavior in the first two years of the revolution, reveal that political pluralism was never in the cards and is unlikely to emerge if the contras were to disappear.

Despite the sophisticated facade they've manufactured, the Sandinistas are bringing final discredit to the illusion that violent revolutions of the radical left can fulfill traditional Latin American aspirations for social justice and a pluralistic political environment. They are proof that the democratization process remains the sole guarantee

of human rights and freedoms in the region. And at the same time they constitute the principle deterrent to that process.

Human rights are a component of U.S. foreign policy in the sense that the United States supports, in the larger context, the democratization process that guarantees them. It is a complex, longterm policy which as yet is not completely formulated. It requires an elusive blend of diplomacy and force, two elements that are not incompatible, as well as varied forms of support and direction to nascent democratic groups, many of whom, like the contras, are struggling with great difficulty to project a plausible democratic alternative. This is not an easy task, especially in Nicaragua, a country that has not known democracy in over 50 years.

In this larger context, the Sandinistas are perfectly aware of the threat that such a policy poses for them. For this reason they are, and have been making, a concerted effort to reduce the issue of U.S. policy to human rights violations committed by their contra opposition. When the issue is so reduced, when human rights are separated from the democratization process and threaten to become the determining factor in formulating U.S. policy, then the Sandinistas are succeeding. Real goals get obscured in Capitol Hill debates over conditionality and artificial timetables. The PR factor takes over as the airwaves hum with allegations and denials based on contradictory reports from a rural war zone. Players on both sides confront the temptation to cook the books. Chaotic policy paralysis, which seems to be turning into an annual spring rite in Washington, is clearly to the advantage of the Sandinistas, which is why they have made, as Tomas Borge would say, a strategic decision to promote it.

FOOTNOTES

[1] Tomas Borge, "On Human Rights in Nicaragua," in *Sandinistas Speak* (New York: Pathfinder Press, 1982), p. 85.

[2] "Fidel Castro y los Christianos Revolutionarios," *Folletos Monograficos*, No. 6 (Managua, Micaragua: Instituto Historico Centroamericano), p. 3.

[3] Teofilo Cabestrero, *Ministers of God, Ministers of the People* (Maryknoll, NY: Orbis Books, 1983), p. 62.

[4] *Barricada*, 17 December 1984, Managua, Nicaragua.

[5] Cabestrero, op. cit., p. 62.

[6] Gregory Sanford and Richard Vigilante, *Grenada: The Untold Story* (New York: Madison Books, 1984), p. 41.

[7] See Douglas W. Payne, "The 'Mantos' of Sandinista Deception," *Strategic Review*, Spring 1985, pp. 9-20. 1977 FSLN Political Military Platform acquired by author from former Sandinistas.

[8] 1978 FSLN program reprinted as "Why the FSLN Struggles in Unity with the People," *Latin American Perspectives*, No. 6 (Winter 1979), pp. 108-113.

[9] David Nolan, *The Ideology of the Sandinistas and the Nicaraguan Revolution* (Coral Gables, FL: Institute of Interamerican Studies, University of Miami, 1984), p. 68.

[10] Payne, *Strategic Review*, op. cit., pp. 17-18.

[11] An English translation of Pineiro's presentation appears as "Imperialism and Revolution in Latin America and the Carribean," in *New International: A Magazine of Marxist Politics and Theory* (New York), Vol. I, No. 3, Spring-Summer.

[12] Nidai Diaz captured in El Salvador in spring 1985. Copies of documents she was carrying were made available to the author by the U.S. Department of State.

[13] See Douglas W. Panye, *The Democratic Mask: The Consolidation of the Sandinista Revolution* (New York: Freedom House, 1985), pp. 7-16, 23-24. The 72-hour document acquired by author from former Sandinistas.

[14] Ibid., p. 9.

[15] Ibid., p. 33.

[16] "Report on the Situation of Human Rights of a Segment of the Nicaraguan Population of Miskito Origin," Inter-American Commission on Human Rights, Organization of American States, Washington, DC, 16 May 1984.

[17] Author's interview with Alvaro Jose Baldizon. Also see "Through the Eyes of a Sandinista Defector," *The Times of the Americas*, 23 October 1985; Fred Barnes, "The Sandinista Lobby," *The New Republic*, 20 January 1986.

[18] "Graves cargos contra FSLN," *Nicaragua Hoy*, Edicion no. 16, San Jose, Costa Rica, 20 July 1985.

[19] Jorge Alaniz Pinell, *Nicaragua: una revolucion reaccionaria (Panama: Kosmos—Editorial, S.A., 1985), pp. 178-79.*

[20] Author's interview with Mateo Jose Guerrero. Also see "Nicaraguan Defects," *Washington Post*, 21 August 1985; Fred Barnes, op. cit.

[21] Arce speech to PSN reprinted in English in its entirety in Payne, *The Democratic Mask*, op. cit., pp. 90-98.

[22] Christopher Dickey, *With the Contras: A Reporter in the Wilds of Nicaragua* (New York: Simon and Schuster, 1985).

[23] *Barricada* (Special Supplement), Managua, Nicaragua, 10 October 1985. English translation in *Foreign Broadcast Information Service*, Latin America, 28 October 1985, pp. 19-34.

PREPARED STATEMENT OF AMNESTY INTERNATIONAL USA ON NICARAGUA

INTRODUCTION

Thank you, Mr. Chairman. The United States section of Amnesty International, in consultation with the International Secretariat of Amnesty International in London, welcomes this opportunity to present written testimony before the U.S. Senate on the current human rights situation in Nicaragua.

Amnesty International is an independent worldwide human rights movement which, since its inception, has worked impartially for the release of all prisoners of conscience, fair and prompt trials for all political prisoners, and an end to torture and execution. Amnesty International is independent of all governments, political factions, ideologies, economic interests and religious creeds. It has consultative status with ECOSOC of the United Nations, UNESCO and the Council of Europe, has cooperative relations with the Inter-American Commission on Human Rights of the Organization of American States, and has observer status with the Organization of African Unity. Amnesty International was the recipient of the 1977 Nobel Prize for Peace.

Considerable controversy exists as to the state of human rights in Nicaragua today. In reviewing the record, we find that fact and fiction have become difficult to distinguish. It is in this area that Amnesty International USA hopes to make a contribution to these hearings.

For a quarter of a century, Amnesty International has monitored human rights worldwide. During this time we have maintained a reputation for impartiality and accuracy in our reporting. Nicaragua has been the subject of numerous publications and onsite investigations during this period.

Amnesty International has closely monitored the human rights situation in Nicaragua both during the Government of General Anastasio Somoza Debayle as well as since its fall in July 1979.

Under the Government of General Anastasio Somoza Debayle, Amnesty International's concerns in Nicaragua included arbitrary arrests, summary executions, "disappearances," and the widespread and systematic use of torture, directed at those believed to represent actual or potential opposition to the government. In the final years of civil conflict, thousands of Nicaraguans were summarily executed by Somoza's security forces.

The present submission addresses specific aspects of the human rights situation in Nicaragua since the new government came to power in July, 1979, insofar as they relate to areas of concern within the statute of Amnesty International.

THE RECORD OF THE GOVERNMENT

Background to Amnesty International's current concerns

Amnesty International's concerns in the first years after the fall of the Somoza Government centered on the detention and trial of collaborators with the former government, in particular, members of the National Guard and Somoza's intelligence services. An estimated 7,000 suspected collaborators were detained in the immediate aftermath of the government's fall. Following preliminary investigation, many of those initially detained were released. By the first months of 1980 an estimated 5,300 remained in custody to face criminal charges and trial. Most of them were former National Guards held in connection with human rights abuses committed under the authority of the previous government. Charges were brought within the terms of the penal code in force under the Somoza Government.

It is well documented that an estimated one hundred former security personnel were reported to have been the victims of vengeance killings in July 1979 after being captured by residents in provincial Nicaraguan towns.

Of particular concern to Amnesty International during this period were procedures utilized by a special court system created explicitly to try alleged supporters of, and collaborators with, the Somoza government. These Special Courts of Justice were set up to try prisoners accused of crimes committed under the authority of the Somoza Government. Prisoners falling into this category were charged under the penal code in force at the time of the alleged offenses. The special courts functioned outside the normal court system, with no provision for appeals against sentences beyond the special courts' own appeals court.

By February 1981, when the special courts were dissolved, they had handed down convictions in the cases of 4,331 of the over 6,000 prisoners initially charged with having committed crimes under the authority of the previous government. An Amnesty International report published in June 1982 outlined the organization's assessment of the trials by the special tribunals, as well as other concerns. It was Amnesty International's conclusion at that time that serious procedural irregularities impeding the right to fair trial had occurred. Recommendations were made by Amnesty International for a systematic review of cases heard by the special court system.

The Government of Nicaragua responded to this recommendation for a systematic review of the special court cases with the enactment in November 1981 of a Law of Pardon. This law established a procedure for an administrative review of sentences handed down by the special courts (or under the 1979 Public Order Law) as well as for pardons, commutation or reduction of sentences. This review was to be carried out separately from the judicial process and involved only undertaking investigations and recommending pardons. Rulings on pardons were to be made by the national political authorities. Although the Law of Pardon has resulted in the release of hundreds of prisoners, it has not been systematically applied as a remedy for injustices in the pro-

ceedings of the special tribunal during 1980 and 1981. Amnesty International has continued to recommend a systematic review of sentences handed down by the special tribunals in order to remedy possible miscarriages of justice in the trials which took place during that period.

Human rights abuses of concern to Amnesty International since that time have most frequently been reported in the context of armed conflict in remote areas and involve procedures for detecting and punishing collaborators with armed opposition groups. Most political prisoners detained since 1981 have been charged with collaboration with such groups. In cases in which prisoners of conscience have been wrongly accused of the use or advocacy of violence, they have generally been released before being brought to trial.

Amnesty International's current concerns

Amnesty International's current concerns in Nicaragua include a pattern of frequent, short-term imprisonment of prisoners of conscience, prolonged pretrial incommunicado detention of political prisoners, restrictions on the right to a fair trial, and poor prisons conditions for political prisoners. Amnesty International has received some reports of torture, arbitrary killings and unacknowledged detentions carried out by military personnel in remote areas undergoing armed conflict.[1] In the course of 1984 and 1985 Amnesty International took action on behalf of 12 prisoners it believed were prisoners of conscience or probable prisoners of conscience.

The Public Order Law and Political Imprisonment

Most prisoners of conscience and other political prisoners detained in recent years have been held under a Public Order Law first enacted in 1979 which defines and punishes a broad range of political offenses, and establishes summary trial procedures by which it is to be applied. The *Ley para el Mantenimiento del Orden y Seguridad Publica*, Law for the Maintenance of Public Order and Security, Decree No. 5 of July 1979, defined offenses related to national security, ranging from possession of military weapons or explosives and crimes of political violence to offenses related to the exercise of freedom of expression. In its current form, as Decree 1074 of June 6, 1982, the law remains the principal legislation applied in the prosecution of political offenses.

Special summary trial procedures established for the Public Order Law's application have been of particular concern to Amnesty International from the new law's inception. The special trial procedure prescribed in the original form of the law severely limited the right to defense: lawyers were allowed only two days to prepare their clients' written defense after formal notification of the charge had been made to the court, trials were to be concluded within three days, and sentences were to be handed down within 48 hours of the completion of the trial period. In practice, limitations on the periods within which the proceedings were to be completed were more flexible than provided for in the law—in part because the courts found it impossible to deal with complex cases, sometimes involving large groups of defendants, in the time periods stipulated. The preparation of cases by the defense in the largely written proceedings was nonetheless severely hampered by the special procedure, and the calling of witnesses for the defense from distant parts of the country was in many cases impossible within the time period stipulated. Summary trial procedures, with some modifications, are also prescribed by the current form of the law.

A further concern was that the original law stated that judges hearing Public Order Law cases were to disregard normal rules for assessing evidence and act solely in accord with their consciences. Although this was subsequently modified by Decree 896 in 1981 to require judges to apply the norms of "sound criticism" in assessing evidence, no changes were made to the law's strict limitation on the period for defendants to prepare a defense and produce evidence under the special rapid procedure. Decree 1074 of June 6, 1982, which revised and reissued the Public Order Law in the terms under which it remains in force, again left the extraordinary trial procedures largely unchanged. The creation in 1983 of a system of special courts to apply these procedures in trying Public Order Law cases is discussed further below.

Amnesty International was also concerned about the law's definitions of crimes, in particular those relating to conspiracy and to freedom of expression. These definitions were imprecise and open to arbitrary interpretation, so providing a basis for the prosecution of individuals who, while opposing the government and its policies, had neither used nor advocated violence. Of particular concern was Article 4, which in its original form made punishable certain spoken or written "expressions, proclamations, or manifestos" intended to "damage the popular interests and abolish the conquests achieved by the people." Although this clause was replaced under Decree 488 of August 9, 1980, its new form (which as Article 4(b) remains unchanged under Decree 1074), continued to provide for imprisonment of from 10 days to two years for those responsible for certain categories of public statement, including those intended to undermine national security; the economy; public order; health; morals, the judicial power; "the dignity of persons, the reputation and rights of others"; and "the legitimately constituted authorities."

From its inception the Public Order Law was defined as an extraordinary measure to meet a temporary national crisis. In its original form the law was to remain in force only as long as the state of national emergency remained in force. When the state of national emergency was lifted on April 29, 1980, however, the decree lifting the state of emergency modified the terms of the Public Order Law and incorporated it into the body of permanent penal legislation. Although modified on several occasions, a presently in force as Decree 1074 of June 6, 1982, the Public Order Law with its summary procedures has continued to be applied in virtually all political cases. Since 1983 the Public Order Law has been applied by a system of special courts.

Emergency Legislation and the Restriction of Civil Rights

Many long-standing Amnesty International concerns have related to emergency legislation introduced in the aftermath of the civil war. The government has sought to justify these measures as necessary for reconstruction, to meet extraordinary economic crises, and, after 1981, to cope with problems caused by domestic and international armed conflict. Provisions in this legislation facilitating the detention and prosecution of prisoners of conscience have been of particular concern.

Since 1979, states of emergency have been in effect almost continuously. A Law of National Emergency was decreed on July 22, 1979 which resulted in the suspension of certain civil rights. Its preamble declared its intent to facilitate reconstruction in the aftermath of the enormous loss of life and the destruction of much of Nicaragua's economic infrastructure under the previous government. The Statute of the Rights and Guarantees of Nicaraguans, decreed shortly afterwards, enumerated the specific rights that could be suspended under a state of emergency, while outlining the civil rights that may not be suspended under any circumstances. Under Article 49 these include the rights to life (Article 5), "physical, psychological and moral integrity" (Article 6), and other basic human rights which in accord with international human rights law may not be suspended under any circumstances. The statute specified in its concluding section that the suspension of civil rights then in force under the Law of National Emergency applied solely to those people then under investigation for crimes committed during the Somoza Government. These rights were suspended for a period of 60 days except those specified under Article 49. This suspension of civil rights was periodically renewed by subsequent legislation. It remained in effect until the lifting of the state of emergency in April 1980.

Following the lifting of the state of emergency in April 1980 and the dissolution of the special tribunals, the formal suspension of civil rights was lifted for more than a year. In practice, however, the full range of civil liberties was not always respected. The Public Order Law remained the principal basis for detentions of suspected political offenders. While some were individuals charged with violent political crimes, others were believed to be prisoners of conscience, detained solely on the basis of their non-violent political activity.

In September 1981, a State of Economic and Social Emergency was decreed. Under its provisions some civil rights, including the right to strike, were suspended. The exercise of freedom of expression was also limited by making punishable the dissemination of information considered damaging to the economy. Some prisoners of conscience were detained as a direct consequence of the new measure.

Armed conflict in Nicaragua was first cited by the government to justify the suspension of civil rights when a state of emergency was imposed in Northern Zelaya department in December 1981, after a series of cross-border attacks by irregular military forces in the Coco River area. In March 1982, a nationwide state of emergency was declared. The government maintained that this was a necessary response to "International aggression."

[1] In recent years Amnesty International has been encouraged by a pattern of investigation and prosecution of government personnel accused of such abuses. Among cases in which military personnel have been punished for abuses of prisoners are the sentencing of an army officer to 44 years' imprisonment in March 1984 on two counts of murder and for the torture of four captives during operations against armed opposition forces near the Honduran border in late 1983. In another case, a lieutenant was sentenced to 18 years for rape said to have been committed during maneuvers near an Indian settlement in northern Nicaragua. Despite the pattern of investigation and prosecution of government personnel alleged to be guilty of such violations, some serious abuses have been reported in remote areas which may not have been investigated.

Under the March 1982 decree of a state of emergency Nicaragua suspended those civil rights which may be suspended under Article 49 of the Statute of the Rights and Guarantees of Nicaraguans, with some modification of its terms. As a party to the International Covenant on Civil and Political Rights, Nicaragua has, as required under Article 4 of the Covenant, regularly notified the Secretary-General of the United Nations of its specific reasons for the measure, the period it is to remain in force, and the articles of the Covenant from which it has derogated. Rights suspended of direct concern to Amnesty International include rights to individual liberty and due process of law, the right to freedom of assembly, movement, and expression, and the right to strike.

Initially imposed for a 30-day period, the state of emergency, with some changes in its terms, has remained in force to the present. Some basic rights were restored in mid-1984 in preparation for elections for the legislature and the presidency in November of that year. These measures restored the rights to hold political assemblies and demonstrations, the right to freedom of movement throughout most of the country, and the right to strike. They also formally lifted censorship for the preelectoral period—except for material concerning national security. The restriction of the right to habeas corpus and not to be arbitrarily detained remained in force, however, in cases involving national security (as defined in Article 1 and 2 of the Public Order Law), bringing little effective change with regard to the rights of political suspects.

The terms of the state of emergency were modified twice during 1985. The most recent state of emergency, declared in October 1985, was particularly severe in its restriction of civil rights. The scope of the state of emergency was extended to include the suspension of freedom of expression, freedom of movement, freedom of association, *habeas corpus*, and the rights to strike and hold public meetings and demonstrations. These measures were relaxed by the legislature in November 1985. The restriction on freedom of expression was limited to censorship of matters concerning military and economic affairs considered prejudicial to national security. The restriction of freedom of movement remains limited in war zones and public meetings, demonstrations, and strike action are permitted only with prior authorization. *Habeas corpus* was restored in non-political cases as under the terms of the state of emergency in force prior to October 1985.

Habeas Corpus

The primary remedy against arbitrary detention and prolonged incommunicado detention under Nicaraguan law is *habeas corpus. The remedy of habeas corpus* is regulated by Decree 232 of January 1980 and Decree 417 of May 1980 wich elaborates on its terms. Of particular concern to Amnesty International have been restrictions on the right to *habeas corpus* which have generally occurred under the provisions of the state of emergency. Petitions for *habeas corpus* are submitted to the Appellate Courts, but in cases of the existence of a state of emergency, may be raised directly with the Supreme Court for consideration.

The judiciary's interpretation of the suspension of *habeas corpus* has referred to international norms which permit restrictions of civil rights only in so far as "strictly necessary" under particular emergency circumstances. The Nicaraguan Supreme Court ruled that the remedy of *habeas corpus* would remain in force in penal cases not related to the causes to which the state of emergency was attributed, notably the security of the state. The Supreme Court has also consistently ruled that even in state security cases *habeas corpus* remained applicable whenever necessary to protect basic human rights not suspended by the state of emergency. In this regard, the Supreme Court has responded to serious allegations of ill-health, ill-treatment, or "disappearance" by appointing magistrates to execute *habeas corpus* by visiting prisoners held incommunicado in State Security Service custody.

Despite a legal doctrine making *habeas corpus* applicable as a remedy for serious abuse under the state of emergency, Supreme court directives to the State Security Service to permit magistrates access to prisoners implementing *habeas corpus* have sometimes been flouted. A further limitation of *habeas corpus* has been the reluctance of some Appelate Courts to accept claims of illness or threats to physical safety as a justification for the court to demand access to prisoners held incommunicado in cases considered to have a political element. In practice, the Appelate Courts have considered prisoners in the custody of the State Security Service, or undergoing investigation by that agency, to be by definition political cases.

Detention and Interrogation Procedures: The State Security Service

Since the creation of a new government in 1979, the Ministry of Interior's State Security Service has taken primary responsibility for the detention and interrogation of most suspects in political cases. Incommunicado detention is the norm for prisoners in State Security Service custody, with prisoners frequently held incommunicado for from 15 to 30 days and sometimes for up to several months. Although the State Security Service maintains offices and detention facilities in most major towns, the principal detention and interrogation facility is at its headquarters in Managua, known as "El Chipote." Most political detainees are reportedly brought for interrogation to "El Chipote" and held there pending indictment or release.

Prison conditions within the State Security Service have been of concern to Amnesty International. Released prisoners have reported a disorienting regime in which lights are left on continually, or turned on only at meal-times or when prisoners are to bathe: in which water or food is withheld, or extra meals provided, in an apparent attempt to make prisoners believe more time has passed. Deprivation of sleep has also been reported, with prisoners required to shout "present" as guards tap on the iron doors of their cells at 10-minute intervals. Punishments reported have included forced calisthenics as well as forced standing during prolonged interrogation periods. Threats that prisoners could remain in "El Chipote" indefinately, or that relatives could be detained, have also been reported.

Withdraw of certain amenities has been reported to be a principal form of punishment. Some prisoners have reported being refused permission to bathe for long periods; being refused paper for sanitary use; being denied clean overalls or permission to wash them or the removal of mattresses or blankets. Privileges reported have included permission to wear underwear under prison overalls, provision of tooth brushes, soap and towels, and shaving materials.

In practice, under the state of emergency the State Security Service's actions appear to be largely unrestricted by the judiciary or any other civil authority. Amnesty International was concerned that in some cases the State Security Service appeared to have fabricated evidence and to have manipulated the government news media in order to denigrate political opponents, and justify their detention and prosecution. Further concern has been expressed at the general failure of the Ministry of Justice (the public prosecutor's office) or the courts to challenge the validity of such "confessions" recorded by the State Security Service while prisoners were held incommunicado.

In a June 1985 letter to President Ortega, Amnesty International stressed its concern at the extraordinary de facto powers accorded the State Security Service under the state of emergency, and the consequent scope for abuse of these powers. The organization noted that the State Security Service routinely carried out detentions without apparent basis in law; that long periods of incommunicado detention subject to no known regulation were the norm for State Security Service prisoners in pretrial detention; that in some cases even members of the judiciary were denied access to prisoners by the State Security Service and that State Security Service prisoners were routinely denied consultation with defense lawyers, or contact with families or doctors. Concern was also expressed about the lack of accountability of the State Security Service to the judiciary. State Security Service officers carrying out arrests and interrogations, who are responsible for determining the conditions and duration of incommunicado, administrative detention, are apparently accountable in practice only to the Minister of the Interior, and not to any court of law or other supervisory authority.

Amnesty International proposed several institutional measures to prevent the imprisonment of prisoners of conscience and ill-treatment of prisoners. It called on the authorities to end certain broad powers exercised by the State Security Service. These included its powers to carry out detentions arbitrarily, without court order, on mere suspicion or in order to intimidate; to hold prisoners indefinitely in isolation and incommunicado; to record statements without the presence of lawyers or representatives of any other government or judicial authority: and to present written or video-taped statements prepared under these circumstances as unchallenged "confessions" admissable as evidence before the courts. Amnesty International further recommended that prisoners be brought before the courts without delay after detention, and that the courts be given unrestricted access to prisoners in application of the remedy of *habeas corpus*, whether prisoners are held in custody of the State Security Service or other police or military authorities.

The organization also stated its concern that every allegation of ill-treatment of prisoners be impartially and effectively investigated. It further stressed that complainants in such cases should be protected from intimidation, (whether in the form of threats of violence by interrogators, of further incommunicado detention, or reprisals through harsher sentences handed down by the courts against those alleging ill-treatment).

The State Security Service has since 1981 maintained a public information office in Managua, known as "Casa 50." The office was created in the context of allegations in

1979 and 1980 that prisoners detained by the State Security Service and held incommunicado had "disappeared." According to Interior Ministry representatives, "Casa 50" was to receive reports of all arrests by the State Security Service in the Managua area twice daily, and to make available such information on request. In practice it appears to have served to confirm the whereabouts of most State Security Service prisoners detained in the Managua area. While not eliminating the uncertainty of prisoners' families about their relatives' legal status, by promptly acknowledging State Security Service arrests, the office has largely eliminated allegations of "disappearance" of prisoners. Although a second Ministry of the Interior information office was subsequently opened in September 1982 to receive complaints and provide information on prisoners throughout the country, the rapid communication of information and arrests in remote areas to families of detainees has not yet been achieved.

The Prison System

After Nicaraguan prisoners are formally charged before the courts they are generally transferred from police custody—or in political cases, from the custody of the State Security Service—to prisons of the National Penetentiary System. Like the police services, the National Penetentiary System falls under the authority of the Ministry of the Interior. Most political prisoners and sentenced members of the former government's security services are held in one of two prisons in the Managua area. The larger, the *Centro de Readaptaction "Jorge Navarro"* at Tipitapa, is a top security prison which houses prisoners who have already been sentenced. The majority of its estimated 2,400 prisoners are former members of the Nicaraguan National Guard convicted of crimes committed under the Somoza Government. Some 300 prisoners in "Jorge Navarro" prison, however, are serving sentences of 10 or more years following conviction on charges under the Public Order Law relating to events subsequent to July 1979. Amnesty International has raised fair trial concerns in the cases of both prisoners tried under Special Tribunals in 1980 and 1981, and those convicted of Public Order Law offenses, and has urged that their cases be reviewed.

Prisoners detained but not yet tried on charges under the Public Order Law, or those serving sentences of less than 10 years under that law, are generally held at Managua's *Centro de Readaptaction "Heroes y Martires de Nueva Guinea"* generally known as "Zona Franca" jail. An estimated 800 to 1,000 prisoners charged or convicted of Public Order Law offenses are reported to be in detention there.

Prison conditions at both of the major detention centres are said to be harsh, with severe overcrowding the norm. Sanitary facilities are minimal, with cells provided with tin cans for toilet facilities, and drinking water stored in cells in plastic bags. Regulations base privileges, defined to include such things as recreation in prison patios and sports fields and the frequency with which prisoners may receive visitors, largely on whether prisoners participate in prison workshops and vocational programs. Work programs, however, are limited in the numbers of prisoners they can accommodate, and participation is itself to some extent a privilege. Participants in these programs are held under less severe conditions, with access to patios and weekly family visits. Most top-security prisoners serving long sentences, however, are apparently denied the opportunity to participate in work programs. As a consequence they are held under a strict regime, with infrequent access to exercise, fresh air and sunshine; one family member is permitted to visit only every 45 days.

In addition to those held in the regular centers of the penitentiary system, some prisoners who have been classified as particularly dangerous have been held on an apparently permanent basis in the top security "El Chipote" detention centre. Others appear to have been relegated to "El Chipote" as a consequence of protest actions in Tipitapa's "Jorge Navarro" prison. A hunger strike begun in October 1983 by some 120 prisoners held in Gallery Three of that prison, demanding better food and conditions, eventually ended with the transfer of the protesting detainees to "El Chipote." They were held there in incommunicade detention until the hunger strike ended. Most were reportedly held, without bunks or beddings, in a large cell without natural light, and with only buckets for sanitation. It was subsequently learned that during the prolonged period of isolation some prisoners became seriously ill. Further hunger strikers were reportedly denied appropriate medical attention until the end of the hunger strike. Most the hunger strikers were reportedly returned to the "Jorge Navarro" prison in January 1984.

A second hunger strike protesting conditions in Tipitapa was reported in February 1985 to have involved some 20 top security prisoners serving 30-year sentences there. Two days after the hunger strike was initiated the prisoners were reportedly transferred to "El Chipote" and held there until the protest was suspended. Amnesty Internatinal expressed its concern about the health of the protesters and about their reported incommunicado detention in "El Chipote." No response was received from the authorities regarding these reports.

The Atlantic Coast

The Atlantic Coast region, which includes Zelaya department (subdivided administratively into Zelaya Norte and Zela Sur) and part of Rio San Juan department, comprises some 56 per cent of Nicaragua's territory, with a population of about 250,000 of Nicaragua's more than three million people.

The Miskitos are the major ethnic group in the north half of the Atlantic Coast region. Unofficial estimates place the Miskito population at about 120,000. Other indigenous people are the Rama, estimated to number about 700, some 7,000 Sumo, and an estimated 1,300 Garifuna. The region also has a black, English-speaking coastal population of about 30,000, and primarily in the southern and western parts of the region, a Spanish-speaking *mestizo* population (of Spanish and Indian origin) estimated at over 100,000.

In February 1981 Nicaraguan state security forces carried out a series of arrests under the Public Order Law in the isolated Atlantic Coast region. Some 200 prisoners, mostly of Miskito origin, were detained in December 1981 in the dispersed communities of the area and taken to the regional capital, Puerto Cabezas. Most were held incommunicade for nearly a month in the custody of State Security Service there. Some prisoners subsequently reported having been ill-treated after their arrest, held for long periods stripped naked, and subjected to kicks, beatings and death threats. Amnesty International expressed concern both about reports of ill-treatment, and also about the conduct of a summary trial in February 1982 in which 135 of the prisoners were convicted of Public Order Law offenses. Eight Miskito Indians were convicted of involvement in violent incidents at San Carlos. Miskito Indian sources subsequently maintained, however, that the forces directly involved in the armed violence of December 1981 had crossed into Honduras before government forces counter-attacked, and that many of the defendants had been detained virtually at random after government forces regained control of the settlements in which the incidents took place.

Although the allegations of ill treatment were to Amnesty International's knowledge never the subject of investigation by the courts or executive authorities, the judge presiding over the first instance trial was dismissed by the Supreme Court as a consequence of his conduct of the trial, and an appeal court in June 1982 drastically reduced or reversed most of th:e sentences. Many of those sentenced, however, including some Amnesty International believed were probably prisoners of conscience, remained in custody until their release in a general amnesty of Miskito prisoners in December 1983.

A decree of December 1, 1983 resulted in the immediate release of 307 Nicaraguans of Miskito and Sumo Indian origin, and some non-Indian prisoners. They had been detained in the coast area at different times since December 1981. Charges were also dropped against individuals not in dentention. An estimated 45 others were released under the decree in the first months of 1984.

A further amnesty law was passed in April 1985, covering Miskito, Sumo and Rama Indians detained for political offenses. Amnesty International did not know the number of prisoners affected.

Allegations of cruel, inhuman and degrading treatment of detainees, including rape, were made in March 1984 following army operations in the Miskito hamlet Lapan, near Puerto Cabezas in Northern Zelaya. Investigation was followed by an army court martial which sentenced the junior lieutenant commanding the detachment to 18 years' imprisonment for rape.

COMPULSORY RELOCATIONS OF COMMUNITIES IN COMBAT ZONES

In the aftermath of the armed clashes of December 1981 in the Coco River area, residents of most of the Miskito Indian settlements along the lower reaches of the river were forcibly evacuated by Nicaraguan troops to sites some 60 kilometers into the interior of the country where new settlements were to be established. Many abandoned settlements were then burned to eliminate sources of shelter or supplies for opposition forces, and to deter unauthorized return by the civilian population. The government maintained that the civilian population was relocated for its own protection, and declared the border area a military zone through which movement was closely controlled.

Amnesty International's concern was to determine whether individuals had been subjected to torture or ill treatment, or arbitrarily killed, during the forcible relocation, and whether the conditions under which these individuals were resettled were analogous to imprisonment for reasons of belief, race, ethnic origin, sex or language. The organization subsequently found that the relocation was carried out in an abrupt and peremtory manner and involved hardship

and suffering for the estimated 8,500 people involved, but did not believe the conditions in which individuals were resettled in the interior to be comparable with imprisonment. No cases of shootings or other deliberate brutality during the transfers were found.

Coco River residents were resettled in January and February 1982 in four new settlements established near the road linking Puerto Cabezas with Rosita in the interior, with tents gradually replaced by prefabricated wooden housing. Population movements in the Atlantic Coast area were closely monitored after January 1981 through a system of photo-identity cards. However, residents of the new settlements were not restricted in their movements in the surrounding countryside, although outboard motors and firearms used in hunting and fishing were confiscated, and could travel to regional market towns, or emigrate to western areas of the country if they wished. Return to the Coco River area, however, was strictly forbidden.

Further compulsory evacuations of rural populations were carried out in Jinotega Department along the Bokay River and the upper reaches of the Coco River in November 1982. They involved an estimated 5,000 Miskito and mestizo residents, some of whom were resettled in a coffee-growing area near Wiwili and San Jose de Bocay.

In late 1983 a further Atlantic Coast resettlement area was established at Sangnilaya, northwest of Puerto Cabezas, to which 1,000 residents composing the population of nine hamlets in the same areas were forced to relocate on the stated grounds that they could not otherwise be protected or receive social services. By December 1984 most of the 1,000 residents had returned to their original communities, although some continued to return periodically to work agricultural land developed in 1984 at the now largely abandoned settlement.

In a shift in government policy in 1985, the compulsory relocation policy on the Atlantic Coast was modified, and many residents of the original resettlement areas returned to the Coco River area. Compulsory relocation or rural population, however, remains an element of government policy in response to the continuing armed conflict. A major relocation program was announced in March 1985, which is reported to involve some 7,000 mestizo families from mountainous areas of Matagalpa and Jinotega departments in which opposition forces had been active.

The Atlantic Coast: unresolved cases

Although recent allegations of abuse of authority in the Atlantic Coast region appear generally to have been investigated by central authorities and their findings made public, some past cases have not been publicly resolved. Investigations into alleged abuses by military forces, moreover, may have been limited to confidential proceedings under the jurisdiction of the army itself before 1984.

Among the most significant allegations are charges of extrajudicial executions at the Coco River settlement Leimus in December 1981 and allegations of the forcible "disappearance" of Miskito Indian prisoners in 1982.

The Leimus Case: December 1981

Allegations of extra-judicial executions by Nicaraguan troops were first made in January 1982 in the Honduran press. According to these reports, sources on the Honduran side of the border reported having heard gunfire on December 23, 1981, and having seen people fleeing from Leimus in Nicaragua across the Coco River to seek refuge in Honduras.

The Leimus incident occurred in the context of cross-border raids in December 1981, the first significant military activity by opposition forces in the Atlantic Coast region. On December 14, 12 members of the Nicaraguan militia had been seized and subsequently murdered by opposition forces at San Carlos, the largest town on the upper reaches of the Coco River; and for a two-day period, December 20 and 21, opposition forces occupied San Carlos. When government forces restored control they found that seven soldiers captured had been tortured and killed, their bodies mutilated. Other attacks were reported periodically up and down the river until government troops were reinforced at the end of December.

The initial public response of the Government of Nicaragua to allegations of a "massacre" at Leimus and other allegations in early 1982 of massive abuses in the Atlantic Coast area was to deny that they had occurred. In February 1982, it invited the Inter-American Commission on Human Rights to visit the Atlantic Coast for an on-site investigation of the situation. The Commission did so in May of that year, and again in June 1983.

Despite its apparent cooperation with the Inter-American Commission, no specific response to inquiries into the events at Leimus was made by the government to the Commission or to other international bodies until September 1982, when a statement was issued by the Army's Office of Public Relations. The document stated that 14 men had been detained at Leimus as suspected collaborators with the armed opposition forces in December 1981. It further stated that the 14 men had subsequently made an escape attempt four days later when the Leimus detachment was attacked by a force crossing the Coco River. The statement maintained that the 14 had been fired upon by guards, but that it had not subsequently been confirmed whether any had been killed outright, although three bodies recovered downstream from Leimus were thought to have been those of some of the prisoners. The names of the 14, it said, could not be confirmed as when Liemus was evacuated after the incident the records had been lost.

In contrast to the army's account, a non-governmental testimony indicated that some 35 people had been detained in Leimus although some claimed more than 80. While former Leimus residents confirmed having heard a single series of gunshots that same night, however, they maintain that no attack had taken place. Government reports released in January 1982 listing incidents along the Coco River during that week also omitted reference to incidents at Leimus on that date.

Other accounts of the killings at Leimus refer to the victims having been in a boat or boats on the river when killed.

Another testimony published by the Inter-American Commission on Human Rights, by a survivor of the incident, tended to confirm that the number of prisoners held in Leimus was considerably more than 14.

A document was prepared in 1983 by the government-created National Commission for the Promotion and Protection of Human Rights (CNPPDH) on the basis of its own investigation into the Leimus incident in visits there in November and December 1982 and May 1983. The document added little to an understanding of the events, however, apart from making it clear that several individuals had been wrongly identified as among those who died there. The report made no reference to an escape attempt. It cited the testimony of a Leimus resident that about 40 Miskitos has been taken into custody that night and that gunfire had been heard on one occasion. Although no explanation was offered for the fate of the prisoners not accounted for, the CNPPDH concluded that "the denunciations of alleged massacres . . . are false."

A secret Ministry of the Interior Special Investigations Unit report on Leimus contradicts the army's initial statement on the incident and the conclusions made public by the CNPPDH. The report includes a deposition taken in 1984 from a junior officer present with army and militia forces at Leimus in December 1981. This statement, and the army report's conclusion, tend to support the allegations that at least 13 prisoners were killed at Leimus on 23 December 1981, in apparent extrajudicial executions (although some may have died in the course of an escape attempt). The statement refers to 25 prisoners having been held, and to the killing of 13 prisoners after an escape attempt on the night of December 23. The junior officer also states that he was told by another person that nine prisoners had previously been killed at Leimus in revenge for the killings of security personnel during the 20-21 December occupation of San Carlos.

The summary of the Leimus case included in the dossier concludes that nine prisoners were summarily executed before the night of 23 December, and that on that night "after a supposed escape by two detainees," the border chief ordered the summary execution first of seven, then of the last six prisoners held. The names of the victims are not confirmed, although the report reproduces the names of victims given in denunciations by human rights organizations and the group MISURA. The report adds that the individuals implicated in the events, including both military personnel and Ministry of the Interior personnel, were tried by the military courts but that they were released six months after their detention. The number of such detainees, and the dates of their detentions, are not specified.

Although little information on the internal military proceedings regarding the events at Leimus has been made public, a copy of a military court ruling was provided to the Inter-American Commission on Human Rights, date 2 April 1983, which exonerated two named junior officers of the crime of murder. Despite the evidence published by domestic and international organizations on the Leimus incident, and the Ministry of the Interior's own investigation report, the Nicaraguan authorities have not released the records or findings of military inquiries into the Leimus incident. Neither have they publicly established the fate of the reported captives still unaccounted for, nor formally acknowledged that crimes were committed by military personnel at Leimus. Although no cases similar to that of Leimus have come to the attention of Amnesty International, it remains concerned that the incident and the fate of those once captive there have not been fully clarified.

Allegations of "Disappearance": July to October 1982

Another unresolved case in the Atlantic Coast area involves reports of "disappearances" in 1982. A list compiled by Moravian Church authorities, made public late in 1983, named 72 Miskitos reportedly arrested

between July and October 1982 in communities around Puerto Cabezas who have not been accounted for. Twenty-eight were identified only by name, with no date or place of arrest given; more detailed information was provided on 44 of the cases, which included seven men reported detained by troops on July 19, in the hamlets Cru-Warvan and Yulo, and 14 detained on July 25 at Kligna-landing on the Karata lagoon.

On several occasions detentions were said to have followed orders by leaders of army patrols for all residents to assemble to attend meetings. As a consequence the reported detentions of groups of people were carried out in the presence of numerous witnesses. Such group arrests were reported at Mani-Watla on July 20, when four detainees were reportedly held briefly in a school house before being taken from the area (Agapito Almanza Henry, Pedro Gonzalez, Lorenzo Pasquier, and Valentin Pasquier), and again on September 2, when five men were reportedly detained after a meeting (Pedro Armstrong, Jonatan Cristobal, Eleuterio Downs Berry, Gregorio Joel Alfred, and Emiliano Usyan Armstrong).

The government responded in June 1983 to inquiries by the Inter-American Commission on Human Rights on 28 of the cases, naming three men it says were killed in armed confrontations between 15 and 20 April 1982 and 11 it said simply were "not in jail." The dates of releases were provided for eight prisoners, and six were identified as being held in Managua's "Zona Franca" prison, registered under slightly different names. Amnesty International subsequently requested an official copy of the government's response to the Inter-American Commission regarding the fate of the 28 individuals, as well as documentation such as copies of detention orders, release orders, prisoner records or death certificates, but no official information on the case was provided.

An Amnesty International delegation which visited Nicaragua in July 1984 received information indicating that some of the individuals still formally unaccounted for had died after capture by army or State Security Service forces. This included reports of individual meetings with regional authorities in which relatives were reportedly informed that the missing had died in unspecified circumstances. Nicaraguan officials met by the delegation provided no information on the cases.

The 1984 Ministry of the Interior report cited above provides the most detailed information available from official sources on the 1982 cases, reproducing the information given to investigators from army and State Security Service records. A summary report included in the dossier, dated April 30, 1984, identifies the detaining force and provides dates of detention and release for 24 of the reported "disapproved," and lists 27 others on which it states that no records could be found.

The report indicates that the 21 others, according to confidential records, were killed either at or near the scene of their reported detentions, or in armed conflict. Information provided concerning the 14 individuals reported to have "disappeared" from Kligna-landing on July 25, 1982, includes copies of written complaints by relatives, stating that when they met the Special Zone One Commander on December 29, 1983, they were informed that their relatives were dead, without any further details. A report from Special Zone One, dated February 9, 1984, answers investigators' queries on the matter. It maintains that no prisoners were taken at Kligna-landing on July 25, 1982, but that an armed group fleeing from a government assault on a training camp at Seven Benk had been attacked there, killing nine. According to the report, only one carried personal documents, and was identified as Larry Wellington, one of those reported to have "disappeared." The investigators' summary report offers no evaluation of the credibility of the account. Despite this, Amnesty International has been informed by opposition sources that dependent relatives of the Kligna-landing residents—and some others still unsatisfactorily accounted for—have been granted government pensions, although no formal statement acknowledging government responsibility for the fate of their relatives has been issued.

In addition to the reported deaths at Kligna-landing, the 1984 report identifies seven individuals who are said to have been the object of "Special Measures," a term apparently used to signify summary execution. According to the 1984 report, these killings were confirmed by the headquarters of Special Zone One in Puerto Cabezas, and figure on a list prepared by that authority of persons "with whom special measures were taken" in the region. The report notes that the existence of the list is known to superior authorities.

The report does not indicate the time period within which such cases were reported in Special Zone One, whether individuals other than those reported to have "disappeared" in 1982 were reported as victims, or whether those responsible for such actions had been the subject of investigation and disciplinary action. Amnesty International is concerned that the use of the term "Special Measures" to describe the apparent summary executions of 1982 suggests that in certain circumstances such actions were tolerated by higher authorities and that their occurrence was deliberately concealed. Amnesty international will continue to seek public clarification of the cases of reported "disappearances" of July to October 1982.

THE RECORD OF OPPOSITION FORCES

In addition to human rights violations attributed to the Government of Nicaragua, a pattern of abuses by armed opposition forces has been regularly reported, including the routine torture. mutilation, and summary execution of captives. Irregular military forces opposing the Nicaraguan Government are believed to be responsible for these abuses.

Irregular military forces were first reported to be carrying out actions against the Nicaraguan Government and civilian targets near the Honduran border in 1980. Their first reported victims were participants in a nationwide literacy campaign who were sent to remote villages and were captured and murdered. Several groups claimed credit for attacks during 1980, including the 15th of September Legion, a force of some 400 former members of the National Guard, headed by National Guard Colonel Enrique Bermudez. In 1981, however, military operations against Nicaraguan targets began on a much larger scale, following an amalgamation of groups of former National Guardsmen in Honduras under the name Fuerza Democratica Nicaraguense, (FDN), Nicaraguan Democratic Force, the estimated 10,000-strong force operating since 1982 from permanent bases in Honduras.[2]

A second armed opposition group, MISURA, is a largely Miskito Indian force, which operates with its primary military base in the Honduran hamlet Rus Rus.

A third armed opposition army, the *Alianza Revolucionaria Democratica* (ARDE), Democratic Revolutionary Alliance, was created in September 1982, based in San Jose, Costa Rica under the military leadership of Eden Pastora, an FSLN commander during the revolutionary war and initially the new government's deputy Minister of Defense.[3]

Amnesty International condemns as a matter of principle the torture or killing of prisoners under any circumstances, whether by governmental forces or non-governmental forces such as domestic opposition groups. However, the organization addresses only governments directly, as entities bound by international human rights agreements. Amnesty International takes action when governments are directly engaged in human rights violations and when they support or condone their perpetration by other agents. The organization may also take action with respect to abuses carried out by certain non-governmental entities which, while not necessarily recognized formally as governments, have some governmental attributes such as the effective control of territory.

Allegations of torture and summary executions of detainees by opposition forces

Torture and summary executions of captives by opposition forces have been reported on a persistent and widespread scale in every part of Nicaragua territory where these forces operate and in Honduran territory within the confines of their permanent base camps. Since 1981 such reports have been received on a regular basis with most allegations coming from the departments of Jinotega and Matagalpa bordering Honduras, and in the Atlantic Coast region.

Major military operations by opposition forces began in Nicaragua's western areas bordering Honduras early in 1981, with nearly 100 armed clashes and assaults acknowledged by government representatives during the first four months of the year. In October 1981 the first such actions were reported in the more remote, sparsely populated areas along the Coco River (the Wangki River in the Miskito language), which divides Nicaragua's Northern Zelaya from Honduras. The people of this nearly roadless area are primarily of Miskito and Sumo origin.

Between 22 October and 14 December 1981 an estimated 50 Nicaraguan civilians and military personnel were reported killed by opposition forces in the Coco River area, at least 12 after being captured, tortured and mutilated. On 14 December 1981 a state of emergency was declared in Northern Zelaya. The emergency, through Decree

[2] Although the formal announcement of the foundation of the FDN, in August 1981, named an executive board of nine (later four) Nicaraguan civilians resident in the United States, Colonel Bermudez was named its chief of staff, and some 40 former National Guard officers were recruited to provide its military leadership.

[3] ARDE's political leadership included Alfonso Robelo, head of the *Movimiento Democratico Nicarguense* (MDN), Nicaragun Democratic Movement; Jose Davila, former leader of the *Partido Socialcristiano*, Social Christian party; and Donaldo Castillo, a former leader of the *Central de Trabajadores de Nicaragua* (CTN), Nicaraguan Workers Confederation. In January 1985, after Eden Pastora's expulsion from ARDE, leaders of ARDE and the FDN announced measures to merge the two forces under a single command as the *Union Nicaraguense de Reconciliacion* (UNR), Nicaraguan Reconciliation Union.

118, suspended some civil rights, including the rights to *habeas corpus* and not to be detained without charge or trial.

Cross-river attacks from Honduras continued throughout December 1981, with considerable loss of life among the opposition forces and the civilian population. In one incident on 20 and 21 December, opposition forces briefly occupied the river town of San Carlos, which, with some 800 inhabitants, is one of the largest on the Coco River. Seven members of the militia captured in the action were subsequently reported to have been tortured, mutilated, and killed.

Others captured have reportedly been taken to bases in Honduras or Costa Rica. Amnesty International appealed to the Honduran authorities in December 1982 after lay church leaders Maria Eugenia de Barreda and her husband Felipe Barreda were seized by FDN forces while working as teachers near the Honduran border, taken across the border, and reportedly transported by Honduran army forces to the town of Danli where they and other Nicaraguan captives were reportedly held and interrogated. According to detailed reports from captives who escaped FDN/Honduran custody at Danli, the Barredas had been severely beaten. Other reports maintained that Maria Eugenia de Barreda had been repeatedly raped and was held bound and gagged. The bodies of the two were reportedly found near Danli several months later.

In some cases Nicaraguan and European citizens have been seized in border areas and taken into Honduran territory with apparent complicity or in some cases with the active involvement of Honduran army units.

International dimensions to abuses by opposition forces

The international dimension of abuses of the rights of prisoners includes both the frequent removal of opposition forces' captives to Honduran and Costa Rican bases and evidence that the armed forces of the FDN are supported, instructed and directed by agencies of foreign governments, including the United States. Assistance to these opposition forces by the Governments of the United States and Honduras introduces an element of governmental responsibility for the actions of the opposition forces.

The United States Government's role in the FDN's development was first formally acknowledged in early 1982. A November 1981 executive order was reported to have instructed that government's Central Intelligence Agency (CIA) to assist the development of the FDN as a military force (with a provision of $19 million in special funding for that purpose).

* * * * *

In September 1985 the FDN's titular head, civilian Adolfo Calero, responded directly to criticism of FDN atrocities by announcing the adoption of a "code of conduct" establishing norms for the treatment of civilians and prisoners. Amnesty International has not yet obtained a copy of the code or received information on its implementation.

Conclusion

In conclusion, grave abuses continue to be committed by both the government and irregular, anti-government forces. As for the government's record, while some advances have been made, the overall human rights picture remains cause for serious concern. With regard to the irregular forces opposed to the Nicaraguan Government, no significant improvement in the record of abuses has been recorded.

Amnesty International continues to press the government of Nicaragua to uphold its international obligational to promote and protect human rights. Specifically, we continue to urge the government to introduce the reforms necessary to ensure that the state of emergency currently in force does not further jeopardize fundamental human rights. In addition, we have made it clear in numerous approaches to the government that its responsibility is to ensure that those responsible for abuses such as torture and arbitrary killings are brought to justice.

While Amnesty International does not generally take a position on questions of foreign policy, the organization may address secondary governments in cases where opposition groups act with financial or logistical support from that government. In this regard, Amnesty International military assistance is concerned at the implications of proposals for U.S. military assistance to the irregular forces in Nicaragua. Specifically, it is Amnesty International's position that the proposed U.S. assistance should not in any way encourage or contribute to violations of human rights within the mandate of Amnesty International.

In a communication to Secretary of State Shultz in February 1986, a number of specific questions were raised in this regard. The relevant portions of the text of that communique appear below:

1. In the context of ongoing assistance programs, what measures have been taken to ensure that United States Government material does not contribute to gross violations of human rights, including torture or summary execution, by the member forces of the United Nicaraguan Opposition (Union Nicaraguense Opositora, Uno), which has received such assistance?

2. What manuals or instructions have been issued by United States Government agencies to assisted forces and what steps have been taken to review them to ensure that such manuals do not directly encourage violations of human rights?

3. Has the United States, as a party to the Geneva Conventions of 1949, taken steps in accord with its obligations to ensure that contending parties in the Nicaraguan conflict, whether or not involving United States personnel, respect the norms established for the treatment of protected persons under the conventions? Has the United States Government advised the forces it has been assisting of their obligations with respect to the "grave breaches" defined in each convention?

Today the future of human rights in Nicaragua stands at a crossroads. As U.S. legislators you can play a crucial role in determining the direction that human rights will take and making the promise of human rights a reality.

HUMAN RIGHTS IN NICARAGUA

(Testimony by Aryeh Neier, Vice Chairman, Americas Watch)

Thank you for this opportunity to address the question of human rights violations by the Government of Nicaragua and violations of the laws of war by the Nicaraguan contras. The Americas Watch has published eight reports on human rights in Nicaragua over the past four years; three of them include a discussion of violations by the contras. My testimony will include a discussion of violations of the laws of war by both sides, followed by a discussion of Nicaraguan government violations of political rights.

VIOLATIONS OF THE LAWS OF WAR

In our March 1985 report on violations of the laws of war by both sides, the Americas Watch found that (1) both parties to the non-international armed conflict in Nicaragua are bound by the provisions of Common Article 3 of the Geneva Conventions and by customary international law rules applicable to internal armed conflicts, (2) that both sides had committed serious violations of the laws of war, (3) that in the case of the Nicaraguan Government, major abuses were committed in December 1981 when its forces murdered 14 to 17 Miskitos at Leimus, and in 1982 when its forces killed some 7 Miskitos at Walpa Siksa and when they caused some 70 Miskitos to disappear and (4) that in the case of the contras, major abuses including killings, torture, and kidnappings have occurred throughout the conflict.

Attacks on Civilians by the Contras: The contras have consistently targeted and killed civilians, particularly those persons believed to be supporters of the Nicaraguan government or active in local government. The Americas Watch collected testimony from witnesses and survivors on 90 instances of contra killings of civilians in 1985, including the murder of a health brigadier and his 16-year old son at Cruz de Piedra in December, the killing of 3 people at Verdun in October, the abduction and killing of a farmer at Colonia Nuevo Leon in August, the kidnapping, mutilation, and killing of a young man and the robbery and murder of another man at Los Angeles in October, and the mutilation and killing of two men at Verdun in November.

In addition to targeted political killings and kidnappings, the contras have conducted indiscriminate attacks in which civilians are killed. One such attack took place in Somotillo, on February 16, 1986, where, according to the New York Times, "a landmine tore through a pickup truck carrying 17 civilians. A rebel band waiting in ambush then opened fire. Five women ranging in age from 28 to 70 were killed. A Swiss agronomist who had worked in the area for three years also died." Prior to this incident, contras killed seventeen mothers who were travelling to visit their sons in the military service and wounded as many as forty-three other civilians in two separate occasions in September 1984 and July 1985.

The recent capture and abduction of eight West German civilians by the contras is an illustration of a common practice over the past several years. On May 17th, the contras kidnapped eight West German volunteer construction workers and held them captive for nearly a month before releasing them. Evidence gathered by Americas Watch suggests that kidnapping of civilians perceived by the contras to be linked to the government or collaborating with it is a systematic practice. Some of those persons abducted are later found dead, others are forced to join the contras, some are "disappeared." (All of the foreign volunteers who had been kidnapped were eventually released.)

Attacks on Civilians by the Nicaraguan Government: The Nicaraguan Government does not have a policy of attacking civilians in the course of military operations, and the Americas Watch has not received testimony of killings or abductions of civilians in the past several years. The Americas Watch has reported two occasions in the past where there is credible evidence that government troops murdered civilians. One incident took place at Leimus in which government troops

murdered 14 to 17 prisoners on December 22nd, 1981. Another incident of killing of civilians involved the murder of 7 Miskito Indians at Walpa Siksa in 1982. In several places on the Atlantic coast, 70 Miskitos disappeared after their arrest by security forces between July and September 1982. In spite of the repeated inquiries by their relatives, by the Moravian Church and by Americas Watch, the Nicaraguan Government has not yet provided any explanation of their fate and whereabouts.

In January 1986, there were reports that the Nicaraguan armed forces bombed civilian targets during a military attack in central Zelaya. The contra group, Misurasata, accused the government of attacking civilians during bombardment of the town of Layasiksa and stated that there were several deaths. The Nicaraguan Government says that civilians were not targeted but that the bombing had been directed against an armed contingent. Journalists traveling to the area established that, though the majority of bombs had been dropped on the outskirts of the town, two houses had been hit and residents of Layasiksa reported the death of a 13-year-old boy and the wounding of another child. The Americas Watch is concerned at the reports of possible casualties and the destruction of two houses, and reiterate that even given an armed presence by individuals who signaled their intent to engage in combat at Layasiksa, it was incumbent upon the Nicaraguan Government to minimize harm to civilians under the circumstances.

Disciplining Those Responsible for Abuses, Nicaraguan Government: Despite the insistence of the Inter-American Commission of Human Rights of the Organization of American States, the Nicaraguan Government has never shown that it conducted an impartial investigation into the Leimus killings and punished those responsible. It appears that Gustavo Martinez, a junior officer in charge of the security forces in Leimus at the time, and several of his subordinates, were investigated and served some time in military prison. A Subcomandante in the Nicaraguan armed forces told the Americas Watch in May 1984, however, that the investigation failed to establish responsibility for the murders and that the soldiers were punished for breaches of military discipline. With regard to the 1982 Walpa Siksa killings, we understand that the officer responsible for this action was summarily executed by orders of his superiors in the field. To our knowledge, there has been no satisfactory investigation, accounting, or punishment for those responsible for the disappearance of 70 Miskitos in 1982.

Disciplining Those Responsible for Abuses, Contras: To date, the Americas Watch is only aware of one instance in which the contras have prosecuted a soldier for a human rights violation. According to the State Department's reports to the Congress, there were 21 trials between May and September 1985, resulting in 19 convictions. Information was provided to the Americas Watch by UNO/CDH (a U.S.-funded contra human rights public relations organization) on 14 of the cases prosecuted (the other 5 were convictions for breaches of military discipline). Eight convictions were for contra violations against other contras; one was for growing marijuana; 3 were cases of property crimes against Nicaraguan citizens; one was a property crime against a Honduran. One case involved a multiple rape of several very young women by a soldier, the only one that dealt with a serious violation of human rights. According to UNO's own records and the State Department's reports to Congress, the contras do not appear to have punished a single case of murder, kidnapping, torture, or execution of captured soldiers.

Displacement of Civilians From Their Homes: The displacement of thousands of Nicaraguans, primarily living in the north-central zones of the country, has occurred during several years of war. The government of Nicaragua estimates that as of December 1985, a total of 250,000 persons in Nicaragua were displaced by war. We have received estimates that as many of 55,000 people were forcibly evacuated by the government as opposed to leaving their homes voluntarily. The Americas Watch has criticized the manner in which civilians have been displaced by the Nicaraguan Government. We have suggested standards that we believe should be met by governments seeking to relocate large groups of civilians: A government is obliged to minimize harm to civilians affected by relocation by: (1) providing as much notice as is reasonably possible; (2) providing reasonable transportation to carry out the evacuation; (3) providing assistance in moving personal possessions; (4) providing temporary housing for those being evacuated and (5) aiding families in staying together during the period of evacuation and subsequent relocation. Displaced persons testified to Americas Watch that they had been given less than 24 hours to leave and that they had not been permitted to take most of their personal belongings, recently harvested crops, supplies, animals, farm implements, or household goods with them. In some instances the displaced were forbidden to return home through the military danger ostensibly necessitating the move appeared to be largely over by January 1986. The displaced, many of whom had been housed on cooperatives and collectives did not want to be there, and when granted permission to return to their homes on the Rio Coco, about 10,000 did so in mid-1985.

Approximately 10,000 Miskito Indians left their homes on the Atlantic Coast this spring and sought refuge in Honduras. This is the largest exodus of refugees since 1982. The Indians exodus from Nicaragua came just eight months after the Nicaraguan Government granted permission for the residents of displaced persons settlements (who were forcibly relocated by the government in 1982) to return to their original homes along the Rio Coco. Americas Watch interviews with international relief workers in the area and the refugees themselves indicate that they were encouraged to leave the area by Kisan, an armed Indian group. According to the Christian Science Monitor of May 27, 1986, "As long ago as last December, refugees arriving in Honduras told relief officials that 'everyone' on the Rio Coco was going to leave Nicaragua. . . . To scare the Indians into leaving Nicaragua, Kisan spread rumors of an impending Sandinista advance, refugees said. Some Miskitos who had wanted to stay on the Rio Coco told relief officials that the rebels forced them to leave. Once inside Honduras, the refugees were met by Kisan officials, who kept them at rebel-controlled farms. Refugees said the guerrillas held recruiting sessions with the new arrivals before sending them on to UNHCR reception centers."

The Americas Watch conducted interviews in Honduras in early April 1986 and received testimony that Kisan was also preventing refugees from returning to their homes in Nicaragua.

VIOLATIONS OF HUMAN RIGHTS BY THE GOVERNMENT OF NICARAGUA

The Permanent Commission on Human Rights (CPDH), a private human rights group in Nicaragua, and the Americas Watch have compiled information about a dozen disappearances and killings out of combat during 1985. Some other "disappearances" are temporary, and relate to the government's failure to notify families promptly about the detentions and whereabouts of prisoners or the transfer of prisoners from one detention center to another. The Americas Watch has been calling upon the Nicaraguan government since 1982 to establish an effective system for promptly acknowledging detentions and for notifying families. CPDH has compiled information on four cases of extra-judicial executions where it appears that the victims were arrested by security forces before their deaths. In two of the cases witnesses reported that the hands of the victims were bound and that they had been tortured. The Americas Watch gathered information on two additional cases of extra-judicial killings. One was the October, 1985 death of Rev. Juan Pablo Pineda, the pastor of the Pentecostal Church of God in Guayucali, Esteli. Pineda's decapitated body was found bearing signs of torture. Lt. Rene Lagos, the commander of the military post who shot Pineda was arrested and sentenced by military courts to 25 years in prison. Another case was that of Zacarias Martinez Coronado, a 17-year-old agricultural worker who was killed in November in Matagalpa following his detention by police, apparently for draft evasion. Nine suspects in the death of Martinez were prosecuted in military court but charges were dropped for lack of evidence.

In October 1985, the Nicaraguan government amended its previous state of emergency decree. The changes provided the government with sweeping powers to restrict freedom of movement, expression and association; to curb the right to strike; and to intrude on personal privacy. Consistent with our position with respect to other countries, Americas Watch does not challenge the decision of the government to institute emergency measures suspending certain rights, as it is evident that Nicaraga faces a severe military threat. (Similarly, we have not criticized the Salvadoran government's decision to maintain a state of siege.) Nonetheless, however, we find that the emergency legislation has been abused, particularly with respect to freedom of expression.

In the first six weeks following the imposition of the State of Emergency in October 1985, the Nicaraguan government arrested hundreds of opposition political leaders and others suspected of opposition activities. Most were detained for relatively brief periods and released without charges. Mistreatment in detention consisted mainly of confinement in very small, dark cells; and the use of sleep deprivation and irregular feedings to disorient detainees.

Many of the complaints of abuse of detainees come from pre-trial detention facilities which are not accessible to international human rights monitoring groups. It is particularly important that prisoners held in pre-trial detention be granted routine private visits by the International Committee of the Red Cross, in the same manner in which the ICRC visits the facilities of the penitentiary service.

Popular tribunals (TPA's) were established under an earlier state of emergency

in 1983 to deal with the more serious security related offenses. In 1985, there were 50 final sentences affecting 128 defendants. We continue to object to these special courts, principally on two grounds: first, their composition, which includes two lay persons in each court selected and removed by mass-based organizations, lends itself to political manipulaton of the judicial process; second, the lack of judicial review does not permit Nicaragua's independent judiciary to exercise any control to curb abuses of due process.

Since the imposition of the state of emergency, freedom of expression has deteriorated drastically. The editor of La Prensa has stated that more than 60% of the news copy submitted to the censor is forbidden as opposed to around 40% before October 15th. Furthermore, the government confiscated the first issue of Iglesia, a periodical of the Roman Catholic Archdiocese of Managua and the office of the Comision de Promocion Social of the archdiocese was closed down. At least one journalist for Iglesia was arrested and detained and interrogated for four days. The circulation of a labor newsletter, Solidarid was also prohibited in January, as was the newsletter called Prisma and three persons distributing the latter were arrested. Radio Catolica, the station of the Archdiocese of Managua, was closed down in January.

The emergency legislation also limits the activities of trade unions, political parties, and religious organizations: they are no longer authorized to hold outdoor meetings and they are required to obtain permits to hold indoor meetings. The use of short-term arrests in the first several months following the imposition of the state of emergency also impaired the ability of organizations to function, to attract new members, or to retain their current members.

CONCLUSIONS

Human rights in Nicaragua deteriorated during the past year. All the major parties to the conflict contributed to this deterioration: the Nicaraguan government, which stepped up its assault on dissent and further restricted civil liberties; the contras, who continued to murder civilians in violation of the laws of war; and the United States, which sponsored the contras.

TESTIMONY OF STEVEN M. TULLBERG

Thank you Mr. Chairman for the invitation to speak here today. It is a privilege to participate in this Senate forum with these distinguished members of the human rights community. My testimony will focus primarily on the situation of the Indian peoples of the Atlantic Coast region of Nicaragua, the Miskito, Sumo and Rama.

I am a staff attorney with the Indian Law Resource Center of Washington, D.C. Our Center is a non-profit charitable organization which carries out legal and educational work on behalf of American Indians. Most of our work is on behalf of Indians within the United States, but inceasingly we have been asked to assist Indian peoples in Central and South America who have been suffering some of the worst human rights abuses in this hemisphere. For over five years we have worked on matters involving Nicaraguan Indians and the Sandinista Government of Nicaragua.

A Nicaraguan Miskito leader in exile, Armstrong Wiggins, is on our Center's staff. We have worked closely with MISURASATA, a Nicaraguan Indian organization headed by Brooklyn Rivera whose offices are in Costa Rica. We also maintain contacts with a number of other Nicaraguan Indian leaders who are in Honduras and Nicaragua. Our Center was the principal complainant in the Miskito case in the OAS Inter-American Commission on Human Rights. We have also brought complaints about violations of Indian rights in the Inter-American Commission and before human rights bodies at the United Nations in Geneva against Guatemala, El Salvador, Brazil, Paraguay and the United States. Our Center is a non-governmental organizational with consultative status in the United Nations.

I accompanied Brooklyn Rivera on an official trip inside Nicaragua in October, 1984. During that trip we visited seven government camps for relocated Indians and several Indian communities. That visit was the first step of a peace effort between MISURASATA and the Sandinista Government. I served as a legal advisor to MISURASATA at each of the four rounds of formal peace talks which subsequently took place in Colombia and Mexico. Since May 1985 when the peace talks broke down, I have been involved in several unsuccessful efforts to resume talks to end the Indian war on Nicaragua's Atlantic Coast.

I am told that the Nicaraguan Indians with whom we work are called "traitors" by some officials within the Reagan Administration. After the peace talks broke down, the Sandinistas began declaring that our Center is a "front" for the CIA" and that I am a "CIA agent." Our Center has no connection to the CIA, and we have never received any government funds. I am neither a traitor nor a CIA agent, but I am a strong advocate of Indian rights in all countries of the Americas.

The intensity and the emotional character of the debate over human rights in Nicaragua is in substantial part due to the fact that the issue of human rights is seen as intertwined with the issue of national security by almost all parties involved. Because of perceived threats to national security interests, reports on human rights in Nicaragua are frequently colored and distorted by the left and the right, by the Sandinista government, the United States government and other interested governments, and by Nicaraguan Indian leaders who are striving to secure what they consider to be their own Indian national interests.

In this charged atmosphere we might take a moment to learn from others who have faced this perceived conflict between human rights and national security in other difficult times. We could consider the case of Earl Warren, the late Chief Justice of the Supreme Court, who began his political career in California in such difficult times. As a government official he helped organize and implement the plan to forcibly relocate over 100,000 Japanese-Americans. At the time when the United States was entering World War II, after the Japanese attack on Pearl Harbor, this massive relocation program had widespread support among almost all sectors of American society, including civil libertarians. Much later the Japanese-American relocation became recognized as one of the most shameful episodes in our nation's history.

Chief Justice Warren's otherwise illustrious career was badly stained by the abuses he had committed against Japanese-Americans. However, to his credit, he criticized himself in his memoirs and passed on to us some wisdom he gained through sad experience:

The atmosphere was so charged with anti-Japanese feeling that I do not recall a single public officer responsible for the security of the state who testified against a relocation proposal.

These [Japanese-Americans] who did not move by a certain date were to be confined to concentration camps established by the United States Government.

I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens.

It was wrong to react so impulsively, without positive evidence of disloyalty, even though we felt we had a good motive in the security of our state. It demonstrates the cruelty of war when fear, get-tough military psychology, propaganda, and racial antagonism combine with one's responsibility for public security to produce such acts.

"The Memoirs of Earl Warren" (Doubleday, 1977) pp. 148–49.

In that spirit we should discuss human rights in Nicaragua today. We should reaffirm that our fears and concerns about the national security of the United States, of Nicaragua or of other neighboring countries in this hemisphere must not interfere with our commitment to uphold human rights principles and standards. We must tell the truth, and we must always be willing to criticize ourselves.

A very important fact about human rights in Nicaragua is the existence of two wars: one between the government and the resistance forces of UNO, FDN, ARDE and BOS (the so-called "contras"), the other between the government and the Indians of the Atlantic Coast. The war with the "contras" has given rise to widespread human rights violations by both sides, and it has served as a justification or pretext for the massive curtailment of basic rights and liberties of Nicaraguan citizens.

The Indian war, however, is itself a war about human rights. It is a war of resistance being fought by the Indian population to defend basic human rights, particularly their right to their native lands and their right to the continued autonomy or self-government. It is a war which has been sparked and fueled from the beginning by the violation of human rights by the government against Indian individuals and Indian communities. The Indians are fighting not to topple the government in Managua or to reverse the revolution of 1979. On the contrary, they are fighting to give realization to the revolution for Nicaragua's poorest and most oppressed population.

Many of the early Sandinista abuses against the Indians are well-known. What is less understood is that the suffering of Nicaraguan Indians is still extreme and widespread. I will briefly summarize several of the most pressing human rights issues concerning the Indians of Nicaragua.

DEPRIVATION OF BASIC NECESSITIES

Reports we have received from visitors recently returning from Nicaragua include accounts of the lack of basic food supplies, the lack of medicines and medical care, and the lack of clothing, tools and all other basic necessities.

In time of war, we cannot say that every inconvenience or deprivation rises to the level of a human rights violation. Yet in this case the deprivations of basic necessities appear to be the direct and intended result of government policies. In our judgment, the Sandinista government is violating the basic human rights of virtually an entire Indian population.

FORCIBLE RELOCATION AND CONFINEMENT

Shortly after the MISURASATA—Sandinista peace talks broke down in May of last year, Tomas Borge, Sandinista Minister of the Interior, made a surprise declaration permitting thousands of Miskito Indians to leave the so-called "Tasba Pri" (Free Land) camps to which they had been forcibly relocated in early 1982. By the end of 1985, some 14,000 Miskitos had returned to their traditional village sites along the Coco River. They began the difficult task of restoring scores of villages which the Sandinista army had utterly destroyed at the time of relocation. They suffered from severe shortages of food, medicine, tools, shelter, seeds and all necessaries, but they were very pleased to be home. Through much hard work they began to rebuild their communities.

In its March 1986 report on Nicaragua, Americas Watch stated that this return of Miskito people to their Coco River villages had "brought to a close" the Indian relocation program. That statement is not correct. Some 3000 to 6000 Miskito and Sumo Indians remain confined in government camps in the Jinotega and Matagalpa regions of Nicaragua's Pacific Coast. These are the people who were forcibly relocated in late 1982 from upper Coco River villages. (That relocation came to public attention when a helicopter carrying 75 of their children crashed and burned, killing all aboard except the helicopter crew.)

These people are living in shamefully overcrowded camps where they pick coffee for the state at token wages. In a November 1984 op-ed piece in the New York Times, Senator Edward Kennedy wrote that these people were living "in intolerable conditions in forced-labor camps which resemble concentration camps." I can personally attest to the truth of that statement because I visited four of those camps in October 1984. Recent reports indicate that the conditions have at best remained the same and may have even worsened.

We understand that these long-suffering people are pleading for permission to return to their villages along the Coco River. We should work together to publicize their plight and to pressure the Sandinista Government to free them. Visitors to Nicaragua who are particularly concerned about human rights should ask for government permission to visit these camps, including San Antonio de Upa, Isla de Upa, Abesinia, and La Paz.

On the basis of information which we have gathered over the years from a variety of sources, we are more convinced than ever that the Sandinista program to relocate and confine Indians was motivated primarily by a desire to control a segment of the Nicaraguan population which was resisting Sandinista control and had begun engaging in armed conflict against the government. In essence, Indians were relocated because they were viewed as an untrustworthy population.

The Sandinistas themselves have made clear that their recent program to relocate many thousands of non-Indian peasant farmers on Nicaragua's Pacific Coast is at least in part due to the same motivation.

As human rights advocates we must never countenance forcible relocations which are based even in part on a government's determination that the class, race or group of people being relocated are suspect or disloyal.

SANDINISTA MILITARY OFFENSIVES AGAINST INDIAN COMMUNITIES

From the beginning of the MISURASATA-Sandinista peace initiative in late 1984 until January of this year, there was a marked reduction of armed conflict on Nicaragua's Atlantic Coast. There was also a marked reduction in arbitrary arrests, interrogations and tortures in the Atlantic Coast region during that period. In April 1984 a formal accord reducing offensive military actions was reached between MISURASATA and the Sandinista Government. Some Indian military field commanders extended this reduction of hostilities by signing ad hoc cease-fire accords with the government.

This limitation of armed conflict was punctuated on several occasions by outbursts of fighting between Indian and Sandinista troops. For example, in late October, 1985, there were ten days of fighting which was reportedly triggered by the killing of a Miskito man. This relative peace was very fragile because none of the underlying Indian grievances had been resolved, and because the competing forces had not laid down their arms.

On January 21, 1986 the Sandinista armed forces began a military offensive against the Indian forces. This new offensive was at first aimed at Brooklyn Rivera and a delegation of three North American Indian representatives who had accompanied him inside Nicaragua. It began with aerial bombing and strafing at the Miskito village of Layasiksa. According to reports we received from reliable sources, the Sandinista air force used Somoza-era aircraft and modern Soviet Mi-8 helicopters in the bombing of a number of other Indian communities in the region south of Puerto Cabezas. Sandinista ground forces also engaged Indian forces in this region, and this led to extensive fighting throughout the Atlantic Coast region for a period which lasted long after Rivera and his delegation escaped by boat to the Colombian island of San Andres. During this period, Sandinista military forces occupied a number of Miskito villages, and many Indian villagers fled once again to the bush.

In this recent offensive the Sandinista military forces demonstrated again their disregard for the safety and wellbeing of non-combatant Indian villagers. We have received reports of civilian casualties in Layasiksa and Wawa, but we have no total casualty figures, because the Sandinista government has imposed tough restrictions on travel in the area. It is only in the last few weeks that Sandinista military forces were reportedly withdrawn from the Miskito villages of Haulover, Wawa, and Wounta.

The Sandinista military knows it is fighting a popular Indian guerrilla force which receives much aid and support from their own Indian people. Today, as in the past several years, it is these same Indian villagers who have suffered most from the indiscriminate use of military force by the Sandinistas. Some of their villages are reportedly pockmarked by bomb craters.

THE RECENT FLIGHT OF MISKITO REFUGEES TO HONDURAS

As already noted above, many of the Miskitos forcibly relocated to government "Tasba Pri" camps were permitted to return to the Nicaraguan side of the Coco River in the latter half of 1985. Almost all of these people are now in Honduras. They began fleeing in January of this year as the fighting once again began between Indian and Sandinista troops. Perhaps as many as 1600 fled from late January to March 25. But most of those who fled, at least 10,000, left their Nicaraguan villages in a two week period beginning in the early morning hours of March 25. This is the largest exodus of Miskitos from Nicaragua since 1982. The total Nicaraguan Indian refugee population may now be as high as 35,000.

Sandinista officials and the official Sandinista press have described this latest massive exodus as a "kidnapping." Over the years the Sandinistas have repeatedly described almost all Indian refugees as kidnap victims. Even though the majority of these refugees are officially registered in camps run by the UN High Commissioner for Refugees, the Sandinista press insists they are being held captive in Honduras. Sandinista press reports state that conspiracies involving the KISAN Indian organization and the CIA are behind this latest "kidnapping."

We have used many sources to obtain information about this latest development, including the press, human rights organizations, Indian refugees who were part of the recent exodus, Nicaraguan Moravian church sources and others. On the basis of these reports we make these observations:

—The Miskito villagers returning to the Coco River were determined not to be forced once again into government camps. After some three years in the "Tasba Pri" camps, they were more fearful than ever of once again being under Sandinista military control. They were prepared to flee rather than be trapped in a situation which a Miskito man said was "like being in a hole."

—At first the Sandinista military stayed away from the Coco River villages. There was reportedly an understanding that Sandinista military forces would not enter the villages.

Only Indian fighters, most from the KISAN organization, were in the villages, and they moved freely among them.

There were a few armed clashes between Indian and Sandinista forces in the region near these villages in the early months of this year, and some of the villagers immediately began leaving for Honduras. Some went to Honduras because of the shortage of food and medicine on the Nicaragua side. Most stayed and worked hard to rebuild their villages, clear back the jungle overgrowth and plant their crops. The Sandinistas provided almost no food, medicine, tools, and other necessaries. Some humanitarian relief organizations and Sandinista-solidarity groups began trying to raise funds in the United States for these people.

A good bean crop was almost ready for harvest when the Sandinista military began a surprise offensive into a few of these villages in the dark of the early morning hours of March 25. The villages immediately affected were Bilwaskarma, Wasla and Kum. The Sandinistas fired some mortars into the villages and entered with ground troops and armored vehicles believed to be T-55 Soviet tanks.

Fighting immediately erupted between the invading Sandinista forces and the Indian fighters in the villages. There were casualties among the combatants and among the non-combatant villagers. Reports indicate that three non-combatant villagers, an elderly woman and two children, were killed by a Sandinista mortar in Kum and that one or two others were killed in Wasla. We do not have a comprehensive report on casualties. The Sandinistas said there were no casualties.

As word of the Sandinista military operation spread up and down the river, the villages began emptying. People gathered a

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few belongings and promptly fled across the river to Honduras, fearful of being again relocated or militarily dominated by the Sandinistas and fearful of being caught up in the fighting. Within a few days all but some 2000 had left.

The people fled because of the Sandinista military operation and not because of any plan or conspiracy to embarass the Sandinistas and influence the "contra" aid vote in the U.S. Congress.

Sandinista officials have not give a clear or consistent explanation of their objectives in this operation. It is not known whether they anticipated that the general exodus would occur.

In Honduras the situation has been very difficult for these people. In addition the problems they face as refugees, they face problems and pressures caused by political and military forces in the area which are very unstable and sometimes hostile. There are fears that the Sandinistas may strike at them from

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The Sandinista Government has instituted its own "autonomy project" for the Atlantic Coast region, but it is a top-down, unilateral approach to the Indian rights question rather than the bilateral approach which Indian leaders are demanding. The Indian leadership wants a treaty or agreement rather than a statute or edict which Managua can amend or repeal at will. The government's autonomy project is now in shambles because there is widespread resistance to it, even among those indiviuals who were appointed by the government to autonomy study commissions. Also, the draft new constitution for Nicaragua has a provision which makes clear that that the Sandinistas are talking about respect for Indian culture and folklore but not fundamental Indian rights to land and self-determination. The peace talks between MISURASATA and the Sandinista Government broke down because the Sandinistas refused to negotiate over these fundamental Indian rights issues.

We see in the reports of recent developments that particular Sandinista operations, strategies and tactics have changed over time. But the character of the government policy and the resistance of the Indian population have remained fundamentally unchanged.

It is not easy to give compassionate and humane attention to these issues in the present climate of ideological polarization and military confrontation, but we must do so. In these difficult times we must be true to our principles.●

HUMAN RIGHTS IN GUATEMALA

● Mr. HATFIELD. Mr. President, recently the New Republic published a shocking piece on the extent to which the G-2, the Guatemalan military intelligence unit, has maintained its ruthless power despite the election last December of a civilian government. The two authors, Allan Nairn and Jean-Marie Simon, have covered Guatemala and its many governments for over 5 years and through their various sources, have presented a compelling case in support of an unequivocal denunciation of the continued abuses of the Guatemalan military machine. Notwithstanding Secretary Shultz' assurances in his June 6 letter to Chairman LUGAR that politically motivated killings and abductions have "dropped significantly," the Nairn-Simon piece, "Bureaucracy of Death," makes the case persuasively that any United States attempt to send military aid to Guatemala would be counterproductive and would in fact weaken Vinicio Cerezo's incipient democracy.

Mr. President, I believe every Member of the Senate would be well-advised to read "Bureaucracy of Death" and to ponder the implications of this article seriously. I ask that the text of this article appear in the RECORD at this time.

The article follows:

BUREAUCRACY OF DEATH

(By Allan Nairn and Jean-Marie Simon)

On the surface, Guatemala, the largest country in Central America, appears placid. There are fewer houses ringed with sandbags than in Nicaragua, fewer armed men in the streets than in El Salvador, and six months ago the country elected its first civilian president since 1966, Christian Democrat Vincico Cerezo. His administration has launched an anticorruption campaign and the country's first public-sector jobs program in more than a decade. But in this apparently hopeful atmosphere, union members, religious leaders, peasant activists, and other potential opponents of the Guatemalan military still face the constant threat of violence from their government.

In February Cerezo said that the country was experiencing a resurgence of political killings and noted that 69 cadavers, many of them showing signs of torture, had appeared during his first three weeks in office. In March the secretary of a Christian Democratic youth group was gunned down in his house along with his father and his sister. In April two refugees disappeared after they were dragged from a parish house where they were living under the protection of a Catholic bishop. In May, Victor Hugo Codoy, a member of the Congress's human rights commission, said that "it is very easy to recognize the same practices of years ago, including not just torture, but also the infamous coup de grace." On May 30 seven bodies appeared in one day on the streets of Guatemala City. Over the last six months, killings not attributed to combat or common crime have been running at more than 60 per month.

How to confront this ongoing terror is the primary challenge facing Guatemala's newly elected government. The victims are not killed by what is sometimes called "senseless violence" or by "the cycle of violence between left and right." They are killed by an efficient system of political terrorism. At the heart of this system is the intelligence apparatus of the Guatemalan military, known by its bureaucratic label, G-2. The G-2 is the unelected government of Guatemala that Vinicio Cerezo must find a way to control.

Cerezo is Guatemala's first chief of state in 20 years who would not order the killing of an unarmed civilian. He has a reformer's past and has survived three assassination attempts by the army he now nominally commands. But he serves at the suffrance of what is still the most murderous army in the Western Hemisphere. Although such estimates can't be precise, the archbishop of Guatemala, Próspero Penados, says that Cerezo holds 25 percent of the power. Cerezo himself claims 30 percent, and says that he will build from there.

From the start of his campaign, Cerezo pledged to limit the goals of his presidency. "My government will not plan social reforms," he stated bluntly, "because the army would oppose it." He promised to refrain from land reform and the prosecution of army officers for prior political murders. In return, he expected to be permitted to serve out his term, and said he would abolish the Department of Technical Investigations (DIT), a band of civilian thugs who killed and abducted on orders from G-2 and pillaged on their own account. The army agreed, and forged a tactical alliance with the man they had once reviled. The G-2, which is normally circumspect, even put the alliance on paper. Cerezo read us a confidential G-2 memo written before the December election predicting that the Christian Democrats would win "due to the links they have forged with the army, as well as with the United States."

Once in office, Cerezo fulfilled his campaign pledge. In a spectacular raid the DIT staff was apprehended en masse. It was the third time in Guatemala's last six administrations that this infamous corps had been purged. Almost 200 agents were fired, 400 were sent to a remedial police training course, and one was arrested on a weapons charge and subsequently released.

In the meantime, the military had taken steps to assure that its power could not be challenged by the new government. Four days before Cerezo's inauguration, the outgoing chief of state, General Oscar Mejia Victores, issued a series of sweeping decrees that stunned Cerezo's hopeful supporters. The measures narrowed civilian authority and legalized military control in the countryside, where the army is fighting a counterinsurgency war against a small guerrilla movement. One of the decrees created a State Security Council to handle aspects of national security that might fall under the jurisdiction of civilian Cabinet officers. Military officers serve on this council along with the civilian ministers, and their joint decisions are administered by the head of the council—who is required by the terms of the decree to be the army's secretary of intelligence. Another decree prohibited Cerezo from prosecuting any military officers for political crimes committed in the last four years.

Although Cerezo faces growing pressure to hold the armed forces accountable for their violence, he has been unable to comply. When Christian Democrats at the grass-roots level began joining the call for repeal of the amnesty decree earlier this year, Cerezo quickly squelched the move. This spring he announced that a commission would begin working on June 30 to investigate the thousands of disappearances, but was publicly pessimistic about its chances of getting access to secret army information. On June 5 he indefinitely postponed plans for the commission.

Meanwhile, the country's only human rights organization, the Mutual Support Group (GAM), is growing by the day. Modeled after the Mothers of the Plaza de Mayo in Argentina, the GAM is led by a group of courageous women whose husbands and children have disappeared. The GAM has publicly called for an accounting of the missing and for trials, such as those held in Argentina in 1985, of the officers responsible. Relations with Cerezo are becoming increasingly strained. In March he urged the GAM to "stop being masochistic and forget the past."

The army is confident that it has prevailed. "Do you think we've left behind any evidence?" one colonel taunted a journalist, demanding to be quoted. "In Argentina there are witnesses, there are books, there are films, there is proof. Here in Guatemala there is none of that. Here there are no survivors." This belief is widely shared in Guatemala and in Washington. But, inconveniently for many, it is not true. In fact, there are survivors and people on the inisde who will talk, including high-ranking officers and the street-level killers they command. There are still many obstacles to justice for the Guatemalan military, but lack of evidence is not among them.

"We are in a war," explained Colonel Edgar Djalma, a G-2 veteran who served as army spokesman for most of the time from 1979 to 1984. "If under that concept it means that the government has an apparatus dedicated to finding and eliminating people of the left, to me that is perfectly normal." Djalma said that "a government can use all existing forces: the army, the police, the treasury police. . . . Each chief of government may look to another repressive apparatus or create his own." The point, he stressed, is the importance of G-2 coordination. He showed us a 1980 memo in which he wrote: "In the first phase, the intelligence section should be used above all prior to repressive actions or clean-up operations."

Djalma's matter-of-fact description is confirmed by General Benedicto Lucas Garcia, the flamboyant and blunt former army chief of staff and brother of an ex-president. "If the G-2 wants to kill you they kill you," Benedicto told us. "They send out one of their trucks with a hit squad, and that's it." Benedicto says he knows that when his brother, General Romeo Lucas Garcia, was president from 1978 to 1982, the government was responsible for at least 70 percent of the assassinations and disappearances.

Benedicto blamed some of the violence on common criminals and the guerrillas. The insurgents, organized in three major groups, have several thousand armed combatants operating primarily in remote rural areas. "When they've eliminated people," Benedicto said, "they've said so." Last year one Western intelligence official told us that the guerrillas "have been selective. They direct their killings toward the army, security forces, and, to a lesser extent, the civil patrols." The State Department's most recent human rights report estimated that the guerrillas had assassinated 59 military officials and 33 members of the civil defense forces last year. There were a total of 304 "civilian non-combatant deaths" in the entire country in 1985 (fewer than reported by Amnesty International, the Organization of American States, and other human rights groups), according to the State Department. The report included accounts attributing 28 of these killings to the guerrillas.

Benedicto claims that most of the killings during his brother's administration were directed by his brother's top aides, not by Romeo Lucas himself. But Raul García Granados, a cousin of the Lucas brothers and Romeo Lucas's chief adviser, makes no attempt to avoid responsibility. He explained to us that "the death squads were organized under the patronage and the approval of the government and the army, because it was the only way to fight guerrillas. The [death squads] have the sympathy of most of the Guatemalan people. They have lists of people that are suspected to be communists of whatever kind," he said, "and they kill them."

The lists and the philosophy behind them date back to 1954, when a CIA-sponsored invasion overthrew the left-leaning government of Jacobo Arbenz, which instituted a land reform program and was supported by the communists. The army sifted through the confiscated membership records of labor, peasant, and professional groups that had supported Arbenz, and classified 70,000 people as communists. During the 1960s dossiers from the updated files were used by the armed forces to destroy a left-wing guerrilla movement and other opponents. In 1968 *Time* magazine reported the chief of the U.S. military mission, Colonel John Webber, as saying that paramilitary groups run by the army were "licensed to kill peasants whom they considered guerrillas or 'potential guerrillas.'" By 1979, the National Police were brazen enough to issue a press release announcing that between January and October of that year "1,224 criminals" had been killed by El Escuadron de la Muerte (the Death Squad), and 3,252 "subversives" by the Ejército Secreto Anticómunista (Secret Anticommunist Army). Throughout the early 1980s the army's top officers continued their assault on those they defined as the enemies of national security. In 1983 chief of state General Mejía Víctores condemned the Guatemalan priesthood for "advocating totalitarian doctrines." Twenty-four hours later Father Augusto Ramírez Monasterio, a Franciscan superior, was shot in the back as he fled an armed forces van that had followed him from his mother's house.

This is the military of which Cerezo, as commander in chief, now ostensibly has control. In a series of recent interviews, a veteran of the high command who has held senior army posts since 1978 described how the Guatemalan system works today. Western intelligence officials and other high-ranking Guatemalan officers have offered similar accounts. This officer says that each of the country's military bases has a G-2 office whose function is "the elimination of individuals." These offices report to the G-2 control center in the National Palace. The G-2 in turn is overseen by the Army General Staff and ultimately by the minister of defense. Altogether G-2 employs more than 2,000 agents nationwide, including about 100 full-time officers. The G-2 staff can also call on the resources of any branch of the army and security forces.

"There's an archive and computer file on journalists, students, leaders, people of the left, politicians, and so on," the officer says. This archive is maintained in the G-2 offices on the fourth-floor terrace of the National Palace, with copies in the adjacent Presidential Annex. "The file will say where the person was born, what party he belongs to, and the most important incidents of his life. One, for example, will say: '1957, participated in such and such a worker's movement; 1960, went into exile for the following reason; 1972, returned to Guatemala; 1975, participated in demonstration in the university. And finally, died on such and such a date.' It never says who was responsible."

The bureaucratic procedures for approving the killing of a dissident are well-established. "A local military commander has someone they think is a problem," the officer explains. "So they speak with G-2, and G-2 consults its own archives and information from its agents and the police and, if all coincide, it passes along a direct proposition to the minister of defense. They say, 'We have analyzed the case of such and such a person in depth and this person is responsible for the following acts and we recommend that we execute them.'"

The G-2 officers can also make their own recommendations. "There is a weekly meeting of the chiefs of the General Staff, and they do an analysis of the [political] situation which is presented to the chief of staff," the officer says. "They give a political appreciation. Such and such a union is moving, who's behind it, who is the head. Then the decision is taken, 'All right, we'll proceed.'"

Prominent political dissidents get special consideration. "When there is a big fish, G-2 makes a presentation, they review all the problems with the person, the objective of the mission, and their recommendation. They can give three options—disappear them, eliminate them in public, or simply invite them to leave the country. . . ." During the regime of General Mejía, for example, army chief of staff Rodolfo Lobos Zamora, presidential chief of staff Pablo Nuila Hub, and Mejía himself often presided at the meetings, according to this officer and others.

At high-level meetings such as these, the military decided in 1979 to assassinate the country's two leading democratic politicians. The first was Alberto Fuentes Mohr, the former foreign minister. He was machine-gunned to death as he drove by a military base in Guatemala City shortly after registering his new Social Democratic Party. Two months later, Manuel Colom Argueta, the charismatic former mayor of the capital, was slain in downtown traffic while a helicopter hovered overhead. Only one week earlier, Colom Argueta had registered his own new center-left political party.

Colonel Djalma says that he personally worked on the G-2 investigation of Fuentes Mohr, which concluded he was a communist. But Djalma says the decision to kill Fuentes Mohr was made at a higher level. According to two ranking officers who participated in the discussions, the plans to kill the two politicians were relayed by General David Cancinos, who was then minister of defense and overseen by Colonel Hector Montalvan, who was presidential chief of staff. Montalvan declined to comment on the charge. Montalvan's chief aide at the time was an officer named Edgar Godoy Gaitan. Earlier this year, the army appointed Colonel Godoy to be commander of the G-2.

Beatriz Barrios's name has been in G-2 files for several years. A schoolteacher and a law student, she had been picked up by the army twice in the last five years. Both times she was freed after the intervention of a relative who is a high-ranking military officer. After the second abduction, she had gone to the Canadian Embassy, which was quietly running a refuge program that had spirited dozens out of the country. The Canadians moved quickly to book her on a flight to Toronto.

At the airport her reservation passed across the desk of a colonel in the G-2 section named Gilberto Barreda, who has an office in a modest cubicle off the passenger arrival corridor. Barrios was due to leave the country early on the morning of December 11. Hours before her scheduled departure, she phoned for a taxi from a friend's house. Either the cab was followed from the friend's house or the call was monitored over the G-2 intercept lines at the national phone company. Ten minutes into the ride, the taxi was pulled over. Barrios was dragged away by four heavily armed men.

The next morning a G-2 army captain named Armando Villegas was seen by a group of his colleagues by the side of a highway south of the capital standing over Barrios's naked and multilated body. A note in Villegas's handwriting had been placed on the corpse, saying, "*Faltan Mas*"—"More to come." After the killing, Captain Villegas was made a director of Cerezo's presidential guard. His superior at the time, General Jaime Hernandez, has been chosen by the army as Cerezo's minister of defense.

One common assumption in Guatemala and the United States is that all the disappeared are dead. Clearly, most are. According to Amnesty International, "many thousands" have disappeared in recent years; the army admits to no political prisoners. But testimony of survivors and G-2 officials indicates that between capture and execution dozens and perhaps as many as a hundred *desaparecidos* can be found at any given time in the network of clandestine G-2 holding centers.

These centers range from ordinary-looking civilian homes to cordoned-off sectors of army bases. For example, a tree-shaded mansion at 5-15 Seventh Ave., Zone 9, in the capital was used in 1983 as a secret prison and interrogation center. As of early 1986, *desaparecidos* were being held at the headquarters of a security force called the Ambulant Military Police (PMA) outside the capital. The prisoners were held in cells hidden behind a concealed door in a building next to the soccer field. Another center, in operation at least until Cerezo's election, is located in the mountains of the Atlantic coast outside the town of Playa Grande, according to agents who have worked there as guards.

All legal efforts to learn the location of G-2 centers have been thwarted. Last September the mother of Fernando de la Roca Elias was able to record the license numbers of two cars used in her son's abduction. She went to the Guatemalan Supreme Court to force the government to release the identities of the vehicles' owners. In an unprecedented—and thus far unrepeated—decision the court ordered the government to comply. One car, plate P-75177, is registered to the Ministry of Defense, the other, plate P-253217, is assigned to the Cuartel General, the country's largest military base. Military sources also say that three peasant coop members from the town of Patzún abducted by a G-2 until last April 24 were still alive earlier this year and being held on the grounds of Cuartel General. In January the army appointed the commander of this base, General Héctor Alejandro Gramajo, as Cerezo's army chief of staff.

A few lucky enough to escape or be freed from the G-2 system have told their stories. Jim Boldenow, an American minister, was dragged from his car at gunpoint in 1982 and taken to a holding center where interrogators displayed a rack, electric cattle prods, and metal-tipped sticks they said were used for breaking bones. A friend of Boldenow informed the U.S. Embassy of the kidnapping, and embassy officials contacted then-chief of state General Efrain Rios Montt. He personally radioed the holding center and ordered Boldenow's release.

Last year a labor lawyer named Ramiro Ruiz Palma was tipped off by a friend that he was "on a list." He was able to have a contact within the government peruse his G-2 file. The G-2 had discovered that Ruiz Palma had advised a union at the Bank of Guatemala and made trips to Argentina and Mexico. They concluded that he was "a Marxist," and had marked him for elimination. He fled the country. Two weeks later, a union leader, Julio Celso, was snatched from a street corner and interrogated about Ruiz Palma's departure. Celso says he was taken to a house downtown, where he could hear prisoners screaming in other rooms. Celso was strapped to a blood-soaked mattress and threatened with a syringe. Only pressure on the army from friends in the U.S. labor movement secured Celso's release 24 hours later.

A personal connection to a senior officer or G-2 employee has become one of the more valued relationships among the middle and upper classes of Guatemala City. Only they can let relatives know the status of disappeared persons, how they are faring in clandestine detention, and when they are executed. For example, the mother of an agronomist named Jorge Rosal Paz, who disappeared in 1985, was consoled to receive from her G-2 contact at least a memento of her son: his identity card photo.

A few are still willing to speak out publicly against the system of political violence. "They [the military] have created a climate of terror," says Archbishop Próspero Penados, "a form of psychological torture, of constant uncertainty." Since becoming the country's leading bishop in 1984, Penados has boldly denounced the army for a number of specific killings. Nonetheless, Penados rations his public candor and keeps his distance from the GAM, the outspoken human rights group. "In Guatemala, one has to be very careful what one says," he explains. "One walks around with the knowledge that they can kill you at any time."

Nineth García, a housewife in Guatemala City, knows what Penados means. Her husband disappeared in February 1984. Afterward a squad of machine-gun-toting soldiers from the government's special operations brigade invited themselves into her house. They laughingly told her that her husband was "just a little bruised" and would be released in a few days. When he failed to appear, she helped launch the GAM in June 1984. The last two people who attempted to establish human rights organizations in the country were both assassinated. Today García, her eight-year-old daughter, and her fellow GAM survivors are the targets of frequent death threats. She says she now regularly receives phone calls late at night in which a tape-recorded voice describes her upcoming funeral and starts to laugh.

The GAM is the only group left in the country that will publicly confront the army. Last year General Mejia denounced the GAM as "a pressure group managed and directed by the subversion, and one that is making problems for the peaceful Guatemalan population." A police spokesman added that the group "has reached such extemes that it cannot be tolerated anymore." Nine days later Héctor Gómez, a baker active in the GAM, was abducted as he left a meeting. His body appeared the next day with his tongue cut out. Five days later, another GAM leader named Rosario Godoy de Cuevas, who had given a passionate speech at Gómez's funeral, was snatched from a shopping center along with her brother and two-year-old son. Her raped and mutilated body was found in her car; the baby's fingernails had been torn out.

When we asked General Mejia about the incidents at a press conference last November, he denied that either case was a homicide. He said that the Godoys had perished "in a traffic accident." When asked how the baby had lost his fingernails in a car crash, Mejia replied that the existence of that injury—which was witnessed and photographed at the wake—was "disinformation."

President Cerezo told us that he attributes the killing of the GAM leaders to agents of the DIT. Cerezo says he is "convinced that the decision was made at the highest level of the government." Military officials involved in the operation confirm this view. They say that a team headed by Jaime Martínez Jiménez, then the chief of the DIT homicide division, carried out the killings. They say he was acting on the orders relayed by Colonel Carlos Dorantes Marroquín, who was then the G-2 commander. Dorantes refused to comment about the GAM killings. Martínez, these sources say, was supervised by army lieutenant colonel Juan Méndez. This February, when the DIT offices were raided, Jaime Martínez was nowhere to be found. He had been informed of the raid in advance and chose to stay home.

It is hard to say who would be more stunned by justice for the Guatemalan military: the victims or the army. The officers and oligarchs who run Guatemala are accustomed to eliminating reformist challengers and dismissing the shaken survivors with gestures of amused contempt. General Mejia has explained the country's chronic violence as "a folkloric problem that began with Cain and Abel. . . . The problem is that nobody is content with anybody."

In a statement as bold as any made under previous military regimes, the army recently acknowledged that the killings of recent years had indeed been official government policy. Defending the decree that gives amnesty to all officers, the army said the measure was needed "to avoid reprisals against government functionaries who, with the framework and jurisdiction . . . of their public functions, may have afterward become the object of controversy."

Guatemala's bureaucracy of death appears more comfortably entrenched than at any time since the mid-1960s. The abolition of the DIT, a group of expendable civilians, has won the armed forces international praise, while G-2's assassinations continue as before. A popular civilian president can now renegotiate the country's foreign debt and secure economic aid for the country's ailing agricultural exporters—impossible under the previous military regimes. And despite earlier statements that he would tolerate no repression on his watch, Cerezo has yet to denounce a single army killing. This May his interior minister said that political murders are no longer a problem.

Cerezo surely would be far more willing to pursue prosecution of military officers if he did not feel that it threatened the survival of his government. If, for example, the Reagan administration publicly condemned the military's ongoing crimes, and supported efforts to hold the army officials accountable, the dream of ending the military's reign of terror would become a real, though distant, possibility. State Department officials claim that private diplomacy can work, leaving little prospect that the Reagan administration will go public. Yet still there is a feeling in Guatemala that unpredictable forces have been loosed and that the final disposition of the country's G-2 assassins is a story yet to unfold. At Cerezo's inauguration, angry crowds spat upon army trucks and shook their fists, crying, "*asesinos!*" In his first five months in office, Cerezo has received hundreds of letters—some from the friends and relatives of vic-

tims, some from government insiders—denouncing specfic murders and abductions, and naming the officers responsible.

After hearing the pleas of GAM members a year ago, General Meji replied: "You have stated that there are secret prisons—clandestine—and that your sons are alive. You have been given every means available [to locate them]. You can go wherever you like. Where are these clandestine prisons? Where are these family members? . . . I don't know where they are. When you find out, let me know."

The general may be getting an answer sooner than he expected.●

THE AFRICA FAMINE, RECOVERY AND DEVELOPMENT FUND ACT OF 1986

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 2208, the Africa Famine, Recovery and Development Fund Act of 1986, introduced by my good friends and colleagues, the senior Senator from Massachusetts and the junior Senator from Wisconsin. S. 2208 responds to the urgent need for long-term relief, recovery, and development of sub-Saharan Africa. The United States of America has much to be proud of for responding generously to help the starving people of Africa in times of emergency. But I also believe that emergency relief efforts are not enough. Indeed, we need a long-term funding program for African famine relief that will help eliminate the root causes of Africa's plight by creating a situation of self-sufficiency and sustained future growth. S. 2208 is a step toward achieving of this goal.

I believe that when the problems of countries, such as the sub-Saharan African nations, are so massive and widespread, it is often hard to identify precisely what their most pressing needs are. This difficulty can sometimes be the cause of waste and an inefficient allocation of resources. With respect to S. 2208, however, I am confident that the objectives of the desired long-term development assistance have been well examined and thought out, thanks to recent studies sponsored by the Overseas Development Council and the Council on Foreign Relations and the Congressional Office of Technology Assessment. Also, in setting the objectives of this bill the knowledge or organizations such as InterAction—an association of over 100 United States private and voluntary organizations working in international development—which have a unique and thorough understanding of African development needs have been taken into careful consideration.

As my colleagues have expressed clearly in their statements of introduction on March 19, 1986, this bill is intended to be only a working bill, or first draft, which will create a point of departure for further efforts to solve Africa's famine problems. The United States has to prove that it is willing to support those nations which are willing—even eager—to enact changes in their economic infrastructures to correct these problems. I believe that it is through bills such as this one that other countries will recognize the United States' good will, and thus be prompted to join in our efforts. This consideration is of vital importance because Africa needs the help of a global and well-structured initiative, not the uncoordinated and sometimes contradictory efforts of single countries incapable of uniting their efforts to create a more efficient aid program.

Mr. President, it is for all these reasons that I strongly support this legislation and urge my colleagues to join me as cosponsors of S. 2208.

Thank you, Mr. President.●

THE PROPOSED SUPPLEMENTAL EXTRADITION TREATY BETWEEN THE UNITED STATES AND THE UNITED KINGDOM

● Mr. D'AMATO. Mr. President, I rise today to register my strong opposition to the proposed Supplemental Extradition Treaty between the United States and the United Kingdom. If agreed to by the Senate, this supplemental treaty will supercede the extradition between the United States and United Kingdom signed in 1972.

I commend the administration's effort to draft a treaty with an ally in an attempt to combat terrorism. It is vitally important that nations victimized by terrorist acts work closely together to better prevent and respond to future terrorist attacks. I also commend the Foreign Relations Committee's efforts to improve upon the language of the supplemental treaty that was originally submitted to the Senate. However, while the Supplemental Extradition Treaty as amended in committee is an improvement, it is still unacceptable.

Our courts have a distinguished record in extraditing terrorists. We should not sweepingly overrule their carefully considered judgments that deny extradition in certain cases. Yet that is precisely what this treaty seeks to do. I am most concerned that the provisions of this treaty will be retroactive. Approving this treaty in its present form may well result in the extradition of certain individuals who American courts have refused to extradite after the most careful consideration. Such a result would be similar to the enactment of a bill of attainder or an ex post facto law in violation of the principle contained in article I, section 9, clause 3, of our Constitution: "No Bill of Attainder or ex post facto Law shall be passed."

I cannot support a bilateral international document that contradicts the general prohibition in American law against ex post facto laws and bills of attainder. Although there may be an exception to this rule in some cases, it is extremely questionable that we can justify breaking this rule in the cases of individuals whose extraditon has already been denied by American courts.

I therefore plan to offer an amendment to this treaty when it is offered on the Senate floor to make certain that it is not applied retroactively.

Although this treaty is touted as a blow against terrorism, I note for the record that neither the term terrorism, nor any definition of terrorism, is to be found in the treaty. It is vital, as we debate this treaty, that we define exactly what terrorists are, and what they are not.

I ask for the record whether our courts have behaved irresponsibly in refusing to extradite certain individuals so that it becomes necessary to overturn their decisions by legislative act? Have our courts failed to distinguish between the terrorist and the person deserving the protections of the political offense exception? The answer is "No." Our courts, operating within the context of current law and existing treaties, have served us well. The accused innocents have been protected, and the proven guilty have been extradited.

Another problem I have with this treaty is that it singles out Irish people, and subjects them to much narrower rules than any of our other treaties provide. Under this treaty, virtually all relative political offenses are eliminated. The political offense exception is firmly entrenched in American extradition practice. The United States is a party to nearly 100 bilateral extradition treaties. Each one has a provision that exempts political offenders from extradition. No other treaty, even those which have been recently concluded, contain the narrow political offense exception provision found in the proposed U.S.-U.K. Supplemental Extradition Treaty.

Mr. President, I yield to no one in my abhorrence of terrorism. Last August, legislation I introduced was incorporated into the International Security and Development Cooperation Act of 1985 which called upon the President to negotiate a viable treaty among those nations plagued by terrorism to effectively prevent and respond to terrorist attacks. I sincerely want to promote cooperation with our allies to battle terrorism.

I agree with the opinion in the 1984 extradition case, "In the Matter of Doherty," which stated that "a proper construction of the treaty in accordance with the law and policy of this Nation, requires that no act be regarded as political where the nature of the act is such as to be violative of international law." Recent bilateral extradition treaties, such as those with Italy, the Republic of Ireland, Jamaica, and others, limit the political offense exception by excluding those crimes

which violate international law. The supplemental treaty, on the other hand, seems to be other than a forthright effort to combat terrorism. It seems to be an attempt to address one nation's particular political problem—and to do so unfairly.

Offenses that fall within the scope of the convention for the suppression of unlawful seizure of aircraft, the convention for the suppression of unlawful acts against the safety of civil aviation, the convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents, and the International Convention Against the Taking of Hostages, should be, and in most recent extradition treaties are, included in U.S. extradition treaties.

A better way for the United States to combat terrorism would be to initiate broader treaties on terrorism among nations that are victims of terrorism. A general multilateral agreement on terrorism would ease the way for bilateral extradition treaties.

Certain parts of the proposed Supplemental Extradition Treaty are welcome additions to the original treaty. Certain crimes, such as hijacking and crimes against internationally protected persons, are acts of terrorism that are covered by multilateral treaties and should be excluded from the political exception rule. As for those accused of certain other crimes listed in the treaty, I feel it is important that the question of whether they should be extradited should continue to be decided upon by our independent judicial system.

The courts merit our trust. I cite the case of *Abu Eain* v. *Wilkes*, 614 F.2d 504 (7th Cir. 1981), as an example of how reponsibly our courts have behaved and of how effective they have been in combating terrorism. In that case, the seventh circuit granted an extradition request by Israel. The court approved the extradition of a Palestinian who had set off a bomb in a crowded marketplace, killing five people and injuring many more. The court clearly stated that the political exception doctrine does not protect outrages against humanity such as random bombing "intended to result in the coldblooded murder of civilians."

Yet another major reservation I have about this supplemental treaty is based on my lack of faith in the court system used in Northern Ireland, particularly the infamous Diplock courts. These courts were created in 1973 under the Northern Ireland Emergency Provisions Act. Even before this act, the government introduced a new system of detention without trial. This controversial court system does not provide for jury decisions. Instead, one judge determines, on questionably gathered evidence, the fate of a defendant. Some say that the defendant's fate is predetermined. Some say that these are nothing but kangaroo courts. From the information I have seen, it would be hard to disagree. I am concerned that the proposed treaty will expose the innocent to the highly questionable practices of these courts.

Mr. President, this Supplemental Extradition Treaty between the United States and the United Kingdom needs much work before I can support it. The Committee on Foreign Relations has made several helpful changes, including those that strike the British preference in the statute of limitations provision; allow U.S. courts discretion to deny extradition if the accused would be prejudiced by reason of race, religion, nationality, or political opinions; provide a rule of inquiry by U.S. courts; and allow defendants to submit evidence on conditions in the home nation and its court system.

Unfortunately, these changes do not go far enough. It is imperative that we remove the retroactivity clause and correct the other deficiencies I have cited. I would ask that the Foreign Relations Committee reconsider this treaty and rework many of its provisions before reporting it to the full Senate. Until this is done, I ask my colleagues to join me in opposition to this treaty and to support the amendment I will offer when it is considered by the Senate.

Thank you, Mr. President.●

LIABILITY INSURANCE CRISIS

● Mr. McCONNELL. Mr. President, the liability insurance crisis has exerted increased pressure on our ability as a free society to cope with the cost of litigation and to ensure against risks in a variety of fields. It is a crisis of the highest order, for it threatens both our economic well-beng and our sense of community and cooperation. When the threat of being sued is foremost in one's mind, a subtle but insidious change in one's attitude toward society takes place.

Recently, the Courier Journal in Louisville, KY, published two articles bringing to the public's attention another pair of innocent casualties of the liability crisis—Kentucky's Railway Museum and Madisonville, KY's traditional Fourth of July fireworks celebration.

Kentucky Railway Museum officials are not sure they will be able to afford—or if they can even get at any price—liability insurance after the museum's current policy expires July 15. If the museum is forced to close, thousands of Kentuckians and visitors to our great Commonwealth will be deprived of the historic treasures and experiences offered by this museum.

The Madisonville Kiwanis Club and Parkway Plaza Mall canceled their annual fireworks display for this Fourth of July when their fireworks, producer, Col. Wise Fireworks Co., of Louisville, KY, was unable to meet liability insurance requirements. The owner of the fireworks company, whose family has been in this business since 1871, said insurance premiums for his business have more than doubled and his business is off by 25 percent. Not only is Mr. Wise and his employees suffering, so are the thousands of Madisonville residents who are deprived of a safe fireworks display next weekend.

These are just more examples of the growing number of small businesses, municipalities, recreation centers, and nonprofit organizations suffering because of this runaway liability explosion.

Mr. President, I would like to ask that the Courier Journal articles entitled, "Insurance Problem May Soon Sidetrack the Railway Museum," by Glenn Rutherford; and "Fear of Liability Is Taking Bang, Fire Out of the Fourth," by Robert Barr, be published in full in today's RECORD.

The articles follow:

INSURANCE PROBLEM MAY SOON SIDETRACK THE RAILWAY MUSEUM

(By Glenn Rutherford)

Just when things were beginning to look up for the Kentucky Railway Museum and its 81-year-old steam locomotive, a liability-insurance problem is threatening to stop the organization in its tracks.

Museum officials aren't sure they'll be able to afford—or even get—the coverage they need for excursion trips when the museum's policy expires July 15. Those trips are vital to the museum's financial future they said.

"This could be disastrous for us," museum spokesman Elmer Vogel said. "We're really up in the air about what might happen."

This might mean that scheduled runs between Clermont and Bardstown on June 21 and 22 could be the last of the season.

Museum members spent 13 years restoring Engine 152, and they went into debt doing it. After a couple of highly successful excursion runs with the locomotive earlier this spring, the museum was hoping to use additional trips to recoup much of the restoration cost.

In fact, they were depending on excursion profits to operate the museum on Dorsey Lane in eastern Jefferson County.

All museum officials know for certain is that the museum's liability insurance carrier, Lexington Insurance Co. of Massachusetts, has decided against writing any policies for coverage of more than $1 million.

The Seaboard System Railroad requires the museum to have $3 million in liability coverage before it can use Seaboard tracks for excursions.

Museum President Alan Kempo said the present policy, which provides $3 million in coverage, costs $7,000. The company hasn't given the museum a new rate for the $1 million coverage they're willing to write, but "we expect that premium to jump anywhere from $7,000 to $15,000," he said.

Even with that more expensive policy, the museum would still need an additional $2

million in coverage before it could run excursions.

"We might be able to get the additional insurance on a per trip basis," Kempe said. "We think it'd cost between $500 and $1,000 a day."

The additional coverage would come through joining group policies issued to other tourist railroad or museum groups.

"But next spring, when those policies run out, what would we do then?" he said. "I'm trying to sound as optimistic as possible. If we can't run the trips, it's not going to be the end of the museum. I don't think. But it would certainly put us on hold for a while.

"We'd be left in a caretaker situation; about all we'd be able to do is cut the grass."

The public's response to Engine 152 "has been tremendous," Vogel said. "We've had people from all over calling us wanting to schedule trips. You know, after working 13 years to restore that engine, and after seeing the great response we've had to it, something like this is a real disappointment."

FEAR OF LIABILTY IS TAKING BANG, FIRE OUT OF THE FOURTH

(By Robert Barr)

With insurance companies demanding more bucks for the bang, Morton, Ill., Madisonville, Ky., and other towns around the country have decided they can't afford fireworks for the Fourth of July.

Associated Press bureaus report that the show goes on in many other cities, but at a higher price.

"We're in the same boat as every other community," said Diane Trezenski, the city clerk in Dunkirk, N.Y., "but we refuse to give up our traditions."

The Michigan Municipal League, which offers insurance to about 200 cities, discontinued coverage for fireworks on Jan. 1.

"It's a needless liability that we don't need to be involved with," said Bob Kish, an insurance representative for the league. "On the average Fourth of July we'll get eight or nine injuries, and that out of about 200 cities."

The annual displays sponsored by the Madisonville Kiwanis Club and Parkway Plaza Mall were canceled because their producer, Col. Wise Fireworks Co. of Louisville, was unable to meet liability insurance requirements.

"The last time we spoke with Col. Wise, they were only going to be able to furnish a bond, not a certificate of insurance . . . and that's not good enough," said Doug Berry, vice president of the Kiwanis club.

Cliff Wise, whose fireworks company has been in his family since 1871, said insurance premiums have more than doubled and his business is off by 25 percent.

In Morton, the village board and the Veterans of Foreign Wars post decided to cancel their annual show.

"As if people couldn't tell, we are awfully nervous about insurance this year," said board member Jack Bond.

Lack of fire insurance killed the "Skyfire" show in Reno, Nev., where a hot, dry spring has made the threat of brushfires especially serious, and the Rotary Club in Sierra Vista, Ariz., canceled its show at Buena High School after the school board required $2 million in liability coverage.

"The availability of that high a coverage is almost nonexistent," said outgoing Rotary club President John Sinclair, who is also superintendent of schools.

"No one can write a million-dollar umbrella—$500,000 is all, the best you can get. And you can't do it unless you're a member of the American Pyrotechnic Association," said Ray Stout, owner of Fireworks Productions, which is involved in several shows in Arizona.

He said Tempe, Glendale and Tucson cooperated by co-insuring or granting a waiver.

In Topeka, Kan., insurance for the annual "Go 4th" fireworks show won't cost any more than last year, sponsors said.

But the big show at the Kansas City (Mo.) Spirit Festival, July 3-5, was salvaged when the City Council lowered its insurance requirement from $1 million to $500,000.

The insurance industry blames the increase in costs on soaring damage awards handed out by juries. Trial lawyers and other critics accuse the insurance industry of greed.

The Board of Education in Lockport, N.Y., had demanded a $5 million policy this year from the Zambelli Internationale Fireworks Manufacturing Co. because of an explosion last year that frightened spectators but caused no injuries.

"It added excitement to the crowd," said George "Boom-Boom" Zambelli. The company, based in New Castle, Pa., is one of the rare firewords companies that can offer a $1 million liability policy, he said.

The Lockport board later agreed to accept the $1 million coverage.

"I don't think you can get $5 million coverage anywhere," said John Conkling, executive director of the American Pyrotechnic Association.

"To my knowledge, there has never been a claim paid out in excess of $500,000," Conkling added.

August Santore, owner of Garden State Fireworks, said his company will produce 125 shows this year. "Our claims average only about $700 to $1,000 a year," he said mostly for cars damaged by falling ashes.

Zambelli, whose company will stage the fireworks display at the Statue of Liberty festivities, said his company will produce 1,400 displays this year.

Brighton, Mich., canceled its fireworks after Christy Eilber, a 15-year-old spectator, was killed at the 1984 show.

Her parents are suing the city and the fireworks manufacturer.

"The one that killed my daughter was the size of the three-pound coffee can," said Dorothy Eilber, "I don't call that fireworks. I call that a bomb."●

OUR NATIONAL SYMBOL

● Mr. LEAHY. Mr. President, a couple from my home State of Vermont, Chester and Burdys Page, have written a majestic song about one of our Nation's most elevated symbols—the eagle. Chester and Burdys asked me to help them gain recognition of their song which they call "Our National Symbol."

I do so gladly. Their song honors the eagle for its importance to this Nation as a symbol of our strength, and reminds us of its struggle to fight back from near extinction. The eagle is still an endangered species that must never be allowed to vanish from our skies through ignorance or neglect.

Mrs. Page has also written a story for children about the eagle to accompany their song. Used together, I think they could be a winning combination in our classrooms, and I would encourage teachers in Vermont, and across the country, to make them a part of our children's understanding of this great symbol of freedom.

It will be their responsibility to ensure the eagle's continued survival.

Mr. President, I ask that the full text of "Our National Symbol" be printed in the RECORD.

OUR NATIONAL SYMBOL

The eagle is our symbol
Of this we should be proud.
It's a great American heritage,
That we have been allowed.
He soars way high above us,
His powerful wings outspread.
The king of all the mighty birds,
With white majestic head.

Chorus:
Oh mighty eagle, God protect
For all the world to see,
Our Nation's strength he'll represent,
Until eternity.

He glides so quietly through the skies,
No noise can we detect.
Although he was almost extinct,
Our symbol we'll protect.
And from his lofty mountain top
With all his regal ways,
He shows he's king and master
Of all that he surveys.

Chorus:
Oh mighty eagle, God protect
For all the world to see,
Our Nation's strength he'll represent,
Until eternity.

Oh glorious eagle, in the skies,
Our national symbol strong,
America's proud of his great strength,
He's been with us so long.
So help protect our heritage,
In each and every way,
And keep our symbol always safe,
For the grand old U.S.A.

Chorus:
Oh mighty eagle, God protect
For all the world to see,
Our Nation's strength he'll represent,
Until eternity.●

THE OPENING OF THE SEQUOYAH BIRTHPLACE MUSEUM

● Mr. SASSER. Mr. President, this Saturday, June 28, Tennessee will celebrate the opening of the Sequoyah Birthplace Museum in Vonore, TN. This museum, the result of cooperation between the Eastern Band of Cherokee Indians and the Tennessee Valley Authority, will memorialize the literary genius and profound contributions to the Cherokee culture of the Great Cherokee linguist, Sequoyah.

Little is known by the general public about this great man, even though his statue rests in the rotunda of this building. No great dramatizations have ever been made about his life; no movies, no television programs have been produced to publicize his work. In fact, most encyclopedias devote more space to the giant trees of California that carry his name than they

do to the man after whom these trees were named.

Yet Sequoyah was a giant in our world. He was born in Tuskeegee, one of the historic towns of the Cherokee tribe located on the little Tennessee River, in about 1776, the son of a white trader and a Cherokee woman. He grew up in the Cherokee Tribe as a hunter and fur trader until permanently crippled in a hunting accident. He never attended school, but learned to read and write by studying mission-school primers. Yet, by 1821, Sequoyah had devised a syllabary, a set of 85 or 86 written characters representing each syllable of the spoken Cherokee language, bringing literacy to the Cherokee people.

Literacy in turn brought a constitution and a code of law to the Cherokee Tribe in 1827. And when the Cherokee Tribe was forced to move West to Oklahoma along the "Trail of Tears" in the 1830's, Sequoyah took his language system West, carrying literacy among the Cherokee people as they went. He died an old man, at age 83.

Sequoyah was a great man among a great people. The establishment of the Sequoyah Birthplace Museum is not only an opportunity to educate Americans about one of our early American heroes, but to educate Americans about the Cherokee people, both past and present, as well. The museum will house displays of historic Cherokee culture, and artifacts and documents relating to the work and contributions of Sequoyah. It will be run by the Eastern Band of the Cherokee Indians. Designed to perpetuate and preserve the history, culture, and antiquities of the Eastern Band of the Cherokee Indians, the museum should help to serve as a lasting tribute to both the Cherokee genius, Sequoyah, and to the Cherokee people.

Mr. President, the Sequoia tree, for being the giant among trees, has a very shallow root system. People often wonder how these trees grow so tall with such shallow roots. The answer lies in the trees' interlocking root system. By intertwining their roots, these trees have survived generations and grown to great heights. It is in this spirit of interdependence that I commend the Eastern Band of the Cherokee and the Tennessee Valley Authority for creating this museum. As Americans we must never be allowed to forget the importance of Sequoyah or the Cherokee Tribe to our national heritage. The histories of the Cherokee people and other peoples of this Nation have, through the years, intertwined, and we are the stronger for it.●

THE TAX REFORM BILL

● Mr. SASSER. Mr. President, I supported final passage of the Finance Committee's tax reform proposal. I did so somewhat reluctantly, as I believe that bill can be greatly improved upon. There are many shortcomings in the committee proposal and it is my hope that some of these problems can be addressed in conference.

The most serious shortcoming of this package is the windfall it provides wealthy Americans. We have been led to believe that by closing tax shelters, this package provides great tax relief to middle income earners. This is simply not the case. The truth is that middle income earners will receive rather small tax cuts under the committee's proposal. At the same time, high income earners will receive tax cuts worth thousands of dollars. Indeed, some earning more than $200,000 could well see tax cuts in excess of $50,000. As pointed out so well by my good friend from Maine, Senator MITCHELL, this is truly a very strange version of Robin Hood tactics.

The Finance Committee bill does raise several billion dollars from closing tax shelters used by high income earners. However, the committee bill takes this money and transfers it in the form of tax cuts to the remaining high income earners who do not use tax shelters. Very little of the new revenue raised from limiting tax shelter losses goes toward providing income tax relief for middle income earners.

As I pointed out when we considered the Mitchell amendment, I don't begrudge anyone a tax cut. But true tax reform demands a greater sense of equity in the distribution of tax cuts than is found in the committee proposal. And maintaining a progressive tax system means maintaining an equitable balance of the tax burden among income groups. I do not believe that this bill upholds this important principle. I strongly urge the conferees on this bill to pay special attention to this problem.

Several other points concern me as well. I do not agree with the treatment of those who have individual retirement accounts in this bill. As I have pointed out, IRA's have become a central supplemental retirement program for many middle income earners. Given the windfall this bill is providing some upper income earners, it makes little sense to cut back on this program which benefits middle income earners.

I am also deeply troubled by the discriminatory treatment provided those States which rely on State sales taxes. Singling out the sales tax deduction as this bill does makes absolutely no sense. Either State and local taxes are deductible or they are not. This piecemeal dismantling of a time-honored principle does not bode well for the future of State and local financing. It is my hope that the conferees on this bill will restore the full deductibility of State sales taxes.

Finally, Mr. President, the delay in providing the bill's tax cuts is another shortcoming. This delay will result in tax increases for all income groups in 1987. Such increases will greatly diminish public enthusiasm for the concept of tax reform. Moreover, basic equity demands that if we are going to move forward on tax reform, we ought to do so now. We should not delay the benefits contained in this bill. This is particularly true when the bill contains several retroactive provisions. It is simply not fair to penalize some taxpayers retroactively and then drag our feet on providing tax benefits generated by this bill.

Despite my misgivings about this bill, I voted for it. I did so for some basic reasons. Our Tax Code is the most direct and regular contact many Americans have with their Government. An unfair, complex tax system is one way to foster widespread loss of faith in Government. Our present tax system has become so burdensome and so complex that we are seeing such an erosion in faith in our Government. True tax reform is therefore essential to preserving our faith in democracy.

The Finance Committee proposal moves toward restoring this faith. First and foremost, this package simplifies tax returns for many Americans.

In addition, this bill provides a greater sense of equity among taxpayers and within various income groups. For too long we have witnessed high income earners avoid taxation year after year. In 1984, for example, 3,000 individuals with incomes exceeding $1 million paid no Federal income taxes at all. This bill goes far in ensuring that all persons pay income taxes. In addition, the bill provides that individuals in the same income group will now bear more equal tax burdens.

While I am not satisfied that the committee proposal adequately provides equitable tax relief to middle income earners, the bill takes a step in the right direction. The committee package does eliminate many deductions that benefit only a limited number of taxpayers, add complexity to tax filing or invite abuse.

The committee proposal also focuses on those corporations which have avoided tax payment. Between 1981 and 1984, 65 corporations enjoyed net profits of $49 billion, yet paid no aggregate income taxes. Middle-income earners watched as corporations carried less and less of the Federal tax burden. Corporations paid only 6.2 percent of U.S. tax revenues in 1983, compared with 12.5 percent in 1980 and 26.5 percent in 1950. As corporate tax payments dropped, the tax burden grew for individuals. Individuals paid 48.1 percent of the Federal tax burden in 1983.

The committee proposal attempts to close some of the loopholes which will cost the treasury $400 billion in 1986. The bill contains a tough corporate minimum tax provision which should help stop tax avoidance by large corporations.

In sum, Mr. President, the tax reform bill passed by the Senate points us in the direction of simplifying and reforming our tax system. I believe we can do better toward delivering true tax reform for middle income earners. And I again urge the conferees on this bill to work toward this important goal.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, Section 36(b) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under that Act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provison stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notification I have received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, June 25, 1986.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-38 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to Japan for defense articles and services estimated to cost $70 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST, *Director.*

[Transmittal No. 86-38]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Japan.

(ii) Total estimated value: Major defense equipment [1] $47 million; other $23 million; total $70 million.

(iii) Description of articles or services offered: Six Phalanx close-in weapon systems [CIWS], spare parts, and engineering support.

(iv) Military department: Navy (LKC, LKT, and LKW).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: June 25, 1986.

POLICY JUSTIFICATION

JAPAN—PHALANX CLOSE-IN WEAPON SYSTEMS

The Government of Japan has requested the purchase of six Phalanx Close-In Weaon Systems [CIWS], spare parts, and engineering support. The estimated cost is $70 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Japan; furthering rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Japan intends to install these Phalanx CIWS aboard surface are combatants to enhance its anti-air warfare capability. Japan will have no difficulty absorbing these weapon systems into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the General Dynamics Corporation, Pomona Division, of Pomona, California.

Implementation of tis sale will not require the assignment of any additional U.S. Government personnel; however, one contractor representative will be needed in Japan for three months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

[1] As defined in section 47(6) of the Arms Export Control Act.

A TRIBUTE TO SHERWIN MONTELL

● Mr. WEICKER. Mr. President, on June 30, Sherwin Montell, Director of Financial Resources for the Social Security Administration, will retire from the Federal service. Sherwin got off to a good start in 1951 by graduating from Wesleyan University in Middletown, CT. After serving on active duty in the Navy, he signed on as a budget examiner with the National Labor Relations Board. Since 1970, Sherwin has been working with the Labor-HHS Appropriations Subcommittee, which I chair, as budget officer, and since 1979, as Director of Financial Resources for the Social Security Administration. It is a pleasure for me to join with Sherwin's colleagues in wishing him well in his retirement from Federal service.●

CONSUMER CONVENIENCE

● Mr. SYMMS. Mr. President, I would like to remind my colleagues of the benefits we as individuals and as a nation receive from the free enterprise system existing in our country.

Consumer convenience in America is a way of life. What could be more American than 24-hour convenience stores? Brand name competition, another American tradition, ensures quality and quantity of goods and services and is essential to our economy.

Compare this to the Soviet Union where consumer convenience is nonexistent. All goods and services are produced at the command of the state. The words quality and quantity are not in the state's vocabulary. Shoes and toilet paper are constantly in short supply and shops are full of items which are poorly built and not in demand. Consumers cannot even purchase a loaf of bread after 9 p.m.

No one in a free enterprise system produces because the state commands production, and yet the job gets done in a much more efficient manner. There can be no question that freedom will always be more productive than tyranny.

Mr. President, I ask to have an article printed in the RECORD which coincides with my remarks and gives examples to show that we do have the best economic system.

The article follows:

From The Idaho Press-Tribune, Mar. 13, 1986]

CUSTOMER CONVENIENCE? NOT IN RUSSIA

(By Lawrence W. Reed)

One of the most interesting publications I subscribe to is an English translation of articles from *Pravda*, the largest newspaper in the Soviet Union. Every issue provides a fascinating glimpse of life in an economy throttled by a corrupt and despotic state.

A recent one contained excerpts from a Moscow television broadcast. After the "Good evening, comrades," the speaker (let's call him Boris; his real name is not important and you couldn't pronounce it anyway) took up three pressing subjects of vital concern to the state: children's shoes, TV sets and buying bread at night. It was a kind of *Consumer Reports* for commies.

On the first matter, it seems that there is a serious shoe problem in the Workers' Paradise. Boris, a mouthpiece for the Ministry of Light Industry which is in charge of such things, acknowledged that "we are far from supplying the needs of our citizens."

Not only are shoes in short supply, but the ones that the state does produce are shabby and uncomfortable. Complaints are especially numerous about footwear for children, particularly that Soviet shoes do little more than "deform their little feet."

What did this red Ralph Nader advise the patient masses? Well, condensing whole paragraphs brings us to this answer: "We're working on it."

The ministry is burning the midnight oil devising new plans and documents to solve the crisis. One can almost hear the moan from 270 million Soviet households: "Yeah, sure."

Next, Boris read a letter from a Moscow woman who wanted to know, "What can be done with goods that are not in demand and which the shops and warehouses are literal-

ly crammed full of?" Now that's not a bad question, wouldn't you say?

Boris chose to answer it by attacking workers who put defective parts in television sets. "It would be a good thing," he says, "if the person who made the television could be sold that same television so that he could know what he had done to it."

The fact that store shelves in Russia are stuffed with junk is not the fault of the system or the government which imposes it. It's those doggone workers who don't follow instructions. Right on Boris! Go get 'em!

Finally, some citizens have had the nerve to question the hours that government food stores keep. "Why isn't it possible for comrades to buy groceries such as bread late in the evening around 2100 or 2200 (9 or 10 o'clock)?" asks one who came out of a theater one night and couldn't find a store open anywhere.

Boris let him have it: "It would appear that we must supposedly bake bread for this comrade and keep it until he has returned from the theater. One must think about bread in the morning before work, then do other things, and then go to the theater. But the comrade left the theater and then thought about bread. From this it follows that we must keep hundreds of shops with thousands of people open during this time and wait for him to come out of the theater and buy bread.

In other words, stick it in your ear, comrade. Lenin never said anything about 7-Elevens.

From my experience in visiting stores in the Soviet Union. I can certify that quantity and quality are not words in the state's vocabulary. The shopper's ordeal is complicated by little choice and often by the requirement to stand in not one, but three lines for many purchases—the first to select the item, find out its price and have your name put on it; the second to pay an unfriendly cashier somewhere else in the store and get a receipt; and third to go back and pick up the item and turn in the receipt!

Russia's two largest cities, Moscow and Leningrad, are plagued periodically by shortages of toilet paper. The advice to visiting foreigners is, "Bring your own."

The Soviet Union is a land where if anything legal gets done, it's because some commissar ordered it done. Decrees and edicts apply to and complicate virtually every aspect of life.

In free countries like the United States, a lot of people produce plenty of shoes, TV sets, bread, toilet paper and countless everyday items most of us take for granted. Nobody produces because the state commands it, and yet the job gets done in a far bigger and better way. That says something powerful about freedom and incentive over tyranny and the police.

In the United States, poor Boris would have to get an honest job doing something of real value for other people. It's called free enterprise and it shouldn't take a page from Pravda to remind Americans that it's the best darn idea since the invention of the wheel. And I'll bet dollars to donuts that whoever invented the wheel wasn't a communist.

PHYSICIAN PAYMENT REVIEW COMMISSION

● Mr. DURENBERGER. Mr. President, I am very pleased to see that the new Physician Payment Review Commission, created by Consolidated Omnibus Reconciliation Act of 1985, will include a representative of the rural perspective.

I was very alarmed when the Office of Technology Assessment announced the appointees to PhysPRC and failed to include a rural representative. At hearing after hearing on the issue of physician payment, concern has been expressed that the Medicare physician payment system may actually be a disincentive to doctors to locate in rural areas, and could limit rural beneficiaries' access to health care.

For that reason, I joined my colleagues in the rural health caucus in urging Jack Gibbons, the Director of OTA and the man who brought the Commission to life, to see that the rural perspective is represented as the issue of physician payment is addressed. I want to thank Jack for his sensitivity to the concerns of the caucus.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, by agreement, section 36(b) of the Arms Export Control Act provides that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 20 calendar days to review and consult with the administration on the proposed sale. Section 36(b) requires that Congress then receive a statutory notification of the proposed arms sales and upon such notification, has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room SD-423.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, June 25, 1986.

Dr. M. GRAEME BANNERMAN,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. BANNERMAN: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tantatively estimated to cost $50 million or more.

Sincerely,

PHILIP C. GAST,
Director.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications I have received. The classified annexes referred to in two of the covering letters are available to Senators in the office of the Foreign Relations Committee, SD-423.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, June 24, 1986.

In reply refer to: I-03373/86ct.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith transmittal No. 86-40 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to Greece for defense articles and services estimated to cost $26 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this transmittal.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 86-40]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

	Millions
Major defense equipment	$21
Other	5
Total	26

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Two Phalanx close-in weapon systems (CIWS), spare parts, ancillary equipment and engineering support.

(iv) Military department: Navy (LEN).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 30 June 1985.

(viii) Date report delivered to Congress: June 24, 1986.

POLICY JUSTIFICATION

GREECE-PHALANX CLOSE-IN WEAPON SYSTEMS

The Government of Greece has requested the purchase of two Phalanx close-in weapon systems (CIWS), spare parts, ancillary equipment and engineering support. The estimated cost is $26 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Greece intends to install these Phalanx CIWS aboard combatants to enhance its anti-air warfare capability. These weapon systems will be provided in accordance with, and subject to the limitation on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question. Greece will have no difficulty absorbing these weapon systems into its armed forces.

The prime contractor will be the General Dynamics Corporation, Pomona Division, of Pomona, California.

Implementation of this sale will require the assignment of one additional U.S. Government representative and two contractor personnel in Greece for approximately three months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

U.S. DEPARTMENT OF STATE, UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, DC, June 20, 1986.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Greece of two Phalanx Close-in Weapons Systems (CIWS) with spare parts and support at an estimated cost of $21 million is consistent with principles contained in section 620C(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sales of the abovenamed articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

WILLIAM SCHNEIDER, Jr.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, June 24, 1986.

In reply refer to: I-03514/86ct.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-41 and under separate cover the classified annex thereto. This Transmittal concerns Department of the Air Force's proposed Letter(s) of Offer to Norway for defense articles and services estimated to cost $30 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 86-41]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Norway.

(ii) Total estimated value:

	[1] *Millions*
Major defense equipment	$27
Other	3
Total	30

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Two F-16 aircraft and support equipment.

(iv) Military department: Air Force (SXC).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending 31, March 1986.

(viii) Date report delivered to congress: 24, June 1986.

POLICY JUSTIFICATION

NORWAY—F-16 AIRCRAFT

The Government of Norway has requested the purchase of two F-16 aircraft and support equipment. The estimated cost if $30 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Norway; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Norway already has purchased 72 F-16's and these additional aircraft are needed to replace those lost by attrition. Norway will have no difficulty absorbing these aircraft into its armed forces.

The sale of this equipment will not affect the basic military balance in the region.

The prime contractor will be General Dynamics Corporation of Fort Worth, Texas.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Norway.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

SENATOR LEAHY'S SPEECH

● Mr. NUNN. Mr. President, I rise today because I want to call the attention of the Senate and the American people to the remarks recently given by our colleague Senator PAT LEAHY to the Association of Former Intelligence Officers.

Senator LEAHY's wise leadership as vice chairman of the Senate Select Committee on Intelligence has given him a unique perspective to observe and reflect on the issues of congressional oversight of intelligence activities. I was gratified, therefore, when he stated his assessment that the intelligence oversight process has been effective regarding the annual intelligence budget, the quality of intelligence analysis, counterintelligence security programs, and routine administrative and organizational matters.

However, Senator LEAHY accurately points out that there are serious strains in the intelligence oversight process in three areas:

Leaks, and who is responsible for them; timeliness of notification to the intelligence committees; and, covert action programs, particularly covert paramilitary programs.

Mr. President, Senator LEAHY's speech reminds us that the American people must have confidence that Congress is conducting a vigorous oversight of the intelligence community to assure that our intelligence activities reflect the values and goals of the American people. In carrying out this responsibility the Intelligence Committee, on which I am proud to serve with Senator LEAHY, must balance the need for secrecy with the need for the rest of the Senate, and the American people, to know what our intelligence services are doing. There are some strains in that relationship at the moment, Mr. President, but that is probably inevitable in our system of separate powers and checks and balances. We should all be grateful that Senator LEAHY is serving as vice chairman of the Senate Intelligence Committee because he brings experience, judgment, and very wise counsel to this terribly important and very difficult task of oversight of the intelligence community.

I urge my colleagues, and all Americans, to read Senator LEAHY's remarks and to continue the important debate on these critical subjects.

The remarks follow:

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE—HOW ARE WE DOING?

(Remarks by Senator Patrick Leahy)

The question I want to discuss today is whether Congressional oversight of intelligence is working.

Broadly speaking, I believe the answer is Yes, particularly as it pertains to the intelligence committees' responsibility with respect to regular oversight of intelligence activities which could affect the rights of Americans. The answer is also in the affirmative regarding the annual intelligence budget and long-term planning, the quality of intelligence analysis and production, counter intelligence and security programs, and routine administrative and organizational matters.

But there are serious difficulties in the intelligence oversight process in at least three respects:

Leaks, who is responsible for them and what is the significance of the leak problem; timeliness of notification by the Intelligence Community of significant intelligence activities; and the role and handling of covert action programs, above all, covert paramilitary programs.

Unfortunately, there are few signs of the disposition on the part of key Intelligence Community leaders to overcome these problems by working cooperatively with the Intelligence Committees. Reflecting this, relations between the Intelligence Committees and elements of the Intelligence Community, primarily the CIA, have become somewhat strained.

Before going more deeply into the current problems in intelligence oversight, let me briefly review the origins and purpose of the current system.

As I am sure all of you know—some perhaps from experience—Congress set up the present intelligence oversight committees as a result of investigations in the mid-1970s of intelligence abuses. The Senate Select Committee on Intelligence was created in 1976 after conclusion of the Church Committee investigations.

Under Senate Resolution No. 400 adopted that year, the Senate Committee is to be kept "fully and currently informed of all intelligence activities." The Committee was charged with broad oversight responsibilities:

To authorize the yearly budget for national intelligence programs;

To evaluate the quality of intelligence analyses;

To review policies governing intelligence activities especially those which affect the rights of Americans; and

To be notified of all intelligence programs and activities, including covert action in support of U.S. foreign policy objectives.

Since its formation, the Committee has gone far in developing the groundrules for effective oversight. A major milestone was the Intelligence Oversight Act of 1980 (Title V of the National Security Act). It formalized the requirement that the oversight committees are to be kept fully and currently informed of all intelligence activities.

The Oversight Act also provided that the Intelligence Committees should be informed of "significant anticipated intelligence activities," including those that require a Presidential Finding. This, of course, refers specifically to covert action programs. it is also clear from the statute and its history that the requirement of prior notice was also intended to apply to other especially sensitive intelligence operations.

The Oversight Act also provided ways to protect the security of especially sensitive intelligence activities. Notice of significant anticipated intelligence programs can, in special cases, be limited to the Leaders of the House and Senate and the Chairmen and Vice Chairmen of the Intelligence Committees. Also, prior notice can be waived in extraordinary circumstances. Both these powers have been only very rarely exercised.

Surely, the most important security protection in the Oversight Act—and a very significant political achievement—was the reduction of oversight jurisdiction from eight committees to just two—the Senate and House Intelligence Committees.

Unfortunately, the latter protection has been eroding somewhat over the past two or three years. As certain intelligence matters have received more and more public attention, other committees have been expressing greater interest. Also, parts of the Intelligence Community have, when it suited their interest, themselves gone to other committees in an effort to circumvent opposition in the Intelligence Committee.

Cooperation in the protection of intelligence sources and methods has been excellent. The Committee has insisted on receiving the information, including some highly sensitive information, required to perform its mission. This is particularly true in our detailed annual budget review. On the other hand, the Committee has refrained from seeking information more detailed than necessary to support oversight.

The need-to-know principle is rigorously applied to Committee staff, and access to the most sensitive information is very tightly controlled. There is full documentation of everyone on the Committee—members as well as staff—who have had access to intelligence materials or who have attended briefings.

Until recently—aside from some well-publicized lapses, such as the mining of Nicaragua's harbors—the Intelligence community has done a fairly good job of keeping the Select Committee on Intelligence informed about developments involving intelligence. Far too often in the last year or so, however, we on the Committee have learned first of significant intelligence matters from the press—followed quickly by a breathless call from the legislative liaison office at the CIA, DIA or elsewhere trying to head off our angry reaction. This is of serious concern to me and other members of the intelligence Committee, and the source of increasing complaints.

Frankly, there is growing concern about the willingness of some Intelligence Community leaders to comply with the most basic requirement of the Oversight Act—that is, to keep the Committee "fully and currently informed of all intelligence activities."

Why does this concern exist?

Our current problems began with covert U.S. involvement with the Nicaraguan Contras in early 1983, and reached a peak with the revelations of 1984 that the CIA had been involved in mining Nicaraguan harbors. But strains between the Intelligence Community and the Intelligence Committee have been exacerbated by increasing press attention to intelligence matters generally.

The reason for this is primarily the widespread information on purported covert actions—including recent stories about Lebanon, Libya, Afghanistan, Angola, and other countries. There has inevitably also been a great deal of attention focused on the astonishing run of espionage cases during 1985—including the Walker spy ring, the Pollard and Chin cases, the disappearance of Edward Howard and the spectacular redefection of Vitaly Yurchenko.

The hemorrhaging of information about all these matters has caused anger, dismay and frustration, both in the Intelligence Committees and in the Intelligence Community.

No one is more concerned than I about these leaks of information about intelligence matters. Such leaks of privileged information threaten the foundation of successful intelligence and the integrity of the oversight process, as well as undermine national security.

What is especially disturbing to me is the perception that a great deal of the information comes from Congressional sources. Equally disturbing is the fact that this perception appears to be deliberately fostered by those in the Administration—and in the Intelligence Community, as well—who see an opportunity to weaken intelligence oversight.

In fact, I believe nearly all leaks of sensitive information come from the Executive Branch. This tendency to conduct policy debate or advance political interests through leaking classified information existed in the Ford and Carter Administrations. But in my nearly twelve years in Congress, I have never seen it on the scale practiced by government officials under the present Administration.

You do not have to be a great reader of tea leaves to see that most stories about alleged covert actions spring from opponents or proponents of programs who are located in government departments, even the intelligence agencies themselves. The many leaks about recent espionage and defection cases appear to stem primarily from jockeying among intelligence and law enforcement officials trying to protect their reputations in the face of public outrage over mishandling or incompetence.

Perhaps the most extraordinary leaks of intelligence information have concerned Libyan responsibility for international terrorism and U.S. activities against Libya. These appear designed merely to cultivate public support for Administration actions toward Libya, or to deflect criticism.

As for the Intelligence Committees, I am unaware of any deliberate unauthorized disclosure of sensitive intelligence information by Members or the staffs. I agree with the statement on this by Senator Barry Goldwater, former Chairman of the Senate Intelligence Committee. In a speech on the Senate floor on September 14, 1984, he said:

"The Senate Select Committee on Intelligence has done a very good job of overseeing the intelligence community, and we have an excellent record on security over the years. Although some people refer to leaks from the Oversight Committees, they do not provide one single documented example."

Critics of Congressional oversight have, however, tried to blame leaks on the Intelligence Committees in order to attack intelligence oversight. Some officials are quite open about their desire to cut back on bothersome Congressional "meddling" and to reduce checks on the President's freedom of action in ordering intelligence operations, especially covert action, without Congressional scrutiny—and opposition. Their nostalgia, for the days before regular Congressional oversight is all too plain.

The rationale for this ill-considered attack evidently is a belief that intelligence oversight weakens the President's flexibility and effectiveness in using covert action in pursuing foreign policy goals. At its worst, it is an attempt to discredit the institutional guardians that refuse to countenance a wholesale loosening of the constraints on covert action and other sensitive operations.

The leak problem, while serious indeed, is, however, only a symptom of the underlying source of differences between the Intelligence Committee and elements of the Executive Branch.

The more fundamental cause of the current strained relationship between the Intelligence Committee and parts of the Intelligence Community is growing disagreement over the Administration's clear determination to make ever greater use of covert paramilitary operations as part of what is now being called the "Reagan Doctrine." In essence, this is a strategy of seeking to under-

mine Communist regimes through insurgency wherever possible.

Indeed, to call this new use of paramilitary action "covert" is a misnomer. The Administration makes no serious effort to keep this activities secret, and in fact appears to ensure that they become public as part of its larger strategy to roll back Communist regimes.

In identifying covert paramilitary action as a source of disagreement, I do not purport to speak for the views of other Members of the Intelligence Committee. I do believe, however, that whether or not individual members support or oppose particular covert action programs, the Committee as a whole is becoming increasingly uncomfortable with trying to shoulder the entire responsibility of speaking for the Senate on issues which are of such great foreign policy consequence.

Chairman Hamilton of the House Intelligence Committee has made clear his members also feel this problem keenly. Speaking of the press reports on deepening U.S. involvement in the Afghan and Angolan insurgencies, he said:

"I don't think it is wise to proceed on these highly controversial foreign policy decisions without the support of Congress. This is not a covert action in the ordinary understanding of the term, this is a war. That is the question: 'Should the United States enter into support of one side in the war in Angola?' It is a far cry from the sorts of situations Congress had in mind when it set up the procedure for handling covert actions."

The only power of the Intelligence Committees over covert action initiatives funded from the CIA Contingency Fund is to be kept informed—not to approve or disapprove. As watchdogs over the conduct of intelligence programs, the Intelligence Committees are not an acceptable substitutes for the entire Congress on programs that amount to U.S. involvement in foreign wars. In a democracy such as ours, a commitment of such far-reaching importance must be debated openly in Congress, with recorded votes so that Members of both Houses can be held accountable by the American people. There must also be active scrutiny by other congressional committees, including Foreign Relations, Armed Services, and Appropriations.

It is my considered judgment that the new reliance on covert paramilitary action as a normal instrument of foreign policy—even as a substitute for foreign policy—has strained the current oversight process to the breaking point. It involves a most basic question which can only be resolved in open debate, with the full awareness of the American people. That question is: Can a democracy like the United States engage in large scale, so-called "covert" paramilitary operations, using our intelligence agencies as instruments in waging proxy wars against the Soviet Union or its clients?

Very soon, if the Administration continues on its present course, we are going to have to answer that question. Failure to do so will make covert paramilitary operations a running sore in the side of the CIA, destroy the public trust so painfully rebuilt after the abuses and failures of the past, and force a complete reexamination of the present system of Congressional oversight.●

"SOAPY" WILLIAMS

● Mr. LEVIN. Mr. President, I rise today to pay tribute to an old friend, G. Mennen Williams. My feelings are mixed. I am, of course, delighted to honor a distinguished son of Michigan and a devoted servant of the American people. But I am sad that this tribute is given on the occasion of his coming retirement as Chief Justice of the Michigan Supreme Court. Chief Justice Williams must retire in December because of his age. Fortunately for us, he has no intention of retiring from his active involvement in the issues which shape our national public life.

If fact—despite a large and loving family to which he is devoted—public life has always been central to Chief Justice Williams. "Soapy," as he is affectionately called, was elected Governor of Michigan at the young age of 37. Inevitably, he was tagged the "boy Governor." The press may have seen his age; but the people saw a man with vision, with courage, with an ability to provide leadership—and with a green and white polka-dot bow tie.

The tie became Soapy's trademark. I guess any man who can tie one of those things—and he did tie it, he never used one of those clip ons—deserves the trust of the people. And Soapy had it.

He had the trust of Michiganders when he led our State for 8 years; he had the trust of Presidents who appointed him to the post of Assistant Secretary of State for African Affairs; and he had the trust of the Senate when it confirmed him to serve as our Ambassador to the Philippines.

His involvement in Africa and the Philippines illustrates Soapy's belief in justice and freedom—a deep-rooted conviction that he continues to uphold. He was, for example, the first to advocate the adoption of "Africa for Africans" as a guideline for U.S. foreign policy; a guideline which might have prevented the current crisis in South Africa. And as our Ambassador to the Philippines, he provided ample warning about the nature of the regime which was recently deposed.

While the Federal Government may not have listened to his warnings then, the people of Michigan were always willing to hear his words and trust his ideas. His record proves that he had the consistent support of Michigan. After serving as our Governor, after serving in the State Department, he returned home and continued to serve us on the Michigan Supreme Court—a position to which he was elected twice. And he would have been reelected again had he not run up against the one thing that even Soapy cannot control—mandatory retirement.●

WORLD DEBT CRISIS

Mr. BIDEN. Mr. President, for some years now, there have been many dark clouds on the economic horizon which have largely been ignored by the administration, which has preferred to focus on the brighter aspects of the economy. The world debt situation is one of the storm clouds.

Currently, world concern focuses on Mexico's $97 billion foreign debt. Ever since falling oil prices triggered its latest debt crisis, Mexico has been seeking ways to reform its economy and secure further financing. It has sought to reduce its budget deficits, lower its 70 percent inflation rate, avoid recession, and stop the flight of capital from the country. So far, however, it has failed to find the solutions that will stabilize its economy and its debt situation.

While Mexico has struggled, this administration has failed to supply the leadership necessary to deal with the world debt situation. It has waited for the worst to happen.

Much has been said about the success of the Economic Summit in Tokyo this spring. It has even been commented that America resumed world economic leadership at that summit. This may be true by comparison with earlier policies of this administration, which refused to recognize any international responsibility which conflicted with it domestic policies. However, the fact is that the United States failed to secure Summit action on the most troublesome international economic issue—the world debt situation. The Summit offered an opportunity for the United States to enlist the help of its economic allies in dealing with the problem. It failed to do so.

There is still no evidence that the administration intends to lead the way in seeking solutions to world debt crisis. The so-called Baker initiative was clearly a step in the right direction. But many months have gone by and it has produced no results. Most analysts seem to agree that its $10 billion a year in new capital is not adequate. Yet, no further initiative has been forthcoming.

The United States has close ties to Mexico that should give it an urgent concern about Mexico's problems. More broadly as a leader of the free world economy, the United States has reason to seek world wide solutions. For this problem is not confined to Mexico or any other small group of nations. All of these nations—Brazil, Nigeria, Argentina, Venezuela, Peru, Indonesia, Phillipines, Ecuador, to name a few—are watching what happens in Mexico. Their future moves in dealing with their own debt problems will be influenced by what happens in Mexico. In fact, their behavior as members of the international economy will be affected by the outcome.

While seeking to solve the immediate issues, we must also promote long-term economic growth in countries throughout the world. This was addressed in a New York Times article

on June 24 by Victor Palmieri, in which he comments:

The international debt crisis threatens to become a vicious circle. Given the right incentives, private capital can unbend the circle into an upward growth curve for the international economy.

It is important that we seek to provide these incentives and the climate in which they can work. Mr. President, I ask that the article by Mr. Palmieri which discusses this issue, be printed at the end of my remarks.

Resolving international debt problems requires the collaboration of many groups. The United States' first concern must be to provide the necessary leadership.

The United States should work with the IMF in setting reasonable rules applying to debt retructuring. Long-run solutions will not be possible unless the United States increases its financial backing to the World Bank, which it has so far failed to do. These actions need not increase deficits significantly. But they are necessary components of a long-term solution to the problem.

It must be made clear to U.S. banks that they must be part of the solution rather than part of the problem. U.S. banks must be prepared to offer additional credits—and perhaps even to accept some lesser return from foreign lending than they had hoped for. In the long run, it will be to their benefit.

This country must also work with our economic partners to encourage them, and through them their commercial banks to participate in providing financial resources. The resolution of international debt problems in something in which all members of the world economic community must participate. It is this country's responsibility to make it clear that it is shortsighted to do otherwise.

There can be no healthy international financial relationships, no mutually beneficial trade as long as these grave problems overhang.

The administration must aggressively pursue solutions with our allies, with our commerical banks, and with the world financial institutions. To do otherwise is to go against our own self-interest in a healthy world economy. To fail in this responsibility is to turn our back on our neighbor and ally, Mexico—as well as on our friends all over the world.

The article follows:

[From the New York Times, June 24, 1986]

THE WORLD BANK AS BUOY

(By Victor H. Palmieri)

As the third world debt crisis grinds on, attention is moving away from short-run budget deficits in debtor countries to focus on their more deeply rooted economic problems. The International Monetary Fund was the appropriate multilateral agency for helping out with emergency financial squeezes. The World Bank is the sole agency with the knowledge and breadth—and, potentially, the resources and clout—to tackle this new phase of the debt crisis. This makes it all the more important for the United States to provide the Bank with more resources.

The Bank is assuming a central role in the debt crisis just as its leadership is changing. Barber B. Conable Jr., a respected former Congressman from upstate New York, will take charge on July 1 as president. Under Mr. Conable, the Bank will need to perform two pressing related tasks. It should provide new credits to capital-starved developing nations and advise them on ways to restructure their economies. But the long-term objective is to rebuild the private sector's confidence in the third world.

Alarmed at the collapse of many Latin American and African economies, and the rising failure rate of its own projects, the World Bank has already begun pushing many developing countries to reform their traditionally over-controlled and overly bureaucratic economies. Mexico is being pressed to allow more imports and to relax restrictions on private investment; the Bank is working with Ghana to reduce state intervention in agriculture; Jamaica is being encouraged to sell inefficient state-run enterprises.

These reforms require money, to cushion the blow to local firms and workers, to pay for increased imports and to finance new investments. Contrary to the hopes of some Reagan Administration officials, international capital markets are unlikely to provide much of this money in the short term. Commercial bankers feel badly burned by the debt crisis: many wish they had never heard of Peru or Zaire. Multinational corporations avoid depressed markets. And few third world countries have developed workable capital markets that can attract private investors.

For the moment, then, the World Bank will have to fill the gap, lending to developing nations in amounts well above those envisioned in the debt initiative outlined by Treasury Secretary James A. Baker 3d last fall. All the major industrial nations—except for the United States—have endorsed a substantial increase in the Bank's lending capacity. The Administration and Congress should join in this effort by passing legislation to guarantee the Bank as it floats bonds to raise the money to approximately double its lending to some $25 billion. This would require little in the way of budgetary outlays by the United States or any other government, but it would be critical if the Bank is to generate private capital flows.

In the short run, the governments of the United States, Japan, Britain and West Germany should also join with the Bank to encourage reluctant commercial banks to extend limited quantities of new credits and to forgo some interest payments when debtor nations agree to World Bank-approved economic reforms. It is in the interest of the commercial banks to help these reforms succeed by providing up-front financing. If such structural reforms were adequately funded, they could eventually make commercial bank loans to much of the third world a profitable business again.

For other developing countries where past debt obligations have become insurmountable barriers to economic recovery, commercial creditors will have to write down portions of their loans. Yet even these nations, if they follow World Bank guidance and restructure their economies to compete on global markets, will eventually be able to attract private capital.

The international debt crisis threatens to become a vicious cycle. Given the right incentives, private capital can unbend the circle into an upward growth curve for the international economy. It is now up to the World Bank to take the lead in creating those incentives and buying the time needed to introduce them. Facing this daunting challenge, the World Bank and its new president are entitled to strong financial support from the United States Government and the world financial community.●

FAREWELL, CATHY WOODS

● Mr. LAUTENBERG. Mr. President, I rise to congratulate Catherine Woods, who will leave the Senate tomorrow to take on a new and exciting challenge with a voter registration project.

Cathy has worked here in the Senate for 16 years. She served two Senators from New Jersey before me, Senator Williams and Senator Brady. As administrative secretary in my office, she has handled a variety of tasks with efficiency and dedication.

Before taking on that post, she was in charge of the outer office. She was often the first person a constituent or other member of the public would see when visiting the Lautenberg office. She was always helpful, friendly, and calm, and provided the kind of reception that made constituents feel welcome.

In 1983, Cathy received a service pin and certificate for completing 12 years of service in the Senate.

Mr. President, staff come and go in the Senate. That is the kind of place this is. Staff people come here, motivated by a sense of duty and desire to serve government. They learn and they move on. Cathy was an exception. She was a fixture in the office of New Jersey Senators. Cathy shared with newcomers—including myself—the benefit of her experience, and Cathy saw many staffers move on to new challenges.

Now, after seeing many come and go, Cathy has decided to move on to a new position herself. I know she leaves a piece of her heart here. I know we will miss her. But, we wish her well in the new and exciting challenge that lies ahead.●

U.S. HOSTAGES IN LEBANON

● Mr. D'AMATO. Mr. President, I join my good friend, the junior Senator from Illinois, in sponsoring a resolution in honor of the American hostages still held in captivity in Lebanon. Specifically, this resolution calls for a moment of silence at the official ceremony of the lighting of the Statue of Liberty's torch at the Fourth of July celebration.

Mr. President, the captivity of innocent Americans in Lebanon is a continuing tragedy. The United States cannot, and must not, forget about our hostages: Terry Anderson, Dr. Thomas Sutherland, Rev. Lawrence Jenco,

David Jacobsen, and William Buckley. Some of these victims have been held for well over a year. The families of the captives have worked hard to ensure that their loved ones are not forgotten. They have had to endure psychological warfare as they never know what tomorrow will bring—from the lows of the murder of Peter Kilburn and the possible murder of William Buckley to the highs of the release of Rev. Benjamin Weir and the recent release of several non-American captives. We owe it to them, and we owe it to the hostages, to show that this Nation has not forgotten their plight.

There is no better place and no better event than the lighting of Liberty's torch to pause in remembrance of the five American hostages in Lebanon. Their captors have to know that Americans care about their safety and want their freedom restored. It is my strongest hope that the recent release of other hostages from terrorist captivity in Lebanon is a prelude to freedom for the Americans. The State Department must continue to press for their release in the most forceful and effective manner possible. Efforts must be made with the organizations and leaders in that anarchistic area of the Middle East to secure the release of the hostages. We must pursue all international efforts on their behalf as well.

Mr. President, I commend the junior Senator from Illinois for his sponsorship of this resolution. I strongly urge my colleagues to this important legislation quickly as a sign to the captors, the captives, and the captives' families that America remembers and that America still cares.

RENEWED COMMITMENT TO EDUCATION

● Mr. BIDEN. Mr. President, in recent years, there has been increasing attention to the need for a renewed commitment to excellence in education in this Nation.

At the State level, efforts are well underway to reemphasize basic curricula and make other reforms to ensure higher educational standards.

At the Federal level, in spite of severe budget constraints, the Senate has judged education a high enough priority to boost funding for math, science, and special education in its budget plan. It has also approved an Andrews-Hollings amendment, which adds funds for other educational programs.

All of this is a good beginning. We have made some progress. But we still have a long, hard way to go.

The length—and difficulty—of the task before us has been demonstrated by the recently released Carnegie Forum report, "A Nation Prepared: Teachers for the 21st Century." This report, regardless of whatever shortcomings it may have, offers a dramatic and sobering picture of the serious problems in our educational system.

It is bad enough that more than 40 million Americans already are functionally illiterate—unable to read even the front page of a newspaper. It is worse that, in the words of the report, "large numbers of American children are in a state of limbo—ignorant of the past and unprepared for the future."

This situation must be remedied, for it is not just the future of these individual children which is at stake. The future of our Nation is at stake as well. For we cannot continue to remain strong and competitive—either in economic, scientific, or military arenas—if our children's education is inferior to that of children in other lands.

Remedying this situation will not be easy. Quick fixes, however well-intentioned, will not get the job done.

It will not be enough simply to raise teacher salaries or tighten certification standards. These and similar steps are important, but they are not ends in themselves. In the last analysis, we must restore credibility to our educational system. And we must restore to the teaching profession the status and esteem which it must have to attract the best and the brightest and keep them in its ranks for the whole of their careers.

This will require nothing less than a long-term, sustained commitment to quality education that attacks the problem on all fronts.

And to accomplish this, we are all going to have to get involved. Educators, parents, local, State and Federal officials, business, technical and scientific communities all can and should play a role in this effort. None of them can get the job done on their own. But the job cannot get done without the participation of each of them.

That is as it should be in a democracy, where the responsibility for shaping and directing the course of our society rests squarely on the shoulders of us all.●

THE DEMOCRATIC PARTY SPEAKS OUT ON LAROUCHE

● Mr. MOYNIHAN. Mr. President, when LaRouchites Mark Fairchild and Janice Hart won the Democratic nominations for Lieutenant Governor and Secretary of State of Illinois March 18, I came to the floor to warn of the need to defeat these fascists. I spoke of my experience fighting a LaRouche candidate in New York, Melvin Klenetsky, in 1982. I was the first to have to face a LaRouchite in a Senate race. I knew that, if LaRouche and his followers were exposed for what they were, we would defeat them. And we did, but we had to empty our campaign treasury to do it. Since that time, Janice Hart has been arrested for disorderly conduct, and the Democratic Party is no longer ignoring LaRouchites. It has firmly and effectively led an effort to expose the LaRouche organization as an anti-Semitic, protofascist cult.

Mr. President, this past Wednesday, Paul G. Kirk, chairman of the Democratic National Committee, and Laurence J. Kirwan, New York State Democratic Committee Chairman, spearheaded a New York State Democratic forum on Lyndon LaRouche and his organization. In his introduction Governor Cuomo told us that the LaRouchites have "Ku Klux Klan thugs hired as bodyguards." Larry Kirwan promised that the Democratic Party in New York "will continue to work with our national party and elected officials to expose the vile philosphy of the LaRouche cult."

In the keynote address, Chairman Kirk warned us that the political "education of the American people must never be ignored or taken for granted; political extremism of any form must never be ignored or taken for granted." Of the Illinois primary, Kirk said: "They won with the votes of too many decent, commonsense citizens who, when asked why they had supported these candidates, said, 'I didn't know who they were or what they represented.' "

I commend Mr. Kirk and Mr. Kirwan for their remarks and ask that they be printed in the RECORD at this point so that we might better educate ourselves and our constituents and expose the LaRouchites.

The remarks follow:

STATEMENT BY NYS DEMOCRATIC CHAIR LAURENCE J. KIRWAN

Democratic National Committee Chair, Paul G. Kirk, Jr., must be applauded for his strong opposition to the philosophy and extremism of the LaRouche cult. Lyndon LaRouche is no stranger to the politics of hate and deception. He and his supporters are also no strangers to the use of fraudulent techniques.

New York's Democratic Party has long fought against political ideologies laced with antisemitism and racism, integral components of the LaRouche philosophy. Mr. LaRouche's use of the name "Democratic Policy Committee" is a purposeful attempt to confuse the public into perceiving this extremist cult as part of the Democratic Party. It should be clear that we in New York have and will continue to work with our National Party and elected officials to expose the vile philosophy of the LaRouche cult.

Here in New York, we are not strangers to Lyndon LaRouche. The Democratic State Committee has worked hard to assist Democratic candidates opposed by LaRouche candidates. Our Governor Mario M. Cuomo has spoken out forcefully along with our senior United States Senator Daniel Patrick Moynihan to oppose and expose the philosophy and tactics of the LaRouche cult. New Yorkers' join our National Chair in recognizing that the politics of hate must not be left unchecked. To those who choose to

ignore LaRouche, we point to the lessons of history.

We endorse Chairman Kirk's approach. The National Committee has been working through state parties to educate candidates and provide technical assistance. Now the need is to educate the public.

Democrats have long been committed to protecting the rights of individuals having differing points of views, both within and outside our Party. But when those differing views seek to exploit and deceive the public, when they seek to divide our citizenry along ethnic and racial lines, we will do everything necessary to protect the integrity of our Party and our society.

In the final analysis, Democrats must do all that is necessary to protect the integrity of our Democratic principles and of our overall society. Two hundred and ten years of Democratic beliefs must be preserved and protected against subversive assaults such as those perpetuated by the cult of Lyndon LaRouche.

POLITICAL EXTREMISM: A REASONED RESPONSE

(By Paul G. Kirk, Jr.)

Within two weeks, all Americans will join the Empire State in the celebration of Liberty Weekend. The beauty of the Statue of Liberty—the symbol of America's basic principle—has been restored. We all look forward to a national celebration of our independence, our freedom, and our liberty. We will pledge our allegiance to these values. They are values we share despite our diversity. And we will pledge our fidelity to the responsibilities we share despite our individuality. We will pledge our allegiance and our fidelity to one another as Americans.

Whenever we have lost sight of that common bond as a people, we have foundered as a nation. When some of us refused to admit was stained by the scandal of Watergate.

Today, the American tradition and the American condition call out for a renewed commitment to common purpose and to individual opportunity. We do no honor to the birth of this nation if we stand idle while Americans divide under a new social Darwinism, a blind non-policy which permits poverty as a price of one's birthright and wealth as the reward for one's greed and elitism.

When the politics of common sense and common purpose are overtaken by politics of selfishness, threats to American liberty are inevitable. When people feel abandoned or ignored, and are left without hope in the daily struggle of their own lives, they search in desperation for easier answers. They are living in a vacuum crying out to be filled. They are vulnerable to cynical sloganeering, to simplistic solutions, and to extreme appeals to their baser instincts.

And when average Americans are not informed and their education as voters taken for granted, they, too, may be deceived by fanatical candidates or extremist cults whose purpose is to distort the value of true meaning and to pervert the meaning of true values.

Lyndon LaRouche is an extremist fanatic who distorted the value of true meaning and perverted the meaning of true values by naming his cult the National Democratic Policy Committee. Three months ago, two of his disciples, won nominations of the Democratic Party for statewide office in Illinois.

And they won with the votes of too many decent, common sense citizens who, when asked why they had supported these candidates, said: "I didn't know who they were or what they represented."

No one can undo history, but the Democratic Party must not permit that kind of history to repeat itself. For those of us in leadership positions in the Democratic Party—at the national, State, and local levels—the Illinois primary results were a rude—but valuable—reminder of two basic truths of political life in America:

(1) Responsing to the needs, the aspirations, the education of the American people must never be ignored or taken for granted;

(2) Political extremism of any form must never be ignored or taken for granted.

In the days following the Illinois primary, a close examination of Lyndon LaRouche and his extremist cult—by the Democratic Party and the media—revealed the classic hallmarks of fraud and fascism.

In a pattern not unlike that of a Mussolini or a Hitler, the LaRouchites have exercised political expediency by moving from the extreme left to the extreme right, indulging in Anti-Semitism and religious and racial bigotry, never acknowledging or accepting the fundamental principles of democracy—respect for the rights of others, respect for majority rule, and respect for civil—and truthful—public debate.

They specialize in hatemongering and hysteria, bilking the innocent and the elderly blaming the world's problems on LaRouche's conspiratorial villains which range from your former Governor Harriman to the family of your former Governor Rockefeller, from the Jews to the Jesuits, from former Vice President Mondale to the Queen of England.

Just as other totalitarians have sought to destroy other democratic systems from within, the LaRouchites are participating in American politics under clouds of fraud and false pretenses. The allegations are legion:—fraud in the raising of funds; fraud in the recruitment of candidates; fraud in qualifying for a place on the ballot, fraud in calling themselves a U.S. Labor Party; fraud in gaining political access at home and abroad; and fraud in calling themselves National Democrats.

As I think of what the centennial celebration will mean to me, I will think first of my grandfather—of how he must have felt, at age 14, just a little boy all alone, when he saw for the first time the "Mother of Exiles" welcoming him from the shores of Ireland.

Then I will think, of his son, my own father, one of 14 children and the father of 5 himself, and how he must have felt, upon his return from World War II, when he saw Lady Liberty standing gracefully and proud in New York harbor, of what it meant to him to be home and to have had to leave behind—beneath endless rows of crosses and Stars of David—sons, husbands, and fathers of every creed and color who had given their lives for liberty and for a campaign to combat and conquer fascism.

Our battle is another kind of battle, but our defense must be no less vigilant.

In every campaign since Illinois, the Democratic Party has sought to ensure that, before each primary election, no voter would be able to say: "Nobody told me who the LaRouche candidates were or what they stood for."

We have monitored filings in every state in which LaRouche candidates have sought the Democratic nominations. Even in districts where Democrats have done poorly in the past, we have fielded candidates to oppose them—not to debate them and give them political legitimacy, but to defeat them by telling voters of their political lunacy.

To date, our strategy has succeeded, since Illinois, I have devoted the Democratic National Committee's efforts to political action, and the LaRouche candidates have not won a single contested nomination for Federal, State, or local office. They have been defeated by the true Democratic Party in 85 out of 85 election contests. The Liberty we love and will soon celebrate is one which permits extremists like LaRouche, however freakish, however fascist, however fanatic—to exercise free speech in America's political process.

This decisive record of rejection of the LaRouchites by the Democrats at the polls may be the most effective statement that a political party can make to protect that process as a matter of political action. But, as Chairman of the Democratic Party and its National Committee—the keeper of the party's name, its integrity, its ideals and its traditions, I tell you, as a matter of political principle, that the LaRouche sect, masquerading as the National Democratic Policy Committee, represents all that is alien to the spirit and character of the true Democratic Party. They practice the politics of intimidation and harassment; the politics of prejudice and the politics of parancia; the politics of extremism and exclusion; the politics of fraud and the politics of fear. The Democratic Party of the United States rejects their tactics, their policies and their politics and calls on the voters of New York State to do the same.

It may have been only a fluke of history that so bizarre and extremist a movement has heightened the vigilance of the world's oldest political party. And, it is reassuring that the Democratic Party has been successful in repelling these fanatical forces during the past three months. But, it is critical that we remember and remain vigilant—not only against the LaRouche movement but against other extremist movements as well.

Political extremism in America did not begin with LaRouche victories in Illinois in March of 1986, and it may not end with the election results in September or November of 1986. The LaRouche movement is only a recent example of extremist cults that have capitalized on discontent, exploited fear, promoted hatred, distorted politics, and defiled the true meaning of liberty and democracy.

A century-and-a-half ago, the know nothings exploited the tensions which resulted when the "Mother of Exiles" first welcomed her newly adopted children. The know nothings whipped up bigotry against Catholic immigrants. For more than a decade, they brought hate to American politics.

In the aftermath of the Civil War, the Ku Klux Klan continued to terrorize blacks and succeeded in denying them rights they felt had just been won. In the 1920's, the 1960's, and even in the 1980's—the Klan re-emerged to attack blacks, Catholics, Jews, and other racial and religious Americans whose very presence has strengthened the diversity and, thus, the character of this nation.

The McCarthyites of the 1950's, the John Birchers of the 1960's and the LaRouchites of the 1980's may not have agreed on every issue. But they have shared a common view of the world—a belief in evil and all-powerful conspiracies, a disdain for the decent and nobler instincts of people; an impatience with compromise, majority rule, and with free and open debate. They have

shared an intolerance for pluralism, diversity, and inclusion—the traditional practices and principles of American democracy, and the traditional values of the Democratic Party.

No Kahane and no Farrakhan, no extremists, no racists, no separatists, no demagogues who are not democrats with a small "D," will have any place in a party which is proud to be called Democratic with a capital "D." We reserve instead a place for those who sing "Sweet Land of Liberty" with the black preacher who dreamed of the day and died for the "day when all of God's children, black men and white men, jews and gentiles, protestants and catholics, will be able to join hands" as freedom rings.

During the next several days, the Democratic Party and most Americans will reflect upon and remember the true meaning of freedom and liberty and the true meaning of traditional American values—the abhorrence of prejudice, the tolerance of ideas and beliefs, the character and strength of America that is the very product of her diversity and pluralism, the freedom and fairness that is inhrent in the politices of representation and inclusion.

Since its birth, this republic has been the safest haven for those in search of political and religious freedom. The founding fathers came together from different ethnic and religious backgrounds. Though they built colonies with different needs, resources and economies, they shaped a government committed to the belief that we are one nation. Though they recognized that a foundation of religious and moral values would be essential to the survival of the new government, they built respect for diversity into its Constitution. They proscribed in its preamble that its purposes and theirs was to ". . . secure the blessings of liberty to ourselves and our posterity . . ."

One of the blessings of liberty bestowed by this country and to be secured by us is the right and opportunity of any individual or group to participate in the American political process. But the right to participate in politics in America brings with it a responsibility to practice politics in the tradition of America.

In that context, and in anticipation of the nation's birthday, let me mention one other matter relating to the politics of our time.

A new wave of activists—many organized by or affiliated with spiritual or religious leaders—is becoming increasingly vocal and active in the American political process.

These Americans are involved in a good faith attempt to make their views heard. But the religious and lay leaders of their organizations could be truer to the very concepts their names represent.

Those who profess to hold dear the traditional values of America and call themselves the American coalition of traditional values would be truer to their name if their leader refrained from corrupting the traditional value of religious tolerance by declaring that catholicism is a "false religion" and that jews have brought their own suffering upon themselves.

Those who profess to honor the fundamental tenet of freedom and call themselves the Freedom Council could be truer to their name by refraining from moral absolutism and deeming less worthy those whose religious values or beliefs may differ from their own.

The issue of tolerance is at the essence of freedom, of liberty and of those values which are uniquely American. Our differences, our contradictions, our separate beliefs as Americans cannot be resolved by absolutism nor by denying their existence.

Democrats believe in separation of church and state which will allow any religion to flourish, to contribute to the public dialogue, to participate in public life without dictating public policy. We believe in religious tolerance not merely as the token toleration of another's faith, but as a precious asset of the American character.

If we are to truly celebrate liberty and freedom in America, we will all celebrate the right to believe freely and strongly in one thing while protecting the right of others to believe just as freely and strongly in the opposite. No American liberty is safe unless that American liberty is protected. It is our American political system that protects those liberties, and it is our political duty to protect that system.

The party of Jefferson remains true to the American and Democratic values of liberty and freedom, of racial brotherhood and religious tolerance.

From Thomas Jefferson, who wrote religious freedom into the laws of his state and nation. . . . To Franklin D. Roosevelt, who saved working America and helped it enter the middle class and achieve economic security. . . . To John Kennedy, Lyndon Johnson, and Jimmy Carter, who fought for civil rights and equal rights. . . The Democratic Party has stood for a vision of America as one nation, one people, with respect and caring for one another.

And today, that vision is no different. The Democratic Party is the party of common sense and the only party with a national sense of common purpose. It is the only political party that believes all Americans are in this adventure together, with equal and individual rights and opportunities, but with shared responsibilities.

The Democratic Party is, as it has always been, the political vessel for the hopes and aspirations of the average American. Democrats believe that individual opportunity and upward mobility, political, economic and otherwise, are reserved not just to the wealthy and the few, but are open to all, no matter one's roots, religion or region, no matter the color of one's collar or the color of one's skin.

It is no accident that the first Catholic nominee for the Presidency of the United States, a son of New York State, was a Democrat.

It is no accident that the first woman Vice Presidential nominee, a Catholic, a daughter of Italian heritage—and a daughter of New York State, was a Democrat.

It is no accident that the first Catholic to be elected President of the United States, a son of Massachusetts—and a son of Irish heritage, was a Democrat.

It is no accident that the first born-again Christian to be elected President of the United States, a son of Georgia, was a Democrat.

It is no accident that the two black presidential contenders, one a daughter of New York State, the other a son of South Carolina, have been Democrats.

At any time in our history, the surest political answer to extremism—the surest way to celebrate and renew the true meaning of liberty—is to fulfill the real mission of the Democratic Party.

To afford all Americans an equal opportunity to bring their voices and their values into the political process so long as they, in turn, respect that process by allowing others to do the same without fraud, or fear, or prejudice.

To build a future where every man, woman and child is given an equal opportunity to share in the promise of American life.

To do this, we only need to remember what I learned growing up in Boston: that the best politics is combining the toughness to govern with the compassion to care deeply enough to listen to the people, to respect their concerns, and to address their needs.

The politics of caring, of inclusion, and of values is the best strategy for victory; the proven model for principled, practical, common sense government; the proudest tradition of the Democratic Party; and the essence of the American political heritage of liberty and freedom.

As we celebrate Liberty weekend together and as we take up the Democratic Party's battle today and in the days ahead, recall and take heart from the words of a noted journalist who said of other days and other struggles:

"The lesson of the days through which we are passing is that men and women cannot live upon the achievements of their forefathers, but must themselves renew them. . . . We cannot escape . . . the elementary facts of life—that for a people there is nothing for nothing, that what they have they must themselves make, that what they cherish they must themselves achieve, what they wish to keep they must themselves defend."●

THE RETIREMENT OF LT. GEN. DONALD M. BABERS AND MAJ. GEN. NILES J. FULWYLER

● Mr. BINGAMAN. Mr. President, I want to take a few minutes today to pay tribute to two outstanding Americans and distinguished soldiers, Lt. Gen. Donald M. Babers and Maj. Gen. Niles J. Fulwyler, upon their retirement from active duty. General Babers will retire from the U.S. Army on the first of July 1986 and General Fulwyler retired on the fourth of this month. I would like to say a few words regarding their exemplary careers in the service of their country.

General Babers was born in Newkirk, NM. He graduated from Oklahoma A&M College—(now Oklahoma State University—in 1954 where he was an outstanding student and a record-setting quarterback. He was then commissioned in the U.S. Army as a second lieutenant in the Ordinance Corps.

Since commissioning, the General has held a variety of important command and staff positions culminating in his present assignment as Director of the Defense Logistics Agency. His noteworthy assignments included commander of the 126th Maintenance Battalion, U.S. Army, Europe; commander of the 46th General Support Group, 18th Airborne Corps at Fort Bragg; project manager of the M561/XM705 Truck Vehicle Programs; project manager of the M60 tank production; project manager of the XM1 tank system; and commander of the U.S. Army Communications-Electronics Command, Fort Monmouth, NJ.

General Babers was promoted to the rank of lieutenant general in October 1982 and became the Deputy Commander for Materiel Readiness, U.S. Army Materiel Development and Readiness Command. General Babers also served as the Executive Director for Conventional Ammunition and the Executive Director for Test, Measurement, and Diagnostic Equipment.

General Babers is a much decorated Army Logistician who has served in two overseas theatres, including the Republic of Vietnam. His career has been characterized by untiring efforts to provide equipment and logistics support that would guarantee our soldiers the ability to fight and win. His military decorations include the Defense Distinghished Service Medal with one oak leaf cluster, the Army Distinguished Service Medal, the Legion of Merit with one oak leaf cluster, the Bronze Star, the Purple Heart, the Meritorious Service Medal, and the Army Commendation Medal with two oak leaf clusters.

General Fulwyler, who most recently served for almost 4 years as commanding general of the White Sands Missile Range in New Mexico has had an equally noteworthy career. Born in Homedale, ID, he received his commission in 1952 following graduation from Bowling Green State University where he received a bachelor's degree in political science. He later earned his master's degree in international relations from American University in Washington, DC. He has attended the Field Artillery School, the Infantry School, the Army Command and General Staff College, and the Army War College.

As a career artillery officer, General Fulwyler held a wide variety of important command and staff positions, culminating in assignment as commanding general, White Sands Missile Range. He twice served in Vietnam, first as commander, 2d Battalion, 319th Artillery, 101st Airborne Division, and later as Assistant Chief of Staff, G3—(Operations)—3d Regional Assistance Command.

From August 1973 to June 1974 General Fulwyler served as a member of the 16th senior seminar in foreign policy at the Foreign Service Institute, Department of State, in Washington, DC. He then served as a member of a Special Review Board in the Army's Office of the Deputy Chief of State for Personnel, Washington, DC.

General Fulwyler served at Fort Sill, OK, between February 1975 and May 1977. First, he was commander of the 9th Field Artillery Missile Group, then he commanded the 111 Corps Artillery and again the 9th Corps Artillery Missile Group. In August 1976 he became the Deputy Assistant Commander of the Army Field Artillery School.

After his service at Fort Sill, General Fulwyler became Chief of the Nuclear Activities Branch at Supreme Headquarters Allied Power, Europe. From July 1979 until assuming command at White Sands, Major General Fulwyler served as both the Director of the Nuclear and Chemical Directorate in the Army's Office of the Deputy Chief of Staff for Operations and Plans and the Commanding General of the Army Nuclear and Chemical Agency, both in Washington, DC.

As Commanding General of White Sands Missile Range, General Fulwyler presided over a significant expansion of the range's activities, which has ensured that this test facility will remain at the forefront of military research and development well into the future. Ever conscious of his civic responsibilities, General Fulwyler has been very actively and constructively involved in the communities of Las Cruces, Socorro, and Alamogordo, NM, and El Paso, TX.

General Fulwyler's military awards and decorations include the Defense Superior Service Medal, the Legion of Merit with two oak leaf clusters, the Distinguished Flying Cross, the Bronze Star Medal with two oak leaf clusters, the Purple Heart, several Air Medals, the Joint Service Commendation Medal, and the Army Commendation Medal with one oak leaf cluster.

Mr. President, the Nation has indeed been fortunate to have two men with such talent and character serving in our Armed Forces in key positions for a total of 66 years. I am sure my colleagues would join me in wishing them all the best as they end their illustrious careers in the U.S. Army. I know that we will continue to benefit from what I expect to be very active retirements for both of these fine individuals.●

PHYSICIAN PAYMENT REVIEW COMMISSION

● Mr. BURDICK. Mr. President, I want to join my colleagues on the Rural Health Caucus in expressing our appreciation to the Office of Technology Assessment and its Director, Dr. Jack Gibbons, for responding to the concerns raised by the Rural Health Caucus regarding the newly created Physician Payment Review Commission [PhysPRC].

Congress created the Physician Payment Review Commission in order to establish a nonpartisan advisory board that could furnish recommendations on possible ways to readjust physician payment under Medicare. A reassessment of Medicare's current physician payment system will be one of the major reforms undertaken by Congress in the next year, and it is crucial that any adjustments that are made to the system are made with a full knowledge of their impact on rural America and the almost 60 million individuals who live in rural communities.●

TRIBUTE TO GEN. CHARLES A. GABRIEL, CHIEF OF STAFF, U.S. AIR FORCE

Mr. BYRD. Mr. President, this Friday marks the end of the honorable career of a great airman, patriot, and leader, Gen. Charles A. Gabriel, Chief of Staff of the U.S. Air Force.

From his early years on the playing fields of West Point under Coach Red Blaik, General Gabriel has proven the famous MacArthur statement that, "on the fields of friendly strife are sown the seeds that on other days, and other fields, will bear the fruits of victory." He's seen victory in Mig Alley in Korea and in the skies over the jungles of Southeast Asia. In peace, as well as in war, General Gabriel has consistently displayed integrity, sensitivity to his troops, loyalty to his Nation, and a commitment to peace and freedom that has made our country strong.

On the eve of the Air Force's 40th anniversary, Americans can feel secure in the fact that we have an air combat arm that is second to none. We achieved that position because of the dedication and sacrifice of hundreds of thousands of men and women in the blue uniforms, past and present, under the leadership of such great airmen as Hap Arnold, Tooey Spaatz, Jimmy Doolittle, Ira Eaker, Curt LeMay, Bill Creech, Russ Dougherty, Jerry O'Malley, and Bennie Davis. This list of great leaders would be incomplete without the name Charlie Gabriel.

I'm sure the Members join me in praising this distinguished American for 36 years of dedicated service to his country, and in wishing General Gabriel, his wife Dottie, and his family, all the best in the future.

TRIBUTE TO WILLIAM BROWN, LOYAL ASSISTANT TO THE SENATE

Mr. BYRD. Mr. President, I am sorry to learn that Mr. William Brown, who has been a devoted and loyal assistant in the Senate for many, many years, has decided to retire at the end of this week. Mr. Brown is the senior man of a team of dedicated men responsible for keeping our working conditions comfortable and pleasant and for keeping the Senate Chamber maintained in its present splendor for our generation and our descendants to come. He is a friendly and dedicated man who has always done a splendid job.

Mr. Brown started working in the Senate in 1948 and joined the staff of the Sergeant at Arms in 1950. When Mr. Brown first started working here, Senator Wallace White from Maine was the majority leader and Senator Alben Barkley was the minority leader of the Senate. Since that time, Mr. Brown has seen, and had been a part

of, a large and fascinating period of our Nation's history. I am sure that he has a wealth of memories and interesting tales about the U.S. Senate that would be a treasure trove to explore.

I know that I speak for all our colleagues when I say that we are sad that Bill Brown is leaving us, but we wish him and his family a most pleasant and well-deserved retirement. May God bless Bill and his faithful wife Rose with many full and happy years ahead.

THE IMPEACHMENT OF JUDGE HARRY CLAIBORNE OF NEVADA

Mr. THURMOND. I would like to take this opportunity to update my colleagues on a very important matter which may come before the Senate in the near future. This matter concerns the impeachment of U.S. Federal District Court Judge Harry Claiborne of Nevada. As President pro tempore of the Senate and chairman of the Senate Judiciary Committee, I have been contacted by many individuals regarding this matter. In view of the infrequency of impeachment proceedings and the recent House action, I believe it is useful to generally review the Senate's function in these proceedings.

As my colleagues know, Judge Claiborne was convicted in 1984 of tax evasion and is currently serving his sentence. Judge Claiborne has not resigned from his position, and, therefore, he continues to receive his salary despite his absence from the bench. Furthermore, Judge Claiborne has publicly announced that he intends to resume his duties upon his release from prison.

The House of Representatives has recently initiated impeachment proceedings against Judge Claiborne. The House Subcommittee on Courts, Civil Liberties, and the Administration of Justice has recommended—and today the full House Judiciary Committee approved—four articles of impeachment.

Article I, section 3 of the U.S. Constitution explicitly states that the Senate shall have the sole power to try all impeachments. This constitutional provision empowers this body with one of its most important and solemn duties—conducting the trial, and sitting as jury during impeachment proceedings. Such a responsibility demands our thoughtful and deliberate attention.

The trial procedure is guided by the Senate Rules of Procedure adopted in the 1868 trial of Andrew Johnson. These procedures are generally followed under arrangements worked out through the Senate leadership. Under these rules, Senate responsibility commences upon notification by the House of Representatives that it has prepared the articles of impeachment and that its appointed managers are ready to present those articles to the Senate. Following the receipt of these articles, the Secretary of the Senate informs the House that the Senate is ready to receive the House managers. On the day following the presentment of the articles, the Senate proceeds with consideration of this matter.

The Presiding Office of the Senate makes necessary procedural rulings and has the power to issue orders and compel the attendance of all necessary witnesses.

The trial begins with the House managers presenting their case and calling witnesses. Each side—the House managers and the defendant—appoints one person to direct the questioning of witnesses. Each side can appoint two persons to deliver the closing arguments. No discussion by Senators is permitted on the floor during the course of the trial. If a Senator wishes to question a witness, that Senator submits the question in writing to the Presiding Officer.

Under the Senate Rules, the Senate can appoint a committee of Senators to receive all evidence and to report its findings to the full Senate for a vote.

At the conclusion of the trial, the Senate votes separately on each article of impeachment. An affirmative vote by two-thirds of the Senators present and voting is required to sustain an article of impeachment. If any article is approved, the accused forfeits his office and the judgment could include that he be prohibited from all future service with the Federal Government.

The possible impeachment proceeding of Judge Claiborne poses a unique case because Judge Claiborne would be the first Federal judge to undergo an impeachment subsequent to a criminal conviction.

Mr. President, I am sure the majority leader will soon be addressing the Senate in greater detail regarding this matter. However, in response to those who have contacted me, I wanted to inform my colleagues of some of the duties we will be called upon to perform in the impeachment proceeding.

URGENT SUPPLEMENTAL APPROPRIATIONS BILL

Mr. DOLE. Mr. President, just a few hours ago, the Senate approved H.R. 4515, the urgent supplemental appropriations bill, authorizing roughly $1.7 billion in budget authority for 1986.

The Senator from Kansas wants to commend the distinguished chairman of the Appropriations Committee, Senator HATFIELD, for his outstanding leadership in bringing this bill to passage. His uncanny ability to listen to, and solicit, the views of every Member, as well as his careful scrutiny of each individual issue, have made all his colleagues thankful that he has been on the front line.

I also want to congratulate the distinguished Senator from Mississippi, JOHN STENNIS, for his role in bringing this legislaltion to fruition. During his tenure in the Senate, he has seen many, many appropriation bills come and go, and I, for one, am glad that I could turn to someone with his vast knowledge and experience for guidance and counsel.

Both Senators, and let us not forget their staffs, have spent countless hours crafting a bipartisan package of which we, and the American people, can be proud. Of course, as with any piece of legislation, there were many hurdles and roadblocks along the way. But in the course of reaching an agreement, both Senators maintained the dignity and professionalism unique to this upper body. The U.S. Senate is honored to have two Senators of such high caliber in its midst.

On a final note, I especially want to thank the chairman and ranking member of the Appropriations Committee, and the Defense Appropriations Subcommittee chairman, Mr. STEVENS, for their assistance in maintaining the university research funding provision. And as a Senator from Kansas, it is good to know that the Commodity Credit Corporation program will continue to make funds available to our Nation's farmers.

ORDER TO HOLD SENATE RESOLUTION 441 AT THE DESK

Mr. DOLE. Mr. President, I send a resolution to the desk on behalf of myslef and the distinguished minority leader and ask unanimous consent that it be read and that it then be held at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A RESOLUTION (S. Res. 441) to modify the provisions of S. Res. 28, relating to television in the Senate, to continue television coverage of the Senate until such time as the Senate votes on the question of continuing such coverage.

The PRESIDING OFFICER. Is there objection to the request to hold the measure at the desk? Without objection, it is so ordered.

The resolution reads as follows:

S. RES. 441

Resolved, That, notwithstanding any other provision of S. Res. 28, agreed to February 27, 1986, television coverage of the Senate shall continue under the same basis as provided during the live test period under section 5 of S. Res. 28 unless the Senate votes pursuant to section 15 of S. Res. 28 to end coverage.

DON'T PULL THE PLUG!

Mr. DOLE. Mr. President, we are now 23 days into our grand experiment called "Senate TV." During that time, the American people and their Senate have come to know each other

a little better. We may not be number one in the Neilsen ratings, but at least we are now only a dial away from millions of viewers. We have had our share of glitches, dead air, and more than a little showboating, so there is still room for improvement. Let us hope the novelty of television is wearing off for all of us.

LET'S STAY ON THE AIR

In my view, I believe the combination of TV and the tax bill has put real momentum behind our efforts to keep the Senate a dial away from the people.

And so Mr. President, today I am pleased the distinguished minority leader is joining me in the decision not to pull the plug on the American people. Let us stay on the air and continue our experiment on the airwaves. There's really no reason to turn off the cameras. We have reviewed the experiment on a daily basis—each side has an ad hoc committee studying it—so there's nothing to gain from disappearing for 2 weeks.

CONSISTENCY IS THE KEY

We have tentatively staked-out a place on the crowded dials of American television and radios. We should stay there. Consistency is the key, Mr. President, and unless we maintain a consistent presence I am concerned we could squander the tremendous strides Senate television has taken in a few short weeks. If we are serious about building a bridge to our electorate—and keeping it—we had better reconsider the decision to let the Chamber "fade to black."

By the same token, if we are serious about performing for the people—not the cameras—then we should also take a hard look at ourselves and our conduct so far on the TV screen.

By now, our viewers have discovered something we have known for years: The Senate is one confusing place! Let's not confuse them any further by dropping from sight.

UNANIMOUS-CONSENT REQUEST

ORDERS FOR MONDAY, JULY 14, 1986

Mr. DOLE. I ask unanimous consent that when the Senate convenes on Monday, July 14, the reading of the Journal be dispensed with, no resolutions come over under the rule, the call of the calendar be dispensed with, and following the recognition of the two leaders under the standing order there be special orders in favor of following Senators for not to exceed 5 minutes each: Senators PROXMIRE, and MELCHER, to be followed by a period for the transaction of routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each; provided further that the morning hour be deemed to have expired.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

I further ask unanimous consent that committees be authorized to file reports between the hours of 10 a.m., and 3 p.m., on Tuesday, July 8.

Mr. BYRD. Mr. President, reserving the right to object, and I am sure I will not object, but would the distinguished majority leader, before he puts the request, state what the program will be for Monday and Tuesday, as near as he can?

PROGRAM

Mr. DOLE. Mr. President, on Monday, we hope to take up the reauthorization of the ACTION Agency, S. 2324, and the reauthorization of health programs, S. 2444.

I am not certain that those would require rollcall votes. If that is the case on Monday, that will be set over until Tuesday. But I am advised that each would take maybe a couple or 3 hours. So there will be business on that day. I think I could say that any rollcall votes would occur on Tuesday.

Mr. BYRD. I thank the distinguished majority leader. If he will bear with me further, does the distinguished majority leader plan to proceed with the treaties early?

Mr. DOLE. Yes; I think what I would like to do is make certain everyone on each side is here, and if that is the case, maybe we could have the vote following the policy luncheons on Tuesday.

Mr. BYRD. One final question: Does the distinguished majority leader intend to resume consideration of the Manion nomination early that week, or midweek, or can he state at this point beyond that?

Mr. DOLE. I can only speculate. Again, hopefully we can do it Tuesday, the 15th. But again, as the majority leader knows, it is a one-vote margin either way. I would want to make certain that every Member is present, particularly every Member on this side.

Mr. BYRD. The distinguished majority leader I assume would give all Members ample notice of the intention.

Mr. DOLE. I will consult with the minority leader before I make any effort to move to table the motion to reconsider and go into executive session.

Mr. BYRD. Would it be a fair assumption that the distinguished majority leader would give all Senators at least 24 hours' notice for resuming consideration?

Mr. DOLE. We will try to determine early Monday when we come back if everyone will be here on Tuesday, and then we can give notice. I could give notice to the minority leader say about 1 o'clock on Monday, and about 24 hours later then we would vote.

Mr. BYRD. So the distinguished majority leader would give notice at least 24 hours so that all Senators on both sides would know that the Senate is going to resume consideration of the nomination.

Mr. DOLE. I would say now that I think Senators ought to be on notice that that is the intention of the majority leader. Obviously, if someone is ill or otherwise is detained, that would be a factor. Of course, if someone decides that they do not want to be here for the vote, that is their judgment. But we will try to make thorough inquiry and be in a position to give the information. I would guess we would do it between 12 noon and 2 in the afternoon on Monday, the 14th of July.

Mr. BYRD. I say to the distinguished Senator that I do not mean to belabor the point. The distinguished Senator is thinking then in the context of that answer that there would be at least 24 hours' notice prior to any action by the distinguished majority leader in resuming the consideration of that nomination.

Mr. DOLE. That is correct.

Mr. BYRD. I thank the distinguished majority leader.

Mr. President, I have no objection to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME AGREEMENT ON NOMINATION OF TERRENCE M. SCANLON

Mr. DOLE. Mr. President, I wonder if it is possible, and if I can ask the distinguished minority leader if we can reach some agreement on the nomination of Terrence M. Scanlon to be Chairman of the Consumer Products Safety Commission.

Mr. BYRD. Mr. President, I think the distinguished majority leader and I have now conferred about the time agreement. This is a time agreement which the distinguished majority leader is about to propound which has been cleared by all Members on this side. We are prepared for the distinguished majority leader to proceed.

Mr. DOLE. I thank the minority leader.

Mr. President, as in executive session, I ask unanimous consent that at 2 p.m. on Tuesday, July 15, the Senate go into executive session to consider the nomination of Terrence M. Scanlon, to the Chairman of the Consumer Product Safety Commission, and it be considered under the following time agreement:

Two hours on the nomination to be equally divided between the chairman of the Commerce Committee and the ranking minority member, or their designees;

And no motion to recommit the nomination be in order;

And that following the conclusion or yielding back of time, the Senate proceed to vote on the nomination of Terrence Scanlon.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. DOLE. That might alter the time we had on the treaty vote. But I think it is important that we do this.

Just to recap, on July 14, we will convene at 12 noon following adjournment.

Under the standing order the leaders have 10 minutes each, followed by special orders in favor of Senator PROXMIRE and Senator MELCHER not to exceed 5 minutes each.

There will be routine morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following morning business it will be the intention of the majority leader to turn to either the reauthorization of the ACTION Agency or reauthorization of health services programs. Hopefully we can complete action on those two matters.

As I have indicated, if rollcall votes are required, they will be postponed until the following day, Tuesday, July 15.

Then we will have the vote on the Scanlon nomination.

There could be further action with reference to the Manion nomination, as indicated not without giving notice to the distinguished minority leader hopefully at least 24 hours in advance. We hope to have that information available.

We can certainly count on three or four votes, I would say, on Tuesday.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

ADJOURNMENT UNTIL MONDAY, JULY 14, 1986

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move the Senate stand in adjournment in accordance with the provisions of House Concurrent Resolution 364 until 12 noon on Monday, July 14, 1986.

The motion was agreed to; and, at 12:19 a.m., the Senate adjourned until Monday, July 14, 1986, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 26, 1986:

THE JUDICIARY

John H. Suda, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years, vice H. Carl Moultrie, deceased.

IN THE ARMY

The following-named officers for permanent promotion in the U.S. Army in accordance with the appropriate provisions of title 10, United States Code, sections 624 and 628:

To be major

Alan D. Sodergren, [redacted]
Stephen P. Walsh, [redacted]
Patrick T. McDevitt, [redacted]

IN THE NAVY

The following-named U.S. Naval Reserve Officer, to be appointed permanent commander in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Patten, Leo G.

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant commander in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Conway, Richard
Demik, Gregory W.
Flanagan, John Joseph, III
Johnson, Douglas Alexander
Ostendorff, William Charles
Palkie, James Sahlman

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Ainley, John William
Alexander, Dwight Russell
Allen, Ronald Timothy
Anderson, Debra Kay
Apprienticeyaus, Alexandria
Ashenfelter, Leslie Hansen
Babbitt, Jack A.
Bales, Brian B.
Barker, William Nelson
Barrineau, James William
Beach, Vernon Dale
Beaumont, William Wortham
Bell, David Andrew
Bell, John R.
Benedict, Deborah Eileen
Benkendorfer, Gary William
Bewley, Bryce Neal
Binnie, William Brian
Birch, William Paul
Bishop, Harold Farnsworth, II
Boyle, Richard Jack
Brasmer, Timothy Matthew
Brice, David Thomas
Brown, Robert Walter
Buesser, Frederick M.
Buran, Michael David
Burke, Willie, Jr.
Burridge, Jack Thomas
Burrus, Robert Dennison
Butler, Bruce K.
Byrne, Alfred Douglas
Canin, Daniel Gordon
Cannon, James Francis, Jr.
Carey, Marvin Daniel
Carson, Elizabeth Ekker
Carver, Virginia Ruth
Champ, Thomas Arnold
Chesser, William Owen, Jr.
Cimellaro, John A.
Clark, Joseph Francis, III
Cobb, Allen R.
Cole, Bruce Alan
Cooper, Louis Isaac
Craig, Jack Talton
Crawley, Fred Herman
Crisci, Robert William, Jr.
Culp, Scott D.
Cunningham, Ernest Guy
Currie, Neil McCray
Deak, Timothy Allan
Dee, Thomas Peter
Dendy, Frahnz
Dillon, Michael William
Downey, James Patrick
Doyle, Paul Randal
Dray, Jan Roland
Driscoll, Patrick
Drzewiecki, Thomas Edward
Early, Russell Eugene
Edinger, Michael Scott
Edwards, Jonathan R.
Ellinger, James Monroe, Jr.
Ellison, Dennis Warren
Erikson, Mark Arvid
Farbo, Joseph Michael
Fetter, Patrick Joseph
Finley, Estella
Fiorilli, Phillip Frank
Frahm, David Gregory
Frank, Kevin Keasbey
Fraser, Stephen Colby
Fredrickson, Robert Alan
Fuller, Charles Edward
Gallamore, Jay Scott
Garcia, Jose F., III
Garrett, Douglas Randolph
George, Louis Bryan
Gilroy, Charles William
Goddard, Paul Earnest
Gonzalez, Jose Manuel, Jr.
Grawn, Forrest Lee, Jr.
Gray, Michael Allen
Green, Richard Francis
Green, Samuel Davis
Griffin, John Clark
Groenhout, Brian A.
Gutt, Thomas John
Haarberg, David Robert
Hale, Timothy Ray
Hankins, Anthony Shawn
Hankins, William Blake, Jr.
Harbison, Elizabeth Hodgson
Hart, Loren J.
Hartman, Martha Ellen M.
Havens, Brian Jeffrey
Hawkinson, Marcus Lee
Hendrickson, George Benjamin
Hesterman, Jeffrey Allen
Hickman, Brian Jeffrey
Hinz, Eric Stacy
Hitchcock, David Frank
Hoffert, Susan Lynn
Hogan, Joseph Thomas
Hogan, William Patrick
Hollis, Mark Matthew
Holly, Donna Sue Ward
Hopkins, Marie Elizabeth
Hornak, Robert S.
Horton, Thomas J.
Howard, Douglas M.
Huber, Jeffry L.
Ioannidis, Avgi
Jaeger, Jeffrey Coates
Johnson, Jacob D.
Johnson, Thomas Wayne
Johnston, Richard Karl
Jones, David Anthony
Jordan, Michael Leroy
Kalis, Robert Leon, Jr.
Kaminski, Mark Walter
Kay, Robert Hans
Kilian, George Francis
King, Frederick Michael
King, Sara A.
Kirven, Jerry Donovan
Kittle, John I.
Klosterman, Robert Lynn
Kluckman, Patrick Noel
Kren, Richard John
Kuehn, John Trost
Kuhns, William Allen, Jr.
Lampela, Eric Paul
Lheureux, Jacques Rene
Little, Benerson Kile
Litwiller, Steven William
Lovelace, Joseph Lynn
Lunn, Jeffrey Eugene
Lynch, Peter James
Lyon, Stephen Richard
Mabry, Daniel Stacy

Maddrell, Debra Oglesby
Maldy, Kevin James
Manick, Steven Paul
Mathis, Jett William
McGahee, William Joseph
McGowan, William F., III
McKinley, Brian Dennis
McNett, Timothy Edward
Meinig, Lee
Mobley, Arthur W.
Morel, David
Morin, John Patrick
Mowery, Jarratt Moss
Moyer, William James, Jr.
Mueller, David L.
Netko, Jerome John
Newton, Donald Roy
Nicholas, Jeffrey Charles
Nicholson, Bol Ray
Novencido, Ferdinand Cabato
Oar, Gerald Lee
Odea, Stephen M.
Okoniewski, William Gerard
Omspach, William Craig
Overfelt, Denzil Edward
Paige, Jeffrey Lloyd
Paty, Robert Paul
Pearson, Carl Henning, II
Peavy, Will J.
Pedene, William King
Pedersen, John Barry
Pendleton, Garry Lee
Petty, William Keith
Plastine, Debra Marie
Plucker, Ronald Christian
Potkay, Gary Peter
Price, Eugene Boyd
Prince, Michel Harry
Prosono, Lawarence Bernard
Pryor, Julius, III
Purvis, Henry Kevin
Ramirez, Richard Paul
Ravenscroft, Bruce Eric, Jr.
Regemann, Mark
Renninger, Charles Paul, II
Rice, Randy C.
Richardson, Mark David
Richardson, Stanley R.
Roberts, William Gordon, II
Robinson, Jonathan Hugh
Robinson, Richard Thomas
Rogers, Danny R.
Roudabush, Jonathan Michael
Rystrom, Jon Alvin
Savage, Nicholas B.
Schaefer, Mark Robert
Schmidt, Peter Joseph
Schoppe, Robert John
Scott, Charles Kenneth, II
Seipel, David W.
Semikuski, James Thomas
Seveney, James Arthur
Sewell, Joel Byron
Shand, Michael Robert
Sharkey, Steven Michael
Sheppard, Kim Bowen
Shirey, Donald Joseph, Jr.
Singer, Ronald Lewis
Smeltzer, Harold Jay
Smith, Amy Ruth
Sorensen, Eric William
Spain, Christopher K.
Starbuck, Donald Webster, Jr.
Summerlin, Gene Armond, II
Tacquard, Scott D.
Taylor, Jeffrey Austin
Taylor, Philmont Monroe
Thompson, Gary Houston
Thompson, James B., Jr.
Thrasher, Steven Paul
Tillman, Robert E.
Tollefson, Bryan W.
Turner, George Macon, III
Ullmann, William Alexander
Vaigneur, James Houston, Jr.
Valenti, Barbara Frances
Vinci, Frank Lane
Wagner, Scott Robert
Walters, Steven Edgar
Watson, Marion Edward, Jr.
Waugh, David B.
Weatherholtz, Jeffery Wayne
Webb, Billy Edward
Webb, Michael Anthony
White, Scott Alan
Whitener, Douglas Lee
Whitmire, Keith Barry
Wiegand, Karl John
Wilcox, Clayton S.
Wittreich, John Louis
Woehler, Markus Andrew
Woods, John Frederick

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (Junior grade) in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Adams, Christianna Whitaker
Alfini, Richard Ralph
Aquilino, Vincent Paul
Armstrong, Clayton Lee
Attaway, Patrick Ray
Bandur, Teresa Susan
Baran, Kathy Ann
Barnard, Thomas Harold
Barrow, Paul Michael
Barton, Keith Ray
Bean, David Fairchild
Bentley, Jane Elizabeth
Berry, Ellen Marie
Bickel, Kevin J.
Blackman, Bobby Grant, Jr.
Blythe, William Stanley
Booth, Claudette
Bouck, Dwight Alan
Bouziane, Diane Highfill
Brewington, Candice Marie
Bridgham, Henry Benjamin
Brooks, Helen Lorene
Budden, Donald Dean, Jr.
Burgess, Harvey Blake
Butterfield, Alexander Porte
Caldwell, Stephen Browder
Campbell, Weldon Jackson, Jr.
Carmichael, Stephen Paul
Carter, Evon Bernard
Catherman, Sue Ann
Chang, Donalda Charlotte
Cheresnowsky, Mark Anthony
Clapp, Mark Douglass
Clay, Robert Michael
Cline, Richard Stuart
Cline, William Edward
Cole, James Arnett, Jr.
Collett, George Richard
Collins, Arnold Eugene
Conroy, Tracy Michael
Cook, Randle Collingwood
Cox, Amry Stout
Craun, Yvonne Marianne
Cross, Timothy Blair
Csuti, Robin Lee
Cummings, Christina Gene
Cyrway, Donna Sload
Darrah, Mark Wayne
Davis, McKinley Junior
Dillard, Nancy Rose
Dolan, Richard Patrick
Dollish, Robert William
Dombroskie, Lisa Christine
Donato, Gary Roland
Dorenbush, Robert Dale
Draughon, Johnnie Earl
Dropp, Anthony Henry
Dukatz, Terry Brian
Dunn, Linda Lee
Dunn, Margaret Ann
Eaton, Gregory William
Eaton, Susan Lyn
Emmons, Mark Edward
Enbody, Diane Marie
Estevan, Edgar Evans
Etherton, Charles P.
Everts, Ray Earl, Jr.
Eyer, Kevin Stewart
Farmer, Richard Gary
Field, Robert Agnew
Fisher, John Warren, III
Flavin, Christine Marie
Franche, Candonino Pagaduan
Fulton, Steven Paul
Gaines, Robert James
Geisinger, Larry Keith
Gonzalez, Henry Cabrera
Graham, Warren Curry, III
Grause, Peter Francis
Graves, Donald Joe
Griner, Joel Tally, Jr.
Grogan, Terence Michael
Gulick, Hans
Gulick, Rosmari Ruland
Hall, Margaret Yvonne
Harris, Robin Lee
Harris, Sinclair Miscal
Heron, Charles Michael
Heron, Francis Gregory
Hill, Luther, Jr.
Hill, Paul David
Hirschkowitz, Martin Robert
Hoffman, Claire Ellen
Hoffman, Jane Ellen
Holk, Glenn Anthony
Hooey, John Timothy
Huey, Joseph Stephen
James, Ricky Curtis
Janson, Dorothy Marie
Janzen, Lonnie Ray
Jeffords, Barbara Lynn
Johnson, Marc Jay
Johnson, Richard
Jones, Jeffrey John
Jones, Randall Earl
Joseph, John Edward
Kallio, Robert Craig
Keller, Tina Reva
Kelly, James Edward
Kernen, Bernadette Anne
Ketterman, John David
Kiley, Christopher William
King, Charles Huland
Kingsbury, Brian Joseph
Klimson, Eugene NMN
Kraeckbarnes, Ainslie Ann
Krafft, Joel Norman
Largin, William Earl
Lassnoff, Cynthia Sharon
Laudenslager, Arther Edward
Lawrence, Timothy Jay
Lee, David Yatming
Lim, Rolando Mateo
Lowder, James Alton
Malmberg, Douglas John
Malouin, Robert Louts, Jr.
Marshall, Aretha Marie
Martin, Bradley Dean
Mason, Melvin, Jr.
McKernan, Scott John
McKinney, Esther Faith
McMeans, Linda Hopwood
McRoberts, Stephen Richard
McSherry, Marcia Louise
Mennecke, Donald William
Mertl, Frederick Michael
Miller, Coy Lee
Millett, Patrick M.
Mishoe, John Edward
Morris, Kenneth Ray
Muir, Gregory Cooling
Munson, John Anthony
Murphy, Geoffrey Markham
Negron, Anthony
Newman, Robert Dean

Nicholson, John Robert
Norman, Christopher Legrand
Obninsky, Mari Catherine
O'Neil, Robert Emmett, III
Oriel, Oscar Ruiz
Orrell, Janet Deann
Ostlund, John Thomas
Pafford, Michael Eugene
Pearson, Roger Dale
Phillips, Steven Michael
Ramskill, Susan Diane
Reid, William Samuel
Rhoades, Warren Edward, III
Ritt, Franz Josef
Roche, Thomas Patrick
Rodakis, Matthew Thomas
Rogers, Maria Veronia
Rosar, Honor Ann
Rybat, Anna Louise
Salerni, Claudia Risner
Schmidly, Claudia Jane
Schmitz, Kevin Lee
Scott, James George
Scott, Thomas Wayne
Seeley, Mark Timothy
Shanahan, Teresa Lynn
Sharlow, Albert Roy, Jr.
Sheehan, William Augustine
Slivka, Nancy Elizabeth
Smith, Carole Janet
Smith, Charlotte Verda
Smith, Sherron Elaine
Snyder, Randall Craig
Sommers, Robert Stefan
Spears, Larry Paul
Steed, Michael Thomas
Steele, Walter Robert
Steigerwald, Pamela Jean
Stevens, John Jason, III
Strokos, Elechia Joyce
Stubits, Neil Charles
Sutherland, Danny Joe
Swarbrick, Kirk Bradley
Sydnor, Katherine Anne
Taggart, Elizabeth Young Chu
Taylor, Sam Oliver
Thompson, Christopher Edward
Thomsen, Roxie Marie
Tietjens, Karen Lynne
Tollerene, Gary Steven
Troedson, Christopher
Tucker, Kris Gordon
Udell, Kathleen Mary
Vanderende, Sharon Kimberly
Vanwagner, Thomas William
Veneri, Janice Margaret
Villanueva, Fernando Tirona
Vincze, Edward Alan
Wacholz, William Arthur
Wdowiak, Catherine Ruth
Welge, William George
Welshans, Gail Ann
Wernimont, Thomas Roy
Wesslen, Mary Kristine
Wheeler, Ronald Parker
Whittington, James Lee
Wilder, Carol Ann
Wildnauer, Paul Michael
Williams, Mark Anthony
Wilson, Carlene Diane
Woo, Susan Lee
Woods, David Wade
Wright, Robert Clair, Jr.
Yancey, Marion Douglass
Yetter Joseph Amos, Jr.
Yoxheimer, Stephen Eric
Zinnikas, Linda NMN

The following-named U.S. Naval Reserve Officers, to be appointed permanent ensign in the line of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Abolins, Airis Alexander
Abraham, Jay
Adams, Ronald Francis, Jr.
Allen, Martin Wade
Altman, Brian David
Andone, Allen Devega
Armerding, Mark Daniel
Arnold, Douglas Evan
Asbury, Thomas MacDuff
Aucoin, Geoffrey Scott
Augustine, Thomas Henry
Bach, Steven Robert
Barefoot, Matthew Thornton
Barlocker, Bradley Dennis
Barton, Glenn Anthony
Behr, Carl Gordon
Benson, Ian Roger
Bernath, Gregory Norman
Berube, Glenn Paul
Bettinger, Patrick John
Birdsall, Scott Case
Blackburn, Tyrone Robert
Blaker, Steven Scott
Bloom, Steven David
Booth, Brian Charles
Bregar, Curt Alan
Brown, Owen Clayton
Bruns, William Howard
Bruun, Barry Raymond
Bumgarner, Marc Daniel
Bush, Don C., III
Byrnes, Richard Dennis
Capik, Nicholas Joseph
Capone, Matthew John
Carlson, Joseph Thomas
Carpenter, Dennis Edward
Carratelli, Anthony Gregory
Carroll, John Brian
Catalano, Marlon Samad
Chase, Dean Michael
Clark, Steven Gregg
Connor, John Leroy
Conway, Joseph Edward
Copeland, William Joseph
Cruz, Stephen Floyd
Dausin, Lawrence Raymond, Jr.
Dennis, Mark Victor
Digenova, Jeffrey Allen
Duclos, John Lewis
Duncan, Eric Raymond
Elston, Harry Joseph
Engle, Mark William
Feinn, Benjamin Bruce
Fiola, Richard John
Fischbach, Andre Joseph
Fitzgerald, David Scott
Fitzgerald, Dennis Luke
Flanigan, Thomas Andrew
Fontes, Kevin Anthony
Friedman, Peter Daniel
Fuqua, Steven Jay
Gaines, Jay Scott
Garber, Kenneth Raymond
Gasperoni, Richard, Jr.
Gault, Russell Keith
Gazaway, Alan Scott
Gingher, Robert George
Going, David James
Green, Jimmy Jack
Groh, Raymond David
Guest, Walter Harold, III
Hannon, Timothy Lee
Harris, Brogdon Guy, II
Heorman, Kevin Ray
Hill, Rustan James
Hilscher, Gregory John
Hiss, Jeffrey Michael
Ingels, David Scott
Inghram, Stephen Paul
Jabaley, Michael Ellis, Jr.
Jackson, Elliott William
Jakubelc, David Andrew
Jenkins, Lee Ryan
Johnson, Gregory Alan
Johnson, Robert William
Jones, Dale Alan
Jones, Ted McConkie
Kay, Christopher Kent
Keesler, Daniel Eugene
Kelleher, Michael Francis
Kerber, David Clair
Kincius, Brian Craig
Kitchens, Richard Wayne
Kleinheinz, Kenneth John
Knudson, Jeffrey Russell
Kolonauski, David Scott
Koyama, Harol Hideshi
Kramer, John Gregory
Kramer, Rodney Lee
Krueger, Kurt Lester
Lee, Ernest James, Jr.
Letz, Ronald Craig
Leugemors, Robert Kline
Lipa, John Paul
Logan, Charles Jerome
Lorson, Raymond Kevin
MacDougall, Albert Edward
Martin, Kenneth John
Maurtua, Victor Anibal
McAloon, Jeffrey Francis
McBrayer, Roy Nelson, Jr.
McDonald, Robert Mark
McGrain, Kerry
Miller, Brian David
Miller, Brian William
Mitchell, John Riley
Mowrey, James Alan
Musolf, Wayne Roy
Myshrall, Thoras Eric
Nance, Douglas Vinson
Nazimek, Drew Victor
Neale, Jack Stewart
Nelson, Kyle Eric
Orr, John Daniel
Ott, Michael James
Overholt, David Michael, II
Painter, Steven Marcus
Pak, Jas Il
Paluszek, David Henry
Parkinson, Gregory Thomas
Parnes, Stephen Lewis
Pegram, James David
Peterson, Kevin Bruce
Pettine, Kyle Damion
Poppe, Stephen James
Powers, Michael Anthony
Prather, Jonathan Brooke
Prochnow, Daniel Frederick
Pulse, William Lyle
Radwick, Jeffrey Lansing
Raley, Ivan Nelson, Jr.
Reynolds, Guy Benjamin
Ricke, Charles Joseph, III
Robertson, Michael Stanley
Rogers, Charles Jack
Rudd, Kevin William
Scarberry, Randall Eugene
Schierloh, John Brendan
Schneider, Robert Joseph
Schoonover, Gilbert Dalton J
Schubert, Gregory Scott
Scofield, Richard Dennis
Seitz, Michael Edward
Sharp, Joseph Clemensen
Shaye, David Robert
Sheets, Charles Irvin
Shoemaker, James Alvin
Simpson, Keith Edward
Slowik, Mark Steven
Smith, Galen Dane
Smith, Roger Jay
Stanton, Scott Allen
Stephens, William David
Stevenson, Paul Robert
Stivers, Christopher Todd
Sullivan, James Arthur
Swanson, Steven Clarence
Tay, George Ives
Taylor, Michael Wayne
Taylor, Paul Henry
Telofski, James Scott

Thieman, Thomas Paul
Thurburn, Matthew Dean
Tubbs, David George
Vance, Brian Thomas
Vanderplaats, Roger Alan
Vece, Thomas William
Voeller, Phillip Dale
Vourhees, Franklin David
Wakefield, Charles Paul
Wall, Jay Clinton
Watkins, Steven Duane
Weiss, Gregory Gene
West, Byron Lloyd
Wood, John Jerry
Zeligr, Craig Michael
Zollinger, William Thor
Zopff, David Luther

The following-named U.S. Naval Reserve Officer, to be appointed permanent captain in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Jothi, Rishyur Krishnan

The following-named U.S. Naval Reserve officers, to be appointed permanent commander in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Allen, James William
Mitas, John Albert, II
Rabetoy, Gary M.
Ragland, Jerry John

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Carl, Mitchell
Chalmers, Antonia Co
Drum, Edward Allen
Gallo, James John
Hughes, William Edward
Kim, Byung Jin Min
Klein, Michael K.
Lehner, William Edward
Nickle, Carroll John
Russell, John Michael
Soroka, Paul Z.
Timtiman, Mercedita Tem
Wotowic, Paul John

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Medical Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Akob, George Mot
Allshouse, Michael James
Bakalar, Nancy Lee
Barr, Richard S.
Cottrell, Alfred Charles
Cullom, Susan C.
Delisi, Michael David
Devoll, James Roy
Diveley, Kent
Eusebio, Richard Brownl
Ferrara, William Bruce
Garcia, Karen Mikelait
Grier, Douglas Howard
Henry, Michael Ross
Hoffmeister, Karen Jane
Hudler, John Glen
Juliano, Paul Joseph
McMillan, David Lee
Miller, Gregory L.
Mills, Richard Joseph
Morin, Lee Miller Emile
Newman, Nathan Paul
Nixon, Kenneth E.
Oswald, Richard Edward
Petty, Robert H.
Raspa, Robert Franklin
Rast, Terry Paul
Reifsnyder, Daniel S.
Sack, David Michael
Saporito, Louis J.
Schor, Kenneth Wilson
Scow, Dean Thomas
Snyder, James E.
Swindle, Glenn Michael
Vazquez, Emilio De Jesu
Yund, Alan Jeffrey

The following-named regular officers to be reappointed permanent lieutenant in the Supply Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(B):

Benson, Andrew Lawrence
Dunne, Margaret Anne
Freeman, Von Webber II
Jorgensen, Herman J.M., IV
Muck, Steven Robert
Napoli, Joseph Anthony, Jr.
Riedinger, Richard Drew
Talwar, Paul

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant in the Supply Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Abrajano, Roger Andre
Andrews, Randolph Colvin
Badecker, John R.
Bass, Thomas Charles
Calagna, Charles Joseph
Chapman, Michael Jere
Cherry, George Michael
Erickson, David Paul
Fortner, Robert Glen
Genaux, Paul Theron
Goss, Margaret Ann
Hawkins, Patrick Kenneth
Johnson, Michael Warren
Kittredge, Kenneth Keyes
Liebeskind, Eric A.
Mausar, Paula Ann
Miller, Donald O.
Murray, Sharon L.
Price, Stanley Zane
Smith, Mark Edward
Stream, Chris Kennedy
Thompson, Larry Eugene, Jr.
Vanhaasteren, Cleve J.
Vohar, Timothy John
Warren, Griffin L.
Wieners, Steve Douglas

The following-named regular officer to be reappointed permanent lieutenant (junior grade) in the Supply Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(B):

Allison, Phillip Rowe

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Supply Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Barko, Harry Arthur, Jr.
Bautista, Oliver Oropesa
Berdahl, Nels Edgar
Bravo, Manuel Estabillo
Bretz, James David
Brown, Lawrence Robin
Bryant, Charles Leonard
Cerwonka, Brain Michael
Chapman, Wilbur Keith
Clay, Michael David
Cleveland, Joseph Michael
Coley, Rubert, Jr.
Corrigan, Bruce Ronald
Crozier, Stanley Keith
Cutshall, Charles Henry
Deal, Frank Michael, III
Deamer, Cathleen Barkley
Deeken, Robert Ray
Dulan, James Francis
Duncan, William Milton
Dunham, Richard Charles
Dyer, Michael Elmer
Eckstein, Robert Charles
Fowler, Ross Ogden, III
Gann, Perry Dean
Grassilli, Leo Joseph, III
Guthner, Parke Leland
Husson, Claude Robert, III
Jablonski, Thomas Edward
Johnson, Gregory Russell
Knobloch, Kurt Benet
Koestner, Louis Joseph
Larson, Craig Allen
Lazo, Milante Foronda
Lemler, Bruce Neil
Lendle, Diana Frances
Maloney, Michael Kevin
Maloney, Thomas Clarence, Jr.
Marchbanks, Keith Lynn
Matheny, Paul Douglas, Jr.
McCune, Terry Alan
McKasson, Jeffrey Lee, Sr.
Meyer, Charles Hardwick
Osbourn, Douglas Alan
Owen, Michael Garrett
Palmer, Richard Todd
Powell, Paul Lewis Jr.
Pubillones, Jose
Rau, Karl Frederick
Ray, Wiley Gregory
Rickard, Clarance Daniel
Roggen, John Ivan
Root, Thomas Marlowe
Santeiro, Ernest Arthur
Scheidt, Barbara Jeanne
Scheidt, Calvin Robert Jr.
Schneck, Marlon Roy
Smith, Danny Roy
Smith, John Scott
Smith, Steven Lee
Sorensen, Daniel Martin
Tanjoco, Raymond Romero
Terry, Glenn Edward
Thomas, James Garnet
Truesdell, James Lemoyne
Truitt, Winward Hylton
Vanhoosen, Paul Stormer
Walker, Raymond Alexander
Walker, Samuel Nathan
Wassel, Robert James, Jr.
Watson, Terry Van
Wells, Uva Merrily Y.
West, Marc Allan
Wilson, Mark Charles
Young, David Larry

The following-named U.S. Naval Reserve officer, to be appointed permanent lieutenant in the Chaplain Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Simmons, Landa Harris

The following-named regular officers to be reappointed permanent lieutenant in the Civil Engineer Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(B):

Croz, James Gogue
Fiorino, Douglas
Hayward, Scott A.
Lutkenhouse, Mark Geoffry
Tomlinson, Douglas Philip

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Civil Engineer Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Bruner, David Charles
Coleman, David Mark

Fleisch, David Louis
Moot, Christina A.
Schau, August James
Stoll, Michael John
Wallace, Lewie Jefferson
Wironen, Alan Michael
Woody, Jr., Joseph L.

The following-named regular officers to be reappointed permanent lieutenant (junior grade) in the Civil Engineer Corps of the U.S. Navy, pursuant to title 10, United States Code, section 5582(b):
Boothe, Douglas Hammond
Caswell, Ronald Rankin, Jr.
McLean, Emmi Alexandra
Miller, Gregory Hughes
Munoz, Hermogenes Reyes

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Civil Engineer Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Blount, Michael Lamar
Boone, David Mikio
Butcher, Everett Lester
Gass, Matthew Stephen
Gatchalian, Donald Hynson
Herring, Thomas Francis
Morris, Scott Alan
Morse, Cannon Lee
Mosites, Patrick James
Sajonia, Charles Blake
Savage Michael, Peter
Schmader Kelly Joseph
Setser, Darrell Michael
Slates, Kevin Robert
Taylor Douglas Paul

The following-named U.S. Naval Reserve officer, to be appointed permanent lieutenant commander in the Dental Corps of the U.S. Navy, pursuant to title 10 United States Code, section 531:
Switts, William

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Dental Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Ayers, William Herbert
Benson, Gregory Steven
Bigelow, Gilbert Ulysse
Boyle, James Michael, II
Broere, Paul Thomas
Brosy Lynn Ann
Bryant, Nathaniel Cedri
Butson, Timothy James
Casiliobixler, Lanetta
Fidler, John
Frisk, Robert Kurt
Funari, Godfrey Joel
Gerhardt, Paul Wilbur
Golden, Richard Earl, Jr.
Gottstine, Martin Louis
Hays, Jeff
Hegeman, Mark Steven
Houk, Roger Andrew
Hyland, Lynn Clair
Johnson, Deborah Kay
Johnson, Mark Steven
Johnson, Scott Allen
Johnson, Tracy
Knudson, Kent Gordon
Lee, Stephen Roger
Lento, Christopher A.
Lindsay, Gary Michael
Luper, William Donald J.
Mann, James Howard, Jr.
Martin, Ulysses Samuel
Masters, John William
Mikulencak, Allen Ray
Moore, Becky Sue
Mueller, Mary Alice
Orth, Mark Phillip
Oxford, Gregory Edward
Peters, Andrew Dean
Scanlon, David Robert
Schmidt, Paul Eugene, Jr.
Sellers, Vernon
Shea, Timothy Joseph
Sindel, Dennis Wayne
Smith, Johnny Sheldon
Stewart, Cherly Ann
Watts, John Harvey
Wren, Robert Lee

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant, in the Medical Service Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Ahern, Dennis E.
Alexander, William Keit
Ashbrook, Fred Martin
Beaugrand, Marsha Jane
Binnall, Steven Frederi
Brassington, Charlene D.
Church, Cole Jackson
Clayton, Roderick Lyle
Crawford, Gary Lamar
Dewald, Jerry Michael
Dobbs Mark Anthony
Eichner, Ryan Bruce
English Charles K.
Gaffigan, Denise
Gunn, Charles Elwood
Harper, Warren Emanuel
Hartman, Sandra K.
Holtzclaw, Shari
Hooper, James Malcolm
Jain, Sushil Kumar
Kelly, Patrick John
Kobus, David Allan
Laurent, John Milton
Lemm, Michael Edward
Linn, Larry Donald
Little, Timothy Scott
Logan, Ronald Joseph
Mason, Richard Patrick
Maxwell, Melvin Lee
McDonald, Connie Louis
Misisco, David John
Mohaupt, Thomas Harold
Murphy, Brian Peter Ste
Noles, Steven Walker
Novak, Diana Mary
Parrish, Lawrence J.
Past, Marilyn Rae
Rahn, Mark Allen
Reese, William Van
Reibling, John Shinners
Roberts, William Hadyn
Sashin, Michael David
Saul, Jonathan Oliver
Sorensen, Al Lawrence
Stone, Larry Ray
Swisher, Raymond Joseph
Tourville, John Francis
Tucker, Daniel W.
Weber, Denise Engler
Wilson Stephan Reed
Wood, Michael P.
York, Thomas Lee

The following-named regular officer to be reappointed permanent lieutenant (junior grade) in the Medical Service Corps of the U.S. Navy, Pursuant to title 10, United States Code, section 5582(B):
Thomas, Bruce Allen

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant (junior grade) in the Medical Service Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Bunn, Frank Jackson
Byrnes, Linda Hazuka
Carmichael, Albert Chri
Fernandez, Eugenio
Kuhn, Gregory Thomas
Sull, Kenneth John
Wright, Robert Solomon

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant commander in the Nurse Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Kraper, Mary Julie
Powers, John Charles
Wilson, Carol Irene

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the Nurse Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:
Aldrich, Dianne Joseph
Baileygeer, Sandra
Barnes, Joy Jeanne Kara
Barnhill, Elizabeth Ann
Bauer, Kathryn Regina
Baxter, L. Christine
Cagle, Roger Dale
Carroll, Jaime Ann
Cather, Patricia Gail
Clifford Melissa Jane
Collins, Kathleen Ann
Creamer, Janice Faye
Culver, Patricia M.
Dicola, Cynthia Ann
Dieckhoff, Teresa Lynn
Duffy, John Edward, Jr.
Flynn, Karen Lee
Fowler, Donald Ray
Fricker, Diana Leonie
Fryslie, Arletta Rae
Harbaugh, Mary A.
Harnoischurch, Patricia
Hayes, Jerry Lynn
Hedrick, James Patrick
Hedrick, Martha Jean
Henson, Donna Sue
Holder, Margaret Anna
Holliday, Eve
Jackson, Mary Katherine
Jayne, Caprice Michele
Kinney, Mary Lois
Kirkpatrick, Julie Mari
Leppink, Mary Ann
Leslie, Roxie Anne
Lowe, Cathryn Sue
Mack, Lydia Jean
McKiernan, John William
McKnight, Marie Lynn
Moore, Jennette Collee
Moos, Magdalene Ann
Neighbors, Roberta Ann
Olesen, Joyce Ann
Ott, Eary Catherine
Patton, Willie Ray
Putnam, John Lee
Pyler, Bonita S.
Rector, Reese Duart
Rehkopf, David H.
Riley, Barbara Mahon
Rogers, Judi Jo
Ross, Robert Alan
Roszkowski, Mary Anna
Samel, Denise Gay
Santana, Audery Elaine
Sims, Anthony Charles
Soderquist, Erin Elizab
Spence, Erica Ann
Sprenger, Virginia Mary
Stymelski, Valery Anne
Suszan, Pauline Lenhard
Tison, Marianne

Webertdavis, Casey Ann
Weibert, Sheila Mae
Wheeler, John William
Witte, Sarah Dawn

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the Nurse Corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Alsberry, Angela Mary
Beierl, Kimberly Anne
Benya, Diana Lynne
Butkowski, Elizabeth Ma
Cain, Donna Louise
Campbell, Elizabeth Ann
Carey, Shavaun Mary
Carroll, James Francis
Clawson, William Michae
Collens, Charles Terry
Dittler, Martin Wayne
Dixon, Donald George
Duhon, Randey Rita
Dzuranin, Helen Margare
Eads, John Mark
Edwards, Tamara Joan
Esquire, Stacy Carroll
Flesher, William Robert
Garrett, Billy Don
Gates, Mary Elizabeth
Gianino, Susan Marie
Hill, James Earl
Holm, John Robert
Kovach, Cynthia
Kozub, Madelyn Paula
Lansing, Nacy Elizabet
Larue, John Wayne
Mallon, Carol Anne
Markert, Karen Ruth
May, Andrew Jackson III
Mouton, Robin Patrick
Murphy, Michelle Linda
Nelson, Sonja Marie
Ofca, Veronica Ann
Perdue, Martha Evelyn
Peterman, Barbara Arlen
Potter, Cindy Louise
Robertshoule, Jean Loui
Rogers, Sandra Lynn
Sexauer, Linda Florence
Shay, Laura Emily
Sonnemaker, Sheryl Linn
Stanley, Susan Jennifer
Steckman, Deborah Lynn
Stewart, Tommy Curtis
Tatum, Mary Melissa
Taylor, Milton Edward
Thompson, Randall Eugen
Uddenberg, Karen Elizab
Vintinner, Patricia Ann
Waegerle, John David

The following-named limited duty officer to be reappointed permanent lieutenant commander as a regular officer in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(E):

Noble, Thomas K., Jr.

The following-named limited duty officer to be reappointed permanent lieutenant as a regular officer in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(e):

Kincheloe, James Terry

The following-named temporary limited duty officers, to be appointed permanent lieutenant as limited duty officers in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(a):

Maynard, Paul
Thomas, Charles Dean

The following-named limited duty officer to be reappointed permanent lieutenant in the Supply Corps of the U.S. Navy, pursuant to, United States Code, section 5589(e):

Frontiero, Anthony Peter

The following-named limited duty officers to be reappointed permanent lieutenant (junior grade) as a regular officer in the line of the U.S. Navy, pursuant to title 10, United States Code, section 5589(e):

Edwards, William Richard
Westrick, Jeffrey Alan

The following-named chief warrant officers, U.S. Naval Reserve, to be appointed permanent chief warrant officers (CW03) in the U.S. Navy, pursuant to title 10, United States Code, section 555:

Caffarelli, Anthony Matthew
Davis, Dave Wesley

CONFIRMATIONS

Executive nominations confirmed by the Senate June 26, 1986:

Department of Health and Human Services

Robert B. Helms, of Maryland, to an Assistant Secretary of Health and Human Services.

Ronald F. Docksai, of Virginia, to be an Assistant Secretary of Health and Human Services.

Department of the Treasury

Michael R. Darby, of Texas, to be an Assistant Secretary of the Treasury.

Federal Mine Safety and Health Review Commission

Joyce Doyle, of New York, to be a member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 1992.

National Foundation on the Arts and the Humanities

Diana D. Denman, of Texas, to be a member of the National Museum Services Board for a term expiring December 6, 1990.

James S. Rosebush, of the District of Columbia, to be a member of the National Museum Services Board for a term expiring December 6, 1989.

Federal Maritime Commission

Edward V. Hickey, Jr., of Virginia, to be a Federal Maritime Commissioner for the term expiring June 30, 1991.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

The Judiciary

Daniel A. Manion, of Indiana, to be U.S. circuit judge for the seventh circuit.

In the Air Force

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 593, 8218, 8373, and 8374, Title 10, United States Code:

To be major general

Brig. Gen. Gene A. Budig, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Wayne O. Burkes, [redacted] FG, Air National Guard of the United States.

Brig. Gen. Charles W. Harris, [redacted] FG, Air National Guard of the United States.

To be brigadier general

Col. Patrick S. Boab, [redacted] FG, Air National Guard of the United States.

Col. John D. Campbell [redacted] FG, Air National Guard of the United States.

Col. Wallace P. Carson, Jr., [redacted] FG, Air National Guard of the United States.

Col. Robert J. Dwyer, [redacted] FG, Air National Guard of the United States.

Col. Timothy T. Flaherty [redacted] FG, Air National Guard of the United States.

Col. Frank B. Holman [redacted] FG, Air National Guard of the United States.

Col. Harvey D. McCarty, [redacted] FG, Air National Guard of the United States.

Col. Edward E. Parsons, Jr., [redacted] FG, Air National Guard of the United States.

Col. Edward J. Philbin [redacted] FG, Air National Guard of the United States.

Col. Thomas J. Quarelli [redacted] FG, Air National Guard of the United States.

Col. LeRoy Thompson, [redacted] FG, Air National Guard of the United States.

In the Army

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Donald M. Babers [redacted], age 54, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, Section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, Section 601:

To be lieutenant general

Maj. Gen. Vincent M. Russo, [redacted] U.S. Army.

In the Navy

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Vice Adm. Daniel L. Cooper, [redacted] 1120, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. David E. Jeremiah, [redacted] 1110, U.S. Navy.

The Judiciary

Evelyn E. Crawford Queen, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia for a term of 15 years.

In the Air Force

Air Force nomination of Ervin J. Rokke, which was received by the Senate and appeared in the Congressional Record of June 16, 1986.

IN THE ARMY

Army nominations beginning Abraham A. Ghiatas, and ending Joey C. Dobbins, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 16, 1986.

Army nomination of Michael D. Mantooth, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of June 16, 1986.

IN THE MARINE CORPS

Marine Corps nominations beginning William H. Alley, Jr., and ending William R. Young, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 19, 1986.

TAX REFORM ACT OF 1986

The text of the Tax Reform Act of 1986 (H.R. 3838), as amended and passed by the Senate on June 24, 1986, follows:

Resolved, That the bill from the House of Representatives (H.R. 3838) entitled "An Act to reform the internal revenue laws of the United States", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Reform Act of 1986".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of 1954 Code; coordination with section 15.

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deduction and Personal Exemptions

Sec. 101. Rate reductions.
Sec. 102. Increase in standard deduction.
Sec. 103. Increase in personal exemptions.
Sec. 104. Technical amendments.

Subtitle B—Provisions Related to Tax Credits

Sec. 111. Increase in earned income credit.
Sec. 112. Repeal of credit for contributions to candidates for public office.

Subtitle C—Provisions Related to Exclusions

Sec. 121. Taxation of unemployment compensation.
Sec. 122. Prizes and awards.

Subtitle D—Provisions Related to Deductions

Sec. 131. Repeal of deduction for 2-earner married couples.
Sec. 132. Miscellaneous itemized deductions disallowed.
Sec. 133. 1-percent floor on deduction for qualified trade and business employee expenses.
Sec. 134. Medical expense deduction limitation increased.
Sec. 135. Floor for itemizing medical deductions.
Sec. 136. Deduction for State and local sales tax.
Sec. 137. Deductibility of State and local sales, real and personal property, and income taxes.

Subtitle E—Miscellaneous Provisions

Sec. 141. Repeal of income averaging for taxpayers other than farmers.
Sec. 141A. Family farmers income averaging.
Sec. 142. Limitations on deductions for meals, travel, and entertainment.
Sec. 143. Changes in treatment of hobby loss, etc.
Sec. 144. Deduction for mortgage interest and real property taxes allowable where parsonage allowance or military housing allowance received.

Subtitle F—Effective Dates

Sec. 151. Effective dates.

TITLE II—ACCELERATED COST RECOVERY AND INVESTMENT TAX CREDIT

Subtitle A—Depreciation Provisions

Sec. 201. Modification of accelerated cost recovery system.
Sec. 202. Effective dates.

Subtitle B—Repeal of Regular Investment Tax Credit

Sec. 211. Repeal of regular investment tax credit.
Sec. 212. Effective 15-year carryback of existing carryforwards of steel companies.
Sec. 213. Effective 15-year carryback of existing carryforwards of qualified farmers.

TITLE III—ACCOUNTING PROVISIONS

Subtitle A—General Provisions

Sec. 301. Modifications of method of accounting for long-term contracts.
Sec. 302. Capitalization and inclusion in inventory costs of certain expenses.
Sec. 303. Repeal of reserve for bad debts of taxpayers other than financial institutions and finance companies.
Sec. 304. Taxable years of certain entities.

Subtitle B—Treatment of Installment Obligations

Sec. 311. Allocation of indebtedness as payment on installment obligation.
Sec. 312. Disallowance of use of installment method for certain obligations.
Sec. 313. No recapture on installment sale of certain irrigation equipment.

Subtitle C—Other Provisions

Sec. 321. Accrual method of accounting required for financial institutions and finance companies.
Sec. 322. Income attributable to utility services.
Sec. 323. Repeal of application of discharge of indebtedness rules to qualified business indebtedness.
Sec. 324. Repeal of deduction for qualified discount coupons.
Sec. 325. Limitation on accrual of vacation pay.

TITLE IV—CAPITAL GAINS

Subtitle A—Individual Capital Gains

Sec. 401. Repeal of exclusion for long-term capital gains of individuals.
Sec. 402. 27-percent capital gains rate for taxpayers other than corporations.

Subtitle B—Incentive Stock Options

Sec. 411. Repeal of requirement that incentive stock options are exercisable only in chronological order; modification of $100,000 limitation.

Subtitle C—Straddles

Sec. 421. Marked-to-market system gains or losses treated as short-term capital gains or losses.
Sec. 422. Year-end rule expanded.
Sec. 423. Exception of certain dealers from the hedging transaction exception.

TITLE V—COMPLIANCE AND TAX ADMINISTRATION

Subtitle A—Revision of Certain Penalties, Etc.

Sec. 501. Penalty for failure to file information returns or statements.
Sec. 502. Increase in penalty for failure to pay tax.
Sec. 503. Amendments to penalty for negligence and fraud.
Sec. 504. Increase in penalty for substantial understatement of liability.

Subtitle B—Interest Provisions

Sec. 511. Differential interest rate.
Sec. 512. Interest on accumulated earnings tax to accrue beginning on date return is due.

Subtitle C—Information Reporting Provisions

Sec. 521. Requirement of reporting for real estate transactions.
Sec. 522. Information reporting on persons receiving contracts from certain Federal agencies.
Sec. 523. Returns regarding payments of royalties.

Subtitle D—Provisions Relating to Tax Shelters

Sec. 531. Tax shelter user fee.
Sec. 532. Modification of tax shelter ratio test for registration of tax shelters.
Sec. 533. Increased penalty for failure to register tax shelters.
Sec. 534. Penalty for failure to include tax shelter identification number on return increased to $250.
Sec. 535. Increased penalty for failure to maintain lists of investors in potentially abusive tax shelters.
Sec. 536. Interest on substantial underpayments attributable to tax motivated transactions increased.

Subtitle E—Provisions Regarding Judicial Proceedings

Sec. 541. Limitations on awarding of court costs and certain fees modified.
Sec. 542. Tax court practice fee.
Sec. 543. Clarification of jurisdiction over addition to tax for failure to pay amount of tax shown on return.
Sec. 544. Authority to require attendance of United States marshals at Tax Court sessions.
Sec. 545. Changes in certain provisions relating to special trial judges.
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SEC. 2. AMENDMENT OF 1954 CODE; COORDINATION WITH SECTION 15.

(a) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(b) COORDINATION WITH SECTION 15.—

(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of section 15 of the Internal Revenue Code of 1954, no amendment or repeal made by this Act shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

(2) EXCEPTION.—Paragraph (1) shall not apply to the amendment made by section 601 (relating to corporate rate reductions).

TITLE I—INDIVIDUAL INCOME TAX PROVISIONS

Subtitle A—Rate Reductions; Increase in Standard Deduction and Personal Exemptions

SEC. 101. RATE REDUCTIONS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $29,300	15% of taxable income.
Over $29,300	$4,395, plus 27% of the excess over $29,300.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $23,500	15% of taxable income.
Over $23,500	$3,525, plus 27% of the excess over $23,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $17,600	15% of taxable income.
Over $17,600	$2,640, plus 27% of the excess over $17,600.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS; CERTAIN ESTATES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013, and

"(2) every estate taxable under this subsection with respect to taxable years ending less than 2 years after the date of the death of the decedent,

a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $14,650	15% of taxable income.
Over $14,650	$2,197.50, plus 27% of the excess over $14,650.

"(e) CERTAIN ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate with respect to taxable years ending 2 years or more after the date of the death of the decedent, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is	The tax is:
Not over $5,000	15% of taxable income.
Over $5,000	$750, plus 27% of the excess over $5,000.

"(f) ADJUSTMENTS IN TAX TABLES SO THAT INFLATION WILL NOT RESULT IN TAX INCREASES.—

"(1) IN GENERAL.—Not later than December 15 of 1987, and each subsequent calendar year, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsections (a), (b), (c), (d), and (e) with respect to taxable years beginning in the succeeding calendar year.

"(2) METHOD OF PRESCRIBING TABLES.—The table which under paragraph (1) is to apply in lieu of the table contained in subsection (a), (b), (c), (d), or (e), as the case may be, with respect to taxable years beginning in any calendar year shall be prescribed—

"(A) by increasing the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed under such table by the cost-of-living adjustment for such calendar year,

"(B) by not changing the rate applicable to any rate bracket as adjusted under subparagraph (A), and

"(C) by adjusting the amounts setting forth the tax to the extent necessary to reflect the adjustments in the rate brackets.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of paragraph (2), the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(A) the CPI for the preceding calendar year, exceeds

"(B) the CPI for the calendar year 1986.

"(4) CPI FOR ANY CALENDAR YEAR.—For purposes of paragraph (3), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of such calendar year.

"(5) CONSUMER PRICE INDEX.—For purposes of paragraph (4), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor. For purposes of the preceding sentence, any revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1986 shall be used.

"(6) ROUNDING.—

"(A) IN GENERAL.—If any increase determined under paragraph (2)(A), subsection (g)(3), section 63(c)(4), or section 151(d)(3) is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

"(B) TABLE FOR MARRIED INDIVIDUALS FILING SEPARATELY, ETC.—In the case of a married individual filing a separate return, subparagraph (A) (other than with respect to section 63(c)(4)) shall be applied by substituting '$25' for '$50' each place it appears.

"(g) GRADUAL ADJUSTMENT OF 15-PERCENT RATE.—

"(1) IN GENERAL.—The amount of tax imposed by this section (determined without regard to this subsection) shall be increased by 5 percent of the lesser of—

"(A) so much of the adjusted gross income of the taxpayer as exceeds—

"(i) $75,000 in the case of an individual described in subsection (a),

"(ii) $55,000 in the case of an individual described in subsection (b),

"(iii) $45,000 in the case of an individual described in subsection (c),

"(iv) $37,500 in the case of an individual or estate described in subsection (d), or

"(v) $13,000 in the case of an estate or trust described in subsection (e), or

"(B) so much of the taxable income of the taxpayer as exceeds the maximum amount of taxable income to which the 15-percent rate applies to such taxpayer under the tables contained in subsection (a), (b), (c), (d), or (e).

"(2) LIMITATION.—In no event shall such increase exceed 12 percent of the maximum amount of taxable income amount described in subparagraph (B) of paragraph (1).

"(3) ADJUSTMENT FOR INFLATION.—In the case of any taxable year beginning in a calendar year after 1987, each dollar amount contained in paragraph (1)(A) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under subsection (f)(3) for the calendar year in which the taxable year begins.

"(h) NO TAX IMPOSED ON CERTAIN DEPENDENTS.—No tax shall be imposed under this section with respect to any individual who is not required to file a return under section 6012(a)(1)(A)(v)."

(b) AMENDMENT OF SECTION 15.—Subsection (d) of section 15 (relating to effect of changes in rates during a taxable year) is amended to read as follows:

"(d) SECTION NOT TO APPLY TO INFLATION ADJUSTMENTS.—This section shall not apply to any change in rates under subsection (f) of section 1 (relating to adjustments in tax tables so that inflation will not result in tax increases)."

(c) RATE SCHEDULES FOR 1987.—

(1) IN GENERAL.—The tax imposed by section 1 of the Internal Revenue Code of 1954 for taxable years beginning in calendar year 1987 shall be determined under tables prescribed by the Secretary of the Treasury or his delegate under paragraph (2).

(2) METHOD OF PRESCRIBING TABLES.—The tables prescribed for purposes of paragraph (1) shall be constructed so that the tax imposed by section 1 of such Code for each taxable income level is substantially equivalent to the tax which would have been imposed for a calendar year 1987 taxpayer if—

(A) the change of rates provided by subsection (a) took effect on July 1, 1987,

(B) section 15 of such Code applied to such change of rates on the basis of monthly proration in lieu of daily proration, and

(C) the rate schedules in effect under such section 1 on the day before the date of the enactment of this Act did not have a bracket for which no tax was imposed, and each other taxable income bracket in such schedules were reduced by the applicable zero bracket amount as so in effect.

SEC. 102. INCREASE IN STANDARD DEDUCTION.

(a) GENERAL RULE.—Section 63 (defining taxable income) is amended to read as follows:

"SEC. 63. TAXABLE INCOME DEFINED.

"(a) IN GENERAL.—Except as provided in subsection (b), for purposes of this subtitle, the term 'taxable income' means gross income minus the deductions allowed by this chapter (other than the standard deduction).

"(b) INDIVIDUALS WHO DO NOT ITEMIZE THEIR DEDUCTIONS.—In the case of an individual who does not elect to itemize his deductions for the taxable year, for purposes of this subtitle, the term 'taxable income' means adjusted gross income, minus—

"(1) the standard deduction, and

"(2) the deduction for personal exemptions provided in section 151.

"(c) STANDARD DEDUCTION.—For purposes of this subtitle—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'standard deduction' means the sum of—

"(A) the basic standard deduction, and

"(B) the additional standard deduction.

"(2) BASIC STANDARD DEDUCTION.—For purposes of paragraph (1), the basic standard deduction is—

"(A) $5,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $4,400 in the case of a head of household (as defined in section 2(b)),

"(C) $3,000 in the case of an individual who is not married and who is not a surviving spouse or head of household, or

"(D) $2,500 in the case of a married individual filing a separate return.

"(3) ADDITIONAL STANDARD DEDUCTION FOR AGED AND BLIND.—For purposes of paragraph (1), the additional standard deduction is the sum of each additional amount to which the taxpayer is entitled under subsection (f).

"(4) ADJUSTMENTS FOR INFLATION.—In the case of any taxable year beginning in a calendar year after 1988, each dollar amount contained in paragraph (2) or subsection (f) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1987' for 'calendar year 1986' in subparagraph (B) thereof.

"(5) LIMITATION ON STANDARD DEDUCTION IN THE CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the standard deduction applicable to such individual for such individual's taxable year shall not exceed such individual's earned income.

"(6) CERTAIN INDIVIDUALS, ETC., NOT ELIGIBLE FOR STANDARD DEDUCTION.—In the case of—

"(A) a married individual filing a separate return where either spouse itemizes deductions,

"(B) a nonresident alien individual,

"(C) a citizen of the United States entitled to the benefits of section 931 (relating to income from sources within possessions of the United States),

"(D) an individual making a return under section 443(a)(1) for a period of less than 12 months on account of a change in his annual accounting period, or

"(E) an estate or trust, common trust fund, or partnership,

the standard deduction shall be zero.

"(d) ITEMIZED DEDUCTIONS.—For purposes of this subtitle, the term 'itemized deductions' means the deductions allowable under this chapter (after application of section 280H) other than—

"(1) the deductions allowable in arriving at adjusted gross income, and

"(2) the deduction for personal exemptions provided by section 151.

"(e) ELECTION TO ITEMIZE.—

"(1) IN GENERAL.—Unless an individual makes an election under this subsection for the taxable year, no itemized deduction shall be allowed for the taxable year. For purposes of this subtitle, the determination of whether a deduction is allowable under this chapter shall be made without regard to the preceding sentence.

"(2) TIME AND MANNER OF ELECTION.—Any election under this subsection shall be made on the taxpayer's return, and the Secretary shall prescribe the manner of signifying such election on the return.

"(3) CHANGE OF ELECTION.—Under regulations prescribed by the Secretary, a change of election with respect to itemized deductions for any taxable year may be made after the filing of the return for such year. If the spouse of the taxpayer filed a separate return for any taxable year corresponding to the taxable year of the taxpayer, the change shall not be allowed unless, in accordance with such regulations—

"(A) the spouse makes a change of election with respect to itemized deductions, for the taxable year covered in such separate return, consistent with the change of treatment sought by the taxpayer, and

"(B) the taxpayer and his spouse consent in writing to the assessment, within such period as may be agreed on with the Secretary, of any deficiency, to the extent attributable to such change of election, even though at the time of the filing of such consent the assessment of such deficiency would otherwise be prevented by the operation of any law or rule of law.

This paragraph shall not apply if the tax liability of the taxpayer's spouse, for the taxable year corresponding to the taxable year of the taxpayer, has been compromised under section 7122.

"(f) AGED OR BLIND ADDITIONAL AMOUNTS.—

"(1) ADDITIONAL AMOUNTS FOR THE AGED.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he has attained age 65 before the close of his taxable year, and

"(B) for the spouse of the taxpayer if the spouse has attained age 65 before the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

"(2) ADDITIONAL AMOUNT FOR BLIND.—The taxpayer shall be entitled to an additional amount of $600—

"(A) for himself if he is blind at the close of the taxable year, and

"(B) for the spouse of the taxpayer if the spouse is blind as of the close of the taxable year and an additional exemption is allowable to the taxpayer for such spouse under section 151(b).

For purposes of subparagraph (B), if the spouse dies during the taxable year the determination of whether such spouse is blind shall be made as of the time of such death.

"(3) BLINDNESS DEFINED.—For purposes of this subsection, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

"(g) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 143.

"(h) TRANSITIONAL RULE FOR TAXABLE YEARS BEGINNING IN 1987.—In the case of any taxable year beginning in 1987, paragraph (2) of subsection (c) shall be applied—

"(1) by substituting '$3,800' for '$5,000',

"(2) by substituting '$2,570' for '$4,400' and for '$3,000', and

"(3) by substituting '$1,900' for '$2,500'.

The preceding sentence shall not apply if the taxpayer is entitled to an additional amount determined under subsection (f) (relating to additional amount for aged and blind) for the taxable year."

(b) TAX TABLES.—Section 3 (relating to tax tables for individuals) is amended by striking out subsection (a) and inserting in lieu thereof the following:

"(a) IMPOSITION OF TAX TABLE TAX.—

"(1) IN GENERAL.—In lieu of the tax imposed by section 1, there is hereby imposed for each taxable year on the taxable income of every individual—

"(A) who does not itemize his deductions for the taxable year, and

"(B) whose taxable income for such taxable year does not exceed the ceiling amount,

a tax determined under tables, applicable to such taxable year, which shall be prescribed by the Secretary and which shall be in such form as he determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by section 1.

"(2) CEILING AMOUNT DEFINED.—For purposes of paragraph (1), the term 'ceiling amount' means, with respect to any taxpayer, the amount (not less than $20,000) determined by the Secretary for the tax rate category in which such taxpayer falls.

"(3) AUTHORITY TO PRESCRIBE TABLES FOR TAXPAYERS WHO ITEMIZE DEDUCTIONS.—The Secretary may provide that this section shall apply also for any taxable year to individuals who itemize their deductions. Any tables prescribed under the preceding sentence shall be on the basis of taxable income."

SEC. 103. INCREASE IN PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—Subsection (f) of section 151 (defining exemption amount) is amended to read as follows:

"(f) EXEMPTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), the term 'exemption amount' means—

"(A) $1,900 for taxable years beginning during 1987, and

"(B) $2,000 for taxable years beginning after December 31, 1987.

"(2) EXEMPTION AMOUNT DISALLOWED IN THE CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

"(3) INFLATION ADJUSTMENT FOR YEARS AFTER 1988.—In the case of any taxable year beginning in a calendar year after 1988, the dollar amount contained in paragraph (1)(B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1987' for 'calendar year 1986' in subparagraph (B) thereof.

"(4) PHASE-OUT OF EXEMPTION AMOUNT.—The dollar amounts contained in paragraph (1) shall be reduced by an amount equal to 5 percent of the excess of—

"(A) adjusted gross income, over

"(B) the lowest amount of adjusted gross income for the taxable year which results in the maximum rate adjustment under section 1(g).

(b) REPEAL OF ADDITIONAL EXEMPTIONS FOR TAXPAYERS OVER AGE 65 OR BLIND.—Section 151 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 104. TECHNICAL AMENDMENTS.

(a) FILING REQUIREMENTS.—

(1) SECTION 6012.—

(A) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended to read as follows:

"(1)(A) Every individual having for the taxable year gross income which equals or exceeds the exemption amount, except that a return shall not be required of an individual (other than an individual described in subparagraph (C))—

"(i) who is not married (determined by applying section 143), is not a surviving spouse (as defined in section 2(a)), is not a head of a household (as defined in section 2(b)), and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(ii) who is a head of a household (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(iii) who is a surviving spouse (as so defined) and for the taxable year has gross income of less than the sum of the exemption amount plus the basic standard deduction applicable to such an individual,

"(iv) who is entitled to make a joint return and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than the sum of twice the exemption amount plus the basic standard deduction applicable to a joint return, but only if such individual and his spouse, at the close of the taxable year, had the same household as their home, or

"(v) who is an individual described in section 151(d)(2) and for the taxable year has gross income of less than $100.

Clause (iv) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(c).

"(B) The amount specified in clause (i), (ii), or (iii) of subparagraph (A) shall be increased by the amount of 1 additional standard deduction (within the meaning of section 63(c)(3)) in the case of an individual entitled to such deduction by reason of section 63(f)(1)(A) (relating to individuals age 65 or more), and the amount specified in clause (iv) of subparagraph (A) shall be increased by the amount of the additional standard deduction for each additional standard deduction to which the individual or his spouse is entitled by reason of section 63(f)(1).

"(C) The exception under clauses (i), (ii), (iii), and (iv) of subparagraph (A) shall not apply to any individual—

"(i) described in section 63(c)(5) whose income (other than earned income) is at least equal to the exemption amount applicable under section 151(d)(2), or

"(ii) for whom the standard deduction is zero under section 63(c)(6).

"(D) For purposes of this subsection—

"(i) The terms 'standard deduction', 'basic standard deduction' and 'additional standard deduction' have the respective meanings given such terms by section 63(c).

"(ii) The term 'exemption amount' has the meaning given such term by section 151(d)."

(B) Paragraph (9) of section 6012(a) is amended by striking out "$2,700 or more" and inserting in lieu thereof "not less than the sum of the exemption amount plus the basic standard deduction under section 63(c)(2)(D)".

(2) SECTION 6013.—Subparagraph (A) of section 6013(b)(3) (relating to when return deemed filed) is amended—

(A) by striking out "(twice the exemption amount in case such spouse was 65 or over)" each place it appears,

(B) by striking out "section 151(f)" and inserting in lieu thereof "section 151(d)", and

(C) by adding at the end thereof the following new sentence: "For purposes of clauses (ii) and (iii), if the spouse whose gross income is being compared to the exemption amount is 65 or over, such clauses shall be applied by substituting 'the sum of the exemption amount and the additional standard deduction under section 63(c)(2) by reason of section 63(f)(1)(A)' for 'the exemption amount'."

(b) OTHER AMENDMENTS.—

(1) SECTION 21, ETC.—

(A) Sections 21(b)(1)(A), 21(e)(6)(A), and 129(c)(1) are each amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(B) Sections 21(e)(6)(B), 32(c)(1)(A)(i), 129(c)(2), and 152(e)(1)(A) are each amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

(2) SECTION 152, ETC.—Sections 152(d)(2) and 2032A(c)(7)(D) are each amended by striking out "section 151(e)(4)" and inserting in lieu thereof "section 151(c)(4)".

(3) SECTION 172.—Subsection (d) of section 172 (relating to modifications) is amended by striking out paragraph (7).

(4) SECTION 402.—Subparagraph (B) of section 402(e)(1), as amended by section 1222(b) of this Act, is amended by striking out "the zero bracket amount applicable to such individual for the taxable year plus".

(5) SECTION 441.—Clause (iii) of section 441(f)(2)(B) (relating to change in accounting period) is amended by striking out "and by adding the zero bracket amount,".

(6) SECTION 443.—

(A) Paragraph (1) of section 443(b) (relating to computation of tax on change of annual accounting period) is amended by striking out ", and adding the zero bracket amount".

(B) Clause (ii) of section 443(b)(2)(A) (relating to computation based on 12-month period) is amended to read as follows:

"(ii) the tax computed on the modified taxable income for the short period."

(7) SECTION 541.—Section 541 is amended by striking out "50 percent" and inserting in lieu thereof "27 percent (38.5 percent in the case of taxable years beginning in 1987)".

(8) SECTION 613A.—Paragraph (1) of section 613A(d) (relating to limitation on percentage depletion based on taxable income) is amended by striking out "(reduced in the case of an individual by the zero bracket amount)".

(9) SECTION 641.—Subsection (a) of section 641 (relating to imposition of tax) is amended by striking out "section 1(e)" and inserting in lieu thereof "subsection (d) or (e) of section 1".

(10) SECTION 667.—Paragraph (2) of section 667(b) (relating to tax on amount deemed distributed by trust in preceding years) is amended to read as follows:

"(2) TREATMENT OF LOSS YEARS.—For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed to be not less than zero."

(11) SECTION 861.—Subsection (b) of section 861 (relating to taxable income from sources within the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(12) SECTION 862.—Subsection (b) of section 862 (relating to taxable income from sources without the United States) is amended by striking out "the zero bracket amount" and inserting in lieu thereof "the standard deduction".

(13) SECTION 904.—Subsection (a) of section 904 (relating to limitation on foreign tax credit) is amended by striking out the last sentence.

(14) SECTION 1398.—Subsection (c) of section 1398 (relating to computation and pay-

ment of tax; zero bracket amount) is amended—

(A) by striking out "ZERO BRACKET AMOUNT" in the subsection heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION", and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) BASIC STANDARD DEDUCTION.—In the case of an estate which does not itemize deductions, the basic standard deduction for the estate for the taxable year shall be the same as for a married individual filing a separate return for such year."

(15) SECTION 3402.—

(A) Paragraph (1) of section 3402(f) (relating to withholding exemptions) is amended by striking out subparagraphs (B) and (C) and by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (B), (C), (D), and (E), respectively.

(B) Subparagraph (A) of section 3402(f)(1) is amended by inserting "unless he is an individual described in section 151(d)(2)" after "himself".

(C) Subparagraph (B) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "subparagraph (A), (B), (C), or (F)" and inserting in lieu thereof "subparagraph (A) or (D)".

(D) Subparagraph (C) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "section 151(e)" and inserting in lieu thereof "section 151(c)".

(E) Subparagraph (E) of section 3402(f)(1), as redesignated by subparagraph (A), is amended by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(F) The last sentence of paragraph (1) of section 3402(f) is amended—

(i) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "zero bracket" and inserting in lieu thereof "standard deduction".

(G) Paragraph (3) of section 3402(m) is amended by inserting "(including the additional standard deduction under section 63(c)(3) for the aged and blind)" after "deductions".

(16) SECTION 6014.—

(A) Subsection (a) of section 6014 (relating to income tax return—tax not computed by taxpayer) is amended by striking out "who does not have an unused zero bracket amount (determined under section 63(e))" and inserting in lieu thereof "who is not described in section 6012(a)(1)(C)(i)".

(B) Paragraph (4) of section 6014(b) is amended to read as follows:

"(4) to cases where the taxpayer itemizes his deductions or where the taxpayer claims a reduced standard deduction by reason of section 63(c)(5)."

(17) SECTION 6212.—Subparagraph (A) of section 6212(c)(2) (relating to cross references) is amended to read as follows:

"(A) Deficiency attributable to change of treatment with respect to itemized deductions, see section 63(e)(3)."

(18) SECTION 6504.—Paragraph (2) of section 6504 (relating to cross references) is amended to read as follows:

"(2) Change of treatment with respect to itemized deductions where taxpayer and his spouse make separate returns, see section 63(e)(3)."

Subtitle B—Provisions Related to Tax Credits

SEC. 111. INCREASE IN EARNED INCOME CREDIT.

(a) INCREASE IN AMOUNT OF CREDIT.—Subsection (a) of section 32 (relating to earned income credit) is amended by striking out "11 percent" and inserting in lieu thereof "14 percent".

(b) INCREASE IN INCOME LEVEL AT WHICH PHASEOUT BEGINS.—Subsection (b) of section 32 is amended to read as follows:

"(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the maximum credit allowable under subsection (a) to any taxpayer, over

"(2) 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $10,000.

In the case of any taxable year beginning in 1987, paragraph (2) shall be applied by substituting '$6,500' for '$10,000'."

(c) INFLATION ADJUSTMENTS.—Section 32 is amended by adding at the end thereof the following new subsection:

"(i) INFLATION ADJUSTMENTS.—

"(1) IN GENERAL.—In the case of any taxable year beginning after the applicable calendar year, each dollar amount referred to in paragraph (2)(B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3), for the calendar year in which the taxable year begins, by substituting 'calendar year 1984' for 'calendar year 1986' in subparagraph (B) thereof.

"(2) DEFINITIONS, ETC.—For purposes of paragraph (1)—

"(A) APPLICABLE CALENDAR YEAR.—The term 'applicable calendar year' means—

"(i) 1986 in the case of the dollar amounts referred to in clause (i) or (ii) of subparagraph (B), and

"(ii) 1987 in the case of the dollar amount referred to in clause (iii) of subparagraph (B).

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in this subparagraph are—

"(i) the $5,000 amount contained in subsection (a),

"(ii) the $6,500 amount contained in the last sentence of subsection (b), and

"(iii) the $10,000 amount contained in subsection (b)(2).

"(3) ROUNDING.—If any increase determined under paragraph (1) is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or, if such increase is a multiple of $5, such increase shall be increased to the next higher multiple of $10)."

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 32(f) (relating to amount of credit to be determined under tables) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) for earned income between $0 and the amount of earned income at which the credit is phased out under subsection (b), and

"(B) for adjusted gross income between the dollar amount at which the phaseout begins under subsection (b) and the amount of adjusted gross income at which the credit is phased out under subsection (b)."

(2) Subparagraph (B) of section 3507(c)(2) (relating to earned income advance amount) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of the first earned income (but not in excess of the amount of earned income taken into account under section 32(a)), which

"(ii) phases out between the amount of earned income at which the phaseout begins under subsection (b) of section 32 and the amount of earned income at which the credit under section 32 is phased out under such subsection, or".

(3) Subparagraph (C) of section 3507(c)(2) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) of not more than 14 percent of the first earned income (but not in excess of ½ of the amount of earned income taken into account under section 32(a)), which

"(ii) phases out between amounts of earned income which are ½ of the amounts of earned income described in subparagraph (B)(ii)."

(e) EMPLOYEE NOTIFICATION.—The Secretary of the Treasury is directed to require, under regulations, employers to notify any employee who has not had any tax withheld from wages that such employee may be eligible for a refund because of the earned income credit.

SEC. 112. REPEAL OF CREDIT FOR CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE.

(a) GENERAL RULE.—Section 24 (relating to contributions to candidates for public office) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (g) of section 527 (relating to treatment of newsletter funds) is amended—

(A) by striking out "section 24(c)(2)" in paragraph (1) and inserting in lieu thereof "paragraph (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) CANDIDATE.—For purposes of paragraph (1), the term 'candidate' means, with respect to any Federal, State, or local elective public office, an individual who—

"(A) publicly announces that he is a candidate for nomination or election to such office, and

"(B) meets the qualifications prescribed by law to hold such office."

(2) Subsection (a) of section 642 (relating to credits against tax for estates and trusts) is amended to read as follows:

"(a) FOREIGN TAX CREDIT ALLOWED.—An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries."

(3) Paragraph (3) of section 901(i) of such Code (relating to cross references) is amended by striking out "section 642(a)(1)" and inserting in lieu thereof "section 642(a)".

(4) Paragraph (6) of section 7871(a) (relating to Indian tribal governments treated as States for certain purposes) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), (D), (E), and (F) as subparagraphs (A), (B), (C), (D), and (E), respectively.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 24.

Subtitle C—Provisions Related to Exclusions

SEC. 121. TAXATION OF UNEMPLOYMENT COMPENSATION.

Section 85 (relating to unemployment compensation) is amended to read as follows:

"SEC. 85. UNEMPLOYMENT COMPENSATION.

"(a) GENERAL RULE.—In the case of an individual, gross income includes unemployment compensation.

"(b) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this section, the term

'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation."

SEC. 122. PRIZES AND AWARDS.

(a) EXCLUSION FROM GROSS INCOME.—Section 74 (relating to prizes and awards) is amended—

(1) by striking out "Except as provided in subsection (b) and" in subsection (a) and inserting in lieu thereof "Except as otherwise provided in this section or",

(2) by striking out "EXCEPTION" in the heading for subsection (b) and inserting in lieu thereof "EXCEPTION FOR CERTAIN PRIZES AND AWARDS TRANSFERRED TO CHARITIES",

(3) by striking out "and" at the end of subsection (b)(1), by striking out the period at the end of subsection (b)(2) and inserting in lieu thereof "; and", and by adding after subsection (b)(2) the following new paragraph:

"(3) the prize or award is transferred by the payor to a governmental unit or organization described in paragraph (1) or (2) of section 170(c) pursuant to a designation made by the recipient.", and

(4) by adding at the end thereof the following new subsection:

"(c) EXCEPTION FOR CERTAIN EMPLOYEE ACHIEVEMENT AWARDS.—

"(1) IN GENERAL.—Gross income does not include the value of an employee achievement award (as defined in section 274(j)) received by the taxpayer if the cost to the employer of the employee achievement award does not exceed the amount allowable to the employer (or which would be allowable if the employer were not exempt from taxation under this title) as a deduction for the cost of the employee achievement award.

"(2) EXCESS DEDUCTION AWARD.—If the cost to the employer of the employee achievement award received by the taxpayer exceeds the amount allowable as a deduction to the employer (after application of section 274(j)), then gross income includes the greater of—

"(A) an amount equal to the portion of the cost to the employer of the award that is not allowable as a deduction to the employer (but not in excess of the value of the award), or

"(B) the amount by which the value of the award exceeds the amount allowable as a deduction to the employer.

The remaining portion of the value of such award shall not be included in the gross income of the recipient.

"(3) CROSS REFERENCE.—

"For provisions excluding de minimis fringes from gross income, see section 132."

(b) AMOUNTS TRANSFERRED BY EMPLOYER NOT EXCLUDABLE AS GIFTS.—Section 102 (relating to gifts and inheritances) is amended by adding at the end thereof the following new subsection:

"(c) EMPLOYEE GIFTS.—

"(1) IN GENERAL.—Subsection (a) shall not exclude from gross income any amount transferred by or for an employer to, or for the benefit of, an employee.

"(2) CROSS REFERENCES.—

"For provisions excluding certain qualified employee achievement awards from gross income, see section 74(c).

"For provisions excluding de minimis fringes from gross income, see section 132."

(c) GIFTS.—Section 274(b) (relating to gifts) is amended—

(1) by adding "or" at the end of subparagraph (A) of paragraph (1),

(2) by striking out "or" at the end of subparagraph (B) of paragraph (1), and inserting in lieu thereof a period,

(3) by striking out subparagraph (C) of paragraph (1), and

(4) by striking out paragraph (3).

(d) DEDUCTION FOR COST OF EMPLOYEE ACHIEVEMENT AWARDS.—Section 274 (relating to certain entertainment, etc., expenses) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) EMPLOYEE ACHIEVEMENT AWARDS.—

"(1) GENERAL RULE.—No deduction shall be allowed under section 162 or section 212 for the cost of an employee achievement award except to the extent that such cost does not exceed the deduction limitations of paragraph (2).

"(2) DEDUCTION LIMITATIONS.—The deduction for the cost of an employee achievement award made by an employer to an employee—

"(A) which is not a qualified plan award, when added to the cost to the employer for all other employee achievement awards made to such employee during the taxable year which are not qualified plan awards, shall not exceed $400, and

"(B) which is a qualified plan award, when added to the cost to the employer for all other employee achievement awards made to such employee during the taxable year (including employee achievement awards which are not qualified plan awards), shall not exceed $1,600.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE ACHIEVEMENT AWARD.—The term 'employee achievement award' means an item of tangible personal property which is—

"(i) transferred by an employer to an employee for length of service achievement or safety achievement,

"(ii) awarded as part of a meaningful presentation, and

"(iii) awarded under conditions and circumstances that do not create a significant likelihood of the payment of disguised compensation.

"(B) QUALIFIED PLAN AWARD.—

"(i) IN GENERAL.—The term 'qualified plan award' means an employee achievement award awarded as part of an established written plan or program of the taxpayer which does not discriminate in favor of highly compensated employees (within the meaning of section 414(q)) as to eligibility or benefits.

"(ii) LIMITATION.—An employee achievement award shall not be treated as a qualified plan award for any taxable year if the average cost of all employee achievement awards which are provided by the employer during the year, and which would be qualified plan awards but for this subparagraph, exceeds $400. For purposes of the preceding sentence, average cost shall be determined by including the entire cost of qualified plan awards, without taking into account employee achievement awards of nominal value.

"(4) SPECIAL RULES.—For purposes of this subsection—

"(A) PARTNERSHIPS.—In the case of an employee achievement award made by a partnership, the deduction limitations contained in paragraph (2) shall apply to the partnership as well as to each member thereof.

"(B) LENGTH OF SERVICE AWARDS.—An item shall not be treated as having been provided for length of service achievement if the item is received during the recipient's 1st 5 years of employment or if the recipient received a length of service achievement award (other than an award excludable under section 132(e)(1)) during that year or any of the prior 4 years.

"(C) SAFETY ACHIEVEMENT AWARDS.—An item provided by an employer to an employee shall not be treated as having been provided for safety achievement if—

"(i) during the taxable year, employee achievement awards (other than awards excludable under section 132(e)(1)) for safety achievement have previously been awarded by the employer to more than 10 percent of the employees of the employer (excluding employees described in clause (ii)), or

"(ii) such item is awarded to a manager, administrator, clerical employee, or other professional employee."

Subtitle D—Provisions Related to Deductions

SEC. 131. REPEAL OF DEDUCTION FOR 2-EARNER MARRIED COUPLES.

(a) GENERAL RULE.—Section 221 (relating to deduction for 2-earner married couples) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 62 is amended by striking out paragraph (16).

(2) Subparagraph (A) of section 86(b)(2) is amended by striking out "sections 221," and inserting in lieu thereof "sections".

(3) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 221.

SEC. 132. MISCELLANEOUS ITEMIZED DEDUCTIONS DISALLOWED.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 280G the following new section:

"SEC. 280H. DISALLOWANCE OF CERTAIN ITEMIZED DEDUCTIONS FOR INDIVIDUALS.

"(a) GENERAL RULE.—In the case of any individual, no deduction shall be allowable for any amount otherwise allowable as a deduction under this chapter other than—

"(1) any deduction allowable in arriving at adjusted gross income,

"(2) any deduction for personal exemptions provided by section 151,

"(3) any deduction described in subsection (b), and

"(4) any deduction for any impairment-related work expenses.

"(b) CERTAIN DEDUCTIONS ALLOWABLE.—A deduction is described in this subsection if it is a deduction under—

"(1) section 163 (relating to interest),

"(2) section 164 (relating to taxes),

"(3) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(4) section 170 (relating to charitable contributions),

"(5) part VI with respect to qualified trade and business employee expenses to which section 280I does not apply,

"(6) section 213 (relating to medical deduction),

"(7) section 222 (relating to adoption expenses),

"(8) section 691(c) (relating to deduction for estate tax in the case of income in respect of a decedent),

"(9) section 1341 (relating to amount and method of adjustment),

"(10) section 72(b)(3) (relating to deduction where annuity payments cease before investment recovered),

"(11) section 171 (relating to deduction for amortizable bond premium), and

"(12) section 216 (relating to deductions in connection with cooperative housing corporations).

"(c) DISALLOWANCE OF INDIRECT DEDUCTION THROUGH PASS-THRU ENTITY.—The Secretary

shall prescribe regulations which prohibit the indirect deduction through pass-thru entities of amounts which are not allowable as a deduction if paid or incurred directly by an individual.

"(d) IMPAIRMENT-RELATED WORK EXPENSES.—For purposes of this section, the term 'impairment-related work expenses' means expenses—

"(1) of a handicapped individual (as defined in section 190(a)(3)) for attendant care services at the individual's place of employment and other expenses in connection with such place of employment which are necessary for such individual to be able to work, and

"(2) with respect to which a deduction is allowable under section 162 (determined without regard to this section)."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding after the item relating to section 280G the following new item:

"Sec. 280H. Disallowance of certain itemized deductions for individuals."

SEC. 133. 1-PERCENT FLOOR ON DEDUCTION FOR QUALIFIED TRADE AND BUSINESS EMPLOYEE EXPENSES.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 (relating to items not deductible), as amended by section 132, is amended by adding after section 280H the following new section:

"SEC. 280I. 1-PERCENT FLOOR ON DEDUCTION FOR QUALIFIED TRADE AND BUSINESS EMPLOYEE EXPENSES.

"(a) GENERAL RULE.—In the case of an individual, no deduction shall be allowed for qualified trade and business employee expenses to the extent that the aggregate of such expenses does not exceed 1 percent of adjusted gross income.

"(b) QUALIFIED TRADE AND BUSINESS EMPLOYEE EXPENSES.—For purposes of this section, the term 'qualified trade and business employee expenses' means—

"(1) EXPENSES FOR TRAVEL AWAY FROM HOME.—The deductions allowed by part VI (sec. 161 and following) which consist of expenses of travel, meals, and lodging while away from home, paid or incurred by the taxpayer in connection with the performance by him of services as an employee,

"(2) TRANSPORTATION EXPENSES.—The deductions allowed by part VI (sec. 161 and following) which consist of expenses of transportation paid or incurred by the taxpayer in connection with the performance by him of services as an employee, and

"(3) OUTSIDE SALESMEN.—The deductions allowed by part VI (sec. 161 and following) which are attributable to a trade or business carried on by the taxpayer, if such trade or business consists of the performance of services by the taxpayer as an employee and if such trade or business is to solicit, away from the employer's place of business, business for the employer."

(b) CONFORMING AMENDMENTS.—

(1) Section 62 (defining adjusted gross income) is amended—

(A) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—For purposes of this subtitle, the term 'adjusted gross income' means, in the case of an individual, gross income minus the following deductions:", and

(B) by adding at the end thereof the following new subsection:

"(b) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of this subtitle, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income."

(2) Paragraph (2) of section 62(a) (defining adjusted gross income), as redesignated by paragraph (1), is amended to read as follows:

"(2) REIMBURSED EXPENSES OF EMPLOYEES.—The deductions allowed by part VI (section 161 and following) which consist of expenses paid or incurred by the taxpayer, in connection with the performance by him of services as an employee, under a reimbursement or other expense allowance arrangement with his employer."

(c) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 280I. 1-percent floor on deduction for qualified trade and business employee expenses."

SEC. 134. MEDICAL EXPENSE DEDUCTION LIMITATION INCREASED.

Subsection (a) of section 213 is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

SEC. 135. FLOOR FOR ITEMIZING MEDICAL DEDUCTIONS.

The Secretary of the Treasury is authorized to issue regulations that reduce the floor for itemizing medical deductions to the extent that such regulations will not reduce revenues more than the revenue raised by this section as determined by the Joint Committee on Taxation.

SEC. 136. DEDUCTION FOR STATE AND LOCAL SALES TAX.

(a) IN GENERAL.—Paragraph (4) of section 164(a) (relating to deduction for taxes) is amended to read as follows:

"(4) 60 percent of the excess (if any) of—

"(A) State and local general sales taxes paid or accrued by the taxpayer during the taxable year, over

"(B) State and local income taxes paid or accrued by the taxpayer during the taxable year."

(b) SPECIAL RULE FOR TAXES IN CONNECTION WITH ACQUISITION OR DISPOSITION OF PROPERTY.—Section 164(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN NONDEDUCTIBLE TAXES.—In the case of any tax which is paid or accrued by the taxpayer in connection with the acquisition or disposition of any property and with respect to which no deduction is allowed under this chapter, such tax shall—

"(A) in the case of the acquisition of property, be included in the basis of such property, and

"(B) in the case of the disposition of property, allowable as a deduction in computing the amount realized on such disposition."

SEC. 137. DEDUCTIBILITY OF STATE AND LOCAL SALES, REAL AND PERSONAL PROPERTY, AND INCOME TAXES.

(a) FINDINGS.—The Senate finds that—

(1) a deduction for State and local taxes has been allowed by Federal income tax law since 1861,

(2) the deduction for State and local taxes is a cornerstone of Federalism, protecting State revenue sources from the effects of double taxation and allowing State and local governments the flexibility to develop tax structures without Federal interference,

(3) elimination of the deduction for State and local taxes would constitute an unjustified Federal intrusion into the fiscal affairs of States and prejudice the right of State and local governments to select appropriate revenue measures,

(4) elimination or restriction of the deductibility of some State and local taxes would encourage States to shift tax levies to taxes which continue to be deductible, increasing the tax burden of certain segments of the population and undermining the ability of State and local governments to raise revenue,

(5) the deduction for State and local sales taxes is the single most popular deduction in the Internal Revenue Code of 1954,

(6) the revenue measures selected by a State should not significantly alter the value of the Federal deduction for State and local taxes paid by its citizens,

(7) sales taxes are used by some State and local governments as general purpose taxes, while other jurisdictions use income and property taxes as general purpose taxes,

(8) funding for public education, the largest category of expenditure for State and local governments, would be affected by any restriction on the deduction for State and local taxes, and

(9) the sales tax is the largest source of revenue for all States combined.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that any tax reform legislation should preserve the full deduction for State and local sales, real and personal property, and income taxes.

Subtitle E—Miscellaneous Provisions

SEC. 141. REPEAL OF INCOME AVERAGING FOR TAXPAYERS OTHER THAN FARMERS.

(a) IN GENERAL.—Subsection (a) of section 1303 (defining eligible individuals) is amended by inserting "and who is a qualified farmer" after "United States".

(b) QUALIFIED FARMER.—Section 1303 (defining eligible individuals) is amended by adding at the end thereof the following new subsection:

"(e) QUALIFIED FARMER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified farmer' means a person—

"(A) who is actively engaged in the trade or business of farming (within the meaning of section 2032A(e) (4) and (5)), including the trade or business of aquaculture on a farm, and

"(B) 50 percent or more of the average annual gross income of whom for the 3 preceding taxable years is attributable to such trade or business.

"(2) ACTIVELY ENGAGED.—A taxpayer shall be treated as actively engaged in the trade or business of farming only if the taxpayer is involved in the operation of such trade or business on a regular, continuous, and substantial basis."

(c) CONFORMING AMENDMENTS.—

(1) The heading of part I of subchapter Q of chapter 1 is amended by inserting "for farmers" after "averaging".

(2) The table of parts for subchapter Q of chapter 1 is amended by inserting "for farmers" after "averaging" in the item relating to part I.

SEC. 141A. FAMILY FARMERS INCOME AVERAGING.

The Secretary of the Treasury is authorized to issue regulations that permit family farmers to use income averaging to the extent that such regulations will not reduce revenues more than the revenue raised under this amendment as determined by the Joint Committee on Taxation.

SEC. 142. LIMITATIONS ON DEDUCTIONS FOR MEALS, TRAVEL, AND ENTERTAINMENT.

(a) ALL BUSINESS MEALS MUST HAVE CLEAR BUSINESS PURPOSE.—

(1) IN GENERAL.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) ALL BUSINESS MEALS MUST HAVE CLEAR BUSINESS PURPOSE.—No deduction shall be allowed under this chapter for the expense of any food or beverages unless—

"(1) the furnishing of such food or beverages has a clear business purpose currently related to the active conduct of a trade or business,

"(2) such expense is not lavish or extravagant under the circumstances, and

"(3) the taxpayer (or an employee of the taxpayer) is present at the furnishing of such food or beverages."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 274 (relating to specific exceptions to application of subsection (a)) is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(B) Paragraph (3) of section 274(e), as redesignated by subparagraph (A), is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (2)".

(b) ADDITIONAL RESTRICTIONS ON EXPENSES FOR MEALS, TRAVEL, AND ENTERTAINMENT.—Section 274 (relating to disallowance of certain entertainment, etc. expenses), as amended by section 122(d), is amended by redesignating subsection (k) as subsection (n) and by inserting after subsection (j) the following new subsections:

"(k) ADDITIONAL LIMITATIONS ON ENTERTAINMENT TICKETS.—

"(1) IN GENERAL.—In determining the amount allowable as a deduction under this chapter for any ticket for any activity or facility described in subsection (d)(2), the amount taken into account shall not exceed the face value of such ticket.

"(2) EXCEPTION FOR CERTAIN CHARITABLE SPORTS EVENTS.—Paragraph (1) shall not apply to any ticket for any sports event—

"(A) which is organized for the primary purpose of benefiting an organization which is described in section 501(c)(3) and exempt from tax under section 501(a),

"(B) all of the net proceeds of which are contributed to such organization, and

"(C) which utilizes volunteers for substantially all of the work performed in carrying out such event.

"(l) ADDITIONAL LIMITATIONS ON TRAVEL EXPENSES.—

"(1) LUXURY WATER TRANSPORTATION.—

"(A) IN GENERAL.—No deduction shall be allowed under this chapter for expenses incurred for transportation by water to the extent such expenses exceed twice the aggregate per diem amounts for days of such transportation. For purposes of the preceding sentence, the term 'per diem amounts' means the highest amount generally allowable with respect to a day to employees of the executive branch of the Federal Government for per diem while away from home but serving in the United States.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any expense allocable to a convention, seminar, or other meeting which is held on any cruise ship, and

"(ii) any expense to which subsection (a) does not apply by reason of paragraph (2), (3), (4), (7), (8), or (9) of subsection (e).

"(2) TRAVEL AS FORM OF EDUCATION.—No deduction shall be allowed under this chapter for expenses for travel as a form of education.

"(m) ONLY 80 PERCENT OF MEAL AND ENTERTAINMENT EXPENSES ALLOWED AS DEDUCTION.—

"(1) IN GENERAL.—The amount allowable as a deduction under this chapter for—

"(A) any expense for food or beverages, and

"(B) any item with respect to an activity which is of a type generally considered to constitute entertainment, amusement, or recreation, or with respect to a facility used in connection with such activity,

shall not exceed 80 percent of the amount of such expense or item which would (but for this paragraph) be allowable as a deduction under this chapter.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any expense if—

"(A) subsection (a) does not apply to such expense by reason of paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),

"(B) in the case of an expense for food or beverages, such expense is excludable from the gross income of the recipient under section 132 by reason of subsection (e) thereof (relating to de minimis fringes),

"(C) such expense is covered by a package involving a ticket described in subsection (k)(1)(B), or

"(D) in the case of an expense for food or beverages before January 1, 1989, such expense is an integral part of a qualified meeting.

"(3) QUALIFIED MEETING.—For purposes of paragraph (2)(D), the term 'qualified meeting' means any convention, seminar, annual meeting, or similar business program with respect to which—

"(A) an expense for food or beverages is not separately stated,

"(B) more than 50 percent of the participants are away from home,

"(C) at least 40 individuals attend, and

"(D) such food and beverages are part of a program which includes a speaker."

(c) NO DEDUCTION ALLOWED FOR SEMINARS, ETC., FOR SECTION 212 PURPOSES.—

(1) IN GENERAL.—Subsection (h) of section 274 (relating to attendance at conventions, etc.) is amended by adding at the end thereof the following new paragraph:

"(7) SEMINARS, ETC. FOR SECTION 212 PURPOSES.—No deduction shall be allowed under section 212 for expenses allocable to a convention, seminar, or similar meeting."

(2) TECHNICAL AMENDMENTS.—Paragraphs (1), (2), (4), and (5) of section 274(h) are each amended—

(A) by striking out "or 212" each place it appears, and

(B) by striking out "or to an activity described in section 212 and" each place it appears.

(d) RULES FOR DEDUCTIBILITY OF BUSINESS EXPENSES OF ATTENDING CONVENTIONS IN NORTH AMERICA AND CERTAIN CARIBBEAN COUNTRIES.—

(1) DEFINITION OF NORTH AMERICAN AREA.—

(A) IN GENERAL.—Section 274(h)(3) (defining North American area) is amended—

(i) by striking out subparagraph (A) and inserting in lieu thereof:

"(A) NORTH AMERICAN AREA.—The term 'North American area' means—

"(i) the United States, its possessions, the Trust Territory of the Pacific Islands, Canada, and Mexico, and

"(ii) except as provided in subparagraph (B), Bermuda."; and

(ii) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) PRESIDENTIAL CERTIFICATION MUST BE IN EFFECT.—The term 'North American area' shall not include Bermuda unless there is in effect a certification by the President that—

"(i) it is in the national security interest of the United States that Bermuda be included in the definition of such term, and

"(ii) the administration and enforcement of United States tax laws is not materially impeded by Bermuda's information exchange policies.

A certification by the President shall take effect on the date such certification is published in the Federal Register and shall cease to have effect on the third anniversary of such date."

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 274(h)(6) is amended by striking out "; except that such term shall include Bermuda".

(2) TREATMENT OF CONVENTIONS IN CERTAIN CARIBBEAN COUNTRIES.—

(A) IN GENERAL.—Subparagraph (C) of section 274(h)(6) is amended to read as follows:

"(C) AUTHORITY TO CONCLUDE EXCHANGE OF INFORMATION AGREEMENTS.—The Secretary is authorized to negotiate and conclude an agreement for the exchange of information with any beneficiary country. An exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary or appropriate to carry out and enforce the tax laws of the United States and the beneficiary country (whether criminal or civil proceedings), including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country such as provisions respecting bank secrecy and bearer shares. The exchange of information agreement shall be terminable by either country on reasonable notice and shall provide that information received by either country will be disclosed only to persons or authorities (including courts and administrative bodies) involved in the administration or oversight of, or in the determination of appeals in respect of, taxes of the United States or the beneficiary country and will be used by such persons or authorities only for such purposes."

(B) CONFORMING AMENDMENT.—Subparagraph (E) of section 274(h)(6) is amended to read as follows:

"(E) DETERMINATIONS PUBLISHED IN THE FEDERAL REGISTER.—The following shall be published in the Federal Register:

"(i) Any certification by the President required by paragraph (3)(B) (including the reasons for such certification).

"(ii) Any finding by the Secretary under subparagraph (A)(ii) (and any termination thereof)."

(3) SPECIAL RULE FOR FIRST CERTIFICATION.—If a certification described in subparagraph (B) of section 274(h)(3) of the Internal Revenue Code of 1954, as amended by this section, is made within 1 year of the date of the enactment of this Act, such subparagraph shall be applied without regard to clause (ii) thereof.

(e) ADDITIONAL PENALTY FOR OVERSTATED MEAL DEDUCTIONS.—Section 6653 (relating to additions to tax for failure to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR OVERSTATED MEAL DEDUCTIONS.—In any case in which any part of an underpayment is due to an erroneous deduction for any expense for food or beverages—

"(1) if such error is due to negligence or disregard of rules and regulations, the addition to tax under subsection (a) shall not be less than 50 percent of the portion of such underpayment attributable to such error, or

"(2) if such error is due to fraud, with respect to the portion of the underpayment which is attributable to such error, subsection (b) shall be applied by substituting '100 percent' for '75 percent'."

SEC. 143. CHANGES IN TREATMENT OF HOBBY LOSS, ETC.

(a) HOBBY LOSS.—Subsection (d) of section 183 (relating to presumption) is amended—

(1) by striking out "2 or more of the taxable years in the period of 5 consecutive taxable years" and inserting in lieu thereof "3 or more of the taxable years in the period of 5 consecutive taxable years", and

(2) by striking out the last sentence and inserting in lieu thereof the following: "In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting '2' for '3' and '7' for '5'."

(b) TREATMENT OF RENTAL TO EMPLOYER UNDER SECTION 280A.—Subsection (c) of section 280A (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF RENTAL TO EMPLOYER.—Paragraphs (1) and (3) shall not apply to any item which is attributable to the rental of the dwelling unit (or any portion thereof) by the taxpayer to his employer during any period in which the taxpayer uses the dwelling unit (or portion) in performing services as an employee of the employer."

(c) REVISION OF LIMITATION ON DEDUCTION FOR BUSINESS USE OF HOME.—Paragraph (5) of section 280A(c) (relating to exceptions for certain business or rental use; limitation on deductions for such use) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) the sum of—

"(i) the deductions allocable to such use which are allowable under this chapter for the taxable year whether or not such unit (or portion thereof) was so used, and

"(ii) the deductions allocable to the trade or business in which such use occurs (but which are not allocable to such use) for such taxable year.

Any amount not allowable as a deduction under this chapter by reason of the preceding sentence shall be taken into account as a deduction (allocable to such use) under this chapter for the succeeding taxable year."

SEC. 144. DEDUCTION FOR MORTGAGE INTEREST AND REAL PROPERTY TAXES ALLOWABLE WHERE PARSONAGE ALLOWANCE OR MILITARY HOUSING ALLOWANCE RECEIVED.

Section 265 is amended by adding at the end thereof the following new paragraph:

"(6) SECTION NOT TO APPLY WITH RESPECT TO PARSONAGE AND MILITARY HOUSING ALLOWANCES.—No deduction shall be denied under this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as—

"(A) a military housing allowance, or

"(B) a parsonage allowance excludable from gross income under section 107."

Subtitle F—Effective Dates

SEC. 151. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years beginning after December 31, 1986.

(b) UNEMPLOYMENT COMPENSATION.—The amendment made by section 121 shall apply to amounts received after December 31, 1986, in taxable years ending after such date.

(c) PARSONAGE AND MILITARY HOUSING ALLOWANCES.—The amendment made by section 144 shall apply to taxable years beginning before, on, or after, December 31, 1986.

TITLE II—ACCELERATED COST RECOVERY AND INVESTMENT TAX CREDIT

Subtitle A—Depreciation Provisions

SEC. 201. MODIFICATION OF ACCELERATED COST RECOVERY SYSTEM.

(a) GENERAL RULE.—Section 168 (relating to accelerated cost recovery system) is amended to read as follows:

"SEC. 168. ACCELERATED COST RECOVERY SYSTEM.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the depreciation deduction provided by section 167(a) for any tangible property shall be determined by using—

"(1) the applicable depreciation method,

"(2) the applicable recovery period, and

"(3) the applicable convention.

"(b) APPLICABLE DEPRECIATION METHOD.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the applicable depreciation method is—

"(A) the 150 percent declining balance method,

"(B) switching to the straight line method for the first taxable year for which using the straight line method with respect to the adjusted basis as of the beginning of such year will yield a larger allowance.

"(2) 5-YEAR AND 10-YEAR PROPERTY.—In the case of 5-year and 10-year property, paragraph (1) shall be applied by substituting '200 percent' for '150 percent'.

"(3) PROPERTY TO WHICH STRAIGHT LINE METHOD APPLIES.—The applicable depreciation method shall be the straight line method in the case of the following property:

"(A) Nonresidential real property.

"(B) Residential rental property.

"(C) Property with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply.

"(D) 3-year property which is—

"(i) an automobile or a light general purpose truck, or

"(ii) semi-conductor manufacturing equipment.

"(4) SALVAGE VALUE TREATED AS ZERO.—Salvage value shall be treated as zero.

"(5) ELECTION.—An election under paragraph (3)(C) may be made with respect to 1 or more classes for any taxable year and once made with respect to any class shall apply to all property in such class placed in service during such taxable year. Such an election, once made, shall be irrevocable.

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section, the applicable recovery period shall be determined in accordance with the following table:

"In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
10-year property	10 years
15-year property	15 years
Residential rental property	27.5 years
Nonresidential real property	31.5 years.

"(d) APPLICABLE CONVENTION.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the applicable convention is the half-year convention.

"(2) REAL PROPERTY.—In the case of—

"(A) nonresidential real property, and

"(B) residential rental property,

the applicable convention is the mid-month convention.

"(3) SPECIAL RULE WHERE SUBSTANTIAL PROPERTY PLACED IN SERVICE DURING LAST 3 MONTHS OF TAXABLE YEAR.—

"(A) IN GENERAL.—Except as provided in regulations, if during any taxable year—

"(i) the aggregate bases of property to which this section applies and which are placed in service during the last 3 months of the taxable year, exceed

"(ii) 40 percent of the aggregate bases of all such property placed in service during such taxable year,

the applicable convention for all such property placed in service during such taxable year shall be the mid-month convention.

"(B) CERTAIN REAL PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), nonresidential real property and residential rental property shall not be taken into account.

"(4) DEFINITIONS.—

"(A) HALF-YEAR CONVENTION.—The half-year convention is a convention which treats all property placed in service during any taxable year (or disposed of during any taxable year) as placed in service (or disposed of) on the mid-point of such taxable year.

"(B) MID-MONTH CONVENTION.—The mid-month convention is a convention which treats all property placed in service during any month (or disposed of during any month) as placed in service (or disposed of) on the mid-point of such month.

"(e) CLASSIFICATION OF PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, property shall be assigned to 1 of the following classes:

"(A) 3-YEAR PROPERTY.—The term '3-year property' means section 1245 class property with a class life of 4 years or less.

"(B) 5-YEAR PROPERTY.—The term '5-year property' means section 1245 class property which is not assigned to any other class.

"(C) 10-YEAR PROPERTY.—The term '10-year property' means—

"(i) section 1245 class property with a class life of 16 years or more (other than 15-year property), and

"(ii) section 1250 class property with a class life of 12.5 years or less.

"(D) 15-YEAR PROPERTY.—The term '15-year property' means property (other than section 1250 class property or 3-year property) with a class life of 20 years or more which is—

"(i) utility property, or

"(ii) property which is part of a steam or electric generation or distribution system.

"(E) NONRESIDENTIAL REAL PROPERTY.—The term 'nonresidential real property' means section 1250 class property (other than 10-year property) which is not residential rental property.

"(F) RESIDENTIAL RENTAL PROPERTY.—The term 'residential rental property' has the same meaning as when such term is used in section 167(j)(2)(B).

"(2) CLASSIFICATION OF CERTAIN PROPERTY.—

"(A) 3-YEAR PROPERTY.—The term '3-year property' includes the following property:

"(i) Any semi-conductor manufacturing equipment.

"(ii) Any race horse which is more than 2 years old at the time it is placed in service.

"(iii) Any horse other than a race horse which is more than 12 years old at the time it is placed in service.

"(B) 5-YEAR PROPERTY.—The term '5- year property' includes—

"(i) any computer-based telephone central office switching equipment,

"(ii) any over-the-road tractor unit, or

"(iii) any property described in paragraph (3)(A)(viii), (3)(A)(ix), (4), or (15) of section 48(1).

"(C) 10-YEAR PROPERTY.—The term '10-year property' includes any—

"(i) railroad tank car,

"(ii) manufactured home, or

"(iii) qualified coal utilization property.

"(D) RESEARCH AND EXPERIMENTATION PROPERTY.—If section 1245 class property used in connection with research and experimentation—

"(i) is placed in service during 1987, 1988, or 1989, such property shall be treated as 5-year property, or

"(ii) is placed in service after 1989, shall be treated as 3-year property.

Under regulations, clause (ii) shall not apply to property previously placed in service before 1989 under rules similar to the rules of subsection (f)(5).

"(E) SPECIAL RULE FOR THEME PARKS, ETC.—For purposes of paragraph (1), a building (and its structural components) shall not be treated as having a class life of 12.5 years or less by reason of any use other than the use for which such building was originally placed in service.

"(f) PROPERTY TO WHICH SECTION DOES NOT APPLY.—This section shall not apply to—

"(1) CERTAIN METHODS OF DEPRECIATION.—Any property if—

"(A) the taxpayer elects to exclude such property from the application of this section, and

"(B) for the 1st taxable year for which a depreciation deduction would be allowable with respect to such property in the hands of the taxpayer, the property is properly depreciated under the unit-of-production method or any method of depreciation not expressed in a term of years (other than the retirement-replacement-betterment method or similar method).

"(2) CERTAIN PUBLIC UTILITY PROPERTY.—Any public utility property (within the meaning of section 167(l)(3)(A)) if the taxpayer does not use a normalization method of accounting.

"(3) FILMS AND VIDEO TAPE.—Any motion picture film or video tape.

"(4) SOUND RECORDINGS.—Any sound recording described in section 280(c)(2).

"(5) CERTAIN PROPERTY PLACED IN SERVICE IN CHURNING TRANSACTIONS.—Property—

"(A) described in paragraph (4) of section 168(e) (as in effect before the amendments made by the Tax Reform Act of 1986), or

"(B) which would be described in such paragraph (other than residential rental property or nonresidential real property) if such paragraph were applied by substituting '1987' for '1981' and '1986' for '1980' each place such terms appear.

Subparagraph (B) shall not apply to any property if the amount allowable under this section (as in effect before the date of the enactment of this paragraph) with respect to such property is greater than the amount allowable under this section (as in effect on or after such date).

"(g) ALTERNATIVE DEPRECIATION SYSTEM FOR CERTAIN PROPERTY.—

"(1) IN GENERAL.—In the case of—

"(A) any tangible property which during the taxable year is used predominantly outside the United States,

"(B) any tax-exempt use property,

"(C) any tax-exempt bond financed property,

"(D) any imported property covered by an Executive order under paragraph (6), and

"(E) any property to which an election under paragraph (7) applies,

the depreciation deduction provided by section 167(a) shall be determined under the alternative depreciation system.

"(2) ALTERNATIVE DEPRECIATION SYSTEM.—For purposes of paragraph (1), the alternative depreciation system is depreciation determined by using—

"(A) the straight line method (without regard to salvage value),

"(B) the applicable convention determined under subsection (d), and

"(C) a recovery period determined under the following table:

"In the case of:	The recovery period shall be:
(i) Property not described in clause (ii) or (iii)	The class life.
(ii) Personal property with no class life	12 years.
(iii) Nonresidential real and residential rental property	40 years.

"(3) SPECIAL RULES FOR DETERMINING CLASS LIFE.—

"(A) TAX-EXEMPT USE PROPERTY SUBJECT TO LEASE.—In the case of any tax-exempt use property subject to a lease, the recovery period used for purposes of paragraph (2) shall in no event be less than 125 percent of the lease term.

"(B) QUALIFIED TECHNOLOGICAL EQUIPMENT.—In the case of any qualified technological equipment the recovery period used for purposes of paragraph (2) shall be 5 years.

"(C) TAX-EXEMPT BOND FINANCED PROPERTY.—In the case of any tax-exempt bond financed property which is not property described in any other subparagraph of paragraph (1), the recovery period used for purposes of applying paragraph (2) solely for purposes of this section shall be the recovery period determined under paragraph (2), except that—

"(i) in the case of—

"(I) a solid waste disposal facility (within the meaning of section 103(b)(4)(C)), or

"(II) a hazardous waste treatment facility (within the meaning of section 103(b)(4)(G)),

the recovery period shall be 8 years, and

"(ii) in the case of any qualified residential project described in subparagraph (A) of section 103(b)(4), the recovery period shall be 27.5 years.

"(D) AUTOMOBILES, ETC.—In the case of any automobile, light-purpose truck, or any over-the-road tractor unit, the recovery period used for purposes of paragraph (2) shall be 5 years.

"(4) PROPERTY USED PREDOMINANTLY OUTSIDE THE UNITED STATES.—For purposes of this subsection, under regulations prescribed by the Secretary, rules similar to the rules under section 48(a)(2) (including the exceptions contained in subparagraph (B) thereof) shall apply in determining whether property is used predominantly outside the United States. In addition to the exceptions contained in such subparagraph (B), there shall be excepted any satellite or other spacecraft (or any interest therein) held by a United States person if such satellite or spacecraft was launched from within the United States.

"(5) TAX-EXEMPT BOND FINANCED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'tax-exempt bond financed property' means any property to the extent such property is financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103(a).

"(B) ALLOCATION OF BOND PROCEEDS.—For purposes of subparagraph (A), the proceeds of any obligation shall be treated as used to finance property acquired in connection with the issuance of such obligation in the order in which such property is placed in service.

"(6) IMPORTED PROPERTY.—

"(A) COUNTRIES MAINTAINING TRADE RESTRICTIONS OR ENGAGING IN DISCRIMINATORY ACTS.—If the President determines that a foreign country—

"(i) maintains nontariff trade restrictions, including variable import fees, which substantially burden United States commerce in a manner inconsistent with provisions of trade agreements, or

"(ii) engages in discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably restricting United States commerce,

he may by Executive order provide for the application of paragraph (1)(D) to any article or class of articles manufactured or produced in such foreign country for such period as may be provided by such Executive order. Any period specified in the preceding sentence shall not apply to any property ordered before (or the construction, reconstruction, or erection of which began before) the date of the Executive order unless the President determines an earlier date to be in the public interest and specifies such date in the Executive order.

"(B) IMPORTED PROPERTY.—For purposes of this subsection, the term 'imported property' means any property if—

"(i) such property was completed outside the United States, or

"(ii) less than 50 percent of the basis of such property is attributable to value added within the United States.

For purposes of this subparagraph, the term 'United States' includes the Commonwealth of Puerto Rico and the possessions of the United States.

"(7) ELECTION TO USE ALTERNATIVE DEPRECIATION SYSTEM.—

"(A) IN GENERAL.—If the taxpayer makes an election under this paragraph with respect to any class of property for any taxable year, the alternative depreciation system under this subsection shall apply to all property in such class placed in service during such taxable year. Notwithstanding the preceding sentence, in the case of nonresidential real property or residential rental property, such election may be made separately with respect to such property.

"(B) ELECTION IRREVOCABLE.—An election under subparagraph (A), once made with respect to any class of property for any taxable year, shall be irrevocable.

"(h) TAX-EXEMPT USE PROPERTY.—

"(1) IN GENERAL.—For purposes of this section—

"(A) PROPERTY OTHER THAN NONRESIDENTIAL REAL PROPERTY.—Except as otherwise provided in this subsection, the term 'tax-exempt use property' means that portion of any tangible property (other than nonresidential real property) leased to a tax-exempt entity.

"(B) NONRESIDENTIAL REAL PROPERTY.—

"(i) IN GENERAL.—In the case of nonresidential real property, the term 'tax-exempt use property' means that portion of the

property leased to a tax-exempt entity in a disqualified lease.

"(ii) DISQUALIFIED LEASE.—For purposes of this subparagraph, the term 'disqualified lease' means any lease of the property to a tax-exempt entity, but only if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103 and such entity (or a related entity) participated in such financing,

"(II) under such lease there is a fixed or determinable price purchase or sale option which involves such entity (or a related entity) or there is the equivalent of such an option,

"(III) such lease has a lease term in excess of 20 years, or

"(IV) such lease occurs after a sale (or other transfer) of the property by, or lease of the property from, such entity (or a related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease.

"(iii) 35-PERCENT THRESHOLD TEST.—Clause (i) shall apply to any property only if the portion of such property leased to tax-exempt entities in disqualified leases is more than 35 percent of the property.

"(iv) TREATMENT OF IMPROVEMENTS.—For purposes of this subparagraph, improvements to a property (other than land) shall not be treated as a separate property.

"(v) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (IV) of clause (ii) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(C) EXCEPTION FOR SHORT-TERM LEASES.—

"(i) IN GENERAL.—Property shall not be treated as tax-exempt use property merely by reason of a short-term lease.

"(ii) SHORT-TERM LEASE.—For purposes of clause (i), the term 'short-term lease' means any lease the term of which is—

"(I) less than 3 years, and

"(II) less than the greater of 1 year or 30 percent of the property's present class life.

In the case of nonresidential real property and property with no present class life, subclause (II) shall not apply.

"(D) EXCEPTION WHERE PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—The term 'tax-exempt use property' shall not include any portion of a property if such portion is predominantly used by the tax-exempt entity (directly or through a partnership of which such entity is a partner) in an unrelated trade or business the income of which is subject to tax under section 511. For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease.

"(E) NONRESIDENTIAL REAL PROPERTY DEFINED.—For purposes of this paragraph, the term 'nonresidential real property' includes residential rental property.

"(2) TAX-EXEMPT ENTITY.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'tax-exempt entity' means—

"(i) the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing,

"(ii) an organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter, and

"(iii) any foreign person or entity.

"(B) EXCEPTIONS FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—

"(i) INCOME FROM PROPERTY SUBJECT TO UNITED STATES TAX.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(I) subject to tax under this chapter, or

"(II) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter.

"(ii) MOVIES AND SOUND RECORDINGS.—Clause (iii) of subparagraph (A) shall not apply with respect to any qualified film (as defined in section 48(k)(1)(B)) or any sound recording (as defined in section 48(r)).

"(C) FOREIGN PERSON OR ENTITY.—For purposes of this paragraph, the term 'foreign person or entity' means—

"(i) any foreign government, any international organization, or any agency or instrumentality of any of the foregoing, and

"(ii) any person who is not a United States person.

Such term does not include any foreign partnership or other foreign pass-thru entity.

"(D) TREATMENT OF CERTAIN TAXABLE INSTRUMENTALITIES.—For purposes of this subsection, a corporation shall not be treated as an instrumentality of the United States or of any State or political subdivision thereof if—

"(i) all of the activities of such corporation are subject to tax under this chapter, and

"(ii) a majority of the board of directors of such corporation is not selected by the United States or any State or political subdivision thereof.

"(E) CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

"(i) IN GENERAL.—For purposes of this subsection, an organization shall be treated as an organization described in subparagraph (A)(ii) with respect to any property (other than property held by such organization) if such organization was an organization (other than a cooperative described in section 521) exempt from tax imposed by this chapter at any time during the 5-year period ending on the date such property was first used by such organization. The preceding sentence and subparagraph (D)(ii) shall not apply to the Federal Home Loan Mortgage Corporation.

"(ii) ELECTION NOT TO HAVE CLAUSE (i) APPLY.—

"(I) IN GENERAL.—In the case of an organization formerly exempt from tax under section 501(a) as an organization described in section 501(c)(12), clause (i) shall not apply to such organization with respect to any property if such organization elects not to be exempt from tax under section 501(a) during the tax-exempt use period with respect to such property.

"(II) TAX-EXEMPT USE PERIOD.—For purposes of subclause (I), the term 'tax-exempt use period' means the period beginning with the taxable year in which the property described in subclause (I) is first used by the organization and ending with the close of the 15th taxable year following the last taxable year of the applicable recovery period of such property.

"(III) ELECTION.—Any election under subclause (I), once made, shall be irrevocable.

"(iii) TREATMENT OF SUCCESSOR ORGANIZATIONS.—Any organization which is engaged in activities substantially similar to those engaged in by a predecessor organization shall succeed to the treatment under this subparagraph of such predecessor organization.

"(iv) FIRST USED.—For purposes of this subparagraph, property shall be treated as first used by the organization—

"(I) when the property is first placed in service under a lease to such organization, or

"(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity.

"(3) SPECIAL RULES FOR CERTAIN HIGH TECHNOLOGY EQUIPMENT.—

"(A) EXEMPTION WHERE LEASE TERM IS 5 YEARS OR LESS.—For purposes of this section, the term 'tax-exempt use property' shall not include any qualified technological equipment if the lease to the tax-exempt entity has a lease term of 5 years or less.

"(B) EXCEPTION FOR CERTAIN PROPERTY.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified technological equipment' shall not include any property leased to a tax-exempt entity if—

"(I) part or all of the property was financed (directly or indirectly) by an obligation the interest on which is exempt from tax under section 103,

"(II) such lease occurs after a sale (or other transfer) of the property by, or lease of such property from, such entity (or related entity) and such property has been used by such entity (or a related entity) before such sale (or other transfer) or lease, or

"(III) such tax-exempt entity is the United States or any agency or instrumentality of the United States.

"(ii) LEASEBACKS DURING 1ST 3 MONTHS OF USE NOT TAKEN INTO ACCOUNT.—Subclause (II) of clause (i) shall not apply to any property which is leased within 3 months after the date such property is first used by the tax-exempt entity (or a related entity).

"(4) RELATED ENTITIES.—For purposes of this subsection—

"(A)(i) Each governmental unit and each agency or instrumentality of a governmental unit is related to each other such unit, agency, or instrumentality which directly or indirectly derives its powers, rights, and duties in whole or in part from the same sovereign authority.

"(ii) For purposes of clause (i), the United States, each State, and each possession of the United States shall be treated as a separate sovereign authority.

"(B) Any entity not described in subparagraph (A)(i) is related to any other entity if the 2 entities have—

"(i) significant common purposes and substantial common membership, or

"(ii) directly or indirectly substantial common direction or control.

"(C)(i) An entity is related to another entity if either entity owns (directly or through 1 or more entities) a 50 percent or greater interest in the capital or profits of the other entity.

"(ii) For purposes of clause (i), entities treated as related under subparagraph (A) or (B) shall be treated as 1 entity.

"(D) An entity is related to another entity with respect to a transaction if such transaction is part of an attempt by such entities to avoid the application of this subsection.

"(5) TAX-EXEMPT USE OF PROPERTY LEASED TO PARTNERSHIPS, ETC., DETERMINED AT PARTNER LEVEL.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of any property which is leased to a partnership, the determination of whether any portion of such property is tax-exempt use property shall be made by treating each tax-exempt entity partner's proportionate share (determined under paragraph (6)(C)) of such property as being leased to such partner.

"(B) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraph (A) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(C) PRESUMPTION WITH RESPECT TO FOREIGN ENTITIES.—Unless it is otherwise established to the satisfaction of the Secretary, it shall be presumed that the partners of a foreign partnership (and the beneficiaries of any other foreign pass-thru entity) are persons who are not United States persons.

"(6) TREATMENT OF PROPERTY OWNED BY PARTNERSHIPS, ETC.—

"(A) IN GENERAL.—For purposes of this subsection, if—

"(i) any property which (but for this subparagraph) is not tax-exempt use property is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, and

"(ii) any allocation to the tax-exempt entity of partnership items is not a qualified allocation,

an amount equal to such tax-exempt entity's proportionate share of such property shall (except as provided in paragraph (1)(D)) be treated as tax-exempt use property.

"(B) QUALIFIED ALLOCATION.—For purposes of subparagraph (A), the term 'qualified allocation' means any allocation to a tax-exempt entity which—

"(i) is consistent with such entity's being allocated the same distributive share of each item of income, gain, loss, deduction, credit, and basis and such share remains the same during the entire period the entity is a partner in the partnership, and

"(ii) has substantial economic effect within the meaning of section 704(b)(2).

For purposes of this subparagraph, items allocated under section 704(c) shall not be taken into account.

"(C) DETERMINATION OF PROPORTIONATE SHARE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), a tax-exempt entity's proportionate share of any property owned by a partnership shall be determined on the basis of such entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)), whichever results in the largest proportionate share.

"(ii) DETERMINATION WHERE ALLOCATIONS VARY.—For purposes of clause (i), if a tax-exempt entity's share of partnership items of income or gain (excluding gain allocated under section 704(c)) may vary during the period such entity is a partner in the partnership, such share shall be the highest share such entity may receive.

"(D) DETERMINATION OF WHETHER PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514.

"(E) OTHER PASS-THRU ENTITIES; TIERED ENTITIES.—Rules similar to the rules of subparagraphs (A), (B), (C), and (D) shall also apply in the case of any pass-thru entity other than a partnership and in the case of tiered partnerships and other entities.

"(F) TREATMENT OF CERTAIN TAXABLE ENTITIES.—

"(i) IN GENERAL.—For purposes of this paragraph and paragraph (5), except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

"(ii) ELECTION.—If a tax-exempt controlled entity makes an election under this clause—

"(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph and paragraph (5), and

"(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity. For purposes of subclause (II), there shall only be taken into account dividends which are properly allocable to income of the tax-exempt controlled entity which was not subject to tax under this chapter.

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (2)(E)) if 50 percent or more (in value) of the stock in such corporation is held (directly or through the application of section 318, determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof) by 1 or more tax-exempt entities (other than a foreign person or entity).

"(G) REGULATIONS.—For purposes of determining whether there is a qualified allocation under subparagraph (B), the regulations prescribed under paragraph (8) for purposes of this paragraph—

"(i) shall set forth the proper treatment for partnership guaranteed payments, and

"(ii) may provide for the exclusion or segregation of items.

"(7) LEASE.—For purposes of this subsection, the term 'lease' includes any grant of a right to use property.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

"(i) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLASS LIFE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'class life' means the class life (if any) which would be applicable with respect to any property as of January 1, 1986, under subsection (m) of section 167 (determined without regard to paragraph (4) thereof and as if the taxpayer had made an election under such subsection).

"(B) SECRETARIAL AUTHORITY.—The Secretary, through an office established in the Treasury—

"(i) shall monitor and analyze actual experience with respect to all depreciable assets,

"(ii) may prescribe a new class life for any property or class of property, and

"(iii) may prescribe a class life for any property which does not have a class life within the meaning of subparagraph (A).

Any class life prescribed under the preceding sentence shall reasonably reflect the anticipated useful life, and the anticipated decline in value over time, of the property to the industry or other group.

"(C) NEW CLASS LIFE TO OVERRIDE CERTAIN CLASSIFICATIONS UNDER SUBSECTION (e).—If the Secretary prescribes a class life under subparagraph (B) with respect to any property (other than nonresidential real property or residential rental property), such class life shall be used in determining the class of such property and in applying subsection (g) (other than property classified under subsection (e)(2) or (g)(3)(B)(i) or any automobile or light general purpose truck).

"(2) QUALIFIED TECHNOLOGICAL EQUIPMENT.—

"(A) IN GENERAL.—The term 'qualified technological equipment' means—

"(i) any computer or peripheral equipment,

"(ii) any high technology telephone station equipment installed on the customer's premises, and

"(iii) any high technology medical equipment.

"(B) COMPUTER OR PERIPHERAL EQUIPMENT DEFINED.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'computer or peripheral equipment' means—

"(I) any computer, and

"(II) any related peripheral equipment.

"(ii) COMPUTER.—The term 'computer' means a programmable electronically activated device which—

"(I) is capable of accepting information, applying prescribed processes to the information, and supplying the results of these processes with or without human intervention, and

"(II) consists of a central processing unit containing extensive storage, logic, arithmetic, and control capabilities.

"(iii) RELATED PERIPHERAL EQUIPMENT.—The term 'related peripheral equipment' means any auxiliary machine (whether on-line or off-line) which is designed to be placed under the control of the central processing unit of a computer.

"(iv) EXCEPTIONS.—The term 'computer or peripheral equipment' shall not include—

"(I) any equipment which is an integral part of other property which is not a computer,

"(II) typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, and

"(III) equipment of a kind used primarily for amusement or entertainment of the user.

"(C) HIGH TECHNOLOGY MEDICAL EQUIPMENT.—For purposes of this paragraph, the term 'high technology medical equipment' means any electronic, electromechanical, or computer-based high technology equipment used in the screening, monitoring, observation, diagnosis, or treatment of patients in a laboratory, medical, or hospital environment.

"(3) LEASE TERM.—

"(A) IN GENERAL.—In determining a lease term—

"(i) there shall be taken into account options to renew, and

"(ii) 2 or more successive leases which are part of the same transaction (or a series of related transactions) with respect to the same or substantially similar property shall be treated as 1 lease.

"(B) SPECIAL RULE FOR FAIR RENTAL OPTIONS ON NONRESIDENTIAL REAL PROPERTY OR RESIDENTIAL RENTAL PROPERTY.—For purposes of

clause (i) of subparagraph (A), in the case of nonresidential real property or residential rental property, there shall not be taken into account any option to renew at fair market value, determined at the time of renewal.

"(4) MASS ASSET ACCOUNTS.—Under regulations prescribed by the Secretary, a taxpayer may maintain 1 or more mass asset accounts for any property to which this section applies. Except as provided in regulations, all proceeds realized on any disposition of property in a mass asset account shall be included in income as ordinary income.

"(5) CHANGES IN USE.—The Secretary shall, by regulations, provide for the method of determining the deduction allowable under section 167(a) with respect to any tangible property for any taxable year (and the succeeding taxable years) during which such property changes status under this section but continues to be held by the same person.

"(6) TREATMENTS OF ADDITIONS OR IMPROVEMENTS TO PROPERTY.—In the case of any addition to (or improvement of) any property—

"(A) any deduction under subsection (a) for such addition or improvement shall be computed in the same manner as the deduction for such property would be computed if such property had been placed in service at the same time as such addition or improvement, and

"(B) the applicable recovery period for such addition or improvement shall begin on the later of—

"(i) the date on which such addition (or improvement) is placed in service, or

"(ii) the date on which the property with respect to which such addition (or improvement) was made is placed in service.

"(7) TREATMENT OF CERTAIN TRANSFEREES.—

"(A) IN GENERAL.—In the case of any property transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of computing the depreciation deduction determined under this section with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731. Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B).

"(C) PROPERTY REACQUIRED BY THE TAXPAYER.—Under regulations, property which is disposed of and then reacquired by the taxpayer shall be treated for purposes of computing the deduction allowable under subsection (a) as if such property had not been disposed of.

"(D) EXCEPTION.—This paragraph shall not apply to any transaction to which subsection (f)(5) applies.

"(8) TREATMENT OF LEASEHOLD IMPROVEMENTS.—In the case of any building erected (or improvements made) on leased property, if such building or improvement is property to which this section applies, the depreciation deduction shall be determined under the provisions of this section.

"(9) NORMALIZATION RULES.—

"(A) IN GENERAL.—In order to use a normalization method of accounting with respect to any public utility property for purposes of subsection (f)(2)—

"(i) the taxpayer must, in computing its tax expense for purposes of establishing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, use a method of depreciation with respect to such property that is the same as, and a depreciation period for such property that is no shorter than, the method and period used to compute its depreciation expense for such purposes; and

"(ii) if the amount allowable as a deduction under this section with respect to such property differs from the amount that would be allowable as a deduction under section 167 (determined without regard to section 167(l)) using the method (including the period, first and last year convention, and salvage value) used to compute regulated tax expense under clause (i), the taxpayer must make adjustments to a reserve to reflect the deferral of taxes resulting from such difference.

"(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC.—

"(i) IN GENERAL.—One way in which the requirements of subparagraph (A) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of subparagraph (A).

"(ii) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (A)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of clause (i).

"(C) PUBLIC UTILITY PROPERTY WHICH DOES NOT MEET NORMALIZATION RULES.—In the case of any public utility property to which this section does not apply by reason of subsection (f)(2), the allowance for depreciation under section 167(a) shall be an amount computed using the method and period referred to in subparagraph (A)(i).

"(10) TERMS RELATING TO UTILITY PROPERTY.—

"(A) PUBLIC UTILITY PROPERTY.—The term 'public utility property' has the meaning given such term by section 167(l)(3)(A).

"(B) UTILITY PROPERTY.—The term 'utility property' means property described in section 167(l)(3)(A) (without regard to the matter following clause (iv) thereof).

"(11) SHORT TAXABLE YEARS.—

"(A) IN GENERAL.—In the case of a taxable year which is less than 12 months, the amount of the deduction under this section—

"(i) shall be an amount which bears the same relationship to the amount of the deduction, determined without regard to this paragraph, as the number of months in the short taxable years bears to 12, and

"(ii) shall be appropriately adjusted for subsequent taxable years in such manner as the Secretary may prescribe.

"(B) EXCEPTION.—This paragraph shall not apply to any deduction with respect to any residential rental property or nonresidential real property.

"(12) SECTION 1245 CLASS PROPERTY.—The term 'section 1245 class property' means tangible property described in section 1245(a)(3) other than subparagraphs (C) and (D).

"(13) SECTION 1250 CLASS PROPERTY.—The term 'section 1250 class property' means property described in section 1250(c) and property described in section 1245(a)(3)(C).

"(14) RESEARCH AND EXPERIMENTATION.—The term 'research and experimentation' has the same meaning as the term research and experimental has under section 174.

"(15) MANUFACTURED HOME.—The term 'manufactured home' means property described in section 603(6) of the Housing and Community Development Act of 1974 which is 1250 class property used as a dwelling unit.

"(16) QUALIFIED COAL UTILIZATION PROPERTY.—

"(A) QUALIFIED COAL UTILIZATION PROPERTY.—The term 'qualified coal utilization property' means that portion of the unadjusted basis of coal utilization property which bears the same ratio (but not greater than 1) to such unadjusted basis as—

"(i) the Btu's of energy produced by the powerplant or major fuel-burning installation before the conversion or replacement involving coal utilization property, bears to

"(ii) the Btu's of energy produced by such powerplant or installation after such conversion or replacement.

"(B) COAL UTILIZATION PROPERTY.—The term 'coal utilization property' means—

"(i) a boiler or burner—

"(I) the primary fuel for which is coal (including lignite), and

"(II) which replaces an existing boiler or burner which is part of a powerplant or major fuel-burning installation and the primary fuel for which is oil or natural gas or any product thereof, and

"(ii) equipment for converting an existing boiler or burner described in clause (i)(II) to a boiler or burner the primary fuel for which will be coal.

"(C) POWERPLANT AND MAJOR FUEL-BURNING INSTALLATION.—The terms 'powerplant' and 'major fuel-burning installation' have the meanings given such terms by paragraphs (7) and (10) of section 103(a) of the Powerplant and Industrial Fuel Use Act of 1978, respectively.

"(D) EXISTING BOILER OR BURNER.—The term 'existing boiler or burner' means a boiler or burner which was placed in service before January 1, 1981.

"(E) REPLACEMENT FOR EXISTING BOILER OR BURNER.—A boiler or burner shall be treated as replacing a boiler or burner if the taxpayer certifies that the boiler or burner which is to be replaced—

"(i) was used during calendar year 1980 for more than 2,000 hours of full-load peak use (or equivalent thereof), and

"(ii) will not be used for more than 2,000 hours of such use during any 12-month period after the boiler or burner which is to replace such boiler or burner is placed in service."

(b) LIMITATION ON ELECTION TO EXPENSE CERTAIN DEPRECIABLE ASSETS.—

(1) IN GENERAL.—Subsection (b) of section 179 (relating to election to expense certain depreciable assets) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate cost which may be taken into account under subsection (a) for any taxable year shall not exceed $10,000.

"(2) REDUCTION IN LIMITATION.—The limitation under paragraph (1) for any taxable year shall be reduced (but not below zero) by the amount by which the cost of section 179 property placed in service during such taxable year exceeds $200,000.

"(3) LIMITATION BASED ON INCOME FROM TRADE OR BUSINESS.—

"(A) IN GENERAL.—The aggregate cost of section 179 property used in the active conduct of a trade or business taken into account under subsection (a) for any taxable year shall not exceed the taxable income of the taxpayer derived from such trade or business during such taxable year.

"(B) CARRYOVER OF UNUSED COST.—The amount of any cost which (but for subparagraph (A)) would have been allowed as a deduction under subsection (a) for any taxable year shall be carried to the succeeding taxable year and added to the amount allowable as a deduction under subsection (a) for such succeeding taxable year.

"(C) COMPUTATION OF TAXABLE INCOME.—For purposes of this paragraph—

"(i) IN GENERAL.—Taxable income derived from the conduct of a trade or business shall be computed—

"(I) separately with respect to each trade or business, and

"(II) without regard to the cost of any section 179 property.

"(ii) ALLOCATION OF ITEMS.—The Secretary shall prescribe regulations for the allocation of items of income or expense to a trade or business.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of a husband and wife filing separate returns for the taxable year—

"(A) paragraph (1) shall be applied by substituting '$5,000' for '$10,000', and

"(B) such individuals shall be treated as one taxpayer for purposes of determining whether the requirements of paragraph (2) are met."

(2) SECTION 179 PROPERTY.—Paragraph (1) of section 179(d) (defining section 179 property) is amended by inserting "in the active conduct of" after "purchase for use".

(3) RECAPTURE.—Section 179(d)(10) (relating to recapture in certain cases) is amended by striking out all that follows "at any time" and inserting in lieu thereof a period.

(c) SYSTEM USED FOR PURPOSES OF EARNINGS AND PROFITS.—Paragraph (3) of section 312(k) is amended to read as follows:

"(3) EXCEPTION FOR TANGIBLE PROPERTY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of tangible property to which section 168 applies, the adjustment to earnings and profits for depreciation for any taxable year shall be determined under the alternative depreciation system within the meaning of section 168(g)(2).

"(B) TREATMENT OF AMOUNTS DEDUCTIBLE UNDER SECTION 179.—For purposes of computing the earnings and profits of a corporation, any amount deductible under section 179 shall be allowed as a deduction ratably over the period of 5 taxable years (beginning with the taxable year for which such amount is deductible under section 179)."

(d) CONTINUATION OF RULES RELATING TO MOTOR VEHICLE OPERATING LEASES.—Section 7701 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) MOTOR VEHICLE OPERATING LEASES.—

"(1) IN GENERAL.—For purposes of this title, in the case of a qualified motor vehicle operating agreement which contains a terminal rental adjustment clause—

"(A) such agreement shall be treated as a lease if (but for such terminal rental adjustment clause) such agreement would be treated as a lease under this title, and

"(B) the lessee shall not be treated as the owner of the property subject to an agreement during any period such agreement is in effect.

"(2) QUALIFIED MOTOR VEHICLE OPERATING AGREEMENT DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified motor vehicle operating agreement' means any agreement with respect to a motor vehicle (including a trailer) which meets the requirements of subparagraphs (B), (C), and (D) of this paragraph.

"(B) MINIMUM LIABILITY OF LESSOR.—An agreement meets the requirements of this subparagraph if under such agreement the sum of—

"(i) the amount the lessor is personally liable to repay, and

"(ii) the net fair market value of the lessor's interest in any property pledged as security for property subject to the agreement, equals or exceeds all amounts borrowed to finance the acquisition of property subject to the agreement. There shall not be taken into account under clause (ii) any property pledged which is property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement.

"(C) CERTIFICATION BY LESSEE; NOTICE OF TAX OWNERSHIP.—An agreement meets the requirements of this subparagraph if such agreement contains a separate written statement separately signed by the lessee—

"(i) under which the lessee certifies, under penalty of perjury, that it intends that more than 50 percent of the use of the property subject to such agreement is to be in a trade or business of the lessee, and

"(ii) which clearly and legibly states that the lessee has been advised that it will not be treated as the owner of the property subject to the agreement for Federal income tax purposes.

"(D) LESSOR MUST HAVE NO KNOWLEDGE THAT CERTIFICATION IS FALSE.—An agreement meets the requirements of this subparagraph if the lessor does not know that the certification described in subparagraph (C)(i) is false.

"(3) TERMINAL RENTAL ADJUSTMENT CLAUSE DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'terminal rental adjustment clause' means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

"(B) SPECIAL RULE FOR LESSEE DEALERS.—The term 'terminal rental adjustment clause' also includes a provision of an agreement which requires a lessee who is a dealer in motor vehicles to purchase the motor vehicle for a predetermined price and then resell such vehicle where such provision achieves substantially the same results as a provision described in subparagraph (A)."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 167.—Paragraph (4) of section 167(m) (relating to termination of class lives) is amended to read as follows:

"(4) TERMINATION.—This subsection shall not apply with respect to any property to which section 168 applies."

(2) SECTION 178.—

(A) Section 178 is amended to read as follows:

"SEC. 178. AMORTIZATION OF COST OF ACQUIRING A LEASE.

"In determining the amount allowable to a lessee as a deduction for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194 in respect of any cost of acquiring the lease, if less than 75 percent of such cost is attributable to the portion of the term of the lease (excluding any period for which the lease may subsequently be renewed, extended, or continued pursuant to an option exercisable by the lessee) remaining on the date of its acquisition, the term of the lease shall be treated as including all renewal options and any other period for which the parties reasonably expect the lease to be renewed."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 178 and inserting in lieu thereof the following new item:

"Sec. 178. Amortization of cost of acquiring a lease."

(3) SECTION 179.—Paragraph (8) of section 179(d) is amended to read as follows:

"(8) TREATMENT OF PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the limitations of subsection (b) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders."

(4) SECTION 280F.—

(A) Paragraph (2) of section 280F(a) (relating to depreciation) is amended—

(i) by striking out "$3,200" in subparagraph (A)(i) and inserting in lieu thereof "$2,133", and

(ii) by striking out "$4,800" each place it appears and inserting in lieu thereof "$4,210".

(B) Subparagraph (A) of section 280F(b)(3) (relating to recapture) is amended by striking out "the straight line method over the earnings and profits life" and inserting in lieu thereof "section 168(g) (relating to alternative depreciation system)".

(C) Paragraph (4) of section 280F(b) (relating to definitions) is amended to read as follows:

"(4) PROPERTY PREDOMINANTLY USED IN QUALIFIED BUSINESS USE.—For purposes of this subsection, property shall be treated as predominantly used in a qualified business use for any taxable year if the business use percentage for such taxable year exceeds 50 percent."

(D) Paragraph (4) of section 280F(c) is amended by striking out "section 168(j)(6)(B)" and inserting in lieu thereof "section 168(i)(5)(A)".

(E) Paragraph (1) of section 280F(d) is amended by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction".

(F) Paragraph (2) of section 280F(d) is amended—

(i) by striking out "recovery deduction" and inserting in lieu thereof "depreciation deduction", and

(ii) by striking out "use described in section 168(c)(1) (defining recovery property)" and inserting in lieu thereof "use in a trade or business (including the holding for the production of income)".

(G) Clause (iv) of section 280F(d)(4)(A) is amended by striking out "section 168(j)(5)(D)" and inserting in lieu thereof "section 168(i)(4)(B)".

(H) Paragraph (8) of section 280F(d) (defining unrecovered basis) is amended to read as follows:

"(8) UNRECOVERED BASIS.—For purposes of subsection (a)(1), the term 'unrecovered basis' means the adjusted basis of the passenger automobile determined after the application of subsection (a) and as if all use during the recovery period were use in a trade or business (including the holding of property for the production of income)."

(I) Paragraph (10) of section 280F(d) is amended by striking out ", notwithstanding any regulations prescribed under section 168(f)(7),".

(J) Paragraph (2) of section 280F(b) is amended by striking out "the straight line method over the earnings and profits life for such property" and inserting in lieu thereof "section 168(g) (relating to alternative depreciation system)".

(K) Subsections (a) and (b) of section 280F are amended by striking out "recovery deduction" each place it appears and inserting in lieu thereof "depreciation deduction".

(5) SECTION 291.—

(A) Subparagraph (A) of section 291(a)(1) is amended by striking out "or section 1245 recovery property".

(B) Subparagraph (B) of section 291(b)(2) is amended to read as follows:

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—In the case of any amount not allowable as a deduction under section 616(a) or 617 for any taxable year by reason of paragraph (1), the taxpayer shall be treated as having placed in service on the first day of such taxable year 5-year property (within the meaning of section 168(e)) with an adjusted basis equal to such amount."

(C) Section 291(b) is amended by striking out paragraph (3) and by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(D) Section 291(b)(3) (as redesignated by subparagraph (C)) is amended by striking out subparagraph (C) thereof.

(E) Paragraph (1) of section 291(c) is amended to read as follows:

"(1) ACCELERATED COST RECOVERY DEDUCTION.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(5)."

(6) SECTION 312.—Paragraph (4) of section 312(k) is amended by striking out the last sentence.

(7) SECTION 461.—

(A) Subclause (I) of section 461(i)(2)(C)(ii) (defining cash basis) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "paragraph (6)".

(B) Subsection (i) of section 461 is amended by adding at the end thereof the following new paragraph:

"(6) RELATED PERSON.—For purposes of this subsection, a person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(A) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(B) the related person and such person are engaged in trades or business under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'."

(C) Section 46(c)(8)(D)(v) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(8) SECTION 465.—Subparagraph (C) of section 465(b)(3) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(9) SECTION 467.—

(A) Paragraph (3) of section 467(e) is amended to read as follows:

"(3) STATUTORY RECOVERY PERIOD.—

"(A) IN GENERAL.—

"In the case of:	The statutory recovery period is:
3-year property	3 years
5-year property	5 years
10-year property	10 years
15-year property	15 years
Residential rental property and nonresidential real property	19 years.

"(B) SPECIAL RULE FOR PROPERTY NOT DEPRECIABLE UNDER SECTION 168.—In the case of property to which section 168 does not apply, subparagraph (A) shall be applied as if section 168 applies to such property."

(B) Paragraph (5) of section 467(e) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 461(i)(6)".

(10) SECTION 514.—Subclause (II) of section 514(c)(9)(B)(vi) (relating to real property acquired by a qualified organization) is amended by striking out "section 168(j)(9)" and inserting in lieu thereof "section 168(h)(6)".

(11) SECTION 751.—Subsection (c) of section 751 (defining unrealized receivables) is amended by striking out "section 1245 recovery property (as defined in section 1245(a)(5)),".

(12) SECTION 1245.—

(A) Paragraph (1) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended by striking out "during a taxable year beginning after December 31, 1962, or section 1245 recovery property is disposed of after December 31, 1980,".

(B) Paragraph (2) of section 1245(a) (defining recomputed basis) is amended to read as follows:

"(2) RECOMPUTED BASIS.—For purposes of this section—

"(A) IN GENERAL.—The term 'recomputed basis' means, with respect to any property, its adjusted basis recomputed by adding thereto all adjustments reflected in such adjusted basis on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for depreciation or amortization.

"(B) TAXPAYER MAY ESTABLISH AMOUNT ALLOWED.—For purposes of subparagraph (A), if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed for depreciation or amortization for any period was less than the amount allowable, the amount added for such period shall be the amount allowed.

"(C) CERTAIN DEDUCTIONS TREATED AS AMORTIZATION.—Any deduction allowable under section 179, 190, or 193 shall be treated as if it were a deduction allowable for amortization."

(C) Subsection (a) of section 1245 is amended by striking out paragraphs (5) and (6).

(13) SECTION 4162.—Paragraph (3) of section 4162(c) (defining related person) is amended by striking out "section 168(e)(4)(D)" and inserting in lieu thereof "section 461(i)(6)".

(14) SECTION 6111.—Clause (ii) of section 6111(c)(3)(B) (relating to certain borrowed amounts excluded) is amended by striking out "section 168(e)(4)" and inserting in lieu thereof "section 461(i)(6)".

(15) SECTION 7701.—

(A) Subparagraph (A) of section 7701(e)(4) is amended by striking out "section 168(j)" and inserting in lieu thereof "section 168(h)".

(B) Paragraph (5) of section 7701(e) (relating to exception for certain low-income housing) is amended by striking out "low-income housing (section 168(c)(2)(F))" and inserting in lieu thereof "property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B) (relating to low-income housing)".

SEC. 202. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section or in section 1412(d), the amendments made by section 201 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

(b) GENERAL TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by section 201 shall not apply to—

(A) any property which is constructed, reconstructed, or acquired pursuant to a written contract which was binding on March 1, 1986,

(B) property which is constructed or reconstructed by the taxpayer if—

(i) the lesser of (I) $1,000,000, or (II) 5 percent of the cost of such property has been incurred or committed by March 1, 1986, and

(ii) the construction or reconstruction of such property began by such date, or

(C) an equipped building or plant facility if construction has commenced as of March 1, 1986, pursuant to a written specific plan and more than one-half of the cost of such equipped building or facility has been incurred or committed by such date.

(2) REQUIREMENT THAT CERTAIN PROPERTY BE PLACED IN SERVICE BEFORE CERTAIN DATE.—Paragraph (1) and subsection (d) (other than paragraph (8) or (12) thereof) shall not apply to any property unless such property has a class life of at least 7 years or is residential rental or nonresidential real property and is placed in service before the applicable date determined under the following table:

In the case of property with a class life of:	The applicable date is:
At least 7 but less than 20 years	January 1, 1989
20 years or more, and residential rental and nonresidential real property	January 1, 1991.

For purposes of the preceding sentence, computer-based telephone central office switching equipment referred to in section 168(e)(2)(B) of the Internal Revenue Code of 1954 (as added by this Act) shall be treated as being property with a class life of 6 years, all property described in subsection (d) shall be treated as being property with a class life of 20 years, and property with no class life is treated for purposes of this paragraph as being property with a class life of 12 years.

(3) PROPERTY QUALIFIES IF SOLD AND LEASED BACK IN 90 DAYS.—Property shall be treated as meeting the requirements of paragraphs (1) and (2) or subsection (d) with respect to any taxpayer if such property is acquired by the taxpayer from a person—

(A) in whose hands such property met the requirements of paragraphs (1) and (2) or subsection (d), or

(B) who originally placed the property in service before January 1, 1987,

and such property is leased back by the taxpayer to such person not later than the earlier of the applicable date under paragraph (2) or the day 90 days after such property was originally placed in service.

(4) PLANT FACILITY.—For purposes of paragraph (1), the term "plant facility" means a facility which does not include any building (or with respect to which buildings constitute an insignificant portion) and which is—

(A) a self-contained single operating unit or processing operation,

(B) located on a single site, and

(C) identified as a single unitary project as of March 1, 1986.

(c) PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

(1) IN GENERAL.—Subparagraph (C) of section 168(g)(1) of the Internal Revenue Code of 1954 (as added by this Act) shall apply to property placed in service after December 31, 1986, in taxable years ending after such date, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after March 1, 1986.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENTS.—Subparagraph (C) of section 168(g)(1) of such Code (as so added) shall not apply to obligations with respect to a facility—

(i)(I) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before March 2, 1986, and was completed on or after such date,

(II) with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before March 2, 1986, and some of such expenditures are incurred on or after such date, or

(III) acquired on or after March 2, 1986, pursuant to a binding contract entered into before such date, and

(ii) described in an inducement resolution or other comparable preliminary approval adopted by the issuing authority (or by a voter referendum) before March 2, 1986.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1986, which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before March 2, 1986, subparagraph (C) of section 168(g)(1) of such Code (as so added) shall apply only with respect to an amount equal to the basis in such property which has not been recovered before the date such refunded obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1987, subparagraph (C) of section 168(g)(1) of such Code (as so added) shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before March 2, 1986.

(C) FACILITIES.—In the case of an inducement resolution or other comparable preliminary approval adopted by an issuing authority before March 2, 1986, for purposes of subparagraphs (A) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(D) SIGNIFICANT EXPENDITURES.—For purposes of this paragraph, the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(d) OTHER TRANSITIONAL RULES.—

(1) URBAN RENOVATION PROJECTS.—

(A) IN GENERAL.—The amendments made by section 201 shall not apply to any property which is an integral part of any qualified urban renovation project.

(B) QUALIFIED URBAN RENOVATION PROJECT.—For purposes of subparagraph (A), the term "qualified urban renovation project" means any project—

(i) described in subparagraph (C), (D), or (E), which before March 1, 1986, was publicly announced by a political subdivision of a State for a renovation of an urban area within its jurisdiction,

(ii) described in subparagraph (C) or (D), which before March 1, 1986, was identified as a single unitary project in the internal financing plans of the primary developer of the project, and

(iii) described in subparagraph (C) or (D), which is not substantially modified on or after March 1, 1986.

(C) PROJECT WHERE AGREEMENT ON DECEMBER 19, 1984.—A project is described in this subparagraph if—

(i) a political subdivision granted on July 11, 1985, development rights to the primary developer-purchaser of such project, and

(ii) such project was the subject of a development agreement between a political subdivision and a bridge authority on December 19, 1984.

For purposes of this subparagraph, subsection (b)(2) shall be applied by substituting "January 1, 1994" for "January 1, 1991".

(D) CERTAIN ADDITIONAL PROJECTS.—A project is described in this subparagraph if it is described in any of the following clauses of this subparagraph and the primary developer of all such projects is the same person:

(i) A project is described in this clause if the development agreement with respect thereto was entered into during April 1984 and the estimated cost of the project is approximately $194,000,000.

(ii) A project is described in this clause if the development agreement with respect thereto was entered into during May 1984 and the estimated cost of the project is approximately $190,000,000.

(iii) A project is described in this clause if the project has an estimated cost of approximately $92,000,000 and at least $7,000,000 was spent before September 26, 1985, with respect to such project.

(iv) A project is described in this clause if the estimated project cost is approximately $39,000,000 and at least $2,000,000 of construction cost for such project were incurred before September 26, 1985.

(v) A project is described in this clause if the development agreement with respect thereto was entered into before September 26, 1985, and the estimated cost of the project is approximately $150,000,000.

(vi) A project is described in this clause if the board of directors of the primary developer approved such project in December 1982, and the estimated cost of such project is approximately $107,000,000.

(vii) A project is described in this clause if the board of directors of the primary developer approved such project in December 1982, and the estimated cost of such project is approximately $59,000,000.

(E) PROJECT WHERE PLAN CONFIRMED ON OCTOBER 4, 1984.—A project is described in this subparagraph if—

(i) a State or an agency, instrumentality, or political subdivision thereof approved the filing of a general project plan on June 18, 1981, and on October 4, 1984, a State or an agency, instrumentality, or political subdivision thereof confirmed such plan,

(ii) the project plan as confirmed on October 4, 1984, included construction or renovation of office buildings, a hotel, a trade mart, theaters, and a subway complex, and

(iii) significant segments of such project were the subject of one or more conditional designations granted by a State or an agency, instrumentality, or political subdivision thereof to one or more developers before January 1, 1985.

The preceding sentence shall apply with respect to a property only to the extent that a building on such property site was identified as part of the project plan before September 26, 1985, and only to the extent that the size of the building on such property site was not substantially increased by reason of a modification to the project plan with respect to such property on or after such date.

(2) CERTAIN PROJECTS GRANTED FERC LICENSES, ETC.—The amendments made by section 201 shall not apply to any property which is part of a project—

(A) which is certified by the Federal Energy Regulatory Commission before March 2, 1986, as a qualifying facility for purposes of the Public Utility Regulatory Policies Act of 1978,

(B) which was granted before March 2, 1986, a hydroelectric license for such project by the Federal Energy Regulatory Commission,

(C) which is a hydroelectric project of less than 80 megawatts that filed an application for license with the Federal Energy Regulatory Commission before March 2, 1986, or

(D) which is a hydroelectric project in a State which is the 4th largest State in area and with respect to which a permit was filed with the Federal Energy Regulatory Commission before March 2, 1986.

(3) SUPPLY OR SERVICE CONTRACTS.—The amendments made by section 201 shall not apply to any property which is readily identifiable with and necessary to carry out a written supply or service contract, or agreement to lease, which was binding on March 1, 1986.

(4) PROPERTY TREATED UNDER PRIOR TAX ACTS.—The amendments made by section 201 shall not apply to property described in section 12(c)(2) or 31(g)(5) of the Tax Reform Act of 1984 and to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Tax Reform Act of 1984.

(5) SPECIAL RULES FOR PROPERTY INCLUDED IN MASTER PLANS OF INTEGRATED PROJECTS.—The amendments made by section 201 shall not apply to any property placed in service pursuant to a master plan which is clearly identifiable as of March 1, 1986, for any project described in any of the following subparagraphs of this paragraph:

(A) A project is described in this subparagraph if—

(i) the project involves production platforms for offshore drilling, oil and gas pipeline to shore, process and storage facilities, and a marine terminal, and

(ii) at least $900,000,000 of the costs of such project were incurred before September 26, 1985.

(B) A project is described in this subparagraph if—

(i) such project involves a fiber optic network of at least 20,000 miles, and

(ii) before September 26, 1985, construction commenced pursuant to the master plan and at least $85,000,000 was spent on construction.

(C) A project is described in this subparagraph if—

(i) such project passes through at least 10 States and involves an intercity communication link (including multiple repeater sites and junction stations for microwave transmissions and amplifiers for fiber optics), and

(ii) the lesser of $150,000,000 or 5 percent of the total project cost has been expended, incurred, or committed before March 2, 1986, by one or more taxpayers each of which is a member of the same affiliated group (as defined in section 1504(a), and none of which is, or is a member of an affiliated group with, a dominant carrier (as defined in part 61 of the Federal Communications Rules as of March 1, 1986) when such property is first placed in service.

(D) A project is described in this subparagraph if—

(i) such project is part of a flat rolled product modernization plan which was initially presented to the Board of Directors of the taxpayer on July 8, 1983,

(ii) such program will be carried out at 3 locations, and

(iii) such project will involve a total estimated minimum capital cost of at least $250,000,000.

(E) A project is described in this subparagraph if the project is being carried out by a corporation engaged in the production of paint, chemicals, fiberglass, and glass, and if—

(i) the project includes a production line which applies a thin coating to glass in the manufacture of energy efficient residential products, if approved by the management committee of the corporation on January 29, 1986,

(ii) the project is a turbogenerator which was approved by the president of such corporation and at least $1,000,000 of the cost of which was incurred or committed before such date,

(iii) the project is a waste-to-energy disposal system which was initially approved by the management committee of the corporation on March 29, 1982, and at least $5,000,000 of the cost of which was incurred before September 26, 1985,

(iv) the project, which involves the expansion of an existing service facility and the addition of new lab facilities needed to accommodate topcoat and undercoat production needs of a nearby automotive assembly plant, was approved by the corporation's management committee on March 5, 1986, or

(v) the project is part of a facility to consolidate and modernize the silica production of such corporation and the project was approved by the president of such corporation on August 19, 1985.

(F) A project is described in this subparagraph if—

(i) such project involves a port terminal and oil pipeline extending generally from the area of Los Angeles, California, to the area of Midland, Texas, and

(ii) before September 26, 1985, there is a binding contract for dredging and channeling with respect thereto and a management contract with a construction manager for such project.

(G) A project is described in this subparagraph if—

(i) the project is a newspaper printing and distribution plant project with respect to which a contract for the purchase of 8 printing press units and related equipment to be installed in a single press line was entered into on January 8, 1985, and

(ii) the contract price for such units and equipment represents at least 50 percent of the total cost of such project.

(H) A project is described in this subparagraph if it is the second phase of a project involving direct current transmission lines spanning approximately 190 miles from the United States-Canadian border to Ayer, Massachusetts, alternating current transmission lines in Massachusetts from Ayer to Millbury to West Medway, DC-AC converter terminals in Monroe, New Hampshire, and Ayer, Massachusetts, and other related equipment and facilities.

(I) A project is described in this subparagraph if it involves not more than two natural gas-fired combined cycle electric generating units each having a net electrical capability of approximately 233 megawatts, and a sales contract for approximately ½ of the output of the 1st unit was entered into in December 1985.

(J) A project is described in this subparagraph if—

(i) the project involves an automobile manufacturing facility (including equipment and incidental appurtenances) to be located in the United States, and

(ii) either—

(I) the project was the subject of a memorandum of understanding between 2 automobile manufacturers that was signed before September 25, 1985, the automobile manufacturing facility (including equipment and incidental appurtenances) will involve a total estimated cost of approximately $750,000,000, and will have an annual production capacity of approximately 240,000 vehicles, or

(II) the Board of Directors of an automobile manufacturer approved a written plan for construction of the project on July 23, 1985, the automobile manufacturing facility (including equipment and appurtenances) will involve a total estimated cost of approximately $790,000,000, and a construction contract was signed on March 14, 1986.

(K) A project is described in this subparagraph if either—

(i) the project involves a joint venture between a utility company and a paper company for a super calendar paper mill, and at least $50,000,000 were incurred with respect to such project before March 1, 1986, or

(ii) the project involves a paper mill for the manufacture of newsprint, is generally based on a written design and feasibility study that was completed on December 15, 1981, and will be placed in service before January 1, 1991, or

(iii) the project is undertaken by a company incorporated on October 17, 1898, and involves the modernization of a chemical pulp mill, groundwood pulp mills, and paper machines.

(L) A project is described in this subparagraph if—

(i) a letter of intent with respect to such project was executed on June 4, 1985, and

(ii) a 5-percent downpayment was made in connection with such project for 2 10-unit press lines and related equipment.

(M) A project is described in this subparagraph if—

(i) the project involves the retrofit of ammonia plants,

(ii) as of March 1, 1986, more than $390,000 had been expended for engineering and equipment, and

(iii) more than $170,000 was expensed in 1985 as a portion of preliminary engineering expense.

(N) A project is described in this subparagraph if the project involves bulkhead intermodal flat cars which are placed in service before January 1, 1987, and either—

(i) more than $2,290,000 of expenditures were made before March 1, 1986, with respect to a project involving up to 300 platforms, or

(ii) more than $95,000 of expenditures were made before March 1, 1986, with respect to a project involving up to 850 platforms.

(O) A project is described in this subparagraph if—

(i) the project involves the production and transportation of oil or gas from a well located north of the Arctic Circle, and

(ii) more than $200,000,000 of cost had been incurred or committed before September 26, 1985.

(P) A project is described in this subparagraph if—

(i) a commitment letter was entered into with a financial institution on January 23, 1986, for the financing of the project,

(ii) the project involves inter-city communication links (including microwave and fiber optics communications systems and related property),

(iii) the project consists of communications links between

(I) Omaha, Nebraska and Council Bluffs, Iowa,

(II) Waterloo, Iowa and Sioux City, Iowa,

(III) Davenport, Iowa and Springfield, Illinois, and

(iv) the estimated cost of such project is approximately $13,000,000.

(6) NATURAL GAS PIPELINE.—The amendments made by section 201 shall not apply to any interstate natural gas pipeline (and related equipment) if—

(A) 3 applications for the construction of such pipeline were filed with the Federal Energy Regulatory Commission before November 22, 1985 (and 2 of which were filed before September 26, 1985), and

(B) such pipeline has 1 of its terminal points near Bakersfield, California.

(7) CERTAIN LEASEHOLD IMPROVEMENTS.—The amendments made by section 201 shall not apply to any reasonable leasehold improvements, equipment, and furnishings placed in service by a lessee or its affiliates if—

(A) the lessee or an affiliate is the original lessee of each building in which such property is to be used,

(B) such lessee is obligated to lease the building under a lease entered into before September 26, 1985, and to provide such property for such building, and

(C) such buildings are to serve as world headquarters of the lessee and its affiliates. For purposes of this paragraph, a corporation is an affiliate of another corporation if both corporations are members of a controlled group of corporations within the meaning of section 1563(a) of the Internal Revenue Code of 1954 without regard to section 1563(b)(2) of such Code.

(8) SOLID WASTE DISPOSAL FACILITIES.—The amendments made by section 201, and subsection (c) of this section, shall not apply to the taxpayer who originally places in service any qualified solid waste disposal facility (as defined in section 7701(e)(3)(B) of the Internal Revenue Code of 1954) if before March 2, 1986—

(A) there is a binding written contract between a service recipient and a service provider with respect to the operation of such facility to pay for the services to be provided by such facility, or

(B) a service recipient or governmental unit (or any entity related to such recipient or unit) made a financial commitment of at least $200,000 for the financing or construction of such facility.

(9) CERTAIN SUBMERSIBLE DRILLING UNITS.—In the case of a binding contract entered into on October 20, 1984, for the purchase of 6 semi-submersible drilling units at a cost of $425,000,000, such units shall be treated as

having an applicable date under subsection (b)(2) of January 1, 1991.

(10) WASTEWATER TREATMENT FACILITY.—The amendments made by section 201 shall not apply to any property which is part of a wastewater treatment facility if—

(A) site preparation for such facility commenced before September 1985, and

(B) a parish council approved a service agreement with respect to such facility on December 4, 1985.

(11) CERTAIN TELEVISION FRANCHISE RIGHTS.—The amendments made by section 201 shall not apply to any property which is readily identifiable with and necessary to carry out a binding obligation with a municipality under an ordinance granting television franchise rights if—

(A) the ordinance was enacted on July 22, 1985, and a construction contract was signed before April 1, 1986; or

(B) the ordinance was finally passed on November 17, 1980, and subsequently amended in 1983.

(12) CERTAIN SATELLITES.—The amendments made by section 201 shall not apply to any satellite or other spacecraft with respect to which—

(A) the taxpayer entered into written binding contracts with respect to 3 satellites before September 26, 1985, the third satellite is the subject of a joint venture, and the total cost of the 3 satellites is approximately $400,000,000,

(B) by an order adopted on July 25, 1985, the Federal Communications Commission granted the taxpayer an orbital slot and authorized the taxpayer to launch and operate 2 satellites with a cost of approximately $120,000,000, or

(C) the International Telecommunications Satellite Organization or the International Maritime Satellite Organization entered into written binding contracts before May 1, 1985.

(13) CERTAIN DOMESTIC AIRLINES.—The amendments made by section 201 shall not apply to any commercial passenger aircraft described below used by a domestic airline, if either—

(A) the airline entered into a binding contract to purchase 28 new aircraft on May 24, 1985, the estimated cost of each aircraft is $40,000,000, the engine for such aircraft is either the PW 4152 engine or the V 2500 engine, and 12 of the aircraft are delivered before January 1, 1989, and the remaining 16 aircraft are delivered before January 1, 1991,

(B) the aircraft is placed in service by an airline which is wholly owned by a corporation with which it files a consolidated Federal income tax return, the affiliated group of which the airline is a member includes another airline which is wholly owned by the parent corporation of the affiliated group, a subsidiary of the parent corporation filed for bankruptcy on September 24, 1983, and 48 of the aircraft were the subject of binding written contracts entered into before September 26, 1985, and the remaining 37 aircraft are delivered before May 1, 1990, or

(C) 17 aircraft to be placed in commercial aviation service if such aircraft were included in the consideration for a binding contract (which was executed prior to April 1, 1981, and has been continuously binding on the taxpayer) to purchase substantially similar aircraft for an aggregate price of not less than $100,000,000, which provides for an ascertainable purchase price.

(14) CERTAIN NONWIRE LINE CELLULAR TELEPHONE SYSTEMS.—The amendments made by section 201 shall not apply to property that is part of a system in the Domestic Public Cellular Radio Telecommunications Service for which the Federal Communications Commission has issued a construction permit before September 26, 1985, but only if such property is placed in service before January 1, 1987.

(15) CERTAIN COGENERATION FACILITIES.—The amendments made by section 201 shall not apply to projects consisting of 1 or more facilities for the cogeneration and distribution of electricity and steam or other forms of thermal energy if either—

(A) at least $100,000 was paid or incurred with respect to the project before March 1, 1986, a memorandum of understanding was executed on September 13, 1985, and the project is placed in service before January 1, 1989,

(B) at least $500,000 was paid or incurred with respect to the projects before May 6, 1986, the projects involve a 22-megawatt combined cycle gas turbine plant and a 45-megawatt coal waste plant, and applications for qualifying facility status were filed with the Federal Energy Regulatory Commission on March 5, 1986, or

(C) the project cost approximates $125,000,000 to $140,000,000 and an application was made to the Federal Energy Regulatory Commission in July 1985.

(16) CERTAIN TRUCKS.—The amendments made by section 201 shall not apply to trucks, tractors units, and trailers which a privately held truck leasing company headquartered in Des Moines, Iowa, contracted to purchase in September 1985.

(17) CERTAIN ELECTRIC GENERATING STATIONS.—The amendments made by section 201 shall not apply to a project consisting of a coal-fired electric generating station (including 4 generating units, coal mine equipment, and transmission facilities) if—

(A) a tax-exempt entity will own an equity interest in all property included in the project (except the coal mine equipment), and

(B) at least $72,000,000 was expended in the acquisition of coal leases, land and water rights, engineering studies, and other development costs before May 6, 1986.

(18) INDOOR SPORTS FACILITY.—The amendments made by section 201 shall not apply to up to $20,000,000 of improvements made by a lessee of any indoor sports facility pursuant to a lease from a State commission granting the right to make limited and specified improvements (including planned seat explanations), if architectural renderings of the project were commissioned and received before December 22, 1985.

(19) CERTAIN WASTE-TO-ENERGY FACILITIES.—The amendments made by section 201 shall not apply to 2 agricultural waste-to-energy powerplants (and required transmission facilities), in connection with which a contract to sell 100 megawatts of electricity to a city was executed in October 1984.

(20) CERTAIN COAL-FIRED PLANTS.—The amendments made by section 201 shall not apply to one of three 540 megawatt coal-fired plants that are placed in service after a sale leaseback occurring after January 1, 1986, if—

(A) the Board of Directors of an electric power cooperation authorized the investigation of a sale leaseback of a nuclear generating facility by resolution dated January 22, 1985, and

(B) a loan was extended by the Rural Electrification Administration on February 20, 1986, which contained a covenant with respect to used property leasing from unit II.

(21) CERTAIN LIGHT RAIL TRANSIT SYSTEMS.—The amendments made by section 201 shall not apply to a light rail transit system, the approximate cost of which is $235,000,000, if, with respect to which, the board of directors of a corporation (formed in September 1984 for the purpose of developing, financing, and operating the system) authorized a $300,000 expenditure for a feasibility study in April 1985, and such study was completed in November 1985.

(22) CERTAIN DETERGENT MANUFACTURING FACILITY.—The amendments made by section 201 shall not apply to a laundry detergent manufacturing facility, the approximate cost of which is $13,200,000, with respect to which a project agreement was fully executed on March 17, 1986.

(23) CERTAIN RESOURCE RECOVERY FACILITY.—The amendments made by section 201 shall not apply to any of 3 resource recovery plants, the aggregate cost of which approximates $300,000,000, if an industrial development authority adopted a bond resolution with respect to such facilities on December 17, 1984, and the projects were approved by the department of commerce of a Commonwealth on December 27, 1984.

(24) APPLICABLE DATE IN CERTAIN CASES.—

(A) Subsection (b)(2) shall be applied by substituting "January 1, 1992" for "January 1, 1991" in the following cases:

(i) in the case of a 2-unit nuclear powered electric generating plant (and equipment and incidental appurtenances), constructed pursuant to contracts entered into by the owner operator of the facility before December 31, 1975, including contracts with the engineer/constructor and the nuclear steam system supplier, such contracts shall be treated as contracts described in subsection (b)(1)(A),

(ii) in the case of approximately $900,000,000 worth of Boeing 747-400s, with respect to which a taxpayer headquartered in St. Paul, Minnesota, had placed a firm order as of January 1, 1986, and

(iii) a cogeneration facility with respect to which an application with the Federal Energy Regulatory Commission was filed on August 2, 1985, and approved October 15, 1985.

(B) Subsection (b)(2) shall be applied by substituting "October 1, 1986" for "January 1, 1989" and by treating special tools placed in service by an automobile manufacturer that was incorporated in Delaware on October 13, 1916, as property having a class life of 7 years, with respect to special tools under binding order as of May 6, 1986.

(C) Subsection (b)(2) shall be applied by substituting "April 1, 1992" for the applicable date that would otherwise apply, in the case of the second unit of a twin steam electric generating facility and related equipment which was granted a certificate of public convenience and necessity by a public service commission prior to January 1, 1982, if the first unit of the facility was placed in service prior to January 1, 1985, and before September 26, 1985, more than $100,000,000 had been expended toward the construction of the second unit.

(25) CERTAIN DISTRICT HEATING AND COOLING FACILITIES.—Section 201 shall not apply to pipes, mains, and related equipment included in district heating and cooling facilities, with respect to which the development authority of a State approved the project through an inducement resolution adopted on October 8, 1985, and in connection with which approximately $8,500,000 of tax-exempt bonds are to be issued.

(26) CERTAIN OFFSHORE VESSELS.—The amendments made by section 201 shall not apply to any offshore vessel the construction contract for which was signed on February 28, 1986, and the approximate cost of which is $9,000,000.

(27) CERTAIN WOOD ENERGY PROJECTS.—The amendments made by section 201 shall not apply to 13 wood energy products for which applications with the Federal Energy Regulatory Commission were filed before January 1, 1986, the approximate aggregate cost of which is $173,000,000 to $345,000,000, and which are described as follows:

(A) a 30 megawatt plant in Fort Fairfield, Maine,

(B) a 26.5 megawatt plant in Fresno, California,

(C) a 26.5 megawatt plant in Rocklyn, California,

(D) a 25 megawatt plant in Brule, Wisconsin,

(E) a 23.5 megawatt plant in Ashland, Maine,

(F) an 18 megawatt plant in Rochester, New Hampshire,

(G) a 15 megawatt plant in Bridgewater, New Hampshire,

(H) a 15 megawatt plant in Wasilla, Arkansas,

(I) a 14.2 megawatt plant in Chateaugay, New York,

(J) a 13.8 megawatt plant in Springfield, New Hampshire,

(K) a 13.8 megawatt plant in Athens, Maine,

(L) a 13.8 megawatt plant in Whitefield, New Hampshire, and

(M) a 4 megawatt plant in Warren, Arkansas.

(28) CERTAIN ECONOMIC DEVELOPMENT PROJECTS.—The amendments made by section 201 shall not apply to any of the following projects:

(A) A mixed use development on the East River the total cost of which is approximately $400,000,000, with respect to which a letter of intent was executed on January 24, 1984, and with respect to which approximately $2.5 million had been spent by March 1, 1986.

(B) A 356-room hotel, banquet, and conference facility (including 525,000 square feet of office space) the approximate cost of which is $158,000,000, with respect to which a letter of intent was executed on June 1, 1984, and with respect to which an inducement resolution and bond resolution was adopted on August 20, 1985.

(C) Phase 1 of a 4-phase project involving the construction of laboratory space and ground-floor retail space the estimated cost of which is $32,000,000 and with respect to which a memorandum of understanding was made before August 29, 1983.

(D) A project involving the development of a 490,000 square foot mixed-use building at 57th Street and 7th Avenue, New York, New York, the estimated cost of which is $100,000,000, and with respect to which a building permit application was filed in May 1986.

(e) NORMALIZATION REQUIREMENTS.—

(1) IN GENERAL.—A normalization method of accounting shall not be treated as being used with respect to any public utility property for purposes of section 167 or 168 of the Internal Revenue Code of 1954 if the taxpayer, in computing its cost of service for ratemaking purposes and reflecting operating results in its regulated books of account, reduces the excess tax reserve more rapidly or to a greater extent than such reserve would be reduced under the average rate assumption method.

(2) DEFINITIONS.—For purposes of this subsection—

(A) EXCESS TAX RESERVE.—The term "excess tax reserve" means the excess of—

(i) the reserve for deferred taxes (as described in section 167(l)(3)(G)(ii) or 168(e)(3)(B)(ii) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act), over

(ii) the amount which would be the balance in such reserve if the amount of such reserve were determined by assuming that the corporate rate reductions provided in this Act were in effect for all prior periods.

(B) AVERAGE RATE ASSUMPTION METHOD.—The average rate assumption method is the method under which the excess in the reserve for deferred taxes is reduced over the remaining lives of the property as used in its regulated books of account which gave rise to the reserve for deferred taxes. Under such method, if timing differences for the property reverse, the amount of the adjustment to the reserve for the deferred taxes is calculated by multiplying—

(i) the ratio of the aggregate deferred taxes for the property to the aggregate timing differences for the property as of the beginning of the period in question, by

(ii) the amount of the timing differences which reverse during such period.

(f) SPECIAL RULE FOR CERTAIN LEASED PROPERTY.—The provisions of section 168(f)(8) of the Internal Revenue Code of 1954 (as amended by section 209 of the Tax Equity and Fiscal Responsibility Act of 1982) shall continue to apply to any transaction permitted by reason of section 12(c)(2) of the Tax Reform Act of 1984 or section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982.

(g) RAILROAD GRADING AND TUNNEL BORES.—

(1) In the case of expenditures for railroad grading and tunnel bores which were incurred by a common carrier by railroad to replace property destroyed in a disaster occurring on or about April 17, 1983, near Thistle, Utah, such expenditures, to the extent not in excess of $15,000,000, shall be treated as recovery property which is in the 5-year class under section 168 of the Internal Revenue Code of 1954 (as in effect before the amendments made by this Act) and which is placed in service at the time such expenditures were incurred.

(2) Business interruption proceeds received for loss of use, revenues, or profits in connection with the disaster described in paragraph (1) and devoted by the taxpayer described in paragraph (1) to the construction of replacement track and related grading and tunnel bore expenditures shall be treated as constituting an amount received from the involuntary conversion of property under section 1033(a)(2) of such Code.

(3) This subsection shall apply to taxable years ending after April 17, 1983.

Subtitle B—Repeal of Regular Investment Tax Credit

SEC. 211. REPEAL OF REGULAR INVESTMENT TAX CREDIT.

(a) GENERAL RULE.—Subpart E of part IV of subchapter A of chapter 1 (relating to investment tax credit) is amended by adding at the end thereof the following new section:

"SEC. 49. TERMINATION OF REGULAR PERCENTAGE.

"(a) GENERAL RULE.—Except as otherwise provided in this section, for purposes of determining the amount of the investment tax credit determined under section 46, the regular percentage shall not apply to any property (other than property described in section 48(a)(1)(F)) placed in service after December 31, 1985.

"(b) REDUCTION IN CREDIT FOR TAXABLE YEARS AFTER 1986.—

"(1) IN GENERAL.—In the case of—

"(A) any current year business credit allowable under section 38 which reduces tax liability for a current taxable year beginning after December 31, 1986, which is attributable to that portion of the amount of the investment credit determined under section 46(a)(1) (relating to regular percentage) for such taxable year, or

"(B) any business credit carryforward carried to taxable years beginning after December 31, 1986, from a taxable year beginning before January 1, 1987—

"(i) which is attributable to the amount of the investment credit determined under section 46(a)(1) (relating to regular percentage), or any corresponding prior provision of law, and

"(ii) which would be allowed as a credit under section 38 for such taxable year to which it was carried,

the amount of such credit shall be reduced by 30 percent (15 percent in the case of taxable years beginning in 1987) of the amount of such credit determined without regard to this subsection.

"(2) TREATMENT OF DISALLOWED CREDIT.—The amount of any credit which is disallowed under paragraph (1) shall not be allowed as a credit for any other taxable year.

"(c) EXCEPTION FOR QUALIFIED PROGRESS EXPENDITURES FOR PERIODS BEFORE JANUARY 1, 1986.—In the case of any taxpayer who has made an election under section 46(d)(6), this section shall not apply to the portion of the adjusted basis of any progress expenditure property attributable to qualified progress expenditures made before January 1, 1986.

"(d) EXCEPTION FOR TRANSITION PROPERTY.—

"(1) IN GENERAL.—Subsection (a) shall not apply to transition property.

"(2) TRANSITION PROPERTY.—The term 'transition property' means any property placed in service after December 31, 1985, and to which the amendments made by section 201 of the Tax Reform Act of 1986 would not apply if—

"(A) section 202(a) of such Act were applied by substituting '1985' for '1986',

"(B) section 202(b)(1) of such Act were applied by substituting 'December 31, 1985' for 'March 1, 1986',

"(C) in the case of transition property with a class life of less than 7 years—

"(i) section 202(b)(2) of such Act shall apply, and

"(ii) the applicable date shall be in the case of property with a class life—

"(I) of less than 5 years, July 1, 1986, and

"(II) at least 5 years, but less than 7 years, January 1, 1987, and

"(D) section 202(b)(3) were applied by substituting '1986' for '1987'.

"(3) TREATMENT OF PROGRESS EXPENDITURES.—No progress expenditures for periods after December 31, 1985, with respect to any property shall be taken into account for purposes of applying the regular percentage unless it is reasonable to expect that such property will be transition property when placed in service. If any progress expenditures are taken into account by reason of the preceding sentence and subsequently there is not a reasonable expectation that such property would be transition property when placed in service, the credits attributable to progress expenditures with respect to such property shall be recaptured under section 47."

(b) NORMALIZATION RULES.—If, for any taxable year beginning after December 31, 1985, the requirements of paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1954 are not met with respect to public utility property to which the regular percentage applied for purposes of determining the amount of the investment tax credit—

(1) all credits for open taxable years as of the time of the final determination referred to in section 46(f)(4)(A) of such Code shall be recaptured, and

(2) if the amount of the taxpayer's unamortized credits (or the credits not previously restored to rate base) with respect to such property (whether or not for open years) exceeds the amount referred to in paragraph (1), the taxpayer's tax for the taxable year shall be increased by the amount of such excess.

If any portion of the excess described in paragraph (2) is attributable to a credit which is allowable as a carryover to a taxable year beginning after December 31, 1985, in lieu of applying paragraph (2) with respect to such portion, the amount of such carryover shall be reduced by the amount of such portion. Rules similar to the rules of this subsection shall apply in the case of any property with respect to which the requirements of section 46(f)(9) of such Code are met.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (3), the amendments made by this section shall apply to property placed in service after December 31, 1985, in taxable years ending after such date.

(2) EXCEPTIONS FOR CERTAIN FILMS.—For purposes of determining whether any property is transition property within the meaning of section 49(c) of such Code—

(A) in the case of any motion picture or television film, construction shall be treated as including production for purposes of section 202(b)(1) of this Act, and written contemporary evidence of an agreement (in accordance with industry practice) shall be treated as a written binding contract for such purposes,

(B) in the case of any television film, a license agreement between a television network and a producer shall be treated as a binding contract for purposes of section 202(b)(1)(A) of this Act, and

(C) a motion picture film shall be treated as described in section 202(b)(1)(A) of this Act if—

(i) funds were raised pursuant to a public offering before September 26, 1985, for the production of such film,

(ii) 40 percent of the funds raised pursuant to such public offering are being spent on films the production of which commenced before such date, and

(iii) all of the films funded by such public offering are required to be distributed pursuant to distribution agreements entered into before September 26, 1985.

(3) NORMALIZATION RULES.—The provisions of subsection (b) shall apply to any violation of the normalization requirements under paragraph (1) or (2) of section 46(f) of the Internal Revenue Code of 1954 occurring in taxable years ending after December 31, 1985.

SEC. 212. EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF STEEL COMPANIES.

(a) GENERAL RULE.—If a qualified corporation makes an election under this section for its 1st taxable year beginning after December 31, 1986, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1954 made by such corporation on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be the lesser of—

(1) 50 percent of the portion of the corporation's existing carryforwards to which the election under subsection (a) applies, or

(2) the corporation's net tax liability for the carryback period.

(c) CORPORATION MAKING ELECTION MAY NOT USE SAME AMOUNTS UNDER SECTION 38.—In the case of a qualified corporation which makes an election under subsection (a), the portion of such corporation's existing carryforwards to which such an election applies shall not be taken into account under section 38 of the Internal Revenue Code of 1954 for any taxable year beginning after December 31, 1986.

(d) NET TAX LIABILITY FOR CARRYBACK PERIOD.—For purposes of this section—

(1) IN GENERAL.—A corporation's net tax liability for the carryback period is the aggregate of such corporation's net tax liability for taxable years in the carryback period.

(2) NET TAX LIABILITY.—The term "net tax liability" means, with respect to any taxable year, the amount of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 for such taxable year, reduced by the sum of the credits allowable under part IV of subchapter A of such chapter 1 (other than section 34 thereof). For purposes of the preceding sentence, any tax treated as not imposed by chapter 1 of such Code under section 26(b)(2) of such Code shall not be treated as tax imposed by such chapter 1.

(3) CARRYBACK PERIOD.—The term "carryback period" means the period—

(A) which begins with the corporation's 15th taxable year preceding the 1st taxable year from which there is an unused credit included in such corporation's existing carryforwards (but in no event shall such period begin before the corporation's 1st taxable year ending after December 31, 1961), and

(B) which ends with the corporation's last taxable year beginning before January 1, 1986.

(e) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of the Internal Revenue Code of 1954, or

(2) the amount of any credit allowable under such Code,

for any taxable year in the carryback period.

(f) Any amount determined under this section must be committed to reinvestment in, and modernization of the steel industry through investment in modern plant and equipment, research and development, and other appropriate projects, such as working capital for steel operations and programs for the retraining of workers.

(g) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED CORPORATION.—

(A) IN GENERAL.—The term "qualified corporation" means any corporation which is described in section 806(b) of the Steel Import Stabilization Act.

(B) CERTAIN PREDECESSORS INCLUDED.—In the case of any qualified corporation which has carryforward attributable to a predecessor corporation described in such section 806(b), the qualified corporation and the predecessor corporation shall be treated as 1 corporation for purposes of subsections (d) and (e).

(2) EXISTING CARRYFORWARDS.—The term "existing carryforward" means the aggregate of the amounts which—

(A) are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1986 (determined without regard to the limitations of section 38(c) of the Internal Revenue Code of 1954), and

(B) are attributable to the amount of the investment credit determined under section 46(a)(1) (relating to regular percentage), or any corresponding provision of prior law.

SEC. 213. EFFECTIVE 15-YEAR CARRYBACK OF EXISTING CARRYFORWARDS OF QUALIFIED FARMERS.

(a) GENERAL RULE.—If a taxpayer who is a qualified farmer makes an election under this section for its 1st taxable year beginning after December 31, 1986, with respect to any portion of its existing carryforwards, the amount determined under subsection (b) shall be treated as a payment against the tax imposed by chapter 1 of the Internal Revenue Code of 1954 made by such taxpayer on the last day prescribed by law (without regard to extensions) for filing its return of tax under chapter 1 of such Code for such 1st taxable year.

(b) AMOUNT.—For purposes of subsection (a), the amount determined under this subsection shall be equal to the smallest of—

(1) 50 percent of the portion of the taxpayer's existing carryforwards to which the election under subsection (a) applies,

(2) the taxpayer's net tax liability for the carryback period (within the meaning of section 212(d) of this Act), or

(3) $750.

(c) NO RECOMPUTATION OF MINIMUM TAX, ETC.—Nothing in this section shall be construed to affect—

(1) the amount of the tax imposed by section 56 of the Internal Revenue Code of 1954, or

(2) the amount of any credit allowable under such Code,

for any taxable year in the carryback period.

(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) QUALIFIED FARMER.—The term "qualified farmer" means any taxpayer who, during the 3-taxable year period preceding the taxable year for which an election is made under subsection (a), derived 50 percent or more of the taxpayer's gross income from the trade or business of farming.

(2) EXISTING CARRYFORWARD.—The term "existing carryforward" means the aggregate of the amounts which—

(A) are unused business credit carryforwards to the taxpayer's 1st taxable year beginning after December 31, 1986 (determined without regard to the limitations of section 38(c) of the Internal Revenue Code of 1954), and

(B) are attributable to the amount of the investment credit determined under section 46(a) (or any corresponding provision of prior law) with respect to section 38 property which was used by the taxpayer in the trade or business of farming.

(3) FARMING.—The term "farming" has the meaning given such term by section 2032A(e) (4) and (5) of such Code.

(4) TENTATIVE REFUND.—A rule similar to the rule of section 212(h) of this Act shall apply.

(e) RESTRICTION ON ACQUISITION OF CERTAIN LAND NOT TO APPLY TO QUALIFIED REDEVELOPMENT BONDS.—Section 103(b)(5)(f), as added by section 1501(c) of this Act, is amended by striking out "Paragraph (16)" and inserting in lieu thereof "Paragraph (16)(A)(ii)".

TITLE III—ACCOUNTING PROVISIONS

Subtitle A—General Provisions

SEC. 301. MODIFICATIONS OF METHOD OF ACCOUNTING FOR LONG-TERM CONTRACTS.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 460. SPECIAL RULES FOR LONG-TERM CONTRACTS.

"(a) ALLOCATION OF COSTS.—

"(1) IN GENERAL.—In the case of a long-term contract, all costs (including research and experimental costs) which directly benefit, or are incurred by reason of, the long-term contract activities of the taxpayer shall be allocated to such contract in the same manner as costs are allocated to extended period long-term contracts under section 451 and the regulations thereunder.

"(2) SPECIAL RULES FOR COST-PLUS AND CERTAIN FEDERAL CONTRACTS.—In the case of a cost-plus long-term contract or a Federal long-term contract, any cost not allocated to such contract under subsection (a) shall be allocated to such contract if such cost is identified by the taxpayer (or a related person), pursuant to the contract or Federal, State, or local law or regulation, as being attributable to such contract.

"(3) ALLOCATION OF PRODUCTION PERIOD INTEREST TO CONTRACT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of a long-term contract, interest costs shall be allocated to the contract in the same manner as interest costs are allocated to property produced by the taxpayer under section 263A(e).

"(B) PRODUCTION PERIOD.—In applying section 263A(e) for purposes of subparagraph (A), the production period shall be the period—

"(i) beginning on the later of—

"(I) the contract commencement date, or

"(II) in the case of a taxpayer who does not use the completed contract method of accounting, the date by which at least 5 percent of the total estimated costs (including design and planning costs) under the contract have been incurred, and

"(ii) ending on the contract completion date.

"(b) CERTAIN COSTS NOT INCLUDED.—Subsection (a) shall not apply to any—

"(1) expenses for unsuccessful bids and proposals,

"(2) research and development expenses unrelated to a particular contract, and

"(3) marketing, selling, and advertising expenses.

"(c) FEDERAL LONG-TERM CONTRACT.—For purposes of this section—

"(1) IN GENERAL.—The term 'Federal long-term contract' means any long-term contract—

"(A) to which the United States (or any agency or instrumentality thereof) is a party, or

"(B) which is a subcontract under a contract described in subparagraph (A).

"(2) SPECIAL RULES FOR CERTAIN TAXABLE ENTITIES.—For purposes of paragraph (1), the rules of section 168(h)(2)(D) (relating to certain taxable entities not treated as instrumentalities) shall apply.

"(d) EXCEPTION FOR CONTRACTS WITH RESPECT TO WHICH PERCENTAGE OF COMPLETION METHOD USED.—This section shall not apply to any long-term contract with respect to which amounts includible in gross income are determined under the percentage of completion method.

"(e) EXCEPTION FOR CERTAIN CONSTRUCTION CONTRACTS.—

"(1) IN GENERAL.—Subsections (a) (1) and (2) shall not apply to any construction contract entered into by a taxpayer—

"(A) who estimates (at the time such contract is entered into) that such contract will be completed within the 2-year period beginning on the contract commencement date of such contract, and

"(B) whose average annual gross receipts for the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

"(2) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of paragraph (1), the gross receipts of—

"(A) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

"(B) all members of any controlled group of corporations of which the taxpayer is a member,

for the 3 taxable years of such persons preceding the taxable year in which the contract described in paragraph (1) is entered into shall be included in the gross receipts of the taxpayer for the period described in paragraph (1)(B). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

"(3) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(4) CONSTRUCTION CONTRACT.—For purposes of this subsection, the term 'construction contract' means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, or improvements of, real property.

"(f) LONG-TERM CONTRACT.—For purposes of this section—

"(1) IN GENERAL.—The term 'long-term contract' means any contract for the production, manufacture, building, installation, or construction of property if such contract is not completed within the taxable year in which such contract is entered into.

"(2) SPECIAL RULE FOR MANUFACTURING CONTRACTS.—A contract for the manufacture of property shall not be treated as a long-term contract unless such contract involves the manufacture of—

"(A) any unique item of a type which is not normally included in the finished goods inventory of the taxpayer, or

"(B) any item which normally requires more than 12 calendar months to complete (without regard to the period of the contract).

"(3) AGGREGATION, ETC.—For purposes of this subsection, under regulations prescribed by the Secretary—

"(A) 2 or more contracts which are interdependent (by reason of pricing or otherwise) may be treated as 1 contract, and

"(B) a contract which is properly treated as an aggregation of separate contracts may be so treated.

"(g) CONTRACT COMMENCEMENT DATE.—For purposes of this section, the term 'contract commencement date' means, with respect to any contract, the first date on which any costs (other than bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred."

(b) CHANGE IN REGULATIONS.—The Secretary of the Treasury or his delegate shall modify the income tax regulations relating to accounting for long-term contracts to carry out the provisions of this section.

(c) CONFORMING AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 460. Special rules for long-term contracts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any contract entered into after February 28, 1986.

SEC. 302. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES.

(a) GENERAL RULE.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by inserting after section 263 the following new section:

"SEC. 263A. CAPITALIZATION AND INCLUSION IN INVENTORY COSTS OF CERTAIN EXPENSES.

"(a) NONDEDUCTIBILITY OF CERTAIN DIRECT AND INDIRECT COSTS.—

"(1) IN GENERAL.—In the case of any property to which this section applies, any costs described in paragraph (2) shall—

"(A) in the case of property which is inventory in the hands of the taxpayer, be included in inventory costs, and

"(B) in the case of any other property, be capitalized.

"(2) ALLOCABLE COSTS.—The costs described in this paragraph with respect to any property are—

"(A) the direct costs of such property, and

"(B) such property's proper share of those indirect costs (including taxes) part or all of which are allocable to such property.

"(b) PROPERTY TO WHICH SECTION APPLIES.—This section shall apply to—

"(1) PROPERTY PRODUCED BY TAXPAYER.—Real or personal property produced by the taxpayer.

"(2) PROPERTY ACQUIRED FOR RESALE.—

"(A) IN GENERAL.—Real or personal property described in section 1221(1) which is acquired by the taxpayer for resale.

"(B) EXCEPTION FOR TAXPAYER WITH GROSS RECEIPTS OF $5,000,000 OR LESS.—Subparagraph (A) shall not apply to any personal property acquired during any taxable year by the taxpayer for resale if the average annual gross receipts of the taxpayer (or any predecessor) for the 3-taxable year period ending with the taxable year preceding such taxable year does not exceed $5,000,000.

"(C) AGGREGATION RULES.—For purposes of subparagraph (B), rules similar to the rules of section 460(e)(2) shall apply.

"(c) GENERAL EXCEPTIONS.—

"(1) PERSONAL USE PROPERTY.—This section shall not apply to any property produced by the taxpayer for use by the taxpayer other than in a trade or business or an activity conducted for profit.

"(2) RESEARCH AND EXPERIMENTAL EXPENDITURES.—This section shall not apply to any amount allowable as a deduction under section 174.

"(3) CERTAIN DEVELOPMENT AND OTHER COSTS OF OIL AND GAS WELLS OR OTHER MINERAL PROPERTY.—This section shall not apply to any cost allowable as a deduction under section 263(c), 616(a), or 617(a).

"(4) COORDINATION WITH LONG-TERM CONTRACT RULES.—This section shall not apply to any property produced by the taxpayer pursuant to a long-term contract.

"(d) PROPERTY PRODUCED IN FARMING BUSINESS.—This section shall not apply to any plant or animal which is produced by the taxpayer in a farming business (within the meaning of section 2032A(e) (4) or (5)).

"(e) SPECIAL RULES FOR ALLOCATION OF INTEREST TO PROPERTY PRODUCED BY THE TAXPAYER.—

"(1) INTEREST CAPITALIZED ONLY IN CERTAIN CASES.—Subsection (a) shall apply to interest costs only in the case of property which is described in subsection (b)(1) and which has—

"(A) a long useful life,

"(B) an estimated production period exceeding 2 years, or

"(C) an estimated production period exceeding 1 year and a cost exceeding $1,000,000.

"(2) ALLOCATION RULES.—

"(A) IN GENERAL.—In determining the amount of interest required to be capitalized under subsection (a) with respect to any property—

"(i) interest on any indebtedness directly attributable to production expenditures with respect to such property shall be assigned to such property, and

"(ii) interest on any other indebtedness shall be assigned to such property to the extent that the taxpayer's interest costs could have been reduced if production expenditures (not attributable to indebtedness described in clause (i)) had not been incurred.

"(B) EXCEPTION FOR QUALIFIED RESIDENCE INTEREST.—Subparagraph (A) shall not apply to any qualified residence interest (within the meaning of section 163(h)).

"(C) SPECIAL RULE FOR FLOW-THROUGH ENTITIES.—In the case of any flow-through entity, this paragraph shall be applied first at the entity level and then at the beneficiary level.

"(3) INTEREST RELATING TO PROPERTY USED TO PRODUCE PROPERTY.—This subsection shall apply to any interest on indebtedness incurred or continued in connection with property used to produce property to which this subsection applies to the extent such interest is allocable to the produced property.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) LONG USEFUL LIFE.—Property has a long useful life if such property is—

"(i) real property, or

"(ii) property with a class life of 20 years or more (as determined under section 168) which is produced by the taxpayer for use by the taxpayer.

"(B) PRODUCTION PERIOD.—The term 'production period' means, when used with respect to any property, the period—

"(i) beginning on the date on which production of the property begins, and

"(ii) ending on the date on which the property is ready to be placed in service or is ready to be held for sale.

"(C) PRODUCTION EXPENDITURES.—The term 'production expenditures' means the costs (whether or not incurred during the production period) required to be capitalized under subsection (a) with respect to the property.

"(f) PRODUCTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'produce' includes construct, build, install, manufacture, develop, or improve.

"(2) TREATMENT OF PROPERTY PRODUCED UNDER CONTRACT FOR THE TAXPAYER.—The taxpayer shall be treated as producing any property produced for the taxpayer under a contract with the taxpayer, except that only costs paid or incurred by the taxpayer (whether under such contract or otherwise) shall be taken into account in applying subsection (a) to the taxpayer.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the use of related parties to avoid the application of this section."

(b) TECHNICAL AMENDMENTS.—

(1) Section 189 is hereby repealed.

(2) Section 312(n)(1) is amended—

(A) by striking out "(determined without regard to section 189) in subparagraph (B))", and

(B) by striking out subparagraph (C) and inserting in lieu thereof:

"(C) CONSTRUCTION PERIOD.—The term 'construction period' has the same meaning given the term 'production period' under section 263A(e)(4)(B)."

(3) Section 471 (relating to general rule for inventories) is amended—

(A) by striking out "Whenever" and inserting in lieu thereof "(a) GENERAL RULE.—Whenever", and

(B) by adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For rules relating to capitalization of direct and indirect costs of property, see section 263A."

(4) Section 267(e)(5)(D) is amended—

(A) by striking out "low-income housing (as defined in paragraph (5) of section 179(e))" and inserting "property described in clause (i), (ii), (iii), or (iv) of section 1250(a)(1)(B)", and

(B) by striking out "low-income housing (as so defined)" and inserting "such property".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part IX of subchapter B of chapter 1 is amended by inserting after the item relating to section 263 the following:

"Sec. 263A. Capitalization and inclusion in inventory costs of certain expenses."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 189.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to costs incurred after December 31, 1986, in taxable years ending after such date.

(2) SPECIAL RULE FOR INVENTORY PROPERTY.—In the case of any property which is inventory in the hands of the taxpayer—

(A) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(B) CHANGE IN METHOD OF ACCOUNTING.—If the taxpayer is required by the amendments made by this section to change its method of accounting with respect to such property for any taxable year—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary, and

(iii) the period for taking into account the adjustments under section 481 by reason of such change shall not exceed 5 years.

(3) SPECIAL RULE FOR SELF-CONSTRUCTED PROPERTY.—The amendments made by this section shall not apply to any property which is produced by the taxpayer for use by the taxpayer if substantial construction had occurred before March 1, 1986.

(4) NEW DEPRECIATION CAPITALIZATION RULES NOT TO APPLY TO CERTAIN PROPERTY.—In the case of any property—

(A) which is used to produce property which is inventory in the hands of the taxpayer or is produced by the taxpayer for use by the taxpayer, and

(B) to which the amendments made by section 201 of this Act do not apply because it was placed in service before March 1, 1986, or by reason of the provisions of subsection (b) of section 202 of this Act,

the amendments made by this section shall not apply to the extent that such amendments would require the taxpayer to include in inventory or capitalize any amount allowable as a deduction for depreciation which the taxpayer would not be required to so include or capitalize without regard to such amendment.

(5) SPECIAL RULE FOR INTEREST CAPITALIZATION.—Section 263A(e) of the Internal Revenue Code of 1954 (as added by this section) and the amendment made by subsection (b)(1) shall not apply to any property to which the amendments made by section 201 do not apply by reason of sections 202(d)(1)(D) and (E) and 202(d)(5)(A) or to property described in the matter following subparagraph (B) of section 207(e)(2) of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 303. REPEAL OF RESERVE FOR BAD DEBTS OF TAXPAYERS OTHER THAN FINANCIAL INSTITUTIONS AND FINANCE COMPANIES.

(a) GENERAL RULE.—Subsection (c) of section 166 (relating to reserve for bad debts) is amended to read as follows:

"(c) RESERVE FOR BAD DEBTS FOR FINANCIAL INSTITUTIONS, FINANCE COMPANIES, ETC.—

"(1) IN GENERAL.—In the case of any taxpayer to whom this subsection applies, there shall be allowed, in the discretion of the Secretary and in lieu of any deduction under subsection (a), a deduction for a reasonable addition to a reserve for bad debts.

"(2) TAXPAYERS TO WHOM THIS SUBSECTION APPLIES.—This subsection applies to any—

"(A) financial institution to which subchapter H applies,

"(B) finance company,

"(C) production credit association chartered pursuant to section 2091 of title 12, United States Code, and

"(D) bank for cooperatives (and the central bank for cooperatives) chartered pursuant to section 2121 of title 12, United States Code.

"(3) SPECIAL RULES FOR FINANCE COMPANIES.—For purposes of this subsection—

"(A) IN GENERAL.—A finance company shall make reasonable additions to a reserve under paragraph (1) only with respect to qualified indebtedness of such finance company.

"(B) FINANCE COMPANY DEFINED.—

"(i) IN GENERAL.—The term 'finance company' means any person—

"(I) which is engaged in the active and regular conduct of a lending or finance business which meets the requirements of section 542(c)(6) (other than subparagraph (D) thereof), and

"(II) a substantial portion of the business of which is the making of loans to members of the general public.

"(ii) CERTAIN LOANS NOT TAKEN INTO ACCOUNT.—For purposes of clause (i)(I), in determining whether a person meets the requirements of section 542(c)(6)(A), any income from indebtedness described in subparagraph (C)(i) shall not be treated as income derived from the active and regular conduct of a lending or finance business.

"(C) QUALIFIED INDEBTEDNESS.—For purposes of this paragraph, the term 'qualified indebtedness' means indebtedness originated by the taxpayer in the active and regular conduct of a lending or finance business, other than indebtedness—

"(i) arising from the sale of goods sold or manufactured by the taxpayer (or an affiliate),

"(ii) which is a loan which is not an eligible loan (within the meaning of section 585(b)(4)), or

"(iii) of any affiliate or of any shareholder of the taxpayer who at any time during the taxable year held directly or indirectly 10 percent or more (by value) of the outstanding stock of such taxpayer.

For purposes of this subparagraph, indebtedness shall be treated as originated by the taxpayer if it is acquired by the taxpayer pursuant to a preexisting arrangement with the person originating the loan.

"(E) AFFILIATE.—For purposes of this paragraph, the term 'affiliate' means a member with the taxpayer of the same—

"(i) affiliated group within the meaning of section 1504(a), but without regard to section 1504(b), or

"(ii) group of 2 or more persons who are under common control (within the meaning of section 52(b))."

(b) COMPUTATION OF WHOLLY WORTHLESS DEBTS.—Paragraph (1) of section 166(a) (relating to wholly worthless debts) is amended by inserting ", except that in the case of a debt other than a nonbusiness debt (within the meaning of subsection (d)(2)), the amount of the deduction shall not exceed the part of such debt charged off within such taxable year" after "taxable year".

(c) REPEAL OF RESERVE FOR CERTAIN GUARANTEED DEBT OBLIGATIONS.—Section 166 is amended by striking out subsection (f) and by redesignating subsection (g) as subsection (f).

(d) TECHNICAL AMENDMENTS.—

(1) Section 81 (relating to certain increases in suspense accounts) is amended to read as follows:

"SEC. 81. INCREASE IN VACATION PAY SUSPENSE ACCOUNT.

"There shall be included in gross income for the taxable year the amount of any increase in any suspense account for such taxable year required by paragraph (2)(B) of section 463(c) (relating to accrual of vacation pay)."

(2) The table of sections for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 81 and inserting in lieu thereof the following:

"Sec. 81. Increase in vacation pay suspense account."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who maintained a reserve for bad debts for such taxpayer's last taxable year beginning before January 1, 1987, and who is required by the amendments made by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1954 to be taken into account by the taxpayer shall—

(i) in the case of a taxpayer maintaining a reserve under section 166(f), be reduced by the balance in the suspense account under section 166(f)(4) of such Code as of the close of such last taxable year, and

(ii) be taken into account ratably in each of the first 5 taxable years beginning after December 31, 1986.

SEC. 304. TAXABLE YEARS OF CERTAIN ENTITIES.

(a) PARTNERSHIPS.—

(1) IN GENERAL.—Paragraph (1) of section 706(b) (relating to partnership's taxable year) is amended to read as follows:

"(1) PARTNERSHIP'S TAXABLE YEAR.—

"(A) PARTNERSHIP TREATED AS TAXPAYER.—The taxable year of a partnership shall be determined as though the partnership were a taxpayer.

"(B) TAXABLE YEAR DETERMINED BY REFERENCE TO PARTNERS.—Except as provided in subparagraph (C), a partnership shall not have a taxable year other than—

"(i) the taxable year of 1 or more of its partners with a more than 50 percent interest in partnership profits and capital,

"(ii) if there is no taxable year described in clause (i), the taxable year of all the principal partners of the partnership, or

"(iii) if there is no taxable year described in clause (i) or (ii), the calendar year.

"(C) BUSINESS PURPOSE.—A partnership may have a taxable year not described in subparagraph (B) if it establishes, to the satisfaction of the Secretary, a business purpose therefor. For purposes of this subparagraph, the deferral of income to partners for a period of 3 months or less shall not be treated as a business purpose."

(2) DETERMINATION OF MAJORITY INTEREST.—Section 706(b) is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF MAJORITY INTEREST RULE.—Clause (i) of paragraph (1)(B) shall not apply to any taxable year of a partnership unless the period which constitutes the taxable year of 1 or more of its partners with a more than 50 percent interest in partnership profits and capital has been the same for—

"(A) the 3-taxable year period of such partner or partners ending on or before the beginning of such taxable year of the partnership, or

"(B) if the partnership has not been in existence during all of such 3-taxable year period, the taxable years of such partner or partners ending with or within the period of existence.

This paragraph shall apply without regard to whether the same partners or interests are taken into account in determining the 50 percent interest during any period."

(3) CONFORMING AMENDMENT.—Section 706(b) is amended by striking out "Adoption of".

(b) S CORPORATION.—

(1) IN GENERAL.—Section 1378(a) (relating to taxable year of S corporation) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of this subtitle, the taxable year of an S corporation shall be a permitted year."

(2) BUSINESS PURPOSE.—Section 1378(b) (defining permitted year) is amended by adding at the end thereof the following new flush sentence:

"For purposes of paragraph (2), the deferral of income to shareholders for a period of 3 months or less shall not be treated as a business purpose."

(3) CONFORMING AMENDMENT.—Section 1378 is amended by striking out subsection (c).

(c) PERSONAL SERVICE CORPORATION.—Section 441 (relating to period for computation of taxable income) is amended by adding at the end thereof the following new subsection:

"(i) TAXABLE YEAR OF PERSONAL SERVICE CORPORATIONS.—

"(1) IN GENERAL.—For purposes of this subtitle, the taxable year of any personal service corporation shall be the calendar year unless the corporation establishes, to the satisfaction of the Secretary, a business purpose for having a different period for its taxable year. For purposes of this paragraph, the deferral of income to shareholders for a period of 3 months or less shall not be treated as a business purpose.

"(2) PERSONAL SERVICE CORPORATION.—For purposes of this subsection, the term 'personal service corporation' has the meaning given such term by section 269A(b)(1), except that section 269A(b)(2) shall be applied—

"(A) by substituting 'any' for 'more than 10 percent', and

"(B) by substituting 'any' for '50 percent or more in value' in section 318(a)(2)(C)."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN ACCOUNTING PERIOD.—In the case of any taxpayer required by the amendments made by this section to change its accounting period for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) with respect to any partner or shareholder of an S corporation which is required to include the items from more than 1 taxable year of the partnership or S corporation in any 1 taxable year, income in excess of expenses of such partnership or corporation for the short taxable year required by such amendments, shall be taken into account ratably in each of the first 4 taxable years (including such short taxable year) beginning after December 31, 1986, unless such partner or shareholder elects to include all such income in the short taxable year.

Subtitle B—Treatment of Installment Obligations

SEC. 311. ALLOCATION OF INDEBTEDNESS AS PAYMENT ON INSTALLMENT OBLIGATION.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable year for which item of gross income included) is amended by inserting after section 453B the following new section:

"SEC. 453C. CERTAIN INDEBTEDNESS TREATED AS PAYMENT ON INSTALLMENT OBLIGATIONS.

"(a) GENERAL RULE.—For purposes of sections 453 and 453A, if a taxpayer has allocable installment indebtedness for any taxable year, such indebtedness—

"(1) shall be allocated on a pro rata basis to any applicable installment obligation of the taxpayer which—

"(A) arises in such taxable year, and

"(B) is outstanding as of the close of such taxable year, and

"(2) shall be treated as a payment received on such obligation as of the close of such taxable year.

"(b) ALLOCABLE INSTALLMENT INDEBTEDNESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'allocable installment indebtedness' means, with respect to any taxable year—

"(A) the installment percentage of the taxpayer's average quarterly indebtedness for such taxable year, reduced (but not below zero) by

"(B) the aggregate amount treated as allocable installment indebtedness with respect to applicable installment obligations which—

"(i) are outstanding as of the close of such taxable year, but

"(ii) did not arise during such taxable year.

"(2) INSTALLMENT PERCENTAGE.—The term 'installment percentage' means the percentage (not in excess of 100 percent) determined by dividing—

"(A) the face amount of all applicable installment obligations of the taxpayer outstanding as of the close of the taxable year, by

"(B) the sum of—

"(i) the aggregate adjusted bases of all assets not described in clause (ii) held as of the close of the taxable year, and

"(ii) the face amount of all installment obligations outstanding as of such time.

For purposes of subparagraph (B)(i), a taxpayer may elect to compute the aggregate adjusted bases of all assets using the deduction for depreciation which is used in computing earnings and profits under section 312(k).

"(3) SPECIAL RULES FOR PERSONAL USE AND FARM PROPERTY.—For purposes of this subsection—

"(A) there shall not be taken into account under paragraph (2)(B)—

"(i) in the case of an individual, any personal use property (within the meaning of section 1275(b)(3)) or any installment obligation arising from the sale of such property, or

"(ii) any property used in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)) or any installment obligation arising from the sale of such property, and

"(B) there shall not be taken into account in computing the taxpayer's average quarterly indebtedness under paragraph (1)(A) any indebtedness secured by any property described in subparagraph (A).

"(c) TREATMENT OF SUBSEQUENT PAYMENTS.—

"(1) PAYMENTS TREATED AS RECEIPT OF TAX PAID AMOUNTS.—If any amount is treated as received under subsection (a) (after application of subsection (d)(2)) with respect to any applicable installment obligation, subsequent payments received on such obligation shall not be taken into account for purposes of sections 453 and 453A to the extent that the aggregate of such subsequent payments does not exceed the aggregate amount treated as received under subsection (a).

"(2) REDUCTION OF ALLOCABLE INSTALLMENT INDEBTEDNESS.—For purposes of applying subsection (b)(1)(B) for the taxable year in which any payment to which paragraph (1) of this subsection applies was received, and for any subsequent taxable year, the allocable installment indebtedness with respect to the applicable installment obligation shall be reduced (but not below zero) by the amount of such payment not taken into account by reason of paragraph (1).

"(d) LIMITATION BASED ON TOTAL CONTRACT PRICE.—

"(1) IN GENERAL.—The amount treated as received under subsection (a) (after application of subsection (d)(2)) with respect to any applicable installment obligation for any taxable year shall not exceed the excess (if any) of—

"(A) the total contract price, over

"(B) any portion of the total contract price received under the contract before the close of such taxable year—

"(i) including amounts so treated under subsection (a) for all preceding taxable years (after application of subsection (d)(2)), but

"(ii) not including amounts not taken into account by reason of subsection (c).

"(2) EXCESS ALLOCABLE INSTALLMENT INDEBTEDNESS.—If, after application of paragraph (1), the allocable installment indebtedness for any taxable year exceeds the amount which may be allocated to applicable installment obligations arising in, and outstanding as of the close of, such taxable year, such excess shall, subject to the limitations of paragraph (1), be allocated to applicable installment obligations outstanding as of the close of such taxable year which arose in preceding taxable years, beginning with applicable installment obligations arising in the earliest preceding taxable year and shall be treated as a payment under subsection (a)(2).

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE INSTALLMENT OBLIGATION.—The term 'applicable installment obligation' means any obligation—

"(A) which arises from the disposition after February 28, 1986, of—

"(i) personal property under the installment method by a person who regularly sells or otherwise disposes of personal property on the installment plan,

"(ii) real property under the installment method which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, or

"(iii) real property under the installment method which is property used in the taxpayer's trade or business or property held for the production of rental income, but only if the sales price of such property exceeds $150,000 (determined after application of the rule under the last sentence of section 1274(c)(3)(A)(ii)), and

"(B) which is held by the seller or a member of the same affiliated group as the seller.

"(2) AGGREGATION RULES.—For purposes of this section, all members of—

"(A) an affiliated group (within the meaning of section 1504(a), but without regard to section 1504(b)), or

"(B) a group under common control (within the meaning of section 52(b)),

shall be treated as 1 taxpayer. The Secretary shall prescribe regulations for the treatment under this section of transactions between members of such groups.

"(3) AGGREGATION OF OBLIGATIONS.—The Secretary may by regulations provide that all (or any portion of) applicable installment obligations of a taxpayer may be treated as 1 obligation.

"(4) EXCEPTION FOR SALES OF TIMESHARES AND RESIDENTIAL LOTS.—

"(A) IN GENERAL.—If a taxpayer elects the application of this paragraph, this section shall not apply to any installment obligation which—

"(i) arises from a sale in the ordinary course of the taxpayer's trade or business to an individual of—

"(I) a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks, or a right to use specified campgrounds for recreational purposes, or

"(II) any residential lot but only if the taxpayer (or any related person) is not to make any improvements with respect to such lot, and

"(ii) which is not guaranteed by any person other than an individual.

"(B) INTEREST ON DEFERRED TAX.—If subparagraph (A) applies to any installment obligation, interest shall be paid on the portion of any tax for any taxable year (determined without regard to any deduction allowable for such interest) which is attributable to the receipt of payments on such obligation in such year (other than payments received in the taxable year of the sale). Such interest shall be computed for the period from the date of the sale to the date on which the payment is received using the Federal short-term rate under section 1274 (compounded semiannually) in effect at the time of the sale and adjusted annually to the Federal short-term rate in effect on each anniversary of the sale.

"(C) TIME FOR PAYMENT.—Any interest payable under this paragraph with respect to a payment shall be treated as an addition to tax for the taxable year in which the payment is received, except that the amount of such interest shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year.

"(5) SHAREHOLDERS CONTROLLING CORPORATIONS.—Except as provided in regulations, a shareholder who owns (after application of section 318) stock in a corporation meeting the requirements of section 1504(a)(2) shall be treated as a member of the affiliated group.

"(6) REGULATIONS.—The Secretary shall prescribe regulations as may be necessary to carry out the purposes of this section, including regulations disallowing the use of the installment method in whole or in part for transactions in which the rules of this subsection otherwise would be avoided through the use of related parties or other intermediaries."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter E of chapter 1 is amended by inserting after the item relating to section 453B the following new item:

"Sec. 453C. Certain indebtedness treated as payments on installment obligations."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this section shall apply to taxable years beginning after December 31, 1986, with respect to dispositions after February 28, 1986.

(2) EXCEPTION FOR CERTAIN SALES OF PROPERTY BY A MANUFACTURER TO A DEALER.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any installment obligation arising from the disposition of tangible personal property by a manufacturer (or any affiliate) to a dealer if—

(i) the dealer is obligated to pay on such obligation only when the dealer resells (or rents) the property,

(ii) the manufacturer has the right to repurchase the property at a fixed (or ascertainable) price after no later than the 9-month period beginning with the date of the sale, and

(iii) such disposition is in a taxable year with respect to which the requirements of subparagraph (B) are met.

(B) RECEIVABLES MUST BE AT LEAST 50 PERCENT OF TOTAL SALES.—The requirements of this subparagraph are met with respect to

any taxable year if for such taxable year and the preceding taxable year the aggregate face amount of installment obligations described in subparagraph (A) is at least 50 percent of the total sales to dealers giving rise to such obligations, except that if the taxpayer met the requirements of this subparagraph for the preceding taxable year, then the taxpayer shall be treated as failing to meet the requirements of this subparagraph only in the second consecutive taxable year in which the 50-percent test is not met.

(C) TRANSITION RULE.—An obligation issued before the date of the enactment of this Act shall be treated as described in subparagraph (A) if, within 60 days after such date, the taxpayer modifies the terms of such obligation to conform to the requirements of subparagraph (A).

(D) APPLICATION WITH OTHER OBLIGATIONS.—In applying section 453C of the Internal Revenue Code of 1954 to any installment obligations to which the amendments made by this section apply, obligations described in subparagraph (A) shall not be treated as applicable installment obligations (within the meaning of section 453C(e)(1)(A) of such Code).

(E) OTHER REQUIREMENTS.—This paragraph shall apply only if the taxpayer meets the requirements of subparagraphs (A) and (B) for its first taxable year beginning after the date of the enactment of this Act.

(3) EXCEPTION FOR CERTAIN OBLIGATIONS.—In applying the amendments made by this section to any installment obligation of a corporation incorporated on January 13, 1928, the following indebtedness shall not be taken into account in determining the allocable installment indebtedness of such corporation under section 453C of the Internal Revenue Code of 1954 (as added by this section):

(A) 12⅝ percent subordinated debentures with a total face amount of $175,000,000 issued pursuant to a trust indenture dated as of September 1, 1985.

(B) A revolving credit term loan in the maximum amount of $130,000,000 made pursuant to a revolving credit and security agreement dated as of September 6, 1985, payable in various stages with final payment due on August 31, 1992.

This paragraph shall also apply to indebtedness which replaces indebtedness described in this paragraph if such indebtedness does not exceed the amount and maturity of the indebtedness it replaces.

SEC. 312. DISALLOWANCE OF USE OF INSTALLMENT METHOD FOR CERTAIN OBLIGATIONS.

(a) IN GENERAL.—Section 453 (relating to installment method) is amended by adding at the end thereof the following new subsection:

"(j) THIS SECTION AND SECTION 453A NOT TO APPLY.—This section and section 453A shall not apply to—

"(1) any disposition of personal property under a revolving credit plan, or

"(2) any installment obligation arising out of a sale of—

"(A) stock or securities which are traded on an established securities market, or

"(B) to the extent provided in regulations, property (other than stock or securities) of a kind regularly traded on an established market under regulations.

The Secretary may disallow the use of the installment method in whole or in part for transactions in which the rules of this subsection otherwise would be avoided through the use of related parties or other intermediaries."

(b) CONFORMING AMENDMENTS.—

(1) Section 453A(a)(2) (relating to installment method for dealers in personal property) is amended by striking out the last sentence thereof.

(2) Section 453A is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For disallowance of use of installment method for certain obligations, see section 453(j)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to dispositions after December 31, 1986.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who made sales under a revolving credit plan and was on the installment method under section 453A of the Internal Revenue Code of 1954 for such taxpayer's last taxable year beginning before January 1, 1987, and who is required by the amendments made by this section to change its method of accounting—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall not exceed 5 years.

SEC. 313. NO RECAPTURE ON INSTALLMENT SALE OF CERTAIN IRRIGATION EQUIPMENT.

(a) IN GENERAL.—Section 453(i) (relating to recognition of recapture income in year of disposition) is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION FOR CERTAIN FARM IRRIGATION EQUIPMENT.—This subsection shall not apply to any installment sale of property which is irrigation equipment which is used to irrigate farmland."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the amendment made by section 112(a) of the Tax Reform Act of 1984.

Subtitle C—Other Provisions

SEC. 321. ACCRUAL METHOD OF ACCOUNTING REQUIRED FOR FINANCIAL INSTITUTIONS AND FINANCE COMPANIES.

(a) GENERAL RULE.—Subpart A of part II of subchapter E of chapter 1 (relating to methods of accounting) is amended by adding at the end thereof the following new section:

"SEC. 448. PROHIBITION OF USE OF CASH METHOD OF ACCOUNTING.

"In the case of a taxpayer allowed a deduction for a reasonable addition to a reserve for bad debts under section 166(c), taxable income shall not be computed under the cash receipts and disbursements method of accounting."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 448. Prohibition of use of cash method of accounting."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) COORDINATION WITH SECTION 481.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the period for taking into account the adjustments under section 481 of the Internal Revenue Code of 1954 by reason of such changes shall not exceed 5 years.

SEC. 322. INCOME ATTRIBUTABLE TO UTILITY SERVICES.

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR UTILITY SERVICES.—

"(1) IN GENERAL.—In the case of a taxpayer the taxable income of which is computed under an accrual method of accounting, any income attributable to the sale or furnishing of utility services to customers shall be included in gross income not later than the taxable year in which such services are provided to such customers.

"(2) DEFINITION AND SPECIAL RULE.—For purposes of this subsection—

"(A) UTILITY SERVICES.—The term 'utility services' includes—

"(i) the providing of electrical energy, water, or sewage disposal,

"(ii) the furnishing of gas or steam through a local distribution system,

"(iii) telephone or other communication services, and

"(iv) the transporting of gas or steam by pipeline.

"(B) YEAR IN WHICH SERVICES PROVIDED.—The taxable year in which services are treated as provided to customers shall not, in any manner, be determined by reference to—

"(i) the period in which the customers' meters are read, or

"(ii) the period in which the taxpayer bills (or may bill) the customers for such service."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN METHOD OF ACCOUNTING.—If a taxpayer is required by the amendments made by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the adjustments under section 481 of the Internal Revenue Code of 1954 by reason of such change shall be taken into account ratably over a period no longer than the first 4 taxable years beginning after December 31, 1986.

SEC. 323. REPEAL OF APPLICATION OF DISCHARGE OF INDEBTEDNESS RULES TO QUALIFIED BUSINESS INDEBTEDNESS.

(a) GENERAL RULE.—Paragraph (1) of section 108(a) (relating to exclusion from gross income of income from discharge of indebtedness) is amended by striking out subparagraph (C), by inserting "or" at the end of subparagraph (A), and by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 108(a) is amended to read as follows:

"(2) COORDINATION OF EXCLUSIONS.—Subparagraph (B) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case."

(2) Section 108 is amended by striking out subsection (c).

(3) Section 108(d) is amended—

(A) by striking out paragraph (4),

(B) by striking out "subsections (a), (b), and (c)" each place it appears in the heading thereof and in the text and heading of paragraphs (6) and (7) and inserting in lieu thereof "subsections (a) and (b)",

(C) by striking out the last sentence of paragraph (7)(B), and

(D) by striking out "under paragraph (4) of this subsection or" in paragraph (9) thereof.

(4) Section 1017(a)(2) is amended by striking out ", (b)(5), or (c)(1)(A)" and inserting in lieu thereof "or (b)(5)".

(5) Section 1017(b)(3)(A) is amended by striking out "or (c)(1)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges after December 31, 1986.

SEC. 324. REPEAL OF DEDUCTION FOR QUALIFIED DISCOUNT COUPONS.

(a) GENERAL RULE.—Section 466 (relating to qualified discount coupons redeemed after close of taxable year) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 461(h) is amended by striking out subparagraph (C) and by redesignating subparagraph (D) as subparagraph (C).

(2) The table of contents for subpart C of part II of subchapter E of chapter 1 is amended by striking out the item relating to section 466.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who elected to have section 466 of the Internal Revenue Code of 1954 apply for such taxpayer's last taxable year beginning before January 1, 1987, and is required to change its method of accounting by reason of the amendments made by this section for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as having been made with the consent of the Secretary, and

(C) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1954 to be taken into account by the taxpayer shall—

(i) be reduced by the balance in the suspense account under section 466(e) of such Code as of the close of such last taxable year, and

(ii) be taken into account over a period not longer than 5 years.

SEC. 325. LIMITATION ON ACCRUAL OF VACATION PAY.

(a) GENERAL RULE.—Paragraph (1) of section 463(a) (relating to accrual of vacation pay) is amended by striking out "and expected to be paid during the taxable year or within 12 months following the close of the taxable year" and inserting in lieu thereof "and paid during the taxable year or within 8½ months following the close of the taxable year".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

TITLE IV—CAPITAL GAINS

Subtitle A—Individual Capital Gains

SEC. 401. REPEAL OF EXCLUSION FOR LONG-TERM CAPITAL GAINS OF INDIVIDUALS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 62 (defining adjusted gross income) is amended by striking out paragraph (3) and redesignating paragraphs (4) through (15) as paragraphs (3) through (14), respectively.

(2) Section 170(e)(1) (relating to certain contributions of ordinary income and capital gain property) is amended by striking out "40 percent (${}^{28}/_{46}$ in the case of a corporation)" and inserting in lieu thereof "100 percent (${}^{28}/_{34}$ in the case of a corporation)".

(3) Paragraph (2) of section 172(d) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets."

(4) Section 223 (relating to cross references) is amended to read as follows:

"SEC. 223. CROSS REFERENCE.

"For deductions in respect of a decedent, see section 691."

(5) Paragraph (4) of section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose) is amended by striking out the 1st sentence.

(6) Paragraph (3) of section 643(a) (relating to distributable net income) is amended by striking out the last sentence.

(7) Paragraph (4) of section 691(c) (relating to deduction for estate tax) is amended by striking out "1202,".

(8) Paragraph (2) of section 871(a) (relating to income not connected with United States business) is amended by striking out "such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and".

(9) Subsection (b) of section 1211 (relating to limitation on capital losses) is amended to read as follows:

"(b) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus (if such losses exceed such gains) the lower of—

"(1) $3,000 ($1,500 in the case of a married individual filing a separate return), or

"(2) the excess of such losses over such gains."

(10) Subsection (b) of section 1212 (relating to capital loss carrybacks and carryovers) is amended by striking out "section 1211(b)(1)(A), (B), or (C)" both places it appears and inserting in lieu thereof "section 1211(b)".

(11) Paragraph (1) of section 1402(i) (relating to special rules for options and commodities dealers) is amended to read as follows:

"(1) IN GENERAL.—Notwithstanding subsection (a)(3)(A), in determining the net earnings from self-employment of any options dealer or commodities dealer, there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 402. 27-PERCENT CAPITAL GAINS RATE FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Section 1 (relating to tax imposed on individuals), as amended by section 101, is amended by adding at the end thereof the following new subsection:

"(i) 27-PERCENT CAPITAL GAINS RATE.—If for any taxable year a taxpayer has a net capital gain, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) the taxable income reduced by the amount of net capital gain, or

"(B) the amount of taxable income taxed at a rate below 27 percent, plus

"(2) a tax of 27 percent of the amount of taxable income in excess of the amount determined under paragraph (1), plus

"(3) the amount of increase determined under subsection (g)."

(b) TRANSITIONAL RULE.—The tax under section 1 of the Internal Revenue Code of 1954 on the long-term capital gain on rights to royalties paid under leases and assignments binding on September 25, 1985, by a limited partnership formed on March 1, 1977, which on October 30, 1979, assigned leases and which assignment was amended on April 27, 1981, shall not exceed 20 percent.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

Subtitle B—Incentive Stock Options

SEC. 411. REPEAL OF REQUIREMENT THAT INCENTIVE STOCK OPTIONS ARE EXERCISABLE ONLY IN CHRONOLOGICAL ORDER; MODIFICATION OF $100,000 LIMITATION.

(a) IN GENERAL.—Paragraph (7) of section 422A(b) (defining incentive stock option) is amended to read as follows:

"(7) in the case of an option granted after December 31, 1986, the aggregate fair market value (determined at the time the option is granted) of the stock with respect to which incentive stock options are 1st exercisable under the terms of the plan by any employee during any calendar year (under all such plans of the employee's employer corporation and its parent and subsidiary corporations) shall not exceed $100,000."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (8) of section 422A(b) is amended by adding "and before January 1, 1987" after "1980,".

(2) Section 422A(c) is amended by striking out paragraph (7) and redesignating paragraphs (8) through (10) as paragraphs (7) through (9), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to options granted after December 31, 1986.

Subtitle C—Straddles

SEC. 421. MARKED-TO-MARKET SYSTEM GAINS OR LOSSES TREATED AS SHORT-TERM CAPITAL GAINS OR LOSSES.

(a) IN GENERAL.—Paragraph (3) of section 1256(a) (relating to section 1256 contracts marked to market) is amended to read as follows:

"(3) any gain or loss with respect to a section 1256 contract shall be treated as short-term capital gain or loss, and".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 1212(c)(1) (relating to carryback losses from section 1256 contracts to offset prior gains from such contracts) is amended to read as follows:

"(B) to the extent that, after application of paragraphs (2) and (3), such loss is allowed as a carryback to any such preceding taxable year, the amount so allowed shall be treated as a short-term capital loss from section 1256 contracts.

(2) Subparagraph (A) of section 1212(c)(6) (relating to coordination with carryforward provisions of subsection (b)(1)) is amended to read as follows:

"(A) CARRYFORWARD AMOUNT REDUCED BY AMOUNT USED AS CARRYBACK.—For purposes of applying subsection (b)(1), if any portion of the net section 1256 contracts loss for any taxable year is allowed as a carryback under

paragraph (1) to any preceding taxable year, the amount allowed as a carryback shall be treated as short-term capital gain for the loss year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to positions established after December 31, 1986.

SEC. 422. YEAR-END RULE EXPANDED.

(a) IN GENERAL.—Subparagraph (E) of section 1092(c)(4) (defining straddle) is amended—

(1) by inserting "or the stock is disposed of with a loss" in clause (i) after "closed",

(2) by striking out "is" in clause (ii) and inserting in lieu thereof "or gains on such options are", and

(3) by inserting "or option" after "stock" and "or the disposition of such stock" after "options" in clause (iii).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to positions established on or after January 1, 1987.

SEC. 423. EXCEPTION OF CERTAIN DEALERS FROM THE HEDGING TRANSACTION EXCEPTION.

(a) IN GENERAL.—Section 1256(e) (relating to mark to market not to apply to hedging transactions) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR DEALERS.—Paragraph (1) shall not apply to any transaction entered into by a dealer, other than a dealer in agricultural or horticultural commodities (except trees which bear fruit or nuts)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to positions established after December 31, 1986.

TITLE V—COMPLIANCE AND TAX ADMINISTRATION

Subtitle A—Revision of Certain Penalties, Etc.

SEC. 501. PENALTY FOR FAILURE TO FILE INFORMATION RETURNS OR STATEMENTS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new part:

"PART II—FAILURE TO FILE CERTAIN INFORMATION RETURNS OR STATEMENTS

"Sec. 6721. Failure to file certain information returns.

"Sec. 6722. Failure to furnish certain payee statements.

"Sec. 6723. Failure to include correct information.

"Sec. 6724. Waiver; definitions and special rules.

"SEC. 6721. FAILURE TO FILE CERTAIN INFORMATION RETURNS.

"(a) GENERAL RULE.—In the case of each failure to file an information return with the Secretary on the date prescribed therefor (determined with regard to any extension of time for filing), the person failing to so file such return shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the filing requirement, then, with respect to each such failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported, and

"(2) the $100,000 limitation under subsection (a) shall be increased by the amount of the penalties determined under paragraph (1).

"SEC. 6722. FAILURE TO FURNISH CERTAIN PAYEE STATEMENTS.

"(a) GENERAL RULE.—In the case of each failure to furnish a payee statement on the date prescribed therefor to the person to whom such statement is required to be furnished, the person failing to so furnish such statement shall pay $50 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $100,000.

"(b) FAILURE TO NOTIFY PARTNERSHIP OF EXCHANGE OF PARTNERSHIP INTEREST.—In the case of any person who fails to furnish the notice required by section 6050K(c)(1) on the date prescribed therefor, such person shall pay a penalty of $50 for each such failure.

"SEC. 6723. FAILURE TO INCLUDE CORRECT INFORMATION.

"(a) GENERAL RULE.—If—

"(1) any person files an information return or furnishes a payee statement, and

"(2) such person does not include all of the information required to be shown on such return or statement or includes incorrect information,

such person shall pay $5 for each return or statement with respect to which such failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $20,000.

"(b) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the correct information reporting requirement, then, with respect to each such failure—

"(1) the penalty imposed under subsection (a) shall be $100, or, if greater—

"(A) in the case of a return other than a return required under section 6045(a), 6041A(b), 6050H, 6050J, 6050K, or 6050L, 10 percent of the aggregate amount of the items required to be reported correctly, or

"(B) in the case of a return required to be filed by section 6045(a), 6050K, or 6050L, 5 percent of the aggregate amount of the items required to be reported correctly, and

"(2) the $20,000 limitation under subsection (a) shall be increased by the amount of the penalties determined under paragraph (1).

"(c) COORDINATION WITH SECTION 6676.—No penalty shall be imposed under subsection (a) or (b) with respect to any return or statement if a penalty is imposed under section 6676 (relating to failure to supply identifying number) with respect to such return or statement.

"SEC. 6724. WAIVER; DEFINITIONS AND SPECIAL RULES.

"(a) REASONABLE CAUSE WAIVER.—No penalty shall be imposed under this part with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect.

"(b) PAYMENT OF PENALTY.—Any penalty imposed by this part shall be paid on notice and demand by the Secretary and in the same manner as tax.

"(c) SPECIAL RULES FOR FAILURE TO FILE INTEREST AND DIVIDEND RETURNS OR STATEMENTS.—

"(1) HIGHER STANDARDS FOR WAIVER.—In the case of any interest or dividend return or statement—

"(A) subsection (a) shall not apply, but

"(B) no penalty shall be imposed under this part if it is shown that the person otherwise liable for such penalty exercised due diligence in attempting to satisfy the requirement with respect to such return or statement.

"(2) LIMITATIONS NOT TO APPLY.—In the case of any interest or dividend return or statement—

"(A) the $100,000 limitations of sections 6721(a) and 6722(a) and the $20,000 limitation of section 6723(a) shall not apply, and

"(B) penalties imposed with respect to such returns or statements shall not be taken into account for purposes of applying such limitations with respect to other returns or statements.

"(3) SELF ASSESSMENT.—Any penalty imposed under this part on any person with respect to interest or dividend return or statement—

"(A) shall be assessed and collected in the same manner as an excise tax imposed by subtitle D, and

"(B) shall be due and payable on April 1 of the calendar year following the calendar year for which such return or statement is required.

"(4) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed under this part with respect to an interest or dividend return or statement.

"(5) INTEREST OR DIVIDEND RETURN OR STATEMENT.—For purposes of this subsection, the term 'interest or dividend return or statement' means—

"(A) any return required by section 6042(a)(1), 6044(a)(1), or 6049(a), and

"(B) any statement required under section 6042(c), 6044(e), or 6049(c).

"(d) DEFINITIONS.—For purposes of this part—

"(1) INFORMATION RETURN.—The term 'information return' means—

"(A) any statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators),

"(vi) section 6050N(a) (relating to payments of royalties), or

"(vii) section 6051(d) (relating to information returns with respect to income tax withheld), and

"(B) any return required by—

"(i) section 4997(a) (relating to information with respect to windfall profit tax on crude oil),

"(ii) section 6041A (a) or (b) (relating to returns of direct sellers),

"(iii) section 6045 (a) or (d) (relating to returns of brokers),

"(iv) section 6050H(a) (relating to mortgage interest received in trade or business from individuals),

"(v) section 6050I(a) (relating to cash received in trade or business),

"(vi) section 6050J(a) (relating to foreclosures and abandonments of security),

"(vii) section 6050K(a) (relating to exchanges of certain partnership interests),

"(viii) section 6050L(a) (relating to returns relating to certain dispositions of donated property),

"(ix) section 6052(a) (relating to reporting payment of wages in the form of group-term life insurance), or

"(x) section 6053(c)(1) (relating to reporting with respect to certain tips).

"(2) PAYEE STATEMENT.—The term 'payee statement' means any statement required to be furnished under—

"(A) section 4997(a) (relating to records and information; regulations),

"(B) section 6031(b), 6034A, or 6037(b) (relating to statements furnished by certain pass-thru entities),

"(C) section 6039(a) (relating to information required in connection with certain options),

"(D) section 6041(d) (relating to information at source),

"(E) section 6041A(e) (relating to returns regarding payments of remuneration for services and direct sales),

"(F) section 6042(c) (relating to returns regarding payments of dividends and corporate earnings and profits),

"(G) section 6044(e) (relating to returns regarding payments of patronage dividends),

"(H) section 6045 (b) or (d) (relating to returns of brokers),

"(I) section 6049(c) (relating to returns regarding payments of interest),

"(J) section 6050A(b) (relating to reporting requirements of certain fishing boat operators),

"(K) section 6050C (relating to information regarding windfall profit tax on domestic crude oil),

"(L) section 6050H(d) (relating to returns relating to mortgage interest received in trade or business from individuals),

"(M) section 6050I(e) (relating to returns relating to cash received in trade or business),

"(N) section 6050J(e) (relating to returns relating to foreclosures and abandonments of security),

"(O) section 6050K(b) (relating to returns relating to exchanges of certain partnership interests),

"(P) section 6050L(c) (relating to returns relating to certain dispositions of donated property),

"(Q) section 6050N(b) (relating to returns regarding payments of royalties),

"(R) section 6051 (relating to receipts for employees),

"(S) section 6052(b) (relating to returns regarding payment of wages in the form of group-term life insurance), or

"(T) section 6053 (b) or (c) (relating to reports of tips)."

(b) INCREASE IN MAXIMUM PENALTY FOR FAILURE TO SUPPLY IDENTIFYING NUMBERS.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000".

(c) CLARIFICATION OF PENALTY FOR FAILURE TO FURNISH PAYEE STATEMENTS.—

(1) Subsection (d) of section 6041 is amended to read as follows:

"(d) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b)."

(2) Subsection (c) of section 6042 is amended to read as follows:

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, shall include adequate notice in such statement mailing that such statement is enclosed, and shall be in such form as the Secretary may prescribe by regulations."

(3) Subsection (e) of section 6044 is amended to read as follows:

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every cooperative required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the cooperative required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, shall include adequate notice in such statement mailing that such statement is enclosed, and shall be in such form as the Secretary may prescribe by regulation."

(4) Subsection (b) of section 6045 is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO CUSTOMERS.—Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the information required to be shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(5) Subsection (c) of section 6049 is amended to read as follows:

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

"(1) IN GENERAL.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(A) the name and address of the person required to make such return, and

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person required to be shown on the return.

"(2) TIME AND FORM OF STATEMENT.—The written statement under paragraph (1)—

"(A) shall be furnished (either in person or in a statement mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made, shall include adequate notice in such statement mailing that such statement is enclosed, and

"(B) shall be in such form as the Secretary may prescribe by regulations."

(6) Subsection (b) of section 6050A is amended to read as follows:

"(b) WRITTEN STATEMENT.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing the information relating to such person required to be contained in such return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(7) Subsection (b) of section 6050B is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(8) Subsection (b) of section 6050E is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the information required to be shown on the return with respect to refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the calendar year following the calendar year for which the return under subsection (a) was required to be made. No statement shall be required under this subsection with respect to any individual if it is determined (in the manner provided by regulations) that such individual did not claim itemized deductions under chapter 1 for the taxable year giving rise to the refund, credit, or offset."

(9) Subsection (b) of section 6050F is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name of the agency making the payments, and

"(2) the aggregate amount of payments, of repayments, and of reductions, with respect to the individual required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(10) Subsection (b) of section 6050G is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—The Railroad Retirement Board shall furnish to each individual whose name is required to be set forth in the return under subsection (a) a written statement showing—

"(1) the aggregate amount of payments to such individual, and of employee contributions with respect thereto, required to be shown on the return, and

"(2) such other information as the Secretary may require.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(11) Subsection (d) of section 6050H is amended to read as follows:

"(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of interest described in subsection (a)(2) received by the person required to make such return from the individual to whom the statement is required to be furnished.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(12) Subsection (e) of section 6050I is amended to read as follows:

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of cash described in subsection (a) received by the person required to make such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(13) Subsection (b) of section 6050K is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO TRANSFEROR AND TRANSFEREE.—Every partnership required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the partnership required to make such return, and

"(2) the information required to be shown on the return with respect to such person.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(14) Subsection (b) of section 6052 is amended to read as follows:

"(b) STATEMENTS TO BE FURNISHED TO EMPLOYEES WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every employer required to make a return under subsection (a) shall furnish to each employee whose name is required to be set forth in such return a written statement showing the cost of the group-term life insurance shown on such return. The written statement required under the preceding sentence shall be furnished to the employee on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made."

(d) CONFORMING AMENDMENTS.—

(1)(A) Section 6652 is amended—

(i) by striking out subsection (a) and by redesignating subsections (b) through (k) as subsections (a) through (j), respectively, and

(ii) by striking out "OTHER RETURNS" in the heading of subsection (a) (as so redesignated) and inserting in lieu thereof "RETURNS WITH RESPECT TO CERTAIN PAYMENTS AGGREGATING LESS THAN $10".

(B) Subsection (g) of section 219 is amended by striking out "section 6652(h)" and inserting in lieu thereof "section 6652(g)".

(C) Sections 6033(e), 6034(c), and 6043(c) are each amended by striking out "section 6652(d)" and inserting in lieu thereof "section 6652(c)".

(D) Section 6047(e)(1) and 6058(f) are each amended by striking out "section 6652(f)" and inserting in lieu thereof "section 6652(e)".

(E) Paragraph (1) of section 6050C(d) is amended by striking out "section 6652(b)" and inserting in lieu thereof "section 6722".

(F) Subsection (g) of section 6057 is amended by striking out "section 6652(e)" and inserting in lieu thereof "section 6652(d)".

(2) Section 6678 is hereby repealed.

(3) Subchapter B of chapter 68 is amended by inserting after the subchapter heading the following:

"Part I. General provisions.

"Part II. Failure to file certain information returns or statements.

"PART I—GENERAL PROVISIONS".

(4) The table of sections for subchapter B of chapter 68 (as in effect before the amendment made by paragraph (3)) is amended by striking out the item relating to section 6678.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

SEC. 502. INCREASE IN PENALTY FOR FAILURE TO PAY TAX.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) INCREASE IN PENALTY FOR FAILURE TO PAY TAX IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of each month (or fraction thereof) beginning after the day described in paragraph (2) of this subsection, paragraphs (2) and (3) of subsection (a) shall be applied by substituting '1 percent' for '0.5 percent' each place it appears.

"(2) DESCRIPTION.—For purposes of paragraph (1), the day described in this paragraph is the earlier of—

"(A) the day 10 days after the date on which notice is given under section 6331(d), or

"(B) the day on which notice and demand for immediate payment is given under the last sentence of section 6331(a)."

(b) REPEAL OF CERTAIN REDUCTION IN FAILURE TO PAY PENALTY.—Paragraph (1) of section 6651(c) is amended to read as follows:

"(1) ADDITIONS UNDER MORE THAN ONE PARAGRAPH.—With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month (or fraction thereof) to which an addition to tax applies under both paragraphs (1) and (2). In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts assessed after December 31, 1986, with respect to failures to pay which begin before, on, or after such date.

(d) REPORT ON COST OF COLLECTION CHARGE.—Not later than March 1, 1987, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the cost of collection charge proposal described in The White House, The President's Tax Proposals to the Congress for Fairness, Growth, and Simplification, May 1985, with specific recommendations regarding the implementation of such proposal.

SEC. 503. AMENDMENTS TO PENALTY FOR NEGLIGENCE AND FRAUD.

(a) GENERAL RULE.—Section 6653 (relating to failure to pay tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) NEGLIGENCE.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) is due to negligence or disregard of rules or regulations, there shall be added to the tax an amount equal to the sum of—

"(A) 10 percent of the portion of the underpayment which is attributable to such negligence or disregard, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last date prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).

"(2) UNDERPAYMENT TAKEN INTO ACCOUNT REDUCED BY PORTION ATTRIBUTABLE TO FRAUD.—There shall not be taken into account under this subsection any portion of an underpayment attributable to fraud with respect to

which a penalty is imposed under subsection (b).

"(3) NEGLIGENCE.—For purposes of this subsection, the term 'negligence' includes any failure to make a reasonable attempt to comply with the provisions of this title, and the term 'disregard' includes any careless, reckless, or intentional disregard.

"(b) FRAUD.—

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to the sum of—

"(A) 75 percent of the portion of the underpayment which is attributable to fraud, and

"(B) an amount equal to 50 percent of the interest payable under section 6601 with respect to such portion for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax or, if earlier, the date of the payment of the tax.

"(2) DETERMINATION OF PORTION ATTRIBUTABLE TO FRAUD.—If the Secretary establishes that any portion of an underpayment is attributable to fraud, the entire underpayment shall be treated as attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes is not attributable to fraud.

"(3) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this subsection shall not apply with respect to a spouse unless some part of the underpayment is due to the fraud of such spouse."

(b) SPECIAL RULE FOR INTEREST OR DIVIDEND PAYMENTS EXTENDED TO OTHER AMOUNTS SHOWN ON PAYEE STATEMENTS.—Subsection (g) of section 6653 (relating to special rule in the case of interest or dividend payments) is amended to read as follows:

"(g) SPECIAL RULE FOR AMOUNTS SHOWN ON PAYEE STATEMENTS.—If—

"(1) any amount is shown on a payee statement (as defined in section 6724(d)(2)), and

"(2) the payee (or other person with respect to whom the return is made) fails to properly show such amount on his return,

any portion of an underpayment attributable to such failure shall be treated, for purposes of subsection (a), as due to negligence in the absence of clear and convincing evidence to the contrary."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6222 is amended by striking out "intentional or negligent".

(2) Subsection (d) of section 6653 is amended by striking out "same underpayment" and inserting in lieu thereof "portion of the underpayment which is attributable to fraud".

(3) Subsection (f) of section 6653 is amended by striking out "or intentional disregard of rules and regulations (but without intent to defraud)".

(d) CHANGE IN SECTION HEADING.—

(1) The heading for section 6653 (relating to failure to pay tax) is amended to read as follows:

"SEC. 6653. ADDITIONS TO TAX FOR NEGLIGENCE AND FRAUD."

(2) The item relating to section 6653 in the table of sections for subpart A of chapter 68 is amended to read as follows:

"Sec. 6653. Additions to tax for negligence and fraud."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

SEC. 504. INCREASE IN PENALTY FOR SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

(a) IN GENERAL.—Subsection (a) of section 6661 (relating to substantial understatement of liability) is amended by striking out "10 percent" and inserting in lieu thereof "20 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

Subtitle B—Interest Provisions

SEC. 511. DIFFERENTIAL INTEREST RATE.

(a) GENERAL RULE.—Section 6621 (relating to determination of rate of interest) is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) GENERAL RULE.—

"(1) OVERPAYMENT RATE.—The overpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 2 percentage points.

"(2) UNDERPAYMENT RATE.—The underpayment rate established under this section shall be the sum of—

"(A) the short-term Federal rate determined under subsection (b), plus

"(B) 3 percentage points.

"(b) SHORT-TERM FEDERAL RATE.—For purposes of this section—

"(1) GENERAL RULE.—The Secretary shall determine the short-term Federal rate for the first month in each calendar quarter.

"(2) PERIOD DURING WHICH RATE APPLIES.—The Federal short-term rate determined under paragraph (1) for any month shall apply during the first calendar quarter beginning after such month.

"(3) FEDERAL SHORT-TERM RATE.—The Federal short-term rate for any month shall be the Federal short-term rate determined by the Secretary in accordance with section 1274(d). Any such rate shall be rounded to the nearest full percent (or, if a multiple of ½ of 1 percent, such rate shall be increased to the next highest full percent)."

(b) COORDINATION BY REGULATION.—The Secretary of the Treasury or his delegate may issue regulations for a 3-year period from the date of the enactment of this Act to coordinate section 6621 of the Internal Revenue Code of 1954 (as amended by this section) with section 6601(f) of such Code.

(c) TECHNICAL AMENDMENTS.—

(1) Section 6621 is amended—

(A) by redesignating subsection (d) as subsection (c), and

(B) by striking out "the adjusted rate established under subsection (b)" in subsection (c)(1) (as so redesignated) and inserting in lieu thereof "the underpayment rate established under this section".

(2) Subparagraph (G) of section 47(d)(3) is amended by striking out "determined under section 6621" and inserting in lieu thereof "determined at the underpayment rate established under section 6621".

(3) The last sentence of section 48(d)(6)(C)(ii) (defining at risk percentage) is amended by striking out "the rate" and inserting in lieu thereof "the underpayment rate".

(4) Subparagraph (B) of section 167(q)(2) is amended by striking out "at the rate determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(5) Subparagraph (B) of section 644(a)(2) (as in effect before the amendments made by title VII of this Act) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(6) Subparagraph (A) of section 852(e)(3) is amended by striking out "the annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(7) Paragraph (2) of section 4497(c) is amended by striking out "at rates determined under section 6621" and inserting in lieu thereof "at the underpayment rate established under section 6621".

(8) Subsection (e) of section 6214 is amended by striking out "section 6621(d)(4)" and inserting in lieu thereof "section 6621(c)(4)".

(9) Paragraph (1) of section 6332(c) is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(10) Subsection (c) of section 6343 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(11) Subsection (a) of section 6601 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(12) Section 6602 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(13) Subsection (a) of section 6611 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(14) Paragraph (1) of section 6654(a) is amended by striking out "the applicable annual rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(15) Paragraph (1) of section 6655(a) is amended by striking out "the rate established under section 6621" and inserting in lieu thereof "the underpayment rate established under section 6621".

(16) Subsection (g) of section 7426 is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(17) Section 1961(c)(1) of title 28, United States Code, is amended by striking out "a rate established under section 6621" and inserting in lieu thereof "the underpayment rate or overpayment rate (whichever is appropriate) established under section 6621".

(18) Section 2411 of title 28, United States Code, is amended by striking out "an annual rate established under section 6621" and inserting in lieu thereof "the overpayment rate established under section 6621".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply for purposes of determining interest for periods after December 31, 1986.

SEC. 512. INTEREST ON ACCUMULATED EARNINGS TAX TO ACCRUE BEGINNING ON DATE RETURN IS DUE.

(a) IN GENERAL.—Subsection (b) of section 6601 (relating to last date prescribed for payment) is amended by redesignating paragraph (4) as paragraph (5) and by inserting

after paragraph (3) the following new paragraph:

"(4) ACCUMULATED EARNINGS TAX.—In the case of the tax imposed by section 531 for any taxable year, the last date prescribed for payment shall be deemed to be the due date (without regard to extensions) for the return of tax imposed by subtitle A for such taxable year."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

Subtitle C—Information Reporting Provisions

SEC. 521. REQUIREMENT OF REPORTING FOR REAL ESTATE TRANSACTIONS.

(a) GENERAL RULE.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(e) RETURN REQUIRED IN THE CASE OF REAL ESTATE TRANSACTIONS.—

"(1) IN GENERAL.—In the case of a real estate transaction, the real estate broker shall file a return under subsection (a) and a statement under subsection (b) with respect to such transaction.

"(2) REAL ESTATE BROKER.—For purposes of this subsection, the term 'real estate broker' means any of the following persons involved in a real estate transaction in the following order:

"(A) the title company,

"(B) the mortgage lender,

"(C) the settlement attorney or other person responsible for closing the transaction,

"(D) the seller's broker,

"(E) the buyer's broker, or

"(F) any such other person as designated in regulations prescribed by the Secretary.

Any person treated as a real estate broker under the preceding sentence shall be treated as a broker for purposes of subsection (c)(1)."

(b) BACKUP WITHHOLDING REQUIREMENTS.—Paragraph (5) of section 3406(h) (relating to other definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(D) REAL ESTATE BROKER NOT TREATED AS A BROKER.—Except as provided by regulations, such term shall not include any real estate broker (as defined in section 6045(e)(2))".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to real estate transactions closing after December 31, 1986.

SEC. 522. INFORMATION REPORTING ON PERSONS RECEIVING CONTRACTS FROM CERTAIN FEDERAL AGENCIES.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050M. RETURNS RELATING TO PERSONS RECEIVING CONTRACTS FROM FEDERAL EXECUTIVE AGENCIES.

"(a) REQUIREMENT OF REPORTING.—The head of every Federal executive agency which enters into any contract shall make a return (at such time and in such form as the Secretary may by regulations prescribe) setting forth—

"(1) the name, address, and TIN of each person with which such agency entered into a contract during the calendar year, and

"(2) such other information as the Secretary may require.

"(b) FEDERAL EXECUTIVE AGENCY.—For purposes of this section, the term 'Federal executive agency' means—

"(1) any Executive agency (as defined in section 105 of title 5, United States Code) other than the General Accounting Office,

"(2) any military department (as defined in section 102 of such title), and

"(3) the United States Postal Service and the Postal Rate Commission.

"(c) AUTHORITY TO EXTEND REPORTING TO LICENSES AND SUBCONTRACTS.—To the extent provided in regulations, this section also shall apply to—

"(1) licenses granted by Federal executive agencies, and

"(2) subcontracts under contracts to which subsection (a) applies.

"(d) AUTHORITY TO PRESCRIBE MINIMUM AMOUNTS.—This section shall not apply to contracts or licenses in any class which are below a minimum amount or value which may be prescribed by the Secretary by regulations for such class."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following new item:

"Sec. 6050M. Returns relating to persons receiving contracts from Federal executive agencies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into before, on, or after January 1, 1987.

SEC. 523. RETURNS REGARDING PAYMENTS OF ROYALTIES.

(a) IN GENERAL.—Subpart B of part 3 of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050N. RETURNS REGARDING PAYMENTS OF ROYALTIES.

"(a) REQUIREMENT OF REPORTING.—Every person—

"(1) who makes payments of royalties aggregating $10 or more to any other person during any calendar year, or

"(2) who receives payments of royalties as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the royalties so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished (either in person or in a statement mailing by first-class mail) to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made, shall include adequate notice in such statement mailing that such statement is enclosed, and shall be in such form as the Secretary may prescribe by regulations."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 3406(b) (defining reportable payment, etc. with respect to backup withholding) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) section 6050N (relating to payments of royalties)."

(2) Subparagraph (A) of section 6011(e)(2) (relating to certain returns must be filed on magnetic media) is amended by striking out "and 6049(a)" and inserting in lieu thereof "6049(a), and 6050N(a)".

(3) Subsection (a) of section 6041 (relating to information at source) is amended by striking out "or 6049(a)" and inserting in lieu thereof "6049(a), or 6050N(a)".

(4) Section 6676 (relating to failure to supply identifying numbers) is amended—

(A) by striking out "or 6049" in subsection (a)(3) and inserting in lieu thereof "6049, or 6050N",

(B) by striking out "or 6049" in subsection (b)(1)(A) and inserting in lieu thereof "6049, or 6050N", and

(C) by striking out "AND DIVIDEND" in the heading for subsection (b) and inserting in lieu thereof ", DIVIDENDS, AND ROYALTIES".

(c) CLERICAL AMENDMENT.—The table of sections of subpart B of part 3 of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050N. Returns regarding payments of royalties."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made after December 31, 1986.

Subtitle D—Provisions Relating to Tax Shelters

SEC. 531. TAX SHELTER USER FEE.

(a) IN GENERAL.—Subchapter A of chapter 68 (relating to addition to the tax, additional amounts, and assessable penalties) is amended by redesignating section 6662 as section 6663 and by inserting after section 6661 the following new section:

"SEC. 6662. TAX SHELTER USER FEE.

"(a) ADDITION TO TAX.—With respect to each tax shelter, if any person in filing a return with respect to tax imposed by subtitle A for any taxable year claims a substantial cumulative net loss for such taxable year, there shall be added to the tax an amount equal to the tax shelter user fee.

"(b) SUBSTANTIAL CUMULATIVE NET LOSS.—

"(1) IN GENERAL.—For purposes of this section, with respect to any taxable year, the cumulative net loss of any person is substantial if such loss when added to 300 percent of such person's cumulative tax credits exceeds the investment base plus income received from such shelter as of the close of such year.

"(2) DEFINITIONS.—For purposes of this subsection, with respect to each tax shelter—

"(A) CUMULATIVE NET LOSS.—The term 'cumulative net loss' means the aggregate amount of net losses attributable to such shelter for all periods up to (and including) the close of the taxable year.

"(B) CUMULATIVE TAX CREDITS.—The term 'cumulative tax credits' means the aggregate amount of credits allowable under subtitle A which are attributable to such shelter for periods up to (and including) the close of the taxable year.

"(C) INVESTMENT BASE.—The term 'investment base' has the meaning given such term by section 6111(c)(3).

"(c) TAX SHELTER USER FEE.—

"(1) IN GENERAL.—The tax shelter user fee shall be an amount equal to the sum of—

"(A) 1 percent of the net losses, plus,

"(B) 3 percent of the credits,

claimed by the taxpayer on his return for any taxable year which are attributable to a tax shelter described in subsection (a).

"(2) FAILURE TO PAY FEE WITH FILING OF RETURN.—In the case of failure to pay the tax shelter user fee upon the filing of the return, the tax shelter user fee shall be equal to 200 percent of the amount determined under paragraph (1).

"(d) TAX SHELTER.—For purposes of this section, the term 'tax shelter' has the meaning given such term by section 461(i)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6662 and inserting in lieu thereof the following new items:

"Sec. 6662. Tax shelter user fee.

"Sec. 6663. Applicable rules."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

SEC. 532. MODIFICATION OF TAX SHELTER RATIO TEST FOR REGISTRATION OF TAX SHELTERS.

(a) IN GENERAL.—Subparagraph (A) of section 6111(c)(2) (defining tax shelter ratio) is amended by striking out "200 percent" and inserting in lieu thereof "375 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1987.

SEC. 533. INCREASED PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.

(a) IN GENERAL.—Paragraph (2) of section 6707(a) (relating to penalty for failure to register tax shelters) is amended to read as follows:

"(2) AMOUNT OF PENALTY.—The penalty imposed under paragraph (1) with respect to any tax shelter shall be an amount equal to the greater of—

"(A) 1 percent of the aggregate amount invested in such tax shelter, or

"(B) $10,000."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 534. PENALTY FOR FAILURE TO INCLUDE TAX SHELTER IDENTIFICATION NUMBER ON RETURN INCREASED TO $250.

(a) IN GENERAL.—Paragraph (2) of section 6707(b) (relating to penalty for failure to furnish tax shelter identification number) is amended by striking out "$50" and inserting in lieu thereof "$250".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 535. INCREASED PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended—

(1) by striking out "$50" and inserting in lieu thereof "$100", and

(2) by striking out "$50,000" and inserting in lieu thereof "$100,000".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 536. INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO TAX MOTIVATED TRANSACTIONS INCREASED.

(a) IN GENERAL.—Paragraph (1) of section 6621(c) (relating to interest on substantial underpayments attributable to tax motivated transactions increased), as redesignated by section 511(c)(1)(A) of this Act, is amended by striking out "120 percent" and inserting in lieu thereof "200 percent".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to interest accruing after December 31, 1986.

Subtitle E—Provisions Regarding Judicial Proceedings

SEC. 541. LIMITATIONS ON AWARDING OF COURT COSTS AND CERTAIN FEES MODIFIED.

(a) MAXIMUM DOLLAR LIMITATION REMOVED.—Subsection (b) of section 7430 (relating to awarding of court costs and certain fees) is amended by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(b) AWARDING OF COURT COSTS AND CERTAIN FEES DENIED IF UNITED STATES PROVES ITS POSITION IS SUBSTANTIALLY JUSTIFIED OR SPECIAL CIRCUMSTANCES EXIST OR IF PREVAILING PARTY PROTRACTS PROCEEDINGS.—

(1) IN GENERAL.—Section 7430(b) (relating to limitations to awarding of court costs and certain fees) is amended by adding at the end thereof the following new paragraphs:

"(4) POSITION OF UNITED STATES SUBSTANTIALLY JUSTIFIED OR SPECIAL CIRCUMSTANCES EXIST.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) if the court determines that—

"(A) the position of the United States was substantially justified, or

"(B) special circumstances exist which would make such a judgment unjust.

"(5) COSTS DENIED WHERE PARTY PREVAILING PROTRACTS PROCEEDINGS.—No award for reasonable litigation costs may be made under subsection (a) with respect to any portion of the civil proceeding during which the prevailing party has unreasonably protracted such proceeding."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 7430(c)(2) (defining prevailing party) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following new clauses:

"(i) has substantially prevailed with respect to the amount in controversy, or

"(ii) has substantially prevailed with respect to the most significant issue or set of issues presented."

(c) ADDITIONAL LIMITATIONS ON FEES OF EXPERT WITNESSES AND ATTORNEYS.—Subparagraph (A) of section 7430(c)(1) (defining reasonable litigation costs) is amended to read as follows:

"(A) IN GENERAL.—The term 'reasonable litigation costs' includes—

"(i) reasonable court costs, and

"(ii) based upon prevailing market rates for the kind and quality of services furnished—

"(I) the reasonable expenses of expert witnesses in connection with the civil proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

"(II) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(III) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that such fees shall not be in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for such proceeding, justifies a higher rate."

(d) POSITION OF UNITED STATES INCLUDES ADMINISTRATIVE ACTION.—Section 7430(c) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(4) POSITION OF UNITED STATES.—The term 'position of the United States' includes—

"(A) the position taken by the United States in the civil proceeding, and

"(B) the administrative action or inaction by the United States upon which such proceeding is based."

(e) TECHNICAL AMENDMENT.—Subsection (a) of section 7430 is amended by inserting "(payable in the case of the Tax Court in the same manner as such an award by a district court)" after "a judgment".

(f) PROVISIONS MADE PERMANENT.—Section 7430 is amended by striking out subsection (f).

(g) EFFECTIVE DATES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts paid after September 30, 1986, in civil actions or proceedings commenced after December 31, 1985.

(2) SUBSECTION (e).—The amendment made by subsection (e) shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 542. TAX COURT PRACTICE FEE.

(a) IN GENERAL.—Part III of subchapter C of chapter 76 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7475. PRACTICE FEE.

"(a) IN GENERAL.—The Tax Court is authorized to impose a periodic registration fee on practitioners admitted to practice before such Court. The frequency and amount of such fee shall be determined by the Tax Court, except that such amount may not exceed $30 per year.

"(b) USE OF FEES.—The fees described in subsection (a) shall be available to the Tax Court to employ independent counsel to pursue disciplinary matters."

(b) CONFORMING AMENDMENTS.—

(1) The second sentence of section 7472 (relating to expenditures) is amended by striking out "All" and inserting in lieu thereof "Except as provided in section 7475, all".

(2) Section 7473 (relating to disposition of fees) is amended by striking out "All" and inserting in lieu thereof "Except as provided in section 7475, all".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1987.

SEC. 543. CLARIFICATION OF JURISDICTION OVER ADDITION TO TAX FOR FAILURE TO PAY AMOUNT OF TAX SHOWN ON RETURN.

(a) IN GENERAL.—Subsection (a) of section 6214 (relating to determinations by Tax Court) is amended by striking out "addition to the tax" and inserting in lieu thereof "any addition to the tax".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any action or proceeding in the Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1954) before the date of the enactment of this Act.

SEC. 544. AUTHORITY TO REQUIRE ATTENDANCE OF UNITED STATES MARSHALS AT TAX COURT SESSIONS.

(a) IN GENERAL.—Subsection (e) of section 7456 (relating to incidental powers) is amended by adding at the end thereof the following new sentence: "The United States

marshal for any district in which the Tax Court is sitting shall, when requested by the chief judge of the Tax Court, attend any session of the Tax Court in such district."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 545. CHANGES IN CERTAIN PROVISIONS RELATING TO SPECIAL TRIAL JUDGES.

(a) IN GENERAL.—Part I of subchapter C of chapter 76 (relating to judicial proceedings) is amended by inserting after section 7443 the following new section:

"SEC. 7443A. SPECIAL TRIAL JUDGES.

"(a) APPOINTMENT.—The chief judge may, from time to time, appoint special trial judges who shall proceed under such rules and regulations as may be promulgated by the Tax Court.

"(b) PROCEEDINGS WHICH MAY BE ASSIGNED TO SPECIAL TRIAL JUDGES.—The chief judge may assign—

"(1) any declaratory judgment proceeding,

"(2) any proceeding under section 7463,

"(3) any proceeding where neither the amount of the deficiency placed in dispute (within the meaning of section 7463) nor the amount of any claimed overpayment exceeds $10,000, and

"(4) any other proceeding which the chief judge may designate,

to be heard by the special trial judges of the court.

"(c) AUTHORITY TO MAKE COURT DECISION.—The court may authorize a special trial judge to make the decision of the court with respect to any proceeding described in paragraph (1), (2), or (3) of subsection (b), subject to such conditions and review as the court may provide.

"(d) SALARY.—Each special trial judge shall receive salary—

"(1) at a rate equal to 90 percent of the rate for judges of the Tax Court, and

"(2) in the same installments as such judges.

"(e) EXPENSES FOR TRAVEL AND SUBSISTENCE.—Subsection (d) of section 7443 shall apply to special trial judges subject to such rules and regulations as may be promulgated by the Tax Court."

(b) TECHNICAL AMENDMENTS.—

(1) Section 7456 (relating to administration of oaths and procurement of testimony) is amended by striking out subsections (c) and (d) and by redesignating subsection (e) as subsection (c).

(2) Subsection (c) of section 7471 is amended by striking out "section 7456(c)" and inserting in lieu thereof "subsections (d) and (e) of section 7443A".

(3) The table of sections for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443 the following new item:

"Sec. 7443A. Special trial judges."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) SALARY.—Subsection (d) of section 7443A of the Internal Revenue Code of 1954 (as added by this section) shall take effect on the 1st day of the 1st month beginning after the date of the enactment of this Act.

(3) NEW APPOINTMENTS NOT REQUIRED.—Nothing in the amendments made by this section shall be construed to require the reappointment of any individual serving as a special trial judge of the Tax Court on the day before the date of the enactment of this Act.

SEC. 546. EFFECT ON RETIRED PAY BY ELECTION TO PRACTICE LAW, ETC. AFTER RETIREMENT.

(a) CHANGE IN AGE AND SERVICE REQUIREMENTS FOR RETIREMENT.—Paragraph (2) of section 7447(b) (relating to retirement) is amended to read as follows:

"(2) Any judge who meets the age and service requirements set forth in the following table may retire:

"The judge has attained age:	And the years of service as a judge are at least:
65	15
66	14
67	13
68	12
69	11
70	10."

(b) EFFECT ON RETIRED PAY BY ELECTION TO PRACTICE LAW, ETC., AFTER RETIREMENT.—Subsection (f) of section 7447 (relating to individuals receiving retired pay to be available for recall) is amended to read as follows:

"(f) RETIRED PAY AFFECTED IN CERTAIN CASES.—In the case of an individual for whom an election to receive retired pay under subsection (d) is in effect—

"(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—If such individual during any calendar year fails to perform judicial duties required of him by subsection (c), such individual shall forfeit all rights to retired pay under subsection (d) for the 1-year period which begins on the 1st day on which he so fails to perform such duties.

"(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—If such individual performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation or in the field of the renegotiation of Federal contracts for his client, his employer, or any of his employer's clients, such individual shall forfeit all rights to retired pay under subsection (d) for all periods beginning on or after the 1st day on which he engages in any such activity. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

"(3) SUSPENSION OF RETIRED PAY DURING PERIOD OF COMPENSATED GOVERNMENT SERVICE.—If such individual accepts compensation for civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (c)), such individual shall forfeit all rights to retired pay under subsection (d) for the period for which such compensation is received.

"(4) ELECTION TO RECEIVE RETIRED PAY; EFFECT.—

"(A) IN GENERAL.—If any individual makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and subsection (c)) shall not apply to such individual beginning on the date such election takes effect, and

"(ii) the retired pay under subsection (d) payable to such individual for periods beginning on or after the date such election takes effect shall be equal to the retired pay to which such individual would be entitled without regard to this clause at the time of such election.

"(B) ELECTION.—An election under this paragraph—

"(i) may be made by an individual only if such individual meets the age and service requirements for retirement under paragraph (2) of subsection (b),

"(ii) may be made only during the period during which the individual may make an election to receive retired pay or while the individual is receiving retired pay, and

"(iii) shall be made in the same manner as the election to receive retired pay.

Such an election, once it takes effect, shall be irrevocable.

"(C) WHEN ELECTION TAKES EFFECT.—Any election under this paragraph shall take effect on the 1st day of the 1st month following the month in which the election is made."

(c) OTHER COORDINATION WITH SURVIVOR ANNUITY PROVISIONS.—

(1) HIGH 3 YEARS OF SALARY MUST BE DURING PERIOD WHEN ELECTION TO RECEIVE RETIRED PAY IS NOT IN EFFECT.—Subsection (m) of section 7448 (relating to computation of annuities) is amended by adding at the end thereof the following new sentence: "In determining the period of 3 consecutive years referred to in the preceding sentence, there may not be taken into account any period for which an election under section 7447(f)(4) is in effect."

(2) NO CREDIT FOR SERVICE AFTER ELECTION TO RECEIVE RETIRED PAY.—Subsection (g) of section 7448 (relating to termination of service) is amended by adding at the end thereof the following new sentence: "Any individual who has made an election under section 7447(f)(4) and an election under subsection (b) of this section shall continue to have withheld from the retired pay the deductions specified in subsection (c) but shall not be entitled to any further credit under subsection (d) or (n) of this section beginning on the day the election under section 7447(f)(4) takes effect."

(d) CLERICAL AMENDMENTS.—

(1) Subsection (a) of section 7447 (relating to definitions) is amended by striking out paragraph (2) and by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

(2) Subsection (e) of section 7447 is amended by striking out "Civil Service Commission" each place it appears and inserting in lieu thereof "Office of Personnel Management".

(3) Subparagraph (C) of section 7447(g)(2) (relating to coordination with civil service retirement) is amended by striking out "Civil Service Commission" and inserting in lieu thereof "Office of Personnel Management".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) FORFEITURE OF RETIRED PAY.—The amendments made by this section shall not apply to any individual who, before the date of the enactment of this Act, forfeited his rights to retired pay under section 7447(d) of the Internal Revenue Code of 1954 by reason of the 1st sentence of section 7447(f) of such Code (as in effect on the day before such date).

Subtitle F—Tax Administration Provisions

SEC. 551. AUTHORITY TO RESCIND NOTICE OF DEFICIENCY WITH TAXPAYER'S CONSENT.

(a) IN GENERAL.—Section 6212 (relating to notice of deficiency) is amended by adding at the end thereof the following new subsection:

"(d) AUTHORITY TO RESCIND NOTICE OF DEFICIENCY WITH TAXPAYER'S CONSENT.—The

Secretary may, with the consent of the taxpayer, rescind any notice of deficiency mailed to the taxpayer. Any notice so rescinded shall not be treated as a notice of deficiency for purposes of subsection (c)(1) (relating to further deficiency letters restricted), section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court), and section 6512(a) (relating to limitations in case of petition to Tax Court), and the taxpayer shall have no right to file a petition with the Tax Court based on such notice."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to notices of deficiency issued on or after the date of the enactment of this Act.

SEC. 552. AUTHORITY TO ABATE INTEREST DUE TO ERRORS OR DELAYS BY THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6404 (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(e) ASSESSMENTS OF INTEREST ATTRIBUTABLE TO ERRORS AND DELAYS BY INTERNAL REVENUE SERVICE.—

"(1) IN GENERAL.—In the case of any assessment of interest on—

"(A) any deficiency attributable in whole or in part to any error or delay by an officer or employee of the Internal Revenue Service (acting in his official capacity) in performing a ministerial act, or

"(B) any payment of any tax described in section 6212(a) to the extent that any delay in such payment is attributable to such an officer or employee being dilatory in performing a ministerial act,

the Secretary may abate the assessment of all or any part of such interest for any period. For purposes of the preceding sentence, an error or delay shall be taken into account only if no significant aspect of such error or delay can be attributed to the taxpayer involved, and after the Internal Revenue Service has contacted the taxpayer in writing with respect to such deficiency or payment.

"(2) INTEREST ABATED WITH RESPECT TO ERRONEOUS REFUND CHECK.—The Secretary shall abate the assessment of all interest on any erroneous refund under section 6602 until the date demand for repayment is made, unless—

"(A) the taxpayer (or a related party) has in any way caused such erroneous refund, or

"(B) such erroneous refund exceeds $1,000,000."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after December 31, 1981.

SEC. 553. SUSPENSION OF COMPOUNDING WHERE INTEREST ON DEFICIENCY SUSPENDED.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to suspension of interest in certain income, estate, gift, and certain excise taxes cases) is amended by inserting before the period at the end thereof "and interest shall not be imposed during such period on any interest with respect to such deficiency for any prior period".

(b) EFFECTIVE DATE.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to interest accruing after December 31, 1982.

(2) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of the amendment made by this section is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of the amendment made by this section) may, nevertheless, be made or allowed if claim therefore is filed before the close of such 1-year period.

SEC. 554. CERTAIN SERVICE-CONNECTED DISABILITY PAYMENTS EXEMPT FROM LEVY.

(a) EXEMPTION FROM LEVY.—Subsection (a) of section 6334 (relating to the enumeration of property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(10) CERTAIN SERVICE-CONNECTED DISABILITY PAYMENTS.—Any amount payable to an individual as a service-connected (within the meaning of section 101(16) of title 38, United States Code) disability benefit under—

"(A) subchapter II, IV, or VI of chapter 11 of such title 38,

"(B) subchapter I, II, or III of chapter 19 of such title 38, or

"(C) chapter 21, 31, 32, 34, 35, 37, or 39 of such title 38."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts payable after December 31, 1986.

SEC. 555. CERTAIN RECORDKEEPING REQUIREMENTS.

(a) IN GENERAL.—For purposes of sections 132 and 274 of the Internal Revenue Code of 1954, use of an automobile by a special agent of the Internal Revenue Service shall be treated in the same manner as use of an automobile by an officer of any other law enforcement agency.

(b) EFFECTIVE DATE.—The provisions of this section shall take effect on January 1, 1985.

SEC. 556. SUSPENSION OF STATUTE OF LIMITATIONS IF THIRD-PARTY RECORDS NOT PRODUCED WITHIN 6 MONTHS AFTER SERVICE OF SUMMONS.

(a) IN GENERAL.—Subsection (e) of section 7609 (relating to special procedures for third-party summonses) is amended to read as follows:

"(e) SUSPENSION OF STATUTE OF LIMITATIONS.—

"(1) SUBSECTION (B) ACTION.—If any person takes any action as provided in subsection (b) and such person is the person with respect to whose liability the summons is issued (or is the agent, nominee, or other person acting under the direction or control of such person), then the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of such summons is pending.

"(2) SUSPENSION AFTER 6 MONTHS OF SERVICE OF SUMMONS.—In the absence of any action as provided in subsection (b) or the resolution of the third-party recordkeeper's response to the summons described in subsection (c), the running of any period of limitations under section 6501 or under section 6531 with respect to any person with respect to whose liability the summons is issued shall be suspended for the period—

"(A) beginning on the date which is 6 months after the service of such summons, and

"(B) ending with the final resolution of such response."

(b) NOTICE OF SUSPENSION IN THE CASE OF A JOHN DOE SUMMONS.—Section 7609(i) (relating to duty of third-party recordkeeper) is amended by adding at the end thereof the following new paragraph:

"(4) NOTICE OF SUSPENSION OF STATUTE OF LIMITATIONS IN THE CASE OF A JOHN DOE SUMMONS.—In the case of a summons described in subsection (f) with respect to which any period of limitations has been suspended under subsection (e)(2), the third-party recordkeeper shall provide notice of such suspension to any person described in subsection (f)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 557. DISCLOSURE OF RETURNS AND RETURN INFORMATION TO CERTAIN CITIES.

(a) IN GENERAL.—Subsection (b) of section 6103 (relating to definitions for confidentiality and disclosure of returns and return information) is amended—

(1) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) STATE.—The term 'State' means—

"(A) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and

"(B) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p) any municipality—

"(i) with a population in excess of 2,000,000 (as determined under the most recent decennial United States census data available),

"(ii) which imposes a tax on income or wages, and

"(iii) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.", and

(2) by adding at the end thereof the following new paragraph:

"(10) CHIEF EXECUTIVE OFFICER.—The term 'chief executive officer' means, with respect to any municipality, any elected official and the chief official (even if not elected) of such municipality."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 558. TAX ADMINISTRATION TRUST FUND ESTABLISHED.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to the Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9505. TAX ADMINISTRATION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Tax Administration Trust Fund', consisting of such amounts as may be—

"(1) appropriated to the Tax Administration Trust Fund as provided in this section, and

"(2) credited to the Tax Administration Trust Fund as provided in section 9602(b).

"(b) TRANSFERS TO TAX ADMINISTRATION TRUST FUND.—There are hereby appropriated to the Tax Administration Trust Fund amounts equivalent to—

"(1) all additions to tax, penalties, and interest received in the Treasury under this title (not otherwise dedicated to a trust fund under this chapter) after September 30, 1986, and before October 1, 1991, and

"(2) all amounts appropriated to the Internal Revenue Service but remaining unobligated at the end of the fiscal year ending September 30, 1986.

"(c) EXPENDITURES FROM TAX ADMINISTRATION TRUST FUND.—

"(1) TAX ADMINISTRATION.—Amounts in the Tax Administration Trust Fund shall be available for each fiscal year beginning on October 1 for the operations of the Internal Revenue Service in an amount equal to the sum of—

"(A) with respect to specific activities, the sum of the amounts (in millions of dollars) set forth in the following table:

"In the case of:	The amount is for fiscal year:				
	1987	1988	1989	1990	1991
(i) Salaries and expenses.	$91	$92	$93	$95	$96
(ii) Processing tax returns.	1440	1576	1667	1678	1690
(iii) Examinations and appeals.	1616	1733	1862	1889	1915
(iv) Investigation, collection, and taxpayer service.	1193	1246	1302	1316	1332,

plus

"(B) such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years identified in the table in subparagraph (A).

"(2) TRANSFERS FROM TAX ADMINISTRATION TRUST FUND UPON TERMINATION OF TRUST FUND.—The Secretary shall pay into the general fund of the Treasury amounts remaining in the Tax Administration Trust Fund after September 30, 1991.

"(d) AUTHORITY TO BORROW.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Tax Administration Trust Fund, as repayable advances, such sums not in excess of $4,000,000,000, as may be necessary to carry out the purposes of such Fund.

"(2) REPAYMENT OF ADVANCES.—

"(A) IN GENERAL.—Advances made pursuant to this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Tax Administration Trust Fund.

"(B) FINAL REPAYMENT.—No advance shall be made to the Tax Administration Trust Fund after September 30, 1987, and all advances to such Fund shall be repaid on or before such date.

"(C) RATE OF INTEREST.—Interest on advances made pursuant to this subsection shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually."

(b) CONFORMING AMENDMENT.—Section 7701 (relating to definitions), as amended by section 201(d), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) TREATMENT AS TAX.—For purposes of section 9505, any addition to tax, penalty, or interest under this title shall be treated as a tax."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9505. Tax Administration Trust Fund."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1986.

SEC. 559. LIMITATION ON NET OPERATING LOSS CARRYBACKS.

(a) IN GENERAL.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) LIMITATION ON NET OPERATING LOSS CARRYBACKS.—For purposes of this section, with respect to any corporation, any net operating loss carryback shall reduce such corporation's income tax liability with respect to any carryback year only to the extent such carryback does not exceed an amount equal to the product of—

"(1) the amount of such carryback, and

"(2) the highest rate of tax prescribed under section 11 in the taxable year to which the net operating loss giving rise to such carryback arose: Provided, however, That the number used as such highest rate of tax shall be adjusted, under regulations, so that the revenues generated by this section shall not exceed $200 million during the period of fiscal years 1987-1991."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after December 31, 1986.

Subtitle G—Miscellaneous Provisions

SEC. 561. CURRENT YEAR LIABILITY TEST INCREASED FROM 80 TO 90 PERCENT FOR ESTIMATED TAX PAYMENTS BY INDIVIDUALS.

(a) IN GENERAL.—Clause (i) of section 6654(d)(1)(B) (defining required annual payment) is amended by striking out "80 percent" each place it appears and inserting in lieu thereof "90 percent".

(b) TECHNICAL AMENDMENTS.—

(1) The table contained in clause (ii) of section 6654(d)(2)(C) (defining applicable percentage) is amended—

(A) by striking out "20" and inserting in lieu thereof "22.5",

(B) by striking out "40" and inserting in lieu thereof "45",

(C) by striking out "60" and inserting in lieu thereof "67.5", and

(D) by striking out "80" and inserting in lieu thereof "90".

(2) Subparagraph (C) of section 6654(i)(1) (relating to special rules for farmers and fishermen) is amended by striking out "80 percent" and inserting in lieu thereof "90 percent".

(3) The table contained in subparagraph (B) of section 6654(j)(3) (relating to special rules for nonresident aliens) is amended—

(A) by striking out "40" and inserting in lieu thereof "45",

(B) by striking out "60" and inserting in lieu thereof "67.5", and

(C) by striking out "80" and inserting in lieu thereof "90".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 562. WITHHOLDING ALLOWANCES TO REFLECT NEW RATE SCHEDULES.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall modify the withholding schedules under section 3402 of the Internal Revenue Code of 1954 to better approximate actual tax liability under the amendments made by this Act.

(b) CERTAIN DECREASES IN WITHHOLDING NOT PERMITTED.—Subsection (i) of section 3402 is amended by striking out "or decreases".

(c) EMPLOYER'S RESPONSIBILITY.—If an employee has not filed a revised withholding allowance certificate before January 1, 1988, the employer shall withhold income taxes from the employee's wages—

(1) as if the employee claimed 1 withholding allowance, if the employee checked the "single" box on the employee's previous withholding allowance certificate, or

(2) as if the employee claimed 2 withholding allowances, if the employee checked the "married" box on the employee's previous withholding allowance certificate.

SEC. 563. REPORT ON RETURN-FREE SYSTEM.

(a) REPORT.—The Secretary of the Treasury or his delegate shall prepare a report on a return-free system for the Federal income tax of individuals. Such report shall include—

(1) the identification of classes of individuals who would be permitted to use a return-free system,

(2) how such a system would be phased in,

(3) what additional resources the Internal Revenue Service would need to carry out such a system, and

(4) the types of changes to the Internal Revenue Code of 1954 which would inhibit or enhance the use of such a system.

(b) DUE DATE.—The report under subsection (a) shall be submitted, not later than 6 months after the date of the enactment of this Act, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 564. PRIVATE FOUNDATIONS SUBJECT TO ESTIMATED PAYMENT OF CERTAIN EXCISE TAXES.

(a) IN GENERAL.—Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by inserting at the end thereof the following new subsection:

"(h) CERTAIN PRIVATE FOUNDATIONS.—With respect to any private foundation subject to the excise tax imposed by section 4940, this section and section 6655 shall apply, as provided by regulation, in a manner consistent with the provisions of such sections."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 565. TAX-EXEMPT ORGANIZATIONS WITH UNRELATED BUSINESS INCOME SUBJECT TO CORPORATE ESTIMATED TAX PAYMENT RULES.

(a) IN GENERAL.—Section 6154 (relating to installment payments of estimated income tax by corporations) is amended by inserting at the end thereof the following new subsection:

"(h) CERTAIN TAX-EXEMPT ORGANIZATIONS.—This section and section 6655 shall apply to any organization subject to the tax imposed by section 511, and for purposes of this section and section 6655, such tax shall be treated as a tax imposed by section 11."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 566. TINS REQUIRED FOR DEPENDENTS CLAIMED ON TAX RETURNS.

(a) IN GENERAL.—Section 6109 (relating to identifying numbers) is amended by adding

at the end thereof the following new subsection:

"(e) FURNISHING NUMBER FOR CERTAIN DEPENDENTS.—Any person making a return in which is claimed a dependent (as defined in section 152) who has attained the age of 5 years shall include in such return such identifying number as may be prescribed for securing proper identification of such dependent."

(b) PENALTY FOR FAILURE TO SUPPLY TIN.—Section 6676 (relating to failure to supply identifying numbers) is amended by adding at the end thereof the following new subsection:

"(e) PENALTY FOR FAILURE TO SUPPLY TIN OF DEPENDENT.—If any person required under section 6109 (e) to include the TIN of any dependent in his return fails to comply with such requirement, such person shall, unless it is shown that such failure is due to reasonable cause and not willful neglect, pay a penalty of $5 for each such failure.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1986.

SEC. 567. APPLICATION OF THE REGULATORY FLEXIBILITY ACT TO THE INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 7805 of the Internal Revenue Code of 1954 (relating to rules and regulations) is amended by adding at the end thereof the following new subsection:

"(e) RULE MAKING.—The provisions of section 553 of title 5, United States Code (without regard to the exception for interpretative rules) shall apply to all rules and regulations prescribed by the Secretary under this section or any other provision of this title."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any rule or regulation prescribed after the date of the enactment of this Act.

Subtitle H—Certain Diesel Fuel Taxes May Be Imposed on Sales to Retailers

SEC. 571. TAX ON SALES TO RETAILER.

(a) IN GENERAL.—Section 4041 (relating to imposition of tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(n) TAX ON DIESEL FUEL FOR HIGHWAY VEHICLE USE MAY BE IMPOSED ON SALE TO RETAILER.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—The tax imposed by subsection (a)(1)—

"(A) shall apply to the sale of diesel fuel to a qualified retailer (and such sale shall be treated as described in subsection (a)(1)(A)), and

"(B) shall not apply to the sale of diesel fuel by such retailer if tax was imposed on such fuel under subparagraph (A).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED RETAILER.—The term 'qualified retailer' means any retailer—

"(i) who elects (under such terms and conditions as may be prescribed by the Secretary) to have paragraph (1) apply to all sales of diesel fuel to such retailer, and

"(ii) who agrees to provide a written notice to each person who sells diesel fuel to such retailer that paragraph (1) applies to all sales of diesel fuel by such person to such retailer.

Such election and notice shall be effective for such period or periods as may be prescribed by the Secretary.

"(B) RETAILER.—The term 'retailer' means any person who sells diesel fuel for use as a fuel in a diesel-powered highway vehicle. Such term does not include any person who sells diesel fuel primarily for resale.

"(C) DIESEL FUEL.—

"(i) IN GENERAL.—The term 'diesel fuel' means any liquid on which tax would be imposed by subsection (a)(1) if sold to a person, and for a use, described in subsection (a)(1)(A).

"(ii) EXCEPTION.—A liquid shall not be treated as diesel fuel for purposes of this subsection if the retailer certifies in writing to the seller of such liquid that such liquid will not be sold for use as a fuel in a diesel-powered highway vehicle.

"(3) FAILURE TO NOTIFY SELLER.—

"(A) IN GENERAL.—If a qualified retailer fails to provide the notice described in paragraph (2)(A)(ii) to any seller of diesel fuel to such retailer—

"(i) paragraph (1) shall not apply to sales of diesel fuel by such seller to such retailer during the period for which such failure continues, and

"(ii) any diesel fuel sold by such seller to such retailer during such period shall be treated as sold by such retailer (in a sale described in subsection (a)(1)(A)) on the date such fuel was sold to such retailer.

"(B) PENALTY.—For penalty for failing to notify seller, see section 6652(j).

"(4) EXEMPTIONS NOT TO APPLY.—

"(A) IN GENERAL.—No exemption from the tax imposed by subsection (a)(1) shall apply to a sale to which paragraph (1) or (3)(A) of this subsection applies.

"(B) CROSS REFERENCE.—

"For provisions allowing a credit or refund for certain sales and uses of fuel, see sections 6416 and 6427."

(b) PENALTY.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by section 501, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) FAILURE TO GIVE WRITTEN NOTICE TO CERTAIN SELLERS OF DIESEL FUEL.—

"(1) IN GENERAL.—If any qualified retailer fails to provide the notice described in section 4041(n)(2)(A)(ii) to any seller of diesel fuel to such retailer, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by such retailer with respect to each sale of diesel fuel to such retailer by such seller to which section 4041(n)(3) applies an amount equal to 5 percent of the tax which would have been imposed by section 4041(a)(1) on such sale had section 4041(n)(1) applied to such sale.

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'qualified retailer' and 'diesel fuel' have the respective meanings given such terms by section 4041(n)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the first calendar quarter beginning more than 60 days after the date of the enactment of this Act.

TITLE VI—CORPORATE PROVISIONS

Subtitle A—Corporate Rate Reductions

SEC. 601. CORPORATE RATE REDUCTIONS.

(a) GENERAL RULE.—Subsection (b) of section 11 is amended to read as follows:

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(1) 15 percent of so much of the taxable income as does not exceed $50,000,

"(2) 25 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000, and

"(3) 33 percent of so much of the taxable income as exceeds $75,000.

In the case of a corporation which has taxable income in excess of $100,000 for any taxable year, the amount of tax determined under the preceding sentence for such taxable year shall be increased by the lesser of (A) 5 percent of such excess, or (B) $11,000."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning on or after July 1, 1987.

(2) CROSS REFERENCE.—

For treatment of taxable years which include July 1, 1987, see section 15 of the Internal Revenue Code of 1954.

Subtitle B—Treatment of Stock and Stock Dividends

SEC. 611. REDUCTION IN DIVIDENDS RECEIVED DEDUCTION.

(a) GENERAL RULE.—The following provisions are each amended by striking out "85 percent" and inserting in lieu thereof "80 percent":

(1) Section 243(a)(1) (relating to dividends received by corporations).

(2) Sections 244 (a)(3) and (b)(2) (relating to dividends received on certain preferred stock).

(3) Section 246(b)(1) (relating to limitation on aggregate amount of deductions).

(4) Section 246A(a)(1) (relating to dividends received deduction reduced where portfolio stock is debt financed).

(5) Subparagraph (B) of section 805(a)(4) (relating to dividends received by insurance company).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to dividends received or accrued after December 31, 1986, in taxable years ending after such date.

(2) AMENDMENT RELATING TO LIMITATION ON DEDUCTIONS.—The amendment made by subsection (a) to section 246(b) of the Internal Revenue Code of 1954 shall apply to taxable years beginning after December 31, 1986.

SEC. 612. REPEAL OF PARTIAL EXCLUSION OF DIVIDENDS RECEIVED BY INDIVIDUALS.

(a) GENERAL RULE.—Section 116 (relating to partial exclusion of dividends received by individuals) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (g) of section 301 is amended by striking out paragraph (4).

(2)(A) Subsection (c) of section 584 is amended to read as follows:

"(c) INCOME OF PARTICIPANTS IN FUND.—Each participant in the common trust fund in computing its taxable income shall include, whether or not distributed and whether or not distributable—

"(1) as part of its gains and losses from sales or exchanges of capital assets held for not more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 6 months,

"(2) as part of its gains and losses from sales or exchanges of capital assets held for more than 6 months, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 6 months, and

"(3) its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d)."

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(B) If the amendments made by section 1001 of the Tax Reform Act of 1984 cease to apply, effective with respect to property to which such amendments do not apply, subsection (c) of section 584 is amended by striking out "6 months" each place it appears and inserting in lieu thereof "1 year".

(3) Section 642 is amended by striking out subsection (j).

(4) Paragraph (7) of section 643(a) is hereby repealed.

(5) Paragraph (5) of section 702(a) is amended to read as follows:

"(5) dividends with respect to which there is a deduction under part VIII of subchapter B,".

(6) Section 854 is amended—

(A) by striking out "section 116 (relating to an exclusion for dividends received by individuals), and" in subsection (a),

(B) in subsection (b)—

(i) by striking out subparagraph (B) of paragraph (1) and redesignating subparagraph (C) as subparagraph (B),

(ii) by striking out "or (B)" in subparagraph (B) (as so redesignated),

(iii) by striking out "the exclusion under section 116 and" in paragraph (2), and

(iv) by amending subparagraph (B) of paragraph (3) to read as follows:

"(B)(i) The term 'aggregate dividends received' includes only dividends received from domestic corporations.

"(ii) For purposes of clause (i), the term 'dividend' shall not include any distribution from—

"(I) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(II) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(iii) In determining the amount of any dividend for purposes of this subparagraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(7) Subsection (c) of section 857 is amended by striking out "section 116 (relating to an exclusion for dividends received by individuals), and".

(8) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 116.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 613. NONDEDUCTIBILITY OF STOCK REDEMPTION EXPENSES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), as amended by section 142(a), is amended by redesignating subsection (l) as subsection (m) and inserting after subsection (k) the following new subsection:

"(l) STOCK REDEMPTION EXPENSES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable under this chapter shall be allowed under this chapter for any amount paid or incurred by a corporation in connection with the redemption of its stock.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) CERTAIN SPECIFIC DEDUCTIONS.—Any—

"(i) deduction allowable under section 163 (relating to interest), or

"(ii) deduction for dividends paid (within the meaning of section 561).

"(B) STOCK OF CERTAIN REGULATED INVESTMENT COMPANIES.—Any amount paid or incurred in connection with the redemption of any stock in a regulated investment company which issues only stock which is redeemable upon the demand of the shareholder."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any amount paid or incurred after February 28, 1986, in taxable years ending after such date.

SEC. 614. REDUCTION IN STOCK BASIS FOR NONTAXED PORTION OF EXTRAORDINARY DIVIDENDS.

(a) IN GENERAL.—Section 1059(a) (relating to corporate shareholder's basis in stock reduced by nontaxed portion of extraordinary dividends) is amended to read as follows:

"(a) GENERAL RULE.—If any corporation receives 1 or more extraordinary dividends with respect to any share of stock—

"(1) REDUCTION IN BASIS.—The basis of such corporation in such stock shall be reduced (but not below zero) by the nontaxed portion of such dividends.

"(2) RECOGNITION UPON SALE OR DISPOSITION IN CERTAIN CASES.—In addition to any gain recognized under this chapter, there shall be treated as gain from the sale or exchange of any stock for the taxable year in which the sale or disposition of such stock occurs an amount equal to the aggregate nontaxed portions of any extraordinary dividends with respect to such stock which did not reduce the basis of such stock by reason of the limitation on reducing basis below zero."

(b) EXTRAORDINARY DIVIDEND MAY BE DETERMINED BY REFERENCE TO FAIR MARKET VALUE.—Section 1059(c) (defining extraordinary dividend) is amended by adding at the end thereof the following new paragraph:

"(4) FAIR MARKET VALUE DETERMINATION.—If the taxpayer establishes to the satisfaction of the Secretary the fair market value of any share of stock as of the day before the ex-dividend date, the taxpayer may elect to apply paragraph (1) by substituting such value for the taxpayer's adjusted basis."

(c) TIME FOR REDUCTION IN BASIS.—

(1) IN GENERAL.—Paragraph (1) of section 1059(d) (relating to time for reduction) is amended to read as follows:

"(1) TIME FOR REDUCTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any reduction in basis under subsection (a)(1) shall occur immediately before any sale or disposition described in subsection (a)(2).

"(B) SPECIAL RULE FOR COMPUTING EXTRAORDINARY DIVIDEND.—In determining a taxpayer's adjusted basis for purposes of subsection (c)(1), any reduction in basis under subsection (a)(1) by reason of a prior distribution which was an extraordinary dividend shall be treated as occurring at the beginning of the ex-dividend date for such distribution."

(2) CONFORMING AMENDMENT.—Section 1059(c)(1) is amended by striking out "(determined without regard to this section)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any dividend declared after March 18, 1986, in taxable years ending after such date.

(2) EXCEPTION.—The amendments made by this section shall not apply to a dividend which is a distribution described in section 54(d)(4) of the Tax Reform Act of 1984.

Subtitle C—Limitation on Net Operating Loss Carryforwards and Excess Credit Carryforwards

SEC. 621. LIMITATION ON NET OPERATING LOSS CARRYFORWARDS.

(a) IN GENERAL.—Section 382 (relating to special limitations on net operating loss carryovers) is amended to read as follows:

"SEC. 382. LIMITATION ON NET OPERATING LOSS CARRYOVERS AND CERTAIN BUILT-IN LOSSES FOLLOWING CHANGE IN CONTROL.

"(a) GENERAL RULE.—The amount of the taxable income of any new loss corporation for any post-change year which may be offset by pre-change losses shall not exceed the section 382 limitation for such year.

"(b) SECTION 382 LIMITATION.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the section 382 limitation for any post-change year is an amount equal to—

"(A) the value of the old loss corporation immediately before the ownership change, multiplied by

"(B) the Federal mid-term rate in effect under section 1274(d) on the change date.

"(2) CARRYOVER OF UNUSED LIMITATION.—If the section 382 limitation for any post-change year exceeds the taxable income of the new loss corporation for such year which was offset by pre-change losses, the section 382 limitation for the next post-change year shall be increased by the amount of such excess.

"(3) SPECIAL RULE FOR POST-CHANGE YEAR WHICH INCLUDES CHANGE DATE.—In the case of any post-change year which includes the change date—

"(A) LIMITATION DOES NOT APPLY TO TAXABLE INCOME BEFORE CHANGE.—Subsection (a) shall not apply to the portion of the taxable income for such year which is allocable to the period in such year before the change date. Except as provided in regulations, taxable income (computed without regard to recognized built-in gains and losses) shall be allocated to such period on a daily pro rata basis.

"(B) LIMITATION FOR PERIOD AFTER CHANGE.—For purposes of applying the limitation of subsection (a) to the remainder of the taxable income for such year, the section 382 limitation shall be an amount which bears the same ratio to such limitation (determined without regard to this paragraph) as—

"(i) the number of days in such year on or after the change date, bears to

"(ii) 365.

"(4) SPECIAL RULE FOR SHORT TAXABLE YEAR.—In the case of any post-change year which is less than 365 days, the section 382 limitation shall be an amount which bears the same ratio to such limitation (determined without regard to this paragraph) as—

"(A) the number of days in such post-change year, bears to

"(B) 365.

"(5) SPECIAL RULE FOR SECTION 338 ELECTIONS.—The section 382 limitation for any taxable year in which gain is recognized by reason of an election under section 338 shall be increased by the amount of such gain.

"(c) PRE-CHANGE LOSS AND POST-CHANGE YEAR.—For purposes of this section—

"(1) PRE-CHANGE LOSS.—The term 'pre-change loss' means—

"(A) any net operating loss carryover to the taxable year ending with the ownership change or in which the change date occurs, and

"(B) the net operating loss of the old loss corporation for the taxable year ending with the ownership change or the net operating loss of the old loss corporation for the taxable year in which the ownership change occurs which is allocable to the period in such year before the change date.

Except as provided in regulations, the net operating loss shall, for purposes of subparagraph (B), be allocated to the period on a daily pro rata basis.

"(2) POST-CHANGE YEAR.—The term 'post-change year' means any taxable year ending after the change date.

"(d) VALUE OF OLD LOSS CORPORATION.—For purposes of this section, the value of the old loss corporation is the value of the stock of such corporation (including any stock described in section 1504(a)(4)).

"(e) OWNERSHIP CHANGE.—For purposes of this section—

"(1) IN GENERAL.—There is an ownership change if there is—

"(A) a more than 50-percent owner shift, or

"(B) a more than 50-percent equity structure change.

"(2) MORE THAN 50-PERCENT OWNER SHIFT.—There is a more than 50-percent owner shift if, immediately after any owner shift—

"(A) the percentage of the stock (by value) of the new loss corporation held by 1 or more shareholders is more than 50 percentage points more or less than,

"(B) the percentage of stock (by value) of the old loss corporation (or any predecessor corporation) held by such shareholders at any time during the testing period.

"(3) MORE THAN 50-PERCENT EQUITY STRUCTURE CHANGE.—There is a more than 50-percent equity structure change if, immediately after an equity structure change—

"(A) the percentage of stock (by value) of the new loss corporation held by 1 or more shareholders of the old loss corporation is more than 50 percentage points more or less than,

"(B) the percentage of stock (by value) of the old loss corporation (or any predecessor corporation) held by such shareholders at any time during the testing period.

"(4) OWNER SHIFT DEFINED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'owner shift' means any change in the respective holdings in the stock of a corporation owned by persons who are 5-percent shareholders before or after such change.

"(B) EXCLUSION OF MORE THAN 50-PERCENT EQUITY STRUCTURE CHANGE.—Any more than 50-percent equity structure change shall not be treated as an owner shift.

"(5) EQUITY STRUCTURE CHANGE DEFINED.—The term 'equity structure change' means any reorganization (within the meaning of section 368). Such term shall not include any reorganization described in subparagraph (D) or (G) of section 368(a)(1) unless the requirements of section 354(b)(1) are met.

"(6) CHANGES TAKEN INTO ACCOUNT.—In determining whether changes in ownership result in a more than 50-percent owner shift or a more than 50-percent equity structure change, there shall be taken into account only owner shifts and equity structure changes.

"(7) EXCEPTION FOR SUBSTANTIALLY SAME OWNERSHIP.—No ownership change shall be treated as having occurred if the same persons own substantially all of the stock of the old loss corporation and of the new loss corporation in substantially the same proportions. For purposes of this paragraph, if the old loss corporation is controlled by another corporation, the shareholders of the controlling corporation shall be treated as owning the stock owned by the controlling corporation in the same proportion as the total fair market value of the stock which each shareholder owns in the controlling corporation bears to the total fair market value of all the stock in the controlling corporation.

"(f) SPECIAL RULES FOR BUILT-IN GAINS AND LOSSES.—For purposes of this section—

"(1) IN GENERAL.—

"(A) NET UNREALIZED BUILT-IN GAIN.—

"(i) IN GENERAL.—If the old loss corporation has a net unrealized built-in gain, the section 382 limitation for any taxable year ending in the recognition period shall be increased by the recognized built-in gains for such taxable year.

"(ii) LIMITATION.—The increase under clause (i) for any taxable year ending in the recognition period shall not exceed—

"(I) the net unrealized built-in gain, reduced by

"(II) recognized built-in gains for prior years ending in the recognition period.

"(B) NET UNREALIZED BUILT-IN LOSS.—

"(i) IN GENERAL.—If the old loss corporation has a net unrealized built-in loss, the recognized built-in loss for any taxable year ending in the recognition period shall be subject to limitation under this section in the same manner as if such loss were a pre-change loss.

"(ii) LIMITATION.—Clause (i) shall apply to recognized built-in losses for any taxable year ending in the recognition period only to the extent such losses do not exceed—

"(I) the net unrealized built-in loss, reduced by

"(II) recognized built-in losses for prior taxable years ending in the recognition period.

"(2) RECOGNIZED BUILT-IN GAIN AND LOSS.—

"(A) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset to the extent the new loss corporation establishes that—

"(i) such asset was held by the old loss corporation immediately before the change date, and

"(ii) such gain is allocable to any period before the change date.

"(B) RECOGNIZED BUILT-IN LOSS.—The term 'recognized built-in loss' means any loss recognized during the recognition period on the disposition of any asset except to the extent the new loss corporation establishes that—

"(i) such asset was not held by the old loss corporation immediately before the change date, or

"(ii) such loss (or a portion of such loss) is allocable to any period after the change date.

"(3) NET UNREALIZED BUILT-IN GAIN AND LOSS DEFINED.—

"(A) NET UNREALIZED BUILT-IN GAIN AND LOSS.—

"(i) IN GENERAL.—The terms 'net unrealized built-in gain' and 'net unrealized built-in loss' mean, with respect to any old loss corporation, the amount by which—

"(I) the fair market value of the assets of such corporation immediately before an ownership change is more or less, respectively, than

"(II) the aggregate adjusted basis of such assets at such time.

"(ii) CASH AND CASH ITEMS NOT TAKEN INTO ACCOUNT.—In computing any net unrealized built-in gain or net unrealized built-in loss under clause (i), there shall not be taken into account—

"(I) any cash or cash item, or

"(II) any marketable security which has not declined or appreciated substantially in value (as determined under regulations).

"(B) THRESHOLD REQUIREMENT.—If the amount of the net unrealized built-in gain or net unrealized built-in loss of any old loss corporation (determined without regard to this subparagraph) is not greater than 25 percent of the amount determined under subclause (I) of subparagraph (A)(i) (determined with regard to subparagraph (A)(ii)), the net unrealized built-in gain or net unrealized built-in loss shall be zero.

"(4) SECRETARY MAY TREAT CERTAIN DEDUCTIONS AS BUILT-IN LOSSES.—The Secretary may by regulation treat amounts which accrue before the change date but which are allowable as a deduction on or after such date as recognized built-in losses.

"(5) RECOGNITION PERIOD.—The term 'recognition period' means, with respect to any ownership change, the period beginning on the change date and ending at the close of the fifth post-change year.

"(g) 5-PERCENT SHAREHOLDERS.—For purposes of this section, the term '5-percent shareholder' means any person holding 5 percent or more in value of the stock of the corporation at any time during the testing period.

"(h) TESTING PERIOD.—For purposes of this section—

"(1) 3-YEAR PERIOD.—Except as otherwise provided in this section, the testing period is the 3-year period ending on the day of any owner shift or equity structure change.

"(2) SHORTER PERIOD WHERE THERE HAS BEEN RECENT OWNERSHIP CHANGE.—If there has been an ownership change under this section, the testing period for determining whether a second ownership change has occurred shall not begin before the 1st day following the testing period for such earlier ownership change.

"(3) SHORTER PERIOD WHERE ALL LOSSES ARISE AFTER 3-YEAR PERIOD BEGINS.—The testing period shall not begin before the 1st day of the 1st taxable year from which there is a carryover of a loss or of an excess credit to the 1st post-change year. This paragraph shall not apply to any loss corporation which has a net unrealized built-in loss (determined after application of subsection (f)(3)(B)) immediately before the change date.

"(i) CHANGE DATE.—For purposes of this section, the change date is—

"(1) in the case of a more than 50 percent owner shift, the date on which such shift occurs, and

"(2) in the case of a more than 50 percent equity structure change, the date of the reorganization.

"(j) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) LOSS CORPORATION.—The term 'loss corporation' means a corporation entitled to use a net operating loss carryover. Except to the extent provided in regulations, such term includes any corporation with a net unrealized built-in loss.

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means any corporation—

"(A) which (before the ownership change) was a loss corporation, or

"(B) with respect to which there is a pre-change loss described in subsection (c)(1)(B).

"(3) NEW LOSS CORPORATION.—The term 'new loss corporation' means a corporation which (after an ownership change) is a loss corporation. Nothing in this section shall be treated as implying that the same corpora-

tion may not be both the old loss corporation and the new loss corporation.

"(4) TAXABLE INCOME.—Taxable income shall be computed with the modifications set forth in section 172(d).

"(5) VALUE.—The term 'value' means fair market value.

"(6) RULES RELATING TO STOCK.—

"(A) PREFERRED STOCK.—Except for purposes of subsection (d), the term 'stock' means stock other than stock described in section 1504(a)(4).

"(B) TREATMENT OF CERTAIN RIGHTS, ETC.—The Secretary shall prescribe such regulations as may be necessary—

"(i) to treat warrants, the conversion feature of convertible debt interests, and other similar interests as stock,

"(ii) to treat stock as not stock, and

"(iii) to treat options to acquire or sell stock as having been exercised.

"(C) DETERMINATIONS ON BASIS OF VALUE.—Determinations of the percentage of stock of any corporation held by any person shall be made on the basis of value.

"(k) CERTAIN ADDITIONAL OPERATING RULES.—For purposes of this section—

"(1) CERTAIN CAPITAL CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—Any capital contribution received by any old loss corporation as part of a plan the principal purpose of which is to avoid any limitation under this section shall not be taken into account for purposes of this section.

"(B) CERTAIN CONTRIBUTIONS TREATED AS PART OF PLAN.—For purposes of subparagraph (A), any capital contribution made during the 2-year period ending on the change date shall, except as provided in regulations, be treated as part of a plan described in subparagraph (A).

"(2) ORDERING RULES FOR APPLICATION OF SECTION.—

"(A) COORDINATION WITH SECTION 172(b) CARRYOVER RULES.—In the case of any pre-change loss for any taxable year (hereinafter in this subparagraph referred to as the 'loss year') subject to limitation under this section, for purposes of determining under the second sentence of section 172(b)(2) the amount of such loss which may be carried to any taxable year, taxable income for any taxable year shall be treated as not greater than—

"(i) the section 382 limitation for such taxable year, reduced by

"(ii) the pre-change losses for taxable years preceding the loss year.

Similar rules shall apply in the case of any credit or loss subject to limitation under section 383.

"(B) ORDERING RULE FOR LOSSES CARRIED FROM SAME TAXABLE YEAR.—In any case in which—

"(i) a pre-change loss of a loss corporation for any taxable year is subject to a section 382 limitation, and

"(ii) a net operating loss of such corporation from such taxable year is not subject to such limitation,

taxable income shall be treated as having been offset first by the loss subject to such limitation.

"(3) OPERATING RULES RELATING TO OWNERSHIP OF STOCK.—

"(A) CONSTRUCTIVE OWNERSHIP.—Section 318 (relating to constructive ownership of stock) shall apply in determining ownership of stock, except that—

"(i) paragraph (2)(C) of section 318(a) shall be applied without regard to the 50-percent limitation contained therein,

"(ii) paragraph (3)(C) of section 318(a) shall be applied—

"(I) by substituting '5 percent' for '50 percent', and

"(II) by considering a corporation as owning the stock (other than stock in such corporation) owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and

"(iii) except to the extent provided in regulations, paragraph (4) of section 318(a) shall not apply.

"(B) STOCK ACQUIRED BY REASON OF DEATH, GIFT, DIVORCE, OR SEPARATION.—If—

"(i) the basis of any stock in the hands of any person is determined under section 1014 (relating to property acquired from a decedent) or section 1015 (relating to property acquired by gift or transfers in trust),

"(ii) stock is received by any person in satisfaction of a right to receive a pecuniary bequest, or

"(iii) stock is acquired pursuant to any divorce or separation instrument (within the meaning of section 71(b)(2)),

the receipt or acquisition of such stock shall not be taken into account in determining whether an ownership change has occurred.

"(C) SPECIAL RULE FOR EMPLOYEE STOCK OWNERSHIP PLANS.—The acquisition of employer securities (within the meaning of section 409(l)) by—

"(i) a tax credit employee stock ownership plan or an employee stock ownership plan (within the meaning of section 4975(e)(7)), or

"(ii) by a participant of any such plan pursuant to the requirements of section 409(h),

shall not be taken into account in determining whether an ownership change has occurred.

"(D) CERTAIN CHANGES IN PERCENTAGE OWNERSHIP WHICH ARE ATTRIBUTABLE TO FLUCTUATIONS IN VALUE NOT TAKEN INTO ACCOUNT.—Under regulations, any change in proportionate ownership which is attributable solely to fluctuations in the relative fair market values of different classes of stock shall not be taken into account.

"(4) NO CARRYOVER ALLOWED IN THE CASE OF AN INVESTMENT COMPANY.—

"(A) IN GENERAL.—If, immediately before any ownership change, the old loss corporation is an investment company, the section 382 limitation for any post-change year shall be zero.

"(B) INVESTMENT COMPANY.—For purposes of subparagraph (A), the term 'investment company' means any corporation at least ⅔ of the value of the total assets of which consists of assets held for investment, but such term shall not include a regulated investment company to which part I of subchapter M applies or a real estate investment trust to which part II of subchapter M applies.

"(C) TREATMENT OF SUBSIDIARIES.—For purposes of subparagraph (B), stock and securities held by any parent corporation in any subsidiary corporation shall be disregarded and such parent corporation shall be deemed to own its ratable share of the subsidiary's assets. For purposes of the preceding sentence, a corporation shall be treated as a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

"(5) TITLE 11 OR SIMILAR CASE.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any ownership change if—

"(i) the old loss corporation is, immediately before such ownership change, under the jurisdiction of the court in a title 11 or similar case, and

"(ii) the shareholders and creditors of the old loss corporation (determined immediately before such ownership change) own, immediately after such ownership change, stock of the new loss corporation which meets the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears).

"(B) REDUCTION FOR INTEREST PAYMENTS TO CREDITORS BECOMING SHAREHOLDERS.—In any case to which subparagraph (A) applies, the net operating loss deduction under section 172(a) for any post-change year shall be determined as if no deduction was allowable under this chapter for the interest paid or accrued by the old loss corporation on indebtedness which was converted into stock pursuant to the title 11 or similar case during the period beginning on—

"(i) the 1st day of the 3rd taxable year preceding the taxable year in which the ownership change occurs, and

"(ii) ending on the change date.

"(C) SECTION 382 LIMITATION ZERO IF ANOTHER CHANGE WITHIN 2 YEARS.—If, during the 2-year period immediately following an ownership change to which this paragraph applies, an ownership change of the new loss corporation occurs, this paragraph shall not apply and the section 382 limitation with respect to the second ownership change for any post-change year ending after the change date of the second ownership change shall be zero.

"(D) ONLY CERTAIN STOCK OF CREDITORS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), stock of a creditor which was converted from indebtedness shall be taken into account only if such indebtedness—

"(i) was held by the creditor at least 1 year before the date of the filing of the title 11 or similar case, or

"(ii) arose in the ordinary course of the trade or business of the old loss corporation.

"(E) SPECIAL RULE FOR CERTAIN FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of any ownership change to which this subparagraph applies, this paragraph shall be applied—

"(I) by substituting '20 percent' for '50 percent' in subparagraph (A)(ii), and

"(II) without regard to subparagraph (B).

"(ii) SPECIAL RULE FOR DEPOSITORS.—For purposes of applying this paragraph to an ownership change to which this subparagraph applies—

"(I) a depositor in the old loss corporation shall be treated as a stockholder in such loss corporation immediately before the change,

"(II) deposits which, after the change, become deposits of the new loss corporation shall be treated as stock of the new loss corporation, and

"(III) the fair market value of the outstanding stock of the new loss corporation shall include deposits described in subclause (II).

"(iii) CHANGES TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph shall apply to—

"(I) an equity structure change which is a reorganization described in section 368(a)(3)(D)(ii), or

"(II) any other equity structure change (or transaction to which section 351 applies) which occurs as an integral part of a transaction involving a change to which subclause (I) applies.

"(F) TITLE 11 OR SIMILAR CASE.—For purposes of this paragraph, the term 'title 11 or similar case' has the meaning given such term by section 368(a)(3)(A).

"(6) USE OF RELATED PERSONS OR PASS-THRU ENTITIES.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this section through the use of related persons, pass-thru entities, or other intermediaries."

(b) AMENDMENT OF SECTION 383.—Section 383 (relating to special limitations on unused investment credits, etc.) is amended to read as follows:

"SEC. 383. SPECIAL LIMITATIONS ON CERTAIN EXCESS CREDITS, ETC.

"(a) IN GENERAL.—In the case of an ownership change of any corporation, the Secretary shall prescribe regulations which apply the limitations of section 382 with respect to net operating loss carryovers to—

"(1) any unused credit of such corporation under section 39,

"(2) any excess foreign taxes of such corporation under section 904(c),

"(3) any net capital loss of such corporation under section 1212,

"(4) any passive activity loss or credit of such corporation under section 469, and

"(5) any minimum tax credit of such corporation under section 53.

"(b) OWNERSHIP CHANGE.—For purposes of subsection (a), the term 'ownership change' has the meaning given such term by section 382(e), except that the determination of whether a change is an ownership change shall be made without regard to whether a corporation is a loss corporation (within the meaning of section 382(j)(1)) immediately before the change.".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 318(b) is amended by striking out "section 382(a)(3)" and inserting in lieu thereof "section 382(l)(3)".

(2) The table of sections for part V of subchapter C of chapter 1 is amended—

(A) by striking out the item relating to section 382 and inserting in lieu thereof the following new item:

"Sec. 382. Limitation on net operating loss carryovers and certain built-in losses following change in control.",

and

(B) by striking out the item relating to section 383 and inserting in lieu thereof the following new item:

"Sec. 383. Special limitations on certain excess credits, etc.".

(d) REPEAL OF CHANGES MADE BY TAX REFORM ACT OF 1976.—

(1) Subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 (including the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984) are hereby repealed.

(2) Subsection (g) of such section 806 is amended by striking out paragraphs (2) and (3).

(3) The repeals made by paragraph (1) and the amendment made by paragraph (2) shall not affect the amendment to section 383 of the Internal Revenue Code of 1954 made by subsection (f) of such section 806.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) shall apply to any—

(A) more than 50-percent owner shift after December 31, 1986,

(B) more than 50-percent equity structure change occurring pursuant to a plan of reorganization adopted after December 31, 1986.

(2) FOR AMENDMENTS TO TAX REFORM ACT OF 1976.—The repeals made by subsection (d)(1) and the amendment made by subsection (d)(2) shall take effect on January 1, 1986.

(3) TESTING PERIOD.—For purposes of determining whether there is a more than 50-percent ownership change or more than 50-percent equity structure change after December 31, 1986, the testing period shall not begin before the later of—

(A) May 6, 1986, or

(B) in the case of an ownership change which occurs after May 5, 1986, and to which the amendments made by subsections (a), (b), and (c) do not apply, the date on which such ownership change occurs.

(4) SPECIAL TRANSITION RULES.—The amendments made by subsections (a), (b), and (c) shall not apply to any—

(A) stock-for-debt exchanges and stock sales made pursuant to a plan of reorganization with respect to a petition for reorganization filed by a corporation under chapter 11 of title 11, United States Code, on August 26, 1982, and which filed with a United States district court a first amended and related plan of reorganization before March 1, 1986, and

(B) ownership change of a Delaware corporation incorporated in August 1983, which may result from the exercise of put or call option under an agreement entered into on September 14, 1983, but only with respect to taxable years beginning after 1991 regardless of whether such ownership change takes place.

(5) DEFINITIONS.—For purposes of this subsection, except as otherwise provided, any term which is used in this subsection which is also used in section 382 of the Internal Revenue Code of 1954 (as amended by this section) shall have the same meaning as when used in such section.

Subtitle D—Other Corporate Provisions

SEC. 631. REDUCTION IN TAX LIABILITY WHICH MAY BE OFFSET BY BUSINESS CREDIT FROM 85 PERCENT TO 75 PERCENT.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(1) (relating to limitation based on amount of tax) is amended by striking out "85 percent" and inserting in lieu thereof "75 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 632. SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for determining basis) is amended by redesignating section 1060 as section 1061 and by inserting after section 1059 the following new section:

"SEC. 1060. SPECIAL ALLOCATION RULES FOR CERTAIN ASSET ACQUISITIONS.

"(a) GENERAL RULE.—In the case of any applicable asset acquisition, for purposes of determining both—

"(1) the transferee's basis in such assets, and

"(2) the gain or loss of the transferor with respect to such acquisition,

the purchase price shall be allocated among the assets acquired in such acquisition in the same manner as amounts are allocated to assets under section 338(b)(5).

"(b) INFORMATION REQUIRED TO BE FURNISHED TO SECRETARY.—Under regulations, the transferor and transferee in an applicable asset acquisition shall, at such times and in such manner as may be provided in such regulations, furnish to the Secretary the following information:

"(1) The amount of the purchase price allocated to goodwill or going concern value.

"(2) Any modification of the amount described in paragraph (1).

"(3) Any other information with respect to other assets transferred in such acquisition as the Secretary may find necessary to carry out the provisions of this section.

"(c) APPLICABLE ASSET ACQUISITION.—For purposes of this section, the term 'applicable asset acquisition' means any transfer (whether directly or indirectly)—

"(1) of assets which constitute a trade or business, and

"(2) with respect to which the transferee's basis in such assets is determined wholly by reference to the purchase price paid for such assets."

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by striking out the item relating to section 1060 and inserting in lieu thereof the following new items:

"Sec. 1060. Special allocation rules for certain asset acquisitions.

"Sec. 1061. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any acquisition of assets after May 6, 1986, unless such acquisition is pursuant to a binding contract which was in effect on May 6, 1986, and at all times thereafter.

SEC. 633. REGULATED INVESTMENT COMPANIES.

(a) REQUIREMENT THAT ANNUAL ACCOUNTING PERIOD BE CALENDAR YEAR.—

(1) GENERAL RULE.—Part I of subchapter M of chapter 1 (relating to regulated investment companies) is amended by adding at the end thereof the following new section:

"SEC. 855A. REQUIREMENT THAT ANNUAL ACCOUNTING PERIOD BE CALENDAR YEAR.

"(a) GENERAL RULE.—For purposes of this subtitle, a corporation shall not be treated as a regulated investment company for any taxable year beginning after December 31, 1986, unless such taxable year is a calendar year.

"(b) CHANGE OF ACCOUNTING PERIOD WITHOUT APPROVAL.—Notwithstanding section 442, a corporation which has not engaged in any active trade or business may change its accounting period to a calendar year without the approval of the Secretary if such change is in connection with an election under section 852."

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter M of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 855A. Requirement that annual accounting period be calendar year."

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1986.

(B) TRANSITIONAL RULE.—In the case of a corporation which was a regulated investment company for its last taxable year beginning before January 1, 1987—

(i) such corporation may change its accounting period to a calendar year without the consent of the Secretary if such change is made for the 1st taxable year beginning after December 31, 1986,

(ii) section 855A of the Internal Revenue Code of 1986 (as added by subsection (a)) shall not apply to the short taxable year resulting from such change in accounting period, and

(iii) the Secretary of the Treasury or his delegate shall provide for appropriate adjustments to the requirements for being treated as a regulated investment company

for the short taxable year resulting from such change.

(b) EXCISE TAX ON INCOME DISTRIBUTED AFTER CLOSE OF TAXABLE YEAR.—

(1) GENERAL RULE.—Chapter 44 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"SEC. 4982. EXCISE TAX ON CERTAIN DIVIDENDS PAID AFTER CLOSE OF TAXABLE YEAR.

"There is hereby imposed on each regulated investment company for each taxable year a tax equal to 5 percent of the amount which is treated as paid during such year by reason of section 855 (relating to dividends paid by regulated investment companies after close of taxable year)."

(2) CLERICAL AMENDMENTS.—Chapter 44 is amended by striking out the chapter heading and the table of sections and inserting in lieu thereof the following:

"CHAPTER 44—QUALIFIED INVESTMENT ENTITIES

"Sec. 4981. Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year.

"Sec. 4982. Excise tax on certain dividends paid after close of taxable year."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to dividends treated as paid in taxable years beginning after December 31, 1986.

SEC. 634. REPEAL OF 5-YEAR AMORTIZATION OF TRADEMARK AND TRADE NAME EXPENDITURES.

(a) IN GENERAL.—Section 177 (relating to trademark and trade name expenditures) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 312(n) is amended by striking out ", 177,".

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out paragraph (16) and by redesignating paragraphs (17) through (27) as paragraphs (16) through (26), respectively.

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 177.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after December 31, 1986.

(2) TRANSITIONAL RULE.—The amendments made by this section shall not apply to any expenditure incurred—

(A) pursuant to a binding contract entered into before March 2, 1986, or

(B) with respect to the development, protection, expansion, registration, or defense of a trademark or trade name commenced before March 2, 1986, but only if not less than the lesser of $1,000,000 or 5 percent of the aggregate cost of such development, protection, expansion, registration, or defense has been incurred or committed before such date.

The preceding sentence shall not apply to any expenditure with respect to a trademark or trade name placed in service after December 31, 1987.

SEC. 635. DEDUCTION FOR BUS OPERATING AUTHORITY.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1954, in computing the taxable income of a taxpayer who, on November 19, 1982, held one or more bus operating authorities, an amount equal to the aggregate adjusted basis of all bus operating authorities held by the taxpayer on November 19, 1982, or acquired subsequent thereto pursuant to a binding contract in effect on November 19, 1982, shall be allowed as a deduction ratably over a period of 60 months. Such 60-month period shall begin with the later of the month of November 1982 or the month in which acquired, or, if later, at the election of the taxpayer, the 1st month of the taxpayer's 1st taxable year beginning after November 19, 1982.

(b) DEFINITION OF BUS OPERATING AUTHORITY.—For purposes of this section, the term "bus operating authority" means—

(1) a certificate or permit held by a motor common or contract carrier of passengers and issued pursuant to subchapter II of chapter 109 of title 49 of the United States Code, and

(2) a certificate or permit held by a motor carrier authorizing the transportation of passengers, as a common carrier, over regular routes, in intrastate commerce, and issued by the appropriate State agency.

(c) SPECIAL RULES.—

(1) ADJUSTED BASIS.—For purposes of the Internal Revenue Code of 1954, proper adjustments shall be made in the adjusted basis of any bus operating authority for the amounts allowable as a deduction under this section.

(2) CERTAIN STOCK ACQUISITIONS.—

(A) IN GENERAL.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which a corporation—

(i) on or before November 19, 1982 (or after such date pursuant to a binding contract in effect on such date), acquired stock in a corporation which held, directly or indirectly, any bus operating authority at the time of such acquisition, and

(ii) would have been able to allocate to the basis of such authority that portion of the acquiring corporation's cost basis in such stock attributable to such authority if the acquiring corporation had received such authority in the liquidation of the acquired corporation immediately following such acquisition and such allocation would have been proper under section 334(b)(2) of such Code,

the holder of the authority may, for purposes of this section, allocate a portion of the basis of the acquiring corporation in the stock of the acquired corporation to the basis of such authority in such manner as the Secretary may prescribe in such regulations. The preceding sentence shall not apply if an election under section 338 of such Code is in effect with respect to the corporation described in clause (i).

(B) TREATMENT OF CERTAIN NONCORPORATE TAXPAYERS.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

(i) a noncorporate taxpayer or group of noncorporate taxpayers on or before November 19, 1982, acquired in one purchase stock in a corporation which held, directly or indirectly, any bus operating authority at the time of such acquisition, and

(ii) the acquisition referred to in clause (i) would have satisfied the requirements of subparagraph (A) if the stock had been acquired by a corporation,

then, for purposes of subparagraphs (A) and (C), the noncorporate taxpayer or group of noncorporate taxpayers referred to in clause (i) shall be treated as a corporation. The preceding sentence shall apply only if such noncorporate taxpayer (or group of noncorporate taxpayers) on November 19, 1982, held stock constituting control (within the meaning of section 368(c) of the Internal Revenue Code of 1954) of the corporation holding (directly or indirectly) the bus operating authority.

(C) ADJUSTMENT TO BASIS.—Under regulations prescribed by the Secretary of the Treasury or his delegate, proper adjustment shall be made to the basis of the stock or other assets in the manner provided by such regulations to take into account any allocation under subparagraph (A).

(3) SECTION 381 OF THE INTERNAL REVENUE CODE OF 1954 TO APPLY.—For purposes of section 381 of the Internal Revenue Code of 1954, any item described in this section shall be treated as an item described in subsection (c) of such section 381 of such Code.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The provisions of this section shall apply to taxable years ending after November 18, 1982.

(2) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the provisions of this section is prevented at any time on or before the date which is 1 year after the date of the enactment of this Act, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of such provisions) may, nevertheless, be made or allowed if claim therefore is filed on or before the date which is 6 months after such date.

SEC. 636. SIMPLIFIED PAYROLL PROCEDURES.

Effective for months beginning after December 31, 1986, section 31.6302(c)-1(a)(1)(i)(b) of the Internal Revenue Regulations shall be applied by substituting "$5,000" for "$3,000".

SEC. 637. TREATMENT OF DISTRIBUTIONS IN REDEMPTION OF STOCK HELD BY CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 302 (relating to redemptions treated as exchanges) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) REDEMPTION FROM CERTAIN CORPORATE SHAREHOLDERS.—Subsection (a) shall apply to a distribution if—

"(A) such distribution is in redemption of stock held by a corporation, and

"(B) such corporation would be entitled to a deduction under sections 243, 244, 245 with respect to such distribution if such distribution were treated as a dividend:

Provided, however, That no loss shall be recognized solely by reason of the application of this paragraph (5)."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 302 is amended by striking out "or (4)" and inserting in lieu thereof "(4), or (5)".

(2) Paragraph (6) of section 302(b) (as redesignated by subsection (1)) is amended by striking out "or (4)" each place it appears and inserting in lieu thereof "(4), or (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after date of floor action, unless pursuant to a binding written contract in effect on that date and at all times thereafter.

SEC. 638. MODIFICATION OF DEFINITION OF RELATED PARTY.

(a) PARTNERSHIPS.—Paragraph (2) of section 707(b) (relating to gains treated as ordinary income) is amended by striking out

"80 percent" each place it appears and inserting in lieu thereof "50 percent".

(b) SALE OF DEPRECIATED PROPERTY BETWEEN CERTAIN RELATED TAXPAYERS.—

(1) IN GENERAL.—Paragraph (1) of section 1239 (b) (defining related persons) is amended by striking out "80-percent owned entities" and inserting in lieu thereof "controlled entities".

(2) CONTROLLED ENTITY DEFINED.—

(A) IN GENERAL.—Section 1239(c)(1) (defining 80-percent owned entity) is amended—

(i) by striking out "80 percent or more in value" in subparagraph (A) and inserting in lieu thereof "more than 50 percent of the value",

(ii) by striking out "80 percent or more" in subparagraph (B) and inserting in lieu thereof "more than 50 percent", and

(iii) by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(C) any entity which is a related person to such person under paragraph (3), (10), (11), or (12) of section 267(b)."

(B) CONFORMING AMENDMENT.—Section 1239(c)(1) is amended by striking out "80-percent owned entity" in the heading thereof and in paragraph (1) and inserting in lieu thereof "controlled entity".

(3) CONSTRUCTIVE OWNERSHIP.—Section 1239(c) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) CONSTRUCTIVE OWNERSHIP.—For purposes of this section, ownership shall be determined in accordance with rules similar to the rules under section 267(c) (other than paragraph (3) thereof)."

(4) CONFORMING AMENDMENT.—Section 453(g) is amended by striking out "80-Percent Owned" in the heading thereof and inserting in lieu thereof "Controlled".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to sales after June 20, 1986, in taxable years ending after such date.

(2) TRANSITION RULE FOR BINDING CONTRACTS.—The amendments made by this section shall not apply to sales after June 20, 1986, which are made pursuant to a binding contract in effect on June 20, 1986, and at all times thereafter.

TITLE VII — AGRICULTURE, ENERGY, AND NATURAL RESOURCES

Subtitle A—Agriculture

SEC. 701. LIMITATION ON EXPENSING OF SOIL AND WATER CONSERVATION EXPENDITURES.

(a) GENERAL RULE.—Subsection (c) of section 175 (relating to soil and water conservation expenditures) is amended by adding at the end thereof the following new paragraph:

"(3) ADDITIONAL LIMITATIONS.—

"(A) EXPENDITURES MUST BE CONSISTENT WITH SOIL CONSERVATION PLAN.—Notwithstanding any other provision of this section, subsection (a) shall not apply to any expenditures unless such expenditures are consistent with—

"(i) the plan (if any) approved by the Soil Conservation Service of the Department of Agriculture for the area in which the land is located, or

"(ii) any soil conservation plan of a comparable State agency.

"(B) CERTAIN ACTIVITIES NOT QUALIFIED.—Subsection (a) shall not apply to any expenditures in connection with the draining or filling of wetlands or land preparation for center pivot irrigation systems."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 1986, in taxable years ending after such date.

SEC. 702. REPEAL OF SPECIAL TREATMENT FOR EXPENDITURES FOR CLEARING LAND.

(a) IN GENERAL.—Section 182 (relating to expenditures by farmers for clearing land) is hereby repealed.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 263(a) (relating to capital expenditures) is amended by striking out subparagraph (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

(2) Subparagraph (A) of section 1252(a)(1) (relating to gain from disposition of farm land) is amended by striking out "(relating to expenditures by farmers for clearing land)" and inserting in lieu thereof "(as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking out the item relating to section 182.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 1985, in taxable years ending after such date.

SEC. 703. TREATMENT OF DISPOSITIONS OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

(a) GENERAL RULE.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1257. DISPOSITION OF CONVERTED WETLANDS OR HIGHLY ERODIBLE CROPLANDS.

"(a) GAIN TREATED AS ORDINARY INCOME.—Any gain on the disposition of converted wetland or highly erodible cropland shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle, except that this section shall not apply to the extent such gain is recognized as ordinary income under any other provision of this part.

"(b) LOSS TREATED AS LONG-TERM CAPITAL LOSS.—Any loss recognized on the disposition of converted wetland or highly erodible cropland shall be treated as a long-term capital loss.

"(c) DEFINITIONS.—For purposes of this section—

"(1) CONVERTED WETLAND.—The term 'converted wetland' means any converted wetland (as defined in section 1201(4) of the Food Security Act of 1985 (16 U.S.C. 3801)) held—

"(A) by the person whose activities resulted in such land being converted wetland, or

"(B) by any other person who at any time used such land for farming purposes.

"(2) HIGHLY ERODIBLE CROPLAND.—The term 'highly erodible cropland' means any highly erodible cropland (as defined in section 1201(6) of the Food Security Act of 1985 (16 U.S.C. 3801)), if at any time the taxpayer used such land for farming purposes (other than the grazing of animals).

"(3) TREATMENT OF SUCCESSORS.—If any land is converted wetland or highly erodible cropland in the hands of any person, such land shall be treated as converted wetland or highly erodible cropland in the hands of any other person whose adjusted basis in such land is determined (in whole or in part) by reference to the adjusted basis of such land in the hands of such person.

"(d) SPECIAL RULES.—Under regulations prescribed by the Secretary, rules similar to the rules applicable under section 1245 shall apply for purposes of subsection (a). For purposes of sections 163(d), 170(e), 341(e)(12), 453B(d)(2), and 751(c), amounts treated as ordinary income under subsection (a) shall be treated in the same manner as amounts treated as ordinary income under section 1245."

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1257. Disposition of converted wetlands or highly erodible croplands."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions of converted wetland or highly erodible cropland (as defined in section 1257(c) of the Internal Revenue Code of 1954 as added by this section) first used for farming after March 1, 1986, in taxable years beginning after that date.

SEC. 704. LIMITATION ON CERTAIN PREPAID FARMING EXPENSES.

(a) IN GENERAL.—Section 464 is amended—

(1) by inserting "or any person described in subsection (f)" after "subsection (c))" in subsections (a) and (b), and

(2) by adding at the end thereof the following new subsection:

"(f) SECTION TO APPLY TO CERTAIN PERSONS PREPAYING 50 PERCENT OR MORE OF FARMING EXPENSES.—

"(1) IN GENERAL.—This subsection applies to any taxpayer who for the taxable year—

"(A) computes taxable income on the cash receipts and disbursements method of accounting, and

"(B) fails to meet the requirements of paragraph (2).

"(2) PREPAID EXPENSES MUST BE LESS THAN 50 PERCENT.—A taxpayer meets the requirements of this paragraph for any taxable year if—

"(A) the taxpayer's deductible farming expenses for the taxable year with respect to which economic performance occurs in any succeeding taxable year are less than 50 percent of,

"(B) the taxpayer's aggregate deductible farming expenses for such taxable year.

"(3) DEFERRAL OF DEDUCTIONS IN EXCESS OF 50 PERCENT.—In the case of a taxpayer to whom this subsection applies, no deduction shall be allowable for expenses described in subsection (a) or (b) to the extent the expenses described in subparagraph (A) of paragraph (2) are more than 50 percent of the expenses described in subparagraph (B) of paragraph (2) until the taxable year in which economic performance with respect to such expenses occurs.

"(4) SUBSECTION NOT TO APPLY TO CERTAIN TAXPAYERS.—

"(A) IN GENERAL.—This subsection shall not apply to any eligible taxpayer for any taxable year if—

"(i)(I) the aggregate expenses described in paragraph (2)(A) for the 3-taxable years preceding such taxable year are less than 50 percent of,

"(II) the aggregate expenses described in paragraph (2)(B) for such 3-taxable years, or

"(ii) the taxpayer fails to meet the requirements of paragraph (2) by reason of any change in business operation directly attributable to extraordinary circumstances.

"(B) ELIGIBLE TAXPAYER.—For purposes of this paragraph, the term 'eligible taxpayer' means any taxpayer—

"(i) whose principal residence (within the meaning of section 1034) is on a farm,

"(ii) who has a principal occupation of farming, or

"(iii) who is a member of the family (within the meaning of subsection (c)(2)(E)) of a taxpayer described in clause (i) or (ii).

"(5) DEDUCTIBLE FARMING EXPENSES.—For purposes of this subsection, the term 'deductible farming expenses' means any amount allowable as a deduction under this chapter (including any amount allowable as a deduction for depreciation or amortization) which is properly allocable to the trade or business of farming.

"(6) ECONOMIC PERFORMANCE.—For purposes of this subsection—

"(A) IN GENERAL.—Economic performance shall be treated as occurring at the time determined under section 461(h)(2).

"(B) CERTAIN PROPERTY.—For the purpose of determining deductibility of any expense described in subsection (a) or (b), economic performance shall be treated as occurring at the time such property is used or consumed in the case of any property described in section 461(h)(2)(A)(ii)."

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 464 is amended by striking out "in case of farming syndicates" and inserting in lieu thereof "for certain farming expenses".

(2) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out "in case of farming syndicates" in the item relating to section 464 and inserting in lieu thereof "for certain farming expenses".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after March 1, 1986, in taxable years beginning after such date.

SEC. 705. DEDUCTIONS FOR EXPENDITURES INCURRED IN REPLANTING CERTAIN CITRUS AND ALMOND GROVES.

(a) IN GENERAL.—Subsection (c) of section 278 (relating to capital expenditures incurred in planting and developing citrus and almond groves) is amended to read as follows:

"(c) EXCEPTIONS.—

"(1) IN GENERAL.—Subsections (a) and (b) shall not apply to amounts allowable as deductions (without regard to this section) attributable to a grove, orchard, or vineyard which was replanted after having been lost or damaged (while in the hands of the taxpayer) by reason of freezing temperatures, disease, drought, pests, or casualty.

"(2) MINORITY INTEREST WITH ACTIVE PARTICIPATION.—For purposes of this subsection, amounts expended or incurred by a person (other than the taxpayer described in paragraph (1)) shall be allowable as deductions if—

"(i) the taxpayer described in paragraph (1) has an equity interest of more than 50 percent in such grove, orchard, or vineyard, and

"(ii) such person holds any part of the remaining equity interest and materially participates in the planting, maintenance, cultivation, or development of such grove, orchard, or vineyard during the period specified in subsection (a).

The determination of whether an individual materially participates in any activity shall be made in the manner similar to the manner in which such determination is made under section 2032A(e)(6)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts expended or incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 706. TAX TREATMENT OF DISCHARGE OF CERTAIN INDEBTEDNESS OF SOLVENT FARMERS.

(a) IN GENERAL.—Section 108 (relating to income from discharge of indebtedness) is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULES FOR DISCHARGE OF QUALIFIED FARM INDEBTEDNESS OF SOLVENT FARMERS.—

"(1) IN GENERAL.—For purposes of this section and section 1017, the discharge by a qualified person of qualified farm indebtedness of a taxpayer who is not insolvent at the time of the discharge shall be treated in the same manner as if the discharge had occurred when the taxpayer was insolvent.

"(2) QUALIFIED FARM INDEBTEDNESS.—For purposes of this subsection, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

"(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, or secured by farmlands or farm equipment used in such trade or business, and

"(B) 50 percent or more of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

"(3) QUALIFIED PERSON.—For purposes of this subsection, the term 'qualified person' means a person described in section 46(c)(8)(D)(iv)."

(b) BASIS ADJUSTMENT.—Section 1017(b) (relating to basis adjustment) is amended by adding at the end thereof the following new paragraph:

"(4) ORDERING RULE IN THE CASE OF QUALIFIED FARM INDEBTEDNESS.—Any amount which is excluded from gross income under section 108(a) by reason of the discharge of qualified farm indebtedness (within the meaning of section 108(g)(2)) and which under subsection (b) of section 108 is to be applied to reduce basis shall be applied—

"(A) first to reduce the tax attributes described in section 108(b)(2) (other than subparagraph (D) thereof),

"(B) then to reduce basis of property other than property described in subparagraph (C), and

"(C) then to reduce the basis of land used or held for use in the trade or business of farming."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness occurring after April 9, 1986.

SEC. 707. AGRICULTURAL WAGE THRESHOLD UNDER FEDERAL UNEMPLOYMENT TAX ACT RAISED TO $40,000.

(a) IN GENERAL.—Subparagraph (A) of section 3306(a)(2) (defining agricultural labor) is amended by striking out "$20,000" and inserting in lieu thereof "$40,000".

(b) CONFORMING AMENDMENT.—Paragraph (1)(A)(i) of section 3306(c) (defining employment) is amended by striking out "$20,000" and inserting in lieu thereof "$40,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after September 30, 1986.

Subtitle B—Energy and Natural Resources

SEC. 711. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR, GEOTHERMAL, OCEAN THERMAL, BIOMASS, AND WIND PROPERTY.

(a) IN GENERAL.—The table contained in subparagraph (A) of section 46(b)(2) (relating to energy percentage) is amended—

(1) by striking out "December 31, 1982" in clause (vii) and inserting in lieu thereof "December 31, 1983", and

(2) by adding at the end thereof the following new items:

"(viii) Solar Energy Property.—Property described in section 48(l)(4) (other than wind energy property)	A. 15 percent B. 12 percent	Jan. 1, 1986 Jan. 1, 1987	Dec. 31, 1986. Dec. 31, 1988.
"(ix) Geothermal Property.—Property described in section 48(l)(3)(A)(viii)	A. 15 percent B. 10 percent	Jan. 1, 1986 Jan. 1, 1987	Dec. 31, 1986. Dec. 31, 1988.
"(x) Ocean Thermal Property.—Property described in section 48(l)(3)(A)(ix)	15 percent	Jan. 1, 1986	Dec. 31, 1988.
"(xi) Biomass Property.—Property described in section 48(l)(15)	A. 15 percent B. 10 percent	Jan. 1, 1986 Jan. 1, 1987	Dec. 31, 1986. Dec. 31, 1987.
"(xii) Wind Energy Property.—Property described in section 48(l)(4) (other than property described in clause (viii))	A. 15 percent B. 10 percent	Jan. 1, 1986 Jan. 1, 1987	Dec. 31, 1986. Dec. 31, 1987."

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply to periods beginning after December 31, 1985, under rules similar to rules under section 48(m).

SEC. 712. PROVISION RELATING TO EXCISE TAX ON FUELS.

(a) REDUCTION IN EXCISE TAX EXEMPTION FOR QUALIFIED METHANOL AND ETHANOL FUELS.—

(1) IN GENERAL.—Subparagraph (A) of section 4041(b)(2) (relating to exemption for qualified ethanol and methanol fuels) is amended to read as follows:

"(A) IN GENERAL.—In the case of any qualified methanol or ethanol fuel, subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents'.".

(2) CONFORMING AMENDMENT.—The heading for section 4041(b) is amended by striking out "Exemption" the second place it appears and inserting in lieu thereof "Reduction in Tax".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 31, 1986.

SEC. 713. ETHYL ALCOHOL USED AS A FUEL.

(a) ADDITIONAL DUTY.—Item 901.50 of the Appendix to the Tariff Schedules of the United States is amended to read as follows:

"901.50.....	Ethyl alcohol (provided for in item 427.88, part 20, schedule 4) or any mixture containing such ethyl alcohol (provided for in part 1 or 2 of schedule 4) if such ethyl alcohol or mixture is suitable for use, or is to be used, as fuel or in producing a mixture of gasoline and alcohol, a mixture of a special fuel and alcohol, or any other mixture which is suitable for use as a fuel or is to be used as fuel	60¢ per gal.	No change (E, I)	60¢ per gal.	On or before 12/31/97".

(b) DUTY-FREE TREATMENT FOR POSSESSIONS.—The headnotes to schedule 4 of the Tariff Schedules of the United States are amended by adding at the end thereof the following new headnote:

"4. No ethyl alcohol provided for in item 427.88, and no mixture containing such ethyl alcohol provided for in part 1 or 2 of this schedule, which is suitable for use, or is to be used—

"(A) as fuel, or

"(B) in producing—

"(i) a mixture of gasoline and alcohol,

"(ii) a mixture of a special fuel and alcohol, or

"(iii) any other mixture that is suitable for use as fuel or is to be used as fuel,

shall be eligible for duty-free treatment under the provisions of headnote 3(a) of the General Headnotes and Rules of Interpretation to these schedules, unless such alcohol

is anhydrous ethyl alcohol (199+proof) wholly produced within any insular possession of the United States from agricultural or other source materials wholly the growth or product of any insular possession of the United States, of the customs territory of the United States, of any beneficiary country (within the meaning of section 212 of the Caribbean Basin Economic Recovery Act), or of any combination thereof.".

(c) CARIBBEAN BASIN.—Subsection (b) of section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)) is amended—

(1) by striking out "or" at the end of paragraph (4),

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) any ethyl alcohol provided for in item 427.88 of the Tariff Schedules of the United States, or any mixture containing such ethyl alcohol provided for in part 1 or 2 of schedule 4 of such Schedules, which is suitable for use, or is to be used—

"(A) as fuel, or

"(B) in producing—

"(i) a mixture of gasoline and alcohol,

"(ii) a mixture of a special fuel and alcohol, or

"(iii) any other mixture that is suitable for use as fuel or is to be used as fuel,

unless such alcohol is anhydrous ethyl alcohol (199+proof) wholly produced within any beneficiary country from agricultural or other source materials wholly the growth or product of any beneficiary country, of the customs territory of the United States, of any insular possession of the United States, or any combination thereof."

(d) GENERALIZED SYSTEM OF PREFERENCES.—Paragraph (1) of section 503(c) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (F),

(2) by redesignating subparagraph (G) as subparagraph (H), and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) any ethyl alcohol provided for in item 427.88 of the Tariff Schedules of the United States, or any mixture containing such ethyl alcohol provided for in part 1 or 2 of schedule 4 of such Schedules, which is suitable for use, or is to be used—

"(i) as fuel, or

"(ii) in producing—

"(I) a mixture of gasoline and alcohol,

"(II) a mixture of a special fuel and alcohol, or

"(III) any other mixture that is suitable for use as fuel or is to be used as fuel, or".

(e) ISRAEL FREE TRADE AREA.—The United States-Israel Free Trade Area Implementation Act of 1985 is amended by adding at the end thereof the following new section:

"SEC. 9. ETHYL ALCOHOL.

"(a) IN GENERAL.—

"(1) Notwithstanding any other provision of this Act, of any proclamation issued by the President, or of any other law, the rates of duty provided in column number 1 of the Tariff Schedules of the United States, and the duty imposed by item 901.50 of the Appendix to such Schedules (at the rate provided in column number 1 of such item), shall apply to ethyl alcohol provided for in item 427.88 of such Schedules, and any mixture containing such ethyl alcohol provided for in part 1 or 2 of schedule 4 of such Schedules, which—

"(A) is a product of Israel, and

"(B) is suitable for use, or is to be used—

"(i) as fuel, or

"(ii) in producing—

"(I) a mixture of gasoline and alcohol,

"(II) a mixture of a special fuel and alcohol, or

"(III) any other mixture that is suitable for use as fuel or is to be used as fuel,

unless such ethyl alcohol meets the requirements of paragraph (2).

"(2) Ethyl alcohol meets the requirements of this paragraph if such alcohol is anhydrous ethyl alcohol (199+proof) wholly produced within Israel from agricultural or other source materials which were wholly the growth or product of Israel, or of the customs territory of the United States, or of both.

"(b) PROCLAMATIONS.—No proclamation may be issued under section 4 of this Act after April 30, 1986, and before January 1, 1993, that reduces or eliminates the duty imposed on any ethyl alcohol, or any mixture containing ethyl alcohol, which—

"(1) is described in subsection (a)(1), and

"(2) does not meet the requirements of subsection (a)(2).

"(c) EXPEDITED PROCEDURES FOR AMENDMENTS.—Notwithstanding section 5 of this Act, the provisions of section 3(c)(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)(4)) shall not apply to any bill submitted to the Congress before January 1, 1993, that reduces or eliminates any duty imposed on any ethyl alcohol, or any mixture containing ethyl alcohol, which—

"(1) is described in subsection (a)(1), and

"(2) does not meet the requirements of subsection (a)(2)."

(f) REFUNDS.—

(1) The amount of any additional duty provided for in item 901.50 of the Appendix to the Tariff Schedules of the United States which is paid with respect to any ethyl alcohol, or mixture containing ethyl alcohol, shall be refunded by the Secretary of the Treasury upon proof that such ethyl alcohol or mixture was not used and can no longer be used—

(A) as a fuel, or

(B) in the production of—

(i) a mixture of gasoline and alcohol,

(ii) a mixture of special fuel and alcohol, or

(iii) any other mixture which can be used as a fuel.

(2) In addition to a refund of the duty provided for in item 901.50 of the Appendix to the Tariff Schedules of the United States, the Secretary of the Treasury shall refund all other duties paid with respect to any ethyl alcohol, or any mixture containing ethyl alcohol, if—

(A) the proof required under paragraph (1) is provided with respect to such ethyl alcohol or mixture, and

(B) such ethyl alcohol or mixture would have been provided duty-free treatment—

(i) by reason of a proclamation issued under section 4 of the United States-Israel Free Trade Area Implementation Act of 1985 but for section 9 of such Act,

(ii) under the Caribbean Basin Economic Recovery Act but for section 213(b)(6) of such Act, or

(iii) under headnote 3(a) of the General Headnotes and Rules of Interpretation to such Schedules but for headnote 4 of schedule 4 of such Schedules.

(3) Allowance of a refund under this subsection shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to—

(A) the fixing of a time limit within which claims for refund under any of the provisions of this subsection shall be filed and completed, and

(B) the designation of the person to whom any refund shall be made.

(g) PROCEDURES AND FORMS.—The Secretary of the Treasury is authorized to—

(1) prescribe such procedures as are necessary to ensure that, notwithstanding headnote 10(e) of the General Headnotes and Rules of Interpretation to the Tariff Schedules of the United States, the duty imposed by item 901.50 of the Appendix to such Schedules on any article that is suitable for use—

(A) as a fuel, or

(B) in the production of a mixture described in subsection (f)(1)(B),

is collected at the time such article is entered, or withdrawn from warehouse, for consumption in the customs territory of the United States, and

(2) prescribe the form and content of such affidavits or certifications as may be necessary to ensure the collection of the duty imposed by such item 901.50 on any article that is not described in paragraph (1).

(h) EFFECTIVE DATES.—

(1) Except as otherwise provided in this subsection, the amendments made by this section, and the provisions of subsections (f) and (g), shall apply with respect to articles entered—

(A) after the date that is 15 days after the date of enactment of this Act, and

(B) before January 1, 1993.

(2) The amendments made by this section, and the provisions of subsections (f) and (g), shall not apply with respect to—

(A) the first 20,000,000 gallons of anhydrous ethyl alcohol (199+proof) entered in any calendar year that have been produced within a beneficiary country at a final distillation facility which—

(i) was established and operating on January 1, 1986, and

(ii) has, on the date of enactment of this Act, a stated capacity to produce not more than 20,000,000 gallons of such product per year, and

(B) the first 50,000,000 gallons of anhydrous ethyl alcohol (199+proof) entered in any calendar year that have been produced within a beneficiary country at a final distillation facility—

(i) at least 50 percent of the total value of the equipment and components of which were—

(I) produced in the United States, and

(II) owned by a corporation at least 50 percent of the total value of the outstanding shares of stock of which were owned by a United States person (or persons) on or before January 1, 1986, and

(ii) substantially all of the equipment and components of which were, on or before January 1, 1986—

(I) located in the United States under the possession or control of such corporation,

(II) ready for shipment to, and installation in, a beneficiary country, and

(iii) which—

(I) has on the date of enactment of this Act, or

(II) will have at the time such facility is placed in service (based on estimates made before the date of enactment of this Act),

a stated capacity to produce not more than 42,000,000 gallons of such product per year.

(3) For purposes of this subsection—

(A) The term "final distillation facility" means a facility at which the azeotropic dis-

tillation of hydrous ethyl alcohol of 190 proof or less to anhydrous ethyl alcohol of 199+proof takes place.

(B) The term "beneficiary country" has the meaning given to such term under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

(C) The term "United States person" has the meaning given to such term by section 7701(a)(30) of the Internal Revenue Code of 1954.

(D) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States.

SEC. 714. TREATMENT OF FOREIGN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.

(a) IN GENERAL.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(i) SPECIAL RULES FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS INCURRED OUTSIDE THE UNITED STATES.—In the case of intangible drilling and development costs incurred outside the United States—

"(1) subsection (c) shall not apply, and

"(2) such costs shall—

"(A) at the election of the taxpayer, be included in the adjusted basis of the taxpayer for purposes of computing the amount of any deduction allowable under section 611 (determined without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such costs were paid or incurred."

(b) CONFORMING AMENDMENT.—Section 263(c) is amended by inserting "and except as provided in subsection (i)," after "subsection (a),".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to costs paid or incurred after December 31, 1986, in taxable years ending after such date.

(2) TRANSITION RULE.—The amendments made by this section shall not apply with respect to intangible drilling and development costs incurred by United States companies pursuant to a minority interest in a license for Netherlands or United Kingdom North Sea development if such interest was acquired on or before December 31, 1985.

SEC. 715. SPECIAL RULES FOR FOREIGN DEVELOPMENT AND MINING EXPLORATION COSTS.

(a) IN GENERAL.—Section 616 (relating to development expenditures) is amended by redesignating subsection (d) as subsection (e), and by adding at the end of subsection (c) the following new subsection:

"(d) SPECIAL RULES FOR FOREIGN DEVELOPMENT.—In the case of any expenditures paid or incurred with respect to the development of a mine or other natural deposit (other than an oil or gas well) located outside of the United States—

"(1) subsections (a) and (b) shall not apply, and

"(2) such expenditures shall—

"(A) at the election of the taxpayer, be included in the adjusted basis of the taxpayer for purposes of computing the amount of any deduction allowable under section 611 (without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such expenditures were paid or incurred."

(b) CERTAIN MINING EXPLORATION EXPENDITURES OUTSIDE THE UNITED STATES.—Section 617(h) (relating to limitation) is amended to read as follows:

"(h) SPECIAL RULES FOR FOREIGN EXPLORATION.—In the case of any expenditures paid or incurred before the development stage for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (other than an oil or gas well) located outside the United States—

"(1) subsection (a) shall not apply, and

"(2) such expenditures shall—

"(A) at the election of the taxpayer, be included in the adjusted basis of the taxpayer for purposes of computing the amount of any deduction allowable under section 611 (without regard to section 613), or

"(B) if subparagraph (A) does not apply, be allowed as a deduction ratably over the 10-taxable year period beginning with the taxable year in which such expenditures were paid or incurred."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 616 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (d)".

(2) Subparagraph (B) of section 291(b)(1) is amended by striking out "617" and inserting in lieu thereof "617(a)", and

(3) Paragraph (10) of section 381(c) is amended by inserting "(as in effect prior to the enactment of the Tax Reform Act of 1986)" after "617(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after December 31, 1986, in taxable years beginning after such date.

SEC. 716. GIFT AND ESTATE TAX DEDUCTIONS FOR CERTAIN CONSERVATION EASEMENT DONATIONS.

(a) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended—

(1) by redesignating subsection (f) as subsection (g), and

(2) by inserting after subsection (e) the following new subsection:

"(f) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROPERTY.—A deduction shall be allowed under subsection (a) in respect of any transfer of a qualified real property interest (as defined in section 170(h)(2)(C)) which meets the requirements of section 170(h) (without regard to paragraph (4)(A) thereof)."

(b) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULE FOR IRREVOCABLE TRANSFERS OF EASEMENTS IN REAL PROPERTY.—A deduction shall be allowed under subsection (a) in respect of any transfer of a qualified real property interest (as defined in section 170(h)(2)(C)) which meets the requirements of section 170(h) (without regard to paragraph (4)(A) thereof)."

(c) CONFORMING AMENDMENT.—Subparagraph (F)(ii) of section 2106(a)(2) is amended by striking out "section 2055(f)" and inserting in lieu thereof "section 2055(g)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers and contributions made after December 31, 1986.

TITLE VIII—FINANCIAL INSTITUTIONS

SEC. 801. REDUCTION IN BAD DEBT RESERVES OF CERTAIN INSTITUTIONS.

(a) IN GENERAL.—The table contained in subparagraph (A) of section 593(b)(2) (relating to percentage of taxable income method) is amended by striking out the item relating to 1979 or thereafter and inserting in lieu thereof the following new items:

"1979 through 1986	40 percent
1987 and thereafter	25 percent."

(b) CONFORMING AMENDMENTS.—Subparagraph (B) of section 593(b)(2) (relating to reduction of applicable percentage in certain cases) is amended—

(1) by striking out "¾ of 1 percentage point" in clause (i) and inserting in lieu thereof "½ of 1 percentage point", and

(2) by striking out "1½ percentage points" in clause (ii) and inserting in lieu thereof "1 percentage point".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 802. ADDITIONAL 3-YEAR CARRYOVER OF NET OPERATING LOSSES OF CERTAIN THRIFT INSTITUTIONS.

Subparagraph (F) of section 172(b)(1) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new sentence: "In the case of a net operating loss of a financial institution to which section 593 applies for a taxable year beginning after December 31, 1981, and before January 1, 1986, the preceding sentence shall be applied by substituting '8 taxable years' for '5 taxable years'."

SEC. 803. TREATMENT OF LOSSES ON DEPOSITS OR ACCOUNTS IN INSOLVENT FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 165 (relating to losses) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) TREATMENT OF CERTAIN LOSSES IN INSOLVENT FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—If

"(A) as of the close of the taxable year, it can reasonably be estimated that there is a loss on a qualified individual's deposit in a qualified financial institution, and

"(B) such estimated loss is on account of the bankruptcy or insolvency of such institution,

then such qualified individual may elect to treat the amount so estimated as a loss described in subsection (c)(3) and incurred during the taxable year.

"(2) QUALIFIED INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'qualified individual' means any individual, except an individual—

"(A) who owns at least 1 percent in value of the outstanding stock of the qualified financial institution,

"(B) who is an officer of the qualified financial institution,

"(C) who is a sibling (whether by the whole or half blood), spouse, aunt, uncle, nephew, niece, ancestor, or lineal descendant of an individual described in subparagraph (A) or (B), or

"(D) who otherwise is a related person (as defined in section 267(b)) with respect to an individual described in subparagraph (A) or (B).

"(3) QUALIFIED FINANCIAL INSTITUTION.—For purposes of this subsection, the term 'qualified financial institution' means—

"(A) any bank (as defined in section 581),

"(B) any institution described in section 591,

"(C) any credit union the deposits or accounts in which are insured under Federal or State law or are protected or guaranteed under State law, or

"(D) any similar institution chartered and supervised under Federal or State law.

"(4) DEPOSIT.—For purposes of this subsection, the term 'deposit' means any deposit, withdrawable account, or withdrawable or repurchasable share.

"(5) ELECTION.—Any election by the qualified individual under this subsection may be revoked only with the consent of the Secretary and shall apply to all losses of the taxpayer on deposits in the institution with respect to which such election was made.

"(6) COORDINATION WITH SECTION 166.—Section 166 shall not apply to any loss to which an election under this subsection applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

TITLE IX—FOREIGN TAX PROVISIONS

Subtitle A—Foreign Tax Credit Modifications

SEC. 901. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME.

(a) GENERAL RULE.—Paragraph (1) of section 904(d) (relating to separate application of section 904 with respect to certain income) is amended by striking out subparagraph (A), by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (C), (D), (E), and (F), respectively, and by inserting before subparagraph (C) (as so redesignated) the following new subparagraphs:

"(A) passive income,

"(B) high withholding tax interest,".

(b) CATEGORIES DEFINED.—Subsection (d) of section 904 is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) PASSIVE INCOME.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'passive income' means any income received or accrued by any person which is of a kind which would be foreign personal holding company income (as defined in section 954(c)).

"(ii) CERTAIN AMOUNTS INCLUDED.—The term 'passive income' includes any amount includible in gross income under section 551 or by reason of section 1246A.

"(iii) EXCEPTIONS.—The term 'passive income' shall not include—

"(I) any high withholding tax interest,

"(II) any interest income derived from any transaction which is directly related to the active conduct by the taxpayer of a trade or business in a foreign country or a possession of the United States, and

"(III) any foreign oil and gas extraction income (as defined in section 907(c)).

"(B) HIGH WITHHOLDING TAX INTEREST.—The term 'high withholding tax interest' means any interest which—

"(i) is received or accrued—

"(I) by a bank or other financial institution or an insurance company, or

"(II) by a related person (not described in subclause (I)) with respect to any entity described in subparagraph (I), unless the interest is directly related to the active conduct by the related person of a trade or business, and

"(ii) is subject to a withholding tax (or other tax determined on a gross basis) of a foreign country or possession of the United States and the rate of such tax applicable to such interest is at least 5 percent.

The term 'high withholding tax interest' does not include any interest derived by a finance company in connection with export financing of products manufactured in the United States by a related person. The Secretary may by regulation provide that any amount equivalent to interest shall be treated as interest for purposes of this subparagraph.

"(C) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company in which the taxpayer does not own directly or indirectly 10 percent or more of the voting stock, subparagraph (A)(iii)(II) shall apply to dividends received by the taxpayer from such company if such dividends would have qualified if they were interest received by the taxpayer.

"(D) RELATED PERSON.—For purposes of subparagraph (B), the term 'related person' has the meaning given such term by section 954(d)(3), except that such section shall be applied by substituting 'taxpayer' for 'controlled foreign corporation' each place it appears.

"(E) TRANSITIONAL RULE.—For purposes of paragraph (1), in the case of any income from a taxable year beginning before January 1, 1987—

"(i) income which was described in subparagraph (A) or (E) of paragraph (1) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be treated as income described in subparagraph (A) or (F) of paragraph (1) (as in effect after such date), respectively, and

"(ii) income described in any other subparagraph of paragraph (1) (as so in effect before such date) shall be treated as described in the corresponding subparagraph of paragraph (1) (as so in effect after such date).

"(3) LOOK-THROUGH IN CASE OF DIVIDENDS, ETC.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, dividends, interest, rents, and royalties received or accrued from a 10-percent owned foreign corporation shall not be taken into account under paragraph (2).

"(B) SUBPART F INCLUSIONS.—Any amount included in gross income under section 951(a)(1)(A) shall be treated as passive income or high withholding tax interest (as the case may be) to the extent the amount so included is attributable to such type of income.

"(C) APPLICABLE PASSIVE INCOME OF DESIGNATED PAYOR CORPORATIONS.—For purposes of this subsection, any applicable passive income received from, or earned with respect to, a designated payor corporation shall be treated as passive income described in paragraph (2)(A) to the extent that the aggregate amount of such applicable passive income does not exceed the separate limitation passive income of the designated payor corporation (as determined under paragraph (4)).

"(D) APPLICABLE PASSIVE INCOME ALLOCABLE TO HIGH WITHHOLDING TAX INTEREST.—If the applicable passive income received from, or earned with respect to, a 10-percent owned foreign corporation exceeds the separate limitation passive income (as determined under paragraph (4)), such excess (other than the portion described in clause (iv) or (v) of paragraph (5)(A)) shall be treated as high withholding tax interest to the extent it is properly allocable (under regulations) to such type of income of the 10-percent owned foreign corporation.

"(E) DIVIDENDS, ETC.—If the applicable passive income received from, or earned with respect to, a 10-percent owned foreign corporation exceeds the separate limitation passive income (as determined under paragraph (4)), any dividends (or income described in paragraph (5)(A)(v)) paid out of the earnings and profits of such corporation shall be treated as high withholding tax interest in proportion to the ratio of—

"(i) the portion of the earnings and profits attributable to such type of income, to

"(ii) the total amount of earnings and profits (reduced by earnings and profits attributable to separate limitation passive income).

"(4) SEPARATE LIMITATION PASSIVE INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'separate limitation passive income' means—

"(i) the aggregate amount of the passive income described in paragraph (2)(A) (including amounts treated as passive income by reason of paragraph (3)(C)) which is received or accrued by the designated payor corporation, reduced by

"(ii) any amount includible in gross income under section 551, 951(a)(1)(A), or 1246A with respect to such passive income and any amount previously treated as passive income under paragraph (3)(C).

"(B) TREATMENT OF CERTAIN PAYMENTS.—For purposes of this paragraph, the amount of the separate limitation passive income of any designated payor corporation shall be determined without any reduction for any applicable passive income described in clause (i), (ii), or (iii) of paragraph (5)(A) which is received or accrued from the designated payor corporation by a person which owns, directly or indirectly, 10 percent of the voting stock of the designated payor corporation.

"(C) DESIGNATED PAYOR CORPORATION.—For purposes of this paragraph, the term 'designated payor corporation' means—

"(i) any 10-percent owned foreign corporation, and

"(ii) any 10-percent owned domestic corporation less than 20 percent of whose gross income is shown to the satisfaction of the Secretary to have been derived from sources within the United States during the 3-year period described in section 861(a)(2)(A).

Under regulations, any foreign entity (other than a corporation) in which the taxpayer has directly or indirectly a 10 percent or greater interest shall be treated for purposes of this subsection as a designated payor corporation.

"(D) ORDERING RULES.—Paragraph (3)(C) shall be applied to applicable passive income in the order in which such income is described in paragraph (5)(A).

"(E) INCOME FROM MEMBERS OF THE SAME AFFILIATED GROUP.—For purposes of this paragraph, income received or accrued by the designated payor corporation from another member of the same affiliated group (determined under section 1504 without regard to subsection (b)(3) thereof) shall be treated as separate limitation passive income if (and only if) such income is attributable (directly or indirectly) to separate limitation passive income of any other member of such group.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) APPLICABLE PASSIVE INCOME.—The term 'applicable passive income' includes—

"(i) interest,

"(ii) rents,

"(iii) royalties,

"(iv) dividends, and

"(v) amounts includible in gross income under section 956.

"(B) DIVIDEND.—The term 'dividend' includes any gain treated as ordinary income under section 1246 or as a dividend under section 1248.

"(C) 10-PERCENT OWNED CORPORATION.—A corporation shall be treated as 10-percent owned with respect to a taxpayer which owns directly or indirectly at least 10 percent of the voting stock of such corporation.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be neces-

sary or appropriate for the purposes of this subsection, including regulations—

"(A) for the application of paragraph (3) and subsection (f) in the case of income paid through 1 or more entities or between 2 or more chains of entities, and

"(B) preventing the manipulation of the character of income the effect of which is to avoid the purposes of this subsection."

(c) TECHNICAL AMENDMENTS.—

(1) The subsection heading of section 904(d) is amended to read as follows:

"(d) SEPARATE APPLICATION OF SECTION WITH RESPECT TO CERTAIN CATEGORIES OF INCOME.—

(2) Subparagraph (F) of section 904(d)(1) (as redesignated by subsection (a)) is amended by striking out "in subparagraph (A), (B), (C), or (D)" and inserting in lieu thereof "in any of the preceding subparagraphs".

(3) Paragraph (1) of section 904(d) is amended by inserting "and sections 902 and 960" after "subsections (a), (b), and (c)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) EXISTING NONQUALIFIED LOANS.—In the case of loans held by a taxpayer on November 16, 1985, which are not qualified loans (as defined in paragraph (3)(G)), section 904(d)(1)(B) of the Internal Revenue Code of 1954 (as added by this section) shall apply only with respect to interest received or accrued by such taxpayer in taxable years beginning after December 31, 1996.

(3) QUALIFIED LOANS.—

(A) IN GENERAL.—The amendments made by this section shall not apply with respect to interest received or accrued by any taxpayer—

(i) during any taxable year beginning after December 31, 1986, and before January 1, 1990, on any pre-1990 qualified loan, or

(ii) during any taxable year beginning after December 31, 1989, on any post-1989 qualified loan.

(B) PRE-1990 QUALIFIED LOAN.—For purposes of subparagraph (A), the term "pre-1990 qualified loan" means, with respect to any taxable year beginning before January 1, 1990, any qualified loan outstanding at any time during such taxable year to the extent that the total amount of foreign taxes which would be creditable (without regard to the limitation of section 904 of the Internal Revenue Code of 1954) with respect to all qualified loans outstanding at any time during such taxable year does not exceed the applicable credit limit for such taxable year.

(C) POST-1989 QUALIFIED LOANS.—For purposes of subparagraph (A), the term "post-1989 qualified loan" means any qualified loan outstanding as of the close of the first taxable year of the taxpayer beginning after December 31, 1988, to the extent that the total amount of foreign taxes which would be creditable (without regard to the limitation of section 904 of the Internal Revenue Code of 1954) with respect to all qualified loans outstanding as of the close of such taxable year does not exceed the applicable credit limit for post-1989 qualified loans.

(D) CLASSIFICATION OF QUALIFIED LOANS.—For purposes of this paragraph, if the foreign taxes creditable for any taxable year beginning before January 1, 1990, with respect to any qualified loan, when added to the aggregate amount of foreign taxes creditable for such taxable year with respect to qualified loans entered into by the taxpayer before the date on which such qualified loan was entered into, exceed the applicable credit limit, then that portion of a qualified loan which causes the taxpayer to exceed the applicable credit limit shall not be treated as a pre-1990 or post-1989 qualified loan, as the case may be.

(E) APPLICABLE CREDIT LIMIT.—

(i) IN GENERAL.—The applicable credit limit shall be equal to—

(I) in the case of the 1st taxable year beginning after December 31, 1986, the base credit amount, increased by 3 percent and multiplied by the applicable interest rate adjustment for such taxable year,

(II) in the case of the 1st taxable year beginning after December 31, 1987, the amount determined under subclause (I) (without regard to the interest rate adjustment), increased by 3 percent and multiplied by the applicable interest rate adjustment for such taxable year,

(III) in the case of the 1st taxable year beginning after December 31, 1988, the amount determined under subclause (II) (without regard to the interest rate adjustment), increased by 3 percent and multiplied by the applicable interest rate adjustment for such taxable year, and

(IV) in the case of post-1989 qualified loans, the amount determined under subclause (III) (without regard to the interest rate adjustment) multiplied by the interest rate adjustment for post-1989 qualified loans.

(ii) BASE CREDIT AMOUNT.—The base credit amount of a taxpayer shall be an amount equal to the principal amount of qualified loans held by such taxpayer on November 16, 1985, multiplied by the product of—

(I) the interest rate applicable to such loan on November 16, 1985, multiplied by

(II) the foreign withholding tax rate applicable to interest payable with respect to such loan on November 16, 1985.

(F) INTEREST RATE ADJUSTMENT.—

(i) IN GENERAL.—Except as provided in clause (ii), the applicable interest rate adjustment shall equal the ratio of the weighted average London Interbank Offer Rate (LIBOR) for the taxable year in question to LIBOR on November 16, 1985.

(ii) POST-1989 QUALIFIED LOANS.—The applicable interest rate adjustment for post-1989 qualified loans shall equal to the ratio of LIBOR on the last day of the taxpayer's 1st taxable year beginning after December 31, 1988 to LIBOR on November 16, 1985.

(G) QUALIFIED LOAN.—For purposes of this subsection, the term "qualified loan" means any loan made by the taxpayer to any of the following countries or any resident thereof for use in such country:

(i) Argentina.
(ii) Bolivia.
(iii) Brazil.
(iv) Chile.
(v) Colombia.
(vi) Ecuador.
(vii) the Ivory Coast.
(viii) Mexico.
(ix) Morocco.
(x) Nigeria.
(xi) Peru.
(xii) the Philippines.
(xiii) Uruguay.
(xiv) Venezuela.
(xv) Yugoslavia.

(4) SPECIAL RULE FOR TAXPAYER WITH OVERALL FOREIGN LOSS.—

(A) IN GENERAL.—If a taxpayer incorporated on June 20, 1928, the principal headquarters of which is in Minneapolis, Minnesota, sustained an overall foreign loss (as defined in section 904(f)(2) of the Internal Revenue Code of 1954) in taxable years beginning before January 1, 1986, in connection with 2 separate trades or businesses which the taxpayer had, during 1985, substantially disposed of in tax-free transactions pursuant to section 355 of such Code, then an amount, not to exceed $40,000,000 of foreign source income, which, but for this paragraph, would not be treated as overall limitation income, shall be so treated.

(B) SUBSTANTIAL DISPOSITION.—For purposes of this paragraph, a taxpayer shall be treated as having substantially disposed of a trade or business if the retained portion of such business had sales of less than 10 percent of the annual sales of such business.

SEC. 902. TREATMENT OF CERTAIN SUBSIDIES.

(a) TREATMENT OF CERTAIN SUBSIDIES.—Section 901 (relating to credit for foreign taxes) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) TREATMENT OF CERTAIN SUBSIDIES.—Any income, war profits, or excess profits tax shall not be treated as a tax for purposes of this title to the extent—

"(1) the amount of such tax is used (directly or indirectly) by the country imposing such tax to provide a subsidy by any means to the taxpayer, a related person (within the meaning of section 482), or any party to the transaction or to a related transaction, and

"(2) such subsidy is determined (directly or indirectly) by reference to the amount of such tax, or the base used to compute the amount of such tax."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to foreign taxes paid or accrued in taxable years beginning after December 31, 1986.

SEC. 903. CLARIFICATION OF TREATMENT OF SEPARATE LIMITATION LOSSES.

(a) GENERAL RULE.—Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF SEPARATE LIMITATION LOSSES.—

"(A) IN GENERAL.—The amount of the separate limitation losses for any taxable year shall reduce income from sources within the United States for such taxable year only to the extent the aggregate amount of such losses exceeds the aggregate amount of the separate limitation incomes for such taxable year.

"(B) ALLOCATION OF LOSSES.—The separate limitation losses for any taxable year (to the extent such losses do not exceed the separate limitation incomes for such year) shall be allocated among (and operate to reduce) such incomes on a proportionate basis.

"(C) RECHARACTERIZATION OF SUBSEQUENT INCOME.—If—

"(i) a separate limitation loss from any income category (hereinafter in this subparagraph referred to as a 'loss category') was allocated to income from any other category under subparagraph (B), and

"(ii) the loss category has income for a subsequent taxable year,

such income (to the extent it does not exceed the aggregate separate limitation losses from the loss category not previously recharacterized under this subparagraph) shall be recharacterized as income from such other category in proportion to the prior reductions under subparagraph (B) in such category not previously taken into account under this subparagraph.

"(D) SPECIAL RULES FOR LOSSES FROM SOURCES WITHIN THE UNITED STATES.—Any loss from sources within the United States for

any taxable year (to the extent such losses do not exceed the separate limitation incomes from such year) shall be allocated among (and operate to reduce) such incomes on a proportionate basis. This subparagraph shall be applied after subparagraph (B).

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) INCOME CATEGORY.—The term 'income category' means each separate category of income described in subsection (d)(1).

"(ii) SEPARATE LIMITATION INCOME.—The term 'separate limitation income' means, with respect to any income category, the taxable income from sources without the United States, separately computed for such category.

"(iii) SEPARATE LIMITATION LOSS.—The term 'separate limitation loss' means, with respect to any income category, the loss from such category determined under the principles of section 907(c)(4)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to losses incurred in taxable years beginning after December 31, 1986.

SEC. 904. DEEMED PAID CREDIT UNDER SECTIONS 902 AND 960 DETERMINED ON ACCUMULATED BASIS.

(a) GENERAL RULE.—Section 902 (relating to credit for corporate stockholder in foreign corporation) is amended to read as follows:

"SEC. 902. DEEMED PAID CREDIT WHERE DOMESTIC CORPORATION OWNS 10 PERCENT OR MORE OF VOTING STOCK OF FOREIGN CORPORATION.

"(a) TAXES PAID BY FOREIGN CORPORATION TREATED AS PAID BY DOMESTIC CORPORATION.—For purposes of this subpart, a domestic corporation which owns 10 percent or more of the voting stock of a foreign corporation from which it receives dividends in any taxable year shall be deemed to have paid the same proportion of such foreign corporation's post-1986 foreign income taxes as—

"(1) the amount of such dividends (determined without regard to section 78), bears to

"(2) such foreign corporation's post-1986 undistributed earnings.

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN 2ND AND 3RD TIER FOREIGN CORPORATIONS.—

"(1) 2ND TIER.—If the foreign corporation described in subsection (a) (hereinafter in this section referred to as the '1st tier corporation') owns 10 percent or more of the voting stock of a 2nd foreign corporation from which it receives dividends in any taxable year, the 1st tier corporation shall be deemed to have paid the same proportion of such 2nd foreign corporation's post-1986 foreign income taxes as would be determined under subsection (a) if such 1st tier corporation were a domestic corporation.

"(2) 3RD TIER.—If such 1st tier corporation owns 10 percent or more of the voting stock of a 2nd foreign corporation which, in turn, owns 10 percent or more of the voting stock of a 3rd foreign corporation from which the 2nd corporation receives dividends in any taxable year, such 2nd foreign corporation shall be deemed to have paid the same proportion of such 3rd foreign corporation's post-1986 foreign income taxes as would be determined under subsection (a) if such 2nd foreign corporation were a domestic corporation.

"(3) 5 PERCENT STOCK REQUIREMENT.—For purposes of this subpart—

"(A) FOR 2ND TIER.—Paragraph (1) shall not apply unless the percentage of voting stock owned by the domestic corporation in the 1st tier corporation and the percentage of voting stock owned by the 1st tier corporation in the 2nd foreign corporation when multiplied together equal at least 5 percent.

"(B) FOR 3RD TIER.—Paragraph (2) shall not apply unless the percentage arrived at for purposes of applying paragraph (1) when multiplied by the percentage of voting stock owned by the 2nd foreign corporation in the 3rd foreign corporation is equal to at least 5 percent.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) POST-1986 UNDISTRIBUTED EARNINGS.—

"(A) IN GENERAL.—The term 'post-1986 undistributed earnings' means the amount of the accumulated earnings and profits of the foreign corporation (computed in accordance with section 964 and 986) which were accumulated during the 10-year period ending with the taxable year of the foreign corporation in which the dividend is distributed (other than earnings and profits accumulated during any taxable year in such period beginning before January 1, 1987).

"(B) NO REDUCTION FOR CURRENT DIVIDENDS.—The post-1986 undistributed earnings for any taxable year shall not be reduced by reason of any dividends distributed during such taxable year.

"(C) DIVIDENDS IN EXCESS OF EARNINGS AND PROFITS.—If the dividends which a foreign corporation distributes in any taxable year exceed the accumulated earnings and profits for the 10-taxable year period described in subparagraph (A), the post-1986 undistributed earnings for such taxable year shall be computed by reference to the preceding 10-taxable year period. This subparagraph shall be applied successively with respect to each 10-taxable year period.

"(2) POST-1986 FOREIGN INCOME TAXES.—

"(A) IN GENERAL.—The term 'post-1986 foreign income taxes' means the foreign income taxes with respect to the 10-taxable year period of the foreign corporation ending with the taxable year in which the dividend is distributed (other than foreign income taxes with respect to any taxable year in such period beginning before January 1, 1987).

"(B) TAXES TAKEN INTO ACCOUNT ONLY ONCE.—Post-1986 foreign income taxes for any taxable year shall not include any foreign taxes to the extent such foreign taxes were deemed paid with respect to dividends distributed by the foreign corporation in prior taxable years.

"(3) SPECIAL RULE WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION AFTER DECEMBER 31, 1986.—

"(A) IN GENERAL.—If the first day on which the ownership requirements of subparagraph (B) are met with respect to any foreign corporation is in a taxable year of such corporation beginning after December 31, 1986, the post-1986 undistributed earnings and the post-1986 foreign income taxes of such foreign corporation shall be determined by only taking into account periods beginning on and after the first day of the first taxable year in which such ownership requirements are met.

"(B) OWNERSHIP REQUIREMENTS.—The ownership requirements of this subparagraph are met with respect to any foreign corporation if—

"(i) 10 percent or more of the voting stock of such foreign corporation is owned by a domestic corporation,

"(ii) 10 percent or more of the voting stock of such foreign corporation is owned by another foreign corporation meeting the requirements of clause (i) and the requirements of subsection (b)(3)(A) are met with respect to such corporation, or

"(iii) 10 percent or more of the voting stock of such corporation is owned by another foreign corporation described in clause (ii) and the requirements of subsection (b)(3)(B) are met with respect to such foreign corporation.

"(4) FOREIGN INCOME TAXES.—

"(A) IN GENERAL.—The term 'foreign income taxes' means any income, war profits, or excess profits taxes paid by the foreign corporation to any foreign country or possession of the United States.

"(B) TREATMENT OF DEEMED TAXES.—Except for purposes of determining the amount of the post-1986 foreign income taxes of a 3rd foreign corporation referred to in subsection (b)(2), the term 'foreign income taxes' includes any such taxes deemed to be paid by the foreign corporation under this section.

"(5) ACCOUNTING PERIODS.—In the case of a foreign corporation the income, war profits, and excess profits taxes of which are determined on the basis of an accounting period of less than 1 year, the word 'year' as used in this subsection shall be construed to mean such accounting period.

"(6) TREATMENT OF DISTRIBUTIONS FROM EARNINGS BEFORE 1987.—

"(A) IN GENERAL.—In the case of any dividend paid by a foreign corporation out of accumulated profits (as defined in this section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for taxable years beginning before the first taxable year taken into account in determining the post-1986 undistributed earnings of such corporation—

"(i) this section (as amended by the Tax Reform Act of 1986) shall not apply, but

"(ii) this section (as in effect on the day before the date of the enactment of such Act) shall apply.

"(B) DIVIDENDS PAID FIRST OUT OF POST-1986 EARNINGS.—Any dividend in a taxable year beginning after December 31, 1986, shall be treated as made out of post-1986 undistributed earnings to the extent thereof.

"(7) REGULATIONS.—The Secretary shall provide such regulations as may be necessary or appropriate to carry out the provisions of this subsection, including provisions which provide for the separate application of this section to reflect the separate application of section 904 to separate types of income and loss.

"(d) CROSS REFERENCES.—

"(1) For inclusion in gross income of an amount equal to taxes deemed paid under subsection (a), see section 78.

"(2) For application of subsections (a) and (b) with respect to taxes deemed paid in a prior taxable year by a United States shareholder with respect to a controlled foreign corporation, see section 960.

"(3) For reduction of credit with respect to dividends paid out of accumulated profits for years for which certain information is not furnished, see section 6038."

(b) SECTION 960 CREDIT DETERMINED ON ACCUMULATED BASIS.—The first sentence of section 960(a)(1) (relating to taxes paid by a foreign corporation) is amended by striking out "then" and all that follows down through the period at the end thereof and inserting in lieu thereof the following:

"then, under regulations prescribed by the Secretary, such domestic corporation shall be deemed to have paid a portion of such foreign corporation's post-1986 foreign income taxes determined under section 902 in the same manner as if the amount so included were a dividend paid by such foreign corporation (determined by applying sec-

tion 902(c) in accordance with section 904(d)(3)(B))."

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 902 and inserting in lieu thereof the following:

"Sec. 902. Deemed paid credit where domestic corporation owns 10 percent or more of voting stock of foreign corporation."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions by foreign corporations out of, and to inclusions under section 951(a) of the Internal Revenue Code of 1954 attributable to, earnings and profits for taxable years beginning after December 31, 1986.

SEC. 905. LIMITATION ON CARRYBACK OF FOREIGN TAX CREDITS.

Section 904(c) (relating to carryback and carryover of excess tax paid) is amended by adding at the end thereof the following new sentence: "Taxes paid or accrued in any taxable year beginning after 1986 shall, under this subsection—

"(i) be treated as paid or accrued during any prior taxable year, only to the extent that such taxes would be so treated if the rates of tax prescribed under section 1 or section 11, as the case may be, in such prior year were the rates prescribed in the taxable year such taxes were actually paid or accrued, and

"(ii) be treated as imposed on income described in section 904(d)(1)(F) when treated as paid or accrued in any taxable year beginning before 1987."

Subtitle B—Source Rules

SEC. 911. DETERMINATION OF SOURCE IN CASE OF SALES OF PERSONAL PROPERTY.

(a) PERSONAL PROPERTY SOURCE RULES.—Part I of subchapter N of chapter 1 (relating to determination of source of income) is amended by adding at the end thereof the following new section:

"SEC. 865. SOURCE RULES FOR PERSONAL PROPERTY SALES.

"(a) GENERAL RULE.—Except as otherwise provided in this section, income from the sale of personal property—

"(1) by a United States resident shall be sourced in the United States, or

"(2) by a nonresident shall be sourced outside the United States.

"(b) EXCEPTION FOR INVENTORY PROPERTY.—In the case of income derived from the sale of inventory—

"(1) this section shall not apply, and

"(2) such income shall be sourced under the rules of sections 861(a)(6), 862(a)(6), and 863(b).

"(c) EXCEPTION FOR DEPRECIABLE PERSONAL PROPERTY.—

"(1) IN GENERAL.—Gain (not in excess of the depreciation adjustments) from the sale of depreciable personal property shall be allocated between sources in the United States and sources outside the United States—

"(A) by treating the same proportion of such gain as sourced in the United States as the United States depreciation adjustments with respect to such property bear to the total depreciation adjustments, and

"(B) by treating the remaining portion of such gain as sourced outside the United States.

"(2) GAIN IN EXCESS OF DEPRECIATION.—Gain (in excess of the depreciation adjustments) from the sale of depreciable personal property shall be sourced as if such property were inventory property.

"(3) UNITED STATES DEPRECIATION ADJUSTMENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'United States depreciation adjustments' means the portion of the depreciation adjustments to the adjusted basis of the property which are attributable to the depreciation deductions allowable in computing taxable income from sources in the United States.

"(B) SPECIAL RULE FOR CERTAIN PROPERTY.—Except in the case of property of a kind described in section 48(a)(2)(B), if, for any taxable year—

"(i) such property is used predominantly in the United States, or

"(ii) such property is used predominantly outside the United States,

all of the depreciation deductions allowable for such year shall be treated as having been allocated to income from sources in the United States (or, where clause (ii) applies, from sources outside the United States).

"(4) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) DEPRECIABLE PERSONAL PROPERTY.—The term 'depreciable personal property' means any personal property if the adjusted basis of such property includes depreciation adjustments.

"(B) DEPRECIATION ADJUSTMENTS.—The term 'depreciation adjustments' means adjustments reflected in the adjusted basis of any property on account of depreciation deductions (whether allowed with respect to such property or other property and whether allowed to the taxpayer or to any other person).

"(C) DEPRECIATION DEDUCTIONS.—The term 'depreciation deductions' means any deductions for depreciation or amortization or any other deduction allowable under any provision of this chapter which treats an otherwise capital expenditure as a deductible expense.

"(d) EXCEPTION FOR INTANGIBLES.—

"(1) IN GENERAL.—In the case of any sale of an intangible—

"(A) this section shall apply only to the extent the payments in consideration of such sale are not contingent on the productivity, use, or disposition of the intangible, and

"(B) to the extent such payments are so contingent, the source of such payments shall be determined under sections 861 and 863 in the same manner as if such payments were royalties.

"(2) INTANGIBLE.—For purposes of paragraph (1), the term 'intangible' means any patent, copyright, secret process or formula, goodwill, trademark, trade brand, or other like property.

"(3) SPECIAL RULE IN THE CASE OF GOODWILL.—To the extent this section applies to the sale of goodwill, payments in consideration of such sale shall be treated as from sources in the country in which such goodwill was generated.

"(e) SPECIAL RULES FOR SALES THROUGH OFFICES OR FIXED PLACES OF BUSINESS.—

"(1) SALES BY RESIDENTS.—

"(A) IN GENERAL.—Except as provided in subsection (f), if a United States resident maintains an office or other fixed place of business outside the United States, income from sales of personal property (other than inventory property) attributable to such office or other fixed place of business shall be sourced outside the United States.

"(B) TAX MUST BE IMPOSED.—Subparagraph (A) shall not apply unless an income tax equal to at least 10 percent of the income from the sale is actually paid to a foreign country with respect to such income.

"(2) SALES BY NONRESIDENTS.—

"(A) IN GENERAL.—Notwithstanding any other provisions of this part, if a nonresident maintains an office or other fixed place of business within the United States, income from any sale of personal property (including inventory property) attributable to such office or other fixed place of business shall (other than for purposes of subpart A of part III of this subchapter) be sourced within the United States.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any sale of inventory property which is sold for use, disposition, or consumption outside the United States if an office or other fixed place of business of the taxpayer outside the United States materially participated in the sale.

"(3) SALES ATTRIBUTABLE TO AN OFFICE OR OTHER FIXED PLACE OF BUSINESS.—The principles of section 864(b)(5) shall apply in determining whether a taxpayer has an office or other fixed place of business and whether a sale is attributable to such an office or other fixed place of business.

"(f) STOCK OF AFFILIATES.—If—

"(1) a United States resident sells stock in an affiliate,

"(2) such affiliate is engaged in the active conduct of a trade or business, and

"(3) such sale occurs in the foreign country in which the affiliate derived more than 50 percent of its gross income for the 3-year period ending with the close of the affiliate's taxable year immediately preceding the year during which such sale occurred,

any gain from such sale shall be sourced outside the United States.

"(g) UNITED STATES RESIDENT; NONRESIDENT.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection—

"(A) UNITED STATES RESIDENT.—The term 'United States resident' means—

"(i) any individual who has a tax home (as defined in section 911(d)(3)) in the United States, and

"(ii) any corporation, partnership, trust, or estate which is a United States person (as defined in section 7701(a)(30)).

"(B) NONRESIDENT.—The term 'nonresident' means any person other than a United States resident.

"(2) SPECIAL RULES FOR UNITED STATES CITIZENS AND RESIDENT ALIENS.—For purposes of this section, a United States citizen or resident alien shall not be treated as a nonresident with respect to any sale of personal property unless an income tax equal to at least 10 percent of the gain derived from such sale is actually paid to a foreign country with respect to that gain.

"(h) OTHER DEFINITIONS.—For purposes of this section—

"(1) INVENTORY PROPERTY.—The term 'inventory property' means personal property described in paragraph (1) of section 1221.

"(2) SALE INCLUDES EXCHANGE.—The term 'sale' includes an exchange or any other disposition.

"(3) TREATMENT OF POSSESSIONS.—Any possession of the United States shall be treated as a foreign country.

"(4) AFFILIATE.—The term 'affiliate' means a member of the same affiliated group (within the meaning of section 1504(a) without regard to section 1504(b)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purpose of this section, including regulations applying the rules of this section to income derived from trading in futures contracts, forward contracts, options contracts, and other securities.

"(j) CROSS REFERENCES.—

"(1) For provisions relating to the characterization as dividends for source purposes of gains from the sale of stock in certain foreign corporations, see section 1248.

"(2) For sourcing of income from certain foreign currency transactions, see section 988."

(b) CONFORMING AMENDMENTS.—

(1) Each of the following provisions are amended by striking out "personal property" and inserting in lieu thereof "inventory property (within the meaning of section 865(g)(1))":

(A) Paragraphs (2) and (3) of section 863(b).

(B) Paragraph (6) of section 861(a).

(C) Paragraph (6) of section 862(a).

(2) Paragraph (3) of section 904(b) is amended by striking out subparagraphs (C) and (D) and redesignating subparagraphs (E) and (F) as subparagraphs (C) and (D), respectively.

(3) Subparagraph (D) of section 871(a)(1) is amended by striking out "or from payments which are treated as being so contingent under subsection (e)".

(4) Subsection (e) of section 871 is hereby repealed.

(5) Paragraph (4) of section 881(a) is amended by striking out "or from payments which are treated as being so contingent under section 871(e),".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE FOR FOREIGN PERSONS.—In the case of any foreign person other than any controlled foreign corporations (within the meaning of section 957(a) of the Internal Revenue Code of 1954), the amendments made by this section shall apply to transactions entered into after March 18, 1986.

SEC. 912. LIMITATIONS ON SPECIAL TREATMENT OF 80-20 CORPORATIONS.

(a) GENERAL RULE.—

(1) Subparagraph (B) of section 861(a)(1) (relating to interest paid by domestic corporations, etc., with less than 20 percent United States source income) is amended to read as follows:

"(B) a portion of the interest received from a resident alien individual or domestic corporation equal to the percentage of the individual's or corporation's total gross income which is derived from sources outside the United States during the 3-year period ending with the close of the taxable year of such individual or corporation preceding the payment (or such part of such period as the corporation has been in existence) if it is shown to the satisfaction of the Secretary that less than 20 percent of the gross income from all sources of such individual or corporation for such period has been derived from sources within the United States,".

(2) Subparagraph (A) of section 861(a)(2) is amended to read as follows:

"(A) from a domestic corporation other than—

"(i) a corporation which has an election in effect under section 936, or

"(ii) a corporation described in paragraph (1)(B) to the extent of that portion of dividends received from such corporation equal to the percentage of the corporation's total gross income which is derived from sources outside the United States during the 3-year period ending with the close of the taxable year of the corporation preceding the declaration of such dividend (or such part of such period as the corporation has been in existence), or".

(b) WITHHOLDING TAX NOT TO APPLY TO CERTAIN INTEREST.—

(1) NONRESIDENT ALIENS.—Section 871 (relating to tax on nonresident aliens) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) TAX NOT TO APPLY TO CERTAIN INTEREST.—

"(1) IN GENERAL.—No tax shall be imposed under paragraph (1)(A) or (1)(C) of subsection (a) on any amount described in paragraph (2).

"(2) AMOUNTS TO WHICH PARAGRAPH (1) APPLIES.—The amounts described in this paragraph are as follows:

"(A) Interest on deposits, etc., if such interest is not effectively connected with the conduct of a trade or business within the United States.

"(B) Income derived by a foreign central bank of issue from bankers' acceptances.

"(3) DEPOSITS, ETC.—For purposes of paragraph (2), the term 'deposits, etc.' means amounts which are—

"(A) deposits with persons carrying on the banking business,

"(B) deposits or withdrawable accounts with savings institutions chartered and supervised as savings and loan or similar associations under Federal or State law, but only to the extent that amounts paid or credited on such deposits or account are deductible under section 591 (determined without regard to sections 265 and 291) in computing the taxable income of such institutions, and

"(C) amounts held by an insurance company under an agreement to pay interest thereon."

(2) FOREIGN CORPORATIONS.—Section 881 (relating to tax on foreign corporations) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TAX NOT TO APPLY TO CERTAIN INTEREST.—No tax shall be imposed under paragraph (1) or (3) of subsection (a) on any amount described in section 871(i)(2)."

(3) WITHHOLDING TAX.—Subsection (c) of section 1441 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(10) EXCEPTION FOR CERTAIN INTEREST.—No tax shall be required to be deducted and withheld under subsection (a) from any amount described in section 871(i)(2)."

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 861(a) is amended by striking out subparagraphs (A) and (E) and by redesignating subparagraphs (B), (C), (D), (F), (G), and (H) as subparagraphs (A), (B), (C), (D), (E), and (F), respectively.

(B) Section 861 is amended by striking out subsection (c).

(C) Subsection (d) of section 861 is amended—

(i) by striking out "(1)(B), (1)(C), (1)(D), and (2)(B)" each place it appears (including in the subsection heading) and inserting in lieu thereof "(1)(A), (1)(B), (1)(C), and (2)(B)", and

(ii) by striking out "(1)(C), (1)(D), and (2)(B)" in paragraph (2) and inserting in lieu thereof "(1)(B), (1)(C), and (2)(B)".

(D) Clause (ii) of section 861(a)(1)(D), as redesignated by subparagraph (A), is amended to read as follows:

"(ii) on amounts satisfying the requirements of section 871(i)(3)(B) which are paid by a foreign branch of a domestic corporation or a domestic partnership."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 913. SPECIAL RULES FOR TRANSPORTATION INCOME.

(a) GENERAL RULE.—Paragraph (2) of section 863(c) (relating to special rule for certain transportation income) is amended to read as follows:

"(2) OTHER TRANSPORTATION HAVING UNITED STATES CONNECTION.—

"(A) 50 percent of all transportation income attributable to transportation which—

"(i) is not described in paragraph (1), and

"(ii) begins or ends in the United States,

shall be treated as from sources in the United States.

"(B) SPECIAL RULE FOR PERSONAL SERVICE INCOME.—Subparagraph (A) shall not apply to any transportation income which is income derived from personal services performed by an individual, unless such income is attributable to transportation which—

"(i) begins in the United States and ends in a possession of the United States, or

"(ii) begins in a possession of the United States and ends in the United States."

(b) 4 PERCENT TAX ON GROSS TRANSPORTATION INCOME.—

(1) IN GENERAL.—Part II of subchapter N of chapter 1 (relating to nonresident alien individuals and foreign corporations) is amended by redesignating subpart C as subpart D and by inserting after subpart B the following new subpart:

"Subpart C—Tax on Gross Transportation Income

"Sec. 887. Imposition of tax on gross transportation income of nonresident aliens and foreign corporations.

"SEC. 887. IMPOSITION OF TAX ON GROSS TRANSPORTATION INCOME OF NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

"(a) IMPOSITION OF TAX.—In the case of any nonresident alien individual or foreign corporation, there is hereby imposed for each taxable year a tax equal to 4 percent of such individual's or corporation's United States source gross transportation income for such taxable year.

"(b) UNITED STATES SOURCE GROSS TRANSPORTATION INCOME.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'United States source gross transportation income' means any gross income which is transportation income (as defined in section 863(c)(3)) to the extent such income is treated as from sources in the United States under section 863(c).

"(2) EXCEPTION FOR CERTAIN INCOME EFFECTIVELY CONNECTED WITH BUSINESS IN THE UNITED STATES.—

"(A) IN GENERAL.—The term 'United States source gross transportation income' shall not include any income—

"(i) which is received or accrued by a nonresident alien individual or foreign corporation which is not a citizen or resident of a listed country, and

"(ii) which is effectively connected with the conduct of a trade or business within the United States.

"(B) CERTAIN CORPORATIONS TREATED AS RESIDENTS OF LISTED COUNTRIES.—A foreign corporation which is not organized in, or a resident of, a listed country, shall, for purposes of subparagraph (A), be treated as a resident of a listed country if 50 percent or more of the value of the stock of such corporation is owned (within the meaning of sec-

tion 958(a)) or is considered as owned (under the principles of section 958(b)) by individuals who are residents of a listed country.

"(C) EXCEPTION FOR PUBLICLY TRADED CORPORATIONS.—Subparagraph (B) shall not apply to any foreign corporation—

"(i) the stock of which is primarily and regularly traded on an established securities market in the foreign country in which such corporation is organized, or

"(ii) which is wholly owned (either directly or indirectly) by another corporation organized in the foreign country described in clause (i) and the stock of which is so traded.

"(3) ELECTION TO TREAT INCOME AS EFFECTIVELY CONNECTED.—A nonresident alien or foreign corporation, other than a resident of a listed country, may elect, for purposes of this chapter, to treat gross transportation income which, but for this paragraph, would not be treated as income which is effectively connected with a conduct of a trade or business within the United States as so treated. Such election shall be made in the same manner as an election under section 871(d) or 882(d).

"(4) LISTED COUNTRY.—For purposes of this subsection, the term 'listed country' means a country which the Secretary determines imposes a gross basis tax on transportation income of citizens of the United States or corporations organized in the United States.

"(c) COORDINATION WITH OTHER PROVISIONS.—Any income taxable under this section shall not be taxable under section 871, 881, or 882."

(2) CLERICAL AMENDMENT.—The table of subparts for part II of subchapter N is amended by striking out the item relating to subpart C and inserting in lieu thereof the following:

"Subpart C. Tax on gross transportation income.

"Subpart D. Miscellaneous provisions."

(c) LIMITATION ON EXCLUSION OF TRANSPORTATION INCOME.—

(1) Subsection (b) of section 872 (relating to exclusions) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) SHIPS OPERATED BY CERTAIN NONRESIDENTS.—Gross income derived by an individual resident of a foreign country from the operation of a ship or ships if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.

"(2) AIRCRAFT OPERATED BY CERTAIN NONRESIDENTS.—Gross income derived by an individual resident of a foreign country from the operation of aircraft if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States."

(2) Section 872(b) is amended by adding at the end thereof the following new paragraphs:

"(5) CERTAIN RENTAL INCOME.—Income to which paragraphs (1) and (2) apply shall include income which is derived from the rental on a full or bareboat basis of a ship or ships or aircraft, respectively.

"(6) APPLICATION TO DIFFERENT TYPES OF TRANSPORTATION.—The Secretary may provide that this subsection be applied separately with respect to income from different types of transportation."

(3) Subsection (a) of section 883 (relating to exclusions from gross income) is amended by striking out paragraphs (1) and (2) and by inserting in lieu thereof the following:

"(1) SHIPS OPERATED BY CERTAIN FOREIGN CORPORATIONS.—Gross income derived by a corporation organized in a foreign country from the operation of a ship or ships if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States.

"(2) AIRCRAFT OPERATED BY CERTAIN FOREIGN CORPORATIONS.—Gross income derived by a corporation organized in a foreign country from the operation of aircraft if such foreign country grants an equivalent exemption to citizens of the United States and to corporations organized in the United States."

(4) Section 883(a) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES.—The rules of paragraphs (5) and (6) of section 872(b) shall apply for purposes of this subsection."

(5) Section 883 is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF CERTAIN FOREIGN CORPORATIONS.—

"(1) IN GENERAL.—Paragraphs (1) and (2) of subsection (a) shall not apply to any foreign corporation if 50 percent or more of the value of the stock of such corporation is owned (within the meaning of section 958(a)) or is considered as owned (under the principles of section 958(b)) by individuals who are not residents of such foreign country or another foreign country meeting the requirements of such paragraphs (1) and (2).

"(2) TREATMENT OF UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—For purposes of paragraph (1), in the case of a foreign corporation which is a controlled foreign corporation (as defined in section 957(a)), United States shareholders (as defined in section 951(b)) of such corporation shall be treated as residents of the foreign country in which such corporation is organized.

"(3) EXCEPTION FOR PUBLICLY TRADED CORPORATIONS.—Paragraph (1) shall not apply to any foreign corporation—

"(A) the stock of which is primarily and regularly traded on an established securities market in the foreign country in which such corporation is organized, or

"(B) which is wholly owned (either directly or indirectly) by another corporation which is organized in the foreign country described in subparagraph (A) and the stock of which is so traded."

(d) REPEAL OF SPECIAL TREATMENT FOR LEASED AIRCRAFT, ETC.—Section 861 is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(e) CONFORMING AMENDMENT.—Section 863(b)(1) is amended by striking out "transportation or other services" and inserting in lieu thereof "services".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE FOR CERTAIN LEASED PROPERTY.—The amendments made by subsections (a) and (d) shall not apply to any income attributable to property held by the taxpayer on January 1, 1986, if such property was first leased by the taxpayer before January 1, 1986, in a lease to which section 863(c)(2)(B) or 861(e) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) applied.

(3) SPECIAL RULE FOR CERTAIN SHIPS LEASED BY THE UNITED STATES NAVY.—

(A) IN GENERAL.—In the case of any property described in subparagraph (B), paragraph (2) shall be applied by substituting "1987" for "1986" each place it appears.

(B) PROPERTY TO WHICH PARAGRAPH APPLIES.—Property described in this subparagraph consists of 4 ships which are to be leased by the United States Navy and which are the subject of Internal Revenue Service rulings issued on the following dates and which involved the following amount of financing, respectively:

March 5, 1986	$176,844,000
February 5, 1986	64,567,000
April 22, 1986	64,598,000
May 22, 1986	175,300,000.

SEC. 914. RULES FOR ALLOCATING INTEREST, ETC., TO FOREIGN SOURCE INCOME.

(a) GENERAL RULE.—Section 864 (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(e) RULES FOR ALLOCATING INTEREST, ETC.—

"(1) TREATMENT OF AFFILIATED GROUPS.—For purposes of section 904, except as otherwise provided in this section, the taxable income of an affiliated group from sources outside the United States shall be determined by allocating and apportioning interest expense to such income in an amount equal to—

"(A) the total interest expense of the expanded affiliated group which includes such affiliated group, multiplied by

"(B) a percentage equal to the ratio which the foreign assets of the expanded affiliated group bears to all assets of the expanded affiliated group.

"(2) TREATMENT OF FOREIGN SUBSIDIARY INTEREST EXPENSE.—Interest expense allocated to foreign source income under the rules of paragraph (1) shall be reduced (but not below zero) by any interest expense incurred by any foreign corporation in the expanded affiliated group to the extent such interest would have been allocated and apportioned to foreign source income of such corporation if this subsection were applied separately to all foreign corporations in the expanded affiliated group as if such corporations were an affiliated group. A similar reduction shall be made in the case of a corporation described in section 1504(b)(4).

"(3) GROSS INCOME METHOD MAY NOT BE USED FOR INTEREST.—All allocations and apportionments of interest expense shall be made on the basis of assets rather than gross income.

"(4) TAX-EXEMPT ASSETS NOT TAKEN INTO ACCOUNT.—For purposes of allocating and apportioning any deductible expense, any tax-exempt asset (and any income from such an asset) shall not be taken into account. A similar rule shall apply in the case of any dividend (other than a qualifying dividend as defined in section 243(b)) for which a deduction is allowable under section 243 or 245(a) and any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined).

"(5) BASIS OF STOCK IN CERTAIN CORPORATIONS ADJUSTED FOR EARNINGS AND PROFITS CHANGES.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any asset which is stock in a corporation which is not included in the expanded affiliated group and in which members of the expanded affiliated group own 10 percent or more of the total combined voting power of all classes of stock entitled to vote in such corporation shall be—

"(A) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulated

during the period the taxpayer held such stock, or

"(B) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(6) EXCEPTION FOR INTEREST EXPENSE OF CERTAIN DOMESTIC SUBSIDIARIES.—

"(A) IN GENERAL.—A domestic corporation which is a member of an affiliated group and which incurs interest expense with respect to qualified indebtedness (as defined in subparagraph (C)) may elect to allocate and apportion interest expense incurred with respect to such qualified indebtedness under the rules of paragraphs (1) through (5) as if such corporation were the common parent corporation of an expanded affiliated group consisting of such domestic corporation and any corporation at a lower level in the chain of corporations which includes such domestic corporation.

"(B) EQUALIZATION RULE.—If an election under subparagraph (A) is made by any member of an affiliated group, all interest expense of such affiliated group not allocable to qualified indebtedness shall be allocated to foreign source income to the extent such expense does not exceed the amount of all interest expense which, but for this paragraph, would have been so allocated.

"(C) QUALIFIED INDEBTEDNESS.—For purposes of this paragraph, qualified indebtedness means any borrowing from any unrelated party which is not guaranteed (or in any other way facilitated) by any corporation within the same expanded affiliated group as the borrower (other than a corporation at a lower level in the chain of includible corporations). If a borrowing is not treated as qualified indebtedness solely because it is guaranteed (or otherwise facilitated) by another corporation, then—

"(i) such borrowing shall be treated as the borrowing of such other corporation if such other corporation is at a higher level in the chain of includible corporations than the borrowing corporation, or

"(ii) if such other corporation is in a different chain of includible corporations, such borrowing shall be treated as the borrowing of the first common parent of the borrowing corporation and the guaranteeing corporation.

"(D) EFFECT OF CERTAIN TRANSACTIONS ON QUALIFIED INDEBTEDNESS.—To the extent a domestic corporation allocating interest expense under the rules of subparagraph (A)—

"(i) distributes dividends or makes other distributions with respect to its stock in any year to any member of its affiliated group in excess of the greater of—

"(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable year period ending with the taxable year preceding the taxable year, or

"(II) 25 percent of its average annual earnings and profits for such 5-taxable year period, or

"(ii) deals with any related party in any manner not clearly reflecting the income of the corporation,

an amount of qualified indebtedness equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized for purposes of this paragraph as nonqualified indebtedness. If a corporation has not been in existence for 5 taxable years, this paragraph shall be applied with respect to the period it was in existence.

"(E) EFFECT OF ELECTION ON GROUP.—If 1 member of an affiliated group makes an election under subparagraph (A), all members of such group shall be treated as having made such election.

"(7) ALLOCATION OF OTHER EXPENSES.—Except as otherwise provided in regulations, expenses (other than interest and research and development expenses) which are not directly allocable to any specific income producing activity shall be allocated as if all members of the affiliated group were a single corporation.

"(8) AFFILIATED GROUP; EXPANDED AFFILIATED GROUP.—For purposes of this section—

"(A) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given such term by section 1504(a).

"(B) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group determined without regard to paragraph (3) or (4) of section 1504(b).

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations—

"(A) providing for the resourcing of income of any member of an affiliated group or modifications to the consolidated return regulations to the extent such resourcing or modification is necessary to carry out the purposes of this section,

"(B) providing for the proper treatment of related party indebtedness for allocation and apportionment of expense under this section,

"(C) preventing a domestic corporation allocating interest expense under the rules of paragraph (6)(A) from making the economic benefit of qualified indebtedness available to other members of the expanded affiliated group,

"(D) providing for the apportionment of expense allocated to foreign source income among the members of the affiliated group and various categories of foreign source income described in section 904(d)(1), and

"(E) treating amounts which are equivalent to interest as interest."

(b) CLERICAL AMENDMENTS.—

(1) The section heading for section 864 is amended to read as follows:

"SEC. 864. DEFINITIONS AND SPECIAL RULES."

(2) The table of sections for part I of subchapter N of chapter 1 is amended by striking out the item relating to section 864 and inserting in lieu thereof the following:

"Sec. 864. Definitions and special rules."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULES.—

(A) GENERAL PHASE-IN.—

(i) IN GENERAL.—In the case of the first 4 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall apply only to the extent that the interest expenses paid or accrued by the taxpayer during the taxable year exceed the applicable percentage of the base amount.

(ii) APPLICABLE PERCENTAGE.—

In the case of the:	The applicable percentage is:
1st taxable year...	80
2nd taxable year..	60
3rd taxable year...	40
4th taxable year...	20.

(iii) BASE AMOUNT.—For purposes of clause (i), the term "base amount" means the amount of interest (determined on an annual basis) which is payable on the amount of indebtedness of the taxpayer outstanding on March 18, 1986. For purposes of the preceding sentence, interest payable during any year shall be allocated pro rata among any outstanding indebtedness.

(B) SPECIAL RULE.—In the case of the first 9 taxable years beginning after December 31, 1986, the following applicable percentages shall be applied (in lieu of those set forth in subparagraph (A)(ii)) to the amount of indebtedness described in subparagraph (C) or (D):

In the case of the:	The applicable percentage is:
1st taxable year.....	90
2nd taxable year.....	80
3rd taxable year.....	70
4th taxable year.....	60
5th taxable year.....	50
6th taxable year.....	40
7th taxable year.....	30
8th taxable year.....	20
9th taxable year.....	10.

(C) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this subparagraph if it is indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

(D) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this subparagraph if it is indebtedness (which was outstanding on May 29, 1985) of a member of an affiliated group (as defined in section 1504(a)), the common parent of which was incorporated on August 26, 1926, and has its principal place of business in Harrison, New York.

(3) SPECIAL RULE.—

(A) IN GENERAL.—In the case of a qualified corporation, in lieu of applying paragraph (2), the amendments made by this section shall not apply to interest expenses allocable to any indebtedness to the extent such indebtedness does not exceed $500,000,000 if—

(i) the indebtedness was incurred to develop or improve existing property that is owned by the taxpayer on November 16, 1985, and was acquired with the intent to develop or improve the property,

(ii) the loan agreement with respect to the indebtedness provides that the funds are to be utilized for purposes of developing or improving the above property, and

(iii) the debt to equity ratio of the companies that join in the filing of the consolidated return is less than 15 percent.

(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term "qualified corporation" means a corporation—

(i) which was incorporated in Delaware on June 29, 1964,

(ii) the principal subsidiary of which is a resident of Arkansas, and

(iii) which is a member of an affiliated group the average daily United States production of oil of which is less than 50,000 barrels and the average daily United States refining of which is less than 150,000 barrels.

(4) SPECIAL RULES FOR SUBSIDIARY.—The amendments made by this section shall not apply to interest on up to the applicable dollar amount of indebtedness of a subsidiary incorporated on February 11, 1975, the indebtedness of which on May 6, 1986, included—

(A) $100,000,000 face amount of 11¾ percent notes due in 1990,

(B) $100,000,000 of 8¾ percent notes due in 1989,

(C) 6¾ percent Japanese yen notes due in 1991, and

(D) 5¾ percent Swiss franc bonds due in 1994.

For purposes of this paragraph, the term "applicable dollar amount" means $600,000,000 in the case of taxable years beginning in 1987 through 1991, $500,000,000 in the case of the taxable year beginning in 1992, $400,000,000 in the case of the taxable year beginning in 1993, $300,000,000 in the case of the taxable year beginning in 1994, $200,000,000 in the case of the taxable year beginning in 1995, $100,000,000 in the case of the taxable year beginning in 1996, and zero in the case of taxable years beginning after 1996.

SEC. 915. SOURCE RULE FOR SPACE AND CERTAIN OCEAN ACTIVITIES.

(a) GENERAL RULE.—Section 863 (relating to items not specified in section 861 or 862) is amended by adding at the end thereof the following new subsections:

"(d) SOURCE RULES FOR SPACE AND CERTAIN OCEAN ACTIVITIES.—

"(1) IN GENERAL.—Except as provided in regulations, any income derived from a space or ocean activity—

"(A) if derived by a United States person, shall be sourced in the United States, and

"(B) if derived by a person other than a United States person, shall be sourced outside the United States.

"(2) SPACE OR OCEAN ACTIVITY.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'space or ocean activity' means—

"(i) any activity conducted in space, and

"(ii) any activity conducted on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States.

Such term includes any activity conducted in Antarctica.

"(B) EXCEPTION FOR CERTAIN ACTIVITIES.—The term 'space or ocean activity' shall not include—

"(i) any activity giving rise to transportation income (as defined in section 863(c)),

"(ii) any activity giving rise to international communications income (as defined in subsection (e)(2)), and

"(iii) any activity with respect to mines, oil and gas wells, or other natural deposits to the extent within the United States or any foreign country or possession of the United States (as defined in section 638).

For purposes of applying section 638, the jurisdiction of any foreign country shall not include any jurisdiction not recognized by the United States.

"(3) EXCEPTION FOR CERTAIN UNITED STATES-OWNED FOREIGN CORPORATIONS.—For purposes of paragraph (1), a foreign corporation shall be treated as a United States person if—

"(A) 50 percent or more (in value) of the stock of such corporation, or

"(B) 50 percent or more of the voting power of the stock of such corporation,

is owned (within the meaning of section 958(a)) or considered as owned under the principles of section 958(b) by United States persons."

"(e) INTERNATIONAL COMMUNICATIONS INCOME.—

"(1) IN GENERAL.—50 percent of international communications income shall be treated as derived from sources within the United States and 50 percent of such income shall be treated as derived from sources outside the United States.

"(2) DEFINITION.—For purposes of this section, the term 'international communications income' includes all income derived from the transmission of communications or data from the United States to any foreign country or from any foreign country to the United States."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

Subtitle C—Taxation of Income Earned Through Foreign Corporations

SEC. 921. INCOME SUBJECT TO CURRENT TAXATION.

(a) DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY INCOME.—

(1) INCLUSION OF PASSIVE INCOME.—

(A) IN GENERAL.—Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended to read as follows:

"(1) IN GENERAL.—For purposes of subsection (a)(1), the term 'foreign personal holding company income' means the portion of the gross income which consists of:

"(A) DIVIDENDS, ETC.—Dividends, interest, royalties, rents, and annuities.

"(B) CERTAIN PROPERTY TRANSACTIONS.—The excess of gains over losses from the sale or exchange of property—

"(i) which gives rise to income described in subparagraph (A) (after application of paragraph (2)), or

"(ii) which does not give rise to any income.

This subparagraph shall not apply to gain from the sale or exchange of any property which, in the hands of the taxpayer, is property described in section 1221(1) or to gain from the sale or exchange of any property by a regular dealer in such property.

"(C) COMMODITIES TRANSACTIONS.—The excess of gains over losses from transactions (including futures transactions) in any commodities (other than foreign currency). This subparagraph shall not apply to gains which—

"(i) arise out of bona fide hedging transactions reasonably necessary to the conduct of any business by a producer, processor, merchant, or handler of a commodity in the manner in which such business is customarily and usually conducted by others, or

"(ii) are active business gains from the sale of commodities, but only if substantially all of the controlled foreign corporation's business is as an active producer, processor, merchant, or handler of commodities.

"(D) FOREIGN CURRENCY GAINS.—The excess of foreign currency gains over foreign currency losses (as defined in section 988(b)) attributable to any section 988 transactions. This subparagraph shall not apply in the case of any transactions directly related to the business needs of the controlled foreign corporation."

(B) CONFORMING AMENDMENT.—Section 954(c) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3).

(2) BANKING EXCEPTION LIMITED TO BONA FIDE BUSINESSES.—

(A) IN GENERAL.—Paragraphs (2)(B) and (3)(B) of section 954(c) are each amended by inserting "bona fide" before "banking" each place it appears.

(B) BONA FIDE BANKING, ETC. BUSINESS DEFINED.—Section 954(c) is amended by adding at the end thereof the following new paragraph:

"(4) BONA FIDE BANKING, FINANCING, OR SIMILAR BUSINESS.—

"(A) IN GENERAL.—For purposes of paragraphs (2)(B) and (3)(B), a controlled foreign corporation shall be treated as conducting a bona fide banking, financing, or similar business only if such corporation regularly and continually conducts with unrelated persons at least 1 of the following activities:

"(i) Receiving deposits of money from the public.

"(ii) Making personal, mortgage, industrial, or other loans to the public.

"(iii) Either—

"(I) purchasing stock, debt obligations, or other securities from any issuer or holder for public distribution thereof, or

"(II) offering or selling stock, debt obligations, or other securities for an issuer or holder in connection with the public distribution thereof, or participating in any such undertaking.

"(B) SUBSTANTIAL PORTION OF NONBANKING ACTIVITIES.—A controlled foreign corporation shall not be treated as conducting a bona fide banking, financing, or similar business if a substantial portion of such corporation's activities are not described in subparagraph (A).

"(C) REGULATIONS.—The Secretary shall prescribe regulations as are necessary to carry out the purposes of this paragraph, including regulations setting forth safe harbor rules for determining a bona fide banking, financing, or similar business."

(3) EXCEPTION NOT TO APPLY.—Section 954(c)(3) is amended by adding at the end thereof the following new flush sentence:

"This paragraph shall not apply in the case of any interest, rent, or royalty to the extent such interest, rent, or royalty reduces the payor's subpart F income."

(b) DEFINITION OF RELATED PERSON.—

(1) Paragraph (3) of section 954(d) (defining related person) is amended by striking out subparagraphs (A), (B), and (C), and inserting in lieu thereof the following:

"(A) such person is an individual, corporation, partnership, trust, or estate which controls, or is controlled by, the controlled foreign corporation, or

"(B) such person is a corporation, partnership, trust, or estate which is controlled by the same person or persons which control the controlled foreign corporation."

(2) Paragraph (3) of section 954(d) is amended by striking out the last 2 sentences and inserting in lieu thereof the following: "For purposes of the preceding sentence, control means, with respect to a corporation, the ownership, directly or indirectly, of stock possessing 50 percent or more of the total voting power of all classes of stock entitled to vote or of the total value of stock of such corporation. In the case of a partnership, trust, or estate, control means the ownership, directly or indirectly, of 50 percent or more (by value) of the beneficial interests in such partnership, trust, or estate. For purposes of this paragraph, rules similar to the rules of section 958 shall apply."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1986.

SEC. 922. TESTING CONTROLLED FOREIGN CORPORATIONS AND FOREIGN PERSONAL HOLDING COMPANIES BY VALUE AND VOTING POWER.

(a) DEFINITION OF CONTROLLED FOREIGN CORPORATION.—Subsection (a) of section 957 (defining controlled foreign corporation) is amended to read as follows:

"(a) GENERAL RULE.—For purposes of this subpart, the term 'controlled foreign corporation' means any foreign corporation if more than 50 percent of—

"(1) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(2) the total value of the stock of such corporation,

is owned (within the meaning of section 958(a)), or is considered as owned by applying the rules of ownership of section 958(b), by United States shareholders on any day during the taxable year of such foreign corporation."

(b) DEFINITION OF FOREIGN PERSONAL HOLDING COMPANY.—Paragraph (2) of section 552(a) (defining foreign personal holding company) is amended to read as follows:

"(2) STOCK OWNERSHIP REQUIREMENT.—At any time during the taxable year more than 50 percent of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(B) the total value of the stock of such corporation,

is owned (directly or indirectly) by or for not more than 5 individuals who are citizens or residents of the United States (hereafter in this part referred to as the 'United States group')."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—In the case of any corporation treated as a controlled foreign corporation by reason of the amendments made by this section—

(A) only deficits in earnings and profits for taxable years beginning after December 31, 1986, shall be taken into account under section 952(c) of the Internal Revenue Code of 1954, and

(B) property acquired before January 1, 1987, shall not be taken into account under section 956(b) of such Code.

(3) SPECIAL RULE FOR BENEFICIARY OF TRUST.—In the case of an individual—

(A) who is a beneficiary of a trust which was established on December 7, 1979, under the laws of a foreign jurisdiction, and

(B) who was not a citizen or resident of the United States on the date the trust was established,

amounts which are included in the gross income of such beneficiary under section 951(a) of the Internal Revenue Code of 1954 with respect to stock held by the trust (and treated as distributed to the trust) shall be treated as the first amounts which are distributed by the trust to such beneficiary and as amounts to which section 959(a) of such Code applies.

SEC. 923. SUBPART F DE MINIMIS RULE REDUCED FROM 10 PERCENT TO 5 PERCENT.

(a) GENERAL RULE.—Paragraph (3) of section 954(b) (relating to special rule where foreign base company income is less than 10 percent or more than 70 percent of gross income) is amended by striking out "10 percent" each place it appears in the text and heading thereof and inserting in lieu thereof "5 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1986.

SEC. 924. REPEAL OF SPECIAL TREATMENT OF POSSESSIONS CORPORATIONS.

(a) GENERAL RULE.—Section 957 (defining controlled foreign corporations; United States persons) is amended by striking out subsection (c) and by redesignating subsection (d) as subsection (c).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—In the case of any corporation treated as a controlled foreign corporation by reason of the amendment made by subsection (a)—

(A) only deficits in earnings and profits for taxable years beginning after December 31, 1986, shall be taken into account under section 952(c) of the Internal Revenue Code of 1954, and

(B) property acquired before January 1, 1987, shall not be taken into account under section 956(b) of such Code.

SEC. 925. TREATMENT OF CERTAIN PASSIVE FOREIGN INVESTMENT COMPANIES.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 is amended by inserting after section 1246 the following new section:

"SEC. 1246A. TREATMENT OF CERTAIN PASSIVE FOREIGN INVESTMENT COMPANIES.

"(a) GENERAL RULE.—Except as provided in subsection (b), if a United States person disposes of any stock in a passive foreign investment company, or receives a distribution of property in respect of such stock, then—

"(1) the tax imposed by this chapter for the taxable year in which such disposition or distribution occurs shall be increased by the deferred tax amount, and

"(2) there shall be includible in the gross income of such person for such taxable year with respect to such disposition or distribution only the amount determined under subsection (d).

"(b) ELECTION TO TREAT PASSIVE FOREIGN INVESTMENT COMPANY AS CFC.—

"(1) IN GENERAL.—If a United States person elects the application of this subsection with respect to any stock of a passive foreign investment company, then—

"(A) with respect to such person, such passive foreign investment company shall be treated as a controlled foreign corporation for purposes of subpart F of part III of subchapter N of this chapter, and

"(B) such person shall be treated as a United States shareholder of such controlled foreign corporation for purposes of such subpart F.

"(2) TIME FOR MAKING ELECTION.—Any election under paragraph (1) with respect to any passive foreign investment company shall be made by the taxpayer on the return of the tax imposed by this chapter for the first taxable year beginning after December 31, 1986, in which such taxpayer held stock in such foreign investment company. Such an election may be revoked only with the consent of the Secretary.

"(3) CHARACTER OF INCOME.—In applying subpart F of part III of subchapter N for purposes of this subsection, the character of the income shall be determined in the manner provided in subsection (e)(2).

"(c) DEFERRED TAX AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any disposition or distribution to which subsection (a) applies, an amount equal to the sum of—

"(A) the aggregate increases in taxes described in paragraph (2), plus

"(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on any such increase in tax for such taxable years.

"(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined—

"(A) by allocating a ratable portion of the—

"(i) gain (if any) on any disposition to which subsection (a) applies, or

"(ii) the amount of any distribution to which subsection (a) applies,

to each taxable year with or within which any portion of the deferral period occurs, and

"(B) by multiplying each amount so allocated to any taxable year (other than any taxable year to which subsection (d) applies) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever is applicable.

"(3) COMPUTATION OF INTEREST.—

"(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) for any taxable year for which an increase occurred shall be determined for the period—

"(i) beginning on the due date for such taxable year, and

"(ii) ending on the due date for the taxable year with or within which the deferral period ends,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

"(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

"(4) DEFERRAL PERIOD.—For purposes of this subsection, the term 'deferral period' means, with respect to any stock, the holding period of such stock in the hands of the taxpayer. In the case of a distribution, the deferral period shall be that portion of such holding period preceding such distribution.

"(d) GAIN INCLUDIBLE IN TAXABLE YEAR OF DISPOSITION OR DISTRIBUTION.—For purposes of subsection (a)(2), there shall be includible in the gross income of any taxpayer for any taxable year in which a disposition or distribution to which subsection (a) applies an amount equal to that portion of the gain (if any) on such disposition, or that portion of the amount of such distribution which is allocable under subsection (c)(2)(A) to—

"(1) such taxable year, or

"(2) any taxable year beginning before January 1, 1987.

"(e) CHARACTER OF INCOME.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subtitle, except as provided in paragraph (2)—

"(A) any amount includible in gross income under subsection (a)(2) or (b), and

"(B) in determining the maximum rate of tax for purposes of subsection (c)(2)(B), any amount to which such rate applies,

shall be treated as ordinary income.

"(2) CAPITAL GAIN TREATMENT.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(A) any portion of any gain on any disposition (or of the amount of any distribution) is attributable to income of the passive foreign investment company from the sale or exchange of capital assets, such portion shall, for purposes of subsections (a)(2) and (c)(2), be allocated to the taxable years in the deferral period in which it arose, and shall be treated as income from the sale of a capital asset, or

"(B) in the case of any taxpayer to which subsection (b) applies, any portion of the amount includible in the gross income of the taxpayer under subpart F of part III of subchapter N of this chapter for the taxable year is so attributable, such portion shall be so treated.

"(f) PASSIVE FOREIGN INVESTMENT COMPANY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'passive foreign investment company' means any foreign corporation if—

"(A) 75 percent or more of the gross income of such corporation for the taxable year is passive income, or

"(B) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent.

"(2) PASSIVE INCOME.—

"(A) IN GENERAL.—The term 'passive income' means income which is passive income (as defined in section 904(d)(2)(A)).

"(B) LOOK-THROUGH IN THE CASE OF INCOME FROM 50-PERCENT OWNED CORPORATIONS.—Rules similar to the rules of paragraph (3) of section 904(d) shall apply as if the foreign corporation for which the passive income is being determined is the taxpayer referred to therein except that—

"(i) '50-percent' shall be substituted for '10-percent' each place it appears therein, and '50 percent' shall be substituted for '10 percent' each place it appears therein, and

"(ii) such rules shall apply to 50-percent owned corporations whether such corporations are foreign or domestic corporations.

"(3) SECTION 1247 CORPORATIONS.—The term 'passive foreign investment company' does not include any foreign investment company to which section 1247 applies.

"(g) ATTRIBUTION OF OWNERSHIP.—For purposes of subsection (a)—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign investment company as owned by a United States person, and

"(B) shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent of more in value of the stock of a corporation is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY TO PFIC.—For purposes of determining whether a shareholder of a passive foreign investment company is treated as owning stock owned directly or indirectly by or for such company, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(3) PARTNERSHIPS, ETC.—Stock owned, directly or indirectly, by or for a partnership, estate, or trust shall be considered as being owned proportionately by its partners or beneficiaries.

"(4) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2) or (3) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(h) SPECIAL RULES.—For purposes of this section—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign investment company if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign investment corporation.

"(2) CERTAIN CORPORATIONS NOT TREATED AS PFIC'S DURING START-UP YEAR.—A corporation shall not be treated as a passive foreign investment company for the first taxable year such corporation has gross income (hereafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign investment company,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign investment company for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign investment company for either of the 1st 2 taxable years following the start-up year.

"(3) INCLUSION UNDER SUBPART F DETERMINED WITHOUT REGARD TO INVESTMENT OF EARNINGS IN UNITED STATES PROPERTY.—For purposes of subsection (b), section 951(a)(1)(B) (relating to inclusion of increase in earnings invested in United States property) shall not apply.

"(4) EXCEPTION WHERE SECTION 951 APPLIES WITHOUT REGARD TO THIS SECTION.—This section shall not apply to a taxpayer with respect to a corporation if, without regard to this section—

"(i) such corporation is a controlled foreign corporation (as defined in section 957), and

"(ii) the taxpayer is a United States shareholder (as defined in section 951(b)) with respect to such corporation.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this section, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(6) APPLICATION OF SECTION WHERE STOCK HELD BY OTHER ENTITY.—

"(A) IN GENERAL.—Under regulations, in any case in which a United States person is treated as holding stock in a passive foreign investment company by reason of subsection (g)—

"(i) any disposition by the United States person or the person holding such stock which results in the United States person being treated as no longer holding such stock, or

"(ii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States shareholder to which subsection (a) applies.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A).

"(7) DISPOSITIONS.—If a taxpayer uses any stock in a passive foreign investment company as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"(8) COORDINATION WITH SECTION 1248.—This section shall not apply to any gain to the extent such gain is treated as ordinary income under section 1248 (determined without regard to section 1248(g)(3)).".

(b) COORDINATION OF SECTION 1246 WITH SECTION 1248.—Section 1246 is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH SECTION 1248.—This section shall not apply to any gain to the extent such gain is treated as ordinary income under section 1248 (determined without regard to section 1248(g)(3)).".

(c) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 is amended by inserting after the item relating to section 1246 the following new item:

"SEC. 1246A. Treatment of certain passive foreign investment companies."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1986.

SEC. 926. ONLY EFFECTIVELY CONNECTED CAPITAL GAINS AND LOSSES OF FOREIGN CORPORATIONS TAKEN INTO ACCOUNT FOR PURPOSES OF ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY PROVISIONS.

(a) ACCUMULATED EARNINGS TAX.—Subsection (b) of section 535 (relating to adjustments to taxable income) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR CAPITAL GAINS AND LOSSES OF FOREIGN CORPORATIONS.—In the case of a foreign corporation, paragraph (6) shall be applied by taking into account only net capital gains which are effectively connected with the conduct of a trade or business within the United States and are not exempt from tax under treaty."

(b) PERSONAL HOLDING COMPANY PROVISIONS.—Subsection (b) of section 545 (relating to adjustments to taxable income) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR CAPITAL GAINS AND LOSSES OF FOREIGN CORPORATIONS.—In the case of a foreign corporation, paragraph (5) shall be applied by taking into account only net capital gains which are effectively connected with the conduct of a trade or business within the United States and are not exempt from tax under treaty."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to gains and losses realized on or after March 1, 1986.

Subtitle D—Special Tax Provisions for United States Persons

SEC. 941. MODIFICATIONS TO SECTION 936.

(a) TREATMENT OF INTANGIBLES.—

(1) COST SHARING METHOD.—Section 936(h)(5)(C)(i)(I) is amended by striking out "the same proportion of the cost" and inserting in lieu thereof "the same proportion of 110 percent of the cost".

(2) PROFIT SPLIT METHOD.—Section 936(h)(5)(C)(ii)(II) is amended by striking out "the third sentence thereof)" and inserting in lieu thereof "the third sentence thereof, and by substituting '120 percent' for '110 percent' in the second sentence thereof)".

(b) MODIFICATION OF REQUIREMENT THAT AMOUNTS BE RECEIVED IN THE UNITED STATES.—Subsection (b) of section 936 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any amount described in subsection (a)(1)(A)(i) received from a person who is not a related person (within the meaning of subsection (h)(3) but without regard to subparagraphs (D)(ii)(I) and (E)(i) thereof) with respect to the domestic corporation."

(c) TREATMENT OF CERTAIN INVESTMENT INCOME AS QUALIFIED POSSESSION SOURCE INVESTMENT INCOME.—Subsection (d) of section 936 is amended by adding at the end thereof the following new paragraph:

"(4) INVESTMENT IN QUALIFIED CARIBBEAN BASIN COUNTRIES.—

"(A) IN GENERAL.—For purposes of paragraph (2)(B), an investment in a financial institution shall, subject to such conditions as the Secretary may prescribe by regula-

tions, be treated as for use in Puerto Rico to the extent used by such financial institution (or by the Government Development Bank for Puerto Rico or the Puerto Rico Development Bank)—

"(i) for investment, consistent with the goals and purposes of the Caribbean Basin Economic Recovery Act, in—

"(I) active business assets in a qualified Caribbean Basin country, or

"(II) development projects in a qualified Caribbean Basin country, and

"(ii) in accordance with a specific authorization granted by the Government Development Bank for Puerto Rico pursuant to regulations issued by the Secretary of the Treasury of Puerto Rico.

A similar rule shall apply in the case of a direct investment in the Government Development Bank for Puerto Rico or the Puerto Rico Development Bank.

"(B) QUALIFIED CARIBBEAN BASIN COUNTRY.—For purposes of this subsection, the term 'qualified Caribbean Basin country' means any beneficiary country (within the meaning of section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act) which meets the requirements of clauses (i) and (ii) of section 274(h)(6)(A).

"(C) ADDITIONAL REQUIREMENTS.—Subparagraph (A) shall not apply to any investment made by a financial institution (or by the Government Development Bank for Puerto Rico or the Puerto Rico Development Bank) unless—

"(i) the person in whose trade or business such investment is made (or such other recipient of the investment) and the financial institution or such Bank certify to the Secretary and the Secretary of the Treasury of Puerto Rico that the proceeds of the loan will be promptly used to acquire active business assets or to make other authorized expenditures, and

"(ii) the financial institution (or the Government Development Bank for Puerto Rico or the Puerto Rico Development Bank) and the recipient of the investment funds agree to permit the Secretary and the Secretary of the Treasury of Puerto Rico to examine such of their books and records as may be necessary to ensure that the requirements of this paragraph are met."

(d) INCREASE IN AMOUNT OF GROSS INCOME WHICH MUST BE FROM TRADE OR BUSINESS.—Subparagraph (B) of section 936(a)(2) is amended by striking out "65 percent" and inserting in lieu thereof "75 percent".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 942. TREATMENT OF CERTAIN EMPLOYEES OF THE PANAMA CANAL COMMISSION.

(a) GENERAL RULE.—Nothing in the Panama Canal Treaty (or in any agreement implementing such Treaty) shall be construed as exempting any citizen or resident of the United States from tax under chapter 1 of the Internal Revenue Code of 1954 on any item of income. The preceding sentence shall apply to taxable years beginning after December 31, 1986.

(b) TREATMENT OF EMPLOYEES OF PANAMA CANAL COMMISSION FOR PURPOSES OF SECTION 912.—Employees of the Panama Canal Commission and civilian employees of the Defense Department of the United States stationed in Panama may exclude from gross income allowances which are comparable to the allowances excludable under section 912(1) of the Internal Revenue Code of 1954 by employees of the State Department of the United States stationed in Panama. The preceding sentence shall apply to taxable years beginning after December 31, 1986.

SEC. 943. PROVISION RELATING TO SECTION 911 EXCLUSION.

(a) REDUCTION IN SECTION 911 EXCLUSION.—Subparagraph (A) of section 911(b)(2) (relating to limitation on foreign earned income) is amended to read as follows:

"(A) IN GENERAL.—The foreign earned income of an individual which may be excluded under subsection (a)(1) for any taxable year shall not exceed the amount of foreign earned income computed on a daily basis at an annual rate of $70,000."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 944. TREATMENT OF INTEREST ON OBLIGATIONS OF THE UNITED STATES RECEIVED BY BANKS ORGANIZED IN GUAM.

(a) IN GENERAL.—Subsection (e) of section 882 (relating to interest on United States obligations received by banks organized in possessions) is amended by adding at the end thereof the following sentence: "The preceding sentence shall not apply to any Guam corporation which is treated as not being a foreign corporation by section 881(b)(1) for the taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after November 16, 1985.

Subtitle E—Treatment of Foreign Taxpayers

SEC. 951. BRANCH PROFITS TAX.

(a) GENERAL RULE.—Subpart B of part II of subchapter N of chapter 1 (relating to foreign corporations), as amended by this Act, is amended by redesignating sections 884 and 885 as sections 885 and 886, respectively, and by inserting after section 883 the following new section:

"SEC. 884. BRANCH PROFITS TAX.

"(a) IMPOSITION OF TAX.—In addition to the tax imposed by section 882 for any taxable year, there is hereby imposed a tax on any foreign corporation engaged or deemed to be engaged in a trade or business within the United States during the taxable year equal to 30 percent of the dividend equivalent amount.

"(b) DIVIDEND EQUIVALENT AMOUNT.—For purposes of subsection (a), the term 'dividend equivalent amount' means the foreign corporation's effectively connected taxable income for the taxable year adjusted as provided in this subsection:

"(1) REDUCTION FOR INCREASE IN U.S. NET EQUITY.—If—

"(A) the U.S. net equity of the foreign corporation as of the close of the taxable year, exceeds

"(B) the U.S. net equity of the foreign corporation as of the close of the preceding taxable year,

the effectively connected taxable income for the taxable year shall be reduced by the amount of such excess.

"(2) INCREASE FOR DECREASE IN NET EQUITY.—If—

"(A) the U.S. net equity of the foreign corporation as of the close of the preceding taxable year, exceeds

"(B) the U.S. net equity of the foreign corporation as of the close of the taxable year,

the effectively connected taxable income for the taxable year shall be increased by the amount of such excess (to the extent such excess does not exceed the aggregate reductions under paragraph (1) for prior taxable years to the extent not previously taken into account under this paragraph).

"(3) LIMITATION BASED ON EARNINGS AND PROFITS.—

"(A) IN GENERAL.—The dividend equivalent amount of any foreign corporation for any taxable year shall not exceed the earnings and profits of such corporation for such year considered to be effectively connected with the conduct of a trade or business within the United States—

"(i) increased by the accumulated earnings and profits of such corporation for preceding taxable years beginning after December 31, 1986, which are so connected, and

"(ii) decreased by any deficit in accumulated earnings and profits of such corporation for preceding taxable years beginning after December 31, 1986, which are so connected.

"(B) EARNINGS AND PROFITS TAKEN INTO ACCOUNT ONLY ONCE.—For purposes of subparagraph (A), any accumulated earnings and profits or any deficit in accumulated earnings and profits shall not be taken into account for any taxable year to the extent taken into account for any preceding taxable year.

"(c) U.S. NET EQUITY.—For purposes of this section—

"(1) IN GENERAL.—The term 'U.S. net equity' means—

"(A) U.S. assets, reduced (including below zero) by

"(B) U.S. liabilities.

"(2) U.S. ASSETS AND U.S. LIABILITIES.—For purposes of paragraph (1)—

"(A) U.S. ASSETS.—The term 'U.S. assets' means the money and aggregate adjusted bases of property of the foreign corporation treated as connected with the conduct of a trade or business in the United States under regulations prescribed by the Secretary.

"(B) U.S. LIABILITIES.—The term 'U.S. liabilities' means the liabilities of the foreign corporation treated as connected with the conduct of a trade or business in the United States under regulations prescribed by the Secretary.

"(C) REGULATIONS TO BE CONSISTENT WITH ALLOCATION OF INTEREST EXPENSE.—The regulations prescribed under subparagraphs (A) and (B) shall be based on principles consistent with the principles used in allocating interest deductions under section 882(c)(1).

"(d) EFFECTIVELY CONNECTED TAXABLE INCOME.—The term 'effectively connected taxable income' means taxable income which is effectively connected or treated as effectively connected with the conduct of a trade or business within the United States.

"(e) REDUCTION IN RATE TO CONFORM TO TREATY RATE.—

"(1) IN GENERAL.—If a corporation subject to tax under subsection (a) is resident in a foreign country with which the United States has an income tax treaty—

"(A) the rate of tax under subsection (a) shall be the rate of tax specified in such treaty on branch profits, if so specified or, if not, on dividends paid by a domestic corporation to a corporation resident in such country which wholly owns such domestic corporation, and

"(B) any other limitations under such treaty on the tax imposed by subsection (a) shall apply.

"(2) EXCEPTION FOR TAXPAYERS ENGAGED IN TREATY SHOPPING.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any foreign corporation if more than 50 percent (by value) of the stock of such foreign corporation is beneficially owned (within the meaning of section 958(a)) by individuals who are not residents of the foreign country party to such treaty and who are not United States citizens or resident aliens.

"(B) EXCEPTION FOR PUBLICLY TRADED CORPORATIONS.—Subparagraph (A) shall not apply to any foreign corporation—

"(i) the stock of which is primarily and regularly traded on an established securities market in the country of which it is a resident, or

"(ii) which is wholly owned (either directly or indirectly) by another foreign corporation which is organized in the foreign country described in clause (i) and the stock of which is so traded.

"(C) SECRETARIAL AUTHORITY.—The Secretary may, in his sole discretion, treat a foreign corporation as not described in subparagraph (A) if such corporation establishes to the satisfaction of the Secretary that such corporation meets such requirements as the Secretary may establish to ensure that individuals who are not residents of a foreign country do not use the treaty between such foreign country and the United States in a manner inconsistent with the purposes of this subsection.

"(f) COORDINATION WITH WITHHOLDING TAXES.—If a corporation is subject to tax under subsection (a) for any taxable year, any tax imposed by section 871(a) or 881(a) shall not apply to any dividends paid by such corporation during such taxable year.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing for appropriate adjustments in the determination of the dividend equivalent amount in connection with the distribution to shareholders or transfer to a controlled corporation of the taxpayer's U.S. assets and other adjustments in such determination as are necessary to carry out the purposes of this section."

(b) AMENDMENTS TO INTEREST AND DIVIDEND SOURCING RULES.—

(1) REDUCTION IN EFFECTIVELY CONNECTED INCOME.—

(A) INTEREST.—Paragraph (1) of section 861(a) is amended by striking out "50" and inserting in lieu thereof "10" each place it appears in subparagraphs (C) and (D).

(B) DIVIDENDS.—Paragraph (2) of section 861(a) is amended by striking out "50" and inserting in lieu thereof "10" each place it appears in subparagraph (B).

(2) ALLOCATION OF INTEREST.—Paragraph (1)(D) of section 861(a) is amended by striking out "gross income of such foreign corporation for such period which was not effectively connected with the conduct of a trade or business within the United States bears to its gross income from all sources" in subparagraph (D) and inserting in lieu thereof "interest expense of such foreign corporation for such period which was not connected with income effectively connected with the conduct of a trade or business within the United States under section 882(c)(1)(A) bears to its total interest expense".

(c) DISALLOWANCE OF CREDIT.—Section 906(b) is amended by adding at the end thereof the following new paragraph:

"(6) No credit shall be allowed under this section against the tax imposed by section 883."

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part II of subchapter N of chapter 1 is amended by striking out the item relating to sections 884 and 885 and inserting in lieu thereof the following:

"Sec. 884. Branch profits tax.

"Sec. 885. Exclusions from gross income.

"Sec. 886. Cross references."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE FOR APPLICATION OF BRANCH PROFITS TAX UNDER CERTAIN TREATIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a foreign corporation otherwise subject to tax under section 884 of the Internal Revenue Code of 1954 is entitled to claim (and claims) the benefits of any income tax treaty between the United States and a foreign country which prohibits the imposition of such tax, such tax shall not apply to such taxpayer.

(B) EXCEPTION FOR TREATY SHOPPING.—Subparagraph (A) shall not apply to any foreign corporation described in subparagraph (C) unless the income tax treaty between the United States and a foreign country which prohibits the imposition of the tax imposed by section 884 of such Code permits a withholding tax on dividends described in section 861(a)(2)(B) of such Code which are paid by such corporation.

(C) CORPORATION TO WHICH TREATY SHOPPING RULES APPLY.—A foreign corporation is a corporation described in this subparagraph if such corporation is described in section 884(e)(2) of the Internal Revenue Code of 1954 (as added by this section).

(3) SPECIAL RULE FOR APPLICATION OF 2ND TIER WITHHOLDING TAX UNDER CERTAIN TREATIES.—In the case of a foreign corporation which—

(A) is described in section 884(e)(2) of the Internal Revenue Code of 1954 with respect to any foreign country, and

(B) is otherwise required to deduct and withhold tax under section 871(a) or 881(a) with respect to interest or dividends paid by such foreign corporation, or is a recipient of United States source interest or dividends (as defined in sections 861(a)(1)(D) and 861(a)(2)(B), respectively),

such corporation shall not be entitled to claim benefits with respect to such interest and dividends of any income tax treaty between the United States and such foreign country.

SEC. 952. TREATMENT OF DEFERRED PAYMENTS AND APPRECIATION ARISING OUT OF BUSINESS CONDUCTED WITHIN THE UNITED STATES.

(a) GENERAL RULE.—Subsection (c) of section 864 (defining effectively connected income) is amended by adding at the end thereof the following new paragraphs:

"(6) TREATMENT OF CERTAIN DEFERRED PAYMENTS, ETC.—For purposes of this title, any income or gain of a nonresident alien individual or a foreign corporation for any taxable year which is attributable to a sale or exchange of property or the performance of service (or any other transaction) in any other taxable year shall be treated as effectively connected with the conduct of a trade or business within the United States if it would have been so treated if such income or gain were taken into account in such other taxable year.

"(7) APPRECIATION ON PROPERTY USED WITHIN THE UNITED STATES.—For purposes of this title, if a taxpayer transfers property used in connection with the conduct of a trade or business within the United States outside of the United States—

"(A) such transfer shall be treated as a disposition of such property by the taxpayer, and

"(B) if such property was transferred into the United States, gain (if any) shall be recognized on the disposition of such property in an amount equal to the excess (if any) of—

"(i) the fair market value of such property at the time such property is transferred outside the United States, over

"(ii) the fair market value of such property at the time such property was transferred into the United States, reduced by any adjustments to basis under section 1016.

Such gain shall be treated as income which is effectively connected with the conduct of a trade or business within the United States."

(b) CONFORMING AMENDMENTS.—Paragraph (1) of section 864(c) is amended—

(1) by striking out "and (4)" in subparagraph (A) and inserting in lieu thereof "(4), (6), and (7)", and

(2) by striking out "as provided in" in subparagraph (B) and inserting in lieu thereof "as provided in paragraph (6) or (7) or in".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 953. TREATMENT UNDER SECTION 877 OF PROPERTY RECEIVED IN TAX-FREE EXCHANGES, ETC.

(a) GENERAL RULE.—Subsection (c) of section 877 (relating to expatriation to avoid tax) is amended by adding at the end thereof the following new sentence: "For purposes of this section, gain on the sale or exchange of property which has a basis determined in whole or in part by reference to property described in paragraph (1) or (2) shall be treated as gain described in paragraph (1) or (2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges of property received in exchanges after March 1, 1986.

SEC. 954. STUDY OF UNITED STATES REINSURANCE INDUSTRY.

The Secretary of the Treasury or his delegate shall conduct a study to determine whether United States reinsurance corporations are placed at a significant competitive disadvantage with foreign reinsurance corporations by existing treaties between the United States and foreign countries. The Secretary shall report before January 1, 1988, the results of such study to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

Subtitle F—Foreign Currency Transactions

SEC. 961. TREATMENT OF FOREIGN CURRENCY TRANSACTIONS.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new subpart:

"Subpart J—Foreign Currency Transactions

"Sec. 985. Functional currency.

"Sec. 986. Determination of foreign corporation's earnings and profits and foreign taxes.

"Sec. 987. Branch transactions.

"Sec. 988. Treatment of certain foreign currency transactions.

"Sec. 989. Other definitions and special rules.

"SEC. 985. FUNCTIONAL CURRENCY.

"(a) IN GENERAL.—Unless otherwise provided in regulations, all determinations under this subtitle shall be made in the taxpayer's functional currency.

"(b) FUNCTIONAL CURRENCY.—

"(1) IN GENERAL.—For purposes of this subtitle, the term 'functional currency' means—

"(A) except as provided in subparagraph (B), the dollar, or

"(B) in the case of a qualified business unit, the currency of the economic environ-

ment in which a significant part of such unit's activities are conducted and which is used by such unit in keeping its books and records.

"(2) FUNCTIONAL CURRENCY WHERE ACTIVITIES PRIMARILY CONDUCTED IN DOLLARS.—The functional currency of any qualified business unit shall be the dollar if activities of such unit are primarily conducted in dollars.

"(3) ELECTION.—The taxpayer may elect to use the dollar as the functional currency for any qualified business unit if—

"(A) such unit keeps its books and records in dollars, or

"(B) to the extent provided in regulations, the taxpayer uses a method of accounting that approximates a separate transactions method.

Any such election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(4) CHANGE IN FUNCTIONAL CURRENCY TREATED AS A CHANGE IN METHOD OF ACCOUNTING.—Any change in the functional currency shall be treated as a change in the taxpayer's method of accounting for purposes of section 481 under procedures to be established by the Secretary.

"SEC. 986. DETERMINATION OF FOREIGN CORPORATION'S EARNINGS AND PROFITS AND FOREIGN TAXES.

"(a) EARNINGS AND PROFITS AND DISTRIBUTIONS.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any United States person which owns, directly or indirectly, at least 10 percent of the voting stock of any foreign corporation, the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall (if necessary) be translated into dollars using the appropriate exchange rate.

"(b) FOREIGN TAXES.—

"(1) IN GENERAL.—In determining the amount of foreign taxes deemed paid under section 902 or 960—

"(A) any foreign income taxes paid by a foreign corporation shall (if necessary) be translated into dollars using the same exchange rate used to calculate the income inclusion with respect to which such tax is deemed paid, and

"(B) any adjustment to the amount of foreign income taxes paid by a foreign corporation shall (if necessary) be translated into dollars using the same exchange rate used to calculate the income inclusion with respect to which such adjustment is made.

"(2) FOREIGN INCOME TAXES.—For purposes of paragraph (1), 'foreign income taxes' means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States. Such term includes any tax treated as an income, war profits, or excess profits tax under section 903.

"(c) PREVIOUSLY TAXED EARNINGS AND PROFITS.—

"(1) IN GENERAL.—Foreign currency gain or loss with respect to distributions of previously taxed earnings and profits (as defined in section 959) attributable to movements in exchange rates between the times of deemed and actual distribution shall be recognized and treated as ordinary income or loss from sources within the United States.

"(2) DISTRIBUTIONS THROUGH TIERS.—The Secretary shall prescribe regulations with respect to the treatment of distributions of previously taxed earnings and profits through tiers of foreign corporations.

"SEC. 987. BRANCH TRANSACTIONS.

"In the case of any taxpayer having 1 or more qualified business units with a functional currency other than the taxpayer's functional currency, taxable income of such taxpayer shall be determined—

"(1) by computing the taxable income or loss separately for each such unit in its functional currency,

"(2) by translating the income or loss separately computed under paragraph (1) at the appropriate exchange rate,

"(3) by making proper adjustments (as prescribed by the Secretary) for currency transfers between segments of the taxpayer having different functional currencies, including—

"(A) treating post-1986 remittances as made on a pro rata basis out of post-1986 accumulated earnings, and

"(B) treating gain or loss determined under subparagraph (A) as ordinary income or loss, respectively, and sourcing such gain or loss by reference to the residence of the taxpayer as defined in section 988(a)(3),

"(4) by translating foreign income taxes paid or accrued by each qualified business unit of the taxpayer into the functional currency of the taxpayer using the exchange rate applicable to the income or loss of the qualified business unit for the taxable year under paragraph (2), and

"(5) by treating any adjustment to the amount of foreign income taxes paid in the same manner as provided under section 986(b)(1)(B).

"SEC. 988. TREATMENT OF CERTAIN FOREIGN CURRENCY TRANSACTIONS.

"(a) GENERAL RULE.—

"(1) TREATMENT AS ORDINARY INCOME OR LOSS.—

"(A) IN GENERAL.—Except as otherwise provided in this section, any foreign currency gain or loss attributable to a section 988 transaction shall be computed separately and treated as ordinary income or loss (as the case may be).

"(B) SPECIAL RULE FOR FORWARD CONTRACTS, ETC.—Except as provided in regulations, a taxpayer may elect to treat any foreign currency gain or loss attributable to a forward contract, a futures contract, or option described in subsection (c)(1)(B)(iii) which is a capital asset in the hands of the taxpayer as capital gain or loss (as the case may be) if the taxpayer identifies such transaction before the close of the day on which such transaction is entered into (or such earlier time as the Secretary may prescribe).

"(2) GAIN OR LOSS TREATED AS INTEREST FOR CERTAIN PURPOSES.—To the extent provided in regulations, any amount treated as ordinary income or loss under paragraph (1) shall be treated as interest income or expense (as the case may be) for purposes of this title.

"(3) SOURCE.—

"(A) IN GENERAL.—Except as otherwise provided in regulations, in the case of any amount treated as ordinary income or loss under paragraph (1) with respect to—

"(i) any asset or liability of the taxpayer or a qualified business unit of the taxpayer, and

"(ii) any item of income or expense earned or incurred by the taxpayer or a qualified business unit of the taxpayer,

the source of such amount shall be determined by reference to the residence of the taxpayer or the qualified business unit of the taxpayer on whose books the asset, liability, or item of income or expense is properly reflected.

"(B) RESIDENCE.—For purposes of this subpart—

"(i) IN GENERAL.—The residence of any person shall be—

"(I) in the case of an individual, the country in which such individual's tax home (as defined in section 911(d)(3)) is located,

"(II) in the case of any corporation, partnership, trust, or estate which is a United States person (as defined in section 7701(a)(30)), the United States, and

"(III) in the case of any corporation, partnership, trust, or estate which is not a United States person, a country other than the United States.

"(ii) EXCEPTION.—In the case of a qualified business unit of any taxpayer (including an individual), the residence of such unit shall be the country in which the principal place of business of such qualified business unit is located.

"(C) SPECIAL RULE FOR CERTAIN RELATED PARTY LOANS.—Except to the extent provided in regulations, in the case of a loan by a United States person or a related person to a 10-percent owned foreign corporation which is denominated in a currency other than the dollar and bears interest at a rate at least 10 percentage points higher than the Federal mid-term rate (determined under section 1274(d)) at the time such loan is entered into, the following rules shall apply:

"(i) For purposes of this subpart and section 904 only, such loan shall be marked to market on an annual basis.

"(ii) Any interest income earned with respect to such loan for the taxable year shall be treated as income from sources within the United States to the extent of any loss attributable to clause (i).

For purposes of this subparagraph, the term 'related person' has the meaning given such term by section 954(d)(3), except that such section shall be applied by substituting 'United States person' for 'controlled foreign corporation' each place such term appears.

"(D) 10-PERCENT OWNED FOREIGN CORPORATION.—The term '10-percent owned foreign corporation' means any foreign corporation in which the United States person owns directly or indirectly at least 10 percent of the voting stock.

"(b) FOREIGN CURRENCY GAIN OR LOSS.—For purposes of this section—

"(1) FOREIGN CURRENCY GAIN.—The term 'foreign currency gain' means any gain realized by reason of changes in exchange rates on or after the booking date and before the payment date.

"(2) FOREIGN CURRENCY LOSS.—The term 'foreign currency loss' means any loss realized by reason of changes in exchange rates on or after the booking date and before the payment date.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) SECTION 988 TRANSACTION.—

"(A) IN GENERAL.—The term 'section 988 transaction' means any transaction described in subparagraph (B) if the amount which the taxpayer is entitled to receive (or is required to pay) by reason of such transaction—

"(i) is denominated in terms of a nonfunctional currency, or

"(ii) is determined by reference to the value of 1 or more nonfunctional currencies.

"(B) DESCRIPTION OF TRANSACTIONS.—For purposes of subparagraph (A), the following transactions are described in this subparagraph:

"(i) The acquisition of a debt instrument or becoming the obligor under a debt instrument.

"(ii) Accruing (or otherwise taking into account) for purposes of this subtitle any item of expense or gross income or receipts which is to be paid or received after the date on which so accrued or taken into account.

"(iii) Entering into or acquiring any forward contract, futures contract, option, or similar financial instrument if such instrument is not marked to market at the close of the taxable year under section 1256.

Notwithstanding the preceding sentence, positions included in a mixed straddle identified under section 1256(d) shall not be treated as transactions described in this subparagraph. The Secretary shall prescribe regulations excluding from the application of clause (ii) any class of items the taking into account of which is not necessary to carry out the purposes of this section by reason of the small amounts or short periods involved, or otherwise.

"(C) SPECIAL RULES FOR DISPOSITION OF NONFUNCTIONAL CURRENCY.—

"(i) IN GENERAL.—In the case of any disposition of any nonfunctional currency—

"(I) such disposition shall be treated as a section 988 transaction, and

"(II) for purposes of determining the foreign currency gain or loss from such transaction, paragraphs (1) and (2) of subsection (b) shall be applied by substituting 'acquisition date' for 'booking date' and 'disposition' for 'payment date'.

"(ii) NONFUNCTIONAL CURRENCY.—For purposes of this section, the term 'nonfunctional currency' includes coin or currency, and nonfunctional currency denominated demand or time deposits or similar instruments issued by a bank or other financial institution.

"(2) BOOKING DATE.—The term 'booking date' means—

"(A) in the case of a transaction described in paragraph (1)(B)(i), the date of acquisition or on which the taxpayer becomes the obligor,

"(B) in the case of a transaction described in paragraph (1)(B)(ii), the date on which accrued or otherwise taken into account, or

"(C) in the case of a transaction described in paragraph (1)(B)(iii), the date on which the position is entered into or acquired.

"(3) PAYMENT DATE.—The term 'payment date' means—

"(A) in the case of a transaction described in paragraph (1)(B) (i) or (ii), the date on which payment is made or received, or

"(B) in the case of a transaction described in paragraph (1)(B)(iii), the date payment is made or received or the date the taxpayer's rights with respect to the position are terminated.

"(4) DEBT INSTRUMENT.—The term 'debt instrument' means a bond, debenture, note, or certificate or other evidence of indebtedness. To the extent provided in regulations, such term shall include preferred stock.

"(d) TREATMENT OF HEDGING TRANSACTIONS.—

"(1) IN GENERAL.—To the extent provided in regulations, if any section 988 transaction is part of a hedging transaction to reduce the risk of currency fluctuations, all transactions which are part of such hedging transaction shall be integrated and treated as a single transaction or otherwise treated consistently for purposes of this section. Sections 1092 and 1256 shall not apply to a transaction covered by this subsection.

"(2) HEDGING TRANSACTION.—For purposes of paragraph (1), the term 'hedging transaction' means any transaction—

"(A) entered into by the taxpayer primarily—

"(i) to reduce risk of currency fluctuations with respect to property which is held or to be held by the taxpayer, or

"(ii) to reduce risk of currency fluctuations with respect to borrowings made or to be made, or obligations incurred or to be incurred, by the taxpayer, and

"(B) identified by the Secretary or the taxpayer as being a hedging transaction.

"(e) APPLICATION TO INDIVIDUALS.—This section shall apply to section 988 transactions entered into by an individual only to the extent expenses properly allocable to such transactions would have been deductible by such individual under section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes).

"SEC. 989. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) QUALIFIED BUSINESS UNIT.—For purposes of this subpart, the term 'qualified business unit' means any separate and clearly identified unit of a trade or business of a taxpayer which maintains separate books and records.

"(b) APPROPRIATE EXCHANGE RATE.—Except as provided in regulations, the term 'appropriate exchange rate' means—

"(1) in the case of an actual distribution of earnings and profits, the spot rate on the date such distribution is included in income,

"(2) in the case of an actual or deemed sale or exchange of stock in a foreign corporation treated as a dividend under section 1248, the spot rate on the date the deemed dividend is included in income,

"(3) in the case of any amounts included in income under section 951(a), the weighted average exchange rate for the taxable year of the foreign corporation, or

"(4) in the case of any other qualified business unit of a taxpayer, the weighted average exchange rate for the taxable year of such qualified business unit.

"(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subpart, including regulations—

"(1) setting forth procedures to be followed by taxpayers with qualified business units using a net worth method of accounting before the enactment of this subpart,

"(2) limiting the recognition of foreign currency loss on certain remittances from qualified business units, and

"(3) providing for the recharacterization of interest and principal payments with respect to obligations denominated in certain hyperinflationary currencies."

(b) APPLICATION OF SECTION 905(c) TO PAYMENTS OF FOREIGN TAX IN FUNCTIONAL CURRENCY.—Section 905 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR SUBSECTION (c).—For purposes of applying subsection (c), the determination of whether accrued taxes when paid differ from the amounts claimed as credits by the taxpayer shall be made by reference to the functional currency of the qualified business unit that accrued and paid such tax."

(c) APPLICATION OF SECTION 1092 TO FOREIGN CURRENCY.—Section 1092(d) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR FOREIGN CURRENCY.—

"(A) POSITION TO INCLUDE INTEREST IN CERTAIN DEBT.—For purposes of paragraph (2), an obligor's interest in a foreign currency denominated debt obligation is treated as a position in the foreign currency.

"(B) ACTIVELY TRADED REQUIREMENT.—For purposes of paragraph (1), foreign currency for which there is an active interbank market is presumed to be actively traded."

(d) REPEAL OF SPECIAL TREATMENT OF BANKS FOR HEDGING EXCEPTION.—Subsection (e) of section 1256 (relating to mark to market not to apply to hedging transactions) is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(e) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart J. Foreign currency transactions."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

Subtitle G—Tax Treatment of Possessions

PART I—TREATMENT OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS

SEC. 971. AUTHORITY OF GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS TO ENACT REVENUE LAWS.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in the laws of the United States shall prevent Guam, American Samoa, or the Northern Mariana Islands from enacting tax laws with respect to income—

(1) from sources within, or effectively connected with the conduct of a trade or business within, any such possession, or

(2) received or accrued by any resident of such possession.

(b) AGREEMENTS TO ALLEVIATE CERTAIN PROBLEMS RELATING TO TAX ADMINISTRATION.—Subsection (a) shall apply to Guam, American Samoa, or the Northern Mariana Islands only if (and so long as) an implementing agreement is in effect between the United States and such possession with respect to—

(1) the elimination of double taxation involving taxation by such possession and taxation by the United States,

(2) the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession,

(3) the exchange of information between such possession and the United States for purposes of tax administration, and

(4) the resolution of other problems arising in connection with the administration of the tax laws of such possession or the United States.

Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury after consultation with the Secretary of the Interior.

(c) REVENUES NOT TO DECREASE.—The total amount of the revenue received by any possession referred to in subsection (a) pursuant to its tax laws during the implementation year and each of the 4 fiscal years thereafter shall not be less than the revenue (adjusted for inflation) which was received by such possession pursuant to tax laws for its last fiscal year before the implementation year.

(d) NONDISCRIMINATORY TREATMENT REQUIRED.—Nothing in any tax law of a possession referred to in subsection (a) may discriminate against any citizen or resident of the United States or of any other possession.

(e) ENFORCEMENT.—

(1) IN GENERAL.—If the Secretary of the Treasury (after consultation with the Secretary of the Interior) determines that any possession has failed to comply with subsection (c) or (d), the Secretary of the Treasury shall so notify the Governor of such possession in writing. If such possession does not comply with subsection (c) or (d) (as the case may be) within 90 days of such notification, the Secretary of the Treasury shall notify the Congress of such noncompliance. Unless the Congress by law provides otherwise, the mirror system of taxation shall be reinstated in such possession and shall be in full force and effect for taxable years beginning after such notification to the Congress.

(2) SPECIAL RULE FOR REVENUE REQUIREMENTS.—If the failure to comply with subsection (c) is for good cause and does not jeopardize the fiscal integrity of the possession, the Secretary may waive the requirements of subsection (c) for such period as he determines appropriate.

(f) DEFINITIONS AND SPECIAL RULES.—

(1) IMPLEMENTATION YEAR.—For purposes of this section, the term "implementation year" means the 1st fiscal year of the possession in which the tax laws authorized by subsection (a) take effect.

(2) MIRROR SYSTEM.—For purposes of this section, the mirror system of taxation consists of the provisions of law (in effect on the day before the date of the enactment of this Act) which make the provisions of the income tax laws of the United States (as in effect from time to time) in effect in a possession of the United States.

(3) SPECIAL RULE FOR NORTHERN MARIANA ISLANDS.—Notwithstanding the provisions of the last clause of section 601(a) of Public Law 94-241, the Commonwealth of the Northern Mariana Islands may elect to continue its mirror system of taxation without regard to whether Guam enacts tax laws under the authority provided in subsection (a).

SEC. 972. EXCLUSION OF POSSESSION SOURCE INCOME FROM THE GROSS INCOME OF CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 931 (relating to income from sources within possessions of the United States) is amended to read as follows:

"SEC. 931. INCOME FROM SOURCES WITHIN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) GENERAL RULE.—In the case of an individual who is a bona fide resident of a specified possession during the entire taxable year, gross income shall not include—

"(1) income derived from sources within any specified possession, and

"(2) income effectively connected with the conduct of a trade or business by such individual within any specified possession.

"(b) DEDUCTIONS, ETC. ALLOCABLE TO EXCLUDED AMOUNTS NOT ALLOWABLE.—An individual shall not be allowed—

"(1) as a deduction from gross income any deductions (other than the deduction under section 151, relating to personal exemptions), or

"(2) any credit,

properly allocable or chargeable against amounts excluded from gross income under this section.

"(c) SPECIFIED POSSESSION.—For purposes of this section, the term 'specified possession' means Guam, American Samoa, and the Northern Mariana Islands.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) EMPLOYEES OF THE UNITED STATES.—Amounts paid for services performed as an employee of the United States (or any agency thereof) shall be treated as not described in paragraph (1) or (2) of subsection (a).

"(2) DETERMINATION OF SOURCE, ETC.—The determination as to whether income is described in paragraph (1) or (2) of subsection (a) shall be made under regulations prescribed by the Secretary.

"(3) DETERMINATION OF RESIDENCY.—For purposes of this section and section 876, the determination of whether an individual is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands shall be made under regulations prescribed by the Secretary."

(b) EXEMPTION FROM WITHHOLDING TAX; TAX IMPOSED BY SECTION 1.—Section 876 (relating to alien residents of Puerto Rico) is amended to read as follows:

"SEC. 876. ALIEN RESIDENTS OF PUERTO RICO, GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

"(a) GENERAL RULE.—This subpart shall not apply to any alien individual who is a bona fide resident of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands during the entire taxable year and such alien shall be subject to the tax imposed by section 1.

"(b) CROSS REFERENCES.—

"For exclusion from gross income of income derived from sources within—

"(1) Guam, American Samoa, and the Northern Mariana Islands, see section 931, and

"(2) Puerto Rico, see section 933."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 932 (relating to citizens of possessions of the United States) is hereby repealed.

(2) Section 935 (relating to coordination of United States and Guam individual income taxes) is hereby repealed.

(3) Paragraphs (1) and (2) of section 933 are each amended by inserting ", or any credit," before "properly".

(4) Subparagraph (C) of section 32(c)(1) is amended to read as follows:

"(C) INDIVIDUAL WHO CLAIMS BENEFITS OF SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, claims the benefits of section 911 (relating to citizens or residents of the United States living abroad)."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "932,".

(6) Paragraph (6) of section 63(c) (relating to certain individuals, etc., not eligible for standard deduction), as amended by title I of this Act, is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(7) Section 153 is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(8) Paragraph (8) of section 1402(a) is amended by striking out "and section 931 (relating to income from sources within possessions of the United States)" and by inserting "and" after "of the employer),".

(9) Paragraph (9) of section 1402(a) is amended to read as follows:

"(9) the exclusion from gross income provided by section 931 shall not apply;".

(10) Clause (iii) of section 6091(b)(1)(B) is amended by striking out "possessions of the United States" and inserting in lieu thereof "Guam, American Samoa, or the Northern Mariana Islands".

(11) Subsection (b) of section 7655 is amended by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) Section 931, relating to income tax on residents of Guam, American Samoa, or the Northern Mariana Islands;".

(12) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the items relating to sections 932 and 935 and by striking out the item relating to section 931 and inserting in lieu thereof the following:

"Sec. 931. Income from sources within Guam, American Samoa, or the Northern Mariana Islands."

(13) The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by striking out the item relating to section 876 and inserting in lieu thereof the following:

"Sec. 876. Alien residents of Puerto Rico, Guam, American Samoa, or the Northern Mariana Islands."

SEC. 973. TREATMENT OF CORPORATIONS ORGANIZED IN GUAM, AMERICAN SAMOA, OR THE NORTHERN MARIANA ISLANDS.

(a) TREATMENT UNDER SUBPART F.—Subsection (c) of section 957 (relating to controlled foreign corporations; United States persons), as amended by section 924, is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) with respect to a corporation organized under the laws of Guam, American Samoa, or the Northern Mariana Islands—

"(A) 80 percent or more of the gross income of which for the 3-year period ending at the close of the taxable year (or for such part of such period as such corporation or any predecessor has been in existence) was derived from sources within such a possession or was effectively connected with the conduct of a trade or business in such a possession, and

"(B) 50 percent or more of the gross income of which for such period (or part) was derived from the conduct of an active trade or business within such a possession,

such term does not include an individual who is a bona fide resident of Guam, American Samoa, or the Northern Mariana Islands.

For purposes of subparagraphs (A) and (B) of paragraph (2), the determination as to whether income was derived from sources within a possession, was effectively connected with the conduct of a trade or business within a possession, or derived from the active conduct of a trade or business within a possession shall be made under regulations prescribed by the Secretary."

(b) EXEMPTION FROM WITHHOLDING.—

(1) IN GENERAL.—Subsection (b) of section 881 (relating to exception for certain Guam and Virgin Islands corporations) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—For purposes of this section, a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession shall not be treated as a foreign corporation for any taxable year if—

"(A) at all times during such taxable year less than 25 percent in value of the stock of

such corporation is beneficially owned (directly or indirectly) by foreign persons,

"(B) at least 65 percent of the gross income of such corporation is shown to the satisfaction of the Secretary to be effectively connected with the conduct of a trade or business in such a possession or the United States for the 3-year period ending with the close of the taxable year of such corporation (or for such part of such period as the corporation or any predecessor has been in existence), and

"(C) no substantial part of the income of such corporation is used (directly or indirectly) to satisfy obligations to persons who are not bona fide residents of such a possession or the United States."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (b) of section 881 is amended by redesignating paragraph (3) as paragraph (2) and by striking out paragraph (4).

(B) Subsection (c) of section 1442 is amended to read as follows:

"(c) EXCEPTION FOR CERTAIN POSSESSIONS CORPORATIONS.—For purposes of this section, the term 'foreign corporation' does not include a corporation created or organized in Guam, American Samoa, the Northern Mariana Islands, or the Virgin Islands or under the law of any such possession if the requirements of subparagraphs (A), (B), and (C) of section 881(b)(1) are met with respect to such corporation."

PART II—TREATMENT OF THE VIRGIN ISLANDS

SEC. 974. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INCOME TAXES.

(a) IN GENERAL.—Subpart D of part III of subchapter N of chapter 1 is amended by inserting after section 931 the following new section:

"SEC. 932. COORDINATION OF UNITED STATES AND VIRGIN ISLANDS INCOME TAXES.

"(a) TREATMENT OF UNITED STATES RESIDENTS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to an individual for the taxable year if—

"(A) such individual—

"(i) is a citizen or resident of the United States (other than a bona fide resident of the Virgin Islands at the close of the taxable year), and

"(ii) has income derived from sources within the Virgin Islands, or effectively connected with the conduct of a trade or business within such possession, for the taxable year, or

"(B) such individual files a joint return for the taxable year with an individual described in subparagraph (A).

"(2) FILING REQUIREMENT.—Each individual to whom this subsection applies for the taxable year shall file his income tax return for the taxable year with both the United States and the Virgin Islands.

"(3) EXTENT OF INCOME TAX LIABILITY.—In the case of an individual to whom this subsection applies in a taxable year for purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the United States shall be treated as including the Virgin Islands.

"(b) PORTION OF UNITED STATES TAX LIABILITY PAYABLE TO THE VIRGIN ISLANDS.—

"(1) IN GENERAL.—Each individual to whom subsection (a) applies for the taxable year shall pay the applicable percentage of the taxes imposed by this chapter for such taxable year (determined without regard to paragraph (3)) to the Virgin Islands.

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'applicable percentage' means the percentage which Virgin Islands adjusted gross income bears to adjusted gross income.

"(B) VIRGIN ISLANDS ADJUSTED GROSS INCOME.—For purposes of subparagraph (A), the term 'Virgin Islands adjusted gross income' means adjusted gross income determined by taking into account only income derived from sources within the Virgin Islands and deductions properly apportioned or allocable thereto.

"(3) AMOUNTS PAID ALLOWED AS CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the taxes required to be paid to the Virgin Islands under paragraph (1) which are so paid.

"(c) TREATMENT OF VIRGIN ISLANDS RESIDENTS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to an individual for the taxable year if—

"(A) such individual is a bona fide resident of the Virgin Islands at the close of the taxable year, or

"(B) such individual files a joint return for the taxable year with an individual described in subparagraph (A).

"(2) FILING REQUIREMENT.—Each individual to whom this subsection applies for the taxable year shall file his income tax return for the taxable year with the Virgin Islands.

"(3) EXTENT OF INCOME TAX LIABILITY.—In the case of an individual to whom this subsection applies in a taxable year for purposes of so much of this title (other than this section and section 7654) as relates to the taxes imposed by this chapter, the Virgin Islands shall be treated as including the United States.

"(4) RESIDENTS OF THE VIRGIN ISLANDS.—In the case of an individual who is a bona fide resident of the Virgin Islands at the close of the taxable year and who, on his return of income tax to the Virgin Islands, reports income from all sources and identifies the source of each item shown on such return, for purposes of calculating income tax liability to the United States gross income shall not include any amount included in gross income on such return.

"(d) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return, this section shall be applied on the basis of the residence of the spouse who has the greater adjusted gross income (determined without regard to community property laws) for the taxable year.

"(e) SECTION NOT TO APPLY TO TAX IMPOSED IN VIRGIN ISLANDS.—This section shall not apply for purposes of determining income tax liability incurred to the Virgin Islands."

(b) AUTHORITY TO IMPOSE NONDISCRIMINATORY LOCAL INCOME TAXES.—Nothing in any provision of Federal law shall prevent the Virgin Islands from imposing on any person nondiscriminatory local income taxes. Any taxes so imposed shall be treated in the same manner as State and local income taxes under section 164 of the Internal Revenue Code of 1954 and shall not be treated as taxes to which section 901 of such Code applies.

(c) REGULATIONS ON APPLICATION OF MIRROR SYSTEM.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate for applying this title for purposes of determining tax liability incurred to the Virgin Islands.

(d) CLERICAL AMENDMENT.—The table of sections for such subpart D is amended by inserting after the item relating to section 931 the following new item:

"Sec. 932. Coordination of United States and Virgin Islands income taxes."

SEC. 975. VIRGIN ISLANDS CORPORATIONS ALLOWED POSSESSION TAX CREDIT.

(a) POSSESSION TAX CREDIT ALLOWED.—Paragraph (1) of section 936(d) (defining possession) is amended by striking out ", but does not include the Virgin Islands of the United States" and inserting in lieu thereof "and the Virgin Islands".

(b) CLARIFICATION OF TREATMENT OF VIRGIN ISLANDS INHABITANTS.—Subparagraph (B) of section 7651(5) (relating to the Virgin Islands) is amended to read as follows:

"(B) For purposes of this title, section 28(a) of the Revised Organic Act of the Virgin Islands shall be effective as if such section 28(a) had been enacted before the enactment of this title and such section 28(a) shall have no effect on the amount of income tax liability required to be paid by any person to the United States."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection 934 is amended by striking out subsections (b), (c), (d), (e), and (f), and by redesignating subsection (g) as subsection (c).

(2)(A) Subsection (a) of section 934 is amended by striking out "or (c) or in section 934A".

(B) Section 934, as amended by paragraph (1), is amended by inserting after subsection (a) the following new subsection:

"(b) REDUCTIONS PERMITTED WITH RESPECT TO VIRGIN ISLANDS SOURCE INCOME, ETC.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsection (a) shall not apply with respect to so much of the tax liability referred to in subsection (a) as is attributable to income derived other than from sources within the United States or income effectively connected with the conduct of a trade or business within the United States.

"(2) EXCEPTION FOR LIABILITY PAID BY CITIZENS OR RESIDENTS OF THE UNITED STATES.—Paragraph (1) shall not apply to any liability payable to the Virgin Islands under section 932(b).

"(3) EXCEPTION FOR CERTAIN FOREIGN CORPORATIONS.—Paragraph (1) shall not apply to any liability of a foreign corporation if stock representing 10 percent or more of—

"(A) the total voting power of the stock of such corporation, or

"(B) the total value of the stock of such foreign corporation,

is owned or treated as owned (within the meaning of section 958) by 1 or more United States persons.

"(4) EXCEPTION FOR INCOME FROM VIRGIN ISLANDS.—Paragraph (2) and (3) shall not apply with respect to any income derived from sources within the Virgin Islands or income effectively connected with the conduct of a trade or business within the Virgin Islands.

"(5) DETERMINATION OF INCOME SOURCE, ETC.—The determination as to whether income is derived from sources within the Virgin Islands or is effectively connected with the conduct of a trade or business within the Virgin Islands shall be made under regulations prescribed by the Secretary."

(3) Section 934A (relating to income tax rates on Virgin Islands source income) is hereby repealed.

(4) Subparagraph (B) of section 28(d)(3) is amended to read as follows:

"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 936 APPLIES.—No credit shall be allowed under this section with re-

spect to any clinical testing conducted by a corporation to which an election under section 936 applies."

(5) Clause (vii) of section 48(a)(2)(B) is amended by striking out "or which is entitled to the benefits of section 934(b)" and by striking out ", 933, or 934(c)" and inserting in lieu thereof "or 933".

(6) Subsection (e) of section 246 is amended by striking out "or 934(e)(3)".

(7) Clause (i) of section 338(h)(6)(B) is amended by striking out "a corporation described in section 934(b),".

(8) Subparagraph (B) of section 864(d)(5) is amended to read as follows:

"(B) SPECIAL RULES FOR POSSESSIONS.—An amount treated as interest under paragraph (1) shall not be treated as income described in subparagraph (A) or (B) of section 936(a)(1) unless such amount is from sources within a possession of the United States (determined after the application of paragraph (1))."

(9) The table of sections for subpart D of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 934A.

PART III—COVER OVER OF INCOME TAXES

SEC. 976. COVER OVER OF INCOME TAXES.

(a) IN GENERAL.—Section 7654 (relating to coordination of United States and Guam individual income taxes) is amended to read as follows:

"SEC. 7654. COORDINATION OF UNITED STATES AND CERTAIN POSSESSION INDIVIDUAL INCOME TAXES.

"(a) GENERAL RULE.—The net collection of taxes imposed by chapter 1 for each taxable year with respect to an individual to which section 931 or 932(c) applies shall be covered into the Treasury of the specified possession of which such individual is a bona fide resident.

"(b) DEFINITION AND SPECIAL RULE.—For purposes of this section—

"(1) NET COLLECTIONS.—In determining net collections for a taxable year, an appropriate adjustment shall be made for credits allowed against the tax liability and refunds made of income taxes for the taxable year.

"(2) SPECIFIED POSSESSION.—The term 'specified possession' means Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

"(c) TRANSFERS.—The transfers of funds between the United States and any specified possession required by this section shall be made not less frequently than annually.

"(d) FEDERAL PERSONNEL.—In addition to the amount determined under subsection (a), the United States shall pay to each specified possession at such times and in such manner as determined by the Secretary—

"(1) the amount of the taxes deducted and withheld by the United States under chapter 24 with respect to compensation paid to members of the Armed Forces who are stationed in such possession but who have no income tax liability to such possession with respect to such compensation by reason of the Soldiers' and Sailors' Civil Relief Act (50 App. U.S.C. 501 et seq.), and

"(2) the amount of the taxes deducted and withheld under chapter 24 with respect to amounts paid for services performed as an employee of the United States (or any agency thereof) in a specified possession with respect to an individual unless section 931 or 932(c) applies.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and sections 931 and 932, including regulations prohibiting the rebate of taxes covered over which are allocable to United States source income and prescribing the information which the individuals to whom such sections may apply shall furnish to the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter D of chapter 78 is amended by striking out the item relating to section 7654 and inserting in lieu thereof the following:

"Sec. 7654. Coordination of United States and certain possession individual income taxes."

PART IV—EFFECTIVE DATE

SEC. 977. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1986.

(b) SPECIAL RULE FOR GUAM, AMERICAN SAMOA, AND THE NORTHERN MARIANA ISLANDS.—The amendments made by this subtitle shall apply with respect to Guam, American Samoa, or the Northern Mariana Islands (and to residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement under section 971 is in effect between the United States and such possession.

(c) SPECIAL RULE FOR THE VIRGIN ISLANDS.—

(1) IN GENERAL.—The amendments made by section 975(c) shall apply with respect to the Virgin Islands (and residents thereof and corporations created or organized therein) only if (and so long as) an implementing agreement is in effect between the United States and the Virgin Islands with respect to the establishment of rules under which the evasion or avoidance of United States income tax shall not be permitted or facilitated by such possession. Any such implementing agreement shall be executed on behalf of the United States by the Secretary of the Treasury, after consultation with the Secretary of the Interior.

(2) SECTION 975(b).—The amendment made by section 975(b) shall apply with respect to any taxable year with respect to which on the date of the enactment of this Act a claim for credit or refund for such taxable year is not barred by any statute of limitations or other provision or rule of law barring such claim.

(d) REPORT ON IMPLEMENTING AGREEMENTS.—If, during the 1-year period beginning on the date of the enactment of this Act, any implementing agreement described in subsection (b) or (c) is not executed, the Secretary of the Treasury or his delegate shall report to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives with respect to—

(1) the status of such negotiations, and

(2) the reason why such agreement has not been executed.

Subtitle H—Miscellaneous Provisions

SEC. 981. LIMITATION ON COST OF PROPERTY IMPORTED FROM RELATED PERSONS.

(a) IN GENERAL.—Part IV of subchapter O of chapter 1 (relating to special rules for determination of basis) is amended by inserting after section 1059 the following new section:

"SEC. 1059A. TAXPAYER'S BASIS OR INVENTORY COST IN PROPERTY IMPORTED FROM RELATED PERSONS.

"(a) IN GENERAL.—If any property is imported into the United States in a transaction between related persons (within the meaning of section 482), the amount of any costs—

"(1) which are taken into account in computing the basis or inventory cost of such property by the purchaser, and

"(2) which are also taken into account in computing the customs value of such property,

shall not, for purposes of computing such basis or inventory cost for purposes of this chapter, be greater than the amount of such costs taken into account in computing such customs value.

"(b) CUSTOMS VALUE; IMPORT.—For purposes of this section—

"(1) CUSTOMS VALUE.—The term 'customs value' means the value taken into account for purposes of determining the amount of any customs duties or any other duties which may be imposed on the importation of any property.

"(2) IMPORT.—Except as provided in regulations, the term 'import' means the entering, or withdrawal from warehouse, for consumption."

(b) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter O of chapter 1 is amended by inserting after the item relating to section 1059 and inserting in lieu thereof the following new item:

"Sec. 1059A. Taxpayer's basis or inventory cost in property imported from related persons."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after March 18, 1986.

SEC. 982. INCOME OF FOREIGN GOVERNMENTS.

(a) IN GENERAL.—Section 892 (relating to income of foreign governments and international organizations) is amended—

(1) by striking out "The income" and inserting in lieu thereof:

"(a) IN GENERAL.—The income", and

(2) by adding at the end thereof the following new subsection:

"(b) EXCEPTION FOR COMMERCIAL ACTIVITY.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any income of any foreign government or international organization which is derived from the conduct of any commercial activity (whether within or without the United States) (including any income received from an entity described in subparagraph (B)), or

"(B) any income of a controlled entity if such entity (or any related entity within the meaning of section 482) engages in any commercial activity (whether within or without the United States).

"(2) CONTROLLED ENTITY.—An entity shall be treated as controlled by a foreign government or international organization if such government or organization—

"(A) holds any interest in any entity which (by value or voting interest) is 50 percent or more of the total of such interest in such entity, or

"(B) holds any other interest in such entity which provides the foreign government or international organization with effective control of such entity."

(b) CONFORMING AMENDMENT.—Section 892(a), as designated by subsection (a), is amended by striking out ", or from any other source within the United States,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after November 1, 1986.

(d) EFFECTIVE DATE.—Notwithstanding the above provisions the amendments made by this section shall apply to taxable years beginning after July 1, 1986.

SEC. 983. DUAL RESIDENT CORPORATIONS.

(a) IN GENERAL.—Section 1504(b) (relating to includible corporations) is amended by adding at the end thereof the following new paragraph:

"(8) A dual resident corporation (as defined in subsection (f))."

(b) DUAL RESIDENT CORPORATION DEFINED.—Section 1504 (relating to definition of affiliated group) is amended by adding at the end thereof the following new subsection:

"(f) DUAL RESIDENT CORPORATION.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—The term 'dual resident corporation' means any domestic corporation any item of expense of which may be taken into account in reducing the tax of a foreign corporation in a foreign country.

"(2) EXCEPTION WHERE FOREIGN CORPORATION FULLY TAXED BY UNITED STATES.—Paragraph (1) shall not apply to any domestic corporation with respect to which all of the earnings of the foreign corporation described in paragraph (1) are subject to tax imposed by the United States either currently or upon distribution.

"(3) REGULATORY AUTHORITY.—The Secretary may by regulation provide that this subsection shall not apply in any case in which such corporation is formed or availed of to avoid consolidation under this chapter."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 984. LIMITATION ON DEDUCTIBILITY OF INTEREST PAID TO RELATED TAX-EXEMPT ENTITY.

(a) IN GENERAL.—Section 163 (relating to deductibility of interest), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATION ON DEDUCTIBILITY OF INTEREST PAID TO RELATED TAX-EXEMPT ENTITY.—

"(1) IN GENERAL.—If, for any taxable year, the excess (if any) of—

"(A) the interest paid or accrued by a taxpayer for any taxable year, over

"(B) the interest income of such taxpayer for such taxable year,

is greater than 50 percent of the adjusted taxable income of such taxpayer, no deduction shall be allowable under this chapter for interest paid or accrued to a related tax-exempt entity to the extent of such excess.

"(2) TREATMENT OF INTEREST DISALLOWED.—Any interest with respect to which a deduction is disallowed under paragraph (1) shall be treated as a payment of interest to a related tax-exempt entity in the succeeding taxable year.

"(3) RELATED TAX-EXEMPT ENTITY.—For purposes of this subsection, a taxpayer is related to a tax-exempt entity (and any person related to such tax-exempt entity) if—

"(A) the taxpayer holds (as determined under the principles of section 958) an interest in such entity which (by value or voting interest) is 50 percent or more of the total interests in such entity, or

"(B) such entity holds such an interest in the taxpayer.

"(4) TAX-EXEMPT ENTITY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tax-exempt entity' means any entity with respect to which no tax is imposed by the United States on interest paid to such entity by the taxpayer.

"(B) CERTAIN STOCK PLANS EXCEPTED.—The term 'tax-exempt entity' shall not include any employee stock ownership plan described in section 4975(e)(7) or which meets the requirements of section 409.

"(C) ENTITY TREATED AS TAX-EXEMPT TO EXTENT OF TREATY REDUCTION.—If any treaty between the United States and any foreign country reduces the rate of tax imposed on any interest paid or accrued by a taxpayer to an entity, such entity shall be treated as a tax-exempt entity to the extent of the same proportion of such interest as—

"(i) the rate of tax imposed without regard to such treaty, reduced by the rate of tax imposed under the treaty, bears to—

"(ii) the rate of tax imposed without regard to the treaty.

"(5) ADJUSTED TAXABLE INCOME.—For purposes of this subsection, the term 'adjusted taxable income' means the taxable income of the taxpayer, computed without regard to—

"(A) any amount allowable as a deduction under this chapter for interest to the extent it exceeds any interest income, and

"(B) the amount of any net operating loss deduction under section 172.

"(6) SPECIAL RULES.—For purposes of this subsection—

"(A) SPECIAL RULE FOR BACK-TO-BACK LOANS.—The Secretary shall prescribe regulations for the application of this section in any case where an unrelated party is used to avoid such application.

"(B) SPECIAL RULE FOR CONSOLIDATED RETURNS.—In the case of a taxpayer which is a member of an affiliated group (within the meaning of section 1504(a)) which files a consolidated return for the taxable year, all members of such group shall be treated as 1 taxpayer."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to interest paid or accrued in taxable years beginning after September 30, 1986.

SEC. 985. WITHHOLDING TAX ON AMOUNTS PAID BY UNITED STATES PARTNERSHIPS TO FOREIGN PARTNERS.

(a) IN GENERAL.—Subchapter A of chapter 3 (relating to withholding of tax on nonresident) is amended by adding at the end thereof the following new section:

"SEC. 1446. WITHHOLDING TAX ON AMOUNTS PAID BY UNITED STATES PARTNERSHIPS TO FOREIGN PARTNERS.

"(a) GENERAL RULE.—Except as provided in this section, if a domestic partnership has any income, gain, or loss which is effectively connected or treated as effectively connected with a trade or business within the United States, any person described in section 1441(a) shall be required to deduct and withhold a tax equal to 20 percent of any amount distributed to a partner which is not a United States person.

"(b) EXCEPTIONS.—

"(1) AMOUNTS ON WHICH TAX WITHHELD.—Subsection (a) shall not apply to that portion of any distribution with respect to which a tax is required to be deducted and withheld under section 1441 or 1442.

"(2) PARTNERSHIPS WITH CERTAIN ALLOCATIONS.—Except as provided in regulations, subsection (a) shall not apply to any domestic partnership with respect to which substantially all income from sources within the United States and substantially all income which is effectively connected with the conduct of a trade or business within the United States is properly allocated to United States persons."

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 3 is amended by adding at the end thereof the following new item:

"Sec. 1446. Withholding tax on amounts paid by United States partnerships to foreign partners."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 986. FOREIGN COMPLIANCE PROVISIONS.

(a) INFORMATION RETURNS.—

(1) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038D the following new section:

"SEC. 6039E. INFORMATION CONCERNING RESIDENT STATUS.

"(a) GENERAL RULE.—Any individual who—

"(1) applies for a United States passport (or a renewal thereof), or

"(2) applies to be lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws,

shall include with any such application a statement which includes the information described in subsection (b).

"(b) INFORMATION TO BE PROVIDED.—Information required under subsection (a) shall include—

"(1) the taxpayer's TIN,

"(2) in the case of a passport applicant, any foreign country in which such individual is residing,

"(3) in the case of an individual seeking permanent residence, information with respect to whether such individual is required to file a return of the tax imposed by chapter 1, and

"(4) such other information as the Secretary may prescribe.

"(c) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty equal to $50 for each such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(d) INFORMATION MAY BE PROVIDED TO THE SECRETARY.—Notwithstanding the provisions of section 6103, any agency of the United States which collects such statement shall provide such statement to the Secretary."

(2) CONFORMING AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6039D the following new item:

"Sec. 6039E. Information concerning resident status."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1986.

(b) WITHHOLDING ON CERTAIN DEFERRED PAYMENTS OUTSIDE THE UNITED STATES.—

(1) IN GENERAL.—Subsection (d) of section 3405 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(13) ELECTION MAY NOT BE MADE WITH RESPECT TO CERTAIN PAYMENTS OUTSIDE THE UNITED STATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of any periodic payment or nonperiodic distribution which is to be delivered outside of the United States no election may be made under subsection (a)(2) or (b)(3) with respect to such payment.

"(B) EXCEPTION.—Subparagraph (A) shall not apply if the recipient certifies to the payor, in such manner as the Secretary may prescribe, that such person is not—

"(i) a United States citizen who is a foreign resident of, or

"(ii) an individual to whom section 877 applies."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to payments after December 31, 1986.

(c) INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 6038B(b)(1) (relating to required information) is amended to read as follows:

"(A) is a related party (within the meaning of section 482) to the reporting corporation, and".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1986.

SEC. 987. DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM FOREIGN CORPORATIONS.

(a) IN GENERAL.—So much of section 245(a) (relating to dividends received from certain foreign corporations) as precedes paragraph (1) thereof is amended to read as follows:

"(a) GENERAL RULE.—In the case of dividends received from a foreign corporation (other than a foreign personal holding company) which is subject to taxation under this chapter or which receives dividends from an applicable controlled corporation, if such foreign corporation or such applicable controlled corporation is engaged in trade or business within the United States and if any portion of the net income of the foreign corporation from all sources for such period is either effectively connected with the conduct of a trade or business within the United States or is attributable to dividends received from an applicable controlled corporation, there shall be allowed as a deduction in the case of a 10-percent owned corporation—".

(b) DETERMINATION OF PERCENTAGE.—

(1) Paragraph (1) of section 245(a) is amended—

(A) by striking out "gross income" each place it appears and inserting in lieu thereof "earnings and profits",

(B) by inserting "either" before "effectively connected", and

(C) by inserting "or is attributable to dividends received from an applicable controlled corporation" after "United States".

(2) Section 245(a)(2) is amended to read as follows:

"(2) An amount equal to the percent (specified in section 243 for the taxable year) of the dividends received out of that part of its earnings and profits specified in paragraph (1) of the first sentence of section 316(a), except that such amount shall not exceed an amount which bears the same ratio to such percent of such dividends received out of such earnings and profits as the earnings and profits of such foreign corporation, which are either effectively connected with the conduct of a trade or business within the United States, are attributable to dividends received from an applicable controlled corporation, bear to its gross income (determined under the principles of section 902)."

(c) DEFINITION OF TERMS.—Section 245 is amended by adding at the end thereof the following new subsection:

"(e) APPLICABLE CONTROLLED CORPORATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable controlled corporation' means—

"(A) domestic corporation which is controlled by a foreign corporation, or

"(B) any 100-percent owned foreign corporation which controls a domestic corporation.

"(2) OTHER DEFINITIONS AND SPECIAL RULES.—

"(A) CONTROL.—A corporation shall be treated as controlling another corporation if such corporation owns stock in such other corporation meeting the requirements of section 1504(a)(2).

"(B) 100-PERCENT OWNED FOREIGN CORPORATION.—The term '100-percent owned foreign corporation' means any foreign corporation all of the stock of which (by vote and value) is owned by another foreign corporation.

"(C) 10-PERCENT OWNED CORPORATION.—The term '10-percent owned corporation' means any corporation at least 10 percent of the stock of which (by vote and value) is owned by the taxpayer.

"(D) APPLICATION WITH SUBSECTION (b).—Under regulations, subsection (b) shall apply to dividends from an applicable controlled corporation in the same manner as such subsection applies to dividends received from a foreign corporation."

(d) APPLICATION TO SECTION 904(g).—Section 904(g) (relating to source rules in case of United States-owned foreign corporations) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) DIVIDENDS FROM CERTAIN DOMESTIC CORPORATIONS, ETC.—For purposes of this subsection, any dividend from a 10-percent owned foreign corporation (within the meaning of section 245(e)(2)) shall be treated as a dividend from a United States-owned foreign corporation."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 988. SECTION 911 EXCLUSION NOT AVAILABLE TO INDIVIDUALS VIOLATING FEDERAL TRAVEL AND OTHER RESTRICTIONS.

(a) IN GENERAL.—Section 911(d) (relating to definitions and special rules) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) LIMITATION ON INCOME EARNED IN RESTRICTED COUNTRY.—

"(A) IN GENERAL.—If travel (or any transaction in connection with such travel) with respect to any foreign country is subject to the regulations described in subparagraph (B) during any period—

"(i) the foreign earned income and the housing cost amount of an individual for any taxable year shall not include any income or expenses with respect to such foreign country during such period, and

"(ii) an individual shall not be treated for purposes of this section as a bona fide resident of, or as present in, such foreign country for any day during which such individual was present in such country during such period.

"(B) REGULATIONS.—For purposes of this paragraph, regulations are described in this subparagraph if such regulations—

"(i) have been adopted pursuant to the Trading With the Enemy Act (50 U.S.C. App. §1 et seq.), or the International Emergency Economic Powers Act (50 U.S.C. §1701 et seq.), and

"(ii) include provisions generally prohibiting citizens and residents of the United States from engaging in transactions related to travel to, from, or within a foreign country.

"(C) EXCEPTION.—Subparagraph (A) shall not apply to any individual during any period in which such individual's activities are not in violation of the regulations described in subparagraph (B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply with respect to taxable years beginning after December 31, 1986.

SEC. 989. SPECIAL RULE FOR APPLICATION OF SECTION 954 TO CERTAIN DIVIDENDS.

(a) IN GENERAL.—For purposes of section 954(c)(3)(A) of the Internal Revenue Code of 1954, any dividends received by a qualified controlled foreign corporation (within the meaning of section 951 of such Code) with respect to its 32.7 percent interest in a Brazilian corporation shall be treated as if such Brazilian corporation were a related person to the qualified controlled foreign corporation to the extent the Brazilian corporation's income is attributable to its interest in the trade or business of mining in Brazil.

(b) QUALIFIED CONTROLLED FOREIGN CORPORATION.—For purposes of this section, a qualified controlled foreign corporation is a corporation the greater than 99 percent shareholder of which is a company originally incorporated in Montana on July 9, 1951 (the name of which was changed on August 10, 1966).

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to dividends received after December 31, 1986.

SEC. 990. ATHLETES COMPETING IN CHARITABLE SPORTING EVENTS.

(a) IN GENERAL.—Section 7701(b)(4)(A) (defining exempt individual) is amended by striking "or" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", or" and by adding after clause (iii) the following new clause:

"(iv) a professional athlete who is temporarily in the United States to compete in a charitable sports event described in section 274(k)(2)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act.

TITLE X—INSURANCE PRODUCTS AND COMPANIES

Subtitle A—Policyholder Issues

SEC. 1001. REPEAL OF EXCLUSION FOR INTEREST ON INSTALLMENT PAYMENTS OF LIFE INSURANCE PROCEEDS.

(a) IN GENERAL.—The second sentence of paragraph (1) of section 101(d) (relating to payment of life insurance proceeds at a date later than death) is amended to read as follows: "There shall be excluded from the gross income of such beneficiary in the taxable year received any amount determined by such proration."

(b) DETERMINATION OF AMOUNT HELD BY INSURER.—Clause (ii) of section 101(d)(2)(B) is amended to read as follows:

"(ii) as discounted on the basis of the interest rate used by the insurer in calculating payments under the agreement and mortality tables prescribed by the Secretary."

(c) TECHNICAL AMENDMENT.—Subsection (d) of section 101 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received with respect to deaths occurring after December 31, 1986, in taxable years ending after such date.

SEC. 1002. TREATMENT OF STRUCTURED SETTLEMENT AGREEMENTS.

(a) ALLOWANCE OF DEDUCTION FOR COST OF FUNDING ASSET.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. DEDUCTION FOR COST OF CERTAIN ASSETS FUNDING PERSONAL INJURY LIABILITY ASSIGNMENTS.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a qualified assignment, there shall be allowed as a deduction to the person assuming liability under such assignment an amount equal to the aggregate cost of any qualified funding assets acquired during the taxable year.

"(b) DISALLOWANCE OF DEDUCTION FOR PAYMENTS UNDER ASSIGNMENT.—No deduction shall be allowed under this subtitle for any amount paid or incurred (pursuant to a qualified assignment) by the person assuming liability under such assignment.

"(c) TREATMENT OF QUALIFIED FUNDING ASSET.—For purposes of this title, the basis of any qualified funding asset (and the amount includible in gross income with respect to any qualified funding asset) shall be determined in the same manner as if this section had not been enacted.

"(d) QUALIFIED ASSIGNMENT.—For purposes of this section, the term 'qualified assignment' means any assignment of a liability to make periodic payments as damages (whether by suit or agreement) on account of personal injury or sickness—

"(1) if the assignee elects to have this section apply to such assignment,

"(2) if the assignee assumes such liability from a person who is a party to the suit or agreement, and

"(3) if—

"(A) such periodic payments are fixed and determinable as to amount and time of payment,

"(B) such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payments,

"(C) the assignee does not provide to the recipient of such payments rights against the assignee which are greater than those of a general creditor,

"(D) the assignee's obligation on account of the personal injuries or sickness is not greater than the obligation of the person who assigned the liability, and

"(E) such periodic payments are excludable from the gross income of the recipient under section 104(a)(2).

An election under paragraph (1) with respect to any assignment shall be made on the assignee's return of the tax imposed by this chapter for the taxable year in which the assignment is made and, once made, may be revoked only with the consent of the Secretary.

"(e) QUALIFIED FUNDING ASSET.—For purposes of this section, the term 'qualified funding asset' means any annuity contract issued by a company licensed to do business as an insurance company under the laws of any State, or any obligation of the United States, if—

"(1) such annuity contract or obligation is used by the assignee to fund periodic payments under any qualified assignment,

"(2) the periods of the payments under the annuity contract or obligation are reasonably related to the periodic payments under the qualified assignment, and the amount of any such payment under the contract or obligation does not exceed the periodic payment to which it relates,

"(3) such annuity contract or obligation is designated by the taxpayer (in such manner as the Secretary shall by regulations prescribe) as being taken into account under this section with respect to such qualified assignment, and

"(4) such annuity contract or obligation is purchased by the taxpayer—

"(A) not more than 60 days before the date of the qualified assignment, and

"(B) not later than 60 days after the date of such assignment."

(b) REPEAL OF EXCLUSION UNDER SECTION 130.—Section 130 (relating to certain personal injury liability assignments) is hereby repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 130.

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Deduction for cost of certain assets funding personal injury liability assignments.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to assignments entered into after December 31, 1986, in taxable years ending after such date.

SEC. 1003. DENIAL OF DEDUCTION FOR INTEREST ON LOANS FROM CERTAIN LIFE INSURANCE CONTRACTS.

(a) IN GENERAL.—Section 264(a) (relating to disallowance of deduction for certain amounts paid in connection with insurance contracts) is amended by adding after paragraph (3) the following new paragraph:

"(4) any interest paid or accrued on any indebtedness with respect to 1 or more life insurance policies owned by the taxpayer covering the life of any individual who is—

"(A) an officer of employee of, or

"(B) any person financially interested in, any trade or business carried on by the taxpayer to the extent that the aggregate amount of such indebtedness exceeds $50,000."

(b) CONFORMING AMENDMENT.—Section 264(a) is amended by adding at the end thereof the following new sentence: "Paragraph (4) shall apply with respect to contracts purchased after June 20, 1986."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts purchased after June 20, 1986, in taxable years ending after such date.

Subtitle B—Life Insurance Companies

SEC. 1011. REPEAL OF SPECIAL LIFE INSURANCE COMPANY DEDUCTION.

(a) IN GENERAL.—Section 806 is amended by striking out subsection (a) and by redesignating subsections (b), (c), and (d), as subsections (a), (b), and (c), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Sections 453B(e)(2)(B) and 465(c)(7)(D)(v) are each amended by striking out "section 806(c)(3)" and inserting in lieu thereof "section 806(b)(3)".

(2) Section 804 is amended by adding "and" at the end of paragraph (1) and by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) the small life insurance company deduction (if any) determined under section 806(a)."

(3) Subparagraph (C) of section 801(a)(2) is amended—

(A) by striking out "the amounts allowable as deductions under paragraphs (2) and (3)" and inserting in lieu thereof "the amount allowable as a deduction under paragraph (2)", and

(B) by striking out "SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND" in the heading.

(4) Clause (i) of section 805(a)(4)(B) and clause (iii) of section 805(b)(3)(A) are each amended by striking out "the special life insurance company deduction and".

(5) Paragraph (1) of section 806(b), as redesignated by subsection (a), is amended by striking out "without regard to—" and all that follows and inserting in lieu thereof "without regard to the small life insurance company deduction."

(6) Paragraph (1) of section 806(c), as redesignated by subsection (a), is amended—

(A) by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)",

(B) by striking out "any special life insurance company deduction and", and

(C) by striking out "SPECIAL LIFE INSURANCE COMPANY DEDUCTION AND SMALL" in the heading and inserting in lieu thereof "SMALL".

(7) Paragraph (2) of section 806(c), as redesignated by subsection (a), is amended by striking out "subsection (b)(3)" and inserting in lieu thereof "subsection (a)(3)".

(8) Subsection (c) of section 806, as redesignated by subsection (a), is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(9) Subparagraph (A) of section 813(a)(4) is amended by striking out "section 806(b)(3)(C)" and inserting in lieu thereof "section 806(a)(3)(C)".

(10) Clause (ii) of section 815(c)(2)(A) is amended by striking out "special deductions" and inserting in lieu thereof "small life insurance company deduction."

(11)(A) The section heading of section 806 is amended by striking out "special deductions" and inserting in lieu thereof "small life insurance company deduction".

(B) The table of sections for subpart C of part I of subchapter L of chapter 1 is amended by striking out "Special deductions" in the item relating to section 806 and inserting in lieu thereof "Small life insurance company deduction".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE.—Section 217(k) of the Tax Reform Act of 1984 is amended—

(A) by striking out "the special deductions under section 806" and inserting in lieu thereof "the small life insurance company deduction under section 806(a)", and

(B) by adding at the end thereof the following: "For purposes of determining taxable income, the amount of any income, gain, loss, or deduction attributable to the ownership of such stock shall be an amount equal to 46 times the amount of such income, gain, loss, or deduction, divided by 36.8."

SEC. 1012. OPERATIONS LOSS DEDUCTION OF INSOLVENT COMPANIES MAY OFFSET DISTRIBUTIONS FROM POLICYHOLDERS SURPLUS ACCOUNT.

(a) IN GENERAL.—If—

(1) on November 15, 1985, a life insurance company was insolvent,

(2) pursuant to the order of any court of competent jurisdiction in a title 11 or similar case (as defined in section 368(a)(3) of the Internal Revenue Code of 1954), such company is liquidated, and

(3) as a result of such liquidation, the tax imposed by section 801 of such Code for any taxable year (hereinafter in this subsection referred to as the "liquidation year") would (but for this subsection) be increased under section 815(a) of such Code,

then the amount described in section 815(a)(2) of such Code shall be reduced by the loss from operations (if any) for the liquidation year, and the unused operations loss carryovers (if any) to the liquidation year (determined after the application of section 810 of such Code for such year). No

carryover of any loss from operations of such company arising during the liquidation year (or any prior taxable year) shall be allowable for any taxable year succeeding the liquidation year.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) INSOLVENT.—The term "insolvent" means the excess of liabilities over the fair market value of assets.

(2) LOSS FROM OPERATIONS.—The term "loss from operations" has the meaning given such term by section 810(c) of such Code.

(c) EFFECTIVE DATE.—This section shall apply to liquidations on or after November 15, 1985, in taxable years ending after such date.

SEC. 1013. SPECIAL RULE FOR MUTUAL LIFE INSURANCE COMPANY.

(a) IN GENERAL.—Paragraph (2) of section 217(i) of the Tax Reform Act of 1984 is amended to read as follows:

"(2) EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phaseout of small life insurance company deduction)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992.

Subtitle C—Property and Casualty Insurance Companies

SEC. 1021. INCLUSION IN INCOME OF 20 PERCENT OF UNEARNED PREMIUM RESERVE.

(a) IN GENERAL.—The first sentence of paragraph (4) of section 832(b) (defining premiums earned) is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) To the result so obtained, add 80 percent of the unearned premiums on outstanding business at the end of the preceding taxable year and deduct 80 percent of the unearned premiums on outstanding business at the end of the taxable year.

"(C) To the result so obtained—

"(i) in the case of a taxable year beginning after December 31, 1986, and before January 1, 1994, add an amount equal to 2⅔ percent of the unearned premiums on outstanding business at the end of the most recent taxable year beginning before January 1, 1987, and

"(ii) in the case of the first taxable year beginning after December 31, 1993, add an amount equal to 1⅓ percent of the unearned premiums on outstanding business at the end of the most recent taxable year beginning before January 1, 1987."

(b) SPECIAL RULES.—Subsection (b) of section 832 is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR APPLYING PARAGRAPH (4).—

"(A) REDUCTION NOT TO APPLY TO LIFE INSURANCE RESERVES.—Subparagraph (B) of paragraph (4) shall be applied with respect to amounts included in unearned premiums under the 2nd sentence of such paragraph by substituting '100 percent' for '80 percent' each place it appears in such subparagraph (B), and subparagraph (C) of paragraph (4) shall be applied by not taking such amounts into account.

"(B) SPECIAL TREATMENT OF PREMIUMS ATTRIBUTABLE TO INSURING CERTAIN SECURITIES.—In the case of premiums attributable to insurance against default in the payment of principal or interest on securities described in section 165(g)(2)(C) with maturities of more than 5 years—

"(i) subparagraph (B) of paragraph (4) shall be applied by substituting '90 percent' for '80 percent' each place it appears, and

"(ii) subparagraph (C) of paragraph (4) shall be applied by substituting '1⅓ percent' for '2⅔ percent' and ⅔ percent' for '1⅓ percent'.

"(C) TERMINATION AS INSURANCE COMPANY.—Except as provided in section 381(c)(22) (relating to carryovers in certain corporate readjustments), if, for any taxable year beginning before January 1, 1995, the taxpayer ceases to be an insurance company taxable under this part or part II, the aggregate adjustments which would be made under paragraph (4)(C) for such taxable year and subsequent taxable years but for such cessation shall be made for the preceding taxable year."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1022. DISCOUNTING OF UNPAID LOSSES AND CERTAIN UNPAID EXPENSES.

(a) LIMITATION OF DEDUCTION IN THE CASE OF PROPERTY AND CASUALTY INSURANCE COMPANIES.—

(1) LOSSES INCURRED.—Subparagraph (B) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(B) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year."

(2) EXPENSES INCURRED.—Section 832(b)(6) (defining expenses incurred) is amended by inserting after the 1st sentence: "For purposes of this subchapter, the term 'expenses unpaid' shall not include any unpaid loss adjustment expenses shown on the annual statement, but such unpaid loss adjustment expenses shall be included in unpaid losses."

(b) LIMITATION OF DEDUCTION IN THE CASE OF LIFE INSURANCE COMPANIES.—Section 807(c) (relating to reserves and similar items taken into account) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2) and section 805(a)(1), the amount of the unpaid losses (other than losses on life insurance contracts) shall be the amount of the discounted unpaid losses as defined in section 846."

(c) DISCOUNTED UNPAID LOSSES DEFINED.—Part IV of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 846. DISCOUNTED UNPAID LOSSES DEFINED.

"(a) DISCOUNTED LOSSES DETERMINED.—

"(1) SEPARATELY COMPUTED FOR EACH ACCIDENT YEAR.—The amount of the discounted unpaid losses as of the end of any taxable year shall be the sum of the discounted unpaid losses (as of such time) separately computed under this section with respect to unpaid losses in each line of business attributable to each accident year.

"(2) METHOD OF DISCOUNTING.—The amount of the discounted unpaid losses as of the end of any taxable year attributable to any accident year shall be the present value of such losses (as of such time) determined by using—

"(A) the amount of the undiscounted unpaid losses as of such time,

"(B) the applicable interest rate, and

"(C) the applicable loss payment pattern.

"(3) LIMITATION ON AMOUNT OF DISCOUNTED LOSSES.—In no event shall the amount of the discounted unpaid losses with respect to any line of business attributable to any accident year exceed the aggregate amount of unpaid losses with respect to such line of business for such accident year included on the annual statement filed by the taxpayer for the year ending with or within the taxable year.

"(4) DETERMINATION OF APPLICABLE FACTORS.—In determining the amount of the discounted unpaid losses attributable to any accident year—

"(A) the applicable interest rate shall be the interest rate determined under subsection (c) for the calendar year in which (or with which) such accident year ends, and

"(B) the applicable loss payment pattern shall be the loss payment pattern determined under subsection (d) which is in effect for the calendar year in which (or with which) such accident year ends.

"(b) DETERMINATION OF UNDISCOUNTED UNPAID LOSSES.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'undiscounted unpaid losses' means the unpaid losses shown in the annual statement filed by the taxpayer for the year ending with or within the taxable year of the taxpayer.

"(2) ADJUSTMENT IF LOSSES DISCOUNTED ON ANNUAL STATEMENT.—If—

"(A) the amount of unpaid losses shown in the annual statement is determined on a discounted basis, and

"(B) the amount of the discount can be determined on the basis of information disclosed on or with the annual statement,

the amount of the unpaid losses shall be determined without regard to any reduction attributable to such discounting.

"(c) RATE OF INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the rate of interest determined under this subsection shall be—

"(A) 5 percent for calendar year 1987, and

"(B) in the case of a calendar year after 1987, the annual rate determined by the Secretary under paragraph (2).

"(2) DETERMINATION OF ANNUAL RATE.—

"(A) IN GENERAL.—The annual rate determined by the Secretary under this paragraph for any calendar year shall be a rate equal to 75 percent of the average of the applicable Federal mid-term rates (as defined in section 1274(d) but based on annual compounding) effective as of the beginning of each of the calendar months ending in the test period.

"(B) TEST PERIOD.—For purposes of subparagraph (A), the test period is the most recent 60-calendar-month period ending before the beginning of the calendar year for which the determination is made; except that the test period shall not include any month beginning before January 1, 1987.

"(d) LOSS PAYMENT PATTERN.—

"(1) IN GENERAL.—For each determination year, the Secretary shall determine a loss payment pattern for each line of business by reference to the historical loss payment pattern applicable to such line of business. Any loss payment pattern determined by the Secretary shall apply to accident years ending with (or within) the determination year and to each of the 4 succeeding calendar years.

"(2) METHOD OF DETERMINATION.—Determinations under paragraph (1) for any determination year shall be made by the Secretary—

"(A) by using the aggregate experience reported on the annual statements of insurance companies,

"(B) on the basis of the most recent published aggregate data from such annual statements relating to loss payment patterns available on the first day of the determination year,

"(C) as if all losses paid or treated as paid during any year are paid in the middle of such year, and

"(D) in accordance with the computational rules prescribed in paragraph (3).

"(3) COMPUTATIONAL RULES.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the loss payment pattern for any line of business shall be based on the assumption that all losses are paid—

"(i) during the accident year and the 3 years following the accident year, or

"(ii) in the case of any line of business reported in the schedule or schedules of the annual statement relating to auto liability, other liability, medical malpractice, workers' compensation, and multiple peril lines, during the accident year and the 10 years following the accident year.

"(B) TREATMENT OF CERTAIN LOSSES.—Except as otherwise provided in this paragraph—

"(i) in the case of any line of business not described in subparagraph (A)(ii), losses paid after the 1st year following the accident year shall be treated as paid equally in the 2nd and 3rd year following the accident year, and

"(ii) in the case of a line of business described in subparagraph (A)(ii), losses paid after the close of the period applicable under subparagraph (A)(ii) shall be treated as paid in the last year of such period.

"(C) SPECIAL RULE FOR CERTAIN LONG-TAIL LINES.—In the case of any long-tail line of business—

"(i) the period taken into account under subparagraph (A)(ii) shall be extended (but not by more than 5 years) to the extent required under clause (ii), and

"(ii) the amount of losses which would have been treated as paid in the 10th year after the accident year shall be treated as paid in such 10th year and each subsequent year in an amount equal to the amount of the losses treated as paid in the 9th year after the accident year (or, if lesser, the portion of the unpaid losses not theretofore taken into account).

Notwithstanding clause (ii), to the extent such unpaid losses have not been treated as paid before the last year of the extension, they shall be treated as paid in such last year.

"(D) LONG-TAIL LINE OF BUSINESS.—For purposes of subparagraph (B), the term 'long-tail line of business' means any line of business described in subparagraph (A)(ii) if the amount of losses which (without regard to subparagraph (C)) would be treated as paid in the 10th year after the accident year exceeds the amount of losses treated as paid in the 9th year after the accident year.

"(E) SPECIAL RULE FOR INTERNATIONAL AND REINSURANCE LINES OF BUSINESS.—Except as otherwise provided by regulations, any determination made under subsection (a) with respect to unpaid losses relating to the international or reinsurance lines of business shall be made using, in lieu of the loss payment pattern applicable to the respective lines of business, a pattern based on the combined losses for all lines of business described in subparagraph (A)(ii).

"(F) SPECIAL RULE FOR CERTAIN ACCIDENT AND HEALTH INSURANCE LINES OF BUSINESS.—Any determination under subsection (a) with respect to unpaid losses relating to accident and health insurance lines of businesses (other than credit disability insurance) shall be made—

"(i) in the case of unpaid losses relating to disability income, by using the general rules prescribed under section 807(d) applicable to noncancellable accident and health insurance contracts and using a mortality or morbidity table reflecting the taxpayer's experience; except that—

"(I) the prevailing State assumed interest rate shall be the rate in effect for the year in which the loss occurred rather than the year in which the contract was issued, and

"(II) the limitation of subsection (a)(3) shall apply in lieu of the limitation of the last sentence of section 807(d)(1), and

"(ii) in all other cases, by using an assumption (in lieu of a loss payment pattern) that unpaid losses are paid during the year following the accident year.

"(G) ADJUSTMENTS IF LOSS EXPERIENCE INFORMATION AVAILABLE FOR LONGER PERIODS.—The Secretary shall make appropriate adjustments in the application of this paragraph if annual statement data with respect to payment of losses is available for longer periods after the accident year than the periods assumed under the rules of this paragraph.

"(4) DETERMINATION YEAR.—For purposes of this section, the term 'determination year' means calendar year 1987 and each 5th calendar year thereafter.

"(e) ELECTION TO USE COMPANY'S HISTORICAL PAYMENT PATTERN.—

"(1) IN GENERAL.—The taxpayer may elect to apply subsection (a)(2)(C) with respect to all lines of business and all accident years by using a loss payment pattern determined by reference to the taxpayer's loss payment pattern for the most recent year for which an annual statement was filed before the beginning of the taxable year. Any such determination shall be made with the application of the rules of paragraph (3) of subsection (d).

"(2) ELECTION.—

"(A) IN GENERAL.—An election under paragraph (1) shall be made separately with respect to each determination year under subsection (d).

"(B) PERIOD FOR WHICH ELECTION IN EFFECT.—Unless revoked with the consent of the Secretary, an election under paragraph (1) with respect to any determination year shall apply to accident years ending with (or within) the determination year and to each of the 4 succeeding calendar years.

"(C) TIME FOR MAKING ELECTION.—An election under paragraph (1) with respect to any determination year shall be made on the taxpayer's return for the taxable year in which (or with which) the determination year ends.

"(3) NO ELECTION FOR INTERNATIONAL OR REINSURANCE BUSINESS.—No election under this subsection shall apply to any international or reinsurance line of business.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection including—

"(A) regulations providing that a taxpayer may not make an election under this subsection if such taxpayer does not have sufficient historical experience to determine a loss payment pattern,

"(B) such regulations as may be necessary to prevent the avoidance (through the use of separate corporations or otherwise) of the requirement of this subsection that an election under this subsection applies to all lines of business of the taxpayer, and

"(C) regulations providing proper treatment of salvage and reinsurance recoverable attributable to unpaid losses.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) ACCIDENT YEAR.—The term 'accident year' means the year in which the incident occurs which gives rise to the related unpaid loss.

"(2) UNPAID LOSS ADJUSTMENT EXPENSES.—The term 'unpaid losses' includes any unpaid loss adjustment expenses shown on the annual statement.

"(3) ANNUAL STATEMENT.—The term 'annual statement' means the annual statement approved by the National Association of Insurance Commissioners which the taxpayer is required to file with insurance regulatory authorities of a State.

"(4) LINE OF BUSINESS.—The term 'line of business' means a category for the reporting of loss payment patterns on the annual statement for the fire and casualty insurance companies for the year ending with or within the taxable year, except that the multiple peril lines shall be treated as a single line of business.

"(5) MULTIPLE PERIL LINES.—The term 'multiple peril lines' means the lines of business relating to farmowners multiple peril, homeowners multiple peril, commercial multiple peril, ocean marine, aircraft (all perils) and boiler and machinery.

"(g) SPECIAL RULE FOR TITLE INSURANCE.—For purposes of this section and section 832(b)(4), all premiums received under a title insurance contract shall be treated as earned in the year in which received and an amount set aside in a reserve for claims with respect to such a contract shall be treated as a reserve for unpaid losses.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(d) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 846. Discounted unpaid losses defined."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITIONAL RULE.—For the first taxable year beginning after December 31, 1986—

(A) the unpaid losses on outstanding business, and the expenses unpaid, at the end of the preceding taxable year as defined in paragraphs (5)(B) and (6) of section 832(b) of the Internal Revenue Code of 1954, and

(B) the unpaid losses as defined in sections 807(c)(2) and 805(a)(1) of such Code at the end of the preceding taxable year,

shall be determined as if the amendments made by this section had applied to such unpaid losses and expenses unpaid in the preceding taxable year and by using the interest rate and loss payment patterns applicable to accident years ending in calendar year 1987.

(3) FRESH START.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, any difference between the amount determined to be the unpaid losses and expenses unpaid for the year preceding the first taxable year of an insurance company beginning after Decem-

ber 31, 1986, determined without regard to paragraph (2), and such amount determined with regard to paragraph (2), shall not be taken into account for purposes of the Internal Revenue Code of 1954.

(B) RESERVE STRENGTHENING AFTER MARCH 1, 1986.—Subparagraph (A) shall not apply to any reserve strengthening reported for Federal income tax purposes after March 1, 1986, for a taxable year beginning before January 1, 1987, and such strengthening shall be treated as occurring in the taxpayer's 1st taxable year beginning after December 31, 1986. The preceding sentence shall not apply to the computation of reserves on any contract if such computation employs the reserve practice used for purposes of the most recent annual statement filed on or before March 1, 1986, for the type of contract with respect to which such reserves are set up.

(C) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1986, shall be increased by the amount of the difference determined under subparagraph (A) with respect to such company.

SEC. 1023. REPEAL OF PROTECTION AGAINST LOSS ACCOUNT.

(a) IN GENERAL.—Part II of subchapter L of chapter 1 (relating to mutual insurance companies, etc.) is amended by striking out section 824 and by redesignating sections 825 and 826 as sections 824 and 825, respectively.

(b) AMOUNTS IN ACCOUNT INCLUDIBLE NOT LESS RAPIDLY THAN RATABLY OVER 5-YEAR PERIOD.—

(1) IN GENERAL.—There shall be included in gross income for each of the first 5 taxable years beginning after December 31, 1986 (and subtracted from the protection against loss account), an amount equal to the greater of—

(A) the amount which would be required to be subtracted from such account if subsection (a) had never been enacted and there were no additions to the account after the close of the last taxable year of the taxpayer beginning before January 1, 1987, or

(B) an amount equal to the required percentage of the amount in such account as of the close of the preceding taxable year determined in accordance with the following table:

If the taxable year begins during:	The required percentage is:
1987	20
1988	25
1989	33⅓
1990	50
1991	100.

(2) TREATMENT OF AMOUNTS INCLUDED IN INCOME.—Any amount included in income under paragraph (1) shall be treated under part II of subchapter L of chapter 1 of the Internal Revenue Code of 1954 in the same manner as such amount would have been treated under such part if this section had never been enacted.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Paragraph (1) of section 821(b) (defining mutual insurance company taxable income) is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "exceeds".

(B) Subparagraph (C) of section 821(b)(2) is amended by striking out "section 825(a)" and inserting in lieu thereof "section 824(a)".

(2) Subparagraph (B) of section 823(a)(1) (defining statutory underwriting income) is amended by striking out "the deductions provided in subsection (c) and section 824(a)" and inserting in lieu thereof "the deduction provided in subsection (c)".

(3) Paragraph (2) of section 824(b) (defining unused loss), as redesignated by subsection (a), is amended by striking out subparagraph (C), by adding "and" at the end of subparagraph (A), and by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period.

(4) Subsection (f) of section 824 (defining offset), as redesignated by subsection (a), is amended to read as follows:

"(f) OFFSET DEFINED.—For purposes of subsection (e), the term 'offset' means, with respect to any taxable year (hereinafter referred to as the 'offset year'), the mutual insurance company taxable income for the offset year. For purposes of the preceding sentence, the mutual insurance company taxable income for the offset year shall be determined without regard to any unused loss carryback or carryover from the loss year or any taxable year thereafter."

(5)(A) Section 825, as redesignated by subsection (a), is amended by striking out subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(B) Subsection (f) of section 825 (as redesignated by this section) is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(6) Section 844 (relating to special loss carryover rules) is amended—

(A) by striking out "section 825" in subsection (a) and inserting in lieu thereof "section 824", and

(B) by striking out "section 825(a)" in subsections (a) and (b) and inserting in lieu thereof "section 824(a)".

(7) The table of sections for part II of subchapter L of chapter 1 is amended by striking out the item relating to section 824 and by redesignating the items relating to sections 825 and 826 as items relating to sections 824 and 825, respectively.

(d) EFFECTIVE DATE.—The amendments made by this section and subsection (b) shall apply to taxable years beginning after December 31, 1986.

SEC. 1024. REVISION OF SPECIAL TREATMENT FOR SMALL COMPANIES.

(a) REVISION OF EXEMPTION FROM TAX.—

(1) IN GENERAL.—Paragraph (15) of section 501(c) (relating to list of exempt organizations) is amended to read as follows:

"(15)(A) Insurance companies or associations other than life or marine (including interinsurers and reciprocal underwriters) if the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $350,000.

"(B) For purposes of subparagraph (A), in determining whether any company or association is described in subparagraph (A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

"(C) For purposes of subparagraph (B), the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply."

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 821(f) is amended by striking out "mutual".

(b) REPEAL OF CAP ON TAX IN CERTAIN CASES.—Subsection (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(a) IMPOSITION OF TAX.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b)."

(c) REVISION OF ALTERNATIVE TAX FOR CERTAIN SMALL COMPANIES.—

(1) IN GENERAL.—Part IV of subchapter L of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 847. ALTERNATIVE TAX FOR CERTAIN SMALL COMPANIES SUBJECT TO TAX UNDER PART II OR III.

"(a) IMPOSITION OF TAX.—There is hereby imposed for each taxable year on the income of every insurance company to which this section applies a tax computed by multiplying the taxable investment income of such company for such taxable year by the rates provided in section 11(b).

"(b) COMPANIES TO WHICH THIS SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to every insurance company or association other than life or marine (including interinsurers and reciprocal underwriters) if—

"(A) the net written premiums (or, if greater, direct written premiums) for the taxable year exceed $350,000 but do not exceed $1,200,000, and

"(B) such company or association elects the application of this section for such taxable year.

"(2) CONTROLLED GROUP RULES.—

"(A) IN GENERAL.—For purposes of paragraph (1), in determining whether any company or association is described in paragraph (1)(A), such company or association shall be treated as receiving during the taxable year amounts described in subparagraph (A) of paragraph (1) which are received during such year by all other companies or associations which are members of the same controlled group as the insurance company or association for which the determination is being made.

"(B) CONTROLLED GROUP.—For purposes of subparagraph (B), the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply."

"(c) TAX IN LIEU OF OTHERWISE APPLICABLE TAX.—The tax imposed by this section shall be in lieu of any tax otherwise applicable under section 821(a) or 831(a)."

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 821 is amended by striking out subsections (c) and (d) and by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

(3) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by adding at the end thereof the following new item:

"Sec. 847. Alternative tax for certain small companies subject to tax under part II or III."

(d) REPEAL OF SPECIAL SMALL COMPANY DEDUCTION.—Subsection (c) of section 823 (re-

lating to special deduction for small companies having gross amount of less than $1,100,000) is hereby repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

Subtitle D—Miscellaneous Provisions

SEC. 1031. PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INTERINDEMNITY ARRANGEMENTS OR ASSOCIATIONS.

(a) IN GENERAL.—Section 821 (relating to mutual insurance companies), as amended by section 1024(c)(2), is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN PHYSICIANS' AND SURGEONS' MUTUAL PROTECTION AND INTERINDEMNITY ARRANGEMENTS OR ASSOCIATIONS.—

"(1) TREATMENT OF ARRANGEMENTS OR ASSOCIATIONS.—

"(A) CAPITAL CONTRIBUTIONS.—There shall not be included in the gross income of any eligible physicians' and surgeons' mutual protection and interindemnity arrangement or association any initial payment made during any taxable year to such arrangement or association by a member joining such arrangement or association which—

"(i) does not release such member from obligations to pay current or future dues, assessments, or premiums; and

"(ii) is a condition precedent to receiving benefits of membership.

Such initial payment shall be included in gross income for such taxable year with respect to any member of such arrangement or association who deducts such payment pursuant to paragraph (2).

"(B) RETURN OF CONTRIBUTIONS.—

"(i) IN GENERAL.—The repayment to any member of any amount of any payment excluded under subparagraph (A) shall not be treated as policyholder dividend, and is not deductible by the arrangement or association.

"(ii) SOURCE OF RETURNS.—Except in the case of the termination of a member's interest in the arrangement or association, any amount distributed to any member shall be treated as paid out of surplus in excess of amounts excluded under subparagraph (A).

"(2) DEDUCTION FOR MEMBERS OF ELIGIBLE ARRANGEMENTS OR ASSOCIATIONS.—

"(A) PAYMENT AS TRADE OR BUSINESS EXPENSES.—To the extent not otherwise allowable under this title, any member of any eligible arrangement or association may treat any initial payment made during a taxable year to such arrangement or association as an ordinary and necessary expense incurred in connection with a trade or business for purposes of the deduction allowable under section 162, to the extent such payment does not exceed the amount which would be payable to an independent insurance company for similar annual insurance coverage (as determined by the Secretary), and further reduced by any annual dues, assessments, or premiums paid during such taxable year. Such deduction shall not be allowable as to any initial payment made to an eligible arrangement or association by any person who is a member of any other eligible arrangement or association on or after the effective date of the Tax Reform Act of 1986. Any excess amount not allowed as a deduction for the taxable year in which such payment was made pursuant to the limitation contained in the first sentence of this subparagraph shall, subject to such limitation, be allowable as a deduction in any of the 5 succeeding taxable years, in order of time, to the extent not previously allowed as a deduction under this sentence.

"(B) REFUNDS OF INITIAL PAYMENTS.—Any amount attributable to any initial payment to such arrangement or association described in paragraph (1) which is later refunded for any reason shall be included in the gross income of the recipient in the taxable year received, to the extent a deduction for such payment was allowed. Any amount refunded in excess of such payment shall be included in gross income except to the extent otherwise excluded from income by this title.

"(3) ELIGIBLE ARRANGEMENTS OR ASSOCIATIONS.—The terms 'eligible physicans' and surgeons' mutual protection and interindemnity arrangement or association' and 'eligible arrangement or association' mean and are limited to any mutual protection and interindemnity arrangement or association that provides only medical malpractice liability protection for its members or medical malpractice liability protection in conjunction with protection against other liability claims incurred in the course of, or related to, the professional practice of a physician or surgeon and which—

"(A) was operative and was providing such protection, or had received a permit for the offer and sale of memberships, under the laws of any State prior to January 1, 1984,

"(B) is not subject to regulation by any State insurance department,

"(C) has a right to make unlimited assessments against all members to cover current claims and losses, and

"(D) is not a member of, nor subject to protection by, any insurance guaranty plan or association of any State."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made to and receipts of physicians' and surgeons' mutual protection and interindemnity arrangements or associations, and refunds of payments by such arrangements or associations, after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XI—ALTERNATIVE MINIMUM TAX

SEC. 1101. ALTERNATIVE MINIMUM TAX FOR INDIVIDUALS AND CORPORATIONS.

(a) GENERAL RULE.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended to read as follows:

"PART VI—ALTERNATIVE MINIMUM TAX

"Sec. 55. Alternative minimum tax imposed.
"Sec. 56. Adjustments in computing alternative minimum taxable income.
"Sec. 57. Items of tax preference.
"Sec. 58. Denial of certain losses.
"Sec. 59. Other definitions and special rules.

"SEC. 55. ALTERNATIVE MINIMUM TAX IMPOSED.

"(a) GENERAL RULE.—There is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) the tentative minimum tax for the taxable year, over

"(2) the regular tax for the taxable year.

"(b) TENTATIVE MINIMUM TAX.—For purposes of this part—

"(1) IN GENERAL.—The tentative minimum tax for the taxable year is—

"(A) 20 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by

"(B) the alternative minimum tax foreign tax credit for the taxable year.

"(2) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'alternative minimum taxable income' means the taxable income of the taxpayer for the taxable year—

"(A) determined with the adjustments provided in section 56 and section 58, and

"(B) increased by the amount of the items of tax preference described in section 57.

"(c) REGULAR TAX.—

"(1) IN GENERAL.—For purposes of this section, the term 'regular tax' means the regular tax liability for the taxable year (as defined in section 26(b)) reduced by the foreign tax credit allowable under section 27(a). Such term shall not include any tax imposed by section 402(e) and shall not include any increase in tax under section 47.

"(2) CROSS REFERENCES.—

"For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(d) EXEMPTION AMOUNT.—For purposes of this section—

"(1) EXEMPTION AMOUNT FOR TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the term 'exemption amount' means—

"(A) $40,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse,

"(B) $30,000 in the case of an individual who—

"(i) is not a married individual, and

"(ii) is not a surviving spouse, and

"(C) $20,000 in the case of—

"(i) a married individual who files a separate return, or

"(ii) an estate or trust.

For purposes of this paragraph, the term 'surviving spouse' has the meaning given to such term by section 2(a), and marital status shall be determined under section 143.

"(2) CORPORATIONS.—In the case of a corporation, the term 'exemption amount' means $40,000.

"(3) PHASE-OUT OF EXEMPTION AMOUNT.—The exemption amount of any taxpayer shall be reduced (but not below zero) by an amount equal to 25 percent of the amount by which the alternative minimum taxable income of the taxpayer exceeds—

"(A) $150,000 in the case of a taxpayer described in paragraph (1)(A) or (2),

"(B) $112,500 in the case of a taxpayer described in paragraph (1)(B), and

"(C) $75,000 in the case of a taxpayer described in paragraph (1)(C).

"SEC. 56. ADJUSTMENTS IN COMPUTING ALTERNATIVE MINIMUM TAXABLE INCOME.

"(a) ADJUSTMENTS APPLICABLE TO ALL TAXPAYERS.—In determining the amount of the alternative minimum taxable income for any taxable year the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) DEPRECIATION.—

"(A) IN GENERAL.—The depreciation deduction allowable under section 167 with respect to any tangible property placed in service after December 31, 1986, shall be determined under the alternative system of section 168(g).

"(B) EXCEPTION FOR CERTAIN PROPERTY.—This paragraph shall not apply to property described in paragraph (1), (2), (3), or (4) of section 168(f).

"(C) EXCEPTION FOR TRANSITION PROPERTY.—This paragraph shall not apply to property placed in service after December 31, 1986, to which the amendments made by section 201 of the Tax Reform Act of 1986 do not apply.

"(D) NORMALIZATION RULES.—With respect to public utility property described in section 167(l)(3)(A), the Secretary shall pre-

scribe the requirements of a normalization method of accounting for this section.

"(2) TREATMENT OF CERTAIN LONG-TERM CONTRACTS.—In the case of any long-term contract entered into by the taxpayer after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting.

"(3) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION.—The alternative tax net operating loss deduction shall be allowed in lieu of the net operating loss deduction allowed under section 172.

"(4) ADJUSTED BASIS.—The adjusted basis of any property to which paragraph (1) applies (or with respect to which there are any expenditures to which subsection (b)(2) or (3) applies) shall be determined on the basis of the treatment prescribed in paragraph (1) or subsection (b)(2) or (3), whichever applies.

"(5) INSTALLMENT SALES OF CERTAIN DEALER PROPERTY.—In the case of any disposition of property described in section 1221(1) after March 1, 1986, income from such disposition shall be determined without regard to the installment method under section 453 or 453A. This paragraph shall not apply to any disposition with respect to which an election is in effect under section 453C(e)(4).

"(6) POLLUTION CONTROL FACILITIES.—In the case of any certified pollution control facility placed in service after December 31, 1986, the deduction allowable under section 169 shall be determined under the alternative system of section 168(g).

"(b) ADJUSTMENTS APPLICABLE TO INDIVIDUALS.—In determining the amount of the alternative minimum taxable income of any taxpayer (other than a corporation), the following treatment shall apply (in lieu of the treatment applicable for purposes of computing the regular tax):

"(1) LIMITATION ON ITEMIZED DEDUCTION.—Any deduction not allowable in computing adjusted gross income shall not be allowed unless such deduction is an alternative tax itemized deduction.

"(2) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—

"(A) IN GENERAL.—The amount allowable as a deduction under section 173 or 174(a) in computing the regular tax for amounts paid or incurred after December 31, 1986, shall be capitalized and—

"(i) in the case of circulation expenditures described in section 173, shall be amortized ratably over the 3-year period beginning with the taxable year in which the expenditures were made, or

"(ii) in the case of research and experimental expenditures described in section 174(a), shall be amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(3) MINING EXPLORATION AND DEVELOPMENT COSTS.—

"(A) IN GENERAL.—With respect to each mine or other natural deposit (other than an oil, gas, or geothermal well) of the taxpayer, the amount allowable as a deduction under section 616(a) or 617(a) in computing the regular tax for costs paid or incurred after December 31, 1986, shall be capitalized and amortized ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

"(B) LOSS ALLOWED.—If a loss is sustained with respect to any property described in subparagraph (A), a deduction shall be allowed for the expenditures described in subparagraph (A) for the taxable year in which such loss is sustained in an amount equal to the lesser of—

"(i) the amount allowable under section 165(a) for the expenditures if they had remained capitalized, or

"(ii) the amount of such expenditures which have not previously been amortized under subparagraph (A).

"(4) APPLICATION TO PERSONAL HOLDING COMPANIES.—The adjustments provided under—

"(A) paragraph (2) with respect to circulation expenditures described in section 173, and

"(B) paragraph (3),

shall apply to a personal holding company (as defined in section 542).

"(c) ADJUSTMENTS APPLICABLE TO CORPORATIONS.—In determining the amount of the alternative minimum taxable income of a corporation, the following treatment shall apply:

"(1) ADJUSTMENT FOR BOOK INCOME.—Alternative minimum taxable income shall be adjusted as provided under subsection (f).

"(2) MERCHANT MARINE CAPITAL CONSTRUCTION FUNDS.—In the case of a capital construction fund established under section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)—

"(A) subparagraphs (A), (B), and (C) of section 607(d)(1) of such Act shall not apply to—

"(i) any amount deposited in such fund after December 31, 1986, or

"(ii) any earnings (including gains and losses) after December 31, 1986, on amounts in such fund, and

"(B) no reduction in basis shall be made under section 607(g) of such Act with respect to the withdrawal from the fund of any amount to which subparagraph (A) applies. For purposes of this paragraph, any withdrawal of deposits or earnings from the fund shall be treated as allocable first to deposits made before (and earnings received or accrued before) January 1, 1987.

"(d) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (a)(4), the term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2), and

"(B) in the case of taxable years beginning after December 31, 1986, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears.

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1986 LOSS YEARS.—In the case of a loss year beginning after December 31, 1986, the net operating loss for such year under section 172(c) shall—

"(i) be determined with the adjustments provided in this section and section 58,

"(ii) be reduced by the items of tax preference determined under section 57 for such year which are taken into account in computing the net operating loss, and

"(iii) in the case of a taxpayer other than a corporation, be computed by taking into account only itemized deductions which are alternative tax itemized deductions and which are otherwise described in section 172(c).

"(B) PRE-1987 YEARS.—In the case of loss years beginning before January 1, 1987, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1986, for purposes of paragraph (2), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1986.

"(e) ALTERNATIVE TAX ITEMIZED DEDUCTIONS.—For purposes of this part—

"(1) IN GENERAL.—The term 'alternative tax itemized deductions' means any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

"(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

"(2) QUALIFIED INTEREST.—The term 'qualified interest' means the sum of—

"(A) any qualified housing interest, and

"(B) any amount allowed as a deduction for investment interest (within the meaning of section 163(d)) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(3) QUALIFIED HOUSING INTEREST.—

"(A) IN GENERAL.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred by the taxpayer before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, or

"(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(4) QUALIFIED NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means investment income (within the meaning of section 163(d)(4)(B)).

"(C) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means the deductions (determined with the adjustments provided in section 56) directly connected with the production of qualified investment income to the extent that—

"(i) such deductions are allowable in computing adjusted gross income, and

"(ii) such deductions are not items of tax preference.

"(5) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under sections 642(c), 651(a), and 661(a).

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(6) TREATMENT OF LIMITED BUSINESS INTERESTS.—

"(A) CERTAIN INTEREST TREATED AS NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Any amount allowable as a deduction for interest on indebtedness attributable to a limited business interest shall be treated as not allowable in computing adjusted gross income.

"(B) INCOME, ETC. TAKEN INTO ACCOUNT IN COMPUTING QUALIFIED NET INVESTMENT INCOME.—Any item of income, gain, deduction, or loss attributable to a limited business interest shall be taken into account in computing qualified net investment income.

"(C) LIMITED BUSINESS INTEREST.—The term 'limited business interest' has the meaning given such term by section 163(d)(5).

"(f) ADJUSTMENTS FOR BOOK INCOME OF CORPORATIONS.—

"(1) IN GENERAL.—The alternative minimum taxable income for any taxable year of a taxpayer which is an applicable corporation shall be increased by 50 percent of the amount (if any) by which—

"(A) the adjusted net book income of the taxpayer, exceeds

"(B) the pre-book alternative minimum taxable income of the taxpayer.

"(2) ADJUSTED NET BOOK INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'adjusted net book income' means the net income or loss of the taxpayer set forth on the taxpayer's applicable financial statement, adjusted as provided in this paragraph.

"(B) ADJUSTMENTS FOR CERTAIN TAXES.—The amount determined under subparagraph (A) shall be appropriately adjusted to disregard any Federal income taxes, or income, war profits, or excess profits taxes imposed by any foreign country or possession of the United States, which are directly or indirectly taken into account on the taxpayer's applicable financial statement.

"(C) SPECIAL RULES FOR RELATED CORPORATIONS.—

"(i) CONSOLIDATED RETURNS.—If the taxpayer files a consolidated return for any taxable year, adjusted net book income for such taxable year shall take into account items on the taxpayer's applicable financial statement which are properly allocable to members of such group included on such return.

"(ii) TREATMENT OF DIVIDENDS.—In the case of any corporation which is not included on a consolidated return with the taxpayer, adjusted net book income shall take into account the earnings of such other corporation only to the extent of dividends (including dividends deemed paid for purposes of this chapter) received from such other corporation.

"(D) STATEMENTS COVERING DIFFERENT PERIODS.—Appropriate adjustments shall be made in adjusted net book income in any case in which an applicable financial statement covers a period other than the taxable year.

"(E) RULES FOR ALASKA NATIVE CORPORATIONS.—The amount determined under subparagraph (A) shall be appropriately adjusted to allow:

"(i) cost recovery and depletion attributable to property the basis of which is determined under section 21(c) of the Alaska Nataive Claims Settlement Act (43 U.S.C. sec. 1620(c)), and

"(ii) deductions for amounts payable made pursuant to section 7(i) or section 7(j) of such Act (43 U.S.C. secs. 1606(i) and 1606(j) only at such time as the deductions are allowed for tax purposes.

"(F) SECRETARIAL AUTHORITY TO ADJUST ITEMS.—Under regulations, adjusted net book income shall be properly adjusted to prevent the omission or duplication of any item.

"(3) APPLICABLE FINANCIAL STATEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable financial statement' means, with respect to any taxable year, any statement covering such taxable year—

"(i) which is required to be filed with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (or any regulation issued under such Act),

"(ii) which is a certified audited income statement to be used for the purposes of a statement or report—

"(I) for credit purposes,

"(II) to shareholders, or

"(III) for any other substantial nontax purpose,

"(iii) which is an income statement required to be provided to—

"(I) the Federal Government or any agency thereof,

"(II) a State government or any agency thereof, or

"(III) a political subdivision of a State or any agency thereof, or

"(iv) which is an income statement to be used for the purposes of a statement or report—

"(I) for credit purposes,

"(II) to shareholders, or

"(III) for any other substantial nontax purpose.

"(B) EARNINGS AND PROFITS USED IN CERTAIN CASES.—If—

"(i) a taxpayer has no applicable financial statement, or

"(ii) a taxpayer has only a statement described in subparagraph (A)(iv) and the taxpayer elects the application of this subparagraph,

the net income or loss set forth on the taxpayer's applicable financial statement shall, for purposes of paragraph (3)(A), be treated as being equal to the taxpayer's earnings and profits for the taxable year. Such election, once made, shall remain in effect for any taxable year for which the taxpayer is described in this subparagraph unless revoked with the consent of the Secretary.

"(C) SPECIAL RULE WHERE MORE THAN 1 STATEMENT.—For purposes of subparagraph (A), if a taxpayer has a statement described in more than 1 clause or subclause, the applicable financial statement shall be the statement described in the clause or subclause with the lowest number designation.

"(4) PRE-BOOK ALTERNATIVE TAXABLE INCOME.—For purposes of this subsection, the term 'pre-book alternative minimum taxable income' means alternative minimum taxable income computed without regard to—

"(A) this subsection, and

"(B) the alternative tax net operating loss deduction under subsection (a)(3).

"(5) APPLICABLE CORPORATION.—For purposes of this subsection, the term 'applicable corporation' means any corporation other than an S corporation, a regulated investment company, or a real estate investment trust.

"SEC. 57. ITEMS OF TAX PREFERENCE.

"(a) GENERAL RULE.—For purposes of this part, the items of tax preference determined under this section are—

"(1) DEPLETION.—With respect to each property (as defined in section 614), the excess of the deduction for depletion allowable under section 611 for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(2) INTANGIBLE DRILLING COSTS.—

"(A) IN GENERAL.—With respect to all oil, gas, and geothermal properties of the taxpayer, the amount (if any) by which the amount of the excess intangible drilling costs arising in the taxable year is greater than the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year.

"(B) EXCESS INTANGIBLE DRILLING COSTS.—For purposes of subparagraph (A), the amount of the excess intangible drilling costs arising in the taxable year is the excess of—

"(i) the intangible drilling and development costs paid or incurred in connection with oil, gas, and geothermal wells (other than costs incurred in drilling a nonproductive well) allowable under section 263(c) or 291(b) for the taxable year, over

"(ii) the amount which would have been allowable for the taxable year if such costs had been capitalized and straight line recovery of intangibles (as defined in subsection (b)) had been used with respect to such costs.

"(C) NET INCOME FROM OIL, GAS, AND GEOTHERMAL PROPERTIES.—For purposes of subparagraph (A), the amount of the net income of the taxpayer from oil, gas, and geothermal properties for the taxable year is the excess of—

"(i) the aggregate amount of gross income (within the meaning of section 613(a)) from all oil, gas, and geothermal properties of the taxpayer received or accrued by the taxpayer during the taxable year, over

"(ii) the amount of any deductions allocable to such properties reduced by the excess described in subparagraph (B) for such taxable year.

"(D) PARAGRAPH APPLIED SEPARATELY WITH RESPECT TO GEOTHERMAL PROPERTIES AND OIL AND GAS PROPERTIES.—This paragraph shall be applied separately with respect to—

"(i) all oil and gas properties which are not described in clause (ii), and

"(ii) all properties which are geothermal deposits (as defined in section 613(e)(3)).

"(3) INCENTIVE STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the

amount by which the fair market value of the share at the time of exercise exceeds the option price. For purposes of this paragraph, the fair market value of a share of stock shall be determined without regard to any restriction other than a restriction which, by its terms, will never lapse.

"(4) RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the amount by which the deduction allowable for the taxable year for a reasonable addition to a reserve for bad debts exceeds the amount that would have been allowable had the institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(5) ACCELERATED DEPRECIATION OR AMORTIZATION ON CERTAIN PROPERTY PLACED IN SERVICE BEFORE JANUARY 1, 1987.—The amounts which would be treated as items of tax preference with respect to the taxpayer under paragraphs (2), (3), (4), and (12) of this subsection (as in effect on the date before the date of the enactment of the Tax Reform Act of 1986). The preceding sentence shall not apply to any property to which section 56(a)(1) applies.

"(b) STRAIGHT LINE RECOVERY OF INTANGIBLES DEFINED.—For purposes of paragraph (2) of subsection (a)—

"(1) IN GENERAL.—The term 'straight line recovery of intangibles', when used with respect to intangible drilling and development costs for any well, means (except in the case of an election under paragraph (2)) ratable amortization of such costs over the 120-month period beginning with the month in which production from such well begins.

"(2) ELECTION.—If the taxpayer elects with respect to the intangible drilling and development costs for any well, the term 'straight line recovery of intangibles' means any method which would be permitted for purposes of determining cost depletion with respect to such well and which is selected by the taxpayer for purposes of subsection (a)(2).

"SEC. 58. DENIAL OF CERTAIN LOSSES.

"(a) DENIAL OF FARM LOSS.—

"(1) IN GENERAL.—For purposes of computing the amount of the alternative minimum taxable income for any taxable year of a taxpayer other than a corporation—

"(A) DISALLOWANCE OF FARM LOSS.—No loss of the taxpayer for such taxable year from any tax shelter farm activity shall be allowed.

"(B) DEDUCTION IN SUCCEEDING TAXABLE YEAR.—Any loss from a tax shelter farm activity disallowed under subparagraph (A) shall be treated as a deduction allocable to such activity in the 1st succeeding taxable year.

"(2) TAX SHELTER FARM ACTIVITY.—For purposes of this subsection, the term 'tax shelter farm activity' means—

"(A) any farming syndicate as defined in section 464(c) (as modified by section 461(i)(4)(A)), and

"(B) any other activity consisting of farming which is a passive activity (within the meaning of section 469(d), without regard to paragraph (1)(B) thereof).

"(3) APPLICATION TO PERSONAL SERVICE CORPORATIONS.—For purposes of paragraph (1), a personal service corporation (within the meaning of section 469(g)(1)(C)) shall be treated as a taxpayer other than a corporation.

"(b) DISALLOWANCE OF PASSIVE ACTIVITY LOSS.—In computing the alternative minimum taxable income of the taxpayer for any taxable year, section 469 shall apply, except that in applying section 469—

"(1) the adjustments of section 56 shall apply,

"(2) any deduction to the extent such deduction is an item of tax preference under section 57(a) shall not be taken into account, and

"(3) the provisions of section 469(i) (relating to phase-in of disallowance) shall not apply.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) SPECIAL RULE FOR INSOLVENT TAXPAYERS.—

"(A) IN GENERAL.—The amount of losses to which subsection (a) or (b) apply shall be reduced by the amount (if any) by which the taxpayer is insolvent as of the close of the taxable year.

"(B) INSOLVENT.—For purposes of this paragraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(2) LOSS ALLOWED FOR YEAR OF DISPOSITION OF FARM SHELTER ACTIVITY.—If the taxpayer disposes of his entire interest in any tax shelter farm activity during any taxable year, the amount of the loss attributable to such activity (determined after carryovers under subsection (a)(1)(B)) shall be allowed for such taxable year in computing alternative minimum taxable income and not treated as a loss from a tax shelter farm activity.

"SEC. 59. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT.—For purposes of this part—

"(1) IN GENERAL.—The alternative minimum tax foreign tax credit for any taxable year shall be the credit which would be determined under section 27(a) for such taxable year if—

"(A) the amount determined under section 55(b)(1)(A) were the tax against which such credit was taken for purposes of section 904 for the taxable year and all prior taxable years beginning after December 31, 1986,

"(B) section 904 were applied on the basis of alternative minimum taxable income instead of taxable income, and

"(C) section 904 were applied on the basis that the percentage of alternative minimum taxable income attributable to any increase under section 56(c)(1) which is treated as income from sources within the United States would be the same as such percentage for all other alternative minimum taxable income.

"(2) LIMITATION TO 90 PERCENT OF TAX.—

"(A) IN GENERAL.—The alternative minimum tax foreign tax credit for any taxable year shall not exceed 90 percent of the amount determined under section 55(b)(1)(A).

"(B) CARRYBACK AND CARRYOVER.—If the alternative minimum tax foreign tax credit exceeds the amount determined under subparagraph (A), such excess shall, for purposes of this part, be treated as an amount to which section 904(c) applies.

"(b) MINIMUM TAX NOT TO APPLY TO 936 CORPORATIONS.—The tax imposed by this part shall not apply to any corporation for which a credit is allowable for the taxable year under section 936.

"(c) APPORTIONMENT OF DIFFERENTLY TREATED ITEMS IN CASE OF CERTAIN ENTITIES.—

"(1) IN GENERAL.—The differently treated items for the taxable year shall be apportioned (in accordance with regulations prescribed by the Secretary)—

"(A) ESTATES AND TRUSTS.—In the case of an estate or trust, between the estate or trust and the beneficiaries.

"(B) REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment company to which part II of subchapter M applies, between such company or trust and shareholders and holders of beneficial interest in such company or trust.

"(C) COMMON TRUST FUNDS.—In the case of a common trust fund (as defined in section 584(a)), pro rata among the participants of such fund.

"(2) DIFFERENTLY TREATED ITEMS.—For purposes of this section, the term 'differently treated item' means any item of tax preference or any other item which is treated differently for purposes of this part than for purposes of computing the regular tax.

"(d) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES.—

"(1) IN GENERAL.—For purposes of this title, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period (3-year period in the case of circulation expenditures described in section 173) beginning with the taxable year in which such expenditure was made.

"(2) QUALIFIED EXPENDITURE.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures),

"(D) section 616(a) (relating to development expenditures), or

"(E) section 617(a) (relating to mining exploration expenditures).

"(3) OTHER SECTIONS NOT APPLICABLE.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) ELECTION.—

"(A) IN GENERAL.—An election may be made under paragraph (1) with respect to any portion of any qualified expenditure.

"(B) REVOCABLE ONLY WITH CONSENT.—Any election under this subsection may be revoked only with the consent of the Secretary.

"(C) PARTNERS AND SHAREHOLDERS OF S CORPORATIONS.—In the case of a partnership, any election under paragraph (1) shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure. A similar rule shall apply in the case of an S corporation and its shareholders.

"(5) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section), any deduction under paragraph (1) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).

"(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

"(6) AMOUNTS TO WHICH ELECTION APPLY NOT TREATED AS TAX PREFERENCE.—Any qualified expenditure to which an election under paragraph (1) applies shall not be treated as an item of tax preference under section 57(a) and section 56 shall not apply to such expenditure.

"(e) COORDINATION WITH SECTION 291.—Section 291 (relating to cutback of corporate preferences) shall apply before the application of this part.

"(f) TAX BENEFIT RULE.—The Secretary may prescribe regulations under which differently treated items shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's regular tax for any taxable year."

(b) CREDIT AGAINST REGULAR TAX FOR PRIOR YEAR MINIMUM TAX LIABILITY.—Part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by adding at the end thereof the following new subpart:

"Subpart G—Credit Against Regular Tax for Prior Year Minimum Tax Liability

"Sec. 53. Credit for prior year minimum tax liability.

"SEC. 53. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the minimum tax credit for such taxable year.

"(b) MINIMUM TAX CREDIT.—For purposes of subsection (a), the minimum tax credit for any taxable year is the excess (if any) of—

"(1) the adjusted net minimum tax imposed for all prior taxable years beginning after 1986, over

"(2) the amount allowable as a credit under subsection (a) for such prior taxable years.

"(c) LIMITATION.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) the regular tax liability of the taxpayer for such taxable year reduced by the sum of the credits allowable under subparts A, B, D, E, and F of this part, over

"(2) the tentative minimum tax for the taxable year.

"(d) DEFINITIONS.—For purposes of this section—

"(1) NET MINIMUM TAX.—

"(A) IN GENERAL.—The term 'net minimum tax' means the tax imposed by section 55.

"(B) CREDIT NOT ALLOWED FOR EXCLUSION PREFERENCES.—

"(i) ADJUSTED NET MINIMUM TAX.—The adjusted net minimum tax for any taxable year is—

"(I) the amount of the net minimum tax for such taxable year, reduced by

"(II) the amount which would be the net minimum tax for such taxable year if the only adjustments and items of tax preference taken into account were exclusion preferences.

"(ii) EXCLUSION PREFERENCES.—For purposes of clause (i), the exclusion preferences are—

"(I) the adjustment provided for in section 56(b)(1), and

"(II) the item of tax preference described in paragraph (1) of section 57(a).

"(2) TENTATIVE MINIMUM TAX.—The term 'tentative minimum tax' has the meaning given to such term by section 55(b)."

(c) CREDITS NOT ALLOWABLE AGAINST MINIMUM TAX.—

(1) PERSONAL CREDITS.—

(A) IN GENERAL.—Subsection (a) of section 26 (relating to limitation based on amount of tax) is amended to read as follows:

"(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

"(1) the taxpayer's regular tax liability for the taxable year, over

"(2) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit)."

(B) REGULAR TAX LIABILITY.—Subsection (b) of section 26 is amended—

(i) by striking out "tax liability" in paragraph (1) and inserting in lieu thereof "regular tax liability",

(ii) by striking out subparagraph (A) of paragraph (2) and inserting in lieu thereof the following:

"(A) section 55 (relating to minimum tax),", and

(iii) by striking out "TAX LIABILITY" in the subsection heading and inserting in lieu thereof "REGULAR TAX LIABILITY".

(C) TENTATIVE MINIMUM TAX.—Subsection (c) of section 26 is amended to read as follows:

"(c) TENTATIVE MINIMUM TAX.—For purposes of this part, the term 'tentative minimum tax' means the amount determined under section 55(b)(1)."

(2) CREDIT FOR CLINICAL TESTING EXPENSES.—Paragraph (2) of section 28(d) is amended to read as follows:

"(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by this section for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax (reduced by the sum of the credits allowable under subpart A and section 27), over

"(B) the tentative minimum tax for the taxable year."

(3) CREDIT FOR PRODUCTION OF FUEL FROM NONCONVENTIONAL SOURCES.—Paragraph (5) of section 29(b) is amended to read as follows:

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27 and 28, over

"(B) the tentative minimum tax for the taxable year."

(4) GENERAL BUSINESS CREDIT.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 631(a), is amended by redesignating paragraph (3) as paragraph (4), and by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) the allowable portion of the taxpayer's net regular tax liability for the taxable year, or

"(B) the excess (if any) of the taxpayer's net regular liability for the taxable year over the tentative minimum tax for the taxable year.

"(2) ALLOWABLE PORTION OF REGULAR TAX LIABILITY.—For purposes of paragraph (1), the allowable portion of the taxpayer's net regular tax liability for the taxable year is the sum of—

"(A) so much of the taxpayer's net regular tax liability for the taxable year as does not exceed $25,000, plus

"(B) 75 percent of so much of the taxpayer's net regular tax liability for the taxable year as exceeds $25,000.

For purposes of the preceding sentence, the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part."

(d) ESTIMATED TAX PROVISIONS TO APPLY TO CORPORATE MINIMUM TAX.—

(1) Paragraph (1) of section 6154(c) is amended to read as follows:

"(1) The amount which the corporation estimates as the sum of—

"(A) the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever applies, and

"(B) the minimum tax imposed by section 55, over".

(2) Subparagraph (A) of section 6425(c)(1) is amended to read as follows:

"(A) The sum of—

"(i) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(ii) the tax imposed by section 55, over".

(3) Paragraph (1) of section 6655(f) is amended to read as follows:

"(1) the sum of—

"(A) the tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, plus

"(B) the tax imposed by section 55, over".

(e) TECHNICAL AMENDMENTS.—

(1) APPLICATION OF SECTION 381.—Subsection (c) of section 381 is amended by adding at the end thereof the following new paragraph:

"(27) CREDIT UNDER SECTION 53.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 53, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 53 in respect of the distributor or transferor corporation."

(2) LIMITATION IN CASE OF CONTROLLED CORPORATIONS.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(A) by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and" and by inserting after paragraph (2) the following new paragraph:

"(3) one $40,000 exemption amount for purposes of computing the amount of the minimum tax.",

(B) by striking out "amounts specified in paragraph (1)" and inserting in lieu thereof "amounts specified in paragraph (1) (and the amount specified in paragraph (3))", and

(C) by adding at the end thereof the following new sentence: "In applying section 55(d)(3), the alternative minimum taxable income of all component members shall be taken into account and any decrease in the exemption amount shall be allocated to the component members in the same manner as under paragraph (3)."

(3) TREATMENT OF SHORT TAXABLE YEARS.—Subsection (d) of section 443 (relating to adjustment in computing minimum tax for tax preference) is amended to read as follows:

"(d) ADJUSTMENT IN COMPUTING MINIMUM TAX AND TAX PREFERENCES.—If a return is made for a short period by reason of subsection (a)—

"(1) the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying such amount by 12 and dividing the result by the number of months in the short period, and

"(2) the amount computed under paragraph (1) of section 55(a) shall bear the same relation to the tax computed on the annual basis as the number of months in the short period bears to 12."

(4) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 5(a) is amended to read as follows:

"(4) For alternative minimum tax, see section 55."

(B) Paragraph (7) of section 12 is amended to read as follows:

"(7) For alternative minimum tax, see section 55."

(C) Subparagraph (D) of section 48(d)(4) is amended by striking out "section 57(c)(1)(B)" and inserting in lieu thereof "section 163(d)(7)".

(D) Section 173(b), 174(e)(2), 263(c), and 1016(a)(24) (as redesignated by section 634(b)(2)) are each amended by striking out "section 58(i)" and inserting in lieu thereof "section 59(d)".

(E) Subsection (b) of section 703 (relating to elections of the partnership) is amended by striking out paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(F) Paragraph (1) of section 882(a) (relating to imposition of tax on income of foreign corporations connected with United States business) is amended by striking out "or 1201(a)" and inserting in lieu thereof ", 55, or 1201(a)".

(G) Paragraph (2) of section 904(i) (relating to cross references) is amended by striking out "by an individual" and all that follows and inserting in lieu thereof "against the alternative minimum tax, see section 59(a)."

(H) Paragraph (3) of section 936(a) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B), (C), and (E) as subparagraphs (A), (B), and (C), respectively.

(I) Subsection (a) of section 1363 is amended by striking out "and in section 58(d)".

(J) Paragraph (2) of section 1366(f) (relating to reduction in pass-thru for tax imposed on capital gain) is amended by striking out "56 or".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) ADJUSTMENT OF NET OPERATING LOSS.—

(A) INDIVIDUALS.—In the case of a net operating loss of an individual for a taxable year beginning after December 31, 1982, and before January 1, 1987, for purposes of determining the amount of such loss which may be carried to a taxable year beginning after December 31, 1986, for purposes of the minimum tax, such loss shall be adjusted in the manner provided in section 55(d)(2) of the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act.

(B) CORPORATIONS.—If the minimum tax of the corporation was deferred under section 56(b) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) for any taxable year beginning before January 1, 1987, and the amount of such tax has not been paid for any taxable year beginning before January 1, 1987, the amount of the net operating loss carryovers of such corporation which may be carried to taxable years beginning after December 31, 1986, for purposes of the minimum tax shall be reduced by the amount of tax preferences a tax on which was so deferred.

(3) INSTALLMENT SALES.—Section 56(a)(5) of the Internal Revenue Code of 1954 (as added by this section) shall not apply to any disposition to which the amendments made by section 311 of this Act (relating to allocation of dealer's indebtedness to installment obligations) do not apply.

(4) BOOK INCOME.—

(A) IN GENERAL.—In the case of a corporation to which this paragraph applies, the amount of any increase for any taxable year under section 56(c)(1) of the Internal Revenue Code of 1954 (as added by this section) shall be reduced (but not below zero) by the excess (if any) of—

(i) 50 percent of the excess of taxable income for the 5-taxable year period ending with the taxable year preceding the 1st taxable year to which such section applies over the adjusted net book income for such period, over

(ii) the aggregate amounts taken into account under this paragraph for preceding taxable years.

(B) TAXPAYER TO WHOM PARAGRAPH APPLIES.—This paragraph applies to a taxpayer which was incorporated in Delaware on May 31, 1912.

(C) TERMS.—Any term used in this paragraph which is used in section 56 of such Code (as so added) shall have the same meaning as when used in such section.

TITLE XII—PENSIONS AND DEFERRED COMPENSATION; EMPLOYEE BENEFITS; EMPLOYEE STOCK OWNERSHIP PLANS

Subtitle A—Pensions and Deferred Compensation

PART I—LIMITATIONS ON TAX-DEFERRED SAVINGS

Subpart A—Rules Applicable to IRAs

SEC. 1201. IRA DEDUCTION NOT AVAILABLE TO ACTIVE PARTICIPANTS IN CERTAIN PENSION PLANS.

(a) DEDUCTION NOT AVAILABLE TO ACTIVE PARTICIPANTS.—

(1) IN GENERAL.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(5) CERTAIN INDIVIDUALS COVERED BY OTHER PLANS NOT ELIGIBLE.—No deduction shall be allowed under subsection (a) for any taxable year for an individual if for any part of any plan year ending with or within such taxable year—

"(A) such individual was an active participant in—

"(i) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a), or

"(iii) a plan established for its employees by the United States, by a State or political subdivision thereof, or by an agency or instrumentality of any of the foregoing,

"(B) amounts were contributed by such individual's employer for an annuity contract described in section 403(b),

"(C) amounts were contributed by such individual's employer to a simplified employee pension (within the meaning of section 408(k)), or

"(D) amounts were contributed by such individual to a trust described in section 501(c)(18).

The determination of whether this paragraph applies to an individual shall be made without regard to whether or not such individual's rights under a plan, trust, or contract are nonforfeitable."

(2) CONFORMING AMENDMENTS.—

(A) Section 219(f) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) CERTAIN INDIVIDUALS NOT TREATED AS ACTIVE PARTICIPANTS.—For purposes of subsection (d)(5), individuals described in any of the following subparagraphs shall not be treated as active participants for any taxable year solely because of the participation so described:

"(A) MEMBERS OF RESERVE COMPONENTS.—A member of a reserve component of the Armed Forces (as defined in section 261(a) of title 10), unless such individual has served in excess of 90 days on active duty (other than active duty for training) during the year.

"(B) VOLUNTEER FIREFIGHTERS.—A volunteer firefighter who is a participant in a plan based upon his activity as a volunteer firefighter and whose accrued benefit as of the beginning of the taxable year is not more than an annual benefit of $1,800 (when expressed as a single life annuity commencing at age 65)."

(B) Section 219(f)(3) is amended to read as follows:

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof)."

(b) REPEAL OF DEDUCTION FOR QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS.—

(1) IN GENERAL.—Subsection (e) of section 219 (relating to defining retirement savings contributions) is amended to read as follows:

"(e) QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section, the term 'qualified retirement contribution' means any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit."

(2) CONFORMING AMENDMENTS.—

(A) Section 219(b) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

(B) Paragraph (5) of section 72(o) is amended—

(i) by inserting ", and before January 1, 1987," after "date" in subparagraph (A),

(ii) by inserting "(as in effect before the amendments made by the Tax Reform Act of 1986)" after "section 219(e)(3)" in subparagraph (C), and

(iii) by inserting "(as in effect before the amendments made by the Tax Reform Act of 1986)" after "section 219(e)(4)" in subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1202. NONDEDUCTIBLE CONTRIBUTIONS MAY BE MADE TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DEFINITIONS AND RULES RELATING TO NONDEDUCTIBLE CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, in the case of any individual to whom section 219(d)(5) applies for any taxable year, amounts may be contributed on behalf of an individual to an individual retirement plan (within the meaning of section 219) for such taxable year.

"(2) LIMITS ON AMOUNTS WHICH MAY BE CONTRIBUTED.—

"(A) IN GENERAL.—The amount which may be contributed for any individual for any taxable year under paragraph (1) shall not exceed the nondeductible limit for such taxable year.

"(B) NONDEDUCTIBLE LIMIT.—For purposes of this paragraph, the term 'nondeductible limit' means the lesser of—

"(i) the amount with respect to which a deduction would be allowable under section 219(b) if section 219(d)(5) did not apply to the individual, or

"(ii) the amount of the designated nondeductible contributions for such taxable year.

"(C) DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'designated nondeductible contribution' means any contribution to an individual retirement plan for the taxable year which is designated (in such manner as the Secretary may prescribe) as a nondeductible contribution.

"(ii) DESIGNATION.—Any designation under clause (i) may be made (or revoked) at any time before the last date prescribed by law for filing the return of tax imposed by subtitle A for the taxable year.

"(D) SPECIAL RULE FOR SPOUSAL IRA.—In the case of an individual to whom section 219(c) applies, the nondeductible limit shall be computed in the same manner as under subparagraph (B).

"(3) SEPARATE REPORTING REQUIREMENT.—For purposes of section 408(d)(3), the Secretary shall prescribe rules providing for such allocations of amounts attributable to designated nondeductible contributions as may be necessary to insure that the separate treatment of such contributions, and the income and gain attributable to such contributions, is maintained.

"(4) MAINTENANCE OF RECORDS.—An individual retirement account or annuity shall not be treated as meeting the requirements of subsection (a) or (b) unless the trustee or the issuer of the annuity contract maintains such records as may be necessary to separately account for designated nondeductible contributions and for income and gains attributable to such contributions.

"(5) TIME WHEN CONTRIBUTIONS MADE.—In determining for which taxable year a designated nondeductible contribution is made, the rule of section 219(f)(3) shall apply."

(b) EXCESS CONTRIBUTIONS.—

(1) APPLICATION OF TAX.—Subparagraph (B) of section 4973(b)(1) (defining excess contributions) is amended to read as follows:

"(B) the amount—

"(i) allowable as a deduction under section 219 for such contributions, or

"(ii) in the case of an individual to whom section 219(d)(5) applies, the nondeductible limit (within the meaning of section 408(o)) for such contributions, and"

(2) RETURN OF EXCESS CONTRIBUTIONS.—Paragraphs (4) and (5) of section 408(d) (relating to tax treatment of distributions) are each amended by inserting "(or in the case of an individual to whom section 219(d)(5) applies, exceeds the nondeductible limit under section 408(o))" after "section 219" the first place it appears in each such paragraph.

(3) CONFORMING AMENDMENT.—Subparagraph (C) of section 4973(b)(2) is amended by inserting "(or in the case of an individual to whom section 219(d)(5) applies, the nondeductible limit for the taxable year under section 408(o))" after "taxable year" the first place it appears.

(c) TREATMENT OF DISTRIBUTIONS.—Paragraphs (1) and (2) of section 408(d) (relating to tax treatment of distributions) are amended to read as follows:

"(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Except as otherwise provided in this subsection, any amount paid or distributed out of an individual retirement account shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72.

"(2) INDIVIDUAL RETIREMENT ANNUITIES.—In the case of an individual retirement annuity, a rule similar to the rule of paragraph (1) shall apply."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made for taxable years beginning after December 31, 1986.

SEC. 1203. NONDEDUCTIBILITY OF INTEREST ON INDEBTEDNESS USED TO FUND IRA.

(a) IN GENERAL.—Section 265 (relating to denial of deduction for expenses and interest relating to tax-exempt income), as amended by section 144, is amended by adding at the end thereof the following new paragraph:

"(7) INDIVIDUAL RETIREMENT PLANS.—Interest on indebtedness incurred or continued to make contributions to any individual retirement account or individual retirement annuity described in section 408."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to indebtedness incurred, modified, extended, renegotiated, or renewed after December 31, 1986.

SEC. 1204. SPOUSAL DEDUCTION ALLOWED WHERE SPOUSE HAS SMALL AMOUNT OF EARNED INCOME.

(a) IN GENERAL.—Subparagraph (B) of section 219(c)(1) (relating to special rules for certain married individuals) is amended to read as follows:

"(B) whose spouse—

"(i) has no compensation (determined without regard to section 911) for the taxable year, or

"(ii) elects to be treated for purposes of subsection (b)(1)(B) as having no compensation for the taxable year,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1204A. FINDINGS.

The Senate believes that Americans should be encouraged to save for their retirement; and

The Senate recognizes that only slightly more than one-half of all civilian employees are covered by employer-sponsored retirement plans and, of those employees, only half are now vested in their benefits; and

Over 70 percent of all taxpayers who have established individual retirement accounts have annual incomes of under $50,000; and

The Senate recognizes that taxapayers should be able to adequately provide for their retirement security, cannot rely on Social Security alone, and should be encouraged to provide for their retirement through tax incentives:

It is the sense of the Senate—

(1) that the Senate conferees on the Tax Reform Act of 1986 give highest priority to retaining maximum possible tax benefits for individual retirement accounts to encourage their use as a principal vehicle for ensuring retirement security, and

(2) that the retention of the tax benefit of individual retirement accounts should be accomplished in a manner which does not adversely affect the tax rates or distribution by income class of tax reduction otherwise provided for in the Tax Reform Act of 1986.

Subpart B—Other Provisions

SEC. 1205. $7,000 LIMITATION ON ELECTIVE DEFERRALS.

(a) GENERAL RULE.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end thereof the following new subsection:

"(g) LIMITATION ON EXCLUSION FOR ELECTIVE DEFERRALS.—

"(1) IN GENERAL.—Notwithstanding subsections (a)(8) and (h)(1)(B), the elective deferrals of any individual for any taxable year shall be included in such individual's gross income to the extent the amount of such deferrals for the taxable year exceeds $7,000.

"(2) REQUIRED DISTRIBUTION OF EXCESS DEFERRALS.—

"(A) IN GENERAL.—If any amount (hereinafter in this paragraph referred to as 'excess deferrals') is included in the gross income of an individual under paragraph (1) for any taxable year—

"(i) not later than the 1st March 1 following the close of the taxable year, the individual may allocate the amount of such excess deferrals among the plans under which the deferrals were made and may notify each such plan of the portion allocated to it, and

"(ii) not later than the 1st April 15 following the close of the taxable year, each such plan may distribute to the individual the amount allocated to it under clause (i) (and any income allocable to such amount).

The distribution described in clause (ii) may be made notwithstanding any other provision of law.

"(B) TREATMENT OF DISTRIBUTION UNDER SECTION 401(k).—EXCEPT TO THE EXTENT PROVIDED BY THE SECRETARY, ANY PORTION OF AN EXCESS DEFERRAL DISTRIBUTED FROM A PLAN UNDER SUBPARAGRAPH (A)(II) SHALL, FOR PURPOSES OF APPLYING SECTION 401(K)(3)(A)(II), BE TREATED AS IF IT HAD NOT BEEN DISTRIBUTED UNDER THE PLAN.

"(C) TAXATION OF DISTRIBUTION.—In the case of a distribution under subparagraph (A)—

"(i) such distribution shall not be included in gross income except to the extent attributable to the income on the excess deferral, and

"(ii) no tax shall be imposed under section 72(t).

In the case of such a distribution, any income described in clause (i) shall, for purposes of section 61, be deemed to have been earned and received in the taxable year in which such excess deferral is made.

"(3) ELECTIVE DEFERRALS.—For purposes of this paragraph, the term 'elective deferrals' means, with respect to any taxable year, the sum of—

"(A) any employer contribution under a qualified cash or deferred arrangement (as defined in section 401(k)) to the extent not includible in gross income for the taxable year under subsection (a)(8) (determined without regard to this subsection), and

"(B) any employer contribution to the extent not includible in gross income for the taxable year under subsection (h)(1)(B) (determined without regard to this subsection).

"(4) REDUCTION FOR AMOUNTS CONTRIBUTED UNDER SECTION 403(b) CONTRACTS.—The limitation under paragraph (1) shall be reduced by the aggregate amount of contributions on behalf of the taxpayer to an annuity contract under section 403(b) by reason of a salary reduction agreeement (within the meaning of section 3121(a)(5)(D)).

"(5) ADDITIONAL $2,500 FOR EMPLOYER SECURITIES.—

"(A) IN GENERAL.—If a plan described in section 4975(e)(7) or which meets the requirements of section 409 includes a qualified cash or deferred arrangement and allows each participant in such plan to elect to have the lesser of $2,500 of elective deferrals or the amount of elective deferrals actually contributed for any taxable year invested in employer securities, then the limitation under paragraph (1) for an individual shall be increased by an amount equal to the lesser of—

"(i) the amount of the individual's elective deferrals for such year invested in employer securities, or

"(ii) $2,500.

"(B) SECURITIES MUST REMAIN IN PLAN FOR AT LEAST 3 YEARS.—If the elective deferrals of any participant exceed the limitation under paragraph (1) for any taxable year by reason of subparagraph (A), then employer securities allocated to such participant for such taxable year by reason of subparagraph (A) (in an amount equal to such excess) must remain so allocated—

"(i) during the 3-taxable year period beginning with the taxable year in which the securities are so allocated, or

"(ii) if earlier, until the date on which—

"(I) the employee separates from service, or

"(II) the securities are sold in connection with the sale of the employer (or a member of the same controlled group).

"(C) DISTRIBUTION IF SECURITIES NOT ALLOCATED.—If employer securities described in subparagraph (B) cease to be allocated to the participant at any time during the 3-taxable year period described in subparagraph (B), then such securities shall be treated for purposes of this chapter as having been distributed to such participant as of the date on which such securities are no longer allocated to the participant's account.

"(D) EMPLOYER SECURITIES.—For purposes of this paragraph, the term 'employer securities' has the meaning given such term by section 409(l).

"(6) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $7,000 amount under paragraph (1) at the same time and in the same manner as under section 415(d).

"(7) DISREGARD OF COMMUNITY PROPERTY LAWS.—This subsection shall be applied without regard to community property laws.

"(8) COORDINATION WITH SECTION 72.—For purposes of applying section 72, any amount includible in gross income for any taxable year under this subsection but which is not distributed from the plan during such taxable year shall not be treated as investment in the contract."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

(2) DEFERRALS UNDER COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendment made by subsection (a) shall not apply to contributions made pursuant to such an agreement for taxable years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

Such contributions shall be taken into account for purposes of applying the amendment made by this section to other plans.

SEC. 1206. ADJUSTMENTS TO LIMITATIONS ON CONTRIBUTIONS AND BENEFITS UNDER QUALIFIED PLANS.

(a) ADJUSTMENT OF ANNUAL CONTRIBUTION LIMITS.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended to read as follows:

"(A) $30,000 (or, if greater, ¼ of the dollar limitation in effect under subsection (b)(1)(A)), or".

(b) ADJUSTMENT OF DEFINED BENEFIT PLAN LIMITS.—

(1) USE OF SOCIAL SECURITY RETIREMENT AGE.—

(A) IN GENERAL.—Subparagraphs (C) and (D) of section 415(b)(2) are each amended—

(i) by striking out "age 62" and "age 65" each place they appear and inserting in lieu thereof "the social security retirement age", and

(ii) by striking out the last sentence of subparagraph (C) and inserting in lieu thereof the following: "The reduction under this subparagraph shall be made in such manner as the Secretary may prescribe which is consistent with the reduction for old-age insurance benefits commencing before the social security retirement age under the Social Security Act."

(B) DEFINITION OF SOCIAL SECURITY RETIREMENT AGE.—Section 415(b) is amended by adding at the end thereof the following new paragraph:

"(8) DEFINITION OF SOCIAL SECURITY RETIREMENT AGE.—For purposes of this subsection, the term 'social security retirement age' means the age used as the retirement age under section 216(l) of the Social Security Act, except that such section shall be applied—

"(A) without regard to the age increase factor, and

"(B) as if the early retirement age under section 216(l)(2) of such Act were 62."

(2) SPECIAL RULE FOR POLICE OR FIREFIGHTERS' PENSION PLANS AND BENEFITS FOR CORRECTIONAL OFFICERS.—Paragraph (2) of section 415(b) (relating to annual benefit) is amended by adding at the end thereof the following new subparagraphs:

"(F) SPECIAL LIMITATION FOR QUALIFIED POLICE OR FIREFIGHTERS' PENSION PLANS AND FOR CORRECTIONAL OFFICERS.—In the case of a participant in a qualified police or firefighters' plan or a correctional officer—

"(i) subparagraph (C) shall not reduce the limitation of paragraph (1)(A) to an amount less than $50,000, and

"(ii) subparagraphs (C) and (D) shall be applied as in effect before the amendments made by the Tax Reform Act of 1986.

"(G) QUALIFIED POLICE OR FIREFIGHTERS' PLAN DEFINED.—For purposes of subparagraph (F), the term 'qualified police or firefighters' plan' means a defined benefit plan—

"(i) which is maintained by a State, or political subdivision thereof, for the benefit of all full-time employees of any police department or fire department which is organized and operated by such State or political subdivision to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision,

"(ii) under which the period of service taken into account in determining the amount of the benefit only includes service of the employee in—

"(I) such a police or fire department, or

"(II) the Armed Forces of the United States, and

"(iii) which requires, as a condition of eligibility for a retirement benefit, that the sum of—

"(I) the number of years such employee was employed on a full-time basis by such State or a political subdivision of such State in such a police or fire department, plus

"(II) the number of years such employee served in the Armed Forces of the United States (to the extent such years are taken into account under the plan),

equals or exceeds 20 years.

"(H) DEFINITION OF A CORRECTIONAL OFFICER.—For purposes of subparagraph (F), the term 'correctional officer' means an individual who—

"(i) is an employee of a State or political subdivision whose primary duties include the care, custody, instruction, or transportation of prisoners or inmates, and

"(ii) is a participant in a plan maintained by a State or political subdivision which contains a requirement similar to the requirement of clause (iii) of subparagraph (G)."

(3) TREATMENT OF AIRLINE PILOTS.—Subsection (b) of section 415 (relating to limitation for defined benefit plans) is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR COMMERCIAL AIRLINE PILOTS.—In the case of any participant who is a commercial airline pilot, if—

"(A) the payment of the benefit begins at or after age 60, and

"(B) as of the time of the participant's retirement, regulations prescribed by the Federal Aviation Administration do not permit an individual to serve as a commercial airline pilot after attaining age 60,

paragraph (2)(C) shall be applied by substituting 'age 60' for 'social security retirement age' each place it appears and without regard to the amendment made by section 1206(b)(1)(A)(ii) of the Tax Reform Act of 1986."

(4) SPECIAL ELECTIONS FOR SECTION 403(b) CONTRACTS.—Section 415(c)(4)(A) is amended by inserting "a health and welfare service agency" after "a home health service agency,".

(c) CONTRIBUTIONS TO COST-OF-LIVING ARRANGEMENTS UNDER DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 415(k) (relating to special rules for limitations on benefits and contributions under qualified plans) is amended by adding at the end thereof the following new paragraph:

"(2) CONTRIBUTIONS TO PROVIDE COST-OF-LIVING PROTECTION UNDER DEFINED BENEFIT PLANS.—

"(A) IN GENERAL.—In the case of a defined benefit plan which maintains a qualified cost-of-living arrangement—

"(i) any contribution made directly by an employee under such arrangement shall—

"(I) not be treated as an employee contribution for purposes of subsection (c), but

"(II) be so treated for purposes of subsection (e), and

"(ii) any benefit under such arrangement which is allocable to an employer contribution which was transferred from a defined contribution plan and to which the requirements of subsection (c) were applied shall, for purposes of subsection (b), be treated as a benefit derived from an employee contribution (and subsections (c) and (e) shall not again apply to such contribution by reason of such transfer).

"(B) QUALIFIED COST-OF-LIVING ARRANGEMENT DEFINED.—For purposes of this paragraph, the term 'qualified cost-of-living ar-

rangement' means an arrangement under a defined benefit plan which—

"(i) provides a cost-of-living adjustment to a benefit provided under such plan or a separate plan subject to the requirements of section 412, and

"(ii) meets the requirements of subparagraphs (C), (D), (E), and (F) and such other requirements as the Secretary may prescribe.

"(C) DETERMINATION OF AMOUNT OF BENEFIT.—An arrangement meets the requirement of this subparagraph only if the cost-of-living adjustment of participants is based—

"(i) on increases in the cost-of-living after the annuity starting date, and

"(ii) on average cost-of-living increases determined by reference to 1 or more indexes prescribed by the Secretary, except that the arrangement may provide that the increase for any year will not be less than 3 percent of the primary retirement benefit.

"(D) ARRANGEMENT ELECTIVE; TIME FOR ELECTION.—An arrangement meets the requirements of this subparagraph only if it is elective, is available under the same terms to all participants, and it provides that such election may be made in—

"(i) the year in which the participant—

"(I) attains the earliest retirement age under the defined benefit plan, or

"(II) separates from service, or

"(ii) both such years.

"(E) NONDISCRIMINATION REQUIREMENTS.—An arrangement shall not meet the requirements of this subparagraph if the Secretary finds that a pattern of abuse exists with respect to participation.

"(F) SPECIAL RULES FOR KEY EMPLOYEES.—

"(i) IN GENERAL.—An arrangement shall not meet the requirements of this paragraph if any key employee is eligible to participate.

"(ii) KEY EMPLOYEE.—For purposes of this subparagraph, the term 'key employee' has the meaning given such term by section 416(i)(1), except that in the case of a plan other than a top-heavy plan (within the meaning of section 416(g)), such term shall not include an individual who is a key employee solely by reason of section 416(i)(1)(A)(i)."

(2) CERTAIN TRANSFERS TO DEFINED BENEFIT PLANS NOT TAKEN INTO ACCOUNT FOR PURPOSES OF LUMP SUM DISTRIBUTION.—Section 402(e)(4) (relating to special rules for lump sum distributions) is amended by adding at the end thereof the following new subparagraph:

"(N) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this subsection, the balance to the credit of an employee shall not include any amount transferred from a defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan."

(3) APPLICATION OF VESTING RULES TO QUALIFIED COST-OF-LIVING ARRA"GEMENTS.—Section 411(a)(3) (relating to certain permitted forfeitures, suspensions, etc.) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULE RELATING TO QUALIFIED COST-OF-LIVING ARRANGEMENTS.—A right to an accrued benefit derived from employer contributions under a plan which contains a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)(B)) shall not be treated as forfeitable solely because the plan provides that a participant shall not be entitled to receive that portion of the cost-of-living adjustment derived from employer contributions if the participant either—

"(i) fails to contribute the amount required to be paid by the participant under the plan for the cost-of-living adjustment; or

"(ii) receives a distribution of the present value of the participant's accrued benefit derived from employer contributions in the form of a lump sum."

(4) APPLICATION OF BENEFIT ACCRUAL REQUIREMENTS TO QUALIFIED COST-OF-LIVING ARRANGEMENTS.—Section 411(d) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE CONCERNING QUALIFIED COST-OF-LIVING ARRANGEMENTS.—A plan which contains a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)(B)) shall not be treated as failing to satisfy the requirements of subsection (b) merely because the plan provides that a participant shall not be entitled to receive that portion of the cost-of-living adjustment derived from employer contributions if the participant either—

"(A) fails to contribute the amount required by the participant under the plan for the cost-of-living adjustment; or

"(B) receives a distribution of the present value of the participant's accrued benefit derived from employer contributions in the form of a lump sum."

(d) LIMITATION ON AMOUNT OF ANNUAL COMPENSATION WHICH MAY BE TAKEN INTO ACCOUNT.—

(1) IN GENERAL.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plan) is amended by inserting after paragraph (16) the following new paragraph:

"(17) A trust shall not constitute a qualified trust under this section unless, under the plan of which such trust is a part, the annual compensation of each employee taken into account under the plan does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner prescribed in section 415(d)."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 416 is amended by inserting "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(B)(i) Subsection (d) of section 416 is hereby repealed.

(ii) Section 416(c)(2)(B) is amended by striking out clause (ii) and by redesignating clause (iii) as clause (ii).

(e) TREATMENT OF EMPLOYEE CONTRIBUTIONS FOR PURPOSES OF DETERMINING ANNUAL ADDITION.—Subparagraph (B) of section 415(c)(2) (defining annual addition) is amended to read as follows:

"(B) the employee contributions, and".

(f) PHASE-IN OF LIMITATION FOR DEFINED BENEFIT PLANS BASED ON YEARS OF PARTICIPATION.—Paragraph (5) of section 415(b) (relating to reduction for service less than 10 years) is amended to read as follows:

"(5) REDUCTION FOR PARTICIPATION OR SERVICE OF LESS THAN 10 YEARS.—

"(A) DOLLAR LIMITATION.—In the case of an employee who has less than 10 years of participation in a defined benefit plan, the limitation referred to in paragraph (1)(A) shall be the limitation determined under such paragraph (without regard to this paragraph) multiplied by a fraction—

"(i) the numerator of which is the number of years (or part thereof) of participation in the defined benefit plan of the employer, and

"(ii) the denominator of which is 10.

"(B) COMPENSATION AND BENEFITS LIMITATIONS.—The provisions of subparagraph (A) shall apply to the limitations under paragraphs (1)(B) and (4), except that such subparagraph shall be applied with respect to years of service with an employer rather than years of participation with a plan.

"(C) LIMITATION ON REDUCTION.—In no event shall subparagraph (A) or (B) reduce the limitations referred to in paragraphs (1) and (4) to an amount less than 1/10 of such limitation (determined without regard to this paragraph). Except to the extent provided in regulations, this paragraph shall be applied separately with respect to each change in the benefit structure."

(g) CHANGE IN METHOD OF ADJUSTING DOLLAR LIMITS ON CONTRIBUTIONS AND BENEFITS.—Paragraph (1) of section 415(d) is amended by striking out the matter following subparagraph (C) and inserting in lieu thereof the following:

"in accordance with the method (as in effect on May 1, 1986) used to make the annual adjustment to the contribution and benefit base under section 230 of the Social Security Act."

(h) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 415(d) is amended by inserting "and" at the end of subparagraph (A), by striking out subparagraph (B), and by redesignating subparagraph (C) as paragraph (B).

(2) Paragraph (2) of section 415(d) is amended—

(A) by striking out "subparagraphs (A) and (B)" and inserting in lieu thereof "subparagraph (A)", and

(B) by striking out "subparagraph (C)" and inserting in lieu thereof "subparagraph (B)".

(3) Paragraph (3) of section 415(d) is amended by striking out "subparagraph (A) or (B)" and inserting in lieu thereof "subparagraph (A)".

(i) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1986.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

(3) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

(A) IN GENERAL.—In the case of an individual who is a participant (as of the 1st day of the 1st year to which the amendments made by this section apply) in a defined benefit plan which is in existence on May 6, 1986, and with respect to which the requirements of section 415 of the Internal Revenue Code of 1954 have been met for all plan years, if such individual's current accrued benefit under the plan exceeds the limitation of subsection (b) of section 415 of such Code (as amended by this section), then (in the case of such plan), for purposes of subsections (b) and (f) of such section, the limitation of such subsection (b)(1)(A) with respect to such individual shall be equal to such current accrued benefit.

(B) CURRENT ACCRUED BENEFIT DEFINED.—

(i) IN GENERAL.—For purposes of this paragraph, the term "current accrued benefit" means the individual's accrued benefit (at

the close of the last year to which the amendments made by this section do not apply) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code).

(ii) SPECIAL RULE.—For purposes of determining the amount of any individual's current accrued benefit—

(I) no change in the terms and conditions of the plan after May 5, 1986, and

(II) no cost-of-living adjustment occurring after May 5, 1986,

shall be taken into account. For purposes of subclause (I), any change in the terms and conditions of the plan pursuant to a collective bargaining agreement ratified before May 6, 1986, shall be treated as a change made before May 6, 1986.

(4) EFFECTIVE DATE FOR SUBSECTION (d).—Except as provided in paragraph (2), the amendment made by subsection (d) shall apply to years beginning after December 31, 1988, with respect to benefits accrued after such date.

(5) SPECIAL RULE FOR AMENDMENT MADE BY SUBSECTION (e).—The amendment made by subsection (e) shall not require the recomputation, for purposes of section 415(e) of the Internal Revenue Code of 1954, of the annual addition for any year beginning before 1987.

(6) SPECIAL RULE FOR ACCRUED BENEFITS.—For purposes of the amendments made by subsections (b) and (f), if a plan makes the plan amendments necessary to comply with such amendments by the close of the first plan year to which such amendments apply, the plan—

(A) may reduce accrued benefits for such year to reflect such amendments, and

(B) such reduction shall not be treated as a violation of section 411(d)(6) of the Internal Revenue Code of 1954 or section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) to the extent the amount of such reduction does not exceed the amount necessary to comply with such amendments.

SEC. 1207. MODIFICATION OF DISTRIBUTION REQUIREMENTS UNDER SECTION 457 PLANS.

(a) GENERAL RULE.—Section 457 (relating to deferred compensation plans with respect to service for State and local governments) is amended by adding at the end thereof the following new subsection:

"(f) APPLICATION WITH OTHER DEFERRALS; DISTRIBUTION REQUIREMENTS.—

"(1) COORDINATION WITH CERTAIN OTHER DEFERRALS.—In applying paragraphs (2) and (3) of subsection (b)—

"(A) any amount excluded from gross income under section 403(b) for the taxable year, and

"(B) any amount—

"(i) excluded from gross income under section 402(a)(8) or section 402(h)(1)(B) for the taxable year, or

"(ii) with respect to which a deduction is allowable by reason of a contribution to an organization described in section 501(c)(18) for the taxable year,

shall be treated as an amount deferred under subsection (a). In applying clause (ii) of section 403(b)(2)(A), an amount deferred under subsection (a) for any year of service shall be taken into account as if described in such clause. Subparagraph (B) shall not apply in the case of a participant in a plan of a rural electric cooperative (as defined in subsection (d)(9)(B)).

"(2) MINIMUM DISTRIBUTION REQUIREMENTS.—A plan meets the minimum distribution requirements of this paragraph if such plan meets the requirements of subparagraphs (A), (B), and (C).

"(A) COMMENCEMENT DATE.—A plan meets the requirements of this subparagraph if the distributions of the amounts payable with respect to the participant begin not later than 60 days after the close of the later of—

"(i) the year in which the participant attains normal retirement age under the plan, or

"(ii) the year in which the participant separates from service.

If the participant dies before the commencement of the distributions, distributions shall commence not later than 60 days after the close of the year in which the participant dies.

"(B) DISTRIBUTION REQUIREMENTS.—A plan meets the requirements of this subparagraph if—

"(i) in the case of a distribution beginning before the death of the participant, such distribution will be made in a form under which—

"(I) at least ⅔ of the total amount payable with respect to the participant will be paid during the life expectancy of such participant (determined as of the commencement of the distribution), and

"(II) any amount not distributed to the participant during his life will be distributed after the death of the participant at least as rapidly as under the method of distribution being used under subclause (I) as of the date of his death, or

"(ii) in the case of a distribution which does not commence before the death of the participant, the entire amount payable with respect to the participant will be paid during a period not to exceed—

"(I) 15 years if the surviving spouse is not the beneficiary, or

"(II) the life expectancy of the surviving spouse if such spouse is the beneficiary.

"(C) NONINCREASING BENEFITS.—A plan meets the requirements of this subparagraph if any distribution payable over a period of more than 1 year can only be made in substantially nonincreasing amounts (paid not less frequently than annually).

"(3) OTHER RULES.—

"(A) BENEFITS NOT TREATED AS MADE AVAILABLE BY REASON OF CERTAIN ELECTIONS.—If—

"(i) the total amount payable to a participant under the plan does not exceed $3,500, and

"(ii) no additional amounts may be deferred under the plan with respect to the participant,

the amount payable to the participant under the plan shall not be treated as made available merely because such participant may elect to receive a lump sum payable within 60 days of the election.

"(B) ROLLOVER AMOUNT.—If—

"(i) the entire amount payable to a participant is distributed to such participant in 1 taxable year, and

"(ii) any portion of the amount so distributed is transferred by such participant to another eligible State deferred compensation plan before the 60th day after the date of the receipt of the distribution,

then such distribution to the extent so transferred shall not be included in the gross income of the participant. This subparagraph shall not apply to any distribution to the extent such distribution is required under paragraph (2)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 457(b) (defining eligible State deferred compensation plan) is amended to read as follows:

"(5) which meets the requirements of subsection (f)(2), and".

(2) Section 457(c) is amended to read as follows:

"(c) INDIVIDUALS PARTICIPATING IN MORE THAN ONE PLAN.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed $7,500 (as modified by any adjustment provided under subsection (b)(3) or (f)(1))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

(2) DEFERRED COMPENSATION PLANS FOR STATE JUDGES.—The amendments made by this section shall not apply to any qualified State judicial plan (as defined in section 131(c)(3)(B) of the Revenue Act of 1978 as amended by section 252 of the Tax Equity and Fiscal Responsibility Act of 1982).

SEC. 1208. SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.

(a) SALARY REDUCTION ARRANGEMENTS PERMITTED.—Section 408(k) (relating to simplified employee pension defined) is amended by inserting after paragraph (5) the following new paragraph:

"(6) EMPLOYEE MAY ELECT SALARY REDUCTION ARRANGEMENT.—

"(A) IN GENERAL.—A simplified employee pension shall not fail to meet the requirements of this subsection if, under the terms of the pension—

"(i) an employee may elect to have the employer make payments—

"(I) as contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash,

"(ii) an election described in clause (i)(I) is made or is in effect with respect to not less than 50 percent of the employees of the employer, and

"(iii) the deferral percentage for each year of each highly compensated employee eligible to participate is not more than the product derived by multiplying the average of the deferral percentages for such year of all employees (other than highly compensated employees) eligible to participate by 1.5.

"(B) EXCEPTION WHERE MORE THAN 25 EMPLOYEES.—This paragraph shall not apply with respect to any year in the case of a simplified employee pension maintained by an employer with more than 25 employees as of the beginning of such year.

"(C) DISTRIBUTIONS OF EXCESS CONTRIBUTIONS.—

"(i) IN GENERAL.—Rules similar to the rules of section 401(k)(8) shall apply to any excess contribution under this paragraph. Any excess contribution under a simplified employee pension shall be treated as an excess contribution for purposes of section 4979.

"(ii) EXCESS CONTRIBUTION.—For purposes of clause (i), the term 'excess contribution' means, with respect to a highly compensated employee, the excess of elective employee contributions under this paragraph over the maximum amount of such contributions allowable under subparagraph (A)(iii).

"(D) DEFERRAL PERCENTAGE.—For purposes of this paragraph, the deferral percentage for an employee for a year shall be the ratio of—

"(i) the amount of elective employer contributions actually paid over to the simplified employee pension on behalf of the employee for the year, to

"(ii) the employee's compensation (within the meaning of section 415) for the year.

"(E) EXCEPTION FOR STATE AND LOCAL PENSIONS.—This paragraph shall not apply to a simplified employee pension maintained by

a State or local government or political subdivision thereof.

"(F) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(b) EXCLUSION FROM GROSS INCOME.—Section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 1205(a), is amended by inserting at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—For purposes of this chapter—

"(1) IN GENERAL.—Except as provided in paragraph (2), contributions made by an employer on behalf of an employee to an individual retirement account or individual retirement annuity pursuant to a simplified employee pension (as defined in section 408(k))—

"(A) shall not be treated as distributed or made available to the employee or as contributions made by the employee, and

"(B) if such contributions are made pursuant to an arrangement under section 408(k)(6) under which an employee may elect to have the employer make contributions to the simplified employee pension on behalf of the employee, shall not be treated as distributed or made available or as contributions made by the employee merely because the simplified employee pension includes provisions for such election.

"(2) LIMITATIONS ON EMPLOYER CONTRIBUTIONS.—Contributions made by an employer to a simplified employee pension with respect to an employee for any year shall be treated as distributed or made available to such employee and as contributions made by the employee to the extent such contributions exceed the lesser of—

"(A) 15 percent of the compensation (as defined in section 415) from such employer includible in the employee's gross income for the year (determined without regard to the employer contributions to the simplified employee pension), or

"(B) the limitation in effect under section 415(c)(1)(A), reduced in the case of any highly compensated employee (within the meaning of section 414(q)) by the amount taken into account with respect to such employee under section 408(k)(3)(D).

"(3) DISTRIBUTIONS.—Any amount paid or distributed out of an individual retirement account or individual retirement annuity pursuant to a simplified employee pension shall be included in gross income by the payee or distributee, as the case may be, in accordance with the provisions of section 408(d)."

(c) DEDUCTIBILITY OF CONTRIBUTIONS.—Subparagraphs (A) and (B) of section 404(h)(1) (relating to special rules for simplified employee pensions) are amended to read as follows:

"(A) Contributions made for a year are deductible—

"(i) in the case of a simplified employee pension maintained on a calendar year basis, for the taxable year with which or within which the calendar year ends, or

"(ii) in the case of a simplified employee pension which is maintained on the basis of the taxable year of the employer, for such taxable year.

"(B) Contributions shall be treated as if they were made for a taxable year if such contributions are made on account of such taxable year and are made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)."

(d) PARTICIPATION REQUIREMENTS.—Paragraph (2) of section 408(k) (relating to participation requirements) is amended to read as follows:

"(2) PARTICIPATION REQUIREMENTS.—This paragraph is satisfied with respect to a simplified employee pension for a year only if for such year the employer contributes to the simplified employee pension of each employee who—

"(A) has attained age 21,

"(B) has performed service for the employer during at least 3 of the immediately preceding 5 years, and

"(C) received at least $300 in compensation (within the meaning of section 415) from the employer for the year.

For purposes of this paragraph, there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(3). For purposes of arrangements described in subsection (k)(6), employees who are eligible to have contributions made on their behalf under such arrangements shall be treated as receiving an employer contribution."

(e) COST-OF-LIVING ADJUSTMENTS.—Section 408(k) is amended by adding at the end thereof the following new paragraph:

"(8) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the $300 amount in paragraph (2)(C) and the $200,000 amount in paragraph (3)(C) at the same time and in the same manner as the adjustment described in section 415(d)."

(f) COMPUTATION PERIOD.—Section 408(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) YEAR.—The term 'year' means—

"(i) the calendar year, or

"(ii) if the employer elects, subject to such terms and conditions as the Secretary may prescribe in regulations, to maintain the simplified employee pension on the basis of the employer's taxable year, the employer's taxable year."

(g) CONFORMING AMENDMENTS.—

(1) Section 408(k)(3) (relating to nondiscrimination requirements) is amended—

(A) by striking out all that follows "in favor of" in subparagraph (A) and inserting in lieu thereof "any highly compensated employee (within the meaning of section 414(q)).",

(B) by inserting "and except as provided in subparagraph (D)," after "subparagraph (A)," in subparagraph (C), and by inserting "(other than contributions under an arrangement described in paragraph (6))" after "employer contributions to simplified employee pensions" in subparagraph (C), and

(C) by striking out subparagraphs (D) and (E) and inserting in lieu thereof:

"(D) PERMITTED DISPARITY.—For purposes of subparagraph (C), the rules of section 401(l)(2) shall apply to contributions to simplified employee pensions (other than contributions under an arrangement described in paragraph (6))."

(2) Paragraph (2) of section 219(b) is amended to read as follows:

"(2) SPECIAL RULE FOR EMPLOYER CONTRIBUTIONS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—This section shall not apply with respect to an employer contribution to a simplified employee pension,".

(3) Section 219(b)(3) is amended by striking out "(other than employer contributions to a simplified employee pension)".

(4) Section 219(c)(2)(B) is amended by striking out "(determined without regard to so much of the employer contributions to a simplified employee pension as is allowable by reason of paragraph (2) of subsection (b))".

(5) Section 408(k)(3)(A) is amended by striking out "calendar".

(6) Section 408(k), is amended by subsection (e), is amended by adding at the end thereof the following new paragraph:

"(9) CROSS REFERENCE.—

"For excise tax on certain excess contributions, see section 4979."

(7) Section 3121(a)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following subparagraph:

"(C) under a simplified employee pension (as defined in section 408(k)(1)), other than any contributions described in section 408(k)(6)(A)(I),".

(8) Section 3306(b)(5) is amended by striking out subparagraph (C) and inserting in lieu thereof the following subparagraph:

"(C) under a simplified employee pension (as defined in section 408(k)(1)), other than any contributions described in section 408(k)(6),".

(h) EFFECTIVE DATE.—The amendments made by this section shall be effective for taxable years beginning after December 31, 1986.

SEC. 1209. DEDUCTIBLE CONTRIBUTIONS PERMITTED UNDER SECTION 501(c)(18) PLAN.

(a) IN GENERAL.—Section 501(c)(18) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(D) under the plan the employee may designate certain contributions as deductible, the following requirements are met:

"(i) such contributions do not exceed the amount with respect to which a deduction is allowable under section 219(b)(4),

"(ii) requirements similar to the requirements of section 401(k)(3)(A)(ii) are met with respect to such elective contributions, and

"(iii) such contributions are treated as elective deferrals for purposes of section 402(g) (other than paragraph (4) thereof).

For purposes of subparagraph (D)(ii), rules similar to the rules of section 401(k)(8) shall apply. For purposes of section 4979, any excess contribution under clause (ii) shall be treated as an excess contribution under a cash or deferred arrangement."

(b) LIMITATION ON DEDUCTION.—

(1) IN GENERAL.—Section 219(b), as amended by section 1201(b), is amended by adding at the end thereof the following new paragraph:

"(4) PLANS UNDER SECTION 501(C)(18).—Notwithstanding paragraph (1), the amount allowable as a deduction under subsection (a) with respect to any contributions on behalf of an employee to a plan described in section 501(c)(18) shall not exceed the lesser of—

"(A) $7,000, or

"(B) an amount equal to 25 percent of the compensation (as defined in section 415(c)(3)) includible in the individual's gross income for such taxable year."

(2) CONFORMING AMENDMENT.—Section 219(e), as amended by section 1201(b), is amended to read as follows:

"(e) QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section, the term 'qualified retirement contribution' means—

"(1) any amount paid in cash for the taxable year by or on behalf of any individual for his benefit to an individual retirement plan, or

"(2) any amount contributed on behalf of any individual to a plan described in section 501(c)(18)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

PART II—NONDISCRIMINATION REQUIREMENTS

Subpart A—General Requirements

SEC. 1211. APPLICATION OF NONDISCRIMINATION RULES TO INTEGRATED PLANS.

(a) IN GENERAL.—Section 401(l) (relating to nondiscriminatory coordination of defined contribution plans with OASDI) is amended to read as follows:

"(l) PERMITTED DISPARITY IN PLAN CONTRIBUTIONS OR BENEFITS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any plan if—

"(A) in the case of a defined contribution plan, the requirements of paragraph (2) are met, and

"(B) in the case of a defined benefit plan, the requirements of paragraph (3) are met.

"(2) DEFINED CONTRIBUTION PLAN.—

"(A) IN GENERAL.—A defined contribution plan meets the requirements of this paragraph for a year if the excess contribution percentage does not exceed the lesser of—

"(i) 200 percent of the base contribution percentage, or

"(ii) the sum of—

"(I) the base contribution percentage, plus

"(II) a percentage equal to the rate of tax in effect under section 3111(a) as of the beginning of the year.

"(B) CONTRIBUTION PERCENTAGES.—For purposes of this paragraph—

"(i) EXCESS CONTRIBUTION PERCENTAGE.—The term 'excess contribution percentage' means the percentage of remuneration which is contributed under the plan with respect to that portion of remuneration in excess of the compensation level specified under the plan for the year.

"(ii) BASE CONTRIBUTION PERCENTAGE.—The term 'base contribution percentage' means the percentage of remuneration contributed under the plan with respect to that portion of remuneration not in excess of the compensation level specified under the plan for the year.

"(3) DEFINED BENEFIT PLAN.—A defined benefit plan meets the requirements of this paragraph for a year if—

"(A) EXCESS PLANS.—

"(i) IN GENERAL.—In the case of a plan other than an offset plan—

"(I) the excess benefit percentage does not exceed 200 percent of the base benefit percentage, and

"(II) any optional form of benefit, preretirement benefit, actuarial factor, or other benefit or feature provided with respect to remuneration in excess of the compensation level is provided with respect to remuneration not in excess of such level.

"(ii) BENEFIT PERCENTAGES.—For purposes of this subparagraph, the excess and base benefit percentages shall be computed in the same manner as the excess and base contribution percentages under paragraph (2)(B), except that such determination shall be made on the basis of benefits rather than contributions.

"(B) OFFSET PLANS.—

"(i) IN GENERAL.—In the case of an offset plan, the plan provides that a participant's accrued benefit attributable to employer contributions (within the meaning of section 411(c)(1)) may not be reduced by reason of the offset by more than 50 percent of such benefit which would have accrued without regard to such reduction.

"(ii) OFFSET PLAN.—For purposes of this subparagraph, the term 'offset plan' means any plan with respect to which the normal retirement benefit attributable to employer contributions for each participant is reduced by the dollar amount specified in the plan and which is applicable to all participants.

"(4) DEFINITIONS.—

"(A) COMPENSATION LEVEL.—The term 'compensation level' means the lesser of—

"(i) the dollar amount of remuneration which is specified under the plan as the compensation level for a plan year, or

"(ii) the contribution and benefit base under section 230 of the Social Security Act in effect at the beginning of the plan year.

Such level shall apply with respect to all participants under the plan.

"(B) REMUNERATION.—The term 'remuneration' means total compensation, or basic or regular compensation, whichever is used in determining contributions or benefits under the plan.

"(C) COMPENSATION, ETC., OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection, in the case of an individual who is an employee within the meaning of subsection (c)(1)—

"(i) the employee's total compensation shall include the employee's earned income (as defined in subsection (c)(2)), and

"(ii) the employee's basic or regular rate of compensation shall be determined (under regulations prescribed by the Secretary) with respect to that portion of the employee's earned income which bears the same ratio to the employee's earned income as the basic or regular compensation of the employees under the plan (other than employees within the meaning of subsection (c)(1)) bears to the total compensation of such employees.

"(D) MULTIPLE PLANS.—If a highly compensated employee (within the meaning of section 414(q)) participates in 2 or more plans maintained by the employer which fail to meet the requirements of subsection (a)(4) (without regard to this subsection), this subsection shall be applied by taking into account for each of such plans contributions and benefits for such employee under all such plans.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary or appropriate to carry out the purposes of this subsection.

"(5) SPECIAL RULE FOR PLAN MAINTAINED BY RAILROADS.—In determining whether a plan which includes employees of a railroad employer who are entitled to benefits under the Railroad Retirement Act of 1974 meets the requirements of this subsection, the benefit percentages of such employees shall be computed by taking into account the employees' benefits under the plan, the employees' tier 2 railroad retirement benefits and any supplemental annuity under the Railroad Retirement Act of 1974."

(b) CONFORMING AMENDMENT.—Subsection (a)(5) of section 401 is amended to read as follows:

"(5) SPECIAL RULES RELATING TO NONDISCRIMINATION REQUIREMENTS.—

"(A) SALARIED OR CLERICAL EMPLOYEES.—A classification shall not be considered unreasonable within the meaning of paragraph (4) or section 410(b) (without regard to paragraph (1)(A) thereof) merely because it is limited to salaried or clerical employees.

"(B) CONTRIBUTIONS AND BENEFITS MAY BEAR UNIFORM RELATIONSHIP TO COMPENSATION.—A plan shall not be considered discriminatory within the meaning of paragraph (4) or section 410(b) (without regard to paragraph (1)(A) thereof) merely because the contributions or benefits of, or on behalf of, the employees under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees.

"(C) CERTAIN DISPARITY PERMITTED.—A plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the contributions and benefits of or on behalf of the employees under the plan favor highly compensated employees (as defined in section 414(q)) in the manner permitted under subsection (l).

"(D) INTEGRATED DEFINED BENEFIT PLAN.—

"(i) IN GENERAL.—A defined benefit plan shall not be considered discriminatory within the meaning of paragraph (4) merely because the plan provides that the employer-provided accrued retirement benefit for any participant may not exceed the excess (if any) of—

"(I) the participant's final pay with the employer, over

"(II) the employer-provided retirement benefit created under Federal law attributable to service by the participant with the employer.

"(ii) FINAL PAY.—For purposes of this subparagraph, the participant's final pay is the compensation (as defined in section 415(c)(3)) paid to the participant by the employer for the year ending during the 5-year period ending with the year in which the participant separated from service for the employer for which the participant's total compensation from the employer was highest.

"(E) TOTAL COMPENSATION OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this paragraph (other than subparagraph (D)) and paragraph (10), the total compensation of an individual who is an employee within the meaning of subsection (c)(1) means such individual's earned income (as defined in subsection (c)(2)), and the basic or regular rate of compensation of such an individual shall be determined, in such manner as may be prescribed by the Secretary, with respect to that portion of the individual's earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan bears to the total compensation of such employees.

"(F) 2 OR MORE PLANS TREATED AS SINGLE PLAN.—For purposes of determining whether 2 or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan—

"(i) CONTRIBUTIONS.—If the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate.

"(ii) BENEFITS.—If the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary to take account of the differences in such rates, the plans shall not be considered discriminatory merely because of the difference in such rates.

"(G) SIMPLIFIED EMPLOYEE PENSIONS.—For purposes of determining whether 1 or more plans of an employer satisfy the require-

ments of paragraph (4) and of section 410(b), an employer may take into account all simplified employee pensions (other than arrangements under section 408(k)(6))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1988.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 1989, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

SEC. 1212. MINIMUM COVERAGE REQUIREMENTS FOR QUALIFIED PLANS.

(a) IN GENERAL.—Subsection (b) of section 410 (relating to eligibility requirements) is amended to read as follows:

"(b) MINIMUM COVERAGE REQUIREMENTS.—

"(1) IN GENERAL.—A trust shall not constitute a qualified trust under section 401(a) unless such trust is designated by the employer as part of a plan which benefits either—

"(A) 80 percent or more of all employees of the employer, or

"(B) such employees who qualify under a reasonable classification which—

"(i) is set up by the employer, and

"(ii) the Secretary finds does not allow more than a reasonable difference (in favor of highly compensated employees) between the coverage percentage of highly compensated employees and the coverage percentage of other employees.

"(2) ALTERNATIVE METHOD OF MEETING REASONABLE CLASSIFICATION TEST.—

"(A) IN GENERAL.—A plan shall be treated as meeting the requirements of paragraph (1)(B) for any plan year if—

"(i) the requirements of paragraph (1)(B) (as in effect immediately before the enactment of the Tax Reform Act of 1986) are met with respect to such plan, and

"(ii) the average benefit percentage ratio of the employer is at least ⅔.

"(B) AVERAGE BENEFIT PERCENTAGE RATIO.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'average benefit percentage ratio' is the ratio which—

"(I) the average benefit percentage for employees who are not participants in alternative plans of the employer, bears to

"(II) the average benefit percentage for employees who are participants in alternative plans of the employer.

"(ii) AVERAGE BENEFIT PERCENTAGE.—The term 'average benefit percentage' means, with respect to any group, the average of the benefit percentages calculated separately with respect to each employee in such group.

"(C) BENEFIT PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'benefit percentage' means the employer-provided contribution or benefit of an employee under a plan, expressed as a percentage of such employee's compensation (within the meaning of section 415).

"(ii) PERIOD FOR COMPUTING PERCENTAGE.—At the election of an employer, the benefit percentage for any plan year shall be computed on the basis of contributions provided or benefits accruing during—

"(I) such plan year, or

"(II) any consecutive plan year period (not greater than 5 years) which ends with such plan year and which is specified in such election.

An election under this clause, once made, may be revoked only with the consent of the Secretary.

"(D) SPECIAL RULES WHERE EMPLOYEES ARE IN MORE THAN 1 GROUP.—In the case of an employee who is a participant in 1 or more alternative plans and in 1 or more plans other than alternative plans—

"(i) IN GENERAL.—Except as provided in clause (ii), the benefit percentage of an employee shall be computed separately with respect to each plan described in subclauses (I) and (II) of subparagraph (B)(i).

"(ii) HIGHLY COMPENSATED EMPLOYEE.—If such employee is a highly compensated employee—

"(I) such employee shall be treated as being only in the group of employees described in subparagraph (B)(i)(II), but

"(II) the benefit percentage of such employee shall be computed by taking into account contributions or benefits under plans in both groups described in subparagraph (B)(i).

"(E) HIGHLY COMPENSATED EMPLOYEE IN NO PLAN.—For purposes of this paragraph, a highly compensated employee who is not a participant in any plan shall be treated as being in the group of employees described in subparagraph (B)(i)(II).

"(F) ALTERNATIVE PLAN.—For purposes of this paragraph, the term 'alternative plan' means any plan—

"(i) which meets the requirements of subparagraph (A)(i), but

"(ii) does not meet the requirements of paragraph (1) (without regard to this paragraph).

"(G) EMPLOYEES TAKEN INTO ACCOUNT.—For purposes of determining who is an employee for purposes of determining the average benefit percentage under subparagraph (B), paragraph (4) shall be applied by taking into account all employees or, if the employer elects, by using the lowest age and service requirements of any plans maintained by the employer which meets the requirements of section 401(a).

"(3) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of this subsection, there shall be excluded from consideration—

"(A) employees not included in the plan who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers,

"(B) in the case of a trust established or maintained pursuant to an agreement which the Secretary of Labor finds to be a collective bargaining agreement between air pilots represented in accordance with title II of the Railway Labor Act and one or more employers, all employees not covered by such agreement, and

"(C) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

For purposes of paragraph (2) (other than subparagraph (A)(i) thereof), subparagraph (A) shall be applied without regard to whether the employees are included in the plan. Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees whose principal duties are not customarily performed aboard aircraft in flight.

"(4) EXCLUSION OF EMPLOYEES NOT MEETING AGE AND SERVICE REQUIREMENTS.—

"(A) IN GENERAL.—If a plan—

"(i) prescribes minimum age and service requirements as a condition of participation, and

"(ii) excludes all employees not meeting such requirements from participation,

then such employees shall be excluded from consideration for purposes of this subsection (other than paragraph (2)(A)(i)).

"(B) REQUIREMENTS MAY BE MET SEPARATELY WITH RESPECT TO EXCLUDED GROUP.—If employees do not meet the minimum age or service requirements of subsection (a)(1) (without regard to subparagraph (B) thereof) and are covered under a separate plan of the employer which meets the requirements of paragraph (1) separately with respect to such employees, such employees may be excluded from consideration in determining whether any other plan of the employer meets the requirements of paragraph (2).

"(5) LINE OF BUSINESS EXCEPTION.—If, under section 414(r), an employer is treated as operating separate lines of business or separate operating units for a year, the employer may apply the requirements of this subsection (other than paragraph (1)(A)) for such year separately with respect to employees in each separate line of business or separate operating unit. The preceding sentence shall not apply with respect to any plan maintained by an employer unless such plan satisfies the requirements of this subsection (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986).

"(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q).

"(B) AGGREGATION RULES.—An employer may elect to designate—

"(i) 2 or more trusts,

"(ii) 1 or more trusts and 1 or more annuity plans, or

"(iii) 2 or more plans,

as part of 1 plan to determine whether the requirements of this subsection are met with respect to such trusts or annuity plans. If an employer elects to treat any trusts or plans as 1 plan under this subparagraph, such trusts or plans shall be treated as 1 plan for purposes of section 401(a)(4).

"(C) SPECIAL RULES FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—

"(i) IN GENERAL.—If a person becomes, or ceases to be, a member of a group described in subsection (b), (c), (m), or (o) of section 414, then the requirements of this subsection shall be treated as having been met during the transition period with respect to any plan covering employees of such person or any other member of such group if—

"(I) such requirements were met immediately before such change, and

"(II) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members of a group).

"(ii) TRANSITION PERIOD.—For purposes of clause (i), the term 'transition period' means the period—

"(I) beginning on the date of the change in members of a group, and

"(II) ending on the last day of the first plan year beginning after the date of such change.

"(D) SPECIAL RULE FOR CERTAIN EMPLOYEE STOCK OWNERSHIP PLANS.—A trust which is part of a tax credit employee stock ownership plan which is the only plan of an employer intended to qualify under section 401(a) shall not be treated as not a qualified trust under section 401(a) solely because it fails to meet the requirements of this subsection if—

"(i) such plan benefits 50 percent or more of all the employees who are eligible under a nondiscriminatory classification under the plan, and

"(ii) the sum of the amounts allocated to each participant's account for the year does not exceed 2 percent of the compensation of that participant for the year.

"(E) ELIGIBILITY TO CONTRIBUTE.—In the case of contributions which are subject to section 401(k) or 401(m), employees who are eligible to contribute shall be treated as benefiting under the plan.

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) ADDITIONAL PARTICIPATION REQUIREMENTS.—Section 401(a) (relating to qualification requirements) is amended by adding at the end thereof the following new paragraph:

"(26) ADDITIONAL PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this subsection unless such trust as part of a plan which benefits the lesser of—

"(i) 50 employees, or

"(ii) 40 percent or more of all employees of the employer.

"(B) EXCLUSION OF CERTAIN EMPLOYEES.—A plan may exclude from consideration under this paragraph employees who may be excluded from consideration under section 410(b) by reason of paragraphs (3) and (4) thereof.

"(C) ELIGIBILITY TO PARTICIPATE.—In the case of contributions under section 401(k) or 401(m), employees who are eligible to contribute shall be treated as benefiting under the plan.

"(D) SPECIAL RULE FOR COLLECTIVE BARGAINING UNITS.—A plan covering only employees described in section 410(b)(4)(A) may exclude from consideration any employees who are not included in the unit or units in which the covered employees are included."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1988.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 1989, or

(ii) the date on which the last of such collective bargaining agreement terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

SEC. 1213. MINIMUM VESTING STANDARDS.

(a) IN GENERAL.—Paragraph (2) of section 411(a) (relating to minimum vesting standards) is amended to read as follows:

"(2) EMPLOYER CONTRIBUTIONS.—A plan satisfies the requirements of this paragraph if it satisfies the requirements of subparagraph (A), (B), or (C).

"(A) 5-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) 3 TO 7 YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

"(C) MULTIEMPLOYER PLANS.—A plan satisfies the requirements of this subparagraph if—

"(i) the plan is a multiemployer plan (within the meaning of section 414(f)), and

"(ii) under the plan an employee who has completed at least 10 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions."

(b) REPEAL OF CLASS YEAR VESTING.—Subsection (d) of section 411 is amended by striking out paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) CONFORMING AMENDMENT.—Section 411(a)(10)(B) is amended by striking out "5 years" and inserting in lieu thereof "3 years".

(d) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

"(2) A plan satisfies the requirements of this paragraph if it satisfies the requirements of subparagraph (A), (B), or (C).

"(A) A plan satisfies the requirements of this subparagraph if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(B) A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

"(C) A plan satisfies the requirements of this subparagraph if—

"(i) the plan is a multiemployer plan (within the meaning of section 414(f) of the Internal Revenue Code of 1954), and

"(ii) under the plan an employee who has completed at least 10 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.".

(2) REPEAL OF CLASS YEAR VESTING.—Subsection (c) of section 203 of such Act is amended by striking out paragraph (3).

(3) CONFORMING AMENDMENTS.—

(A) MINIMUM VESTING STANDARDS.—Section 203(c)(1)(B) of such Act is amended by striking out "5 years" and inserting in lieu thereof "3 years".

(B) BENEFIT ACCRUAL REQUIREMENTS.—Subsection (i) of section 204 of such Act (29 U.S.C. 1054(i)) is amended to read as follows:

"(i) CROSS REFERENCE.—

"For special rules relating to plan provisions adopted to preclude discrimination, see section 203(c)(2).".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to plan years beginning after December 31, 1988.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 1989, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

(3) PARTICIPATION REQUIRED.—This section shall not apply to any participant who does not perform 1 hour of service in any plan year to which the amendments made by this section apply.

SEC. 1214. DEFINITION OF HIGHLY COMPENSATED EMPLOYEE.

(a) IN GENERAL.—Section 414 is amended by adding at the end thereof the following:

"(q) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this title—

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who, at any time during the year or the preceding year—

"(A) was a 5-percent owner,

"(B) received compensation from the employer in excess of $100,000,

"(C) received compensation from the employer in excess of $50,000 and was in the top-paid group of employees for such year, or

"(D) was an officer (as defined in section 416(i)).

"(2) SPECIAL RULE FOR CURRENT YEAR.—In the case of the year for which the relevant determination is being made, an employee not described in subparagraph (B), (C), or (D) of paragraph (1) for the preceding year (without regard to this paragraph) shall not be treated as described in subparagraph (B), (C), or (D) of paragraph (1) unless such employee is a member of the group consisting of the 100 employees paid the greatest compensation during such year.

"(3) 5-PERCENT OWNER.—An employee shall be treated as a 5-percent owner for any year if at any time during such year such employee was a 5-percent owner (as defined in section 416(i)(1)) of the employer.

"(4) TOP-PAID GROUP.—An employee is in the top-paid group of employees for any year if such employee is in the group consisting of the top 20 percent of the employees when ranked on the basis of compensation paid during such year.

"(5) TREATMENT OF CERTAIN FAMILY MEMBERS.—

"(A) IN GENERAL.—If any individual is a member of the family of a 5-percent owner

or of a highly compensated employee in the group consisting of the 10 highly compensated employees paid the greatest compensation during the year, then, for purposes of the nondiscrimination rules—

"(i) such individual shall not be considered a separate employee, and

"(ii) any compensation paid to such individual (and any applicable contribution or benefit on behalf of such individual) shall be treated as if it were paid to (or on behalf of) the 5-percent owner or highly compensated employee.

"(B) FAMILY.—For purposes of subparagraph (A), the term 'family' means, with respect to any employee, such employee's spouse, parent, and lineal ascendants or descendants and the spouses of such lineal ascendants or descendants.

"(6) COMPENSATION.—For purposes of this subsection, the term 'compensation' means compensation within the meaning of section 415(c)(3) (determined without regard to sections 125, 402(a)(8), and 408(h)(1)(B), and without regard to section 403(b) in the case of employer contributions made pursuant to a salary reduction agreement, as defined in section 3121(a)(5)(D)).

"(7) EXCLUDED EMPLOYEES.—For purposes of section 414(r) and for purposes of determining the number in the top-paid group under paragraph (4), the following employees shall be excluded:

"(A) employees who have not completed 180 days of service,

"(B) employees who work less than half-time,

"(C) employees who normally work fewer than 6 months a year,

"(D) except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives,

"(E) employees who have not attained age 21, and

"(F) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

The employer may elect to apply subparagraph (A), (B), (C), or (E) by substituting a shorter period of service or lower age for the period of service or age specified in such subparagraph.

"(8) FORMER EMPLOYEES.—An individual who has separated from the service of the employer shall be considered a 'highly compensated employee' if such individual was a highly compensated employee when such employee separated from service, or at such other time as the Secretary may prescribe in regulations.

"(9) NONDISCRIMINATION RULES.—For purposes of this subsection, the term 'nondiscrimination rules' means the nondiscrimination rules under—

"(A) section 89 (other than subsection (d)(3) thereof), 117(d), 120, 125, 127, 129, 132, or 505, or

"(B) section 401(a)(4), 401(a)(5), 401(k)(3), 401(l), 401(m), 408(k), or 410(b).

"(10) INDEXING.—The Secretary shall adjust the $50,000 and $100,000 amounts under paragraph (1) at the same time and in the same manner as under section 415(d).

"(11) COORDINATION WITH OTHER PROVISIONS.—Subsections (b), (c), (m), (n), and (o) shall be applied before the application of this section."

(b) CONFORMING AMENDMENTS.—

(1) Section 117(d)(3) is amended—

(A) by striking out "officer, owner, or",

(B) by striking out "officers, owners, or", and

(C) by inserting at the end thereof the following new sentence: "For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(2) Section 120(c)(1) is amended by striking out "officers, shareholders, self-employed individuals, or highly compensated" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(3) Section 125 is amended—

(A) by striking out "highly compensated participant" in subsection (b)(1) and inserting in lieu thereof "highly compensated employee",

(B) by striking out "highly compensated individuals" and "highly compensated participants" each place such terms appear in subsections (b) and (c) and any headings thereof and inserting in lieu thereof "highly compensated employees", and by striking out subsection (e) and inserting in lieu thereof the following:

"(e) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this section, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(4) Sections 127(b)(2) and 129(d)(2) are each amended by striking out "officers, owners, or highly compensated," and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(5) Section 401(a)(4) is amended to read as follows:

"(4) if the contributions or benefits provided under the plan do not discriminate in favor of highly compensated employees (within the meaning of section 414(q)). For purposes of this paragraph, there shall be excluded from consideration employees described in section 410(b)(3) (A) and (C)."

(6) Section 505 is amended—

(A) by striking out "individuals" in subsection (b)(1)(A) and inserting in lieu thereof "employees", and

(B) by striking out paragraph (5) of subsection (b) and inserting in lieu thereof the following new paragraph:

"(5) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to years beginning after December 31, 1988.

(2) EMPLOYEE BENEFITS.—In the case of plans to which section 89 of the Internal Revenue Code of 1954 applies, the amendment made by this section shall apply to years beginning after December 31, 1986.

(3) SPECIAL RULE FOR DETERMINING HIGHLY COMPENSATED EMPLOYEES.—For purposes of sections 401(k) and 401(m) of the Internal Revenue Code of 1954, in the case of an employer incorporated on December 15, 1924, if more than 50 percent of its employees in the top-paid group (within the meaning of section 414(q)(4) of such Code) earn less than $25,000 (indexed at the same time and in the same manner as under section 415(d) of such Code), then the highly compensated employees shall include employees described in section 414(q)(1)(C) determined without regard to the level of compensation of such employees.

SEC. 1215. SEPARATE LINES OF BUSINESS.

(a) IN GENERAL.—Section 414 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(r) SPECIAL RULES FOR LINES OF BUSINESS OR OPERATING UNITS.—

"(1) IN GENERAL.—An employer shall be treated as operating separate lines of business or operating units during a year for purposes of sections 89 and 410(b) if the employer establishes to the satisfaction of the Secretary that the employer operates for such year separate lines of business or operating units for bona fide business reasons.

"(2) SAFE HARBOR RULE.—For purposes of paragraph (1), a separate line of business or separate operating unit shall be treated as being operated for bona fide business reasons during such year if such line of business or operating unit is a separate self-sustaining unit and—

"(A) such line of business or operating unit has at least 50 employees who, except as provided by the Secretary, perform services solely for such line of business or operating unit, and

"(B) with respect to such line of business or operating unit, the highly compensated employee percentage is—

"(i) not less than one-half, and

"(ii) not more than twice,

the percentage which all highly compensated employees of the employer bears to all employees of the employer.

An employer shall be treated as meeting the requirements of subparagraph (B)(i) if at least 10 percent of all highly compensated employees of the employer perform services solely for the line of business or operating unit.

"(3) HIGHLY COMPENSATED EMPLOYEE PERCENTAGE DEFINED.—For purposes of this subsection, the term 'highly compensated employee percentage' means the percentage which all highly compensated employees performing services for the line of business or operating unit bears to all employees performing services for the line of business or operating unit.

"(4) EMPLOYEES OF MORE THAN 1 LINE OF BUSINESS OR OPERATING UNIT IN A PLAN.—If employees of more than 1 line of business or operating unit are eligible to participate in any plan subject to any nondiscrimination rules (within the meaning of subsection (q)(9)), then all such lines of business or operating units shall be treated as 1 line of business or operating unit for purposes of this paragraph.

"(5) HEADQUARTERS PERSONNEL.—Under regulations, headquarters personnel may be considered performing services for one of the lines of business or operating units even though such personnel perform services for other lines of business or operating units.

"(6) EXCLUDED EMPLOYEES.—For purposes of determining the number of employees to be treated as performing services for the employer or for a line of business or operating unit under this subsection, any employee excluded by the employer under subsection (q) shall be excluded from consideration under this subsection.

"(7) COORDINATION WITH OTHER PROVISIONS.—

"(A) Subsections (b), (c), (n), and (o) shall be applied before this subsection.

"(B) In any case to which subsection (m) applies, this subsection shall not apply.

"(8) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out the provisions of this subsection."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1988.

(2) EMPLOYEE BENEFITS.—In the case of plans to which section 89 of the Internal Revenue Code of 1954 applies, the amendments made by this section shall apply to years beginning after December 31, 1986.

Subpart B—Other Provisions

SEC. 1216. CASH OR DEFERRED ARRANGEMENTS.

(a) WITHDRAWAL AND OTHER RESTRICTIONS.—

(1) WITHDRAWALS.—Paragraph (2)(B) of section 401(k) (defining qualified cash or deferred arrangement) is amended to read as follows:

"(B) under which—

"(i) amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election may not be distributable to participants or other beneficiaries earlier than—

"(I) separation from service,

"(II) termination of the plan without establishment of a successor plan,

"(III) the date of the sale by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in its trade or business if the employee continues employment with the corporation acquiring such assets,

"(IV) the date of the sale by a corporation of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3)) if the employee continues employment with such subsidiary,

"(V) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½, or

"(VI) in the case of a profit-sharing or stock bonus plan, upon hardship of the employee, except that this clause shall not apply to contributions described in paragraph (3)(C)(ii) or any earnings on such contributions, and

"(ii) amounts will not be distributable merely by reason of the completion of a stated period of participation or the lapse of a fixed number of years; and".

(2) NOT MORE THAN 1 YEAR OF SERVICE MAY BE REQUIRED.—Paragraph (2) of section 401(k) is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) which does not require, as a condition of participation in the arrangement, that an employee complete a period of service with the employer (or employers) maintaining the plan extending beyond the period permitted under section 410(a)(1) (determined without regard to subparagraph (B)(i) thereof)."

(3) OTHER REQUIREMENTS.—Subsection (k) of section 401 is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) OTHER REQUIREMENTS.—

"(A) BENEFITS (OTHER THAN MATCHING CONTRIBUTIONS) MUST NOT BE CONTINGENT ON ELECTION TO DEFER.—A cash or deferred arrangement of any employer shall not be treated as a qualified cash or deferred arrangement if any other benefit provided by such employer is conditioned (directly or indirectly) on the employee electing to have the employer make contributions under the arrangement in lieu of receiving cash. The preceding sentence shall not apply to any matching contribution (as defined in section 401(m)) made by reason of such an election.

"(B) GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof.

"(C) COORDINATION WITH OTHER PLANS.—Except as provided in section 401(m), any employer contribution made by reason of an employee's election under a qualified cash or deferred arrangement shall not be taken into account for purposes of determining whether any other plan meets the requirements of section 401(a) or 410(b)."

(4) AGGREGATION RULE.—The last sentence of subparagraph (A) of section 401(k)(3) (relating to application of participation and discrimination standards) is amended by striking out "any employee" and inserting in lieu thereof "any highly compensated employee".

(b) PLAN NOT DISQUALIFIED IF EXCESS CONTRIBUTIONS DISTRIBUTED BEFORE THE END OF FOLLOWING PLAN YEAR.—

(1) IN GENERAL.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

"(8) ARRANGEMENT NOT DISQUALIFIED IF EXCESS CONTRIBUTIONS DISTRIBUTED.—

"(A) IN GENERAL.—A cash or deferred arrangement shall not be treated as failing to meet the requirements of clause (ii) of paragraph (3)(A) for any plan year if the amount of the excess contributions for such plan year (and any income allocable to such contributions) is distributed before the close of the following plan year. Distribution of such excess contributions (and income) may be made without regard to any other provision of law.

"(B) EXCESS CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'excess contributions' means, with respect to any plan year, the excess of—

"(i) the aggregate amount of employer contributions actually paid over to the trust on behalf of highly compensated employees for such plan year, over

"(ii) the maximum amount of such contributions permitted under the limitations of clause (ii) of paragraph (3)(A) (determined by reducing contributions made on behalf of highly compensated employees in order of the actual deferral percentages beginning with the highest of such percentages).

"(C) METHOD OF DISTRIBUTING EXCESS CONTRIBUTIONS.—Any distribution of the excess contributions for any plan year shall be made to highly compensated employees on the basis of the respective portions of the excess contributions attributable to each of such employees.

"(D) ADDITIONAL TAX UNDER SECTION 72(t) NOT TO APPLY.—No tax shall be imposed under section 72(t) on any amount required to be distributed under this paragraph.

"(E) CROSS REFERENCE.—

"For excise tax on certain excess contributions, see section 4979."

(2) TECHNICAL AMENDMENT.—Clause (ii) of section 401(k)(3)(A) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (5)".

(c) DEFINITION OF HIGHLY COMPENSATED EMPLOYEE.—Paragraph (5) of section 401(k), as redesignated by this Act, is amended to read as follows:

"(5) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q)."

(d) NONDISCRIMINATION STANDARDS.—Section 401(k)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of subparagraph (B), the employer contributions on behalf of any employee—

"(i) shall include any employer contributions made pursuant to the employee's election under paragraph (2), and

"(ii) in such manner as the Secretary may prescribe, may, at the election of the employer, include any qualified matching contribution (as defined in 401(m)(A) and which meets the requirements of paragraph (2) (B) and (C)) and any qualified nonelective contribution (within the meaning of section 401(m)(4)(D))."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to years beginning after December 31, 1988.

(2) WITHDRAWALS ON TERMINATIONS PERMITTED AFTER 1984.—The amendment made by paragraph (1) of subsection (a) (to the extent it permits withdrawals on terminations of the plan) shall apply to terminations after December 31, 1984.

(3) AGGREGATION AND EXCESS CONTRIBUTIONS.—The amendments made by subsections (a)(4) and (b) and the provisions of section 401(k)(2)(B)(i)(III) of the Internal Revenue Code of 1954 shall apply to plan years beginning after December 31, 1986.

(4) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to years beginning before the earlier of—

(A) the later of—

(i) January 1, 1989, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

(5) TRANSITIONAL RULE FOR CERTAIN GOVERNMENTAL PLANS.—Subparagraph (B) of section 401(k)(4) (relating to governments not eligible for cash or deferred arrangements), as added by this section, shall not apply to any cash or deferred arrangement adopted by the employer before May 6, 1986.

(6) SPECIAL RULE FOR QUALIFIED OFFSET ARRANGEMENTS.—

(A) IN GENERAL.—A cash or deferred arrangement shall not be treated as failing to meet the requirements of section 401(k)(4) of the Internal Revenue Code of 1954 (as added by this section) to the extent such arrangement is part of a qualified offset arrangement consisting of such cash or deferred arrangement and a defined benefit plan.

(B) QUALIFIED OFFSET ARRANGEMENT.—For purposes of subparagraph (A), a cash or deferred arrangement is part of a qualified offset arrangement with a defined benefit plan to the extent such offset arrangement satisfies each of the following conditions with respect to the employer maintaining the arrangement on April 16, 1986, and at all times thereafter:

(i) The benefit accruals under the defined benefit plan are directly and uniformly conditioned on the initial elective deferrals (up to 4 percent of compensation).

(ii) The benefit provided under the defined benefit plan (before the offset) is at least 60 percent of an employee's elective deferrals (up to 4 percent of compensation).

(iii) An employee's benefit under the defined benefit plan is reduced by the benefit attributable to the employee's elective deferrals under the plan (up to 4 percent of compensation) and the income allocable thereto. The interest rate used to calculate the reduction shall not exceed the greater of the applicable PBGC rate or the interest rate applicable under section 411(c)(2)(C)(iii) of such Code, taking into account section 411(c)(2)(D) of such Code.

For purposes of applying section 401(k)(3) of the Internal Revenue Code of 1954 to the cash or deferred arrangement, the benefit accruals under the defined benefit plan may be treated as matching contributions under such rules as the Secretary of the Treasury or his delegate may prescribe.

(7) WITHDRAWALS UPON SALE OF ASSETS.—Section 401(k)(2)(B)(i)(III) of the Internal Revenue Code of 1954 (as added by subsection (a)(1)) shall apply to distributions after December 31, 1984.

SEC. 1217. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS.

(a) GENERAL RULE.—Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) NONDISCRIMINATION TEST FOR MATCHING CONTRIBUTIONS AND EMPLOYEE CONTRIBUTIONS.—

"(1) IN GENERAL.—A plan shall be treated as meeting the requirements of subsection (a)(4) with respect to the amount of any matching contribution or employee contribution for any plan year only if the contribution percentage requirement of paragraph (2) of this subsection is met for such plan year.

"(2) REQUIREMENTS.—

"(A) CONTRIBUTION PERCENTAGE REQUIREMENT.—A plan meets the contribution percentage requirement of this paragraph for any plan year only if the contribution percentage for eligible highly compensated employees does not exceed the greater of—

"(i) 150 percent of such percentage for all other eligible employees, or

"(ii) the lesser of 250 percent of such percentage for all other eligible employees, or such percentage for all other eligible employees plus 3 percentage points.

"(B) MULTIPLE PLANS TREATED AS A SINGLE PLAN.—If 2 or more plans of an employer to which matching contributions, employee contributions, or elective contributions are made are treated as 1 plan for purposes of section 410(b), such plans shall be treated as 1 plan for purposes of this subsection. If a highly compensated employee participates in 2 or more plans of an employer to which such contributions are made, all such contributions shall be aggregated for purposes of this subsection.

"(3) CONTRIBUTION PERCENTAGE.—For purposes of paragraph (2), the contribution percentage for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

"(A) the sum of the matching contributions and employee contributions paid under the plan on behalf of each such employee for such plan year, to

"(B) the employee's compensation for such plan year (determined under the last sentence of subsection (k)(3)(B)).

Under regulations, an employer may elect to take into account in computing the contribution percentage any elective contributions and qualified nonelective contributions under the plan or any other plan of the employer.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) MATCHING CONTRIBUTION.—The term 'matching contribution' means—

"(i) any employer contribution made to a plan on behalf of an employee on account of an employee contribution made by such employee, and

"(ii) any employer contribution made to a plan on behalf of an employee on account of an employee's elective contribution under a qualified cash or deferred arrangement under section 401(k).

"(B) ELECTIVE CONTRIBUTION.—The term 'elective contribution' means any elective employer contribution made pursuant to an employee's election under a qualified cash or deferred arrangement under subsection (k) to the extent such contribution is taken into account in computing the employee's actual deferral percentage under subsection (k).

"(C) QUALIFIED NONELECTIVE CONTRIBUTIONS.—The term 'qualified nonelective contribution' means any employer contribution (other than a matching contribution) with respect to which—

"(i) the employee may not elect to have the contribution paid to the employee in cash instead of being contributed to the plan, and

"(ii) the requirements of section 401(k)(2)(B) and (C) are met.

"(5) EMPLOYEES TAKEN INTO CONSIDERATION.—

"(A) IN GENERAL.—Any employee who is eligible to make an employee contribution (or, if the employer takes elective contributions into account, elective contributions) or to receive a matching contribution under the plan being tested under paragraph (1) shall be considered an eligible employee for purposes of this subsection.

"(B) CERTAIN NONPARTICIPANTS.—If an employee contribution is required as a condition of participation in the plan, any employee who would be a participant in the plan if such employee made such a contribution shall be treated as an eligible employee on behalf of whom no employer contributions are made.

"(6) PLAN NOT DISQUALIFIED IF EXCESS AGGREGATE CONTRIBUTIONS DISTRIBUTED BEFORE END OF FOLLOWING PLAN YEAR.—

"(A) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) for any plan year if the amount of the excess aggregate contributions for such plan year (and any income allocable to such contributions) is distributed (or, if forfeitable, is forfeited) by such plan before the close of the following plan year. Such contributions (and such income) may be distributed without regard to any other provision of law.

"(B) EXCESS AGGREGATE CONTRIBUTIONS.—For purposes of subparagraph (A), the term 'excess aggregate contributions' means, with respect to any plan year, the excess of—

"(i) the aggregate amount of the matching contributions and employee contributions (and any qualified nonelective contribution or elective contribution taken into account in computing the contribution percentage) actually paid on behalf of highly compensated employees for such plan year, over

"(ii) the maximum amount of such contributions permitted under the limitations of paragraph (2)(A) (determined by reducing contributions made on behalf of highly compensated employees in order of their contribution percentages beginning with the highest of such percentages).

"(C) METHOD OF DISTRIBUTING EXCESS CONTRIBUTIONS.—Any distribution of the excess aggregate contributions for any plan year shall be made to highly compensated employees on the basis of the respective portions of such amounts attributable to each of such employees. Forfeiture of excess aggregate contributions may not be allocated to participants whose contributions are reduced under this paragraph.

"(D) COORDINATION WITH SUBSECTION (k).—The determination of the amount of excess aggregate contributions with respect to a plan shall be made after the determination of excess contributions under subsection (k).

"(7) TREATMENT OF DISTRIBUTIONS.—

"(A) ADDITIONAL TAX OF SECTION 72(t) NOT APPLICABLE.—No tax shall be imposed under section 72(t) on any amount required to be distributed under paragraph (8).

"(B) EXCLUSION OF EMPLOYEE CONTRIBUTIONS.—Any distribution attributable to employee contributions shall not be included in gross income except to the extent attributable to income on such contributions.

"(8) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given to such term by section 414(q).

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection (or subsection (k)) including regulations permitting appropriate aggregation of plans and contributions for purposes of this subsection and subsection (k).

"(10) CROSS REFERENCE.—

"For excise tax on certain excess contributions, see section 4979."

(b) EXCISE TAX ON EXCESS CONTRIBUTIONS.—

(1) IN GENERAL.—Chapter 43 (relating to qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 4979. TAX ON CERTAIN EXCESS CONTRIBUTIONS.

"(a) GENERAL RULE.—In the case of any plan, there is hereby imposed a tax for the taxable year equal to 10 percent of the sum of—

"(1) any excess contributions under a cash or deferred arrangement which is part of such plan for the plan year ending in such taxable year,

"(2) any excess aggregate contributions under the plan for the plan year ending in such taxable year, and

"(3) any excess contributions under a simplified employee pension which are part of such plan for the plan year ending in such taxable year.

"(b) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the employer.

"(c) EXCESS CONTRIBUTIONS.—For purposes of this section, the term 'excess contributions' has the meaning given such term by sections 401(k)(8)(B) and 408(k)(6)(C).

"(d) EXCESS AGGREGATE CONTRIBUTION.—For purposes of this section, the term 'excess aggregate contribution' has the meaning given to such term by section 401(m)(6)(B).

"(e) PLAN.—For purposes of this section, the term 'plan' means—

"(1) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) any annuity plan described in section 403(a), and

"(3)(a) simplified employee pension of an employer which satisfies the requirements of section 408(k).

Such term includes any plan which, at any time, has been determined by the Secretary to be such a plan.

"(f) NO TAX WHERE EXCESS DISTRIBUTED WITHIN 2½ MONTHS OF CLOSE OF YEAR.—

"(1) IN GENERAL.—No tax shall be imposed under this section on any excess contribution or excess aggregate contribution, as the case may be, to the extent such contribution (together with any income allocable thereto) is distributed (or, if forfeitable, is forfeited) before the close of the first 2½ months of the following plan year.

"(2) INCLUDED IN PRIOR YEAR.—Any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year in which such contribution was made."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4979. Tax on certain excess contributions."

(c) TECHNICAL AMENDMENT.—Paragraph (2) of section 414(k) (relating to certain plans) is amended by striking out "and 415 (relating to limitations on benefits and contributions under qualified plans)" and inserting in lieu thereof ", 415 (relating to limitations on benefits and contributions under qualified plans), 401(m) (relating to nondiscrimination tests for matching requirements and employee contributions)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1988.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 1989, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(B) January 1, 1991.

SEC. 1218. BENEFITS TREATED AS ACCRUING RATABLY FOR PURPOSES OF DETERMINING WHETHER PLAN IS TOP-HEAVY.

(a) GENERAL RULE.—Paragraph (4) of section 416(g) (defining top-heavy plan) is amended by adding at the end thereof the following new subparagraph:

"(F) ACCRUED BENEFITS TREATED AS ACCRUING RATABLY.—The accrued benefit of any employee (other than a key employee) shall be determined as if such benefit accrued not more rapidly than the slowest accrual rate permitted under section 411(b)(1)(C)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1986.

SEC. 1219. MODIFICATION OF RULES FOR BENEFIT FORFEITURES.

(a) GENERAL RULE.—Paragraph (8) of section 401(a) (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by striking out "pension plan" and inserting in lieu thereof "defined benefit plan".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1985.

PART III—TREATMENT OF DISTRIBUTIONS

SEC. 1221. MINIMUM DISTRIBUTION REQUIREMENTS.

(a) EXCISE TAX ON FAILURE TO DISTRIBUTE.—

(1) IN GENERAL.—Section 4974 is amended to read as follows:

"SEC. 4974. EXCISE TAX ON CERTAIN ACCUMULATIONS IN QUALIFIED RETIREMENT PLANS.

"(a) GENERAL RULE.—If the amount distributed during the taxable year of the payee under any qualified retirement plan is less than the minimum required distribution for such taxable year, there is hereby imposed a tax equal to 50 percent of the amount by which such minimum required distribution exceeds the actual amount distributed during the taxable year. The tax imposed by this section shall be paid by the payee.

"(b) MINIMUM REQUIRED DISTRIBUTION.—For purposes of this section, the term 'minimum required distribution' means the minimum amount required to be distributed during a taxable year under section 401(a)(9), 408(a)(6), or 408(b)(3), as the case may be, as determined under regulations prescribed by the Secretary.

"(c) QUALIFIED RETIREMENT PLAN.—For purposes of this section, the term 'qualified retirement plan' means—

"(1) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) an annuity plan described in section 403(a),

"(3) an individual retirement account described in section 408(a), or

"(4) an individual retirement annuity described in section 408(b).

Such term includes any plan, contract, account, or annuity which, at any time, has been determined by the Secretary to be such a plan, contract, account, or annuity.

"(d) WAIVER OF TAX IN CERTAIN CASES.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(1) the shortfall described in subsection (a) in the amount distributed during any taxable year was due to reasonable error, and

"(2) reasonable steps are being taken to remedy the shortfall,

the Secretary may waive the tax imposed by subsection (a) for the taxable year."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by striking out the item relating to section 4974 and inserting in lieu thereof the following:

"Sec. 4974. Excise tax on certain accumulations in qualified retirement plans."

(b) UNIFORM REQUIRED BEGINNING DATE.—Subparagraph (C) of section 401(a)(9) (defining required beginning date) is amended by striking out the second sentence and inserting in lieu thereof the following: "Clause (ii) shall not apply in the case of an owner of an individual retirement account or annuity or an employee who is a highly compensated employee (as defined in section 414(q)) for any plan year ending in a calendar year after the calendar year in which the employee attains age 65½."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (F) of section 402(a)(5) is amended to read as follows:

"(F) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer described in subparagraph (A) to an eligible retirement plan described in subclause (I) or (II) of subparagraph (E)(iv) shall be treated as a rollover contribution described in section 408(d)(3)."

(2) Clause (ii) of section 408(d)(3)(A) is amended by striking out the third and fourth parenthetical phrases.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1986.

(2) TRANSITION RULE.—The amendments made by this section shall not apply with respect to any benefits with respect to which a designation is in effect under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 1222. TAXATION OF DISTRIBUTIONS.

(a) LIMITATIONS ON SPECIAL AVERAGING PROVISIONS.—

(1) AVERAGING PROVISIONS LIMITED TO 1 LUMP SUM DISTRIBUTION AFTER AGE 59½.—Subparagraph (B) of section 402(e)(4) (relating to election of lump sum treatment) is amended to read as follows:

"(B) AVERAGING TO APPLY TO 1 LUMP SUM DISTRIBUTION AFTER AGE 59½.—Paragraph (1) shall apply to a lump sum distribution with respect to an employee under subparagraph (A) only if—

"(i) such amount is received on or after the taxpayer has attained age 59½, and

"(ii) the taxpayer elects for the taxable year to have all such amounts received during such taxable year so treated.

Not more than 1 election may be made under this subparagraph with respect to any employee. No election may be made under this subparagraph by any taxpayer other than an individual, an estate, or a trust. In the case of a lump sum distribution made with respect to an employee from 2 or more trusts, the election under this subparagraph shall be made by the personal representative of the taxpayer."

(2) 5-YEAR AVERAGING IN LIEU OF 10-YEAR AVERAGING.—Subparagraph (C) of section 402(e)(1) (relating to initial separate tax) is amended—

(A) by striking out "10 times" and inserting in lieu thereof "5 times", and

(B) by striking out "one-tenth" and inserting in lieu thereof "⅕".

(b) REPEAL OF CAPITAL GAINS TREATMENT.—

(1) IN GENERAL.—The following provisions are hereby repealed:

(A) Paragraph (2) of section 402(a) (relating to capital gains treatment for portion of lump sum distribution).

(B) Paragraph (2) of section 403(a) (relating to capital gains treatment for certain distributions).

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 402(e) is amended—

(i) by striking out subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively, and

(ii) by striking out "The initial separate tax" in subparagraph (B) (as so redesignated) and inserting in lieu thereof "The amount of tax imposed by subparagraph (A)", and

(iii) by striking out "INITIAL SEPARATE" in the heading of subparagraph (B) (as so redesignated) and inserting in lieu thereof "AMOUNT OF TAX".

(B) Paragraph (3) of section 402(e) is amended by striking out "the ordinary income portion" and inserting in lieu thereof "total taxable amount".

(C) Paragraph (4) of section 402(e) is amended by striking out subparagraph (E).

(D) Subparagraph (H) of section 402(e)(4) is amended by striking out "(but not for purposes of subsection (a)(2) or section 403(a)(2)(A))".

(c) AMENDMENTS TO SECTION 72.—

(1) REPEAL OF SPECIAL RULE FOR EMPLOYEES' ANNUITIES.—Subsection (d) of section 72 (relating to employee's annuities where employee's contributions recoverable in 3 years) is hereby repealed.

(2) AMOUNT EXCLUDED UNDER EXCLUSION RATIO LIMITED TO EMPLOYEE'S INVESTMENT IN THE CONTRACT.—Subsection (b) of section 72 (relating to exclusion ratio) is amended to read as follows:

"(b) EXCLUSION RATIO.—

"(1) IN GENERAL.—Gross income does not include that part of any amount received as an annuity under an annuity, endowment, or life insurance contract which bears the same ratio to such amount as the investment in the contract (as of the annuity starting date) bears to the expected return under the contract (as of such date).

"(2) EXCLUSION LIMITED TO INVESTMENT.—The portion of any amount received as an annuity which is excluded from gross income under paragraph (1) shall not exceed the unrecovered investment in the contract immediately before the receipt of such amount.

"(3) DEDUCTION WHERE ANNUITY PAYMENTS CEASE BEFORE ENTIRE INVESTMENT RECOVERED.—If—

"(A) after the annuity starting date, payments as an annuity under the contract cease by reason of the death of an annuitant, and

"(B) as of the date of such cessation, there is unrecovered investment in the contract,

the amount of such unrecovered investment (in excess of any amount specified in subsection (e)(5) not included in gross income) shall be allowed as a deduction to the annuitant for his last taxable year (or where the contract provides for payments meeting the requirements of subparagraphs (B) and (C) of subsection (c)(2), to the person entitled to such payments). For purposes of section 172, a deduction allowed under the preceding sentence shall be treated as if it were attributable to a trade or business of the taxpayer.

"(4) UNRECOVERED INVESTMENT.—For purposes of this subsection, the unrecovered investment in the contract as of any date is—

"(A) the investment in the contract as of the annuity starting date, reduced by

"(B) the aggregate amount received under the contract on or after such annuity starting date and before the date as of which the determination is being made, to the extent such amount was excludable from gross income under this subtitle."

(3) AMOUNTS NOT RECEIVED AS ANNUITIES ALLOCATED ON A PRO RATA BASIS.—

(A) IN GENERAL.—Subsection (e) of section 72 is amended by adding at the end thereof the following new paragraph:

"(8) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED PLANS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, in the case of any amount received before the annuity starting date from a trust or contract described in paragraph (5)(D) (other than clause (ii)(III)), paragraph (2)(B) shall apply to such amounts.

"(B) ALLOCATION OF AMOUNT RECEIVED.—For purposes of paragraph (2)(B), the amount allocated to the investment in the contract shall be the portion of the amount described in subparagraph (A) which bears the same ratio to such amount as the investment in the contract bears to the account balance. The determination under the preceding sentence shall be made as of the time of the distribution or at such other time as the Secretary may prescribe.

"(C) TREATMENT OF FORFEITABLE RIGHTS.—Any amount under any trust or contract to which subparagraph (A) applies with respect to which an employee does not have a nonforfeitable right shall not be treated as income allocable to the trust or contract.

"(D) INVESTMENT ON CONTRACT BEFORE 1987.—In the case of a plan which on May 5, 1986, permitted withdrawal of employee contributions before separation from service, subparagraph (A) shall apply only to the extent that amounts received before the annuity starting date (when increased by amounts previously received under the contract after December 31, 1986) exceed the investment in the contract as of December 31, 1986."

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 72(e)(5) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraphs (7) and (8)".

(d) BENEFICIARY OF QUALIFIED ANNUITIES TAXED ONLY WHEN AMOUNTS ACTUALLY RECEIVED.—

(1) Paragraph (1) of section 403(a) (relating to taxability of beneficiary under a qualified annuity plan) is amended to read as follows:

"(1) DISTRIBUTEE TAXABLE UNDER SECTION 72.—If an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of section 404(a)(2) (whether or not the employer deducts the amounts paid for the contract under such section), the amount actually distributed to any distributee under the contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities)."

(2) The second sentence of section 403(b)(1) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended to read as follows: "The amount actually distributed to any distributee under such contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities)."

(3) The last sentence of section 403(c) (relating to taxability of beneficiary under nonqualified annuities or under annuities purchased by exempt organizations) is amended to read as follows: "Except in the case of a contract to which subsection (a) applies, the amount actually paid or made available to any beneficiary under such contract shall be taxable to the beneficiary (in the year in which so paid or made available) under section 72 (relating to annuities)."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts distributed after December 31, 1986, in taxable years ending after such date.

(2) REPEAL OF SPECIAL RULE FOR EMPLOYEES' ANNUITIES.—

(A) IN GENERAL.—The amendment made by subsection (c)(1) shall apply to individuals whose annuity starting date is after January 1, 1989.

(B) INDIVIDUALS RETIRING IN 1988.—In the case of any individual whose annuity starting date is after January 1, 1988, and before January 2, 1989—

(i) eligibility for application of section 72(d) of the Internal Revenue Code of 1954 shall be determined by reference to the individual's investment in the contract, but if such individual is so eligible, section 72 of such Code shall only apply to 50 percent of such individual's investment in the contract, and

(ii) the amendment made by subsection (c)(1) shall apply to any amount to which clause (i) does not apply.

(3) SPECIAL RULE FOR INDIVIDUALS WHO ATTAIN AGE 50 BEFORE JANUARY 1, 1986.—

(A) IN GENERAL.—In the case of a lump sum distribution to which this paragraph applies—

(i) the existing capital gains provisions shall continue to apply, and

(ii) the requirement of subparagraph (B) of section 402(e)(4) of the Internal Revenue Code of 1954 (as amended by subsection (a)) that the distribution be received after attaining age 59½ shall not apply.

(B) LUMP SUM DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any lump sum distribution if—

(i) such lump sum distribution is received by an individual who has attained age 50 before January 1, 1986, and

(ii) the taxpayer makes an election under this paragraph.

Not more than 1 election may be made under this paragraph with respect to any lump sum distribution payable with respect to an employee. An election under this subparagraph shall be treated as an election under section 402(e)(4)(B) of such Code.

(4) 5-YEAR PHASE-OUT OF CAPITAL GAINS TREATMENT.—

(A) Notwithstanding the amendment made by subsection (b), if the taxpayer elects the application of this paragraph with respect to any distribution after December 31, 1986, and before January 1, 1992, the phase-out percentage of the amount which would have been treated, without regard to this subparagraph, as long-term capital gain under the existing capital gains provisions shall be treated as long-term capital gain.

(B) For purposes of this paragraph—

In the case of distributions during calendar year:	The phase-out percentage is:
1987	100
1988	95
1989	75
1990	50
1991	25.

(5) ELECTION OF 10-YEAR AVERAGING.—An individual who has attained age 50 before January 1, 1986, and elects the application of paragraph (3) or section 402(e)(1) of such Code (as amended by this Act) may elect to have such section applied by substituting "10 times" for "5 times" and "$^{9}/_{10}$" for "$^{9}/_{5}$" in subparagraph (C) thereof. For purposes of the preceding sentence, such section 402(e)(1) shall be applied by using the rate of tax in effect under section 1 of the Internal Revenue Code of 1954 for taxable years beginning during 1986.

(6) EXISTING CAPITAL GAIN PROVISIONS.—For purposes of paragraphs (3) and (4), the term 'existing capital gains provisions' means the provisions of paragraph (2) of section 402(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) and paragraph (3) of section 403(a) of such Code (as so in effect).

SEC. 1223. UNIFORM ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.

(a) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (t) as subsection (u) and by inserting after subsection (s) the following new subsection:

"(t) 15-PERCENT ADDITIONAL TAX ON EARLY DISTRIBUTIONS FROM QUALIFIED RETIREMENT PLANS.—

"(1) IMPOSITION OF ADDITIONAL TAX.—

"(A) IN GENERAL.—If any taxpayer receives any amount from a qualified retirement plan (as defined in section 4974(c)), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 15 percent of the portion of such amount which is includible in gross income.

"(B) SPECIAL RULE FOR INCOME ALLOCABLE TO EMPLOYEE CONTRIBUTIONS.—In the case of any distribution of income allocable to employee contributions or to any designated nondeductible contribution (as defined in section 408(o)(2)(C)), subparagraph (A) shall be applied by substituting '10 percent' for '15 percent'. For purposes of this subparagraph, matching contributions (as defined in section 401(m)) attributable to employee contributions (and the income on such matching contributions) shall be treated as income allocable to employee contributions.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—Except as provided in paragraph (5), paragraph (1) shall not apply to any of the following distributions:

"(A) IN GENERAL.—Distributions which are—

"(i) made on or after the date on which the employee attains age 59½,

"(ii) made to a beneficiary (or to the estate of the employee) on or after the death of the employee,

"(iii) attributable to the employee's being disabled within the meaning of subsection (m)(7),

"(iv) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life of the employee (or the joint lives of such employee and his beneficiary), or

"(v) made to an employee after attainment of age 55 and after separation from service on account of early retirement under the plan.

"(B) MEDICAL, CASUALTY, AND UNEMPLOYMENT EXPENSES.—Distributions made to the employee (other than distributions described in subparagraph (A) or (C)) which do not exceed the sum of—

"(i) any amount allowable as a deduction under section 213 to the employee for amounts paid during the taxable year for medical care,

"(ii) any amount allowable as a deduction under section 165(h) for casualty losses incurred by the employee during such taxable year, and

"(iii) in the case of an employee whose unemployment benefits have terminated after an involuntary termination of employment and who remains unemployed, the amounts which would have been paid during any continuous period during such taxable year beginning with the date of termination if such benefits had been continued,

For purposes of this subparagraph, sections 213(a) and 165(h)(2)(A)(ii) shall be applied by substituting '5 percent' for '10 percent'.

"(C) CERTAIN PLANS.—Any distribution made to an employee from an employee stock ownership plan defined in section 4975(e)(7) or which meets the requirements of section 409 to the extent that, on average, a majority of assets in the plan have been invested in employer securities (as defined in section 409(l)) for the plan year and the 4 preceding plan years.

"(3) CHANGE IN SUBSTANTIALLY EQUAL PAYMENTS.—If—

"(A) paragraph (1) does not apply to a distribution by reason of paragraph (2)(A)(iv), and

"(B) the series of payments under such paragraph are subsequently modified before age 59½,

the taxpayer's tax for the 1st taxable year in which such modification occurs shall be increased by an amount, determined under regulations, equal to the tax which, but for paragraph (2)(A)(iv), would have been imposed, plus interest for the deferral period.

"(4) EMPLOYEE.—For purposes of this subsection, the term 'employee' includes any participant, and in the case of an individual retirement account or annuity, the individual for whose benefit such account or annuity was established.

"(5) LIMITATIONS.—Subparagraphs (A)(v) and (B) of paragraph (2) shall not apply to—

"(A) distributions from an individual retirement account or an individual retirement annuity, and

"(B) distributions to individuals who at any time during the plan year in which the distribution is received or the preceding 4 plan years was a 5-percent owner (as defined in section 416(i)(1)(B)).".

(b) CONFORMING CHANGES TO TAX ON PREMATURE DISTRIBUTIONS FROM ANNUITY CONTRACTS.—

(1) Subparagraph (D) of section 72(q)(2) is amended to read as follows:

"(D) which is a part of a series of substantially equal periodic payments (not less frequently than annually) made for the life of the taxpayer (or the joint lives of such taxpayer and his beneficiary).".

(2) Section 72(q) is amended by adding at the end thereof the following new paragraph:

"(3) CHANGE IN SUBSTANTIALLY EQUAL PAYMENTS.—If—

"(A) paragraph (1) does not apply to a distribution by reason of paragraph (2)(D), and

"(B) the series of payments under such paragraph are subsequently modified before age 59½,

the taxpayer's tax for the 1st taxable year in which such modification occurs shall be increased by an amount, determined under regulations, equal to the tax which, but for paragraph (2)(D), would have been imposed, plus interest for the deferral period.".

(3) Paragraph (2) of section 72(q) is amended by striking out "This subsection" and inserting in lieu thereof "Paragraph (1)".

(c) TRANSFERS FROM QUALIFIED PLAN TO INDIVIDUAL RETIREMENT PLANS OR OTHER QUALIFIED PLANS.—

(1) EMPLOYER MUST PROVIDE EMPLOYEE WITH TRANSFER OPTION.—Section 402 is amended by adding at the end thereof the following new subsection:

"(g) TRANSFER FROM PLANS.—

"(1) GENERAL RULE.—In the case of an individual who separates from service, the employer of such individual shall provide such individual with an option to elect to have the present value of the individual's nonforfeitable accrued benefit transferred to an eligible retirement plan (as defined in paragraph (5)(E)(iv)).

"(2) OPTION NOT AVAILABLE WHERE EMPLOYEE'S BENEFIT NOT DISTRIBUTABLE.—Paragraph (1) shall not apply to the extent that the employee's benefits may not be distributed under the terms of the plan.

"(3) EMPLOYEE MUST PROVIDE INFORMATION TO EMPLOYER.—Paragraph (1) shall not apply unless an employee provides any information necessary to enable the employer to make the transfer elected by the employee under such paragraph."

(2) NOTICE OF PENALTY.—Section 402(f)(1) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking out "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) the tax under section 72(s) if the recipient fails to make a qualifying rollover distribution."

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 72(m)(5) is amended to read as follows:

"(A) This paragraph applies to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by an individual who is, or has been, a 5-percent owner, or by a successor of such an individual, but only to the extent such amounts are determined, under regulations prescribed by the Secretary, to exceed the benefits provided for such individual under the plan formula."

(2) Subsection (f) of section 408 is hereby repealed.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) EXCEPTION WHERE DISTRIBUTION COMMENCES.—The amendments made by this section shall not apply to distributions to any employee from a plan maintained by any employer if—

(A) as of March 1, 1986, the employee separated from service with the employer,

(B) as of March 1, 1986, the accrued benefit of the employee was in pay status pursuant to a written election providing a specific schedule for the distribution of the entire accrued benefit of the employee, and

(C) such distribution is made pursuant to such written election.

(3) TRANSITION RULE.—The amendments made by this section shall not apply with respect to any benefits with respect to which a designation is in effect under section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982.

PART IV—MISCELLANEOUS PROVISIONS

SEC. 1231. ADJUSTMENTS TO SECTION 404 LIMITATIONS.

(a) ELIMINATION OF LIMIT CARRYFORWARD OF SECTION 404(a)(3)(A).—Subparagraph (A) of section 404(a)(3) (relating to limits on deductible contributions to stock bonus and profit-sharing trusts) is amended to read as follows:

"(A) LIMITS ON DEDUCTIBLE CONTRIBUTIONS.—

"(i) IN GENERAL.—In the taxable year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such taxable year ends within or with a taxable year of the trust with respect to which the trust is exempt under section 501(a), in an amount not in excess of 15 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the stock bonus or profit-sharing plan.

"(ii) CARRYOVER OF EXCESS CONTRIBUTIONS.—Any amount paid into the trust in any taxable year in excess of the limitation of clause (i) (or the corresponding provision of prior law) shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this clause in any 1 such succeeding taxable year together with the amount allowable under clause (i) shall not exceed 15 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plan.

"(iii) CERTAIN RETIREMENT PLANS EXCLUDED.—For purposes of this subparagraph, the term 'stock bonus or profit-sharing trust' shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determined actuarially as provided in paragraph (1).

"(iv) 2 OR MORE TRUSTS TREATED AS 1 TRUST.—If the contributions are made to 2 or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for purposes of applying the limitations in this subparagraph.

"(v) PRE-87 LIMITATION CARRYFORWARDS.—

"(I) IN GENERAL.—The limitation of clause (i) for any taxable year shall be increased by the unused pre-87 limitation carryforwards (but not to an amount in excess of 25 percent of the compensation described in clause (i)).

"(II) UNUSED PRE-87 LIMITATION CARRYFORWARDS.—For purposes of subclause (I), the term 'unused pre-87 limitation carryforwards' means the amount by which the limitation of the first sentence of this subparagraph (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for any taxable year beginning before January 1, 1987, exceeded the amount paid to the trust for such taxable year (to the extent such excess was not taken into account in prior taxable years)."

(b) COMBINED LIMIT TO APPLY TO COMBINATIONS OF DEFINED CONTRIBUTION PLANS AND DEFINED BENEFIT PLANS.—Paragraph (7) of section 404(a) is amended to read as follows:

"(7) LIMITATION ON DEDUCTIONS WHERE COMBINATION OF DEFINED CONTRIBUTION PLAN AND DEFINED BENEFIT PLAN.—

"(A) IN GENERAL.—If amounts are deductible under the foregoing provisions of this subsection (other than paragraph (5)) in connection with 1 or more defined contribution plans and 1 or more defined benefit plans, the total amount deductible in a taxable year under such plans shall not exceed the greater of—

"(i) 25 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans, or

"(ii) the amount of contributions made to or under the defined benefit plans to the extent such contributions do not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 412 with respect to any such defined benefit plans for the plan year which ends with or within such taxable year (or for any prior plan year).

A defined contribution plan which is a pension plan shall not be treated as failing to provide definitely determinable benefits merely by limiting employer contributions to amounts deductible under this section.

"(B) CARRYOVER OF EXCESS CONTRIBUTIONS.—Any amount paid under the plans in any taxable year in excess of the limitation of subparagraph (A) shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this subparagraph in any 1 such succeeding taxable year together with the amount allowable under subparagraph (A) shall not exceed 25 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries under the plans.

"(C) PARAGRAPH NOT TO APPLY IN CERTAIN CASES.—This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no employee is a beneficiary under more than 1 trust or under a trust and an annuity plan.

"(D) SECTION 412(i) PLANS.—For purposes of this paragraph, any plan described in section 412(i) shall be treated as a defined benefit plan."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1232. EXCISE TAX ON REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER.

(a) GENERAL RULE.—Chapter 43 (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980. TAX ON REVERSION OF QUALIFIED PLAN ASSETS TO EMPLOYER.

"(a) IMPOSITION OF TAX.—There is hereby imposed a tax of 10 percent of the amount of any employer reversion from a qualified plan.

"(b) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person receiving the reversion.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PLAN.—The term 'qualified plan' means any plan meeting the requirements of section 401(a), other than a plan maintained by an employer if such employer has, at all times, been exempt from tax under section 501(a). Such term shall include any plan which, at any time, has been determined by the Secretary to be such a plan.

"(2) EMPLOYER REVERSION.—The term 'employer reversion' means the amount of cash and the fair market value of other property received (directly or indirectly) by an employer from the qualified plan. Except as provided in section 401(a)(2) or in regulations, such term shall not include any amount distributed to or on behalf of any employee (or his beneficiaries) if such amount could have been so distributed before termination of such plan without violating any provision of section 401.

"(3) EXCEPTION FOR EMPLOYEE STOCK OWNERSHIP PLANS.—If, upon termination of a qualified plan—

"(A) any amount is transferred from such plan to an employee stock ownership plan described in section 4975(e)(7) or which meets the requirements of section 409,

"(B) within 90 days after such transfer (or such longer period as the Secretary may prescribe), such amount is invested in employer securities (as defined in section 409(l)) or used to repay loans used to purchase such securities,

"(C) that portion of such amount as is not allocated under the plan to accounts of participants in the plan year in which such transfer occurs is—

"(i) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over a period not to exceed 7 years, and

"(ii) when allocated to accounts of participants under the plan, is treated as an employer contribution for purposes of section 415(c), except that—

"(I) the value of the employer securities attributable to each such allocation shall not exceed the value of such securities as of the time such securities were credited to such suspense account, and

"(II) no additional employer contributions shall be permitted to an employee stock ownership plan described in subparagraph (A) of the employer before the allocation of such amount, and

"(D) at least half of the participants in such qualified plan are participants in such employee stock ownership plan (as of the close of the 1st plan year for which an allocation of such securities is required),

such amount shall not be includible in the gross income of the employer if, under the plan, such employer securities must remain in the plan until distribution to participants in accordance with the provisions of such plan."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4980. Tax on reversion of qualified plan assets to employer."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to reversions occurring after December 31, 1985.

(2) EXCEPTION WHERE TERMINATION DATE OCCURRED BEFORE JANUARY 1, 1986.—The amendments made by this section shall not apply to any reversion after December 31, 1985, which occurs pursuant to a plan termination where the termination date is before January 1, 1986.

(3) TERMINATION DATE.—For purposes of paragraph (2), the term "termination date" is the date of the termination of the plan.

(4) TRANSITION RULE FOR CERTAIN TERMINATIONS.—

(A) IN GENERAL.—In the case of a taxpayer to which this paragraph applies, the amendments made by this section shall not apply to any termination within 1 year after the date of enactment.

(B) TAXPAYER TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

SEC. 1233. TREATMENT OF LOANS.

(a) $50,000 LIMITATION REDUCED BY BALANCE OF CERTAIN PRECEDING LOANS.—Clause (i) of section 72(p)(2)(A) (relating to exceptions for certain loans) is amended to read as follows:

"(i) $50,000 reduced by the highest outstanding balance of loans from the plan during the 1-year period ending on the day before the date on which such loan was made, or".

(b) EXCEPTION FOR HOME LOANS LIMITED TO ACQUISITION OF PRINCIPAL RESIDENCE.—Clause (ii) of section 72(p)(2)(B) is amended to read as follows:

"(ii) EXCEPTION FOR HOME LOANS.—Clause (i) shall not apply to any loan used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as the principal residence of the participant or of a lineal descendant of the participant."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made, renewed, renegotiated, modified, or extended after December 31, 1986.

SEC. 1234. DEFERRED ANNUITIES AVAILABLE ONLY TO NATURAL PERSONS.

(a) GENERAL RULE.—Section 72, as amended by section 1223, is amended by redesignating subsection (u) as subsection (v) and by inserting after subsection (t) the following new subsection:

"(u) TREATMENT OF ANNUITY CONTRACTS NOT HELD BY NATURAL PERSONS.—

"(1) IN GENERAL.—If any annuity contract is held by a person who is not a natural person—

"(A) such contract shall not be treated as an annuity contract for purposes of this subtitle, and

"(B) the income on the contract for any taxable year of the policyholder shall be treated as ordinary income received or accrued by the owner during such taxable year.

For purposes of this paragraph, holding by a trust or other entity as an agent for a natural person shall not be taken into account.

"(2) INCOME ON THE CONTRACT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'income on the contract' means, with respect to any taxable year of the policyholder, the excess of—

"(i) the sum of the net surrender value of the contract as of the close of the taxable year plus all distributions under the contract received during the taxable year or any prior taxable year, reduced by

"(ii) the sum of the amount of net premiums under the contract for the taxable year and prior taxable years and amounts includible in gross income for prior taxable years with respect to such contract under this subsection.

Where necessary to prevent the avoidance of this subsection, the Secretary may substitute 'fair market value of the contract' for 'net surrender value of the contract' each place it appears in the preceding sentence.

"(B) NET PREMIUMS.—For purposes of this paragraph, the term 'net premiums' means the amount of premiums paid under the contract reduced by any policyholder dividends.

"(3) EXCEPTIONS.—This subsection shall not apply to any annuity contract which—

"(A) is acquired by the estate of a decedent by reason of the death of the decedent, or

"(B) is held under a plan described in section 401(a) or 403(a), under a program described in section 403(b), or under an individual retirement plan."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contributions to annuity contracts after February 28, 1986.

SEC. 1235. PROFITS NOT REQUIRED FOR PROFIT-SHARING PLANS.

(a) IN GENERAL.—Subsection (a) of section 401, as amended by section 1212(b), is amended by inserting after paragraph (26) the following new paragraph:

"(27) The determination of whether the plan under which any contributions are made is a profit-sharing plan shall be made without regard to current or accumulated profits of the employer and without regard to whether the employer is a tax-exempt organization."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1986.

SEC. 1236. REQUIREMENT THAT COLLECTIVE BARGAINING AGREEMENTS BE BONA FIDE.

Paragraph (46) of section 7701(a) (relating to determination of whether there is a collective bargaining agreement) is amended by adding at the end thereof the following new sentence: "An agreement shall not be treated as a collective bargaining agreement unless it is a bona fide agreement between bona fide employee representatives and 1 or more employers."

SEC. 1237. TREATMENT OF CERTAIN FISHERMEN AS SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Section 401(c) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN FISHERMEN.—For purposes of this subsection, the term 'self-employed individual' includes an individual described in section 3121(b)(20) (relating to certain fishermen)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 1238. INTEREST RATE ASSUMPTIONS.

(a) IN GENERAL.—Subparagraph (B) of section 411(a)(11) is amended to read as follows:

"(B) DETERMINATION OF PRESENT VALUE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the present value shall be calculated—

"(I) by using the applicable interest rate to the extent the accrued benefit (using such rate) is not in excess of $3,500, and

"(II) by using 120 percent of the applicable interest rate with respect to any portion of the accrued benefit in excess of $3,500 (as determined under subclause (I)).

"(ii) APPLICABLE INTEREST RATE.—For purposes of clause (i), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination."

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 417(e) (relating to determination of present value) is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—For purposes of paragraphs (1) and (2), the present value shall be calculated—

"(i) by using the applicable interest rate to the extent the accrued benefit (using such rate) is not in excess of $3,500, and

"(ii) by using 120 percent of the applicable interest rate with respect to any portion of the accrued benefit in excess of $3,500 (as determined under clause (i)).

"(B) APPLICABLE INTEREST RATE.—For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination."

(c) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 203(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(e)(2)) is amended to read as follows:

"(2)(A) For purposes of paragraph (1), the present value shall be calculated—

"(i) by using the applicable interest rate to the extent the accrued benefit (using such rate) is not in excess of $3,500, and

"(ii) by using 120 percent of the applicable interest rate with respect to any portion of the accrued benefit in excess of $3,500 (as determined under clause (i)).

"(B) For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 205(g) of such Act (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3)(A) For purposes of paragraphs (1) and (2), the present value shall be calculated—

"(i) by using the applicable interest rate to the extent the accrued benefit (using such rate) is not in excess of $3,500, and

"(ii) by using 120 percent of the applicable interest rate with respect to any portion of the accrued benefit in excess of $3,500 (as determined under clause (i)).

"(B) For purposes of subparagraph (A), the term 'applicable interest rate' means the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1984, except that such amendments shall not apply to any distribution after December 31, 1984, and before the date of the enactment of this Act if such distributions were made in accordance with the requirements of the regulations issued under the Retirement Equity Act of 1984.

SEC. 1239. SECRETARY TO DEVELOP SECTION 401(k) PLAN.

The Secretary of the Treasury or his delegate shall, not later than May 1, 1987, develop and publish a model plan for qualified cash and deferred arrangements under section 401(k) of the Internal Revenue Code of 1954, and shall not later than such date begin issuing opinion letters with respect to master and prototype plans for such arrangements.

SEC. 1240. PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989.

(a) IN GENERAL.—If any amendment made by this subchapter requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1989, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to the period after such amendment takes effect and such first plan year.

A pension plan shall not be treated as failing to provide definitely determinable benefits or contributions merely because it operates in accordance with this provision.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, subsection (a) shall be applied by substituting for the first plan year beginning on or after January 1, 1989, the first plan year beginning after the earlier of—

(1) the later of—

(A) January 1, 1989, or

(B) the date on which the last of such collective bargaining agreements terminate (determined without regard to any extension thereof after February 28, 1986), or

(2) January 1, 1991.

SEC. 1241. ISSUANCE OF FINAL REGULATIONS.

The Secretary of the Treasury or his delegate shall issue before February 1, 1988, such final regulations as may be necessary to carry out the amendments made by—

(1) section 1211, relating to application of nondiscrimination rules to integrated plans,

(2) section 1212, relating to coverage requirements for qualified plans,

(3) section 1213, relating to minimum vesting standards,

(4) section 1216, relating to rules for section 401(k) plans, and

(5) section 1217, relating to nondiscrimination requirements for employer matching and employer contribution.

SEC. 1242. ACQUISITION OF GOLD AND SILVER COINS BY INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Section 408(m) (relating to investment in collectibles treated as distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EXCEPTION FOR CERTAIN COINS.—In the case of an individual retirement account, paragraph (2) shall not apply to any gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31 or any silver coin described in section 5112(e) of title 31)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions after December 31, 1986.

SEC. 1243. SPECIAL RULE FOR SECTION 404(c) PLAN.

(a) Section 205 of the ERISA of 1974 is amended by adding thereto a new subsection "(k)" to read as follows:

"(k) The provisions of this section do not apply to a plan that the Secretary of the Treasury has determined is a plan described in Section 404(c) of the Internal Revenue Code of 1954, or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(b) Section 401(a)(11) of the Internal Revenue Code of 1954 is amended by adding thereto a new subparagraph "(E)" to read as follows:

"(E) The provisions of this paragraph do not apply to a plan that the Secretary of the Treasury has determined is a plan described in section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

(c) Section 303 of the Retirement Equity Act of 1984 is amended by adding thereto a new subsection "(f)" to read as follows:

"(f) The requirements of this section do not apply to a plan that the Secretary of the Treasury has determined is a plan described in section 404(c), or a continuation thereof, in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the Plan."

Subtitle B—Employee Benefit Provisions

PART I—NONDISCRIMINATION RULES FOR CERTAIN STATUTORY EMPLOYEE BENEFIT PLANS

SEC. 1251. NONDISCRIMINATION RULES FOR COVERAGE AND BENEFITS UNDER CERTAIN STATUTORY EMPLOYEE BENEFIT PLANS.

(a) GENERAL RULE.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 89. BENEFITS PROVIDED TO HIGHLY COMPENSATED EMPLOYEES UNDER CERTAIN DISCRIMINATORY EMPLOYEE BENEFIT PLANS, ETC.

"(a) INCOME INCLUSION.—Notwithstanding any provision of part III of this subchapter—

"(1) DISCRIMINATORY PLANS.—Gross income for any taxable year of a highly compensated employee who is a participant in a discriminatory employee benefit plan shall include an amount equal to such employee's employer-provided benefit under such plan for such year.

"(2) REQUIREMENT THAT PLAN BE IN WRITING, ETC.—Gross income of an employee for any taxable year shall include an amount equal to such employee's employer-provided benefit under a statutory employee benefit plan for such taxable year unless—

"(A) such plan is in writing,

"(B) the employees' rights under such plan are legally enforceable, and

"(C) such plan was established with the intention of being maintained for an indefinite period of time.

"(b) EMPLOYER-PROVIDED BENEFIT.—For purposes of this section—

"(1) IN GENERAL.—An employee's employer-provided benefit under any statutory employee benefit plan is—

"(A) in the case of an insurance-type plan meeting the requirements of paragraph (2), the value of the coverage provided during the taxable year to or on behalf of such employee, to the extent attributable to contributions made by the employer, or

"(B) in the case of any other plan, the value of the benefits provided during the taxable year to or on behalf of such employee, to the extent attributable to contributions made by the employer.

"(2) SPECIAL RULE FOR HIGHLY COMPENSATED EMPLOYEES.—The employer-provided benefit of any highly compensated employee who is a participant in a discriminatory employee benefit plan shall be equal to the employer-provided benefits to such employee under all plans of the employer described in the same paragraph of subsection (j) as such plan. For purposes of this paragraph, all benefits provided under a cafeteria plan (within the meaning of subsection (f)(3)) shall be treated as described in the same paragraph of subsection (j).

"(c) DISCRIMINATORY EMPLOYEE BENEFIT PLAN.—For purposes of this section, the term 'discriminatory employee benefit plan' means any statutory employee benefit plan (as defined in subsection (j)) or any cafeteria plan (as defined in subsection (f)(3)) unless—

"(1) in the case of a plan described in paragraph (1) or (2) of subsection (j), such plan meets the nondiscriminatory coverage requirements of subsection (d), or

"(2) in the case of any other plan, such plan—

"(A) meets the requirements of subsection (f) (and such other nondiscrimination rules which are not met by meeting the requirements of subsection (f)), or

"(B) if such plan is subject to any nondiscrimination rules other than this section, meets the requirements of such nondiscrimination rules.

"(d) NONDISCRIMINATORY COVERAGE REQUIREMENTS.—

"(1) IN GENERAL.—A plan meets the nondiscriminatory coverage requirements of this subsection for any plan year if the plan—

"(A) benefits a reasonable classification of employees which the Secretary finds does not allow more than a reasonable difference (in favor of highly compensated employees) between the coverage percentage of highly compensated employees and the coverage percentage of other employees, and

"(B) meets the requirements of subparagraphs (A) and (B) of paragraph (3).

"(2) ALTERNATIVE TESTS.—A plan shall be treated as meeting the requirements of paragraph (1) for any plan year if such plan meets the requirements of paragraph (3) and—

"(A) if the plan meets the average benefit requirements of subsection (e),

"(B) if the plan meets the average income exclusion requirements of subsection (f), or

"(C) if the plan benefits at least 80 percent of all employees of the employer.

"(3) BENEFITS TEST.—

"(A) IN GENERAL.—A plan meets the requirement of this subparagraph if not more than 40 percent of the employees benefiting under such plan are highly compensated employees. A plan shall not be treated as failing to meet the requirement of this subparagraph if all employees benefit under the plan.

"(B) GROUP-TERM LIFE.—A plan described in paragraph (1) of subsection (j) meets the requirement of this subparagraph if not more than 25 percent of the value of the coverage provided under the plan is provided to individuals who are, at any time during the current or the preceding year, 5-percent owners (within the meaning of section 416(i)(1)(B)(i)). A plan shall not be treated as failing to meet the requirement of this subparagraph if the plan provides the same dollar amount of coverage for each employee eligible to participate in the plan.

"(e) AVERAGE BENEFIT REQUIREMENTS.—

"(1) IN GENERAL.—A plan meets the average benefit requirements of this subsection with respect to any employer maintaining the plan if—

"(A) the plan meets the requirements of section 410(b)(1)(B) (as in effect immediately before the date of the enactment of the Tax Reform Act of 1986),

"(B) the average benefit provided to employees not covered by an alternative plan is at least 60 percent of the average benefit provided to employees covered by an alternative plan, and

"(C) in the case of a plan described in subsection (j)(2), at least 80 percent of such employer's employees who are not highly compensated employees are eligible to participate in 1 or more plans of the same type and the benefit available to each such employee is at least 40 percent of the average benefits of the alternative plans.

"(2) AVERAGE BENEFIT.—For purposes of this subsection—

"(A) IN GENERAL.—The average benefit provided to employees under a plan shall be determined in such manner as the Secretary may prescribe.

"(B) PERIOD FOR COMPUTING BENEFITS.—At the election of an employer, the average benefit for any plan year shall be computed on the basis of benefits provided during—

"(i) such plan year, or

"(ii) any consecutive plan year period (not greater than 5 years) which ends with such plan year and which is specified in such election.

An election under this subparagraph, once made, may be revoked only with the consent of the Secretary.

"(3) ALTERNATIVE PLAN.—For purposes of this subsection, the term 'alternative plan' means any plan—

"(A) which meets the requirements of paragraph (1)(A), but

"(B) does not meet the requirements of subsection (d)(1) (without regard to this subsection).

"(4) EMPLOYEES IN MORE THAN 1 GROUP.—For purposes of this subsection, rules similar to the rules of section 410(b)(2) (D) and (E) shall apply.

"(5) PLANS OF SAME TYPE.—This subsection shall be applied separately with respect to plans described in paragraphs (1) and (2) of subsection (j) and shall be applied to all plans in either such paragraph on an aggregate basis.

"(f) AVERAGE INCOME EXCLUSION REQUIREMENT.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the employer elects the application of this subsection with respect to all plans of the same type maintained by the employer, and

"(B) the average exclusion ratio for employees of such employer under all such plans of the same type is at least ½.

"(2) AVERAGE EXCLUSION RATIO.—For purposes of this subsection—

"(A) IN GENERAL.—The average exclusion ratio is the ratio which—

"(i) the average exclusion amount for employees other than highly compensated employees, bears to

"(ii) the average exclusion amount for highly compensated employees.

"(B) AVERAGE EXCLUSION AMOUNT.—The term 'average exclusion amount' means, with respect to highly compensated employees, an amount equal to—

"(i) the aggregate amounts excludable under the plans being tested from gross income of highly compensated employees, divided by

"(ii) the number of highly compensated employees.

The average exclusion amount with respect to employees other than highly compensated employees shall be determined in the same manner as the average exclusion amount for highly compensated employees.

"(3) SPECIAL RULES FOR CAFETERIA PLANS.—

"(A) IN GENERAL.—If an employer elects to have this subsection apply to any cafeteria plan, all benefits under the cafeteria plan (other than health benefits described in paragraph (4)(B) which the employer elects to treat separately) shall be aggregated for purposes of determining whether the requirements of this subsection are met with respect to such plan.

"(B) BENEFITS WITHIN CAFETERIA PLAN.—If the requirements of this subsection are met with respect to any cafeteria plan, the requirements of this subsection shall be treated as having been met with respect to all benefits provided under such plan.

"(C) CAFETERIA PLAN.—For purposes of this subparagraph, a plan which, but for the fact that an employee may not choose cash or a taxable benefit, would be treated as a cafeteria plan shall be so treated.

"(4) SPECIAL RULES FOR ACCIDENT AND HEALTH PLANS.—For purposes of determining whether the requirements of this subsection are met with respect to accident or health plans (within the meaning of paragraph (2) of subsection (j)), the employer may elect—

"(A) except in the case of a cafeteria plan (within the meaning of paragraph (3)) providing benefits other than accident or health benefits, to disregard any employee if such employee and his spouse and dependents (if any) are covered by an accident or health plan maintained by another employer, and

"(B) to apply this subsection separately with respect to coverage of spouses or dependents under such plan or plans and to take into account with respect to such coverage only employees with spouses or dependents who are not covered by an accident or health plan maintained by another employer.

Any employer who elects the application of this paragraph shall obtain and maintain, in such manner as the Secretary may prescribe, adequate sworn statements to demonstrate whether individuals have spouses, dependents, or other accident or health coverage.

"(5) SPECIAL RULE FOR GROUP-TERM LIFE PLANS.—For purposes of determining whether the requirements of this subsection are met with respect to a plan described in paragraph (1) of subsection (j) (whether or not in a cafeteria plan)—

"(A) the amount excludable from gross income under such plan for any employee shall be determined in the same manner as such amount is determined under section 79 for an employee who is age 30, and

"(B) life insurance coverage over $50,000 may be disregarded.

"(6) PLANS OF THE SAME TYPE.—For purposes of this subsection, plans of the same type shall mean all plans of the employer described within any paragraph of subsection (j).

"(g) LINE OF BUSINESS EXCEPTION.—If, under section 414(r), an employer is treated as operating separate lines of business or separate operating units for a year, the employer may apply the requirements of subsection (d) (other than paragraph (2)(C) thereof) or (f) separately with respect to employees in each separate line of business or separate operating unit. The preceding sentence shall not apply with respect to any plan maintained by an employer unless such plan satisfies the requirements of section 410(b)(1)(B) (as in effect immediately before the date of the enactment of the Tax Reform Act of 1986).

"(h) EXCLUSIONS.—

"(1) IN GENERAL.—The following employees shall be excluded from consideration in determining whether a plan is a discriminatory employee benefit plan under subsection (c):

"(A) Employees who have not completed the shorter of—

"(i) in the case of—

"(I) a plan described in paragraph (2) of subsection (j) (other than plans providing only noncore benefits), 180 days, or

"(II) any plan not described in subclause (I), 1 year, or

"(ii) the period of service specified in the plan.

"(B) Employees who normally work less than halftime (or such shorter period as may be specified in the plan).

"(C) Employees who normally work fewer than 6 months during any year (or such shorter period as may be specified in the plan).

"(D) Employees who are included in a unit of employees covered by an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that the type of benefits provided under the plan was the subject of good faith bargaining between the employee representatives and such employer or employers.

"(E) Employees who have not attained age 21 (or such earlier age as may be specified in the plan).

"(F) Employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(2) CERTAIN EXCLUSIONS NOT TO APPLY IF EXCLUDED EMPLOYEES COVERED.—Except to the extent provided in regulations, employees shall not be excluded from consideration under any subparagraph of paragraph (1) (other than subparagraph (F)), as the case may be, unless no employee described in such subparagraph benefits under the plan.

"(3) EXCLUSION MUST BE APPLICABLE TO ALL PLANS.—

"(A) IN GENERAL.—An exclusion shall be applicable under any subparagraph of paragraph (1) (other than subparagraph (D) or (F) thereof) only if the exclusion applies to all employee benefit plans of the employer described in the same paragraph of subsection (j). In the case of a cafeteria plan (within the meaning of subsection (f)(3)), all benefits under the cafeteria plan shall be treated as described in the same paragraph of subsection (j).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any difference in waiting periods for plans described in subsection (j)(2) providing core and noncore benefits.

"(4) EXCEPTION FOR SEPARATE LINES OF BUSINESS OR OPERATING UNITS.—If subsection (d) or (f) applies separately to a line of business or operating unit under subsection (g), then paragraph (3) shall be applied separately to such line of business or operating unit.

"(5) REQUIREMENTS MAY BE MET SEPARATELY WITH RESPECT TO EXCLUDED GROUP.—If with respect to a plan employees do not meet minimum age or service requirements described in this subsection (without regard to paragraph (3)) and are covered under a separate plan of the employer which meets the requirements of this section separately with respect to such employees, such employees may be excluded from consideration in determining whether such other plan of the employer meets the requirements of this section.

"(6) SPECIAL RULES FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—

"(A) IN GENERAL.—If a person becomes, or ceases to be, a member of a group described in subsection (b), (c), (m), or (o) of section 414, then the requirements of this section shall be treated as having been met during the transition period with respect to any plan covering employees of such person or any other member of such group if—

"(i) such requirements were met immediately before such change, and

"(ii) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members of a group).

"(B) TRANSITION PERIOD.—For purposes of subparagraph (A), the term 'transition period' means the period—

"(i) beginning on the date of the change in members of a group, and

"(ii) ending on the last day of the first plan year beginning after the date of such change.

"(i) SPECIAL RULES.—For purposes of this section—

"(1) COMPARABLE ACCIDENT OR HEALTH PLANS MAY BE AGGREGATED.—

"(A) IN GENERAL.—If, but for this paragraph, an accident or health plan would fail to meet the requirements of paragraph (1) or (2)(C) of subsection (d), such plan may be combined for purposes of paragraph (1) or (2)(C) of subsection (d) with 1 or more accident or health plans providing the same type of benefits if the average value of employer-provided coverage per covered employee in each such other plan is at least 90 percent of the average value of employer-provided coverage per covered employee in the plan so failing.

"(B) SPECIAL RULE FOR PRE-1986 REASONABLE CLASSIFICATION TEST.—If, but for this paragraph, an accident or health plan would fail to meet the requirements of subsection (e)(1)(A) and the second sentence of subsection (g)(1), such plan may be combined for purposes of subsection (e)(1)(A) and the second sentence of subsection (g)(1) with 1 or more accident or health plans providing the same type of benefits if the average value of employer-provided coverage per covered employee in each such other plan is at least 100 percent of the average value of employer-provided coverage per covered employee in the plan so failing.

"(2) COORDINATION WITH MEDICARE, ETC.—A plan shall not fail to meet the requirements of subsection (d) with respect to health benefits merely because the amount of such benefits provided to any employee or family member of any employee are coordinated (in a manner which does not discriminate in favor of highly compensated employees) with health benefits provided under any

Federal, State, or foreign law or under any other health plan covering the employee or family member of the employee.

"(3) DISABILITY BENEFITS.—

"(A) IN GENERAL.—A plan shall not fail to meet the requirements of subsection (d) with respect to disability benefits merely because the amount of such benefits provided to an employee are coordinated (in a manner which does not discriminate in favor of highly compensated employees) with disability benefits provided under any Federal, State, or foreign law or under any other plan covering the employee.

"(B) CERTAIN DISABILITY PLANS EXEMPT FROM NONDISCRIMINATION RULES.—Subsection (d) shall not apply to any disability coverage other than disability coverage the benefits of which are excludable from gross income under section 105 (b) or (c).

"(4) SEPARATE APPLICATION IN THE CASE OF OPTIONS.—

"(A) IN GENERAL.—For purposes of subsection (d), each option or different benefit shall be treated as a separate plan.

"(B) SPECIAL RULE FOR LIFE INSURANCE.—In the case of group-term life insurance (within the meaning of section 79), the providing of insurance coverage which varies in proportion to compensation shall not be considered as the providing of different options or different benefits with respect to such varying coverage.

"(j) STATUTORY EMPLOYEE BENEFIT PLAN.—For purposes of this section, the term 'statutory employee benefit plan' means—

"(1) any plan of an employer for providing group-term life insurance (within the meaning of section 79),

"(2) an accident or health plan (within the meaning of section 105(e)),

"(3) a program providing qualified tuition reduction (within the meaning of section 117(d)),

"(4) a qualified group legal services plan (within the meaning of section 120(b)),

"(5) an educational assistance program (within the meaning of section 127(b)),

"(6) a dependent care assistance program (within the meaning of section 129(d)), and

"(7) a fringe benefit program providing noadditional-cost services, qualified employee discounts, or employer-operated eating facilities (within the meaning of section 132).

"(k) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT OF FORMER EMPLOYEES.—Except to the extent provided in regulations, this section shall be applied separately to former employees under requirements similar to the requirements that apply to employees.

"(2) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—In the case of a statutory employee benefit plan described in paragraph (4), (5), or (6) of subsection (j)—

"(A) TREATMENT AS EMPLOYEE, ETC.—The term 'employee' includes any self-employed individual (as defined in section 401(c)(1)), and the term 'compensation' includes such individual's earned income (as defined in section 401(c)(2)).

"(B) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is treated as an employee under subparagraph (A).

"(3) CERTAIN CONTROLLED GROUPS, ETC.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section. The provisions of subsections (n) (other than paragraph (5) thereof) and (o) of section 414 shall apply with respect to the requirements of this section.

"(l) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) REPEAL OF CERTAIN EXISTING NONDISCRIMINATION RULES.—

(1) DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLANS.—Subsection (d) of section 79 is amended to read as follows:

"(d) NONDISCRIMINATION REQUIREMENTS.—

"(1) IN GENERAL.—In the case of any group-term life insurance plan which is a discriminatory employee benefit plan (as defined in section 89(c))—

"(A) subsection (a)(1) shall not apply with respect to any highly compensated employee (within the meaning of section 414(q)), and

"(B) the cost of group-term life insurance on the life of any highly compensated employee shall be the greater of—

"(i) such cost determined without regard to subsection (c), or

"(ii) such cost determined with regard to subsection (c).

"(2) COORDINATION WITH SECTION 89.—The provisions of this subsection shall be in lieu of any inclusion in income under section 89(a)(1)."

(2) DISCRIMINATORY SELF-INSURED MEDICAL EXPENSE REIMBURSEMENT PLANS.—Section 105 (relating to amounts received under accident and health plans) is amended by striking out subsection (h) and by redesignating subsection (i) as subsection (h).

(c) CONFORMING AMENDMENTS.—

(1) Section 117(d)(3), as amended by this Act, is amended by adding at the end thereof the following new sentence: "The requirements of this paragraph are met if the requirements of section 89(f) are met."

(2) Section 120 is amended—

(A) by striking out the last sentence of subsection (c)(2),

(B) by adding at the end of subsection (c)(1) the following new sentence: "The requirements of this paragraph are met if the requirements of section 89(f) and paragraph (3) are met.", and

(C) by striking out subsection (d)(1) and inserting in lieu thereof:

"(1) EMPLOYEE.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).".

(3) Section 125(b)(1) is amended by adding at the end thereof the following new flush sentence:

"Subsection (B) shall not apply if the requirements of section 89(f) are met with respect to a plan."

(4) Section 125(g) is amended by adding at the end thereof the following new paragraph:

"(5) EXCLUDED EMPLOYEES.—For purposes of subsection (b), employees described in section 89(h) shall be excluded from consideration."

(5) The second sentence of section 127(b)(2) is amended to read as follows: "The requirements of this paragraph are met if the requirements of section 89(f) are met."

(6) Section 129(d) is amended by striking out the second sentence of paragraph (2) and by adding at the end thereof the following new paragraph:

"(8) APPLICATION WITH SECTION 89.—The requirements of paragraphs (2) and (3) are met if the requirements of section 89(f) are met."

(7) Paragraph (2) of section 505(b) is amended by striking out all that follows "paragraph (1)" and inserting in lieu thereof "rules similar to the rules of section 89(h) shall apply."

(d) OTHER CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 414(n) is amended by striking out "pension requirements" and inserting in lieu thereof "requirements", and

(2) Paragraph (3) of section 414(n) is amended—

(A) by striking out "PENSION REQUIREMENTS" and inserting in lieu thereof "REQUIREMENTS",

(B) by striking out "pension requirements" and inserting in lieu thereof "requirements", and

(C) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) sections 89, 125, 408(k), 410, 411, 415, and 416."

(3) Paragraph (4) of section 414(n) is amended by striking out "pension requirements" and inserting in lieu thereof "requirements".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1986.

(2) EXCEPTION FOR CERTAIN GROUP-TERM INSURANCE PLANS.—In the case of a plan described in section 223(d)(2) of the Tax Reform Act of 1984, such plan shall be treated as meeting the requirements of section 89 of the Internal Revenue Code of 1954 (as added by this section) with respect to individuals described in section 223(d)(2) of such Act. An employer may elect to disregard such individuals in applying section 89 of such Code (as so added) to other employees of the employer.

(3) SPECIAL RULE FOR CHURCH PLANS.—In the case of a church plan (within the meaning of section 414(e)(3)) maintaining an insured accident and health plan, the amendments made by this section shall apply to years beginning after December 31, 1988.

PART II—OTHER PROVISIONS

SEC. 1261. DEDUCTIBILITY OF HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) GENERAL RULE.—Section 213 (relating to deductions for medical, dental, etc. expenses) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR SELF-EMPLOYED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual who is an employee within the meaning of section 401(c)(1), there shall be allowed as a deduction an amount equal to 50 percent of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents.

"(2) LIMITATIONS.—

"(A) DOLLAR AMOUNT.—No deduction shall be allowed under paragraph (1) to the extent that the amount of such deduction exceeds the taxpayer's net earnings from self-employment (within the meaning of section 1402(a)).

"(B) REQUIRED COVERAGE.—Paragraph (1) shall not apply to any taxpayer for any taxable year unless—

"(i) coverage is provided under 1 or more accident and health plans with respect to all employees of all unincorporated trades or businesses with respect to which the taxpayer is a 5-percent owner (within the meaning of section 416(i)(1)(B)(i)) at any time during the taxable year, and

"(ii) all such plans meet the requirements of section 89, treating such coverage as an employer-provided benefit.

"(C) OTHER COVERAGE.—Paragraph (1) shall not apply to any taxpayer who is eligible to participate in any subsidized accident and health plan maintained by any employer of the taxpayer or of the spouse of the taxpayer.

"(3) COORDINATION WITH OTHER PROVISIONS.—

"(A) MEDICAL DEDUCTIONS.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under subsection (a).

"(B) NET EARNINGS FROM SELF-EMPLOYMENT.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the taxpayer's net earnings from self-employment."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1986.

(2) ASSISTANCE.—The Secretary of the Treasury or his delegate shall provide guidance to self-employed individuals to assist them in meeting the requirements of section 89 of the Internal Revenue Code of 1954 with respect to coverage required by the amendments made by this section.

SEC. 1262. EXCLUSIONS FOR EDUCATIONAL ASSISTANCE PROGRAMS AND GROUP LEGAL PLANS MADE PERMANENT.

(a) EDUCATIONAL ASSISTANCE PROGRAMS.—

(1) PROGRAM MADE PERMANENT.—Subsection (d) of section 127 (relating to termination of exclusion for amounts received under educational assistance programs) is repealed.

(2) INCREASE IN AMOUNT.—Paragraph (2) of section 127(a) is amended—

(A) by striking out "$5,000" each place it appears in the text and the heading thereof and inserting in lieu thereof "$5,250", and

(B) by adding at the end thereof the following new sentence: "The Secretary shall adjust each $5,250 amount under this paragraph at the same time and in the same manner as provided in section 415(d)."

(b) GROUP LEGAL PLANS.—Subsection (e) of section 120 (relating to termination of exclusion for amounts received under qualified group legal services plans) is repealed.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to years ending after December 31, 1985.

(3) CAFETERIA PLAN WITH GROUP LEGAL BENEFITS.—In any case where group legal benefits are offered under a cafeteria plan under section 125 of the Internal Revenue Code of 1954, the amendments made by subsection (b) shall be treated in the same manner as a change in family status with respect to group legal benefits.

SEC. 1263. TAX TREATMENT OF FACULTY HOUSING.

(a) IN GENERAL.—Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended by adding at the end thereof the following new subsection:

"(d) LODGING FURNISHED BY CERTAIN EDUCATIONAL INSTITUTIONS TO EMPLOYEES.—

"(1) IN GENERAL.—In the case of an employee of an educational institution, gross income shall not include the value of qualified campus lodging furnished to such employee during the taxable year.

"(2) EXCEPTION IN CASES OF INADEQUATE RENT.—Paragraph (1) shall not apply to the extent of the excess of—

"(A) the lesser of—

"(i) 5 percent of the appraised value (as of the close of the calendar year in which the taxable year begins) of the facility in which the qualified campus lodging is provided, or

"(ii) the average of the rentals paid by individuals (other than employees or students of the educational institution) during such calendar year for lodging provided by the educational institution which is comparable to the qualified campus lodging provided to the employee, over

"(B) the rent paid by the employee for the qualified campus lodging during such calendar year.

"(3) QUALIFIED CAMPUS LODGING.—For purposes of this subsection, the term 'qualified campus lodging' means lodging which is—

"(A) located on, or in the proximity of, a campus of the educational institution, and

"(B) furnished to the employee, his spouse, or any of his dependents by or on behalf of such institution for use as a residence.

"(4) EDUCATIONAL INSTITUTION.—For purposes of this paragraph, the term 'educational institution' means an institution described in section 170(b)(1)(A)(ii).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1985.

SEC. 1264. AMENDMENTS RELATING TO WELFARE BENEFIT FUNDS.

(a) FUNDING OF POST-RETIREMENT MEDICAL BENEFITS.—Subparagraph (A) of section 419A(c)(2) is amended by striking out "(determined on the basis of current medical costs)" and inserting in lieu thereof "(determined on the basis of projected changes in medical costs under an index specified by the Secretary)."

(b) EXTENSION OF DUE DATE OF STUDY REQUIRED IN DEFRA.—Section 560(b) of the Deficit Reduction Act of 1984 is amended by striking out "February 1, 1985" and inserting in lieu thereof "one year after the date of the enactment of the Tax Reform Act of 1986".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986, and the Secretary shall publish the index under section 419A(c) of the Internal Revenue Code of 1954 not later than 6 months after the date of the enactment of this Act.

Subtitle C—Changes Relating to Employee Stock Ownership Plans

SEC. 1271. STATEMENT OF CONGRESSIONAL POLICY.

(a) CONGRESSIONAL POLICY.—The Congress, in a series of applicable laws and in this Act, has made clear its interest in encouraging employee stock ownership plans as a bold and innovative technique of finance for strengthening the free private enterprise system. It is the policy of the Congress that such plans be used in a wide variety of corporate financing transactions as a means of encouraging employers to include their employees as beneficiaries of such transactions. The Congress is deeply concerned that the objectives sought by the series of applicable laws and this Act will be made unattainable by regulations and rulings which treat employee stock ownership plans as conventional retirement plans under the Employee Retirement Income Security Act of 1974, which reduce the freedom of employee stock ownership trusts and employers to take the necessary steps to utilize employee stock ownership plans in a wide variety of corporate transactions, and which otherwise impede the establishment and success of these plans.

(b) APPLICABLE LAWS.—For purposes of this section, the term "applicable laws" means the Regional Rail Reorganization Act of 1973, the Employee Retirement Income Security Act of 1974, the Trade Act of 1974, the Tax Reduction Act of 1975, the Tax Reform Act of 1976, the Revenue Act of 1978, the Regional Rail Reorganization Act Amendments of 1978, the Small Business Development Act of 1980, the Chrysler Loan Guarantee Act of 1980, the Northeast Rail Service Act of 1981, the Economic Recovery Tax Act of 1981, the Trade Adjustment Assistance Act Amendments of 1983, and the Deficit Reduction Act of 1984.

SEC. 1272. TERMINATION OF EMPLOYEE STOCK OWNERSHIP CREDIT.

Subparagraph (B) of section 41(a)(2) (defining applicable percentage) is amended—

(1) by striking out "1986, or 1987" and inserting in lieu thereof "or 1986", and

(2) by striking out "1988" and inserting in lieu thereof "1987".

SEC. 1273. ESTATE TAX DEDUCTION FOR PROCEEDS FROM SALES OF EMPLOYER SECURITIES.

(a) IN GENERAL.—Part IV of subchapter A of chapter 11 (relating to taxable estate) is amended by adding at the end thereof the following new section:

"SEC. 2057. SALES OF EMPLOYER SECURITIES TO EMPLOYEE STOCK OWNERSHIP PLANS OR WORKER-OWNED COOPERATIVES.

"(a) GENERAL RULE.—For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate an amount equal to 50 percent of the qualified proceeds of a qualified sale of employer securities.

"(b) QUALIFIED SALE.—For purposes of this section, the term 'qualified sale' means any sale of employer securities by the executor of an estate to—

"(1) an employee stock ownership plan—

"(A) which meets the requirements of section 409, or

"(B) is described in section 4975(e)(7), or

"(2) an eligible worker-owned cooperative (within the meaning of section 1042(c)).

"(c) QUALIFIED PROCEEDS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified proceeds' means the amount received by the estate from the sale of employer securities at any time before the date on which the return of the tax imposed by section 2001 is required to be filed (including any extensions).

"(2) PROCEEDS FROM CERTAIN SECURITIES NOT QUALIFIED.—The term 'qualified proceeds' shall not include the proceeds from the sale of any employer securities if such securities were received by the decedent—

"(A) in a distribution from a plan exempt from tax under section 501(a) which meets the requirements of section 401(a), or

"(B) as a transfer pursuant to an option or other right to acquire stock to which section 83, 422, 422A, 423, or 424 applies.

"(d) WRITTEN STATEMENT REQUIRED.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) unless the executor of the estate of the decedent files with the Secretary the statement described in paragraph (2).

"(2) STATEMENT.—A statement is described in this paragraph if it is a verified written statement of—

"(A) the employer whose employees are covered by the plan described in subsection (b)(1), or

"(B) any authorized officer of the cooperative described in subsection (b)(2),

consenting to the application of section 4979A with respect to such employer or cooperative.

"(e) EMPLOYER SECURITIES.—For purposes of this section, the term 'employer securities' has the meaning given such term by section 409(l)."

(b) CONFORMING AMENDMENTS.—

(1) Section 409(n)(1) is amended—

(A) by inserting "or section 2057" after "section 1042",

(B) by inserting "or any decedent if the executor of the estate of such decedent makes a qualified sale to which section 2057 applies," after "securities" in subparagraph (A)(i) thereof, and

(C) by inserting "or the decedent" after "taxpayer" in subparagraph (A)(ii) thereof.

(2) Section 4979A is amended—

(A) by inserting "or section 2057" after "section 1042" in subsection (b)(1) thereof, and

(B) by inserting "or section 2057(d)" after "section 1042(b)(3)(B)" in subsection (c) thereof.

(3) The table of sections for part IV of subchapter A of chapter 11 is amended by adding at the end thereof the following new item:

"Sec. 2057. Sales of employer securities to employee stock ownership plans or worker-owned cooperatives."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of the enactment of this Act with respect to which an election is made by the executor of an estate who is required to file the return of the tax imposed by of the Internal Revenue Code of 1954 on a date (including extensions) after the date of the enactment of this Act.

SEC. 1274. PROVISIONS RELATING TO LOANS USED TO ACQUIRE EMPLOYER SECURITIES.

(a) DEDUCTION FOR DIVIDENDS PAID TO REPAY LOANS.—

(1) IN GENERAL.—Paragraph (2) of section 404(k) (relating to dividend paid deductions) is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by inserting at the end thereof the following new subparagraph:

"(C) the dividend with respect to employer securities is used to make payments on a loan described in section 404(a)(9)."

(2) CONFORMING AMENDMENT.—Section 404(k) is amended by adding at the end thereof the following new sentence: "Any deduction under paragraph (2)(C) shall be allowable in the taxable year of the corporation in which the dividend is used to repay the loan described in such paragraph."

(b) SECURITIES ACQUISITION LOANS.—

(1) APPLICATION TO INTEREST RECEIVED BY RIC.—

(A) IN GENERAL.—Section 133(a) (relating to exclusion for interest on certain loans used to acquire employer securities) is amended by striking out "or" at the end of paragraph (2), by inserting "or" at the end of paragraph (3), and by adding at the end thereof the following new paragraph:

"(4) a regulated investment company (as defined in section 851),".

(B) CONFORMING AMENDMENT.—Section 852(b)(5) is amended by adding at the end thereof the following new subparagraph:

"(C) INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES.—For purposes of this paragraph—

"(i) 50 percent of the amount of any loan of the regulated investment company which qualifies as a securities acquisition loan (as defined in section 133) shall be treated as an obligation described in section 103(a), and

"(ii) 50 percent of the interest received on such loan shall be treated as interest excludable from gross income under section 103."

(2) SECURITIES ACQUISITION LOAN.—Section 133(b)(1) (defining securities acquisition loan) is amended to read as follows:

"(1) IN GENERAL.—For purposes of this section, the term 'securities acquisition loan' means—

"(A) any loan to a corporation or to an employee stock ownership plan to the extent that the proceeds are used to acquire employer securities for the plan, or are used to refinance such a loan, or

"(B) any loan to a corporation to the extent that, within 30 days, employer securities are transferred to the plan in an amount equal to the proceeds of such loan and such securities are allocable to accounts of plan participants within 1 year of the date of such loan, except that this subparagraph shall not apply to any loan the original commitment period of which exceeds 7 years.

For purposes of this paragraph, the term 'employer securities' has the meaning given such term by section 409(l)."

(c) EFFECTIVE DATES.—

(1) DIVIDENDS.—The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

(2) SUBSECTION (b).—

(A) The amendments made by subsection (b)(1) shall apply to loans used to acquire employer securities after the date of the enactment of this Act, including loans used to refinance loans used to acquire employer securities before such date if such loans were used to acquire employer securities after July 18, 1984.

(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1954, as added by subsection (b)(2), shall apply to loan refinancings after the date of the enactment of this Act.

(C) Section 133(b)(1)(B) of the Internal Revenue Code of 1954, as amended by subsection (b)(2) shall apply to employer securities transferred after the date of the enactment of this Act with respect to any securities acquisition loan incurred after July 18, 1984.

SEC. 1275. REQUIREMENTS FOR EMPLOYEE STOCK OWNERSHIP PLANS.

(a) DISTRIBUTIONS ON PLAN TERMINATIONS PERMITTED.—

(1) IN GENERAL.—Paragraph (1) of section 409(d) (requiring that employer securities must stay in the plan) is amended by striking out "or separation from service" and inserting in lieu thereof "separation from service, or termination of the plan".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to plan terminations after December 31, 1984.

(b) DISTRIBUTION AND PAYMENT REQUIREMENTS.—

(1) IN GENERAL.—Section 409 (relating to qualifications for employee stock ownership plans) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DISTRIBUTION AND PAYMENT REQUIREMENTS.—A plan meets the requirements of this subsection if—

"(1) DISTRIBUTION REQUIREMENT.—

"(A) IN GENERAL.—The plan provides that, unless the participant otherwise elects, the distribution of the participant's entire account balance in the plan will be commenced not later than 1 year after the close of the plan year—

"(i) in which the participant separates from service by reason of the attainment of normal retirement age under the plan, disability, or death, or

"(ii) which is the 5th plan year following the plan year in which the participant otherwise separates from service, except that this clause shall not apply if the participant is reemployed by the employer before such year.

"(B) EXCEPTION FOR CERTAIN FINANCED SECURITIES.—For purposes of this subsection, the account balance of a participant shall not include any employer securities acquired with the proceeds of the loan described in section 404(a)(9) until the close of the plan year in which such loan is repaid in full.

"(C) LIMITED DISTRIBUTION PERIOD.—Unless the plan provides that participant may elect a longer period, the plan may provide that a participant shall receive the distribution described in this paragraph over a period not longer than the greater of—

"(i) 5 years, or

"(ii) in the case of a participant with an account balance in excess of $500,000, 5 years plus 1 additional year (but not more than 5 additional years) for each $100,000 or fraction thereof by which such balance exceeds $500,000.

"(2) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust the dollar amounts under paragraph (1)(C) at the same time and in the same manner as under section 415(d)."

(2) CONFORMING AMENDMENT.—Section 409(a)(3) is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (o)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to distributions attributable to stock acquired after December 31, 1986.

(c) PUT OPTION REQUIREMENTS.—

(1) PAYMENT REQUIREMENT.—

(A) IN GENERAL.—Subsection (h) of section 409 (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraphs:

"(5) PAYMENT REQUIREMENT FOR TOTAL DISTRIBUTION.—If an employer is required to repurchase employer securities which are distributed to the employee as part of a total distribution, the requirements of paragraph (1)(B) shall be treated as met if—

"(A) the amount to be paid for the employer securities is paid in substantially equal periodic payments (not less frequently than annually) over a period beginning not later than 30 days after the exercise of the put option described in paragraph (4) and not exceeding 5 years, and

"(B) there is reasonable interest paid on the unpaid amounts referred to in subparagraph (A).

For purposes of this paragraph, the term 'total distribution' means the distribution within 1 taxable year to the recipient of the balance to the credit of the recipient's account.

"(6) PAYMENT REQUIREMENT FOR INSTALLMENT DISTRIBUTIONS.—If an employer is required to repurchase employer securities as part of an installment distribution, the requirements of paragraph (1)(B) shall be treated as met if the amount to be paid for the employer securities is paid not later

than 30 days after the exercise of the put option described in paragraph (4)."

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall apply to distributions attributable to stock acquired after December 31, 1986, except that a plan may elect to have such amendment apply to all distributions after the date of the enactment of this Act.

(2) PUT OPTION REQUIREMENT EXTENDED TO STOCK BONUS PLANS.—

(A) IN GENERAL.—Section 401(a)(23) is amended to read as follows:

"(23) A stock bonus plan shall not be treated as meeting the requirements of this section unless such plan meets the requirements of sections 409(h) and (o), except that in applying section 409(h) for purposes of this paragraph, the term 'employer securities' shall include any securities of the employer held by the plan."

(B) EFFECTIVE DATE.—The amendment made by this subsection shall apply to distributions attributable to stock acquired after December 31, 1986.

(d) NONDISCRIMINATION REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (A) of section 415(c)(6) is amended by striking out "the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii)" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 415(c)(6) is amended by striking out clauses (iii) and (iv) thereof.

(B) Subparagraph (C) of section 415(c)(6) is amended by striking out "the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii)" and inserting in lieu thereof "highly compensated employees (within the meaning of section 414(q))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to years beginning after December 31, 1986.

SEC. 1276. SPECIAL ESOP REQUIREMENTS.

(a) IN GENERAL.—Subsection (a) of section 401(a)(29) of the Internal Revenue Code of 1954 (relating to qualified pension, profit sharing and stock bonus plans) is amended by inserting at the end thereof the following new sentence: "The requirements of subsection (e) of section 409 shall not apply to defined contribution plans established by an employer whose stock is not publicly traded and who publishes a newspaper.".

(b) Section 409(l) of the Internal Revenue Code of 1954 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) NONVOTING COMMON STOCK MAY BE ACQUIRED IN CERTAIN CASES.—Nonvoting common stock of an employer whose stock is not publicly traded and who publishes a newspaper shall be treated as employer securities if an employer has a class of nonvoting common stock outstanding and the specific shares that the plan acquires have been issued and outstanding for at least 24 months."

(c) EFFECTIVE DATES.—The amendment made by subsection (a) shall be effective December 31, 1986. The amendment made by subsection (b) shall apply to acquisitions of securities after December 31, 1986.

TITLE XIII—RESEARCH AND DEVELOPMENT

SEC. 1301. AMENDMENTS RELATING TO CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) 4-YEAR EXTENSION OF THE RESEARCH CREDIT.—

(1) IN GENERAL.—Section 30 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any amount paid or incurred after December 31, 1989.

"(2) COMPUTATION OF BASE PERIOD EXPENSES.—In the case of any taxable year which begins before January 1, 1990, and ends after December 31, 1989, any amount for any base period with respect to such taxable year shall be the amount which bears the same ratio to such amount for such base period as the number of days in such taxable year before January 1, 1990, bears to the total number of days in such taxable year."

(2) CONFORMING AMENDMENT.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(A) by striking out ", and before January 1, 1986" in paragraph (1), and

(B) by striking out the last sentence of paragraph (2)(A).

(b) DEFINITION OF QUALIFIED RESEARCH; CERTAIN RESEARCH NOT ELIGIBLE FOR CREDIT.—Subsection (d) of section 30 (defining qualified research) is amended to read as follows:

"(d) QUALIFIED RESEARCH DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified research' means research—

"(A) with respect to which expenditures may be treated as expenses under section 174,

"(B) which is undertaken for the purpose of discovering information—

"(i) which is technological in nature, and

"(ii) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer, and

"(C) substantially all of the activities of which constitute elements of a process of experimentation for a purpose described in paragraph (3).

Such term does not include any activity described in paragraph (4).

"(2) TESTS TO BE APPLIED SEPARATELY TO EACH BUSINESS COMPONENT.—For purposes of this subsection—

"(A) IN GENERAL.—Paragraph (1) shall be applied separately with respect to each business component of the taxpayer.

"(B) BUSINESS COMPONENT DEFINED.—The term 'business component' means any product, process, computer software, technique, formula, or invention which is to be held for sale, lease, or license, or is to be used by the taxpayer in a trade or business of the taxpayer.

"(3) PURPOSES FOR WHICH RESEARCH MAY QUALIFY FOR CREDIT.—For purposes of paragraph (1)(C)—

"(A) IN GENERAL.—Research shall be treated as conducted for a purpose described in this paragraph if it relates to—

"(i) a new or improved function,

"(ii) performance,

"(iii) reliability or quality, or

"(iv) reduced cost.

"(B) CERTAIN PURPOSES NOT QUALIFIED.—Research shall not be treated as conducted for a purpose described in this paragraph if it—

"(i) relates to style, taste, cosmetic, or seasonal design factors, or

"(ii) is an activity described in paragraph (4).

"(4) ACTIVITIES FOR WHICH CREDIT NOT ALLOWED.—The term 'qualified research' shall not include any of the following:

"(A) RESEARCH AFTER COMMERCIAL PRODUCTION.—Any research conducted after the beginning of commercial production.

"(B) PRODUCTION PROCESSES.—Any research relating to the development of any plant process, machinery, or technique for commercial production of any business component unless the requirements of paragraph (1) are met separately with respect to such research.

"(C) ADAPTATION OF EXISTING COMPONENTS.—Any research related to the adaptation of an existing business component to a particular customer's requirement or need.

"(D) SURVEYS, STUDIES, ETC.—Any—

"(i) efficiency survey,

"(ii) management study or technique,

"(iii) market research, testing or development (including advertising or promotions),

"(iv) routine data collection, or

"(v) routine or ordinary testing or inspection for quality control.

"(E) DUPLICATION OF EXISTING BUSINESS COMPONENT.—Any research related to the reproduction of an existing business component (in whole or in part) from a physical examination of the business component itself or from plans, blueprints, detailed specifications, or publicly available information with respect to such business component.

"(F) COMPUTER SOFTWARE.—Except to the extent provided in regulations, any research with respect to computer software which is developed by (or for the benefit of) the taxpayer primarily for internal use by the taxpayer, other than for use in—

"(i) an activity which constitutes qualified research (determined with regard to this subparagraph), or

"(ii) a production process which involves a business component with respect to which the requirements of paragraph (1) have been met.

"(G) FOREIGN RESEARCH.—Any research conducted outside the United States.

"(H) SOCIAL SCIENCES, ETC.—Any research in the social sciences, arts, or humanities.

"(I) FUNDED RESEARCH.—Any research to the extent funded by any person (or governmental entity) other than the taxpayer.

"(J) EXPLORATION FOR MINERALS.—Any research undertaken for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral (including oil and gas)."

(c) CREDIT FOR BASIC RESEARCH PAYMENTS TO QUALIFIED ORGANIZATIONS.—

(1) IN GENERAL.—Subsection (a) of section 30 is amended to read as follows:

"(a) GENERAL RULE.—For purposes of section 38, the research credit determined under this section for the taxable year shall be an amount equal to the sum of—

"(1) 25 percent of the excess (if any) of—

"(A) the qualified research expenses for the taxable year, over

"(B) the base period research expenses, and

"(2) 20 percent of the basic research payments determined under subsection (e)(1)(A)."

(2) DEFINITIONS AND SPECIAL RULES RELATING TO PAYMENTS FOR BASIC RESEARCH.—Subsection (e) of section 30 (relating to credit available with respect to certain basic research by colleges, universities, and certain research organizations) is amended to read as follows:

"(e) CREDIT ALLOWABLE WITH RESPECT TO CERTAIN PAYMENTS TO QUALIFIED ORGANIZA-

TIONS FOR BASIC RESEARCH.—For purposes of this section—

"(1) IN GENERAL.—In the case of any taxpayer who makes basic research payments for any taxable year—

"(A) the amount of basic research payments taken into account under subsection (a)(2) shall be equal to the excess of—

"(i) such basic research payments, over

"(ii) the qualified organization base period amount, and

"(B) that portion of such basic research payments which does not exceed the qualified organization base period amount shall be treated as contract research expenses for purposes of subsection (a)(1).

"(2) BASIC RESEARCH PAYMENTS DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'basic research payment' means, with respect to any taxable year, any amount paid in cash during such taxable year by a corporation to any qualified organization for basic research but only if—

"(i) such payment is pursuant to a written agreement between such corporation and such qualified organization, and

"(ii) such basic research is to be performed by such qualified organization.

"(B) EXCEPTION TO REQUIREMENT THAT RESEARCH BE PERFORMED BY THE ORGANIZATION.—In the case of a qualified organization described in subparagraph (C) or (D) of paragraph (6), clause (ii) of subparagraph (A) shall not apply.

"(3) QUALIFIED ORGANIZATION BASE PERIOD AMOUNT.—For purposes of this subsection, the term 'qualified organization base period amount' means an amount equal to the sum of—

"(A) the minimum basic research amount, plus

"(B) the maintenance-of-effort amount.

"(4) MINIMUM BASIC RESEARCH AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'minimum basic research amount' means an amount equal to the greater of—

"(i) 1 percent of the average of the sum of amounts paid or incurred during the base period for—

"(I) any in-house research expenses, and

"(II) any contract research expenses, or

"(ii) the amounts treated as contract research expenses during the base period by reason of this subsection (as in effect during the base period).

"(B) FLOOR AMOUNT.—Except in the case of a taxpayer which was in existence during a taxable year (other than a short taxable year) during the base period, the minimum basic research amount for any base period shall not be less than 50 percent of the basic research payments for the taxable year for which a determination is being made under this subsection.

"(5) MAINTENANCE-OF-EFFORT AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'maintenance-of-effort amount' means, with respect to any taxable year, an amount equal to the excess (if any) of—

"(i) an amount equal to—

"(I) the average of the nondesignated university contributions paid by the taxpayer during the base period, multiplied by

"(II) the cost-of-living adjustment for the calendar year in which such taxable year begins, over

"(ii) the amount of nondesignated university contributions paid by the taxpayer during such taxable year.

"(B) NONDESIGNATED UNIVERSITY CONTRIBUTIONS.—For purposes of this paragraph, the term 'nondesignated university contribution' means any amount paid by a taxpayer to any qualified organization described in paragraph (6)(A)—

"(i) for which a deduction was allowable under section 170, and

"(ii) which was not taken into account—

"(I) in computing the amount of the credit under this section (as in effect during the base period) during any taxable year in the base period, or

"(II) as a basic research payment for purposes of this section.

"(C) COST-OF-LIVING ADJUSTMENT DEFINED.—

"(i) IN GENERAL.—The cost-of-living adjustment for any calendar year is the cost-of-living adjustment for such calendar year determined under section 1(e)(3).

"(ii) SPECIAL RULE WHERE BASE PERIOD ENDS IN A CALENDAR YEAR OTHER THAN 1983 OR 1984.—If the base period of any taxpayer does not end in 1983 or 1984, section 1(e)(3)(B) shall, for purposes of this paragraph, be applied by substituting the calendar year in which such base period ends for 1983.

"(6) QUALIFIED ORGANIZATION.—For purposes of this subsection, the term 'qualified organization' means any of the following organizations:

"(A) EDUCATIONAL INSTITUTIONS.—Any educational organization which—

"(i) is an institution of higher education (within the meaning of section 3304(f)), and

"(ii) is described in section 170(b)(1)(A)(ii).

"(B) CERTAIN SCIENTIFIC RESEARCH ORGANIZATIONS.—Any organization not described in subparagraph (A) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a),

"(ii) is organized and operated primarily to conduct scientific research, and

"(iii) is not a private foundation.

"(C) SCIENTIFIC TAX-EXEMPT ORGANIZATIONS.—Any organization which—

"(i) is described in—

"(I) section 501(c)(3) (other than a private foundation), or

"(II) section 501(c)(6),

"(ii) is exempt from tax under section 501(a),

"(iii) is organized and operated primarily to promote scientific research by qualified organizations described in subparagraph (A) pursuant to written research agreements, and

"(iv) currently expends—

"(I) substantially all of its funds, or

"(II) substantially all of the basic research payments received by it,

for grants to, or contracts for basic research with, an organization described in subparagraph (A).

"(D) CERTAIN GRANT ORGANIZATIONS.—Any organization not described in subparagraph (B) or (C) which—

"(i) is described in section 501(c)(3) and is exempt from tax under section 501(a) (other than a private foundation),

"(ii) is established and maintained by an organization established before July 10, 1981, which meets the requirements of clause (i),

"(iii) is organized and operated exclusively for the purpose of making grants to organizations described in subparagraph (A) pursuant to written research agreements for purposes of basic research, and

"(iv) makes an election, revocable only with the consent of the Secretary, to be treated as a private foundation for purposes of this title (other than section 4940, relating to excise tax based on investment income).

"(7) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) BASIC RESEARCH.—The term 'basic research' means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, except that such term shall not include—

"(i) basic research conducted outside of the United States, and

"(ii) basic research in the social sciences, arts, or humanities.

"(B) BASE PERIOD.—The term 'base period' means the 3-taxable-year period ending with the taxable year immediately preceding the 1st taxable year of the taxpayer beginning after December 31, 1983.

"(C) EXCLUSION FROM INCREMENTAL CREDIT CALCULATION.—For purposes of determining the amount of credit allowable under subsection (a)(1) for any taxable year, the amount of the basic research payments taken into account under subsection (a)(2) shall not—

"(i) be treated as qualified research expenses under subsection (a)(1)(A), and

"(ii) be included in the computation of base period research expenses under subsection (a)(1)(B).

"(D) TRADE OR BUSINESS QUALIFICATION.—For purposes of applying subsection (b)(1) to this subsection, any basic research payments shall be treated as an amount paid in carrying on a trade or business of the taxpayer in the taxable year in which it is paid (without regard to the provisions of subsection (b)(3)(B)).

"(E) CERTAIN CORPORATIONS NOT ELIGIBLE.—The term 'corporation' shall not include—

"(i) an S corporation,

"(ii) a personal holding company (as defined in section 542), or

"(iii) a service organization (as defined in section 414(m)(3)).".

(d) RESEARCH CREDIT TREATED AS OTHER BUSINESS CREDITS.—

(1) IN GENERAL.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking out "plus" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by adding after paragraph (2) the following new paragraph:

"(3) the research credit determined under section 40(a), plus".

(2) TRANSFER OF RESEARCH CREDIT TO SUBPART RELATING TO BUSINESS CREDITS.—Section 30 (relating to credit for increasing research activities) is hereby transferred to subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (as amended by this Act), inserted before section 41 of such Code, and redesignated as section 40 of such Code.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—

(A)(i) Subsections (b) and (c) of section 28 are each amended by striking out "section 30" each place it appears and inserting in lieu thereof "section 40".

(ii) Paragraph (2) of section 28(c) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 40(b)".

(iii) Paragraph (4) of section 28(d) is amended by striking out "section 30(f)" and inserting in lieu thereof "section 40(f)".

(iv) Subparagraph (D) of section 28(b)(1) is amended by striking out "1985" and inserting in lieu thereof "1989".

(B) Subsection (d) of section 38, as amended by this Act, is amended by inserting "40(a)," before "41(a),".

(C)(i) Subsection (d) of section 39 (relating to carryback and carry forward of unused credits) is amended by adding at the end thereof the following new paragraph:

"(3) SIMILAR RULES FOR RESEARCH CREDIT.—Rules similar to the rules of paragraphs (1)

and (2) shall apply to the credit allowable under section 30 (as in effect before the date of the enactment of the Tax Reform Act of 1986) except that—

"(A) 'December 31, 1985' shall be substituted for 'December 31, 1983' each place it appears, and

"(B) 'January 1, 1986' shall be substituted for 'January 1, 1984'."

(ii) Subsection (g) of section 40 (relating to limitation based on amount of tax), as redesignated by this section, is amended to read as follows:

"(g) SPECIAL RULE FOR PASS-THRU OF CREDIT.—In the case of an individual who—

"(1) owns an interest in an unincorporated trade or business,

"(2) is a partner in a partnership,

"(3) is a beneficiary of an estate or trust, or

"(4) is a shareholder in an S corporation,

the amount determined under subsection (a) for any taxable year shall not exceed an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity."

(D) Subparagraph (B) of section 108(b)(2) (relating to reduction of tax attributes in title 11 case or insolvency) is amended by striking out all that precedes the second sentence and inserting in lieu thereof the following:

"(B) GENERAL BUSINESS CREDIT.—Any carryover to or from the taxable year of a discharge of an amount for purposes for determining the amount allowable as a credit under section 38 (relating to general business credit),"

(E) Paragraph (3) of section 280C(b) is amended—

(i) by striking out "section 30(f)(5)" and inserting in lieu thereof "section 40(f)(5)",

(ii) by striking out "section 30(f)(1)(B)" and inserting in lieu thereof "section 40(f)(1)(B)", and

(iii) by striking out "section 30(f)(1)" and inserting in lieu thereof "section 40(f)(1)".

(F) Subsection (c) of section 381 is amended by striking out paragraph (25) and by redesignating paragraph (26) as paragraph (25).

(G) Section 936(h)(5)(C)(i)(I)(a) (defining product area research) is amended by striking out "section 30(b)" and inserting in lieu thereof "section 40(b)".

(H) Section 6411 (relating to tentative carryback and refund adjustments) is amended—

(i) by striking out "by a research credit carryback provided in section 30(g)(2)" in subsection (a),

(ii) by striking out "a research credit carryback or" in subsection (a),

(iii) by striking out "(or, with respect to any portion of a business credit carryback attributable to a research credit carryback from a subsequent taxable year within a period of 12 months from the end of such subsequent taxable year)" in subsection (a), and

(iv) by striking out "unused research credit," each place it appears in subsections (a) and (b).

(I) Subparagraph (C) of section 6511(d)(6) (defining credit carryback) is amended by striking out "and any research credit carryback under section 30(g)(2)".

(J) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 30.

(K) The table of sections for subpart D of such part is amended by inserting before the item relating to section 41 the following new item:

"Sec. 40. Credit for increasing research activities."

(e) TAX-EXEMPT STATUS FOR ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

(1) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended—

(A) by redesignating subsection (m) as subsection (n), and

(B) by inserting after subsection (l) the following new subsection:

"(m) ORGANIZATIONS INTRODUCING INTO PUBLIC USE TECHNOLOGY DEVELOPED BY QUALIFIED ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this title, an organization shall be treated as an organization organized and operated exclusively for charitable purposes if such organization—

"(A) is organized and operated exclusively—

"(i) to provide for (directly or by arranging for and supervising the performance by independent contractors)—

"(I) reviewing technology disclosures from qualified organizations,

"(II) obtaining protection for such technology through patents, copyrights, or other means, and

"(III) licensing, sale, or other exploitation of such technology,

"(ii) to distribute the income therefrom, after payment of expenses and other amounts agreed upon with originating qualified organizations, to such qualified organizations, and

"(iii) to make research grants to such qualified organizations,

"(B) regularly provides the services and research grants described in subparagraph (A) exclusively to 1 or more qualified organizations, except that research grants may be made to such qualified organizations through an organization which is controlled by 1 or more organizations each of which—

"(i) is an organization described in subsection (c)(3) or the income of which is excluded from taxation under section 115, and

"(ii) may be a recipient of the services or research grants described in subparagraph (A), and

"(C) derives at least 80 percent of its gross revenues from providing services to qualified organizations located in the same state as the state in which such organization has its principal office; and was incorporated on July 20, 1981.

"(2) QUALIFIED ORGANIZATIONS.—For purposes of this subsection, the term 'qualified organization' has the same meaning given to such term by section 30(e)(6).".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1985.

(2) SUBSECTION (a).—The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1985.

SEC. 1302. TREATMENT OF COMPUTER SOFTWARE ROYALTIES FOR PURPOSES OF PERSONAL HOLDING COMPANY TAX.

(a) IN GENERAL.—Paragraph (1) of section 543(a) (defining personal holding company income) is amended—

(1) by striking out "and" at the end of subparagraph (A),

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new subparagraph:

"(C) active business computer software royalties (within the meaning of subsection (d))."

(b) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES DEFINED.—Section 543 is amended by adding at the end thereof the following new subsection:

"(d) ACTIVE BUSINESS COMPUTER SOFTWARE ROYALTIES.—

"(1) IN GENERAL.—For purposes of this section, the term 'active business computer software royalties' means any royalties—

"(A) received by any corporation during the taxable year in connection with the licensing of computer software, and

"(B) with respect to which the requirements of paragraphs (2), (3), (4), and (5) are met.

"(2) ROYALTIES MUST BE RECEIVED BY CORPORATION ACTIVELY ENGAGED IN COMPUTER SOFTWARE BUSINESS.—The requirements of this paragraph are met if the royalties described in paragraph (1)—

"(A) are received by a corporation engaged in the active conduct of the trade or business of developing, manufacturing, or producing computer software, and

"(B) are attributable to computer software which—

"(i) is developed, manufactured, or produced by such corporation (or its predecessor) in connection with the trade or business described in subparagraph (A), or

"(ii) is directly related to such trade or business.

"(3) DEDUCTIONS UNDER SECTIONS 162 AND 174 RELATING TO ROYALTIES MUST EQUAL OR EXCEED 25 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if—

"(i) the sum of the deductions allowable to the corporation under sections 162, 174, and 195 for the taxable year which are properly allocable to the trade or business described in paragraph (2) equals or exceeds 25 percent of the ordinary gross income of such corporation for such taxable year, or

"(ii) the average of such deductions for the 5-taxable year period ending with such taxable year equals or exceeds 25 percent of the average ordinary gross income of such corporation for such period.

If a corporation has not been in existence during the 5-taxable year period described in clause (ii), then the period of existence of such corporation shall be substituted for such 5-taxable year period.

"(B) DEDUCTIONS ALLOWABLE UNDER SECTION 162.—For purposes of subparagraph (A), a deduction shall not be treated as allowable under section 162 if it is specifically allowable under another section.

"(C) LIMITATION ON ALLOWABLE DEDUCTIONS.—For purposes of subparagraph (A), no deduction shall be taken into account with respect to compensation for personal services rendered by the five individual shareholders holding the largest percentage (by value) of the outstanding stock of the corporation. For purposes of the preceding sentence—

"(i) individuals holding less than 5 percent (by value) of the stock of such corporation shall not be taken into account, and

"(ii) stock deemed to be owned by a shareholder solely by attribution from a partner under section 544(a)(2) shall be disregarded.

"(4) DIVIDENDS MUST EQUAL OR EXCEED EXCESS OF PERSONAL HOLDING COMPANY INCOME OVER 10 PERCENT OF ORDINARY GROSS INCOME.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the sum of—

"(i) the dividends paid during the taxable year (determined under section 562),

"(ii) the dividends considered as paid on the last day of the taxable year under section 563(c) (as limited by the second sentence of section 563(b)), and

"(iii) the consent dividends for the taxable year (determined under section 565),

equals or exceeds the amount, if any, by which the personal holding company income for the taxable year exceeds 10 percent of the ordinary gross income of such corporation for such taxable year.

"(B) COMPUTATION OF PERSONAL HOLDING COMPANY INCOME.—For purposes of this paragraph, personal holding company income shall be computed—

"(i) without regard to amounts described in subsection (a)(1)(C),

"(ii) without regard to interest income during any taxable year—

"(I) which is in the 5-taxable year period beginning with the later of the 1st taxable year of the corporation or the 1st taxable year in which the corporation conducted the trade or business described in paragraph (2)(A), and

"(II) during which the corporation meets the requirements of paragraphs (2) and (3), and

"(iii) by including adjusted income from rents and adjusted income from mineral, oil, and gas royalties (within the meaning of paragraphs (2) and (3) of subsection (a)).

"(5) SPECIAL RULES FOR AFFILIATED GROUP MEMBERS.—

"(A) IN GENERAL.—In any case in which—

"(i) the taxpayer receives royalties in connection with the licensing of computer software, and

"(ii) another corporation which is a member of the same affiliated group as the taxpayer meets the requirements of paragraphs (2) and (3), with respect to such computer software,

the taxpayer shall be treated as having met such requirements.

"(B) AFFILIATED GROUP.—For purposes of this paragraph, the term 'affiliated group' has the meaning given such term by section 1504(a)."

(c) FOREIGN PERSONAL HOLDING COMPANY INCOME.—Paragraph (1) of section 553(a) (defining foreign personal holding company income) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to active business computer software royalties (as defined in section 543(d))."

(d) CONFORMING AMENDMENTS.—

(1) Section 543(a)(4) (relating to copyright royalties) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to active business computer software royalties.".

(2) Section 543(b)(3) (relating to adjusted income from rents) is amended—

(A) by striking out "or" at the end of subparagraph (C),

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and

(C) by adding at the end thereof the following new subparagraph:

"(E) active business computer software royalties (as defined in subsection (d))."

(e) SPECIAL RULES FOR BROKER-DEALERS AND BIOMEDICAL RESEARCHERS.—

(1) BROKER-DEALERS.—In the case of a broker-dealer which is part of an affiliated group which files a consolidated Federal income tax return, the common parent of which was incorporated in Nevada on January 27, 1972, the personal holding company income (within the meaning of section 543 of the Internal Revenue Code of 1954) of such broker-dealer shall not include any interest with respect to—

(A) any securities or money market instruments held as inventory,

(B) margin accounts, or

(C) any financing for a customer secured by securities or money market instruments.

(2) BIOMEDICAL RESEARCHERS.—In the case of a taxpayer which was incorporated on February 17, 1983, and more than 50 percent of the stock of which is owned by medical doctors, any royalties of such taxpayer from products resulting from medical research shall be treated in the same manner as royalties from computer software are treated by reason of the amendments made by this section.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to royalties received before, on, and after December 31, 1986.

SEC. 1303. 1-YEAR MODIFICATION IN REGULATIONS PROVIDING FOR ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) GENERAL RULE.—For purposes of section 861(b), section 862(b), and section 863(b) of the Internal Revenue Code of 1954, notwithstanding section 864(e) of such Code—

(1) 75 percent of all amounts allowable as a deduction for qualified research and experimental expenditures shall be apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(2) the remaining portion of such amounts shall be apportioned on the basis of gross sales or gross income.

The preceding sentence shall not apply to any expenditures described in section 1.861-8(e)(3)(i)(B) of the Income Tax Regulations.

(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section—

(1) IN GENERAL.—The term "qualified research and experimental expenditures" means amounts—

(A) which are research and experimental expenditures within the meaning of section 174 of such Code, and

(B) which are attributable to activities conducted in the United States.

(2) TREATMENT OF DEPRECIATION, ETC.—Rules similar to the rules of section 174(c) of such Code shall apply.

(c) EFFECTIVE DATE.—This section shall apply to taxable years beginning after August 1, 1986, and on or before August 1, 1987.

TITLE XIV—TAX SHELTER LIMITATIONS; REAL ESTATE; INTEREST LIMITATIONS

Subtitle A—Limitations On Tax Shelters

SEC. 1401. LIMITATIONS ON LOSSES AND CREDITS FROM PASSIVE ACTIVITIES.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 469. LIMITATIONS ON LOSSES AND CREDITS FROM PASSIVE ACTIVITIES.

"(a) DISALLOWANCE OF PASSIVE ACTIVITY LOSSES AND CREDITS.—In the case of a taxpayer to whom this section applies for any taxable year—

"(1) the passive activity loss of the taxpayer for the taxable year shall not be allowed, and

"(2) the passive activity credit of the taxpayer for the taxable year shall not be allowed.

"(b) TREATMENT OF DISALLOWED PASSIVE ACTIVITY LOSSES AND CREDITS.—

"(1) IN GENERAL.—Except as provided in this subsection and subsection (e), any loss or credit from an activity which is disallowed under subsection (a) shall be treated as a deduction or credit allocable to such activity in the succeeding taxable year.

"(2) SPECIAL RULES WHERE ACTIVITY CEASES TO BE PASSIVE ACTIVITY.—If an activity described in paragraph (1) is not a passive activity in a succeeding taxable year, any deduction or credit allocable to such activity—

"(A) shall first be offset—

"(i) in the case of any such deduction, against the net income (if any) from such activity for such taxable year, or

"(ii) in the case of any such credit, against the tax liability (computed after application of clause (i)) allocable to such activity for such taxable year, and

"(B) then, to the extent subparagraph (A) does not apply, shall be treated as from a passive activity.

"(c) PASSIVE ACTIVITY LOSS AND CREDIT DEFINED.—For purposes of this section—

"(1) PASSIVE ACTIVITY LOSS.—The term 'passive activity loss' means the amount by which the aggregate losses from all passive activities exceed the aggregate income from all such activities.

"(2) PASSIVE ACTIVITY CREDIT.—The term 'passive activity credit' means the excess (if any) of—

"(A) the sum of the credits allowable under subparts B (other than section 27(a) thereof) and D of part IV of subchapter A of this chapter from all passive activities, over

"(B) the tax liability of the taxpayer allocable to all passive activities.

"(3) CERTAIN INCOME NOT TREATED AS FROM PASSIVE ACTIVITY.—In determining the income or loss from an activity for purposes of paragraph (1)—

"(A) IN GENERAL.—There shall not be taken into account any—

"(i) gross income of the activity from interest, dividends, or royalties not derived in the ordinary course of a trade or business, and

"(ii) gain or loss attributable to the disposition of property producing income of a type described in clause (i) or held for investment.

"(B) RETURNS ON WORKING CAPITAL.—For purposes of subparagraph (A)(i), any income, gain, or loss which is attributable to an investment of working capital shall not be treated as arising in the ordinary course of a trade or business.

"(C) PASSIVE ACTIVITY NOT PROPERTY HELD FOR INVESTMENT.—For purposes of subparagraph (A)(ii), any passive activity shall not be treated as held for investment.

"(4) PASSIVE LOSSES OF CERTAIN CLOSELY HELD CORPORATIONS MAY OFFSET ACTIVE INCOME.—

"(A) IN GENERAL.—If a taxpayer described in subsection (g)(1)(B) (and not described in subsection (g)(1)(C)) has net active income for any taxable year, the passive activity loss of such taxpayer for such taxable year (determined without regard to this paragraph)—

"(i) shall be allowable as a deduction against net active income, and

"(ii) shall not be taken into account under subsection (a) to the extent so allowable as a deduction.

A similar rule shall apply in the case of any passive activity credit of the taxpayer.

"(B) NET ACTIVE INCOME.—For purposes of this paragraph, the term 'net active income' means the taxable income of the taxpayer for the taxable year determined without regard to—

"(i) any income or loss from a passive activity, and

"(ii) any gross income, gain, or loss described in paragraph (3).

"(5) DIVIDENDS REDUCED BY DIVIDENDS RECEIVED DEDUCTION.—For purposes of paragraphs (3) and (4), gross income from dividends shall be reduced by the amount of any dividends received deduction under section 243, 244, or 245.

"(d) PASSIVE ACTIVITY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'passive activity' means—

"(A) any activity—

"(i) which involves the conduct of any trade or business, and

"(ii) in which the taxpayer does not materially participate, or

"(B) any rental activity.

"(2) MATERIAL PARTICIPATION.—

"(A) IN GENERAL.—A taxpayer shall be treated as materially participating in an activity only if the taxpayer is involved in the operations of the activity on a regular, continuous, and substantial basis.

"(B) SPECIAL RULE FOR CERTAIN CLOSELY HELD AND PERSONAL SERVICE CORPORATIONS.—A taxpayer described in subsection (g)(1)(B) or (C) shall be treated as materially participating in an activity if—

"(i) 1 or more shareholders holding stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in such activity, or

"(ii) in the case of a taxpayer described in subsection (g)(1)(B) (and not in subsection (g)(1)(C)), the requirements of section 465(c)(7)(C) (without regard to clause (iv)) are met with respect to such activity.

"(C) TREATMENT OF CERTAIN RETIRED INDIVIDUALS.—A taxpayer shall be treated as materially participating in any farming activity for a taxable year if paragraph (4) or (5) of section 2032A(b) would apply with respect to real property used in such activity if such taxpayer had died during the taxable year.

"(3) EXCEPTION FOR WORKING INTERESTS IN OIL AND GAS PROPERTY.—

"(A) IN GENERAL.—The term 'passive activity' shall not include any working interest in any oil or gas property which the taxpayer holds directly or through an entity which does not limit the liability of the taxpayer with respect to such interest.

"(B) INCOME IN SUBSEQUENT YEARS.—If any taxpayer has any loss for any taxable year from a working interest in any oil or gas property which is treated as a loss which is not from a passive activity, then any net income from such property (or any property whose basis is determined by reference to such property) for any succeeding taxable year shall be treated as income of the taxpayer which is not from a passive activity.

"(4) SPECIAL RULE FOR LIMITED PARTNERSHIP INTERESTS.—Except as provided in regulations, an interest as a limited partner in a limited partnership shall be treated as a passive activity (or part thereof) without regard to paragraph (1)(A)(ii).

"(e) SPECIAL RULES FOR DISPOSITIONS OF ENTIRE INTEREST IN PASSIVE ACTIVITY.—If a taxpayer disposes of his entire interest in any activity during any taxable year, the following rules shall apply:

"(1) FULLY TAXABLE TRANSACTION.—If all gain or loss realized on such disposition is recognized, losses from such activity disallowed under subsection (a) (determined after carryovers under subsection (b)), and in the case of a passive activity, any loss realized on such disposition, shall, in computing taxable income for such taxable year, not be treated as a passive activity loss and shall be allowable as a deduction against income in the following order:

"(A) Gain (if any) recognized on the disposition.

"(B) Net income or gain for the taxable year from all passive activities.

"(C) Any other income or gain.

"(2) DISPOSITIONS BY DEATH.—In the case of a transfer of an activity by reason of the death of the taxpayer—

"(A) paragraph (1) shall apply to such losses to the extent such losses exceed the gain (if any) which would be recognized if such property was disposed of in a transaction described in paragraph (1), and

"(B) any losses to the extent of such gain shall not be allowed as a deduction for any taxable year.

"(3) INSTALLMENT SALES.—In the case of an installment sale of an activity, paragraph (1) shall apply to the portion of such losses for each taxable year which bears the same ratio to all such losses as the gain recognized during such taxable year bears to all gain realized on the disposition.

"(f) $25,000 OFFSET FOR RENTAL REAL ESTATE ACTIVITIES.—

"(1) IN GENERAL.—If an individual has 1 or more rental real estate activities with respect to which such individual actively participates during the taxable year, subsection (a) shall not apply to that portion of the passive activity loss or the deduction equivalent (within the meaning of subsection (g)(4)) of the passive activity credit attributable to losses and credits from such activities to the extent the sum of such amounts does not exceed $25,000.

"(2) PHASE-OUT OF EXEMPTION.—The $25,000 amount under paragraph (1) shall be reduced (but not below zero) by 50 percent of the amount by which the adjusted gross income of the taxpayer for the taxable year (computed without regard to any passive activity losses) exceeds $100,000.

"(3) ACTIVE PARTICIPATION.—

"(A) IN GENERAL.—A taxpayer shall not be treated as actively participating with respect to any interest in any rental real estate activity if such interest (including any interest of the spouse of the taxpayer) is less than 10 percent (by value) of all interests in such activity.

"(B) NO PARTICIPATION REQUIREMENT FOR LOW-INCOME HOUSING CREDIT.—In the case of any credit determined under section 42 for any taxable year from a rental real estate activity, paragraph (1) shall be applied without regard to the active participation requirement.

"(C) INTEREST AS A LIMITED PARTNER.—Any interest as a limited partner in a limited partnership shall not be treated as an interest with respect to which the taxpayer actively participates.

"(4) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of any married individual not filing a joint return, this subsection shall be applied by substituting '$12,500' for '$25,000' each place it appears, and by substituting '$50,000' for '$100,000' in paragraph (2).

"(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) TAXPAYERS TO WHOM SECTION APPLIES.—This section shall apply to—

"(A) any individual, estate, or trust,

"(B) any C corporation described in section 465(a)(1)(B), and

"(C) any personal service corporation.

"(2) SPECIAL RULE FOR GIFTS.—In the case of a disposition of any interest in a passive activity by gift—

"(A) the basis of such interest immediately before the transfer shall be increased by the amount of any passive activity losses allocable to such interest, and

"(B) such losses shall not be allowable as a deduction for any taxable year.

"(3) ALLOCATION OF PASSIVE ACTIVITY LOSS AND CREDIT.—The passive activity loss and the passive activity credit (and the $25,000 amount under subsection (f)) shall be allocated to activities, and within activities, on a pro rata basis in such manner as the Secretary may prescribe.

"(4) DEDUCTION EQUIVALENT.—The deduction equivalent of credits from a passive activity for any taxable year is the amount which (if allowed as a deduction) would reduce the tax liability for such taxable year by an amount equal to such credits.

"(5) COORDINATION WITH OTHER PROVISIONS.—

"(A) DEDUCTIONS OR CREDITS NOT OTHERWISE ALLOWABLE.—This section shall not apply with respect to any deduction or credit which is not allowable without regard to this section (determined without regard to section 38(c)(1)).

"(B) QUALIFIED RESIDENCE INTEREST.—The passive activity loss of a taxpayer shall be computed without regard to qualified residence interest (within the meaning of section 163(h)(3)).

"(6) TAX LIABILITY.—The term 'tax liability' has the meaning given such term by section 26(b).

"(7) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' has the meaning given such term by section 269A(b)(1), except that section 269A(b)(2) shall be applied—

"(A) by substituting 'any' for 'more than 10 percent', and

"(B) by substituting 'any' for '50 percent or more in value' in section 318(a)(2)(C).

"(8) RENTAL ACTIVITY.—The term 'rental activity' does not include any activity where payments are not principally for the use of tangible property.

"(9) PARTICIPATION BY SPOUSE.—In determining whether a taxpayer materially participates (or actively participates), the participation of the spouse of the taxpayer shall be taken into account.

"(10) CHANGE IN STATUS OF CERTAIN CLOSELY HELD CORPORATIONS.—If a taxpayer ceases for any taxable year to be a taxpayer to whom this section applies by reason of subsection (g)(1)(B), any losses to which this section applied for any preceding taxable years shall be treated in the same manner as if such taxpayer were a taxpayer described in subsection (g)(1)(B).

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out provisions of this section, including regulations—

"(1) which specify what constitutes an activity or material participation for purposes of this section,

"(2) which provide that certain items of gross income will not be taken into account in determining income or loss from any activity (and the treatment of expenses allocable to such income), and

"(3) if necessary to prevent avoidance of this section, determining whether income, gain, or loss from a limited partnership or

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other passive activity is treated as described in subsection (c)(3).

"(i) PHASE-IN OF DISALLOWANCE.—

"(1) IN GENERAL.—In the case of any taxable year beginning in calendar years 1987 through 1990, there shall be disallowed under subsection (a) only the applicable percentage of the portion of the passive activity loss or credit which is attributable to a pre-1987 interest and which (but for this subsection) would have been disallowed under subsection (a).

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	35
1988	60
1989	80
1990	90.

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-1987 INTERESTS.—

"(A) IN GENERAL.—The portion of the passive activity loss for any taxable year which is attributable to pre-1987 interests shall be the amount which bears the same ratio to such passive activity loss as—

"(i) the amount by which the aggregate losses for such taxable year from all pre-1987 interests exceeds the aggregate income for such taxable year from all such interests (determined after the application of subsection (c)), bears to

"(ii) such passive activity loss.

A similar rule shall apply in the case of a passive activity credit.

"(B) PRE-1987 INTEREST.—The term 'pre-1987 interest' means any interest in a passive activity held by a taxpayer on the date of the enactment of the Tax Reform Act of 1986, and at all times thereafter."

(b) CONFORMING AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 469. Limitations on losses and credits from passive activities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) SPECIAL RULE FOR CARRYOVERS.—The amendments made by this section shall not apply to any loss, deduction, or credit carried to a taxable year beginning after December 31, 1986, from a taxable year beginning before January 1, 1987.

Subtitle B—General Provisions Relating to Real Estate

SEC. 1411. EXTENSION OF AT RISK LIMITATIONS TO REAL PROPERTY.

(a) IN GENERAL.—Paragraph (3) of section 465(c) (relating to activities to which section applies) is amended by striking out subparagraph (D) and by redesignating subparagraph (E) as subparagraph (D).

(b) QUALIFIED NONRECOURSE FINANCING TREATED AS AN AMOUNT AT RISK.—Section 465(b) (relating to amounts considered at risk) is amended by adding at the end thereof the following new paragraph:

"(6) QUALIFIED NONRECOURSE FINANCING TREATED AS AMOUNT AT RISK.—For purposes of this section—

"(A) IN GENERAL.—Notwithstanding any other provision of this subsection, in the case of an activity of holding real property, a taxpayer shall be considered at risk with respect to any qualified nonrecourse financing which is secured by real property used in such activity.

"(B) QUALIFIED NONRECOURSE FINANCING.—For purposes of this paragraph, the term 'qualified nonrecourse financing' means any financing—

"(i) which is borrowed by the taxpayer with respect to the activity of holding real property,

"(ii) which is borrowed by the taxpayer from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government,

"(iii) except to the extent provided in regulations, with respect to which no person is personally liable for repayment, and

"(iv) which is not convertible debt.

"(C) SPECIAL RULE FOR PARTNERSHIPS.—In the case of a partnership, a partner's share of any qualified nonrecourse financing of such partnership shall be determined on the basis of the partner's share of liabilities of such partnership (within the meaning of section 752).

"(D) QUALIFIED PERSON DEFINED.—For purposes of this paragraph, the term 'qualified person' has the same meaning given such term by section 46(c)(8)(D)(iv) (without regard to subclause (I) thereof).

"(E) ACTIVITY OF HOLDING REAL PROPERTY.—For purposes of this paragraph—

"(i) INCIDENTAL PERSONAL PROPERTY AND SERVICES.—The activity of holding real property includes the holding of personal property and the providing of services which are incidental to making real property available as living accommodations.

"(ii) MINERAL PROPERTY.—The activity of holding real property shall not include the holding of mineral property."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to losses incurred after December 31, 1986, with respect to property acquired by the taxpayer after December 31, 1986.

(2) SPECIAL RULE FOR ATHLETIC STADIUM.—The amendments made by this section shall not apply to the sale of a multi-use athletic stadium in Pittsburgh, Pennsylvania, for which a letter of understanding was entered into before April 16, 1986.

SEC. 1412. MODIFICATION OF INVESTMENT TAX CREDIT FOR REHABILITATION EXPENDITURES.

(a) REDUCTION IN PERCENTAGE.—Paragraph (4) of section 46(b) (relating to rehabilitation percentage) is amended to read as follows:

"(4) REHABILITATION PERCENTAGE.—

"(A) IN GENERAL.—The term 'rehabilitation percentage' means—

"(i) 10 percent in the case of qualified rehabilitation expenditures with respect to a qualified rehabilitated building other than a certified historic structure, and

"(ii) 20 percent in the case of such expenditure with respect to a certified historic structure.

"(B) REGULAR AND ENERGY PERCENTAGES NOT TO APPLY.—The regular percentage and the energy percentages shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures."

(b) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—Subsection (g) of section 48 (relating to special rules for qualified rehabilitated buildings) is amended to read as follows:

"(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—For purposes of this subpart—

"(1) QUALIFIED REHABILITATED BUILDING.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components) if—

"(i) such building has been substantially rehabilitated,

"(ii) such building was placed in service before the beginning of the rehabilitation, and

"(iii) in the case of any building other than a certified historic structure, in the rehabilitation process—

"(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

"(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(III) 75 percent or more of the existing internal structural framework of such building is retained in place.

"(B) BUILDING MUST BE FIRST PLACED IN SERVICE BEFORE 1936.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

"(C) SUBSTANTIALLY REHABILITATED DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulations) and ending with or within the taxable year exceed the greater of—

"(I) the adjusted basis of such building (and its structural components), or

"(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

"(ii) SPECIAL RULE FOR PHASED REHABILITATION.—In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting '60-month period' for '24-month period'.

"(iii) LESSEES.—The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

"(D) RECONSTRUCTION.—Rehabilitation includes reconstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) nonresidential real property,

"(II) residential rental property,

"(III) real property which has a class life of more than 12.5 years, or

"(IV) an addition or improvement to property or housing described in subclause (I), (II), or (III), and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified rehabilitation expenditure' does not include—

"(i) STRAIGHT LINE DEPRECIATION MUST BE USED.—Any expenditure with respect to

which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (h) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(h) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(h)(1).

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of an existing building.

"(iv) CERTIFIED HISTORIC STRUCTURE, ETC.—Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

"(I) such building was not a certified historic structure,

"(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

"(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

"(v) TAX-EXEMPT USE PROPERTY.—

"(I) IN GENERAL.—Any expenditure in connection with the rehabilitation of a building which is allocable to that portion of such building which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(i)).

"(II) CLAUSE NOT TO APPLY FOR PURPOSES OF PARAGRAPH (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.

"(vi) EXPENDITURES OF LESSEE.—Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).

"(C) CERTIFIED REHABILITATION.—For purposes of subparagraph (B), the term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(D) NONRESIDENTIAL REAL PROPERTY; RESIDENTIAL RENTAL PROPERTY; CLASS LIFE.—For purposes of subparagraph (A), the terms 'nonresidential real property', 'residential rental property', and 'class life' have the respective meanings given such terms by section 168.

"(3) CERTIFIED HISTORIC STRUCTURE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'certified historic structure' means any building (and its structural components) which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(B) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(i) any district listed in the National Register, and

"(ii) any district—

"(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

"(4) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property."

(c) BASIS ADJUSTMENT FOR CERTIFIED HISTORIC STRUCTURES.—Paragraph (3) of section 48(q) (relating to special rule for qualified rehabilitated buildings) is amended by striking out "other than a certified historic structure".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

(2) GENERAL TRANSITIONAL RULE.—The amendments made by this section and section 201 shall not apply to any property placed in service before January 1, 1994, if such property is placed in service as part of—

(A) a rehabilitation which was completed pursuant to a written contract which was binding on March 1, 1986, or

(B) a rehabilitation incurred in connection with property (including any leasehold interest) acquired before March 2, 1986, or acquired on or after such date pursuant to a written contract that was binding on March 1, 1986, if—

(i) the rehabilitation was completed pursuant to a written contract that was binding on March 1, 1986,

(ii) parts 1 and 2 of the Historic Preservation Certification Application were filed with the Department of the Interior (or its designee) before March 2, 1986, or

(iii) the lesser of $1,000,000 or 5 percent of the cost of the rehabilitation is incurred before March 2, 1986, or is required to be incurred pursuant to a written contract which was binding on March 1, 1986.

(3) CERTAIN ADDITIONAL REHABILITATIONS.—The amendments made by this section and section 201 shall not apply to—

(A) the rehabilitation of 8 bathhouses within the Hot Springs National Park or of buildings in the Central Avenue Historic District at such Park,

(B) the rehabilitation of the Upper Pontabla Building in New Orleans, Louisiana,

(C) the rehabilitation of at least 60 buildings listed on the National Register at the Frankford Arsenal,

(D) the rehabilitation of De Baliveriere Arcade, St. Louis Centre, and Drake Apartments in Missouri,

(E) the rehabilitation of The Tides in Bristol, Rhode Island,

(F) the rehabilitation and renovation of the Outlet Company building and garage in Providence, Rhode Island,

(G) the rehabilitation of 10 structures in Harrisburg, Pennsylvania, with respect to which the Harristown Development Corporation was designated redeveloper and received an option to acquire title to the entire project site for $1 on June 27, 1984,

(H) the rehabilitation of a project involving the renovation of 3 historic structures on the Minneapolis riverfront, with respect to which the developer of the project entered into a redevelopment agreement with a municipality dated January 4, 1985, and industrial development bonds were sold in 3 separate issues in May, July, and October 1985,

(I) the rehabilitation of a bank's main office facilities of approximately 120,000 square feet, in connection with which the bank's board of directors authorized a $3,300,000 expenditure for the renovation and retrofit on March 20, 1984,

(J) the rehabilitation of 10 warehouse buildings built between 1906 and 1910 and purchased under a contract dated February 17, 1986,

(K) the rehabilitation of a facility which is customarily used for conventions and sporting events if an analysis of operations and recommendations of utilization of such facility was prepared by a certified public accounting firm pursuant to an engagement authorized on March 6, 1984, and presented on June 11, 1984, to officials of the city in which such facility is located,

(L) Mount Vernon Mills in Columbia, South Carolina,

(M) the Barbara Jordan II Apartments,

(N) the rehabilitation of the Federal Building and Post Office, 120 Hanover Street, Manchester, New Hampshire, and

(O) the rehabilitation of the Charleston Waterfront project in South Carolina.

(4) REDUCTION IN CREDIT FOR PROPERTY UNDER TRANSITIONAL RULES.—

(A) IN GENERAL.—In the case of property placed in service after December 31, 1986, and to which the amendments made by this section do not apply—

(i) subparagraph (A) of section 46(b)(4) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) shall be applied—

(I) by substituting "10 percent" for "15 percent",

(II) by substituting "13 percent" for "20 percent", and

(III) by substituting "20 percent" for "25 percent", and

(ii) paragraph (3) of section 48(q) of such Code (as so in effect) shall be applied without regard to the phrase "other than a certified historic structure".

(B) REDUCTION DOES NOT APPLY TO CERTAIN REHABILITATIONS.—Clauses (i) and (ii) of subparagraph (A) shall not apply to subparagraphs (A), (B), (C), (G), (I), (L), and (O) of paragraph (3).

SEC. 1413. LOW-INCOME HOUSING CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end thereof the following new section:

"SEC. 42. LOW-INCOME HOUSING CREDIT.

"(a) ALLOWANCE OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, with respect to any qualified low-income housing project, the amount of low-income housing credit for each taxable year in the credit period determined under this section shall be equal to the product of—

"(A) the applicable credit rate, determined as of the date specified in subsection (d), and

"(B) the qualifying basis of the taxpayer allocable to—

"(i) residential rental units in a qualified low-income housing project or a building within such project occupied by individuals whose income is 50 percent or less of area median gross income, and

"(ii) residential rental units in such project or such building occupied by individuals whose income is 70 percent or less,

but greater than 50 percent, of area median gross income.

"(2) DETERMINATION OF APPLICABLE CREDIT RATE.—

"(A) IN GENERAL.—For projects on which construction or rehabilitation begins on or before December 31, 1987, the applicable credit rate shall equal—

"(i) with respect to units described in paragraph (1)(B)(i), 8 percent, and

"(ii) with respect to units described in paragraph (1)(B)(ii), 4 percent.

"(B) ADJUSTMENTS OF RATES TO REFLECT DISCOUNTED PRESENT VALUES.—

"(i) IN GENERAL.—For projects on which construction or rehabilitation begins after December 31, 1987, the Secretary shall adjust monthly each applicable credit rate, if necessary, such that the amount of the credits determined under paragraph (1) over the credit period with respect to any qualifying basis, would when discounted, have a present value at the beginning of the credit period equal to—

"(I) 60 percent of the qualifying basis of units described in paragraph (1)(B)(i), and

"(II) 30 percent of the qualifying basis of units described in paragraph (1)(B)(ii).

"(ii) METHOD OF DISCOUNTING.—The Secretary shall make adjustments under clause (i) by using an after-tax discount rate equal to the product of—

"(I) the average of the annual Mid-Term and Long-Term applicable Federal rate for the applicable month, and

"(II) 1 minus the maximum tax rate for individuals under section 1 (without regard to the increase determined under subsection (g)).

The discounted present value of the credit amounts shall be determined by assuming such amounts are received beginning on the last day of the 1st taxable year in the credit period and on each of the 9 succeeding anniversary dates in the credit period and discounted back to such last day using the after-tax discount rate, compounded annually.

"(3) CREDIT PERIOD.—For purposes of this subsection, the credit period for any qualified low-income housing project or building within such project is the 10-taxable year period beginning with the taxable year in which the qualifying basis for such project or building is determined.

"(b) DETERMINATION OF QUALIFYING BASIS OF RESIDENTIAL RENTAL UNITS IN PROJECT.—

"(1) IN GENERAL.—The qualifying basis of the types of residential rental units described in clause (i) or (ii) of subsection (a)(1)(B) with respect to any building in the qualified low-income housing project shall be an amount equal to the product of—

"(A) the lesser of—

"(i) the number of such type units, divided by the total number of residential rental units in the building, or

"(ii) the total floor space of such type units, divided by the total floor space of residential rental units in the building, and

"(B) the total basis of such building.

For purposes of the preceding sentence, the aggregate amounts determined for any qualified low-income housing project with respect to units described in clause (ii) of subsection (a)(1)(B) shall not exceed 30 percent of the total basis of such project.

"(2) TOTAL BASIS OF QUALIFIED LOW-INCOME HOUSING PROJECT.—

"(A) IN GENERAL.—The total basis of any building in a qualified low-income housing project shall be equal to the depreciable cost (including rehabilitation expenditures under subsection (c)(2)) of the residential rental units, including the depreciable cost of property used in common areas or provided as comparable amenities to all such units of such building. No portion of the cost of commercial-use property in or related to such building shall be included in the total basis of any building for purposes of paragraph (1).

"(B) BASIS REDUCTIONS.—The basis determined under subparagraph (A) shall be reduced by the allocable amount of—

"(i) the rehabilitation credit allowed under section 38, and

"(ii) the amount of any Federal grant or equivalent assistance described in clause (i), (ii), or (iii) of subsection (f)(4)(A).

"(c) CREDIT NOT ALLOWED IN ACQUISITION OF EXISTING PROPERTY.—

"(1) IN GENERAL.—The credit determined under subsection (a) shall be allowed with respect to any qualified low-income housing project only if the 1st use of such project is pursuant to it being placed in service by the taxpayer.

"(2) EXCEPTION FOR CERTAIN SUBSTANTIAL REHABILITATIONS TO EXISTING PROJECTS.—

"(A) IN GENERAL.—A qualified low-income housing project shall be considered to comply with paragraph (1) even though such project has previously been placed in service (other than by the taxpayer or a related person to such taxpayer, as defined in section 461(i)(6)) if such project—

"(i) is acquired by the taxpayer from any person other than such a related person,

"(ii) is placed in service by such taxpayer, and

"(iii) is described in subparagraph (B).

"(B) REHABILITATED QUALIFIED LOW-INCOME HOUSING PROJECT.—A project is described in this subparagraph if—

"(i) the rehabilitation expenditures with respect to such project equal or exceed

"(ii) 22½ percent of the cost of acquiring the depreciable property which is part of such project.

For purposes of the preceding sentence, rehabilitation expenditures shall not include costs used to improve residential rental units not described in clauses (i) and (ii) of subsection (a)(1)(B) above the standard of units in the project described in such clauses.

"(C) REHABILITATION EXPENDITURES.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'rehabilitation expenditures' has the same meaning given to such term by clauses (i) and (ii) of section 103(b)(17)(C).

"(ii) PERIOD DURING WHICH EXPENDITURES MUST BE INCURRED.—The term 'rehabilitation expenditures' shall not include any amount which is incurred more than 2 years after the date on which the project was acquired by the taxpayer, except in the case of a phased rehabilitation (within the meaning of section 48(g)(1)(C)(ii)).

"(3) EXCEPTION FOR CERTAIN EXISTING FEDERALLY ASSISTED PROJECTS.—

"(A) IN GENERAL.—A qualified low-income housing project shall be considered to comply with paragraph (1) even though such project has previously been placed in service (other than by the taxpayer or a related person to such taxpayer, as defined in section 461(i)(6)) if such project—

"(i) is acquired by the taxpayer from any person other than such a related person,

"(ii) is placed in service by such taxpayer at least 15 years after such project was last placed in service, and

"(iii) is described in subparagraph (B).

"(B) EXISTING FEDERALLY ASSISTED QUALIFIED LOW-INCOME HOUSING PROJECT.—A project is described in this subparagraph if such project is substantially assisted, financed, or operated with respect to the taxpayer only under—

"(i) section 8 of the United States Housing Act of 1937,

"(ii) section 221(d)(3) or 236 of the National Housing Act of 1934, or

"(iii) section 515 of the Housing Act of 1949,

as in effect on the date of the enactment of the Tax Reform Act of 1986.

"(C) APPLICABLE CREDIT RATE ALLOWED.—In the case of any project described in subparagraph (B), the applicable credit rate with respect to any occupied residential rental unit shall be the rate described in subsection (a)(2)(A)(ii).

"(D) WAIVER OF 15-YEAR RULE.—Upon application by the taxpayer to the Secretary (in such manner as the Secretary shall prescribe), the Secretary after consultation with the Secretary of Housing and Urban Development or the Secretary of Agriculture (with respect to any project described in subparagraph (B)(iii)) may waive the 15-year requirement in subparagraph (A) based on his determination that such waiver is necessary to avert—

"(i) an assignment of the mortgage secured by property in the project to the Department of Housing and Urban Development or the Farmers Home Administration and a claim against the mortgage insurance fund with respect to such mortgage, or

"(ii) other circumstances, to the extent established by regulations prescribed by the Secretary.

"(d) TIME OF DETERMINATION OF CREDIT RATE AND QUALIFYING BASIS.—

"(1) IN GENERAL.—For any taxpayer, with respect to each qualified low-income housing project—

"(A) CREDIT RATE.—The applicable credit rate for a qualified low-income housing project shall be determined as of the date when construction or rehabilitation of such project begins or in the case of a project described in subsection (c)(3)(B) the date such project is placed in service.

"(B) QUALIFYING BASIS.—A taxpayer may elect to determine the qualifying basis of residential rental units in any building within such project on either—

"(i) the last day of the 1st taxable year in which such building is placed in service, or

"(ii) if such building was in service for less than 12 months during such year, the last day of the following taxable year.

"(2) CERTIFICATION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply unless the taxpayer certifies to the Secretary, in such form and manner as the Secretary prescribes—

"(i) the taxable year in which such building was 1st placed in service for its intended purpose and the minimum set-aside requirement of subsection (f)(1) was met,

"(ii) the qualifying basis for residential rental units—

"(I) qualifying for such minimum set-aside requirement,

"(II) described in subsection (a)(1)(B)(i), and

"(III) described in subsection (a)(1)(B)(ii), and

"(iii) the date when construction or rehabilitation of the qualified low-income housing project began.

"(B) TIME WITHIN WHICH TAXPAYER MUST CERTIFY.—The taxpayer shall file the certification required in subparagraph (A) within 90 days following the end of the 1st taxable year in the credit period.

"(e) LIMITATION ON CREDIT AMOUNT ALLOWED.—

"(1) 1ST TAXABLE YEAR.—The low-income housing credit amount with respect to the 1st taxable year in the credit period for any building within a qualified low-income housing project shall be reduced to reflect the time during such year during which the residential rental units described in clause (i) or (ii) of subsection (a)(1)(B) are occupied. In the case of any such reduction, an additional low-income housing credit amount in an amount equal to such reduction shall be allowed in the 1st taxable year following the credit period.

"(2) SPECIAL RULE IN CASE OF ADDITIONAL UNITS OCCUPIED BY LOW-INCOME INDIVIDUALS AFTER 1ST YEAR OF CREDIT PERIOD.—In the case of any residential rental unit in a building within a qualified low-income housing project which becomes occupied by individuals described in subsection (a)(1)(B)(i) after the 1st year in the credit period for such building, an additional credit shall be allowable with respect to such unit for the remainder of the qualified compliance period, as determined under subsection (g)(1), in an amount equal to the product of two-thirds of the applicable credit rate and an allocable portion of the original qualifying basis. In the 1st year in which such additional credit amount is allowed, such amount shall be reduced to reflect the time during such year during which such residential rental units are occupied.

"(f) QUALIFIED LOW-INCOME HOUSING PROJECT.—For purposes of this section, the term 'qualified low-income housing project' means any project for residential rental property if, at all times during the qualified compliance period, such project meets the requirements of paragraphs (1), (2), (3), and (4).

"(1) MINIMUM SET-ASIDE REQUIREMENT.—

"(A) IN GENERAL.—The project meets the requirements of this paragraph if 20 percent or more of the residential rental units in such project (as determined in the manner described in subsection (b)(1)(A)), are occupied by individuals whose income is 50 percent or less of area median gross income. Such requirements must be met within 12 months of the date a building or rehabilitation expenses are placed in service.

"(B) EXISTING FEDERALLY ASSISTED PROJECTS.—In the case of a project described in subsection (c)(3)(B), subparagraph (A) shall apply by substituting '50 percent' for '20 percent'.

"(2) GROSS RENT TEST.—

"(A) IN GENERAL.—The project meets the requirements of this paragraph if the gross rent charged to individuals occupying units described in clauses (i) and (ii) of subsection (a)(1)(B) which are included in qualifying basis does not exceed 30 percent of the income limitations described in such clauses for such individuals.

"(B) GROSS RENT.—For purposes of subparagraph (A), gross rent includes any utility allowance determined by the Secretary after taking into account such determinations under section 8 of the United States Housing Act of 1937.

"(3) FINANCING TEST.—The project meets the requirements of this paragraph if no portion of such project is financed by the proceeds of any obligation the interest on which is exempt from tax under section 103, other than, in the case of a project described in subsection (c)(3)(B), any such obligation issued to a previous owner before the date of the enactment of the Tax Reform Act of 1986 and taken subject to or assumed by the taxpayer.

"(4) FEDERAL SUBSIDIES TEST.—The project meets the requirements of this paragraph if no portion of such project is financed or constructed with use of any funds or interest rate subsidies of a Federal program, other than—

"(A) in the case of a qualified low-income housing project described in subsection (c)(1)—

"(i) any assistance under the Urban Development Action Grant program under title I of the Housing and Community Development Act of 1974,

"(ii) any assistance under the Community Development Block Grant program under such title,

"(iii) a development or rental rehabilitation program under section 17 of the United States Housing Act of 1937,

"(B) in the case of any residential rental unit in a building within a qualified low-income housing project described in subsection (c)(1) occupied by individuals described in subsection (a)(1)(B)(i)—

"(i) a moderate rehabilitation program under section 8 of the United States Housing Act of 1937, or

"(ii) section 515 of the Housing Act of 1949, and

"(C) in the case of a qualified low-income housing project described in subsection (c)(3), the programs described in subparagraph (B) thereof.

For purposes of the preceding sentence, programs described in subparagraph (A) and (B) shall be included as in effect on the date of the enactment of the Tax Reform Act of 1986.

"(g) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED COMPLIANCE PERIOD.—The term 'qualified compliance period' means with respect to any project or building the 15-taxable year period beginning on the 1st day of the 1st taxable year of the credit period.

"(2) INCOME OF INDIVIDUALS; AREA MEDIAN GROSS INCOME.—The income of individuals and area median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income families and area median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size.

"(3) CURRENT INCOME DETERMINATIONS.—

"(A) IN GENERAL.—The determination of whether a resident meets the income requirements of clause (i) or (ii) of subsection (a)(1)(B) or paragraph (5)(A) of this subsection (hereinafter in this paragraph referred to as the 'applicable limit') shall be made at least annually on the basis of the current income of the resident.

"(B) CONTINUING RESIDENT'S INCOME MAY INCREASE ABOVE APPLICABLE LIMIT.—If the income of a resident of a unit in a project did not exceed the applicable limit upon commencement of such resident's occupancy of such unit (or as of any prior determination under subparagraph (A)), the income of such resident shall be treated as continuing to not exceed the applicable limit. The preceding sentence shall cease to apply to any resident occupying a unit described in clause (i) of subsection (a)(1)(B) whose income as of the most recent determination under subparagraph (A) exceeds 140 percent of the applicable limit of such unit if after such determination, but before the next determination, any unit of comparable or smaller size in the same project is occupied by a new resident whose income exceeds such applicable limit. For purposes of the preceding sentence with respect to any resident occupying a unit described in clause (ii) of subsection (a)(1)(B), '120 percent' shall be substituted for '140 percent'.

"(4) CERTIFICATION TO SECRETARY.—The operator of any qualified low-income housing project shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual certification that such project continues to meet the occupancy requirements of this section. Any failure to comply with the provisions of the preceding sentence shall be treated as a recapture event.

"(5) RESIDENTIAL RENTAL UNITS.—No residential rental unit shall be included in subsection (a)(1)(B) if—

"(A) such unit is not suitable for occupancy, or

"(B) any portion of the qualifying basis of which is reduced for casualty loss, except to the extent replaced by reconstruction.

"(6) LIMITATION ON CREDIT.—No credit shall be allowed with respect to any residential rental unit unless any payment under section 8 of the United States Housing Act of 1937 with respect to such unit or any occupants thereof is limited to an amount no greater than the excess of—

"(A) 30 percent of 50 percent of the area median gross income, over

"(B) 30 percent of the income of the individuals occupying such unit.

"(h) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year within the qualified project period, there is a recapture event with respect to any qualified low-income housing project, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted from the nonallowance of the credit described under subsection (a)(1) with respect to residential rental units in such project.

"(2) APPLICABLE RECAPTURE PERCENTAGE.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"With respect to the qualified compliance period, if the recapture event occurs in:	The applicable recapture percentage is:
Years 1–10	100
Year 11	85
Year 12	70
Year 13	55
Year 14	40
Year 15	25.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) NONCOMPLIANCE.—The failure to satisfy any requirement of paragraphs (1), (2), (3), and (4) of subsection (f).

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a person's interest in a qualified low-income housing project with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME CREDIT ALLOWANCE AND COMPLIANCE LIABILITY.—Clause (i) shall not apply if the person acquiring such

interest in the project agrees in writing to assume the recapture and continued compliance liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the project shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(C) SPECIAL RECAPTURE RULE RELATING TO DECREASE IN LOW-INCOME HOUSING UNITS.—

"(i) IN GENERAL.—With respect to a project, a reduction for any taxable year during the qualified compliance period of the percentage of individuals described in subsection (a)(1)(B), while still satisfying the minimum set-aside requirement under subsection (f)(1).

"(ii) DETERMINATION OF RECAPTURE.—The increase in tax computed under paragraph (1) shall be determined only with respect to the reduction in units referred to in clause (i). In determining the amount of recapture, the basis of the unit or units shall be determined using a last in, first out convention.

"(i) APPLICATION OF AT-RISK RULES.—

"(1) IN GENERAL.—In determining the qualifying basis of any property for purposes of this section—

"(A) section 46(c)(8) (other than subparagraph (D)(iv)(I) thereof) and section 47(d)(1) shall apply, and

"(B) for purposes of such section, the credit base with respect to such property shall be the qualifying basis.

"(2) SPECIAL RULES FOR DETERMINING QUALIFIED PERSON.—For purposes of paragraph (1)—

"(A) IN GENERAL.—In computing the amount of qualified nonrecourse financing with respect to property with respect to which a credit is allowable under this section, the determination of whether an organization—

"(i) which is exempt from taxation under section 501(c)(3) or (4), and

"(ii) 1 of the exempt purposes of which includes the fostering of low-income housing,

is a qualified person (within the meaning of section 48(c)(8)(D)(iv)) shall be made without regard to whether such organization is actively and regularly engaged in the business of lending money or is a person described in section 46(c)(8)(D)(iv)(II) if the requirements of subparagraphs (B) through (D) are met.

"(B) FINANCING SECURED BY PROPERTY.—The requirements of this subparagraph are met with respect to any financing if such financing is secured by the property described in subparagraph (A), except that this subparagraph shall not apply in the case of property described in subsection (a)(1)(B)(ii) if—

"(i) a security interest in such property is not permitted by a Government agency holding or insuring the mortgage secured by such property, and

"(ii) the proceeds from such financing (if any) are applied to acquire or improve such property.

"(C) PORTION OF PROPERTY ATTRIBUTABLE TO FINANCING.—The requirements of this subparagraph are met with respect to any financing if, in the taxable year in which such financing is taken into account in determining qualifying basis, not more than 60 percent of the basis of such property is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).

"(D) REPAYMENT OF PRINCIPAL AND INTEREST.—The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid before the earliest of—

"(i) the date on which such financing matures,

"(ii) 90 days following the close of the qualified compliance period (within the meaning of subsection (g)(1)) with respect to such property, or

"(iii) the date of the refinancing of such financing or the sale of the property to which such financing relates.

"(3) PRESENT VALUE OF FINANCING.—If the rate of interest on any financing described in paragraph (2)(A) (determined by taking into account government subsidies) is less than the rate which is 1 percent below the applicable Federal rate as of the time such financing is incurred, then the qualifying basis of property to which such financing relates shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate.

"(4) FAILURE TO FULLY REPAY.—To the extent that the requirements of paragraph (2)(D) are not met, then the amount of tax of the taxpayer for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such property, increased by an amount of interest for the period—

"(i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the first taxable year for which such credit was allowable, and

"(ii) ending with the due date for the taxable year in which such failure occurs,

determined by using the underpayment rate and method under section 6621."

(b) LOW-INCOME HOUSING CREDIT TREATED AS OTHER BUSINESS CREDITS.—

(1) IN GENERAL.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended—

(A) by striking out "plus" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", plus", and

(C) by adding at the end thereof the following new paragraph:

"(4) the low-income housing credit determined under section 42(a)."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 38, as amended by this Act, is amended by inserting "42(a)," before "46(a),".

(B) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 42. Low-income housing credit."

(c) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to projects placed in service after December 31, 1986, in taxable years ending after such date.

(2) SPECIAL RULE.—The amendments made by this section shall not apply to any portion of a project subject to the provisions of the Internal Revenue Code of 1954 relating to—

(A) depreciation of real property over recovery periods shorter than 27½ years, or

(B) the investment tax credit (other than the rehabilitation percentage).

(3) TRANSITION RULE.—

(A) IN GENERAL.—With respect to a project described in subparagraph (B)—

(i) the amendments made by this section (other than subsections (f)(3), (f)(4), and (g)(5)(A) of section 43 of the Internal Revenue Code of 1954) shall apply,

(ii) the amendments made by section 201 shall not apply, and

(iii) the amendments made by section 302 shall not apply.

(B) PROJECT DESCRIBED.—A project is described in this subparagraph if—

(i) an urban development action grant application with respect to such project was submitted on September 13, 1984,

(ii) a zoning commission map amendment was granted on July 17, 1985, and

(iii) the number assigned to such project by the Federal Housing Administration is 023-36602.

(C) ADDITIONAL UNITS ELIGIBLE FOR CREDIT.—In the case of a project described in subparagraph (B), for each residential rental unit occupied by individuals whose income is 32 percent or less of area median gross income (as determined under section 43(g)(2) of such Code), 1 additional unit with respect to which a credit under section 43 of such Code is not otherwise claimed shall be eligible for a credit determined under subsection (a)(2)(A)(i) of section 43 of such Code, if such unit is within a project which also meets the following criteria:

(i) Rents charged for units in such project are restricted by State regulations.

(ii) The annual cash flow of such project is restricted by State law.

(iii) The project is located on land owned by or ground leased from a public housing authority.

(iv) Construction of such project begins on or before December 31, 1986, and units within such project are placed in service on or before June 1, 1990.

(v) For a 20-year period, 20 percent or more of the residential rental units in such project are occupied by individuals whose income is 50 percent or less of area median gross income.

The total credits allowed under this subparagraph shall not exceed 25 percent of the total basis of such project.

(D) SECTION 43.—For purposes of this paragraph any reference to section 43 of the Internal Revenue Code of 1954 is a reference to such section as added by this section.

Subtitle C—Interest Expense

SEC. 1421. LIMITATIONS ON DEDUCTION FOR NONBUSINESS INTEREST.

(a) DISALLOWANCE OF DEDUCTION FOR CONSUMER INTEREST OF INDIVIDUALS.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) DISALLOWANCE OF DEDUCTION FOR CONSUMER INTEREST.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, no deduction shall be allowed under this chapter for consumer interest paid or accrued during the taxable year.

"(2) CONSUMER INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'consumer interest' means any interest allowable as a deduction under this chapter other than interest paid or accrued on indebtedness incurred or continued in connection with—

"(i) the conduct of a trade or business (other than the trade or business of performing services as an employee), or

"(ii) an activity described in section 212.

"(B) EXCEPTION FOR QUALIFIED RESIDENCE INTEREST.—The term 'consumer interest' shall not include any qualified residence interest.

"(3) QUALIFIED RESIDENCE INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified residence interest' means interest which is paid or accrued during the taxable year on indebtedness which is secured by any property which (at the time such interest is paid or accrued) is a qualified residence of the taxpayer.

"(B) EXCEPTION FOR INTEREST ON INDEBTEDNESS IN EXCESS OF THE FAIR MARKET VALUE OF THE QUALIFIED RESIDENCE.—

"(i) IN GENERAL.—The term 'qualified residence interest' shall not include any interest paid or accrued on indebtedness secured by any qualified residence which is allocable to that portion of the principal amount of such indebtedness which, when added to the outstanding aggregate principal amount of all other indebtedness previously incurred and secured by such qualified residence, exceeds the fair market value of such qualified residence.

"(ii) TIME FOR DETERMINATION.—The determination under clause (i) shall be made as of the time the indebtedness is incurred.

"(C) QUALIFIED RESIDENCE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified residence' means—

"(I) a principal residence (within the meaning of section 1034) of the taxpayer, and

"(II) 1 other residence (whether or not a principal residence) of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year and which is used by the taxpayer as a residence (within the meaning of section 280A(d)(1)).

"(ii) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If a married couple does not file a joint return for any taxable year—

"(I) such couple shall be treated as 1 taxpayer for purposes of clause (i), and

"(II) each individual shall be entitled to take into account 1 residence unless both individuals consent in writing to 1 individual taking into account a principal residence and 1 other residence.

"(D) SPECIAL RULE FOR COOPERATIVE HOUSING CORPORATIONS.—For purposes of this paragraph, any indebtedness secured by stock held by the taxpayer as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by the house or apartment which the taxpayer is entitled to occupy as such a tenant-stockholder.

"(4) PHASE-IN OF LIMITATION.—In the case of any taxable year beginning in calendar years 1987 through 1990, the amount of interest with respect to which a deduction is disallowed under this subsection shall be equal to the applicable percentage (within the meaning of subsection (d)(8)(B)) of the amount which (but for this subsection) would have been so disallowed."

(b) LIMITATION ON INVESTMENT INTEREST.—Subsection (d) of section 163 (relating to limitation on interest on investment indebtedness) is amended to read as follows:

"(d) LIMITATION ON INVESTMENT INTEREST.—

"(1) IN GENERAL.—In the case of a taxpayer other than a corporation, the amount allowed as a deduction under this chapter for investment interest for any taxable year shall not exceed the net investment income of the taxpayer for the taxable year.

"(2) CARRYOVER OF DISALLOWED INTEREST.—The amount not allowed as a deduction for any taxable year by reason of paragraph (1) shall be treated as investment interest paid or accrued by the taxpayer in the succeeding taxable year.

"(3) INVESTMENT INTEREST.—For purposes of this subsection, the term 'investment interest' means any interest allowable as a deduction under this chapter (determined without regard to paragraph (1)); except that such term shall not include—

"(A) any consumer interest (as defined in subsection (h)(2)),

"(B) any qualified residence interest (as defined in subsection (h)(3)), and

"(C) any interest which is allowable as a deduction in computing adjusted gross income and which is not attributable to a limited business interest.

For purposes of the preceding sentence, the term 'interest' includes any amount allowable as a deduction in connection with personal property used in a short sale.

"(4) NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net investment income' means the excess of—

"(i) investment income, over

"(ii) investment expenses.

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) the gross income from interest, dividends, rents, and royalties,

"(ii) any amount treated under section 1245, 1250, or 1254 as ordinary income, and

"(iii) any capital gain net income attributable to the disposition of property held for investment,

but only to the extent such amounts are not derived from the conduct of a trade or business.

"(C) INVESTMENT EXPENSES.—The term 'investment expenses' means the deductions allowable under this chapter (other than for interest) which are directly connected with the production of investment income.

"(D) SPECIAL RULE FOR CERTAIN AMOUNTS ATTRIBUTABLE TO NET LEASES.—The net investment income of a taxpayer for any taxable year shall be increased by an amount equal to the excess (if any) of—

"(i) the deductions allowable for such taxable year under this section (determined without regard to this subsection) and section 162, 164(a) (1) or (2), or 212 attributable to a net lease, over

"(ii) the income for such taxable year attributable to such property.

"(E) INCOME, ETC. FROM LIMITED BUSINESS INTERESTS TAKEN INTO ACCOUNT.—Any item of income, gain, deduction, or loss derived from a limited business interest shall be taken into account in computing net investment income.

"(5) LIMITED BUSINESS INTEREST.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'limited business interest' means—

"(i) except as provided in regulations, any interest as a limited partner in a partnership, and

"(ii) any interest of a lessor in property subject to a lease if—

"(I) for the taxable year the sum of the deductions of the lessor with respect to such property which are allowable solely by reason of section 162 (other than rentals and reimbursed amounts with respect to such property) is less than 15 percent of the rental income produced by such property, or

"(II) the lessor is either guaranteed a specific rental or is guaranteed in whole or in part against loss of income, and

"(iii) any other interest in an activity in which the taxpayer does not materially participate (or in the case of any rental real estate activity, in which the taxpayer does not actively participate).

"(B) SPECIAL RULES FOR SUBPARAGRAPH (A)(ii).—For purposes of determining whether an interest is a net lease under subparagraph (A)(ii)—

"(i) CERTAIN PERSONAL SERVICES TAKEN INTO ACCOUNT.—In the case of—

"(I) an individual, or

"(II) a partnership (other than a partnership in which an interest is held by a limited partner),

which manages property held by such individual or partnership, deductions under section 162 with respect to such property shall be treated as including the fair market value of management or repair services performed by such individual or a partner in such partnership with respect to such property.

"(ii) REAL PROPERTY LEASES.—

"(I) 2 OR MORE LEASES.—If a parcel of real property of the taxpayer is leased under 2 or more leases, subparagraph (A)(ii) shall, at the election of the taxpayer, be applied by treating all leased portions of such property as subject to a single lease.

"(II) PROPERTY HELD FOR MORE THAN 5 YEARS.—At the election of the taxpayer, subparagraph (A)(ii) shall not apply with respect to real property of the taxpayer which has been in use by the taxpayer for more than 5 years.

"(6) COORDINATION WITH SECTION 280A.—For purposes of this subsection—

"(A) the determination of whether any interest is allocable to a section 280A use shall be made in the same manner as for purposes of section 280A, and

"(B) any interest (other than qualified residence interest within the meaning of subsection (h)(3)) which is allocable to a section 280A use shall be treated as investment interest to the extent such interest is greater than the excess (if any) of—

"(i) the gross income derived from such use for the taxable year, over

"(ii) the deductions referred to in section 280A(c)(5)(B) (other than for interest).

For purposes of the preceding sentence, the term 'section 280A use' means any use referred to in section 280A(c)(5).

"(7) NET LEASE.—For purposes of this subsection, the term 'net lease' means a limited business interest described in clause (ii) of paragraph (5)(A).

"(8) PHASE-IN OF AMOUNTS OF INTEREST DISALLOWED.—In the case of any taxable year beginning in calendar years 1987 through 1990—

"(A) IN GENERAL.—The amount of interest disallowed under this subsection for any such taxable year shall be equal to the sum of—

"(i) the amount of interest which would have been disallowed under this subsection (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for the taxable year, plus

"(ii) the applicable percentage of the excess of the amount which (but for this paragraph) would have been disallowed under this subsection for the taxable year over the amount described in clause (i).

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	35
1988	60
1989	80
1990	90."

(c) COORDINATION WITH SECTION 280A.—Subsection (f) of section 280A is amended by adding at the end thereof the following new paragraph:

"(5) COORDINATION WITH THE INTEREST LIMITATION OF SECTION 163.—For purposes of sub-

sections (b), (c)(5), and (e)(2), in determining whether interest is allowable as a deduction without regard to its connection with a trade or business or the other use involved, the limitations of subsections (d) and (h) of section 163 shall not be taken into account."

(d) TECHNICAL AMENDMENT.—Clause (i) of section 7872(d)(1)(E) is amended by striking out "section 163(d)(3)" and inserting in lieu thereof "section 163(d)(4)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

Subtitle D—Real Estate Investment Entities

PART I—REAL ESTATE INVESTMENT TRUSTS

SEC. 1431. GENERAL QUALIFICATION REQUIREMENTS.

(a) MODIFICATION OF CLOSELY-HELD REQUIREMENTS.—

(1) Paragraph (6) of section 856(a) is amended to read as follows:

"(6) which is not closely held (as determined under subsection (h)); and".

(2) Section 856 is amended by adding at the end thereof the following new subsection:

"(h) CLOSELY HELD DETERMINATIONS.—

"(1) SECTION 542(a)(2) APPLIED.—

"(A) IN GENERAL.—For purposes of subsection (a)(6), a corporation, trust, or association is closely held if the stock ownership requirement of section 542(a)(2) is met.

"(B) WAIVER OF PARTNERSHIP ATTRIBUTION, ETC.—For purposes of subparagraph (A)—

"(i) paragraph (2) of section 544(a) shall be applied as if such paragraph did not contain the phrase 'or by or for his partner', and

"(ii) sections 544(a)(4)(A) and 544(b)(1) shall be applied by substituting 'the entity meet the stock ownership requirement of section 542(a)(2)' for 'the corporation a personal holding company'.

"(2) SUBSECTIONS (a) (5) AND (6) NOT TO APPLY TO 1ST YEAR.—Paragraphs (5) and (6) of subsection (a) shall not apply to the 1st taxable year for which an election is made under subsection (c)(1) by any corporation, trust, or association."

(b) REQUIREMENT OF NO EARNINGS AND PROFITS ACCUMULATED IN NON-REIT YEARS.—Subsection (a) of section 857 is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(3) either—

"(A) the provisions of this part apply to the real estate investment trust for all taxable years beginning after February 28, 1986, or

"(B) as of the close of the taxable year, the real estate investment trust has no earnings and profits accumulated in any non-REIT year.

For purposes of the preceding sentence, the term 'non-REIT year' means any taxable year to which the provisions of this part did not apply with respect to the entity."

(c) INITIAL CHANGE IN ANNUAL ACCOUNTING PERIOD PERMITTED.—

(1) Section 859 is amended by adding at the end thereof the following new subsection:

"(b) CHANGE OF ACCOUNTING PERIOD WITHOUT APPROVAL.—Notwithstanding section 442, an entity which has not engaged in any active trade or business may change its accounting period to a calendar year without the approval of the Secretary if such change is in connection with an election under section 856(c)."

(2) Section 859 is amended by striking out "For purposes of" and inserting in lieu thereof "(a) GENERAL RULE.—For purposes of".

SEC. 1432. ASSET AND INCOME REQUIREMENTS.

(a) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—Section 856 (defining real estate investment trust) is amended by adding at the end thereof the following new subsection:

"(i) TREATMENT OF CERTAIN WHOLLY OWNED SUBSIDIARIES.—

"(1) IN GENERAL.—For purposes of this title—

"(A) a corporation which is a qualified REIT subsidiary shall not be treated as a separate corporation, and

"(B) all assets, liabilities, and items of income, deduction, and credit of a qualified REIT subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the real estate investment trust.

"(2) QUALIFIED REIT SUBSIDIARY.—For purposes of this subsection, the term 'qualified REIT subsidiary' means any corporation if 100 percent of the stock of such corporation is held by the real estate investment trust at all times during the period such corporation was in existence.

"(3) TREATMENT OF TERMINATION OF QUALIFIED SUBSIDIARY STATUS.—For purposes of this subtitle, if any corporation which was a qualified REIT subsidiary ceases to meet the requirements of paragraph (2), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the real estate investment trust in exchange for its stock."

(b) TEMPORARY INVESTMENT OF NEW EQUITY CAPITAL.—

(1) Paragraph (3) of section 856(c) is amended by striking out "and" at the end of subparagraph (G), by adding "and" at the end of subparagraph (H), and by inserting after subparagraph (H) the following new subparagraph:

"(I) qualified temporary investment income;".

(2) Subparagraph (B) of section 856(c)(6) is amended by adding at the end thereof the following new sentence: "Such term also includes any property (not otherwise a real estate asset) attributable to the temporary investment of new equity capital, but only if such property is stock or a debt instrument, and only for the 1-year period beginning on the date the real estate trust receives such capital."

(3) Paragraph (6) of section 856(c) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) QUALIFIED TEMPORARY INVESTMENT INCOME.—

"(i) IN GENERAL.—The term 'qualified temporary investment income' means any income which—

"(I) is attributable to stock or a debt instrument,

"(II) is attributable to the temporary investment of new equity capital, and

"(III) is received or accrued during the 1-year period beginning on the date on which the real estate investment trust receives such capital.

"(ii) NEW EQUITY CAPITAL.—The term 'new equity capital' means any amount received by the real estate investment trust in exchange for stock in such trust (other than amounts received pursuant to a dividend reinvestment plan)."

SEC. 1433. DEFINITION OF RENTS.

(a) MODIFICATION OF INDEPENDENT CONTRACTOR REQUIREMENTS.—Paragraph (2) of section 856(d) (relating to certain amounts excluded from rents from real property) is amended by adding at the end thereof the following:

"Subparagraph (C) shall not apply with respect to any amount if such amount would be excluded from unrelated business taxable income under section 512(b)(3) if received by an organization described in section 511(a)(2)."

(b) CERTAIN RENTS OR INTEREST BASED ON NET INCOME OR PROFITS PERMITTED.—

(1) RENTS.—Subsection (d) of section 856 is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR CERTAIN PROPERTY SUBLEASED BY TENANT OF REAL ESTATE INVESTMENT TRUSTS.—

"(A) IN GENERAL.—If—

"(i) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant which derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(ii) such tenant receives or accrues, directly or indirectly, from subtenants only amounts which are qualified rents,

then the amounts that the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' solely by reason of being based on the income or profits of such tenant.

"(B) QUALIFIED RENTS.—For purposes of subparagraph (A), the term 'qualified rents' means any amount which would be treated as rents from real property if received by the real estate investment trust."

(2) INTEREST.—Subsection (f) of section 856 (relating to qualifying interest income) is amended to read as follows:

"(f) INTEREST.—

"(1) IN GENERAL.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued (directly or indirectly) if the determination of such amount depends (in whole or in part) on the income or profits of any person, except that—

"(A) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(B) any amount so received or accrued with respect to an obligation secured by a mortgage on real property or an interest in real property shall not be excluded from the term 'interest' solely by reason of being based on the income or profits of the debtor from such property, if—

"(i) the debtor derives substantially all of its gross income with respect to such property from the leasing of substantially all of its interests in such property to tenants, and

"(ii) the amounts received or accrued directly or indirectly by the debtor from such tenants are only qualified rents (as defined in subsection (d)(6)(B)).

"(2) SPECIAL RULE.—Where a real estate investment trust receives or accrues any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends (in whole or in part) on the income or profits of any person, only a proportionate part (determined under regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust shall be excluded from the term 'interest'."

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 856(d)(2) is amended by

striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (6)".

SEC. 1434. DISTRIBUTION REQUIREMENTS.

(a) EXCLUSION OF CERTAIN NONCASH INCOME FROM DISTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Subparagraph (B) of section 857(a)(1) (relating to distribution requirements) is amended to read as follows:

"(B) any excess noncash income (as determined under subsection (e)); and"

(2) EXCESS NONCASH INCOME.—Section 857 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) EXCESS NONCASH INCOME.—

"(1) IN GENERAL.— For purposes of subsection (a)(1)(B), the term 'excess noncash income' means the excess (if any) of—

"(A) the amount determined under paragraph (2) for the taxable year, over

"(B) 5 percent of the real estate investment trust taxable income for the taxable year determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain.

"(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph for the taxable year is the sum of—

"(A) the amount by which the amounts includible in gross income—

"(i) under section 467 (relating to certain payments for the use of property or services), or

"(ii) as original issue discount on instruments to which section 1274 (relating to certain debt instruments issued for property) applies,

exceed the amount of money and the fair market value of other property received during the taxable year with respect to transactions from which such income was derived; plus

"(B) any income on the disposition of a real estate asset if—

"(i) there is a determination (as defined in section 860(e)) that such income is not eligible for nonrecognition under section 1031, and

"(ii) failure to meet the requirements of section 1031 was due to reasonable cause and not to willful neglect."

(b) ADJUSTMENT TO CURRENT EARNINGS AND PROFITS.— Subsection (d) of section 857 (relating to earnings and profits) is amended by striking out the first sentence and inserting in lieu thereof the following new sentence: "The earnings and profits of a real estate investment trust for any taxable year (but not its accumulated earnings)—

"(1) shall not be reduced by any amount which is not allowable in computing its taxable income for such taxable year, and

"(2) shall not be less than its real estate investment trust taxable income for such taxable year determined without regard to the deduction for dividends paid (as defined in section 561)."

SEC. 1435. TREATMENT OF CAPITAL GAINS.

(a) COORDINATION OF NET OPERATING LOSS DEDUCTION WITH PAYMENT OF CAPITAL GAIN DIVIDENDS.—

(1) IN GENERAL.—Paragraph (3) of section 857(b) (relating to capital gains) is amended by adding at the end thereof the following new subparagraph:

"(D) COORDINATION WITH NET OPERATING LOSS PROVISIONS.—For purposes of section 172, if a real estate investment trust pays capital gain dividends during any taxable year, the amount of the net capital gain for such taxable year (to the extent such gain does not exceed the amount of such capital gain dividends) shall be excluded in determining—

"(i) the net operating loss for the taxable year, and

"(ii) the amount of the net operating loss of any prior taxable year which may be carried through such taxable year under section 172(b)(2) to a succeeding taxable year."

(2) REPEAL OF LIMITATION OF NET CAPITAL GAIN TO REAL ESTATE INVESTMENT TRUST TAXABLE INCOME.—Subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by striking out the last sentence.

(b) NOTICE OF CAPITAL GAINS DIVIDENDS MAY BE MAILED WITH ANNUAL REPORT.—

(1) Subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by striking out "the close of its taxable year" and inserting in lieu thereof "the close of its taxable year (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year)".

(2) Subsection (c) of section 858 (relating to notice to shareholders) is amended by striking out "distribution is made" and inserting in lieu thereof "distribution is made (or mailed to its shareholders or holders of beneficial interests with its annual report for the taxable year)".

SEC. 1436. MODIFICATIONS OF PROHIBITED TRANSACTION RULES.

(a) EXEMPTIONS FROM PROHIBITED TRANSACTIONS RULES.—

(1) Clause (iii) of section 857(b)(6)(C) (relating to certain sales not to constitute prohibited transactions) is amended to read as follows:

"(iii)(I) during the taxable year the trust does not make more than 7 sales of property (other than foreclosure property), or (II) the gross income for the taxable year from sales of property (other than foreclosure property) does not exceed 15 percent of the real estate investment trust taxable income for the taxable year (determined without regard to subparagraphs (B), (D), (E), and (F) of paragraph (2)); and".

(2) Subparagraph (C) of section 857(b)(6) is amended by adding at the end thereof the following:

"For purposes of clause (iii)(II), all amounts to be received under an installment sale shall be treated as received in the taxable year in which the sale occurs."

(3) Clause (ii) of section 857(b)(6)(C) is amended by striking out "20 percent" and inserting in lieu thereof "30 percent".

(4) Subparagraph (C) of section 857(b)(6) is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof "; and", and by inserting after clause (iv) the following new clause:

"(v) if the requirement of clause (iii)(I) is not satisfied, substantially all of the marketing and development expenditures with respect to the property were made through an independent contractor (as defined in section 856(d)(3)) from whom the trust itself does not derive or receive any income."

(b) NET LOSS FROM PROHIBITED TRANSACTIONS.—

(1) LOSS FROM PROHIBITED TRANSACTIONS NOT ALLOWED TO OFFSET GAIN FROM SUCH TRANSACTIONS.—Clause (ii) of section 857(b)(6)(B) (relating to income from prohibited transactions) is amended to read as follows:

"(ii) in determining the amount of the net income derived from prohibited transactions, there shall not be taken into account any item attributable to any prohibited transaction for which there was a loss; and".

(2) NET LOSS MAY REDUCE TAXABLE INCOME.—Subparagraph (F) of section 857(b)(2) (defining real estate investment trust taxable income) is amended by striking out "and there shall be included an amount equal to any net loss derived from prohibited transactions".

SEC. 1437. DEFICIENCY DIVIDENDS OF REAL ESTATE INVESTMENT TRUSTS NOT SUBJECT TO PENALTY UNDER SECTION 6697.

(a) GENERAL RULE.—The section heading and subsection (a) of section 6697 (relating to assessable penalties with respect to liability for tax of qualified investment entities) are amended to read as follows:

"SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF REGULATED INVESTMENT COMPANIES.

"(a) CIVIL PENALTY.—In addition to any other penalty provided by law, any regulated investment company whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) shall pay a penalty in an amount equal to the amount of the interest (for which such company is liable) which is attributable solely to such increase."

(b) CONFORMING AMENDMENT.—

(1) Subsection (j) of section 860 is amended by striking out "qualified investment entity" and inserting in lieu thereof "regulated investment company".

(2) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6697 and inserting in lieu thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of regulated investment companies."

SEC. 1438. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to taxable years beginning after December 31, 1986.

(b) RETENTION OF EXISTING TRANSITIONAL RULE.—The amendment made by section 1433(b)(2) shall not apply with respect to amounts received or accrued pursuant to loans made before May 28, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if such loan is made pursuant to a binding commitment entered into before May 28, 1976.

PART II—TAXATION OF INTERESTS IN ENTITIES HOLDING REAL ESTATE MORTGAGES

SEC. 1441. TAXATION OF REAL ESTATE MORTGAGE INVESTMENT COMPANIES.

(a) GENERAL RULE.—Subchapter M of chapter 1 (relating to regulated investment companies and real estate investment trusts) is amended by adding at the end thereof the following new part:

"PART IV—REAL ESTATE MORTGAGE INVESTMENT COMPANIES

"Sec. 860A. Taxation of REMIC.

"Sec. 860B. Taxation of regular interests.

"Sec. 860C. Taxation of residual interests.

"Sec. 860D. REMIC defined.

"Sec. 860E. Other rules.

"Sec. 860F. Other definitions.

"SEC. 860A. TAXATION OF REMIC.

"(a) GENERAL RULE.—There is hereby imposed for each taxable year a tax (computed at the highest rate provided in section 11) on the REMIC income of every REMIC as though the REMIC income were the taxable income referred to in section 11. Such tax shall be in lieu of the tax imposed by section 11.

"(b) REMIC INCOME.—For purposes of subsection (a), the REMIC income shall be the

taxable income of the REMIC adjusted as follows:

"(1) UNLIMITED NET OPERATING LOSS CARRYBACK.—The net operating loss of a REMIC for any taxable year shall be a carryback to the 1st taxable year of the REMIC, and to the extent not theretofore used, shall be a carryback to each intervening taxable year.

"(2) DEDUCTION FOR CERTAIN PAYMENTS ON RESIDUAL INTERESTS.—The deduction determined under section 860C(a) shall be allowed.

"(3) SPECIAL DEDUCTIONS FOR CORPORATIONS NOT ALLOWABLE.—The deductions for corporations provided in part VIII of subchapter B (other than section 248) shall not be allowed.

"(4) ORGANIZATIONAL EXPENDITURES.—The period selected under section 248(a) (relating to organizational expenditures) shall be the period of the qualified mortgage held by the REMIC which has the longest maturity.

"(5) INCOME AND LOSS FROM PROHIBITED TRANSACTIONS NOT TAKEN INTO ACCOUNT.—There shall not be taken into account any item of income, gain, loss, or deduction allocable to a prohibited transaction.

"SEC. 860B. TAXATION OF REGULAR INTERESTS.

"(a) REGULAR INTERESTS TREATED AS DEBT INSTRUMENTS.—For purposes of this title, any regular interest in a REMIC shall be treated as a debt instrument.

"(b) HOLDERS MUST USE ACCRUAL METHOD.—The amounts includible in gross income with respect to any regular interest in a REMIC shall be determined under the accrual method of accounting.

"(c) DETERMINATION OF ISSUE PRICE.—If a regular interest is issued for property, the issue price of such interest shall be determined under paragraph (3) of section 1273(b) whether or not the requirements of such paragraph are met.

"(d) GAIN NOT IN EXCESS OF ORIGINAL ISSUE DISCOUNT TREATED AS ORDINARY INCOME.—For purposes of paragraph (2) of section 1271(a), a regular interest in a REMIC shall be treated as a debt instrument with respect to which there was, at the time of original issue, an intention to call before maturity.

"(e) CROSS REFERENCE.—

"For special rules in determining inclusion of original issue discount on regular interests, see section 1272(a)(6).

"SEC. 860C. TAXATION OF RESIDUAL INTERESTS.

"(a) DEDUCTION FOR PAYMENT OF DAILY ACCRUALS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), there shall be allowed as a deduction to the REMIC an amount equal to the amounts distributed during the taxable year to holders of residual interests.

"(2) LIMITATION.—The amount of the deduction allowed by paragraph (1) for any taxable year shall not exceed the excess (if any) of—

"(A) the aggregate amount of the daily accruals on all residual interests in the REMIC for periods before the close of such taxable year, over

"(B) the amount allowed as a deduction under paragraph (1) to the REMIC for all preceding taxable years.

"(b) TREATMENT OF HOLDERS.—

"(1) DISTRIBUTIONS OF DAILY ACCRUALS INCLUDED IN INCOME.—Any amount distributed to a holder of a residual interest shall be included in gross income to the extent the amount so distributed does not exceed the excess (if any) of—

"(A) the sum of the daily accruals with respect to such interest while held by such holder, over

"(B) amounts previously included in the gross income of such holder with respect to such interest under this paragraph.

"(2) TREATMENT OF OTHER DISTRIBUTIONS.—Any distribution with respect to a residual interest in a REMIC (to the extent not includible in gross income under paragraph (1))—

"(A) first shall be applied against and reduce the adjusted basis of such interest, and

"(B) to the extent it exceeds the adjusted basis of such interest, shall be treated as gain from the sale or exchange of such interest.

"(3) AMOUNT REALIZED TO THE EXTENT ATTRIBUTABLE TO DAILY ACCRUALS INCLUDED IN INCOME.—

"(A) IN GENERAL.—The amount realized on the disposition of any residual interest shall be included in gross income to the extent it does not exceed the excess (if any) of—

"(i) the sum of the daily accruals with respect to such interest while held by the taxpayer, over

"(ii) the aggregate amount includible in the gross income of the taxpayer with respect to such interest under paragraph (1).

The adjusted basis of any residual interest shall be increased by the amount included in gross income under the preceding sentence.

"(B) CERTAIN RULES MADE APPLICABLE.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (a)(2), (a)(3), (c), and (d) of section 1276 shall apply with respect to residual interests.

"(c) DETERMINATION OF DAILY ACCRUALS.—

"(1) IN GENERAL.—For purposes of this section, the daily accrual with respect to any residual interest for any day in any accrual period shall be determined by allocating to each day in such period its ratable portion of the product of—

"(A) the adjusted issue price of such interest at the beginning of such accrual period, and

"(B) the long-term Federal rate (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period).

"(2) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any residual interest at the beginning of any accrual period is the issue price of such debt instrument—

"(A) increased by the amount of daily accruals for prior accrual periods, and

"(B) decreased by any distribution made with respect to such interest before the beginning of such accrual period.

"(3) FEDERAL LONG-TERM RATE.—For purposes of this subsection, the term 'Federal long-term rate' means the Federal long-term rate which would have applied to the residual interest under section 1274(d) (determined without regard to paragraph (2) thereof) if it were a debt instrument.

"(d) TREATMENT OF RESIDUAL INTERESTS.—Except as otherwise provided in regulations—

"(1) a residual interest in a REMIC shall be treated as equity, and

"(2) amounts includible in gross income under subsection (b) shall be treated as dividends; except that—

"(A) no deduction shall be allowed under sections 243, 244, and 245 with respect to such amounts, and

"(B) no exemption from the taxes imposed by sections 871(a), 881, 1441, and 1442 (and no reduction in the rates of such taxes) shall apply to such amounts.

"SEC. 860D. REMIC DEFINED.

"(a) GENERAL RULE.—For purposes of this title, the terms 'real estate mortgage investment company' and 'REMIC' mean a corporation, association, partnership, or trust—

"(1) to which an election to be treated as a REMIC applies for the taxable year and all prior taxable years,

"(2) which, if required to register with the Securities and Exchange Commission, has complied with such requirements,

"(3) all of the interests in which are regular interests or residual interests,

"(4) which does not have more than 1 class of residual interests,

"(5) as of the close of each quarter, substantially all of the assets of which consist of qualified mortgages and permitted investments,

"(6) which distributes all of its net cash flow for any taxable year to its holders not later than the close of the 15th day after the close of such taxable year,

"(7) which has a taxable year which is a calendar year,

"(8) to which an election under section 1278(b) applies for the taxable year and all prior taxable years, and

"(9) which uses the accrual method of accounting.

"(b) ELECTION.—

"(1) IN GENERAL.—An entity (otherwise meeting the requirements of subsection (a)) may elect to be treated as a REMIC for its 1st taxable year. Such an election shall be made on its return for such 1st taxable year. Except as provided in paragraph (2), such an election shall apply to the taxable year for which made and all subsequent taxable years.

"(2) TERMINATION.—If any corporation ceases to be a REMIC at any time during the taxable year, such corporation shall not be treated as a REMIC for such taxable year or any succeeding taxable year.

"SEC. 860E. OTHER RULES.

"(a) 100 PERCENT TAX ON PROHIBITED TRANSACTIONS.—

"(1) TAX IMPOSED.—There is hereby imposed for each taxable year of a REMIC a tax equal to 100 percent of the net income derived from prohibited transactions.

"(2) PROHIBITED TRANSACTION.—For purposes of this part, the term 'prohibited transaction' means—

"(A) DISPOSITION OF QUALIFIED MORTGAGE.—The disposition of any qualified mortgage transferred to the REMIC other than a disposition pursuant to—

"(i) the substitution of a qualified replacement mortgage for a defective qualified mortgage,

"(ii) a disposition incident to the foreclosure, default, or imminent default of the mortgage,

"(iii) the bankruptcy or insolvency of the REMIC, or

"(iv) a qualified liquidation described in subsection (b).

"(B) INCOME FROM NONPERMITTED ASSETS.—The receipt of any income attributable to any asset which is neither a qualified mortgage nor a permitted investment.

"(C) COMPENSATION FOR SERVICES.—The receipt by the REMIC of any amount representing a fee or other compensation for services.

"(D) GAIN FROM DISPOSITION OF CASH FLOW INVESTMENTS.—Gain from the disposition of any cash flow investment other than pursuant to any qualified liquidation described in subsection (b).

"(3) DETERMINATION OF NET INCOME.—For purposes of paragraph (1), the term 'net income derived from prohibited transactions' means the excess of the gross income from prohibited transactions over the deductions allowed by this chapter which are directly connected with such transactions; except that there shall not be taken into account any item attributable to any prohibited transaction for which there was a loss.

"(b) NO CORPORATE LEVEL TAX FOR QUALIFIED LIQUIDATIONS.—

"(1) NONRECOGNITION.—Except as otherwise provided in regulations, in the case of a qualified liquidation of a REMIC, no gain or loss shall be recognized to the REMIC on the sale of any qualified mortgage or permitted investment during the liquidation period.

"(2) QUALIFIED LIQUIDATION.—For purposes of this part, the term 'qualified liquidation' means a transaction in which—

"(A) the REMIC adopts a plan of complete liquidation,

"(B) the REMIC sells all its assets (other than cash) within the liquidation period, and

"(C) all proceeds of the liquidation (plus the cash), less assets retained to meet claims, are credited or distributed to holders of regular or residual interests on or before the last day of the liquidation period.

"(3) LIQUIDATION PERIOD.—For purposes of this subsection, the term 'liquidation period' means the period—

"(A) beginning on the date of the adoption of the plan of liquidation, and

"(B) ending at the close of the 90th day after such date.

"(c) RECOGNITION OF GAIN OR LOSS ON TRANSFERS TO REMIC.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, gain or loss shall be recognized to the transferor on the transfer of any property to a REMIC.

"(2) NONRECOGNITION OF LOSS FOR TRANSFERS IN EXCHANGE FOR REGULAR OR RESIDUAL INTEREST.—No loss shall be recognized on any transfer referred to in paragraph (1) to the extent such transfer is in exchange for a regular or residual interest.

"(3) ADJUSTED BASES OF INTERESTS.—The adjusted bases of the regular and residual interests received in a transfer described in paragraph (1) shall be the sum of—

"(A) the fair market value of the property transferred in such transfer, and

"(B) the amount of loss not recognized under paragraph (2).

The amount determined under the preceding sentence shall be allocated among such interests in proportion to their respective fair market values.

"SEC. 860F. OTHER DEFINITIONS.

"For purposes of this part—

"(1) REGULAR INTEREST.— The term 'regular interest' means an interest in a REMIC the terms of which are fixed on the 1st day, and which—

"(A) unconditionally entitles the holder to receive a specified principal amount, and

"(B) provides that interest payments (if any) before maturity are payable at a fixed rate (or to the extent provided in regulations, at variable rates) and on a periodic basis.

An interest shall not fail to meet the requirements of subparagraph (A) merely because the timing (but not the amount) of the principal payments may be contingent on the extent of prepayments on qualified mortgages and the amount of income from permitted investments.

"(2) RESIDUAL INTEREST.—The term 'residual interest' means an interest in a REMIC the terms of which are fixed on the 1st day and which entitles the holder only to receive 1 or more payments the amount and timing of which are wholly contingent on—

"(A) the extent of prepayments on qualified mortgages,

"(B) the extent of income from permitted investments,

"(C) contingent payments on qualified mortgages,

"(D) the return of amounts in a qualified reserve fund, or

"(E) any combination of the foregoing.

"(3) QUALIFIED MORTGAGE.—The term 'qualified mortgage' means—

"(A) any obligation (including any participation or certificate of beneficial ownership therein) which—

"(i) is transferred to the REMIC on the 1st day, and

"(ii) is principally secured, directly or indirectly, by an interest in real property,

"(B) any qualified replacement mortgage, and

"(C) any regular interest in another REMIC transferred to the REMIC on the 1st day.

"(4) QUALIFIED REPLACEMENT MORTGAGE.—The term 'qualified replacement mortgage' means any obligation or interest—

"(A) which would be described in paragraph (3)(A) if it were transferred to the REMIC on the 1st day, and

"(B) which is received for a defective obligation or interest within the 2-year period beginning on the 1st day.

"(5) PERMITTED INVESTMENTS.—The term 'permitted investments' means any—

"(A) cash flow investment,

"(B) qualified reserve asset, or

"(C) foreclosure property.

"(6) CASH FLOW INVESTMENT.—The term 'cash flow investment' means any—

"(A) cash,

"(B) cash item, or

"(C) government security (within the meaning of section 856(c)(5)).

An asset shall be treated as a cash flow investment with respect to any taxable year only if it has a maturity date not later than the close of such taxable year.

"(7) QUALIFIED RESERVE ASSET.—

"(A) IN GENERAL.—The term 'qualified reserve asset' means any asset described in subparagraph (A), (B), or (C) of paragraph (5) which is held as part of a qualified reserve fund.

"(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to provide for timely and full payment of amounts due on regular interests if less than 30 percent of the gross income from the assets in such fund is derived from the sale or other disposition of property held for less than 3 months.

"(8) FORECLOSURE PROPERTY.—The term 'foreclosure property' means property—

"(A) which would be foreclosure property under section 856(e) if acquired by a real estate investment trust, and

"(B) which is acquired in connection with the default or imminent default of a qualified mortgage held by the REMIC.

Property shall cease to be foreclosure property with respect to the REMIC on the date which is 1 year after the date such REMIC acquired such property.

"(9) NET CASH FLOW.—The term 'net cash flow' means, with respect to any taxable year, the excess (if any) of—

"(A) the aggregate amount received during such taxable year (including amounts received on disposition of property), over

"(B) the sum of—

"(i) the amounts paid to holders of regular interests during such taxable year (including amounts paid in redemption),

"(ii) taxes paid by the REMIC during such taxable year,

"(iii) other expenses of the REMIC paid during such taxable year, and

"(iv) amounts reasonably required to replace amounts disbursed from the qualified reserve fund.

Amounts received on disposition of a qualified reserve asset shall be taken into account under subparagraph (A) only to the extent not used within 15 days to acquire another qualified reserve asset.

"(10) 1ST DAY.—The term '1st day' means the first day on which any mortgage is transferred to the REMIC."

(b) TECHNICAL AMENDMENTS.—

(1) REMIC NOT INCLUDIBLE CORPORATION FOR PURPOSES OF CONSOLIDATED RETURNS.—Subsection (b) of section 1504 (defining includible corporation), as amended by section 983(a), is amended by adding at the end thereof the following new paragraph:

"(9) A REMIC (as defined in section 860D)."

(2) INTERESTS IN REMIC TREATED AS REAL ESTATE ASSET FOR REIT PURPOSES.—Subparagraph (B) of section 856(c)(6) (defining real estate asset) is amended by adding at the end thereof the following new sentence: "Such term includes any regular or residual interest in a REMIC."

(3) TREATMENT FOR PURPOSES OF SECTION 593.—Subsection (d) of section 593 (defining loans) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF INTERESTS IN REMIC'S.—A regular or residual interest in a REMIC shall be treated as a qualifying real property loan to the extent the assets of the REMIC consist of qualifying real property loans (determined as if the taxpayer held the assets of the REMIC)."

SEC. 1442. RULES FOR ACCRUING ORIGINAL ISSUE DISCOUNT ON REGULAR INTERESTS AND SIMILAR DEBT INSTRUMENTS.

(a) GENERAL RULE.—Subsection (a) of section 1272 (relating to current inclusion in income of original issue discount) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) DETERMINATION OF DAILY PORTIONS WHERE PRINCIPAL SUBJECT TO ACCELERATION.—

"(A) IN GENERAL.—In the case of any debt instrument to which this paragraph applies, the daily portion of the original issue discount shall be determined by allocating to each day in any accrual period its ratable portion of the excess (if any) of—

"(i) the sum of (I) the present value determined under subparagraph (B) of all remaining payments under the debt instrument as of the close of such period, and (II) the payments during the accrual period of amounts included in the stated redemption price of the debt instrument, over

"(ii) the adjusted issue price of such debt instrument at the beginning of such period.

"(B) DETERMINATION OF PRESENT VALUE.—For purposes of subparagraph (A), the present value shall be determined—

"(i) on the basis of the original yield to maturity (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period), and

"(ii) on the basis of events which have occurred before the close of the accrual period (but making no assumption about events

(such as prepayments) which have not yet occurred).

"(C) DEBT INSTRUMENTS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to—

"(i) any regular interest in a REMIC, or

"(ii) any other debt instrument if payments under such debt instrument may be accelerated by reason of prepayments of other obligations securing such debt instrument (or, to the extent provided in regulations, by reason of other events)."

(b) REGULATORY AUTHORITY UNDER SECTION 1278.—Subsection (c) of section 1278 (relating to regulations) is amended by striking out "this subpart" and inserting in lieu thereof "this subpart (including regulations providing such modifications to the provisions of this subpart as may be necessary to carry out the purposes of this subpart in the case of obligations where the principal may be paid in 2 or more payments)".

SEC. 1443. TREATMENT OF OWNERS' DEBT POOLS.

Section 7701 (relating to definitions), as amended by sections 201(d) and 558(b), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) TREATMENT OF OWNERS' DEBT POOLS.—

"(1) IN GENERAL.—For purposes of this title, any owners' debt pool shall be treated as a corporation.

"(2) OWNERS' DEBT POOL DEFINED.—For purposes of paragraph (1), the term 'owners' debt pool' means any entity—

"(A) which, but for this subsection, would be treated as a trust or partnership for purposes of this title, and

"(B) the principal activity of which is the holding of assets the principal portion of which is real estate mortgages (or interests therein) which directly or indirectly act as collateral for other debt obligations having varying maturities."

SEC. 1444. COMPLIANCE PROVISIONS.

Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end thereof the following new paragraph:

"(7) INTERESTS IN REMIC'S.—

"(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income with respect to regular or residual interests in REMIC's.

"(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A) of this paragraph, subsection (b)(4) of this section shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i).

"(C) ADDITIONAL INFORMATION.—Except as otherwise provided in regulations, any return or statement required to be filed or furnished under this section with respect to interest income described in subparagraph (B) shall also provide information setting forth the issue price of the interest to which the return or statement relates at the beginning of each accrual period with respect to which interest income is required to be reported on such return or statement."

SEC. 1445. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to taxable years beginning after December 31, 1986.

(b) RULES FOR ACCRUING ORIGINAL ISSUE DISCOUNT.—The amendment made by section 1442(a) shall apply to debt instruments issued after December 31, 1986, in taxable years ending after such date.

(c) TREATMENT OF EXISTING ENTITIES.—The amendment made by section 1443 shall not apply to any entity in existence on December 31, 1986. The preceding sentence shall cease to apply with respect to any entity as of the first day after December 31, 1986, on which there is a substantial transfer of cash or other property to such entity.

Subtitle E—Regulated Investment Companies

SEC. 1451. AMENDMENTS TO THE REGULATED INVESTMENT COMPANY QUALIFICATION RULES.

(a) IN GENERAL.—Paragraph (2) of subsection 851(b) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof: "(as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options or futures contracts) derived with respect to its business of investing in such stock, securities, or currencies;".

(b) FOREIGN CURRENCY GAINS.—Subsection 851(b) is amended—

(1) by striking out the period at the end of the next to last sentence therein and inserting in lieu thereof a semicolon;

(2) by striking out the phrase "For purposes of paragraphs (2) and (3)," at the beginning of the final sentence therein; and

(3) by striking out the period at the end of such final sentence and inserting in lieu thereof: "; and the Secretary may by regulation exclude from qualifying income foreign currency gains that are not ancillary to the company's principal business of investing in stock or securities (or options and futures thereon)".

SEC. 1452. TREATMENT OF SERIES FUNDS AS SEPARATE CORPORATIONS.

(a) IN GENERAL.—Section 851 is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULE FOR SERIES FUNDS.—

"(1) In the case of a regulated investment company (within the meaning of subsection (a)) having more than one fund, each fund of such regulated investment company shall be treated as a separate corporation for purposes of this title (except with respect to the definitional requirement of subsection (a)).

"(2) For purposes of paragraph (1) the term 'fund' means a segregated portfolio of assets, the beneficial interest in which is owned by the holders of a class or series of stock of the regulated investment company that is preferred over all other classes or series in respect of such portfolio of assets."

(b) TREATMENT OF CERTAIN EXISTING SERIES FUNDS.—In the case of a regulated investment company that has more than one fund on the date on which this section becomes effective, and has before such effective date been treated for Federal income tax purposes as a single corporation—

(1) the amendment made by this section, and the resulting treatment of each fund as a separate corporation, shall not give rise to the realization or recognition of income or loss by such regulated investment company, its funds, or its shareholders, and

(2) the tax attributes of such regulated investment company shall be appropriately allocated among its funds.

SEC. 1453. EXTENSION OF PERIOD FOR MAILING NOTICES TO SHAREHOLDERS.

The following provisions are each amended by striking out "45 days" each place it appears and inserting in lieu thereof "60 days":

(1) Paragraph (3) of subsection 852(b).

(2) Subparagraph (A) of paragraph 852(b)(5).

(3) Subsection (c) of section 853.

(4) Paragraph (2) of subsection 854(b).

(5) Subsection (c) of section 855.

SEC. 1454. PROTECTION OF MUTUAL FUNDS RECEIVING THIRD-PARTY SUMMONSES.

Paragraph (3) of subsection 7609(a) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by adding the following new subparagraph:

"(H) any regulated investment company (as defined in section 851) and any agent of such regulated investment company when acting as an agent thereof."

SEC. 1455. EFFECTIVE DATES.

(a) The amendments made by sections 1451, 1452, and 1453 shall apply to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

(b) The amendments made by section 1454 shall apply to summonses served after the date of the enactment of this Act.

TITLE XV—TAX-EXEMPT BONDS

SEC. 1501. INDUSTRIAL DEVELOPMENT BOND RULES MODIFIED.

(a) INDUSTRIAL DEVELOPMENT BOND DEFINITION MODIFIED.—Paragraph (2) of section 103(b) (relating to industrial development bonds) is amended—

(1) in subparagraph (A), by striking out "all or a major portion" and inserting in lieu thereof "25 percent or more", and

(2) in subparagraph (B)—

(A) by inserting "25 percent or more of" before "the payment", and

(B) by striking out ", in whole or in major part" and inserting in lieu thereof "directly or indirectly".

(b) EXEMPT ACTIVITY IDBs.—Paragraph (4) of section 103(b) is amended to read as follows:

"(4) CERTAIN EXEMPT ACTIVITIES.—Paragraph (1) shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide—

"(A) qualified residential rental projects,

"(B) airports, docks, wharves, or storage or training facilities directly related to any of the foregoing,

"(C) sewage or solid waste disposal facilities,

"(D) facilities for the furnishing of water for any purpose if—

"(i) the water is or will be made available to members of the general public (including electric utility, industrial, agricultural, or commercial users), and

"(ii) either the facilities are operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof,

"(E) local district heating or cooling facilities,

"(F) facilities for the local furnishing of electric energy or gas, or

"(G) hazardous waste treatment facilities.

For purposes of subparagraph (B), the term 'airport' does not include any lodging facility used directly or indirectly in any trade or business carried on by a person other than a governmental unit."

(c) EXEMPTION FOR QUALIFIED REDEVELOPMENT BONDS.—Paragraph (5) of section 103(b) is amended to read as follows:

"(5) EXEMPTION FOR QUALIFIED REDEVELOPMENT BONDS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any qualified redevelopment bond.

"(B) QUALIFIED REDEVELOPMENT BOND DEFINED.—For purposes of subparagraph (A), the term 'qualified redevelopment bond' means any obligation which is issued as part of an issue if—

"(i) 95 percent or more of the proceeds of such issue are to be used for 1 or more redevelopment purposes in a designated blighted area,

"(ii) any increase in real property tax revenues by reason of the carrying out of such purposes in such area is reserved exclusively for debt service on such issue (and any other issue which meets the requirements of clauses (i) and (iii)) to the extent necessary for such debt service, and

"(iii) such issue is issued pursuant to—

"(I) a State law which authorizes the issuance of such obligations for such purposes in blighted areas, and

"(II) a redevelopment plan which is adopted before such issuance by the governing body described in subparagraph (D)(i) with respect to such area.

"(C) REDEVELOPMENT PURPOSES.—For purposes of subparagraph (B), the term 'redevelopment purposes' means, with respect to any designated blighted area—

"(i) the acquisition (by a governmental unit having the power to exercise eminent domain) of real property located in such area, if such property meets the standards under local law for property acquired through the exercise of the power of eminent domain,

"(ii) the clearing and preparation of land in such area for redevelopment and the transfer of interests in real property located in such area to persons other than governmental units for fair market value,

"(iii) the rehabilitation of real property in such area acquired as provided in clause (i), and

"(iv) the relocation of occupants of such real property so acquired.

"(D) DESIGNATED BLIGHTED AREA.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'designated blighted area' means any blighted area designated by the governing body of a local general purpose governmental unit in the jurisdiction in which such area is located.

"(ii) BLIGHTED AREA.—The following characteristics shall be taken into account by the governmental unit in determining whether to designate an area as a blighted area: excessive vacant land on which structures were previously located, abandoned or vacant buildings, old buildings, excessive vacancies, substandard structures, and delinquency in payment of real property taxes.

"(iii) LIMITATION ON AMOUNT OF AREA WHICH MAY BE DESIGNATED AS BLIGHTED.—An area may be designated by a governmental unit only if the assessed value of real property located in such area, when increased by the assessed value of real property located in all designated blighted areas within the jurisdiction of such governmental unit, does not exceed 25 percent of the total assessed value of all real property located within such jurisdiction (determined as of the date of designation of the area).

"(iv) DESIGNATED AREA MAY NOT BE SMALLER THAN 10 ACRES.—An area shall not be treated as a designated blighted area if such area is less than a contiguous 10 acres.

"(E) RESTRICTIONS.—Paragraph (1) shall not apply to any obligation issued with respect to any designated blighted area if, during the period the obligation is outstanding, the requirements of clause (i) or (ii) are not met.

"(i) PROPERTY SUBJECT TO ADDITIONAL CHARGES.—The requirements of this clause are not met if—

"(I) any owner or user of property in the portion of the designated blighted area with respect to which proceeds of the issue of which such obligation is a part are to be used is subject to a charge or fee which similarly situated owners or users of property (of the same type as such property) located within the jurisdiction of the designating governmental unit are not subject, or

"(II) the assessment method or rate of real property taxes with respect to property located in such designated blighted area differs from the assessment method or rate of real property taxes with respect to property (of the same type as such property) located outside the designated area and within the jurisdiction of the designating governmental unit.

"(ii) RESTRICTIONS ON CERTAIN OTHER PROPERTY.—The requirements of this clause are not met if—

"(I) 25 percent or more of the proceeds of the issue of which the obligation is a part are to be used to provide facilities described in paragraph (6)(O) or (18), or

"(II) any portion of the proceeds of such issue is to be used to provide any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, or racetrack or other facility used for gambling.

"(F) RESTRICTION ON ACQUISITION OF LAND NOT TO APPLY.—Paragraph (16) shall not apply to any qualified redevelopment bond."

(d) MODIFICATIONS OF SMALL ISSUE IDBs.—

(1) IN GENERAL.—Subparagraph (A) of section 103(b)(6) (relating to exemption for certain small issues) is amended by striking out "substantially all of the proceeds" and inserting in lieu thereof "95 percent or more of the proceeds".

(2) TERMINATION DATE EXTENDED FOR SMALL-ISSUE BONDS FOR FIRST-TIME FARMERS.—Clause (iii) of section 103(b)(6)(N) (relating to termination dates) is amended by adding at the end thereof the following new sentence: "The term 'manufacturing facility' includes property financed under paragraph (16)(B)."

(3) DEPRECIABLE FARM PROPERTY LIMITATION.—Paragraph (6) of section 103(b) is amended by adding at the end thereof the following new subparagraph:

"(Q) AGGREGATE LIMIT PER TAXPAYER FOR DEPRECIABLE FARM PROPERTY.—This paragraph shall not apply to any obligation issued as part of an issue if the proceeds of such issue to be used to finance the acquisition of depreciable farm property for a principal user or related person, when added to amounts so used with respect to prior issues for such principal user or related person, exceeds $250,000."

(e) QUALIFIED RESIDENTIAL RENTAL PROJECTS.—

(1) IN GENERAL.—Section 103(b) is amended by inserting after paragraph (6) the following new paragraph:

"(7) QUALIFIED RESIDENTIAL RENTAL PROJECTS.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified residential rental project' means any project for residential rental property if, at all times during the qualified project period, such project meets the requirements of clause (i) or (ii), whichever is elected by the issuer at the time any obligations with respect to such project are issued:

"(i) A project meets the requirements of this clause if 20 percent or more of the residential units in such project are occupied by individuals whose income is 70 percent or less of area median gross income.

"(ii) A project meets the requirements of this clause if 25 percent or more of the residential units in such project are occupied by individuals whose income is 80 percent or less of area median gross income.

For purposes of this subparagraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

"(B) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

"(i) QUALIFIED PROJECT PERIOD.—The term 'qualified project period' means the period beginning on the first day on which 10 percent of the residential units in the project are occupied and ending on the latest of—

"(I) the date which is 12 years after the date on which 50 percent of such units are occupied;

"(II) the 1st day on which no tax-exempt obligation issued with respect to such project is outstanding, or

"(III) the date on which any assistance provided with respect to such project under section 8 of the United States Housing Act of 1937 terminates.

"(ii) INCOME OF INDIVIDUALS; AREA MEDIAN GROSS INCOME.—Individuals of low and moderate income and area median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income families and area median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size.

"(C) CURRENT INCOME DETERMINATIONS.—For purposes of subparagraphs (A) and (D)(ii)(I)—

"(i) IN GENERAL.—The determination of whether the income of a resident of a unit in a project exceeds the limit specified in clause (i) or (ii) of subparagraph (A) or subparagraph (D)(ii)(I) (whichever applies) (hereinafter in this subparagraph and subparagraph (D)(ii)(II) referred to as the 'applicable limit') shall be made at least annually on the basis of the current income of the resident.

"(ii) CONTINUING RESIDENT'S INCOME MAY INCREASE ABOVE THE APPLICABLE LIMIT.—If the income of a resident of a unit in a project did not exceed the applicable limit upon commencement of such resident's occupancy of such unit (or as of any prior determination under clause (i)), the income of such resident shall be treated as continuing to not exceed the applicable limit. The preceding sentence shall cease to apply to any resident whose income as of the most recent determination under clause (i) exceeds 120 percent of the applicable limit if after such determination, but before the next determination, any unit of comparable or smaller size in the same project is occupied by a new resident whose income exceeds the applicable limit.

"(D) SPECIAL RULE IN CASE OF DEEP RENT SKEWING.—

"(i) IN GENERAL.—In the case of any project described in clause (ii), clause (ii) of subparagraph (C) shall be applied by substituting—

"(I) '150 percent' for '120 percent', and

"(II) 'any unit previously occupied by residents described in clause (i) or (ii) of subparagraph (A) (whichever applies to the project) is occupied by a new resident whose income exceeds 50 percent of area median gross income' for 'any unit of comparable or smaller size in the same project is occupied by a new resident whose income exceeds the applicable limit'.

"(ii) DEEP RENT SKEWED PROJECT.—A project is described in this clause if, at all times during the qualified project period, such project meets the requirements of subclauses (I), (II), and (III):

"(I) A project meets the requirements of this subclause if 25 percent or more of the units required to be occupied under clause (i) or (ii) of subparagraph (A) (whichever applies to the project) are occupied by individuals whose income is 50 percent or less of area median gross income.

"(II) A project meets the requirements of this subclause if the gross rent charged to each resident in a unit required to be occupied under clause (i) or (ii) of subparagraph (A) (whichever applies to the project) does not exceed 30 percent of the applicable limit which applies to such resident.

"(III) A project meets the requirements of this subclause if the gross rent charged to each resident in a unit required to be occupied under clause (i) or (ii) of subparagraph (A) (whichever applies to the project) does not exceed 50 percent of the rent charged to individuals not described in clause (i) or (ii) of subparagraph (A) occupying units of comparable size.

"(E) CERTIFICATION TO SECRETARY.—The operator of any project with respect to which an election was made under subparagraph (A) or (D) shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual certification as to whether such project continues to meet the requirements of subparagraph (A) or (D). Any failure to comply with the provisions of the preceding sentence shall not affect the tax-exempt status of any obligation but shall subject the operator to penalty, as provided in section 6652(j)."

(2) PENALTY FOR FAILURE TO FILE REPORT ON COMPLIANCE WITH QUALIFIED RESIDENTIAL RENTAL PROJECT RULES.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.), as amended by sections 501(d)(1)(A) and 952(c)(2)(B), is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) FAILURE TO FILE CERTIFICATION WITH RESPECT TO CERTAIN RESIDENTIAL RENTAL PROJECTS.—In the case of each failure to provide a certification as required by section 103(b)(7)(E) at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful disregard, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such certification, an amount equal to $100 for each such failure."

(f) SOLID WASTE DISPOSAL AND WATER FACILITIES CONFORMING AMENDMENTS.—Paragraphs (8) and (9) of section 103(b) are amended to read as follows:

"(8) QUALIFIED STEAM-GENERATING OR ALCOHOL-PRODUCING FACILITIES.—

"(A) IN GENERAL.—For purposes of paragraph (4)(C), the term 'solid waste disposal facility' includes—

"(i) a qualified steam-generating facility, and

"(ii) a qualified alcohol-producing facility.

"(B) QUALIFIED STEAM-GENERATING FACILITY DEFINED.—For purposes of subparagraph (A), the term 'qualified steam-generating facility' means a steam-generating facility for which—

"(i) more than half of the fuel (determined on a Btu basis) is solid waste or fuel derived from solid waste, and

"(ii) 95 percent or more of the solid waste derived fuel is produced at a facility which is—

"(I) located at or adjacent to the site for such steam-generating facility, and

"(II) owned and operated by the person who owns and operates the steam-generating facility.

"(C) QUALIFIED ALCOHOL-PRODUCING FACILITY.—For purposes of subparagraph (A), the term 'qualified alcohol-producing facility' means a facility—

"(i) the primary product of which is alcohol,

"(ii) more than half of the feedstock for which is solid waste or a feedstock derived from solid waste, and

"(iii) 95 percent or more of the solid waste derived feedstock for which is produced at a facility which is—

"(I) located at or adjacent to the site for such alcohol-producing facility, and

"(II) owned and operated by the person who owns and operates the alcohol-producing facility.

"(D) SPECIAL RULE IN CASE OF STEAM-GENERATING FACILITY.—A facility for producing solid waste derived fuel shall be treated as a facility which meets the requirements of subclauses (I) and (II) of subparagraph (B)(ii) if—

"(i) such facility and the steam-generating facility are owned and operated by or for a State or the same political subdivision or subdivisions of a State, and

"(ii) 95 percent or more of the solid waste used in producing the solid waste derived fuel at the facility producing such fuel is collected from the area in which the steam-generating facility is located.

"(9) CERTAIN IRRIGATION DAMS.—A dam for the furnishing of water for irrigation purposes which has a subordinate use in connection with the generation of electric energy by water shall be treated as meeting the requirements of paragraph (4)(D) if—

"(A) 95 percent or more of the stored water is contractually available for release from such dam for irrigation purposes, and

"(B) the water so released is available on reasonable demand to members of the general public."

(g) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—Paragraph (11) of section 103(b) is amended to read as follows:

"(11) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—For purposes of paragraph (4)(F), the local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

"(A) a city and 1 contiguous county, or

"(B) 2 contiguous counties."

(h) HAZARDOUS WASTE TREATMENT FACILITY.—Paragraph (12) of section 103(b) is amended to read as follows:

"(12) HAZARDOUS WASTE TREATMENT FACILITY DEFINED.—For purposes of paragraph (4)(G), the term 'hazardous waste treatment facilities' means facilities subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act (as in effect on the date of the enactment of the Tax Reform Act of 1986) for the treatment of hazardous waste. For purposes of the preceding sentence, the terms 'treatment' and 'hazardous waste' have the meanings given such terms by section 1004 of such Act."

(i) FIRST-TIME FARMER EXCEPTION TO LIMITATION ON USE FOR LAND ACQUISITION EXPANDED.—

(1) FIRST-TIME FARMER INCLUDES PREVIOUSLY INSOLVENT FARMER.—Clause (iii) of section 103(b)(16)(B) (relating to exception for first-time farmers) is amended to read as follows:

"(iii) FIRST-TIME FARMER.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'first-time farmer' means any individual if such individual has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated, and has not received financing under this subparagraph in an amount which, when added to the financing to be provided under this subparagraph, is in excess of $250,000.

"(II) MATERIAL PARTICIPATION BY SPOUSE OR MINOR CHILD.—Any ownership or material participation or financing received by an individual's spouse or minor child shall be treated as ownership and material participation or financing received by the individual.

"(III) INSOLVENT FARMER.—For purposes of subclause (I), previously owned farmland disposed of while insolvent in a transaction, to the extent section 108 applied, shall be disregarded."

(2) SPECIAL RULE FOR PURCHASE OF USED EQUIPMENT.—

(A) IN GENERAL.—Subparagraph (B) of section 103(b)(16) is amended by adding at the end thereof the following new clause:

"(vi) USED EQUIPMENT.—For purposes of this subparagraph, in no event may the amount of financing provided to a first-time farmer for previously used depreciable personal property to be used in farming exceed $62,500."

(B) CONFORMING AMENDMENT.—Clause (i) of section 103(b)(16)(B) is amended by striking out "or to property to be acquired within 1 year to be used in farming".

(j) CONFORMING AMENDMENTS.—

(1) Paragraph (13) of section 103(b) is amended by striking out "(6), and (7)" and inserting in lieu thereof "and (6)".

(2) Subparagraph (A) of section 103(b)(14) is amended by striking out "(6), and (7)" and inserting in lieu thereof "and (6)".

(3) Subparagraph (A) of section 103(b)(16) is amended by striking out the last sentence.

(4) Subparagraph (C) of section 103(b)(16) is amended—

(A) by striking out "mass transit,", and

(B) by striking out "paragraph (4)(D)" and inserting in lieu thereof "paragraph (4)(B)".

(5) Subparagraph (A) of section 103(b)(17) is amended by striking out "(6), and (7)" and inserting in lieu thereof "and (6)".

(6) Paragraph (18) of section 103(b) is amended by striking out "Paragraphs (4), (5), and (6)" and inserting in lieu thereof "Paragraphs (4) and (6)".

SEC. 1502. QUALIFIED 501(c)(3) BONDS.

Section 103 is amended—

(1) by redesignating subsection (c) (relating to arbitrage) as subsection (e),

(2) by redesignating subsection (e) (relating to qualified scholarship funding bonds) as subsection (d), and

(3) by inserting after subsection (b), the following new subsection:

"(c) 501(c)(3) BONDS.—

"(1) SUBSECTION (a) (1) OR (2) NOT TO APPLY.—Any 501(c)(3) bond which is not a qualified 501(c)(3) bond shall be treated as

an obligation not described in subsection (a) (1) or (2).

"(2) 501(c)(3) BONDS DEFINED.—For purposes of this section, the term '501(c)(3) bond' means any obligation which is not described in subsection (b)(2) or (o)(2)(A), but which would be described in 1 or more of such subsections if a 501(c)(3) organization was not an exempt person (within the meaning of subsection (b)(3)).

"(3) QUALIFIED 501(C)(3) BONDS.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualified 501(c)(3) bond' means any obligation which is issued as part of an issue no more than 5 percent of the proceeds of which are to be used directly or indirectly—

"(i) in any trade or business carried on by any person who is not an exempt person (within the meaning of subsection (b)(3)), or

"(ii) to make or finance loans (other than loans described in subsection (o)(2)(C)(ii)) to such persons.

"(B) MATURITY MAY NOT EXCEED 120 PERCENT OF ECONOMIC LIFE.—

"(i) IN GENERAL.—The requirements of subsection (b)(14) shall apply to any qualified 501(c)(3) bond.

"(ii) SPECIAL RULE FOR POOLED FINANCING.—A qualified 501(c)(3) bond shall be treated as satisfying the requirements of subsection (b)(14) if—

"(I) 95 percent or more of the proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations for acquisition of property to be used by such organizations,

"(II) each loan described in subclause (I) satisfies the requirements of subsection (b)(14) (determined by treating each loan as a separate issue),

"(III) before such bond is issued, the issuer certifies that a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

"(IV) 95 percent or more of the lendable proceeds of such issue are to be loaned to 501(c)(3) organizations within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

"(iii) SPECIAL RULE FOR CERTAIN FHA INSURED LOANS.—Clause (i) shall not apply to any obligation issued as part of an issue 95 percent or more of the proceeds of which are to be used to finance mortgage loans insured under FHA 242 or under a similar Federal Housing Administration program, as in effect on the date of the enactment of the Tax Reform Act of 1986, which requires loan terms in excess of the term permitted under subsection (b)(14).

"(4) 501(c)(3) ORGANIZATION DEFINED.—For purposes of this section, the term '501(c)(3) organization' means an organization described in section 501(c)(3) and exempt from tax under section 501(a) (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization)."

SEC. 1503. QUALIFIED SCHOLARSHIP FUNDING AND QUALIFIED STUDENT LOAN BONDS.

Subsection (d) of section 103, as redesignated by this Act, is amended to read as follows:

"(d) STUDENT LOAN BONDS.—

"(1) QUALIFIED SCHOLARSHIP FUNDING BONDS.—For purposes of subsection (a)(2), the term 'qualified scholarship funding bonds' means obligations issued by a corporation which—

"(A) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

"(B) is organized at the request of the State or one or more political subdivisions thereof or is requested to exercise such power by one or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the State or a political subdivision thereof.

"(2) QUALIFIED STUDENT LOAN BONDS.—For purposes of this section, the term 'qualified student loan bond' means any obligation which is issued as part of an issue 85 percent or more of the proceeds of which are to be used directly or indirectly to make or finance student loans under—

"(A) a program of general application to which the Higher Education Act of 1965 applies if—

"(i) limitations are imposed under the program on—

"(I) the maximum amount of loans outstanding to any student, and

"(II) the maximum rate of interest payable on any loan,

"(ii) the loans are directly or indirectly guaranteed by the Federal Government,

"(iii) the financing of loans under the program is not limited by Federal law to the proceeds of obligations the interest on which is exempt from taxation under this title, and

"(iv) special allowance payments under section 438 of the Higher Education Act of 1965—

"(I) are authorized to be paid with respect to loans made under the program, or

"(II) would be authorized to be made with respect to loans under the program if such loans were not financed with the proceeds of obligations the interest on which is exempt from taxation under this title, or

"(B) a program of general application approved by the State to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply if no loan under such program exceeds the difference between the total cost of attendance and other forms of student assistance (not including loans pursuant to section 428B(a)(1) of such Act (relating to parent loans) or subpart I of part C of title VII of the Public Health Service Act (relating to student assistance)) for which the student borrower may be eligible.

A program shall not be treated as described in subparagraph (A) if such program discriminates on the basis of the location (in the United States) at which the educational institution is located."

SEC. 1504. MODIFICATIONS TO ARBITRAGE RULES.

Subsection (e) of section 103, as redesignated by this Act, is amended as follows:

(1) DEFINITION OF ARBITRAGE BOND.—Paragraphs (2) and (3) are amended to read as follows:

"(2) ARBITRAGE BOND DEFINED.—For purposes of this subsection, the term 'arbitrage bond' means any obligation which is issued as a part of an issue any portion of the proceeds of which are reasonably expected to be used directly or indirectly—

"(A) to acquire higher yielding investments, or

"(B) to replace funds which were used directly or indirectly to acquire higher yielding investments.

For purposes of this subsection, an obligation shall be treated as an arbitrage bond if the issuer deliberately and intentionally invests any portion of the proceeds of the issue of which such obligation is a part directly or indirectly in a manner described in subparagraph (A) or (B).

"(3) HIGHER YIELDING INVESTMENTS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'higher yielding investments' means any investment property which produces a yield over the term of the issue which is materially higher (taking into account any discount or premium) than the yield on obligations of such issue.

"(B) INVESTMENT PROPERTY.—For purposes of this subsection, the term 'investment property' means—

"(i) any security (within the meaning of section 165(g)(2) (A) or (B)),

"(ii) any obligation,

"(iii) any annuity contract, or

"(iv) any investment-type property.

Such term shall not include any obligation the interest on which is exempt from tax under this section."

(2) ALLOWABLE USES.—Paragraph (4) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following new subparagraphs:

"(A) the proceeds of the issue of which such obligation is a part may be invested for a temporary period in higher yielding investments until such proceeds are needed for the purpose for which such issue was issued,

"(B) an amount of the proceeds of the issue of which such obligation is a part may be invested in higher yielding investments which are part of a reasonably required reserve or replacement fund, or

"(C) an amount of the proceeds of the issue of which such obligation is a part (other than amounts described in subparagraph (B)) equal to the lesser of—

"(i) 5 percent of such proceeds, or

"(ii) $100,000,

may be invested in higher yielding investments."

(3) RULES ON INVESTMENTS IN NONPURPOSE OBLIGATIONS EXTENDED TO ALL OBLIGATIONS OTHER THAN MORTGAGE REVENUE BONDS.—Paragraph (6) is amended—

(A) by striking out "which is part of an issue of industrial development bonds" in subparagraph (A), and

(B) by amending subparagraph (B) to read as follows:

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any qualified mortgage bond or qualified veterans' mortgage bond (as defined in section 103A(c))."

(4) EXCEPTIONS TO REBATE RULES.—Subparagraph (F) of paragraph (6) is amended—

(A) by adding at the end of clause (i) the following new sentence:

"For purposes of subclause (II), the $100,000 limitation on gross earnings shall not apply to an issue of obligations described in subparagraph (H)(ii) issued by a governmental unit with general taxing powers.", and

(B) by adding at the end thereof the following new clauses:

"(iii) EXCEPTION FOR SMALL GOVERNMENTAL UNITS.—An issue shall be treated as meeting the requirements of subparagraph (D) if the issue consists of obligations described in subparagraph (H)(ii) issued by a governmental unit with general taxing powers and if the aggregate face amount of all obligations exempt from taxation under this section issued by or on behalf of such unit in the year of issue is not reasonably expected to exceed $5,000,000.

"(iv) EXCEPTION FOR CERTAIN QUALIFIED STUDENT LOAN BONDS.—In determining the aggregate amount earned on nonpurpose obligations acquired with gross proceeds of an issue of obligations described in subsection (d)(2)(A), unless the issuer otherwise elects, any amount earned from investment of proceeds of such issue during an initial temporary period allowed under paragraph (4)(A) shall not be taken into account. The amount that need not be taken into account under the preceding sentence may not exceed the reasonable administrative costs and costs of issuing and carrying such issue (financed with proceeds of such issue) which has not been reimbursed by the student borrowers".

(5) DEFINITIONS.—Subparagraph (H) of paragraph (6) is amended—

(A) by striking out "security (within the meaning of subparagraph (A) or (B) of section 165(g)(2)) or any obligation not described in subsection (a)" in clause (i) and inserting in lieu thereof "investment property", and

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively and by inserting after clause (i) the following new clause:

"(ii) OBLIGATIONS OTHER THAN IDBS, ETC.—An obligation is described in this clause if the obligation is not described in—

"(I) subsection (b)(2),

"(II) subsection (c)(3),

"(III) subsection (o)(2)(A), or

"(IV) subsection (p)(1)."

(6) SPECIAL PENALTY FOR INCORRECT OR DELAYED REBATE.—Paragraph (6) is amended by adding after subparagraph (H) the following new subparagraph:

"(I) LIMITATION ON LOSS OF TAX EXEMPTION THROUGH PAYMENT OF SELF-ASSESSED PENALTY.—

"(i) IN GENERAL.—Except as provided in this subparagraph, no obligation described in subparagraph (H)(ii) or subsection (c)(3) shall be treated as an obligation which is not described in subsection (a) solely by reason of a failure with respect to the issue of which the obligation is a part to make a payment which meets the requirements of subparagraph (D) or (E) if the issuer pays to the United States an amount equal to the payment otherwise due under subparagraph (D), plus a penalty equal to such payment.

"(ii) WAIVER DUE TO INADVERTENCE.—No penalty amount shall be imposed under clause (i) with respect to any failure if it is shown that such failure is due to inadvertence.

"(iii) NO PAYMENT AFTER NOTICE.—Clause (i) shall not apply to any obligation if the payment and penalty amount required under clause (i) are not made within 6 months of notice by the Secretary of such nonpayment.

"(iv) WILLFUL DISREGARD.—Clause (i) shall not apply to any obligation in the case of willful disregard of the requirements of subparagraph (D) or (E)."

(7) YIELD.—Paragraph (7) is redesignated as paragraph (8) and clause (iv) of paragraph (6)(H), as redesignated in paragraph (5)(B), is amended to read as follows:

"(7) YIELD.—For purposes of this section, the yield on any issue shall be determined on the basis of the issue price (within the meaning of section 1273 or 1274)."

SEC. 1505. ADVANCE REFUNDINGS.

Subsection (f) of section 103 is amended to read as follows:

"(f) ADVANCE REFUNDINGS.—

"(1) NO ADVANCE REFUNDINGS OF CERTAIN BONDS.—An obligation issued to advance refund any obligation described in—

"(A) subsection (b)(2),

"(B) subsection (o)(2)(A), or

"(C) subsection (p)(1) (other than a qualified 501(c)(3) bond),

shall be treated as an obligation which is not described in subsection (a).

"(2) LIMITATIONS ON ADVANCE REFUNDINGS.—An obligation issued to advance refund another obligation (hereinafter in this paragraph and paragraph (3) referred to as the 'refunding obligation') shall be treated as an obligation which is not described in subsection (a) unless—

"(A) the refunded obligation is an obligation which is not described in paragraph (1),

"(B) the refunding obligation is only the first, second, or third advance refunding of the original obligation,

"(C) the refunded obligation is required to be redeemed not later than the 1st date on which such obligation may be redeemed after the date of the issuance of the refunding obligation,

"(D) the initial temporary period under subsection (e)(4)(A) ends with respect to the refunding obligation not later than 30 days after the date of issue of such obligation,

"(E) all temporary periods under subsection (e)(4)(A) end with respect to the refunded obligation on the date of issue of the refunding obligation, and

"(F) no more than 3 issues of obligations (including the original obligation) are outstanding at any 1 time while the refunding obligation is outstanding.

Subparagraph (C) shall apply only if the issuer may realize present value debt service savings (determined without regard to administrative expenses) in connection with the issue of which the refunding obligation is a part.

"(3) LIMITATION ON INVESTMENT IN NONPURPOSE OBLIGATIONS NOT TO APPLY TO ESCROW.—Subsection (e)(6)(C) shall not apply to proceeds of the refunding obligation to be used to discharge the refunded obligation.

"(4) ABUSIVE TRANSACTIONS PROHIBITED.—An obligation issued to advance refund another obligation shall be treated as an obligation which is not described in subsection (a) if a device is employed in connection with the issuance of such obligation to obtain a material financial advantage apart from savings attributable to lower interest rates.

"(5) ADVANCE REFUNDING DEFINED.—For purposes of this subsection, an obligation shall be treated as issued to advance refund another obligation if it is issued more than 90 days before the redemption of the refunded obligation.

"(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

SEC. 1506. CHANGE IN USE OR OWNERSHIP OF FACILITIES FINANCED WITH CERTAIN TAX-EXEMPT BONDS.

Subsection (g) of section 103 is amended to read as follows:

"(g) CHANGE IN USE OR OWNERSHIP OF FACILITIES FINANCED WITH CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(1) CHANGE IN USE.—

"(A) QUALIFIED RESIDENTIAL RENTAL PROJECTS.—In the case of any project for residential rental property with respect to which an election was made under subsection (b)(7) which does not meet the requirements of such subsection, no deduction shall be allowed under this chapter for any amount paid or incurred for the use of the proceeds of any obligation with respect to which such election was made which accrues during the period beginning on the 1st day of the taxable year in which the cessation occurred and ending on the date such project again meets such requirements.

"(B) QUALIFIED 501(C)(3) BONDS.—In the case of any facility with respect to which financing is provided from the proceeds of any qualified 501(c)(3) bond, if—

"(i) any portion of such facility ceases to be used by a 501(c)(3) organization, and

"(ii) such portion continues to be owned by an exempt person (within the meaning of subsection (b)(3)),

then the 501(c)(3) organization which uses or owns such portion shall be treated for purposes of this title as engaged in an unrelated trade or business with respect to such portion and the amount of income attributable to such portion for any period shall not be less than the fair rental value of such portion for such period.

"(C) OTHER INDUSTRIAL DEVELOPMENT BONDS.—In the case of any facility (other than a residential rental project to which subparagraph (A) applies) with respect to which financing is provided from the proceeds of any obligation described in paragraph (4), (5), or (6) of subsection (b), if such facility ceases to be used for a purpose for which a tax-exempt industrial development bond could be issued on the date of such issue, no deduction shall be allowed under this chapter for any amount paid or incurred for the use of such facility (to the extent of such cessation) which accrues during the period beginning on the date of such cessation and ending on the date such facility is again used for such purpose.

"(D) GENERAL EXCEPTION.—The provisions of this paragraph shall not apply to any changes in use with respect to facilities financed with any proceeds of an issue not required to be used for the exempt purpose of such issue.

"(2) TAX TREATMENT WHERE FACILITIES REQUIRED TO BE OWNED BY GOVERNMENTAL UNITS OR 501(C)(3) ORGANIZATIONS CEASE TO BE SO OWNED.—If—

"(A) financing is provided with respect to any facility from the proceeds of any obligation which is described in paragraph (4), (5), or (6) of subsection (b) or paragraph (3) of subsection (c),

"(B) such facility is required to be owned by or on behalf of an exempt person (within the meaning of subsection (b)(3)) as a condition of such tax exemption, and

"(C) such facility ceases to be so owned,

then no deduction shall be allowed under this chapter (to the extent of such cessation) for any amount paid or incurred for the use of such facility to the extent such amount does not exceed the interest accrued on such financing on or after the date of such cessation.

"(3) RULES OF APPLICATION.—

"(A) INTEREST TAKEN INTO ACCOUNT.—For purposes of this subsection, interest paid or incurred on the financing provided from the proceeds of any obligation shall be treated as paid or incurred for use of the facility.

"(B) USE OF PORTION OF FACILITY.—In the case of any person which uses only a portion of the facility, only the interest accruing on the portion of the financing allocable to such portion of the facility shall be taken into account by such person.

"(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

SEC. 1507. INFORMATION REPORTING REQUIREMENT EXPANDED TO INCLUDE ALL TAX-EXEMPT BONDS.

(a) IN GENERAL.—Paragraph (1) of section 103(l) (relating to information reporting requirements for certain bonds) is amended to read as follows:

"(1) IN GENERAL.—An obligation shall be treated as an obligation which is not described in subsection (a) unless the obligation satisfies the requirements of paragraph (2). This paragraph shall not apply to any qualified mortgage bond or qualified veterans' mortgage bond (as defined in section 103A(c))."

(b) ADDITIONAL INFORMATION REQUIRED.—Paragraph (2) of section 103(l) is amended—

(1) by inserting "(or such later time as the Secretary may prescribe with respect to any portion of the statement)" after "in which the obligation is issued",

(2) by adding "and the costs of issuance (including attorneys' fees and any direct or indirect fees for underwriters) and amount of reserves of the issue," at the end of subparagraph (B),

(3) by striking out "and" at the end of clause (iii) of subparagraph (D),

(4) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and

(5) by adding at the end thereof the following:

"(F) if such obligation is a private activity bond (as defined in subsection (n)(7)), such information as the Secretary may require for purposes of determining whether the requirements of subsection (n) are met with respect to such obligation,

"(G) if such obligation is a private activity bond (as defined in subsection (n)(7)), a certification by a State official that the bond meets the requirements of subsection (n), and

"(H) such other information as the Secretary may require.

Subparagraphs (C), (D), and (E) shall not apply to any obligation which is not described in subsection (b)(2), (c)(3), or (d)(2). The Secretary may provide that certain information specified in the first sentence need not be included in the statement with respect to an issue where the inclusion of such information is not necessary to carry out the purposes of this subsection."

SEC. 1508. MODIFICATIONS TO PRIVATE ACTIVITY BOND RULES.

(a) CERTAIN FACILITIES EXCEPTED FROM VOLUME CAP.—

(1) IN GENERAL.—Clause (i) of section 103(n)(7)(C) (relating to exception for certain facilities described in section 103(b)(4)(C) or (D)) is amended to read as follows:

"(i) IN GENERAL.—For purposes of this subsection, the term 'private activity bond' shall not include any obligation described in subparagraph (B), (C), or (D) of subsection (b)(4), but only if all the property to be financed by the obligation is owned by or on behalf of a governmental unit."

(2) OWNERSHIP OF FACILITIES.—Subparagraph (C) of section 103(n)(7) is amended—

(A) by striking out clauses (ii) and (iii),

(B) by inserting after clause (i) the following new clause:

"(ii) DETERMINATION OF WHETHER FACILITY OWNED BY GOVERNMENTAL UNIT.—For purposes of clause (i), any facility shall not be treated as not owned by a governmental unit solely by reason of the length of the lease (including a management contract or similar type of operating agreement) to which it is subject if—

"(I) the lessee makes an irrevocable election (binding on the lessee and all successors in interest under the lease) not to claim depreciation or an investment credit with respect to such facility, and

"(II) for all facilities described in clause (i), other than solid waste disposal facilities described in subparagraph (C), the lease term is not more than 80 percent of the reasonably expected economic life of the facility (as determined under subsection (b)(14)) and the lessee has no option to purchase the facility other than at fair market value.",

(C) by redesignating clause (iv) as clause (iii), and

(D) by striking out "SECTION 103(b)(4) (C) OR (D)" in the heading and inserting in lieu thereof "SECTION 103(b)(4) (B), (C), OR (D)".

(b) CONFORMING AMENDMENTS.—Section 103(n) (relating to limitation on aggregate amount of private activity bonds issued during any calendar year) is amended—

(1) by striking out "student loan bond" in clause (ii) of paragraph (7)(A) and inserting in lieu thereof "qualified student loan bond",

(2) by repealing paragraph (8),

(3) by inserting "as in effect before the date of the enactment of the Tax Reform Act of 1986," before "6 calendar years" in clause (i) of paragraph (10)(C),

(4) by striking out "subsection (e)" in paragraph (11) and inserting in lieu thereof "subsection (d)(1)"; and

(5) by striking out "subparagraph (E), (G), or (H)" in paragraph (13)(B) and insert in lieu thereof "subparagraph (C), (D), or (F)".

SEC. 1509. NON-CODE BOND AND PRIVATE LOAN BOND CONFORMING AMENDMENTS.

(a) NON-CODE BONDS.—Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by striking out "subsections (b), (c), (h), (k), (l), and (n)" and inserting in lieu thereof "subsections (b), (c), (d), (e), (f), (g), (h), (j), (k), (l), (n), (o), and (p)".

(b) PRIVATE LOAN BONDS.—Section 103(o) (relating to private loan bonds) is amended—

(1) in paragraph (2)(A)—

(A) by striking out "all or a significant portion" and inserting in lieu thereof "5 percent or more", and

(B) by striking out "reasonably expected", and

(2) by striking out paragraph (3).

SEC. 1510. RELATED USE LIMITATION ON TAX-EXEMPT BONDS.

Section 103 is amended by redesignating subsection (o) (relating to cross references) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) RELATED USE REQUIREMENT.—

"(1) GENERAL RULE.—An obligation shall be treated as an obligation which is not described in subsection (a) if—

"(A) 5 percent or more of the proceeds of the issue of which such obligation is a part are to be used directly or indirectly in any trade or business carried on by any person who is not a governmental unit, which use is not related to facilities of a governmental unit also being financed by such obligation, and

"(B) payments for such unrelated use of such proceeds are made directly or indirectly by such person.

"(2) EXCLUDED OBLIGATIONS.—Paragraph (1) shall not apply to any—

"(A) obligation described in paragraph (4), (5), or (6) of subsection (b),

"(B) qualified 501(c)(3) bond,

"(C) obligation described in paragraph (5), (6), (7), or (8) of section 626(b) of the Tax Reform Act of 1984, or

"(D) qualified mortgage bond or qualified veterans' mortgage bond (as defined in section 103A(c)).".

SEC. 1511. MORTGAGE CREDIT CERTIFICATE TRADE-IN RATE INCREASED TO 25 PERCENT.

(a) IN GENERAL.—Subparagraph (A) of section 25(d)(2) (relating to aggregate limit of certificate credit rates) is amended by striking out "20 percent" and inserting in lieu thereof "25 percent".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 25(f)(2) (defining correction amount) is amended by striking out "0.20" and inserting in lieu thereof "0.25".

SEC. 1512. AMENDMENTS TO SECTION 103A.

(a) CHANGE IN DEFINED TERM.—Section 103A (relating to mortgage subsidy bonds) is amended—

(1) by striking out "mortgage subsidy" each place it appears and inserting in lieu thereof "mortgage revenue",

(2) by striking out "mortgage subsidy bonds" in the section heading and inserting in lieu thereof "mortgage revenue bonds", and

(3) by striking out "MORTGAGE SUBSIDY" in the heading for subsections (b) and (n) and inserting in lieu thereof "MORTGAGE REVENUE".

(b) TREATMENT OF LIMITED EQUITY COOPERATIVES.—Section 103A(1) (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(11) TREATMENT OF LIMITED EQUITY COOPERATIVE HOUSING.—

"(A) TREATMENT AS RESIDENTIAL RENTAL PROPERTY.—Except as otherwise provided in subparagraph (B), for purposes of this section and section 103, any limited equity cooperative housing shall be treated as residential rental property and not as owner-occupied housing, and obligations issued to provide such housing shall be subject to the same requirements as obligations the proceeds of which are to be used to provide projects described in section 103(b)(4)(A).

"(B) SUBJECT TO QUALIFIED MORTGAGE BOND CEILING.—In the case of any issue 5 percent or more of the proceeds of which are to be used to finance limited equity cooperative housing—

"(i) subsection (a) of section 103 shall not apply to any obligation issued as part of such issue unless such issue meets the requirements of subsection (g) of this section, and

"(ii) for purposes of subsections (c)(1)(B) and (g) of this section, any obligation with respect to which an election is made under this paragraph shall be treated as a qualified mortgage bond.

"(C) LIMITED EQUITY COOPERATIVE HOUSING.—For purposes of this paragraph, the term 'limited equity cooperative housing' means any dwelling unit which a person is entitled to occupy by reason of his ownership of stock in a qualified cooperative housing corporation.

"(D) QUALIFIED COOPERATIVE HOUSING CORPORATION.—For purposes of this paragraph, the term 'qualified cooperative housing corporation' means any cooperative housing corporation (as defined in section 216(b)(1)) if—

"(i) the consideration paid for stock held by any stockholder entitled to occupy any house or apartment in a building owned or leased by the corporation may not exceed the sum of—

"(I) the consideration paid for such stock by the first such stockholder, as adjusted by

a cost-of-living adjustment determined by the Secretary,

"(II) payments made by any stockholder for improvements to such house or apartment, and

"(III) payments attributable to any stockholder to amortize the principal of the corporation's indebtedness arising from the acquisition or development of real property, including improvements thereof,

"(ii) the value of the corporation's assets, to the extent such value exceeds the combined transfer values of the outstanding corporate stock (reduced by any corporate liabilities), shall be used only for public benefit or charitable purposes, or directly to benefit the corporation itself, and shall not be used directly to benefit any stockholder, and

"(iii) such corporation makes an election under this paragraph at such time and in such manner as the Secretary may prescribe.

"(E) EFFECT OF ELECTION.—If a cooperative housing corporation makes an election under this paragraph, section 216 shall not apply with respect to such corporation (or any successor thereof).

"(F) CORPORATION MUST CONTINUE TO BE LIMITED EQUITY COOPERATIVE.—Limited equity cooperative housing shall not be treated as satisfying the requirements of this subsection and subsection (b)(4)(A) of section 103 unless the corporative housing corporation continues to be a qualified cooperative housing corporation at all times during the qualified project period (within the meaning of section 103(b)(7)(B)(i)).

"(G) ELECTION IRREVOCABLE.—Any election under this paragraph, once made, shall be irrevocable."

(c) CHANGE IN USE.—Section 103A is amended by adding at the end thereof the following new subsection:

"(p) CHANGE IN USE OF FACILITIES FINANCED WITH QUALIFIED MORTGAGE BONDS AND QUALIFIED VETERANS' MORTGAGE BONDS.—

"(1) IN GENERAL.—In the case of any residence with respect to which financing is provided from the proceeds of a qualified mortgage bond or qualified veterans' mortgage bond, if there is a continuous period of at least 1 year in which such residence is not the principal residence of 1 of the mortgagors with respect to such residence, then no deduction shall be allowed under this chapter for interest on such financing which accrues on or after the date such period began.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the extent the Secretary determines that its application would result in undue hardship and that the failure to meet the requirements of paragraph (1) resulted from circumstances beyond the mortgagor's control.".

(d) CONFORMING AMENDMENT.—Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by inserting "subsection (i)" after "subsection (d),".

(e) CLERICAL AMENDMENT.—The table of chapters for part II of subchapter B of chapter 1 is amended by striking out the item relating to section 103A and inserting in lieu thereof the following new item:

"Sec. 103A. Mortgage revenue bonds."

SEC. 1513. ADMINISTRATIVE PROVISIONS.

(a) STATE AND LOCAL GOVERNMENT SERIES MODIFICATIONS.—Notwithstanding any other provision of law or any regulations promulgated thereunder (including the provisions of 31 CFR part 344) the Secretary of the Treasury shall modify by January 1, 1987, the State and Local Government Series bond program to provide—

(1) instruments allowing flexible investment of bond proceeds in a manner eliminating the earning of rebatable arbitrage,

(2) operation of such program at no net cost to the Government, and

(3) demand deposits under such program by eliminating advance notice and minimum maturity requirements related to the purchase of bonds.

(b) AMENDMENT TO ARBITRAGE REGULATIONS.—If the provision in the regulations prescribed by the Secretary of the Treasury under section 103 of the Internal Revenue Code of 1954 which permits a higher yield on acquired obligations if the issuer elects to waive the benefits of the temporary period is not eliminated on or before the date of enactment of this Act, it shall cease to apply to obligations issued after such date.

(c) REBATE MONITORING.—The Secretary of the Treasury or his delegate shall develop a system for monitoring arbitrage rebate payments using information reports in order to enforce the penalty provisions of section 103(e)(6)(I) of the Internal Revenue Code of 1954 (as added by section 1504(6)).

(d) STUDY OF COMPLIANCE WITH QUALIFIED RESIDENTIAL RENTAL PROJECT RULES.—The Secretary of the Treasury or his delegate shall prepare a report on the compliance with paragraph (7) of section 103(b) of the Internal Revenue Code of 1954 (as added by section 1501(e)). Such a report shall be prepared at least annually and submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(e) MANAGEMENT CONTRACTS.—The Secretary of the Treasury or his delegate shall amend the Secretary's advance ruling guidelines on when a trade or business use by a private person is considered for purposes of subsections (b)(2) and (c)(3) of section 103 of the Internal Revenue Code of 1954 to provide that such guidelines will provide that use pursuant to management contracts not exceeding 5 years shall not be treated as trade or business use as long as—

(1) compensation is not based on a share of net profits, and

(2) a tax-exempt owner has the option to cancel the contract at the end of any 3-year period.

SEC. 1514. TAX-EXEMPT STATUS OF OBLIGATIONS OF CERTAIN EDUCATIONAL ORGANIZATIONS.

(a) IN GENERAL.—For purposes of section 103 of the Internal Revenue Code of 1954, a qualified educational organization shall be treated as a governmental unit, but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business (determined by applying section 513(a) of such Code to such organization).

(b) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of subsection (a), the term "qualified educational organization" means a college or university—

(1) which was reincorporated and renewed with perpetual existence as a corporation by specific act of the legislature of the State within which such college or university is located on March 19, 1913, or

(2) which—

(A) was initially incorporated or created—

(i) on February 28, 1787,

(ii) on April 29, 1854, or

(iii) on May 14, 1888, and

(B) as an instrumentality of the State, serves as a "State-related" university by a specific act of the legislature of the State within which such college or university is located.

SEC. 1515. TAX EXEMPTION FOR CERTAIN OBLIGATIONS FOR A PUBLIC UTILITY.

(a) IN GENERAL.—Subsections (b), (o), and (p) of section 103 of the Internal Revenue Code of 1954 shall not apply with respect to any obligation otherwise described in such subsections issued after the date of the enactment of this Act with respect to a public utility facility if such facility is—

(1) located at any non-federally owned dam (or on project waters or adjacent lands) located wholly or partially in 3 counties, 2 of which are contiguous to the third, where the rated capacity of the hydroelectric generating facilities at 5 of such dams on October 18, 1979, was more than 650 megawatts each,

(2) located at a dam (or on the project waters or adjacent lands) at which hydroelectric generating facilities were financed with the proceeds of tax-exempt obligations before December 31, 1968,

(3) owned and operated by a State, political subdivision of a State, or any agency or instrumentality of any of the foregoing, and

(4) located at a dam (or on project waters or adjacent lands) where the general public has access for recreational purposes to such dam or to such project waters or adjacent lands.

(b) SPECIAL RULES FOR SUBSECTION (a).—

(1) OBLIGATIONS SUBJECT TO CAP.—Any obligation described in subsection (a) shall be treated as a private activity bond for purposes of section 103(n) of the Internal Revenue Code of 1954 and section 103(n)(13)(B) of such Code shall apply to such obligation.

(2) LIMITATION ON AMOUNT OF OBLIGATIONS TO WHICH SUBSECTION (a) APPLIES.—The aggregate amount of obligations to which subsection (a) applies shall not exceed $750,000,000, not more than $350,000,000 of which may be issued before January 1, 1992.

(3) LIMITATION ON PURPOSES.—Subsection (a) shall only apply to obligations issued as part of an issue 95 percent or more of the proceeds of which are used to provide 1 or more of the following:

(A) A fish by-pass facility or fisheries enhancement facility.

(B) A recreational facility or other improvement which is required by Federal licensing terms and conditions or other Federal, State, or local law requirements.

(C) A project of repair, maintenance, renewal, or replacement, and safety improvement.

(D) Any reconstruction, replacement, or improvement, including any safety improvement, which increases, or allows an increase in, the capacity, efficiency, or productivity of the existing generating equipment.

SEC. 1516. MISCELLANEOUS TAX-EXEMPT BOND PROVISIONS.

(a) MODIFICATION OF EXCEPTION TO FEDERALLY GUARANTEED OBLIGATION PROHIBITION.—Clause (iv) of section 103(h)(3)(A) is amended by striking out "with respect to any obligation issued before July 1, 1989".

(b) EXTENSION OF EXCEPTION TO PRIVATE LOAN BOND RULES FOR CERTAIN ESTABLISHED PROGRAMS.—Section 626(b) of the Tax Reform Act of 1984 (relating to effective dates) is amended—

(1) in paragraph (5)—

(A) by inserting "to provide loans to veterans for the purchase of land and" after "State law",

(B) by inserting "or multiple of acres" after "(or lesser amount)" in subparagraph (B) thereof, and

(C) by striking out the last sentence thereof, and

(2) by adding at the end thereof the following new paragraphs:

"(7) EXCEPTION FOR CERTAIN STATE PROGRAMS.—The amendments made by this section shall not apply to total outstanding obligations not exceeding $100,000,000 at any time, 95 percent or more of the proceeds of which are to be used to carry out a program established under sections 280A, 280B, and 280C of the Iowa Code, which program has been in effect in substantially the same form since July 1, 1983, but only if such proceeds are to be used to make loans or to fund similar obligations for the same purposes as permitted for such program on January 1, 1986.

"(8) EXCEPTION FOR CERTAIN DOWNTOWN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

"(A) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue obligations for such project,

"(B) before September 26, 1985, the city expended, or entered into binding contracts to expend, more than $10,000,000 in connection with such project, and

"(C) the State supreme court issued a ruling regarding the proposed financing structure for such project on December 11, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $85,000,000 and such obligations must be issued before January 1, 1992."

(c) EXTENSION OF RULES RELATING TO CERTAIN PUBLIC UTILITIES TREATED AS EXEMPT PERSONS UNDER SECTION 103(b).—Section 629 of the Tax Reform Act of 1984 is amended—

(1) in subsection (c)(2), by striking out "$625,000,000" and inserting in lieu thereof "$911,000,000", and

(2) in subsection (c)(3), by adding at the end thereof the following new subparagraphs:

"(D) Improvements to existing generating facilities.

"(E) Transmission lines.

"(F) Electric generating facilities."

(d) EXTENSION OF ADVANCE REFUNDING EXCEPTION FOR CERTAIN QUALIFIED PUBLIC FACILITY.—Paragraph (4) of section 631(c) of the Tax Reform Act of 1984 is amended—

(1) by striking out "or the Dade County, Florida, Airport" in the last sentence, and

(2) by adding at the end thereof the following new sentence: "In the case of refunding obligations not exceeding $40,000,000 with respect to the Dade County Florida Airport, the first sentence of this paragraph shall be applied by substituting 'December 31, 1987' for 'December 31, 1984'."

(e) EXCEPTION FOR CERTAIN OBLIGATIONS DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.—Subsection (c) of section 631 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR CERTAIN OBLIGATIONS DIRECTLY OR INDIRECTLY GUARANTEED BY FEDERAL GOVERNMENT.—The amendment made by section 622 shall not apply to any obligation described in subsection (a)(3) of this section (relating to bonds for a convention center and resource recovery project) for any project described in subparagraph (B) of such subsection by reason of an output contract with the Federal Government."

(f) EXPANSION OF EXCEPTION FOR RIVER PLACE PROJECT.—Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980, as added by the Tax Reform Act of 1984, is amended—

(1) by striking out "December 31, 1984," in subsection (p) and inserting in lieu thereof "December 31, 1984 (other than obligations described in subsection (r)(1)),", and

(2) by striking out "$55,000,000," in subsection (r)(1)(B) and inserting in lieu thereof "$110,000,000, of which $55,000,000 must be redeemed no later than November 1, 1987.".

SEC. 1517. REPEAL OF PROVISIONS RELATING TO GENERAL STOCK OWNERSHIP CORPORATIONS.

(a) IN GENERAL.—Subchapter U of chapter 1 (relating to general stock ownership corporation) is hereby repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by striking out subparagraph (J) and by redesignating subparagraph (K) as subparagraph (J).

(2) Paragraphs (2) and (4) of section 172(k) are each amended by striking out "subsection (b)(1)(K)" and inserting in lieu thereof "subsection (b)(1)(J)".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out paragraph (21), as redesignated by section 634(b)(2), and by redesignating paragraphs (22) through (26) as paragraphs (21) through (25), respectively.

(4) Subsection (r) of section 3402 (relating to extension of withholding to GSOC distribution) is hereby repealed.

(5) Section 6039B (relating to return of general stock ownership corporation) is hereby repealed.

(c) CLERICAL AMENDMENTS.—

(1) The table of subchapters for chapter 1 is amended by striking out the item relating to sub- chapter U.

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6039B.

SEC. 1518. EFFECTIVE DATES.

(a) IN GENERAL.—

(1) TITLE XV.—Except as otherwise provided in this section, the amendments made by this title shall apply to obligations issued after the date of the enactment of this Act.

(2) SECTION 1501(d)(3).—The amendment made by section 1501(d)(3) shall apply to obligations issued after April 17, 1986.

(3) SECTION 1511.—The amendments made by section 1511 shall apply to elections to exchange bond authority for calendar years beginning after 1986.

(4) SECTION 1516.—The amendments made by section 1516 (other than subsection (a)) shall take effect as if included in the Tax Reform Act of 1984.

(5) SECTION 1517.—The amendments made by section 1517 shall take effect on January 1, 1984.

(b) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENTS.—

(1) IN GENERAL.—The amendments made by this title shall not apply to obligations with respect to a facility—

(A)(i) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began on or before March 1, 1986, and was completed after such date,

(ii) the original use of which commences with the taxpayer, and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into on or before March 1, 1986, and some of such expenditures are incurred after such date, or

(iii) acquired after March 1, 1986, pursuant to a binding contract entered into on or before such date, and

(B) described in an inducement resolution or other comparable preliminary approval adopted by the issuing authority (or by a voter referendum) on or before March 1, 1986.

(2) SIGNIFICANT EXPENDITURES.—For purposes of paragraph (1)(A)(ii), the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(3) EXCLUDED OBLIGATIONS.—Paragraph (1) shall not apply to section 103(b)(4)(G) (relating to obligations for hazardous waste treatment facilities), section 103(b)(5) (relating to qualified redevelopment bonds), section 103(d)(2)(B) (relating to certain supplemental student loan bonds), and section 103A(l)(11) (relating to treatment of limited equity cooperative housing), as in effect after the date of the enactment of this Act.

(c) CERTAIN AMENDMENTS TO APPLY TO OBLIGATIONS UNDER SUBSECTION (b) TRANSITIONAL RULE.—In the case of an obligation issued after the date of the enactment of this Act, and to which subsection (b) of this section applies, the requirements of the following provisions shall be treated as included in section 103 of the Internal Revenue Code of 1954 as in effect on the date of the enactment of this Act:

(1) The requirement that 95 percent or more of the proceeds of an issue be used for a purpose described in section 103(b) (4) (other than solid waste disposal facilities described therein), (5), or (6)(A) of such Code in order for section 103(b)(1) of such Code not to apply.

(2) The requirements of section 103(c) of such Code (without regard to paragraph (3)(B) thereof).

(3) The volume limitation requirement of section 103(n) of such Code (without regard to the amendments to the definition of governmental ownership contained in paragraph (7)(C)(ii) thereof in the case of obligations with respect to facilities described in section 103(b)(4)(B) of such Code).

(4) The requirement of section 103(b)(6)(Q) of such Code (relating to depreciable farm property limitation).

(5) The requirements of section 103(e) of such Code (relating to arbitrage).

(6) The requirements of section 103(f) of such Code (relating to advance refundings).

(7) The requirements of section 103(l) of such Code (relating to information reporting).

(8) The requirements of section 103A(c)(3)(C) of such Code.

For purposes of paragraphs (2) through (8) of this subsection, any reference to any section of such Code shall be treated as a reference to such section as amended by this title.

(d) REFUNDING ISSUES OTHER THAN ADVANCE REFUNDINGS.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the amendments made by this title shall not apply to any obligation the proceeds of which are used exclusively to refund (other than to advance refund) another obligation if—

(A) the refunded obligation (or, in the case of a series of refundings, the original obligation) was issued on or before the date of the enactment of this Act and interest on the refunded obligation is exempt from tax under the Internal Revenue Code of 1954,

(B) the amount of the refunding obligation does not exceed the amount of the refunded obligation, and

(C) the refunding obligation has a maturity date not later than the date which is 17 years after the date on which such obligation was issued, or the issue of which the refunding obligation is a part satisfies the requirements of section 103(b)(14) of such Code.

For purposes of subparagraph (C) the average reasonably expected economic life of a facility shall be determined under section 103(b)(14) of such Code as of the date the facility was placed in service.

(2) AMENDMENTS WHICH APPLY TO REFUNDING ISSUES.—The requirements of the following provisions of the Internal Revenue Code of 1954, as amended by this title, shall be treated as included in section 103 of such Code (as in effect before the enactment of this Act) and shall apply to obligations described in paragraph (1):

(A) Section 103(e) (relating to arbitrage).

(B) Section 103(l) (relating to information reporting requirements).

(e) ADVANCE REFUNDINGS.—

(1) IN GENERAL.—The amendments made by this title shall not apply to any obligation the proceeds of which are used exclusively to advance refund an obligation described in paragraph (2) if—

(i) the refunded obligation was issued on or before the date of the enactment of this Act and interest on such obligation is exempt from tax under the Internal Revenue Code of 1954, and

(ii) the refunding obligation satisfies the requirements of sections 103(e) (relating to arbitrage), 103(f) (other than paragraph (f)(1)) (relating to advance refundings), and 103(l) (relating to information reporting) of such Code, as amended by this Act.

(2) NON-IDBs, ETC.—An obligation is described in this paragraph if such obligation is not described in subsection (b)(2) or subsection (o)(2)(A) of the Internal Revenue Code of 1954, as in effect before the date of the enactment of this Act.

(3) ONE ADDITIONAL ADVANCE REFUNDING PERMITTED.—Subparagraphs (B) and (F) of section 103(f)(2) of the Internal Revenue Code of 1954, as amended by section 1505, shall not apply to the first obligation issued to advance refund an obligation issued on or before the date of the enactment of this Act.

(f) CHANGES IN USE OF FACILITIES FINANCED WITH TAX-EXEMPT BONDS.—Sections 103(g) and 103A(p) of the Internal Revenue Code of 1954, as added by sections 1506 and 1512(c), shall apply to changes in use after the date of the enactment of this Act, but only if the financing with respect to the facility involved is provided after such date.

(g) ARBITRAGE RESTRICTION ON INVESTMENTS IN ANNUITIES.—In the case of obligations issued after September 25, 1985, section 103(c) of the Internal Revenue Code of 1954 (as in effect before the date of the enactment of this Act) shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to any annuity contract.

(h) ADDITIONAL TRANSITIONAL RULES.—

(1) IN GENERAL.—Except as otherwise expressly provided in this subsection, any reference to section 103 shall be deemed to be a reference to such section of the Internal Revenue Code of 1954 as in effect before the date of the enactment of this Act.

(2) CONVENTION FACILITIES.—An obligation which is issued as part of an issue 95 percent of or more of the proceeds of which are to be used to provide a convention facility (within the meaning of section 103(b)(4)(C)) shall be treated as an obligation specified in a subparagraph of section 103(b)(4) as in effect after the date of the enactment of this Act and described in clause (i) of section 103(n)(7)(C) (subject to the governmental ownership requirement contained in clauses (iii) and (iv) of such section), if such facility is described in 1 of the following subparagraphs:

(A) A convention, trade, or spectator facility is described in this subparagraph if—

(i) a regional convention, trade, and spectator facilities study committee was created prior to March 19, 1985, with respect to such facility, and

(ii) feasibility and preliminary design consultants were hired on May 1, 1985, and October 31, 1985, with respect to such facilities.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $175,000,000.

(B) A convention facility is described in this subparagraph if—

(i) such facility is located in a city which was the subject of a convention center market analysis or study dated March 1983, and prepared by a nationally recognized accounting firm,

(ii) such facility's location was approved by a task force created jointly, in December 1985, by the Governor or the State within which such facility will be located and the mayor of the capital city of such State, and

(iii) the size of such facility is not more than 200,000 square feet.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $70,000,000.

(C) A convention facility is described in this subparagraph if—

(i) a resolution expressing intent to issue bonds for such facility was adopted on September 27, 1985,

(ii) a resolution designating the site for such facility was adopted on August 9, 1985, and

(iii) an agreement for concession services with respect to such facility was entered into on June 16, 1983.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $175,000,000.

(D) A convention center is described in this subparagraph if—

(i) a feasibility consultant and a design consultant were hired on April 3, 1985, with respect to such facility, and

(ii) a draft feasibility report with respect to such facility was presented on November 3, 1985, to the mayor of the city in which such facility is to be located.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $190,000,000. For purposes of this subparagraph, not more than $20,000,000 of obligations issued to advance refund existing convention facility bonds sold on May 12, 1978, shall be treated as obligations described in this subparagraph.

(E) A facility for conventions and sporting events is described in this subparagraph if an analysis of operations and recommendations of utilization of such facility was prepared by a certified public accounting firm pursuant to an engagement authorized on March 6, 1984, and presented on June 11, 1984, to officials of the city in which such facility is located. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $75,000,000.

(F) A convention facility is described in this subparagraph if—

(i) voters approved a bond issue to finance the acquisition of the site for such facility on May 4, 1985,

(ii) title of the property was transferred from the Illinois Center Gulf Railroad to the city on September 30, 1985, and

(iii) a United States judge rendered a decision regarding the fair market value of the site of such facility on December 30, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $131,000,000.

(3) SPORTS OR CONVENTION FACILITIES.—An obligation which is issued as a part of an issue 95 percent or more of the proceeds of which are to be used to provide either a sports facility (within the meaning of section 103(b)(4)(B)) or a convention facility (within the meaning of section 103(b)(4)(C)) shall be treated as an obligation specified in a subparagraph of section 103(b)(4) as in effect after the date of the enactment of this Act and, with respect to the portion of the proceeds used to provide a convention facility, as an obligation described in clause (i) of section 103(n)(7)(C) (subject to the governmental ownership requirement contained in clauses (iii) and (iv) of such section) if such facility is described in 1 of the following subparagraphs:

(A) A sports or convention facility is described in this subparagraph if—

(i) legislation by a State legislature in connection with such facility was enacted on July 19, 1985, and was designated Chapter 375 of the Laws of 1985, and

(ii) legislation by a State legislature in connection with the appropriation of funds to a State public benefit corporation for loans in connection with the construction of such facility was enacted on April 17, 1985, and was designated Chapter 41 of the Laws of 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $50,000,000.

(B) A combined convention and arena facility, or any part thereof (whether on the same or different sites), is described in this subparagraph if—

(i) bonds for the expansion, acquisition, or construction of such combined facility are payable from a tax and are issued under a plan initially approved by the voters of the taxing authority on April 25, 1978, and

(ii) such bonds were authorized for expanding a convention center, for acquiring an arena site, and for building an arena or any of the foregoing pursuant to a resolution adopted by the governing body of the bond issuer on March 17, 1986, and superseded by a resolution adopted by such governing body on May 27, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $160,000,000.

(4) SPORTS FACILITIES.—An obligation which is issued as a part of an issue 95 percent or more of the proceeds of which are to be used to provide a sports facility (within the meaning of section 103(b)(4)(B)) shall be treated as an obligation specified in a subparagraph of section 103(b)(4) as in effect after the date of the enactment of this Act if such facility is described in 1 of the following subparagraphs:

(A) A sports facility is described in this subparagraph if—

(i) it is a facility with respect to which—

(I) an inducement resolution dated December 24, 1985, was adopted by the county industrial development authority,

(II) a public hearing of the county industrial development authority was held on February 6, 1986, regarding such facility, and

(III) a contract was entered into by the county, dated February 19, 1986, for engineering services for a highway improvement in connection with such project, or

(ii) it is a domed football stadium adjacent to Cervantes Convention Center in St. Louis, Missouri, with respect to which a proposal to evaluate market demand, financial operations, and economic impact was dated May 9, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $175,000,000.

(B) A project to provide a roof or dome for an existing sports facility is described in this subparagraph if—

(i) in December 1984 the county sports complex authority filed a carryforward election under section 103(n) of the Internal Revenue Code of 1954 with respect to such project,

(ii) in January 1985, the State authorized issuance of $30,000,000 in bonds in the next 3 years for such project, and

(iii) an 11-member task force was appointed by the county executive in June 1985, to further study the feasibility of the project.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $30,000,000.

(C) A sports facility renovation or expansion project is described in this subparagraph if—

(i) an amendment to the sports team's lease agreement for such facility was entered into on May 23, 1985, and

(ii) the lease agreement had previously been amended in January 1976, on July 6, 1984, on April 1, 1985, and on May 7, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $20,000,000.

(D) A sports facility is described in this subparagraph if—

(i) an appraisal for such facility was completed on March 6, 1985,

(ii) an inducement resolution was adopted with respect to such facility on June 7, 1985, and

(iii) a State bond commission granted preliminary approval for such project on September 3, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $3,200,000.

(E) A sports facility renovation or expansion project is described in this subparagraph if—

(i) such facility is a domed stadium which commenced operations in 1965,

(ii) such facility has been the subject of an ongoing construction, expansion, or renovation program of planned improvements,

(iii) part 1 of such improvements began in 1982 with a preliminary renovation program financed by tax-exempt bonds,

(iv) part 2 of such program was previously scheduled for a bond election on February 25, 1986, pursuant to a Commissioner's Court Order of October 29, 1985, and

(v) the bond election for improvements to such facility was subsequently postponed on December 10, 1985, in order to provide for more comprehensive construction planning.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $60,000,000.

(F) A sports facility is described in this subparagraph if—

(i) the 1985 State legislature appropriated a maximum sum of $22,500,000 to the State urban development corporation to be made available for such project, and

(ii) a development and operation agreement was entered into among such corporation, the city, the State budget director, and the county industrial development agency, as of March 1, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $28,000,000.

(G) A sports facility is described in this subparagraph if—

(i) governmental action was taken on August 7, 1985, by the county commission, and on December 19, 1985, by the city council, concerning such facility, and

(ii) such facility is located in a city having a National League baseball team.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $200,000,000.

(H) A sports facility is described in this subparagraph if—

(i) a special advisory commission commissioned a study by a national accounting firm with respect to a project for such facility, which study was released in September 1985, and recommended construction of either a new multipurpose or a new baseball-only stadium,

(ii) a nationally recognized design and architectural firm released a feasibility study with respect to such project in April 1985, and

(iii) the metropolitan area in which the facility is located is presently the home of an American League baseball team.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $200,000,000.

(I) A sports facility is described in this subparagraph if—

(i) it is to consist of 1 or 2 stadiums appropriate for football games and baseball games with related structures and facilities,

(ii) the site for such facility was approved by the council of the city in which such facility is to be located on July 9, 1985, and

(iii) the request for proposals process was authorized by the council of the city in which such facility is to be located on November 5, 1985, and such requests were distributed to potential developers on November 15, 1985, with responses due by February 14, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $200,000,000.

(J) A sports facility is described in this subparagraph if—

(i) such facility is described in a feasibility study dated September 1985, and

(ii) resolutions were adopted or other actions taken on February 21, 1985, July 18, 1985, August 8, 1985, October 17, 1985, and November 7, 1985, by the Board of Supervisors of the county in which facility will be located with respect to the feasibility study, appropriations to obtain land for such facility, and approving the location of such facility in the county.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $20,000,000.

(5) PARKING FACILITIES.—An obligation which is issued as a part of an issue 95 percent or more of the proceeds of which are to be used to provide a parking facility (within the meaning of section 103(b)(4)(D)) shall be treated as an obligation specified in a subparagraph of section 103(b)(4) as in effect after the date of the enactment of this Act if such facility is described in 1 of the following subparagraphs:

(A) A parking facility is described in this subparagraph if—

(i) the development agreement with respect to the project of which such facility is a part was entered into during May 1984, and

(ii) an inducement resolution was passed on October 9, 1985, for the issuance of obligations with respect to the facility.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $35,000,000.

(B) A parking facility is described in this subparagraph if the city council approved a resolution of intent to issue tax-exempt bonds (Resolution 34083) for such facility on April 30, 1986. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $8,000,000. Solely for purposes of this subparagraph, a heliport constructed as part of such facility shall be deemed to be functionally related and subordinate to such facility.

(C) A parking facility is described in this subparagraph if—

(i) such facility is for a university medical school,

(ii) the last parcel of land necessary for such facility was purchased on February 4, 1985, and

(iii) the amount of obligations to be issued with respect to such facility was increased by the State legislature of the State in which the facility is to be located as part of its 1983–1984 general appropriations act.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $9,000,000.

(6) AIRPORT HOTEL FACILITY.—An obligation which is issued as a part of an issue 95 percent or more of the proceeds of which are to be used to provide a hotel at an airport facility (within the meaning of section 103(b)(4)(D)) shall be treated as an obligation specified in a subparagraph of section 103(b)(4) as in effect after the date of the enactment of this Act (without regard to the second sentence thereof) if such facility is a hotel at an airport facility serving a city described in section 631(a)(3) of the Tax Reform Act of 1984 (relating to certain bonds for a convention center and resource recovery project). The aggregate face amount of obligations to which this subparagraph applies shall not exceed $40,000,000.

(7) REDEVELOPMENT PROJECTS.—Any obligation which is issued as a part of an issue 95 percent or more of the proceeds of which are to be used to finance redevelopment activities within a specific designated area shall be treated as a qualified redevelopment bond (within the meaning of section 103(b)(5) but without regard to subparagraphs (B), (C), (D), and (E) thereof, as in effect after the date of the enactment of this Act) if such project is described in 1 of the following subparagraphs:

(A) A redevelopment project is described in this subparagraph if such project was approved by the city council on April 25, 1974 (Resolution 31395). The aggregate face amount of obligations to which this subparagraph applies shall not exceed $46,000,000.

(B) A redevelopment project is described in this subparagraph if such project was approved by the city council on July 23, 1985

(Ordinance 157635). The aggregate face amount of obligations to which this subparagraph applies shall not exceed $45,000,000.

(C) A redevelopment project is described in this subparagraph if—

(i) it is located in an area designated by the governing body of the city in 1983,

(ii) such project is described in a letter dated August 8, 1985, from the developer's legal counsel to the development agency of the city, and

(iii) such project consists primarily of retail facilities to be built by the developer named in a resolution of the governing body of the city on August 30, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $75,000,000.

(D) A redevelopment project is described in this subparagraph if—

(i) such project is a project for research and development facilities to be used primarily to benefit a State university and related hospital, with respect to which an urban renewal district was created by the city council effective October 11, 1985, and

(ii) such project was announced by the university and the city in March 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $40,000,000.

(E) A redevelopment project is described in this subparagraph if the obligations with respect to such project are described in section 632(a)(6) of the Tax Reform Act of 1984. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $34,000,000.

(F) A redevelopment project is described in this subparagraph if—

(i) with respect to such project the city council adopted on December 16, 1985, an ordinance directing the urban renewal authority to study blight and produce an urban renewal plan,

(ii) the blight survey was accepted and approved by the urban renewal authority on March 20, 1986, and

(iii) the city planning board approved the urban renewal plan on May 7, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $60,000,000.

(G) A redevelopment project is described in this subparagraph if—

(i) the city redevelopment agency approved resolutions authorizing issuance of land acquisition and public improvements bonds with respect to such project on August 8, 1978,

(ii) such resolutions were later amended in June 1979, and

(iii) the State Supreme Court upheld a lower court decree validating the bonds on December 11, 1980.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $380,000,000.

(8) POLLUTION CONTROL FACILITIES.—An obligation which is issued as a part of an issue 95 percent or more of the proceeds of which are to be used to provide an air or water pollution control facility (within the meaning of section 103(b)(4)(F)) shall be treated as an obligation specified in a subparagraph of section 103(b)(4) as in effect after the date of the enactment of this Act if such facility is described in 1 of the following subparagraphs:

(A) A pollution control facility is described in this subparagraph if—

(i) a resolution was adopted by the county board of supervisors pertaining to an issuance of bonds with respect to such facility on April 10, 1974, and

(ii) such facility was placed in service on June 12, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $90,000,000. For purposes of this subparagraph, a pollution control facility includes a sewage or solid waste disposal facility (within the meaning of section 103(b)(4)(E)).

(B) A pollution control facility is described in this subparagraph if—

(i) the issuance of $198,000,000 of bonds for such facility was approved by a State agency on August 22, 1979, and

(ii) the authority to issue such bonds was scheduled to expire (under terms of the State approval) on August 22, 1989.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $198,000,000.

(C) A pollution control facility is described in this subparagraph if—

(i) there was an inducement resolution for such facility on November 19, 1985, and

(ii) design and engineering studies for such facility were completed in March 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $25,000,000.

(D) A pollution control facility is described in this subparagraph if—

(i) such facility is 1 of 4 such facilities in 4 States with respect to which the Ball Corporation transmitted a letter of intent to purchase such facilities on February 26, 1986, and

(ii) inducement resolutions were issued on December 30, 1985, January 15, 1986, January 22, 1986, and March 17, 1986 with respect to bond issuance in the 4 respective States.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $6,000,000.

(9) RESIDENTIAL RENTAL PROPERTY PROJECTS.—The amendments made by section 1501(e) shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project for residential rental property if such project satisfies the requirements of section 103(b)(4)(A) and section 103(b)(12), and if such project is described in 1 of the following subparagraphs:

(A) A residential rental property project is described in this subparagraph if—

(i) a public building development corporation was formed on June 6, 1984, with respect to such project,

(ii) a partnership of which the corporation is a general partner was formed on June 8, 1984, and

(iii) the partnership entered into a preliminary agreement with the State public facilities authority effective as of May 4, 1984, with respect to the issuance of the bonds for such project.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $6,200,000.

(B) A residential rental property project is described in this subparagraph if—

(i) the Board of Commissioners of the city housing authority officially selected such project's developer on December 19, 1985,

(ii) an inducement resolution for such project was adopted on February 13, 1986, and

(iii) an agreement for purchase of real estate for such project was entered into on February 27, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $15,000,000.

(C) A residential rental property project is described in this subparagraph if—

(i) the issuance of $1,289,882 of bonds for such project was approved by a State agency on September 11, 1985, and

(ii) the authority to issue such bonds was scheduled to expire (under the terms of the State approval) on September 9, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $1,300,000.

(D) A residential rental property project is described in this subparagraph if—

(i) the issuance of $7,020,000 of bonds for such project was approved by a State agency on October 10, 1985, and

(ii) the authority to issue such bonds was scheduled to expire (under the terms of the State approval) on October 9, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $7,020,000.

(E) A residential rental property project is described in this subparagraph if—

(i) it is to be located in a city urban renewal project area which was established pursuant to an urban renewal plan adopted by the city council on May 17, 1960,

(ii) the urban renewal plan was revised in 1972 to permit multifamily dwellings in areas of the urban renewal project designated as a central business district,

(iii) an inducement resolution was adopted for such project on December 14, 1984, and

(iv) the city council approved on November 6, 1985, an agreement which provides for conveyance to the city of fee title to such project site.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $60,000,000.

(F) A residential rental property project is described in this subparagraph if—

(i) such project is to be located in a city urban renewal project area which was established pursuant to an urban renewal plan adopted by the city council on May 17, 1960,

(ii) the urban renewal plan was revised in 1972 to permit multifamily dwellings in areas of the urban renewal project designated as a central business district,

(iii) the amended urban renewal plan adopted by the city council on May 19, 1972, also provides for the conversion of any public area site in Block J of the urban renewal project area for the development of residential facilities, and

(iv) acquisition of all of the parcels comprising the Block J project site was completed by the city on December 28, 1984.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $60,000,000.

(G) A residential rental property project is described in this subparagraph if—

(i) such project is to be located on a city-owned site which is to become available for residential development upon the relocation of a bus maintenance facility,

(ii) preliminary design studies for such project site were completed in December 1985, and

(iii) such project is located in the same State as the projects described in subparagraphs (E) and (F).

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $100,000,000.

(H) A residential rental property project is described in this subparagraph if—

(i) at least 20 percent of the residential units in such project are to be utilized to fulfill the requirements of a unilateral agreement date July 21, 1983, relating to the provision of low- and moderate-income housing,

(ii) the unilateral agreement was incorporated into ordinance numbers 83-49 and 83-50, adopted by the city council and approved by the mayor on August 24, 1983, and

(iii) an inducement resolution was adopted for such project on September 25, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $8,000,000.

(I) A residential rental property project is described in this subparagraph if—

(i) a letter of understanding was entered into on December 11, 1985, between the city and county housing and community development office and the project developer regarding the conveyance of land for such project, and

(ii) such project is located in the same State as the projects described in subparagraphs (E), (F), (G), and (H).

The aggregate face amount of obligations to which this subparagraph applies shall not exceed an amount which, together with the amounts allowed under subparagraphs (E), (F), (G), and (H), does not exceed $250,000,000.

(J) A residential rental property project is described in this subparagraph if it is a multifamily residential development located in Arrowhead Springs, within the county of San Bernardino, California, and a portion of the site of which currently is owned by the Campus Crusade for Christ. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $350,000,000.

(10) MASS COMMUTING FACILITIES.—An obligation which is issued as a part of an issue 95 percent or more of the proceeds of which are to be used to provide a mass commuting facility (within the meaning of section 103(b)(4)(D)) shall be treated as an obligation specified in a subparagraph of section 103(b)(4) as in effect after the date of the enactment of this Act if such facility is described in 1 of the following subparagraphs:

(A) A mass commuting facility is described in this subparagraph if—

(i) such facility provides access to an international airport,

(ii) a corporation was formed in connection with such project in September 1984,

(iii) the Board of Directors of such corporation authorized the hiring of various firms to conduct a feasibility study with respect to such project in April 1985, and

(iv) such feasibility study was completed in November 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $235,000,000.

(B) A mass commuting facility is described in this subparagraph if—

(i) enabling legislation with respect to such project was approved by the State legislature in 1979,

(ii) a 1-percent local sales tax assessment to be dedicated to the financing of such project was approved by the voters on August 13, 1983, and

(iii) a capital fund with respect to such project was established upon the issuance of $90,000,000 of notes on October 22, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $200,000,000 and such obligations must be issued before January 1, 1996.

(11) DOCKS OR WHARVES.—The amendment made by section 1508(a)(2) shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are used to provide any dock or wharf (within the meaning of section 103(b)(4)(D)) if with respect to such dock or wharf—

(A) the legislature first authorized on June 29, 1981, the State agency issuing the obligation to issue at least $30,000,000 of obligations,

(B) the developer of the facility was selected on April 26, 1985, and

(C) an inducement resolution for the issuance of such issue was adopted on October 9, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $200,000,000.

(12) PRIVATE COLLEGES.—The amendments made by section 1504 (other than the amendment to section 103(e)(7) of the Internal Revenue Code of 1954) shall not apply to any obligation which is issued as part of an issue if such obligation—

(A) is issued by a political subdivision pursuant to home rule and interlocal cooperation powers conferred by the constitution and laws of a State to provide funds to finance the costs of the purchase and construction of educational facilities for private colleges and universities, and

(B) was the subject of a resolution of official action by such political subdivision (Resolution No. 86-1039) adopted by the governing body of such political subdivision on March 18, 1986.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $100,000,000.

(13) POOLED FINANCING PROGRAM.—Section 103 (c)(3)(B) of the Internal Revenue Code of 1954 as added by section 1502 shall not apply to any hospital pooled financing program with respect to which—

(A) a formal presentation was made to a city hospital facilities authority on January 14, 1986, and

(B) such authority passed a resolution approving the bond issue in principle on February 5, 1986.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $95,000,000.

(14) EFFECTIVE DATE.—Except as otherwise provided, this subsection shall not apply to any obligation issued after December 31, 1991.

(i) TRANSITION RULE FOR AGGREGATE LIMIT PER TAXPAYER.—

(1) TAX INCREMENT BONDS.—For purposes of section 103(b)(15) of the Internal Revenue Code of 1954, tax increment bonds described in section 1869(c)(3) of this Act which are issued before the date of the enactment of this Act are not treated as industrial development bonds.

(2) CERTAIN OTHER IDBS.—Notwithstanding the amendments to paragraphs (4), (5), and (6) of section 103(b) of the Internal Revenue Code of 1954 made by this title, with respect to the elimination of facilities financed by industrial development bonds, obligations which were industrial development bonds when issued or are such bonds under any subsection of this section, are treated as such bonds for purposes of section 103(b)(15) of such Code.

(j) FURTHER TRANSITION RULE FOR TAX INCREMENT BONDS.—For purposes of the amendments made by section 1501(c) with respect to section 103(b)(5)(B)(ii) of the Internal Revenue Code of 1954, tax increment bonds described in section 1869(c)(3) of this Act shall be treated as bonds described in clauses (i) and (iii) of section 103(b)(5)(B) of such Code.

(k) CERTAIN HYDROELECTRIC GENERATING PROPERTY.—Hydroelectric generating property described in section 103(b)(8)(E)(ii) of the Internal Revenue Code of 1954 as in effect before the amendments made by section 1501(f) shall be treated as described in section 103(b)(4) of such Code notwithstanding the amendments made by section 1501(f) and section 103(b)(8) of such Code as in effect before such amendments shall apply with respect to such property.

(l) TREATMENT OF OBLIGATIONS SUBJECT TO TRANSITIONAL RULES UNDER TAX REFORM ACT OF 1984.—

(1) The amendments made by this title (other than the amendments to section 103(e)(7) of the Internal Revenue Code of 1954) shall not apply to any obligation described in section 631(d)(4) of the Tax Reform Act of 1984.

(2) The amendments made by section 1501(b) (relating to repeal of convention centers as exempt activities and imposition of the 95-percent use requirement) shall not apply to any obligation described in section 631(a)(3) of the Tax Reform Act of 1984 (relating to bonds for a convention center and resource recovery project) for any project described in subparagraph (A) of such paragraph.

(3) The amendments made by this title (other than sections 1504 and 1505) shall not apply to any obligation described in section 631(d)(5), paragraphs (2), (3), (4), (5), (6), and (7) of section 632(a), or section 632(g) of the Tax Reform Act of 1984.

(4) The preceding provisions of this subsection shall not apply to any obligation issued after December 31, 1987.

(5) The amendments made by this title shall not apply to any obligation issued to finance property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

(m) LIMITATION ON INVESTMENT IN NONPURPOSE OBLIGATIONS.—

(A) IN GENERAL.—Section 103(e)(6)(C) of the Internal Revenue Code of 1954 shall not apply to amounts in a fund described in subparagraph (B) as that fund is in effect on the date of enactment.

(B) CERTAIN MANDATORY ACCUMULATIONS.—A fund is described in this subparagraph if—

(i) amounts must be paid into such fund under a constitutional provision, statute, or ordinance which was initially effective in 1901 and was last modified in 1919,

(ii) under such constitutional provision, statute, or ordinance, amounts paid into such fund (and receipts from investment of such fund) can be used only to pay debt service on general obligations of a governmental unit and for no other purpose, and

(iii) the size of the payments made into such fund is independent of the size of the outstanding issues (including the debt service thereon).

TITLE XVI—UNEARNED INCOME OF CERTAIN DEPENDENT CHILDREN; TRUSTS AND ESTATES

Subtitle A—Unearned Income of Certain Minor Children

SEC. 1601. UNEARNED INCOME OF CERTAIN MINOR CHILDREN.

(a) GENERAL RULE.—Section 1 is amended by adding at the end thereof the following new subsection:

"(j) UNEARNED INCOME OF MINOR CHILDREN ATTRIBUTABLE TO PARENTAL SOURCES TAXED AS IF PARENT'S INCOME.—

"(1) IN GENERAL.—In the case of any child to whom this subsection applies, the tax imposed by this section shall be equal to the greater of—

"(A) the tax imposed by this section without regard to this subsection, or

"(B) the sum of—

"(i) the tax which would be imposed by this section if the taxable income of such child for the taxable year were reduced by the net parental source unearned income of such child, plus

"(ii) such child's share of the parental source tax.

"(2) CHILD TO WHOM SUBSECTION APPLIES.—This subsection shall apply to any child for any taxable year if—

"(A) such child has not attained age 14 before the close of the taxable year,

"(B) either parent of such child is alive at the close of the taxable year, and

"(C) such child has net parental source unearned income for such taxable year.

"(3) PARENTAL SOURCE TAX.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'parental source tax' means the excess of—

"(i) the tax which would be imposed by this section on the parent's taxable income if such income included the net parental source unearned income of all children of the parent to whom this subsection applies, over

"(ii) the tax imposed by this section on the parent without regard to this subsection.

For purposes of clause (i), net parental source unearned income shall not be taken into account in computing any deduction or credit of the parent other than the deduction allowable under section 151.

"(B) CHILD'S SHARE.—A child's share of any parental source tax of a parent shall be equal to an amount which bears the same ratio to the total parental source tax as the child's net parental source unearned income bears to the aggregate net parental source unearned income of all children of such parent to whom this subsection applies.

"(4) NET PARENTAL SOURCE UNEARNED INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net parental source unearned income' means net unearned income for the taxable year to the extent not attributable to a qualified segregated asset.

"(B) LIMITATION BASED ON TAXABLE INCOME.—The amount of the net parental source unearned income for any taxable year shall not exceed the individual's taxable income for such taxable year.

"(C) NET UNEARNED INCOME.—The term 'net unearned income' means the excess of—

"(i) the portion of the gross income for the taxable year which is not earned income (as defined in section 911(d)(2)), over

"(ii) the deductions allowed by this chapter for the taxable year which are directly connected with the production of such portion.

"(5) QUALIFIED SEGREGATED ASSET.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified segregated asset' means any asset—

"(i) if the entire amount of such asset is attributable to nonparental sources or income from assets meeting the requirements of this clause, and

"(ii) if such asset is identified as a qualified segregated asset before the later of—

"(I) the due date (with extensions) for filing the return of the child's tax imposed by this chapter for the taxable year in which such asset was acquired, or

"(II) the due date (with extensions) for filing the return of the child's tax imposed by this chapter for the child's first taxable year which begins after December 31, 1986, to which this subsection applies to such child.

"(B) NONPARENTAL SOURCES.—Property shall be attributable to a nonparental source if it is not attributable to an amount received (directly or indirectly) by the child from any parent or stepparent of the child (other than by reason of the death of a parent or stepparent).

"(6) SPECIAL RULE FOR CERTAIN PARENTAL TAXABLE INCOME.—For purposes of this subsection, the parent whose taxable income shall be taken into account shall be—

"(A) in the case of divorced parents, the custodial parent of the child, and

"(B) in the case of married individuals filing separately, the individual with the greater taxable income.

"(7) PROVIDING OF PARENT'S TIN.—The parent of any child to whom this subsection applies for any taxable year shall provide the TIN of such parent to such child and such child shall include such TIN on the child's return of tax imposed by this section for such taxable year."

(b) DISCLOSURE OF INFORMATION.—Subparagraph (A) of section 6103(e)(1) (relating to disclosure to persons having material interest) is amended by striking out "or" at the end of clause (ii), by inserting "or" at the end of clause (iii), and by adding at the end thereof the following new clause:

"(iv) the child of that individual (or such child's legal representative) to the extent necessary to comply with the provisions of section 1(j);".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

Subtitle B—Trusts and Estates

SEC. 1611. GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.

(a) IN GENERAL.—Section 672 (relating to definitions and rules) is amended by adding at the end thereof the following new subsection:

"(e) GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.—For purposes of this subpart, if a grantor's spouse is living with the grantor at the time of the creation of any power or interest held by such spouse, the grantor shall be treated as holding such power or interest."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to transfers in trust made after March 1, 1986.

SEC. 1612. EXCEPTIONS TO REVERSIONARY INTEREST RULE LIMITED.

(a) IN GENERAL.—Section 673 (relating to reversionary interest) is amended to read as follows:

"SEC. 673. REVERSIONARY INTERESTS.

"(a) GENERAL RULE.—The grantor shall be treated as the owner of any portion of a trust in which he has a reversionary interest in either the corpus or the income therefrom, if, as of the inception of that portion of the trust, the value of such interest exceeds 5 percent of the value of such portion.

"(b) REVERSIONARY INTEREST TAKING EFFECT AT DEATH OF MINOR LINEAL DESCENDANT BENEFICIARY.—In the case of any beneficiary who—

"(1) is a lineal descendant of the grantor, and

"(2) holds all of the present interests in any portion of a trust,

the grantor shall not be treated under subsection (a) as the owner of such portion solely by reason of a reversionary interest in such portion which takes effect upon the death of such beneficiary before such beneficiary attains age 21."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 674(b) (relating to exceptions for certain powers) is amended—

(A) by striking out "the expiration of a period" and inserting in lieu thereof "the occurrence of an event",

(B) by striking out "the expiration of the period" and inserting in lieu thereof "the occurrence of the event", and

(C) by striking out "EXPIRATION OF 10-YEAR PERIOD" in the heading thereof and inserting in lieu thereof "OCCURRENCE OF EVENT".

(2) Subsection (b) of section 676 (relating to power to revoke) is amended—

(A) by striking out "the expiration of a period" and inserting in lieu thereof "the occurrence of an event",

(B) by striking out "the expiration of such period" and inserting in lieu thereof "the occurrence of such event", and

(C) by striking out "EXPIRATION OF 10-YEAR PERIOD" in the heading thereof and inserting in lieu thereof "OCCURRENCE OF EVENT".

(3) Subsection (a) of section 677 (relating to income for benefit of grantor) is amended—

(A) by striking out "the expiration of a period" and inserting in lieu thereof "the occurrence of an event", and

(B) by striking out "the expiration of the period" and inserting in lieu thereof "the occurrence of the event".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to transfers in trust made after March 1, 1986.

(2) TRANSFERS PURSUANT TO PROPERTY SETTLEMENT AGREEMENT.—The amendments made by this section shall not apply to any transfer in trust made after March 1, 1986, pursuant to a binding property settlement agreement entered into on or before March 1, 1986, which required the taxpayer to establish a grantor trust and for the transfer of a specified sum of money to the trust by the taxpayer. This paragraph shall only apply to the extent of the amount required to be transferred under the agreement described in the preceding sentence.

SEC. 1613. TAXABLE YEAR FOR TRUSTS TO END IN OCTOBER, NOVEMBER, OR DECEMBER.

(a) IN GENERAL.—Subpart A of part I of subchapter J of chapter 1 (relating to general rules for taxation of estates and trusts) is amended by adding at the end thereof the following new section:

"SEC. 645. TAXABLE YEAR OF TRUSTS.

"For purposes of this subtitle, the taxable year of any trust shall be a period of 12 months ending on—

"(1) October 31,

"(2) November 30, or

"(3) December 31."

(b) CLERICAL AMENDMENT.—The table of sections of subpart A of part I of subchapter J of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 645. Taxable year of trusts."

(c) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

(2) TRANSITION RULE.—With respect to any trust beneficiary who is required to include

in gross income amounts under sections 652(a) or 662(a) of the Internal Revenue Code of 1954 in the 1st taxable year of the beneficiary beginning after December 31, 1986, by reason of the short taxable year of the trust required by the amendments made by this section, such income shall be ratably included in the income of the trust beneficiary over the 4-taxable year period beginning with such taxable year.

SEC. 1614. TRUSTS AND ESTATES TO MAKE ESTIMATED PAYMENTS OF INCOME TAXES.

(a) IN GENERAL.—Subsection (k) of section 6654 (relating to failure by individual to pay estimated income tax) is amended by striking out "not".

(b) CONFORMING AMENDMENT.—Section 6152 (relating to installment payments) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1615. INFORMATION NECESSARY FOR VALID SPECIAL USE VALUATION ELECTION.

(a) IN GENERAL.—In the case of any decedent dying before January 1, 1986, if the executor—

(1) made an election under section 2032A of the Internal Revenue Code of 1954 on the return of tax imposed by section 2001 of such Code within the time prescribed for filing such return (including extensions thereof), and

(2) provided substantially all the information with respect to such election required on such return of tax,

such election shall be a valid election for purposes of section 2032A of such Code.

(b) EXECUTOR MUST PROVIDE INFORMATION.—An election described in subsection (a) shall not be valid if the Secretary of the Treasury or his delegate after the date of the enactment of this Act requests information from the executor with respect to such election and the executor does not provide such information within 90 days of receipt of such request.

(c) EFFECTIVE DATE.—The provisions of this section shall not apply to the estate of any decedent if the statute of limitations with respect to the return of tax imposed by section 2001 of the Internal Revenue Code of 1954 has expired, or for which the period during which a claim for credit or refund may be timely filed has expired, whichever is later before the date of the enactment of this Act.

SEC. 1616. APPLICATION OF SPECIAL USE VALUATION 10-YEAR RECAPTURE PERIOD TO CERTAIN ESTATES OF DECEDENTS DYING AFTER DECEMBER 31, 1976.

Section 421(k) of the Economic Recovery Tax Act of 1981 (relating to effective dates of valuation of certain farm, etc., real property amendments) is amended by adding at the end thereof the following new paragraph:

"(6) 10-YEAR RECAPTURE PERIOD.—The amendments made by subsection (c)(1) shall apply with respect to the estates of decedents dying after December 31, 1976."

SEC. 1617. TREATMENT OF CERTAIN DISCLAIMERS.

With respect to an interest in property created by a gift, devise, or bequest made before November 15, 1958, a disclaimer by a person of such interest (in whole or in part) shall not be treated as a transfer for purposes of chapters 11 and 12 of subtitle B of the Internal Revenue Code of 1954 if such disclaimer satisfied the requirements set forth in Treasury Regulation Section 25.2511-1(c) as in effect at the time the disclaimer was made. For purposes of this section, the requirement of such regulation that the disclaimer be made within a reasonable time after knowledge of the existence of the transfer shall be satisfied if such disclaimer was made in writing before December 9, 1980, and no later than a reasonable time after termination of all interests in such property prior to the disclaimed interest.

SEC. 1618. CONVEYANCE OF CERTAIN REAL AND PERSONAL PROPERTY OF DECEDENT TO CHARITABLE FOUNDATION TREATED AS CHARITABLE CONTRIBUTION.

Notwithstanding any other law or any rule of law (including res judicata, laches, or lapse of time), in the case of any real property or personal property located in Bangkok, Thailand, which—

(1) was owned by James H.W. Thompson at the time of his death, and

(2) has been transferred to the Jim Thompson Foundation (also known as the J.H.W. Thompson Foundation), a charitable foundation established in Thailand for the purpose of operating a museum consisting of such real and personal property,

such property shall be treated, for purposes of section 2055 of the Internal Revenue Code of 1954 (relating to deductions for transfers for public, charitable, and religious uses), as having been transferred as a bequest or a devise directly from the estate of James H.W. Thompson to the Jim Thompson Foundation and the value of such property shall be deducted from the gross estate of James H.W. Thompson for purposes of the tax imposed by section 2001 of such Code.

SEC. 1619. TREATMENT OF CERTAIN ENTITIES AS TRUSTS FOR TAX PURPOSES.

(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1954, if the entity described in subsection (b) makes an election under subsection (c), such entity shall be treated as a trust to which subpart E of part 1 of subchapter J of chapter 1 of such Code applies.

(b) ENTITY.—An entity is described in this subsection if—

(1) such entity was created in 1906 as a common law trust and is governed by the trust laws of the State of Minnesota,

(2) such entity receives royalties from iron ore leases, and

(3) income interests in such entity are publicly traded on a national stock exchange.

(c) ELECTION.—

(1) IN GENERAL.—An election under this subsection to have the provisions of this section apply—

(A) shall be made by the board of trustees of the entity, and

(B) shall not be valid unless accompanied by an agreement described in paragraph (2).

(2) AGREEMENT.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not—

(A) sell any trust property,

(B) purchase any additional trust properties, or

(C) receive any income other than—

(i) income from long-term mineral leases, or

(ii) interest or other income attributable to ordinary and necessary reserves of the entity.

(3) PERIOD FOR WHICH ELECTION IS IN EFFECT.—An election under this subsection shall be in effect during the period—

(A) beginning on the first day of the first taxable year following the taxable year in which the election is made, and

(B) ending as of the close of the taxable year preceding the taxable year in which the entity ceases to be described in subsection (b) or violates any term of the agreement under paragraph (2).

(4) MANNER OF ELECTION.—Any election under this subsection shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe.

(d) SPECIAL RULES FOR TAXATION OF TRUST.—

(1) ELECTION TREATED AS A LIQUIDATION.—If an election is made under subsection (c) with respect to any entity—

(A) such entity shall be treated as having been liquidated into a trust immediately before the period described in subsection (c)(3) in a liquidation to which section 333 of the Internal Revenue Code of 1954 applies, and

(B) any person holding an interest in the property held by such entity as of such time shall be treated as a qualified electing shareholder for purposes of section 333 of such Code.

(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), then the tax imposed on such entity for the taxable year in which such cessation or violation occurs shall be increased by the sum of—

(A) the amount of taxes which would have been imposed on such entity during any taxable year with respect to which an election under subsection (c) was in effect if such election had not been in effect, plus

(B) interest determined for the period—

(i) beginning on the due date for any such taxable year, and

(ii) ending on the due date for the taxable year in which such cessation or violation occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

(3) TRUST CEASING TO EXIST.—Paragraph (2) shall not apply if the trust ceases to be described in subsection (b) or violates the agreement in subsection (c)(2) because the trust ceases to exist.

(e) The election described in subsection (c) shall be effective for taxable years beginning after the date of enactment of this legislation. The election shall terminate five years from the date of enactment of this legislation unless the Trust petitions a court of competent jurisdiction and the court acts to remove from the trust instrument any powers deemed by the court to be inconsistent with the operation of the entity as a trust for tax purposes as described in the Internal Revenue Ruling dated November 1, 1983.

SEC. 1620. IRREVOCABLE ESTATE ELECTIONS.

(a) Section 2056(b)(5) is amended by adding the following at the end of such paragraph:

"Should the Commissioner determine that property does not qualify under this paragraph as claimed by an executor, with a reasonable basis therefore and in good faith, on a return filed under section 2001, upon receipt of written notice of such a determination by the Commissioner, the executor shall have 90 days to make an irrevocable election under section 2056(b)(7)(v) as to any such property which qualifies under such section.".

(b) The provisons of this section shall not apply to the estate of any decedent if the statute of limitations with respect to the return of tax imposed by section 2001 of the Internal Revenue Code of 1954 has expired before the date of enactment of this Act.

TITLE XVII—MISCELLANEOUS PROVISIONS

SEC. 1701. EXTENSION OF RULES FOR SPOUSES OF INDIVIDUALS MISSING IN ACTION.

(a) EXTENSION OF PROVISIONS.—

(1) DEFINITION OF SURVIVING SPOUSE.—Subparagraph (B) of section 2(a)(3) (relating to special rule where deceased spouse was in missing status) is amended to read as follows:

"(B) except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated under section 112 is the date of termination of combatant activities in that zone."

(2) INCOME TAXES OF MEMBERS OF ARMED FORCES ON DEATH.—The last sentence of section 692(b) (relating to individuals in missing status) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(3) JOINT RETURNS.—The last sentence of section 6013(f)(1) (relating to joint returns where an individual is in missing status) is amended by striking out "no such election may be made for any taxable year beginning after December 31, 1982" and inserting in lieu thereof "such election may be made for any taxable year while an individual is in missing status".

(4) POSTPONEMENT OF TIME FOR PERFORMING CERTAIN ACTS.—The last sentence of section 7508(b) (relating to application to spouse) is amended to read as follows: "Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause this section to apply for any spouse for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 1702. EXCHANGES AND RENTALS OF MEMBER LISTS BY CERTAIN ORGANIZATIONS NOT TO BE TREATED AS UNRELATED TRADE OR BUSINESS.

(a) IN GENERAL.—Section 513 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) EXCHANGES AND RENTALS OF MEMBER LISTS.—In the case of an organization which is described in section 501 and contributions to which are deductible under paragraph (2) or (3) of section 170(c), the term 'unrelated trade or business' does not include any trade or business which consists of—

"(1) exchanging with another such organization names and addresses of donors to (or members of) such organization, or

"(2) renting such names and addresses to another such organization."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to exchanges and rentals of membership lists after the date of the enactment of this Act.

SEC. 1703. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) IN GENERAL.—Section 216 is amended—

(1) by striking out "an individual" in subsection (b)(2) and inserting in lieu thereof "a person",

(2) by striking out "such individual" in subsection (b)(2) and inserting in lieu thereof "such person",

(3) by amending paragraph (5) of subsection (b) to read as follows:

"(5) ENTITLEMENT OF OCCUPANCY.—If a person acquires stock of a cooperative housing corporation by operation of law, there shall not be taken into account for purposes of this section the fact that by agreement with the cooperative housing corporation, the person or his nominee may not occupy the house or apartment without the prior approval of such corporation. If a person other than an individual acquires stock of a cooperative housing corporation, there shall not be taken into account for purposes of this section the fact that by agreement with the cooperative housing corporation, the person's nominee may not occupy the house or apartment without the prior approval of such corporation.",

(4) by amending paragraph (6) of subsection (b) to read as follows:

"(6) ORIGINAL SELLER.—If the original seller acquires any stock of the cooperative housing corporation from the corporation not later than 1 year after the date on which the apartments or houses (or leaseholds therein) are transferred by the original seller to the corporation, there shall not be taken into account for purposes of this section the fact that by agreement with the corporation the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation. For purposes of this paragraph, the term 'original seller' means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein).",

(5) by amending subsection (c) to read as follows:

"(c) TREATMENT AS PROPERTY SUBJECT TO DEPRECIATION.—

"(1) IN GENERAL.—So much of the stock of a tenant-stockholder in a cooperative housing corporation as is allocable, under regulations prescribed by the Secretary, to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) shall, to the extent such proprietary lease or right of tenancy is used by such tenant-stockholder in a trade or business or for the production of income, be treated as property subject to the allowance for depreciation under section 167(a). The preceding sentence shall not be construed to limit or deny a deduction for depreciation under section 167(a) by a cooperative housing corporation with respect to property owned by such a corporation and leased to tenant-stockholders.

"(2) SUSPENSION OF DEPRECIATION DEDUCTIONS.—A tenant-stockholder shall be allowed a depreciation deduction in a taxable year for the portion of his stock allocable to a proprietary lease or right of tenancy in property subject to the allowance for depreciation under section 167(a) only to the extent of the portion of the adjusted basis for his stock allocable to such depreciable property at the end of the tenant-stockholder's taxable year in which such deduction was incurred. A tenant-stockholder's depreciation deduction in excess of the basis for his stock allocable to such depreciable property at the end of the tenant-stockholder's taxable year will not be allowed for that year. However, any depreciation deduction so disallowed shall be allowed as a depreciation deduction at the end of the first succeeding taxable year of the tenant-stockholder, and subsequent taxable years of the tenant-stockholder, to the extent that the tenant-stockholder's adjusted basis for his stock allocable to such depreciable property at the end of any such year exceeds zero (before reduction for such depreciation deduction for such year).", and

(6) by adding at the end thereof a new subsection (d) to read as follows:

"(d) DISALLOWANCE OF DEDUCTION FOR CERTAIN PAYMENTS TO THE CORPORATION.—No deduction shall be allowed to a stockholder in a cooperative housing corporation for any amount paid or accrued to such corporation within the taxable year (in excess of the stockholder's proportionate share of the items described in subsections (a)(1) and (a)(2)) to the extent that, under regulations prescribed by the Secretary, such amount is properly allocable to amounts paid or incurred at any time by the corporation that are chargeable to the corporation's capital account. The stockholder's adjusted basis for his stock in the corporation shall be increased by the amount of such disallowance."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1704. TREATMENT OF AMOUNTS RECEIVED IN CONNECTION WITH THE REFINANCING OF INDEBTEDNESS OF CERTAIN COOPERATIVE HOUSING CORPORATIONS; TREATMENT OF AMOUNTS PAID FROM QUALIFIED REFINANCING-RELATED RESERVE.

(a) PAYMENT OF CLOSING COSTS AND CREATION OF RESERVE EXCLUDED FROM GROSS INCOME.—For purposes of the Internal Revenue Code of 1954, no amount shall be included in the gross income of a qualified cooperative housing corporation by reason of the payment or reimbursement by a city housing development agency or corporation of amounts for—

(1) closing costs, or

(2) the creation of reserves for the qualified cooperative housing corporation,

in connection with a qualified refinancing.

(b) INCOME FROM RESERVE FUND TREATED AS MEMBER INCOME.—

(1) IN GENERAL.—Income from a qualified refinancing-related reserve shall be treated as derived from its members for purposes of—

(A) section 216 of the Internal Revenue Code of 1954 (relating to deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder), and

(B) section 277 of such Code (relating to deductions incurred by certain membership organizations in transactions with members).

(2) NO INFERENCE.—Nothing in the provisions of this subsection shall be construed to infer that a change in law is intended with respect to the treatment of deductions under section 277 of the Internal Revenue Code of 1954 with respect to cooperative housing corporations, and any determination of such issue shall be made as if such provisions had not been enacted.

(c) TREATMENT OF CERTAIN INTEREST CLAIMED AS DEDUCTION.—Any amount—

(1) claimed (on a return of tax imposed by chapter 1 of the Internal Revenue Code of 1954) as a deduction by a qualified cooperative housing corporation for interest for any taxable year beginning before January 1, 1986, on a second mortgage loan made by a city housing development agency or corporation in connection with a qualified refinancing, and

(2) reported (before April 16, 1986) by the qualified cooperative housing corporation to its tenant-stockholders as interest described in section 216(a)(2) of such Code,

shall be treated for purposes of such Code as if such amount were paid by such qualified cooperative housing corporation during such taxable year.

(d) QUALIFIED COOPERATIVE HOUSING CORPORATION.—

(1) IN GENERAL.—For purposes of this section, the term "qualified cooperative housing corporation" means any corporation if—

(A) such corporation is, after the application of subsections (a) and (b), a cooperative housing corporation (as defined in section 216(b) of the Internal Revenue Code of 1954),

(B) such corporation is subject to a qualified limited-profit housing companies law, and

(C) such corporation either—

(i) filed for incorporation on July 22, 1965, or

(ii) filed for incorporation on March 5, 1964.

(2) QUALIFIED LIMITED-PROFIT HOUSING COMPANIES LAW.—For purposes of paragraph (1), the term "qualified limited-profit housing companies law" means any limited-profit housing companies law which limits the resale price for a tenant-stockholder's stock in a cooperative housing corporation to the sum of his basis for such stock plus his proportionate share of part or all of the amortization of any mortgage on the building owned by such corporation.

(e) QUALIFIED REFINANCING.—For purposes of this section, the term "qualified refinancing" means any refinancing—

(1) which occurred—

(A) with respect to a qualified cooperative housing corporation described in subsection (d)(1)(C)(i) on September 20, 1978, or

(B) with respect to a qualified cooperative housing corporation described in subsection (d)(1)(C)(ii) on November 21, 1978, and

(2) in which a qualified cooperative housing corporation refinanced a first mortgage loan made to such corporation by a city housing development agency with a first mortgage loan made by a city housing development corporation and insured by an agency of the Federal Government and a second mortgage loan made by such city housing development agency, in the process of which a reserve was created (as required by such Federal agency) and closing costs were paid or reimbursed by such city housing development agency or corporation.

(f) QUALIFIED REFINANCING-RELATED RESERVE.—For purposes of this section, the term "qualified refinancing-related reserve" means any reserve of a qualified cooperative housing corporation with respect to the creation of which no amount was included in the gross income of such corporation by reason of subsection (a).

(g) TREATMENT OF AMOUNTS PAID FROM QUALIFIED REFINANCING-RELATED RESERVE.—

(1) IN GENERAL.—With respect to any payment from a qualified refinancing-related reserve out of amounts excluded from gross income by reason of subsection (a)—

(A) no deduction shall be allowed under chapter 1 of such Code, and

(B) the basis of any property acquired with such payment (determined without regard to this paragraph) shall be reduced by the amount of such payment.

(2) ORDERING RULES.—For purposes of paragraph (1), payments from a reserve shall be treated as being made—

(A) first from amounts excluded from gross income by reason of subsection (a) to the extent thereof, and

(B) then from other amounts in the reserve.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to taxable years beginning before January 1, 1986.

(2) SUBSECTION (g).—Subsection (g) shall apply to amounts paid or incurred, and property acquired in taxable years beginning after December 31, 1985.

SEC. 1705. RETENTION OF BUSINESS HOLDINGS BY CERTAIN PRIVATE FOUNDATIONS.

Section 101(l)(4) of the Tax Reform Act of 1969 (26 U.S.C. 4940 note) (relating to savings provisions for section 4943) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) Section 4943 of the Internal Revenue Code of 1954 (other than the phrase 'but in no event shall the percentage so substituted be more than 50 percent' in subsection (c)(4)(A)(i), and subsection (c)(4)(D)) shall apply to any excess business holdings held, or treated as held under section 4943(c)(5) of such Code, on May 26, 1969, by a private foundation if on and after the date of divestiture of such holdings required under section 4943, such foundation meets all of the following conditions:

"(I) Disqualified persons (other than persons who are disqualified persons solely as foundation managers) and officers, directors, or employees of any business enterprise in which such foundation has such excess business holdings do not together constitute more than 25 percent of the governing board of such foundation.

"(II) Directors, trustees, or officers of the foundation do not together constitute more than 25 percent of the governing board of any such business enterprise.

"(III) No disqualified person (other than persons who are disqualified persons solely as foundation managers) can be a foundation manager after May 6, 1986, unless such person was a foundation manager on May 6, 1986.

"(IV) No disqualified person receives compensation (or payment or reimbursement of expenses) from both the foundation and any such business enterprise, other than director fees (and the payment or reimbursement of expenses incident thereto) which are not excessive.

"(V) Such foundation does not incur liability for any taxes imposed under section 4942 of such Code.

"(VI) Such foundation does not incur liability for any taxes imposed under section 4943 of such Code with respect to holdings of any business enterprise in which such foundation has holdings subject to this clause.

"(ii) For purposes of this subparagraph, the terms 'disqualified person' and 'foundation manager' have the meaning given to such terms by subsections (a) and (b) of section 4946 of such Code, respectively."

SEC. 1706. TAX EXEMPTION FOR CERTAIN TITLE-HOLDING COMPANIES.

(a) IN GENERAL.—Section 501(c) (relating to the list of exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(25)(A) Any corporation or trust that—

"(i) has no more than 35 shareholders or beneficiaries,

"(ii) has only 1 class of stock or beneficial interest, and

"(iii) is organized for the exclusive purposes of—

"(I) acquiring real property and holding title to, and collecting income from, such property, and

"(II) remitting the entire amount of income from such property (less expenses) to one or more organizations described in subparagraph (C) that are shareholders of such corporation or beneficiaries of such trust.

"(B) A corporation or trust shall be described in subparagraph (A) without regard to whether the corporation or trust is organized by one or more organizations described in subparagraph (C).

"(C) An organization is described in this subparagraph if such organization is—

"(i) a qualified pension, profit sharing, or stock bonus plan that meets the requirements of section 401(a),

"(ii) a governmental plan (within the meaning of section 414(d)),

"(iii) the United States, any State or political subdivision thereof, or any agency or instrumentality of any such governmental unit, or

"(iv) any organization described in paragraph (3).

"(D) A corporation or trust described in this paragraph (25) must permit its shareholders or beneficiaries—

"(i) to dismiss the corporation's or trust's investment adviser, following reasonable notice, upon a vote of the shareholders or beneficiaries holding a majority of interest in the corporation or trust, and

"(ii) to terminate their interest in the organization by either, or both, of the following alternatives, as determined by the corporation or trust:

"(I) to sell or exchange their stock in the corporation or interest in the trust (subject to any Federal or State securities law) to any organization described in subparagraph (C) so long as the sale or exchange does not increase the number of shareholders or beneficiaries in such corporation or trust above 35, or

"(II) to redeem their stock or interest in the trust after the shareholder or beneficiary has provided 90 days notice to the corporation or trust."

(b) CLERICAL AMENDMENT.—Subparagraph (C) of section 514(c)(9) of the Internal Revenue Code of 1954 (relating to real property acquired by a qualified organization) is amended—

(1) by striking out "or" at the end of clause (i),

(2) by replacing the period following clause (ii) with "; or", and

(3) by inserting at the end thereof the following new clause:

"(iii) an organization described in section 501(c)(25)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

SEC. 1707. EXTENSION OF EXPENSE TREATMENT FOR REMOVAL OF ARCHITECTURAL BARRIERS TO THE HANDICAPPED AND ELDERLY.

Paragraph (2) of section 190(d) (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking out "1983, and before January 1, 1986" and inserting in lieu thereof "1983".

SEC. 1708. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 3-YEAR EXTENSION.—Paragraph (3) of section 51(c) (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "December 31, 1988".

(b) CREDIT FOR FIRST-YEAR WAGES ONLY.—

(1) IN GENERAL.—Section 51(a) (relating to determination of amount of credit) is amended to read as follows:

"(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the amount of the target-

ed jobs credit determined under this section for the taxable year shall be equal to 50 percent of the qualified first-year wages for such year."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (b) of section 51 (defining qualified wages) is amended—

(i) by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out ", and the amount of the qualified second-year wages," in paragraph (3) (as redesignated by subparagraph (A)).

(B) Subparagraph (B) of section 51(d)(12) (relating to qualified summer youth employee) is amended—

(i) by striking out clause (ii) and redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively, and

(ii) by striking out "subsection (b)(4)" and inserting in lieu thereof "subsection (b)(3)" in clause (iii) (as redesignated).

(c) ELIGIBLE INDIVIDUALS—PERIOD OF EMPLOYMENT.—Subsection (i) of section 51 (relating to certain individuals ineligible) is amended by adding at the end thereof the following new paragraph:

"(3) INDIVIDUALS NOT MEETING MINIMUM EMPLOYMENT PERIOD.—No wages shall be taken into account under subsection (a) with respect to any individual if such individual—

"(A) is employed by the employer for less than 90 days (14 days in the case of an individual described in subsection (d)(12)), or

"(B) has completed less than 120 hours (20 hours in the case of an individual described in subsection (d)(12)) of services performed for the employer."

(d) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983, 1984, and 1985" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, 1986, 1987, and 1988".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to individuals who begin work for the employer after December 31, 1985.

(2) SPECIAL RULE FOR PERIOD BETWEEN DECEMBER 31, 1985, AND 30 DAYS AFTER DATE OF ENACTMENT.—In the case of any individual who began work for an employer after December 31, 1985, and on or before the date which is 25 days after the enactment of this Act, paragraph (16) of section 51(d) of the Internal Revenue Code of 1954 (relating to special rules for certifications) shall be applied by substituting "the last day of the 30-day period beginning with the date of the enactment of this Act" for "the day on which such individual begins work for the employer".

SEC. 1709. EXTENSION AND MODIFICATION OF CREDIT FOR EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES.

(a) EXTENSION OF CREDIT.—Section 28 is amended by striking out subsection (e).

(b) CLINICAL TESTING.—Subclause (II) of section 28(b)(2)(A)(ii) is amended—

(1) by inserting "or 507" after "505(b)", and

(2) by inserting "or if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act," after "Act,".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall apply to amounts paid or incurred after December 31, 1982.

SEC. 1710. DEDUCTIONS INCURRED BY CERTAIN MEMBERSHIP ORGANIZATIONS IN TRANSACTIONS WITH MEMBERS.

(a) Section 277(b) of the Internal Revenue Code of 1954 is amended by adding the following new paragraph:

"(4) which is engaged primarily in the gathering and distribution of news to its members for publication".

SEC. 1711. SENSE OF THE SENATE ON TRANSITION RULES.

It is vital for the Senate to be fully informed about every matter that comes before it, therefore, it is the sense of the Senate that the conference report on H.R. 3838 shall contain—

(1) the name of each business concern or group receiving a special or unique treatment in the bill;

(2) the reason for the special or unique treatment; and

(3) the cost of the special or unique treatment.

SEC. 1712. CERTAIN COSTS OF PRIVATE FOUNDATION IN REMOVING HAZARDOUS SUBSTANCES TREATED AS QUALIFYING DISTRIBUTIONS.

(a) IN GENERAL.—In the case of any taxable year beginning after December 31, 1982, the distributable amount of a private foundation for such taxable year for purposes of section 4942 of the Internal Revenue Code of 1954 shall be reduced by any amount paid or incurred (or set aside) by such private foundation for the investigatory costs and direct costs of removal or taking remedial action with respect to a hazardous substance released at a facility which was owned or operated by such private foundation.

(b) LIMITATIONS.— Subsection (a) shall apply only to costs—

(1) incurred with respect to hazardous substances disposed of at a facility owned or operated by the private foundation but only if—

(A) such facility was transferred to such foundation by bequest before December 11, 1980, and

(B) the active operation of such facility by such foundation was terminated before December 12, 1980, and

(2) which were not incurred pursuant to a pending order issued to the private foundation unilaterally by the President or the President's assignee under section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, or pursuant to a judgment against the private foundation issued in a governmental cost recovery action under section 107 of such Act.

(c) HAZARDOUS SUBSTANCE.—For purposes of this section, the term "hazardous substance" has the meaning given such term by section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act.

SEC. 1713. MIDDLE INCOME TAX CUT.

It is the sense of the Senate that the Senate conferees on the Tax Reform Act of 1986 give the highest priority to increasing the tax cut for all middle income Americans.

SEC. 1714. QUALITY CONTROL STUDIES.

Section 12301 of the Consolidated Omnibus Reconciliation Act of 1985 is amended—

(1) in subsection (a)(3), by striking out "of enactment of this Act" and inserting in lieu thereof "the Secretary and the National Academy of Sciences enter into the contract required under paragraph (2)";

(2) in subsection (c)(1), by striking out "18 months after the date of enactment of this Act" and inserting in lieu thereof "6 months after the date on which the results of both studies required under subsection (a)(3) have been reported".

SEC. 1715. SPECIAL RULE FOR EDUCATIONAL ACTIVITIES AT CONVENTION AND TRADE SHOWS.

(a) CERTAIN EDUCATIONAL ACTIVITIES TREATED AS CONVENTION AND TRADE SHOW ACTIVITIES.—Section 513(d)(3)(B) (relating to qualified convention and trade show activity) is amended by inserting after "industry in general" the following: "or to educate persons in attendance regarding new developments or products and services related to the exempt activities of the organization".

(b) QUALIFYING ORGANIZATIONS.—Section 513(d)(3)(C) (relating to qualifying organization) is amended by striking out "501(c)(5) or (6)" and inserting in lieu thereof "501(c)(3), (4), (5), or (6)" and by inserting before the period at the end thereof the following: "or which educates persons in attendance regarding new development or products and services related to the exempt activities of the organization".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to activities in taxable years beginning after the date of enactment of this Act.

SEC. 1716. AMENDMENT TO THE REINDEER INDUSTRY ACT OF 1937.

(a) TAX EXEMPTION FOR REINDEER-RELATED INCOME.—Before the period at the end of the first sentence of section 8 of the Act of September 1, 1937, insert the following: ": Provided, That during the period of the trust, income derived directly from the sale of reindeer and reindeer products as provided in this Act shall be exempt from Federal income taxation".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if originally included in the provision of the Act of September 1, 1937, to which such amendent relates.

SEC. 1717. TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

(a) IN GENERAL.—Section 530 of the Revenue Act of 1978 is amended by adding at the end thereof the following new subsection:

"(d) EXCEPTION.—This section shall not apply to services provided pursuant to an arrangement between such person and another organization whereby the individual provides services as an engineer, designer, drafter, computer programmer, systems analyst, or other similar skilled worker engaged in a similar line of work for such other organization.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services rendered after the date of enactment of this section.

SEC. 1718. EQUALIZING THE REVENUE EFFECTS OF TAX REFORM.

(a) FISCAL YEARS 1986 AND 1987.—Notwithstanding any other provision of law, no tax reform revenue windfall for fiscal year 1986 or 1987 shall be taken into account in determining the total revenues for such fiscal year for purposes of—

(1) setting forth appropriate levels of total Federal revenues for such fiscal year in a concurrent resolution on the budget under section 301 or 304 of the Congressional Budget Act of 1974,

(2) calculating the deficit for such fiscal year under sections 301(i), 304(b), and 311(a) of the Congressional Budget Act of 1974 in order to determine whether the maximum deficit amount for such fiscal year has been exceeded,

(3) calculating the excess deficit for such fiscal year under sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, or

(4) formulating the budget submitted by the President under section 1105 of title 31, United States Code, for such fiscal year and any supplemental estimates and changes submitted under section 1106 of such title for such fiscal year.

(b) FISCAL YEARS 1988 AND 1989.—Notwithstanding any other provision of law, a tax reform revenue shortfall for fiscal year 1988 or 1989 shall be taken into account in determining the total revenues for such fiscal year for the purposes described in paragraphs (1) through (4) of subsection (a) only to the extent that such shortfall is not offset by tax reform revenue windfalls for fiscal years 1986 and 1987. Tax reform revenue windfalls for fiscal years 1986 and 1987 shall offset a tax reform revenue shortfall for fiscal year 1989 only to the extent that the total amount of such windfalls exceeds (and is not used to offset) any tax reform revenue shortfall for fiscal year 1988.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "tax reform revenue windfall" means, with respect to a fiscal year, any revenues (as estimated in accordance with subsection (d)) accruing to the Treasury of the United States during the fiscal year under the revenue laws of the United States, as amended by the Tax Reform Act of 1986, that are in excess of the revenues (as so estimated) that would have accrued to the Treasury of the United States during the fiscal year under the revenue laws of the United States as in effect on the day before the date of the enactment of such Act; and

(2) the term "tax reform revenue shortfall" means, with respect to a fiscal year, the amount by which the revenues (as estimated in accordance with subsection (d)) accruing to the Treasury of the United States during the fiscal year under the revenue laws of the United States, as amended by the Tax Reform Act of 1986, are less than the revenues (as so estimated) that would have accrued to the Treasury of the United States during the fiscal year under the revenue laws of the United States as in effect on the day before the date of the enactment of such Act.

(d) DETERMINATION OF AMOUNTS.—The amount of any tax reform revenue windfall or tax reform revenue shortfall for a fiscal year shall be determined as of the date of the enactment of the Tax Reform Act of 1986—

(1) by the Congressional Budget Office (using revenue estimates made by the Joint Committee on Taxation in accordance with section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985), for the purposes specified in paragraphs (1) and (2) of subsection (a), and for purposes of carrying out the duties of the legislative branch under the provisions specified in paragraph (3) of such subsection, and

(2) by the Secretary of the Treasury, for the purposes specified in paragraph (4) of subsection (a), and for purposes of carrying out the duties of the executive branch under the provisions specified in paragraph (3) of such subsection.

SEC. 1719. MORATORIUM ON TAX LEGISLATION.

(a) FINDINGS.—The Congress finds that—

(1) constant and conflicting policy changes in the Internal Revenue Code of 1954 (hereinafter referred to as the "Tax Code") make it difficult for individuals to properly plan for the future,

(2) constant and conflicting policy changes by the Congress retard capital formation by increasing the risk of a project,

(3) constant and conflicting policy changes by the Congress place undue burdens on individuals and businesses by requiring utilization of financial resources to anticipate such changes and modifications in the Tax Code,

(4) the Internal Revenue Service is drained of limited resources in trying to adapt to changes in the Tax Code,

(5) one of the greatest burdens placed upon small businesses is the completion of paperwork to comply with the Tax Code, and constant changes by Congress unnecessarily compound this paperwork burden,

(6) any tax reform legislation passed by the Congress should stimulate economic growth, encourage investment, promote capital formation, expand job opportunities, and encourage savings, and

(7) the American taxpayer deserves certainty in the tax treatment of economic decisions.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the provisions of the Internal Revenue Code of 1954 which are added or amended by this Act remain unchanged for at least 5 years in order to provide stability for the American taxpayer and the private sector.

SEC. 1720. SENSE OF THE SENATE ON REVENUE FLUCTUATIONS.

(a) FINDINGS.—The Senate finds that—

(1) the Committee on Finance amendment to H.R. 3838 (an Act to reform the internal revenue laws of the United States) produces revenues that—

(A) exceed current-law revenues (the Congressional Budget Office (CBO) revenue baseline) by—

(i) $7,000,000,000 in fiscal year 1986,

(ii) $23,000,000,000 in fiscal year 1987, and

(iii) $11,000,000 in fiscal year 1991, and

(B) fall below current-law revenues by—

(i) $21,000,000,000 in fiscal year 1988,

(ii) $21,000,000,000 in fiscal year 1989, and

(iii) $400,000,000 in fiscal year 1990;

(2) the Committee amendment satisfies revenue neutrality over a six-year period, but the revenue shortfalls in fiscal years 1988 and 1989 will make the attainment of the Gramm-Rudman deficit goals more difficult;

(3) numerous options for restraining yearly revenue fluctuations without affecting the fundamental fabric of the Committee amendment are available to the committee of conference on H.R. 3838, in the form of altering effective dates, phasing-in certain provisions, and resolving the major differences in the provisions for broadening the tax base contained in H.R. 3838 and the Committee amendment;

(4) in some instances, leveling the revenue fluctuations could result in a further reduction in tax burdens on individuals and corporations in 1987; and

(5) altering the provisions of the Committee amendment to achieve a more stable revenue outlook would eliminate the need to resort to artificial accounting conventions, such as the use of a trust fund that would deviate from the actual cash flows to and from the Treasury.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the committee of conference on H.R. 3838 should report Federal tax reform legislation that produces a revenue path with minimal revenue fluctuations.

SEC. 1721. EXTENSION OF FICA AND FUTA COMMON PAYMASTER RULES.

(a) FICA.—Section 3121(s) (relating to concurrent employment by 2 or more employers) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall be treated as if it were a corporation."

(b) FUTA.—Section 3306(p) (relating to concurrent employment by 2 or more employers) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall be treated as if it were a corporation."

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wages paid or incurred after December 31, 1986.

SEC. 1722. SPECIAL RELIEF FOR FLOOD DISASTER VICTIMS.

(a) IN GENERAL.—In the case of a disaster described in subsection (b)—

(1) section 165(h)(2) of the Internal Revenue Code of 1954 shall be applied with respect to any loss of an individual arising from such disaster by substituting "1 percent" for "10 percent", and

(2) at the election of the taxpayer, the amendments made by section 201 of this Act—

(i) shall not apply to any property placed in service during 1987 or 1988, or

(ii) shall apply to any property placed in service during 1985 or 1986,

which is property to replace property lost, damaged, or destroyed in such disaster.

(b) DISASTER TO WHICH SECTION APPLIES.—This section shall apply to a flood which occurred on November 3 through 7, 1985, and which was declared a natural disaster area by the President of the United States.

SEC. 1723. AMENDMENT RELATING TO BOND PREMIUM.

(a) Section 171 (relating to amortizable bond premium) is amended by redesignating subsection "(e)" as "(f)" and inserting after subsection (d) the following:

"(e) TREATMENT AS INTEREST.—Except as otherwise provided by regulations, the deduction allowed under subsection (a)(1) shall be treated as interest for purposes of this title."

(b) EFFECTIVE DATE.—The amendment made by (A) shall apply to obligations acquired after the date of enactment.

TITLE XVIII—TECHNICAL CORRECTIONS

SEC. 1800. COORDINATION WITH OTHER TITLES.

For purposes of applying the amendments made by any title of this Act other than this title, the provisions of this title shall be treated as having been enacted immediately before the provisions of such other titles.

Subtitle A—Amendments Related to the Tax Reform Act of 1984

CHAPTER 1—AMENDMENTS RELATED TO TITLE I OF THE ACT

SEC. 1801. AMENDMENTS RELATED TO DEFERRAL OF CERTAIN TAX REDUCTIONS.

(a) AMENDMENTS RELATED TO SECTION 12 OF THE ACT.—

(1) ELECTION OUT OF TRANSITIONAL RULES.—Paragraph (1) of section 12(c) of the Tax Reform Act of 1984 (relating to finance lease provisions) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to any property with respect to which an election is made under this sentence at such time after the date of the enactment of the Tax Reform Act of 1986 as the Secretary of the Treasury or his delegate may prescribe."

(2) TREATMENT OF CERTAIN FARM FINANCE LEASES.—

(A) IN GENERAL.—If—

(i) any partnership or grantor trust is the lessor under a specified agreement,

(ii) such partnership or grantor trust met the requirements of section 168(f)(8)(C)(i) of the Internal Revenue Code of 1954 (relating

to special rules for finance leases) when the agreement was entered into, and

(iii) a person other than a C corporation became a partner in such partnership (or a beneficiary in such trust) before September 26, 1985,

then, for purposes of applying the revenue laws of the United States in respect to such agreement, the portion of the property allocable to partners (or beneficiaries) not described in clause (iii) shall be treated as if it were subject to a separate agreement and the portion of such property allocable to the partner or beneficiary described in clause (iii) shall be treated as if it were subject to a separate agreement.

(B) SPECIFIED AGREEMENT.—For purposes of subparagraph (A), the term "specified agreement" means an agreement to which subparagraph (B) of section 209(d) of the Tax Equity and Fiscal Responsibility Act of 1982 applies which is—

(i) an agreement dated as of December 20, 1982, as amended and restated as of February 1, 1983, involving approximately $8,734,000 of property at December 31, 1983,

(ii) an agreement dated as of December 15, 1983, as amended and restated as of January 3, 1984, involving approximately $13,199,000 of property at December 31, 1984, or

(iii) an agreement dated as of October 25, 1984, as amended and restated as of December 1, 1984, involving approximately $966,000 of property at December 31, 1984.

(b) AMENDMENT RELATED TO SECTION 26 OF THE ACT.—Paragraph (2) of section 4251(b) (relating to rate of tax on communications services) is amended by inserting "1985," after "1984," in the table contained in such section.

(c) AMENDMENTS RELATED TO SECTION 27 OF THE ACT.—

(1) Subsection (e) of section 5061 (relating to payment by electronic fund transfer of alcohol taxes) is amended by adding at the end thereof the following new paragraph:

"(3) CONTROLLED GROUPS.—

"(A) IN GENERAL.—In the case of a controlled group of corporations, all corporations which are component members of such group shall be treated as 1 taxpayer. For purposes of the preceding sentence, the term 'controlled group of corporations' has the meaning given to such term by subsection (a) of section 1563, except that 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in such subsection.

"(B) CONTROLLED GROUPS WHICH INCLUDE NONINCORPORATED PERSONS.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation."

(2) Paragraph (3) of section 5703(b) (relating to payment by electronic fund transfer of tobacco taxes) is amended by adding at the end thereof the following: "Rules similar to the rules of section 5061(e)(3) shall apply to the $5,000,000 amount specified in the preceding sentence."

(3) Paragraph (7) of section 27(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(F) FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (19 U.S.C. 81a, et seq.) or any other provision of law—

"(i) distilled spirits—

"(I) on which taxes imposed by Federal law are determined, or customs duties are liquidated, by a customs officer pursuant to a request made under the first proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)) before October 1, 1985, and

"(II) which are entered into the customs territory of the United States after October 1, 1985, from a foreign trade zone, and

"(ii) distilled spirits which—

"(I) are placed under the supervision of a customs officer pursuant to the provisions of the second proviso of section 3(a) of the Act of June 18, 1934 (19 U.S.C. 81c(a)), and

"(II) are entered into the customs territory of the United States after October 1, 1985, from a foreign trade zone,

shall be subject to the tax imposed by paragraph (1) and such distilled spirits shall, for purposes of paragraph (1), be treated as being held on October 1, 1985, for sale."

SEC. 1802. AMENDMENTS RELATED TO TAX-EXEMPT ENTITY LEASING PROVISIONS.

(a) AMENDMENTS RELATING TO SECTION 31 OF THE ACT.—

(1) TREATMENT OF USE IN UNRELATED TRADE OR BUSINESS.—Subparagraph (D) of section 168(j)(3) (relating to exception where property used in unrelated trade or business) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B)(iii), any portion of a property so used shall not be treated as leased to a tax-exempt entity in a disqualified lease."

(2) TREATMENT OF CERTAIN PREVIOUSLY TAX-EXEMPT ORGANIZATIONS.—

(A) Clause (i) of section 168(j)(4)(E) (relating to treatment of certain previously tax-exempt organizations) is amended—

(i) by striking out "any property of which such organization is the lessee" and inserting in lieu thereof "any property (other than property held by such organization)", and

(ii) by striking out "first leased to" and inserting in lieu thereof "first used by".

(B) Subclause (I) of section 168(j)(4)(E)(ii) is amended by striking out "of which such organization is the lessee".

(C) Subclause (II) of section 168(j)(4)(E)(ii) is amended by striking out "is placed in service under the lease" and inserting in lieu thereof "is first used by the organization".

(D) Subparagraph (E) of section 168(j)(4) is amended by adding at the end thereof the following new clause:

"(iv) FIRST USED.—For purposes of this subparagraph, property shall be treated as first used by the organization—

"(I) when the property is first placed in service under a lease to such organization, or

"(II) in the case of property leased to (or held by) a partnership (or other pass-thru entity) in which the organization is a member, the later of when such property is first used by such partnership or pass-thru entity or when such organization is first a member of such partnership or pass-thru entity."

(E)(i) Paragraph (9) of section 168(j) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF CERTAIN TAXABLE ENTITIES.—

"(i) IN GENERAL.—For purposes of this paragraph, except as otherwise provided in this subparagraph, any tax-exempt controlled entity shall be treated as a tax-exempt entity.

"(ii) ELECTION.—If a tax-exempt controlled entity makes an election under this clause—

"(I) such entity shall not be treated as a tax-exempt entity for purposes of this paragraph, and

"(II) any gain recognized by a tax-exempt entity on any disposition of an interest in such entity (and any dividend or interest received or accrued by a tax-exempt entity from such tax-exempt controlled entity) shall be treated as unrelated business taxable income for purposes of section 511.

Any such election shall be irrevocable and shall bind all tax-exempt entities holding interests in such tax-exempt controlled entity. For purposes of subclause (II), there shall only be taken into account dividends which are properly allocable to income of the tax-exempt controlled entity which was not subject to tax under this chapter.

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (by value) of the stock in such corporation is held (directly or through the application of section 318 determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof) by 1 or more tax-exempt entities."

(ii)(I) Except as otherwise provided in this clause, the amendment made by clause (i) shall apply to property placed in service after March 1, 1986; except that such amendment shall not apply to any property acquired pursuant to a binding written contract in effect on such date (and at all times thereafter).

(II) If an election under this subclause is made with respect to any property, the amendment made by clause (i) shall apply to such property whether or not placed in service on or before March 1, 1986.

(F) Clause (i)(I) of section 31(g)(16)(C) of the Tax Reform Act of 1984 (defining exempt arbitrage profits) is amended by striking out "section 168(j)(4)(E)(i)(I)" and inserting in lieu thereof "section 168(j)(4)(E)(i)".

(G) Clause (i) of section 168(j)(4)(E) is amended by striking out "preceding sentence" and inserting in lieu thereof "preceding sentence and subparagraph (D)(ii)".

(3) REPEAL OF OVERLAPPING SECRETARIAL AUTHORITY.—Clause (iv) of section 168(j)(5)(C) (relating to property not subject to rapid obsolescence may be excluded) is hereby repealed.

(4) PARTNERSHIP RULES.—

(A) Paragraph (8) of section 168(j) (relating to tax-exempt use of property leased to partnerships, etc., determined at partner level) is amended by striking out "and paragraphs (4) and (5) of section 48(a)" in the matter preceding subparagraph (A).

(B) Paragraph (9) of section 168(j) (relating to treatment of property owned by partnerships, etc.) is amended—

(i) by striking out "and paragraphs (4) and (5) of section 48(a)" in subparagraph (A), and

(ii) by striking out "loss deduction" in subparagraph (B)(i) and inserting in lieu thereof "loss, deduction".

(C) Paragraph (5) of section 48(a) (relating to property used by governmental units or foreign persons or entities) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) SPECIAL RULES FOR PARTNERSHIPS, ETC.—For purposes of this paragraph and paragraph (4), rules similar to the rules of paragraphs (8) and (9) of section 168(j) shall apply."

(5) TREATMENT OF CERTAIN AIRCRAFT LEASED TO FOREIGN PERSONS.—

(A) Subsection (a) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new paragraph:

"(9) AIRCRAFT LEASED TO FOREIGN PERSONS OR ENTITIES.—

"(A) IN GENERAL.—Any aircraft which was new section 38 property for the taxable year in which it was placed in service and which is used by any foreign person or entity (as defined in section 168(j)(4)(C)) under a qualified lease (as defined in paragraph (7)(C)) entered into before January 1, 1990, shall not be treated as ceasing to be section 38 property by reason of such use until such aircraft has been so used for a period or periods exceeding 3 years in total.

"(B) RECAPTURE PERIOD EXTENDED.—For purposes of paragraphs (1) and (5)(B) of this subsection, any period during which there was use described in subparagraph (A) of an aircraft shall be disregarded."

(B) Clause (iii) of section 48(a)(5)(B) is hereby repealed.

(6) TREATMENT OF CERTAIN PARTNERSHIPS HAVING SECTION 593 ORGANIZATION AS MEMBER.—Paragraph (4) of section 46(e) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULES FOR PARTNERSHIPS, ETC.—For purposes of paragraph (1)(A), rules similar to the rules of paragraphs (8) and (9) of section 168(j) shall apply."

(7) TREATMENT OF CERTAIN PROPERTY HELD BY PARTNERSHIPS.—

(A) Paragraph (9) of section 168(j) (relating to treatment of property owned by partnerships, etc.) is amended by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) DETERMINATION OF WHETHER PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—For purposes of this subsection, in the case of any property which is owned by a partnership which has both a tax-exempt entity and a person who is not a tax-exempt entity as partners, the determination of whether such property is used in an unrelated trade or business of such an entity shall be made without regard to section 514."

(B) Subparagraph (E) of section 168(j)(9) (as redesignated by subparagraph (A)) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(8) EXCEPTION FOR QUALIFIED REHABILITATED BUILDINGS LEASED TO SECTION 593 ORGANIZATIONS.—Paragraph (4) of section 46(e) (relating to special rules where section 593 organization is lessee) is amended by adding at the end thereof the following new subparagraph:

"(E) EXCEPTION FOR QUALIFIED REHABILITATED BUILDINGS LEASED TO SECTION 593 ORGANIZATIONS.—Subparagraph (A) shall not apply to qualified investment attributable to qualified rehabilitation expenditures for any portion of a building if such portion of the building would not be tax-exempt use property (as defined in section 168(j)) if the section 593 organization were a tax-exempt entity (as defined in section 168(j)(4))."

(9) CLERICAL AMENDMENTS.—

(A) Paragraph (4) of section 48(a) is amended—

(i) by striking out "514(c)" and inserting in lieu thereof "514(b)", and

(ii) by striking out "514(b)" and inserting in lieu thereof "514(a)".

(B) Subclause (I) of section 48(g)(2)(B)(vi) is amended by striking out "section 168(j)(3)" and inserting in lieu thereof "section 168(j)".

(C) Subparagraph (A) of section 7701(e)(4) is amended by adding at the end thereof the following new sentence:

"For purposes of this paragraph, the term 'related entity' has the same meaning as when used in section 168(j)."

(10) EFFECTIVE DATE PROVISIONS.—

(A) Subparagraph (B) of section 31(g)(3) of the Tax Reform Act of 1984 is amended by striking out "The amendments made by this section" and inserting in lieu thereof "Paragraph (9) of section 168(j) of the Internal Revenue Code of 1954 (as added by this section)".

(B) Effective with respect to property placed in service by the taxpayer after July 18, 1984, clause (ii) of section 31(g)(15)(D) of the Tax Reform Act of 1984 (relating to certain aircraft) is amended to read as follows:

"(ii) such aircraft is originally placed in service by such foreign person or entity (or its successor in interest under the contract) after May 23, 1983, and before January 1, 1986."

(C) Paragraph (4) of section 31(g) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CREDIT UNIONS.—In the case of any property leased to a credit union pursuant to a written binding contract with an expiration date of December 31, 1984, which was entered into by such organization on August 23, 1984—

"(i) such credit union shall not be treated as an agency or instrumentality of the United States; and

"(ii) clause (ii) of subparagraph (A) shall be applied by substituting 'January 1, 1987' for 'January 1, 1985'."

(D)(i) Clause (ii) of section 31(g)(20)(B) of the Tax Reform Act of 1984 (defining substantial improvement) is amended by striking out subclauses (I) and (II) and inserting in lieu thereof the following:

"(I) by substituting 'property' for 'building' each place it appears therein,

"(II) by substituting '20 percent' for '25 percent' in clause (ii) thereof, and

"(III) without regard to clause (iii) thereof."

(ii) The amendment made by clause (i) shall not apply to any property if—

(I) on or before March 28, 1985, the taxpayer (or a predecessor in interest under the contract) or the tax-exempt entity entered into a written binding contract to acquire, construct, or rehabilitate the property, or

(II) the taxpayer or the tax-exempt entity began the construction, reconstruction, or rehabilitation of the property on or before March 28, 1985.

(E) Paragraph (4) of section 31(g) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraphs:

"(D) SPECIAL RULE FOR GREENVILLE AUDITORIUM BOARD.—For purposes of this paragraph, significant official governmental action taken by the Greenville County Auditorium Board of Greenville, South Carolina, before May 23, 1983, shall be treated as significant official governmental action with respect to the coliseum facility subject to a binding contract to lease which was in effect on January 1, 1985.

"(E) TREATMENT OF CERTAIN HISTORIC STRUCTURES.—If—

"(i) On June 16, 1982, the legislative body of the local governmental unit adopted a bond ordinance to provide funds to renovate elevators in a deteriorating building owned by the local governmental unit and listed in the National Register, and

"(ii) the chief executive officer of the local governmental unit, in connection with the renovation of such building, made an application on June 1, 1983, to a State agency for a Federal historic preservation grant and made an application on June 17, 1983, to the Economic Development Administration of the United States Department of Commerce for a grant,

the requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met."

(F) Subparagraph (H) of section 31(g)(17) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentence: "In the case of Clemson University, the preceding sentence applies only to the Continuing Education Center and the component housing project."

(G) Subparagraph (L) of section 31(g)(17) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following:

"Property is described in this subparagraph if such property was leased to a tax-exempt entity pursuant to a lease recorded in the Registry of Deeds of Essex County, New Jersey, on May 7, 1984, and a deed of such property was recorded in the Registry of Deeds of Essex County, New Jersey, on May 7, 1985."

(b) AMENDMENTS RELATED TO SECTION 32 OF THE ACT.—

(1) Subsection (f) of section 168 (relating to special rules) is amended—

(A) by redesignating the paragraph (13) relating to motor vehicle operating leases as paragraph (14), and

(B) by redesignating paragraph (14) as paragraph (15).

(2) Subsection (c) of section 32 of the Tax Reform Act of 1984 is amended by striking out "section 168(f)(13)" and inserting in lieu thereof "section 168(f)(14)".

SEC. 1803. AMENDMENTS RELATED TO TREATMENT OF BONDS AND OTHER DEBT INSTRUMENTS.

(a) AMENDMENTS RELATED TO SECTION 41 OF THE ACT.—

(1) TREATMENT OF SHORT-TERM NONGOVERNMENT OBLIGATIONS.—

(A) Subsection (a) of section 1271 (relating to treatment of amounts received on retirement or sale or exchange of debt instruments) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN SHORT-TERM NONGOVERNMENT OBLIGATIONS.—

"(A) IN GENERAL.—On the sale or exchange of any short-term nongovernment obligation, any gain realized which does not exceed an amount equal to the ratable share of the original issue discount shall be treated as ordinary income.

"(B) SHORT-TERM NONGOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term nongovernment obligation' means any obligation which—

"(i) has a fixed maturity date not more than 1 year from the date of the issue, and

"(ii) is not a short-term Government obligation (as defined in paragraph (3)(B) without regard to the last sentence thereof).

"(C) RATABLE SHARE.—For purposes of this paragraph, except as provided in subparagraph (D), the ratable share of the original issue discount is an amount which bears the same ratio to such discount as—

"(i) the number of days which the taxpayer held the obligation, bears to

"(ii) the number of days after the date of original issue and up to (and including) the date of its maturity.

"(D) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE.—At the election of the taxpayer with respect to any obligation, the

ratable share of the original issue discount is the portion of the original issue discount accruing while the taxpayer held the obligation determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the yield to maturity based on the issue price of the obligation, and

"(ii) compounding daily.

An election under this subparagraph, once made with respect to any obligation, shall be irrevocable."

(B) Paragraph (3) of section 1283(d) is amended by striking out " "section 1271(a)(3)" and inserting in lieu thereof "paragraphs (3) and (4) of section 1271(a)".

(2) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE FOR SHORT-TERM GOVERNMENT OBLIGATIONS.—

(A) IN GENERAL.—Paragraph (3) of section 1271(a) (relating to certain short-term Government obligations) is amended by adding at the end thereof the following new subparagraph:

"(E) ELECTION OF ACCRUAL ON BASIS OF CONSTANT INTEREST RATE.—At the election of the taxpayer with respect to any obligation, the ratable share of the acquisition discount is the portion of the acquisition discount accruing while the taxpayer held the obligation determined (under regulations prescribed by the Secretary) on the basis of—

"(i) the taxpayer's yield to maturity based on the taxpayer's cost of acquiring the obligation, and

"(ii) compounding daily.

An election under this subparagraph, once made with respect to any obligation, shall be irrevocable."

(B) TECHNICAL AMENDMENT.—Subparagraph (D) of section 1271(a)(3) is amended by striking out "this paragraph" and inserting in lieu thereof "this paragraph, except as provided in subparagraph (E)".

(3) DEFINITION OF SHORT-TERM GOVERNMENT OBLIGATION.—Subparagraph (B) of section 1271(a)(3) (defining short-term Government obligation) is amended to read as follows:

"(B) SHORT-TERM GOVERNMENT OBLIGATION.—For purposes of this paragraph, the term 'short-term Government obligation' means any obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia, which has a fixed maturity date not more than 1 year from the date of issue. Such term does not include any tax-exempt obligation."

(4) DEDUCTION OF ORIGINAL ISSUE DISCOUNT ON SHORT-TERM OBLIGATIONS.—Paragraph (2) of section 163(e) (relating to original issue discount) is amended by adding at the end thereof the following new subparagraph:

"(C) SHORT-TERM OBLIGATIONS.—In the case of an obligor of a short-term obligation (as defined in section 1283(a)(1)(A)) who uses the cash receipts and disbursements method of accounting, the original issue discount (and any other interest payable) on such obligation shall be deductible only when paid."

(5) TREATMENT OF CERTAIN TRANSFERS OF MARKET DISCOUNT BONDS.—Paragraph (1) of section 1276(d) (relating to special rules) is amended by striking out "and" at the end of subparagraph (A) and by inserting after subparagraph (B) the following new subparagraph:

"(C) paragraph (3) of section 1245(b) shall be applied as if it did not contain a reference to section 351, and".

(6) TREATMENT OF BONDS ACQUIRED AT ORIGINAL ISSUE FOR PURPOSES OF MARKET DISCOUNT RULES.—Paragraph (1) of section 1278(a) (defining market discount bond) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF BONDS ACQUIRED ON ORIGINAL ISSUE.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph or in regulations, the term 'market discount bond' shall not include any bond acquired by the taxpayer at its original issue.

"(ii) TREATMENT OF BONDS ACQUIRED FOR LESS THAN ISSUE PRICE.—Clause (i) shall not apply to any bond if—

"(I) the basis of the taxpayer in such bond is determined under section 1012, and

"(II) such basis is less than the issue price of such bond determined under subpart A of this part.

"(iii) BONDS ACQUIRED IN CERTAIN REORGANIZATIONS.—Clause (i) shall not apply to any bond issued pursuant to a plan of reorganization (within the meaning of section 368(a)(1)) in exchange for another bond having market discount. Solely for purposes of section 1276, the preceding sentence shall not apply if such other bond was issued on or before July 18, 1984 (the date of the enactment of section 1276) and if the bond issued pursuant to such plan of reorganization has the same term and the same interest rate as such other bond had.

"(iv) TREATMENT OF CERTAIN TRANSFERRED BASIS PROPERTY.—For purposes of clause (i), if the adjusted basis of any bond in the hands of the taxpayer is determined by reference to the adjusted basis of such bond in the hands of a person who acquired such bond at its original issue, such bond shall be treated as acquired by the taxpayer at its original issue."

(7) TREATMENT OF CERTAIN STRIPPED BONDS OR STRIPPED COUPONS.—Paragraph (1) of section 1281(b) (relating to short-term obligations to which section applies) is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(F) is a stripped bond or stripped coupon held by the person who stripped the bond or coupon (or by any other person whose basis is determined by reference to the basis in the hands of such person)."

(8) ACCRUAL OF INTEREST PAYMENTS ON CERTAIN SHORT-TERM OBLIGATIONS.—

(A) Effective with respect to obligations acquired after March 1, 1986, subsection (a) of section 1281 (relating to current inclusion in income of discount on certain short-term obligations) is amended to read as follows:

"(a) GENERAL RULE.—In the case of any short-term obligation to which this section applies, for purposes of this title—

"(1) there shall be included in the gross income of the holder an amount equal to the sum of the daily portions of the acquisition discount for each day during the taxable year on which such holder held such obligation, and

"(2) any interest payable on the obligation (other than interest taken into account in determining the amount of the acquisition discount) shall be included in gross income as it accrues."

(B) Subsection (a) of section 1282 (relating to deferral of interest deduction allocable to accrued discount) is amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, the net direct interest expense with respect to any short-term obligation shall be allowed as a deduction for the taxable year only to the extent such expense exceeds the sum of—

"(1) the daily portions of the acquisition discount for each day during the taxable year on which the taxpayer held such obligation, and

"(2) the amount of any interest payable on the obligation (other than interest taken into account in determining the amount of the acquisition discount) which accrues during the taxable year while the taxpayer held such obligation (and is not included in the gross income of the taxpayer for such taxable year by reason of the taxpayer's method of accounting)."

(9) TREATMENT OF TRANSFERS OF LAND BETWEEN RELATED PARTIES.—In the case of any sale or exchange before July 1, 1985, to which section 483(f) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of Public Law 99-121) applies, such section shall be treated as providing that the discount rate to be used for purposes of section 483(c)(1) of such Code shall be 6 percent, compounded semi-annually.

(10) CLARIFICATION OF TREATMENT OF DEBT INSTRUMENTS ISSUED FOR PUBLICLY TRADED PROPERTY.—Subparagraph (B) of section 1273(b)(3) (relating to debt instruments issued for property where there is public trading) is amended to read as follows:

"(B)(i) is issued for stock or securities which are traded on an established securities market, or

"(ii) to the extent provided in regulations, is issued for property (other than stock or securities) of a kind regularly traded on an established market,".

(11) BOND PREMIUMS AMORTIZED AT CONSTANT RATE, ETC.—

(A) IN GENERAL.—Paragraph (3) of section 171(b) (relating to amortizable bond premiums) is amended to read as follows:

"(3) METHOD OF DETERMINATION.—

"(A) IN GENERAL.—Except as provided in regulations prescribed by the Secretary, the determinations required under paragraphs (1) and (2) shall be made on the basis of the taxpayer's yield to maturity determined by—

"(i) using the taxpayer's basis (for purposes of determining loss on sale or exchange) of the obligation, and

"(ii) compounding at the close of each accrual period (as defined in section 1272(a)(5)).

"(B) SPECIAL RULE WHERE EARLIER CALL DATE IS USED.—For purposes of subparagraph (A), if the amount payable on an earlier call date is used under paragraph (1)(B)(ii) in determining the amortizable bond premium attributable to the period before the earlier call date, such bond shall be treated as maturing on such date for the amount so payable and then reissued on such date for the amount so payable."

(B) AMORTIZABLE BOND PREMIUM RULES TO APPLY TO OBLIGATIONS ISSUED BY INDIVIDUALS, ETC.—Subsection (d) of section 171 (defining bond) is amended by striking out "issued by any corporation and bearing interest (including any like obligation issued by a government or political subdivision thereof),".

(C) EFFECTIVE DATE.—

(i) The amendments made by this paragraph shall apply to obligations issued after March 1, 1986.

(ii) In the case of a taxpayer with respect to whom an election is in effect on the date of the enactment of this Act under section 171(c) of the Internal Revenue Code of 1954, such election shall apply to obligations issued after March 1, 1986, only if the taxpayer chooses (at such time and in such manner as may be prescribed by the Secretary of the Treasury or his delegate) to have such election apply with respect to such obligations.

(12) CLARIFICATION OF AMOUNT OF AMORTIZABLE BOND PREMIUM.—

(A) IN GENERAL.—Subsection (b) of section 171 (defining amortizable bond premium) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF CERTAIN BONDS ACQUIRED IN EXCHANGE FOR OTHER PROPERTY.—

"(A) IN GENERAL.—If—

"(i) a bond is acquired by any person in exchange for other property, and

"(ii) the basis of such bond is determined (in whole or in part) by reference to the basis of such other property,

for purposes of applying this subsection to such bond while held by such person, the basis of such bond shall not exceed its fair market value immediately after the exchange. A similar rule shall apply in the case of such bond while held by any other person whose basis is determined (in whole or in part) by reference to the basis in the hands of the person referred to in clause (i).

"(B) SPECIAL RULE WHERE BOND EXCHANGED IN REORGANIZATION.—Subparagraph (A) shall not apply to an exchange by the taxpayer of a bond for another bond if such exchange is a part of a reorganization (as defined in section 368). If any portion of the basis of the taxpayer in a bond transferred in such an exchange is not taken into account in determining bond premium by reason of this paragraph, such portion shall not be taken into account in determining the amount of bond premium on any bond received in the exchange."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to exchanges after May 6, 1986.

(13) CLERICAL AMENDMENTS.—

(A) Subparagraph (A) of section 1274(c)(4) is amended by striking out "FOR LESS THAN $1,000,000" in the subparagraph heading and inserting in lieu thereof "FOR $1,000,000 OR LESS".

(B) Paragraph (1) of section 483(d) is amended by striking out "any debt instrument to which section 1272 applies" and inserting in lieu thereof "any debt instrument for which an issue price is determined under section 1273(b) (other than paragraph (4) thereof) or section 1274".

(C) Clause (iii) of section 6049(b)(5)(B) is amended by striking out "section 1232(b)(1)" and inserting in lieu thereof "section 1273(a)".

(b) AMENDMENTS RELATED TO SECTION 44 OF THE ACT.—

(1) CLARIFICATION OF TRANSITIONAL RULE FOR PURPOSES OF IMPUTED INTEREST RULES.—Paragraph (4) of section 44(b) of the Tax Reform Act of 1984 (relating to special rules for sales before July 1, 1985), as added by section 2 of Public Law 98-612, is amended—

(A) by striking out "before July 1, 1985" in subparagraph (A) and inserting in lieu thereof "after December 31, 1984, and before July 1, 1985",

(B) by striking out "BEFORE JULY 1, 1985" in the paragraph heading and inserting in lieu thereof "AFTER DECEMBER 31, 1984, AND BEFORE JULY 1, 1985", and

(C) by adding at the end thereof the following new subparagraph:

"(G) CLARIFICATION OF APPLICATION OF THIS PARAGRAPH, ETC.—This paragraph and paragraphs (5), (6), and (7) shall apply only in the case of sales or exchanges to which section 1274 or 483 of the Internal Revenue Code of 1954 (as amended by section 41) applies."

(2) CLARIFICATION OF INTEREST ACCRUAL, ETC.—Subparagraph (A) of section 44(b)(3) of the Tax Reform Act of 1984 is amended by striking out "and before January 1, 1985," each place it appears.

(3) EXCEPTION FOR BINDING CONTRACTS.—Subparagraph (B) of section 44(b)(3) of the Tax Reform Act of 1984 is amended to read as follows:

"(B) EXCEPTION FOR BINDING CONTRACTS.—

"(i) Subparagraph (A)(i)(I) shall not apply to any sale or exchange pursuant to a written contract which was binding on March 1, 1984, and at all times thereafter before the sale or exchange.

"(ii) Subparagraph (A)(i)(II) shall not apply to any sale or exchange pursuant to a written contract which was binding on June 8, 1984, and at all times thereafter before the sale or exchange."

(4) CLERICAL AMENDMENT.—Clause (ii) of section 44(b)(6)(B) of the Tax Reform Act of 1984 (as added by section 2 of Public Law 98-612) is amended by striking out "greater than" and inserting in lieu thereof "not greater than".

SEC. 1804. AMENDMENTS RELATED TO CORPORATE PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 51 OF THE ACT.—Subsection (a) of section 246A (relating to dividends received deduction reduced where portfolio stock is debt financed) is amended—

(1) by striking out "or 245" and inserting in lieu thereof "or 245(a)", and

(2) by adding at the end thereof the following new sentence:

"The preceding sentence shall be applied before any determination of a ratio under paragraph (1) or (2) of section 245(a)."

(b) AMENDMENTS RELATED TO SECTION 53 AND SECTION 54 OF THE ACT.—

(1) AMENDMENTS TO SECTION 246.—

(A) Subparagraph (A) of section 246(c)(1) (relating to exclusion of certain dividends) is amended to read as follows:

"(A) which is held by the taxpayer for 45 days or less, or".

(B) Paragraph (4) of section 246(c) (relating to holding period reduced for periods where risk of loss diminished) is amended by striking out "determined under paragraph (3)" and inserting in lieu thereof "determined for purposes of this subsection".

(C) The amendments made by this paragraph shall apply to stock acquired after March 1, 1986.

(2) EFFECTIVE DATE FOR RELATED PERSON PROVISIONS.—Paragraph (3) of section 53(e) of the Tax Reform Act of 1984 (relating to effective date for related person provisions) is amended to read as follows:

"(3) RELATED PERSON PROVISIONS.—

"(A) IN GENERAL.—Except as otherwise provided in subparagraph (B), the amendment made by subsection (c) shall take effect on July 18, 1984.

"(B) SPECIAL RULE FOR PURPOSES OF SECTION 265(2).—The amendment made by subsection (c) insofar as it relates to section 265(2) of the Internal Revenue Code of 1954 shall apply to—

"(i) term loans made after July 18, 1984, and

"(ii) demand loans outstanding after July 18, 1984 (other than any loan outstanding on July 18, 1984, and repaid before September 18, 1984).

"(C) TREATMENT OF RENEGOTIATIONS, ETC.—For purposes of this paragraph, any loan renegotiated, extended, or revised after July 18, 1984, shall be treated as a loan made after such date.

"(D) DEFINITION OF TERM AND DEMAND LOANS.—For purposes of this paragraph, the terms 'demand loan' and 'term loan' have the respective meanings given such terms by paragraphs (5) and (6) of section 7872(f) of the Internal Revenue Code of 1954, except that the second sentence of such paragraph (5) shall not apply."

(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS BEFORE JANUARY 1, 1988.—Paragraph (3) of section 54 of the Tax Reform Act of 1984 (relating to exceptions for distributions before January 1, 1985, to 80-percent corporate shareholders) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS BEFORE JANUARY 1, 1988.—

"(i) IN GENERAL.—In the case of a transaction to which this subparagraph applies, subparagraph (A) shall be applied by substituting '1988' for '1985'.

"(ii) TRANSACTION TO WHICH SUBPARAGRAPH APPLIES.—This subparagraph applies to a transaction in which a Delaware corporation which was incorporated on May 31, 1927, and which was acquired by the transferee on December 9, 1968, transfers to the transferee stock in a corporation—

"(I) with respect to which such Delaware corporation is a 100-percent corporate shareholder, and

"(II) which is a Tennessee corporation which was incorporated on October 5, 1981, and which is a successor to an Indiana corporation which was incorporated on June 28, 1946, and acquired by the transferee on December 9, 1968."

(c) AMENDMENTS RELATED TO SECTION 55 OF THE ACT.—

(1) Clause (ii) of section 852(b)(4)(B) (relating to losses attributable to exempt-interest dividend) is amended by striking out "for less than 31 days" and inserting in lieu thereof "for 6 months or less".

(2) Subparagraph (C) of section 852(b)(4) (relating to determination of holding periods) is amended to read as follows:

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock; except that '6 months' shall be substituted for each number of days specified in subparagraph (B) of section 246(c)(3)."

(3) Subparagraph (D) of section 852(b)(4) (relating to losses incurred under a periodic liquidation plan) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraphs (A) and (B)".

(4) Paragraph (4) of section 852(b) is amended by adding at the end thereof the following new subparagraph:

"(E) AUTHORITY TO SHORTEN REQUIRED HOLDING PERIOD.—In the case of a regulated investment company which regularly distributes at least 90 percent of its net tax-exempt interest, the Secretary may by regulations prescribe that subparagraph (B) (and subparagraph (C) to the extent it relates to subparagraph (B)) shall be applied on the basis of a holding period requirement shorter than 6 months; except that such shorter holding period requirement shall not be shorter than the greater of 31 days or the period between regular distributions of exempt-interest dividends."

(5) The paragraph heading for paragraph (4) of section 852(b) is amended by striking out "LESS THAN 31 DAYS" and inserting in lieu thereof "6 MONTHS OR LESS".

(6) The amendments made by this subsection shall apply to stock with respect to which the taxpayer's holding period begins after March 28, 1985.

(d) AMENDMENT RELATED TO SECTION 58 OF THE ACT.—

(1) IN GENERAL.—Paragraph (1) of section 562(b) (relating to distributions in liquidation) is amended by adding at the end thereof the following new sentence: "Except to the extent provided in regulations, the preceding sentence shall not apply in the case of any mere holding or investment company which is not a regulated investment company."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after March 1, 1986.

(e) AMENDMENTS RELATED TO SECTION 60 OF THE ACT.—

(1) TREATMENT OF CERTAIN REDEMPTION AND LIQUIDATION RIGHTS.—Subparagraph (C) of section 1504(a)(4) (relating to certain preferred stock not treated as stock) is amended to read as follows:

"(C) has redemption and liquidation rights which do not exceed the issue price of such stock (except for a reasonable redemption or liquidation premium), and".

(2) TREATMENT OF CERTAIN CORPORATIONS AFFILIATED ON JUNE 22, 1984.—Paragraph (2) of section 60(b) of the Tax Reform Act of 1984 (relating to special rule for corporations affiliated on June 22, 1984) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall cease to apply as of the first day after June 22, 1984, on which such corporation does not qualify as a member of such group under section 1504(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act)."

(3) TREATMENT OF CERTAIN SELL-DOWNS AFTER JUNE 22, 1984.—Paragraph (3) of section 60(b) of the Tax Reform Act of 1984 (relating to special rule not to apply to certain sell-downs after June 22, 1984) is amended to read as follows:

"(3) SPECIAL RULE NOT TO APPLY TO CERTAIN SELL-DOWNS AFTER JUNE 22, 1984.—If—

"(A) the requirements of paragraph (2) are satisfied with respect to a corporation,

"(B) more than a de minimis amount of the stock of such corporation—

"(i) is sold or exchanged (including in a redemption), or

"(ii) is issued,

after June 22, 1984 (other than in the ordinary course of business), and

"(C) the requirements of the amendment made by subsection (a) are not satisfied after such sale, exchange, or issuance,

then the amendment made by subsection (a) shall apply for purposes of determining whether such corporation continues to be a member of the group. The preceding sentence shall not apply to any transaction if such transaction does not reduce the percentage of the fair market value of the stock of the corporation referred to in the preceding sentence held by members of the group determined without regard to this paragraph."

(4) TREATMENT OF CERTAIN CORPORATIONS AFFILIATED ON JUNE 22, 1984, ETC.—Subsection (b) of section 60 of the Tax Reform Act of 1984 is amended by striking out paragraph (5) and inserting in lieu thereof the following new paragraphs:

"(5) NATIVE CORPORATIONS.—In determining whether a Native Corporation established under the Alaska Native Claims Settlement Act (43 U.S.C. sec. 1601 et seq.) is a member of an affiliated group with another corporation during any taxable year beginning before 1992 or any part thereof in which the Native Corporation is subject to the provisions of section 7(h)(1) of such Act (43 U.S.C. sec. 1606(h)(1))—

"(A) the amendment made by subsection (a) shall not apply, and

"(B) the requirements for affiliation under section 1504(a) of the Internal Revenue Code of 1954 before the amendment made by subsection (a) shall be limited to the provisions expressly contained therein.

This paragraph is limited to stock owned directly by the Native Corporation or another corporation of which the Native Corporation owns all of the stock and shall be applied without regard to escrow arrangements, redemption rights, or similar provisions. Losses incurred and credits earned by a corporation (other than a Native Corporation or another corporation which is affiliated with the Native Corporation without the application of this paragraph while it is a member of an affiliated group of which a Native Corporation is the common parent) shall be treated as having been incurred or earned in a separate return limitation year of such corporation as defined in section 1.1502-1(f)(1) of the Treasury Regulations.

"(6) TREATMENT OF CERTAIN CORPORATIONS AFFILIATED ON JUNE 22, 1984.—In the case of an affiliated group which—

"(A) has as its common parent a Minnesota corporation incorporated on April 23, 1940, and

"(B) has a member which is a New York corporation incorporated on November 13, 1969,

for purposes of determining whether such New York corporation continues to be a member of such group, paragraph (2) shall be applied by substituting for 'January 1, 1988,' the earlier of January 1, 1994, or the date on which the voting power of the preferred stock in such New York corporation terminates.

"(7) ELECTION TO HAVE AMENDMENTS APPLY FOR YEARS BEGINNING AFTER 1983.—If the common parent of any group makes an election under this paragraph, notwithstanding any other provision of this subsection, the amendments made by subsection (a) shall apply to such group for taxable years beginning after December 31, 1983. Any such election, once made, shall be irrevocable."

(5) TREATMENT OF CERTAIN SELL-DOWNS.—Paragraph (4) of section 60(b) of the Tax Reform Act of 1984 (relating to exception for certain sell-downs) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, if there is a letter of intent between a corporation and a securities underwriter entered into on or before June 22, 1984, and the subsequent issuance or sale is effected pursuant to a registration statement filed with the Securities and Exchange Commission, such stock shall be treated as issued or sold pursuant to a registration statement filed with the Securities and Exchange Commission on or before June 22, 1984."

(6) AMENDMENT OF SECTION 332.—

(A) IN GENERAL.—Paragraph (1) of section 332(b) (relating to liquidations to which section applies) is amended to read as follows:

"(1) the corporation receiving such property was, on the date of the adoption of the plan of liquidation, and has continued to be at all times until the receipt of the property, the owner of stock (in such other corporation) meeting the requirements of section 1504(a)(2); and either".

(B) EFFECTIVE DATE.—

(i) IN GENERAL.—Except as provided in clause (iii), the amendment made by subparagraph (A) shall apply with respect to plans of complete liquidation adopted after March 28, 1985.

(ii) CERTAIN DISTRIBUTIONS MADE AFTER DECEMBER 31, 1984.—Except as provided in clause (iii), the amendment made by subparagraph (A) shall also apply with respect to plans of complete liquidations adopted on or before March 28, 1985, pursuant to which any distribution is made in a taxable year beginning after December 31, 1984 (December 31, 1983, in the case of an affiliated group to which an election under section 60(b)(7) of the Tax Reform Act of 1984 applies), but only if the liquidating corporation and any corporation which receives a distribution in complete liquidation of such corporation are members of an affiliated group of corporations filing a consolidated return for the taxable year which includes the date of the distribution.

(iii) TRANSITIONAL RULE FOR AFFILIATED GROUPS.—The amendment made by subparagraph (A) shall not apply with respect to plans of complete liquidation if the liquidating corporation is a member of an affiliated group of corporations under section 60(b)(2), (5), or (6), of the Tax Reform Act of 1984, for all taxable years which include the date of any distribution pursuant to such plan.

(7) AMENDMENT OF SECTION 337.—

(A) IN GENERAL.—Subparagraph (B) of section 337(c)(3) (defining distributee corporation) is amended to read as follows:

"(B) DISTRIBUTEE CORPORATION.—For purposes of subparagraph (A), the term 'distributee corporation' means any corporation which receives a distribution to which section 332 applies in a complete liquidation of the selling corporation. Such term also includes any other corporation which receives a distribution to which section 332 applies in a complete liquidation of a corporation which is a distributee corporation under the preceding sentence or prior application of this sentence."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in the case of plans of complete liquidation pursuant to which any distribution is made in a taxable year beginning after December 31, 1984 (December 31, 1983, in the case of an affiliated group to which an election under section 60(b)(7) of the Tax Reform Act of 1984 applies).

(8) AMENDMENT OF SECTION 338.—

(A) IN GENERAL.—Paragraph (3) of section 338(d) (defining qualified stock purchase) is amended to read as follows:

"(3) QUALIFIED STOCK PURCHASE.—The term 'qualified stock purchase' means any transaction or series of transactions in which stock (meeting the requirements of section 1504(a)(2)) of 1 corporation is acquired by another corporation by purchase during the 12-month acquisition period."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in cases where the 12-month acquisition period (as defined in section 338(h)(1) of the Internal Revenue Code of 1954) begins after March 1, 1986.

(9) TREATMENT OF FORMER DISC'S.—Paragraph (7) of section 1504(b) (defining includible corporation) is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1)), or any other corporation which has accumulated DISC income which is derived after December 31, 1984."

(f) AMENDMENTS RELATED TO SECTION 61 OF THE ACT.—

(1) TREATMENT OF DISTRIBUTIONS OF APPRECIATED PROPERTY.—

(A) Subsection (b) of section 312 (relating to effect on earnings and profits) is amended to read as follows:

"(b) DISTRIBUTIONS OF APPRECIATED PROPERTY.—On the distribution by a corporation, with respect to its stock, of any property the

fair market value of which exceeds the adjusted basis thereof—

"(1) the earnings and profits of the corporation shall be increased by the amount of such excess, and

"(2) subsection (a)(3) shall be applied by substituting 'fair market value' for 'adjusted basis'.".

(B) Subsection (c) of section 312 is amended by inserting "and" at the end of paragraph (1), by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and by striking out paragraph (3).

(C) The subsection heading for subsection (c) of section 312 is amended by striking out ", ETC.".

(D) Subsection (n) of section 312 is amended by striking out paragraph (4) and by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (4), (5), (6), (7), and (8), respectively.

(E) Paragraph (8) of section 312(n) (as redesignated by subparagraph (C)) is amended by striking out "paragraphs (5), (6), and (7)" and inserting in lieu thereof "paragraphs (4) and (6)," and by inserting the following language after "December 31, 1985": "and paragraph (5) shall apply only in the case of taxable years beginning after December 31, 1987".

(F) Any reference in subsection (e) of section 61 of the Tax Reform Act of 1984 to a paragraph of section 312(n) of the Internal Revenue Code of 1954 shall be treated as a reference to such paragraph as in effect before its redesignation by subparagraph (D).

(2) CLERICAL AMENDMENTS.—

(A) Subsection (a) of section 1275 is amended—

(i) by redesignating the paragraph added by section 61 of the Tax Reform Act of 1984 as paragraph (5), and

(ii) by striking out "TO CORPORATIONS" in the heading of such paragraph and inserting in lieu thereof "BY CORPORATIONS".

(B) Paragraph (3) of section 301(f) is amended by striking out "this section" and inserting in lieu thereof "this subsection".

(3) EFFECTIVE DATE FOR TREATMENT OF REDEMPTIONS.—Paragraph (7) of section 312(n) of the Internal Revenue Code of 1954 (as redesignated by paragraph (1)(D) of this subsection), and the amendments made by section 61(a)(2) of the Tax Reform Act of 1984, shall apply to distributions in taxable years beginning after September 30, 1984.

(g) AMENDMENTS RELATED TO SECTION 63 OF THE ACT.—

(1) IN GENERAL.—Section 361 (relating to nonrecognition of gain or loss to corporations) is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO TRANSFEROR CORPORATION; OTHER TREATMENT OF TRANSFEROR CORPORATION; ETC.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a transferor corporation which is a party to a reorganization on any exchange of property pursuant to the plan of reorganization.

"(b) OTHER TREATMENT OF TRANSFEROR CORPORATION.—In the case of a transferor corporation which is a party to a reorganization—

"(1) sections 336 and 337 shall not apply with respect to any liquidation of such corporation pursuant to the plan of reorganization,

"(2) the basis of the property received by the corporation pursuant to such plan of reorganization shall be its fair market value, and

"(3) in the case of a reorganization described in section 368(a)(1)(C), no gain or loss shall be recognized by such corporation on any disposition (pursuant to the plan of reorganization) of stock or securities which were received pursuant to such plan and which are in another corporation which is a party to such reorganization.

"(c) TREATMENT OF DISTRIBUTIONS OF APPRECIATED PROPERTY.—The provisions of section 311(d) shall apply to the distribution of property (other than property described in subsection (b)(3)) pursuant to a plan of reorganization."

(2) CLARIFICATION OF TRANSFERS TO CREDITORS.—Section 368(a)(2)(G)(i) (relating to distribution requirement) is amended by striking out the period at the end and inserting in lieu thereof "or to its creditors."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 358 (relating to basis to distributees) is amended by striking out "section 361,".

(B) The table of sections for subpart C of part III of subchapter C of chapter 1 is amended by striking out the item relating to section 361 and inserting in lieu thereof the following:

"Sec. 361. Nonrecognition of gain or loss to transferor corporation; other treatment of transferor corporation; etc."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plans of reorganizations adopted after the date of the enactment of this Act.

(h) AMENDMENTS RELATED TO SECTION 64 OF THE ACT.—

(1) Subsection (c) of section 368 (defining control) is amended to read as follows:

"(c) CONTROL DEFINED.—For purposes of part I (other than section 304), part II, this part, and part V, the term 'control' means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation."

(2) Paragraph (2) of section 368(a) is amended by adding at the end thereof the following new subparagraph:

"(H) SPECIAL RULE FOR DETERMINING WHETHER CERTAIN TRANSACTIONS ARE DESCRIBED IN PARAGRAPH (1)(D).—In the case of any transaction with respect to which the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met, for purposes of determining whether such transaction is described in subparagraph (D) of paragraph (1), the term 'control' has the meaning given to such term by section 304(c)."

(3) Section 368(a)(2) is amended by inserting "(other than for purposes of subparagraph (C))" in subparagraph (A) after "subchapter".

(i) AMENDMENTS RELATED TO SECTION 65 OF THE ACT.—

(1) IN GENERAL.—Subsection (a) of section 341 (relating to collapsible corporations) is amended by striking out "held for more than 6 months".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to sales, exchanges, and distributions after March 1, 1986.

(j) AMENDMENTS RELATED TO SECTION 67 OF THE ACT.—

(1) EXEMPTION FOR SMALL BUSINESS CORPORATIONS, ETC.—Subsection (b) of section 280G (defining excess parachute payment) is amended by adding at the end thereof the following new paragraph:

"(5) EXEMPTION FOR SMALL BUSINESS CORPORATIONS, ETC.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the term 'parachute payment' does not include—

"(i) any payment to a disqualified individual with respect to a corporation which (immediately before the change described in paragraph (2)(A)(i)) was a small business corporation (as defined in section 1361(b)), and

"(ii) any payment to a disqualified individual with respect to a corporation (other than a corporation described in clause (i)) if—

"(I) immediately before the change described in paragraph (2)(A)(i), no stock in such corporation was readily tradeable on an established securities market or otherwise, and

"(II) the shareholder approval requirements of subparagraph (B) are met with respect to such payment.

The Secretary may, by regulations, prescribe that the requirements of subclause (I) of clause (ii) are not met where a substantial portion of the assets of any entity consists (directly or indirectly) of stock in such corporation and interests in such other entity are readily tradeable on an established securities market, or otherwise.

"(B) SHAREHOLDER APPROVAL REQUIREMENTS.—The shareholder approval requirements of this subparagraph are met with respect to any payment if—

"(i) such payment was approved by a vote of the persons who owned, immediately before the change described in paragraph (2)(A)(i), more than 75 percent of the voting power of all outstanding stock of the corporation, and

"(ii) there was adequate disclosure to shareholders of all material facts concerning all payments which (but for this paragraph) would be parachute payments with respect to a disqualified individual."

(2) TREATMENT OF REASONABLE COMPENSATION.—Paragraph (4) of section 280G(b) (relating to excess parachute payments reduced to extent taxpayer establishes reasonable compensation) is amended to read as follows:

"(4) TREATMENT OF AMOUNTS WHICH TAXPAYER ESTABLISHES AS REASONABLE COMPENSATION.—In the case of any payment described in paragraph (2)(A)—

"(A) the amount treated as a parachute payment shall not include the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services to be rendered on or after the date of the change described in paragraph (2)(A)(i), and

"(B) the amount treated as an excess parachute payment shall be reduced by the portion of such payment which the taxpayer establishes by clear and convincing evidence is reasonable compensation for personal services actually rendered before the date of the change described in paragraph (2)(A)(i).

For purposes of subparagraph (B), reasonable compensation for services actually rendered before the date of the change described in paragraph (2)(A)(i) shall be first offset against the base amount."

(3) EXEMPTION FOR PAYMENT UNDER QUALIFIED PLANS.—Subsection (b) of section 280G (defining excess parachute payment) is amended by adding at the end thereof the following new paragraph:

"(6) EXEMPTION FOR PAYMENTS UNDER QUALIFIED PLANS.—Notwithstanding paragraph (2), the term 'parachute payment' shall not include any payment to or from—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), or

"(C) a simplified employee pension (as defined in section 408(k))."

(4) TREATMENT OF AFFILIATED GROUPS.—Subsection (d) of section 280G is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF AFFILIATED GROUPS.—Except as otherwise provided in regulations, all members of the same affiliated group (as defined in section 1504, determined without regard to section 1504(b)) shall be treated as 1 corporation for purposes of this section. Any person who is an officer or highly compensated individual with respect to any member of such group shall be treated as an officer or highly compensated individual of such 1 corporation."

(5) LIMITATION ON NUMBER OF EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Subsection (c) of section 280G (defining disqualified individual) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (2), the term 'highly-compensated individual' only includes an employee (or a former employee) who is a member of the group consisting of the highest paid 1 percent of the individuals performing personal services for the corporation or, if less, the highest paid 250 individuals of the individuals performing services for the corporation or for each corporation that is a member of an affiliated group described in paragraph (5) of subsection (d)."

(6) EXCLUDED AMOUNTS NOT TAKEN INTO ACCOUNT IN DETERMINING WHETHER THRESHOLD AMOUNT IS MET.—Subparagraph (A) of section 280G(b)(2) (defining parachute payment) is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), payments not treated as parachute payments under paragraph (4)(A), (5), or (6) shall not be taken into account."

(7) LIMITATION ON TREATMENT OF PAYMENT PURSUANT TO SECURITIES LAW VIOLATION AS PARACHUTE PAYMENT.—Subparagraph (B) of section 280G(b)(2) (defining parachute payments) is amended to read as follows:

"(B) AGREEMENTS.—The term 'parachute payment' shall also include any payment in the nature of compensation to (or for the benefit of) a disqualified individual if such payment is made pursuant to an agreement which violates any generally enforced securities laws or regulations. In any proceeding involving the issue of whether any payment made to a disqualified individual is a parachute payment on account of a violation of any generally enforced securities laws or regulations, the burden of proof with respect to establishing the occurrence of a violation of such a law or regulation shall be upon the Secretary."

(8) CLERICAL AMENDMENT.—Paragraph (2) of section 280G(d) (defining base period) is amended by striking out "was an employee of the corporation" and inserting in lieu thereof "performed personal services for the corporation".

(k) AMENDMENTS RELATING TO SECTION 68 OF THE ACT.—

(1) NO DISC PREFERENCE REDUCTION FOR S CORPORATIONS.—Effective with respect to taxable years beginning after December 31, 1982, paragraph (4) of section 291(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) is amended by striking out "a corporation" and inserting in lieu thereof "a C corporation".

(2) CLARIFICATION OF EFFECTIVE DATES.—

(A) Paragraph (2) of section 68(e) of the Tax Reform Act of 1984 (relating to section 1250 gain) is amended by striking out "of the Internal Revenue Code of 1954" and inserting in lieu thereof "of the Internal Revenue Code of 1954, and the amendment made by subsection (c)(2) of this section,".

(B) Paragraph (3) of section 68(e) of the Tax Reform Act of 1984 (relating to pollution control facilities) is amended by striking out "of such Code" and inserting in lieu thereof "of such Code, and so much of the amendment made by subsection (c)(1) of this section as relates to pollution control facilities,".

(3) CLERICAL AMENDMENTS.—

(A) The subsection heading of section 291(a) is amended by striking out "20-PERCENT".

(B) Paragraph (2) of section 68(c) of the Tax Reform Act of 1984 is amended by striking out "section 57(h)" and inserting in lieu thereof "section 57(b)".

(C) Subparagraph (B) of section 57(b)(1) is amended to read as follows:

"(B) IRON ORE AND COAL.—In the case of any item of tax preference of a corporation described in paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal, including lignite), only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference."

(D) Paragraph (2) of section 57(b) is amended by striking out "85 percent" and inserting in lieu thereof "80 percent".

SEC. 1805. AMENDMENTS RELATED TO PARTNERSHIP PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 72 OF THE ACT.—

(1) CLARIFICATION THAT CHANGE NEED NOT OCCUR DURING TAXABLE YEAR OF PAYMENT.—

(A) Clause (i) of section 706(d)(2)(A) is amended by striking out "each such item" and inserting in lieu thereof "such item".

(B) Subparagraph (B) of section 706(d)(2) is amended by striking out "which are described in paragraph (1) and".

(2) CLERICAL AMENDMENT.—Clause (i) of section 706(d)(2)(C) (relating to items attributable to periods not within taxable year) is amended by striking out "the first day of such taxable year" and inserting in lieu thereof "the first day of the taxable year".

(b) AMENDMENT RELATED TO SECTION 73 OF THE ACT.—Clause (iii) of section 707(a)(2)(B) (relating to treatment of certain property transfers) is amended by striking out "sale of property" and inserting in lieu thereof "sale or exchange of property".

(c) AMENDMENTS RELATED TO SECTION 75 OF THE ACT.—

(1) LIMITATION ON AMOUNT OF GAIN.—Section 386 (relating to transfers of partnership and trust interests by a corporation) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) LIMITATION ON AMOUNT OF GAIN RECOGNIZED IN CASE OF NON-LIQUIDATING DISTRIBUTIONS.—In the case of any distribution by a corporation to which section 311 applies, the amount of any gain recognized by reason of subsection (a) shall not exceed the amount of the gain which would have been recognized if the partnership interest had been sold. The Secretary may by regulations provide that the amount of such gain shall be computed without regard to any loss attributable to property contributed to the partnership for the principal purpose of recognizing such loss on the distribution."

(2) CLARIFICATION OF SECTION 761(e).—Subsection (e) of section 761 (relating to distributions treated as exchanges) is amended—

(A) by striking out "For purposes of" and inserting in lieu thereof "Except as otherwise provided in regulations, for purposes of",

(B) by striking out "any distribution (not otherwise treated as an exchange)" and inserting in lieu thereof "any distribution of an interest in a partnership (not otherwise treated as an exchange)", and

(C) by striking out "DISTRIBUTIONS" in the subsection heading and inserting in lieu thereof "DISTRIBUTIONS OF PARTNERSHIP INTERESTS".

(d) AMENDMENT RELATED TO SECTION 77 OF THE ACT.—Subparagraph (A) of section 1031(a)(3) (relating to requirement that property be identified) is amended by striking out "before the day" and inserting in lieu thereof "on or before the day".

SEC. 1806. AMENDMENTS RELATED TO TRUST PROVISIONS.

(a) AMENDMENT RELATED TO SECTION 81 OF THE ACT.—Subparagraph (B) of section 643(e)(3), as redesignated by subsection (c) (relating to election to recognize gain), is amended to read as follows:

"(B) ELECTION.—Any election under this paragraph shall apply to all distributions made by the estate or trust during a taxable year and shall be made on the return of such estate or trust for such taxable year."

(b) TREATMENT OF MULTIPLE TRUSTS.—Subsection (b) of section 82 of the Tax Reform Act of 1984 (relating to treatment of multiple trusts) is amended by inserting before the period at the end thereof the following: "; except that, in the case of a trust which was irrevocable on March 1, 1984, such amendment shall so apply only to that portion of the trust which is attributable to contributions to corpus after March 1, 1984".

(c) CLERICAL AMENDMENTS.—Section 643 (relating to definitions applicable to subparts A, B, C, and D) is amended—

(1) by redesignating the subsection added by section 81 of the Tax Reform Act of 1984 as subsection (e), and

(2) by redesignating the subsection added by section 82 of such Act as subsection (f).

SEC. 1807. AMENDMENTS RELATED TO ACCOUNTING CHANGES.

(a) AMENDMENTS RELATED TO SECTION 91 OF THE ACT.—

(1) CLARIFICATION OF CASH BASIS EXCEPTION TO TAX SHELTER RULE.—

(A) Subparagraph (A) of section 461(i)(2) is amended by striking out "within 90 days after the close of the taxable year" and inserting in lieu thereof "before the close of the 90th day after the close of the taxable year".

(B) The heading for paragraph (2) of section 461(i) is amended by striking out "WITHIN 90 DAYS" and inserting in lieu thereof "ON OR BEFORE THE 90TH DAY".

(2) CLARIFICATION OF COORDINATION WITH SECTION 464.—Subparagraph (A) of section 461(i)(4) (relating to special rules for farming) is amended to read as follows:

"(A) any tax shelter described in paragraph (3)(C) shall be treated as a farming syndicate for purposes of section 464; except that this subparagraph shall not apply for purposes of determining the income of an individual meeting the requirements of section 464(c)(2),".

(3) TREATMENT OF MINING AND SOLID WASTE RECLAMATION AND CLOSING COSTS.—

(A) RESERVE INCREASED BY AMOUNT DEDUCTED.—Paragraph (2) of section 468(a) (relating to establishment of reserves for reclama-

tion and closing costs) is amended by adding at the end thereof the following new subparagraph:

"(D) RESERVE INCREASED BY AMOUNT DEDUCTED.—A reserve shall be increased each taxable year by the amount allowable as a deduction under paragraph (1) for such taxable year which is allocable to such reserve."

(B) EFFECTIVE DATE.—Subsection (g) of section 91 of the Tax Reform Act of 1984 (relating to effective dates) is amended by adding at the end thereof the following new paragraph:

"(4) EFFECTIVE DATE FOR TREATMENT OF MINING AND SOLID WASTE RECLAMATION AND CLOSING COSTS.—Except as otherwise provided in subsection (h), the amendments made by subsection (b) shall take effect on the date of the enactment of this Act with respect to taxable years ending after such date."

(C) CLERICAL AMENDMENT.—Paragraph (1) of section 468(a) is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(4) TREATMENT OF DECOMMISSIONING OF NUCLEAR POWERPLANT.—

(A) TIME WHEN PAYMENTS DEEMED MADE.—

(i) IN GENERAL.—Section 468A is amended by adding at the end thereof the following new subsection:

"(g) TIME WHEN PAYMENTS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a payment to the Fund on the last day of a taxable year if such payment is made on account of such taxable year and is made within 2½ months after the close of such taxable year."

(ii) TRANSITIONAL RULE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, subsection (g) of section 468A of the Internal Revenue Code of 1954 (as added by clause (i)) shall be applied with respect to any payment on account of a taxable year beginning before January 1, 1987, as if it did not contain the requirement that the payment be made within 2½ months after the close of the taxable year. Such regulations may provide that, to the extent such payment to the Fund is made more than 2½ months after the close of the taxable year, any adjustment to the tax attributable to such payment shall not affect the amount of interest payable with respect to periods before the payment is made. Such regulations may provide appropriate adjustments to the deduction allowed under such section 468A for any such taxable year to take into account the fact that the payment to the Fund is made more than 2½ months after the close of the taxable year.

(B) TREATMENT OF AMOUNTS DISTRIBUTED.—Subparagraph (A) of section 468A(c)(1) (relating to inclusion of amount distributed) is amended by striking out "subsection (e)(2)(B)" and inserting in lieu thereof "subsection (e)(4)(B)".

(C) CLARIFICATION OF TAXATION OF FUND.—Paragraph (2) of section 468A(e) (relating to taxation of Fund) is amended to read as follows:

"(2) TAXATION OF FUND.—

"(A) IN GENERAL.—There is hereby imposed on the gross income of the Fund for any taxable year a tax at a rate equal to the highest rate of tax specified in section 11(b), except that—

"(i) there shall not be included in the gross income of the Fund any payment to the Fund with respect to which a deduction is allowable under subsection (a), and

"(ii) there shall be allowed as a deduction to the Fund any amount paid by the Fund which is described in paragraph (4)(B) (other than an amount paid to the taxpayer) and which would be deductible under this chapter for purposes of determining the taxable income of a corporation.

"(B) TAX IN LIEU OF OTHER TAXATION.—The tax imposed by subparagraph (A) shall be in lieu of any other taxation under this subtitle of the income from assets in the Fund.

"(C) FUND TREATED AS CORPORATION.—For purposes of subtitle F—

"(i) the Fund shall be treated as if it were a corporation, and

"(ii) any tax imposed by this paragraph shall be treated as a tax imposed by section 11."

(D) LIMITATION ON INVESTMENTS.—Paragraph (4) of section 468A(e) is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) to the extent that a portion of the Fund is not currently needed for purposes described in subparagraph (A) or (B), making investments described in section 501(c)(21)(B)(ii)."

(E) CLERICAL AMENDMENTS.—

(i) Subsection (a) of section 468A is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(ii) Subsection (d) of section 468A is amended by striking out "this subsection" in the material preceding paragraph (1) and inserting in lieu thereof "this section".

(iii) The subsection heading for subsection (e) of section 468A is amended by striking out "TRUST FUND" and inserting in lieu thereof "RESERVE FUND".

(iv) Paragraph (1) of section 468A(e) is amended—

(I) by striking out "this subsection" and inserting in lieu thereof "this section", and

(II) by striking out "Trust Fund" and inserting in lieu thereof "Reserve Fund".

(v) Paragraph (6) of section 468A(e) is amended—

(I) by striking out "this subsection" each place it appears and inserting in lieu thereof "this section", and

(II) by striking out "this subparagraph" and inserting in lieu thereof "this paragraph".

(vi) Subsection (f) of section 468A is amended by striking out "The term" and inserting in lieu thereof "For purposes of this section, the term".

(vii) Section 88 is amended by striking out "of ratemaking purposes" and inserting in lieu thereof "for ratemaking purposes".

(F) EFFECTIVE DATE.—Subsection (g) of section 91 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR NUCLEAR DECOMMISSIONING COSTS.—The amendments made by subsections (c) and (f) shall take effect on the date of the enactment of this Act with respect to taxable years ending after such date."

(5) EFFECTIVE DATE FOR NET OPERATING LOSS PROVISIONS.—Subsection (g) of section 91 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(6) MODIFICATION OF NET OPERATING LOSS CARRYBACK PERIOD.—The amendments made by subsection (d) shall apply to losses for taxable years beginning after December 31, 1983."

(6) CLARIFICATION OF ELECTION FOR EARLIER EFFECTIVE DATE.—Subparagraph (A) of section 91(g)(2) of the Tax Reform Act of 1984 (relating to taxpayer may elect earlier application) is amended—

(A) by striking out "incurred before" and inserting in lieu thereof "incurred on or before",

(B) by striking out "incurred on or after" and inserting in lieu thereof "incurred after", and

(C) by adding at the end thereof the following new sentence:

"The Secretary of the Treasury or his delegate may by regulations provide that (in lieu of an election under the preceding sentence) a taxpayer may (subject to such conditions as such regulations may provide) elect to have subsection (h) of section 461 of such Code apply to the taxpayer's entire taxable year in which occurs July 19, 1984."

(7) SPECIAL RULES FOR DESIGNATED SETTLEMENT FUNDS.—

(A) IN GENERAL.—Subpart C of part II of subchapter E of chapter 1 (relating to taxable year for which deduction taken) is amended by adding at the end thereof the following new section:

"SEC. 468B. SPECIAL RULES FOR DESIGNATED SETTLEMENT FUNDS.

"(a) IN GENERAL.—For purposes of section 461(h), economic performance shall be deemed to occur as qualified payments are made by the taxpayer to a designated settlement fund.

"(b) TAXATION OF DESIGNATED SETTLEMENT FUND.—

"(1) IN GENERAL.—There is imposed on the gross income of any designated settlement fund for any taxable year a tax at a rate equal to the maximum rate in effect for such taxable year under section 1(e).

"(2) CERTAIN EXPENSES ALLOWED.—For purposes of paragraph (1), gross income for any taxable year shall be reduced by the amount of any administrative costs (including State and local taxes) and other incidental expenses of the designated settlement fund (including legal, accounting, and actuarial expenses)—

"(A) which are incurred in connection with the operation of the fund, and

"(B) which would be deductible under this chapter for purposes of determining the taxable income of the corporation,

no other deduction shall be allowed to the fund.

"(3) TRANSFERS TO THE FUND.—In the case of any qualified payment made to the fund—

"(A) the amount of such payment shall not be treated as income of the designated settlement fund,

"(B) the basis of the fund in any property which constitutes a qualified payment shall be equal to the fair market value of such property at the time of payment, and

"(C) the fund shall be treated as the owner of the property in the fund (and any earnings thereon).

"(4) TAX IN LIEU OF OTHER TAXATION.—The tax imposed by paragraph (1) shall be in lieu of any other taxation under this subtitle of income from assets in the designated settlement fund.

"(5) COORDINATION WITH SUBTITLE F.—For purposes of subtitle F—

"(A) a designated settlement fund shall be treated as a corporation, and

"(B) any tax imposed by this subsection shall be treated as a tax imposed by section 11.

"(c) DEDUCTIONS NOT ALLOWED FOR TRANSFER OF INSURANCE AMOUNTS.—No deduction shall be allowable for any qualified payment by the taxpayer of any amounts received from the settlement of any insurance claim to the extent such amounts are excluded from the gross income of the taxpayer.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED PAYMENT.—The term 'qualified payment' means any money or property which is transferred to any designated settlement fund pursuant to a court order, other than—

"(A) any amount which may be transferred from the fund to the taxpayer, or

"(B) the transfer of any stock or indebtedness of the taxpayer (or any related person).

"(2) DESIGNATED SETTLEMENT FUND.—The term 'designated settlement fund' means any fund—

"(A) which is established pursuant to a court order,

"(B) with respect to which no amounts may be transferred other than in the form of qualified payments,

"(C) which is administered by persons a majority of whom are independent to the taxpayer,

"(D) which is established for the principal purpose of resolving and satisfying present and future claims against the taxpayer (or any related person or formerly related person) arising out of personal injury, death, or property damage,

"(E) under the terms of which the taxpayer may not hold any beneficial interest in the income or corpus of the fund, and

"(F) with respect to which an election is made under this section by the taxpayer.

An election under this section shall be made at such time and in such manner as the Secretary shall by regulation prescribe. Such an election, once made, may be revoked only with the consent of the Secretary.

"(3) RELATED PERSON.—The term 'related person' means a person related to the taxpayer within the meaning of section 267(b).

"(e) NONAPPLICABILITY OF SECTION.—This section shall not apply with respect to any liability of the taxpayer arising under any workers' compensation Act or any contested liability of the taxpayer within the meaning of section 461(f).

"(f) OTHER FUNDS.—Except as provided in regulations, any payment in respect of a liability described in subsection (d)(2)(D) (and not described in subsection (e)) to a trust fund or escrow fund which is not a designated settlement fund shall not be treated as constituting economic performance."

(B) CLERICAL AMENDMENT.—The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by adding after the item relating to section 468A the following new item:

"Sec. 468B. Special rules for designated settlement funds."

(C) SPECIAL RULE FOR TAXPAYER IN BANKRUPTCY REORGANIZATION.—In the case of any designated settlement fund which is established for claimants against a corporation which filed a petition for reorganization under chapter 11 of title 11, United States Code, on August 26, 1982, and which filed with a United States district court a first amended and restated plan of reorganization before March 1, 1986—

(i) any portion of such fund which meets the requirements of subparagraphs (A), (C), (D), and (F) of section 468B(d)(2) of the Internal Revenue Code of 1954 (as added by this paragraph) shall be treated as a designated settlement fund for purposes of section 468B of such Code,

(ii) such corporation (or any successor thereof) shall be liable for the tax imposed by section 468B of such Code on such portion of the fund (and the fund shall not be liable for such tax), such tax shall be deductible by the corporation, and the rate of tax under section 468B of such Code for any taxable year shall be equal to 15 percent, and

(iii) any transaction by any portion of the fund not described in clause (i) shall be treated as a transaction made by the corporation.

(b) AMENDMENTS RELATED TO SECTION 92 OF THE ACT.—

(1) TREATMENT OF SERVICES.—Subsection (g) of section 467 (relating to comparable rules for services) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any amount to which section 404 or 404A (or any other provision specified in regulations) applies."

(2) CLERICAL AMENDMENTS.—

(A) Subparagraph (A) of section 467(b)(4) is amended by striking out "statutory recover period" and inserting in lieu thereof "statutory recovery period".

(B) Paragraph (4) of section 467(c) is amended by striking out "subsection (b)(3)(A)" and inserting in lieu thereof "subsection (b)(4)(A)".

(C) The last sentence of section 467(d)(2) is amended by striking out "section 1274(c)(2)(C)" and inserting in lieu thereof "section 1274(c)(4)(C)".

(D) Paragraph (5) of section 467(e) is amended by striking out "section 168(d)(4)(D)" and inserting in lieu thereof "section 168(e)(4)(D)".

(c) TRANSITION RULE.—A taxpayer shall be allowed to use the cash receipts and disbursements method of accounting for taxable years ending after January 1, 1982, if such taxpayer—

(1) is a partnership which was founded in 1936,

(2) has over 1,000 professional employees,

(3) used a long-term contract method of accounting for a substantial part of its income from the performance of architectural and engineering services, and

(4) is headquartered in Chicago, Illinois.

SEC. 1808. AMENDMENTS RELATED TO TAX STRADDLE PROVISIONS.

(a) TREATMENT OF SUBCHAPTER S CORPORATIONS.—

(1) Section 102 of the Tax Reform Act of 1984 (relating to section 1256 extended to certain options) is amended by adding at the end thereof the following new subsection:

"(j) COORDINATION OF ELECTION UNDER SUBSECTION (d)(3) WITH ELECTIONS UNDER SUBSECTIONS (g) AND (h).—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary to coordinate the election provided by subsection (d)(3) with the elections provided by subsections (g) and (h)."

(2) Paragraph (3) of section 102(d) of the Tax Reform Act of 1984 (relating to subchapter S election) is amended by striking out "(as so defined)" and inserting in lieu thereof "(as so defined) or such other day as may be permitted under regulations".

(b) TREATMENT OF AMOUNTS RECEIVED FOR LOANING SECURITIES.—Subparagraph (B) of section 263(g)(2) (defining interest and carrying charges) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) any amount which is a payment with respect to a security loan (within the meaning of section 512(a)(5)) includible in gross income with respect to such property for the taxable year."

(c) TREATMENT OF OPTION STRADDLES.—Subparagraph (A) of section 1092(d)(3) (relating to special rules for stocks) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any interest in stock."

SEC. 1809. AMENDMENTS RELATED TO DEPRECIATION PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 111 OF THE ACT.—

(1) 15-YEAR STRAIGHT LINE ELECTION FOR LOW-INCOME HOUSING.—The table contained in subparagraph (A) of section 168(b)(3) (relating to election of different recovery percentage) is amended—

(A) by striking out "and low-income housing" in the last item, and

(B) by adding at the end thereof the following new item:

"Low-income housing.....	15, 35, or 45 years."

(2) USE OF CONVENTIONS.—

(A) MID-MONTH CONVENTION FOR 19-YEAR REAL PROPERTY.—

(i) Paragraph (2) of section 168(b) (relating to 19-year real property) is amended—

(I) by striking out the last sentence of subparagraph (A), and

(II) by amending subparagraph (B) to read as follows:

"(B) MID-MONTH CONVENTION FOR 19-YEAR REAL PROPERTY.—In the case of 19-year real property, the amount of the deduction determined under any provision of this section (or for purposes of section 57(a)(12)(B) or 312(k)) for any taxable year shall be determined on the basis of the number of months (using a mid-month convention) in which the property is in service."

(ii) Subparagraph (B) of section 168(f)(2) (relating to recovery property used predominantly outside the United States) is amended to read as follows:

"(B) REAL PROPERTY.—Except as provided in subparagraph (C), in the case of 19-year real property or low-income housing which, during the taxable year, is predominantly used outside the United States, the recovery deduction for the taxable year shall be, in lieu of the amount determined under subsection (b), the amount determined by applying to the unadjusted basis of such property the applicable percentage determined under tables prescribed by the Secretary. For purposes of the preceding sentence, in prescribing such tables, the Secretary shall—

"(i) assign to the property described in this subparagraph a 35-year recovery period, and

"(ii) assign percentages determined in accordance with the use of the method of depreciation described in section 167(j)(1)(B), switching to the method described in section 167(b)(1) at a time to maximize the deduction allowable under subsection (a)."

(B) MONTHLY CONVENTION FOR LOW-INCOME HOUSING.—Subparagraph (B) of section 168(b)(4) (relating to low-income housing) is amended to read as follows:

"(B) MONTHLY CONVENTION.—In the case of low-income housing, the amount of the deduction determined under any provision of this section (or for purposes of section 57(a)(12)(B) or 312(k)) for any taxable year shall be determined on the basis of the number of months (treating all property placed in service or disposed of during any month as placed in service or disposed of on the first day of such month) in which the property is in service."

(C) CONFORMING AMENDMENTS.—

(i) Effective on and after the date of the enactment of this Act, clause (ii) of section

168(j)(2)(B) (relating to conventions) is amended to read as follows:

"(ii) CROSS REFERENCE.—

"For other applicable conventions, see paragraphs (2)(B) and (4)(B) of subsection (b)."

(ii) Subparagraph (A) of section 312(k)(3) is amended by striking out ", and rules similar to the rules under the next to the last sentence of section 168(b)(2)(A) and section 168(b)(2)(B) shall apply".

(3) MINIMUM TAX TREATMENT.—Subparagraph (B) of section 57(a)(12) (relating to 19-year real property and low-income housing) is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(B) 19-YEAR REAL PROPERTY AND LOW-INCOME HOUSING.—With respect to each recovery property which is 19-year real property or low-income housing, the amount (if any) by which the deduction allowed under section 168(a) (or, in the case of property described in section 167(k), under section 167) for the taxable year exceeds the deduction which would have been allowable for the taxable year had the property been depreciated using a straight-line method (without regard to salvage value) over a recovery period of—".

(4) TREATMENT OF PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

(A) Clause (ii) of section 168(f)(12)(B) (relating to recovery method) is amended to read as follows:

"(ii) 19-YEAR REAL PROPERTY.—In the case of 19-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (without regard to salvage value) and a recovery period of 19 years."

(B) Subparagraph (C) of section 168(f)(12) (relating to exception for projects for residential rental property) is amended to read as follows:

"(C) EXCEPTION FOR LOW- AND MODERATE-INCOME HOUSING.—Subparagraph (A) shall not apply to—

"(i) any low-income housing, and

"(ii) any other recovery property which is placed in service in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A)."

(5) COORDINATION WITH IMPUTED INTEREST CHANGES.—In the case of any property placed in service before May 8, 1985 (or treated as placed in service before such date by section 105(b)(3) of Public Law 99-121)—

(A) any reference in any amendment made by this subsection to 19-year real property shall be treated as a reference to 18-year real property, and

(B) section 168(f)(12)(B)(ii) of the Internal Revenue Code of 1954 (as amended by paragraph (4)(A)) shall be applied by substituting "18 years" for "19 years".

(b) TREATMENT OF TRANSFEREE IN CERTAIN TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 168(f)(10) (relating to transferee bound by transferor's period and method in certain cases) is amended to read as follows:

"(A) IN GENERAL.—In the case of recovery property transferred in a transaction described in subparagraph (B), for purposes of computing the deduction allowable under subsection (a) with respect to so much of the basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor—

"(i) if the transaction is described in subparagraph (B)(i), the transferee shall be treated in the same manner as the transferor, or

"(ii) if the transaction is described in clause (ii) or (iii) of subparagraph (B) and the transferor made an election with respect to such property under subsection (b)(3) or (f)(2)(C), the transferee shall be treated as having made the same election (or its equivalent)."

(2) TREATMENT OF TERMINATIONS OF PARTNERSHIPS.—Subparagraph (B) of section 168(f)(10) is amended by adding at the end thereof the following new sentence:

"Clause (i) shall not apply in the case of the termination of a partnership under section 708(b)(1)(B)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service by the transferee after March 1, 1986, in taxable years ending after such date.

(c) AMENDMENTS RELATED TO SECTION 113 OF THE ACT.—

(1) TREATMENT OF FILMS, VIDEO TAPES, AND SOUND RECORDINGS.—Except with respect to property placed in service by the taxpayer on or before March 28, 1985, subsection (c) of section 167 (relating to limitations on use of certain methods and rates) is amended by adding at the end thereof the following new sentence:

"Paragraphs (2), (3), and (4) of subsection (b) shall not apply to any motion picture film, video tape, or sound recording."

(2) CLERICAL AMENDMENT.—Subsection (q) of section 48 is amended by redesignating the paragraph relating to special rule for qualified films as paragraph (7).

(d) AMENDMENTS RELATED TO SECTION 114 OF THE ACT.—

(1) Paragraph (1) of section 48(b) (defining new section 38 property) is amended by adding at the end thereof the following new sentence: "Such term includes any section 38 property the reconstruction of which is completed by the taxpayer, but only with respect to that portion of the basis which is properly attributable to such reconstruction."

(2) Paragraph (2) of section 48(b) (relating to special rule for sale-leasebacks) is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "the first sentence of paragraph (1)",

(B) by striking out "used under the lease" and inserting in lieu thereof "used under the leaseback (or lease) referred to in subparagraph (B)",

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.", and

(D) by striking out "3 months of" in subparagraph (B) and inserting in lieu thereof "3 months after".

SEC. 1810. AMENDMENTS RELATED TO FOREIGN PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 121 OF THE ACT.—

(1) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—

(A) IN GENERAL.—Subsection (g) of section 904 (relating to source rules in the case of United States-owned foreign corporations) is amended by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following new paragraph:

"(9) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—For purposes of this subsection—

"(A) in the case of interest treated as not from sources within the United States under section 861(a)(1)(B), the corporation paying such interest shall be treated as a United States-owned foreign corporation, and

"(B) in the case of any dividend treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated as a United States-owned foreign corporation."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect on March 28, 1985. In the case of any taxable year ending after such date of any corporation treated as a United States-owned foreign corporation by reason of the amendment made by subparagraph (A)—

(i) only income received or accrued by such corporation after such date shall be taken into account under section 904(g) of the Internal Revenue Code of 1954; except that

(ii) paragraph (5) of such section 904(g) shall be applied by taking into account all income received or accrued by such corporation during such taxable year.

(2) TREATMENT OF CERTAIN FOREIGN CORPORATIONS ENGAGED IN TRADE OR BUSINESSES WITHIN THE UNITED STATES.—Subparagraph (E) of section 121(b)(2) of the Tax Reform Act of 1984 (relating to special rules for applicable CFC) is amended by adding at the end thereof the following new clause:

"(iii) TREATMENT OF CERTAIN FOREIGN CORPORATIONS ENGAGED IN BUSINESS IN UNITED STATES.—For purposes of clause (ii), a foreign corporation shall be treated as a United States person with respect to any interest payment made by such corporation if—

"(I) at least 50 percent of the gross income from all sources of such corporation for the 3-year period ending with the close of its last taxable year ending on or before March 31, 1984, was effectively connected with the conduct of a trade or business within the United States, and

"(II) at least 50 percent of the gross income from all sources of such corporation for the 3-year period ending with the close of its taxable year preceding the payment of such interest was effectively connected with the conduct of a trade or business within the United States."

(3) TREATMENT OF CERTAIN SHORT-TERM BORROWING.—Clause (ii) of section 121(b)(2)(D) of the Tax Reform Act of 1984 (defining applicable CFC) is amended by striking out "or the holding of short-term obligations" and all that follows and inserting in lieu thereof "(or short-term borrowing from nonaffiliated persons) and lending the proceeds of such obligations (or such borrowing) to affiliates."

(4) COORDINATION WITH TREATY OBLIGATIONS.—Section 904(g) of the Internal Revenue Code of 1954 shall apply notwithstanding any treaty obligation of the United States to the contrary (whether entered into on, before, or after the date of the enactment of this Act) unless (in the case of a treaty entered into after the date of the enactment of this Act) such treaty by specific reference to such section 904(g) clearly expresses the intent to override the provisions of such section.

(b) AMENDMENTS RELATED TO SECTION 122 OF THE ACT.—

(1) TREATMENT OF SUBPART F AND FOREIGN PERSONAL HOLDING COMPANY INCLUSIONS.—Subparagraph (C) of section 904(d)(3) (relating to exception where designated corporation has small amount of separate limitation interest) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to any amount includible in gross income under section 551 or 951."

(2) TREATMENT OF INTEREST AND DIVIDENDS FROM MEMBERS OF SAME AFFILIATED GROUP.—Paragraph (3) of section 904(d) (relating to certain amounts attributable to United States-owned foreign corporations, etc., treated as interest) is amended by striking out subparagraph (J), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) INTEREST AND DIVIDENDS FROM MEMBERS OF SAME AFFILIATED GROUP.—For purposes of this paragraph, dividends and interest received or accrued by the designated payor corporation from another member of the same affiliated group (determined under section 1504 without regard to subsection (b)(3) thereof) shall be treated as separate limitation interest if (and only if) such amounts are attributable (directly or indirectly) to separate limitation interest of any other member of such group."

(3) TREATMENT OF INTEREST FROM DESIGNATED PAYOR CORPORATION.—Paragraph (2) of section 904(d) is amended by inserting at the end thereof the following: "For purposes of this subsection, interest (after the operation of section 904(d)(3)) received from a designated payor corporation described in section 904(d)(3)(E)(iii) by a taxpayer which owns directly or indirectly less than 10 percent of the voting stock of such designated payor corporation shall be treated as interest described in subparagraph (A) to the extent such interest would have been so treated had such taxpayer received it from other than a designated payor corporation."

(4) DEFINITION OF DESIGNATED PAYOR CORPORATION.—

(A) IN GENERAL.—Subparagraph (E) of section 904(d)(3) (defining designated payor corporation) is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(iv) any other corporation formed or availed of for purposes of avoiding the provisions of this paragraph.

For purposes of this paragraph, the rules of paragraph (9) of subsection (g) shall apply."

(B) EFFECTIVE DATES.—

(i) The amendment made by subparagraph (A) insofar as it adds the last sentence to subparagraph (E) of section 905(d)(3) shall take effect on March 28, 1985. In the case of any taxable year ending after such date of any corporation treated as a designated payor corporation by reason of the amendment made by subparagraph (A)—

(I) only income received or accrued by such corporation after such date shall be taken into account under section 904(d)(3) of the Internal Revenue Code of 1954; except that

(II) subparagraph (C) of such section 904(d)(3) shall be applied by taking into account all income received or accrued by such corporation during such taxable year.

(ii) The amendment made by subparagraph (A) insofar as it adds clause (iv) to subparagraph (E) of section 904(d)(3) shall take effect on December 31, 1985. For purposes of such amendment, the rule of the second sentence of clause (i) shall be applied by taking into account December 31, 1985, in lieu of March 28, 1985.

(c) AMENDMENTS RELATED TO SECTION 123 OF THE ACT.—

(1) Subparagraph (A) of section 956(b)(3) (relating to certain trade or service receivables acquired from related United States persons) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (2) (other than subparagraph (H) thereof)".

(2) Subsection (d) of section 864 (relating to treatment of related person factoring income) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) EXCEPTION FOR CERTAIN RELATED PERSONS DOING BUSINESS IN SAME FOREIGN COUNTRY.—Paragraph (1) shall not apply to any trade or service receivable acquired by any person from a related person if—

"(A) the person acquiring such receivable and such related person are created or organized under the laws of the same foreign country and such related person has a substantial part of its assets used in its trade or business located in such same foreign country, and

"(B) such related person would not have derived any foreign base company income (as defined in section 954(a), determined without regard to section 954(b)(3)(A)), or any income effectively connected with the conduct of a trade or business within the United States, from such receivable if it had been collected by such related person."

(3) Clause (i) of section 864(d)(5)(A) (relating to certain provisions not to apply) is amended by inserting before the period at the end thereof the following: "and subparagraph (J) of section 904(d)(3) (relating to interest from members of same affiliated group)".

(d) AMENDMENTS RELATED TO SECTION 127 OF THE ACT.—

(1) DEFINITION OF PORTFOLIO INTEREST.—

(A) Paragraph (2) of section 871(h) (defining portfolio interest) is amended by striking out "which is described in" in the matter preceding subparagraph (A) and inserting in lieu thereof "which would be subject to tax under subsection (a) but for this subsection and which is described in".

(B) Paragraph (2) of section 881(c) (defining portfolio interest) is amended by striking out "which is described in" in the matter preceding subparagraph (A) and inserting in lieu thereof "which would be subject to tax under subsection (a) but for this subsection and which is described in".

(2) ATTRIBUTION OF SHAREHOLDER STOCK TO CORPORATION.—Subparagraph (C) of section 871(h)(3) (relating to portfolio interest not to include interest received by 10-percent shareholders) is amended by striking out "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) section 318(a)(3)(C) shall be applied—

"(I) without regard to the 50-percent limitation therein; and

"(II) in any case where such section would not apply but for subclause (I), by considering a corporation as owning the stock (other than stock in such corporation) which is owned by or for any shareholder of such corporation in that proportion which the value of the stock which such shareholder owns in such corporation bears to the value of all stock in such corporation, and".

(3) CLERICAL AMENDMENTS.—

(A) Paragraph (1) of section 871(a) is amended by striking out "provided in subsection (i)" in the matter preceding subparagraph (A), and inserting in lieu thereof "provided in subsection (h)".

(B) Clause (ii) of section 871(h)(2)(B) is amended by striking out "has received" and inserting in lieu thereof "receives".

(C) Clause (ii) of section 881(c)(2)(B) is amended by striking out "has received" and inserting in lieu thereof "receives".

(D) Paragraph (9) of section 1441(c) is amended by striking out "871(h)(2)" and inserting in lieu thereof "section 871(h)".

(E) Subsection (a) of section 1442 is amended—

(i) by striking out "sections 871(h)(2)" and inserting in lieu thereof "sections 871(h)",

(ii) by striking out "sections 881(c)(2)" and inserting in lieu thereof "sections 881(c)", and

(iii) by striking out "section 1449(c)(9)" and inserting in lieu thereof "section 1441(c)(9)".

(e) AMENDMENTS RELATED TO SECTION 128 OF THE ACT.—

(1) DEDUCTION FOR ORIGINAL ISSUE DISCOUNT.—

(A) Subparagraph (A) of section 163(e)(3) (relating to special rule for original issue discount on obligation held by related foreign person) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to the extent that the original issue discount is effectively connected with the conduct by such foreign related person of a trade or business within the United States unless such original issue discount is exempt from taxation (or is subject to a reduced rate of tax) pursuant to a treaty obligation of the United States."

(B) Subsection (e) of section 163 is amended by redesignating the paragraph relating to cross references as paragraph (5).

(2) TAXATION OF ORIGINAL ISSUE DISCOUNT.—

(A) Subparagraph (C) of section 871(a)(1) (relating to income not connected with United States business) is amended to read as follows:

"(C) in the case of—

"(i) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the nonresident alien individual (to the extent such discount was not theretofore taken into account under clause (ii)), and

"(ii) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the nonresident alien individual (except that such original issue discount shall be taken into account under this clause only to the extent such discount was not theretofore taken into account under this clause and only to the extent that the tax thereon does not exceed the payment less the tax imposed by subparagraph (A) thereon), and".

(B) Paragraph (3) of section 881 (relating to tax on income of foreign corporations not connected with United States business) is amended to read as follows:

"(3) in the case of—

"(A) a sale or exchange of an original issue discount obligation, the amount of the original issue discount accruing while such obligation was held by the foreign corporation (to the extent such discount was not theretofore taken into account under subparagraph (B)), and

"(B) a payment on an original issue discount obligation, an amount equal to the original issue discount accruing while such obligation was held by the foreign corporation (except that such original issue discount shall be taken into account under this subparagraph only to the extent such discount was not theretofore taken into account under this subparagraph and only to the extent that the tax thereon does not

exceed the payment less the tax imposed by paragraph (1) thereon), and".

(f) AMENDMENTS RELATED TO SECTION 129 OF THE ACT.—

(1) TREATMENT OF ELECTIONS UNDER SECTION 897(i).—

(A) Paragraph (1) of section 897(i) (relating to election by foreign corporation to be treated as domestic corporation) is amended by striking out "and section 6039C" and inserting in lieu thereof ", section 1445, and section 6039C".

(B) Paragraph (4) of section 897(i) is amended by striking out "this section and section 6039C" and inserting in lieu thereof "this section, section 1445, and section 6039C".

(2) EXEMPTION FOR INTERESTS IN CERTAIN CORPORATIONS.—Paragraph (3) of section 1445(b) (relating to nonpublicly traded domestic corporation furnishing affidavit that it is not a United States real property holding corporation) is amended to read as follows:

"(3) NONPUBLICLY TRADED DOMESTIC CORPORATION FURNISHES AFFIDAVIT THAT INTERESTS IN CORPORATION NOT UNITED STATES REAL PROPERTY INTERESTS.—Except as provided in paragraph (7), this paragraph applies in the case of a disposition of any interest in any domestic corporation if the domestic corporation furnishes to the transferee an affidavit by the domestic corporation stating, under penalty of perjury, that—

"(A) the domestic corporation is not and has not been a United States real property holding corporation (as defined in section 897(c)(2)) during the applicable period specified in section 897(c)(1)(A)(ii), or

"(B) as of the date of the disposition, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B)."

(3) NOTICE OF FALSE AFFIDAVIT.—

(A) Clause (i) of section 1445(d)(1)(B) (relating to notice of false affidavit; foreign corporations) is amended to read as follows:

"(i) any transferor's agent—

"(I) such agent has actual knowledge that such affidavit is false, or

"(II) in the case of an affidavit described in subsection (b)(2) furnished by a corporation, such corporation is a foreign corporation, or".

(B) Paragraph (1) of section 1445(d) is amended by striking out "described in paragraph (2)(A)" and inserting in lieu thereof "described in paragraph (2)".

(4) TREATMENT OF CERTAIN DOMESTIC PARTNERSHIPS, TRUSTS, AND ESTATES.—

(A) IN GENERAL.—Paragraph (1) of section 1445(e) (relating to certain domestic partnerships, trusts, and estates) is amended to read as follows:

"(1) CERTAIN DOMESTIC PARTNERSHIPS, TRUSTS, AND ESTATES.—In the case of any disposition of a United States real property interest as defined in section 897(c) (other than a disposition described in paragraph (4) or (5)) by a domestic partnership, domestic trust, or domestic estate, such partnership, the trustee of such trust, or the executor of such estate (as the case may be) shall be required to deduct and withhold under subsection (a) a tax equal to 28 percent of the gain realized to the extent such gain—

"(A) is allocable to a foreign person who is a partner or beneficiary of such partnership, trust, or estate, or

"(B) is allocable to a portion of the trust treated as owned by a foreign person under subpart E of part I of subchapter J."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to dispositions after the day 30 days after the date of the enactment of this Act.

(5) DISTRIBUTIONS BY DOMESTIC CORPORATIONS TO FOREIGN SHAREHOLDER.—Paragraph (3) of section 1445(e) (relating to distributions by certain domestic corporations to foreign shareholders) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply if, as of the date of the distribution, interests in such corporation are not United States real property interests by reason of section 897(c)(1)(B)."

(6) CERTAIN TAXABLE DISTRIBUTIONS.—Paragraph (4) of section 1445(e) (relating to taxable distributions by domestic or foreign partnerships, trusts, or estates) is amended by striking out "section 897(g)" and inserting in lieu thereof "section 897".

(7) PAYMENT OF TAX.—Subsection (d) of section 6039C (relating to special rule for United States interests and Virgin Islands interests) is amended by striking out "subject to tax under section 897(a)" and inserting in lieu thereof "subject to tax under section 897(a) (and any person required to withhold tax under section 1445)".

(8) PAYMENTS THROUGH 1 OR MORE ENTITIES.—Paragraph (6) of section 1445(e) (relating to regulations) is amended by inserting before the period at the end thereof the following: "and regulations for the application of this subsection in the case of payments through 1 or more entities".

(9) CONFORMING AMENDMENTS TO SECTION 6652(g).—

(A) Paragraph (1) of section 6652(g) (relating to returns, etc., required under section 6039C) is amended to read as follows:

"(1) IN GENERAL.—In the case of each failure to make a return required by section 6039C which contains the information required by such section on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, the amount determined under paragraph (2) shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to make such return."

(B) Paragraph (3) of section 6652(g) is amended to read as follows:

"(3) LIMITATION.—The amount determined under paragraph (2) with respect to any person for failing to meet the requirements of section 6039C for any calendar year shall not exceed the lesser of—

"(A) $25,000, or

"(B) 5 percent of the aggregate of the fair market value of the United States real property interests owned by such person at any time during such year.

For purposes of the preceding sentence, fair market value shall be determined as of the end of the calendar year (or, in the case of any property disposed of during the calendar year, as of the date of such disposition)."

(C) The subsection heading for subsection (g) of section 6652 is amended by striking out ", ETC.,".

(g) AMENDMENTS RELATED TO SECTION 131 OF THE ACT.—

(1) Subsection (f) of section 367 (relating to transitional rule) is hereby repealed.

(2) Paragraph (1) of section 7482(b) (relating to venue) is amended by striking out "section 7428, 7476, or 7477" and inserting in lieu thereof "section 7428 or 7476".

(3) Paragraph (8) of section 6501(c) (relating to failure to notify the Secretary under section 6038B) is amended—

(A) by striking out "subsection (a) or (d)" and inserting in lieu thereof "subsection (a), (d), or (e)", and

(B) by striking out "exchange" each place it appears and inserting in lieu thereof "exchange or distribution".

(4)(A) Subsection (a)(1) of section 367 (relating to foreign corporations) is amended by striking out "355,".

(B) Subsection (e) of section 367 (relating to treatment of liquidations under section 336) is amended—

(i) by striking out "described in section 336" and inserting in lieu thereof "described in section 336 or 355 (or so much of section 356 as relates to section 355)", and

(ii) by striking out "LIQUIDATIONS UNDER SECTION 366" in the subsection heading and inserting in lieu thereof "DISTRIBUTIONS DESCRIBED IN SECTION 336 OR 355".

(h) AMENDMENTS RELATED TO SECTION 132 OF THE ACT.—

(1) Subsection (c) of section 552 (relating to certain dividends and interest not taken into account) is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

(2) Paragraph (1) of section 551(f) (relating to stock held through foreign entity) is amended by striking out "United States shareholder" and inserting in lieu thereof "United States shareholder or an estate or trust which is a foreign estate or trust".

(i) AMENDMENTS RELATED TO SECTION 133 OF THE ACT.—

(1) Subparagraph (B) of section 1248(i)(1) (relating to treatment of certain indirect transfers) is amended by striking out "in redemption of his stock" and inserting in lieu thereof "in redemption or liquidation (whichever is appropriate)".

(2) Clause (iii) of section 133(d)(3)(B) of the Tax Reform Act of 1984 (relating to amendments related to section 1248) is amended by striking out "180 days after the date of the enactment of this Act" and inserting in lieu thereof "the date which is 1 year after the date of the enactment of the Tax Reform Act of 1985".

(j) AMENDMENTS RELATED TO SECTION 136 OF THE ACT.—

(1) COLLECTION OF TAX.—Subsection (b) of section 269B (relating to stapled entities) is amended by inserting before the period at the end thereof the following: "and regulations providing that any tax imposed on the foreign corporation referred to in subsection (a)(1) may, if not paid by such corporation, be collected from the domestic corporation referred to in such subsection or the shareholders of such foreign corporation".

(2) EXCEPTION WHERE CORPORATIONS OWNED BY FOREIGN PERSONS.—Section 269B is amended by adding at the end thereof the following new subsection:

"(e) SUBSECTION (a)(1) NOT TO APPLY IN CERTAIN CASES.—

"(1) IN GENERAL.—Subsection (a)(1) shall not apply if it is established to the satisfaction of the Secretary that the domestic corporation and the foreign corporation referred to in such subsection are foreign owned.

"(2) FOREIGN OWNED.—For purposes of paragraph (1), a corporation is foreign owned if less than 50 percent of—

"(A) the total combined voting power of all classes of stock of such corporation entitled to vote, and

"(B) the total value of the stock of the corporation,

is held directly (or indirectly through applying paragraphs (2) and (3) of section 958(a) and paragraph (4) of section 318(a)) by United States persons (as defined in section 7701(a)(30))."

(k) AMENDMENT RELATED TO SECTION 137 OF THE ACT.—Subsection (e) of section 954 (defining foreign base company services income) is amended to read as follows:

"(e) FOREIGN BASE COMPANY SERVICES INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(3), the term 'foreign base company services income' means income (whether in the form of compensation, commissions, fees, or otherwise) derived in connection with the performance of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which—

"(A) are performed for or on behalf of any related person (within the meaning of subsection (d)(3)), and

"(B) are performed outside the country under the laws of which the controlled foreign corporation is created or organized.

"(2) EXCEPTION.—Paragraph (1) shall not apply to income derived in connection with the performance of services which are directly related to—

"(A) the sale or exchange by the controlled foreign corporation of property manufactured, produced, grown, or extracted by it and which are performed before the time of the sale or exchange, or

"(B) an offer or effort to sell or exchange such property.

"(3) TREATMENT OF CERTAIN INSURANCE CONTRACTS.—For purposes of paragraph (1), in the case of any services performed with respect to any policy of insurance or reinsurance with respect to which the primary insured is a related person (within the meaning of section 864(d)(4))—

"(A) such primary insured shall be treated as a related person for purposes of paragraph (1)(A) (whether or not the requirements of subsection (d)(3) are met),

"(B) such services shall be treated as performed in the country within which the insured hazards, risks, losses, or liabilities occur, and

"(C) except as otherwise provided in regulations by the Secretary, rules similar to the rules of section 953(b) shall be applied in determining the income from such services."

(l) AMENDMENTS RELATED TO SECTION 138 OF THE ACT.—

(1) Clause (i) of section 7701(b)(4)(E) (relating to limitation of teachers and trainees) is amended by adding at the end thereof the following new sentence: "In the case of an individual all of whose compensation is described in section 872(b)(3), the preceding sentence shall be applied by substituting '4 calendar years' for '2 calendar years'."

(2) Subparagraph (A) of section 7701(b)(1) is amended—

(A) by striking out "the requirements of clause (i) or (ii)" and inserting in lieu thereof "the requirements of clause (i), (ii), or (iii)", and

(B) by adding at the end thereof the following new clause:

"(iii) FIRST YEAR ELECTION.—Such individual makes the election provided in paragraph (4)."

(3) Subparagraph (A) of section 7701(b)(2) is amended by adding at the end thereof the following new clause:

"(iv) RESIDENCY STARTING DATE FOR INDIVIDUALS MAKING FIRST YEAR ELECTION.—In the case of an individual who makes the election provided by paragraph (4) with respect to any calendar year, the residency starting date shall be the 1st day during such calendar year on which the individual is treated as a resident of the United States under that paragraph."

(4) Subsection (b) of section 7701 is amended by redesignating paragraphs (4), (5), (6), (7), (8), (9), and (10) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) FIRST-YEAR ELECTION.—

"(A) An alien individual shall be deemed to meet the requirements of this subparagraph if such individual—

"(i) is not a resident of the United States under clause (i) or (ii) of paragraph (1)(A) with respect to a calendar year (hereinafter referred to as the 'election year'),

"(ii) was not a resident of the United States under paragraph (1)(A) with respect to the calendar year immediately preceding the election year,

"(iii) is a resident of the United States under clause (ii) of paragraph (1)(A) with respect to the calendar year immediately following the election year, and

"(iv) is both—

"(I) present in the United States for a period of at least 31 consecutive days in the election year, and

"(II) present in the United States during the period beginning with the first day of such 31-day period and ending with the last day of the election year (hereinafter referred to as the 'testing period') for a number of days equal to or exceeding 75 percent of the number of days in the testing period (provided that an individual shall be treated for purposes of this subclause as present in the United States for a number of days during the testing period not exceeding 5 days in the aggregate, notwithstanding his absence from the United States on such days).

"(B) An alien individual who meets the requirements of subparagraph (A) shall, if he so elects, be treated as a resident of the United States with respect to the election year.

"(C) An alien individual who makes the election provided by subparagraph (B) shall be treated as a resident of the United States for the portion of the election year which begins on the 1st day of the earliest testing period during such year with respect to which the individual meets the requirements of clause (iv) of subparagraph (A).

"(D) The rules of subparagraph (D)(i) of paragraph (3) shall apply for purposes of determining an individual's presence in the United States under this paragraph.

"(E) An election under subparagraph (B) shall be made on the individual's tax return for the election year, provided that such election may not be made before the individual has met the substantial presence test of paragraph (3) with respect to the calendar year immediately following the election year.

"(F) An election once made under subparagraph (B) remains in effect for the election year, unless revoked with the consent of the Secretary."

SEC. 1811. AMENDMENTS RELATED TO REPORTING, PENALTY, AND OTHER PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 145 OF THE ACT.—

(1) Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end thereof the following new subsection:

"(g) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATIONS.—For purposes of subsection (a), an amount received by a cooperative housing corporation from a tenant-stockholder shall be deemed to be interest received on a mortgage in the course of a trade or business engaged in by such corporation, to the extent of the tenant-stockholder's proportionate share of interest described in section 216(a)(2). Terms used in the preceding sentence shall have the same meanings as when used in section 216."

(2) Paragraph (2) of section 145(d) of the Tax Reform Act of 1984 is amended by striking out "section 6652" and inserting in lieu thereof "section 6676".

(b) AMENDMENTS RELATED TO SECTION 149 OF THE ACT.—

(1) RETURN OF PARTNERSHIP INCOME.—

(A) IN GENERAL.—Section 6031 (relating to return of partnership income) is amended—

(i) by inserting "or who holds an interest in such partnership as a nominee for another person" in subsection (b) after "who is a partner", and

(ii) by adding at the end thereof, the following new subsection:

"(c) NOMINEE REPORTING.—Any person who holds an interest in a partnership as a nominee for another person—

"(1) shall furnish to the partnership, in the manner prescribed by the Secretary, the name and address of such other person, and any other information for such taxable year as the Secretary may by form and regulation prescribe, and

"(2) shall furnish in the manner prescribed by the Secretary such other person the information provided by such partnership under subsection (b)."

(B) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after the date of the enactment of this Act.

(2) RETURNS RELATING TO CERTAIN PARTNERSHIP INTERESTS.—Paragraph (2) of section 6050K(c) (relating to requirement that transferor notify partnership) is amended by striking out "this subsection" and inserting in lieu thereof "this section".

(c) AMENDMENTS RELATED TO SECTION 150 OF THE ACT.—

(1) Paragraph (3) of section 6678(a) (relating to failure to furnish certain statements) is amended by striking out "or" at the end of subparagraph (E), by adding "or" at the end of subparagraph (F), and by inserting after subparagraph (F) the following new subparagraph:

"(G) section 6045(d) (relating to statements required in the case of certain substitute payments),".

(2) Clause (ii) of section 6652(a)(3)(A) (relating to penalty in the case of intentional disregard) is amended by inserting "(other than by subsection (d) of such section)" after "section 6045".

(d) AMENDMENT RELATED TO SECTION 155 OF THE ACT.—Section 6660 (relating to addition of tax in the case of valuation understatement for purposes of estate or gift taxes) is amended by adding at the end thereof the following new subsection:

"(f) UNDERPAYMENT DEFINED.—For purposes of this section, the term 'underpayment' has the meaning given to such term by section 6653(c)(1)."

(e) AMENDMENT RELATED TO SECTION 157 OF THE ACT.—Paragraph (3) of section 7502(e) is amended by striking out "the tax" and inserting in lieu thereof "any tax".

SEC. 1812. AMENDMENTS RELATED TO MISCELLANEOUS PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 171 OF THE ACT.—

(1) Subsection (a) of section 111 (relating to recovery of tax benefit items) is amended by striking out "did not reduce income subject to tax" and inserting in lieu thereof "did not reduce the amount of tax imposed by this chapter".

(2) Subsection (c) of section 111 (relating to treatment of carryovers) is amended by striking out "reducing income subject to tax or reducing tax imposed by this chapter, as the case may be" and inserting in lieu thereof "reducing tax imposed by this chapter".

(3) Paragraph (12) of section 381(c) (relating to recovery of bad debts, prior taxes, or delinquency amounts) is amended to read as follows:

"(12) RECOVERY OF TAX BENEFIT ITEMS.—If the acquiring corporation is entitled to the recovery of any amounts previously deducted by (or allowable as credits to) the distributor or transferor corporation, the acquiring corporation shall succeed to the treatment under section 111 which would apply to such amounts in the hands of the distributor or transferor corporation."

(4) Paragraph (2) of section 1351(d) is amended by striking out "relating to recovery of bad debts, etc." and inserting in lieu thereof "relating to recovery of tax benefit items".

(5) Paragraph (3) of section 1398(g) is amended to read as follows:

"(3) RECOVERY OF TAX BENEFIT ITEMS.—Any amount to which section 111 (relating to recovery of tax benefit items) applies."

(b) AMENDMENTS RELATED TO SECTION 172 OF THE ACT.—

(1) COORDINATION OF SECTION 7872 WITH TAXES ON PRIVATE FOUNDATIONS.—Subparagraph (B) of section 4941(d)(2) (defining self-dealing) is amended by striking out "without interest or other charge" and inserting in lieu thereof "without interest or other charge (determined without regard to section 7872)".

(2) COORDINATION WITH WITHHOLDING.—Paragraph (9) of section 7872(f) (relating to no withholding) is amended to read as follows:

"(9) NO WITHHOLDING.—No amount shall be withheld under chapter 24 with respect to—

"(A) any amount treated as transferred or retransferred under subsection (a), and

"(B) any amount treated as received under subsection (b)."

(3) DEFINITION OF DEMAND LOAN.—Paragraph (5) of section 7872(f) (defining demand loan) is amended to read as follows:

"(5) DEMAND LOAN.—The term 'demand loan' means any loan which is payable in full at any time on the demand of the lender. Such term also includes (for purposes other than determining the applicable Federal rate under paragraph (2)) any loan if the benefits of the interest arrangements of such loan are not transferable and are conditioned on the future performance of substantial services by an individual. To the extent provided in regulations, such term also includes any loan with an indefinite maturity."

(4) CLARIFICATION OF APPLICABLE FEDERAL RATE.—Subparagraph (B) of section 7872(f)(2) (defining applicable Federal rate) is amended by inserting ", compounded semiannually" immediately before the period at the end thereof.

(5) ISRAEL BONDS NOT SUBJECT TO RULES RELATING TO BELOW-MARKET LOANS.—

(A) IN GENERAL.—Section 7872 of the Internal Revenue Code of 1954 (relating to treatment of loans with below-market interest rates) shall not apply to any obligation issued by Israel.

(B) EFFECTIVE DATE.—Subparagraph (A) shall apply to all obligations issued (or treated by paragraph (5) of section 172(c) of the Tax Reform Act of 1984 as issued) after June 6, 1984.

(c) AMENDMENTS RELATED TO SECTION 174 OF THE ACT.—

(1) TREATMENT OF FOREIGN PERSONS.—Subsection (a) of section 267 is amended by adding at the end thereof the following new paragraph:

"(3) PAYMENTS TO FOREIGN PERSONS.—The Secretary shall by regulations apply the matching principle of paragraph (2) in cases in which the person to whom the payment is to be made is not a United States person."

(2) TREATMENT OF CERTAIN SALES OF INVENTORY EXPANDED.—Subparagraph (B) of section 267(f)(3) (relating to loss deferral rules not to apply in certain cases) is amended by inserting "(or persons described in subsection (b)(10))" after "same controlled group".

(3) TREATMENT OF CERTAIN RELATED PARTNERSHIPS.—

(A) Effective with respect to sales or exchanges after March 1, 1986, paragraphs (1)(A) and (2)(A) of section 707(b) (relating to certain sales or exchanges of property with respect to controlled partnerships) are each amended by striking out "a partner" and inserting in lieu thereof "a person".

(B) Paragraph (1) of section 707(b) is amended by adding at the end thereof the following new sentence: "For purposes of section 267(a)(2), partnerships described in subparagraph (B) of this paragraph shall be treated as persons specified in section 267(b)."

(C) Subsection (e) of section 267 is amended by adding at the end thereof the following new paragraph:

"(6) CROSS REFERENCE.—

"For additional rules relating to partnerships, see section 707(b)."

(4) CLERICAL AMENDMENTS.—

(A) Paragraph (12) of section 267(b) (defining related persons) is amended by striking out "same persons owns" and inserting in lieu thereof "same persons own".

(B) Subparagraph (B) of section 178(b)(2) (defining related persons) is amended by inserting before the period "and subsection (f)(1)(A) of such section shall not apply".

(C) Clause (ii) of section 936(h)(3)(D) (defining related person) is amended to read as follows:

"(ii) SPECIAL RULE.—For purposes of clause (i), section 267(b) and section 707(b)(1) shall be applied by substituting '10 percent' for '50 percent'."

(d) AMENDMENTS RELATED TO SECTION 177 OF THE ACT.—

(1) CLARIFICATION OF TREATMENT OF DIVIDENDS PAID BY FEDERAL HOME LOAN BANKS.—

(A) Subparagraph (B) of section 246(a)(2) (relating to certain dividends of Federal home loan banks) is amended—

(i) by striking out "For purposes of subparagraph (A), in" and inserting in lieu thereof "In", and

(ii) by striking out subclause (II) of clause (i) and inserting in lieu thereof the following:

"(II) which were not previously treated as distributed under subparagraph (A) or this subparagraph, bears to".

(B) Paragraph (2) of section 246(a) (relating to subsection not to apply to certain dividends of Federal Home Loan Banks) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) COORDINATION WITH SECTION 243.—To the extent that paragraph (1) does not apply to any dividend by reason of subparagraph (A) or (B) of this paragraph, the requirement contained in section 243(a) that the corporation paying the dividend be subject to taxation under this chapter shall not apply."

(2) CLARIFICATION OF EFFECTIVE DATE.—Paragraph (4) of section 177(d) of the Tax Reform Act of 1984 (relating to effective dates) is amended to read as follows:

"(4) CLARIFICATION OF EARNINGS AND PROFITS OF FEDERAL HOME LOAN MORTGAGE CORPORATION.—

"(A) TREATMENT OF DISTRIBUTION OF PREFERRED STOCK, ETC.—For purposes of the Internal Revenue Code of 1954, the distribution of preferred stock by the Federal Home Loan Mortgage Corporation during December of 1984, and the other distributions of such stock by Federal Home Loan Banks during January of 1985, shall be treated as if they were distributions of money equal to the fair market value of the stock on the date of the distribution by the Federal Home Loan Banks (and such stock shall be treated as if it were purchased with the money treated as so distributed). No deduction shall be allowed under section 243 of the Internal Revenue Code of 1954 with respect to any dividend paid by the Federal Home Loan Mortgage Corporation out of earnings and profits accumulated before January 1, 1985.

"(B) SECTION 246(a) NOT TO APPLY TO DISTRIBUTIONS OUT OF EARNINGS AND PROFITS ACCUMULATED DURING 1985.—Subsection (a) of section 246 of the Internal Revenue Code of 1954 shall not apply to any dividend paid by the Federal Home Loan Mortgage Corporation during 1985 out of earnings and profits accumulated after December 31, 1984."

(e) AMENDMENTS RELATED TO SECTION 179 OF THE ACT.—

(1) CLARIFICATION OF DEFINITION OF PASSENGER AUTOMOBILE.—

(A) IN GENERAL.—(i) Clause (ii) of section 280F(d)(5)(A) (defining passenger automobile) is amended by striking out "gross vehicle weight" and inserting in lieu thereof "unloaded gross vehicle weight".

(ii) Clause (ii) of section 4064(b)(1)(A) (defining passenger automobile) is amended by striking out "gross vehicle weight" and inserting in lieu thereof "unloaded gross vehicle weight".

(iii) Section 4064(b)(5) is amended to provide that the definition of "manufacture" shall not include any "small manufacturer" as defined in section 4064(d)(4) who becomes a manufacturer solely by reason of lengthening an existing automobile.

(B) The amendments made by clauses (ii) and (iii) of Subparagraph (A) shall apply only to automobiles manufactured after October 31, 1985.

(C) TRUCKS AND VANS.—Subparagraph (A) of section 280F(d)(5) is amended by inserting at the end thereof the following: "For purposes of any truck or van included in the definition of 'passenger automobile' under this subparagraph, the term 'gross vehicle weight' shall be substituted for 'unloaded gross vehicle weight'."

(2) DEDUCTIONS OF EMPLOYEE FOR USE OF LISTED PROPERTY.—Subparagraph (A) of section 280F(d)(3) (relating to deductions of employee) is amended by striking out "recovery deduction allowable to the employee" and inserting in lieu thereof "recovery deduction allowable to the employee (or the amount of any deduction allowable to the

employee for rentals or other payments under a lease of listed property)".

(3) TREATMENT OF CERTAIN COMPUTERS.—Subparagraph (B) of section 280F(d)(4) (relating to exception for certain computers) is amended by striking out "at a regular business establishment" and inserting in lieu thereof "at a regular business establishment and owned or leased by the person operating such establishment".

(4) EXCEPTION FOR PROPERTY USED IN BUSINESS OF TRANSPORTING PERSONS OR PROPERTY.—Paragraph (4) of section 280F(d) (defining listed property) is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION FOR PROPERTY USED IN BUSINESS OF TRANSPORTING PERSONS OR PROPERTY.—Except to the extent provided in regulations, clause (ii) of subparagraph (A) shall not apply to any property substantially all of the use of which is in a trade or business of providing to unrelated persons services consisting of the transportation of persons or property for compensation or hire."

(5) CLERICAL AMENDMENT.—Paragraph (2) of section 280F(d) (relating to subsequent depreciation deductions reduced for deductions allocable to personal use) is amended by striking out "is not use described in" and inserting in lieu thereof "is use described in".

CHAPTER 2—AMENDMENTS RELATED TO TITLE II OF THE ACT

SEC. 1821. AMENDMENTS RELATED TO SECTION 211 OF THE ACT.

(a) CERTAIN AMOUNTS NOT LESS THAN SURRENDER VALUE OF CONTRACT.—Subsection (c) of section 807 (relating to rules for certain reserves) is amended by adding at the end thereof the following new sentence: "In no case shall the amount determined under paragraph (3) for any contract be less than the net surrender value of such contract."

(b) CLARIFICATION OF DEFINITION OF EXCESS INTEREST.—Subparagraph (B) of section 808(d)(1) (defining excess interest) is amended to read as follows:

"(B) in excess of interest determined at the prevailing State assumed rate for such contract."

(c) COORDINATION OF 1984 FRESH-START ADJUSTMENT WITH CERTAIN ACCELERATIONS OF POLICYHOLDER DIVIDENDS DEDUCTIONS.—Section 808 (relating to policyholder dividends deduction) is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION OF 1984 FRESH-START ADJUSTMENT WITH ACCELERATION OF POLICYHOLDER DIVIDENDS DEDUCTION THROUGH CHANGE IN BUSINESS PRACTICE.—

"(1) IN GENERAL.—The amount determined under paragraph (1) of subsection (c) for the year of change shall (before any reduction under paragraph (2) of subsection (c)) be reduced by so much of the accelerated policyholder dividends deduction for such year as does not exceed the 1984 fresh-start adjustment for policyholder dividends (to the extent such adjustment was not previously taken into account under this subsection).

"(2) YEAR OF CHANGE.—For purposes of this subsection, the term 'year of change' means the taxable year in which the change in business practices which results in the accelerated policyholder dividends deduction takes effect.

"(3) ACCELERATED POLICYHOLDER DIVIDENDS DEDUCTION DEFINED.—For purposes of this subsection, the term 'accelerated policyholder dividends deduction' means the amount which (but for this subsection) would be determined for the taxable year under paragraph (1) of subsection (c) but which would have been determined (under such paragraph) for a later taxable year under the business practices of the taxpayer as in effect at the close of the preceding taxable year.

"(4) 1984 FRESH-START ADJUSTMENT FOR POLICYHOLDER DIVIDENDS.—For purposes of this subsection, the term '1984 fresh-start adjustment for policyholder dividends' means the amounts held as of December 31, 1983, by the taxpayer as reserves for dividends to policyholders under section 811(b) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) other than for dividends which accrued before January 1, 1984. Such amounts shall be properly reduced to reflect the amount of previously nondeductible policyholder dividends (as determined under section 809(f) as in effect on the day before the date of the enactment of the Tax Reform Act of 1984).

"(5) SEPARATE APPLICATION WITH RESPECT TO LINES OF BUSINESS.—This subsection shall be applied separately with respect to each line of business of the taxpayer.

"(6) SUBSECTION NOT TO APPLY TO MERE CHANGE IN DIVIDEND AMOUNT.—This subsection shall not apply to a mere change in the amount of policyholder dividends.

"(7) SUBSECTION NOT TO APPLY TO POLICIES ISSUED AFTER DECEMBER 31, 1983.—

"(A) IN GENERAL.—This subsection shall not apply to any policyholder dividend paid or accrued with respect to a policy issued after December 31, 1983.

"(B) EXCHANGES OF SUBSTANTIALLY SIMILAR POLICIES.—For purposes of subparagraph (A), any policy issued after December 31, 1983, in exchange for a substantially similar policy issued on or before such date shall be treated as issued before January 1, 1984. A similar rule shall apply in the case of a series of exchanges.

"(8) SUBSECTION TO APPLY TO POLICIES PROVIDED UNDER EMPLOYEE BENEFIT PLANS.—This subsection shall not apply to any policyholder dividend paid or accrued with respect to a group policy issued in connection with a plan to provide welfare benefits to employees (within the meaning of section 419(e)(2))."

(d) CLARIFICATION OF EQUITY BASE.—Paragraph (2) of section 809(b) (defining equity base) is amended by adding at the end thereof the following new sentence: "No item shall be taken into account more than once in determining equity base."

(e) DEFINITION OF 50 LARGEST STOCK COMPANIES.—Subparagraph (C) of section 809(d)(4) (defining 50 largest stock companies) is amended by striking out the last sentence and inserting in lieu thereof the following:
"the Secretary—

"(i) shall, for purposes of determining the base period stock earnings rate, exclude from the group determined under the preceding sentence any company which had a negative equity base at any time during 1981, 1982, or 1983,

"(ii) shall exclude from such group for any calendar year any company which has a negative equity base, and

"(iii) may by regulations exclude any other company which otherwise would have been included in such group if the inclusion of the excluded company or companies would, by reason of the small equity base of such company, seriously distort the stock earnings rate.

The aggregate number of companies excluded by the Secretary under clause (iii) shall not exceed the excess of 2 over the number of companies excluded under clause (ii)."

(f) CLARIFICATION OF STATEMENT GAIN OR LOSS FROM OPERATIONS.—Paragraph (1) of section 809(g) (defining statement gain or loss from operations) is amended by striking out so much of such paragraph as precedes subparagraph (B) and inserting in lieu thereof the following:

"(1) STATEMENT GAIN OR LOSS FROM OPERATIONS.—The term 'statement gain or loss from operations' means the net gain or loss from operations required to be set forth in the annual statement, determined without regard to Federal income taxes, and—

"(A) determined by substituting for the amount shown for policyholder dividends the amount of deduction for policyholder dividends determined under section 808 (without regard to section 808(c)(2)),".

(g) DIFFERENTIAL EARNINGS RATE WHICH MAY BE USED FOR PURPOSES OF ESTIMATED TAX PAYMENTS.—Subsection (c) of section 809 (defining differential earnings rate) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH ESTIMATED TAX PAYMENTS.—For purposes of applying section 6655 with respect to any installment of estimated tax, the amount of tax shall be determined by using the lesser of—

"(A) the differential earnings rate of the second tax year preceding the taxable year for which the installment is made, or

"(B) the differential earnings rate for the taxable year for which the installment is made."

(h) RECOMPUTATION OF DIFFERENTIAL EARNINGS AMOUNT NOT TAKEN INTO ACCOUNT FOR PURPOSES OF ESTIMATED TAX.—Subsection (f) of section 809 (relating to recomputation in subsequent year) is amended by adding at the end thereof the following new paragraph:

"(5) SUBSECTION NOT TO APPLY FOR PURPOSES OF ESTIMATED TAX.—Section 6655 shall be applied to any taxable year without regard to any adjustments under this subsection for such year."

(i) AMENDMENTS RELATED TO PRORATION FORMULAS.—

(1) Paragraph (2) of section 812(b) is amended—

(A) by striking out "the prevailing State assumed rate" in subparagraph (A) and inserting in lieu thereof "the prevailing State assumed rate or, where such rate is not used, another appropriate rate",

(B) by striking out "and" at the end of subparagraph (B),

(C) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and

(D) by adding at the end thereof the following new subparagraph:

"(D) interest on amounts left on deposit with the company."

(2) Subparagraph (B) of section 812(b)(3) (relating to gross investment income's proportionate share of policyholder dividends) is amended—

(A) by striking out "(including tax-exempt interest)" in clause (ii), and

(B) by adding at the end thereof the following new sentence:
"For purposes of subparagraph (B)(ii), life insurance gross income shall be determined by including tax-exempt interest and by applying section 807(a)(2)(B) as if it did not contain clause (i) thereof."

(3) Subsection (c) of section 812 (defining net investment income) is amended to read as follows:

"(c) NET INVESTMENT INCOME.—For purposes of this section, the term 'net investment income' means—

"(1) except as provided in paragraph (2), 90 percent of gross investment income; or

"(2) in the case of gross investment income attributable to assets held in segregated asset accounts under variable contracts, 95 percent of gross investment income."

(4) Section 812 is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF INTEREST PARTIALLY TAX-EXEMPT UNDER SECTION 133.—For purposes of this section and subsections (a) and (b) of section 807, the terms 'gross investment income' and 'tax-exempt interest' shall not include any interest received with respect to a securities acquisition loan (as defined in section 133(b)). Such interest shall not be included in life insurance gross income for purposes of subsection (b)(3)."

(j) TREATMENT OF FOREIGN LIFE INSURANCE COMPANIES.—Paragraph (1) of section 813(a) (relating to adjustment where surplus held in United States is less than specified minimum) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied before computing the amount of the special life insurance company deduction and the small life insurance company deduction, and any increase under the preceding sentence shall be treated as gross investment income."

(k) TREATMENT OF CERTAIN DISTRIBUTIONS TO SHAREHOLDERS FROM PRE-1984 POLICYHOLDERS SURPLUS ACCOUNT.—

(1) Subsection (f) of section 815 (relating to other rules applicable to policyholders surplus account continued) is amended by striking out "sections 6501(c)(6)" and inserting in lieu thereof "sections 819(b), 6501(c)(6)".

(2) Subsection (a) of section 815 is amended by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, the term 'indirect distribution' shall not include any bona fide loan with arms-length terms and conditions."

(3) In the case of any loan made before March 1, 1986 (other than a loan which is renegotiated, extended, renewed, or revised after February 28, 1986), which does not meet the requirements of the last sentence of section 815(a) of the Internal Revenue Code of 1954 (as added by paragraph (2)), the amount of the indirect distribution for purposes of such section 815(a) shall be the foregone interest on the loan (determined by using the lowest rate which would have met the arms-length requirements of such sentence for such a loan).

(l) TREATMENT OF DEFICIENCY RESERVES.—Section 816 (defining life insurance company) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF DEFICIENCY RESERVES.—For purposes of this section and section 813(a)(4)(B), the terms 'life insurance reserves' and 'total reserves' shall not include deficiency reserves."

(m) TREATMENT OF CERTAIN NONDIVERSIFIED CONTRACTS.—

(1) Subsection (h) of section 817 (relating to treatment of certain nondiversified contracts) is amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) SPECIAL RULE FOR INVESTMENTS IN UNITED STATES OBLIGATIONS.—To the extent that any segregated asset account with respect to a variable life insurance contract is invested in securities issued by the United States Treasury, the investments made by such account shall be treated as adequately diversified for purposes of paragraph (1).

"(4) LOOK-THROUGH IN CERTAIN CASES.—For purposes of this subsection, if all of the beneficial interests in a regulated investment company or in a trust are held by 1 or more—

"(A) insurance companies (or affiliated companies) in their general account or in segregated asset accounts, or

"(B) fund managers (or affiliated companies) in connection with the creation or management of the regulated investment company or trust,

the diversification requirements of paragraph (1) shall be applied by taking into account the assets held by such regulated investment company or trust.

"(5) INDEPENDENT INVESTMENT ADVISORS PERMITTED.—Nothing in this subsection shall be construed as prohibiting the use of independent investment advisors."

(2) Paragraph (1) of section 817(h) is amended by striking out the last sentence.

(n) TREATMENT OF CERTAIN DEFERRED COMPENSATION PLANS.—Subparagraph (A) of section 818(a)(6) (defining pension plan contract) is amended to read as follows:

"(A) a governmental plan (within the meaning of section 414(d)) or an eligible State deferred compensation plan (within the meaning of section 457(b)), or".

(o) DIVIDENDS WITHIN AFFILIATED GROUP.—Subsection (e) of section 818 (relating to special rule for consolidated returns) is amended to read as follows:

"(e) SPECIAL RULES FOR CONSOLIDATED RETURNS.—

"(1) ITEMS OF COMPANIES OTHER THAN LIFE INSURANCE COMPANIES.—If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.

"(2) DIVIDENDS WITHIN GROUP.—In the case of a life insurance company filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such group was not filing a consolidated return."

(p) TREATMENT OF DIVIDENDS FROM SUBSIDIARIES, ETC.—Paragraph (4) of section 805(a) (relating to dividends received by company) is amended by redesignating subparagraph (D) as subparagraph (E) and by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) 100 PERCENT DIVIDEND.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—Except as provided in clause (ii), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(ii) TREATMENT OF DIVIDENDS FROM NONLIFE INSURANCE COMPANIES.—The term '100 percent dividend' does not include any distribution by a corporation which is not a life insurance company to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this clause as if it applies to distributions by all corporations including life insurance companies).

"(D) SPECIAL RULES FOR CERTAIN DIVIDENDS FROM LIFE INSURANCE COMPANIES.—

"(i) IN GENERAL.—In the case of any 100 percent dividend paid to any life insurance company out of the earnings and profits for any taxable year beginning after December 31, 1983, of another life insurance company if—

"(I) the paying company's share determined under section 812 for such taxable year, exceeds

"(II) the receiving company's share determined under section 812 for its taxable year in which the dividend is received or accrued,

the deduction allowed under section 243, 244, or 245(b) (as the case may be) shall be reduced as provided in clause (ii).

"(ii) AMOUNT OF REDUCTION.—The reduction under this clause for a dividend is an amount equal to—

"(I) the portion of such dividend attributable to prorated amounts, multiplied by

"(II) the percentage obtained by subtracting the share described in subclause (II) of clause (i) from the share described in subclause (I) of such clause.

"(iii) PRORATED AMOUNTS.—For purposes of this subparagraph, the term 'prorated amounts' means tax-exempt interest and dividends other than 100 percent dividends.

"(iv) PORTION OF DIVIDEND ATTRIBUTABLE TO PRORATED AMOUNTS.—For purposes of this subparagraph, in determining the portion of any dividend attributable to prorated amounts—

"(I) any dividend by the paying corporation shall be treated as paid first out of earnings and profits for taxable years beginning after December 31, 1983, attributable to prorated amounts (to the extent thereof), and

"(II) by determining the portion of earnings and profits so attributable without any reduction for the tax imposed by this chapter."

(q) SPECIAL RULE FOR APPLICATION OF HIGH SURPLUS MUTUAL RULES.—In the case of any mutual life insurance company—

(1) which acquired a stock subsidiary during 1982, and

(2) whose excess equity base under section 809(i)(2)(D) of the Internal Revenue Code of 1954 is no more than 46 percent of such excess equity base (determined with regard to this provision),

the amount of such company's excess equity base for purposes of section 809(i) of such Code shall, notwithstanding the last sentence of section 809(i)(2)(D), equal $122,000,000.

(r) CLERICAL AMENDMENT.—Paragraph (3) of section 809(f) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (c)(1)(B)".

(s) AMENDMENTS RELATED TO SECTION 807.—Subparagraph (C) of section 807(d)(5) is amended by adding at the end thereof the following: "When the Secretary by regulation changes the table applicable to a type of contract, the new table shall be treated (for purposes of subparagraph (B) and for purposes of determining the issue dates of contracts for which it shall be used) as if it were a new prevailing commissioner's standard table adopted by the twenty-sixth State as of a date (no earlier than the date the regulation is issued) specified by the Secretary."

SEC. 1822. AMENDMENTS RELATED TO SECTION 216 OF THE ACT.

(a) CLARIFICATION OF APPLICATION OF 10-YEAR SPREAD.—Subparagraph (C) of section 216(b)(3) of the Tax Reform Act of 1984 (relating to 10-year spread inapplicable where no 10-year spread under prior law) is

amended by striking out "was required to have been taken into account" and inserting in lieu thereof "would have been required to be taken into account".

(b) TREATMENT OF CERTAIN ELECTIONS UNDER SECTION 818(c).—Subparagraph (B) of section 216(b)(4) of the Tax Reform Act of 1984 (relating to the elections under section 818(c) after September 27, 1983, not taken into account) is amended by striking out "Subparagraph (A)" and inserting in lieu thereof "Paragraph (3) and subparagraph (A) of this paragraph".

(c) ELECTION NOT TO HAVE RESERVES RECOM-PUTED.—

(1) Clause (ii) of section 216(c)(2)(A) of the Tax Reform Act of 1984 (relating to election with respect to contracts issued after 1983 and before 1989) is amended by striking out "$3,000,000" and inserting in lieu thereof "$3,000,000 (determined with regard to this paragraph)".

(2) Subparagraph (A) of section 216(c)(2) of the Tax Reform Act of 1984 is amended by striking out "be equal to" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "be equal to the greater of the statutory reserve for such contract (adjusted as provided in subparagraph (B)) or the net surrender value of such contract (as defined in section 807(e)(1) of the Internal Revenue Code of 1954)."

(3) Subparagraph (B) of section 216(c)(2) of the Tax Reform Act of 1984 is amended—

(A) by striking out "statutory reserves" and inserting in lieu thereof "opening and closing statutory reserves", and

(B) by striking out "under section 805(c)(1) of such Code" and inserting in lieu thereof "under the principles of section 805(c)(1) of such Code".

(d) SPECIAL RULE WHERE REINSURER NOT USING CALENDAR YEAR AS TAXABLE YEAR.—Subparagraph (A) of section 216(b)(3) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following: "For purposes of this subparagraph, if the reinsurer's taxable year is not a calendar year, the first day of the reinsurer's first taxable year beginning after December 31, 1983, shall be substituted for 'January 1, 1984' each place it appears."

(e) CLARIFICATION OF EFFECT OF FRESH START ON EARNINGS AND PROFITS.—Paragraph (1) of section 216(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentences: "The preceding sentence shall apply for purposes of computing the earnings and profits of any insurance company for its 1st taxable year beginning in 1984. The preceding sentence shall be applied by substituting '1985' for '1984' in the case of an insurance company which is a member of a controlled group (as defined in section 806(d)(3)), the common parent of which is a company having its principal place of business in Alabama and incorporated in Delaware on November 29, 1979."

(f) TREATMENT OF SECTION 818(c) ELECTIONS MADE BY CERTAIN ACQUIRED COMPANIES.—Paragraph (4) of section 216(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(C) SECTION 818(C) ELECTIONS MADE BY CERTAIN ACQUIRED COMPANIES.—If the case of any corporation—

"(i) which made an election under such section 818(c) before September 28, 1983, and

"(ii) which was acquired in a qualified stock purchase (as defined in section 338(c) of the Internal Revenue Code of 1954) before December 31, 1983,

the fact that such corporation is treated as a new corporation under section 338 of such Code shall not result in the election described in clause (i) not applying to such new corporation."

SEC. 1823. AMENDMENTS RELATED TO SECTION 217 OF THE ACT.

(a) SPECIAL RULE FOR COMPANIES USING NET LEVEL RESERVE METHOD ON CERTAIN CONTRACTS.—Subsection (n) of section 217 of the Tax Reform Act of 1984 (relating to special rule for companies using net level reserve method for noncancellable accident and health insurance contracts) is amended to read as follows:

"(n) SPECIAL RULE FOR COMPANIES USING NET LEVEL RESERVE METHOD FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS.—A company shall be treated as meeting the requirements of section 807(d)(3)(A)(iii) of the Internal Revenue Code of 1954, as amended by this Act, with respect to any directly-written noncancellable accident and health insurance contract (whether under existing or new plans of insurance) for any taxable year if—

"(1) such company—

"(A) was using the net level reserve method to compute at least 99 percent of its statutory reserves on such contracts as of December 31, 1982, and

"(B) received more than half its total direct premiums in 1982 from directly-written noncancellable accident and health insurance,

"(2) after December 31, 1983, and through such taxable year, such company has continuously used the net level reserve method for computing at least 99 percent of its tax and statutory reserves on such contracts, and

"(3) for any such contract for which the company does not use the net level reserve method, such company uses the same method for computing tax reserves as such company uses for computing its statutory reserves."

(b) TREATMENT OF CERTAIN COMPANIES ISSUING MORTGAGE INSURANCE.—Section 217 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subsection:

"(o) TREATMENT OF CERTAIN COMPANIES ISSUING MORTGAGE INSURANCE.—

"(1) IN GENERAL.—Paragraphs (1) and (2)(B) of section 809(h) of the Internal Revenue Code of 1954 shall not apply to a qualified stock life insurance company.

"(2) QUALIFIED STOCK LIFE INSURANCE COMPANY.—For purposes of this subsection, the term 'qualified stock life insurance company' means any stock life insurance company—

"(A) at least 90 percent of the stock of which is owned by a qualified mutual life insurance company, and

"(B) whose insurance business consists substantially of the direct writing of mortgage insurance or the reinsurance of mortgage insurance.

For purposes of the preceding sentence, the term 'mortgage insurance' means insurance issued in whole or in part for the purposes of extinguishing outstanding indebtedness owed by the individuals insured.

"(3) QUALIFIED MUTUAL LIFE INSURANCE COMPANY.—For purposes of this subsection, the term 'qualified mutual life insurance company' means a company originally incorporated as an assessment company in 1880 and reincorporated in Minnesota in 1901 as a mutual insurance company.

"(4) SPECIAL RULES.—

"(A) QUALIFIED STOCK LIFE INSURANCE COMPANY NOT TREATED AS AMONG 50 LARGEST.—The Secretary of the Treasury shall exclude any qualified stock life insurance company from the group determined under section 809(d)(4)(C) of such Code.

"(B) NO DEDUCTION FOR POLICYHOLDER DIVIDENDS.—No deduction shall be allowed under section 805(a)(3) to any qualified stock life insurance company.

"(5) EFFECTIVE DATE.—This subsection shall be effective as of January 1, 1984, and, in determining the tax on the equity base of a qualified mutual life insurance company for 1984, 1985, and 1986, the equity base of such company (as determined under section 809(b) of such Code) shall be reduced as of the close of taxable years 1983, 1984, and 1985, by the amount of capital and surplus of its qualified stock insurance company as of December 31, 1986."

SEC. 1824. AMENDMENT RELATED TO SECTION 218 OF THE ACT.

Section 218 of the Tax Reform Act of 1984 is hereby repealed.

SEC. 1825. AMENDMENTS RELATED TO SECTION 221 OF THE ACT.

(a) COMPUTATIONAL RULES.—

(1) Paragraph (1) of section 7702(e) (relating to computational rules) is amended—

(A) by striking out "shall be no earlier than" in subparagraph (B) and inserting in lieu thereof "shall be deemed to be no earlier than",

(B) by striking out "and" at the end of subparagraph (B),

(C) by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

"(C) the death benefits shall be deemed to be provided until the maturity date determined by taking into account subparagraph (B), and", and

(D) by striking out "the maturity date described in subparagraph (B)" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "the maturity date determined by taking into account subparagraph (B)".

(2) Subparagraph (C) of section 7702(b)(2) is amended by striking out "subparagraphs (A) and (C)" and inserting in lieu thereof "subparagraphs (A) and (D)".

(3) Section 7702(e)(1) is amended by inserting "(other than subsection (d))" after "section".

(4) Section 7702(e)(2) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B), and inserting in lieu thereof a comma and "and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) for purposes of the cash value accumulation test, the death benefit increases may be taken into account if the contract—

"(i) has an initial death benefit of $5,000 or less,

"(ii) provides for a fixed predetermined annual increase not to exceed 10 percent of the initial death benefit or 8 percent of the death benefit at the end of the preceding year, and

"(iii) was purchased to cover payment of burial expenses or in connection with prearranged funeral expenses.

For purposes of subparagraph (C), the initial death benefit of a contract shall be determined by treating all contracts issued to the same contract owner as 1 contract."

(b) CLARIFICATION OF SECTION 7702(f)(7).—

(1) Paragraph (7) of section 7702(f) (relating to adjustments) is amended to read as follows:

"(7) ADJUSTMENTS.—

"(A) IN GENERAL.—If there is a change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination or adjustment made under this section, there shall be proper adjustments in future determinations made under this section.

"(B) RULE FOR CERTAIN CHANGES DURING FIRST 15 YEARS.—If—

"(i) a change described in subparagraph (A) reduces benefits under the contract,

"(ii) the change occurs during the 15-year period beginning on the issue date of the contract, and

"(iii) a cash distribution is made to the policyholder as a result of such change,

section 72 (other than subsection (e)(5) thereof) shall apply to such cash distribution to the extent it does not exceed the recapture ceiling determined under subparagraph (C) or (D) (whichever applies).

"(C) RECAPTURE CEILING WHERE CHANGE OCCURS DURING FIRST 5 YEARS.—If the change referred to in subparagraph (B)(ii) occurs during the 5-year period beginning on the issue date of the contract, the recapture ceiling is—

"(i) in the case of a contract to which subsection (a)(1) applies, the excess of—

"(I) the cash surrender value of the contract, immediately before the reduction, over

"(II) the net single premium (determined under subsection (b)), immediately after the reduction, or

"(ii) in the case of a contract to which subsection (a)(2) applies, the greater of—

"(I) the excess of the aggregate premiums paid under the contract, immediately before the reduction, over the guideline premium limitation for the contract (determined under subsection (c)(2), taking into account the adjustment described in subparagraph (A)), or

"(II) the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction).

"(D) RECAPTURE CEILING WHERE CHANGE OCCURS AFTER 5TH YEAR AND BEFORE 16TH YEAR.—If the change referred to in subparagraph (B) occurs after the 5-year period referred to under subparagraph (C), the recapture ceiling is the excess of the cash surrender value of the contract, immediately before the reduction, over the cash value corridor of subsection (d) (determined immediately after the reduction and whether or not subsection (d) applies to the contract).

"(E) TREATMENT OF CERTAIN DISTRIBUTIONS MADE IN ANTICIPATION OF BENEFIT REDUCTIONS.—Under regulations prescribed by the Secretary, subparagraph (B) shall apply also to any distribution made in anticipation of a reduction in benefits under the contract. For purposes of the preceding sentence, appropriate adjustments shall be made in the provisions of subparagraphs (C) and (D); and any distribution which reduces the cash surrender value of a contract and which is made within 2 years before a reduction in benefits under the contract shall be treated as made in anticipation of such reduction."

(2) Subparagraph (A) of section 7702(f)(1) (defining premiums paid) is amended by striking out "less any other amounts received" and inserting in lieu thereof "less any excess premiums with respect to which there is a distribution described in subparagraph (B) or (E) of paragraph (7) and any other amounts received".

(c) CLARIFICATION OF TREATMENT OF CONTRACTS WHICH DO NOT MEET TEST.—Clause (ii) of section 7702(g)(1)(B) (defining income on the contract) is amended to read as follows:

"(ii) the premiums paid (as defined in subsection (f)(1)) under the contract during the taxable year."

(d) TREATMENT OF FLEXIBLE PREMIUM CONTRACTS ISSUED DURING 1984 WHICH MEET NEW REQUIREMENTS.—Subsection (b) of section 221 of the Tax Reform Act of 1984 (relating to 1-year extension of flexible premium contract provisions) is amended by adding at the end thereof the following new paragraph:

"(3) TRANSITIONAL RULE.—Any flexible premium contract issued during 1984 which meets the requirements of section 7702 of the Internal Revenue Code of 1954 (as added by this section) shall be treated as meeting the requirements of section 101(f) of such Code."

(e) TREATMENT OF CERTAIN CONTRACTS ISSUED BEFORE OCTOBER 1, 1984.—Clause (i) of section 221(d)(2)(C) of the Tax Reform Act of 1984 (relating to certain contracts issued before October 1, 1984) is amended—

(1) by striking out "in clause (i) thereof" in the material preceding subclause (I), and

(2) by striking out "any mortality charges" in subclause (I) and inserting in lieu thereof "any mortality charges and any initial excess interest guarantees".

(f) TREATMENT OF CERTAIN CONTRACTS AS LIFE INSURANCE CONTRACTS UNDER APPLICABLE LAW.—For purposes of section 7702(a) of the Internal Revenue Code of 1954, a contract shall not fail to be treated as a life insurance contract under the applicable law merely because the contract is provided under a church plan defined in section 414(e).

SEC. 1826. AMENDMENTS RELATED TO SECTION 222 OF THE ACT.

(a) EXCEPTION FOR ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS.—Subsection (s) of section 72 (relating to required distributions where holder dies before entire interest is distributed) is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS.—This subsection shall not apply to any annuity contract—

"(A) which is provided—

"(i) under a plan described in section 401(a) which includes a trust exempt from tax under section 501, or

"(ii) under a plan described in section 403(a),

"(B) which is described in section 403(b), or

"(C) which is an individual retirement annuity or provided under an individual retirement account or annuity."

(b) SPECIAL RULES WHERE HOLDER IS NOT INDIVIDUAL, ETC.—

(1) Subsection (s) of section 72 (relating to required distributions where holder dies before entire interest is distributed) is amended by adding at the end thereof the following new paragraphs:

"(6) SPECIAL RULE WHERE HOLDER IS CORPORATION OR OTHER NON-INDIVIDUAL.—

"(A) IN GENERAL.—For purposes of this subsection, if the holder of the contract is not an individual, the primary annuitant shall be treated as the holder of the contract.

"(B) PRIMARY ANNUITANT.—For purposes of subparagraph (A), the term 'primary annuitant' means the individual, the events in the life of whom are of primary importance in affecting the timing or amount of the payout under the contract.

"(7) TREATMENT OF CHANGES IN PRIMARY ANNUITANT WHERE HOLDER OF CONTRACT IS NOT AN INDIVIDUAL.—For purposes of this subsection, in the case of a holder of an annuity contract which is not an individual, if there is a change in a primary annuity (as defined in paragraph (6)(B)), such change shall be treated as the death of the holder."

(2) Paragraph (1) of section 72(s) is amended by striking out "the holder of such contract" each place it appears and inserting in lieu thereof "any holder of such contract".

(3) Paragraph (4) of section 72(e) (relating to amounts not received as annuities) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF TRANSFERS WITHOUT ADEQUATE CONSIDERATION.—

"(i) IN GENERAL.—If an individual who holds an annuity contract transfers it without full and adequate consideration, such individual shall be treated as receiving an amount equal to the excess of—

"(I) the cash surrender value of such contract at the time of transfer, over

"(II) the investment in such contract at such time,

under the contract as an amount not received as an annuity.

"(ii) EXCEPTION FOR CERTAIN TRANSFERS BETWEEN SPOUSES OR FORMER SPOUSES.—Clause (i) shall not apply to any transfer to which section 1041(a) (relating to transfers of property between spouses or incident to divorce) applies.

"(iii) ADJUSTMENT TO INVESTMENT IN CONTRACT OF TRANSFEREE.—If under clause (i) an amount is included in the gross income of the transferor of an annuity contract, the investment in the contract of the transferee in such contract shall be increased by the amount so included."

(4) The amendments made by this subsection shall apply to contracts issued after the date which is 6 months after the date of the enactment of this Act in taxable years ending after such date.

(c) CLARIFICATION OF EXCEPTION FOR DISTRIBUTION AFTER DEATH.—Effective with respect to distributions made after November 7, 1986, subparagraph (B) of section 72(q)(2) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended to read as follows:

"(B) made on or after the death of the holder (or, where the holder is not an individual, the death of the primary annuitant (as defined in subsection (s)(6)(B))),".

(d) EXCEPTION FOR ANNUITIES WHICH ARE QUALIFIED FUNDING ASSETS.—Paragraph (2) of section 72(q) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended by striking out "or" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(G) any annuity contract which is a qualified funding asset (as defined in section 130(d))."

SEC. 1827. AMENDMENTS RELATED TO SECTION 223 OF THE ACT.

(a) DETERMINATION OF COSTS IN THE CASE OF DISCRIMINATORY PLANS.—

(1) IN GENERAL.—Subparagraph (B) of section 79(d)(1) (relating to nondiscrimination requirements) is amended to read as follows:

"(B) the cost of group-term life insurance on the life of any key employee shall be the greater of—

"(i) such cost determined without regard to subsection (c), or

"(ii) such cost determined with regard to subsection (c)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years ending after the date of the enactment of this Act.

(b) CLARIFICATION OF EFFECTIVE DATE.—

(1) Subparagraph (A) of section 223(d)(2) of the Tax Reform Act of 1984 (relating to treatment of former employees in case of existing group-term insurance plans) is amended by striking out the material following clause (ii) and inserting in lieu thereof the following:

"but only with respect to an individual who attained age 55 on or before January 1, 1984, and was employed by such employer (or a predecessor employer) at any time during 1983. Such amendments also shall not apply to any employee who retired from employment on or before January 1, 1984, and who, when he retired, was covered by the plan (or a predecessor plan)."

(2) Subparagraph (C) of section 223(d)(2) of the Tax Reform Act of 1984 is amended by striking out "after December 31, 1986," and by striking out "shall not be taken into account" and inserting in lieu thereof "may, at the employer's election, be disregarded".

(3) COMPARABLE SUCCESSOR PLANS.—Paragraph (2) of section 223(d) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(D) COMPARABLE SUCCESSOR PLANS.—For purposes of subparagraph (A), a plan shall not fail to be treated as a comparable successor to a plan described in subparagraph (A)(i) with respect to any employee whose benefits do not increase or decrease under the successor plan."

(c) DEFINITION OF KEY EMPLOYEE.—Paragraph (6) of section 79(d) (defining key employee) is amended—

(1) by striking out all that follows "section 416(i)" and inserting in lieu thereof a period, and

(2) by adding at the end thereof the following new sentence: "Such term also includes any retired employee if such employee when he retired or separated from service was a key employee."

(d) SEPARATE TREATMENT OF FORMER EMPLOYEES.—Subsection (d) of section 79 (relating to nondiscrimination requirements) is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF FORMER EMPLOYEES.—To the extent provided in regulations, this subsection shall be applied separately with respect to former employees."

(e) COORDINATION WITH SECTION 83.—Paragraph (5) of section 83(e) is amended by striking out "the cost of".

SEC. 1828. AMENDMENT RELATED TO SECTION 224 OF THE ACT.

Paragraph (1) of section 1035(b) (defining endowment contract) is amended by striking out "subject to tax under subchapter L".

SEC. 1829. WAIVER OF INTEREST ON CERTAIN UNDERPAYMENTS OF TAX.

No interest shall be payable for any period before July 19, 1984, on any underpayment of a tax imposed by the Internal Revenue Code of 1954, to the extent such underpayment was created or increased by any provision of subtitle A of title II of the Tax Reform Act of 1984 (relating to taxation of life insurance companies).

CHAPTER 3—AMENDMENTS RELATED TO TITLE III OF THE ACT

SEC. 1831. AMENDMENT RELATED TO SECTION 301 OF THE ACT.

Clause (iv) of section 170(b)(1)(C) (defining capital gain property) is amended by striking out "this subparagraph" and inserting in lieu thereof "this paragraph".

SEC. 1832. AMENDMENT RELATED TO SECTION 303 OF THE ACT.

Paragraph (2) of section 4940(e) (relating to requirements) is amended by striking out subparagraph (B) and the material following such subparagraph and inserting in lieu thereof the following:

"(B) such private foundation was not liable for tax under section 4942 with respect to any year in the base period."

SEC. 1833. AMENDMENT RELATED TO SECTION 305 OF THE ACT.

Section 6214(c) is amended by striking out "section 4962(b)" and inserting in lieu thereof "section 4963(b)".

SEC. 1834. AMENDMENT RELATED TO SECTION 311 OF THE ACT.

Subparagraph (A) of section 311(a)(3) of the Tax Reform Act of 1984 is amended by striking out "a State law" and inserting in lieu thereof "a State law (originally enacted on April 22, 1977)".

CHAPTER 4—AMENDMENTS RELATED TO TITLE IV OF THE ACT

SEC. 1841. AMENDMENT RELATED TO SECTION 411 OF THE ACT.

Section 6654 (relating to failure by individual to pay estimated income tax) is amended by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively, and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR NONRESIDENT ALIENS.—In the case of a nonresident alien described in section 6072(c):

"(1) PAYABLE IN 3 INSTALLMENTS.—There shall be 3 required installments for the taxable year.

"(2) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments under this subsection shall be determined under the following table:

"In the case of the following required installments:	The due date is:
1st	June 15
2nd	September 15
3rd	January 15 of the following taxable year.

"(3) AMOUNT OF REQUIRED INSTALLMENTS.—

"(A) FIRST REQUIRED INSTALLMENT.—In the case of the first required installment, subsection (d) shall be applied by substituting '50 percent' for '25 percent' in subsection (d)(1)(A).

"(B) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage for purposes of subsection (d)(2) shall be determined under the following table:

"In the case of the following required installments:	The applicable percentage is:
1st	40
2nd	60
3rd	80."

SEC. 1842. AMENDMENTS RELATED TO SECTION 421 OF THE ACT.

(a) COORDINATION WITH SECTION 1041.—Section 267 (relating to losses, expenses, and interest with respect to transactions between related taxpayers) is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION WITH SECTION 1041.—Subsection (a)(1) shall not apply to any transfer described in section 1041(a) (relating to transfers of property between spouses or incident to divorce)."

(b) TREATMENT OF TRANSFERS IN TRUST WHERE LIABILITY EXCEEDS BASIS.—Section 1041 (relating to transfers of property between spouses or incident to divorce) is amended by adding at the end thereof the following new subsection:

"(e) TRANSFERS IN TRUST WHERE LIABILITY EXCEEDS BASIS.—Subsection (a) shall not apply to the transfer of property in trust to the extent that—

"(1) the sum of the amount of the liabilities assumed, plus the amount of the liabilities to which the property is subject, exceeds

"(2) the total of the adjusted basis of the property transferred.

Proper adjustment shall be made under subsection (b) in the basis of the transferee in such property to take into account gain recognized by reason of the preceding sentence."

(c) TREATMENT OF CERTAIN TRANSFERS IN TRUST.—Subsection (g) of section 453B (relating to transfers between spouse, or incident to divorce) is amended by striking out "section 1041" and inserting in lieu thereof "section 1041 (other than a transfer in trust)".

(d) CLERICAL AMENDMENT.—Paragraph (17) of section 7701(a) (defining husband and wife as including former husband and wife) is amended by striking out "and 682" and inserting in lieu thereof ", 682, and 2516".

SEC. 1843. AMENDMENTS RELATED TO SECTION 422 OF THE ACT.

(a) CROSS REFERENCE.—Section 71 (relating to alimony and separate maintenance payments) is amended by adding at the end thereof the following new subsection:

"(g) CROSS REFERENCES.—

"(1) For deduction of alimony or separate maintenance payments, see section 215.

"(2) For taxable status of income of an estate or trust in the case of divorce, etc., see section 682."

(b) TEMPORARY SUPPORT ORDERS NOT REQUIRED TO SPECIFY ABSENCE OF LIABILITY TO MAKE PAYMENTS AFTER DEATH.—Subparagraph (D) of section 71(b)(1) (defining alimony or separate maintenance payments) is amended by striking out "(and" and inserting in lieu thereof "(and, except in the case of a decree described in paragraph (2)(C),".

(c) CLERICAL AMENDMENT.—Subparagraph (B) of section 71(c)(2) (relating to treatment of certain reductions related to contingency involving child) is amended by striking out "specified in paragraph (1)" and inserting in lieu thereof "specified in subparagraph (A)".

SEC. 1844. AMENDMENTS RELATED TO SECTION 431 OF THE ACT.

(a) DEFINITION OF RELATED PERSON.—Clause (v) of section 46(c)(8)(D) is amended by striking out "clause (i)" and inserting in lieu thereof "this subparagraph".

(b) CLARIFICATION OF RECAPTURE.—

(1) Paragraph (1) of section 47(d) (relating to increases in nonqualified nonrecourse financing) is amended—

(A) by striking out "reducing the qualified investment" and inserting in lieu thereof "reducing the credit base (as defined in section 48(c)(8)(C))", and

(B) by adding at the end thereof the following new sentence: "For purposes of determining the amount of credit subject to the early disposition or cessation rules of subsection (a), the net increase in the amount of the nonqualified nonrecourse financing with respect to the property shall be treated as reducing the property's credit base (and

correspondingly reducing the qualified investment in the property) in the year in which the property was first placed in service."

(2) Subparagraph (F) of section 47(d)(3) is hereby repealed.

(3) Subparagraph (A) of section 46(c)(9) (relating to subsequent decreases in nonqualified nonrecourse financing with respect to property) is amended by striking out "additional qualified investment in" and inserting in lieu thereof "an increase in the credit base for".

(4) Clause (i) of section 47(d)(3)(E) is amended by inserting before the semicolon at the end thereof the following: "reduced by the sum of the credit recapture amounts with respect to such property for all preceding taxable years".

(5) Clause (i) of section 46(c)(9)(C) is amended by striking out "any increase in a taxpayer's qualified investment" and all that follows down through the period at the end thereof and inserting in lieu thereof the following: "any increase in a taxpayer's credit base for any property by reason of this paragraph shall be taken into account as if it were property placed in service by the taxpayer in the taxable year in which the property referred to in subparagraph (A) was first placed in service."

SEC. 1845. AMENDMENT RELATED TO SECTION 452 OF THE ACT.

Section 456 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subsection:

"(d) SECTION 452.—The amendment made by section 452 shall apply to products manufactured or produced after October 31, 1984."

SEC. 1846. AMENDMENTS RELATED TO SECTION 473 OF THE ACT.

Subsection (d) of section 39 (relating to transitional rules) is amended—

(1) by striking out "or 44G" in paragraph (1)(A) and inserting in lieu thereof "or 44G (as in effect before the enactment of the Tax Reform Act of 1984)", and

(2) by striking out "as so defined in section 25(b)" in paragraph (2)(B) and inserting in lieu thereof "as defined in section 26(b)".

SEC. 1847. AMENDMENTS RELATED TO SECTION 474 OF THE ACT.

(a) MINIMUM TAX AMENDMENTS.—

(1) Subparagraph (A) of section 55(c)(3) (relating to carryover and carryback of certain credits) is amended by striking out "of such limitation" and inserting in lieu thereof "of such credit allowable".

(2) Effective with respect to taxable years beginning after December 31, 1982, clause (i) of section 55(c)(2)(E) (relating to special rule for applying section 904(c)) is amended to read as follows:

"(i) the limitation of section 904(a) shall be deemed to be the amount of foreign tax credit allowable under section 27(a) in computing the regular tax for the taxable year increased by the amount of the limitation determined under subparagraph (C), and".

(b) CLERICAL AMENDMENTS.—

(1) The clause heading for clause (iii) of section 30(b)(2)(D) is amended by striking out "NEW JOBS OR WIN CREDIT" and inserting in lieu thereof "TARGETED JOBS CREDIT".

(2) Paragraph (1) of section 86(f) is amended by striking out "section 37(c)(3)(A)" and inserting in lieu thereof "section 22(c)(3)(A)".

(3) Subparagraph (C) of section 151(e)(5) is amended by striking out "section 37(e)" and inserting in lieu thereof "section 22(e)".

(4) Clause (i) of section 415(c)(3)(C) is amended by striking out "section 37(e)(3)" and inserting in lieu thereof "section 22(e)(3)".

(5) Paragraph (9) of section 422A(c) is amended by striking out "section 37(e)(3)" and inserting in lieu thereof "section 22(e)(3)".

(6) Paragraph (5) of section 48(l) is amended—

(A) by striking out "section 44C(c)" and inserting in lieu thereof "section 23(c)", and

(B) by striking out "section 44C(c)(4)(A)(viii)" and inserting in lieu thereof "section 23(c)(4)(A)(viii)".

(7) Subparagraph (E) of section 108(b)(2) is amended by striking out "section 33" and inserting in lieu thereof "section 27".

(8) Subsection (b) of section 280C is amended—

(A) by striking out "section 29" each place it appears and inserting in lieu thereof "section 28", and

(B) by striking out "section 29(b)" and inserting in lieu thereof "section 28(b)".

(9) Section 6699 is amended—

(A) by striking out "section 44G" each place it appears in subsections (a) and (c)(2)(B) and inserting in lieu thereof "section 41", and

(B) by striking out "section 44G(c)(1)(B)" in subsection (a)(4) and inserting in lieu thereof "section 41(c)(1)(B)".

(10) Subsection (a) of section 6411 is amended by striking out "or unused business credit" in the second sentence thereof and inserting in lieu thereof "unused research credit, or unused business credit".

(11) Subparagraph (A) of section 46(b)(2) is amended by striking out "48(l)(3)(A)(vii)" in the table contained in such subparagraph and inserting in lieu thereof "48(l)(3)(A)(viii)".

(12) Paragraph (1) of section 163(b) of the Tax Reform Act of 1984 is amended by inserting "(as amended by sections 211, 314, and 474 of this Act)" after "Section 6501".

(13) Section 6501 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DEFICIENCIES ATTRIBUTABLE TO ELECTION OF CERTAIN CREDITS.—The period for assessing a deficiency attributable to any election under section 40(f) or 51(j) (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation)."

(14) Subsection (k) of section 6501 is amended by striking out "an investment credit carryback, or a work incentive program carryback, or a new employee credit carryback" and inserting in lieu thereof "or a credit carryback (as defined in section 6511(d)(4)(C))".

(15) Subsection (h) of section 6511 (relating to limitations on credit or refund) is amended—

(A) by striking out "section 6501(q)(1)(B)" in paragraph (1) and inserting in lieu thereof "section 6501(m)(1)(B)", and

(B) by striking out "section 6501(q)(2)(B)" in paragraph (2) and inserting in lieu thereof "section 6501(m)(2)(B)".

(16) Paragraph (1) of section 665(d) is amended by striking out "subpart A of part IV" and inserting in lieu thereof "part IV".

SEC. 1848. AMENDMENTS RELATED TO SECTION 491 OF THE ACT.

(a) Paragraph (9) of section 46(f) (relating to special rule for additional credit) is hereby repealed.

(b) Subparagraph (A) of section 401(c)(2) (defining earned income) is amended by striking out "sections 404 and 405(c)" and inserting in lieu thereof "section 404".

(c) Subparagraph (D) of section 404(a)(8) is amended by striking out "the deductions allowed by this section and section 405(c)" and inserting in lieu thereof "the deduction allowed by this section".

(d) The second sentence of section 2039(e) is amended by striking out "or a bond described in paragraph (3)".

(e)(1) Section 6704 is amended—

(A) by striking out "section 6047(e)" each place it appears in subsection (a) and inserting in lieu thereof "section 6047(d)", and

(B) by striking out "section 6047(e)" in the section heading and inserting in lieu thereof "section 6047(d)".

(2) Subsection (e) of section 6047 is amended by adding at the end thereof the following new paragraph:

"(3) For provisions relating to penalty for failure to comply with the provisions of subsection (d), see section 6704."

(3) The table of sections for subchapter B of chapter 68 is amended by striking out "section 6047(e)" in the item relating to section 6704 and inserting in lieu thereof "section 6047(d)".

(f) Subsection (b) of section 4973 (defining excess contributions) is amended—

(1) by striking out ", individual retirement annuities, or bonds" in the material preceding paragraph (1) and inserting in lieu thereof "or individual retirement annuities",

(2) by striking out "or bonds" in paragraph (1)(A) thereof, and

(3) by striking out "or bonds" in paragraph (2)(C) thereof.

CHAPTER 5—AMENDMENTS RELATED TO TITLE V OF THE ACT

SEC. 1851. AMENDMENTS RELATED TO WELFARE BENEFIT PLAN PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 511 OF THE ACT.—

(1) TREATMENT OF PLANS FOR INDEPENDENT CONTRACTORS.—Paragraph (1) of section 419(g) (relating to extension to plans for independent contractors) is amended by striking out "such a plan" and inserting in lieu thereof "such a relationship".

(2) AMENDMENTS TO SECTION 419A(d).—

(A) COORDINATION WITH SECTION 415.—Paragraph (2) of section 419A(d) (relating to coordination with section 415) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) of section 415(c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence."

(B) SEPARATE ACCOUNT REQUIREMENTS APPLY ONLY WHERE THERE IS PRE-FUNDING.—Paragraph (1) of section 419A(d) is amended by adding at the end thereof the following new sentence:

"The requirements of this paragraph shall apply to the first taxable year for which a reserve is taken into account under subsection (c)(2) and to all subsequent taxable years."

(3) CLARIFICATION OF SECTION 419A(e).—

(A) Subsection (e) of section 419A is amended to read as follows:

"(e) SPECIAL LIMITATIONS ON RESERVES FOR MEDICAL BENEFITS OR LIFE INSURANCE BENEFITS PROVIDED TO RETIRED EMPLOYEES.—

"(1) RESERVE MUST BE NONDISCRIMINATORY.—No reserve may be taken into account under subsection (c)(2) for post-retirement medical benefits or life insurance benefits to be provided to covered employees unless the plan meets the requirements of section 505(b) with respect to such benefits (whether or not such requirements apply to such plan). The preceding sentence shall not apply to any plan maintained pursuant to

an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that post-retirement medical benefits or life insurance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(2) LIMITATION ON AMOUNT OF LIFE INSURANCE BENEFITS.—Life insurance benefits shall not be taken into account under subsection (c)(2) to the extent the aggregate amount of such benefits to be provided with respect to the employee exceeds $50,000."

(B) Subsection (e) of section 419A of the Internal Revenue Code of 1954 (as amended by subparagraph (A)) shall not apply to any group-term life insurance to the extent that the amendments made by section 223(a) of the Tax Reform Act of 1984 do not apply to such insurance by reason of paragraph (2) of section 223(d) of such Act.

(4) TREATMENT OF COLLECTIVELY BARGAINED PLANS.—Paragraph (5) of section 419A(f) (relating to higher limit in case of collectively bargained plans) is amended by striking out "welfare benefit fund established under" and inserting in lieu thereof "welfare benefit fund maintained pursuant to".

(5) CLARIFICATION OF ACTUARIAL CERTIFICATION REQUIREMENT.—Subparagraph (A) of section 419A(c)(5) (relating to special limitation where no actuarial certification) is amended by striking out "under paragraph (1)" and inserting in lieu thereof "under this subsection".

(6) AGGREGATION RULES.—Paragraph (1) of section 419A(h) (relating to aggregation rules) is amended to read as follows:

"(1) AGGREGATION OF FUNDS.—

"(A) MANDATORY AGGREGATION.—For purposes of subsections (c)(4), (d)(2), and (e)(2), all welfare benefit funds of an employer shall be treated as 1 fund.

"(B) PERMISSIVE AGGREGATION FOR PURPOSES NOT SPECIFIED IN SUBPARAGRAPH (A).—For purposes of this section (other than the provisions specified in subparagraph (A)), at the election of the employer, 2 or more welfare benefit funds of such employer may be treated as 1 fund."

(7) CLARIFICATION OF ADJUSTMENTS FOR EXISTING RESERVES.—Paragraph (7) of section 419A(f) (relating to adjustments for existing excess reserves) is amended by striking out subparagraph (C) and inserting in lieu thereof the following new subparagraphs:

"(C) EXISTING EXCESS RESERVE.—For purposes of computing the increase under subparagraph (A) for any taxable year, the term 'existing excess reserve' means the excess (if any) of—

"(i) the amount of assets set aside at the close of the first taxable year ending after July 18, 1984, for purposes described in subsection (a), over

"(ii) the account limit determined under this section (without regard to this paragraph) for the taxable year for which such increase is being computed.

"(D) FUNDS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply only to a welfare benefit fund which, as of July 18, 1984, had assets set aside for purposes described in subsection (a)."

(8)(A) CLARIFICATION OF FUND.—Subsection (e) of section 419 (defining welfare benefit funds) is amended by adding at the end thereof the following new paragraph:

"(4) TREATMENT OF AMOUNTS HELD PURSUANT TO CERTAIN INSURANCE CONTRACTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (3)(C), the term 'fund' shall not include amounts held by an insurance company pursuant to an insurance contract if—

"(i) such contract is a life insurance contract described in section 264(a)(1), or

"(ii) such contract is a qualified nonguaranteed contract.

"(B) QUALIFIED NONGUARANTEED CONTRACT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualified nonguaranteed contract' means any insurance contract (including a reasonable premium stabilization reserve held thereunder) to the extent that—

"(I) there is no guarantee of a renewal of such contract at guaranteed premium rates, and

"(II) the only amounts to which the employer or employees are entitled (directly or indirectly) at the time the premiums are paid as experience rated refunds or policy dividends are not guaranteed and are substantially unrelated (directly or indirectly) to the amount of welfare benefits paid to (or on behalf of) the employees of the employer and their beneficiaries, the administrative expenses incurred by (or on behalf of the insurance company in providing welfare benefits to (or on behalf of) the employees of the employer and their beneficiaries, and to the investment experience of the insurance company with respect to amounts contributed by or held for the employer.

"(ii) LIMITATION.—In the case of any qualified nonguaranteed contract, subparagraph (A) shall not apply unless the amount of any experience rated refund or policy dividend payable to an employer with respect to a policy year is treated by the employer as received or accrued in the taxable year for which the contributions to which such refund or dividend relates were deductible."

(B) EFFECTIVE DATE OF REGULATIONS.—Except in the case of a reserve for post-retirement medical or life insurance benefits and any other arrangement between an insurance company and an employer under which the employer has a contractual right to a refund or dividend based solely on the experience of such employer, any account held for an employer by any person and defined as a fund in regulations issued pursuant to section 419(e)(3)(C) of the Internal Revenue Code of 1954 shall be considered a "fund" no earlier than 6 months following the date such regulations are published in final form.

(9) CLARIFICATION OF TAXES PAID BY EMPLOYER ON INCOME OF CERTAIN WELFARE BENEFIT FUNDS.—Subsection (g) of section 419A (relating to employer taxed on income of welfare benefit funds in certain cases) is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SECTION 419.—If any amount is included in the gross income of an employer for any taxable year under paragraph (1) with respect to any welfare benefit fund—

"(A) the amount of the tax imposed by this chapter which is attributable to the amount so included shall be treated as a contribution paid to such welfare benefit fund on the last day of such taxable year, and

"(B) the tax so attributable shall be treated as imposed on the fund for purposes of section 419(c)(4)(A)."

(10) AMENDMENTS TO TAX ON UNRELATED BUSINESS INCOME.—

(A) Clause (i) of section 512(a)(3)(E) is amended by striking out "determined under section 419A(c)" and inserting in lieu thereof "determined under section 419A (without regard to subsection (f)(6) thereof)".

(B) Subparagraph (E) of section 512(a)(3) is amended by striking out clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(C) Clause (ii) of section 512(a)(3)(E) (as redesignated by subparagraph (B)) is amended—

(i) by striking out "a existing reserve" in subclause (I) and inserting in lieu thereof "an existing reserve", and

(ii) by striking out subclause (II) and inserting in lieu thereof the following:

"(II) For purposes of subclause (II), the term 'reserve for post-retirement medical or life insurance benefits' means the greater of the amount of assets set aside for purposes of post-retirement medical or life insurance benefits to be provided to covered employees as of the close of the last plan year ending before the date of the enactment of the Tax Reform Act of 1984 or on July 18, 1984,".

(D) Clause (iii) of section 512(a)(3)(E) (as redesignated by subparagraph (B)) is amended by striking out "paragraph shall not" and inserting in lieu thereof "subparagraph shall not".

(11) AMENDMENTS RELATED TO TAX ON CERTAIN FUNDED WELFARE BENEFIT PLANS.—Subsection (b) of section 4976 (defining disqualified benefit) is amended to read as follows:

"(b) DISQUALIFIED BENEFIT.—For purposes of subsection (a)—

"(1) IN GENERAL.—The term 'disqualified benefit' means—

"(A) any post-retirement medical benefit or life insurance benefit provided with respect to a key employee if a separate account is required to be established for such employee under section 419A(d) and such payment is not from such account,

"(B) any post-retirement medical benefit or life insurance benefit provided with respect to an individual in whose favor discrimination is prohibited unless the plan meets the requirements of section 505(b) with respect to such benefit (whether or not such requirements apply to such plan), and

"(C) any portion of a welfare benefit fund reverting to the benefit of the employer.

"(2) EXCEPTION FOR COLLECTIVE BARGAINING PLANS.—Paragraph (1)(B) shall not apply to any plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that the benefits referred to in paragraph (1)(B) were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) EXCEPTION FOR NONDEDUCTIBLE CONTRIBUTIONS.—Paragraph (1)(C) shall not apply to any amount attributable to a contribution to the fund which is not allowable as a deduction under section 419 for the taxable year or any prior taxable year (and such contribution shall not be included in any carryover under section 419(d)).

"(4) EXCEPTION FOR CERTAIN AMOUNTS CHARGED AGAINST EXISTING RESERVE.—Subparagraphs (A) and (B) of paragraph (1) shall not apply to post-retirement benefits charged against an existing reserve for post-retirement medical or life insurance benefits (as defined in section 512(a)(3)(E)) or charged against the income on such reserve."

(12) CLARIFICATION OF EFFECTIVE DATE.—Subsection (e) of section 511 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraphs:

"(6) AMENDMENTS RELATED TO TAX ON UNRELATED BUSINESS INCOME.—The amendments made by subsection (b) shall apply with respect to taxable years ending after December 31, 1985. For purposes of section 15 of the

Internal Revenue Code of 1954, such amendments shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

"(7) AMENDMENTS RELATED TO EXCISE TAXES ON CERTAIN WELFARE BENEFIT PLANS.—The amendments made by subsection (c) shall apply to benefits provided after December 31, 1985."

(13) Section 419A(f)(5) is amended to read as follows:

"(5) SPECIAL RULE FOR COLLECTIVE BARGAINED AND EMPLOYEE PAY-ALL PLANS.—No special accounts limits shall apply in the case of any qualified asset account under a separate welfare benefit fund—

"(A) under a collective bargaining agreement, or

"(B) an employee pay-all plan under section 501(c)(9) if—

"(i) such plan has at least 50 employees (determined without regard to subsection (h)(1)), and

"(ii) no employee is entitled to a refund with respect to amounts in the fund, other than a refund based on the experience of the entire fund."

(14) CLERICAL AMENDMENT.—Paragraph (2) of section 511(e) of the Tax Reform Act of 1984 is amended by striking out "and section 514".

(b) AMENDMENTS RELATED TO SECTION 512 OF THE ACT.—

(1) TRANSITIONAL RULE FOR CERTAIN TAXPAYERS WITH FULLY VESTED VACATION PAY PLANS.—

(A) IN GENERAL.—In the case of any taxpayer—

(i) who maintained a fully vested vacation pay plan where payments are required (or are in fact paid) within 1 year after the accrual of the vacation pay, and

(ii) who makes an election under section 463 of the Internal Revenue Code of 1954 for such taxpayer's 1st taxable year ending after the date of the enactment of the Tax Reform Act of 1984,

in lieu of establishing a suspense account under such section 463, such election shall be treated as a change in the taxpayer's method of accounting and the adjustments required as a result of such change shall be taken into account under section 481 of such Code.

(B) EXTENSION OF TIME FOR MAKING ELECTION.—In the case of any taxpayer who meets the requirements of subparagraph (A)(i), the time for making an election under section 463 of such Code for such taxpayer's 1st taxable year ending after the date of the enactment of the Tax Reform Act of 1984 shall not expire before the date 6 months after the date of the enactment of this Act.

(2) CLERICAL AMENDMENTS.—

(A) Clause (ii) of section 404(b)(2)(B) (relating to exceptions for certain benefits) is amended by striking out "to any benefit" and inserting in lieu thereof "any benefit".

(B) Subsection (b) of section 404 is amended—

(i) by striking out "UNFUNDED" in the subsection heading and inserting in lieu thereof "CERTAIN", and

(ii) by striking out "UNFUNDED" in the heading of paragraph (2) and inserting in lieu thereof "CERTAIN".

(C) Section 404(a) is amended by striking out "section 162 (relating to trade or business expenses) or section 212 (relating to expenses for the production of income); but, if they satisfy the conditions of either of such sections," and inserting in lieu thereof "this chapter; but, if they would otherwise be deductible,".

(c) AMENDMENTS RELATED TO SECTION 513 OF THE ACT.—

(1) Paragraph (1) of section 505(a) (relating to certain requirements must be met in case of organizations described in paragraph (9) or (20) of section 501(c)) is amended by striking out "of an employer".

(2) Paragraph (1) of section 505(b) (relating to nondiscrimination requirements) is amended by striking out "as provided in paragraph (2)" and inserting in lieu thereof "as otherwise provided in this subsection".

(3) Subparagraph (B) of section 505(b)(1) is amended by striking out "highly compensated employees" and inserting in lieu thereof "highly compensated individuals".

(4) Paragraph (2) of section 505(a) (relating to exception for collective bargaining agreements) is amended to read as follows:

"(2) EXCEPTION FOR COLLECTIVE BARGAINING AGREEMENTS.—Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that such plan was the subject of good faith bargaining between such employee representatives and such employer or employers."

SEC. 1852. AMENDMENTS RELATED TO PENSION PLAN PROVISIONS.

(a) AMENDMENTS RELATED TO SECTION 521 OF THE ACT.—

(1) CLARIFICATION THAT DISTRIBUTION FROM INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES MUST BEGIN AT 70½.—

(A) Paragraph (6) of section 408(a) (defining individual retirement account) is amended by striking out "(relating to required distributions)" and inserting in lieu thereof "(without regard to subparagraph (C)(ii) thereof) and the incidental death benefit requirements of section 401(a)".

(B) Paragraph (3) of section 408(b) (defining individual retirement annuity) is amended by striking out "(relating to required distributions)" and inserting in lieu thereof "(without regard to subparagraph (C)(ii) thereof) and the incidental death benefit requirements of section 401(a)".

(2) EXEMPTION OF PRE-1985 ACCUMULATIONS FROM PENALTY ON PREMATURE DISTRIBUTIONS.—

(A) Subparagraph (A) of section 72(m)(5) (relating to penalties applicable to certain amounts received by 5-percent owners) is amended to read as follows:

"(A) This subparagraph shall apply—

"(i) to amounts which—

"(I) are received from a qualified trust described in section 401(a) or under a plan described in section 403(a), and

"(II) are received by a 5-percent owner before such owner attains the age of 59½ years, for any reason other than such owner becoming disabled (within the meaning of paragraph (7) of this section), and

"(ii) to amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) at any time by a 5-percent owner, or by the successor of such owner, but only to the extent that such amounts are determined (under regulations prescribed by the Secretary) to exceed the benefits provided for such individual under the plan formula.

Clause (i) shall not apply to any amount received by an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract which is in the nature of a dividend or similar distribution and clause (i) shall not apply to amounts attributable to benefits accrued before January 1, 1985."

(B) Subparagraph (C) of section 72(m)(5) is amended to read as follows:

"(C) For purposes of this paragraph, the term '5-percent owner' means any individual who, at any time during the 5 plan years preceding the plan year ending in the taxable year in which the amount is received, is a 5-percent owner (as defined in section 416(i)(1)(B))."

(C) Paragraph (5) of section 72(m) is amended by striking out "OWNER-EMPLOYEES" in the paragraph heading and inserting in lieu thereof "5-PERCENT OWNERS".

(3) CLARIFICATION OF REQUIRED BEGINNING DATE.—

(A) Subparagraph (C) of section 401(a)(9) (defining required beginning date) is amended by striking out the last sentence and inserting in lieu thereof the following:

"Clause (ii) shall not apply in the case of an employee who is a 5-percent owner (as defined in section 416(i)(1)(B)) at any time during the 5-plan-year period ending in the calendar year in which the employee attains age 70½. If the employee becomes a 5-percent owner during any subsequent plan year, the required beginning date shall be April 1 of the calendar year following the calendar year in which such subsequent plan year ends."

(B) Subsection (d) of section 409 (relating to employer securities must stay in the plan) is amended by adding at the end thereof the following new sentence:

"This subsection shall not apply to any distribution required under section 401(a)(9)."

(4) REQUIRED DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVER TREATMENT.—

(A) Paragraph (5) of section 402(a) (relating to rollover amounts) is amended by adding at the end thereof the following new subparagraph:

"(G) REQUIRED DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVER TREATMENT.—Subparagraph (A) shall not apply to any distribution to the extent such distribution is required under section 401(a)(9)."

(B)(i) Subparagraph (B) of section 403(a)(4) is amended by striking out "through (F)" and inserting in lieu thereof "through (G)".

(ii) Paragraph (8) of section 403(b) is amended by adding at the end thereof the following new subparagraph:

"(D) REQUIRED DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVER TREATMENT.—Subparagraph (A) shall not apply to any distribution to the extent such distribution is required under paragraph (10)."

(C) Paragraph (3) of section 408(d) (relating to rollover contributions) is amended by adding at the end thereof the following new subparagraph:

"(E) DENIAL OF ROLLOVER TREATMENT FOR REQUIRED DISTRIBUTIONS.—This subparagraph shall not apply to any amount to the extent such amount is required to be distributed under subsection (a)(6) or (b)(3)."

(5) TREATMENT OF DISTRIBUTIONS REQUIRED UNDER INCIDENTAL DEATH BENEFIT RULES.—Paragraph (9) of section 401(a) (relating to required distributions) is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF INCIDENTAL DEATH BENEFIT DISTRIBUTIONS.—For purposes of this title, any distribution required under the incidental death benefit requirements of this subsection shall be treated as a distribution required under this paragraph."

(6) CLERICAL AMENDMENTS.—

(A) Paragraph (1) of section 408(c) is amended by striking out "paragraphs (1) through (7)" and inserting in lieu thereof "paragraphs (1) through (6)".

(B) Subsection (a) of section 4974 (relating to excise tax on certain accumulations in individual retirement accounts or annuities) is amended by striking out "section 408(a) (6) or (7), or 408(b) (3) or (4)" and inserting in lieu thereof "section 408(a)(6) or 408(b)(3)".

(C) Subsection (b) of section 4974 is amended by striking out "section 408(a) (6) or (7) or 408(b) (3) or (4)" and inserting in lieu thereof "section 408(a)(6) or 408(b)(3)".

(b) AMENDMENTS RELATED TO SECTION 522 OF THE ACT.—

(1) Clause (v) of section 402(a)(5)(E) (defining partial distribution) is amended by striking out "of any portion of" and inserting in lieu thereof "of all or any portion of".

(2) Clause (i) of section 402(a)(5)(D) (relating to special rules for partial distributions) is amended by adding at the end thereof the following new sentence:

"For purposes of subclause (I), the balance to the credit of the employee shall not include any accumulated deductible employee contributions (within the meaning of section 72(o)(5)).".

(3)(A) Section 402 is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this section, except as otherwise provided in subparagraph (A) of subsection (e)(4), the term 'employee' includes a self-employed individual (as defined in section 401(c)(1)(B)) and the employer of such individual shall be the person treated as his employer under section 401(c)(4)."

(B) Paragraph (4) of section 402(e) is amended by striking out subparagraph (F).

(4) Paragraph (7) of section 402(a) (relating to rollover where spouse received distributions after death of employee) is amended by striking out "the spouse were the employee" and inserting in lieu thereof "the spouse were the employee; except that a trust or plan described in subclause (III) or (IV) of paragraph (5)(E)(iv) shall not be treated as an eligible retirement plan with respect to such distribution".

(5) Clause (ii) of section 402(a)(5)(D) is amended by striking out "a plan described in subclause (IV) or (V)" and inserting in lieu thereof "a trust or plan described in subclause (III) or (IV)".

(6) Clause (i) of section 402(a)(5)(F) is amended by striking out "a transfer described in subparagraph (A)" and inserting in lieu thereof "a transfer resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(7) Clause (v) of section 402(a)(6)(D) is amended by striking out "(7)(B)" and inserting in lieu thereof "(7)".

(8) Paragraph (20) of section 401(a) is amended by striking out "qualifying rollover distribution (determined as if section 402(a)(5)(D)(i) did not contain subclause (II) thereof) described in section 402(a)(5)(A)(i) or 403(a)(4)(A)(i)" and inserting in lieu thereof "qualified total distribution described in section 402(a)(5)(E)(i)(I)".

(9) Subsection (e) of section 522 of the Tax Reform Act of 1984 is amended by striking out "the date of the amendment" and inserting in lieu thereof "the date of the enactment".

(10) Subparagraph (C) of section 403(b)(8) is amended by striking out "(F)(i)" and inserting in lieu thereof "and (F)(i)".

(c) AMENDMENTS RELATED TO SECTION 523 OF THE ACT.—

(1) Subparagraph (B) of section 72(e)(7) (relating to plans substantially all the contributions of which are employee contributions) is amended—

(A) by striking out "any trust or contract" and inserting in lieu thereof "any plan or contract",

(B) by striking out "85 percent of" and inserting in lieu thereof "85 percent or more of", and

(C) by adding at the end thereof the following new sentence:

"For purposes of clause (ii), deductible employee contributions (as defined in subsection (o)(5)(A)) shall not be taken into account."

(2) Subparagraph (E) of section 72(q)(2) (relating to 5-percent penalty for premature distributions from annuity contracts) is amended by striking out "subsection (e)(5)(D)" and inserting in lieu thereof "subsection (e)(5)(D) (determined without regard to subsection (e)(7))".

(3) Subsection (f) of section 72 is amended—

(A) by striking out "subsection (d)(1)" and inserting in lieu thereof "subsections (d)(1) and (e)(7)", and

(B) by striking out "subsection (e)(1)(B)" and inserting in lieu thereof "subsection (e)(6)".

(4) Paragraph (2) of section 72(m) is amended—

(A) by striking out "3 years)" in subparagraph (B) and inserting in lieu thereof "3 years) and subsection (e)(7) (relating to plans where substantially all contributions are employee contributions)", and

(B) by striking out "subsection (e)(1)(B)" in subparagraph (C) and inserting in lieu thereof "subsection (e)(6)".

(5) Subsection (b) of section 402 is amended by striking out "section 72(e)(1)" and inserting in lieu thereof "section 72(e)(5)".

(d) AMENDMENTS RELATED TO SECTION 524 OF THE ACT.—

(1) Subparagraph (A) of section 416(i)(1) (defining key employee) is amended by adding at the end thereof the following new sentence: "Such term shall not include any officer or employee of an entity referred to in section 414(d) (relating to governmental plans)."

(2) Subparagraph (E) of section 416(g)(4) (relating to benefits not taken into account if employee not employed for last 5 years) is amended to read as follows:

"(E) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE NOT EMPLOYED FOR LAST 5 YEARS.—If any individual has not performed services for the employer maintaining the plan at any time during the 5-year period ending on the determination date, any accrued benefit for such individual (and the account of such individual) shall not be taken into account."

(e) AMENDMENTS RELATED TO SECTION 525 OF THE ACT.—

(1)(A) Subsection (c) of section 2039 (relating to exception of certain annuity interests created by community property laws) is hereby repealed.

(B) The amendment made by subparagraph (A) shall apply to estates of decedents dying after the date of the enactment of this Act.

(2)(A) Section 2517 (relating to certain annuities under qualified plans) is hereby repealed.

(B) The table of sections for subchapter B of chapter 12 is amended by striking out the item relating to section 2517.

(C) Subsection (e) of section 406 is amended by striking out paragraph (5).

(D) Subsection (e) of section 407 is amended by striking out paragraph (5).

(E) The amendments made by this paragraph shall apply to transfers after the date of the enactment of this Act.

(3) Section 525(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(4) IRREVOCABLE ELECTION.—For purposes of paragraph (2) and section 245(c) of the Tax Equity and Fiscal Responsibility Act of 1982, an individual who—

"(A) separated from service before January 1, 1982, and

"(B) meets the requirements of such paragraph or such section other than the requirement that there be an irrevocable election,

shall be treated as having made an irrevocable election within the time prescribed with respect to a form of benefit if such individual does not change such form of benefit before death."

(f) AMENDMENT RELATED TO SECTION 526 OF THE ACT.—Paragraph (2) of section 526(d) of the Tax Reform Act of 1984 is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(g) AMENDMENTS RELATED TO SECTION 527 OF THE ACT.—

(1) Paragraph (3) of section 401(k) (relating to application of participation and discrimination standards) is amended by adding at the end thereof the following new subparagraph:

"(C) A cash or deferred arrangement shall be treated as meeting the requirements of subsection (a)(4) with respect to contributions if the requirements of subparagraph (A)(ii) are met."

(2) Subparagraph (A) of section 401(k)(3) is amended by striking out the last sentence and inserting in lieu thereof the following: "If an employee is a participant under 2 or more cash or deferred arrangements of the employer, for purposes of determining the deferral percentage with respect to such employee, all such cash or deferred arrangements shall be treated as 1 cash or deferred arrangement."

(3) Subparagraph (C) of section 401(k)(2) is amended by striking out "are nonforfeitable" and inserting in lieu thereof "is nonforfeitable".

(h) AMENDMENTS RELATED TO SECTION 528 OF THE ACT.—

(1) Subsection (h) of section 401 (relating to medical, etc., benefits for retired employees and their spouses and dependents) is amended—

(A) by striking out "5-percent owner" each place it appears in paragraph (6) and inserting in lieu thereof "key employee", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of paragraph (6), the term 'key employee' means any employee, who at any time during the plan year or any preceding plan year during which contributions were made on behalf of such employee, is or was a key employee as defined in section 416(i)."

(2) Paragraph (1) of section 416(l) (relating to treatment of certain medical benefits) is amended by adding at the end thereof the following new sentence: "Subparagraph (B) of subsection (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence."

(3) Subsection (l) of section 415 is amended by striking out "a defined benefit plan" each place it appears and inserting in lieu thereof "a pension or annuity plan".

(i) AMENDMENT RELATED TO SECTION 558 OF THE ACT.—Section 558 of the Tax Reform Act

of 1984 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES.—

"(1) In the case of an employer who entered into a collective bargaining agreement—

"(A) which was effective on January 12, 1979, and which remained in effect through May 15, 1982, and

"(B) under which contributions to the multiemployer plan were to cease on January 12, 1982,

subsection (a)(1) shall be applied by substituting 'January 12, 1982' for 'September 26, 1980'.

"(2) In the case of an employer engaged in the grocery wholesaling business which—

"(A) had ceased all covered operations under the plan before June 30, 1981, and had relocated its operations to a new facility in another State,

"(B) had notified a local union representative on May 16, 1980, that the employer had tentatively decided to discontinue operations and relocate to a new facility in another State, and

"(C) all State and local approvals with respect to construction of and commencement of operations at the new facility had been obtained, a contract for construction had been entered into, and construction of the new facility had begun before September 26, 1980,

then subsection (a)(1) shall be applied by substituting 'June 30, 1981' for 'September 26, 1980'."

SEC. 1853. AMENDMENTS RELATED TO FRINGE BENEFIT PROVISIONS.

(a) AMENDMENTS TO SECTION 132.—

(1) Clause (ii) of section 132(f)(2)(B) (defining dependent children) is amended by striking out "are deceased" and inserting in lieu thereof "are deceased and who has not attained age 25".

(2) Subparagraph (A) of section 132(c)(3) (defining employee discount) is amended by striking out "are provided to the employee by the employer" and inserting in lieu thereof "are provided by the employer to an employee for use by such employee".

(3) Subsection (i) of section 132 (relating to customers not to include employees) is amended by striking out "subsection (c)(2)(B)" and inserting in lieu thereof "subsection (c)(2)".

(b) AMENDMENTS TO SECTION 125.—

(1) CLARIFICATION OF BENEFITS WHICH MAY BE PROVIDED UNDER CAFETERIA PLANS.—

(A) Subsections (c) and (d)(1)(B) of section 125 are each amended by striking out "statutory nontaxable benefits" each place it appears and inserting in lieu thereof "qualified benefits".

(B) Subsection (f) of section 125 is amended to read as follows:

"(f) QUALIFIED BENEFITS DEFINED.—For purposes of this section, the term 'qualified benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee by reason of an express provision of this chapter (other than section 117, 124, 127, or 132). Such term includes any group term life insurance which is includible in gross income only because it exceeds the dollar limitation of section 79 and such term includes any other benefit permitted under regulations."

(2) TRANSITIONAL RULE.—Paragraph (5) of section 531(b) of the Tax Reform Act of 1984 (relating to exception for certain cafeteria plans and benefits) is amended by adding at the end thereof the following new subparagraph:

"(D) COLLECTIVE BARGAINING AGREEMENTS.—In the case of any cafeteria plan in existence on February 10, 1984, and maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof agreed to after July 18, 1984) shall be substituted for 'January 1, 1985' in subparagraph (A) and for 'July 1, 1985' in subparagraph (B). For purposes of the preceding sentence, any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section (or any requirement in the regulations under section 125 of the Internal Revenue Code of 1954 proposed on May 6, 1984) shall not be treated as a termination of such collective bargaining agreement."

(3) SPECIAL RULE WHERE CONTRIBUTIONS OR REIMBURSEMENTS SUSPENDED.—Paragraph (5) of section 531(b) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE WHERE CONTRIBUTIONS OR REIMBURSEMENTS SUSPENDED.—For purposes of subparagraphs (A) and (B), a plan shall not be treated as not continuing to fail to satisfy the rules referred to in such subparagraphs with respect to any benefit provided in the form of a flexible spending arrangement merely because contributions or reimbursements (or both) with respect to such plan were suspended before January 1, 1985."

(c) AMENDMENTS TO SECTION 4977.—

(1) Paragraph (2) of section 4977(c) is amended to read as follows:

"(2) at all times on or after January 1, 1984, and before the close of the calendar year involved, substantially all of the employees of the employer were entitled to employee discounts on goods or services provided by the employer in 1 line of business,".

(2) Section 4977 (relating to tax on certain fringe benefits provided by an employer) is amended by adding at the end thereof the following new subsection:

"(f) SECTION TO APPLY ONLY TO EMPLOYMENT WITHIN THE UNITED STATES.—Except as otherwise provided in regulations, this section shall apply only with respect to employment within the United States."

(3) For purposes of determining whether the requirements of section 4977(c) of the Internal Revenue Code of 1954 are met in the case of an agricultural cooperative incorporated in 1964, there shall not be taken into account employees of a member of the same controlled group as such cooperative which became a member during July 1980.

(d) TREATMENT OF TELEPHONE CONCESSION SERVICE FOR CERTAIN RETIREES.—Section 559 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following subsection:

"(e) TELEPHONE SERVICE FOR PRE-DIVESTITURE RETIREES.—In the case of an employee who, by reason of retirement or disability, separated before January 1, 1984, from the service of an entity subject to the modified final judgment—

"(1) all entities subject to the modified final judgment shall be treated as a single employer in the same line of business for purposes of determining whether telephone service provided to the employee is a no-additional-cost service as defined in section 132 of the Internal Revenue Code of 1954; and

"(2) payment by an entity subject to the modified final judgment of all or part of the cost of local telephone service provided to the employee by a person other than an entity subject to the modified final judgment (including rebate of the amount paid by the employee for the service and payment to the person providing the service) shall be treated as telephone service provided to the employee by such single employer for purposes of determining whether the telephone service is a no-additional-cost service as defined in section 132 of the Internal Revenue Code of 1954.

For purposes of this subsection, the term 'employee' has the meaning given to such term by section 132(f) of the Internal Revenue Code of 1954."

(e) TREATMENT OF CERTAIN LEASED OPERATIONS OF DEPARTMENT STORES.—For purposes of section 132(h)(2)(B) of the Internal Revenue Code of 1954, a leased section of a department store which, in connection with the offering of beautician services, customarily makes sales of beauty aids in the ordinary course of business shall be treated as engaged in over-the-counter sales of property.

(f) TRANSITIONAL RULES FOR TREATMENT OF CERTAIN REDUCTIONS IN TUITION.—

(1) A tuition reduction plan shall be treated as meeting the requirements of section 117(d)(3) of the Internal Revenue Code of 1954 if—

(A) such plan would have met the requirements of such section (as amended by this section but without regard to the lack of evidence that benefits under such plan were the subject of good faith bargaining) on the day on which eligibility to participate in the plan was closed,

(B) at all times thereafter, the tuition reductions available under such plan are available on substantially the same terms to all employees eligible to participate in such plan, and

(C) the eligibility to participate in such plan closed on June 30, 1972, June 30, 1974, or December 31, 1975.

(2) For purposes of applying section 117(c)(3) of the Internal Revenue Code of 1954 to all tuition reduction plans of an employer with at least 1 such plan described in paragraph (1) of this subsection, employees not included in the plan who are included in a unit of employees covered by an agreement that the Secretary of the Treasury or his delegate finds to be a collective bargaining agreement between employee representatives and 1 or more employers, if, other than plans described in paragraph (1), there is evidence that such benefits were the subject of good faith bargaining, are excluded from consideration.

SEC. 1854. AMENDMENTS RELATED TO EMPLOYEE STOCK OWNERSHIP PLANS.

(a) AMENDMENTS RELATED TO SECTION 541.—

(1) Section 1042(a) (relating to nonrecognition of gain) is amended—

(A) by striking out "gain (if any) on such sale" and inserting in lieu thereof "gain (if any) on such sale which would be recognized as long-term capital gain", and

(B) by striking out "the taxpayer elects" in paragraph (1) and inserting in lieu thereof "the taxpayer or executor elects in such form as the Secretary may prescribe".

(2)(A) Section 1042(b)(2) (relating to requirement that employees must own 30 percent of stock) is amended to read as follows:

"(2) PLAN MUST HOLD 30 PERCENT OF STOCK AFTER SALE.—The plan or cooperative referred to in paragraph (1) owns (after application of section 318(a)(4)), immediately after the sale, at least 30 percent of—

"(A) each class of outstanding stock of the corporation (other than stock described in section 1504(a)(4)) which issued the qualified securities, or

"(B) the total value of all outstanding stock of the corporation (other than stock described in section 1504(a)(4)).

(B) The requirement that section 1042(b) of the Internal Revenue Code of 1954 shall be applied with regard to section 318(a)(4) of such Code shall apply to sales after May 6, 1986. The provision that the plan or cooperative may hold 30 percent of each class (or 30 percent of the total value of) of outstanding stock of a corporation shall apply with respect to sales after July 18, 1984.

(3)(A) Section 409 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) SECURITIES RECEIVED IN CERTAIN TRANSACTIONS.—

"(1) IN GENERAL.—A plan to which this section applies and an eligible worker-owned cooperative (within the meaning of section 1042(c)) shall provide that no portion of the assets of the plan or cooperative attributable to (or allocable in lieu of) employer securities (within the meaning of section 409(l)) acquired by the plan or cooperative in a sale to which section 1042 applies may accrue (or be allocated directly or indirectly under any plan of the employer meeting the requirements of section 401(a))—

"(A) during the nonallocation period for the benefit of—

"(i) any taxpayer who makes an election under section 1042(a) with respect to employer securities,

"(ii) any individual who is related to the taxpayer (within the meaning of section 267(b)), or

"(B) for the benefit of any other person who owns (after application of section 318(a)) more than 25 percent—

"(i) any class of outstanding stock of the corporation which issued such employer securities, or

"(ii) the total value of any class of outstanding stock of such corporation.

For purposes of subparagraph (B), section 318(a) shall be applied without regard to the employee trust exception in paragraph (2)(B)(i) and the term 'corporation' has the meaning given such term by section 409(l)(4).

"(2) FAILURE TO MEET REQUIREMENTS.—If a plan fails to meet the requirements of paragraph (1)—

"(A) the plan shall be treated as having distributed to the person described in paragraph (1) the amount allocated to the account of such person in violation of paragraph (1) at the time of such allocation,

"(B) the provisions of section 4979A shall apply, and

"(C) the statutory period for the assessment of any tax imposed by section 4979A shall not expire before the later of 3 years from the date—

"(i) of the 1st allocation of employer securities (as defined in section 409(l)) in connection with a sale to the plan to which this subsection applies, or

"(ii) the Secretary is notified of such failure.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) LINEAL DESCENDANTS.—Paragraph (1)(A)(ii) shall not apply to any individual if—

"(i) such individual is a lineal descendant of the taxpayer, and

"(ii) all such lineal descendants do not have allocated for their benefit under the plan at any time during the nonallocation period more than 5 percent of the employer securities (or amounts allocated in lieu thereof) held by the plan attributable to an acquisition of such securities in connection with a sale to which this subsection applies by any person related to such descendants (within the meaning of section 267(c)(4)).

"(B) 25-PERCENT SHAREHOLDERS.—A person shall be treated as failing to meet the stock ownership limitation under paragraph (1)(B) if such person fails such limitation—

"(i) at any time during the 1-year period ending on the date of sale of qualified securities to the plan or cooperative, or

"(ii) on the date on which qualified securities are allocated to participants in the plan or cooperative.

"(C) NONALLOCATION PERIOD.—The term 'nonallocation period' means the later of—

"(i) the 10-year period beginning with the date of the sale of the qualified securities, or

"(ii) the 10-year period beginning with the date of the plan allocation attributable to the final payment of acquisition indebtedness incurred in connection with such sale."

(B) Section 1042(b)(3) is amended by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

(C) The amendments made by this paragraph apply to sales of securities after the date of the enactment of this Act.

(4) Section 1042(c)(1) (defining qualified securities) is amended—

(A) by striking out "securities outstanding that are" in subparagraph (A) and inserting in lieu thereof "stock outstanding that is",

(B) by inserting "and" at the end of subparagraph (A), and

(C) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(5)(A) Paragraph (4) of section 1042(c) (defining qualified replacement property) is amended to read as follows:

"(4) QUALIFIED REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—The term 'qualified replacement property' means any security issued by a domestic operating corporation which—

"(i) did not, for the taxable year preceding the taxable year in which such security was purchased, have passive investment income (as defined in section 1362(d)(3)(D)) in excess of 25 percent of the gross receipts of such corporation for such preceding taxable year, and

"(ii) is not the corporation (within the meaning of section 1563(a)(1)) which issued the qualified securities which such security is replacing.

"(B) OPERATING CORPORATION.—For purposes of this paragraph, the term 'operating corporation' means a corporation more than 50 percent of the assets of which were, at the time the security was purchased or before the close of the replacement period, used in the active conduct of a trade or business. A financial institution described in section 581 or 593 shall be treated as an operating corporation.

"(C) CONTROLLING AND CONTROLLED CORPORATIONS TREATED AS 1 CORPORATION.—

"(i) IN GENERAL.—For purposes of applying this paragraph, if—

"(I) the corporation issuing the security owns stock representing control of 1 or more other corporations,

"(II) 1 or more other corporations own stock representing control of the corporation issuing the security, or

"(III) both,

then all such corporations shall be treated as 1 corporation.

"(ii) CONTROL.—For purposes of clause (i), the term 'control' has the meaning given such term by section 304(c). In determining control, there shall be disregarded any qualified replacement property of the taxpayer with respect to the section 1042 sale being tested.

"(D) SECURITY DEFINED.—For purposes of this paragraph, the term 'security' has the meaning given such term by section 165(g)(2), except that such term shall not include any security issued by a government or political subdivision thereof."

(B) If—

(i) before January 1, 1987, the taxpayer acquired any security (as defined in section 165(g)(2) of the Internal Revenue Code of 1954) issued by a domestic corporation or by any State or political subdivision thereof,

(ii) the taxpayer treated such security as qualified replacement property for purposes of section 1042 of such Code, and

(iii) such property does not meet the requirements of section 1042(c)(4) of such Code (as amended by subparagraph (A)),

then, with respect to so much of any gain which the taxpayer treated as not recognized under section 1042(a) by reason of the acquisition of such property, the replacement period for purposes of such section shall not expire before January 1, 1987.

(6)(A) Section 1042(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) SECTION NOT TO APPLY TO GAIN OF C CORPORATION.—Subsection (a) shall not apply to any gain on the sale of any qualified securities which is includible in the gross income of any C corporation."

(B) The amendment made by subparagraph (A) shall apply to sales after March 28, 1985, except that such amendment shall not apply to sales made before July 1, 1985, if made pursuant to a binding contract in effect on March 28, 1985, and at all times thereafter.

(C) The amendment made by subparagraph (A) shall not apply to any sale occurring on December 20, 1985, with respect to which—

(i) a commitment letter was issued by a bank on October 31, 1984, and

(ii) a final purchase agreement was entered into on November 5, 1985.

(D) In the case of a sale on September 27, 1985, with respect to which a preliminary commitment letter was issued by a bank on April 10, 1985, and with respect to which a commitment letter was issued by a bank on June 28, 1985, the amendment made by subparagraph (A) shall apply but such sale shall be treated as having occurred on September 27, 1986.

(7) Section 1042(d) (relating to basis of qualified replacement property) is amended by adding at the end thereof the following new flush sentence:

"Any reduction in basis under this subsection shall not be taken into account for purposes of section 1278(a)(2)(A)(ii) (relating to definition of market discount)."

(8)(A) Section 1042 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) RECAPTURE OF GAIN ON DISPOSITION OF QUALIFIED REPLACEMENT PROPERTY.—

"(1) IN GENERAL.—If a taxpayer disposes of any qualified replacement property, then, notwithstanding any other provision of this title, gain (if any) shall be recognized to the extent of the gain which was not recognized

under subsection (a) by reason of the acquisition by such taxpayer of such qualified replacement property.

"(2) SPECIAL RULE FOR CORPORATIONS CONTROLLED BY THE TAXPAYER.—If—

"(A) a corporation issuing qualified replacement property disposes of a substantial portion of its assets other than in the ordinary course of its trade or business, and

"(B) any taxpayer owning stock representing control (within the meaning of section 304(c)) of such corporation at the time of such disposition holds any qualified replacement property of such corporation at such time,

then the taxpayer shall be treated as having disposed of such qualified replacement property at such time.

"(3) RECAPTURE NOT TO APPLY IN CERTAIN CASES.—Paragraph (1) shall not apply to any transfer of qualified replacement property—

"(A) in any reorganization (within the meaning of section 368) unless the person making the election under subsection (a)(1) owns stock representing control in the acquiring or acquired corporation and such property is substituted basis property in the hands of the transferee,

"(B) by reason of the death of the person making such election,

"(C) by gift, or

"(D) in any transaction to which section 1042(a) applies."

(B) The amendment made by subparagraph (A) shall apply to dispositions after the date of the enactment of this Act, in taxable years ending after such date.

(9)(A) Chapter 43 (relating to qualified pension, etc. plans) is amended by adding at the end thereof the following new section:

"SEC. 4979A. TAX ON CERTAIN PROHIBITED ALLOCATIONS OF QUALIFIED SECURITIES.

"(a) IMPOSITION OF TAX.—If there is a prohibited allocation of qualified securities by any employee stock ownership plan or eligible worker-owned cooperative, there is hereby imposed a tax on such allocation equal to 50 percent of the amount involved.

"(b) PROHIBITED ALLOCATION.—For purposes of this section, the term 'prohibited allocation' means—

"(1) any allocation of qualified securities acquired in a sale to which section 1042 applies which violates the provisions of section 409(n), and

"(2) any benefit which accrues to any person in violation of the provisions of such section.

"(c) LIABILITY FOR TAX.—The tax imposed by this section shall be paid by—

"(1) the employer sponsoring such plan, or

"(2) the eligible worker-owned cooperative,

which made the written statement described in section 1042(b)(3)(B).

"(d) DEFINITIONS.—Terms used in this section have the same respective meaning as when used in section 4978."

(B) Subparagraph (B) of section 1042(b)(3) is amended by striking out "section 4978(a)" and inserting in lieu thereof "sections 4978 and 4979A".

(C) The table of sections for chapter 43 is amended by adding at the end thereof the following new item:

"Sec. 4979A. Tax on certain prohibited allocations of qualified securities."

(D) The amendments made by this paragraph shall apply to sales of securities after the date of the enactment of this Act.

(10) Paragraph (5) of section 1042(c) (relating to securities acquired by underwriter) is amended—

(A) by striking out "acquisition" and inserting in lieu thereof "sale",

(B) by inserting "to an employee stock ownership plan or eligible worker-owned cooperative" before "in", and

(C) by striking out "ACQUIRED" in the heading thereof and inserting in lieu thereof "SOLD".

(11) The heading for section 1042 is amended by inserting "EMPLOYEE" before "STOCK".

(12) The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1042 and inserting in lieu thereof the following new item:

"Sec. 1042. Sales of stock to employee stock ownership plans or certain cooperatives."

(b) AMENDMENTS RELATED TO SECTION 542.—(1) Paragraph (5) of section 72(e) is amended by adding at the end of subparagraph (D) the following new flush sentence:

"Any dividend described in section 404(k) which is received by a participant or beneficiary shall, for purposes of this subparagraph, be treated as paid under a separate contract to which clause (ii)(I) applies."

(2) Section 404(k) is amended—

(A) by adding at the end thereof the following new flush sentence:

"Any deduction under subparagraph (A) or (B) of paragraph (2) shall be allowed in the taxable year of the corporation in which the dividend is paid or distributed to the participant under paragraph (2).", and

(B) by striking out "during the taxable year" in the matter preceding paragraph (1).

(3) Section 404(k), as amended by paragraph (2), is amended by adding at the end thereof the following new sentence: "A plan to which this subsection applies shall not be treated as violating the requirements of section 401, 409, or 4975(e)(7) merely by reason of any distribution described in paragraph (2)."

(4) Subsection (k) of section 404 is amended by adding at the end thereof the following new sentence:

"The Secretary may disallow the deduction under this subsection for any dividend if the Secretary determines that such dividend constitutes, in substance, an avoidance of taxation."

(5) Paragraph (2) of section 404(k) is amended by striking out "participants in the plan" each place it appears and inserting in lieu thereof "participants in the plan or their beneficiaries".

(6) The amendments made by paragraphs (1) and (2) shall not apply to dividends paid before January 1, 1986, if the taxpayer treated such dividends in a manner inconsistent with such amendments on a return filed with the Secretary before the date of the enactment of this Act.

(c) AMENDMENTS RELATED TO SECTION 543.—(1) Subparagraph (B) of section 291(e)(1) (defining financial institution preference item) is amended by adding at the end thereof the following new clause:

"(iv) SPECIAL RULES FOR OBLIGATIONS TO WHICH SECTION 133 APPLIES.—In the case of an obligation to which section 133 applies, interest on such obligation shall not be treated as exempt from taxes for purposes of this subparagraph."

(2)(A) Section 133 (relating to exemption for interest on certain loans used to acquire employer securities) is amended by adding at the end thereof the following new subsection:

"(d) APPLICATION WITH SECTION 483 AND ORIGINAL ISSUE DISCOUNT RULES.—In applying section 483 and subpart A of part V of subchapter P to any obligation to which this section applies, appropriate adjustments shall be made to the applicable Federal rate to take into account the exclusion under subsection (a)."

(B) Section 7872(f) is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL RULE FOR CERTAIN EMPLOYER SECURITY LOANS.—This section shall not apply to any loan between a corporation (or any member of the controlled group of corporations that includes such corporation) and an employee stock ownership plan described in section 4975(e)(7) to the extent that the interest rate on such loan is equal to the interest rate paid on a related securities acquisition loan (as described in section 133(b)) to such corporation."

(C) Section 133 (b)(2) is amended by adding at the end thereof the following new flush sentence:

"For purposes of this paragraph, subparagraphs (A) and (B) shall not apply to any loan which, but for such subparagraphs, would be a securities acquisition loan if such loan is not originated by the employer of any employees who are covered by the plan or by any member of the controlled group of corporations which includes such employer, except that this section shall not apply to any interest received on such loan during such time as such loan is held by such employer (or any member of such controlled group)."

(D) Section 133(b) is amended by redesignating paragraph (3) as paragraph (4) and by adding after paragraph (2) the following new paragraph:

"(3) TERMS APPLICABLE TO CERTAIN SECURITIES ACQUISITION LOANS.—A loan to a corporation shall not fail to be treated as a securities acquisition loan merely because the proceeds of such loan are lent to an employee stock ownership plan sponsored by such corporation (or by any member of the controlled group of corporations which includes such corporation) if such loan includes—

"(A) repayment terms which are substantially similar to the terms of the loan of such corporation from a lender described in subsection (a), or

"(B) repayment terms providing for more rapid repayment of principal or interest on such loan but only if—

"(i) allocations under the plan attributable to such repayment do not discriminate in favor of highly compensated employees (within the meaning of section 414(q)), and

"(ii) the original commitment period of such loan to the corporation does not exceed 7 years."

(d) AMENDMENTS RELATED TO SECTION 544.—(1)(A) Section 2210(a) (relating to liability for payment of estate tax in case of transfer of employer securities to an ESOP or worker cooperative) is amended by striking out "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

"(2) the executor of the estate of the decedent may (without regard to this section) make an election under section 6166 with respect to that portion of the tax imposed by section 2001 which is attributable to employer securities, and".

(B) The amendment made by subparagraph (A) shall apply to the estates of decedents dying after September 27, 1985.

(2) Section 2210(c) (relating to installment payments) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR APPLICATION OF SECTION 6166(g).—In the case of any transfer of employer securities to an employee stock ownership plan or eligible worker-owned cooperative to which this section applies—

"(A) TRANSFER DOES NOT TRIGGER ACCELERATION.—Such transfer shall not be treated as a disposition or withdrawal to which section 6166(g) applies.

"(B) SEPARATE APPLICATION TO ESTATE AND PLAN INTERESTS.—Section 6166(g) shall be applied separately to the interests held after such transfer by the estate and such plan or cooperative.

"(C) REQUIRED DISTRIBUTION NOT TAKEN INTO ACCOUNT.—In the case of any distribution of such securities by such plan which is described in section 4978(d)(1)—

"(i) such distribution shall not be treated as a disposition or withdrawal for purposes of section 6166(g), and

"(ii) such securities shall not be taken into account in applying section 6166(g) to any subsequent disposition or withdrawal."

(3) Section 2210(g) (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(5) TAX IMPOSED BY SECTION 2001.—The term 'tax imposed by section 2001' includes any interest, penalty, addition to tax, or additional amount relating to any tax imposed by section 2001."

(4) Section 2210(c)(1) is amended by inserting "any authorized officer of" before "the cooperative" in the matter following subparagraph (B).

(5) Section 2210(d) (relating to guarantee of payments) is amended—

(A) by inserting "and any eligible worker-owned cooperative" before "shall guarantee" in the matter following paragraph (2),

(B) by striking out "such plan" and inserting in lieu thereof "such plan or cooperative, respectively,", and

(C) by striking out ", including any interest payable under section 6601 which is attributable to such amount".

(6) Section 2210(g)(3) is amended by striking out "section 1041(b)(2)" and inserting in lieu thereof "section 1042(c)(2)".

(e) AMENDMENTS RELATED TO SECTION 545.—(1) Section 4978(a)(1) (relating to tax on disposition of securities to which section 1042 applies before close of minimum holding period) is amended by striking out "then" and inserting in lieu thereof "than".

(2) Section 4978(b)(1) is amended by striking out "paragraph (1)" and inserting in lieu thereof "subsection (a)".

(3) Section 4978(c) is amended by striking out "section 1042(a)(2)(B)" and inserting in lieu thereof "section 1042(b)(3)".

(4) Section 4978(d)(1)(C) is amended by striking out "section 72(m)(5)" and inserting in lieu thereof "section 72(m)(7)".

(5) Section 4978(e)(2) is amended by striking out "section 1042(b)(1)" and inserting in lieu thereof "section 1042(c)(1)".

(6) Section 4978(e)(3) is amended by striking out "section 1042(b)(1)" and inserting in lieu thereof "section 1042(c)(2)".

(7) Section 4978(d) (relating to dispositions to which section does not apply) is amended by adding at the end thereof the following new paragraph:

"(3) LIQUIDATION OF CORPORATION INTO COOPERATIVE.—In the case of any exchange of qualified securities pursuant to the liquidation of the corporation issuing qualified securities into the eligible worker-owned cooperative in a transaction which meets the requirements of section 332 (determined by substituting '100 percent' for '80 percent' each place it appears in section 332(b)(1)), such exchange shall not be treated as a disposition for purposes of this section."

(f) OTHER AMENDMENTS.—(1)(A) Section 409(e) (relating to voting rights) is amended by adding at the end thereof the following new paragraph:

"(5) 1 VOTE PER PARTICIPANT.—A plan meets the requirements of paragraph (2) or (3) if—

"(A) the plan permits each participant 1 vote with respect to any issue, and

"(B) the trustee votes the shares held by the plan in the proportion determined after application of subparagraph (A)."

(B) Paragraph (3) of section 409(e) (relating to requirement for other employers) is amended by striking out all that follows "with respect to" and inserting in lieu thereof the following: "any corporate matter which involves the voting of such shares and which relates to any corporate merger or consolidation, recapitalization, reclassification, liquidation, dissolution, sale of substantially all assets of a trade or business, or such similar transaction as the Secretary may prescribe in regulations."

(C) Paragraphs (2) and (3) of section 409(e) are amended by striking out "employer securities" and inserting in lieu thereof "securities of the employer".

(D) Paragraphs (2) and (3) of section 409(e) are amended by inserting "or beneficiary" after "participant" each place it appears.

(2) Section 402 is amended by adding at the end thereof the following new section:

"(g) EFFECT OF DISPOSITION OF STOCK BY PLAN ON NET UNREALIZED APPRECIATION.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) or (e)(4)(J), in the case of any transaction to which this subsection applies, the determination of net unrealized appreciation shall be made without regard to such transaction.

"(2) TRANSACTION TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transaction in which—

"(A) the plan trustee exchanges the plan's securities of the employer corporation for other such securities, or

"(B) the plan trustee disposes of securities of the employer corporation and uses the proceeds of such disposition to acquire securities of the employer corporation within 90 days (or such longer period as the Secretary may prescribe), except that this subparagraph shall not apply to any employee with respect to whom a distribution of money was made during the period after such disposition and before such acquisition."

(3)(A) Section 4975(e)(7) is amended by inserting ", section 409(o), and, if applicable, section 409(n)" after "section 409(h)".

(B) Section 1042(b)(3)(B) is amended by inserting "and 4979A" after "section 4978(a)".

(C) Section 409(h)(2) is amended by striking out "in cash" and inserting in lieu thereof "in cash, except that such plan may distribute employer securities subject to a requirement that such securities be resold to the employer."

(4)(A) The amendments made by paragraph (1)(A) and (3) shall take effect on the date of the enactment of this Act.

(B) The amendments made by subparagraphs (B), (C), and (D) of paragraph (1) shall apply after December 31, 1986, to stock acquired after December 31, 1979.

(C) The amendments made by paragraph (2) shall apply to any transaction occurring after December 31, 1984, except that in the case of any transaction occurring before the date of the enactment of this Act, the period under which proceeds are required to be invested under section 402(g) of the Internal Revenue Code of 1954 (as added by paragraph (2)) shall not end before the earlier of 1 year after the date of such transaction or 180 days after the date of the enactment of this Act.

SEC. 1855. AMENDMENTS RELATED TO MISCELLANEOUS EMPLOYEE BENEFIT PROVISIONS.

(a) SECTION 555 OF THE ACT.—Subsection (c) of section 555 of the Tax Reform Act of 1984 (relating to technical amendments to the incentive stock option provisions) is amended—

(1) by striking out "subsection (a)" in paragraph (1) and inserting in lieu thereof "subsection (a)(1)",

(2) by striking out "subsection (b)" in paragraph (2) and inserting in lieu thereof "subsection (a)(2)",

(3) by striking out "after March 20, 1984," in paragraph (2), and

(4) by striking out "subsection (c)" in paragraph (3) and inserting in lieu thereof "subsection (b)".

(b) SECTION 252 OF THE ECONOMIC RECOVERY ACT OF 1981.—

(1) Notwithstanding subsection (c) of section 252 of the Economic Recovery Tax Act of 1981, the amendment made by subsection (a) of such section 252 (and the provisions of subsection (b) of such section 252) shall apply to any transfer of stock to any person if—

(A) such transfer occurred in November or December of 1973 and was pursuant to the exercise of an option granted in November or December of 1971,

(B) in December 1973 the corporation granting the option was acquired by another corporation in a transaction qualifying as a reorganization under section 368 of the Internal Revenue Code of 1954,

(C) the fair market value (as of July 1, 1974) of the stock received by such person in the reorganization in exchange for the stock transferred to him pursuant to the exercise of such option was less than 50 percent of the fair market value of the stock so received (as of December 4, 1973),

(D) in 1975 or 1976 such person sold substantially all of the stock received in such reorganization, and

(E) such person makes an election under this section at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe.

(2) LIMITATION ON AMOUNT OF BENEFIT.—Subsection (a) shall not apply to transfers with respect to any employee to the extent that the application of subsection (a) with respect to such employee would (but for this subsection) result in a reduction in liability for income tax with respect to such employee for all taxable years in excess of $100,000 (determined without regard to any interest).

(3) STATUTE OF LIMITATIONS.—

(A) OVERPAYMENTS.—If refund or credit of any overpayment of tax resulting from the application of subsection (a) is prevented on the date of the enactment of this Act (or at any time within 6 months after such date of enactment) by the operation of any law or rule of law, refund or credit of such overpayment (to the extent attributable to the application of subsection (a)) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 6-month period.

(B) DEFICIENCIES.—If the assessment of any deficiency of tax resulting from the application of subsection (a) is prevented on the date of the enactment of this Act (or at any time within 6 months after such date of enactment) by the operation of any law or rule

of law, assessment of such deficiency (to the extent attributable to the application of subsection (a)) may, nevertheless, be made within such 6-month period.

CHAPTER 6—AMENDMENTS RELATED TO TITLE VI OF THE ACT

SEC. 1861. AMENDMENTS RELATED TO SECTION 611 OF THE ACT.

(a) EXTENSION OF TIME FOR SUBMITTING POLICY STATEMENT.—Paragraph (5) of section 103A(j) is amended by adding at the end thereof the following new subparagraph:

"(C) EXTENSION OF TIME.—The Secretary may grant an extension of time for the publishing of a report described in subparagraph (B) or the submittal of such report to the Secretary if there is reasonable cause for the failure to publish or submit such report in a timely fashion."

(b) DEFINITION OF QUALIFIED VETERAN.—Subparagraph (B) of section 103A(o)(4) (defining qualified veteran) is amended by striking out "January 1, 1985" and inserting in lieu thereof "January 31, 1985".

(c) CLARIFICATION OF GOOD FAITH EFFORT PROVISIONS.—

(1) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage issue) is amended by striking out "and (j)" and inserting in lieu thereof "and (j)(1) and (2)".

(2) Subparagraph (C) of section 103A(c)(2) is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (j) (3), (4), and (5)".

SEC. 1862. AMENDMENT RELATED TO SECTION 612 OF THE ACT.

(a) REQUIREMENTS FOR QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—Subclause (V) of section 25(c)(2)(A)(iii) (defining qualified mortgage credit certificate program) is amended by striking out "paragraph (1) of subsection (j)" and inserting in lieu thereof "subsection (j), other than paragraph (2) thereof".

(b) GOOD FAITH EFFORT RULES MADE APPLICABLE.—Subparagraph (A) of section 25(c)(2) (defining qualified mortgage credit certificate program) is amended by adding at the end thereof the following new sentence:

"Under regulations, rules similar to the rules of subparagraphs (B) and (C) of section 103A(c)(2) shall apply to the requirements of this subparagraph."

(c) CARRYFORWARD OF EXCESS CREDIT.—Subparagraph (B) of section 25(e)(1) (relating to carryforward of unused credit) is amended to read as follows:

"(B) LIMITATION.—The amount of the unused credit which may be taken into account under subparagraph (A) for any taxable year shall not exceed the amount (if any) by which the applicable tax limit for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year determined without regard to this paragraph, and

"(ii) the amounts which, by reason of this paragraph, are carried to such taxable year and are attributable to taxable years before the unused credit year."

(d) CLERICAL AMENDMENTS.—

(1) Subparagraph (B) of section 25(a)(1) is amended by striking out "paid or incurred" and inserting in lieu thereof "paid or accrued".

(2) Subchapter B of chapter 68 is amended by redesignating the section 6708 which relates to penalties with respect to mortgage credit certificates as section 6709.

(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to the section 6708 which relates to penalties with respect to mortgage credit certificates and inserting in lieu thereof the following:

"Sec. 6709. Penalties with respect to mortgage credit certificates."

SEC. 1863. AMENDMENT RELATED TO SECTION 613 OF THE ACT.

(a) GENERAL RULE.—Section 613 of the Tax Reform Act of 1984 (relating to authority to borrow from Federal Financing Bank) is amended to read as follows:

"SEC. 613. ADVANCE REFUNDING OF CERTAIN VETERANS' MORTGAGE BONDS PERMITTED.

"(a) IN GENERAL.—Notwithstanding section 103A(n) of the Internal Revenue Code of 1954, an issuer of applicable mortgage bonds may issue advance refunding bonds with respect to such applicable mortgage bonds.

"(b) LIMITATION ON AMOUNT OF ADVANCED REFUNDING.—

"(1) IN GENERAL.—The amount of advanced refunding bonds which may be issued under subsection (a) shall not exceed the lesser of—

"(A) $300,000,000, or

"(B) the excess of—

"(i) the projected aggregate payments of principal on the applicable mortgage bonds during the 15-fiscal year period beginning with fiscal year 1984, over

"(ii) the projected aggregate payments during such period of principal on mortgages financed by the applicable mortgage bonds.

"(2) ASSUMPTIONS USED IN MAKING PROJECTION.—The computation under paragraph (1)(B) shall be made by using the following percentages of the prepayment experience of the Federal Housing Administration in the State or region in which the issuer of the advance refunding bonds is located:

"Fiscal Year:	Percentage:
1984	15
1985	20
1986	25
1987 and thereafter	30.

"(c) DEFINITIONS.—For purposes of this section.—

"(1) APPLICABLE MORTGAGE BONDS.—The term 'applicable mortgage bonds' means any qualified veterans' mortgage bonds issued as part of an issue—

"(A) which was outstanding on December 31, 1981,

"(B) with respect to which the excess determined under subsection (b)(1)(B) exceeds 12 percent of the aggregate principal amount of such bonds outstanding on July 1, 1983,

"(C) with respect to which the amount of the average annual prepayments during fiscal years 1981, 1982, and 1983 was less than 2 percent of the average of the loan balances as of the beginning of each of such fiscal years, and

"(D) which, for fiscal year 1983, had a prepayment experience rate that did not exceed 20 percent of the prepayment experience rate of the Federal Housing Administration in the State or region in which the issuer is located.

"(2) QUALIFIED VETERANS' MORTGAGE BONDS.—The term 'qualified veterans' mortgage bonds' has the meaning given to such term by section 103A(c)(3) of the Internal Revenue Code of 1954.

"(3) FISCAL YEAR.—The term 'fiscal year' means the fiscal year of the State."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act; except that such amendment shall not apply with respect to any loan made by the Federal Financing Bank to the State of Oregon pursuant to a credit agreement entered into on April 16, 1985 (as such agreement was in effect on such date). The Secretary of the Treasury shall guarantee any loan made by the Federal Financing Bank to the State of Oregon pursuant to such agreement.

SEC. 1864. AMENDMENTS RELATED TO SECTION 621 OF THE ACT.

(a) SPECIAL RULE FOR FACILITIES LOCATED OUTSIDE THE STATE.—

(1) IN GENERAL.—Subsection (n) of section 103 (relating to limitation on aggregate amount of private activity bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraph:

"(13) FACILITY MUST BE LOCATED WITHIN STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no portion of the State ceiling applicable to any State for any calendar year may be used with respect to financing for a facility located outside such State.

"(B) EXCEPTION FOR CERTAIN FACILITIES WHERE STATE WILL GET PROPORTIONATE SHARE OF BENEFITS.—Subparagraph (A) shall not apply to any issue described in subparagraph (E), (G), or (H) of subsection (b)(4) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(2) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

(B) At the election of the issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe), the amendment made by paragraph (1) shall apply to any obligation issued on or before the date of the enactment of this Act.

(b) CLARIFICATION OF AUTHORITY FOR DIFFERENT ALLOCATION.—Subparagraphs (A) and (B)(i) of section 103(n)(6) (relating to State may provide for different allocation) are each amended by striking out "governmental units" and inserting in lieu thereof "governmental units or other authorities".

(c) CLARIFICATION OF EXCEPTION FOR CERTAIN FACILITIES.—Clause (i) of section 103(n)(7)(C) (relating to exception for certain facilities described in section 103(b)(4)(C) or (D)) is amended by striking out "the property described in such subparagraph" and inserting in lieu thereof "all of the property to be financed by the obligation".

(d) INFORMATION REPORTING ON ALLOCATION OF PRIVATE ACTIVITY BOND LIMIT.—Paragraph (2) of section 103(l) (relating to information reporting requirements for certain bonds) is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) if such obligation is a private activity bond (as defined in subsection (n)(7)), such information as the Secretary may require for purposes of determining whether the requirements of subsection (n) are met with respect to such obligation."

SEC. 1865. AMENDMENT RELATED TO SECTION 622 OF THE ACT.

(a) CLERICAL AMENDMENT.—Subparagraph (A) of section 103(h)(5) (relating to certain obligations subsidized under energy pro-

gram) is amended by striking out "the United States,".

(b) TREATMENT OF CERTAIN GUARANTEES BY FARMERS HOME ADMINISTRATION.—An obligation shall not be treated as federally guaranteed for purposes of section 103(h) of the Internal Revenue Code of 1954 by reason of a guarantee by the Farmers Home Administration if—

(1) such guarantee is pursuant to a commitment made by the Farmers Home Administration before July 1, 1984, and

(2) such obligation is issued to finance a convention center project in Carbondale, Illinois.

(c) TREATMENT OF CERTAIN OBLIGATIONS USED TO FINANCE SOLID WASTE DISPOSAL FACILITY.—

(1) IN GENERAL.—Any obligation which is part of an issue a substantial portion of the proceeds of which is to be used to finance a solid waste disposal facility described in paragraph (2) shall not, for purposes of section 103(h) of the Internal Revenue Code of 1954, be treated as an obligation which is federally guaranteed by reason of the sale of fuel, steam, electricity, or other forms of usable energy to the Federal Government or any agency or instrumentality thereof.

(2) SOLID WASTE DISPOSAL FACILITY.—A solid waste disposal facility is described in this paragraph if such facility is described in section 103(b)(4)(E) of such Code and—

(A) if—

(i) a public State authority created pursuant to State legislation which took effect on July 1, 1980, took formal action before October 19, 1983, to commit development funds for such facility,

(ii) such authority issues obligations for such facility before January 1, 1988, and

(iii) expenditures have been made for the development of such facility before October 19, 1983,

(B) if—

(i) such facility is operated by the South Eastern Public Service Authority of Virginia, and

(ii) on December 20, 1984, the Internal Revenue Service issued a ruling concluding that a portion of the obligations with respect to such facility would not be treated as federally guaranteed under section 103(h) of such Code by reason of the transitional rule contained in section 631(c)(3)(A)(i) of the Tax Reform Act of 1984,

(C) if—

(i) a political subdivision of a State took formal action on April 1, 1980, to commit development funds for such facility,

(ii) such facility has a contract to sell steam to a naval base,

(iii) such political subdivision issues obligations for such facility before January 1, 1988, and

(iv) expenditures have been made for the development of such facility before October 19, 1983, or

(D) if—

(i) such facility is a thermal transfer facility,

(ii) is to be built and operated by the Elk Regional Resource Authority, and

(iii) is to be on land leased from the United States Air Force at Arnold Engineering Development Center near Tullahoma, Tennessee.

(3) LIMITATIONS.—

(A) In the case of a solid waste disposal facility described in paragraph (2)(A), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $65,000,000.

(B) In the case of a solid waste disposal facility described in paragraph (2)(B), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $20,000,000. Such amount shall be in addition to the amount permitted under the Internal Revenue Service ruling referred to in paragraph (2)(B)(ii).

(C) In the case of a solid waste disposal facility described in paragraph (2)(C), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $75,000,000.

(D) In the case of a solid waste disposal facility described in paragraph (2)(D), the aggregate face amount of obligations to which paragraph (1) applies shall not exceed $25,000,000.

SEC. 1866. TRANSITIONAL RULE FOR LIMIT ON SMALL ISSUE EXCEPTION.

The amendment made by section 623 of the Tax Reform Act of 1984 shall not apply to any obligation issued to refund another tax-exempt IDB to which the amendment made by such section 623 did not apply if—

(1) the refunding obligation has a maturity date not later than the maturity date of the refunded obligation,

(2) the amount of the refunding obligation does not exceed the amount of the refunded obligation,

(3) the interest rate on the refunding obligation is lower than the interest rate on the refunded issue, and

(4) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 30 days after the date of the issuance of the refunding obligation.

For purposes of the preceding sentence, the term "tax-exempt IDB" means any industrial development bond (as defined in section 103(b) of the Internal Revenue Code of 1954) the interest on which is exempt from tax under section 103(a) of such Code.

SEC. 1867. AMENDMENTS RELATED TO SECTION 624 OF THE ACT.

(a) Paragraph (2) of section 624(c) of the Tax Reform Act of 1984 (relating to effective date for limitations on arbitrage on nonpurpose obligations) is amended by striking out "by the Essex County Port Authority of New York and New Jersey as part of an issue approved" and inserting in lieu thereof "for the Essex County New Jersey Resource Recovery Project authorized by the Port Authority of New York and New Jersey on November 10, 1983, as part of an agreement approved".

(b) The amendment made by section 624 of the Tax Reform Act of 1984 shall not apply to obligations issued with respect to the Downtown Muskogee Revitalization Project for which a UDAG grant was preliminarily approved on May 5, 1981, if—

(1) such obligation is issued before January 1, 1986, or

(2) such obligation is issued after such date to provide additional financing for such project except that the aggregate amount of obligations to which this subsection applies shall not exceed $10,000,000.

SEC. 1868. AMENDMENT RELATED TO SECTION 625 OF THE ACT.

Subparagraph (C) of section 625(a)(3) of the Tax Reform Act of 1984 (relating to arbitrage regulations) is amended by striking out "obligation issued exclusively" and inserting in lieu thereof "obligation (or series of refunding obligations) issued exclusively".

SEC. 1869. AMENDMENTS RELATED TO SECTION 626 OF THE ACT.

(a) CHANGE IN DEFINED TERM.—Subsection (o) of section 103 (relating to denial of tax exemption for consumer loan bonds) is amended—

(1) by striking out "consumer loan bond" each place it appears and inserting in lieu thereof "private loan bond",

(2) by striking out "CONSUMER LOAN BONDS" in the subsection heading and inserting in lieu thereof "PRIVATE LOAN BONDS", and

(3) by striking out "CONSUMER LOAN BONDS" in the heading for paragraph (2) and inserting in lieu thereof "PRIVATE LOAN BONDS".

(b) CLERICAL AMENDMENTS.—

(1) Clause (ii) of section 103(o)(2)(C) (relating to excluded loans) is amended by striking out "subsection (c)(6)(G)(i)" and inserting in lieu thereof "subsection (c)(6)(H)(i)".

(2) Section 103 is amended by redesignating the subsection (o) (relating to cross references) as subsection (p).

(c) TRANSITIONAL RULES.—

(1) TREATMENT OF CERTAIN OBLIGATIONS ISSUED BY THE CITY OF BALTIMORE.—Obligations issued by the city of Baltimore, Maryland, after June 30, 1985, shall not be treated as private loan bonds for purposes of section 103(o) of the Internal Revenue Code of 1954 by reason of the use of a portion of the proceeds of such obligations to finance or refinance temporary advances made by the city of Baltimore in connection with loans to persons who are not exempt persons (within the meaning of section 103(b)(3) of such Code) if—

(A) such obligations are not industrial development bonds (within the meaning of section 103(b)(2) of such Code),

(B) the portion of the proceeds of such obligations so used is attributable to debt approved by voter referendum on or before November 2, 1982,

(C) the loans to such nonexempt persons were approved by the Board of Estimates of the city of Baltimore on or before October 19, 1983, and

(D) the aggregate amount of such temporary advances financed or refinanced by such obligations does not exceed $27,000,000.

(2) WHITE PINE POWER PROJECT.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any obligation issued during 1984 to provide financing for the White Pine Power Project in Nevada.

(3) TAX INCREMENT BONDS.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to any tax increment financing obligation issued before the date of the enactment of this Act, if—

(A) substantially all of the proceeds of the issue are to be used to finance—

(i) sewer, street, lighting, or other governmental improvements to real property,

(ii) the acquisition of any interest in real property pursuant to the exercise of eminent domain, the preparation of such property for new use, or the transfer of such interest to a private developer, or

(iii) payments of reasonable relocation costs of prior users of such real property,

(B) all of the activities described in subparagraph (A) are pursuant to a redevelopment plan adopted by the issuing authority before the issuance of such issue,

(C) repayment of such issue is secured exclusively by pledges of that portion of any increase in real property tax revenues (or their equivalent) attributable to the redevelopment resulting from the issue, and

(D) none of the property described in subparagraph (A) is subject to a real property or other tax based on a rate or valuation method which differs from the rate and valuation method applicable to any other

similar property located within the jurisdiction of the issuing authority.

(4) EASTERN MAINE ELECTRIC COOPERATIVE.—The amendment made by section 626(a) of the Tax Reform Act of 1984 shall not apply to obligations issued by Massachusetts Municipal Wholesale Electric Company Project No. 6 if—

(A) such obligation is issued before January 1, 1986,

(B) such obligation is issued after such date to refund a prior obligation for such project, except that the aggregate amount of obligations to which this subparagraph applies shall not exceed $100,000,000, or

(C) such obligation is issued after such date to provide additional financing for such project except that the aggregate amount of obligations to which this subparagraph applies shall not exceed $45,000,000.

Subparagraph (B) shall not apply to any obligation issued for the advance refunding of any obligation.

SEC. 1870. AMENDMENT RELATED TO SECTION 627 OF THE ACT.

Subparagraph (A) of section 103(b)(16) (relating to limitation on use for land acquisition) is amended by striking out "clause (i)" in the last sentence and inserting in lieu thereof "clause (ii)".

SEC. 1871. AMENDMENTS RELATED TO SECTION 628 OF THE ACT.

(a) CERTAIN RESTRICTIONS APPLY TO EXEMPTIONS NOT CONTAINED IN INTERNAL REVENUE CODE OF 1954.—

(1) IN GENERAL.—Paragraph (1) of section 103(m) (relating to obligations exempt other than under this title) is amended by striking out "(k), (l), and (n)" and inserting in lieu thereof "(j), (k), (l), (n), and (o)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to obligations issued after March 28, 1985, in taxable years ending after such date.

(b) CONFORMING AMENDMENTS TO REPEAL OF ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—Paragraphs (13), (14)(A), and (17)(A) of section 103(b) are each amended by striking out "(6), and (7)" and inserting in lieu thereof "and (6)".

SEC. 1872. AMENDMENTS RELATED TO SECTION 631 OF THE ACT.

(a) CLARIFICATION OF GENERAL EFFECTIVE DATE.—

(1) Paragraph (1) of section 631(c) of the Tax Reform Act of 1984 (relating to effective date for other provisions relating to tax-exempt bonds) is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by sections 622, 623, 627, and 628 (c), (d), and (e) (and the provisions of sections 625(c), 628(f), and 629(b))".

(2)(A) Subparagraph (A) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out "amendments made by this subtitle (other than section 621)" and inserting in lieu thereof "amendments (and provisions) referred to in paragraph (1)".

(B) Effective with respect to obligations issued after March 28, 1985, subparagraph (A) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) the original use of which commences with the taxpayer and the construction, reconstruction, or rehabilitation of which began before October 19, 1983, and was completed on or after such date,

"(ii) the original use of which commenses with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before October 19, 1983, and some of such expenditures are incurred on or after such date, or

"(iii) acquired after October 19, 1983, pursuant to a binding contract entered into on or before such date."

(3) Paragraph (3) of section 631(c) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new subparagraph:

"(C) EXCEPTION.—Subparagraph (A) shall not apply with respect to the amendment made by section 628(e) and the provisions of sections 628(f) and 629(b)."

(4) Subparagraph (B) of section 631(c)(3) of the Tax Reform Act of 1984 is amended by striking out "subsection (b)(2)(A)" and inserting in lieu thereof "subsection (b)(2)".

(b) SPECIAL RULE FOR HEALTH CLUB FACILITIES.—Subsection (c) of section 631 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR HEALTH CLUB FACILITIES.—In the case of any health club facility, with respect to the amendment made by section 627(c)—

"(A) paragraph (1) shall be applied by substituting 'April 12, 1984' for 'December 31, 1983', and

"(B) paragraph (3) shall be applied by substituting 'April 13, 1984' for 'October 19, 1983' each place it appears."

(c) TREATMENT OF CERTAIN SOLID WASTE DISPOSAL FACILITIES.—

(1) IN GENERAL.—Subsection (d) of section 631 of the Tax Reform Act of 1984 (relating to provisions of subtitle not to apply to certain property) is amended by adding at the end thereof the following:

"(5) Any solid waste disposal facility described in section 103(b)(4)(E) of the Internal Revenue Code of 1954 if—

"(A) a city government, by resolutions adopted on April 10, 1980, and December 27, 1982, took formal action to authorize the submission of a proposal for a feasibility study for such facility and to authorize the presentation to the Department of the Army (U.S. Army Missile Command) of a proposed agreement to jointly pursue construction and operation of such facility,

"(B) such city government (or a public authority on its behalf) issues obligations for such facility before January 1, 1987, and

"(C) expenditures have been made for the development of such facility before October 19, 1983. Notwithstanding the foregoing provisions of this subsection, the amendments made by section 624 (relating to arbitrage) shall apply to obligations issued to finance property described in paragraph (5)."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 632(a) of the Tax Reform Act of 1984 is hereby repealed.

SEC. 1873. AMENDMENTS RELATED TO SECTION 632 OF THE ACT.

(a) CLERICAL AMENDMENT.—Subsection (a) of section 632 of the Tax Reform Act of 1984 is amended by striking out "section 623" in the matter preceding paragraph (1) thereof and inserting in lieu thereof "section 624".

(b) CERTAIN OBLIGATIONS NOT TREATED AS PRIVATE LOAN BONDS.—Subsection (d) of section 632 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new sentence:

"The amendment made by section 626 shall not apply to any obligations described in the preceding sentence."

(c) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITY.—If—

(1) obligations are to be issued in an amount not to exceed $9,500,000 to finance the construction of an approximately 4 megawatt hydroelectric generating facility owned and operated by the city of Hastings, Minnesota, and located on United States Army Corps of Engineers lock and dam No. 2 or are issued to refund any of such obligations,

(2) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978, and

(3) the initially issued obligations are issued on or before December 31, 1986, and any of such refunding obligations are issued on or before December 31, 1996,

then the person referred to in paragraph (2) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(d) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITY.—If—

(1) obligations are to be issued in an amount not to exceed $6,500,000 to finance the construction of an approximately 2.6 megawatt hydroelectric generating facility located on the Schroon River in Warren County, New York, near Warrensburg, New York,

(2) such facility has a Federal Energy Regulatory Commission project number 8719-0000 under a preliminary permit issued on November 8, 1985, and

(3) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978,

then the person referred to in paragraph (3) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

(e) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITIES.—If—

(1) obligations in the amount of $6,000,000 issued on November 30, 1984, to finance the construction of an approximately 1.0 megawatt hydroelectric generating facility and an approximately .6 megawatt hydroelectric generating facility, both of which are located near Los Banos, California,

(2) such facilities have Federal Energy Regulatory Commission project numbers 5129-001 and 5128-001, respectively, under license exemptions issued on December 6, 1983, and

(3) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utilities Regulatory Policies Act of 1978,

then the person referred to in paragraph (3) shall not be treated as the principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

CHAPTER 7—MISCELLANEOUS PROVISIONS

SEC. 1875. AMENDMENTS RELATED TO TITLE VII OF THE ACT.

(a) AMENDMENT RELATED TO SECTION 711(a).—Subsection (c) of section 58 (relat-

ing to estates and trusts) is amended by striking out "of tax preference" and inserting in lieu thereof "of tax preference (and any itemized deductions)".

(b) AMENDMENT RELATED TO SECTION 712(1).—Paragraph (1) of section 304(a) (relating to treatment of certain stock purchases) is amended by striking out "In any such case" and inserting in lieu thereof "To the extent that such distribution is treated as a distribution to which section 301 applies".

(c) AMENDMENTS RELATED TO SECTION 713.—

(1)(A) Section 402(a)(5)(F)(ii) (relating to special rules for key employees) is amended to read as follows:

"(ii) 5-PERCENT OWNERS.—An eligible retirement plan described in subclause (III) or (IV) of subparagraph (E)(iv) shall not be treated as an eligible retirement plan for the transfer of a distribution if the employee is a 5-percent owner at the time such distribution is made. For purposes of the preceding sentence, the term '5-percent owner' means any individual who is a 5-percent owner (as defined in section 416(i)(1)(B)) at any time during the 5 plan years preceding the plan year in which the distribution is made."

(B) The amendments made by subparagraph (A) shall apply to distributions after the date of the enactment of this Act. Such amendments shall apply also to distributions after 1983 and on or before the date of the enactment of this Act to individuals who are not 5-percent owners (as defined in section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 (as amended by this paragraph)).

(2) Section 713(c) of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(4) EFFECTIVE DATE FOR PARAGRAPH (3).—The amendment made by paragraph (3) shall apply to distributions after July 18, 1984."

(3) Section 62(7) (relating to pension, profit-sharing, and annuity plans of self-employed individuals) is amended by striking out "to the extent attributable to contributions made on behalf of such individual".

(4) Section 219(f)(1) (defining compensation) is amended by striking out "reduced by any amount allowable as a deduction to the individual in computing adjusted gross income under paragraph (7) of section 62".

(5) Section 713(d)(1) of the Tax Reform Act of 1984 is amended by striking out "Paragraph" and inserting in lieu thereof "Effective with respect to contributions made in taxable years beginning after December 31, 1983, paragraph".

(6)(A) Section 408(d)(5) (relating to certain distributions of excess contributions after due date) is amended by striking out "$15,000" and inserting in lieu thereof "the dollar limitation in effect under section 415(c)(1)(A) for such taxable year".

(B) Subparagraph (C) of section 219(b)(2) is amended by striking out "the $15,000 amount specified in subparagraph (A)(ii)" and inserting in lieu thereof "the dollar limitation in effect under section 415(c)(1)(A)".

(7)(A) Subparagraph (C) of section 404(a)(8) is amended by striking out "the earned income of such individual" and inserting in lieu thereof "the earned income of such individual (determined without regard to the deductions allowed by this section)".

(B) Effective with respect to taxable years beginning after December 31, 1984, subparagraph (D) of section 404(a)(8) is amended by striking out "(determined without regard to the deductions allowed by this section and section 405(c))".

(8) Subparagraph (A) of section 408(d)(3) is amended—

(A) by striking out "(other than a trust forming part of a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan)" in clause (ii),

(B) by striking out "(other than a plan under which the individual was an employee within the meaning of section 401(c)(1) at the time contributions were made on his behalf under the plan)" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"Clause (ii) shall not apply during the 5-year period beginning on the date of the qualified total distribution referred to in such clause if the individual was treated as a 5-percent owner with respect to such distribution under section 402(a)(5)(F)(ii)."

(9) Clause (iii) of section 415(b)(2)(E) is amended by striking out "adjusting any benefit or limitation under subparagraph (B), (C), or (D)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (B) of section 3405(d)(1) is amended by striking out "or" at the end of clause (ii), and by striking out the material following clause (ii) and inserting in lieu thereof the following:

"(iii) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount or which would be so subject but for a tax treaty, or

"(iv) any distribution described in section 404(k)(2)."

(11) Subparagraph (C) of section 415(c)(3) is amended by striking out "a profit-sharing or stock bonus plan" and inserting in lieu thereof "any defined contribution plan".

(12) The amendments made by paragraphs (3), (4), and (6) shall take effect as if included in the amendments made by section 238 of the Tax Equity and Fiscal Responsibility Act of 1982.

(d) AMENDMENTS RELATING TO SECTION 714 OF THE ACT.—

(1) Section 6229 is amended by adding at the end thereof the following new subsection:

"(g) PERIOD OF LIMITATIONS FOR PENALTIES.—The provisions of this section shall apply also in the case of any addition to tax or an additional amount imposed under subchapter A of chapter 68 which arises with respect to any tax imposed under subtitle A in the same manner as if such addition or additional amount were a tax imposed by subtitle A."

(2) Notwithstanding section 715 of the Tax Reform Act of 1984, the amendments made by section 714(n)(2) of such Act shall apply only to applications filed after July 18, 1984.

(e) AMENDMENT RELATED TO SECTION 734 OF THE ACT.—Subsection (a) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended by striking out "section 209(f)(5) of the Highway Revenue Act of 1956" and inserting in lieu thereof "section 9503(c)(4)(B) of the Internal Revenue Code of 1954".

(f) AMENDMENT RELATED TO SECTION 735 OF THE ACT.—The table of sections for part I of subchapter A of chapter 32 is amended by striking out "guzzlers" and inserting in lieu thereof "guzzler".

(g) AMENDMENT OF SECTION 1248.—

(1) IN GENERAL.—Subsection (g) of section 1248 (relating to exceptions) is amended by inserting "or" at the end of paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to exchanges after March 1, 1986.

SEC. 1876. AMENDMENTS RELATED TO TITLE VIII OF THE ACT.

(a) TREATMENT OF SECTION 923(a)(2) NON-EXEMPT INCOME.—

(1) Paragraph (6) of section 927(d) (defining section 923(a)(2) non-exempt income) is amended by adding at the end thereof the following new sentence: "Such term shall not include any income which is effectively connected with the conduct of a trade or business within the United States (determined without regard to this subpart)."

(2) Paragraph (6) of section 1248(d) (relating to foreign trade income) is amended to read as follows:

"(6) FOREIGN TRADE INCOME.—Earnings and profits of the foreign corporation attributable to foreign trade income of a FSC other than foreign trade income which—

"(A) is section 923(a)(2) non-exempt income (within the meaning of section 927(d)(6)), or

"(B) would not (but for section 923(a)(4)) be treated as exempt foreign trade income.

For purposes of the preceding sentence, the terms 'foreign trade income' and 'exempt foreign trade income' have the respective meanings given such terms by section 923."

(b) CLARIFICATION OF PREFERENCE CUTBACKS.—

(1) Paragraph (4) of section 291(a) (relating to 20-percent reduction in certain preference items, etc.) is amended to read as follows:

"(4) CERTAIN FSC INCOME.—In the case of taxable years beginning after December 31, 1984, section 923(a) shall be applied with respect to any FSC by substituting—

"(A) '30 percent' for '32 percent' in paragraph (2), and

"(B) '$^{9}/_{23}$' for '$^{9}/_{32}$' in paragraph (3).

If all of the stock in the FSC is not held by 1 or more C corporations throughout the taxable year, under regulations, proper adjustments shall be made in the application of the preceding sentence to take into account stock held by persons other than C corporations."

(2) Subparagraph (F) of section 995(b)(1) (relating to deemed distributions from a DISC) is amended—

(A) by inserting "in the case of a shareholder which is a C corporation," before "one-seventeenth" in clause (i), and

(B) by striking out "the amount determined under clause (i)" in clause (ii) and inserting in lieu thereof "$^{9}/_{17}$ of the excess referred to in clause (i),".

(3) Subsection (a) of section 923 (defining exempt foreign trade income) is amended by adding at the end thereof the following new paragraph:

"(6) CROSS REFERENCE.—

"For reduction in amount of exempt foreign trade income, see section 291(a)(4)."

(c) TREATMENT OF FOREIGN TRADE INCOME UNDER SUBPART F.—

(1) Subsection (b) of section 952 (relating to exclusion of United States income) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, income described in paragraph (2) or (3) of section 921(d) shall be treated as derived from sources within the United States."

(2) Paragraph (1) of section 951(e) is amended by striking out the last sentence.

(d) DIVIDENDS RECEIVED DEDUCTION FOR CERTAIN DISTRIBUTIONS FROM A FSC.—

(1) DEDUCTION FOR CERTAIN DIVIDENDS.—

(A) Paragraph (1) of section 245(c) (relating to certain dividends received from FSC) is amended to read as follows:

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

"(A) 100 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

"(B) 85 percent of any dividend received by such corporation from another corporation which is distributed out of earnings and profits attributable to qualified interest and carrying charges received or accrued by such other corporation while such other corporation was a FSC.

The deduction allowable under the preceding sentence with respect to any dividend shall be in lieu of any deduction allowable under subsection (a) or (b) with respect to such dividend."

(B) Paragraph (3) of section 245(c) (relating to definitions) is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'qualified interest and carrying charges' means any interest or carrying charges (as defined in section 927(d)(1)) derived from a transaction which results in foreign trade income."

(2) SEPARATE APPLICATION OF SECTION 904.—Subparagraph (D) of section 904(d)(1) is amended to read as follows:

"(D) distributions from a FSC (or a former FSC) out of earnings and profits attributable to foreign trade income (within the meaning of section 923(b)) or qualified interest and carrying charges (as defined in section 245(c)), and".

(3) COORDINATION OF SECTIONS 906 AND 902.—Subsection (b) of section 906 (relating to nonresident alien individuals and foreign corporations) is amended by adding at the end thereof the following new paragraph:

"(6) For purposes of section 902, any income, war profits, and excess profits taxes paid or accrued (or deemed paid or accrued) to any foreign country or possession of the United States with respect to income effectively connected with the conduct of a trade or business within the United States shall not be taken into account, and any accumulated profits attributable to such income shall not be taken into account."

(e) EXCHANGE OF INFORMATION REQUIREMENTS.—

(1) Paragraph (3) of section 927(e) (relating to exchange of information requirements) is amended—

(A) by striking out "unless, at the same time such corporation was created or organized, there was" and inserting in lieu thereof "unless there is",

(B) by striking out "section 274(h)(6)(C)" in subparagraph (A) and inserting in lieu thereof "section 274(h)(6)(C) (determined by treating any reference to a beneficiary country as being a reference to any foreign country and by applying such section without regard to clause (ii) thereof)", and

(C) by amending subparagraph (B) to read as follows:

"(B) an income tax treaty which contains an exchange of information program—

"(i) which the Secretary certifies (and has not revoked such certification) is satisfactory in practice for purposes of this title, and

"(ii) to which the FSC is subject."

(2) Effective for periods after March 28, 1985, paragraph (2) of section 924(c) (relating to requirement that FSC be managed outside the United States) is amended to read as follows:

"(2) the principal bank account of the corporation is maintained in a foreign country which meets the requirements of section 927(e)(3) or in a possession of the United States at all times during the taxable year, and".

(f) COORDINATION WITH POSSESSIONS TAXATION.—

(1) Paragraph (5) of section 927(e) (relating to exemption from certain other taxes) is amended to read as follows:

"(5) COORDINATION WITH POSSESSIONS TAXATION.—

"(A) EXEMPTION.—No tax shall be imposed by any possession of the United States on any foreign trade income derived before January 1, 1987. The preceding sentence shall not apply to any income attributable to the sale of property or the performance of services for ultimate use, consumption, or disposition within the possession.

"(B) CLARIFICATION THAT POSSESSION MAY EXEMPT CERTAIN INCOME FROM TAX.—Nothing in any provision of law shall be construed as prohibiting any possession of the United States from exempting from tax any foreign trade income of a FSC or any other income of a FSC described in paragraph (2) or (3) of section 921(d).

"(C) NO COVER OVER OF TAXES IMPOSED ON FSC.—Nothing in any provision of law shall be construed as requiring any tax imposed by this title on a FSC to be covered over (or otherwise transferred) to any possession of the United States."

(2) CLERICAL AMENDMENT.—Section 934 is amended by striking out the subsection (f) added by section 801(d)(7) of the Tax Reform Act of 1984.

(g) CLARIFICATION OF INTEREST ON DISC-RELATED DEFERRED TAX LIABILITY.—Subsection (f) of section 995 (relating to interest on DISC-related deferred tax liability) is amended by adding at the end thereof the following new paragraph:

"(7) DISC INCLUDES FORMER DISC.—For purposes of this subsection, the term 'DISC' includes a former DISC."

(h) CLARIFICATION OF EXEMPTION OF ACCUMULATED DISC INCOME.—Subparagraph (A) of section 805(b)(2) of the Tax Reform Act of 1984 (relating to exemption of accumulated DISC income from tax) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'actual distribution' includes a distribution in liquidation, and the earnings and profits of any corporation receiving a distribution not included in gross income by reason of the preceding sentence shall be increased by the amount of such distribution."

(i) CLARIFICATION OF EFFECTIVE DATE FOR REQUIREMENT THAT TAXABLE YEAR OF DISC AND FSC CONFORM TO TAXABLE YEAR OF MAJORITY SHAREHOLDER.—Paragraph (4) of section 805(a) of the Tax Reform Act of 1984 is amended to read as follows:

"(4) SECTION 803.—The amendments made by section 803 shall apply to taxable years beginning after December 31, 1984."

(j) APPLICATION OF DIVIDENDS RECEIVED DEDUCTION WITH RESPECT TO CERTAIN DIVIDENDS.—Subsection (c) of section 245 (relating to dividends received from certain foreign corporations) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) COORDINATION WITH SUBSECTIONS (a) AND (b).—The gross income giving rise to the earnings and profits described in subparagraph (A) or (B) of paragraph (1) (and not described in paragraph (2)) shall not be taken into account under subsections (a) and (b)."

(k) TREATMENT OF CERTAIN QUALIFYING DISTRIBUTIONS FROM DISC.—Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out the last sentence and inserting in lieu thereof the following: "In the case of any amount of any actual distribution to a C corporation made pursuant to section 992(c) which is required to satisfy the condition of section 992(a)(1)(A), the preceding sentence shall apply to 16/17ths of such amount and paragraph (1) shall apply to the remaining 1/17th of such amount."

(l) TREATMENT OF CERTAIN RECEIPTS FROM OTHER FSC.—Paragraph (1) of section 924(f) (relating to certain receipts not included in foreign trade gross receipts) is amended by adding at the end thereof the following new sentence:

"In the case of gross receipts of a FSC from a transaction involving any property, subparagraph (C) shall not apply if such FSC (and all other FSC's which are members of the same controlled group and which receive gross receipts from a transaction involving such property) do not use the pricing rules under paragraph (1) of section 925(a) (or the corresponding provisions of the regulations prescribed under section 925(b)) with respect to any transaction involving such property."

(m) TREATMENT OF CERTAIN FORMER EXPORT TRADE CORPORATIONS.—If—

(1) a corporation which is not an export trading corporation for its most recent taxable year ending before the date of the enactment of the Tax Reform Act of 1984 but was an export trading corporation for any prior taxable year, and

(2)(A) such corporation may not qualify as an export trade corporation for any taxable year beginning after December 31, 1984, by reason of section 971(a)(3) of the Internal Revenue Code of 1954, or (B) such corporation makes an election, before the date 6 months after the date of the enactment of this Act, not to be treated as an export trade corporation with respect to taxable years beginning after December 31, 1984,

rules similar to the rules of paragraphs (2) and (4) of section 805(b) of the Tax Reform Act of 1984 shall apply to such corporation. For purposes of the preceding sentence, the term "export trade corporation" has the meaning given such term by section 971 of such Code.

(n) TREATMENT OF DISTRIBUTION OF ACCUMULATED DISC INCOME RECEIVED BY COOPERATIVES.—Paragraph (2) of section 805(b) of the Tax Reform Act of 1984 (relating to transition rules for DISC's) is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF DISTRIBUTION OF ACCUMULATED DISC INCOME RECEIVED BY COOPERATIVES.—In the case of any actual distribution received by an organization described in section 1381 of such Code and excluded from the gross income of such corporation by reason of subparagraph (A)—

"(i) such amount shall not be included in the gross income of any member of such organization when distributed in the form of a patronage dividend or otherwise, and

"(ii) no deduction shall be allowed to such organization by reason of any such distribution."

(o) CLERICAL AMENDMENTS.—

(1) Subsection (f) of section 995 is amended by redesignating the paragraphs following the paragraph (3) relating to deferred DISC income as paragraphs (4), (5), and (6).

(2) Subsection (h) of section 901 is amended by striking out "section 927(d)(6)" and inserting in lieu thereof "section 927(d)(6))".

(3) Paragraph (3) of section 802(c) of the Tax Reform Act of 1984 is hereby repealed.

(4) Subparagraph (A) of section 805(a)(2) of the Tax Reform Act of 1984 is amended by striking out "the taxpayer" and inserting in lieu thereof "the DISC or a related party".

(5) Paragraph (2) of section 927(e) is amended by striking out "clauses (i) and (ii)" and inserting in lieu thereof "clauses (ii) and (iii)".

SEC. 1877. AMENDMENTS RELATED TO TITLE IX OF THE ACT.

(a) AMENDMENT RELATED TO SECTION 911 OF THE ACT.—Paragraph (3) of section 34(a) (relating to credit for certain uses of gasoline and special fuels) is amended to read as follows:

"(3) under section 6427—

"(A) with respect to fuels used for nontaxable purposes or resold, or

"(B) with respect to any qualified diesel-powered highway vehicle purchased (or deemed purchased under section 6427(g)(6)), during the taxable year (determined without regard to section 6427(j)).".

(b) AMENDMENTS RELATED TO SECTION 915 OF THE ACT.—

(1) Paragraph (2) of section 6427(b) (relating to intercity, local, or school buses) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in the transportation described in paragraph (1)(B).".

(2) Subparagraph (A) of section 6427(b)(2) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(3) The heading for subparagraph (C) of section 6427(b)(2), as redesignated by paragraph (1), is amended by striking out "EXCEPTION" and inserting in lieu thereof "EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION".

SEC. 1878. AMENDMENTS RELATED TO TITLE X OF THE ACT.

(a) AMENDMENT RELATED TO SECTION 1001 OF THE ACT.—Subsection (b) of section 1001 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

"(24) Clause (i) of section 1278(a)(1)(B) (relating to short-term obligations).".

(b) AMENDMENT RELATED TO SECTION 1015 OF THE ACT.—Subparagraph (I) of section 4162(a)(6) (defining sport fishing equipment) is amended to read as follows:

"(I) fishing hook disgorgers, and".

(c) AMENDMENTS RELATED TO SECTION 1018 OF THE ACT.—

(1) Paragraph (1) of section 4041(l) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or".

(2) Paragraph (1) of section 4261(e) (relating to exemption for certain helicopter uses) is amended to read as follows:

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or".

(d) AMENDMENTS RELATED TO SECTION 1028 OF THE ACT.—Subsection (b) of section 1028 of the Tax Reform Act of 1984 (relating to credit against estate tax for transfers to Toiyabe National Forest) is amended to read as follows:

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount allowed as a credit under subsection (a) shall be equal to the lesser of—

"(A) the fair market value of the real property transferred by each estate as of the valuation date used for purposes of the tax imposed by chapter 11 of such Code, or

"(B) the Federal estate tax liability (and interest thereon) of each estate.

"(2) SPECIAL RULE FOR RABE ESTATE.—In the case of the estate described in paragraph (2) of subsection (a), the amount allowed as a credit under subsection (a) shall be equal to the Federal estate tax liability (and interest accruing thereon through the date of a transfer described in paragraph (1) of subsection (c)) of such estate."

(e) AMENDMENTS RELATED TO SECTION 1034 OF THE ACT.—

(1) The last sentence of section 514(c)(9)(B) (relating to exceptions) is amended by striking out "would be unrelated business taxable income (determined without regard to this paragraph)" and inserting in lieu thereof "is unrelated business taxable income".

(2) Clause (i) of section 514(c)(9)(C) is amended by striking out "section 509(a)" and inserting in lieu thereof "section 509(a)(3)".

(3) Subparagraph (B) of section 514(c)(9) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new sentence: "Subject to such conditions as the Secretary may prescribe, the Secretary may treat the requirements of clause (vi)(II) as met if it is shown to the satisfaction of the Secretary that there is no potential for tax avoidance."

(f) AMENDMENTS RELATED TO SECTION 1041 OF THE ACT.—

(1) The subsection (j) of section 51 (relating to targeted jobs credit) added by section 1041 of the Tax Reform Act of 1984 is hereby redesignated as subsection (k).

(2) Subparagraph (B) of section 1041(c)(5) of the Tax Reform Act of 1984 is amended by striking out "section 51(j)" and inserting in lieu thereof "section 51(k)".

(g) AMENDMENT RELATED TO SECTION 1053 OF THE ACT.—Paragraph (2) of section 1034(h) (relating to members of armed forces) is amended by striking out "before the last day described" and inserting in lieu thereof "before the day which is 1 year after the last day described".

(h) AMENDMENT RELATED TO SECTION 1063 OF THE ACT.—Subsection (c) of section 1063 of the Tax Reform Act of 1984 (relating to permanent disallowance of deduction for expenses of demolition of certain structures) is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) The amendments made by this section shall apply to taxable years ending after December 31, 1983, but shall not apply to any demolition (other than of a certified historic structure) commencing before July 19, 1984.

"(2) For purposes of paragraph (1), if a demolition is delayed until the completion of the replacement structure on the same site, the demolition shall be treated as commencing when construction of the replacement structure commences.

"(3) The amendments made by this section shall not apply to any demolition commencing before September 1, 1984, pursuant to a bank headquarters building project if—

"(A) on April 1, 1984, a corporation was retained to advise the bank on the final completion of the project, and

"(B) on June 12, 1984, the Comptroller of the Currency approved the project.

"(4) The amendments made by this section shall not apply to the remaining adjusted basis at the time of demolition of any structure if—

"(A) such structure was used in the manufacture, storage, or distribution of lead alkyl antiknock products and intermediate and related products at facilities located in or near Baton Rouge, Louisiana, and Houston, Texas, owned by the same corporation, and

"(B) demolition of at least one such structure at the Baton Rouge facility commenced before January 1, 1984."

(i) AMENDMENT RELATED TO SECTION 1065 OF THE ACT.—Subsection (b) of section 1065 of the Tax Reform Act of 1984 (relating to rules treating Indian tribal governments as States) is amended by striking out "section 7871" and inserting in lieu thereof "section 7871(a)".

(j) AMENDMENTS RELATED TO SECTION 1071 OF THE ACT.—

(1) Subsection (a) of section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by adding "and" at the end of paragraph (1), by striking out paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (1) of section 852(b) (relating to imposition of tax on regulated investment companies) is amended by striking out the last sentence and inserting in lieu thereof the following: "In the case of a regulated investment company which is a personal holding company (as defined in section 542) or which fails to comply for the taxable year with regulations prescribed by the Secretary for the purpose of ascertaining the actual ownership of its stock, such tax shall be computed at the highest rate of tax specified in section 11(b)."

SEC. 1879. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF ESTIMATED TAX PENALTIES.—No additional tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1954 (relating to failure to pay estimated income tax) for any period before April 16, 1985 (March 16, 1985 in the case of a taxpayer subject to section 6655 of such Code), with respect to any underpayment, to the extent that such underpayment was created or increased by any provision of the Tax Reform Act of 1984.

(b) AMENDMENTS RELATED TO ORPHAN DRUG CREDIT.—

(1) Clause (ii) of section 28(b)(2)(A) (defining clinical testing) is amended—

(A) by striking out "the date of such drug" in subclause (I) and inserting in lieu thereof "the date such drug", and

(B) by striking out "of such Act" in subclause (II) and inserting in lieu thereof "of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Services Act".

(2) Paragraph (1) of section 28(d) (defining rare disease or condition) is amended to read as follows:

"(1) RARE DISEASE OR CONDITION.—For purposes of this section, the term 'rare disease or condition' means any disease or condition which—

"(A) affects less than 200,000 persons in the United States, or

"(B) affects more than 200,000 persons in the United States but for which there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug.

Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date such drug is designated under section 526 of the Federal Food, Drug, and Cosmetic Act."

(3) The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 1982, in taxable years ending after such date.

(c) TREATMENT OF SALES WITHIN AFFILIATED GROUP FOR PURPOSES OF SECTION 29.—

(1) Paragraph (8) of section 29(d) (relating to related persons) is amended by adding at the end thereof the following new sentence: "In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling qualified fuels to an unrelated person if such fuels are sold to such a person by another member of such group."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 231 of Public Law 96-223.

(d) RETURNS AND RECORDS WITH RESPECT TO CERTAIN FRINGE BENEFITS.—

(1) Subsection (d) of section 6039D (added by section 1 of Public Law 98-611) is amended to read as follows:

"(d) DEFINITIONS.—For purposes of this section—

"(1) SPECIFIED FRINGE BENEFIT PLAN.—The term 'specified fringe benefit plan' means—

"(A) any qualified group legal services plan (as defined in section 120),

"(B) any cafeteria plan (as defined in section 125), and

"(C) any educational assistance plan (as defined in section 127).

"(2) APPLICABLE EXCLUSION.—The term 'applicable exclusion' means—

"(A) section 120 in the case of a qualified group legal services plan,

"(B) section 125 in the case of a cafeteria plan, and

"(C) section 127 in the case of an educational assistance plan."

(2) The section 6039D added by section 1 of Public Law 98-612 is hereby repealed.

(e) REPEAL OF JOINT COMMITTEE REPORT REQUIREMENT.—Section 6405 (relating to reports of refunds and credits) is amended by striking out subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(f) AMENDMENTS RELATED TO PUBLIC LAW 99-121.—

(1) The table contained in section 467(e)(3)(A) is amended—

(A) by striking out "18-year real property" and inserting in lieu thereof "19-year real property", and

(B) by striking out "18 years" and inserting in lieu thereof "19 years".

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 103 of Public Law 99-121.

(g) DEFINED CONTRIBUTION PLAN OF RURAL ELECTRIC COOPERATIVE MAY INCLUDE QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 401(k) (relating to cash or deferred arrangements) are each amended by striking out "(or a pre-ERISA money purchase plan)" and inserting in lieu thereof ", a pre-ERISA money purchase plan, or a rural electric cooperative plan".

(2) RURAL ELECTRIC COOPERATIVE PLAN DEFINED.—Subsection (k) of section 401 is amended by adding at the end thereof the following new paragraph:

"(6) RURAL ELECTRIC COOPERATIVE PLAN.—For purposes of this subsection, the term 'rural electric cooperative plan' means any pension plan—

"(A) which is a defined contribution plan (as defined in section 414(i)), and

"(B) which is established and maintained by a rural electric cooperative (as defined in section 457(d)(9)(B)) or a national association of such rural electric cooperatives."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 1984.

(h) CLARIFICATION OF DEFINITION OF NEWLY DISCOVERED OIL.—

(1) IN GENERAL.—Paragraph (2) of section 4991(e) (defining newly discovered oil) is amended by adding at the end thereof the following new sentences: "Such term includes any production from a property which did not produce oil in commercial quantities during calendar year 1978. For purposes of the preceding sentence, a property shall not be treated as producing oil in commercial quantities during calendar year 1978 if, during calendar year 1978 (A) the aggregate amount of oil produced from such property did not exceed 2,200 barrels (whether or not such oil was sold), and (B) no well on such property was in production for a total of more than 72 hours."

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to oil removed after February 29, 1980.

(i) ALLOWANCE OF INVESTMENT CREDIT TO ELIGIBLE SECTION 501(d) ORGANIZATIONS.—

(1) IN GENERAL.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) CERTAIN SECTION 501(d) ORGANIZATIONS.—

"(1) IN GENERAL.—In the case of eligible section 501(d) organizations—

"(A) any business engaged in by such organization for the common benefit of its members and the taxable income from which is included in the gross income of its members shall be treated as an unrelated business for purposes of paragraph (4) of subsection (a),

"(B) the qualified investment for each taxable year with respect to such business shall be apportioned pro rata among such members in the same manner as the taxable income of such organization, and

"(C) any individual to whom any investment has been apportioned under subparagraph (B) shall be treated for purposes of this subpart (other than section 47) as the taxpayer with respect to such investment, and such investment shall not (by reason of such apportionment) lose its character as an investment in new section 38 property or used section 38 property, as the case may be.

"(2) LIMITATION ON USED SECTION 38 PROPERTY APPLIED AT ORGANIZATION LEVEL.—The limitation under subparagraph (A) of subsection (c)(2) shall apply with respect to the section 501(d) organization.

"(3) RECAPTURE.—For purposes of applying section 47 to any property for which credit was allowed under section 38 by reason of this subsection—

"(A) the section 501(d) organization shall be treated as the taxpayer to which the credit under section 38 was allowed,

"(B) the amount of such credit allowed with respect to the property shall be treated as the amount which would have been allowed to the section 501(d) organization were such credit allowable to such organization,

"(C) subparagraph (D) of section 47(a)(5) shall not apply, and

"(D) the amount of the increase in tax under section 47 for any taxable year with respect to property to which this subsection applies shall be allocated pro rata among the members of such organization in the same manner as such organization's taxable income for such year is allocated among such members.

"(4) NO INVESTMENT CREDIT ALLOWED TO MEMBER IF MEMBER CLAIMS OTHER INVESTMENT CREDIT.—No credit shall be allowed to an individual by reason of this subsection if such individual claims a credit under section 38 without regard to this subsection. The amount of the credit not allowed by reason of the preceding sentence shall not be allowed to any other person.

"(5) ELIGIBLE SECTION 501(d) ORGANIZATION.—For purposes of this subsection, the term 'eligible section 501(d) organization' means any organization—

"(A) which elects to be treated as an organization described in section 501(d) and which is exempt from tax under section 501(a), and

"(B) which does not provide a substantially higher standard of living for any person or persons than it does for the majority of the members of the community."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods after December 31, 1978 (under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954), in taxable years ending after such date.

(3) SPECIAL RULE.—If refund or credit of any overpayment of tax resulting from the application of this subsection is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act by operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of the amendments made by this subsection) may, nevertheless, be made or allowed if claim therefor is filed before the close of such 1-year period.

(j) AMENDMENT RELATED TO MUTUAL SAVINGS BANKS DESCRIBED IN SECTION 591(b).—

(1) IN GENERAL.—Subparagraph (B) of section 501(c)(14) (relating to list of tax-exempt organizations) is amended—

(A) by striking out "or" at the end of clause (ii),

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma and "or", and

(C) by inserting at the end thereof the following new clause:

"(iv) mutual banks described in section 591(b)".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after August 13, 1981.

(k) AMENDMENT TO SECTION 368(a)(2)(F).—

(1) IN GENERAL.—Clause (ii) of section 368(a)(2)(F) (relating to certain transactions involving 2 or more investment companies) is amended to read as follows:

"(ii) A corporation meets the requirements of this clause if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer (other than stock in a regulated investment company, a real estate investment trust, or an in-

vestment company which meets the requirements of this clause (ii)), and not more than 50 percent of the value of its total assets is invested in the stock and securities of 5 or fewer issuers (other than stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this clause (ii)). For purposes of this clause, all members of a controlled group of corporations (within the meaning of section 1563(a)) shall be treated as one issuer."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply as if included in section 2131 of the Tax Reform Act of 1976.

(l) AMENDMENTS RELATING TO SUBCHAPTER S CORPORATIONS.—

(1) IN GENERAL.—

(A) Section 1361(d)(3) (relating to qualified subchapter S trusts) is amended by adding at the end thereof the following new sentence: "A substantially separate and independent share of a trust treated as a separate trust under section 663(c) shall be treated as a separate trust for purposes of this subsection and subsection (c)."

(B) Section 1368(e)(1) (relating to definitions and special rules) is amended by striking out the period at the end of subparagraph (A) and inserting in lieu thereof "and no adjustment shall be made for Federal taxes attributable to any taxable year in which the corporation was a C corporation."

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1982.

(m) AMENDMENT RELATING TO SECTION 2523.—

(1) IN GENERAL.—Subparagraph (A) of section 2523(f)(4) (relating to election with respect to life estate for donee spouse) is amended to read as follows:

"(A) TIME AND MANNER.—An election under this subsection with respect to any property shall be made on or before the date prescribed by section 6075(b) for filing a gift tax return with respect to the transfer (determined without regard to section 6019(2)) and shall be made in such manner as the Secretary shall by regulations prescribe."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transfers made after December 31, 1985.

(n) AMENDMENTS RELATING TO SECTION 4994.—

(1) For purposes of section 4991(b), a "qualified charitable interest" shall include an economic interest in crude oil held by the Episcopal Royalty Company, an entity created in 1961 as a subsidiary of the Protestant Episcopal Church Foundation of the Diocese of Oklahoma.

(2) The amendment made by this subsection shall apply to oil removed after February 29, 1980.

(o) AMENDMENT RELATING TO SECTION 292 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.—

(1) IN GENERAL.—Subsection (a) of section 7430 is amended by inserting "(payable in the case of the Tax Court in same manner as such an award by a district court)" after "a judgment".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the amendments made by section 292 of the Tax Equity and Fiscal Responsibility Act of 1982.

CHAPTER 8—EFFECTIVE DATE

SEC. 1881. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, any amendment made by this subtitle shall take effect as if included in the provision of the Tax Reform Act of 1984 to which such amendment relates.

Subtitle B—Related to Other Programs Affected by the Deficit Reduction Act of 1984

CHAPTER 1—AMENDMENTS RELATED TO SOCIAL SECURITY ACT PROGRAMS

SEC. 1882. AMENDMENTS RELATED TO COVERAGE OF CHURCH EMPLOYEES (SECTION 2603 OF THE DEFICIT REDUCTION ACT).

(a) CLARIFICATION OF EXCEPTION FOR MEMBERS OF CERTAIN RELIGIOUS FAITHS.—Subsection (g) of section 1402 of the Internal Revenue Code of 1954 (relating to members of certain religious faiths) is amended by adding at the end thereof the following new paragraph:

"(5) SUBSECTION NOT TO APPLY TO CERTAIN CHURCH EMPLOYEES.—This subsection shall not apply with respect to services which are described in subparagraph (B) of section 3121(b)(8) (and are not described in subparagraph (A) of such section)."

(b) TREATMENT OF INCOME OF CERTAIN CHURCH, ETC., EMPLOYEES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE OF 1954.—

(A) IN GENERAL.—Section 1402 of such Code (relating to definitions for purposes of the tax on self-employment income) is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULES FOR CERTAIN CHURCH EMPLOYEE INCOME.—

"(1) COMPUTATION OF NET EARNINGS.—In applying subsection (a)—

"(A) church employee income shall not be reduced by any deduction;

"(B) church employee income and deductions attributable to such income shall not be taken into account in determining the amount of other net earnings from self-employment.

"(2) COMPUTATION OF SELF-EMPLOYMENT INCOME.—

"(A) SEPARATE APPLICATION OF SUBSECTION (b)(2).—Paragraph (2) of subsection (b) shall be applied separately—

"(i) to church employee income, and

"(ii) to other net earnings from self-employment.

"(B) $100 FLOOR.—In applying paragraph (2) of subsection (b) to church employee income, '$100' shall be substituted for '$400'.

"(3) COORDINATION WITH SUBSECTION (a)(12).—Paragraph (1) shall not apply to any amount allowable as a deduction under subsection (a)(12), and paragraph (1) shall be applied before determining the amount so allowable.

"(4) CHURCH EMPLOYEE INCOME DEFINED.—For purposes of this section, the term 'church employee income' means gross income for services which are described in section 3121(b)(8)(B) (and are not described in section 3121(b)(8)(A))."

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) NET EARNINGS.—Paragraph (14) of section 1402(a) of such Code (defining net earnings from self-employment) is amended to read as follows:

"(13) in the case of church employee income, the special rules of subsection (j)(1) shall apply."

(ii) SELF-EMPLOYMENT INCOME.—Subsection (b) of section 1402 of such Code is amended by adding at the end thereof the following new sentence: "In the case of church employee income, the special rules of subsection (j)(2) shall apply for purposes of paragraph (2)."

(iii) CONFORMING AMENDMENT.—The second sentence of section 1402(b) of such Code is amended by striking out "clause (1)" and inserting in lieu thereof "paragraph (1)".

(2) AMENDMENTS OF SOCIAL SECURITY ACT.—

(A) IN GENERAL.—Section 211 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i)(1) In applying subsection (a)—

"(A) church employee income shall not be reduced by any deduction;

"(B) church employee income and deductions attributable to such income shall not be taken into account in determining the amount of other net earnings from self-employment.

"(2)(A) Subsection (b)(2) shall be applied separately—

"(i) to church employee income, and

"(ii) to other net earnings from self-employment.

"(B) In applying subsection (b)(2) to church employee income, '$100' shall be substituted for '$400'.

"(3) Paragraph (1) shall not apply to any amount allowable as a deduction under subsection (a)(11), and paragraph (1) shall be applied before determining the amount so allowable.

"(4) For purposes of this section, the term 'church employee income' means gross income for services which are described in section 210(a)(8)(B) (and are not described in section 210(a)(8)(A))."

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) NET EARNINGS.—Section 211(a)(13) of such Act is amended to read as follows:

"(13) In the case of church employee income, the special rules of subsection (i)(1) shall apply."

(ii) SELF-EMPLOYMENT INCOME.—Section 211(b) of such Act is amended by adding at the end thereof the following new sentence: "In the case of church employee income, the special rules of subsection (i)(2) shall apply for purposes of paragraph (2)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid or derived in taxable years beginning after December 31, 1985.

(c) REVOCATION OF ELECTION UNDER SECTION 3121(w).—Paragraph (2) of section 3121(w) of the Internal Revenue Code of 1954 (relating to timing and duration of election) is amended by striking out the last 2 sentences and inserting in lieu thereof the following: "The election may be revoked by the church or organization under regulations prescribed by the Secretary. The election shall be revoked by the Secretary if such church or organization fails to furnish the information required under section 6051 to the Secretary for a period of 2 years or more with respect to remuneration paid for such services by such church or organization, and, upon request by the Secretary, fails to furnish all such previously unfurnished information for the period covered by the election. Any revocation under the preceding sentence shall apply retroactively to the beginning of the 2-year period for which the information was not furnished."

SEC. 1882A. EXEMPTION FROM SOCIAL SECURITY COVERAGE FOR CERTAIN CLERGY.

(a) CONDITIONS FOR RECEIVING EXEMPTION.—

(1) Section 1402(e)(1) (relating to exemption from tax on self-employment income of certain ministers, members of religious orders, and Christian Science practitioners) is amended by inserting "and, in the case of an individual described in subparagraph (A), that he has informed the ordaining, commissioning, or licensing body of the

church or order that he is opposed to such insurance" after "Act)".

(2) Section 1402(e), as amended by paragraph (1) of this subsection, is further amended—

(A) in paragraph (1) by striking out "Any individual" and inserting in lieu thereof "Subject to paragraph (2), any individual",

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) VERIFICATION OF APPLICATION.—The Secretary may approve an application for an exemption filed pursuant to paragraph (1) only if the Secretary has verified that the individual applying for the exemption is aware of the grounds on which the individual may receive an exemption pursuant to this subsection and that the individual seeks exemption on such grounds. The Secretary (or the Secretary of Health and Human Services under an agreement with the Secretary) shall make such verification by means of in-person or telephonic communication with the individual.".

(3) The amendments made by paragraphs (1) and (2) shall apply to applications filed after September 30, 1986.

(b) REVOCATION OF EXEMPTION.—

(1) Notwithstanding section 1402(e)(3) of the Internal Revenue Code of 1954, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed in regulations made under chapter 2 of subtitle A of such Code), if such application is filed—

(A) before the applicant becomes entitled to benefits under section 202(a) or 223 of the Social Security Act (without regard to section 202(j)(1) or 223(b) of such Act), and

(B) no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's first taxable year beginning after the date of the enactment of this Act.

Any such revocation shall be effective (for purposes of chapter 2 of subtitle A of the Internal Revenue Code of 1954 and title II of the Social Security Act), as specified in the application, either with respect to the applicant's first taxable year ending on or after the date of the enactment of this Act or with respect to the applicant's first taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed on or after the due date of the applicant's first taxable year ending on or after the date of the enactment of this Act and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1954 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of subtitle A of such Code (notwithstanding paragraph (4) or (5) of section 1402(c) of such Code) but for the exemption under section 1402(e)(1) of such Code.

(2) Paragraph (1) shall apply with respect to service performed (to the extent specified in such paragraph) in taxable years ending on or after the date of the enactment of this Act and with respect to monthly insurance benefits payable under title II of the Social Security Act on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such paragraph) is filed (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SEC. 1883. TECHNICAL CORRECTIONS IN OTHER PROVISIONS RELATED TO SOCIAL SECURITY ACT PROGRAMS.

(a) AMENDMENTS RELATING TO OASDI PROGRAM.—

(1) Section 202(c)(5)(B) of the Social Security Act is amended by striking out "or (I)" and inserting in lieu thereof "or (J)".

(2) Section 202(q)(5)(A)(i) of such Act is amended by striking out "prescribed by him" and inserting in lieu thereof "prescribed by the Secretary".

(3) Section 202(q)(5)(C) of such Act is amended by striking out "she shall be deemed" and inserting in lieu thereof "he or she shall be deemed".

(4) Section 210(a)(5)(G) of such Act is amended by striking out "Any other service" and inserting in lieu thereof "any other service".

(5) Effective on the date of the enactment of the Deficit Reduction Act of 1984—

(A) section 2601(d)(1)(B)(ii) of that Act is amended by striking out "210(a)(5)(g)(iii)" and inserting in lieu thereof "210(a)(5)(G)(iii)"; and

(B) section 2663(c)(1) of that Act is amended by striking out subparagraph (B).

(6) Section 211(c)(2) of the Social Security Act is amended by indenting subparagraph (G) two additional ems (for a total indentation of four ems) so as to align its left margin with the margins of the other subparagraphs in such section.

(7) Section 215(i)(5)(B) of such Act is amended—

(A) by striking out "subdivision (I)" in clause (ii) and inserting in lieu thereof "clause (i)(I)";

(B) by striking out "subdivisions (I) and (II)" in the matter between clauses (iii) and (iv) and inserting in lieu thereof "clause (i)".

(8) The heading of section 218(m) of such Act is amended to read as follows:

"Wisconsin Retirement Fund".

(9) Section 221(e) of such Act is amended by striking out "under this section" in the first sentence.

(10) Section 223(g)(1) of such Act is amended by striking out the second comma after the term "benefits" where such term first appears in the matter following subparagraph (C).

(11)(A) Section 1402(c)(2) of the Internal Revenue Code of 1954 is amended by indenting subparagraph (G) two additional ems (for a total indentation of four ems) so as to align its left margin with the margins of the other subparagraphs in such section.

(B) Section 3121(a)(8) of such Code is amended by moving subparagraph (B) two ems to the left, so that its left margin is in flush alignment with the margin of subparagraph (A) of such section.

(b) AMENDMENTS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS.—

(1)(A) Section 402(a)(31)(A) of the Social Security Act is amended by striking out "(or such lesser amount as the Secretary may prescribe in the case of an individual not engaged in fulltime employment or not employed throughout the month)".

(B) The amendment made by this paragraph shall be effective beginning October 1, 1984.

(2)(A) Section 402(a)(38) of the Social Security Act is amended by striking out in subparagraph (B) "section 406(a)," and inserting in lieu thereof "section 406(a) or in section 407(a) (if such section is applicable to the State),".

(B) Section 402(a)(38) of such Act is further amended by striking out the parenthetical phrase at the end and inserting in lieu thereof "; and for purposes of this paragraph the term 'income' includes (i) child or spousal support, regardless of the terms of the payer's obligation under State law to provide such support, and (ii) benefits paid under title II (notwithstanding section 205(j)), and section 208(e) shall not be applicable by reason of the inclusion of such benefits pursuant to this paragraph".

(C) Section 402(a)(38) of such Act is further amended by relocating so much of subparagraph (B) as follows "section 407(a) (if such section is applicable to the State)," (as added by subparagraph (A)) and placing it after and below subparagraph (B), beginning flush, and indenting it two ems so that its left margin is aligned with the left margin of that portion of section 402(a)(38) that precedes subparagraph (A) thereof.

(D) The amendments made by this paragraph shall be effective beginning October 1, 1984.

(3)(A) Section 402(a)(39) of the Social Security Act is amended by inserting "(without regard to school attendance)" after "under the age selected by the State pursuant to section 406(a)(2)".

(B) The amendment made by subparagraph (A) shall be effective beginning October 1, 1984.

(4)(A) Section 402(a) of the Social Security Act is amended by striking out "and" after the semicolon at the end of paragraph (37), and by making any additional changes which may be necessary to assure that paragraphs (34) through (37) each end with a semicolon, paragraph (38) ends with "; and", and paragraph (39) ends with a period.

(B) Effective on the date of the enactment of the Deficit Reduction Act of 1984, section 2639(a) of that Act is amended by striking out the period immediately following "utility providing home energy" (in the quoted matter) and inserting in lieu thereof a semicolon.

(5) The placement of the last sentence of section 402(a) of the Social Security Act is modified to the extent necessary to assure that it begins flush to the full left margin without any indentation, immediately after and below the last of the numbered paragraphs.

(6) Section 457(c) of such Act is amended by striking out "subsection (b)(3) (A) and (B)" in the matter following paragraph (2) and inserting in lieu thereof "subsection (b)(4) (A) and (B)".

(7) Section 458(d) of such Act is amended by striking out "on behalf of individuals residing in another State" and inserting in lieu thereof "at the request of another State".

(8) Section 464(b)(2)(A) of such Act is amended by striking out "threshhold" and inserting in lieu thereof "threshold".

(9)(A) Part E of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FOSTER CARE MAINTENANCE PAYMENTS ARE MADE

"SEC. 477. Notwithstanding any other provision of this title, a child with respect to whom foster care maintenance payments are made under this part shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of the benefits of the family under part A, and the income and resources of such child shall not be counted as the income and resources of a family under such part.".

(B) The amendment made by subparagraph (A) shall become effective October 1, 1984.

(c) AMENDMENTS TO GENERAL PROVISIONS.—

(1) Section 1101(a) of such Act is amended by shifting paragraphs (3), (4), and (5) to the right to the extent necessary to assure that their left margins are aligned with the left margins of the other numbered paragraphs.

(2) Section 1136(b)(7) of such Act is amended by striking out "nongovermental" and inserting in lieu thereof "nongovernmental".

(d) AMENDMENTS RELATING TO SSI PROGRAM.—

(1) The heading of section 1631(g) of such Act is amended to read as follows:

"Reimbursement to States for Interim Assistance Payments".

(2) Section 1612(a)(1)(C) of such Act is amended by striking out "section 43" and inserting in lieu thereof "section 32".

(3) Section 1612(b) of such Act is amended by making any changes which may be necessary to assure that paragraph (11) ends with a semicolon, paragraph (12) ends with "; and", and paragraph (13) ends with a period.

(e) AMENDMENTS RELATING TO SOCIAL SERVICES PROGRAM.—

(1)(A) Section 2003(d) of such Act is repealed.

(B) Section 2003(b) of such Act is amended by striking out "(subject to subsection (d))".

(2) Section 2007 of such Act is repealed.

(f) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on the date of the enactment of this Act.

CHAPTER 2—AMENDMENTS RELATED TO UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 1884. TECHNICAL CORRECTIONS IN FEDERAL UNEMPLOYMENT TAX ACT.

The Federal Unemployment Tax Act is amended as follows:

(1) Subparagraph (B) of section 3302(c)(2) (relating to a limit on the credit against the unemployment tax) is amended—

(A) by striking out "determination" the second place it appears in the material preceding clause (i) and inserting in lieu thereof "denominator", and

(B) in clause (i)—

(i) by striking out "percent" immediately preceding the comma at the end thereof, and

(ii) by inserting "percent" after "2.7".

(2) Subparagraph (A) of section 3302(f)(8) (relating to a partial limitation on the reduction of the credit against the unemployment tax) is amended by striking out "1987" and inserting in lieu thereof "1986".

(3) Clause (i) of section 3306(o)(1)(A) (relating to crew leaders who are registered or provide specialized agricultural labor) is amended by striking out "Farm Labor Contractor Registration Act of 1963" and inserting in lieu thereof "Migrant and Seasonal Agricultural Worker Protection Act".

SEC. 1884A. APPLICABILITY OF UNEMPLOYMENT COMPENSATION TAX TO CERTAIN SERVICES PERFORMED FOR CERTAIN INDIAN TRIBAL GOVERNMENTS.

(a) IN GENERAL.—For purposes of the Federal Unemployment Tax Act, service performed in the employ of a qualified Indian tribal government shall not be treated as employment (within the meaning of section 3306 of such Act) if it is service—

(1) that is performed—

(A) before, on, or after the date of the enactment of this Act, but before January 1, 1988, and

(B) during a period in which the Indian tribal government is not covered by a State unemployment compensation program; and

(2) with respect to which the tax imposed under such Act has not been paid.

(b) DEFINITION.—For purposes of this section, the term "qualified Indian tribal government" means an Indian tribal government the service for which is not covered by a State unemployment compensation program on June 11, 1986.

CHAPTER 3—AMENDMENTS RELATED TO TRADE AND TARIFF PROGRAMS

SEC. 1885. AMENDMENTS TO THE TARIFF SCHEDULES.

(a) IN GENERAL.—The Tariff Schedules of the United States are amended as follows:

(1) TELECOMMUNICATIONS PRODUCT CLASSIFICATION CORRECTIONS.—

(A) Schedule 6 is amended as follows:

(i) Headnote 1 to subpart C of part 4 is amended by striking out "688.43" and inserting in lieu thereof "688.42".

(ii) Headnote 3 of part 5 of schedule 6 is amended by striking out "items 685.11 through 685.19, inclusive," and inserting in lieu thereof "items 684.92, 684.98, 685.00, and 685.08".

(iii) Item 685.34 is amended by inserting "35% ad val." in Column No. 2.

(iv) Item 685.55 is amended by striking out "685.11 to 685.50" and inserting in lieu thereof "684.92 to 685.49".

(B) Headnote 2(ii) to part 7 of schedule 8 is amended by striking out "688.43" and inserting in lieu thereof "688.42".

(2) CORRECTIONS TO THE APPENDIX.—Subpart B of part 1 to the Appendix is amended as follows:

(A) The article description for item 906.38 is amended to read as follows: "N-Acetylsulfanilyl chloride (provided for in item 405.31, part 1B, schedule 4)".

(B) Item 907.38 is amended by striking out "411.87" and inserting in lieu thereof "411.82".

(C) Item 912.13 is amended by striking out "670.20" and inserting in lieu thereof "670.21".

(D) Item 907.63 is amended by striking out "(provided for in item 437.13" and inserting in lieu thereof "put up in measured doses in chewing gum form (provided for in item 438.02".

(3) MISCELLANEOUS CORRECTIONS.—The Schedules are further amended as follows:

(A) Headnote 1 of subpart D of part 4 of schedule 1 is amended by striking out "(casein plus albumin)" and inserting in lieu thereof "(casein plus lactalbumin)".

(B) Headnote 1 of subpart C of part 4 of schedule 3 is amended—

(i) by inserting "or" after the semicolon at the end of clause (v); and

(ii) by striking out "; or" at the end of clause (vi) and inserting in lieu thereof a period.

(b) EFFECTIVE DATE.—

(1) The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the date that is 90 days after the date of enactment of this Act, the entry of any article—

(A) which was made on or after November 14, 1984, and before the date that is 15 days after the date of enactment of this Act; and

(B) with respect to which there would have been no duty, or a lessor duty, by reason of any amendment made by subsection (a) if such entry were made on or after the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on the date that is 15 days after the date of enactment of this Act.

SEC. 1886. TECHNICAL CORRECTIONS TO COUNTERVAILING AND ANTIDUMPING DUTY PROVISIONS.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 is amended as follows:

(1)(A) Subsection (c) of section 701 (19 U.S.C. 1671(c)) is redesignated as subsection (d).

(B) Subsection (g) of such section 701 (as added by section 613(b) of the Trade and Tariff Act of 1984) is—

(i) amended by striking out "(g) Whenever" and inserting in lieu thereof "(c) UPSTREAM SUBSIDY.—Whenever"; and

(ii) inserted immediately after subsection (b) of that section.

(2) Sections 702(b)(1), 732(b)(1), and 733(b)(2) (19 U.S.C. 1671a(b)(1); 1673a(b)(1); 1673b(b)(2)) are each amended by striking out "(C), (D), or (E)" each place it appears and inserting in lieu thereof "(C), (D), (E), or (F)".

(3) Subsection (h) of section 703 (19 U.S.C. 1671b(h)) is redesignated as subsection (g), and—

(A) paragraph (2)(A) of that subsection (as so redesignated) is amended by striking out "days under section 705(a)(1) or 225 days under section 705(a)(2), as appropriate" and inserting in lieu thereof "or 225 days, as appropriate, under section 705(a)(1)"; and

(B) paragraph (2)(B)(ii) of that subsection (as so redesignated) is amended by striking out "days under section 705(a)(2)" and inserting in lieu thereof "or 225 days, as appropriate, under section 705(a)(1)".

(4) Section 704 is amended—

(A) by amending subsection (d)—

(i) by redesignating paragraph (2) as paragraph (3); and

(ii) by inserting after paragraph (1) the following new paragraph:

"(2) EXPORTS OF MERCHANDISE TO UNITED STATES NOT TO INCREASE DURING INTERIM PERIOD.—The administering authority may not accept any agreement under subsection (b) unless that agreement provides a means of ensuring that the quantity of the merchandise covered by that agreement exported to the United States during the period provided for elimination or offset of the subsidy or cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined by the administering authority."; and

(B) by amending subsection (i)(1)(D) by striking out "international" and inserting in lieu thereof "intentional".

(5) Paragraph (2) of section 706(a) is amended by aligning the margin of the matter appearing after subparagraph (B) with the margin of the matter appearing before subparagraph (A).

(6)(A) Section 708 is amended by striking out "SEC. 708." and inserting in lieu thereof the following flush section heading:

"SEC. 708. EFFECT OF DEROGATION OF EXPORT-IMPORT BANK FINANCING."

(B) The table of contents for such title VII is amended by inserting in numerical sequence the following:

"Sec. 708. Effect of derogation of Export-Import Bank financing."

(7) Section 736(c)(1) (19 U.S.C. 1673e(c)(1)) is amended by inserting ", and was sold to any person that is not related to such manufacturer, producer, or exporter," immediately before "on or after the date of publication of—".

(8) The last sentence of section 751(b)(1) (19 U.S.C. 1675(b)(1)) is amended by inserting "or countervailing duty" after "antidumping" each place it appears.

(9) Section 771(7)(F)(i) (19 U.S.C. 1677(7)(F)(i)) is amended—

(A) by striking "any merchandise" in that part which precedes subclause (I) and inserting in lieu thereof "the merchandise"; and

(B) by striking out "find orders" in subclause (VIII) and inserting in lieu thereof "final orders".

(10) Section 771A(a) (19 U.S.C. 1677-1) is amended by striking out "(ii), or (iii)" and inserting in lieu thereof "(ii), (iii), or (iv)".

(11) Subsection (g) of section 773 (19 U.S.C. 1677b(g)) is redesignated as subsection (f).

(12) Section 775 (19 U.S.C. 1677d) is amended by striking out "an proceeding" each place it appears in the text and in the heading and inserting in lieu thereof "a proceeding".

(13) Section 777 (19 U.S.C. 1677f) is amended—

(A) by striking out "confidential", "nonconfidential", and "confidentiality" each place they appear in the text and in the side headings and inserting in lieu thereof "proprietary", "non-proprietary", and "proprietary status", respectively; and

(B) by inserting "or the Commission" after "administering authority" in subsection (b)(1)(B)(i).

(b) AMENDMENTS TO EFFECTIVE DATE PROVISIONS.—Section 626(b) of the Trade and Tariff Act of 1984 (relating to the effective dates of the amendments made therein to title VII of the Tariff Act of 1930) is amended—

(1) by amending paragraph (1) by inserting ", and to reviews begun under section 751 of that Act," after "1930"; and

(2) by adding at the end thereof the following new paragraphs:

"(3) The administering authority may delay implementation of any of the amendments referred to in subsections (a) and (b)(1) with respect to any investigation in progress on the date of enactment of this Act if the administering authority determines that immediate implementation would prevent compliance with a statutory deadline in title VII of the Tariff Act of 1930 that is applicable to that investigation.

"(4) The amendment made by section 621 shall apply with respect to merchandise that is unliquidated on or after November 4, 1984.".

SEC. 1887. AMENDMENTS TO THE TRADE ACT OF 1974.

(a) IN GENERAL.—The Trade Act of 1974 is amended as follows:

(1) Subclause (II) of section 102(b)(4)(B)(ii) of the Trade Act of 1974 (19 U.S.C. 2112(b)(4)(B)(ii)(II)) is amended by striking out "subsection (A)(ii)(I)" and inserting in lieu thereof "subparagraph (A)(ii)(I)".

(2) Subsection (n) of section 135 (as added by section 306(c)(2)(B)(v) of the Trade and Tariff Act of 1984) is redesignated as subsection (m).

(3) Section 141(d)(6) is amended by striking out "3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and inserting in lieu thereof "1342 of title 31, United States Code".

(4) Subsection (d) of section 141 (19 U.S.C. 2171(d)) is amended—

(A) by striking out "and" at the end of paragraph (9),

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and", and

(C) by redesignating the paragraph added by section 304(d)(2)(A)(iii) of the Trade and Tariff Act of 1984 as paragraph (11).

(5) Subparagraphs (A), (B), and (C) of section 502(b)(4) (19 U.S.C. 2462(b)(4)) are amended to read as follows:

"(A) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

"(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or

"(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,".

(6) That part of section 504(c)(3)(D)(ii) (19 U.S.C. 2464(c)(3)(D)(ii)) that precedes subclause (I) is amended—

(A) by striking out "from any beneficiary developing country";

(B) by striking out "1984 which exceeds 15" and inserting in lieu thereof "1986 the aggregate value of which exceeds 15"; and

(C) by striking out "if for the preceding calendar year such beneficiary developing country—" and inserting in lieu thereof "from those beneficiary developing countries which for the preceding calendar year—".

(b) TRANSISTORS.—

(1) Section 128(b) of the Trade Act of 1974 (19 U.S.C. 2138) is amended by striking out "587.70" in paragraph (1) and inserting in lieu thereof "687.70".

(2)(A) Item 687.70 of the Tariff Schedules of the United States is amended by striking out "4.2% ad val." and inserting in lieu thereof "Free".

(B) The amendment made by subparagraph (A) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date of enactment of this Act.

(C) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned on or before the date that is 90 days after the date of enactment of this Act, the entry of any article described in item 687.70 of the Tariff Schedules of the United States which was made on or after March 1, 1985, and before the date that is 15 days after the date of enactment of this Act shall be liquidated or reliquidated as though such entry had been made on the date that is 15 days after the date of enactment of this Act.

SEC. 1888. AMENDMENTS TO THE TARIFF ACT OF 1930.

The Tariff Act of 1930 is amended as follows:

(1) Section 304(c) (19 U.S.C. 1304(c)) is amended—

(A) by striking out "No" and inserting in lieu thereof the following: "(1) Except as provided in paragraph (2), no"; and

(B) by adding at the end thereof the following new paragraph:

"(2) If, because of the nature of an article, it is technically or commercially infeasible to mark it by one of the four methods specified in paragraph (1), the article may be marked by an equally permanent method of marking such as paint stenciling or, in the case of small diameter pipe and tube, by tagging the containers or bundles.".

(2) Subsection (j) of section 313 (19 U.S.C. 1313(j)) is amended—

(A) by redesignating the paragraphs (3) and (4) inserted by section 202(1)(B) of the Trade and Tariff Act of 1984 as paragraphs (2) and (3), respectively; and

(B) by amending the paragraph redesignated as paragraph (4) by section 202(1)(A) of the Trade and Tariff Act of 1984 to read as follows:

"(4) The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on—

"(A) the imported merchandise itself in cases to which paragraph (1) applies, or

"(B) the merchandise of the same kind and quality in cases to which paragraph (2) applies,

that does not amount to manufacture or production for drawback purposes under the preceding provisions of this section shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(C).".

(3) Section 339(c)(2)(A) (19 U.S.C. 1339) is amended by striking out "relief" and inserting in lieu thereof "injury".

(4) Section 514(a) (19 U.S.C. 1514(a)) is amended by striking out "as defined in section 771(9) (C), (D), (E), and (F) of this Act".

(5) Section 516(a)(2) (19 U.S.C. 1516(a)(2)) is amended by adding at the end thereof the following new sentence:

"Such term includes an association, a majority of whose members is composed of persons described in subparagraph (A), (B), or (C).".

(6) Section 516A(a)(3) (19 U.S.C. 1516a(a)(3)) is amended by striking out "(2)(A)(ii)" and inserting in lieu thereof "(2)(A)(i)(II)".

(7) Section 613a of the Tariff Act of 1930 (19 U.S.C. 1613a), as added by section 317 of the Joint Resolution entitled "A Joint Resolution making appropriations for fiscal year 1985, and for other purposes.", approved October 12, 1984 (98 Stat. 2054, Public Law 98-473), is repealed.

SEC. 1889. AMENDMENTS TO THE TRADE AND TARIFF ACT OF 1984.

The Trade and Tariff Act of 1984 (Public Law 98-573) is amended as follows:

(1) Section 126 is amended by striking out the following:

"(3) Paragraphs (1) and (2) of section 126 of the bill are amended to read as follows:".

(2) Section 174(b) is amended by adding at the end of the table appearing therein the following:

"January 1, 1987..... 4.9% ad val.".

(3) Paragraph (7) of subsection (b) of section 212 is redesignated as subsection (c) of that section.

(4) The table in section 234(a) is amended by striking out "711.49" and inserting in lieu thereof "712.49".

(5) Section 307(b)(3) is amended by striking out "or paragraph (3)".

(6) Section 504 is amended by striking out "Tariff Act of 1930" and inserting in lieu thereof "Trade Act of 1974".

(7) Paragraph (3) of section 619 is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)".

SEC. 1890. AMENDMENTS TO THE CARIBBEAN BASIN ECO- NOMIC RECOVERY ACT.

Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended—

(1) by amending paragraph (3) of subsection (a) (as added by section 235 of the Trade and Tariff Act of 1984)—

(A) by redesignating that paragraph as paragraph (4), and aligning its margin with that of paragraph (3), and

(B) by striking out "such" the first time it appears therein and inserting in lieu thereof "any beneficiary"; and

(2) by striking out "138.42" in subsection (f)(5)(B) and inserting in lieu thereof "138.46".

SEC. 1891. CONFORMING AMENDMENTS REGARDING CUSTOMS BROKERS.

Title 28 of the United States Code is amended—

(1) by striking out "(3) or (c)" in section 1581(g)(1) and inserting in lieu thereof "(3)"; and

(2) by striking out "641(a)(1)(C)" in section 1582(1) and inserting in lieu thereof "641(b)(6)".

SEC. 1892. SPECIAL EFFECTIVE DATE PROVISIONS FOR CERTAIN ARTICLES GIVEN DUTY-FREE TREATMENT UNDER THE TRADE AND TARIFF ACT OF 1984.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the date that is 90 days after the date of enactment of this Act, any entry—

(1) which was made after the applicable date and before November 14, 1984, and

(2) with respect to which there would have been no duty or a lesser duty by reason of any amendment made by section 112, 115, 118, 167, or 179 of the Trade and Tariff Act of 1984 if such entry were made on November 14, 1984,

shall be liquidated or reliquidated as though such entry had been made on November 14, 1984.

(b) APPLICABLE DATE.—For purposes of this section—

(1) The term "applicable date" means—

(A) with respect to any entry for which the amendment described in subsection (a)(2) is any amendment made by section 118 of the Trade and Tariff Act of 1984, June 1, 1982;

(B) with respect to any entry for which the amendment described in subsection (a)(2) is any amendment made by section 112, 115, or 179 of the Trade and Tariff Act of 1984, June 30, 1983; and

(C) with respect to any entry for which the amendment described in subsection (a)(2) is the amendment made by section 167 of the Trade and Tariff Act of 1984, October 30, 1983.

(2) The term "entry" includes any withdrawal from warehouse.

SEC. 1893. TECHNICAL AMENDMENTS RELATING TO CUSTOMS USER FEES.

(a) TRANSIT PASSENGERS.—Subsection (b) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding at the end thereof the following new paragraph:

"(4) No fee may be charged under subsection (a)(5) with respect to the arrival of any passenger—

"(A) who is in transit to a destination outside the customs territory of the United States, and

"(B) for whom customs inspectional services are not provided.".

(b) PROVISION OF FOREIGN PRE-CLEARANCE SERVICES.—Paragraph (1) of section 13031(e) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended to read as follows:

"(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)), the customs services required to be provided to passengers upon arrival in the United States shall be provided in connection with scheduled airline flights when needed and at no cost (other than the fees imposed under subsection (a)) to airlines and airline passengers at—

"(A) customs serviced airports, and

"(B) places located outside the customs territory of the United States at which a customs officer is stationed for the purpose of providing such customs services.".

(c) REGULATIONS ON REMITTANCE OF FEES.—Subsection (g) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(g)) is amended by adding at the end thereof the following new sentence: "Regulations issued by the Secretary of the Treasury under this subsection with respect to the collection of the fees charged under subsection (a) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1954, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.".

(d) REINSTATING LIMIT ON CHARGES FOR OTHER INSPECTION SERVICES.—Section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1741), as amended by section 13031(h)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is further amended by adding at the end thereof the following new subsection:

"(e)(1) The cost of any inspection or quarantine service which is required to be performed by the Federal Government or any agency thereof at airports of entry or other places of inspection as a consequence of the operation of aircraft, and which is performed during regularly established hours of service on Sundays or holidays shall be reimbursed by the owners or operators of such aircraft only to the same extent as if such service had been performed during regularly established hours of service on weekdays. Notwithstanding any other provision of law, administrative overhead costs associated with any inspection or quarantine service required to be performed by the United States Government, or any agency thereof, at airports of entry as a result of the operation of aircraft, shall not be assessed against the owners or operators thereof.

"(2) Nothing in this subsection may be construed as requiring reimbursement for costs incurred by the Secretary of the Treasury in providing customs services described in section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services rendered after July 6, 1986.

Subtitle C—Miscellaneous

CHAPTER 1—AMENDMENTS RELATED TO THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

SEC. 1895. COBRA TECHNICAL CORRECTIONS RELATING TO SOCIAL SECURITY ACT PROGRAMS.

(a) AMENDMENT RELATING TO THE OASDI PROGRAM.—Section 12108(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "1985" and inserting in lieu thereof "1986".

(b) AMENDMENTS RELATING TO THE MEDICARE AND MEDICAID PROGRAMS.—

(1) Paragraph (1) of section 1866(a) of the Social Security Act (42 U.S.C. 1395cc(a)) is amended—

(A) by striking out the "and" inserted at the end of subparagraph (I) by section 9122(a)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985,

(B) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof ", and", and

(C) by redesignating the subparagraph (I) added by section 9403(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 as subparagraph (K) and moving such subparagraph to and inserting it at the end of such paragraph.

(2) Section 9127(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by inserting ", except that the Director may provide initially for such terms as will insure that (on a continuing basis) the terms of no more than eight members will expire in any one year" after "years".

(3) Section 9202(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by inserting "or section 402 of the Social Security Amendments of 1967" after "section 1886(c) of the Social Security Act".

(4) Section 9221(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "September 30, 1986" and inserting in lieu thereof "July 31, 1987".

(5) Section 1842(h) of the Social Security Act (42 U.S.C. 1395u(h)) is amended—

(A) in paragraph (5), as redesignated by section 9301(c)(3)(D) of the Consolidated Omnibus Budget Reconciliation Act of 1985, by striking out "such" each place it appears, and

(B) in paragraph (6), as so redesignated, by striking out "the the" and inserting in lieu thereof "the".

(6) Section 1902(a)(13)(D) of the Social Security Act (42 U.S.C. 1396a(a)(13)(D)), as inserted by section 9505(c)(1)(C) of the Consolidated Omnibus Budget Reconciliation Act of 1985 and as amended and redesignated by paragraphs (2) and (3) of section 9509(a) of such Act, is amended by adding "and" at the end.

(7) Section 1903(m)(2)(F) of the Social Security Act (42 U.S.C. 1396b(m)(2)(F)), as amended by section 9517(a)(2)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by striking "in the case" and inserting "In the case".

(8) Section 9517(c)(2)(B) of the Consolidated Omnibus Budget Reconciliation Act

of 1985 is amended in the matter following clause (ii) by striking out "(iv)" and inserting in lieu thereof "(vi)".

(9) Section 1920(a)(3) of the Social Security Act (42 U.S.C. 1396s(a)(3)), as added by section 9526 of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by striking "Section 473(b)" and inserting "Sections 472(h) and 473(b)".

(10) Section 9528(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking out "1101(a)(8)(P)" and inserting in lieu thereof "1101(a)(8)(B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 1896. EXTENSION OF TIME FOR FILING FOR CREDIT OR REFUND WITH RESPECT TO CERTAIN CHANGES INVOLVING INSOLVENT FARMERS.

Section 13208 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (relating to certain insolvent taxpayers allowed to reduce capital gains preference item for purposes of the individual minimum tax) is amended by adding at the end thereof the following new subsection:

"(c) STATUTE OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is prevented at any time before the close of the date which is 1 year after the date of the enactment of this Act, by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of such amendment) may, nevertheless, be made or allowed if claim therefor is filed on or before the close of such 1-year period."

CHAPTER 2—AMENDMENTS RELATED TO THE RETIREMENT EQUITY ACT OF 1984

SEC. 1897. TECHNICAL CORRECTIONS TO THE RETIREMENT EQUITY ACT OF 1984.

(a) AMENDMENTS RELATED TO SECTIONS 102 AND 202 OF THE ACT.—

(1) TREATMENT OF CLASS-YEAR PLANS.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (4) of section 411(d) (relating to class-year plans) is amended to read as follows:

"(4) CLASS-YEAR PLANS.—

"(A) IN GENERAL.—The requirements of subsection (a)(2) shall be treated as satisfied in the case of a class-year plan if such plan provides that 100 percent of each employee's right to or derived from the contributions of the employer on the employee's behalf with respect to any plan year is nonforfeitable not later than when such participant was performing services for the employer as of the close of each of 5 plan years (whether or not consecutive) after the plan year for which the contributions were made.

"(B) 5-YEAR BREAK IN SERVICE.—For purposes of subparagraph (A) if—

"(i) any contributions are made on behalf of a participant with respect to any plan year, and

"(ii) before such participant meets the requirements of subparagraph (A), such participant was not performing services for the employer as of the close of each of any 5 consecutive plan years after such plan year,

then the plan may provide that the participant forfeits any right to or derived from the contributions made with respect to such plan year.

"(C) CLASS-YEAR PLAN.—For purposes of this section, the term 'class-year plan' means a profit-sharing, stock bonus, or money purchase plan which provides for the separate nonforfeitability of employees' rights to or derived from the contributions for each plan year."

(B) AMENDMENT OF ERISA.—Paragraph (3) of section 203(c) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(3)(A) The requirements of subsection (a)(2) shall be treated as satisfied in the case of a class-year plan if such plan provides that 100 percent of each employee's right to or derived from the contributions of the employer on the employee's behalf with respect to any plan year is nonforfeitable not later than when such participant was performing services for the employer as of the close of each of 5 plan years (whether or not consecutive) after the plan year for which the contributions were made.

"(B) For purposes of subparagraph (A) if—

"(i) any contributions are made on behalf of a participant with respect to any plan year, and

"(ii) before such participant meets the requirements of subparagraph (A), such participant was not performing services for the employer as of the close of each of any 5 consecutive plan years after such plan year,

then the plan may provide that the participant forfeits any right to or derived from the contributions made with respect to such plan year.

"(C) For purposes of this part, the term 'class year plan' means a profit-sharing, stock bonus, or money purchase plan which provides for the separate nonforfeitability of employees' rights to or derived from the contributions for each plan year."

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to contributions made for plan years beginning after the date of the enactment of this Act; except that, in the case of a plan described in section 302(b) of the Retirement Equity Act of 1984, such amendments shall not apply to any plan year to which the amendments made by such Act do not apply by reason of such section 302(b).

(2) RULES RELATING TO LUMP SUM TREATMENT.—Subsection (e) of section 402 (relating to tax on lump sum distributions) is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF POTENTIAL FUTURE VESTING.—

"(A) IN GENERAL.—For purposes of determining whether any distribution which becomes payable to the recipient on account of the employee's separation from service is a lump sum distribution, the balance to the credit of the employee shall be determined without regard to any increase in vesting which may occur if the employee is re-employed by the employer.

"(B) RECAPTURE IN CERTAIN CASES.—If—

"(i) an amount is treated as a lump sum distribution by reason of subparagraph (A),

"(ii) special lump sum treatment applies to such distribution,

"(iii) the employee is subsequently re-employed by the employer; and

"(iv) as a result of services performed after being so re-employed, there is an increase in the employee's vesting for benefits accrued before the separation referred to in subparagraph (A),

under regulations prescribed by the Secretary, the tax imposed by this chapter for the taxable year (in which the increase in vesting first occurs) shall be increased by the reduction in tax which resulted from the special lump sum treatment (and any election under paragraph (4)(B) shall not be taken into account for purposes of determining whether the employee may make another election under paragraph (4)(B)).

"(C) SPECIAL LUMP SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution—

"(i) is taxed under this subsection by reason of an election under paragraph (4)(B), or

"(ii) is treated as long-term capital gain under subsection (a)(2) of this section or section 403(a)(2).

"(D) VESTING.—For purposes of this paragraph the term 'vesting' means the portion of the accrued benefits derived from employer contributions to which the participant has a nonforfeitable right."

(3) RULES RELATING TO ROLLOVERS.—Paragraph (6) of section 402(a) (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF POTENTIAL FUTURE VESTING.—

"(i) IN GENERAL.—For purposes of paragraph (5), in determining whether any portion of a distribution on account of the employee's separation from service may be transferred in a transfer to which paragraph (5)(A) applies, the balance to the credit of the employee shall be determined without regard to any increase in vesting which may occur if the employee is re-employed by the employer.

"(ii) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—If—

"(I) any portion of a distribution is transferred in a transfer to which paragraph (5)(A) applies by reason of clause (i),

"(II) the employee is subsequently re-employed by the employer, and

"(III) as a result of service performed after being so re-employed, there is an increase in the employee's vesting for benefits accrued before the separation referred to in clause (i),

then the provisions of paragraph (5)(D)(iii) shall apply to any distribution from the plan after the distribution referred to in clause (i). The preceding sentence shall not apply if the distribution referred to in subclause (I) is made without the consent of the participant."

(4) TREATMENT OF WITHDRAWAL OF MANDATORY CONTRIBUTIONS.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Clause (ii) of section 411(a)(3)(D) is amended by striking out the last sentence and inserting in lieu thereof the following: "The plan provision required under this clause may provide that such repayment must be made (I) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (II) in the case of any other withdrawal, 5 years after the date of the withdrawal."

(ii) Subparagraph (C) of section 411(a)(7) is amended by striking out the last sentence and inserting in lieu thereof the following:

"The plan provision required under this subparagraph may provide that such repayment must be made (I) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the

close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (II) in the case of any other withdrawal, 5 years after the date of the withdrawal."

(B) AMENDMENTS OF ERISA.—

(i) Clause (ii) of section 203(a)(3)(D) of the Employee Retirement Income Security Act of 1974 is amended by striking out the last sentence and inserting in lieu thereof the following: "The plan provision required under this clause may provide that such repayment must be made (I) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (II) in the case of any other withdrawal, 5 years after the date of the withdrawal."

(ii) Subsection (e) of section 204 of the Employee Retirement Income Security Act of 1974 is amended by striking out the last sentence and inserting in lieu thereof the following:

"The plan provision required under this subsection may provide that such repayment must be made (A) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently re-employed by the employer, or the close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (B) in the case of any other withdrawal, 5 years after the date of the withdrawal."

(5) PARTICIPATION REQUIREMENTS UNDER SIMPLIFIED EMPLOYEE PENSIONS.—Subparagraph (A) of section 408(k)(2) (relating to participation requirements) is amended by striking out "age 25" and inserting in lieu thereof "age 21".

(b) AMENDMENTS RELATED TO SECTIONS 103 AND 203 OF THE ACT.—

(1) CLARIFICATION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY IN CASE OF TERMINATED VESTED PARTICIPANT.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (1) of section 417(c) (defining qualified preretirement survivor annuity) is amended by adding at the end thereof the following new sentence:

"In the case of an individual who separated from service before the date of such individual's death, subparagraph (A)(ii)(I) shall not apply."

(B) AMENDMENT OF ERISA.—Paragraph (1) of section 205(e) of the Employee Retirement Income Security Act of 1974 (defining qualified preretirement survivor annuity) is amended by adding at the end thereof the following new sentence:

"In the case of an individual who separated from service before the date of such individual's death, subparagraph (A)(ii)(I) shall not apply."

(2) CLARIFICATION OF TRANSFEREE PLAN RULES.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Subclause (III) of section 401(a)(11)(B)(iii) (relating to plans to which requirements of joint and survivor annuity and preretirement survivor annuity apply) is amended by striking out "indirect transferee" and inserting in lieu thereof "indirect transferee (in a transfer after December 31, 1984)".

(ii) Subparagraph (B) of section 401(a)(11) is amended by adding at the end thereof the following new sentence:

"Clause (iii)(III) shall apply only with respect to the transferred assets (and income therefrom) if the plan separately accounts for such assets and any income therefrom."

(B) AMENDMENTS OF ERISA.—

(i) Clause (iii) of section 205(b)(1)(C) of the Employee Retirement Income Security Act of 1974 is amended by striking out "a transferee" and inserting in lieu thereof "a direct or indirect transferee (in a transfer after December 31, 1984)".

(ii) Paragraph (1) of section 205(b) of such Act is amended by adding at the end thereof the following new sentence:

"Clause (iii) of subparagraph (C) shall apply only with respect to the transferred assets (and income therefrom) if the plan separately accounts for such assets and any income therefrom."

(3) CLARIFICATION OF COORDINATION BETWEEN QUALIFIED JOINT AND SURVIVOR ANNUITY AND QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Clause (i) of section 401(a)(11)(A) is amended by striking out "who retires under the plan" and inserting in lieu thereof "who does not die before the annuity starting date".

(B) AMENDMENT OF ERISA.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 is amended by striking out "who retires under the plan" and inserting in lieu thereof "who does not die before the annuity starting date".

(4) REQUIREMENT OF SPOUSAL CONSENT FOR USING PLAN ASSETS AS SECURITY FOR LOANS.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Subparagraph (B) of section 417(a)(1) is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(ii) Subsection (a) of section 417 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) REQUIREMENT OF SPOUSAL CONSENT FOR USING PLAN ASSETS AS SECURITY FOR LOANS.—Each plan shall provide that, if section 401(a)(11) applies to a participant when part or all of the participant's accrued benefit is to be used as security for a loan, no portion of the participant's accrued benefit may be used as security for such loan unless—

"(A) the spouse of the participant (if any) consents in writing to such use during the 90-day period ending on the date on which the loan is to be so secured, and

"(B) requirements comparable to the requirements of paragraph (2) are met with respect to such consent."

(iii) Subsection (f) of section 417 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) DISTRIBUTIONS BY REASON OF SECURITY INTERESTS.—If the use of any participant's accrued benefit (or any portion thereof) as security for a loan meets the requirements of subsection (a)(4), nothing in this section or section 411(a)(11) shall prevent any distribution required by reason of a failure to comply with the terms of such loan."

(B) AMENDMENT OF ERISA.—

(i) Subparagraph (B) of section 205(c)(1) of the Employee Retirement Income Security Act of 1974 is amended by striking out "paragraphs (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(ii) Subsection (c) of section 205 of such Act is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) Each plan shall provide that, if this section applies to a participant when part or all of the participant's accrued benefit is to be used as security for a loan, no portion of the participant's accrued benefit may be used as security for such loan unless—

"(A) the spouse of the participant (if any) consents in writing to such use during the 90-day period ending on the date on which the loan is to be so secured, and

"(B) requirements comparable to the requirements of paragraph (2) are met with respect to such consent."

(iii) Section 205 of such Act is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) If the use of any participant's accrued benefit (or any portion thereof) as security for a loan meets the requirements of subsection (c)(4), nothing in this section shall prevent any distribution required by reason of a failure to comply with the terms of such loan."

(C) EFFECTIVE DATES.—

(i) The amendments made by this paragraph shall apply with respect to loans made after August 18, 1985.

(ii) In the case of any loan which was made on or before August 18, 1985, and which is secured by a portion of the participant's accrued benefit, nothing in the amendments made by sections 103 and 203 of the Retirement Equity Act of 1984 shall prevent any distribution required by reason of a failure to comply with the terms of such loan.

(iii) For purposes of this subparagraph, any loan which is revised, extended, renewed, or renegotiated after August 18, 1985, shall be treated as made after August 18, 1985.

(5) CLARIFICATION OF NOTICE REQUIREMENT FOR INDIVIDUALS WHO BECOME PARTICIPANTS AFTER AGE 35, ETC.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subparagraph (B) of section 417(a)(3) (relating to plan to provide written explanations) is amended to read as follows:

"(B) EXPLANATION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

"(i) IN GENERAL.—Each plan shall provide to each participant, within the applicable period with respect to such participant (and consistent with such regulations as the Secretary may prescribe), a written explanation with respect to the qualified preretirement survivor annuity comparable to that required under subparagraph (A).

"(ii) APPLICABLE PERIOD.—For purposes of clause (i), the term 'applicable period' means, with respect to a participant, whichever of the following periods ends last:

"(I) The period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35.

"(II) A reasonable period after the individual becomes a participant.

"(III) A reasonable period ending after paragraph (5) ceases to apply to the participant.

"(IV) A reasonable period ending after section 401(a)(11) applies to the participant.

"(V) A reasonable period after separation from service in case of a participant who separates before attaining age 35."

(B) AMENDMENT OF ERISA.—Subparagraph (B) of section 205(c)(3) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(B)(i) Each plan shall provide to each participant, within the applicable period with respect to such participant (and consistent with such regulations as the Secretary may prescribe), a written explanation with respect to the qualified preretirement survivor annuity comparable to that required under subparagraph (A).

"(ii) For purposes of clause (i), the term 'applicable period' means, with respect to a participant, whichever of the following periods ends last:

"(I) The period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35.

"(II) A reasonable period after the individual becomes a participant.

"(III) A reasonable period ending after paragraph (5) ceases to apply to the participant.

"(IV) A reasonable period ending after section 401(a)(11) applies to the participant.

"(V) A reasonable period after separation from service in case of a participant who separates before attaining age 35."

(6) SPOUSAL CONSENT FOR CHANGES IN DESIGNATIONS.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subparagraph (A) of section 417(a)(2) (relating to requirement that spouse consent to election) is amended to read as follows:

"(A)(i) the spouse of the participant consents in writing to such election, (ii) such election designates a beneficiary (or a form of benefits) which may not be changed without spousal consent (or the consent of the spouse expressly permits designations by the participant without any requirement of further consent by the spouse), and (iii) the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or".

(B) AMENDMENT OF ERISA.—Subparagraph (A) of section 205(c)(2) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(A)(i) the spouse of the participant consents in writing to such election, (ii) such election designates a beneficiary (or a form of benefits) which may not be changed without spousal consent (or the consent of the spouse expressly permits designations by the participant without any requirement of further consent by the spouse), and (iii) the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or".

(7) CLARIFICATION OF NONFORFEITABLE ACCRUED BENEFIT.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subclause (I) of section 401(a)(11)(B)(iii) is amended by striking out "the participant's nonforfeitable accrued benefit" and inserting in lieu thereof "the participant's nonforfeitable accrued benefit (reduced by any security interest held by the plan by reason of a loan outstanding to such participant)".

(B) AMENDMENT OF ERISA.—Subparagraph (C) of section 205(b)(1) of the Employee Retirement Income Security Act of 1974 is amended by striking out "the participant's nonforfeitable accrued benefit" and inserting in lieu thereof "the participant's nonforfeitable accrued benefit (reduced by any security interest held by the plan by reason of a loan outstanding to such participant)".

(8) CLARIFICATION OF DEFINITION OF VESTED PARTICIPANT.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (1) of section 417(f) (defining vested participant) is amended by striking out "the accrued benefit derived from employer contributions" and inserting in lieu thereof "such participant's accrued benefit".

(B) AMENDMENT OF ERISA.—Paragraph (1) of section 205(h) of the Employee Retirement Income Security Act of 1974 is amended by striking out "the accrued benefit derived from employer contributions" and inserting in lieu thereof "such participant's accrued benefit".

(9) CLARIFICATION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Paragraph (2) of section 417(c) (defining qualified preretirement survivor annuity) is amended by striking out "the account balance of the participant as of the date of death" and inserting in lieu thereof "the portion of the account balance of the participant (as of the date of death) to which the participant had a nonforfeitable right (within the meaning of section 411(a))".

(ii) Subsection (c) of section 417 (defining qualified preretirement survivor annuity) is amended by adding at the end thereof the following new paragraph:

"(3) SECURITY INTERESTS TAKEN INTO ACCOUNT.—For purposes of paragraphs (1) and (2), any security interest held by the plan by reason of a loan outstanding to the participant shall be taken into account in determining the amount of the qualified preretirement survivor annuity."

(B) AMENDMENTS OF ERISA.—

(i) Paragraph (2) of section 205(e) of the Employee Retirement Income Security Act of 1974 is amended by striking out "the account balance of the participant as of the date of death" and inserting in lieu thereof "the portion of the account balance of the participant (as of the date of death) to which the participant had a nonforfeitable accrued benefit".

(ii) Subsection (e) of section 205 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) For purposes of paragraphs (1) and (2), any security interest held by the plan by reason of a loan outstanding to the participant shall be taken into account in determining the amount of the qualified preretirement survivor annuity."

(10) CLARIFICATION OF REQUIREMENTS FOR SPOUSAL CONSENT.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subsection (f) of section 417 (as amended by paragraph (4)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) REQUIREMENTS FOR CERTAIN SPOUSAL CONSENTS.—No consent of a spouse shall be effective for purposes of subsection (e)(1) or (e)(2) (as the case may be) unless requirements comparable to the requirements for spousal consent to an election under subsection (a)(1)(A) are met."

(B) AMENDMENT TO ERISA.—Section 205 of the Employee Retirement Income Security Act of 1974 (as amended by paragraph (4)) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) No consent of a spouse shall be effective for purposes of subsection (g)(1) or (g)(2) (as the case may be) unless requirements comparable to the requirements for spousal consent to an election under subsection (c)(1)(A) are met."

(11) CLARIFICATION OF RULE FOR SUBSIDIZED PLANS.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subparagraph (A) of section 417(a)(5) (as redesignated by paragraph (4)(A)) is amended by striking out "if the plan" and inserting in lieu thereof "if such benefit may not be waived (or another beneficiary selected) and if the plan".

(B) AMENDMENT TO ERISA.—Subparagraph (A) of section 205(c)(5) of the Employee Retirement Income Security Act of 1974 (as redesignated by paragraph (4)(B)) is amended by striking out "if the plan" and inserting in lieu thereof "if such benefit may not be waived (or another beneficiary selected) and if the plan".

(12) CLARIFICATION OF ANNUITY STARTING DATE.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Paragraph (2) of section 417(f) (defining annuity starting date) is amended to read as follows:

"(2) ANNUITY STARTING DATE.—

"(A) IN GENERAL.—The term 'annuity starting date' means—

"(i) the first day of the first period for which an amount is paid as an annuity, or

"(ii) in the case of a benefit not payable in the form of an annuity, the day on which such benefit is paid or commences being paid.

"(B) SPECIAL RULE FOR DISABILITY BENEFITS.—For purposes of subparagraph (A), the first day of the first period for which a benefit is to be received by reason of disability shall be treated as the annuity starting date only if such benefit is not an auxiliary benefit."

(B) AMENDMENT TO ERISA.—Paragraph (2) of section 205(h) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(2)(A) The term 'annuity starting date' means—

"(i) the first day of the first period for which an amount is paid as an annuity, or

"(ii) in the case of a benefit not payable in the form of an annuity, the day on which such benefit is paid or commences being paid.

"(B) For purposes of subparagraph (A), the first day of the first period for which a benefit is to be received by reason of disability shall be treated as the annuity starting date only if such benefit is not an auxiliary benefit."

(13) CLARIFICATION OF PLANS TO WHICH REQUIREMENTS APPLY.—

(A) AMENDMENT TO INTERNAL REVENUE CODE.—Subclause (I) of section 401(a)(11)(B)(iii) is amended by striking out "section 417(a)(2)(A)" and inserting in lieu thereof "section 417(a)(2)".

(B) AMENDMENT TO ERISA.—Clause (i) of section 205(b)(1)(C) of the Employee Retirement Income Security Act of 1974 is amended by striking out "subsection (c)(2)(A)" and inserting in lieu thereof "subsection (c)(2)".

(14) PLANS TO WHICH REQUIREMENTS DO NOT APPLY NEED NOT PROVIDE CERTAIN SURVIVOR ANNUITIES.—

(A) AMENDMENT TO INTERNAL REVENUE CODE.—Section 417(d) is amended by adding at the end thereof the following new paragraph:

"(3) PLANS TO WHICH SECTION 401(a)(11) DOES NOT APPLY.—A plan to which section 401(a)(11) does not apply by reason of subclause (I), (II), or (III) of subparagraph (B)(iii) or subparagraph (C) thereof shall

not be treated as failing to meet the requirements of section 401(a) merely because the plan provides that a survivor annuity will not be provided in accordance with this paragraph."

(B) AMENDMENT TO ERISA.—Section 205(f) of the Employer Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) A plan to which this section does not apply by reason of clause (i), (ii), or (iii) of subparagraph (C) or paragraph (1) or (2) of subsection (b) shall not be treated as failing to meet the requirements of this section merely because the plan provides that a survivor annuity will not be provided in accordance with this subsection."

(15) CLERICAL AMENDMENTS.—

(A) Paragraph (1) of section 417(a) is amended by striking out "section 401(a)(ii)" and inserting in lieu thereof "section 401(a)(11)".

(B) Paragraph (1) of section 417(c) is amended by striking out "survivor annuity or the life of" in the matter preceding subparagraph (A) and inserting in lieu thereof "survivor annuity for the life of".

(C) Subparagraph (B) of section 415(b)(2) is amended by striking out "as defined in section 401(a)(11)(G)(iii)" and inserting in lieu thereof "as defined in section 417".

(c) AMENDMENTS RELATED TO SECTIONS 104 AND 204 OF THE ACT.—

(1) TREATMENT OF QUALIFIED DOMESTIC RELATIONS ORDERS FOR INDIVIDUALS OTHER THAN SPOUSE OR FORMER SPOUSE.—

(A) IN GENERAL.—Paragraph (9) of section 402(a) (relating to alternate payee under qualified domestic relations order treated as distributee) is amended by striking out "the alternate payee shall be treated" and inserting in lieu thereof "any alternate payee who is the spouse or former spouse of the participant shall be treated".

(B) CONFORMING AMENDMENT.—Section 72(m)(10) (relating to determination of investment in the contract in the case of qualified domestic relations orders) is amended by inserting "who is the spouse or former spouse of the participant" after "alternate payee".

(2) PROCEDURES FOR PERIOD DURING WHICH DETERMINATION BEING MADE.—

(A) AMENDMENTS OF THE INTERNAL REVENUE CODE.—

(i) Subparagraph (A) of section 414(p)(7) (relating to procedures for period during which determination is being made) is amended by striking out "shall segregate in a separate account in the plan or in an escrow account the amounts" and inserting in lieu thereof "shall separately account for the amounts (hereinafter in this paragraph referred to as the 'segregated amounts')".

(ii) Subparagraph (B) of section 414(p)(7) (relating to payment to alternate payee if order is determined to be qualified domestic relations order) is amended—

(I) by striking out "18 months" and inserting in lieu thereof "the 18-month period described in subparagraph (E)", and

(II) by striking out "plus any interest" and inserting in lieu thereof "including any interest".

(iii) Subparagraph (C) of section 414(p)(7) is amended—

(I) by striking out "18 months" and inserting in lieu thereof "the 18-month period described in subparagraph (E)", and

(II) by striking out "plus any interest" and inserting in lieu thereof "including any interest".

(iv) Subparagraph (D) of section 414(p)(7) is amended by striking out "the 18-month period" and inserting in lieu thereof "the 18-month period described in subparagraph (E)".

(v) Paragraph (7) of section 414(p) is amended by adding at the end thereof the following new subparagraph:

"(E) DETERMINATION OF 18-MONTH PERIOD.—For purposes of this paragraph, the 18-month period described in this subparagraph is the 18-month period beginning with the date on which the first payment would be required to be made under the domestic relations order."

(B) AMENDMENTS OF ERISA.—

(i) Clause (i) of section 206(d)(3)(H) of the Employee Retirement Income Security Act of 1974 is amended by striking out "shall segregate in a separate account in the plan or in an escrow account the amounts" and inserting in lieu thereof "shall separately account for the amounts (hereinafter in this subparagraph referred to as the 'segregated amounts')".

(ii) Clause (ii) of section 206(d)(3)(H) of such Act is amended—

(I) by striking out "18 months" and inserting in lieu thereof "the 18-month period described in clause (v)", and

(II) by striking out "plus any interest" and inserting in lieu thereof "including any interest".

(iii) Clause (iii) of section 206(d)(3)(H) of such Act is amended—

(I) by striking out "18 months" and inserting in lieu thereof "the 18-month period described in clause (v)", and

(II) by striking out "plus any interest" and inserting in lieu thereof "including any interest".

(iv) Clause (iv) of section 206(d)(3)(H) of such Act is amended by striking out "the 18-month period" and inserting in lieu thereof "the 18-month period described in clause (v)".

(v) Subparagraph (H) of section 206(d)(3) of such Act is amended by adding at the end thereof the following new clause:

"(v) For purposes of this subparagraph, the 18-month period described in this clause is the 18-month period beginning with the date on which the first payment would be required to be made under the domestic relations order."

(3) COORDINATION WITH QUALIFIED PLAN REQUIREMENTS.—Section 401 is amended by redesignating the subsection relating to cross references as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) COORDINATION WITH QUALIFIED DOMESTIC RELATIONS ORDERS.—The Secretary shall prescribe such rules or regulations as may be necessary to coordinate the requirements of subsection (a)(13)(B) and section 414(p) (and the regulations issued by the Secretary of Labor thereunder) with the other provisions of this chapter."

(4) CLARIFICATION OF APPLICATION OF DOMESTIC RELATION PROVISIONS.—

(A) AMENDMENT OF INTERNAL REVENUE CODE.—Subsection (p) of section 414 is amended by redesignating paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraph:

"(9) SUBSECTION NOT TO APPLY TO PLANS TO WHICH SECTION 401(a)(13) DOES NOT APPLY.—This subsection shall not apply to any plan to which section 401(a)(13) does not apply."

(B) AMENDMENT OF ERISA.—Paragraph (3) of section 206(d) of the Employee Retirement Income Security Act of 1974 is amended by redesignating subparagraph (L) as subparagraph (N) and by inserting after subparagraph (K) the following new subparagraph:

"(L) This paragraph shall not apply to any plan to which paragraph (1) does not apply."

(5) BENEFIT PAYMENTS MADE IN ACCORDANCE WITH QUALIFIED DOMESTIC RELATIONS ORDERS NOT TREATED AS GARNISHMENTS FOR PURPOSES OF CONSUMER CREDIT PROTECTION ACT.—Paragraph (3) of section 206(d) of the Employee Retirement Income Security Act of 1974 (as amended by paragraph (4)(B)) is further amended by inserting after subparagraph (L) the following new subparagraph:

"(M) Payment of benefits by a pension plan in accordance with the applicable requirements of a qualified domestic relations order shall not be treated as garnishment for purposes of section 303(a) of the Consumer Credit Protection Act.".

(6) TREATMENT OF CERTAIN SPOUSES.—

(A) AMENDMENT OF THE INTERNAL REVENUE CODE.—Subparagraph (A) of section 414(p)(5) (relating to treatment of former spouse as surviving spouse for purposes of determining survivor benefits) is amended by striking out "sections 401(a)(11) and 417" and inserting in lieu thereof "sections 401(a)(11) and 417 (and any spouse of the participant shall not be treated as a spouse of the participant for such purposes)".

(B) AMENDMENT OF ERISA.—Clause (i) of section 206(d)(3)(F) of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 205" and inserting in lieu thereof "section 205 (and any spouse of the participant shall not be treated as a spouse of the participant for such purposes)".

(7) CLERICAL AMENDMENTS.—

(A) AMENDMENTS OF INTERNAL REVENUE CODE.—

(i) Subparagraph (F) of section 402(a)(6) is amended by striking out "paragraph (5)(A)" and inserting in lieu thereof "paragraph (5)".

(ii) Clause (i) of section 414(p)(1)(B) is amended by striking out "to a spouse," and inserting in lieu thereof "to a spouse, former spouse,".

(iii) Clause (i) of section 414(p)(6)(A) is amended by striking out "any other alternate payee" and inserting in lieu thereof "each alternate payee".

(iv) Subparagraph (B) of section 414(p)(5) is amended by striking out "the surviving spouse" and inserting in lieu thereof "the surviving former spouse".

(v) Subsection (p) of section 414 is amended by striking out the last sentence of paragraph (5) and by inserting after paragraph (9) the following new paragraph:

"(10) WAIVER OF CERTAIN DISTRIBUTION REQUIREMENTS.—With respect to the requirements of subsections (a) and (k) of section 401 and section 409(d), a plan shall not be treated as failing to meet such requirements solely by reason of payments to an alternative payee pursuant to a qualified domestic relations order."

(vi) Paragraph (4)(A) of section 414(p) is amended—

(I) by striking out "In the case of any payment before a participant has separated from service, a" and inserting in lieu thereof "A", and

(II) by inserting "in the case of any payment before a participant has separated from service," before "on or" in clause (i).

(vii) Subparagraph (B) of section 414(p)(4) is amended to read as follows:

"(B) EARLIEST RETIREMENT AGE.—For purposes of this paragraph, the term 'earliest retirement age' means—

"(i) the date which is 10 years before the normal retirement age (within the meaning of section 411(a)(8)), or

"(ii) in the case of any plan from which amounts may be withdrawn before separation from serivce, the date such amounts may be obtained by the participant."

(B) AMENDMENTS OF ERISA.—

(i) Clause (ii) of section 206(d)(3)(F) of the Employee Retirement Income Security Act of 1974 is amended by striking out "the former spouse" and inserting in lieu thereof "the surviving former spouse".

(ii) Subclause (I) of section 206(d)(3)(G)(i) of such Act is amended by striking out "any other alternate payee" and inserting in lieu thereof "each alternate payee".

(iii) Subparagraph (E) of section 206(d)(3) of such Act is amended—

(I) by striking out "In the case of any payment before a participant has separated from service, a" in clause (i) and inserting in lieu thereof "A", and

(II) by inserting "in the case of any payment before a participant has separated from service," before "on or" in subclause (I).

(iv) Clause (ii) of section 206(d)(3)(E) of such Act is amended to read as follows:

"(ii) For purposes of this subparagraph, the term 'earliest retirement age' means the date which is 10 years before the normal retirement age."

(d) AMENDMENTS RELATED TO SECTIONS 105 AND 205 OF THE ACT.—

(1) VESTED ACCRUED BENEFIT.—

(A) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 411(a)(11)(A) is amended by inserting "vested" before "accrued benefit".

(B) AMENDMENT TO ERISA.—Paragraph (1) of section 203(e) of the Employee Retirement Income Security Act of 1974 is amended by inserting "vested" before "accrued benefit".

(2) DISTRIBUTIONS UNDER SECTION 404(k).—

(A) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 411(a)(11) is amended by adding at the end thereof the following new subparagraph:

"(C) DIVIDEND DISTRIBUTIONS OF ESOPS ARRANGEMENT.—This paragraph shall not apply to any distribution of dividends to which section 404(k) applies."

(B) AMENDMENT TO ERISA.—Section 203(e) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) This subsection shall not apply to any distribution of dividends to which section 404(k) of the Internal Revenue Code of 1954 applies."

(e) AMENDMENTS RELATED TO SECTION 207 OF THE ACT.—

(1) Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended by striking out "qualifying rollover distribution" and inserting in lieu thereof "eligible rollover distribution".

(2) Paragraph (2) of section 402(f) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' means any distribution any portion of which may be excluded from gross income under subsection (a)(5) of this section or subsection (a)(4) of section 403 if transferred to an eligible retirement plan in accordance with the requirements of such subsection.

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (a)(5)(E)(iv)."

(f) AMENDMENT RELATED TO SECTION 301 OF THE ACT.—

(1) SPECIAL RULE FOR ESOPS.—

(A) AMENDMENT TO THE INTERNAL REVENUE CODE.—Section 411(d)(6) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR ESOPS.—For purposes of this paragraph, any—

"(i) tax credit employee stock ownership plan (as defined in section 409(a)), or

"(ii) employee stock ownership plan (as defined in section 4975(e)(7)),

shall not be treated as failing to meet the requirements of this paragraph merely because it modifies distribution options in a nondiscriminatory manner."

(B) AMENDMENT TO ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) For purposes of this subsection, any—

"(A) tax credit employee stock ownership plan (as defined in section 409(a) of the Internal Revenue Code of 1954), or

"(B) employee stock ownership plan (as defined in section 4975(e)(7) of such Code),

shall not be treated as failing to meet the requirements of this subsection merely because it modifies distribution options in a nondiscriminatory manner."

(2) CLERICAL AMENDMENT.—Paragraph (1) of section 204(g) of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 302(c)(8)" and inserting in lieu thereof "section 302(c)(8) or 4281".

(g) AMENDMENT RELATED TO SECTION 302 OF THE ACT.—Paragraph (2) of section 302(b) of the Retirement Equity Act of 1984 is amended by striking out "January 1, 1987" and inserting in lieu thereof "July 1, 1988".

(h) AMENDMENTS RELATED TO SECTION 303 OF THE ACT.—

(1)(A) Subsection (c) of section 303 of the Retirement Equity Act of 1984 (relating to transitional rule for requirement of joint and survivor annuity and preretirement survivor annuity) is amended by adding at the end thereof the following new paragraph:

"(4) ELIMINATION OF DOUBLE DEATH BENEFITS.—

"(A) IN GENERAL.—In the case of a participant described in paragraph (2), death benefits (other than a qualified joint and survivor annuity or a qualified preretirement survivor annuity) payable to any beneficiary shall be reduced by the amount payable to the surviving spouse of such participant by reason of paragraph (2). The reduction under the preceding sentence shall be made on the basis of the respective present values (as of the date of the participant's death) of such death benefits and the amount so payable to the surviving spouse.

"(B) SPOUSE MAY WAIVE PROVISIONS OF PARAGRAPH (2).—In the case of any participant described in paragraph (2), the surviving spouse of such participant may waive the provisions of paragraph (2). Such waiver shall be made on or before the close of the second plan year to which the amendments made by section 103 of this Act apply. Such a waiver shall not be treated as a transfer of property for purposes of chapter 12 of the Internal Revenue Code of 1954 and shall not be treated as an assignment or alienation for purposes of section 401(a)(13) of the Internal Revenue Code of 1954 or section 206(d) of the Employee Retirement Income Security Act of 1974."

(B) Section 2503 is amended by adding at the end thereof the following new subsection:

"(f) WAIVER OF CERTAIN PENSION RIGHTS.—If any individual waives, before the death of a participant, any survivor benefit, or right to such benefit, under section 401(a)(11) or 417, such waiver shall not be treated as a transfer of property by gift for purposes of this chapter."

(2) Subparagraph (A) of section 303(e)(2) of the Retirement Equity Act of 1984 (relating to treatment of certain participants who perform services on or after January 1, 1976) is amended by striking out "in the first plan year" and inserting in lieu thereof "in any plan year".

(3) Paragraph (2) of section 303(c) of the Retirement Equity Act is amended by adding at the end thereof the following new sentence: "In the case of a profit-sharing or stock bonus plan to which this paragraph applies, the plan shall be treated as meeting the requirements of the amendments made by sections 103 and 203 with respect to any participant if the plan made a distribution in a form other than a life annuity to the surviving spouse of the participant of such participant's nonforfeitable benefit."

(i) EFFECTIVE DATE.—Except as otherwise provided in subsections (a)(1)(C) and (b)(4)(C), any amendment made by this section shall take effect as if included in the provision of the Retirement Equity Act of 1984 to which such amendment relates.

CHAPTER 3—AMENDMENT RELATED TO THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984

SEC. 1898. AMENDMENT RELATED TO THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984.

(a) IN GENERAL.—Section 457(b)(3) of the Social Security Act is amended by inserting "or administrative" after "court".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of the enactment of this Act.

EXTENSIONS OF REMARKS

POLITICS AND ELECTIONS IN HAITI

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. OWENS. Mr. Speaker, there are more people of Haitian descent in my district and in the greater New York area than anywhere else outside of Haiti. Many Haitians in New York have spoken with me about their worry and concern regarding the recent events in their homeland and I would like to briefly outline and explain these issues to my fellow Members of Congress.

Since the departure of Jean-Claude Duvalier in February of this year, the country has been ruled by the Duvalier-appointed military junta headed by Lt. Gen. Henri Namphy. This provisional government has been faced with political unrest, as the people of Haiti begin to consider their various political options. The Namphy government has scheduled parliamentary and presidential elections for November 1987 and the campaigning has already begun. The different factions in Haiti span the political spectrum; the far-right wish to return to Duvalier-style totalitarian control of the population and others want varying degrees of political and social reform. Many of the Haitian people want to see an end to the agricultural and manufacturing monopolies which hamstring the Haitian economy.

While the Haitian people look forward to electing a new government next year, they are also looking at the basis of the oppression of the former regime. They see the concentration of wealth in the hands of very few Haitians as a significant cause of economic and social oppression. Since Haiti is the poorest country in the Western Hemisphere, with an annual per capita income of $300, there are millions of Haitians who resent the present economic structure. This dire poverty is a very destabilizing political influence. The frustration and unrest of the poor in Haiti in concert with the hostility toward residual Duvalier influence are threatening and weakening the interim government. In Haiti, the promise of change which came with Duvalier's exit, coupled with poverty, has created a volatile situation which can only be resolved by elections which are both open and fair.

The poverty and political unrest which Haiti faces are similar to those in Central America countries. When the Governments of El Salvador, Guatamala, and Honduras held elections to determine their people's choice for a ruling government, many nations of the world were there to watch. The Organization of American States and the United States Government have both sent delegations to observe elections in Central America. These groups of observers helped to ensure that the elections are being conducted fairly and honestly. When the Haitian people hold their elections at each stage, as they develop their constitution and in 1987, the United States and the OAS should be observers. As the world's most powerful democracy, we should support the people of Haiti as they determine their political future in free and democratic elections. This will improve America's stature with the Haitian people and will be the first step toward constructive cooperation with the new government in the Republic of Haiti.

OUR ENVIRONMENTAL LEGACY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. FLORIO. Mr. Speaker, world attention has been riveted to environmental crises such as Bhopal and Chernobyl that have ramifications that will be felt for generations to come. In addition to these global crises, there is not a community in the United States that has not been affected by the issue of hazardous waste disposal and landfill siting. The environmental questions that we consider today, whether they relate to the effects of environmental accidents in other countries or the fear of living near a hazardous waste landfill are questions that will affect our children and our grandchildren. The legacy we will pass on to our children will include a contaminated environment if we do not act to ensure that communities will be free of leaking landfills and chronic and accidental toxic industrial releases.

I recently read an insightful article that was written by Jack C. Sheppard, Sr., the mayor of Wenonah, NJ, in the form of a letter to his grandson, Brent. Mayor Sheppard rightfully points out that we have a responsibility to preserve and protect the legacy that includes a clean environment and unpolluted resources. We will continue to fail our responsibility if we continue to falsely believe that we can build sanitary and safe landfills and site them within a community without endangering current residents and future generations. Our legacy will be a "chemical time bomb" rather than a green Earth.

I wanted to commend to the attention of my colleagues Mayor Sheppard's article which appeared in the Gloucester County Times:

The article follows:

"EXPERTS?" MOSTLY TO BLAME FOR SPOILING EARTH

(By Jack C. Sheppard, Sr.)

This letter is in the form of an apology to my 10-month-old grandson, Brent, who will have to live on whatever becomes of this planet long after I am gone.

Brent, if I wait until you are old enough to understand what I want to tell you, either I will have forgotten what I wanted to say because of the infirmities of age, or I will no longer be here.

I just feel the need to apologize to you for the excesses of my generation and most of the generations following mine, and to give you my opinion of how we messed up our custodianship of the territory we occupy on this planet Earth.

And I will start by accepting part of the blame for helping degrade our earth, sky and water, if only because I didn't try hard enough to convince myself and others that we each have a responsibility to protect and to conserve the resources that have been entrusted to us for ourselves and future generations.

We, and that includes me, have used too much, wasted too much, indulged ourselves too much, and have expected others to mend their ways so we can continue to do our thing unabated.

Because of our excesses Brent, you and your generation may have a difficult time finding land and air that isn't tainted and water that is drinkable without complicated and expensive treatment.

However, while I accept some of the responsibility for the problems we are leaving you, I also want you to know that in my opinion, the "experts?" of my generation are deserving of an even greater share of the blame than we common folk.

Notice my use of the word "experts?" I do this purposely to make a distinction from the good experts who are learned, experienced people of principle who know the truth of a given matter, and will stand by that truth no matter what.

But there are other experts, who I will refer to as "experts?" who stand ready to sell their very soul for the almighty dollar and the truth be damned.

Many of these "experts?" including bureaucrats, engineers, chemists, environmentalists, planners, and, yes, politicians too, appear to have compromised their own principles and ideals, and are for hire to whomever will pay the most for their services.

You can hire "experts?" to tell you that landfills, toxic-waste sites and incinerators are good for you, or bad for you, even though they may personally believe just the opposite.

A biologist recently told me that in his field they have a name for them. They are called "biostitutes," and I won't go into detail as to what he meant by that.

As an example, for many years "experts?" in the New Jersey Department of Environmental Protection (DEP) have both authorized and supervised the construction and use of the so-called "sanitary landfills," only to jump on the bandwagon against them when they found, too late, that they were aiding in the creation of chemical "time-bombs."

And some more of these same "experts?" are now trying to convince us that we can build "safe" and "sanitary" landfills in our county, even though our track record to date is just awful.

And now these same "experts?" are telling us it is not only safe, but desirable, to place a large solid-waste incinerator in the middle of a densely populated area near Westville

even though other experts, or "experts?" (we don't know which they are yet), say it's a dumb idea. Who do we believe?

And, Brent, for a great many years these "experts?" from the New Jersey DEP have demanded and received monthly reports of water withdrawal by both quantity and quality from municipalities and industry without ever, until just recently, mentioning that we are taking far too much water out of the ground, and apparently have been doing so for a long, long time.

As a matter of fact, Brent, during last summer's water shortage an "expert?" in the governor's office wrote me a letter explaining the reasons for the drought emergency, and never once mentioned that we have a problem with our underground water supply in South Jersey.

I wouldn't be at all surprised to find that the "experts?" withheld this information until they used up the millions of dollars voted by the people of our state by the most recent "Water Supply Bond Issue," almost all of which was used in North Jersey.

So now, the "experts?" at the N.J. DEP are proposing that the municipalities bear the brunt of water conservation efforts by mandatory reductions of water usage of as much as 35 percent.

To illustrate how silly this approach is, let me quote what Dr. Robert L. Johnson, professor of civil engineering at Lehigh University has to say about our usage of water.

Dr. Johnson says, "In Pennsylvania, the amount of water used for industrial purposes and electrical generation is 90 percent of the total, much of it being lost in the industrial process."

The article in which he is quoted notes that only about 6 percent of water usage is by households, yet most calls for conservation seem to emphasize saving water in the home. Says Dr. Johnson, "In terms of the total amount of water saved through household conservation efforts, it doesn't make a nickel's worth of difference."

Turning to a related matter Brent, I, as did many others, grew up believing the chemical industry slogan "Better Living Through Chemistry," only to find that the residue and waste from the products the industry is producing are to a great measure responsible for contaminating our air, soil, and water?

Few can deny that the quality of our surroundings is declining, that our waters are polluted, that our air is being fouled, that we are using up irreplaceable resources.

And too many of these "experts?" of our world have been in charge during the time that this has been happening.

What we need Brent is a new breed of experts who will seek the truth of a matter, and stand up for it even if the truth is the opposite of what they or their employer is trying to prove.

What we need are experts who will stand up for principles and beliefs, even if the truth of a given matter might cost them their job or a fat commission.

And Brent, what we also need is a new breed of politician who is willing to serve for one term only, if standing by his or her own convictions and opinions and challenging the "experts?" jeopardizes his or her chance for another term in office.

But getting back to my apology to you, Brent, I must tell you that if there is to be any hope for your generation and those following, then all of us, beginning right now must assert ourselves and take "experts?" to task.

We must say to them "tell us the truth even if it hurts you to do so or we will lose our faith in you altogether, and will depend more on our own intelligence and innate common sense to get the job done without you."

I am hoping Brent that each of us will begin accepting responsibility for our own actions and activities without waiting to be told to do so by "experts?," who we are not even sure we can trust or believe.

I am hoping that we will all take a good hard look at what we are doing to our surroundings, and start to conduct our lifestyles in a way that is more certain to leave something worthwhile for you, Brent, so you too can enjoy the wonders of this good earth as we have been able to do during our lifetimes.

And Brent, if we fail to get the job done in time to save something for you, I hope it isn't because we didn't even try.

From your loving Grandad.

EXECUTION OF MENTALLY ILL IS UNCIVILIZED

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. OWENS. Mr. Speaker, yesterday, Jerome Bowden was executed in the State of Georgia. Many protested his execution based on the fact that he was mentally retarded. The pardon board which declined to stay the execution made their decision based on the determination that Mr. Bowden was capable of knowing right from wrong. However, for testimonial purposes, children as young as 4 have been able to testify based on the fact that they knew the simple difference between the truth and a lie.

Mr. Bowden's IQ score was 65. At this level, it is highly questionable whether or not he could effectively assist counsel in conducting a defense. The other man convicted of the same murder was given a prison sentence while Mr. Bowden was condemned to death.

Looking at the primary argument for capital punishment, that it deters one from committing a capital crime, we must also look to whether or not a person was capable of understanding what the punishment was. If one is incapable of understanding what death is, it is hard to imagine that the threat of death could deter one from an act. Based on Mr. Bowden's IQ score of 65, it is hard to imagine that Mr. Bowden had the ability to comprehend death on the same level as a child of 6 or 7. Even the most ardent supporters of capital punishment have not suggested that we should execute children of that age and yet the Georgia board which reviewed the sentence made no determination of whether or not Mr. Bowden could even comprehend what was to happen to him. Life experience had undoubtedly taught him to fear pain, but it could not have taught a person of such limited ability to comprehend death.

Capital punishment remains a game of chance. It falls most frequently on the poor, those of limited intelligence and minorities. It is irreversible and provides no recognition of the fact that error is possible. Mr. Bowden, poor, mentally retarded, and black got death. His codefendant got life. This should concern all who believe, as I do, that there should be equality before the law.

VOTING RECORD OF HON. DON J. PEASE

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. PEASE. Mr. Speaker, it has become my practice to insert periodically in the CONGRESSIONAL RECORD a list of key votes that I have cast in the U.S. House of Representatives.

The list is arranged in this manner: Each item begins with the rollcall vote number of the bill or resolution that the House was considering, followed by the bill number of a summary of the issue. This is followed by my own vote on the issue and the vote outcome.

The list of votes covers the period of January 23, 1986, through June 19, 1986:

KEY VOTES OF CONGRESSMAN DON J. PEASE

(7) H.R. 2443. Expedited Funds Availability Act. Substitute replacing the check-hold provisions with a requirement that the Federal Reserve Board within 18 months issue preliminary regulations to shorten the check-holding period, and within 3 years issue final regulations. No. Rejected 80–211.

(8) H.R. 2443. Expedited Funds Availability Act. Limits the number of days a depository institution may restrict the availability of funds deposited in an account. Yes. Passed 282–11.

(9) H.R. 3525. Uniform Poll Closing. Establishes a single poll closing time throughout the United States for Presidential elections. Yes. Passed 204–171.

(13) H.R. 4055. Protection and Advocacy for the Mentally Ill. Authorizes $33 million over fiscal year 1986–88 in aid to States for the mentally ill. Yes. Passed 290–84.

(14) H.R. 2036. Technical Corrections to Farm Bill. Clarifies the Agriculture Secretary's authority to impose cross compliance in wheat and feed grain programs, and specifies the formula for calculating price and income-support payments for wheat and feed grain bases. Yes. Passed 319–64.

(15) H.R. 3010. Health Planning. Authorize $28.1 million in fiscal year 1986 for aid to health planning agencies. Yes. Passed 390–3.

(21) H.R. 3456. Consumer Product Safety. Amendment freezing funding for Consumer Product Safety Commission for 3 years. No. Rejected 189–200.

(24) H.R. 3456. Consumer Product Safety. Amendment striking provisions extending the jurisdiction of the Consumer Product Safety Commission to fixed-site amusement parks and instead establishing an 18-month study to determine if such jurisdiction is needed. No. Rejected 179–198.

(25) H.R. 3456. Consumer Product Safety. Authorizes $36 million in fiscal year 1987 for the Consumer Product Safety Commission. Yes. Passed 298–81.

(26) H.R. 2418. Health Services Amendments. Motion to suspend the rules and pass the bill to reauthorize through fiscal year 1988 Federal aid for community and migrant health centers. Yes. Rejected 254–151 (two-thirds majority required for passage).

(27) H.R. 4130. Veterans' Home Loan Guarantees. Raises the fiscal year 1986 limit on veterans' home loan guarantees to $18.2 billion from $11.5 billion. Yes. Passed 386–0.

(29) H.J. Res. 534. Supplemental Appropriations. Provide $5 billion in supplemental fiscal year appropriations for the Commodity Credit Corporation. Yes. Passed 321-86.

(31) H.J. Res. 3. Nuclear Test Ban Negotiations. Substitute providing that negotiations on a comprehensive nuclear test ban be started only after deep reductions have been made in existing nuclear forces. No. Rejected 158-258.

(32) H.J. Res. 3. Nuclear Test Ban Negotiations. Motion to recommit the joint resolution to the Armed Services Committee so that further study can be done concerning the impact of the joint resolution's enactment on the development of new strategic weapons systems. No. Rejected 158-258.

(33) H.J. Res. 3. Nuclear Test Ban Negotiations. Resolution calling for a resumption of negotiations with the Soviet Union on a comprehensive ban on nuclear weapons tests. Yes. Passed 268-148.

(34) H. Res. 384. Contempt of Congress. Resolution to initiate comtempt of Congress proceedings against Ralph Bernstein of New York for his refusal to testify before the House Foreign Affairs Subcommittee on Asian and Pacific Affairs on U.S. real estate transactions involving Ferdinand Marcos. Yes. Passed 352-34.

(35) H. Res. 384. Contempt of Congress. Resolution to initiate contempt of Congress proceedings against Joseph Bernstein of New York for his refusal to testify before the House Foreign Affairs Subcommittee on Asian and Pacific Affairs on U.S. real estate transactions involving Ferdinand Marcos. Yes. Passed 343-50.

(38) H.R. 2418. Health Services Amendments. Substitute freezing fiscal year 1987 and fiscal year 1988 authorizations at fiscal year 1986 appropriations levels for community and migrant health centers and to retain authority for the optional primary care block grant. No. Rejected 94-319.

(39) H.R. 2418. Health Services Amendments. Amendment freezing fiscal year 1987 and fiscal year 1988 authorizations at fiscal year 1986 appropriations levels of $400 million a year for community health centers and $45 million for migrant health centers. Yes. Passed 400-9.

(40) H.R. 2418. Health Services Amendments. Reauthorizes through fiscal year 1988 aid to community and migrant health centers and repeals authority for the optional primary care block grant. Yes. Passed 403-6.

(47) H.R. 1524. Employee Polygraph Protection, Prohibits polygraph testing by private employers, with certain exceptions. Yes. Passed 236-173.

(53) H. Con. Res. 296. Fiscal year 1987 Budget Resolution. Resolution setting budget levels for the fiscal year 1987 as proposed by the President. No. Rejected 12-312.

(59) H.R. 4154. Diplomatic Security. Authorize $4.4 billion to bolster security at U.S. diplomatic missions and adopt other provisions aimed at combating international terrorism. Yes. Passed 389-7.

(60) H.R. 2453. Older Americans Act. Increase the funding authorized for senior citizen nutrition programs. Yes. Passed 344-0.

(64) H.J. Res. 540. Aid to Nicaraguan Rebels. Approve President Reagan's request for $100 million in aid to the "Contra" guerrillas in Nicaragua. No. Rejected 210-222.

(66) H.R. 3128. Fiscal year 1986 Omnibus Budget Reconciliation. Motion that the House recede from its disagreement to the Senate amendment making changes in the bill to reduce fiscal year 1986 deficits. Yes. Passed 230-154.

(70) H.R. 4332. Firearms Law Reform. Substitute continuing the ban on interstate sales of handguns, barring interstate transportation of handguns and banning silencers. Yes. Rejected. 176-248.

(71) H.R. 4332, Firearms Law Reform. Substitute barring the interstate transportation of handguns. Yes. Rejected 177-242.

(72) H.R. 4332. Firearms Law Reform. Substitute retaining the existing ban on interstate sales of handguns. Yes. Passed 233-184.

(74) H.R. 4332. Firearms Law Reform. Substitute allowing interstate sales of rifles and shotguns, allowing interstate transportation of firearms, easing record-keeping requirements for firearms transactions, and limiting unannounced Federal inspection of gun dealers. Yes. Passed 286-136.

(75) H.R. 4332. Firearms Law Reforms. Allows the interstate sales of rifles and shotguns, allows the interstate transportation of firearms, eases record-keeping requirements for firearms transactions, limits unannounced Federal inspections of gun dealers, and bans the sale or possession of machine guns. Yes. Passed 292-130.

(81) H.J. Res. 601. Aid to Nicaraguan Rebels. Substitute providing $27 million in humanitarian aid to Nicaraguan refugees. Yes. Passed 361-66.

(84) H.R. 281. Construction Labor Law Amendments. Amendment narrowing the definition of a "single employer" in the construction industry to cover companies and related entities only when there is a "substantial qualitative degree of interrelationship of operations." No. Rejected 165-247.

(87) H.R. 281. Construction Labor Law Amendments. Bars construction companies from circumventing labor laws to hire nonunion workers for construction projects. Yes. Passed 229-173.

(92) H.R. 4420. Military Retirement Reform. Reduces the annuities paid to military personnel who join the armed services after enactment of the bill and retire after less than 30 years of active service. Yes. Passed 399-7.

(97) H. Res. 432. Member's Outside Income. Motion to consider the resolution to reinstate a House rule limiting members' outside income to an amount equal to 30 percent of their annual salary. Yes. Passed 333-68.

(104) H.R. 4421. Community Services Programs. Reauthorize through fiscal year 1990 the Head Start, Follow Through, Community Services Block Grant, Dependent Care and Community Food and Nutrition programs. Yes. Passed 377-33.

(107) H.R. 3302. Nevada Wilderness Protection. Substitute eliminating the section of the bill which calls for the establishment of the Great Basin National Park in Nevada. No. Rejected 151-247.

(109) H.R. 4409. Fiscal year 1987 Panama Canal Authorization. Authorize appropriations of $437.3 million for fiscal year 1987 for the maintenance of the canal. Yes. Passed 327-59.

(110) H.R. 4208. Fiscal year 1987 Coast Guard Authorization. Authorizes $2.2 billion in fiscal year 1987 funds for the U.S. Coast Guard. Yes. Passed 374-0.

(111) H.R. 4021. Rehabilitation Act Amendments. Reauthorizes Federal aid for vocational rehabilitation of the handicapped through fiscal year 1991. Yes. Passed 401-0.

(112) H. J. Res. 589. Saudi Arms Sale. Prohibits the administration's proposed $354 million sale of missiles to Saudi Arabia. Yes. Passed 356-62.

(114) H.R. 4515. Fiscal year 1986 Urgent Supplemental Appropriations. Amendment reducing funding for the Anglo-Irish economic support fund from $50 million to $20 million. Yes. Rejected 157-241.

(115) H.R. 4515. Fiscal year 1986 Urgent Supplemental Appropriations. Amendment deleting language that limits the President's power to defer spending certain funds appropriated by Congress. No. Rejected 163-224.

(118) H.R. 4515. Fiscal year 1986 Urgent Supplemental Appropriations. Provides $1.7 billion in urgent supplemental appropriations for fiscal year 1986. Yes. Passed 242-132.

(120) S. 124. Safe Drinking Water. Authorizes appropriations to carry out the Safe Drinking Water Act of 1974. Yes. Passed 382-21.

(121) S. 974. Protection and Advocacy for the Mentally Ill. Adoption of the conference report on the bill to authorize $31.53 million in fiscal year 1986-88 for agencies that provide protection and advocacy services for the mentally ill. Yes. Passed 383-21.

(122) H.R. 1. Housing Act. Adoption of the rule providing for House floor consideration of the bill to reauthorize housing programs for fiscal year 1986 and fiscal year 1987. Yes. Passed 257-149.

(123) H. Con. Res. 310. Farm Credit System Loan Restructuring. Urges the Farm Credit System to consider the restructuring of delinquent loans to farmers Yes. Passed 407-0.

(124) H. Con. Res. 337. Fiscal year 1987 Budget Resolution. Substitute setting budget targets for fiscal year 1987 that would allow Federal programs to increase for inflation. No. Rejected 73-338.

(126) H. Con. Res. 337. Fiscal year 1987 Budget Resolution. Substitute setting budget targets for fiscal year 1987 that would reduce spending for defense and increase spending for social programs. No. Rejected 61-359.

(127) H. Con. Res. 337. Fiscal year 1987 Budget Resolution. Substitute setting budget targets for fiscal year 1987 that would increase spending for defense and decrease spending for domestic programs. No. Rejected 145-280.

(128) H. Con. Res. 337. Fiscal year 1987 Budget Resolution. Sets budget targets at the levels proposed by the House Budget Committee. Yes. Passed 245-179.

(131) H.R. 4800. Omnibus Trade Bill. Amendment striking sections in the bill dealing with U.S. responses to foreign unfair trading practices. No. Rejected 137-276.

(132) H.R. 4800. Omnibus Trade Bill. Amendment striking sections in the bill that address assistance to U.S. companies and workers harmed by import competition. No. Regected 109-306.

(133) H.R. 4800. Omnibus Trade Bill. Amendment striking sections in the bill dealing with anti-dumping enforcement and countervailing duties. No. Rejected 79-338.

(135) H.R. 4800. Omnibus Trade Bill. Amendment expressing the sense of Congress that Japan should remove trading barriers to its semiconductor market and that the President should find Japan guilty of unfair trading practices. Yes. Passed 408-5.

(136) H.R. 4800. Omnibus Trade Bill. Amendment striking sections of the bill easing restrictions on export controls affecting technology sales to foreign countries. No. Rejected 181-238.

(137) H.R. 4800. Omnibus Trade Bill. Amendment striking a section of the bill au-

thorizing a $300 million "war chest" to help finance foreign purchases of U.S. exports. Yes. Passed 248–166.

(138) H.R. 4800. Omnibus Trade Bill. Amendment striking sections of the bill linking U.S. trade policy with international exchange rates and Third World debt and creating an industrial competitiveness council to devise strategics to make U.S. firms more competitive. No. Rejected 188–221.

(140) H.R. 4800. Omnibus Trade Bill. Substitute replacing the bill with alternative legislation that addresses a variety of trade issues, but does not go as far as the bill in areas such as limiting Presidential discretion and ordering mandatory retaliation against other countries. No Rejected 145–265.

(141) H.R. 4800. Omnibus Trade Bill. Reforms U.S. trade laws to improve the response to foreign unfair trade practices and to enhance the international competitiveness of U.S. industry and agriculture. Yes. Passed 295–115.

(143) H.R. 1. Housing Act of 1986. Amendment eliminating the Urban Development Action Grant program. No. Rejected 93–289.

(147) H.R. 1. Housing Act of 1986. Amendment terminating the Federal crime insurance program. Yes. Rejected 176–219.

(149) H.R. 1. Housing Act of 1986. Amendment limiting funding for new construction of public housing units to repair and renovation of existing units. Yes. Passed 223–180.

(159) H.R. 1. Housing Act of 1986. Amendment allowing public housing tenants to buy their dwellings for 25 percent of the market value. Low interest loans provided. No. Passed 238–176.

(161) H.R. 4515. Fiscal year 1986 Urgent Supplemental Appropriations. Instructs House conferees to accept the higher appropriation amount provided by the Senate for the Commodity Credit Corporation. No. Rejected 169–247.

(163) H.R. 1. Housing Act of 1986. Amendment designating 100 enterprise zones to encourage development in blighted areas. No. Passed 366–32.

(167) H.R. 1. Housing Act of 1986. Reauthorizes Federal housing and community development programs for fiscal year 1986 and fiscal year 1987. Yes. Passed 340–36.

(174) H.R. 4116. VISTA Reauthorization. Reauthorizes for 3 years programs under the Domestic Volunteer Services Act. Yes. Passed 360–52.

(179) H.R. 4868. Anti-Apartheid Act. Amendment prohibiting any funds authorized in the legislation from going to the African National Congress if any members of the group's governing body belong to the South African Communist Party. Yes. Passed 365–49.

(180) H.R. 4868. Anti-Apartheid Act. Amendment exempting from the bill's sanctions companies that comply with the Sullivan principles relating to anti-discrimination in the work place. No. Rejected 150–268.

(185) H. Con. Res. 350. Adherence to SALT II Agreements. Motion to recommit the concurrent resolution to the Foreign Affairs Committee with instructions to report it back to the House with an amendment expressing the support of the House for U.S. efforts to negotiate a new arms reduction agreement with the Soviet Union with weapons ceilings lower than those of the SALT II treaty. Yes. Passed 406–0.

REPORT TO THE 16TH DISTRICT ON THE 26TH MEXICO-UNITED STATES INTERPARLIAMENTARY CONFERENCE

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. COLEMAN of Texas. Mr. Speaker, I rise today in the occasion of a special order addressing the United States-Mexico Interparliamentary Conference. I appreciate the comments of my colleague from Texas, the chairman of the House of Representatives delegation, for his remarks and for the high priority he accords to United States-Mexico relations.

Mr. Speaker, last month I had the distinct pleasure of being a member of the U.S. delegation to the XXVI United States-Mexico Interparliamentary Conference in Colorado Springs, CO. Relations between the United States and Mexico are of paramount importance not only because of the geographic proximity of our nations but because our affairs are inextricably bound. Our countries share a proud history of good relations, trust, and cooperation.

The importance of working through our difficulties is of particular importance at this time in view of the irresponsible criticisms that have been leveled against Mexico by some administration officials and by Senator HELMS. As I am sure my distinguished colleagues are aware, witnesses at Senate hearings targeted Mexico's efforts in regard to drug trafficking and corruption at high government levels. Not only is the factual accuracy of these statements highly questionable, but I do not believe that waging such criticism is a constructive way of conducting diplomatic relations with our southern neighbors. Fortunately, since these unfortunate statements were made there have been constructive efforts on both sides to try to reestablish communication and trust.

I am glad that others have joined me in expressing full confidence in the integrity of President Miguel de la Madrid, and we appreciate the dedicated and conscientious efforts of the Mexican Government to cooperate with the United States in fighting the war on drugs. Together, we can be more effective than either country can be working individually, and no one country can be blamed for the failure to control the demand or supply of drugs. Our drug efforts are but one example of the great need for cooperation between us. There are a number of other issues that are of mutual concern and on which we can continue to work together. It is for this reason that I welcomed the opportunity to keep open the channels of communication with our neighbor at the Interparliamentary Conference.

I appreciated the candor with which Mexican delegates addressed the issues. I am hopeful that by participating in similar frank discussions we will be able to overcome the misunderstandings that many times complicate our relations. Mr. Speaker, I am pleased to provide a report to my colleagues on the issues included in the conference's agenda:

UNITED STATES-MEXICO INTERPARLIAMENTARY CONFERENCE REPORT

IN-BOND INDUSTRIES

Twin plants, or maquiladoras as they are commonly known in Mexico, continue to play an important role in the development of that country's economy, as they provide a growing number of jobs in Mexico.

The number of maquiladoras on the Mexican side has increased greatly as a result of the continuing devaluation of the peso. Currently about 700 maquiladoras operate along the border, as well as others located in the country's interior. For Mexico, the maquiladoras are its second largest growing industry, behind only petroleum and ahead of tourism, and play a major part in that country's plan to restructure its economy and pay off its foreign debt. A number of Mexico's border cities have seen a boom in population increases and economic development as a by-product of the twin plants. In Ciudad Juarez, for instance, across the Rio Grande from El Paso, about three-fourths of the city's work force of 266,000 is directly or indirectly supported by the more than 180 maquiladoras in the city.

At the Interparliamentary Conference, Mexican delegates recognized the importance of the twin plants in creating jobs for Mexico, and expressing their concern over several problems facing these industries on which they sought U.S. support, including the establishment of day care centers in view of the fact that 69% of the maquiladora employees are women, expediting these manufactured products through customs, and not counting these products as part of the national exporting industry, since otherwise the national quota of products will be rapidly exhausted. In addition, the problems of the overburdened infrastructure in Mexican Border communities due to this rapid growth were discussed. We also discussed the loss of U.S. jobs and the needs to attract supply and other by-product industry to the U.S. side of the border.

FOREIGN DEBT AND OIL

The crisis in which Mexico finds itself as a result of its foreign debt obligations and the decline in the price of oil is common knowledge. Indeed, the country is experiencing the most severe economic crisis of its contemporary history. During 1985, for instance, 53% of Mexico's exports and 45% of the foreign currency coming into the country were used to service the debt commitments. The amount required to meet its annual obligations is four times the income derived from the maquiladoras and tourism. It is clear that the growing proportion of resources used for this purpose imposes limitations on economic growth and diminishes the resources that could be used to finance imports. Due to the fact that about one-third of the Mexican public sector's foreign debt is owed to American banks, that country's foreign debt has strong implications for the U.S. economy and for economic relations between our countries. We acknowledge that Mexico has adopted positive economic policy measures, which have included promoting non-oil exports and reducing imports. Participants at the conference joined in recognizing the seriousness of Mexico's economic situation, and in calling for a viable solution that is more realistic than the mere periodic restructuring of the debt.

Mexican delegates expressed their apprehensions about the Baker plan, appreciating its intent but saying the strategy it proposes is insufficient because, among other things, Latin America would continue being a net

exporter of capital. A fair and lasting solution to the debt problem demands new commercial practices between the industrialized nations and the developing countries, and I am glad to see that new approaches are currently being developed by our country to deal with a problem not unique to our neighbor, but that is rather an international phenomenon.

BORDER ENVIRONMENTAL ISSUES

The quality of the environment in the areas along the U.S.-Mexico border is of great concern to our countries. Because of our geographic proximity, it becomes extremely important to mutually acknowledge the need for action since the programs implemented in one country will inevitably affect the other. I would like to commend the Mexican government for its willingness to cooperate with the United States and for its most recent efforts during the last year to work in easing our environmental problems.

Last summer, a very significant step towards these goals was taken when our two countries entered into a "gray triangle" agreement providing that our smelters along the border would be brought into compliance with our respective Clear Air Acts by 1988. This "gray triangle" is formed by the Nacozari smelter in Sonora, the Cananea smelter also in Sonora and the Douglas smelter in Arizona. In the meantime, the smelters are being brought into interim control by the use of portable self-operating monitors.

It is generally believed that economically less developed countries tend to postpone environmental pollution control in favor of economic expansion, which in turn has political repercussions. The United States realizes that Mexico was hard-hit by the tragic earthquakes in the country's interior and by the oil price decline in world markets. In view of this, we are appreciative of the fact that environmental policy which affects our country has remained a priority concern on which we can develop joint strategies.

BORDER CROSSINGS

The Interparliamentary Conference also provided an opportunity to discuss the issue of international bridges and border crossings. I have made the bridge expansion project in the El Paso/Ciudad Juarez area a priority of my office, as I am regularly contacted by residents of my congressional district who must deal on a daily basis with the problems of bridge congestion. I was pleased to announce to the Mexican delegates that I feel confident the Appropriations Committee will approve the funding to complete the expansion of the Zaragosa international bridge in this area.

This project has involved more than three years of bilateral coordination with the Mexican government, and both the economies of Ciudad Juarez and El Paso will benefit greatly from this bridge expansion. Furthermore, bilateral relations between both nations can only be strengthened when mutually beneficial projects can be carried out.

Members of the Mexican delegation reiterated their concerns about inadequate staffing levels at the ports of entry by the U.S. government. It is difficult to explain why Mexico should commit new bridge resources in these difficult economic times when the U.S. refuses to fully staff existing bridges.

TRADE

The trade relations between Mexico and the U.S. strongly reflect the asymmetrical interdependence of the two countries. This economic interdependence is manifested in the areas of commerce, finance, oil, direct investment, public debt, technology transfer, border transactions, migratory movements and tourism. For the United States, trade with Mexico represents 6% of its total trade, while for Mexico, the U.S. represents a little more than 60% of the total sales abroad. In simple terms, this means that for each dollar the Mexicans use to purchase abroad, 60 cents go the the United States, while for each dollar of American imports, 6 cents go to Mexico. In addition, Mexico is the third largest client of the U.S., after Japan and Canada, and its third supplier of industrial raw materials and capital goods, while the U.S. is the first client and supplier of Mexico.

Mexico has taken positive steps in implementing measures to reorder its economic structure and stimulate the volume of foreign currency entering the country. In particular, we are pleased that Mexico has begun negotiations to join the General Agreement on Tariffs and Trade, the international organization devoted to promoting freer trade. In so doing, Mexico recognizes that foreign policy constitutes an inseparable element of national development. GATT can be helpful in promoting non-petroleum exports, in increasing its access to world markets, and in resolving trade disputes. In this respect, we strongly support the Mexican government in its negotiations.

U.S.-MEXICO SUMMIT

I was pleased that several days before the Interparliamentary Conference took place, the House of Representatives, passed my amendment to the Trade and International Economic Policy Reform Act of 1986. This amendment calls for both nations to conduct a bilateral economic trade summit, which I believe would be very helpful in developing policy priorities.

The amendment also would set up a Cabinet-level U.S.-Mexico Bilateral Commission to provide Congress with more comprehensive information on all issues relating to Mexico. On the U.S. side, the Commission would be chaired by the Secretary of State and would consist of representatives from the Departments of State, Justice, Treasury and Commerce as well as the U.S. Trade Representative. The commission would also receive input from all federal agencies having jurisdiction over any issues relating to Mexico. I am hopeful that the lines of communication established at this and prior Interparliamentary Conferences will be strengthened at a U.S.-Mexico summit, and that the summit will provide a fresh approach to U.S.-Mexico relations that is clearly necessary.

VALEDICTORY SPEECH

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. BARTON of Texas. Mr. Speaker, I would like to share with you and Members of this body the valedictory speech of a young man from my congressional district. The speech focuses on President Reagan's decision to bomb Libya in retaliation for numerous acts of terrorism against Americans. It measures that decision against the qualities of good leadership.

The speech was written by Anthony S. Vivona of the Woodlands and given at the McCullough High School commencement. Anthony will attend Stanford University this fall on a ROTC scholarship.

It is refreshing to read what is good about America coming from one of our future leaders.

The speech follows:

Throughout the history of earth, the most influential and important leaders have all possessed some basic virtues in common. One of the most important of these is a sense of originality, for it is the uniqueness of a leader which distinguishes him from a follower.

Too many times does society place pressures upon individuals to be a specific type of person. Now it is not the laws which I speak of, for without laws, order would become an unending chaos. I am speaking about the social norms which are placed upon each one of us. The originality within leadership is best stated as the ability and will to risk embarrassment by doing something which has not been done before, even if it directly contradicts ideas considered as social normalcy. Now this is not to say that the person who dyes his hair purple and listens to English punk rock is exemplary of leadership potential. For this, one must feel true moral conviction toward a particular purpose. This is what distinguishes nonconformism from originality.

For those seeking a sense of uniqueness, I'd like to offer a few TIPS. You see, TIPS is my acronym concerning the acquisition of originality. To begin, T stands for thought. Before the implementation of any plan, a leader must find out who may be affected, directly or indirectly. This is also the area where the means must be acknowledged as the best way to accomplish the end product. If in the process of the achievement of a goal, someone is hurt, the means must be justified and necessary. Without thought, the plans of an individual may benefit a select few at the expense of the community.

The I is characterized by imagination. It is imagination which makes inventors famous and brings wealth to writers. More and more, corporations are seeking to hire bright, young executives with fresh ideas. With the implementation of imagination, anything is possible.

Purpose is the third characteristic. Moral purpose is what gives the backbone to the originality found within leadership. This purpose may be seen as having deep psychological undertones, or it may seek only entertainment value; but either way, that person should feel strongly about what he is doing.

Finally, S stands for satisfaction. As with purpose, you should feel good about why you have decided as you did. You should hopefully feel some satisfaction with the results also.

Now you may be saying, it may all be fine and easy to say this, but does it really happen? Well, this year America faced an experience never felt by our younger generation. In April of 1986, a natural leadership containing originality of thought was required. The event I am speaking of is the United States bombing of Libya in retaliation to former Libyan government sponsored terrorist acts.

Before anything physical was done, the President had to think about what to do. America could play the passive, complaining world powers and state disapproval of these

acts, or America could take a stand for its self-preservation and the protection of its citizens at the cost of being the great Yankee Imperialist. The choice was not an easy one, and a lot of thought went into the decision.

The imagination which came into play was in the planning stages. President Reagan weighed his options and chose the one which was the most feasible, clear, and effective. America had made threats which were blatantly ignored. The President was now in a positin of difficulty, so he chose his methods.

The purpose of the assault was made clear to American citizens and to the world when Reagan made his public announcement only hours after the bombing. America would no longer allow terrorist acts to be inflicted upon American citizens without reprisals. Also, each pilot had a clear, concise plan of attack to minimize civilian casualties. Again, the purpose was well thought out. America was retaliating against government sponsored terrorism, not innocent civilians.

With the attack complete, Reagan expressed his satisfaction with the performance of all involved individuals. He also stated that any nation which was found sponsoring terrorism against Americans would receive similar treatment.

In closing, I only ask each one of you to recognize the importance of originality in society. By following my four tips: thought, imagination, purpose, satisfaction; I hope that each of you may continue to lead productive and truly unique lives.

ATTACKING THE BACKUP IN BOSTON HARBOR

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. DONNELLY. Mr. Speaker, the Nation has made great progress in alleviating water pollution. But as we await the conference committee's action on the reauthorization of the Clean Water Act, it is time to remind ourselves that much remains to be done.

I would like to call attention to an article in the New York Times of Sunday, June 22, 1986, that describes the continuing pollution crisis that faces Boston Harbor.

ATTACKING THE BACKUP IN BOSTON HARBOR

(By Matthew L. Wald)

BOSTON.—At the New England Aquarium, visitors can see re-creations of coral reefs, tidal wetlands, the Amazon River and other underwater habitats. One of the more striking exhibits is a tank that represents Boston Harbor. It is littered with shoe soles, discarded bottles and rusty metal. But the first thing the eye settles on amid the murk is a sewage pipe.

The volume of water that flows naturally into Boston Harbor from three major rivers—the Neponset, the Charles and the Mystic—is exceeded by the volume of sewage that enters the harbor from 43 towns and cities of eastern Massachusetts with a total population of 2 million. And this sewage has been washing up on beaches in Cohasset, 10 miles from the city of Boston, at the southern mouth of the harbor, in Plymouth, 20 miles farther south on Cape Cod Bay, and on beaches 50 miles across the bay.

In 1982, the pollution prompted Quincy, abutting Boston on the south, to sue the city in state court. After a Superior Court judge threatened to put Boston's water authority into receivership and bar new sewer connections, the Massachusetts Legislature created the Water Resources Authority to improve the system.

Meanwhile, a private group, the Conservation Law Foundation, sued in Federal District Court demanding that the Environmental Protection Agency enforce Federal pollution-control standards. As a result of that suit, a Federal judge, A. David Mazzone, is setting the schedule for repair and modernization.

The need for improvement is clear. When weather conditions are right, airline passengers approaching Logan Airport can see a brown plume spreading under water from Greater Boston's 20-year-old sewage treatment plant on Deer Island, in the north harbor. A smaller, older plant operates at Nut Island. The combination is far from adequate.

If the plants are not malfunctioning—a common occurrence—or rainstorms have not overloaded the system, causing raw sewage to flow into the harbor from 108 overflow pipes, the two facilities remove a substantial portion of the solids from the 560 million gallons of sewage they process every day.

But even when the system is working properly, both the solids and the sewage are ultimately dumped into the shallow waters of the harbor, a practice that Judge Mazzone has described as "incomprehensible." Under the Judge's schedule, which mandates an end to sludge dumping by December 1991, the water authority has chosen Deer Island as the site for a new treatment plant that will replace both existing facilities.

THE INDUSTRIAL FACTOR

Where the sludge will go remains to be decided. Land disposal is more difficult for Boston than for many other cities, according to Douglas I. Foy, executive director of the Conservation Law Foundation, because of toxic industrial discharges the state has done little to curb.

Among the disposal possibilities is dumping at sea, 106 miles off the New Jersey coast. That approach would require shipping the sludge 200 miles from Boston, and it is unpopular with New Jersey officials, including Representative James J. Howard, Democrat of Wall Township and the chairman of the Committee on Public Works and Transportation. Mr. Howard is the sponsor of a bill that would block dumping off New Jersey.

Boston's difficulties grow out of its decision to seek a waiver under the Federal Clean Water Act, which mandated that cities build sewage treatment plants by 1977. Though most cities took steps to comply with the law, Boston proposed instead that it construct a nine-mile pipe to carry sewage to sea.

Mr. Foy, whose conservation law group sued to force the Environmental Protection Agency to consider the pipe on its merits, argued that in cities like Los Angeles, a nine-mile pipeline would dump sewage in water hundreds of feet deep and "a current that will carry the stuff right to Japan." But the waters nine miles off Boston, Mr. Foy said, are only 118 feet deep and not far from the Stellwager Bank, a feeding ground for whales.

Now the E.P.A. is suing, pressing the Water Resources Authority to start construction on new treatment plants. The authority has raised sewer rates 60 percent and will probably raise them again. But the portion of the total cost of treatment plants that Washington will contribute has been cut from 90 percent to 55 percent, and even 55 percent of the $2 billion bill for the Boston plan would exceed the Federal allocation for all of Massachusetts.

Said Michael R. Deland, regional administrator of the Environmental Protection Agency, "Boston has made one of the most expensive public policy mistakes in the history of New England."

JAPANESE TECHNICAL LITERATURE ACT

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. VALENTINE. Mr. Speaker, the House on June 23 passed by voice vote the Japanese Technical Literature Act, S. 1073, which establishes within the Department of Commerce a program for the collection and dissemination of Japanese scientific and technical information. I would like to commend the leadership of the House Science and Technology Committee, of which I am a member, for recognizing a critical need and acting in such a timely fashion to assist an American business.

The United States must continue to maintain its technological leadership. The Government cannot do it alone, our universities cannot, and our industries cannot—we must all work together to maximize the increasingly scarce Federal funds that are available.

Japanese industries are skillfully developing and using technologies that increase productivity and international competitive strength. Certain traditional industries throughout the country—and especially those in North Carolina, such as textiles, flexible and computer integrated manufacturing, wood products, and food processing—are among some of the primary examples of industries that have been adversely affected by the recent surge of imports. Each of these industries has lost opportunities for modernization due to the lack of technology translations.

We in North Carolina have recognized the plight of our traditional industries and have begun to address them.

In my district, the North Carolina Science and Technology Research Center has undertaken an innovative approach for making valuable Japanese scientific and technical information available to American industries, which are in turn a critical generator of employment opportunities.

The center has: Conducted surveys to determine potential beneficiaries of Japanese technical and scientific information; established networks of Japanese translators both here and in Japan; and arranged cooperative agreements through university extension programs, trade associations, and Local and State governments to promote the use of Japanese technical and scientific information through publications, meetings, and workshops.

Many companies, trade associations, and universities have expressed great interest in acquiring Japanese scientific and technical information. They all believe that the use of technical information from Japan and other foreign countries could provide significant advantages to domestic industries now faced with encroachment from foreign imports. This unique project could serve as a prototype for the Nation, combining the resources of industry, universities, and the Government.

The Japanese Technical Literature Act could assist the North Carolina Science and Technology Research Center in promoting these arrangements. This legislation represents the kind of innovative thinking that is essential if we are to regain our competitive advantage. We are making a relatively modest investment that could be repaid many times over in the forms of modernized production, employment opportunities, and a renewed competitiveness in the international marketplace. I wholeheartedly endorse and support the bill.

"MICAJAH AUTRY DAY" IN AUTRYVILLE, NC

HON. CHARLES WHITLEY

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. WHITLEY. Mr. Speaker, I rise today to honor the memory of Micajah Autry, hero of the Alamo, soldier in the War of 1812 and a native of Autryville, NC.

Micajah Autry was captured by the British in the War of 1812 and was held a prisoner of war in Charleston, SC. Upon his release he returned to his home in Sampson County, NC, then went to Tennessee to study law and open a practice in the Volunteer State.

He joined up with Davy Crockett's company to fight for the independence of Texas from Mexico. He was a rifleman of reknown, and early in the siege of the Alamo in 1836 he was chosen to pick off Gen. Santa Anna. The plan failed, and Micajah Autry died in the company of Davy Crockett, Jim Bowie and fewer than 200 other brave men who faced Santa Anna's force of 4,000. Texans rallied as the brave stand at the Alamo became known and went on to win independence.

July 5 is "Micajah Autry Day" in Autryville, NC. The day is celebrated with parades, music, picnics, games, and historical displays. The day concludes with the presentation of the outdoor drama "Micajah" sponsored by the Autryville Area Fire Department.

The memory of Micajah Autry, an authentic American hero, brings the people of Autryville and Sampson County, NC, together to recognize and celebrate a link in history between this small North Carolina community in the East and the founding of the State of Texas.

I ask my colleagues in the House of Representatives to join me in recognition of "Micajah Autry Day", July 5, 1986.

SALUTE TO NANCY B. JEFFERSON

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mrs. COLLINS. Mr. Speaker, I would like to pay tribute to a very special woman and fellow Chicagoian, Mrs. Nancy B. Jefferson, who is being honored tomorrow evening by the mayor of Chicago, Harold Washington, for all of her hard work on behalf of Chicago's disenfranchised constituents.

Mrs. Jefferson is the executive director of the Midwest Community Council for the Westside of Chicago. Her many other community activities include her participation on the governing board of the Garfield Park Community Mental Health, Inc., her trusteeship on the Citizens Information Service, and membership on the board of directors of Operation PUSH and the Chicago Police Board.

Her many, many contributions to the citizens of Chicago have earned her the Woman of the Year Award at Malcolm X College, the WBEE Outstanding Community Service Award, the Marshall High School Exceptional Service Award and the 1984 Henry Horner Boys Club of Chicago Award.

As a direct result of Mrs. Jefferson's active and distinguished role in the community, the city of Chicago is having a boulevard named after her. The "Nancy B. Jefferson Boulevard" is a living tribute to her service and dedication to the men and women of Chicago.

I join with the mayor, members of the Illinois General Assembly, the Governor, and distinguished politicians and activists in wishing Mrs. Jefferson and her family the very best.

A BI-PARTISAN LONG-TERM POLICY TOWARD CENTRAL AMERICA

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. GUNDERSON. Mr. Speaker, I am not here today to debate the issue of whether or not Nicaragua poses an immediate threat to its neighbors in Central America or whether its conduct can be justified in the world community of civilized nations. Over the course of the past few years, the conclusions have become obvious even to most of those who oppose any assistance to the Contras.

Yet, the fundamental facts are no longer contested. The 3,000 military and 4,000 civilian Cuban advisers in Nicaragua; the $600 million in Soviet bloc and Cuban military aid; the $400 million from Mu'ammar Qadhafi are a matter of public record. Nicaraguan support for insurgents in El Salvador, Honduras, Guatemala, Costa Rica, and Colombia is clear. In fact, in comments printed in the CONGRESSIONAL RECORD earlier this week, LEE HAMILTON, the distinguished Democratic chairman of the House Permanent Select Committee on Intelligence succintly outlined the Nicaraguan commitment to a policy of support for insurgencies in Central America. In those same comments, the chairman addressed the issue of Sandinista relations with the PLO, Libya, Cuba, Soviet Union, North Korea, Bulgaria, and East Germany.

No, what we are debating and voting on today is not whether a threat exists, but how can the United States best respond to that threat. How can we keep the Sandinistas at home—ending their efforts to foment revolution and conflict in neighboring countries? How can we keep Nicaragua from becoming a base of operation for the Soviets, Libyans and other nations hostile to the values of democracy and freedom? How can we contribute to real and lasting peace for the region?

I would be less than honest if I didn't say that I am frustrated and disturbed that it has taken this long for the House to even be allowed a legitimate vote on this issue. Sure, there have been votes, plenty of votes; but, they have repeatedly been within the context of obstructionist rules and extraneous legislation designed to complicate and slow down the development of concrete and meaningful U.S. policy.

But today we are presented, in the bipartisan Edwards-Skeleton amendment, a comprehensive proposal that not only deals with the threat posed by the Sandinistas, but also incorporates provisions addressing the issues of regional economic development, basic civil liberties, and respect for human rights.

Most importantly, this proposal offers an opportunity to establish a meaningful and consistent U.S. policy today—not tomorrow, not 30 days from now and not next year. With the exception of different funding levels for economic assistance, the major difference between the Edwards amendment and the McCurdy language, is that the Edwards amendment establishes U.S. policy today; the McCurdy language simply delays the issue by requiring a second vote. While a second vote may be good politics, it is poor public policy.

How then does the Edwards proposal address the issue of United States policy toward Nicaragua? How does it address the issues that have been raised by opponents to Contra assistance?

First, the amendment makes a long-term commitment of economic assistance to the Central American democracies in amounts recommended by the National Bipartisan Commission on Central America. This is not a commitment at the expense of Americans, it is a commitment that will ultimately benefit all Americans—North, South, and Central. Previously appropriated funds would be used to help achieve the economic development so critical to a lasting peace in the region.

The amendment reprograms $100 million in previously appropriated funds from the Department of Defense, to assist the Nicaragua democratic resistance.

It calls for $30 million in immediate humanitarian assistance to the democratic resistance, with $3 million to be used for the express purpose of strengthening programs and activities for the observance and advancement of human rights.

Under the amendment, no weapons or ammunition would be delivered to the Contras

before September, in further hopes that negotiations will work.

An additional $20 million in military assistance could be made available after October 15, 1986, only if the President certifies and reports to the Congress that the following conditions exist:

First, a Contadora peace agreement has not been signed;

Second, the Government of Nicaragua is not engaged in a serious dialog with representatives of all elements of the Nicaragua democratic opposition, a cease-fire is not in effect, and steps leading to free and fair elections have not been taken;

Third, restrictions on freedom of the press, assembly and religion have not been lifted;

Fourth, no other avenues exist for a negotiated settlement.

The release of the balance of funds would be delayed until next February, and would be subject to the same conditions listed above.

As I have said many times before, America must loudly and repeatedly communicate its abhorrence with human rights violations. We must denounce violations whenever and wherever they occur. The Edwards amendment specifically prohibits the appropriation of funds to Contra forces, unless human rights abuses are eliminated. The required subordination of military forces to civilian leadership is designed to assist efforts to eliminate abuses.

In this time of fiscal constraint, it has become more important than ever before that a full and proper accounting be made of all Government expenditures. I strongly support a full investigation of any alleged misuse or misappropriation of funds previously allocated to resistance forces, and commend the sponsors of the Edwards amendment for incorporating language that requires the application of "rigorous standards, procedures and controls" to assure that funds are "fully accounted for and are used exclusively for the purposes authorized" by the legislation.

It has been argued that there is no international support for the U.S. policy course as outlined in the Edwards amendment. I would argue that we are seeing increasingly strong support for this policy voiced by the democratically elected governments of Central America. President Arias of Costa Rica, Azcona of Honduras, Duarte of El Salvador, and Cerezo of Guatemala have made it clear that Nicaragua's unwillingness to engage in serious negotiation within the Contadora framework; instead using Contadora as a forum for propaganda purposes, has left the United States with little choice but to pursue a three-tracked approach: economic assistance, encouragement of negotiations, and minimal military assistance.

Time and time again, it is charged that the United States is not serious about pursuing negotiations; that America only goes through the motions, guaranteeing that the military option becomes the only option. Well, Mr. Speaker, both you and I know that this House is serious about pursuing a negotiated settlement. To pressure both the administration and the Sandinistas into undertaking serious and responsible negotiations, the Edwards amendment includes provisions establishing a Bipartisan Commission on Central American Negotiations. The five-member commission, including one member whom you yourself will appoint, will monitor and report on the status of negotiations on the peace, stability and security of Central America.

In response to concerns over the prospect of United States combat troops being sent to Nicaragua, the Edwards amendment specifically prohibits any "member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government from entering Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country." There is no authorization for any member of unit of the Armed Forces of the United States to engage in combat against the Government of Nicaragua.

It has been my goal and hope throughout the congressional consideration of this issue, that we achieve a bipartisan long-term policy for Central America. In all honesty, I am becoming convinced that those who oppose this amendment will never agree to any bipartisan consensus.

I am gratified to see that the debate on United States policy toward Central America and Nicaragua has broadened to include issues such as economic development, human rights, civil liberties, strong support for Contadora, and bipartisan monitoring of negotiations. We have succeeded in moving the extremes closer to the middle and are closer than ever before to developing a truly bipartisan long-term policy toward Nicaragua.

LEATHER WORKERS LOCAL NO. 1 CELEBRATES 100TH ANNIVERSARY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. BIAGGI. Mr. Speaker, I rise today to commemorate the Leather Goods, Plastics, Handbags & Novelty Workers' Union, Local 1 as they celebrate their 100th anniversary. As the first trade union ever formed in the American leather goods industry, the Local 1 has given New York and the rest of the country an example and a model of a great union, dedicated to its members.

On February 1, 1886, a small group of workmen, many of whom had recently arrived in America, and had learned and perfected their trades in European countries, met to form what was then called the Purse Makers Union of New York. They began the tradition of expert craftsmanship, inspired ambition, enthusiasm, determination, and dedication to their profession which we associate with the Local 1 today. Many had come to this country searching for freedom, opportunity, and security. The trade-union movement offered these men the opportunity for making a living, while expressing their hopes, realizing their dreams, and bringing themselves and their families comforts that were unheard of in their homeland.

However, like many other immigrants, the original members of Local 1 were disappointed with some of the conditions in the leather goods industry. Workers, often including children, labored up to 60 hours a week for the meager pay of $5 a week. To the union member of today, those unsanitary and often dangerous conditions the original members met are difficult to imagine.

The first few years were rough ones. The workers were trying to liberate themselves from the sweatshop. Meanwhile the industry controllers wanted to retain their control and their profits. From 1900 through 1916, the climb was uphill, with many setbacks. However, in 1916, through a general strike, Local 1, demonstrated what can result from the determination to improve their working conditions. This resulted in the signing of the first industry-wide collective bargaining agreement on August 23, 1918. All the benefits the union has today stem from the rights won from these initial struggles.

Today, the Purse Makers Union of New York is the AFL–CIO-affliated Leather Goods, Plastics, Handbags, and Novelty Workers' Union, Local 1, which united all workers in the handbag and novelty shops. This union, representing workers of every race, creed, color, and nationality, is dedicated and devoted to bettering the working conditions for all its members. Under the leadership of its manager, Domenic Di Paola, and its cosecretary/treasurer/business agents, Albert Berman and Isaac Rosario, the Local 1 continues in its heritage of democratic format and dedicated efforts on behalf of its members.

Local 1 has led the fight of the handbag, leather goods, plastic and novelty industry to obtain fair trade regulations. The United States has been generous for too long. To a large extent, U.S. capital and technology have been used by foreign countries to exploit our virtually-open trade policy. Over 85 percent of the industry is imports; and that figure is rising daily. One of the union's oldest shops is closing it's manufacturing and changing to retailing strictly imports. Local 1 has led the leather goods industry in fighting unfair trade policies. It is vital, that as a Nation, we join with them to protect the jobs of our people, to protect the welfare of our communities, where the loss of an industry can be so disruptive. Let us unite to ensure that Local 1 will live to see another 100 years—that the leather goods industry will remain strong. Local 1, we salute you and wish you 100 more years of success and leadership in the New York community.

HONORING OUR NATION'S FIREFIGHTERS

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. SCHUETTE. Mr. Speaker, I take this opportunity to praise the work of our Nation's volunteer firefighters.

We have seen in recent years an enormous increase in volunteer work across our country, as the American people have risen to President Reagan's call for a renewed spirit of volunteerism. It is this spirit that makes the American people, and in turn, America, great.

The volunteer firefighters, since the earliest days of our Nation, have never lost this spirit.

Each day these brave men and women risk their lives to save the lives of others. This is the noblest work anyone can do.

The firefighters have a prayer, calling on God to give them the strength and courage to carry on their noble work. I wish to share this prayer with my colleagues in Congress and with the American people.

The text of the prayer follows.

THE FIREMAN'S PRAYER

When I am called to duty, God,
Wherever flames may rage;
Give me strength to save a life
Whatever be its age.
Help me embrace a little child
Before it is too late,
Or save an older person from
The horror of that fate.
Enable me to be alert
And hear the weakest shout
And quickly and efficiently
To put the fire out.
I want to fill my calling, Lord,
And give the best in me;
To guard my ev'ry neighbor, and
Protect his property.
And if, according to your will,
I have to lose my life,
God bless with your protecting hand
My children and my wife.

JOHN VORNDICK RECOGNIZED

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. ROWLAND of Connecticut. Mr. Speaker, I rise today to recognize the loyal efforts of one man who has made a difference in the lives of two of my constituents. That gentleman is John Vorndick of Annapolis, MD.

John Vorndick serves his Nation as a sponsor at the Naval Academy. While this may not seem like an important position to the 20 or so midshipmen who John sponsors every year, he is an important part of their experience at the Academy. He provides guidance, counseling and a chance to escape the pressure at the Academy. His hospitality and genuine concern provides needed support to midshipmen who must deal with a rigorous curriculum that begins daily at 6:15 A.M. His willingness to open his home to others every weekend and virtually every evening is an example to emulate.

Two of my constituents, Lt. Robert Ravener, Jr. of Danbury and Lt. Dan Evans of Danbury, were sponsored by John. Their success at the Naval Academy and their current success as young officers in our Navy was assisted greatly by the sponsorship of John Vorndick and I thank him on their behalf.

It takes much more than flashy equipment to make our Navy "top gun". It takes dedicated young men who are capable of being take charge leaders. John Vorndick has done a great deal to assist in the education of these men. He represents the spirit of patriotism and spirit of voluntarism that we seek to advance. John Vorndick truly cares, and for that I am grateful.

SUPPORT FOR THE CONTRAS

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. KINDNESS. Mr. Speaker, I rise in support of the cause of freedom tonight, and in support of military and economic aid for the Contras.

How much longer can we afford to stand by while the Sandinistas continue to build their military might for the purpose of exporting their revolution to their weaker Central American neighbors?

Under the guise of promoting further negotiation with the Sandinistas, the Congress last year rejected appeals for military assistance for the Contras and provided instead some $27 million in nonlethal assistance to the Contras. Did we achieve any negotiated settlement in Central America?

Of course, we didn't. Instead of spending his time and effort on negotiations through the Contadora process, Commandante Ortega decided to take a trip to Moscow.

After we failed to provide assistance to the Contras earlier this year, the Sandinistas responded with yet another military incursion into neighboring Honduras.

Can there be any doubt about who the Sandinistas really are, and to whom they owe their allegiance?

With the help of the Soviet Union and Cuba, the Sandinistas have built a military machine which far exceeds the needs of any country in the region.

Their intentions have been stated publicly by various Sandinista officials. Closer to the southern border of the United States than we are here in Washington, DC, Mr. Speaker, there is another Communist revolution that festers and swells.

We simply cannot afford further delay and inconsistency in our response to this threat, nor can we afford another Cuba to our south. Our commitment to the cause of freedom is in question.

In my mind the choice is clear. We have got to provide humanitarian and military assistance to the Contras before the situation worsens or before it's too late altogether.

The cost of naivete and apathy is simply too high.

CHANDLER VOTING RECORD

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. CHANDLER. Mr. Speaker, on Wednesday, June 11, I was hospitalized for abdominal discomfort and underwent exploratory surgery that same day. As you can see, the malady was by no means fatal; the greatest challenge was learning to pronounce the name of this particular affliction: mesenteric adenitis.

My kids thought it was great because they got to eat fast food for a few evenings: no vegetables. I'm pleased to report that the doctors have assured me that I can participate in next month's congressional baseball game, one of the few chances House Republicans get to leave House Democrats in the dust.

My hospitalization and recovery caused me to miss several votes, and I would like at this point in the RECORD to indicate how I would have voted had I been present.

Roll No. 156, McCollum amendment to H.R. 1, "no."

Roll No. 158, Fauntroy amendment to H.R. 1, "aye."

Roll No. 159, Kemp amendment to H.R. 1, "aye."

Roll No. 160, Journal approval, "present."

Roll No. 161, Lightfoot motion to instruct conferees on H.R. 4515, "no."

Roll No. 163, Garcia amendment to H.R. 1, "aye."

Roll No. 165, Wylie substitute to H.R. 1, "no."

Roll No. 166, Wylie motion to recommit H.R. 1, "aye."

Roll No. 167, Passage of H.R. 1, "aye."

Roll No. 168, Passage of H.R. 4841, "yea."

Roll No. 169, Passage of H.R. 2798, "yea."

Roll No. 170, Passage of H.R. 4384, "yea."

Roll No. 171, Passage of H.R. 4529, "yea."

Roll No. 172, Tauke amendment to H.R. 4116, "aye."

Roll No. 173, Martin amendment to H.R. 4116, "aye."

Roll No. 174, Passage of H.R. 4116, "aye."

Roll No. 175, Passage of H. Res. 473, "yea."

Roll No. 176, Passage of H.R. 4175, "yea."

Roll No. 177, Passage of H. Res. 478, "yea."

Roll No. 179, Burton amendment to H.R. 4868, "aye."

Roll No. 180, Burton amendment to H.R. 4868, "aye."

Roll No. 181, Journal approval, "present."

Roll No. 182, H. Res. 179, "yea."

Roll No. 184, Broomfield amendment to House Conference Resolution 350, "aye."

Roll No. 185, Broomfield motion to recommit, "aye."

Roll No. 186, Passage of House Conference Resolution 350, "aye."

THE IMPORTANCE OF CATTLE FUTURES MARKETS

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. STANGELAND. Mr. Speaker, the proper working of all future contracts is, and should certainly be, a continuous goal of the exchanges and the Commodity Futures Trading Commission.

How the cattle markets functions is an important question today in the ranching community. It needs to be fully discussed. The context of the reauthorization of the Commodity Futures Trading Commission raises that opportunity.

During the last reauthorization process, Congress directed the CFTC to conduct a study on their cattle markets to determine how large hedgers use these cattle futures markets. In 1984, the CFTC concluded "that

the existing regulatory programs of the CFTC and the CME are adequate to deter any abusive trading by large hedgers in livestock markets and to preserve to restore orderly trading in those markets."

The Commission has recently published data on the composition of large traders in the live cattle futures market. The CFTC's report stated that of those traders holding more than 100 contracts, 75 percent of the large traders were commercial users: cattlemen, meat packers, processors, food distributors, and growers of the feed itself. Cattlemen have been using these markets since 1964. Almost 5 million cattle contracts traded on the Chicago Mercantile Exchange last year. That demonstrates tremendous economic utility of these markets.

From 1980 to 1984, the cash market in cattle was relatively stable. In 1986, several factors effected the downward price for cattle. Most obviously, there was the USDA dairy whole herd buyout program: 1.6 million cattle were brought to market in a relatively precipitous fashion.

The CFTC reviewed trading in the cattle futures market following the dairy buyout announcement for instances of unfair trading practices. The Commission found supply and demand forces at work that were clearly germane to cash and futures markets price responses during that period. The Commission believes that the price movements in the cattle markets were consistent with true economic supply and demand factors, and not any aberration in either market.

While I commend my colleagues who have raised constituent concerns about cattle contracts, I do not believe we should hastily castigate the free market system or call for amendments to the Commodity Exchange Act.

The Commodity Exchange Act now requires that a contract have economic utility. That is the critical test. Nothing mandates that anyone must use a future contract.

Rather, the law mandates that a contract does work for those who choose to utilize it for risk shifting. The present day use of these contracts demonstrates they are meeting the marketplace test.

The Commodity Exchange Act and the CFTC regulations and the Exchange rules require strict enforcement of surveillance programs and trading practices to maintain the integrity of contracts. And, should the CFTC ever have reason to believe a contract is no longer serving a beneficial purpose, or functioning in any way detrimental to its real economic function, it can institute immediate and severe corrective proceedings and sanctions.

I am concerned about a possible misconception about how the USDA did operate under the Old Commodity Exchange Authority, before 1974. The USDA never held referenda on futures contracts. And the USDA has never advocated doing so. I think it is essential to point out that today the CFTC makes a far more thorough inquiry into the economic utility—the hedging and price discovery value—of all new contracts than ever occurred at the USDA. That greater inquiry occurs because the CFTC statute requires it.

The Commodity Exchange Act today, in the most serious sense, does require a form of referendum. A referendum, not in the sense of raising hands, but in the sense that the requirement of economic utility value is mandated as part of the CFTC evaluation procedure.

The new economic utility test was part of a fundamental change enacted in 1974. In the old days at USDA, all contracts were in effect, without any Federal examination, until such time as they were disapproved by the USDA. Now, no contract can trade until the CFTC approves that new contract.

The central part of this new approval process is the statutory requirement of a "public interest test." That test examines the hedging value and price discovery value of a contract. To meet the test CFTC economists meet with producer organizations to learn their opinions on the value of, not only new contracts, but of existing contracts as well.

Certainly, producer's opinions about futures markets are essential and should be sought.

The Exchange constantly seeks to know the concerns of producers. I learned that the Chicago Mercantile Exchange, the only exchange that has beef-related contracts, has an ongoing program to hold agriculture symposia throughout the country. The Exchange's staff has visited with such groups as American Farm Bureau's Young Farmers and Ranchers; the Arizona Cattlefeeders; the Colorado Cattlefeeders; Iowa Agricultural Bankers; the Kansas Livestock Association; the Central Iowa Extension Group; the California Cattlemen's Association; the Nebraska Extension Service; the Nevada-Utah Cattlemen's Association; the Albia, IA, Hedging Symposium; the O'Brien County, IA, Farmers and Ranchers; the Texas Agricultural Economic Service; the Texas Syntex Feedlot Group; the Illinois Livestock Association, and scores of similar producer organizations.

Mr. Speaker, I am very concerned about the cattle community and the hardships it is facing today. I am also concerned that we support the free market forces of supply and demand. Vigilance to ensure the integrity of the Nation's futures markets is critical. But where that vigilance is at work, misconceptions about futures markets should not lead us astray.

IN HONOR OF THE 20TH ANNIVERSARY OF THE ENACTMENT OF THE FREEDOM OF INFORMATION ACT

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. KINDNESS. Mr. Speaker, for those of us who believe in a limited government—that is, one that does not regulate so many aspects of our lives as our Government has in the past several decades—the Freedom of Information Act is an important tool in helping to assure accountability for agency actions.

The Congress is obligated to oversee the agencies and programs it has created. But, being involved in their creation, the Congress is not always the most objective forum in which to oversee and assure their accountability. Our seeming inability to cut Federal expenditures is but another symptom of this problem. Therefore, it is vital that the people to whom we, as Members of Congress, are accountable, be able to inform themselves of their government through information which is available under the Freedom of Information Act.

The act is not perfect and thus has been subject to varying administration by the agencies and interpretation by the courts. As ranking minority member for the last four Congresses of the subcommittee which has legislative jurisdiction over the act, I have worked with Subcommittee Chairman ENGLISH to oversee the act and develop some reasonable amendments to it. I believe that the best way that we can celebrate the 20th anniversary of the Freedom of Information Act is by regular and systematic oversight of agency compliance with the act and timely and careful amendment of the act where a legislative solution is appropriate.

LIVING UP TO OUR COMMITMENTS RESTORING FAIRNESS TO THE COLAS

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 25, 1986

Mr. GALLO. Mr. Speaker, I rise today in support of H.R. 4060, a bill to ensure that Federal retirees receive their 1987 cost-of-living adjustments. I believe that this bill restores fairness and equity to our Federal retirement system.

Several months ago, we, Republicans and Democrats alike, passed the landmark Gramm-Rudman Deficit Reduction Act. It was our intention when adopting this legislation to set deficit reduction targets and to establish a mechanism to reach those targets in cases where this body is unsuccessful in its own efforts.

Gramm-Rudman was and is a necessary step to encourage this House to act responsibly. Acting responsibly requires that we also act in the spirit of fairness.

When we crafted this legislation, it was generally agreed that certain programs should be exempted from the bill's automatic reduction mechanism because those programs are so very vital to the public health and welfare. For instance, we protected the Social Security cost-of-living adjustments from automatic cuts. We also exempted, among other programs, veterans' benefits and Aid to Families with Dependent Children. Unfortunately, the cost-of-living adjustments for Federal retirees were not exempted. This shortcoming has resulted in inequitable treatment for a whole class of citizens.

Fairness is a cornerstone to our democracy. The principle of fairness guides our democracy and this Congress. It is the sense of fairness that encourages us to correct the shortcomings of our system of laws.

By yesterday's vote we corrected an inequity, and I am pleased that so many of my colleagues joined me in supporting this bill.

EDUCATION AND LABOR COMMITTEE TAKES FIRM ACTION TO CURB WORKPLACE CANCERS

HON. JOSEPH M. GAYDOS
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. GAYDOS. Mr. Speaker, yesterday, the Committee on Education and Labor favorably reported H.R. 1309, the High Risk Occupational Disease Notification and Prevention Act of 1986, which I introduced in this Congress last year.

I compliment all the members of the committee for their attention to this important matter, whether they are in support of the bill or not. As of yesterday, 135 Members of Congress were listed as cosponsors of this legislation.

The bill is aimed at reducing, in the least, or eliminating the 100,000 annual deaths and 340,000 annual diseases that stem from, and are directly related to, exposures of hazardous and toxic substances in the workplace.

Too many of those diseases are cancers that are preventable or treatable if discovered in their earliest stages.

The problem is that too many of those diseases have latency periods ranging from 5 or 10 years to as many as 30 or 40 years.

H.R. 1309 will give us that edge to discover workers who are at high risk of contracting those diseases because of the specific jobs they do and the substances with which they come in contact during the working career.

H.R. 1309 is a simple measure. It establishes a risk assessment board that, after reviewing epidemiologic and other studies, will identify those specific worker populations at risk.

This identification will put into action a notification program aimed at those workers in the population at risk, encouraging them to enter into a program of testing, evaluation, and medical monitoring.

The whole trust of the program is to prevent the onset of workplace diseases, including cancers known to result from exposures to specific substances, by reducing the notified worker's exposure to the substance by moving that worker to another job where there is less or no exposure by instituting more effective engineering systems that will reduce exposure levels, and by using alternative substances that have been proven to be less toxic or, preferably, nontoxic.

There are those who oppose this bill vigorously, but I find it difficult to believe that those opponents really believe it is right and proper for us to allow 100,000 American workers to die each year from workplace-caused cancer.

In testimony to the Subcommittee on Health and Safety on this bill, witnesses noted that NIOSH already has the names and addresses of some 250,000 Americans who are at risk of disease. NIOSH has notified those workers individually of their risk. No one has suggested that these workers enter into a medical surveillance program to determine their health now and in the future.

Can our industrial leaders be so callous as to ignore the health of their employees? Can they really and truly believe that cancers caused by workplace exposures are the price a worker is expected to pay for doing his job?

This country was in existence for about 200 years before we adopted our first worker health and safety law, the Occupational Safety and Health Act of 1970.

I am proud to say that I was in Congress then and had a part in that effort.

I am proud to say that I was active in the passage of the Mine Safety and Health Act of 1977 despite claims from so many that it wouldn't work and it would lead to the end of the mining industry.

Well, quite frankly, the economic practices of this administration are probably wreaking more havoc on the mining industry than the Mine Safety and Health Act.

I feel the same way about H.R. 1309. Depsite the claims by its opponents that the program initiated in it will bankrupt industry, I believe it will be the other way around.

After all, Mr. Speaker, if we prevent deaths and disabilities caused by exposures to hazardous workplace substances, where is the cost?

If employees are healthy, we know they are more productive. If they don't get cancer or some other incurable and fatal disease, there won't be worker's compensation claims.

In fact, industry will save money in the long run, when H.R. 1309 does its job.

For the enlightenment of my colleagues, I am attaching a copy of H.R. 1309 as amended and favorably reported by the Committee on Education and Labor yesterday.

H.R. 1309

A bill to establish a system for identifying, notifying, and preventing illness and death among workers who are at increased or high risk of occupational disease, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Risk Occupational Disease Notification and Prevention Act of 1986".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) many toxic and hazardous substances, physical agents, materials, and processes are in wide industrial and commercial use in the United States;

(2) a significant number of workers suffer disability or death or both from occupational diseases caused by hazardous occupational exposures;

(3) diseases caused by hazardous occupational exposures constitute a substantial burden on interstate commerce and have an adverse effect on the public welfare;

(4) workers have a basic and fundamental right to know they have been and are being exposed to an occupational hazard and are at risk of contracting an occupational disease;

(5) social and family services that reinforce health promoting behavior can reduce the risk of contracting an occupational disease;

(6) there is a period of time between exposure and the onset of disease when it often is possible to intervene medically in the biological process of disease either to prevent or, by early detection, successfully treat many disease conditions;

(7) a significant number of identifiable occupational populations are at risk of developing diseases because of hazardous occupational exposures;

(8) by means of established epidemiological, clinical, and laboratory studies, it is possible to define and identify very specific worker populations at risk of contracting occupational diseases;

(9) there is no established national program for identifying, notifying, counseling, and medically monitoring worker populations at risk of occupational disease;

(10) there is a lack of adequately trained medical and human service professionals, as well as appropriately staffed and equipped health facilities to recognize, diagnose, and prevent occupational diseases;

(11) there is a need for increased research to identify and monitor worker populations at risk of occupational disease; and

(12) through prevention and early detection of occupational disease the staggering cost of medical treatment and care in the United States can be substantially reduced.

(b) PURPOSES.—It is the purpose of this Act—

(1) to establish a Federal program to notify individual employees within populations at risk of occupationally induced disease that they are at risk because of a hazardous occupational exposure, and to counsel them appropriately;

(2) to authorize and direct the certification of occupational and environmental health facilities which have a primary purpose of education, training, and advising physicians and social service professionals in local communities throughout the United States to recognize, diagnose, and treat occupational disease;

(3) to expand Federal research efforts to improve means of identifying and monitoring worker populations at risk of occupational disease; and

(4) to establish a set of protections prohibiting discrimination against employees on the basis of identification and notification of occupational disease risk.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "employee" means—

(A) any individual employed by an employer, or

(B) any individual formerly employed by an employer as to whom any Federal agency maintains records pertaining to work history, or the employer maintains personnel records, medical records, or exposure records;

(2) the term "employer" means any person engaged in commerce or in an industry or business affecting commerce, or any agency of Federal, State, or local government;

(3) the term "Secretary" means Secretary of Health and Human Services;

(4) the term "population at risk" means an employee population exposed to hazardous occupational exposures within which an associated disease occurs at a rate 30 percent greater than a comparable population not exposed to the hazardous occupational exposure;

(5) the term "hazardous occupational exposure means—

(A) any harmful chemical, physical, or biological agent found in the workplace;

(B) any industrial or commercial process or activity found in the workplace which is associated with the risk of disease; or

(C) any occupational activity which is associated with the risk of disease;

(6) the term "medical monitoring" means periodic medical examinations of employees who are in a population at risk of occupational disease;

(7) the term "ethical manner" means conduct that recognizes the voluntary nature of the patient-physician relationship and the confidentiality of information communicated in that relationship; and

(8) the term "Board" means the Risk Assessment Board established by section 4 of this Act.

SEC. 4. RISK ASSESSMENT BOARD.

(a) ESTABLISHMENT.—(1) There is hereby established within the Department of Health and Human Services the Risk Assessment Board. The Board shall consist of 8 members appointed by the Secretary in accordance with paragraph (2) and the Assistant Secretary of Health, who shall serve as chairman.

(2) Of the 8 members appointed by the Secretary—

(A) 5 shall be career or commissioned public health service employees, including an epidemiologist, a toxicologist, and industrial hygienist, a physician, and an occupational health nurse; and

(B) 3 shall be physicians, including an academic physician specializing in occupational medicine, an occupational physician, and a general practitioner.

(3) The members of the Board appointed under paragraph (2)(A) shall be appointed for terms of 5 years, except that—

(A) the terms of members initially so appointed shall expire (as designated by the Secretary at the time of their appointment) at the end of 1, 2, 3, 4, and 5 years, respectively; and

(B) any member appointed to fill a vacancy in the Board that occurs prior to the expiration of a term shall be appointed to serve for the remainder of that term.

(4) The members of the Board appointed under paragraph (2)(B) shall be appointed for terms of one year.

(5) The Secretary shall provide a full-time staff necessary to carry out the functions of the Board.

(b) FUNCTIONS.—(1) The Board shall—

(A) review current medical and other scientific studies and reports concerning the incidence of disease associated with employment;

(B) report to the Secretary on the state of current research with respect to such diseases; and

(C) designate from this review employee populations at risk of disease associated with hazardous occupational exposures, including the size, nature, and composition of the population at risk.

(2) In identifying the populations at risk of disease, the Board shall consider the following factors based upon the best available scientific evidence;

(A) the agents, materials, or processes, or combinations thereof, that may be toxic based upon epidemiologic and clinical observations of human populations, or animal and laboratory studies;

(B) estimates of increased risk of death and disease in specific sites, systems, or organs of the body in exposed human populations; and

(C) estimates of increased risk of death or disease in exposed human populations related to industrial classifications, job categories, and durations of exposure.

(3) The Board shall determine criteria for designating populations at risk in those cases of a rare disease for which the definition in section 3(4) may not be applicable because the disease in question is extremely rare in the general population.

(c) PRIORITIES.—The Board shall undertake, as its first priority, to review employee populations exposed to hazardous occupational exposures whose members are most likely to be helped, either through medical interventon or through counseling on personal health habits. In making this determination, the Board shall consider exposures for which there exists a permanent standard promulgated under section 6(b)(5) of the Occupational Safety and Health Act of 1970 and also shall consider the extent of medical monitoring and surveillance already available to employee populations covered by the permanent standards.

(d) PROCEDURES.—(1) The Board shall initiate a proceeding to identify a population at risk by issuing a notice of its proposed findings and recommendations.

(2) The notice shall—

(A) be published in the Federal Register;

(B) set forth which classes or categories of employees are being considered for inclusion in a population at risk and the reasons for such inclusion;

(C) request the public to submit written views on the proposed findings and recommendations within 45 days; and

(D) provide for a hearing within 30 days after the conclusion of such 45-day period, at which the public may express views on the Board's proposed findings and recommendations.

(3) The Board shall issue final findings and recommendations within 45 days following the hearing, based on the record developed pursuant to paragraph (2) of this subsection.

(4) If the Board determines that a class or category of employee is a population at risk of disease, it shall make such a finding and, within ten days of making such a finding, transmit to the Secretary a recommendation that the individuals within such a population at risk be notified under section 5 of this Act.

SEC. 5. EMPLOYEE NOTIFICATION AND COUNSELING.

(a) DETERMINATIONS OF THE SECRETARY.—(1) The Secretary shall determine whether a class or category of employees is a population at risk of disease based upon the findings and recommendations made by the Board under section 4 of this Act. The Secretary shall review the findings and recommendations without further notice and without public comment.

(2) The Secretary shall adopt the findings and recommendations of the Board unless the Secretary concludes that—

(A) procedural requirements set forth in section 4(d) are not met, or

(B) to do so will endanger the health and safety of a class or category of employees.

(b) NOTIFICATION OF POPULATION AT RISK.—(1) Upon determination by the Secretary that a given class or category of employee is a population at risk of occupational disease, the Secretary shall notify each individual within such population, and their respective employers, of that risk.

(2) In addition, the Secretary shall make simultaneous use of public service announcements and other means of notification appropriate to reach the population at risk.

(c) CONTENTS OF NOTIFICATION.—The Secretary's notification shall include—

(1) an identification of the hazardous occupational exposure, including the name, composition, and properties of known chemical agents;

(2) the disease or diseases associated with the hazardous occupational exposure;

(3) any known latency periods from time of exposure to time of clinical manifestation of the disease;

(4) counseling appropriate to the nature of the risk including, but not limited to—

(A) the advisability of initiating a personal medical monitoring program;

(B) the most appropriate type of medical monitoring for the disease associated with the risk;

(C) the name and address of the nearest health center certified under this Act;

(D) the prohibitions against discrimination for notified employees as established under section 8 of the Act;

(E) employer responsibilities with respect to health care for notified employees, as established under section 8 of this Act; and

(F) the telephone number of the hot line established under subsection (d) of this section.

(d) TELEPHONE INFORMATION.—The Secretary shall establish a telephone "hot line" for the employees notified under this section and for their personal physicians for the purpose of providing additional medical and scientific information concerning the nature of the risk and its associated disease.

(e) DISSEMINATION OF INFORMATION.—The Secretary shall prepare and distribute other medical and health promotion materials and information on any risk subject to notification under this section and its associated disease as the Secretary deems appropriate.

(f) ACCESS TO INFORMATION.—In carrying out the notification responsibilities under this section, the Secretary shall, subject to the requirements of section 552a of title 5, United States Code, and other applicable provisions of Federal law, have access to information and data contained in the records—

(1) of any Federal agency solely for the purpose of obtaining names, addresses, and work histories of employees subject to notification under this section; and

(2) of any employer insofar as Federal access is provided for under the Occupational Safety and Health Act of 1970 and the Mine Safety and Health Act of 1977 and regulations promulgated pursuant thereto.

(g) COOPERATION WITH PRIVATE EMPLOYERS AND STATE AND LOCAL GOVERNMENTS.—(1) In carrying out the notification responsibilities under this section, the Secretary shall cooperate to the extent practicable with private employers and State and local departments of health and may certify a private employer or a State or local government to conduct notification under this section, pursuant to standards issued by the Secretary. Such standards shall prohibit access by any such employer or government to information and data contained in records described in subsection (f) of this section.

(2) Private employers and State and local departments of health certified by the Secretary to conduct notifications pursuant to subsection (g)(1) of this Act shall assume the costs associated with such notification.

(3) A private employer who has been found to willfully violate a recordkeeping, notification, or hazards communication requirement as promulgated under the Occupational Safety and Health Act of 1970 or the Mine Safety and Health Act of 1977 may not be certified by the Secretary to fulfill the notifications pursuant to subsection (g)(1) for a period of five after from the date of such finding or may have its certification revoked for a period of five years after such finding.

(h) LIABILITY.—The Secretary and the agents of Secretary, including any employer or government acting pursuant to subsection (g) of this section, shall not be liable under Federal or State law for monetary damages with respect to any omission or act performed pursuant to this section.

(i) JUDICIAL REVIEW.—(1) Any person adversely affected or aggrieved by a determination of the Secretary under this Act that a given class or category of employees is a population at risk is entitled to judicial review of that determination in the appropriate United States Court of Appeals upon a petition filed in such court by such person. Any petition filed pursuant to this section shall be filed within 30 days after such determination by the Secretary.

(2) A copy of any petition filed under paragraph (1) shall be promptly transmitted to the Secretary by the clerk of the court. The Secretary shall file in the court, as provided in section 2112 of title 28, United States Code, the record of the proceedings on which the determination is based, including the findings and recommendations of the Board and the record of its proceedings.

(3) The court may set aside the determination of the Secretary under subsection (a) of this section only if the determination is found to be—

(A) arbitrary, capricious, or an abuse of discretion;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations; or

(D) without observance of procedure required by law.

(4) The commencement of proceedings under this subsection shall not operate as a stay of the determination of the Secretary to notify employees unless the court specifically orders a stay based upon a determination by the court that the complaining party is highly likely to succeed on the merits.

SEC. 6. HEALTH CENTERS.

(a) SELECTION FROM AMONG EXISTING FACILITIES.—(1) Within 90 days after the effective date of this Act, the Secretary shall establish and certify 10 health centers. The Secretary shall select the 10 health centers from among education resources centers of the National Institute for Occupational Safety and Health and similar facilities of the National Institute for Environmental Health Sciences, the National Cancer Institute, and other private and governmental organizations that apply for such designation by the Secretary. At a later date, but not more than five years after the effective date of this Act, the Secretary shall establish and certify additional health centers from among the health care facilities described in this paragraph so as to obtain no less than one center per State throughout the United States.

(2) Such centers and personnel assigned to them—

(A) shall be selected on the basis of (i) their demonstrated ability and experience in the recognition, diagnosis, and treatment of occupationally related diseases in an ethical manner, and (ii) their capability to offer training and assistance to physicians and social service professionals engaged in the management of populations and individuals at risk of occupational disease, and to fulfill other functions assigned to them under this section, and

(B) shall be certified as such under criteria issued by the Secretary.

(b) FUNCTIONS OF CENTERS.—The centers shall provide education, training, and technical assistance to personal physicians and social service professionals who serve employees notified under section 5 of this Act. The centers also shall be capable of providing research resources, diagnosis, treatment, medical monitoring, and family services for employees notified under section 5 of this Act.

(c) COST OF TRAINING AND EQUIPMENT.—The Secretary shall, from funds appropriated under this Act, reimburse the health centers certified under this section for the cost of developing a training program and procuring specialized equipment required under the certification criteria developed pursuant to subsection (a) of this section.

SEC. 7. RESEARCH, TRAINING, AND EDUCATION.

(a) IMPROVED METHODS OF MONITORING AND IDENTIFICATION.—The Secretary shall, primarily through the health centers established and certified under section 6 of this Act, conduct research, training, and education aimed at improving the means of medically assisting employees exposed to occupational health hazards and the means of identifying worker populations exposed to such hazards, Such research, training, and education shall include, but not be limited to, the following areas:

(1) studying the etiology and development of occupationally related diseases and the disabilities resulting from such diseases;

(2) developing means of medical surveillance of employees exposed to occupational health hazards;

(3) examining the medical treatment of workers exposed to occupational health hazards, and means of medical intervention to prevent the deterioration of the health and functional capabilities of employees disabled by occupational disease;

(4) studying and developing medical treatment and allied social services for employees exposed to occupational health hazards;

(5) developing education programs designed to train physicians and social services professionals to assist employees and their families in underaking measures which ameliorate the effects of those diseases; and

(6) sponsoring epidemiological, clinical, and laboratory research to identify and define additional employee populations at risk of disease from hazardous occupational exposures.

(b) AUTHORITY TO EMPLOY EXPERTS AND CONSULTANTS.—In carrying out activities under this section, the Secretary is authorized to engage the services of experts and consultants as deemed necessary.

SEC. 8. EMPLOYEE TESTING, EVALUATION, MEDICAL MONITORING, AND DISCRIMINATION.

(a) CERTIFICATION OF PROGRAM AVAILABILITY.—An employer who receives a notificiation under section 5(b) that one or more of its current employees is in a population at risk shall certify to the Secretary that the testing, evaluation, and medical monitoring requested by such employees as a result of the hazard occupational exposure identified in such notification—

(1) will be provided or made available by such employer at no cost to the employee, if any part of such exposure occurred in the course of the employee's employment by that employer; or

(2) will be provided or made available by such employer at a charge to the employee not exceeding the cost to the employer (or at no charge), if no part of such exposure occurred in the course of the employee's employment by that employer.

(b) DISCRIMINATION PROHIBITED.—No employer or other person shall discharge or in any manner discriminate against any employee on the basis that the employee is or has been a member of a population that has been determined by the Secretary to be a population at risk of disease and shall not discriminate against such an employee by refusing to provide for testing, evaluation, and medical monitoring at cost.

(c) BENEFIT REDUCTION PROHIBITED.—If, following a determination by the Secretary under this Act, it is medically determined by the employees personal physician in consultation with the employer and his medical representative, that such employee should be temporarily or permanently transferred to a less hazardous or nonexposed job, the employee shall retain the earnings, seniority, and other employment benefits as though the employee had not been transferred from the former job.

(d) REVIEW OF COMPLAINTS.—(1) Any employee who is aggrieved by a violation of this section, may, within six months after such violation occurs, apply to the Secretary of Labor for a review of such alleged violation. Upon receipt of such application, the Secretary of Labor shall cause an investigation to be made as he deems appropriate. If upon such investigation the Secretary of Labor determines that the provisions of this section have been violated, he shall bring an action in any appropriate United States district court. In any such action, the United States district courts shall have jurisdiction for cause shown to restrain violations of this section and order all appropriate relief under subsection (e) or (f) of this section.

(2) Within 90 days of the receipt of the application filed under this subsection, the Secretary of Labor shall notify the complainant of his determination under paragraph (2) of this subsection. If the Secretary of Labor finds that there was no such violation, he shall issue an order denying the application.

(e) REINSTATEMENT AND OTHER RELIEF.—Any employee who is subjected to a violation of this section shall be restored to his or her employment and shall be compensated for—

(1) any lost wages (including fringe benefits and seniority);

(2) costs associated with medical monitoring; and

(3) costs associated with bringing the allegation of violation.

(f) CIVIL PENALTIES.—Any person or institution that violates this section shall be liable for a civil penalty of not less than $1,000 or more than $10,000 for each violation as may be determined by the Secretary of Labor.

SEC. 9. ENFORCEMENT AUTHORITY.

(a) INJUNCTIVE RELIEF.—Whenever the Secretary determines that any person or institution is engaged in an act or practice constituting a violation of this Act or any rule or regulation promulgated under this Act, the Secretary may bring an action in the proper United States district court to enjoin such acts or practices, and upon a proper showing an injunction or permanent or temporary restraining order shall be granted without bond. The provisions of section 5(h) shall not limit the authority of the Secretary under this subsection.

(b) EFFECT ON OTHER LAWS.—The notification of an employee pursuant to this Act that such employee is in a population at risk and the initiation of medical evaluation and monitoring shall not constitute or in any

way affect a claim for compensation, loss, damage arising out of the hazardous occupational exposure, except that the results of such medical evaluation and monitoring may be introduced as evidence with respect to such a claim. Notification pursuant to this Act shall not commence the tolling of any statute of limitations with respect to filing a timely claim.

SEC. 10. AUTHORIZATIONS.

There are authorized to be appropriated $25,000,000 for each of the fiscal years 1987 and 1988 to carry out the provisions of this Act.

SEC. 11. EFFECTIVE DATE.

Except as may be otherwise provided therein, the provisions of this Act shall become effective six months after the date of enactment of this Act.

THE ELEANOR GERSON SCHOOL: TURNING KIDS FROM TROUBLE TO TRIUMPH

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. STOKES. Mr. Speaker, in many schools throughout our Nation, once a child is labeled a "problem" all efforts to educate that child are abandoned. As a result, the child is ignored and left to stagnate in the school environment, or worse, the child may leave school, never to be educated nor taught to function in our society. In Cleveland, however, efforts are being made to rescue those children who have difficulty coping in a traditional school environment.

Mr. Speaker, the Eleanor Gerson School, run by the Child Guidance Center of Cleveland, OH, is a place where young people can be educated and convinced that they can learn and that they have something to contribute to the world. The Gerson School provides an alternative to children who need special attention. It is a fine example of an institution that refuses to give up on our young people who are not "problems," but those who simply, march to a different drummer.

Mr. Speaker, I would like to bring to the attention of my colleagues a profile, from the June 13, 1986, Cleveland Plain Dealer, of Scott Hardman. He represents only one of the many success stories emanating from the Gerson school. I ask my colleagues in the House of Representatives to join me in saluting the work and accomplishments of Scott Hardman, and all of the 1986 graduates of the Gerson School. They provide inspiration to young people throughout the Nation and should be commended for their desire to succeed.

SCHOOL TURNS TRUANT INTO GRADUATE

(By Tom Andrzejewski)

When Scott Hardman was transferred from one Cleveland junior high school to another, he was heading toward becoming a statistic.

"I wasn't getting along at all in regular junior high schools," he said. "So when I got there, I just stopped going after two weeks."

A lot of youngsters like him eventually get included in the dropout rates, the illiteracy statistics, maybe even the crime reports—sometimes whether they want to or not.

"I would really hate being a statistic," he said. "Being anything but an individual is something I don't like."

But Hardman had flunked seventh grade three times. He wasn't getting along with his mother. He said he stayed away from drugs and alcohol, but spent his days addicted to afternoon soap operas—not even the plots, just that they were something to watch.

He was not a bad kid, not a dumb kid, just one who had trouble with rules. If he didn't like something, he didn't do it.

But in a ceremony today that will be small enough to fit into the courtyard of the Child Guidance Center, 2525 E. 22nd St., Hardman and eight classmates from a unique high school will be getting their diplomas.

"Some people thought these kids would never graduate, so we make sure they invite the cousins, that grandparent or anyone else who would say they would never make it," said Jim Dunne, director of the Eleanor Gerson School. It is known as an alternative high school.

Hardman, who was introduced to the school through a child guidance counselor, had always been confident, even overconfident. It showed when he started the Gerson School (then known as the School on Magnolia).

"It sounded like something I could deal with," he said. "They weren't pushing authority. It sets up an atmosphere, 'You're welcome, we want you here.' "

But Hardman soon found out this wasn't going to be like idly lounging around friends' houses watching the soaps.

"When I first got here, I was the lowest form of Magnolia life. I was the class jerk. So the students all sat down with me in the lounge.

"It surprised me. I didn't think anyone cared, and these people who didn't even know me sat down to talk to me.

"After that, everybody tells me, I changed. I think I'm the same person, but they said I changed."

Not entirely. Despite its loose atmosphere—students call teachers by their first names, they can smoke in the lounge and so on—the school still has some rules. Like having to do the work.

"There have been times I came close to being thrown out," he said.

Hardman's old friends—he doesn't associate with them anymore—have had much different lives. One is in the Juvenile Detention Center. Another still will be in high school next year. Another struggles to stay out of trouble.

Their stories might have better endings if they had the opportunity Hardman received.

The Gerson School, in the Central YMCA, 2055 E. 22nd St., is run by the Child Guidance Center, supported with grants, donations and tuition. It costs $3,850 a year for each student. A student's tuition is based upon a student's ability to pay.

It was begun as an alternative high school in 1970 by the Society of Friends, but was taken over by the Child Guidance Center in 1974 and named the School on Magnolia. Three years ago, it moved from University Circle to downtown and was renamed for Eleanor Gerson, civic leader and philanthropist.

This year's enrollment of 50 included 34 from Cleveland, 16 from the suburbs, including Fairview Park and Strongsville. It is 58% white, 38% black and 4% Hispanic.

The students are there because they have had some trouble in conventional schools. It may have stemmed from family situations, emotional disorders or just plain inability to cope with adolescence.

In Hardman's class, three have full-time jobs lined up, three are going to college, one to a technical institute and one will be a full-time mother.

And Hardman, the kid who couldn't get along with rules, who rebeled against authority, is joining the Army this fall after some travel this summer. He hopes to take advantage of programs in the military so he can go to college.

"Self-discipline isn't going to be hard for me anymore," said Hardman. "I felt it was my responsibility to discipline myself. What this school has said to me is, 'You're a worthwhile person—so act like it.' "

RECOGNIZING THE PLIGHT OF SOUTH AFRICAN DETAINEES

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. GARCIA. Mr. Speaker, the Lawyer's Committee for Civil Rights Under Law has distributed to members of the Subcommittee on Africa information on the state of emergency in South Africa, including a list of detainees in South African prisons.

As the Lawyer's Committee aptly points out, information on detainees has only reached organizations like the Lawyer's Committee and Amnesty International at great risk to those providing the information. These individuals are willing to risk their lives in the fight against apartheid. It is up to us to see that those who are working so hard to protect the men and women being detained by the South African Government are not forgotten. I certainly hope that "constructive engagement" includes protesting the abusive detainment of these unfortunate individuals.

I am inserting in the RECORD a copy of the statement provided to my office by the Lawyer's Committee, along with a list of the detainees. I hope my colleagues will join me in remembering these individuals and in asking our State Department to put pressure on the Botha government to secure their release.

RECOGNIZING THE PLIGHT OF SOUTH AFRICAN DETAINEES

In South Africa, on June 12, a State of Emergency was declared covering the entire country. Estimates of detentions under the State of Emergency run as high as 3,000. Under the State of Emergency, detentions are authorized to be held without charge or trial. It is impossible to verify the total number or the identities of those detained, since the South African Government refuses to release that information. In addition, under the State of Emergency Regulations, anyone who publishes or distributes the names of people allegedly detained faces a possible ten year jail sentence or an $8,000 fine. Despite these intimidating and dangerous circumstances, information has reached the Lawyers' Committee for Civil Rights Under Law, Amnesty International, the World Council of Churches and other monitoring groups from sources who have placed themselves at great personal risk.

The attached list of names has been compiled through this process. The accuracy of the list cannot be definitely verified so long as the South African Government refuses to release such information. These circumstances set the stage for the disappearance of hundreds of individuals.

SOUTH AFRICAN DETAINEES, JUNE 24, 1986

Philip Wilkinson (End Conscription Campaign) and George Wolfart (End Conscription Campaign).

Somerset East

Over 100 People (Somerset East Civic Assn.).

Willowmore

John Bees, Mr. Luiters, and Koot Visser.

Other

Aida Kgina (?) (UDF Official), ? Makola (UDF, Cradora), and at least 5 People (UDF Officials).

NORTHERN CAPE PROVINCE

Rev. Canon Augustine Maropong (Chair, Northern Cape Council of Churches (Kimberley)).

WESTERN CAPE PROVINCE

Beaufort West

Peter Andrews, Freddy Fortuin, Rev. Timothy Kellem, David Maans, Samual Mau, Themba Mlonyeni, Sipho Sam, and May ?.

Cape Town

Desmond Abrahams, Lee-Ann Moira Abrahams, Mrs. Adams, Jacques Adonis, Mary Adonis, Moira Adonis, Joseph Aranes, Cyril August, and Andrew Badenhorst.

SOUTH AFRICAN DETAINEES, JUNE 24, 1986

Cornelia Blaauw, James Bodi, James Booi, Chris Carelse, Jamain Christians, Quintin Claasen, William Cloete, and Jane Coombe (End Conscription Campaign).

Louis Daniels, Mogamat Khalid Desai, Elizabeth Erasmus (Gen. Secy., Clothing Workers Union), Mike Evans (End Conscription Campaign), Charlene Fester, Leslie Fich, Martin Fisher, and Richard Grootboom.

Andrew Hermanus, Neil Hermanus, Lorna Houston, Roland Inhills, Shanaaz Isaacs, Suleiman Isaacs, Desiree Ivanberg, Joshua Jackson, Stanley Jacobs, Adam Jaffer, and Zolile Jaxa.

Gerald Johannes, Stanley Johnson, Sidima Kabanyama, Mr. Kiosh, Nico Kleinhans, Andre Koopman, Christian Lakay, Eugene Lakay, Ray Lazarus, and Dr. Tennyson Lee.

Leslie Liddel (Secy., Western Province Council of Churches), Edwin Lombard, Joshua Louw, and Lesley Maasdorp (Students' Rep. Council, Univ. of Western Cape).

Rev. Howard Marawu (UDF), Joan Marinus, Brendalin Marks, Joseph Marks, Sr., Joseph Marks, Jr., Rev. Charles Martin, Richard Martin, Russell McGregor, and Llewellyn McMaster.

FARM MORTGAGE MARKETING CORPORATION OF 1986

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LEHMAN of California. Mr. Speaker, today I am joined by Congressman DOUG BEREUTER, my colleague on the House Banking, Finance, and Urban Affairs Committee, in introducing legislation which would provide a long-term solution to the financial credit crisis facing the agricultural borrowers and lenders of the Nation.

This legislation, the "Farm Mortgage Marketing Corporation Act," would stabilize and enhance the flow of capital for long-term financing of agricultural real estate credit needs by establishing an institutional secondary market mechanism. The association would be similar to other existing secondary market institutions and would act as a conduit between primary commercial agricultural lenders and the capital markets.

This legislation embodies a very simple concept that has already proven successful in providing a stable source of capital to meet the needs of the Nation in the areas of housing and education. "Fannie Mae" [Federal National Mortgage Association. "Freddie Mac" [Federal Home Loan Mortgage Corporation], and "Sallie Mae" [Student Loan Marketing Association] have each demonstrated the importance of their role as a source of capital within their respective sectors.

These secondary market entities purchase mortgage loans from qualified lenders, repackage them as securities or pool them in some fashion and sell them in the capital market to institutional investors such as pension funds, insurance companies and other large investors.

This new corporation would operate in a similar fashion by purchasing agricultural real estate mortgages from qualified commercial lenders, such as banks and insurance companies, and similarly repackaging them for the capital market.

Just as "Freddie Mac", "Fannie Mae", and "Sallie Mae" reflect a strong commitment by the Federal Government in meeting the housing and education needs of millions of Americans, creation of an agricultural secondary market for ag loans reflects the same type of commitment toward America's farmers.

The creation of this type of secondary market goes well beyond political rhetoric. It would instill more competition into the agricultural credit market, would provide an institutional source of liquidity and financing to ensure that lenders have the resources to remain in agricultural lending, and because of its mixed government and private ownership would minimize costs to the Federal Government.

The concept is one which was endorsed by the joint task force of the American Bankers Association and the Independent Bankers Association during hearings earlier this year by both the House Agriculture Committee and the House Banking Committee.

While the Congress has already taken a number of steps to address the economic crisis facing the Nation's farmers, it is evident that both farm borrowers and commercial agricultural lenders are continuing to have a difficult time in meeting the current and anticipated credit needs. This legislation continues those efforts to provide relief to the agricultural economy.

Following is a brief summary of the legislation and the text of the bill:

"FARM MORTGAGE MARKETING CORPORATION ACT OF 1986—CONGRESSMAN RICHARD H. LEHMAN

It is the intent of this Act to establish a secondary market entity similar to those which already serve the needs of the nation's housing and education sectors. This secondary market mechanism will serve as a means of enhancing and stabilizing the flow of capital for long-term financing of agricultural real estate credit needs by serving as a conduit between primary commercial agricultural lenders and the capital markets.

SECTION BY SECTION SUMMARY

SECTION 1. TITLE.—"Farm Mortgage Marketing Corporation Act of 1986".

SECTION 2. FINDINGS AND PURPOSE.—The purpose of this Act is to establish a quasi-private organization chartered by the Federal Government to purchase and insure agricultural mortgages from commercial agricultural lenders and to sell pools of agricultural mortgages to the capital market. Such a secondary market entity will facilitate the availability of long-term credit for agricultural borrowers and provide liquidity for financial institutions and other agricultural lenders.

SECTION 3. ESTABLISHMENT OF CORPORATION.—There is hereby established a corporation to be known as the Farm Mortgage Marketing Corporation.

SECTION 4. BOARD OF DIRECTORS.—The Act establishes a five-member Board of Directors. An initial interim Board will be appointed by the President, with the advice and consent of the Senate, and shall be comprised of the following: the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation (FDIC), and three appointees with expertise and training in agricultural lending and mortgage investments. When sufficient common stock of the Corporation has been sold to qualified lenders, the interim Board shall turn over the affairs of the Corporation to a regular Board elected from among the holders of the stock.

SECTION 5. PURCHASE AND SALE OF MORTGAGES.—The Corporation, with certain limitations, may purchase farm mortgages from any qualified agricultural lender and dispose of those mortgages through the issuing of securities.

The Corporation may purchase farm mortgages if the mortgage seller agrees to retain a 10 percent participation in the mortgage, or to repurchase or replace the mortgage upon demand by the Corporation if the borrower defaults on the loan. In addition, at the time of the purchase of the mortgage, the outstanding principal balance of the mortgage must be less than 80 percent of the value of the property securing the mortgage, or the portion of the unpaid balance of the mortgage in excess of 80 percent is guaranteed by or insured by a qualified insurer.

The Corporation shall issue securities which provide for the payment of principal and interest on farm mortgages purchased and held by the Corporation.

SECTION 6. CAPITALIZATION.—The Corporation shall be initially capitalized by the purchase of $200,000,000 in stock by the U.S. Treasury. In addition the Corporation shall have the authority to require that each mortgage seller make a nonrefundable capital contribution equal to not more than two percent of the unpaid principal amounts of the mortgages purchased from the seller, charge appropriate fees to meet all costs and expenses, and issue stock in return for

any contribution to capital and capital surplus accounts.

The Corporation may at any time retire any stock of the Corporation which was purchased by the Treasury.

SECTION 7. POWERS OF THE CORPORATION.—The Corporation will have the authority to prescribe such regulations to carry out the provisions of the Act and meet the normal obligations of the Corporation.

SECTION 8. DEFINITIONS.—Defines the terms of the Act.

"Farm mortgage" is defined as any loan to an agricultural producer which is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate originated after the date of enactment of this Act and which is an obligation of a person who is a citizen or business entity whose majority interest are citizens of the United States.

"Qualified agricultural lender" is defined as meaning any bank, business and industrial development company, savings and loan institution, commercial finance company, trust company, credit union, insurance company, or other person approved by the Corporation.

SECTION 9. TERMINATION OF THE CORPORATION.—The Corporation shall be in existence until ten years after the effective date of the Act and shall make no commitment to purchase new agricultural mortgages later than seven years after the effective date of the Act.

SECTION 10. DESIGNATION OF CORPORATION AS MIXED-OWNERSHIP GOVERNMENT CORPORATION.

SECTION 11. AUTHORIZATION OF APPROPRIATIONS.—$200,000,000 shall be appropriated beginning after September 30, 1986.

H.R. 5132

A bill to increase the amount of capital available to financial institutions and other agricultural lenders for loans to farmers by providing a secondary market for farm mortgages through the establishment of a federally chartered corporation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Farm Mortgage Marketing Corporation Act of 1986".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that—

(1) economic stability would be enhanced and the availability of long-term credit for agricultural borrowers would be ensured if a mechanism to access secondary markets was created; and

(2) economic stability would be enhanced and the liquidity of investment funds available to lend to agricultural borrowers by financial institutions and other agricultural lenders would be ensured by providing a secondary market for the purchase of sound agricultural real estate mortgages.

(b) PURPOSE.—It is the purpose of this Act to establish a quasi-private corporation chartered by the Federal Government which will purchase and insure agricultural mortgages and sell pools of such agricultural mortgages in order to—

(1) facilitate the availability of long-term credit for agricultural borrowers;

(2) provide liquidity for financial institutions and other agricultural lenders; and

(3) provide an institutional mechanism to allow capital markets to invest in and provide funding for agricultural loans.

SEC. 3. ESTABLISHMENT OF CORPORATION.

There is hereby established a corporation to be known as the Farm Mortgage Marketing Corporation.

SEC. 4. BOARD OF DIRECTORS.

(a) NUMBER AND APPOINTMENT.—

(1) 5 MEMBERS.—The powers of the Corporation shall be vested in the Board of Directors which shall consist of 5 members.

(2) INTERIM APPOINTED BOARD.—Until a determination is made by the President under paragraph (3), the Board of Directors shall be composed of the following members:

(A) The Comptroller of the Currency.

(B) The Chairman of the Federal Deposit Insurance Corporation.

(C) 3 members appointed by the President, by and with the advice and consent of the Senate, from among individuals who have substantial experience and expertise in the fields of agricultural lending and mortgage investments and are representative of agricultural lending institutions.

(3) REGULAR ELECTED BOARD.—When in the judgment of the President, sufficient common stock of the Corporation has been sold to qualified agricultural lenders, the interim Board shall turn over the affairs of the Corporation to regular Board members elected from holders of common stock.

(b) TERMS.—

(1) APPOINTED MEMBERS.—Directors appointed by the President shall serve at the pleasure of the President until their successors have been elected pursuant to subsection (a)(3).

(2) ELECTED MEMBERS.—Directors shall be elected for a term ending on the date of the next annual meeting of the common stockholders of the Corporation.

(3) VACANCY.—

(A) ELECTED MEMBERS.—Any elective seat on the Board shall be filled by the Board, but only for the unexpired portion of the term.

(B) APPOINTED MEMBER.—Any appointive seat which becomes vacant shall be filled by the President in the manner provided in subsection (a)(2).

(c) CHAIRPERSON.—The Chairperson of the Board shall be designated by and from among the members of the Board.

(d) MEETINGS.—The Board shall meet semiannually at the call of its Chairperson to determine the general policies which shall govern the operations of the Corporation. A majority of members of the Board shall constitute a quorum.

(e) EMPLOYMENT OF STAFF.—

(1) APPOINTMENT.—The Board may appoint and fix the pay of such personnel as the Board considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individuals so appointed may receive pay in excess of the maximum annual rate of basic pay in effect for the Senior Executive Service pursuant to section 5382 of such title.

SEC. 5. PURCHASE AND SALE OF MORTGAGES.

(a) IN GENERAL.—

(1) AUTHORITY TO PURCHASE.—Except as provided in subsection (c), the Corporation may purchase, and make commitments to purchase, farm mortgage loans from any qualified agricultural lender.

(2) AUTHORITY TO SELL.—The Corporation may sell or otherwise dispose of, any farm mortgage or interest in a mortgage purchased under paragraph (1).

(3) CERTIFICATION OF APPLICATIONS.—The Corporation shall receive applications for the certification of qualified agricultural lenders for the purpose of this Act and establish criteria for determining the eligibility of an agricultural lender for certification.

(b) AGREEMENTS FOR SERVICING MORTGAGES.—The Corporation may enter into agreements with the seller of any farm mortgage which the Corporation purchases, or with any qualified agricultural lender, to further provide for the servicing of such mortgage.

(c) LIMITATIONS.—No farm mortgage may be purchased by the Corporation under this section unless—

(1) the seller of the mortgage agrees—

(A) to retain a participation of not less than 10 percent in the mortgage; or

(B) to repurchase or replace the mortgage upon demand of the Corporation if, during such period and under such circumstances as the Association may require, the borrower is in default with respect to such mortgage; and

(2) at the time of purchase—

(A) the outstanding principal balance of the mortgage is less than 80 percent of the value of the property securing the mortgage; or

(B) the portion of the unpaid balance of the mortgage is in excess of 80 percent of the value securing the mortgage is guaranteed or insured by a qualified insurer, as determined by the Association.

(d) MORTGAGE-BACKED SECURITIES.—

(1) ISSUANCE AUTHORIZED.—To provide a greater degree of liquidity to the farm mortgage investment market and as an additional means of financing the operations of the Corporation, the Corporation may issue and sell securities which provide for the payment of principal and interest in relation to payments of principal and interest on farm mortgages purchased and held by the Corporation under this section.

(2) TERMS AND CONDITIONS.—Securities issued under this subsection shall have such term to maturity and bear such rate of interest as the Corporation may prescribe with the approval of the Secretary of the Treasury.

(3) PRIVATE ISSUANCE OF PAYMENTS.—The Corporation shall issue or purchase from private sources commitments to insure the timely payment of principal and interest to purchasers of the securities backed by farm mortgages held by the Corporation.

(4) NOT EXEMPT SECURITIES.—No security issued by the Corporation under this subsection shall be—

(A) an exempted security under section 3 of the Securities Act of 1933; or

(B) an exempted security within the meaning given to such terms by section 3(a)(12) of the Securities Exchange Act of 1934.

(5) MINIMUM AMOUNT ESTABLISHED FOR FARM MORTGAGES BACKING SECURITIES.—The Corporation shall at all times hold such number of farm mortgages as may be necessary to enable the Corporation to make timely principal and interest payments on securities issued under this subsection from the principal and interest payments received by the Association with respect to such mortgages.

(6) NOTICE THAT SECURITIES ARE NOT FEDERALLY GUARANTEED.—The Corporation shall

insert such language in each security issued under this subsection as the Corporation determines to be appropriate to clearly indicate that—

(A) the payment of principal and interest with respect to such security is not guaranteed by the United States; and

(B) the security does not constitute a debt or obligation of the United States or any agency or instrumentality of the United States other than the Association.

(7) REPURCHASE AUTHORIZED.—The Corporation may repurchase in the open market any security issued under this subsection at any time and at any price.

(e) CLASSIFICATION OF SELLERS FOR CERTAIN PURPOSES.—

(1) CLASSIFICATION AUTHORIZED.—The Corporation may establish a system for classifying sellers of farm mortgages, or qualified agricultural lenders which services such mortgages, according to type, size, location, assets, or on such other basis the Corporation may consider appropriate.

(2) PURPOSES OF CLASSIFICATION.—The Corporation may take any classification system established under paragraph (1) into account and may distinguish between classes established under such system in prescribing regulations and imposing charges or fees.

SEC. 6. CAPITALIZATION.

(a) INITIAL CAPITALIZATION; GENERAL PROVISIONS.—

(1) INITIAL CAPITALIZATION.—The Corporation shall have capital stock of $200,000,000 subscribed by the Secretary of the Treasury from funds appropriated for such purchase.

(2) SHAREHOLDER VOTING RIGHTS.—Owners of common stock shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting at all elections of directors.

(3) UNRESTRICTED TRANSFERABILITY.—The free transferability of the common stock at all times to any person shall not be restricted except that, as to the Corporation, it shall be transferable only on the books of the Corporation.

(b) CONTRIBUTIONS TO CAPITAL; FEES.—

(1) REQUIRED CONTRIBUTIONS ALLOWED.—The Corporation may accumulate funds for its capital surplus account by requiring each mortgage seller to make nonrefundable capital contributions equal to not more than 2 percent of the unpaid principal amounts or mortgages purchased by the Corporation from such seller.

(2) FEES.—The Corporation may impose charges or fees in such amounts as may be necessary to meet all costs and expenses incurred in connection with the administration of this Act.

(c) MANAGEMENT OF CAPITAL AND EARNINGS.—

(1) TRANSFER TO GENERAL SURPLUS ACCOUNT.—All earnings from the operations of the Corporation shall be transferred annually to its general surplus account.

(2) TRANSFER TO RESERVES.—At any time, funds of the general surplus account may, at the discretion of the Board, be transferred to reserves.

(3) DIVIDENDS.—Any dividends paid by the Corporation on stock issued under this section shall be charged against the general surplus account.

(d) STOCK FOR CONTRIBUTIONS TO CAPITAL.—

(1) CONTRIBUTIONS BY MORTGAGE SELLERS.—The Corporation shall issue, from time to time to each mortgage seller, its common stock evidencing any capital contributions made by such seller pursuant to subsection (b).

(2) OTHER CONTRIBUTIONS.—In addition to the shares of common stock issued under paragraph (1), the Corporation may issue additional shares of common stock in return for any other contributions to capital or capital and surplus.

(e) RETIREMENT OF STOCK.—The Corporation may at any time retire any stock of the Corporation which was purchased by the Secretary of the Treasury.

SEC. 7. POWERS OF THE CORPORATION.

(a) IN GENERAL.—The Corporation shall have the following powers:

(1) To adopt, alter, and use a corporate seal.

(2) To have succession until dissolved by an Act of Congress or terminated under section 9.

(3) To prescribe such regulations as may be necessary to carry out the provisions of this Act.

(4) To make and perform contracts, agreements, and commitments.

(5) To borrow, give security, pay interest or dividends, and issue notes, debentures, bonds, preferred stock, or other obligations or securities under terms and conditions which the Corporation may prescribe.

(6) To settle, adjust, compromise, and release any claim, demand, or right of, by, or against the Corporation, whether in whole or in part and with or without consideration or benefit to the Corporation.

(7) To sue and be sued in its corporate capacity, to prosecute or defend any action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

(8) To acquire, hold, and dispose of any property.

(9) To determine the Corporation's expenditures and the manner in which such expenditures shall be incurred and paid.

(10) To exercise such incidental powers which are not inconsistent with the provisions of this Act and are necessary to carry out the purposes of this Act.

SEC. 8. DEFINITIONS.

For purposes of this Act—

(1) CORPORATION.—The term "Corporation" means the Farm Mortgage Marketing Corporation established under section 3.

(2) BOARD.—The term "Board" means the Board of Directors of the Corporation.

(3) FARM MORTGAGE.—The term "farm mortgage" means any loan to an agricultural producer which—

(A) is secured by fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States;

(B) is originated after the date of enactment of this Act; and

(C) is an obligation of—

(i) an individual who is a citizen of the United States; or

(ii) any person other than an individual a majority interest in which is held by individuals who are citizens of the United States,

whose training or farming experience is sufficient, under criteria established by the Corporation, to assure a reasonable likelihood that such loan will be repaid according to its terms.

(4) AGRICULTURAL REAL ESTATE.—The term "agricultural real estate" means a parcel or parcels of land used for the production of one or more agricultural commodities or products and consisting of a minimum acreage or producing minimum annual receipts as determined by the Corporation;

(5) QUALIFIED AGRICULTURAL LENDER.—The term "qualified agricultural lender" means any bank, business and industrial development company, savings and loan institution, commercial finance company, trust company, credit union, insurance company, or other person approved by the Corporation.

(6) SECURITY.—The term "security" has the meaning given to such term in section 3(a)(10) of the Securities Exchange Act of 1934.

SEC. 9. TERMINATION OF THE CORPORATION.

(a) TERMINATION AFTER 10 YEARS.—The Corporation shall continue in existence until 10 years the effective date of this Act but shall make no commitment to purchase and shall purchase no new agricultural farm mortgages later than 7 years after the effective date of this Act.

(b) SUBSEQUENT ADMINISTRATION OF ASSETS AND OBLIGATIONS.—After the termination of the Corporation, any asset or obligation of the Corporation shall be administered by the Secretary of the Treasury.

SEC. 10. DESIGNATION OF ASSOCIATION AS MIXED-OWNERSHIP GOVERNMENT CORPORATION.

Section 9101(2) of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(K) The Farm Mortgage Marketing Corporation."

SEC. 11. AUTHORIZATION.

There is authorized to be appropriated to the Secretary of the Treasury for any fiscal year beginning after September 30, 1986, not to exceed $200,000,000 for the purchase of stock of the Corporation to carry out the provisions of this Act.

TAIWAN-AMERICAN RELATIONS

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. EMERSON. Mr. Speaker, Dr. Nathan K. Mao, professor, Shippensburg University, is known to many of us as an expert on Taiwan-American relations; actually, perhaps we should say American-Republic of China relations, but the Taiwan Relations Act a April 1979 obviated our formal relations with that country. We now have an informed, but very important liaison with Taiwan/Republic of China. Many of us are very interested in improving our trade relations with Taiwan, and reducing the imbalance in trade that exists between our two countries, an imbalance that is currently to the detriment of the United States.

Dr. Mao recently spoke at a seminar sponsored by the American Defense Foundation and offered a perspective on Taiwan-American relations of which we should all be aware. We all certainly want to maintain the warm friendship the United States and the Republic of China has traditionally maintained, and we certainly want to improve our own trade posture and opportunity for sales of American goods in Taiwan. As with so many issues, both sides have some strong concerns which need to be aired in order for there to be a resolution of impediments to better relations. Dr. Mao's remarks to the forum offered by the American Defense Foundation came on the heel of his recent trip to Taiwan, where he

was in contact with many government leaders and folks in the street, and I am pleased to share his comments with my colleagues.

U.S. MILITARY SALES TO TAIWAN VITAL TO TAIWAN'S STABILITY AND PROSPERITY—DAWNING OF A NEW ERA IN TAIWAN

(By Nathan Mao)

Recently I spent two weeks in Taipei. I met with a number of government officials and private citizens, who included university teachers, newspaper editors, businessmen, housewives and taxi drivers. I discussed with them Taipei's new high rises, traffic jams, Snake Alley, proliferation of barber shops and Taiwan-U.S. relations. While there in Taipei, something unexpected happened. An earthquake shook Taipei and other parts of the island on May 20. It was surprising to someone who had never experienced an earthquake before. Yet after ten or fifteen seconds of shock, I quickly settled down to a feeling of acceptance and tranquility.

In many ways, the Republic of China on Taiwan has experienced a number of big and small political earthquakes ever since it left the U.N. in 1971 and became de-recognized by the Carter administration in January, 1979. Every time it faced adversity, it somehow managed to bounce back with vitality.

After Taipei left the U.N., observers predicted that Taipei would cease to function in the community of nations. The fact is that Taipei continues to have diplomatic relations with twenty some countries and maintains substantive relationships with 140 more non-communist countries in the world. Similarly, in place of diplomatic recognition by the U.S., the Taiwan Relations Act of April, 1979 provided the legal basis for Taipei to continue its unofficial relationship with Washington. This relationship is on-going and sound, thanks to the relentless efforts of people like Captain Eugene McDaniel and Dr. Fred Chien. This does not mean that there haven't been disappointments from Taipei's perspective.

For instance, in January 1982, Taipei's request for advanced jet fighters, the FX, was denied by the State Department, on the grounds "that no sale of advanced fighter aircraft to Taiwan is required because no military need for such aircraft exists."

Another disappointment was the Shanghai Communique of August 17, 1982, which specified the gradual reduction of military sales to Taipei as tensions decrease in the Taiwan Strait.

Most recently, the administration proposed the sale of $550 million of avionics to equip Mainland China's F-8 fighter planes. The request sailed through Congress. In fact, in the Senate Foreign Relations Committee, only Senator Jesse Helms opposed the sale.

Why wasn't there any major outcry against such military sales to Mainland? My Taipei friends would like to know.

Proponents for arms sales to the Mainland argued that Taipei continues to enjoy air superiority over the Mainland in the Taiwan Strait. Not so, my Taipei friends replied. They pointed out that Taiwan's F-100s and F-104s, representing 40 percent of Taiwan's total fighter force, are aging and need to be replaced. Moreover, they emphasized that Taiwan's co-production of F5Es with Northrop will terminate in a few months.

Proponents for arms sales to Peking also argued that Taiwan is developing its own advanced jet fighter with the help of General Dynamics and that Taiwan has successfully tested its new air-to-air missile called the "Tien Chien." Again, my argumentative friends replied that the new fighter planes are still in the planning stage and will not be operative until the mid 1990s. As for the "Tien Chien," it would certainly be no match for what the U.S. plans to do for the Chinese military. For example, additional U.S. military sales to the Mainland now under consideration include Hawkeye early warning planes, ground to air missiles and co-production of the TOW anti-tank missile and the Mark 46 torpedo.

Even in the near future, the U.S. sale of avionics will give Mainland China's F-8 fighter planes all weather and night operational capabilities that Taiwan's current fleet of 250 F5Es do not have.

If there is such an apparent increase in Mainland's military capability, why isn't there a corresponding upgrading of Taipei's military strength? My Taipei friends were puzzled.

The answer is that the Mainland, ever since Nixon's visit in 1972, has slowly but steadily reshaped its image in the U.S. It is no longer the bellicose anti-American adversary of the Korean War era but a "reasonable country" willing and ready to adopt Western values including French cuisine and rock and roll.

In its eagerness to have the Mainland as a counterweight against the Soviets, the United States readily believes the myths about the Mainland. Foremost among these myths is that China is the place to make money. Reality, however, is different. A June 6, 1986 Wall Street Journal article said, "There's a new brand of Chinese cigarette for sale at a few shops around Peking. It's named, in big English letters, Profit. Gloomy foreign businessmen say that buying a pack is about the closest they'll come to making any money in a China that continues to entice and then sour the foreign investors."

A second myth is that China acts in the interest of the U.S. Reality once again tells a different story. In April, 1986, China joined the Soviet Union and several other nations in a U.N. Security Council vote condemning the U.S. bombing of Libya. Even more distressing is the Washington Post report on June 7, 1986 that "China, despite repeated denials, is selling weapons in large and increasing quantities to Iran, . . . an estimate of $1.6 billion in recent sales . . . the International Institute of Strategic Studies in London . . . said China had also sold weapons to Iraq. . . ."

A third myth is that China has peaceful intentions toward Taiwan. My Taipei friends, by now nearly exhausted by their discussions with me, insisted that no one should forget that the Mainland has never renounced the use of force against Taiwan. Chinese leaders Deng Ziaoping and Hu Yaobang have repeatedly warned of a blockade against the island if Taiwan authorities do not take re-unification seriously. In addition, no one should ever ignore Peking's military adventurism such as its war against Vietnam in 1979.

My Taipei friends were also puzzled by the formation of the "Committee for Democracy on Taiwan" on May 20, 1986. The Committee urged the Taiwan government to match its economic progress by granting more political freedoms. My friends said it was unfair that the Committee made no mention of the violations of human rights on the Mainland or the fact that the people on Taiwan do enjoy most of the freedoms of any Western democracy.

My Taipei friends brought to my attention President Chiang Ching-kuo's display of flexibility on several fronts. The ruling Kuomintang recently allowed a major opposition group to open branches in Taiwan, conducted talks with Peking for the return of the China Airlines' jet and permitted Tangwai's street demonstrations in Taipei. In early May the Kuomintang also pledged a comprehensive review of all controversial issues regarding the future of Taiwan.

These were giant steps in view of Taipei's worries about its own military security. In my friends' views, the Kuomintang will not make any more major political concessions until it feels that Taiwan's future, based on overt U.S. support and not on Mainland China's professed intentions, has been better assured.

Better assurance means an increase of the present level of military sales to Taipei, currently projected at $760 million. Better assurance means that Taipei be allowed to purchase more advanced aircraft, submarines and other sophisticated military hardware. Better assurance means that the U.S. reaffirm from time to time its interest in the security of Taiwan. Better assurance means that the U.S. public understand that the arms issue seriously affects the morale of the people in Taiwan. In other words, increased military sales to Taipei will make the Taiwanese people feel more secure and more dedicated to economic growth. The end result is a stable Taiwan.

A stable Taiwan is in everyone's interest. A stable Taiwan will serve America's strategic interest in the Far East; it will mean more purchase of American consumer goods and a better balance of trade between Taiwan and the United States.

A stable Taiwan will allow the ruling Kuomintang to seriously consider lifting of martial law, formation of new opposition parties, rejuvenation of the lawmaking bodies, restructuring of the Taiwan provincial government and end of censorship.

A stable Taiwan will mean continuing prosperity for its 19 million people and in time converting the Mainland to democracy and free enterprise.

A stable Taiwan, however, does not mean giving in to pressures of any democracy committee. It does not mean subscribing to the concept of Taiwan independence. Nor does it mean surrendering to the Communist propaganda of reunification.

Ladies and gentlemen, this is not the twilight hour in Taiwan. It is the dawning of a new era—an era of a closer working relationship with the U.S. and other non-communist countries, an era of dialogue with the Tangwai and an era of continuing economic growth at home and of Taiwan being "the guiding light for the future development of Mainland China."

Thank you very much.

WASTE, FRAUD, AND MISMANAGEMENT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LAGOMARSINO. Mr. Speaker, in a time when we are deeply concerned about where every dollar in our budget goes, I feel that we are being falsely persuaded by liberals in Congress to overlook our biggest expense on the

grounds that no more cuts can be made in social welfare programs. Social programs have fallen victim to a carelessly wasteful bureaucracy and some unscrupulous benefit recipients.

Stories of frauds and scams are common and evident to some of us in Congress and the frequency of them in the media indicates a growing problem. One example appeared in the June 11 edition of the Washington Times in an attached article by Donald Lambro. The story indicated that over $2 billion in fraud has been uncovered in the Department of Health and Human Services by Richard P. Kusserow of the Inspector General's Office. This was in the first half of this fiscal year alone. Just imagine how much more waste there is in other agencies that provide social welfare aid and are not monitored correctly.

Resources such as these could be used toward other legitimate national goals instead of initially looking at higher taxes or defense cuts. I encourage my colleagues to read the following article in order to see that there still remains a lot of fat in the Federal budget.

HEALTH-CARE ABUSES THAT COST $2 BILLION

(By Donald Lambro)

The congressional skeptics who say that little, if any, waste, fraud, and abuse remain to be found in federal spending programs should read the latest report from the Department of Health and Human Service's Office of Inspector General. It's a $2 billion eye-opener.

Citing case after case of wrongdoing, the report shows that taxpayers are being relentlessly taken to the cleaners by unscrupulous doctors, dentists, nursing-home operators, and other professionals—as well as by health and welfare beneficiaries.

In all, the inspector general's office, headed by Richard P. Kusserow, identifies more than $2 billion in cash recoveries and potential savings during the first six months of this fiscal year. Among them:

A New York couple, says Mr. Kusserow, created "one of the largest schemes we have uncovered for stealing money from a Medicare carrier." The wife, who was a senior claims examiner for the carrier in question, used her position to mail fraudulent checks totaling more than $850,000 to different addresses. Authorities convicted the husband, who masterminded the scheme, and two others.

A Texas ophthalmologist was convicted on a 74-count indictment for billing Medicaid for work not performed and passing along inflated costs of goods bought from a fictitious corporation.

In Chicago, 15 people falsely claimed enrollment in various colleges in order to obtain more than $75,000 in student-aid benefits.

A dentist in Georgia was convicted of billing Medicaid for examinations and fluoride treatments that were never performed.

In a nursing-home scam in Iowa and Texas, three podiatrists were convicted of submitting phony Medicaid or Medicare bills for services they never performed, including toenail surgery, nail removals, therapy, and X-rays. Investigators said $120,000 in phony claims was submitted by the foot specialists.

A Pennsylvania osteopath was convicted of false billings and kickbacks after agents discovered that he was paying kickbacks to other doctors who prescribed his heart-monitoring devices for their patients. The man was fined $100,000, sent to prison, and suspended from the Medicare and Medicaid programs for nine years.

One of Mr. Kusserow's most effective fraud-detection methods has been to match Social Security beneficiaries against state and Medicare death records. Among his latest disclosures:

A California man collected his mother's benefits for six years after her death in 1979. He was convicted and ordered to pay back the $25,000 he had obtained illegally in another California case, a woman was convicted after having cashed $40,000 worth of her deceased aunt's Social Security checks in 10 years.

In New York, Mr. Kusserow found that 23 persons had stolen $235,000 in benefits sent to relatives and friends who had long since died. In the case, both a husband and wife had been cashing their deceased parents' benefit checks.

In Illinois, Medicaid investigators broke what Mr. Kusserow called "the largest Medicaid fraud scheme in terms of dollars." Eleven people were convicted. Included in the scheme, which bilked Medicaid out of $20 million, were doctors, pharmacists, and 20 clinic-pharmacies that sold codeine-containing sedatives and cough medicine to drug addicts.

In all, 90 health-care providers were banned from Medicare and/or Medicaid programs and 655 wrongdoers were prosecuted.

Mr. Kusserow's team of auditors also found that more than $1 billion is being wasted as a result of poor management.

For example, the government could save taxpayers a minimum of $600 million a year by reducing Medicare payments for indirect medical-education costs to teaching hospitals.

Another $450 million in welfare costs would be saved over three years by promoting the transfer of automated Aid to Families with Dependent Children claims-processing retrieval systems among the states.

Think of it: that's $2 billion in savings found within a six-month period. And Mr. Kusserow says he has only begun to scratch the surface" of this $340 billion department.

It makes you wonder: how much waste, fraud, and abuse remains to be uncovered in the rest of the government?

JOB TRAINING AMENDMENTS TO THE IRA

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. RITTER. Mr. Speaker, I am pleased to introduce legislation to expand the use of Individual Retirement Accounts [IRA's] in such a way that they may be used for job training and retraining. My bill, entitled, "Job Training Amendments to the IRA," would allow individuals to withdrawal up to $4,000 of their IRA funds without penalty.

The need for this legislation is readily apparent when one looks at the grave disparity between the need for displaced workers job retraining and the amount of resources currently being expended.

According to the Bureau of Labor Statistics, from 1979 to 1984, 11.5 million people lost their jobs due to plant closings or employment cutbacks. As of January 1984, looking at 5.1 million of those workers who had been employed for over 3 years, 3.1 million were reemployed, 1.3 million were unemployed, and 700,000 had left the work force altogether. Assuming that these figures have remained relatively constant over the past 2 years, it is reasonable to assume from these statistics alone, that at least 1.5 to 5 million displaced workers are in need of job retraining. These statistic are supported by the Office of Technology Assessment's [OTA] report entitled, "Technology and Structural Unemployment: Reemploying Displaced Adults."

According to the OTA report, Title III, Job Training Partnership Act [JTPA] funds "served 96,100 workers in its first 9 months, and another 132,200 workers were newly enrolled in the full program year July 1984 to June 1985." They estimated that these figures represent "less than 5 percent of the eligible [displaced worker] population." In other words, out of approximately 4.5 million displaced workers who could have benefited from some type of job retraining, most were receiving no assistance.

Turning to an examination of what is being spent to retrain these displaced workers, we find that government programs, which involve both State and Federal funds, are simply not adequate to do the job.

While close to $5 billion was appropriated in fiscal year 1986 on employing training programs, only $100 million from title III of the JTPA's $3,461 billion in fiscal year 1986 appropriation went toward job retraining for displaced workers. With an additional $100 million coming from the Employment Services [ES] Program, and approximately $30 million from States Title III, JTPA matching funds, the total figure for displaced worker job retraining still does not rise above $230 million per year.

The OTA report, "Technology and Structural Unemployment: Reemploying Displaced Adults," echoed these statistics in stating that, "Whether title III is an effective and sufficient response to the problem of worker displacement is questionable. One important question is whether the heavy emphasis on placement may divert attention and resources away from training. The limited information available on program spending indicates that vocational skills training in title III programs is probably sparse—While retaining for strictly high technology skills and occupations may have been overemphasized in the past, training is still a very important component of well-run displaced worker programs. For many displaced workers, training is the best route back to a job with reasonable opportunities for advancement. This is particularly true for unskilled or semiskilled manufacturing production workers, whose former jobs were based largely on routine manual and mental skills. Many of these people need substantial retraining or education to get good jobs in the service-producing sectors, where most new jobs are being created.

The benefits of using an IRA-type funding approach to fill these job retaining needs are many.

The very concept of the IRA encourages people to save for and provide for their own future and job training needs. While this has obvious economic consequences, psychologically there are benefits as well. By orienting

people toward personal responsibility, we encourage them to devote more energy into decisions relating to career choices and long-term career planning.

Following on the concept of individual responsibility is the factor of portability. The personal nature of the IRA lends itself to the kind of flexibility needed by individuals seeking training on short notice and in areas other than their home State. While current approaches to job training using State agencies and programs are effective for many, still many more could benefit from the use of personal funds to be used in programs available all over the country. For instance, if a worker in the Lehigh Valley of Pennsylvania wants to live with relatives in New York and take specialized training classes and then move back to the Valley, he will be able to do it with an IRA approach to job training. In this era of changing job markets and differing levels of availability of training in different areas of the country, it makes good sense to go with this type of a highly flexible, mobile approach to job training.

While these funds will be ready for use in retraining, it is important to remember that all unused funds will be used for retirement needs. At a time when Federal and State spending on welfare programs continues to increase, any program which offers the potential to provide greater incentives for saving for one's future can only serve to relieve pressure on already burdened Federal programs.

Cost and effectiveness of implementation of training programs is another strong factor which favors the use of IRA funds versus more traditional approaches to job training. While other programs provide useful training services, there is the unwanted side effect of having to divert large portions of funds intended for training to the administration of programs. Conforming to the rules that would be imposed by the IRS for compliance with this program promise to be far less costly than any similar program utilizing a large bureaucracy.

Establishing a program for training which gives the individual a stake in the quality of training promises to cut down on abuse. In programs previously established by the Congress, from welfare to the extremely effective and highly regarded GI bill that called for individuals to spend money that was not their own, there invariably were problems of abuse. And, while abuse in and of itself has been causes for concern, often times solutions can have equally damaging effects with a subsequent flow of regulations and redtape produced to quell the misuse of funds. Quite simply, when individuals spend their money, it is far less likely to be misspent.

Not much needs be said about the benefits of savings on economic growth. However, economies like Japan's which encourage savings, have continued to see strong growth; something we would be wise to emulate. In terms we can all understand: More savings means more money for growth; which means more jobs.

Finally, effective job training turns people who were once idle into taxpaying citizens working to contribute to the overall soundness of our Nation's economy. The benefit of lost dollars due to a tax break for IRA savings may well be minimal in comparison to the benefit to both our economy and the U.S. Treasury, when unemployed people return to productive work.

I would urge my colleagues to support this effort to provide for the retraining of America's workers through their cosponsorship of this legislation. The need is real; the lack of funds being spent to solve the problem is real and the need for IRA's to be a part of the solution is real. Let us all work to save the IRA in the current tax reform battle. It's benefit in terms of retirement savings and the potential it represents for job training are too important to lose.

SOUTH AFRICA: AT THE EDGE OF ARMAGEDDON

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CROCKETT. Mr. Speaker, on June 12, 1986, the racist white minority Government of South Africa imposed a "State of Emergency" over the entire nation, seeking to suppress the will of the majority of its people for justice and equality.

Under the state of emergency, the Government can stop, harrass, arrest and detain anyone for any reason, and can use "such force as, they, under the circumstances may deem necessary" to prevent even suspected dangers to public order. Those detained may be interrogated without warrant, held incommunicado and held indefinitely without due process.

In addition, anyone who reports on such detentions is subject to sweeping press restrictions, including shutting down the publication and imprisoning the reporter for up to 10 years.

Nevertheless, information has reached us about the hundreds of persons missing and presumed in detention under this barbaric system.

I would like, for the benefit of my colleagues, to insert into the RECORD at this point just a few of the names of those now missing and presumed detained by the South African police:

ORANGE FREE STATE

BLOEMFONTEIN

Dorcas Dnyibane (Trade Unionist).
S.G. Kotoyi (Trade Unionist).
D. Nakedi (Trade Unionist).
V. Nzuzane (Trade Unionist).
Adams Sayila (Trade Unionist).
A. Shuping (Trade Unionist).

WELKOM (?)

E. Maliwa Daliwu (Trade Unionist).
B. Gesi (Trade Unionist).
L. Sgwela (Trade Unionist).

PROVINCE UNKNOWN

Rev. Jean-Francois Bill (Evangelical Presbyterian Clergyman).
Deacon Hans Hlalethwa.
Laura Kaufmann (CSSR (Church Group)).
Vusi Khanyile (Natl. Ed. Crisis Comm.).
Dominee Lucas Mabusela (Dutch Reformed Church in Africa).
Rev. Gerald Johannes Machan (?).
Alby Makwena (Aubrey Mokoena?) (Release Mandela Comm.).
Oscar Malgas (Trade Union Official).
Vusi Mavuso (Trade Union Official).
Kathman Saloojee.
? Theron (Natl. Ed. Crisis Comm.)
K. Thibebi (Trade Union Official).

SOUTH AFRICAN DETAINEES, JUNE 24, 1986

Fr. Vandesompele (of Alberton).
? Van Rhensburg (Natl. Ed. Crisis Comm.).
At least 200 Clergy and Churchworkers.
300 Arrested at church service, location unknown, including Rev. Layben.

PLUGGING THE LEAKY SHIP OF STATE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. HYDE. Mr. Speaker, the ship of state is listing so badly these days that it is amazing that it's still afloat. One Washington wag has said that it now has more holes than a shower head through which relentless streams of state secrets are gushing. The U.S.S. *America* is, indeed, leaking profusely and something must soon be done to save it from sinking.

The root of the problem is that too many people in both the executive and legislative branches of this Government have access to sensitive information. Lee Hamilton, chairman of the House Intelligence Committee, was on target when he noted in a perceptive article on protecting secrets that appeared in the September 4, 1985, CONGRESSIONAL RECORD, "Leaks are inevitable when so many people handle secrets."

Predictably, both Congress and the administration tend to blame each other for the leaks. As a matter of fact, both are culpable and both need to take corrective action.

The administration is at last beginning to reduce access to secrets and punishing those who have leaked. Congress must follow suit and to this end I have introduced House Joint Resolution 7, which currently has 159 bipartisan cosponsors from all points of the political spectrum.

What House Joint Resolution 7 does is replace the House and Senate Intelligence Committees with a consolidated joint committee that would supervise the activities of the intelligence community. The membership of this panel would be drawn from the four committees in each House that historically have exercised some oversight over intelligence activities. Specifically, Democratic and Republican members from the House Committees on Foreign Affairs, Appropriations, Armed Services, and Judiciary would all have seats. The same membership formula would apply for Senate members. This arrangement would protect the turf of concerned interests in Congress while saving the U.S. taxpayer, according to a cost benefit analysis received last year, approximately $1.5 million per annum in operating expenses. That's an important consideration in this era of stricter budget constraints.

Effective congressional oversight of any executive branch component requires budget

review authority. Consequently, my proposal stipulates that the joint committee shall have exclusive legislative jurisdiction with respect to any intelligence activity conducted by any agency or department of the Federal Government.

To be sure, there is opposition to this radical legislative surgery, but, given the national security ramifications, we have no alternative. Intelligence collection and the conduct of espionage are uniquely different and sensitive activities requiring the utmost secrecy. As I see it, the singular nature of these activities dictates a specially structured and very protective legislative oversight process; not one that mimics ordinary congressional procedure.

It's instructive to look back at how our Founding Fathers addressed the intelligence question. These hardheaded realists understood that a breach of security during that perilous revolutionary period often meant the difference between life and death. As a result, only five Members of the Second Continental Congress—the most famous being Ben Franklin—sat on the Committee of Secret Correspondence, America's original foreign intelligence directorate. Moreover, on November 9, 1775, the Continental Congress adopted the following oath of secrecy which ought to still be in effect today:

Resolved, That every member of this Congress considers himself under the ties of virtue, honour and love of his country, not to divulge, directly or indirectly, any matter or thing agitated or debated in Congress, before the same shall have been determined, without the leave of the Congress: nor any matter or thing determined in Congress, which a majority of the Congress shall order to be kept secret. And that if any member shall violate this agreement, he shall be expelled this Congress, and deemed an enemy to the liberties of America, and liable to be treated as such, and that every member signify his consent to this agreement by signing the same.

This oath was not taken lightly and no less a revolutionary figure than Thomas Paine, the author of "Common Sense," was fired as secretary of the Secret Correspondence Committee for revealing information from the committee's files.

Keeping a secret has become so difficult that today it is almost impossible to conduct activities in furtherance of U.S. foreign policy objectives. This was brought home dramatically in the recent bombing of Libya. That episode probably would not have occurred if the President possessed a viable covert foreign policy option that lies somewhere between doing nothing and sending the marines or American bombers.

Effectively combating international terrorism frequently requires close and quiet cooperation between our intelligence agencies and those of our allies. It is no secret, however, that the friendly foreign intelligence services are becoming increasingly reluctant to cooperate with us for fear of disclosure. A joint committee framework that significantly reduced the number of individuals with access to sensitive information would help restore our allies' confidence that their circumspect cooperation would be protected.

A new joint oversight panel with balanced party membership, supported by a small, professional staff, would diminish the possibilities for partisan posturing and significantly reduce the number of individuals with regular access to sensitive information. This would not only minimize the risk of damaging unauthorized disclosures, but it would also increase the likelihood of the FBI and the Justice Department identifying leak sources—something that rarely occurs now because of the large number of individuals in the "intelligence information loop."

A joint committee would also eliminate the possibility of executive branch components playing one committee off against the other and would simplify the problem of handling and storing the classified data that the two intelligence committees and others now regularly receive from the intelligence community.

Worthy of note are the findings of a recent Senate security report that was ordered by Majority Leader ROBERT DOLE. According to Alfred M. Lehn, who is the chief of the Senate's national security information office;

The report found there is good cause to believe that we have the potential for serious security problems . . . you do have an awful lot of offices that can store classified material—120 separate places under the control of 300 to 400 people in four different buildings. We need some central office that will be responsible for all of it.

A joint committee provides a tailor-made answer to this problem.

Congress has increasingly insisted upon being briefed and consulted by the executive branch regarding national security and foreign policy questions. A large percentage of these briefings are intelligence related and require the involvement of high level executive branch officials who are often hard pressed to meet the demands of both the House and Senate Intelligence Committees. This is particularly true during fast-breaking crisis situations such as we have seen recently. A consolidated oversight panel would provide one point of contact for consultation and briefings in those instances when time is of the essence.

A bipartisan Senate Select Committee—headed by Senator DAN QUAYLE—studied how to streamline the Senate's committee system. The Quayle panel endorsed the joint committee concept in its final report to the Senate in December 1984, as did then-Senate Majority Leader Howard Baker and Senator SAM NUNN. In addition, ex-CIA directors, Richard Helms, James Schlesinger, GEORGE BUSH, and Adm. (ret.) Stansfield Turner have voiced their support, as has the Vice President's Task Force on Combatting Terrorism.

Finally, this joint committee proposal is an important aspect of a broad-based nonpartisan effort to tighten and enhance this Nation's intelligence infrastructure at a time when all of us are much more conscious of security problems because of recent spy scandals, terrorism, and egregious leaks that have severely hurt the United States. It is also seen as the best means available for repairing the serious deterioration in relations between Congress and the intelligence community with the resultant loss of trust—the most vital ingredient of all in the oversight process.

RELIEF FOR CAROLINA'S COTTON GROWERS

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. ROSE. Mr. Speaker, today I am introducing legislation for the relief of the Carolinas Cotton Growers Assocation, Inc. This bill has the sponsorship of the entire North and South Carolina delegations. Before explaining the history behind this legislation, I would first like to emphasize that the legislation does not make any determination as to the issues of liability or damages. This bill merely provides the association with the opportunity for a day in court, an opportunity which it has been denied up to his point.

The association is a marketing cooperative for the cotton farmers located in North and South Carolina. The association performs its function by purchasing cotton directly for farmers at a price slightly less than the price being quoted on the New York Cotton Exchange for cotton of a like grade and subsequently selling that cotton at or slightly above the market price established by the Cotton Exchange for that grade of cotton. For decades the grade of cotton purchased has been determined by the U.S. Department of Agriculture.

During October 1980, the association purchased cotton based on the USDA classification and, relying on the USDA class cards, began to sell the cotton to various mills. During the winter of 1980–81 when numerous bales of cotton were rejected by mills as overgraded, the association discovered that USDA had in most cases significantly overgraded the 1980 crop purchased by the association. Soon the association realized that it could no longer use the class cards to sell its cotton inventory. Furthermore, the association was unable to market its inventory as quickly as usual because it was faced with the time-consuming task of reclassifying the cotton. As a result the association alleges that it sustained losses of nearly $4 million, which included losses on sales, additional interest and storage costs for inventory not sold, lost gross profits and other consequential damages. The magnitude of the loss has imperiled the association's financial viability. The loss of the association would be an enormous blow to the cotton farmers of North and South Carolina.

Since the losses of the association were alleged to be caused by the negligence of the USDA, the association filed suit under the Federal Tort Claims Act against the Government for its damages. The district court dismissed the action on jurisdictional grounds and on appeal the fourth circuit affirmed the district court's decision. The circuit court determined that the association's tort claim arose wholly out of reliance on the Governments' misrepresentation of the proper grade and was therefore precluded by section 2680(h) of the Federal Tort Claims Act, 28 U.S.C.A. 2680(h), which exempts tort claims against the Government for misrepresentation.

Had the association's claim been characterized by the courts as, for example, one of negligence on the part of the USDA, the asso-

ciation would have been allowed to bring its claim. (Claims have been allowed by courts against the USDA in similar circumstances for damages sustained from negligent inspection of rural housing under the Farmers Home Administration programs and meat under the Meat Inspection Program). Furthermore, had the grading been carried out by a nongovernment organization, the association would certainly have been allowed to bring its claim. Therefore, without legislative relief the association cannot prosecute a claim against the Government for its alleged losses caused by the USDA action. Again, I wish to emphasize that this legislation does not either concede liability on the part of the USDA or establish the amount of damages at issue. Rather, the legislation merely confers special jurisdiction on the U.S. Claims Court to award such damages as that court may find resulted form the misgrading. In short, the bill merely gives the Carolinas Cotton Growers Association its day in court.

SALUTE TO LIBERTY

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. HAMMERSCHMIDT. Mr. Speaker, the newly renovated Statue of Liberty will be the recipient of much attention this July 4th, but it is the hopes and dreams of the citizens of the United States and the world that have made her what she is.

Today, I would like to share a poem which was written by one of my constituents, Daphne Hamilton, an American History student at Woodland Junior High School in Fayetteville, AR. It is heartening to know that young people, like Daphne, understand the convictions and realities that are behind one of this country's greatest principal's.

Mr. Speaker, Daphne's salute to Liberty follows:

OUR STATUE: TEACHER OF LIBERTY

They came in sailing ships and liners,
Yearning to breathe free.
Leaving behind their homes and countries,
Searching for Liberty.
Some were tired, poor, and homeless;
Some were young and brave and strong.
Some were laughing as they saw the shore;
Some broke out in tears or song.
They waved and pointed at Our Statue,
As they sailed across the bay.
and here and there a family,
Fell upon their knees to pray.
Some called it the "promised land",
And expected streets of gold.
Some were lost. Many frightened,
Pretending to be bold.
Then they saw Miss Liberty,
And smiled at one another.
They reached out to clasp a hand.
They called each other "Brother".
My great grandfather was one of them,
And my grandma and some cousins,
Aunts and uncles followed them,
Coming over by the dozens.
They made me a little jealous.
Saying, "*Our* Statue of Liberty".
See, I was born and raised here,
And thought she belonged to me.
That's why I'd like to be a part,
Of the unveiling in July.
And mix with all the others,
See them shout and laugh and cry.
And brag about the nickels,
And the dimes and every penny,
We sent in to renovate.
Oh my, it took so many.
I'd like to see her where she's standing,
Proud and shining in the bay,
Carrying the torch of Liberty,
Still lighting Pilgrims on their way.

(Daphne Hamilton)

CASA GRANDE HIGH SCHOOL NATIONAL RESOURCES PROGRAM

HON. DOUGLAS H. BOSCO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. BOSCO. Mr. Speaker, I submit for inclusion in the CONGRESSIONAL RECORD the following remarks made by a group of concerned young people from Casa Grande High School in my congressional district. I would also like to take this opportunity to commend the faculty of Casa Grande and the many fine students that have invested their time and energy in this very innovative Natural Resource Program.

CASA GRANDE HIGH SCHOOL NATURAL RESOURCE PROGRAM

"We the students enrolled in the Natural Resources program at Casa Grande High School, 333 Casa Grande Road, Petaluma, California, 94952, on this day June 10, 1986 would like to formally voice our concerns for the protection and conservation of our Natural Resources in America.

We feel that America's homeland is being tragically ignored and continuing problems such as lack of real concern for America's endangered species, toxic waste disposal, air and water pollution, the declining importance placed on habitat loss for fisheries and wildlife plus reforestation programs. All these important issues should be heard loud and clear in Washington D.C. for it is our belief that our generation and others following will soon be denied the precious resources that has made our America the greatest country in the world."

Signed by 79 Casa Grande High School students.

SUITABLE DRUG TESTING REQUIRES SUITABLE INFORMATION

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. SHAW. Mr. Speaker, I rise today to respond to the release of a study by the Civil Service Subcommittee of the House Post Office and Civil Service Committee. I comment the chairwoman of the subcommittee for her efforts to further investigate the controversy over drug testing. I am particularly pleased that she endorses the concept of substance abuse testing to "help employees overcome drug dependency." I am also pleased at the conclusion of the study which states that "random testing is the one method which can effectively scare employees away from using drugs."

The subcommittee report is an improvement in the sensationalized atmosphere which has surrounded political reaction to the concept of drug testing. None of us doubts the epidemic proportions and associated tragedies of illegal narcotics usage. When the President's Commission on Organized Crime released its report recommending "suitable drug testing" last February, there was a great hue and cry about massive civil liberties violations and the potential demoralization of our Federal work force. Those who heightened the controversy treated the idea as if it were a bold new concept—untested in the American workplace.

We came to realize however, that drug testing is not new either to the private sector where 25 percent of the Fotune 500 companies do such testing, or the Federal Government where over 10 agencies or divisions have such programs. Even the New York Times uses such tests as a screen for new employees. The real controversy about drug testing arises if you view them in isolation. My support for drug testing is conditioned upon it being a component of a comprehensive strategy for conducting the war on drugs. Supply side interdiction and drug education programs are equally important in our efforts to come to terms with the Federal role in this area.

Unfortunately, the subcommittee's report fails to understand the context in which the recommendation for "suitable drug testing" was offered, and you cannot fairly evaluate the merits of a proposal if you lack suitable information about its context. The President's Commission recommended these tests precisely because they represented a new strategy to place more resources on the demand side of the drug equation. The solid and ever-increasing efforts of law enforcement to stem the supply of illegal narcotics have simply not done the job. Absent a determined effort to reduce demand for drugs, these efforts are doomed to failure. The subcommittee report reaches exactly the opposite conclusion:

Even if every government worker who used drugs stopped, it would not make a dent in the flow of drugs coming into this country.

The approach to drug abuse which says let's not inconvenience anybody or let's limit our efforts to helping people once they have a problem simply will not suffice. It won't effectively combat the side effects of the $50 billion drug trafficking generates for organized crime each and every year. It won't prevent or deter the lost productivity and accidents that occur in the workplace from recreational drug use off the job. And let us not fool ourselves and others into believing that an employee's off-the-job drug use won't affect his job performance the next day. In just one of our States during 1984, economic losses attributed to substance abuse were estimated to total $6.4 billion.

As to the practical side of the controversy, it is alleged that the tests are costly and inaccurate. The truth is that the tests are imperfect but also that the testing industry and all potential employers should recognize how to deal with such a problem. The answer is

simple. Never treat a positive result as an absolute. Verify any positive test and as my colleague has suggested use the information to help people not to hurt them. The press release accompanying the report suggests "the tests could run $100 per employee." I had my drug testing bill, H.R. 4636, evaluated by the Congressional Budget Office. They determined the average cost to be in the neighborhood of $15. It would be $45 if a secondary verification were needed because of a positive result. The cost to screen all new employees and randomly test one-third of the Federal employees with security clearances in any 1 year would be $41 million. Put that estimate in the context of multibillion-dollar annual losses due to drug use and you have the beginnings of a cost-effective strategy.

Drug testing is not a panacea. By itself, it cannot solve the drug problem. It will increase the effectiveness of our efforts to come to grips with the drug disaster. It is a positive step that leads by example. The willingness to submit to these procedures is not much different than the willingness to submit to a detailed physical examination. It seems to me that Federal employees are a concerned and positive force. Most of the ones that I encounter have a committment to public service. A suitable drug testing program carefully evaluated in the light of suitable information about its purposes and consequences is just another sign of professional commitment. I have made that commitment. It is a simple commitment. It does not play with words or base its priorities on minor inconveniences. Such a commitment says that all illegal drug use is intolerable and that demonstrating that you and those around you are drug free is a matter of pride and achievement.

SUPPORT TENANT MANAGEMENT OF PUBLIC HOUSING UNITS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mrs. COLLINS. Mr. Speaker, during debate on H.R. 1, the Housing Act, my good friend and colleague, Congressman FAUNTROY, offered an amendment that established a pilot program for resident management and maintenance of public housing projects. His amendment, which I voted for, is intended to encourage the management of public housing units by residents. This expression of support for "self-rule" comes at a time when tenants in housing projects are reeling from the lack of proper upkeep and maintenance in their buildings, and victimized by the lack of adequate security.

I must point out to my colleagues that the issue of self-rule is receiving tremendous support in the city of Chicago. The mayor, public officials, and residents of public housing units both in and around my district are behind this concept 100 percent. The residents of LeClaire Court, a public housing complex located in Chicago, has been given the go-ahead by the local housing authority to manage its units. Tenants have organized a core of residents from their 660-unit complex to manage the development themselves. Truly, this is an historic event for the residents of this southside housing project. They are to be applauded for taking the initiative!

Although this concept is new to the Chicago area, the successful management of housing projects by tenants has occurred in Boston, St. Louis, Washington, DC, New Orleans, and Louisville.

Since 1973, I have consistently fought to protect the vital interests of people affected by the full range of housing issues. To that end, I have vigorously supported all efforts aimed at maintaining a decent standard of living for all, by preserving existing housing units, and ensuring that the fair housing laws maintain their effectiveness. I have also taken the lead in promoting those issues of special interest to the people in Chicago by protecting residents of multifamily structures being converted to condo units, and by requiring HUD to provide for emergency repairs in low-income housing projects. In keeping with my efforts on this front, I urge my colleagues to support the goal of this amendment.

For the information of my colleagues, I have taken the liberty of attaching copies of editorials in support of "self-rule" which appeared recently in the Chicago Tribune and the Chicago Defender.

[From the Chicago Tribune, May 28, 1986]

LET RESIDENTS RUN PUBLIC HOUSING

Chicago Housing Authority officials have announced plans to give residents of the low-rise LeClaire Courts public housing project a chance to manage their apartment buildings. The happy results of similar experiments in other cities show the chances are good that the LeClaire residents will do a better job than the CHA, but only if they are given a real chance.

Details of how the LeClaire Court program will work have yet to be spelled out. But if the program is going to prove itself, CHA officials should grant the managerial responsibilities to its tenants. Relinquishing power over hundreds of thousands of dollars in work orders and contractors can be the most difficult step for public housing officials to make. But experience shows that tenant management does not get a fair chance until day-to-day operating decisions are turned over to the people who have to live with the results.

Residents of one St. Louis development saved their low- and medium-rise buildings from planned demolition. Tenants of a large Boston development brought theirs back from bankruptcy. Similar stories resulted from tenant management turnovers in Washington, D.C., New Orleans and Louisville.

Once their own leadership and energies were channeled into managerial responsibilities, the tenants did a more thorough job of screening prospective tenants and enforcing rules than the housing authorities. They also improved security, repopulated abandoned apartments, made architectural improvements and beautified the grounds.

LeClaire residents have spent the last three years organizing, researching and training themselves for this opportunity. They have earned a chance to prove themselves and to raise the hopes of public housing residents everywhere.

[From the Chicago Defender, June 2, 1986]

SELF-RULE IS GOOD FOR LECLAIRE RESIDENTS

Self-rule. It's a magic phrase for responsible, mature people. It means a level of independence that allows individuals to set their own rhythm and pace of life. And thanks to an understanding between the Chicago Housing Authority Board and the residents of Leclaire Courts, self-rule has been granted to the subsidized housing project.

This is a very important move since such an experiment is happening in only 12 areas around the nation. It shows that Chicago can be a leader in innovative approaches to solving special social problems. The city is also making a positive statement about its opinion of the people who live in the 615-unit townhouse complex of LeClaire Courts.

This effort has not come easily and will not be carried out without problems. But we, like city and CHA leaders, feel that the residents of the Courts can do the job well. Their leaders have the qualities necessary to spearhead such a bold venture. Experience shows that.

For example, the LeClaire people worked diligently for two years to get the chance to manage their own housing complex. Their efforts culminated in a decision for self-management and a $1 million capital improvement fund. Such results took commitment, endurance, patience, fine negotiation abilities and a myraid of other positive attributes.

The way they conducted themselves surely had a lot to do with the final OK being given. In fact, from the reported goings-on at the meeting in which the self-management status was formally conveyed, it was apparent that the residents had impressed a number of people of stature.

Mayor Washington hit the nail on the head when he said, "We are very proud of what you are doing," in exercising "that most sacred privilege in a democratic society, the right of self-determination . . . You'll make your whole neighborhood proud of you."

In the process of making others proud of their accomplishments, the residents will undoubtably be faced with many types of problems. That happens when an organization has the right to hire, fire, schedule repairs and collect rent. But the people of Leclaire won't be alone. The city will help them with sewer problems and the leaders will get at least three months of training from the National Center for Neighborhood Enterprise, a self-help organization based in Washington, D.C. Such support is very necessary.

The move is also a fine way to permit residents to make repairs which many claimed were taking too long to complete prior to the institution of self-rule. Now they don't have to go to the CHA. They can go directly to the carpenter, plumber, or other repairperson and get the job done to the tenants' satisfaction.

We wish the individuals of LeClaire Courts the very best of fortune and trust that they will prove to be excellent in their new responsibilities.

COMMEMORATING THE 45TH ANNIVERSARY OF THE RESTORATION OF UKRAINE'S INDEPENDENCE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. BROOMFIELD. Mr. Speaker, on June 30, 1941—some 45 years ago—Ukrainian underground forces in the city of L'VOV broadcast over radio the declaration of restoration of independence and the establishment of a Ukrainian free state.

This radio broadcast from the West Ukrainian capital signaled the restoration of Ukraine's independence for the first time since 1921. But, again Ukraine's independence was to be tragically short lived and costly.

Over the course of the next 4 years, the Ukrainian underground led by the Organization of Ukrainian Nationalists [OUN] and the Ukrainian Insurgent Army [UPA], conducted a campaign of civil disobedience, sabotage, reprisal and resistance warfare.

In 2 years time, the German military occupation of the Ukraine was disintegrating. In its place, the Soviet Union attempted to reestablish its authority over the Ukraine. But, the struggle against external control over the affairs of the Ukrainian people continued in this instance, as it had in every other instance. Military resistance continued into the 1950's and a fierce and tenacious nationalism persists to this day.

We cannot forget those millions of Ukrainians who remain ensnared in the Soviet police state. It is our responsibility to remind our fellow Americans, and the world at large, of Soviet aggression shortly after the first proclamation of Ukrainian independence in 1919; of the Soviet genocide commonly referred to as the famine of 1933–34; of Soviet mass murder committed during the German invasion of the Ukraine in 1941; of Soviet invasion following the declaration of restoration of independence and the defeat of the Germans in the mid-1940's; and of relentless Soviet hegemony since that time.

On the occasion of the 45th anniversary of the restoration of Ukraine's independence, let us take pride in the worthwhile contributions Ukrainian Americans have made in the development of this great Nation.

At the same time, let us be reminded of the injustice and repression that continues to burden the Ukrainian people. Theirs is a struggle to achieve freedom and dignity. Our task is to keep faith with them in the achievement of this worthy goal.

SOUTH AFRICAN DETAINEES

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. GRAY of Pennsylvania. Mr. Speaker, I rise to call my colleagues attention to the deplorable arrest and imprisonment practices now prevalent in South Africa. Not only are charges and a trial no longer required, but the South African police no longer even have to account for those whom they have indeed thrown in jail.

It is not difficult to imagine the stress and trauma which these conditions inflict upon those South Africans who have had loved ones disappear with no way of knowing whether they have gone into hiding, are in a South African prison, or have indeed been killed.

The Lawyers Committee for Civil Rights Under Law, Amnesty International, the World Council of Churches and other monitoring groups express their profound gratitude to those black South Africans who, at enormous personal risk, are getting to the outside world information on the thousands who have been thrown into South Africa's jails—at least 3,000 since the state of emergency was imposed just 2 weeks ago. No charges have been laid, no trial dates have been set, and there is a 10-year sentence or a $8,000 fine awaiting anyone who reveals either names or numbers.

Mr. Speaker, below are the names of a small number of South Africa's voiceless, invisible political prisoners. They cannot even be heard in South Africa, much less this country. Our voices are heard around the world however, and I urge my colleagues to continue to speak out forecefully against apartheid and on their behalf.

SOUTH AFRICAN DETAINEES, JUNE 24, 1986

Harris Sibeko.
Stephen William.
Zingisile Yabo.

NATAL PROVINCE

Durban

Eric Appelgreen.
Janet Appelgreen.
Adrienne Bird (Metal & Allied Workers' Union).
Chris Bonner (Official, Chemical Workers' Industrial Union).
Jackie Boulle.
Dr. V. Chetty (Natl. Medical & Dental Assn.).
Bhabha Dlamini.
Walter Freeman.
John Jeffery.
Ms. Oomie Jetham (Pres., Medical Students' Rep. Council, Univ. of Natal).
Sandy Joslyn.
"Blob"Khan.
Mrs. Jean Manning.
Yuven Naidoo.
Jennifer Pretorious.
Colin Ogle.
Nitha Ravjee.
Jeremy Routledge (End Conscription Campaign).
Mpho Scott.
Jabu Sithole.
Lechesa Tsinoli.
Dilip Vallabh.
Jeffrey Velani (Medal & Allied Workers' Union).
Shabir Yusuf.
150 DBN Westville Students.
8 People from Chatsworth.

Pietermaritzburg

Mark Best.
Yusuf Bhamjee.
Jacques Boulle (End Conscription Campaign).
Mr. A.S. Chetty (UDF)
Dr. V. Chetty.
Dennis Dickson.
Mathew East.
Francis Grantham.
Fr. Larry Kaufmann (Lecturer, St. Joseph's Scholasticate).
Yunus Karrim.
Peter Kerchoff (Organizing Secy., Agency for Christian Social Awareness).
Fr. Theo Kneifel (Lecturer, St. Joseph's Scholasticate)
Charles Lembi
C.D. Moodley
Dr. Shoko Motala (Natl. Medical & Dental Assn.)
Vis Naidoo
Mondli Skombuza Ngwenya
Azeria Ntombele
Gay Spiller
Joe Vawda

Other

Lizzie Mamabulo (Metal & Allied Workers' Union)
Willis Mchunu (Metal & Allied Workers' Union)

TRANSVAAL PROVINCE

Johannesburg

Dr. Abubaker Asvat (Transvaal Indian Congress)
Dom Peter Blaser (Justice & Reconciliation)
Azaar Cachalia (UDF)
Phiroshaw Camay (Gen. Secy., Council of Unions of SA)
Rev. Frank Chikane (UDF; Director, Inst. of Contextual Theology)
Saths Cooper (President, Azanian People's Organizations)
Jill Devlieg (Photographer, Afrapix; Black Sash)
Jay Harnden (End Conscription Campaign)
Maxine Hart (Johannesburg Democratic Action Comm.)
Patrick Lephunya (UDF)
Murphy Marobe (?) (UDF)
Fr. Mkhatshwa (UDF; Southern Africa Catholic Bishops' Conf.)
J. Mndaweni (Congress of SA Trade Unions)
R.A.M. Saloojee (UDF, former Vice President)
M. Samela (Congress of SA Trade Unions)
Jeanette Schmidt (End Conscription Campaign)
Joyce Sedibe (Congress of SA Trade Unions)
Sandy Smit (End Conscription Campaign)
Raymond Suttner (UDF; Law Lecturer, Univ. of the Witwatersrand)
Basheer Vally (Official, Commercial, Catering & Allied Workers' Union of SA)
Ismail (?) (Staff Member, Ipelegeng Centre, St. Paul's, Soweto)
2 Staff Members of The New Nation Newspaper
3 Free-lance Writers with The Weekly Mail Newspaper

Pretoria

Hans Hlalethwa (Deacon, Roman Catholic Church)
Titus Mafolo (UDF)

H.R. 4060, COLA RESTORATION

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. McEWEN. Mr. Speaker, one of the great strengths of our political system is the fact that Americans have a refined sense of

what is fair and equitable. It is this very fact that is so attractive to those who live in political systems that are arbitrary and self-serving. However, we have recently seen an aberration to the American perspective that all people should be treated fairly and equitably. For some unknown reason military, postal and Federal retirees have been singled out to bear the burden of balancing the budget. These retirees who have sacrifice so much to serve their country have been denied a cost-of-living adjustment.

In view of the fact that Social Security and veterans' benefits were protected from cuts, I believe that all Federal retirees should be afforded the same protection against inflation. During a period, when these retirees should be enjoying the fruits of their labors, they are instead confronted with unnecessary financial worries. In H.R. 4060, there exists a vehicle to correct this injustice. This legislation, which I have cosponsored, would guarantee a full cost-of-living adjustment in fiscal year 1987 for retired military, postal and Federal employees.

On June 24, 1986, the Congress reaffirmed the commitment our Government had made to all Federal servants by passing H.R. 4060, thus bringing equality and fairness back to the Federal retirement system. It has always been my belief that these benefits must be protected because of the many sacrifices Federal employees have made to ensure the future and freedom of our country.

I thank my colleagues for their efforts in getting this legislation passed.

THE OPPRESSION OF TRANSYLVANIAN HUNGARIANS AND ROMANIA'S MOST FAVORED NATION STATUS

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DWYER of New Jersey. Mr. Speaker, for a great many years, a number of my colleagues and I have attempted through various means to share with this House our concerns about the human rights abuses by the present Government of Romania against its national minorities, particularly the 2,500,000 ethnic Hungarians who reside principally in the Transylvania region. We have used "Dear Colleague" letters and concurrent resolutions and, as usual, Members of this body have responded to the pleas.

There is no question about the commitment of Congress to rectifying the suppression of human rights in Romania, particularly of the national minorities. Hungarians resident in Romania comprise the largest national minority in Europe outside of the Soviet Union and are a special concern of mine.

To date, efforts to engage the Romanians in discussion about the status of the Hungarian minority have met with no success. This is ironic, because they have been willing to discuss emigration matters, as well as the situation involving the fundamentalist Protestant denominations.

The Romanian Government argues that any concessions to nationalist minorities would result in the dismemberment of Romania. They maintain that abuses are claimed only by "Hungarian irredentist emigres," who what to return Transylvania to Hungary.

This red herring has been effectively used by the Romanians to prevent full discussions between our representatives and theirs. At one point, the Romanians were actually reported in the New York Times to have "threatened" to withdraw from their MFN status if Congress "interferes" with their sovereign rights toward the minorities.

Consequently, nothing has been accomplished by Secretary of State Shultz' visit in December, nor in the subsequent talks between State Department Counselor Derwinski and Romanian Ambassador Gavrilescu in Washington or Ambassador Kirk and the Romanian Foreign Ministry in Bucharest.

Currently, Mr. Speaker, the administration is requesting the continuation of the Most Favored Nation trade status for Romania for fiscal year 1987. The litany of abuses of human and religious rights in Romania is even more extensive than that of national minorities. One must only remember the bulldozing of Orthodox and Baptist churches, the beating and imprisoning of priests and ministers, and the continued abuse of those desiring to emigrate to the United States and elsewhere. Even without these offenses, however, the abuse of national minorities alone would be sufficient ground for the revocation, or at least the suspension, of their MFN status.

In the last decade, the situation for national minorities has seriously deteriorated. In "Human Rights Violations in Romania," Dr. Z. Michael Szaz relates disappearances, murders disguised as suicides, and the beating and jailing of many Hungarians in Romania. He reports that almost half of the arrests and more than half of the house searches between August 1984 and August 1985 were directed at national minority citizens. He also relates the gradual elimination of all higher education courses in Hungarian and limits placed on such courses in secondary schools.

Mr. Speaker, I cannot in good conscience allow the administration's request for the extension of Romania's MFN status to go by without bringing these abuses to the attention of the Congress. We must have meaningful talks and real concessions, not the least of which would be the end of the brutality against the hungarian minority.

As you know, H.R. 3599, of which I am a cosponsor, would suspend Romania's MFN status for 6 months. That legislation, Mr. Speaker, may be our most reasonable approach to force the Romanian Government to reexamine its policies and its relationship with its own ethnic minorities.

THE CHERNOBYL ACCIDENT STUDY ACT

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. GEJDENSON. Mr. Speaker, today I introduced legislation to require the Nuclear Regulatory Commission [NRC] to conduct a comprehensive study of the Chernobyl nuclear accident. Although I remain convinced that American nuclear technology is superior to Soviet nuclear technology, it is clear that there is much that we can learn from the Chernobyl accident. A balanced and rational evaluation of the accident could reveal information that we could use to make U.S. nuclear plants even safer than they are now.

I am very disturbed by the tendency of the nuclear industry and some NRC officials to immediately conclude that the Chernobyl accident has absolutely no relevance to the operation of U.S. nuclear plants. This conclusion is at best premature and at worst dangerously wrong.

Immediately following the accident the nuclear industry embarked on an extensive public relations campaign which asserted that, unlike U.S. reactors, the Chernobyl reactor had no containment structure. After the advertising campaign was over we found out that Chernobyl did in fact have a containment structure consisting of 1 to 2 feet of steel backed by concrete 6 to 8 feet thick.

It is also important to note that even the best containments in the United States are not designed to totally contain the radioactivity from a meltdown. Containments are designed to harbor radioactive steam resulting from a pipe break.

Recently, Victor Stello, the Director of Operations at NRC, said, "We see nothing coming out of this accident to suggest we need to change." I am very troubled by this statement. Instead of rushing to dismiss Chernobyl, NRC should be working hard to evaluate its implications for the United States. I am afraid that without explicit direction from the Congress NRC will fail to address the hard questions raised by Chernobyl.

To that end, I have introduced legislation to direct the NRC to conduct a comprehensive investigation of the implications of the Chernobyl accident for safety at U.S. nuclear powerplants. Included in the bill is a provision for an external review of NRC's conclusions by former NRC Commissioners, to ensure that the investigation is objective. The comments of the reviewers will be printed in the final NRC report on the accident.

I have directed the NRC to pay particular attention to the evacuation issue. NRC regulations only require evacuation planning for a 10-mile zone surrounding each nuclear plant. The fact that the Soviets evacuated an 18-mile area around Chernobyl suggest that 10-miles might not be adequate. I am also concerned that many U.S. reactors use a steam suppression system that is very similar to the one at Chernobyl. The NRC must find out whether or not the Chernobyl accident revealed any serious deficiencies with this system. Chernobyl can also provide us with a great deal of information on what effect the radiation released has had on the population surrounding the plant.

The NRC is required to submit the study of the Chernobyl accident to Congress and the President no later then 1 year after the enactment of the bill. The bill authorizes the NRC to use up to $1.2 million of the funds currently appropriated to it for research purposes to conduct the study. The study will not result in

any additional cost to the Government. The NRC currently spends over $100 million per year for regulatory research alone.

Over the years we have become increasingly complacent about the safety of nuclear power. Chernobyl has been a rude awakening. I strongly urge my colleagues to support this legislation so that we can learn all we can from Chernobyl in order to prevent a serious nuclear accident from ever occurring in the United States.

THE IRA EQUITY AND RETENTION ACT

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. BADHAM. Mr. Speaker, today I am introducing a resolution expressing the sense of the House of Representatives that not only should the income tax deduction for individual retirement accounts be retained but the contribution limit for nonworking spouses should be extended to a full $2,000.

In 1981, individual retirement accounts were revised in order to supplement Social Security and to improve individuals' prospects for a secure and prosperous retirement. Because Social Security is not intended, nor is it adequate, to meet all retirement needs, it is essential that the Federal Government continue to encourage the use of the IRA's, as they have proven extremely effective in developing private savings devoted to retirement needs. In fact, over the last 4 years, individual retirement accounts have produced additional, badly needed savings for the Nation's economy by encouraging a rise in individual savings of more than $200 billion. That is $200 billion of savings that might not have been accumulated otherwise.

It is clear that IRA's have served as an effective savings tool for all individuals, especially those in the middle-income bracket. Therefore, it is essential that Congress do all in its power to provide additional incentives to encourage even further savings. It is my belief that the IRA contribution limit for nonworking spouses should be raised to $2,000. This increased contribution limit would encourage increased capital formation and productivity as well as enhance retirement security for couples. Further, a nonworking spouse contributes just as much to the Nation's economy and society as the working spouse. Is it fair to deny the nonworking spouse the same opportunities to provide for equally needed and deserved savings for retirement security?

With the conference on tax reform legislation to begin when we return from the recess, I urge my colleagues to join me now in sponsoring the IRA Equity and Retention Act in order to preserve the IRA and make it fair to all Americans who want to provide for their own financial security in their retirement years.

MILITARY CHAPLAINS FAITH BALANCE ACT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. SMITH of New Jersey. Mr. Speaker, I call attention today to the bill, H.R. 1875, the Military Chaplains Faith Balance Act, of which I am a cosponsor, to urge their support of this legislation.

In principle, Mr. Speaker, religious freedom is a basic right of all humanity. In practice, however, it is a right which unfortunately continues to be violated in parts of the world. As a member of the House Foreign Affairs Subcommittee on Human Rights and the Helsinki Commission, I am well aware of the systematic denial of religious freedom which some authoritarian regimes practice against their citizens. Having had the opportunity to study these violations of a fumdamental human right, I am all the more concerned that we in the United States continue to protect that right to the best of our ability.

Yet in our great Nation which has, above all others, protected the rights and freedoms of its citizens, some may be surprised to learn that there is currently an imbalance in the representation of various religious faiths among chaplains of the Armed Forces as compared to the representation of those faiths among members of the Armed Forces as a whole.

Certainly, this imbalance does not suggest a lack of commitment to the right of individuals to freely practice the religion of their choice. At the same time, I feel that it is an issue which should be addressed.

Mr. Speaker, I congratulate Congressman BORSKI for introducing his bill, H.R. 1875, directing the Secretary of Defense to increase the representation of underrepresented faiths among Armed Forces chaplains. Once again, I urge my colleagues to join me in cosponsoring this meritorious piece of legislation.

AN ARTISTIC DISCOVERY: CHRISTOPHER WEBB

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. STOKES. Mr. Speaker, it gives me great pleasure to present to my colleagues Mr. Christopher Webb, the winner of the Artistic Discovery competition in the 21st Congressional District of Ohio. His outstanding entry, entitled "Robin," demonstrates superior artistic talent for a person of such tender years.

Mr. Speaker, I am very proud to have Christopher represent my home district in the Artistic Discovery competition and ask that the following article detailing the accomplishments of this young man be inserted in the RECORD.

[From the Cleveland Plain Dealer, June 15, 1986]

SENIOR'S WINNING PORTRAIT OPENS DOORS FOR HIS FUTURE

(By Timothy Puin)

Christopher Webb may one day think of "Robin" as the turning point in his career. The John Marshall High School senior has won the Artistic Discovery competition in the 21st Congressional District for "Robin," his pastel portrait of a teen-age girl.

His work bested 52 other entries from six high schools, and Webb said the achievement confirmed his desire to be an artist.

"I'm starting to see myself as having a better chance at doing something, now that I'm getting this attention," he said. "I like the attention, and I want to get more."

"Robin" has assured Webb plenty of exposure. Last week, "Robin" and other outstanding works of 21st District art students were displayed at the Malcolm Brown Gallery in Shaker Heights.

Webb's pastel has been shipped to Washington, D.C., where it will be displayed with other winning entries from across the country. The works will hang for a year in the corridors of the Capitol.

The office of Rep. Louis Stokes, D-21, of Warrensville Heights, is paying Webb's way to Washington, where later this month the student will attend a reception in honor of the winners.

The competition was initiated five years ago, and this is the third year Stokes' office has participated. The 21st District includes Shaker Heights and Heights high schools, as well as other schools with strong art programs. But for the second straight year, a John Marshall student has won.

John Page, chairman of the school's fine arts department, sees the school's success as a product of hard work. "I think that basically we work a little harder at it," he said.

Page said Webb was a hard worker.

"He's industrious," he said. "He wants to work. He has the interest and the ability."

Webb said he had thought about being an artist since seventh grade. "I've always liked to draw, and I've gotten a lot of encouragement from teachers and my family," he said.

He said he transferred from John Adams in the 11th grade, to join John Marshall's commercial arts program.

Page is the only teacher in the program, which takes up four school periods a day for two years. There are 17 participants in the program.

Webb said he planned to attend the Pittsburgh Institute of Art in the fall, because of the school's two-year program and high job placement rate.

"I want to be successful," he said. "I want to do something that people can look up to, especially in my family."

THE GREATER LOS ANGELES WORLD TRADE CENTER AT LONG BEACH DAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to all the people who were and still are involved in the development and construction of the Greater Los Angeles World

Trade Center at Long Beach. On July 9, 1986, the Greater Los Angeles World Trade Center at Long Beach Day, ceremonies will be held at the future site of the World Trade Center to mark the official groundbreaking.

On a 12.7 acre site in the heart of Long Beach's central business district at the intersection of Ocean Boulevard and the Long Beach Freeway, the Greater Los Angeles World Trade Center at Long Beach, when completed, will contain 2.2 million square feet of commercial space and a major hotel and will have a total value in the vicinity of $500 million. The World Trade Center, however, is not just an office complex. It is designed specifically to encourage and enhance world trade in the Long Beach/Los Angeles port complex area. At present, the companies, organizations, unions and representatives of foreign nations that are involved in the trade at the twin Ports of Los Angeles and Long Beach have their offices scattered throughout southern California, from the seacoast to the mountains. The World Trade Center will call attention to our overseas trade, while providing a focal point for the industries involved in that trade and creating service firms and facilities to serve these industries. Additionally, the design of the World Trade Center has been the product of cooperative work by some of the world's leading architects and designers, and the plan, which involves innovative techniques and the latest in telecommunications technology, is evidence of the quality of the work that went into the design.

As many of my colleagues know, in recent years the shift of our overseas trading patterns has sent more trade to our west coast than our east coast. The Ports of Los Angeles and Long Beach have handled some 60 percent of our west coast trade, and have become the hub of trade with the Pacific Rim and the Pacific gateway to the United States. Arguably the largest port complex in the United States, the Ports of Los Angeles and Long Beach have experienced tremendous growth and expansion in recent years, and the construction of the Greater Los Angeles World Trade Center at Long Beach is yet another symbol of the dedication and devotion that the people in the South Bay Area feel towards accommodating and enhancing the needs of world trade in southern California.

It is with great pride and delight that my wife, Lee, joins me in saluting all the people from the Ports of Long Beach and Los Angeles, from IDM/Kajima, the developer, and all the other people whose contributions of time, energy and hard work have made the groundbreaking of the Greater Los Angeles World Trade Center at Long Beach a reality. We look forward to seeing their hard work come to fruition with the completion of all the various phases of the World Trade Center.

INTERNATIONAL TRADE DEFICIT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LAGOMARSINO. Mr. Speaker, in light of the fact that we have just completed the omnibus trade bill of 1986, I would like to bring to the attention of my colleagues an excerpt from a recent "Dear Abby" column provided to me from my constituent R.J. Riggles of Ventura, CA, regarding the problems with our international trade deficit.

DEAR ABBY. I am sending you an article I clipped from an American Legion magazine. If you print it, our trade balance might improve, which would be a great service for our country. Thank you.

ROY B. in Huntsville, AL.

"ONLY IN AMERICA

"He drove his German car made of Swedish steel and interior of Argentine leather to a gasoline station, where he filled up with Arab oil shipped in a Liberian tanker and bought two French tires, composed of rubber from Sri Lanka.

"At home, he dropped his Moroccan briefcase, hung up his Scottish tweed coat, removed his Italian shoes and Egyptian cotton shirt, then donned a Hong Kong robe and matching slippers from Taiwan.

"More comfortable now, he poured a cup of hot Brazilian coffee into an English coffee mug, set a Mexican place mat on an Irish linen tablecloth atop a Danish table varnished with linseed oil from India. Then he filled his Austrian pipe with Turkish tobacco, lighted it and picked up a Japanese ballpoint pen with which he wrote a letter to his congressman demanding to know why the United States has an unfavorable balance of trade."

IMMIGRATION AND THE AMERICAN DREAM

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. GARCIA. Mr. Speaker, as we approach the Fourth of July and the celebration of the 100th anniversary of one of our greatest symbols, the Statue of Liberty, it is important to remember what the many immigrants who have come to this country represent and what they have contributed to the United States. In this month's Psychology Today, Mario Cuomo, Governor of New York, has written an essay on the meaning of immigration of America which I would like to share with my colleagues.

[The essay follows:]

THE AMERICAN DREAM AND THE POLITICS OF INCLUSION

(By Mario M. Cuomo, Governor of New York)

"Our society must resist those who would close our doors to future immigrants"

With all the high points and low points, expansions and contractions this astounding country of ours has experienced in the last 210 years, one theme in our history has been constant; one thread has tied together more than two centuries of striving: the struggle to include.

For the past 210 years we have taken the unprecedented boast of our Declaration of Independence—the promise of equality, life, liberty and the pursuit of happiness—and struggled to extend it to every American. That challenge and opportunity have always been there, driving events in period after period of our history. It is there in the first lines of the Declaration of Independence—in the idea that governments are created to secure those basic elements of what we now call the American dream for every citizen. This might be called the "politics of inclusion."

It is politics that never divides but unites; that never rejects but embraces; that never stoops to playing one side against another—group against group, state against state, region against region. The politics of inclusion rejoices with those who have earned success but is forever taking up the cause of those who are not yet included—the outsider, the immigrant, the oppressed. It is forever reminding those of us who already possess some share of the American dream that the dream is not yet fulfilled, the promise of our founding fathers not yet complete, until everyone has been included.

What I have discovered is that each individual's effort to fulfill the American dream is essentially the story of millions of Americans, whether they came here by way of Plymouth Rock or Galveston, Ellis Island or the Los Angeles airport. It was, in some ways, my own story too. And that makes me marvel at this amazing place, America, all over again. Like millions of others, I am privileged to be a first-generation American. My mother and father came to this country more than 60 years ago with nothing but their hopes—without education, skills or wealth. The opportunity given them here to lift themselves through hard work enabled them to raise a family. My mother lived to see her youngest child become chief executive of one of the greatest states in the greatest nation in the only world we know.

Like millions of other children of immigrants, I know the strength that immigrants can bring. I know the richness of a society that allows us to enjoy a whole new culture without requiring us to surrender the one into which our parents were born. I know the miraculous power of this place that helps people rise up from poverty to security, and even affluence, in the course of a single lifetime. With generations of other children of immigrants, I know about equality and opportunity and unity, in a special way.

I don't think the view of America from South Jamaica, Queens, the New York City neighborhood where I grew up, was much different from the view available in any of the hundreds of neighborhoods throughout the country where immigrants of every nationality began their pursuit of the American dream. I would guess that in each place there was, and is, the same aching to belong—the sense that we could be a part of its place, if we wanted to work hard enough, and the knowledge that indeed we would have to work very hard because our people weren't born to this place, this land. And I think I know how hard it was and still is, for children going to school where the dominant language was not the language of their home, where the words sounded hard-edged and tight compared to the rolling, rounded rhythms of their father's and mother's tongue—whether that language was Italian, Spanish, Russian or Chinese.

I think I know, because that language sounded so different for me from the world of words of South Jamaica's "Italian blocks," where passion, pride and powerlessness all lived together, and people talked with their hands and hearts.

And I know how, from time to time, all this can be challenged by the misguided, by the shortsighted and the unkind, by contempt that masks itself as humor, by all the casual or conscious bigotry that must keep

the American people vigilant. We have heard such voices again recently: Italians are not politically popular, they say. Or Catholics will have a problem. Or more generally, he has an "ethnic problem."

We hear the familiar word "wop" again. "We often-times refer to people of Italian descent as 'wops,'" one public figure recently proclaimed unabashedly. Now, given the unbroken string of opportunity and good fortune provided me by this great country, I might simply have ignored these references. I could easily have let the words pass as inconsequential. But the words took on significance because they were heard far beyond my home or my block or even my state. They were heard by others who remembered times of their own when words stung and menaced them and their people.

Cruel words that wound an entire people raise a question about our fundamental system of American values. Are there really so many who have never heard the sweet sound of reason and fairness? Do so many not understand the beauty and power of this place that they could make of the tint of your skin, the sex you were born to or the vowels of your name an impediment to progress in this land of opportunity?

I don't believe most Americans share in this divisive point of view, so I publicly requested a response to the voice of division. "It is the voice of ignorance," I claimed, "and I challenge you to show me otherwise." In no time at all the answer came back from the American people. As if in unison, people from across the nation responded the same way: "Of course it's wrong to judge a person by the place where his forbears came from. Of course that would violate all that we stand for, fairness and common sense. It shouldn't even have been brought up. It shouldn't even have been a cause for discussion."

I agree. It should not have been. But it was. And the discussion is now concluded, with the answer I was sure of and the answer I am proud of as an American, the answer Abraham Lincoln would have given: You will rise or fall on your merits as a person and the quality of your work. All else is distraction. Lincoln believed, with every fiber of his being, that this place, America, could offer a dream to all people, different from any other in the annals of history. It was a place more generous, more compassionate and more inclusive than any other. No one better understood our sturdiness, the ability of most of us to make it on our own given the chance. But at the same time, no one knew better the idea of family, the idea that unless we helped one another, there were some who would never make it.

One person climbs the ladder of personal ambition, reaches his dream and then turns—and pulls the ladder up. Another reaches the place he has sought, turns and reaches down for the person behind him. It was that process of turning and reaching down, that commitment to keep lifting people up the ladder, that defined the American character, stamping us forever with a mission that reached even beyond our borders to embrace the world.

As individuals, as a people, we are still reaching up, for a better job, a better education, even for the stars. What other people on Earth have ever claimed a quality of character that resided not in a way of speaking, dressing, dancing or praying, but in an idea? What other people on Earth have ever refused to set the definitions of their identity by anything other than that idea?

No, we have not learned quickly or easily that the dream of America endures only so long as we keep faith with the struggle to include. We cannot rest until the promise of equality and opportunity embraces every region, race, religion, nationality and class, until it includes "the penniless beginner" and the "poor man seeking his chance."

We reached out—hesitantly at times, sometimes only after great struggle—but always we reached out, to include impoverished immigrants, the farmers and the factory workers, women, the disabled. To all those whose only assets were their great expectations, America found ways to meet those expectations—and to create new ones. We provided the opportunities for generations of hardworking people to move into the middle class and beyond.

We created a society as open and free as any on Earth. Always, we have extended the promise. We have moved toward our declared purpose as a people: "to form a more perfect union," to overcome all that divides us because we believe the ancient wisdom that Lincoln believed—"A house divided against itself cannot stand."

Step by step, our embrace grows wider, our beliefs stronger. What do we believe? We believe most of all in mutuality; the sharing of benefits and burdens; a recognition that we are—all of us—bound to one another in need and in opportunity. I reject the preaching that we must accept new limitations—that America can no longer afford to include everyone. And I reject the belief that what was possible for the Cuomos and the families of newcomers 10 generations before them is no longer possible now.

I reject the idea that America has used herself up in the effort to help outsiders in, and that now she must sit back exhausted, watching people play the cards fate has dealt them. It would be a desecration of our belief and an act of ingratitude to end the struggle for inclusion because it is over for some of us. We have no right to be content, to close the door to others now that we are safely inside.

We must, instead, continue to live the truth, to go forward, painful step by painful step, enlarging the greatness of this nation with patient confidence in the ultimate justice of the people.

MARY McKINNEY OF SAN FRANCISCO MAY BE THE OLDEST LIVING PERSON

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mrs. BOXER. Mr. Speaker, I would like to take this opportunity to salute a remarkable resident of San Francisco whose longevity deserves recognition. Mary "Mamie" McKinney recently celebrated her 113th birthday at a wonderful birthday party I had the privilege of attending. She is the world's oldest documented living person.

Mamie grew up in Oakland and became a dancer in the theater there. She can remember camping out on Twin Peaks for 2 weeks after the Great Earthquake of 1906. At the time she was married to James McKinney, whom she has outlived by more than 40 years. Although she has survived her peers and has no children, her extraordinary vitality and love of life have attracted friends of all ages.

One of the many lessons we can learn from Mamie is that a supportive atmosphere contributes greatly to the well-being of the elderly. Mamie's good health is a tribute not only to modern medical care, but to her environment.

All seniors should be able to enjoy life as Mamie does, but social support and access to quality health care are not always there. Today the elderly comprise the highest number of the poor in this country, yet there is a constant struggle between this administration and the Congress on what our priorities should be.

When Mamie was born, Ulysses S. Grant was President. There was no Social Security or Medicare, and women did not have the right to vote. Mamie has seen this country come a long way during her 113 years, but we clearly have a lot further to go before the quality of Mamie's later years is the norm for our senior citizens rather than the exception.

At her birthday party Mamie said, "I loved to dance. I still love to dance," and I hope she keeps on doing just that. We have benefited from her wisdom and high spirits. I feel privileged to have met her and I look forward to her 114th birthday.

FAIRNESS IN COST-OF-LIVING ADJUSTMENT PROTECTION

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LEHMAN of California. Mr. Speaker, today I rise to commend the House of Representatives for the positive stand it has taken to promote fairness and equity in retirement security for our Nation's elderly. With the approval of H.R. 4060, the House has demanded that our Nation provide the same 1987 COLA protection to Federal, military, and railroad retirees as it provides for those retirees covered under the Social Security system.

Perhaps the most important element contributing to retirement security is protection against the erosion of purchasing power provided through indexing retirement benefits. This security, however, has since 1976 been under prolonged legislative attack for those individuals who are covered under the civil service retirement system and other retirement systems, excluding Social Security. Inflation does not discriminate between groups of senior citizens; neither should inflation protection.

The most recent assault on non-Social Security retirement systems was the enactment of Public Law 99–177, otherwise known as the Gramm-Rudman Balanced Budget and Deficit Reduction Act. This measure eliminated the 1986 COLA for Federal, military, and railroad retirees that was scheduled to be paid in January 1986 annuity checks. Moreover, the Gramm-Rudman measure jeopardizes the payment of the COLA for these individuals for the next 5 years as well.

Without COLA protection, the value of the annuity is reduced for the many individuals who have served their Nation in the civil serv-

ice, the military, and otherwise. Not only does the denial of the COLA's undermine the financial security of these retirees, it endangers the integrity of these retirement systems.

The guarantee of an annual COLA serves the interests of management, labor, and the public by promoting an efficient Government workforce and providing for financial security for workers in their retirement. These earned retirement benefits are among the most important economic assets of older persons in our society. Indeed, for many they constitute the only asset.

For this reason I applaud the House of Representatives for taking action today to remove this inequity. With the passage of H.R. 4060, the House has called for justice and equity to prevail in offering 1987 COLA protection to Federal, military, and railroad retirees in the same manner as Social Security.

TRIBUTE TO RETIRING EDUCATORS OF COVINA UNIFIED SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. TORRES. Mr. Speaker, I am here before my colleagues to give special recognition to the retiring educators of the Covina Unified School District being honored by the Covina Unified Education Association.

The Covina Unified Education Association is the professional organization of Covina educators who work together toward improving the teaching profession. They make the public aware of the problems facing education, and seek solutions through the political process in order to benefit our children, community, and country.

This year, the association honored 11 of their fellow educators. As educators, they have dedicated themselves to enhance the lives of children. These individuals have committed themselves to our children, so our children can become the future educators and leaders of our Nation. They have retired this year, but they leave behind them a very profitable and distinguished legacy.

Lois G. Atherton received her B.S. in zoology/botany from Louisiana State, her M.A. in education administration from Azusa Pacific, and her graduate credits from USC. Lois taught adults for 15 years. Previously, she taught seventh and eighth grade math and science.

Naomi Bartholomew has spent 25 years instructing children of all ages. Naomi attended college in Wheaton, IL, received her B.A. from La Verne University, her M.A. in social science from Azusa Pacific, and was voted "Teacher of the Year" by her students.

Stuart Bates has spent 38 years in various positions at Covina High School. Stuart received his B.S. from Cal Tech, his teaching credentials from the University of Redlands, and his M.S. from the University of Southern California. Stuart has also dedicated his service to our country as a member of the Naval Reserve for 27 years.

June Forrester has been an educator for 27 years. For all of her teaching career, she has taught first-grade children. June received her B.S. from Ohio State University.

Carmen Garcia received her B.A. degree at Helena Herlihy Hall in Mexico City and her M.A. from the University of Mexico. Carmen has instructed the youth of the community for 45 years. She has shown dedication, patience and compassion to her children. She will be missed.

Elizabeth Gracza has dedicated 30 years of her life to education and has done a job worth recognition. Elizabeth received her B.S. at the University of Buffalo and has earned graduate credits from both the University of Buffalo and Claremont.

Lois T. Hartnett has taught for 22 years subjects such as English, drama, and business education. Lois graduated from the University of Idaho. Her college career was highlighted by becoming a Phi Beta Kappa.

Paul Hontz has taught English for 33 years at various schools. Paul received his B.A. at Houghton College in New York and his M.A. from Bucknell University in Pennsylvania.

Jan Overton received her B.A. from Baker University in Kansas, her M.A. in education from Whittier College. She has also taken courses at UCLA, USC, and the California State University at Los Angeles. Jan has spent a total of 39 years in education.

Floyd Roenicke has been an educator for a total of 35 years and he has served in many capacities. Floyd received his B.A. from Whittier College and his M.A. from Cal State Los Angeles.

B. June Yarnell received her B.A. and M.A. from Cal State Los Angeles. June has instructed for a total of 35 years. June is a member of Delta Kappa Gamma and Delta Phi Upsilon.

Mr. Speaker, I rise before you and ask you to join me in giving recognition to these fine individuals who have dedicated so many years to education. These fine people are the epitome of complete dedication and hard work. I ask my colleagues to join me in thanking them for a job well done and wish them the best for the future.

SECRETARY BENNETT COMMENTS ON CITIZENSHIP EDUCATION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. SOLOMON. Mr. Speaker, I would like to commend to my colleagues the remarks made by William Bennett, Secretary of Education, on the important subject of citizenship education. He praises the National Education Association for this endeavor in this area of education, and I found his remarks exceptional:

[From Education Policy Insights, April 1986]

CITIZENSHIP EDUCATION: A GIFT FROM THE NEA

(By William Bennett, Secretary of Education)

I would like to praise the NEA for one of the most ambitious publications it has produced to date. It is a document worth noting for its general theme, as well as for many of its particulars.

It is worth noting for its general theme because it presents us with a vision of a significant dimension of life which we hear a lot about in our schools, but about which we often lack a view steady and whole. That dimension is citizenship.

In recent months, I have spoken much about the importance of nurturing citizenship in our young people. I have said that it is important that our young people develop an appreciation of their country, that they recognize why this nation is unique, and why it is worth defending. I have said that citizenship education is a necessary function of our schools, necessary for our children and necessary for our country.

In many quarters what I have said about citizenship education has been well received. I cannot claim that it is an original idea. It is, in fact, among the goals that one of our greatest presidents identified as fundamental to education. Thomas Jefferson, in his Rockfish Gap report, said that, among other things, education must inform students of their "rights, interests, and duties as men and citizens."

EDUCATING SCHOOL CHILDREN TO BE RESPONSIBLE CITIZENS

Despite this considerable precedent, however, there are some who question the notion of citizenship education. Some contend that education in citizenship amounts to little more than indoctrination. Others charge that citizenship education could not be effected without offending one or another of the various groups in our population.

But in the book I have in mind, the NEA has shown us otherwise. It is written for American schoolchildren in the explicit task of educating them to be responsible citizens, responsible members of American democracy. It accomplishes the task with remarkable balance and clarity. It does not brainwash, distort, or offend: it simply tells the truth.

I think it is particularly timely today to talk about this in light of the current dissatisfaction with some textbooks and other materials that deal with the topic of civics and citizenship. There are some things that do not recommend themselves to children's education, but occasionally we find things that do.

Here is a text that does. And just as some deserve criticism, this one deserves praise.

ITS SHARP SENSE OF AMERICAN FREEDOMS

The document I am referring to is called The American Citizens Handbook. It was first published by the National Education Association in 1941, and continued to be printed through 1968. I have the 1941 edition here with me today. This edition is particularly impressive since the circumstances of the war in Europe seems to have made especially sharp its sense of the importance of our American freedoms. Today, forty-five years later, this book retains remarkable strength and relevance.

The Handbook is divided into ten parts; they are as follows:

I. Your Citizenship in the Making;
II. Patriotic Selections, Poetry, and Song;
III. Heroes of American Democracy;
IV. The Flag of the United States;
V. Charters of American Democracy;
VI. Patriotic Pilgrimages and Shrines;
VII. What Everyone Should Know About Law;
VIII. The American Citizens Reading;
IX. Facts for Every Citizen; and

X. Citizenship Recognition Day.

THE DETAILS, THE WELFARE OF THE NATION

Now, within these chapters there is an enumeration and elucidation of many of the details of good citizenship. First, there is a firm reminder of the fundamental importance of citizenship education to the welfare of the nation. It appears on page 36 in an essay written by a former college president. He writes:

"We have a military preparedness challenge to face on a national front. We hope and expect that this is being given proper attention. This is the responsibility of professionals in another field. Shall we (educators), in our own professional bailiwick, do our job in the field of intellectual and moral preparedness so that this democracy shall have unity, a national goal, and a loyal citizenship which believes that law, equality, and justice are worth any necessary sacrifice?"

This is a strong statement of purpose. And the Handbook is no less sure of itself in answering questions of method. How are we to do our job in the field of intellectual and moral preparedness so that our students will know that the democracy they inherit is worth any necessary sacrifice? What kinds of things should we tell them? What principles should we urge them to cherish and what traditions should we teach them to respect? Allow me to outline for a few minutes the answers offered by the NEA in The American Citizens Handbook.

AMERICA FIRST

First of all, what should we be aiming for? What do we mean by good citizenship? Here we find a simple, eloquent explanation by a former Chief Justice of the Supreme Court, in a section entitled, "What The Flag Means." He writes:

"It means America first; it means an undivided allegiance. . . . It means that you cannot be saved by the valor and devotion of your ancestors; that to each generation comes its patriotic duty; and that upon your willingness to sacrifice and endure as those before you have sacrificed and endured rests the national hope.

"It speaks of equal rights; of the inspiration of free institutions exemplified and vindicated; of liberty under law intelligently conceived and impartially administered. There is not a thread in it but scorns self-indulgence, weakness, and rapacity. It is eloquent of our common destiny."

That, I think, is a lesson of citizenship every American student should learn today, and one that we should not be afraid to teach.

THE GREAT DOCUMENTS

Now for a more specific question. What should students study in American history? In recent years this has been an issue of confusion and controversy in our schools. But here, in Part Five, "Charters of American Democracy," are the texts of certain documents: The Magna Charta, the Mayflower Compact, the Declaration of Independence, Washington's Farewell Address, the Gettysburg Address, Lincoln's Second Inaugural Address, the Constitution of the United States. Here is what the American Citizens Handbook says about the Constitution: "Every American should know its content. It is the greatest single document in the entire struggle of mankind for orderly self-government."

ROOTED IN RELIGIOUS BELIEF

Our Constitution and our democracy, did not emerge ex-nihilo. This too the NEA's The American Citizens Handbook understands, and teaches. Here is what it says in a section entitled "Religious Ideals, the Foundation":

"The American concept of democracy in government had its roots in religious belief. This ideal of brotherhood of man roots down into the fundamentals of religion. The teachings of the Hebrew Prophets and of Jesus Christ inculcate the idea of brotherhood. The growth of the idea gave us the concept of democracy in government. It ennobled home life. It emphasized the sacredness of human personality."

And The American Citizens Handbook contains the texts of a few documents indispensable to an understanding of the Judeo-Christian tradition. They include the Golden Rule, the Ten Commandments, the Lord's Prayer, and 1 Corinthians 13. If I have sometimes sparked controversy by suggesting that the Judeo-Christian tradition is part of every American citizen's heritage, then I am pleased to say that I have the NEA—at least the NEA of The American Citizens Handbook—on my side.

I have often said that when it comes to teaching citizenship, we cannot afford to teach cultural relativism. We cannot afford to act as though all forms of government and all political traditions are equal. They are not.

POETRY AND SONG

How do we engage in the teaching of patriotism? How do we foster in our students a love for their own country? There are some answers in Part Two, "Patriotic Selections, Poetry, and Song." In addition to poems and songs, there is the "American's Creed." Let me read it to you:

"I believe in the United States of America as government of the people, by the people, for the people, whose just powers are derived from the consent of the governed; a democracy in a republic; a sovereign nation of many sovereign states; a perfect union, one and inseparable, established upon those principles of freedom, equality, justice, and humanity for which American patriots sacrificed their lives and fortunes.

"I therefore believe it is my duty to my country to love it, to support its Constitution, to obey its laws, to respect its flag, and to defend it against all enemies."

TRUTH AGAINST INDOCTRINATION

Is material like this a means of indoctrination? No, there is a difference between indoctrinating and fostering love of country. That difference will always be clear as long as we simply give our students the truth about America—the truth about its achievements as well as its faults. How should we approach those truths? The Handbook sets the appropriate tone. Let me read to you from an essay written by a former Executive Secretary of the NEA:

"I thank God I'm an American. All may not be right with America. There is still with us some of the social injustice and inequality to the removal of which we dedicated ourselves as a young nation. But the fundamental human rights which are the essence of Americanism are still held sacred by our people and by our responsible leaders. We have all and much more than the Pilgrim fathers expected to secure for their posterity in the New World."

And just as our schoolchildren should know the whole truth about their own country, they should know that there are systems of government that cannot be morally sanctioned. Let me read again from the same essay:

"I am glad to have these rights guaranteed to me in the most sacred instrument of our government—the fundamental law of the land—so they cannot be taken from me by pretext or annulled at the will of some dictator. I count it one of the greatest of blessings that I can exercise these rights without fear of secret police, concentration camps, or exile from my country."

If we give our students the whole truth about our own record and the records of others, I believe they will never be embarrassed to stand up for our less than perfect America. And they will not be hesitant to address these imperfections that do remain.

COMMON SENSE, BASIC VALUES

What about the question of teaching values? How shall we talk about values? In this book is a statement of values which merits our attention. It manages to do easily and comfortably what many claim is an unmanageable task: it manages to come up with a consensus of values that is central to the American experience, that is not peculiar to one group or religion or another. Here in Part One is a set of moral precepts entitled "The Code of the Good American." Let me read parts of it to you.

I will control my tongue, and will not allow it to speak mean, vulgar, or profane words.

I will control my thoughts.

I will control my actions.

I will gladly listen to the advice of older and wiser people; I will reverence the wishes of those who love and care for me, and who know life and me better than I. I will develop independence and wisdom to think for myself.

I will try to find out what my duty is as a good American, and my duty I will do, whether it is easy or hard.

I will be honest, in word and in act. I will not lie, sneak, or pretend.

I will be loyal to my family. I will be loyal to my school. I will be loyal to my town, my state, my country.

There is nothing difficult about arriving at the basic values we must teach our children if they are to be good citizens, good students, good parents, good workers, and good neighbors. The American people know this. It is ingrained in their own common sense, and that common sense is manifested here in this Handbook.

SOUND TEACHERS

There are other manifestations of common sense here that speak to questions being asked about our schools. The question of teachers, for example. How are we going to ensure an adequate supply of teachers in the coming years? How are we going to ensure that they are the right kind of people for the job—people who know the subject matter, are sound of character, and who are interested in teaching the young? And how should we foster the honor and respect the profession deserves? One way would be to ask our students to read a selection in this book entitled, "The Future Teachers of America Pledge." Here's the pledge, from this NEA book, with the NEA's blessing:

Physical vitality.—I will try to keep my body well and strong.

Mental vigor.—I will study daily to keep my mind active and alert.

Moral discrimination.—I will seek to know the right and to live by it.

Wholesome personality.—I will cultivate in myself goodwill, friendliness, poise, upright bearing, and careful speech.

Helpfulness.—I will learn the art of helping others by doing helpful things daily in school and home.

Knowledge.—I will fill my mind with worthy thoughts by observing the beautiful world around me, by reading the best books, and by association with the best companions.

Leadership.—I will make my influence count on the side of right, avoiding habits that weaken and destroy.

These things will I do now that I may be worthy of the high office of teacher.

FAITH IN GOOD CHARACTER AND CITIZENSHIP

With respect to a host of important questions relating to citizenship, the NEA's American Citizens Handbook speaks with the kind of directness and wholeness of purpose that one often looks for in vain in many of today's textbooks and collections of materials. It speaks with a sense of confidence in purpose that contemporary educators are often unable to find. The handbook was written nearly half a century ago, and last published the year that today's high school seniors were born; but it contains lessons that our students need as much now as they did then.

Neither the 1941 edition nor the 1968 edition is a perfect book. There are selections in those books that ought to be done without, and others that might be added. And, of course, they are missing some important events. They are also missing some great documents. To the 1941 edition we would add Martin Luther King's, "I Have a Dream" speech, and to the 1968 edition his, "Letter from Birmingham Jail." For the student of 1986, this book would need to be revised, supplemented, and updated.

Nonetheless, The American Citizens Handbook is still remarkably fresh in its faith in good character and citizenship. Its riches are still unarguably relevant to issues facing the moden educator. What do we mean by good citizenship? What do we mean by values? What texts should our students be reading? I believe that many of the answers are here. If today we find that we need guidance about the principles of American democracy and citizenship, we can go back and look to this book to find them.

REVISE AND RE-ISSUE

Let me, therefore, make a proposal: Why doesn't the NEA reprint The American Citizens Handbook? They could reissue the book, or revise it or publish excerpts. And if the NEA is not interested, perhaps they would give permission to another organization to revise and reprint the volume. There are many private groups, I think, that would be happy to work independently or together with the NEA on this project. And we at the Department of Education would be happy to lend a hand. For the Handbook's enduring faith in American principles can offer guidance to students, teachers, principals, parents, and all citizens. This book does not belong on forgotten library shelves, and we would like to help make it available once again to the American people.

Some will say that the things in this book are not what we all believe now, that America is now a more complicated place. And they will imply, if not in their words then by their actions, that we can no longer expect to reach a strong consensus on the materials and methods we should use to prepare our students for citizenship.

Have we changed so much in the last half of the twentieth century? I think our changes have been, for the most part, changes for the better. Amidst those changes, however, we must be careful not to lose sight of the permanent qualities that have helped us come so far, the things that are honest, pure, just, and true. It is for the task of thinking on these things that we at the Department of Education would like Americans to have another look at NEA's American Citizens Handbook.

"CRACK"—EPIDEMIC IN NEED OF A CURE

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 1986

Mr. BIAGGI. Mr. Speaker, I am introducing a bill today that would impose harsh new penalties against drug dealers trafficking crack, a cocaine-based drug that is wreaking havoc on our Nation.

Newsweek ran a cover story earlier this month on crack. In it, they observed that crack is "creating enormous profits for drug traffickers, spawning crime and destroying thousands of lives—and it may yet surpass heroin in its capacity for social havoc."

Crack is made by heating cocaine with baking soda and water, and then allowing the paste to harden. Pieces are cut and sold as crack. This relatively new drug—it has only been available for about the last year—gives users an intense 5- to 20-minute high, and a person can become addicted to the drug after using it only a few times. In fact, crack is one of the most addictive drugs known to man. Law enforcement authorities report that crack use has spread to 17 major cities and 25 States. A single dose sells for as little as $10–$15.

Crack has been associated with lung damage, seizures, strokes, heart attacks, and death. It is also credited with one other side effect—crimes of violence. The New York Post reported the story yesterday with a headline that read, "Crack Plague Triggers Sharp Rise in Crime." The article went on to state that murder rose 16.9 percent from the first quarter of last year to the same period this year; robbery was up 19.3 percent; and assault was up 10 percent. Significantly, these figures come after an overall 4-year drop in New York City crime. Top New York police officials are quoted in the article as saying that the sudden jump in New York City crime is "due to the use of crack."

What are we doing about this crisis? Tragically, very little. Consider that under current law, a person must possess the equivalent of 15,000 doses of crack before they are subject to maximum Federal drug trafficking penalties. Suffice it to say that we won't have to worry about overcrowding in our jails as a result of that particular law. No, the crack dealer can do plenty of damage with far less than 15,000 doses of crack (the rough equivalent of 1 kilogram of the drug).

My bill recognizes this fact and would trigger maximum penalties for dealing in just a 15-dose amount of crack (1 gram), enough to get about five people addicted to the drug for life. These penalties would be 20 years in prison, or a $250,000 fine, or both, for a first time crack dealer; and double the penalty for repeat offenders.

My bill would also provide tough, enhanced penalties for crack traffickers who conduct business near schools, and who hire young people to do their dirty work—a common practice in the crack trade. It would also establish a maximum penalty of up to life imprisonment if a person distributes crack and it results in death.

Mr. Speaker, the simple fact is that our Nation's drug laws were not written with the crack crisis in mind—a crisis that has resulted from a very small amount of drugs being able to inflict devastating damage. My bill seek to modify those laws to ensure that the crack dealer is treated to swift and severe punishment—a punishment that fits the crime. Anything less will certainly ensure that the nightmare that crack has already become will be allowed to run its course, and the consequences will be catastrophic.

Acting with these facts, in mind, Mr. Speaker, I would invite my colleagues to join me as cosponsors of this legislation, and I would strongly urge that my bill receive the prompt and favorable consideration that it deserves.

At this time, I would like to insert the New York Post article, headlined, "Crack Plague Triggers Sharp Rise in Crime," as well as a full next of my bill:

[From the New York Post, June 25, 1986]

CRACK PLAGUE TRIGGERS SHARP RISE IN CRIME

(By Anne E. Murray)

Crime in New York City rose dramatically the first quarter of this year and police official say the spread of crack is to blame for much of the increase.

The jump is "in large part due to the use of crack," said Deputy Chief James Trainor, head of the Office of Management Analysis and Planning in the Police Dept.

Statistics released yesterday show that murder is up 16.9 percent this year compared with the first three months of 1985, from 319 cases to 373.

Robberies showed the biggest jump of all—up 19.2 percent—going from 17,348 case to 20,701.

"If you conclude that drug usage leads to crime, then more drugs equal more crime," said Trainor, adding the increase "is giving us a great deal of concern."

The number can be deceiving since the 601,467 serious crimes reported in 1985 was 17.5 percent lower than the peak year of 1981, when 725,866 serious crimes were reported.

Total crime in the city up to 1985 was in a decline for four years, but is slowly rising, following a nationwide trend, Trainor said.

Trainor said he believes a "healthy percentage" of the murder increase now is due to crack-related feuds between drug dealers though numbers are unavailable.

"What's happening out there is a lot of turf fights . . . cheating" over crack, the new smokeable form of cocaine, Trainor said.

As for robberies the chief said arrests of those over 21 for robbery since January have jumped 45 percent, and said it's "definitely related to crack."

To combat the crack plague, the Police Dept. has formed the 101 crack squad and beefed up the Street Crime Unit 32 percent. It is also reassigning foot patrols and rookies.

In order to more closely track crack crime, the department has ordered all cops to note every crack arrests citywide on their reports.

The information will be fed into a computer, which will allow the crime analysis unit to do the first statistical surveys of the crack epidemic.

The figures show a total increase in all crimes tracked of 8.4 percent, or 11,415 more crimes reported than last year's 135,508 in the first quarter.

In other categories, rape was the only decline, down 12.8 percent, which police officials could not explain, although they noted it is not a drug-related crime.

Assaults climbed 10 percent and car thefts 5.1 percent. Burglaries, up 4.5 percent, and larcenies, up 8.2 percent, could also be crack-related, Trainor said.

In order to reduce crack crime, enforcement is "only part of the answer," the chief said.

"You have to reach for the young kids," before they're addicted, he said. "The only way to turn this thing around is through education."

H.R. 5103

A bill to amend the Controlled Substances Act and the Controlled Substances Import and Export Act to provide more effective criminal penalties for violations involving cocaine, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT INCREASING CRIMINAL PENALTIES RELATING TO BASE FORMS OF COCAINE.

(a) CONTROLLED SUBSTANCES ACT AMENDMENT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (i), by striking out "other than a narcotic drug" and all that follows through "identical thereto;" and inserting in lieu thereof a semicolon; and

(2) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) 1 gram or more of a base form of cocaine;".

(b) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT AMENDMENT.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (A), by striking out "other than a narcotic drug" and all that follows through "identical thereto; " and inserting in lieu thereof a semicolon; and

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) 1 gram or more of a base form of cocaine;".

SEC. 2. ADDITION OF COCAINE IN ANY BASE FORM AS A SCHEDULE I CONTROLLED SUBSTANCE.

Schedule I of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end the following:

"(d) Cocaine in any base form.".

SEC. 3. CRIMINAL PENALTY FOR MANUFACTURE OF CONTROLLED SUBSTANCE IN OR NEAR SCHOOLS.

(a) IN GENERAL.—Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended—

(1) in subsection (a), by inserting "manufacturing or" before "distributing"; and

(2) in subsection (b), by inserting "manufacturing or" before "distributing".

(b) TECHNICAL AMENDMENT.—The section heading for section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended to read as follows:

"MANUFACTURE OR DISTRIBUTION IN OR NEAR SCHOOLS".

SEC. 4. PENALTY FOR CONTROLLED SUBSTANCE VIOLATION RESULTING IN DEATH.

(a) IN GENERAL.—Part D of the Controlled Substances Act (21 U.S.C. 841 et seq.) is amended by adding at the end the following new section:

"PENALTY FOR VIOLATION RESULTING IN DEATH

"SEC. 416. Notwithstanding any other provision of this title or title III, any person who violates either such title may, if the violation results in the death of another person, be sentenced to imprisonment for any term of years or for life.".

(b) TECHNICAL AMENDMENT.—The table of contents for part D of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end the following new item:

"Sec. 416. Penalty for violation resulting in death.".

FLORIDA POWER & LIGHT CO., RECEIVES EDISON AWARD FOR QUALITY IMPROVEMENT PROGRAM

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. FASCELL. Mr. Speaker, my constituent, John J. Hudiburg, chairman of the board and the chief executive officer of Florida Power & Light Co., testified at the June 25, 1986 hearing before the Science, Research and Technology Subcommittee of the House Committee on Science and Technology.

The subcommittee has held a series of hearings on "Strategies for Exploiting American Inventiveness in the World Market Place."

Florida Power & Light Co., is the fifth largest electric utility in the country. It has been active in pursuing a total quality program for the past 5 years, and has shared this information and experience with State and local governments, as well as representatives of over 300 U.S. businesses. FPL is recognized as one of the leaders in quality improvement programs in America.

Earlier this month, Florida Power & Light was honored with the Edison Award, the electric utility industry's highest honor. They were awarded this because of their excellence in implementing their Quality Improvement Program.

I am pleased to include in the CONGRESSIONAL RECORD a copy of Mr. Hudiburg's testimony before the subcommittee:

TESTIMONY OF JOHN J. HUDIBURG, CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER, FLORIDA POWER & LIGHT CO.

Mr. Chairman . . . it's my pleasure to be here today, along with others who share a common vision, to talk about quality of American goods and services . . . and, the concept of a national award for outstanding implementation of corporate quality programs.

"American quality" . . . it has the "ring" of historic precedent . . . of founding principles like "freedom" and "land of opportunity" . . . but somewhere along the line the U.S. reduced the concept to rhetoric.

Unlike "Lady Liberty", we have no monument to American quality. But we need to build one—and give it a similar level of reverence—if we intend to recapture our competitive standing in the world marketplace. I believe a legislative effort is the best, and perhaps the only way, to accomplish this goal and give it lasting and meaningful esteem.

Before we take up that possibility, allow me to provide a little background, a few examples of how quality works at my company and a brief status report on the "state of the quality concept" in business today.

With all due respect to those who had the foresight to recognize a good thing, embrace it, and make it work to their advantage—the concept of quality control was not invented in Japan.

I have great respect for the Japanese TQC system. However, the basic idea for this system was conceived in the U.S. by men like Edwards Deming and Joseph Juran . . . exported for lack of interest at home . . . manufactured in Japan . . . and, when it met with much success . . . returned as an import.

Thanks to the success of the Japanese, quality improvement programs have become a proven business strategy. Recognizing that American products were being overwhelmed by foreign competitors, major U.S. corporations began adopting similar programs in the '70's and '80's.

As a result, customer-oriented, quality management processes were rejuvenated in the United States, and American know-how was applied (as we're apt to do once we identify a good thing) to improve and refine the processes.

Or, as Winston Churchill once noted: "Americans can always be counted on to do the right thing, but only after they have tried everything else."

So today, many of the Nation's businesses and industries are hard at work on programs designed to bring about a renaissance of American quality.

The incentive for quality improvement programs is great for a number of reasons. For the—the Commerce Department's most recent estimates suggest that some seventy percent of all American-manufactured products are either current or prospective targets for foreign competition.

At Florida Power & Light Company, for example, our quality improvement program has moved beyond the quality circles concept—or quality improvement teams as we call them—to a phase we call policy deployment.

The team or "circle" concept, if you're not familiar with it, brings employees together to discuss problems and opportunities of their own choosing. This beginning phase also provides employees with a formal process for determining the steps that can be taken to solve the problem, or make the most of the opportunity . . . and more importantly, it provides them with a process for management approval and implementation of their plan.

I can tell you that the results of this type of approach are phenomenal.

Our employees have been very enthusiastic about the team concept from the beginning. Today we have more than seventeen hundred QIP teams companywide. That's eight thousand of our employees—or more than sixty percent of our work force—think-

ing about . . . talking about . . . and doing something about quality.

Our quality improvement teams have come up with thousands of problem solutions. I will illustrate the wide span of solutions with two examples—an interoffice mail procedure that achieved a ninety-three percent reduction in incorrectly addressed mail and resulting overtime . . . and a record setting, thirty-eight day, refueling of our St. Lucie nuclear plant—about one half the normal time and ten days faster than FPL's previous record.

The results of these and other quality improvements team efforts have documented savings to FPL customers in the millions of dollars.

The second phase of our quality improvement program, called policy deployment, is equally important as it provides us with a structure for communicating management direction, setting strategic objectives and developing projects to meet those objectives.

At FPL it is a process where "breakthroughs" on a few selected issues are achieved through concentrated organizational efforts and resources.

Last year we also introduced the third and final phase of our total quality effort called quality in daily work.

The key to quality in daily work for our people is to learn and utilize the proven problem-solving techniques of our quality improvement program and then apply them to everyday work.

There is no question in my mind, that the recognition Florida Power & Light received earlier this month from the Edison Electric Institute for "excellence among America's energy companies" will go a long way toward perpetuating the enthusiasm our people have for the program and the kind of results it can earn.

I might add that the award is not an award for quality—but a "peer" award for excellence in programs for service—FPL just happened to be selected as a recipient of the award this year on the basis of our quality improvement program.

While our goal is quality, the true test for FPL, and for others, will be customer satisfaction.

All this is by way of saying that American industry, FPL included, is beginning to understand that improved quality in goods and services, and improved productivity go hand-in-hand. A commitment to excellence in manufacturing and services is essential for the well-being of the U.S. economy and society.

We believe that a national quality award would help stimulate this process, for the pride of recognition, and for the resulting competitive edge of greater profitability.

We also believe that everyone—winners, near winners and beginners—will benefit from the existence of the National Award Program I would propose. Criteria, once published, can serve as a benchmark, as well as a hallmark of achievement.

In Japan, the Deming price for outstanding statistical quality control contributions, is the most prestigious achievement a company can earn.

A close look at its objectives has provided us with an understanding of what our award must consist of, if it is to be equally meaningful:

Number one: It must be prestigious.

To achieve the maximum prestige the award should be limited to just a few a year and should be presented by the President. While I believe the President should be the presenter, clear direction from Congress via legislation will insure that the award will be continued regardless of the politics of future administrations.

Number two: It must be self-funding.

A funding foundation should be established. Moreover, public acceptance will be far greater if the companies applying for the award foot the bill for the consulting services of the evaluators or judges, rather than the taxpayer.

Number three: It must be earned.

By that I mean that the criteria must be rigorous . . . requiring not only a written response to published criteria, but also a site validation visit by a panel of qualified judges.

In order to meet these three important musts . . . the entire program must also be administered properly and by a "body" designated by the legislature.

There exists today a number of organizations established to serve the Nation's industries as quality program consultants, including the American Society of Quality Control, the Juran Institute and the American Productivity Center. Their contributions to our progress are immeasurable and their willingness to administer, and even fund the award, is both generous and logical.

However, I believe a government commission should be established to set policy for the award. It could select one of these other quality groups to administer the award. This joint committee could be determine the criteria for the award, and for the judges and oversee the administration of the funding. I believe the appropriate organziation exists in the American Society for Quality Control.

Most major U.S. Corporations are active in the ASQC, while members of the Juran Institute, the American Productivity Center and others maintain active ties to it.

Mr. Chairman . . . we would like to see the phrase . . . "They just don't make 'em like they used to . . ." disappear from the American vocabulary.

Over the years, consumers have uttered those words more and more as American products seemed to offer less and less in terms of quality.

But for those who think care and craftsmanship went out with the Frigidaire and came back with the Toyota, there is good news—the times are changing and so is the attitude toward quality in America.

The truth is, in most cases Americans are probably making things "better than they used to . . ." The pride of "Made in America" is being rediscovered in a revival of quality—quality of products as well as service.

I believe that it's time to encourage, recognize and reward that effort.

Thank you for listening and for the opportunity to appear here today.

MEESE'S POWER GRAB

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. BROOKS. Mr. Speaker, last month's issue of the New Republic featured an excellent article entitled "Meese's Power Grab," which clearly and succinctly chronicled an extremely disturbing constitutional confrontation provoked a couple of years ago by the administration. In short, the executive branch refused to implement and enforce a law which had been passed and signed by the President.

As the article points out, the episode did not receive very much attention in the press during its occurrence. It did not, however, escape Congress' notice. The Government Operations Committee, on a bipartisan basis, issued a report in 1985—"The President's Suspension of the Competition in Contracting Act is Unconstitutional" (H. Rept. 99-138)—and the House Judiciary Committee voted to cut all appropriations from the Attorney General's office until the executive branch agreed to comply with the law.

I commend this article to my colleagues and applaud its authors, Murray Waas and Jeffrey Toobin, for their fine work.

[From the New Republic, May 19, 1986]

MEESE'S POWER GRAB

(By Murray Waas and Jeffrey Toobin)

(Murray Waas, a Washington writer, wrote "The Soul of a New Machine Politician" in the March 10 issue. Jeffrey Toobin, an editor of the Harvard Law Review, wrote "Enduring Insults" in the same issue.)

Congress passes a bill. The president signs it into law. But his administration decides it doesn't entirely like the bill. So the attorney general—without even going to court—declares part of the bill unconstitutional, and orders federal agencies not to comply with it.

A federal district court rules that the bill is constitutional. The attorney general, hauled before the House Judiciary Committee, says that he's still going to forbid the government from obeying its own laws. "The district court does not have the ability to set a national precedent on the constitutionality of the law," the attorney general tells the startled representatives. A congressman asks, "What if an appellate court held the law constitutional?" The AG hedges: "I think we would have to review it."

The Judiciary Committee votes to withhold all appropriations from the attorney general's office—including money for salaries—until he agrees to enforce the law. Meanwhile, the federal district court orders the administration to stop flouting the law. Faced with the court order and the threat to his own paycheck, the attorney general backs down. The constitutional crisis is over.

This all happened last year—the final chapter was written just a few weeks ago—yet the episode went virtually ignored by the press. Since 1803, the year of the great case of *Marbury* v. *Madison*, it has been one of the uncontested maxims of American democracy that the judiciary—and the judiciary alone—has the power to declare statutes unconstitutional. Until, that is, the Constitution met Ed Meese.

The tale begins in July 1984, when President Reagan signed the Deficit Reduction Act into law. One obscure provision of the larger bill was called the Competition in Contracting Act (CICA), which was designed to save money by curbing the abuse of no-bid government contracts. Specifically, CICA strengthened the role of the comptroller general, the largely unknown figure who is currently embroiled in another constitutional contretemps—the dispute about Gramm-Rudman. One of the comptroller general's jobs has been to hear the complaints of would-be federal contractors who think that another company has gotten a sweetheart deal. This is not a trivial prob-

lem. Of the $168 billion in government contracts awarded in 1983, about two-thirds were single-source contracts with no competitive bids. Unfortunately, by the time the comptroller general could look into a suspicious contract, it was usually too late to stop it. CICA permits a potential competitor to challenge a deal by filing a protest with the comptroller general. The filing of a protest—and here is the key part—freezes the contract until either the comptroller general makes a decision on the protest or the head of the government agency involved certifies in writing that the contract can't wait because of "urgent or compelling circumstances which significantly affect the interests of the United States." In other words, a disappointed contractor can force the government to give him a fair hearing before the deal is already cooked against him. The comptroller general has 90 days to settle the matter.

Defense contractors—and their chief patron in Washington, Caspar Weinberger—were livid when CICA was proposed, and lobbied hard against it. But CICA's congressional advocates—chiefly Democratic representative Jack Brooks of Texas and Republican senator William Cohen of Maine—got CICA attached to the Deficit Reduction Act, figuring that Reagan would not veto the whole bill because of one irritating provision. They were right; Reagan signed the bill on July 18, 1984.

But when he signed the bill, Reagan issued a statement saying he was approving CICA under protest and "instructing the Attorney General to inform all executive branch agencies as soon as possible with respect to how they may comply in a constitutional manner." Translated, that odd phrase meant that Reagan was telling Attorney General William French Smith to order federal agencies not to comply with the law. In mid-October the Justice Department released its internal finding that CICA was unconstitutional. Then on December 17 budget director David Stockman officially ordered all federal agencies to ignore the law. Coming with no fanfare in the week before Christmas and the month after the president had won a landslide victory, the order generated little notice or controversy. House Appropriations Committee hearings on the matter in March 1985 attracted little notice.

Also largely ignored was a March 1985 holding by federal district judge Harold A. Ackerman of Newark New Jersey, that CICA was constitutional. (The plaintiff was a company called Ameron, which had lost a bid to clean and repair the sewers at West Point and went to court to force the comptroller general to investigate). Three weeks later Meese was before the Judiciary Committee announcing not only that he thought Ackerman was wrong, but that in his opinion the judge did not have the authority to decide the constitutionality of the law! The New York Times didn't even run a story on Meese's testimony, possibly because it came the same day as President Reagan's visit to the Nazi cemetery at Bitburg.

In a May 20 ruling, Ackerman said Meese's position "flatly violates the express instruction of the Constitution that the President shall 'take care that the Laws be faithfully executed.'" Shortly thereafter, at the instigation of chairman Peter Rodino, the Judiciary Committee threatened to cut off Meese's funding. Meese, in turn, capitulated, and Stockman's order was rescinded. The law was once again the law. Ackerman's orders were affirmed in full by the Third Circuit Court of Appeals on March 27, 1986, in a frankly incredulous opinion by a conservative Nixon appointee, Leonard I. Garth.

Besides the inconvience it might cause to fat defense contractors, what exactly bothered the administration about this law? The Justice Department does not object to the automatic stay provisions of CICA—only to the fact that the comptroller general has the power to lift the stay. According to the administration, this is an executive function and the comptroller general is an officer of Congress; therefore, giving him this function violates the separation of powers. This is exactly the issue now in front of the Supreme Court in the Gramm-Rudman case. The scandal here, though, is not the administration's position on the executive-legislative separation of powers, but rather its trampling of the separation of powers between the executive and the judicial branches.

Presidents have disputed the constitutionality of law many times. But until Ronald Reagan, no president has ever asserted the right to ignore a law he thinks is unconstitutional, let alone the right to defy a court ruling that a law is constitutional just because he happens to disagree. Until Ed Meese came along, the universal assumption was that you must obey the law until some court rules it unconstitutional—not that you can disregard a law even after a court has ruled it unconstitutional, unless perhaps that court is the Supreme Court. (And Meese has never directly conceded that even the Supreme Court can overrule his opinion about a law's constitutionality.)

Testifying before a congressional panel, Deputy Attorney General D. Lowell Jensen attempted to justify the administration's order that agencies should ignore the CICA law by saying that it was designed to force a prompt court test of the law's constitutionality. But that is nonsense. The way to test a law is for one of the affected parties to challenge its enforcement, not to block its enforcement without a court challenge. The Justice Department wasn't choosing an unorthodox method of getting a court test. It was denying that it needed a court test. As Judge Ackerman put it in his opinion, "The action of the executive defendants in this case seems to be one designed to avoid a judicial resolution."

There is a genuinely tough constitutional question here: Can the president ever refuse to enforce an enacted law because he believes that it's unconstitutional? What if Congress passed an appropriations bill that was necessary to keep the government functioning but also contained a provision banning all black people from the Capitol grounds? If a president signs the bill to keep the government running, what's he to do? Sanford Levinson, a law professor at the University of Texas, believes defiance might be appropriate if the statute would "significantly infringe individual liberties or some fundamental values." Others disagree, saying the better route is to arrange for the law to be violated immediately and allow a court—the designated branch of government for such decisions—to strike it down.

But certainly—certainly—CICA was not the place for the executive branch to make a stand. It is almost too fitting that this administration, so stingy in its view of the breadth of constitutional protections for minorities, the press, and criminal defendants, decided to force a constitutional confrontation on behalf of its favorite oppressed group: defense contractors.

But this episode may be less an attempt to rewrite the Constitution than an ordinary power play. The Reagan administration might like to have a constitutional line-item veto, but even Meese could not have seriously thought that his action was legal. Lowell Jensen, who defended this brazen assault on the Constitution, has been nominated for a federal judgeship. Senators might ask him about it during his upcoming confirmation hearings.

LT. MARK POHLMEYER, U.S.N.

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. COYNE. Mr. Speaker, recently Lt. Mark Pohlmeyer, a native of Castle Shannon and a graduate of the U.S. Naval Academy at Annapolis, died as a result of a mid-air collision off the northern coast of California. At the time of the flight he was conducting a low level navigational flight.

The members of the Pohlmeyer family have a tradition of serving this country. Lt. Mark Pohlmeyer has a twin brother, Lt. Paul Pohlmeyer, also a Navy jet fighter pilot and also an Annapolis graduate. The brothers have an older brother, who graduated from the Naval Academy 6 years before their graduation and who is presently a lieutenant commander in the Naval Reserve. Their father is a Navy veteran of World War II.

Mr. Speaker, at a time such as this we should pause to reflect on the debt of gratitude this country owes to the men and women who are serving on active duty in the military defense of their country. Their service in the cause of peace demands that they be ready to defend us. A necessary part of their readiness demands constant training. This tragic event reminds us of the fact that their constant readiness is filled with danger.

Mr. Speaker, our deepest sympathies go out to the Pohlmeyer family.

At this point, I include two articles, one from the Pittsburgh Press and one from the Pittsburgh Post Gazette.

[Pittsburgh Post-Gazette]

OFFICER LOVED FLYING, ACCEPTED RISK

(By Michael A. Fuoco)

Castle Shannon natives Mark and Paul Pohlmeyer were identical twins in spirit as well as in appearance.

Both graduates of the U.S. Naval Academy, they chose the high-risk occupation of flying jet fighters because, their parents said, they loved their work.

On Tuesday, the inherent danger of their profession was manifested when Mark's jet collided in mid-air off the northern coast of California with a plane piloted by a student he was training.

Navy spokeswoman Phyllis Schimo said evidence found at the scene by the Coast Guard convinced them that neither Mark, 29, nor the other pilot, Lt. j.g. Brian D. Myers, 25, of Las Vegas, Nev., survived the collision.

At the time of the crash, which occurred during a low-level navigation flight, Paul was in Hawaii after a temporary assignment in the Philippines. He had been planning to begin a vacation with his wife yesterday.

At the Pohlmeyer family home at 900 Bockstoce Ave. last night his parents—Jack A. and Lou Pohlmeyer—and their eldest son, Jack, 35, of Chicago, struggled with their pain and sadly recalled the love and friendship the twins shared and the accomplishments they had achieved.

"Anything they did, they did well," Mrs. Pohlmeyer said, fighting back tears. "They were always together. For 29 years they were never separated . . . They were more than just brothers, they were best friends."

Mark, nicknamed "Mo," and Paul, nicknamed "Po," excelled at Keystone Oaks High School, both graduating with highest honors in 1975 after being standouts in football and wrestling.

They continued their wrestling careers at the Naval Academy and graduated in 1979. Their brother, Jack, who's now a lieutenant commander in the Navy Reserve and a pilot for Delta Airlines, graduated from the academy six years earlier.

The twins, both lieutenants, were assigned to Lemoore Naval Air Station, 45 miles south of Fresno, Calif., where they lived together. Mark, who was single, was best man when Paul married Carol Obremski, also of Castle Shannon, last March. After the wedding the three shared a house at Lemoore.

While stationed in California, the brothers traveled the world together, completing two eight-month tours of duty attached to the aircraft carrier Enterprise.

Mark was attached to attack squadron 122, training new pilots in the A-7E Corsair II light attack bomber—the jet he was teaching Myers to fly when the collision occurred. Paul, who is attached to Flight Attack Squadron 127, is involved in adversary training—flying Skyhawk jets in maneuvers that might be employed by enemy pilots.

"They both knew it was a high-risk occupation," said their father, a Navy veteran of World War II, "but they loved doing it."

Both brothers were nearing the end of their Navy tours of duty but were considering extending their time, Mrs. Pohlmeyer said. "They liked it so much," she said, sobbing while glancing at a picture of the twins in flight suits. "They hadn't made up their minds . . . but they were talking like they wanted to stay."

Their father said he's unsure whether Paul will continue to fly fighters.

The family will leave today to attend a memorial service tomorrow at Lemoore. Another memorial service will be held at 7:30 p.m. Monday at Hamilton Presbyterian Church, Baptist and Hamilton Road, Whitehall.

The family has suggested that memorial contributions be made to a fund to be established in the name of Mark Pohlmeyer through the U.S. Naval Academy Alumni Association, Class of 1979, Annapolis, Md. 21402.

[The Pittsburgh Press]

NAVY CRASH KILLS SHANNON NATIVE

(By Douglas Root)

When twin Navy pilots Mark and Paul Pohlmeyer were reassigned to a California naval base after two seven-month stints on an aircraft carrier in the Mediterranean, their Castle Shannon parents were relieved.

With so much instability in that part of the world, Jack Pohlmeyer said yesterday, there was constant worry that his 29-year-old sons would be assigned to combat.

That is why the death Tuesday of Mark, after his fighter plane collided with another in his squadron during a routine exercise, was such a shock to a family in which three sons became fighter pilots.

"If it just wasn't out of the blue like this," Jack Pohlmeyer said. "One minute you think they're both doing fine—that nothing is going on that could make you worry—and then something like this happens."

Navy officials are investigating what caused the collision that killed Lt. Pohlmeyer and Lt. j.g. Brian D. Myers, 25, of Las Vegas, while they flew along the Northern California coast.

Terry Sinclair, commander of the Coast Guard base near Trinidad, Calif., said a search operation began almost immediately because another jet and a 210-foot cutter were operating in the area where the accident occurred. He said rescuers fought 20-foot waves to recover human remains and some wreckage.

Phyllis Shimo, a spokeswoman for Lemoore Naval Air Station, which is about 15 miles south of Fresno, said the two pilots were flying A-7E Corsair II fighter bombers on a low-level navigation flight. No further information on the crash will be available until the investigation is complete, probably within the next two weeks, she said.

Pohlmeyer said his twin sons never seemed to tire of each other's company, from their days on the wrestling team at Keystone Oaks High School, to their fast-paced lives as Navy pilots based in Southern California.

Even when Paul married last year, the brothers continued to live together in a house they owned near the naval air station.

Pohlmeyer said his sons shared similar interests and were attracted to careers as Navy pilots through his oldest son, Jack, 35, of Chicago, now a pilot for Delta Airlines.

The twins followed their older brother to the Naval Academy, were wrestling teammates there and graduated in 1979. They completed their aviation training in 1980 and were allowed to serve together in the same fighter squadron during their overseas assignment on the carrier USS Enterprise.

Both men had been assigned to the Lemoore base for more than a year. Paul in an adversary squadron and Mark as a flight instructor. Ms. Shimo said that if the base had been involved in armed conflict, the brothers would not have been allowed to serve together.

"They had their own lives but they were very close—almost as friends," Pohlmeyer said.

Mark is survived by his mother, Lou, in addition to his father and brothers. Pohlmeyer said the family will leave today to attend a memorial service at the base.

A local memorial service is set for 7:30 p.m. Monday at Hamilton Presbyterian Church, Baptist and Hamilton roads, Whitehall.

A RATIONAL POLICY ON ADOPTION

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. SKEEN. Mr. Speaker, I introduced legislation on June 12, 1986, which will provide vital information needed to formulate a rational policy on adoption and will assist the Federal Government in assessing the impact of Federal adoption programs. H.R. 5029 will require each State to furnish the Secretary of Health and Human Services detailed information concerning the number of adoptions that occur each year and the characteristics of the parents and children involved in the adoption process.

Although the States have primary jurisdiction over adoption, the Federal Government funds several adoption-related programs. These include: the adoption opportunities program established by the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (Pub. L. 95–266), the Adoption Assistance Program established by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272), and funding for adoption services under the Adolescent Family Life Act of 1981. Accurate data could tell us how successful these programs are in moving children out of foster care and into permanent homes.

A terrible human price is paid when children grow-up in unstable home environments. Additionally, the American taxpayer pays a steep price. In 1980, this country expended $272 million for AFDC-Foster Care payments. In 1984, this figure escalated to $422 million. Yet, as millions and millions of taxpayer dollars continue being spent, we rely on a voluntary reporting system which cannot provide basic information on the number of children adopted.

Given the voluntary system for collecting information on adoption, it is impossible to ascertain how many children are adopted in this country. This occurrence has created a desperate need for numerical data on the incidence of adoption in America. In order to assess the impact of Federal programs and to allocate limited Federal funds, national adoption and foster care data gathering must be established.

Since 1975, no Federal report on adoption in the United States has been issued. Legitimate public policy formation has been stifled as legislators, other policymakers, adoption agencies, social workers, biological and adoptive parents and health professionals have been without statistical insight into this critical issue.

In 1978, during the establishment of the adoption opportunities program under Public Law 95–266, Congress specifically required the initiation and operation of a national adoption and foster care data gathering and analysis system utilizing information gathered by the States. In 1984, Congress reauthorized the program and reaffirmed a policy of permanency for foster care children. Obviously, the voluntary system which now exists is inadequate in providing critical information on the incidence of adoption.

The Voluntary Cooperative Information System is operated by the American Public Welfare Association with funding assistance from the Office of Human Development Services of the Department of Health and Human Services. The VCIS system is limited to data on children placed for adoption by child welfare agencies. The most recent VCIS report acknowledges that the data "should be considered as rough national estimates."

In 1984, the Assistant Secretary for Human Development Services called for the formation of the Adoption Information Improvement

Workgroup. One of their strongest recommendations included the implementation of an annual nationwide adoption information system.

H.R. 5029 would address that concern by amending part E of title IV of the Social Security Act to require States to furnish, and the Secretary of Health and Human Services to publish, statistical data relating to the incidence of adoption. The legislation requires specific information to be obtained from each State, including: the total number of adoptions finalized each year, the age, sex, race, and handicap status of the adopted children, whether the child was placed for adoption by a private agency, public agency or independently.

The bill is not designed to compile a list of children now waiting to be adopted. Data shall be reported in statistical form only and the need for confidentiality will be recognized. Language included in the bill explicitly states that there is no intent to authorize or require the collection or release of information that identifies by name or address any party to an adoption.

Furthermore, States are allowed sufficient time to establish their adoption reporting systems after enactment of the legislation. States will have flexibility as to how they collect the data.

Regarding funding, H.R. 5029 does not place a heavy burden on the States. Matching Federal funds for the data collection would be provided by title IV–E of the Social Security Act. Approximate costs would include $1 million annually for all of the States, as well as $1 million to be spent by the Federal Government. Relative to the $497 million spent by the Federal Government in fiscal year 1985, this is a small price to pay for gathering such crucial information.

The National Committee for Adoption, Aid to Adoption of Special Kids [AASK America] and the North American Council on Adoptable Children strongly support this legislation.

UNITED STATES DEPENDENCY ON JAPANESE INDUSTRY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Ms. KAPTUR. Mr. Speaker, a problem of the utmost importance has arisen. It is the United States dependency on Japanese industry. Japanese industry is currently supplying a majority of the high-tech parts for U.S. weaponry. The United States is in a sense being held captive by its heavy reliance on imported Japanese technology. The United States must wean itself from Japanese high-tech weapons components and start depending on American industry for such parts. The idea of having a foreign country supplying integral defense components is itself a breach of national security. By ending this dependence, the domestic supply and supremacy of U.S. weapons would be assured. I commend this article to my colleagues.

Thank you.

U.S. DEPENDENCE ON JAPAN FOR PARTS WORRIES PENTAGON

(By Michael Schrage)

America's most sophisticated weapons are rapidly becoming dependent on components imported from Japan—a development that has touched off debate inside the Pentagon over what, if anything, should be done about it.

Defense industry sources are particularly concerned about the Strategic Defense Initiative—or "Star Wars"—system, where Japanese high-technology companies now outstrip U.S. defense contractors in several key technologies vital to the development of such a system.

While U.S. companies are able to do most of the SDI systems design work, the cheapest and most reliable hardware—ranging from lasers to new materials—is produced by the Japanese. For example, the Japanese have become the world's dominant supplier of computer memory chips—a key element in many electronic-based weapons systems.

"It's a matter of fact that the Japanese have taken the technical lead in many of these key technologies . . .," Said Hewlett-Packard Co.'s materials research laboratory director, Robert Burmeister, who serves on a National Academy of Science panel on electronic components.

"Japan today has the technology base to be a major supplier to the SDI," said Richard Reynolds, director of the defense sciences office at the Defense Advanced Research Projects Agency, who added that the Pentagon now can buy advanced technology from Japan not yet available from U.S. suppliers. "In some cases," he said, "you either buy from Japan or you don't get it."

This has raised serious policy concerns over whether the Pentagon should dramatically shore up this nation's high-tech manufacturing base—potentially a very expensive undertaking—or whether it simply should buy the best technology at the best price from a close ally.

Three high-level commissions are examining the military's growing reliance on overseas electronics: a newly formed Defense Sciences Board Task Force on Semiconductor Dependency; a panel of the Pentagon's just logistics commanders; and a National Academy of Science Electronics Components Committee, which is expected to release a report next month asserting that "there is a very large and increasing dependence on Japanese components."

"There's no doubt that—because of cost and quality considerations—many defense groups are already buying from Japan," said Harvey Nathanson, a Westinghouse research director who leads an industry group pushing for increased defense funding for electronics materials research. "The question has got to be, is that good for us in the long term? A lot of the technologists are more concerned about the Japanese ascendancy. The 'equipment at the best price' procurement types aren't worried.

Largely through its strength in commercial electronics, Japan has rapidly become a strategic supplier of defense technologies to the Pentagon. Pentagon expenditures for defense electronics approach $56.5 billion a year, according to the Electronics Industries Association.

The Nakasone government in Japan has been encouraging the transfer of the country's advanced electronics to the U.S. military, and top Pentagon officials have welcomed increased participation by the Japanese.

"The change in the electronics has been the most striking and significant in the past few years," said Jacques S. Gansler, a deputy assistant secretary of Defense for material acquisition during the Ford administration and now a defense industry consultant.

Currently, there are no good estimates on what percentage of defense electronics components are produced overseas. However, House Armed Services subcommittee staff feels that roughly 80 percent of the military's silicon chips are manufactured in Asia.

Meaningful estimates of Japanese content of U.S. defense electronics are further complicated because U.S. contractors do not always have to disclose where the components for their electronics systems were originally made.

"There's no question that what the [Pentagon] needs to do is recognize the 'dual economy' that exists in the defense industry," asserted Gansler, who serves on the National Academy of Science panel. "We have large prime contractors providing systems, and we don't pay attention to the lower tier [of contractors] on which these systems are dependent. So we have this awkward system where the lower tiers are disappearing and going offshore; their significance isn't recognized.

"While we focus so much of our resources on the prime-contractor level, the real advances [in technology] often come from these parts and components."

In addition to volume supply, Japanese companies recently have begun to provide "critical" components for such weapons systems as missiles and electronic-warfare devices, according to Pentagon and industry officials.

Exacerbating that situation is the fact that, in some areas, Japanese companies have become the sole providers of high-quality, low-cost key electronics materials after winning price wars with American companies.

After Monsanto Co. dropped out of the market three years ago, for example, the United States no longer has a domestic supplier of "float-zone" silicon—a special kind of silicon used in fabricating high-power electronic switching devices that would be indispensable for space-based weaponry. Japanese companies are the key U.S. defense suppliers.

Japan's dominance in the computer memory-chip market means that "we are captive of the Japanese in this commodity," said former assistant Defense secretary Robert Cooper, "but that's no worse than saying our Navy is captive to the supply of foreign oil."

Japanese companies also enjoy significant cost, quality and technical advantages in the production of gallium arsenide computer chips—chips capable of processing data far faster than conventional silicon chips. The Defense Department has publicly identified gallium arsenide as a critical technology for the SDI. Japan provides the bulk of the Pentagon's gallium arsenide, according to defense electronics sources.

According to former Defense undersecretary of engineering Richard DeLauer, Japan also leads the United States in computer-chip packaging and fiber-optic technology.

Consequently, key U.S. electronics defense suppliers are pushing the Pentagon to invest more heavily in domestic suppliers and to reexamine procurement policies. They argue that the United States already is being hurt technologically by its depend-

ence on Japanese high-technology materials.

"Even now, the Japanese are preselecting the quality of the silicon they ship," said Westinghouse's Nathanson, "In some Westinghouse plants, we're finding it difficult to get the [more advanced] silicon wafers [for power device production]. They themselves are now using higher order material than they're willing to ship us."

However, Nathanson concedes, and several defense industry sources confirm, that prime U.S. defense contractors are becoming more reliant on Japanese companies to do the actual production work for systems components because of potentially superior manufacturing and price performance.

"This trend towards 'teaming up' with the Japanese is going to continue," asserts former Defense undersecretary William J. Perry.

That poses potentially awkward procurement situations for the SDI because leading advocates such as Assistant Secretary of Defense Richard N. Perle and SDI program director Gen. James Abrahamson have assured that the program will seek low-cost suppliers.

"We're trying to get the best technology at the lowest cost," said Perle, who added that he expects Japan to participate in the SDI.

However, most technology experts agree that, if the Pentagon is serious about obtaining the best high technologies at the most reasonable cost, most of the component production will be done offshore by Japanese high-technology concerns—unless there are specific policies designed to minimize foreign involvement.

WILL DIPLOMACY CHANGE?

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. BEREUTER. Mr. Speaker, a few weeks ago I placed into the CONGRESSIONAL RECORD an article suggesting the time had come to review the Vienna Convention of Diplomacy. In an age where some embassies are only arsenals, perhaps we should look at the implications of diplomatic immunity.

The Lincoln Star recently published a thoughtful piece on this issue. I would ask my colleagues to read it and give it some thought. Is the century-old Vienna convention regulating diplomatic activities still valid in its current form?

[From the Lincoln (NE) Star, June 9, 1986]

DIPLOMACY RESTS ON SHAKY GROUND

International diplomacy rests on the shaky ground of national integrity and that presents certain risks. Defense Secretary Caspar Weinberger discussed the subject in a speech before the American Bar Association.

"Embassies are used as terrorist arsenals and planning centers," Weinberger said, "and so-called 'diplomats' actually plan and orchestrate murder and bombings in the nations hosting them. . . . Surely we can preserve the good purposes of the doctrines of sovereign and diplomatic immunity without cloaking terrorists in those privileges."

More hope than certainty is found in Weinberger's words, and justifiably so. Diplomatic immunity is anchored in mutual trust and certain trust will never be found there.

An interesting history might well be written with such diplomatic relations as its focal point. We suspect that it would show a new disregard of integrity among many nations of the world in this latter quarter of the 20th century.

Diplomatic posts have served since their inception as centers for questionable as well as honorable activities. Such posts are the successors to traveling ambassadors who carried messages of one country to another in much earlier days.

As the need for communications throughout the world expanded, nations began stationing ambassadors or diplomats permanently in those countries with which they frequently needed such contact.

The key thing in this is that the diplomat is the personal representative of his government. It is not the embassy or its staff but the government it represents that sponsors the violence of which Weinberger spoke.

Thus, diplomacy is no more than a reflection of the values of the government behind it. That diplomacy is being compromised today because of the violence which is symbolic of so many regions of the world and the resort by many nations to extremes in the pursuit of their objectives.

Nations of the world which have little regard for the dignity and sanctity of life are not going to be bothered by the high ethics of diplomatic representation. Rather, they are going to exploit that representation, just as they exploit any opportunity they see for the advancement of their twisted thoughts.

The "good purposes of the doctrines of sovereignty and diplomatic immunity" will not find salvation until all nations subscribe to reasonable values and that day is a long way off. Meanwhile, nations with integrity and human decency can only persist in their ways, with the conviction that time is on their side.

THE ASSISTANCE PROGRAM OF THE GREATER PHILADELPHIA COUNCIL, AFL-CIO

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. RANGEL. Mr. Speaker, on Wednesday, May 7, 1986, Mr. James J. Mahoney of Philadelphia, PA, testified before the Select Committee on Narcotics Abuse and Control on behalf of the Greater Philadelphia Council, AFL-CIO.

In his testimony Mr. Mahoney told the committee, which I have the honor to chair, about the Assistance Program in Philadelphia. The program is a unique approach to the identification, care, and treatment of alcoholism and drug abuse that joins the resources of management and labor with the participation of city and State government in fighting these personal and related economic problems. The committee has noted the disheartening volume of individuals who abuse drugs and alcohol. We have also obtained estimates of the staggering economic costs of this abuse. For example, a study by the Research Triangle Institute of North Carolina concluded that drug abuse cost $33 million in reduced productivity in 1983.

Since Mr. Mahoney's testimony highlighted what seems to me to be a practical and realistic approach to effective treatment of job-related alcohol and drug abuse problems, I offer excerpts from his statement for the benefit of my colleagues and their constituencies. The employee Assistance Program in Philadelphia may well be an example of what can be developed in cities, companies, and unions throughout this country. I invite my colleagues to look into the Assistance Program and see how its tenets might serve their communities—the program's address is 1225 Vine Street, Philadelphia, PA 19107 (215) 665-1730.

Excerpts from Mr. Mahoney's statement follow:

Our country is engaged in a war the like of which it has never encountered before. It is a war not fought with guns or rockets and yet the death toll is greater than any other in which our country has been involved. Our enemy is not merely some foreign power, but rather a cadre of malignant forces both within and outside of our own nation's borders. And the fighters are not conscripted soldiers or fanatical terrorists, but street corner dealers, manufacturing plant profiteers, foreign drug exporters, contraband farmers, school yard dealers, suburban distributors: and—some 50 million Americans who finance the enemy through their purchase of marijuana, cocaine, heroin, amphetamines, LSD, MDMA and the other chemicals which foster the cancer of addiction

Concerning the most effective means of engaging the enemy and winning this war, the Greater Philadelphia Council of the AFL-CIO has some definite opinions. These opinions are based upon our understanding of the available research, and our own experiences with a project we initiated over a year ago which is known as the Assistance Program.

This brings me to the work of the Assistance Program. Philadelphia is like most other large metropolitan areas in our country, and as such, it is faced with the same problems of modern urban life. Relative to this testimony is the problem of drug abuse. Philadelphia has a drug problem. Not a greater problem than other comparable cities—but a very serious problem nonetheless. In response to this problem, the Greater Philadelphia AFL-CIO Council sought to gather support from various sectors of the Philadelphia health care and business community by forming an Employee Assistance Program—the Assistance Program. Support for the Assistance Program comes from the Greater Philadelphia Council of the AFL-CIO, Greater Philadelphia Blue Cross and Blue Shield, the Philadelphia First Corporation (many of the CEO's of Philadelphia's largest companies) and the United Way of Southeastern Pennsylvania, the Commonwealth of Pennsylvania and the City of Philadelphia.

Since its 1 year inception, the Assistance Program has conducted 68 supervisory training programs for area companies on how to deal effectively with the problem of substance abuse in the work place. Over 8,327 calls for assistance have been handled by the Assistance staff. 2,978 individual counseling sessions have been provided. And 628 individuals have been helped into treatment for alcohol and/or drug related problems.

The literature on Employee Assistance Programs is vast, and therefore I will not replicate it here. In brief, however, I might mention that employee assistance programs are predicated on the idea that: a) some individuals will seek out help voluntarily if they are given an opportunity to do so confidentially and b) when an individual's job performance is harmfully affected by drug use, labor and management can work together to help the employee deal effectively with his drug problem. Successfully run employee assistance programs exist all across America, and they are effectively reducing the substance abuse among the work force in a way that communicates that the company cares for their welfare—as well as the bottomline. It should be emphasized, however, that employee assistance programs are not just nice social welfare projects. Properly administered employee assistance programs yield an attractive return on investment generally within the first year of implementation. That is why most companies keep and/or expand their employee assistance program once they start one.

An employee assistance program can create an environment at work where some people will voluntarily seek out if they are having a problem. Still, however, there will be those individuals that are so locked in their addiction that they just don't believe they can stop using drugs, and so they remain undercover. The employee assistance program will get through to this individual by training his/her supervisor to document the inevitable problems in job performance. Through proper documentation, mandatory referrals to the employee assistance program can start the individual on to the road to recovery.

REVIVAL OF FTC VIGOR REQUIRED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. FLORIO. Mr. Speaker, I am inserting in the RECORD a recent Washington Post article on inadequate consumer protection enforcement by the Federal Trade Commission.

One aspect of the erosion of Federal protection for consumers is the continuing pressure for special interest legislative exemptions from FTC authority. One such exemption is currently in issue in the conference consideration of FTC reauthorization legislation. The Senate but not the House bill would exempt advertising from the FTC's authority to issue industrywide rules dealing with unfair practices. The authority to prohibit unfair practices is especially necessary for the FTC to deal with advertising that might encourage dangerous or unhealthy activity by young people or others, involving products such as tobacco, alcohol, or dangerous toys.

Mr. Speaker, at a time when unfair and deceptive advertising is on the rise, we should be acting to strengthen rather than weaken the FTC's ability to protect the public from advertising abuses.

TEN MOST MISLEADING ADS SELECTED: CONSUMER GROUPS CHARGE FTC HAS FAILED TO PROTECT PUBLIC

(By Martha M. Hamilton)

Consumer groups yesterday picked 10 advertisements—including ads for the Audi 5000-S and Arby's Roast Beef, a mailing by Household Finance Corp. and an advocacy ad by the Committee for Energy Awareness—as the year's most misleading.

The groups also denounced the Federal Trade Commission, which they said is falling down on the job of protecting consumers from deceptive pitches by advertisers.

The Center for Auto Safety complained that Volkswagen's Audi ads made light of the Department of Transportation's crashworthiness testing program in an ad that depicts car crashing into barriers. "At Audi, we also concentrate on going around them," the narrator notes.

"It was not intended to make light of any safety-related program," said Volkswagen of America spokesman Tom McDonald. He said the ads were designed to emphasize the car's superior ability "to avoid an accident situation, which is what we build into an Audi."

The Center for Science in the Public Interest said an advertisement for Arby's Roast Beef misled consumers by advising consumers to "go for the lean," despite the fact that its Super Roast Beef sandwich contains "the equivalent of 5 teaspoons of fat." An Arby's spokesman said that the ad campaign, which has been discontinued, was centered on a lean roast beef sandwich, which is lower in fat.

The Consumer Federation of America criticized a direct mail campaign by Household Finance Corp, in which the company sent unsolicited $1,500 checks during the Christmas shopping season. The checks, which bore the notation "not valid after 12/25/85" became an automatic loan at a rate of nearly 22 percent, according to the group.

A spokesman for Household Finance Corp. could not be reached for comment yesterday.

The Safe Energy Communication Council said that an advertisement by the U.S. Committee for Energy Awareness was misleading because it referred to coal and nuclear electrical generation as "home grown" energy. More than 48 percent of the uranium delivered to U.S. utilities is imported, the group said. A spokesman for the Committee for Energy Awareness said that the statistic is wrong and that almost all of the uranium used in nuclear plants is domestic.

Other ads listed by critics as misleading were an ad for a doll called "Upsy Baby" by Kenner Products, which the Consumer Affairs Committee for Americans for Democratic Action said misrepresented the degree of difficulty in getting the doll to operate properly; advertisements by Phillip Morris Cos., Inc. for Virginia Slims, which the National Women's Health Network said attempted to associate smoking with healthful activities such as tennis, and an advertisement for Colt 45 malt liquor, which drew criticism for linking alcohol and sexual performance.

FTC officials, who filed a complaint yesterday accusing R.J. Reynolds Tobacco Co., Inc. of deceptive advertising, said that the agency is active and effective in cracking down on deception in advertising. "The FTC is continuing to bring cases against major advertisers as well as smaller advertisers who are running national advertising campaigns," said Lee Peeler, associate director for advertising practices at the FTC.

A CONGRESSIONAL SALUTE TO LAURENCE D. CARNAY, M.D.

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to Dr. Laurence D. Carnay, who will be honored as the outgoing president of the board of directors of the Long Beach Children's Clinic at their annual meeting and installation of officers on July 11, 1986.

A native of New York City, and a product of their public school system, Dr. Carnay has an impressive education and professional background. In 1962, he received a bachelor's degree in chemistry from Hamilton College. He then went to the Cornell University Medical College where he received his M.D. in 1966. During his time at both Hamilton and Cornell, Dr. Carnay was the recipient of three special fellowships.

Following his graduation from Cornell University Medical College, Dr. Carnay served as an intern at the Presbyterian St. Luke's Hospital in Chicago, a resident in pediatrics at the New York Hospital, and a fellow in child neurology at Columbia-Presbyterian Medical Center in New York. Dr. Carnay also served a tour of duty as a lieutenant commander with the U.S. Public Health Service.

In July of 1973, Dr. Carnay moved to California, where he accepted a position as an assistant professor of pediatrics and neurology at the UCLA School of Medicine. He left that position in 1974 to become medical director of both the Los Angeles Neurological Center Medical Group, and California Computerized Diagnostics. He still serves in these positions, while also working as the chief of staff of the Pioneer Hospital in Artesia, CA, and as a clinical assistant professor of neurology at the University of California at Irvine, and an examiner for the American Board of Psychiatry and Neurology.

In addition to his impressive and tireless professional work, Dr. Carnay serves as a member of the board of directors of the Children Foundation for Health Care, and is a member of the following professional organizations—the Biophysical Society, Child Neurology Society, American Academy of Neurology, Western Society for Pediatric Research, American Academy for Cerebral Palsy, and the Los Angeles Pediatric Society. Dr. Carnay has also given generously of his time in his service as the president of the board of directors of the Long Beach Children's Clinic. While he is the outgoing president, I am sure that his positive influence will be felt in the activities of the children's clinic, and in his work with so many fine health-related organizations throughout southern California.

It is with great pride that my wife, Lee, joins me in honoring Dr. Laurence D. Carnay for his exceptional professional and volunteer activities, and in wishing Dr. Carnay, his wife Janet, and their children, Erica and Jill, continued success and all the best in the years ahead.

THOUSANDS MORE DETAINED IN SOUTH AFRICA AS SOUTH AFRICA INCREASES REPRESSION OF ANTI APARTHEID ACTIVISTS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. SOLARZ. Mr. Speaker, in South Africa on June 12, 1986, a state of emergency was declared covering the entire country. This action adds to previous restrictions on public gatherings. It has resulted in the arrest of hundreds of church and community leaders as well as severe restrictions of the press. It authorizes incommunicado detentions, which can be made without charge or trial. It is a blanket extension of the authority of the police, army, railway police and prisons service to use force as they please, with total immunity from civil or criminal responsibility.

Last year during the less draconian state of emergency, almost 8,000 people were detained, including over 2,000 children under the age of 16. The daily death toll tripled, and torture of detainees was widespread. This year, the emergency powers granted to security forces are broader, and anger in the black community has deepened, making expectations of worse abuses and violence entirely realistic.

This is regrettable and ill-timed action on the part of the South African Government. I fear, as do many of the human rights monitoring groups in South Africa, that it will only inflame the already heated atmosphere in the black community.

In spite of the extreme penalties faced by those who distribute names of alleged detainees, The Lawyers' Committee for Civil Rights Under Law, Amnesty International, the World Council of Churches and other monitoring groups have received lists of names which have been consolidated by the Lawyers' Committee for Civil Rights Under Law. The South African Government will not, of course, verify the accuracy of this list, leaving open the possibility that hundreds may disappear.

Because of the extremely dangerous situation in South Africa at this time, I would like to stress the importance of the gesture made by those who have risked such a great deal to provide alleged detainees with some measure of recognition. These emergency restrictions are inflammatory and cause hardship to many whose chances for redress are nonexistent. The interests of human rights can best be served by wide recognition of the plight of the estimated 3,000 detainees and public expressions of sympathy for those without legal recourse. We hope that the South African Government will soon come to its senses, release these prisoners, and lift the state of emergency.

The following are the names of some who are believed to have been detained.

PARTIAL LIST OF PEOPLE DETAINED IN SOUTH AFRICA UNDER THE STATE OF EMERGENCY JUNE 24, 1986

(Affiliation is listed to the right—when known)

EASTERN CAPE PROVINCE

EAST LONDON

Albert Whittlers (Justice & Reconciliation).

GRAAF REINET

Gordon Bitterhand.
David Duka.
Nophondo Booi.
Mouse Hendricks.
Gerald Jack.
Zobantu Jantjies.
Dannie Koeberg.
Rev. Kolobile.
Jack Mbotya.
Rev. Moses Mtwalinga.
Rev. Temba Nyatyowa.
John Phantsi.
600 Church Members.

MIDDLEBURG

Dominee Abie Visagie (Dutch Reform Mission Church; Chair, Midlands Council of Churches).

Miriam Mobo (Middleburg Council of Churches).

PLETTENBERG BAY

Shuba Alfred.
Nxongo Douglas
Martin Lindiwe.
Martin Simon.

PORT ELIZABETH

Annaline Bester (End Conscription Campaign) Duze?

Barry Eason (End Conscription Campaign).

D.J. Grant (End Conscription Campaign).

Tim Hoffmann (End Conscription Campaign).

Michael Loewe (End Conscription Campaign).

Dennis Neer (General Secretary, Motor Assemblers' & Component Workers' Union of SA).

Edgar Ngoye (President, UDF).

Dominic Souchon (End Conscription Campaign).

Sandy Stewart (End Conscription Campaign).

BILINGUAL EDUCATION REGULATIONS

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. HAWKINS. Mr. Speaker, yesterday my colleague, the ranking Republican member of our committee, JAMES JEFFORDS, joined me in a bipartisan letter to the Department of Education expressing concern over regulations published on June 18, 1986, for implementation of the amendments enacted in 1984 for the Bilingual Education Act.

We are concerned with the timing of the regulations relative to their implementation. This late date is certain to cause problems for local school officials by requiring them to respond while most of the key personnel are in summer recess. This delay is due to the administration's own slowness in meeting its timetable for issuing regulations.

These regulations call for new parental and teacher consultations over provisions of the programs, and, during the summer, many of these individuals will not be available. In addition, there are new provisions in the regulations which were not part of the proposed regulations issued in November 1985. These additions are in violation of statutory provisions of 20 U.S.C. 431 and 5 U.S.C. 553. School districts would be subject to requirements they have not seen nor been given an opportunity to comment upon.

Furthermore, under section 431 of the General Education Provisions Act, these regulations cannot become effective immediately. There is a mandatory, statutory waiting period of at least 45 days for review by Congress of the regulations, and our congressional schedule may cause further problems with the dates for the regulations to become effective.

Finally, we realize that these new regulations have positive aspects to them, and eventually may help to strengthen the local programs. However, for the reasons stated above, the Secretary may be jeopardizing any substantive improvements by creating procedural and administrative errors. We think that Secretary Bennett will agree that the programs should not be subjected to litigation because of hasty action.

We have asked the Secretary to postpone using these regulations until they have had ample public comment. In the meantime, we have recommended that the Department use the general program regulations for the Department of Education, the EDGAR regulations, as a basis for awarding new grants for school year 1986–87.

This is a vital issue addressing the practical viability of these programs. It transcends politics or philosophy. That is why we have taken this bipartisan step. Due to its importance, I am placing a copy of our letter to Secretary Bennett in the RECORD. I urge all of my colleagues to contact the Department of Education and support our effort.

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, June 25, 1986.

Hon. WILLIAM BENNETT,
Secretary, U.S. Department of Education, Washington, DC.

DEAR SECRETARY BENNETT: Pursuant to the authority of Sec. 431 of the General Education Provisions Act, the Committee on Education and Labor has carefully reviewed the Final Regulation on bilingual education published by the Department on June 18, 1986. We would like to call to your attention a number of practical and legal problems relating to this issue, separate from any objections we might have to the substance of the Final Regulations.

We are concerned with the timing of these regulations relative to their implementation in Fiscal Year 1986. This concern is heightened by the fact that only seven weeks before some school districts begin classes for the 1986–1987 academic year, no bilingual education grants have been processed or applications received. This situation seems to be solely caused by the Department's plan to apply these June 18 regulations in this academic year.

We strongly recommend that you reconsider the implementation of these regulations for the upcoming school year. School districts are now in summer recess. At this late date, it will be difficult, indeed, for Superintendents and others to construct program applications for this coming year based upon current regulations with which they are familiar. It will be practically im-

possible for them to do the same with a new set of rules, which are substantially different.

Additionally, these regulations call for new teachers and parental consultation requirements at the local level. Such consultations cannot be held until parents and teachers return at the end of the summer.

Finally, under Sec. 431 of the General Education Provisions Act, these regulations cannot become effective immediately. There is a waiting period of at least 45 days, which means that the regulations cannot possibly become effective until the beginning of August. Furthermore, under the same statute, if Congress takes certain recesses (one of which is currently scheduled for sometime in August), the effective date of the regulations would be postponed until the middle of September.

We also note that the statutory provisions of 20 U.S.C. 431 and 5 U.S.C. 553, relating to the requirement that the Department publish regulations for comment, have been violated. The Final Regulations published on June 18, 1986 contain substantial quantities of new material. If the Department intends to change its initial proposal to such an extent, we believe that it should publish the regulations as a new proposal, and submit them to further public scrutiny and comment.

We recognize that Bilingual Education is an areaa in which many people have strong feelings. These regulations do have positive aspects which will help strengthen the programs. However, for the reasons stated above, any major substantive program improvements may be jeopardized by creating administrative and procedural barriers if these new regulations are implemented. We know that you will agree that these programs should not be subjected to future compliance problems by hasty action. For this reason, we ask that you immediately begin to process and approve applications for the 1986-1987 academic year based upon the EDGAR regulations and that any new regulations be made applicable to the 1987-1988 academic year. Further, given the new material in the regulations, we suggest that they be promulgated for comment.

Sincerely,

AUGUSTUS F. HAWKINS,
Chairman.
JAMES M. JEFFORDS,
Ranking Minority Member.

THE SPIRIT OF AMERICAN LIBERTY

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. HUNTER. Mr. Speaker, I would like to call attention to a truly inspirational essay written by an eighth grade student from the 45th District of California. Julie Russell was asked to write an essay on the woman she admires the most. The woman Julie chose was Lady Liberty. I think that Julie captures the spirit of American freedom. Julie's essay won first place in a contest sponsored by the American Association of University Women in the south bay area of San Diego.

As I read Julie's essay, I asked myself, how many other people, young and old, have found hope and solace in the eyes of this woman. As we embark on the 100th birthday of the Statue of Liberty, we can be reminded of the meaning and the values that she holds through the thoughts and words of this fine young lady, Miss Julie Russell.

A DISTINGUISHED WOMAN I ADMIRE

(By Julie Russell)

She came from France in 1884, to represent the friendship between France and the United States. She was the symbol of a free government, "Liberty" for all. Within her, we find the meaning of freedom and the high ideals of every free man. Through her no man can be imprisoned, at least, not in the mind. This great woman, of whom I speak so highly, is the Statue of Liberty, properly named, Liberty Enlighting The World.

The Statue of Liberty has lived for a hundred years, and in those years she has given hope to the suppressed, the hungry, the disabled and the wishful. She has given what no other woman has or can even hope to give.

She has watched immigrants come into Ellis Island. She has seen some accepted into the United States and some turned away. She has seen war, death and disease The Statue of Liberty has also seen birth, love, and happiness. Through the good and the bad times, her eyes have always shone with hope and love, and above all, the dream of freedom.

In her, you can almost feel what our forefathers were thinking of and wishing for, when they so valiantly fought in the Revolution. What every American wanted: freedom and the right to govern one's own life, the right to believe in what you want to, to have no dictatorship but stand as one with your countrymen.

Many come to view her beauty, to see her, to feel all of what she feels and what she represents. She represents a proud woman, holding in her right arm a great torch, raised high into the air, in her left, she holds a tablet bearing the inscription of 1776, the date of the Declaration of Independence, and at her feet rests shackles, representing over-thrown tyranny.

I admire the Statue of Liberty because she stands for everything I believe in. One cannot help but admire her, she came from afar and offered only friendship. We accepted her into our hearts and every American fell in love with her. She mended strong differences between France and the United States. Since the first time she set foot upon American soil she has done nothing but good.

She has withstood the strife and stress the world has set upon her. However, nature has taken a toll on her once great beauty. She is presently undergoing a face-lift, a touch up of the outer surface. Her inner beauty remains unscathed. We shall always remember her and what she stands for, she is the heartbeat of America. On the day of July 4, 1986, her beauty will again shine. She is the Statue of Liberty, and I will always admire her, because she is the past, present, and future.

INCLUSION OF PERSONS WITH COMMUNICABLE DISEASES UNDER REHABILITATION ACT IS INAPPROPRIATE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DANNEMEYER. Mr. Speaker, I rise today on behalf of myself, Mr. DORNAN, Mr. SILJANDER, and Mrs. BENTLEY to introduce a bill which will reaffirm the intent of Congress with respect to whether individuals with contagious diseases may be considered handicapped pursuant to the Rehabilitation Act of 1973 and therefore receive the protections of that law. Although I firmly believe that the legislative history of the act indicates that Congress did not intend to include persons with "contagious diseases" in the definition of "handicapped," some State courts have interpreted similar State statutes differently. To avoid such erroneous decisions in Federal court, I am introducing this legislation.

The Supreme Court will decide this question in October of this year when it decides the case of Arline versus The School Board of Nassau County. The school board is appealing the district court's decision that tuberculosis is a "handicap" and that persons infected with this and other contagious diseases are protected by the antidiscrimination provisions of the Rehabilitation Act. Should the Court affirm the district court ruling, diseases such as hepatitis, AIDS, and the plague could be the subject of affirmative action suits.

The inclusion of persons with communicable diseases under the Rehabilitation Act is inappropriate because such persons do not meet the three-pronged criterion for coverage. First, the Rehabilitation Act requires "handicapped individuals" to sustain a "physical or mental impairment that substantially limits major life activities." Since persons with a contagious disease may or may not be limited in their major life activities, they should not be automatically covered.

Second, the act requires that "handicapped individuals" be "otherwise qualified" and meet all of a program's requirements "in spite of their handicap." This statutory requirement has been interpreted in case law to mean that employment of a handicapped person must not "endanger the health and safety of others." It is difficult to imagine a situation in which a person with a communicable disease would not endanger the health of colleagues merely by their presence on the job.

Third, the act requires that employers "reasonably accommodate" handicapped persons provided that the accommodation does not place an "unreasonable burden" on the employer. In the case of contagious disease, protective garments and barriers would have to be provided to isolate the infected person and protect the health of the noninfected worker. The expense and inconvenience of such action places an unnecessary and inappropriate burden on the employer and reaches far beyond the bounds of what may be considered "reasonable accommodation."

While it is apparent on the face of the statute that "contagious diseases" were never contemplated for inclusion within the definition of "handicapped" as it relates to the affirmative action employment provisions, legislation is needed to respond to the erroneous interpretation of some State courts of similar State statutes modeled after the Federal law. For example, the Florida Commission on Human Relations ruled in January 1986, that the Broward County government illegally discriminated against a man with AIDS when it fired him. The commission held that AIDS is a "physical handicap" and therefore AIDS victims are protected by a Florida law prohibiting employment discrimination. In a similar incident, a Virginia patent draftsman with AIDS is suing the D.C. employer who fired him based on a Virginia law protecting disabled persons from discrimination. In another case, a Virginia doctor with AIDS is suing the Fairfax City Health Clinic which terminated his employment for discrimination against the handicapped. This handful of cases illustrates the misapplication of the law as applied to persons with communicable disease.

When Congress amended the Rehabilitation Act in 1978 to exclude alcoholics and drug users, it was responding to a ruling by the Attorney General that alcoholics and drug users were "handicapped" pursuant to the Rehabilitation Act. A similar situation exists with respect to infected individuals and Congress must again take action to affirm what the legislative history indicates, that persons with contagious diseases are not handicapped and should not be covered by the affirmative action provisions of the act. The legislative history of the Rehabilitation Act of 1973 never references contagious diseases but does indicate that Congress intended to preserve public safety at all costs.

If the Court sustains the district court's ruling, then it is possible that the Federal Government, or any employer receiving Federal assistance may be faced with affirmative action suits. Such a result is absurd in that it would require our Federal law to, on the one hand, exclude persons with contagious diseases from entering our country under U.S. immigration law while requiring Federal employers to practice affirmative action in hiring these persons. The legislation I am introducing would permit Congress to reaffirm its intent and preserve a law which was intended to protect truly disabled persons.

UNITED STATES WILL NOT TOLERATE INJUSTICE ANYWHERE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Ms. OAKAR. Mr. Speaker, I would like to insert for the RECORD an article which appeared on June 20, 1986, in the Washington Post, entitled "Passage of Anti-Pretoria Sanctions Marks Milestone for Hill Veteran."

Mr. Speaker, Representative RONALD DELLUMS has always been an outspoken leader in the area of human rights for people throughout the entire world.

On Wednesday, June 19, Representative DELLUMS led the fight to pass his legislation in the form of a substitute to H.R. 4868, which called for a trade embargo and complete divestment by U.S. companies and citizens, of their holdings in South Africa.

The passage in the House of this legislation is monumental in itself, for it is the first time that divestment legislation has ever been passed by either side.

Mr. Speaker, on June 19, the United States made history by sending a very clear message to the South African Government as well as to the rest of the world—particularly the other important trading countries of Great Britain, West Germany, and Japan—that we will not tolerate injustice anywhere it exists. We will not tolerate conditions that parallel the way Jews were treated in Germany in the thirties and forties.

During that time, people and governments commonly pleaded ignorance to inhumane conditions and atrocities committed against Jews, Slavs, and gypsies. Today we live in an era of communication satellites—which makes direct transmission of events possible from anyplace in the world at any time. We cannot use the excuse of ignorance.

Mr. Speaker, it is important that we realize the Senate must follow the leadership of the House. They must act now.

DELLUMS: EXONERATION IS HIS—PASSAGE OF ANTI-PRETORIA SANCTIONS MARKS MILESTONE FOR HILL VETERAN

(By James R. Dickenson)

To Rep. Ronald V. Dellums (D-Calif.), the House passage Wednesday of his stringent economic sanctions against South Africa was "a shot heard 'round the world." But he also views it as personal "exoneration" from the judgment that he is a moral gadfly and maverick who is out of the mainstream of power in the House.

The House astonished itself and many observers by passing Dellums' bill calling for a trade embargo and complete divestment by U.S. companies and citizens of their holdings in South Africa. It was the first time that divestment legislation has been passed by either house, and Dellums' version was far more stringent than the bill most observers expected to be passed.

In an interview yesterday, Dellums described the action as a major blow to apartheid that can't be undone or turned back. He also views it as a refutation of the belief of many—which is "personally painful" to him—that he is just another flaky politician from Berkeley.

" 'Berserkely,' a lot of them call it," he said, smiling ruefully.

"Yesterday's action was the shot heard 'round the world, that was heard in Pretoria," he continued. "We haven't simply altered the debate on apartheid, we've changed the environment. Whatever the dynamics of that moment, its effect can't be changed.

"Whatever comes out of the Senate and conference has to be stronger. We've opened new possibilities because we've moved the fear barrier back. We politicians live with a multiplicity of fears."

This view was shared on both sides of the aisle in the House.

"Yesterday, the House went to Ron Dellums; Ron Dellums didn't go to the House," said Rep. Jim Leach (R-Iowa). "Bill Gray went to the House, but the House went to Dellums."

Leach was referring to a more moderate sanctions bill sponsored by Rep. William H. Gray III (D-Pa.), chairman of the House Budget Committee and one of the House's most influential insiders. It was expected to pass but was never voted on because of the surprise call-up and passage of Dellums' bill, which was the designated substitute for Gray's.

Passage of his bill was a personal milestone for Dellums, 50, a veteran of nearly 16 years in the House.

"This is the highest point of my political life, the most significant and personally rewarding," he said. "It's been a long journey to this moment."

His next most satisfying moment was his presentation of the alternate military budget in 1982, which proposed reducing spending by more than $50 billion and canceling several nuclear missile programs. It got only 55 votes, about a third from the Black Caucus.

In many ways, Dellums is a paradox.

He is still the outspoken liberal he has always been, but his colleagues now see him as one of the most gentlemanly, considerate, even courtly members on Capitol Hill. They also value him as a "moral force for reordering priorities," in Leach's words, but think he's "too liberal to be in the mainstream."

Dellums, however, finds that the role of moral-outsider-gadfly leaves a lot to be desired.

"I came here not to project my personality but to project ideas, to lift the level of debate above rancor and personal attack," he said. "We're talking war and peace, life and death, man, and if you carry controversial ideas in a controversial personality, how can you ever get anything done?

The problem, he contends, is that he came to Congress during the counterculture revolution of the 1960s and the anti-Vietnam war protest and became the personification of Berkeley and all it symbolizes.

"My humanity got lost in the process," he said. "It has been personally painful to be considered just a gadfly, a maverick, a strong speaker, but outside the mainstream of power. What yesterday was about is that people have to see me in a serious way. This has been an exonerating factor."

He denies that he has just been an "off-the-wall voice."

"I introduced the first divestment bill 16 years ago," he recalled. "Did I come to the country or did the country come to me?"

When he first came to the Congress, Dellums seemed to be challenging its very legitimacy and that of the leadership, holding unofficial "hearings" on Vietnam war atrocities and racism in the military. Over the years, however, he's mellowed.

His seniority entitled him in 1983 to become chairman of the military construction subcommittee, and he surprised his colleagues by his considerate dealings with them and his skill at managing legislation.

Dellums said that on Wednesday, he could sense momentum for his bill building during the day.

"Members, including Republicans, would come up to me and say, 'Ron, I wasn't with you last year but I am this time.' I could also tell from the spectrum of people who were asking for time to speak on its behalf, including a greater number of Republicans. I knew we were gaining but not necessarily that we'd win."

As floor manager of the bill, Dellums had 30 minutes of debate time to mete out to his supporters.

"I don't like to give a colleague just a minute or 30 seconds to speak," he said. "But there were so many I had no choice. When [Rep. Charles E.] Bennett [D-Fla.] got up to speak, I had to fight back tears because I knew where he was coming from."

After the voice vote by which the measure passed, Dellums expected its opponents to call for a recorded vote.

"I sure wasn't going to ask for it but I was astonished that no one else did," he said. "I guess it was because they realized that if they did they'd have to account for their votes."

A staff aide speculated that conservatives who oppose sanctions wanted a bill so tough that the Republican-controlled Senate would balk at it. He also contended that the House leadership didn't want to chance defeating Dellums' measure because that would look like the House was backing down.

"They blundered into principle," he said.

THE SILVER SPRING MONKEYS

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mrs. BOXER. Mr. Speaker, the National Institute of Health [NIH] appears to be blantantly disregarding the will of the House in regard to the plight of the Silver Spring monkeys. I joined 253 of our fellow colleagues in a letter to Dr. James Wyngaarden requesting that the 15 primates be transferred to a sanctuary in San Antonio, TX. House Concurrent Resolution 351, now cosponsored by 120 Members, expressed a sense of Congress against the outrageous refusal by NIH to transfer the monkeys to Primarily Primates, Inc.

Yet, NIH is attempting to maneuver around the pending congressional resolution in an underhanded transfer of the primates to Delta Regional Primate Center, a research facility with a deplorable reputation.

In 1979, Delta lost a primate contract and resultant Federal funding because of an excessive, 85 percent-mortality rate of primates in 1 year at one facility. In 1980, the mortality rate of primates at the center was 57 percent, still considered extremely high. Finally, in 1985, more Rhesis monkeys died from accidents within the facility than from experiments, totaling 300 monkeys. This year, Delta has reported violent behavior in the breeding colony where they are proposing to place the 15 Silver Spring primates. This is hardly what I would call a sanctuary or sanctuary-like surroundings for primates who have lost use of limbs as a result of IBR experiments.

Those of us who signed the letter to NIH and who sponsored H. Con. Res. 351, were sincerely asking for the release of the monkeys to a "real" sanctuary. One where they could live their lives peacefully and at no cost to the taxpayer. In this most recent move by NIH, it seems the Federal agency has justified what the animal community has felt all along: Compassion and humane treatment of these living creatures has somewhere, somehow been overlooked and ignored by an entire research community.

NIH, we ask you to reconsider and transfer these animals to a true sanctuary.

TRIBUTE TO 40 HISPANIC CONGRESSIONAL MEDAL OF HONOR RECIPIENTS

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. TORRES. Mr. Speaker, I would like my colleagues to join me in recognizing the 40 Hispanic Congressional Medal of Honor recipients. These men valiantly displayed their courage on the battlefields in order to protect their fellow Americans at home. With their dedication to the ideals embodied in the United States, our Nation would not be as important in the world today.

Hispanics have played an integral role in this Nation's illustrious history. Hispanics bravely fought against the British during the American Revolution. Hispanics were among the first defenders of the Alamo. And, Hispanics were the most decorated ethnic group of World War II.

We should consider these 40 inidividuals as role models to be respected and admired for their actions demonstrating their ability to act above and beyond the call of duty.

Mr. Speaker, I am proud to recognize the following heroes for their committment to the betterment of the United States of America; Pvt. Bruce Anderson, U.S. Army; Sgt. John P. Baca, U.S. Army; Ordinary Seaman Phillip Bazaar, U.S. Navy; M. Sgt. Roy P. Benavidez; Sgt. Jose Calugas, U.S. Army; Anthony Casamento; Pfc. Mike Colaillio, U.S. Army; Capt. Reginald B. Desiderlo, U.S. Army; Sp4c. Daniel Fernandez, U.S. Army; Pfc. Fernando L. Garcia, U.S. Marine Corps; Sgt. Macario S. Garcia, U.S. Army; L/Cpl. Emilio A. De La Garza, Jr., U.S. Marine Corps; Pfc. Edward Gomez, U.S. Marine Corps Reserves; Pfc. Harold Gonsalves, U.S. Marine Corps Reserves; Pfc. David M. Gonzales, U.S. Army; Sgt. Alfredo Gonzales, U.S. Marine Corps: Sgt. Ambrosio S. Guillen, U.S. Marine Corps; Cpl. Rodolfo P. Hernandez, U.S. Army; Pfc. Silvestre S. Herrera, U.S. Army; L/Cpl. Jose Francisco Jiminez, U.S. Marine Corps; 1st Lt. Baldomero Lopez, U.S. Marine Corps; Sgt. Jose M. Lopez, U.S. Army; Pfc. Carlos James Lozada, U.S. Army; Cpl. Benito Martinez, U.S. Army; Pvt. Joe P. Martinez, U.S. Army; Pvt. Jose B. Nisperios, U.S. Army; Pfc. Eugene A. Obregon, U.S. Marine Corps; Seaman John Ortega, U.S. Navy; Pfc. Manuel Perez, Jr., U.S. Army; Pfc. Cleto Rodriguez, U.S. Army; Sgt. Joseph C. Rodriguez, U.S. Army; Capt. Euripides Rubio, U.S. Army; Pfc. Alejandro Renteria Ruiz, U.S. Army; Sp4c. Hector Santiago-Colon, U.S. Army; Pvt. France Silva, U.S. Marine Corps; FM2 Telesforo Trinidad, U.S. Navy; Pfc. Jose F. Valdez, U.S. Army; Maj. M. Sando Vargas, Jr., U.S. Marine Corps; Sgt. Ysmael R. Villegas, U.S. Army; and 1st Sgt. Maximo Yabes.

PCB'S ARE HAZARDOUS TO YOUR HEALTH NOW

HON. FRANK McCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. McCLOSKEY. Mr. Speaker, today I introduced legislation which will assure the American public that we are truly concerned about the health of our people and the environment. It will show them that we do not just pass laws without concern for how they are administered. It will reaffirm that, while we do allow our agencies to handle the day-to-day tasks of carrying out the law, we do not adbicate our oversight of the important policy decisions related to implementing our legislative intent.

One such concern of mine is an apparent bureaucratic time warp involving the cancer-causing material, polychlorinated biphenyls, commonly known as PCB's. This material was banned in the late 1970's, after it was found to be associated with liver cancer, respiratory disorders, and birth defects. At that time, Congress passed the Toxic Substances Control Act to regulate the treatment, storage, and disposal of PCB's. EPA recently announced that it intends to consider regulation of PCB's under the more strict and stringent rules of RCRA. Included would be the very important consideration of the unreasonable risks associated with the location of any facility which treats, stores, or disposes of the material. However, the process could take more than a year. In the meantime, Unison, a subsidiary of Union Carbide, is completing construction of a plant in Henderson, KY, directly across the Ohio River from my district in Indiana, which will separate PCB's from a solvent which itself purportedly contains toxic materials already listed under RCRA.

EPA has stated that it has no control over the siting of this plant since it is regulated under TSCA which supposedly has no specific siting criteria and that it is primarily a local issue. What is alarming about this situation is that this plant is being constructed close to the Ohio River which is the primary source of drinking water for several communities, and on the New Madrid Geological Fault. If RCRA criteria were applied, no permit would have been issued until there was a determination of whether the site constituted an unreasonable risk. This would have taken into consideration the potential for flooding, the geological conditions, and possibly related matters such as population density. It is my understanding that EPA should be promulgating other specific siting criteria in the very near future. Why wait when the potential hazards have already been determined?

This amendment will rectify the time warp between final listing of this dangerous chemical under RCRA and present determination of the risks it poses to our environment and the health of our citizens. It merely requires that siting regulations in RCRA be applied to any facility which treats, stores, or disposes of PCB's. The potential risks of PCB's are known today; let us act today so that tomorrow we will not have to apologize to our children and

grandchildren with the lame excuse of bureaucratic redtape.

DR. EDWARD FERRAND

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. WEISS. Mr. Speaker, I rise today to invite my colleagues to join me and the people of New York in honoring Dr. Edward Ferrand who is retiring from city government as the assistant commissioner of the New York City Department of Environmental Protection.

Dr. Ferrand has dedicated more than 20 years to public life and environmental protection. During this time he has held many positions of leadership with such esteemed bodies as the National Academy of Sciences and the New York Academy of Medicine. Recently, he was appointed president of the New York Lung Association. He is recognized as being one of the top environmental scientists in city government.

Dr. Ferrand is more than a talented scientist who has dedicated his life to a cleaner and healthier environment. He is a unique civil servant who has always made every effort to be accessible to the people and communities of New York and to supply information and technical assistance to concened citizens on issues affecting the urban environment. My constituents and I, like all New Yorkers, have benefited enormously from the sound scientific expertise and analysis Dr. Ferrand has so often provided.

Before my election to Congress in 1976, I served in the New York City Council as chair of its Environment Committee. In that capacity, I came to rely on Dr. Ferrand and his wealth of knowledge in constructing some of the fundamental environmental laws of our city. His assistance was invaluable in developing key provisions of our city's air pollution code.

My respect for Dr. Ferrand has only increased with the passage of years. In 1982, the U.S. Department of Agriculture [USDA] planned to fumigate a warehouse, located in the congressional district which I represent, with a toxic gas. The Department, however, failed to notify the surrounding residential community of its plans and was about to proceed without proper safety precautions. I contacted Dr. Ferrand for assistance and requested that he go on-site and make safety recommendations. As the result of Dr. Ferrand's efforts, substantial safeguards were developed, and the USDA agreed to implement them in all of its fumigation projects throughout New York City. This is but one example of the professionalism, commitment, and caring that Dr. Ferrand has demonstrated throughout his career. His initiative in dealing with the major environmental challenges to our urban areas will be sorely missed.

Mr. Speaker, I wish to congratulate Dr. Ferrand for his years of exemplary service to New Yorkers, and am pleased to report his good work to my colleagues. I hope that you will join me, my constituents, and such respected organizations as the Natural Resources Defense Council, the Environmental Defense Fund, the Brooklyn Lung Association, the New York Committee for Occupational Safety and Health, the Clean Air Campaign, and the New York Sierra Club in commending Dr. Ferrand for his numerous accomplishments and wish him success in his future endeavors. Successs for Dr. Ferrand undoutedly means success for all of us in the battle to protect the public's health and environment.

STATEMENT PRAISING THE PASSAGE OF H.R. 4060

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. McCAIN. Mr. Speaker, on Tuesday, June 24, the House of Representatives passed an important piece of legislation, H.R. 4060, which makes a step toward correcting the inequities created by the implementation of the Gramm-Rudman budget mechanism.

Like a majority of my colleagues, I supported the Gramm-Rudman concept because of the obvious need to attack the deficit problem. I am very aware that correcting this problem will take sacrifice on the part of all Americans. However, I believe the law we adopted, as implemented, has unfairly singled out military retirees, their pensioned widows, retired Federal workers, railroad retirees, and certain others. These groups were singled out and temporarily denied receipt of the 3.1-percent cost-of-living adjustment increase that has been accorded to those receiving Social Security benefits, tier I railroad retirement benefits, and veterans compensation and pension benefits. I believe that excluding these groups from receiving their COLA increase is not only inequitable, but blatantly discriminatory.

The original language of Gramm-Rudman "suspended" these COLA's only until March 1, 1986. Unfortunately, the first sequestration ordered by the law did not restore them. Ever since it became clear that this mistake was being made, I have pushed for a legislative remedy. As a cosponsor of H.R. 4060, I was proud to support its passage earlier this week.

The bill, in its original form, prohibits the reduction or suspension by Presidential order or statute of any cost-of-living adjustment payable to civil service retirees during calendar year 1987. Under the amendment adopted by the House, similar treatment will be extended to recipients of military, Foreign Service, Central Intelligence Agency, disability, and tier II railroad retirement benefits.

As my colleagues know, both the Senate and House budget resolutions provide for cost-of-living adjustments. Therefore I do not expect future Gramm-Rudman sequestrations to affect the pensions of our retirees. It is unfair to single these people out to accept cuts that others are not asked to accept.

Finally, I would like to point out that this bill has bipartisan support; well over half the Members of the House are listed as cosponsors, and is endorsed by a number of important groups, including the National Association of Retired Federal Employees. It is an excellent piece of legislation which will correct a very inequitable situation, and I look forward to its passage by the Senate and approval by the President.

GRACE DAY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DORNAN of California. Mr. Speaker, the time has come for this body to finally enact some of the recommendations of the Grace Commission.

Recent polls have shown, by overwhelming margins, that the American people want the deficit reduced through spending reductions, not tax increases. Given this attitude and the constraints of Gramm-Rudman, it is obvious that large cuts in domestic programs, some popular with the folks back home, are going to have to be made.

But while we consider these large reductions in Federal programs, we must also seize the initiative and implement some absolutely vital reforms as outlined by the Grace Commission.

For years now, the Grace Commission report has done nothing but collect dust on shelves all over Washington; this despite numerous studies showing that many of the recommendations would result in substantial savings. But now, due to the fine bipartisan work of the Grace Commission caucus, the time has come to find common areas of agreement and join in a serious effort to enact a comprehensive legislative package of Grace Commission recommendations.

I don't for a minute suppose that all the proposals we will be introducing today will be without controversy. But we must make the effort. The need for effective cost control and streamlined management has never been greater.

I am proud to be joining my colleagues on the Grace Commission caucus in helping to make today Grace Day. Our constituents deserve efficient Government. This is a chance to accomplish that. I therefore urge my colleagues to support the caucus' efforts on Grace Day and help enact the many cost-saving recommendations the caucus members will be introducing.

A TRIBUTE TO JACOB LAWRENCE, AMERICAN PAINTER

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. MILLER of Washington. Mr. Speaker, in the artist Jacob Lawrence, Washington State plays host to a national treasure, a treasure which the Seattle Art Museum will soon share with the Nation.

The new exhibition, Jacob Lawrence, American Painter, will go on display July 10, 1986, at the Seattle Art Museum and in September will begin a 15-month national tour. Featuring

nearly 150 paintings spanning 50 years of work, this is the most comprehensive survey ever made of Lawrence's work, and his first major solo exhibition in more than a decade, when he was honored with a retrospective at the Whitney Museum of Art in New York.

As one of the Nation's most important artists of the 20th century, Jacob Lawrence, notes curator Bruce Guenther, has created a uniquely American vision, one that affirms the place of the individual in our society, brings honor to the struggle for independence and the value of hard labor.

I have long been a fan of Mr. Lawrence. From his depiction of the aftermath in Hiroshima to his portraits of American heros like Harriet Tubman and Frederick Douglass, the eloquence, passion and beauty of Lawrence's vision has allowed me and countless others to enter a world of sometimes infinite horror and always boundless hope. It is a vision, that I am proud to say is on display in some of the world's most famous art collections including the Whitney Museum, the Metropolitan Museum of Art, the Museum of Modern Art and the Vatican.

Lawrence began his career in a New York City settlement house. His medium: crayons. But his teachers at the children's center and later at the WPA Harlem Art Workshop saw the promise of a great talent in his vibrant, evocative city street scenes. That was 1929. By 1941, Lawrence's works were being exhibited in one of New York City's most prestigious art galleries to great and lasting acclaim.

Today, after many years touched by personal triumph ad tragedy, Lawrence is a full professor at the University of Washington where he continues to work and share the roots of his extraordinary vision with his fortunate students.

With these words, I can honor this great artist, but I cannot hope to convey the measure of his vision. If you are lucky enough to have the opportunity, go see Jacob Lawrence, American Painter. It will be an experience you won't soon forget.

CONTINUED REPRESSION IN ROMANIA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LIPINSKI. Mr. Speaker, the human rights situation has continued to deteriorate in Romania in the few months that I last expressed myself on this subject. Cultural and self-determination rights violations against the national minorities in the country, particularly against the 2.5 million Hungarians of Transylvania, and the blatant anti-religion campaign of the Ceausescu regime go on unabated. While the President has asked for another extension of most-favored-nation [MFN] status for Romania this month, he himself has expressed grave concern about the human rights record of that country, especially with regard to Christian believers.

The persecution of the national minorities, including the 330,000 Germans in the country, shows no sign of coming to an end and has steadily increased since 1982. Police brutality, murders, disappearances and prison sentences on trumped-up charges abound. Most of the 20,000 Bibles sent as a gift of the World Reformed Alliance to the Hungarian Reformed Church via government authorities were seized and crushed into toilet paper. Rev. Sandor Havadtoy testified to this in the House and Senate last year, bringing with him a roll of the toilet paper with 16 words or parts of words from the Bible published by the alliance. Catholic priests have been beaten so badly that one, Rev. James Cielik, had his hands broken and another, Reverend Geza Palfi, died of his injuries. Reverend Cielik's "crime" was that he would not reveal information received under the seal of the confessional while Rev. Palfi was murdered because he preached that Christmas should be a public holiday in Romania.

The cultural rights of the minorities, particularly the Hungarians, are either severely curtailed or remain nonexistent. Higher education courses in the Hungarian language, something which was commonplace as recently as 15 years ago, do not exist anymore. Hungarian TV and radio programs have been abolished, book production is steadily decreasing and many Hungarian authors are banned in Transylvanian theaters and schools.

A more harmful development is the emergence since 1983 of anti-Hungarian hate literature in Romania. Hungarians are depicted as exploiters, barbarians, murderers, and undesirable aliens from which the Romanians should rid Transylvania. The Ceausescu regime tolerates this outrage—perhaps even encourages it—in order to divert the attention of the people from the gross lack of electricity, heating and foodstuffs.

Under these circumstances, exposed in the State Department's 19th semi-annual report on the implementation of the Helsinki accords, April–October 1985, our Nation should demand substantial remedies from the Romanian Government if we are to continue granting MFN status to that country. The sufferings of the minorities and the nation of Romania as a whole should not be forgotten.

THE 50TH ANNIVERSARY OF THE HIGHLAND RESTAURANT IN PITTSFIELD, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CONTE. Mr. Speaker, I want to take this opportunity to commend one of Pittsfield, MA longtime business fixtures for its half-century of operation. On May 11, the Highland Restaurant celebrated its 50th anniversary of providing fine food at reasonable prices to the good people of Berkshire County.

The restaurant was inaugurated in 1936 at its present location by brothers-in-law Dominick Sondrini and Angelo Balardini. However, the success of the establishment began long before its doors first opened.

In the early days, many afternoons witnessed the gathering of the "Lakewood Paisans," if for no other reason than to hash over the day's events. It was then that a network, a brotherhood that would bring charm to the restaurant, truly began. The Highland became an extension, a kind of meeting place for that brotherhood. In addition to the fine food and warm atmosphere, one could always find a discussion to participate in, a debate to join, or an opinion to hear.

As a young State senator, I myself stretched many a dinner hour into the wee hours of the morning, going toe to toe with my dear friend Angelo over the age-old Red Sox-Yankees dispute, he being a proclaimed fan of that other team from the Empire State. I especially enjoyed the annual awards banquet for the Pittsfield Restaurant Association, of which Angelo was president. I spoke every year, and every year you could count on roughly the same 100 local proprietors, sheepishly indulging in gourmet delicacies that only Angelo could orchestrate.

Situated in a central location, the establishment quickly gained a favorable reputation, becoming a haven for business people, lawyers, local political figures, and the all time great hero/athletes from every sport and stature. Countless were the topics discussed over a scallop sandwich or a bowl of pasta fagoli, and it was often said that the brick-faced, Fenn Street structure was the unofficial community boardroom where important local policy issues of the times were discussed. The weightiest of these discussions probably took place in the back corner booth, where at 12:15 each afternoon, the likes of Quirico, Scolari, and Cimini would place themselves.

Since that period, the operation has undergone a number of expansions and is presently run by Sondrini's son Rudy and his partner Leon Arace. They now can accommodate 135 hungry patrons at any given time. However, those qualities that made the Highland popular 50 years ago still hold true today. The traditions of speedy service and great food are still the attraction, and any weekday lunch hour will find the community's central figures exploring the finer points of pending issues.

I commend the restaurant not just for what it is, but for its adaptibility. It has passed the test of time as five decades of change have served only to increase its appeal.

Best of luck to the Highland Restaurant in Pittsfield, on its drive toward another 50 years of service to Berkshire County. Thank you Mr. Speaker.

AN ARTISTIC DISCOVERY

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DOWNEY of New York. Mr. Speaker, today we were proud to honor more than 200 young American artists. At the same time, in the Capitol people were protesting aid to the Contras, and throughout the world there continued to be other trouble spots. Yet we paused to cut a ribbon to open our Congressional Art Exhibition. And this was not as inappropriate as it seemed.

We spend a lot of time around here worrying about the affairs of States and of nations.

Sometimes we get so buried in our rhetoric that we forget whom we govern. We, as Members, represent millions of American citizens, and for our younger generation, especially, we have a responsibility to ensure that the United States remains a country of promise and of opportunity.

The arts alone elevate the human spirit; they highlight the common traits of people of all countries; and they ensure our legacy for future generations. It is, therefore, imperative that artistic opportunities are available for all our young people. What makes the arts so special to all of us here is that they belong to no political party. And in that bipartisan spirit, we are proud to celebrate the opening of this fifth consecutive Congressional Art Exhibition—the culmination of a joint effort by Members from nearly every State in the Nation.

Over 100 talented young artists gathered today with Members to officially open An Artistic Discovery—the national exhibition of winning artworks by high school students from 226 congressional districts across the country.

Many persons deserve our thanks for the success of today's opening. The entire exhibit is only possible through the tremendous efforts of the Architect of the Capitol George White and his excellent staff. Roger Stevens, Chairman of the Kennedy Center, Charlton Heston, currently appearing in The Caine Mutiny Court-Martial, Anthony Edwards and Meg Ryan from the movie Top Gun—all added a special dimension to today's ceremony.

Most importantly, Roger Smith and the General Motors Corp. demonstrated their commitment to this effort through their continued support over the past 3 years. General Motors has always been a leader in caring about the future of each generation through strong support for the arts and education. GM's national concerto competition and the "Best of Class" program—honoring academic excellence in high school seniors—are but two other examples of GM's dedication and support for the arts and education. GM's awarness of the importance of cultural endeavors is exemplified by their suport and involvement in all areas of the arts—music, theatre, museums, visual and performing arts.

The outstanding collection of paintings, drawings and prints will be on display in the Connon tunnel through May 1987. The exhibit brings together the activities of House Members who conducted local art competitions which involved thousands of high school students. In fact, over the 5 years of An Artistic Discovery, Members have conducted over 1,000 individual competitions involving over 60,000 students.

The success of An Artistic Discovery demonstrated the wonderful opportunity we have, as Members of Congress, to encourage the artistic talents of today's youth. The national exhibition of winning artworks is a tribute to the great creative spirit of young people throughout the country.

Congratulations to Members, students, teachers, family, and staff who helped to make our fifth annual Congressional Art Exhibition our best ever.

CONDEMNING ATROCITIES AGAINST THE BAHA'I COMMUNITY IN IRAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LANTOS. Mr. Speaker, I rise today to express my indignation and outrage at the great atrocities being visited upon the Baha'i community of Iran by that country's fundamentalist Shi'ite government. Two brutal deaths in recent weeks have again highlighted this tragic situation.

Mr. Farid Behmardi, a prominent leader of the Baha'i community in Tehran, was subjected to prolonged beatings and torture in prison, and on June 10, 1986, was executed by hanging. His family was not informed of his death until after his body had been buried by government authorities.

Less than a month earlier, a Baha'i man and his 15-year-old son were dragged into nearby mountains by a Moslem mob where they were brutally attacked and thrown from a cliff. The mob assumed the two were dead and left them. Their bodies were discovered later by a passing car—the father was still alive, in critical condition but the teenage son was dead.

These are only the two most recent examples of the persecution of the Baha'is in Iran. Iranian Shi'ite religious leaders consider the Baha'is to be heretics and demand their conversion to Islam. As a result of official persecution of the Baha'is over the last 7 years, over 190 Baha'is have been put to death for refusing to renounce their faith. Some 750 Baha'is are presently in jail for refusing to convert to Islam and 5 are threatened with imminent execution.

The Baha'i faith professes the equality of races and of sexes, the harmony of religion and science, the unity of mankind, and of universal peace. In sharp contrast to this, the Baha'i community in Iran has been subject to severe persecution by individuals and by the government. All Baha'i institutions have been closed and their property confiscated, Baha'is have been denied access to jobs and schooling, and they have been publicly denounced in the press.

The United Nations Commission on Human Rights has repeatedly adopted resolutions condemning human rights abuses in Iran, specifically addressing the brutal treatment of the Baha'is. But when the issue was raised in the U.N. General Assembly and a monitor named to investigate the situation, the Iranian Government refused to cooperate.

The Government of Iran has sought to mask its vicious policy of persecution, discrimination, and genocide. Mr. Speaker, we cannot permit this to happen. The world must know that the Iranian Government is pursuing a policy of religious persecution and extermination. We have the responsibility to speak out against policies of systematic discrimination against individuals who seek only to profess their faith in their own homes without the risk of arrest and execution.

Mr. Speaker, I urge my colleagues to join me in condemning these heinous and vicious crimes.

THE 20th ANNIVERSARY OF THE FREEDOM OF INFORMATION ACT

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. RODINO. Mr. Speaker, of the many things that distinguish our system of Government from others, few stand out more than our openness and democratic spirit. This July 4th we will celebrate the centennial of the great symbol of our democracy, the Statue of Liberty, as it enters a second century of bearing the torch of freedom. But there's another anniversary taking place that day, one less well known, though just as important and powerful in its meaning for our democracy.

Twenty years ago on July 4th, the Freedom of Information Act became the law of the land. By giving the public access to Government documents, the Freedom of Information Act has ensured more Government accountability than ever before. No other law has done more to limit the abuse of Government power. No other law has set such a high standard of Government openness. The Freedom of Information Act is a legislative tool to guarantee that ours is indeed a Government of, by, and for the people.

The real security of our Nation is the integrity of its institutions and the informed confidence of the people. When that integrity is questioned, confidence and trust erode. Nothing serves our Nation better than the truth; nothing damages us more than when our leaders try to conceal it. Only 12 years ago an administration that tried to hide the truth shook the foundations of our Government. And we all know what happens in a closed society, where truth is but a function of who has power. That is not the American way.

What the Freedom of Information Act does is to help keep our Government accountable and honest. As used by journalists, historians, lawyers, politicians, businesses, and public interest groups, it has exposed instances in which the Government has overstepped its bounds of authority. It has helped to reveal cases of Government mismanagement, waste, fraud, and abuse of power. It has enhanced the health and safety of American citizens. It has served the public interest.

The Freedom of Information Act is based on the fundamental principle that a free, democratic government has little to hide from its citizens. With the obvious exceptions of national security matters and other classified documents, government information belongs to the people. The Freedom of Information Act has served this purpose well. A 1985 House Government Operations Subcommittee study of the act showed that over 90 percent of the requests processed by Government agencies were granted in full in 1984. Whatever time and cost is involved in enforcing this act, the cost of not enforcing it—of having a

closed Government and an uninformed citizenry—would be far greater.

So on this July 4th, I will salute two anniversaries—the centennial of the Statue of Liberty, and the 20th year of the Freedom of Information Act. Each, in its own way, is a testament to our free society.

THE STATE OF THE PHILIPPINES

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. HEFTEL of Hawaii. Mr. Speaker, this is the seventh of an interesting 10-article series on the Philippines written by George Chaplin, the editor-in-chief of the Honolulu Advertiser. This installment discusses the general economic climate of the country and the present economic policies of the new Aquino administration.

President Aquino faces the difficult task of rebuilding the Philippine economy after the years of mismanagement and neglect. Mr. Chaplin's interview with Jose Conception, the Minister of Trade and Industry, discusses the current economic situation in the Philippines in light of promising trends to increase trade, deregulate the private sector, and promote tourism.

The article follows:

[From the Honolulu Advertiser, May 24, 1986]

PHILIPPINES ECONOMY: TURNING POINT?

(By George Chaplin)

MANILA.—Jose Conception, the minister of trade and industry in the Aquino government, is a large, bespectacled businessman (flour milling and agro enterprises) who helped organize Namfrel, the National Movement for Free Elections.

It was the 400,000 Namfrel volunteers who closely monitored the polls in the February snap election and provided the clearcut picture of fraud by the Marcos camp that led U.S. officials to urge the dictator's ouster.

In an interview, Conception talked about economics and politics.

Q: How do you see the country getting out of the economic crisis?

A: America saw on TV the courage of the Filipinos fighting for democracy. That gave the industrialized countries an extra dimension in seeing the Philippines as a good place to invest.

We're getting many inquiries from foreign investors. But we have problems—3 million unemployed, 800,000 entering the labor force each year, poverty all over the place, People have a high level of expectations now, but we can't meet these in a short time.

We're organizing People's Economic Councils throughout the country, inviting grassroots views, rather than working from the top down.

"There will be representatives from the Chambers of Commerce and from the various community sectors—from cottage enterprises to large businesses: the farm segment; labor; academic; civic, religious and professional groups: consumer groups; and the local financial community.

We're now post-testing this in nine provinces, but plan to be in all 74 provinces and 60 cities and ultimately in all municipalities throughout the country.

In Zamboanga I listened to the economic council, representing, among others, 10,000 to 12,000 Muslims who dive and collect coral. For the last eight years there's been a ban on export or coral—except for one firm run by a friend of Marcos who had the export monopoly.

The rest of the firms asked for export permits but couldn't get them. So they accumulated a 50-million peso ($2.5 million) inventory which they were not permitted to ship.

Within two weeks we arranged for them to get permits so they could export all that stored coral.

(Conception cited this as an initial success story of the councils, through which people will not only articulate their needs but participate in making decisions and implementing programs.

(Government in business: "Government has no business competing with the private sector in areas that it can handle well. In trade and industry, our role is supportive, not dominant.")

Q: What about government getting out of business?

A. We have a privatization program for government corporations. But first we have to get good balance sheets and do vibility studies (to indicate what can be sold as going concerns "at their true value" and what will have to be written off).

Amex (American Express International Banking Corporation) is (agreed in principle) to acquire 50 percent of a government bank (Interbank). We're going to do the same for many of our corporations.

(Conception has said that "instead of selling these to one or two individuals we would like to have as wide an ownership base as possible. One framework we are considering is to offer the equity 20 percent for the employees, 20 percent for the general public, 20 percent maximum for government and 40 percent for foreign investors, if any."

(Far Eastern Economic Review cites negotiations in progress between Indonesian interests and the Associated Bank and says, "there are reports that the Bank of Hawaii, which stopped negotiations with troubled Producers Bank in 1985, is now talking about an equity conversion scheme with the Commercial Bank of Manila (Combank).

("There is also talk that the cash-rich Pacific island state of Nauru is investigating, equity involvement as well, possibly with another government-controlled bank, Union Bank."

(When banks run by Marcos cronies ran into problems in recent years, they were bailed out by the Development Bank of the Philippines, and this put the government further into control of financial institutions.)

Q: How do you project the confidence of a stable economy?

A: I'm not disappointed at the level of display of confidence. We have organized task forces in 32 industrial sectors which will be self-regulatory, with minimal government intervention.

(In a recent speech he said that each task force would represent "a balanced group of the entire sector that makes up the industry, including small and medium companies," and that each sector "will be given the responsibility of formulating a 10-year industry development plan . . . so that we know where we are going and what problems we will face.")

Q: What about dismantling of monopolies held by Marcos associates?

A: They had many products. They had soap. They had sugar, where the entire trading had to be done through one agency, with producers not getting the correct price for their crop. Now sugar can be sold by the private sector.

They had copra, on which 7 million farmers depend. They could not export, so all had to be sold to the mills, 90 percent controlled by the monopoly, which set prices. By lifting the price control, a dealer can now export or sell to the oil mills, which will have to match the higher export price.

On wheat there was a national authority which would buy grain and sell to millers at a higher price. The difference was 5 billion pesos ($250 million), all at the expense of the consumer.

Almost every move of industry had been controlled by these monopolies, which we are dismantling.

Q: Where's capital investment coming from?

A: We have a $26.2 billion national debt, with an annual interest bill of $2.6 billion. We've looked at oil bills and the like—there's not much maneuverability. So we're doing a six-year reconstruction program, with major reform in agriculture, small and medium industry.

We want to reconstruct our obligations over 20 years, with a 10-year grace period, a sort of mini-Marshall Plan.

Interest rates for farmers have been 40 to 50 percent. How can they survive? We must find a delivery system to bring credit costs down. In steel, we want to look at raw materials all the way to tin cans and fabricated products. We hope within six months to have a total economic reconstruction plan.

Q: What about your overseas market?

A: We're asking the U.S. and other industrialized countries to give us greater access to markets for the next six years, a period of reconstruction.

For example, in the American garment market the Filipino share is 2.5 percent. If we look at Taiwan it's 17 percent, China 10 to 11 percent. Even Bangladesh has more than the Philippines. We fought in Bataan and Corregidor and we have two U.S. bases here, so it's hard for our people to understand. Our bilateral agreement on garments is up at the end of this year. I believe the American people will support a higher quota.

On sugar, we want to increase the U.S. quota. We realize sugar is a sunset industry, but we need a shot in the arm over the next three years. That will enable us to diversify to corn, vegetables, cassava. We can develop livestock.

Japan is a $3.8 billion market in garments. We export only $17 million there in apparel, because there's a quota.

Our greatest threat is that unless we can respond to the needs of the people, the revolution will be lost. There are Marcos people who want to destabilize. If the Aquino government cannot address problems, the Communists may make their move. If the government ceases to be responsive, there'll be great trouble.

Q: What about the complaints over appointments of Officers in Charge (OICs), replacing elected provincial and local officials?

A: By and large the decisions have been good. Minister Pimentel is undergoing a learning process. He made some appointments without consulting people in the area. Eventually, criteria evolved. I feel Pimentel is trying to do what's possible in his realm. There's political bickering, but what is important is the cabinet and the president made a decision that the OICs must resign 90 days before the election. They

can't use their office to advantage and that should resolve the situation. President Aquino told me that any OIC not in line with the new spirit of reform will be replaced.

Q: You were the head of Namfrel.

A: The aim was to make sure that elections are honest. I favor new voters registered with photos. I favor a permanent list of voters, computerized to match fingerprints to help eliminate vote fraud.

We then would be ready for (the plebiscite on the upcoming constitution and the election of the Parliament and local officials). I want foolproof, honest elections, to make sure the people's interests will be protected.

(He said he's not a member of any party, but a non-partisan cabinet member, "reflecting the new breed.")

Q: What about the people, now that Marcos is gone?

A: Over the years Marcos has not allowed the people to talk. We tell them the future is now in their hands, that government will try to help, but decisions should be made locally.

The people here risked their lives against Marcos and felt that the U.S. was committed to free expression of the people, but the U.S. vacillated at the most crucial point. (He was talking about President Reagan's statement, later corrected, that there seemed to be equal election fraud on both sides. He also said he doubted the wisdom of Reagan calling Marcos, a former head of state, since he hadn't phoned Aquino until she'd been in office two months. He said that there's "a strong reservoir of good will toward the U.S." but Filipinos felt hurt by Reagan's closeness to Marcos.)

[From the Honolulu Advertiser, May 24, 1986]

HOW TO MAKE ENTERPRISE AND INITIATIVE BLOOM

MANILA.—In a recent speech, Trade and Industry Minister Jose Conception discussed major policy directions:

"We believe it is important to provide a climate conducive to investments and serve the needs of potential investors."

"We will welcome foreign investment, but to supplement, not supplant local investors. In identified areas, we will allow foreign investments up to 100 percent, if the project intends to tap export markets. If the project will draw upon the domestic market, foreign investments will not be allowed beyond 49 percent."

"While we are putting emphasis on domestic trade as a sector whose potential for generating increased economic activity has been neglected, we will continue to have a policy of strong promotion of exports. We recognize the reality that we need foreign exchange receipts to pay off our debts."

"On price controls, we believe the prices are best left to be governed by the law of supply and demand. However, when there are distortions in the market and prices behave erratically, our policy will be to anticipate market distortions to seek to prevent them. Price controls do not work."

"We are setting up a government Price Monitoring Council, that will monitor 16 basic commodities whose prices are considered sensitive to the housewife's budget. The council will monitor not only prices but also inventories and raw materials on a 90-day basis so that it can anticipate and correct price problems before they happen."

Conception believes in as much deregulation of the private sector as possible since "enterprise and initiative bloom best in a climate of freedom." He wants to cut away bureaucratic red tape since "unnecessary procedures and restrictions not only hamper our objectives but also represent a cost factor in terms of waste, inefficiency and redundancy."

Because of massive poverty an unemployment, emphasis will be on favoring small and medium industries, labor-intensive industries and those located in the provinces. He believes that all transactions should be able to withstand "the test of public scrutiny."

On import liberalization, the ministry "is accepting the recommendations of the private sector and will refer to the International Monetary Fund those products that have been indentified for immediate liberalization."

For those products in a second category "that may be liberalized after the necessary safeguards are in place, we shall undertake to ensure that the measures against undervaluation, misdeclaration, dumping and smuggling are instituted and proven to work."

(Some of his other policies are covered in the article above.)

[From the Honolulu Advertiser, May 24, 1986]

MINISTER OF TOURISM: OPTIMISTIC OUTLOOK FOR BUSINESS

MANILA.—One bright spot on the economic front here is rebounding tourism, which had sagged from the top year of 1980, when a million visitors and business people arrived.

Last year the figure was down to 775,000 who spent $750 million. And this year's first quarter was off by 10 percent from '85. But now the hotel rooms (there are 12,000 in the "first class" category in Manila) are filling up again and in an interview the new Minister of Tourism Antonio Gonzalez and he hopes to soon get back to the one-million-a-year peak. he said tourism is reported third most important in the economy, after coconut and sugar.

The season is October, November and December, but many of those now arriving are business types and to the government that means the likelihood of renewed foreign investment. The executive vice president of the Mandarin Manila Hotel, Nigel Roberts, is quoted as saying "we are the first indicators of the foreign business community and the businessmen are certainly talking bullishly."

While Americans are currently the number one arrivals, these are mostly Filipinos coming back from visits or coming back to live after Marcos, coming back for good," said Gonzalez.

Japan is potentially the number one market, and there's also concentration on Hong Kong and Taiwan. For Americans and Europeans the Philippines "has to be one of three or four places to be visited, rather than a destination resort on its own."

"Our problem," said Gonzalez, "has been image. The local press tends to be sensational and a lot of people elsewhere feel there's great tension here. Even the Washington Post was lumping us with Afghanistan as a place not to visit. They were talking about the Sulu Archipelago, where you get about 15 people a year anyway."

He said there were certain areas of Manila where, because of economic conditions, he would advise visitors not to go, but added that he could give the same advice about parts of San Francisco, Los Angeles and some other U.S. cities.

Gonzalez, who is 47, is well acquainted with the U.S., where he was educated at Notre Dame, began work with General Tel in Santa Monica, then headed Far Eastern marketing for Del Monte Foods, and subsequently worked with Tupperware and Time-Life Books, before opening a business here.

He was a close friend of President Aquino's late husband, "Ninoy," and "during the election campaign, Cory"—whom he had strongly supported with banners in front of his Makati firm—"asked me if I was interested" in the tourism directorship.

Gonzalez is an attractive "go-getter" who seems intent on doing the job.

He quickly acknowledges his problems.

The Philippine Tourism Authority gets only $2 million a year for advertising and promotion of the beaches, golf courses, historical sites and sunshine, not to mention the friendly, gracious people of this island nation. His slogan: "Come celebrate the new spirit."

He has 3,600 people working in the authority "when I really need 700. I can't get rid of the surplus right away. We would increase the efficiency, but cause a social problem.

"We have a lot of '15-30s.' They show up on the 15th and 30th to collect their pay. We need to get rid of some of the top bananas."

Philippine Airlines (PAL) "can become a strong regional airline, but it has been mismanaged and is broke now. The basic attitude in such cases was to print more money."

The Tourism Duty Free Shops, Inc., with nine outlets in Manila and two in Cebu, has been sequestered by the government. It's a multi-million-peso enterprise owned by Bienvenido and Gliceria Tantoco. Gonzalez said "the family is close to Imelda and they got the business by presidential fiat."

He said it was "a very questionable operaton and inefficient. They reported $30 million in sales. They could take in $50 million. The firm should net 12 percent, keep three and turn over nine to the government. Instead the government has been getting four percent."

He said the Commission on Good Government has requested bank records and others, "but they are incomplete." The tourism authority proposed "that we run it until the issue a decided and we are now taking inventory." He said that he has been greatly helped in his efforts by Duty Free Shoppers, from their San Francisco office. It's still to be determined whether the authority should continue to run the business or let it out on bid.

The tourism authority has been given 38 Marcos vacation homes "and we will eventually sell them."

Gonzalez said he would like to see Corregidor redeveloped into a tourist attraction, but that "it would cost a couple of million dollars in Japanese, Filipino and U.S. funds. A visitor would get there by ferry from Manila."

Roads are needed to connect to "gorgeous beach areas. A visitor can have a good five-day stay in the Philippines—two or three days here, then a beach resort or Baguio" in the mountains.

A SALUTE TO GEN. CHARLES A. GABRIEL

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. McDADE. Mr. Speaker, June 30 marks the end of a long and distinguished career for one of our Nation's finest leaders. Gen. Charles A. Gabriel, who has served as Chief of Staff of the United States Air Force since 1982, is retiring after 32 years of service, years marked by an outstanding combat record and a rise to the highest military ranks.

General Gabriel's career has been marked by excellence at all levels. He is a highly decorated combat pilot, having flown over 250 missions during the Korean and Vietnam conflicts. Less than a year out of pilot training, he downed two North Korean Mig-15's. He was one of a select few who, as junior officers, were handpicked to supervise and guide the first cadets assigned to the Air Force Academy at that institution's inception. After having assumed four-star rank in 1980, General Gabriel took over one of our Nation's most demanding military positions when he was named to the "double-hat" position of commander in chief of U.S. Air Forces, Europe [USAFE], and the commander of all Allied Air Forces in NATO. His tenure there was marked by the onset of the highly successful modernization of U.S. and Allied tactical air power, with the F-15 and F-16 fighters, among others, being added to the NATO arsenal.

My own experience with General Gabriel began in 1982, when he returned to the Pentagon and became Air Force Chief of Staff. He was appointed at a momentous time for the Air Force, since the service was in the midst of its largest and most comprehensive modernization in over 20 years. In my view, "Charlie" Gabriel was clearly the right man at the right time. He moved to make his imprint early, with a key decision to improve the way the Air Force plans to "fly and fight." Knowing that modern equipment alone could not deal with the increasing threats facing our combat forces, he took the lead in forging unprecedented agreements between the Air Force and its sister services for joint operations. Today, Air Force assets are an integral part of U.S. Navy sea control operations, and the Air Force and Army are breaking new ground in developing joint combat doctrine, strategy and tactics. Today, "jointness" is one of the favorite buzzwords heard in any discussion of improving U.S. military capability; but in terms of actual implementation, General Gabriel led the way in making joint operations a way of thinking and doing business within the military itself.

The past few years have certainly been controversial ones where the defense efforts are concerned, General Gabriel found himself with the somewhat uneviable task of presenting the case before Congress for many of the most hotly debated defense issues. Faced with very tough questions, he made a solid and convincing case for the B-1 bomber, the MX, and many other programs. He appeared four times before our Defense Appropriations Subcommittee, and impressed all of us with his cooperation, patience, and candor. I certainly benefited from his testimony, and I witnessed first hand the qualities that made his tenure as Air Force Chief of Staff an enormous success.

To General Gabriel and his wife, Dorothy, I express my deep gratitude for the many years of service they have given our country. We owe them a deep debt for their efforts over a lifetime on behalf of the security of our Nation.

RETIREMENT OF ELIZABETH PAPIRIO

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CONTE. Mr. Speaker, I rise today to mark the retirement of Mrs. Elizabeth "Betty" Papirio, assistant director of the Pittsfield Girls Club and to pay tribute to this outstanding member of the Pittsfield, MA, community.

Betty Papirio began her distinguished career at the Girls Club more than a quarter of a century ago, soon after leaving the staff of Camp Karu in the town of Washington. Since that time, Betty has worked with and come to know many of Berkshire County's young people and has truly distinguished herself as a swimming instructor, program director, and assistant director of the Girls Club.

Betty's contributions to her community have extended far beyond the Pittsfield Girls Club. In the many years since her marriage to Albert Papirio, she has served on the United Way's allocation committee and with the Sons of Italy in America, ITAM Lodge 564, as scholarship chairman for more than 7 years and charity board member for more than 10 years. She has also served with the American Red Cross as a CPR instructor, water safety instructor, director, and adapted aquatics instructor.

Today Betty continues to actively serve as a water safety instructor with the Red Cross, director of the United Cerebral Palsy Association, director at large and public relations committee member of the national organization and as director of Goodwill Industries. She is also a member of the Commission on Berkshire Women, member of the recreational advisory board and sits on the human services advisory committee at Berkshire Community College.

In addition to her community activities, Betty has been instrumental in the revitalization of the Pittsfield Girl's Club's summer camp at Onota Lake in Pittsfield. Her enthusiasm and intensity have earned her the respect of young and old alike.

As a staff member of the Girls Club staff, Betty has played a particularly active role in helping the Pittsfield Girls Club receive outstanding program awards from the National Girls Clubs of America in 1979, 1980, and 1984. She was a crucial link in the development of Project Acquaint, designed to increase understanding of handicapped persons, which won a national award in 1980.

I salute Elizabeth Papirio for an outstanding career as an educator, instructor, citizen and truly remarkable human being. Her departure from the Pittsfield Girls Club will leave a void that will be hard to fill.

More than a quarter century of service to the young and old of Berkshire County has certainly earned her a very special place of respect for many years to come. Her selfless dedication has enriched the lives of all she has come in contact with, and she will be sorely missed.

FAMILY DAY CARE HOMES IMPERILED BY INSURANCE LOSS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. MILLER of California. Mr. Speaker, the national crisis in liability insurance continues to affect many of the most vulnerable, and valuable small businesses in America, family day care programs. Since two-thirds of all children in child care are in family day care homes, it is clear that this trend will adversely affect tens of thousands of children.

Last summer, the Select Committee on Children, Youth, and Families held hearings to determine the effect of this crisis on child care providers. Representatives from national child care and youth serving agencies, as well as family day care providers themselves, warned that if they could not find reasonably priced insurance coverage, they would close down, reducing the already inadequate supply of child care.

Now, these fears are being realized.

As reported in the Washington Post on June 21, 1986, following what appears to be a national trend, family day care homes in the D.C. metropolitan area are closing down, leaving families stranded with few child care options.

One provider in the District was rejected by 16 insurance companies before she made a decision to close down.

In Montgomery County, two family day care providers have filed suit against the board of directors of their condominium, who ordered the closing of their businesses. The Post reports that the board's decision was influenced by their insurance company, threatening to cancel the condominium's policy unless action was taken against the family day care homes.

The current child care supply is already too limited to allow this crisis to continue. As we learn of more family day care providers closing down, a study by the Metropolitan Washington Council of Governments reports that only 20 percent of the children in the area are receiving the child care they require.

In my own State of California, despite action by the State insurance comissioner to establish a voluntary Market Assistance Program, family day care providers are operating without protective coverage, or closing down, because insurance is still too expensive. This presents a serious problem, in my own district where 300 families remain on a waiting list for child care.

The situation is so serious in California that a new child care Insurance project has been established in San Diego to publicize the extent of the problem, and to lobby strongly

on behalf of California's family day care providers.

There is action we can take to curtail the crisis. As a cosponsor of H.R. 4301, the Risk Retention Act amendments, I urge my colleagues to consider this legislation to make it possible for child care providers to more easily find and purchase insurance.

THE AMERICAN DAIRY INDUSTRY

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DE LA GARZA. Mr. Speaker, in 1983, Congress passed legislation establishing the National Dairy Promotion and Research Board primarily as a marketing device to encourage the American public to consume more dairy products.

Twice since then, as required by this legislation, the dairy farmers of America have voted to contribute a share of their earnings to fund this effort.

This promotional effort was needed because the use of dairy products was on a downward trend.

There were a number of reasons for this downturn in dairy product sales. Our Nation has been on a fitness kick for several years and some feel dairy products have too many calories, heart specialists have warned about cholesterol problems, and some diet books downplay dairy product consumption.

Nevertheless, dairy products are without question one of the best nutritional sources for a healthy diet. And every day we are learning more about calcium's role in helping maintain healthy bodies, and dairy products are the major source for calcium for the majority of Americans.

In addition to the National Dairy Board, there are many dairy promotion groups around the country. This month, they are together observing the 50th anniversary of June Dairy Month. And their combined efforts now appear to be reversing the downward trend in dairy product sales for the first time in more than two decades.

Recently, the National Dairy Board held its board of directors meeting in Washington on the second anniversary of its beginning operations. In his report to the board, Chairman Ivan K. Strickler said:

"Looking back on our last year's efforts, I am quite pleased with the bottom line results. The National Dairy Board was created by Congress to increase the sale of dairy products. According to the preliminary findings, we are meeting that mandate and finding higher than anticipated increases in dairy product use.

"The 1983 farm bill that established the National Dairy Board projected that the increased advertising would push dairy product sales up by 2 percent. U.S.D.A. statistics indicate that, since the Board's inception, sales have surpassed that prediction.

"According to USDA, milk and dairy product commercial use totaled more than 131 billion pounds in 1985, 3.7 percent more than in 1984. And, in 1984, the same category totaled 126.5 billion pounds, 3.3 percent more than in 1983. The total increase during this 2-year period is 7 percent, or 8.6 billion additional pounds of milk and dairy products used commercially, the largest 2-year increase in memory."

I congratulate and commend the American dairy industry on this achievement and especially on its 50th anniversary of celebrating dairy month during the month of June.

On some 220,000 dairy farms across the United States, men, and women, and children have to work 365 days a year to provide our Nation with fresh, wholesome dairy products. In the dairy business there are no planting and harvesting seasons, no days off, no rest for the weary.

I hope that the American consumer will be persuaded by our friends in the diary industry that these products are some of the most wholesome foods available to us at reasonable prices, and dairy products will continue to grow in popularity.

JAPANESE REDUCE TRADE DEFICIT WITH FOOL'S GOLD

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. STARK. Mr. Speaker, today I would like to recognize the Japanese for their mastery of style over substance. In a scheme that even Michael Deaver would admire for its public relations ingenuity, that country has figured out a way to reduce its trade deficit with the United States, and thus ease pressure for trade reform, without actually buying more from us or selling less to us.

The Japanese Government is buying large amounts of bullion to mint coins to mark the 60th anniversary of the accession of Emperor Hirohito. The gold is bought in London but is routed through the United States on its way to Japan. This has no net effect on our worldwide trade balance but it lowers our $50 billion deficit with that country.

Japanese gold imports from the United States soared from 0.76 tons in April to 65.58 tons in May. The value of those imports was $722 million; if it continued for a year, it would knock about $8.5 billion off the bilateral trade deficit, with no actual benefit to American industry. That would be enough to shield them from the Gephardt amendment to the omnibus trade bill, which would mandate actions against nations that build up excessive trade surpluses through a pattern of unfair trade practices.

At the same time the Japanese are transshipping gold through our country, they are stonewalling us in the semiconductor negotiations. After promising us during consideration of the trade bill that they would negotiate seriously to resolve the legitimate complaints of our semiconductor industry, the Japanese are backing down, clamming up and continuing to ravage us with a range of market barriers and dumping violations.

Mr. Speaker, this incident should remind us all that treaties and agreements are worthless if they are not backed by honorable intentions. Duplications mercantilism is not worthy behavior for a world economic leader. There are too many problems in the world trading system—huge trade imbalances, crushing foreign debts, rising protectionism—for the Japanese to be playing little public relations games. I think the United States should expect better from an ally which professes concern over our trade problems. I hope the Japanese can deliver.

APPEAL FOR LIVES OF IRANIAN BAHA'IS

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LEACH of Iowa. Mr. Speaker, I have received news today of the execution in Iran of another Baha'i, Mr. Farid Behmardi, and the pending execution of five other members of the Baha'i faith. It is imperative for Members of this body to join in issuing an urgent appeal to the Iranian Government on behalf of those five.

As the House knows well, the Government of Iran, in defiance of international human rights law on the freedom of conscience and religious practice, has been engaged in a systematic and bloody campaign of religious persecution against the Baha'is of that country. The Baha'is have faced execution, torture, and imprisonment. Their holy places have been desecrated and their spiritual leaders spirited away in the dark of night. With each new act of government savagery against these gentle and tolerant people, there has arisen an international storm of protest, joined by many Americans as well as the U.S. Government. All concerned citizens of the world stand in respectful awe of these people who dare persecution to worship according to their conscience.

I urge my colleagues today to join with the State Department and other concerned citizens and governments in protesting in the strongest possible terms the execution of Mr. Behmardi and in appealing to the Government of Iran to cease now its shedding of innocent life by sparing the lives of the five other Baha'is who face a similar fate.

A SALUTE TO CHICAGO POLICE COMMANDER ORVEL RICKS ON HIS RETIREMENT

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. HAYES. Mr. Speaker, I rise today to salute Chicago Police Department District Commander Orvel Ricks.

On July 10, 1986, after 29 years of honorable and distinguished service to the city, Commander Ricks will retire from his beloved police department. His long career has been one that all the residents of Chicago can look to with administration and thankfulness.

Promoted to the rank of district commander of the Gresham District in January 1981, Commander Ricks has contributed a lifetime of service which will not soon be repeated. After joining the department on July 1, 1957, Commander Ricks' thorough dedication to duty earned him consistent advancement through the ranks. He was appointed to detective rank in 1963, sergeant in 1970, lieutenant in 1977 and captain in 1986. In keeping with this team spirit, Commander Ricks undertook these advancements while also serving in a number of different police units. They include Grand Crossing, Hyde Park, Kensington and Gresham police districts. He has also worked in the organized crime, detective, internal affairs and auditing and internal control divisions.

Commander Ricks concludes his long and rewarding career in the service of the city of Chicago, with the warm regards and best wishes of many friends and acquaintances, both within and outside the Chicago Police Department. Mr. Speaker, I know you and the rest of our colleagues will join me in saluting Commander Ricks on his outstanding career and in wishing him much happiness as he begins his retirement.

A TRIBUTE TO JULIE KELLOG

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. STARK. Mr. Speaker, the Emergency Shelter Program in Hayward, CA, will honor its's former executive director, Julie Kellog, at a testimonial dinner.

The board and citizens of Alameda County will publicly thank Ms. Kellog for her untiring commitment and dedication to the housing needs of displaced women and children. She justly deserves this tribute.

Through creative planning and innovative funding proposals, Ms. Kellog's accomplishments include remodeling and expanding the emergency shelter's capacity from 24 women and children to 40 women and children and purchasing land adjacent to the shelter to expand the child care center to accommodate 24 infants and 24 children, ages 2½ to 12.

Under Ms. Kellog's leadership, the shelter was remodeled to accommodate disabled clients. She managed, in an exemplary manner, the southern Alameda County domestic violence project which assists low-income individuals obtain temporary restraining orders under the domestic violence or civil harrassment laws.

Ms. Kellog was also instrumental in adding a housing search coordinator and job developer to the emergency Shelter to assist clients with housing and employment in the open market.

These are only a few of Julie Kellog's accomplishments and contributions to the Emergency Shelter Program which has served the needs of women and children in Alameda County. She is truly a woman of compassion and vision and I join her friends in saying thank you for all that she has done.

CONFISCATED PROPERTY FROM WORLD WAR II SHOULD BE RETURNED TO RIGHTFUL OWNERS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. SCHUMER. Mr. Speaker, with the recent victory of Kurt Waldheim in the Austrian Presidential elections, it seems timely to remind my colleagues of the anti-Semitism which, regretably, still exists today. We must continue to fight against this unfair discrimination and rectify the damage it causes wherever possible.

Fortunately, for some Nazi war crimes, reparations are possible. The thousands of pieces of art work which were confiscated from Austrian Jewry by the Nazis during World War II is an example of this. After the allies made the Austrian Government responsible for the heirless pieces in 1955, little if anything, was done to find the rightful owners of these valuable pieces. It was only first in 1969 that the Austrian Government under the "1. Kulturgutbereinigungsgesetz"—First Cultural Objects Settlement Act—allowed some art works to be returned to their rightful owners. Unfortunately, Austria had made no new efforts to find these rightful owners until recently.

I am happy to report that in December 1985 the Austrian Government gave unanimous approval to a measure calling for Austria to return all confiscated items to the rightful owners. Even more encouraging is the fact that all unclaimed works will be auctioned off and proceeds will go to the well-deserving Nazi victims. The Austrians plan to return or auction as many as 3,000 coins, 3,000 books, and 600 paintings. These items include not only works which were stored in the former Carthusian Monastery south of Vienna, but also works located in Austrian government offices and embassies around the world. My only complaint about this Austrian move is that no mention was made of the works held by the Government in places other than embassies and the Carthusian Monastery.

In is my strong belief that these works should not be kept from their rightful owners who have suffered long enough. If a person can prove he or she is the rightful owner, justice must be done, and the property returned to him or her. It is comforting to know that Austria will abide with these basic, universally-accepted rights.

Returning confiscated art pieces and making every attempt to find the rightful owners is one small step that can be made to rectify past abuses. It seems especially appropriate that Austria, after its Presidential election and the still many unanswered questions about Waldheim's past, hasten its efforts to return these works. Certainly, this is a gesture of friendship which the Jewish victims of World War II and the United States will embrace.

A TRIBUTE TO CHRISTMAS HOLMAN

HON. DAN DANIEL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DANIEL. Mr. Speaker, all of us in this body have flags flown over the Capitol from time to time. Sometimes it is done upon the request of a constituent, sometimes it is done in honor of a specific individual, group or event.

The flagpole used for this purpose is at eye-level with my office and often I muse on just whose flag is being flown, and why.

On June 17, such a flag was flown for a gentleman who resides in my district. This citizen has worked on a farm all his life, although he is retired now. He has raised a large family, and takes pleasure these days in teaching the young, in large part by recounting the past in ways which make it real to those who hear him.

This gentleman is not much of a traveler. He has left the State of Virginia only once, to visit the Eastern Shore of Maryland.

In all, his life has been eventful, but not the sort which creates headlines. Yet this is a remarkable man.

For in another 6 months, Mr. Christmas Holman of Buckingham County, VA, will celebrate his 109th birthday. He enjoys good health, and his special pastimes are listening to the radio and reminiscing about the past.

In honor of Mr. Holman a flag has been flown to be presented to the Central Virginia Community Health Center. It will be an inspiration to all who visit this facility, and a constant reminder of this fine gentleman in whose honor it was flown.

ROY ROGERS HONORED

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LEWIS of California. Mr. Speaker, I would like to take this opportunity to pay tribute to a truly remarkable man, Roy Rogers, of Victorville, CA. Roy will be honored along with Sheriff Ben Clark of the Honorable AL MCCANDLESS' district at the Boy Scouts of America Distinguished Citizens Award Dinner this July 17 in San Bernardino, CA.

Roy Rogers has long been recognized as the romanticized version of the legendary Old West. For over half a century, he has been entertaining youngsters and grownups alike, maintaining a magnificent image of the complete all-around, all-time, all-American family.

He has provided us with clean, wholesome entertainment in musical westerns and television programs for many years, which are still enjoyed throughout the world.

Today, Roy Rogers is as much in demand as ever, and he is involved in a multitude of projects. The Roy Rogers-Dale Evans Museum in Victorville, CA, attracts thousands of visitors annually. There have been several

offers from producers to present his life story in motion picture form for television.

Throughout his career, Roy Rogers and Dale Evans have represented honesty, decency, and faith in God and country. Wherever they appear, America's heart is with them. It is with great pride that I represent this outstanding couple in Congress, and today have the opportunity to recognize their many contributions to our Nation.

Mr. Speaker, I ask that you join with me, my colleagues, and the Boy Scouts of America Inland Empire Council in bestowing this year's Distinguished Citizens Award upon Roy Rogers, an inspiration to us all.

THE TORCH OF FREEDOM

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. SMITH of Florida. Mr. Speaker, on July 4, 1986, the torch that has guided millions of people to freedom will once again shine brightly in New York Harbor. After a lengthy restoration, paid for with contributions by the American public and American companies, the Statue of Liberty will again serve as a symbol of the American spirit, as it has done for so many people over the last 100 years.

The proper name of Miss Liberty is "Liberty Enlightening the World." She was a gift from France to the United States that was dedicated 100 years ago this October. Millions of people are expected to attend what is being hailed as the biggest party since the Bicentennial, when the Statue is rededicated on July 4. As part of the "Liberty Weekend" celebration, I am proud to be taking part in a special naturalization ceremony on July 3, 1986, at the Orange Bowl in Miami, FL. More than 12,000 people are expected to become new U.S. citizens at that time, which would make the ceremony the largest in our Nation's history.

This event will be part of the ABC Television Network's nationally broadcast celebration of "Liberty Weekend," which commemorates the 100th anniversary of the Statue of Liberty. Miami is one of five sites chosen to be part of the network's coverage. Through a satellite hookup from Ellis Island, U.S. Supreme Court Chief Justice Warren Burger will administer the Oath of Allegiance to the new citizens at the five selected sites.

These new citizens are the most recent Americans who will have a special attachment to Miss Liberty and Ellis Island. Millions of immigrants came to this country with nothing but the clothes on their backs and the burning desire for freedom in their minds. America gave these people the opportunity to rise as far as their dreams could take them. As a second-generation American myself, I can attest to the opportunities that this country gave me and my family. The Statue of Liberty is the symbol of this great opportunity. It has a unique place in my heart and the hearts of all Americans.

H.R. 4060: AN IMPORTANT STEP TOWARD EQUITY FOR ALL RETIREES

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LOWRY of Washington. Mr. Speaker, earlier this week, the House passed H.R. 4060, which would guarantee a 1987 cost-of-living adjustment [COLA] to beneficiaries of Federal retirement programs. As a cosponsor of this legislation, I would like to express my thanks and appreciation to Representative MARY ROSE OAKAR, the bill's prime sponsor, and to our other colleagues who have worked to make this good bill even better.

In its original form, H.R. 4060 applied to programs under the jurisdiction of the Post Office and Civil Service Committee's Subcommittee on Compensation and Employee Benefits. Thus, it would not have guaranteed a COLA for military retirees or for railroad retirees' tier II benefit. Fortunately, however, the motion to suspend the rules and pass H.R. 4060 includes a provision to include these other retirees as well.

This change is a very positive one, because the most important reason for passing this bill is to restore equity among retirement programs. The issue of equity is especially important to military retires. They are veterans just like the recipients of veterans' compensation and pensions. Yet those compensation and pension benefits are exempt from automatic cuts under Gramm-Rudman while military retirement COLA's are not.

Last year, when we debated the Gramm-Rudman legislation, I opposed it in part because of its inequitable treatment of different retirement programs. Under Gramm-Rudman, COLA's for military and civilian retirees will be targets for reduction or elimination each year through 1991. Yet Social Security is exempt from similar cuts. There is no justification for such discriminatory treatment.

The enactment of H.R. 4060 would deal with this problem in 1987. I hope that the House will also work to prevent cuts in the COLA's for future years as well. Earlier this year, my concern about equity led me to introduce H.R. 4368, a bill to repeal the provision of Gramm-Rudman that applies to Federal military and civilian retirement programs, effective with the beginning of fiscal year 1987 in October. This bill would exempt Federal retirement COLA's from future sequestrations required under Gramm-Rudman. The House vote for H.R. 4060 is a very positive step. I hope that we will also act to repeal the provision of Gramm-Rudman that creates the potential for future inequitable treatment of retirees.

ETTA VIRGINIA LUCK JONES, 100 YEARS AND GOING STRONG

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. FAUNTROY. Mr. Speaker, on Saturday, July 5, 1986, Etta Virginia Luck Jones will celebrate her 100th birthday.

A child of Jerry and Lavenia Luck, Etta enjoyed the benefit of a strong parental commitment to education to support her as she sought to improve the quality of her life.

After attending the Westmoreland Public School in Danville, VA, she went on to graduate from the Virginia State Normal Industrial Institute and began her career as a teacher.

Her professional experiences included teaching at the third, fourth, and fifth grade levels, serving as principal of the Camp Grove School, and eventually becoming the first black supervisor of more than 40 schools in the State of Virginia.

After her marriage to Alexander Jones and the graduation of their eldest child from high school, the family moved to the District of Columbia in order to provide better educational opportunities for their children.

Today, Etta Virginia Luck Jones is the oldest living member of Mount Zion Pentecostal Church and the proud mother of 10 children, 15 grandchildren, and 12 great-grandchildren.

I call upon all the Members of Congress to join with me in saluting this wonderful woman for her numerous contributions to the lives of her family, neighbors, chuch, and friends.

CONCERN FOR PRIMATES UNDER NIH CARE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. HORTON. Mr. Speaker, 15 primates are currently under the care and control of the National Institute of Health [NIH]. NIH took possession of these monkeys after they were removed from the research facility that was using them for neurological experiments and had caused them serious injury.

Two hundred and fifty-three Members of the House of Representatives, including myself, signed a letter to Dr. James B. Wyngaarden, Director of NIH, urging that he send the primates to a sanctuary in Texas. Dr. Wyngaarden was adamant in his opposition to congressional intent. Those of us in the House concerned about these monkeys were, and are, just as adamant, and introduced a Sense-of-the-Congress resolution, once again stating that the 15 primates be transferred to the Texas facility.

Now, after saying that he could not send the primates to Texas because he did not have the authority of ownership, Dr. Wyngaarden has moved them to the Delta Research Facility in Louisiana. This move was simply wrong. To do it behind the backs of Congress

and all those concerned about these animals was uncalled for.

I hope that Dr. Wyngaarden will reconsider his tactics and will start to work with Congress, instead of working against us. For the sake of the 15 monkeys, this matter be resolved.

A TRIBUTE TO WILLIAM L. LOHMAN

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. KOSTMAYER. Mr. Speaker, I rise today to recognize the contributions made by my constituent and friend, William L. Lohman, to the field of secondary education. Tomorrow Bill will be retiring after 27 years of service, the last 10 of which he served as the assistant principal at Pennridge High School in Bucks County, PA.

After completing 4 years of distinguished service in the U.S. Navy, Bill began his educational career as a social studies teacher and head track coach at Parkland Junior-Senior High School near Allentown, PA. In addition to the many awards he received as an educator at the school, his track team had four undefeated seasons and won a number of awards.

Seven years later, Bill accepted a position as a guidance counselor at Easton Junior High School. He quickly moved up to assume the role of assistant principal, and then principal of the school.

By 1972 Bill and his wife Doris had moved to accept positions in Bucks County. Bill became the guidance counselor at Pennridge South Junior High School, and Doris took on the position of coordinator-teacher of the art department at Quakertown High School. It was not long before Bill had established himself as a member of the Lion's Club and president of the local Parent-Teacher Organization. After 4 years he was named assistant principal at Pennridge High School, where he has been instrumental in helping many students stay in school and graduate.

It has been my pleasure to work with Bill on several occasions at Pennridge. He is a dedicated individual who combines a thoroughly professional manner with a genuine concern for the welfare of his students. I am proud to honor Bill Lohman as he retires, joining his wife Doris who retired in March after nearly 21 years of service as an educator. I wish them both a happy, healthy and well-deserved retirement.

HUMAN RIGHTS ABUSES CONTINUE IN IRAN

HON. JOHN E. PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. PORTER. Mr. Speaker, I am horrored to report the latest Iranian atrocities against members of the Baha'i faith.

According to information I have received, Mr. Farid Behmardi, a 46-year-old prominent Baha'i was executed by hanging in Tehran on June 10, after suffering prolonged torture. His family learned of the execution only after his body had been buried by the authorities.

I have also learned that five other Baha'i prisoners are now threatened with imminent execution, that a 15-year-old Baha'i boy and his father were stoned to death and two other Iranian Baha'is who had been held in prison were executed in early May.

The continued violence and prejudice against the Baha'is indicate continuing determination of Islamic authorities to break the will of the Baha'is. We must join together in a universal outcry to save the lives of innocent people.

The Iranians cannot continue to abuse the Baha'is and it is up to us to bring pressure on this corrupt government until the abuses stop.

TRIBUTE TO KENNETH CALLAHAN

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. BONKER. Mr. Speaker, before we adjourn, I am submitting two statements about Kenneth Callahan for the CONGRESSIONAL RECORD. As one of the Pacific Northwest's greatest artists, Mr. Callahan's death is a great loss not only to the Northwest but to art lovers everywhere.

Both articles convey a sense of Mr. Callahan's personal warmth as well as his total commitment to art. He never ceased to wonder and remark on the world around him—a gift which kept him delving into new themes and ideas his whole life.

Mr. Bill Alpert of the Seattle Times recently recounted Kenneth Callahan's life and many contributions to the art world, and at this time I would like to have his article placed in the CONGRESSIONAL RECORD.

KENNETH CALLAHAN NEVER LOST HIS SENSITIVITY TO WORLD OF NATURE

(By Bill Alpert)

Kenneth Callahan, one of the Pacific Northwest's best-known and most enduring artists, will be remembered not only for his powerful abstract images and landscapes but as a man of great humanity and spirit.

Callahan, who died Thursday in Seattle at the age of 80, was one of the Northwest's premier artists for more than 60 years, one who constantly reached beyond himself to explore new themes and ideas in his work.

His style is instantly recognizable: great masses of swirling snake-like shapes in characteristic browns, grays and tans.

Declining health caused Callahan to move to Seattle from Long Beach, Pacific County, two years ago, to the world of nature around him.

The walls of his studio are covered with pen and ink sketches of horses, one of his favorites subjects, and his wife Beth said that even toward the end of his life, he would sit at his window sketching passers-by.

Callahan gained national attention in September 1953 when a Life magazine article featured him along with artists Morris Graves, Guy Anderson and the late Mark Tobey. It was then that the so-called Northwest school with its muted colors and misty imagery was officially born.

This attention was both a blessing and a curse. On the one hand, it attracted notice—and buyers. On the other hand, it pigeonholed Callahan into a style from which he sometimes found it economically difficult to escape.

Always the practical man, Callahan embraced the attention which brought him firmly into the public eye. One of his early Seattle exhibitions was held at the Frederick & Nelson department store, and he held business sponsorship in high regard.

"The work of living artists should be part of the economic life of America," Callahan wrote in 1975 in Northwest Arts magazine, and his work is represented in local and national corporate collections.

One of his largest canvases, a striking study of red-colored horses called "The Gathering," dominates the lobby of Martin Selig's Fourth and Vine Building.

About 50 of his drawings and paintings can be found at Longacres, a result of his long friendship with racetrack owner and art patron Morris Alhadeff.

Although he was a curator at the Seattle Art Museum for 18 years, Callahan was never a favorite at the museum due to strained relations with SAM founder Dr. Richard Fuller and Callahan's unwillingness to adapt his work to the modernist trends of the times.

An 80th birthday retrospective at the Tocoma Art Museum last year, curated by the late Jon Kowalek, spanned two floors and pleased Callahan immensely. The Seattle Times called the show "awesome" and said it reaffirmed Callahan's conviction that "there's nothing a human could do that's of greater consequence than being a painter."

Callahan's hospitality was legendary. He was extremely social and had a great affection for people of all types, encouraging visitors and enjoying their presence.

The Kraushaar Gallery in New York featured Callahan's work every two years and in Seattle, the Foster/White Gallery in Pioneer Square often mounted large shows. His work had a substantial private following and is well represented in many of the country's major museums including the Guggenheim, the Metropolitan and the Museum of Modern Art.

Callahan was born in September 1905 in Spokane and spent his early years in Glasgow, Montana. He began painting as a teenager influenced by the great expanses of land and sky around him. He moved to Raymond, Pacific County, in 1918 and graduated from Broadway High School in Seattle in 1924.

In 1930, he married Margaret Macauley Bundy, a former editor of the Town Crier literary magazine, who died in 1961. Their only child, Brian Tobey Callahan, is a rancher in Burns Lake, B.C.

Callahan reveled in the outdoors. For many years he lived in a cabin on the Stillaguamish River near the town of Robe.

More recently, he could be found at water's edge in Long Beach, where the swirling tides and dramatic changes of light and mood found their way onto his canvases as symbols for the chaos, wonder and passion of life.

In 1964, Callahan married Beth Inge Gottfredsen of Denmark, who had nursed his first wife during her illness. Other survivors include two grandchildren, Claire and Sean, and two great-grandchildren, Benjamin and Robert.

At the request of the family, no services are scheduled. Memorials are suggested to the Seattle Youth Symphony and to the Anti-Defamation League of the B'nai B'rith.

DEMYSTIFYING JAPANESE MANAGEMENT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CRANE. Mr. Speaker, I would like to direct my colleagues' attention to the reasons for the United States trade deficit with Japan. Many possible reasons have been proposed; among them are the comparatively high growth rate of the U.S. economy, the Third World debt crisis and the past strength of the dollar. However, one of the most glaring reasons is simply the lack of productivity among United States firms when compared to their Japanese counterparts. In fact, while United States productivity has increased from a growth rate of almost zero to about 3 percent within the past 3 years, Japan has sustained an 8 percent growth rate over a much longer period.

The source of Japan's superior productivity rate originates in the framework of fierce competition experienced among Japanese firms. From this atmosphere emerge those corporations with the best management ideas. Due to their innovative techniques these companies then become national and international leaders. The techniques utilized, however, are not confined to Japanese implementation but are feasible for American implementation as well. This fact has been shown in the successful borrowing by American companies of the Japanese perfected quality-circle and just-in-time methods.

The problem that exists is not only informing American companies of these methods, but more importantly, in developing an atmosphere for proper implementation of these techniques. Essential to this atmosphere is a laissez-faire, hands-off Government policy when dealing with business. If we continually regulate and restrict business with misguided policies and overburdening taxes, their cost of capital will be too high and U.S. competitive strength will be impeded. We should stop putting our corporations at a competitive disadvantage to their international rivals by meddling in their affairs directly and indirectly; we should let business be business.

Paul A. Gigot, in the January 6, 1986 edition of the Wall Street Journal, reviewed a book, "Kaisha, the Japanese Corporation," which I commend to my colleagues for insight into the issue of increasing U.S. productivity.

[From the Wall Street Journal, Jan. 6, 1986]

DEMYSTIFYING JAPANESE MANAGEMENT

(By Paul A. Gigot)

It is a potent symbol of America's relative industrial weakness that the most admired businessman in the U.S. these days is Lee Iacocca. Whatever his genius as a marketer, Mr. Iacocca could save his company only by pleading for quotas against foreign cars and for government loans to pay his bills. Our leading industrial icon is a corporate welfare case.

It wasn't always that way. Not too long ago Americans looked up to a different sort of industrial hero, someone like Soichiro Honda of Japan. Mr. Honda started making motorcycles more than 30 years ago, beat back some 45—that's right, 45—competitors, politely ignored Japan's fabled Ministry of International Trade and Industry when it said he shouldn't also make cars, and the rest, well, the rest may be parked in your driveway. Americans used to call that a Horatio Alger story.

This contrast may be too hard on Mr. Iacocca, who didn't get Chrysler into its original mess. Yet the contrast does illustrate an important and often ignored truth about Japan's economic success. Japan's "miracle," like Britain's and America's before it, was largely the product of creativity and enterprise by individuals and their businesses. Japan is no monolithic economic combine. The Hondas, Toyodas, Matsushitas and their corporate creations have had far more to do with building modern Japan than have bureaucrats or any mysteries of culture.

In "Kaisha, the Japanese Corporation" (Basic Books, 309 pages, $22.50), two American business consultants with long experience in Tokyo shine a microscope on this microeconomic success. James C. Abegglen and George Stalk Jr. illuminate a good deal not found elsewhere in the literature of Japanese management, which has more phony gurus than India. This is not just another book on the zen of building cars. It provides no succor for conspiracy theorists or Harvard professors who want to fashion a U.S. industrial policy. It offers instead an impressive and detailed insight into the methods that make the best Japanese corporations so formidable.

Notice that word "best." Conventional wisdom has portrayed "Japanese management" as a kind of national birthright that turns all Japanese companies into fierce samurai. This book shows what a stereotype that notion is, citing numerous examples that prove there are as many bad companies in Japan as anywhere else. The difference is that out of Japan's competitive crucible—remember those 45 motorcycle companies—emerge some superb corporations with better ideas. The methods of these best companies, most of which are adoptable by any company anywhere, are the substance of this book.

Take the kanban, or just-in-time, system of factory production. This isn't something that sprang magically from Japanese culture. It was developed in the 1950s by one man, Toyota's Taiichi Ohno, who wanted to build a system to make many different kinds of cars in small volume in the same way. He succeeded, gloriously. Toyota took some 20 years to fully develop kanban and modifies it even now. A few U.S. companies have tried to implement kanban solely as a way to reduce inventories, but Messrs. Abegglen and Stalk show in detail how it is also a way of changing the economics of manufacturing. Kanban can provide competitive advantages that are as revolutionary in their way as Henry Ford's Model T assembly line.

"Kaisha" also demystifies much of what has been attributed to Japanese management "style." Many advantages derive from policies that any American corporate management could follow, if it looked beyond the share price and high pay of the moment. Would American shareholders really object if U.S. managers refused to pay dividends, reinvesting earnings for faster growth and higher share prices in the long run? Or would American labor relations be so combative if U.S. executives, like Japanese managers, set an example for their workers by paying themselves modest salaries tied strictly to long-term performance? When Ford's Philip Caldwell and other Detroit big shots rewarded themselves with huge bonuses for the car-market revival a couple of years ago, it was a Japanese executive who said, in effect, "They haven't learned a thing."

"Kaisha" is mostly concerned with corporate competition, so it never systematically addresses the public policy issues in the U.S.-Japan struggle. It does suggest, however, that a government should act as a "facilitator" of business and growth, rather than as an enemy. Thus, U.S. antitrust policy has too often penalized efficient companies simply because they're also large (Japan's doesn't), while Japan aids capital formation by not taxing capital gains (the U.S. Congress recently voted to increase capital-gains taxes).

The best lessons in this book are, however, micro, not macro. They suggest that many American corporations, even ones long admired, such as Eastman Kodak and General Electric, will continue to be pounded by Japanese companies until they adopt some of those companies' more enlightened ways of working. If I were a U.S. manager trying to understand the anatomy of the Japanese racer breathing hard at my shoulder, I'd read this book.

EIGHTH ANNUAL FALL RIVER JUNIOR OPEN GOLF TOURNAMENT

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. ST GERMAIN. Mr. Speaker, I am very pleased to bring to the attention of my colleagues another example of how cooperation between a community's public-spirited citizens and its businesses can advance wholesome opportunities for our youth. Such an example is embodied in the Eighth Annual Fall River Junior Open Golf Tournament.

For 8 consecutive years, the members of the Fall River Country Club in Fall River, MA, have provided the full use of their golf course and their golf professional for this worthwhile event. Mr. Thomas Tetrault is the club's talented professional.

This event is designed so that boys and girls ages 12 to 18 can participate in the atmosphere of a real-life golf tournament. The tournament is sponsored by the Fall River Five Cents Savings Bank.

Over 176 youngsters participated in this spectacular event last year. They came from areas throughout New England with a few coming from Canada and even Europe.

Mr. Edward Keyes, a member of the country club who is also the golf coach at Bishop Connolly High School, spends much of his free time planning and conducting the tournament. It is largely his unselfish efforts that make it convenient for youngsters of various means to enjoy one of the true highlights of their young lives.

Mr. Speaker, the community spirit of giving here is not just confined to a once-a-year event. Throughout the entire year, Mr. Tetrault and his staff make golf clubs available at no charge to young boys and girls in the community who could otherwise not afford to participate in the game.

I would also like to bring due recognition to all of those who provide the resources, time and energy to assure that as many boys and girls who wish to participate can become active in the game of golf. I commend them and hope to encourage other country clubs and businesses throughout the Nation to follow this fine example. Such action will no doubt keep our youngsters out of trouble and in the proper direction toward a productive citizenship.

UKRAINIAN INDEPENDENCE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DINGELL. Mr. Speaker, I am pleased to join my colleagues in commemorating the 45th anniversary of the restoration of Ukraine's independence.

Our Ukrainian friends are well aware of the importance of June 30, 1941. It is a special day in man's struggle for freedom and self-determination. It was 45 years ago when in the predawn hours of June 22, 1941, Adolph Hitler launched his most ambitious and ultimately fatal project, the invasion and conquest of Eastern Europe to the Ural Mountains under a battle plan code named Operation Barbarossa. Had these Nazi plans succeeded, the world's history over the last four decades would undoubtedly have been very different. A primary factor in Hitler's defeat became evident 8 days after the invasion, when, on June 30, 1941, Nazi German forces were confronted with a heroic and unexpected stand by representatives of the Ukrainian National Liberation Movement and a provisional Ukrainian government. After several days of bitter street fighting between Ukrainian underground forces in the city of Lvov and retreating Soviet troops who were engaged in massacres of Ukrainian political prisoners, the underground seized the Lvov radio station in the west Ukrainian capital and broadcast the declaration of restoration of independence and the establishment of a Ukrainian free state. Hitler's response to this event precipitated the Nazi-Ukrainian war of 1941–44, which cost Ukraine between 7 and 8 million of her citizens. Its cost to Hitler was the ultimate destruction of Nazi Germany and the Third Reich.

The actions of the Ukrainian underground led by the Organization of Ukrainian Nationalists and its leader, Stephan Bandera, had taken the Germans by surprise and forced them to disclose their intentions and policies with respect to Ukraine and the other non-Russian colonies of the U.S.S.R. Besides proclamation of independence at Lvov, a national assembly was called and a provisional Ukrainian government with Mr. Yaroslav Stetsko as Prime Minister was established.

The reaction of the Gestapo to the Ukrainian proclamation of June 30, 1941, was swift and merciless. However, the imprisonment and murders and members of the Ukrainian Government and it's leaders by the Gestapo did not prove to be the deadly blow to the Ukrainian resistance the Germans had hoped for. These acts were followed by the barbarous policies of ruthless exploitation, oppression, and genocide against the Ukrainian population, which responded with a ferocious national liberation struggle led by a reorganized Organization of Ukrainian Nationalists.

With the collapse of the German war machine in the East, the Ukrainian National liberation struggle had culminated in the Ukrainian Insurgent Army becoming the third military and political power in Eastern Europe at the end of World War II. Instead of peace, however, the Ukrainians were forced to escalate their struggle in a new war against Soviet Russian imperialism whose military phase continued into the 1950's.

We Americans can sometimes forget how truly free we are. But millions of people around the world live every day under the subjugation of tyranny. The Ukrainian people have suffered years of harassment, discrimination, and brutality at the hands of their oppressors.

Yet, despite the endless suffering and persecution endured by the Ukrainian people, the true ideal of Ukrainian independence continues to live on in the hearts and minds of the Ukrainian people in their homeland and indeed, throughout the world.

This tribute today is our affirmation that the spirit of freedom is eternal. We have not forgotten, and we will not forget the day in 1941 when the people of Ukraine spoke with one voice in declaring their independence.

BUREAUCRACY OF DEATH

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. MILLER of California. Mr. Speaker, yesterday during our long debate on military aid to the Contras, not much was heard about the economic aid on its way to Central America, which was part of the Contra aid package.

Guatemala is a country which recently held elections for a civilian president. Guatemala stands to benefit substantially from this aid package. And Guatemala is a country where massive human rights abuses continue to be the rule rather than the exception.

President Vinicio Cerezo of Guatemala needs and deserves our support. He needs that support, not only to consolidate his government, but also to insure that the generals and colonels who have run Guatemala for decades become subordinate to civilian authority and to the rule of law.

We must face the question of how to use any economic aid we might provide to Guatemala to further President Cerezo's human rights goals rather than to promote further brutality and corruption. However, the bill we passed yesterday makes no provisions as to how economic aid can be used.

If any of my colleagues have doubts as to the enduring power of the military and death squads today in Guatemala, I urge them to read the following article from the New Republic:

BUREAUCRACY OF DEATH

(By Allan Nairn and Jean-Marie Simon)

On the surface, Guatemala, the largest country in Central America, appears placid. There are fewer houses ringed with sandbags than in Nicaragua, fewer armed men in the streets than in El Salvador, and six months ago the country elected its first civilian president since 1966, Christian Democrat Vinicio Cerezo. His administration has launched an anticorruption campaign and the country's first public-sector jobs program in more than a decade. But in this apparently hopeful atmosphere, union members, religious leaders, peasant activists, and other potential opponents of the Guatemalan military still face the constant threat of violence from their government.

In February Cerezo said that the country was experiencing a resurgence of political killings and noted that 69 cadavers, many of them showing signs of torture, had appeared during his first three weeks in office. In March the secretary of a Christian Democratic youth group was gunned down in his house along with his father and his sister. In April two refugees disappeared after they were dragged from a parish house where they were living under the protection of a Catholic bishop. In May, Victor Hugo Godoy, a member of the Congress's human rights commission, said that "it is very easy to recognize the same practices of years ago, including not just torture, but also the infamous coup de grace." On May 30 seven bodies appeared in one day on the streets of Guatemala City. Over the last six months, killings not attributed to combat or common crime have been running at more than 60 per month.

How to confront this ongoing terror is the primary challenge facing Guatemala's newly elected government. The victims are not killed by what is sometimes called "senseless violence" or by "the cycle of violence between left and right." They are killed by an efficient system of political terrorism. At the heart of this system is the intelligence apparatus of the Guatemalan military, known by its bureaucratic label, G-2. The G-2 is the unelected government of Guatemala that Vinicio Cerezo must find a way to control.

Cerezo is Guatemala's first chief of state in 20 years who would not order the killing of an unarmed civilian. He has a reformer's past and has survived three assassination attempts by the army he now nominally commands. But he serves at the sufferance of what is still the most murderous army in the Western Hemisphere. Although such estimates can't be precise, the archbishop of Guatemala, Próspero Penados, says that Cerezo holds 25 percent of the power. Cerezo himself claims 30 percent, and says that he will build from there.

From the start of his campaign, Cerezo pledged to limit the goals of his presidency. "My government will not plan social reforms," he stated bluntly, "because the army would oppose it." He promised to refrain from land reform and the prosecution of army officers for prior political murders. In return, he expected to be permitted to serve out his term, and said he would abolish the Department of Technical Investigations (DIT), a band of civilian thugs who killed and abducted on orders from G-2 and pillaged on their own account. The army

agreed, and forged a tactical alliance with the man they had once reviled. The G-2, which is normally circumspect, even put the alliance on paper. Gerezo read us a confidential G-2 memo written before the December election predicting that the Christian Democrats would win "due to the links they have forged with the army, as well as with the United States."

Once in office, Cerezo fulfilled his campaign pledge. In a spectacular raid the DIT staff was apprehended en masse, It was the third time in Guatemala's last six administrations that this infamous corps had been purged. Almost 200 agents were fired, 400 were sent to a remedial police training course, and one was arrested on a weapons charge and subsequently released.

In the meantime, the military had taken steps to assure that its power could not be challenged by the new government. Four days before Gerezo's inauguration, the outgoing chief of state, General Oscar Mejia Victores, issued a series of sweeping decrees that stunned Gerezo's hopeful supporters. The measures narrowed civilian authority and legalized military control in the countryside, where the army is fighting a counterinsurgency war against a small guerrilla movement. One of the decrees created a State Security Council to handle apsects of national security that might fall under the jurisdiction of civilian Cabinet officers. Military officers serve on this council along with the civilian ministers, and their joint decisions are administered by the head of the council—who is required by the terms of the decree to be the army's secretary of intelligence. Another decree prohibited Cerezo from prosecuting any military officers for political crimes committed in the last four years.

Although Cerezo faces growing pressure to hold the armed forces accountable for their violence, he has been unable to comply. When Christian Democrats at the grass-roots level began joining the call for repeal of the amnesty decree earlier this year. Cerezo quickly squelched the move. This spring he announced that a commission would begin working on June 30 to investigate the thousands of disappearances, but was publicly pessimistic about its chances of getting access to secret army information. On July 5 he indefinitely postponed plans for the commission.

Meanwhile, the country's only human rights organization, the Mutual Support Group (GAM), is growing by the day. Modeled after the Mothers of the Plaza de Mayo in Argentina, the GAM is led by a group of courageous women whose husbands and children have disappeared. The GAM has publicly called for an accounting of the missing and for trials, such as those held in Argentina in 1985, of the officers responsible. Relations with Cerezo are becoming increasingly strained. In March he urged the GAM to "stop being masochistic and forget the past."

The army is confident that it has prevailed. "Do you think we've left behind any evidence?" one colonel taunted a journalist, demanding to be quoted. "In Argentina there are witnesses, there are books, there are films, there is proof. Here in Guatemala there is none of that. Here there are no survivors." This belief is widely shared in Guatemala and in Washington. But, inconveniently for many, it is not true. In fact, there are survivors and people on the inside who will talk, including high-ranking officers and the street-level killers they command. There are still many obstacles to justice for the Guatemalan military, but lack of evidence is not among them.

"We are in a war," explained Colonel Edgar Djalma, a G-2 veteran who served as army spokesman for most of the time from 1979 to 1984. "If under that concept it means that the government has an apparatus dedicated to finding and eliminating people of the left, to me that is perfectly normal." Djalma said that "a government can use all existing forces: the army, the police, the treasury police. . . . Each chief of government may look to another repressive apparatus or create his own." The point, he stressed, is the importance of G-2 coordination. He showed us a 1980 memo in which he wrote: "In the first phase, the intelligence section should be used above all prior to repressive actions or clean-up operations."

Djalma's matter-of-fact description is confirmed by General Benedicto Lucas García, the flamboyant and blunt former army chief of staff and brother of an ex-president. "If the G-2 wants to kill you they kill you," Benedicto told us. "They send out one of their trucks with a hit squad, and that's it." Benedicto says he knows that when his brother, General Romeo Lucas García, was president from 1978 to 1982, the government was responsible for at least 70 percent of the assassinations and disappearances.

Benedicto blamed some of the violence on common criminals and the guerrillas. The insurgents, organized in three major groups, have several thousand armed combatants operating primarily in remote rural areas. "When they've eliminated people," Benedicto said, "they've said so." Last year one Western intelligence official told us that the guerrillas "have been selective. They direct their killing toward the army, security forces, and, to a lesser extent, the civil patrols." The State Department's most recent human rights report estimated that the guerrillas had assassinated 59 military officials and 33 members of the civil defense forces last year. There were a total of 304 "civilian non-combatant deaths" in the entire country in 1985 (fewer than reported by Amnesty International, the Organization of American States, and other human rights groups), according to the State Department. The report included accounts attributing 28 of these killings to the guerrillas.

Benedicto claims that most of the killings during his brother's administration were directed by his brother's top aides, not by Romeo Lucas himself. But Raul García Granados, a cousin of the Lucas brothers and Romeo Lucas's chief adviser, makes no attempt to avoid responsibility. He explained to us that "the death squads were organized under the patronage and the approval of the government and the army, because it was the only way to fight guerrillas. The [death squads] have the sympathy of most of the Guatemalan people. They have lists of people that are suspected to be communists of whatever kind," he said, "and they kill them."

The lists and the philosophy behind them date back to 1954, when a CIA-sponsored invasion overthrew the left-leaning government of Jacobo Arbenz, which instituted a land reform program and was supported by the communists. The army sifted through the confiscated membership records of labor, peasant, and professional groups that had supported Arbenz, and classified 70,000 people as communists. During the 1960s dossiers from the updated files were used by the armed forces to destroy a left-wing guerrilla movement and other opponents. In 1968 *Time* magazine reported the chief of the U.S. military mission, Colonel John Webber, as saying that paramilitary groups run by the army were "licensed to kill peasants whom they considered guerrillas or 'potential guerrillas.'" By 1979 the National Police were brazen enough to issue a press release announcing that between January and October of that year "1,224 criminals" had been killed by El Escuadron de la Muerte (the Death Squad), and 3,252 "subversives" by the Ejército Secreto Anticómmunista (Secret Anticommunist Army). Throughout the early 1980s the army's top officers continued their assault on those they defined as the enemies of national security. In 1983 chief of state General Mejía Victores condemned the Guatemalan priesthood for "advocating totalitarian doctrines." Twenty-four hours later Father Augusto Ramírez Monasterio, a Franciscan superior, was shot in the back as he fled an armed forces van that had followed him from his mother's house.

This is the military of which Cerezo, as commander in chief, now ostensibly has control. In a series of recent interviews, a veteran of the high command who has held senior army posts since 1978 described how the Guatemalan system works today. Western intelligence officials and other high-ranking Guatemalan officers have offered similar accounts. This officer says that each of the country's military bases has a G-2 office whose function is "the elimination of individuals." These offices report to the G-2 control center in the National Palace. The G-2 in turn is overseen by the Army General Staff and ultimately by the minister of defense. Altogether G-2 employs more than 2,000 agents nationwide, including about 100 full-time officers. The G-2 staff can also call on the resources of any branch of the army and security forces.

"There's an archive and computer file on journalists, students, leaders people of the left, politicians, and so on," the officer says. This archive is maintained in the G-2 offices on the fourth-floor terrace of the National Palace, with copies in the adjacent Presidential Annex. "The file will say where the person was born, what party he belongs to, and the most important incidents of his life. One, for example, will say: '1957, participated in such and such a worker's movement; 1960, went into exile for the following reason; 1972, returned to Guatemala; 1975, participated in demonstration in the university. And finally, died on such and such date.' It never says who was responsible."

The bureaucratic procedures for approving the killing of a dissident are well-established. "A local military commander has someone they think is a problem," the officer explains. "So they speak with G-2, and G-2 consults its own archives and information from its agents and the police and, if all coincide, it passes along a direct proposition to the minister of defense. They say, 'We have analyzed the case of such and such person in depth and this person is responsible for the following acts and we recommend that we execute them.'"

The G-2 officers can also make their own recommendations. "There is a weekly meeting of the chiefs of the General Staff, and they do an analysis of the [political] situation which is presented to the chief of staff," the officer says. "They give a political appreciation. Such and such a union is moving, who's behind it, who is the head. Then the decision is taken, 'All right, we'll proceed.'"

Prominent political dissidents get special consideration. "When there is a big fish, G-2 makes a presentation, they review all the problems with the person, the objective of the mission, and their recommendation. They can give three options—disappear them, eliminate them in public, or simply invite them to leave the country. . . ." During the regime of general Mejía, for example, army chief of staff Rodolfo Lobos Zamora, presidential chief of staff Pablo Nuila Hub, and Mejía himself often presided at the meetings, according to those officer and others.

At high-level meetings such as these, the military decided in 1979 to assassinate the country's two leading democratic politicans. The first was Alberto Fuentes Mohr, the former foreign minister. He was machine-gunned to death as he drove by a military base in Guatemala City shortly after registering his new Social Democratic Party. Two months later, Manuel Colóm Argueta, the charismatic former mayor of the capital, was slain in downtown traffic while a helicopter hovered overhead. Only one week earlier, Colóm Argueta had registered his own new center-left political party.

Colonel Djalma says that he personally worked on the G-2 investigation of Fuentes Mohr, which concluded he was a communist. But Djalma says the decision to kill Fuentes Mohr was made at a higher level. According to two ranking officers who participated in the discussions, the plans to kill the two politicians were relayed by General David Cancinos, who was then minister of defense and overseen by Colonel Héctor Montalvan, who was presidential chief of staff. Montalvan declined to comment on the charge. Montalvan's chief aide at the time was an officer named Edgar Godoy Gaitán. Earlier this year, the army appointed Colonel Godoy to be commander of the G-2.

Beatriz Barrios' name has been in G-2 files for several years. A schoolteacher and a law student, she had been picked up by the army twice in the last five years. Both times she was freed after the intervention of a relative who is a high-ranking military officer. After the second abduction, she had gone to the Canadian Embassy, which was quietly running a refugee program that had spirited dozens out of the country. The Canadians moved quickly to book her on a flight to Toronto.

At the airport her reservation passed across the desk of a colonel in the G-2 section named Gilberto Barreda, who has an office in a modest cubicle off the passenger arrival corridor. Barrios was due to leave the country early on the morning of December 11. Hours before her scheduled departure, she phoned for a taxi from a friend's house. Either the cab was followed from the friend's house or the call was monitored over the G-2's intercept lines at the national phone company. Ten minutes into the ride, the taxi was pulled over. Barrios was dragged away by four heavily armed men.

The next morning a G-2 army captain named Armando Villegas was seen by a group of his colleagues by the side of a highway south of the capital standing over Barrios' naked and mutilated body. A note in Villegas' handwriting had been placed on the corpse, saying, "Faltan Más"—"More to come." After the killing, Captain Villegas was made a director of Cerezo's presidential guard. His superior at the time, General Jaime Hernández, has been chosen by the army as Cerezo's minister of defense.

One common assumption in Guatemala and the United States is that all the disappeared are dead. Clearly, most are. According to Amnesty International, "many thousands" have disappeared in recent years; the army admits to no political prisoners. But testimony of survivors and G-2 officials indicates that between capture and execution dozens and perhaps as many as a hundred *desaparecidos* can be found at any given time in the network of clandestine G-2 holding centers.

These centers range from ordinary-looking civilian homes to cordoned-off sectors of army bases. For example, a tree-shaded mansion at 5-15 Seventh Ave., Zone 9, in the capital was used in 1983 as a secret prison and interrogation center. As of early 1986, *desaparecidos* were being held at the headquarters of a security force called the Ambulant Military Police (PMA) outside the capital. The prisoners were held in cells hidden behind a concealed door in a building next to the soccer field. Another center, in operation at least until Cerezo's election, is located in the mountains of the Atlantic coast outside the town of Playa Grande, according to agents who have worked there as guards.

All legal efforts to learn the location of G-2 centers have been thwarted. Last September the mother of Fernando de la Roca Elias was able to record the license numbers of two cars used in her son's abduction. She went to the Guatemalan Supreme Court to force the government to release the identities of the vehicles' owners. In an unprecedented—and thus far unrepeated—decision the court ordered the government to comply. One car, plate P-75177, is registered to the Ministry of Defense; the other, plate P-253217, is assigned to the Cuartel General, the country's largest military base. Military sources also say that three peasant coop members from the town of Patzún abducted by a G-2 unit last April 24 were still alive earlier this year and being held on the grounds of Cuartel General. In January the army appointed the commander of this base, General Héctor Alejandro Gramajo, as Cerezo's army chief of staff.

A few lucky enough to escape or be freed from the G-2 system have told their stories. Jim Boldenow, an American minister, was dragged from his car at gunpoint in 1982 and taken to a holding center where interrogators displayed a rack, electric cattle prods, and metal-tipped sticks they said were used for breaking bones. A friend of Boldenow informed the U.S. Embassy of the kidnapping, and embassy officials contacted then-chief of state General Efrain Rios Montt. He personally radioed the holding center and ordered Boldenow's release.

Last year a labor lawyer named Ramiro Ruiz Palma was tipped off by a friend that he was "on a list." He was able to have a contact within the government peruse his G-2 file. The G-2 had discovered that Ruiz Palma had advised a union at the Bank of Guatemala and made trips to Argentina and Mexico. They concluded that he was "a Marxist," and had marked him for elimination. He fled the country. Two weeks later, a union leader, Julio Celso, was snatched from a street corner and interrogated about Ruiz Palma's departure. Celso says he was taken to a house downtown, where he could hear prisoners screaming in other rooms. Celso was strapped to a blood-soaked mattress and threatened with a syringe. Only pressure on the army from friends in the U.S. labor movement secured Celso's release 24 hours later.

A personal connection to a senior officer or G-2 employee has become one of the more valued relationships among the middle and upper classes of Guatemala City. Only they can let relatives know the status of disappeared persons, how they are faring in clandestine detention, and when they are executed. For example, the mother of an agronomist named Jorge Rosal Paz, who disappeared in 1985, was consoled to receive from her G-2 contact at least a memento of her son: his identity card photo.

A few are still willing to speak out publicly against the system of political violence. "They [the military] have created a climate of terror," says Archbishop Próspero Penados, "a form of psychological torture, of constant uncertainty." Since becoming the country's leading bishop in 1984, Penados has boldly denounced the army for a number of specific killings. Nonetheless, Penados rations his public candor and keeps his distance from the GAM, the outspoken human rights group. "In Guatemala, one has to be very careful what one says," he explains. "One walks around with the knowledge that they can kill you at any time."

Nineth García, a housewife in Guatemala City, knows what Penados means. Her husband disappeared in February 1984. Afterward a squad of machine-gun-toting soldiers from the government's special operations brigade invited themselves into her house. They laughingly told her that her husband was "just a little bruised" and would be released in a few days. When he failed to appear, she helped launch the GAM in June 1984. The last two people who attempted to establish human rights organizations in the country were both assassinated. Today García, her eight-year-old daughter, and her fellow GAM survivors are the targets of frequent death threats. She says she now regularly receives phone calls late at night in which a tape-recorded voice describes her upcoming funeral and starts to laugh.

The GAM is the only group left in the country that will publicly confront the army. Last year General Mejía denounced the GAM as "a pressure group managed and directed by the subversion, and one that is making problems for the peaceful Guatemalan population." A police spokesman added that the group "has reached such extremes that it cannot be tolerated anymore." Nine days later Héctor Gómez, a baker active in the GAM, was abducted as he left a meeting. His body appeared the next day with his tongue cut out. Five days later, another GAM leader named Rosario Godoy de Cuevas, who had given a passionate speech at Gómez's funeral, was snatched from a shopping center along with her brother and two-year-old son. Her raped and mutilated body was found in her car; the baby's fingernails had been torn out.

When we asked General Mejía about the incidents at a press conference last November, he denied that either case was a homicide. He said that the Godoys had perished "in a traffic accident." When asked how the baby had lost his fingernails in car crash, Mejía replied that the existence of that injury—which was witnessed and photographed at the wake—was "disinformation."

President Cerezo told us that he attributes the killing of the GAM leaders to agents of the DIT. Cerezo says he is "convinced that the decision was made at the highest level of the government." Military officials involved in the operation confirm this view. They say that a team headed by Jaime Martínez Jiménez, then the chief of the DIT homicide division, carried out the killings. They say he was acting on the

orders relayed by Colonel Carlos Dorantes Marroquín, who was then the G-2 commander. Dorantes refused to comment about the GAM killings. Martínez, these sources say, was supervised by army lieutenant colonel Juan Méndez. This February, when the DIT offices were raided, Jaime Martínez was nowhere to be found. He had been informed of the raid in advance and chose to stay home.

It is hard to say who would be more stunned by justice for the Guatemalan military: the victims or the army. The officers and obligarchs who run Guatemala are accustomed to eliminating reformist challengers and dismissing the shaken survivors with gestures of amused contempt. General Mejía has explained the country's chronic violence as "a folkloric problem that began with Cain and Abel. . . . The problem is that nobody is content with anybody."

In a statement as bold as any made under previous military regimes, the army recently acknowledged that the killings of recent years had indeed been official government policy. Defending the decree that gives amnesty to all officers, the army said the measure was needed "to avoid reprisals against government functionaries who, with the framework and jurisdiction . . . of their public functions, may have afterward become the object of controversy."

Guatemala's bureaucracy of death appears more comfortably entrenched than at any time since the mid-1960s. The abolition of the DIT, a group of expendable civilians, has won the armed forces international praise, while G-2's assassinations continue as before. A popular civilian president can now renegotiate the country's foreign debt and secure economic aid for the country's ailing agricultural exporters—impossible under the previous military regimes. And despite earlier statements that he would tolerate no repression on his watch, Cerezo has yet to denounce a single army killing. This May his interior minister said that political murders are no longer a problem.

Cerezo surely would be far more willing to pursue prosecution of military officers if he did not feel that it threatened the survival of his government. If, for example, the Reagan administration publicly condemned the military's ongoing crimes, and supported efforts to hold the army officials accountable, the dream of ending the military's reign of terror would become a real, though distant, possibility. State Department officials claim that private diplomacy can work, leaving little prospect that the Reagan administration will go public. Yet still there is a feeling in Guatemala that unpredictable forces have been loosed and that the final disposition of the country's G-2 assassins is a story yet to unfold. At Cerezo's inauguration, angry crowds spat upon army trucks and shook their fists, crying, *"asesinos!"* In his first five months in office, Cerezo has received hundreds of letters—some from the friends and relatives of victims, some from government insiders—denouncing specific murders and abductions, and naming the officers responsible.

After hearing the pleas of GAM members a year ago, General Mejaí replied: "You have stated that there are secret prisons—clandestine—and that your sons are alive. You have been given every means available [to locate them]. You can go wherever you like. Where are these clandestine prisons? Where are these family members? . . . I don't know where they are. When you find out, let me know."

The general may be getting an answer sooner than he expected.

A COMPROMISE PROPOSAL FOR CIVIL RICO

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CONYERS. Mr. Speaker, during the 99th Congress, the Subcommittee on Criminal Justice, has held eight hearings on the proposed changes in the Racketeer Influenced and Corrupt Organizations Act [RICO]. During these hearings representatives of the business community argued that the civil section of the RICO law is being abused, and that the imposition of a prior criminal conviction for bringing a civil RICO suit would help curb much of the abuse. Public interest groups and law enforcement agencies claim that such a requirement may not be a necessary recourse and abuse, to the extent it exists, can be remedied in other ways. What follows is a worthwhile attempt at compromise offered by our distinguished colleague from Massachusetts, Mr. BARNEY FRANK and discussion concerning his proposal. It is thoughtful and certainly worthy of each Members attention.

H.R. 4892

A bill to amend title 9 and 18 of the United States Code with respect to certain civil proceedings arising under chapter 96 of title 18 of the United States Code

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil RICO Amendments Act of 1986".

SEC. 2. ARBITRATION AMENDMENT.

Section 2 of title 9, United States Code, is amended by adding at the end "Any claim arising under section 1964(c) of title 18 and based solely upon fraudulent activity of the party against whom the claim is made is subject to settlement by arbitration under this chapter, and a substantially prevailing claimant in such arbitration or in a prior or later related judicial proceeding on such claim shall be awarded costs of the proceeding, including a reasonable attorney's fee.".

SEC. 3. SECTION 1961 AMENDMENTS.

Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1)(A), by inserting after "obscene matter," the following: "prostitution involving minors,";

(2) in paragraph (1)(B)—

(A) by striking out "section 1341" and all that follows through "wire fraud)";

(B) by striking out "sections 2314 and" and inserting "section" in lieu thereof; and

(C) by inserting after "white slave traffic)" the following: "chapter 51 (relating to homicide), chapter 73 (relating to obstruction of justice), chapter 110 (relating to sexual exploitation of children), section 32 (relating to destruction of aircraft or aircraft facilities), section 112 (relating to protection of foreign officials), section 115 (relating to assaults against a Federal official's family), section 215 (relating to bank bribery), section 373 (relating to solicitation to commit a crime of violence), section 510 (relating to fraud on Treasury paper or other United States securities), section 511 (relating to forgery of State and other securities), section 666 (relating to theft or bribery in benefit programs), section 844 (relating to explosive materials), sections 1029 and 1030 (relating to fraud in connection with access devices and computers), section 1203 (relating to hostage taking), section 1344 (relating to bank fraud), section 1952A (relating to murder-for-hire), section 1952B (relating to violent crime in aid of racketeering), and sections 2318 and 2320 (relating to counterfeit materials);";

(3) in paragraph (1) by adding at the end of the paragraph the following:

"(F) a criminal violation of the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, and the Commodity Exchange Act, or (G) an offense under the Controlled Substances Act or the Controlled Substances Import and Export Act;";

(4) in paragraph (5)—

(A) by inserting "or fraudulent" after "racketeering" each place it appears; and

(B) by inserting before the semicolon at the end the following:

"that—

"(A) are related to the affairs of an enterprise;

"(B) are not isolated; and

"(C) are not so closely related to each other and connected in point of time and place that, while having multiple bases of jurisdiction, including use of the mails, wire communications, or interstate travel or transportation, they constitute a single transaction, involving only one victim, not evincing continuity of activity;

(5) in each of paragraphs (7) and (8), by inserting "or fraud" after "racketeering" each place it appears;

(6) by striking out "and" at the end of the paragraph (9);

(7) by striking out the period at the end of paragraph (10) and inserting "; and" in lieu thereof; and

(8) by adding at the end the following:

"(11) 'fraudulent activity' means—

(A) any act which is indictable under any of sections 1341 (relating to mail fraud), 1343 (relating to wire fraud), and 2314 (relating to interstate transportation of stolen property) of this title; or

"(B) an offense involving fraud connected with a case under title 11 or fraud in the sale of securities.".

SEC. 4. SECTION 1962 AMENDMENT.

Section 1962 of title 189, United States Code, is amended by inserting "or fraudulent" after "racketeering" each place it appears.

SEC. 5. SECTION 1963 AMENDMENT.

Section 1963(a)(3) of title 18, United States Code, is amended by inserting "or fraudulent" after "racketeering".

SEC. 6. SECTION 1964 AMENDMENTS.

(a) Section 1964(a) of title 18, United States Code, is amended—

(1) by striking out "(a)" and inserting in lieu thereof "(a)(1)"; and

(2) by adding at the end of the following:

"(2) Any person may institute proceedings under this subsection. In any proceeding brought by any person under this subsection relief shall be granted in conformity with the principles which govern the granting of injunctive relief from threatened loss or damage in other cases, including the possibility that any judgment for money damages might be difficult to execute, but no showing of special or irreparable injury shall have to be made. Upon the execution of such bond against damages for an injunction improvidently granted as the court de-

termines proper a temporary restraining order and a preliminary injunction may be issued in any action or proceeding before a final determination thereof upon its merits. Such undertaking shall not be required when the applicant is a State or territory of the United States. Recovery if the person substantially prevails shall include the costs of the action, including a reasonable attorney's fee in the trial and appellate courts.".

(b) Section 1964(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) Any person who is directly or indirectly, injured, by reason of any violation of section 1962 of this chapter may bring a civil action in an appropriate district court of the United States and shall recover threefold the actual damages sustained by him, and if the person substantially prevails, the costs of the action, including a reasonable attorney's fee in the trial and appellate courts. Damage shall not include pain and suffering.

"(2) If the court determines that the filing of any pleading, motion, or paper under this subsection is frivolous or that any action or proceeding is brought or continued under this subsection in bad faith, vexatiously, wantonly, or for an improper or oppressive reason, the court shall award actual costs of the action or proceeding, including attorney's fees, unless the court finds that special circumstances, including the relative economic position of the parties, make such an award unjust.

"(3) Whenever the United States is, directly or indirectly, injured in its business or property by reason of any violation of section 1962 of this chapter, the Attorney General may bring a civil action in an appropriate district court of the United States and shall recover threefold the actual damages sustained by it, and the cost, including investigations and litigation, of the action.

"(4) Any attorney general of a State may bring an action or proceeding under this subsection in the name of the State, as parens patriae on behalf of individuals residing in such State, in any district court of the United States having jurisdiction of the defendant, to secure monetary relief as provided in this section for injury sustained by such individuals by reason of any violation of section 1962 of this title. The court shall exclude from the amount of monetary relief awarded in the action or proceeding any amount of monetary relief that duplicates amounts which have been awarded for the same claim or which is properly allocable to individuals who have excluded their claims pursuant to this paragraph and to any business entity. The court shall award the State as monetary relief threefold the total damage sustained as described in this paragraph, and the cost of suit, including a reasonable attorney's fee. In any action or proceeding brought under this paragraph, the State attorney general shall, at such times, in such manner, and with such content as the court may direct, cause notice of such action or proceeding to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person, the court may direct further notice to such person according to the circumstances of the case. Any person on whose behalf an action or proceeding is brought under this paragraph may elect to exclude from adjudication the portion of the State claim for monetary or other relief attributable to such person by filing notice of such election with the court within such time as specified in the notice given under this paragraph. An action or proceeding under this paragraph shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs. In any action or proceeding under this subsection—

"(A) the amount of the plaintiff's attorney's fee, if any, shall be determined by the court; and

"(B) the court may, in its descretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the State attorney general has acted in bad faith, frivolously, vexatiously, wantonly, or for an improper or oppressive reason.

"(5) Notwithstanding any other provision of law providing a shorter period of limitation, any civil action or proceeding under this subsection may be commenced at any time within four years after the unlawful conduct terminates or the cause of action accrues, whichever is later. Whenever any civil, criminal, or other action or proceeding is brought or intervened in by the United States to prevent, restrain, or punish any violation of section 1962 of this chapter, the running of the period of limitation prescribed by this paragraph with respect to any cause of action arising under this subsection which is based in whole or in part on any matter complained of in such action or proceeding by the United States, shall be suspended during the pendency of such action or proceeding by the United States and for two years thereafter.".

SUMMARY OF PROBLEMS RAISED BY CONGRESS WATCH/PUBLIC CITIZEN PROPOSED "RICO" AMENDMENT

The Congress Watch/Public Citizen proposal does not address the major problems that impel substantial reform of RICO: federalizing local disputes and displacing other more precise federal and state statutes. The various proposals would create a host of new problems and would spawn even more litigation.

ARBITRATION PROVISION

The proposal to make arbitrable certain RICO claims based "exclusively" on fraud predicates has a number of major flaws:

The proposal would apply only to the small number of cases in which there is a contract between the parties which explicitly includes an arbitration clause broad enough to cover RICO-related allegations.

The proposal would exclude RICO claims of "general public importance," but this is the same vague test that has led a number of courts to hold that RICO disputes are not arbitrable at all.

The proposal to make "ordinary commercial disputes" arbitrable but not those involving "any form of organized crime behavior" would invite additional federal litigation on how to characterize a plaintiff's case.

The proposal to exclude "contracts of adhesion" from arbitration would inject another issue for litigation.

A plaintiff's claim of "fraudulent inducement" would jeopardize the arbitration procedure, since it depends on an enforceable contract.

The arbitration proposal would give claimants "two bites at the apple" because it fails to provide that an adverse ruling in arbitration precludes the plaintiff from pursuing the same issue or claim in a subsequent civil suit.

Arbitration often provides inadequate protection for defendants since, as proponents of the proposal acknowledge, "arbitrators are not bound to follow substantive or procedural law in resolving their cases."

Arbitration is not a panacea, since arbitrators tend simply to "split the difference" between the two sides, and arbitration can be as lengthy and costly as court proceedings.

The proposal erroneously assumes that there is a legitimate need for an *additional* federal treble-damage remedy in civil disputes, whether the remedy is judicial or arbitral.

REDEFINITION OF "PATTERN" CONCEPT

Although there is considerable confusion in the civil RICO cases about the contours of the "pattern" requirement, the proposal would not be an effective solution:

The proposal would expand the "pattern" concept beyond the Justice Department guidelines.

The Justice Department RICO guidelines from which the proposal is drawn are a basis for prosecutorial discretion, but they are not sufficiently clear and precise to provide manageable statutory standards to govern litigation.

Since most business and commercial relationships extend over a period of time, redefinition of the "pattern" requirement would simply create a pleading obstacle easily met by most plaintiffs using RICO in ordinary commercial disputes.

The Justice Department would certainly block any effort to codify its discretionary guidelines and thus to create new obstacles to criminal prosecutions under RICO.

AWARDS OF FEES AND COSTS IN "FRIVOLOUS SUITS"

A proposal to allow prevailing defendants to recover fees and costs in "frivolous" or "abusive" suits offers no protection:

The main problem with RICO is that it literally covers disputes that should not be addressed by a federal anti-racketeering statute, not that the claims themselves are necessarily "frivolous" or "abusive".

Federal law already provides both explicit and inherent authority to award costs against plaintiffs who bring "frivolous" suits, but the courts are extremely reluctant to use this sanction, in RICO cases or otherwise.

The only practical reform on the fee question would be to mandate equal treatment so that the prevailing party, whether plaintiff or defendant, would receive fees and costs.

EXPANSION OF RICO PREDICATES

There is no evident logic in the proposal to add another two dozen RICO predicates:

The proposal would expressly broaden the coverage of RICO to include violations of economic regulatory statutes such as the Public Utility Holding Company Act, the Trust Indenture Act, the Investment Company Act and the Commodity Exchange Act.

In the absence of recommendations from the Justice Department about significant "organized crime" involvement in other offenses, it makes no sense to select arbitrarily two dozen out of hundreds of federal crimes and include them in RICO.

RECOVERY OF DAMAGES FOR "PERSONAL INJURY"

The proposal to allow recovery of damages for "personal injury" in civil RICO suits would introduce a host of new problems:

The purpose of civil RICO was to create a new remedy for people who incur financial losses when organized crime infiltrates the business world.

Fully adequate state remedies exist to permit recovery of damages, including puni-

tive damages for personal injuries resulting from violent crimes.

As federal courts have held, RICO would become a basis for "federalizing" virtually all product liabiliy suits if Congress authorized recovery for "personal injury" under this statute.

In the midst of national concern about the tort liability crisis, it would be foolish to create a *federal treble-damage* claim under RICO applicable to product liability disputes.

The proposals to allow persons to sue under RICO for injuries suffered "indirectly" would dramatically and unwisely expand the range of potential RICO plaintiffs to include persons claiming remote injury.

ATTORNEYS' FEES FOR "SUBSTANTIALLY" PREVAILING PLAINTIFFS

The proposal would unwisely expand a plaintiff's entitlement to recover substantial attorneys' fees, so long as the plaintiff has merely prevailed "substantially":

The proposal would give plaintiffs an additional weapon to use in inducing settlements, since the defendant would become liable for fees even if the plaintiff succeeds on only part of his claims.

The expanded entitlement to attorneys' fees would stimulate even more frequent efforts to convert disputes into RICO cases.

The proposal to award fees and costs to any plaintiff who "substantially prevails" in his RICO suit would introduce into RICO litigation the complexities that a similar term in the employment discrimination statutes has spawned.

"PARENS PATRIAE" ACTIONS

The proposal would substantially increase the number and nature of civil RICO suits in federal courts by conferring on state attorneys general a new right to bring RICO class actions as "parens, patriae" on behalf of private citizens in the state:

Congress should not deputize state officials to enforce private federal rights.

State legislatures are the proper bodies to decide whether and under what circumstances state officers should bring RICO-type suits, as about two dozen have done.

The "parens patriae" concept is bitterly opposed as an inappropriate reallocation of private rights, as a presumptuous violation of federalism, and as an invitation to improperly motivated litigation.

The goal of any genuine reform of civil RICO must be to reduce, not expand, the number of suits authorized under this special federal anti-crime statute.

PRIVATE INJUNCTIVE RELIEF

The proposal would also expand RICO unwisely by authorizing private parties to seek injunctions:

Virtually all federal courts have held that RICO does not authorize injunctions in suits by private claimants.

The proponents of the amendment have not shown that the government's power to seek injunctions against RICO violations is inadequate or that other bases for injunctions in private suits are insufficient.

The breadth of RICO, if combined with the threat of preliminary injunction in private civil suits, would threaten to disrupt on-going business affairs and would force additional costly settlements.

PUBLIC CITIZEN CONGRESS WATCH

The proponents of adding a prior criminal conviction requirement to civil RICO have stated their objections to the set of compromise RICO amendments recently introduced by Representative Barney Frank (H.R. 4892) in a document dated June 1986. The responses of Public Citizen and the U.S. Public Interest Research Group to those objections are outlined below.

Frank Amendment No. 1: Provides that private civil RICO claims alleging solely fraudulent predicate activity are arbitrable under the United States Arbitration Act (Title 9).

Objection: "Would apply only to limited number of cases involving contractual relationships between all plaintiffs and all defendants, where preexisting contract provides for arbitration".

Response: The purpose of amending the law to provide that private civil RICO claims are arbitrable under the United States Arbitration Act is to respond to the criticisms that RICO claims are being attached to "ordinary commercial disputes" which really do not involve a pattern of criminal activity related to an enterprise.[1] By adding civil RICO claims to these "ordinary commercial disputes," it is claimed that the disputants acquire a federal forum and can use the "hammer" of RICO's automatic treble damages to extort an unfair settlement.

The amendment is designed to remove all incentive for private parties in "ordinary commercial disputes" to misuse civil RICO.

The basis of disputes between business partners is usually a contract that delineates the rights and responsibilities of the parties involved in the commercial relationship. Today, the trend in commercial relationships is for business partners to want any disputes that arise out of their contracts to be settled by arbitration.[2] Thus, the parties often decide to include an arbitration clause in their contracts.[3]

The reason why businesses prefer arbitration is no doubt related to its relative speed and efficiency over judicial resolutions without entailing a concomitant financial sacrifice. Chief Justice Warren Burger, in a recent speech, stated that, "My own experience (including participation in at least eight to ten arbitrations) persuades me that in terms of cost, time, and human wear and tear, arbitration is vastly better than conventional litigation for many kinds of cases."[4]

The findings of a recent study support the belief that aribitration is faster yet not more costly than the courts.[5]

The study concluded:

1. cases move more quickly through arbitration than through the courts;

2. more of the cases in arbitration are actually decided by a third party as opposed to settled; and

3. arbitration is not substantially more expensive than filing a case in court, especially when one considers that arbitration provides the parties with a decision more often than the courts do.

These facts explain, therefore, why there is a trend towards including arbitration claims in many commercial contracts and that many more are likely to do so in the future. For example, arbitration clauses are widely used in the securities industry today. The Frank amendment concerning arbitration, therefore, could apply to up to 40% of the private civil RICO suits determined by the Justice Department to be based on securities fraud.[6]

Changing the law to provide that private civil RICO suits are arbitrable removes the incentive for business disputants to add RICO claims to "ordinary commercial disputes." First, since RICO claims would be arbitrable, the addition of a RICO cause of action would not give access to the federal court. Second, since arbitrators are not bound to follow substantive or procedural law in their proceedings, the plaintiff in an "ordinary commercial dispute" would no longer be able to use the threat of automatic RICO treble damages to extort an unfair settlement from the defendant.

Objection: "could be avoided entirely by claim of fraudulent inducement".

Response: The current law articulated by the Supreme Court is that an arbitration clause will be set aside only if a party proves that its *agreement to the arbitration clause* was induced by fraud.[7] The Court specifically concluded that, "The statutory language (of the U.S. Arbitration Act) does not permit the federal court to consider claims of *fraud in the inducement of the contract generally.*" [Emphasis added] [8] The basis for this ruling is that Congress, in enacting the U.S. Arbitration Act, sought to give effect to the intent of the parties when they entered into their contract that their subsequent disputes be referred to arbitration. If the original agreement to resort to arbitration was induced by fraud and, therefore, does not represent the voluntary choice of the parties, then the court has no basis for enforcing the arbitration clause.

Objection: "arbitration no panacea, since arbitrators are not bound by substantive or procedural law, arbitrators are not as skilled or as detached as judges, and arbitration can be as lengthy and as costly as judicial proceedings".

Response: 1. The fact that arbitrators are not bound by substantive or procedural law is one of the attractive features of arbitration. As stated above, arbitrators are chosen by agreement of the parties and are selected for their expertise in the issues involved in the case. The arbitrators chosen, therefore, would have more expertise than a judge who is assigned to the case at random. Thus, the arbitration proceeding affords the parties a more expert and swift decision than a judicial proceeding would.

While arbitrators are not bound to follow substantive or procedural law, Congress has declared its support for the integrity of arbitration awards by providing that review of arbitration awards is very limited. 9 U.S.C. 10 provides that a court may vacate an award only in very circumscribed circumstances including if (1) the award was procured by corruption, fraud, or undue means; (2) an arbitrator was partial or corrupt; (3) the arbitrators were guilty of misconduct and a party's rights were prejudiced; or (4) the arbitrators exceeded their powers.

Furthermore, rule 12 of the American Arbitration Association requires that arbitrators be *neutral* unless the parties specifically agree in writing to the contrary.

2. The findings of the study cited above indicate that arbitration tends to be swifter than judicial proceedings. The study also shows that arbitration gives parties more for their money since more claims are actually decided in arbitration, rather than settled in court.

Objection: "the proposal is ambiguous and the law concerning arbitration of statutory claims is confused, so the net effect of the provision will be to produce more, not less, litigation".

Response: It is not clear why the prior conviction proponents state that the amendment is ambiguous. The amendment can be clarified if an articulable reason for ambiguity is provided.

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[1] Footnotes at end of article.

Currently, the two circuit courts that have ruled on the issue have held that RICO claims are not arbitrable. There is, however, a split in the district courts on the issue. This "confusion" is remedied by the Frank amendment since it plainly overrules the two circuit court decisions and provides that private civil RICO claims are arbitrable.

Objection: "if the proposal is intended to let arbitrators decide RICO causes of action *in toto*, it is handing judicial power to inexperienced non-Article III 'judges;' if that is not the intent, it will not limit the number or complexity of RICO cases".

Response: Since arbitrators are chosen by the parties, it is unlikely that the parties would select "inexperienced" persons to decide their cases. In addition, the purpose of the amendment is to effectuate the intent of the parties that disputes arising under the contract be arbitrated.

Objection: "ignores basic flaw that no additional federal treble damage remedy needed for these cases at all".

Response: The amendment making RICO claims arbitrable removes the incentive for ordinary commercial disputants to allege RICO causes of action. Thus, it is designed to remove the use of RICO entirely in "ordinary commercial disputes."

RICO is a necessary and appropriate claim, however, for use in situations involving an on-going pattern of criminal behavior related to an enterprise. Besides RICO, there is no other federal or state remedy for these extraordinary kinds of cases.

Frank Amendment No. 2: Codifies the guidelines of the U.S. Department of Justice into the statutory definition of "pattern." Thus, the new definition will not place any extra burdens on the Justice Department, but will impose the same burdens on private litigants as the Department currently imposes on itself. This clarification of the meaning of "pattern" would eliminate up to 42% of private civil RICO cases that the Justice Department found are based on a "single episode having only one victim." The language of the new definition is adapted from the testimony of the National Association of Attorneys General and the National District Attorneys Association.

Objection: "provides less protection than Justice Department guidelines and current law by finding 'pattern' as long as there is 'more than one victim' of the activity."

Response: The only way to find a "pattern" under the Frank definition as long as there is "more than one victim" is to misread the definition. The Frank definition does not find a "pattern" upon proof that there is more than one victim. Instead, it articulates three subparagraphs of requirements for a finding of pattern.

Objection: "guidelines too vague for statutory definition—are suited to prosecutorial discretion, not statutory definition'.

Response: None of the concepts contained in the Frank definition is new. Each has been previously articulated and described in the legislative history of RICO or current case law. *See, e.g.,* S. Rep. No. 617, 91st Cong., 1st Sess. 158, *Sedima* v. *Imrex Co., Inc.,* 105 S.Ct. 3275, 3285 n.14 (1985), *United States* v. *Moeller,* 401 F.Supp. 49 (D.Ct. 1975).

Objection: "would create only minor pleading impediment, since most business and commercial relationships extend over a period of time and often involve many parties".

Response: To state a cause of action under RICO, one must allege, among other things, a *pattern* of *criminal* behavior and the existence of an *enterprise.* Currently, even with less detailed definitions of the elements of a RICO suit than are contained in the Frank bill, Justice Department findings state that 61% of the private RICO cases studied were decided in favor of the defendants prior to trial.[9] A significant portion of these dispositions, though the exact number is unknown, was no doubt based on defendants' motions to dismiss or motions for summary judgment. Existing rules of civil procedure, therefore, can be expected to handle baseless RICO claims.

Frank Amendment No. 3: Eliminates use of the "racketeer' label when the conduct alleged is solely fraudulent activity. This amendment responds to the claim that legitimate businesses are being branded as "racketeers" when they are accused of engaging in exclusively fraudulent activity.

Objection: "Since statute still called RICO, unlikely that this change will alter public perception or press treatment".

Response: Public Citizen and U.S. PIRG do not object to changing the name of the statute.

Objection: "no effect on extortionate use of RICO or federalizing of state claims".

Response: The groups critical of civil RICO have stated that RICO can be used extortionately against legitimate businesses due to the "racketeer" label and the availability of automatic treble damages. The Frank proposal eliminates both the "racketeer" label and the availability of automatic treble damages in "ordinary commercial disputes."

It is correct that the change in the use of the term "racketeer" is not designed to respond to the claim that RICO is federalizing state claims. It should be noted, however, that the findings of the Justice Department study indicate that 65% of the private RICO cases studied could have been filed in federal court even without the RICO allegation. The Frank amendments do, however, respond to this criticism by eliminating the broad predicates act of "fraud in the sale of securities" and replacing it with specified criminal violations of the federal securities laws.

Frank Amendment No. 4: Provides that defendants may be awarded costs and attorney's fees if RICO suits are brought "in bad faith, vexatiously, wantonly, or for an improper or oppressive reason."

Objection: "misses the point since abuse is attributable to literal breadth of statute, not legally 'frivolous' suits".

Response: The Frank bill contains four amendments specifically designed to tighten up the RICO statute in specific response to the criticisms involving RICO's breadth. The Frank amendment concerning sanctions for bad faith suits enforces these restrictions on the use of RICO.

Objection: "authority for awarding costs and fees to defendants in frivolous cases exists but courts are reluctant to act".

Response: In 1983, Rule 11 of the Federal Rules of Civil Procedure was rewritten and strengthened to provide for sanctions against parties and their attorneys who conduct abusive litigation. Since then, nearly 200 requests for sanctions have been reported and about half of them have been granted. Thus, courts are not reluctant to apply sanctions in appropriate cases.

Frank Amendment No. 5: Provides for a four-year statute of limitations, modeled after the federal antitrust laws.

Objection: "measuring four years from last predicate act rather than act causing injury would permit stale suits alleging intervening predicate act by defendant against someone else".

Response: The Frank amendment simply adds a uniform four-year statute of imitations.

It is current law that a RICO suit may allege predicate acts committed by the defendant against persons or entities other than the named plaintiff(s). This rule is appropriate because RICO is designed to apply to a series of on-going and pervasive criminal activity. The "pattern" of criminal activity may not be revealed by conduct against only one victim. Thus, one victim cannot be and is not restricted in its proof of a pattern by the requirement that the predicate acts alleged all involved the plaintiff. To provide otherwise would read the pattern requirement out of the statute.

Objection: "four years is longer than most tort statutes of limitation".

Response: RICO is not equivalent to a tort statute. It is a heightened combination of a federal criminal statute and the federal antitrust laws. The general federal criminal statute of limitations is five years (18 U.S.C. 3282) and the statute of limitations in the antitrust laws is four years. The Frank amendment adopts the 4-year statute of limitations.

Frank Amendment No. 6: Specifies that only criminal violations of the federal securities laws may give rise to a RICO suit and updates RICO by adding behavior made criminal in 1984 to the list of predicate acts. These changes were suggested in the testimony of the National Association of Attorneys General and the National District Attorneys Association.

Objection: "would include violations of economic regulatory statutes unrelated to organized crime".

Response: Persons and entities engaged in organized criminal activity do not restrict themselves to violating only certain criminal statutes.

Objection: "makes bad situation worse by expanding coverage of statute".

Response: The addition of predicate acts keeps the law up-to-date so that it can remain an effective tool in the fight against organized criminal activity.

Objection: "no reason for picking these; no indication of particular organized crime involvement".

Response: The predicate acts were suggested in the testimony of the National Association of Attorneys General and the National District Attorneys Association for their relationship to predicate acts currently contained in the statute. *See, e.g.,* murder-for-hire.

Frank Amendment No. 7: Eliminates the current anomaly that a person with a claim cognizable under the statute may not be afforded compensation if he or she has suffered personal injury.

Objection: "worsens current tort liability crises by creating federal treble-damage remedy applicable to product liability and other tort actions" and "expands federalizing of tort system; adequate state remedies exist for personal injuries".

Response: The purpose of the amendment is not to allow products liability cases to be alleged as RICO violations but to cure the anomaly that there are harms caused by violations of RICO, like injuries resulting from kidnapping or arson, that currently have no remedy. Furthermore, the amendment specifically precludes compensation for pain and suffering. Public Citizen and U.S. PIRG would support an amendment to

this section that would remedy the anomaly but preclude the allegation of RICO claims in products liability suits.

Objection: "departs from RICO's purpose of protecting against financial injury caused by infiltration of legitimate business by organized crime".

Response: This amendment is consistent with the purpose of RICO even if the most narrow brush is put on its legislative history. It is victims of traditional violent organized criminal behavior like murder, kidnapping, and arson who are left without relief due to the current prohibition of recovery for personal injury.

Objection: "recovery for vague 'indirect' damages would encourage plaintiffs to avoid other more precise regulatory systems to use RICO to collect for remote damages not recoverable under specific statutes".

Response: Harm caused by RICO-type behavior should be compensated whether it is "direct" or "indirect" injury. (The courts are currently split on this issue.)

The legal concepts of "standing" and "proximity of harm" are meant to deny relief if the harm alleged is too attenuated to the RICO violation. *See, e.g., Warren* v. *Mfg. Nat'l Bank*, 759 F.2d 542, 544 (6th Cir. 1985). These concepts are not changed.

Frank Amendment No. 8: Permits plaintiffs who substantially prevail either by being awarded injunctive relief or through settlement to apply to the court for a reasonable attorney's fee.

Objection: "expands *in terrorem* effect of RICO claim since full attorney's fees could be awarded even if plaintiff partially loses".

Response: This Frank amendment responds to the inequity exemplified by *Aetna Casualty & Surety Co.* v. *Liebowitz*, 730 F.2d 905 (2d Cir. 1984). In that case, plaintiff Aetna sued one of its brokers for illegally converting to his own use money paid to him as insurance premiums. Aetna succeeded in getting a preliminary injunction against the defendant, but the case was settled before going to trial. The settlement agreement negotiated by the parties provided that Aetna would apply to the district court for an award of attorney's fees and costs. Upon Aetna's application, however, the court ruled that there could be no award of attorney's fees due to the absence of statutory language authorizing such an award.

The Frank amendment would allow the court to award attorney's fees in a situation like the one in *Aetna*.

Objection: "would generate litigation over meaning of 'substantially prevails'."

Response: There are currently numerous statutes authorizing the award of attorney's fees to a party who "substantially prevails" or to a "prevailing party." These terms, therefore, have already been fully interpreted by the courts.[10]

Frank Amendment No. 9: Explicitly provides for state attorneys general to bring civil RICO suits on behalf of their citizens. The language of this *parens patriae* amendment is modeled after the Clayton antitrust law.

Objection: "federal government ought not to deputize state AGs where own legislatures have not chosen to give powers to them".

Response: The purpose of *parens patriae* suits is to allow the chief legal officer in a state to enforce the federal rights of its citizens and is not inconsistent with the powers given to them by their own state legislators.

Objection: "inappropriate usurpation of private rights enforceable through class action lawsuits".

Response: The supporters of the prior conviction requirement are the ones who would "usurp" private rights by virtually eliminating RICO's private right of action. The existence of *parens patriae* suits enhance, not usurp, private rights.

Objection: "greatly expands the number of potentially abusive civil RICO suits since now headline seeking AGs will be able to bring civil RICO suits to generate publicity".

Response: 1. As the chief legal officer in the states, states' attorneys general are not known for bringing "potentially abusive suits." Furthermore, the resources of states' attorneys general offices are not sufficient for them to have the potential to "expand greatly" the number of civil RICO suits.

2. Assuming, for the sake of argument, that an attorney general brought an "abusive" civil RICO suit to generate publicity, the primary publicity the suit would generate is adverse publicity.

Frank Amendment No. 10: Explicitly allows private parties to seek injunctive relief. The courts are currently split on whether or not injunctive relief is available to private civil RICO litigants.

Objections: "would greatly increase *in terrorem* effect by permitting threats of 'dissolving' defendant, requiring divestiture, or banning defendant from engaging in particular trade or business" and "would lead to disruption of ongoing legitimate business activities".

Response: Private injunctive relief is necessary to stop the continued commission of RICO violations. Thus, for example, (1) Aetna Insurance Company successfully enjoined one of its employees under civil RICO from converting insurance premiums to his own use and (2) VISA and MasterCard successfully enjoined the commission of massive nation-wide credit card fraud under civil RICO.

The Frank amendment contains the usual requirements applicable to the award of private injunctive relief when a statute is the basis for the relief.

Objection: "no evidence that existing injunctive remedies in the law are inadequate".

Response: Equitable relief is necessary and appropriate to prevent the dissipation of assets before trial. *See, e.g.,* testimony of Irvin B. Nathan. *Forfeiture of Narcotics Proceeds, Hearings Before the Senate Subcomm. on Criminal Justice, Comm. on the Judiciary,* 96th Cong., 2d Sess. Thus, it should be explicitly granted in the statute.

FOOTNOTES

[1] *See, e.g.*, the testimony of Ray J. Groves (American Institute of Certified Public Accountants), Edward I. O'Brien (Securities Industry Ass'n.), Robert H. Hodges, Jr. (American Bankers Ass'n.), and Irving B. Nathan (American Property and Casualty Insurance Industry).

[2] *See, e.g.*, The First Annual Judicial Conference of the United States Court of Appeals for the Federal Circuit, 100 F.R.D. 499 (1983) and Levin, "Court-Annexed Arbitration" 16 *U. of Mich. J. of Law Reform* 537 (1983).

[3] The standard arbitration clause recommended by the American Arbitration Association states: "Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof."

[4] Remarks entitled "Using Arbitration to Achieve Justice" by Warren E. Burger before the American Arbitration Association and the Minnesota State Bar Association, August 21, 1985. Reprinted in 40 *Arbitration Journal* 3 (1985). Chief Justice Burger listed several reasons why arbitration is so attractive including (1) parties may select their own triers, (2) the arbitrators will be chosen on the basis of special experience and knowledge of the subject matter, business and commercial practices, and the law, and (3) a swifter resolution of the dispute can be achieved.

[5] Kritzer and Anderson, "The Arbitration Alternative: A Comparative Analysis of Case Processing Time, Disposition Mode, and Cost in the American Arbitration Association and the Courts" 8 *Justice System Journal* 6 (1983).

[6] Statistic of the U.S. Department of Justice. *See* Remarks of Richard K. Willard, Assistant Attorney General, Civil Division on May 21, 1986 at 4.

[7] *Prima Paint Corp.* v. *Flood & Conklin Mfg. Co.*, 388 U.S. 395, 403-04 (1967).

[8] *Id.* at 404.

[9] Testimony of Assistant Attorney General Stephen S. Trott before the Senate Judiciary Committee on May 20, 1985 at 28-29.

[10] *See, e.g., Aetna Casualty & Surety Co.* v. *Liebowitz*, 730 F.2d 905, 908 n.3 (2d Cir. 1984).

SUMMARY OF FINDINGS AND RECOMMENDATIONS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. SOLARZ. Mr. Speaker, last September, Secretary of State Shultz appointed a commission to study the refugee situation in Southeast Asia. The commission, chaired by former Gov. Robert D. Ray of Iowa, was comprised of the following members: Irena Kirkland, a holocaust survivor and former refugee; Gale W. McGee, former U.S. Senator from Wyoming and U.S. Ambassador to the Organization of American States; Jonathan Moore, former Deputy Assistant Secretary of State for East Asian and Pacific Affairs, now director of the Institute of Politics at Harvard; and Edward C. Schmults, deputy Attorney General of the United States, now senior vice president and general counsel, GTE Corp., Stamford, CT.

The Ray Commission recently issued its findings, after an extensive study of the issues involved in the refugee situation.

Since I have received numerous requests for copies of the report, I submit it for the RECORD for the benefit of my colleagues.

IV: SUMMARY OF FINDINGS AND RECOMMENDATIONS

FINDINGS

1. Although changes are occurring, the refugee situation in Southeast Asia continues to warrant special coordinated international relief and resettlement efforts.

2. The roots of the refugee situation in Southeast Asia lie with Vietnam's repressive and expansionist policies which continue to create pressures that cause thousands to endanger their lives in clandestine flight.

3. Southeast Asian states continue to provide first asylum, but condition this policy on their not being left with a residual population.

4. U.S. traditions of humanitarian concern and response require continued U.S. leadership in an international program for Indochinese refugees.

RECOMMENDATIONS

A. How to preserve first asylum in Southeast Asia while addressing the problems of declining resettlement offers and increasing residual populations?

1. The Panel attaches the greatest significance to the preservation of first asylum. It

ask the U.S. Government to reaffirm to the nations of Southeast Asia the importance the United States and other nations attach to their continuing to offer asylun for Indochinese refugees.

2. The United States and other governments should ensure that international financial support for relief and resettlement reponds adequately to refugee needs in Southeast Asian nations so that first asylum will be continued.

3. The United States should assert its leadership in renewed international approaches to effective durable solutions for long-stayers.

4. As part of an international effort with other participating nations to find durable solutions for long-stayers, the United States should begin processing refugees from the current population with no ties to the United States (P-6). In selecting cases from this group for resettlement, the United States should take into account length of stay in first asylum camps and other compelling circumstances.

5. The United States should take the lead with other participating countries in a "sharing-out" of the remaining refugee populations, offering more third-country resettlement in exchange for local settlement of refugees where appropriate.

6. A comprehensive approach to the "long-stayer" problem must take account of the need to avoid creating inducements to immigration by additional potential "long-stayers," particularly those whose primary motivation for departure is economic rather than a "well-founded fear of persecution."

7. Other countries should be encouraged to revive their participation in Indochinese resettlement. Where countries cannot accept large numbers, they should agree to receive small numbers of special cases, such as hard-to-place handicapped refugees, and those who have successfully completed training courses.

B. Whether and how to shift Indochinese family reunification cases from refugee flows to immigration channels?

1. The Indochinese Refugee Program should be restructured to have two essential components: one, an effective refugee program under which the legal definition of refugees would be applied fairly as contemplated by law; and the other, an effective immigration program, with the same procedures used by the United States throughout the world for those who qualify for admission on the basis of their family ties or other immigrant preferences.

2. Persons now in the first asylum camps should not be adversely affected by this restructuring. Existing processing criteria should in general continue to be applied to those who arrived in first asylum prior to announcement of changes.

3. Refugee admissions should continue to be generally available for those reaching first asylum, or in their country of origin, who have a well-founded fear of persecution as described in the refugee definition, regardless of their location, date of arrival, family relations, or other criteria of eligibility. For example, refugees newly arrived in first asylum who have relatives in the United States should be admitted as refugees rather than as immigrants as long as they qualify as refugees under the law. Adequate admissions numbers should be authorized in the annual consultations to provide for such genuine refugees.

4. For a recommended 2-year transition period, new arrivals with close family ties in the United States should be processed as refugees if they cannot qualify within that time for immigration visas. Spouses and minor children of refugees in the United States should continue to benefit from the Visas 93 procedure.

5. Humanitarian parole should be extended generously to overcome unusual hardships.

6. The changes in the Indochinese Refugee Program should be widely publicized throughout Southeast Asia by whatever means will effectively reach persons in the refugee-producing countries. Persons who will not be deemed refugees should not be induced by ambiguous policies to leave their homelands and to undertake hazardous journeys only to have their expectations dashed.

7. Public and private programs should be undertaken to encourage family members in the United States to become U.S. citizens and to file immigration petitions for their relatives.

8. The Federal Government, in cooperation with State and local governments and private voluntary organizations involved in Indochinese resettlement, should undertake a separate study of benefits for Indochinese refugees and immigrants.

C. How to make the Orderly Departure Program a more effective alternative to clandestine flight, including ways to gain the release of the re-education camp prisoners?

1. The United States should work with the Vietnamese and the UNHCR and other resettlement countries to resolve the "backlog" impasse and to restore the Orderly Departure Program to full operation as soon as possible.

2. Special efforts should be made to improve arrangements for the departure of Amerasians, immigrant visa holders, and other persons of special concern to the United States.

3. There should be a concerted campaign to hold the Vietnamese authorities to their earlier promises to release the re-education camp prisoners and to permit them to come to the United States with their families. The United States should deal with this problem with flexibility and determination.

4. The United States and the international community should condemn in the strongest terms pirate attacks against refugees, and should stress that Thailand has a special responsibility to take effective measures to combat this problem, including local law enforcement programs and boat registration.

5. The United States must vigorously support bilateral and international efforts to combat piracy and to promote rescue at sea. The UNHCR should take a more aggressive role in combating piracy and encouraging rescue at sea.

6. The international resettlement programs for those rescued at sea should be brought into line with normal scheduling of refugee processing.

D. How to respond to the continuing arrival of Lao in Thailand and to the Royal Thai Government/United Nations High Commissioner for Refugees (RTG/UNHCR) border screening program?

1. The United States should support the Royal Thai Government/UNHCR screening program for Lao arrivals and should press for improved conditions in the holding centers for those awaiting return to Laos.

2. The Thai Government and UNHCR should be encouraged to complete arrangements with the Lao Peoples Democratic Republic for the safe return of those found not to qualify as refugees.

3. U.S. refugees processing should be continued for lowland Lao in Thailand. Future admissions should be consistent with the recommendations in section B above. Immigrant processing should be expedited for those who qualify.

4. The United States and other nations should continue to provide adequate support for care and maintenance, including education, of Lao refugees until alternative long-term solutions are in place.

5. Consideration should be given to developing self-sufficiency programs supported by international funding for highland Lao who cannot return to Laos and who do not seek third country resettlement.

6. The UNHCR should be encouraged to expand the voluntary repatriation program to Laos with the cooperation of the Lao Government. Increased information about conditions in Laos should be communicated to those in first asylum camps, and more concentrated efforts should be made to follow up on returnees.

7. The United States should continue efforts to obtain Lao Government cooperation for legal departures from Laos. Lao in America should be encouraged to file the necessary petitions for their family members.

E. How to proceed given the new situation along the Thai-Cambodian border which has placed more than 245,000 displaced Khmer in evacuation sites in Thailand?

1. The United States should assist the U.N. Border Relief Operation (UNBRO), the International Committee of the Red Cross, and the Thai authorities to ensure the safety of all border camps as much as possible from Vietnamese attack. Diplomatic efforts to discourage Vietnamese attacks on civilian camps should be continued.

2. Security measures within the present sites should be enhanced through additional guards and patrols, increased training, and better communications. The protection system operated by the International Committee of the Red Cross should be monitored and strengthened.

3. In coordination with other concerned countries, the United States should expedite admissions processing for Khmer on the Thai-Cambodian border for those eligible for immigrant visas and Visas 93 (spouses and minor children of refugees in the United States). Humanitarian parole should be used generously for especially compelling cases not otherwise qualifying.

4. The United States should support efforts to improve and expand education programs on the border, with financial support from governments as well as private sources. The Thai authorities should be urged to agree to such programs. Health care and family planning services in the border camps should be expanded.

5. The United States should assure that the remaining denied Khmer are reviewed and, in cooperation with UNHCR, should review its requests for resettlement processing of the "family card holders," those who entered the camp between 1980 and 1984.

6. The Thai authorities should be pressed to keep the Khao-I-Dang camp open for Cambodian refugees until solutions other than U.S. resettlement can be developed for this group. Return to the border should be carried out only on a voluntary basis.

7. Because of their special vulnerability and the lack of alternative solutions, the land Vietnamese on the border, including those without ties to the United States, should be processed as rapidly as possible for resettlement as refugees. Efforts should

be made to encourage other governments to join in resettling the land Vietnamese through a UNHCR program in which many countries agree to admit at least small numbers.

8. The Royal Thai Government should be urged to maintain a site for land Vietnamese that is safe from Vietnamese military attacks, as well as from other surrounding populations.

F. How to ensure the continuing effective leadership of the UNHCR in seeking multilateral solutions to these problems which will maximize international burden sharing?

1. The United States should support the efforts of the new High Commissioner to strengthen the principle of international burden sharing and to improve UNHCR efficiency and effectiveness.

2. The High Commissioner should be asked to take the lead in the search for sustainable solutions to refugee problems in Southeast Asia, including more widespread resettlement, voluntary repatriation, and local integration.

3. Traditional donors and others should be encouraged to increase financial support for UNHCR and other refugee-related international organizations.

4. Despite domestic budget constraints, the United States should provide its fair share of refugee relief and resettlement support.

CONTRA QUAGMIRE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. BONKER. Mr. Speaker, the House vote on allowing military assistance to the Contras was both surprising and disappointing. It represents a dramatic reversal of the House on three separate occasions this year defeating the Reagan administration's request for $100 million to the so-called Nicaraguan freedom fighters. We are now sending mixed signals to those invoiced in the Nicaraguan conflict. Indeed, this is no way to conduct foreign policy.

The Reagan policy toward Central America generally, and Nicaragua in particular, is obviously not effective. By pursuing a military solution, the administration has forced us into a Contra quagmire; each time the White House returns to Congress for more money, we sink deeper in the mud.

The U.S. Government should not be allying itself with efforts to undermine or overthrow other governments. Yet that seems to be the primary goal of the Reagan administration. We should also limit our support to those who uphold our values, but the Contras are widely reported by reputable human rights groups to engage in gross human rights violations. Even the administration's own most recent quarterly report on Nicaragua raises numerous questions about the Contra's human rights record. Moreover, the Contras are led by former National Guardsmen whose lack of respect for individual rights during the Somoza dictatorship has carried over to their present positions and caused fragmentation and disputes within the Contra's own command.

Even if political and military support of the Contras can be justified, is it possible they can win a military victory? Our Government's senior intelligence officers are not optimistic about such an outcome. Indeed, after 5 years of both overt and covert U.S. support, the Contras have yet to capture and hold a single village.

Given the United States experience in Vietnam, the administration's efforts to increase our financial commitment and military support seem all too familiar. Contra assistance has gone up from $14 million to $27 million to $100 million. Yet the recent investigation by the GAO and Western Hemisphere Subcommittee indicates that more than $14 million of the money has not gone to the intended recipients, but has possibly enriched some Miami middlemen and top level officials in other Central American countries. Four former Contras warned yesterday that any additional aid to the Contras would be siphoned off by the present Contra leadership. At this time of severe budgetary constraints and especially in light of this gross mismanagement, how can the administration, in good conscience, seek any further funding?

The administration claims it is opposed to economic sanctions. Yet it invoked a national emergency and imposed a trade embargo against Nicaragua. One year later we see the Nicaraguan economy no worse off as a result of the embargo, and, in fact, stronger through the diversification of its foreign markets, including closer economic ties with Soviets.

The administration claimed in March, in a desparate attempt to win aid for the Contras, that the money would be for humanitarian purposes. Yet the night before the House vote, a White House press release described ground-to-air missiles and Green Beret training as "humanitarian" aid.

In the weeks leading up to each vote, the administration has revealed to the American people and the Congress new evidence of Soviet or Cuban involvement or unprecedented Nicaraguan incursions across its neighbors' borders. Yet as these allegations have been investigated further, the only revelation has been that the administration has misrepresented or distorted the facts.

How many more times will the Congress have to debate the Contra aid question before the administration recognizes that military action by the Contras will not force the Sandinistas out of Nicaragua or bring peace to Central America? The issue is not whether the money should be provided in trenches or divied up into military and humanitarian aid. The issue is how we extricate ourselves from the administration's Contra aid quagmire and help negotiate an end to the bloody conflict in Central America.

Mr. Speaker, despite yesterday's vote, a broad majority of the American people are tired or being misled about the Contra's military capabilities, their commitment to human rights and democracy, and their need for ever-increasing sums of money. The American people know that until the administration redirects its policies and energies fully toward negotiations within the Contadora framework, we will contine to wallow in this quagmire.

STOP EXIMBANK LOANS TO ANGOLA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CRANE. Mr. Speaker, I would like to call your attention to a recent article in the Washington Inquirer, May 23, 1986, "Justice: Angola Not Red." This article by Peter Samuel, addresses my recent suit against the Eximbank for giving loans to Angola.

My concern with Angola centers around the Communist government currently running the country. To quote the State Department, Angola is run by "the Popular Movement for the Liberation of Angola [MPLA]." The State Department describes the MPLA as a Marxist-Leninist group and has stated that the MPLA is the only form of government in power in Angola. With the State Department's remarks in mind, I find it hard to believe that the Eximbank is allowed to loan money to Angola. I feel strongly that the United States should not allow loans of any kind to be permitted to Communist countries and I have introduced legislation (H.R. 97) addressing this problem.

The Department of Justice replied to my suit by backing the State Department and declared that the Peoples' Republic of Angola is not a Communist country. Mr. Speaker and fellow Members please consider the effect that the Justice Department's decision will have on how the United States determines what constitutes a Communist country. Angola is clearly Communist and the United States should recognize it as such.

[From the Washington Inquirer, May 23, 1986]

JUSTICE SAYS ANGOLA NOT COMMUNIST

(By Peter Samuel)

WASHINGTON.—The Department of Justice has backed the State Department and the Export-Import Bank in telling a court in Virginia that the Peoples' Republic of Angola is not a communist country. Rep. Philip Crane (R—Illinois), five other congressmen and two Angolan freedom fighters have petitioned the United States District Court in Alexandria, Virginia to declare Angola as a communist country and alleged that the Export-Import (Ex-imbank) is in violation of the law in financing that country. The case calls for an injunction forbidding the Ex-imbank from lending money to Angola.

The act establishing the U.S. Eximbank prohibits it from supporting loans to communist countries unless a Presidential determination is made that such lending is in the national interest. No U.S. President has so determined.

In the answer to the complaint, the Justice Department's Richard Willard and Justin Williams joined with attorneys for the Eximbank in flatly denying that the Peoples' Republic of Angola is a communist country.

The reply dated May 15 to Phil Crane and his colleagues in the case is signed by Richard Willard, Assistant Attorney General and Justin Williams, Acting United States Attorney.

There is some surprise in Administration circles that hardliner Ed Meese should associate himself so fully with the Eximbank

and the Department of State. Meese was personally served with a writ as chief law officer of the U.S. Government, which owns the Eximbank, so he should be aware of the case.

A National Security Council paper on Angola late last year that Eximbank loans totalling $250 million to Angolan oil development were helping to generate the income to finance a large Soviet arms buildup and the maintenance of 30,000 Cuban troops which have been propping up the Marxist-Leninist regime here and trying to suppress non-communist elements. In early February, State Department spokesman Bernard Kalb said that the Gulf-Chevron companies that have been the channel for Eximbank loans, should "reconsider" their operations in Angola. Speaking at the National Press Club here, Angolan freedom fighter Jonas Savimbi, who leads the National Union for the Total Independence of Angola, (UNITA), said: "It is the money . . . which is keeping the Cubans going. The Cubans and the Russians, they are killing indigenous people of our country, because they are getting money from Gulf."

Angolan oil revenues last year were $2.5 billion, 90 percent of the country's total export earnings, and those revenues were generated from oil field development work done with Eximbank loans. Interviewed by this correspondent in February when the court action was lodged, spokesman for the Eximbank, Russell Boner, said there were $73 million approved loans outstanding to Angola and $102 million of authorized loan monies undisbursed.

The U.S. Government does not recognize the Angolan regime, which is usually described as "Marxist-Leninist." The U.S. Government is now spending about $15 million a year in military assistance to freedom fighters there.

The Department of State's Background Notes pamphlet on Angola dated March 1985 says that country's government is "a Marxist People's Republic, one-party." The Marxist government's flag uses typical communist insignia and colors, in particular "a yellow five pointed star, half encircled by a machine gun crossed by a machete." It describes a fully Soviet style of government, foreign policy and international connections: "Angola has depended on the Soviet Union and Cuba for security assistance and has adopted a pro-Soviet foreign policy." Angola is described as "clearly allied to the Soviet Union."

The State Department's report on voting practices at the United Nations, shows Angola voted against the U.S. more often than any of its 159 other members.

State's latest report on human rights practices in different countries says that "The People's Republic of Angola is ruled by a small group of officials within a single political party, the Marxist Popular Front for the Liberation of Angola (MPLA). President Jose Eduardo don Santos is both head of state and chief of the party. The MPLA has established a one party state . . . all major decisions are made by the Party Central Committee and Political Bureau."

"People's Vigilance Brigades," run by the party, help control the population and report on dissidence. The Government's goal has been self-described as "the transformation of Angola into a socialist economy" and major nationalization and expropriation have occurred.

On political rights the State Department says: "Angola is ruled by a small group of officials within the party apparatus of the ruling MPLA. The constitution provides for popular participation in the political process, but the MPLA is the only legal party, and activities by all opposition groups have been banned. Citizens therefore do not have the right to change their government."

ARTHUR J. ALMEIDA—OUTSTANDING CITIZEN

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. ST GERMAIN. Mr. Speaker, I am pleased today to bring to the attention of my colleagues the outstanding merits of one of my most community-oriented constituents. The man I speak of today is truly dedicated toward helping his fellow man. His name is Arthur J. Almeida.

Mr. Almeida lives with his wife, Isabelle, in Cumberland, RI. He has served as the current president of the Grey Panthers for 3 years. Most residents around the State know him as a man who is instrumental in elderly and veterans affairs. Recently he was appointed to the National New England State Steering Committee for the Grey Panthers. Now people from all over the region will become familiar with this man's name and merits.

Mr. Speaker, allow me to tell my colleagues a little bit about this special man.

He was born in New Bedford, MA, on June 20, 1920. He served in World War II with the Army in the Pacific theater. He is now a 100-percent disabled veteran.

After the service, Arthur became increasingly involved in various veterans' organizations. He is currently the liaison officer for the Amvets. His previous positions with the organization have been commander and hosptial chairman. He is also actively involved in the Disabled American Veterans [DAV] and the Veterans of Foreign Wars [VFW].

Arthur also spends much of his time serving on several commissions. These include the Governor's Advisory Commission on Senior Citizens, the State Crime Commissioin for the Elderly, and the board of directors of the Department of Elderly Affairs.

His most recent lobbying activities include the State check cashing bill. This important bill prohibits a fee for cashing Social Security or public assistance checks.

Mr. Speaker, Mr. Almeida stands as an inspiration to all of us who strive for the very best policies regarding our Nation's veterans and elderly. We are most fortunate to have him working with us.

VINCENT SOMBROTTO—HE HASN'T FORGOTTEN HIS ROOTS

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. MRAZEK. Mr. Speaker, recently, Newsday ran a profile of Vincent Sombrotto, my constituent and friend, who serves as the president of the National Association of Letter Carriers. It recounts the dedication and hard work that enabled this extraordinary man to win the presidency of the National Association of Letter Carriers. It is also clear that along the way, Vince Sombrotto hasn't lost touch with the membership of his union, and the community that it serves. I ask permission to insert this article in the RECORD and commend it to my colleagues.

THE LONELY PRIDE OF A MAILMAN

(By David Behrens)

WASHINGTON.—When Vincent Sombrotto was 24, his mother urged him to take a post office job.

Families who had endured the Great Depression saw the post office as a rare symbol of stability in a mean world. It promised a steady job. A regular paycheck, Food on the table in hard times. A man could get married. Upward mobility was an unfamiliar notion on East 118th Street.

Just before Christmas in 1947—still at loose ends after serving in the Navy—Sombrotto followed his mother's advice and took a temporary job at a Bronx post office.

"It's a job," his mother counseled. After the war, Sombrotto recalls, "I couldn't seem to settle down, so I took a letter carrier's job. I promised my mother—as long as they kept me, I'd keep the job." They did. And so did he.

Vincent Sombrotto was sorting out his Monday morning mail.

The letters were addressed to: Vincent R. Sombrotto, president, National Association of Letter Carriers, 100 Indiana Ave, N.W., Washington, D.C. 20001.

"Here's one posted Friday in Dayton, Ohio," he said. "This is from California, also posted Friday. And here's one from Florida. Mailed on Saturday!" There was pride in his voice. The pride of a man who believes that today's postal service is as good as ever. A lonely pride, perhaps. But then, Vincent Sombrotto's life is a collage of impossible dreams.

Sombrotto has served as president of the 206,000-member unions since 1979. His spacious office, decorated with old mementos and the photos of relatives and presidents, is only a few blocks from the Capitol of the United States.

It is a long way from East Harlem, the neighborhood Sombrotto loved with a passion. There, he was born 63 years ago. Played boyhood games in the schoolyards. Won a diploma from James Monroe High. Hung out with the guys on the corner. Later, he married a young woman named Rae and, much later, celebrated the births of the first six of their seven children, before they all moved to Port Washington, seeking suburban space.

The office is also a giant step up from the sidewalks of Manhattan, where Sombrotto was a working stiff for more than two decades, lugging the mail to the office buildings around Madison Avenue and 44th Street, knowing everybody. "From folks who were considered movers and shakers to the fellows who wax the floors in the lobbies. I was comfortable with all of these people." And he never forgot where he came from.

For 22 years, he lived the life of an ordinary postman. He got married in 1957, had children, worked a second job to make ends meet. Then in mid-1969 came what Sombrotto now calls "the caprice," Unexpectedly he became a union leader.

That summer, there was a strike at two Bronx post offices. The wildcat strikers were later reinstated, but lost two weeks'

pay, and union officials refused to help. Sombrotto was furious.

For the first time, he became involved in labor politics. At every union meeting he'd raise the issue, and within six months the strikers were reimbursed with union funds. In early 1970, city postal workers struck again, inspired by Sombrotto and his backers.

This time, the walkout spread along the Atlantic Coast, and for eight days, 200,000 postal workers joined the strike. Before the year ended, Sombrotto was elected president of Branch 36, the Manhattan-Bronx local, the national union's largest.

As leader of the city local, Sombrotto set aside two weeks each year to carry the mail. His final delivery came in the fall of 1978, just after his election as president of the national union.

"I used to go back every year for a couple of weeks, to see the guys I worked with for so many years. It wasn't required . . . but I had carried mail for twenty-four years, so I liked to go back. It reminded me—this is what I did for a living and I shouldn't forget it. I just happened to be elected union president."

A few months later, he was dining in the White House. For some, the White House inspires fear and fawning. Not for Sombrotto, who dropped in often during the Jimmy Carter years and attended the former president's farewell dinner party in 1980.

By then, the "gee whiz" feeling was long gone. "First of all, I believe anything is possible in a society like ours . . . But if I did stop and took time to analyze it, the feeling would be overwhelming. And I don't allow myself to think that way, because then it would be tough to represent our people."

Years ago, a Carter aide told him that "even in the Oval Office, you talk like you're standing on a street corner." Yeah, true, Sombrotto agreed.

A week ago, Sombrotto met Ronald Reagan, whose politics he opposes. "I respect the president, of course, but he's just a human being, and I want to talk to him on that level . . . I think of him as being no better than the porter I met coming in, just at a different station."

Sombrotto changed his own station when he got the top job in the union. In the early '70s, he had led a campaign to democratize the union's voting laws by throwing out an antiquated proxy system that insured the status of the status quo. After two attempts, he was elected national president in the fall of 1978.

It marked the first time a rank-and-file union member, unconnected with the union's national organization, had made a successful challenge. "So I figured, I'll probably never get another chance to carry the mail, not as president. So I did." Several weeks later, in January, 1979, he took office.

"On the street," he recalled, "I always liked carrying the mail, being out there, doing the job, without any pressure of having to make decisions that affect hundreds of thousands of people. I like to remind myself of those days."

Sombrotto was ready for the move to Washington. His move to Port Washington, a decade earlier, had been far more wrenching.

"East Harlem was a wonderful neighborhood to grow up in. You knew everybody. But by 1969, we had six children and we'd been looking for a larger house. It was difficult. Could we afford it? Would it be close enough? So we picked a spot where we knew some people from the old neighborhood."

Sombrotto was still carrying mail at the time. When his 6 a.m. shift ended at 2:30 p.m., he would put in another three hours of work. "Since the fifties, I had had a part-time trucking business with some guys who also carried mail. The pay was meager. You needed to work more than twenty years to reach nine thousand dollars."

In 1969, after 20 years as a letter carrier, Sombrotto was making about $8,000 a year. Today a letter carrier starts at $19,427 a year and moves up to $26,269 in 12 years. The head of the national union also makes a good living, about $66,000 a year, but less than most leaders of national unions.

Working his route, Sombrotto said, was never boring, despite the bad pay. "Every day was new, a challenge. One day raining, one day sunny, one day windy. It was just tiring, working two jobs."

The move to Long Island was a culture shock. "Until then, I had lived my whole life within three blocks of where I was born, on 116th Street. We moved to East 118th Street when I was a kid, and when we got married in 1957, I moved again. To 119th Street. That was it." Until the children were born, he never envisioned suburban living.

Sombrotto's five daughters and two sons range from 9 to 28 years. One daughter attends medical school. Two other daughters work in Long Island department stores and another is getting married next week. His first-born son is a world-class lacrosse player, he boasts, "more famous on Long Island than I am." Another son just finished high school, and his youngest daughter is in grade school.

The children adjusted to the Island, but he found the new lifestyle difficult, Sombrotto admits.

"When you live in the old neighborhood, you leave your house and go downstairs, and there are always a bunch of guys hanging around on the corner. You had people around you all day." Suddenly, Sombrotto found himself on a street in Port Washington, with no one hanging out at the corner.

"Suburban life was nice, all right. Peace and tranquility. But part of the fun was eliminated. You became a captive of your own home. I'm glad my older children had the chance to live in East Harlem, because it had a mix of people, all races, all colors. You saw life from a different perspective."

Sitting in his Washington office, Sombrotto reflected: "Yeah, I think you miss a lot in the suburbs, where everyone worries about infringing on other people's privacy. In the city, you had an extended family. You met dozens of people and knew everything that happened. We were so close to each other, so we moved to the suburbs to get away from it."

Now, the nation has become Sombrotto's neighborhood. Maintaining an apartment in Washington, near his office, he travels constantly, to meet letter carriers in every state. He recited his itinerary: "Last week in Las Vegas. Chicago next, then home for Father's Day. And on to Kansas City and Texas." That afternoon, he would talk to a senator from Alaska about pension benefits. And he was running late.

Still, he reads his mail every morning, a sizable chore. Some days, 20 or 30 letters come in. He answers all the letters, even if there are no solutions.

"I still read every letter from the carriers." A California carrier wondered if he should retire at age 42. An Ohio man wrote about his ailing wife. A Florida postman had a grievance. The voices were familiar. Letter carriers. "My people," Sombrotto calls them.

Sombrotto is also amazed at the U.S. postal system, in a way most Americans are not. He is amazed that it works.

"The mail is not slower today," he contended, spreading the batch of envelopes on his worktable. Most had been delivered within two days.

"Sure, it's possible now and then for a letter to take longer, even five days. But the postal service is dealing with 142 billion pieces of mail a year." That's about 390 million letters and packages a day.

"Now when you're waiting for a check and it takes four days, you remember that. You say, 'Geez, it was mailed downtown.' What people don't notice is most of the mail in a five-hundred-mile radius is delivered in two days, ninety-five percent in three days."

Sombrotto's union is responsible for delivery, not the sorting of the mail. But he defends the system. With 800,000 people, more than any employer outside the Defense Department, "of course some mail falls between the cracks," he admitted. "But then, you get on any plane in the country and you can't be sure you'll land on time, and people accept that."

Carrying the mail, Sombrotto argues, is still a good way of life, "if you're thinking of stability and not about vacation on the Riviera." Ninety percent of his carriers still hold the job for a lifetime. "Very few people make such a commitment to a job with few opportunities for upward mobility."

"I was lucky," the union leader said, "I never knew I had the talent to communicate . . . like an artist who never knew he could paint until he tried it."

Among today's rank and file, women—about 25,000—and members of minority groups make up half of the carriers. The job is still a passageway from low-income America into the middle class.

For Sombrotto, the postal carrier has become a symbol of civilization. Once, his vision was less esoteric. "It was a question of just having a job. Only later, when you get at arm's length, you understand what our people really mean."

It's just like the New York Yankees. "When I was a kid and the Yankees had the best team in baseball, I rooted against them. I always rooted for the underdog. In sports, in life always," Maybe it explains his feelings about the postal service.

POLITICAL INTOLERANCE ON CAMPUS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CRANE. Mr. Speaker, there is a current trend occurring in our country resulting in politically intolerant opinions of professors. The result of such intolerance spawns a double standard that works to the disadvantage of students and junior faculty members. Where a college or university administration or senior faculty member has a political opinion differing from that of a student or junior faculty member, usually the former opinion comes out on top, sometimes causing an unfair assignment for a student or even the loss of a junior faculty member's job. Unfortunately, the main concern of college and university presidents is to keep the money coming in to their institutions, so unless a stand is taken against this

dangerously growing political intolerance that serves to slow the flow of money into the institution, little attention will be paid to this political intolerance and, certainly, nothing will be done to prevent the subjection of students and junior faculty members by it. For further discussion, I recommend the following article by Thomas Sowell which appeared in the Detroit News on March 17, 1986, entitled "Academia's Behavior a Betrayal of Trust." It is an excellent article that points out how political double standards have become commonplace in American colleges and universities.

The article follows:

ACADEMIA'S BEHAVIOR A BETRAYAL OF TRUST

(By Thomas Sowell)

Complaints about the leftward bias of academics often miss a much more serious issue. It is not the opinions in academia but the intolerance toward other opinions that constitutes a betrayal of trust.

Political double standards have become so commonplace in American colleges and universities that many no longer notice them. After a group of Dartmouth students set up some unauthorized shanties on campus to express their political views, another group of students tore them down several weeks later to express their different political views. Those who set up the shanties were not punished but some of those who tore them down were suspended. The political views of the former are much closer to those of the Dartmouth faculty.

A Marxist professor who published false evidence in a history of the rise of the Nazis in Germany has been defended by academics from coast to coast, and those who exposed the falsity have been denounced for persecuting him. The newsletter of the American Historical Association has reported the controversy but the association has evaded all attempts to get it to make a pronouncement on the factual accuracy and scholarly merits of the charges and countercharges. However, it has come out boldly against the organization Accuracy in Academia, which monitors academic irresponsibility.

When Stanford professors consult for the government, hold public office, or serve on various governmental commission, that is called "public service." When members of the Hoover Institution on the same campus do the same things it is denounced as "political activity," which threatens the purity—and, worse yet, the tax exemption—of the whole university. The range of political views at Hoover is different from that at Stanford, where John Anderson received the most votes in the 1980 elections, followed by Jimmy Carter, with Ronald Reagan a distant third.

It is not a question of professors' political opinions but of their intolerance for other opinions—and the double standards of that result.

At Fordham University, a professor who assigns his class to see pornographic movies has, as department chairman, fired another professor whose outside involvement in conservative Catholic organizations is looked on with disfavor. The department chairman's outside involvements are as author of pornographic writings. The fired professor has written criticizing pornography. Fordham's president has defended the academic freedom—of the chairman.

They don't have to assign students to go see pornographic movies at Arizona State University. There the professor brings his own hard-core pornographic slides to his class on "sex education," and provides leering commentary as he shows them. A student who complained to the university regents about this was urged by the university president to drop the issue. A female student who missed an examination in this course was told by the professor that she could make it up by writing a 10-page paper—on her own sexual experiences.

This is the kind of thing Eric Hoffer called "soul-raping." It is especially inexcusable against students. Yet the deliberate humiliation of students who have a different opinion has also become accepted in academia. A young woman who recently graduated from Yale reports in the current issue of Reason magazine how questioning of the liberal-left social creed there brings professorial sneers rather than discussion. A similar response is reported from Kenyon College, where students and faculty alike are subjected to brainwashing for radical feminism. When the student newspaper reported this to alumni, its editors were fired.

Prevailing opinions among professors is not the issue. There are people in all parts of the political spectrum with honor and integrity. But what is also painfully obvious is that, on too many campuses, people with neither honor nor integrity are allowed to run amok in violation of the rights of students, or of junior faculty, and with no regard for academic traditions or common decency. That is something for students, parents, and taxpayers to start noticing.

Pragmatic college and university presidents are never going to touch this hot potato unless they have to. Even if they personally disagree with what the faculty zealots and petty tyrants do, their main concern will be to hush things up, smooth them over, and keep the money flowing in from outside. When that flow of money slows down, then and only then will they take seriously any objections to the growing intolerance and double standards in academe.

Recently in the Philippines, people put their lives on the line for the sake of freedom. It is surely not too much for Americans to do to close up their checkbooks until after they get a chance to turn over a few rocks on campus and see what is crawling underneath.

A LICENSE TO HOUND AIDS VICTIMS

HON. SALA BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mrs. BURTON of California. Mr. Speaker, today the New York Times lead editorial presents an eloquent criticism of the Justice Department's recent misguided ruling on the protection of AIDS victims under the 1973 Rehabilitation Act. The editorial points out that the "muddled insinuations and prejudiced reading of the medical evidence * * * incites fear."

The city of San Francisco has been devastated by this disease, but it has dealt with its victims in a humane and caring way. The Justice Department should do the same.

A LICENSE TO HOUND AIDS VICTIMS

Error and meanness suffuse the opinion on AIDS issued last week by Charles J. Cooper, head of the Justice Department's Office of Legal Counsel. His ruling, based on a mistaken reading of medical opinion about transmissibility of the disease, invites employers to dismiss people who have it, or who carry the AIDS virsus, simply by invoking their fear of the disease being spread.

What humane behavior that is going to provoke. Besides its needless cruelty to victims, the ruling will actually foster spread of the disease by discouraging people in risk groups from taking the AIDS antibody test, as recommended by the Public Health Service.

Mr. Cooper's panicky ruling applies to the executive branch and to any employer receiving Federal funds—though many state laws protecting the handicapped will still protect AIDS victims. But there is no medical reason for any employer to dismiss those who have the disease or who have been exposed to the virus. Because the AIDS virus is transmitted in blood or semen, the disease is spread by needles or intimate contact, not by the casual contact of the workplace.

Even so, AIDS victims often become "social pariahs, irrationally ostracized by their communities because of medically baseless fears of contagion." So said a draft opinion prepared in April by Stewart Oneglia of the Justice Department's Civil Rights Division. That's why the department has been inclined to view AIDS victims as handicapped individuals entitled, under the 1973 Rehabilitation Act, to protection against arbitrary dismissal.

Enter Mr. Cooper, undoing the draft opinion. He concedes that AIDS victims are handicapped but contrives a loophole for baseless fears and ostracism. It's not a handicap, he argues, to be capable of spreading a disease. So employers can dismiss anyone whom they believe, rightly, wrongly or irrationally, to be spreading AIDS. The Rehabilitation Act, he says, is "certainly not a general prohibition against irrational decision making by employers."

In truth, Mr. Cooper doesn't think dismissing an AIDS victim is so irrational. The statute, he notes, "does not restrict measures taken to prevent the spread of the disease." Yet according to all evidence, AIDS is not spread casually. Mr. Cooper cites only a single medical opinion to the contrary, a statement attributed to William Haseltine of Harvard that AIDS could be transmitted through saliva and that "there are sure to be cases . . . of proved transmission through casual contact." But that statement, quoted in an article of the Time's Op-Ed page last March by Alan Dershowitz, misrepresented Mr. Haseltine's views, as Mr. Dershowitz later explained in a published letter.

No one should want to curb the powers of public health officials to control a disease as deadly as AIDS. But to throw AIDS victims out of their jobs is a capitulation to unwarranted fear that protects no one. By his muddled insinuations and prejudiced reading of the medical evidence, Mr. Cooper is inciting fear. Worse, he provides a powerful incentive for those in the known risk groups not to take the AIDS antibody test. A positive result could, under his ruling, cost them their jobs.

So far some 22,000 cases of AIDS have occurred in the United States. None are known to have been spread by casual contact. Until there is one, there's no justification for Mr. Cooper's opinion.

THE HOMELESS PERSONS SURVIVAL ACT OF 1986

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. LELAND. Mr. Speaker, this morning over 30 of my colleagues joined me in introducing The Homeless Persons Survival Act of 1986—the first comprehensive Federal response to the crisis of homelessness. We propose to expand emergency shelter, food and health care services, assist the homeless in becoming self-sufficient, and prevent homelessness by addressing both its precipitating and underlying causes.

Is such a bill politically realistic? I believe reality is sleeping on a grate or together as a family in a barracks with hundreds of others. Reality is thousands in shelters and on the streets and hundreds of thousands of "hidden homeless" crowding in with relatives and friends. Reality is the numbers of homeless persons growing and reaching epidemic proportions. Being politically realistic is addressing the harsh conditions in which our citizens live and providing a strategy to eradicate them.

How do we jusify the high cost of this proposal? The housing components of our bill represent only a partial restoration of past cuts. For 6 years this administration has sought the elimination of social service and housing assistance programs designed to help the impoverished of our Nation. HUD assisted low-income housing programs, alone, are now at their lowest level, having suffered a 65 percent—or $17 billion—reduction in budget authority since fiscal year 1980. Many in Congress have focused efforts merely on keeping programs afloat at bare subsistence levels. This bill goes beyond subsistence to meet the real dimensions of the problems of homelessness.

Our legislation is cost-effective. Funds invested in serious, long-term solutions will decrease the burgeoning expenditures for emergency shelter. Emergency shelter with meals in New York City's barracks shelters costs an average of more than $61,000 annually for a family of four. By comparison, the cost of rental assistance for existing section 8 public housing units provided in our proposal is $4,100 a year per household. Further, the high costs of institutionalization and emergency health care for homeless individuals will likely be reduced by the components providing grants to nonprofit organizations for health services and mental health care.

Another major question I expect, is: "Why can't we depend on the existing framework of Federal assistance programs?" Individual emergency shelter providers, and the administration's own Interagency Task Force on Food and Shelter for the Homeless reports the eligible homeless have limited access to these programs. The task force reports many mentally ill homeless are eligible but not receiving supplemental security income [SSI] benefits. The Food Stamp Program is not reaching a large proportion of the eligible homeless, according to preliminary results of a survey conducted by the Select Committee on Hunger. This may account for reports of undernutrition, anemia and low birthweight among infants and children of homeless families. Our legislation provides the needed outreach and changes in eligibility guidelines to improve the accessibility of these Federal benefits and thereby prevent hunger and promote self-sufficiency.

Another question you may ask: "Why can't we depend on State and local governments and private voluntary organizations take care of the problem?" While I commend the magnificent effort and commitment of volunteers serving the homeless across the Nation and the innovative combinations of public and private funding raised by local emergency relief organizations, these funds have repeatedly been documented to fall far short of the actual need.

The homeless will not go away. Even in this time of fiscal restraint, we cannot ignore this very real social problem. The Homeless Persons' Survival Act is the decisive Federal action that is needed. I urge my colleagues to cosponsor this vital legislation.

SOUTH AFRICAN DETAINEES

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. WOLPE. Mr. Speaker, under the nationwide state of emergency declared in South Africa on June 12, 1986, racial violence and political repression in that country have continued unabated. In the first day alone of the emergency regulations, over 1,200 clergy, political and community leaders, trade unionists and others were arrested and detained. If the Government of South Africa does not soon begin meaningful negotiations with representative leaders of the black majority, the potential for violence and upheaval will only increase. That those men and women who might help bring about the peaceful establishment of a nonracial and democratic system are being held indefinitely in South African jails, is a tragedy for those people and families involved, for South Africans in general, and for the international community as a whole. I would like to submit for the RECORD a partial list—South African censorship has made compilation of such lists both difficult and dangerous—of the estimated 3,000 South Africans arrested and detained without charge in the last 2 weeks.

SOUTH AFRICAN DETAINEES, JUNE 24, 1986

JOHANNESBURG

Dr. Abubaker Asvat (Transvaal Indian Congress)
Dom Peter Blaser (Justice & Reconciliation)
Azaar Cachalia (UDF)
Phiroshaw Camay (Gen. Secy., Council of Unions of SA)
Rev. Frank Chikane (UDF; Director, Inst. of Contextual Theology)
Saths Cooper (President, Azanian People's Organizations)
Jill Devlieg (Photographer, Afrapix; Black Sash)
Jay Harnden (End Conscription Campaign)
Maxine Hart (Johannesburg Democratic Action Comm.)
Patrick Lephunya (UDF)
Murphy Marobe (?) (UDF)
Fr. Mkhatshwa (UDF; Southern Africa Catholic Bishops' Conf.)
J. Mndaweni (Congress of SA Trade Unions)
R.A.M. Saloojee (UDF, former Vice President)
M. Samela (Congress of SA Trade Unions)
Jeanette Schmidt (End Conscription Campaign)
Joyce Sedibe (Congress of SA Trade Unions)
Sandy Smit (End Conscription Campaign)
Raymond Suttner (UDF; Law Lecturer, Univ. of the Witwatersrand)
Basheer Vally (Official, Commercial, Catering & Allied Workers' Union of SA)
Ismail (?) (Staff Member, Ipelegeng Centre, St. Paul's, Soweto)
2 Staff Members of The New Nation Newspaper
3 Free-lance Writers with The Weekly Mail Newspaper

PRETORIA

Hans Hlalethwa (Deacon, Roman Catholic Church)
Titus Mafolo (UDF)
Dr. Nkomo
Dr. F.B. Ribeiro
Anneka Van Gylswyk (End Conscription Campaign)

OTHER

Dr. Francis Hlahla (of Mahwlereng Township (Potgietersrus)
Shadrack Marumo (Official, Natl. Union of Textile Workers in Parys)
Rev. Isaac Moloabi (of Ikageng Township (Potchefstroom))
Sr. Bernard Ncube (Roman Catholic Sister)
Bishop Sigisbert Ndwandwe (Klerksdorp)
Johannes Phate (Regional Coord., Natl. Union of Mineworkers)
Richard Ramodipa (Attorney, Potgietersrus)
Ashwin Shah
All officials of the Krugersdorp Civic Assn.

DEMOCRATS WISHFUL THINKING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CRANE. Mr. Speaker, tradition illustrates the desire of political parties to exude qualities of empathy and perserverance, resilience and benevolence. At times this desire propels into a whirlwind political strategy without solid basis. So it is with Democratic trade reformists. In an attempt to build a political position for the upcoming election, they have passed trade legislation which is illusory and unattainable.

The goal of trade reform should be to expand worldwide trade. We should increase trade and export opportunities for U.S. products in foreign markets. The emphasis should not be to restrict imports in an attempt to protect domestic industries. Restricting imports has proven unsuccessful historically, as exemplified by the Smoot-Hawley tariff, yet the thrust of H.R. 4800 does just that—limits imports coming into this country.

The superfluous Democratic trade reform package will not benefit the United States, but instead will cost American jobs, burden the American consumer, destabilize the rebounding economy, and drive inflation back up into the double digits. The Republican alternative to this less trade bill, is progressive trade reform. Its objective is to open markets and expand trade by using the trade remedies as leverage to induce negotiated settlements. Greater marketing access is the ultimate goal, and this cannot be achieved in a hostile environment where mandated penalties are eminent.

Before we signed off on omnibus trade legislation laden with special interest protection, it would have been wise to remember that the United States is also the world's leading exporter. The current trade bill only jeopardizes our exports, yielding minimal worldwide trade. The few industrial advantages anticipated come at the expense of the consumer and the export industries, particularly agriculture. Countries which we rely most heavily upon for agricultural exports are restricted by this sweeping across-the-board import tariff. The major expansion potential for U.S. farm exports lies with lesser developed countries, yet the bill allows restrictions on their trade goods. In addition to giving these countries a political impetus to turn their backs on American agriculture, the loss of export profits from U.S. sales deletes their ability to buy our farm products.

Once again the Democrats are twisting the trade issue into a political platform for the fall election. This is an ill-advised endeavor, since all Americans will suffer if this measure becomes law. It is a politically motivated bill, which shares similarities with Smoot-Hawley, and promises less opportunities to export goods. Free trade, a higher standard of living, and an increase in employment opportunities are what we're looking for. Democrats are looking in the wrong place.

The Washington Post article, "Trade Mirage," of May 31, 1986, concisely summarizes the real motives behind Democratic strategy. We cannot afford to follow the Democrats—they've hitched their wagon to a falling star.

The article follows:

[From the Washington Post, May 31, 1986]

THE TRADE MIRAGE

Democratic political strategists continue to pursue their glittering vision of the trade issue. The question for 1986—and later—is whether it will prove to be, politically, more than a mirage.

For this is not the first time that Democratic politicians have glimpsed on the horizon the vision of an issue that makes them appear at one and the same time nationalistic and assertive, compassionate and responsive, far-seeing and populistic. More than a decade ago the Burke-Hartke bill was going to win elections in the early 1970s for the Democrats; now it seems unlikely to make the history books. More recently, the Democrats went on a trade offensive last summer. They did take one important scalp: an errant remark by an inexperienced Republican candidate ("I don't see what trade has to do with east Texas") helped the Democrats win a Texas special congressional election—a victory that discouraged Republicans from running in southern Democratic districts elsewhere. But that was a close race in which any mistake on any issue by either candidate might have tipped the balance.

Now Democratic Congressional Campaign Committee chairman Tony Coelho (D-Calif.) sees trade as a key Democratic issue in a number of states. Democrats hope for gains in North Carolina, which has a lot of marginal districts, South Carolina, Pennsylvania and Maine. Republic congressmen are either on the defensive or joining in support of the Democrats' latest trade bill. In these states and others, trade is particularly welcome to Democrats as an issue that makes them look tough and truculent, rather than soft and generous.

But is there a chance for anything more than scattered gains, Trade is not one issue but dozens: textiles in the Carolinas, steel in Pennsylavnia, shoes in New England. A local Democrat in any one election can claim to have a magic answer to save an old industry. But a national party, seeking to run a national government, will be asked for a policy that fosters economic growth generally rather than one that seeks somehow to preserve the past. Once again the Democrats are marching across the desert, trying to reach a trade issue that glitters before them. It may again turn out to be a mirage.

H.R. 5147—NEW-BORN GENETIC SCREENING ACT OF 1986

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. WAXMAN. Mr. Speaker, today I along with my colleagues Representatives LELAND, COLLINS, DELLUMS, FORD, and DIXON are introducing H.R. 5147, the New-Born Genetic Screening Act of 1986. The purpose of this legislation is to provide funds for State and local government programs to test new-born infants for genetic diseases, disorders, and conditions that can cause life-threatening illnesses or permanent disabilities.

The need and demand for such programs, Mr. Speaker, have never been greater. Medical advancements have made it possible to detect and treat—at a small cost—many of the genetic problems researchers have identified. For example, simple, low-cost tests are available to screen for diseases such as "PKU" that can result in severe mental retardation. Similar procedures can also be performed to detect thyroid disease.

A recent study supported by the National Institutes of Health and published in the June 19 edition of the New England Journal of Medicine clearly demonstrates both the health effectiveness and the cost effectiveness of early diagnosis and treatment of genetic disorders. In that study, scientists examined detection and treatment methods for sickle-cell anemia, and genetic disease that afflicts 1 out of every 400 blacks born in the United States. According to their findings, proper screening and followup care for sickle-cell anemia could prevent the almost 200 deaths that occur among black infants under the age of 3 each year. The NIH researchers conclude their report by recommending that infants at risk of sickle-cell anemia be screened at birth and that those with the disease be treated immediately with appropriate drug therapy.

But beyond these documented medical and health benefits, Mr. Speaker, are the cost benefits that can result from genetic screening programs. The General Accounting Office [GAO] has estimated that screening all infants in the United States for genetic diseases and disorders would save more than $20 million in treatment costs annually for every dollar spent on testing. And since the Medicaid program covers many services—including those for long-term care—that are needed by individuals who are chronically ill or permanently disabled from a genetic disease, it can be assumed that much of these savings would help reduce the Federal deficit.

While it is true, Mr. Speaker, that many States and local governments have undertaken efforts to provide genetic screening services to their "at risk" infant populations, their support has been limited both in scope and in funding. Because of cutbacks in various health programs, States have been forced to eliminate or reduce existing screening initiatives or to postpone the establishment of new ones. H.R. 5147 would allow States and local governments to advance their genetic screening efforts and, in turn, to protect both precious lives and dollars.

In brief, Mr. Speaker, the New-Born Genetic Screening Act of 1986 would greatly enhance our ability to prevent disease, to improve life, and to save money. I urge my colleagues to support this legislation and to work actively for its enactment.

FAMILY DAY CARE HOMES PERILED BY INSURANCE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. MILLER of California. Mr. Speaker, the national crisis in liability insurance continues to rage on, affecting many of the most vulnerable and valuable small businesses in America, family day care. Since two-thirds of all children in child care are in family day care homes, it is clear that this trend will adversely affect tens of thousands of children.

Last summer, the Select Committee on Children, Youth, and Families held hearings to determine the effect of this crisis on child care providers. Representatives from national child care and youth-serving agencies, as well as family day care providers themselves, warned us that if they could not find reasonably priced insurance that would provide adequate coverage, they would close down, reducing the already short supply of child care.

Now, these fears are being realized.

As reported in the Washington Post on June 21, 1986, following what appears to be a national trend, family day care homes in the DC Metropolitan area are closing down, leaving families stranded with few child care options.

One provider in the District was rejected by sixteen insurance companies before she made a decision to close down.

In Montgomery County, two family day care providers have filed suit in county court against the board of directors of their condominum, who ordered the closing of their businesses. The Post reports that the board's decision was influenced by their insurance company, threatening to cancel the condominium's policy unless action was taken against the family day care homes.

The current child care supply is already too limited to allow this crisis to continue. As we learn of more family day care providers closing down, a study by the Metropolitan Washington Council of Governments reports that only 20 percent of the children in the area are receiving the child care they require.

In my own State of California, despite action by the State Insurance Commissioner to establish a voluntary Market Assistance Program, family day care providers are operating without protective coverage, or closing down, because insurance is still too expensive. This presents a serious problem when, in my own district in Contra Costa County, 300 families remain on a waiting list for child care.

The situation is so serious in California that a new Child Care Insurance Project has been established in San Diego to publicize the extent of the problem, and to lobby strongly on behalf of California's family day care providers.

The need is growing, while the supply is shrinking, reflecting conditions nationwide. I urge my colleagues to take heed of this crisis, which affects millions of children and families in every district in America.

1986 NATO ESSAY WINNERS

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DASCHLE. Mr. Speaker, I am very proud of two high school students whose essays were chosen as winners of the North Atlantic Treaty Organization's Essay Contest and ask that their entries be printed in the RECORD.

Denise Nicolaescu, who lived in Romania for 14 years, writes that NATO is a "unifying force" between North America and Europe and that it represents important economic, political, and cultural ties. Rebecca Lujan says NATO's pledge of support is a source of reassurance to her in these troubled times between our country and the Soviet Union. Both essays were perceptive and well written, and I urge my colleagues to read these insightful pieces.

The essays follow:

1986 NATO ESSAY

(By Rebecca Lujan)

As a United States citizen, the creation of the complex, interdependent alliance known as the North Atlantic Treaty Organization (NATO) represents one of the most significant occurrences in United States international relations. By signing the treaty, the United States for the first time in its history joined a peacetime alliance that committed it to shield and uphold the signatory countries: Belgium, Canada, Denmark, France, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Turkey, the United Kingdom, and West Germany. Article 5 of the pact clearly states than an armed attack against one or more of the member nations in Europe or North America shall be considered an attack against all members. This mutual pledge of military and economic support in case of a possible confrontation by an aggressor is a source of reassurance for me, especially during these troubled times of hostility and distrust between the United States and the Soviet Union. NATO functions to discourage Soviet expansion into Europe, allowing it to remain a self-governed and peaceful continent.

NATO also plays a pivotal role in the prevention of a destructive and ruinous nuclear war. Its member nations believe that a policy of deterrence offers the best safeguard against this deadly predicament. This concept implies that a nation's military defenses are so large, diversified, and well-protected that a first strike by an enemy would not cripple its ability to retaliate decisively. It acts, therefore, to repel a potential enemy from launching an attack. As of now, this policy has been a successful repellent against the eruption of a full-scale nuclear showdown between the United States and the Soviet Union.

In addition, NATO possesses the power of negotiation and compromise which aids quiescent relations among the world's nations. This organization attempts to ease confrontations and reduce strain between its member nations, in effect promoting global peace.

Consequently, my country's participation in NATO is beneficial to its future development and prosperity. It ensures the cessation of the spread of communism in Europe and perpetuates the existence of the democratic system instead. Also commendable are its efforts to avert the outbreak of a global nuclear war. If, tragically, despite NATO's attempts, such a catastrophe were to occur, our country and its allies would at least be sufficiently armed and strategically prepared for the oncoming struggle. Hopefully, NATO will foresee the potential realization of such a tragedy and put its bargaining power to good use in order to preclude its incidence. My belief is that NATO's existent policies and leadership secure the presence of democracy in Europe and North America and inhibit the progression of communism in the rest of the world. This confidence leaves me with a sense of hope for my future, my childrens' future, and my nation's future.

1986 NATO ESSAY

(By Denise Nicolaescu)

My view of NATO is strongly colored by the fourteen years I lived in Romania. It is a synthesis of my experiences there and three years of American education. Coming from a "Soviet satellite" country with a totalitarian regime made me more acutely aware of NATO's crucial role in preserving the freedom and democracy of its participants.

What I associate most with NATO is a unifying force between North America and Europe. For one thing, it involves a military alliance whose basis is that an attack against one member will be considered an attack against all. This premise, article 5 of the Treaty, expresses the solidarity of the participants. Secondly, NATO represents economic, political and cultural ties as well. As an example of economic matters, one might recall the controversy among NATO members regarding the sale by Western European countries of equipment for the Soviet oil pipeline. Political issues could be illustrated by NATO's denouncement of martial law in Poland in January 1982. As for cultural and scientific concerns, they range from communication satellites to environmental protection. In November, 1969, for instance, NATO set up a Committee on the Challenges of Modern Society to promote international action on the problem of human environment. For me, NATO represents the framework for a military alliance that also encompasses much more. It provides for continuous cooperation and consultation in various non-military fields.

Knowing the fact that one of NATO's primary functions is peace-keeping equates, in my mind, the alliance with national security. Now perhaps more than ever, the areas of foreign policy and national security overlap. NATO creates this union by guaranteeing protection from Soviet aggression. I consider this to be of major importance. Having lived in a Warsaw Pact country enhances my perception of NATO's significance. The strong Soviet influence in Romania proved to me that, if Europe were to surrender to Soviet aggression, the U.S. would be unable to hold out for long to its political culture, namely, democracy. As Norman Podhoretz, editor of Commentary once said, "freedom and democracy in the United States could not survive their demise in Europe."

This interdependence between the United States and Western Europe poses an important question. It is United States involvement in European conflicts versus the traditional American isolationism displayed at times throughout history. To me, isolationism is equivalent to a denial of events in other parts of the world and their inevitable effect on the United States. In this context, NATO represents a shift away from such an attitude.

Another way that NATO is significant to me is through specific events that I became familiar with. For instance, from the historical point of view, when I think of NATO I think of President Reagan's "zero-zero" option. This came in November 1981 as a proposal to eliminate the entire class of United States and Soviet land-based, longer-range INF missiles. This event is one of the many instances when NATO initiated drastic arms reductions in the on-going negotiations with the Soviets. The Geneva negotiations are another NATO undertaking of relevance to me. I see the proposed Interim Agreement intended to break the stalemate at the peace talks as further evidence of NATO's commitment to security and peace. The same holds true for the October 1983 decision to carry out unilateral arms reductions.

A discussion of what NATO means to an American would be incomplete without the mention of the Truman Doctrine. This policy, formulated in 1947, stated that the United States could survive only in a world where aggression and totalitarianism were not allowed to expand. The Truman Doctrine was the opening move to the concept of containment, a cornerstone of American foreign policy. Containment means preventing the expansion of Communism beyond its already existing borders. This idea is particularly meaningful to me, as is its connection to NATO. The North Atlantic Treaty Organization is the best means of countering Soviet expansionism. It is an alliance, a means of cooperation among countries of the Western World. Most important of all, as the Treaty says, it symbolizes security and freedom.

THE HEALTH CARE QUALITY IMPROVEMENT ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. WYDEN. Mr. Speaker, today Mr. WAXMAN, Mr. MADIGAN, Mr. TAUKE, and I are introducing legislation that we believe will reduce the incidence of medical malpractice in America.

The need for this legislation is clear. The average award now is in excess of $100,000 and awards of more than $1 million are common. If you are a medical patient, malpractice can present the ultimate question—life or death. If the growing malpractice problem is not reversed, this country's ability to provide affordable, quality health care could be seriously damaged.

In the past, the response to the malpractice problem has been to play the "blame game." One group says it is another's fault, and instead of solutions we have gridlock. Congress needs to break out of that cycle. Our bill provides the tools to do just that.

We believe physicians are in a strong position to reduce medical malpractice. Because they see it when it happens around them, doctors are the first line of defense. But that defensive line will only hold if doctors and hospitals can police their own profession and enforce strict standards of medical practice. Unfortunately, Federal law robs them of this ability. Most peer review activities are not protected under Federal law.

Right now, a doctor who blows the whistle on a colleague can be sued for restraint of trade or slander. In Astoria, OR, where the physicians of a clinic revoked another doctor's clinical privileges, the doctor sued and received a $2 million damage award for restraint of trade. This suit is under appeal: It is worth nothing, however, regardless of the ultimate resolution of this particular case, if this country wants doctors to come forward and speak out, there must be legal protection for them.

That's what the Health Care Quality Improvement Act of 1986 would do. The bill gives doctors and hospitals two powerful tools:

One, legal protection for good faith peer review. Doctors and hospitals that participate in peer review activities would be protected from actions in Federal courts if their activity is judged to be good faith peer review and in the furtherance of quality health care.

Two, information about physicians' malpractice track records. A national data bank would be established to give hospitals information about the malpractice and licensing track records of doctors who apply to practice on their staffs. This information, while confidential, would keep malpracticing doctors from skipping from State to State to keep their past a secret. And, It would protect hospitals from future liability that may be caused by hiring those doctors.

Our legislation will protect doctors and hospitals who genuinely want to rid their ranks of physicians who endanger patients and give medicine a bad name—an absolutely necessary step if we are going to control medical malpractice costs.

Mr. Speaker, I think this legislation is a very positive step toward solving the malpractice insurance crisis. I am honored to have Chairman WAXMAN, and two of my distinguished colleagues from the Health Subcommittee, Mr. MADIGAN and Mr. TAUKE, join me in this legislative effort. I hope many more of my colleagues will cosponsor this necessary legislation.

GRACE CAUCUS "KICK-OFF" BILLS SHOULD BE IMPLEMENTED

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. FAWELL. Mr. Speaker, I join my colleagues on the Congressional Grace Caucus today in introducing several bills which would implement some of the cost-saving recommendations of the President's Private Sector Survey on Cost Control, better known as the Grace Commission.

Two years ago, the Grace Commission released a lengthy report which outlined 2,478 proposals to help reduce our $200 billion plus budget deficits and eliminate Government waste and inefficiency, for a potential savings of $424 billion over 3 years.

A recent report of the Office of Management and Budget [OMB] shows that the Grace proposals implemented to date will save taxpayers $30.6 billion this year. The implemented recommendations include measures to offset delinquent loans against income tax refunds, speed the collection and deposit of Government receipts, charge interest and penalties on delinquent debts, implement dual sourcing for weapons systems and components, require the use of common parts in weapons systems, expand the use of contracted services, and expand multiyear procurement.

Although the enactment of these cost-saving measures is a step in the right direction, there is still much more Congress could do to act on other Grace proposals. The Grace Caucus, with its package of 14 cost-cutting bills, is taking that bold step. This effort builds on the 30 or so bills which have been introduced to date in the 99th Congress that seek to implement other Grace Commission recommendations. Unfortunately, little congressional action has been taken on these proposals.

These Kick-off caucus bills, according to the Grace Commission, will result in savings of approximately $25 billion over 3 years. I am an original cosponsor of 12 of the bills, providing savings of $24.9 billion over 3 years.

Briefly, I would like to describe to my colleagues the purposes of the 12 bills I am cosponsoring.

The Federal Performance of Commercial Activities Act.—This bill would require the Federal Government to contract out services whenever it is economically feasible to do, unless national security interests necessitate a government supplier. The 3-year savings total $4.2 billion.

The Tax Collection and Enforcement Improvement Act.—This proposal would improve tax law compliance, increase collections, and reduce tax delinquencies by authorizing the IRS to hire additional collections staff and examination and enforcement staff. Delinquent unpaid taxes have substantially increased, in the past 5 years, rising from about $16 billion to over $35 billion. The 3-year savings total $4.1 billion.

The Federal Credit Management and Debt Collection Improvement Act.—Despite passage of the Debt Collection Act of 1982, delinquent nontax debts owed to the Federal Government is $24 billion—a 55-percent increase over the amount reported 3 years ago. This bill would strengthen credit management and debt collection by denying loans to applicants in default, referring delinquent debts to credit bureaus, and using debt collection contractors. The 3-year savings total $10 billion.

The Defense Consolidation Improvement Act.—Numerous reports show that Department of Defense [DOD] depots have excess capacity for the maintenance of weapons systems and for the wholesale distribution of military material. This bill consolidates depot-level maintenance and wholesale distribution operations, base support services, and military traffic and transport management. The 3-year savings total $1.9 billion.

The Federal Health Care Auditing and Quality Control Improvement Act.—This proposal would strengthen oversight and quality control in the Medicare and Medicaid Programs. These changes are needed to uphold the integrity of both programs. The 3-year savings total $471 million.

The Federal Hospital System Sharing Act.—This bill would reduce costs of DOD and Veterans' Administration hospitals by allowing all persons eligible to receive direct health care from DOD or the Veterans' Administration in either facility.

The Housing Eligibility Verification Improvement Act.—The HUD Inspector General estimates that between 12 and 17 percent of public housing tenants falsified income information in order to receive benefits. This Grace recommendation would require applicants to disclose Social Security numbers and would authorize HUD to obtain access to wage and other information from State employment records. The 3-year savings total $1.9 billion.

The Defense Technology Data Exchange Improvement Act.—About 75 DOD laboratories provide technical support to R&D activities in the weapons acquisition process. Because much of this research is not shared, many DOD labs duplicate their work. This bill requires the implementation of organizational steps to avoid unnecessary and costly duplication of research staffs and projects among the services. The 3-year savings total $1.6 billion.

The Defense Transportation Bill Audit Improvement Act.—The General Services Administration [GSA] is responsible for all Government transportation bill auditing. Currently, there is a 14- to 22-month backlog of transportation bill audits. Because 80 percent of Government transportation expenses are in-

curred by DOD, the Grace Commission believes that DOD could do a better job in this area. This proposal would require GSA to delegate to DOD the authority to audit its own transportation bills. The 3-year savings total $217 million.

The Defense Industrial Reserve Improvement Act.—Currently, repaired equipment in the general reserves is free to the ultimate user. The users view the equipment as cheaper because they do not share in the $28 million in annual costs to repair, store, and maintain reserve equipment. This bill, supported by the General Accounting Office [GAO], would require users of reserve equipment to pay the full cost of storage, repair, and maintenance of the equipment. The 3-year savings total $30 million.

The Paralegal Coordination and Activities Act.—the Department of Justice has a much lower ratio of paralegals to attorneys than the private sector. As a result, many attorneys are spending too much time on legal research and less time on litigative functions. This bill, supported by GAO findings, would require Justice to increase its use of paralegals. The 3-year savings total $13 million.

The Mail Management Improvement Act.—This bill pertains to Government mail operations, and not to the Postal Service. It would reduce Government mail waste by requiring Federal agencies to eliminate practices resulting in excessive mailing costs. The 3-year savings total $550 million.

With the requirements of Gramm-Rudman on the budget process, Congress should make every effort to meet the $144 billion deficit target next year. The kickoff cacuus bills provide Congress with an effective opportunity to implement billions of dollars worth of cost-savings. I urge my colleagues to cosponsor these initiatives. I also urge the authorizing committees to consider and favorably act on these bills.

ENHANCING ORGAN TRANSPLANTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. WALGREN. Mr. Speaker, I am introducing a bill today with Congressmen WAXMAN, STARK, and MADIGAN that would give Medicare organ transplant patients help in obtaining immunosuppressive drugs needed to make transplants successful. This bill would implement a recommendation of the Task Force on Organ Transplantation, set up by Congress in 1984 to examine many issues surrounding organ transplantation and make recommendations to Congress.

There are several reasons to help patients pay for immunosuppressive drugs.

First, transplant surgeons before congressional committees have testified that current Medicare policies are "pound-wise and penny-foolish" since Medicare will currently pay for a transplant but not for the drugs that make the transplant succeed. Cyclosporine, the leading immunosuppressive drug, was approved by FDA in November 1983; it significantly improved the survival rate of transplants. With cyclosporine there are fewer organ rejections and patients have a shorter initial hospitalization and fewer hospitalizations. Thus, in our view, it is poor public policy to encourage transplants but not the medications that make transplants effective.

Second, these drugs cost $5,000 to $7,000 per year and maintenance doses must be taken for life. The high cost can discourage people from getting transplants, denying them a life-saving medical procedure or in the case of kidneys, leaving them dialysis as the only opinion. Access to the best health care should not depend on one's lot or luck in life. This approach to medicine has its roots in the Hippocratic Oath, providing medicine to people without regard to economics.

Third, as the science of medicine progresses, we in Congress have an obligation to update the law, to bring it in line with the science. The basic Medicare law was written in the mid-1960's. In 1972, Congress added Medicare coverage for individuals with chronic renal failure, end-stage renal disease. [ESRD]. The primary treatment method for ESRD has over the years been dialysis, but organ transplants have "come of age" in recent years. Cyclosporine was approved in 1983. Medical coverage should reflect the best current thinking in medicine. In this case, immunosuppressive drugs are necessary complements to transplant surgery.

Fourth, looking at the economics, Medicare pays for virtually all kidney transplants under its $2 billion-per-year End Stage Renal Disease Program. Transplants save the program money by obviating the need for dialysis treatments. Immunosuppressants at $5,000 per year are far cheaper than dialysis at $20,000 per year. In these days of tight budgets, covering immunosuppressive drugs is good economics.

Finally, but probably most important, there is the human side. Transplants extend life. In the case of kidneys, they dramatically improve the quality of life. A transplant is far preferable to the ups and downs of periodic dialysis. Thus, the policy embodied in this bill is a humane policy.

GAPS IN CURRENT COVERAGE

There is a significant amount of private insurance coverage for immunosuppressive drugs and nearly all Medicaid programs pay for them. For others, the task force found that the cost of immunosuppressive drugs is prohibitively expensive for some patients. The inability to pay for cyclosporine, a new wonder drug for organ transplantation, prevents more than 15 percent of otherwise eligible patients from undergoing kidney transplants.

The task force found that in the general population some patients who need transplants are not receiving them because they: First, do not have private insurance coverage for immunosuppressive drugs, second, are not eligible for Medicaid (or their Medicaid program does not cover the drugs) and third, cannot afford to pay for the required immunosuppressive drugs. Indeed, some 25 percent of the transplant population has no insurance or Medicaid coverage for immunosuppressive drugs. Other patients are having their drug regimen changed from cyclosporine to cheaper drugs when they run out of funds. This no doubt threatens the effectiveness of the transplant.

PROVISIONS OF BILL

Our bill would authorize $15 million in fiscal year 1987 and $20 million in fiscal year 1988 for a program in the Public Health Service to "provide immunosuppressive medications to transplant centers for distribution to financially needy Medicare eligible transplant patients." The bill would require the Secretary to negotiate a bulk purchase of immunosuppressive drugs and authorize the Public Health Service, which has much experience with vaccines, to distribute them to organ transplant centers in proportion to the number of transplants they perform. The transplant centers would be responsible for distributing cyclosporine to those Medicare beneficiaries most in need.

The bill requires that the immunosuppressive drugs be made available to individuals who are unable to pay for them through insurance or other resources. Thus, those who are able to pay would and private insurance and Medicaid would continue to pay for individuals those programs cover.

This country should not have a health-care system with one track for the "haves" and another track for the "have nots." Medical treatment should not be left to chance or geography. Saving lives should not depend on connections or White House press conferences. If we do not have a system that is fair to all, offering the opportunity for the best in medicine, we will have nothing but bitterness as families' hopes fade away.

CAMPBELL SOUP MODERNIZES TO STAY COMPETITIVE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. FLORIO. Mr. Speaker, I was pleased to see that a major portion of the Washington Post Business Section last Sunday was given to a profile of Campbell Soup Co.'s effort to modernize its operations and marketing.

Campbell is a major employer in my congressional district, being based in Camden, NJ. A national leader in the food industry, Campbell is embarking on an effort to meet growing competition from Japanese companies.

The Post article, by Martha M. Hamilton, goes into some detail of how Campbell is doing this, and I would like to share it with my colleagues. The article follows:

A JAPANESE FLAVOR FOR CAMPBELL SOUP

(By Martha M. Hamilton)

All-American Campbell Soup Co. is taking on the Japanese—as a competitor and as a role model.

Since 1980, the Japanese share of the market for soups in the United States has grown from virtually nothing to 9 percent, with products produced by Japanese companies taking a growing share of supermarket shelf space. Nissin Foods, makers of Oodles of Noodles, is the largest Japanese producer of soups for the U.S. market.

Despite that increase, Campbell still dominates the market in a fashion many compa-

nies would evy: 62 percent of the U.S. market for all types of soup and 82 percent of the market for canned soups. But officials at Campbell say they would rather be vigilant than vulnerable.

"I think that people didn't worry enough when the Japanese companies started competing with the auto manufacturers and the steel mills," said R. Gordon McGovern, president and chief executive officer of the food company, which ranks number 100 in the Fortune 500.

Campbell officials say that they believe that Japanese food manufacturers may be able to establish themselves in the United States with low-cost high-quality products and then expand. "So, I'm worried," said McGovern. "Officially."

There are four Japanese-owned soup plants in the United States already and another plant is being built in California, according to Campbell officials. "They say they're making essences [cubes of concentrated flavorings] for the Japanese market," McGovern said. "We've been trying to track [the progress of the company] by satellite."

Campbell has committed itself to spend $1.2 billion between now and 1990 to upgrade and to restructure its 22 plants in an effort to keep ahead of competition. Campbell's plan? To adopt many of the approaches that have contributed to the efficiency and quality of manufacturing in Japan.

"We called this thing the 'total systems approach,' which I guess is gobbledygook to some people," McGovern said. "It's a way to collect all our efforts to make sure our food distribution is the best it can be."

That translates into a program with several facets. A major one is revamping manufacturing to produce products in smaller batches as they are ordered to eliminate costly inventories, both of raw materials and of the finished product. McGovern said they expect to have reduced the company's inventory costs by $50 million this year and to use capital that has been tied up in inventory more productively.

The program also includes closer computer links with retailers, an attempt to develop closer relationships with suppliers to ensure the quality of the supplies Campbell receives and revamping the sales force into 22 regional forces that sell all Campbell's products instead of just soups or frozen goods. Other major features are "quality circles," in which the workers who are closest to processing and other activities can devise ways to improve them, and statistical monitoring at every step of the way.

Several of these features—"just-in-time" manufacturing and quality circles—have achieved a certain corporate chic throughout the United States. But Campbell officials say that it goes below the surface, that they are committed to fundamental change at their company.

The company has trained about 300 workers in statistics at the University of Tennessee to monitor processing better, and it has handed out copy after copy of a book called "Japanese Manufacturing Techniques" to Campbell employes.

"You've got to take about 10 years, because you're changing a culture," said Lewis W. Springer, senior vice president. Making those changes involves convincing people that they won't suffer from change. "We've done a massive training program. The major thing is getting those hourly people in a plant like Camden, N.J., to say, 'I get it. I agree with it.' "

"You've got to have faith in this because it takes time to get results," Springer said.

"The Japanese have found a way to produce quality products in a very cost-effective manner. It's clearly an effort to copy a very successful manufacturing program," said George Novello, an industry analyst with E. F. Hutton. "You rarely see companies in the U.S. get as involved as Campbell."

"When you hear the speeches that McGovern gives, there's no question that he feels that there are different and better ways to run a manufacturing business than some of the traditional ways," said Leonard Teitelbaum of Merrill Lynch.

McGovern, who had run the company's Pepperidge Farm subsidiary and who took over as president in 1980, is credited by industry observers with taking Campbell in a more consumer-driven, marketing direction that has resulted in a proliferation of new products and an emphasis on freshness.

"We're pushing hard on refrigerated and fresh products, which is where we think the market is going," McGovern said.

In addition to manufacturing soup, Campbell produces Pepperidge Farm products, Vlasic pickles, Mrs. Paul's frozen seafood, V-8, Prego spaghetto sauces, Swanson products, Le Menu frozen dinners and Godiva chocolates. It also sells fresh mushrooms and hydroponically grown tomatoes and avocados with the Campbell label on them.

Among the company's new products designed to keep up with rapidly evolving tastes are Le Orient, a new line of frozen dinners; Fresh Chef sauces and salads sold from the refrigerated shelves of groceries, and a constantly growing line of newly packaged or newly configured soups.

"We introduced dry soups last fall and have about 20 percent of the dry soup market," McGovern said. "We're leased a ramen noodle factory in Ohio. We have microwaveable soups, frozen soups, soups in glass jars, low-sodium soups. We're going to catch you every way we can."

"I think what they're saying is that soup in any form is their bailiwick, and they don't want it taken away from them," said Novello of E. F. Hutton. Soup accounts for more than one-third of the company's total earnings, he noted. "It's the key business," Novello said. "They want to use that as a lever" for further expansion.

"If we're the best there is in soup, and doing it here, then we can broaden our soup base," said McGovern. That will allow Campbell to keep up with the super-powers in food processing that mergers, such as the Nabisco-R.J. Reynolds combination, have produced, he said. The nature of the ownership of Campbell's stock protects it from being the target of an acquisition, McGovern said. About 60 percent of the stock is in the hands of the Dorrance family, heirs to John T. Dorrance, who originated the canned, condensed soups that made the company famous, but takeover speculation appears to account for higher prices for the stock in recent months.

Moving into the dry-soup business may allow Campbell to expand in worldwide markets, where it accounts for about 30 percent of the sales. "We tried to take wet soup [canned soup] to the rest of the world and discovered that it was really the specialty end of the business," McGovern said.

Other products are aimed at capturing consumers who seldom sit down for family meals but who "graze" or eat "hand-held" foods.

In the meantime, Campbell is at work on the Le Orient version of itself.

The biggest evangelist for change within the company has been Springer, a former manager of the company's oldest facility, its 97-year-old plant in Camden, which the company is spending $37 million to upgrade. Springer preaches the gospel according to W. Edwards Deming. Deming was invited to Japan in 1949 by the national society of engineers, who wanted advice about how to restore their war-ravaged economy.

Deming emphasized statistical control of quality throughout production, in contrast to the American method of checking quality at the end of the manufacturing process.

Some of the changes are under way at the Camden plant, where one of two warehouses is being eliminated. "What we would like to do is, if you get an order for one case, you produce one case," said plant manager David Winkler, "What we have done in the past is to produce for the sake of production, to keep everyone busy." That kept the two warehouses full.

The plant is being upgraded, despite its age, because of its location. "From a construction point of view, it's expensive," Springer said. "But from a just-in-time manufacturing point of view, probably 29 percent of the people in the U.S. live within 200 miles of that plant."

Workers in the Camden plant and others participate in quality circles and task forces to devise ways of improving production. One task force is trying to determine what percentage of cans arrives on supermarket shelves damaged and how it happens.

"We've inspected the process here and gotten a number of damage cans that were going through our system and were not caught," said Dennis Wrigley, a forklift operator at the plant who is a member of the task force. "Then we went out to the stores to see the level of damage, which is more. We're backtracking now" to determine where the additional damage occurs, he said.

"It's a little bit more interesting than just stacking soup all day," he said.

If Campbell succeeds in reorienting itself, the tranformation should result in both fresher products and substantial savings, according to company officials, "What we're trying to do is reduce the cycle time" between the arrival of raw ingredients and when the soup or other food product reaches the store, Springer said. About two years ago, the cycle time for soup was about six weeks, according to Springer. That time has been reduced to about two weeks now. By Aug. 1, 1987, that time may be reduced to a single week, he said.

'The faster you can move it, the less money is tied up," he said. In the past, the company emphasized large orders, delivered by truckload to warehouses, and kept substantial amounts of capital tied up in ingredients, trucking and storage. "I think what happened is, over time, as we got more volume and had low interest rates, people forgot how much money was tied up," Springer said.

The approach that the company is trying to adopt from the Japanese is designed to remedy that, he said. "I think some people think it's just something to talk about, but it's not," he said. "It's really asset management."

MONTICELLO, IA CELEBRATES SESQUICENTENNIAL

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. TAUKE. Mr. Speaker, on July 4 to 6, the community of Monticello, IA, will be celebrating its sesquicentennial with all the vigor and pride characterizing the community throughout its history.

Foreign dignitaries, fireworks, music and song, government officials, parades, and pioneer exhibits will be part of this monumental celebration. The town will grow to many times its population of 3,700, and all will be welcomed with the warmth and hospitality of the Monticello townsfolk.

I invite my colleagues in Congress to join me in congratulating and saluting the people of Monticello, who I am deeply honored to represent in Washington.

C.L. "Gus" Norlin, a Monticello resident, described the founding of Monticello in a special article for the Jones County Historical Society. I offer Mr. Norlin's insights here:

Clad in primed buckskin and wearing the traditional coonskin cap of his native State of Kentucky, Daniel Varvel stood atop a knoll up from the east bank of the Maquoketa River and gazed across its waters to where it was joined by a small, clear-running stream. When his gaze had taken in the rolling hills to the west, the flat fertile plain to the south, and the hardwood timbered area to the north, we can imagine he spoke softly but aloud to himself and said, "Here someday will rise a thriving city." This was October 1836.

His friend, William Clark, who had remained behind in Dubuque where both had worked for a time in the lead mines, followed him to this place. They set to work building a one-room log cabin, and it was finished by late November 1936. The cabin was located on the east bank of "Kitty Creek," as the stream is known today. The name Kitty Creek was given to the stream by very early travelers—perhaps by Varvel himself—who found it easier to say than the Indian name "Gitchee," which translates "beautiful."

By 1839, more cabins had been built, mostly by people moving westward in covered wagons, who, after only a little urging, agreed with those already settled here, that there was no reason to move further on. By now the village was known as Varvelstown, and it was only a short time later during a community meeting that the name "Monticello" was chosen.

The new community prospered. An early rail line served the community, and as the community grew, it became the center of commerce in an area that includes some of the Nation's most fertile land. Early in Monticello's history, industrious men began to build businesses and financial institutions that were to later make great contributions to the city's growth. The combination of agriculture, commerce, and manufacturing that resulted made it possible for Monticello to continue in prosperity.

The same tradition has carried through to today, and Monticello has rightfully earned the titles, "Heart of the Breadbasket," and "Little Pittsburgh of the Prairie."

A TRIBUTE TO DAVID S. HARRISON

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. WOLPE. Mr. Speaker, at the end of this week, David S. Harrison will be leaving his position as executive director of the Northeast-Midwest Institute to become a visiting lecturer at the University of Washington in Seattle. The State of Washington's gain is Washington, DC's loss.

For better than 3½ years, David has served the Northeast-Midwest region and the Nation at the helm of one of this city's most fruitful and useful organizations. Under his direction, the Northeast-Midwest Institute has become the Nation's foremost regional policy center. He has overseen significant growth in its budget and staff, and in the scope of issues with which the institute is concerned.

The Northeast-Midwest Institute was established in 1977 to work closely with Members of Congress from the region on behalf of our older industrial States. As cochair of the Northeast-Midwest Congressional Coalition since 1984, and as a regional vice chair for several years before that, I can testify to the importance of the research and analytical work done by the Institute under David's leadership. On issues ranging from the Federal budget to employment and training, from taxes to energy policy, from economic development to water resources, the institute has provided timely, useful, cogent information and advice. Undoubtedly it has played an important role in the economic recovery the region has experienced in the past years.

David Harrison is a native Michigander who graduated from Kalamazoo College. Much of his family still resides in Michigan. Prior to becoming executive director of the institute, David graduated from the Kennedy School of Government at Harvard University and was director of the American Civil Liberties Union in Seattle. For several years he directed the State of Michigan's Washington, DC, office for Gov. William Milliken.

Now he is returning to Seattle, and he goes with our best wishes. On behalf of my cochair, Representative FRANK HORTON of New York, and all the members of the Northeast-Midwest Congressional Coalition, I want to offer David Harrison our thanks for a job well done.

WHAT NATO MEANS TO ME

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. DASCHLE. Mr. Speaker, I would like to take time to recognize and congratulate Mike Reszler, a high school student from my home town of Aberdeen, SD, for submitting one of the winning entries in the National Atlantic Treaty Organization's (NATO) "What NATO Means To Me" Eassy Contest. Students from 3,000 high schools were invited to participate, and three winners were chosen to visit NATO headquarters in Brussels.

Mike makes several insightful points about NATO, saying it has evolved into a "fortress for democratic ideals." The alliance also boosts the U.S. economy, he writes, because a good portion of our foreign trading is done with member countries. Finally, he says NATO offers a crucial forum for world peace. I ask that Mike's essay be printed in the RECORD, and I would urge my colleagues to take time out to read carefully thought out and well-written piece:

1986 NATO ESSAY

Can you remember back to elementary school, and the first time some big "bully" threatened to beat you up? Right away you rounded up all your friends to help protect you, because you knew there was safety in numbers. As soon as the "bully" found out about your plans, he thought twice about beating you up, and he eventually left you alone. This is the same principle that NATO uses to counter Soviet and Warsaw Pact aggression. NATO allied members realize that as a group of nations they are more powerful against the Soviet Union than just one, and it can use its numbers as a threat against any Warsaw Pact attack.

After World War II and during the Cold War, the founding fathers of NATO saw the need to combat Soviet aggression in Europe. Then Secretary of State George C. Marshall said, "The only way to meet Soviet aggression is to meet head on, and in numbers." [1] Already, many political leaders saw the need to combat the Soviets. In order to meet this need, 12 nations signed the North Atlantic Treaty, establishing the North Atlantic Treaty Organization, NATO, to counter Soviet aggression. Yet, the role of NATO has changed since those founding days.

Today, as a U.S. citizen, NATO represents a fortress for democratic ideals. At a time when the Soviet Union is trying to more than double its territory [2] NATO acts as a blockade to such growth. "Democracy is constantly under attack", yet few Americans realize the importance of stopping or halting this aggression. NATO exists to perform this very task. Although protecting democracy may be NATO's largest task, it also displays a joint cooperation between the United States and other nations.

NATO demonstrates the ability of the U.S. to develop strong, allied ties with foreign nations. This is very important to me, because 24% of all foreign U.S. trade is with NATO members. [3] That represents dollars and cents to our U.S. economy. Yet, NATO's military needs result in more than 100,000 jobs for America. [4] That makes NATO important to America, because of its power to defend and protect democracy, and also the boost it gives to our American economy; but NATO also represents an organization dedicated to world peace.

Contrary to the belief of many Americans, NATO, through its ability to counter Warsaw and Soviet aggression, furthers world peace. It demonstrates the ability of 2 groups of nations to collectively say, "We believe in world stability and peace, and are ready to do something about it." Through its military might NATO discourages any attack by the Soviet Union, and hence prevents any major military attack or war, but NATO also engages in talks with the Soviet Union. It was a very important part of the

Reagan-Gorbachev Geneva Peace Talks, and has ongoing peace talks with the Soviets.

Today, the North Atlantic Treaty Organization offers one of the world's greatest forums for world peace. Its ability to counter Soviet aggression strengthens American democracy, and also presents an important economic factor to the American economy. Just like school children find comfort in large numbers for protection, so do nations when dealing with foreign powers, and in the case of NATO it also presents much more to the United States and me.

SANDINISTA CENSORSHIP: ANOTHER COMMUNIST ASSAULT UPON THE TRUTH

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CRANE. Mr. Speaker, this body recently voted to send additional humanitarian and military aid to the UNO freedom fighters, popularly known as the Contras. History will say that we were very wise in undertaking this action. At stake in Nicaragua is the freedom of all Central America. The brave freedom fighters are battling communism in the Nicaraguan jungle, and we are providing them the means with which to carry on that fight so that the people of Costa Rica, El Salvador, and Honduras will be saved from a similar plight. If there are any doubts as to why we are helping these brave men and women, we have only to look at the record of the Sandinistas against whom they are carrying on the fight for dignity, democracy, and freedom.

The record of the Sandinista government, for those who look beyond their propaganda, is crystal clear, and in its clarity it is remarkably similar to the dismal record of their Soviet sponsors. The Nicaraguan Marxists, by repression, discrimination, and misrepresentation, have unceasingly opposed those in Nicaragua who yearn for self-government respectful of civil and political rights.

As the fight for the future of Nicaragua continues, it is wise that we, the Members of this body, remain informed as to the situation in Nicaragua. In this regard, a recent newspaper article which details Sandinista censorship of the press has come to my attention.

The article is written by Mr. Horacio Ruiz, the courageous managing editor of La Prensa, the Managua daily newspaper. Mr. Ruiz's article, excerpted below, appeared in a recent edition of the Washington Post. It should come as no surprise that this article would not be approved for publication in La Prensa by the Sandinista censors. It contains too much of the truth for those trained in the extermination of a free press.

I commend this article to my colleagues for their enlightened consideration.

NICARAGUA: WHAT CENSORSHIP IS REALLY LIKE

(By Horacio Ruiz)

MANAGUA.—On the day in March 1982 that the Sandinista government declared a state of emergency in Nicaragua, the official censor of the Sandinista government, Capt. Nelba Blandon, telephoned the editors of La Prensa and called them to an urgent meeting. When they arrived at her office, she informed them of the imposition of total censorhip to protect the security of the state and to defend the popular Sandinista revolution against the aggression of "gringo imperialism." This meant, in effect, the censorship of ideology.

With these few words the censor announced that the intentions of the government were not just to suppress certain articles that could harm its image or that could represent a security threat to the Sandinista state, but to suppress the way of thinking of the editors who plan, produce and select the news content of the paper and who direct its orientation. This ideological censorship reverberates like a distant echo and at times is lost in forgetfulness, but today, after four years of this Kafkaesque censorship and the mental exasperation that it creates, Blandon's words have been turned into the most refined kind of tyranny. Orwell's prophecy of what 1984 would be like was on the mark.

Blandon could be accommodating and even jovial at times, but at other times she could be insulting and belligerent. She has an inflated ego, which makes her feel that she must completely control the way people express themselves, think and give their opinions in the Nicaraguan press. She often speaks in the first person with the authority of a little dictator, full of haughtiness. "I cannot permit you to put this in the paper," she says. Sometimes she suggests substituting an official government statement for something she has not allowed in the paper. She seems to be a fundamentally insecure person who depends on military-style orders of what should and should not be censored, how public figures should be referred to in stories and how headlines should be changed—to the point that the editor finds himself in such a state of mental confusion and exhaustion that he is forced to think like the censor.

Press censorship in Nicaragua undermines the whole reason for having newspapers in the first place. The day editor who puts out La Prensa must ignore the element of time or the urgency of informing the public or of printing the latest news. His principal concern must always be to arrive as early as possible at the censor's office, for the censor determines when the paper is ready to be published and distributed. If the editor has an important meeting with his staff, the process of censorship will start later and the paper will be delayed.

On days when nothing special happens and the articles that have been submitted to the censor are totally innocuous and merit no suppression, some articles are nevertheless rejected. This is to show that the paper must be censored every day to maintain the disciplinary measures imposed by the military.

Maintaining censorship is vital to the Sandinista regime. Only democratic governments endorsed by an ample popular base can support freedom of the press. This is the real reason, not the state of war, that there is censorship in Nicaragua.

Blandon abuses her responsibilities by persecuting and harming La Prensa in three ways: She hurts the paper financially by not letting it publish on time, which damages its sales on the streets. She deprives La Prensa of its own initiative and style and forces it to conform to that of the Sandinistas. And finally, by letting the Sandinistas print their own version of the news, little by little La Prensa is converted into a newspaper with little attraction.

None of these three things has been achieved to the government's satisfaction, because of the courage and determination of those who produce La Prensa. They continue to try to do their work as if the situation were normal. This is the only way they can keep themselves from falling under the total mental domination of the censor and the Ministry of the Interior.

The editor is constantly forced to insert the word "contra" in each place where the international wires use "rebels" or "anti-Sandinistas." The censor does not allow the use of these words because she considers them too respectable. The rebel commander Eden Pastora must be labeled "the traitor" or his name cannot appear in the paper. The name of the many-time world boxing champion Alexis Arguello has been forever forbidden to appear in La Prensa because of his known sympathy for the rebels. The picture and name of Cardinal Miguel Obando y Bravo, head of the Catholic Church in Nicaragua, have also been prohibited because he has denounced the persecution of the church by the Sandinista regime in the presence of the United Nations and the Organization of American States.

This obsession with the cardinal reached such a point that it led to the censoring of a story about last year's World Series. La Prensa took a poll to see which of the teams in the series—the St. Louis Cardinals or the Kansas City Royals—was more popular in Nicaragua. The result of the poll was titled, "Nicaraguans: The Cardinals Will Be the Champions." The headline was censored: we were not allowed to print the words "cardinals" and "champions" together. We had to substitute "St. Louis" for "Cardinals."

After four years of censorship in Nicaragua, the daily life of La Prensa follows a suffocating routine in which all systems of logical thinking are stifled. Numerous employees must go to the office of the censor with photocopies of the pages. There they spend between 4½ and six hours while the officials review the articles line by line and letter by letter. They even review the classified ads, which are sometimes censored. After they finish they hand the editors a notice called the "Resolution." Stamped on it and pertaining to specific articles are the phrases; "Do Not Publish," or "Change Headline," or "Suppress Paragraphs 1, 2, 3 and 5."

To change a headline the editor must think of one that will not be censored. He is forced, therefore, to think like the censor. Orders to change headlines are frequent and usually affect articles that are not favorable to the regime but that would not be suitable to censor. An example would be a declaration by Contadora that affects the government or an announcement by the Ministry of Industry that productivity has declined. The censors know that most readers read all of the headlines, but read only those articles that interest them. The headlines therefore must not reflect the bad news that may be in the article.

The censor often cuts the first paragraph of the article, leaving the informational content incomprehensible and obliging the editor to kill the story entirely.

The censor leaves out declarations and statements made by President Daniel Ortega and other national leaders when they are speaking outside of Nicaragua and contradict what they do and say in Nicaragua. But that is most improbable is that the censor sometimes censors herself. On Jan. 21, 1986, we received an interview with Nelba Blandon on censorship, by an AP cor-

respondent named Eloy A. Aguilar. We tried to publish it under the headline: "Blandon Comments on Censorship," but the censor's decision was: "Do Not Publish." On Aguilar's next visit he asked Blandon why the interview, which he considered accurate, was not published. The censor answered: "Because the statements I made were for publication abroad, not for publication in Nicaragua."

Blandon was also censored, according to her, in a long article on Nicaragua in National Geographic Magazine in December 1985. The article cited Jaime Chamorro, director of La Prensa, as well as Blandon on the subject of censorship in Nicaragua. When the two met after the afticle had appeared, Chamorro refuted her declarations. She responded by saying: "I was censored." Censored? asked Chamolrro. She answered: "They did not publish everything I said." The censor protects the "cooperators" or foreign "internationalists" who commit crimes against the Nicaraguan people. She intervenes on behalf of those people who give their support to the Sandinista regime and does not permit any refernces to criminal activity or bad behavior—especially if they are Cubans.

Along with photocopies of every page of the paper we send the censor two pages of material that we call "stuffing"—articles that can be substituted for censored stories. La Prensa has been unable to publish on 40 occasions because the censor could not find adequate material to substitute for censored stores. It is prohibited to leave any blank space on a page or in any other way give the impession that the paper has been censored.

On other occasions La Prensa itself has decided not to publish in order to protest the censorship of important articles, such as Pope John Paul II's letter to the bishops of Nicaragua and the pastoral letter written by all of Nicaragua's bishops during Holy Week.

After all of the necessary changes have been made Blandon again must see photocopies before the paper goes to press. At that point she may still demand changes before the order is given to publish. Only then can the editors and writers breathe. The paper has finally been approved. But on many days we are not allowed to publish until the night. On those days, the papers cannot be sold until the following day.

The censor also prohibits the distribution of censored material to friends of the paper, foreign correspondents, embassies or anyone else who shows interest. Censorship must be a completely private matter between the "jailkeeper," the Department of Censorship, and the "criminal," the newspaper La Prensa (which has already been in jail for four years)—and the condemned, it appears, will be in prison forever.

Maintaining censorship is essential to the Sandinistas even though it damages the prestige they so badly want to maintain abroad. In response to international denunciations of censorship in Nicaragua, they maintain the lie that the exercise of censorship is limited strictly to matters of the military and state security.

The dilemma is clear: censorship is a poison that damages their image abroad. But they know that to lift it would result in an internal, deadly poison for which there can be no antidote. Freedom of the press would be the Sandinistas' death sentence.

SPEECH OF HON. MELVYN M. DYMALLY TO AMERICAN ARAB ANTI-DISCRIMINATION COMMITTEE

HON. JOHN CONYERS, JR.

OF MIGHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CONYERS. Mr. Speaker, at the time when terrorism is an issue of grave concern within the international community, I would like to submit a statement to the RECORD by our colleague from California, Mr. DYMALLY. The speech was presented at the annual banquet of the American Arab Anti-Discrimination Committee [ADC] which was recently held in Detroit, MI.

The ADC is an organization whose members and officers have been victimized by domestic terrorism during the past year, including the murder of Alex Odeh, ADC's regional executive director in Santa, CA, and the firebombing of ADC's national office here in Washington, DC, and Boston. To date, no one has been charged with these heinous crimes.

The statistics which the gentleman from California cites are taken from FBI files and are most enlightening. I am pleased that Mr. DYMALLY will testify in the same vein at an oversight hearing on criminal and civil rights violations of Arab Americans which will be conducted by the House Judiciary's Criminal Justice Subcommittee in mid-July. It is my hope that his statment will be read and referred to by my colleagues who are concerned with ending terrorism in all its forms, in all areas of the world.

PERCEPTION: THE EFFECTS OF INTERNATIONAL TERRORISM ON DOMESTIC TERRORISM, REPRESENTATIVE MERVYN M. DYMALLY

I am grateful for your invitation to attend this banquet honoring former Senator Charles Percy. He will always be noted as a legislator whose moral courage and leadership serve as an inspiration to many of us.

This is a special occasion for me because, for the first time, I am able to speak in Detroit directly to the people I have deep concern for, and on whose behalf I spoke out since I became aware of the gratuitous attacks against Americans of Arab desent.

I have spent nearly six years as a member of the House Foreign Affairs Committee. I have served over the years on the Human Rights Subcommittee, Europe and the Middle East Subcommittee, Asian and Pacific Affairs Subcommittee, and on the Western Hemisphere Affairs Subcommittee, of the Foreign Affairs Committee. Not one of these Subcommittees has been untouched by the subject of terrorism. I would add that my formal training is in social science, or perhaps the art (or in the case of politics at least, the craft) of human behavior. I do hold strong views on the subject of terrorism, views acquired in part through direct experience, for I am personally well acquainted with a number of victims of terrorism and their families. My views have also been influenced by my years of helping to form U.S. foreign policy including our policies toward terrorism.

I believe the best contribution I can make here tonight will be to talk about the impact of international terrorism on domestic terrorism. It is inconceivable to me that when our administration has mustered so much of its resources to fight out terrorism, nothing much is being done to stop domestic terrorism here on American soil. After all, charity starts at home.

I want to thank the FBI and David Ignatius of the Washington Post for the information I am about to mention.

We perceive the Middle East to be the main terrorist threat. But in 1984, for example, of 47 "significant terrorist events" recorded by the State Department, 19, substantially less than half, were carried out by terrorist of Arab background. Geograpically as well, the Middle East is not the main site of terrorism. In all but three of the last 18 years, more terrorists incidents against U.S. citizens occurred in Latin America than in the Middle East. Between 1980 and 1985 there were 84 acts of terrorism against U.S. citizens in the Middle East. There were 369 in Latin America in the same period. But the terror hotspot is Europe with 458 incidents against U.S. citizens in the past five years.

High as those numbers are, U.S. citizens are not the main target of terrorists. Last year alone international terrorism killed 2,223 people. 162 of them were U.S. citizens. In the past five years 7,260 people (by conservative count) have been killed in terrorist incidents. Less than one tenth of those have been from the United States.

We think of many terrorist incidents as involving air flight or airports. And we recall the most recent such incidents and avoid airports in Athens, Paris and Rome. In fact, according to data published by the Federal Aviation Administration in 1985, the two most dangerous airports over the past eight years have been New York City and Miami. New York has had ten hijackings in that period and Miami has had 14. Athens, by contrast, had one such incident in the same time period.

We see tourists as most vulnerable to terrorism, and government officials as next most vulnerable. In fact, business persons are most at risk. Attacks on U.S. businessmen outnumber attacks on tourists, embassy personnel and even military personnel.

We perceive an explosion of terrorism in recent years. But statistically, the incidence of terrorism has been declining by some measures and remaining constant by others. The number of terrorist incidents involving U.S. citizens has not changed significantly between the 1970's and the 1980's. Between 1970 and 1979, 44 bombs exploded on airplanes. Between 1980 and 1984 there were 11 explosions. The total number of all bombings has remained fairly constant over the past 15 years. In a low year one can expect about 120 terrorist bombings world wide. In an average year, the number will be somewhat over 200. 1985 was a high year for bombings. There were 404. But in 1972 there were 452.

There has been such attention by the media and public figures to terrorism recently that the citizens of this country perceive it to be a more immediate personal threat than it really is. The chance an American will succumb to a terrorist attack from any source is less than seven ten millionths. Moreover, Americans misperceive who the major perpetrators are. The perception of threat has made it permissible to adopt an attitude of caution, and mistrust toward those who might even remotely be associated with perceived terrorist groups.

This nation has seen periodically through its history, the effects of misperception of threat. At the turn of the century, Chinese immigrants were feared. The papers re-

ferred to them as "the yellow hoards". In response to the misperceived danger, the United States adopted legislation that prevented Chinese people from coming to the United States. The act was called, simply enough, the Chinese Exclusion Act. White people in the South after the Civil War perceived black people to be a threat. They began lynching black people as a way of protecting white people from a threat that did not exist. Nevertheless, it took until nearly the middle of this century for Congress to pass an effective anti-lynching law to protect innocent black people from the irrational white fear. Hundreds of black people were killed before laws to protect them were passed and enforced. During the Second World War, Japanese Americans and Aleutian Islanders were thought to pose a threat. President Roosevelt issued Executive Order 9066 which created detention camps where thousands of U.S. citizens were jailed during the war. A significant portion of the Aleutian population perished because of unsanitary conditions in their camps. Japanese Americans lost property valued in the billions of dollars. Yet there is not a single case of subversion of the U.S. war effort by any Japanese American or any Aleutian Islander.

In the 1950's the perceived Japanese American threat was replaced by the threat of communist sympathizers. The careers of many Americans were destroyed when they were falsely linked to communism. A committee of the Congress, the House Unamerican Activities Committee helped to feed the misplaced fears of Americans. The image of the communist formed then is with us to this day.

Almost imperceptibly as the current terrorist scare has entered the homes of Americans through the nightly television news and the newspapers, the newest unjustifiably feared group is becoming United States citizens of Arab descent. And just as in earlier domestic incidents of misplaced fear, it is those perceived as the threat who have the most to fear. It is those who live in terror. It is they whose careers and whose lives are in danger. It is we, in our zeal to stop danger before it starts who become the domestic terrorists. Now there are Arab Americans who, because they have done no more than to exercise the rights supposedly enjoyed by all Americans, are kept under surveillance by the FBI, and who are openly accused of being terrorists, and who, in fact, have experienced terrorist activity against themselves. Those terrorist acts include murder.

Again, let us look at the facts about terrorist activity in the United States. The FBI publishes an annual report on domestic terrorism which indicates that 495 terrorist incidents occurred in the United States between 1977 and 1984. Arab group were responsible for five of those 395 incidents. Three of the five were attacks by Libyan nationals against other Libyan nationals. One of the five incidents was a sit-in by Saudi Arabians at the Saudi embassy in Washington to protest Saudi Arabian policies. The fifth act was a letter bomb to the Saudi Arabian embassy. Iranian nationals were responsible for three of the 395 incidents over the past eight years. All three incidents were anti-Ayatollah demonstrations. So, of eight Arab or Iranian linked terrorist incidents in the United States in the past eight years, none has been against Americans. All have been attacks of Arab or Iranian nationals against other Arab or Iranian nationals. Most significantly, there is not a single recorded instance of terrorist activity by Arab Americans or Iranian Americans against any U.S. citizen.

Unfortunately, Americans of Arab descent have often been the victims of terrorist attacks right here in their own country as well as in Israel on at least two occasions. This terrorism has included murder, beatings, bombings of offices and churches, character defamation, blacklisting, political disenfranchisement, and psychological terror in the form of threats. I want to mention a few of these incidents. But I also have the unique opportunity to let you hear an act of terrorism that occurred this week in Washington. The telephone call I am about to play for you now was received in the Washington office of the American Arab Anti-Discrimination Committee shortly after it was announced that we had bombed Libya. I have to warn you that it is vulgar. [Text of tape omitted].

Threats represent one kind of terror with which Arab Americans and other Arabs living in the United States must contend. Too often the terror becomes physical. Less than three weeks after our first bombing of Libya, for example, five Arab students, none of whom were Libyan, at Syracuse University, were beated for no reason at all. One of the victims may become blind in one eye. A number of Libyan students have been arrested by the Immigration Service since our attack on Libya. They have not been informed of the reason for their arrest. Arab Americans are especially prone to terrorism following an international act of terrorism. Shortly after the TWA hijacking, for example, a talk show host in San Francisco agreed with a caller that Shiites should be killed. Shortly thereafter the Islamic mosque in San Francisco was vandalized. After the TWA hijacking the Islamic Institute in Dearborn, Michigan, was vandalized. The Islamic mosque in Houston, Texas was bombed at the same time. During the same week police had to be called in at the Islamic Center in Quincy, Maine when, an angry group tried to take over the Center.

Perhaps the most serious terrorist incident against Arab Americans occurred in Southern California at the time of the Achille Lauro hijacking. Alex Odeh, a friend of mine, and a respected Arab American member of the community was murdered when a bomb wired to his office door exploded. Alex had received multiple death threats in the past, and had resorted to the precaution of having his mail X-rayed to avoid letter bombs. Only two months before Alex's murder a bomb was placed outside the Boston office of the American Arab Anti-Discrimination Committee. It exploded as police were attempting to defuse it, and two policemen were hurt. The American Arab Anti-Discrimination Committee office in Washington, D.C. was burned in November of last year. The Committee has had difficulty finding a new office because landlords fear for the safety of their property.

Individually targeted Arab Americans and those supportive of Arab American rights have been the victims of terror as well. A man and his wife, who out of fear for their lives do not wish to be identified, had their house broken into, and the contents of the house were destroyed. The couple's dog was killed. This couple had been publicly outspoken on Arab issues. They are not of Arab background. That incident occurred last year. In January of this year, the son of former Senator James Abourezk who is an Arab American, and a friend were driving in the Washington area when their car was rammed from behind, and an attempt was made to push their car off the road. Police spotted the ramming attempt and apprehended the culprits. But after Abourezk and his companion drove on, a second car attempted to drive them off the road. The second auto was not apprehended. That same month, a grocer of Palestinian background in Milwaukee was shot in the head by an assailant. No money was taken from the store. Nothing was stolen. That same month, the editor of an Arabic-English newspaper on the East Coast was attacked and very seriously beaten. As he lay in his hospital bed his room was entered by an unidentified man who said to him, "We let you live this time; next time we won't."

In fifteen years of reporting these terrorist activities to police authorities, Arab American groups have been unable to identify a single indictment of a perpetrator who was not caught at the time the act occurred. In contrast to this lack of success in apprehending these terrorists, the government has engaged in surveillance of innocent Arab Americans. A case in point is that of an Arab American attorney who is active in Arab American affairs. I am sure that you all know him. His name is Abdeen Jabara. The first indication he had that the FBI was watching him came when his bank informed him that the FBI had requested copies of all his bank records. After several years of work to obtain his FBI files under the Freedom of Information Act, Attorney Jabara found that he had been watched for seven years. He discovered that at a certain point in the surveillance it was determined that he had not engaged in criminal activity. But the surveillance did not stop. Instead, for several years after, he continued to be followed. Meeting he attended were infiltrated and records made of discussions carried out in those meetings. One has to wonder why a man known to be innocent of wrongdoing was watched for seven years?

I would note in passing an incident in 1983 that apparently escaped close FBI attention. On October 18, 1983 a citizen of Israel entered the visitor's gallery of the U.S. House of Representatives. He had strapped to himself a bomb. He actually pushed the button to explode the bomb. At the time, the House was in session. The visitor's gallery was packed. The battery of the device was wired improperly to the bomb, and it failed to explode. Record of that terrorist bombing is not included among terrorist incident noted in the official FBI report on domestic terrorism for that year. The apparent lack of attention to some incidents coupled with the excess of attention to others has a chilling effect on the Arab American community. They fear not only terrorist attack, but also they fear that in reporting terrorism and simply in exercising their right to free speech and assembly, they will open themselves to further terrorist oppression and perhaps even to unwarranted government scrutiny.

I regret to tell you that I have scratched only the surface of terrorism against Arab Americans. Government complacency about this issue gives Arab Americans little reason to hope for positive change. Public action which punishes the innocent to quell the acts of the guilty is terrorism. And I tell you, the struggle to stop terrorism will be lost on the day our unreasoning fear transforms us into the terrorists.

I would have liked to end on this note, particularly after talking for such a great length of time; yet I cannot end without briefly addressing the issue of racism and discrimination against Americans of Arab

heritage. I have personally seen this racism when one of my aides, who is performing his assigned duties, became a target of an attack by the Christian Broadcast Network, which went as far as endangering his life, and that of his family, by nationally airing his name and picture while falsely accusing him of having a relation to the Palestine Liberation Front, less than a month after the murder of Alex Odeh.

Racism is a serious threat because it is a necessary condition for the wave of violent attacks against Arab Americans.

IMPACTS OF BOVINE GROWTH HORMONE NEED TO BE STUDIED

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. GUNDERSON. Mr. Speaker, over the last several months the talk among dairy farmers has centered around bovine growth hormone, the latest initiative in the biotechnology field that has the potential to increase efficiency of dairy farmers but at the same time increase the surplus of milk. Dairy farmers are deeply concerned about the impact this relatively new development may have on their livelihood.

LEGISLATION TO STUDY ITS IMPACT

Today, I am introducing legislation that will prohibit the Secretary of Health and Human Services from approving bovine growth hormone for commercial use until proper studies are completed providing us with some answers as to its impact on our dairy industry.

I do not intend to stop the use of new technology. This legislation simply makes sure that three investigations of its impact are made before it can be sold commercially. The three investigations are:

First, an environmental impact study done by the Food and Drug Administration.

Second, a USDA study of the impact on the Federal Dairy Price Support Program.

Third, a USDA study of its potential impact on the structure of dairy agriculture—especially our small- and mid-sized family farms.

WHAT IS BOVINE GROWTH HORMONE?

Bovine growth hormone, which is more properly called bovine somatotropin [BST], is a naturally occurring protein in cattle and is found in the pituitary gland. The gene responsible for natural bovine somatotropin is isolated and transferred from the animal to ordinary bacteria cells. The bacteria are used to produce, through standard fermentation techniques, large quantities of bovine somatotropin. The bacteria are then killed, the BST separated, highly purified, and formulated for use.

Even if the usefulness of BST is not now apparent to us, it is incredible that continuous daily injections can increase milk production by 10 to 40 percent.

Studies have shown that BST stimulates cows to direct food energy into milk production, and while they require more feed to achieve such high levels of milk production, there is actually an increase in feed efficiency. Greater production begins 3 to 4 days after the first injection and reaches full effect in a couple weeks. Initial research indicates that milk from cows being injected with BST is no different than that from a cow not receiving treatment. There is also apparently no adverse impact on the cow.

ITS RELATION TO OUR PRESENT DAIRY PROGRAM

While studies conducted by the developers of bovine growth hormone indicate that bovine growth hormone has the potential to reduce milk production costs, this technology couldn't have come at a more inopportune time. We currently are awash in a surplus of milk. In 1985, purchases by the Commodity Credit Corporation accounted for roughly 10 percent of our Nation's total milk production.

We took a major step toward a permanent reduction in the milk surplus with the Whole Herd Buyout Program. Under the program, which will remove more than 12 billion pounds of milk nationally, the Government and all dairy farmers are paying participating farmers to leave dairying for 5 years by either exporting or slaughtering their herds.

So why are we trying to find ways to increase milk production at the same time we're trying to cut back?

I have to admit the logic doesn't make a lot of sense. Right now many farmers in my district would tell me they need bovine growth hormone about as much as a drunk driver needs another drink.

Despite the contentions of some that the development of bovine growth hormone is a step in the wrong direction, we cannot close our eyes and hope it goes away. Whether we like it or not, bovine growth hormone is likely to be on the market soon.

While it is difficult to see any direct benefits of bovine growth hormone at present, it would be extremely irresponsible for us to ignore a new technology that, if used properly, could lower the cost to produce milk.

Bovine somatotropin will eventually be in the commercial market. We cannot turn our backs on technology in the hopes that we won't have to deal with it. Rather, we should seize the initiative and learn about this advancement so we can be prepared for it. The legislation I have introduced today does not seek to ban the commercial use of bovine growth hormone but, rather, to make sure that the necessary information is available so Congress, our dairy farmers, and the American people can make the proper choices in the future.

UPWARD BOUND PROGRAM ADMINISTERED IN IRRESPONSIBLE MANNER

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. ROWLAND of Georgia. Mr. Speaker, the Upward Bound Program has been administered in an unfair and irresponsible manner by the U.S. Department of Education, and consequently, many young people have been hurt, in my opinion.

Although I will concentrate on Georgia's experiences in my remarks today, I want to emphasize that this is a problem which threatens every Upward Bound Program. I am concerned about how this mismanagement affects communities not only in Georgia, but throughout the country.

Upward Bound is a federally assisted program to prepare disadvantaged young people for college. Once Upward Bound Programs have been funded, they have carried out their mission very successfully over the years. Thousands of youths have benefited from the special learning program and have gone on to complete college and become exceptionally productive members of their communities.

The mismanagement has occurred during the Department of Education's evaluation process. Problems in the review of applications have existed for some years, and this may be the worst year ever.

Under the rules, applications for new and existing Upward Bound projects from around the country compete every 3 years for available grant money. Existing programs receive prior experience points, which gives them an advantage over new applicants. But it is a competitive process, and every program runs the risk of losing its funding if its application is not rated highly enough.

In the past, many errors appear to have been made by Department of Education evaluators in their review of Upward Bound applications. This, in itself, has not been the problem. Everyone makes mistakes. But in past years, the Department of Education has openly acknowledged it had no provisions for considering appeals and no way to correct its own errors. This is a formula which guaranteed that some outstanding programs would be unfairly evaluated, and this is what I believe happened when funding for the Upward Bound Program at South Georgia College in Douglas was discontinued 3 years ago.

This year, I was led to understand that an appeals' system was to be put into effect. But if any such system has been implemented, it fails to provide for the systematic correction of evaluation errors and the accurate readjustment of application scores.

Many obvious errors were made this year in evaluating the 20-year-old Upward Bound Program at Mercer University in Macon, GA. One evaluator, for example, took off points on the grounds that Mercer failed to include in its application a required list of qualifications for the program's faculty. Although Mercer subsequently pointed out that the qualifications were, in fact, included, and were even cited by the other evaluators, the Department of Education has refused to recognize that any errors exist and has ruled that no corrections will be made.

If just a few of the most obvious errors had been corrected, it is clear Mercer would have scored enough points to again qualify for funding. Instead, Mercer's application has been denied, an appeal has been rejected, and 145 young people have learned that this opportunity is being taken away from them without just cause.

This is a program which has produced one of the most outstanding records in the country as measured by student performance in high school, increased college enrollment, and increased college retention and graduation rates.

Mercer is not alone. Although I have not had an opportunity to review other disputed evaluations as closely, the evidence indicates that other programs have been mistreated in a similar fashion this year. As it stands, no Upward Bound Program in the country is safe, no matter how effectively it is being operated.

If the Department of Education is unwilling to admit it makes mistakes, nothing will be done to correct them. Meanwhile, it is the young people who are being hurt. This is what is so shameful about this situation.

Mr. Speaker, I call on Education Secretary William J. Bennett to immediately take steps to establish a fair and reasonable Upward Bound evaluation process for the future. Although it has been apparent that problems have existed for some years, Secretary Bennett has so far failed to take corrective action. If he continues to fail to act, I suggest Congress should intervene.

GIVEAWAY ELK HILLS OIL SALES SHOULD BE STOPPED NOW AND ADMINISTRATION PROPOSALS TO SELL RESERVES ABANDONED

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. RALPH M. HALL. Mr. Speaker, I am surprised and disappointed that sales of crude oil from the Elk Hills Naval Petroleum Reserve in southern California are being continued by the Department of Energy to the point that they have driven down crude prices to as low as $6.23 per barrel on the west coast. I am told that these low prices have caused California independent producers to shut-in about 10,000 wells, resulting in the loss of approximately 100,000 barrels per day of production.

Although this production glut is not occurring in my home State of Texas, it does have a nationwide impact on the prices of refined petroleum products and is resulting in the wasting of a depleting natural resource. As a native of east Texas, I witnessed firsthand the first major plunge in oil prices which resulted from the discovery to the east Texas oil field and the sudden availability of a substantial increase in production. Prices dropped dramatically and much of the early production from that field was sold for only a small fraction of its true worth.

While I am not comparing the size of Elk Hills to the east Texas field, in the case of Elk Hills, the Government is squandering assets in way similar to the way early production from east Texas was squandered—by being priced considerably below its true value. To make matters worse, the administration is proposing to sell the naval petroleum reserves to the highest bidder. In my view, selling reserves into a historically low market is not only bad business but bad public policy as well.

Fortunately, there are those outside of the oil and gas producing States who recognize this problem. My subcommittee chairman, PHIL SHARP, of the Fossil and Synthetic Fuels Subcommittee has introduced a bill, H.R. 4843, that directs the President to establish a minimum sales price for these reserves that will prevent sales from occurring significantly below market prices or below the purchase price for the strategic petroleum reserve. I am pleased to be an original cosponsor of this measure. In addition, the New York Times in an editorial of June 11, 1986, addressed two problems with the naval petroleum reserve.

The editorial correctly chastises the DOE for losing $300,000 per day by selling oil from the naval petroleum reserves for as little as $6.23 per barrel. It also argues against selling the reserves hastily simply as a means to meet the Gramm-Rudman deficit reduction targets. This period of oil industry depression is not the right time for a forced sale of this valuable Government asset.

I ask that the editorial be printed in the RECORD at this point and commend it to my colleagues' attention.

[From the New York Times, June 26, 1986]

KEEP THE LID ON TEAPOT DOME

The 1922 Teapot Dome scandal involved a conspiracy to sell the assets of the Naval Petroleum Reserve in California for less than full value; President Harding's Interior Secretary ended up in prison. Today, the Government is selling the daily output from the same petroleum reserve below market price, and proposes to sell off the entire reserve at a bargain price.

This time around, there is no reason to believe that public officials are out for personal gain. But it's still a scandal, considering how much taxpayers stand to lose.

Before World War I, the Navy acquired its own oil fields to avert fuel shortages. But then the commercial market for oil developed fully, and direct ownership became irrelevant. Besides, pumping oil is a poor substitute for emergency storage; wells can yield their bounty only in dribbles.

That's why, in 1976, Congress authorized the Navy to auction off the 40 million to 60 million barrels produced each year at Elk Hills in California, the field that replaced Teapot Dome as the primary source of Navy oil. It also explains why the Navy didn't protest the Reagan Administration's proposal this year to sell the reserve outright to the highest bidder.

The Administration said the sale was part of a general privatization program to increase economic productivity. But officials know that private ownership won't much affect the efficiency of highly routinized reserve operations. The real reason for now jettisoning the reserve is to generate quick cash to make it easier to meet the deficit reduction targets of the Gramm-Rudman law.

That would be a poor excuse for sale under the best of circumstances. Swapping the reserve for cash from an oil company isn't likely to increase new private investment. Indeed, it might even reduce total investment by diverting oil industry capital from exploration and development. In any case, these are hardly the best of circumstances. With oil prices sagging below $15, the reserve is worth much less than it was last year, and very much less than it will be once oil prices rise again.

Recent experience suggests, moreover, that the Energy Department is poorly qualified to manage the sale. This spring, under a quirk in its own rules, it auctioned six months' production from Elk Hills for about 25 percent less than the competitive price. The department has since refused to use its legal discretion to cancel the sale, lest that anger the recipients of a $300,000-a-day windfall!

Representative Philip Sharp, chairman of the House subcommittee that oversees the reserve, urges the Energy Department to cancel under-market sales and offers legislation to prohibit a recurrence of the proposed sale of the entire reserve, which could cost billions. This teapot needs a lid.

RELIGIOUS RIGHTS IN ROMANIA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. MICHEL. Mr. Speaker, I am glad to join my colleagues in bringing to the attention of the House the human rights situation in Romania.

Ordinarily, I would not have a special interest in this topic, except in the general concern we have for human rights everywhere. But it so happens that during recent years I have followed with personal interest the activities of the Romanian Government in its treatment of religions in that country.

Members of the Church of the Nazarene, of whose American branch I am a member, have informed me of the difficulties undergone by members of that Church in Romania. My most recent information is that while things have not improved for members of that Church, they are at least receiving aid packages from the United States and have not been directly persecuted recently by Romanian officials. This is not what I call human rights improvement because under a totalitarian regime the pressure of persecution can start again when it suits the rulers. But, as of this moment, members of the Church of the Nazarene, a small church dedicated only to prayer and good works, are receiving aid which is at least something to be thankful for.

In years past there have been open attacks on members of this Church in the State-controlled press and aid sent from the United States never reached its intended recipients.

In President Reagan's message to the Congress, June 3, 1986, he said:

I share the strong concerns manifested among the public and in the Congess regarding the Romanian Government's restrictions on religious liberties. In consequence, we have urged the Romanian Government to adopt a more humane approach by taking steps such as:

Releasing jailed religious activists such as Constantin Sfatcu and Dorel Catarama;

Allowing substantial legal importation or domestic printing of Protestant Bibles and permitting their legal distribution;

Easing administrative restrictions against Nazarenes, "unofficial" Baptists, and other groups that are not officially accepted by the Romanian Government; and

Easing measures that discourage construction or repair of churches and have allowed, in roughly eight cases in recent years, their demolition on grounds of alleged building code violations.

We welcome the freeing of Constantin Sfatcu and Dorel Catarama from prison, but are otherwise disappointed by the Romanian Government's reponse to our concerns in this area.

I believe that men and women of good will can disagree on the questions of whether or not extending most-favored-nation status to Romania helps or hurts religious freedom and human rights in that country. The President believes "existing access and influence" of the United States can be preserved by extending MFN status since, in his words "extensions of MFN has facilitated American citizen's access to co-religionists in Romania as well as the flow of several million dollars worth of material assistance to them each year."

We have to keep checking on the progress—if any—being made by the Romanian Government in its treatment of religious groups. There may come a time, if the situation does not democratically improve, when the Congress will take another look at MFN status. It is up to the Romanian Government to prove that it takes our concerns seriously.

CONSIDERATION OF RENEWAL OF ROMANIA'S MFN STATUS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. FEIGHAN. Mr. Speaker, the trade subcommittee is now considering the renewal of Romania's most-favored-nation [MFN] status and this issue will soon be brought to the floor of the House. It is, therefore, now very important for us to discuss the worsening human rights record of the government of President Ceausecsu in Romania. In light of the Romanian Government's human and religious rights abuses, we must seriously question whether the Socialist Republic of Romania should receive an extension of the MFN status under the waiver clause. In 1985, this clause allowed the Ceausecsu government to attain a $743 million trade surplus with the United States.

Clearly, we must focus our attention on the plight of small Protestant denominations in Romania which are being harassed and whose clergymen are being arrested and convicted on false criminal charges. Little attention is being paid to the equally serious persecution of national minorities in Romania. There are about 2.5 million Hungarians and 330,000 Germans, as well as Serbs, Armenians, Bulgars, Turks, and Gypsies in Romania. Last year, 14,000 Germans emigrated to the Federal Republic of Germany. Financed by heavy investments from German industries and banks, President Ceausecsu allowed them to emigrate. For those who stay, the cultural, ethnic, and religious oppression remains unchanged.

A denationalization campaign is being concentrated especially on the Hungarians, the largest national minority in Europe outside of the Soviet Union. The Hungarians have lived in the historical province of Transylvania for 1,000 years. In Romania, Hungarian intellectuals and clergymen reportedly are beaten during interrogations by secret police. The Reverend Geza Palfi died of injuries from beatings by the Securitate for promoting Christmas as a legal holiday in Romania. The hands of the Reverend Janos Csilik were broken by the secret police when that clergyman would not betray the seal of confession.

The underlying intimidation of the Hungarian minority and the revocation of their educational and cultural privileges go back to 1958, when the Hungarian Bolyai University of Cluj-Napoca (Kolozsvar) merged with the Romanian Babes University. Today, there is no higher education instruction in the Hungarian language in Transylvania. Universities, colleges, and special institutes instruct in Romanian. Half of the Hungarian school sections were eliminated between 1959 and 1986. Only at the grade school level can at least two-thirds of the children still receive instruction in Hungarian.

Sadly, there are numerous examples of this outrageous abuse of human rights. It would seem that the old Stalinism of the Soviet Union is very much alive today in Romania.

Mr. Speaker, for many years, American-Hungarian organizations have protested this state of affairs. Congress has expressed considerable interest in the matter in the past. In 1983, I was among 221 signers of a letter to Secretary of State Shultz circulated by Mr. RITTER, my distinguished colleague from Pennsylvania. We requested that the State Department begin to negotiate the issue of human and cultural rights violations against the 2.5 million Hungarians of Transylvania. In 1984, I cosponsored House Resolution 147 which called upon the President and Secretary of State to negotiate with the Romanian Government on the human, cultural, and national self-determination rights of the Hungarians living in Transylvania. In 1985, I also cosponsored an identical resolution. In 1986, these rights are still seriously in jeopardy. I urge that the constant and increasing mistreatment of Romanian national minorities be a major consideration in determining whether or not the United States renews its MFN status with Romania.

PERSONAL EXPLANATION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. EDGAR. Mr. Speaker, last week on the Tauke amendment to H.R. 4116, the Domestic Volunteer Service Act Amendments of 1986, I voted incorrectly in favor of the amendment. I had intended to vote "no" against the Tauke amendment—on rollcall 172, and I wish the record to reflect my intention.

ADELMAN IS WRONG ON ASATS

HON. GEORGE E. BROWN, JR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. BROWN of California. Mr. Speaker, in an article appearing in last Friday's Christian Science Monitor, Kenneth Adelman, Director of the Arms Control and Disarmament Agency, called on Congress to end the existing United States-Soviet moratorium on testing antisatellite [ASAT] weapons in space. He charged that Congress had failed to consider the ASAT issues complexities, and that the ASAT test ban does not serve U.S. national security interests. Mr. Adelman is wrong. It is his logic, and not Congress', that is overly simplistic. Moreover, his arguments are clearly misleading and his article is plagued with *mis*-information.

Adelman makes the absurd contention that the existing ASAT test ban is unilateral. This is simply not the case. The moratorium is patently a mutual restriction on both the United States and Soviet ASAT programs. If the Soviet Union resumes ASAT testing, then the United States can legally test. But if the Soviets continue their 4-year restraint on ASAT's, then the bilateral limitation continues. There is nothing unilateral about it.

The fact that Mr. Adelman sees this mutual restriction in unilateral terms raises serious questions about his view of arms control in general. It appears that Mr. Adelman's vantage extends no further than the U.S. borders, leaving him to see only the impact of mutual restraint on American—and not Soviet—weapons programs. With this shortsightedness, every arms control measure would apparently seem unilateral to Mr. Adelman.

Having falsely declared the moratorium as being unilateral, Adelman proceeds to argue that it amounts to a one-sided concession that will weaken the U.S. bargaining position in Geneva. But how can one weaken a bargaining position that doesn't exist? The Reagan administration has never shown an interest in ASAT arms control, and has thus refused to develop a position to limit such weapons. Although the Soviets have provided numerous opportunities for the United States to resume the United States-Soviet ASAT negotiations that ended in 1979, the administration has consistently rebuffed such occasions. The administration's position is that ASAT arms control is not in our national security interests, and thus there is no reason to be discussing the subject in Geneva. It is thus disingenuous and dishonest for Mr. Adelman to be claiming that the ASAT moratorium undermines the U.S. negotiators.

Adelman claims that ASAT critics have juggled statistics to make the Soviet ASAT look less capable than it actually is. In reality, it takes some clever juggling to make the Soviet ASAT look anything but ineffective.

The Soviet ASAT has inherent design limitations and has failed repeatedly; it is based on technology the United States rejected years ago. The system has only worked when using a radar guidance system, but radar is highly susceptible to countermeasures such as jamming. Aware of this limitation, the Soviets tried to develop a more advanced heat seeking sensor for the ASAT. All six attempts failed.

Adelman's view that the Soviet ASAT has been an operational success is simply not shared by other experts. For instance, Gen. Lew Allen, former U.S. Air Force Chief of Staff, told Congress in July 1979 that the Soviet ASAT had a "very questionable operational capability * * * they have not had a test program that would cause us to believe it is a very credible threat." Since then, there have been only four Soviet ASAT tests—three

failures and one success. According to Leslie Dirks, former CIA director for research and technology, "* * * it [the Soviet ASAT] doesn't work. Anyone who has followed it closely would have to agree."

It appears that Mr. Adelman simply hasn't followed the Soviet program very closely.

Adelman punctuates nearly every paragraph with the assertion that the Soviets have a monopoly on ASAT's, and that the United States needs an ASAT too. The implication is that the United States has only just entered the ASAT competition, and that unless the moratorium is lifted we will remain behind the Soviets in the ASAT field.

However, a full and fair comparison of United States and Soviet ASAT programs reveals that the United States has conducted 34 ASAT and ASAT-related tests involving five different devices since the late 1950's; the Soviets have conducted 20 tests since 1968 of a single ASAT system. While it is true that the United States does not now have an operational ASAT, the Soviet ASAT can hardly be considered operational, either. Indeed, the ASAT moratorium serves the useful purpose of maintaining a relative ASAT equilibrium between the two nations.

Adelman warns that the Soviets are moving ahead rapidly on other ASAT technologies. This may be true, but the United States is doing the same within the strategic defense initiative [SDI]. But the mere fact that such technologies are being pursued does not mean that their development or deployment makes strategic or economic sense. Indeed, the opposite may well be true. The outcome of such research could be an enormously costly and highly destabilizing ASAT arms race.

Advanced ASAT's would jeopardize the vital military satellites that serve as the eyes and ears to nuclear deterrence. Congress was deeply concerned about this prospect when the moratorium was enacted into law last December, and that concern prevails. The moratorium provides the superpowers with the time they need to assess the risks and dangers of an ASAT arms race, and to negotiate a formal ASAT treaty. Mr. Adelman would squander such an opportunity and move full speed ahead with ASAT testing. The position taken by Congress seems eminently superior.

HOUSE OF REPRESENTATIVES—*Monday, July 14, 1986*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We invoke Your blessing upon us, gracious God, and pray that Your spirit will be always with us. May not our selfishness or folly cause Your love to be taken from us, but may Your presence continue to lighten our path, encourage our hearts and minds and set us in the way of truth and justice.

This we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4151. An act to provide enhanced diplomatic security and combat international terrorism, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2095. An act to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act; and

S. 2147. An act to extend the authorization for not-for-profit organizations operated in the interest of handicapped and blind individuals to receive procurement contracts under the Small Business Act.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
July 1, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 1:55 p.m. on Tuesday, July 1, 1986, the following message from the Secretary of the Senate: That the Senate agreed to the Conference Report and to the House Amendment to the Resolution, S. Con. Res. 120.

With kind regards, I am,

Sincerely,

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to rule 49, as a result of the adoption of the House and Senate of Senate Concurrent Resolution 120, as amended, the Chair announces that House Joint Resolution 668, increasing the statutory limit on the public debt, has been engrossed and is deemed to have been passed by the House on June 26, 1986.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled bills and joint resolutions on Monday, June 30, 1986:

H.R. 237. An act to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such act;

H.R. 4420. An act to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes;

H.R. 4515. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes;

H.R. 4801. An act to amend section 994 of title 28, United States Code, to clarify certain duties of the U.S. Sentencing Commission;

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965;

H.J. Res. 429. Joint resolution to designate July 2, 1986, as "National Literacy Day";

H.J. Res. 664. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day," and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty; and

S. 1625. An act to permit the use and leasing of certain public lands in Nevada by the University of Nevada.

RESIGNATION AS MEMBER AND APPOINTMENT AS MEMBER OF THE MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION

The SPEAKER laid before the House the following resignation as a member of the Martin Luther King, Jr., Federal Holiday Commission:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 26, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, House of Representatives, H204, U.S. Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign my appointment to the Martin Luther King, Jr. Federal Holiday Commission effective this date.

Sincerely,

JIM COURTER,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to the provisions of section 4(a), Public Law 98-399, as amended by Public Law 99-284, the Chair appoints the gentleman from New York [Mr. KEMP] as a member of the Martin Luther King, Jr., Federal Holiday Commission, to fill the existing vacancy thereon.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to section 274 of Public Law 99-177, the Chair announces the temporary Joint Committee on Deficit Reduction is hereby created and the members of the Committee on the Budget elected by the House are members of the joint committee.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation as a Member of the U.S. House of Representatives, which was read:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 10, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Enclosed is a copy of my letter of resignation from the United States House of Representatives effective at the close of business on Sunday, July 13, 1986.

I intend to be sworn in as a member of the United States Senate on Monday, July 14, 1986, at 12:00 noon.

With best regards,

JAMES T. BROYHILL.

RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following resignation as a Member of the U.S. House of Representatives, which was read:

HOUSE OF REPRESENTATIVES,
Washington, DC, July 11, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER: By this letter, I hereby submit my resignation as a member of the United States House of Representatives effective 5 P.M. EDT., Friday, July 11, 1986.

Membership in the House of Representatives is one of the highest honors that can be accorded a citizen in a free society. Nowhere are the democratic principles envisioned by the framers of the U.S. Constitution more in evidence than in this body. Although the House is composed of individuals with widely divergent political and regional interests, the members of the House are genuinely dedicated to the ideals of public service. I shall always cherish my friendship and association with the Members of the House.

It has been a distinct personal honor and pleasure to serve under your leadership during the nearly ten years I have been a Member of Congress. I shall always be grateful for the courtesies you have extended to me and the people of Hawaii. You have my heartfelt best wishes for the remainder of your term as Speaker. I hope that when you retire at the end of this year that you will have the opportunity to visit Hawaii so that we can extend the aloha of our islands to you and your family.

Sincerely,

CEC HEFTEL,
Member of Congress.

□ 1210

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
July 14, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5, Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House as follows:

(1) At 4:00 p.m. on Tuesday, July 1, 1986 and said to contain a message from the President whereby he transmits an exchange of notes extending the Governing International Fishery Agreement between the Government of the United States and the Government of the Union of Soviet Socialist Republics; and

(2) At 10:30 a.m. on Tuesday, July 8, 1986 and said to contain a message from, the President whereby he transmits the 18th Annual Reports on Highway Safety and National Traffic and Motor Vehicle Safety for 1985.

With kind regards, I am

BENJAMIN J. GUTHRIE,
Clerk, House of Representatives.

EXTENDING THE GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE U.S.S.R.—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-242)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of today, Monday, July 14, 1986.)

ANNUAL REPORTS ON HIGHWAY SAFETY ACT AND NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Public Works and Transportation and the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Monday, July 14, 1986.)

COMMUNICATION FROM THE HONORABLE JACK BROOKS, MEMBER OF CONGRESS

The SPEAKER laid before the House the following communication from Hon. JACK BROOKS:

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, June 25, 1986.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena issued by the United States District Court for the District of Columbia in the case of *Simon v. United States*, Docket No. 83-1304. After consultation with the General Counsel to the Clerk, I will notify you of my determinations as required by the Rules of the House.

With every good wish, I am,

Sincerely,

JACK BROOKS,
Chairman.

TAX BILL SHOULD CONSIDER REALITIES OF REAL ESTATE INVESTMENT

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, the tax reform conference starts this week, and there is no doubt in my mind that the bill will become law this year; but in our zeal to reform the tax laws, we need to ensure that we do not inadvertently do harm to the real estate industry in this country.

For example, the provisions of the proposed legislation, particularly in the bill of the other body, which would retroactively affect the tax treatment of existing real estate properties financed under current law could lead to foreclosures of some real estate properties and conceivably increase rents in the short term.

I have real problems with making the provisions of this law retroactive, as I believe that fairness requires advanced notice of the tax loss.

Similarly, in our attempts to restrict the excessive use of tax shelters by outside investors and limited partnerships, we should guard against making it more difficult for active investors whose livelihood is often exclusively devoted to real estate development and investment from taking the risks necessary to continue their business.

The task of reaching consensus in the conference will not be easy, and I do not envy the difficulties faced; and I am also confident that we will pass a bill this year. I just want to make certain that this bill does not throw out the baby with the bath water when it comes to the real estate investment industry in this country, and I urge the conferees to consider these ideas during the next few weeks.

PROTECT THE BUDGET SAVINGS

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, following the Supreme Courts' decision on Gramm-Rudman-Hollings, our No. 1 priority should be taking action to preserve the $11.7 billion in budget savings which were achieved through the March 1 sequestration. Those savings can be preserved if we carry out the "fallback" provisions of Gramm-Rudman-Hollings. The Temporary Joint Committee on Deficit Reduction, composed of the budget committees of the two Houses, should meet immediately to report a joint resolution affirming the $11.7 billion sequestration so that the House and Senate can ratify the savings by sometime next week. The Court, in its July 7 ruling on Gramm-Rudman-Hollings, gave us 60 days to pass such a resolution.

The March 1 sequestration savings must remain in effect. Otherwise, we will be compounding our future deficit reduction problems. If we add back the $11.7 billion in spending, we would be adding that much more to the deficit for fiscal year 1986. The effect would be compounded in future years. In fiscal year 1987 we would have to reduce the deficit by another $16.3 bil-

lion over and above what we had calculated. The chances of another sequestration this fall would be greatly increased. Altogether, over the 4 years from fiscal year 1986 through fiscal year 1989, our deficit reduction problem would rise by $65.4 billion.

We can avoid this, Mr. Speaker, by passing the necessary legislation to keep the March 1 sequestration in effect. At the same time, we should take action to correct the constitutional flaws of Gramm-Rudman-Hollings as it pertains to 1987.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow, Tuesday, July 15, 1986.

YOUTH SUICIDE PREVENTION ACT

Mr. HAWKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4650) to make grants available for youth suicide prevention programs, as amended.

The Clerk read as follows:

H.R. 4650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Youth Suicide Prevention Act".

SEC. 2. YOUTH SUICIDE PREVENTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Education shall establish a grant program to assist local educational agencies and private nonprofit organizations to establish and operate programs of youth suicide prevention in accordance with this Act.

(b) APPLICATION.—

(1) An agency or organization which desires to receive a grant from the Secretary under this Act shall submit an application to the Secretary in such form and at such times as the Secretary may require.

(2) In the case of an applicant which is a local educational agency, the application shall provide assurances that Federal funds made available under this Act will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in this Act, and in no case supplant such State or local funds.

(c) USE OF FUNDS.—Any youth suicide prevention program receiving assistance under this Act shall—

(1) assist in increasing awareness of the incidence of youth suicide among families of youths, school personnel, and community leaders;

(2) train school personnel and community leaders in individual and schoolwide strategies for youth suicide prevention;

(3) coordinate youth suicide prevention efforts under this Act with alcohol and substance abuse prevention programs funded by the Federal Government, State and local governments, and non-Federal agencies and organizations;

(4) through cooperative efforts, utilize community resources in the development and implementation of youth suicide prevention programs under this Act; and

(5) in a manner determined by the Secretary, cooperate with other appropriate organizations and agencies and with local, State, and Federal Government agencies in youth suicide prevention.

(d) GRANT LIMITATION.—Any grant made by the Secretary under this Act may not exceed $100,000 in any fiscal year.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) For fiscal year 1987, of the funds appropriated to carry out the Secretary's Discretionary Funds under section 583 of the Education Consolidation and Improvement Act of 1981 $1,000,000 shall be available to carry out the provisions of this Act.

(2) For each of the fiscal years 1988 and 1989, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(3) Section 583 of the Education Consolidation and Improvement Act of 1981 is amended by adding the following subsection:

"(c) For fiscal year 1987, from the funds reserved for the purposes of this section, subject to the provisions of subsection (b), the Secretary shall make available $1,000,000 to carry out the Youth Suicide Prevention Act.".

(f) DEFINITIONS.—For purposes of this Act—

(1) the term "local educational agency" has the meaning given in section 1001(f) of the Elementary and Secondary Education Act of 1965; and

(2) the term "Secretary" means the Secretary of Education.

SEC. 3. EVALUATION AND DISSEMINATION OF RESULTS OF PROGRAMS OF YOUTH SUICIDE PREVENTION.

(a) EVALUATION REQUIREMENT.—The Secretary shall provide for the evaluation of programs under section 2 of this Act.

(b) CONDUCT OF EVALUATIONS.—The evaluation shall be conducted by individuals not directly involved in the administration of the program or project operation under this Act. These outside evaluators and the program administrators shall jointly develop a set of evaluation criteria which provide for appropriate analysis of the programs.

(c) OBJECTIVE MEASURES.—In order to determine a program's effectiveness in achieving its stated goals, the evaluation shall contain objective measures of such goals and, whenever feasible, will obtain the specific views of program participants about such programs.

(d) DISSEMINATION.—The results of each evaluation conducted under this section shall be submitted to the Secretary for dissemination through the national diffusion network, in the form required for dissemination.

The SPEAKER. Is a second demanded?

Mr. FAWELL. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California [Mr. HAWKINS] will be recognized for 20 minutes and the gentleman from Illinois [Mr. FAWELL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume. The bill before the House today, H.R. 4650, offers a Federal response to a national tragedy: The alarming rise in the number of young people who take their own lives. Since 1960, suicide rates among people ages 15 to 24 have tripled. Last year, approximately 6,000 young people committed suicide. The actual number is probably much higher, since many suicides are not reported as such.

Many thousands more young people try to end their lives; the American Association of Suicidology estimates 50 attempts for every actual death.

Our Nation pays a price for the loss of these young lives. A premature death by suicide deeply affects not only the family, friends, and community of the young victim—it also affects the larger society that will never know or benefit from that child's potential. We can help prevent this deprivation of human potential. Several model programs—many of them based in schools—are already operating successfully around the country and hold promise for being replicated elsewhere.

H.R. 4650 will provide a very modest amount of Federal seed money to demonstrate successful youth suicide prevention techniques. The national program proposed in the bill will ensure that these demonstration projects are of high quality, well-coordinated with existing efforts, and nationally disseminated.

Recognizing the current budget situation, we have crafted this bill to use existing resources—$1 million from the Secretary of Education's discretionary funds—to start up this program in fiscal year 1987. Then, in fiscal years 1988 and 1989, the program will have its own, separate authorization of such sums as necessary.

I would like to commend the sponsors of this legislation, Congressman ACKERMAN and Congressman LANTOS for the leadership they have shown in calling attention to this serious problem and fashioning a Federal response.

Those of us who labor to ensure that children are educated, fed, and cared for cannot overlook a problem that robs our youth of their most precious gift.

I urge my colleagues to suspend the rules and pass H.R. 4650.

GOODLING AMENDMENT ON FISCAL YEAR 1987 AUTHORIZATION

An amendment to H.R. 4650 adopted in committee provides that there will be no additional costs for fiscal year 1987 under H.R. 4650. This amend-

ment, which was offered by Congressman GOODLING, requires fiscal year 1987 funding for the youth suicide prevention projects to be taken from an existing source, the Secretary's Discretionary Fund authorized by chapter 2 of the Education Consolidation and Improvement Act.

The Secretary currently has $3 million reserved for projects funded at his discretion. This bill earmarks $1 million for youth suicide prevention projects, so even if the appropriation for chapter 2 does not increase, the Secretary will still have $2 million for his own priorities. This is the pot of money the Secretary has been using to fund his "Character, Content, and Choice" projects.

□ 1220

Mr. Speaker, I reserve the balance of my time.

Mr. FAWELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill, H.R. 4650, the Youth Suicide Prevention Act.

Mr. Speaker, I would like to congratulate both the gentleman from New York [Mr. ACKERMAN] and the gentleman from California [Mr. LANTOS] with regard to their sponsorship of this bill.

Mr. Speaker, a single youth suicide is enough to cause shock and mourning in a whole community. The fact that thousands of young people are taking their own lives each year is a national tragedy. The Education and Labor Committee has held a series of hearings on youth suicide during the current Congress. In those meetings we heard testimony concerning the extent of the problem, who is likely to be involved, where suicides commonly occur, and what might be done to prevent suicides. Perhaps the most compelling testimony for action came from youths whose friends had either attempted or committed suicide. The weight of this testimony led the committee to believe some Federal action was called for.

Youth suicide is not a phenomenon that is restricted to any one part of the country. It strikes in suburban Chicagoland as easily and as often as it does the Hopi Indian reservation in New Mexico or any other part of the nation. Children and youth from poor and wealthy families, failing and achieving in school, with and without friends—all have taken their own lives. Witnesses at our hearings testified about the warning signals and cries for help some of these children made before attempting suicide.

It would be the purposes of this bill to increase awareness of the problem of youth suicide among families, school personnel, and community leaders; to train school personnel and community leaders in schoolwide suicide prevention strategies; to coordinate these prevention efforts with other community and government programs, such as alcohol and drug abuse programs; and to fund model suicide prevention programs that would not only have a local impact, but would serve as models for other communities across the country.

Two major changes were made in H.R. 4650 as it moved through the Education and Labor Committee which made the bill more acceptable to Members on both sides of the aisle. First, the authorization level for fiscal 1987 was reduced from $10 million to $1 million. In addition, for fiscal 1987, the $1 million authorization would be taken from the Secretary of Eduction's existing discretionary funds and thus would entail no new appropriations. Second, an evaluation and dissemination component was added by Mr. MCKERNAN. Successful results will be documented and submitted to the National Diffusion Network. Thus, other school districts and agencies will readily learn of effective suicide prevention programs being conducted in all parts of the country.

With these changes, I support H.R. 4650. I urge my colleagues to join me in this effort to help prevent youth suicide by voting in favor of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HAWKINS. Mr. Speaker, I yield 7 minutes to the gentleman from New York [Mr. ACKERMAN], one of the main sponsors of this bill.

Mr. ACKERMAN. I thank the gentleman for yielding time to me.

Mr. Speaker, on behalf of millions of American families, as well as the 600,000 young people who attempted to take their own lives last year alone, and especially the 6,000 of them who succeeded, I strongly urge my colleagues to support H.R. 4650—the Youth Suicide Prevention Act.

Our country has treated youth suicide as an unspeakable taboo, often refusing to even acknowledge that it exists. While America remains silent, thousands of adolescents continues to be cut down each year by their own hands.

Young lives with bright futures are lost forever. Teenage suicide has, indeed, reached epidemic proportions in this Nation.

And yet, we are not doing enough to reach out to these troubled youngsters. We must declare war on this scourge of America's teenagers.

Earlier this year, Congressman LANTOS and I introduced a measure which we believe will be a responsible and necessary beginning to answer the silent cries for help from our youngsters.

Our breakthrough legislation would create a small grant program within the Department of Education. The Secretary would select proposals from local education agencies, and private, nonprofit organizations to design and operate suicide-prevention programs.

In addition, the measure establishes an evaluation mechanism for funded programs, and uses the National Diffusion Network to disseminate the prevention information to school districts and organizations interested in creating their own suicide prevention programs.

The bill, if enacted, would allocate $1 million from the Department of Education's discretionary fund. The bill does not authorize any new appropriation for 1987. In 1988 and 1989 Congress may appropriate such sums as are deemed necessary.

The programs that would be developed with the help of this legislation would reflect the valuable input of parents and community leaders, as well as school personnel, other experts, and teenagers themselves. Our approach appeals to the talents and expertise of all segments of the education and youth service field, and focuses them on the important task of saving the lives of America's kids.

Mr. Speaker, suicide is a plague that knows no boundaries. A troubled child stays behind no borders. Geography, education level, income, ethnicity, gender, and social strata—none of these is a limit on teenage suicide. This plague can strike a youngster in Scarsdale, Pacific Palasades, or Skokie as easily, quickly and fatally as it hits a child in Harlem, Watts, or South Chicago.

While the level of teenage suicide has exploded over the last 30 years, we are only now fully understanding the dimensions of this human tragedy. Schools that have established programs are handicapped by underfunding and isolation, and unfortunately these efforts often do not begin until too late—only after the loss of another precious young life.

We are experiencing a national crisis which cries out for national leadership. Today, this body can take the first bold step toward attaching the roots of a horrifying disease that has become the third largest killer of our young people.

We know that, with enough commitment, we can stop the madness. The communities, the schools, Mr. Speaker, the parents of this great Nation are turning to Congress to wake us all from our collective nightmare.

Other Members have joined Mr. LANTOS and myself in this crusade. My good friend from New York, Mr. BIAGGI, demonstrated his strong concern on this issue by conducting a field hearing on youth suicide in Westchester County, NY; my distinguished colleague from New York, Mr. DIOGUARDI, has shown great leadership in this issue by introducing the youth suicide prevention month resolution

for 2 consecutive years and working hard for the passage of H.R. 4650; Mr. FAWELL has shown continued interest and support, and my esteemed friend from California, Chairman HAWKINS, has shown great commitment to this issue by shepherding the act through his committee and bringing it now to the floor.

And during committee and subcommittee markups, Mr. GOODLING, Mr. WILLIAMS and Mr. MCKERNAN offered constructive amendments, which I believe have improved the Youth Suicide Prevention Act.

Before I conclude my statement, I would like to pay tribute to two special young people who testified before Chairman HAWKINS' subcommittee. These two teenagers shared with subcommittee members their experience in intervening in suicide attempts.

Fred Wyatt and Beth Corney are two young Americans who took it upon themselves to do directly that which all of us here today have the opportunity to do indirectly—to stand between a troubled youngster and death.

Mr. Speaker, any loss of life is tragic. The loss of a child is devastating. The self-inflicted death of a youngster is an unthinkable horror. Yet think we must—so we can understand it and prevent it.

Mr. Speaker, I urge my colleagues to vote in favor of H.R. 4650.

Mr. WILLIAMS. Mr. Speaker, every 17½ minutes, someone in the United States turns to suicide. In 1984, more than 5,000 teenagers committed suicide; some experts estimate that the figure may be closer to 6,000.

Dr. Fred Weldon, director of the Center for Student Development, University of Montana, informs me that as of 1981, Montana ranked fourth with 17.1 suicides per 100,000. In 1981, Montana had 136 reported suicides.

Dr. Marv Miller, a renowned suicidologist at San Diego Suicide Information Center, indicates that half of all suicides could be prevented if procedures and training were available to make more of us familiar with the warning signals.

I support H.R. 4650, the Youth Suicide Prevention Act. I am pleased that two of my amendments are included in the bill.

The first amendment ensures that family members in addition to school personnel and community leaders are the targets of efforts to increase awareness of the warning signs of teenagers who may attempt suicide.

The second amendment requires coordination of a school's suicide prevention efforts with school-based and community-based alcohol and substance abuse programs. Studies show that drinking, for example, is a big factor in suicides.

For some individuals, alcohol and drug use cause depression, affect one's judgment, and may pave the way for a suicide attempt. Although we don't know exactly how the relationship between substance abuse and suicide is played out, whether it is causal or not, we do know it is important. I would hope that these programs will help us discover this important link.

Mr. GILMAN. Mr. Speaker, today we have been given the opportunity to discuss one of the most serious epidemics to have plagued our Nation. The epidemic to which I am referring today is sinister and elusive in its appearance. In fact, most cases are not diagnosed until it is too late. I am of course referring to the high rate of suicide amongst our Nation's youth.

My colleagues in the House have been carefully monitoring the dramatic increase of youth suicide. It is with great relief, then, that we are able to witness the speed with which a compromise measure, H.R. 4650, has come before us today for our consideration. H.R. 4650 is the product of the gentleman from California [Mr. LANTOS] and the gentleman from New York [Mr. ACKERMAN] tireless devotion to waging a war against an elusive enemy. I congratulate my colleagues for their efforts to write legislation to address the preventable catastrophe when a young person has lost hope for the future.

Suicide is a preventable disease, in that it is really a mental disorder, induced by a wide variety of factors including drugs, family, and societal pressures. Suicide is spreading among this Nation's youth and is a troubling matter for parents, teachers, and legislators alike. In the past 5 years, suicide has become the second leading cause of death, following accidents, for young persons ages 15 to 24. Although the suicide rate for the population at large has remained essentially steady for many decades, for young people it has increased 25 percent between 1960 and 1983.

As ranking minority member of the Select Committee on Narcotics, I have become conversant in the myriad of ways in which substances abuse can aggravate depression, and destabilize an otherwise normal youth. More importantly, I have seen the ways in which drug prevention programs on a large scale can put such substance abusers back on the right track. Why not apply this theory to suicidal individuals as well?

School districts, until now, have had no systematic way in which to deal with depressed or potentially suicidal students. Now, as we are beginning to recognize the magnitude of this problem, we must ask ourselves how we can best coordinate a community, government, and private effort to stem the tide of youth suicide.

As a cosponsor of H.R. 4650, I believe that this measure is a step in the right direction. The Youth Suicide Prevention Act would create a special $1 million grant program in the Department of Education in fiscal year 1987 and such sums as may be necessary in fiscal years 1988–89, to assist school districts and private nonprofit organizations in establishing suicide prevention programs. I believe that the combination of Government and private sector involvement is essential for obtaining maximum results. Indeed, parents, teachers, school administrators, and other counseling service professionals would be deeply involved in making sure that these "youth-at-risk" never reach the point where they feel they cannot cope with everyday pressures or tragedies.

H.R. 4650 sets out to educate and train school personnel and community leaders in individual and schoolwide strategies for the prevention of teenage suicide. This is one educational program which I am certain you will agree is noncontroversial. Let us then join together and support this legislation which at best might be instrumental in saving the lives of our most precious national resource—our children.

Mr. LANTOS. Mr. Speaker, every 90 minutes an American teenager commits suicide. Last year more than 5,000 young people took their own lives. The tragic enormity of this problem is only partially captured by this appalling figure. As many as 500,000 youths attempt suicide each year, while another million or more contemplate it. During the past 20 years, the suicide rate for young people aged 15 to 24 has tripled.

Three years ago, Mr. Speaker, a wall of silence in Congress was broken when I introduced the first legislation in Congress to deal with teenage suicide. At that time, youth suicide was a topic reluctantly discussed. It was obscured by unspoken taboos. I conducted, in San Francisco, the first public hearings specifically devoted to this tragic topic. When the legislation was introduced, many of my courageous colleagues joined me in cosponsoring the initial bill to focus Federal attention and resources upon this problem.

I am delighted that in this session of Congress my distinguished colleague from New York, [Mr. ACKERMAN], and I have joined forces to continue to press for action on this serious issue by introducing H.R. 4650, the Youth Suicide Prevention Act which is being considered today. Over 50 of our colleagues in the Congress, from both sides of the aisle, have joined us in the effort to address this harrowing problem in supporting H.R. 4650 and my eariler similar bill. This historic legislation will help stem the horrible hemorrhage of youth suicide, and will salvage and repair the lives of many youth in crisis. It is but the first step in reversing an acknowledged tragic trend—but it is an essential first step that can lead to further sustained action to preserve our country's youth.

Despite the magnitude and seriousness of this problem, no one can completely understand the causes of youth suicide. It is impossible to draw a single, simple portrait of the typical young suicide victim. Victims come from all socioeconomic and ethnic groups.

Family problems, loneliness, depression, and desperation appear to be important factors, as do poor communication within the family, a sense of isolation, feelings of rejection, and lack of self-esteem. Many youth lack the skills or opportunity to constructively communicate their unhappiness, anxieties, and frustrations. They find that efforts to vent their feelings or express their fears are either unacceptable to adults, ignored or met by defensiveness. As a consequence they are driven further into isolation, reinforcing the belief that life is hopeless.

Family problems, however, cannot carry the full brunt of responsibility for the epidemic of youth suicide. A broad array of indicators of stress and destabilization in contemporary society, as well as new adolescent rituals asso-

ciated with old rites of passage from childhood into adulthood, are also significant factors. No single element necessarily brings about suicidal behavior; but, when they occur in combination, they are indicators of possible suicidal behavior.

The Youth Suicide Prevention Act of 1986 will play a significant part in battling this tragedy. The individual school districts, parent-teacher groups, churches, and other local organizations have the principal responsibility for meeting this crisis. These local organizations, however, do not have the resources to undertake the research and program development necessary to identify and exploit effective suicide prevention programs. Our legislation can provide the critical help essential to develop pilot programs and then disseminate information to other groups which can benefit from that knowledge.

Our legislation will provide a series of grants totaling $1 million over the next year to local educational agencies and private nonprofit organizations to establish demonstration youth suicide prevention programs. The funds will be available from the Department of Education's discretionary fund with no additional cost to the taxpayer. This innovative bill will greatly increase national awareness of this crisis among our youth by taking positive action to deal with it.

Mr. Speaker, San Mateo County, which I have the honor to represent, is fortunate to have the San Mateo Suicide Prevention and Crisis Center. Under the direction of my constituent Charlotte Ross, the center has established a model program on suicide prevention and education. The legislation, which the House is considering today, will encourage the development of other such model programs and will assure that information about such successful programs is made available to local education agencies and private nonprofit organizations.

I would like to take this opportunity to extend my thanks to my dear friend and fellow Californian Chairman HAWKINS. His personal interest in this bill has made its passage possible. I would also like to commend my colleagues from New York, [Mr. ACKERMAN], whose leadership was crucial in this effort, and Mr. DIOGUARDI, Republican from White Plains, whose active support demonstrated the bipartisanship that characterizes this problem and which is essential to the successful passage of our legislation.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. FAWELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAWKINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from California [Mr. HAWKINS] that the House suspend the rules and pass the bill, H.R. 4650, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1235

THE 75TH ANNIVERSARY OF THE INCORPORATION OF THE VILLAGE OF LINCOLNWOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to call to the attention of my colleagues that the village of Lincolnwood, located in the 11th Congressional District of Illinois, which I am honored to represent, will be commemorating its 75th year of incorporation during the weekend of July 19 and 20.

It will be my privilege to join with Major Frank J. Chulay of the village of Lincolnwood, the members of Lincolnwood's Diamond Jubilee Committee, public officials and dignitaries, business and community leaders, as well as the citizens of Lincolnwood, in participating in the festivities of this gala celebration.

The village of Lincolnwood was incorporated in 1911, as Tessville, named after one of the early farmers in the region. Tessville officially became the village of Lincolnwood in 1936. The guiding force in the development of Lincolnwood was Henry A. Proesel, who was first elected mayor of Tessville in 1931, and served as mayor until April 1977.

During his 46 years of continuous service, Mayor Proesel transformed the village of Lincolnwood from a small farm community into a thriving and model residential area. In 1933, he planted 10,000 elm trees on all the village parkways, and during the mid-1940's, he established primary school facilities to attract young families into the village as homeowners. Also, he encouraged the development of light industry which benefited the community not only by providing job opportunities, but also by ensuring minimal residential tax rates.

Mayor John C. Porcelli, as mayor from 1977 to 1985, served the people of Lincolnwood conscientiously and with total commitment, ensuring that the village remained an outstanding place to live. Mayor Frank J. Chulay, the current mayor, continues in the proud tradition of providing quality service for Lincolnwood's residents.

Today the village of Lincolnwood has a population of about 12,000 people living in a 2½-square-mile area, just north of and adjacent to the city of Chicago. With about 3,800 homes, the village is one of the most attractive and desirable neighborhoods in the Chicago suburban area in which to live. Boasting a large library and cultural center, six health care facilities, an outstanding elementary school district with a 17-acre campus in the heart of the village, and a village park with a pool and athletic facility, the village of Lincolnwood remains an ideal community in which to live, to work, and to raise a family.

Mr. Speaker, on the 75th anniversary of the incorporation of the village of Lincolnwood, I would like to take this opportunity to congratulate Mayor Chulay, the village trustees, and the other past and present public officials in the village, who have so diligently worked to achieve the commercial and industrial growth of Lincolnwood, while at the same time remaining committed to the highest standards of residential living. I would like to extend to these officials and to all of the residents of Lincolnwood, my best wishes for future success as their community continues to prosper in the years ahead.

STATUS OF THE GENEVA ARMS CONTROL TALKS: ROUND V

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FASCELL], is recognized for 5 minutes.

Mr. FASCELL. Mr. Speaker, consistent with the Foreign Affairs Committee and its Subcommittee on Arms Control's continuing oversight of the Geneva arms control process, I am inserting in the RECORD at this time an updated chart that summarizes the United States and Soviet arms control proposals tabled at Geneva as of June 1986. The chart is based on the best available information from unclassified sources.

As round V of the Geneva talks ended a few weeks ago, it was evident that some movement had been made. It remains to be seen whether such movement will result in steps forward or backward. At any rate, the Soviets seemed to signal some important changes from their previous position. One of the most important of these proposals is in the defense and space area. The Soviets have called for a pledge by the United States and the Soviet Union not to withdraw from the ABM Treaty for 15 years and that work on SDI-related strategic defenses be limited to laboratory research as provided in the ABM Treaty of 1972. In previous rounds, the Soviet Union has held firmly to a ban on all SDI-related research.

While both the United States and the Soviet Union are engaging in an informal moratorium on ASAT testing, there remains much disagreement over how best to implement a permanent formal ban on ASAT weapons.

Previous Soviet proposals in the START area have included INF missiles and aircraft in their proposed ceiling on strategic arms. The Soviet's June 1986 proposal drops their insistence on including these systems in the ceiling on strategic arms. Along with this part of their proposal, the Soviets increased the number of allowed nuclear charges or warheads from 6,000 in past proposals to 8,000, with no more than 4,800 on any leg of the triad—ICBM's, SLBM's, or bombers. The United States proposes 1,250 to 1,450 ICBM and SLBM launchers, with freedom to mix, while the Soviets propose 1,600 ICBM's, SLBM's, and heavy bombers.

In the INF area, the United States has proposed the elimination of long-range INF systems in Europe over a period of 3 years, that is, zero U.S. Pershing 2's and GLCM's and zero Soviet SS–20's. The Soviets have also proposed the elimination of U.S. Pershing 2's and GLCM's and the elimination of SS–20's to the west of the 80 degree longitude. As part of the Soviet proposal, they would not increase their SS–20s in Asia and any reductions in SS–20's would be contingent on a reduction of the threat posed by U.S. nuclear systems on ships and aircraft in Asia. Great Britain and France would also have to pledge not to build up their nuclear arsenals under the Soviet proposal. The U.S. proposal places no constraints on British and French INF systems. The Soviets have expressed willingness to agree to appropriate verification measures, including on-site inspection in the INF area.

As is clear, "something" has transpired in Geneva. Hopefully, this will lead to real and lasting as opposed to illusory and transient progress in arms control as both parties prepare for the sixth round that is scheduled to begin this September.

In an effort to enhance the prospects of success in Geneva, the House last month passed a bipartisan measure, House Concurrent Resolution 350, by a vote of 256 to 145, which urged the President to honor the SALT agreements. U.S. national security interests are enhanced by the SALT agreements which contain important constraints on Soviet nuclear force developments. House Concurrent Resolution 350 also includes language supporting our negotiators in Geneva in their efforts to reduce the nuclear arsenals of the superpowers below SALT II levels. As we preserve the main controls and constraints of the SALT agreements, it is my hope that important progress can be made in arms control in the upcoming round of talks and at any future summit meetings between President Reagan and Soviet leader Gorbachev.

I. STATUS OF GENEVA NEGOTIATIONS, JUNE 1986—STRATEGIC

Category	United States proposal [1]	Soviet proposal [2]
Linkage	Agreement on strategic arms should not be dependent on a resolution on space and strategic defense issues.	Strategic arms reductions are linked to agreement on space and defensive weapons.
Delivery vehicles:		
Strategic missile launchers	1,250–1,450 ICBM and SLBM launchers, with freedom to mix	1,600 ICBM's, SLBM's, and heavy bombers,. The June 1986 proposal drops the earlier Soviet insistence that United States INF missiles and aircraft be included in the ceiling on strategic arms. The proposal reportedly does, however, call for a freeze on these systems.
Strategic bombers	350 United States: B–52, B–1, Stealth Soviet: Bison, Bear, Blackjack, Backfire	
Weapons:		
Strategic missile RV's	4,500 with no more than 3,000 on ICBM's	8,000 "nuclear charges"—i.e., warheads, gravity bombs, SRAM's, cruise missiles—on strategic delivery vehicles—with no more than 4,800 on any leg of the triad (ICBM, SLBMs, or bombers).
Weapons other than ALCM's on strategic bomber	Not limited	
ALCM's	1,500—Ceiling contingent on Soviet acceptance of RV and throw-weight limits	Previous proposal called for a ban on all long-range cruise missiles (those with a range greater than 600 km). Whether the ban on ALCM's has been retained in the new proposal has not been made public.
SLCM's	Not limited	Long-range SLCM's to be included in 8,000 total. Reportedly to be permitted on submarines, but not on surface ships.
Throwweight	6 million lbs.	Not addressed in previous proposal, and as yet, there has been no indication that throwweight is mentioned in the new proposal.
New systems	United States: Ban on Midgetman Soviet: Ban on SS–24, SS–25, and SS–18 follow-on Prohibitions result from ban on mobile missiles and new or modernized heavy missiles	Previous proposal called for a ban on new types of strategic delivery systems, with "new type" reportedly intended to apply to systems not flight tested as of an unspecified date. Press reports have not indicated whether this ban is retained in the new proposal.

[1] The U.S. proposal is discussed in Nitze, Paul H. Negotiations on Nuclear and Space Arms. Remarks Before a Symposium at the Department of State's Foreign Service Institute on March 13, 1986. Department of State Bulletin, v. 86, May 1986, p. 50–53.

[2] The latest Soviet offer was reportedly put on the table on June 11, 1986. In a speech before the CPSU Central Committee on June 16, General Secretary Gorbachev acknowledged the new proposal, and provided sketchy information that confirmed some of the reports that had appeared in the Western press. Details on the June 1986 Soviet proposal are scant. The aspects of the proposal that have been made public are described in Gordon, Michael. U.S. Arms Officials Finding Problems in Offer by Soviet. New York Times, June 17, 1986, p. A/, A6.

II. STATUS OF GENEVA NEGOTIATIONS—INF

Category	United States proposal [1]	Soviet proposal [2]
Eurpope:		
United States and Soviet long-range INF (LRINF)	United States: 0 P–2's; 0 GLCM's Soviet: 0 SS–20's Elimination phased over 3 years, with reduction to 140 launchers in the first year, to 70 in the second, and to 0 in the third. Missiles and launchers withdrawn would be destroyed. During the reduction period, the United States would reserve the right to possess a number of LRINF systems equal to the Soviet LRINF total in Europe and Asia. The excess over allowed deployment's in Europe would be retained in the continental United States.	United States: 0 P–2's; 0 GLCM's Soviet: 0 SS–20's to the west of 80° longitude United States undertakes not to transfer medium-range or strategic missiles to other countries. Missiles withdrawn would be destroyed.
British and French INF systems	No constraints	Great Britain and France pledge not to build up their nuclear arsenals.
Shorter-range INF missiles	Ceiling on SRINF, either at current Soviet levels, or at levels both sides had on January 1, 1982.	No limit formally proposed, but stated willingness to withdraw SRINF if United States P–2's and GLCM's are eliminated.
Asia: LRINF missile launchers	0 SS–20's. Reductions phased over 3 years, in proportion to SS–20 reductions in Europe	SS–20's in Asia would not be increased. Reductions said to be contingent on reduction of the threat posed by United States nuclear systems on ships and aircraft in Asia.
Verification	Count each side's missiles to set totals from which reductions would be made; designate deployment areas; establish procedures for monitoring production and destruction, possibly involving some on-site inspection.	Expressed willingness to agree to appropriate verification measures, including on-site inspection.

[1] The United States proposal described here was advanced in February 1986, in response to the Soviet proposal of January 15. Ambassador Paul Nitze presented an outline of the U.S. proposal in Negotiations on Nuclear and Space Arms, Remarks Before a Symposium at the Department of State's Foreign Service Institute on March 13, 1986, Department of State Bulletin, v. 86, May 1986, p. 50–53. In addition to the proposals to eliminate LRINF missiles, an earlier U.S. offer to freeze INF launchers at 140 reportedly remains on the table in Geneva. See, Gordon, Michael, Arms Talks Adjourn With No Gains, New York Times, March 6, 1986, p. A3. The U.S. proposal on INF verification is reported in Oberdorfer, Don and Walter Pincus, U.S. Offers Nuclear Inspection Plan, Washington Post, March 15, 1986, p. A1, A18.

[2] The Soviet proposal to eliminate LRINF in Europe, first presented by Gorbachev on January 15, 1986, was formalized in a draft treaty introduced in Geneva on May 15. Sources for the Soviet proposal include: Gorbachev statement in Pravada, January 16, 1986, FBIS Soviet Union Daily Report, January 16, 1986, p. AA1–AA9; press conference in Moscow, FBIA Soviet Union Daily Report, January 21, 1986, p. AA1–AA13. On SS–20s in Asia, see General Secretary Gorbachev's speech before the CPSU Central Committee, June 16, 1986; and Foreign Minister Shevardnadze's comments in Tass, January 16, 1986, FBIS Soviet Union Daily Report, January 17, 1986, p. C2. On SRINF, see Shevardnadze's speech before the CPUS Party Congress, FBIS Soviet Union Daily Report National Affairs Supplement, March 3, 1986, p. 017.

III. STATUS OF GENEVA NEGOTIATIONS—SPACE AND DEFENSE

Category	United States position [1]	Soviet position [2]
Strategic defenses	Permit research on strategic defenses within ABM Treaty constraints; seek "a Soviet commitment to explore * * * how a cooperative transition could be accomplished, should new defensive technologies prove feasible".	Pledge not to withdraw from the ABM treaty for at least 15 years; limit work on SDI-type strategic defenses to laboratory research, "that is, the threshold which the United States has already approached."
Antisatellite weapons (ASAT's)	An ASAT agreement is not in U.S. national security interests at this time	United States should join the ASAT testing moratorium that the Soviet Union is currently observing.

III. STATUS OF GENEVA NEGOTIATIONS—SPACE AND DEFENSE—Continued

Category	United States position [1]	Soviet position [2]
Verification	"Open laboratories" arrangement for exchanged briefings on each other's strategic defense programs, and for reciprocal visits to laboratories where the research is being conducted.	Expresed willingness to agree to necessary verification measures.

[1] U.S. postion on space and defensive systems is stated in Nitze, Paul H. The Nuclear and Space Arms Talks: Where We Are After the Summit. U.S. Department of State, Current policy, No. 770. 3p. U.S. policy on ASAT weapons is expressed in U.S. Policy on ASAT Arms Control. Communication from the President of the United States. House Doc. 98-197. Washington, U.S. Govt. Print. Off., 1984.

[2] Speech by General Secretary Gorbachev before the CPSU Central Committee, June 12, 1986. Gorvachev discussed verificaiton in his statement of January 15, 1986, published in Pravda, January 16, 1986, FBIS Soviet Union Daily Report January 16, 1986, p. AA1-AA9.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ACKERMAN) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

Mr. STRATTON, for 60 minutes, on July 16.

Mr. WEISS, for 60 minutes, on July 16.

Mr. GAYDOS, for 60 minutes, on July 15.

Mr. GAYDOS, for 60 minutes, on July 16.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FAWELL) and to include extraneous matter:)

Mr. FRENZEL in two instances.

Mr. HENRY.

Mr. CONTE.

Mr. VANDER JAGT in three instances.

Mr. WEBER.

(The following Members (at the request of Mr. ACKERMAN) and to include extraneous matter:)

Mr. UDALL.

Mr. LIPINSKI in three instances.

Mr. MARTINEZ in two instances.

Mr. HAMILTON in 10 instances.

Mr. DORGAN of North Dakota.

Mr. TORRICELLI.

Mr. KOSTMAYER.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mrs. LLOYD in five instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. DE LA GARZA in 10 instances.

Mr. DYSON.

Mr. FAUNTROY.

Mrs. SCHROEDER.

Mr. FASCELL.

Mr. TORRES.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2095. An act to reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act; to the Committee on Education and Labor.

S. 2147. An act to extend the authorization for not-for-profit organizations operated in the interest of handicapped and blind individuals to receive procurement contracts under the Small Business Act; to the Committee on Small Business.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker pro tempore:

H.R. 237. An act to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such Act;

H.R. 4420. An act to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes;

H.R. 4515. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes;

H.R. 4801. An act to amend section 994 of title 28, United States Code, to clarify certain duties of the United States Sentencing Commission;

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965;

H.J. Res. 429. Joint resolution to designate July 2, 1986, as "National Literacy Day"; and

H.J. Res. 664. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day," and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty.

SENATE ENROLLED BILL SIGNED

The SPEAKER pro tempore announced his signature to an enrolled bill of the Senate of the following title:

S. 1625. An act to permit the use and leasing of certain public lands in Nevada by the University of Nevada.

BILLS AND JOINT RESOLUTIONS PESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following day present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On July 1, 1986:

H.J. Res. 429. Joint resolution to designate July 2, 1986, as "National Literacy Day";

H.J. Res. 664. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day", and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty;

H.R. 237. An act to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such act;

H.R. 4420. An act to amend title 10, United States Code, to revise the retirement system for new members of the uniformed services, and for other purposes;

H.R. 4515. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes;

H.R. 4801. An act to amend section 994 of title 28, United States Code, to clarify certain duties of the U.S. Sentencing Commission;

H.R. 4841. An act to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the act; and

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and the Humanities Act of 1965.

ADJOURNMENT

Mr. ACKERMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 15, 1986, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3802. A letter from the Comptroller General of the United States, transmitting a review of the deferral of budget authority affecting the Farmers Home Administration submitted by the President in his fourth special message on March 12, 1986, pursuant to 2 U.S.C. (H. Doc. No. 99-243); to the Committee on Appropriations and ordered to be printed.

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3803. A letter from the Comptroller General of the United States, transmitting a report on the status of budget authority that was proposed for rescission by the President in his sixth special message for fiscal year 1986 dated April 25, 1986, pursuant to 2 U.S.C. 685 (H. Doc. No. 99-240); to the Committee on Appropriations and ordered to be printed.

3804. A letter from the Executive Associate Director, Office of Management and Budget, transmitting notification that appropriations to the Department of Justice have been reapportioned on a basis that indicates the necessity for supplemental estimates of appropriations, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

3805. A letter from the Director, Office of Management and Budget, transmitting a cumulative report on rescissions and deferrals of budget authority for July 1986, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 99-244); to the Committee on Appropriations and ordered to be printed.

3806. A letter from the Principal Deputy Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the decision to convert to contractor performance the grounds (other than improved) services at the Marine Corps Air Station, El Torro, CA, pursuant to 10 U.S.C. 2304 nt; to the Committee on Armed Services.

3807. A letter from the Secretary of Defense, transmitting the unclassified version of the 1986 strategic defense initiative annual report, pursuant to 10 U.S.C. 139 nt; to the Committee on Armed Services.

3808. A letter from the Secretary of Defense, transmitting the study of loss of production capacity of critical ferroalloys, pursuant to Public Law 99-145, section 1613(d) (99 Stat. 776); to the Committee on Armed Services.

3809. A letter from the Chairman, President's Blue Ribbon Commission on Defense Management, transmitting reports entitled "A Quest for Excellence", "Conduct and Accountability", and "National Security Planning and Budgeting"; to the Committee on Armed Services.

3810. A letter from the Secretary of Housing and Urban Development, transmitting the 1986 consolidated annual report on community development programs, pursuant to 42 U.S.C. 5313(a); to the Committee on Banking, Finance and Urban Affairs.

3811. A letter from the Auditor, District of Columbia, transmitting a report entitled "Review of Request for Proposal No. JA/86040 to Conduct a Comprehensive School-Based Substance Abuse and Prevention Program in the D.C. Public School System", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3812. A letter from the Auditor, District of Columbia, transmitting a report entitled "Revenue Report for March 1986", pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3813. A letter from the Executive Director, D.C. Retirement Board, transmitting the personal financial statement for Board member Bonnie R. Cohen, pursuant to D.C. Code section 1-732, 1-734(a)(1)(A); to the Committee on the District of Columbia.

3814. A letter from the Commissioner for Rehabilitation Services, Department of Education, transmitting a report reflecting technical corrections to the annual report of the Rehabilitation Services Administration submitted by the President on June 3, 1986, pursuant to 29 U.S.C. 712; to the Committee on Education and Labor.

3815. A letter from the Secretary of Labor, transmitting a study of means to assist high unemployment groups, pursuant to 29 U.S.C. 204(d)(3); to the Committee on Education and Labor.

3816. A letter from the Secretary of Labor, transmitting a report on supplementary mechanisms to increase community service employment opportunities for Older Americans, pursuant to 42 U.S.C. 3056 nt; to the Committee on Education and Labor.

3817. A letter from the Secretary of Energy; transmitting a report on progress by State authorities and nonregulated utilities in complying with the statute's requirements relating to consideration of 11 ratemaking and regulatory policy standards, pursuant to 15 U.S.C. 3209(b); to the Committee on Energy and Commerce.

3818. A letter from the Acting Assistant Attorney General of the United States; transmitting a review of voluntary agreements under the International Energy Program, pursuant to 42 U.S.C. 6272(i); to the Committee on Energy and Commerce.

3819. A letter from the General Counsel, Department of Energy; transmitting a notice of meetings related to the International Energy Program; to the Committee on Energy and Commerce.

3820. A letter from the Acting Secretary of State, transmitting the FY 1985 annual report of financial contributions by the United States to international organizations in which the U.S. participates as a member, pursuant to 22 U.S.C. 262a; to the Committee on Foreign Affairs.

3821. A letter from the Assistant Secretary of State for Legislative and intergovernmental Affairs; transmitting notification of a proposed license for the export of certain major defense equipment, articles, or services to Taiwan, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign affairs.

3822. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of intent to issue commercial export license for the sale of TAFLIR radar systems to the Government of Switzerland (Transmittal No. MC-31-86), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

3823. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of the intent to approve a commercial manufacturing licensing agreement for the protection in Japan of a modified AN/ASN-141 (LN-39J) inertial navigation unit for the LN-39J inertial navigation system for the F-4 EJ KAI aircraft (Transmittal No. MC-28-86), pursuant to 22 U.S.C. 2776(d); to the Committee on Foreign Affairs.

3824. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of proposed antiterrorism assistance to Guatemala, pursuant to FAA, section 574(a)(1) (97 Stat. 972); to the Committee on Foreign Affairs.

3825. A letter from the Director, Defense Security Assistance Agency, transmitting information concerning the Department of the Navy's proposed lease of Defense articles to Turkey (Transmittal No. 37-86), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

3826. A letter from the Director, Defense Security Assistance Agency, transmitting information concerning the Department of the Navy's proposed lease of defense articles to Turkey (Transmittal No. 36-86), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

3827. A letter from the Director, Defense Security Assistance Agency, transmitting information concerning the Department of the Air Force's proposed lease of defense articles to the North Atlantic Treaty Organization (SHAPE) (Transmittal No. 35-86), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

3828. A letter from the President of the United States, transmitting a report on progress toward a negotiated solution of the Cyprus problem, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

3829. A letter from the Acting Secretary of Commerce, transmitting notification of the President's intent to extend existing foreign policy export controls on South Africa for the period July 13, 1986 through July 12, 1987, pursuant to 50 U.S.C. app. 2405(f); to the Committee on Foreign Affairs.

3830. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting the 1986 annual report on the Sahel Development Program, pursuant to 22 U.S.C. 2151s(b); to the Committee on Foreign Affairs.

3831. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of the political contributions by Herbert E. Horowitz of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3832. A letter from the President, Overseas Private Investment Corporation, transmitting a report on operations of the Corporation, pursuant to FAA, section 240A (92 Stat. 216; 95 Stat. 1024); to the Committee on Foreign Affairs.

3833. A letter from the Acting Secretary of Agriculture, transmitting notice of a revision to four systems of records, rescission of a system, and notice of a new system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3834. A letter from the Assistant Attorney General, Department of Justice, transmitting a report on activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3835. A letter from the Chief, Insurance and Employee Benefits, Executive Secretariat, Air Force Welfare Board (Retirement Plan Administrator), Department of the Air Force; transmitting the annual report on the Air Force Nonappropriated Fund [AFNAF] retirement plan for civilian employees for fiscal year 1985, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3836. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of a new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3837. A letter from the Deputy Assistant Secretary of Defense Comptroller (Administration), transmitting notice of a new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3838. A letter from the Deputy Assistant Secretary of Defense Comptroller (Administration), transmitting notice of a new computer matching program, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3839. A letter from the Director of Civilian Personnel, Uniformed Services University of the Health Sciences, F. Edward Hebert School of Medicine, Department of Defense, transmitting the 1985 pension report, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3840. A letter from the Assistant Vice President, Farm Credit Banks of Baltimore, transmitting a report on the farm credit district of Baltimore retirement plan for the year ending December 31, 1985 pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3841. A letter from the Acting Archivist, National Archives and Records Administration, transmitting the annual report of the National Archives and Records Administration for the fiscal year ending September 30, 1985, pursuant to 44 U.S.C. 2106; to the Committee on Government Operations.

3842. A letter from the Executive Officer, National Science Board, transmitting the annual report in compliance with the Government in the Sunshine Act for calendar year 1985, pursuant to 5 U.S.C 552b(j); to the Committee on Government Operations.

3843. A letter from the Acting Chairman, National Transportation Safety Board, transmitting a report on compliance with the requirements of the internal accounting and administrative control system, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

3844. A letter from the Secretary of Transportation, transmitting the 1985 report on the valuation of the U.S. Coast Guard military retirement system, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3845. A letter from the Assistant Secretary for Administration, Smithsonian Institution, transmitting the annual pension reports for the Smithsonian Institution, the Woodrow Wilson International Center for Scholars, and Reading is Fundamental, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3846. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting comments of the Commission on the proposal by the U.S. Army Corps of Engineers to construct a visitors' center and parking facility at Arlington National Cemetery, Arlington, VA, pursuant to 16 U.S.C. 470(b); to the Committee on Interior and Insular Affairs.

3847. A letter from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting a report on the suspension of deportation of certain aliens of good character and with required residency when deportation causes hardship under section 244(a), Immigration and Nationality Act, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

3848. A letter from the Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to provide that aliens who were killed while serving in the Armed Forces of the United States during military operations of the Vietnam conflict may be considered to have been citizens of the United States at the time of such alien's death; to the Committee on the Judiciary.

3849. A letter from the Carl D. Hobelman, of LeBoeuf, Lamb, Leiby & MacRae, Washington, DC, transmitting the 1985 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to Public Law 88-376, section 14(b); to the Committee on the Judiciary.

3850. A letter from the Chief Justice of the United States, transmitting the determination that U.S. District Judge Harry E. Claiborne of the District of Nevada has engaged in conduct which might constitute grounds for impeachment, pursuant to 28 U.S.C. 372(c)(B); to the Committee on the Judiciary.

3851. A letter from the President and Chief Executive Officer, Little League Baseball, transmitting the annual report for fiscal year 1985, pursuant to Public Law 88-378, section 14(b); to the Committee on the Judiciary.

3852. A letter from the Counsel, Pacific Tropical Botanical Garden, transmitting the 1985 audit report, pursuant to Public Law 88-449, section 10(b); to the Committee on the Judiciary.

3853. A letter from the National Quartermaster and Adjutant, Veterans of Foreign Wars of the U.S.A., Inc., transmitting a report on activities during fiscal year 1985 and the minutes of the national convention held at Milwaukee, WI, August 25 through 29, 1985, pursuant to 36 U.S.C. 776; 44 U.S.C. 1332 (H. Doc. No. 99-245); to the Committee on the Judiciary and ordered to be printed.

3854. A letter from the Chairman, National Advisory Committee on Oceans and Atmosphere, transmitting the 15th annual report of the National Advisory Committee on Oceans and Atmosphere, pursuant to 33 U.S.C. 857-15(b); to the Committee on Merchant Marine and Fisheries.

3855. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

3856. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report of the Chief of Engineers, Department of the Army, on Mobile Harbor, AL, together with other pertinent reports (H. Doc. No. 99-241); to the Committee on Public Works and Transportation and ordered to be printed.

3857. A letter from the Chairman, Interagency Geothermal Coordinating Council, Department of Energy, transmitting the 10th annual report of activities of the Geothermal Energy Coordination and Management Project for fiscal year 1985, pursuant to Public Law 93-410, section 302(a); to the Committee on Science and Technology.

3858. A letter from the Executive Secretary, Department of Defense, transmitting a report on Department of Defense procurement from small and other business firms for October 1985-April 1986, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

3859. A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize the Administrator to assist Members of Congress in providing title 38 benefits information to their constituents, and to conduct authorized field examinations and investigations; to the Committee on Veterans' Affairs.

3860. A letter from the Chairman, United States International Trade Commission, transmitting a report on trade between the United States and nonmarket economy countries, pursuant to 19 U.S.C. 2441(c); to the Committee on Ways and Means.

3861. A letter from the Under Secretary for International Affairs and Commodity Programs, Department of Agriculture, transmitting the fourth quarterly commodity and country allocation table showing current programing plans for food assistance for fiscal year 1986, pursuant to 7 U.S.C. 1736b(a); jointly, to the Committee on Agriculture and Foreign Affairs.

3862. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of the termination of the designation of Kampala as a danger pay location, pursuant to 5 U.S.C. 5928 (96 Stat. 1028); jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3863. A letter from the Comptroller General of the United States, transmitting a report on the Federal Savings and Loan Insurance Corporation's financial statements, pursuant to 31 U.S.C. 9106(a); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

3864. A letter from the Comptroller General of the United States, transmitting a report entitled "Guaranteed Student Loans, Better Criteria Needed for Financing Guarantee Agencies" (GAO/HRD-86-57); jointly, to the Committees on Government Operations and Education and Labor.

3865. A letter from the Secretaries of Agriculture and the Interior, transmitting the sixth report on the administration of the Wiid and Free Roaming Horses and Burros on Public Lands Act, pursuant to 16 U.S.C. 1340; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

3866. A letter from the Secretary of Energy, transmitting a report on the biomass energy and alcohol fuels programs for the period January 1 through March 31, 1986, pursuant to Public Law 96-294, section 218(a); jointly, to the Committees on Agriculture, Energy and Commerce, and Science and Technology.

3867. A letter from the Chairman, Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Tax Act to require rail sector financing of certain railroad retirement costs currently borne by the general taxpayer; jointly, to the Committees on Energy and Commerce, Ways and Means, and Post Office and Civil Service.

[Submitted June 26, 1986]

JOINT RESOLUTION ON DEBT LIMIT PASSED UNDER RULE XLIX

Under clause 1 of Rule XLIX, the following joint resolution was engrossed and deemed passed:

H.J. Res. 668. Joint resolution increasing the statutory limit on the public debt.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on June 25, 1986, the following report was filed on July 2, 1986.]

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 3129. A bill to authorize funds for construction of high-

ways, for highway safety programs, and for mass transportation programs, to expand and improve the relocation assistance program, and for other purposes; with an amendment (Rept. 99-665). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to section 13 of Senate Concurrent Resolution 120, the following report was filed on July 9, 1986]

Mr. GRAY of Pennsylvania: Committee on the Budget. Report on 302(a) allocations pursuant to section 13 of Senate Concurrent Resolution 120. Concurrent resolution on the budget, fiscal year 1986, (Rept. 99-666). Referred to the Committee of the Whole House on the State of the Union.

[Submitted July 14, 1986]

Mr. HAWKINS: Committee on Education and Labor. H.R. 4650. A bill to make grants available for youth suicide prevention programs; with an amendment (Rept. 99-667). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3662. A bill to provide for the negotiation of maritime agreements for the carriage of U.S. waterborne trade and for other purposes; with amendments (Rept. 99-668). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X, the following action was taken by the Speaker:

[Omitted from the Record of June 26, 1986]

H.R. 1140. Referral of H.R. 1140 to the Committee on Energy and Commerce extended for a period ending not later than July 15, 1986.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ACKERMAN (for himself, Mr. FAUNTROY, and Mrs. BURTON of California):

H.R. 5154. A bill to amend the Federal Aviation Act of 1958 to ensure that air carriers do not discriminate against handicapped persons in providing air transportation; to the Committee on Public Works and Transportation.

By Mr. BARNES (for himself, Mr. WEISS, Mr. STUDDS, Mr. KOSTMAYER, Mr. MILLER of California, Mr. TORRICELLI, Mr. GEJDENSON, Mr. ACKERMAN, and Mr. FAUNTROY):

H.R. 5155. A bill to amend section 701(f) of the International Financial Institutions Act to direct the U.S. Executive Directors of international financial institutions to oppose assistance to Chile, as mandated by that section; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CONTE:

H.R. 5156. A bill to amend the Internal Revenue Code of 1954 to provide an additional exemption of $600 to taxpayers for the deafness of the taxpayer, the taxpayer's spouse, or any of the taxpayer's dependents; to the Committee on Ways and Means.

By Mr. FAWELL (for himself, Mr. BARNARD, Mr. BARTLETT, Mr. BOULTER, Mr. DIOGUARDI, Mr. GUNDERSON, Mr. DORNAN of California, Mr. CRANE, Mr. JEFFORDS, Mr. STRANG, Mr. FISH, Mr. NEAL, and Mr. SWINDALL):

H.R. 5157. A bill to increase Government economy and efficiency and to reduce the deficit by implementing a recommendation of the President's private sector survey on cost control relating to the sharing of Veterans' Administration and Department of Defense health-care resources; jointly, to the Committees on Veterans' Affairs and Armed Services.

By Mr. RANGEL:

H.R. 5158. A bill to amend the Internal Revenue Code of 1954 to deny tax exempt status to educational institutions which have been found to have a policy of racial discrimination against any group in enrollment, hiring, or in other areas, until such institutions clearly and convincingly demonstrate their abandonment of such policy through the enrollment, hiring, or the taking of other vigorous, affirmative, and continued corrective action with respect to such group; to the Committee on Ways and Means.

H.R. 5159. A bill to deny the Prince Edward School Foundation and its successors tax-exempt status during the period beginning on October 3, 1984, and ending when it has demonstrated its nondiscrimination policy for 2 consecutive school years by having more than a token number of black students in attendance, black teachers on the faculty, and black individuals in administrative and clerical positions; to the Committee on Ways and Means.

By Mr. VANDER JAGT:

H.R. 5160. A bill to amend section 132 of the Internal Revenue Code of 1954 to provide that de minimis fringe benefits furnished by an employer to an employee may include a share in the cost of meals furnished off the business premises of the employer; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H. Con. Res. 365. Concurrent resolution expressing the sense of Congress on the application of section 3 of the War Powers Act to the April 14, 1986, U.S. raid against Libya; to the Committee on Foreign Affairs.

H. Con. Res. 366. Concurrent resolution expressing the sense of Congress with respect to the application of the War Powers Act to United States assistance to the Nicaraguan democratic resistance; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

417. By the SPEAKER: Memorial of the senate of the Commonwealth of Massachusetts, relative to military decorations for Richard F. Walsh; to the Committee on Armed Services. July 14, 1986.

418. Also, memorial of the legislature of the State of California, relative to Libya; to the Committee on Foreign Affairs.

419. Also, memorial of the legislature of Guam, relative to the designation of Guam as a naval and military reservation; to the Committee on Interior and Insular Affairs.

420. Also, memorial of the legislature of the State of California, relative to Save American Industry and Jobs Day; to the Committee on Post Office and Civil Service.

421. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to programs and actions to address continuing problems of high lake levels on the Great Lakes; to the Committee on Public Works and Transporation.

422. Also, memorial of the legislature of the State of Louisiana, relative to competition in the forests products industry; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 615: Mr. LUNDINE.

H.R. 1453: Mr. HAYES, Mr. LELAND, Mr. LEVINE of California, Mr. OBERSTAR, and Mr. MARTINEZ.

H.R. 1577: Mr. SHELBY.

H.R. 1877: Mr. RAHALL, Mr. BOEHLERT, Mr. PURSELL, Mr. HORTON, and Mr. RINALDO.

H.R. 2320: Mrs. COLLINS.

H.R. 3024: Ms. OAKAR, Mr. LUJAN, Mr. OWENS, Mr. FORD of Tennessee, Mr. MCMILLAN, Mr. DORGAN of North Dakota, Mr. LUNDINE, and Mr. EDGAR.

H.R. 3865: Mr. YOUNG of Florida, Mr. CHANDLER, Mr. SMITH of New Jersey, and Mr. MCMILLAN.

H.R. 4003: Mr. LOWRY of Washington and Mr. CHANDLER.

H.R. 4070: Mr. BURTON of Indiana.

H.R. 4197: Mr. RANGEL and Mr. HAWKINS.

H.R. 4227: Mr. DOWNEY of New York.

H.R. 4355: Mr. CRAIG.

H.R. 4460: Mr. CHAPPIE.

H.R. 4496: Mr. FRANK.

H.R. 4567: Mrs. BOGGS.

H.R. 4633: Mr. BOEHLERT, Mr. MARTINEZ, Mr. WORTLEY, Mr. LEACH of Iowa, Mr. LAGOMARSINO, Mr. ACKERMAN, Mr. ROWLAND of Connecticut, Mr. TALLON, Mr. SOLARZ, Mrs. LLOYD, Mr. FRANK, Mr. RAHALL, Mr. RALPH M. HALL, Ms. MIKULSKI, Mr. DIOGUARDI, and Mr. FAUNTROY.

H.R. 4671: Mr. MACKAY, and Mr. FISH.

H.R. 4766: Mrs. MARTIN of Illinois.

H.R. 4792: Mr. SHELBY.

H.R. 4807: Mr. ECKART of Ohio, Mr. BATEMAN, Mr. DEWINE, Mr. FRANKLIN, and Mr. MARTINEZ.

H.R. 4838: Mr. VENTO, Mr. CLAY, and Mr. KOSTMAYER.

H.R. 4877: Mr. BERMAN, Mr. OWENS, Mr. BUSTAMANTE, and Mr. ACKERMAN.

H.R. 5011: Mrs. BENTLEY.

H.R. 5029: Mr. BEDELL, Mr. BRYANT, Mr. COBEY, Mr. COELHO, Mr. LAFALCE, Mr. ROBINSON, Mr. SHUMWAY, Mr. SMITH of New Hampshire, Mr. LUJAN, Mr. DYMALLY, Mr. TOWNS, Mr. HORTON, Mr. HYDE, Mr. FROST, Mr. SAVAGE, Mr. KEMP, and Mr. KOLBE.

H.R. 5072: Mr. SMITH of Florida, Mr. MRAZEK, Mr. RANGEL, Mr. ROE, Mrs. COLLINS, Mr. STARK, Mr. COELHO, Mr. MARKEY, Mr. FAUNTROY, Mr. TORRICELLI, Mr. MORRISON of Connecticut, Mr. MITCHELL, Mrs. BENTLEY, and Ms. MIKULSKI.

H.J. Res. 127: Mr. HALL of Ohio and Mr. FAUNTROY.

H.J. Res. 231: Mr. HUBBARD.

H.J. Res. 376: Mr. CARPER.

H.J. Res. 451: Ms. MIKULSKI.

H.J. Res. 524: Mr. FASCELL, Mr. STRANG, Mr. FISH, and Mr. LEVIN of Michigan.

H.J. Res. 529: Mr. MOLLOHAN and Mr. HERTEL of Michigan.

H.J. Res. 577: Mr. HAYES, Mr. ASPIN, Mr. LOTT, Mr. HENDON, and Mr. PARRIS.

H.J. Res. 617: Mrs. LLOYD, Mr. LOWRY of Washington, Mr. LUKEN, Mr. MANTON, Mr. MARKEY, Mr. MARTIN of New York, Mr. MOAKLEY, Mr. MOORHEAD, Mr. MURPHY, Mr.

NEAL, Mr. O'BRIEN, Mr. ORTIZ, Mr. MATSUI, Mr. AKAKA, Mr. ANDERSON, Mr. BARNARD, Mr. BERMAN, Mr. BOUCHER, Mrs. BURTON of California, Mr. CHAPPIE, Mr. COELHO, Mr. CONYERS, Mr. COURTER, Mr. BLILEY, Mr. DIXON, Mr. CARR, Mr. DAVIS, Mr. REID, Mrs. BOXER, Mr. TOWNS, Mr. LIGHTFOOT, Mr. HENRY, Mr. ROYBAL, Mr. BLAZ, Mr. YOUNG of Alaska, Mr. WISE, Mr. WIRTH, Mr. PERKINS, Mr. PORTER, Mr. PRICE, Mr. RICHARDSON, Mr. SCHUMER, Mr. SHELBY, Mr. SILJANDER, Mr. SNYDER, Mr. STARK, Mr. STOKES, Mr. TALLON, Mr. TRAFICANT, Mr. BENNETT, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. GILMAN, Mr. HANSEN, Mr. HEFNER, Mr. HYDE, Mr. BRYANT, Mr. KANJORSKI, Mr. LANTOS, Mr. ROSE, Mr. SKELTON, Mr. YATES, Mr. RODINO, Mr. LUNDINE, Mr. SCHUETTE, Mr. SMITH of Iowa, Mr. SISISKY, Mr. VALENTINE, Mr. TORRICELLI, Mr. SWINDALL, Mr. HAMMERSCHMIDT, Mr. LEVINE of California, and Mrs. BENTLEY.

H.J. Res. 620: Mr. APPLEGATE, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. BONER of Tennessee, Mr. BONIOR of Michigan, Mr. BUSTAMANTE, Mr. CHAPPELL, Mr. CHENEY, Mr. CRAIG, Mr. DANIEL, Mr. DAUB, Mr. DOWDY of Mississippi, Mr. DWYER of New Jersey, Mr. DYSON, Mr. FAZIO, Mr. FIELDS, Mr. FLIPPO, Mr. FORD of Michigan, Mr. GILMAN, Mr. GORDON, Mr. HALL of Ohio, Mr. HAMILTON, Mr. HARTNETT, Mr. HEFNER, Mr. HENRY, Mr. HORTON, Mr. HOWARD, Mr. HOYER, Mr. JONES of Tennessee, Ms. KAPTUR, Mr. KASICH, Mr. KASTENMEIER, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. LENT, Mr. LEVIN of Michigan, Mr. MCDADE, Mr. MACKAY, Mr. MARTINEZ, Mr. MILLER of California, Mr. MOAKLEY, Mr. MOODY, Mr. MURTHA, Mr. NEAL, Mr. NELSON of Florida, Mr. OLIN, Mr. OWENS, Mr. PASHAYAN, Mr. PICKLE, Mr. PRICE, Mr. RAHALL, Mr. RICHARDSON, Mr. ROBERTS, Mr. ROE, Mr. ST GERMAIN, Mr. ROBERT F. SMITH, Mr. STARK, Mr. STENHOLM, Mr. STOKES, Mr. STRATTON, Mr. STUDDS, Mr. STUMP, Mr. TORRES, Mr. TRAXLER, Mr. VANDER JAGT, Mr. WEBER, Mr. WEISS, Mr. WHEAT, Mr. WILSON, Mr. WOLF, and Mr. YATRON.

H.J. Res. 642: Mr. BONIOR of Michigan, Mr. FIELDS, Mr. KOLBE, Mr. BARNES, Mr. LEWIS of California, Mr. SHAW, Mr. DAVIS, Mr. HENDON, Ms. MIKULSKI, Mr. FISH, Mr. BOLAND, Mr. CARPER, Mr. DONNELLY, Mr. DWYER of New Jersey, Mr. COYNE, Mr. COUGHLIN, Mr. FAZIO, Mr. JENKINS, Mr. LUKEN, Mr. FOWLER, Mr. MONTGOMERY, Mr. MOORHEAD, Mr. TOWNS, Mr. WOLPE, Mr. WALGREN, Mr. MOODY, Mr. GUARINI, Mr. LUJAN, Mr. ROEMER, Mr. ROBERT F. SMITH, and Mr. SUNDQUIST.

H. Res. 461: Mr. BRYANT.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

412. By the SPEAKER: Petition of the Mayor of Norfolk, VA, relative to the Community Block Grant Program; to the Committee on Banking, Finance and Urban Affairs.

413. Also, petition of National Sheriff's Association, relative to the allocation of adequate radio communication frequencies for public safety radio services; to the Committee on Energy and Commerce.

414. Also, petition of Monimbo e.v., Federal Republic of Germany, relative to the providing of aid to the Contras; to the Committee on Foreign Affairs.

415. Also, petition of the city commission, Miami, FL, relative to a resolution expressing the city's intent to utilize American made materials; to the Committee on Government Operations.

416. Also, petition of Mr. Thomas Haufler, et al, Korneuburg, Austria, relative to the relocation of Hopi residents from their traditional homeland; to the Committee on Interior and Insular Affairs.

417. Also, petition of Mr. Peter J. Cojanis, relative to aid to Nicaragua; to the Committee on the Judiciary.

418. Also, petition of the Manchester Township Committee, Lakehurst; NJ, relative to the licensing of recreational salt water fishermen; to the Committee on Merchant Marine and Fisheries.

419. Also, petition of the Amherst City Council, Amherst, OH, relative to Save American Jobs/Industry Day; to the Committee on Post Office and Civil Service.

420. Also, petition of the city council, Alliance, OH, relative to the resolution entitled, "Save American Industry/Jobs Day"; to the Committee on Post Office and Civil Service.

421. Also, petition of the Seneca Nation of Indians, Salamanca, NY, relative to the Internal Revenue Service's attempts to tax tribal treaty-protected resources; to the Committee on Ways and Means.

422. Also, petition of the tribal business council, the Three Affiliated Tribes, Berthold Reservation, New Town, ND, relative to the effort of the Internal Revenue Service to tax tribal resources which are protected by judicially confirmed Federal-tribal treaties; to the Committee on Ways and Means.

423. Also, petition of the Lubbock County Commissioners' Court, Lubbock, TX, relative to highway funds; jointly, to the Committees on Public Works and Transportation and Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4510

By Mr. ENGLISH:

—Page 9, after line 2, add the following new section:

SEC. 12. LIMITATION ON ASSISTANCE WHICH WILL ADVERSELY AFFECT AGRICULTURAL PRODUCTION IN THE UNITED STATES.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end thereof the following new paragraph:

"(11) LIMITATION ON ASSISTANCE WHICH WOULD ADVERSELY AFFECT AGRICULTURAL PRODUCTION IN THE UNITED STATES.—The Bank may make no loan, loan guarantee commitment, or other extension of credit if such loan, loan guarantee commitment, or other extension of credit will directly assist the production or export of any agricultural product which the Secretary of Agriculture has determined to be in surplus in the United States.".

By Mr. RAHALL:

—Page 9, after line 2, add the following new section:

SEC. 12. LIMITATION ON ASSISTANCE WHICH WILL ADVERSELY AFFECT THE UNITED STATES ECONOMY.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end thereof the following new paragraph:

"(11) LIMITATION ON ASSISTANCE WHICH WOULD ADVERSELY AFFECT THE DOMESTIC ECONOMY.—

"(A) IN GENERAL.—The Bank may extend no direct credit or financial guarantee in support of any export to any foreign entity if—

"(i) the export will be used or is intended for use in the production or manufacture of any commodity, mineral, material, or product which is produced or manufactured in substantial quantities in the United States; and

"(ii) the production or manufacture of such commodity, mineral, material, or product by such foreign entity will result in—

"(I) the importation of more than an inconsequential quantity of such commodity, mineral, material, or product into the United States; and

"(II) a net domestic increase in unemployment in the United States over the period during which any portion of the amount of such credit or guarantee is outstanding.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply with respect to any extension of credit or a financial guarantee which the Bank determines is—

"(i) in the strategic interest of the United States; or

"(ii) necessary to counter any unfair trade practice or unfair and predacious export financing practice of a foreign country.".

SENATE—*Monday, July 14, 1986*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Just at this moment, David Joy, of the Photography Department, is undergoing complicated surgery. Father in Heaven, we commend him now to Your loving care.

God of all comfort, Father of us all, the Senate convenes today, painfully aware of the absence of one of its respected Members. We thank you for Senator JOHN EAST—for his dedicated service to God and country. We thank You for his brilliant mind—his profound understanding of constitutional government—his sense of history. We thank You for his unfailing ability to see issues in their larger context, in the perspective of permanent values, in the light of tested tradition, and in the long view ahead. We thank You for his courage and perseverance under great personal difficulty—his gentleness—his response to duty and his commitment to the trust which sent him to the Senate. We join in loving concern and prayer for Mrs. East, the family, the faithful staff who served him so well, and hosts of admiring, sorrowing friends. Gracious, compassionate Father, give to them the peace which only You can give at this time of pain and loss.

And, Father in Heaven, as Senator JAMES BROYHILL is sworn in, we pray for him a special measure of Your wisdom and Your guidance and Your blessing upon him as well as his family and his staff.

In the name of Him who Senator EAST trusted for life eternal. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able and distinguished majority leader, Senator ROBERT DOLE, is recognized.

Mr. DOLE. Mr. President, let me indicate under the standing orders the leaders have 10 minutes each, but not to come out of the time of the majority leader, I now yield to the distinguished Senator from North Carolina, Senator HELMS.

The PRESIDENT pro tempore. The distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the distinguished majority leader.

THE DEATH OF JOHN P. EAST, U.S. SENATOR FROM NORTH CAROLINA

Mr. HELMS. Mr. President, it is my sad duty to report formally to the Senate that our distinguished colleague from North Carolina [Mr. EAST] died on June 29 at his home in Greenville, NC.

However, Mr. President, it is far more than a formality for me to try to convey the sadness that I feel. You see, JOHN EAST was far more than a colleague. He was a friend to every Member of the Senate, a great American who was admired across the Nation as a man of enormous courage, extraordinary dedication, and keen intellect.

At a time like this, one remembers personal vignettes. How many times have we seen Senator EAST roll his wheelchair into the Senate Chamber, at all hours of the day and night, to cast his votes? And he came always with a smile on his face—when, frankly, other Senators were grousing about all-night sessions.

Mr. President, the distinguished majority leader [Mr. DOLE] put it well a couple of weeks before Senator EAST's death. Senator DOLE, speaking to an audience in Charlotte, paid tribute to Senator EAST, describing Senator EAST as "One of the most remarkable men I've ever known. I wonder," Senator DOLE said, "how many of us ever stop to think what a struggle it is for Senator EAST just to be there. The rest of us walk into the Senate Chamber; JOHN EAST has to come in a wheelchair."

So in a very real way, Mr. President, Senator JOHN P. EAST was a profile in courage. The thought occurred to me, incidentally, that the words of praise from Senator DOLE had a special meaning, because BOB DOLE is himself another profile in courage. Badly injured in battle while serving his country overseas, Senator DOLE has never once complained about the infirmity that would have devastated other men.

And so it was with Senator EAST. He never complained. And although, as Senator DOLE said, it was a struggle for Senator EAST to comply with the rigorous schedule of a U.S. Senator, you could always count on JOHN EAST to be there when needed, and on time.

Mr. President, I shall not consume the Senate's time with a lengthy review of JOHN EAST, the man, the Senator. But there are little things which will linger forever in my mind. For example, on the last night before the Senate recessed for the Independence Day holiday, JOHN EAST entered this Chamber from that door. He cast his final vote from his customary position just to the right of the Presiding Officer.

A new group of Senate pages had arrived just a few days earlier. JOHN pointed to those fine young people, and said to me: "JESSE, have you noticed? Every time a new group of young people shows up, I decide that they couldn't be any better. But somehow they are." Then we discussed how encouraging it is to observe the character and wholesomeness of the majority of today's young people.

That is the point, Mr. President, JOHN EAST helped build the character of thousands of young people. As a teacher, he was superb. He caused students to think about America, and the greatness of this blessed land. He spoke of principles that deserve to survive. He made sure that the young people enrolled in his classes realized the uniqueness of America, and that that uniqueness is no happenstance. He caused young people to understand that freedom is both precious and fragile—and that it can be lost through apathy and indifference.

In short, this scholar-teacher-statesman loved America, and he conveyed that love to all who knew him.

Mr. President, I have a selection of news accounts, editorials and commentaries published and broadcast in the aftermath of the death of Senator EAST. I feel that these should be made a part of the permanent RECORD of the Senate. Therefore, I ask unanimous consent that these be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HELMS. And as I conclude, Mr. President, I would express my appreciation, and that of Senator EAST's family, for the countless expressions of love and sympathy that poured into North Carolina during the past 2 weeks. And in particular, I am grateful—as are Mrs. East and her daughters—for the fact that so many of our colleagues and their wives went to Greenville for the memorial services on July 1.

At those services, conducted by Senator EAST's pastor, Rev. J. Malloy Owen, the essence of JOHN's life was described in a most notable way.

Mr. President, I obtained a transcript of the remarks by the Reverend Mr. Owen, and I ask unanimous consent that they be printed in the RECORD at this point.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MEMORIAL SERVICE FOR SENATOR JOHN P. EAST—REV. J. MALLOY OWEN III, MINISTER

I am the resurrection, the truth, and the life. He who believes in me, though he die, yet shall he live. The eternal God is your dwelling place, and underneath are the everlasting arms. The Lord is my light and my salvation; whom shall I fear? The Lord is the stronghold of my life; of whom shall I be afraid? Blessed be the Lord! for He has heard the voice of my supplications. The Lord is my strength and my shield; in Him my heart trusts. For we know that if this earthly tent we live in is destroyed, we have a building from God, a house not made with hands, eternal in the Heavens.

Let us pray: O God, may we accept today your grace and peace through our Lord, Jesus Christ. May we remember with joy and gratitude a man of conviction, strength, and courage whom we sent from this campus to help lead our nation and our world. We praise you today for such a man, through Jesus Christ, Our Lord. Amen.

Now hear the word of God as we find it in the 121st Psalm: "I lift up mine eyes to the hills. From whence does my help come? My help comes from the Lord who made Heaven and earth. He will not let your foot be moved. He who keeps you will not slumber. Behold, He who keeps Israel will neither slumber nor sleep. The Lord is your keeper. The Lord is your shade on your right hand. The sun shall not smite you by day nor the moon by night. The Lord will keep you from all evil. The Lord will keep your going out and your coming in from this time forth and forevermore."

Among the most obvious facts in the life of John East was his commitment to the Christian faith and to our heritage as Americans. Central to that faith, important to that heritage, is the Affirmation of Faith which comes to us from the Second Century and is shared by so many of the Christians of the world and of our nation. It is called the Apostles' Creed.

After we have stood and said it together, we will turn to Hymn No. 305, "Onward, Christian Soldiers." We will sing the first stanza only. Let us stand now and affirm the faith.

In what do you believe? I believe in God the Father Almighty, maker of Heaven and earth; and in Jesus Christ his only Son our Lord: who was conceived by the Holy Spirit, born of the Virgin Mary, suffered under Pontius Pilate, was crucified, died, and buried; the third day He rose from the dead; He ascended into Heaven, and sitteth at the right hand of God the Father Almighty; from thence He shall come to judge the quick and the dead. I believe in the Holy Spirit, the holy Catholic Church, the communion of saints, the forgiveness of sins, the resurrection of the body, and the life everlasting. Amen.

John's Bible was so marked up. His family shared this with me as we planned this service. The markings indicate that he read his Bible. He studied it. He knew it. And the beliefs to which he so irrevocably committed were based in this Book. Two verses come to mind immediately. One has a picture in it that he used in a recent speech. It is a picture of leaven from I Corinthians 5:6. "A little leavens the whole lump." John knew that it didn't take many people to influence a nation. It just took some people who knew what they believed, were thoroughly convinced that they were right, and were willing to pay the price of being different. John East was willing to pay the price, and he led. And before too many years, people followed. And then, of course, the last chapter of I Corinthians includes this beautiful statement, "Be on your guard; stand firm in the faith; be men of courage; be strong; do everything in love."

John was a man of strength and courage. He had to discipline himself, especially in view of his handicap. His accomplishments are utterly amazing. How often I have heard people say, "Most of us would have crawled into a corner and watched television for the rest of our lives." But not John East. He knew what he believed. And if you knew him, you knew where he stood. He was tolerant of others, always willing to listen attentively to them as they presented their positions, really listening, and expecting from them like courtesy. He loved his family, and he is loved by his family.

Last night at the Greenville Rotary Club we sang it again as we did here last Sunday, "Who more than self their country loved." And I thought of John East. Although we are stunned and shocked at this tragedy, let us go from this place praising God for this man of strong convictions and amazing courage. Dr. East was an intelligent, articulate person who was engaged in civil and thoughtful debate on a myriad of issues. America is richer for having had him, and the lives of his thousands of former students are forever enriched from what he taught them. Who will take up the torch of this brave man?

Let us pray: O God, the strength of your saints and the one who redeems the souls of your servants, we call to remembrance your loving kindness and your tender mercies to this your servant, John. For all your goodness that did not withhold his portion in the joys of this earthly life and for your guiding hand along the way of his pilgrimage, we give you thanks and praise. Especially we bless you for your grace that kindled in his heart the love of your dear Name and of your precious Word that enabled him to fight the good fight. We praise you for giving John wisdom and knowledge, strength of character. For the contribution he made to the lives of his students and to the life of our country and our world, we are forever grateful. We praise you for this strong but gracious man as we remember his use of this prayer of Francis of Assisi:

Lord, make me an instrument of Thy peace.
Where there is hatred, let me show love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light;
Where there is sadness, joy.
O Divine Master, grant that I may not so much seek to be consoled, as to console;
Not so much to be understood as to understand;
Not so much to be loved as to love:
For it is in giving that we receive;
It is in pardoning that we are pardoned;
It is in dying that we awaken to eternal life.

Father, we would add only this, the prayer that our Lord Jesus taught us to pray when He taught us to say, "Our Father which art in Heaven, hallowed be thy name. Thy kingdom come. Thy will be done in earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. Lead us not into temptation, but deliver us from evil. For thine is the Kingdom, the Power, and the Glory forever. Amen."

Please stand for the benediction. And now the God of peace who brought again from the dead our Lord Jesus, that great shepherd of the sheep, through the blood of the everlasting covenant, make you perfect in every good work to do His will, working in you that which is well-pleasing in His sight, through Jesus Christ, Our Lord, to whom be glory now and forever. Amen.

Mr. HELMS. Mr. President, needless to say, Dorothy and I extend our deepest loving sympathy to the lady whom we know as "Sis" East, and her two daughters, Martha and Kathryn, and other members of the family.

And now, Mr. President, as I yield the floor, I renew my unanimous consent request concerning the various editorials and articles mentioned earlier.

The articles follow:

(EXHIBIT 1)

[From the Raleigh News and Observer, June 30, 1986]

SENATOR EAST LAUDED BY SORROWFUL COLLEAGUES

(By Todd Cohen and David Perkins)

Sen. Jesse A. Helms said Sunday that Sen. John P. East was "a man of good cheer, but I expect that he will be most remembered for his astonishing intellect. He was a very wise man. He understood this country as few people do in terms of its principles and its fundamentals. And he did not hesitate once defending those principles."

Helms, East's political mentor, was one of many North Carolina politicians who reacted with shock and with praise for East, who committed suicide in his Greenville home.

Helms, whose political organization helped lift East from his job as an East Carolina University professor to the U.S. Senate in 1980, said he would remember East "because of the personal affection that I had for him. No senator ever had a finer colleague than he."

Helms said he had notified President Reagan, who was in California, at 10:30 a.m. of East's death.

"The president was stunned and saddened," Helms said at a Raleigh news conference. "He greatly admired Senator East."

Republican Gov. James C. Martin said in a written statement that East's death was "a tragic loss for North Carolina and the people he represented so valiantly and so well. Our hearts go out to Mrs. East and their family as we uphold them in our prayers."

Martin said he had directed that flags on all state property be flown at half staff. His aides said the tribute would continue for an indefinite period.

Rep. James T. Broyhill, the Republican Senate nominee expected by some political observers to be appointed by Martin to fill East's unexpired term, said he was "shocked and grieved at the news of Senator John East's death. He was my friend and colleague, and I am just shocked at this news."

Broyhill characterized East as "a patriot and a leader for North Carolina and our country—a man of keen intellect and courageous stature. My heartfelt prayers go to his wife, Sis, and his daughters, Marty and Chip, and their families."

Former Gov. Terry Sanford, the Democratic nominee for East's seat, said he was "sure that all North Carolinians are deeply distressed by this tremendous personal trag-

edy. Mrs. Sanford and I extend our sincerest sympathies to Mrs. East and their family."

In 1980, East upset incumbent Sen. Robert B. Morgan after a bitter race in which East's campaign was directed by the National Congressional Club, Helms' political organization.

Morgan, now director of the State Bureau of Investigation, said Sunday by telephone from his home in Lillington that he was "saddened at the news of his death. And I'm awfully sorry. His family, his wife and his children certainly have my condolence and my prayers."

U.S. Rep. Walter B. Jones, a Democrat from Farmville who defeated East in a special and regular Congressional race in 1966, said East had been a tough adversary.

"We remained good friends, and those two races increased my admiration for him as a high-class gentleman," Jones said. "I think his strength was his personal appeal and the fact that he's very articulate. He had a certain amount of charisma that was hard to deal with. He did better in the special election (for the vacated seat of Herbert C. Bonner) than any Republican had in many years, carrying two of the 14 counties at that time."

Secretary of State Thad Eure, a Democrat who staved off a challenge by East in 1968, described East as "a very smart man. he was well-educated. And he was very loyal to his party."

Former Gov. Dan K. Moore said East "was a very fine, honorable Christian gentleman. . . . He was sincere in every action that he took."

Helms, who spoke at length about East, described him as "a scholar, a teacher, a statesman. And he touched thousands of lives constantly, dating back to his days as a teacher . . ., particularly the young people. He touched them with his never-failing willingness to explain and defend the principles of America."

Thomas F. Eamon, an associate professor of political science at East Carolina University, where East taught before going to the Senate, remembered East as "an excellent classroom teacher, always very popular with students, a very thought-provoking individual. As a colleague I found him to be a person with a great sense of humor and easy to talk with."

Eamon, a Democrat who knew East at ECU for about eight years, recalled that, "always in personal political conversation with him, he would be really objective."

Eamon said he had not seen East much in recent years. He said that last year he had sent a letter to East in Washington "and got back an extremely nice, hand-written letter from him . . . saying that things had been difficult and he appreciated the thought."

East last year suffered from a glandular condition affecting his thyroid.

William C. Friday, former president of the University of North Carolina System, said East always had attended quickly to university matters that involved the federal government.

East played a role in discussions with former Secretary of Education Terrell Bell that led eventually to the resolution of the university's desegregation lawsuit with the Department of Education, Friday said.

"Every time that I called upon him for assistance, he was helpful to us," Friday said.

Lt. Gov. Robert B. Jordan III, the state's highest-ranking Democrat, said East "was a very intelligent person who voted his convictions. He and I didn't always agree. He was very dedicated to continuing and completing his term even though his health was working against him. I regret very deeply that this has happened."

State Senate Republican Leader William W. Redman Jr. of Iradell County said East had been "a friend of mine, a man I had a great deal of respect for. He was probably the most intelligent man I knew in the United States Senate. I think it's a great loss to this nation."

[From the Charlotte Observer, June 30, 1986]

A STEADFAST CONSERVATIVE

(By Elizabeth Leland)

Few North Carolinians knew John East when he announced in January 1980 that he wanted to be their U.S. senator.

One newspaper editor described him as "the obscure professor at a little-known university."

But with sophisticated direct-mail money-raising and forceful campaign rhetoric, East won an upset in November 1980 over incumbent Sen. Robert Morgan, D-N.C. He entered the Senate in a wheelchair and with a determined devotion to conservative ideals.

East, 55, worked mostly in the shadow of Sen. Jesse Helms, R-N.C., his friend and soul mate. He served only one term, announcing through aides last September that he was too ill to seek reelection.

In an interview after he made his decision, East said he hoped to be remembered as "an intelligent, articulate person who was engaged in what I thought was civil and thoughtful debate on a myriad of issues."

He said he disagreed with critics who had labeled him a Helms clone, but acknowledged they agreed on most issues. "I think if I had been in a position to be here longer, that different identities would certainly have emerged," East said.

STAUNCH CONSERVATISM

As senator, East quickly earned the reputation as one of the Senate's most conservative members. Just hours after Ronald Reagan took the oath for his first term as president, East voted against confirming Caspar Weinberger as defense secretary. The only other senator who voted against Weinberger was Helms. They said he wasn't hawkish enough for the job.

The spotlight focused on East in April 1981, when he sponsored a bill to overturn the Supreme Court decision that struck down anti-aboriton laws and held controversial hearings on when life begins. But for the most part, he kept a much lower profile than Helms. In his first 238 votes—during his first year in the Senate—East sided with Helms on all but 16.

In 1985, his health became a problem in his Senate work. He was hospitalized in February 1985 for a urinary tract blockage and in April 1985 for hypothyroidism. He missed much of the Senate's work that year, and rumors abounded that he didn't like the job and wouldn't seek reelection.

East was a private, reserved man. Some of his staff didn't know he had entered the hospital for a second time until reporters told them.

EARLY YEARS.

Born in Springfield, Ill., East was a scholar and a football player. He played lineman at University High School in Normal, Ill. Burton O'Connor, athletic director at the time, remembers East as an average player and one of the school's "most distinguished graduates."

He graduated Phi Beta Kappa from Earlham College in Richmond, Ind., in 1953 and came to North Carolina that year as Marine lieutenant at Camp Lejeune near Jacksonville. Within 30 days of his discharge in 1955, he contracted polio, and his leg muscles were paralyzed. He used crutches and a wheelchair.

Despite that, East was not outspoken on behalf of disabled people. He said his life served as an example for them.

"I, of all people, have been proving the opportunities for disabled people in American society," he once said. "So I find myself in the awkward position of sometimes appearing to be at odds with people that supposedly I should have the most profound affinity with."

East earned a law degree in 1959 from the University of Illinois and practiced law. A year later, he enrolled in the University of Florida, where he received his master's degree in political science in 1962 and a doctorate two years later.

ACADEMICS, POLITICS

He returned to North Carolina to teach at East Carolina University in Greenville. He once described himself as "one of those rare creatures in academe, a conservative political science professor." His students described him as brilliant.

In 1966, East tried his hand at politics. He filed as a GOP candidate in a special February election against Democrat Walter Jones in the 1st Congressional District, for the vacant seat of the late Rep. Herbert Bonner. Of the 142,700 registered voters in the sprawling coastal district, 138,000 were Democrats and 4,700 Republican.

"It will be a long, tough, fight . . . but it will be worth the effort," East, then 34, said of the race. East, described as "a zestful campaigner on crutches or in a wheelchair," campaigned against the politics of then-President Lyndon Johnson. His slogan was "Help Defeat LBJ, Vote The John East Way."

East won a surprising 40% of the vote and impressed political observers.

He decided to challenge Jones again in November. He lost again.

ROAD TO SENATE

In February 1968, East picked another battle. He challenged Thad Eure, N.C. secretary of state since 1936. East lost but again surprised observers with 44% of the vote.

For the next 12 years, he stuck with party politics. In 1976, as a delegate to the national GOP convention, East drafted platform planks for the party's conservative wing: unequivocal opposition to abortion, a constitutional amendment to prohibit busing and criticism of détente with the Soviet Union. Some of his proposals went farther than Ronald Reagan wanted.

By 1979, East had decided to run again for office. He said the state needed a "stronger, clearer voice" in the Senate and hinted he would challenge Morgan. On Jan. 26, 1980, he announced he would.

Hardly anyone knew him beyond Greenville and the inner circle of the Republican Party, and he was uncertain how being in a wheelchair would affect compaigning and his public perception.

CONGRESSIONAL CLUB

But East was handpicked by Helms, and Helm's National Congressional Club ran East's campaign and financed television ads that made East a household name. The campaign was bitter.

East's commercials tied Morgan, once ranked among the most conservative Democratic senators, with such liberals as Sens.

Edward Kennedy, D-Mass., and George McGovern, D-S.D.

The commercials faulted Morgan for voting to cut funds for the B1 bomber and for approving the Panama Canal treaties.

The strategy irked Morgan supporters, but it worked.

East won by 10,411 votes, out of about 1.78 million cast.

[From the Winston-Salem Journal, July 2, 1986]

1,000 ATTEND MEMORIAL SERVICE FOR JOHN EAST

GREENVILLE.—U.S. Sen. John P. East was remembered yesterday as a forceful figure with strong convictions as his family, friends and colleagues gathered at a memorial service in his hometown church.

A standing-room crowd of about 1,000 packed into the sanctuary of Jarvis Memorial Methodist Church in downtown Greenville to pay their last respects to East, who committed suicide in the garage of his home here early Sunday morning.

The Rev. J. Malloy Owen III, noting that East, a victim of polio, was paralyzed in his legs and had other severe health problems, told the crowd: "He had to discipline himself. Especially in view of his handicaps, his accomplishments were absolutely amazing. Most of us would have curled into a corner and watched television for the rest of our lives."

In the only reference to East's suicide, Owen said, "Although we are stunned and shocked at this tragedy, let us go from this place praising God for this man of strong convictions and amazing courage."

Sen. Jesse A. Helms, East's political mentor and close friend, sat on the front pew of the church with Gov. James G. Martin, their wives and members of East's family. Among the mourners were Barbara Bush, the wife of the vice president; Elizabeth Dole, the U.S. secretary of transportation; and at least eight members of the U.S. Senate.

Also present were the Rev. Jerry Falwell and officials of East Carolina University, where East had agreed to resume teaching political science when his Senate term expired in January.

After the 2 p.m. service, which lasted about 20 minutes, East's body was cremated in accordance with his family's wishes. The senator was 55 years old.

A spokesman for the funeral home handling the arrangements said the family requested no other private memorials or services.

Owen, the pastor of the church, repeatedly evoked East's image as a serious—almost scholarly—public servant who was willing to match his strongly held conservative principles against often long odds.

"John knew that it didn't take many people to influence a nation," Owen said. "It just took some who knew what they believed and were thoroughly convinced that they were right, and were willing to pay the price and be different."

During the service, Owen read verses from I Corinthians that East sometimes cited in his speeches and public statements. At the request of East's family, he concluded the service with the Prayer of St. Francis of Assisi.

Afterward, many of the mourners waited patiently to offer condolences to members of the immediate family. East's widow, Priscilla, better known as "Sis," dabbed at her face with a tissue but appeared generally composed as she greeted the mourners, often with warm hugs. Mrs. East was flanked by the couple's two adult daughters, Kathryn East of Greenville, and Martha Vainwright of Maryland, and East's son-in-law.

Falwell, who has known East since his election to the Senate in 1980, said he talked with Mrs. East by telephone yesterday.

"I think she's very strong," Fawell said. "She's a real trouper, having stood by him all these years. . . . She's a good lady, and I'm sure God will sustain her."

Virginia "Lou" May, the manager of East's two-person constituent services office in Winston-Salem, said her home phone and office phone has been ringing constantly with callers offering condolences.

Mrs. May said she talked with East by telephone on Thursday and last saw him on June 4, when she picked him up at the Regional Airport for a rally featuring President Reagan on behalf of U.S. Rep. James T. Broyhill, the Republican nominee to succeed East.

"He looked better than he looked in 1980," Mrs. May recalled.

"His spirits were real high, and he gave Congressman Broyhill about the best endorsement he could give."

Richard Viguerie, who operates a direct mail firm in Falls Church, Va., and is one of the most prominent behind-the-scenes activists in the New Right political movement, said that East's death leaves a political and personal void for him.

"Senator East's loss is a major loss," Viguerie said. "There's no kidding ourselves—he was a key leader, one of our most important elected officials. He represented a new breed of conservative who was dedicated to making change."

[From the Winston-Salem Journal, July 1, 1986]

JOHN P. EAST

Tenacious describes well the attitude John P. East exhibited in facing adversity. He fought the odds and won. He achieved a notable academic and political record in spite of polio, which left him confined to a wheelchair. He survived defeats as a conservative Republican before his election to the U.S. Senate.

East seemed undaunted by the prospect of leaving the Senate at the end of his first term. He contemplated a return to the classroom at East Carolina University as a political science professor. He was reading proofs for a book he expected to publish. He appeared prepared to meet battles against ill health or other obstacles with the tenacity he had shown in the past.

His death at the age of 55 would be a shock under any circumstances. His apparent choice to end his life adds a sorrowful note to the culmination of his public career, and makes the loss to family and friends doubly saddening. Such a tragedy can be experienced, but not adequately explained.

Close associates obviously were as baffled as the general public. Perhaps that simply denoted the private nature of the man. East never gave the impression of a typical politician, eager for the spotlight's glare.

His approach was more apt to be intellectual, and his positions defined by ideology rather than situations. He may have struggled alone with doubts and depression, but he made no public show of it, nor did he ask for sympathy.

From President Reagan to Gov. James G. Martin, leaders expressed shock and sorrow. East was lauded as a dedicated public servant and loyal friend. The reaction illustrated the personal integrity and tenacity East brought to his public duties.

He had to call on courage early in life. An Illinois native, he was a Marine lieutenant at Camp Lejeune when he was stricken by polio at the age of 24. He earned a law degree from the University of Illinois, and a Ph.D. in political science from the University of Florida. As a young professor at East Carolina, he ran on the Republican ticket against Democrat Walter Jones in the 1st Congressional District in 1965. The loss didn't deter him from running again, and losing, the next year. He remained active in GOP politics and defeated Democrat Robert B. Morgan, the incumbent, for the U.S. Senate in 1980.

East's record was too brief to allow substantial achievement. He did the best he could in the circumstances under which he served. It would be unfair to say less or more. In one term, he had little opportunity to really distinguish himself. Poor health further inhibited him. By choice or constraint, he never moved far beyond the shadow of Sen. Jesse A. Helms, his mentor and model. Detractors called him merely Helms' echo in the Senate. There's no doubt he wouldn't have been elected without the money and campaign direction of the Congressional Club, the organization closely tied to the senior senator. In stepping aside, he endorsed the club's choice as his successor.

The campaign opened by East's decision not to run could be further influenced by his death. The appointment to fill out his term will be up to Gov. Martin. If the choice, as seems probable, is Rep. James T. Broyhill, the GOP nominee, that could bestow an advantage in the general election. The governor, appropriately enough, turned a deaf ear to the speculation for the time being. He praised East and ordered state flags flown at half-mast in his honor.

Whatever reasons figured in East's fateful last decision lack of courage was not among them. His death is a tragic loss that must be accepted, but which cannot be adequately explained.

[From the Durham Morning Herald, July 1, 1986]

SENATOR JOHN EAST: BRAVE AND LIKEABLE

One of the unfortunate aspects of Sen. John East's life was that he rarely moved beyond the shadow of Sen. Jesse Helms and their unbending conservatism. Behind Sen. East's voting record—often scored because it seemed no more than an echo—was a brave and likeable man, one who had overcome enormous physical setbacks and had proved that the measure of a man is his mind and heart and not his body.

Oddly for a United States Senator, Mr. East was a quiet politician who served not to build a biography but to establish his cause. That cause was inflexibly conservative. In the Senate votes, he was Mr. Helms' twin. In personality, he was an opposite.

Mr. East was a scholar. He rarely yielded to anger or flaming rhetoric. He thought out his views, cast his votes most predictable, and didn't flinch when criticism rained upon him from the liberal—and sometimes conservative—press.

He seemed steeled against the nay sayers, and while his political ideology was tested severely, his excellent character was never damaged. He was strong and gentlemanly, a man of deep piety and strong social and political convictions.

What built such resolve? Why didn't Mr. East occasionally fly off the handle? There may be no easy answer, but his life serves some clues. Physically, John East had been wracked by more than his share of pain and suffering. He was a young Marine officer when he was crippled by polio and confined to a lifetime in a wheelchair.

Lesser men would have been discouraged, but Mr. East, who had won the Phi Beta Kappa Key in college, went on to earn law and Ph.D. degrees and become a college professor in political science. He shunned the trendiness of the liberal perspective of political science, and students who eagerly signed up for his courses heard a teacher who could expertly and wisely shake the foundations of the politics of welfarism and a weak defense.

He became a U.S. senator because of hard-hitting television commercials financed by Mr. Helms' Congressional Club—commercials that destroyed the political career of Democrat Robert Morgan without really saying much about John East. But if the Tar Heel electorate had been his classroom, North Carolina might have voted for him anyway. Mr. East could be powerfully convincing without theatrics. His suasion was didactic rather than volcanic.

It has been said that his life was a profile in courage, and that seems true enough. Yet it pains to think that one so brave, for some unknown reason, could not continue to face life and more pain. If John East had chosen life after the Senate he might have been a grand teacher and statesman, a living testimony to man's ability to endure with dignity.

North Carolina has lost a plucky and brilliant public servant.

[From the Raleigh News and Observer, July 1, 1986]

EAST: COURAGE ON THE RIGHT

Ironically for a native of the Land of Lincoln, John Porter East can best be memorialized in terms usually reserved for stalwarts of the Old South—he fought well in behalf of a misguided cause. His death by suicide at the age of 55 deprives the nation's New Right of an intelligent, fiercely dedicated and articulate advocate. And it leaves North Carolina mourning a public servant who gave his utmost to the demanding task of being a U.S. senator.

For East, the demands of office were especially harsh. He accustomed himself to the glare of the political limelight even while coping with the physical limitations of his polio-induced handicap, which left him dependent on a wheelchair and crutches. The dignity and courage he displayed as he went about the arduous routines of Capitol Hill inspired admiration that surpassed differences over ideology.

Yet the rigors of poor health—in particular, the thyroid deficiency that last year sapped his vitality and forced him into the hospital for weeks at a time—may have contributed to his decision to take his own life. Colleagues and associates say the worst phase of the hypothyroldism and the depression it breeds had seemed behind him, but the senator may simply have outdone himself in putting up a brave front.

East's Illinois origins, his physical handicap and lack of a political base seemed to stack the deck against him when he challenged incumbent Democrat Robert B. Morgan in 1980. But he was not running as a traditional North Carolina Republican. He already was a leading theoretician of the party's New Right wing, whose national leader was North Carolina's senior senator, Jesse Helms. It was Helms' organization that catapulted East from the political science faculty at East Carolina University into the Senate, relying heavily on campaign advertisements that distored Morgan's record.

East in office was a vigorous champion of the New Right's jingoistic foreign policy and its repressive social agenda. For example, the legislation that most clearly bore his personal stamp was an outgrowth of the anti-abortion movement. It attempted to define human life as beginning at conception thus leading to protected status for fetuses, despite the Supreme Court's holdings that women have the right to choose an abortion.

East thus bent his considerable intellectual skills not as much to the advancement of individual liberties as to the furtherance of the moral code shared by him and others of his ideological persuasion.

As he neared political retirement, East was heading for the security and comfort of academic life back on the East Carolina campus in Greenville, the pleasant city he and his family called home. He could have taken pride in his years of hard work in behalf of his constituents and his dutiful decision not to seek re-election when health problems may have kept him from giving 100 percent.

But despair whose depths nobody had realized drove John East to forgo that comfortable and deservedly self-satisfied retirement. His death signifies how high were the personal standards he held.

[From the Greensboro News & Record, June 30, 1986]

JOHN EAST

Sen. John East was a fighter, which makes the circumstances of his death by apparent suicide all the more difficult to accept. From the age of 24, he fought the debilitating efforts of polio. Though confined to a wheel chair, he was a courageous man who was not easily discouraged.

He fought for his career in Republican politics, too. He was twice defeated for public office before narrowly winning his Senate seat in a bitter 1980 contest.

Above all, East fought for his staunchly conservative political beliefs. Those beliefs were deeply held and finely honed. Like his close friend and mentor, Sen. Jesse Helms, East represented a new breed of conservative Republican who preached against abortion and school busing and in favor of prayer in the schools. He was a keen debater in the Senate and admired for his intellect, even by those who profoundly disagreed with him.

But the continued effects of poor health may have been too much even for this fighter. He recently contracted a painful hypothyroid condition, that sapped his strength and kept him from much of his Senate work last year. It also forced him reluctantly to decide not to run for re-election.

It appeared to staff and friends in recent months that Senator East had improved. He returned to debate and vote in the Senate, and he was on the verge of resuming his career as a professor of political science at East Carolina University.

It was in that new phase of his career, in fact, that East might have made his most enduring contributions. In the Senate, despite his convictions, he seemed out of place. He loved the ideas of politics, but not the practice of compromise. He never established his independence from Senator Helms, perhaps because he didn't want to. Whether better health or a second term in the Senate would have given him more influence we will never know.

But we do know East was very well suited to the classroom. Made wiser by his Senate experience, he could have taught and influenced another generation of young scholars.

But, now, for reasons we will probably never fully understand, John East's voice has been stilled. His intellectual talents were too large to be so abruptly and tragically wasted. All North Carolinians are saddened by his loss.

[From the Washington Post, July 1, 1986]

JOHN P. EAST

Senator John P. East had been attending sessions at the Senate regularly, was described by aides as cheerful and in a good mood, and was preparing to edit proofs of a book of essays he had written. But as his colleague and fellow North Carolina Republican Jesse Helms said, "One never knows what's inside another person." Mr. East killed himself over the weekend in his Greenville home.

What we do know is that Mr. East pursued his political career under circumstances of surpassing difficulty. In 1955 he was crippled by polio while serving in the Marine Corps. He announced last fall that for health reasons he would not run for re-election this year. He was hospitalized in 1985 for hypothyroidism—a condition that tends to be accompanied by depression—and for treatment of a low white-blood-cell count and a urinary blockage.

Confined to a wheelchair, Mr. East earned a law degree and a PhD in political science, and became a professor at East Carolina University. A conservative Republican when that breed was scarce in eastern North Carolina, he ran for office twice unsuccessfully before being elected to the Senate in 1980.

Like all politicians, Sen. East was only partly successful in reaching his goals, and like many he may have regretted the circumstances—especially cruel in his case—prompting him to leave public office. But he had cause for satisfaction in his work, and his apparent decision that he could no longer carry on inspires sadness and sympathy.

[From the Washington Times, July 1, 1986]

THE DEATH OF JOHN EAST

After playing college football and serving in the Marines, John P. East contracted polio at age 24—one of the last casualties before the Salk vaccine—and learned that he would never walk again. So he climbed into a wheelchair and continued on to law school, graduate school, and a career of teaching political science and the conservative philosophers he so admired. This comeback culminated in his election to the U.S. Senate, where for five years he put his conservative principles into action.

Polio did not destroy him, but hypothyroidism did its best, perhaps succeeding. The disease is known to cause depression, mental impairment, and hallucinations. Last weekend the senator was driven home to Greenville, N.C., and dropped off at his empty home, his wife being on a visit to her mother. Then a note, then the gas fumes, then the end.

American politics has lost a generous and honorable man and that rare bird in practical politics, the intellectual ideologue, pos-

sessor of both scholarly breadth and philosophical commitment.

The moral tradition that John East so zealously upheld teaches that the Almighty has fixed his canon against self-slaughter, but it also teaches that He is, above all else, a loving and compassionate Father. Those who knew the junior senator from North Carolina and who knew of his battles and his sufferings in this world will have no fear for his condition in the next.

□ 1210

THE DEATH OF THE HONORABLE JOHN P. EAST, OF NORTH CAROLINA

Mr. HELMS. Mr. President, I send a resolution to the desk and ask that it be immediately considered.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will state the resolution.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 442) relative to the death of the Honorable John P. East, of North Carolina.

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable John P. East, a Senator from the State of North Carolina.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

The Senate proceeded to consider the resolution.

SENATOR JOHN EAST—IN MEMORIAM

Mr. DOLE. Mr. President, I thank the distinguished senior Senator from North Carolina [Mr. HELMS] for his statement. I want to express, on behalf of all my colleagues on both sides, our sympathy to Mrs. East and her daughters, the family, friends, and staff of Senator EAST.

As I have come to know the Senate, it is a lot like a family. We have our quarrels, we have our differences, we may fuss at one another, we belong to different parties. But, at the same time, we are human beings and we are sensitive to moments of tragedy and sadness as well as happiness. Like a family, when one suffers sorrow, we all suffer sorrow.

Today, as we return to Washington from nearly every corner of this great country from celebrations of this Nation's beginnings, we do have a devastating reality to face: the death of our esteemed colleague, JOHN EAST. Later, we shall stand together as a family when the Senate sets aside a time to eulogize Senator EAST. And I hope that through this united expression of our grief, we will help each other come to terms with his passing. But as the Republican leader, as Senator EAST's compatriot and friend, I could not start the Senate's business anew before paying tribute to this fine dedicated man.

I remember the last conversation I had with JOHN EAST. We were voting on a matter that was fairly close. It dealt with certain matters in the supplemental appropriations bill with reference to university grants. Senator EAST had a different view than I had.

I remember his rolling into the Chamber and saying, "Do you need my vote on this?"

I said, "I would really appreciate it."

He voted with me and departed. That kind of kindness typified JOHN EAST.

I would say to millions of disabled Americans, and there are millions, those who watched JOHN EAST, those who watched JOHN STENNIS on the Senate floor, have come to understand that these are men of courage, that they have overcome great odds, almost insurmountable odds, just to be here. The thing that was remarkable about JOHN EAST was that he never complained about his disability. There must be a plus factor there that just keeps someone moving as JOHN EAST was moving.

The bad side is that he is gone. The good side is that his courage and his willingness to tolerate what many people would not have tolerated has been an inspiration to disabled Americans, severely disabled Americans, all across America. There will be, I think, a very positive fallout. A lot of people can take hope, a lot of people can follow the example that JOHN EAST set.

Here is a man who was paralyzed at the age of 24 with polio. He trained himself to be a political scientist, a lawyer, a scholar. And he used his considerable intellectual gifts not for personal gain but unselfishly as a teacher and public servant.

I knew JOHN before he came to the Senate, knew him in Republican politics for a long time. But I really came to admire him when he became a Senator and I had a chance to become his friend. JOHN was called the resident scholar of the class of 1980 and he brought these scholarly talents to bear on issues of importance to him, whether it was the restoration of traditional family values or the fight for democracy in Central America.

JOHN was a quiet man, an unusual quality in the U.S. Senate. He did not seek to grab headlines or use his position to gain power for the sake of power. He came to the Senate to help carry out his commitment to the American way of life. And, in many important ways, he succeeded.

Mr. President, he is gone and there are no easy answers to explain why. But I know that he will not be forgotten because he left his imprint, not only on the Senate, but on our country he loved so well.

Robert Louis Stevenson once wrote, "To be what we are and to become what we are capable of becoming, is the only end of life." JOHN EAST more than fulfilled that dictum.

The PRESIDENT pro tempore. The distinguished Democratic leader, Senator ROBERT BYRD, is recognized.

Mr. BYRD. Mr. President, while the Senate was in recess, we were all saddened to learn of the death of our colleague, JOHN EAST.

Any person's death is a tragedy and a reason to mourn. The death of a Member of this Chamber always seems to be more personal, the tragedy more deeply felt, and the sorrow more profound. An examination of his personal life leads one to conclude, as his colleague from North Carolina [Mr. HELMS] said, that Senator EAST was a "profile in courage." As a young man, Mr. EAST was a college football player and a lieutenant in the U.S. Marines. But at the age of 24, he was stricken by polio in 1955—just 1 year before the vaccine was developed.

Although his bout with polio left him physically impaired, he proceeded to earn a law degree, a master's degree, and a Ph.D. in political science. As a professor of political science at East Carolina University for 16 years, Dr. EAST earned a reputation as an outstanding lecturer and author of numerous articles.

He was elected in 1980 to serve the people of North Carolina in the U.S. Senate. As a U.S. Senator, he was committed to serving the people of his State as his conscience dictated. He pushed for tougher antidrug laws, sponsored legislation to promote economy in Government, and in the Judiciary Committee's Courts Subcommittee which he chaired, he sought to address impediments to the efficient operation of the judicial system. He also was a strong legislative advocate for free enterprise and for meeting national needs through the efforts of the private sector. He was particularly determined to see that the United States remain strong militarily.

I respected his courage and much has been said about it today and rightly so. I respected his forthrightness. I have seen him in this Chamber when he stood almost alone—almost alone. Seldom did I have to wonder about his position on an issue. Now that he is departed, the causes in which he believed and which he promoted have lost an important and influential voice, and we in the Senate have lost an eloquent colleague. Having been born in the State of North Carolina, the motto of which is "To be, rather than to seem," I believe JOHN EAST lived up to that motto.

My wife Erma and I offer our condolences to Senator EAST's wife, the former Priscilla Sherk, and their two daughters, Kathryn and Martha.

The PRESIDENT pro tempore. The question is on agreeing to the resolution.

The resolution (S. Res. 442) was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the RECORD be kept open for 10 days during which Senators may submit statements eulogizing Senator EAST and, at the conclusion of that time, the statements be collected and bound as a Senate document as provided by law.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. I further indicate at this time that we will set aside a period of a couple of hours very soon so that Senators may come to the floor and make statements.

ADMINISTRATION OF OATH TO JAMES T. BROYHILL, SENATOR FROM NORTH CAROLINA

The PRESIDENT pro tempore. The Chair lays before the Senate the certificate of appointment of JAMES THOMAS BROYHILL of the State of North Carolina. It will be placed on file and the certificate of appointment will be read.

The assistant legislative clerk read as follows:

CERTIFICATE OF APPOINTMENT

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of North Carolina, I, James G. Martin, the Governor of said State, do hereby appoint The Honorable James T. Broyhill a Senator from said State, to represent said State in the Senate of the United States until the vacancy therein caused by the death of The Honorable John P. East is filled by election as provided by law.

Witness: His excellency our Governor James G. Martin, and our seal hereto affixed at Raleigh, North Carolina, this 14th day of July, in the year of our Lord 1986.

By the Governor:

JAMES G. MARTIN,
Governor.

The PRESIDENT pro tempore. If the Senator designate will present himself at the desk, escorted by the Senator from North Carolina [Mr HELMS], the Chair will administer the oath of office required by the Constitution and prescribed by law.

Mr. BROYHILL of North Carolina, escorted by Mr HELMS, of North Carolina, advanced to the desk of the President pro tempore; the oath prescribed by law was administered to him by the President pro tempore; and he subscribed to the oath in the official Oath Book.

[Applause, Senators rising.]

RECESS

The PRESIDENT pro tempore. The Senate will now be in recess.

Mr. DOLE. For 5 minutes.

Thereupon, at 12:24 the Senate recessed until 12:29 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr GRASSLEY).

The PRESIDING OFFICER. The acting majority leader is recognized by the Chair.

DEATH OF SENATOR JOHN P. EAST

Mr. SIMPSON. Mr. President, it was a most impressive ceremony we have just concluded, one we have all shared in, and a most impressive series of remarks by the majority leader and by the Democratic leader and by Senator HELMS—all extraordinarily authentic and sincere. I will have more to say at an appropriate time in eulogizing our colleague, but indeed it is a great tragedy since our last gathering.

□ 1230

I recall so well my last visit with JOHN EAST off the floor, with the usual pleasantries: "How are you, JOHN? What's up?" Talking about voting and the strange hours and things of that nature that we talk of—but seldom get to the depth of ourselves.

Here was this great man of courage who conquered polio; this bright, inquisitive, probative, incisive mind of his; a teacher in every sense of the word.

I have lost a friend. He was my seatmate in the Judiciary Committee at each executive committee session. I know that the occupant of the chair [Mr. GRASSLEY] remembers the pleasure of sharing time with Senator EAST, as he sat on his right and I sat on his left. We had a great deal of rapport and a fine spirit among ourselves.

Then the twin hammers of polio and hypothyroidism brought him down. He told me often: "I could handle the one, but the other makes it tough." Indeed, the degree of that toughness will never be known to those of us here.

I was privileged to be at the memorial service in Greenville, NC—a very moving, swift ceremony—in which he was honored and eulogized.

I say to his wife, Sis, whom I have come to know, and their two dear children, whom I have not come to know well—I hope God will sustain them and strengthen them as they confront this awesome tragedy.

We welcome our new colleague, JIM BROYHILL, to the U.S. Senate. He is a sensitive and thoughtful man. I have come to know him and work with him on nuclear issues in conference committees. I am certain it goes unsaid that this is not the manner in which he wished to come here, but it is in the manner as directed by law under the appointment powers of their able Governor, Jim Martin.

So we greet him warmly as we grieve for our own fallen colleague. Senator EAST leaves a physical vacancy in this Chamber and a greater vacancy in our hearts and minds as we ponder and grapple with how better we might have responded to him or heard his quiet pleas of pain and anguish which were very real and indeed were there.

So we ask God to relieve us all, in our minds and hearts, as to why?—a word, interestingly enough, that does not appear in the Bible. That, I think, is very fortunate, because we cannot continue to wonder "Why?" Our faith and certainly the faith of his wife, Sis, and their two daughters and their love for each other will help us all to assuage the pain of his loss. He shall be deeply missed in so many ways by so many of us.

The PRESIDING OFFICER (Mr. HEINZ). The acting minority leader.

Mr. CRANSTON. Mr. President, those of us on the Democratic side of the aisle did not very often vote with JOHN EAST; we did not very often agree with him on issues. We knew him as a man of great intelligence and high integrity. He was always pleasant, always smiling, and never complaining about the pain and the anguish and the suffering that was his lot. He was a fine Member of this body, a fine member of the family, and we all miss him very deeply.

We express our regrets to his wife and his daughters and other members of that family.

We are also in a mood of welcoming to this Chamber Senator JIM BROYHILL, who comes to replace Senator JOHN EAST. We look forward to working with Senator BROYHILL on the great issues that confront us all in this body and in the United States and in the world.

Mr. PRESSLER. Mr. President, it is with profound sadness that I take this opportunity to express my condolences upon the death of our friend and colleague, Senator JOHN EAST.

The death of Senator EAST removes an extraordinary American from our ranks. Author, philosopher, teacher, scholar, leader, and patriot, JOHN helped us all to better understand the principles and values upon which our way of life is based.

In Congress, Senator EAST handled the responsibilities of his office with unwavering dedication, honesty, and hard work. He supported calls for a restoration of traditional family values, frequently citing philosophers such as Plato, St. Thomas Aquinas, and Edmund Burke. He was strongly dedicated to his home State of North Carolina and our Nation, fighting for his constituents and his principles.

It has been my honor to know JOHN and to be among his many friends and admirers. Throughout his life, JOHN has served his God, country, State,

and community. His life of public service will continue to be an inspiration to us all. JOHN EAST'S personal qualities, his sincerity, his friendliness, his dignity, and his character are the hallmarks of a remarkable human being. He has earned a prominent place in American history. I extend my deepest sympathy to his wife, Priscilla, and other members of his family.

● Mr. HEINZ. Mr. President, it is with sadness that I rise in remembrance of Senator EAST. JOHN was a man of strongly held beliefs, great integrity and personal courage. He was a scholar, a compassionate man, a fine Senator and a good friend.

JOHN EAST was no stranger to adversity. As a young man he was stricken with polio. His response to adversity was typical of JOHN. He dedicated himself to the pursuit of knowledge, and having attained it, dedicated himself for 16 years to sharing it with others. In 1980 the people of North Carolina elected him to serve in this body and for the last 6 years he served North Carolinians and, indeed, all Americans steadfastly.

I will miss JOHN. Several of our colleagues have offered condolences to his wife, Sissy and his family, and I join with them in expressing my sorrow and my wish that JOHN'S great accomplishments will be a comfort to his wife and daughters as they are and will be to the multitude of people JOHN'S life touched.●

● Mr. MURKOWSKI. Mr. President, the death of Senator JOHN EAST has saddened us all. JOHN'S passing was sudden and unexpected, and our hearts and prayers are with Priscilla and the East family.

JOHN EAST and I came to the Senate at the same time, and I consider myself fortunate to have enjoyed JOHN'S friendship. His career in public service was extraordinary, and serves as a lesson for those who must overcome adversities. JOHN served in the Marine Corps until he contracted a debilitating illness that forced him to change paths. Undaunted, he obtained a law degree. He later turned his attention and enthusiasm to educational pursuits, after earning a doctorate degree in 1964.

For over 15 years, JOHN taught political science at East Carolina University, and, in 1980, he was elected to the U.S. Senate, where he strove to put into practice what he had been teaching and studying for much of his career.

Those of us in the Senate who knew JOHN EAST will never underestimate his courage, his thoughtfulness or his sincerity in taking tough positions on a variety of issues ranging from our national foreign policy to concern over family values.

I will deeply miss JOHN'S companionship, and the Senate will miss his wisdom.●

APPOINTMENTS TO THE COMMITTEES ON ARMED SERVICES AND JUDICIARY

Mr. DOLE. Mr. President, I send to the desk a resolution appointing Senator BROYHILL to the Committee on Armed Services and Judiciary, which are the same committees on which Senator EAST served. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 443) making appointments to the Committees on Armed Services and Judiciary.

Resolved, that the Senator from North Carolina [Mr. BROYHILL] is hereby appointed to serve as a majority member on the Committee on Armed Services and Judiciary for the 99th Congress.

The PRESIDING OFFICER. Without objection, the resolution is agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WELCOME TO SENATOR JAMES T. BROYHILL

Mr. DOLE. Mr. President, as just indicated by the distinguished Senator from California [Mr. CRANSTON], today our great representative democracy continues in the wake of a tragedy. With the swearing in of our new colleague from North Carolina, the people's government moves on in a smooth and orderly fashion.

JIM BROYHILL is a skilled and dedicated public servant who has represented his district with distinction for more than two decades. But he will need all of that savvy and experience to bear the enormous responsibility that fate has placed on his shoulders. That is why I ask all of us—on both sides of the aisle—to lend a hand to our newest Member.

It will not be easy following the legacy of JOHN EAST: His tireless efforts on behalf of constituents set a high standard; his committee work was first rate; and his keen intellect was always a welcome addition to Senate floor debates.

But JIM BROYHILL is a special man, and I am confident that he can meet the tremendous challenge now before him.

So I am proud to welcome JIM BROYHILL, who has been my friend since 1962, to this Chamber. We look forward to working with him in the difficult months ahead.

FULL AGENDA AHEAD

Mr. DOLE. Mr. President, I welcome everyone back from what I hope was a restful and productive July 4 recess. The Senate had a grueling few weeks before we left, but at least this time we had something to show for our efforts—sweeping tax reform, a budget resolution, not the least among them.

But to paraphrase an old cliché, the Senate's work is never done. There are only 25 working days between now and the anticipated August recess—and that includes Mondays and Fridays, which I warn my colleagues now will be working days.

During that timeframe, we have serious business to do. I am not going to lay out a comprehensive list. I have learned that lists and deadlines often come back to haunt you. And I think most everyone here knows what essential work we need to do.

I have indicated to some extent, in a brief note to the distinguished minority leader [Mr. BYRD], some areas, and he may have additions to that, because we have a sort of joint responsibility to keep everything moving that we can.

I believe that most of my colleagues on both sides of the aisle, whether they disagree or agree on a certain issue, understand that we have a mountain of work to do, and I hope we can start disposing of it this week. We have a couple of minor bills today, but at least we will be making progress, and I hope we can dispose of these two matters without rollcall votes, because we did not forewarn our Members that there will be no votes today. There will be no votes today, but we hope to dispose of at least a couple of matters.

Clearly, Congress must come to terms with the Supreme Court's decision on the Gramm-Rudman-Hollings balanced budget law. It is my hope that we can resolve the first issue—the fate of the initial March sequester order—quickly, by simply reaffirming the spending cuts. The next order of business is for the designated committees to draft reconciliation savings legislation—their deadline is July 25—and then for the Senate to act on the reconciliation package.

Also, on the economic front, we will have to increase the Federal debt limit soon.

There are a number of critical nominations for us to address, including Terrence Scanlon, Chairman of the Consumer Product Safety Commission, and two Supreme Court appointments—Justice Rehnquist and Judge Scalia.

In the foreign affairs arena, the Senate will have to revisit the Contra issue when we take up the military construction appropriations bill. There is also the United Kingdon-United States Extradition Treaty, which the administration wants us to complete.

And, it is very likely that we will deal with South Africa, in one context or another.

Finally, we have some internal business to take care of: Senator BOREN's PAC amendment; and, 1 hour after the close of business on July 29, the Senate will vote on whether or not we want television as a permanent fixture.

Right before we recessed for the Fourth of July, the minority leader, Senator BYRD, and I submitted a resolution that would allow the cameras to keep rolling through July 29. If we do not adopt this resolution, the cameras will be turned off at the end of business tomorrow.

It does not seem to me that pulling the plug and disappearing for 2 weeks makes much sense. We can assess the experiment just as well with the cameras on, as off. So, Mr. President, I hope we can call up the resolution and approve it today or tomorrow.

□ 1240

We have all kinds of matters. We have to reaffirm the spending cuts because of the Supreme Court decision. We have the reconciliation bill. We have a couple of Supreme Court nominees. We have the Terrence Scanlon matter, which we will dispose of tomorrow, to be Chairman of the Consumer Product Safety Commission. We have an agreement on that.

In the foreign affairs arena we will revisit the freedom fighter issue and take up military construction. There is also the United Kingdom-United States extradition treaty and a number of Members on each side who are concerned that we do more with reference to South Africa.

I know I had not had a chance to return the call of my colleague from Montana. There are a number of us concerned about beefing up the export possibility of American agriculture and hopefully we can work on that in a bipartisan way.

I also hope, and I think we are making some progress, that we can resolve the issue of TV in the Senate, if not today, tomorrow, and if it is not possible to do it by unanimous consent, perhaps if we could get some agreement to bring it up and debate the motion that I introduced with Senator BYRD to let us continue, in other words, not pull the plug tomorrow at the close of business.

So I would just suggest to my colleagues that we are in, I think, right now fair shape. We have a lot of work. There have to be appropriations bills passed and a lot of authorization bills.

I know Senator GOLDWATER would like to bring up the DOD authorization quite soon. We are advised that will take 5 days itself.

So once you start dealing out chunks of 5 legislative days, when you only have 25 days between now and August 15, I think it is an indication of just how much we have to do.

The last thing that I would want to indicate would be some change in the recess schedule, but again I believe there are some matters that we ought to try to focus on, maybe reach some agreement among the leadership on both sides that we are going to dispose of and, if we cannot do it, we may have to look to postponing the so-called Labor Day recess a few days.

Mr. President, I think I have used my leader time, but under the standing orders the distinguished minority leader has 10 minutes and there are special orders for Senator PROXMIRE and Sen.ator MELCHER of not to exceed 5 minutes and routine morning business not to extend beyond the hour—and I ask unanimous consent that be changed to 1:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. With Senators permitted to speak therein for not more than 5 minutes each.

Then following morning business it will be the majority leader's intention to turn to S. 2324 and S. 2444, both bills out of the Labor Committee, and no votes will occur during today's session.

Mr. BYRD. Mr. President, if the distinguished majority leader would like to have me yield him some time from my order, I will be happy to do it.

Mr. DOLE. I have sufficient time.

Mr. BYRD. Very well.

Mr. DOLE. I thank the distinguished minority leader.

Mr. BYRD. I thank the majority leader.

While the distinguished majority leader is on the floor, with respect to the program for the upcoming 5 weeks, the distinguished majority leader has very correctly indicated that this is indeed a very full platter of legislation and other business that should be considered before the Senate goes out for the Labor Day recess.

Anent Contra aid, does the distinguished majority leader foresee that the military construction appropriation bill—to which that subject matter has been attached—will be before the Senate prior to the consideration of the defense authorization bill?

Mr. DOLE. I am advised, if the minority leader will yield, we are not likely to have the military construction bill earlier than July 24. I understand the DOD authorization bill may also not yet be ready. I am not quite certain but I will try to determine that before the day is out or before tomorrow at noon.

I am advised that the military construction bill was received from the House of Representatives this morning and it is my understanding Senator MATTINGLY is also trying to reach me and I have not returned his call, but he wants to do it as quickly as they could.

Mr. BYRD. I assume the majority leader would prefer to proceed to the authorization bill first before going to the appropriation bill. Am I correct in that assumption?

Mr. DOLE. That would be my preference. Again, we have discussed how long we are going to spend on that bill. Is the House going to do anything if we pass it? If we take 5 days on the authorization bill and nothing happens to it, we really have consumed a lot of our valuable time.

Mr. BYRD. Mr. President, the distinguished majority leader has mentioned the two nominations, Mr. Rehnquist and Mr. Scalia.

What is the distinguished majority leader's plan with respect to the Manion nomination?

Mr. DOLE. I am not certain at this point whether I can say I have a plan. I did not have a plan when we took it up the last time, as the distinguished minority leader recalls. I was planning on having a vote on cloture that day. One thing led to another and now there is a motion to reconsider pending.

But, again, in accordance with the agreement that we made that is on the record, before it is brought up I would give the minority leader at least 24-hour notice. We have a similar problem on this side. Let us face it. The facts are that there is probably a one vote difference. We do not want to bring it up if anyone is out of town. The minority leader does not want it brought up if anyone is out of town. I am advised I have someone out of town all this week.

But I will keep in contact with the minority leader on that.

Mr. BYRD. Mr. President, I thank the majority leader.

I noted in the press——

Mr. PROXMIRE. Mr. President, if the leadership will yield a minute, there is a little confusion in this Senator's mind and I am sure many others. There was talk that the Manion nomination would not be brought up again at all and that it would succeed if it were not brought up. There would be no opportunity to reconsider.

I would like to have the majority leader's view on that because I am sure the majority leader is aware that was reported.

Mr. BYRD. I was about to say I note in the press that the distinguished majority leader, or at least it was reported, is planning not to bring this matter up for another vote but to wait until such time as the Senate might recess or adjourn over for a period of more than 30 days, which under rule XXXI paragraph 5 would allow the nomination, of course, to be sent by the Secretary to the President and the motion to reconsider would fall.

But what the distinguished majority leader has indicated to me this morning in response to an earlier question is, as I have interpreted it, and, of course, the majority leader may wish to expound on it further, that he still intends to call up this matter for a vote at some point depending upon when he feels that his votes are in town.

Mr. DOLE. If the minority leader will yield, let me indicate that I have not foreclosed that option. It seems to me we have a very sensitive matter here that I did indicate that one way to dispose of it would be to do nothing. That is still an option. I do not want to foreclose that option.

I think what I would need to do before making any final judgment would be to make certain who is in town and when they are in town and how many are in town. I would guess that would be the same judgment on that side.

Additionally some have suggested we start all over. I do not intend to do that.

The motion to reconsider is pending. I would hope that we could move to table that and that would end it.

But there is the option, as referred to by the distinguished minority leader, that we do nothing.

Mr. BYRD. Mr. President, I can understand the distinguished majority leader's maintaining the rule XXXI approach as an option. I would hope that he would not resort to that approach. He would be within the rule, of course. But, really, the will of the Senate on this nomination has not yet been expressed. There have not been 51 votes for it. There have not been a majority of Senators who have been in support of the nomination.

I would hope that at some point the Senate will go to a vote so that the will of the Senate will be expressed. The distinguished majority leader certainly has it within his power to move to the Executive Calendar at any point and to move any nomination. He need not go to that particular nomination. As a matter of fact, I do not guess it is on the Executive Calendar any longer at this point. But in any event, except for the 24-hour notice to which the minority leader is entitled by virtue of the assurance of the distinguished majority leader—and I have absolutely no doubt as to the distinguished majority leader's intent to give the minority 24-hours notice—whether we have our votes in town or not, to use the distinguished majority leader's reference, we are more or less dependent upon what the majority leader intends to do here. As long as the majority gives us its 24-hour notice, we in the minority have very little recourse within our power to keep the Senate from going into executive session, and if that is done then the motion to reconsider would be pending before the Senate and the motion to table would be in order, and that is not debatable.

So I guess, aside from the 24-hour notice, which the minority will have, it is pretty much up to the distinguished majority leader to decide what the calendar says and the clock says and when he will give that notice. We in the minority will just have to abide thereby.

□ 1250

I do say again, in closing on this matter, that I hope that the Senate will have an opportunity to vote up or down this nomination. It is an exceedingly important one. There are only, I believe, about 13 appellate circuits in this country—11 of the regular ones, plus the District of Columbia, and the Federal circuit.

I will not go further into the importance of the nomination now, but just to say again that, whenever the distinguished majority leader indicates that we have 24 hours, we will certainly, on our side, do everything we can to have our Members present so that the Senate can, indeed, express its will on this matter.

I have another question with respect to another matter.

Mr. DOLE. Will the Senator yield so I may respond?

Mr. BYRD. Yes.

Mr. DOLE. Let me indicate that I think the record ought to reflect that I hope I have made no assumptions or no statements that would indicate, even before the vote on Manion, what the outcome would be because I knew it would be very close. I read some things that I do not believe really occurred. I understand there is a group now that has a radio spot condemning me for certain things.

But let me just repeat what I felt was happening in here the day the Manion matter came up. My view was we would have a cloture vote and probably not succeed, because we had been suggesting there should be a vote up or down. And I assume, sooner or later, we would have gotten that request.

But I was quietly enjoying a dish of ice cream in the Senate restaurant when I was told to rush to the floor, that there was something about to happen. And so I did. Then I had this so-called offer you can't refuse, which literally just gave us a couple of votes. And so I hope that we could dispose of this matter.

I hope no one feels they have been deceived on this side. I did not make any statement saying anything that I could not verify. Mr. PACKWOOD, I could not reach him on the telephone and I had the impression he was all right.

But, beyond that, the matter should be disposed of. I hope that we can do it without relying on the other, the last option, which is the one that would be adjourning for more than 30 days.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

Unless another Senator wishes to speak on this point——

Mr. CRANSTON. If I could just speak on this briefly.

I join in the hope that we will be able to vote up or down on this nomination with 24 hours' notice. The will of the Senate has not yet been expressed. I think it should be on a nomination that is this controversial, where the Senate is obviously very closely and possibly totally evenly divided.

I hope that the majority leader will not go to the option that he mentioned of simply letting everything go until the last minute and then adjourning so that we do not have a vote. That would lead us, if that was the plan, to have to consider other options which we would prefer not to have to consider, such as doing our best to prevent any vote on any nomination until there is a vote on the nomination of Mr. Manion. There are other judgeships pending and there are Supreme Court nominations pending. They should be considered on their own merits and there should be a vote on them.

But, if we are going to be deprived of a vote on this, after a motion to reconsider was duly recorded by the Senate or the request for that vote was made, we should have to consider all options available to us on this side, as the majority leader apparently is considering all options available to him on his side of the matter.

Mr. BYRD. Mr. President, I thank the distinguished minority whip. I hope it will not come to that, but that the Senate will indeed, be given an opportunity to express its will on the nomination in due course.

PROHIBITION ON INVESTMENTS IN SOUTH AFRICA

Mr. BYRD. Mr. President, on the calendar of bills and joint resolutions read the first time, there is H.R. 4868, prohibitions on investments in South Africa.

I wonder if the majority leader would be willing to proceed at this time by unanimous consent so that we can further trigger rule XIV and put this matter on the calendar as of the next day of legislative session without waiting until morning business is completed today.

Mr. DOLE. Fine.

Mr. BYRD. Is that agreeable with the distinguished majority leader?

Mr. DOLE. That is agreeable.

Mr. BYRD. Mr. President, I ask for the second reading of the bill.

The PRESIDING OFFICER. The clerk will report H.R. 4868.

The assistant legislative clerk read as follows:

A bill (H.R. 4868) to prohibit loans and other investments in, and certain other activities with respect to, South Africa, and for other purposes.

Mr. DOLE. Mr. President, I object to any further consideration of the matter.

The PRESIDING OFFICER. The bill is placed on the calendar.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

If I have any time left, I yield it to the distinguished Senator from Wisconsin [Mr. PROXMIRE] who has been patiently waiting.

Mr. PROXMIRE. Mr. President, I thank my good friend, the minority leader.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I understand I have 5 minutes of special order time, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PROXMIRE. Thank you, Mr. President.

SENATOR JOHN EAST

Mr. PROXMIRE. Mr. President, I wish to join my colleagues in paying tribute to our departed colleague JOHN EAST, the Senator from North Carolina. He was a remarkable man. In the years I have been here—and I have been here 29 years—I cannot recall more than two or three Senators who had been wheelchair-ridden, and none during their entire career, except JOHN EAST. JOHN EAST has shown great courage. I think he was a most articulate, intelligent, very decent, and good man.

STAR WARS: ONE CHANCE IN A THOUSAND IT WOULD WORK

Mr. PROXMIRE. Mr. President, several months ago David Parnas caused a brief sensation by quitting his job at the Defense Department as a $1,000-a-day computer expert on the Star Wars Program. Parnas had built a long and distinguished record as one of the world's top computer experts. For years he had been one of the most valued advisers of the Department of Defense. Parnas' full-time job is professor of computer science at the University of Victoria, BC, Canada. Parnas advised the Defense Department on the computer problems associated with the Star Wars Program from its inception.

Why did Parnas resign? Here is why: star wars can only work if this enormously complex system can swiftly and precisely process a huge mass of data, very swiftly and accurately. This would be far and away the most difficult and demanding computer problem ever attempted. So what? Has not computer technology come on with a dazzling rush in recent years? Are not computers today achieving unprecedented breakthroughs that would have been considered impossible a few years ago? Is not the research and development of the star wars system likely to take at least 7 or 8 more years? Why is it not possible, indeed, likely that in the next 7 or 8 years this marvelous technology might provide the defense against nuclear attack we all yearn for and dream about? Could we not expect to bring the computer technology into new, even more spectacular advances by the midnineties when the Defense Department plans to deploy star wars? And is it not true that although the United States has an advantage over the Soviet Union in most military technologies, it is in computers where the advantage is most striking and where the United States is actually increasing its lead?

So if a star wars race between the superpowers should begin, here is one area where the United States could be dead certain to win and win going away. Since the computer technology is essential to star wars, it means that the United States if it proceeds can expect—thanks to computers—to enjoy an immense advantage for many years.

There is one huge problem with this happy scenario. We may be far ahead of the Russians in computer science. But computer science cannot begin to do the job required by star wars. Not now. Not 10 years from now. And not any time in the foreseeable future. David Parnas knew this. This is why Parnas walked out on a $1,000-a-day job. This top world expert concluded that computers just will not achieve this impossible dream. Here is why: There is no question that star wars will require thousands of sensors to determine when, where, in what direction and in what volume the Soviets are launching nuclear missiles. The job of computers will be to process and analyze this data. The computers must correlate the data from the sensors on each of thousands of missile firings. They must then compute the trajectories. They must discriminate between warheads and thousands, perhaps millions of decoys. Computers must aim and fire the star wars weapons. As Parnas has written:

All the weapons and sensors will be useless if the computers do not function properly. Software which controls the computers is the glue that holds such systems together.

Parnas sees software as the problem. What is this software? Software does not include the physical elements of computers, the main frame and so forth. Software constitutes the instructions, the judgment by experts operating the physical equipment as to what is critical and what is not. What does software require to achieve competence and reliability? It requires, demands, lives and breathes on testing. It requires that testing under realistic conditions. The more complex the data, the more varied the conditions, the more crucial is the testing and the experience. So how do we test star wars software? With the immense complexity and the enormous amount of data required, testing would require the experience of operating a star wars defense against actual nuclear attack not once, not four or five times but hundreds of times.

So why will our computer software experts not learn to handle this complexity over the years? There is a simple irrefutable reason why the star wars software experts cannot learn from experience. The overwhelming judgment of experts is that no nation could sustain even a single nuclear attack. So the SDI star wars defense would get only a single chance to work. That chance would come with no real experience whatsoever—none.

But wait a minute—how about simulations? Why could the integrated hardware and software not be tested with simulated attacks—many simulated attacks? Parnas tells us that "many potential problems would not be revealed by component testing, simulations or small-scale field tests." So there would be no opportunity to modify the software during or after its first battle.

Parnas offers a compelling analogy. He writes:

SDI software that works the first time it is used may be theoretically possible. It is also theoretically possible that 10,000 typing monkeys could reproduce the Encyclopedia Britannica. Both are highly unlikely.

Ah, there is the rub. We could spend a trillion dollars on star wars. We could devote 2 or 3 hundred billion a year maintaining and modernizing the system, but the level of our confidence that it could actually protect against a nuclear attack would be at best about 1 in a 1,000. That is why this Senator would choose not star wars, but arms control.

Mr. President, I yield the floor. I yield the remainder of my time, if I have any, to my good friend from Montana, Senator MELCHER.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I wish to thank my good friend from Wisconsin for courteously yielding to me any time he might have remaining.

CONDOLENCES TO SENATOR EAST'S FAMILY

Mr. MELCHER. Mr. President, I wish to express my sympathy and con-

dolences to the family of Senator JOHN EAST. His passing from this world and his absence from this Senate leaves a void.

JOHN EAST was a man of great integrity, and great intelligence. He will be sorely missed here.

U.S. TRADE IMBALANCE

Mr. MELCHER. Mr. President, I wish to address the situation inflicting the Nation on our trade imbalance.

The biggest, hardest, and toughest concrete roadblock seems to have been placed in the path of a good economic recovery for all of the United States. While there has been economic recovery in some areas, in basic industries of this country upon which we principally rely for continued and adequate economic activity, these industries simply are not doing very well at all. It is like some of them are on a tightrope. If they bend too much one way, they are going to drop off. If they stay on it, it seems to be a very treacherous, tortuous path that they must follow if they are going to keep in business, and if we are going to have true economic recovery spread throughout the United States reflected in economic activity that shunts aside and removes the strange signals that we are receiving right now in the markets and from economic analysis which seem to be telling us here in the United States that we indeed may be looking at part or perhaps the worst of times looming ahead of us.

Mr. President, I do not see gloom and doom, as a matter of fact. I do not think I am. But I think the warning that we are seeing in these rather heavy burdens that are placed upon the economic recovery should be looked at, examined, and that we should have some action on them and action promptly. So the two most significant points that face the Congress and the country is those twin debacles of a huge Federal deficit accompanied by a huge growing trade deficit.

Mr. President, there is no reason why we cannot control both of these deficits. We have taken some action on trying to control the Federal deficits and perhaps we will see some fruition of our efforts, both joint efforts by the Congress and administration to see some advance made in handling the Federal deficit.

Mr. President, there has not been any serious attempt in the past 6 months by either Congress or the administration to do something about handling this very severe and damaging imbalance of trade. We are in red ink from last year as we total it all up by about $146 billion from importing more than we exported from the United States. And from all indications this year as we have reached the halfway point in this year we see the trade imbalance has not been improved. We have more red ink, and we are likely to end up this year with even a more adverse trade imbalance for the United States.

It used to be that when we looked at agricultural exports that was a very bright spot in our situation of how much we exported compared to what we import. In 1981, we exported about $46 to $47 billion of agricultural commodities from the United States. Now we are looking for 1986 at a figure that will slice that in two. We are looking at a figure somewhere around $22 or $23 billion worth of agricultural exports exported from the United States, a 50-percent retreat—50-percent less. Indeed, in May we found the situation for the first time in 15 years for any individual month where the United States imported into this country more food than it exported. We can control that, Mr. President. I think it is time we start taking some action on those matters.

On Thursday of last week at my invitation 39 exporting companies and exporting cooperatives met here in Washington, DC. We had an open public meeting lasting from about 9:30 in the morining until 2 o'clock in the afternoon in the Dirksen Building in one of the hearing rooms there. Mr. President, these are people who are in the business of exporting agricultural commodities from the United States. They met here to discuss with me what should be done, what action should be taken not next year but what action should be taken this year beginning this month of July in order to get a handle on the agricultural export situation in order to start turning this around. Mr. President, the unanimity that was expressed by these 39 organizations indeed amazed me.

They agreed on three points. One, that the President should immediately appoint the special adviser on agricultural trade and food assistance that was called for in the 1985 farm bill. That was a provision of the farm bill that was placed there in order to untangle some of the redtape that thwarts agricultural exports from the United States. So far that position has gone vacant. The President has ignored it.

No. 2, all of these organizations agreed that we should immediately use a broad array of the food assistance programs that we have on our statutes. In other words, there are a number of programs, such as Food For Peace, but not limited to that. Other programs are very similar to that which utilize the surplus commodities from the United States as a donation, or a sale for less than full cost, or a sale on the basis of a long-term credit situation or bartering agreement.

These programs are already in place. They are not being used. They are being ignored. We cannot allow that to happen. The agricultural groups of the 39 organizations that met on Thursday asked for a bipartisan approach, both within Congress and down at the White House to emphasize that these are the types of sales and programs they believe should be used adequately, used very quickly in order to regain part of our lost markets, and to increase our agricultural exports abroad.

□ 1310

Mr. President, they also agreed on a third point. That is very simply to complement the first two points. Very simply, it is that our message should be delivered and should be delivered rather forcefully to point out what the urgency is and the need for rapid action. We are preparing a statement to the administration and to the Congress to be delivered to Secretary of Agriculture Lyng to acquaint the White House with the need for adequate attention to these problems right now, and for the rest of us who are cognizant of how serious that situation is to visit with our counterparts, our colleagues, in both the House and the Senate, so that rapid action can be taken.

Mr. President, I received today a letter from one of those in attendance at Thursday's meeting. I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AG PROCESSING INC.,
Omaha, NE., July 11, 1986.

Hon. JOHN MELCHER,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR: On behalf of Jim Lindsay, CEO of Ag Processing and myself, we wish to again commend you and thank you for providing the leadership in getting representatives of American Agri-business together to discuss the problems facing U.S. Agricultural exports.

We were pleased to see the unity and agreement on the many issues presented and discussed by the people in attendance from all different segments of the U.S. Agribusiness community.

I know you appeared to be extremely pleased, and at times almost amazed at this unity and agreement on the basic recommendations which came forth. Your emphasis and acceptance of a by-partisan effort to get action started, hopefully will provide some political clout with the administration in the immediate future because time is running out on some of the funding provided in the Food Security Act of 1985.

As we stated, the current provisions of the Farm Bill provides the necessary tools and funds to get action started on the exportation of wheat, feedgrains, soybeans, and their products.

We also know that you and other Members of Congress are concerned gravely about the lack of exports of agriculture, as we are, and the May figures helped to bring this problem to a head. I know that Secretary Lyng is also concerned and needs our support as he attempts to tell and position

our concerns with the President, Cabinet and their advisors.

In a recent visit, representing the Soybean Industry with Secretary Lyng, we emphasized that by the time OMB, Treasury and the State Departments posted their objections, under the criteria laid down, there were basically no customers left with which to trade.

It is imperative that the U.S. let the rest of the world know that we will be the low cost producer, and to stop expanding production and processing of wheat, corn, feedgrains, soybeans, and their products for subsidized sale into the international market.

We feel strongly that this signal must be given and quickly. Even after this is done, as was pointed out, it will take time to work off the large inventories currently on hand, and we have a large crop of corn, soybeans, and feedgrains projected even with 25 million real acres removed from production. It will take some type of supply management for a few years to get things back to some form of supply-demand balance. We cannot expect to stop current in-place world production, but we can stop expansion of new production, and let world demand catch up.

Jim Lindsay and I look forward to coordinating and setting up another meeting of this group in Washington around the middle of August. We will keep you and your staff informed, and would appreciate your comments on who, in your opinion should be invited from Congress, to the next meeting in the Spirit of By-Partisan Unity.

Sincerely,

WILLIAM C. LESTER,
Vice-President,
Member and Public Relations.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. MELCHER. Yes, Mr. President, I withhold.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will be a period for the transaction of routine morning business.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1420

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER [Mr. ABDNOR]. Without objection, it is so ordered.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 714, S. 2324, a bill to reauthorize programs under the Domestic Volunteer Service Act of 1973, and for other purposes.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 2324) to reauthorize programs under the Domestic Volunteer Service Act of 1973, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. That this Act may be cited as the "Domestic Volunteer Service Act Amendments of 1986".

VOLUNTEERISM POLICY

SEC. 2. (a) The Domestic Volunteer Service Act of 1973 (hereafter in this Act referred to as the "Act") is amended by inserting immediately after the table of contents the following new section:

"VOLUNTEERISM POLICY

"SEC. 2. (a) Because of the long-standing importance of volunteerism throughout American history, it is the policy of the Congress to foster the tradition of volunteerism through greater involvement on the part of both young and older citizens.

"(b) It is the intention of the Congress, through ACTION, the Federal domestic volunteer agency, to foster and expand voluntary citizen service, and coordinate its efforts with other Federal agencies. The ACTION Agency shall utilize to the fullest extent the energy, innovative spirit, experience, and skills of all Americans to serve local communities in activities designed to help the poor, the disadvantaged, and the vulnerable through the application of volunteer service.".

(b) The table of contents of the Act is amended by inserting before title I the following new item:

"Sec. 2. Volunteerism policy.".

VISTA LITERACY CORPS

SEC. 3. (a) Part A of title I of the Act is amended—

(1) by redesignating sections 104, 105, 106, 107, and 108 as sections 105, 106, 107, 108, and 109, respectively; and

(2) by inserting after section 103 the following new section:

"VISTA LITERACY CORPS

"SEC. 104. (a) As part of the Volunteers in Service to America program established under this part, the Director shall establish a VISTA Literacy Corps for the purpose of developing, strengthening, supplementing, and expanding efforts of both public and nonprofit organizations at the local, State, and Federal level to mobilize local, State, Federal, and private sector financial and volunteer resources to address the problem of illiteracy throughout the United States.

"(b)(1) The Director shall assign volunteers to projects and programs that provide assistance to functionally illiterate and illiterate individuals who are unserved or underserved by existing literacy education programs, with special emphasis upon disadvantaged individuals having the highest risk of illiteracy, and individuals with the lowest reading and educational level of competence.

"(2) The Director shall ensure an equitable distribution of volunteers under this section in accordance with the equitable distribution requirement of section 414 of this Act. The Director shall give priority consideration to—

"(A) projects and programs operating in unserved and underserved areas with the highest concentration of illiteracy;

"(B) projects and programs serving individuals reading at the zero to fourth grade levels;

"(C) projects and programs focusing on providing literacy services to high risk populations;

"(D) projects and programs operating in areas with the highest concentration of individuals and families living at or below the poverty level; and

"(E) projects and programs providing literacy services to parents of disadvantaged children between the ages of two and eight, who may be educationally at risk.

"(3)(A) In assigning volunteers under this section, the Director shall assure that the organization sponsoring the project to which the volunteer is assigned meets the requirements of subparagraph (B).

"(B) The organizations to which subparagraph (A) applies are local, State, and national literacy councils and organizations; community-based nonprofit organizations; any local and State educational agencies; any State and local agencies administering adult basic education programs; educational institutions; libraries; anti-poverty organizations; local, city, and State governmental entities; and any other appropriate organization that meets the criteria set forth in section 103(a) of the Act.

"(c) The VISTA Literacy Corps shall consist of all volunteers serving under this section and all VISTA volunteers working on literacy projects and programs under section 103(a)(3).".

(b)(1) Section 112 of the Act is amended by striking out "sections 103(f) and 104(d)" and inserting in lieu thereof "section 103(f) and 105(d)".

(2) Section 113 of the Act is amended—

(A) by striking out "section 104" and inserting in lieu thereof "section 105"; and

(B) by striking out "section 105(a)(1)" and inserting in lieu thereof "section 106(a)(1)".

(3)(A) Section 122(c)(1) of the Act is amended—

(i) by striking out "section 105(b)" and inserting in lieu thereof "section 106(b)"; and

(ii) by striking out "section 104(c) and 105(b)" and inserting in lieu thereof "section 105(c) and 106(b)".

(B) Section 122(c)(2) of the Act is amended—

(i) by striking out "section 105(a)" in clause (A) and inserting in lieu thereof "section 106(a)"; and

(ii) by striking out "104(d), and 105(a)" in clause (B) and inserting in lieu thereof "105(d) and 106(a)".

(4) Section 402(12) is amended by striking out "section 108" and inserting in lieu thereof "section 109".

FOSTER GRANDPARENT PROGRAMS

SEC. 4. Section 211 of the Act is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Subject to the provisions of subparagraph (B), pursuant to regulations which the Director may prescribe, individuals may serve as foster grandparents under this part who are not low-income persons if the individuals serve without stipend or reimbursement for expenses other than transportation, meals, and out-of-pocket expenses incident to the provision of services under this part.

"(B) No individual may serve as a nonstipend volunteer under this subsection in any

community in which there are volunteers serving under part A of this title, relating to retired senior volunteer program.

"(2)(A) Each nonstipend volunteer shall comply with requirements of this part.

"(B) No appropriated funds may be diverted from direct volunteer benefits for low-income stipend volunteers to direct volunteer benefits for nonstipend volunteers under this part. The costs associated with nonstipend volunteers authorized by this subsection shall be paid from solicitations received pursuant to section 402(b), from locally generated contributions, or from resources contributed by the volunteer.

"(C) Volunteers not in the low-income category serving without stipend under this part shall not replace low-income volunteers serving with stipend.

"(3) The Director may not require as a condition of, or a criterion for, receiving any grant under this title that a grant recipient use nonstipend volunteers authorized by this subsection or solicit locally generated contributions for local use.".

SENIOR COMPANION PROGRAM

SEC. 5. Section 213 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1)(A) Subject to the provisions of subparagraph (B), pursuant to regulations which the Director may prescribe, individuals may serve as senior companions under this part who are not low-income persons if such individuals serve without stipend or reimbursement of expenses other than for transportation, meals, and out-of-pocket expenses incident to the provision of services under this part.

"(B) No individual may serve as a nonstipend volunteer under this subsection in any community in which there are volunteers serving under part A of this title, relating to retired senior volunteer program.

"(2)(A) Each nonstipend volunteer shall comply with requirements of this part.

"(B) No appropriated funds may be diverted from direct volunteer benefits for low-income stipend volunteers to direct volunteer benefits for nonstipend volunteers under this part. The costs associated with nonstipend volunteers authorized by this subsection shall be paid from solicitations received pursuant to section 402(b), from locally generated contributions, or from resources contributed by the volunteer.

"(C) Volunteers not in the low-income category serving without stipend under this part shall not replace low-income volunteers serving with stipend.

"(3) The Director may not require as a condition of, or a criterion for, receiving any grant under this title that a grant recipient use nonstipend volunteers authorized by this subsection or solicit locally generated contributions for local use.".

AUTHORITY OF THE DIRECTOR

SEC. 6. Section 402 of the Act is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following:

"(b)(1) The Director is authorized to accept in the name of the ACTION Agency funds received through solicitation of profit and nonprofit entities and to employ or dispose of the funds in furtherance of the purposes of this Act, or of any title thereof. Consistent with the provisions of clause (5) of subsection (a) of this section, all funds so received shall become part of the gift fund account of the ACTION Agency and shall remain available until expended.

"(2) The Director shall assure that a majority of the aggregate amount in each fiscal year of all unrestricted gifts to the ACTION Agency will be spent to support volunteer projects carried out at the community level.

"(3) In carrying out the solicitation authorized by this subsection, the Director may not require local directors of volunteer projects to conduct solicitations at the community level.".

ADVISORY COUNCIL

SEC. 7. (a) Title IV of the Act is amended by inserting after section 404 the following new section:

"NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

"SEC. 405. (a)(1) There is established in the ACTION Agency a National Voluntary Service Advisory Council (hereafter in this section referred to as the 'Council') to be composed of not more than 25 members appointed by the Director. Such members shall be representative of VISTA volunteers and beneficiaries of the VISTA program, Older Americans volunteers and beneficiaries of the Older Americans volunteer program, national and local volunteer organizations, antipoverty organizations, national and local older individuals organizations, and other public and private organizations, groups, and individuals interested in serving programs or benefited by programs carried out by this Act. The Director shall assure that there will be an equitable distribution of members representing both the public and private sector.

"(2) The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

"(b) The Council shall—

"(1) advise the Director with respect to policy matters arising in the administration of this Act; and

"(2) upon the request of the Director, review the effectiveness and the operation of programs under this Act and make recommendations (including such proposals for changes in this Act as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of this Act.

"(c)(1) Members of the Council shall serve for two-year terms. No individual shall serve for more than two consecutive terms.

"(2) The Council shall meet at least twice, but not more than four times, each year.

"(3) Members of the Council, other than individuals regularly employed by the Federal Government shall, while away from their homes or regular places of business, be paid travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(d) Each member of the Council shall, pursuant to regulations prescribed by the Director, disclose any financial interest of the member with respect to any matter before the Council.

"(2) No member of the Council may participate in any decision or action taken by the Council with respect to any matter in which the member has a financial interest required to be disclosed pursuant to subparagraph (A) of this paragraph.

"(e)(1) The Director shall designate a temporary chairperson from among the members of the Council and shall call the initial meeting of the Council within 30 days after appointment of such Council. Members of the Council shall designate a permanent chairperson from among the members of the Council and shall meet at the call of the chairperson.

"(2) All meetings of the Council shall be open to the public and the Council shall provide notice as to the time, place, and purpose of each such meeting.

"(f) Not later than January 1 of each calendar year, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President to the Congress, together with his comments and recommendations. The Council may make such interim reports of its findings and recommendations as the Council deems appropriate.".

(b) Title IV of the table of contents of the Act is amended by inserting after item "Sec. 404." the following new item:

"Sec. 405. National Voluntary Service Advisory Council.".

EVALUATION

SEC. 8. Section 416(a) of the Act is amended to read as follows:

"(a) The Director shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals, in general, and in relation to their cost, their impact on related programs, and their structure and mechanism for delivery of services. Each program shall be evaluated at least once every four years. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.".

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS AUTHORIZATION

SEC. 9. (a) Subsections (a), (b), and (c) of section 501 are amended to read as follows:

"(a)(1) There is authorized to be appropriated to carry out part A of title I of this Act (other than section 104) $25,000,000 for fiscal year 1987, $25,750,000 for fiscal year 1988, and $26,522,500 for fiscal year 1989.

"(2) There is authorized to be appropriated to carry out section 104 of this Act $2,000,000 for fiscal year 1987, $3,000,000 for fiscal year 1988, and $5,000,000 for fiscal year 1989.

"(b) There is authorized to be appropriated to carry out part B of title I of this Act $1,800,000 for each of the fiscal years 1987, 1988, and 1989.

"(c) There is authorized to be appropriated to carry out part C of title I of this Act $1,984,000 for each of the fiscal years 1987, 1988, and 1989.".

(b)(1) Section 501(d)(1) of the Act is amended by inserting "(other than section 104)" after "parts A".

(2) Section 501(d)(1) of the Act is amended by striking out "provide—

(A) 2,000 years of volunteer service in fiscal year 1984;

(B) 2,200 years of volunteer service in fiscal year 1985; and

(C) 2,400 years of volunteer service in fiscal year 1986",

and inserting in lieu thereof "provide 2,400 years of volunteer service in each of the fiscal years 1987, 1988, and 1989".

NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS AUTHORIZATION

SEC. 10. Section 502 of the Act is amended to read as follows:

"NATIONAL OLDER AMERICAN VOLUNTEER PROGRAMS AUTHORIZATION

"SEC. 502. (a) There is authorized to be appropriated to carry out programs under part A of title II of this Act $31,100,000 for fiscal year 1987, $32,033,000 for fiscal year 1988, and $32,990,000 for fiscal year 1989.

"(b) There is authorized to be appropriated to carry out programs under part B of title II of this Act $58,700,000 for fiscal year 1987, $60,461,000 for fiscal year 1988, and $62,274,830 for fiscal year 1989.

"(c) There is authorized to be appropriated to carry out programs under part C of title II of this Act $28,600,000 for fiscal year 1987, $29,458,000 for fiscal year 1988, and $30,341,740 for fiscal year 1989.".

ADMINISTRATION AND COORDINATION

SEC. 11. Section 504 of the Act is amended to read as follows:

"ADMINISTRATION AND COORDINATION

"SEC. 504. There is authorized to be appropriated for the administration of this Act, as authorized in title IV of this Act, $25,312,000 for fiscal year 1987 and for each fiscal year ending prior to October 1, 1989.".

TECHNICAL AMENDMENTS

SEC. 12. (a)(1) The heading of part C of title II of the Act is amended to read as follows:

"PART C—SENIOR COMPANION PROGRAM".

(2) The item for part C of title II in the table of contents of the Act is amended to read as follows:

"PART C—SENIOR COMPANION PROGRAM".

(b)(1) Section 16(a) of the Domestic Volunteer Service Act Amendments of 1984 is amended by striking out "Part C" and inserting in lieu thereof "Part D".

(2) Section 16(b) of such Act is amended by striking out "part C" and inserting in lieu thereof "part D".

(c)(1) The heading of section 213 of the Act is amended by striking out "THE PROGRAM" and inserting in lieu thereof "VOLUNTEER SERVICE PROJECTS".

(2) The item for section 213 in the table of contents of the Act is amended by striking out "the program" and inserting in lieu thereof "volunteer service projects".

(d) Section 122(a)(1) of the Act is amended by striking out a semicolon each place it appears and inserting in lieu thereof a comma.

(e) The fifth sentence of section 401 of the Act is amended by striking out "level 5" and inserting in lieu thereof "level V".

(f) Section 402(a)(1) of the Act (as redesignated by section 5(1) of this Act) is amended by inserting a comma immediately before "except" the second time it appears.

(g) Section 419 of the Act is amended by striking out "to this Act" and inserting in lieu thereof "to this Act)".

(h) Section 421(1) of the Act is amended by striking out "agency" and inserting in lieu thereof "Agency".

(i)(1) Section 105(b) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(2) Section 112 of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(3) Section 114(c) of the Act is amended by striking out "he" each time it appears and inserting in lieu thereof "the Director".

(4) Section 122(b) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(5)(A) Section 402(a) of the Act (as redesignated by section 5(1) of this Act) is amended by striking out "him" and inserting in lieu thereof "the Director".

(B) Section 402(a)(3) of the Act is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Director".

(C) Section 402(a)(7) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(D) Section 402(a)(8) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(E) Section 402(a)(10) of the Act is amended by striking out "him" each time it appears and inserting in lieu thereof "the Director".

(F)(i) Section 402(a)(11)(B) of the Act is amended by striking out "him" and inserting in lieu thereof "the Director".

(ii) Section 402(a)(11)(B)(ii) of the Act is amended by striking out "his intention" and inserting in lieu thereof "the intention of the Director".

(G) Section 402(a)(14) is amended by striking out "he" and inserting in lieu thereof "the Director".

(6) Section 403(a) of the Act is amended by striking out "his official capacity" and inserting in lieu thereof "an official capacity".

(7) Section 404(e) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(8) Section 412(a) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(9) Section 415(d) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(10)(A) Section 601(c) of the Act is amended by striking out "his designee" and inserting in lieu thereof "the designee of the Director".

(B) Section 601(e) of the Act is amended by striking out "his official capacity" and inserting in lieu thereof "an official capacity".

Mr. HATCH. Mr. President, before we proceed with this bill, I want to point out some errors that appeared in the committee report to accompany S. 2324. Staff members on both sides of the aisle are to be commended for their hard work during what was to have been their recess. Many staff members rearranged their vacations in order to have the committee report filed in time to consider this bill today. I am grateful for their efforts and their cooperation. The errors that are contained in Senate Report No. 99-332 are inadvertent and normally would have been spotted and corrected by the Labor and Human Resources Committee editor, James Powell. But Jim spent the Fourth of July vacation recuperating from a broken leg. He was sorely missed and we are glad that he is back with us.

The most obvious mistake was that the names of the committee members who signed the additional views on S. 2324 were not listed in the committee report. It is my understanding that the additional views were signed by the minority members of the Labor and Human Resources Committee.

The committee report should have noted that the additional views were signed by Senators KENNEDY, PELL, METZENBAUM, MATSUNAGA, DODD, SIMON, and KERRY.

Mr. President, we are in the process of correcting this mistake through an errata sheet that will be distributed with the report.

Mr. President, S. 2324 establishes new authority for the Director of ACTION for the enrollment of nonstipended volunteers in the Foster Grandparent and Senior Companion Programs. However, this authority has been substantially modified since the original introduction of S. 2324 and I wish to take this opportunity to explain the committee's intent regarding this new authority.

This authority was given so as to expand the ability of the Older American Volunteer Program to tap the resources of older Americans willing to donate their time and talents to serve the community. Traditionally, the Foster Grandparent and Senior Companion Programs have limited their enrollment to the low-income elderly who receive a small stipend for the 20 hours a week that they serve and individuals with higher incomes who are willing to serve without stipend volunteer through the RSVP Program.

Because of the desire by committee members to preserve the low-income aspect of the Senior Companion and Foster Grandparent Programs, the enrollment of nonstipended volunteers is limited to those communities where a Retired Senior Volunteer Program is not available.

The Retired Senior Volunteer Program differs from the other two Older American Volunteer Programs in that it does not have an income requirement for its volunteers. Since it has a long history and administrative mechanism already established that can utilize the resources of nonstipended volunteers, it is the committee's intention that older Americans who do not meet the low-income criteria yet want to volunteer their time and talents to work in Foster Grandparent and Senior Companion type activities should be directed instead to existing RSVP programs. But it is my understanding that the RSVP directors will place these willing volunteers in programs serving the frail elderly or children with special needs upon request. Mr. President, I would like the opinion of my distinguished colleague from Massachusetts [Mr. KENNEDY], who is the ranking minority member on the committee.

Mr. KENNEDY. That is my understanding. Senator DODD offered the amendment which was accepted unanimously in committee to direct older Americans who do not meet the low-income criteria to existing RSVP programs. And such RSVP volunteers who wish to work with special needs children or the frail elderly will be allowed to do so. This has already occurred in a number of communities. However, not all communities have an RSVP program to which they can refer these willing volunteers. Therefore the authority for nonstipended volunteers in the Senior Companion and Foster Grandparent Programs is intended as a method to tap this valuable resource of older volunteers. The bill contains several provisions de-

signed to ensure that the nonstipended volunteers will not adversely affect the low-income stipended volunteer, including a prohibition on Federal appropriations being diverted to pay for the administrative expenses associated with the supervision of the nonstipended volunteer, and a prohibition against using participation in this program as a criteria for grant award. The bill also prohibits the Director from requiring directors of local projects to solicit private sector contributions.

Mr. President, I wish to stress that we intend that the decision whether or not to enroll nonstipended volunteers in the Foster Grandparent and Senior Companion Programs is entirely up to the discretion of the local project director. No local volunteer project should fear that they will be in any way penalized for their decision to expand their program to accept the nonstipended volunteer.

I want to also point out that since we do not want to divert any of the scarce Federal resources away from the low-income volunteer, we have prohibited Federal appropriations from being used to pay the administrative costs associated with supervising these nonstipended volunteers. Naturally, a nonstipended volunteer is not cost free, and there will be additional administrative costs associated with their enrollment, but the bill directs that these costs should be borne by the Directors' gift fund, locally donated contributions that exceed the required match or even contributions by the nonstipended volunteers themselves.

Mr. President, I extend my congratulations to the Senator from Utah and thank the members of the committee for the strong bipartisan support that we have had in bringing this measure to the Senate floor.

We have just returned from a legislative recess and the Senate is not crowded. However, I know the Senator from Utah, myself, and the other members of the committee, feel very strongly that this is important legislation that deserves swift action today.

Mr. President, I will take a moment of the Senator's time to speak briefly on this bill.

Mr. President, we are considering legislation to provide reauthorization of the Domestic Volunteer Service Act which includes the VISTA Program, and the Older American Volunteer Programs which are so vital to thousands of individuals who receive critical assistance from our Nation's volunteers.

The VISTA Program has been a triumph of self-help for America's poor and represents the tireless work and dedication of committed and unselfish citizens who have been a part of VISTA over the past 20 years.

VISTA volunteers provide service and community activities that help reduce or eliminate poverty and poverty-related problems, such as homelessness, illiteracy, and enemployment.

VISTA is a proven effective program that has helped thousands of individuals out of poverty over its 20-year history.

The Retired Senior Volunteer Program provides volunteer opportunities for senior citizens through a wide range of activities, including youth counseling, drug abuse prevention, and illiteracy. The Foster Grandparent Program provides developmentally disabled children with a volunteer senior companion and the Senior Companion Program provides our frail and elderly citizens with in-home care and assistance.

All these programs utilize vital, largely untapped American resources—our senior citizens.

The volunteer programs under the ACTION Agency provide a hand up, not a handout to thousands of low-income families and senior citizens across the country.

Mr. President, the United States is facing a serious crisis. We are experiencing serious problems and many citizens are suffering. There are 34 million poor Americans in this country. One out of every four children under the age of 6 lives in poverty. Over 20 million Americans are hungry.

The programs under the ACTION Agencies are needed today more than ever. By reauthorizing the Domestic Volunteer Service Act today we will send a message of hope to millions of Americans who can benefit from these important services as we reaffirm our support for the thousands of volunteers who devote their time and their energy to helping fellow citizens in need.

● Mrs. HAWKINS. Mr. President, I urge my Senate colleagues to join me in supporting S. 2324, legislation to reauthorize the Domestic Service Volunteer Act. ACTION was established in 1971 as the Federal agency for volunteer service. It has been very successful in its mission to advocate, promote, and support the voluntary efforts of citizens and public and private organizations in solving vital problems confronting the poor, the disabled, the elderly and youth with special needs.

The VISTA Program, Volunteers in Service to America, strives to alleviate poverty by enabling individuals to perform meaningful and constructive volunteer service. VISTA volunteers direct their efforts at problems of hunger, homelessness, illiteracy, unemployment, drug and alcohol abuse, domestic violence and child abuse and the needs of low-income seniors and the handicapped.

The older american volunteer programs, which include Senior Companions, Foster Grandparents, and the Retired Senior Volunteer Program, provide opportunities for older citizens to utilize their skills and talents while serving their communities. Last year over 400,000 older volunteers served the ill, the frail, the isolated elderly and the young people who are emotionally, mentally or physically disabled.

The 383,000 volunteers in the 749 RSVP programs make significant contributions in local efforts to address community needs. The RSVP program has been involved in youth counseling, literacy enhancement, long-term care in nursing homes, and crime prevention.

According to ACTION, about 17,300 foster grandparents assist over 62,000 children on a given day in all 50 States, the District of Columbia, Puerto Rico and the Virgin Islands. These foster grandparents are part of an interdisciplinary team which helps to alleviate the problems faced by these special children through supportive, person to person services with a healthy emphasis that develops between a child and an older adult.

Senior companions volunteer their time and effort to help their peers, older individuals who have physical, mental, or emotional impairments which put them at risk of being institutionalized. There are currently 7,300 volunteers in 97 senior companion programs. Given the tremendous need for older volunteers to moderate the consequences of growing old alone, frail and afraid, I am helpful that the House and Senate Appropriations Committees will provide full funding for this important program.

Mr. President, S. 2324 contains several important modifications to the Domestic Service Volunteer Act. First it provides a statement of purpose for the ACTION Agency as a whole. While subordinate programs under ACTION have statements of purpose and intent, the Agency has lacked an overall comprehensively stated purpose and mission in its legislation.

The bill expands VISTA's role in combating illiteracy by establishing a new literacy component within VISTA. The literacy corps would be authorized at $2 million in fiscal year 1987, $3 million in fiscal year 1988 and $5 million in fiscal year 1989. The bill also continues a requirement that the title I part A VISTA programs receive funding sufficient to continue 2,400 volunteer service years before other title I programs are funded. The bill provides for level funding of the title I service learning and demonstration programs in fiscal years 1988 and 1989, but authorized funding for title I part A VISTA programs is $25 million, a substantial increase over current funding and it is increased by 3 percent each subsequent fiscal year.

The bill also reauthorizes the older American volunteer programs through fiscal year 1989. The Retired Senior Volunteer Program is reauthorized at a level of $31,100,000 for fiscal year 1987, $32,033,000 for fiscal year 1988 and $32,990,000 for fiscal year 1989.

The Senior Companion Program is authorized at $28,600,000 for fiscal year 1987, $29,458,000 for fiscal year 1988 and $30,341,740 for fiscal year 1989. The Foster Grandparent Program is authorized at $58,700,000 for fiscal year 1987, $60,461,000 for 1988 and $62,274,830 for 1989.

The bill reestablishes a National Voluntary Service Advisory Council to advise the Director on policy matters associated with the administration of programs under this act, including recommendations concerning how to improve such programs, eliminate any duplication of effort and coordinate programs with other Federal programs. The bill specifies that the 25 members selected to serve on the Council be representative of local and national poverty, older American, and volunteer organizations including volunteers and beneficiaries of VISTA and older American volunteer programs. Members of the Council serve for 2 year terms with no individual serving more than two consecutive terms. The Council is directed to meet at least twice but not more than four times a year, with Council members reimbursed for their travel expenses. Council members are required to disclose any financial interest they may have in any matter before the Council and are prohibited from participating in any action taken by the Council in which they might have a conflict of interest.

The bill directs the Agency to measure and evaluate impact and effectiveness of all programs authorized by this act at least once every 4 years. The bill also makes technical amendments to the act to ensure that it is gender neutral.

Mr. President, the legislation that the Labor and Human Resources Committee has developed to reauthorize the Domestic Service Volunteer Act is an important step in mobilizing the vast resources of volunteers in our Nation. I urge my Senate colleagues to support S. 2324.●

● Mr. DODD. Mr. President, unfortunately there was an error printed in the Senate Report No. 99-332 filed on July 8, 1986, to accompany S. 2324, the reauthorization of the ACTION programs.

In the summary of the legislation, it states that:

The Director of ACTION is authorized to develop regulations in which older individuals who do not meet the income criteria may be enrolled in Foster Grandparent or Senior Companion Programs if a Retired Senior Volunteer Program is not available in their community or those programs do not serve the frail elderly or disadvantaged children populations.

However, the phrase "* * * or those programs do not serve the frail elderly or disadvantaged children populations" was erroneously included and should be struck from the report.

The bill reported by the Committee on Labor and Human Resources and agreed to by the members states clearly that nonstipened volunteers are only allowed to serve in Foster Grandparent or Senior Companion Programs if a Retired Senior Volunteer Program is not available in their community. I would like to ask my distinguished colleague from Florida to corroborate this. She chairs the Subcommittee on Children, Family Drugs and Alcoholism on which I serve as ranking minority member. I would also like the distinguished ranking minority member of the Labor and Human Resources Committee, Mr. KENNEDY, and the distinguished chairman of the committee, Mr. HATCH, for their views on this.

Mrs. HAWKINS. The bill as reported by committee is clear on this point.

Mr. KENNEDY. I concur with my colleagues from Connecticut and Florida about the bill as reported out of committee and agree we should delete the erroneous report language before the legislation is adopted on the floor.

Mr. HATCH. As floor manager of the bill, I can assert that my colleague from Connecticut has given an accurate reading of the bill as reported from committee. I thank him for raising this matter and pointing out the erroneous language which appeared in report 99-332. That error now stands corrected.●

AMENDMENT NO. 2198

(Purpose: To evaluate the impact of programs supported by the ACTION Agency relating to services that assist families caring for frail and disabled adult family members.)

Mr. HATCH. Mr. President, I send to the desk an amendment on behalf of Senators GLENN, HAWKINS, PRYOR, DODD, and BINGAMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk reas as follows:

The Senator from Utah (Mr. HATCH), FOR MR. GLENN, MRS. HAWKINS, Mr. PRYOR, Mr. DODD, and Mr. BINGAMAN, proposes an amendment numbered 2198.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follow:

On page 22, line 20, insert "(1)" after "(a)".

On page 23, line 2, strike the end quotation marks and the period the second time it appears.

On page 23, between lines 2 and 3, insert the following:

"(2) Director shall evaluate and report to the Congress not later than December 31, 1989, at a cost of not to exceed $250,000, on the impact of ACTION Agency programs relating to services that assist families caring for frail and disabled adult family members. The evaluation study required by this paragraph shall include information on—

"(A) the range and extent of service needs of, and the services provided to, family caregivers assisted by volunteers;

"(B) the characterics of volunteers and the skills, training, and supervision necessary to provide various types of volunteer assistance to family caregivers;

"(C) administrative costs, including recruitment, training, and supervision costs, associated with volunteer assistance to family caregivers; and

"(D) such other issues as may be relevant to provide services to assist family caregivers.".

● Mr. GLENN. Mr. President, I offer an amendment to S. 2324, The Domestic Volunteer Service Act Amendments of 1986, reauthorizing ACTION Agency programs. I am pleased to be joined today by Senators HAWKINS, and DODD, the distinguished chairperson and ranking member of the Subcommittee on Children, Family, Drugs and Alcoholism, which has jurisdiction over the ACTION Agency. Also joining me in offering this amendment are Senators PRYOR and BINGAMAN, my distinguished colleagues on the Special Committee on Aging.

My amendment will require ACTION, as part of its obligation to evaluate the programs it administers, to exmine the aspects of their programs which provide volunteer support or assistance to families who are caring for their frail and disabled adult members. This study will focus on the Older Americans Volunteer Programs [OAVP] particularly the Senior Companion Programs [SCP] and the Retired Senior Volunteer Program [RSVP]. Volunteers from these programs provide a variety of services to assist family caregivers to ease the stress and burden of caregiving.

An estimated 80 percent of the long-term care needs of the elderly and disabled population are provided by informal caregivers. In other words, most of the care in this Nation is provided by family and friends and others on a voluntary basis; not by local, State, or Federal Government or social service agencies. For many caregivers, this is a round-the-clock responsibility that often leaves them emotionally and physically exhausted.

The availability of assistance by community volunteers may make a tremendous difference in the ability of individual families to continue to provide care, rather than be forced to place their loved ones in a nursing home or some other institutional setting. By relieving the stress of the caregiver, volunteers may play a role in reducing incidents of abuse or neglect of the frail or disabled by family

members. I say volunteers may do these things because, at this time, very little is known about the impact of volunteers.

ACTION programs have an impressive history of success in utilizing volunteers of all ages in providing a wide range of service to their communities. Unfortunately, however, little is known about the impact of volunteers who provide services which assist family caregivers. In fact, ACTION does not know the full range or scope of services its volunteers provide to assist the family caregiver. Careful examination of these supportive services is important. As funding sources become increasingly restrained, and as our population becomes increasingly older, there will undoubtedly be greater demand for volunteers to provide these vital services. Assisting family caregivers is an extremely demanding and stressful volunteer role, and it is crucial that we learn as much about it as possible.

It is assumed that ACTION volunteers provide a wide array of services to family caregivers, including respite care, homemaking services, meal preparation, personal care, handyman services such as building ramps in the home for those who are wheelchair-bound, and companionship. My amendment will provide answers to questions such as: What services are in the greatest demand? Does assistance from volunteers reduce stress and enable families to continue their caregiving? What training or skills can improve the services provided by volunteers and how are they best recruited and supervised? What factors contribute to high attrition rates, and how can volunteer burn-out be reduced? Furthermore, we need information about the characteristics of those who serve as volunteers in this role, such as information about demographics (for example age, sex), rural versus urban distribution, economic standing and types of incentives most beneficial to volunteers.

The ACTION programs represent a great deal of direct experience with volunteers who assist family caregivers. In undertaking this study, it is my expectation that ACTION will call upon those who actually run these programs to assist in the design of the study—not only do they have the best knowledge of volunteers but they also will face the challenge of gathering the information for this study. I expect that ACTION will utilize the expertise of the associations that represent their programs, such as the National Association of RSVP Directors and the National Association of SCP Directors in implementing this amendment. I also wish to emphasize that this study is not intended to replace or substitute other evaluation projects of ACTION, but rather to supplement and enhance current efforts.

ACTION's long-time involvement in volunteer services should provide a wealth of information that deserves close study. It is time that this information is gathered and analyzed to help us in examining policy issues related to meeting the long-term care needs of our Nation's elderly and disabled. I believe that this amendment will provide us with much better insight into ways to encourage and support the tens of thousands of families who face great challenges in caring for those they love.●

● Mrs. HAWKINS. Mr. President, I support Senator GLENN's amendment to S. 2324 which would require ACTION to evaluate the impact of ACTION programs that assist family caregivers. The assistance given by VISTA volunteers, by Senior Companions and RSVP volunteers to frail and disabled adults is an important component of these volunteer programs.

I agree that it would be beneficial to have information on the range and extent of the service needs of family caregivers that are assisted by the ACTION volunteers, the services provided to these families, the skills, training, and supervision necessary to provide the various types of volunteer assistance to family caregivers, the administrative costs associated with volunteer assistance to family caregivers, and other issues that the Director determines may be relevant to provide services to assist family caregivers.

Mr. President, I support the Glenn amendment to S. 2324.●

Mr. KENNEDY. Mr. President, this amendment requires the Director of the ACTION Agency to conduct a study on the impact of ACTION Agency programs related to services that assist families caring for elderly and disabled family members.

We are all aware of the human benefits as well as the cost savings involved in providing support for elderly and disabled individuals to remain at home. I think it is important that we also concentrate assistance and help to those family members who are providing care to these individuals.

The volunteer programs under the ACTION Agency provide services to frail and elderly individuals and disabled adults. This study will tell us what volunteer services are being focused on the family caregivers, the skills needed by volunteers helping these families, and the range of services now available to these families.

Support to elderly and disabled adults living at home is crucial. Aid and support to families who care for these individuals at home can often be the one saving factor to providing a home environment for the elderly and disabled.

Mr. HATCH. Mr. President, Senators GLENN, HAWKINS, and others are offering an amendment which has been accepted on both sides. It will require the Director of the ACTION Agency to evaluate the effectiveness of volunteers as caregivers for frail and disabled adult family members. This evaluation cannot exceed and shall not exceed $250,000. It is to be completed by December 31, 1989.

I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. KENNEDY. Mr. President, I do want to indicate that I think this kind of a study is useful in determining the efficacy, the efficiency, and the soundness of providing volunteer assistance to family caregivers. With this information, it may be possible to expand this type of volunteer service to family caregivers across the country.

These activities are currently taking place to a limited degree within the existing legislation. An assessment and evaluation of the effectiveness of these current volunteer efforts is the key to having such a program expanded at a time when hopefully we have some additional resources to be able to do so.

I think it is a useful addition to the legislation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2198) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

Mr. CRANSTON. Mr. President, as the Senate author of the Domestic Volunteer Service Act of 1973, Public Law 93-113, and several laws amending it, I am pleased to support this legislation reauthorizing appropriations for the domestic volunteer programs authorized under the 1973 act. The legislation before the Senate today, S. 2324, provides a 3-year extension of the authorization of appropriations for the VISTA Program and the Older American Volunteer Programs—RSVP, Foster Grandparents, and Senior Companions—as well as other activites carried out by the ACTION Agency.

Throughout my service in the Senate, I have been closely involved with these successful and vital programs. As the chairman of the authorizing subcommittee from 1971 through 1980, I had the privilege of authoring much of the legislation relating to

these programs that came before the Senate during that period. These programs and the volunteers who breath life into them continue to represent the finest instincts of the American people—caring and compassion for those less fortunate and the willingness to volunteer to help each other. Through these programs, volunteers have shared their time, their energy, and their resourcefulness for the betterment of their communities and our society.

Mr. President, each of the domestic volunteer programs is unique. VISTA, the oldest of these programs, has provided tens of thousands of men and women with the opportunity to be of service to America. Since this program's inception more than two decades ago, VISTA volunteers have worked to reduce poverty and the devastating conditions of poverty such as homelessness, illiteracy, and joblessness. VISTA is a proven, successful endeavor to match volunteers who have the energy and the will to serve with those individuals and communities in need of their talents. There are an average of 150 VISTA volunteers serving each year in my own State of California. Over the last 20 years, thousands of Californians have served in the VISTA ranks.

Of equal success have been the three other older American volunteer programs which have enjoyed remarkably strong support from their start. Since 1969, the RSVP Program has provided retired men and women of public spirit with volunteer opportunities within their communities. These volunteers serve part time in a great variety of settings, involving services such as youth counseling, tutoring in reading and writing, crime prevention, and refugee assistance.

Included also among the older American volunteer programs are the Foster Grandparents and Senior Companion programs. Both of these programs provide to older Americans who possess the public spirit, but not the financial means, a modest stipend to enable them to volunteer in part-time positions assisting others, low-income individuals. Foster grandparents help children with emotional, mental, or physical disabilities, and for some children they may be the first person in their lives to show concern and to provide warmth and guidance to them.

Mr. President, it is especially gratifying for me to see the growth of the newest of these programs, the Senior Companions Program. Established in 1973 through legislation that I authored as chairman of the authorizing subcommittee, its success has been truly rewarding. As Senior Companions, older volunteers help elderly, frail men and women in a number of daily tasks and provide them human contact so that neglect and loneliness do not drive them from their homes into institutions.

Mr. President, with respect to the Foster Grandparent and Senior Companion programs I note that this legislation includes provisions to allow older persons who are not needy to participate. The committee bill limitations on the participation of nonneedy volunteers in these two programs reflect a legitimate concern that a fundamental purpose of these programs—to help alleviate the conditions of poverty among the volunteers as they themselves help others in need—would be otherwise endangered. The language relating to this matter apparently reflects a compromise aimed at preserving a vital objective of these programs. The option of enrolling this new category of volunteers would be available only where an RSVP Program does not already exist. RSVP, of course, is open to volunteers of all income levels and does not provide stipends. Despite this compromise, I have strong reservations about the wisdom of allowing such a fundamental change in the nature of the Foster Grandparents and Senior Companion Programs.

Mr. President, I am pleased to see the strong bipartisan support for these four important volunteer programs. They have earned that support through decades of democratic success.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HATCH. Mr. President, today we are trying to gain passage of the Federal ACTION Agency program. These are really important programs that are committee overviews and which I as chairman of the committee have to work with all the time. Of course, I am very pleased to work with Senator KENNEDY and others in making sure that these programs continue.

Mr. President, today I am pleased to request Senate consideration to the reauthorization of Federal ACTION Agency programs. Through the Federal ACTION Agency, voluntarism is promoted throughout America. Volunteers recruited through these programs help children in our cities; assist frail elderly within their homes, and provide volunteers throughout America with a sense of helping and sharing their good will.

The legislation under consideration today is S. 2324. Sponsored by Senator PAULA HAWKINS, this bill was unanimously reported from the Senate Committee on Labor and Human Resources on June 25, 1986. During a time when Federal resources are becoming more scarce, this legislation makes creative adjustments to ensure no reduction in volunteer efforts. This legislation continues to support volunteers who help people. In so doing, there has been some compromising—some readjustment in administrative costs; some flexibility in allowing the Federal Agency to fund raise; and greater administrative decisionmaking at the local project level. However, these proposals in no way diminish the Federal support for ACTION volunteers. In fact, they strengthen their longevity at a time when our discussion for most Federal programs turns to how can we trim and refine.

Let me take a moment and discuss the specifics. The bill would reauthorize the 3 years the VISTA Program, Service Learning and Demostration Programs, the Retired Senior Volunteer Program, the Foster Grandparent Program, and the Senior Companion Program. The Volunteers in Service to America Program [VISTA], gives opportunities for persons of all ages to serve the disadvantaged in their community. VISTA volunteers are providing service to the homeless, the jobless, the hungry, the illiterate, and persons with special needs relating to alcohol and substance abuse. The legislation projects the funding for VISTA volunteers by maintaining a floor of 2,400 volunteer service-years for the next 3 years.

Through the Senior Companion Program [SCP], low-income senior companions are helping thousands of their homebound peers maintain independent living, through a new authority I worked to establish in 1983. Trained Senior Companions serve in acute-care discharge and respite-care settings and assist psychologically disabled elderly, homebound elderly living alone, terminally ill and elderly with substance abuse problems.

The Retired Senior Volunteer Program [RSVP], sponsors volunteers who serve through nonprofit organizations and local public agencies in more than one-third of the Nation's counties. They contribute to the community by serving youth in operating runaway shelters and emergency food banks, organizing support groups and offering occupational counseling to juvenile offenders, to name but a few of their activities.

The Foster Grandparent Program [FGP], perhaps the best known of ACTION's programs, has volunteers who serve youth in need by working in schools for mentally retarded, disturbed, and learning-disabled children, Head Start Program, juvenile detention centers; in boarding schools and foster care homes, and in some cases in the child's home.

S. 2324 provides for an authorization of $25 million for VISTA in 1987, $2

million for a new literacy corps component for VISTA, $1,800,000 for service learning activities and $1,984,000 for citizen participation and demonstration activities. The VISTA title I programs are increased by 3 percent in outyear funding.

The authorization levels for fiscal year 1987 for the older American volunteer programs are $31,100,000 for RSVP Program, $58,700,000 for the Foster Grandparent Program, and $28,600,000 for the Senior Companion Program. The programs are increased by 3 percent in outyear funding.

Further the bill establishes new authority for the Director of ACTION for the enrollment of nonstipended volunteers in the Foster Grandparent and Senior Companion programs. The Director is authorized to develop regulations in which older individuals who do not meet the income criteria may be enrolled in Foster Grandparent or Senior Companion programs in a Retired Senior Volunteer Program is not available in their community. The bill contains several provisions designed to ensure that the nonstipended volunteers will not adversely affect the low-income stipended volunteer, including a prohibition on Federal appropriations being diverted to pay for the administrative expenses associated with the supervision of the nonstipended volunteer, and a prohibition against using participation in this program as a criteria for grant award.

S. 2324 also establishes a National Voluntary Service Advisory Council to advise the Director on policy matters.

I want to take this opportunity to thank Senator HAWKINS for the development of this bipartisan legislation and for her leadership. I applaud her unflagging support of these programs. I also want to thank Senators DODD, SIMON, and GRASSLEY for the fine tuning amendments they offered.

I urge my colleagues to support S. 2324 as amended.

Mr. President, I call up H.R. 4116.

The PRESIDING OFFICER. Without objection, the bill is discharged from the committee.

Mr. BYRD. Mr. President, what is the request?

Mr. HATCH. I am calling up H.R. 4116 at this time. I move to strike all after the enacting clause and substitute this bill, S. 6343.

Mr. BYRD. That is the companion bill to the Senate bill?

Mr. HATCH. That is correct, Mr. President.

Mr. BYRD. I have no objection.

Mr. HATCH. I call up H.R. 4116.

The PRESIDING OFFICER. Without objection, the bill is discharged from the committee.

The Senate will proceed to its consideration. The clerk will state the bill by title.

The bill clerk read as follows:

A bill (H.R. 4116) to extend and improve the Domestic Volunteer Service Act of 1973.

The Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I move to strike all after the enacting clause and insert the text of S. 2324.

The PRESIDING OFFICER. Is there objection?

The motion was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote on that action.

Mr. KENNEDY. I move to lay that motion on the table.

The motion was agreed to.

HUMAN SERVICES REAUTHORIZATION

Mr. KENNEDY. Mr. President, today we are considering legislation which reauthorizes four programs that are critical to millions of needy children and families across this country. The bill we are considering authorizes the Head Start Program, the Low-Income Home Energy Assistance Program, the Community Services Block Grant Program, and the dependent care block grant, and I urge its swift passage.

HEAD START

Head Start is a comprehensive child development program for disadvantaged 3- and 4-year-old children that utilizes the skills of parents, teachers, and volunteers. The over 22,000 Head Start programs across the country provide 452,000 disadvantaged children with the necessary education, health, and support services they need to get an even start with other children in school. Head Start also equips parents with the resources they need to insure that their children are healthy both physically and developmentally.

We know that the Head Start Program is successful and that it is cost effective. A recently released 20-year followup study of students who attended a preschool program like Head Start showed the positive results of preschool programs. The study documented the success of preschool graduates compared to their peers on standardized tests, in college, and on the job.

Head Start works and Congress has a responsibility to authorize this successful program for 4 more years. This proven program is now only serving about 18 percent of the poor children in this country who need its services. At the very least, we should maintain current services capacity.

LOW-INCOME ENERGY

The Low-Income Energy Assistance Program provides aid to 6.8 million eligible households for home heating and cooling, weatherization, and energy-related emergencies. This aid has been a vital lifeline for millions of senior citizens and economically disadvantaged families who are unable to meet the expenses of heating their homes. Many times this aid has saved the lives of elderly citizens who often risk death by not turning on their heat in the winter because they were unable to pay. And, many older Americans have not escaped death because they attempted to stay warm without heat in their apartments.

It is clear that the LIHEAP assistance is vital to low-income families and our Nation's elderly. Our legislation continues this critical aid for 4 more years.

COMMUNITY SERVICES BLOCK GRANT

The community services block grant helps local community action agencies implement many of the existing anti-poverty programs at the local level. Community action programs help to improve the standard of living for our Nation's poor people and are able to respond to local community needs. Many of the proven poverty programs such as Head Start and the Low-Income Energy Assistance Program are implemented through local community action agencies.

CSBG also offers many local programs which work to alleviate the causes of poverty. Emphasis is placed on ensuring that all individuals become self-sufficient and are able to enter the mainstream of life in their community. Some of these services include assisting people to secure and retain meaningful employment, to attain an adequate education, to obtain and maintain adequate housing, and to achieve greater participation in community affairs. The Human Resources Act requests funding that will merely maintain the current programs under CSBG and which will continue these important services through 1990.

DEPENDENT CARE

Last, our bill calls for the reauthorization of the dependent care block grant which encourages the use of public school buildings for pre- and after-school care for schoolage children between ages of 5 and 13 years. The changing demographics of our society show us that of all mothers with children under the age of 18 years, 59 percent were in the labor force in 1982. No longer can mothers greet their children as they come home from school each day. In increasing numbers, mothers are working in order to provide a decent standard of living for their families. Many women are the sole wage earner in a family and many women provide the critical needed supplement to their husband's earnings. The dependent care block grant provides the necessary incentive for the development of after-school care programs for our young children whose parents are working to make their future brighter. Funding for the development of child care information and referral services is also included in the dependent care block grant.

Just this year, Congress reaffirmed its commitment to the dependent care

programs by providing $5 million in the 1986 appropriations. Our reauthorization request asks for small authorization increases so that these valuable activities will continue to help young Americans and their families.

□ 1440

I hope that at a very early time we will have an opportunity to run through the parliamentary situation in such a way that we can favorably consider the legislation.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, before I move final passage of H.R. 4116, I understand the distinguished Senator from Illinois would like to make some comments about the bill.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I thank the chairman of the committee and the ranking member, Senator KENNEDY, for their leadership in this whole field.

I am pleased that we are moving ahead on the VISTA Program. The VISTA Program really is important and there are three things, two of which are in the bill, and on one of which we have a commitment from the Director, that I think are important. One is that we have a floor in the VISTA Program so that we can continue to protect the program. The second is one that is a small step of what I hope will be many steps and that is on literacy. VISTA is an ideal entity for us to be using to move ahead on the literacy question. There are now about 112 VISTA literacy projects. Using data from six projects, we can see that on the average one VISTA volunteer has been able to recruit 91 community volunteers, so that in theory—and I am not saying this is going to happen exactly, but in theory we could have 118,000 community volunteers on literacy as a result of this one modification in this bill. I think this is extremely important and let me just add we are just tiptoeing around what is a major national problem. I hope one of these days we assault it the way we should.

Then, finally, we have a letter from the head of the agency saying that we are going to move on recruitment.

My distinguished colleagues were there when I brought out the poster, the only poster they have. It looked like it was a poster for blue jeans. It does not look like it has anything to do with helping the poor. It was obviously a white male. It mentioned nothing about blacks, Hispanics, females, older people helping through the VISTA Program. It is perhaps a minor thing, and yet if you are going to have volunteers, you have to have an adequate recruitment program. And we have a commitment from the Director of the Agency that we will now have an adequate recruitment program. This is a chance to help people who really need help. We ultimately are judged whether we are a civilized society not by whether we help the rich and the powerful but whether we help people who really need it. That is what VISTA is all about, and this is a step forward.

I commend my colleagues for their leadership on this and I appreciate the fact that I have been given a chance to have a little bit of an input on this important program.

Mr. HATCH. I thank my colleague for his comments. He has worked very hard to make this an effective program. I agree with his characterization of the poster. We need to do a better job in the Government today to express and pervade for this tremendous program.

I also want to thank my distinguished colleague, Senator KENNEDY, for the leadership he has given. For many years he has served in the Senate, and addressed programs like this. I think these programs are good ones. And without Senator HAWKINS' leadership, this bill would not be in the form it is today.

Mr. KENNEDY. Mr. President, I want to also commend the Senator from Illinois for his initiative in this area. I am somewhat distressed that we have not been able to get the letter that we wanted from the administration for 2 weeks but I understand we have assurances that we are going to be able to get it. The Senator from Illinois had an amendment in committee to assure that there will be adequate out-reach efforts so that Americans who want to participate in VISTA may do so. We have seen a very dramatic reduction in the efforts of the ACTION Agency to bring in new people into the VISTA Program. The VISTA commitment and awareness budget was actually zeroed out at one time in 1982. We know that there has been a serious deterioration in the Agency's commitment to promote VISTA. We now have a new Director of the ACTION Agency. I understand the Director has given assurances to the Senator from Illinois, but I want to indicate to my good friend and colleague, Senator SIMON, that he will certainly have all of my support to assure that that Agency is going to meet the kinds of requests that the Senator from Illinois and others have made.

Mr. SIMON. If my colleague will yield, I have not seen the letter but I understand the——

Mr. HATCH. The letter is in the report.

Mr. SIMON. You have it?

Mr. HATCH. We have the letter in the report. It is filed on page 13.

Mr. KENNEDY. I will suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I suggest that we dispense with the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the engrossment of the amendment and the third reading of the bill. The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4116), as amended, was passed.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I want to thank all concerned including our staff members: Dr. Marvin Fifield, Nancy Taylor, and Wendy Higginbotham of my staff, Robin Rushton of Senator HAWKINS' staff, Debbie Curtis of Senator KENNEDY's staff, and Marsha Renwanz of Senator DODD's staff, who have done an excellent job on this bill. I think we worked well together, both the majority and the minority. In particular I would like to praise Senator HAWKINS and Senator KENNEDY for the extraordinary work they have done, as well as our other colleagues on the committee.

□ 1450

Mr. President, I ask unanimous consent that S. 2324 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later the following occurred.)

Mr. HATCH. Mr. President, I move that the Senate insist on its amendment to H.R. 4116 and request a conference on the disagreeing votes thereon and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer [Mr. GORTON] appointed Mr. HATCH, Mrs. HAWKINS, Mr. QUAYLE, Mr. KENNEDY, and Mr. DODD conferees on the part of the Senate.

HUMAN SERVICES REAUTHORIZATION ACT

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S.

2444, the Human Services Reauthorization Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2444) to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, the dependent care State grant program, and for other purposes.

Mr. HATCH. Mr. President, today I am pleased to focus full Senate consideration on S. 2444, the Human Services Reauthorization Act. This legislation includes several programs that help our Nation's citizens most in need of support.

The individual programs bundled in the Human Services Reauthorization Act share common objectives. They focus on the community, providing flexible and cost-effective assistance to low-income individuals and families. The programs include the Head Start Act, the Low-Income Energy Assistance Program, the Community Services Block Grant Act, the Dependent Care Development Act, and the Child Development Associate Scholarship Assistance Act. All of these programs have a similar purpose: To assist people to develop their potential and move from continued dependency to self-sufficiency. Much thoughtful care and research went into the preparation of the bill by Senator HAWKINS, members of the Family, Children, Drugs and Alcoholism Subcommittee, and members of the staff.

I want to briefly describe the various programs. First, the Head Start Program has a 20-year history of success. I believe we are all acquainted with this program and the service it provides. S. 2444 makes some adjustments to the funding levels for the Indian and migrant programs and adjusts the training and technical assistance provisions. These are funding ratio adjustments. The authorizing level for Head Start is approximately 4 percent above current appropriations with an additional 4-percent increase in subsequent years.

Second, the Low-Income Home Energy Assistance Program [LIHEAP] provides grants to States to assist low-income families in meeting the rising cost of home energy. States can help make payments to help households pay their fuel bills for either heating or cooling. Changes contained in S. 2444 clarifies congressional intent that the neediest households in America receive the maximum assistance and also provide greater flexibility in the organizational entities that can administer the State's Energy Crisis Program.

S. 2444 also includes changes in the community services block grant. This program funds antipoverty activities in States. Changes in this program were also made to refine and perfect the act. Provisions are included regulating the process for termination of funding of community action agencies, and clarification as to what types of projects the Secretary of Health and Human Services is authorized to fund from the discretionary fund.

This legislation also continues the Dependent Care Development Grants. This program provides States with incentive grants for the development of after- and before-school child care programs and for the development of resource and referral programs for families wanting information on dependent care programs within their communities. S. 2444 continues the authority for this program at $20 million for 3 years for the development of after- and before-school child care programs either in school facilities or in community facilities. Part of this money also is utilized for resource and referral programs which could provide information on elderly care, handicapped care, and child care programs.

Finally, the Child Development Associate Scholarship Assistance Act will provide scholarships to encourage individuals to pursue Child Development Associate [CDA] credentials. This assistance will not only encourage low-income individuals to gain self-sufficiency but will train them to be high quality child care providers—an area where there is a critical shortage of personnel.

S. 2444 is supported by many of our colleagues, I would like to take a moment and thank especially Senator HAWKINS for the development of this bill, Senator STAFFORD for his expertise on this legislation, Senator DODD for his help in refining this package, and Senator KENNEDY for his continued leadership in these programs.

I strongly urge my colleagues to support S. 2444, the Human Services Reauthorization Act.

(By request of Mr. HATCH, the following statement was ordered to be printed in the RECORD:)

● Mrs. HAWKINS. Mr. President, I am delighted that the Senate is giving such expedited consideration to S. 2444 today. As reported from committee, S. 2444 amends and extends the Head Start Act, the Low-Income Home Energy Assistance Act, and the Community Services Block Grant Act through fiscal year 1990. The Dependent Care Act, and the Community Food and Nutrition Act are authorized through fiscal year 1989. In addition, S. 2444 authorizes the funding of two new programs, a demonstration partnership agreement under the community services block grant addressing the needs of the poor authorized at $10 million annually through 1989 and a Child Development Associate Scholarship Act Program authorized at $1.5 million annually through fiscal year 1989.

Authorization levels for Head Start provided in the bill are $1,130,542,000 for fiscal year 1987, $1,175,764,000 for fiscal year 1988, $1,222,795,000 for fiscal year 1989, and $1,271,717,000 for fiscal year 1990. This represents a 4-percent increase over last year's funding level.

Changes to the Head Start Program are minor. The bill eliminates the cost-of-living adjustment for Indian and migrant Head Start staff and specifies that the Indian and migrant programs receive 7.1 percent of the total Head Start funding. The bill specifies that training and technical assistance shall receive 3 percent of the total Head Start funding. The bill clarifies that the Head Start agencies should coordinate their programs with State and local preschool services and child day care programs. The bill also continues through 1990 a prohibition of any administrative revision in Head Start's criteria for eligibility which would result in any reduction in, or exclusion from, participation of persons in the program.

In 1983 and 1984, Senator HATCH took the lead in championing legislation which established a dependent care block grant. Because of his efforts, an amendment to Public Law 98-578, the Human Services Reauthorization Act of 1984, authorized funding for the dependent care programs at $20 million a year through 1986. S. 2444 extends this authorization through 1989. Modifications to the dependent care block were based on Senator HATCH's legislation, S. 2386, and are designed to strengthen and improve the implementation of this act. The bill provides that the listing of the types of information of dependent care services made available by dependent care resource and referral systems are desired rather than required. The bill does require the State to provide assurances that resource and referral programs receiving grant funds under this act will not list programs that are not in compliance with State and local laws and that the information that is provided is complete and kept up to date. S. 2444 eliminates the preference that is contained in the act toward school-based child care programs thus enabling community-based child care providers to compete on an equal basis for funds available under this act. The bill also clarifies the definition of a school-aged child and the types of licensing laws and regulations which grantees must comply with in order to be eligible for Federal financial assistance under this act.

The Low Income Energy Assistance Program is also reauthorized for an additional 4 years. Authorizations for the LIHEAP Progam are $2,163,000,000 for fiscal year 1987, $2,227,890,000 for fiscal year 1988, $2,294,726,000 for fiscal year 1989, and

$2,323,567,000 for fiscal year 1990. This represents a 36-percent increase over the previous year's funding and for each subsequent year.

The bill reiterates that LIHEAP payments or allowances can not be used in determining the eligibility of individuals applying for other public assistance programs. It stipulates that community-based organizations such as Agencies on Aging or Community Action Programs are the types of entities which must administer at least a part of the energy crisis portion of the program. The bill provides the Secretary with more flexibility in the manner in which he determines the amount of a grant to Indian tribes. S. 2444 reorganizes the requirements for the annual application that the States must submit each year and includes new language to stress that the neediest households receive maximum assistance under LIHEAP. I am very grateful to Senator STAFFORD and his staff for their assistance in developing this section of S. 2444.

The community services block grant has been the subject of a great deal of criticism and controversy. After reviewing the testimony presented before my subcommittee and the General Accounting Office report on the role and activities of the community service block grant, I support the continued funding of this program. Therefore the authorization levels for the community services block grant are $381,409,000 for fiscal year 1987, $392,851,000 for fiscal year 1988, $404,636,000 for fiscal year 1989, and $416,775,000 for fiscal year 1990. The Community Food and Nutrition Program is authorized at $2.5 million annually through 1989 and a new program for the development and implementation of innovative approaches to the poor is authorized at $10 million annually through 1989.

The definition of an entity eligible to receive funds under this block grant is expanded and the provisions regarding transfer of up to 5 percent of States allotment of CSBG funds is clarified. The bill modifies the duties of the Secretary regarding a proposal of a State to terminate funding to an entity. The bill requires the Secretary to assume funding to an eligibility entity if a State terminates funding prior to completion of its own procedures and requires the Secretary to provide a written review including the reasons for approving or disapproving the State's action in terminating funding to an eligible entity. S. 2444 increases the areas of evaluation and fiscal review that the Secretary of HHS should cover in their review of the States compliance with the provisions of the act. It requires the Secretary to evaluate how the grants given under this act are impacting on children, homeless families and elderly poor. The Secretary shall send recommendations to the States on how to enhance their programs serving the disadvantaged and the States will be required to submit a plan of action on how they will act upon the Secretary's recommendations.

The legislation details the authorized uses of the Secretary's discretionary funds under the CSBG, clarifies what is meant by a community development corporation, and directs the Secretary to give special priority to rural community assistance programs under the special emphasis program on rural housing and community facilities development. S. 2444 directs the Secretary to reserve $100,000 from administrative expenses to fund a national conference that will review the past approaches to problems of poverty and develop strategy for future approaches. The bill directs the Secretary to provide a summary of projects funded under the discretionary grants, including a list of grantees who received their awards outside of the competitive process and submit this list annually to the chairmen of the House and Senate committees of jurisdiction over CSBG.

CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ACT

A new program of scholarships for candidates for a Child Development Association credential is authorized at $1.5 million annually through 1990. S. 2444 sets forth the criteria for eligibility for the scholarships, the assurances that the State applying for the grants must give to the Secretary and specifies the manner in which the Secretary shall distribute these funds to the States and territories. The bill requires the States receiving grants under this act to submit an annual report detailing the number of individuals receiving assistance under this act and how the CDA credential improved the candidates financial status.

Mr. President, I want to take this opportunity to thank all the Senators who worked with me to develop this legislation. Senator HATCH, Senator STAFFORD, Senator KENNEDY, and Senator DODD all made major contributions to the development of this bill. I also want to thank certain staff members whose work on this bill went far beyond the call of duty. Nancy Taylor and Mike Francis in particular put in long hours to ensure that this reauthorization legislation improved this important human service programs.

Mr. President, S. 2444, was favorably reported by the Senate Labor and Human Resources Committee on May 20 without any dissent. It is supported by a bipartisan majority of members of the committee, and I hope my colleagues in the Senate will give this bill their support.●

● Mr. KERRY. Mr. President, S. 2444 the Human Services Reauthorization Act provides critical services to economically disadvantaged citizens by reauthorizing four programs essential to their well being: Head Start, Low Income Home Energy Assistance, the Community Services Block Grant, and the Dependent Care Block Grant.

The Low Income Home Energy Assistance Program has proven absolutely vital to the health and well being of our Nation's poor and elderly. The LIHEAP Program provides aid to eligible individuals for home heating, cooling, weatherization and energy related emergencies. Last year this program served approximately 7 million households, yet over 20 million households were eligible for aid according to the eligibility criteria. The administration in a recent letter called the LIHEAP funding levels in this act, "excessive." I find such comments unconscionable at a time when we as law makers are witnessing a Federal program that is only able to serve one-third of its eligible population, thus forcing the States to choose between the very neediest of the needy. Although the program does not fully absorb the cost of home heating and cooling for low income households, LIHEAP payments do however offset high energy related costs so that badly needed resources can be used for other essential needs.

Poverty has many different causes and certainly requires different remedies. The Community Services Block Grant begins to address the range of problems associated with poverty. Through nutrition and transportation programs, housing and employment services, as well as education, outreach, information and referral, CSBG succeeds in filling in the gaps. More importantly, the CSBG Program helps to improve the standard of living of low-income persons and to encourage self-sufficiency and increased community involvement. Despite the proven track record of the CSBG Program, the Reagan administration opposes its continuation and for the fourth year in a row this administration has proposed to eliminate the program and has recommended that it be combined with the Social Services Block Grant. In the past 4 years Congress has wisely ignored the administration's request and continued this important program which helps indigent individuals become self-sufficient. I feel certain that today Members of the U.S. Senate will reaffirm their commitment to this critical program by voting for full funding of the CSBG Program.

The Head Start Program also has a proven track record. Head Start is a comprehensive development program for economically disadvantaged preschoolers which provides essential education and health support to prepare less fortunate children so that they can enter the school system on the same equal basis as their peers. Over the past two decades, the Head Start Program has assisted more than

9 million low-income children at the preschool age. All evidence has shown that this type of preschool program enjoys a remarkable level of success in helping to prepare these children for a promising educational career.

Last, the Dependent Care Block Grant is a program that provides critical day care services to school children who are frequently left unattended before and after school, often referred to as "Latch Key" kids. Today, America has witnessed a dramatic increase in both two-parent working families and single-parent headed households. As the number of working mothers increases so does the need for adequate day care services. Unfortunately the demand for day care has not been adequately addressed and the future in this area remains uncertain. I want to also point out that while the Congress has taken this issue very seriously, the present administration has not. Last year Congress appropriated funds for the Dependent Care Block Program, yet in an effort to block the release of funds for this important program, the Department of Health and Human Services has failed to draft distribution regulations. Quite frankly Mr. President, in an era where 14.7 million children in this Nation ages 6 to 13 have mothers in the labor force, I find it distressing to watch as the Reagan administration blatantly turns its back on the working mothers and their children through out America by opposing such a needed program. The Department Care Block Grant is a worthy program which I strongly endorse.

Mr. President, I support this complete legislative package as it supplies critical services to a number of well deserving Americans. And I strongly urge that my colleagues unanimously pass the Human Services Reauthorization Act of 1986.●

● Mr. ANDREWS. Mr. President, I speak today in support of S. 2444, reauthorizing legislation for a number of critical programs including the community services block grant [CSBG]; Head Start; low-income energy assistance; dependent care; and the Community Food and Nutrition Program.

Despite the optimistic scenarios propounded by economists and financial whiz kids regarding our current state of economic health, we cannot permit concern and caring to be replaced by complacency and mean-spiritedness. On the contrary, Mr. President, the need for the services provided by these programs in many parts of the country is great, if not greater, than what we have seen evidenced in the past.

In my own State of North Dakota, times are tough. An ailing farm economy coupled with an oil industry that can best be described as crippled and a high rate of unemployment have contributed to the present set of circumstances. The people in need of the services these programs provide are out there. Consequently, I would hope that as Congress continues its efforts to strengthen the Nation's economy and revitalize these ailing industries, we do not overlook or negate the human factor.

We tend to hear a great deal about pragmatism and fiscal restraint. As a member of the Senate Budget and Appropriations Committees, I have a deep appreciation for the taxpayer's hard-earned money. I also believe that my colleagues heed the fact that Members of this body are charged with the responsibility of ensuring that the expenditure of the Federal dollar is carried out effectively and efficiently. At a time when all sectors of the economy are feeling the budget crunch and the burden imposed by a whopping Federal deficit weighs heavily upon us, there is simply no room for wasteful spending. Here, Mr. President, is where programs such as the CSBG, Head Start and LIHEAP come into play.

One of the primary objectives of this administration has been a concerted undertaking to get Americans off the welfare rolls. The focus of the CSBG is precisely that, Mr. President—to get individuals off the welfare rolls and keep them off by moving them out of dependency into self-sufficiency.

Similarly, the effectiveness of Head Start has been more than adequately documented. Recently, the program celebrated its 20-year anniversary, which I believe provides additional confirmation as to Head Start's value and importance. The fact is that studies have shown that Head Start participants are less likely to repeat a grade or require remedial education classes than their nonparticipant counterparts. Furthermore, studies indicate that children in Head Start or similar programs are more likely to complete their secondary education.

Suffice it to say, Mr. President, the programs addressed in this legislation focus on an aspect that we as a compassionate society cannot afford to neglect—our human resources. Fiscal restraint is necessary—let there be no doubt on that point. However, when such restraint results in lack of concern for our fellow man, we must draw the line.

Mr. President, as an original cosponsor of S. 2444, I strongly urge my colleagues to support and ensure prompt passage of this legislation.●

● Mr. STAFFORD. Mr. President, the bill S. 2444 provides for a 4-year reauthorization of four programs that serve our low-income and elderly citizens. The committee has provided for very modest growth in the programs over the next 4 years even though we are painfully aware the need far outstrips the current level of appropriations for the programs.

Title I of the bill reauthorizes the Head Start Program for $1,130,542,000 for fiscal year 1987. This is a 4-percent increase over the fiscal year 1986 appropriation level pre-Gramm-Rudman-Hollings March 1 cuts. In fiscal years 1988–90 the authorization level would increase by 4 percent each year.

For the past 20 years, Head Start has helped children who start life with the innumerable disadvantages that stem from poverty. It has given them the skills and confidence necessary to begin their school careers on more of an even footing with their more advantaged peers. The program's multifaceted approach to working with these children is ultimately sensible. Head Start youngsters not only participate in an education program but also are provided with health and nutrition services. Head Start staff work closely with families to help them overcome the problems which accompany poverty ranging from inadequate housing, poor health, and lack of a job to a basic lack of confidence in their own ability to help themselves.

Head Start's formula has worked well. Head Start children are less likely to be held back a grade or assigned to costly special education classes. Children in Head Start obtain markedly higher levels of health care than children not in the program, have fewer absences from school, and perform better on physical tests. In the program year 1983–84, 100 percent of children enrolled for 90 days or more completed medical screening, including all of the appropriate tests; 96 percent of those identified as needing treatment received treatment; 95 percent of the children were brought up to date in their immunizations.

Head Start also works for parents. Four out of five of Head Start children's parents are providing a volunteer service in the program. Thirty-one percent of the program's paid staff are parents of current or former Head Start children.

S. 2444 is a bill which will help to ensure that Head Start continues to effectively reach these children and their families. It allows programs the option of continuing to provide more than 1 year of a Head Start experience, guaranteeing that the most vulnerable children and families can receive enough support from the program to make a significant difference in their lives. The bill also ensures that funds will be available to train Head Start staff. Head Start, like most child development programs, must cope with an extremely high staff turnover rate because of the low salaries it must pay its staff. Training is key not only because of this type of turnover but also because of the strong role that parents play in the program. Finally, research has identified training as one of the key indicators of positive caregiver-child relationships.

The bill also guarantees that Federal funds will continue to support the Child Development Associate [CDA] Credentialing Program. This program encourages caregivers to improve their skills by seeking a competency-based credential. It is now recognized in over 30 States' child care licensing requirements. In addition to maintaining our previous investment in the CDA Program, this legislation authorizes a very modest but important new program which will provide funds for scholarships for the CDA credential to low-income applicants. This fund will provide an incentive for low-paid child care staff as well as Head Start caregivers to seek this skill building credential.

Title I of the bill represents a wise investment in not only our children's future but in the future of this Nation. This first 5 years of a child's life represent a key developmental period. A strong Head Start Program can help our poorest youngsters make the most of these critical years so that they can grow up into productive, contributing citizens.

Title III of the bill would reauthorize the Low-Income Home Energy Assistance Program at $2,163,000,000 for fiscal year 1987. This is a 3-percent increase over the fiscal year 1986 appropriation level pre-Gramm-Rudman-Hollings cuts. The energy program would grow at a 3-percent rate for the next 3 fiscal years authorized.

The LIHEAP Program served 7 million households in fiscal year 1986 with an average benefit of $208, down $15 from fiscal year 1985. This means about 40 percent of the 17.6 million households eligible under the State-established standards received benefits equivalent to 23 percent of their residential energy expenditures.

Despite rumors to the contrary, most households have not benefited from the drop in world oil prices. While the 16 percent of low-income households using heating oil did get some small price break—albeit many months after the refineries and terminals benefited—the other 84 percent have not experienced any price drop. Indeed, indications are that electricity prices will continue to increase and that gas prices, once expected by DOE to stay level, may now rise higher than administration predictions as price controlled "old gas" disappears.

The poor continue to spend about 14 percent of their incomes on residential energy—more than twice as much as the average American household and a far higher proportion than they did 10 years ago. In fact, census figures recently distributed by the National Association for State Community Services Programs show that the average 3-person LIHEAP household, after paying for food, housing and energy, has $355 left per year for all other expenditures.

The LIHEAP block grant represents a partial response to the very serious problem energy continues to pose for the poor. This act provides only a 3-percent increase each year over the previous year's funding. Other resources are clearly needed to provide service to the majority of eligible households not now being served and to give more adequate aid to the neediest LIHEAP households whose energy costs can now exceed 30 percent of income.

A few examples presented to the committee during our hearings help give our concerns a human face: Take the Peters family of Barbourville, KY. The mother, Rhonda, and three children live on a $246 AFDC allotment and $265 of food stamps per month. Now LIHEAP funds have run out in Kentucky and she has received a shut-off notice. She owes $198 on her electric bill. She now plans to heat her house using space heaters and extension cords to her mother-in-law's house next door. The fire hazard is considerable in her very dilapidated rental unit.

There is the Portland, OR family with five children and one grandparent with $3,900 net income annually. Their oil bills have run $1,000 per year in the rental unit. Even with LIHEAP assistance of about $300, they have gone without food this winter to keep the heat on.

Or the 78-year-old Iowa widow, Jennie, who lives on $284 monthly and had a $47 budget bill payment due each month to Iowa Public Service Co. LIHEAP paid $305 or a little over 6 months of her heating costs. She tells her CAP she spends just $85 monthly on groceries.

In 1984, the Labor and Human Resources Committee reauthorized LIHEAP and determined that the program had developed into an effective delivery system which needed some elements of improvement and targeting to perfect it. Consequently, our amendments in the Human Services Reauthorization Act reduced the permissible amounts of carryover, required equal treatment for categorically eligible and nonwelfare households, prohibited States from excluding households under 110 percent of poverty, and required all States to reserve some funds for winter emergency assistance and provide effective aid to those facing energy crisis. In addition, of course, we retargeted the distribution formula.

Our oversight hearings this year found that indeed the program has matured further and is working well in the vast majority of States. Not only has program participation increased, but Federal, State, utility, private, and recipients alike testified to the success and effectiveness of most programs.

In addition, the LIHEAP Program has been the catalyst for millions of dollars of State contributions including large appropriations in Massachusetts, Michigan, and Indiana, as well as close to $40 million in fuel funds contributed by millions of American individuals who care about the energy problems of their less fortunate neighbors.

In the long run, these efforts, which are now relatively small, may begin to make up the lost purchasing power for LIHEAP households which the program cannot cover. But we need to keep at least this stable base of Federal funding to permit this to occur.

However, we identified a few problem areas in which a few States had apparently not read our intent clearly. This year's amendments are generally designed to restate the Senate's continuing concern more unequivocally.

For example, the provisions requiring that all States provide all, or at least some, energy emergency aid through community based organizations is the committee's general solution to the frustrating evidence that a few States are not providing the locally accessible, prompt form of aid that is essential to the elderly and others who face loss of heat.

The committee expects States to adopt any of the numerous model emergency programs which ensure round-the-clock, life-saving help but do not encourage households to avoid payments or invite emergency situations. The Department of Health and Human Services should support such efforts.

However, the birth of energy assistance funding over a decade ago, was a direct result of Congress' view that it is intolerable if any American should face illness or death by virtue of hyperthermia or hypothermia. State programs are still responsible for providing protection from those risks to the elderly and others at risk. Providing regular payments to those certified for the program early in the winter is not adequate when less than 40 percent of the eligible poor are participating.

The committee has learned through years of oversight of the program that in all States community based organizations can provide prompt, flexible, efficient services and that they are good at identifying those at risk. The provision intends that CAP's and other such agencies have a significant role in crisis programs. As stated in the report, the committee expects that all parts of each State will either have available CBO crisis programs or will have available the same type and level of services offered by CBO's elsewhere in the State.

Mr. President, I emphasize the last sentence because of a printers error in the committee report.

Another clarification apparently required in spite of our clear 1984 amendments is the bill's restatement

of the requirement that LIHEAP may not be considered in determining benefits or eligibility in the Food Stamp Program.

This legislation definitively clarifies the treatment of LIHEAP benefits under 5(e) of the Food Stamp Act. LIHEAP benefits, whether received in cash, directly, or through payments to energy vendors, indirectly, shall not affect a household's eligibility for or benefits received under the Food Stamp Program.

The legislative history of LIHEAP makes clear Congress' intent that LIHEAP supplement other basic needs programs, including specifically the Food Stamp Program. Nevertheless, the USDA has attempted, through regulation, to undermine the intent of Congress expressed in LIHEAP, by prohibiting the deduction of LIHEAP benefits as all or part of a household's excess shelter deduction under section 5(e) of the Food Stamp Act.

The courts have found in all cases, consistent with the intent of Congress in LIHEAP, that LIHEAP benefits should be counted as all or part of a household's excess shelter deduction under section 5(e) of the Food Stamp Act. (These court decisions affect the eighth and ninth circuits and Indiana.) This legislation lays to rest this issue by affirmatively extending these court decisions nationwide.

The committee also rejected the administration's proposal to count a variety of other forms of Federal benefits in LIHEAP benefit and eligibility determinants.

Section 304 of the bill reiterates Congress' intent that the neediest households, as defined historically in section 2605(b)(5) of the act, are to receive the maximum assistance. This means that States must vary benefits according to the factors set out in that provision; that is, based on income and energy costs in relation to income, taking into account family size.

In other words, the committee amendments further require that States consider energy costs in relation to income and income and family size when setting benefit levels. We are concerend that, since resources will never be adequate to the need, the highest benefits always go to those in greatest need, which means those with the highest energy costs in relation to income and the lowest incomes. States are expected to target LIHEAP resources effectively to the need; our hearings showed that the vast majority of funds are distributed as we intend, but that a few States, for administrative convenience, were making uniform payments to all categorically eligible households regardless of their income or energy costs.

Finally, the committee made numerous changes in administrative and procedural requirements requested by the administration. It is our intent to permit streamlined rearrangement of the program but it is also our intent that the Federal managers of the program take whatever measures are necessary to promote and enforce program standards that assure a well-targeted program, readily accessible to all eligible households, with effective emergency aid and cost-effective coordination with private, State, and local energy programs.

Title IV of the bill reauthorizes the community services block grant at $381,409,000 for fiscal year 1987. This is a 3-percent increase over the fiscal year 1986 authorization level prior to the Gramm-Rudman-Hollings cuts. The authorization levels are increased by 3 percent for the 3 additional years in the bill.

The committee bill makes a number of changes in the discretionary authority of the Secretary. First, it was brought to the committee's attention that the existing statute was unclear regarding both eligibility of grantees and activities under the community economic development [CED] section of the law. Our intent, in drafting the CED section for the Omnibus Reconciliation Act of 1981 was to continue to fund successful nonprofit community development corporations to carry out job creation and enterprise development projects to benefit low-income people and their communities. In my State, Northern Communities Investment Corp. [NCIC] is such an organization and I have been very impressed with its record of accomplishment. We have revised the statute to make clear that funds authorized under this section are to be used to fund projects sponsored by nonprofit community development corporations, which will promote job creation and business development in distressed communities.

In addition, the committee has added language requiring that all CED funds be administered on a competitive basis. Currently, most grants are made after a national competition. However, each year a few are made outside this system. We do not think this is fair and our amendment will ensure that all grantees must compete for funding.

Finally, in order to ensure that a national technical assistance program for rural communities with inadequate drinking water is continued, the committee has added language to the rural housing and community facilities section giving a priority to rural community assistance corporations.

Last but not least, title II of the bill reauthorizes the Dependant Care Services Program at $20,000,000 for fiscal year 1987 and the 2 succeeding fiscal years.

Mr. President, under Senator HAWKINS' sponsorship this bill will make further improvement in the delivery of human services to our elderly and low-income Americans. The continuation of these important programs is needed to meet the needs of elderly and low-income Americans.

Mr. President, I ask my fellow Senators support for Senate passage of this bill today.●

● Mr. CHAFEE. Mr. President, the bill now before us reauthorizes the Head Start Program for 4 more years, thus assuring it of a future as successful as its past. I urge my colleagues to give it their most whole-hearted support.

Head Start seeks to close the gap between disadvantaged children and their more fortunate peers, providing educational, medical, and nutritional services to more than 450,000 lower-income preschoolers. In Rhode Island, it serves thousands of children and their families, with programs currently operating in Cranston, Newport, North Providence, North Scituate, South County, Providence, Riverside, Warren, Bristol, Warwick, and Woonsocket.

This bill reauthorizes the program through fiscal year 1990, increasing the authorized funding level by 4 percent each year. These modest increases will allow Head Start to continue its current responsibilities, helping to alleviate need for cutbacks in services.

Head Start is a program that works. Its effectiveness has been documented time and again, in study after study. Findings like these are typical: Head Starters score higher than non-Head Starters on standardized tests of intelligence, school readiness, math, language, vocabulary, and perceptual skills. They perform better in school, and less frequently require special education. In later years, they are more likely to hold after school jobs, and less likely to show signs of delinquency.

Thus, the good that Head Start does resounds through the years, as studies have shown. But it also resounds through entire communities, thanks to the program's consistent emphasis on parent and community involvement: for every five Head Start children, four parents volunteer their services to the program. Clearly, the program reinforces parents' commitment to their children's well-being, with results that last a lifetime.

All these factors account for the most convincing evaluation of all—Head Start's benefits, as compared to its costs. When one considers the special and remedial education that are not needed because of Head Start, the program's benefits outrun its costs by more than 2-to-1.

I urge my colleagues to support further Head Start successes by supporting this measure.●

● Mr. RIEGLE. Mr. President, I am pleased to join my colleagues today in voting to reauthorize the Dependent

Care Block Grant Program, Head Start, the Low Income Home Energy Assistance Program, the Child Development Associate Scholarships, and the Community Services Block Grant Program. In a recent letter circulated to Members of the Senate, I was very sorry to see the new Secretary of HHS is using the same, tired arguments the administration has used to oppose these vital programs over the past 5 years. Congress has repeatedly affirmed that these programs play an essential role in providing for the care and education of our Nation's children, as well as providing critical services to low income persons.

I am particularly pleased that this legislation reauthorizes the Dependent Care Grants Program because of the difficulties we have encountered in getting this program started. Mr. President, almost 2 years ago, Congress authorized this program in an attempt to address the tremendous problem that working parents face in finding suitable before and after school care for their children. We appropriated funds to get this program underway in December 1985, and the President signed the appropriation bill into law.

Since that time, Mr. President, the administration proposed a rescission of these funds, and HHS delayed promulgating the regulations until the end of April. HHS has finally issued the regulations for awarding and administering the grants, and States have begun to arrange the required matching funds and approve programs for this year. Because the regulations were released so late in the year, however, the program will barely be underway when the current authorization expires. Reauthorizing the program will provide the time and funds that are required to fully evaluate the effectiveness of this program.

Mr. President, finding suitable before and after school care is a serious problem for American families. In the intervening years since the program was authorized the number of so-called latchkey children has continued to grow because before and after school care is simply not available to meet the needs of working parents. Some estimate that as many as 20 percent of all children may be responsible for self-care while their parents are at work. This situation poses unconscionable risk to our children and creates needless worry for their parents. Despite Secretary Bowen's reassertion that the administration opposes the dependent care initiative, I believe it is essential that we reauthorize this program so that we can begin to help working parents devise solutions to the critical shortage of before and after school child care.

Other programs in this package, such as Head Start and other community service programs, have a well-documented history of success which provides compelling reasons for our continued support. The LIHEAP Program, for example, has proved to be an enormously effective way of ensuring that low-income persons have sufficient fuel to protect them from the extremes of the weather. Regardless of the ups and downs in the world oil market, we ought to be able to provide people with sufficient heat in winter—this is fundamental to maintaining the quality of life in our communities.

Mr. President, I am pleased to join with my colleagues in reauthorizing these programs. These services are essential for keeping our communities vibrant, safe, and stimulating places for American children to grow up in.●

Mr. HATCH. Mr. President, I see that Senator HEINZ is ready to offer his amendment, and I defer to him.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2199

(Purpose: To make a technical modification in the Excellence in Education Act)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 2199.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new title:

TITLE .—EXCELLENCE IN EDUCATION

TECHNICAL AMENDMENT

SEC. . (a) Section 604(b)(2) of the Excellence in Education Act (hereafter in this Act referred to as the "Act") is amended by inserting after "fiscal year" the second time it appears the following: "in which the appropriations for that year exceed $15,000,000".

(b) Section 604(b)(3) of the Excellence in Education Act (hereafter in this Act referred to as the "Act") is amended by inserting after "fiscal year" the second time it appears the following: "in which the appropriations for that year exceed $15,000,000".

Mr. HEINZ. Mr. President, I thank my friend and colleague, the chairman of the committee, Senator HATCH, for yielding to me at this time to offer this amendment, with which I know he has a considerable degree of familiarity.

I want to emphasize at the outset that this is a fairly technical amendment. It does not really change any substantive provisions of law, but unless it is adopted by the Senate, it will severely jeopardize the operation of a program, the Excellence in Education Act Awards, which the Senate has been funding for several years now, from operating the way the authors of the legislation originally intended.

The problem is that in our original bill, we had set aside some $3 million for matching private-sector initiatives out of an authorization level of some $15 million.

What has happened is that the level of appropriation, which in 1985 was $5 million and currently is $2.5 million, is causing the set-aside to operate in a perverse way. Namely, the set-aside, because it was written as an absolute dollar amount rather than as a percentage of the amount appropriated, threatens to capture and force the spending of the entire funding for the Excellence in Education Program and force all that money to be spent on the so-called private sector matching grants program. That was never the intention of any of the authors of the amendment.

For the benefit of a little legislative history, the Excellence in Education Program was created as title 6 of the Education for Economic Security Act of 1984. It is modeled after a successful program in Allegheny County, my home county, in Pennsylvania, and it provides small grants to individual school districts for the reform and improvement of educational activities.

It is a very small incentive grant program by which school districts from across the Nation compete and are limited to an amount of money—no more than $25,000 over 2 years—in order to bring about the modernization and improvement of curricula, administrative relief of teachers, new programs involving local communities, and demonstration programs of modified school hours and school years.

I guess the best evidence of the success of this program is the response it has stimulated. The Department has received roughly 1,000 applications for the first round of funding. That is far more than can be approved. The adoption of the amendment I have just offered will guarantee that the full $2.5 million appropriated for fiscal year 1986 will be available to help our schools improve and modernize.

So it is my hope that the authors of the legislation before us can accept the amendment. I have discussed it with the staff of Senator HATCH and I understand that he is amenable to it. We have been trying to work with the minority as well. I have not had a chance yet to talk to Senator KENNEDY. I do not know how he feels about it. But I hope the Senate will adopt it.

Mr. HATCH. Mr. President, the Senator from Pennsylvania [Mr. HEINZ] has offered this amendment, and I understand both sides are willing to accept it. It is technical in nature. It changes the current law by ordering the requirements in set-aside.

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Instead of business being required to match Government funding with specific fixed dollar amounts, the match will be a percentage, 20 percent, based on the actual appropriation.

I yield to my distinguished colleague.

Mr. KENNEDY. Mr. President, we welcome the suggested change of the Senator from Pennsylvania.

As I understand, there are some 800 applications for these funds now. It is a very, very limited amount of resource. We are talking about $2.5 million. We probably should be talking about $125 million to $150 million in funding for these important award grants to public school teachers who display excellence in their jobs. These awards permit them to develop new skills, ideas, and programs so that they can provide a more enriching educational experience to the young people who attend school across our country.

I welcome the opportunity to support it. I will try to come back at another time with my colleague from Pennsylvania to work on expanding this program. It is a very modest program, but I think it is a useful one. After it has, hopefully, been accepted and we have examined its effectiveness, perhaps we can build a case to gain additional support for it.

The PRESIDING OFFICER. Is there further comment on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2199) was agreed to.

Mr. HEINZ. Mr. President, I thank my colleagues, Senator HATCH and Senator KENNEDY, who supported the amendment.

I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2200

(Purpose: To amend the Fair Labor Standards Act of 1938 to exclude from sections 6, 7, and 12 of that Act individuals of league baseball teams who serve as bat boys and bat girls)

Mr. HATCH. Mr. President, I offer an amendment on behalf of Senator QUAYLE and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GORTON). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. QUAYLE, proposes an amendment numbered 2200.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. The amendment is as follows:

At the end add the following new section:

TITLE.—TREATMENT OF BAT BOYS AND BAT GIRLS UNDER FAIR LABOR STANDARDS ACT OF 1938

AMENDMENT

SEC. —. Section 13(d) of the Fair Labor Standards Act of 1938 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The provisions of sections 6, 7, and 12 shall not apply with respect to any individual who serves a league baseball team as a bat boy or bat girl for the team if the individual—

"(i) has attained 14 years of age but not 16 years of age;

"(ii) serves as a bat boy or bat girl not more than two nights per week; and

"(iii) while school is in session, works not later than 11 post meridian.

"(B) For the purpose of this paragraph, the term 'bat boy or bat girl' means an individual who provides the traditional services of a bat boy or bat girl for league baseball team, including a ball boy or ball girl, and shall not include services unrelated to the game of baseball, such as, but not limited to, laundry services for the team or policing the baseball field.".

● Mr. QUAYLE. Mr. President, I offer an amendment to the Human Services Reauthorization Act. My amendment permits boys and girls age 14 and 15 to serve league baseball teams as bat/ball boys and girls. This amendment is necessary because the Department of Labor has recently ruled that young people who are bat/ball boys or girls, are violating Federal child labor laws which prohibit working past 9 p.m. on summer evenings and past 7 p.m. while school is in session. All Americans know that baseball does not fit into those times.

I think this ruling was wrong. Last April, I introduced S. 2277, a bill that would permit 14- and 15-year-olds to associate with league baseball teams as bat/ball boys and girls. My bill is now an amendment to this reauthorization.

Currently, there are several exceptions to the child labor provisions to the Fair Labor Standards Act. One of them is for newspaper deliverers. Another is for child actors, still another is for children who harvest live evergreens and shape them into wreaths. Children may also work for their parents, such as on a family farm. These are important exceptions. Bat boys and girls were left out of the list of exceptions, but until fairly recently, they continued to serve the teams, usually for the minor leagues, but not always.

This amendment is important because it permits young people to have fun and to share in the reflected glory of the baseball players. It is also important, because it contains restrictions on how late the kids can be at the games while school is in session. The amendment also makes it clear that a bat boy or girl is one who provides traditional bat/ball boy or girl services, and no laundry or grounds work shall be considered bat boy or girl services for the purposes of this amendment.

Baseball is a game for young people, even if grownups take it seriously. I am delighted that we can keep the fun in the game. To quote the Secretary of Labor in a letter that he wrote to Baseball Commissioner Peter Ueberroth earlier this year, ". . . being a bat boy is a dream opportunity for many youngsters." He's right. We want to keep this dream alive for all the kids in America. I invite my colleagues to cosponsor my amendment, and I hope that Mr. Brock and Mr. Ueberroth will voice their support for the amendment as well.

I would like to say that I hope my amendment can be accepted to the Human Services Reauthorization Act by unanimous consent. The Human Services Reauthorization Act contains many programs and provisions that benefit young people, and I hope we can agree to make this one of them.

Finally, I would like to thank Max Schumacher of the Indianapolis Indians baseball team for bringing this problem to my attention and for his patience and help in helping to resolve it.

I thank the distinguished manager of the bill for this opportunity to speak on my amendment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2200) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2201

(Purpose: To provide for the designation of a Regional Primate Research Center)

Mr. HATCH. Mr. President, I offer an amendment on behalf of Senator D'AMATO and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] for Mr. D'AMATO proposes an amendment numbered 2201.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

TITLE.—DESIGNATION OF REGIONAL PRIMATE RESEARCH CENTER DESIGNATION AUTHORIZED

SEC. . (a) The Secretary of Health and Human Services, through the Division of Research Resources of the National Institutes of Health, shall designate as a Region-

al Primate Research Center a laboratory for experimental medicine and surgery in primates which is in existence on the date of the enactment of this Act. The laboratory designated under this subsection shall be a laboratory which was initially established in 1965 and which became formally sponsored by an association of schools of medicine in 1967.

(b) The Secretary of Health and Human Services shall provide the Regional Primate Research Center designated under subsection (a) with opportunities for consideration for core support and grants to support biomedical research equal to the opportunities for consideration for such support and grants provided to all other Regional Primate Research Centers designated by the Secretary.

● Mr. D'AMATO. Mr. President, I rise today in support of legislation which enhances the biomedical research opportunities of this country.

LEMSIP, formally known as the Laboratory for Experimental Medicine and Surgery in Primates is located in Sterling Forest, NY. It is involved in the scientific exploration of the causes and treatments of a number of diseases affecting the lives of millions of individuals. Research efforts on alcoholism, hepatitis, sickle-cell disease, blood transfusions, reproductive problems, birth defects, and genetic disorders have progressed substantially as a result of the scientific excellence of this center.

Unfortunately, this particular primate research center has not been allowed to receive adequate funding to fully utilize its capabilities. Different from the many other primate research institutions in the country that receive substantial portions of their funding through Federal grants, LEMSIP lacks being designated as a regional primate research center. This designation provides research institutions with a special status which makes them eligible for numerous Federal grants. Without this designation, sufficient funding is difficult to obtain.

Because of my strong interest in biomedical, research, especially biomedical research that has proven to be effective for the treatment and prevention of serious human diseases, I support the designation of the Laboratory for Experimental Medicine and Surgery in Primates as a primate research center. I am confident that this designation will promote additional quality research in this country.

I am informed that both the chairman and the ranking minority member of the Committee on Labor and Human Resources support this amendment to the Human Services Reauthorization Act. I encourage my colleagues to lend their support to this worthy provision as well.

Mr. President, more than 15 percent of the Nation's biomedical research takes place in the New York metropolitan area. A facility serving the research scientists in the tristate area is the Laboratory for Experimental Medicine and Surgery in Primates [LEMSIP] at Sterling Forest, NY.

LEMSIP has had many significant achievements in medical research. It is well run, productive, and cost effective. Its staff has produced hundreds of research papers and publishes the world's leading journal in primatology.

To the detriment of medical research, LEMSIP's status and funding have not been included in the regional primate research center program, despite its accomplishments and the support and sponsorship of the Associated Medical Schools of New York and its 12 member medical schools.

To remedy this inequitable and counterproductive situation, we are offering an amendment to the legislation now before the Senate, S. 2444.●

● Mr. MOYNIHAN. Mr. President, 6 years ago, Senator Javits and I were very concerned about the possible closing of the Laboratory for Experimental Medicine and Surgery in Primates [LEMSIP] in Sterling Forest, NY. This would have been a great loss since researchers using LEMSIP have been involved in the development of important advances in the prevention and treatment of alcoholism, hepatitis, sickle-cell disease, blood transfusion, reproductive problems, birth defects, genetic disease, and other health problems. Today, I am pleased once again to offer my support to LEMSIP.

● Mr. D'AMATO. This amendment, designating LEMSIP a regional primate research center, will mean much to the continuation of the research efforts essential not only to the work of the scientific community in New York, but to the Nation as a whole. The amendment will direct the Division of Research Resources of the National Institutes of Health to designate LEMSIP as a regional primate research center with all that implies for NIH cooperation.

● Mr. MOYNIHAN. So that the record may be clear, in the Senator's view, does the amendment affect existing authority for other NIH-supported primate centers or expand the Nation's primate facilities?

● Mr. D'AMATO. No, it does not. It only opens up the competition. LEMSIP is a highly respected primate center and this amendment allows it to compete for grants. It does not guarantee that they will win. I have examined LEMSIP very carefully. I have concluded that it is worthy of the opportunity to compete.

● Mr. HATCH. I have no objection to the amendment offered by my distinguished colleagues from New York.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2201) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2202

(Purpose: To require the Secretary of Education to conduct a study of beginning reading instruction).

Mr. HATCH. Mr. President, I offer an amendment on behalf of Senator ZORINSKY and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mr. ZORINSKY, proposes an amendment numbered 2202.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

TITLE — BEGINNING READING INSTRUCTION STUDY AND LISTING

SEC. —. (a) The Secretary of Education (hereafter in this title referred to as the "Secretary") shall conduct a study in order to complete a complete list, by name, of beginning reading instruction programs and methods, indicating—

(1) the average cost per pupil of such programs and methods, and

(2) whether such programs and methods do or do not present well-designed phonics instruction as recommened in the Report of the Commission on Reading, "Becoming a Nation of Readers".

The listing required by this section shall be written in such a way as to be understandable to the general public.

(b) In carrying out the study required by this section, the Secretary shall solicit public comments on beginning reading programs and methods.

(c) The Secretary shall prepare and submit to the Congress such interim reports of the study and listing as the Secretary deems advisable. The Secretary shall prepare and submit a final report containing the listing required by this subsection to the Congress not later than 12 months after the date of the enactment of this section. The Secretary shall publicize and disseminate nationally the listing required by this section to the education community, parents, and other interested parties.

● Mr. ZORINSKY. Mr. President, this amendment has been cleared on both sides. It simply follows up on last year's report of the Commission on Reading, "Becoming a Nation of Readers." This Commission was made up of the top U.S. reading experts, and their report was based on 20 years of research. It recommended that "well-designed" phonics instruction be used through the second grade, but it did not indicate specifically which beginning reading programs provide such instruction. Therefore, some confusion remains as to which programs meet the recommendations.

My amendment directs the Department of Education to compile a complete list, by name, of beginning reading programs and methods, indicating whether they do or do not present well-designed phonics instruction as recommended in "Becoming a Nation of Readers," as well as their average cost per pupil. The Department has agreed to do this study with existing funds.

There are schools which are getting excellent results with little-known methods of teaching reading. They include some with large numbers of low income and/or minority students who generally are not expected to perform so well. My amendment also directs the Department to solicit public comments on beginning reading programs and methods to ensure that programs such as these are included on the list.

When it is completed, it will be disseminated nationally so that parents as well as educators will have the specific information they need to determine whether their schools are using the most effective reading programs.

I have believed for some time that a serious national literacy effort must address prevention as well as remediation. Making available information to improve the teaching of reading in our schools will be an important first step in that direction.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2202) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2203

(Purpose: To make grants to States for children's justice)

Mr. HATCH. Mr. President, I offer an amendment on behalf of Senators HAWKINS and DENTON and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for Mrs. HAWKINS and Mr. DENTON, proposes an amendment numbered 2203.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new title:

TITLE VI—CHILDREN'S JUSTICE

SHORT TITLE

Sec. 601. This title may be cited as the "Children's Justice Act".

CHILDREN'S JUSTICE GRANT

Sec. 602. (a) Grant Authorization.—Section 4 of the Child Abuse Prevention and Treatment Act (hereinafter referred to as "the Act") is amended—

(1) by redesignating subsections (d), (e), (f), and (f) (the second time such designation appears), as subsections (e), (f), (g), and (h), repectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary (acting through the Center and in consultation with the Attorney General) is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve (A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim, and (B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(2) In order for a State to qualify for assistance under this subsection, such State shall—

"(A) fulfill the requirements of subsections (b) (2) and (4) or receive a waiver for such requirements under subsection (b)(3);

"(B) establish a task force as provided in paragraph (3);

"(C) fulfill the requirements of paragraph (4); and

"(D) submit an application to the Secretary at such time and containing such informaton and assurances as the Secretary considers necessary, including an assurance that the State will make such reports to the Secretary as may reasonably be required and will maintain and provide access to records relating to activities under this subsection.

"(3)(A) Except as provided in subparagraph (B), a State requesting assistance under this subsection shall establish or designate a multidisciplinary task force on children's justice composed (hereinafter referred to as "the task force") of professionals with knowledge and experience related to the criminal justice system and issues of child abuse. The task force shall include individuals representing the law enforcement community, judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases), child advocates, health and mental health professionals, individuals representing child protective service agencies, individuals experienced in working with handicapped children, parents, and parents' groups.

"(B) As determined by the Secretary, a commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the task force for the purposes of this subsection.

"(C) Before a State receives assistance under this subsection, the task force shall (i) review and evaluate State investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse, and (ii) make recommendations in each of the categories described in paragraph (4). The task force may make such other comments and recommendations as are considered relevant and useful.

"(4)(A) Subject to the provisions of subparagraph (B), the State shall adopt recommendations of the task force in each of the following categories:

"(i) investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

"(ii) experimental, model, and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly sexual abuse cases, and which also ensure procedural fairness to the accused; and

"(iii) reform of State laws, ordinances, regulations, and procedures to provide comprehensive protection for children from abuse, particularly sexual abuse, while ensuring fairness to all affected persons.

"(B) As determined by the Secretary, a State shall be considered to have met the requirements of this paragraph if—

"(i) the State adopts an alternative to the recommendations of the task force, which carries out the purposes of this subsection, in each of the categories under subparagraph (A) for which the task force's recommendations are not adopted; or

"(ii) the State is making substantial progress toward adopting the recommendations of the task force or a comparable alternative to such recommendations.

"(5) For grants under paragraph (1), the Secretary may use the amount authorized by section 1404A of the Victims of Crime Act of 1984.".

(b) CRIME VICTIMS FUND.—(1) Section 1402(c)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)(1)) is amended by striking out "$100 million" and inserting in lieu thereof "$110 million".

(2) Section 1402(d)(2) of such Act is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the first $100,000,000 deposited in the Fund in each fiscal year—

"(i) 45 percent shall be available for grants under section 1403;

"(ii) 45 percent shall be available for grants under section 1404(a);

"(iii) 5 percent shall be available for grants under section 1404(c); and

"(iv) 5 percent shall be available for grants as provided in section 1404A.

"(B) The next $5,000,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 1404A.

"(C) If the deposits in the Fund in a particular fiscal year excess of $105,000,000, 50 percent of the amount in excess of $105,000,000 shall be available for grants under section 1403 and 50 percent of such amount shall be available for grants under section 1404(a).".

(3) Such Act is amended by inserting after section 1404 the following new section:

"CHILD ABUSE PREVENTION AND TREATMENT GRANTS

"Sec. 1404A. The amount prescribed by section 1402(d)(2) for this section shall be made available to the Secretary of Health and Human Services for grants under section 4(d) of the Child Abuse Prevention and Treatment Act.".

(4) Section 1404(c) of such Act is amended by striking out "(c)" and all that follows through "The Federal Administrator shall—" in paragraph (3) and inserting in lieu thereof the following:

"(c)(1) The Attorney General, acting through the (Assistant General for the Office of Justice Programs,) shall make grants—

"(A) for training and technical assistance services to eligible crime victim assistance programs; and 11 "(B) for the financial support of services to victims of Federal crime by eligible crime victim asssitance programs.

"(2) of the amount available for grants under this subsection—

"(A) not less than 50 percent shall be used for grants under paragraph (1)(A); and

"(B) not more than 50 percent shall be used for grants under paragraph (1)(B).

"(3) The Assistant Attorney General for the Office of Justice Programs shall—".

(5) Section 1404(a)(1) of such Act is amended by striking out "not used for grants under section 1403" and all that follows through "subsection (c)" and inserting in lieu thereof "made available by section 1402(d)(2) for the purpose of grants under this section, or for the purposes of grants under section 1403 but not used for that purposes,".

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 603. (a) STUDIES AND REPORTS.—Section 2(b) of the Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (6), (7), (8), and (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) compile, evaluate, publish, and disseminate to each State such materials and information as may assist the States in achieving the objectives of section 4(d), including an evaluation and prosecution of child physical and sexual abuse cases and resultant psychological trauma of the child victim;";

(3) by inserting after paragraph (4) (as so redesignated) the following new paragraph:

"(5) develop and disseminate, to appropriate State and local officials, model training materials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children subjected to child abuse;";

(4) by amending paragraph (7) (as so redesignated) to read as follows:

"(7) conduct research on the causes, prevention, identification, and treatment of child abuse and neglect, and on appropriate and effective investigative, administrative, and judicial procedures in cases of child abuse;"; and

(5) by inserting after paragraph (9) (as to redesignated) the following new paragraph:

"(10) Not later than two years after the first fiscal year for which funds are appropriated under section 5(b), the Secretary shall—

"(A) evaluate the effectiveness of assisted programs in achieving the objectives of section 4(d); and

"(B) submit a report to the appropriate committees of the Congress of such evaluation and of technical assistance in achieveing the objectives of such section provided to the States through the National Center on Child Abuse and Neglect.".

(b) DISSEMINATION REQUIREMENT.—Information and materials under sections 2(b)(2) and 2(b)(5) of the Act shall be made available to appropriate State officials not later than 180 days after the date of enactment of this Act.

COORDINATION OF FEDERAL PROGRAMS CONCERNING CHILD ABUSE

SEC. 604. Section 6(a) of the Child Abuse Prevention and Treatment Act is amended—

(1) by inserting after the first sentence "The Advisory Board shall meet at least every six months."; and

(2) in the second sentence by inserting "in order to prevent unnecessary duplication of such programs, to ensure efficient allocation of resources, and to assure that programs effectively address all aspects of the child abuse problem" after "Board".

ACQUISITION OF STATISTICAL DATA

SEC. 605. (a) DATA ACQUISITION FOR 1986, 1987, AND 1988.—The Attorney General shall acquire from criminal justice agencies statistical data, for the calendar years 1986, 1987, and 1988, about the incidence of child abuse, including child sexual abuse, and shall publish annually a summary of such data.

(b) MODIFICATION OF UNIFORM CRIME REPORTING PROGRAM.—(1) As soon as practicable, but in no case later than January 1, 1989, the Attorney General shall modify the uniform crime reporting program in the Federal Bureau of Investigation to include data on the age of the victim of the offense and the relationship, if any, of the victim to the offender, for types of offenses that may involve child abuse, including child sexual abuse.

(2) The modification, once made, shall remain in effect until the later of—

(A) 10 years after the date it is made; or

(B) such ending date as may be set by the Attorney General.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 606. (a) SECTION 523.—Section 523(e) of the Public Health Service Act (42 U.S.C. 290dd-(e)) is amended by adding after and below paragraph (2) the following: "The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State authorities.".

(b) SECTION 527.—Section 527(e) of such Act (42 U.S.C. 290ee-3(e)) is amended by adding after and below paragraph (2) the following: "The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State authorities.".

● Mrs. HAWKINS. Mr. President, I am pleased that the Senate is considering this legislation today. I feel it is long overdue. As chairman of the Subcommittee on Children, Family, Drugs and Alcoholism, I developed and introduced the Senate counterpart to this House bill S. 140, the Children's Justice Act which was passed unanimously by the Senate on August 1, 1985.

This legislation is needed to improve the situation that young child victims of abuse find themselves in after they have made that cry for help. It is designed to improve the treatment of child abuse victims after they have reported the crime and turned to the child protection authorities and criminal justice system for help. I wish that I could say that our current systems protect that child victim from further abuse and guarantee justice for the child victim, but unfortunately I cannot. The tragic reality is that the child is often further traumatized by the administrative and legal proceedings.

The recent publicity regarding molestation of children has heightened the public's awareness of this age-old problem. As a society we have finally stopped whispering about this crime and started talking about it. Openly acknowledging the problem and addressing it. But the vast majority of the public are still unaware of the almost total lack of justice experienced by these child victims after they have made that cry for help.

Fortunately, as people recognize and become aware of this situation they are taking action to improve it. On the first day of this congressional session, I introduced S. 140, the Children's Justice Act. We held a very dramatic and emotional hearing on this bill in May. The bill received widespread support and was favorably reported by the subcommittee in June and full committee 2 weeks later. The Children's Justice Act passed the full Senate without opposition on August 1 of this year.

Because of the amendments that were added to my original bill, the legislation was referred to three separate House subcommittees that have jurisdiction over this legislation. The House held joint hearings on this legislation in December and since that time have been working on modifications to the Senate bill. The House Members have worked very closely with my office, with Senators GRASSLEY, DENTON, DODD, and CRANSTON, and others interested in this subject. They have developed modifications which I believe improve the legislation.

The major change from the Senate passed version of S. 140 involves the funding mechanism. S. 140 authorized $12 million in additional funding to the States to encourage the States to review and improve their handling of child abuse cases. The House decided to adopt a funding mechanism similar to that contained in Senator DENTON'S S. 1156, the Child Victim Witness Protection Act. Under the House version, funding for the Children's Justice Act would be funded through the Victims of Crime Trust Fund.

It is my understanding that this change in funding will not affect administration of the program by the Department of Health and Human Services or the jurisdiction of the act by the congressional committees that normally have jurisdiction over child abuse prevention and treatment programs. Given the political realities of trying to fund a new program during a time of budgetary restraints, I feel that this modification has improved the bill by insuring that the two equally important programs of child abuse prevention and children's justice do not compete for limited funding. I thank Senator DENTON and his staff for their assistance in developing these funding modifications.

Other modifications include making the Children's Justice Act an amendment to the Child Abuse Prevention

and Treatment Act, thus giving those States still not in compliance with that act, an additional financial inducement for coming into compliance. Representive EDWARDS and other members of the House Judiciary Committee have worked closely with Senator GRASSLEY in making improvements in the sections under the Justice Department's jurisdiction. I am pleased that both Houses of Congress agree with the Attorney General's Task Force on Family Violence that the crimes reported under the Uniform Crime Reports need to be updated.

I don't think these kids should have to wait until they are grown to be believed. They shouldn't have less credibility or less rights just because they are kids. This lack of rights, this lack of protection is why they are being preyed upon. Child molesters know that these kids are helpless, that they can be intimidated into not telling, and even when they summon the courage to tell, rarely are they believed. And even if they are lucky enough to have parents, teachers or friends that believe them, that want to protect them, the fact is that the administrative and legal system is weighted against them.

We need to correct this situation. We need to fight to ensure that our children are protected and that those children who are victimized are guaranteed justice. Mr. President, once again, I want to thank all my colleagues in both the House and Senate who have worked together on this legislation so that someday very soon we will be able to guarantee the child victim of abuse that they will receive justice.●

● Mr. DENTON. Mr. President, I rise in strong support of the amendment offered by my distinguished colleague from Florida, Mrs. HAWKINS, which incorporates the substance of S. 140, the Children's Justice Act with certain modifications suggested by the House. I also rise to commend Senator HAWKINS for her continued commitment to fight for our Nation's children, especially those children who have become victims of abuse or neglect. As an advocate for children, Senator HAWKINS has become an indispensable part of this body. I am only too happy to join her as an original cosponsor of this amendment.

Mr. President, the issue of child abuse has exploded into public view during the past several years. One need only to read the newspapers or to watch television news to realize that child abuse is a problem of immense proportions. Estimates regarding the incidence of child abuse vary greatly depending upon the study, setting, the definitional criteria, and the methodology used for collecting the information. Most studies, however, would suggest that perhaps 200,000 to 400,000 children are victimized every year.

Some studies would suggest that the numbers are much higher. The National Committee for Prevention of Child Abuse reported in February of this year that in 1984, 1,726,649 children were officially reported as victims of child abuse and neglect by child protective service agencies in the United States. This rate of reporting is estimated at 27.8 out of 1,000 children, an increase by 158 percent between 1976 and 1984. The National Center for Missing and Exploited Children projects that, on a national basis, one out of three minor girls and one out of every seven minor boys will be sexually abused. Reports from the Children's Trust Fund of Montgomery, indicate that over 28,000 young Alabamians were abused in 1984. A similar number of children could be abused in Alabama this year.

These abused children have suffered extreme trauma. Far too often, however, the abused child suffers additional trauma at the hand of an insensitive justice system which allows an over zealous defense attorney to intimidate, confuse, and badger the child witness into making courtroom statements which might be inconsistent with previous statements. Instead of providing the child victim with the necessary respect, understanding and compassion, the justice system, with its insensitive and intimidating investigative and adjudicative procedures, reduce the child victim to an automation, caught in the drawn-out adult drama leading up to and including the court room.

Mr. President, I believe that this amendment will remedy the problem and will encourage the necessary respect, understanding and compassion for the child victim. The amendment will encourage the States to implement protective reforms for the investigation and adjudication of child abuse cases particularly child sexual abuse. Such reforms would minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action.

Mr. President, I am pleased that the amendment contains key provisions drawn from S. 1156, the Child Victim Witness Protection Act, which I introduced on May 16, 1985. I am further pleased that Senator HAWKINS has graciously agreed to accept those provisions.

Chief among the accepted provisions is what has commonly been referred to as the "Denton Funding Mechanism." Under this provision, the level of the Crime Victim's Fund would be increased by $10 million to allow the Secretary of Health and Human Services, in consultation with the Attorney General, to provide modest Federal financial assistance to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve first, the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim, and second, the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

Mr. President, in light of the current budgetary situation, we must continue to look for innovative ways to fund programs without adversely affecting existing child-related programs and without imposing an additional burden on the taxpayer. By drawing from the crime victim's fund, the amended Children's Justice Act will be financed from: First, fines collected by the Federal Government; second, penalty assessments levied upon convicted Federal defendants; third, forfeited bail bonds and collateral in Federal criminal cases; and fourth, certain profits made by criminals from publishing their misdeeds in literary, visual, and audio productions. In other words, the amendment will now impose a type of users' fee on criminals in order to protect child abuse victims.

The amended Children's Justice Act also incorporates certain additions to the mandatory multidisciplinary task force. I must say that as a result of the two hearings I conducted on the Child Victim Witness Protection Act, I have become firmly convinced of the need to establish statewide multidisciplinary or interdisciplinary teams to work with victims of child abuse. At my suggestion, the task force has been expanded to include individuals representing "parent groups" and "individuals experienced in working with handicapped children." The former would allow for representation by groups such as the PTA and would echo the language dealing with the State advisory groups which I placed in the Reauthorized Juvenile Justice and Delinquency Prevention Act in 1984. The latter takes into account the belief that disabled children constitute a high-risk group for abuse and that they may need additional special attention during the investigation and adjudication of the alleged abuse.

Mr. President, as the U.S. Supreme Court noted in the famous case of New York versus Ferber, "the prevention of sexual exploitation and abuse of children constitutes a governmental objective of surpassing importance." It is with that objective in mind that I offer my strongest support for the amended Children's Justice Act.

Again, I offer my strong commendation to Senator HAWKINS for her leadership in the protection of our Nation's children. I look forward to continued cooperative efforts with Senator HAWKINS in this most imperative fight.

I urge my colleagues to support this amendment.●

CHILDREN'S JUSTICE ACT AMENDMENT TO S. 2444

● Mr. CRANSTON. Mr. President, I strongly support the amendment to include the provisions of S. 140, the proposed Children's Justice Act, as part of S. 2444, the proposed Human Services Reauthorization Act of 1986.

I am a cosponsor and active supporter of S. 140 which includes a number of provisions which I authored as part of legislation I introduced last year as S. 1320, the proposed Child Abuse Reporting and Clearinghouse Improvements Act of 1985. The provisions I proposed grew out a series of recommendations contained in a report issued by a panel convened by the California attorney general, John Van de Kamp, based upon a year-long review of the problems in the manner in which child victims are dealt within the criminal justice system. Companion legislation, H.R. 2971, was introduced in the House of Representatives by my good friend and colleague from California, Representative DON EDWARDS.

S. 140, with the amendments I had proposed in S. 1320, was unanimously passed by the Senate almost a year ago on August 1, 1985. Unfortunately, no action has taken place on this measure in the House. Hopefully, the Senate's reaffirmation of its support for these long-overdue reforms will help to bring about final action on this important initiative.

NEED FOR REFORMS

Mr. President, S. 140 would amend the Federal Child Abuse Prevention and Treatment Act to create a new emphasis on encouraging States to enact various reforms in their child abuse laws and procedures to facilitate the investigation and prosecution of child abuse cases, particularly those involving sexual abuse, in a manner which reduces the trauma to the child victim.

As the chairman for 4 years of the Child and Human Development Subcommittee of the Senate Labor and Human Resources Committee, I have had a long-standing interest and concern about the problems relating to child abuse and neglect, including sexual abuse.

In 1978, I coauthored in the Senate legislation which established the first Federal program focused specifically on the problem of sexual abuse of children. That measure, which was enacted as part of Public Law 95-266, created a small grant program under the Federal Child Abuse Prevention and Treatment Act to help established programs to provide services and treatment to children who were the victims of sexual abuse and to help develop programs to prevent such abuse.

What seemed in 1978 to be an important problem appears today to have represented merely the tip of an iceberg. The growing statistics on incidence of sexual abuse of children—regardless of whether they represent merely better reporting procedures or an increase in the cases themselves—demonstrate beyond any doubt that more needs to be done by government entities at every level to deal effectively with the devastating abuse of our children.

The 1978 law focused primarily on providing treatment for the young victims of sexual abuse.

S. 140 moves a step further by addressing another very important element of the overall problem relating to sexual abuse cases—the further victimization of the child victims through an abusive judicial process that fails to recognize the special nature of the crime involved and the additional trauma inflicted upon the children who are often the principal sources of evidence in the judicial proceedings brought against the perpetrators of the sexual abuse. This measure would authorize the appropriation of funds for grants to be made to States which enact reforms designed to improve legal and administrative proceedings regarding the investigation and prosecution of child abuse cases, particularly sexual abuse cases.

This new focus is greatly needed.

Numerous examinations and reports by public and private entities have highlighted the problems in the manner in which child victims are dealt with in the criminal justice system. In my own State, California Attorney General John Van de Kamp initiated a study of the deficiencies and weaknesses of our State laws and procedures in this area. The findings and recommendations contained in the California report closely parallel the areas for reform covered in S. 140 and I believe are reflective of the problems faced in other States as well.

CRANSTON AMENDMENTS

Mr. President, the provisions of S. 140 which were derived from S. 1320 are described in detail in my statement of August 1, 1985, at 22140 of the CONGRESSIONAL RECORD. In brief, my amendments provided for the National Center on Child Abuse and Neglect to play an active role in helping States improve and reform their laws relating to the investigation and prosecution of child sexual abuse, provided for the inclusion of child abuse data in the uniform crime reportng system, clarified the obligation of all health-care professionals, including those involved in alcoholism and drug abuse programs, to comply with child abuse reporting laws, and explicitly provided that funds under the new provisions could be allocated to statewide law enforcement agencies as well as child abuse agencies.

Certain changes in S. 140 as passed by the Senate in August of 1985 have been made in the amendment being offered today based upon negotiations which have taken place with various House Committees which have jurisdiction over the different elements of S. 140. The only significant change made in the Cranston amendments to S. 140 has been to remove the specific reference to statewide law enforcement agencies with respect to receipt of funds. The 1985 Senate-passed bill provided for the Chief Executive of a State to designate which agency would apply for the funds. This version simply provides the funds would be made available to the States. It is my understanding that the Chief Executive of a State would be free under this version to designate that funds be allocated to statewide law enforcement agencies to carry out the purposes of the act. Obviously, the involvement of such agencies in these efforts is critical to a successful outcome in making reforms of the criminal justice system. As long as child abuse is regarded primarily as a matter for the child welfare or social services agencies, rather than for law enforcement agencies as well, the changes that are contemplated under S. 140 are not likely to move forward with the speed they require.

In California, our State attorney general has taken the lead in dealing with these problems and has already begun to implement many of the recommendations arising from the 1985 California report. I hope that similar efforts will take place in other States with the flexibility provided under the amendment's provisions.

CONCLUSION

Mr. President, I am pleased to support this amendment and the long overdue reforms it would help to bring about.

Child abuse, particularly sexual abuse of children is a very serious problem in our society. I am deeply committed to finding ways to prevent child abuse and child sexual abuse and to provide appropriate treatment for child abuse victims and their families. But we also must take steps to make sure that the judicial and the law enforcement aspects of these cases are adequately handled. Parents are justifiably reluctant to have their children subjected to a further abuse through the criminal prosecution of these cases. As a consequence, in some cases, the perpetrators of heinous crimes against young children are allowed to go free—go free to prey on other children. Better reporting and enforcement of child abuse laws can help deter potential abusers from engaging in the abuse in the first instance and certainly can be effective in removing them from society when they violate the law.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2203) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it so ordered.

Mr. HATCH. Mr. President, let us go to third reading on the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be discharged from further consideration of H.R. 4421, the Human Services Reauthorization Act, and that the bill be immediately considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4421) to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990 to carry out the Head Start, Follow Through, dependent care, community services block grant, and community food and nutrition programs, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. HATCH. Mr. President, I ask unanimous consent to strike all after the enacting clause of H.R. 4421 and to insert the text of S. 2444, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I move passage of H.R. 4421.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 4421) was passed.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. Mr. President, I move to lay to that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent to indefinitely postpone S. 2444.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I thank my colleague and the chairman of the committee for the work that has been done in seeing the successful passage of these important pieces of legislation.

I also extend appreciation to the other members of the committee, Republican and Democrat alike, and particularly to the staff who have done a very effective job in working out a variety of different issues.

I make a point of including their names at this point in the RECORD. Nancy Taylor, Robin Rushton, Mike Francis, Marv Fifield, Debbie Curtis, Sally Yozell, Marilyn Yager, Marsha Renwanz, Joel Johnson and Judy Wagner.

Mr. HATCH. Mr. President, I also wish to thank my colleague Senator KENNEDY, and all the members of the committee who worked so hard on these bills. These are important pieces of legislation, they will make a lot of difference throughout this country. Certainly the voluntary and almost every needy group in the country will be benefited.

I am glad we passed these bills today.

I also praise our staff. A lot of work goes into creating the bill and bringing it through the committee and on to the floor. We are now ready to recommend conferences on H.R. 4421, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that the Senate now resume consideration of H.R. 4421 for the purposes of appointing conferees.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I move that the Senate insist upon its amendment to H.R. 4421 and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. HATCH, Mrs. HAWKINS, Mr. QUAYLE, Mr. STAFFORD, Mr. Kennedy, Mr. DODD, and Mr. KERRY conferees on the part of the Senate.

HIGHER EDUCATION AMENDMENTS

Mr. DOLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1965.

The PRESIDING OFFICER (Mr. GORTON) laid before the Senate the amendment of the House of Representatives to the bill (S. 1965) to reauthorize and revise the Higher Education Act of 1965, and for other purposes.

(The amendment of the House is printed in the RECORD of June 17, 1986 beginning at page 13943.)

Mr. DOLE. Mr. President, I move that the Senate disagree to the amendment of the House to S. 1965 and request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the presiding officer appointed Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mr. WEICKER, Mr. WALLOP, Mr. THURMOND, Mr. KENNEDY, Mr. PELL, Mr. DODD, Mr. MATSUNAGA, and Mr. SIMON conferees on the part of the Senate.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHAT IS REALLY HAPPENING IN ETHIOPIA TODAY?

Mr. HATCH. Mr. President, there are two sharply contrasting points of view concerning the situation in Ethiopia today. On the one hand, there are those who believe that the Ethiopian Government, under the direction of Mengistu Haile Mariam, is making a good faith effort to relieve the suffering of the Ethiopian people. On the other hand, Mr. President, a number of observers have said that far from alleviating the suffering of millions of famine victims, the policies of the Mengistu government have actually led to more deaths than the famine itself.

Mr. President, one of the many advantages of living in a free country is that everyone has the right to state his or her opinion without fear of reprisals. In this case, Mr. President, I believe my colleagues are not so much interested in opinions about the situation in Ethiopia as we are in the facts. The bottom line is, what is really happening in Ethiopia today? I believe the American people have a right to hear information from all available sources

so they may draw their own conclusions.

Two months ago a report was released entitled, "Ethiopia and Sudan One Year Later: Refugee and Famine Recovery Needs." The authors conclude that—

Over the past year the lives of seven million men, women and children have been saved from starvation. The mass starvation found in Ethiopia in 1984 has ended.

The authors give credit for this "success story" to the international community and to the Ethiopian Government's Relief and Rehabilitation Commission [RRC] which they say "deserves credit for a professional and competent performance under extraordinarily difficult circumstances."

Mr. President, this report constrasts sharply with numerous other reports we have received in the West indicating that the Marxist Ethiopian Government has cruelly used food as bait to lure peasants out of the famine-stricken northern provinces and as a weapon against anti-government resistance forces. According to one report by a French medical group, Medecins San Frontiers, 100,000 people have died as a result of Mengistu's forced resettlements and villagization campaigns.

Mr. Yonas Deressa, an Ethiopian himself and the president of the Ethiopian Refugees Education and Relief Foundation, has written a detailed rebuttal to the above-mentioned report entitled, "Ethiopia and the Sudan One Year Later: The True Story." Mr. Deressa states that the authors of the previous report "relied heavily on information provided by the Communist rulers of Ethiopia," thereby deeply compromising the report's reliability.

Mr. President, in the interest of keeping my colleagues and the American people fully informed on the situation in Ethiopia today, I ask unanimous consent that Mr. Deressa's paper be printed in the RECORD in its entirety. I hope each and every one of my colleagues will take the time to read this thoughtful analysis.

Interestingly, Mr. President, the U.S. Ambassador to the United Nations Economic and Social Council, the Honorable Joseph Verner Reed, has prepared an excellent statement on Ethiopia entitled "Dilemma on the Horn, the United Nations in Ethiopia, the Need of a People and the Need of an Accounting." Ambassador Reed points out in his paper that in spite of a massive international relief effort, the Government of Mengistu Haile Mariam has implemented "brutal policies directed against its own people."

Ambassador Reed succinctly states that,

In short, the Ethiopian Government is implementing (its forced resettlement policy) with the barrel of a gun. What is going on now in Ethiopia meets every standard of atrocity known to our times. The aged and the young, the half-dead and the dying, trek daily vast distances under the rifles of Mengistu's troops.

Again, Mr. President, Ambassador Reed's account contrasts sharply to the report mentioned earlier which states that, "the forced resettlement campaign has ended * * * food and relief have been distributed to needy people in all areas."

Mr. President, I ask unanimous consent that Ambassador Reed's statement be printed in the RECORD in its entirety. I leave it to the good judgment of my colleagues to evaluate the evidence themselves and draw their own conclusions about what is really happening in Ethiopia today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ETHIOPIA: ONE YEAR LATER: THE TRUE STORY

(By Yonas Deressa)

In April of 1986 the office of U.S. Senator Edward M. Kennedy released a report prepared for the use of the Subcommittee on Immigration and Refugee Policy, prepared by the Subcommittee's Minority Counsel, Jerry Tinker, and a Special Consultant to the Senator, John Wise. Entitled "Ethiopia and Sudan One Year Later: Refugee and Famine Recovery Needs", the report claims to be a follow-up to Senator Kennedy's trip to the famine-stricken areas over a year ago. As part of its preparation, Tinker and Wise went on a two week fact-finding tour through Ethiopia and the Sudan, supposedly following Senator Kennedy's route.

The topic of the Ethiopian famine has become increasingly explosive in light of information that became available last year. The democratic countries have been outraged by confirmed reports about the actions of the government of Ethiopia: a military junta led by Colonel Mengistu Haile Mariam, who came to power in a palace gunfight and who is said to have personally smothered Emperor Haile Selassie to death with a pillow. It was revealed that the regime had actually used the famine as a tool to destroy opposition to its power. This knowledge has set off a debate over official American policy towards Ethiopia that promises to heat up in the months ahead.

The Tinker and Wise report paints a surprisingly rosy picture of the situation in Ethiopia today. While maintaining that problems still exist, the authors point out that with the help of Western relief aid millions of people have been saved from death by starvation. They claim that the policies of the Communist regime, while initially a problem, have become more reasonable and humanitarian in dealing with the famine. They go on to make a number of policy recommendations based on their findings.

Unfortunately, the manner in which this report was prepared deeply compromises its reliability. The authors rely heavily on information provided by the Communist rulers of Ethiopia, and the trip they took through that country—which did not duplicate Senator Kennedy's original route—was under the close supervision of the military dictatorship. Statements by officials of the regime are time and again taken at face value, with no apparent attempt to corroborate them or obtain opposing viewpoints. The authors seem to have made no attempt to gather information on many crucial issues from independent sources, contenting themselves with that supplied by government spokesmem.

This casual approach to the facts is apparent throughout the report. Tinker and Wise confine themselves to vague generalities whenever they must deal with controversial actions by the military dictatorship. The result is less an objective report than an apology for the Mengistu regime: one that tries to direct attention away from the fact that the political conditions responsible for the incredible suffering and devastation wreaked during the recent drought have not changed.

ETHIOPIA TODAY

From the beginning it is clear that Tinker and Wise wish to play down that special conditions in Ethiopia were responsible for the drought's having far greater impact there than in neighboring countries. In its introduction, entitled "Ethiopia Today", the report lumps the Ethiopian famine together with the hunger problems in the Sudan. A table entitled "Famine in Modern History" lists the "1984-85 Ethiopian-Sudan" famine, crediting it with one-million deaths. It fails to point out that the overwhelming majority of those deaths occurred in Ethiopia alone.

The table includes the Great Bengal Famine of 1943, as well as those in Biafra in 1968-69, Bangladesh in 1971-72, Cambodia in 1979, and the 1973-74 Ethiopian famine, which was responsible for 200,000 deaths. It neglects to include the Ukrainian famine of the early 1930's—which killed at least nine-million people and which was deliberately caused by the Stalin regime in order to destroy opposition to its rule. Tinker and Wise also do not point out that the Biafran and Cambodian famines had political origins, possibly because they are reluctant to draw attention to the fact that famines are not always due entirely to natural causes.

THE RESETTLEMENT PROGRAM

In 1984 the Mengistu regime began a project to move a million and a half people from areas in the high, arid north to camps in the lush, humid lowlands of the southwest. Although the ostensible reason for the relocation is to prevent peasants from being victims of another famine, the evidence is that alleviation of hunger and the improvement of living conditions are not considerations in the implementation of the program.

Individuals chosen for resettlement are often those considered hostile or unreliable to the regime. Farmers have been dragged off their lands during the harvest. Families are torn apart, and people are brutally packed into trucks, buses, even unheated and unpressurized airplanes. Many die on the journey—often from suffocation or being trampled to death. In many cases people have been starved for days in jails before beginning the journey to make them easier to handle. Ironically, many chosen for relocation have grown sufficient stocks of food to feed themselves and their families in the coming year.

At their destinations the victims report finding themselves in prison camps where they are forced to labor at gunpoint with little food under the constant threat of torture or death. People are paid with food to inform on one another. Many try to escape, and those who fail are shot. Disease and pestilence are rampant. It is estimated that 100,000 people have died so far in the resettlement camps or during relocation.

These facts were documented by reports issued independently late last year by two

international aid organizations: Berliner Missionwerk of West Germany, Medecins San Frontieres of France; and one by a Harvard-based study group called Cultural Survival.[1] The authors of these reports interviewed large numbers of people who had fled from the resettlement camps to refuge in the Sudan. Interview after interview painted a picture of a massive forced relocation rivalled only by the great Cambodian exodus to the countryside in 1975. Every person interviewed had been separated from members of his or her family. Every person asked had seen others die during the journey.

The Ethiopian dictatorship claimed that the relocation was an attempt to deal with the famine problem by transferring people to areas with more rainfall and better soil. However, the regions most affected by the resettlement were not necessarily those most affected by the drought, for in many of them there was ample food. But in all of them guerilla activity was widespread and growing. The information obtained from the refugees makes clear that the resettlement program is in fact aimed at depopulating these areas so as to deprive the insurgents of their base of support.

The worst the authors can bring themselves to say about these atrocities is that there was "undeniable evidence of coercion," and that "the timing and implementation of this . . . effort was seriously flawed." This is akin to saying that a program of birth control that involves brutally ripping babies from the womb and leaving their mothers to bleed to death is "seriously flawed." They say nothing about the extent of the operation or its brutality, and choose to ignore any possible military reason for it. They quickly move on to say that—besides—"No one has questioned the principle, only its implementation."

In fact, past experience with legitimate resettlement efforts in Indonesia and elsewhere show that they are a hopelessly inefficient way to deal with the problem of hunger in the best of conditions. A conservative estimate of the costs of such a program is more than $5,000.00 per person—or over $7.5 billion for a project moving 1.5 million people, the size of that envisioned by Ethiopia's communist rulers. The psychological effects of dislocation are profound, and the settlement projects require expert help and continued subsidies for decades.

From here the report quickly descends into fantasy. Mr. Tinker and Mr. Wise uncritically repeat the Mengistu regime's statements that the resettlement program has ended, that "all settlers are provided with two hectares of private land", and that "The local, free enterprise market is thriving." They bring forth not a shred of independent evidence to support such claims. In fact, these are plain and simple lies—part of a carefully crafted program of disinformation for the edification of foreigners.

The report also claims that the resettlement program has been suspended. But reports by people recently escaped from Ethiopia indicate that it is still active. On top of this Mengistu renewed his pledge to continue with the resettlement in a speech made as recently as May 21 which was reported in the New York Times the following day. In any case the authors make it clear that they don't believe in being too upset over the forceful uprooting of Ethiopians from their homes. After all, they tell us with perfect Orwellian logic, " . . . in Ethiopia the word 'voluntary', whether under today's Marxist government or under yesterday's Haile Selassie's regime, obviously has a different meaning than in the West."

Tinker and Wise coo enthusiastically about two supposed resettlement sites which they were allowed to see under official supervision—apparently unaware of the claims of escapees that they were forced at gunpoint to build showcase camps for the benefit of gullible foreigners.[2] Not surprisingly, they find "no signs of the alleged malnutrition, high death rates, or prison-like security". One is remined of Solzhenitsyn's scathing accounts of the visits of eager Western dignitaries to carefully sanitized prisons in Stalin's Russia.

In contrast to its easygoing attitude toward the claims of the communist government of Ethiopia, the report takes a decidedly hostile posture towards the campaign's Western critics. The respected French humanitarian organization Medicins Sans Frontieres is singled out for special abuse. MSF, which operates in 28 countries around the world, is dismissed as a "small French medical team."

The findings of the French organization, compiled from interviews with relief workers and escapees from the relocation camps, are condemned by Tinker and Wise as being "a polemic" and "founded too much on hearsay". It should be noted that reports of the Cambodian holocaust now accepted as fact were based on just "hearsay", and that the horrors of Auschwitz remained secret until its liberation. The author of the Medicins Sans Frontieres report, Dr. Claude Malhuret, is now the French national government's Minister for Human Rights

PLIGHT OF ORPHANS

In a short section Tinker and Wise point out the problem of the large numbers of orphans in Ethiopia today. According to their report the orphans number between 20,000 and 25,000.

Although there is no way to check this state-supplied figure, the chances are that the true number is much higher. This is because the resettlement scheme has been carried out apparently with the express purpose of breaking up families, and because over 100,000 people have died from it alone. But Tinker and Wise do not acknowledge the resettlement as a reason for the existence of orphans. In fact, famines do not usually produce large numbers of orphans for the simple reason that children tend to die from starvation before their parents.

VILLAGIZATION

Simultaneously with the resettlement, the Mengistu dicatorship began a program to round up farmers all over the country from their traditionally scattered farming settlements and group them together in villages. As in the resettlement campaign, there are numerous documented reports by refugees of brutality and the use of force by the regime.[3] Families are forced by local party cadres to pull down their homes and carry them—often several miles—to the sites of the new villages. Once there they are reduced to the status of serfs. As in the peasant collectives of Red China, village members are forced to attend regular indoctrination sessions, and they are under the constant watch of the minions of the state for signs of disloyalty or independent thought. Like serfs their crops are subject to state levy quotas—which often take more than 75 percent of a year's production.

Such measures are entirely consistent with those practiced in every communist state. Leftist totalitarian ideology requires that each person be subject to direct supervision and coercion, and that all economic activity be brought under the umbrella of the state. Obviously it is difficult or impossible to accomplish this when farmers live miles apart from each other on their own plots of land.

As Tinker and Wise point out, the regime tries to justify this campaign on the grounds that villagization makes it possible to provide services to the rural population. However, there is no evidence that such noble goals are being carried out. From the reports of refugees it is evident that the primary purpose of the new villages is to forcibly bring rural Ethiopians under the direct control of the state.

The report acknowledges this as a possibility, but does it in an underhanded manner designed to draw attention away from the ideological nature of the Ethiopian regime. The forced collectivization of the peasants of the Soviet Union and China, or the block associations that are used to keep the people in line in Cuba—all of them obvious parallels—are not mentioned. Instead it claims that critics compare the campaign to "a strategic hamlet concept": an obvious reference to a quite different program in South Vietnam which equipped rural farmers to defend themselves from marauding Vietcong. This is the first time I have learned of such an analogy made by anyone.

In response to reports by refugees that the villagization campaign has been carried out using force, Tinker and Wise once again reveal their willingness to give the communist junta the benefit of every doubt, claiming that, "such actions appear to be related to the acts of individual provincial or party leaders, rather than the program as a whole." No evidence is given for such a conclusion, and it is inconsistent with the past history of the regime, which in 1977 mounted an indoctrination campaign known as the "zemetcha". The zemetcha, which is well documented, resembled the Chinese Cultural Revolution. During it, gangs of students were recruited by the state to roam the countryside brutalizing the farmers and trying to force them into accepting collectivism.

In this section the authors once again make it clear that the use of force against innocent civilians is a secondary consideration. "The issue today", they claim, "is whether this program . . . . has, or will have a negative impact on the relief operation and contribute unnecessarily to Ethiopia's continuing, structural food deficits." In other words, only food really matters.

In any case, the villagization campaign has now been "suspended", says the report. Again it offers nothing to support this claim by the dictatorship. But soon after it was published Tinker's and Wise's carelessness as researchers was revealed when a massive flood of refugees began to pour into Soma-

[1] "Politics and Famine in Ethiopia" by Jason W. Clay and Bonnie K. Holcomb, Cultural Survival, Inc., 11 Divinity Avenue, Cambridge, MA 01238. "Mass Deportations in Ethiopia" by Dr. Claude Malhuret, Medecins Sans Frontieres, 68 bd St-Marcel 75005, Paris France. "Ethiopia—Deportations and Forced-Labor Camps"—January, 1986 by Peter Niggli, Berliner Missionwerk, Handjerystrasse 19/20 D-1000 Berlin 41.

[2] Berliner Missionwerk.

[3] The "Sunday Times," London, May 18, 1986; the "Wall Street Journal," May 27, 1986.

lia—fleeing a brutal villagization effort.[4] Over a thousand people a day are now coming into one refugee camp alone, and their numbers will surely climb, for the regime has pledged to subject over 30 million people to this ruthless campaign.

FOOD AS A WEAPON

The use of famine by Ethiopia's communist rulers to weaken and disrupt insurgent guerilla forces is one of the most damning of the accusations against it. Again, reports by refugees and defectors provided the window, through which the West was able to glimpse the truth.

There is now armed revolt in 10 of the 14 administrative regions of Ethiopia. The regions in which the insurgents are strongest and pose the greatest threat to the state are precisely those which were the hardest hit by the famine: Tigre, Eritrea, and Wello. In these areas refugees report that the government stole or killed cattle, and burned and confiscated foodstocks—much as Stalin's cadres did in the Ukraine.

The regime went to great lengths to conceal the famine from the rest of the world. This was later confirmed by the former Relief and Rehabilitation Commission head, Dawit Wolde Giorgis, after his defection in an interview on Voice of America. The famine was only made public when, a BBC camera crew secretly smuggled out a few minutes of shocking footage documenting the starvation and death. At the same time that hundreds of thousands were dying Mengistu was spending $200 million on a gala celebration of the tenth anniversary of the revolution. One of the most egregious examples of his cavalier attitude toward the starvation was his purchase of an entire shipload of scotch whisky—costing over $21 million.

Once the famine became public Mengistu was faced with necessity of allowing relief efforts in order to prevent a backlash of world opinion. However, he threw tremendous obstacles in their way. Trucks donated by the West to transport food were commandeered by the military to transport troops or for use in the resettlement campaign.[5] Ships carrying food were made to wait while others with cargoes of weapons or cement for military installations were given priority for unloading. A fee of $12.60 per ton was charged by the government to unload the food, and one German ship loaded with grain was turned away because it could not pay. Once food was unloaded it often was used to feed soldiers,[6] sold to obtain hard currency.[7] or left to rot on the docks.

These were not, as the report claims, simply "all the logistical and bureaucratic obstacles involved in any major relief operation, particularly one in rural Africa." The neighboring countries of Chad and the Sudan were not guilty of such abuses. These were deliberate policies of the Ethiopian state.

The communist dictatorship steadfastly refused to let any food at all into areas in Eritrea and Tigre which were controlled by the rebels. Trucks were turned back by soldiers, and a ship with food bound for Eritrea was impounded in Massawa. Relief agencies which operated in Ethiopia and at the same time tried to relieve Eritrea and Tigre through the "back door" over the Sudanese border were expelled.

It was only when a bill introduced by Congressman Toby Roth threatening sanctions was passed by the Congress that the rulers of Ethiopia allowed food shipments into the rebel held areas. A conservative estimate is that this single action saved a million lives. According to Tinker and Wise, "Food and relief have been distributed to needy people in all areas, those in government held territory as well as in 'liberated' zones . . ." There is no mention that this is directly due to Congressman Roth's bill. In fact, the report condemns such measures.

The most that Tinker and Wise can bring themselves to say on the subject of deliberate hindrance by the state of relief efforts is an acknowledgement at the beginning of the report that: "At times there was a totally inadequate response from Ethiopian authorities." In the section entitled "Food as a Weapon" they refuse to address the issue of the Communist regime's role in the starvation at all, but do condescend to say that if food was used as a weapon it would be "intolerable".

They abruptly lose their fondness for generalities when they get a chance to make the enemies of the Mengistu dictatorship look bad. An attack on an American relief outpost by one of the guerilla groups operating against the regime—the Tigre People's Liberation Front—is the only specific incident mentioned in the entire report.

BILATERAL RELATIONS

Ethiopia today is a nation deep within the Soviet embrace. Its rulers have repeatedly declared their unequivocal allegiance to Moscow, and to the principles of Marxist-Leninism. The country swarms with Cuban troops, East Germans run the secret police, and Soviet officers command the armed forces. A nation with an annual gross national product of less than $3 billion, Ethiopia has bought over $5 billion worth of arms from the U.S.S.R., and used them to create an army more than half a million strong: seven times its size under Haile Selassie and by far the largest in Africa.

In fact, even if Mengistu wished to draw closer to the United States as Tinker and Wise suggest, it would be impossible for him to carry it out. The procession of dictators in Afghanistan, and the current civil war in Yemen are both results of third-world clients of the Soviet Union deviating from Moscow's prescribed line. Ethiopia is an extremely valuable strategic asset regarding not only Africa, but the Indian Ocean and the Persian Gulf as well. Its immense army has not been built just to brutalize Ethiopians, but as a cheaper and politically more acceptable alternative to Cuban troops in expanding and consolidating Soviet power in Africa. In the near future we can expect to see Ethiopian troops operating in Angola and Mozambique.

The Mengistu regime's brutal and repressive policies towards its own people are well documented by many different sources. The 1985 Country Report on Ethiopia by the State Department listed massive human rights violations by the dictatorship. These actions are entirely consistent with those in the past by other communist governments as they moved to consolidate their power: The holocaust in Cambodia, the murders and imprisonments in Vietnam, the genocide in Afghanistan, the purges and forced starvation in the Soviet Union in the 30s—the list of horrors goes on and on.

But to the authors of this report the facts don't seem to matter. Any data that contradict their own policy of accommodation with the Ethiopian regime are either ignored or dismissed. In place of documented evidence regarding the pivotal issues of the resettlement program, villagization, or the famine, Mr. Tinker and Mr. Wise rely on information from official sources gathered while on a two week state-supervised tour—information that has been shown to be false.

Their conclusions, therefore, are not suprising. They call for "expanding" and "improving" diplomatic relations, even while admitting that, despite all the aid the U.S. has given Ethiopia, it has not resulted in a better climate between the two countries. They justify this by pointing to "the extraordinary reservoir of goodwill that exists within Ethiopia toward the United States, despite the official line" and tell us that "there are signs that the worst of the chill is over." But, unfortunately, goodwill on the part of the people of a communist-controlled country has little or no bearing on the policies of its rulers.

The presence of Western voluntary relief agencies is another hopeful sign to the authors of the report, who point out, "Instead of restricting their operations and movements, the government has often facilitated them, although constant problems remain." Among the "constant problems" they neglect to mention is the fact that all relief agencies are still subject to the threat of immediate expulsion if their actions go against the decrees of the state. The regime is blackmailing them to operate only where it wants them to, and—most important—to keep any awkward information to themselves. Most have chosen to go along so as to be able to keep up their activities, however circumscribed.[8]

Tinker and Wise point to various statements made to them and to other visiting outsiders by state officials as signs of a more friendly posture on the part of the Mengistu dictatorship. But other evidence contradicts their optimism. Official statements by the dictatorship show no sign of any lessening of hostility to the United States. The recent raid on Libya, for instance, was condemned as "naked", "arrogant", and "un provoked agression" on the part of "U.S. imperialism" using "trumped up pretexts.[9] The domestic official press is vociferously anti-American, and—despite a statement in the report that "Ethiopian officials are no longer ignoring or downgrading the role the United States played in the relief effort"—the food that is supplied from American sources is still identified as coming from the Soviet Union whenever possible. American bags of grain have their identifying markings painted over and replaced by "Gift of the People of the Soviet Union.[10]

Against this background the observation that, "In statements to the international press, to visiting Congressional delegations, and by the Foreign Minister, ... the Ethiopian government has now publicly thanked us' carries little weight. Such talk for Western audiences is cheap, as is the expansion of "educational and cultural ties" Tinker

[4] The "Sunday Times," London, May 18, 1986; the "Wall Street Journal," May 27, 1986.

[5] Report of the Ethiopian Relief and Rehabilitation Commission, December, 1984.

[6] Affidavit submitted by Roy Pateman, Lecturer in Politics, Princeton University, to hearing before the House Subcommittee on Africa and on Human Rights, October 16, 1985.

[7] "Christian Science Monitor," May 20, 1985; "Journal of Commerce," February 13, 1985.

[8] 'Live Aid, the Terrible Truth" by Robert Keating, Spin Magazine, July 1986 Also Berliner Missionwerk.

[9] "Ethiopian Herald," April 16, 1986.

[10] Berliner Missionwerk.

and Wise find so promising. Neither does past experience with Soviet-style dicatatorships provide any hope that a proposed purchase of Boeing aircraft by Ethiopian Airlines—seen as a hopeful sign by Tinker and Wise—will cause the regime to be more amenable to U.S. interests.

The prescription Tinker and Wise offer is exactly the one Ethiopia's rulers would like us to accept: "to patiently use the goodwill of our past effort to build new relations and new access to influence the Ethiopian government in whatever positive ways we can." In other words, do nothing of substance to force a brutal Marxist-Leninist dictatorship to treat its people like human beings.

In fact, the only times the Ethiopian government has behaved decently are when it was forced to by pressure from the West. The outcry that was raised—especially in Great Britain and in Europe—when it was discovered that the regime was concealing a famine while spending millions on scotch whisky was responsible for its allowing relief efforts in the first place. Even then Mengistu tried to lay the blame for the famine on the West. And it was only when a strong bill threatening economic sanctions against Ethiopia was passed in the United States Congress—the kind of measure that Tinker and Wise condemn—that he finally, reluctantly, allowed food to go to the desperate people in the rebel-held areas of Eritrea and Tigre.

It is safe to say that whatever concessions the communist regime of Ethiopia make today are made solely to head off any further threat of substantial action against it. With a new bill that would make it impossible for Ethiopia to obtain credit from the United States or the IMF coming to a vote soon in the House, Mengistu recently hinted that he wants to improve relations. But it was during this same speech that he condemned the United States for "sheer arrogance" and "blind hatred" towards his regime, and pledged that the notorious resettlement scheme would continue. Obviously, if there are to be better relations between the United States and Ethiopia's communist rulers, they will be on their terms, not America's. The course that Tinker and Wise recommend will thus encourage the brutal rulers of this tortured land to continue their cruel policies.

DILEMMA ON THE HORN: THE UNITED NATIONS IN ETHIOPIA

THE NEED OF A PEOPLE AND THE NEED OF AN ACCOUNTING

(By Ambassador Joseph Verner Reed)

It was not long ago that mass starvation in Ethiopia was "big news". Daily footage of the starvation—ravaged faces were brought before us on the evening news and in the papers—sights that haunted our dreams. Who does not remember how quickly those pictures—the emaciated infants dying before the camera eye—galvanized the conscience of the world? And who does not remember the response of the West and how millions of lives were saved through an outpouring of aid.

Individuals, national governments, outreach organizations and everyone in the United Nations system that have sought to alleviate the misery of famine in war-ridden Ethiopia swung into action. Millions of people throughout the world—from those who buy the pop records made by "USA for Africa" or "Band Aid", to those who volunteer to work for charitable groups in Ethiopia—can share in this pride. They have demonstrated that people care about other people even in remote areas of the world. The hearts of millions have been touched and the Free World has responded with generosity. Relief supplies poured into Ethiopia. In 1985 the citizens of the United States privately gave over $100 million and our government contributed more than one third of all food donated. There are 45 "good will" organizations operating in Ethiopia. The world settled back, these good works underway, to await results.

The Ethiopian government led by Marxist-Leninist dicator Lt. Colonel Haile-Mariam Mengistu, has responded to this display of universal good will with delay and brutal policies directed against its own people. There has not been a single expression of gratitude or even acknowledgment on the part of the Ethiopian leadership. Legitimate questions about how foreign assistance has been implemented have been scorned by the authorities. Most amazing is the fact that the government of Ethiopia places more importance on propaganda than on feeding its population. Last year, for instance, scarce resources were spent for a massive 10 year anniversary celebration-of the Revolution.

The United Nation's role in saving Ethiopia has been heroic. It has established a food transport and distribution system, and has coordinated and monitored the disbursement of aid provided through official and private channels. Most important, U.N. officials on the spot, Assistant Secretary-General Michael Priestly and his predecessor Kurt Janson representing the U.N.'s Secretary-General, have provided a vital communication link to a government that has made itself inaccessible to many Western donor governments.

Unfortunately, the continued callousness of the Ethiopian government and its willingness to impose incredible suffering on its own people has placed the U.N. in a tough spot. In recent months growing attention has been focused on the Ethiopian "policy" (crime) known as "resettlement"—namely, the forced uprooting of more than a million people from drought-stricken areas of the country to more fertile ones. In theory, this policy may sound perfectly rational and sound. In reality, however, it is a means to consolidate the government's power and to carry out an inhuman process of collectivization. In short, the Ethiopian government is implementing this policy with the barrel of a gun. What is going on now in Ethiopia meets every standard of atrocity known to our times. The aged and the young, the half-dead and the dying, trek daily vast distances under the rifles of Mengistu's troops. By the tens of hundreds, they are dying along the way of hunger, thirst, disease. Villagers are hurriedly rounded up, individuals often separated from close family members, loaded cheek to jowl into trucks or Soviet transport planes and removed to so-called resettlement sites. More often than not, if they arrive, they find neither food, nor shelter, nor sanitation facilities nor medical care. They will not even find seeds or agricultural implements so that they may replace the crops they were forced to abandon at their homes. The death rate at one such site is reported to have been greater than at any of the drought-caused refugee camps upon which so much international attention was focused in the past two years. There is more suffering, more poverty, and more destitution than at any time in the past 40 years. Ethiopia is in a nightmare!

Reports from Ethiopian refugees, many of whom have fled from resettlement sites, tell of horrific conditions and atrocities committed by local Workers Party of Ethiopia officials who are responsible for the resettlement program. Many of the inhabitants have fled Ethiopia becoming refugees in Sudan, only to fall victims to the depredations of brutal bandits. Yet, many prefer the risk of rape or worse (slavery) than to face the horrors of resettlement.

A visitor to Ethiopia, who may have imagined scenes of gaunt bodies starving in dusty camp sites, would be startled upon arrival in its capital Addis Ababa. One can see well-dressed and well-fed people going about their business (usually government connected) as one would expect in any urban center. Numerous Mercedes (old and new) can be seen on the streets and parking lots around official buildings. Food seems to be available in sufficient if not abundant supplies.

But, when one speaks to the staff of relief agencies, the stories of life outside the capital reveal a totally different reality. The government authorities, on the other hand, refute such stories by saying they are spread by "enemies of the state", or by American 'imperialists'. When asked if independent visitors may view conditions so as to decide the truth for themselves, the Ethiopian authorities smilingly assure the questioner that, of course, such visits are permitted after the necessary "arrangements". Such "arrangements", however, never (as in Kafka) seem to be able to be "finalized". Despite requests for travel permission the American Embassy's staff in Addis Ababa have been repeatedly denied a chance to visit a resettlement site of our choosing. "No pay, no see", is the latest official policy.

We look to the United Nations to play a crucial role in Ethiopia. It must protect the interests of the world community in seeing that aid intended for the suffering people of that country in fact is used for the humanitarian purposes for which it was donated. In playing this role officials of the world organization must take a forceful position. Up to this point, the world body has played that role, but it is facing a severe test of its continued ability to do so. The Ethiopian authorities have reneged on their commitment to give priority to emergency assistance commodities at government controlled ports and transport facilities, and also have gone back on assurances that access would be granted to monitor conditions throughout the country.

Continued assistance in the way of food, medicine and such survival supplies as tents and blankets will be required for Ethiopia this year. If the Ethiopian government rebuffs othe U.N.'s efforts to monitor conditions, and its ejects U.N. officials who ask "too many questions", the Secretary General must state his case to the membership of the United Nations. Ultimately, the Secretary General may have to go to the Court-of-Last-Resort—the world public who have provided the support for the suffering people of Ethiopia. A conundrum yes, but with the drama before the world I believe the Ethiopian regime's bluff should be called.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on July 2, July 3, July 8, July 9, and July 10, 1986,

during the adjournment of the Senate, received messages from the President of the United States submitting sundry nominations and a treaty; which were referred to the appropriate committees.

(The nominations received on July 2, July 3, July 8, July 9, and July 10, 1986, are printed at the end of the Senate proceedings.)

REPORT ON HIGHWAY SAFETY—MESSAGE FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT—PM 158

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on July 8, 1986, during the adjournment of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

The Highway Safety Act and the National Traffic and Motor Vehicle Safety Act, both enacted in 1966, initiated a national effort to reduce traffic deaths and injuries and require annual reports on the administration of the Acts. This is the 18th year that these reports have been prepared for your review.

The report on motor vehicle safety includes the annual reporting requirement in Title I of the Motor Vehicle Information and Cost Savings Act of 1972 (bumper standards).

In the Highway Safety Acts of 1973, 1976, and 1978, the Congress expressed its special interest in certain aspects of traffic safety that are addressed in the volume on highway safety.

Although the 44,241 fatalities recorded in 1984 represent a 4 percent increase from the preceding year, the death toll is 13 percent below 1980 when 51,091 Americans lost their lives in traffic accidents. There was also a significant 24 percent decline in drunk driver fatalities between 1980 and 1984, and an increase in the number of Americans who are protecting themselves with safety belts.

In addition, despite large increases in the number of drivers and vehicles, the Federal standards and programs for motor vehicle and highway safety instituted since 1966 have contributed to a significant reduction in the fatality rate per 100 million miles of travel. The fatality rate is a measure of the risk of death that a person is exposed to when travelling. The rate has decreased from 5.5 in the mid-sixties to the present level of 2.58.

I am especially proud that in 1984 we had the safest Christmas holiday season since the late 1940's. The national outrage over drunk driving, combined with tougher State laws, stepped-up enforcement, and private sector interest in the issue, have brought about a change in America's attitude about the use of alcohol and its consequences. I expect to see even more safety improvements in the years ahead.

RONALD REAGAN.

THE WHITE HOUSE, *July 8, 1986.*

EXTENSION OF INTERNATIONAL FISHERY AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF THE SOVIET UNION—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT—PM-159

Under the authority of the order of the Senate of January 3, 1986, the Secretary of the Senate, on July 1, 1986, during the adjournment of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to Public Law 94-265, was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 U.S.C. 1801 *et seq.*), (the Act), I transmit herewith an exchange of notes extending the Governing International Fishery Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics, signed at Washington on November 26, 1976, for the period of one year from December 31, 1986, until December 31, 1987.

This Agreement is one of a series negotiated in accordance with the Act. We have not sought to renegotiate the agreement for a number of reasons, and it has been extended for periods of one year to eighteen months since July 1982. The extension of this Agreement will permit U.S. fishermen to continue cooperative fisheries arrangements with Soviet fishermen. Unless the Agreement is extended these operations will cease, causing significant financial hardship to U.S. fishermen.

I recommend that the Congress give favorable consideration to this extension at an early date.

RONALD REAGAN.

THE WHITE HOUSE, *July 1, 1986.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of January 3, 1985, the Secretary of the Senate, on June 30, 1986, received a message from the House of Representatives announcing that the Speaker pro tempore [Mr. FOLEY] had signed the following enrolled bills and joint resolutions:

S. 1625. An act to permit the use and leasing of certain public lands in Nevada by the University of Nevada;

H.R. 237. An act to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such Act;

H.R. 4420. An act to amend title 10, United States Code, to revise the retirement system for the members of the Uniformed Services, and for other purposes;

H.R. 4515. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1986, and for other purposes;

H.R. 4801. An act to amend section 994 of title 28, United States Code, to clarify certain duties of the United States Sentencing Commission;

H.R. 5036. An act to make technical corrections to the National Foundation on the Arts and Humanities Act of 1965;

H.J. Res. 429. Joint resolution to designate July 2, 1986, as "National Literacy Day"; and

H.J. Res. 664. Joint resolution to designate July 3, 1986, as "Let Freedom Ring Day", and to request the President to issue a proclamation encouraging the people of the United States to ring bells on such day immediately following the relighting of the torch of the Statue of Liberty.

Under the authority of the order of the Senate of January 3, 1985, the enrolled bills and joint resolutions were signed on July 30, 1986, during the adjournment of the Senate by the President pro tempore [Mr. THURMOND].

ENROLLED BILLS SIGNED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 3, 1985, the President pro tempore [Mr. THURMOND] signed the following enrolled bills on June 27, 1986, during the adjournment of the Senate, which had previously been signed by the Speaker of the House of Representatives:

S. 2180. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974;

S. 2414. An act to amend title 18, United States Code; and

H.R. 4841. An act to amend the Carl D. Perkins Vocational Education Act with respect to State allotments under the Act.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that she had presented the following bills to the President of the United States:

On June 27, 1986:

S. 2180. An act to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974; and

S. 2414. An act to amend title 18, United States Code.

On June 30, 1986:

S. 1625. An act to permit the use and leasing of certain public lands in Nevada by the University of Nevada.

MESSAGES FROM THE HOUSE

At 12:07 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1874. An act to authorize quality education programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2436. An act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan;

H.R. 3005. An act to direct the Secretary of the Interior to convey certain lands, withdrawn by the Bureau of Reclamation for townsite purposes, to the Huntley Project Irrigation District, Ballantine, Montana;

H.R. 3526. An act to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona;

H.R. 4184. An act to authorize appropriations to the National Science Foundation for the fiscal year 1987, and for other purposes;

H.R. 5028. An act entitled the "Lower Colorado Water Supply Act";

H.R. 5052. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes; and

H.J. Res. 666. Joint resolution expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity and equality for all people.

At 1:30 p.m., a message from the House of Representatives delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 668. Joint resolution increasing the statutory limit on the public debt.

MEASURES REFERRED

The following bills and joint resolutions were read the first time by unanimous consent, and referred as indicated:

H.R. 2436. An act to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the United States population and the nutritional quality of the United States food supply, with provision for the conduct of scientific research and development in support of such program and plan; to the Committee on Governmental Affairs.

H.R. 3005. An act to direct the Secretary of the Interior to convey certain lands, withdrawn by the Bureau of Reclamation for townsite purposes, to the Huntley Project Irrigation District, Ballantine, MT; to the Committee on Energy and Natural Resources.

H.R. 3526. An act to provide for the settlement of certain claims respecting the San Carlos Apache Tribe of Arizona; to the Select Committee on Indian Affairs.

H.R. 5028. An act entitled the "Lower Colorado Water Supply Act"; to the Committee on Energy and Natural Resources.

H.R. 5052. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1987, and for other purposes; to the Committee on Appropriations.

H.J. Res. 666. Joint resolution expressing the sense of Congress in support of a commemorative structure within the National Park System dedicated to the promotion of understanding, knowledge, opportunity and equality for all people; to the Committee on Energy and Natural Resources.

H.J. Res. 668. Joint resolution increasing the statutory limit on the public debt; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4184. An act to authorize appropriations to the National Science Foundation for the fiscal year 1987, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3360. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the annual report of the Office's activities for calendar year 1985; to the Committee on the Judiciary.

EC-3361. A communication from the Chairman of the Administrative Conference of the United States transmitting, pursuant to law, the fourth annual report on agency activities under the Equal Access to Justice Act; to the Committee on the Judiciary.

EC-3362. A communication from the Secretary of Labor transmitting, pursuant to law, the annual report on administration of the Longshore and Harbor Workers' Compensation Act during fiscal year 1985; to the Committee on Labor and Human Resources.

EC-3363. A communication from the Administrator of the Agency for International Development transmitting, pursuant to law, a report on the implementation of the farmer-to-farmer initiative; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3364. A communication from the Acting Secretary of Agriculture transmitting a draft of proposed legislation to repeal title V of the Housing Act of 1949; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3365. A communication from the President of the United States transmitting, pursuant to law, a notice that Susan Wittenberg Liebeler has been designated as Chairman, and Anne E. Brunsdale as Vice Chairman of the U.S. International Trade Commission; to the Committee on Finance.

EC-3366. A communication from the President of the United States transmitting, pursuant to law, certification of conditions requisite to transfer of AWAC's aircraft to Saudi Arabia; to the Committee on Foreign Relations.

EC-3367. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a list of international agreements other than treaties entered into by the United States in the 60-day period prior to June 13, 1986; to the Committee on Foreign Relations.

EC-3368. A communication from the Acting Commissioner of Social Security transmitting a notice of a computer matching program; to the Committee on Governmental Affairs.

EC-3369. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 6-176, "Equitable Tax Relief Act of 1986," and accompanying report; to the Committee on Governmental Affairs.

EC-3370. A communication from the chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 6-178, "Juvenile Protective Act of 1986," and accompanying report; to the Committee on Governmental Affairs.

EC-3371. A communication from the chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 6-177, "Youth Residential Facilities Licensure Act of 1986," and accompanying report; to the Committee on Governmental Affairs.

EC-3372. A communication from the chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 6-175, "Boxing and Wrestling Commission Act Amendment Act of 1986," and accompanying report; to the Committee on Governmental Affairs.

EC-3373. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, a copy of D.C. Act 6-179, "Capitol Court Designation Act of 1986," and accompanying report; to the Committee on Governmental Affairs.

EC-3374. A communication from the Comptroller General of the United States transmitting, report entitled "A Compendium of Relevant GAO Products on Regulation, Health, and Safety"; to the Committee on Governmental Affairs.

EC-3375. A communication from the Assistant Attorney General, Office of Legislative and Intergovernmental Affairs, transmitting, pursuant to law, an annual report describing the activities and operations of the Public Integrity Section, Criminal Division, and reporting on the nationwide federal law enforcement effort against public corruption; to the Committee on the Judiciary.

EC-3376. A communication from the Commissioner for Rehabilitation Services Administration, Department of Education, transmitting, pursuant to law, report on the comprehensive evaluation of the Centers for

Independent Living Grant Program; to the Committee on Labor and Human Resources.

EC-3377. A communication from the President of the United States transmitting a report concerning Soviet and United States force dismantlements and projections with and without SALT I and SALT II limits; to the Committee on Armed Services.

EC-3378. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Financial Audit-National Credit Union Administration's Financial Statements, Fiscal Years 1984 and 1983"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3379. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the annual report of the Board for calendar year 1985; to the Committee on Banking, Housing, and Urban Affairs.

EC-3380. A communication from the Administrator of General Services, transmitting, pursuant to law, a report of a building project survey for the city of Miami, FL; to the Committee on Environment and Public Works.

EC-3381. A communication from the Assistant Secretary of Housing and Urban Development (Administration), transmitting, pursuant to law, notice of the proposed amendment of a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3382. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new computer matching program; to the Committee on Governmental Affairs.

EC-3383. A communication from the Director of the Federal Bureau of Prisons, Department of Justice, transmitting, pursuant to law, the annual report of the Board of Directors of Federal Prison Industries, Inc., for fiscal year 1985; to the Committee on the Judiciary.

EC-3384. A communication from the President of the Legal Services Corporation, transmitting, pursuant to law, the annual reports of the Corporation under the Freedom of Information Act for calendar years 1985 and 1984; to the Committee on the Judiciary.

EC-3385. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for bilingual education programs; to the Committee on Labor and Human Resources.

EC-3386. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of the D.C. Act 6-174 adopted by the council on June 10, 1986; to the Committee on Governmental Affairs.

EC-3387. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-172 adopted by the council on June 10, 1986; to the Committee on Governmental Affairs.

EC-3388. A communication from the Acting Assistant Secretary for Health, Department of Health, Education and Welfare, transmitting, pursuant to law, a report on a new privacy Act system of records; to the Committee on Governmental Affairs.

EC-3389. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Farmers Home Administration: Federally Acquired Farm Property Presents a Management Challenge"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3390. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Farm Payments and Loans-Consistency Needed in USDA Crop Yield Estimates"; to the Committee on Agriculture, Nurtition, and Forestry.

EC-3391. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the Department of the Navy's proposed letter of offer to Japan for defense articles estimated to cost in excess of $50 million; to the Committee on Armed Services.

EC-3392. A communication from the general counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1987 for purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950; to the Committee on Armed Services.

EC-3393. A communication from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, a report on the conversion of the commissary shelf-stocking function at Fort Huachuca, AZ, to performance by contract; to the Committee on Armed Services.

EC-3394. A communication from the Secretary of Commerce, transmitting, pursuant to law, the program development plan for Antarctic Living Marine Resources; to the Committee on Commerce, Science, and Transportation.

EC-3395. A communication from the Chairman of the National Advisory Committee on Oceans and Atmosphere, transmitting, pursuant to law, the annual report of the Committee for the year ended June 30, 1986, to the Committee on Commerce, Science, and Transportation.

EC-3396. A communication from the Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law a proposed contract with Farwell Irrigation District, Farwell unit, Pick-Sloan Missouri basin project, Nebraska; to the Committee on Energy and Natural Resources.

EC-3397. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report summarizing the progress of discussions on California offshore oil and gas leasing; to the Committee on Energy and Natural Resources.

EC-3398. A communication from the Secretary of Agriculture and the Secretary of the Interior, transmitting, pursuant to law, the sixth report on the administration of the Wild Free-Roaming Horse and Burro Act; to the Committee on Energy and Natural Resources.

EC-3399. A communication from the Acting Assistant Secretary of the Interior (Water and Science), transmitting, pursuant to law, a report on an application by the Hidalgo Irrigation District No. 1, Edinsbury, TX, for a loan under the Small Reclamation Projects Act; to the Committee on Energy and Natural Resources.

EC-3400. A communication from the Administrator of General Services, transmitting, pursuant to law, an informational copy of a revised fiscal year 1987 design prospectus; to the Committee on Environment and Public Works.

EC-3401. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the Bridge Replacement and Rehabilitation Program for calendar year 1985; to the Committee on Environment and Public Works.

EC-3402. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the status and operation of the State and local government fiscal assistance trust fund during fiscal year 1985; to the Committee on Finance.

EC-3403. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the annual report on the operation of the U.S. trade agreements program during 1985; to the Committee on Finance.

EC-3404. A communication from the Chairman of the U.S. Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Tax Act to require rail sector financing of certain railroad retirement costs currently borne by the general taxpayer; to the Committee on Finance.

EC-3405. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, revised projections for the Hospital Insurance Program and Supplementary Medical Insurance Program; to the Committee on Finance.

EC-3406. A communication from the Acting Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, a report on a Presidential determination to provide military assistance to the Governments of Cape Verde, Mauritania, and Guinea-Bissua; to the Committee on Foreign Relations.

EC-3407. A communication from the President of the Overseas Private Investment Corporation, transmitting, pursuant to law, OPIC's development report for fiscal year 1985; to the Committee on Foreign Relations.

EC-3408. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Software Projects—Army Material Command Spent Millions Without Knowing Total Costs and Benefits"; to the Committee on Governmental Affairs.

EC-3409. A communication from the Plan Administrator, Farm Credit Retirement Plan Production Credit Associations' retirment plan, transmitting pursuant to law, annual pension plan reports for the farm credit retirement plan and the Production Credit Associations' retirement plan for the plan year ended December 31, 1985; to the Committee on Governmental Affairs.

EC-3410. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a notice of a new computer matching plan; to the Committee on Governmental Affairs.

EC-3411. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of a new computer matching program; to the Committee on Governmental Affairs.

EC-3412. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3413. A communication from the Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the annual report on agency activities under the Equal Access to Justice Act for fiscal year 1985; to the Committee on the Judiciary.

EC-3414. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the Departments administration of the Employee Retirement Income Security Act [ERISA] for 1984; to the Committee on Labor and Human Resources.

EC-3415. A communication from the Librarian of Congress, transmitting, pursuant to law, the annual report on the activities of the Library of Congress for fiscal year 1985; to the Committee on Rules and Administration.

EC-3416. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on certain budget authority proposed for rescission by the President but for which Congress did not pass a rescission bill, jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on Armed Services, and the Committee on the Budget.

EC-3417. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on certain budget authority proposed for rescission by the President but for which Congress did not pass a rescission bill, jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on Armed Services, and the Committee on the Budget.

EC-3418. A communication from the Executive Associate Director of the Office of Management and Budget transmitting, pursuant to law, a report on the reapportionment of Department of Justice appropriations indicating the necessity for supplemental appropriations; to the Committee on Appropriations.

EC-3419. A communication from the Secretary of Defense transmitting, pursuant to law, a study of the loss of production capacity of critical ferroalloy products; to the Committee on Armed Services.

EC-3420. A communication from the Principal Deputy Assistant Secretary of the Navy transmitting, pursuant to law, a report on a decision to convert the grounds services at the Marine Corps Air Station, El Toro, CA, to performance under contract; to the Committee on Armed Services.

EC-3421. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on the Federal Savings and Loan Insurance Corporation's financial statements for 1984 and 1985, and on its system of internal accounting; to the Committee on Banking, Housing, and Urban Affairs.

EC-3422. A communication from the Secretary of Housing and Urban Development transmitting, pursuant to law, the 1986 report on community development programs; to the Committee on Banking, Housing, and Urban Affairs.

EC-3423. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on the Financial Statements of the Ex-Im Bank for 1984 and 1985, and on its system of internal accounting controls; to the committee on Banking, Housing and Urban Affairs.

EC-3424. A communication from the Chairman of the Interagency Geothermal Coordinating Council transmitting, pursuant to law, the annual report on Federal activities and programs in geothermal energy; to the Committee on Energy and Natural Resources.

EC-3425. A communication from the Chairman of the Advisory Council on Historic Preservation transmitting, pursuant to law, a report on a proposal for construction of a parking facility at Arlington National Cemetery; to the Committee on Energy and Natural Resources.

EC-3426. A communication from the Secretary of Energy transmitting, pursuant to law, a report on the biomass energy and alcohol fuels programs; to the Committee on Energy and Natural Resources.

EC-3427. A communication from the Acting Assistant Attorney General of the United States transmitting, pursuant to law, the report on the Voluntary Agreement and Plan of Action to Implement the International Energy Program;' to the Committee on Energy and Natural Resources.

EC-3428. A communication from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to provide for the payment of interest on amounts paid by oil and gas lessees, which are later refunded; to the Committee on Energy and Natural Resources.

EC-3429. A communication from the General Counsel of the Department of Energy transmitting, pursuant to law, notice of a meeting related to the International Energy Program, to be held on July 8, 1986 in Paris; to the Committee on Energy and Natural Resources.

EC-3430. A communication from the Chairman of the U.S. International Trade Commission transmitting, pursuant to law, the Commission's quarterly report on trade between the United States and nonmarket economy countries; to the Committee on Finance.

EC-3431. A communication from the Acting Secretary of State transmitting, pursuant to law, a report on the extent and disposition of U.S. contributions to international organizations; to the Committee on Foreign Relations.

EC-3432. A communication from the Director of Legislative Affairs, AID, transmitting, pursuant to law, the 1986 annual report on the Sahel Development Program; to the Committee on Foreign Relations.

EC-3433. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the 60 days previous to June 26, 1986; to the Committee on Foreign Relations.

EC-3434. A communication from the Acting Chairman of the National Transportation Safety Board transmitting, pursuant to law, a report on the Board's internal accounting and administrative controls; to the Committee on Governmental Affairs.

EC-3435. A communication from the D.C. auditor transmitting, pursuant to law, a report on a proposal to conduct a comprehensive substance abuse and prevention program in D.C. schools; to the Committee on Governmental Affairs.

EC-3436. A communication from the Assistant Secretary of the Smithsonian Institution transmitting, pursuant to law, the Institution's annual pension report; to the Committee on Governmental Affairs.

EC-3437. A communication from the Acting Secretary of Agriculture transmitting, pursuant to law, a report on four revisions in record systems, rescission of a system, and a new system of records under the Privacy Act; to the Committee on Governmental Affairs.

EC-3438. A communication from the Assistant Vice President of the Farm Credit Banks of Baltimore transmitting, pursuant to law, the annual actuarial and financial report for the Farm Credit District of Baltimore retirement plan; to the Committee on Governmental Affairs.

EC-3439. A communication from the Director of Civilian Personnel, Uniformed Services University of the Health Sciences, transmitting, pursuant to law, the University's report for 1985 on its pension plan; to the Committee on Governmental Affairs.

EC-3440. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on GAO reports issued in May 1986; to the Committee on Governmental Affairs.

EC-3441. A communication from the D.C. auditor transmitting, pursuant to law, a report entitled "Revenue Report for March 1986"; to the Committee on Governmental Affairs.

EC-3442. A communication from the Executive Officer of the National Science Board transmitting, pursuant to law, the Board's 1985 Government in the sunshine report; to the Committee on Governmental Affairs.

EC-3443. A communication from the Secretary of the U.S. Postal Rate Commission transmitting, pursuant to law, an errata notice relative to an opinion and recommended decision in destination-BMC parcel post classification and rate changes (experiment), 1985; to the Committee on Governmental Affairs.

EC-3444. A communication from the Administrator of the Veterans' Administration transmitting, pursuant to law, a report on a change in a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3445. A communication from the Secretary of Transportation transmitting, pursuant to law, the 1985 report on the valuation of the Coast Guard military retirement system; to the Committee on Governmental Affairs.

EC-3446. A communication from the Chief, Insurance and Employee Benefits, Department of the Air Force transmitting, pursuant to law, a report on Air Force nonappropriated fund retirement plan for civilian employees; to the Committee on Governmental Affairs.

EC-3447. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-3448. A communication from the Assistant Attorney General (Office of Legal Policy), transmitting, pursuant to law, the annual report of the Department of Justice under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-3449. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report and recommendation with respect to a claim by an employee of the Federal Government; to the Committee on the Judiciary.

EC-3450. A communication from the Federal-State coordinator, Office of the Governor of Montana, transmitting, pursuant to law, a proposed interstate compact between the State of Montana and the State of Washington relative to mutual assistance in the event of attack or natural disaster; to the Committee on the Judiciary.

EC-3451. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations with invitation to comment for debt collection: what procedures does the Secretary follow for IRS tax

refund offsets; to the Committee on Labor and Human Resources.

EC-3452. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend health professions loan authorities; to the Committee on Labor and Human Resources.

EC-3453. A communication from the Commissioner of the Rehabilitation Services Administration, Department of Education, transmitting, pursuant to law, the annual report on activities under the Rehabilitation Act of 1973 for fiscal year 1985; to the Committee on Labor and Human Resources.

EC-3454. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on groups with historically high incidences of unemployment; to the Committee on Labor and Human Resources.

EC-3455. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Guaranteed Student Loans: Better Criteria Needed for Financing Guarantee Agencies"; to the Committee on Labor and Human Resources.

EC-3456. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the fiscal year 1984 Low Income Home Energy Assistance Program; to the Committee on Labor and Human Resources.

EC-3457. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to limit the types of proposed disciplinary actions in which disciplinary boards function, to allow for the delegation of authority of the Chief Medical Director in certain situations, and for related purposes; to the Committee on Veterans' Affairs.

EC-3458. A communication from the Chief Immigration Judge, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, a report on the suspension of deportation of certain aliens under section 244(a)(1) and 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-759. Joint resolutions adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE RESOLUTION No. 35

"Whereas, California agriculture is deeply buried in its worst financial crisis since the Great Depression; and

"Whereas, The beef cattle industry in this state is one of the segments of California agriculture that can least afford price instability at this time; and

"Whereas, The California beef cattle industry represents a $2 billion industry, consisting of approximately 3,500,000 head of beef cattle; and

"Whereas, The beef cattle market is governed by the supply and demand concept based on an orderly marketing process and has never received any governmental subsidies or price supports; and

"Whereas, It is the intent of a portion of the Food Security Act of 1985's Milk Price Support and Producer Supported Dairy Program, commonly referred to as the dairy herd buy-out program, to avoid the creation of burdensome excess supplies of milk or milk products; and

"Whereas, It is difficult to adjust the number of dairy cows without impacting the red meat market; and

"Whereas, The dairy heard buy-out program, which has critically impaired this orderly process, will place an estimated 115,000 dairy cows in California on the market, resulting in a severely depressed market price to all beef cattle producers; and

"Whereas, Preliminary estimates indicate that the California beef cattle industry alone can anticipate to lose over the next six months approximately $250,000,000 in reduced beef price sales; and

"Whereas, The Food Security Act of 1985 gave the United States Secretary of Agriculture broad powers to carry out the dairy herd buy-out program over an 18-month period, beginning April 1, 1986; and

"Whereas, Sixty-five percent of the dairy herd buy-out program is scheduled to occur within the next five months; and

"Whereas, The Food Security Act of 1985 furthermore requires that the United States Secretary of Agriculture, in determining the conditions of this program, minimize the adverse effect of the dairy herd buy-out program on beef, pork, lamb, and poultry producers: Now, therefore, be it

"Resolved by the Senate of the State of California", That the Members memorialize the United States Secretary of Agriculture to exercise the secretary's authority under the Food Security Act of 1985 to restore price stability for the beef cattle producers, in particular; and be it further

"Resolved, That the secretary is requested to reallocate the dairy herd purchases as evenly as possible over the three six-month periods of the Milk Price Support and Producer-Supported Dairy Program; and be further

"Resolved, That the secretary is requested to allocate as evenly as possible its purchases of dairy cows on an equal daily basis within each six-month period; and be it further

"Resolved, That the secretary is requested to immediately commence purchasing red meat on a daily basis in direct proportion to the amount of dairy cows slaughtered each day; and be it further

"Resolved, That the secretary is requested to distribute the red meat purchases into new market channels that will not compete with previously existing markets; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the United States Secretary of Agriculture and to each Senator and Represenative from California in the Congress of the United States."

"SENATE JOINT RESOLUTION No. 41

"Whereas, Since the late 1970's, Central America has suffered from annual recurrence of Mediterranean fruit fly infestations, damaging its ability to produce many food crops for its consumption and for export; and

"Whereas, These export commodities are increasingly finding their way into California markets, sometimes causing pest outbreaks, despite efforts of plant quarantine organizations; and

"Whereas, The eradication of these infestations is increasingly expensive, as well as increasingly objectionable to the general public, due to the necessity of the use of pesticides; and

"Whereas, The technology now exists to accomplish eradication at the infestation source using the male sterile release technique, involving minimal use of pesticide sprays; and

"Whereas, The Animal and Plant Health Inspection Service of the United States Department of Agriculture has formulated a program to continue its successful eradication effort in Mexico and Guatemala, southward to southern Panama, where a free zone can be maintained at a reasonable cost; and

"Whereas, This program is encouraged and supported by the Plant Protection and Quarantine Service of the United States Department of Agriculture, which is recommending a $10 million budget appropriation for it in the 1987 federal budget; and

"Whereas, This program also has the support of, and is encouraged by, participating countries in Central America and their trading partners, which are also willing to support the program financially; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to fund the Animal and Plant Health Inspection Service of the United States Department of Agriculture so that it may continue the Guatemala Mediterranean fruit fly program and undertake further eradication efforts of this pest in Central America; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Agriculture."

POM-760. Joint resolution adopted by the Legislature of the State of Tennessee; to the Committee on Appropriations:

"HOUSE JOINT RESOLUTION No. 779

"Whereas, funding for Cooperative Extension Service Programs was reduced by $188,000,000 in the budget proposed by the President for the fiscal year 1987; and

"Whereas, the agriculture community recognizes that reduction of the federal deficit is an important national priority, yet the proposed funding reduction is ill-advised and will severely impact our nation's beseiged farmers; and

"Whereas, this proposed reduction in federal funding would result in a sixty percent (60%) reduction in funds in Tennessee for important services such as administering the 4H program, hiring local extension staff, and providing educational programs which assist farmers, youth, homemakers, and others, and which involve thousands of people in Tennessee alone; and

"Whereas, a sixty percent (60%) reduction in last year's eleven million dollar appropriation for the Tennessee Cooperative Extension Program would result in a reduction in services to farmers and the loss of more than one hundred local extension staff in Tennessee; and

"Whereas, this proposed reduction in Cooperative Extension Service Program funding would adversely affect farm families and Extension Service Programs which are of

enormous benefit to farmers, their families, and farmers of tomorrow; and

"Whereas, farmers play a vital role in the American economy and farmers are currently suffering in a national farm crisis, so that the elimination of county agents and educational programs provided by Cooperative Extension Service Programs would further injure an already struggling farm sector, which is of great importance to our national economy and to our national way of life; now, therefore, be it

"Resolved by the House of Representatives of the Ninety-Fourth General Assembly of the State of Tennessee, the Senate concurring, That the members of this General Assembly urge the Congress to restore funding for Cooperative Extension Service Programs for the fiscal year 1987 to at least the level approved in the concurrent resolution on the budget for fiscal year 1986.

"Be it further resolved, That a copy of this Resolution be sent to President Ronald Reagan, to Vice-President George Bush, to Speaker of the House of Representatives Thomas P. O'Neill and to each member of the Tennessee congressional delegation."

POM-761. Concurrent resolution adopted by the Legislature of the State of Iowa; to the Committee on Appropriations:

"HOUSE CONCURRENT RESOLUTION NO. 127

"Whereas, the federal Job Training Partnership Act was enacted in 1983 calling for a partnership between business, local elected officials, and state government in the administration of a federally funded employment and training program; and

"Whereas, the Job Training Partnership Act provides an efficient program to prepare economically disadvantaged and long-term unemployed individuals to enter the labor force; and

"Whereas, Title III of the Act is designed for dislocated workers to assist them in retraining for job readiness to reenter the job market; and

"Whereas, Iowa employees have been hit especially hard during the recent years due to plant closings and layoffs forcing many Iowans out of work; and

"Whereas, the vast majority of these dislocated workers are highly skilled, highly productive, and have excellent work records; and

"Whereas, due to projected federal appropriations reductions, federal funds for the Title III program will be reduced for Iowa from $1,737,526 to $972,286, a reduction of 44%; and

"Whereas, the projected reductions will have a disastrous effect on attempts to retrain and reemploy these workers; now therefore, be it

"Resolved by the House of Representatives, the Senate concurring, That the Iowa General Assembly urges the United States Congress not to reduce federal funds for the Job Training Parternship Act; and

"Be it further resolved, That copies of this resolution be sent to the President of the Senate of the United States, the Speaker of the United States House of Representatives, and to all members of the Iowa Congressional Delegation."

POM-762. Resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Banking, Housing, and Urban Affairs:

HOUSE RESOLUTION NO. 425

"Whereas, A sound, stable economic and monetary system is essential to a free nation to protect the liberty of the people; and

"Whereas, Article I, Section 8, Clause 5 of the Constitution of the United States grants Congress the exclusive power "to coin money and regulate the value thereof"; and

"Whereas, The Federal Reserve Act of 1913 and other acts of Congress purport to delegate that power to a federally-chartered but privately-owned banking system, with no real oversight or control by the representatives of the people or by any elected body or official; and

"Whereas, The Federal Reserve's erratic and unpredictable monetary policy has destabilized the nation's money supply, leading to high interest rates and inflation, disastrous to the people and a threat to the ability of state and federal governments to fulfill their obligations and balance their budgets; and

"Whereas, Since the introduction of the Federal Reserve system, our states and our people have suffered recurring recession cycles, high unemployment, increasing bank failures, a loss of 90% of the purchasing power of the dollar, the rise of farm foreclosures and increasing farm debt, bankruptcies, and the high imbalance of trade; and

"Whereas, Serious charges have been made that the Federal Reserve has failed to achieve the objectives laid down where it was established; that the present debt-money system works to the disadvantage of the people and results in ever-higher interest rates for citizens, business, and government; and

"Whereas, The purported statutory powers of the Federal Reserve system to create and issue money and to create and loan money at interest to the government of the United States, are clearly beyond any authority contempleted by the framers of the Constitution; and

"Whereas, The Congress of the United States of America holds it within its powers to study the nation's money system and to take action to protect its citizens against the abuses and resultant undesirable effects of the current money system; and

"Whereas, There has never been an independent audit of the Federal Reserve; therefore be it

"Resolved, by the House of Representatives of the Eighty-Fourth General Assembly of the State of Illinois, That we urge the United States Congress to study and hold hearings to examine this nation's money system and consider reforms of the system designed to protect the people and their economic security; and be it further

"Resolved, That we urge Congress to pass legislation directing the General Accounting Office to conduct a complete audit of the Federal Reserve Board, the Federal Reserve Banks and all of their branches, for this and each fiscal year thereafter as one step in regaining the rightful control of its constitutionally designated powers; and be it further

"Resolved. That suitable copies of this preamble and resolution be forwarded to both Houses of the Congress of the United States and to each member of the Illinois Congressional Delegation."

POM-763. Resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Banking, Housing, and Urban Affairs:

"RESOLUTION

"Whereas, The current standard of living of many poor and elderly Americans is such that they are compelled to live in substandard housing and because of depressed finances are often unable to pay to adequately heat their living quarters; now therefore be it

"Resolved, That the Massachusetts General Court respectfully urges the Congress of the United States to enact legislation to expand and better facilitate the section 8 subsidy and distribution formula to give direct rental assistance to house the poor and elderly in the two, three and four-family homes of their communities through local housing and redevelopment authorities; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of Congress and to the Members thereof from this commonwealth."

POM-764. Resolution adopted by the Catholic War Veterans of the United States urging the Congress to allow States to determine safe speed limits for their own highways; to the Committee on Commerce, Science, and Transportation.

POM-765. Concurrent resolution adopted by the Legislature of the State of Louisana; to the Committee on Environment and Public Works.

"SENATE CONCURRENT RESOLUTION NO. 85

"Whereas, some eight hundred sites have been designated in the United States for Superfund cleanup; and

"Whereas, the State of Louisiana manufactures approximately twenty-five percent of the nation's chemicals and contributes between eighteen and twenty-five percent of the revenue which funds cleanup of designated Superfund sites; and

"Whereas, only six of the approximately eight hundred designated sites for Superfund cleanup have been designated in Louisiana, this state being third from last in the ranking of states having the number of designated sites, only Mississippi and Georigia having fewer designated Superfund sites; and

"Whereas, Louisiana's Department of Environmental Quality has documented a large number of abandoned and leaking hazardous waste disposal sites posing a threat to the drinking water of millions of citizens and posing an additional hazard of exposure to noxious and toxic chemicals; and

"Whereas, the present system of ranking hazards being used by federal environmental personnel discriminates against the State of Louisiana and other rural areas by requiring a certain population density in the area of sites to be cleaned; therefore, be it

"Resolved, That the Legislature of Louisiana memoralizes the Congress of the United States to reevaluate the formula for distributing funds to the respective states to establish a more equitable remedy for correcting the insidious pollution of the air and water of the State of Louisiana by the deposition and discharge of toxic wastes.

"Be it further resolved, That a copy of this Resolution shall be transmitted to the Secretary of the United States Senate and the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-766. Resolution adopted by the Senate of the State of California; to the Committee on Finance:

"SENATE RESOLUTION NO. 27

"Whereas, The California State Senate is on record in support of a federal tax reform

plan which promotes "fairness, simplicity, and growth," but many of the revisions in the federal "Tax Reform Act of 1985" do not promote these objectives; and

"Whereas, California's cities, counties, special districts, and redevelopment agencies issued $18 billion in long-term, tax-exempt debt in 1985 to promote such valuable public purposes as affordable housing, schools, hospitals, sewers, water lines, and public power facilities; and

"Whereas, The United States House of Representatives has passed the "Tax Reform Act of 1985" to reduce the volume of tax-exempt debt issued by state and local governments and the United States Senate Finance Committee has begun hearings on these federal tax code revisions; and

"Whereas, The California Senate Committee on Local Government held a special hearing on how the Tax Reform Act of 1985 would affect California's local governments; and

"Whereas, The loss of tax-exempt financing will increase California's borrowing costs by an estimated $4 billion while federal revenues will increase by just $3 billion over the next five years; and

"Whereas, The uniform volume limit in the proposed act will force local governments to compete to finance worthwhile public projects with fewer dollars, pitting hospitals against housing for senior citizens; and

"Whereas, The uniform volume limit will specifically reduce multifamily mortgage revenue bonds by more than 90% and single-family mortgage revenue bonds by nearly 70%, thus seriously undercutting California's efforts to produce more affordable housing; and

"Whereas, Because the proposed requirement in the act that bond proceeds be spent within 30 days is unrealistic and proposed new definitions in the act for qualified bonds are unclear, many bonds for needed public works will become taxable, thereby boosting local borrowing costs; and

"Whereas, The January 1, 1986, effective date of the "Tax Reform Act" places an unfair and unreasonable burden on California's local governments and taxpayers of complying with the fundamental changes in the proposed act even before it is enacted; and

"Whereas, The January 1, 1986, effective date has brought the California tax-exempt bond market nearly to a halt, with only two local tax-exempt financings worth $60 million having been completed in California and filed with the California Debt Advisory Commission since January 1, 1986, as compared with 35 financings worth $300 million in January 1985; and

"Whereas, Tax-exempt bonds issued in 1986 could become retroactively taxable to January 1, 1986, if the proposed act becomes law; now, therefore, be it

"Resolved by the Senate of the State of California, That the Members of the Senate of the State of California respectfully memorialize the President andy the Congress of the United States to carefully consider how the loss of tax-exempt financing for California outweighs the expected increase in federal revenues, particularly at a time when California's local governments will lose substantial revenues from the end of federal General Revenue Sharing and from the federal Gramm-Rudman-Hollings Law; and be it further

"Resolved, That the Members of the Senate respectfully request the California congressional delegation to pursue postponement of the effective date in revisions to the tax exempt bond provisions of the tax code to either the date of its enactment or a date certain in 1987; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-767. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 74

"Whereas, The benefit payment procedures under Title II of the Social Security Act which are followed upon the death of an insured individual or benficiary, including a dependent or survivor, are in need of reformation by providing for the payment of a lump-sum death benefit, in an equitable manner and in a realistic amount; now, therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and the Congress of the United States to enact legislation to amend Title II of the Social Security Act to reform the benefit payment procedures which are followed upon the death of an insured individual or beneficiary by providing for the payment of a realistic lump-sum death benefit to the surviving spouse, dependents, other survivors, or to any other person or persons assuming responsibility for the burial expenses of the insured individual or beneficiary; and be it further

"Resolved, That the President and the Congress of the United States enact legislation to amend Title II of the Social Security Act to provide final payment of Social Security benefits for the month during which an insured individual or beneficiary dies; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairperson of the House Select Committee on Aging, to the Chairperson of the Senate Special Committee on Aging, and to each Senator and Representative from California in the Congress of the United States."

POM-768. A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION TO CORRECT THE TAX LAW WHICH REQUIRES SOCIAL SECURITY RECIPIENTS TO INCLUDE TAX EXEMPT INTEREST IN DETERMINING THE AMOUNT OF SOCIAL SECURITY BENEFITS SUBJECT TO TAX

"Whereas, the current law, established by the Social Security amendments of nineteen hundred and eighty-three requires a Social Security beneficiary to add tax-exempt interest to adjusted gross income (and one-half of the Social Security benefits) to determine whether a tax is owed on the Social Security benefit; and

"Whereas, the current law causes Social Security recipients to be treated in a discriminatory manner by the tax system relative to all other taxpayers who have tax-exempt interest income; and

"Whereas, tax-exempt interest used to determine additional tax liability for Social Security beneficiaries is entirely ignored by other taxpayers for personal income tax purposes; and

"Whereas, the result is that Social Security recipients are the lone class of taxpayers who are burdened by additional tax liability from traditionally tax-exempt income; and

"Whereas, the current tax-exempt interest law affects only those beneficiaries near the twenty-five thousand dollars (thirty-two thousand dollars for a couple) Social Security taxation threshold; and

"Whereas, people above these incomes will pay tax on one-half of their benefits regardless of the tax-exempt income provision; Now therefore be it

"Resolved, That the Massachusetts General Court hereby urges the Congress of the United States to enact legislation to correct this discriminatory and unfair tax levied upon Social Security recipients; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the House of Representatives to the President of the United States, the presiding officer of each branch of Congress and to the Members thereof from this Commonwealth."

POM-769. A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Foreign Relations:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ACT FOR THE CURBING OF DRUG TRAFFICKING

"Whereas, The flow of controlled substances such as cocaine, marijuana and heroin continues into the United States from countries with which the United States has existing agreements supplying economic and military aid to said countries; and

"Whereas, the elimination of such drug trafficking and the flow of drugs into the United States would benefit the citizens of the United States in general, and the citizens of this Commonwealth, in particular; Now therefore be it

"Resolved, That the Massachusetts General Court respectfully urges the Congress of the United States to terminate all economic and military aid to countries identified by the drug enforcement agencies of the Federal Government as sources of controlled substances and sites from which such controlled substances are transported to or sold to persons transporting such drugs to the United States; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Clerk of the House of Representatives to the Presiding Officer of each branch of the Congress and to the Members thereof from this Commonwealth."

POM-770. A resolution adopted by the Catholic War Veterans of the United States favoring a strong and uniform United States policy with respect to the spread of communism in Africa; to the Committee on Foreign Relations.

POM-771. A resolution adopted by the Catholic War Veterans of the United States favoring action to curb Soviet electronic espionage in the United States; to the Committee on Foreign Relations.

POM-772. A resolution adopted by the Catholic War Veterans of the United States relating to Nelson Mandela and the African National Congress; to the Committee on Foreign Relations.

POM-773. A resolution adopted by the Catholic War Veterans of the United States relating to the Soviet occupation of Afghanistan; to the Committee on Foreign Relations.

POM-774. A joint resolution adopted by the Legislature of the State of California; to the Committee on Foreign Relations.

"ASSEMBLY JOINT RESOLUTION No. 93

"Whereas, The Libyan head of state, Colonel Moammar Khadafy, has repeatedly assisted and supported terrorist activities throughout the world; and

"Whereas, Moammar Khadafy supported the terrorist slaying of TWA and El Al passengers at the Vienna and Rome airports on December 27, 1985; and

"Whereas, At the direction of Libyan authorities, a bombing occurred in a West Berlin disco on April 5, 1986, killing United States Army Sergeant Kenneth Ford and wounding 50 other military personnel; and

"Whereas, Terrorist attacks in Western Europe have claimed 19 lives and wounded nearly 400 people since January 1985; and

"Whereas, The President of the United States took all due care to ensure that there was proof of Khadafy's involvement in these acts; and

"Whereas, State-sponsored terrorism represents an unacceptable threat to the freedom and security of all people; and

"Whereas, Khadafy has repeatedly ignored all peaceful appeals by the United Nations to stop offering sanctuary to terrorists; and

"Whereas, All diplomatic efforts by the United States of America and its allies have not persuaded Colonel Khadafy to halt his aiding and abetting of terrorist activities; now, therefore, be it *Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California, Realizing that the necessity for the use of military force on any occasion is regrettable, supports the difficult decision of the President of the United States to order air strikes on Libya; and be it further

Resolved, That the Legislature acknowledges that these military actions came only after repeated and sincere attempts by the United States at peaceful, nonmilitary pressure to resolve the growing tide of terrorism against Americans abroad; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-775. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Foreign Relations:

HOUSE CONCURRENT RESOLUTION No. 26

"Whereas, totalitarian regimes seeking to undermine democratic nations have resorted to acts of international terrorism as means of imposing their will upon families, populations and governments; and

"Whereas, acts of international terrorism have been increasing in an unacceptable manner; and

"Whereas, United States citizens and United States interests have consistently been the target of thirty to thirty-five percent of worldwide terrorist attacks; and

"Whereas, worldwide travel has become an unnecessarily hazardous undertaking for all American military, businessmen, and tourists; and

"Whereas, trained professional terrorists attempt to do everything possible to achieve maximum publicity for their acts of violence in order to have their cause or beliefs taken seriously by the public; and

"Whereas, the necessity to protect our democratic ideals and way of life from the manipulative power of international acts of terrorism must be a foremost concern of this nation, since the subordination of the importance of these acts will only lead us to the same tenuous equilibrium of existence found in the parent countries of terrorism.

"Therefore be it resolved That the Legislature of Louisiana condemns the perpetration of acts of international terrorism and finds that acts of international terrorism are unacceptable and that this crime against humanity must be combatted on all levels.

"Be it further resolved That the Legislature of Louisiana supports the anti-terrorist policies of the present presidential administration and memorializes the Congress of the United States and in particular the members of the Louisiana congressional delegation to insure the implementation of those policies in as expeditious a manner as possible.

"Be it further resolved That copies of this Resolution shall be forwarded to the president of the United States, to the secretary of the Senate and the clerk of the House of the Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-776. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION No. 56

"Whereas, for more than 200 years, American business, industry, and workers have displayed the willingness, capability, and flexibility to meet the challenges of the ever-changing world; and

"Whereas, American business, industry, and workers have generated a model economy and strength that has become the envy of the world and have produced a higher standard of living in this country than in any other nation in the world; and

"Whereas, American workers and manufacturers, through their accomplishments in production, assembly, and transportation of goods to and for consumers and government, have produced more consumer products than ever before imagined; and

"Whereas, American industry and workers, during times of peace and national or global emergency, have met the call from home and from abroad and saved many allied nations from aggressors; and

"Whereas, American democratic institutions, industry, and workers have displayed the intent to strive in the future to improve the quality of life in the United States and throughout the world, and to continue to balance the pursuit of profit with competition, while advancing their long-held values of social justice and fairness in the community; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the United States Congress to proclaim June 21, 1986, as Save American Industry and Jobs Day, a day of national recognition of the accomplishments of workers, businesses, and manufacturing industries; and be it further

Resolved, That the Legislature ask all Americans to join in a national salute to the combined achievements of these workers, businesses, and manufacturing industries, and in so doing, encourage all appropriate national, state, and local activity that will broaden the recognition of Save American Industry and Jobs Day; and be it further

Resolved, That the Secretary of the Senate transmit copies of the resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the President of the United States Senate, each Senator and Representative from California in the Congress of the United States, and the Capitol Press Corps."

POM-777. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 97

"Whereas, Throughout more than 200 years of development, American business, industry, and workers have generated a model economy and strength that has become the envy of the world; and

"Whereas, The willingness of business and industry to be flexible, able to change and to create change, and an American workforce, willing and capable to meet the challenge, has produced a higher standard of living in this country than in any other nation in the world; and

"Whereas, American workers and manufacturers have produced more consumer products than could have been imagined 200 years ago, and have excelled in production, assembly, and transportation of those goods to and for consumers and government; and

"Whereas, During times of peace and national or global emergency, American industry and workers have met the call from home and from abroad, saving many allied nations from aggressors; and

"Whereas, We have faith in our democratic institutions, industry, and workers, to improve the quality of life here and everywhere, to blend the pursuit of profit with competition, without forgetting to advance our long-held values of social justice and fairness in the community; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Members of the Assembly and the Senate of the State of California, in adopting this resolution, request the United States Congress to proclaim June 21, 1986, as Save American Industry/Jobs Day, a day of national recognition of the accomplishments of workers, businesses, and manufacturing industries; and be it further

"Resolved, That we ask all Americans to join in a national salute to the combined achievements of these workers, businesses, and manufacturing industries, and in so doing, we encourage all appropriate national, state, and local activity that will broaden the recognition of Save American Industry/Jobs Day; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the President of the United States Senate, each Senator and Representative from California in the Congress of the United States, and the Capitol Press Corps."

POM-778. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION 26

"Whereas, During War II, Filipino members of the United States Armed Forces in the Far East valiantly fought on the side of the United States and its allies; and

"Whereas, The promise of United States citizenship was held out to these fighters for democracy, but the United States has never fulfilled that pledge, and after more than 40 years, justice is still denied to these war veterans; and

"Whereas, Legislation to remedy this broken promise has been introduced in the United States Congress, to grant United States citizenship to all Filipino war veterans; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the President and Congress of the United States are respectfully memorialized to support and enact legislation extending United States citizenship to Filipino veterans of World War II; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-779. A petition from the Chairman of the Community Development Committee of the City Council of Amherst, Ohio notifying the Congress of the Council's adoption of a resolution supporting Save American Industry and Jobs Day; to the Committee on the Judiciary.

POM-780. A resolution adopted by the City Council of Sebring, Ohio in recognition of Save American Industry and Jobs Day; to the Committee on the Judiciary.

POM-781. A resolution adopted by the Board of Commissioners of Lake County, Ohio in support of Save American Industry and Jobs Day; to the Committee on the Judiciary.

POM-782. A resolution adopted by the Senate of the State of Illinois; to the Committee on the Judiciary:

"SENATE RESOLUTION 907

"Whereas, In less than 200 years of development, American workers and industry built an industrial economy the strength of which became the envy of the world; and

"Whereas, The ability of workers and industry to change to meet the needs of its citizens and to meet any challenge has resulted in a standard of living higher than that of any nation in the world; and

"Whereas, Throughout this period of time, American workers have produced more goods and services than anyone could have possibly imagined and achieved goals no one dreamt possible; and

"Whereas, American workers and industry have been called upon many times during national emergencies to protect our way of life and our standard of living, and they have also been called upon on numerous occasions to help other nations to protect themselves from foreign aggressors and have saved many from dictatorships; and

"Whereas, We have faith in our democratic institutions to improve the quality of life for all people and support the free enterprise system, while at the same time advancing our long held social values of justice and fairness throughout society; and

"Whereas, Other countries throughout the world building an industrial base similar to ours, except that they are built and financed by their governments, have unfortunately made it difficult if not impossible for American workers and industry to compete; and

"Whereas, We wish to call attention to the plight of the American Industrial worker and American Industry before it is too late; therefore, be it

"Resolved, by the Senate of the eighty-fourth General Assembly of the State of Illinois, That we request the United States Congress proclaim June 21, 1986, as a day of national recognition of the accomplishments of American workers and American Industry; and be it further

"Resolved, That all Americans join in a national salute to the achievements of American workers, and encourage appropriate local, State and national activity in recognition and celebration of Save American Industry/Jobs Day, Saturday, June 21, 1986; anb be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to the Illinois Congressional Delegation as well as the news media of Illinois."

POM-783. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION 86

"Whereas, Hundreds of thousands of children in the United States are victims of preventable diseases and other serious illnesses; and

"Whereas, Many of these children are hospitalized each year for treatment at enormous emotional and financial cost; and

"Whereas, Preventive health care is a proven means by which to help prevent potentially crippling and sometimes fatal childhood diseases and illnesses by changing the way health care is provided; and

"Whereas, The advantages of preventive health care for children are evident as well as compelling; and

"Whereas, Preventive health care promotes long-term health care cost containment and carries only a minimal cost in the short run; and

"Whereas, Preventive health care will protect children from unnecessary illness and save their lives; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That it is the goal of the Legislature of the State of California to ensure that all children have available preventive health care coverage; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to also ensure that all children have available preventive health care coverage; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-785. A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Armed Services:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION AWARDING RICHARD F. WALSH THE MILITARY DECORATIONS KNOWN AS THE DISTINGUISHED FLYING CROSS AND THE PURPLE HEART

"Whereas, There is pending before the Congress of the United States H.R. 4641, introduced by Represenative Brian J. Donnelly of Massachusetts, which seeks to provide that the President may award to Richard F. Walsh of Quincy, Massachusetts, two military decorations he earned through serving his country during World War II; and

"Whereas, These military decorations are known as the Distinguished Flying Cross which is for his act of heroism, that allowed the safe return of his B-24 bomber and its crew from a bombing mission of April thirtieth, nineteen hundred and forty-four and the Purple Heart which is for injuries received during a bombing mission of July fourth, nineteen hundred and forty-four; Now therefore be it

"Resolved, That the Massachusetts Senate respectfully urges the Congress of the United States to enact the legislation providing for the President to award Richard F. Walsh these military decorations which he earned while serving his country during World War II; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the Clerk of the Senate to the President of the United States, to the Presiding officer of each branch of Congress, to the Members thereof from this Commonwealth and to the members of the Veterans Affairs Committee in the House of Representatives of the United States."

POM-786. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Energy and Natural Resources:

"HOUSE CONCURRENT RESOLUTION 46

"Whereas, the concurrent recession in the construction industry makes it extremely doubtful that the facilities can ever be built in the future for the bid costs as low as those currently being experienced, which are running fifteen to twenty-five percent below normal; and

"Whereas, with the time required to finish construction of the uncompleted facilities being two years, and the limiting factor on a future decision to purchase more crude oil is the time required to build facilities to store the oil, abandonment of the increase in Bayou Choctaw capacity and major SPR capacity increase in the Big Hill facility, each of which is approximately fifty percent complete, does not seem at all prudent; and

"Whereas, with the current trend toward reduced oil prices internationally it makes sense to be in a position to buy additional oil at the lowest point of the pricing cycle since after the current depression in price level the cost of crude oil will rise to new greater heights and remain there indefinitely; and

"Whereas, location of the largest possible emergency crude source in coastal Louisiana and Texas will continue to support the decisions of private oil companies to maintain their active oil refining capacities in this region as compared to other locations; and

"Whereas, the nation's buildup of military defenses would be useless without the petroleum products on which to operate, the need for the larger reserve for military reasons should be considered as well as the sup-

port of the domestic economy in the event of a boycott (or other disruption to the supply of imported crude oil); and

"Whereas, total crude oil inventories in the United States today (SPR plus private sector) are inadequate to handle a sustained cutoff of imported crude (the seven hundred fifty million barrel level authorized by Congress is a minimum requirement, and current inventory and capacity of facilities is less than five hundred million barrels); and

"Whereas, support of the Mexican government through economic aid in the form of oil purchases is the most favorable approach since the United States receives a specific useable commodity for our funds, and the elimination of this will likely result in requests by Mexico for more direct economic aid and pressure to render such aid on a giveaway basis; and

"Whereas, the halting of this construction would result in the direct loss of three to four hundred jobs plus the loss of additional three to four hundred construction jobs: Therefore, be it

"Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States and in particular the members of the Louisiana congressional delegation to lift the moratorium on the use of funds which have already been appropriated and were immediately available to continue construction of additional storage facilities for the Strategic Petroleum Reserve: be it further

"Resolved, That certified copies of this Resolution shall be forwarded to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-787. A resolution adopted by the Board of Supervisors of the County of Shasta, California opposing new FEMA regulations; to the Committee on Environment and Public Works.

POM-788. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION 232

"Whereas, the forest product industry is a vital component in the economy of this state and the economy of this nation; and

"Whereas, the forest product industry is based on a renewable resource which, if properly managed, will provide jobs and trade opportunities in this state and in this country for generations to come; and

"Whereas, the forest products industry is currently being threatened by the importation of forest products which are subsidized by the governments of foreign countries; and

"Whereas, it is in the best interest of the economies of this state and this nation that the United States Congress support and pass legislation to insure that the domestic forest products industry will be able to compete based on ability and not on subsidies; and

"Whereas, the Omnibus Trade Bill, House Resolution No. 4800, now being considered by the Congress, contains provisions which will accomplish this goal: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to support and pass House Resolution No. 4800 and other legislation containing provisions which will allow the domestic forest products industry to compete on ability rather than subsidy, be it further

Resolved, That copies of this Resolution shall be transmitted immediately to the presiding officers of each house of the United States Congress and to each member of the Louisiana Delegation to the Congress."

POM-789. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Finance:

"HOUSE CONCURRENT RESOLUTION 143

"Whereas, the oil and gas industry is of great economic importance to this nation and the state of Louisiana; and

"Whereas, a readily available supply of domestic oil is essential to national security; and

"Whereas, the petroleum industry is facing an economic crisis which threatens its continued prosperity; and

"Whereas, the Archer/Moore energy act, cited as the Emergency Energy Act of 1986, would help alleviate the pressure upon the oil companies and encourage new exploration of oil and gas sites; and

"Whereas, any alleviation of economic pressure on the oil and gas industry would also benefit the state and the people of Louisiana as well as the nation as a whole: Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States and in particular the members of the Louisiana delegation to unite in support of the Archer/Moore "Emergency Energy Act of 1986": Be it further

Resolved, That copies of this Resolution shall be forwarded to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-790. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Foreign Relations:

"HOUSE CONCURRENT RESOLUTION 49"

"Whereas, the use of terrorist tactics to impose unwelcome political ideologies upon all the people of the world has recently grown to abhorrent levels; and

"Whereas, Colonel Moammar Khaddafi, in the capacity of president of Libya, has publicly supported global terrorist activities, particularly acts perpetrated against innocent American citizens and allies; and

"Whereas, the public announcement of this policy can be considered nothing more than an uninvited declaration of war utilizing a tool of war which is as lethal as any conventional weapon; and

"Whereas, the actualization of prior verbal threats, such as the bombing of the LaBelle discotheque in West Germany resulting in the tragic death of U.S. Army Sergeant Kenneth Ford and the injury of two hundred and thirty people, can never be ignored; and

"Whereas, the failure of all conventional sanctions against Libya determined that the only remaining method of retaliation could be the forceful response which President Reagan chose to effect against the military and terrorist installation on the Libyan mainland; and

"Whereas, any action taken to safeguard the liberties and basic human rights of all people, especially those involving the eradication of terrorist installations and supporters of governments which utilize terrorism, are a necessity as the two cannot coexist in a peaceful society.

"Therefore be it resolved that the Legislature of Louisiana does hereby condemn the perpetration of all acts of international terrorism and congratulates President Reagan on his recent actions against the terrorist nation of Libya.

"Be it further resolved that the Legislature of Louisiana memorializes the Congress of the United States and in particular the members of the Louisiana congressional delegation to continue to support the anti-terrorist policies of President Reagan and to insure the implementation of those policies in as expeditious a manner as possible.

"Be it further resolved that copies of this Resolution shall be forwarded to the president of the United States, to the secretary of the Senate, and the clerk of the House of Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-791. A resolution adopted by the City Council of Amherst, Ohio, in support of Save American Jobs/Industry Day; to the Committee on the Judiciary.

POM-792. A resolution adopted by the District One Council of the United Rubber Workers, Akron, Ohio, in recognition of Save American Jobs/Industry Day; to the Committee on the Judiciary.

POM-793. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary.

"HOUSE CONCURRENT RESOLUTION No. 153

"Whereas, throughout more than two hundred years of development, American business, industry, and workers have generated a model economy and strength that have become the envy of the world; and

"Whereas, the willingness of business and industry to be flexible, able to change and to create change and an American work force, willing and capable to meet the challenge, has produced a higher standard of living in this country than in any other nation in the world; and

"Whereas, American workers and manufacturers have produced more consumer products than could have been imagined two hundred years ago, excelling in production, assembly, and transportation of those goods to and for consumers and government; and

"Whereas, American industry and workers have, during times of peace and national or global emergency, met the call from home and the call from abroad, saving many allied nations from aggressors; and

"Whereas, we have faith in our democratic institutions, industry, and workers, to improve the quality of life here and everywhere, to blend the pursuit of profit with competition, without forgetting to advance long-held values of social justice and fairness in the community.

"Therefore, be it resolved that the Legislature of Louisiana does hereby request the United States Congress to proclaim June 21, 1986, "Save American Industry/Jobs Day", a day of national recognition of the accomplishments of workers, business, and manufacturing industries.

"Be it further resolved that we ask all Americans to join in a national salute to the combined achievements of these workers, businesses, and manufacturing industries, and in so doing, we encourage all appropriate national, state, and local activity that will broaden the recognition of "Save American Industry/Jobs Day".

"Be it further resolved that certified copies of this Resolution shall be forwarded

to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States, to each member of the Louisiana congressional delegation, and to the news media of Louisiana."

POM-794. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Small Business:

HOUSE CONCURRENT RESOLUTION No. 69

"Whereas, the federal administration's proposed fiscal budget proposes the elimination of the federal agency known as the Small Business Administration (S.B.A.); and

"Whereas, the people of Louisiana rely heavily on both the financial and management services supplied by the S.B.A. to fledgling small businesses in Louisiana; and

"Whereas, Louisiana must look to small business development to help overcome the economic problems developing in this state due to the economic revolution occurring in agriculture and agriculture-related businesses; and

"Whereas, there are relatively few private banking and other lending institutions providing loan funds in Louisiana who are willing or able without the availability of the S.B.A. guarantee; and

"Whereas, this legislature has established and funded agencies to assist small business development, but cannot afford to replace the S.B.A. program which is so vital to the total package of development assistance needed to generate economic business development in this state; and

"Whereas, the services provided by the S.B.A. of guaranteeing loans from private lending institutions and of providing business management training, market development training, and providing knowledgeable access to government contracts and product development, are the core services that need to be continued by the S.B.A. in Louisiana.

"Therefore be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States and in particular the members of the Louisiana congressional delegation to continue the operation of the Small Business Administration as a lean and effective agency providing loan guarantee services, management training, market development training, assistance in securing government contracts, and new product development assistance.

"Be it further resolved that certified copies of this Resolution shall be forwarded to the secretary of the Senate and the clerk of the House of Representatives of the Congress of the United States, and to each member of the Louisiana congressional delegation."

POM-795. A resolution adopted by the Lubbock County Commissioners' Court, Texas, relating to highway funds; ordered to lie on the table.

POM-796. A resolution adopted by the Lubbock County Commissioners' Court, Texas, relating to allocation of gasoline tax revenues to the highway trust fund; ordered to lie on the table.

REPORTS OF COMMITTEES RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 27, 1986, the following reports of committees were submitted on July 8, 1986:

By Mr. GOLDWATER, from the Committee on Armed Services, without amendment:

S. 2638: An original bill to authorize appropriations for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1987, to revise and improve military compensation programs, to improve defense procurement procedures, to authorize certain construction at military installations for fiscal year 1987, to authorize appropriations for national security programs of the Department of Energy for fiscal year 1987, and for other purposes (Rept. No. 99-331).

By Mr. HATCH, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2324: A bill to reauthorize programs under the Domestic Volunteer Service Act of 1973, and for other purposes (Rept. No. 99-332).

By Mr. HATCH, from the Committee on Labor and Human Resources, without amendment:

S. 2595: A bill to amend the Public Heatlh Service Act to revise the authorities of, and redesignate, the Alcohol, Drug Abuse, and Mental Health Administration (Rept. No. 99-333).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2307: A bill to provide authorization of appropriations for activities of the United States Travel and Tourism Administration (Rept. No. 99-334).

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of June 26, 1986; the following executive reports of committees were submitted on July 8, 1986, during the adjournment of the Senate:

By Mr. LUGAR, from the Committee on Foreign Relations, with amendments to the resolution of ratification:

Supplementary Extradition Treaty With the United Kingdom (with additional views) (Exec. Rept. No. 99-17).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself, Mr. WEICKER, Mr. CRANSTON, Mr. SARBANES, Mr. LEAHY, Mr. KENNEDY, Mr. KERRY, Mr. SPECTER, and Mr. METZENBAUM):

S. 2639. A bill to prohibit the removal by United States citizens and companies of natural resources from Namibia, and for other purposes; to the Committee on Foreign Relations.

By Mr. HELMS:

S. Res. 442. Resolution relative to the death of the Honorable John P. East of North Carolina; considered and agreed to.

By Mr. DOLE:

S. Res. 443. Resolution making appointments to the Committees on Armed Services and Judiciary; considered and agreed to.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Mr. WEICKER, Mr. CRANSTON, Mr. SARBANES, Mr. LEAHY, Mr. KENNEDY, Mr. KERRY, Mr. SPECTER, and Mr. METZENBAUM):

S. 2639. A bill to prohibit the removal by United States citizens and companies of natural resources from Namibia, and for other purposes; to the Committee on Foreign Relations.

PROHIBITION ON REMOVAL OF NATURAL RESOURCES FROM NAMIBIA

● Mr. SIMON. Mr. President, I introduce this bill on behalf of myself and my colleagues, Senators WEICKER, CRANSTON, SARBANES, LEAHY, KENNEDY, KERRY, SPECTER, and METZENBAUM.

Recently, I introduced a bill calling for a ban on imports of South African coal, steel, and fluorspar. Today I am introducing another piece of sanctions legislation addressing South Africa's illegal occupation of neighboring Namibia.

My bill will bring the United States into compliance with international law by prohibiting U.S. companies from exploration, extraction, processing, or trade in natural mineral resources derived from Namibia.

The United Nations, with the approval of the United States, as well as the International Court of Justice, has determined that South Africa's occupation of Namibia is illegal and has called for the diplomatic and economic isolation of South Africa whenever it acts on behalf of Namibia.

Through its illegal administration and military presence, South Africa imposes a brutal colonial apartheid rule on Namibia. This bill will send a message to South Africa and the world that the United States is committed to ending South Africa's illegal occupation of Namibia and to preserving Namibia's natural resources for its people.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. MOYNIHAN, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 15, a bill to authorize the Secretary of Health and Human Services to make grants to States for the purpose of increasing the ability of States to provide drug abuse prevention, education, treatment, and rehabilitation, and for other purposes, to authorize the Attorney General to make grants to States for the purpose of increasing

the level of State and local enforcement of State laws relating to production, illegal possession, and transfer of controlled substances.

S. 489

At the request of Mr. SASSER, the names of the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 489, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by inproper medical care provided during peacetime.

S. 519

At the request of Mr. EVANS, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 519, a bill to require a study of the compensation and related systems in executive agencies, and for other purposes.

S. 1917

At the request of Mr. BRADLEY, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from California [Mr. CRANSTON], and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immunization and oral rehydration, and for other purposes.

S. 2133

At the request of Mr. KASTEN, the name of the Senator from South Dakota [Mr. ABDNOR] was added as a cosponsor of S. 2133, a bill to amend the Social Security Act to safeguard the integrity of the Social Security trust funds by ensuring prudent investment practices.

S. 2250

At the request of Mr. LEVIN, the names of the Senator from Oklahoma [Mr. BOREN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Georgia [Mr. NUNN], and the Senator from California [Mr. WILSON] were added as cosponsors of S. 2250, a bill to strengthen the prohibition of kickbacks relating to subcontracts under Federal Government contracts.

S. 2256

At the request of Mr. QUAYLE, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 2256, a bill to amend the Bilingual Education Act to make Federal financial assistance available for children of limited English proficiency without mandating a specific method of instruction, to encourage innovation at the State and local level through greater administrative flexibility, to improve program operations at the Federal level, and for other purposes.

S. 2269

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2269, a bill to amend title 10, United States Code, to permit the Armed Forces to wear, under certain circumstances, items of apparel not part of the official uniform.

S. 2271

At the request of Mr. DENTON, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2271, a bill for the relief of Jens-Peter Berndt.

S. 2281

At the request of Mr. TRIBLE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2281, a bill to amend title 18, United States Code, to provide additional penalties for fraud and related activities in connection with access devices and computers, and for other purposes.

S. 2288

At the request of Mr. CHILES, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2288, a bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low-income pregnant women and of providing medical assistance to low-income infants under 1 year of age.

S. 2310

At the request of Mr. PRESSLER, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 2310, a bill to make foreign nationals ineligible for certain agricultural program loans, payments or benefits.

S. 2324

At the request of Mr. ABDNOR, his name was added as a cosponsor of S. 2324, a bill to reauthorize programs under the Domestic Volunteer Service Act of 1973, and for other purposes.

S. 2333

At the request of Mr. DURENBERGER, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2333, a bill to amend title XIX of the Social Security Act to strengthen and improve Medicaid services to low-income pregnant women and children.

S. 2398

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2398, a bill to amend title 18 of the United States Code to ban the production and use of advertisments for child pornography or solicitations for child pornography, and for other purposes.

S. 2417

At the request of Mr. BYRD, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2417, a bill to establish the Aviation Safety Commission, and for other purposes.

S. 2444

At the request of Mr. ABDNOR, his name was added as a cosponsor of S. 2444, a bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, the Dependent Care State Grant Program, and for other purposes.

S. 2454

At the request of Mr. MURKOWSKI, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2454, a bill to repeal section 1631 of the Department of Defense Authorization Act, 1985, relating to the liability of Government contractors for injuries or losses of property arising out of certain atomic weapons testing programs, and for other purposes.

S. 2468

At the request of Mr. DENTON, the names of the Senator from Nebraska [Mr. ZORINSKY], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2468. A bill to amend the Federal Aviation Act of 1958 to strengthen aviation security programs, deter acts of terrorism in airports, and provide for the security of U.S. citizens traveling by air.

S. 2479

At the request of Mr. TRIBLE, the names of the Senator from Vermont [Mr. STAFFORD], and the Senator from Missouri [Mr. EAGLETON] were added as cosponsors of S. 2479, a bill to amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

S. 2494

At the request of Mr. BRADLEY, the names of the Senator from South Dakota [Mr. ABDNOR], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 2494, a bill to amend title XVIII of the Social Security Act to modify the limitations on payment for home health services under the Medicare Program to conform regulations; to assure that all legitimate costs are taken into account in calculating such limitations; to provide affected parties an opportunity to comment on revisions in Medicare policies; and to require discharge planning procedures.

S. 2570

At the request of Mr. KENNEDY, the names of the Senator from Michigan [Mr. RIEGLE], and the Senator from Wisconsin [Mr. PROXMIRE] were added as cosponsors of S. 2570, a bill entitled the Anti-Apartheid Action Act of 1986.

S. 2576

At the request of Mr. DURENBERGER, the name of the Senator from Arkansas [Mr. PRYOR] was added as a co-

sponsor of S. 2576, a bill to amend title XVIII of the Social Security Act to require timely payment of properly submitted Medicare claims.

S. 2607

At the request of Mr. DANFORTH, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 2607, a bill to extend the suspension of duties on certain small toys.

SENATE JOINT RESOLUTION 314

At the request of Mr. QUAYLE, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of Senate Joint Resolution 314, a joint resolution to designate the week beginning July 27, 1986, as "National Nuclear Medicine Week."

SENATE JOINT RESOLUTION 322

At the request of Mr. LAUTENBERG, the names of the Senator from Nevada [Mr. HECHT], the Senator from Virginia [Mr. WARNER], the Senator from Arkansas [Mr. BUMPERS], the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. COCHRAN], the Senator from Utah [Mr. HATCH], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 322, a joint resolution to designate December 7, 1986, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 359

At the request of Mr. NICKLES, the names of the Senator from Virginia [Mr. WARNER], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. MOYNIHAN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Joint Resolution 359, a joint resolution to designate March 17, 1987, as "National China-Burma-India Veterans Association Day."

SENATE JOINT RESOLUTION 360

At the request of Mr. GARN, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from Mississippi [Mr. COCHRAN], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Joint Resolution 360, a joint resolution to designate July 20, 1986, as "Space Exploration Day."

SENATE JOINT RESOLUTION 371

At the request of Mr. DECONCINI, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Tennessee [Mr. GORE], the Senator from Oklahoma [Mr. BOREN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Oklahoma [Mr. NICKLES], the Senator from Florida [Mr. CHILES], the Senator from Arkansas [Mr. BUMPERS], the Senator from Nevada [Mr. LAXALT], the Senator from Nebraska [Mr. ZORINSKY], the Senator from Georgia [Mr. NUNN], the Senator from Alabama [Mr. DENTON], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 371, a joint resolution to designate August 1, 1986, as "Helsinki Human Rights Day."

SENATE CONCURRENT RESOLUTION 137

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of Senate Concurrent Resolution 137, a concurrent resolution expressing the sense of the Congress that the Federal Government take immediate steps to support a national STORM Program.

SENATE CONCURRENT RESOLUTION 147

At the request of Mr. CRANSTON, the names of the Senator from Maine [Mr. COHEN], the Senator from Virginia [Mr. WARNER], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Concurrent Resolution 147, a concurrent resolution to express the sense of the Congress that the monkeys known as the "Silver Spring Monkeys" should be transferred from the National Institutes of Health to the custody of Primarily Primates, Inc., Animal Sanctuary in San Antonio, TX.

SENATE RESOLUTION 385

At the request of Mr. SASSER, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of Senate Resolution 385, a resolution to express the sense of the Senate that certain action be taken to end hunger in the United States by 1990.

● Mr. BENTSEN. Mr. President, 3 years ago, Senator DANFORTH and I cosponsored a tariff bill to suspend temporarily the duty on certain novelty items. These novelty items are usually inexpensive toys, games, and jewelry that are placed in vending capsules and sold in vending machines across the country at very low prices, usually less than 5 cents each. The temporary suspension of duty, which was noncontroversial in 1982, will expire on December 31, 1986. I am informed by my constituent, Mr. Larry Goldstein of Graff Vending Co. in Dallas, TX, that conditions have not changed significantly since the temporary suspension of duty went into effect. Such toys are generally not available within the United States and no domestic industry would appear to be injured by the reduction in the rate of duty. Therefore, I am today joining, Senator DANFORTH in cosponsorship of S. 2607, a bill to extend the suspension of duties on certain small toys. Under the bill, the temporary suspension of duties would expire on December 31, 1989.●

SENATE RESOLUTION 442—RELATIVE TO THE DEATH OF HON. JOHN P. EAST

Mr. HELMS submitted the following resolution; which was considered and agreed to:

S. RES. 442

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable John P. East, a Senator from the State of North Carolina.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased.

SENATE RESOLUTION 443—MAKING MAJORITY APPOINTMENTS TO THE COMMITTEE ON ARMED SERVICES AND THE COMMITTEE ON THE JUDICIARY

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 443

Resolved, That the Senator from North Carolina (Mr. Broyhill) is hereby appointed to serve as a majority member on the Committees on Armed Services and Judiciary for the 99th Congress.

AMENDMENTS SUBMITTED

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS

GLENN (AND OTHERS) AMENDMENT NO. 2198

Mr. HATCH (for Mr. GLENN, for himself, Mrs. HAWKINS, Mr. PRYOR, Mr. DODD, and Mr. BINGAMAN) proposed an amendment to the bill (S. 2324) to reauthorize programs under the Domestic Volunteer Service Act of 1973, and for other purposes; as follows:

On page 22, line 20, insert "(1)" after "(a)".

On page 23, line 2, strike the end quotation marks and the period the second time it appears.

On page 23, between lines 2 and 3, insert the following:

"(2) The Director shall evaluate and report to the Congress not later than December 31, 1989, at a cost of not to exceed $250,000, on the impact of ACTION Agency programs relating to services that assist families caring for frail and disabled adult family members. The evaluation study required by this paragraph shall include information on—

"(A) the range and extent of service needs of, and the services provided to, family caregivers assisted by volunteers;

"(B) the characteristics of volunteers and the skills, training, and supervision necessary to provide various types of volunteer assistance to family caregivers;

"(C) administrative costs, including recruitment, training, and supervision costs, associated with volunteer assistance to family caregivers; and

"(D) such other issues as may be relevant to provide services to assist family caregivers.".

HUMAN SERVICES AUTHORIZATION ACT

HEINZ AMENDMENT NO. 2199

Mr. HEINZ proposed an amendment to the bill (S. 2444) to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Service Block Grant Act, the Dependent Care State Grant Program, and for other purposes; as follows:

At the end of the bill, add the following new title:

TITLE .—EXCELLENCE IN EDUCATION

TECHNICAL AMENDMENT

SEC. . (a) Section 604(b)(2) of the Excellence in Education Act (hereafter in this Act referred to as the "Act") is amended by inserting after "fiscal year" the second time it appears the following: "in which the appropriations for that year exceed $15,000,000".

(b) Section 604(b)(3) of the Excellence in Education Act (hereafter in this Act referred to as the "Act") is amended by inserting after "fiscal year" the second time it appears the following: "in which the appropriations for that year exceed $15,000,000".

QUAYLE AMENDMENT No. 2200

Mr. HATCH (for Mr. QUAYLE) proposed an amendment to the bill S. 2444, supra; as follows:

At the end add the following new section:

TITLE .—TREATMENT OF BAT BOYS AND BAT GIRLS UNDER FAIR LABOR STANDARDS ACT OF 1938

AMENDMENT

SEC. . Section 13(d) of the Fair Labor Standards Act of 1938 is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The provisions of sections 6, 7, and 12 shall not apply with respect to any individual who serves a league baseball team as a bat boy or bat girl for the team if the individual—

"(i) has attained 14 years of age but not 16 years of age;

"(ii) serves as a bat boy or bat girl not more than two nights per week; and

"(iii) while school is in session, works not later than 11 post meridian.

"(B) For the purpose of this paragraph, the term 'bat boy or bat girl' means an individual who provides the traditional services of a bat boy or bat girl for a league baseball team, including a ball boy or girl, and shall not include services unrelated to the game of baseball, such as, but not limited to, laundry services for the team or policing the baseball field.".

D'AMATO AMENDMENT NO. 2201

Mr. HATCH (for Mr. D'AMATO) proposed an amendment to the bill S. 2444, supra; as follows:

At the end of the bill add the following:

TITLE .—DESIGNATION OF REGIONAL PRIMATE RESEARCH CENTER DESIGNATION AUTHORIZED

SEC. . (a) The Secretary of Health and Human Services, through the Division of Research Resources of the National Institutes of Health, shall designate as a Regional Primate Research Center a laboratory for experimental medicine and surgery in primates which is in existence on the date of the enactment of this Act. The laboratory designated under this subsection shall be a laboratory which was initially established in 1965 and which became formally sponsored by an association of schools of medicine in 1967.

(b) The Secretary of Health and Human Services shall provide the Regional Primate Research Center designated under subsection (a) with opportunities for consideration for core support and grants to suppport biomedical research equal to the opportunities for consideration for such support and grants provided to all other Regional Primate Research Centers designated by the Secretary.

ZORINSKY AMENDMENT NO. 2202

Mr. HATCH (for Mr. ZORINSKY) proposed an amendment to the bill S. 2444, supra; as follows:

At the end of the bill add the following:

TITLE —BEGINNING READING INSTRUCTION STUDY AND LISTING

SEC. . (a) The Secretary of Education (hereafter in this title referred to as the "Secretary") shall conduct a study in order to compile a complete list, by name, of beginning reading instruction programs and methods, indicating—

(1) the average cost per pupil of such programs and methods, and

(2) whether such programs and methods do or do not present well-designed phonics instruction as recommended in the Report of the Commission on Reading, "Becoming a Nation of Readers".

The listing required by this section shall be written in such a way as to be understandable to the general public.

(b) In carrying out the study required by this section, the Secretary shall solicit public comments on beginning reading programs and methods.

(c) The Secretary shall prepare and submit to the Congress such interim reports of the study and listing as the Secretary deems advisable. The Secretary shall prepare and submit a final report containing the listing required by this subsection to the Congress not later than 12 months after the date of the enactment of this section. The Secretary shall publicize and disseminate nationally the listing required by this section to the education community, parents, and other interested parties.

HAWKINS (AND DENTON) AMENDMENT NO. 2203

Mr. HATCH (for Mrs. HAWKINS, for herself, and Mr. DENTON) proposed an amendment to the bill S. 2444, supra; as follows:

At the end of the bill add the following new title:

TITLE VI—CHILDREN'S JUSTICE

SHORT TITLE

SEC. 601. This title may be cited as the "Children's Justice Act".

CHILDREN'S JUSTICE GRANT

SEC. 602. (a) GRANT AUTHORIZATION.—Section 4 of the Child Abuse Prevention and Treatment Act (hereinafter referred to as "the Act") is amended—

(1) by redesignating subsections (d), (e), (f), and (f) (the second time such designation appears), as subsections (e), (f), (g), and (h), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary (acting through the Center and in consultation with the Attorney General) is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve (A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim, and (B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(2) In order for a State to qualify for assistance under this subsection, such State shall—

"(A) fulfill the requirements of subsections (b)(2) and (4) or receive a waiver of such requirements under subsection (b)(3);

"(B) establish a task force as provided in paragraph (3);

"(C) fulfill the requirements of paragraph (4); and

"(D) submit an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will make such reports to the Secretary as may reasonably be required and will maintain and provide access to records relating to activities under this subsection.

"(3)(A) Except as provided in subparagraph (B), a State requesting assistance under this subsection shall establish or designate a multidisciplinary task force on children's justice composed (hereinafter referred to as "the task force") of professionals with knowledge and experience related to the criminal justice system and issues of child abuse. The task force shall include individuals representing the law enforcement community, judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases), child advocates, health and mental health professionals, individuals representing child protective service agencies, individuals experienced in working with handicapped children, parents, and parents' groups.

"(B) As determined by the Secretary, a commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the task force for the purposes of this subsection.

"(C) Before a State receives assistance under this subsection, the task force shall (i) review and evaluate State investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse, and (ii) make recommendations in each of the categories described in paragraph (4). The task force may make such other comments and recommendations as are considered relevant and useful.

"(4)(A) Subject to the provisions of subparagraph (B), the State shall adopt recommendations of the task force in each of the following categories:

"(i) investigative, administrative, and judicial handling of cases of child abuse, par-

ticularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

"(ii) experimental, model, and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly sexual abuse cases, and which also ensure procedural fairness to the accused; and

"(iii) reform of State laws, ordinances, regulations, and procedures to provide comprehensive protection for children for abuse, particularly sexual abuse, while ensuring fairness to all affected persons.

"(B) As determined by the Secretary, a State shall be considered to have met the requirements of this paragraph if—

"(i) the State adopts an alternative to the recommendations of the task force, which carries out the purposes of this subsection, in each of the categories under paragraph (A) for the task force's recommendations are not adopted; or

"(ii) the State is making substantial progress toward adopting the recommendations of the task force or a comparable alternative to such recommendations.

"(5) For grants under paragraph (1), the Secretary may use the amount authorized by section 1404A of the Victims of Crime Act of 1984.".

(b) CRIME VICTIMS FUND.—(1) Section 1402(c)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)(1)) is amended by striking out "$100 million" and inserting in lieu thereof "$110 million".

(2) Section 1402(d)(2) of such Act is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the first $100,000,000 deposited in the Fund each fiscal year—

"(i) 45 percent shall be available for grants under section 1403;

"(ii) 45 percent shall be available for grants under section 1404(a);

"(iii) 5 percent shall be available for grants under section 1404(c); and

"(iv) 5 percent shall be available for grants as provided in section 1404A.

"(B) The next $5,000,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 1404A.

"(C) If the deposits in the Fund in a particular fiscal year exceed $105,000,000, 50 percent of the amount in excess of $105,000,000 shall be available for grants under section 1403 and 50 percent of such amount shall be available for grants under section 1404(a).".

(3) Such Act is amended by inserting after section 1404 the following new section:

"CHILD ABUSE PREVENTION AND TREATMENT GRANTS

"SEC. 1404A. The amount prescribed by section 1402(d)(2) for this section shall be made available to the Secretary of Health and Human Services for grants under section 4(d) of the Child Abuse Prevention and Treatment Act.".

(4) Section 1404(c) of such Act is amended by striking out "(c)" and all that follows through "The Federal Administrator shall—" in paragraph (3) and inserting in lieu thereof the following:

"(c)(1) The Attorney General, acting through the (Assistant General for the Office of Justice Programs,) shall make grants—

"(A) for training and technical assistance services to eligible crime victim assistance programs; and 11 "(B) for the financial support of services to victims of Federal crime by eligible crime victim assistance programs.

"(2) Of the amount available for grants under this subsection—

"(A) not less than 50 percent shall be used for grants under paragraph (1)(A); and

"(B) not more than 50 percent shall be used for grants under paragraph (1)(B).

"(3) The Assistant Attorney General for the Office of Justice Programs shall—".

(5) Section 1404(a)(1) of such Act is amended by striking out "not used for grants under section 1403" and all that follows through "subsection (c)" and inserting in lieu thereof "made available by section 1402(d)(2) for the purpose of grants under this section, or for the purposes of grants under section 1403 but not used for that purposes,".

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 603. (a) STUDIES AND REPORTS.—Section 2(b) of the Act is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (3), (4), (6), (7), (8), and (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) compile, evaluate, publish, and disseminate to each State such materials and information as may assist the States in achieving the objectives of section 4(d), including an evaluation of various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases and resultant psychological trauma of the child victim;";

(3) by inserting after paragraph (4) (as so redesignated) the following new paragraph:

"(5) develop and disseminate, to appropriate State and local officials, model training materials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children subjected to child abuse;";

(4) by amending paragraph (7) (as so redesignated) to read as follows:

"(7) conduct research on the causes, prevention, identification, and treatment of child abuse and neglect, and on appropriate and effective investigative, administrative, and judicial procedures in cases of child abuse;"; and

(5) by inserting after paragraph (9) (as so redesignated) the following new paragraph:

"(10) Not later than two years after the first fiscal year for which funds are appropriated under section 5(b), the Secretary shall—

"(A) evaluate the effectiveness of assisted programs in achieving the objectives of section 4(d); and

"(B) submit a report to the appropriate committees of the Congress of such evaluation and of technical assistance in achieving the objectives of such section provided to the States through the National Center on Child Abuse and Neglect.".

"(b) DISSEMINATION REQUIREMENT.—Information and materials under sections 2(b)(2) and 2(b)(5) of the Act shall be made available to appropriate State officials not later than 180 days after the date of enactment of this Act.

COORDINATION OF FEDERAL PROGRAMS CONCERNING CHILD ABUSE

SEC. 604. Section 6(a) of the Child Abuse Prevention and Treatment Act is amended—

(1) by inserting after the first sentence "The Advisory Board shall meet at least every six months."; and

(2) in the second sentence by inserting "in order to prevent unnecessary duplication of such programs, to ensure efficient allocation of resources, and to assure that programs effectively address all aspects of the child abuse problem" after "Board".

ACQUISITION OF STATISTICAL DATA

SEC. 605. (a) DATA ACQUISITION FOR 1986, 1987, AND 1988.—The Attorney General shall acquire from criminal justice agencies statistical data, for the calendar years 1986, 1987, and 1988, about the incidence of child abuse, including child sexual abuse, and shall publish annually a summary of such data.

(b) MODIFICATION OF UNIFORM CRIME REPORTING PROGRAM.—(1) As soon as practicable, but in no case later than January 1, 1989, the Attorney General shall modify the uniform crime reporting program in the Federal Bureau of Investigation to include data on the age of the victim of the offense and the relationship, if any, of the victim to the offender, for types of offenses that may involve child abuse, including child sexual abuse.

(2) The modification, once made, shall remain in effect until the later of—

(A) 10 years after the date it is made; or

(B) such ending date as may be set by the Attorney General.

AMENDMENT TO PUBLIC HEALTH SERVICE ACT

SEC. 606. (a) SECTION 523.—Section 523(e) of the Public Health Service Act (42 U.S.C. 290dd-3(e)) is amended by adding after and below paragraph (2) the following: "The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State authorities.".

(b) SECTION 527.—Section 527(e) of such Act (42 U.S.C. 290ee-3(e)) is amended by adding after and below paragraph (2) the following: "The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State authorities.".

NOTICES OF HEARINGS

SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on the growing epidemic of "crack" cocaine on American youth.

The hearing will be held on Wednesday, July 15, 1986, at 9:30 a.m. in Senate Dirksen 342. For further information, please contact Daniel Rinzel or Eleanore Hill of the subcommittee staff at 224-3721.

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. HELMS. Mr. President, I wish to announce that the Subcommittee on Foreign Agricultural Policy, of the Committee on Agriculture, Nutrition, and Forestry, will hold a hearing entitled "Overview of U.S. Food Aid Programs and World Hunger." The hearing is scheduled for 10 a.m., Tuesday, July 15, 1986, in room 332, Russell Senate Office Building, and will focus

on the past performance of U.S. food aid programs, implementation of new authorities in the Food Security Act of 1985, and future directions for U.S. food aid.

Mr. President, I wish to announce further that the Committee on Agriculture, Nutrition, and Forestry will hold a business meeting, at 9:30 a.m., Wednesday, July 16, 1986, in room 332, Russell Senate Office Building to consider:

First. Reporting the nominations of Kalo Hineman, to be a Commissioner of the Commodity Futures Trading Commission, Kenneth A. Gilles, to be Assistant Secretary for Marketing and Inspection Services, USDA, and a Member of the Board of Directors the Commodity Credit Corporation; Kathleen W. Lawrence, to be Under Secretary for Small Community and Rural Development, USDA, and a Member of the Board of Directors of the Commodity Credit Corporation; and Robert W. Beuley, to be inspector general, USDA;

Second. Legislation necessary to meet its instructions under the 1987 budget resolution; and

Third. H.R. 2991, an act for the relief of Betsy L. Randall.

If further information is needed, please contact Warren Oxford, chief clerk, at 224-2035.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet in SR-301, Russell Senate Office Building, on Wednesday, July 16, 1986, at 2 p.m.

The committee will be meeting to consider the continuation of broadcast coverage of Senate floor proceedings, and will be reviewing the comments and recommendations of the ad hoc groups appointed by the leadership to critique the performance of the broadcast during the test period. The plans and costs for implementation of broadcast coverage prepared by the Architect of the Capitol, the Sergeant at Arms, and the Secretary of the Senate will also be discussed.

For further information concerning this meeting, please contact John Swearingen of the Rules Committee staff on x49078.

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. DURENBERGER. Mr. President, I wish to announce that the Senate Subcommittee on Intergovernmental Relations will hold a hearing on targeting Federal aid, on Thursday, July 24, at 10 a.m. in room 342 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that testimony will be received on an additional measure at the hearing previously scheduled before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Friday, July 18, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC 20510.

The additional measure is S. 2384, to amend Public Law 95-625 to permit the acquisition of certain lands for an administrative site for the New River Gorge National River, WV. As previously announced, testimony also will be received on S. 2534, to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, SC, and for other purposes; and S. 2506, to establish a Great Basin National Park in the State of Nevada, and for other purposes.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Senate Dirksen Office Building, Washington, DC 20510. Oral testimony may be limited to 5 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing. For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613.

ADDITIONAL STATEMENT

GESTURES ACROSS THE GREEN LINE

● Mr. SIMON. Mr. President, one of the difficulties in foreign affairs is that we pay attention to countries when they emerge in the headlines, and when the headlines disappear, our interest wanes.

Cyprus is a good illustration of that difficulty. A few months ago, I had the privilege of being in Cyprus, visiting with both the Greek and Turkish Cypriot leaders. But the pressure to act, to resolve this matter, is simply not there.

I received assurances from both Presidents Ford and Carter that they would act on the Cyprus question, and I have no doubt about their good will in assuring me they would act. But the reality is that other matters captured their attention, and Cyprus was put on the back burner.

One exmple of our lack of attention to the Cyprus problem is the fact that there is no longer a person in the State Department who acts as Special Coordinator for Cyprus as there has been under previous administrations. There should be a person who reports directly to the Assistant Secretary for European Affairs about this important problem.

Another example is the fact that under United States law, the President is required to report to Congress every 60 days on the progress in the negotiations on Cyprus. According to documents in the Foreign Relations Committee, that reporting requirement has not been complied with—in any of the last 4 years. Although reports are on file, there is an insufficient number. The reports also focus primarily on the intercommunal aspects of the problem. The international aspect, notably Turkey's countinuing illegal occupation of a large part of Cyprus using United States-supplied arms given for common defense, and the continuing violations of the human rights of the Greek Cypriot refugees, receives no attention.

I am not attempting to cast blame on anyone but the fact that these reports have not been filed in strict compliance with the law symbolizes the general neglect of the Cyprus problem. The fact that the reporting requirement was instituted more then 10 years ago, and that the crisis just drags on, makes it even more urgent that we pay close attention to the Cyprus situation now.

Resolving the problem of Cyprus is in everyone's interest: improved relations between Turkey and Greece will, in turn, benefit Turkey, Greece, the United States, and NATO.

One of the impediments to a solution in Cyprus is that, because of Turkey's military importance, the administration has continued to advocate an unwarranted level of military aid to Turkey. The U.S. military has dominated the decisionmaking process, and we have not moved to resolve this. Sending more and more military aid to Turkey does not improve the prospects for peace in the region or the prospects for a settlement in Cyprus.

In 1986 Congress successfully maintained the 7-to-10 ratio of military aid between Greece and Turkey despite the fact that the administration attempted to change that historic policy by increasing military aid to Turkey. Although Congress cut back on the President's request, the aid package Congress approved for Turkey in 1986 was more than generous. This year, Turkey received $618.4 million in military aid. Of that, $205.8 million was in outright grants and $339 million was in loans at concessional rates. Turkey also received $220 million in economic support funds. In contrast, Greece received $430.7 million in military aid and received no grants or economic support funds. Congress also had to fight to see that Greece received the same portion of aid at concessional rates as Turkey.

Still, the administration persists in asking for greater amounts of military

aid to Turkey in 1987. Despite the fact that Congress has already authorized a level of assistance that preserves the historic 7-to-10 ratio, the administration has again proposed raising the level of military aid to Turkey. For 1987, the administration proposes to raise the level of aid to $820 million, of which $220 million is an outright grant and $455 million is in loans at concessional rates. Meanwhile, Greece is to receive $500 million in loans at market rates.

In short, the administration is proposing more military aid to Turkey, whose troops are still occupying Cyprus in violation of international law and using U.S.-supplied military arms and equipment in violation of the Foreign Assistance Act of 1961. At the same time, earlier this year they proposed lowering aid to Cyprus from $15 to $3 million. That funding goes for such worthy programs as increased educational exchanges for Cypriot students to study in the United States. Fortunately, Congress approved the full $15 million.

It is especially urgent that we continue to aid Cyprus since the Soviet Union is displaying increased interest in Cyprus and has recently submitted a plan for a negotiated settlement on that island. Increasing military aid to Turkey at this time and lowering aid to Cyprus is counterproductive, sends the wrong signal, and is not likely to promote a settlement in Cyprus or enhance peace and stability in the eastern Mediterranean.

It should also be pointed out that Turkey receives a substantial amount of assistance from the Soviet Union. Between 1954 and 1981, it is estimated that Turkey received $3.4 billion. In 1984 Turkey signed a joint economic agreement with the Soviet Union that is estimated to be worth $6 billion between 1986 and 1990. That agreement provides for the joint development of steel, iron, natural gas, and Turkish brown coal. So, no matter what our aid is to Turkey, it is clear that in the next few years, there will be substantial growth in economic aid and trade between Turkey and the Soviet Union.

In view of all these considerations, the administration ought, at the very least, to maintain an evenhanded policy by preserving the historic 7-to-10 ratio of aid between Turkey and Greece and by granting aid to Greece at the same percentage of aid at concessional rates as that granted to Turkey.

I do not want to do anything that will in any way reduce the effectiveness of our strategic or tactical position. But favoring Turkey on the Cyprus question results in neither side feeling as friendly toward us as they might. The only way to improve our relationship with both countries is to resolve the Cyprus situation.

I am very encouraged by the recent visit of Secretary Shultz to Turkey and Greece. I applaud his initiative; it indicates a greater level of involvement and interest by the United States in the problem of Cyprus. I hope, however, that he will resist the Turkish request for more military aid.

Any agreement on Cyprus whether it is negotiated through the United Nations or other efforts, must be fair and viable if it is to be lasting. I hope that a U.N. initiative will yet lead to a solution in Cyprus. If, however, that initiative does not succeed, the United States has to provide the leadership and focus so there will be a solution in Cyprus. That solution should guarantee human and political rights and removal of foreign forces from the island.

I deeply regret Turkey's Prime Minister Ozal's decision to visit the Turkish-occupied areas. It will not contribute to solving the Cyprus problem. Indeed, it will worsen the problem of containing the illegal Turkish presence in Northern Cyprus.

It is also regrettable that Mr. Denktash, leader of the internationally boycotted Turkish Republic of Northern Cyprus, recently ordered the closing of all crossing points on Cyprus. This decision left the U.N. Peacekeeping Force separated from one another and presented the most serious threat to the U.N. peacekeeping presence since the Turkish invasion. It also makes impossible the small gestures that can take place across the green line to improve relations between the Greek and Turkish Cypriots. For example, when I visited a very fine school for the deaf in Nicosia on the Greek side and asked the superintendent whether he would be willing to accept Turkish students, he said, "Of course." That could take place. We visited a very fine hospital on the Turkish side where they indicated they would be willing to take Greek Cypriots for specialties they have that the Greek side does not.

A Cyprus settlement would obviously benefit both the international community and the United States, but the most important benefit will be to the people of Cyprus themselves. There is no question, for example, that the standard of living on the Greek side is appreciably higher than it is on the Turkish side. Getting Cyprus back into one country without the artificial division that now exists will also raise the standard of living of the Turkish Cypriots.

Everyone will benefit if we put this back on the front burner. We ought to do it.

I am sending a letter to the Secretary of State urging that resolution of the conflict in Cyprus be put back on the front burner and that we do everything we can to facilitate movement in the right direction.●

HAPPY ENDING

● Mr. MATHIAS. Mr. President, on June 26 I placed in the RECORD a series of letters exchanged by me with Liberty Weekend on the subject of limiting attendance at some weekend events to the affluent who could afford $5,000 per seat. Subsequent to that date, I received a letter from Keith E. Eastin, Deputy Under Secretary of the Department of the Interior, advising that seats would be made available at the opening ceremonies to a group of representative citizens as guests of Liberty Weekend.

This decision by Mr. Wolper, and Mr. Eastin made a happy event even happier and I thank them for it. It is a pleasure to join the chorus of congratulations to Mr. Iacocca, Mr. Wolper and their associates on a remarkable celebration of the Fourth of July.

I ask that Mr. Eastin's letter be printed in the RECORD.

The letter follows:

DEPUTY UNDER SECRETARY
OF THE INTERIOR,
Washington, DC, July 1, 1986.

Re Liberty Weekend.

Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR MATHIAS: At Secretary's Hodel's request, and in his medical absence, I am responding to your recent letter concerning seating for the events surrounding Liberty Weekend and the reopening of the Statue of Liberty.

After our discussion Wednesday morning, I met with David Wolper, Executive Producer of Liberty Weekend. He, too, recognized your concern that there be some representation of the less fortunate at the events. To this end, Mr. Wolper has made arrangements with the Partnership for the Homeless to invite representatives of that organization to be present at the Opening Ceremonies on Governor's Island on July 3. That organization is located in New York City and is one of the largest private groups assisting the homeless in the Nation.

In addition to this symbolic presence at the Opening Ceremony, Mr. Wolper is providing cost-free seating at the Closing Ceremonies, July 6, to 4,000 children of New York and New Jersey, 1,500 members of the Girl Scouts, 2,000 members of the families of the Coast Guard working so hard over the Weekend, as well as 5,000 members of the families of the many volunteers helping with the Weekend's many events.

You should also be aware that two of the largest events of the Weekend are free to the public. On the evening of July 4, 20,000 people are expected to watch a free concert of the Boston Pops at Liberty State Park in New Jersey. Saturday evening, 500,000 people will attend the international classical music concert in Central Park.

The most ambitious display of fireworks in the history of the Nation is expected to be seen by five million people on the night of the Fourth of July. The parade of tall ships—Operation Sail—will be witnessed by an estimated five to seven million people earlier on the Fourth.

The greatest attendance will be at events that are free to the public. A quarter of the seats for the Closing Ceremonies are also complimentary. Now, at your urging, the

homeless will share a symbolic presence at the Opening Ceremonies.

We would like to thank you for your interest in and concern for the events, and hope that the above helps to explain the ticketing arrangements.

If you need further information, please call at your convenience.

Very trully yours,

KEITH E. EASTIN,
Deputy Under Secretary.●

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

SPAIN EXTRADITES COCAINE SUSPECT

● Mrs. HAWKINS. Mr. President, a report in today's Washington Post quietly illustrated the growing web of international connections that we hope will make the narcotic trafficker an endangered species. The headline says, "Spain Extradites Cocaine Suspect," but when you read between the lines you realize that for narco-traffickers the headline should read, "You Can Run, But You Can't Hide."

The article goes on to explain that an infamous cocaine trafficker, Jorge Ochoa Vasquez, was arrested in 1984 and is now being extradited to Colombia. Vasquez has been arrested in Madrid at the request of the United States in connection with charges that had been made by a grand jury in Miami, FL, that he was part of a cocaine trafficking ring that included a high-ranking Nicaraguan Government official. I have a particular interest in this case because on April 18, 1985, I held hearings into the Nicaraguan connection, and Mr. Vasquez name figured prominently.

I believe that it is unfortunate that Vasquez was extradited to Colombia, and I encourage the Justice Department to press forward for his extradition to the United States from Colombia.

But the real point here is how a broad, effective pattern of international agreements can be used to bring the narco-traffickers to justice. These agreements are broader than extradition treaties and narrow narcotics agreements. They include a wide assortment of treaties and international agreements such as mutual legal assistance treaties, tax investigation treaties, banking secrecy treaties, and so forth.

But it is not enough to conclude these treaties, they must be used. That is why I applaud these efforts of both the United States and Spanish Governments to use extradition as another tool against the killer of children, the drug trafficker. I only hope that the "system" works through to completion so that Vasquez can stand trial in this country.

I want to assure my colleagues that I will be waiting and watching.

Mr. President, I ask that the article from the July 14, 1986, Washington Post entitled, "Spain Extradites Cocaine Suspect," be printed in the RECORD.

The article follows:

SPAIN EXTRADITES COCAINE SUSPECT

MADRID.—Jorge Ochoa Vasquez, wanted by the United States on drug trafficking charges, was extradited by Spain to his native Colombia yesterday, police sources at Madrid's airport said.

Ochoa Vasquez, 36, was arrested in Madrid in 1984 at U.S. request. The Colombian request was made a year later, The Associated Press reported.

Both countries sought his extradition on charges he was a member of an international cocaine-trafficking ring. A Spanish court ruled that he should be extradited to Colombia because it was his native country. The government wanted to extradite him to the United States.

A Miami grand jury accused Ochoa Vasquez of involvement in a cocaine smuggling scheme in which a man identified as an aide to Nicaragua's interior minister allegedly took part.

U.S. Attorney Richard Gregorie said in Miami that he was pleased by the extradition and "the United States will immediately move to have him extradited from Colombia to Miami."●

SECTION 302(A) ALLOCATIONS

● Mr. DOMENICI. Mr. President, on behalf of myself and Senator CHILES, and pursuant to the unanimous consent agreement of June 26, 1986, I hereby submit to the Senate the allocations required by section 302(a) of the Congressional Budget Act, with respect to the budget resolution for fiscal year 1987, Senate Concurrent Resolution 120.

These allocations represent the division of total levels of Federal spending among the various Senate committees, as assumed in the budget resolution for fiscal year 1987.

These allocations should have been included in the statement of managers acompanying the conference report on Senate Concurrent Resolution 120. However, because of time constraints we were unable to prepare them by the time the conference report was filed.

The material follows:

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, FISACL YEAR 1987

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	559,299	560,440		
Agriculture, Nutrition and Forestry	22,041	24,119	158	158
Armed Services	44,642	29,395	156	154
Banking, Housing and Urban Affairs	3,665	−2,482		
Commerce, Science and Transportation	103	−1,530	370	368
Energy and Natural Resources	−1,604	−2,098	42	51
Environment and Public Works	14,559	556	6	6
Finance	565,815	526,512	50,392	50,411
Foreign Relations	11,532	9,213		
Governmental Affairs	59,468	38,160		
Judiciary	552	479	104	104
Labor and Human Resources	3,619	1,953	5,051	5,111
Rules and Administration	46	28		
Small Business	−247	−287		
Veterans' Affairs	1,718	1,414	15,098	15,156
Select Indian Affairs	498	431		
Not allocated to committees	−192,356	−191,302	−278	−278
Total, budget	1,093,350	995,000	71,099	71,241

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT, FISACL YEAR 1987—Continued

[In millions of dollars]

	Direct spending jurisdiction		Entitlements funded in annual appropriations acts	
	Budget authority	Outlays	Budget authority	Outlays
Energy and Natural Resources	−1,604	−2,098	42	51
Environment and Public Works	14,559	556	6	6
Finance	565,815	526,512	50,392	50,411
Foreign Relations	11,532	9,213		
Governmental Affairs	59,468	38,160		
Judiciary	552	479	104	104
Labor and Human Resources	3,619	1,953	5,051	5,111
Rules and Administration	46	28		
Small Business	−247	−287		
Veterans' Affairs	1,718	1,414	15,098	15,156
Select Indian Affairs	498	431		
Not allocated to committees	−192,356	−191,302	−278	−278
Total, budget	1,093,350	995,000	71,099	71,241

FISCAL YEAR 1987 302(a) ALLOCATIONS FOR CREDIT

[In millions of dollars]

	Direct loans	Loan guarantees
Appropriations	20,325	67,933
Agriculture, Nutrition, and Forestry	12,022	5,500
Armed Services		
Banking, Housing, and Urban Affairs	613	350
Commerce, Science, and Transportation	420	70
Energy and Natural Resources		
Environment and Public Works	205	
Finance	3	
Foreign Relations		
Governmental Affairs		
Judiciary		
Labor and Human Resources		10,585
Rules and Administration		
Veterans Affairs		
Small Business	962	16,312
Select Indian Affairs		
Grand total, conference agreement	34,550	100,750

BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 5 of the first budget resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act, as amended.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC., July 14, 1986.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through June 27, 1986. The report is submitted under Section

308(b) and in aid of Section 311 of the Congressional Budget Act, as amended.

Since my last report the President has signed the Military Retirement Reform Act, P.L. 99-348, the Urgent Supplemental Appropriations bill, P.L. 99-349, and the Temporary Extension of Certain Housing Programs, P.L. 99-345, changing estimated budget authority and outlays.

With best wishes,

Sincerely,

RUDOLPH G. PENNER,
Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 99TH CONGRESS, 2D SESSION, AS OF JUNE 27, 1986

[Fiscal year 1986—In billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current level [1]	1,053.0	980.0	778.5	2,074.6
Budget resolution, Senate Concurrent Resolution 32	1,069.7	967.6	795.7	[2] 2,078.7
Current Level is:				
Over resolution by		12.4		
Under resolution by	16.7		17.2	4.1

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for this approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $2,078.7 billion.

FISCAL YEAR 1986 SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99th CONGRESS, 2nd SESSION, AS OF JUNE 27, 1986

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			777,794
Permanent appropriations and trust funds.	723,461	629,772	
Other appropriations	525,778	544,947	
Offsetting receipts	−188,561	−188,561	
Total enacted in previous sessions.	1,060,679	986,159	777,794
II. Enacted this session:			
Commodity Credit Corporation urgent supplemental appropriation, 1986 (Public Law 99-243).			
Federal Employees Benefits Improvement Act of 1986 (Public Law 99-251).		4	
VA home loan guarantee amendments (Public Law 99-255).		−51	
Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).	−4,259	−6,001	765
Department of Agriculture urgent supplemental, 1986 (Public Law 99-263).			
Advance to hazardous substance response trust fund (Public Law 99-270).			
FHA and GNMA Credit Commitment Assistance Act (Public Law 99-289).		−380	
Federal Employees Retirement Act of 1986 (Public Law 99-335).			−90
Temporary extension of certain housing programs (Public Law 99-345).		−304	
Military Retirement Reform Act (Public Law 99-348).	−25		
Urgent supplemental appropriations, 1986 (Public Law 99-349).	−3,508	475	
Total	−7,792	−6,256	675
III. Continuing resolution authority.			
IV. Conference agreements ratified by both Houses.			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Compact of free association.	3	3	
Special benefits (federal employees).	14	14	
Family social services	100	75	
Payment to civil service retirement [1].	(37)	(37)	
Total entitlements	118	93	
Total current level as of June 27, 1986.	1,053,005	979,996	778,469
1986 budget resolution (S. Con. Res. 32).	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution.		12,396	
Under budget resolution.	16,695		17,231

[1] Interfund transactions do not add to budget totals.

Note: Numbers may not add due to rounding.

NAUM AND INNA MEIMAN: DOORS TO FREEDOM CLOSED

● Mr. SIMON. Mr. President, the Soviet Government has slammed the exit doors on Soviet Jews. My friends, Naum and Inna Meiman, are examples of Soviet Jews who have been denied their basic human rights and religious freedom not because they are criminals, but because they have expressed their desire to leave their country.

The Meimans are an elderly, ailing couple. Naum is a 74-year-old man. Inna is terminally ill with cancer. Their simple request is to live out what is left of their time together in the land that they choose—Israel.

The Meimans are of no use to the Soviet Government, yet officials continue to hold them captive in Moscow. Naum is tormented by the secret police and Inna remains waiting in pain.

I strongly urge the Soviet Government to permit the Meimans to emigrate to Israel and to open the doors to freedom to all those who wait unwillingly, locked behind the Iron Curtain.

EULOGIES FOR THE LATE SENATOR JOHN P. EAST

Mr. DOLE. Mr. President, I ask unanimous consent that on Thursday, July 17, the time between 10 a.m. and 12 noon be set aside so that Senators may eulogize the late Senator JOHN P. EAST.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY

RECESS UNTIL 11 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today, it stand in recess until the hour of 11 a.m., on Tuesday, July 15, 1986.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that the following Senators be recognized for not to exceed 5 minutes each for special orders: Senators HAWKINS, PROXMIRE, and MELCHER.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. DOLE. Following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon with Senators permitted to speak therein for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS BETWEEN 12 NOON AND 2 P.M.

Mr. DOLE. I ask unanimous consent that the Senate stand in recess between the hours of 12 noon and 2 p.m., in order for the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. At 2 p.m., by a previous unanimous-consent agreement, the Senate will go into executive session in order to consider the nomination of Terrence M. Scanlon under a 2-hour time agreement.

The Senate may be asked to turn to other legislative or executive items cleared for action tomorrow afternoon, and I guess in addition, I assume, there will be a vote on the Scanlon nomination. There could be additional votes on Tuesday.

RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, I move that the Senate stand in recess in accordance with the provisions of Senate Resolution 442, as a further mark of respect to the memory of the deceased Honorable JOHN P. EAST, the late Senator from the State of North Carolina, until 11 a.m., on Tuesday, July 15, 1986.

The motion was agreed to; and, at 3:29 p.m., the Senate recessed until tomorrow, Tuesday, July 15, 1986, at 11 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate July 2, 1986, under authority of the order of the Senate of January 3, 1985:

DEPARTMENT OF STATE

Herbert E. Horowitz, of Florida, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of The Gambia.

DEPARTMENT OF JUSTICE

Joseph S. Cage, Jr., of Louisiana, to be U.S. attorney for the western district of Louisiana for the term of 4 years, Reappointment.

John A. Smietanka, of Michigan, to be U.S. attorney for the western district of Michigan for the term of 4 years, reappointment.

Robert G. Ulrich, of Missouri, to be U.S. attorney for the western district of Missouri for the term of 4 years, reappointment.

Lincoln C. Almond, of Rhode Island, to be U.S. attorney for the district of Rhode Island for the term of 4 years, reappointment.

PEACE CORPS NATIONAL ADVISORY COUNCIL

Peter L. Boynton, of Virginia, to be a member of the Peace Corps National Advisory Council for a term of 2 years expiring November 29, 1987, new position.

IN THE NAVY

The following-named Navy enlisted commissioning program candidates to be appointed permanent ensign in the line or staff corps of the U.S. Navy, pursuant to title 10, United States Code, section 531:

Gerald P. Garrett
Gary L. Howman
Richard L. Lajoye
Scott T. Michels
Edward A. Swindle

The following-named Navy enlisted candidates to be appointed permanent Chief Warrant Officer, W-2, in the U.S. Navy, pursuant to title 10, United States Code, section 555:

Marlon Q. Abreau
Edward S. Acuna
Charles E. Atterberry
George E. Baker
Norman O. Brown
Jackie D. Chiavario, Jr.
Steven K. Dowd
Paul J. Fleetwood
Roy W. Gibbs
Francis A. Grochowski
Frederick R. Hofmann
Claude E. Holder
John H. Holscher III
Michael A. Hoppe
Clifford J. Howlett
Clarence D. Johnson
Timothy O. McCoy
Noel O. McKensie
Daniel L. Miller
Daniel C. Rockwell
Graciano G. Vargas, Jr.
Thomas H. Schlosser
Roger A. Springer
Paul M. Steinke
Gerald E. Stutlien, Jr.
Malcolm E. Toms II
Bradley M. Tyler
Richard R. Waytowich

The following-named captain, U.S. Navy, to be appointed permanent captain in the Medical Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:

James R. Schneider

The following-named U.S. Navy officers to be appointed permanent commander in the Medical Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:

Thomas L. Lunetti
Charles B. Thomason

The following-named commander, U.S. Navy, to be appointed permanent commander in the Dental Corps of the U.S. Naval Reserve, pursuant to title 10, United States Code, section 593:

Michael J. Kelley

Executive nominations received by the Secretary of the Senate July 3, 1986, under authority of the order of the Senate of January 3, 1985:

THE JUDICIARY

Alan C. Kay, of Hawaii, to be U.S. district judge for the district of Hawaii, vice a new position created by Public Law 98-353, approved July 10, 1984.

DEPARTMENT OF JUSTICE

Louis G. DeFalaise, of Kentucky, to be U.S. attorney for the eastern district of Kentucky for the term of 4 years, reappointment.

Executive nominations received by the Secretary of the Senate July 8, 1986, under authority of the order of the Senate of January 3, 1985:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

James T. Hackett, of Virginia, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice George M. Seignious II, resigned.

Richard Salisbury Williamson, of Illinois, to be a member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Douglas A. Fraser.

LEGAL SERVICES CORPORATION

Lorain Miller, of Michigan, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1989, reappointment.

PEACE CORPS NATIONAL ADVISORY COUNCIL

John M. Finch, of Virginia, to be a member of the Peace Corps National Advisory Council for a term of 2 years expiring November 29, 1987, new position.

IN THE ARMY

The U.S. Army National Guard officer named herein for appointment as a National Guard Commissioned Officer of the Army, under the provisions of title 10, United States Code, section 1521:

To be major general

Brig. Gen. Fred M. Carter, [redacted]

Executive nominations received by the Secretary of the Senate July 9, 1986, under authority of the order of the Senate of January 3, 1985:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Lynn Marvin Hansen, of Idaho, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency, vice Thomas H. Etzold, resigned.

Executive nominations received by the Secretary of the Senate July 10, 1986, under authority of the order of the Senate of January 3, 1985:

DEPARTMENT OF JUSTICE

Thomas C. Kelly, of Texas, to be Deputy Administrator of Drug Enforcement, vice John C. Lawn.

LEGAL SERVICES CORPORATION

Hortencia Benavidez, of Texas, to be a member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 1989, reappointment.

Executive nominations received by the Senate July 14, 1986:

DEPARTMENT OF STATE

Reginald Bartholomew, of Virginia, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Spain.

DEPARTMENT OF THE TREASURY

William F. Nelson, of Georgia, to be an assistant general counsel in the Department of the Treasury (chief counsel for the Internal Revenue Service), vice Fred T. Goldberg, Jr.

POSTAL RATE COMMISSION

Janet D. Steiger, of the District of Columbia, to be a commissioner of the Postal Rate Commission for the term expiring October 14, 1992, reappointment.

STATE JUSTICE INSTITUTE

The following-named persons to be members of the Board of Directors of the State Justice Institute for the terms indicated; new positions:

For terms of 2 years from the date of the first meeting of the Board:

Lawrence H. Cooke, of New York.
John F. Daffron, Jr., of Virginia.
Daniel John Meador, of Virginia.
Rodney A. Peeples, of South Carolina.
Clement Clay Torbert, Jr., of Alabama.

For terms of 3 years from the date of the first meeting of the Board:

James Duke Cameron, of Arizona.
Janice L. Gradwohl, of Nebraska.
Sandra A. O'Connor, of Maryland.
Larry P. Polansky, of Virginia.

IN THE COAST GUARD

The following permanent chief warrant officers, W-3 of the U.S. Coast Guard to be permanent chief warrant officer, W-4:

Howard F. Wirt
David K. Winchester
Richard A. Eppley
Richard D. Rainville
Dennis C. Dougherty
Nick V. Swanson
William M. Roney
Donald A. Perillo
Lonnie L. Hyatt
Gary L. Perry
Henry L. Riebel
Librado Torres

The following permanent chief warrant officers, W-2 of the U.S. Goast Guard to be permanent chief warrant officer, W-3:

Otto Havens
Raymond J. Cox
Robert D. Hall
Terence W. Patzwald
Frank D. Donaldson
Paul V. Clemons
Larry Allen
Klaus J. Steinhorst
Lynn B. DeHaan
Kevin D. Alway
Johnny M. Andrews
Barry F. Nordblom
Hardy D. Jones
Raymond J. Leyko
Terry L. Tague
Phillip T. Jenkins
Lawrence I. Culley
Ronald E. Allen

Carl A. Schwaab
David E. Power
Paul C. Lewis
Wesley L. Townsend
Robert D. Haines
Raymond M. Hubbard
Jerome J. Haskins
Kenneth Ashby
Joel Walton
Joseph S. Puntino
Jerry R. Wilson
Thomas A. Fine
Thomas E. Atwood
Bruce L. Ward
Larry L. Peel
Will L. Marlett
Clyde H. Lowe
Vanus J. Priestley
Daniel A. Shearer
Barry B. Roberts
Danny R. Buck
Thomas L. Clark
James W. Sebastian
Grant D. Leslie
Stephen J. Allen
Mark W. Allen
Lawrence A. Dykes
Robert T. Stranathan
Daniel D. Larson
Jack W. Gotwalt
James R. Byrd
Larry G. Thompson
Richard E. Brown
John N. Herlong
Richard W. Hall
Garry M. Ortner
Walter E. Glassco
James D. Knox
Edward E. Bradley
Richard R. Rabbitt
Ernest D. Bonnette
Larry P. Seligman
Ronald C. Wolf
Gary R. Collins
Robert D. Groves
Alferd H. Mattner
John W. Dilley
Charles R. Steele
Bobbie G. Mann
Edmund S. Burke
John F. Gomoke
Calvin D. Work
Raymond C. Willis
Roger J. Lewis
Philip J. Organ
John R. Lindley
William A. Barnes
Paul J. Paton
Thomas J. Winters
William L. Bush
Peter R. Null
Thomas W. Flynn
Paul J. MacDonald
Alan C. Beal
Kenneth D. Thoeni
Brian F. Zane
Thomas S. Ellis
Albert M. Snelling
Charles S. O'Neal
Anthony M. Worsham
Robert Villegas
Burt J. Thomas
Jack G. Albert, Jr.
Robert D. Hall
Richard L. Johnson
Thomas D. Marquette
John E. Martin
Merywn L. Cook
Dennis K. Gobble
Charles A. Rasmussen
Charles D. Johnson
Elton G. Miller
Gerald D. Sweet
Edgardo B. Cosio
James R. Normand
Dennis E. McCord
Robert H. Carmichael
Elbert L. Ricks
Richard F. Ramsay
Arthur W. Ringler
Thomas W. Murray
Bruce A. Carnell
Tommy D. Cook
Edward G. Mann
Larry Phetterplace
James H. Sipes
William T. Leduc
Gary E. Desilets
Donald L. Smith
Martin W. Farris
Fred E. Ripley
Curtis M. Marten
Thomas W. Smith
Rodney O. Thrasher
Kenneth M. Casey
Ronald M. Utzig
William S. Allen
William R. Laird
Robert D. Jones
Remigio M. Abacan
Marino N. Ortega
Ronald A. Badeaux
Reynaldo P. Martin
John S. Eve
Bruce J. Brady
Michael J. Denton

The following permanent chief warrant officers, W–1 of the U.S. Coast Guard to be permanent chief warrant officer, W–2:

Jack N. Davies
Robert W. Delavergne
Michael L. Osborn
Walter B. Wrzesniewski
Earl H. Hudgins
Gregory G. Warren
Timothy R. Johnston
Richard D. Henry
Daniel S. Birdsall
Gary A. Schenk
Francis P. Cristello
Terry P. Sullivan
Laurence T. Dickinson
Woodye M. Bedford
Bradley C. Waldron
Alfred L. Miller
Robin C. Johnson
Rufus B. Beard
Michael J. Dempsey
Nelson R. Byer
Thomas J. Dunigan
Michael D. White
Felipe B. Canne
Robert W. Buston
Larry L. Morey
Angus J. MacFeeley
Dennis J. McNally
Gary A. Loehrs
James J. Levesque
Ronald G. Wilkins
Thomas O. Mackey
John A. Peterson
Glenn E. Ray
Leslie J. Blackburn
Nicholas H. Lobkowicz
Jacob P. Miller
William A. Nagy
Richard W. VanValkenburgh
James C. York
Richard G. Foy
Raymond E. Elliott
Rodney C. Morrow
John C. Brindle
Desmond H. St. Denis
Johnny L. Lineberry
Nopracio S. Malonzo
Charles R. Schneider
Teddy A. Reese
William E. Patterson
Todd S. Dunkel
Robert O. Lewis
Albert L. Scheibner
Jonathan J. Jensen
Richard B. Lenassi
Richard M. Macauley
Robert E. Johnson
James M. Montgomery
Jeffrey D. Fulcher
Michael D. Riley
Mark J. Delozier
Ivol Sexton
Ernie B. Eberwein
Phillip F. Dolin
Joseph J. Loiseau
Stanley J. Sipniewski
Michael O. Carr
Richard A. Burgess
Rodolfo N. Sierra
Jerry R. Knight
Richard L. Tochtrop
Dennis L. Davenport
Alex J. Pearson
Raymond F. Massey
Steven C. Vernier
Martin C. Sigler
Leeamon V. Dowden
Gerald M. Trackim
James B. Shogren
William M. Gutmiller
Daniel L. Thompson
Kenneth H. Holmes
Dale L. Hutchinson
Gerald F. Shatinsky
Patric W. Tackett
Brian C. Young
James L. Aschenbrenner
James A. Santee
Elliott N. Baldwin
James E. Bridges
Robert C. Roberts
Thomas J. Curley
Albert L. Scott
Jeffrey W. Sheehan
Paul A. Taylor
Michael L. Vest
Bertram Brasz
Rondal B. Litterell
Stephen W. Savoie
Keith F. Christensen
Eddie J. Hamm
Gene W. Hall
Michael R. Gordon
Jerry M. Woodard
Warren C. Maurice
Amante Q. Anloague
Stephen M. Seybold
William K. Vanderberg
Desiderio A. Maldonado
Stephen D. Small
Maxmillian Bonogofski
William L. Scott
Anthony P. Shea
William M. Gervell
Francis J. Elfring
Arthur C. Grimes
Joseph A. Lukinich
Cecil R. Shoemaker
Karl F. Bengtson
Richard G. Salenius
John W. Filk
Roger E. Christophel
William D. Smith
James T. Carter
Mark E. McKaughan
Eugene C. Rahn
Gerald A. Tipton
Charles R. Longwitz
Milton L. Thompson
Harold W. Gross
Larry V. Johnson
Kenneth D. Taylor
Henry E. Lacourse
Dante A. Arcia
Eugene C. Hisey
Curtis E. Gray
Day M. Boswell
Michael E. Yensz
William A. White
Thomas P. Bussiere
Billy L. Heath

IN THE ARMY

The following-named Army National Guard of the United States officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10 United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Bolton, Thomas N., xxx-xx-xxxx
Elliott, James L., xxx-xx-xxxx
Frazer, Thomas M., xxx-xx-xxxx
Harmon, David L., Jr., xxx-xx-xxxx
Herfurth, James T., xxx-xx-xxxx
Hogan, Roderick L., xxx-xx-xxxx
Kehr, Teddy W., xxx-xx-xxxx
Maldonado, Jose, xxx-xx-xxxx
Marshall, James D., xxx-xx-xxxx
Pitzer, Jack T., xxx-xx-xxxx
Purpera, Ignatius P., Jr., xxx-xx-xxxx
Robb, Nathanial H., Jr., xxx-xx-xxxx
Rose, Robert R., xxx-xx-xxxx
Stewart, Walter L., Jr., xxx-xx-xxxx
Watson, Bernard M., xxx-xx-xxxx
Whitfield, George R., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Canter, James E., xxx-xx-xxxx
Pohlmann, Guenther P., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be colonel

Dion, Jean L., xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Anderson, Robert F., II, xxx-xx-xxxx
Bagdon, Stanley, Jr., xxx-xx-xxxx
Bowsher, Joseph C., xxx-xx-xxxx
Coleman, John W., xxx-xx-xxxx
Dugan, Michael J., xxx-xx-xxxx
Duke, James W., xxx-xx-xxxx
Early, Michael J., xxx-xx-xxxx
England, John R., xxx-xx-xxxx
Fry, Donald S., xxx-xx-xxxx
Gries, James M., xxx-xx-xxxx
Hayward, Robert M., xxx-xx-xxxx
Hornung, Richard S., xxx-xx-xxxx
Johnson, Danny L., xxx-xx-xxxx
Kahlan, Ralph E., xxx-xx-xxxx
Kozosky, Bernard P., xxx-xx-xxxx
Kramer, Theodore, III, xxx-xx-xxxx
Llarena, Carlos A., xxx-xx-xxxx
Longaker, Dwight G., xxx-xx-xxxx
Lundell, Carl F., xxx-xx-xxxx
Perham, John E., xxx-xx-xxxx
Putman, Darrell E., xxx-xx-xxxx
Reeves, Daniel E., xxx-xx-xxxx
Ross, James E., xxx-xx-xxxx
Sanchez, William A., xxx-xx-xxxx
Siefert, David J., xxx-xx-xxxx
Smith, George W., III, xxx-xx-xxxx
Smith, Gordon B., xxx-xx-xxxx
Sullivan, John W., Jr., xxx-xx-xxxx
Thompson, Duncan M., Sr., xxx-xx-xxxx
Walsh, John P., Jr., xxx-xx-xxxx
Wommack, Robert W., Jr., xxx-xx-xxxx
Wong, Wayson W.S., xxx-xx-xxxx
Young, Eugene H.B., xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

Poe, Jack O., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Angelsanti, Pandora E., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Hazzard, Marion P., xxx-xx-xxxx
Maionchi, Paula M., xxx-xx-xxxx
Nichols, David R., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Clark, James D., xxx-xx-xxxx

The following-named Army National Guard of the United States officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 593 and 3353:

MEDICAL CORPS

To be colonel

Lupin, Ellis R., xxx-xx-xxxx

To be lieutenant colonel

Latour, Thomas G., xxx-xx-xxxx

EXTENSIONS OF REMARKS

JOB CORPS—20 YEARS OF SUCCESS

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. MARTINEZ. Mr. Speaker, the Job Corps has a 20-year track record of success in helping severely disadvantaged youth break the cycle of poverty and become productive, contributing members of American society. Even so, the Department of Labor has proposed closing six Job Corps training centers.

Mr. Speaker, I oppose this action, and would like to share with you a letter about these concerns which I sent to Secretary of Labor William Brock, cosigned by 102 of my esteemed colleagues and fellow Job Corps supporters.

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, June 17, 1986.

Secretary WILLIAM BROCK,
Department of Labor, Frances Perkins Building, Washington, DC.

DEAR SECRETARY BROCK: The Department of Labor has announced the proposed closing of six Job Corps centers and the elimination of over 1,200 training slots to meet the Gramm-Rudman-Hollings 4.3% budget cut for Program Year 1986 within the Job Corps program.

We understand that the task of complying with these Congressionally-mandated cuts is difficult, and we recognize the effort you have made to accomplish it. However, we are not satisfied that the Department wishes to achieve these program cuts by closing six centers and eliminating 1,223 training slots. The elimination of these slots will keep over 2,500 youths from participating in a program designed for the disadvantaged. In addition, the loss of these six centers will have a substantially negative impact upon the community and clients served by the centers.

All of us have expressed to the Department that the highest priority should be preserving all of the 40,500 training slots which serve over 90,000 youths. During the hearing on Job Corps center closings and slot reductions which the Subcommittee on Employment Opportunities held May 15, a bipartisan Membership of both the House and Senate expressed their strong support for this concept.

As a source of alternative funds to enable you to preserve training slots and centers, we, the undersigned Members of Congress, request that you consider the use of the $12.3 million available for pilot/demonstration projects. Understandably, research and policy development are important; however, the Job Corps is a 20-year-old program which undergoes yearly dynamic changes in both system and individual programs, and the urgency for such research and pilot programs in a time of triage is not that apparent. We feel the department can afford to suspend pilot and demonstration projects for one year while the crucial adjustments necessary to meet the Gramm-Rudman-Hollings cuts are being made.

In addition, many Members have noted in a previous letter to you that there is $32 million available in program year 1986 construction funds which could be used to meet some of the budget cuts. While your staff has made a reasonable argument that construction funds are essential for maintenance of center infrastructure, the General Accounting Office has reported that only $20 million is needed for life safety, health, and code maintenance—the remainder is for less-essential purposes. In addition, the Department of Labor estimates that $4.1 million would be expended to close the centers. By not closing the centers, an additional $4.1 million in savings can be realized.

It should be pointed out that both the House and Senate have passed budget resolutions calling for sizable increases in Job Corps funding. Therefore, until funds are restored to the Job Corps program in July 1987, we feel funds for non-essential construction and pilot-demonstration projects can be used as a source of emergency moneys to preserve the training slots and keep the six centers operating. We feel this strategy will enable you to meet the Gramm-Rudman-Hollings cut while preserving the core of the Job Corps program—training slots and centers.

The Department has expressed a desire to cooperate with the Congress in regards to the Job Corps. However, even though alternative sources of funds exist, and even though the Congress has voted to increase funding for the Job Corps, Department officials have stated during recent hearings their refusal to budge from their commitment to close these centers. This inflexibility regarding center closings and slot reductions belies the commitment that the Department of Labor has made to the youth of this country.

We wholeheartedly agree that management efficiency should be a constant goal any agency should strive to fulfill. However, this efficiency should be achieved by providing necessary technical assistance and positive managerial guidance, not by penalizing disadvantaged youth through closing centers. We urge you to preserve all 40,500 training slots within the Job Corps program as well as the six centers you propose to close.

We view this request with the greatest urgency and trust that you will concur with our concerns and alternate reprogramming suggestions. Your immediate attention to this crucial matter will be greatly appreciated, and we await your response.

Sincerely,

MATTHEW G. MARTINEZ,
Chairman.

HONORABLE MEMBERS OF THE HOUSE OF REPRESENTATIVES

Dale E. Kildee, Mario Biaggi, Matthew McHugh, Bill Goodling, Tom Tauke, Robert A. Young, Les AuCoin, Kenneth Gray, Carroll Hubbard, Harley O. Staggers, Jr.,

Jack Brooks, Peter W. Rodino, Jr., Louis Stokes, David E. Bonior, Claude Pepper, Charlie Rose, Ed Markey, Melvin Price, Walter E. Fauntroy, Steny H. Hoyer.

Major R. Owens, Joe Kolter, Robert Garcia, Carl C. Perkins, Jim Weaver, John Seiberling, Alan Wheat, Chester G. Atkins, Stephen Solarz, Edolphus Towns.

Robert T. Matsui, Lane Evans, William D. Ford, Tony Beilenson, Pete Stark, Tom Foglietta, Mike Strang, Jaime B. Fuster, Sherwood Boehlert, Bob Wise.

Charles A. Hayes, Tony Coelho, John J. LaFalce, Julian C. Dixon, Bill Clay, Mike Synar, Richard Shelby, Don Edwards, Dante Fascell, Barney Frank.

Bruce F. Vento, James L. Oberstar, Bob Borski, Ronald Coleman, William J. Coyne, Thomas S. Foley, Al Swift, John R. McKernan, Jr., Mervyn M. Dymally, E de la Garza.

James Jones, Henry A. Waxman, Bob Edgar, Austin J. Murphy, James A. Traficant, Jr., Vic Fazio, Morris Udall, Stan Lundine, Doug Walgren, Dennis Eckart.

Virginia Smith, Barbara A. Mikulski, Norman Mineta, Esteban E. Torres, Sander M. Levin, Bill Richardson, James H. Scheuer, Patricia Schroeder, Sid Morrison, Gerald Kleczka.

Albert Bustamante, Mike Lowry, Parren J. Mitchell, Ron de Lugo, Pat Williams, Jerry Lewis, Norman Dicks, Wes Watkins, John Conyers, Benjamin Gilman, Augustus Hawkins, Mike Barnes.

HONORABLE MEMBERS OF THE U.S. SENATE

Alan J. Dixon, David Boren, Patrick Leahy, Christopher J. Dodd, John F. Kerry, Spark Matsunaga, Albert Gore, Jr., Paul Simon, Howard M. Metzenbaum, Daniel Patrick Moynihan.

A FORMULA FOR SUCCESS IN JAPAN

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. FRENZEL. Mr. Speaker, printed below is a speech by Mr. Charles F. Cuddihy, Jr., from Minnesota, who, in a speech at a Japan Conference in Minneapolis, urged area business leaders to tackle the Japan market.

Mr. Cuddihy has related his own experience as former vice president of international operations for Medtronic, Inc., to hopefully encourage other small companies to become similarly successful in Japan.

The Japanese market is difficult, but it becomes more accessible each year. One of the justifiable Japanese criticisms of United States export efforts is that most of our firms don't try as hard in Japan as Japanese companies do in the United States.

The Department of Commerce is urging more United States companies to open Japanese markets. It is better prepared to help in-

experienced exporters than every before. Like Mr. Cuddihy, it predicts success for American firms which do the job right.

REMARKS BY CHARLES F. CUDDIHY, JR.

Just as last year, this conference immediately follows a meeting of marked significance—in this case, the Camp David meeting between Prime Minister Nakasone and President Reagan. And again, the subject matter of the summit meeting is beyond most of us—at least as far as our ability to impart the intent of the accord and the promises. We can only hope that Camp David will bring greater harmony and balance between our countries in the area of commerce. We, meanwhile, must play according to the rules of today's game on today's playing field. This is enough of a challenge for most of us.

If we talk about "Trade Deficits", "Hidden Trade Barriers", etc., I think that we'll all lose. Individual companies have to address individual opportunities and dare to take a risk, to develop a strategy to be successful in other country's arena—and go for it!

I remember reading a short time ago a guarded statement by Ambassador Brock. He said that he dreamed that "Japan would capitulate on every issue and that it still wouldn't make any notable difference". That is a nightmare, but it could be true.

Why?

One clear simple fact. Out of 4,400,000 firms in various industries in the United States, less than 1 percent are engaged in exporting. Let me repeat that statement. Out of 4,400,000 firms in the U.S.A., only 40,000 are actually engaged in offshore business. Only 4,000 firms do business in and/or with Japan—less than 1/10 of 1 percent.

Unfortunately, I do not have similar statistics for Western Europe or for Japan. My guess is that the statistics for Europe would be only slightly better and that for Japan it would be notably better. My point is simple—we have talked ourselves out of a major market. We hear so much from the giant companies (steel, autos, chips, etc.) about the problem that we feel that it applies to all companies.

Immediately we should recognize a couple of salient realities—

(1) Approximately 50 percent of the aforementioned 4.4 million firms have good reasons for not exporting. Examples: (a) Have failed to establish firm market position in their own domestic market; (b) Not financially feasible; (c) No identified demand abroad; (d) Either no product or a perishable product; and (e) Too complicated to distribute.

(2) It would seem, on the basis of participation and/or performance that the U.S. market is at least as intimidating for European companies as is Japan for American companies.

The implication of Point One is apparent; there remains 2.2 million firms as potential entrants into the field of international commerce.

Point Two is more obtuse, more controversial. My suggestion is that neither Europe nor the United States is anywhere near exerting its fulsome energies in the world market. I am also suggesting that European companies can probably find as many excuses for not being active in the U.S. market as do the American companies for not being active in Japan. The reasons may be very different but the results are very similar. We're not the only ones who find it difficult and adventurous to sally forth into unknown waters.

My message is truly a simple one. Our politicians and bureaucrats do have to confront, to negotiate, to enter agreements, to address the macro issues which threaten to hurtle the world economy into a bottomless abyss. We pray for their success, of course. Those obstacles do have to be addressed positively to facilitate a more balanced bilateral trade. But for most of us we just have to do our own thing. One company, or group of companies, one country at a time. And in daring to enter the realm of International Business, we should not avoid Japan! We should approach it! Not timidly. Not negatively. Not intimidated. There are many U.S. companies who have had great success in Japan. Unfortunately we hear mostly about the faceless many who don't succeed—mainly because they never tried!

And, incidentally, it works the other way in respect to the efforts of Japanese companies to do business in the United States. All we ever hear about are the successes of the trading companies, the banks, the automobile companies, the watch companies, etc. Yet, according to Mr. Ohmae in his latest book, the successes represent a very small percentage of the participants. So the risk is not all one-sided.

I recall very well when, as Vice President of International Operations for Medtronic, Inc., I made the decision to enter the Japanese market directly. We had been ably represented by a fairly small Japanese company for several years but we felt that it was necessary to have a direct presence in order to provide the training, service, market research, and professional promotion which was difficult to do in a life-saving, technologically volatile industry—cardiac pacemaker systems. Everyone told us that we were making a wrong decision.

1. "You can't terminate a representative company without the loss of face for both them and you!"

2. "You won't be able to get approval to have a 100% owned subsidiary!"

3. "You are small and foreign. You will not be able to attract the right employees!"

4. "The Japanese way is so different that you'll never understand it!"

5. "The demand is not big enough!"

6. "Because of the cumbersome distribution network system you'll never be profitable!"

7. "If you hire the wrong persons you won't be able to replace them!"

Etc., Etc., Etc., Etc.

Fortunately, we heeded all these warnings but we went ahead anyway. We needed patience, sensitivity and a willingness to learn the Japanese Way.

Patience: (1) Don't just jump in! Plan! (2) You can change some things in Japan but some you can't. It reminds me of the prayer: "Lord grant me the patience to accept the things I cannot change, the strength to change the things I can, and the wisdom to know the difference". I believe that Medtronic succeeded admirably over the years. Medtronic Japan has been clearly one of the very best dynamic and profitable investments for the Corporation. Their image is excellent and the Japanese employers have been outstanding corporate contributors. The presence in Japan has opened many avenues of opportunity. There were frustrations, problems, challenges, to be certain. But they can all be met, successfully. It does take will and commitment! You don't have to be direct or establish a network of distributors; there is another way—Sogo Shosha. Don't overlook Sogo Shosha—The Trading Companies. They are a tremendous resource if one gets them interested in one's products and/or service. Here again, it takes patience and clarity of purpose and vision. We will be hearing more about them this afternoon from an expert, Mr. Ito of Mitsubishi—one of the largest of the Japanese versions of the "Big Eight".

In an article appearing in the Wall Street Journal some time ago, Peter Drucker, the internationally famous management guru, gave some simple excellent advice on doing business in Japan. I'll paraphrase him as follows:

(1) Provided the product and the service are good all it takes to do business in Japan is to do it the Japanese way.

(2) Personal relationships and commitment are absolutely necessary to develop. That takes patience and performance and integrity.

(3) "Lifetime employment" is not as binding and restricting a custom as it once was (I can personally attest to that, from experience).

(4) The smart way to start in Japan is not to invest in brick and mortar. The smart way is to invest in building a Japanese presence: to invest in hiring the right people to train them properly; in service, in market research, in market development and in promotion.

(5) Above all it pays to invest from the beginning in gaining recognition as a leader. Brand recognition is of great importance. Identify a market niche and concentrate for a long time on attaining leadership in it.

(6) Sense up to cultural differences. Example: rank must equal age within a given social group. Peter says he "knows of no Japanese company where the president is older than the chairman, for instance." The U.S. company will want a younger man from its headquarters to head the Japanese venture, often condemning the venture to failure. To the Japanese, the congruence of rank and age is not a principle of organization; it is one of morality.

The greatest cultural problem for the Westerner is the need for the "go-between" and the dependence on him especially in relation within the government bureaucracies.

Well, there have been libraries built on "How to do Business in Japan". I say that the first step is to do it (after you've done your homework). You can do business successfuly as long as you do it the way the Japanese do it.

Is it worth it? According to a recently published study by McKinsey & Company, the Japanese last year spent $600.00 each on American branded goods, compared with $287.00 spent by each American on Japanese goods.

As for the Medical Industry itself, Japan is a very attractive market. There are 9000 hospitals, over 80,000 clinics, 180,000 doctors, 600,000 nurses. There are outstanding universities, clinician, researchers and Key Opinion Leaders. The market for medical and dental equipment is expected to reach more than $4 billion next year, 1987. About 15 percent of that total will be imported—maybe as much as 20 percent or $800 million. It is a very sophisticated market and one which commands high prices although changing like everywhere else. (As an aside we should also note that exports have climbed dramatically—close to $1.5 billion. They're coming after you in your market—you'd better be prepared to garner some of their market!).

The United States dominates that import market in Japan—over 50 percent!

The greatest demand in the medical market seems to be focused on new technology, equipment which has no Japanese competitor and automated or computerized equipment that saves time and money. But no matter what product or business it is mandatory to have—

Quality—Training—Marketing

Ease of Use, Coupled with Reliability and a Sensitivity to the Japanese culture and Health Delivery System

In conclusion and summation, I would offer the following suggestions and observations.

First of all, the governments do have to do their job, successfully. The relief of current obstructions to bilateral trade between our nations can surely enable private enterprise on each side to be more effective. Attacking the budget deficit and sustaining and/or creating legislation at the national and state level to encourage export would be critical on the U.S. side. Total fairness, understanding and market accessibility on the part of Japan, coupled with a realistic evaluation of the yen would surely be helpful.

Realistic technology exchange programs, of a balanced nature, would be a positive collaboration which would benefit the world as well as our two nations.

Cultural exchanges and athletic events match tourisim as effective means of developing understanding and respect.

In the United States particularly, we could and should stress the study of Japan, its language and its history and culture.

From a pragmatic business standpoint—I repeat: "Don't be scared off. Do your homework as you would/should do before any significant new step in your business. The Asian Arc is the growth area of the world during the next decade and Japan is the foundation stone of that market. Many, many more enterprises from the upper Midwest can and should deal successfully in Japan. We have natural, financial and human resources capable of developing the products and industries which will demand significant niches in Japan. We share high standards of quality and integrity, pride and commitment and productive work ethic. We also, as an area of the country rich in varied ethnic backgrounds, have a deep sensitivity and high respect for different cultures. And we have a need.

Learn how to do it the Japanese way and you will succeed.

Thank you.

FREE YURIY SHUKHEVYCH

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. LIPINSKI. Mr. Speaker, after more than 33 years in prison and countless requests on his behalf, Yuriy Shukhevych remains a prisoner in the Soviet Union. He is in poor health and is made to do as much as 12 hours of manual labor daily, without access to medical treatment or to his family. It would be easy to become discouraged with the negative response of the Soviet Union in regard to this man. Yet, we must keep in mind that Yuriy Shukhevych is Prisoner of Conscience in the fullest sense of the meaning, a man arrested and imprisoned for these many years because he refused to denounce his father, Roman Shukhevych, the nationalist who fought both the Nazis and the Soviets in the name of self-determination for Ukraine. And because he desired and still continues to desire the idea of a free Ukraine.

I would like to include in the RECORD a song written for Yuriy Shukhevych taken from the March-April 1986 Bulletin of the Antibolshevik Bloc of Nations. It is said that this song is sung by Ukrainian youth throughout the Free world.

SONG FOR YURIY SHUKHEVYCH

Who are those men that the tyrants will kill?
Are they fighting for money or for their free will?
Is it they that get locked in camps far away?
Is it they that suffer to this very day?
I tell you it is.
Why don't those school children during breaktime play?
Please tell me why they are sad in the face.
Is it because they're not permitted to pray?
And when they're caught they are punished for days.
I tell you it is.
Why are those boys being sent to correction centres?
Please tell me straight what wrong they have done.
Is it because they are proud of their country?
Because they sing hymns in their native tongue?
I tell you it is.
I'll tell you a story of a man brave and true,
He was put in prison, but what did he do?
Yuriy Shuhevych, a man who can't see,
They have blinded him, but one day he'll be free!
One day he'll be free.
Listen to my words, you know they are right,
For the love of my country I will continue to fight.
Never surrender, that must never be,
The heart of Ukraine is bleeding for me.
I'll know that you'll see.
Please save my soul and set me free,
I long for the sunshine, but I want you to see,
My father is not guilty and neither am I,
For that truth I'll stay here till the day I die.
I'll stay till I die.
Please help Ukraine, it is suffering Lord,
Because freedom with money you just can't afford.
Please reassure me that my homeland I'll see,
That one day Ukraine will once again be free.
I tell you it will.

REIT TAX PROVISIONS REVISION ACT OF 1986—H.R. 4916

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. VANDER JAGT. Mr. Speaker, on June 3 of this year, I introduced the REIT Tax Provisions Revision Act of 1986, H.R. 4916, together with Mr. STARK, Mr. MATSUI, Mr. ARCHER, Mr. THOMAS of California, and Mr. FOWLER. The bill modifies many of the provisions for the qualification and taxation of real estate investment trusts (REIT's] in order to allow REIT's to operate more efficiently. The statement which follows is intended to explain the provisions of H.R. 4916 and the provisions of current law that are affected by the proposed changes.

EXPLANATION OF H.R. 4916

A. OVERVIEW

The bill modifies many of the provisions relating to the requirements for qualification as and the taxation of REITs. The provisions modified relate to the general requirements for qualification as a REIT, the income and asset requirements for qualification as a REIT, the definition of rents and interest, the distribution requirements for qualification as a REIT, the treatment of capital gains, the provisions relating to prohibited transactions, and certain other provisions.

B. GENERAL REQUIREMENTS

Under the bill, as under present law, an entity generally may not elect REIT status if it would meet the stock ownership test of section 542(a)(2) (i.e., if it would be treated as a personal holding company if all of its income constituted personal holding company income) or if it had fewer than 100 shareholders. Under the bill, however, an entity that otherwise meets the applicable requirements may elect REIT status notwithstanding its meeting the section 542(a)(2) stock ownership test or its having fewer than 100 shareholders, provided that the entity was not a REIT in any prior year. In applying the attribution rules of section 544 for purposes of determining whether the stock ownership requirement of section 542(a)(2) is met for any taxable year, attribution to an individual of stock owned by or for the individual's partner is ignored under the bill.

The bill provides that in order to elect REIT status, the electing entity must either have been treated as a REIT for all taxable years beginning after February 28, 1986, or must have no earnings and profit accumulated for any year in which the entity was in existence and not treated as a REIT.

The bill also provides that an entity that has not engaged in any active trade or business is permitted to change its annual accounting period to a calendar year without approval of the Internal Revenue Service in connection with electing REIT status. This rule is intended to apply to entities that are newly formed for the purpose of becoming a REIT, and that wish to adopt a calendar year taxable year after an initial period in which, for example, the entity receives the proceeds of a stock offering and temporarily invests such proceeds in passive investments until investment in suitable real estate assets is made.

C. INCOME AND ASSET REQUIREMENTS

1. REIT subsidiaries

Under the bill, all the assets, liabilities, and items of income, deduction, and credit of a "qualified REIT subsidiary" are treated as the assets, liabilities, and respective items of the REIT that owns the stock of the qualified REIT subsidiary. A subsidiary of a REIT is a qualified REIT subsidiary if and only if 100 percent of the subsidiary's stock is owned by the REIT at all times that the subsidiary is in existence. If at any time the REIT ceases to own 100 percent of the stock of the subsidiary, or if the REIT ceases to qualify for (or revokes an election of) REIT

status, such subsidiary is treated as a new corporation that acquired all of its assets in exchange for its stock (and assumption of liabilities) immediately before the time that the REIT ceased to own 100 percent of the subsidiary's stock, or ceased to be a REIT as the case may be.[13]

For example, an entity owns 100 percent of the stock of a corporation that holds an office building and receives rental income from the office building. For purposes of determining whether the shareholder entity qualifies for REIT status, the shareholder is treated as owning the office building directly and as receiving the rents therefrom. If the shareholder qualifies as a REIT, the separate existence of the 100 percent owned subsidiary is ignored for all income tax purposes. If the shareholder REIT sells all of the stock in the subsidiary to any purchaser (including another REIT), then the subsidiary is treated as a new corporation that was formed and that received its properties in exchange for its stock, immediately after which it was owned by the purchaser. Hence, it is anticipated that the deemed transfer of the assets to the subsidiary in exchange for its stock would not qualify as a tax-free exchange under section 351 in this situation.

2. New equity capital

Under the bill, if a REIT receives new equity capital, then income derived from stock or debt instruments (i.e., interest, dividends, or gains from the sale of such stock or debt instruments) that is attributable to the temporary investment of the new equity capital is treated, for a one-year period beginning on the date that the REIT receives such capital, as qualifying income for purposes of the "75 percent income test."[14] In addition, during such period, stock or debt instruments purchased with such capital are treated as "real estate assets" for purposes of the "75 percent asset test." Under the bill, new equity capital is any amount received by the REIT in exchange for stock of the REIT (other than pursuant to a dividend reinvestment plan).

D. DEFINITION OF RENTS AND INTEREST

1. Independent contractor requirement

Under the bill, amounts received by a REIT in connection with the rental of property do not fail to qualify as rents from real property merely because the REIT performs certain services and does not use an independent contractor for the provision of such services. Under the bill, the services that may be provided without violating the "independent contractor test" are those services the provision of which would not by reason of section 512(b)(3) result in the receipt of "unrelated business income" by an organization subject to tax on such income (sec. 511(a)(2)). Thus, under the bill, amounts received by the REIT in connection with the rental of real property would not fail to be treated as rents from real property if the REIT provides only certain services other than services that are considered rendered to the occupant of the property (Treas. Reg. Sec. 1.512(b)-1(c)(5)). The bill does not alter the provision of present law under which amounts received by a REIT are treated as rents from real property if the REIT provides "customarily furnished services" to its tenants through an independent contractor.

2. Rents and interest based on net income

Under the bill, rents or interest that are based on the net income of a tenant or debtor are treated as rent from real property or as interest, respectively, if certain conditions are met. To qualify, the rent (or interest) must be received from a tenant (or debtor) that receives substantially all of its income from the leased property (or the property that secures the loan) from the subleasing (or leasing) of substantially all of such property, and the rent received by the tenant (or debtor) consists entirely of amounts that would be treated as rents from real property (or interest) if received directly by the REIT. The same rules that apply under present law apply under the bill if the tenant (or debtor) receives rents (or interest) from the property a portion of which would qualify as rents from real property (or interest) for the REIT and a portion of which would not, i.e. a proportionate part of the amount received by the REIT would be treated as rent from real property (or interest).

E. DISTRIBUTION REQUIREMENT

Under the bill, the minimum amount that the REIT is required to distribute (i.e., the minimum dividends paid deduction as specified in section 857(a)(1)), is reduced by a portion of certain amounts that the REIT is required to include in income in advance of receiving cash. These amounts are (a) amounts that the REIT is required to include in income under section 467 with respect to certain rental agreements involving deferred rents, (b) the amount of original issue discount that the REIT is required to accrue with respect to a loan to which section 1274 applies, and (c) any income arising from the disposition of a real estate asset, but only in circumstances where the REIT had entered into a transaction with respect to such real estate, had intended in good faith that the transaction qualify as a like-kind exchange under section 1031, the income is recognized as a result of a determination that the transaction did not so qualify, and the failure to meet the requirements of section 1031 was due to reasonable cause and not due to willful neglect. The portion of such amounts by which the REIT's minimum distribution requirement is reduced in the amount by which the sum of these amounts exceeds five percent of the REITTI of the REIT determined without regard to the REIT's dividends paid deduction and net capital gain.[15]

In addition, the bill provides that the amount of a REIT's current (but not accumulated) earnings and profits for a taxable year is to be not less than its REITTI (determined without regard to the dividends paid deductions) for the taxable year.

F. CAPITAL GAINS

Under the bill, for purposes of determining the maximum amount of capital gains dividends that a REIT may pay for a taxable year, the REIT would not offset its net capital gain with the amount of any net operating loss, whether current or carried over from a previous taxable year. To the extent that the REIT then elects to pay capital gains dividends in excess of its net income, the REIT would increase the amount of its net operating loss carryover by such amount. For example, a REIT with no net operating loss carryovers incurs a $100 net operating loss and has a net capital gain of $50 in 1987. Under the bill, the maximum amount of capital gains dividends that the REIT could distribute is $50. If the REIT distributed a $40 capital gain dividend, its net operating loss carryover to the succeeding taxable year would be $90.

Under the bill, REITs are permitted to mail the required capital gain notices to shareholder with the REIT's annual report rather than within 30 days of the end of the taxable year. It is intended that if the REIT does not regularly provide its shareholder with an annual report, then the notice requirement of present law would continue to apply.

G. PROHIBITED TRANSACTIONS RULES

The bill makes two modifications to the rules relating to prohibited transactions. First, the bill modifies the safe harbor under which sales by the REIT meeting the conditions of the safe harbor are not treated as prohibited transactions. Under the bill, the number of sales of property that a REIT may make within the safe harbor is increased from five to seven. In addition, the extent of expenditures that the REIT may make within four years of sale that are includible in the basis of the property is increased from 20 percent of the net selling price of the property to 30 percent. The bill also provides an alternative safe harbor whereby the REIT may make any number of sales during the taxable year, provided that the gross income from such sales does not exceed 15 percent of the REITTI of the REIT for the taxable year. A sale is treated as qualifying for the alternative safe harbor, however, only if substantially all the marketing and development expenditures with respect to the property sold were made through an independent contractor. The determination of whether a particular sale qualifies for the prohibited transaction safe harbor is made on a property by property basis.

Second, the bill provides that in determining the amount of net income derived from prohibited transactions, losses from prohibited transactions (and deductions attributable to prohibited transactions in which a loss was incurred) may not be taken into account. The bill does, however, provide that the amount of any net loss from prohibited transactions may be taken into account in computing REITTI. For example, for a taxable year a REIT has a net gain from a prohibited transaction of $100 and a net loss from a prohibited transaction of $50. The REIT has net rental income of $200 and no other items of income or deduction. Under the bill, the REIT would be subject to a $100 tax on the gain from its prohibited transaction, and its REITTI would be $150.

H. DEFICIENCY DIVIDENDS

Under the bill, the penalty tax under section 6697 on deficiency dividends is repealed.

I. EFFECTIVE DATE

The provisions of the bill are effective for taxable years beginning after December 31, 1986. The provision relating to the treatment as interest of certain amounts based on the net income of the debtor does not apply to amount received or accrued with respect to loans made before May 28, 1976 (or pursuant to a binding commitment entered into before May 28, 1976).

[13] In the case of the shareholder, REIT ceasing to be treated as a REIT, the committee intends that the transfer would be deemed to take place as of the first day of the first taxable year in which the entity's REIT status ceases.

[14] Nevertheless, the REIT would continue to be required to most the "95 percent income test" including income from the new equity capital.

[15] The computation of REITTI would take into account the change made by the bill, which would permit the deduction of the REIT's net loss from prohibited transactions, as described below.

MEXICO—A NEIGHBOR IN CRISIS

HON. MORRIS K. UDALL
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. UDALL. Mr. Speaker, it has become my practice from time to time to share with my colleagues information on issues that are critically important. I feel we are making a grave mistake if we ignore the plight of a neighbor in crisis, I refer to Mexico.

Mexico is not some distant trouble spot, it's right next door. If our neighbor gets into trouble, we can hardly expect to escape unharmed. Problems have a way of spilling over the 1,850 miles of border that we share with Mexico.

Currently, Mexico is in serious financial trouble. The decrease in oil prices has cut budget revenues by one-fourth since the beginning of the year. Mexico's deficit is now, in proportion to its economy, more than twice as large as the United States' deficit. We can see Mexico's crisis in the ever-growing numbers of illegal immigrants crossing our borders. We can also see it in the business failures that have followed in the wake of the recent peso devaluation. But still larger troubles may be in store for Mexico—and for us.

Our stake in Mexico's future is too great to neglect. Mexico is more than our neighbor to the south, Mexico is a valued friend. We have longstanding cultural and historical ties to Mexico. In acting upon that friendship, and those ties, we would also be acting in our own best interest.

Over the course of the next several weeks, I will submit various articles that will illustrate the crisis in Mexico.

The first of those articles is by Bruce Babbitt. Mr. Babbitt is Governor of Arizona and chairs a Council on Foreign Relations study group on United States-Mexican affairs. His highly penetrating article focuses on Mexico's debt crisis, the financial and political realities that currently face Mexico, and the various reform alternatives Mexico has thus far announced.

The article follows:

[From the Wall Street Journal, July 2, 1986]

U.S. Able To Structure Debt Relief

(By Bruce Babbitt)

The abrupt departure of Mexican Finance Minister Jesus Silva Herzog, practically midsentence in negotiations with the International Monetary Fund, marks the political transformation of the debt crisis in Mexico. For the first time ever, the debt will now collide with the Mexican presidential *sexenio*. The collision is sure to be explosive unless the debt gets some fundamental attention in Washington.

Despite Silva-Herzog's departure, a familiar ritual of bluff and counterbluff seems certain to consummate in another short-term fix: Mexico will get $6 billion or so in new loans to pay the interest on its old ones. But before they commence their celebrations, Mexico's creditors had better look to 1987 and 1988.

Without some structural relief, the debt undoubtedly will be drawn into the maelstrom of Mexican presidential politics. Some kind of unilateral solution—from Peruvian-style adjustment to outright repudiation—will grow more attractive to the Mexicans than it has ever been before.

The coming short-term fix is irrelevant to this concern for two reasons, one financial, the other political.

THE TWO REALITIES

The financial reality, increasingly recognized of late, is that a $100 billion external debt is simply too large a drain on the Mexican economy. Debt service consumes 7% of Mexico's gross domestic product, or *twice* the comparable figure for Germany after the Treaty of Versailles. It also eats two-thirds of export earnings and three-fourths of Mexico's trade surplus. Mexico's economy will *contract* nearly 5% in 1986.

The political reality, largely unrecognized to date, is the role of the presidential succession. Proximity to this change typically leads to nationalism, xenophobia, and susceptibility to the grand populist gesture. President Echeverria's, in 1976, was a massive expropriation of land. President Lopez Portillo's in 1982, was nationalization of the banks.

Will it be repudiation of debt in 1988? Many Americans, noting the much-publicized emergence of the conservative PAN, suppose the ruling PRI will have to move rightward to maintain its traditional monopoly on high office. But Mexican politicians see it differently: The political instinct when under attack is to consolidate your base. Peru's Alan Garcia sells a lot better than Margaret Thatcher to the crowd assembled below the balcony.

Two goals should govern the American response, one conditional on the other: structural debt relief and structural economic reform. The IMF has been pushing a stunted version of this trade-off, attempting to condition new short-term loans on another notch or two of austerity. But in miniature the deal is nothing but poison, having most of the political costs and few of the economic benefits of a full-size solution.

To meet any hope of growth, Mexico's burden of debt service must be cut in half. The precise means of doing this must be left to negotiation, but the possibilities are hardly unknown. The extension of short-term debt maturities has largely been accomplished, but the capitalization on interest has scarcely been utilized. Nor has the long-term write-down of a portion of the debt been adequately discussed. The banks are a lot stronger now than in 1982, and the Federal Reserve could revise its loan-loss rules to recognize that in the context of an overall settlement, the write-down of government debt actually increases the prospects it eventually will be made good.

Negotiators also should remember that 30% of the debt is held by governments, and that a temporary suspension of payments in that sector would not affect the banking system at all.

THE MEANS AND THE END

Mexican oil could be part of the deal. A commitment to add 200 million barrels to the Strategic Petroleum Reserve over a three-year period would cut about $1 billion from annual payments. And it also might be feasible to exchange debt for future oil-delivery contracts in the commercial markets.

Yet another approach would be to trade debt for equity investments in Mexico. The Japanese, along with regional banks in Texas, have begun experimenting with a secondary market in Mexican debt: It is sold at a discount to an investor who redeems it in pesos from the Mexican government while agreeing to reinvest it in Mexico. The market has barely begun to tap the potential of this kind of arrangement.

All these are means. The end is to index Mexico's debt payments to recovery of oil prices, to overalll growth of exports, or, most logically, to a proportion of GDP. Besides being the truest measure of Mexico's ability to pay, the GDP is far more amenable to state improvement. As Mexico grows, so should grow its debt service.

The necessary and continuing condition of creative debt relief must be thoroughgoing liberalization of the Mexican economy. thoughtful Mexicans recognize that their fiscal woes are in large part self-inflicted, the result of heavy-handed state intervention in every sector of the economy.

The list of required reforms commands remarkable consensus among economists; sale or closure of loss-making state enterprises, reduction of the government work force, retargeting of investment from patronage to development, elimination of protectionist import restrictions and restrictions on foreign investment, relaxation of exchange controls and repatriation of domestic capital.

If Mexico can carry through the reforms it has thus far announced, it will have made a serious beginning. President de la Madrid has committed to entering the General Agreement on Tariffs and Trade. He has pledge to sell or close down unprofitable state enterprises, and proved he meant it at Fundidora Monetary, a huge and inefficient steel mill whose shutdown threw 11,000 people out of work. The sugar, fertilizer and petrochemical industries should be similarly pared.

Not all economic changes need be so painful. One New York banker has proposed creating an offshore mutual fund that would re-attract flight capital by using its leverage to bargain about terms and conditions for reinvestment in selected Mexican development projects. And the recent manufacturing agreement with IBM—permitting full foreign ownership—suggests the unreasonable rules hampering foreign investment can be changed.

LIBERALIZATION WILL BE DIFFICULT

How much reform is enough? A numerical goal—parallel to the goal of halving Mexican debt service—would be ideal, but the Mexican side of the bargain does not quantify as easily. Some measurement, nonetheless, of such indicators as the proportion of state-owned businesses in the economy, the number of employees in the government work force, the spread between state-controlled and free-market exchange rates, and so on, should have a place in the negotiations.

Thoroughgoing economic liberalization will be very difficult for the Mexicans, just as structural debt relief will be for their creditors. But one can be used to leverage the other for the benefit of all. Mexico would finally see the light at the end of the tunnel, and its creditors would trade some diminution of paper rights for a much higher probability of payment.

What's missing from this equation is an initiating party. The Mexican government and the commercial banks are in thrall to immediate pressures: political survival on the one side, quarterly profits on the other. The IMF, the principal broker until now is geared by its very charter to the short term. Only the U.S. government has the clout and the freedom to take the long view. It should act on that view while it can.

WITHERS FAMILY REUNION

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. FAUNTROY. Mr. Speaker, during the July 4th holiday weekend the Withers family will celebrate their fifth national reunion. Because of the rich background and heritage of this proud American family, I wanted to share with the Members their profile.

The Withers Family at present, traces its lineage back to a slave named Silas, on a northern Mississippi plantation at the time of the Civil War. According to accounts passed down through generations, Silas ran away from the plantation and joined the Union Army under General Ulysses S. Grant, as it advanced toward Vicksburg. After serving many months Silas returned home to see his family. Ignoring warnings from fellow slaves not to go up near the "big house" where his family was, he joined them anyway. After several days he was kidnapped and lynched when he went off with a wagon going to town for supplies—killed for having aided the forces of liberation.

After emancipation and the end of the Civil War, according to further family legend, the family of Silas went through a process of choosing a family name. Part of the family chose a name from the slavemaster's family, which was Withers. Part of them refused to take this name and chose the name of Jones, which is reputed to have been the lineage of, among others, the actor James Earle Jones.

Further accounts link this African-American family with the white family of Faulkner of northern Mississippi particularly around Oxford in LaFayette County and Holly Springs in Marshall County, among whom included writer William Faulkner.

During the last years of the 19th century a son of the slave Silas, who was also named Silas, served in the Spanish-American War. When he returned home to Mississippi he got into trouble with the local whites for being too assertive. Eventually he was captured and hung upside down in a well until he died. His brother George left Mississippi and went west to the Oklahoma Territory, vowing never to live in the United States again because of what happened to his brother. When Oklahoma became a state in 1907, he moved to Canada.

Another brother of the second Silas, Christopher Columbus Withers, had ten children, Eva, Lulu, Earnest, Angelia, Earl, Roscoe, Emerson, Lucretia and Cleopatra (twins), Ruberter, and Arthur Earl (1889–1965). Arthur Earl moved to Memphis, Tennessee from his home in Holly Springs, Mississippi, where he continued his early education at Woodstock Training School. He went on to serve in the U.S. Army during World War I, seeing duty in France. Arthur Earl went on to break the barrier against blacks in the federal civil service in Memphis by becoming one of the first "colored" letter carriers. He was active in the community and a long-time lay leader in the local Baptist conference and the National Baptist Convention, USA, Inc., working with activists such as Mary Church Terrell and Lucy Campbell. He was husband to Pearl (who died in 1930) and then Minnie Withers and, father of James Bertron, Alice, Vivian, Arthur Earle, Jr., Ernest Columbus, and Jacob Ontee. He had thirty-two grandchildren.

Columbus Spencer "Jim" Withers, Sr. (1899–1986), a grandson also of the slave Silas was born one of twelve sisters and brothers in Guthrie, Oklahoma and he grew up in Cushing, Oklahoma before moving to Campbell, Ohio in 1923. He was a factory worker for over 40 years, and was active in the labor union, local Youngstown/Campbell, Mahoning County Democratic politics and in his church Shiloh Baptist. He was also instrumental in helping other blacks obtain jobs in industry in his area. "He would lend a helping hand wherever he could." His wife Annie L. Stonework-Withers lives on in Campbell. His children are Emma (deceased), Bertha Ellis, Ann Jones, Amanda Wiley, Bernice Jones, Clara McKissack, and Columbus Spencer, Jr. He left 12 grandchildren, 13 great grandchildren and a great-great grandchild.

James Bertron Withers, Sr. (1911–1979) was the oldest son of Arthur Earl Withers. His early life and education was in Memphis, Tenn. He continued his education in 1936, entering Howard University and receiving a degree in pharmacy in 1941. He met and married Eleanor L. Lewis of Washington while attending Howard University. They became parents to James Bertron, Jr., Doris Cleo and Vivian Eleanor. He owned and operated two drug stores in the District and suburban Maryland and later he became one of the first black pharmacists and managers hired by Peoples Drug Store He was one of the founders of the Washington Pharmaceutical Association and the National Pharmaceutical Association.

Arthur Earle Withers, Jr. (1917–1963) came to Washington from Memphis, Tenn. in 1940 to attend Howard University. He and wife Lorene Thompson-Withers, were the parents of Pearl Lorene, Thelma Lois, Vivian Elaine, Marcia Janice and Sylvia Earle. He was a career civil servant with the Department of the Navy for 23 years. He was in partnership with his older brother James Bertron who earlier had owned and operated two drug stores in Washington and suburban Maryland. He more than anyone in his generation is responsible for bringing back together scattered and disconnected parts of the family.

Ernest Columbus Withers, Sr. (1922-) is a photo-journalist, and businessman in Memphis, Tenn. He saw service in World War II in the Pacific and returned home to establish what is now a 40 year old photography service company. He is widely recognized and awarded for his historic coverage of the civil rights movement and the life and death of leaders such as Medgar Evers and Martin Luther King, Jr. He broke the color barrier in law enforcement by being appointed in 1948 as one of the first nine "Negro" policemen in the Memphis Police Department, and later was elected constable for surrounding Shelby County. Dorothy Mae Curry-Withers (1924-) of Memphis is his wife of 44 years. Their eight children are Ernest Columbus (Hasani Kwabena Adisa, adopted African name) Jr., Perry Oneal, Clarence Earle (Joshua Amun-RaPtah, adopted African name), Wendell Jacob (deceased), Dedrick James, Dyral Lewis, Andrew Jerome, and Rosalind Daval. They have thirteen grandchildren.

Jacob Ontee Withers (1924-), came to Washington in 1942 to attend Howard University. He served in law enforcement in Washington at the local and federal level for over twenty years, he is presently proprietor of the W and W Security Company. He met and married Vastine Doshia Wood-Withers (1930-1973) of Washington in 1950. This union produced Pamela Andrea, Jayne Irene, Sheila Kay, Kim Arline and Maria Antoinette.

Jimmy Withers Foster is a long-time political activist and leader of veteran affairs in Oklahoma City and on the national level. He was instrumental in breaking down barriers of discrimination and recognition of the rights and status of black and handicapped veterans. In his early years he was an outstanding athlete.

James Bertron "Bert" Withers, Jr. is a member of the D.C. Bar and is a graduate of the National Law Center of the George Washington University. He is a career civil servant employed at the Federal Communication Commission where he spent most of his career as a senior electronics engineer, having received from Howard University and a master's degree from George Washington. He served in the United States Army attaining the rank of captain and was the commander of a HAWK air defense missile unit. Bert was later awarded the Legion of Merit for his Army service. He is a long-time devotee of the most contemporary expressions of America's classical music, otherwise known as jazz.

Doris Cleo Withers is an education administrator with City University of New York and is a former dean at the Medgar Evers College at SUNY. She earned a Doctor of Philosophy degree from Columbia University; master's degree from Cornell University and her bacculaureate from Howard University. Her speciality has been microbiology and scientific education.

Ernest C. Withers, Jr. is a community, political and church activist in Washington, D.C. where he came to Howard University after serving as an officer in the U.S. Army. He led the campaign to pass rent control and consumer-rights laws in the Washington area. During the Jimmy Carter presidential era he served as D.C. campaign coordinator and with the Democratic National Committee as White House liaison and minority network coordinator.

Dedrick "Teddy" Withers is a graduate of Tennessee University, at 21 years of age he was elected to the Tennessee State Legislature during which time he was a member of the powerful Ways and Means Committee; he served for ten years. He founded the International Marketing and Development Corp. and headed an unprecedented trade delegation (which included his father Ernest Withers, Sr.) in 1983 to 26 African Nations.

HOUSE CONCURRENT RESOLUTION 350, PROVIDING THAT THE PRESIDENT SHALL CONTINUE TO ADHERE TO THE SALT AGREEMENTS AS LONG AS THE SOVIET UNION DOES LIKEWISE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. KOSTMAYER. Mr. Speaker, I rise in strong support of House Concurrent Resolution 350, a resolution reported from the Foreign Affairs Committee on which I serve.

The administration's decision to abandon our policy of mutual compliance with the SALT II Treaty, and that treaty's limits on the re-

spective nuclear arsenals of our country and the Soviet Union, is wrong for two major reasons.

First, it makes no military sense, and second, it makes no diplomatic sense, and may frustrate future efforts at arms control.

In terms of national security, Mr. Speaker, the abandonment of SALT weakens our national security. For as much as the proponents of abandoning SALT might contend that this decision will not adversely affect our national security, surely it will.

The SALT overall limits on nuclear weapons have worked. SALT II allows for modernization of nuclear arsenals by both sides—and the Soviets and the United States have both modernized—but it also calls for overall numerical limits. To stay under the overall limit, the Soviets have dismantled over 2,600 ICBM launchers, over 240 submarine launched ballistic missile launchers, and 14 Yankee-class nuclear-missile-carrying submarines.

SALT is not perfect, but the primary goal of SALT—overall restraint in the total number of strategic delivery vehicles—has worked, and has required both sides, including the Soviets, to exercise military restraint, to dismantle certain weapons, and to modify their armed forces to abide by the SALT II limits.

What will happen without SALT? Who's to say the Soviets, without the constraints of SALT, and faced with the administration's ambitious drive to develop SDI, a space-based defensive system, will not respond by significantly enlarging their nuclear inventory?

Proponents of dumping SALT and those hardliners within the administration, who generally harbor no illusions about Soviet aims, seem blind to reason on this point. Abandoning SALT risks a Soviet breakout from the SALT limits and a rapid increase in numbers of launchers. The House Armed Services Committee estimates that Soviet production lines could increase their strategic forces 65 percent by 1989 if SALT is scuttled. Pentagon analysts have long contended as well that the Soviets have advantages in "throw weight," for their missiles. Again, lifting the restraints of SALT will allow the Soviets to MIRV these missiles, or modify them to accommodate more warheads.

These factors, by any objective standard, must lead one to conclude that our national security will be threatened, not enhanced, by abandoning SALT.

The rejection of SALT also makes no sense, Mr. Speaker, when we examine the diplomatic costs of this decision.

First, our NATO allies oppose us. For 15 years we have nurtured the arms control process, all in close cooperation and consultation with our allies. This has been a bipartisan policy under the successive administrations of Presidents Johnson, Nixon, Ford, and Carter. The announcement that we will no longer abide by SALT has already strained relations with our allies, and is posing political problems for those European countries with whom we have been working on joint security needs.

Also, by abandoning SALT we may lose our ability to monitor Soviet nuclear force developments and to deal, through diplomatic channels, with questions of compliance. The SALT treaty established not only weapons limits, but also procedures for verification and consultation on noncompliance.

The administration has evidence of Soviet treaty violations in two key areas, one having to do with the development of the SS-25, which we contend is a new, impermissible missile under the treaty, the other having to do with encryption of missile-testing telemetry, which is forbidden under SALT.

Those of us who favor continued adherence to the SALT treaty do not diminish the importance of these alleged violations. In fact, negotiation over these suspected violations should be vigorously pursued. There is in place a Standing Consultative Commission [SCC] which was established by the U.S. and the U.S.S.R. to consider questions of compliance. The Nixon, Ford, and Carter administrations all used the SCC successfully, and all questionable Soviet activities brought to the SCC were adequately resolved.

By abandoning SALT at this point, we potentially lose the ability to monitor Soviet compliance, and to raise in a useful forum important questions of compliance. What do we gain, Mr. Speaker? Nothing, except an inevitable increase in mutual suspicion and tension.

One final point Mr. Speaker. Today, as a requirement of SALT, the Soviets give advance notice of weapons tests, and missile firings. Without SALT, without agreements, will we continue to give advance notice of missile tests, Will they?

It doesn't take much imagination to realize the potential for error, for misjudgment, in this type of atmosphere. Certainly no one should sleep safer without SALT.

I urge my colleagues to adopt House Concurrent Resolution 350 urging continued mutual compliance with the SALT treaty nuclear weapons limits.

STUDY SHOWS U.S. WORKERS RECEIVE LESS HELP FROM THE GOVERNMENT THAN IN PAST

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. LEVIN of Michigan. Mr. Speaker, a recently released Joint Economic Committee Report documents a disturbing trend in the direction of Federal policies that affect American workers. In policy area after policy area, workers have received substantially less assistance from the Federal Government than they have in years past. The general erosion of these worker protections has occurred during a period of unemployment rates higher than at any time since the Great Depression. Less help from Federal policies combined with high unemployment rates during the Reagan administration mark a period of tremendous difficulty for workers.

The effects of these Federal policies are not limited to a particular group of workers. Employment and training programs may focus on those with low-incomes and dislocated workers, as they should, but minimum wage workers can be found in families of all incomes, and all workers benefit from a strong pension system and safer workplaces. This Nation needs strong labor policies not because they benefit one special group of American workers, but because they benefit all American workers.

The following excerpts from the study released by the Joint Economic Committee summarize the negative labor policy trends and the author's recommendations for necessary policy modifications:

JOINT ECONOMIC COMMITTEE—FEDERAL POLICIES AFFECTING AMERICAN WORKERS

(By Sar A. Levitan and Isaac Shapiro, Center for Social Policy Studies, George Washington University)

The basic federal laws protecting workers have not been eliminated; instead, lax administration, budgetary cuts, and inadequate legislative oversight have undermined the protection the laws offer. Consequently, training opportunities for the unskilled and unemployed have diminished, working conditions have deteriorated, workers' rights have been undercut, and the unemployed and the retired have less income security. Specifically:

Federal funding of employment and training assistance has dropped from $9.5 billion in fiscal 1981 to $5.6 billion in fiscal 1986.

The percentage of the unemployed receiving unemployment insurance fell to a historic low of 34 percent in 1985.

After adjusting for inflation, the minimum wage has declined by 26 percent since January 1981, and is now at its lowest real level since 1955.

The enforcement of health and safety regulations has deteriorated. Also, during the first five years of the Reagan administration, only two standards that increased health protection were issued, as compared to nine such standards in the Carter years.

The National Labor Relations Board has modified the direction of key policies, undermining union organizing efforts and basic worker rights. NLRB's case backlog has risen considerably.

New legislation strengthened the pension system, but trouble areas remain. Employers are finding loopholes in pension termination provisions and tax incentives for individual pension plans are not well targeted.

Many of the required changes to restore long-standing federal health and safety protections, equal employment opportunities, and the right to bargain collectively can be accomplished through administrative actions that will not affect federal costs. Congress, through the oversight process, can help bring about these changes.

Some of the needed modifications of worker protections would require legislation. Raising the minimum wage to traditional levels of support would increase the costs to some employers, but it is a mechanism by which the government can assist the working poor without adding to the federal deficit. Needed changes in pension policy may actually raise federal revenues.

Other legislative efforts to restore worker protections would entail some rise in federal expenditures. Increasing federal training and employment efforts as well as federal aid to job losers are the most prominent examples. Some of the job training expenditures will, however, be recouped because of the boost in productivity and reduction in welfare expenditures. The requisite level of support for job training and UI should be considered in light of the objective of sharing the burden of ongoing economic dislocation.

Although federal regulations on behalf of workers have deteriorated in the past few years, the basic structure of these regulations remain intact. These regulations, for the most part, are well-designed and have provided substantial benefits. The protective net for workers exists. The President and Congress should take action to see that it is appropriately repaired.

DISCRIMINATION IN THE DEPARTMENT OF AGRICULTURE

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. MARTINEZ. Mr. Speaker, I wish to bring to the attention of my colleagues a recent Washington Post letter to the editor sent by myself, Mr. EDWARDS, Mrs. SCHROEDER, and Mr. FRANK regarding continuous and serious discrimination within the Department of Agriculture. The Post has printed several articles and editorials which brought to light not only problems with the USDA's workforce employment of minorities, which was ranked 72d out of 79 by the EEOC, but also with the agency's lack of responsiveness to minority and handicapped program recipients. Recently Secretary Richard Lyng instructed his staff to make affirmative action one of the utmost priorities within the USDA and we hope that Secretary Lyng will prove good on his promise to remedy discrimination at the USDA.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1986.

LETTER TO THE EDITOR,
The Washington Post,
Washington, DC:

Your June 4, 1986 editorial entitled "A Racial Problem at USDA" raises the very concerns that we, as Chairs of House oversight subcommittees, have about non-discrimination in federal employment and federally funded programs.

The USDA , with almost 100,000 employees, is ranked by the Equal Employment Opportunity Commission 72nd out of 79 agencies in its workforce employment of minorities. This low ranking is intolerable in an agency which administers programs that are directed at assisting the poor and hungry of this country. Indeed, very serious questions have been raised about the agency's lack of responsiveness to female, minority and handicapped program recipients. This is a situation which must be remedied immediately.

We want to commend Secretary Richard Lyng for his positive response to this critical situation within the USDA. His civil rights memorandum which was sent to USDA personnel and which was mentioned in your June 14th editorial "Statesmanship at Agriculture" is the first step toward addressing this problem. As concerned Chairs of the House oversight committees, we will be making a strong effort to make sure the Department complies with federal civil rights laws.

Thank you for bringing the issue to the public's attention. The editorial was correct in its analysis that the "USDA has developed a pretty ugly reputation" with regard to civil rights, a reputation we, as well as Secretary Lyng, intend to change.

Sincerely,

Matthew G. Martinez, Chairman, Subcommittee on Employment Opportunities; Barney Frank, Chairman, Subcommittee on Employment and Housing; Don Edwards, Chairman, Subcommittee on Civil and Constitutional Rights; Patricia Schroeder, Chairman, Subcommittee on Civil Service.

RETHINKING PROTECTIONISM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. FRENZEL. Mr. Speaker, on June 19, the Wall Street Journal contained an article which indicates that some Senators may be reevaluating protectionist positions they have taken. Canada's quick retaliation after our tariff increase on cedar shakes and shingles has caused Senators to think a little more carefully about some of the get-tough trade legislation they have supported.

One of the messages we have heard over and over again by fellow Members of Congress is that we should pass tough trade legislation to show that we mean business and that our trading partners will never retaliate. While it is true that there has been minimal retaliation in the past, in my judgment, our trading partners are all pushed to the limit with respect to actual legislation we have passed and that could pass. The Canadian response was a good example.

I hope that a majority of Senators rethinks some of its trade positions and will work together with the administration to fashion a trade bill that will contain needed improvements in the trade law, but yet not promote retaliation by our trading partners.

The article follows:

[From the Wall Street Journal, June 19, 1986]

CANADA'S QUICK RETALIATION FOR SHINGLES TARIFF PROMPTS SOME ON THE HILL TO RETHINK PROTECTIONISM

(By David Shribman and Art Pine)

WASHINGTON.—Massachusetts Sen. John Kerry was one of scores in Congress who cosponsored a bill setting quotas for textile imports last year.

Now the liberal Democrat is having second thoughts, He's seeing first-hand how aggressive trade actions can backfire. Partly to build a get-tough image, the Reagan administration imposed a tariff on Canadian cedar shakes and shingles last month. Canada immediately retaliated by slapping new restrictions on U.S.-made books, computers and semiconductors—many produced in Massachusetts.

So now Mr. Kerry has fresh reasons to resist get-tough trade measures. "If you go too far in any one of these steps, you invite retaliation," he says, "If we're not careful, we're going to end up cutting off our own noses to spite our faces. That's what the Canada case shows."

Sen. Kerry isn't alone in his reappraisal of the trade situation. The Canadian retaliation, to be sure, won't by itself block the omnibus trade bill now moving through Congress; the Senate still is expected to draft trade legislation of its own to parallel the trade-law-toughening House package lawmakers passed last month. Though it isn't clear yet whether any measure will make it through into law—President Reagan has threatened to veto the House bill—protectionist pressures remain intense.

But Ottawa's quick show of force has begun giving enough lawmakers second thoughts about the new get-tough approach that some congressional analysts believe it may help make the Senate version of the bill far more moderate than the aggressive trade package pushed through by House Democrats.

Sen. Daniel Evans (R. Wash.) calls the Canada example "a good case study of what can happen when nations unilaterally attempt to protect their own positions through trade restrictions," adding: "It's a splendid example—if we're only wise enough to understand it."

Sen. Evans is a longtime free-trade proponent, but even some other lawmakers who backed previous protectionist measures are troubled by the escalating trade dipute. Democratic Sen. Claiborne Pell of Rhode Island, ranking Democrat on the Senate Foreign Relations Committee, for example, says the Canadian case "has made me a lot more conscious of the problems of rushing ahead with trade legislation" by dramatically underscoring that there is a cost associated with the get-tough approach to trade.

That sentiment is exactly what Canada had hoped to sow here. Canadian Finance Minister Michael Wilson, announcing the retaliation measures two weeks ago, made clear that Ottawa was responding "reluctantly" with its counter-restrictions. "Our objective is to bring home to the United States the costs of protectionism, while avoiding measures that will only worsen our own situation," Mr. Wilson said. And Foreign Minister Joe Clark offered to retract the retaliatory tariffs if the U.S. would roll back the ones on shingles and shakes. Shakes are a kind of shingle.

The two sides have a lot at stake in their trade relations. Two-way trade between the countries topped the $116 billion mark last year. Each is the other's largest trading partner. And the two capitals are just beginning negotiations on a longer-range free-trade arrangement aimed at eliminating most trade barriers.

Moreover, except for angry U.S. lumber producers, Americans generally haven't blamed Canada for this country's trade problems as they have, say, Japan or Taiwan. A Wall Street Journal-NBC News poll last October showed that only 37% of Americans thought that the U.S. should limit imports from Canada to protect American jobs, compared with 70% in favor of restricting products from Japan.

Washington hasn't agreed to retract its new tariffs on shakes and shingles—which were imposed at least in part to assuage protectionist pressures in Congress—but senior officials in both countries have vowed to play down the whole dispute in an effort to keep existing trade frictions from getting out of hand.

"There really isn't any basis for a continuation of the debate," asserts U.S. Trade Representative Clayton Yeutter. The broader free-trade talks are continuing, albeit at a slow pace.

And the Canadian retaliation appears to have had some impact in damping the Reagan administration's own appetite for get-tough trade tactics. A White House-created trade strike force set up to seek out

and take action against unfair trade practices of foreigners has softened its earlier campaign to launch immediate retaliatory proceedings against other countries' trade barriers and instead has begun recommending that the U.S. merely push for talks aimed at negotiating away the barriers.

To be sure, not everybody on Capitol Hill has moderated their views. House Majority Leader Jim Wright (D., Texas) called a handful of reporters into his office this week to reaffirm his support for the House bill and to take issue with Reagan administration charges that the bill is protectionist.

Sen. John Danforth (R., Mo.), chairman of the Senate trade subcommittee, asserts that the U.S. "is going to insist that the rules of international trade be played by all parties and that our government utilize the remedies available. If Canada overreacts, I don't think that's a lesson," Mr. Danforth says. "The U.S. can't walk on eggs."

Even so, some second thoughts are beginning to show up in lawmakers' actions. Just last week, the Senate Finance Committee voted in effect to let lapse a long-criticized, U.S.-imposed trade barrier that prohibits the sale in the U.S. of books by American authors that have been printed in foreign countries. Opponents argued successfully that the provision only made the U.S. more vulnerable to foreign trade restrictions.

EAGLE SCOUT RICHARD JASINSKI

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. LIPINSKI. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the achievements of the fine young man in my district, Richard Jasinski. Soon, Richard will be honored for achieving the highest rank in scouting, that of "Eagle Scout."

The path to Eagle Scout is truly a long and difficult one. It requires an extraordinary amount of dedication and determination not usually seen in youths of this age. The tasks which must be completed to become an Eagle Scout cover virtually every realm of human experience. Some require intellectual and creative abilities while others call for physical agility and strength. Some tasks help integrate the young man into society through community action that benefits his neighborhood and world. Still other acts are performed alone intended to develop internal growth and maturity. Always, however, is the challenge to set and strive for goals through initiative and diligence.

Young men like Richard are leaders. The achievement of Eagle Scout is likely to be only the beginning of a future full of accomplishments for this young man has shown that he can perform exceptionally well without a compelling hand of authority over him. I say this not to downplay the importance of the encouragement he received from his family and scout leaders but, rather, to assert the independence and self-motivation he has already shown.

Your achievement of becoming an Eagle Scout is praised and applauded. It is with sincere pleasure that I commend you, Richard Jasinski, before my fellow Members in Congress.

ESTHER VAN WAGONER TUFTY

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. VANDER JAGT. Mr. Speaker, I rise today to offer a tribute to a truly remarkable women, Ester Van Wagoner Tufty, who passed away May 4 at the age of 89, For seven decades, as an outstanding newspaperwoman, Mrs. Tufty touched the lives of countless individuals and through her efforts, significantly improved the quality of life for many people. I am honored to have counted her a friend and to have the opportunity to bring a few of her many accomplishments to the attention of my colleagues in the U.S. Congress.

Throughout her working life, the "Duchess" as she was affectionately known to her friends, served as a shining example of all that is good and right in the press of our Nation. Mrs. Tufty covered the news in Washington, DC, for many Michigan newspapers during her exceptional career. The people of Michigan are indeed very proud of her accomplishments and are honored to count her as one of our own. Her brother, the late Hon. Murray D. Van Wagoner, was a former Michigan Governor, and her years of dedication to our State were marked by compassion and honesty. I would like to share with you the article that appeared in the Washington Post following her death on May 5, 1986, as well as the eulogy given at a memorial service in her honor at the National Press Club on June 5, by Mr. Kenneth M. Scheibel, former president of the club and longtime friend of the "Duchess." These two articles, serve to underline Mrs. Tufty's truly remarkable and inspiring commitment to her profession and to her country and allow us a brief description of the extent and fruits of these commitments.

JOURNALIST ESTHER TUFTY DIES AT 89

(By Martin Weil)

Esther Van Wagoner Tufty, a pioneering American newspaperwoman of regal bearing and enormous zest who in a 70-year career covered many of the great events and personalities of Washington and the world, and became in her own right the subject of legend, died May 4 in Alexandria. She was 89.

A broadcaster on both radio and television, and the founder of her own news service that once provided stories to about 300 newspapers, Mrs. Tufty, whose coronet of gold braids helped win her the nickname of The Duchess, came here 50 years ago and covered every president since Franklin D. Roosevelt.

Over the years, Mrs. Tufty lost an eye, was afflicted by cancer and had at least seven pacemakers installed to assist her heart. But she continued turning out copy in her National Press Building office, winning recognition in recent years as probably the oldest working reporter in a city full of reporters.

Her death at the Mount Vernon Nursing home followed a stroke.

In the course of a career that began shortly after graduation from high school in Michigan, Mrs. Tufty's diligence in pursuit of the news occasionally became news itself.

During the 1944 presidential campaign, Mrs. Tufty was injured in the wreck of New York Gov. Thomas E. Dewey's campaign train. When the Soviets blockaded Berlin, Mrs. Tufty flew into the city atop 10 tons of airlifted coal. Before a national television audience, Mrs. Tufty climbed onto a table at the 1952 Democratic convention to reach the man she wanted to interview.

Her determination in seeking out and reporting the news was accompanied by a feisty breeziness in describing her own activities. In November 1966 she returned from a trip to Vietnam and said:

"It's my third war, not counting marriage."

She was also known for a personal sense of flair and panache that seemed typified by her pince-nex spectacles and by the vivid scarlet or plaid cloaks that transfixed a room full of cocktail party guests when she entered.

On the wall of her office hung a photograph of her disguised for a White House party to look like President Roosevelt, an impersonation that, contemporary news accounts maintain, stunned the unsuspecting Secret Service.

The nickname The Duchess stemmed from an incident in which a European innkeeper mistook her for a member of royalty whose arrival he was expecting. Mrs. Tufty and her party received red carpet treatment and the name stuck.

For a time early in her career here, she was known as the "headache girl" in recognition of an aspirin company's sponsorship of a 30-minute radio interview show she conducted.

"I interviewed everyone except [former New Deal Secretary of State] Cordell Hull," she said.

Later she was on television as Washington editor of NBC's "Home" show. Essentially, however, Mrs. Tufty considered herself a reporter of "hard news."

Thus, she saw her 1960 installation as president of the American Women in Radio and Television as indicative of progress from an era when women on the air were confined to giving advice on "what to do with a tired piece of lettuce."

Her inauguration in 1969 as president of the American Newspaper Women's Club made her the first woman to head three national organizations for women in journalism. The third group was the Women's National Press Club.

In her 1969 inaugural address, Mrs. Tufty maintained that membership in the three groups would raise no conflict of interest and that she was "not supported by any foundation except the one I'm wearing."

A native of Sanilac County, Mich., Mrs. Tufty was raised in Pontiac, and after high school went to work for the newspaper there as assistant society editor.

She continued newspaper work in Madison, Wis., while attending the University of Wisconsin. After graduation she married Harold Tufty, from whom she later was divorced. In the '30s, after serving as managing editor of a newspaper in Evanston, Ill., she came with him to Washington where she opened her news bureau with 26 small Michigan papers as clients.

She was a Democrat who worked for Republican newspapers, was a particular admirer of Hubert Humphrey and believed that Americans talk too often about what is wrong with America rather than what is right.

In April 1954 the State Department sent her on a speaking tour of Australia. While she was there, the Australians presented her a female kangaroo named Topsy. The animal was to be forwarded here. When Tospy arrived, it turned out that a male had been sent for company.

"I want to call him Turvey," said Mrs. Tufty.

Among the awards she held was the Distinguished Service Award of the President's Committee on Employment of the Handicapped in recognition of her articles promoting hiring of the handicapped.

Survivors include two sons, Harold Jr., of Washington and James, of Honolulu, and a brother, former Michigan governor Murray D. Van Wagoner of Birmingham, Mich.

ESTHER VAN WAGONER TUFTY

(By Kenneth M. Scheibel)

The tyranny of words . . . stifles . . . accurate portrait of the life of Esther Van Wagoner Tufty.

No one word, or series of words and phrases strung together, can frame a precise picture of this human, talented, warm, compassionate and fun loving lady we knew and loved as "The Duchess."

But maybe—just maybe—one of the tiniest of the words in our language comes closer than any other in a one-word portrait: b-i-g.

The Duchess was big in her plan of life. She was big in her goals and desires. She was big in accomplishments, recognition, reputation, ideals. She was big in her hopes for herself, her family, and friends—and her beloved United States of America. And she was big in her perceptions of humankind—what it ought to do, what it ought to be to make the world better.

And if her favorite politician, official, friend, relative, or cause, foundered and failed, she fussed and fumed, sniffed and snorted, put a fresh sheet of paper in her battered typewriter—and turned, with new hope, new optimism, to a new chapter of endeavor.

Outwardly, the Duchess always seemed to have a rosy outlook on life. Her boisterous manner and hearty guffaws roared out through her beloved capital city wherever her nose for news or social inclinations took her. And her fun-loving manner and breezy style went with her to far-flung trouble spots of the world.

For all of her warmth, charm, joviality, the Duchess was the ultimate professional in journalism. She hewed tightly to her role as the amiable skeptic—of the people, places, things, she wrote about. But her criticism was constructive, not destructive. Thus; she was a builder—not one, as the saying goes, who always tried to kick the barn door down.

Generosity was another of the Duchess' great virtues. She took great pains to help young people get started in journalism. Esther was never to busy, in her busy, busy years, to counsel, cajole, praise, and persuade. And if someone was a bit down and out, the Duchess managed to find a few dollars in her cash box.

Esther was a person of many deep beliefs. One was that basically human beings are good. She felt very deeply that the underdog, the underprivileged, deserved a break. And much of her time and energies was spent to this end.

The Duchess' list of achievements is testament to her hard, hard work. She loved her profession. It honored her. With the hard work she had fun, let others share it. She felt that was part of being a journalist.

Whatever she did—writing a story, giving a party, cooking a meal, raising a family—she did . . . with class. There was no holding back, no being niggardly, restrained, halfway. She gave life all she had—gave it big, with style, fervor, all the strength and drive she drew from her Dutch ancestry.

And life gave back to her—recognition, warmth, love and respect of friends, family, colleagues . . . big. As a journalist, the Duchess knocked heads with the grubbiness and sordidness . . . disappointment . . . that go with the job. But her own conduct and demeanor were dignified, straightforward, regal . . . majestic.

The magnificence of the Duchess' life and elegance of her soul, the simplicity and sweetness of her spirit . . . mark her as one of God's finest creations. And if she sinned or made mistakes, they were sins or mistakes of commission, not omission. To sit idly by and simply do nothing to right wrongs was abhorrent to her. When you were right, she told you so. When you were wrong, she made that very plain, too . . . in earthy, forceful terms.

One always felt much better whenever they encountered the Duchess. It was simply impossible to brood, or be unhappy, for very long . . . in her presence. Always . . quick to praise, slow to criticize . . . a kind word, a pat on the back . .

She would rather trust than doubt, rather have faith then disbelieve, would rather commend . . than castigate. And if someone let her down, brought disappointment or bitterness, she tried to keep the hurt to herself. If there was a mean bone in her body, nasty through in her head, her resentment was hard to find.

The Duchess would rather lift up than beat down. She looked for and found . . the good in people . . always believing good outweighted bad. Her secret weapon for success was . . the kind word, deed, thoughtful note or phone call. And an understanding heart—for whomever needed it, whether he or she was in high place or low. Kindness, not the curse, was her style.

Kings and queens, princes and presidents were intrigued by her grace, comfortable in her presence—treated her as equal. And because she had the unique ability to win the respect and trust of people in high station and low—she advanced and brought great credit to her profession of journalism. Not for Esther Van Wagoner Tufty, to rant and rail if journalism or its practitioners at times attained a frowsy, tattered, or tarnished image. The Duchess' work, professionalism, and drive, brought credit, honor, dignity. Esther knew many Presidents, called some by their first name. They looked up to her.

The true meaning of the Duchess' life will be a long time coming into sharp focus. But we know already that she was important to all of us—not only for what she was—but for what she taught us about ourselves. She helped us be—better than we could be.

The Duchess took lots of hard knocks. She went through the mill. She paid her dues. Life was no big bowl of cherries.

Esther competed, very effectively, in a rough and tumble business. She asked no special favor. She beat the bushes for business in the best competitive style. She knew what it was to meet a payroll. She could be tough, but she was not hard, vengeful or cruel. As the years advanced so did the Duchess' health problems. She met them with optimism, courage, steadfastness—and stayed at her typewriter through recurring travail.

With the knocks and bumps and setbacks, the Duchess kept her sparkle. She stayed the course. She kept the faith. She fought the good fight. She never tried to be anything but what she was—a hard working dedicated, journalist—but much more—a friend, a neighbor, a mother, a woman—completely feminine.

This tiny tribute, this paean of praise, to a big, great, grand human being focused on the elegance, style, wit, charm and warmth the Duchess unstintingly gave the world in which she lived. And if the world in which she lived . . . was not the perfect place she might have wanted it to be . . . it was far less imperfect . . . . when she left it than when she found it.

For she was a wondrous woman who left us a legacy: keep the faith, with a smile on your face.

It is right that we grieve that the Duchess is gone. It is also right that we rejoice the more that she lived.

As memories fade and recollections blur, pray let us remember one thing above all others about Esther Van Wagoner Tufty:

She was a great, big, bright ray of sunshine in our lives. And every man, woman and child upon whom she cast her glow gained new luster by her light.

SALT II AND SOVIET TREATY VIOLATIONS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs Newsletter for June 1986 into the CONGRESSIONAL RECORD:

SALT II AND SOVIET TREATY VIOLATIONS

Because of Soviet treaty violations, the President has said he will no longer base decisions on U.S. strategic forces on compliance with SALT II limits. His decision rests on three key charges: Soviet encryption of ballistic missile test data; the SS-25 missile; and the Krasnoyarsk radar. A closer look reveals that these charges are not the clear violations the President suggests.

Encryption: The SALT II Treaty prohibits encryption, or encoding, of ballistic missile test data when it "impedes verification." The U.S. charges that the Soviets have violated SALT II because their extensive encryption prevents verification of critical performance aspects of Soviet missile tests. The Soviets deny they have encrypted essential signals, and have offered to supply necessary data if the U.S. will specify which signals it needs. The U.S. has rejected this offer because to do so would reveal too much about our intelligence capabilities. Our refusal, however, denies the Soviets the information they say they need to comply with SALT II.

Encryption is not an open and shut case of a Soviet violation. Rather, treaty language is not as precise as it should be, and we should continue to press our concerns in the Standing Consultative Commission (SCC) established by the treaty to resolve disputes.

The SS-25 Missile: SALT II Limited both the U.S. and the Soviets to only one "new type" of intercontinental ballistic missile (ICBM). The treaty also barred testing or

deployment of any ICBM whose reentry vehicle (RV) weight is less than 50 percent of the throw weight (the total weight a missile can lift) of the missile, a provision designed to prevent the rapid addition of warheads to those missiles.

The U.S. charges that the Soviet SS-25 violates SALT II because it is a second "new type" rather than a permitted modernization of the SS-13 as claimed by the Soviets. The U.S. claims that the SS-25's throw weight exceeds that of the SS-13 by more than the 5 percent permitted in SALT II. The U.S. also charges that the SS-25 violates the SALT prohibition on an ICBM whose RV is less than 50 percent of missile throw weight.

The Soviets say the U.S. has understated the throw weight of the SS-13 and overstated the SS-25's throw weight. They claim the U.S. incorrectly excludes a guidance system and penetration aids in its SS-13 throw weight estimate, but includes test equipment not present in the normal SS-25 deployment in its SS-25 throw weight estimate. Accordingly they claim that the SS-25 is within the 5 percent variation permitted by treaty. Moreover, they maintain that if the test equipment is removed from the SS-25, its RV exceeds 50 percent of throw weight and is not a SALT II violation.

The SALT II provisions defining "new type" ICBMs are complicated, ambiguous, and subject to interpretation. Instead of stating that we have tough differences on the SS-25, the Administration has charged the Soviets with a clear violation. But I believe there is still room for substantive discussion in the SCC to try to resolve these differences.

Krasnovarsk radar: This radar relates to Soviet compliance with the Anti-Ballistic Missile (ABM) Treaty, but the President has chosen to use it as one of his arguments against SALT II.

Large phased array radars are essential components of ABM systems. They can perform sophisticated tracking with great accuracy at ranges of several thousand miles. The ABM Treaty prohibits the construction of these radars for nation-wide ABM purposes or for ICBM early warning except at locations along the periphery of the national territory and oriented outward. Phased array radars are permitted in the ABM treaty for space tracking and intelligence gathering.

The U.S. charges that the location of the Krasnovarsk radar 800 miles inland is an ABM violation. The Soviets insist that the radar's purpose is space tracking and verification, not early warning or ABM defense as the U.S. suggests. Controversy arises because one radar can be used for several purposes. While the Treaty permits large phased array radars for some purposes and not others, it spells out no clear criteria for distinguishing between radars or regulating them.

The two sides may be moving closer to resolving this issue. Ambassador Nitze recently stated that he felt Krasnoyarsk was an early warning rather than ABM radar. This would still be a technical treaty violation, but it would have less military significance. The Soviets have offered to clear up ambiguities in the ABM treaty and to halt construction at Krasnoyarsk if the US does likewise at two of its phased array radar sites. They have shown some flexibility, and our diplomacy should exploit it.

The key question is if the overall evidence on Soviet violations warrants abandonment of SALT II limits. I believe the answer is no for the following reasons: (1) We cannot say there have been unequivocal Soviet arms control treaty violations. There have been selected instances in which the Soviets have pushed ambiguous treaty provisions to, and perhaps beyond, the limit. There is no doubt the US intends to do or is doing the same in some areas: (2) There is no definitive evidence that the Soviets are breaking out of SALT II or any other treaty. They have taken many steps to comply with SALT, and the US admits that many compliance issues hold little if any military significance; (3) The real lesson is that we need greater precision in drafting future agreements and details on verification; and (4) Aggressive diplomacy in the SCC can help us try to resolve compliance issues. We know this because three previous Administrations had successes in the SCC.

Charges of Soviet treaty violations are serious. They must be handled with accuracy because, if exaggerated, they will destroy prospects for a new arms agreement and undermine all existing agreements. How they are resolved will help determine the future of arms control.

LEGISLATION PROVIDING AN ADDITIONAL EXEMPTION FOR THE DEAF

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. CONTE. Mr. Speaker, I am introducing legislation today to provide an additional exemption from income for tax purposes for deaf individuals. The exemption would apply generally to deaf taxpayers, a deaf spouse of a taxpayer, or a deaf dependent of a taxpayer.

Mr. Speaker, under present law, each taxpayer is allowed certain exemptions from income. In general, each taxpayer is allowed a personal exemption and an exemption for a spouse, and an exemption for dependents. For tax year 1986, the exemption is $1,080, and is increased every year by a cost of living allowance generally equal to the increase in inflation.

In addition, elderly taxpayers or their elderly spouses are entitled to an elderly exemption, and blind individuals or their blind spouses are entitled to a blindness exemption. The elderly and blindness exemption amounts are also equal to $1,080 for tax year 1986.

Both the House and Senate tax reform bills make numerous changes to the personal exemption. Under the House bill, the personal exemption for each individual, individual's spouse and dependent is increased to $2,000, and indexed for inflation beginning in 1987. The House bill also repeals the elderly and blindness exemption. The House bill does, however, increase the standard deduction by $600 for each elderly individual and each blind individual. Under the Senate bill, the personal exemption is increased to $1,900 in 1987 and $2,000 in 1988. The exemption is also indexed for inflation beginning in 1988. Like the House bill, the Senate bill repeals the elderly and blindness exemption, but raises the standard deduction by $600.

Mr. Speaker, the additional needs of deaf individuals and the families of deaf individuals should be obvious. These individuals often have large medical bills, require special and expensive schooling or training, and need special medical devices, An additional exemption for deaf individuals is justifiable and necessary.

My legislation recognizes this need and would amend the Internal Revenue Code to provide an additional exemption for a deaf taxpayer, a deaf spouse of a taxpayer and for a deaf dependent of a taxpayer. The exemption amount would be $600, in line with the general principles of the House and Senate bill. As under present law, the exemption would be indexed for inflation.

The bill defines "deafness" as the inability of an individual to hear or receive spoken language except through other sense organs by means such as lip reading, sign language, finger spelling or reading.

Mr. Speaker, I believe that this legislation is necessary and meritorious. Although I am particularly aware of the needs of the deaf because one of the finest institutions for education of the deaf is in my district, I believe that my colleagues share my concern and I urge them to cosponsor this legislation. Although some may argue that this season on tax reform is an inappropriate time to be considering additional revenue losses in the tax laws, I would argue that there is no more appropriate time. One of the main reasons for tax reform is equity in our tax laws. My bill provides equity for an important and, sadly, often neglected segment of our society: the deaf. I urge support for the bill.

A TRIBUTE TO CAPT. GRAYSON "PAPA BEAR" KENNEY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. DYSON. Mr. Speaker, I rise today in tribute to a man whose courage and contributions during the turbulent civil right's movement of the 1960's did much to improve race relations on Maryland's Eastern Shore. I speak of Capt. Grayson "Papa Bear" Kenney, the first black ever hired by the Salisbury Police Department who has retired after 24 years of outstanding and much decorated service.

Indeed, Captain Kenney's fierce determination in the face of widespread, institutionalized bigotry stands as a symbol of a Nation unwilling to tolerate continued injustices imposed on the basis of color. It took a person with a cast-iron will to withstand the constant and sometimes overwhelming prejudice faced by blacks breaking into exclusively white vocations in the early 1960's. Clearly, Captain Kenney deserves much credit for the restructuring of black-white relations in a police department that Kenney claims now protects people's rights more and better than ever.

At a time when prejudice was more the rule than the exception, Captain Kenney had to cope with a white public that often refused to accept and respect a black police officer. For Kenney, however, he says "it got to be a challenge. I just kept on doing my job and didn't

create any problems." In fact, Captain Kenney has long since forgiven many of the prejudicial acts committed against him as simple misunderstanding between the races. By surviving those early years, he eventually won the respect and friendship of some of the older officers he described as most prejudiced. And, despite differences over the years, Kenney said that his superiors always backed up his arrests and judgments as a police officer.

"I would do it over," said Kenney. "I just hope that in some way I contributed something to the city," He clearly contributed to the image of Salisbury, MD, in the summer of 1963 when, after race riots had ripped through nearby Cambridge, Life magazine ran a story titled "Thirty Miles Divide Folly and Reason." Included was a picture of the young black officer directing traffic, supposedly showing better race relations there.

Kenney, who is also the proud bearer of the Bronze Star for service as a medic during the Korean war, has been asked to serve with the Wicomico County Chapter of the NAACP, the National Association for the Advancement of Colored People.

So, Mr. Speaker, I proudly salute Capt. Grayson "Papa Bear" Kenney for his remarkable contributions to the civil rights movement and for his 24 years of outstanding service as a police officer on the distinguished Salisbury Police Force.

RETIREMENT OF MISS MARY R. McGRATH FROM THE SPRINGFIELD PUBLIC SCHOOL SYSTEM

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. BOLAND. Mr. Speaker, today it is with mixed emotions I recognize the recent retirement of one of the finest educators in the history of the city of Springfield and State of Massachusetts, Miss Mary R. McGrath. June 30, 1986, marked her last day of service to the people of Springfield after 39 years in the Springfield Public School System.

Mary McGrath began her teaching career in September 1947 at Elias Brookings School where she remained until September 1959, when she was transferred to Washington School. She was named principal of Samuel Bowles Elementary School in April 1961, and remained in that position until her retirement. In 1986, she received the Thomas Passios Outstanding Principal Award for Massachusetts, and will be the recipient of the State's National Distinguished Principal Award. When her retirement was announced, Springfield School Superintendent Thomas Donahoe paid tribute to her as "one of the finest professionals I've ever encountered in my career. I have heard nothing but praise from parents, the community, teachers, and students about the way she performs all the tasks of a principalship. She works with grace, love, understanding, and competence. We'll miss her very much."

Congress join me in wishing him the best of luck in his endeavors.

and memories of elementary school can have the greatest impact on a young life. It is in elemetary school that one is introduced to English, math, and the proper way to interact with other children. Future performance in school and in life can be profoundly influenced by this early experience. The caring, compassion, and understanding that an elementary schoolteacher must bring to her profession is considerable, but necessary, if her students are to feel good about education and themselves. For 39 years, Mary McGrath gave of herself to thousands of children, and helped them discover the learning process, and the world available to them because of it. Her impact on their lives has been, and will continue to be, immeasurable.

I would like to join with every citizen of the city of Springfield, and the educational community in Massachusetts, in congratulating Mary McGrath upon her retirement, and wishing her the best of luck in her future endeavors. We will miss her very much.

EAGLE SCOUT RICHARD E. LISAK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. LIPINSKI. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues an exemplary young citizen, Richard E. Lisak. Richard will be recognized this August for achieving the highest rank in Scouting, the "Eagle Scout."

In becoming an Eagle Scout, Richard will join the ranks of quite a select group. The individual tasks which he had to complete are impressive alone. They include acts which challenged him on every facet of his personality—mental, physical, psychological, and more. Yet this accomplishment becomes even more notable when it is looked at cumulatively. That is, the entire sum of achievements and the perseverance of character they demanded illustrate just what a high caliber of a young man Richard is.

In today's society, our youth are truly bombarded with a variety of lifepaths to choose from. While the freedom of choice is in itself good, too often we hear of young people who are led astray by the ignorance of their years to a lifestyle they do not deserve. It is always refreshing to recognize a young man who has not only chosen a constructive way of life but excels at it too. Though some credit should be given to his family and Scout leaders for providing support, Richard today knows that he can participate in society in a manner that will benefit himself as well as his community.

The achievement of attaining the rank of Eagle Scout lays an excellent base for a productive future. I'm sure my fellow Members of

Mr. Speaker, perhaps more than at any other level of formal education, the lessons

MICHIGAN NINTH CONGRESSIONAL DISTRICT QUESTIONNAIRE RESULTS

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. VANDER JAGT. Mr. Speaker, I am pleased to take this opportunity to share with you and my colleagues the results of the annual legislative questionnaire from the Ninth District of Michigan.

The results of the survey indicate a strong support for the President's strategic defense initiative program and tax reform proposal. Additionally, the majority of the Ninth District respondents believe America is stronger and more respected in the world today than it was 5 years ago.

My special thanks are sent to the nearly 10,000 constituents who completed the surveys. Such an overwhelming response was greatly appreciated.

1986 CONGRESSIONAL QUESTIONNAIRE RESULTS

1. Do you favor a constitutional amendment to avoid future deficits (except in wartime) once the budget is balanced? Yes, 88%; No, 12%.

2. If you think the budget should be balanced, how should Congress eliminate the deficit? Reduce Spending, 73%; Freeze Spending, 14%; Raise Taxes, 5%; Other, 8%.

3. This year defense spending will comprise about 29% of the Federal budget. For next year, President Reagan has asked Congress to increase defense spending while others want to reduce it. What should Congress do about defense spending? Increase, 16%; Decrease, 33%; Maintain, 51%.

4. Should it be an objective of Federal farm policy to help family farmers remain in operation? Yes, 58%; No, 42%.

5. Do you think the U.S. should help nations in Central America which are under attack from Soviet-backed internal military forces? Yes, 71%; No, 29%.

6. Do you think America is stronger and more respected in the world today than it was five years ago? Yes, 58%; No, 42%.

7. Do you believe that the United States should impose the same restrictions on imports from its foreign trading partners that they impose on U.S. exports? Yes, 90%; No, 10%.

8. Do you support the President's Strategic Defense Initiative (Star Wars)? Yes, 62%; No, 38%.

9. In general, do you approve of the President's tax reform proposal? Yes, 67%; No, 33%.

10. Do you favor a Constitutional amendment that would allow voluntary prayer in our public shools? Yes, 79%; No, 21%.

11. Should the government be concerned about present liability insurance rates? Yes, 88%; No, 12%.

12. Do you favor the total deregulation of the natural gas industry? Yes, 46%; No, 54%.

A TRIBUTE TO DAVID KAPLAN—"MR. CENSUS"

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. GARCIA. Mr. Speaker, during recess those of us familiar with our Nation's census were deeply saddened by the recent passing of Mr. David Kaplan. Mr. Kaplan spent nearly 40 years as a loyal and dedicated employee of the Census Bureau contributing much of his efforts to census taking and turning statistics into history. To his former coworkers and to the statistical community he was know as "Mr. Census."

As you are aware, every 10 years our Nation undertakes a major Federal project known as the census. The census is mandated by the Constitution to determine the number of seats a State ought to have in the House of Representatives. The census also serves as the statistical foundation for our Nation's public policymaking and for proper distribution of Federal funds.

Much of Mr. Kaplan's career was devoted to our national census. His career with the Census Bureau began in 1940 as clerk. He worked his way up to become head of the Occupation Statistics Division for the 1950 census and in the early 1960's he became Assistant Chief of Population Division. By the time he was appointed coordinator for the 1970 census, Mr. Kaplan had worked throughout the Bureau developing questionnaires, organizing research programs, balancing budgets, and tabulating responses. He was awarded the Department of Commerce Gold Medal, the Department's highest award, for his work, on the 1970 census. He also took part in the preparations for the 1980 census, but in 1979 he decided to retire. Mr. Kaplan gave a sense of continuity in the management of the census, and according to a former coworker, he gave the census personality and animation.

Those who worked with him at the Census Bureau as well as the statistical community felt a great loss on June 30 when Mr. Kaplan passed away. Mr. Kaplan will be sorely missed by us all.

UKRAINIAN INDEPENDENCE DAY

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. HENRY. Mr. Speaker, I rise today to pay tribute to the Ukrainian people on the occasion of the 45th anniversary of the restoration of their independence on June 30, 1941. Though this proud nation is now under Soviet domination, her history goes back many years.

When the 1917 revolution broke out in the Tsarist Russian Empire, the Ukrainians at once set up their own government and proclaimed the Ukranine an independent state in a solemn declaration by the Ukrainian Parliament on January 22, 1918. Ukrainia's independence was recognized de jure by the Central Powers and de facto by Britain, France, and many other nations. All the Ukrainian people wanted was to live in freedom and peace as equals with their neighbors.

However, the new totalitarian Russian Empire, restored by the Communist [Bolshevik] Russian Party, launched an aggressive war against Ukrainia. After a 3-year war for independence, the Ukrainian armies were defeated. The Ukrainians, however, did not give up their fight, and resistance groups continued to wage an underground struggle against the foreign occupation powers. The most famous of these underground freedom fighters were members of the Organization of Ukrainian Nationalists [OUN], led by Stepan Bandera.

When the Russo-German war broke out in June 1941, the OUN utilized the unsettled conditions of the war between Hitler and Stalin to make a bid for Ukrainia's independence. On June 30, 1941, Ukrainian underground fighters occupied strategic points in the capital of the West Ukraine, Lviw. A representative assembly of the most prominent Ukrainian leaders from all walks of life issued a Proclamation of the Restoration of Ukrainia's Independence. A provisional government was appointed from representatives of various political parties. A prominent OUN leader, Mr. Yaroslav Stetsko, became Prime Minister in the provisional government. The proclamation received enthusiastic support of the Ukrainian people.

The Germans refused to recognize Ukrainia's independence, and issued an ultimatum demanding immediate cancellation of the Proclamation of Ukrainia's Independence and the disbandment of the government. When the Ukrainians refused to comply, Gestapo reprisals ensued. Government members, including Mr. Stetsko, were arrested and thrown into concentration camps.

With the collapse of the German war machine in the East, the Ukrainians were forced to escalate their struggle in a new war against Soviet Russia, on into the 1950's. The resistance forces were never defeated on the field of battle, but decentralized and melted away into the underground, where they continue their struggle for freedom. As Americans, we must never forget the importance of freedom and human rights for all people, as we join with the proud Ukrainians in commemoration of the restoration of their independence.

A CIVIL WAR SAGA—DELANO MOREY, OF KENTON, OHIO

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. OXLEY. Mr. Speaker, we have just experienced a very patriotic time in our Nation's history with the July 4th celebration of the 100th birthday of the Statue of Liberty. People throughout my congressional district in Ohio and nationwide felt a great urge of pride in our country and gratitude for the many freedoms we enjoy.

In the aftermath of this memorable experience, I would like to share with my colleagues the story of a man from Hardin County in my district who compiled a most impressive military career during the Civil War. Delano Morey was a brave Ohioan, a soldier who suffered and survived to preserve our great Nation for future generations.

Following is the account of Delano Morey's life which appeared in 1911 in the "Kenton News Republican":

REMARKABLE WAR RECORD

Delano Morey, who died at his home in the city yesterday morning, had a most remarkable war record. He served in the Federal Army during the Civil War and underwent hardship after hardship for the glory and honor of his flag and country. His most remarkable experience was on the field of Bull Run.

In this bloody and stubbornly fought battle, Mr. Morey was twice badly wounded and was left on the field for dead. He was reported on the company's records as killed, as all thought he had been. His wounds were very bad ones, and he suffered intense pain both from them and from exposure as he remained on the battlefield. Mr. Morey was left lying on the field for 10 days without attendance and he was in a most famished condition when assistance finally came. His wounds were dressed, and he was returned to his regiment, where the records and books were changed regarding his death.

HEART RENDING SCENES

Mr. Morey in speaking of the terrible scenes and surroundings following this fierce battle, during the ten days in which he remained among the dead, the dying and near dead, said that the pitiful and most painful conditions were far from being describable as no human tongue could tell of the terrible suffering that was endured, of the moans of the dying men scattered about, the prayers being uttered asking that the sufferers be relieved of their suffering, the cries of the wounded, and the patient waiting of those seriously wounded, waiting for help which it seemed would never come.

The nights were cold and chilly, the days were made very hot by the scorching sun, and the wounded men were forced to endure these two extremes for days, while many were dying about them all the time.

HELP ARRIVED JUST IN TIME

On the tenth day, Mr. Morey saw at a distance of a quarter of a mile a wagon with men gathering up those who were still alive. He was almost too weak to raise his hand, but mustered enough strength to lift his hat, and held it up until it was noticed by those bringing relief. He was picked up, placed in a wagon with five other wounded soldiers and hauled over a rough road to Washington, a distance of eighteen miles. Two of the men died on the road, and two more died a few minutes after reaching Washington.

Mr. Morey's wounds were attended to, and he soon regained enough strength to be sent to the front again, where he joined his regiment and fought in several more important engagements.

PRISONER AT LIBBY

At the battle of Chancellorsville, he was taken prisoner and placed in Libby Prison, Richmond, where he was held for eighteen days, at the end of which time he was paroled and returned to City Point, an exchange of prisoners between the Unionists and Confederates, placing him back again in the Union lines. He participated in the battles of Lookout Mountain and Mission Ridge, besides minor engagements. Later at

Chattanooga he reinlisted for another period of three years. Soon after he was granted a furlough of thirty days which he spent in the North, returning to the front at the expiration of that time.

He was with General Hooker and General Sherman on the famous march through Georgia to the sea, taking part in about three months of continual and sharp fighting during the campaign from Chattanooga to Atlanta. Mr. Morey was at Raleigh, North Carolina, when General Jackson surrendered to General Sherman. In speaking at the end of this wonderful campaign, he stated that the Union soldiers divided their hard tack with the thirty thousand Rebels and then told them to go home and be good citizens.

After the return of the troops to the North at the close of the war, Mr. Morey took part in the grand review in Washington of the Union Armies, and was soon after given his honorable discharge and he returned to his home in the Buckeye State.

Mr. Morey's experience in the war were among the most thrilling that are recorded. He was a true soldier, one who was not afraid to do his duty and to suffer for a good cause. In his death, Kenton is deprived of one of its highly respected citizens and a man of excellent worth. His death brings deep sorrow to his innumerable friends.

The funeral will be held Thursday afternoon at the home at 1:30, with Rev. Ira Richards in charge of the services. The G.A.R.'s of which Mr. Morey was a member, will attend the funeral in a body.

DAIRY PROMOTION BOARD RESULTS ARE SUPER

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. WEBER. Mr. Speaker, throughout our Nation last month the dairy industry observed the 50th anniversary of June Dairy Month.

As most of my colleagues would realize, the dairy industry is vitally important to my district and to our State. But, it is far more than of parochial interest.

If you will stop and think about it for a minute, with the exception of the air we breathe, milk is the one thing all of us have right from the start. In one form or the other dairy products become one of the major food groups that help provide healthy growth throughout our lives. According to the U.S. Department of Agriculture, Americans get more than 70 percent of their calcium requirements from dairy products. And, for most of us there is nothing in the world as refreshing as a cold glass of milk, a big scoop of our favorite flavor of ice cream, or a serving of one of the many cheeses we can buy in any store.

In 1983, Congress established the National Dairy Promotion and Research Board to give added emphasis to getting Americans to consume more dairy products.

While many of us take milk and other dairy products for granted and enjoy all the wholesomeness they offer, the truth is that dairy products have their very major detractors.

Dairy products are good and I am pleased that the efforts of the National Dairy Board, which are paid for by the dairy farmers themselves, are beginning to produce positive results.

I am submitting for the CONGRESSIONAL RECORD a news release issued by the National Dairy Board on the occasion of its second anniversary of operation.

DAIRY BOARD REPORTS BIGGEST GAIN IN COMMERCIAL DAIRY PRODUCTS USE IN MORE THAN 20 YEARS

WASHINGTON, D.C.—Top officials of the National Dairy Promotion and Research Board reported today that dairy product commercial use has increased significantly since the industry's expanded national promotional program began two years ago.

"This is the first time in more than twenty years we have seen a major upturn in dairy products use," said Ivan K. Strickler of Iola, Kansas, Board chairman.

Strickler reported that commercial use of total milk has increased seven percent since 1983. He added that cheese use was up 12 percent and butter use increased 5.7 percent.

"Of all the dairy products available to the consumer," Strickler said, "only non-fat dry milk use did not make significant gains.

"We believe the Board's promotional efforts, combined with those of other dairy promotion groups around the country, have made the difference."

The Board's advertising and sales promotion budget for fiscal 1986, the first full year of its promotional program, was $66.4 million with audiences targeted for use of fluid milk, cheese, butter, ice cream, and dairy calcium.

A major part of the advertising budget promotes dairy products as a major source of calcium. According to U.S. Dept. of Agriculture figures, about 75 percent of the U.S. population gets its calcium from this source.

Joseph J. Westwater, Board chief executive officer, said the group's research projects also are beginning to produce promising results.

"We have 51 nutrition projects underway studying calcium's role throughout the life cycle," Westwater said. "The researchers are among the best in the country, and we think they soon will have some positive new results about calcium's role in controlling or preventing hypertension, osteoporosis, and colon cancer."

Westwater said the Board also is proud of its national osteoporosis awareness campaign which in the last year has reached millions of people from coast to coast.

The Board is holding its annual meeting May 21-23 at the Arlington Hyatt Hotel.

Established by Congress through the Dairy and Tobacco Adjustment Act of 1983, the Board began operating in May 1984. It is financed by a mandatory 15 cents per hundredweight assessment on all milk produced in the contiguous 48 states and marketed commercially by dairy farmers.

THE BUDGET COMPROMISE

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. DORGAN of North Dakota. Mr. Speaker, the Budget Committees of the House and Senate have worked long and hard to reach a compromise on the budget and I commend them.

But I fear that the result of their efforts is simply a mirror of what we've seen in past years.

Under this budget, we will almost certainly end the next fiscal year with a deficit of about $150 billion.

Why? Because the Congress and the President cannot agree that the only approach to really bring these deficits under control is one that includes both spending restraint and additional revenues. The President calls for increased defense spending and continues to threaten to veto any bill that contains new revenue.

That is why a budget with a deficit that will probably reach $150 billion is called a success. But the deficit is too high—we know that.

This budget puzzle cannot be solved by Congress if the President will not compromise on revenues.

Mr. President, why can't revenues from closing tax loopholes be used in part to reduce the deficit? Wouldn't that strengthen the country? Mr. President, without your willingness to work seriously with us on both spending restraint and additional revenue, we will add another one-half trillion dollars to the Federal debt in the next several years. It is irresponsible for us to saddle the American people with another one-half trillion dollars in debt above the current $2 trillion debt.

So my colleagues, I know this budget is the product of a lot of hard work, but the deficit is still far too high. The fiscal policy stemming from the President's intransigence is still irresponsible.

A TRIBUTE TO KHYL S. SMEBY, COMMUNITY LEADER

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. TORRES. Mr. Speaker, I would like to take this opportunity to recognize a gentleman who is very involved in the growing communities of southern California, Mr. Khyl S. Smeby. Mr. Smeby is the executive vice president in Bank of America's administrative-executive group, headquartered in Los Angeles. In this capacity he supervises the bank's community relations efforts with numerous civic, educational, cultural, and political organizations throughout southern California. He also is an administrative officer in the bank's southern division. Mr. Smeby joined the bank in 1939. His dedication and service to the banking community is reflected by his many achievements.

In addition to Mr. Smeby's professional success, he is very active in the community. He serves as director of the California Museum of Science and Industry, Golden State Minority Foundation, and Independent Colleges of Southern California. He also is past president and currently serves as chief financial officer of the Greater Los Angeles Visitors and Convention Bureau. Mr. Smeby also participates in the Community Television of Southern California [KCET], the Directors Council of Orthopedic Hospital, Hollywood Presbyterian Medical

Center, the Pasadena Foundation, the Performing Arts Council of the Music Center, the USC School of Pharmacy, and the Weingart Center Foundation.

In 1980, he was elected to be the chairman of the board of trustees for the University of La Verne, where he received a bachelor of arts degree in economics. He also graduated from the Graduate School of Credit and Financial Management at Stanford University and the Executive Management Program at the Claremont Graduate School. He also holds a doctorate in humanities.

Mr. Smeby's involvement in these and many other activities benefits the community enormously. In February 1986, he had the honor of receiving the first Humanitarian Award presented by the Alcoholism Information Center. Indeed, this is a reflection of his faithful support to the community.

Mr. Speaker, I ask my fellow colleagues to extend their best wishes to Mr. Smeby's outstanding contribution to a better future for southern California.

IRA FEINBERG CELEBRATED THE FOURTH IN A SPECIAL WAY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. TORRICELLI. Mr. Speaker, I rise today to honor Mr. Ira Feinberg of Lyndhurst, NJ. On July 6, Ira Feinberg gave away 700 free car washes. Ira has made this generous donation on the Fourth of July weekend for many years at his Tip Top Deluxe Brushless Car Wash in North Arlington, NJ.

Ira began his annual celebration of the Fourth hoping to inspire other businesses to do the same, thereby stimulating business throughout northern New Jersey. He felt that free car washes would be a patriotic and joyous way to repay the citizens or Bergen County for their business and support over the years.

An example or Ira's belief in this great country is the case of Franco Saavedra. Ira sponsored Franco to come to the United States 6½ years ago. Ira's assistance to Franco signifies the true meaning of the Fourth of July and the Declaration of Independence it commemorates.

On July 3, Franco Saavedra will be nationalized in Morristown, NJ as part of this Nation's celebration of the Fourth of July. He will realize his dream of being an American and living with all of it's freedoms. Ira has opened up our great Nation to another eager contributor in Franco.

Ira epitomizes the energy and charisma of America. He is the kind of citizen that has made our country so successful for over 200 years. The United States needs people like Ira Feinberg if we are to remain at the helm of the world. His spirit and dedication deserve to be recorded in history as part of the CONGRESSIONAL RECORD.

It is with great honor and pleasure that I pay tribute to Ira Feinberg and wish him many more productive years in the future.

CHILE, THE UNITED STATES, AND NICARAGUA

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mrs. SCHROEDER. Mr. Speaker, a confidential letter to the Secretary of State from the American Minister in Santiago, Chile, was recently brought to my attention:

FEBRUARY 7, 1910.

[Confidential]

The Honorable,
The Secretary of State,
Washington, DC.

SIR: In a very informal conversation with the Minister of Foreign Affairs on the subject Central America, I gathered that in the main he sympathizes to a certain extent with the action of the United States in regard to Nicaragua; that he considers the Central American Republics, with the exception of Costa Rica, a worthless lot, and that it is in the interests of humanity to control them.

MICHIGAN HIGH SCHOOL BASEBALL CHAMPIONS

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 14, 1986

Mr. HERTEL of Michigan. Mr. Speaker, I would like to bring to the attention of my colleagues the accomplishments of the Harper Woods High School baseball team of Harper Woods, MI, the Class D State Championship Team of 1986.

It has been quite a year for the Harper Woods team. Completing the season with an outstanding record of 19 wins and 9 losses, the team won their first State championship in its 35-year history. In fact, the entire athletics program at Harper Woods High has risen to a new level of excellence this year with the football and basketball teams achieving the best records in their history as well.

Leading the baseball team to victory were Head Coach Ron Smith and his brother, Assistant Coach Roger Smith, both of whom had graduated from Harper Woods High and had played on the school's baseball team themselves. Although this was Ron's first year as head coach and Roger's first year with the team, they have both earned special recognition for their coaching ability and dedication. They helped to inspire a fine team of spirited young men.

The talented and hard-working players of the team were as follows: Frank Lucido, Don Cataldo, Brian Martin, Eric Reitzloff, Jeff Patterson, Darrin Hopp, John Dimic, Derek Schafran, Chris Hild, Dave Nystrom, Jeff Anderman, Ken Lord, Tom Weiss, Keith Keuning, Vince Brinker, and Bob Rach.

Ron Western, the team's statistician, also deserves recognition for his contributions to the success of the team.

A number of the team members won special recognition for their outstanding efforts. John Dimic and Ken Lord were honored by being selected for the All State team; Dave Nystrom and Tom Weiss made the All Regional team; and Bob Rach made the All District team. Ken Lord was also selected for the All State "Dream" team.

Tonight the Harper Woods Community Center will be holding a banquet to honor the Harper Woods High School Championship Baseball Team, an honor which they truly deserve. I congratulate these young men for their accomplishments, and I wish them success in all of their future endeavors.

TRIBUTE TO STEVE PFISTER

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 26, 1986

Mr. CRANE. Mr. Speaker, I would like to join my fellow colleague, Mr. MYERS from Indiana, in wishing Steve Pfister all the best in his new position with the private sector. Steve has given great service to Congress over the years and his reputation is well known on the Hill. I would like to take this time to personally thank him for the attention and assistance he has given to both me and my staff. I feel confident that Steve will succeed in any endeavor he may wish to pursue.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 15, 1986, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 16

9:30 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to consider the nominations of Kathleen W. Lawrence, of Virginia, to be Under Secretary of Agriculture for Small Community and

Rural Development, and to be a Member of the Board of Directors of the Commodity Credit Corporation, Kalo A. Hineman, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission, Kenneth A. Gilles, of Virginia, to be Assistant Secretary of Agriculture for Marketing and Inspection Services, and Robert W. Beuley, of Virginia, to be Inspector General, Department of Agriculture, and H.R. 2991, to provide for the relief of Betsy L. Randall of all liability to repay the United States a specified sum.
SR-332

Appropriations
District of Columbia Subcommittee
To hold hearings to discuss the legal drinking age in the District of Columbia.
SD-138

Finance
To hold hearings on labor productivity and employment trends and their relationship to international trade.
SD-215

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to resume consideration of S. 2427, to improve the administration of the Federal coal leasing program.
SD-366

Governmental Affairs
To hold hearings on the nominations of Daniel R. Levinson, of Virginia, to be Chairman of the Merit Systems Protection Board, Crocker Nevin, of New York, to be a Governor of the U.S. Postal Service, and Henry B. Frazier III, of Virginia, and Jean McKee, of the District of Columbia, both to be Members of the Federal Labor Relations Authority.
SR-385

Labor and Human Resources
To hold oversight hearings on barriers to children's health care.
SD-430

Veterans Affairs
To resume hearings on the reported sightings of live military personnel missing in action in Southeast Asia.
SR-418

Select on Indian Affairs
To hold hearings on S. 1453, Sioux Nation Black Hills Act.
SD-628

2:00 p.m.
Rules and Administration
Business meeting, to consider recommendations on the current procedures for broadcast coverage of Senate floor proceedings, including the plans and costs for implementation, prepared by the Architect of the Capitol, Sergeant at Arms, and Secretary of the Senate.
SR-301

JULY 17

9:00 a.m.
Commerce, Science, and Transportation
*Aviation Subcommittee
To hold hearings on S. 2417, to provide for the establishment of an independent commission to study and make recommendations regarding the management of aviation safety.
SR-253

9:30 a.m.
Finance
To hold hearings on S. 2099, to change the requirements for import relief petitions and investigations (incorporated in S. 1860 as Title III).
SD-215

Finance
Social Security and Income Maintenance Programs Subcommittee
To hold joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To hold joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.
SD-430

10:00 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2412, to withdraw and reserve certain public lands.
SD-366

Judiciary
Business meeting, to consider pending calendar business.
SD-226

2:00 p.m.
Armed Services
To hear and consider the nominations of Robert C. Duncan, of Massachusetts, to be Assistant Secretary of Defense (Research and Technology), and Director, Defense Advanced Research Projects Agency, George Woloshyn, of Virginia, to be an Associate Director of the Federal Emergency Management Agency, and routine military nominations.
SR-222

Labor and Human Resources
To hold hearings on the nomination of Clarence Thomas, of Missouri, to be a Member and Chairman of the Equal Employment Opportunity Commission.
SD-430

3:00 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
Business meeting, to mark up S. 2270, to deter immigration-related marriage fraud and other immigration fraud.
SD-226

4:00 p.m.
Select on Intelligence
Closed briefing on intelligence matters.
SH-219

JULY 18

9:30 a.m.
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearings on S. 2506, to establish a Great Basin National Park in the State of Nevada, S. 2534, to authorize the acquisition and development of a mainland tour boat facility for the Fort Sumter National Monument, South Carolina, and S. 2384, to permit the acquisition of certain lands for an administrative site for the New River Gorge National River, West Virginia.
SD-366

Finance
International Trade Subcommittee
To hold hearings on S. 1655, to provide for enforcement of prohibitions concerning the importation or sale of merchandise in United States commerce.
SD-215

10:00 a.m.
Labor and Human Resources
To hold hearings on S. 2407, the Animal Drug Amendments and Patent Term Restoration Act of 1986.
SD-430

Joint Economic
Economic Resources, Competitiveness, and Security Economics Subcommittee
To hold hearings to review the rate of inflation in the purchase of goods and services by the Department of Defense.
SD-562

JULY 22

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on barriers to agricultural trade.
SR-332

Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 2592, to strengthen Federal deposit insurance programs and to enhance competition in the financial services sector.
SD-538

Finance
To hold hearings on S. 1862, to provide for an estimate of the increase in U.S. exports that would result from the elimination of certain foreign trade barriers (incorporated in S. 1860 as Title II).
SD-215

Finance
Social Security and Income Maintenance Programs Subcommittee
To resume joint hearings with the Committee on Labor and Human Resources' Subcommittee on Employment and Productivity to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.
SD-430

Labor and Human Resources
Employment and Productivity Subcommittee
To resume joint hearings with the Committee on Finance's Subcommittee on Social Security and Income Maintenance Programs to examine how and to what extent employment and training can lead to economic independence for recipients of benefits under the Aid to Families with Dependent Children program.
SD-430

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 230, to relieve the city of Dickinson, North Dakota of all obligations incurred in a contract entered into with the Secretary of the Interior concerning construction of certain facilities under the Reclamation Authorization Act of 1975, S. 252, to provide for the construction, operation, and maintenance of the Lake Andes-Wagner Unit, South Dakota Pumping Division, Pick-Sloan Missouri River basin program, South Dakota, and S. 1704, to increase the authorization of appropriations for the North Loup Division, Pick-Sloan Missouri Basin Progam, Nebraska.
SD-366

Environment and Public Works
Business meeting, to consider S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway program.
SD-406

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings to review activities of the International Atomic Energy Agency (IAEA), focusing on nuclear safety measures.
SD-342

Labor and Human Resources
Aging Subcommittee
To hold hearings to review health care services available for people with Alzheimer's Disease and related dementia.
SR-385

2:00 p.m.
Labor and Human Resources
To resume hearings on S. 1804, to establish a program to provide development and incentive grants to States for enacting medical malpractice liability reforms.
SD-430

2:30 p.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the report of the National Commission on Space.
SD-628

JULY 23

9:30 a.m.
Banking, Housing, and Urban Affairs
To hold oversight hearings on the Federal Reserve's second monetary policy report for 1986.
SD-538

Finance
To hold hearings on S. 1865 and S. 1837, bills providing for a new round of multilateral trade negotiations to reduce or eliminate trade barriers and distortions, and to revise U.S. trade and financial agreements to meet specified objectives (S. 1865 incorporated in S. 1860 as Title IV).
SD-215

Governmental Affairs
To hold hearings to review the recent U.S. Supreme Court decision on the constitutionality of the Gramm-Rudman Balanced Budget Act.
SD-342

Rules and Administration
To hold hearings on S. Res. 330, to establish within the U.S. Senate a Special Committee on Families, Youth, and Children.
SR-301

Select on Intelligence
To hold closed hearings on Intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to continue consideration of S. 2405, authorizing funds for fiscal years 1987, 1988, 1989, and 1990, for the Federal-Aid Highway program.
SD-406

Select on Indian Affairs
To hold hearings on S. 2105, S. 2106, S. 2107, bills to provide for the settlement of certain water rights claims of the Papago Indian Tribe of Arizona, and S. 2564, to provide for the proper administration of justice within the Salt River Pima-Maricopa Indian Reservation by granting jurisdiction to the Salt River Pima-Maricopa Indian Community Court over certain criminal misdemeanor offenses.
SR-385

JULY 24

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine Subcommittee
To hold hearings on operating differential subsidy programs reform.
SR-253

Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on S. 1026, to implement the policies of the proposed Continental Scientific Drilling Program of the United States relating to earth science research and technological development.
SD-366

Governmental Affairs
Intergovernmental Relations Subcommittee
To hold hearings on S. 2037, to improve the targeting of Federal aid for the General Revenue Sharing program, and other related proposals.
SD-342

3:30 p.m.
Select on Intelligence
Closed briefing on intelligence matters
SH-219

JULY 25

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the establishment of new short-line and regional railroads.
SR-253

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
To hold hearings on the nominations of Thomas L. Adams, Jr., of Kentucky, to be Assistant Administrator for Enforcement and Compliance Monitoring of the Environmental Protection Agency, and Kenneth M. Carr, of California, to be a Member of the Nuclear Regulatory Commission.
SD-406

JULY 28

2:00 p.m.
Finance
International Trade Subcommittee
To hold hearings on S. 1817, to temporarily suspend Most Favored Nation status for Romania for six months, and S. 1492, to permanently withdraw Most Favored Nation status for Romania.
SD-215

JULY 29

9:00 a.m.
Office of Technology Assessment
Closed meeting, followed by an open meeting, to discuss pending business matters.
S-407, Capitol

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues, focusing on the impact of the 1985 farm bill (P.L. 99-198) on world agricultural trade.
SR-332

Finance
International Trade Subcommittee
To hold hearings on S. 2614, to establish customs regulations allowing parallel importation of genuine, trademarked articles in the case where related parties own the trademarks in the United States and abroad.
SD-215

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings to review the response for home health care services.
SD-430

JULY 30

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide used for agricultural and other purposes.
SR-332

Finance
To hold hearings on S. 1871, relating to imports which threaten to impair the national security (incorporated in S. 1860 as Title X).
SD-215

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Energy, Nuclear Proliferation and Government Processes Subcommittee
To hold hearings to examine energy innovation and the patent process.
SD-342
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

2:00 p.m.
Finance
Social Security and Income Maintenance Programs Subcommittee
To hold hearings on S. 2209, to make permanent provisions of the Social Security Act which allow disabled recipients of benefits under the Supplemental Security Income program to receive benefits while working
SD-215

JULY 31

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on scrambling of satellite delivered video programming.
SR-253

9:30 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider S. 2346 and S. 2215, bills to authorize funds for the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), establishing the standards by which the Environmental Protection Agency regulates the production and application of pesticide use for agricultural and other purposes.
SR-332
Energy and Natural Resources
Public Lands, Reserved Water and Resource Conservation Subcommittee
To hold hearing on S. 2159, to designate the Big Sur National Forest Scenic Area in California.
SD-366
Environment and Public Works
Environmental Pollution Subcommittee
To resume oversight hearings on the implementation of section 404 of the Clean Water Act, relating to the wetlands dredge and fill permit program.
SD-406

4:00 p.m.
Select on Intelligence
Closed business meeting, to be followed by a closed briefing on intelligence matters.
SH-219

AUGUST 5

9:30 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To resume hearings to review agricultural trade issues.
SR-332

10:00 a.m.
Energy and Natural Resources
Natural Resources Development and Production Subcommittee
To hold hearings on prospects for exporting American coal.
SD-366

AUGUST 6

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

AUGUST 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366
Labor and Human Resources
Aging Subcommittee
To hold hearings to review certain reauthorization provisions of the Older Americans Act.
SD-430

AUGUST 13

10:00 a.m.
Labor and Human Resources
To hold hearings to review the private sector initiatives in human services.
SD-430

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

SEPTEMBER 10

10:00 a.m.
Labor and Human Resources
To hold hearings to review the human resources impact on drug research and space technology.
SD-430

SEPTEMBER 16

10:00 a.m.
Labor and Human Resources
To hold hearings on pending nominations.
SD-430

SEPTEMBER 24

10:00 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

CANCELLATIONS

JULY 23

2:00 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1149, to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost, and related matters.
SD-366